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5-22-80
Vol. 45 No. 101
BOOK 1:
PAGES
34257-34555
BOOK 2:
PAGES
34557-34860

Federal Register

Book 1 of 2 Books
Thursday May 22, 1980

Highlights

34483 **U.S.—Taiwan Cultural and Commercial Affairs** GSA/OFR publishes list of agreements between American Institute in Taiwan and Coordination Council for North American Affairs

34270 **Loan Programs** VA issues final rules decreasing maximum interest rates on homes, condominiums, and mobile homes, effective 5–15–80 (2 documents)

34782 **Grant Programs—Airports** DOT/FAA adopts revisions pertaining to Airport Aid Program for airport development and planning grant projects; effective 5–22–80 (Part VIII of this issue)

34272 **Grant Programs** HHS/Sec'y publishes comprehensive revision to Government–wide cost principles for educational institutions, State, local, and Indian tribal governments; effective 5–22–80

34846 **Gasohol** DOE/ERA proposes alternative amendments to petroleum allocation and price regulations concerning gasohol and unleaded gasoline used in gasohol production; comments by 7–21–80; hearings 6–23, 6–26, and 7–8–80 (Part X of this issue)

34719 **Motor Vehicle Pollution** EPA issues applications for waiver of 1981–1985 Model Year oxides of nitrogen emission standards for light-duty diesel vehicles and engines; (Part IV of this issue)

CONTINUED INSIDE

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

34718 **Motor Vehicle Pollution** EPA issues final rule establishing emission standards for 1981 and 1982 Model Year light-duty diesel vehicles; effective 6–23–80 (Part IV of this issue)

34264 **Fuel Oil Displacement Program** DOE/FERC extends program for one year; effective 5–15–80

34302 **Fuel Oil Displacement Program** DOE/ERA proposes to extend "fuel shortage emergency period" through 6–1–81

34762 **Air Pollution Control** EPA proposes regulation on visibility protection for Federal Class I areas; comments by 8–5–80; hearings 6–30 and 7–2–80 (Part VII of this issue)

34802 **Motor Vehicle Pollution** EPA establishes emission performance warranty tests and regulations, effective 6–23 and 7–21–80 (2 documents) (Part IX of this issue)

34560 **Hazardous Materials Transportation** DOT/RSPA publishes identification numbers for improving capabilities of emergency response personnel; effective 11–20–80

34752 **Pennsylvania Avenue Development Area** PADC sets forth interim rule for guidelines and standards for design of development within area; effective 4–1–80, comments by 6–15–80 (Part V of this issue)

34265 **Public Housing** HUD publishes a revised schedule of prototype cost limits; effective 5–22–80

34303 **Income Taxes** Treasury/IRS proposes rules for moving expense reduction for foreign moves and for retirees or decedents who were working abroad; comment by 7–21–80

34271, 34486 **Postal Service** PS issues permanent implementing regulations for merchandise return service; effective 5–21–80 (2 documents)

34337 **Privacy Act Documents—CPSC**

34496 **Sunshine Act Meetings**

Separate Parts of This Issue

34560 **Part II, DOT/RSPA**
34708 **Part III, U.S. Regulatory Council**
34718 **Part IV, EPA**
34751 **Part V, PADC**
34759 **Part VI, Interior/NPS**
34762 **Part VII, EPA**
34782 **Part VIII, DOT/FAA**
34802 **Part IX, EPA**
34846 **Part X, DOE/ERA**

Contents

Federal Register
Vol. 45, No. 101
Thursday, May 22, 1980

Agricultural Marketing Service
RULES
34257 Oranges (navel) grown in Ariz. and Calif.
34257 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Forest Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
34424 June

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
34463 CBS Inc.
34471 Rockwell International Corp. et al.

Civil Aeronautics Board
RULES
Procedural regulations:
34264 Board proceedings; unauthorized documents, elimination of separate filing requirements
PROPOSED RULES
Tariffs of air carriers and foreign air carriers; construction, publication, etc.:
34291 Suspension/replacement agreements with air taxis; description notice; proposed terminated
NOTICES
Hearings, etc.:
34319 Sun International Airways, Inc.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
34320 New York; correction

Coast Guard
RULES
Anchorage regulations:
34269 California
PROPOSED RULES
Drawbridge operations:
34305 Mississippi
Pollution:
34306 Tank vessels; segregated ballast tanks, dedicated clean ballast tanks, or crude oil washing system; exemption procedure

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
34321 Commerce Technical Advisory Board

Consumer Product Safety Commission
NOTICES
34337 Privacy Act; system of records

Defense Department
See also Navy Department.
NOTICES
Meetings:
34340 Science Board task forces (2 documents)
34339 Science Board

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
34846 Gasohol pricing and allocation
Natural gas:
34299 Transportation certificates for natural gas for fuel oil displacement; extension of fuel shortage emergency period
NOTICES
Consent orders:
34342 Biglane Operating Co.
34347 St. James Resources Corp. et al.
Environmental statements; availability, etc.:
34343 International transmission line (230kV); San Diego County, Calif., to Tijuana, Mexico
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
34344 Public Service Electric & Gas Co. of New Jersey
34346 Virginia Electric & Power Co.

Education Department
NOTICES
Meetings:
34341 Adult Education National Advisory Council
34340 Black Higher Education and Black Colleges and Universities National Advisory Committee
34340 Extension and Continuing Education National Advisory Council; change

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
34420 Floodplain/wetlands preliminary statement of findings; Medium-Btu industrial fuel gasification demonstration plant, Memphis, Tenn.
Meetings:
34341 National Petroleum Council (2 documents)

Environmental Protection Agency
RULES
Air pollution control, new motor vehicles and engines:
34829 Emission control system performance; warranty regulations
34802 Emission control system performance; warranty short tests
34718 Nitrogen oxides (NOx) emission standards; light-duty diesel vehicles, 1981 and 1982 model years
Air quality implementation plans; approval and promulgation; various States, etc.:
34271 Mississippi

V 45 MY 22 80 UMI

PROPOSED RULES
Air pollutants, hazardous; National emission standards:
34315 Benzene from maleic anhydride plants; hearing and extension of time
Air quality implementation plans; preparation, adoption, and submittal:
34762 Visibility protection for Federal class I areas
NOTICES
Air pollution control, new motor vehicles and engines:
34719 Nitrogen oxides (NOx) emission standards, diesel-powered light duty vehicles and engines; waiver applications, second consolidated decision
Air quality implementation plans; approval and promulgation:
34422 Prevention of significant air quality deterioration (PSD); partial authority delegation; Mississippi

Environmental Quality Council
NOTICES
34338 Integrated pest management; draft report; inquiry and meeting

Federal Aviation Administration
RULES
34782 Airport aid program
Airworthiness directives:
34258 Government Aircraft Factories
34259 Pratt & Whitney
34260 Rockwell
34261 Rockwell International
34263 Control zones
34262 Control zones; effective date change
34261- Transition areas (3 documents)
34263
34263 VOR Federal airways; correction
PROPOSED RULES
Aircraft registration:
34286 Recordation of conveyances affecting title to, or an interest in, aircraft
34290 Control zones
34289 Transition areas
NOTICES
34493 Airport development aid program; timely submission of preapplications
34492 Exemption petitions; summary and disposition
Meetings:
34493 Aeronautics Radio Technical Commission

Federal Communications Commission
PROPOSED RULES
Common carrier services:
34315 Telephone companies; jurisdictional separation; integration of rates and services; additional information request deferred

Federal Deposit Insurance Corporation
NOTICES
34496 Meetings; Sunshine Act (3 documents)

Federal Election Commission
NOTICES
34497 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
34264 Transportation certificates for natural gas for fuel oil displacement; extension of fuel shortage emergency period; interim rule and request for comments
PROPOSED RULES
Natural Gas Policy Act of 1978:
34302 Transportation certificates for natural gas for fuel oil displacement; extension of fuel shortage emergency period; cross reference
NOTICES
Hearings, etc.:
34348, Arizona Public Service Co. (3 documents)
34349
34349 Central Hudson Gas & Electric Corp.
34349 Chambers, Patrick J., Jr.
34409 Cities Service Gas Co.
34409 Consumers Power Co.
34410 Kansas-Nebraska Natural Gas Co., Inc.
34410 Locks and Canals and Boott Mills Proprietors; Massachusetts Municipal Wholesale Electric Co.
34410 Phillips & Munzel Shell
34411 Rio Petroleum, Inc.
34411 Southern California Edison Co.
34411 Transcontinental Gas Pipe Line Corp.
34412 Tschappat, Douglas W.
34412, Tucson Electric Power Co. (4 documents)
34413
Natural gas companies:
34413 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend
Natural Gas Policy Act of 1978:
34349, Jurisdictional agency determinations (4 documents)
34368,
34390,
34395

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
34302 Highway design standards; materials incorporated by reference; extension of time
NOTICES
Environmental statements; availability, etc.:
34494 Jim Wells County, Tex.; intent to prepare
34494 Monroe County, Ga.; intent to prepare
34494 Monroe County, Ind.; intent to prepare

Federal Home Loan Bank Board
NOTICES
34497 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
34497 Meetings; Sunshine Act

Federal Railroad Administration
NOTICES
Petitions for exemption, etc.:
34495 Portland Traction Co.

Federal Register Office
NOTICES
34483 Taiwan, cultural, commercial, and unofficial relations with U.S. people; agreements between American Institute in Taiwan and Coordination Council for North American Affairs; availability

Federal Reserve System
NOTICES
34397 Meetings; Sunshine Act

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
34296 Bill Crouch Imports, Inc.
34291 Darvel, Inc.
34293 Towle Manufacturing Co.
NOTICES
Premerger notification waiting periods; early terminations:
34424 Thiokol Corp.

Fine Arts Commission
NOTICES
34337 Meetings

Fish and Wildlife Service
PROPOSED RULES
Endangered Species Convention:
34317 Cacti and primates; proposed addition to appendix I

Forest Service
NOTICES
Environmental statements; availability, etc.:
34319 Gifford Pinchot National Forest, Wash.; vegetative management of roadway corridors

General Services Administration
See Federal Register Office; National Archives and Records Service.

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
34431 Chevron U.S.A. Inc.
34432 Kerr-McGee Corp.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration.
RULES
Grants, administration:
34272 Revised cost principles; implementation

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
34414, Decisions and orders (2 documents)
34418

Historic Preservation, Advisory Council
NOTICES
34319 Meetings

Housing and Urban Development Department
RULES
Low income housing:
34265 Public housing programs; development phase; prototype cost limits (Florida)

Interior Department
See Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service.

Internal Revenue Service
PROPOSED RULES
Income taxes:
34303 Foreign moving expense deductions for retirees or dependents of decedents who were working abroad

International Trade Administration
PROPOSED RULES
34304 Defense Priorities System; titanium; withdrawn
NOTICES
Antidumping:
34320 Steel pipe and tube from Japan
Countervailing duty petitions and preliminary determinations:
34320 Fasteners from India; hearing change
Meetings:
34321 President's Export Council

International Trade Commission
NOTICES
Import investigations:
34456 Fish from Canada

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
34276 Atchison, Topeka & Santa Fe Railway Co.
34274 St. Louis Southwestern Railway Co.
Reports:
34276 Railroads and motor common and contract carriers of property; elimination of freight loss and damage claims (Form QL&D-R&M) quarterly filing requirement
PROPOSED RULES
Motor carriers:
34316 Commercial zones; expansion of Tacoma, Wash., zone
NOTICES
34452 Hearing assignments
34497 Meetings; Sunshine Act
Motor carriers:
34455 Commodity description interpretation; motor vehicle descriptions
34453 Finance applications
34432 Permanent authority applications
34436 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways, and pack and crate
Rail carriers:
34456 Released rates applications
34455 Railroad applications for long and short haul relief

Justice Department
See also Antitrust Division.
RULES
Organization, functions, and authority delegations:
34270 Assistant Attorney General, Criminal Division; juvenile criminal prosecutions functions, redelegation authority
34268 Marshals Service, Director; personnel matters

V 45 M Y 22 80 UMI

Land Management Bureau
NOTICES
Applications, etc.:
34430 New Mexico
34431 Wyoming
Authority delegations:
34428 New Mexico; Las Cruces District Area Managers
34430 New Mexico State Office, Technical Services Division, Oil and Gas Section Chief
Management framework plans; review and supplement:
34431 Wyoming
Meetings:
34430 California Desert Conservation Area Advisory Committee
34430 Public Lands National Advisory Council
34429 Uinta-Southwestern Utah Regional Coal Team
Motor vehicles, off-road, etc.; area closures:
34428 Oregon
Wilderness areas; characteristics, inventories, etc.:
34429 Montana

Management and Budget Office
NOTICES
34483 Agency forms under review

National Archives and Records Service
See also Federal Register Office.
NOTICES
34424 Microfilm publications; interlibrary loan

National Bureau of Standards
NOTICES
Information processing standards; Federal:
34322 DES modes of operation; inquiry

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
34322 Gulfarium, Gulf Exhibition Corp.
34321 Northwest and Alaska Fisheries Center

National Park Service
PROPOSED RULES
Special regulations:
34759 Mount McKinley National Park; mining, climbing and vehicle regulations

National Transportation Safety Board
NOTICES
34475 Accident reports, safety recommendations and responses, etc.; availability

Navy Department
NOTICES
Environmental statements; availability, etc.:
34339 Naval Air Station, Fallon, Nev.; BRAVO-20 Weapons Test Range, continued use

Nuclear Regulatory Commission
PROPOSED RULES
Practice rules:
34279 Licensing proceedings, domestic; "immediate effectiveness" rule
NOTICES
Applications, etc.:
34481 Metropolitan Edison Co. et al.
34481 Northeast Nuclear Energy Co. et al.
34482 Pennsylvania Power & Light Co. et al.
34482 Southern California Edison Co. et al.
34483 Wisconsin Electric Power Co.
Meetings:
34482 Advisory Screening Committee for Lawyer Members of Atomic Safety and Licensing Board Panel
34480 Reactor Safeguards Advisory Committee

Pennsylvania Avenue Development Corporation
RULES
34752 Urban planning and design; general guidelines and uniform standards; interim rule and request for comments

Postal Rate Commission
PROPOSED RULES
34309 Practice rules; rate or classification requests, ex parte communications, etc.
NOTICES
Post office closing; petitions for appeal:
34485 Huggins, Mo.

Postal Service
RULES
Domestic Mail Manual:
34271 Merchandise return service; permanent mail classification
NOTICES
Mail classification schedule:
34486 Merchandise return service

Regulatory Council
NOTICES
34708 Regulatory calendar for Federal agencies; guidelines for entries; inquiry

Research and Special Programs Administration, Transportation Department
RULES
Hazardous materials:
34560 Wastes and hazardous substances; identification numbers, international and improved descriptions, forbidden materials, and organic peroxides; comprehensive transportation regulations
PROPOSED RULES:
Hazardous materials:
34316 Radioactive materials; highway routing; hearings and extension of time; correction

Science and Technology Policy Office
NOTICES
Meetings:
34485 Intergovernmental Science, Engineering, and Technology Advisory Panel

Securities and Exchange Commission
NOTICES
Hearings, etc.:
34487 Alabama Power Co.
34490 Central & South West Corp.
34491 Sho-Me Power Corp. et al.
Self-regulatory organizations; proposed rule changes:
34487 American Stock Exchange, Inc.
34488, 34489 Boston Stock Exchange, Inc. (2 documents)
34490 National Association of Securities Dealers, Inc.

State Department
PROPOSED RULES
Passports:
34302 Persons born in U.S.; initial applications; acceptability of documents other than certified birth certificates as evidence of birth
NOTICES
Meetings:
34492 International Radio Consultative Committee
34492 Oceans and International Environmental and Scientific Affairs Advisory Committee

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See Internal Revenue Service.

Veterans Administration
RULES
Loan guaranty:
34270 Home and condominium loans; maximum interest rate decrease
34270 Mobile home loans; maximum permissible interest rates decrease

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
International Trade Administration—
34321 General Agreement on Tariffs and Trade Subcommittee, Multilateral Trade Agreements of the President's Export Council, 6–10–80
Office of the Secretary—
34321 Commerce Technical Advisory Board, 5–28–80

DEFENSE DEPARTMENT
34339 Antisubmarine Warfare Review Panel, Defense Science Board, 6–25–80
34340 Cruise Missiles Defense Science Board Task Force, 6–18 and 6–19–80
34340 ECM Defense Science Board Task Force, 6–12 and 6–13–80

EDUCATION DEPARTMENT
34341 Adult Education National Advisory Council, 6–18 through 6–21–80
Assistant Secretary for Postsecondary Education—
34340 National Advisory Committee on Black Higher Education and Black Colleges and Universities, 6–19 and 6–20–80

ENERGY DEPARTMENT
34341 National Petroleum Council, 6–11–80
34341 Unconventional Gas Sources Subcommittee, National Petroleum Council, 6–10–80

EXECUTIVE OFFICE OF THE PRESIDENT
Environmental Quality Council—
34338 Integrated Pest Management, 6–23–80
Science and Technology Policy Office—
34485 Intergovernmental Science, Engineering, and Technology Advisory Panel, 6–6–80

FINE ARTS COMMISSION
34337 Meeting, 6–10–80

HEALTH AND HUMAN SERVICES DEPARTMENT
34424 Alcohol, Drug Abuse, and Mental Health Administration—National Advisory Bodies, June and July, 1980

HISTORIC PRESERVATION ADVISORY COUNCIL
34319 Public information meeting, 6–26–80

INTERIOR DEPARTMENT
Land Management Bureau—
34430 California Desert Conservation Area Advisory Committee, 6–5 through 6–7–80
34430 National Public Lands Advisory Council, 6–26 and 6–27–80
34429 Uinta–Southwestern Utah Federal Regional Coal Team, 6–17–80

NUCLEAR REGULATORY COMMISSION
34480 Reactor Safeguards Advisory Committee, 6–5 through 6–7–80
34482 Screening Committee for Lawyer Vacancies on the Licensing Board Panel, 5–27–80, 6–6–80, and 6–9–80

STATE DEPARTMENT
34492 International Radio Consultative Committee, 6–17–80
34492 Oceans and International Environmental and Scientific Affairs Advisory Committee, 6–2–80

AMENDED MEETING

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Office of Education—
34340 National Advisory Council on Extension and Continuing Education, 5–21 through 5–23–80

CHANGED MEETING

CIVIL RIGHTS COMMISSION
34320 New York Advisory Committee, changed from 5–22–80 to 6–19–80

HEARING

COMMERCE DEPARTMENT
International Trade Commission—
34320 Certain Fasteners from India, 6–16–80

AMENDED HEARING

ENVIRONMENTAL PROTECTION AGENCY
34315 Benzene emissions from maleic anhydride plants, 7–22–80

V 45 M Y 2 2 1 9 8 0 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
907.....34257
908.....34257

10 CFR
Proposed Rules:
2.....34279
50.....34279
210.....34846
211.....34846
212.....34846

14 CFR
39 (4 documents).....34258–34261
71 (6 documents).....34261–34263
152.....34782
302.....34264
Proposed Rules:
47.....34286
49.....34286
71 (2 documents).....34289, 34290
221.....34291

16 CFR
Proposed Rules:
13 (3 documents).....34291, 34293, 34296

18 CFR
284.....34264
Proposed Rules:
284 (2 documents).....34299, 34302

22 CFR
Proposed Rules:
51.....34302

23 CFR
Proposed Rules:
625.....34302

24 CFR
841.....34265

26 CFR
Proposed Rules:
1.....34303

28 CFR
0 (2 documents).....34268, 34269

32A CFR
Proposed Rules:
651.....34304
663.....34304

33 CFR
110.....34269
Proposed Rules:
117.....34305
157.....34306

36 CFR
920.....34752
Proposed Rules:
7.....34759

38 CFR
36 (2 documents).....34270

39 CFR
111.....34271
Proposed Rules:
Ch. III.....34309

40 CFR
52.....34271
85 (2 documents).....34802, 34829
86.....34718
Proposed Rules:
51.....34762
61.....34315

45 CFR
74.....34272

47 CFR
Proposed Rules:
67.....34315

49 CFR
171.....34560
172.....34560
173.....34560
174.....34560
176.....34560
177.....34560
1033 (2 documents).....34274, 34276
1243.....34276
1249.....34276
Proposed Rules:
173.....34316
177.....34316
1048.....34316

50 CFR
Proposed Rules:
23.....34317

Rules and Regulations

Federal Register
Vol. 45, No. 101
Thursday, May 22, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 494]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 23–29, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committeee following discussion at a public meeting on October 30, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 20, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges continues to diminish.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 907.794 is added as follows:

§ 907.794 Navel Orange Regulation 494.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period May 23, 1980, through May 29, 1980, are established as follows:

(1) District 1: 700,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 21, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–15943 Filed 5–21–80; 11:43 am]

BILLING CODE 3410–02–M

7 CFR Part 908

[Valencia Orange Reg. 647; Valencia Orange Reg. 646, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 23–May 29, 1980, and increases the quantity of such oranges that may be so shipped during the period May 16–May 22, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective May 23, 1980, and the amendment is effective for the period May 16–May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 20, 1980 at Los Angeles, California, to consider the current and prospective

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conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to improve.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 908.947 is added as follows:

§ 908.947 Valencia Orange Regulation 647.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 23, 1980, through May 29, 1980, are established as follows:

(1) District 1: 320,000 cartons;

(2) District 2: 360,000 cartons;

(3) District 3: 120,000 cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) in § 908.946 Valencia Orange Regulation 646 (45 FR 31953), is hereby amended to read:

§ 908.946 Valencia Orange Regulation 646.

(a) * * *

(1) District 1: 333,000 cartons;

(2) District 2: 378,000 cartons;

(3) District 3: 189,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 21, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-15944 Filed 5-21-80; 11:43 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 20357; Amdt. 39-3781]

Airworthiness Directives; Government Aircraft Factories Nomad Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections, replacements and modifications, as necessary, of hot air check valves, pilots' and copilots' control wheel assemblies, wing to fuselage attachments, rudder pedal guards, the rudder tab mass balance, the horizontal stabilizer, the vertical fin, the rudder and elevator trim tabs, the vertical stabilizer stub fin, and the horizontal stabilizer control system on Government Aircraft Factories of Australia (GAF) Models N22B and N24A airplanes. The AD is necessary to detect and prevent certain unsafe conditions which have been reported to the FAA by the Australian Department of Transport. These service difficulties, found earlier on non-U.S. registered Nomad aircraft, could likely exist on U.S. registered Nomad aircraft.

DATES: Effective June 5, 1980.

Compliance schedule—as prescribed in body of AD.

ADDRESESS: The manufacturer's applicable alert service bulletins may be obtained from Government Aircraft Factories, 226 Lorimer Street, Port Melborne 3207 Vic., Australia. These documents may also be examined at the Federal Aviation Administration, Pacific-Asia Region, Engineering and Manufacturing District Office, 300 Ala Moana Blvd., Room 7321, Honolulu, Hawaii 96850, and the Rules Docket, Room 916, FAA, 800 Independence Ave. S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC-210, Federal Aviation Administration, Pacific-Asia Region, P.O. Box 50109, Honolulu, Hawaii 96850, telephone (808) 546-8650/546-8658, or C. Christie, Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Ave. S.W., Washington, D.C. 20591, telephone (202) 426-8374.

SUPPLEMENTARY INFORMATION: Government Aircraft Factories (GAF) Nomad Models N22B and N24A airplanes are manufactured in Australia. Recently, the Australian Department of Transport imposed a number of mandatory corrective actions applicable to these airplanes. Although none of the service difficulties have been encountered on U.S. registered aircraft to date, the same unsafe conditions are likely to exist or develop on U.S. registered aircraft. Accordingly, an airworthiness directive is being issued which requires inspection, replacement and modification, as necesary, of hot air check valves, pilots' and copilots' control wheel assemblies, wing to fuselage attachments, rudder pedal guards, the rudder tab mass balance, the horizontal stabilizer, the vertical fin, rudder and elevator trim tabs, the vertical stabilizer stub fin, and the horizontal stabilizer control system on GAF Models N22B and N24A airplanes.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Government Aircraft Factories (GAF). Applies to Models N22B and N24A airplanes, certificated in all categories.

Unless already accomplished, compliance is required within 25 hours time in service after the effective date of this AD. However, airplanes may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed.

(1) Applies to all Model N22B airplanes S/N 5 and up and all Model N24A airplanes S/N 42 and up, delivered or in operation prior to, or on, June 22, 1978. To prevent leakage of hot air check valve, P/N I/N-74-334, which could damage surrounding components, inspect, and repair as necessary, hot air check valve P/N I/N-74-334, in accordance with Accomplishment Instructions of GAF Alert Service Bulletin AN 22-74-1, Revision 1, dated June 30, 1978, or an FAA-approved equivalent.

(2) Applies to all Model N22B airplanes S/N 5 and up, and all Model N24A airplanes, S/N 42 and up, which have not incorporated Nomad modification N301. To prevent possible disconnection or jamming of pilots' or copilots' control wheel assembly, which could result in loss of control of the airplane, remove control wheel retaining pin and replace with a new bolt in accordance with the Accomplishment Instructions of GAF Alert Service Bulletin AN 22-27-8, Revision 1, dated June 30, 1978, or an FAA-approved equivalent.

(3) Applies to all Model N22B airplanes S/N 5 and up, and Model N24A airplanes S/N 42 and up, delivered from the factory prior to July 4, 1978. To prevent possible dislodging of structural bolts securing the wing center section spar support brackets to the fuselage, which could result in loss of structural integrity of the airplane, inspect wing center section spar support bracket for loose attachments, and replace loose nuts, in accordance with the Accomplishment Instructions of GAF Alert Service Bulletin ANMD-53-2, Revision 1, dated July 5, 1978, or an FAA-approved equivalent.

(4) Applies to all Model N22B airplanes S/N 5 and up, and all Model N24A airplanes S/N 42 and up, which have not incorporated Nomad modification N290. To prevent possible interference and jamming of the rudder pedals with the pedal guards, which could impair control of the airplane, remove and repair rudder pedal guards in accordance with the Accomplishment Instructions of GAF Alert Service Bulletin ANMD-53-3, dated July 10, 1978, or an FAA-approved equivalent.

(5) Applies to Model N22B airplanes S/N 6, 7, 11, 12, 13, 15, and 16. To prevent reduction of the flutter speed reserves as a result of excessive wear and backlash in the rudder tab operating system, which could result in loss of control of the airplane, remove rudder assembly, install steel mass balance arm and rework rudder and trim tab in accordance with the Accomplishment Instructions of GAF Alert Service Bulletin NMD-27-3, Revision 1, dated June 8, 1979, or an FAA-approved equivalent.

(6) Applies to all Model N22B airplanes S/N 5 and up, and all Model N24A airplanes S/N 42 and up. To prevent excessive vibration of the horizontal stabilizer trim tab and prevent subsequent structural damage to the empennage, which could result in loss of control of the airplane, inspect the horizontal stabilizer trim tab, and empennage, and modify stub fin in accordance with the Accomplishment Instructions of GAF Alert Service Bulletin ANMD-55-5, Revision 2, dated September 3, 1979, or an FAA-approved equivalent.

(7) Applies to all Model N22B airplanes S/N 5 and up, and all Model N24A airplanes, S/N 42 and up. To detect possible damage to the horizontal stabilizer control rod, visually inspect components in the horizontal stabilizer control system for wind gust damage, and replace as necessary, in accordance with the Accomplishment Instructions of GAF Alert Service Bulletin ANMD-27-12, Revision 1, dated October 30, 1979, or an FAA-approved equivalent.

For the purposes of this amendment, the FAA-approved equivalent specified in paragraphs (1) through (7) of this AD must be approved by the Chief, Engineering and Manufacturing District Office, FAA, Pacific-Asia Region, Honolulu, Hawaii.

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to the Government Aircraft Factories, 226 Lorimer Street, Port Melborne 3207 Vic., Australia. These documents may also be examined at the FAA, Pacific-Asia Region, 300 Ala Moana Blvd., Room 7321, Honolulu, Hawaii 96850, and at FAA Headquarters, 800 Independence Ave., S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the Pacific-Asia Region in Honolulu, Hawaii.

This amendment becomes effective June 5, 1980.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1353(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on May 14, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-15673 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NE-18; Amdt. 39-3773]

Airworthiness Directives; Pratt & Whitney Aircraft JT8D-1, -1A, -1B, -7, -7A, and -7B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a visual and ultrasonic inspection of second stage fan blades of Pratt & Whitney JT8D-1, -1A, -1B, -7, -7A, and -7B turbofan engines. The AD is needed to detect material defects, surface damage, or cracks in the blade attachment straps which could result in strap fracture and possible uncontained blade liberation and fire.

DATES:

Effective—July 18, 1980.

Compliance required not later than December 31, 1981, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Pratt & Whitney Aircraft Group, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.

A copy of the service bulletin is contained in the Rules Docket, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7347.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring a visual and ultrasonic inspection of second stage fan blades to detect cracks and surface damage on JT8D-1, -1A, -1B, -7, -7A, and -7B turbofan engines was published in the **Federal Register** at 44 FR 72181, December 13, 1979. The proposal was prompted by several instances of fracture of second stage fan blade attachment straps due to cracks caused by material defects and surface damage resulting in uncontained blade liberation.

Interested persons have been afforded the opportunity to participate in the making of the amendment. At the request of the Air Transport Association of America (ATA), a public meeting was held at the FAA New England Region office on February 6, 1980, for the purpose of receiving comments and data pertaining to the notice of proposed rule making (NPRM). During this meeting, ATA on behalf of its member airlines submitted preliminary comments and requested a 30-day extension of the NPRM comment period to allow the airlines additional time to prepare and submit final comments. FAA concurred with the ATA request and on February 11, 1980, formally issued an extension of the closing date from February 12, 1980, to March 12, 1980. Final comments were received during the extension period from ATA on behalf of its member airlines and other airlines recommending that the AD be made applicable to only P/N 433802, and its derivative, second stage fan blades and that the compliance date be extended to December 31, 1982. FAA concurs with ATA that only P/N 433802, and its derivative, second stage fan blades require inspection since only these blades have experienced the root fracture problem. Other subsequent part number second stage fan blades have been ultrasonic inspected at manufacturing, beginning in 1970, and therefore are in compliance with the intent of this AD. FAA does not concur with ATA that extension of the compliance date to December 31, 1982, is reasonable since such an extension would increase the potential number of occurrences of blade fractures and

engine cowl penetrations. However, the additional economic impact information provided by ATA combined with confirmation of existing blade fracture probability data indicates that an extension of the compliance date from July 1, 1981, to December 31, 1981, will maintain an acceptable level of airworthiness and will provide a significant reduction of the overall financial burden of compliance.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft JT8D–1, –1A, –1B, –7, –7A, –7B turbofan engine models.

Compliance required as indicated, unless already accomplished.

To detect material defects, surface damage, or cracks at the base of the second stage fan blade attachment strap and inner diameter of the strap pinholes which could result in noncontained strap fracture and possible fire, accomplish the following: "At next blade exposure but not later than December 31, 1981, perform a visual and ultrasonic inspection of second stage fan blade, P/N 433802, and derivative blade P/Ns 645732, 645902, 759922, and 759902, attachment straps in accordance with the procedures contained in Pratt & Whitney Aircraft Alert Service Bulletin No. 5022, Revision 1, dated December 21, 1979, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region. Second stage fan blades with crack, material defect, or surface damage indications in attachment straps must be repaired in accordance with the JT8D engine manual or replaced prior to further flight."

Note.—Pratt & Whitney Aircraft JT8D Engine Manual P/N 481672, Section 72–33–1, requires reinspection at each blade overhaul.

The manufacturer's service bulletin and engine manual identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft Group, United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at New England Region.

This amendement becomes effective July 18, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket.

Issued in Burlington, Massachusetts, on May 12, 1980.

Robert E. Whittington,

Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80–15675 Filed 5–21–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–NW–25–AD; Amdt. 39–3774]

Airworthiness Directives; Rockwell NA–265–60 and NA–265–80 Airplanes Modified in Accordance With the Raisbeck Group STC SA687NW and STC SA847NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment amends an existing AD applicable to Rockwell NA–265–60 and NA–265–80 airplanes modified in accordance with the Raisbeck Group STC SA687NW and STC SA847NW. The existing AD requires eddy current inspections of critical fastener holes in the inboard flap track support structure, the modification of the inboard and outboard flap track support, the imposition of certain operating limitations and a reduced service life. A modification has now been developed and approved to remove these operating limitations and extend the service life, and the AD is amended to incorporate this modification.

DATES: Effective date June 3, 1980.

ADDRESSES: Raisbeck service bulletins specified in this directive may be obtained upon request to The Raisbeck Group, 7777 Perimeter Road, Seattle, Washington 98108. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Perrella, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTAL INFORMATION: The incorporation of structural modifications designed to improve the fatigue life of the inboard and outboard flap track support structure has been approved to extend the life of newly installed flap track support structure to 2,000 hours time in service. The flap track support structure of airplanes which had been in service prior to these structural modifications may have sustained undetectable fatigue damage which could result in premature failure; therefore, the inspections and service life requirements of AD 80–01–07 were still applicable to these airplanes.

Subsequently identified workmanship problems resulted in AD's 80–03–03 and 80–04–11, which required that all affected parts either be reworked or replaced. As a result, the increased fatigue life will now directly apply to airplanes previously in service as well as those delivered with the modifications. Amendment 39–3658, 45 FR 2009, AD 80–01–07 is therefore amended to incorporate a terminating action which includes modification of the flap track support structure.

Since this amendment relieves a restriction, and imposes no additional burden on any person, it is found that notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) as amended by 39–3658, 45 FR 2009, AD 80–01–07 is further amended by adding a new paragraph H to read as follows:

H. Modification of the flap support structure per FAA approved Raisbeck Service Bulletins 17, dated October 5, 1979; 19, Rev. B, dated April 28, 1980; and 23, dated November 30, 1979, constitutes terminating action under the provisions of this AD. Equivalent modifications are acceptable if approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If the optional bolts listed in Paragraph III of Raisbeck Service Bulletin 23 are used, they must be replaced at intervals not exceeding 900 landings.

This amendment becomes effective June 3, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on May 14, 1980.

C. B. Walk, Jr.,

Director, Northwest Region.

Incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80–15671 Filed 5–21–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–WE–2–AD, Amdt. 39–3772]

Airworthiness Directives; Rockwell International NA–265 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends as existing Airwortiness Directive (AD) applicable to Rockwell International NA–265 airplanes by revising the applicability to delete certain NA–265–70 airplanes. This amendment is needed to relieve an undue burden which has no safety contribution.

DATE: Effective May 29, 1980.

Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–3685 (45 FR 7539), AD 80–03–05, which currently requires inspection of elevator trailing edges for delamination and installation of drain holes on Rockwell International NA–265–70 and NA–265–80 airplanes. After issuing Amendment 39–3685 the FAA has determined that the corrective action specified is applicable to only two aircraft in the NA–265–70 series. Therefore, the FAA is amending Amendment 39–3685 to limit the applicability to NA–265–80 (all) and NA–265–70, serial numbers 1 and 7 only.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Amendment 39–3685 (45 FR 7539), AD 80–03–05 as follows:

* * * * *

Rockwell International: Applies to Model NA–265–70 serial numbers 1 and 7 only, and NA–265–80 (all) series airplanes certificated in all categories.

* * * * *

This amendment becomes effective May 29, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on May 8, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 15351 Filed 5–21–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–ASW–4]

Designation of Transition Area: Medford, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Medford, Okla. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Medford Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) located on the airport. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW–536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On March 13, 1980, a notice of proposed rulemaking was published in the **Federal Register** (45 FR 16197) stating that the Federal Aviation Administration proposed to designate a transition area at Medford, Okla. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Medford, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Medford Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., July 10, 1980, by adding the Medford, Okla., transition area as follows.

Medford, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Medford Municipal Airport (latitude 36°47'26"N., longitude 97°44'56"W.) and within 4 miles each side of the 349° bearing from the NDB (latitude 36°47'35"N., longitude 97°44'46"W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

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Issued in Fort Worth, Tex., on May 12, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-15349 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ASW-6]

Alteration of Transition Area: Ponca City, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Ponca City, Oklahoma. The intended effect of the action is to provide additional controlled airspace for aircraft departing the Ponca City Municipal Airport. The circumstance which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft departing the airport. Airspace for the protection of aircraft executing two new proposed instrument approaches is currently adequate.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On March 20, 1980, a notice of proposed rulemaking was published in the **Federal Register** (45 FR 18029) stating that the Federal Aviation Administration proposed to alter the Ponca City, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Ponca City, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to and departing from the Ponca City Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective July 10, 1980, by altering the Ponca City, Okla., transition area by deleting:

* * * within a 6-mile radius of the Ponca City Municipal Airport (Latitude 36°43'41"N., Longitude 97°05'57"W.), and 2 miles each side of the Pioneer, Oklahoma, VORTAC 297° radial, extending from the 6-mile radius area to 8 miles NW of the VORTAC, and within 1.5 miles each side of the 180° bearing from the Ponca City LOM, extending from the 6-mile radius area to the LOM * * *.

and substituting therefor:

* * * within a 6.5-mile radius of the Ponca City Municipal Airport (Latitude 36°43'50"N., Longitude 97°05'50"W.), and within 2 miles each side of the Pioneer, Oklahoma, VORTAC 297° radial, extending from the 6.5-mile radius area to 8 miles NW of the VORTAC, and within 1.5 miles each side of the 180° bearing from the Ponca City LOM, extending from the 6.5-mile radius area to the LOM * * *.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on May 12, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-15350 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-NE-15]

Amendment of South Weymouth, Mass., Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends a rule appearing in the **Federal Register** Vol. 45, Page 433, Wednesday, January 2, 1980. In that issue, part of the description of the South Weymouth, Massachusetts control zone was omitted. This amendment restores it to the description of the control zone.

EFFECTIVE DATE: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations [14 CFR Part 71] is to add to the description of the South Weymouth, Massachusetts, control zone.

As the amendment is editorial in nature having no significant impact on airspace users, notice or public procedure hereon would be impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations [14 CFR Part 71] is amended, effective upon publication in the **Federal Register**, as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by adding to the description of the South Weymouth, Massachusetts control zone the following:

"or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Mass., on May 12, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-15352 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 80-CE-2]

Designation of Transition Area—Independence, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Independence, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to Independence Municipal Airport, Independence, Iowa, based on the Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to Independence Municipal Airport, Independence, Iowa, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport by the City of Independence. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Independence, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 20901 and 20902 of the **Federal Register** dated March 31, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Independence, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT July 10, 1980, by adding the following new transition area:

Independence, Iowa

That airspace extending upward from 700 feet above the surface within a nine mile radius of the Independence Municipal Airport (latitude 42° 27' 04" N, longitude 91° 56' 57" W), excluding that airspace overlying the Waterloo, Iowa transition area, and the Oelwein, Iowa transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on May 12, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-15676 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-NE-06]

Proposed Designation of Lawrence Municipal Airport Lawrence, Mass., Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Change of control zone effective date.

SUMMARY: This action changes the effective date appearing in the Federal Register, Volume 45, No. 81, Thursday, April 24, 1980, page 27746 "Designation of Lawrence Airport, Lawrence, Massachusetts, control zone." In that issue the final rule effective date was shown as June 15, 1980. This action changes the final rule effective date to July 10, 1980.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7385.

SUPPLEMENTARY INFORMATION: This changes the effective date of the designation of the Lawrence Airport, Lawrence, Massachusetts, control zone which was published in the **Federal Register**, Volume 45, Page 27746, from June 15, 1980, to July 10, 1980. The June 15, 1980, date was established to coincide with the commissioning of a new air traffic control tower at the Lawrence Airport, Lawrence, Massachusetts. As the tower will not be commissioned until approximately July 10, 1980, the effective date of the control zone can be deferred until that time.

Change of Control Zone Effective Date

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration hereby changes the effective date of the designation of the Lawrence Airport, Lawrence, Massachusetts, control zone in Section 71.171 of Part 71 of the Federal Aviation Regulations from June 15, 1980, to July 10, 1980.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a)) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on May 2, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-15677 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-AL-3]

Designation of Alternate Airway

Correction

In FR Doc. 80-14945 appearing at page 31975 in the issue for Thursday, May 15, 1980, third column, fifth line of the

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second paragraph, "098"" should read "087"".

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[Procedural Regulations Amendment No. 62 to Part 302; PR-224]

Rules of Practice in Board. Proceedings

AGENCY: Civil Aeronautics Board

ACTION: Amendment to rule.

SUMMARY: The CAB is amending its rules of practice to eliminate the requirement that a motion for leave to file an otherwise unauthorized document be filed as a separate document. The change is at the Board's own initiative.

DATES: Adopted: May 16, 1980; effective: May 16, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

The rules of practice applicable to Board proceedings (14 CFR Part 302) currently require that all written motions be filed as separate documents, unless the Board specifically authorizes a motion to be incorporated into a document for which admission is sought (§ 302.18(b)). The separate filing requirement applies to § 302.4(f), under which the Board can grant leave to file an otherwise unauthorized document upon written motion and for good cause shown.

We believe that requiring two separate documents, each subject to its own formal filing requirements, imposes a needless procedural step. The motion can conveniently be incorporated as the first two or three paragraphs of the underlying document. Allowing a joint document will reduce the paperwork and benefit the public by simplifying filing procedures.

14 CFR 302.4(f) is therefore amended to include a specific authorization to incorporate a motion for acceptance into an otherwise unauthorized document by adding at the end of the section: "The written motion may be incorporated into the otherwise unauthorized document for which admission is sought." The amendment is not intended to remove the $50 fee required to file an otherwise unauthorized document, or the § 302.18(b) requirement that a joint document contain a caption describing both the motion and the underlying document.

Since this is a rule of agency procedure that relieves a restriction, we find that notice and comment are unnecessary, and that the change may take effect immediately.

Accordingly, in 14 CFR Part 302, *Rules of Practice in Board Proceedings*, paragraph (f)(1) of § 302.4 is amended to read as follows:

§ 302.4 General requirements as to documents.

* * * * *

(f) *Motions for leave to file otherwise unauthorized documents.*

(1) The Board will accept otherwise unauthorized documents for filing only if leave has previously been obtained, from the administrative law judge or the Board, on written motion and for good cause shown. The written motion may be incorporated into the otherwise unauthorized document for which admission is sought. In such event, the document filed shall be titled to describe both the motion and the underlying documents.

* * * * *

(Secs. 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-15760 Filed 5-21-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM79-34, Order No. 30-B]

Transportation Certificate for Natural Gas for the Displacement of Fuel Oil

Issued: May 15, 1980

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim Rule and request for comments on extension.

SUMMARY: On May 12, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy issued a proposal (published elsewhere in this issue) pursuant to section 403(a) of the Department of Energy Organization Act to extend the Commission's fuel oil displacement program for one year (Order No. 30). This program authorizes the transportation of natural gas to end users that would otherwise burn fuel oil. The Commission hereby establishes a public hearing and comment procedure on ERA's proposed rule. Furthermore, pending completion of the rulemaking proceeding in this docket, the Commission extends, on an interim basis, the Order No. 30 program for three months, *i.e.*, through August 31, 1980.

DATES: Effective date: May 15, 1980. Public Hearing on June 16, 1980. Notice of intent to participate in public hearing by June 9, 1980. Submission of statement for presentation of public hearing by June 13, 1980. Written comments filed by June 16, 1980.

ADDRESS: All filing should reference Docket No. RM79-34 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426.

Public hearing location: Address above beginning at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Robert C. Platt, Office of the General Counsel, 825 North Capitol Street N.E., Washington, D.C. 20426 202-357-8454.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 17, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 30 which established a short term program authorizing the transportation of natural gas for the displacement of fuel oil (44 FR 30323, May 25, 1979). That order was adopted in response to a proposal of the Economic Regulatory Administration (ERA) of the Department of Energy which was referred to the Commission pursuant to section 403(a) of the Department of Energy Organization Act, 42 U.S.C. § 7173(a) (DOE Act). (44 FR 17644, March 22, 1979) [1]

In Order No. 30, the Commission recognized that rapidly changing factors surround the fuel oil displacement program and was unable to conclude that the program would be necessary beyond June 1, 1980. The regulations in Order No. 30 reflect this determination by providing that the program remain in effect during a "fuel shortage emergency period" which expires on June 1, 1980.

On May 12, 1980, the ERA proposed a further rule under section 403(a) of the DOE Act which would extend the "fuel shortage emergency period" for an additional year.[2] the ERA proposal finds

[1] In a related rule, the ERA established a procedure to certify the eligibility of end-users for this program. 10 CFR Part 595, 44 FR 20398 (April 5, 1979).

[2] The ERA proposal is being published in the **Federal Register** concurrently with the interim rule in this docket.

"that the urgent need to reduce oil imports still exists." For this reason, and because of the importance of fashioning a Commission regulation consistent with the overall ERA fuel oil displacement effort, the Commission seeks comment upon the ERA proposed extension as submitted.[3] In particular, the Commission invites comments on whether the program, if extended, should be limited to the displacement of premium grades of fuel oil such as low sulphur residual fuel oil and middle distillates.

Section 403(a) of the DOE Act authorizes the Secretary of Energy to propose rules with respect to any function within the jurisdiction of the Commission. Section 403(b) of that Act provides that the Commission shall have exclusive jurisdiction over such proposals. Accordingly, although the appended proposal is that of the ERA, the rulemaking proceeding commenced by this order shall result in a final rule of the Commission, and shall be governed by the Commission's procedures.

II. *Interim Extension*

As noted above, the fuel shortage emergency period defined in Order No. 30 ends on June 1, 1980. Since the public procedures on the ERA proposal will not be completed by that date, the Commission would be unable to take final action on the ERA proposal prior to the expiration of the Order No. 30 program. For this reason, the Commission extends the fuel oil displacement program for an additional three months. Thus, this interim rule amends the definition of "fuel shortage emergency period" in § 284.201(e) of the Commission's regulations to extend the period through August 31, 1980.

Section 284.208(c)(2) is also amended to clarify that our delegation to the Director of the Office of Pipeline and Producer Regulation remains in effect during the extension.

III. *Written Comment Procedures*

Interested persons are invited to submit written comments, data, views, or arguments with respect to the ERA proposed rule and the interim extension of the Order No. 30 program. An original and 14 copies should be filed with the Secretary, June 16, 1980, will be considered by the Commission prior to promulgation of final regulations. All written submissions Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM79-34. All comments received prior to 4:30 p.m. e.d.t., June 16, 1980, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. during regular business hours.

IV. *Public Hearing Procedures*

A public hearing concerning the interim extension and ERA's proposal will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. on June 16, 1980, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m. e.d.t., on June 9, 1980.

Requests should reference Docket No. RM79-34, and should indicate the amount of time, not to exceed fifteen minutes, that is required for the oral presentation, and the telephone number at which the person making the presentation can be reached. At least 14 copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on June 13, 1980.

Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing for distribution to other participants. A list of participants in the hearing will be available in the Commission's Division of Public Information, Office of Congressional and Public Affairs, three days before the hearing and will be available at the site of the hearing on the morning it is convened.

The hearing will not be a judicial or evidentiary-type hearing. Members of the hearing panel will be designated by the Chairman of the Commission. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available through the Commission's Division of Public Information.

V. *Effective Date*

The Commission finds that the public interest is best served by the continuation of the fuel oil displacement program pending the Commission's consideration of ERA's proposed rule. In order to accomplish this, the Commission must act before June 1, 1980. For this reason, the Commission finds good cause to waive the 30-day requirement set forth in 5 U.S.C. § 553(d) and to make this interim rule effective immediately.

(Natural Gas Act, 15 U.S.C. § 717 *et seq.*; Natural Gas Policy Act of 1978, P.L. 95-621; Department of Energy Organization Act, P.L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 284 of Chapter I, Title 18, Code of Federal Regulations, is amended, on an interim basis, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 284.201 is amended by revising paragraph (e) to read as follows:

§ 284.201 Definitions.

* * * * *

(e) "Fuel shortage emergency period" means the period beginning May 17, 1979, and ending at 11:59 p.m. on August 31, 1980.

* * * * *

§ 284.208 [Amended]

2. Section 284.208 is amended in paragraph (c)(2) by deleting "1979,".

[FR Doc. 80-15776 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[3] Consolidated Edison Company of New York, Public Service Electric and Gas, and National Fuel Gas Supply Corporation have filed motions in this docket seeking an extension of the program. Comments have also been filed, some in favor of and others in opposition to an extension. Furthermore, the Commission convened an informal conference on April 2, 1980, to study the nation's natural gas supply outlook. Notice of Informal Conference, Docket No. GP80-76, 45 FR 15944 (March 12, 1980).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

[Docket No. N-80-1000]

Public Housing Program; Development Phase; Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing

Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of prototype cost determination under 24 CFR Part 841, Appendix A.

SUMMARY: On June 6, 1979 (44 FR 32516), the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to delete thirteen prototype areas and increase the per unit prototype cost limits for eight areas in the State of Florida.

DATE: Effective May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6248, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-4956 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: These schedules establish per unit limits on the dwelling construction and equipment costs (prototype costs) for the development of new Low-Income Public Housing under the United States Housing Act of 1937 (Section 6(b)) as set forth in 24 CFR Part 841, Appendix A. Prototype cost schedules established for special Indian prototype cost areas, in accordance with 24 CFR Part 805 are identified by an asterisk (*) and only apply to the development of Indian housing.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

1. At 44 FR 32533–32535, delete the per unit prototype cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region IV, Fort Walton Beach and Panama City. Consolidate these areas with the prototype area designated Pensacola.

2. At 44 FR 32533–32535, delete the per unit prototype cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region IV, Gainesville and Tallahassee. Consolidate these areas with the prototype area designated Jacksonville.

3. At 44 FR 32533–32535, delete the per unit prototype cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region IV, Fort Lauderdale and West Palm Beach. Consolidate these areas with the prototype area designated Miami.

4. At 44 FR 32533–32535, delete the per unit prototype cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region IV, Fort Myers, Lakeland, Sarasota and St. Petersburg. Consolidate these areas with the prototype area designated Tampa.

5. At 44 FR 32533–32535, revise the per unit prototype cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region IV, Jacksonville, Pensacola, Miami, Big Cypress, Brighton, Key West, Tampa and Orlando, Florida.

6. At 44 FR 32533–32535, delete the per unit prototype cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region IV, Cocoa Beach, Daytona Beach and Fort Pierce. Consolidate these areas with the prototype area designated Orlando.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b) U.S. Housing Act of 1937, 42 U.S.C. 1437(d))

Issued at Washington, D.C. on May 14, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Region IV.—*Prototype per Unit Cost Schedule*

	Number of bedrooms						
	0	1	2	3	4	5	6
Florida:							
Jacksonville:							
Detached and semidetached	13,250	16,450	21,050	24,650	28,750	31,250	32,800
Row dwellings	13,200	16,350	20,900	24,550	28,500	31,200	32,700
Walkup	13,050	16,200	20,750	24,400	28,350	31,150	32,600
Elevator-structure	20,650	23,900	30,450				
Pensacola:							
Detached and semidetached	13,250	16,350	20,800	24,350	28,450	31,100	32,600
Row dwellings	13,150	16,250	20,650	24,200	28,300	30,900	32,500
Walkup	13,050	16,150	20,550	24,050	28,150	30,800	32,350
Elevator-structure	19,700	23,900	29,000				
Tampa:							
Detached and semidetached	14,100	16,950	21,100	25,150	30,150	33,650	35,150
Row dwellings	13,950	16,800	20,850	24,800	29,950	33,350	34,900
Walkup	11,300	14,750	18,650	22,200	25,800	28,300	29,700
Elevator-structure	22,200	25,800	32,650				
Orlando							
Detached and semidetached	13,750	16,400	20,300	24,300	29,100	32,500	33,950
Row dwellings	13,600	16,350	20,250	24,150	28,950	32,300	33,750
Walkup	12,600	15,750	19,900	23,650	27,400	30,250	31,600
Elevator-structure	23,050	26,700	33,600				
Miami:							
Detached and semidetached	14,550	17,450	21,450	25,750	31,000	34,450	36,050
Row dwellings	14,200	17,150	21,250	25,300	30,350	33,750	35,450
Walkup	11,650	14,750	18,650	22,150	25,600	28,250	29,700
Elevator-structure	25,800	30,000	37,950				
Key West:							
Detached and semidetached	14,550	17,450	21,450	25,750	31,000	34,450	36,050
Row dwellings	14,200	17,150	21,250	25,300	30,350	33,750	35,450
Walkup	11,650	14,750	18,650	22,150	25,600	28,250	29,700
Elevator-structure	25,800	30,000	37,950				
*Big Cypress:							
Detached and semidetached	15,100	18,000	22,000	26,900	32,050	35,250	37,100
Row dwellings							
Walkup							
Elevator-structure							
*Brighton:							
Detached and semidetached	15,100	18,000	22,000	26,900	32,050	35,250	37,100
Row dwellings							
Walkup							
Elevator-structure							
Alabama:							
Mobile:							
Detached and semidetached	14,800	17,900	22,150	26,400	31,800	35,350	36,950
Row dwellings	14,150	17,250	21,200	25,200	30,350	33,700	35,350
Walkup	12,200	15,250	19,300	22,800	26,550	29,300	30,800
Elevator-structure	23,700	27,550	34,700				
Montgomery							
Detached and semidetached	13,450	16,300	20,100	24,250	29,050	32,200	33,800
Row dwellings	13,000	15,650	19,300	22,900	27,700	30,800	32,300
Walkup	11,150	13,950	17,650	20,900	26,200	26,550	28,050
Elevator-structure	22,200	26,000	32,600				
Tuscaloosa							
Detached and semidetached	13,300	16,200	20,000	23,750	28,750	31,950	33,450
Row dwellings	12,950	15,450	19,200	22,800	27,500	30,660	32,050
Walkup	11,100	13,900	17,500	20,650	23,950	26,400	27,700
Elevator-structure	21,950	25,650	32,400				

Region IV.—*Prototype per Unit Cost Schedule—Continued*

	Number of bedrooms						
	0	1	2	3	4	5	6
Florida:							
Jacksonville:							
Detached and semidetached	12,050	14,400	17,850	21,350	25,600	28,400	29,800
Row dwellings	11,500	13,900	17,100	20,300	24,400	27,250	28,500
Walkup	13,050	16,200	20,750	24,400	28,350	31,150	32,600
Elevator-structure	19,850	23,000	29,200				
Fort Walton Beach:							
Detached and semidetached	11,800	14,350	17,650	21,100	25,400	28,100	29,500
Row dwellings	11,450	13,850	17,000	20,200	24,100	27,000	28,200
Walkup	13,000	16,150	20,550	24,050	28,150	30,800	32,350
Elevator-structure	19,700	22,850	29,000				
Gainesville:							
Detached and semidetached	12,400	15,100	18,550	22,200	26,700	29,500	30,950
Row dwellings	11,850	14,450	17,750	21,050	25,350	28,350	29,700
Walkup	13,050	16,150	20,750	24,400	28,200	31,150	32,600
Elevator-structure	20,650	23,900	30,450				
Panama City:							
Detached and semidetached	11,800	14,350	17,650	21,100	25,400	28,100	29,500
Row dwellings	11,450	13,850	17,000	20,200	24,100	27,000	28,200
Walkup	13,000	16,150	20,550	24,050	28,150	30,800	32,350
Elevator-structure	19,700	22,850	29,000				
Pensacola:							
Detached and semidetached	11,800	14,350	17,650	21,100	25,400	28,100	29,500
Row dwellings	11,450	13,850	17,000	20,200	24,100	27,000	28,200
Walkup	12,650	15,850	20,050	23,650	27,600	30,200	31,600
Elevator-structure	19,700	22,850	29,000				
Tallahassee:							
Detached and semidetached	12,300	14,800	18,250	21,900	26,300	29,150	30,500
Row dwellings	11,700	14,150	17,450	20,850	24,950	27,900	29,150
Walkup	12,750	15,950	20,450	23,800	27,850	30,550	32,000
Elevator-structure	20,250	23,350	29,900				
Florida:							
Miami:							
Detached and semidetached	14,050	16,850	20,650	24,850	29,900	33,200	34,750
Row dwellings	13,650	16,400	20,450	24,200	29,200	32,500	34,050
Walkup	11,250	14,200	18,000	21,350	24,700	27,250	28,650
Elevator-structure	25,800	30,000	37,950				
Big Cypress:							
Detached and semidetached	15,100	18,000	22,000	26,500	32,050	35,250	37,100
Row dwellings							
Walkup							
Elevator-structure							
Brighton:							
Detached and semidetached	15,100	18,000	22,000	26,500	32,050	35,250	37,100
Row dwellings							
Walkup							
Elevator-structure							
Fort Lauderdale:							
Detached and semidetached	14,050	16,800	20,700	24,800	29,850	33,100	34,800
Row dwellings	14,200	17,150	21,250	25,300	30,350	33,750	35,450
Walkup	9,450	12,000	15,300	17,900	20,800	22,900	24,100
Elevator-structure	24,400	28,550	35,850				
Fort Myers:							
Detached and semidetached	12,400	14,850	18,200	21,850	26,300	29,200	31,600
Row dwellings	12,500	15,100	18,700	22,250	26,700	29,750	31,200
Walkup	9,050	11,350	14,350	17,050	19,750	21,700	22,800
Elevator-structure	23,900	27,850	35,200				
Key West:							
Detached and semidetached	13,850	16,600	20,400	24,450	29,450	32,700	34,250
Row dwellings	14,000	16,850	21,000	24,850	30,000	33,400	34,950
Walkup	10,350	13,050	16,550	19,600	22,700	25,000	26,300
Elevator-structure	25,550	29,750	37,600				
West Palm Beach:							
Detached and semidetached	12,950	15,550	19,100	22,900	27,600	30,600	32,050
Row dwellings	13,150	15,800	19,600	23,300	28,050	31,100	32,700
Walkup	9,950	12,500	15,900	18,800	21,850	24,050	25,200
Elevator-structure	24,950	29,050	36,650				
Tampa:							
Detached and semidetached	11,200	13,400	16,500	19,800	23,700	26,450	27,650
Row dwellings	11,000	13,350	16,550	19,600	23,550	26,300	27,450
Walkup	10,850	13,450	17,150	20,300	23,550	25,800	27,100
Elevator-structure	21,650	25,200	31,850				
Cocoa Beach:							
Detached and semidetached	11,100	13,250	16,400	19,600	23,500	26,250	27,400
Row dwellings	10,950	13,200	16,400	19,350	23,400	26,050	27,250
Walkup	10,700	13,400	16,950	20,050	23,350	25,550	26,850
Elevator-structure	21,550	25,100	31,500				
Florida:							
Daytona Beach:							
Detached and semidetached	13,050	15,600	19,400	23,200	27,700	30,900	32,350
Row dwellings	12,850	15,550	19,300	22,900	27,500	30,750	32,100
Walkup	12,600	15,750	19,900	23,650	27,400	30,250	31,600
Elevator-structure	21,250	24,750	31,300				
Fort Pierce:							
Detached and semidetached	11,850	14,100	17,500	20,900	25,150	28,050	29,350
Row dwellings	11,650	14,000	17,400	20,700	24,850	27,800	28,950
Walkup	11,550	14,300	18,150	21,500	25,150	27,350	28,800
Elevator-structure	23,050	26,700	33,600				

Region IV.—*Prototype per Unit Cost Schedule—Continued*

	Number of bedrooms						
	0	1	2	3	4	5	6
Lakeland:							
Detached and semidetached	11,250	13,450	16,650	20,000	23,850	26,700	27,800
Row dwellings	11,050	13,400	16,650	19,800	23,650	26,450	27,700
Walkup	11,050	13,600	17,250	20,400	23,650	26,050	27,350
Elevator-structure	21,650	25,150	31,800				
Orlando:							
Detached and semidetached	11,000	13,100	16,250	19,400	23,250	25,900	27,000
Row dwellings	10,800	12,950	16,150	19,100	22,950	25,600	26,800
Walkup	10,300	12,900	16,300	19,300	22,300	24,600	25,800
Elevator-structure	21,100	24,400	30,900				
Sarasota:							
Detached and semidetached	11,400	13,700	17,050	20,300	24,350	27,200	28,400
Row dwellings	11,300	13,750	17,050	20,050	24,200	26,950	28,200
Walkup	11,250	14,050	17,750	21,150	24,550	26,950	28,300
Elevator-structure	22,200	25,800	32,650				
St. Petersburg:							
Detached and semidetached	11,000	13,100	16,250	19,400	23,250	25,900	27,000
Row dwellings	10,800	12,950	16,150	19,100	22,950	25,600	26,800
Walkup	10,600	13,300	16,800	19,850	23,000	25,400	26,550
Elevator-structure	21,350	24,750	31,150				
Georgia:							
Atlanta:							
Detached and semidetached	12,400	15,000	18,350	21,950	26,400	29,300	30,650
Row dwellings	11,750	14,150	17,550	20,850	25,100	27,900	29,150
Walkup	13,300	16,450	20,950	24,650	28,650	31,400	33,100
Elevator-structure	19,250	22,300	28,300				
Albany:							
Detached and semidetached	12,350	14,900	18,250	21,750	26,100	29,050	30,400
Row dwellings	11,700	14,100	17,400	20,650	24,800	27,700	29,000
Walkup	13,150	16,350	20,750	24,350	28,500	31,200	32,900
Elevator-structure	19,050	22,200	28,000				
Augusta:							
Detached and semidetached	12,700	15,200	18,900	22,550	27,100	30,000	31,400
Row dwellings	12,150	14,550	17,900	21,550	25,850	28,650	30,000
Walkup	13,350	16,450	20,950	24,750	28,650	31,750	33,150
Elevator-structure	17,900	20,750	26,300				

[FR Doc. 80-15619 Filed 5-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 893-80]

Authorizations With Respect to Personnel and Certain Administrative Matters; Amendment to the Personnel Authority of the U.S. Marshals Service

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order extends the authority of the Director of the United States Marshals Service to take final action in matters pertaining to personnel in General Schedule grades GS–1 through GS–15, consistent with the other Bureaus of the Department of Justice and the Executive Office for United States Attorneys.

EFFECTIVE DATE: May 14, 1980.

FOR FURTHER INFORMATION CONTACT: Harry H. Flickinger, Deputy Assistant Attorney General, Justice Management Division, Department of Justice, Washington, D.C. 20530, (202–633–5501).

PART 0—ORGANIZATION OF THE JUSTICE DEPARTMENT

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Title 28, Code of Federal Regulations is amended as follows:

§ 0.138a [Deleted]

1. Section 0.138a is deleted.

2. Section 0.138 is revised to read as follows:

§ 0.138 Bureau of Prisons, Federal Prison Industries, Immigration and Naturalization Service, Drug Enforcement Administration, United States Marshals Service, Executive Office for U.S. Attorneys and Law Enforcement Assistance Administration.

The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Administrator of the Drug Enforcement Administration, the Director of the U.S. Marshals Service, and the Director of the Executive Office for U.S. Attorneys are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel in General Schedule grades GS–1 through GS–15 and in Wage Grade positions, but excluding therefrom all attorney and U.S. Marshal positions. Such officials, and the Administrator of the Law Enforcement Assistance Administration, are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)). All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

Dated: May 14, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-15659 Filed 5-21-80; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 0

[Order No. 894-80]

Delegation of Authority to the Assistant Attorney General of the Criminal Division To Redelegate Certain Functions Pertaining to Juvenile Criminal Prosecutions to the Chiefs of the Sections within the Criminal Division.

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: By this order the Attorney General gives authority to the Assistant Attorney General of the Criminal Division to redelegate certain functions (previously delegated to him) pertaining to juvenile criminal prosecutions to the Chiefs of the Sections within that Division.

EFFECTIVE DATE: May 14, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph F. Ciolino (202–724–7144) or Earl Kaplan (202–724–6898), Attorneys, General Litigation and Legal Advice Section, Criminal Division, Department of Justice, Washington, D.C. 20530.

SUPPLEMENTARY INFORMATION: Section 0.57 of Title 28, Code of Federal Regulations currently provides that certain functions delegated to the Assistant Attorney General, Criminal Division, by the Attorney General, which pertain to the criminal prosecution of juvenile delinquents pursuant to Sections 5032 and 5036 of Title 18, United States Code, may be redelegated to the United States Attorneys. By this action the Assistant Attorney General will be given the power to redelegate those functions to the Chief of the Section within the Criminal Division which supervises the implementation of the Juvenile Justice and Delinquency Prevention Act (18 U.S.C. 5031 *et seq.*).

The power to decide whether to grant a United States Attorney's request to petition a United States District Court for a motion to transfer a juvenile to adult prosecution is presently being exercised by one of the Deputy Assistant Attorneys General of the Criminal Division in accordance with 28 CFR 0.57. That decision is preceded by a review of the request and a recommendation made by the Section which supervises the implementation of the Juvenile Justice and Delinquency Prevention Act (18 U.S.C. 5031 *et seq.*). This procedure can be made more efficient by granting the power to make the final decision on the request to the Chief of the Section which is responsible for the initial review and recommendation.

Accordingly, by virtue of the authority vested in me by 28 U.S.C. 509 and 510, Section 0.57 of Title 28, Code of Federal Regulations, is amended by deleting the period at the end thereof and adding the following:

"and to the Chief of the Section within the Criminal Division which supervises the implementation of the Juvenile Justice and Delinquency Prevention Act (18 U.S.C. 5031 *et seq.*)."

Dated: May 14, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-15660 Filed 5-21-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 79-176]

Amendment to San Francisco Bay Anchorage Grounds, Anchorage Number 5

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This rule expands San Francisco Bay Anchorage No. 5, as a result of the relocation of a buoy used to mark the northwest corner of this anchorage. In conjunction with the expansion the description of the eastern boundary is revised to reflect the replacement of Southampton Shoal Channel Lighted Buoy 5SS by Southampton Shoal Light 5.

EFFECTIVE DATE: This amendment is effective on June 23, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Gerald Jenkins, Commander (m), Twelfth Coast Guard District, Room 356, 630 Sansome Street, San Francisco, CA 94126, (415) 556–1380.

SUPPLEMENTARY INFORMATION: On February 19, 1980, the Coast Guard published a proposed rule (45 FR 10811) concerning this amendment. Interested persons were given until April 1, 1980 to submit comments. No comments were received.

The Coast Guard has determined that in accordance with the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034), this amendment is nonsignificant.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Ensign Rhae A. Giacoma, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended by revising § 110.224(a)(3) to read as follows:

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Straits, Suisun Bay, San Joaquin River, and connecting waters, California.

(a) * * *

(3) Anchorage No. 5, General Anchorage. (i) In San Francisco Bay beginning on the northwest shore of Red Rock at latitude 37°55′48″ N., longitude 122°25′52″ W.; thence west to San Francisco Bay North Channel Lighted Buoy 12 at latitude 37°55′50″ N., longitude 122°26′32.4″ W.; thence south to San Francisco Bay North Channel Lighted Buoy 10 at latitude 37°54′49″ N., longitude 122°26′39″ W.; thence southeast to latitude 37°53′23″ N., longitude 122°25′09″ W.; thence north to Southampton Shoal Light 5 at latitude 37°55′19″ N., longitude 122°25′33″ W.; thence to the southeast shore of Red Rock at latitude 37°55′42″ N., longitude 122°25′45″ W.; thence along the shoreline to the point of beginning.

(ii) Special regulation: No vessel anchored in this anchorage may project into the San Francisco Bay North Channel or the Southampton Shoal Channel.

* * * * *

(Sec. 7, 30 Stat. 1053 as amended, (33 U.S.C. 471); 6(g)(1)(A) 80 Stat. 937; (49 U.S.C. 1655 (g)(1)(A)), 49 CFR 1.46(c)(1))

Dated: May 14, 1980.

K. G. Wiman,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 80-15736 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Mobile Home Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed mobile home loans. These decreases in interest rates apply to mobile home unit loans and combination mobile home unit and lot loans. No change is being made at this time to the interest rate for mobile home lot only loans. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to purchase a mobile home unit or a combination mobile home unit and lot at a lower monthly cost.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., N.W., Washington, DC 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for mobile home loans guaranteed by the VA as he finds the mobile home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional mobile home loans, and the decrease of other short-term and long-term interest rates—have shown that the mobile home capital markets have improved. It is now possible to decrease the interest rates on mobile home unit loans and combination mobile home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans. The lower interest rates for mobile home loans and combination mobile home and lot loans should assist more veterans in the purchase of mobile home housing because of the decrease in the monthly loan payments for principal and interest.

No change is being made at this time to the interest rate for loans to purchase a lot only on which a veteran can place a previously acquired mobile home unit. The credit markets for the purchase of unimproved real estate have not sufficiently eased to allow a decrease in the mobile home lot interest rate.

The decrease in the maximum rates for mobile home unit loans and combination mobile home unit and lot loans is accomplished by amending § 36.4212(a)(1) and (3), title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would deny veteran mobile home purchasers the advantage of a lower interest rate pending the ultimate effective date which would necessarily be more than 30 days after publication in proposed form.

These amendments are adopted under authority of sections 210(c), 1819(f) and (g) of title 38, United States Code.

Approved: May 13, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

PART 36—LOAN GUARANTY

In § 36.4212, paragraph (a) (1) and (3) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective May 15, 1980, 16 percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

* * * * *

(3) Effective May 15, 1980, 15½ percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

(38 U.S.C. 210(c), 1819(g))

[FR Doc. 80-15723 Filed 5-21-80; 8:45 am]

BILLING CODE 8320-01-M ge

38 CFR Part 36

Decrease in Maximum Interest Rate, Home and Condominium Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The maximum interest rate is decreased because the mortgage money market has eased in recent weeks. The decrease in the interest rate will allow eligible veterans to obtain a loan at a lower monthly cost.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for home and condominium loans guaranteed, insured or made by the Veterans Administration as he finds the loan market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general availability of mortgage funds, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage market has eased. The Administrator, after consultation with the Secretary of Housing and Urban Development as required by law, has determined that a decrease in the VA home and condominium interest rate is warranted at this time.

The decrease in the VA maximum home and condominium interest rate should not have an adverse impact on the availability of funds necessary to make VA loans. The decrease in the VA interest rate, however, should allow more veterans to purchase a home because of the lower monthly payment for principal and interest required at the lower interest rate.

The decrease in the maximum interest rate for home and condominium loans is accomplished by amending §§ 36.4311(a), and 36.4503(a) of title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would deny veteran home-buyers the advantage of a lower interest rate pending the ultimate effective date which would necessarily be more than 30 days after publication in proposed form.

By direction of the Administrator.

Approved: May 13, 1980.

Rufus H. Wilson,

Deputy Administrator.

PART 36—LOAN GUARANTY

1. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 11½ per centum per annum, effective May 15, 1980, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 11½ per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 11½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 15 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

(38 U.S.C. 210(c), 1803(c))

[FR Doc. 80-15722 Filed 5-21-80; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Merchandise Return Service; Permanent Implementing Regulations

AGENCY: Postal Service.

ACTION: Permanent implementing regulations.

SUMMARY: By separate notice published elsewhere in this issue, the Postal Service announced the establishment of a permanent mail classification for merchandise return service under the authority of 39 U.S.C. 3625. The change becomes effective at 12:01 a.m. on May 21, 1980.

In order to fully implement that mail classification change, the Postal Service also adopts on a permanent basis a new Part 919 of the Domestic Mail Manual, also effective May 21, 1980.

EFFECTIVE DATE: May 21, 1980.

FOR FURTHER INFORMATION CONTACT: Grayson Poats, (202) 245-4602.

SUPPLEMENTAL INFORMATION: By notice published on April 17, 1980 (45 FR 26194), the Postal Service announced the establishment of a temporary mail classification for merchandise return service under the authority of 39 U.S.C. 3641(e). Temporary implementing regulations were published on April 29, 1980 (45 FR 28331). Those changes became effective on April 27, 1980.

On April 21, 1980, the Postal Rate Commission issued a Recommended Decision pursuant to 39 U.S.C. 3624, which recommended that the Postal Service adopt the merchandise return service classification on a permanent basis. On May 6, 1980, the Governors of the Postal Service, pursuant to 39 U.S.C. 3625, approved the Commission's Recommended Decision and ordered the recommended changes in the mail classification schedule into effect on a permanent basis. Those changes are identical to the changes previously implemented on a temporary basis and become effective at 12:01 a.m. on May 21, 1980.

Since the changes in the mail classification schedule have been adopted on a permanent basis, the implementing regulations adopted April 27, 1980 on a temporary basis as new Part 919 of the Domestic Mail Manual must also be made permanent. No changes in the implementing regulations are being made. They are being adopted exactly as published in the **Federal Register** on April 29, 1980. It may be noted that these same regulations were also published in the Postal Bulletin on April 24, 1980 (PB21242) and will be included in an upcoming issue of changes to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (39 CFR 111.1).

Accordingly, the Postal Service hereby permanently adopts, effective 12:01 a.m., May 21, 1980, new Part 919 of the Domestic Mail Manual in the exact form it was published in the **Federal Register** on April 29, 1980 (45 FR 28331).

The temporary implementing regulations will remain in effect as temporary regulations until they become permanent on May 21, 1980.

(39 U.S.C. 401, 403, 404, 3621, 3623, 3641)

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80-15668 Filed 5-21-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1498-3]

Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration of Air Quality: Partial Delegation of Authority to the State of Mississippi

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The amendment below institutes address changes for the implementation of the technical and administrative portions of the Prevention of Significant Deterioration of Air Quality (PSD) program. The notice announcing the partial delegation of authority is published elsewhere in this issue of the **Federal Register.** Under the partial delegation of PSD authority, EPA will continue to issue and enforce PSD permits for sources in Mississippi, but the State will process and evaluate the applications for permits.

EFFECTIVE DATE: June 14, 1979.

ADDRESSES: This amendment provides that all reports, requests, applications, submittals, and communications required for the delegated review will now be sent to the following address instead of to EPA's Region IV office: Bureau of Pollution Control, Mississippi Department of Natural Resources, P.O. Box 10385, Jackson, Mississippi 39209.

FOR FURTHER INFORMATION CONTACT: Winston Smith, Chief, Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective June 14, 1979, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal

Regulations. This rulemaking is effective immediately and is issued under authority of sections 101, 110, and 301 of the Clean Air Act (42 U.S.C. 7401, 7410, and 7601).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 101, 110, and 301 of the Clean Air Act (42 U.S.C. 7401, 7410, and 7601))

Dated: May 10, 1980.

Rebecca W. Hanmer,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart Z-Mississippi

Section 52.1280 is amended by adding a new paragraph (c) as follows:

§ 52.1280 Significant deterioration of air quality.

* * * * *

(c) All applications and other information required pursuant to § 52.21 of this part from sources located or to be located in the State of Mississippi shall be submitted to the Bureau of Pollution Control, Department of Natural Resources, P.O. Box 10385, Jackson, Mississippi 39209.

[FR Doc. 80-15715 5-21-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 74

Department-Wide Administration of Grants; Implementation of Revised Cost Principles

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This amendment to HHS' Department-wide grants administration regulation implements: (1) a comprehensive revision to the Government-wide cost principles for educational institutions, and (2) changes to the Government-wide cost principles for State, local, and Indian tribal governments. This amendment also changes the way HHS implements Government-wide cost principles.

EFFECTIVE DATE: May 22, 1980

FOR FURTHER INFORMATION CONTACT:
Henry G. Kirschenmann, Department of Health and Human Services, Room 544–G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202) 755–7562.

SUPPLEMENTARY INFORMATION:

Cost Principles for Educational Institutions

On March 10, 1978, the Office of Management and Budget (OMB) published a notice in the **Federal Register** inviting comments on a proposed revision to the Government-wide cost principles for educational institutions in OMB Circular No. A–21 (formerly Federal Management Circular 73–8). Numerous comments on the proposal were received and a number of changes were made in response to the comments. OMB published the final changes to the principles in the **Federal Register** on March 6, 1979 (44 FR 12368). The significant changes to the principles are:

1. The coverage of the principles has been expanded to cover virtually all types of Federal awards (grants, contracts, subgrants, subcontracts, etc.). Previously, the principles covered only research, training and educational service awards.

2. The principles place greater emphasis on the use of special cost analysis studies to allocate each component of indirect costs (e. g., depreciation or use allowances on buildings, equipment, and capital improvements; operation and maintenance expenses; etc.). If an acceptable cost analysis study is not performed, a standard method must be used to allocate each component of indirect costs unless an exception can be justified under conditions specified in the principles.

3. Significant changes were made in the requirements for supporting charges for salaries and wages, including:

a. Introduction of a new optional method for supporting salaries of faculty members and other professional employees in lieu of after-the-fact activity reporting. This optional method, called a "monitored workload system", allows the charges to be based on the assigned workload of each employee, adjusted to reflect significant changes in workload.

b. Elimination of the "stipulated salary" option previously included in the principles.

c. A reduction in the frequency of after-the-fact activity reporting for faculty members and other professional employees from monthly to once each academic term.

d. A requirement that each activity report account for 100% of each employee's total compensated work at the institution. A similar requirement also applies to workload distributions under the monitored workload system.

4. Charges for depreciation or use allowances must be supported by property records and physical inventories must be taken at least once every two years.

5. The definition of "organized research" has been clarified and now includes an explicit statement that the costs of organized research and development activities must include all costs incurred by the institution in performing the activities. This clarification was needed to ensure that indirect cost rates for organized research activities are properly determined.

6. The final distribution base for computing indirect cost rates has been changed from salaries and wages to modified total direct costs (except for institutions that use the "simplified method" for computing indirect cost rates).

7. Institutions may now use the "simplified method" for computing indirect cost rates if their direct costs under Federal awards do not exceed $3,000,000. The previous ceiling was $1,000,000. The computation of indirect cost rates under this method has also been liberalized to allow depreciation or use allowances. However, the allowable indirect costs must be reduced by depreciation, use allowances, and operation and maintenance expenses attributable to "other institutional activities" (e.g., dormitories, student dining halls, etc.).

8. The provision dealing with the costs of specialized service facilities (e.g., computers, wind tunnels, etc.) has been clarified and now includes a specific statement that these facilities must normally be allocated their share of indirect costs.

9. Improvements have been made in the coverage of depreciation and use allowances, equipment costs, pension costs, rental costs, and compensation paid to student-employees.

Cost Principles for State, Local and Indian Tribal Governments

On November 1, 1978 and April 22, 1980, OMB published notices in the **Federal Register** (at 43 FR 50977 and 45 FR 27363 respectively) amending the Government-wide cost principles for State and local governments in Federal Management Circular 74–4. These amendments resulted in the following changes to the principles:

1. The coverage of the principles has been expanded to include federally recognized Indian Tribal governments.

2. The provision concerning general expenses (Attachment B, paragraph D.6.) has been modified to clarify the allowability of costs incurred by the office of the chief executive of an Indian Tribal government.

3. The provision concerning travel costs (Attachment B, paragraph B.28.) has been liberalized to allow travel costs incurred by the offices of chief executives and legislative bodies which are specifically related to grant programs.

4. The provisions concerning rental costs and interest costs (Attachment B, paragraphs C.2.a. and D.7.) have been liberalized to allow interest costs associated with the acquisition of publicly owned buildings which are newly occupied on or after October 1, 1980, provided that a "rental rate" system or equivalent system reflecting actual costs is used.

The affected grantee organizations and Federal grant making agencies were given an opportunity to comment on these changes prior to their adoption.

HHS Implementation

The expansion in the coverage of the cost principles for State and local governments to include Indian Tribal governments was anticipated by HHS before it was adopted by OMB and was incorporated into the Department's grants administration regulation on August 2, 1978 (43 FR 34076). The amendment to the regulation being made today implements the other changes to the principles for State, local, and Indian Tribal governments as well as the revised principles for educational institutions.

This amendment to the regulation also changes the way HHS implements OMB circulars on cost principles. Until now, HHS implemented these circulars by reproducing them, with minor editorial modifications, in appendices to the regulation. The Department will now incorporate the circulars into the regulation by reference, with no modifications. The Department will also automatically apply any future changes to the circulars as of the start of an organization's first fiscal year beginning after OMB's publication of the change in the **Federal Register** (unless a different date is prescribed by OMB). This approach will benefit organizations that receive awards from other Federal agencies as well as HHS, and will eliminate duplicative **Federal Register** publications of the same provisions. It will also reduce the physical volume of HHS regulations and eliminate the necessity of amending the regulation each time an OMB circular on cost principles is changed. Copies of the circulars will be provided to grantees, upon request, by the Department's Regional Offices.

Waiver of Proposed Rulemaking Procedures

Since this amendment to HHS' regulations merely incorporates changes to Government-wide policy made by OMB after obtaining public participation, and HHS has no discretion to modify the policy, proposed rulemaking procedures are considered unnecessary.

Other Information

Timing. The revised cost principles for educational institutions shall be implemented by institutions on the date prescribed in OMB Circular No. A–21. Early implementation, or a delay in implementation, of individual provisions is permitted by mutual agreement between an institution and the cognizant Federal agency designated under OMB Circular No. A–88.

The changes to the cost principles for State, local, and Indian Tribal governments are effective on May 22, 1980. Early implementation of the change concerning general expenses of Indian Tribal Governments is permitted by mutual agreement between an Indian Tribal Government and the cognizant Federal agency designated under FMC 74–4. The change allowing interest costs on publicly owned buildings applies to publicly owned buildings which are newly occupied on or after October 1, 1980.

Note.—The Department of Health and Human Services has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

Dated: May 13, 1980.

Patricia Roberts Harris,

Secretary, Department of Health and Human Services.

Part 74 of Title 45, Code of Federal Regulations, is amended as follows:

1. The listing of appendices following the table of sections for Part 74 is revised to read as follows:

Appendix A—(Reserved).
Appendix B—(Reserved).
Appendix C—(Reserved).
Appendix D—(Reserved).
Appendix E—Principles for determining costs applicable to research and development under grants and contracts with hospitals.
Appendix F—Principals for determining costs applicable to grants and contracts with non-profit institutions.

2. Section 74.170 is revised to read as follows:

§ 74.170 Basic policy; scope of subpart.

Grant funds may be used only for allowable costs of the activities for which the grant was awarded. This subpart identifies the principles to be used in determining allowable costs. The principles apply to grant-support activities conducted by grantees as well as by subgrantees and cost-type contractors (and subcontractors) under grants.

3. Section 74.171 is revised to read as follows:

§ 74.171 Governments.

(a) The principles to be used in determining the allowable costs of activities conducted by governments are contained in Federal Management Circular 74–4, including any amendments to the Circular published in the **Federal Register** by OMB. A copy of this Circular may be obtained from the Division of Cost Allocation in any HHS Regional Office.

(b) Unless otherwise prescribed by OMB, future amendments to the Circular shall apply as of the start of a government's first fiscal year beginning after the amendment is published in the **Federal Register**.

4. Section 74.172 is revised to read as follows:

§ 74.172 Institutions of higher education.

(a) The principles to be used in determining the allowable costs of activities conducted by institutions of higher education (other than for profit institutions) are contained in OMB Circular No. A–21, including any amendments to the Circular published in the **Federal Register** by OMB. A copy of this Circular may be obtained from the Division of Cost Allocation in any HHS Regional Office.

(b) Unless otherwise prescribed by OMB, future amendments to the Circular shall apply as of the start of an institution's first fiscal year beginning after the amendment is published in the **Federal Register**.

§ 74.175 (Amended).

5. Paragraph 74.175(a) is revised to read as follows:

(a) The cost principles applicable to a subgrantee or cost-type contractor under an HHS grant will not necessarily be the same as those applicable to the grantee.

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For example, where a State government awards a subgrant or cost-type contract to an institution of higher education, OMB Circular No. A-21 would apply to the costs incurred by the institution of higher education, even though Federal Management Circular 74-4 would apply to the costs incurred by the State.

* * * * *

Appendices C and D [Deleted and Reserved].

6. Appendix C and D to Part 74 are deleted and reserved.

[FR Doc. 80-15657 Filed 5-21-80; 8:45 am]
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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Directed Service Order Nos. 1453, 1456; Supplemental Order No. 2]

St. Louis Southwestern Railway Co.—Directed Service—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Between Santa Rosa, N. Mex., and St. Louis, Mo; Petition to Fix Compensation for Use of Tracks—Tucumcari and Memphis-Fordyce Lines

Decided: April 25, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental Order No. 2 to Directed Service Orders Nos. 1453 and 1456.

SUMMARY: Pursuant to 49 U.S.C. 11125, the Commission authorized the St. Louis Southwestern Railway Company (SSW) in Directed Service Orders Nos. 1453 and 1456 to provide service as a "directed rail carrier" (DRC)—without federal subsidization under 49 U.S.C. 11125(b)(5)—over the "Tucumcari Line" and the "Memphis-Fordyce Line" of the Chicago, Rock Island & Pacific Railroad Company, Debtor (Williams M. Gibbons, Turstee) ("Rock Island" or "RI").

Both directed service orders provide that the SSW and the Trustee negotiate terms of compensation for use of RI lines and facilities. In the event the parties should be unable to reach agreement, we reserved the right to set reasonable terms of compensation.

SSW has filed a petition asserting that it has not been able to reach agreement with the trustee regarding terms of compensation and requesting that the Commission determine and fix, or deny, compensation.

We conclude that reasonable compensation for use of the Memphis-Fordyce Line and related facilities under DSO No. 1456 should be calculated in accordance with the formula established in Finance Docket No. 29305, *St. Louis-San Francisco Railway Company—Compensation for Use of Terminal Tracks—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee),* —— I.C.C. — (decided April 7, 1980), 45 FR 25401 (April 15, 1980). (*Frisco Compensation* case). For the Tucumcari Line, reasonable compensation is rent based on the agreed sale price of the property and, producing a rate of return 2 percent below the yield on 90-day U.S. Treasury bills less expenditures which preserve value of the property (up to 50 percent of the total rental payment).

DATES: *Effective Date:* This decision shall be effective on April 28, 1980.

Expiration Date: Unless otherwise modified by the Commission, this decision will expire at 11:59 p.m. (Central time) on May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Schiefelbein, (202) 275-0826, or Joel E. Burns, (202) 275-7849.

SUPPLEMENTAL INFORMATION:

Decision of the Commission

Background

The Rock Island has been in bankruptcy proceedings since 1975. In September 1979 its cash flow position became so severe as to prevent the continuation of normal rail operations. Accordingly, we issued Directed Service Order No. 1398 (and supplements thereto) authorizing the Kansas City Terminal Railway Company (KCT) to provide service under 49 U.S.C. § 11125 as a subsidized "directed rail carrier" (DRC) over the Rock Island rail system. *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.,* 360 I.C.C. 289, 478, 718 (1979–80); 44 FR 56343, 70733, and 45 FR 14578 (1979–80). That order expired on March 23, 1980.

In order to permit the continuation of essential rail services without federal subsidy, we subsequently issued several service orders, under 49 U.S.C. 11123, authorizing various railroads to operate over described RI lines. We authorized the SSW to operate over RI's Tucumcari Line, from Santa Rosa, NM, to St. Louis, MO, in Service Order No. 1411, and to operate over RI's Memphis-Fordyce Line, from Memphis, TN, to Fordyce, AR, in Service Order No. 1415.

The U.S. Court of Appeals for the Seventh Circuit reversed and remanded Service Order No. 1411, finding that order's jurisdictional basis under 49 U.S.C. 11123(a)(2) and (4) to be defective. *See* Nos. 79-2461 and 79-2478, *Atchison, Topeka, & Santa Fe Railway Company* v. *United States of America.* In response to that decision we issued Directed Service Orders Nos. 1453 and 1456, under 49 U.S.C. 11125. These orders authorized SSW to operate over the lines described in Service Orders Nos. 1411 and 1415, conditioned upon waiver of federal subsidization under 49 U.S.C. 11125(b)(5).

The terms of the directed service orders require SSW and the RI Trustee to negotiate terms of compensation for use of RI lines and facilities. We reserved the right to fix compensation in the event the parties should be unable to reach agreement.

The parties have not been able to reach agreement regarding terms of compensation and SSW has requested an order determining and fixing, or denying, compensation. SSW contends that it should not be required to pay compensation to the Trustee for use of RI properities unless its operations over the involved lines are profitable.

The Trustee has replied to SSW's petition. In his reply, the Trustee asserts that the RI estate should be compensated for use of Rock Island properties whether or not temporary operations by SSW are profitable. The Trustee proposes that reasonable compensation should be the greater of either (1) 1.2 percent per month of gross salvage value of improvements and fair market value of the real estate, or (2) 1.2 percent per month of the going concern value of the property, measured by 1978 RI gross station revenues, adjusted for rate increases since 1978. SSW and the RI Trustee have entered into an agreement for the sale of the Tucumcari Line, subject to Commission approval, for a price of $57 million. *See* Finance Docket No. 28799 (And sub-numbers thereunder), *St. Louis Southwestern Railway Company—Purchase (Portion)—William M. Gibbons, Trustee of the property of Chicago, Rock Island & Pacific Railway Company, Debtor.* The Trustee maintains that the fair value of the Memphis-Fordyce Line is $19.5 million. Trustee asserts that these figures reflect the fair value of the lines and that under his proposed formula the monthly rental for the Tucumcari Line should be $684,000 and for the Memphis-Fordyce Line $234,000.

Discussion and Conclusions

DSO Nos. 1453 and 1456 were issued pursuant to 49 U.S.C. 11125. These orders were not intended, however, to be substantively different from the prior SSW service orders issued pursuant to 49 U.S.C. 11123. Unlike DSO No. 1398, the provisions of DSO Nos. 1453 and 1456 are permissive rather than mandatory. Further, operation under the authority of these orders by SSW is

conditioned upon waiver of federal subsidization under 49 U.S.C. 11125(b)(5). Therefore, Commission precedents defining reimbursable costs for DRCs operating under mandatory directed service orders, under 49 U.S.C. 11125, are not controlling here.

In DSOs Nos. 1453 and 1456 we directed SSW and the RI Trustee to negotiate regarding terms of compensation for use of Rock Island properties and reserved the right to settle disputes if the parties could not reach agreement. In exercising authority under this reserved right, we act as an arbitrator settling a dispute, not as a regulator fixing compensation to be paid under federally subsidized operations. Our duty in settling a compensation dispute is essentially the same under our reservation of authority in DSO Nos. 1453 and 1456 as it would be under 49 U.S.C. 11123(b)(2).

In the *Frisco Compensation* case, we fixed terms of compensation for use of Rock Island tracks and related facilities operated by Frisco under Service Order No. 1451, issued under 49 U.S.C. 11123. The *Frisco Compensation* case adopted a two-part formula for determining compensation to be paid for use of Rock Island lines. The first part of the formula is a base rental assessed on route miles. The second part of the formula is a percentage share of net revenues, if any, derived from operations over the line.

The *Frisco Compensation* case formula is designed to make a reasonable accommodation of the competing interests of the Trustee and the DRCs. The base rental payment provision assures the trustee of some payment for the use of Rock Island properties, even if temporary directed operations are not profitable. The percentage of profits provision provides the trustee with a return on the going concern value of the properties, if the involved lines generate net revenues from temporary interim operations.

The Rock Island properties operated by the various interim operators include a wide range of types of lines and line segments, from relatively short terminal tracks with high profit potential to long lines with doubtful profit potential during temporary interim operation. Interim operators operating only terminal tracks would pay relatively little compensation to the Trustee under the base rental provision. Operations of terminal tracks, however, should be highly profitable and the percentage of profits payments to the trustee should be significant. Long lines, on the other hand, will have a substantial base rental, although they may produce little or no net revenues for the interim operator under temporary operations.

The base rental of $1,250 per route mile per year established in the *Frisco Compensation* case is a mid-range figure between extreme high and low track rentals set in past agreements. In the *Frisco Compensation* case we chose this intermediate approach because that proceeding involved the use of facilities for which a sale agreement had not been reached. Therefore, the parties had not agreed to the value of the line. These circumstances also exist with respect to the Memphis-Fordyce Line. Further, we believe that the percentage of profits provision in the *Frisco Compensation* case is reasonable for use of the Memphis-Fordyce Line, based on the considerations discussed in that decision.

We conclude that the formula set forth in the *Frisco Compensation* case would make a reasonable accommodation of the opposing interests of the SSW and the RI Trustee regarding use of RI properties not subject to a sale agreement. Accordingly, the SSW should pay the RI Trustee, for the use of the Memphis-Fordyce Line and related facilities operated under DSO No. 1456, compensation calculated under the following formula:

(1) The sum of $1,250 per route mile per year, payable on a monthly basis, in advance; and

(2) 14.4 percent of net revenues derived from operations over the involved lines. Net revenues shall be calculated in accordance with the Commission's regulations applicable in abandonment proceedings (49 CFR 1121.41–1121.43), subject only to the following exceptions: (a) The casualty reserve account is eliminated; (b) rehabilitation expenses are reported under maintenance of way and structures costs; and (c) bridge traffic revenues and costs are eliminated.

In determining the share of traffic attributable to RI at former RI–SSW reciprocal switching points, RI's share shall be considered to be the same as the share handled by KCT in its operations under Directed Service Order No. 1398.

The formula specified in the *Frisco Compensation* case is designed to accommodate the interests of the Trustee and the DRC with respect to temporary operations over a line for which a sale agreement has not been reached. We do not believe that the same rationale and formula is appropriate for determining the reasonable compensation for the use of lines, like the Tucumcari Line, as to which the parties have entered into a purchase and sale agreement setting a value on the line. In such circumstances, we believe that an appropriate rental for the Tucumcari Line should provide the Trustee with a reasonable return on the agreed value of the property ($57 million) pending approval and consummation of the sale.

The Trustee asserts that a rate of return of 14.4 percent per year on the value of the line would be reasonable. That rate of return is reasonable in today's financial markets for conservatively invested liquid assets. The Tucumcari Line, however, is not a liquid asset. It is commercial rail property subject to sale agreement. Therefore, it is not readily disposable for cash. We believe, that the rate of return on the value of the line should be lower than that for liquid assets. We also recognize that rates of return on investments have fluctuated greatly in recent months. Considering these factors, we conclude that a reasonable return on the value of the Tucumcari Line should be set at a rate of 2 percentage points below the average yield (adjusted to a monthly basis on the first business day of each month) of marketable securities of The United States Government having a duration of 90 days.[1]

The sums expended by SSW during temporary operations for maintenance and security, to the extent necessary to preserve the value of the property, should be credited toward the rental payments. This allowance for maintenance and security expenditures shall not exceed 50 percent of the total rent.

One-half of the monthly rental for the Tucumcari Line shall be payable in advance. The balance of the monthly rental shall be paid within 30 days of the end of the month and payment shall be accompanied by an itemized statement of maintenance and security expenses claimed as credits against the rental.

We find: 1. SSW and the RI Trustee have been unable to agree upon terms for compensation of the RI estate for the use of RI property by SSW under Directed Service Order Nos. 1453 and 1456.

2. The terms of compensation set forth in this decision will be reasonable and will accommodate the interests of SSW and the RI Trustee.

3. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106 and 1108 (1978).

[1] This monthly rental may be expressed by the formula (Y–.02) P÷12; where Y equals the average yield of 90-day U.S. Government securities on the first business day of the month and P equals the agreed purchase price for the line.

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It is ordered: 1. SSW shall compensate the Rock Island estate for the use of RI tracks and related facilities, operated under Directed Service Order Nos. 1453 and 1456, in accordance with the terms of this decision.

2. This decision shall be effective on the date it is served (April 28, 1980).

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Vice Chairman Gresham not participating. Commissioner Stafford absent and not participating. Commissioner Trantum concurring with a separate expression. Commissioner Gilliam not participating.

Agatha L. Mergenovich,
Secretary.

Commissioner Trantum, Concurring:

I reluctantly concur in this decision because the Commission is in the unfortunate position of having to set compensation. If either the RI trustee or the SSW disagrees with the formulas adopted today, I would welcome hearing about a more reasonable solution.

[FR Doc. 80-15733 Filed 5-21-80; 8:45 am]
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49 CFR Part 1033

[Service Order No. 1471]

The Atchison, Topeka & Santa Fe Railway Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) at Alva, Okla.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1471.

SUMMARY: This order authorizes the Atchison, Topeka and Santa Fe Railway Company (ATSF) to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at Alva, Oklahoma, for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE: 12:01 a.m., May 17, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

Decided: May 16, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Atchison, Topeka and Santa Fe Railway Company (ATSF) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by ATSF over tracks formerly operated by RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered.

§ 1033.1471 The Atchison, Topeka & Santa Fe Railway Co. authorized to operate over tracks of Chicago, Rock Island & Pacific Railroad Co., debtor (William M. Gibbons, trustee) at Alva, Okla.

(a) The Atchison, Topeka and Santa Fe Railway Company (ATSF) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Alva, Oklahoma for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123 (b)(2) of the Interstate Commerce Act.

(d) *Rate applicable.* Inasmuch as this operation by the ATSF over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via ATSF become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(e) In transporting traffic over these lines, ATSF and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if ATSF chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(g) *Effective date.* This order shall become effective at 12:01 a.m., May 17, 1980.

(h) *Expiration date.* the provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11123 (a)(3).

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-15678 Filed 5-21-80; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Parts 1243 and 1249

[No. 37117]

Elimination of Requirement To File Quarterly Report Form QL&D

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is eliminating the requirement that all Class I railroads, and all motor common and contract carriers of property with average annual operating revenues of $1 million or more, file Form QL&D-R&M, the quarterly report of freight loss and damage claims. The Commission does not use the data contained in the report, and we do not believe that the use others make of the data justifies continuing to require carriers to bear the considerable burden of filling out the form. To give other users time to adjust to our action, form QL&D will still have to be filed for each quarter of 1980, but schedule B, which contains data no one uses, will not have to be filed with the form.

DATES: The requirement that carriers file form QL&D will be eliminated for the reporting year beginning January 1, 1981. The requirement that carriers file Schedule B of Form QL&D-M is eliminated, effective May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275-7448.

SUPPLEMENTARY INFORMATION: On September 25, 1979, the Commission published a notice (44 FR 55218) which proposed to eliminate the requirement that all Class I railroads, and all motor carriers of property with average annual operating revenues of $1 million or more, file Form QL&D-R&M, the quarterly report of loss and damage claims. The action was proposed to implement a recommendation of a Commission data task force which had concluded that the Commission did not make sufficient use of the data contained in the report to justify continuing to require carriers to supply it. We asked for public comment on the proposal, and we made the Department of Transportation (DOT), which does use the data in the report, a party to the proceeding. We asked them to demonstrate a "justifiable need for the data" and to discuss alternative methods for obtaining it.

In response to our NPR, we received nineteen comments, all but three of which favored our proposal. Of the carriers responding, there was near unanimous agreement that the elimination of the reporting requirement would relieve them from an unjustifiable expense. They believe that little benefit is reaped from the considerable amount of time that is required to complete the report form.

Two carrier associations, the Association of American Railroads (AAR) and the American Trucking Associations, Inc. (ATA), filed comments supporting our proposal. AAR surveyed claims departments of railroads and found that they did not use the loss and damage data. The National Freight Claim Council (NFCC), a division of ATA, is considering establishing a voluntary reporting requirement, using the present Commission form for the first year and a revised form in subsequent years. The revised form would be in line with methods used by most carriers to collect data for internal use. NFCC would make the collected data available to DOT. ATA believes that the NFCC data would be more timely and more meaningful than the data DOT presently obtains from our form.

The three comments in opposition to our proposal came from the Inland Marine Underwriters Association (IMUA), the Shippers National Freight Claim Council, Inc. (SNFCC), and DOT. IMUA contends that the present form gives insurance companies information that is essential to handle loss and damage claims. These companies are required by law to assume full responsibility for all losses, both insured and uninsured, which are unpaid by their motor carrier policy holders. IMUA asserts that the requirement to file form QL&D-R&M serves as an impetus for carriers to file claims promptly, rather than letting a large amount of claims build up at once.

SNFCC claims that the Commission is the only organization capable of collecting statistics which are meaningful. SNFCC uses the data in the report to detect trends in causes of losses, to detect changes in carriers' protection of freight, to detect unlawful claim practices, to determine rates and charges based on ratios, and to reveal reasons for non-payment of freight claims. They do not believe that the responsibility for collecting the data should be left to the discretion of carriers and "self-serving organizations."

DOT reports that it uses the data from Form QL&D-R&M in its National Cargo Security Program, which was established by Executive Order No. 11836. DOT uses the data to determine loss trends, on which it reports in an annual report to the President on the cargo security program. According to DOT, the program has reduced the cost to the public of losses from cargo thefts. DOT does not have the authority to require that the data it needs be filed with it, and it asserts that loss of the data would significantly damage its program. DOT further asserts that the data is useful to the transportation industry and that continuing to require carriers to file the form does not represent a continuing burden on the industry since carriers will still be required to keep the data, whether or not the report is eliminated. Thus, DOT claims that reporting the data constitutes an "insignificant" paperwork burden for carriers. As to alternative sources for the data, DOT believes that voluntary reporting through carrier associations would not be reliable since associations cannot require timely or accurate reporting. As result, DOT does not believe that the data base would be as reliable or useful as that obtained from the present report.

We do not believe that the arguments of DOT, SNFCC, and IMUA justify our continuing to require carriers to file Form QL&D-R&M. Although we agree that the data is useful, we do not agree that adequate data cannot be obtained elsewhere. For example, insurance companies which insure the losses of Class II railroads and motor carriers with less than $1 million in revenue have not had Commission quarterly report data, and they have developed alternative means of satisfying their data needs at a minimal expense to the carriers.

The question of the expense to the carriers seems to us to be the key determinant in this proceeding. Although DOT contends that reporting the data is an insignificant burden, the carriers associations participating in this proceeding say that it is a considerable burden. The Commission has looked into this matter itself and has determined that it requires 339,000 man hours for carriers to fill out and file Form QL&D-R&M. We cannot in good conscience continue to require carriers to expend this kind of effort to supply data which our agency does not use.

Consequently, we have determined that Form QL&D-R&M should be eliminated. We urge DOT and other interested parties to work with the carriers and their associations to try to find a method for providing reliable data in a way which will be easier and less costly for carriers than the present procedure. To assist the DOT, IMUA, and SNFCC in adjusting to our action, we are deferring the elimination of the reporting requirement until next year. Carriers will still be required to file Form QL&D-R&M for each quarter of 1980. This will give the parties time to explore alternatives.

In the course of this proceeding, we have determined that no one uses the data contained in Schedule B of Form QL&D-R&M. Consequently, we are eliminating the requirement that Schedule B be filed with the form. We are making this change effective immediately so that carriers will not have to file the schedule with their

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reports for the first quarter of 1980. We find that there is good cause for this action, since it will reduce carriers costs and since there is no need for the information contained in the schedule.

Accordingly, 49 CFR 1243.4 and 1249.15, which contain the requirement that Form QL&D–R&M be filed, are rescinded, effective January 1, 1981 and Schedule B—"Analysis of theft—all carriers" is deleted from Form QL&D–R&M, effective immediately.

This action will not affect significantly either the quality of the human environment or conservation of energy resources.

This action is taken under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

Decided: May 8, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15570 Filed 5-21-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 101
Thursday, May 22, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50

Possible Amendments to "Immediate Effectiveness" Rule

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is considering amendments to its "immediate effectiveness" rule. That rule provides that construction on a nuclear power plant can begin on the basis of an initial decision by an Atomic Safety and Licensing Board even though that decision is subject to further review within the Commission. The Commission is concerned that the present rules often prevent it from reviewing a case until construction is well underway. The Commission is considering three alternative amendments to that rule, and is also considering retaining the present rule unchanged.

DATES: Comments must be received on or before July 7, 1980.

ADDRESSES: All persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. copies of all comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC. Persons who have commented previously on this subject in connection with the work of the Federal Advisory Committee, mentioned below, may wish to make reference to their previous comments, and to direct their further remarks to the specific features of the three options for change which are now presented.

FOR FURTHER INFORMATION CONTACT: Peter Crane, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (202) 634–1465.

SUPPLEMENTARY INFORMATION: In its *Seabrook* opinion of January 6, 1978, the Commission announced that it intended to monitor more effectively the proceedings of its lower boards. *Public Service Company of New Hampshire*, 7 NRC 1, 7. It stated that in practice its current rules often prevent it from reviewing a case until construction is well underway and that this might adversely affect either the quality of its decisionmaking process or the public's perception of that process, or both. It directed that a study be made of the following questions:

1. "The effect which would be achieved by relaxation of our stay standards so that site-related issues in potentially troublesome cases may be taken up before large sums of money are committed and sites irrevocably altered; and

2. Ways in which our appellate administrative procedures may assure earlier resolution of all the issues arising out of a licensing and cut relitigation and piecemeal review to a minimum."

In January of 1979 the Commission established a Federal Advisory Committee to conduct the study; on December 12, 1979 the Advisory Committee submitted its final report (NUREG–06436) to the Commission. Single copies of NUREG–0646 may be obtained without charge by writing to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The report contained three options for altering the Commission's "immediate effectiveness" rule (10 CFR 2.764), together with a discussion of the advantages and disadvantages of retaining the present licensing system unchanged. It should be noted that the report, and the options which it presented, dealt only with the issue of construction during adjudication, and not with the issue of operation during adjudication. The Commission is now considering whether to retain the present system or to adopt one of several possible options for change.

In January 1980, the Commission's Office of General Counsel completed and presented to the Commission a separate but related study, entitled "The Nuclear Regulatory Commission's Appellate System", (NUREG–0648). The study discussed the history and capabilities of the present appellate system, and the practices of other agencies; analyzed the workload of the Atomic Safety and Licensing Appeal Panel; evaluated options available to the Commission; and presented conclusions, including some recommendations for change of the appellate system. Persons who are interested in the proposed rules set forth below may wish to provide comments in light of the discussions and conclusions in both studies. Copies of that study are available for public inspection in the Commission's Public Document Rooms. Single copies of the appellate study (NUREG–0648) may be obtained by written request addressed to the Director, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555. Notice of the availability of NUREG–0648 was published in the **Federal Register** on January 30, 1980 (45 FR 6873). The notice solicited public comment on NUREG–0648, to be forwarded to the Commission by March 17, 1980.

Summary of the Present Licensing System

To construct a nuclear power plant an applicant must file with the Commission a detailed application addressing both the design of the proposed facility and its potential environmental impacts. Once that application has been thoroughly reviewed by the Commission staff, an adjudicatory hearing is held on the application before an Atomic Safety and Licensing Board. Full adjudicatory procedures, including the right to present and cross-examine witnesses, are available in the hearing and, in addition to NRC staff and the applicant, any persons whose interests may be affected by the proposed plant may participate as parties. The Licensing Board's decision must be based solely on the record compiled before it. If the Board finds reasonable assurance that the plant as designed will not be inimical to the health and safety of the public, and that the overall cost-benefit balance mandated by the National Environmental Policy Act (NEPA) favors granting the application, it will authorize a construction permit. The permit will be effective immediately unless a party has shown the Board good cause why it should not be. 10 CFR 2.764 provides that the NRC staff must issue the permit

within 10 days after the Board's decision, construction may then begin.

There are two avenues available to a party who objects to the Board's initial decision. The primary mechanism is appellate review. All Licensing Board decisions, whether or not appealed, are reviewed on the merits by a three-member Atomic Safety and Licensing Appeal Board which has full authority to review the legal and factual conclusions reached by the Licensing Board. The Appeal Board's decision in turn is subject to discretionary review by the Commission itself, either on its own motion or by the granting of a petition for review (a "certiorari petition") filed by a party pursuant to 10 CFR 2.786. Finally, any party can seek judicial review of a final Commission order in one of the United States Courts of Appeals.

In addition, a party appealing a licensing board decision may seek a stay. The immediate effectiveness rule normally permits construction to proceed during this entire appelate review. The Commission recognized, however, the need for a procedure which would allow a party to seek relief from a decision while that decision was on appeal. Rules were therefore adopted which provide that a stay may be sought, first from the Appeal Board, and if the Board denies the request, then from the Commission. The criteria used to rule on the stay request were taken from those used by courts to judge requests for stay of administrative decisions. The criteria are commonly referred to as the *Virginia Petroleum Jobbers* criteria, after the case in which they were first articulated, *Virginia Petroleum Jobbers Ass'n* v. *FPC*, 259 F.2d 921 (D.C. Cir. 1958).

Options for changing the present licensing system

The three options which are being considered for changing the present system are as follows:

Option A—Effectiveness as an Additional Issue in Licensing

This option would require the Licensing Board to make a separate ruling on the question whether its initial decision should be immediately effective. The ruling would be based upon the record, and would deny effectiveness if the Board found, at close of hearing, any substantial question on an issue which could be affected by the early stages of construction at the site. Such issues would include, for example, alternative sites, site suitability, and the overall NEPA cost-benefit balance; no issue would necessarily be excluded. The merits of any substantial question on these issues would have to be resolved on appeal before construction at the site could begin. A "substantial question," for these purposes, does not require the Board to find that its own ruling may be incorrect, but rather that the party which did not prevail on the issue has demonstrated substantial, non-frivolous arguments which could be raised on appeal.

In a sense, Option A may be seen as the functional equivalent of retaining the present system of immediate effectiveness, but with liberalized stay standards in place of the strict *Virginia Petroleum Jobbers* standard. Alternatively, the Commission could simply alter its present stay standards to provide that a stay will be granted if a party demonstrates that there is a substantial question as to the correctness of the resolution of an issue which might be prejudiced by construction. (This is the approach taken in Option D.) Option A achieves approximately the same effect, except that in the case of a stay, the burden would be on the proponent of the stay to overcome the presumption in favor of immediate effectiveness; under Option A, however, there would be no presumption for or against immediate effectiveness. As a practical matter, this might be significant only in uncontested cases, where under Option A, effectiveness might be deferred if the Licensing Board found that there was substantial question as to the correctness of its own resolution of a particular issue which might be prejudiced by construction.

Chronologically, Option A would operate as follows:

A. At the hearing:

1. Applicant would advise the Board and parties early by letter of its proposed schedule of construction and expenditure.

2. If the nature of the issues warranted, discovery would be permitted on this schedule, and testimony would be required from applicant and staff (and permitted from intervenors) on the schedule. These steps would be taken toward the end of the hearing, and at the Licensing Board's discretion. The purpose of the testimony would be to identify points in the construction schedule which are critical for particular issues.

B. In the initial decision:

1. The Board would respond to the positions of the parties by ruling on the date when construction may begin. It would identify (and make findings on) any substantial issue which might be prejudiced by construction and note when construction might affect it.

2. The Licensing Board would defer construction whenever, as stated above, it found a substantial question (as defined above) on an issue which could be affected by construction. This decision would be made in light of the construction schedule, so that construction could go forward unless it affected an issue falling into the above categories. For example, where the issue is which is the best of several possible locations in a river bed for a discharge diffuser, early construction unrelated to the diffuser could not affect the ultimate resolution of that issue.

3. No construction could begin sooner than 30 days after the initial decision. This gives parties time to evaluate the decision and file papers before the Appeal Board.

C. On appellate review:

1. If an appeal is taken from the decision on effectiveness, 30 more days would be added to the period during which no construction could occur. During this total of 60 days the Appeal Board would be required to resolve the effectiveness question on appeal. The Appeal Board would use the same criteria for effectiveness as the Licensing Board, and the appeal would be limited to the effectiveness issue alone. Of course, if the Licensing Board had deferred effectiveness in its Initial Decision, these periods would be irrelevant, since construction could not begin until the date set by the Licensing Board. It could begin earlier only if the Appeal Board reversed the Licensing Board's deferral. Since it has the power to make such a reversal, the Appeal Board can, under Option A, take itself off the "critical path"—that is, remove itself as an obstacle to construction.

2. To allow for Commission review of effectiveness, a suitable period of deferral would be added at the conclusion of the Appeal Board's review.

3. Whenever effectiveness is deferred, the Appeal Board would resolve first, on the merits, all issues which had caused the deferral. It would decide other issues later. Construction could begin if and when the effectiveness-related issues were satisfactorily resolved on appeal.

Option B—A Final Decision on LWA Issues Prior to Construction

This option requires a final decision on the merits for construction-related issues before construction can begin. In essence, the Licensing Board would decide construction-related issues first, those issues would be taken up immediately on appeal, and construction would begin only after final appellate review of those issues. The issues are all those which, if resolved adversely to the applicant, would defeat the plant at the site selected or be prejudiced by the early stages of construction. They are generally the same as those now used for limited work authorizations (LWA_1 and LWA_3) and similar to those used in the standard suggested above in Option A for granting a stay. The main difference between this option and Option A is that here these issues are defined in advance, and must be resolved on the merits before construction, whereas in Option A the issues are not defined in advance and construction depends upon whether effectiveness is stayed pending appeal.

Final decision is required on all issues related to the National Environmental Policy Act (NEPA) and all safety issues related to site suitability and construction of foundations. The NEPA issues would be addressed as they are now for the LWA_1. For the site safety issues, however, the review would go beyond the present site suitability report and determine the design basis or bases for meeting the safety regulation pertinent to each issue. Thus, for each of the site safety issues, the staff and Licensing Board would complete in full the review currently included in the Safety Evaluation Report. This added scope of review should assure that all site-related issues are completely addressed and should solidify the basis for authorizing construction. The site safety issues would include:

(1) Geography and Demography.
(2) Nearby Industrial, Transportation and Military Facilities.
(3) Meteorology.
(4) Hydrology.
(5) Geology and Seismology.
(6) Foundation Engineering.
(7) Quality Assurance
(8) Any other issue which, in the opinion of the presiding officer, is related to the commencement of construction at the site.

The remaining issues on the construction permit (CP) would be heard by the Licensing Board while the above issues were on appeal. The remaining CP issues would include:

(1) Design Criteria for Structures, Components, Equipment and Systems
(2) Reactor and Reactor Coolant System
(3) Engineered Safety Features
(4) Instrumentation and Controls
(5) Electrical Power
(6) Auxiliary Systems
(7) Steam and Power Conversion System
(8) Radioactive Waste Management
(9) Radiation Protection
(10) Conduct of Operations
(11) Initial Tests and Operations
(12) Accident Analysis
(13) Technical Specifications

After appellate affirmance of the LWA issues, the applicant could do all the work authorized by LWA_1 and LWA_2. This includes site clearing, preparation and excavation (LWA_1) and safety-related foundations (LWA_2). Before this work is completed, the Licensing Board should have ample time to complete its hearing on the balance of the issues necessary for the construction permit. The grant of an LWA_2, which allows work on safety-related foundations, signifies clearly that all issues related to the safety of the *site* have already been resolved satisfactorily.

Option B would operate as follows:

a. At the hearing:

The Licensing Board takes up the LWA issues first. This is already the Board's practice where an LWA is requested. When decided, these issues are immediately ripe for appellate review. The Board's decision is not immediately effective. After deciding the LWA issues, the Licensing Board turns to the rest of the issues necessary for the CP. The LWA issues are processed on appeal while the rest of the CP issues are heard by the Licensing Board. If the intervenor's attorney is unable to pursue the appeal and continue the CP hearing at the same time, the Licensing Board suspends the CP hearing to allow for briefing time. The CP decision is normally made by the Licensing Board before construction ends under the LWA. If the applicant does not request a separate decision on LWA issues, effectiveness awaits appellate review of the CP decision. The issues which belong in the LWA category have been defined above, and are based upon actual experience in hearings. The Board rules on any dispute over which issues belong in the LWA category.

b. On appellate review:

1. The Appeal Board conducts an immediate review of the LWA issues, including disputes over which issues should be in the LWA category. Upon completing its review on the merits and rendering its opinion, the Appeal Board can authorize construction to begin. It can do so notwithstanding a remand for further proceedings on some minor issue (*e.g.*, additional stations to monitor the effect of construction on muskrats). Basically, the requirement is that all construction-related issues on appeal must go through at least one merits review before construction.

2. To allow for Commission review, an additional period of deferral is added at the conclusion of the Appeal Board's review. The Commission decides whether to accept review during this period. If the Commission does accept review it can defer construction until the review is completed. Under this option, the Commission could review all construction-related issues on the merits before construction begins.

Option C—Repeal the Immediate Effectiveness Rule

This option prevents any construction prior to the agency's final decision on all issues. It does not rely upon stays to discriminate among cases, upon parties or the Licensing Board to identify the grounds for a stay, or upon an LWA or other device to identify certain issues for early treatment. The Commission would be able to pass on the merits of all issues before construction begins. Since construction does not begin until all CP issues are affirmed on appeal, the LWA procedures would not be used.

Option C would operate as follows:

a. At the hearing:

The Licensing Board conducts its usual review, but effectiveness does not attach to its CP authorization. Since construction cannot begin on the strength of an LWA, there is little incentive to seek one. The only possible advantage is to reduce the time required for the Appeal Board to review the CP decision, because by reviewing the LWA issues earlier fewer issues would remain on appeal of the CP.

b. On appellate review:

1. The Appeal Board must resolve all issues on the merits before construction begins. If an issue is remanded for further proceedings, the Appeal Board can, as in Option B above, decide whether to allow construction pending the remand.

2. To allow for Commission review, an additional period of deferral is added at the conclusion of the Appeal Board's review. The Commission decides whether to accept review during this period. If the Commission does accept review, it can defer construction until the review is completed. Under this option the Commission could review all issues in the case before construction begins.

Option D—Retain the Present System but With Significantly Loosened Standards for Obtaining a Stay

Under this approach, the standards for determining whether to grant a stay could be the same as those articulated under Option A, above—whether the party seeking the stay has demonstrated substantial, non-frivolous arguments for the correctness of its position on the merits of its appeal. The functional effect would be similar to that outlined for Option A, except that under this approach, it would be necessary for a party to seek a stay, whereas under

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Option A, the Board would examine the issue of effectiveness without the need for a party to make such a request. This would include a period of thirty (30) days after the date of service of the initial decision during which no construction could be commenced, so as to allow a party taking an appeal to prepare and present a stay request to the Appeal Board.

Option E.—Retain the present system unchanged

(See discussion of present system, above.)

Other Devices

In addition to the above options, the Commission is considering two devices—the increased use of referred rulings, and Commission monitoring of Licensing Board proceedings—which could aid either the present system or the implementation of any of the above options. These matters are described both in NUREG–0646 and in NUREG–0648, the study of the Commission's appellate system. (See "Supplementary Information", above.) Persons commenting on these devices may wish to refer to both studies.

Date of Implementation

The above options, if adopted, would be implemented by applying them to all applications for construction permits which have not begun hearings.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and 5 U.S.C. 553, notice is hereby given that adoption of one of the following alternatives is contemplated.

A. *Option A.*

1. 10 CFR 2.760 is revised to read as follows:

§ 2.760 Initial decision and its effect.

(a) The presiding officer, after hearing, will render an initial decision which will constitute the final action of the Commission forty-five (45) days after its date, when it authorizes the issuance or amendment of a license for a facility, or thirty (30) days after its date in any other case, unless exceptions are taken in accordance with § 2.762, or the Commission directs that the record be certified to it for final decision.

(b) Where the public interest so requires, the Commission may direct that the presiding officer certify the record to it without an initial decision, and may:

(1) Prepare its own initial decision; or

(2) Omit an initial decision on a finding that due and timely execution of its functions imperatively and unavoidably so requires.

(c) An initial decision will be in writing and will be based on the whole record and supported by reliable, probative, and substantial evidence. The initial decision will include:

(1) Findings, conclusions and rulings, with the reasons or basis for them, on all material issues of fact, law, or discretion presented on the record;

(2) All facts officially noticed and relied on in making the decision;

(3) The appropriate ruling, order or denial of relief with the effective date;

(4) A separate finding, together with a statement of the basis for it, establishing the date upon which any construction authorized by the initial decision may begin;

(5) The time within which exceptions to the decision and a brief in support of them may be filed, the time within which briefs in support of or in opposition to exceptions filed by another party may be filed and, in the case of an initial decision which may become final in accordance with paragraph (a) of this section, the date when it may become final.

2. 10 CFR 2.764 is revised to read as follows:

§ 2.764 The commencement of construction under an initial decision authorizing construction or directing issuance or amendment of a construction permit.[1]

(a) Under an initial decision directing the issuance or amendment of a construction permit or a construction authorization for a production or utilization facility subject to the provisions of § 51.5(a) of this chapter.

(1) No person shall effect commencement of construction (as "commencement of construction" is defined in § 50.10(c) of this chapter) unless specifically so authorized by the Atomic Safety and Licensing Board. If the Board finds that no substantial question remains for appeal on an issue[2] related to the commencement of construction during appellate review, the Board shall authorize commencement of construction at the expiration of thirty (30) days after the date of service of the initial decision. In the event an appeal under this chapter is taken from such an initial decision authorizing commencement of construction, construction shall not commence within ninety (90) days after the date of service of the initial decision. If the Atomic Safety and Licensing Board, the Atomic Safety and Licensing Appeal Board, or the Commission finds that there is a substantial question on an issue related to the commencement of such construction, construction shall not commence until the merits of that issue are resolved on appeal. A "substantial question," for these purposes, does not require the Board to find that its own ruling may be incorrect, but rather that the party which did not prevail on the issue has demonstrated substantial, non-frivolous arguments which could be raised on appeal.

(b) The Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall where authorized by an initial decision issue a construction permit or an amendment thereto or a construction authorization within 10 days after the date upon which commencement of construction is authorized pursuant to this chapter.

3. A new subparagraph (3) is added to § 2.785(b) of 10 CFR Part 2 to read as follows:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Boards.

* * * * *

(b) * * *

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(3) In a proceeding on appeal from an initial decision by an Atomic Safety and Licensing Board directing the issuance or amendment of a construction permit or construction authorization for a nuclear power reactor or testing facility:

(i) The Atomic Safety and Licensing Appeal Board shall, within 60 days after the date of service of the initial decision, complete its review of exceptions to that part of the initial decision of the Atomic Safety and Licensing Board which, under § 2.764, establishes the date upon which construction may commence. If no such exception is filed, the Atomic Safety and Licensing Appeal Board shall conduct any review of such part of the initial decision within 30 days of the date of service of that decision. The Atomic Safety and Licensing Appeal Board may extend these periods, but if it does so, it shall at the same time extend, by an equivalent amount, the thirty- (30-) day and ninety- (90-) day periods described in § 2.764(a).

(ii) After completing the review in paragraph (b)(3)(i) of this Section, the Atomic Safety and Licensing Appeal Board shall, if it finds that there is a substantial question on an issue related to the commencement of construction, undertake review on the merits of that issue on an expedited basis, and shall order that construction not commence pending completion of that expedited review.

[1] The temporary suspension of this rule in certain proceedings and related matters are addressed in Appendix B to this part.

[2] Such issues include, for example: Alternate sites, site suitability, and the overall NEPA cost-benefit balance.

4. A new paragraph (i) is added to 10 CFR 2.788 to read as follows:

§ 2.788 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

* * * * *

(i) The provisions of this section shall not apply to an initial decision directing the issuance or amendment of a construction permit or a construction authorization.

B. *Option B.*

1. 10 CFR 2.761a is revised to read as follows:

§ 2.761a Separate hearings and decisions.

In a proceeding on an application for a construction permit for a utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility, the presiding officer shall unless the parties agree otherwise or the rights of any party would be prejudiced thereby, commence a hearing on issues covered by § 50.10(e) and Part 51 of this chapter as soon as practicable after issuance by the staff of its final environmental impact statement and its final report on the site safety issues described in § 50.10(e), but no later than thirty (30) days after issuance of such statement and report, and complete such a hearing and issue an initial decision on such matters. Prehearing procedures regarding issues covered by Part 51 and § 50.10(e) of this chapter, including any discovery and special prehearing conferences and prehearing conferences as provided in §§ 2.740, 2.740a, 2.740b, 2.741, 2.742, 2.751a, and 2.752, shall be scheduled accordingly. The provisions of §§ 2.754, 2.755, 2.760, 2.762, 2.763, and 2.764 shall apply to any proceeding conducted and any initial decision rendered in accordance with this section. This section shall not preclude separate hearings and decisions on other particular issues.

2. 10 CFR 2.764 is revised to read as follows:

§ 2.764 Beginning construction under an initial decision directing issuance or amendment of a construction permit or a construction authorization.[3]

(a)(1) In a proceeding in which a construction authorization is granted by an initial decision rendered pursuant to § 2.761a of this part, no person shall effect commencement of construction (as "commencement of construction" is defined in § 50.10(c) of this chapter) or conduct any of the activities described in § 50.10(e)(1) within 30 days after the date of service of the decision by the Atomic Safety and Licensing Appeal Board reviewing on the merits any appeal filed under § 2.762 from that initial decision. If, after such a review, further proceedings are ordered, no person shall effect commencement of construction until authorized to do so by the Atomic Safety and Licensing Appeal Board. In granting or denying such an authorization, the Atomic Safety and Licensing Appeal Board shall consider the relative importance of the matter or matters remanded, and the extent to which the commencement of construction at the site during the pendency of the remand would cause serious environmental impacts to occur at the site or assets to be placed at risk. If a petition for review is filed with the Commission regarding this authorization, construction shall not commence within thirty (30) days after the date of service of the decision by the Atomic Safety and Licensing Appeal Board which grants the authorization.

(2) In a proceeding in which no construction authorization pursuant to § 2.761a is granted, and in which an initial decision directs the issuance or amendment of a construction permit, no person shall effect commencement of construction (as defined in § 50.10(c) of this chapter) within:

(i) Thirty (30) days after the date of service of the decision by the Atomic Safety and Licensing Appeal Board reviewing on the merits at least that portion of any appeal from the initial decision which contains exceptions relating to the issues described by § 2.761a, or (ii) thirty (30) days after the date of the initial decision if no appeal from the initial decision is taken under this chapter.

(3) The initial decisions described in paragraphs (a) (1) and (2) of this section are appealable immediately in accordance with § 2.762 of this chapter.

(4) The Commission, pursuant to its appellate review under Part 2 of this chapter, may in its discretion extend any of the thirty- (30-) day periods described in paragraphs (a) (1) and (2) of this section.

(b) Where so authorized by an initial decision, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall issue a construction permit or an amendment thereto or a construction authorization, as appropriate, within 10 days after the date upon which commencement of construction is authorized pursuant to paragraph (a) of this section.

3. A new subparagraph (3) is added to § 2.785(b) of 10 CFR Part 2 to read as follows:

§ 2.785 Functions of Atomic Safety Licensing Appeal Boards.

* * * * *

(b) * *

* * * * *

(3) In a proceeding on appeal from an initial decision by an Atomic Safety and Licensing Board directing the issuance of a construction permit, the Atomic Safety and Licensing Appeal Board may in its discretion issue an early partial decision confined to the issues described in § 2.761a.

4. A new paragraph (i) is added to 10 CFR 2.788 to read as follows:

§ 2.788 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

* * * * *

(i) The provisions of this section shall not apply to an initial decision directing the issuance or amendment of a construction permit or a construction authorization.

5. Section 50.10(e) of 10 CFR Part 50 is amended to read as follows:

§ 50.10 License required.

* * * * *

(e)(1) The Director of Nuclear Reactor Regulation may authorize an applicant for a construction permit for a utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b) (2) or (3) or § 50.22 or is a testing facility, to conduct the following activities: (i) Preparation of the site for construction of the facility (including such activities as clearing, grading, construction of temporary access roads and borrow areas); (ii) installation of temporary construction support facilities (including such items as warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and construction support buildings); (iii) excavation for facility structures; (iv) construction of service facilities (including such facilities as roadways, paving, railroad spurs, fencing, exterior utility and lighting systems, transmission lines, and sanitary sewerage treatment facilities); (v) the installation of structural foundations, including any necessary subsurface preparation, for structures, systems and components which prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public; and (vi) the construction of structures, systems, and components which do not prevent or mitigate the consequences of postulated accidents that could cause

[3] The temporary suspension of this rule in certain proceedings and related matters are addressed in Appendix B to this part.

V 45 M Y 22 80 UMI

undue risk to the health and safety of the public. No such authorization shall be granted unless the staff has completed a final environmental impact statement on the issuance of the construction permit as required by Part 51 of this chapter, and has completed its safety review so as to determine the design basis or bases for meeting the safety regulation pertinent to each of the following site safety issues: Geography and Demography; Nearby Industrial, Transportation and Military Facilities; Meteorology; Hydrology; Geology and Seismology; Foundation Engineering; and Quality Assurance.

(2) Such an authorization shall be granted only after the presiding officer in the proceeding on the construction permit application has made all the findings required by § 51.52 (b) and (c) of this chapter to be made prior to issuance of the construction permit for the facility, and has determined that there are no unresolved safety issues which relate to the installation of the structural foundations described in paragraph (e)(1)(v) of this section which would constitute good cause for withholding the authorization, and has made the findings under § 50.35 of this part required for the issuance of the construction permit with respect to the following site safety issues:

(i) Geography and Demography
(ii) Nearby Industrial, Transportation and Military Facilities
(iii) Meteorology
(iv) Hydrology
(v) Geology and Seismology
(vi) Foundation Engineering
(vii) Quality Assurance
(viii) Any other issue which, in the opinion of the presiding officer, is related to the commencement of construction at the site.

C. *Option C.*

1. 10 CFR 2.761a is deleted, and Appendix A to 10 CFR Part 2 is revised accordingly.

2. 10 CFR 2.764 is amended to read as follows:

§ 2.764 Commencement of construction under an initial decision directing issuance or amendment of a construction permit.

(a) In a proceeding in which an initial decision directs the issuance or amendment of a construction permit, no person shall effect commencement of construction (as "commencement of construction" is defined in § 50.10(c) of this chapter) within thirty (30) days after the date of service of the decision by the Atomic Safety and Licensing Appeal Board reviewing on the merits any appeal under § 2.762 from the initial decision. If, after such review, the initial decision is remanded for further proceedings before the Atomic Safety and Licensing Board, no person shall effect commencement of construction within thirty (30) days after the date set for commencement of construction by the Atomic Safety and Licensing Appeal Board. In setting this date, the Atomic Safety and Licensing Appeal Board shall consider the relative importance of the matter or matters remanded, and the extent to which the commencement of construction at the site during the pendency of the remand would cause assets to be placed at risk or serious environmental impacts to occur at the site.

(b) If no appeal is taken from the initial decision in paragraph (a) of this section, no person shall effect commencement of construction within thirty (30) days after the date of any decision by the Atomic Safety and Licensing Appeal Board reviewing the initial decision *sua sponte*, or within thirty (30) days after the date of the initial decision if no review *sua sponte* is undertaken.

(c) The initial decisions described in paragraph (a) of this section are *appealable immediately in accordance with § 2.762 of this chapter.*

(d) The Commission, *pursuant to its appellate review* under Part 2 of this chapter, may in its discretion extend any of the thirty- (30-) days periods in paragraph (a) of this section.

(e) Where so authorized by an initial decision, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall issue a construction permit or an amendment thereto within 10 days after the date which the commencement of construction is authorized pursuant to paragraphs (a), (b) and (d) of this section.

3. A new paragraph (i) is added to 10 CFR 2.788 to read as follows:

§ 2.788 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

* * * * *

(i) The provisions of this section shall not apply to an initial decision directing the issuance or amendment of a construction permit.

§ 50.10 [Amended]

4. Section 50.10(e) of 10 CFR Part 50 is deleted.

D. *Option D.*

1. 10 CFR 2.764 is amended to read as follows:

§ 2.764 Commencement of construction under an initial decision directing issuance or amendment of a construction permit or a construction authorization.

(a) Under an initial decision directing the issuance or amendment of a construction permit or a construction authorization, no person shall effect commencement of construction (as "commencement of construction" is defined in § 50.10(c) within thirty (30) days after the date of service of the initial decision. In the event an appeal under Part 2 of this chapter is taken from the initial decision, no person shall effect commencement of construction within ninety (90) days after the date of service of the initial decision.

(b) The Director of Nuclear Reactor Regulation or the Director of Nuclear Materials Safety and Safeguards, as appropriate, shall where so authorized by an initial decision issue a construction permit, or an amendment thereto, or a construction authorization within ten (10) days after the expiration of the periods described in paragraph (a) of this section.

2. In § 2.788 of 10 CFR Part 2, paragraph (e) is revised and a new paragraph (i) is added to read as follows:

§ 2.788 Stays of decisions of presiding officers and atomic Safety and Licensing Appeal Boards pending review.

* * * * *

(e) Except as provided in paragraph (i) of this section, the Commission, the Atomic Safety and Licensing Appeal Board, or the presiding officer, in determining whether to grant or deny an application for a stay, will consider:

(1) whether the moving party has made a strong showing that it is likely to prevail on the merits;

(2) whether the party will be irreparably injured unless a stay is granted; (3) whether the granting of a stay would harm other parties; and (4) where the public interest lies.

* * * * *

(i) an application for a stay pending appeal of an initial decision directing issuance or amendment of a construction permit or a construction authorization shall be granted if the appeal presents a substantial question concerning an issue related to the commencement of construction.

Option E. Retain the present system unchanged. Relevant portions of the Commission's existing regulations are as follows:

§ 2.760 Initial decision and its effect.

(a) After hearing, the presiding officer will render an initial decision which will constitute the final action of the

Commission forty-five (45) days after its date when it authorizes the issuance or amendment of a license or limited work authorization for a facility, or 30 days after its date in any other case, unless exceptions are taken in accordance with § 2.762 or the Commission directs that the record be certified to it for final decision.

(b) Where the public interest so requires, the Commission may direct that the presiding officer certify the record to it without an initial decision, and may:

(1) Prepare its own initial decision, which will become final unless exceptions are filed; or

(2) Omit an initial decision on a finding that due and timely execution of its functions imperatively and unavoidably so requires.

(c) An initial decision will be in writing and will be based on the whole record and supported by reliable, probative, and substantial evidence. The initial decision will include:

(1) Findings, conclusions and rulings, with the reasons or basis for them, on all material issue of fact, law, or discretion presented on the record;

(2) All facts officially noticed and relied on in making the decisions;

(3) The appropriate ruling, order or denial of relief with the effective date;

(4) The time within which exceptions to the decision and a brief in support of them may be filed, the time within which briefs in support of or in opposition to exceptions filed by another party may be filed and, in the case of an initial decision which may become final in accordance with paragraph (a) of this section, the date when it may become final.

§ 2.760a Initial decision in contested proceedings on applications for facility operating licenses.

In any initial decision in a contested proceeding on an application for an operating license for a production or utilization facility, the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties to the proceeding and on matters which have been determined to be the issues in the proceeding by the Commission or the presiding officer. Matters not put into controversy by the parties will be examined and decided by the presiding officer only where he or she determines that a serious safety, environmental, or common defense and security matter exists. Depending on the resolution of those matters, the Director of Nuclear Reactor Regulation or Director of Nuclear Material safety and safeguards, as appropriate, after making the requisite findings, will issue, deny, or appropriately condition the license.

§ 2.761 Expedited decisional procedure.

(a) The presiding officer may determine a proceeding by an order after the conclusion of a hearing without issuing an initial decision, when:

(1) All parties stipulate that the initial decision may be omitted and waive their rights to file exceptions, to request oral argument, and to seek judicial review;

(2) No unresolved substantial issue of fact, law, or discretion remains, and the record clearly warrants granting the relief requested; and

(3) The presiding officer finds that dispensing with the issuance of the initial decision is in the public interest.

(b) An order entered pursuant to paragraph (a) of this section shall be subject to review by the Commission on its own motion within thirty (30) days after its date.

(c) An initial decision may be made effective immediately, subject to review by the Commission on its own motion within thirty (30) days after its date, except as otherwise provided in this chapter, when:

(1) All parties stipulate that the initial decision may be made effective immediately and waive their rights to file exceptions, to request oral argument, and to seek judicial review;

(2) No unresolved substantial issue of fact, or discretion remains and the record clearly warrants granting the relief requested; and

(3) The presiding officer finds that it is in the public interest to make the initial decision effective immediately.

(d) The provisions of this section do not apply to an initial decision directing the issuance or amendment of a construction permit or construction authorization, or the issuance of an operating license or provisional operating authorization.

§ 2.761a Separate hearings and decisions.

In a proceeding on an application for a construction permit for a utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b)(2) or (3) or 50.22 of this chapter or is a testing facility, the presiding officer shall, unless the parties agree otherwise or the rights of any party would be prejudiced thereby, commence a hearing on issues covered by § 50.10(e)(2)(ii) and Part 51 of this chapter as soon as practicable after issuance by the staff of its final environmental impact statement but no later than thirty (30) days after issuance of such statement and complete such a hearing and issue an initial decision on such matters. Prehearing procedures regarding issues covered by Part 51 and § 50.10(e)(2)(ii) of this chapter, including any discovery and special prehearing conferences and prehearing conferences as provided in §§ 2.740, 2.740a, 2.740b, 2.741, 2.742, 2.751a, and 2.752, shall be scheduled accordingly. The provisions of §§2.754, 2.755, 2.760, 2.762, 2.763, and 2.764(a) shall apply to any proceeding conducted and any initial decision rendered in accordance with this section. Paragraph 2.764(b) shall not apply to any partial initial decision rendered in accordance with this section. This section shall not preclude separate hearings and decisions on other particular issues.

§ 2.764 Immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.

(a) An initial decision directing the issuance or amendment of a construction permit, a construction authorization or an operating license shall be effective immediately upon issuance unless the presiding officer finds that good cause has been shown by a party why the initial decision should not become immediately effective, subject to the review thereof and further decision by the Commission upon exceptions filed by any party pursuant to § 2.762 or upon its own motion.

(b) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing of exceptions, shall issue a construction permit, a construction authorization, or an operating license, or amendments thereto, authorized by an initial decision, within ten (10) days from the date of issuance of the decision.[1]

§ 2.785 Functions of Atomic Safety and Licensing Appeal Board.

(a) The Commission has authorized Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise have been exercised and performed by the Commission, including, but not limited to, those under §§ 2.760–2.771, 2.912, and 2.913 in (1) proceedings on applications for licenses under Part 50 of this chapter and (2) such other licensing proceedings under the regulations in this chapter as the Commission may specify.

(b)(1) In the proceedings described in paragraph (a) of this section, the Atomic Safety and Licensing Appeal Board will also exercise the authority and perform the functions which would otherwise

[1] The temporary suspension of this rule in certain proceedings and related matters are addressed in Appendix B to this part.

V 45 M Y 22 80 UMI

have been exercised and performed by the Commission under §§ 2.711, 2.717(a), 2.718(i), 2.720(f), 2.730, 2.742(b), 2.743(b), 2.752(a) and (c) and Subpart I, except those functions referred to in § 2.905(c), (e)(2), (g), and (h)(2).

(2) In a proceeding on an application for an operating license where the Atomic Safety and Licensing Appeal Board determines that a serious safety, environmental, or common defense and security matter exists that has not been raised by the parties, it may give appropriate consideration to that matter.

(c) In the proceedings described in paragraph (a) of this section, the Atomic Safety and Licensing Appeal Board shall exercise the authority and perform the functions delegated to it subject to the provisions and limitations of the referenced sections and subpart. Except as provided in § 2.786, any action taken by the Atomic Safety and Licensing Appeal Board pursuant to its delegated authority shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission.

(d) In the proceedings described in paragraph (a) of this section, an Atomic Safety and Licensing Appeal Board may, either in its discretion or on direction of the Commission, certify to the Commission for its determination major or novel questions of policy, law or procedure.

§ 2.788 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

(a) Within ten (10) days after service of a decision or action any party to the proceeding may file an application for a stay of the effectiveness of the decision or action pending filing of and decision on an appeal or petition for review. Except as provided in paragraph (f) of this section, such an application may be filed with the Commission, Atomic Safety and Licensing Appeal Board, or the presiding officer.

(b) An application for a stay shall be no longer than ten (10) pages, exclusive of affidavits, and shall contain the following:

(1) A concise summary of the decision or action which is requested to be stayed;

(2) A concise statement of the grounds for stay, with reference to the factors specified in paragraph (e) of this section;

(3) In the case of an application to the Commission for stay of decisions or actions by an Atomic Safety and Licensing Appeal Board, a statement where (including record citation, if available) a stay was requested from the Appeal Board and denied. If no such request was made of the Appeal Board, the application should state why it could not have been made; and

(4) To the extent that an application for a stay relies on facts subject to dispute, appropriate references to the record or affidavits by knowledgeable persons.

(c) Service of an application for a stay on the other parties shall be by the same method, e.g., telegram, mail, as the method for filing the application with the Commission, Atomic Safety and Licensing Appeal Board, or the presiding officer.

(d) Within ten (10) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. Such answer shall be no longer than ten (10) pages exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section to the extent appropriate. No further replies to answers will be entertained. Filing of and service of an answer on the other parties shall be by the same method, e.g., telegram, mail, as the method for filing the application for the stay.

(e) In determining whether to grant or deny an application for a stay, the Commission, Atomic Safety and Licensing Appeal Board, or presiding officer will consider:

(1) Whether the moving party has made a strong showing that it is likely to prevail on the merits;

(2) Whether the party will be irreparably injured unless a stay is granted;

(3) Whether the granting of a stay would harm other parties; and

(4) Where the public interest lies.

(f) An application to the Commission for a stay of a decision or action by an Atomic Safety and Licensing Appeal Board will be denied if a stay was not, but could have been, sought before the Appeal Board. An application for a stay of a decision or action of a presiding officer may be filed before either the Atomic Safety and Licensing Appeal Board or the presiding officer, but not both at the same time.

(g) In extraordinary cases, where prompt application is made under this section, the Commission, Atomic Safety and Licensing Appeal Board, or presiding officer may grant a temporary stay to preserve the status quo without waiting for filing of any answer. The application may be made orally provided the application is promptly confirmed by telegram. Any party applying under this paragraph shall make all reasonable efforts to inform the other parties of the application, orally if made orally.

(h) A party may file an application for a stay of a decision or action granting or denying a stay. As to a decision or action of a presiding officer the application shall be filed with the Atomic Safety and Licensing Appeal Board. As to a decision or action of the Atomic Safety and Licensing Appeal Board the application shall be filed with the Commission. In each case the procedures and criteria of §§ 2.788(a)–(e) shall be followed.

Authority for options A through E: See 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Sec. 201, as amended, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841).

Dated at Washington, D.C., this 16th day of May 1980.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-15780 Filed 5-21-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Parts 47 and 49
[Docket No. 17311; Notice No. 80-9]

Recordation of Conveyances Affecting Title to, or an Interest in, Aircraft

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposes rules which would amend certain provisions currently contained in the Federal Aviation Regulations dealing with aircraft registration and recordation of conveyances affecting title to aircraft. These proposed revisions are needed to eliminate the distinction between conditional sales contracts and other security instruments for purposes of those regulations. The proposed revisions are intended to provide more uniform treatment of all secured creditors in keeping with the intent of the Uniform Commercial Code.

DATES: Comments on the proposed regulation must be received before July 21, 1980.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 17311, 800 Independence Avenue, SW., Washington, D.C. 20591; or may be delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 17311. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Swimmer, Aircraft Registration Branch, (AAC–250), Airmen and Aircraft Registry, Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125; Telephone (405) 686–2284.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. All communications received on or before July 21, 1980, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 17311." The postcard will be date and time stamped and returned to the commenter.

II. Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

III. Supplementary Information

A. Statutory and Regulatory Background

In 1938, Congress first enacted legislation concerning instruments for the transfer of interests in aircraft when it established a federal system for recordation of those instruments. Currently embodied in Section 503 of the Federal Aviation Act of 1958, as amended (Act), the federal recording system is designed to provide notice of interests in aircraft. Section 503(a) of the Act requires that the FAA establish and maintain a system for recording conveyances which affect title to, or interest in, civil aircraft of the United States. A transfer of an interest in an aircraft must be recorded with the FAA in order to be "valid" as against a third person without actual notice. Section 503(d) provides that each instrument recorded pursuant to the Act shall, from the time of its filing, be valid as to all persons without further or other recordation.

As the result of the O'Connor decision by the Civil Aeronautics Authority (1 C.A.A. 5 (1939)), the buyer of an aircraft under a contract of conditional sale is recognized as the owner of the aircraft for registration purposes. This is true, even though the conditional seller retains legal title until the buyer meets the conditions of the contract. The Federal Aviation Regulations currently provide that the assignment of the interest of a buyer in an aircraft sold under a contract of conditional sale cannot be recorded, and the aircraft cannot be registered in the name of the buyer's assignee, without the consent of the conditional seller. On the other hand, if a person has a security interest in the aircraft as the result of any other arrangement, such as a chattel mortgage or a security agreement, that person's consent is not required under the regulations for recordation of the transfer and registration of the aircraft to the purchaser.

B. Cessna Finance Corp. Petition

In 1975, the Cessna Finance Corporation (CFC) petitioned the FAA to amend the regulations to remove the regulatory distinction between conditional sales contracts and other security instruments. CFC asked the FAA to require the written consent of the holder of every outstanding recorded security interest prior to recording a bill of sale or other conveyance from the debtor to a third party and as a prerequisite to issuing a certificate of aircraft registration to the debtor's transferee.

The CFC petition pointed out that pertinent sections of the Uniform Commercial Code (U.C.C.) make no distinction between such instruments as conditional sales contracts, chattel mortgages and trust deeds. The U.C.C. considers all of these instruments agreements under which a creditor holds an interest in property, and treats them alike.

C. ANPRM

The CFC Petition prompted the FAA to issue an advance notice of proposed rule making (ANPRM) on October 20, 1977 (Notice No. 77–24; 42 FR 55897) which, in keeping with the spirit of the U.C.C., proposed to abolish the distinction between contracts of conditional sale and other security interests recorded with the FAA. The FAA proposed to accomplish this, not in the manner requested by CFC, but by eliminating the current requirement of written consent of the conditional vendor to the assignment of the original buyer's interest before the assignment can be recorded and the aircraft registered to the assignee. The FAA explained in the ANPRM that an amendment similar to the one proposed by CFC would discourage transfer of the buyer's interest in the aircraft and thus be contrary to the spirit of the U.C.C. In addition, the amendment would involve a substantial increase in the administrative costs and workload of the FAA Aircraft Registry. The ANPRM further solicited suggestions of alternate courses of action which would be consistent with the U.C.C., administratively reasonable, and which would also afford protection to persons who hold security interests in aircraft.

D. Comments Recieved

The FAA received a total of 20 comments in response to the ANPRM. All of the comments favored the proposal contained in the CFC Petition and opposed the FAA proposal set out in the ANPRM. Six of the twenty comments suggested alternative courses of action. Due consideration was given to all comments recieved. The comments submitted are discussed below.

One commenter suggested that the FAA refuse to record a transfer of ownership without the written consent of the secured party or the release of the secured party's security interest. That commenter believes that a requirement of written consent or release prior to FAA recordation of a bill of sale would place the burden on the seller of the aircraft to notify the secured party of the sale and to obtain the secured party's consent.

A rulemaking petition by the Aircraft Finance Association (AFC), dated March 16, 1979, proposed the same requirement without specifying whether the burden would fall upon the buyer or the seller of the aircraft to obtain the consent or release of the security interest by the creditor.

The Act does not specifically authorize the administrator to refuse to record a conveyance affecting title to, or

an interest in, aircraft in the absence of a secured creditor's assent to that conveyance. For several years, the FARs have required evidence of the conditional vendor's assent to the transfer of an aircraft by the conditional vendee to a third party to be submitted with an application for aircraft registration and in order for the instrument evidencing such a transfer to be recorded. The special character of the contract of conditional sale, that is, the retention of legal title by the vendor, was thought to have warranted the special protection of consent to transfer.

However, Section 503(c) of the Act leaves the determination of the substantive validity of any conveyance to state law, specifically, the law of the state where the instrument is delivered. To the extent that the Act does not regulate the rights of parties to, and third parties affected by, these transactions, security interests in aircraft are controlled by Article 9 of the U.C.C., which has been adopted in forty-nine of the fifty states.

As the CFC, the commenters, and the AFC have pointed out, the U.C.C. Has eliminated the distinction between conditional vendors and other secured creditors. In view of this virtually uniform policy of state law, the FAA continues to believe that the distinction should be abolished for purposes of aircraft registration and recordation.

Furthermore, it is the policy of the U.C.C. that debtor's rights in collateral be freely transferable notwithstanding a provision in the security agreement making such a transfer a default. It would be contrary to the policy of the U.C.C. to restrain such transfers by requiring, as a condition of aircraft registration and recordation, the assent of the secured creditor to a conveyance of the aircraft. The FAA believes that it is improper to override these state laws, in the absence of specific Federal statutory authority, unless it is necessary to carry out the provisions of a Federal statute or treaty.

Four commenters suggested that the FAA notify each holder of an outstanding recorded security interest when there is a change in the registered owner of the aircraft. One of these commenters also suggested that the FAA should advise the prospective purchaser of the existence of a recorded lien against the aircraft.

Such an undertaking would require a complete examination of each aircraft record to obtain a compilation of the outstanding liens, the lien holders, debtors, dates, and recorded document number for the liens on each U.S. registered civil aircraft. This compilation would require continual updating by the FAA to reflect the attachment and removal of liens as releases and repossessions are received. The FAA could accomplish this task by computerizing the records of all U.S. registered aircraft. However, FAA studies indicate that the minimum cost of implementing an automatic data processing (ADP) system would be in excess of $80,000 and a continuing annual personnel cost in excess of $236,000 would be incurred in examining and updating the appropriate aircraft records.

As already stated, the aircraft recordation system was established as a centralized system which interested persons could access to locate documents relating to the title of a particular aircraft. As such, the system was designed to provide construction notice upon filing of any document affecting aircraft title. None of the submitted comments put forth legal arguments which persuade the FAA to go beyond the intent of Congress and undertake such an expenditure of public funds.

Finally, one commenter suggested that the FAA notify and seek the consent of each creditor of an aircraft before recording an aircraft bill of sale. Not only would such an undertaking by the FAA require an even larger expenditure of funds than the proposal already discussed, but it would embroil the FAA in aircraft financing transactions—a role clearly not contemplated by Titles III and V of the Act.

The CFC petition and comments received in support of it argue not only that the FAA should refuse to record a bill of sale in the absence of a secured creditor's consent, but that the FAA should refuse to register any aircraft where that consent has not been given. Again, there is no specific statutory authority for such a refusal.

Section 501(c) provides that, upon the request of the owner of any aircraft eligible for aircraft registration under Section 501(b), the FAA must issue an aircraft registration certificate. The application for aircraft registration must be in such a form, filed in such a manner, and contain such information as the Administrator may require. Evidence as to ownership, such as a bill of sale, is only relevant to the FAA insofar as it identifies the owner of the aircraft for purposes of determining eligibility for registration under Section 501(b). The limited interest of the FAA in the ramifications of aircraft financing transactions upon aircraft title is evidenced in Section 501(f). That section provides that the Certificate of Aircraft Registration is only evidence of nationality for international purposes. Registration is not to be used as evidence of aircraft ownership in any proceeding in which ownership by a particular person is in issue.

For these reasons and those already stated with regard to consent as a prerequisite for aircraft recordation, it would be improper to refuse to register an aircraft on the grounds that a secured creditor's consent to the transfer of that aircraft is absent.

Section 47.47(a), which requires the secured creditor's consent to deregistration of an aircraft for export purposes, is not affected by this proposal. The consent requirement in that regulation is based upon different grounds than the regulations prescribing requirements for registration of aircraft and recordation of conveyances affecting title to, or an interest in, aircraft. Section 47.47(a) relates to international transactions and gives effect to the requirement of the Convention on International Recognition of Rights in Aircraft (4 U.S.T. 1830) that the holder of a recorded right in an aircraft be satisfied or consent to the transfer of an aircraft to the register of another country.

Therefore, it is appropriate to delete regulations affording special consideration to conditional sales contracts in view of modern state statutes which treat alike all instruments executed for security purposes as they concern the rights, duties and remedies of the parties. Specifically, the proposed amendment to § 47.11(a) would eliminate the current requirement that the assignee under a contract of conditional sale submit, with an Application for Aircraft Registration, written assent of the seller, bailor, lessor, or assignee thereof, under the original contract, to the assignment. The proposed amendment to § 49.17 would consolidate the recordation requirements for instruments executed for security purposes.

IV. Economic Impact of Proposed Regulation

The FAA has determined that the expected impact of the proposed regulation is so minimal that it does not require an evaluation. Approximately 15 per cent of the total security interest conveyances filed for recordation with the FAA are contracts of conditional sale under which legal title is retained by the conditional vendor. In the majority of cases, a release of the contract of conditional sale is filed for recordation prior to transfer of ownership. Consequently, the elimination of the current regulatory provision that the assignment of the interest of the buyer in an aircraft sold under a contract of conditional sale cannot be recorded, and the aircraft cannot be registered in the name of the buyer's assignee, without the consent of the conditional seller, will have little effect upon the majority of aircraft financing transactions. However, interested persons are invited to comment on the economic impact of the proposed rule by submitting such written statistical data or other factual information as they may desire.

V. Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 47 and 49 of the Federal Aviation Regulations (14 CFR Parts 47 and 49) as follows:

PART 47—AIRCRAFT REGISTRATION

1. By revising § 47.11(a) to read as follows:

§ 47.11 Evidence of ownership.

* * * * *

(a) The buyer in possession, the bailee, or the lessee of an aircraft under a contract of conditional sale must submit the contract. The assignee under a contract of conditional sale must submit both the contract (unless it is already recorded at the FAA Aircraft Registry) and the assignment from the original buyer, bailee, lessee or a prior assignee.

* * * * *

PART 49—RECORDATION OF AIRCRAFT TITLE AND SECURITY DOCUMENTS

2. By deleting paragraph (e) of § 49.17 and revising paragraph (d) of § 49.17 to read as follows:

§ 49.17 Conveyances recorded.

* * * * *

(d) The following rules apply to instruments executed for security purposes and assignments thereof:

(1) A chattel mortgage must be signed by the mortgagor. If the mortgagor is not the registered owner of the aircraft, the chattel mortgage must be accompanied by the mortgagor's Application for Aircraft Registration and evidence of ownership, as prescribed in Part 47 of this chapter, unless the mortgagor:

(i) Holds a Dealer's Aircraft Registration Certificate and submits evidence of ownership as provided in § 47.67 of this chapter (if applicable);

(ii) Was the owner of the aircraft on the date the mortgage was signed, as shown by documents recorded at the FAA Aircraft Registry; or

(iii) Is the vendor, bailor, or lessor under a contract of conditional sale.

(2) The name of a co-signor may not appear in the mortgage as a mortgagor (owner). If a person other than the registered owner signs the mortgage, that person must show the capacity in which that person signs, such as "co-signor" or "guarantor."

(3) An assignment of an interest in a contract of conditional sale, chattel mortgage, or other security instrument must be signed by the assignor and, unless it is attached to and is a part of the original agreement, must describe the agreement in sufficient detail to identify it, including its date, the names of the parties, the date of FAA recording, and the recorded document number.

(4) An amendment of or a supplement to an instrument executed for security purposes that has been recorded by the FAA must meet the requirements for recording the original instrument and must describe the original instrument in sufficient detail to identiy it, including its date, the names of the parties, the date of FAA recording, and the recorded document number.

(5) Immediately after a debt secured by an instrument given for security purposes has been satisfied, or any of the encumbered aircraft have been released from the instrument, the holder shall execute a release of AC Form 8050-41, "Conveyance Recordation Notice and Release," provided to him by the FAA when the conveyance was recorded by the FAA, or its equivalent, and shall send it to the FAA Aircraft Registry for recording. If the debt is secured by more than one aircraft and all of the collateral is released, the collateral need not be described in detail in the release document. However, the original instrument must be clearly described in enough detail to identify it, including its date, the names of the parties, the date of FAA recording, the recorded document number.

(6) A contract of conditional sale, as defined in Section 101(19) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(19)), must be signed by all parties to the contract.

(Secs. 313(a), 501, 503, 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1401, 1403 and 1502); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the proposed regulation is so minimal that it does not require an evaluation.

Issued in Oklahoma City, Oklahoma, on May 7, 1980.

Benjamin Demps, Jr.,

Director, Aeronautical Center.

[FR Doc. 80-15347 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-AAL-5]

Proposed Designation of Transition Area Valdez, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a 1,200-foot transition area at Valdez, Alaska, to provide protected controlled airspace for aircraft conducting an instrument approach procedure to the Valdez Airport. This proposed action will also enable ATC to more efficiently control aircraft operations using radar control procedures from an en route radar facility at Middleton Island, Alaska. This action is made necessary by a recently approved instrument approach procedure for the Valdez Airport and the imminent establishment of an en route radar facility on Middleton Island.

DATE: Comments must be received on or before June 23, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 80-AAL-5, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

An informal docket may be examined at the office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to

the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before June 23, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, or by calling (907) 271–5902. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2, which describes application procedures.

The Proposal

The FAA is considering an amendment of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Valdez, Alaska. An instrument approach procedure, based on recently commissioned localizer, DME and NDB facilities, has been developed for the Valdez Airport. This amendment would provide controlled airspace to protect aircraft conducting instrument approach and departure procedures while operating above 1,500 feet above the surface. The proposed amendment would also provide controlled airspace to allow air traffic control to more efficiently handle aircraft operations using radar control procedures from an en route radar facility soon to be established on Middleton Island.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area as follows:

Valdez, Alaska

That airspace extending upward from 1,200 feet above the surface within an area beginning at latitude 60° 43′ 11.7″N, longitude 147° 50′ 36.3″W, thence north along the 85-mile radius arc centered on the Anchorage VORTAC to latitude 61° 27′ 37″N, longitude 147° 44′ 10″W, thence east to latitude 61° 16′ 05″N, longitude 146° 13′ 04″W, thence south along the west boundary of V-481 to the north boundary of V-319, thence west along the north boundary of V-319 to the point of beginning.

(Sec. 307 (a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Anchorage, Alaska on May 7, 1980.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 80-15348 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NE-17]

Proposed Designation of a Control Zone, Quonset State Airport, North Kingston, R.I.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to designate a new control zone at Quonset State Airport, North Kingston, Rhode Island, to coincide with the commissioning of a new part-time Air Force traffic control tower at Quonset State Airport on or about August 1, 1980. The facility will be manned by certified traffic control personnel and will provide certified weather observations.

DATES: Comments must be received on or before June 16, 1980.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE–7, Attention: Rules Docket Clerk, Docket No. 80–NE–17.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations Procedures and Airspace Branch, ANE–536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE–7, Attention: Rules Docket Clerk, Docket No. 80–NE–17, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before June 16, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F or Part 71 of the Federal Aviation Regulations to designate a control zone at North Kingston, Rhode Island (Quonset State Airport). The zone will control a portion of airspace approximately 5 miles in radius around the airport, extending 6.5 miles to the south. The effectivity of the control zone will be dependent on weather and communications availability provided by the new tower, and will provide added controlled airspace protection to aircraft

conducting instrument approach and departure procedures.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a control zone at Quonset State Airport, North Kingston, Rhode Island as follows:

"With a 5-mile radius of the Center, (latitude 41 degree 35″43″ N, Longitude 71 degree 24″35″) of the Quonset State Airport, North Kingston, Rhode Island; within 2 miles each side of the Providence, Rhode Island VORTAC 171 degree T (185 degree M) radial, extending from the 5-mile radius zone to 15.5 miles south of the VORTAC excluding that airspace within the Providence, Rhode Island Control Zone.

This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Director."

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a)) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c) and (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on May 7, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-15674 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[EDR-340A; Economic Regulations Docket 31769]

Suspension/Replacement Agreements: Termination of Rulemaking

Dated: May 16, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Termination of proposed rulemaking.

SUMMARY: The CAB is closing a stale rulemaking proceeding. In 1977, it proposed to require each certificated airline to include in its tariffs on file with the CAB a notice describing agreements whereby an air taxi provides service on behalf of the certificated airline. It proposed this requirement to provide public notice of the substitution relationship and fare restrictions, imposed as a condition to approval of the agreements, that required the replacement carrier to adhere to the suspending carrier's tariffs. In view of the fact that the Board has removed those fare restrictions and granted replacement carriers unrestrained fare freedom on flights using small aircraft, the rulemaking is terminated.

FOR FURTHER INFORMATION CONTACT: George S. Baranko, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–5205.

SUPPLEMENTARY INFORMATION: In 1977, the board issued a notice of proposed rulemaking EDR–340 (42 FR 61870, December 7, 1977), proposing to require each certificated air carrier to include in its tariffs a notice describing suspension/replacement agreements with air taxis.

Before the Airline Deregulation Act was enacted the Board permitted carriers on numerous occasions to suspend service between points in the 48 contiguous States, so long as the carrier entered into an agreement whereby an air taxi, which operates under 14 CFR Part 298, would provide substitute service. Similarly, in 14 CFR part 293, the Board permitted (as it still does) certificated air carriers to subcontract with air taxi operators to provide scheduled service over the Alaskan bush routes of the certificated carrier. In both situations, the replacement air taxis satisfied the service obligations of the certificated air carrier, and the Board, typically, required the replacement service to be subject to various rate conditions in the certificated carrier's tariff—e.g., maintenance of joint fares at the level that certificated carriers would charge. The Board proposed to require tariff notice of suspension/replacement agreements because such a notice would provide formal and legal notice of the replacement service to the public and ensure that the tariff of the certificated carrier would be applicable to the substitute service.

In PS–92, adopted April 3, 1980, the Board considered whether it should vacate those orders dealing with replacement service by commuters for local service carriers which provide that the commuter cannot charge fares higher than those charged by local service carriers. We concluded that the public would best be served if those orders were superceded and commuters providing replacement service had unrestrained fare freedom on flights using small aircraft. See 14 CFR 399.33(b). As a result, the tariff condition, on which this proposed rule is predicated, is of limited value to the passenger utilizing replacement services.

Thus the type of regulation proposed in EDR–340 is no longer sufficiently useful to continue this rulemaking.

Accordingly, the Civil Aeronautics Board terminates the proposed rulemaking proceeding in Docket 31769.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-15758 Filed 5-21-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 791-0146]

Darvel, Inc.; Consent Agreement, With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Bellgarden, Calif. manufacturer and distributor of wearing apparel and related accessories to cease fixing or otherwise controlling the resale prices at which its products are sold or advertised; seeking the identity of dealers who fail to adhere to suggested resale prices and sales periods, and taking any adverse action against them. The firm would be barred from restricting the lawful use of brand names and trademarks in the advertising and sale of its products, and from granting any consideration, service or benefit to any dealer because of the resale price that another dealer has advertised or sold a product. Additionally, the order would prohibit the firm from suggesting retail prices for its products for a period of one year.

DATE: Comments must be received on or before July 21, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

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FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556–1270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commisison and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the matter of Darvel, Inc., a corporation agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Darvel, Inc., a corporation, and it now appearing that Darvel, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

IT IS HEREBY AGREED by and between Darvel, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Darvel, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 6891 Florence Place, in the City of Bellgarden, State of California.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any item of wearing apparel or related accessory which is manufactured, offered for sale or sold by respondent.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any suggested, established or customary resale price as well as the retail price in effect at any dealer.

"Sale Period" is defined as any time during which any dealer offers to sell any product at resale prices lower than those in effect during the usual and ordinary course of said dealer's business; or any suggested, authorized or customary time for selling or advertising any product at prices lower than the suggested, established or customary resale prices.

IT IS ORDERED that respondent Darvel, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product, or the sale period of any dealer.

2. Requesting, requiring or coercing, directly or indirectly, any dealer to maintain, adopt or adhere to any reseale price or sale period.

3. Requesting or requiring, directly or indirectly, any dealer to report the identity of any other dealer who deviates from any resale price or sale period; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating said dealer.

4. Requesting or requiring that any dealer refrain from or discontinue selling or advertising any product at any resale price.

5. Hindering or precluding the lawful use by any dealer of any brand name, trade name or trademark of respondent in connection with the sale or advertising of any product at any resale price.

6. Making any payment or granting any consideration, service or benefit to any dealer because of the resale price at which any other dealer has advertised or sold any product.

7. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at any resale price, where such surveillance program is conducted to fix, maintain, control or enforce the resale price at which any product is sold or advertised.

8. Terminating or taking any other action to restrict, prevent or limit the sale of any product by any dealer because of the resale price at which said dealer has sold or advertised, is selling or advertising, or is suspected of selling or advertising any product.

II

1. For a period of one (1) year from the date of service of this Order, orally suggesting or recommending any resale price or sale period to any dealer.

2. For a period of one (1) year from the date of service of this Order, communicating in writing any resale price or sale period to any dealer; provided however, that after said one (1) year period, respondent shall not suggest any resale price or sale period on any list, or in any advertising, book, catalogue or promotional material, unless it is clearly and conspicuously stated on each page where any suggested resale price or sale period appears, the following:

"THE [RESALE PRICES OR SALE PERIODS] QUOTED HEREIN ARE SUGGESTED ONLY. YOU ARE FREE TO DETERMINE YOUR OWN [RESALE PRICES OR SALE PERIODS]."

III

IT IS FURTHER ORDERED that respondent shall within ninety (90) days after service of this Order, mail a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. An affidavit shall be sworn to by an official of the respondent verifying that the attached Exhibit A was so mailed.

IV

IT IS FURTHER ORDERED that respondent shall forthwith distribute a copy of this order to all operating divisions of said corporation, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

V

IT IS FURTHER ORDERED that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VI

IT IS FURTHER ORDERED that respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Exhibit A

Dear Retailer:

Without admitting any violation of the law, Darvel, Inc. has agreed to the entry of an Order by the Federal Trade Commission regulating certain distribution practices. In connection therewith, the Company is required to send you this letter describing the Order.

The Order provides, among other things, as follows:

1. You can advertise and sell Darvel and Zepplin products at any price you choose.

2. Darvel will not take any action against you, including termination, because of the price at which you advertise or sell Darvel and Zepplin products.

3. Darvel will not suggest retail prices for any product until [1 year from the date of service of the Order].

The price at which you sell or advertise Darvel or Zepplin products will not affect your right to use Darvel or Zepplin trademarks or other identification in your sale or advertising of products bearing Darvel or Zepplin trademarks or identification.

If you have any questions regarding the Order or this letter, please call———

For Darvel, Inc.

Analysis of Proposetl Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Darvel, Inc., a manufacturer of wearing apparel marketed under the "Zepplin" label.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Darvel restrained trade by fixing the resale prices at which its dealers advertise, offer for sale and sell Darvel products.

The consent agreement provides as follows:

1. Darvel cannot fix or otherwise control the resale prices at which its products are sold or advertised.

2. Darvel cannot take any action against any dealer, including termination, because of the resale prices at which the dealer sells or advertises any Darvel product.

3. As to products which bear any of its trademarks or other identifications, Darvel cannot restrict any dealer from lawfully using any such trademark or other identification in the sale or advertising of such products.

4. Darvel cannot suggest retail prices for any product for one year from service of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-15655 filed 5-21-80 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[File No. 791 0166]

Towle Manufacturing Co.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Newburyport, Mass. manufacturer, importer and distributor of silver products to cease establishing, maintaining or enforcing any agreement or arrangement with its dealers that has the effect of fixing and enforcing resale prices for its products, and conditioning retention of dealerships on adherence to suggested

resale prices. The firm would be prohibited from inducing dealers or prospective dealers to report those who fail to adhere to suggested resale prices and barred from taking adverse action against reported dealers. Materials containing resale pricing information would have to include a statement advising that dealers are not bound to listed prices. The order would further require that the company reinstate those dealers who were terminated for failing to comply with the firm's pricing policy and maintain a file containing specified data for a period of three years.

DATE: Comments must be received on or before July 21, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, Mass. 02114. (617) 223–6621.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9 (b)(14)).

In the Matter of Towle Manufacturing Company, a corporation; agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Towle Manufacturing Company, a corporation, and it now appearing that Towle Manufacturing Company, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

IT IS HEREBY AGREED by and between Towle Manufacturing Company, a corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Towle Manufacturing Company is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 260 Merrimac Street, Newburyport, Massachusetts 01950.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

Definition

For purposes of this order the following definition shall apply:

"Dealer" means any person, partnership, corporation or other business entity who purchases Towle Manufacturing Company products for resale.

I

IT IS ORDERED that Towle Manufacturing Company, a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the manufacture, importation, distribution, offering for sale or sale of sterling silver flatware and holloware, silver plated and pewter holloware, stainless steel flatware, cutlery, sterling silver jewelry, candlesticks, hurricane lamps, napkin rings, table top trays, tabletop mats, or other products in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Entering into, maintaining, or enforcing any contract, agreement, understanding, arrangement, combination, or course of conduct which fixes, maintains, establishes, sets or enforces the price at which dealers sell any of respondent's products.

2. Requiring any dealer or prospective dealer to enter into any oral or written agreement or understanding that such dealer or prospective dealer will adhere to any resale price for any of respondent's products as a condition to receiving or retaining its dealership.

3. Refusing to sell or threatening to refuse to sell, either directly or indirectly, to any dealer or prospective dealer who desires to engage in the sale of respondent's products for the reason that such dealer will not enter into an understanding or agreement with respondent to advertise or sell any of respondent's products at only those prices established or suggested by respondent.

4. Securing or attempting to secure any promises or assurances, either directly or indirectly, from any dealer or prospective dealer regarding the prices at which such dealer will advertise or sell any of respondent's products, or requesting any dealer or prospective dealer, either directly or indirectly, to obtain approval from respondent for the price offered by said dealer in any advertisement for any of respondent's products.

5. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer who does not sell any of respondent's products at any particular price, or acting on a report so obtained by refusing or threatening to refuse sales to any dealer so reported, or otherwise to discriminate against any such dealer.

6. Directing or requiring respondent's salesmen, or any other agents, representatives, or employees, directly or indirectly, to report dealers who do not sell any of respondent's products for any particular price, or to act on such a report by refusing or threatening to refuse sales to any dealer so reported.

7. Refusing to sell or threatening to refuse to sell any of respondent's products to any dealer for the reason that said dealer had been reported as not adhering to or observing those prices established or suggested by respondent.

8. Requiring from any dealer charged with price cutting or failure to adhere to any particular price, either directly or indirectly, promises or assurances of the observance of any particular price as a condition precedent to future sales to said dealer.

9. Terminating, threatening, intimidating, coercing, delaying shipments, or taking any other action to prevent or hinder the sale of any of respondent's products by a dealer because said dealer has advertised or sold, is advertising or selling, or is suspected of advertising or selling any of respondent's products at other than prices that respondent has dictated.

10. Requiring or inducing by any means, any dealer or prospective dealer to refrain or to agree to refrain from reselling any of respondent's products to any other dealer.

11. Requiring, directly or indirectly, any dealer to resell to respondent any unsold stock of any of respondent's products in the event that business relations between respondent and the dealer are terminated; provided that respondent shall not be prohibited from repurchasing such unsold stock with the consent of the dealer, or where respondent has a "security interest" in said products or where the dealer is unable to meet its financial obligations to the respondent.

12. Publishing, disseminating, circulating or providing by any other means, any resale price for any of respondent's products unless it is clearly and conspicuously stated on each page of any price list, book, tag, advertising or promotional material or other document that the price is "suggested" and that the dealer is free to sell respondent's products at whatever price he chooses.

II

IT IS FURTHER ORDERED that respondent herein shall, within thirty (30) days after service upon it of this Order, mail or deliver, and obtain a signed receipt therefor, a copy of this Order to every present dealer, to every dealer terminated by respondent since January 1, 1974, unless respondent can establish that the dealer terminated did not at the time of termination have good credit or reasonably adequate facilities for selling respondent's products, and for a period of three (3) years from the date of service of this Order, to every new dealer within ten days of receipt of the first order from said new dealer, under cover of the letter annexed hereto as Exhibit A.

III

IT IS FURTHER ORDERED that respondent shall within sixty (60) days from the date of service of this Order, mail or deliver and obtain a signed receipt therefor, a written offer of reinstatement, upon the same terms and conditions available to respondent's other dealers, to any dealer who was terminated by respondent from January 1, 1974 to the date of service of this Order, unless respondent can establish that the applicant does not or did not at the time of termination have good credit or that the dealer does not have reasonably adequate facilities for selling respondent's products, and forthwith reinstate any such dealer who within thirty (30) days thereafter requests, in writing, reinstatement.

IV

IT IS FURTHER ORDERED that respondent herein shall within thirty (30) days of service upon it of this Order, distribute a copy of this Order to each of its operating divisions and subsidiaries and to all officers, sales personnel, sales agents and sales representatives, and secure from each such entity or person a signed statement acknowledging receipt of said Order.

V

IT IS FURTHER ORDERED that respondent:

1. Notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the Order.

2. For a period of three (3) years from the date of this Order becomes final, establish and maintain a file of all records referring or relating to respondent's refusal during such period to sell its products to any dealer, which file shall contain a record of a communication to each such dealer explaining respondent's refusal to sell, and which file will be made available for Commission inspection on reasonable notice.

VI

IT IS FURTHER ORDERED that the respondent herein shall, within sixty (60) days after service upon it of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the Order.

Exhibit A

(Letterhead of Towle Manufacturing Company)

Dear Dealer:

Towle Manufacturing Company has entered into an agreement with the Federal Trade Commission relating to the distributional activities and pricing policy of Towle. A copy of the consent order entered into pursuant to that agreement is enclosed herewith.

Towle has entered into this agreement solely for the purpose of settling a dispute with the Commission, and the agreement and consent order is not to be construed as an admission by Towle that it has violated any of the laws administered by the Commission, or that any of the allegations in the complaint are true and correct. Instead, the order merely relates to the activities of Towle in the future.

In order that you may readily understand the terms of the consent order, we have set

forth the essentials of the agreement with the Commission, although you must realize that the consent order itself is controlling rather than the following explanation of its provisions:

(1) Our dealers are free to set their own resale prices for our products.

(2) Towle will not solicit, invite or encourage dealers, or any other persons to report any dealer not following any resale price for any of said products, and, furthermore, will not act on any such reports sent to it.

(3) Towle will not require or induce its dealers to refrain from advertising said products at any price or from selling or offering said products at any prices to any person.

Sincerely yours,

Edward W. Mulligan,

President.

Enclosure.

Towle Manufacturing Company

[File No. 791 0166]

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Towle Manufacturing Company (Towle) a manufacturer and importer of sterling silver flatware and holloware, silver plated and pewter holloware, stainless steel flatware, cutlery and sterling silver jewelry.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint accompanying the proposed order alleges that Towle had engaged in certain anticompetitive practices which had the effect of enforcing and fixing Towle's resale prices for its products and for their dealers, thereby eliminating price competition among dealers. More specifically, the complaint charges that with reference to the aforementioned products Towle has (1) established agreements, understandings or arrangements with dealers that dealerships would be granted to or retained by only those dealers who maintained certain resale prices; (2) informed some of its dealers that it expected such dealers to maintain certain resale prices or such dealerships would be terminated; (3) obtained from its dealers cooperation and assistance in identifying and reporting those dealers who failed to observe Towle's pricing policy by advertising, offering to sell or selling Towle's products at prices below certain resale prices; (4) threatened to terminate certain dealers who failed or refused to maintain the prices dictated by Towle or who advertised Towle's products at prices below the prices suggested or dictated by Towle; and (5) required certain of its dealers to agree not to sell or otherwise supply or furnish Towle's products to other dealers.

The proposed consent order requires Towle to cease and desist from the practices set forth in numbered items 1 through 5 above.

The proposed consent order further requires Towle (1) to indicate on each page of any price list, price book, price tag, advertising or promotional material indicating any resale or retail prices for its products that the resale or retail price is suggested; and (2) to maintain for the next three years a file pertaining to Towle's refusal to sell its products to any dealer, which file shall contain a copy of any written communication to any such dealer explaining Towle's refusal to sell, and, which file will be made available for Commission inspection on reasonable notice.

The terms of the aforementioned order will have the effect of preventing Towle from fixing the resale prices of their dealers for these products thereby encouraging price competition in the sale of these products. Ultimately, this action should result in lower prices to the purchasing public for the aforementioned products.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-15856 Filed 5-21-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 772 3041]

Bill Crouch Foreign, Inc., d.b.a. Bill Crouch Imports, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Boulder, Colo. retail dealer for new Honda automobiles to cease from charging customers more than its actual cost for transporting vehicles to its showroom; misrepresenting that any optional equipment is installed by the manufacturer or required by law; and failing to disclose to customers any additional charges that would be included in the purchase price of the automobile. The order would further require the firm to make refunds, in a prescribed manner, to eligible Honda Accord customers who had paid more than $30.00 above the actual cost for freight; and retain specified records for a period of two years.

DATE: Comments must be received on or before July 21, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul C. Daw, Director, Denver Regional Office, 6R, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837-2271.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the matter of Bill Crouch Foreign, Inc., d.b.a. Bill Crouch Imports, Inc. (formerly Mazda of Boulder, Inc.), a corporation. File No. 772 3041, Agreement Containing Consent Order To Cease and Desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Bill Crouch Foreign, Inc., d.b.a. Bill Crouch Imports, Inc. (formerly Mazda of Boulder, Inc.), a corporation, hereinafter some times referred to as "Bill Crouch Foreign, Inc." or "proposed respondent," and it appearing that Bill Crouch Foreign, Inc., is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Bill Crouch Foreign, Inc., by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its offices and principal place of business located at 2555 Thirtieth Street, in the City of Boulder, State of Colorado.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commisison. If this agreement is accepted by the Commission, it together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. The signing of this agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's corporate president at the address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. It is agreed that the relief for consumers set forth in Part II of the Order contained herein fully satisfies any claim for consumer redress which the Commission has under Sections 5(b) and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the complaint. By its final acceptance of this Agreement, with such modifications, if any, which the parties may make prior to said final acceptance, the Commission waives its right to commence a civil action under Section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commission's complaint.

8. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order:

1. "New automobile" shall mean any passenger car or station wagon the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

2. "Optional equipment" shall mean, with respect to any new automobile, any equipment or features not included within the manufacturer's suggested retail price, as defined in 15 U.S.C. 1232(f)(1).

I

It is ordered that respondent Bill Crouch Foreign, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any sale, offering for sale, advertising or distribution of new automobiles, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Listing on stickers affixed to any new automobile, or on purchase orders, bills of sale, or sales contracts, and collecting from consumers, and freight, transportation or destination charges that exceed respondent's cost as determined herein for the shipment of the new automobile from any port-of-entry to respondent's showrooms. For purposes of this order, respondent's cost shall be deemed to be the amount shown on the most recent invoice received by respondent covering the shipment of comparable automobiles from a comparable port-of-entry to respondent's showrooms plus five dollars ($5.00).

2. Affirmatively representing that any optional equipment is recommended, required, or installed by the manufacturer or is required by law, unless such is in fact the case; provided, however, that this requirement shall not be construed to impose a duty on respondent or its agents to affirmatively disclose information regarding such optional equipment, including but not limited to the nature or source of or requirement for such equipment, except in response to a specific consumer inquiry.

3. Failing to disclose clearly and conspicuously, prior to signing of a completed purchase order, if the total purchase price exceeds the manufacturer's suggested retail price, the precise amount of any handling, service, or similar charges which will be included in the purchase price of a new automobile.

II

It is further ordered that:

1. The respondent shall submit to the Commission, within fifteen (15) days after the date this order is served on respondent's corporate president (hereinafter "date of service"), a notarized affidavit, executed by the president of respondent to the effect that the respondent has made or has caused to be made a good faith search of documents that pertain to purchasers of new Honda Accord automobiles from the respondent and that the respondent, to the best of its knowledge, has previously or simultaneously with said affidavit submitted to the Commission the names of all purchasers of such automobiles covered by this order.

2. The respondent shall submit to the Commission, within sixty (60) days after

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the date of service, all necessary documents, including but not limited to, purchase orders, bills of sale, buyer's orders, freight invoices and billings, internal worksheets, and invoices and all other materials necessary for the Commission to determine the amount paid by the respondent to third parties for freight. Based upon the information supplied to the Commission by the respondent pursuant to this paragraph and paragraph II(1), the Commission or its designee shall deliver to respondent a list of all purchasers of new Honda Accord automobiles who are "eligible class members," setting forth the amount of refund due from the respondent to each such class member, derived in accordance with Part II of this order, which list shall be served on the respondent.

3. On the ninetieth (90th) day after service on the respondent of the list of eligible class members as provided in paragraph II(2) above, the respondent shall make refunds to eligible class members in the following manner:

(a) Except as provided in subparagraph (b) below, submit to the Commission or its designee a refund check, undated, drawn on the account of respondent made payable to each eligible class member or his or her legal representative in the amount provided by the Commission;

(b) In the event of refund check for any eligible class member is not so submitted, submit to the Commission or its designee a list of "disputed eligible class members" stating the reasons why the purchaser whose name is shown on the list prepared by the Commission is not an eligible class member or is not entitled to the refund in the amount specified by the Commission, as the case may be. If necessary, counsel for the Commission and counsel for the respondent shall there after confer and determine if and/or in what amount a refund is due and owing to any such disputed eligible class member.

4. Thereafter, the Commission or its designee shall send to each eligible class member, by registered mail, with return receipt requested, and with copy to respondent, a letter in the language, manner, and form shown in Appendix A, with an enclosed stamped envelope showing the address of the Commission or its designee. Upon receipt of the executed Receipt and Waiver form from an eligible class member, as provided in Appendix A, the Commission or its designee shall thereafter enter a current date on the appropriate refund check submitted to the Commission by respondent in accordance with paragraph II(3) above and forward the check to such eligible class member.

5. On or before the three-hundredth (300th) day after date of service, the Commission or its designee shall serve on respondent (a) a list of names, addresses and received refunds in accordance with the provisions of this Part II, and (b) a list of names, addresses and refund amounts of those eligible class members whose initial mailing in the form of Appendix A or refund check was returned by the United States Postal Service. The Federal Trade Commission shall have one year from the date of service of this list to locate such eligible class members. At such time as any class member is located, the Federal Trade Commission shall follow the procedure authorized in paragraph II(4) above with respect to the initial mailing of a letter in the form of Appendix A and subsequent mailing, if appropriate, of a refund check to such eligible class member.

6. The respondent shall, on the three-hundred and thirtieth (330th) day after the date of service, file with the Commission a report in writing setting forth the manner and form in which it has complied with Part II of this order.

7. At the end of the one-year period described in paragraph II(5) above, the Commission shall return to the respondent all refund checks payable to eligible class members whom the Commission is unable to locate and respondent shall thereupon be relieved of any further obligation to make payments to such eligible class members.

8. Except as modified by paragraph II(9) below, "eligible class member" means those persons who purchased any new Honda Accord automobile at the respondent's showrooms between July 15, 1976 and the date of service of this order, and who paid any amount for "freight," or charge of similar import, in excess of respondent's actual outlays to third parties to transport the automobile from the port-of-entry to respondent's showrooms, if such actual outlays are known, or, if unknown, in excess of respondent's outlays as computed pursuant to subparagraph 10(b) below.

9. If at the time of sale the charge made by the respondent for "freight" to a person who purchased a new Honda Accord automobile between July 15, 1976 and the date of service of this order was a "good faith estimate" of the respondent's actual freight outlays to third parties, such person shall not be an "eligible class member" within the meaning of this Consent Order. Any charge for freight made by the respondent shall be deemed a "good faith estimate" by the respondent if such charge cannot be shown to have exceeded the respondent's subsequent actual outlays, or, if unknown, its estimated outlays, as determined under subparagraph 10(b) below, to third parties for transportation of the automobile from the port-of-entry to the respondent's showrooms by more than thirty dollars ($30.00).

10. The respondent shall make refund payments to each eligible class member as follows:

(a) Each eligible class member shall receive as a refund one-half (½) of that amount by which the charge paid by the class member to the respondent for "freight" exceeded the respondent's actual outlays to third parties for transportation of the automobile purchased by the class member from the port-of-entry to respondent's showrooms.

(b) If such actual outlay is unknown, each eligible class member shall receive as a refund one-half (½) of that amount by which the charge paid by the class member to the respondent for "freight" exceeded the average sum paid by the respondent to third parties to transport automobiles comparable to that purchased by the class member from comparable ports-of-entry to respondent's showrooms during the three (3) calendar months preceding the month of sale to the class member.

The amount of each refund under this section shall be determined by the Commission on the basis of the information supplied by the respondent under Paragraph II(2) above.

11. The respondent shall maintain records and documents for two (2) years after the filing of the report referred to in Paragraph 6 of Part II of this order, which demonstrate that the respondent has complied with Part II of this order.

12. If any duty required to be performed on a certain day under Part II of this order falls upon a nonbusiness day, the respondent herein shall perform such duty on the next following business day.

III

It is further ordered that:

1. Respondent shall notify the Commission at least thirty (30) days prior to any proposed changes in the corporate respondent such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries, or any other changes in the corporation which may affect compliance obligations arising out of the order.

2. Respondent shall forthwith deliver a copy of this order to each of its operating divisions and to each of its present and future officers; and forthwith deliver a summary of this order, stating that the respondent is subject to an order of the Commission and enumerating the requirements of Part I of this order, to each employee or agent who is engaged in the sale of new automobiles, or who, directly or indirectly, has any responsibility relating in any way to the pricing of new automobiles, or who is engaged in any aspect of the preparation, creation, or placing of advertising; and the respondent shall secure a signed statement acknowledging receipt of said order or summary from each such person.

3. Respondent shall retain each of its sales contracts and freight invoices for new automobiles for two (2) years after the date of the sales transaction, and shall make such records available for inspection and copying upon reasonable request by the Commission or any of its duly authorized representatives.

4. Respondent shall, at reasonable times, afford the Commission, or any of its duly authorized representatives, access to such records, memoranda, and other documents relating to the provisions contained herein as may be appropriate to enable the Commission to determine respondent's compliance with the order.

5. Respondent shall within sixty (60) days after service of this order upon respondent file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Bill Crouch Foreign, Inc., Boulder Colorado.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed Commission complaint which underlies the consent agreement contains two principal allegations against Bill Crouch Foreign, Inc., an authorized retail dealer for new Honda automobiles. First, the complaint alleges that in selling new Honda automobiles the dealer induced customers to pay "freight" charges that exceeded the actual cost of transporting vehicles to the dealer's showroom. Second, it is alleged that in some instances Crouch misrepresented that some dealer-installed items, such as undercoating, had been recommended, required, or installed by the manufacturer.

The proposed order provided for by the consent agreement covers both of the complaint allegations. Under the order, the dealer will be required to cease and desist from charging more than its actual cost for freight. [The order also prohibits the dealer from making misrepresentations concerning the source of dealer-installed items.] Additionally, the order provides that the dealer will make refunds to all Honda Accord customers who paid more than $30.00 above the actual cost for freight. These refunds will be for one-half the entire amount which customers overpaid for freight.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-15757 Filed 5-21-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

18 CFR Part 284

Transportation Certificates for Natural Gas for the Displacement of Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Proposed rulemaking.

SUMMARY: The Economic Regulatory Administration of the Department of Energy is publishing this proposed rule for action by the Federal Energy Regulatory Commission (Commission) pursuant to section 403 of the Department of Energy Organization Act. The proposed rule would amend the definition of "fuel shortage emergency period" (18 CFR Part 284, Chapter I, Subpart F, Section 284.201(e)) so that it would extend through June 1, 1981. If the proposal is adopted, the Commission's Order No. 30 fuel oil displacement program would be extended for one year.

DATES: Dates for comments and public hearings have been determined by the Commission and are published in a notice elsewhere in this **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Albert F. Bass (Division of Natural Gas Regulations), Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, Washington, D.C. 20461, (202) 653-3286

James G. Beste (Office of General Counsel), Department of Energy, 1000 Independence Ave., S.W., Room 5E-064, Washington, D.C. 20585, (202) 252-2900

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, 2000 M Street, N.W., Room 2214, Washington, D.C. 20461, (202) 653-3757

SUPPLEMENTARY INFORMATION:

I. Background
II. Need for Continuation of the Order No. 30 Program
III. Discussion of the Rule

I. Background

Because of an urgent national need to reduce reliance on oil imports and to increase stocks of middle distillate fuel oils, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) on March 18, 1979, (44 FR 17644, March 22, 1979) proposed a rule to the Federal Energy Regulatory Commission (Commission) under section 403 of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7173) designed to encourage and facilitate the granting of applications of interstate pipelines to authorize the transportation of natural gas used to displace fuel oil. A basic premise underlying that proposal was DOE's finding that there existed a temporary surplus of natural gas deliverability that could be utilized for the dual purposes of reducing our reliance on foreign oil and helping to alleviate a middle distillate fuel oil shortage that existed at that time. DOE made that proposal only as a short-term response to the problem. In proposing the rule, DOE did not reverse its position that long-term use of natural gas for boiler fuel is not in the public interest nor did it alter its commitment to coal conversion. The proposed rule provided that as a prerequisite to each authorization by the Commission the Administrator of ERA (Administrator) would certify to the Commission that the gas to be transported would be used to displace fuel oil and not coal.

On April 2, 1979, (44 FR 20398, April 5, 1979) ERA adopted an interim-final rule which established the procedures and criteria under which the Administrator would make certifications of "eligible use." On May 17, 1979, the Commission adopted Order No. 30 authorizing transportation of certified fuel oil

displacement gas (44 FR 30323, May 25, 1979). ERA issued a final rule on August 9, 1979 (44 FR 47920, August 16, 1979). Order No. 30 was amended by Order No. 30–A, Order on Rehearing, issued September 12, 1979, (44 FR 54472, September 20, 1979) and further rehearing was denied by Order Denying Rehearing, issued November 13, 1979.[1]

Order No. 30 authorizes the transportation of user-owned natural gas by interstate pipelines in cases where the gas transported would be used to displace fuel oil. In Order No. 30, the Commission stated "At this time, the Commission is unable to conclude that this program will be necessary beyond June 1, 1980" (slip order at 13), the termination date of the "fuel shortage emergency period" (18 CFR Part 284, Chapter I, Subpart F, Section 284.201(e)). Accordingly, the fuel oil displacement program, as established by Order No. 30, will terminate on June 1, 1980, unless the Commission extends the program.

II. Need for Continuation of the Order No. 30 Program

As originally conceived, the Order No. 30 fuel oil displacement program had the dual purpose of reducing our reliance on oil imports and increasing stocks of fuel oil, particularly middle distillates. Today there is an adequate stock level of fuel oils, including middle distillates. There remains, however, a need to reduce the Nation's reliance on imported oil that is even more urgent than that which existed a year ago. President Carter articulated the underlying basis for the oil displacement program in his national energy policy address on April 5, 1979:

> We are dangerously dependent on uncertain and expensive sources of foreign oil * * * This growing dependence has left us dangerously exposed to sudden price rises and interruptions in supply.

The Commission recognized this dependence in Order No. 30–A in its discussion of the necessity for the oil displacement program. The Commission stated:

> The Commission finds that the fuel oil displacement program announced in Order No. 30 remains vital to the several important national objectives outlined in Order No. 30.
>
> First, the nation's security requires a reduced reliance on imported oil products * * * Such a dependence leaves the nation particularly vulnerable to changes stemming from international events. Second, this level of oil imports is a major factor in the nation's balance of payments deficit, especially after the recent OPEC price increases. Slip order at 2–3.

A year later, we are still "dangerously dependent" on imported oil, and we have the continuing task of reducing that dependence. The President again emphasized this concern on March 14 of this year in his address to the Nation on economic policy when he stated:

> The plain truth is that we will never be completely strong at home or secure abroad until we have at last solved our Nation's excessive dependence on foreign oil.
>
> The price of imported oil has more than doubled in the last 12 months. Last year's increase alone was greater than all other increases combined since the oil embargo of 1973.
>
> We must forge ahead toward the goal I set last July-cutting in half the amount of oil we import by 1990. To do this will require increased production of domestic oil, natural gas and coal—unrelenting efforts for conservation—and the rapid development of alternative energy sources.

It is necessary, therefore, that consumption of all forms of oil be curtailed through the use of all practicable means, including displacement by other available fuels and conservation.

There has been a measure of success in reducing our reliance on foreign oil. During the four-week period ending March 14, 1979—the period immediately prior to ERA's proposal of a fuel oil displacement transportation rule—gross petroleum imports (crude oil and products) averaged 8.4 million barrels per day or 44 percent of our total average daily petroleum supply of 19.1 million barrels for that period.[2] For the same four-week period in 1980, average daily imports were 7.4 million barrels or almost 12 percent less than the previous year. Total supply decreased slightly to 18.5 million barrels.

However, imports are still 40 percent of our total supply. Moreover, although imports of petroleum are lower in volume than a year ago, the economic impact of those imports on our balance of payments and national inflation rate is even greater. In 1979, the total cost of imported oil was $60 billion. This figure is expected to rise to $90 billion in 1980. Furthermore, the world price of internationally traded oil increased by over 100 percent from $14.55 per barrel in March 1979 to $29.65 per barrel in March 1980.[3] In light of these figures, it is clear that the urgent need to reduce oil imports still exists.

ERA has issued 48 certifications from March 1979 through March 1980 certifying the displacement of fuel oil with gas. Through February 1980 approximately 68 Bcf of natural gas have been transported to displace approximately 11 million barrels of fuel oil. The Order No. 30 program plays a particularly significant role in the Nation's oil displacement effort because it allows displacement of oil by large volume users who do not have access to enough gas supplies from their historic suppliers to displace large amounts of fuel oil. For example, at the Commission's conference on April 2, 1980, concerning "Supply of Natural Gas and Fuel Oil Displacement Opportunities," Mr. Bertram Moll, Vice President for Fuel Supply of Consolidated Edison of New York, stated that "[d]uring calendar 1979, we displaced a total of 9.6 million barrels of oil. Of this amount 6.1 million was specifically oil replacement or oil displacement gas and the rest was excess pipeline gas." The effect of this displacement was to reduce our oil bill by some $200 million." (Docket No. CP80–76, tr. at 316.) Mr. Moll also stated in his written comments that "[i]t is likely that the vast preponderance of the residual oil we buy—in the order of 85 percent or more—is produced from foreign oil" (Tr. Vol. IV, Section T, p. 3). Consolidated Edison recently filed an application with ERA requesting recertification of the use of natural gas to displace fuel oil (45 FR 27468, April 23, 1980). In that application Consolidated Edison requested recertification to displace approximately 7.8 million barrels of fuel oil between April 27, 1980, and April 26, 1981. On April 25, 1980, ERA granted the recertification as requested (45 FR 29628, May 5, 1980).

The evidence indicates that supplies of natural gas continue to be available to displace large volumes of fuel oil. For example, ERA completed a limited survey in mid-March 1980 of 105 companies including intrastate pipelines, distribution companies, and producers. The survey indicated that 53 billion cubic feet of gas from these intrastate companies would be available for short-term sales through June 1, 1980. The companies surveyed expect a similar amount to be available in the third quarter of 1980. Similarly, the Commission's informal conference on April 2, 1980, elicited testimony that a "substantial surplus" of gas presently exists. (See, *e.g.*, Docket No. CP80–76, tr. at 126.)

There are indications that a surplus also exists in the interstate market. The Commission's Office of Pipeline and Producer Regulations has issued a number of reports based on its "1979–80 Winter Curtailment Monitoring Survey of 28 Major Interstate Pipeline Companies." These reports indicate that, over the past winter months, total working gas storage inventories have on the average been higher than projected in the pipelines' Form 16 reports filed with the Commission last year and that curtailment levels have been lower. Finally, a broad survey made by the American Gas Association (AGA) in December 1979, and submitted to ERA in response to an "Extension of Time for Issuance of Final Orders and Invitation to Submit Comments" (45 FR 78, January 2, 1980), related to the special temporary public interest exemptions program indicates that natural gas is also available in the interstate market to displace oil.

On the other hand, there is a potential for reduction of a significant volume of imported supplies of natural gas. ERA recently authorized the importation of Canadian and Mexican gas at a price of $4.47 per million Btu on an interim basis through May 15, 1980. ERA is currently reviewing whether to authorize imports from Canada and Mexico at that price beyond May 15. While no decision has yet been reached regarding those imports, historically Canadian and Mexican gas imports have been secure sources of supply.

A more serious problem has arisen with regard to liquefied natural gas (LNG) imported from Algeria. The Algerian government terminated most of its LNG exports to the United States effective April 1, 1980, subject to renegotiation of the contract price. No application has yet been filed with ERA requesting authorization to import Algerian LNG at a higher price. At this time it is uncertain whether those imports will be reinstated.

As ERA stated at the Commission's conference on April 2, the termination of Algerian LNG imports could affect the amount of gas available for use in the Order No. 30 program. For at least the coming year, however, two of the three interstate pipelines that have been receiving most of the Algerian supply will have abundant system supplies without Algerian LNG. ERA will carefully monitor the impact of the Algerian supply interruption, and, if circumstances warrant, ERA will deny applications for certifiactes in the Order No. 30 program in order to make gas available to pipelines adversely affected by the termination of gas imports.

It has been alleged that ERA's oil displacement programs should be terminated, or at least narrowed in scope, because the programs have caused a decreased demand for fuel oil, thereby creating the potential for reduced refinery runs. The allegation has been made by refiners in Petroleum Administration for Defense District 2 (PADD 2) in the upper midwest that stockpiles of high sulfur residual fuel oil have risen so high that refiners will be forced to cut back on refinery runs until the surplus can be absorbed.

ERA has investigated this allegation and has concluded that any surplus of residual fuel oil that may exist in PADD 2 cannot be attributed to the Order No. 30 program because, through February 1980, the few certifications issued by ERA to end-users in PADD 2 have not resulted in the displacement of any residual fuel oil. In connection with ERA's special public interest exemptions program, which permits certain utility powerplants to use natural gas in excess of Powerplant and Industrial Fuel Use Act (FUA) prohibitions to displace fuel oil as long as coal is not displaced, an informal telephone survey of utilities applying for exemptions and their suppliers, both refiners and marketers, was conducted by ERA. This survey indicated that potential refinery containment problems appear to be localized and that, otherwise, there is no indication of unmanageable stocks. Based on the findings of that survey, ERA recently granted eighteen-month special public interest exemptions from the restrictions on gas use under FUA to electric powerplants in PADD 2 that would displace fuel oil and not coal (45 FR 27470, April 3, 1980). In granting those exemptions, ERA determined that denying public interest exemptions for utilities that would displace residual oil in PADD 2 would not significantly add to the surplus of residual oil or affect the supply of other refined products.

In proposing that the Commission extend the Order No. 30 oil displacement program for an additional year, ERA has attempted to balance a number of competing considerations. The critical need to build up fuel oil stocks, particularly distillate stocks, that we faced last spring no longer exists. As discussed above, however, there remains an urgent need to reduce the Nations' reliance on imported oil. The use of natural gas to displace fuel oil is one of the most effective means of reducing oil consumption in the near term. ERA has determined that there are presently surplus supplies of natural gas that can be used to reduce oil consumption through dsplacement. On the other hand, we are sensitive to the fact that there is uncertainty about the security of imported gas supplies, particularly Algerian LNG. In addition, potential refinery containment problems exist on a regional basis due to a surplus of residual oil.

On balance, in light of the urgent need to reduce our reliance on imported oil, ERA has determined that the Order No. 30 program should be extended for one year. We believe there is a sufficient surplus of natural gas to warrant this extension notwithstanding the possibility that imports of Algerian LNG may not be reinstated. We are particularly persuaded by the fact that there remain over the short-term at least several users (Consolidated Edison being the most conspicuous but by no means the only concrete example) that can continue to displace substantial volumes of imported oil with gas without causing any discernible adverse impact on gas or refined petroleum product supplies or on longer range energy policies.

In proposing this extension, we emphasize that we support the use of gas to displace oil only where the choice is between the use of oil or gas and not coal. In the long-term, ERA continues to believe that conversion to coal remains a principal means by which we can reduce our reliance on oil imports. We intend to deny certificates of eligible use in those instances where the use of gas might have a direct or indirect effect on future coal use.

If the Order No. 30 program is continued, we would consider the need of interstate pipelines for short-term gas supplies targeted for oil displacement as a factor in determining whether to grant certifications of eligible use. Direct sales of natural gas for boiler fuel use, such as those in the Order No. 30 program, are not appropriate if those sales would deprive interstate pipelines of gas for system supplies. If it is demonstrated to us during our notice and comment period for a certificate application that an interstate pipeline would be deprived of particular natural gas supplies by allowing an Order No. 30 transaction to take place, ERA will deny a certification of eligible use for those particular supplies. Under this approach, the system supplies of interstate pipelines should be adequately protected, while users will otherwise have access to short-term gas supplies in order to displace fuel oil. In addition, if at any time it is demonstrated that the granting of a certification of eligible use would create or contribute to refinery containment problems in a given region, ERA will not hesitate to exclude that region from participation in the program pursuant to its authority under 10 CFR Part 595, § 595.05.

[1] Order Nos. 30 and 30–A are under review in the United States Court of Appeals for the D.C. Circuit in *Process Gas Consumers Group, et al.* v. *FERC*, No. 79–2336.

[2] Energy Information Administration—Weekly Petroleum Status Report, March 14, 1980, "U.S. Petroleum Balance Sheet."

[3] Ibid, "World Price of Oil."

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III. Discussion of the Rule

For the above reasons, ERA proposes that the Commission amend its regulations to extend the Order No. 30 program for an additional year. The proposed rule amends the "fuel shortage emergency period" (18 CFR Part 284, Chapter I, subpart F, section 284.201(e)) so that it would extend through June 1, 1981. "Fuel shortage emergency period", as amended, would mean "the period between May 17, 1979 and June 1, 1981." If this proposed amendment is adopted, the Commission's Order No. 30 fuel oil displacement program would continue to operate in its present form through June 1, 1981. ERA would continue to certify, pursuant to 10 CFR Part 595, that the natural gas to be transported will displace fuel oil and not coal.

Department of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Department of Energy Delegation Order No. 0204–4 (42 FR 60726).

In consideration of the foregoing, it is proposed that the Commission amend Part 284 of Chapter I of Title 18, subchapter F, § 284.201(e), as set forth below.

Issued in Washington, D.C., May 12, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

18 CFR, Part 284, Chapter I, Subchapter F, § 284.201, paragraph (e) is amended as follows:

§ 284.201 Definitions.

* * * * *

(e) "Fuel shortage emergency period" means the period between May 17, 1979 and June 1, 1981."

[FR Doc. 80–15777 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

18 CFR Part 284

Transportation Certificate for Natural Gas for the Displacement of Fuel Oil

Cross Reference: For a document issued by the Federal Energy Regulatory Commission (Commission) which announces public hearing and comment procedures on a proposal by the Economic Regulatory Administration for action by the Commission see FR Doc. 80–15776 published in the Rules and Regulations section of this issue. Refer to the table of contents at the front of this issue under Federal Energy Regulatory Commission for the correct page number.

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. SD–154]

Persons Born in the United States Applying for a Passport, or Inclusion in a Passport, for the First Time

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The proposed revision would allow a passport issuing office to accept as evidence of birth within the United States documents other than certified birth certificates. The revision would assist a person who cannot obtain primary evidence of birth in the United States by modifying the requirement that the person submit a "no record" certification from the custodian of birth records where the individual was born. The revision also specifies additional types of documents which the passport issuing office will consider as secondary evidence of birth in the United States.

This notice invites comments from the public in the Department of State's proposal to revise the regulation relating to persons born in the United States who apply for a passport, or inclusion in a passport, for the first time.

EFFECTIVE DATE: Comments must be received no later than July 21, 1980.

ADDRESS: Send comments to Elliott B. Light, Department of State, Office of Citizenship Appeals and Legal Assistance (PPT/C), 2201 C Street, N.W., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Elliott B. Light, (202) 632–7172/0897.

PART 51—PASSPORTS

Accordingly, it is proposed to revise § 51.43 of Title 22, Code of Federal Regulations as set forth below:

§ 51.43 Persons born in the United States applying for a passport, or inclusion in a passport, for the first time.

(a) Primary evidence of birth in the United States. A person born at a place in the United States where official records of birth were maintained at the time of such birth shall submit with the application for a passport a birth certificate, or documentary evidence of birth issued by competent authority in the locality of birth under the seal or other certification of the official custodian of such records. Such document must contain, but need not be limited to, the full name, date and place of birth of the person to whom the record pertains. The document must have been recorded at the time of birth or shortly thereafter.

(b) *Secondary evidence of birth in the United States.* If primary evidence of birth cannot be submitted, or is not available, the person shall submit with the application for a passport the best obtainable secondary evidence of birth. A person born at a place in the United States where official records of birth were maintained at the time of birth should submit a certification of "no record" from the official custodian of such birth records before secondary evidence will be considered. The passport issuing office will consider, as secondary evidence: delayed certificates of birth, baptismal certifications, census records, school records, and similar documents issued or created by governmental, public and private organizations, which were created shortly after birth or which reflect that the facts of birth contained therein are based on information or knowledge obtained from persons other than the person whose birth in the United States is to be proved; and/or affidavits of persons having independent personal knowledge of the facts of the birth.

(c) *Additional evidence of birth in the United States.* Any official receiving an application for a passport, or any passport issuing office, may require the submission of such additional evidence in addition to that set forth in subsection paragraph (a) and (b) of this section as may be deemed necessary to verify the person's birth in the United States.

(Sec. 1, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 comp., p. 507.)

Dated: April 10, 1980.

For the Secretary of State.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80–15686 Filed 5–21–80; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 80–2, Notice 2]

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for comments on the notice of proposed amendments published on February 14, 1980 (45 FR 10236), requesting comment by May 14, 1980, on the design standards which apply to most highway projects eligible for funding under the Federal-aid highway program. The comment period is being extended until June 13, 1980, in order to provide interested parties additional time to respond to the notice. The current and proposed design standards are on file at the Office of the Federal Register in Washington, D.C., and are available for inspection and copying from the FHWA Washington Headquarters and all FHWA division and regional offices as prescribed in 49 CFR Part 7, Appendix D. The supply of extra copies of the proposed standards has been exhausted.

DATE: Comments will be received until June 13, 1980.

ADDRESS: FHWA Docket No. 80–2, Federal Highway Administration, HCC–10, Room 4205, 400 Seventh Street NW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Wilson B. Harkins, Highway Design Division, Office of Engineering, 202–426–0313, or Mr. Stan Abramson, Office of the Chief Counsel, 202–426–0761, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b))

Issued on: May 14, 1980.

L. P. Lamm,

Executive Director.

FR Doc. 80–15346 Filed 5–21–80; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–230–78]

Income Tax; Moving Expense Reduction for Foreign Moves and for Retirees or Decedents Who Were Working Abroad

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax regulations relating to special rules for foreign moving expenses and the allowance of moving expense deductions in the case of retirees or dependents of decedents who were working abroad. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. The regulations would provide necessary guidance to the public for compliance with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 21, 1980. The amendments are proposed to be effective for expenses paid or incurred in taxable years beginning after December 31, 1978, and for expenses paid or incurred in the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–230–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Barbara B. Coughlin of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–6618).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax regulations (26 CFR Part 1) under section 217 (h) and (i) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 204 of the Foreign Earned Income Act of 1978 (92 Stat. 3106). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Special rules for Foreign Moves

The proposed regulations reflect the special rules for the deduction of moving expenses in the case of foreign moves. In the case of a foreign move, the new rules change the 30-day limitation on the deduction of the cost of temporary quarters to 90 days. The new rules increase the ceiling on deductibility of these temporary living costs and costs of searching for a new residence from $1,500 to $4,500 for a foreign move. The $3,000 limitation applicable for the deductibility of the aggregate qualified residence sale, purchase or lease expenses is raised to $6,000 for a foreign move. Deductible foreign moving expenses are changed to include the cost of certain storage fees.

Moving Expense Deduction for Retirees or Decedents Who Were Working Abroad

The proposed regulations reflect the new rules allowing for the deduction of qualified retiree moving expenses and qualified survivor moving expenses. Qualified retiree moving expenses are expenses that are incurred by an individual whose former principal place of work and former residence were outside the United States and that are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

The proposed regulations define "bona fide retirement" generally to mean the permanent withdrawal from gainful full-time employment and self-employment. An individual who at the time of withdrawal from gainful full-time employment or self-employment, intends the withdrawal to be permanent shall be considered to be a bona fide retiree even though the individual ultimately resumes gainful full-time employment or self-employment. An individual's intention is determined by relevant facts and circumstances.

Qualified survivor moving expenses are expenses that are paid or incurred by the spouse or any dependent of a decedent who had a principal place of work outside the United States. The expenses must be incurred for a move to the United States from a former residence outside the United States that was the residence of the decedent and the taxpayer. The move must begin within 6 months after the death of the decedent. The proposed regulations provide that a move begins when either the taxpayer's household goods and personal effects are packed and in-transit to a residence in the United States or the taxpayer leaves the former residence to travel to a new place of residence in the United States or both.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

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Drafting Information

The principal author of these proposed regulations is Barbara B. Coughlin of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.217–2 is revised by redesignating paragraph (h) as paragraph (j) and inserting new paragraphs (h) and (i), to read as follows:

§ 1.217–2 Deduction for moving expenses paid or incurred in taxable years beginning after December 31, 1969.

* * * * *

(h) *Special rules for foreign moves*—(1) *Increase in limitations.* In the case of a foreign move (as defined in paragraph (h) (3) of this section), paragraph (b) (6) of this section shall be applied by substituting "90 consecutive" for "30 consecutive" each time it appears. Paragraph (b) (9) (ii), (iii) and (v) of this section shall be applied by substituting "6,000" for "3,000" each time it appears and by substituting "4,500" for "1,500" each time it appears. Paragraph (b) (9) (ii) of this section shall be applied by substituting "the $2,000" for "only $1,000". Paragraph (b) (9) (v) of this section shall be applied by substituting "$2,250" for "$750" each time it appears. Paragraph (b) (9) (vi) of this section does not apply.

(2) *Allowance of certain storage fees.* In the case of a foreign move, for purposes of this section, the moving expenses described in paragraph (b) (3) of this section shall include the reasonable expenses of moving household goods and personal effects to and from storage, and of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

(3) *Foreign move.* For purposes of this paragraph, the term "foreign move" means a move in connection with the commencement of work by the taxpayer at a new principal place of work located outside the United States. Thus, a move from the United States to a foreign country or from one foreign country to another foreign country qualifies as a foreign move. A move within a foreign country also qualifies as a foreign move. A move from a foreign country to the United States does not qualify as a foreign move.

(4) *United States.* For purposes of this paragraph and paragraph (i) of this section, the term "United States" includes the possessions of the United States.

(5) *Effective date.* The provisions of this paragraph apply to expenses paid or incurred in taxable years beginning after December 31, 1978. The paragraph also applies to the expenses paid or incurred in the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

(i) *Allowance of deductions in case of retirees or decedents who were working abroad*—(1) *In general.* In the case of any qualified retiree moving expenses or qualified survivor moving expenses, this section (other than paragraph (h)) shall be applied to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States and the limitations of paragraph (c)(4) of this section (relating to the minimum period of employment) shall not apply. See paragraph (h)(4) of this section for the definition of United States.

(2) *Qualified retiree moving expenses.* For purposes of this paragraph, the term "qualified retiree moving expenses" means any moving expenses which are incurred by an individual whose former principal place of work and former residence were outside the United States and which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual. "Bona fide retirement" means the permanent withdrawal from gainful full-time employment and self-employment. An individual who at the time of withdrawal from gainful full-time employment or self-employment, intends the withdrawal to be permanent shall be considered to be a "bona fide retiree" even though the individual ultimately resumes gainful full-time employment or self-employment. An individual's intention may be evidenced by relevant facts and circumstances which include the age of the individual, the customary retirement age of employees engaged in similar work, whether the individual is receiving a retirement allowance under a pension annuity, retirement or similar fund or system, and the length of time before resuming full-time employment or self-employment.

(3) *Qualified survivor moving expenses.* For purposes of this paragraph, the term "qualified survivor moving expenses" means any moving expenses (i) which are paid or incurred by the spouse or any dependent (as defined in section 152) of any decedent who (as of the time of his death) had a principal place of work outside the United States, and (ii) which are incurred for a move which begins within 6 months after the death of the decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense. For this purpose, a move begins when either the taxpayer's household goods and personal effects are packed and in-transit to a residence in the United States or the taxpayer leaves the former residence to travel to a new place of residence in the United States or both.

(4) *Effective date.* The provisions of this paragraph apply to expenses paid or incurred in taxable years beginning after December 31, 1978. The paragraph also applies to the expenses paid or incurred in the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

(j) *Effective date.* * * *

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–15778 Filed 5–21–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

32A CFR Parts 651 and 663

Titanium (DPS) Order 3: Proposed Rulemaking

AGENCY: Office of Industrial Mobilization, ITA, Department of Commerce.

ACTION: Withdrawal of Proposed Rule.

SUMMARY: On March 13, 1980, the Department of Commerce (DOC) proposed, in the **Federal Register** (45 FR 16202), 1) to issue DPS Order 3—Titanium—to provide for titanium ingot and titanium mill product set-asides and 2) to add titanium sponge to the exclusion list by amending Schedule II to DPS Regulation 1—Materials and Services Not Subject to BDC (now OIM) Rating Authority. Comments were requested to be submitted to the Department by April 11, 1980. The proposed rulemaking was made in the interest of creating a more orderly and equitable environment for the titanium industry.

DOC has considered all comments received. DOC has reviewed the circumstances which led to the decision to issue the proposal and has studied certain events affecting the titanium situation since the publication of the proposed rule. DOC concludes that the Defense Priorities System Regulation 1 (Basic rules of the defense priorities system) provides sufficient authority to assure the availability of required supplies of titanium and titanium products to meet defense program requirements and, thus, is withdrawing the proposal.

DATE: This withdrawal is effective May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Iain S. Baird, Director, Priorities and Allocations Division, Office of Industrial Mobilization, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–2233.

SUPPLEMENTARY INFORMATION: In total, twelve written comments were received: six from titanium producers, three from titanium users and three from U.S. Government agencies. Of the twelve comments received, ten opposed the proposal. Many comments were concerned with the adequacy of the basic data (i.e. defense projected requirements) needed to develop set-aside percentages and to administer the program. The comments also stated that the proposed set-aside percentages appeared too high based on past experience with defense business and based on perceptions of likely future defense program requirements. Therefore, the proposed levels were seen as potentially disruptive to the conduct of normal commercial business.

Many expressed concern that any appearance of uncertainty in the U.S. market would serve as an incentive for customers to seek supplies from foreign countries. In addition to the short-run balance of payment effects and reduced sales in the United States, one company noted that diversion to foreign sources would be an incentive to foreign expansion and modernization and, thus, a disincentive to the expansion of the domestic titanium industry.

Some commenters identified sponge availability as an immediate problem and were concerned that the proposed exclusion of sponge from the priorities system would impact the ability to acquire sponge to fill defense orders. However, no mention was made of the fact that the Department would retain authority to direct sales of sponge if normal methods of supply failed to provide adequate materials for defense programs.

Several comments stated that the set-aside proposal did not address the more fundamental problems of inadequate market incentives for capital investment and plant expansion; potentially sizable increases in demand for energy applications; the disruptive effects of unpredicable defense procurements; and the problem of funding for long lead time items for defense.

To satisfy the long-term problems of the industry, many comments favored the use of the National Defense Stockpile as a market stabilizing influence through sales during short periods of tight supply, combined with long term stockpile procurement policies. The industry proposals also covered investment incentives, funding for long-term defense procurement, investment tax credits, changes in tariff policy, extension of priorities to commercial transport aircraft, and short-term export restrictions. A proposal which would permit further exploration of these and other ideas was to continue industry and Government dialogue and cooperation through the formation of some form of working committee. While all these proposals are of interest to the Department with respect to its concern for a strong industrial base for titanium and other products and will be considered in that context, they were not considered germane to the issue at hand as the proposal was concerned solely with the distribution of currently available resources.

The proposed rulemaking was issued because the Department, in its effort to assure timely satisfaction of defense program requirements, sought to respond to certain titanium producers' concerns that there did not exist a mechanism for ensuring that defense requirements were distributed equitably.

Since the March 13 proposal, DOC has concluded that both industry and Government have significantly increased their awareness of 1) the principles and purposes of the DMS/DPS system, and 2) the rights and obligations of those subject to DPS Reg. 1. As a direct result of this activity, there has been a sharp decline in special priorities assistance requests for titanium products and an improved receptivity on the part of individual companies to resolve issues involving supply availability. With respect to industry's concern for establishing a mechanism to ensure an equitable distribution of approved defense program requirements, the comments received from industry did not support establishing a set-aside as the mechanism to ensure that equitable distribution. Thus, the Department is withdrawing its proposed rulemaking.

All existing provisions of the DMS/DPS, which implement the provisions of Title I of the Defense Production Act of 1950, as amended, remain in effect. All elements of the titanium producing and consuming industries are legally obligated to follow all the provisions of the DMS/DPS.

The DMS/DPS regulations can be found in the Code of Federal Regulations, Title 32A, National Defense Appendix, Chapter 6.

Copies of the individual regulations may be obtained from OIM or from the Department of Commerce District Offices.

Dated: May 19, 1980.

Eric L. Hirschhorn,

Deputy Assistance Secretary for Export Administration.

[FR Doc. 80–15754 Filed 5–21–80; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 79–114]

Drawbridge Operation Regulations; Yazoo River, Mississippi

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard is considering revising the regulations governing the operation of the drawbridges across the Yazoo River from its mouth to Greenville, Mississippi, to require at least two hours notice for the Illinois Central Gulf Railroad at Redwood and the Satartia Highway bridge at Satartia and at least four hours notice for the drawbridges at Yazoo City, Belzoni, Silent Shade, Roebuck, Fort Loring, and Greenwood at all times. This proposal is being made in an effort to promote uniformity and facilitate commercial navigation. This action should relieve the bridge owners of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 23, 1980.

ADDRESS: Comments should be submitted to and are available for examination during normal working hours at the office of the Commander (obr), Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–NBR/TP14), Room 1414, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20593 (202–426–0942).

SUPPLEMENTARY INFORMATION: On August 6, 1979, the Coast Guard published a proposed rule (44 FR 45969) concerning this amendment. The Commander, Second Coast Guard District, also published these proposals as a Public Notice dated August 9, 1979. Interested parties were given until September 7, 1979 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Navigation, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of Comments

As originally proposed, all drawbridges across the Yazoo River from the mouth through Greenville would have required at least four hours notice. Three comments were received that were pertinent to the proposal. Two opposed any change. One suggested a maximum of two and one-half hours notice. After reviewing these objections, the Coast Guard concluded that the Illinois Central Gulf Railroad bridge at Redwood and the Satartia Highway bridge at Satartia should open after at least two hours notice, and the remaining bridges after at least four hours notice. Subsequently, in informal meetings held by the Coast Guard, all interested parties agreed to this change. The Coast Guard is now presenting this revised proposal to the public for comment.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. Deleting 33 CFR 117.560(f)(18).
2. Revising 33 CFR 117.560(f)(17) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * * * *

(f) * * *

(17) Yazoo River, Miss. (a) The draws of the Illinois Central Gulf Railroad bridge at Redwood and the Satartia Highway bridge at Satartia shall open on signal if at least two hours notice is given. When a vessel has given notice and fails to arrive within the two-hour period specified, the draw tender shall remain on duty for two additional hours and open the draw if the requesting vessel appears. After this time, an additional two-hour notice is required.

(b) The draws of the drawbridges upstream from the Satartia Highway bridge shall open on signal if at least four hours notice is given. When a vessel has given notice and fails to arrive within the four-hour period specified, the draw tender shall remain on duty for two additional hours and open the draw if the requesting vessel appears. After this time, an additional four-hour notice is required.

* * * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: May 19, 1980.

Peter J. Rots,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 80–15734 Filed 5–21–80; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 157

[CGD 79–126]

Procedure for Exemption From the Requirement for Segregated Ballast Tanks, Dedicated Clean Ballast Tanks or a Crude Oil Washing System for Existing Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: This document proposed regulations which would exempt certain existing U.S. tank vessels from the requirements for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT) or crude oil washing (COW) systems. These regulations would implement subsection (7)(N) of section 5 of the Port and Tanker Safety Act of 1978 which allows the exemption, if shore-based reception facilities are a preferred method of handling dirty ballast and adequate reception facilities are readily available. Adoption of the proposal would recognize that in certain trades where existing tank vessels have set loading locations, it is as effective to use shore-based reception facilities for the treatment of oil residues as it is to use SBT, CBT, or COW.

DATES: Comments must be received on or before July 7, 1980.

ADDRESSES: Written comments should be submitted to Commandant (G–CMC/TP–24) (CGD 79–126), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7:00 a.m. and 5:00 p.m. Monday through Thursday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/TP–24), Room 2418, Trans Point Building, 2100 2nd Street, S.W., Washington, D.C. 20593. Copies of the combined draft regulatory evaluation and draft environmental assessment are available during the same hours and days at the preceding address.

FOR FURTHER INFORMATION CONTACT: LCDR Alan E. Spackman, Merchant Marine Technical Division (G–MMT–1/TP–13), Room 1308 Trans Point Building, 2100 2nd St. S.W., Washington, D.C. 20593 (202–426–4431).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 79–126) and the specific section of the proposed regulations to which their comments apply and give reasons for their comments. Persons desiring acknowledgement that their comments were received should include a stamped self-addressed envelope or postal card. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person who can demonstrate that the opportunity to make an oral presentation will aid this rulemaking.

Drafting Information

The principal persons involved in the drafting of this rule are LCDR Alan E. Spackman, Project Manager, Office of Merchant Marine Safety and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

Discussion

Regulations implementing portions of the equipment and construction standards contained in subsection 7 of section 5 of the Port and Tanker Safety Act of 1978 (PTSA) (92 Stat 1480, 1484; 46 USC 391a) were published in the **Federal Register** of November 19, 1979 (46 FR 66502). These regulations are consistent with the equipment and construction standards developed at the International Conference on Tanker Safety and Pollution Prevention (TSPP) as adopted in the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973* (MARPOL Protocol).

Regulation 13C of the MARPOL Protocol and subsection (7)(N) of section 5 of the PTSA provide for the granting of exemptions from the requirements for SBT, CBT, and COW. Both also specify conditions or place limitations on the granting of exemptions.

The development of the PTSA was greatly influenced by the MARPOL Protocol. These proposed regulations are intended to implement subsection (7)(N) of section 5 of the PTSA in a manner which will conform to the MARPOL Protocol.

The PTSA requires the exemptions to be in accordance with any "relevant international agreement to which the United States is a party". The Coast Guard has concluded that the MARPOL Protocol is the controlling agreement, even though it is not yet in force for the United States. The Coast Guard reached this conclusion based in the following: The construction and equipment requirements of subsection (7) have specific applicability dates. Resolution 1 adopted by the TSPP Conference recommends that the Protocol enter into force not later than June 1981. It is upon this entry into force that the effective dates of the several construction and equipment standards are based. Regulation 13C of the MARPOL Protocol, upon which subsection (7)(N) is based, would also have effect by June 1981 if the target date of the Protocol is met. Viewing subsection (7)(N) in this light, the phrase "relevant international agreements" can be read principally as an identification of the international agreement governing exemptions, which is, of course, the MARPOL Protocol. The phrase "is a party" could only have been inserted with expectation that the MARPOL Protocol would enter into force by its target date. The fact that the target date may not be met should not change the concept by not allowing for those exemptions from the construction and equipment requirements that do not require further international agreement under Regulation 13C of the MARPOL Protocol. It is reasonable to assume that Congress intended the issuance of exemptions if the qualifying criteria are satisfied.

There are four basis requirements that stem from the MARPOL Protocol that have been incorporated in this proposed rulemaking:

(1) Granting of exemptions is limited to vessels defined as "existing" vessels. This is an acknowledgment that the MARPOL requirements for SBT, CBT or COW on existing vessels placed the emphasis on reducing operational oil pollution. By limiting exemptions to existing vessels, it recognizes that the design requirements for "new" vessels, primarily the requirement for protectively located SBT on both crude oil and product carriers, should provide an additional reduction in accidental oil pollution.

(2) Exemptions may be granted only to tank vessels engaging in three types of trade. Those which engage in trades wherein their voyages are wholly between ports or terminals within a state (country); those whose trade consist of voyages that are entirely within a "Special Area" as defined by the Protocol; and those whose voyages are entirely within other limits designated by the Inter-Governmental Maritime Consultative Organization (IMCO). The first of these trades is addressed by this rulemaking and is the source of a restriction limiting cargo loading and discharge to ports or places within the United States. Resolution 16 to the MARPOL Protocol calls for further study by IMCO with regard to the consequences, including the environmental effects, of the possible extension of exemptions into the latter two categories. Because of the need for further international action under MARPOL, which requires entry into force of the MARPOL Protocol, these trades are not addressed in this proposal.

(3) Exemptions may be granted only if those ports or terminals where cargo is to be loaded have shore-based reception facilities that are adequate for the treatment of all the ballast and tank washing water from the tank vessels that use them.

(4) Except in certain emergency conditions, an exempted vessel would have to retain on board and transfer to a reception facility all ballast water, including clean ballast water, and all tank washing residues.

The PTSA further requires that shore-based reception facilities be determined to be "a preferred method of handling dirty ballast", and that adequate reception facilities be "readily available."

The Coast Guard has made the determination that for the existing vessels, to which the proposed exemptions would be granted, shore-based reception facilities are a preferred method of handling dirty ballast provided the exempted vessels operate in accordance with the restrictions as set forth in the proposed regulations. It is the Coast Guard's position that this determination can be made for all existing U.S. tank vessels in domestic trade of 40,000 DWT and over, and it is the Coast Guard's intention to issue only one environmental assessment to cover any exemptions the Coast Guard may issue, if this proposal is adopted. The determination of preference has been based upon the following:

1. A review of the U.S. tank vessel fleet that determined which vessels would be likely candidates for the proposed exemption;
2. A draft regulatory evaluation which indicates a probable savings to the affected segment of the marine industry; and,
3. An assessment of the probable environmental effects of the proposed regulations which could identify no significant environmental impact as a result of granting the proposed exemptions. On the basis of this assessment the issuance of a Finding of No Significant Impact is envisioned.

Prior to granting an exemption the Coast Guard must be assured that each reception facility that is proposed for use by an exempted vessel is adequate and will remain readily available. The proposed rules would require that certain information regarding each reception facility accompany each vessel's application for exemption. This information would include copies of the National Pollutant Discharge Elimination System (NPDES) permits for the reception facilities named in the application and statements from the reception facility owners regarding the adequacy of their reception facility and their capability to provide continued service to the vessel. A premise of the environmental assessment is that the reception facility will discharge a high quality effluent. Submission of a valid NPDES permit is proposed as proof of a high quality effluent. The Coast Guard proposes to rely upon the judgement and past experience of the owner of each reception facility to determine whether his reception facility can provide a continuous service to the candidate vessel while remaining readily available for use by other vessels.

In order to ensure that the limits within which the determination of the "preference of method" was based are not exceeded by exempted vessels and that the reception facilities used by exempted vessels remain both adequate and readily available, provision has been made in the proposal for revocation of exemptions. As proposed, the exemption of a vessel may be revoked if the vessel fails to comply with the regulations, a reception facility is rendered incapable of processing the vessel's discharges, or it becomes apparent that the use of a reception facility by exempted vessels is causing undue delay to non-exempt vessels. A delay of six hours has been proposed as an undue delay. Comments regarding the time period which would constitute an undue delay, or comments which would provide alternative approaches that could be used to ensure that

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reception facilities handling exempted vessels continue to meet the needs of the other vessels using them, without causing undue delay to those vessels, are specifically solicited.

The Coast Guard has evaluated this proposal under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A combined draft regulatory evaluation and draft environmental assessment has been prepared and is included in the public docket. This document is available as indicated in addresses.

Accordingly, it is proposed that Part 157 of Title 33, Code of Federal Regulations be amended by adding a new Subpart F to read as follows:

Subpart F—Exemptions from § 157.10a

Sec.

157.300 Qualifications for exemptions under this part.
157.302 Applying for an exemption or requesting modification of an exemption.
157.304 Shore-based reception facility: standards.
157.306 Granting, denying or modifying an exemption.
157.308 Revocation of exemption: procedure and appeals.
157.310 Exempted Vessels: operations.

Authority: 92 Stat. 1480 (Sec. 5, Port and Tanker Safety Act of 1978; 46 U.S.C. 391a); 49 CFR 1.46(n)(4).

§ 157.300 Qualifications for exemptions under this part.

Each U.S. tank vessel under § 157.10a of this part may qualify for an exemption from the requirements of § 157.10a of this part if—

(a) The vessel loads and discharges cargo only at ports or places within the United States, its territories, or its possessions;

(b) The application for exemption meets § 157.302; and

(c) The vessel never has been granted an exemption under this subpart that was revoked by the Coast Guard under § 157.308(a)(1) or § 157.308(a)(2).

§ 157.302 Applying for an exemption or requesting modification of an exemption.

(a) Each application for an exemption or modification must be in writing and submitted to the Commandant (G-MMT/TP-13), U.S. Coast Guard, Washington, D.C. 20593.

(b) Each application for exemption must include the following:

(1) The name and official number of the vessel for which the exemption is requested.

(2) A list of each port or place where the vessel would call.

(3) A list of each port or place where the vessel would load cargo.

(4) The name, address, and telephone number of the shore-based reception facilities at each port listed under paragraph (b)(3) of this section where the vessel would discharge its ballast water and cargo residues, including—

(i) The name of the person at each facility who should be contacted for information concerning the operation of the reception facility; and

(ii) A statement from the facility owner disclosing whether or not, based on current operating conditions, the facility has the capability of processing the anticipated volume and type of discharges from the vessel without adversely affecting the service of the facility to current users.

(5) A copy of a valid National Pollutant Discharge Elimination System (NPDES) permit for each listed shore-based reception facility.

(6) A list of each type of cargo that the vessel would load.

(7) A description of the method by which the vessel would discharge ballast water and cargo residues to each listed shore based reception facility.

(c) Each request for modification of an exemption must include the following:

(1) The name and official number of the vessel for which the modification to the exemption is requested.

(2) The reason for requesting modification of the exemption.

(3) Any additional information which is pertinent to the modification.

§ 157.304 Shore-based reception facility: standards.

No shore-based reception facility may be listed to meet § 157.302(b)(4) unless that reception facility has—

(a) a valid NPDES permit which allows it to process the ballast water and cargo residues of the vessel for which the exemption is being requested; and

(b) the capacity to receive and store a volume of dirty ballast water equivalent to 30 percent of the deadweight, less the segregated ballast volume, of the vessel for which the exemption is being requested.

§ 157.306 Granting, denying or modifying an exemption.

(a) The Chief, Office of Merchant Marine Safety issues a written decision concerning the grant or denial of each exemption or modification requested under § 157.302.

(b) If the exemption or request for modification is denied, the decision under paragraph (a) of this section includes the reasons for the denial.

(c) Any person directly affected by, and not satisfied with, a decision made under paragraph (a) of this section may appeal that decision, in writing, to the Commandant, U.S. Coast Guard, Washington, D.C. 20593. The appeal may contain any supporting documentation or evidence that the appellant wishes to have considered.

(d) The Commandant, U.S. Coast Guard issues a ruling after reviewing the appeal submitted under paragraph (c) of this section. This ruling is final agency action.

§ 157.308 Revocation of exemption: procedure and appeals.

(a) The Officer in Charge, Marine Inspection may consider the revocation of the exemption granted under this subpart when—

(1) Requested by the vessel's owner;

(2) There is evidence that the vessel's owner, operator, or master has failed to comply with the requirements of this subpart; or

(3) There have been changes to the NPDES permit of a reception facility listed to meet § 157.302(b)(4) that would adversely affect the ability of that facility to process the vessel's discharges.

(b) The Officer in Charge, Marine Inspection, of the zone in which an occurence under paragraphs (a)(2) or (a)(3) of this section takes place notifies the owner, operator, and master of the exempted vessel of the specific reasons for considering the revocation of the exemption.

(c) Evidence or arguments for the retention of the exemption that are submitted to the Officer in Charge, Marine Inspection within thirty days of receipt of the notice under paragraph (b) of this section will be considered before a ruling is made.

(d) If the owner is not satisfied with the ruling made under this section by the Officer in Charge, Marine Inspection, that ruling may be appealed under the procedure in § 157.06 of this part.

§ 157.310 Exempted vessels: operations.

The owner, operator, and master of each vessel that has been granted an exemption under this subpart must ensure that—

(a) The vessel trades only between ports or places listed in the exemption;

(b) The vessel loads cargo only at ports or places listed in the exemption;

(c) The vessel loads only those cargoes listed in the exemption;

(d) Except as allowed under § 157.41(a) and (b) of this part, any ballast water, except segregated ballast discharged in accordance with § 157.43(b) of this part, and any tank washing or cargo residues are—

(1) Retained on board; or

(2) Transferred to a shore-based reception facility that is listed in the application for exemption, or an alternative acceptable to the Coast Guard;

(e) The vessel, while discharging to a reception facility listed to meet § 157.302(b)(4), does not delay access to that facility by non-exempt vessels for six hours or more; and

(f) The letter under § 157.306 that grants the exemption is on board the vessel; or

(g) The certificate of inspection bearing the following endorsement is on board the vessel:

Exempted under 33 CFR 157.306 from the requirements of 33 CFR 157.10a. This vessel may not discharge cargo in any foreign port, nor may it load cargo in a port other than the following: (a list of ports listed in the application that is accepted by the Coast Guard for the exempted vessel will be inserted here).

(92 Stat. 1480 (Sec. 5, Port and Tanker Safety Act of 1978; 46 U.S.C. 391a); 49 CFR 1.46(n)(4))

Henry H. Bell,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 80-15735 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-14-M

POSTAL RATE COMMISSION

39 CFR Chapter III

[Docket No. RM80-1]

Annual Review of Regulations

May 16, 1980.

AGENCY: Postal Rate Commission.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: On Febraury 20, 1980, the Postal Rate Commission's Advance Notice of Proposed Rulemaking was published in the **Federal Register** (45 FR 11139-40) for public comment. The Advance Notice was the initial step in the Commission's procedures for annual review of its rules of practice pursuant to its plan for voluntarily implementing Executive Order No. 12044 (43 FR 12661, March 24, 1978). In it the Commission proposed rules expressly authorizing it to reject Postal Service requests for rate or classification requests under 39 U.S.C. 3622 and 3623 that do not comply with the Commission's rules governing such requests.

This Notice of Proposed Rulemaking is the second step in our annual review procedures. It proposes revisions to the amendments proposed in our Advance Notice, prompted by comments received from the Postal Service. In addition, this Notice proposes to amend our rules concerning the use of discovery, witnesses' workpapers, and library references in Commission proceedings. These proposed amendments are based upon proposals submitted by the Officer of the Commission in response to our Advance Notice, which solicited proposals from the public for improving our rules of practice. Finally, our Notice of Proposed Rulemaking proposes to amend our rules concerning *ex parte* communications. The public is invited to comment on these proposed amendments to our rules. Vice-Chairman Duffy and Commissioner O'Doherty dissent from the proposed changes in the Commission's rules under this notice.

DATES: Comments responsive to our Notice of Proposed Rulemaking should be submitted by June 23, 1980.

ADDRESSES: Comments should be directed to David F. Harris, Secretary, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268; (202) 254-3824.

SUPPLEMENTARY INFORMATION:

Rejection of Defective Requests

On February 20, 1980, the Commission proposed to amend rules 56 and 66 of its rules of practice (39 CFR 3001.56, 3001.66) specifically to authorize the Commission to reject Postal Service requests for rate changes made under 39 U.S.C. 3622 and classification changes under 39 U.S.C. 3623, where such requests failed to comply with the Commission's rules governing their form and content (45 FR 11139-40). In support of its proposal the Commission commented that this authority is analogous to the authority of regulatory bodies generally to reject tariffs that do not comply with their regulations governing the form and content of tariffs filed with them. It identified 39 U.S.C. 3603 as the source of its authority to promulgate such rules. It noted, also, that the proposed rules were intended to be consistent with the scope of such authority as delimited by the courts in *Municipal Light Boards* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971), *cert. denied* 405 U.S. 989 (1972) and related decisions.

Two sets of comments upon these proposed amendments to our rules were received. The Officer of the Commission, the Commission's independent public interest advocate, filed comments supporting the Commission proposal. The Postal Service filed lengthy comments opposing the Commission's proposed amendments.

The Postal Service denies that the Commission has legal authority to adopt rules authorizing it to reject Postal Service requests filed under §§ 3622 or 3623 of the Act. It argues two basic points, one semantic, the other theoretical.

It asserts that the Commission is precluded from rejecting its requests by the language of §§ 3622 and 3623 which states that the Commission "shall make a recommended decision on the request . . . ." It asserts that this language not only imposes an affirmative duty upon the Commission to issue a formal recommended decision on each Postal Service request, but precludes any other response by the Commission.

We think that carefully limited tariff rejection authority not only can, but must be reconciled with the above quoted language of §§ 3622 and 3623 to avoid irrational results which Congress could not have intended in establishing the ratemaking mechanism of the Act.

Tariff rejection authority, as defined by the courts, gives agencies limited discretion to determine when a tariff filing reaches a minimal level of viability in terms of form, content, and prima facie lawfulness that will allow the agency and parties in interest to give a meaningful response to the filing. It is properly applied in the extreme situation where a filing is "so deficient on its face" that "administrative efficiency and justice are furthered by obviating any docket at the threshold rather than opening a futile docket." *Municipal Light Boards* v. *FPC*, 450 F. 2d 1341, 1346 (D.C. Cir. 1971).

Tariff rejection is essentially an "interim" procedural "technique for calling upon the filing party to put its papers in proper form and order" (*Municipal Light Boards, ID.*), a procedure analogous to a dismissal of a complaint without prejudice in civil practice. As such it is consistent with and, indeed, furthers the Commission's exercise of its duty under §§ 3622 and 3623, if those sections are construed to impose a duty *ultimately* to render a recommended decision on the merits of a Postal Service request. Construing the language of §§ 3622 and 3623 as requiring the Commission ultimately to render a decision on the merits of a Postal Service request does no violence to its mandatory language, and accommodates the need for interim procedural responses to Postal Service requests, such as rejection of those that are patently defective.

Numerous other agencies have affirmative duties to render decisions on industry applications for certificates of public convenience and necessity. The

Postal Service itself concedes that these duties are procedurally analogous to the Commission's duty under §§ 3622 and 3623 to issue decisions on Postal Service requests. They are framed in statutory language as absolute and unqualified as the corresponding language of §§ 3622 and 3623. Notwithstanding such unqualified language, many of these agencies have adopted rules authorizing them to reject applications, even though, like the Commission, they have no explicit statutory authority to do so. *See, e.g.,* 18 CFR 157.8 implementing 15 U.S.C. 717f(c) (Natural Gas Act), 18 CFR 4.31(a) and 4.31(d) implementing 16 U.S.C. 797(e) (Federal Power Act), 47 CFR 1.746 and 63.51 implementing 47 U.S.C. 214 (Federal Communications Act of 1934). By necessary implication, these agencies construe their statutory duty, framed in directly analogous statutory language, as we do—as a duty ultimately to issue a decision on the merits of an application. So construed, that statutory duty is entirely consistent with the interim procedural technique of rejecting applications with patent formal or substantive defects so that the filer may make them suitable for processing in the context of an evidentiary hearing. The consequences of denying agencies limited discretion to reject defective applications are administrative inefficiency and injustice to the parties, in terms of proceedings conducted, time consumed, and resources spent in an effort to evaluate the merits of a filing so deficient that its merits cannot or need not be examined.

With respect to the Commission in particular, the consequences of denying it limited discretion to reject non-viable Postal Service requests would be especially irrational, due to the uncommonly formal and elaborate ratemaking mechanism of the Act. The Postal Service could, for example, file a request for a general rate increase that contained only a gross revenue requirement figure and proposed rates for each category of service. If the Commission's § 3622 duty to issue a recommended decision on each Postal Service filing were construed to be unqualified, as the Postal Service advocates, such a request would obligate the Commission and all parties in interest to proceed with a full evidentiary hearing, followed by a formal recommended decision by the Commission applying the detailed criteria of § 3622, and further review by the Governors. The decisional criteria of § 3622 could not meaningfully be applied to such a request. Commission disapproval would be mandatory and a successful judicial appeal of any modification by the Governors would be inevitable. Yet the Commission's duty to conduct a formal hearing and issue a recommended decision, if unqualified as the Postal Service asserts, would permit no other course of action.

Such a result is inconsistent with the elaborate ratemaking mechanism of the Act, which is clearly designed for thorough consideration of a request on its merits, and, just as clearly, is not designed for processing a request "so deficient on its face" that responsive pleadings are unwarranted.

To our knowledge, no federal regulatory agency's authority to reject tariffs or applications for certificates of public convenience and necessity has been questioned by the courts, although the manner in which they have applied that authority has at times been found inappropriate.

The Postal Service argues, nevertheless, that the authority of agencies to reject tariff filings attaches only to those regulatory schemes ". . . where a filing once lodged is permitted to go into effect either at once, if not suspended, or at any rate after a suspension period subject to a time limit." But the foregoing language from *Municipal Light Boards,* on which the Postal Service relies, appears in the following context:

> The pertinent considerations [in using tariff rejection authority] may go beyond mere administrative choice in docketing techniques, as appears from the statutes governing rate filings, where a filing once lodged is permitted to go into effect, either at once if not suspended, or at any rate after a suspension period subject to a time limit. In these situations a rate filing may be rejected both when the governing statute explicitly provides for rejection and when it does not [footnote omitted]. 450 F. 2d 1341, at 1346.

This language of the court does not refer to the file-and-suspend ratemaking structure as a prerequisite to tariff rejection authority. Instead, it offers that ratemaking structure as one example of circumstances in which tariff rejection has consequences that go beyond mere selection of docketing techniques. In that example, the court adds, tariff rejection does not require express statutory authority. Tariff rejection authority, then, is not restricted to any specific ratemaking structure by *Municipal Light Boards* or any other decision of the courts to which we have been referred.

The Postal Service theorizes that Congress intended not to give agencies the general authority to regulate the form and content of rate or classification filings or the specific authority to reject them, where a private hearing is required, since any defects of form or content could be corrected during the course of the hearing. Contrary to the Postal Service's assertions, Congress has seen fit to grant express statutory authority to prescribe the form and content of applications for certificates of public convenience and necessity even though a prior hearing is mandatory under the statute. 15 U.S.C. 717f(d) (Natural Gas Act). In addition, as we have noted, many agencies obligated to dispose of such applications after a hearing have interpreted their organic act to authorize rejection of defective applications.

This summarizes, briefly, our reasons for disagreeing with the Postal Service's assertion that the Commission may not lawfully adopt rules governing the rejection of defective Postal Service requests.

In addition to their lawfulness, the Postal Service expresses concern about the specific formulation of the amendments to our rules proposed in our Advance Notice. The Postal Service complains that those amendments state our rejection authority more broadly than the analogous rules of other agencies and more broadly than would be permitted by the courts. A review of the rules of other federal regulatory agencies discloses that they typically authorize rejection of tariff filings and certificate applications for any noncompliance whatever with applicable agency rules or orders [*see, e.g.,* 47 CFR 1.746, 61.69, 63.51 (FCC), 49 CFR 1300.14(e) (ICC); 14 CFR 221.180 (CAB)] and are therefore more sweeping than the amendments proposed in our Advance Notice.

We do not view the Postal Service's apprehensions about the breadth of those proposed amendments as justified, particularly in view of our express assurance that they were intended to be consistent with the narrow standards formulated by the courts. Nevertheless, to alleviate the concerns of the Postal Service as to the breadth of the rejection authority intended, we have revised our proposed amendments to expressly limit our rejection authority to Postal Service requests that "patently fail to substantially comply" with applicable Commission rules, a standard as restrictive as that expressed by any court or incorporated in any analogous agency regulation of which we are aware.

The Postal Service also infers that the Commission intends to include as a basis for rejection an evaluation of the adequacy of the direct evidence submitted in support of Postal Service requests. It arrives at this inference by focusing upon a comment in our Advanced Notice that our proposed

rejection authority would apply to either "formal or substantive defects" in Postal Service requests. Because our proposed amendments defined requests subject to rejection in terms of noncompliance with Commission rules prescribing the form and content of Postal Service requests, and those rules currently do not include any substantive requirements *per se,* the Postal Service infers that our mention of substantive defects pertained to the adequacy of the direct evidence that it must submit with its request under our rules.

That is not our intent. Our reference to substantive defects pertained to such substantive defects as would qualify for rejection under the standards established by the courts, *i.e.,* those that render filings "patent nullities as a matter of substantive law" (*Municipal Light Boards, Id.*) because they plainly violate an applicable substantive statue or regulation. A hypothetical example of the former would be a Postal Service request for zoned rates for special-rate fourth-class matter in violation of § 3683. An hypothetical example of the latter would be a rate request based upon a method of calculating service-related costs if such method were specifically prohibited by some future regulation to be inserted in subpart B of our rules of practice. The Commission disclaims authority to reject tariffs for substantive defects the determination of which requires a factual inquiry, in whole, or in part.

The amendments proposed in our Advanced Notice combined our proposed rules regarding tariff rejection with current rules 56 and 66, each of which is entitled "Failure to Comply" and authorizes the Commission to stay proceedings brought by the Postal Service under §§ 3622 and 3623, respectively. The stay is a technique intended for use after a proceeding has commenced to secure relevant information the need for which appears during the course of the proceeding. Rejection of a request, in contrast, is intended for use before the proceeding begins. It is a technique for prompting the Postal Service to cure substantial formal or substantive defects that are apparent on the face of the request, and without which the request is not suitable for processing under formal evidentiary procedures.

Because we combined authorization of the two techniques in the same rule, the Postal Service infers that the Commission intended to use the two techniques interchangeably.

We agree that combining the two techniques in the same rule may result in a misunderstanding of their distinct functions. We therefore propose that our amendments take the form of separate new subsections under rules 54 and 64, which currently enumerate the Commission's requirements as to form and content of Postal Service rate requests filed under § 3622, and classification requests filed under § 3623, respectively.

The Postal Service further speculates that the Commission has an ulterior motive for proposing rules authorizing rejection of its requests. Our motive, it suggests, is to affect the Postal Service's ability to implement temporary rate or classification changes by altering the beginning of the statutory interval that must precede the implementation of such changes. That is not the case. Our motive is to fill a gap in our rules of practice with a procedural technique common to virtually all agencies with rate or classification determining functions, a gap which became apparent to us upon our annual comprehensive review of our rules of practice that our plan for implementing Executive Order 12044 requires.

For the reasons outlined above we have revised the amendments to our rules that we proposed in our Advance Notice concerning Commission authority to reject defective Postal Service requests. We propose to add the following new subsection to § 3001.54 of Subpart B, of Part 3001, 39 CFR:

(f) *Rejection of requests.* The Commission may reject any request under this Subpart that patently fails to substantially comply with any requirements of this Subpart and to add the following new subsection to § 3001.64 of Subpart C of Part 3001, 39 CFR:

(i) *Rejection of requests.* The Commission may reject any request under this Subpart that patently fails to substantially comply with the requirements of this Subpart.

Discovery

Rules 25–27 of our rules of practice (39 CFR 3001.25–27) outline discovery procedures for interrogatories, requests for production of documents, and requests for admissions. We contemplate amending Rules 25–27 by adding the language set forth in brackets below, and deleting the portions in italics of the existing rules:

Proposed Rule Change:

§ 3001.25 Interrogatories for purpose of discovery.

(a) **Service and contents.** In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may serve upon any other participant in a proceeding written interrogatories requesting nonprivileged information relevant to the subject matter in such proceeding, to be answered by the participant served, who shall furnish such information as is available to the participant. A participant through interrogatories may require any other participant to identify each person whom the other participant expects to call as a witness at the hearing and to state the subject matter on which the witness is expected to testify. The participant serving the interrogatories shall file a copy thereof with the Secretary pursuant to § 3001.9 and shall serve copies upon other participants who request them.

(b) **Answers** *[.] and objections.* Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer [in the manner prescribed by paragraph (c) of this section.] *An interrogatory otherwise proper is not necessarily objectionable because an answer would involve an opinion or contention that relates to fact or the application of law to fact, but the Commission or presiding officer may order that such an interrogatory need not be answered until a prehearing conference or other later time.* The answers are to be signed by the person making them. *and the objection signed by the attorney making them.* The party responding to the interrogatories shall serve the answers *and objections,* if any, on the party who served the interrogatories within 20 days of the service of the interrogatories or within such other period as may be fixed by the presiding officer, but before the conclusion of the hearing. Copies of the answers *and objections, if any,* to interrogatories shall be filed with the Secretary pursuant to § 3001.9 and shall be served upon other participants who request them.

[(c) **Objections.** In the interest of expedition, the bases for objection shall be clearly and fully stated. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort which would be required to answer the interrogatory, providing estimates of cost and man-hours required, to the extent possible. An interrogatory otherwise proper is not necessarily objectionable because an answer would involve an opinion or contention that relates to fact or the application of law to fact, but the

Commission or presiding officer may order that such an interrogatory need not be answered until a prehearing conference or other later time. Objections are to be signed by the attorney making them. The party objecting to interrogatories shall serve the objections on the party who served the interrogatories within 10 days of the service of the interrogatories. Copies of objections to interrogatories shall be filed with the Secretary pursuant to § 3001.9 and shall be served upon other participants who request them.

(d) **Compelled answers.** The Commission, or the presiding officer, upon motion of any participant to the proceeding, may compel an answer to an interrogatory to which an objection has been raised if the objection is found not to be valid, or may compel an additional answer if the initial answer is found to be inadequate. Such compelled answers shall be served on the party who moved to compel the answer within 10 days of the date of the order compelling an answer or within such other period as may be fixed by the presiding officer, but before the conclusion of the hearing. Copies of the answers shall be filed with the Secretary pursuant to § 3001.9 and shall be served upon other participants who request them.]

(e) [(e)] **Supplemental answers.** A participant who has answered interrogatories is under the duty to seasonably amend a prior answer if he obtains information upon the basis of which he knows that the answer was incorrect when made or is no longer true. [A participant filing a supplemental answer shall indicate whether the answer merely supplements the previous answer to make it current, or whether it is intended as a complete replacement for the answer previously given.]

(d) [(f)] **Orders.** The Commission or the presiding officer may order that any participant or person shall answer on such terms and conditions as are just and may for good cause make any protective order, including an order limiting or conditioning interrogatories, as justice requires to protect a party or person from undue annoyance, embarrassment, oppression, or expense.

§ 3001.26 Requests for production of documents or things for purpose of discovery.

(a) **Service and contents.** In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may serve on any other participant to the proceeding a request to produce and permit the participant making the request, or someone acting in his behalf, to inspect and copy any designated documents or things which constitute or contain matters, not privileged, which are relevant to the subject matter involved in the proceeding and which are in the custody or control of the participant upon which the request is served. The request shall set forth the items to be inspected either by individual item or category, and describe each item and category with reasonable particularity, and shall specify a reasonable time, place and manner of making inspection. The participant requesting the production of documents or things shall file a copy of the request with the Secretary pursuant to § 3001.9 and shall serve copies thereof upon other participants who ask for them.

(b) **Answers**[.] *and objections.* The participant upon whom the request is served shall serve a written answer on the participant who filed the request within 20 days after the service of the request, or within such other period as may be fixed by the presiding officer. The answer shall state, with respect to each item or category, that inspection will be permitted as requested unless the request is objected to [pursuant to subsection (c) below.] *in which event the reason for the objection shall be stated. If objection is made to part of an item or category, the part shall be specified.* The participant answering the request shall [sign and] file a copy of the answer with the Secretary pursuant to § 3001.9 and shall serve copies thereof upon other participants who request them.

[(c) **Objections.** In the interest of expedition, the bases for objection shall be clearly and fully stated. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort which would be required to answer the request, providing estimates of cost and man-hours required, to the extent possible. Objections are to be signed by the attorney making them. The party objecting to requests shall serve the objections on the party requesting production of documents or things, upon the Secretary pursuant to § 3001.9 and upon other participants who request them, within 10 days of the request for production.]

(c) [(d)] **Orders.** The Commission or the presiding officer may, on such terms and conditions as are just and reasonable, order that any participant in a proceeding shall respond to a request for inspection, and may make any protective order of the nature provided in paragraph (d) [(f)] of § 3001.25 as may be appropriate. [Upon motion of any participant to the proceeding, the Commission or the presiding officer may compel production of documents or things to which an objection has been raised if the objection is found not to be valid. Such compelled documents or things shall be made available to the party making the motion within 10 days of the date of the order compelling production or within such other period as may be fixed by the presiding officer, but before the conclusion of the hearing. Documents or things ordered to be produced shall also be made available to the Secretary pursuant to § 3001.9 and to the other participants who request them.]

§ 3001.27 Requests for admissions for purpose of discovery.

(a) **Service and content.** In the interest of expedition any participant may serve upon any other participant a written request for the admission, for purposes of the pending proceeding only, of any relevant, unprivileged facts, including the genuineness of any documents or exhibits to be presented in the hearing. The participant requesting the admission shall file a copy of the request with the Secretary pursuant to § 3001.9 and shall serve copies thereof upon other participants who request them.

(b) **Answers** [.] *and objections.* Each matter of which an admission is requested shall be separately set forth and is admitted unless within 20 days after service of the request, or within such other period as may be fixed by the presiding officer, the participant to whom the request is directed serves upon the participant requesting the admission a written answer or [files] an objection [pursuant to subsection (c) below.] *addressed to the matter, which shall be signed by the participant or his attorney.* A participant who answers or objects to a request for admission shall file a copy of the answer or objection with the Secretary pursuant to § 3001.9 and shall serve copies thereof upon other participants who request them.

[(c) **Objections.** In the interest of expedition, the bases for objection shall be clearly and fully stated. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort which would be required to answer the request, providing estimates of cost and man-hours required to the extent possible. Objections are to be signed by the attorney making them.]

(c) [(d)] **Orders.** If the Commission or presiding officer determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served, or may determine that final disposition of the request be made at a pretrial conference or at a designated time prior to the hearing. [Upon motion of any participant to the proceeding, the Commission or the presiding officer may compel answers to a request for admissions to which an objection has been raised if the objection is found not to be valid. Such compelled answers shall be served on the party who moved to compel the answers within 10 days of the date of the order compelling production or within such other period as may be fixed by the presiding officer, but before the conclusion of the hearing. Copies of the answers shall be filed upon the Secretary pursuant to § 3001.9 and served upon other participants who request them.]

The contemplated changes, with minor revisions, were proposed by the Commission's Officer of the Commission, who is responsible for representing the interests of the general public in Commission proceedings. We believe the amendments will enhance our ability to carry out our statutory mandate of conducting proceedings "with utmost expedition" 39 U.S.C. § 3624. There have been occasions in recent proceedings when the resolution of motions relating to discovery practice has caused delays. We believe the proposed amendments would reduce the possibility of repeating this experience.

In addition, the proposed change to Rule 25(e) would require a participant filing supplemental answers to interrogatories to indicate whether the answers are intended as clarifications of previous answers or replacements. The absence of such a requirement has, at times in the past, resulted in a certain amount of ambiguity regarding the status of supplemental answers. We believe the amendment would improve our rules without placing any undue burden on the participants in our proceedings.

Library References

Rule 31 of our rules of practice (39 CFR 3001.31) governs the submission of evidence in Commission proceedings. We contemplate amending Rule 31 by adding the following paragraph:

[(1) Designation of a document as a library reference is a procedure for facilitating reference to such document in Commission proceedings and does not, by itself, confer any particular evidentiary status upon such document. The evidentiary status of such document is governed by the preceding paragraphs of this section.]

The added paragraph is intended to clarify the status of library references. It makes it clear that designating a document as a library reference is merely a technique for allowing participants in our proceedings to make accurate and convenient reference to such document, and explains that the evidentiary status of library references is governed by paragraphs (a)–(k) of Rule 31.

Workpapers

Rules 54 and 64 of our rules of practice (39 CFR 3001.54 and 3001.64) set forth filing requirements for formal Postal Service requests for changes in rates or the Domestic Mail Classification Schedule. Rule 92 governs the filing of testimony by intervenors. We contemplate amending Rules 54, 64 and 92 as follows:

§ 54(p)(4).

(4) *When workpapers do not contain all the supporting data, the omitted data shall be indicated in a manner allowing the data to be retrieved upon request.* [Workpapers shall be sufficient to enable a reviewer to trace the derivation of numbers in the testimony back to published documents or, if necessary, primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc.]

§ 64(g)(4).

(4) *When workpapers do not contain all the supporting data, the omitted data shall be indicated in a manner allowing the data to be retrieved upon request.* [Workpapers shall be sufficient to enable a reviewer to trace the derivation of numbers in the testimony back to published documents, or, if necessary, primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc.]

§ 92(1)(4).

(4) *When supporting data are not supplied, a clear indication shall be made of the source of the data so that they might be retrieved easily upon request.* [Workpapers shall be sufficient to enable a reviewer to trace the derivation of numbers in the testimony back to published documents, or, if necessary, primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc.]

The Commission believes clear and legible workpapers are essential to the analysis of the technical frequently offered by both the Postal Service and intervernors. Specific citations to workpapers will expedite the Commission's own analytical processes and facilitate the task of opposing parties, thereby reducing the time needed to prepare for cross-examination or rebuttal.

Ex Parte Communications

Rule 7 of our Rules of Practice (39 CFR 3001.7) contains prohibition on *ex parte* communications with members of the agency. We contemplate amending Rule 7 by adding the language set forth in brackets below and deleting the italicized material:

§ 3001.7 Ex parte communications.

[(a) **Definitions.**

(1) **Decision-making Commission personnel.** Subject to the exception stated in paragraph (a)(2)(ii) of this section, the following categories of persons are designated "decision-making Commission personnel":

(i) The Commission and their personal office staffs;

(ii) The General Counsel and his staff;

(iii) The Director of the Office of Technical Analysis and Planning and his staff.

(iv) Any other employee who may reasonably be expected to be involved in the decisional process.

(2) **Non-decision-making Commission personnel.** The following categories of persons are designated "non-decision-making Commission personnel":

(i) All Commission personnel other than decision-making Commission personnel;

(ii) Decision-making Commission personnel not participating in the decisional process owing to the prohibitions of § 3001.8 or 39 CFR 3000.735, Subpart C.]

(b) **Prohibition.** In any agency proceeding which [that] is required to be conducted in accordance with § 556 of title 5 or a proceeding conducted pursuant to Subpart H of this Part, except to the extent required for the disposition of ex parte matters as authorized by law—

(1) *No interested person outside the Commission or the Officer of the Commission designated to represent the interest of the general public shall* [Interested persons outside the Commission and non-decision-making Commission personnel shall not] make or knowingly cause to be made to any

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member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably to expected to be involved in the decisional process of the proceeding [Commission decision-making personnel] on ex parte communication[s] relevant to the merits of the proceeding;

(2) *No member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decision process of the proceeding,* [Commission decision-making personnel] shall [not] make or knowingly cause to be made to any interested person outside the Commission [or to nondecision-making Commission personnel] *or the Officer of the Commission designated to represent the interest of the general public* an ex parte communication[s] relevant to the merits of the proceeding.

(3) *A member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding,* [Commission decision-making personnel] who receive *s an* ex parte communication[s] relevant to the merits of the proceeding shall decline to listen to such communication[s] and explain that the matter is pending for determination. [Any] recipient thereof shall advise the communicator that he will not consider the communication and shall promptly and fully inform the Commission in writing of the substance of and the circumstances attending the communication, so that the Commission will be able to take appropriate action.

(4) *A member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding* [Commission decision-making personnel] who receives, or who makes or knowingly causes to be made, a communication[s] prohibited by this paragraph shall place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraph *(a)(4)(i)* [(b)(4)(i)] and *(a)(4)(ii)* [(b)(4)(ii)] of this section.

(5)(a) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which have been placed on the public record of the proceeding pursuant to paragraph [(b)(4)] *(a)(4)* of this section may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require. Generally, in lieu of actually receiving rebuttal material, the Commission will direct that the alleged factual assertion and the proposed rebuttal be disregarded in arriving at a decision.

(b) *Officer of the Commission. The prohibitions of paragraph (a) of this section shall apply to the Officer of the Commission designated to represent the interest of the general public (or his staff or the technical staff designated to support him); however, the prohibitions of paragraph (a) of this section do not apply to a communication between a participant, a limited participator, or a commenter and the Officer of the Commission (or his staff or the technical staff designated to support him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shall be a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.*

(c) **Applicability.** (1) The prohibitions of paragraph *(a)* [(b)] of this section shall apply beginning at the time at which a proceeding is noticed for hearing or appeal unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) Paragraph *(a)* [(b)] of this section does not constitute authority to withhold information from Congress.

(d) Violations of ex parte rules. (1) Upon *receipt* [notice] of a communication knowingly made or knowingly caused to be made by a party in violation of paragraph (a) [(b)] of this section, the Commission, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) The Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Commission, consider a violation of paragraph *(a)* [(b)] of this section sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

We further contemplate changing 39 CFR 3000.735–501 to comport with the proposed changes to Rule 7. The amendment to § 3000.735–501 would be as follows:

Subpart E—Ex Parte Communications

§ 3000.735–501 Ex parte communications prohibited.

(a) An employee [Decision-making Commission personnel, as defined in § 3001.7(a),] shall not, either in an official or unofficial capacity, participate in any ex parte communication—either oral or written—with any person regarding (1) a particular matter (substantive or procedural) at issue in contested proceedings before the Commission or (2) the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission. A particular matter is at issue in contested proceedings before the Commission when it is a subject of controversy in a hearing held under 39 U.S.C. 3624 or 3661(c). However, this section does not prohibit participation in off-the-record proceedings conducted under regulations adopted by the Commission for hearings held under 39 U.S.C. 3624 or 3661(c).

(b) The prohibitions of this section do not apply to a communication between a participant or a limited participator and the Officer of the Commission designated to represent the interest of the general public (or his staff, or the technical staff designated to supported him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shall be a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.

The proposed amendments would rewrite the Commission's *ex parte* rule, taking into account the difference between decision-making and non-decision-making personnel. Currently, the Commission's *ex parte* prohibitions extend to all personnel, including the Officer of the Commission (OOC) designated to represent the interests of the general public in Commission proceedings.

In the formulation of policy guidelines for the representation of the interest of the general public in Commission proceedings the Commission has reevaluated its application of the *ex parte* rule to the OOC, and has concluded that the importance of permitting contacts between the OOC and members of the general public outweighs the need for applying the rule to the OOC. The key consideration underlying this decision is the fact that Commission personnel assigned to the Officer of the Commission are precluded from participating in any part of the Commission decision-making process (*see* § 3001.8), and are themselves precluded by the *ex parte* rule from communications with decision-making Commission personnel. Procedural fairness does not, therefore, require any limitations on contacts between the Officer of the Commission and the general public which he/she represents.

In the formulation of these amendments, the Commission has examined the *ex parte* rules of several other independent federal regulatory agencies and found that, without exception, they all restrict application of thier rules to decision-making personnel. *See* 47 CFR §§ 1.1209–1.1251 (Federal Communications Commision); 49 CFR § 1100, Appendix C (Interstate Commerce Commission); 18 CFR § 1.4 (D) Federal Energy Regulatory Commission); 17 CFR §§ 200.110–200.114 (Securities and Exchange Commission); 16 CFR § 4.7 (Federal Trade Commission); 29 CFR §§ 102.126–102.133 (National Relations Board); 14 CFR § 3000.2 (Civil Aeronautics Board); 17 CFR § 10.10 (Commodity Futures Trading Commission); 46 CFR § 502.20(b) (Federal Maritime Commission); 16 CFR § 1025.68 (Consumer Product Safety Commission); 40 CFR § 22.08 (Environmental Protection Agency); and 10 CFR § 2.780 (Nuclear Regulatory Commission).

Finally, the proposed changes to the Commission's rules would extend the *ex parte* rule to communications between non-decision-making and decision-making Commission personnel. While the Commission's past practice has been to apply the restriction to decision-making personnel who are not participating in the decisional process with respect to a given case owing to 39 CFR § 3001.8 or 39 CFR § 3000.735, Subpart C, the prohibition has not been explicitly stated in Commission's rules.

David F. Harris,

Secretary.

[FR Doc. 80–15667 Filed 5–21–80; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL 1498–2; Docket No. OAQPS 79–3]

National Emission Standards for Hazardous Air Pollutants; Benzene Emissions From Maleic Anhydride Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amended Notice of Public Hearing and Extension of Public Comment Period.

SUMMARY: On April 18, 1980, EPA proposed in the **Federal Register** (45 FR 26660) a national emission standard for benzene emissions from maleic anhydride plants.

In that notice, EPA announced the date ending the public comment period and the date and location of the public hearing to receive public comment on the proposed standards, the health effects of benzene, and the listing of benzene as a hazardous air pollutant. This notice amends the date and location of the public hearing and extends the public comment period.

DATES: Written comments to be included in the record should be postmarked no later than August 21, 1980. Notice of intent to present oral testimony at the public hearing should be postmarked no later than July 15, 1980. The hearing will be held in Washington, D.C., on July 22, 1980. Written comments responding to, supplementing, or rebutting written or oral comments received at the public hearing must be submitted no later than August 21, 1980.

ADDRESSES: Comments on the health effects of benzene and the listing of benzene as a hazardous air pollutant should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket Number OAQPS 79–3, Part I, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. Comments on the proposed maleic anhydride standard should be submitted to: Central Docket Section (A–130), Attention: Docket No. OAQPS 79–3, Part II, same address.

The public hearing will be held at the General Services Administration Auditorium; 7th and D Streets, S.W., Washington, D.C. beginning at 9:00 a.m.

Persons wishing to present oral testimony should notify Deanna Tilley, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5477.

FOR FURTHER INFORMATION CONTACT: Susan R. Wyatt, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5477.

SUPPLEMENTARY INFORMATION: The public hearing has been postponed and the public comment period has been extended in response to requests from the American Petroleum Institute and Dow Chemical USA. These requests expressed the need to review more completely the large amount of information that has been and is being developed on benzene health effects, to inspect the docket before the public hearing, and to prepare testimony and written comments on the associated technological and policy related issues.

Dated: May 16, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80–15717 Filed 5–21–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[Docket No. 21263]

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland, and Hawaii, Alaska and Puerto Rico/Virgin Islands; Order Deferring Requirement To File Comments and Replies To Supplemental Information Request

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; deferral of requested information.

SUMMARY: The Federal-State Joint Board, convened in the proceeding relating to the integration of communication rates and services by authorized common carriers between the United States Mainland, and Hawaii, Alaska and Puerto Rico/Virgin Islands, published a request for supplemental information at 45 FR 24212, April 9, 1980. Because of the filing and possible favorable action on certain

proposed settlement agreements in the proceeding, it has been determined to defer the submission of the requested information pending further action by the Joint Board.

DATES: Comments and replies deferred indefinitely.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Common Carrier Bureau (202) 632–3772.

IN the matter of Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland, and Hawaii, Alaska and Puerto Rico/Virgin Islands, Docket No. 21263.

Order

Adopted: April 29, 1980.
Released: May 5, 1980.

1. A *Supplemental Information Request* 45 FR 24212, April 9, 1980, ordered the parties to submit a memorandum of law and responses to detailed data requests no later than thrity days after publication of the Request in the Federal Register. On April 25, 1980, American Telephone and Telegraph Company (AT&T) and Alascom, Inc. (Alascom) filed a proposed agreement looking to a settlement of the outstanding issues between them and also of the issues in this proceeding relating to Alaska. AT&T and Alascom further requested withdrawal or deferral pending action on their propsed agreement of the Request.

2. It appearing, that favorable action on the AT&T and Alascom agreement by the Federal-State Joint Board would moot the requested Supplemental Information Request;

3. It further appearing, that deferral of the submission of the requested information pending Joint Board action would alleviate a burden on all parties and would not unduly delay expeditious resolution of this proceeding;

4. It is ordered, pursuant to delegated authority, that the requirement to file comments and replies to Supplemental Information Request, 45 FR 24212, is deferred pending further action by the Federal-State Joint Board.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-15870 Filed 5-21-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 177

[Docket HM-164; Notice No. 80-1]

Highway Routing of Radioactive Materials; Additional Public Hearings; Extension of Time for Public Comment

Correction

In FR Doc. 80-14870 appearing on page 32030 in the issue for Thursday, May 15, 1980, in the third column, the sixth line from the bottom reads "Police Headquarters Auditorium." but should be corrected to read "Police Headquarters Auditorium, 1 Police Plaza."

BILLING CODE: 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte No. MC-37 (Sub-No. 31)]

Commercial Zones and Terminal Areas; Tacoma, Wash., Commercial Zone

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission has been requested to consider whether to amend its existing regulations set forth in 49 CFR 1048, et seq., to expand the Tacoma, WA, commercial zone to include a specified area adjacent to the present zone. The proposed special determination of the Tacoma commercial zone (now defined by application of the population-mileage formula set forth in 49 CFR 1048.101) would expand the zone within which interstate motor carrier operations would be exempt from Federal economic regulation.

DATES: Comments must be filed with the Commission on or before June 23, 1980.

ADDRESS: Send comments (an original and 15 copies where possible) to: Ex Parte No. MC-37 (Sub-No. 31), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Barbara Reideler, 202–275–5682, or Donald J. Shaw, Jr., 202–275–7292.

SUPPLEMENTARY INFORMATION: The commercial zone of Tacoma, WA as defined by application of the population-mileage formula set forth in 49 CFR 1048.101, includes all points within 8 miles of the municipal limits of Tacoma. The Square D Company, which operates a facility near Orting, WA, known as the Nelco Plant, requests that the limits of the Tacoma commercial zone be individually determined to include a specified area adjacent to the boundary of the present zone. Petitioner proposes that 49 CFR 1048 be supplemented by addition of the following:

§ 1048.18 Tacoma, Washington.

The zone adjacent to, and commercially a part of Tacoma, WA, within which transportation by motor vehicle, in interstate or foreign commerce, not under control, management, or arrangement for shipment to or from points beyond such zone, is partially exempt from regulation under section 49 U.S.C. 10526(b)(1) of the Interstate Commerce Act includes and is comprised of all points as follows:

(a) The municipality of Tacoma, WA, itself;

(b) All points within a line drawn 8 miles beyond the municipal limits of Tacoma;

(c) Those points within that area more than 8 miles beyond the municipal limits of Tacoma, bounded by a line as follows: From the intersection of WA Hwy 162 and 128th St., East, extending along 128th St., East, to the Puyallup River, then south along the Puyallup River .8 miles to the fork of the Carbon River, then south along the Carbon River 3.8 miles to its intersection with Wade Creek, then southeast along Wade Creek 2.3 miles to the Bonneville Power Line, then southwest along the Bonneville Power Line 3 miles to the Puyallup River, then north along the Puyallup River 7 miles to its intersection with WA Hwy 162, then along WA Hwy 162.7 miles to its intersection with 128th St., East.

Petitioner is essentially seeking the redefinition of the limits of the Tacoma commercial zone to include wholly the city of Orting, WA, which has a population of 1,680 persons and is located 4 miles outside the limits of the present zone, and the Nelco Plant of the Square D Company, which is situated approximately 2 miles south of Orting.

It is Commission policy to describe specifically defined zones along readily identifiable boundaries. The use of such designations as streets, rights-of-way, and small waterways is to be avoided. We, therefore, suggest that interested persons submit comments suggesting a more feasible way to describe the proposed area as set forth by petitioner, using in part such identifiable boundaries as State or county lines and State or Federal highways.

Square D presents various geographic, demographic, and economic information regarding the proposed area in support of its position that the area should be considered adjacent to and commercially a part of Tacoma. Specifically, petitioner states that the area is within a valley the southern tip of which is otherwise included in the commercial zone of Tacoma. It urges that the proposal is a natural extension of the Tacoma commercial zone. Also, attached to the petition are seven letters from representatives of government agencies, commercial groups, and individual businesses which favor expansion of the Tacoma commercial zone to include Orting and the Nelco Plant of Square D Company.

Comments and Procedural Matters

No oral hearing in this proceeding is contemplated. Any person (including petitioner) wishing to participate in the proceeding, in support of or in opposition to the proposal, is invited to submit written representations, views, and arguments. Comments suggesting modifications to the description of the proposed extension of the zone are encouraged. We do not believe that the action proposed will have an adverse effect on either the quality of the human environment or conservation of energy resources. However, anyone may comment on these aspects of the proposal. Written material or suggestions submitted will be available for public inspection at the Office of the Secretary of the Interstate Commerce Commission, 12th and Constitution Avenues, N.W., Washington, D.C., during regular business hours.

Notice to the general public of the matters under consideraton will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy with the Director, Office of the Federal Register.

This notice of proposed rules is issued under authority of 49 U.S.C. 10321, 49 U.S.C. 105 and 5 U.S.C. 553.

Decided: May 13, 1980.

By the Commission, Division 1, Commissioners Clapp, Gesham, and Trantum.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15679 Filed 5-21-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Proposed Addition of Three Primates and Seven Cacti to Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of proposal submitted by the United States.

SUMMARY: The Convention is a 59-nation treaty controlling import and export of species listed in three appendices, for the purpose of protecting those species against over exploitation through international trade. The Service has obtained information on the Diana monkey, mandrill, yellow-tailed woolly monkey and seven species of Mexican cactus plants indicating that they are threatened with extinction and therefore should be transferred from Appendix II to Appendix I. This would help insure that trade in them is subject to strict regulation. The present notice announces that the Service is communicating these proposals to the Secretariat for the Convention, so that they may be considered by the Party nations through a postal procedure provided in the Convention.

DATE: These proposals will be sent to the Secretariat immediately after publication of this notice in the **Federal Register**.

ADDRESS: Please send correspondence to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240. Materials concerning this notice are available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: On January 4, 1980, the Service published a notice in the **Federal Register** (45 FR 1110) requesting information on certain species that were being considered for transfer from Appendix II to Appendix I of the Convention (TIAS 8249). There was evidence that each of these species is threatened with extinction, and the Service was considering inclusion in Appendix I as a means of more strictly controlling any international trade in them.

The notice published on January 4, 1980, briefly described the status of each species. Copies of the notice were sent to conservation officials in the nations where the species occur. Information and comments received from those officials and from other persons are as follows.

General expressions of support for the proposals concerning species of cactus plants native to Mexico were received from the Houston Cactus and Succulent Society, the Michigan Department of Natural Resources, and those officials of African nations who were commenting primarily on the primate species discussed below.

Dr. Frank G. Schlicht of Missouri City, Texas, provided information on four of the cactus species in question. He reported that *Ariocarpus agavoides* seems to be more widely distributed than previously indicated, being found on more than one hill at the type locality and, from accounts by local residents, occuring on similar hills near Tula Mexico. He stated that his efforts to find this plant at another reported site at San Robert Junction, Nuevo Leon, have been fruitless.

Concerning *Ariocarpus scapharostrus*, Dr. Schlicht wrote that it also is more widely distributed than previously indicated, occuring on several hills at Los Rayones and being reported approximately 30 miles north at Cosillas and Santa Rosa, Nuevo Leon. He reported that it is not abundant and thus it is extremely vulnerable to overcollection. There was limited local exploitation of this plant in Los Rayones for what seems to have been medicinal use.

Dr. Schlicht reported that he found *Aztekium ritteri* in the same location as *Ariocarpus scapharostrus*, near Los Rayones. He noted that it was abundant on a canyon wall where it was relatively inaccessible. The plants have been used locally as ornaments during the Christmas season. A former commercial collector told Dr. Schlicht that the species also occurs near Cadereyta in the State of Queretaro, where the population was severely damaged by fire in the early 1970's. Dr. Schlicht noted that this species has been highly prized by collectors in his area, and trade is apparently substantial. A colleague told him of seeing 2,000–3,000 freshly collected plants of this species in January 1980, at a nursery in Brownsville, Texas.

Dr. Schlicht was unable to find *Obregonia denegrii* at any of the previously reported sites in the Jaumave Valley, but he did find an abundant population of this plant west of San Antonio that was apparently

unexploited. He noted that the species is very easy to collect due to the type of substrate it grows in, making it vulnerable to exploitation.

In summary, Dr. Schlicht remarked that he has not visited any of the above locations in the last four years, and that since then substantial changes could have occurred. He observed that there seems to be no local protection for these four species and all are highly prized by collectors. They occur in very localized areas that make them vulnerable to extirpation. Because they grow slowly from seed, they are unlikely to be propagated in nurseries. He recommended that they be transferred to Appendix I.

The Director General of the Direccion General de la Fauna Silvestre in Mexico referred the Service's request for information on cacti to the Director General de Aprovechamientos Forestales, who has not responded. However, the delegate for Mexico at the Special Working Session of Parties to the Convention in 1977 endorsed these proposals. The Service received no further information on the other cactus species considered for proposal: *Echinocereus lindsayi, Pelecyphora aselliformis* and *Pelecyphora strobiliformis.*

The governments of Senegal and Peru wrote in support of the proposals concerning *Cercopithecus diana* (Diana monkey) and *Lagothrix flavicauda* (yellow-tailed woolly monkey) respectively.

General statements of support for transferring these species and *Papio sphinx* (mandrill) to Appendix I were made by officials of Ghana, Togo and the Gambia, and by the Executive Director of the American Association of Zoological Parks and Aquariums. However, the latter organization and directors of the Fort Worth Zoological Park and Philadelphia Zoological Garden expressed concern that statements in the **Federal Register** notice of January 4, 1980, about trade in *Cercopithecus diana* and *Papio sphinx* for zoological exhibition purposes were unsubstantiated.

In response, the Service notes that remarks on the use of these species for zoological exhibition were not intended to imply that actions of zoos in the United States are a threat to their survival. Most specimens now in U.S. zoos have been born in captivity. Since October 19, 1976, imports of these species have been regulated under the Endangered Species Act of 1973. The January 4 **Federal Register** notice made it clear that habitat loss and hunting are the main threats. Reasons for such worldwide trade as occurs are likely to be zoological exhibition and biomedical research.

In conclusion, because evidence indicates that the following species are threatened with extinction and are or may be affected by trade, the Service has decided to submit proposals to transfer them from Appendix II to Appendix I under the postal procedure provided by the Convention:

1. *Ariocarpus agavoides* (living rock cactus)
2. *Ariocarpus scapharostrus* (living rock cactus)
3. *Aztekium ritteri* (Aztec cactus)
4. *Echinocereus lindsayi* (cactus)
5. *Obregonia denegrii* (cactus)
6. *Pelecyphora aselliformis* (hatchet cactus)
7. *Pelecyphora strobiliformis* (cactus)
8. *Cercopithecus diana* (Diana monkey)
9. *Papio* (=*Mandrillus*) *spinx* (mandrill)
10. *Lagothrix flavicauda* (yellow-tailed woolly monkey).

The effect of this transfer, if adopted, would be to control more strictly international trade in these species by requiring both import and export permits and by prohibiting such trade for primarily commercial purposes.

The Service will publish subsequent notices in the **Federal Register** about comments and recommendations from the Party nations and from the Convention Secretariat, and about further international action on these proposals.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: May 15, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-15746 Filed 5-21-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 101
Thursday, May 22, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on June 26, 1980, at 7:30 p.m., a public information meeting will be held at the Main Courtroom, Cheraw Town Hall, at the corner of Market and Second Streets, Cheraw, South Caroliana.

The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed construction of a 16-unit housing project on Huger Street in Cheraw, South Carolina, and undertaking assisted by the Farmers Home Administration, Department of Agriculture, that will adversely affect the Cheraw Historic District, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on the Cheraw Historic District and alternate courses of action that would avoid, mitigate, or minimize any adverse effects on the Historic District.

The following is a summary of the agenda of the meeting.

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the Cheraw Historic District by the Farmers Home Administration.

III. A statement by the South Carolina State Historic Preservation Officer.

IV. Statements from local officials, private organizations and the public on the effects of the undertaking on the Cheraw Historic District.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005; 202-254-3967.

Dated: May 16, 1980.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80-15627 Filed 5-21-80; 8:45 a.m.]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Vegetative Management of Roadway Corridors USDA-Forest Service Gifford Pinchot National Forest; Finding of No Significant Impact

An Environmental Assessment discussing Vegetative Management of Roadway Corridors, including the use of chemicals, is available for public review in the Supervisor's Office of the Gifford Pinchot National Forest in Vancouver, Washington.

The Environmental Assessment covers all roads in the Gifford Pinchot National Forest. Of the 2500 miles that will be brush controlled approximately 25% will be treated with chemicals. This would be approximately 625 miles and 750 acres to be chemically treated. The chemicals will be applied using hand held spray wands. The principle chemicals used will be 2, 4-D and 2, 4-DP.

The Environmental Assessment does not indicate there is a major Federal action significantly affecting the quality of the human environment.

Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment:

A. The alternative chosen will have no long-term adverse effect on the local short-term uses of the environment;

B. There are no irreversible or irretrievable commitments of resources;

C. No adverse cumulative or secondary effects;

D. Physical and biological effects limited to the area of use;

E. No known threatened or endangered plants or animals are within the affected area.

Some public concern exists over the use of any chemical and the effects it has on water quality. The proposed project includes application measures designed to protect nontarget areas and water quality. State and Federal water quality standards will be met.

No action will be taken prior to thirty (30) days from the date this Finding is published in the **Federal Register**.

The responsible official is Robert Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660.

Dated: May 13, 1980.

Duane G. Tucker,

Deputy Forest Supervisor.

[FR Doc. 80-15628 Filed 5-21-80; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Order 80-5-99; Docket 38153]

Sun International Airways, Inc.; Petition for Advance Compensation for Losses

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of May 1980.

On February 22, 1980, Sun International Airways, Inc. filed a 30-day notice under section 419(a)(3)(B) of the Act announcing its intent to suspend service at Aguadilla, Puerto Rico, effective March 23, 1980. By Order 80-3-130, March 20, 1980, we prohibited Sun International's suspension for 30 days, or until a fit, willing, and able replacement carrier is found by us to be capable of inaugurating and maintaining essential service at Aguadilla.[1]

On May 8, 1980, Sun International petitioned for advance compensation for losses pursuant to section 419 of the Act

[1] We have since extended Sun International's obligation.

and Part 324 of our Procedural Regulations. The carrier provided a detailed explanation of its estimated traffic, revenue, and cost, and seeks a monthly rate of compensation of $48,132.87. It alleges that advance compensation is required because it has suffered substantial losses in providing the forced service, and that it lacks sufficient funds to survive subsequent compulsory periods.

We have reviewed Sun International's petition and find that it reasonably supports compensation on an interim basis, but at a somewhat lower level than requested. We have reduced revenue aircraft block hours used in calculating direct expenses from 240.8 to 205.7, consistent with the carrier's scheduled block time. Although it alleges actual block time is greater, no evidence was submitted to support this claim. This adjustment reduces its direct aircraft operating expenses by $4,115, and its compensation requirement from $48,113 to $44,018 per 30-day period.

Finally, we will not make the payment in advance as requested by Sun International. As we stated in the preamble to our interim rate governing compensation for losses sustained in providing forced service (Regulation PR-209, page 4), advance compensation will be made in instances where a carrier shows that without the advance its financial difficulties in continuing service are of a magnitude that it might not survive the 30-day period. While the carrier claims that it lacks sufficient funds to survive subsequent compulsory periods, it provides no support for this claim. Further, we note that the first compulsory period is past, for which the carrier will be paid upon issuance of this order. There is no indication that the carrier has taken into account the financial relief that will be provided by such funds. Sun International simply has not made a compelling showing that its ability to continue to provide service is in jeopardy in the absence of advance compensation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(b), and the regulations promulgated in 14 CFR Parts 302 and 324:

1. We set the interim level of compensation for losses sustained by Sun International Airways, Inc., by virtue of its provision of essential air service between Aguadilla and San Juan, Puerto Rico at $107.00 for each scheduled flight completed, subject to a maximum payment of $44,018 for each 30-day period beginning March 24, 1980;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the **Federal Register**.

By the Civil Aeronautics Board.[2]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-15755 Filed 5-21-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New York Advisory Committee; Change in Meeting Date

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights that a planning meeting of the New York Advisory Committee of the Commission originally scheduled for May 22, 1980, at New York, New York, (FR Doc. 80-14435 on page 31148) has been changed.

The meeting will be held on June 19, 1980. The time and place of the meeting will remain the same.

Dated at Washington, D.C. May 19, 1980.

Thomas L. Newmann,

Advisory Committee Management Officer.

[FR Doc. 80-15686 Filed 5-21-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Fasteners From India; Hearing

AGENCY: U.S. Department of Commerce.

ACTION: Notice of Hearing.

SUMMARY: This notice is to advise the public that an oral hearing is being scheduled concerning the above-captioned investigation. The date for this hearing, as published in the notice of "Preliminary Countervailing Duty Determination" (45 FR 28786), is being changed to Monday, June 16, 1980 at the U.S. Department of Commerce, Rm. 3817, 14th & Constitution Avenue, NW., Washington, D.C. 20230, beginning at 10:00 a.m.

EFFECTIVE DATE: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-5496).

SUPPLEMENTARY INFORMATION: A proper request for an oral hearing concerning the above-captioned investigation has been received in and approved by the office of the Deputy Assistant Secretary for Import Administration. In accordance with section 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946), interested parties will have an opportunity to present oral views on the matter. The time and place for this hearing, as published in the notice of "Preliminary Countervailing Duty Determination" (45 FR 28786), is being changed. The hearing will be held at the U.S. Department of Commerce, Rm. 3817, 14th & Constitution Avenue, NW., Washington, D.C. 20030 beginning at 10:00 a.m. on Monday, June 16, 1980.

Interested parties must submit pre-hearing briefs no later than Monday, June 9, 1980 to the office of the Deputy Assistant Secretary for Import Administration, Rm. 2800A at the address shown above. Oral presentations by persons submitting pre-hearing briefs will be limited to those issues raised in the briefs. This notice is published in accordance with section 355.35 Commerce Regulations (19 CFR 355.35, 45 FR 4946).

John D. Greenwald,

Deputy Assistant Secretary for Import Adminstration.

May 16, 1980.

[FR Doc. 80-15680 Filed 5-21-80; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Pipe and Tube From Japan; Amendment to Notice of Initiation of Antidumping Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Amendment of Notice of Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending its "Notice of Initiation of Antidumping Investigation" with regard to certain steel pipes and tubes from Japan. This action corrects an error in the description of the subject merchandise. In addition, the public is advised that, as a result of a preliminary determination of material injury announced by the United States International Trade Commission on April 9, 1980, the investigation with regard to a portion of the subject merchandise is terminated.

EFFECTIVE DATE: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1756).

SUPPLEMENTARY INFORMATION: On March 25, 1980, a "Notice of Initiation of Antidumping Investigation" with regard to certain steel pipe and tubing from Japan was published in the **Federal Register** (45 FR 19285). That notice stated, "For the purposes of this investigation, the term 'certain steel pipe and tubing' means welded pipes of steel provided for in item number 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA) and seamless pipes and tubes of steel, of circular cross section, provided for in TSUSA items 610.4920, 610.5210, 610.5215, or 610.5270". The description of merchandise provided for in item 610.3205 was in error. Therefore, the notice is hereby amended by the deletion of the above quoted paragraph, and the insertion of the following paragraph:

"For the purposes of this investigation, the term 'certain steel pipe and tubing' means welded pipes and tubes of steel, suitable for boiler applications, provided for in item number 610.3205, Tariff Schedules of the United States Annotated (TSUSA) and seamless pipes and tubes of steel, of circular cross section, provided for in TSUSA items 610.4920, 610.5210, 610.5215 or 610.5270."

In addition, as a result of a preliminary determination of material injury with respect to the subject merchandise announced by the United States International Trade Commission on April 9, 1980, this investigation is being terminated with respect to merchandise provided for in TSUSA items 610.4920, 610.5210, 610.5215 or 610.5270. The antidumping investigation will continue with respect to welded pipes and tubes of steel, suitable for boiler applications, provided for in TSUSA item 610.3205.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

May 16, 1980.

[FR Doc. 80-15681 Filed 5-21-80; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council, Subcommittee on GATT and Multilateral Trade Agreements; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on GATT and Multilateral Trade Agreements of the President's Export Council will be held on Tuesday, June 10 at 9:00 a.m. in Room 457, Russell Office Building, Delaware and Constitution Ave., Washington, D.C. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including implementation of the President's National Export Policy.

The Subcommittee has been formed to give information and recommendations to the Council regarding matters relating to the General Agreement on Tariffs and Trade (GATT) and implementation of the Multilateral Trade Negotiations (MTN). It is composed solely of members from the Council.

The agenda for the meeting will be as follows:

1. Discussion of National Governors' Association initiatives on antitrust legislation, the Regional Trade Representative, and North American Cooperation.
2. Reorganization progress reports from the Departments of Commerce, Agriculture, State and Labor and the Office of the U.S. Trade Representative.
3. Report on MTN Implementation including the international codes, continuing negotiations, education of businesses and use of the Commerce/USTR advisory committees.
4. Briefing on memorandums of understanding and memorandums of agreement.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the Subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes or Ms. Elizabeth Ruskin, Room 4015b, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5719.

Abraham Katz,

Assistant Secretary for International Economic Policy.

May 16, 1980

[FR Doc. 80-15646 Filed 5-21-80; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Commerce Technical Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Wednesday, May 28, 1980 from 9:00 a.m. until 5:00 p.m. at the IBM Fishkill Plant, Route 52, Hopewell Junction, New York and on Thursday, May 29, 1980 from 9:00 a.m. until 12 o'clock Noon at the IBM Homestead Facility, Boardman Road, Poughkeepsie, New York.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

The agenda will consist of ongoing Commerce Technical Advisory Board issues.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377-5065.

Dated: May 2, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-15629 Filed 5-21-80; 8:45 am]

BILLING CODE 3510-17-M

National Oceanic and Atmospheric Administration

Modification of Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) and § 222.25 of the regulations governing endangered species permits (50 CFR Parts 217-222), Scientific Research Permit No. 136 issued to Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington 98112 on June 15, 1976 (41 FR 25920), as modified on June 27, 1977 (42 FR 35876), is further modified by deleting Section B-11 and substituting therefore the following:

"This Permit is valid with respect to the taking authorized herein until December 31, 1985."

This modification is effective May 22, 1980.

[2] All Members concurred.

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The Permit is modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 16, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-15764 Filed 5-21-80; 8:45 am]

BILLING CODE 3510-22-M

Modification of Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), Public Display Permit No. 235 issued to Gulfarium, Gulf Exhibition Corporation, Fort Walton Beach, Florida 32548 on June 6, 1978, is modified by deleting Section B-3 and substituting therefore the following:

"This Permit is valid with respect to the taking authorized herein until December 31, 1980."

This modification is effective May 22, 1980.

The Permit as modified and documentation pertaining to this modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Dated: May 16, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-15765 Filed 5-21-80; 8:45 am]

BILLING CODE 3510-22-M

National Bureau of Standards

Proposed Federal Information Processing Standard; DES Modes of Operation

Under the provisions of Public Law 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. Federal Information Processing Standards Publication (FIPS PUB) 46, entitled Data Encryption Standard (DES), specifies a mathematical algorithm to be used by Federal departments and agencies for the cryptographic protection of sensitive, but unclassified, computer data. A number of techniques for incorporating this algorithm into a cryptographic system have been identified by both Federal and private organizations. These techniques, external to the DES algorithm, have come to be called the "modes of operation."

The National Bureau of Standards (NBS) is herein proposing a FIPS to describe the DES Modes of Operation. This standard is needed for assuring the compatibility of systems which cryptographically protect data using the DES.

In order to ensure that all parties have a full opportunity to present their views, NBS is soliciting comments on the following DES Modes of Operation Standard. Four DES modes of operation are described in this proposed FIPS; they are: the electronic codebook (ECB) mode, the cipher block chaining (CBC) mode, the cipher feedback (CFB) mode, and the authentication-only mode.

The proposed FIPS (see document A accompanying this notice) contains two basic sections: (1) an announcement section, which provides information concerning the applicability and implementation of the standard, and (2) a specifications section defining the technical parameters of the standard.

Document B accompanying this notice contains a description of a fifth mode of operation, the output-block feedback (OFB) mode. The OFB mode is not part of the proposed standard, but is being considered for inclusion as an integral part of the final standard. It is presented here in order to solicit comments on its technical content and suitability for inclusion in the final standard.

Interested parties may submit comments in writing to the Office of Standards Administration, Institute for Computer Sciences and Technology, Washington, D.C. 20234. To be considered, comments on this proposed standard must be received on or before July 7, 1980.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

Dated: May 18, 1980.

Thomas A. Dillon,

Acting Director.

BILLING CODE 3510-13-M

A. FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

(Date)

Announcing the Standard for
DES MODES OF OPERATION

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6, of Title 15 Code of Federal Regulations (CFR).

1. NAME OF STANDARD

DES Modes of Operation Standard.

2. CATEGORY OF STANDARD

Operations, computer security.

3. EXPLANATION

The Federal Data Encryption Standard (DES) (FIPS PUB 46) specifies an algorithm to be implemented in electronic hardware devices and used for the cryptographic protection of sensitive, but unclassified, computer data.

There are two basic techniques for utilizing the DES: a block cipher and a stream cipher. In a block cipher, the DES output block is used directly as the cipher text. In a stream cipher, the DES output block forms a pseudorandom binary stream which is then combined with to the plain text in order to form the cipher text.

Since there are many ways for realizing these two basic cipher classes, this FIPS PUB defines specific modes of operation in order to foster interoperability among DES equipment purchased or leased by the Federal Government. In particular, the electronic codebook (ECB) and the cipher block chaining (CBC) modes of DES block ciphers are defined. The cipher feedback (CFB) mode represents the class of additive stream ciphers. An authentication-only mode using the DES is also specified. It is not the purpose of this standard to define a set of necessary and sufficient conditions for the secure operation of DES devices. The primary objective is to provide specifications in sufficient detail so that a DES device will be able to interoperate with other DES devices using one or more of these specified modes of operation. This standard is part of a continuing program to provide compatibility in DES equipment for users within the Federal Government.

4. APPROVING AUTHORITY

Secretary of Commerce.

5. MAINTENANCE AGENCY

Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. RELATED DOCUMENTS

FIPS PUB 46, "Data Encryption Standard."

FIPS PUB 31, "Guidelines to ADP Physical Security and Risk Management".

FIPS PUB 39, "Glossary for Computer Systems Security".

FIPS PUB 41, "Computer Security Guidelines for Implementing the Privacy Act of 1974".

NBS Internal Report 80-2019, "Technical Specifications of a Proposed Federal Information Processing Standard on the Modes of Operation for the Data Encryption Standard," April 1980.

A list of currently approved FIPS may be obtained from the Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Telephone (301) 921-3157.

7. APPLICABILITY

This standard will be used by Federal departments and agencies implementing FIPS PUB 46, which addresses the cryptographic protection of sensitive, but unclassified, non-national-security-related computer data.

The selection of one of the specified modes of operation will be heavily weighted by the particular application being considered.

The ECB mode is characterized by a potential security problem in that the same plain text always maps to the same cipher text under a fixed cryptographic key. The CBC and the CFB modes may be used for general data encryption applications. CBC permits minimal overhead for the management of initialization vectors (IVs). CFB offers the flexibility of the parsimonious encryption of one to sixty-four binary digits whereas block implementations such as ECB and CBC must process sixty-four bits of data at a time. Also, bit identification is maintained after encryption in CFB since it is an additive stream cipher. Hence, encrypted parity bits may be replaced with a parity computed on the cipher text so long as the information which is fed back at the encrypting and decrypting devices is the same. Thus, compatibility can be maintained within communication networks which are sensitive to parity information. The authentication-only technique protects data integrity but does not guard against disclosure of the plain text. This is useful in systems where one wishes to check the integrity of the data aperiodically, but does not want to have to decrypt the data for each use.

8. SPECIFICATIONS

Federal Information Processing Standard ___ (FIPS ___) DES Modes of Operation (affixed).

9. QUALIFICATIONS

The DES modes of operation described in this standard are based upon information provided by many sources within the Federal Government and private industry.

These techniques are in concert with equipment containing DES devices which have been validated by the National Bureau of Standards and are currently being marketed. However, any cryptographic standard must, of necessity, remain flexible enough to adapt to advancements or innovations in science and technology. As such, this standard should not be construed to be either exhaustive or static, but rather the National Bureau of Standards will be

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receptive to new implementations whose technical or economic merit would justify the issuance of a revised standard.

The Federal DES (FIPS PUB 46) requires implementation in electronic hardware devices for use by Federal departments and agencies. However, the modes of operation as provided in this standard may be implemented in software, hardware, or firmware.

10. EXPORT CONTROL

Cryptographic devices and technical data regarding them are subject to Federal Government export controls as specified in Title 22, Code of Federal Regulations, Parts 121 through 128. Cryptographic devices implementing this standard and technical data regarding them must comply with these Federal regulations.

11. PATENTS

Cryptographic equipment implementing this standard may be covered by U.S. or foreign patents.

12. IMPLEMENTATION SCHEDULE

This standard becomes effective six months after the date of this FIPS PUB. It applies to all Federal ADP systems and associated telecommunications networks under development as well as to installed systems when it is determined that cryptographic protection of sensitive, but unclassified, data is required. Each Federal department or agency will issue internal directives for the use of this standard by their operating units based on their data security requirement determinations.

Instructions and regulations for procuring data processing equipment utilizing this standard will be provided by the General Services Administration.

13. WAIVERS

Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of a nonconforming DES mode of operation nor shall it make use of any nonstandard mode of operation for the DES unless it has already obtained such approval.

14. WHERE TO OBTAIN COPIES

Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication __ (FIPS-PUB-__), and title. When microfiche is desired, this should be specified. Payment may be made by check, money order or deposit account.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

(Date)

Specifications for the

DES MODES OF OPERATION

INTRODUCTION.

Data to be cryptographically protected is called plain text. Encryption is the process of transforming plain text into cipher text; decryption is the inverse mapping of cipher text to plain text. The encryption (E) of plain text (P) under a key (K) into cipher text (C) is denoted by E(K, P) = C. The letter D will represent the inverse transformation, so that decryption under K may be written as D(K, C) = D(K, E(K, P)) = P.

Binary data may be cryptographically protected using the Data Encryption Standard (DES) [FIPS 46] in conjunction with a cryptographic variable. A cryptographic variable for the DES consists of sixty-four binary digits of which fifty-six bits are used directly as a key governing the algorithm. The remaining eight bits are employed as an odd parity check. A cryptographic period (or key period) is that interval of DES operation during which the same key is used between two or more cryptographic entities. Since the DES has been publicly defined, cryptographic security depends upon the security provided for the cryptographic variable -- both the key and its parity bits. Given the cipher text and the key, the plain text can be recovered easily.

Mathematically, the DES maps a 64-dimensional input space over the field {0,1} onto itself. The number of elements in this space is two raised to the 64th power (2**64), i.e., it consists of all possible 64-bit vectors. The cryptographic key space provides the user a choice of any one of 2**56 invertible (one-to-one and onto) mappings. A specific DES input value can be mapped to one of 2**56 output values — the specific value depends upon the particular 56-bit key chosen. The DES mapping has a complementary effect in that if E(K, P) = C then E(K', P') = C' or equivalently E(K, P) = {E(K', P')}' where the apostrophe represents binary complementation.

FIGURE 1:

FIGURE 2: THE DES TRANSFORMATION

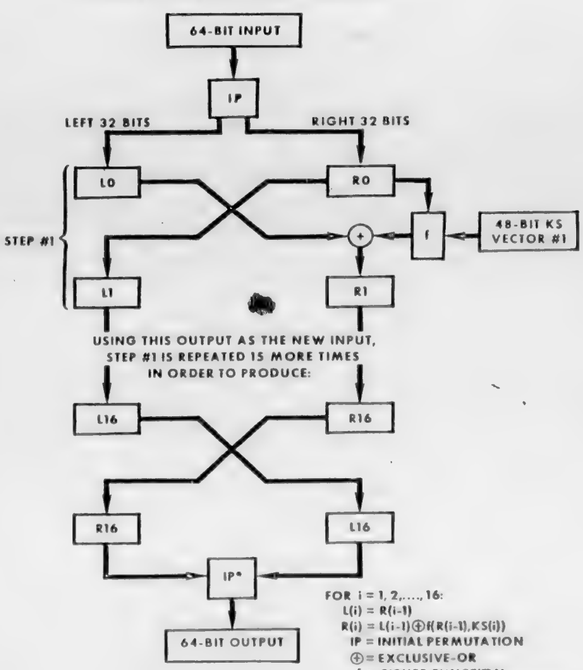

The DES is a nonlinear, iterative, block, product cipher. This product cipher mixes transposition and substitution operations in an alternating manner in order to be most effective. Because this algorithm maps a 64-bit input block into sixty-four output bits, the DES is classified as a block cipher. Iterative refers to the use of the output of an operation as the input for another iteration or round of the same procedure. Nonlinearity is introduced into the algorithm through eight S (substitution) boxes, each of which maps six input bits into four output bits. A block diagram of the encryption operation is illustrated in figure #2. The cipher function, f, and the key schedule function are described in detail in FIPS 46.

The DES input and output (I/O) blocks are sixty-four bit vectors with the least significant bit (LSB = 2**0) defined to be on the right and the most significant bit (MSB = 2**63) on the left. The bits of a DES I/O block are numbered from left to right: (1, 2, . . . , 64). When a 64-bit cryptographic variable is entered into the DES key schedule, its format is the key input block is: {1, 2, . . . , 7, P1, 8, 9, . . . , 14, P2, 15, . . . , 49, P7, 50, 51, . . . , 56, P8), where {Pi | i=1, 2, . . . , 8} are odd parity bits computed on the preceding seven key bits.

There are two general techniques for incorporating the DES into a cryptographic system: a block cipher and an additive stream cipher. In both modes each bit of cipher text is a function of every bit of the cryptographic key. In a block cipher, the DES input block is a function of the plain text to be encrypted and the DES output block defines the cipher text. In an additive stream cipher, a pseudorandom binary sequence is generated using DES output blocks. The binary exclusive-OR operation, represented by a circled plus sign, combines this pseudorandom sequence with the plain text to define the cipher text. This operation is equivalent to bit-by-bit, module-2 addition (without carry). Since the exclusive-OR operator is its own inverse over {0,1}, the same pseudorandom binary stream, say O, is used for both the encryption of plain text, P, and the decryption of cipher text, C; i.e., P ⊕ O = C and C ⊕ O = P.

ELECTRONIC CODEBOOK (ECB) MODE

The most basic mode of operation for the DES is the electronic codebook (ECB). The analogy to a codebook arises because the same plain text block always produces the same cipher text block for a given cryptographic key. Thus, assuming that a manageable subset of the DES input space is used, a list (or codebook) of corresponding plain and cipher text pairs could be constructed.

In ECB encryption, the plain text data block (D1, D2, .., D64) directly defines the DES input block (I1, I2, . . . , I64). The input block is processed through a DES device in the encrypt state which has been loaded with the appropriate cryptographic variable. The resultant output block (O1, O2, . . . , O64) is used directly as cipher text (C1, C2, . . . , C64).

The ECB decryption process is the same as ECB encryption except that the DES key schedule selection is reversed. In general, the DES key schedule function generates a new 48-bit vector from the 56-bit cryptographic key for each of the

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sixteen rounds of the DES algorithm. For a given cryptographic variable, let the sixteen key schedule encryption vectors be denoted by (KS1,KS2, . . . , KS16). Then, the corresponding decryption process will use the same basic operation as encryption (figure #2), but now (KS16, KS15, . . . , KS1) will be successively invoked. An example of ECB encryption and decryption may be found in Appendix A.

Since each bit of an ECB output block is a complex function of every bit in the input block and the cryptographic key, a single bit error in a cipher text block will cause the decrypted plain text block to have an average error rate of approximately fifty percent. However, an error in one ECB cipher text block will not affect the decryption of other blocks, i.e., there is no error extension between ECB blocks. An example of the effect of cipher text errors on ECB operations may be found in Appendix B.

If block synchronization is lost (e.g., a bit slip), then ECB cryptographic synchronization will also be lost until correct block boundaries are reestablished.

Since the ECB mode is a 64-bit block cipher, an ECB device must encrypt information in integral multiples of sixty-four bits. If a user has less than sixty-four bits to encrypt, then the least significant bits of the unused portion of the input data block should be padded with random or pseudorandom binary digits prior to ECB encryption. The corresponding decrypting device will have to know when and to what extent padding has taken place so that these padding digits can be ignored or discarded after decryption.

A potentially critical weakness of the ECB mode is the fact that the same plain text always produces the same cipher text under a fixed key. Thus, the compromise of the plain text underlying any cipher text block results in the compromise of all repetitions of this same text for the remainder of the cryptographic period. This is sometimes referred to as a codebook analysis problem.

FIGURE 3. ELECTRONIC CODEBOOK (ECB) MODE

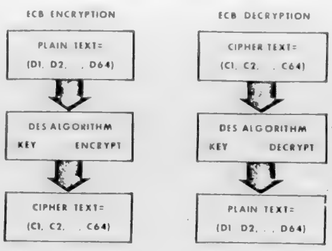

CIPHER BLOCK CHAINING (CBC) MODE

CBC is a block cipher in which the plain text is exclusive-ORed with a block of pseudorandom data prior to being processed through a DES device (see figure #4). This technique greatly reduces the codebook analysis problem associated with the ECB mode, and also provides an error extension characteristic which is valuable in protecting against fraudulent data alteration.

In order to commence CBC encryption, the first DES input block is formed by exclusive-ORing the first data block with a 64-bit initialization vector (IV), i.e., (I1,I2,...,I64) = (IV1 ⊕ D1, IV2 ⊕ D2, . . . , IV64 ⊕ D64). This initial CBC input block is processed through a DES device producing a 64-bit DES output block which defines the cipher text, (O1,O2,...,O64) = (C1,C2,...,C64). Then these first 64 bits of cipher text are exclusive-ORed with the second plain text data block in order to construct the second DES input block. The next DES operation produces the second cipher text block. This encryption process continues to "chain" successive cipher and plain text blocks together until the last plain text block in the message is encrypted. The DES input block at time t is the bit-by-bit, mod-2 sum of the plain text at time t and the cipher text at time t-1 for t>1 or the IV at t=1. Appendix A contains an example of the CBC encryption and decryption of ASCII characters and Appendix C has a flow chart illustrating the basic CBC logic.

For CBC decryption, the first cipher text block is processed through a DES device using the decrypt operation, i.e., the key schedule vectors are invoked in the reverse order from the encryption process. The first output block is exclusive-ORed with the CBC IV producing the first plain text block. The second cipher text block is then entered into the DES and the resultant output block is exclusive-ORed with the first cipher text block in order to produce the second plain text block. The CBC decryption process continues to exclusive-OR the cipher text block at time t-1 for t>1 with the DES output block at time t until the end of the message.

The security of a CBC implementation depends, among other things, upon the management of CBC initialization vectors. Some recommendations in this area are provided in Appendix E.

The CBC mode reproduces the same cipher text whenever the same plain text is encrypted under a fixed key and IV. In the ECB mode, the cipher text repetition characteristic occurs at the block level; in the CBC mode, cipher text repetition is at the message level. If CBC users are concerned about this potential security problem, then their CBC systems should incorporate a unique identifier (e.g., a one-up counter) at the beginning of each CBC message in order to insure unique cipher text within a cryptographic period.

Since the CBC mode is a 64-bit block cipher, it must operate on a 64-bit input block with each CBC operation. Thus, partial data blocks (< 64 bits) will require special handling. For example, a partial data block may be padded in its least significant bit positions with arbitrary binary digits whenever the application environment can tolerate the overhead. The decrypting CBC device will have to know when and to what extent padding has occurred. This can be accomplished explicitly, e.g., using a control indicator, or implicitly, e.g., using constant length transactions.

Another suggestion for handling partial data blocks is to switch to a 1-bit cipher feedback (CFB) mode in order to process the final k < 64 bits of a message. The last CBC cipher block would be used as an IV to initiate this CFB process. When using this scheme, the last bit of the message should not contain sensitive information.

In the CBC mode, one or more bit errors within a single cipher text block will affect the decryption of two blocks — the block in which the error occurs and the succeeding block. If the errors occur in the n-th cipher text block, then each bit of the n-th plain text block will have an average error rate of about fifty percent. The (n+1)st plain text block will have only those bits in error which correspond directly to the cipher text bits in error. Of course, if errors occur in the last cipher text block, then the last plain text block is the only one affected. An example of the effect of cipher text errors in CBC operations may be found in Appendix B.

If CBC block synchronization is lost, then CBC cryptographic synchronization will also be lost. However, cryptographic synchronization will automatically be reacquired sixty-four bits after block boundaries have been established.

FIGURE 4: CIPHER BLOCK CHAINING (CBC) MODE

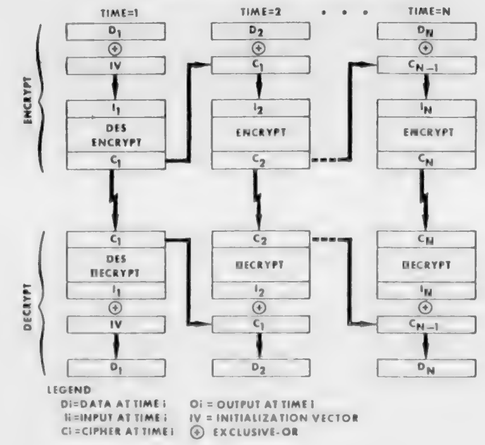

CIPHER FEEDBACK (CFB) MODE

The CFB mode is an additive cipher technique in which the DES is used to generate a pseudorandom binary stream. This stream is exclusive-ORed with the binary plain text to form the cipher text. The cipher text is fed back to form the next DES input block. The pseudorandom binary stream is sometimes referred to as a key stream, and the DES is then called a key generator or KG. However, this terminology will not be used in order to avoid confusion with the cryptographic key.

One through sixty-four bit CFB operation may be used. A 64-bit initialization vector (IV) or starter input block is used to begin CFB operations. A CFB IV is placed in the DES input block so that any zero fill is left-justified. This 64-bit input block is encrypted through a DES device producing a 64-bit, pseudorandom output block. The DES device is operated once for each new k-bit (0 < k < 65) character to be encrypted. In all CFB implementations, the leftmost or most significant k bits of the DES output block are used in the exclusive-OR operation. These output block bits, (O1,O2,...,Ok), are exclusive-ORed with the corresponding k bits of data, (D1,D2,...,Dk), to form the cipher text: (C1,C2,...,Ck) = (D1 ⊕ O1,D2 ⊕ O2,...,Dk ⊕ Ok). In order to define this operation when the length of the plain text character to be encrypted is less than k bits, zeros are concatenated to the left hand side or most significant bits of the plain text. Obviously, users must agree on the representation of a plain text "character." Bits (Ok+1, Ok+2, . . . , O64) of the DES output block are discarded. The k bits of cipher text are fed back to the least significant bit positions of the DES input (I) block according to Table 1.

TABLE 1

With at time t	--->	With at (t+1)
I[k+1]	--->	I1
I[k+2]	--->	I2
.	.	.
.	.	.
.	.	.
I64	--->	I[64-k]
C1	--->	I[64-(k-1)]
C2	--->	I[64-(k-2)]
.	.	.
.	.	.
.	.	.
Ck	--->	I64

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FIGURE 5: K-BITS CIPHER FEEDBACK (CFB) MODE

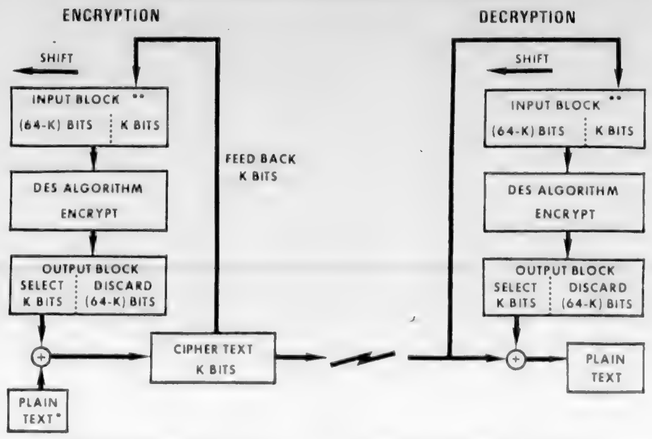

* IF PLAIN TEXT CHARACTER IS LESS THAN K BITS IN LENGTH, THEN APPEND ZEROS TO THE LEFT HAND SIDE (MSB) OF THE DATA TO DEFINE THE EXCLUSIVE-OR (⊕) OPERATION. ONLY ONE K-BIT CHARACTER IS PROCESSED WITH EACH OUTPUT BLOCK.

** INPUT BLOCK INITIALLY CONTAINS 64-BIT INITIALIZATION VECTOR (IV). THIS IV IS USED TO GENERATE FIRST OUTPUT BLOCK TO ENCRYPT (DECRYPT) THE FIRST PLAIN (CIPHER) TEXT CHARACTER.

As an example, consider an 8-bit CFB implementation and an IV with forty-eight pseudorandom bits. After each encryption, the eight cipher bits are fed back into the DES input block according to Table 2.

In CFB, each cipher bit is a function of one bit of the DES output block and one bit of plain text. Therefore, any bits of a CFB cipher text character may be changed without affecting the decryption of other bits

TABLE 2

AFTER ENCRYPTION #	THE DES INPUT BLOCK CONTAINS:
0	(0,0,0,0,0,0,0,0,0,0,0,0,0,0,0,1,2,.....,47,48)
1	(0,0,0,0,0,0,0,0,1,2,.....,47,48,C1,C2,.....,C8)
2	(1,2,.....,47,48,C1,C2,.....,C8,C9,C10,.....,C16)

After the eighth encryption the entire 64-bit IV will have been shifted out of the DES input block. Let the first character be a seven-bit ASCII character plus parity denoted by (P,b7,b6,...,b1). If the first DES output block is (O1,O2,...,O64), then the first cipher text character will be (C1,C2,...,C7,C8) = (P ⊕ O1,b7 ⊕ O2,...,b2 ⊕ O7,b1 ⊕ O8). Appendix A contains a detailed example of 8-bit CFB operations and Appendix C has a flow chart diagramming the basic CFB procedures.

The security of a CFB system depends, among other things, upon the management of CFB IVs. Some recommendations in this area are provided in Appendix E.

To protect against undetected bit manipulation of the last k-bit cipher text character using k-bit CFB, the last character to be encrypted must consist of error detection, terminal flag, or permanently fixed data.

within the same character, so long as the bits which are fed back at the encrypting and decrypting stations are the same. An application of this characteristic would be the deletion of encrypted parity bits and their replacement with a new parity computed on the cipher text. This feature is useful in networks which are sensitive to parity checks.

Bit errors within one CFB cipher text character will affect not only the decryption of the garbled cipher text but also the decryption of succeeding characters until the bit errors are flushed out of the CFB input block. The first affected plain text character will be garbled in exactly those places where the cipher text character is in error. Succeeding plain text characters will experience an average error rate of about fifty percent until all errors have been shifted out of the DES input block. Assuming no additional errors are encountered during this time, the CFB decryption device will then automatically regain

cryptographic synchronization. This characteristic is sometimes referred to as a limited error extension or a self-synchronizing capability — depending upon the point of view. In the previous 8-bit CFB example, errors in one cipher text character affect the decryption of nine characters. A detailed example of cipher text errors in CFB operations may be found in Appendix B.

If k-bit character boundaries are lost during decryption, then cryptographic synchronization will be lost until a cryptographic restart (new IV) is initiated or until after character boundaries have been reestablished. In the latter case, if 64 (mod k) = 0, then resynchronization will occur automatically after 64/k characters with proper boundary definition have entered the DES input block; otherwise, one additional character will be required.

The encryption and decryption processes in the CFB mode invoke the DES key schedule vectors in the same order, i.e., both processes will use {KS1, KS2, . . . , KS16}. This produces a partial involution under the same IV and key; i.e., if E[K, (P1,P2,...,Pn)] = (C1,C2,...,Cn), then E[K, (C1,C2,...,Cn)] = (P1,N1,N2,...,N(n-1)) where P, C, and N represent k-bit plain text, cipher text, and nonsense (pseudorandom) characters, respectively.

DES AUTHENICATION-ONLY MODE

The DES algorithm may also be used for the authentication of plain text. This technique is useful in applications which require data integrity but do not require that the plain text be protected from disclosure. The authentication-only mode protects against bit manipulation within the data as well as the insertion and deletion of messages, and the replay of a previously valid message. In the authentication-only mode, two message authentication codes (MACs) are independently computed on the same data — one at the data source and one at the data destination. The MAC must be generated using either the CFB or the CBC mode. A unique message identifier (MID) is used to initiate these modes. If the data source MAC and the data destination MAC are in agreement and if the MID agrees with its expected value, then the plain text is accepted as authentic at the data destination. The authentication-only format is depicted in figure #6.

AUTHENTICATION-ONLY FORMAT
FIGURE 6:

FIELD 1	FIELD 2	FIELD 3
MID	PLAIN TEXT	MAC

In order to commence CFB authentication operations, a unique MID is used as an initialization vector. The user's text is encrypted in the normal CFB manner except that the cipher text is not communicated to the decrypting device. After the encryption of the final plain text unit (character or block), the last cipher text is fed back into the DES input block as if another plain text unit were to be encrypted. Then the DES device is operated one more time and the left-most or most significant k bits (0 < k < 65) in the next DES output block are used as the MAC.

To begin CBC authentication operations, the MID is again used as an initialization vector. However, for this application the first plain text block to be encrypted is the all zero block, i.e., the MID alone defines the first DES input block. Thereafter, the user's text is encrypted in the normal CBC manner. The CBC MAC is defined to be the left-most or most significant k bits of the DES output block resulting from encrypting the final plain text block. Messages which terminate in partial data blocks are to be padded on the right (LSB) with zeros.

The MID, plain text, and the MAC are conveyed to the data destination; the intermediate cipher text is not transmitted. The probability that one could randomly select a correct k-bit MAC is 1/(2**k). For most applications, MACs of at least 24 bits are strongly recommended. Two examples of the authentication-only mode may be found in Appendix D.

In general, the MID is a unique and deterministic message identifier within a cryptographic period; the MID should also be varied across cryptographic periods. The value of the MID will be checked by the recipient of an authentication-only message to verify that messages have not been deleted, inserted, or replayed. The uniqueness within a cryptographic period may be achieved through the use of a one-up binary counter. MID values are not to be repeated within the same cryptographic period; this constraint also applies to multiuser environments under control of a common cryptographic key. The MID variation across cryptographic periods may be satisfied by selecting a random or pseudorandom starting value from the total range of a "within" counter. In using this approach it is recommended that only a small (say << 5%) segment of the MID's total range be used within any key period. Another acceptable technique would be to form the MID by concatenating a unique message identifier together with a unique identifier for each cryptographic period, e.g., a second one-up binary counter could be used for this purpose.

A MID is not encrypted. However, whenever MID values are exchanged through an unsecured channel to establish or reestablish MID synchronization, then these values must be protected. This protection includes the detection of bit alteration, the insertion of bogus messages, and the replay or deletion of valid messages.

REFERENCES

[FIPS PUB 46] Federal Information Processing Standards Publication 46, Data Encryption Standard. 1977 January 15; FIPS PUB 46: 18 pages. Available from: National Technical Information Service; U.S. Department of Commerce; Springfield, Virginia 22161; FIPS-PUB-46.

DEFINITIONS, ABBREVIATIONS, AND CONVENTIONS

AUTHENTICATION-ONLY: A DES technique for protecting the integrity of plain text which does not have to be protected from disclosure.

UMI 0 8 2 2 Y M 5 4 V

BLOCK: A binary vector consisting of sixty-four bits numbered from the left as 1, 2, . . . , 64.

CBC: Cipher block chaining mode.

CFB: Cipher feedback mode.

CIPHER TEXT: Encrypted data.

CRYPTOGRAPHIC KEY: The 56 random bits of the cryptographic variable which are used to govern the DES device. Also simply called KEY.

CRYPTOGRAPHIC PERIOD: That period of DES operation during which a unique cryptographic key is used between two or more cryptographic facilities. Keys from different cryptographic periods are independent. Synonym: Key period.

CRYPTOGRAPHIC VARIABLE: The 64 bit vector containing the 56-bit DES key and its eight associated parity bits. Synonym: Key Variable.

DECRYPTION: The process of changing cipher text into plain text. Verb: DECRYPT.

DES: Data Encryption Standard; specified in FIPS 46.

DES DEVICE: The hardware used to implement the DES algorithm. This is usually an integrated circuit chip which is sometimes referred to as a "crypto-engine."

DES INPUT BLOCK: A 64-bit data vector that is entered into the DES device.

DES OUTPUT BLOCK: A 64-bit vector that is the final result of a DES device.

ECB: Electronic codebook mode.

ENCRYPTION: A process of changing plain text into cipher text. Verb: ENCRYPT.

EXCLUSIVE-OR OPERATION: the bit-by-bit modulo-2 addition (without carry) of binary numbers. This operation is represented by a circled + .

INITIALIZATION VECTOR (IV): A 64-bit vector used to help form the initial DES input block for all modes of operation except ECB; a 64-bit cryptographic synchronization vector.

KEY: Cryptographic key; the 56 random bits of the cryptographic variable.

KEY SCHEDULE FUNCTION: A logical unit within the DES algorithm which generates a different 48-bit vector from the 64-bit cryptographic variable for each of the sixteen rounds of the DES process.

LEAST SIGNIFICANT BIT (LSB): The right-most bit of a binary row vector. Synonym: Low order bit.

MAC: Message authentication code.

MESSAGE (MSG): A generic term used to describe a logical data entity. In general it is an ambiguous term; therefore, for specific applications it should be precisely defined.

MID: A message identifier used with the authentication-only mode.

MOST SIGNIFICANT BIT (MSB): The left-most bit of a binary row vector. Synonym: High order bit.

OCTET: A group of eight binary digits numbered from left to right: 1,2,...,8.

PLAIN TEXT: Decrypted data or data to be encrypted.

PSEUDORANDOM BINARY PROCESS: A deterministic technique for producing a sequence of binary digits which satisfy the statistical properties of a random bit stream.

APPENDIX A

SAMPLE DES ENCRYPTIONS AND DECRYPTIONS

DES MODES OF OPERATION

AN EXAMPLE OF THE ELECTRONIC CODEBOOK (ECB) MODE

The ECB mode in the encrypt state has been selected.

Cryptographic Key = 0123456789abcdef

The plain text is the ASCII code for "Now is the time for all ." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1).

TIME	PLAIN TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	CIPHER TEXT
1	4e6f772069732074	4e6f772069732074	3d10fae4418fb83d	3d10fae4418fb83d
2	686520746966d6520	686520746966d6520	73b5bc13ffcd86fd	73b5bc13ffcd86fd
3	666f7220616c6e20	666f7220616c6e20	ff8f8fe4583a5a0f	ff8f8fe4583a5a0f

The ECB mode in the decrypt state has been selected.

Cryptographic Key = 0123456789abcdef

TIME	CIPHER TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	PLAIN TEXT
1	3d10fae4418fb83d	3d10fae4418fb83d	4e6f772069732074	4e6f772069732074
2	73b5bc13ffcd86fd	73b5bc13ffcd86fd	686520746966d6520	686520746966d6520
3	ff8f8fe4583a5a0f	ff8f8fe4583a5a0f	666f7220616c6e20	666f7220616c6e20

DES MODES OF OPERATION

AN EXAMPLE OF THE CIPHER BLOCK CHAINING (CBC) MODE

The CBC mode in the encrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

The plain text is the ASCII code for "Now is the time for all ." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1).

TIME	PLAIN TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	CIPHER TEXT
1	4e6f772069732074	5c5b2158f9d8ed9b	c7853612999fdf8c5	c7853612999fdf8c5
2	686520746966d6520	afe0166f0909da5	9babdad075e1096a	9babdad075e1096a
3	666f7220616c6e20	fd84acf0148d654e	d0745b3dd304f9a1	d0745b3dd304f9a1

The CBC mode in the decrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

TIME	CIPHER TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	PLAIN TEXT
1	c7853612999fdf8c5	c7853612999fdf8c5	5c5b2158f9d8ed9b	4e6f772069732074
2	9babdad075e1096a	9babdad075e1096a	afe0166f0909da5	686520746966d6520
3	d0745b3dd304f9a1	d0745b3dd304f9a1	fd84acf0148d654e	666f7220616c6e20

DES MODES OF OPERATION

AN EXAMPLE OF THE EIGHT-BIT CIPHER-TEXT FEEDBACK (CFB) MODE

The 8-bit CFB mode in the encrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

The plain text is the ASCII code for "Now is the." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1). The ⊕ represents bit-by-bit, modulo-2 addition.

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK			
1	1234567890abcdef	3494ccf2bda243a6	4e	⊕	34 = 7a
2	34567890abcdef7a	bd914d9386658541	6f	⊕	bd = d2
3	567890abcdef7ad2	adaf8c45c53f1f92	77	⊕	ad = da
4	7890abcdef7ad2da	e3a3acc86c429d97	20	⊕	e3 = c3
5	90abcdef7ad2dac3	5cb1ebb51b70388d	69	⊕	5c = 35
6	abcdef7ad2dac335	f3af29ca4cb9661f	73	⊕	f3 = 80
7	cdef7ad2dac33580	aa22a74f73723ad1	20	⊕	aa = 8a
8	ef7ad2dac335808a	92d94cce188f15af	74	⊕	92 = e6
9	7ad2dac335808ae6	4fbbaa151d3cfc54	68	⊕	4f = 27
10	d2dac335808ae627	6dabadlfdba8bc3b	65	⊕	6d = 08

The 8-bit CFB mode in the decrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK			
1	1234567890abcdef	3494ccf2bda243a6	7a	⊕	34 = 4e
2	34567890abcdef7a	bd914d9386658541	c2	⊕	bd = 6f
3	567890abcdef7ad2	adaf8c45c53f1f92	da	⊕	ad = 77
4	7890abcdef7ad2da	e3a3acc86c429d97	c3	⊕	e3 = 20
5	90abcdef7ad2dac3	5cb1ebb51b7038	35	⊕	5c = 69
6	abcdef7ad2dac338	f3af29ca4cb9661f	80	⊕	f3 = 73
7	cdef7ad2dac33580	aa22a74f73723ad1	8a	⊕	aa = 20
8	ef7ad2dac335808a	92d94cce188f15af	e6	⊕	92 = 74
9	7ad2dac335808ae6	4fbbaa151d3cfc54	27	⊕	4f = 68
10	d2dac335808ae627	6dabadlfdba8bc3b	08	⊕	6d = 65

DES MODES OF OPERATION

AN EXAMPLE OF THE ONE-BIT CIPHER-TEXT FEEDBACK (CFB) MODE

The 1-bit CFB mode in the encrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

The plain text is the ASCII code for "Now." These seven-bit characters are written in binary as (0,b7,b6,...,b1). The DES input and output blocks are written in hexadecimal notation. The ⊕ represents bit-by-bit, modulo-2 addition. Note: A draft, ANSI X3S3.8, link encryption standard requires that the bits of an ASCII character be processed in the reverse order of this example for 1-bit CFB. This draft data communications standard is designed for the transmission of ASCII characters in the standard, serial-by-bit manner (b1,b2,...,b7).

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK	P	⊕	■	= C
1	1234567890abcdef	3494ccf2bda243a6	0	⊕	0	= 0
2	2468acf121579bde	0a3c58d16a551826	1	⊕	0	= 1
3	48d159e242af37bd	87647b405d0b8cdf	0	⊕	1	= 1
4	91a2b3c4855a6f7b	a911173c434165ae0	0	⊕	1	= 1
5	234567890abcdef7	ca46c7d8c3aab695	1	⊕	1	= 0
6	468acf121579bdee	c3c832f667471574	1	⊕	1	= 0
7	8d159e242af37bdc	7dd595cc10590044	1	⊕	0	= 1
8	1a2b3c4855a6f7b9	6fb8b7e8723327e4	0	⊕	0	= 0
9	34567890abcdef72	9c91cbdde58c8104	0	⊕	1	= 1
10	68acf121579bdae5	fc4307d1d4e0b047	1	⊕	1	= 0
11	d159e242af37bdca	5fb5a8881bc850dd	1	⊕	0	= 1
12	a2b3c4855a6f7b95	57bba20af9c025bd	0	⊕	0	= 0
13	4567890abcdef72a	9ea14c224a01dc2c	1	⊕	1	= 1
14	8acf121579bdae55	8a869e2271f5a1ad	1	⊕	1	= 0
15	159e242af37bdcaa	f68135d6b7585f91	1	⊕	1	= 0
16	2b3c4855a6f7b954	dc6d28bbb9061212	1	⊕	1	= 0
17	56789abcdef72a8	3d959a3a4d11ab9b	0	⊕	0	= 0
18	acf121579bdae550	32747b8355a832bf	1	⊕	0	= 1
19	59e242af37bdcaa1	eb5598e0a949d791	1	⊕	1	= 0
20	b3c4855a6f7b9542	e6308121b905adbd	1	⊕	1	= 0
21	67890abcdef72a84	f7998d0a85a6661b	0	⊕	1	= 1
22	cf121579bdae5509	1ccf6a6bef3d34a5	1	⊕	0	= 1
23	9e242af37bdcaa13	1c7da296b765e487	1	⊕	0	= 1
24	3c4855a6f7b95427	bbfdbac304117d48	1	⊕	1	= 0

APPENDIX B

EFFECTS OF CIPHER TEXT ERRORS

DES MODES OF OPERATION

CIPHER TEXT ERRORS AND THE ECB MODE

The ECB mode in the decrypt state has been selected.

The plain text is the ASCII code for "Now is the time for all ." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1). The last ASCII character in the first cipher text block has been changed to "3a" instead of the correct value "3d." The first block of cipher text should have decrypted to "4e6f772069732074." Bit error(s) within an ECB cipher text block will cause each bit of the corresponding plain text block to be in error with a probability of approximately fifty percent. Thus thirty-two errors are expected in the first block of decrypted plain text. For this specific example there are exactly 31 errors in this block. Note that bit errors within one ECB cipher text block do not affect the decryption of other cipher text blocks. Asterisks are used to identify the blocks affected by the cipher text errors.

Cryptographic Key = 0123456789abcdef

TIME	CIPHER TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	PLAIN TEXT
1	3d10fae4418fb83a*	3d10fae4418fb83a*	380a655486fb2d08*	380a655486fb2d08*
2	73b5bc13ffcd86fd	73b5bc13ffcd86fd	686520746966d6520	686520746966d6520
3	ff8f8fe4583a5a0f	ff8f8fe4583a5a0f	666f7220616c6e20	666f7220616c6e20

UMI 0 8 2 2 Y M 5 4 V

DES MODES OF OPERATION

CIPHER TEXT ERRORS AND THE CBC MODE

The CBC mode in the decrypt state has been selected.

The plain text is the ASCII code for "Now is the time for all ." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1). The last ASCII character in the first cipher text block has been changed to "c6" instead of the correct value "c5." The first plain text block should have been "4e6f772069732074." Note that these bit errors affect the decryption of two blocks before cryptographic synchronization is re-established. Each bit in the first plain text block will be in error with a probability of approximately fifty percent; thus 32 binary errors are expected in this block. In this specific example there are exactly 30 errors in the first plain text block. The second block will have only those bits in error which correspond directly in number and position to the garbled cipher text bits. In this example the last two bits of plain text block #2 are incorrect. The third and succeeding plain text blocks are unaffected by bit errors in the first cipher text block. Asterisks are used to identify the blocks which are affected by the cipher text errors.

Cryptographic Key = 0123456789abcdef
Initialization Vector = 1234567890abcdef

TIME	CIPHER TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	PLAIN TEXT
1	c7853612996fdf8c6*	c7853612996fdf8c6*	4d91d5742e497411*	5fa5830cbee2b9fe*
2	9bebded075e1096a	9bebded075e1096a	afe0166f0909de5	6865207469 6d6523*
3	d0745b3dd304f9e1	d0745b3dd304f9e1	fd84acf0148d654a	666f7220616c6c20

DES MODES OF OPERATION

CIPHER TEXT ERRORS AND THE CFB MODE

The 8-bit CFB mode in the decrypt state has been selected.

The plain text is the ASCII code for "Now is the time for." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1). The cipher text character at time #4 has been changed to "c4" instead of the correct value "c3." In the general k-bit CFB mode, bit errors within a k-bit character will affect the decryption of one character in those bit positions corresponding to the errors. Succeeding characters will experience an error probability of approximately fifty percent until the garbles have been flushed from the DES input block. In 8-bit CFB, errors within a character affect the decryption of nine cipher text characters before cryptographic synchronization is re-established. The ⊕ represents bit-by-bit, modulo-2 addition.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK	C	⊕	O	= P
1	1234567890abcdef	3494ccf2bda243a6	7a	⊕	34	= 4e
2	34567890abcdef7a	bd914d9386658541	d2	⊕	bd	= 6f
3	567890abcdef7ad2	adaf8c45c53f1f92	da	⊕	ad	= 77
		ERROR IN NEXT CIPHER				
4	7890abcdef7ad2da	e3a3acc86c429d97	c4	⊕	a3	= 27
5	90abcdef7ad2dac4	23ae7d31645f7daa	35	⊕	23	= 16
6	abcdef7ad2dac435	aca8457513ba93ae	80	⊕	ac	= 2c
7	cdef7ad2dac43580	385b374dc59ba511	8a	⊕	38	= b2
8	ef7ad2dac435808a	fbebef188f6caab0	a6	⊕	fb	= 1d
9	7ad2dac435808ae6	307a55324bc7d098	27	⊕	30	= 17
10	d2dac435808ae627	a3179850047a2769	08	⊕	a3	= ab
11	dac435808ae62708	0d0eef664dc7e5ccb	0f	⊕	0d	= 02
12	c435808ae627080f	5cc2582fc7ca06f3	6d	⊕	5c	= 31
		AUTORESYNC ON NEXT CIPHER				
13	35808ae627080f6d	953d fb12d8a4cf4	fc	⊕	95	= 69
14	808ae627080f6dfc	dc363b7a426e726e	b1	⊕	dc	= 6d
15	8ae627080f6dfcb1	57cb75f386e76662	32	⊕	57	= 65
16	e627080f6dfcb132	68bbd6da037c3eb1	48	⊕	68	= 20
17	27080f6dfcb13248	71e50a54bd8c1f1d	17	⊕	71	= 66
18	080f6dfcb1324817	b91c8fd54d1d45f5	d5	⊕	b9	= 6f
19	0f6dfcb1324817d6	009b705bb2af50d6	72	⊕	00	= 72

APPENDIX C

CBC AND CFB FLOW CHARTS

(FOR ILLUSTRATIVE PURPOSES ONLY)

FIGURE C.1: CIPHER BLOCK CHAINING (CBC) OPERATIONS

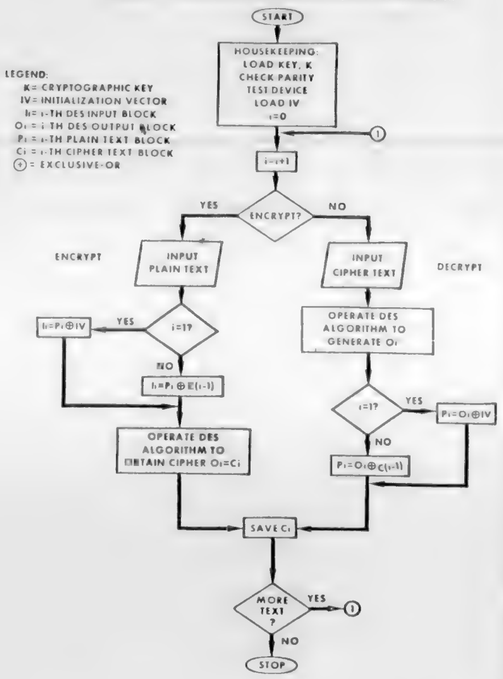

FIGURE C.2: CIPHER FEEDBACK (CFB) OPERATIONS

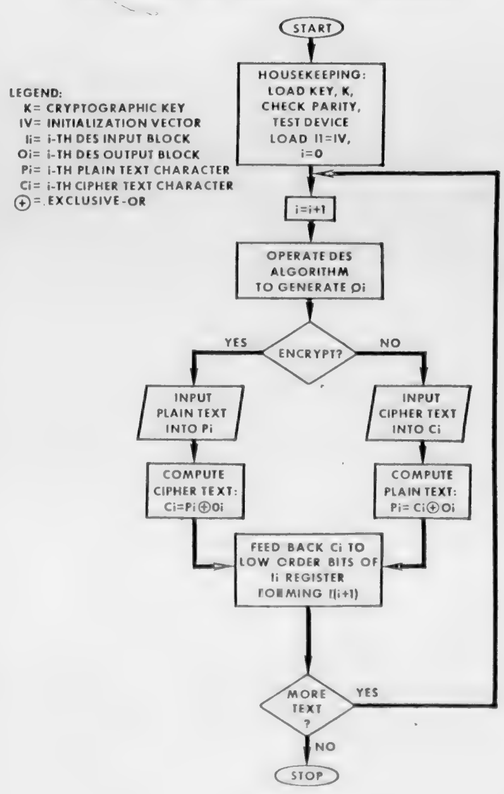

APPENDIX D

EXAMPLES OF AUTHENTICATION-ONLY MODE

DES MODES OF OPERATION

AN EXAMPLE OF THE AUTHENTICATION-ONLY MODE USING CBC

The CBC mode in the encrypt state has been selected.

For this example, the MID structure is a 48-bit binary counter which has been initialized to a pseudorandom value concatenated with sixteen zeros. Note that the first "plain text" block is all zeros; this is done to force the first DES input block to be equal to the MID in the CBC authentication mode. The last plain text block is padded to sixty-four bits with zeros on its right. The MID and the plain text are communicated unencrypted along with the MAC to the data destination. For this example, a 32-bit MAC has been selected. The plain text is the ASCII code for "Now is the time for ." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1).

Cryptographic Key = 0123456789abcdef

Initialization Vector = 00006aa103b28f99

TIME	PLAIN TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK
1	0000000000000000	00006ac103b28f99	efd5218cc2439930
2	4e6f772069732074	a1ba56acab30b244	40f0a1601d7547c9
3	6865207469 6d6520	2895811474 1822e9	b50a378f6058b74a
4	666f722000000000	d36145af6058b74a	7ab019e4dd481bca => MAC = 7ab019e4

MESSAGE TEXT:

MID	TEXT	MAC
00006ac103b28f99	4e6f772069732074686520746965206f722074207ab019e4	

UMI 0 8 2 2 Y M 5 4 V

DES MODES OF OPERATION

AN EXAMPLE OF THE AUTHENTICATION-ONLY MODE USING 8-BIT CFB

The 8-bit CFB mode in the encrypt state has been selected. For this example the MID structure consists of a 32-bit date-time code concatenated with a 32-bit, one-up binary counter. The date-time code designates the year (0), day of the year (003), hour of the day (10 or 1000 hours), and minutes (15). This value is used to uniquely identify the cryptographic period. The binary counter has been initialized to 00000001; it is incremented by "1" for each message to be authenticated within the same DES key period. A 24-bit MAC was selected for this example. The plain text is the ASCII code for "Now is the time for." These seven-bit characters are written in hexadecimal notation (0,b7,b6,...,b1). The ⊕ represents bit-by-bit, modulo-2 addition.

Cryptographic Key = 0123456789abcdef
Initialization Vector = 0003101500000001

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK	P	⊕	B	= C
1	0003101500000001	973c7b54e5bdd4de	4e	⊕	97	= d9
2	031015000000001d9	bde39a43bf3f2258	6f	⊕	bd	= d2
3	101500000001d9d2	1998d46fe4175d64	77	⊕	19	= 6e
4	150000000 1d9d26e	5ggf40f5124917fa	20	⊕	5d	= 7d
5	00000001d9d26e7d	09342c9870b4fa85	69	⊕	09	= 60
6	000001d9d26e7d60	ffedd50c4e72814e	73	⊕	ff	= 8c
7	0001d9d26e7d608c	3f873ff6e2e4cd39	20	⊕	3f	= 1f
8	01d9d26e7d608c1f	724f0467a5fffdeb	74	⊕	72	= 06
9	d9d26e7d608c1f06	9ec1876a54493a52	68	⊕	9e	= f6
10	d26e7d608c1f0616	01a5d88bc472bcdd	65	⊕	01	= 64
11	6e7d608c1f06f664	0b6f90a412246a54	20	⊕	0b	= 2b
12	7d608c1f06f6642b	992db95a018d921f	74	⊕	99	= ed
13	608c1f06f6642bed	95c9b701a4681991	69	⊕	95	= fc
14	8c1f06f6642bedfc	b2e4f4318882ea59	6g	⊕	b2	= df
15	1f06f6642bedfcdf	6dfff2d406ea81de	65	⊕	6d	= 08
16	06f6642bedfcdf08	43148a850bd66dc8	20	⊕	43	= 63
17	f6642bedfcdf0863	a26e7ae9815d7b60	66	⊕	a2	= c4
18	642bedfcdf0863c4	57d8cc81837534g9	6f	⊕	57	= 38
19	2bedfcdf0863c43B	560cc6c949bb350	72	⊕	56	= 24
20	edfcdf0863c43824	63113f72a8a09991	=> MAC	=	63113f	

MESSAGE FORMAT:

MID	TEXT	MAC
0003101500000001	4e6f772069732074686520546573742e	63113f

APPENDIX E

RECOMMENDATIONS FOR
DES IV MANAGEMENT

The security of a CFB or CBC implementation depends, inter alia, upon cryptographic synchronization procedures. For these modes of operation, this means proper management of the DES initialization vectors (IVs). IV management encompasses the generation, distribution, protection, usage, and disposal of initialization vectors.

At least one standard (*) currently under development is specifying security requirements for CFB and CBC IVs in telecommunication environments. It is conceivable that a special application standard may need to tailor IV management to fit a particular set of application requirements in order to make the standard reasonably efficient as well as effective.

This standard on the modes of operation does not mandate specific techniques in IV management. This standard specifies only those requirements which are essential for unambiguously describing the mechanics needed to implement the modes of operation.

The following suggestions are recommended as preliminary guidelines which may be used until the publication of official guideline(s) or standard(s) in the area of IV management.

* Proposed Federal Standard 1027; Telecommunications: Security Requirements for Use of the Data Encryption Standard; 4 September 1979, 18 pages.

CBC IVs:

The CBC IV consists of sixty-four binary digits. A single IV may be used throughout an entire CBC cryptographic period, however, this IV should be protected from disclosure. CBC IVs should not be repeated across cryptographic periods (same key) with a probability greater than 2 to the (-64). A 64-bit random or pseudorandom generation technique will satisfy this characteristic.

CFB IVs:

CFB IVs consist of 64 binary digits. As with other DES additive stream ciphers, it is desirable that CFB IVs change as frequently as possible in order to insure a unique additive stream to protect the plain text. CFB IVs should not repeat within a specific cryptographic period or across different cryptographic periods with a probability greater than 2 to the (-48). As a corollary, CFB IVs may only contain a maximum of sixteen fixed bits. A 48-bit random or pseudorandom process is sufficient to satisfy this property. CFB IVs do not need to be protected from disclosure, i.e., they may be transmitted unencrypted through an unsecured channel.

B. THE OUTPUT-BLOCK FEEDBACK (OFB) MODE

(This section is not a part of the proposed standard. This mode is being considered for inclusion as an integral part of the final standard. Comments are solicited on its technical content and suitability for inclusion in the final standard. Terms used in this section are defined in Document A accompanying this notice.)

The output-block feedback (OFB) mode is an additive stream cipher in which cipher text garbles do not cause additional errors in the decrypted plain text.

To commence OFB operations, a 64-bit initialization vector (IV) is processed through a Data Encryption Standard (DES) device operated in the encrypt state. The IV is right-justified in the DES input block with any zero fill on its left. The least significant bit (LSB) of the IV is aligned with the LSB of the DES input block; other IV bits are placed to the left of the LSB in increasing order of significance. For OFB encryption (decryption), the DES output block is exclusive-ORed with the first plain (cipher) text character to form the cipher (plain) text. The entire DES output block is fed back to the DES input block. The I-th bit, I = 1,2,...,64, of the output block at time t becomes the I-th bit of the input block at time t+1. The second output block is generated in order to process the second OFB character. The OFB operation continues in this manner until the entire "message" is encrypted or decrypted.

An OFB "character" length may be from 1 to 64 bits. The leftmost or the high-order bits of the DES output block are used in the exclusive-OR operation for encryption or decryption. The DES is operated once for each character that is processed. For example, if the plain text data is k bits, (D1,D2,...,Dk) 0<k<65, and the output block is (O1,O2,...,O64), then the cipher text resulting from the exclusive-OR operation is defined by (C1,C2,...,Ck) = (D1 ⊕ O1,D2 ⊕ O2,...,Dk ⊕ Ok).

In OFB, all sixty-four bits of the DES output block at time t are fed back to define the DES input block at time (t+1). These feedback bits are completely independent of all plain text and all cipher text. As a result, there is no error extension characteristic associated with OFB cipher text errors as is the case in the CBC and CFB modes of operation. Errors in the decrypted plain text will correspond directly to the number and location of errors in the cipher text.

The security of an OFB system is affected, inter alia, by the proper management of OFB IVs. A unique IV for each OFB "message" within a cryptographic period avoids a repetition problem with the additive stream. Uniqueness can be achieved, for example, through the use of a one-up binary counter. However, it is also desirable to avoid repeating with high probability a fixed DES input-block value across different key periods. Consequently, a unique cryptographic period identifier could be concatenated to a unique message identifier to form an OFB IV. Another OFB IV technique would be to use a random start on a large binary counter, e.g., 32 bits. Since exhausting the range of a counter within a cryptographic period defeats the purpose of the random start, it is recommended that only a small segment, say much less than 5%, of the total range of the counter should be used in any single key period.

Still a third approach to this problem is to exclusive-OR a one-up counter with a 64-bit, random or pseudorandom value which is generated or provided at the beginning of each new key period and is used for the duration of the key period.

OFB IV synchronization messages should be protected from bit manipulation, insertion of bogus messages, and the deletion or replay of valid service messages. These synchronization messages should be at least authenticated if not encrypted.

The OFB mode has a potential security problem in that it is susceptible to a substitution attack in an active threat environment under a known plain text assumption. If a DES user is concerned about this problem, then a secure, not secret, error detection code (EDC) or some equivalent process should be encrypted along with the plain text. The authentication-only mode provides one way of generating a secure EDC.

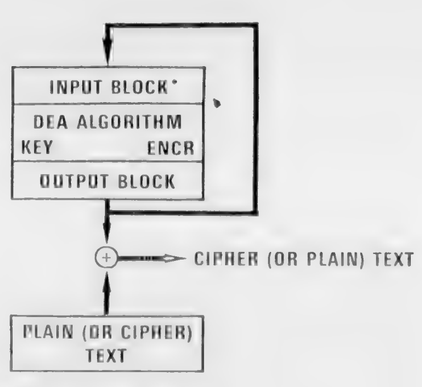

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DES MODES OF OPERATION

AN EXAMPLE OF THE ONE-BIT OUTPUT-BLOCK FEEDBACK (OFB) MODE

The 1-bit OFB mode in the encrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

The plain text is the ASCII code for "the." These seven-bit characters are written in binary as (0,b',b6,...,b1). The DES input and output blocks are written in hexadecimal notation. The ⊕ represents bit-by-bit, modulo-2 addition.

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK	P	⊕	O	=	C
1	1234567890abcdef	3494ccf2bda243a6	0	⊕	0	=	0
2	3494ccf2bda243a6	1281a088277e62cd	0	⊕	0	=	0
3	1281a088277e62cd	7170c97b3462227b1	1	⊕	0	=	1
4	7170c97b3462227b1	3a3158a41d176df1e	0	⊕	0	=	0
5	3a3158a41d176df1e	19db2db28422e81d	0	⊕	0	=	0
6	19db2db28422e81d	a1db44cd90ad192d	1	⊕	0	=	1
7	a1db44cd90ad192d	2d1a0d91c009acd5	1	⊕	0	=	1
8	2d1a0d91c009acd5	28655a9cc6560035f	0	⊕	0	=	0
9	28655a9cc6560035f	294ed4236f1752171	0	⊕	0	=	0
10	294ed4236f1752171	54bcb378e31d6722	0	⊕	0	=	0

APPENDIX B

EXAMPLES OF THE EFFECT OF CIPHER TEXT ERRORS

DES MODES OF OPERATION

CIPHER TEXT ERRORS AND THE OFB MODE

The 64-bit OFB mode in the decrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

The plain text is the ASCII code for "Now is the time for all." These seven-bit characters are written in hexadecimal notation (0,b',b6,...,b1). The ⊕ represents bit-by-bit, modulo-2 addition. A single error in the 8th character in the first cipher text block has been changed to "d3" instead of the correct value "db". This change results in the last bit of the last character in the first plain text block to be in error.

TIME	CIPHER TEXT	DES INPUT BLOCK	DES OUTPUT BLOCK	PLAIN TEXT
1	7efbbbd2d4d165d3	1234567890abcdef	3494ccf2bda243a6	4e6177206973 2075
2	7ea9801c4a1307ed	3494ccf2bda243a6	1281a088277e62cd	6865207469 7 6d20
3	171fbb5b550a4b91	1281a088277e62cd	7170c97b3462227b1	6661722061 7c6c20

APPENDIX A

EXAMPLES OF THE OUTPUT-BLOCK FEEDBACK MODE

DES MODES OF OPERATION

AN EXAMPLE OF THE 8-BIT INPUT-BLOCK FEEDBACK (OFB) MODE

The 8-bit OFB mode in the encrypt state has been selected.

Cryptographic Key = 0123456789abcdef

Initialization Vector = 1234567890abcdef

The plain text is the ASCII code for "the." Now is the." These seven-bit characters are written in binary as (0,b',b6,...,b1). The DES input and output blocks are written in hexadecimal notation. The ⊕ represents bit-by-bit, modulo-2 addition.

TIME	DES INPUT BLOCK	DES OUTPUT BLOCK	P	⊕	O	=	C
1	1234567890abcdef	3494ccf2bda243a6	4e	⊕	34	=	7a
2	3494ccf2bda243a6	1281a088277e62cd	61	⊕	12	=	73
3	1281a088277e62cd	7170c97b3462227b1	20	⊕	71	=	51
4	7170c97b3462227b1	3a3158a41d176df1e	74	⊕	20	=	54
5	3a3158a41d176df1e	19db2db28422e81d	68	⊕	39	=	70
6	19db2db28422e81d	afdb44cd90ad192d	65	⊕	73	=	dc
7	afdb44cd90ad192d	2d1a0d91c009acd5	20	⊕	af	=	0d
8	2d1a0d91c009acd5	28655a9cc6560035f	74	⊕	2d	=	2c
9	28655a9cc6560035f	294ed4236f1752171	68	⊕	28	=	4f
10	294ed4236f1752171	54bcb378e31d6722	65	⊕	54	=	31

[FR Doc. 80-15687 Filed 5-21-80; 8:45 am]
BILLING CODE 3510-13-C

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, June 10, 1980, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. May 15, 1980.

Charles H. Atherton,

Secretary.

[FR Doc. 80-15745 Filed 5-21-80; 8:45 am]

BILLING CODE 6330-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Revision of new system of records.

SUMMARY: The purpose of this document is to announce revisions in the Consumer Producer Safety Commission's Field Work Tracking System, CPSC–20, as published at 44 FR 71857, December 12, 1979.

DATES: These revisions are effective May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, Telephone (202) 634–7770.

SUPPLEMENTARY INFORMATION: On December 12, 1979 the Consumer Product Safety Commission published its intent, at 44 FR 71857, to create a new Privacy Act System of Records, entitled Field Work Tracking System—CPSC–20, and solicited comments to be received on or before February 11, 1980.

Certain revisions to the system description have been made as a result of comments received.

One comment was received from an interested citizen and seven from CPSC Area Office employees or groups of employees.

The interested citizen suggested that the system be expanded to track the payroll costs of each work assignment. This suggestion was not adopted because the Commission has other means of tracking project costs.

All other commentors objected to the use of the CPSC employee identification number as a record identifier on the grounds that such use would permit access to an individual's records by a large number of other employees, most of whom would have no need for such access in the performance of their duties. The system has accordingly been modified, as reflected by revisions in the Categories of Records and Safeguards sections of the System Notice, by replacing the regular CPSC employee identification numbers with special identification numbers for use in this system. Those numbers are known only to a limited number of people, not including other staff members performing work assignments covered by the system or supervisors in other Area Offices.

The Commission has not complied with the request of some commentors that access to individual employee data be limited to an employee's first line supervisor, because higher level supervisors and certain other employees have a legitimate need for access to that data also.

One commentor pointed out that the completion date entered in the system would not accurately reflect an employee's performance in meeting target dates because of typing and supervisory review delays not under the employee's control. The system has accordingly been modified, as reflected by revisions in the Categories of Records section of the System Notice, by redefining what was formerly an interim date as the "date employee submitted report to supervisor for review and typing," and redefining what was formerly a completion date as the "date typed report is endorsed by supervisor."

Some commentors noted that any employee performing work assignments covered by the system could tamper with the computer records of any other such employee. The possibility of that happening is greatly reduced since the only persons who will know the identification of any other such employee will be those persons who have a legitimate need to have access to that information. In addition, as reflected in additional language in the Safeguards section, such employees will not ordinarily be able to add to or alter such records because additional passwords are required to enter or alter computer records and are only issued to specially designated persons. An additional safeguard against inaccurate data is the fact, now noted in the Safeguards section, that all employees can gain access to the computer data pertaining to themselves. Employees will be encouraged to review their data at least once a month and report any errors.

Some commentors objected generally to the implementation of the system because it fails to take account of quality of work performed, priority assignments, sick leave taken, and other non-quantitative factors relevant to characterizing employee performance. These commentors also objected to possible use of the system to prescreen applicants for transfers or promotions.

The Commission realizes that no kind of quantitative or numerical data about employees can fully characterize their performance, but equally believes that it is impossible to characterize employee performance without quantitative data. Employee performance evaluations are primarily the responsibility of the first line supervisors who are most aware of and most able to take account of the various non-quantitative attributes of an employee's work. The system will not be used as the only factor to prescreen or disqualify any person eligible for transfer or promotion. It will only be used as one of many factors to be considered in a thorough evaluation process. For these reasons the Commission will implement the Field Work Tracking System, as revised.

The Commission is also correcting the addresses of two of the Area Offices listed in Appendix I. For convenience of the reader, the entire system description, as revised, is being republished.

Since the revisions do not expand the system in any way or alter the routine uses previously published, the revised system of records will be effective May 22, 1980.

Dated: May 19, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

CPSC–20

SYSTEM NAME:

Field Work Tracking System CPSC–20.

SYSTEM LOCATION:

Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Washington, D.C. 20207, and the Area Offices listed in Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional, non-managerial, staff members of CPSC Area Offices who are

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performing work assignments covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information on work assignments performed by CPSC Area Offices. The data included are: an identification number of the assigned employee; assignment identification number; organizational unit initiating the assignment and Area Office performing the assignment; program, project and activity codes; assignment date; target completion date; date employee submitted report to supervisor for review and typing; date typed report is endorsed by supervisor; number of activities performed; actual hours required to complete the assignment; and a narrative description of the assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2051 et seq.; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or a compilation of these records, are used by the Directorate for Field Operations and its Area Offices as a management aid to:

(a) Track the status of field assignments

(b) Track the progress against planned goals

(c) Compare Area Office performance

(d) Identify resource allocation deficiencies

(e) Provide reports to top level CPSC management on field accomplishment

In addition, within each Area Office, the Area Office management will use the records, or a compilation of information from the records, to:

(a) Assure efficient distribution of assignments to employees

(b) Track employees' ability to meet target dates in relation to performance standards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer magnetic media. Hard copies of the records are stored at the Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Bethesda, Maryland 20207, and the Area Offices listed in Appendix I.

RETRIEVABILITY:

The records may be retrieved by any one or any combination of the data items.

SAFEGUARDS:

Access to the computer data is restricted to Area Office personnel and Field Operations Directorate staff at Headquarters through the use of computer access passwords. The system identification number for an Area Office staff member is known only to that person, that person's supervisors and Area Office Director, Area Office clerical staff involved in operating the system, the Associate Executive Director for Field Operations, the head of the Directorate's operations staff, and the program analyst with operational responsibility for the system. Any Area Office staff member can gain access to the computer data pertaining to himself or herself. Special passwords are required to enter or change computer data and are issued only to persons designated by Area Office directors.

Hard copies of the records are kept in lockable file drawers.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director for Field Operations, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Same as System Manager

RECORD ACCESS PROCEDURES:

Same as System Manager

CONTESTING RECORD PROCEDURES:

Same as System Manager

RECORD SOURCE CATEGORIES:

Information in this system of records comes from employees performing the recorded assignments and their supervisors.

Appendix I

Area Offices:

Atlantic Area Office, 1330 West Peachtree Street, N.W., Atlanta, Georgia 30309.
Boston Area Office, 100 Summer Street, 16th Floor, Room 1607, Boston, Mass. 02110.
Chicago Area Office, 230 S. Dearborn Street, Room 2945, Chicago, Illinois 60604.
Cleveland Area Office, Plaza Nine Building, Room 520, 55 Erie View Plaza, Cleveland, Ohio 44114.
Dallas Area Office, 1100 Commerce Street, Room 1C10, Dallas, Texas 75242.
Denver Area Office, Suite 938, Guaranty Bank Bldg., 817 17th Street, Denver, Colorado 90202.
Kansas City Area Office, Suite 1000, Midland Building, 1221 Baltimore Avenue, Kansas City, Missouri 64105.
Los Angeles Area Office, 3660 Wilshire Boulevard, Suite 1100, Los Angeles, California 90010.
Twin Cities Area Office, Metro Square, Suite 580, 7th and Robert, St. Paul, Minnesota 55101.
New York Area Office, 6 World Trade Center, Vesey Street, 6th Floor, New York, New York 10048.
Philadelphia Area Office, 10th Floor, 400 Market Street, Philadelphia, PA 19106.
Seattle Area Office, Federal Building, Room 3240, 915 Second Avenue, Seattle, Washington 98174.
San Francisco Area Office, 555 Battery Street, Room 416, San Francisco, Calif. 94111.

[FR Doc. 80-15773 Filed 5-21-80; 8:45 am]

BILLING CODE 6355-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Request for Comments and Notice of Public Meeting on Integrated Pest Management; Draft Report to the President

AGENCY: Council on Environmental Quality, Executive Office of the President

ACTION: Request for comments and notice of public meeting on a Draft Report to the President on the federal role in Integrated Pest Management (IPM).

SUMMARY: In his August 1979 Environmental Message, the President stated, "The Federal government—which spends more than $200 million a year on pest control research and implementation programs—should encourage the development and use of integrated pest management (IPM) in agriculture, forestry, public health and urban pest control." The President directed federal agencies to review their existing pest management activities, to support and adopt IPM strategies wherever practicable, and to coordinate their efforts through an interagency committee chaired by the Council on Environmental Quality.

This Interagency IPM Coordinating Committee was directed to report to the President by June 30, 1980 on progress made by federal agencies in the advancement of integrated pest management and on any institutional barriers thereto. The Committee has prepared a draft report to the President, and determined that, in order to have the benefit of public opinion on its findings and recommendations, the draft report should be made available for review and comment prior to submitting a final version to the President. While the Committee urges all interested parties to provide written comments, provision has also been made for a public meeting if individuals wish to make oral comments as well.

DATES: All comments must be received by June 23, 1980. A public meeting will be held, if sufficient interest is expressed, on Monday , June 23, at 9:00 a.m., in the Jefferson Auditorium, first floor, South Agriculture Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. Persons wishing to speak should notify the Council as soon as possible by sending a post card or letter to the address given below.

ADDRESS: Persons wishing to comment should request copies of the Draft Report to the President on Integrated Pest Management from: Ms. Odelia Doggette, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006. To save time, requests can be made to Ms. Doggette by telephone; the number is 202/395-4540. Persons wishing to speak at the public meeting should notify Ms. Doggette at the same address or telephone number, giving their name, address, telephone number and the name of any organization they will be representing. Speakers should plan to limit their remarks to approximately 10 minutes, and are encouraged to provide written copies of their statements at the hearing. The meeting room may be changed in response to the level of public interest; if a change is made, speakers will be notified in advance.

Written comments must be received by the Council not later than June 23, 1980. Comments should be sent to: Mr. Robert B. Smythe, Senior Staff Member for Natural Resources, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Smythe or Dr. Allen Steinhauer at the above address; their telephone number is 202/395-4540.

Dated: May 19, 1980.

Edward L. Strohbehn, Jr.,

Executive Director.

[FR Doc. 80-15737 Filed 5-21-80; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Continued Withdrawal and Exclusive Jurisdiction Over Bravo-20 Weapons Test Range, Naval Air Station, Fallon, Churchill County, Nev.; Finding of No Significant Impact

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act (Part 1508.13 of Title 40 CFR), the Department of the Navy gives notice that an environmental impact statement is not being prepared for the continued withdrawal and exclusive jurisdiction over the BRAVO-20 Weapons Test Range at Naval Air Station, Fallon, Nevada. The Navy has utilized the range through leaseholds at 5-year increments since 1950. The present segregation for naval use of the lands in question, except for the private lands noted below, expires in 1980.

Under provisions of the Federal Land and Policy Management Act of 1976, withdrawal actions for the BRAVO-20 range cannot be extended and jurisdiction must be transferred to that Department, Bureau or Agency having use for the land. No new "uses" are authorized by this action and any alterations from the land's present state are to be addressed in subsequent, site-specific environmental documentation.

The BRAVO-20 range includes 21,600 acres of Bureau of Land Management (BLM) lands and 19,430 acres of interspersed privately owned (Southern Pacific) land. These latter parcels are to be separately acquired by purchase. Approximately at the center of these combined lands, naval aerial, gunnery-related test and development projects are conducted on about 8,000 acres or 20 percent of the total acreage.

The remainder of the range remains in its "natural," state and serves as a safety zone mandated by the operational characteristics of modern combatant aircraft.

The Environmental Assessment of this action, accomplished in close cooperation with the Bureau of Land Management, U.S. Department of the Interior, indicates that continued withdrawal and Navy jurisdiction over the lands in question will not cause significant impacts on the environment. Studies completed and primarily addressing the "affected" 8,000 acres included: topography, geology, hydrology, air quality, cultural resources, biological resources, land use, socioeconomic aspects, public health and safety, and aesthetic impacts. Alternatives included: no action, or reversion to public land status, enlarging or reducing the withdrawal area, relocation to other existing ranges, or creation of new and equivalent ranges in a new area. Of the alternatives addressed, the proposed continued withdrawal alternative is considered to have the least environmental impact. By virtue of the Navy's continued stewardship, most of the land in question has the greatest potential to remain in its undisturbed state.

As a result of the assessment and consultation with the Federal and state land management agencies involved, it has been determined that preparation and review of an environmental impact statement is not required.

The Environmental Assessment prepared by the Navy addressing this action is on file and may be reviewed by interested parties at both the point of origin, Commander, Naval Air Station, Fallon, NV 89406 (attention: Public Works Officer); or at the Environmental Protection and Occupational Safety and Health Division (NOP-45), Office of the Chief of Naval Operations, RM BD-766, Pentagon, Washington, D.C. 20350 (202) 697-3668. Additionally, a limited number of copies of the Environmental Assessment are available to fill single-copy requests. The Navy will receive comments on this proposed action for a 30-day period (on or before June 20, 1980) commencing on the date this notice appears in the Federal Register.

Dated: May 14, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-15630 Filed 5-21-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board Review Panel on ASW; Advisory Committee Meeting

An ASW Review Panel under the Defense Science Board will meet in closed session on 25 June 1980 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Rearch and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The ASW Review Panel will review the technical aspects of ASW programs in the 25 June meeting.

In accordance with 5 U.S.C. App 1 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 19, 1980.

[FR Doc. 80-15642 Filed 5-21-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Cruise Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on June 18 and 19, 1980 at Strategic Air Command, Offutt Air Force Base, Nebraska.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning cruise missile navigation and testing.

In accordance with 5 U.S.C. App I § 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 19, 1980.

[FR Doc. 80-15640 Filed 5-21-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on ECM; Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session 12–13 June 1980 at the Pentagon in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic countermeasures.

In accordance with 5 U.S.C. App. 1 § 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 19, 1980.

[FR Doc. 80-15641 Filed 5-21-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Office of the Assistant Secretary for Postsecondary Education

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the fourteenth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: June 19–20, 1980, 9:00 am to 5:00 pm.

ADDRESS: Howard University, Armour J. Blackburn University Center, Washington, D.C. 20059.

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Suite 702–6, 1100 17th Street, N.W. Washington, D.C. 20036, AC 202 653–7558.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

This Committee was established to examine all approaches to the higher education of Black Americans as well as the historically Black colleges and universities. Originally scheduled to expire on June 30, 1980, Secretary Hufstedler has announed her intention to extend the Committee so that the Education Department may continue to benefit from the Committee's recommendations.

The meeting on June 19–20, 1980, will be open to the public beginning at 9:00 am each day. The meeting will be held at Howard University, Armour J. Blackburn University Center, West Ballroom, Washington, D.C. 20059.

The proposed agenda will include a review of the reports on the Long Range Plan to enhance opportunities for Blacks in higher education, and Access, Opportunity for Success, and Diversity—The Necessary System Supports; review of commissioned research reports on "The Problems of Low-Income/Black Students in Higher Education: A Community Perspective" and "Policy and Its Development—An Examination of the Involvement of Private Corporate Entities in Philanthropy to Black Higher Education and Black Colleges"; and a discussion of the Committee's plans to study the impact of current trends in higher education on Black Americans.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 1100 17th Street, N.W., Suite 702–6, Washington, D.C. 20036.

Signed at Washington, D.C. on May 19, 1980.

Carol J. Smith,

Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc. 80-15683 Filed 5-21-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Extension and Continuing Education; Amendment

The notice of a meeting of the National Advisory Council on Extension and Continuing education, published in the **Federal Register** May 5, 1980 (page 29638) is hereby amended to include the following details which had to be rescheduled to accommodate panelists and speakers invited by the Council to participate in its meeting.

1. The Council meeting will begin on May 21, 1980 at 2:00 p.m. in the Treaty Signing Room, Old Executive Office Building, Washington, D.C. The agenda includes a briefing on the Council meeting schedule and meetings of the Council's four ad hoc committees.

A Council dinner meeting will be held at 7:30 p.m. in the Assembly Room of the Washington Hotel, Fifteenth Street and Pennsylvania Avenue, N.W., Washinton, D.C., followed by a CLOSED MEETING for Council's evaluation of the Executive Director.

2. On May 22, 1980 the Council will reconvene its meeting in the Treaty Signing Room, Old Executive Office Building, from 9:00 a.m. to 4:00 p.m. Luncheon and dinner meetings will be conducted at 12:00 Noon and 7:30 p.m., respectively, in the Federal Room of the Washington Hotel.

The agenda for May 22 includes panel discussions and presentations by Congressional staff and members of the Education Department.

3. The final session of the Council's meeting will begin at 9:00 a.m. on May 23, 1980, in the Treaty Signing Room, Old Executive Office Building. Included on the agenda are reports from ad hoc committees and other Council business. The Council's meeting is scheduled to adjourn at 11:30 a.m.

Dated: May 19, 1980.

William G. Shannon,

Executive Director.

[FR Doc. 80-15684 Filed 5-21-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Sec. 10(a)(2)).

DATES: June 18, 1980, 7:00 p.m. to 10:00 p.m., Executive Committee Meeting: June 19–20, 1980, 9:00 a.m. to 5:00 p.m., June 21, 1980, 9:00 a.m. to 12:00 p.m.

ADDRESS: Hotel Washington, 15th and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Orientation Activities for New Members.

Oath of Office Ceremonies.

Standing Committee Reports.

September Council Meeting and Public Hearing Structure.

Election of Officers (10:30 a.m.—June 21, 1980).

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on May 15, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-15744 Filed 5-21-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF ENERGY

Resource Applications, National Petroleum Council Subcommittee on Unconventional Gas Sources; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

NAME: Subcommittee on Unconventional Gas Sources of the National Petroleum Council.

DATE AND TIME: Tuesday, June 10, 1980, 2:30. p.m.

PLACE: International Club of Washington, 1800 K Street, N.W., Asian Room, Washington, D.C.

CONTACT: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building—Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

PURPOSE OF PARENT COMMITTEE: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

TENTATIVE AGENDA:

- Introductory remarks by the Subcommittee's Chairman and Government Cochairman.
- Review and discuss three draft volumes for issuance as an interim report:
  - Coal Seams.
  - Devonian Shale.
  - Geopressured Brines.
- Progress report of the Tight Gas Reservoirs Task Group.
- Discussion of any other matters pertinent to the overall assignment of the Subcommittee on Unconventional Gas Sources.
- Public Comment (10 minute rule).

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Subcommittee is impowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

TRANSCRIPTS: Available for public review and copying at the Freedom of Information Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 15, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-15762 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-01-M

Resource Applications, National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

NAME: National Petroleum Council.

DATE AND TIME: Wednesday, June 11, 1980, 9:00 a.m.

PLACE: Department of Energy, 1000 Independence Avenue, S.W., James Forrestal Building Auditorium, Washington, D.C. 20585.

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CONTACT: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

PURPOSE OF COMMITTEE: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

TENTATIVE AGENDA:

- Call to Order by C. H. Murphy, Jr., Chairman, National Petroleum Council.
- Remarks of the Honorable Charles W. Duncan, Jr., Secretary of Energy.
- Reports of the Subcommittees of the National Petroleum Council.
- Subcommittee on Refinery Flexibility (Progress Report).
- Subcommittee on Unconventional Gas Sources (Interim Report).
- Consideration of Administrative Matters.
- Discussion of any other business properly brought before the National Petroleum Council.
- Public Comment (10 minute rule).

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

TRANSCRIPTS: Available for public review and copying at the Freedom of Information Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

EXECUTIVE SUMMARY: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on May 15, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-15761 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Biglane Operating Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administation, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective date April 18, 1980.

COMMENTS BY: June 23, 1980.

ADDRESS: Send comments to: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Telephone (404) 881–2661.

SUPPLEMENTARY INFORMATION: April 18, 1980 the Office of Enforcement of the ERA finalized a Consent Order with Biglane Operating Company, a Natchez, Mississippi, crude producer. The Consent Order was actually signed by Biglane Operating Company on August 16, 1979. Under 10 CFR Section 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution. Because of the settlement negotiations involved in this case and the desire to conclude this matter expeditiously, the DOE has determined that it is in the public interest to make the Consent Order with Biglane Operating Company effective as of the date of its execution by the DOE and Biglane Operating Company.

I. The Consent Order

Biglane Operating Company (Biglane), with its home office located in Natchez, Mississippi, is a crude oil producer, and is subject to the jurisdiction of the DOE with regard to prices charged in sales of crude oil, pursuant to 10 CFR Section 212.93. To resolve certain civil actions which could be brought by the Office of Enforcement of the ERA as a result of its audit of Biglane, the Office of Enforcement, ERA, and Biglane entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to production and sales of crude oil by Biglane during the period September 1, 1973 through December 31, 1976.

2. From the audit conducted during the above period, the Office of Enforcement concluded that Biglane erroneously classified properties so that crude oil production was sold as either stripper well oil or new oil in violation of applicable DOE pricing regulations.

3. Biglane agrees to refund the total sum of $65,701.07, plus applicable interest, in full settlement of all outstanding overcharges found by DOE during the audit period. Payments shall be in the form of a certified check submitted to the Assistant Administrator for Enforcement, ERA, Washington, D.C., who will ensure distribution in accordance with current DOE policies and procedures.

4. The Consent Order provides that Biglane shall make refunds totalling $65,701.07, plus applicable interest, within a three (3) year period of time from the date of execution of the Consent Order. If the total sum is not repaid within three (3) years, Biglane, shall repay with certified check, the remaining overcharges and interest by paying an equivalent sum to the Assistant Administrator for Enforcement.

5. The Consent Order further provides that during the three (3) year rollback period, the overcharge amount and interest specified in paragraph 4, above, shall be repaid to the Assistant Administrator, ERA by the respective purchaser in accordance with Ancillary Orders issued by the ERA on April 18, 1980.

6. In the event of any permanent shut-it, abandonment or other permanent disposition of the properties specified in the Consent Order prior to three (3) years from the date of execution of the Consent Order, Biglane shall repay the remaining overcharges and interest by paying an equivalent sum to the Assistant Administrator for Enforcement.

7. The provisions of 10 C.F.R. Section 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In the Consent Order, Biglane agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. and I.2. above, the sum of $65,701.07, within three (3) years of execution of the Consent Order. Refund methodology will be as specified in I.3 through I.7 above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. Section 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 C.F.R. Section 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. Section 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to James C. Easterday, District Manager of Enforcement, 1665 Peachtree Street, N. E., Atlanta, Georgia 30309. You may obtain a copy of this Consent Order with proprietary information deleted by writing to the same address.

You should identify your comments or writen notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Biglane Consent Order." Comments received by 4:30 p.m., local time on June 23, 1980 will be considered. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. Section 205.9(f).

Issued in Atlanta, Georgia on the 13th day of May 1980.

James C. Easterday,

District Manager of Enforcement.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-15644 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-01-M

Availability of the Draft Environmental Impact Statement, 230kV International Transmission Line, San Diego County, Calif., to Tijuana, Mex.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of availability of the Draft Environmental Impact Statement, DOE/EIS–0067, 230kV International Transmission Line, San Diego County, California to Tijuana, Mexico.

SUMMARY: The Department of Energy (DOE) announces the availability of a draft environmental impact statement, DOE/EIS–0067, 230kV International Transmission Line, San Diego County, California, to Tijuana, Mexico.

The proposed DOE action is the granting of a Presidential Permit for the construction, connection, operation and maintenance of 10 miles of a 230kV transmission line from Miguel Substation to the international border. The proposed project will connect the San Diego Gas & Electric (SDG&E) system with that of the Comision Federal de Electricidad (CFE) for the purpose of economic exchange of power and increasing reliability. Major environmental impacts involve visual changes, U.S. Border Patrol aviation safety, disturbance of rare and endangered plant species and cultural resources.

DATES: Written comments should be received at DOE by June 30, 1980, in order to ensure consideration in preparing the final environmental impact statement.

ADDRESSES: Written comments on the DEIS should be addressed to: Department of Energy, attention: Mr. James M. Brown, Jr., RG–751, Division of Power Supply and Reliability, 2000 M St., N.W., Room 4110, Washington, D.C. 20461.

FOR FURTHER INFORMATION YOU MAY CONTACT:

Ms. Linda Desell, NEPA Affairs Division, Office of Environment, Department of Energy, Room 4G–057, Forrestal Building, Washington, D.C. 20585, Phone: 202/252–4610.

Mr. J. Thomas Wolfe, Office of the General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6D–033, Washington, D.C. 20585, Phone: 202/252–6947.

Mr. William Yuen Lee, P.E., Environmental Impact Branch, Public Utilities Commission, 350 McAllister Street, San Francisco, California 94102, Phone: 415/557–1748.

SUPPLEMENTARY INFORMATION: San Diego Gas & Electric Company (SDG&E) filed an application with the Economic Regulatory Administration (ERA) for a Presidential Permit pursuant to Executive Order 10485, as amended. The SDG&E also filed an application with the California Public Utilities Commission (CPUC) for Certification of Public Convenience and Necessity, Cal. Pub. Util. Code 1001 and Cal. Pub. Util. Comm. Rule 17.1 and General Order No. 131B.

SDG&E has applied for a Presidential Permit to construct, operate and maintain a 230kV transmission Line across the U.S./Mexico border to interconnect with the electric power system of the Comision Federal de Electricidad. The proposed transmission line corridor covers 10 miles from SDG&E's Miguel Substation to the international border.

The DOE considers the issuance of the subject Presidential Permit to be a major Federal action significantly affecting the quality of the human environmental, within the meaning of the National Environmental Policy Act (NEPA). Therefore, the preparation of an Environmental Impact Statement (EIS) is required in accordance with 40 CFR 1502.3 *et seq.* Similarly, a determination has been made by the CPUC that this project may have a substantial adverse

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impact on the environment and the preparation of an environmental Impact Report (EIR) is required, pursuant to Cal. Pub. Res. Code 21100. To expedite the regulatory proceedings, DOE and CPUC have prepared the joint environmental document to meet the requirements of NEPA, California Environmental Policy Act, and the participating agencies' regulations.

The DOE published a notice of intent (44 FR 28714) on May 16, 1979, regarding the preparation of a draft EIS on the proposed international interconnection. Also, a public meeting was held by DOE and CPUC on Thursday, May 24, 1979, to obtain information from all interested parties regarding the scope of the environmental impacts.

The DEIS addresses the potential impact of the construction and operation of a 230kV transmission line. In addition, the potential long-range and cumulative impacts of possible future international transmission lines are discussed.

The range of alternatives addressed in the DEIS includes the no-action alternative, conservation of electricity, purchase power from other U.S. sources, and additional generating capacity. In addition, alternative transmission corridors are addressed.

COMMENT PROCEDURES: Copies of the DEIS have been distributed to Federal, state and local agencies, organizations and to individuals known to be interested in the proposed transmission lines. Additional copies may be obtained from the Office of Utility Systems, Division of Power Supply and Reliability, Room 4110G, 2000 M St., N.W., Washington, D.C. 20461. (Phone: (202) 653–3825.

Copies of the DEIS are available for public inspection at the following locations:

Portrero County Library, 24955 Library Lane, Campo, CA 92006.
Poway County Library, 13284 Poway Rd., Poway, CA 92064.
Ramona County Library, 1406 Monteccito Rd., Ramona, CA 92065.
Santee County Library, 10515 Mission Gorge Rd., Santee, CA 92071.
Solana Beach County Library, 155 Hwy. 101, Solano Beach, CA 92075.
Spring Valley County Library, 1043 Elkelton, Spring Valley, CA 92077.
Woodlawn Park County Library, 155 Spruce Road, Chula Vista, CA 92011.
San Diego City Library, 800 E. St., San Diego, CA 92112.
San Diego City Library, East Park Avenue & East Sanyidro Blvd., Sanyidro, CA 92112.
San Diego County Library, 5555 Overloac, San Diego, CA 92112.

WRITTEN COMMENTS: Interested parties are invited to provide written comments on the DEIS to the Division of Power Supply and Reliability, 2000 M St., N.W., Room 4110G, Washington, D.C. 20461. Comments should be identified on the outside of the envelope with the designation "Draft EIS on the 230kV on the International Interconnection". In order to insure consideration in preparing the final statement, all comments and related information should be received by DOE by June 30, 1980.

Any information or data, considered by the person furnishing it to be confidential, must be so identified and submitted in writing. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the rights to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., May 9, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment, Department of Energy.

[FR Doc. 80-15643 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52414-9163-07-82]

Public Service Electric & Gas Co. of New Jersey; Notice and Issuance of Proposed Prohibition Order Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and Section 504.5(b), 10 CFR 500 *et seq.*, (Regulations), promulgated thereunder, of the issuance of the following proposed prohibition order which would prohibit the powerplant named below, (Burlington 7), from burning natural gas or petroleum as its primary energy source.

Proposed Prohibition Order

Pursuant to the authority granted by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplant owned by the Public Service Electric and Gas Company of New Jersey (Utility).

ERA case No.	Generating station	Powerplant No.	MW	Location
52414-9163-07-82	Burlington	7	195.5	Bulington, N.J.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing powerplants 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the Regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant, where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

ERA estimates that the potential oil displacement in converting the Burlington 7 to an alternate fuel (coal) is approximately 5,000 barrels of oil per day or 1,800,000 barrels annually assuming a utilization factor of 70 percent.

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that Burlington 7 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon documentation furnished to ERA by the Utility (Descriptive Material, No. 7 Unit, Burlington Generating Station, dated November 19, 1955) that describes in detail the coal burning capability of Burlington 7. Additionally, the unit burned coal from 1955 until 1971 when conversion to oil was initiated in response to action by the U.S. Environmental Protection Agency.

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of Burlington 7, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer. This finding also recognizes, in accordance with § 504.5(d), that Burlington 7 is capable of burning coal, notwithstanding the fact that minor adjustments must be made to the unit before it may burn an alternate fuel (coal) as its primary energy source, or that additional pollution control equipment may be necessary to meet air quality requirements.

Other Required Findings

Section 301(b) of FUA requires that prior to the issuance of a final prohibition order, ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant to use coal or another alternate fuel as a primary energy source.

Proposed Prohibition Order Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit Burlington 7 from burning petroleum or natural gas as its primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA must initially gather information with respect to the question of technical capability of a powerplant to burn an alternate fuel as its primary energy source. ERA may convene a conference with a utility in accordance with Section 501.32 of the regulations. If the powerplant has or previously had such capability the utility will be informed that ERA is considering issuance of a proposed prohibition order. In this case, ERA has made the required initial finding for the powerplant and has informed the Utility accordingly.

(2) If a decision is made to issue a proposed prohibition order, ERA must publish its technical capability finding and such proposed prohibition order in the **Federal Register** as required by Section 701(b) of FUA. ERA, having made the decision to issue a proposed prohibition order in this case, herein publishes the required technical capability finding and proposed prohibition order. In accordance with Section 301(b) of FUA, a proposed prohibition order is not required to contain, at this point in the proceeding, the other required findings that ERA must make before a final prohibition order can be issued.

(3) In accordance with Section 501.51(b)(3) of the Regulations, a public comment period of at least three months is to commence after publication of the proposed prohibition order, during which period the Utility will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order. During this three-month comment period, the Utility is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings which are required to be made by ERA prior to issuance of a final prohibition order. The Utility will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the powerplant may qualify.

(4) Subsequent to the end of the initial three-month comment period, ERA will issue a notice of whether it intends to proceed with the proposed prohibition order. Within three months of the issuance of the notice of intention to proceed with the proposed prohibition order, the owner or operator of the powerplant may demonstrate that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three-month period, ERA will, if it intends to issue the final prohibition order, prepare and publish a notice of availability of the tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order. Under the Regulations, interested persons wishing a hearing must make their request in writing no later than 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C, Part 501 of the Regulations.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed prohibition order and tentative staff decision, the Utility's showing on any exemptions and rebuttal of ERA's proposed prohibition order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three-month comment period, ERA shall determine whether the final prohibition order will be issued, based upon ERA's review of the entire administrative record. The final prohibition order, if issued, together with a summary of the basis therefore, will be published in the **Federal Register.** Such order shall not take effect earlier than sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding the proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of three months after publication of the proposed order in the **Federal Register**, unless reduced at the request of the recipient of the proposed prohibition order pursuant to § 501.51(b)(8). Notice of any such change during the time for public comment will be published in the **Federal Register.** Comments should make reference to the case number set forth in this notice and proposed prohibition order. Comments should address the adequacy and validity of the finding and any other aspects or impacts of the proposed prohibition order believed to be relevant.

Written comments on the proposed prohibition order in this case should be directed to Public Hearing Management (Case No. 52414–9163–07–82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, and should be received before 4:30 p.m. ninety days after the date of publication of this notice in the **Federal Register** (August 20, 1980).

In accordance with § 501.34, any interested person may request a public hearing on the proposed prohibition order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Burlington No. 7." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it, must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, (202) 653–4055.

Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128L, Washington, D.C. 20461, (202) 653–3649.

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Marx Elmer (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., May 16, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-15689 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 53146-3804-03-82]

Virginia Electric & Power Co., Richmond, Va.; Notice and Issuance of Proposed Prohibition Order Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 USC 8301 *et seq.*, and Section 504.5(b), 10 CFR 500 *et seq.*, (Regulations), promulgated thereunder, of the issuance of the following proposed prohibition order which would prohibit the powerplant named below (Possum Point 3) from burning natural gas or petroleum as its primary energy source.

Proposed Prohibition Order

Pursuant to the authority granted by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplant owned by the Virginia Electric and Power Company (Utility).

ERA case No	Generating station	Powerplant No	MW	Location
53146-3804-03-82	Possum Point	3	114	Dumfries, Va.

Statement of Basis and Rationale for Proposed Prohibition Order

Parts 504 of the Regulations, applicable to existing facilities, refers to implementation of the prohibition contained in Section 301(b) of Title III of FUA. Section 504.5 of the Regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternative fuel as a primary energy source.

The Utility reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ending December 31, 1978, that Possum Point No. 3 burned an average of 2225 barrels of oil per day (812,000 barrels annually). The potential oil displacement in converting Possum Point 3 to an alternate fuel (coal), assuming a capacity factor of 70 percent, is 3040 barrels of oil per day (1,110,000 barrels annually).

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERa that Possum Point 3 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon the information furnished to ERA by the Utility on FPC Form 67, that the unit actually burned coal until 1969, and a copy of the original contract data sheet for the unit, dated June 22, 1953, showing the design fuel to be utilized in the unit to be either bituminous coal or oil at the same capacity. A site visit made by the staff of ERA on January 7, 1980, confirmed that Possum Point 3 is technically capable of burning coal.

The technical capability finding is made in accordancw with the requirements of Section 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer. This finding also recognizes, in accordance with Section 504.5(d), that the unit is capable of burning coal, notwithstanding the fact that minor adjustments must be made to the unit before it may burn an alternate fuel (coal) as its primary energy source, or that additional pollution control equipment may be necessary to meet air quality requirements.

Other Required Findings

Section 301(b) of FUA requires that prior to the issuance of a final prohibition order ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant to use coal or another alternate fuel as a primary energy source in such powerplant.

Proposed Prohibition Order Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit Possum Point 3 from burning petroleum or natural gas as its primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA must initially gather information with respect to the question of technical capability of a powerplant to burn an alternate fuel as its primary energy source. ERA may convene a conference with a utility in accordance with § 501.32 of the regulations. If the powerplant has or previously had such capability the utility will be informed that ERA is considering issuance of a proposed prohibiton order. In this case, ERA has made the required initial finding for the powerplant and has informed the Utility accordingly.

(2) If a decision is made to issue a proposed prohibition order, ERA must publish its technical capability finding and such proposed prohibition order in the **Federal Register** as required by Section 701(b) of FUA. ERA, having made the decision to issue a proposed prohibition order in this case, herein publishes the required technical capability finding and proposed prohibition order. In accordance with Section 301(b) of FUA, a proposed prohibition order is not required to contain, at this point in the proceeding, the other required findings that ERA must make before a final prohibition order can be issued.

(3) In accordance with § 501.51(b)(3) of the Regulations, a public comment period of at least three months is to commence after publication of the proposed prohibition order, during which period the Utility will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order. During this three month comment period, the Utility is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings which are required to be made by ERA prior to issuance of a final prohibition order. The Utility will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the powerplant may qualify.

(4) Subsequent to the end of the initial three-month comment period, ERA will issue a notice of whether it intends to proceed with the proposed prohibition order. Within three months of the issuance of the notice of intention to proceed with the proposed prohibition order, the owner or operator of the powerplant may demonstrate that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three-month period, ERA will, if it intends to issue the final prohibition order, prepare and publish a notice of availability of the tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order. Under the Regulations, interested persons wishing a hearing must make their request in writing no later than 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C, Part 501 of the Regulations.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed prohibition order and tentative staff decision, the Utility's showing on any exemptions and rebuttal of ERA's proposed prohibition order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three-month comment period, ERA shall determine whether the final prohibition order will be issued, based upon ERA's review of the entire administrative record. The final prohibition order, if issued, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding the proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of three months after publication of the proposed order in the **Federal Register**, unless reduced at the request of the recipient of the proposed prohibition order pursuant to § 501.51(b)(8). Notice of any such change during the time for public comment will be published in the **Federal Register**. Comments should make reference to the case number set forth in this notice and proposed prohibition order. Comments should address the adequacy and validity of the finding and any other aspects or impacts of the proposed prohibition order believed to be relevant.

Written comments on the proposed prohibition order in this case should be directed to Public Hearing Management (Case No. 53146-3804-03-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. ninety days after the date of publication of this notice in the **Federal Register** (August 20, 1980).

In accordance with § 501.34, any interested person may request a public hearing on the proposed prohibition order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Possum Point Powerplant No. 3." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it, must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C., 20461, (202) 653-4055.

Robrt L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128L, Washington, D.C., 20461, (202)-653-3649.

Jim Renjilian (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6G-087, Washington, D.C., 20585, (202) 252-2967.

Issued in Washington, D.C., May 16, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-15690 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-01-M

St. James Resources Corporation and Wholly Owned Subsidiaries; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: March 20, 1980.

Comments by: June 23, 1980.

ADDRESS: Send comments to: James J. Dowd, Audit Director of the Office of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT:

James J. Dowd, Audit Director Office of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114, 617-223-5265.

SUPPLEMENTARY INFORMATION: "On March 20, 1980, the Office of Enforcement of the ERA executed a Consent Order with St. James Resources Corporation and Wholly Owned Subsidiaries (St. James) of Boston, Massachusetts. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution."

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I. The Consent Order

St. James, with its home office located in Boston, Massachusetts, is a firm engaged in the sale of No. 2 Heating Oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of St. James, the Office of Enforcement, ERA, and St. James entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order settles all issues involved in St. James' sale of No. 2 Heating Oil during the period May 1, 1974 through June 30, 1976.

2. The ERA alleges that St. James sold the above covered product at prices in excess of those permitted under 10 CFR 212.93, as preceded by 6 CFR 150.359.

3. St. James, in executing the Consent Order, does not admit to having violated the price regulations nor does DOE make a finding that St. James has violated the regulations, but in order to resolve all issues without expensive and time consuming litigation St. James agrees to refund $228,335.71 as specified in the Consent Order.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, St. James agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $228,335.71 as follows:

St. James shall, within thirty (30) days after the effective date of this Consent Order, deliver a certified check in the sum of $228,335.71 made payable to the United States Department of Energy. Delivery shall be to the Assistant Administrator for Enforcement, Economic Regulatory Administration, Room 5302, 2000 M Street, NW., Washington, D.C. 20461.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to James J. Dowd, Audit Director, Office of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114. You may obtain a free copy of this Consent Order by writing to the same address or by calling 617–223–5275.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on St. James Consent Order." We will consider all comments we receive by 4:30 P.M., local time on (30 days from publication). You should identify any information or data, which in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 16th day of May 1980.

Robert D. Gerring, Director,

Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 80–15688 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER80–386]

Arizona Public Service Co.; Filing

May 15, 1980.

The filing company submits the following:

Take notice that on May 12, 1980, Arizona Public Service Company (APS) tendered for filing a Firm Transmission Service Agreement for Power and Energy from APS' Unit 4 of its Cholla Generating Station to Southern California Edison Co. (SEC).

Early approval under Section 35.3 is requested by SCE as SCE may be required to make other arrangements should the provisions of this Agreement not be available.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15695 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–385]

Arizona Public Service Co.; Filing

May 15, 1980

The filing company submits the following:

Take notice that on May 12, 1980, Arizona Public Service Company (APS) tendered for filing a Layoff Agreement for Power and Energy from APS' Unit 4 of its Cholla Generating Station to Southern California Edison Co. (SCE).

Early approval under Section 35.3 is requested by SCE as SCE may be required to make other arrangements should the provisions of this Agreement not be available.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15696 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–382]

Arizona Public Service Co.; Filing

May 16, 1980

The filing company submits the following:

Take notice that on May 9, 1980, Arizona Public Service Company (APS) tendered for filing a transmission project agreement between APS, the United States of America, Department of Water and Power of the City of Los Angeles, El Paso Electric Company, Nevada Power Company, Public Service Company of New Mexico, Salt River Project Agricultural Improvement and Power District, and Tucson Electric Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15697 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–384]

Central Hudson Gas & Electric Corp.; Rate Filing

May 15, 1980.

The filing company submits the following:

Take notice the Central Hudson Gas & Electric Corporation (Central Hudson), on May 12, 1980, tendered for filing as a rate schedule an executed agreement dated May 8, 1980 between Central Hudson and Jersey Central Power and Light Company (JCP&L). The proposed rate schedule provides for the sale of generating capacity and associated energy by Central Hudson as available and as scheduled from day to day.

The rate schedule provides for a capacity charge of $3 per megawatt per hour scheduled and an energy charge equal to Central Hudson's incremental fuel and maintenance costs, incremental out-of-pocket costs, incremental cost of transmission losses an applicable taxes.

Central Hudson requests waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective on May 11, 1980 in accordance with the terms thereof.

Central Hudson states that a copy of its filing was served on JCP&L.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15698 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ID–1719]

Patrick J. Chambers, Jr.; Application

May 16, 1980.

Take notice that on May 6, 1980, Patrick J. Chambers, Jr. (Applicant), filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Rockland Electric Company, Public Utility.

Director, Pike County Light & Power Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15699 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[No. 202]

Determinations by Jurisdictional Agencies Under the National Gas Policy Act of 1978

Issued: May 15, 1980

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Alabama Oil and Gas Board

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–30854/3–7–802PD–B
2. 01–057–20202–0000
3. 103 000 000
4. Enserch Exploration Inc
5. A E Pinkerton 25–3 No 1
6. North Fayette
7. Fayette AL
8. 182.0 million cubic feet
9. April 24, 1980
10 Coronado Transmission Co

1. 80–30855/4–11–801PD–A
2. 01–057–20196–0000
3. 102 000 000
4. Grace Petroleum Corp
5. Fowler 22–9 #1

6. Musgrove Creek
7. Fayette AL
8. 120.0 million cubic feet
9. April 24, 1980
10

1. 80–30856/4–11–802PD
2. 01–075–20233–0000
3. 102 000 000
4. Southland Royalty Co
5. J M Hankins 14–3 #1
6. Beaverton
7. Lamar AL
8. 73.0 million cubic feet
9. April 24, 1980
10 Northwest Alabama Gas District

1. 80–30857/4–11–806PD
2. 01–057–20189–0000
3. 102 000 000
4. Petroleum Corp of Texas
5. Loggins Unit A #3 Well Permit No 26
6. Beaverton
7. Lamar AL
8. 150.0 million cubic feet
9. April 24, 1980
10 Northwest Alabama Gas District

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31172/K–79–0283
2. 15–129–00000–0000
3. 108 000 000
4. Anadarko Production Company
5. Roll A No 1
6. Interstate Red Cave
7. Morton KS
8. 18.0 million cubic feet
9. April 28, 1980
10 Panhandle Eastern Pipeline Company

1. 80–31173/K–79–1645
2. 15–139–20366–0000
3. 103 000 000
4. Cities Service Company
5. Morgan B–2
6. Panoma
7. Morton KS
8. 18.2 million cubic feet
9. May 2, 1980
10 Northern Natural Gas Co

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–30866/80–1213
2. 17–073–20319–0000
3. 108 000 000
4. IMC Exploration Co
5. La Del #F–242
6. Monroe Gas Field
7. Quachita LA
8. 2.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30867/80–1212
2. 17–073–20306–0000
3. 108 000 000
4. IMC Exploration Co
5. La Del #F–243
6. Monroe Gas Field
7. Quachita LA
8. 2.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30868/80–1211
2. 17–073–20307–0000
3. 108 000 000
4. IMC Exploration Co
5. La Del #F–244
6. Monroe Gas Field
7. Quachita LA
8. 2.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30869/80–1210
2. 17–073–20320–0000
3. 108 000 000
4. IMC Exploration Co
5. La Del #F–245
6. Monroe Gas Field
7. Quachita LA
8. 2.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30870/80–1209
2. 17–073–20321–0000
3. 108 000 000
4. IMC Exploration Co
5. La Del #F–246
6. Monroe Gas Field
7. Quachita LA
8. 2.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30871/80–1208
2. 17–073–20322–0000
3. 108 000 000
4. IMC Exploration Co
5. La Del #F–247
6. Monroe Gas Field
7. Quachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30872/80–1207
2. 17–111–21603–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #71
6. Monroe Gas Field
7. Union LA
8. 15.6 million cubic feet
9. May 2, 1980
10 Mid Louisiana Gas Co

1. 80–30873/80–1206
2. 17–111–21601–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #68
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. May 2, 1980
10 Mid Louisiana Gas Co

1. 80–30874/80–1205
2. 17–111–21571–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #67
6. Monroe Gas Field
7. Union LA
8. 16.0 million cubic feet
9. May 2, 1980
10 Mid Louisiana Gas Co

1. 80–30875/80–1228
2. 17–067–20036–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #18
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10 Georgia Pacific Corp

1. 80–30876/80–1227
2. 17–067–20015–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #16
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10 Georgia Pacific Corp

1. 80–30877/80–1226
2. 17–067–20025–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #9
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10 Georgia Pacific Corp

1. 80–30878/80–1224
2. 17–067–20014–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #10
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10 Georgia Pacific Corp

1. 80–30879/80–1223
2. 17–067–20018–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #30
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10 Georgia Pacific Corp

1. 80–30880/80–1200
2. 17–067–20338–0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N–231
6. Monroe Gas Field
7. Morehouse LA
8. 2.6 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30881/80–1199
2. 17–111–20226–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–230
6. Monroe Gas Field

7. Union LA
8. 13.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30882/80–1198
2. 17–111–20156–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–229
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30883/80–1197
2. 17–067–20349–0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N–237
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30884/80–1196
2. 17–067–20345–0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N–236
6. Monroe Gas Field
7. Morehouse LA
8. 2.5 million cubic feet
9. May 2, 1980
10 IMC Pipeline Co

1. 80–30885/80–1195
2. 17–111–00247–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #44
6. Monroe Gas Field
7. Union LA
8. 13.0 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80–30886/80–1194
2. 17–111–21298–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #61
6. Monroe Gas Field
7. Union LA
8. 11.0 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80–30887/80–1341
2. 17–067–20895–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–100
6. Monroe
7. Morehouse LA
8. 9.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30888/80–1340
2. 17–067–20894–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–99
6. Monroe
7. Morehouse LA
8. 9.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30889/80–1339
2. 17–067–20870–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–98
6. Monroe
7. Morehouse LA
8. 10.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30890/80–1338
2. 17–067–20893–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–96
6. Monroe
7. Morehouse LA
8. 6.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30891/80–1337
2. 17–067–20210–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F87
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30892/80–1336
2. 17–067–20200–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F86
6. Monroe
7. Morehouse LA
8. .0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30893/80–1335
2. 17–067–20199–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F85
6. Monroe
7. Morehouse LA
8. .0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30894/80–1334
2. 17–067–20198–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–84
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30895/80–1333
2. 17–067–20123–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–56
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30896/80–1332
2. 17–067–00349–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #35
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30897/80–1331
2. 17–067–00390–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #34
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30898/80–1330
2. 17–067–00388–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #33
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30899/80–1329
2. 17–067–00405–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #24
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30900/80–162
2. 17—027–20591–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Worley #1
6. Blackburn
7. Claiborne Parish LA
8. 640.0 million cubic feet
9. May 2, 1980
10. United Pipe Line Gas Co

1. 80–30901/80–2919
2. 17–027–20381–0000
3. 102 000 000
4. IMC Exploration Co
5. John Ferrell Estate No 154119
6. Athens Field
7. Claiborne LA
8. 365.0 million cubic feet
9. May 2, 1980
10. Louisiana Gas Intrastate Inc

1. 80–30902/80–173
2. 17–039–20153–0000
3. 102 000 000
4. Sandefer and Andress Inc
5. Pardee No 1
6. Reddell
7. Evangeline LA
8. 298.0 million cubic feet
9. May 2, 1980
10. Louisiana Intrastate Gas Corp

1. 80–30903/80–163
2. 17–027–20569–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Lee D #1
6. Blackburn
7. Claiborne Parish LA
8. 450.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80–30904/80–176

2. 17-097-20499-0000
3. 102 000 000
4. Shell Oil Co
5. Vua R L Wolfe No 1
6. Elba
7. St Landry LA
8. 180.0 million cubic feet
9. May 2, 1980
10. See Remarks (1)

1. 80-30905/80-1158
2. 17-073-20157-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-295
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30906/80-1157
2. 17-073-20197-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-283
6. Monroe Gas Field
7. Ouachita LA
8. .4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30907/80-1156
2. 17-073-20215-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-284
6. Monroe Gas Field
7. Ouachita LA
8. .5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30908/80-1155
2. 17-073-20214-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-278
6. Monroe Gas Field
7. Ouachita LA
8. 1.3 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30909/80-1154
2. 17-0023-20141-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-285
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30910/80-1153
2. 17-073-20142-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-286
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30911/80-1152
2. 17-073-20143-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-287
6. Monroe Gas Field
7. Ouachita LA
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30912/80-1151
2. 17-073-20144-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-288
6. Monroe Gas Field
7. Ouachita LA
8. 4.8 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30913/80-1150
2. 17-0111-20224-0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-208
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30914/80-1149
2. 17-111-20225-0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-209
6. Monroe Gas Field
7. Union LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30915/80-1148
2. 17-067-20359-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-178
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30916/80-1147
2. 17-067-20360-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-179
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30917/80-1180
2. 17-073-20177-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-258
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30918/80-1179
2. 17-073-20136-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-257
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30919/80-1178
2. 17-073-20132-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-256
6. Monroe Gas Field
7. Ouachita LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30920/80-1177
2. 17-073-20131-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-255
6. Monroe Gas Field
7. Ouachita LA
8. 1.8 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30921/80-1317
2. 17-067-00357-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #36
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80-30922/80-1316
2. 17-067-00358-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Land Co B #1
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80-30923/80-1315
2. 17-067-00295-0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #8
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80-30924/80-1314
2. 17-067-00305-0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #7
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80-30925/80-1184
2. 17-073-20279-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-315
6. Monroe Gas Field
7. Ouachita, LA
8. .7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30926/80-1183
2. 17-073-20276-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-310
6. Monroe Gas Field

7. Ouachita, LA
8. .8 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30927/80-1182
2. 17-073-20179-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-260
6. Monroe Gas Field
7. Ouachita, LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30928/80-1181
2. 17-073-20178-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-259
6. Monroe Gas Field
7. Ouachita, LA
8. 3.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80-30929/80-1117
2. 17-111-21877-0000
3. 103 000 000
4. K D Lankford Jr & L&N DRLG Co
5. Moore #3
6. Monroe Gas
7. Union, LA
8. 36.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30930/80-1116
2. 17-111-21889-0000
3. 103 000 000
4. K D Lankford Jr & L&N DRLG Co
5. Moore #4
6. Monroe Gas
7. Union, LA
8. 36.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30931/80-1115
2. 17-111-21875-0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. Edwards #2
6. Monroe Gas
7. Union, LA
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30932/80-1114
2. 17-111-21886-0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. McGough #4
6. Monroe Gas
7. Union, LA
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30933/80-1113
2. 17-111-21888-0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. McGough #6
6. Monroe Gas
7. Union, LA
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30934/80-1112
2. 17-067-20396-0000
3. 108 000 000
4. James P Madison
5. G Eubanks No 1-140293
6.
7. Morehouse, LA
8. .4 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80-30935/80-1111
2. 17-067-20393-0000
3. 108 000 000
4. James P Madison
5. Madison No 1-140111
6. Monroe
7. Morehouse, LA
8. 1.7 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80-30936/80-1110
2. 17-067-21386-0000
3. 103 000 000
4. Nip-N-Tuck Minerals Inc
5. Pipes #6
6. Monroe Gas Field
7. Morehouse, LA
8. 30.0 million cubic feet
9. May 2, 1980
10. Louisiana Gas Service Co

1. 80-30937/80-1109
2. 17-067-21409-0000
3. 103 000 000
4. Nip-N-Tuck Minerals Inc
5. Pipes #7
6. Monroe Gas Field
7. Morehouse, LA
8. 28.0 million cubic feet
9. May 2, 1980
10. Louisiana Gas Service Co

1. 80-30938/80-1108
2. 17-067-21004-0000
3. 108 000 000
4. Enerco Exploration & Management Co
5. Spyker E #25—#156269
6. Monroe
7. Morehouse, LA
8. 24.5 million cubic feet
9. May 2, 1980
10. Southern Natural Gas

1. 80-30939/80-1107
2. 17-111-01341-0000
3. 108 000 000
4. Pennzoil Producing Co
5. Fee 105 No 5
6. Monroe
7. Union, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30940/80-1106
2. 17-111-21761-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #1
6. Monroe Gas Field
7. Union, LA
8. 21.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30941/80-1105
2. 17-111-21762-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #2
6. Monroe Gas Field
7. Union, LA
8. 22.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30942/80-1104
2. 17-111-21763-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #3
6. Monroe Gas Field
7. Union, LA
8. 24.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30943/80-1103
2. 17-111-21764-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #4
6. Monroe Gas Field
7. Union, LA
8. 20.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30944/80-1102
2. 17-111-21765-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #5
6. Monroe Gas Field
7. Union, LA
8. 22.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30945/80-1101
2. 17-111-21766-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #6
6. Monroe Gas Field
7. Union, LA
8. 26.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30946/80-1100
2. 17-111-21767-0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #7
6. Monroe Gas Field
7. Union, LA
8. 19.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30947/80-1099
2. 17-109-22097-0000
3. 107 000 000
4. The Superior Oil Co
5. LL & E Unit 20 No 3
6. Four Isle Dome
7. Terrebonne Parish, LA
8. 768.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80-30948/80-1271
2. 17-111-21724-0000
3. 103 000 000
4. Ergon Inc
5. Mike Estate No 1
6. Monroe (6824)
7. Union, (056) LA
8. 14.9 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80-30949/80-1270

V 45 M Y 22 80 UMI

2. 17-111-21881-0000
3. 103 000 000
4. Ergon Inc
5. Milas Medlin No 3
6. Monroe
7. Union, LA
8. 16.7 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp
1. 80-30950/80-1269
2. 17-111-21874-0000
3. 103 000 000
4. Ergon Inc
5. Vua Brooks Jones et al No 1
6. Monroe (6824)
7. Union, (056) LA
8. 6.2 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp
1. 80-30951/80-1268
2. 17-111-21873-0000
3. 103 000 000
4. Ergon Inc
5. H D Green No 11
6. Monroe (6824)
7. Union, (056) LA
8. 11.5 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp
1. 80-30952/80-1267
2. 17-111-21346-0000
3. 103 000 000
4. Ergon Inc
5. Joe C Miller No 3
6. Monroe (6824)
7. Union, (056) LA
8. 17.1 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp
1. 80-30953/80-1266
2. 17-111-21743-0000
3. 103 000 000
4. Ergon Inc
5. Smith-Slater No 1
6. Monroe (6824)
7. Union, (056) LA
8. 16.4 million cubic feet
9. May 2, 1980
10. IMC Exploration Co
1. 80-30954/80-1265
2. 17-111-21880-0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. Meeks #7
6. Monroe Gas
7. Union, LA
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co
1. 80-30955/80-1146
2. 17-067-20368-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-180
6. Monroe Gas Field
7. Morehouse, LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30956/80-1145
2. 17-067-20369-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-181
6. Monroe Gas Field
7. Morehouse, LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30957/80-1144
2. 17-067-20405-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-199
6. Monroe Gas Field
7. Morehouse, LA
8. 5.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30958/80-1143
2. 17-067-20406-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-200
6. Monroe Gas Field
7. Morehouse, LA
8. 5.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30959/80-1142
2. 17-067-20407-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-201
6. Monroe Gas Field
7. Morehouse, LA
8. 5.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30960/80-1141
2. 17-067-20408-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-202
6. Monroe Gas Field
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30961/80-1140
2. 17-067-20409-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-203
6. Monroe Gas Field
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30962/80-1139
2. 17-067-20410-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-204
6. Monroe Gas Field
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30963/80-1138
2. 17-067-20411-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-205
6. Monroe Gas Field
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30964/80-1137
2. 17-067-20378-0000
3. 108 000 000
4. IMC Exploration Co
5. Ethridge #F-239
6. Monroe Gas Field
7. Morehouse, LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30965/80-1136
2. 17-111-20229-0000
3. 108 000 000
4. IMC Exploration Co
5. Olinkraft #1
6. Monroe gas field
7. Union LA
8. 16.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30966/80-1280
2. 17-073-20166-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbank Real Estate F-299
6. Monroe Gas Field
7. Quachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30967/80-1279
2. 17-073-20170-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-303
6. Monroe gas field
7. Quachita LA
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30968/80-1278
2. 17-073-20195-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-282
6. Monroe gas field
7. Quachita LA
8. .4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30969/80-1277
2. 17-067-20344-0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N-235
6. Monroe gas field
7. Morehouse LA
8. 1.7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30970/80-1276
2. 17-067-20343-0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N-234
6. Monroe gas field
7. Morehouse LA
8. 1.3 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30971/80-1128
2. 17-073-21012-0000
3. 108 000 000
4. Primos Production Co
5. Breard #6
6. Monroe gas field

7. Quachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30972/80-1127
2. 17-073-21030-0000
3. 108 000 000
4. Primos Production Co
5. Breard #3
6. Monroe gas field
7. Quachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30973/80-1126
2. 17-073-21000-0000
3. 108 000 000
4. Primos Production Co
5. Breard #1
6. Monroe gas field
7. Quachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30974/80-1125
2. 17-073-21011-0000
3. 108 000 000
4. Primos Production Co
5. Breard #2
6. Monroe gas field
7. Quachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30975/80-1124
2. 17-073-20981-0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #14
6. Monroe gas field
7. Quachita LA
8. 18.9 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30976/80-1123
2. 17-073-20983-0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #15
6. Monroe gas field
7. Quachita LA
8. 17.9 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30977/80-1122
2. 17-073-20986-0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #13
6. Monroe gas field
7. Quachita LA
8. 17.9 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30978/80-1121
2. 17-073-20977-0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #16
6. Monroe gas field
7. Quachita LA
8. 17.9 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30979/80-1120
2. 17-073-20987-0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #17
6. Monroe gas field
7. Quachita LA
8. 17.9 million cubic feet
9. May 2, 1980
10. United Gas Pipeline
1. 80-30980/80-1165
2. 17-073-20168-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-301
6. Monroe gas field
7. Quachita LA
8. .7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30981/80-1164
2. 17-073-20145-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-289
6. Monroe gas field
7. Quachita LA
8. 3.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30982/80-1163
2. 17-073-20146-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-290
6. Monroe gas field
7. Quachita LA
8. 4.2 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30983/80-1162
2. 17-073-20153-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-291
6. Monroe gas field
7. Quachita LA
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30984/80-1161
2. 17-073-20154-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-292
6. Monroe gas field
7. Quachita LA
8. 1.4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30985/80-1160
2. 17-073-20155-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-293
6. Monroe gas field
7. Quachita LA
8. 1.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30986/80-1159
2. 17-073-20156-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-294
6. Monroe gas field
7. Quachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80-30987/80-1323
2. 17-067-20131-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-59
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80-30988/80-1322
2. 17-067-20127-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-58
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80-30989/80-1321
2. 17-067-20126-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-57
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80-30990/80-1320
2. 17-067-20122-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-55
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80-30991/80-1319
2. 17-067-00365-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #39
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80-30992/80-1318
2. 17-067-00364-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #38
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80-30993/80-1119
2. 17-111-21876-0000
3. 108 000 000
4. K D Lankford Jr & L&N Drilling Co
5. Meeks #5
6. Monroe Gas
7. Union LA
8. 29.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co
1. 80-30994/80-1118

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2. 17–111–21879–0000
3. 108 000 000
4. K D Lankford Jr & L&N Drilling Co
5. Meeks #6
6. Monroe Gas
7. Union LA
8. 29.0 million cubic feet
9. May 2, 1980
10. United Gas Pipe Line Co

1. 80–30995/80–1378
2. 17–067–20925–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–135
6. Monroe
7. Morehouse LA
8. 3.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30996/80–1377
2. 17–067–20924–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N134
6. Monroe
7. Morehouse LA
8. 3.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30997/80–1376
2. 17–067–20923–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–133
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30998/80–1375
2. 17–067–20921–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–132
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–30999/80–1374
2. 17–067–20949–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–141
6. Monroe
7. Morehouse LA
8. 3.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31000/80–1373
2. 17–067–20943–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–14D
6. Monroe
7. Morehouse LA
8. 3.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31001/80–1372
2. 17–067–20877–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–156
6. Monroe
7. Morehouse LA
8. 1.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31002/80–1391
2. 17–073–20133–0000
3. 108 000 000
4. IMC Exploration Co
5. Cental Immigration #F–271
6. Monroe gas field
7. Quachita LA
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31003/80–1325
2. 17–067–20091–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–33
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31004/80–1324
2. 17–067–20132–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–60
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31005/80–1191
2. 17–111–21235–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #38
6. Monroe gas field
7. Union LA
8. 15.0 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80–31006/80–1192
2. 17–111–21266–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #47
6. Monroe gas field
7. Union LA
8. 15.0 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80–31007/80–1193
2. 17–111–21297–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #55
6. Monroe gas field
7. Union LA
8. 16.0 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co

1. 80–31008/80–1313
2. 17–067–00313–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #6
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31009/80–1312
2. 17–067–00321–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #4
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31010/80–1311
2. 17–067–00318–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #3
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31011/80–1189
2. 17–073–20272–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–308
6. Monroe gas field
7. Quachita LA
8. 7.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31012/80–1328
2. 17–067–00404–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #23
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31013/80–1327
2. 17–067–20105–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–47
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31014/80–1246
2. 17–073–21153–0000
3. 103 000 000
4. Teel 78–A
5. Smith A #1
6. Monroe gas rock field
7. Quachita LA
8. 6.6 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31015/80–1245
2. 17–073–21136–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 8 (161771)
6. Monroe
7. Quachita Parish LA
8. 20.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31016/80–1244
2. 17–073–21134–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 6 (161769)
6. Monroe
7. Quachita Parish LA
8. 70.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31017/80–1243
2. 17–073–21133–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 5 (161768)
6. Monroe
7. Quachita Parish LA
8. 80.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31018/80–1242
2. 17–073–21132–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 4 (16176)
6. Monroe
7. Quachita Parish LA
8. 40.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31019/80–1241
2. 17–073–21131–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 3 (161766)
6. Monroe
7. Quachita Parish LA
8. 24.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31020/80–1240
2. 17–073–21130–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 2 (161765)
6. Monroe
7. Quachita Parish LA
8. 25.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31021/80–1239
2. 17–073–21129–0000
3. 103 000 000
4. Frank Spooner
5. Pipes No 1 (161764)
6. Monroe
7. Quachita Parish LA
8. 40.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31022/80–1238
2. 17–067–20060–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–32
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31023/80–1237
2. 17–067–20102–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–25
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31024/80–1236

2. 17–067–20057–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–22
6. Monroe
7. Morehouse LA
8. 17.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31025/80–1235
2. 17–067–20100–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–19
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31026/80–1234
2. 17–067–20059–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–27
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31027/80–1233
2. 17–067–20058–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–24
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31028/80–1380
2. 17–073–20139–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–275
6. Monroe gas field
7. Quachita LA
8. .7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31029/80–1379
2. 17–073–20284–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–314
6. Monroe gas field
7. Quachita LA
8. 3.4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31030/80–1282
2. 17–073–20164–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F–297
6. Monroe gas field
7. Quachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31031/80–1281
2. 17–073–20165–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F–298
6. Monroe gas field
7. Quachita LA
8. 1.7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31032/80–1310
2. 17–067–00311–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #2
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31033/80–1309
2. 17–067–20950–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–142
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31034/80–1308
2. 17–067–20850–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–105
6. Monroe
7. Morehouse LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31035/80–1307
2. 17–067–20851–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–106
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31036/80–1306
2. 17–067–20852–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–107
6. Monroe
7. Morehouse LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31037/80–1305
2. 17–067–20853–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–108
6. Monroe
7. Morehouse LA
8. 7.6 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31038/80–1304
2. 17–067–20942–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–139
6. Monroe
7. Morehouse LA
8. 3.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31039/80–1303

2. 17–067–20941–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–138
6. Monroe
7. Morehouse LA
8. 12.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31040/80–1302
2. 17–067–20936–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–137
6. Monroe
7. Morehouse LA
8. 3.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31041/80–1301
2. 17–067–20926–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–136
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31042/80–1300
2. 17–067–00265–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–40
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31043/80–1299
2. 17–067–00264–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–39
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31044/80–1298
2. 17–067–00263–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–38
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31045/80–1166
2. 17–073–20171–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–304
6. Monroe Gas Field
7. Ouachita LA
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31046/80–1167
2. 17–073–20172–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–305
6. Monroe Gas Field
7. Ouachita LA
8. .7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31047/80–1297
2. 17–067–00262–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–37
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31048/80–1296
2. 17–067–00261–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–36
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31049/80–1295
2. 17–067–00251–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–34
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31050/80–1294
2. 17–067–00250–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–33
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31051/80–1293
2. 17–067–00256–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–36
6. Monroe
7. Morehouse LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31052/80–1292
2. 17–073–20134–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–273
6. Monroe Gas Field
7. Ouachita LA
8. .6 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31053/80–1291
2. 17–073–20191–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–313
6. Monroe Gas Field
7. Ouachita LA
8. 3.9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31054/80–1290
2. 17–073–20189–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–312
6. Monroe Gas Field
7. Ouachita LA
8. 3.6 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31055/80–1289
2. 17–073–20161–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–280
6. Monroe Gas Field
7. Ouachita LA
8. 1.3 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31056/80–1288
2. 17–073–20160–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–280
6. Monroe Gas Field
7. Ouachita LA
8. .4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31057/80–1287
2. 17–073–20159–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–276
6. Monroe Gas Field
7. Ouachita LA
8. 1.3 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31058/80–1286
2. 17–073–20162–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–277
6. Monroe Gas Field
7. Ouachita LA
8. 1.4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31059/80–1285
2. 17–073–20169–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–302
6. Monroe Gas Field
7. Ouachita LA
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31060/80–1284
2. 17–073–20167–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–300
6. Monroe Gas Field
7. Ouachita LA
8. 1.1 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31061/80–1283
2. 17–073–20158–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–296
6. Monroe Gas Field

7. Ouachita LA
8. .8 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31062/80–1168
2. 17–073–20173–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–306
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31063/80–1135
2. 17–073–21010–0000
3. 108 000 000
4. Primos Production Co
5. Breard #7
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31064/80–1134
2. 17–073–21001–0000
3. 108 000 000
4. Primos Production Co
5. Breard #8
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31065/80–1133
2. 17–073–21006–0000
3. 108 000 000
4. Primos Production Co
5. Breard #10
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31066/80–1132
2. 17–073–21017–0000
3. 108 000 000
4. Primos Production Co
5. Breard #11
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31067/80–1131
2. 17–073–21009–0000
3. 108 000 000
4. Primos Production Co
5. Breard #5
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31068/80–1130
2. 17–073–21008–0000
3. 108 000 000
4. Primos Production Co
5. Breard #4
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31069/80–1129
2. 17–073–21013–0000
3. 108 000 000
4. Primos Production Co
5. Breard #9
6. Monroe
7. Ouachita LA
8. 18.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31070/80–1275
2. 17–709–20215–0000
3. 103 000 000
4. Texaco Inc
5. RIS 9700 RD–L SU S/L 340 NO 183
6. Rabbit Island
7. Iberia LA
8. 921.0 million cubic feet
9. May 2, 1980
10. Kaiser Aluminum & Chemical Corp, Gulf Oil Corp, W R Grace & Co, Monsanto Chemical Co

1. 80–31071/80–1274
2. 17–709–20206–0000
3. 103 000 000
4. Texaco Inc
5. RIS 9700 RK–L SU S/L 340 No 177
6. Rabbit Island
7. St Mary LA
8. 50.0 million cubic feet
9. May 2, 1980
10. Kaiser Aluminum & Chemical Corp, Gulf Oil Corp, W R Grace & Co, Monsanto Chemical Co

1. 80–31072/80–1273
2. 17–709–20208–0000
3. 103 000 000
4. Texaco Inc
5. RIS 9700 RK–L SU S/L 340 No 176
6. Rabbit Island
7. St Mary LA
8. 128.0 million cubic feet
9. May 2, 1980
10. Kaiser Aluminum & Chemical Corp, Gulf Oil Corp, W R Grace & Co, Monsanto Chemical Co

1. 80–31073/80–1272
2. 17–726–20173–0000
3. 103 000 000
4. Kerr-McGee Corp
5. Brs 20 6600 RA SU SL 2000 No 50
6. Breton Sound block 20
7. Plaquemines Parish LA
8. 15.0 million cubic feet
9. May 2, 1980
10. Southern Natural Gas Co

1. 80–31074/80–1098
2. 17–031–21082–0000
3. 102 000 000
4. Transco Exploration Co
5. Hoss Sug Wofford No 1
6. Spider
7. Desoto Parish LA
8. 1095.0 million cubic feet
9. May 2, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–31075/80–1097
2. 17–073–20949–0000
3. 103 000 000
4. Franks & Bass Etal
5. CVD RA SU U Verdie Wassan No 1
6. South Drew
7. Ouachita LA
8. 657.0 million cubic feet
9. May 2, 1980
10. Olinkraft Inc

1. 80–31076/80–1096
2. 17–001–20750–0000
3. 102 000 000
4. Edwin L Cox
5. E Cobena et al No 1
6. Branch
7. Acadia LA
8. 250.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31077/80–1176
2. 17–073–20121–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–254
6. Monroe
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31078/80–1175
2. 17–073–20130–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–253
6. Monroe
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31079/80–1174
2. 17–073–20180–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–261
6. Monroe
7. Ouachita LA
8. 3.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31080/80–1173
2. 17–073–20125–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–252
6. Monroe
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31081/80–1172
2. 17–073–20124–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–251
6. Monroe
7. Ouachita LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31080/80–1171
2. 17–073–20188–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–311
6. Monroe
7. Ouachita LA
8. 3.7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31083/80–1170
2. 17–073–20183–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–281

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6. Monroe
7. Ouachita, LA
8. .3 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80–31084/80–1169
2. 17–073–20174–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–307
6. Monroe
7. Ouachita, LA
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80–31085/80–1344
2. 17–067–20896–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–101
6. Monroe
7. Morehouse, La
8. 17.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31086/80–1343
2. 17–067–20897–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–102
6. Monroe
7. Morehouse, LA
8. 17.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31087/80–1342
2. 17–067–20898–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–103
6. Monroe
7. Morehouse, LA
8. 17.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31088/80–1222
2. 17–067–00354–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #6
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31089/80–1221
2. 17–067–00360–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #5
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31090/80–1220
2. 17–067–00384–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #11
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31091/80–1219
2. 17–067–00398–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #4
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31092/80–1218
2. 17–067–00383–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #49
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31093/80–1354
2. 17–067–20840–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–97
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31094/80–1353
2. 17–067–20841–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–98
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31095/80–1352
2. 17–067–20842–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–99
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31096/80–1351
2. 17–067–20844–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–100
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31097/80–1350
2. 17–067–20845–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–101
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31098/80–1349
2. 17–067–20846–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–102
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31099/80–1348
2. 17–067–20847–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–103
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31100/80–1347
2. 17–067–20849–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–104
6. Monroe
7. Morehouse, LA
8. 8.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31101/80–1346
2. 17–067–20873–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–154
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31102/80–1345
2. 17–067–21197–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–106
6. Monroe
7. Morehouse, LA
8. 18.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31103/80–1359
2. 17–067–00322–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #13
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31104/80–1358
2. 17–067–00297–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #12
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31105/80–1357
2. 17–067–00284–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #11
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31106/80–1356
2. 17–067–00000–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #10
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31107/80–1355
2. 17–067–00296–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #9
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31108/80–1190
2. 17–111–21245–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #37
6. Monroe Gas Field
7. Union, LA
8. 16.7 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co
1. 80–31109/80–1204
2. 17–111–21552–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost #62
6. Monroe Gas Field
7. Union, LA
8. 18.0 million cubic feet
9. May 2, 1980
10. Mid Louisiana Gas Co
1. 80–31110/80–1203
2. 17–067–21204–0000
3. 108 000 000
4. IMC Exploration Co
5. J B Miles #F–113
6. Monroe Gas Field
7. Morehouse, LA
8. 14.8 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80–31111/80–1202
2. 17–067–20341–0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N–233
6. Monroe Gas Field
7. Morehouse, LA
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80–31112/80–1201
2. 17–067–20339–0000
3. 108 000 000
4. IMC Exploration Co
5. Allison #N–232
6. Monroe Gas Field
7. Morehouse, LA
8. 2.7 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co
1. 80–31113/80–1371
2. 17–067–20874–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #N–155
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31114/80–1370
2. 17–067–00255–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #34
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31115/80–1369
2. 17–067–00280–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #33
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31116/80–1368
2. 17–067–00277–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #31
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31117/80–1367
2. 17–067–00257–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #28
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31118/80–1366
2. 17–067–00281–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #27
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31119/80–1365
2. 17–067–00306–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #26
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31120/80–1364
2. 17–067–00000–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #23
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31121/80–1363
2. 17–067–00247–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #22
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31122/80–1362
2. 17–067–00254–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #21
6. Monroe
7. Morehouse, LA
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31123/80–1361
2. 17–067–00253–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #20
6. Monroe
7. Morehouse La
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31124/80–1360
2. 17–067–00323–0000
3. 108 000 000
4. IMC Exploration Co
5. Ball #18
6. Monroe
7. Morehouse La
8. 4.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31125/801231
2. 17–067–20052–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #26
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31126/80–1230
2. 17–067–20053–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #20
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31127/80–1229
2. 17–067–20019–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #31
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp
1. 80–31128/80–1188
2. 17–073–20273–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–309

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6. Monroe Gas Field
7. Quachita La
8. 6.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31129/80–1187
2. 17–073–20118–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–249
6. Monroe Gas Field
7. Quachita La
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31130/80–1390
2. 17–073–20129–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–269
6. Monroe Gas Field
7. Quachita La
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31131/80–1389
2. 17–073–20137–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–270
6. Monroe Gas Field
7. Quachita La
8. 1.4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31132/80–1388
2. 17–073–20128–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–268
6. Monroe Gas Field
7. Quachita La
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31133/80–1186
2. 17–073–20120–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–250
6. Monroe Gas Field
7. Quachita La
8. 1.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31134/80–1185
2. 17–073–20140–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–274
6. Monroe Gas Field
7. Quachita La
8. 3.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31135/80–1326
2. 17–067–20092–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–34
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31136/80–1253
2. 17–111–21914–0000
3. 103 000 000
4. Godfrey & Riley
5. Dorothy Meeks #1
6. Monroe
7. Union La
8. 21.5 million cubic feet
9. May 2, 1980
10. Mid–Louisiana Gas Co

1. 80–31137/80–1252
2. 17–111–21915–0000
3. 103 000 000
4. Godfrey & Riley
5. E G Meeks #1
6. Monroe
7. Union La
8. 21.5 million cubic feet
9. May 2, 1980
10. Mid–Louisiana Gas Co

1. 80–31138/80–1251
2. 17–111–21913–0000
3. 103 000 000
4. Godfrey & Riley
5. Brantley–Hayes #1
6. Monroe
7. Union La
8. 21.5 million cubic feet
9. May 2, 1980
10. Mid–Louisiana Gas Co

1. 80–31139/80–1250
2. 17–073–21175–0000
3. 103 000 000
4. Teel 78–A
5. Smith A #5
6. Monroe Gas Rock Field
7. Quachita La
8. 8.8 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31140/80–1249
2. 17–073–21174–0000
3. 103 000 000
4. Teel 78–A
5. Smith A #4
6. Monroe Gas Rock Field
7. Quachita La
8. 6.2 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31141/80–1248
2. 17–073–21173–0000
3. 103 000 000
4. Teel 78–A
5. Smith A #3
6. Monroe Gas Rock Field
7. Quachita La
8. 5.5 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31142/80–1247
2. 17–073–21157–0000
3. 103 000 000
4. Teel 78–A
5. Smith A #2
6. Monroe Gas Rock Field
7. Quachita 037 La
8. 7.3 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31143/80–1387
2. 17–073–20127–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–267
6. Monroe Gas Field
7. Quachita La
8. 1.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31144/80–1386
2. 17–073–20126–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–266
6. Monroe Gas Field
7. Quachita La
8. .9 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31145/80–1385
2. 17–073–20123–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–265
6. Monroe Gas Field
7. Quachita La
8. 1.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31146/80–1384
2. 17–073–20119–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–264
6. Monroe Gas Field
7. Quachita La
8. 1.4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31147/80–1383
2. 17–073–20122–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–263
6. Monroe Gas Field
7. Quachita La
8. 1.8 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31148/80–1382
2. 17–073–20181–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–262
6. Monroe Gas Field
7. Quachita La
8. 2.5 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31149/80–1381
2. 17–073–20138–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–272
6. Monroe Gas Field
7. Quachita La
8. 1.4 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31150/80–1232
2. 17–067–20054–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta Fee #23
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31151/80–177
2. 17–045/20595–0000
3. 102 000 000
4. Energy Reserves Group
5. Lucy Viator Lopez #1
6. Jefferson Island
7. Iberia La
8. 3600.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31152/80–221
2. 17–001–20727–0052
3. 102 000 000
4. Conoco Inc
5. E Meaux #1 (Prop Hmsk D–4 Rd Su A)
6. Rayne
7. Acadia La
8. 1400.0 million cubic feet
9. May 2, 1980
10. Conoco Inc

1. 80–31153/80–220
2. 17–097–20521–0000
3. 102 000 000
4. Shell Oil Co
5. C A G Jarrell No 1
6. Elba
7. St Landry La
8. .0 million cubic feet
9. May 2, 1980
10.

1. 80–31154/80–1217
2. 17–067–00350–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #48
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31155/80–1216
2. 17–067–00366–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #46
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31156/80–1215
2. 17–067–00386–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #44
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. May 2, 1980
10. Georgia Pacific Corp

1. 80–31157/80–1214
2. 17–073–20318–0000
3. 108 000 000
4. IMC Exploration Co
5. Ladel #F–241
6. Monroe Gas Field
7. Quachita La
8. 2.0 million cubic feet
9. May 2, 1980
10. IMC Pipeline Co

1. 80–31158/80–1264
2. 17–111–21916–0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. Hollis #1
6. Monroe Gas
7. Union La
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31159/80–1263
2. 17–111–21887–0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. McGough #5
6. Monroe Gas
7. Union La
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31160/80–1262
2. 17–111–21890–0000
3. 103 000 000
4. K D Lankford Jr & L&N Drilling Co
5. Pace #2
6. Monroe Gas
7. Union La
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31161/80–1261
2. 17–111–21895–0000
3. 103 000 000
4. K D Lankford Jr et al
5. Jarmon #1
6. Monroe Gas
7. Union La
8. 22.0 million cubic feet
9. May 2, 1980
10. United Gas Pipeline Co

1. 80–31162/80–1260
2. 17–111–21768–0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #9
6. Monroe Gas field
7. Union La
8. 23.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31163/80–1259
2. 17–111–21758–0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Gibson Estate #8
6. Monroe Gas Field
7. Union LA
8. 26.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31164/80–1258
2. 17–111–21802–0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Wells #1
6. Monroe Gas Field
7. Union LA
8. 21.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31165/80–1257
2. 17–111–21338–0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Hopkins Estate #2
6. Monroe Gas Field
7. Union LA
8. 25.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31166/80–1256
2. 17–111–21337–0000
3. 103 000 000
4. Ace Drilling Services Inc
5. Hopkins Estate #1
6. Monroe Gas Field
7. Union LA
8. 24.0 million cubic feet
9. May 2, 1980
10. Texas Gas Transmission Corp

1. 80–31167/80–1255
2. 17–111–21911–0000
3. 103 000 000
4. Godfrey & Riley
5. Stell #2
6. Monroe
7. Union LA
8. 21.5 million cubic feet
9. May 2, 1980
10. Mid-Louisiana Gas Co

1. 80–31168/80–1254
2. 17–111–21909–0000
3. 103 000 000
4. Godfrey & Riley
5. Stell #1
6. Monroe
7. Union LA
8. 21.5 million cubic feet
9. May 2, 1980
10. Mid-Louisiana Gas Co

N. Dak. Geological Survey

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31174/224–NGPA
2. 33–011–00287–0000
3. 103 000 000
4. Joseph J C Paine and Associate
5. D C Ringstad #1–4
6. Little Missouri
7. Bowman ND
8. .0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co

1. 80–31175/225–NGPA
2. 33–011–00284–0000
3. 103 000 000
4. Joseph J C Paine and Associate
5. G Woll #1–33
6. Little Missouri
7. Bowman ND
8. .0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co

1. 80–31176/226–NGPA
2. 33–011–00291–0000
3. 103 000 000
4. Joseph J C Paine and Associate
5. Chapman #1–32
6. Little Missouri
7. Bowman ND
8. 43.4 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co

1. 80–31177/227–NGPA
2. 33–011–00285–0000
3. 103 000 000

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4. Joseph J C Paine and Associate
5. M Carpenter #3–33
6. Little Missouri
7. Bowman ND
8. .0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co
1. 80–31178/228–NGPA
2. 33–011–00293–0000
3. 103 000 000
4. Joseph J C Paine and Associate
5. Johnson #3–9
6. Little Missouri
7. Bowman ND
8. .0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co
1. 80–31179/229–NGPA
2. 33–011–00292–0000
3. 103 000 000
4. Joseph J C Paine and Associates
5. Aasen #1–9
6. Little Missouri
7. Bowman ND
8. .0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co
1. 80–31180/230–NGPA
2. 33–011–00295–0000
3. 103 000 000
4. Joseph J C Paine and Associates
5. State #1–16
6. Little Missouri
7. Bowman ND
8. 62.5 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Company
1. 80–31181/231–NGPA
2. 33–011–00288–0000
3. 103 000 000
4. Joseph J C Paine and Associates
5. Chapman #3–28
6. Little Missouri
7. Bowman ND
8. .0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities Co
1. 80–31182/240–NGPA
2. 33–007–00432–0000
3. 102 000 000
4. Gulf Oil Corporation
5. J & G Hurinenko 2–1–3A
6. Little Knife
7. Billings ND
8. 16.0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities
1. 80–31183/239–NGPA
2. 33–007–00364–0000
3. 102 000 000
4. Gulf Oil Corporation
5. Joe Tachenko 3–17–2C
6. Little Knife
7. Billings ND
8. 8.0 million cubic feet
9. May 2, 1980
10. Montana Dakota Utilities
1. 80–31184/238–NGPA
2. 33–007–00403–0000
3. 102 000 000
4. Gulf Oil Corporation
5. Tedrow 6–12–2A
6. Little Knife
7. Billings ND
8. 29.0 million cubic feet
9. May 2, 1980
10. Montana-Dakota Utilities
1. 80–31185/237–NGPA
2. 33–053–00963–0000
3. 102 000 000
4. Mosbacher Production Co
5. Verlin Fossum et al 26–1
6. Indian Hills (Red River Pool)
7. McKenzie ND
8. 84.0 million cubic feet
9. May 2, 1980
10. Montana-Dakota Utilities Co
1. 80–31186/236–NGPA
2. 33–023–00170–0000
3. 102 000 000
4. Mosbacher Production Co
5. Harold W Haugen 25–1
6. Daneville (Madison Pool)
7. Divide ND
8. 3.6 million cubic feet
9. May 2, 1980
10.
1. 80–31187/235–NGPA
2. 33–007–00379–0000
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Dorothy Osadchuk #1 (Madison)
6. Treetop
7. Billings ND
8. 185.0 million cubic feet
9. May 2, 1980
10. Koch Hydrocarbon Company
1. 80–31188/233–NGPA
2. 33–007–00405–0000
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Dorothy Osadchuk B #1 (Madison)
6. Treetop
7. Billings ND
8. 131.0 million cubic feet
9. May 2, 1980
10. Koch Hydrocarbon Company
1. 80–31189/234–NGPA
2. 33–007–00382–0000
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Rodakowski #1
6. Treetop
7. Billings ND
8. 92.0 million cubic feet
9. May 2, 1980
10. Koch Hydrocarbon Company
1. 80–31190/232–NGPA
2. 33–007–00414–0000
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Dorothy Osadchuk A #1
6. Treetop
7. Billings ND
8. 237.0 million cubic feet
9. May 2, 1980
10. Koch Hydrocarbon Company

Okla. Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80–30786A/1122
2. 35–093–21473–0000
3. 102 000 000
4. Sabine Production Co
5. Firebaugh #1–26
6. South Bado
7. Major OK
8. 175.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30786B/1122
2. 35–093–21473–0000
3. 103 000 000
4. Sabine Production Co
5. Firebaugh #1–26
6. South Bado
7. Major OK
8. 175.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30787/03524
2. 35–007–00000–0000
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Hinz No 1
6. Light
7. Beaver OK
8. 11.5 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–30788/03545
2. 35–059–20798–0000
3. 103 000 000
4. Arco Oil and Gas Co
5. Norma Jeanne Dickinson Well #2
6. Northwest Lovedale
7. Harper OK
8. 36.5 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co
1. 80–30789/03515
2. 35–059–20752–0000
3. 103 000 000
4. Cummings Oil Co
5. Rogers #1–13
6. Doby Springs
7. Harper OK
8. 336.0 million cubic feet
9. May 2, 1980
10. Transwestern Pipe Line Co
1. 80–30790/01033
2. 35–111–00000–0000
3. 103 000 000
4. Seagull Operating Co Inc
5. Rice No 1
6. Polly Anna
7. Okmulgee OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30791/01038
2. 35–111–21317–0000
3. 103 000 000
4. Seagull Operating Co Inc
5. Cruickshank No 1
6. Polly Anna
7. Okmulgee OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30792/01035
2. 35–111–21412–0000
3. 103 000 000
4. Seagull Operating Co Inc
5. Irby A No 1
6. Polly Anna

7. Okmulgee OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30793/01037
2. 35–111–21411–0000
3. 103 000 000
4. Seagull Operating Co Inc
5. Irby No 1
6. Polly Anna
7. Okmulgee OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30794/03516
2. 35–007–00000–0000
3. 108 000 000
4. Hughes Seewald
5. Jines #1
6. Boyd area
7. Beaver OK
8. 5.4 million cubic feet
9. May 2, 1980
10. Natural Gas Pipeline Co of America
1. 80–30795/03553
2. 35–043–20465–0000
3. 108 000 000
4. Coquina Oil Corp
5. McMillan #1
6.
7. Dewey OK
8. .0 million cubic feet
9. May 2, 1980
10. Delhi Gas Pipeline Corp
1. 80–30796/05295
2. 35–147–00000–0000
3. 103 000 000
4. W M Ramsey
5. I–A Doty
6. Ochelata Sec 33 + 25 N RG 13E
7. Washington OK
8. 75.0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co
1. 80–30797/03549
2. 35–083–20665–0000
3. 102 000 000
4. John J Shea
5. Treagle #1
6. Unnamed
7. Logan OK
8. 180.0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co
1. 80–30798/03531
2. 35–151–20901–0000
3. 103 000 000
4. Southland Royalty Co
5. Roring 1–29
6. Freedom 76
7. Woods OK
8. 30.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30799/03533
2. 35–153–09280–0000
3. 103 000 000
4. Southland Royalty Co
5. Hyde 1–33
6. Freedom 76
7. Woodward OK
8. 200.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30800/03529
2. 35–151–20907–0000
3. 103 000 000
4. Clifford Resources Inc
5. Bouma 1–35
6. South Waynoka
7. Woods OK
8. 100.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30801/03527
2. 35–017–20979–0000
3. 103 000 000
4. Gulf Oil Corp
5. Harris West 1–15
6. Yukon
7. Canadian OK
8. 159.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30802/03211
2. 35–105–21163–0000
3. 103 000 000
4. Three Sands Oil Inc
5. Kolter-Porter #1
6. Northeast Nowata
7. Nowata OK
8. 11.0 million cubic feet
9. May 2, 1980
10. Nowata Gathering LTD
1. 80–30803/03530
2. 35–153–20927–0000
3. 103 000 000
4. Southland Royalty Co
5. London 1–4
6. Freedom 76
7. Woodward OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30804/01032
2. 35–111–00000–0000
3. 103 000 000
4. Seagull Operating Co Inc
5. Burnett No 1
6. Hamilton Switch
7. Okmulgee OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30805/01036
2. 35–111–21238–0000
3. 103 000 000
4. Seagull Operating Co Inc
5. Raby No 1
6. Polly Anna
7. Okmulgee OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30806/03212
2. 35–105–21657–0000
3. 103 000 000
4. Three Sands Oil Inc
5. Kolter-Porter #7
6. Northeast Nowata
7. Nowata OK
8. 11.0 million cubic feet
9. May 2, 1980
10. Nowata Gathering LTD
1. 80–30807/03207
2. 35–105–21870–0000
3. 103 000 000
4. Three Sands Oil Inc
5. Barbee = A–1
6. Northeast Nowata
7. Nowata OK
8. 51.0 million cubic feet
9. May 2, 1980
10. Nowata Gathering LTD
1. 80–30808/03534
2. 35–137–21932–0000
3. 103 000 000
4. Gulf Oil Corp
5. C Quinn #10–26
6. Velma-Sycamore
7. Stephens OK
8. 286.0 million cubic feet
9. May 2, 1980
10. Lone Star Gas Co
1. 80–30809/03532
2. 35–153–20947–0000
3. 103 000 000
4. Southland Royalty Co
5. Oklahoma 1–32
6. Freedom 76
7. Woodward OK
8. 300.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30810/03521
2. 35–073–00000–0000
3. 108 000 000 Denied
4. Consolidated Oil & Gas Inc
5. Titterington No 1
6. Dover-Hennessey
7. Kingfisher OK
8. 12.0 million cubic feet
9. May 2, 1980
10. Exxon Co USA
1. 80–30811/03511
2. 35–139–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Gresswell No 1
6. Guymon Hugoton
7. Texas OK
8. 17.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30812/03509
2. 35–139–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Dakar No 1
6. Guymon Hugoton
7. Texas OK
8. 18.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co
1. 80–30813/03468
2. 35–043–20957–0000
3. 103 000 000
4. Ennex Production Co
5. Oakley #1
6. Putnam
7. Dewey OK
8. 140.0 million cubic feet
9. May 2, 1980
10. Mobil Oil Corp
1. 80–30814/03480
2. 35–093–00000–0000
3. 103 000 000
4. Warren Drilling Co Inc
5. L M Brown #1
6. Okeene Northwest
7. Major OK
8. 35.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co
1. 80–30815/03490

V 45 M Y 22 80 UMI

2. 35–087–20410–0000
3. 103 000 000
4. National Coop Refinery Assn
5. Dunning #1
6. Wildcat
7. McClain OK
8. 360.0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co

1. 80–30816/03479
2. 35–093–00000–0000
3. 103 000 000
4. Warren Drilling Co Inc
5. Specht #1–5
6. Okeene Northwest
7. Major OK
8. 75.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co

1. 80–30817/03485
2. 35–093–00000–0000
3. 103 000 000
4. Warren Drilling Co
5. Sproul #1
6.
7. Major OK
8. 150.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co

1. 80–30818/03062
2. 35–047–20491–0000
3. 108 000 000
4. Blaik Oil Co
5. Havlik #1
6. Sooner Trend
7. Garfield OK
8. 3.0 million cubic feet
9. May 2, 1980
10. Exxon Corp

1. 80–30819/03411
2. 35–007–00000–0000
3. 103 000 000
4. Wessely Energy Corp
5. Bourquin Unit No 1
6. S E Logan
7. Beaver OK
8. 180.0 million cubic feet
9. May 2, 1980
10. Northern Natural Gas Co

1. 80–30820/03421
2. 35–093–21498–0000
3. 103 000 000
4. Sabine Production Co
5. State #1–13
6. South Orion
7. Major OK
8. 444.1 million cubic feet
9. May 2, 1980
10. Michigan Wisconsin Pipeline Co

1. 80–30821/03418
2. 35–017–21271–0000
3. 103 000 000
4. Blue Quail Energy Inc
5. Ramsey #2
6. Yukon C NE/4 SE/4S10–T12N–R5W
7. Canadian OK
8. 720.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co

1. 80–30822/03469
2. 35–043–20975–0000
3. 103 000 000
4. Ennex Production Co
5. Mosteller #2
6. Putnam
7. Dewey OK
8. 90.0 million cubic feet
9. May 2, 1980
10. Mobil Oil Corp

1. 80–30823/03456
2. 35–007–21647–0000
3. 103 000 000
4. Marathon Oil Co
5. Wilkerson Unit No 2 (Morrow)
6. Mocane
7. Beaver OK
8. 240.0 million cubic feet
9. May 2, 1980
10. Colorado Interstate Gas Co

1. 80–30824/03431
2. 35–073–22158–0000
3. 103 000 000
4. Harper Oil Co
5. Terry Brown #1
6. Sooner Trend
7. Kingfisher OK
8. 29.0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co

1. 80–30825/03435
2. 35–139–21057–0000
3. 103 000 000
4. Beren Corp
5. Hurliman #1–33
6. Camrick
7. Texas OK
8. 500.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co

1. 80–30826/03434
2. 35–139–21057–0000
3. 103 000 000
4. Beren Corp
5. Dutch #1
6. Camrick
7. Texas OK
8. 400.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co

1. 80–30827/02835
2. 35–121–20472–0000
3. 103 000 000
4. Kingery Drilling Co Inc
5. Crandell #1
6.
7. Pittsburg OK
8. 3.3 million cubic feet
9. May 2, 1980
10. Arkansas Louisiana Gas Co

1. 80–30828/02454
2. 35–007–21619–0000
3. 103 000 000
4. Barnell LTD
5. J S Shaffer #1
6. Mocane Laverne
7. Beaver OK
8. 685.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co

1. 80–30829/03498
2. 35–011–20941–0000
3. 103 000 000
4. Mustang Production Co
5. Prairie Woman #1–24
6. S Geary
7. Blaine OK
8. 300.0 million cubic feet
9. May 2, 1980
10.

1. 80–30830/03494
2. 35–053–20506–0000
3. 103 000 000
4. Corley Ginther Oil Corp
5. Jones No 1
6. Wakita
7. Grant OK
8. 100.0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co

1. 80–30831/03483
2. 35–093–00000–0000
3. 103 000 000
4. Warren Drilling Co Inc
5. Warkentin #1
6.
7. Major OK
8. 100.0 million cubic feet
9. May 2, 1980
10. Phillips Petroleum Co

1. 80–30832/03499
2. 35–011–20892–0000
3. 103 000 000
4. Mustang Production Co
5. Gepner #1
6. Squaw Creek
7. Blaine OK
8. 180.0 million cubic feet
9. May 2, 1980
10. Oklahoma Gas & Electric Co Michigan-Wisconsin Pipeline Co

1. 80–30833/03517
2. 35–007–20922–0000
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Johnson No 1
6. East Turpin
7. Beaver OK
8. 6.0 million cubic feet
9. May 2, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–30834/03500
2. 35–043–20959–0000
3. 103 000 000
4. Mustang Production Co
5. Mercer #1–11
6. Putnam
7. Dewey OK
8. 150.0 million cubic feet
9. May 2, 1980
10.

1. 80–30835/03522
2. 35–047–21684–0000
3. 103 000 000
4. Texas American Oil Corp
5. Omer Sipe Well No 1
6. Sooner Trend
7. Garfield OK
8. 73.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co Exxon Co (USA)

1. 80–30836/03506
2. 35–047–21641–0000
3. 103 000 000
4. Texas American Oil Corp
5. Maxey No 1
6. Sooner Trend
7. Garfield OK
8. 190.0 million cubic feet
9. May 2, 1980
10. Grace Petroleum Corp

1. 80–30837/00812
2. 35–081–00000–0000
3. 103 000 000
4. C & C Energy Co

5. Jones No 1
6. Skellyville
7. Lincoln OK
8. 73.5 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co

1. 80–30838/03514
2. 35–047–21682–0000
3. 103 000 000
4. Texas American Oil Corp
5. Urban Helberg No 1
6. Sooner Trend
7. Garfield OK
8. 319.0 million cubic feet
9. May 2, 1980
10. Grace Petroleum Corp

1. 80–30839/03512
2. 35–139–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Wayne No 2
6. S Guymon
7. Texas OK
8. 18.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–30840/03523
2. 35–017–21199–0000
3. 103 000 000
4. Texaco Inc
5. Anna Mouser No 1
6. Yukon N
7. Canadian OK
8. 241.0 million cubic feet
9. May 2, 1980
10. Conoco Inc

1. 80–30841/01026
2. 35–121–20477–0000
3. 103 000 000
4. Arkla Exploration Co
5. Miller #3–7–C
6. Reams NW
7. Pittsburg OK
8. 24.0 million cubic feet
9. May 2, 1980
10. Arkansas Louisiana Gas Co

1. 80–30842/01025
2. 35–121–20477–0000
3. 103 000 000
4. Arkla Exploration Co
5. Miller #3–7–T
6. Reams NW
7. Pittsburg OK
8. 48.0 million cubic feet
9. May 2, 1980
10. Arkansas Louisiana Gas Co

1. 80–30843/01053
2. 35–137–05346–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Eulan No 1
6. W Doyle
7. Stephens OK
8. 2.0 million cubic feet
9. May 2, 1980
10. Aminoil USA Inc

1. 80–30844/03123
2. 35–081–20766–0000
3. 103 000 000
4. Ketal Oil Producing Co
5. Wotipka #1
6. N Agra
7. Lincoln OK
8. 180.0 million cubic feet
9. May 2, 1980
10. Colorado Gas Compression Inc

1. 80–30845/01059
2. 35–049–39057–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Litton #1
6. Golden Trend
7. Garvin OK
8. 4.0 million cubic feet
9. May 2, 1980
10. Warren Petroleum Co

1. 80–30846/01058
2. 35–049–39038–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Eskridge #1
6. Golden Trend
7. Garvin OK
8. .7 million cubic feet
9. May 2, 1980
10. Warren Petroleum Co

1. 80–30847/01055
2. 35–049–39964–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Julia #1
6. Golden Trend
7. Garvin OK
8. 10.8 million cubic feet
9. May 2, 1980
10. Warren Petroleum Co

1. 80–30848/01049
2. 35–137–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Donehen No 6
6. W Doyle
7. Stephens OK
8. 2.0 million cubic feet
9. May 2, 1980
10. Aminoil USA Inc

1. 80–30849/03495
2. 35–139–21169–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Randles #1
6. Dombey
7. Texas OK
8. 378.0 million cubic feet
9. May 2, 1980
10.

1. 80–30850/03507
2. 35–139–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Debee No 3
6. South Guymon
7. Texas OK
8. 19.0 million cubic feet
9. May 2, 1980
10. Panhandle Eastern Pipeline Co

1. 80–30851/01050
2. 35–137–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Creel No 3
6. Doyle
7. Stephens OK
8. 8.5 million cubic feet
9. May 2, 1980
10. Aminoil USA Inc

1. 80–30852/01046
2. 35–137–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Donehew No 5
6. W Doyle
7. Stephens OK
8. 2.1 million cubic feet
9. May 2, 1980
10. Aminoil USA Inc

1. 80–30853/01051
2. 35–137–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Culberson No 7
6. Doyle
7. Stephens OK
8. 4.0 million cubic feet
9. May 2, 1980
10. Aminoil USA Inc

United States Geological Survey Metairie, La.

1. Control Number (FERC/State)
2. API
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–30782/G0–1211
2. 17–708–40412–00S1–0
3. 102 000 000
4. Transco Exploration Co
5. A–9
6. South Marsh Island
7. 107
8. 150.0 million cubic feet
9. May 2, 1980
10. Transcontinental Gas Pipe Line

1. 80–30783/G0–1221
2. 17–715–40236–0000–0
3. 102 000 000
4. Shell Oil Co
5. A–12
6. South Timbalier
7. 175
8. 1341.0 million cubic feet
9. May 2, 1980
10. Trunkline Gas Co

1. 80–30784/G0–1250
2. 17–708–40397–0000–0
3. 102 000 000
4. Pennzoil Co
5. Pennzoil Company Well No A–24A (Alt)
6. South Marsh Island SA
7. 128
8. .0 million cubic feet
9. May 2, 1980
10. Sea Robin Pipeline Co Florida Gas Transmission Co Florida Power & Light

1. 80–30785/G0–1258
2. 42–706–40038–0000–0
3. 102 000 000
4. Oxy Petroleum Inc
5. B–6
6. Galveston
7. 144
8. 605.0 million cubic feet
9. May 2, 1980
10. Northern Natural Gas Co

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name

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6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–30858/NM0012–79–ER
2. 30–039–05139–0000–0
3. 108 000 000 Denied
4. Amerada Hess Corp
5. Jicarilla Apache I #2
6. Otero
7. Rio Arriba NM
8. 17.0 million cubic feet
9. April 22, 1980
10. El Paso Natural Gas Co

1. 80–30859/NM 84–79–SA
2. 30–025–00000–0000–0
3. 108 000 000 Denied
4. Conoco Inc
5. Lockhart B–31 #4
6. New Mexico Federal Unit
7. Lea NM
8. 15.9 million cubic feet
9. April 22, 1980
10. El Paso Natural Gas Co

1. 80–30860/NM 88–79–SA
2. 30–039–05139–0000–0
3. 108 000 000 Denied
4. Amerada Hess Corp
5. Jicarilla Apache I #2
6. Otero
7. Rio Arriba NM
8. 17.0 million cubic feet
9. April 22, 1980
10. El Paso Natural Gas Co

1. 80–30861/NM 90–79–SA
2. 30–039–07044–0000–0
3. 108 000 000 Denied
4. Mobil Oil Corp
5. Jicarilla E #3
6. Gavilan PC Blanco MV
7. Rio Arriba NM
8. 19.0 million cubic feet
9. April 22, 1980
10. Northwest Pipeline Corp

1. 80–30862/NM 351–79
2. 30–045–20928–0000–0
3. 108 000 000 Denied
4. W M Gallaway
5. Delo #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 20.0 million cubic feet
9. April 22, 1980
10. Southern Union Gathering Co

1. 80–30863/NM–2744–79
2. 30–039–00000–0000–0
3. 108 000 000 Denied
4. Caulkins Oil Co
5. Breech D 185
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 15.2 million cubic feet
9. April 22, 1980
10. Gas Co of New Mexico

1. 80–30864/NM–3757–79
2. 30–015–21877–0000–0
3. 103 000 000 Denied
4. D B Baxter
5. Ross Draw Unit #5–Z I D #16958
6. Ross Draw—Bone Springs
7. Eddy NM
8. 26.0 million cubic feet
9. April 22, 1980
10. El Paso Natural Gas Co

1. 80–30865/NM–4886–79–2
2. 30–045–11309–0000–0
3. 108 000 000 Denied
4. Northwest Pipeline Corp
5. New Mexico 32–11 #1
6. Blanco Mesaverde
7. San Juan NM
8. 21.0 million cubic feet
9. April 22, 1980
10. Northwest Pipeline Corp

Osage Agency, Bureau of Indian Affairs Osage County, Okla.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31169
2. 35–113–00000–0000–0
3. 103 000 000
4. Golden Oil Co
5. W F Friend #16–1 NE16–27N–11E
6. East Bowring Field
7. Osage OK
8. 16.7 million cubic feet
9. May 2, 1980
10. Ajax Oil & Gas Corp Inc

1. 80–31170
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 409
6.
7. Osage OK
8. .0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co

1. 80–31171
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 433
6.
7. Osage OK
8. .0 million cubic feet
9. May 2, 1980
10. Cities Service Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before June 6, 1980.

Please reference the FERC control number in all correspondence related to these determintions.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15691 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–01–M

[No. 189]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 16, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

California Department of Conservation

Division of Oil and Gas

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26638/80–6–0003
2. 04–095–20388–0000
3. 103 000 000
4. Gas Producing Enterprises Inc
5. E Dixon '1
6. East Dixon Gas
7. Solano CA
8. 246.0 million cubic feet
9. April 14, 1980
10. Pacific Gas & Electric

1. 80–26639/80–6–0004
2. 04–013–20146–0000
3. 102 000 000
4. Depco Inc
5. Stenzel No 71x–17
6. South Oakley
7. Contra Costa CA
8. 1095.0 million cubic feet
9. April 14, 1980
10.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26758/K–79–1174
2. 15–129–20371–0000
3. 102 000 000
4. Cities Service Co
5. Baughman O '2
6. Winter

7. Morton KS
8. 22.3 million cubic feet
9. April 14, 1980
10. Colorado Interstate Gas Co

1. 80–26759/K–79–1257
2. 15–129–20378–0000
3. 102 000 000
4. Cities Service Co
5. Posey A '2
6. Winter
7. Morton KS
8. 170.1 million cubic feet
9. April 14, 1980
10. Colorado Interstate Gas Co

1. 80–26760/K–79–1289
2. 15–151–20593–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Konold '1
6. Wildcat
7. Pratt KS
8. 182.5 million cubic feet
9. April 14, 1980
10. Central States Pipeline Co

1. 80–26761/K–79–1294
2. 15–047–20205–0000
3. 102 000 000
4. Imperial Oil Co
5. Mull '1–33
6. Wildcat
7. Edwards KS
8. 109.5 million cubic feet
9. April 14, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–26762/K–79–1295
2. 15–097–00000–0000
3. 102 000 000
4. Imperial Oil Co
5. Long '1–12
6. Wildcat
7. Kiowa KS
8. 29.2 million cubic feet
9. April 14, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–26763/K–79–1296
2. 15–097–20356–0000
3. 102 000 000
4. Imperial Oil Co
5. Davis '1–18
6. Wildcat
7. Kiowa KS
8. 109.5 million cubic feet
9. April 14, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–26764/K–79–1340
2. 15–025–20066–0000
3. 102 000 000
4. Robert L Haynie
5. '4 Tuttle
6. Snake Creek Sw
7. Clark KS
8. 91.0 million cubic feet
9. April 14, 1980
10. Northern Natural Gas Co

1. 80–26765/K–79–1341
2. 15–025–20044–0000
3. 102 000 000
4. Robert L Haynie
5. Tuttle '1
6. Snake Creek Sw
7. Clark KS
8. 91.2 million cubic feet
9. April 14, 1980
10. Northern Natural Gas Co

1. 80–26766/K–79–1342
2. 15–025–20154–0000
3. 102 000 000
4. Robert L Haynie
5. '8 Tuttle
6. Snake Creek Sw
7. Clark KS
8. 91.2 million cubic feet
9. April 14, 1980
10. Northern Natural Gas Co

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26640/2–80–58
2. 25–101–21701–0000
3. 108 000 000
4. Jerry L Branch
5. State 5–28 Sec 28–T34N–R2W
6. Prairie Dell Field
7. Toole MT
8. 19.0 million cubic feet
9. April 14, 1980
10. Cascade Gas Co Montana Power Co

1. 80–26641/2–80–59
2. 25–101–21743–0000
3. 108 000 000
4. Jerry L Branch
5. Sager 4–20 Sec 20–T34N–R2W
6. Prairie Dell Field
7. Toole MT
8. 6.0 million cubic feet
9. April 14, 1980
10. Cascade Gas Co Montana Power Co

1. 80–26642/2–80–60
2. 25–101–21703–0000
3. 108 000 000
4. Jerry L Branch
5. State 11–21 Sec 21–T34N–R2W
6. Prairie Dell Field
7. Toole MT
8. 18.0 million cubic feet
9. April 14, 1980
10. Cascade Gas Co Montana Power Co

New Mexico Department of Energy and Minerals

Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26637
2. 30–025–26500–0000–
3. 103 000 000
4. Doyle Hartman
5. Maralo State '1
6. Lalmat
7. lea NM
8. 90.0 million cubic feet
9. April 11, 1980
10. El Paso Natural Gas Co

North Dakota Geological Survey

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26767/217
2. 33–053–00684–0000–
3. 102 000 000
4. Belco Petroleum Corp
5. Edgar BN 1–13 00684
6. Roughrider
7. McKenzie ND
8. 95.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

1. 80–26768/218
2. 33–053–00813–0000–
3. 102 000 000
4. Belco Petroleum Corp
5. BN 2–33 00813
6. Roughrider
7. McKenzie ND
8. 29.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

1. 80–26769/219
2. 33–053–00619–0000–
3. 102 000 000
4. Belco Petroleum Corp
5. Roughrider BN #1–33 00619
6. Roughrider
7. McKenzie ND
8. 104.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

1. 80–26770/220
2. 33–053–00775–0000–
3. 102 000 000
4. Belco Petroleum Corp
5. Edgar BN 3–7 00775
6. Roughrider
7. McKenzie ND
8. 135.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

1. 80–26771/221
2. 33–053–00762–0000–
3. 102 000 000
4. Belco Petroleum Corp
5. BN 8–21 00762
6. Roughrider
7. McKenzie ND
8. 29.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

1. 80–26772/222
2. 33–053–00737–0000–
3. 102 000 000
4. Belco Petroleum Corp
5. Edgar BN 2–13 00737
6. Roughrider
7. McKenzie ND
8. 201.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

1. 80–26773/223
2. 33–053–00666–0000–
3. 102 000 000

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4. Belco Petroleum Corp
5. Burlington Northern 7–21 00666
6. Roughrider
7. McKenzie ND
8. 60.0 million cubic feet
9. April 14, 1980
10. Koch Oil Co

Ohio Department of Natural Resources

Division of Oil and Gas

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26421/06380
2. 34–121–21477–0014–
3. 108 000 000
4. Mid-Atlantic Oil Co
5. John McFerren #1
6.
7. Noble OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26422/06382
2. 34–121–21374–0014–
3. 108 000 000
4. Mid-Atlantic Oil Company
5. Elizabeth Buckey #1
6.
7. Noble OH
8. 13.0 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp

1. 80–26423/06383
2. 34–121–21379–0014–
3. 108 000 000
4. Mid-Atlantic Oil Company
5. John Wargo #1
6.
7. Noble OH
8. 15.0 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp

1. 80–26424/07531
2. 34–157–20995–0014–
3. 108 000 000
4. Scott T Lutz
5. Roy Rice #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26425/07532
2. 34–157–20988–0014–
3. 108 000 000
4. Scott T Lutz
5. Slabaugh #1
6.
7. Tuscarawas OH
8. 7.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26426/07533
2. 34–157–21009–0014–
3. 108 000 000
4. Scott T Lutz
5. Roy Rice #2
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26427/07534
2. 34–157–22444–0014–
3. 108 000 000
4. Scott T Lutz
5. Roy Rice #3
6.
7. Tuscarawas OH
8. 4.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26428/07535
2. 34–157–21199–0014–
3. 108 000 000
4. Scott T Lutz
5. Roy Rice B
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26429/07536
2. 34–157–21269–0014–
3. 108 000 000
4. Scott T Lutz
5. McDade #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26430/07537
2. 34–157–21370–0014–
3. 108 000 000
4. Scott T Lutz
5. McDade #2
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26431/07538
2. 34–157–22138–0014–
3. 108 000 000
4. Scott T Lutz
5. Kennedy #1
6.
7. Tuscarawas OH
8. 6.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26432/07540
2. 34–157–23143–0014–
3. 108 000 000
4. Scott T Lutz
5. Kramer A–1
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26433/07541
2. 34–023–22651–0014–
3. 108 000 000
4. Scott T Lutz
5. Roof #1
6.
7. Clark OH
8. 1.4 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26434/07542
2. 34–023–22292–0014–
3. 108 000 000
4. Scott T Lutz
5. Hackett #2
6.
7. Clark OH
8. 19.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26435/07543
2. 34–023–22291–0014–
3. 108 000 000
4. Scott T Lutz
5. Hackett #1
6.
7. Clark OH
8. 10.3 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26436/07544
2. 34–157–21139–0014–
3. 108 000 000
4. Scott T Lutz
5. Slabaugh #2
6.
7. Tuscarawas OH
8. 7.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co

1. 80–26437
2. 34–007–20070–0014–
3. 108 000 000
4. Clarence K Tussel Jr
5. P Olekshuk #1
6.
7. Ashtabula OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26438
2. 34–007–20224–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. S & N Burko #1
6.
7. Ashtabula OH
8. 1.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26439
2. 34–007–20228–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. C & M Kurt #1
6.
7. Ashtabula OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26440
2. 34–007–20272–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. Claude & Alice Kenyon #2
6.
7. Ashtabula OH
8. 15.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26441
2. 34–007–20283–0014–
3. 108 000 000

4. Chanse Petroleum Corp
5. A D Kehres #1
6.
7. Ashtabula OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26442
2. 34–007–20292–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. H & I Carter #1–A
6.
7. Ashtabula OH
8. 1.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26443
2. 34–007–20295–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. J & A Congdon #1
6.
7. Ashtabula OH
8. 11.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26444
2. 34–007–20297–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. Anderson Brockway #1
6.
7. Ashtabula OH
8. 1.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26445
2. 34–007–20298–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. J & A Trenchan #1A
6.
7. Ashtabula OH
8. 10.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26446
2. 34–007–20300–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. Andrew & Albina Lesko #2
6.
7. Ashtabula OH
8. 4.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26447
2. 34–007–20303–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. John & Nellie Harnist #1
6.
7. Ashtabula OH
8. 2.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26448
2. 34–007–20309–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. Hamilton Fall #1
6.
7. Ashtabula OH
8. 1.7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26449
2. 34–007–20325–0014–
3. 108 000 000
4. Chanse Petroleum Corp
5. H & A Smith #1
6.
7. Ashtabula OH
8. 6.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26450
2. 34–007–20395–0014
3. 108 000 000
4. Chanse Petroleum Corp
5. H F Bouse #1
6.
7. Ashtabula OH
8. 9.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26451
2. 34–007–20453–0014
3. 108 000 000
4. J P White
5. Brown-Shook #1
6.
7. Ashtabula OH
8. 4.0 million cubic feet
9. April 11, 1980
10.

1. 80–26452
2. 34–019–20220–0014
3. 108 000 000
4. MB Operating Co Inc
5. Steele #1
6.
7. Carroll OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26453
2. 34–019–20222–0014
3. 108 000 000
4. MB Operating Co Inc
5. J Stotzer #1
6.
7. Carroll OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26454
2. 34–019–20327–0014
3. 108 000 000
4. MB Operating Co Inc
5. Shaw #1
6.
7. Carroll OH
8. .8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26455
2. 34–019–20328–0014
3. 108 000 000
4. MB Operating Co Inc
5. Shaw #2
6.
7. Carroll OH
8. .8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26456
2. 34–031–22597–0014
3. 108 000 000
4. The Oxford Oil Co
5. Reo Davis #1
6. N-R
7. Coshocton OH
8. 6.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp

1. 80–26457
2. 34–031–22843–0014
3. 108 000 000
4. The Oxford Oil Co
5. Quentin Elder #1
6.
7. Coshocton OH
8. 2.5 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp

1. 80–26458
2. 34–031–22916–0014
3. 108 000 000
4. The Oxford Oil Co
5. Norman Cullison #1
6.
7. Coshocton OH
8. 11.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp

1. 80–26459
2. 34–059–20926–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Edwards #1
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. April 11, 1980
10.

1. 80–26460
2. 34–059–20977–0014
3. 108 000 000
4. MB Operating Co Inc
5. Mallett #1
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co

1. 80–26461
2. 34–059–21134–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. King #1
6.
7. Guernsey OH
8. 3.2 million cubic feet
9. April 11, 1980
10.

1. 80–26462
2. 34–059–21050–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Toth #1
6.
7. Guernsey OH
8. 5.0 million cubic feet
9. April 11, 1980
10.

1. 80–26463
2. 34–059–21159–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Ruby #1
6.
7. Guernsey OH

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8. 7.0 million cubic feet
9. April 11, 1980
10.
1. 80–26464
2. 34–059–21488–0014
3. 108 000 000
4. Davis Frac Tanks & Supply
5. D B Braniger #1
6.
7. Guernsey OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26465
2. 34–059–21558–0014
3. 108 000 000
4. Tiger Oil Inc
5. Tooms #2
6.
7. Guernsey OH
8. 3.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26466
2. 34–059–22643–0014
3. 103 000 000
4. Consolidated Resources of America
5. K D Hall & Brice Keller #2
6. Senecaville
7. Guernsey OH
8. 43.8 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26467
2. 34–059–22647–0014
3. 103 000 000
4. Consolidated Resources of America I
5. Walter & Mary Dziedzic #1
6. Senecaville
7. Guernsey OH
8. 73.0 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26468
2. 34–059–22649–0014
3. 103 000 000
4. Consolidated Resources of America I
5. Hall-Keller-Shira Unit #1
6. Senecaville
7. Guernsey OH
8. 43.8 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26469
2. 34–059–22651–0014
3. 103 000 000
4. Consolidated Resources of America I
5. George Lasko #1
6. Senecaville
7. Guernsey OH
8. 43.8 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26470
2. 34–059–22667–0014
3. 103 000 000
4. Consolidated Resources of America I
5. Irene & Charles Warehime #1
6. Senecaville
7. Guernsey OH
8. 43.8 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26471
2. 34–075–22242–0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. 1B Johnson Et Al
6.
7. Homes OH
8. 18.0 million cubic feet
9. April 11, 1980
10.
1. 80–26472
2. 34–099–20197–0014
3. 108 000 000
4. MB Operating Co Inc
5. Johnson Unit #1
6.
7. Mahoning OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26473
2. 34–099–20218–0014
3. 108 000 000
4. MB Operating Co Inc
5. Martin #1
6.
7. Mahoning OH
8. 6.2 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26474
2. 34–099–20220–0014
3. 108 000 000
4. MB Operating Co nc
5. Hawkins #C–1
6.
7. Mahoning OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26475
2. 34–099–20226–0014
3. 108 000 000
4. Wiser Oil Co
5. C Y Davis Comm #1
6.
7. Mahoning OH
8. 18.0 million cubic feet
9. April 11, 1980
10. The East Ohio Gas Company
1. 80–26476
2. 34–103–20423–0014
3. 108 000 000
4. Burtner-Morgan-Stephens Co
5. Cleveland Trust No 1
6.
7. Medina OH
8. 1.0 million cubic feet
9. April 11, 1980
10. The East Ohio Gas Co
1. 80–26477
2. 34–115–21280–0014
3. 108 000 000
4. The Oxford Oil Co
5. Gerald Clutter #1
6.
7. Morgan OH
8. 7.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26478
2. 34–115–21456–0014
3. 108 000 000
4. The Oxford Oil Co
5. Clarence Crooks #1
6.
7. Morgan OH
8. 12.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26479
2. 34–119–20685–0014
3. 108 000 000
4. The Oxford Oil Co
5. B A Dilley #1
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26480
2. 34–119–22067–0014
3. 108 000 000
4. Noble Gas Co
5. Lester Prouty
6.
7. Muskingum OH
8. 7.0 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26481
2. 34–119–22102–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Blackstone #1
6.
7. Muskingum OH
8. .6 million cubic feet
9. April 11, 1980
10.
1. 80–26482
2. 34–119–22119–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Caldwell #2
6.
7. Muskingum OH
8. 2.4 million cubic feet
9. April 11, 1980
10.
1. 80–26483
2. 34–119–22128–0014
3. 108 000 000
4. MB Operating Co Inc
5. Cunningham #1
6.
7. Muskingum OH
8. 3.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26484
2. 34–119–22163–0014
3. 108 000 000
4. MB Operating Co Inc
5. Cunningham #2
6.
7. Muskingum OH
8. 8.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26485
2. 34–119–22225–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Quinn #1
6.
7. Muskingum OH
8. 1.1 million cubic feet
9. April 11, 1980
10.
1. 80–26486

2. 34–119–22511–0014
3. 108 000 000
4. The Oxford Oil Co
5. Raymond Elson #2
6.
7. Muskingum OH
8. 1.5 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26487
2. 34–119–22556–0014
3. 108 000 000
4. Tiger Oil nc
5. Thomas Barr #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. April 11, 1980
10.
1. 80–26488
2. 34–119–22564–0014
3. 108 000 000
4. Tiger Oil Inc
5. Fulton #1
6.
7. Muskingum OH
8. 1.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26489
2. 34–119–22723–0014
3. 108 000 000
4. The Oxford Oil Co
5. Dilley Heirs #2
6.
7. Muskingum OH
8. 2.5 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26490
2. 34–119–23374–0014
3. 108 000 000
4. The Oxford Oil Co
5. Leonard Bell #1
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. April 11, 1980
10. Natural Gas & Oil Corp
1. 80–26491
2. 34–119–23544–0014
3. 108 000 000
4. The Oxford Oil Co
5. John Dickson #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26492
2. 34–119–23594–0014
3. 108 000 000
4. The Oxford Oil Co
5. Dilley Heirs #1
6.
7. Muskingum OH
8. 2.5 million cubic feet
9. April 11, 1980
10. National Gas & Oil Corp
1. 80–26493
2. 34–119–23929–0014
3. 108 000 000
4. The Oxford Oil Co
5. Larry Cover #1
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. April 11, 1980
10. National Gas & Oil
1. 80–26494
2. 34–121–21373–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Lorey #1
6.
7. Noble OH
8. 2.0 million cubic feet
9. April 11, 1980
10.
1. 80–26495
2. 34–121–21387–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Lorey #2
6.
7. Noble OH
8. 2.3 million cubic feet
9. April 11, 1980
10.
1. 80–26496
2. 34–121–21434–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Pickenpaugh #1
6.
7. Noble OH
8. 7.3 million cubic feet
9. April 11, 1980
10.
1. 80–26497
2. 34–121–21502–0014
3. 108 000 000
4. Davis Frac Tanks & Supply
5. Franklin Real Estate #3
6.
7. Noble OH
8. 1.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26498
2. 34–133–20166–0014
3. 108 000 000
4. Okmar Oil Co
5. Smith Community No 1
6. Ravenna
7. Portage OH
8. 3.1 million cubic feet
9. April 11, 1980
10. The East Ohio Gas Co
1. 80–26499
2. 34–133–20202–0014
3. 108 000 000
4. Okmar Oil Co
5. R G Gless Community #1
6. Ravenna
7. Portage OH
8. 3.1 million cubic feet
9. April 11, 1980
10. The East Ohio Gas Company
1. 80–26500
2. 34–133–20269–0014
3. 108 000 000
4. MB Operating Co Inc
5. Mesaros #1
6.
7. Portage OH
8. 11.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26501
2. 34–133–20285–0014
3. 108 000 000
4. MB Operating Co Inc
5. Pimlott Comm #1
6.
7. Portage OH
8. 2.9 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26502
2. 34–133–20310–0014
3. 108 000 000
4. MB Operating Co Inc
5. Moff #1
6.
7. Portage OH
8. 2.9 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26503
2. 34–133–20307–0014
3. 108 000 000
4. MB Operating Co Inc
5. Ries #1
6.
7. Portage OH
8. 3.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26504
2. 34–133–20334–0014
3. 108 000 000
4. MB Operating Co Inc
5. Uhrig #1–A
6.
7. Portage OH
8. 2.2 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26505
2. 34–133–20346–0014
3. 108 000 000
4. MB Operating Co Inc
5. Miller #1
6.
7. Portage OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26506
2. 34–133–20347–0014
3. 108 000 000
4. MB Operating Co Inc
5. Ricks #1
6.
7. Portage OH
8. 3.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26507
2. 34–133–20354–0014
3. 108 000 000
4. MB Operating Co Inc
5. Dobrilovic #1
6.
7. Portage OH
8. .3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26508
2. 34–133–20356–0014
3. 108 000 000
4. MB Operating Co Inc
5. Craig #1
6.

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7. Portage OH
8. .3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26509
2. 34–133–20357–0014
3. 108 000 000
4. MB Operating Co Inc
5. Kommel #1
6.
7. Portage OH
8. 3.8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26510
2. 34–133–20370–0014
3. 108 000 000
4. MB Operating Co Inc
5. Jacobs-Harrington #1
6.
7. Portage OH
8. 1.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26511
2. 34–133–20379–0014
3. 108 000 000
4. MB Operating Co Inc
5. Sapp #2
6.
7. Portage OH
8. 1.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26512
2. 34–133–20390–0014
3. 108 000 000
4. MB Operating Co Inc
5. Black #1
6.
7. Portage OH
8. 1.9 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26513
2. 34–133–20409–0014
3. 108 000 000
4. MB Operating Co Inc
5. Dorflinger #1
6.
7. Portage OH
8. 7.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26514
2. 34–133–21132–0014
3. 108 000 000
4. Stark Oilfield Services Inc
5. Adams #1
6. Freedom TWP & Windham TWP
7. Portage OH
8. 8.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26515
2. 34–151–20367–0014
3. 108 000 000
4. MB Operating Co Inc
5. Canton Board of Education #1
6.
7. Stark OH
8. .8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26516
2. 34–151–21118—14
3. 108 000 000
4. Zenith Exploration Co
5. Crawford #1
6.
7. Stark OH
8. 20.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26517
2. 34–151–21327–0014
3. 108 000 000
4. MB Operating Co Inc
5. Kuhn #1
6.
7. Stark OH
8. 2.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26518
2. 34–151–21335–0014
3. 108 000 000
4. MB Operating Co Inc
5. Duncan-Bowman #1
6.
7. Stark OH
8. 2.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26519
2. 34–151–21431–0014
3. 108 000 000
4. MB Operating Co Inc
5. East Canton High #1
6.
7. Stark OH
8. 3.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26520
2. 34–151–21519–0014
3. 108 000 000
4. MB Operating Co Inc
5. Mains #1
6.
7. Stark OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26521
2. 34–151–21520–0014
3. 108 000 000
4. Arthur D Smith
5. Smith #1
6.
7. Stark OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26522
2. 34–151–21574–0014
3. 108 000 000
4. MB Operating Co Inc
5. Leon Construction #1
6.
7. Stark OH
8. 2.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26523
2. 34–151–21738–0014
3. 108 000 000
4. MB Operating Co Inc
5. Sturrett #1
6.
7. Stark OH
8. 4.9 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26524
2. 34–151–21766–0014
3. 108 000 000
4. MB Operating Co Inc
5. Halter #1
6.
7. Stark OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26525
2. 34–151–21774–0014
3. 108 000 000
4. MB Operating Co Inc
5. Garaux #1A
6.
7. Stark OH
8. 2.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26526
2. 34–151–21806–0014
3. 108 000 000
4. MB Operating Co Inc
5. Baum #1
6.
7. Stark OH
8. 10.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26527
2. 34–151–21809–0014
3. 108 000 000
4. MB Operating Co Inc
5. Harbold #1
6.
7. Stark OH
8. 5.9 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26528
2. 34–151–21836–0014
3. 108 000 000
4. MB Operating Co Inc
5. Deremer Unit #1
6.
7. Stark OH
8. .4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26529
2. 34–151–21841–0014
3. 108 000 000
4. MB Operating Co Inc
5. Deremer #2
6.
7. Stark OH
8. .4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26530
2. 34–151–21843–0014
3. 108 000 000
4. MB Operating Co Inc
5. C Blend #1
6.
7. Stark OH
8. 1.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26531

2. 34–151–21855–0014
3. 108 000 000
4. MB Operating Co Inc
5. Hall-McCollum Unit #1
6.
7. Stark OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26532
2. 34–151–21870–0014
3. 108 000 000
4. MB Operating Co Inc
5. Nauman #2
6.
7. Stark OH
8. .8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26533
2. 34–151–21876–0014
3. 108 000 000
4. MB Operating Co Inc
5. Sponseller #2
6.
7. Stark OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26534
2. 34–151–21929–0014
3. 108 000 000
4. MB Operating Co Inc
5. Adelman #1
6.
7. Stark OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26535
2. 34–151–21934–0014
3. 108 000 000
4. MB Operating Co Inc
5. Adelman #2
6.
7. Stark OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26536
2. 34–151–21935–0014
3. 108 000 000
4. MB Operating Co Inc
5. Adelman-Hall-McCollum U #1
6.
7. Stark OH
8. 1.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26537
2. 34–151–21940–0014
3. 108 000 000
4. MB Operating Co Inc
5. Garaux #2A
6.
7. Stark OH
8. 2.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26538
2. 34–151–21946–0014
3. 108 000 000
4. MB Operating Co Inc
5. Miller-Heinbuch Unit #1
6.
7. Stark OH
8. 5.7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26539
2. 34–151–21949–0014
3. 108 000 000
4. MB Operating Co Inc
5. B & M Sickafoose #1–A
6.
7. Stark OH
8. 2.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26540
2. 34–151–21975–0014
3. 108 000 000
4. MB Operating Co Inc
5. Bachtel Unit #1
6.
7. Stark OH
8. .8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26541
2. 34–151–21976–0014
3. 108 000 000
4. MB Operating Co Inc
5. Adelman-Thouvenin #3
6.
7. Stark OH
8. 3.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26542
2. 34–151–21985–0014
3. 108 000 000
4. MB Operating Co Inc
5. V Sheatzley Unit #1
6.
7. Stark OH
8. 7.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26543
2. 34–151–21988–0014
3. 108 000 000
4. MB Operating Co Inc
5. Hoobler Unit #1
6.
7. Stark OH
8. 1.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26544
2. 34–151–21990–0014
3. 108 000 000
4. MB Operating Co Inc
5. Kiko-Dittmar Unit #1
6.
7. Stark OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26545
2. 34–151–2207–0014
3. 108 000 000
4. MB Operating Co Inc
5. Thouvenin-Hall Unit #1
6.
7. Stark OH
8. 1.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26546
2. 34–151–22008–0014
3. 108 000 000
4. MB Operating Co Inc
5. Kiko-Dittmar #2
6.
7. Stark OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26547
2. 34–151–22017–0014
3. 108 000 000
4. MB Operating Co Inc
5. Thouvenin-Rodocker Unit #1
6.
7. Stark OH
8. 2.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26548
2. 34–151–22018–0014
3. 108 000 000
4. MB Operating Co Inc
5. Sickafoose-Morris Unit #1
6.
7. Stark OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26549
2. 34–151–22019–0014
3. 108 000 000
4. MB Operating Co Inc
5. Thouvenin-Hall Unit #2
6.
7. Stark OH
8. 1.7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26550
2. 34–151–22031–0014
3. 108 000 000
4. MB Operating Co Inc
5. Mortenson Unit #1
6.
7. Stark OH
8. 1.7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26551
2. 34–151–22038–0014
3. 108 000 000
4. MB Operating Co Inc
5. Mayer Unit #1
6.
7. Stark OH
8. 2.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26552
2. 34–151–22043–0014
3. 108 000 000
4. MB Operating Co Inc
5. Garner #1
6.
7. Stark OH
8. 18.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26553
2. 34–151–22046–0014
3. 108 000 000
4. MB Operating Co Inc
5. Edwards Unit #1
6.

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7. Stark OH
8. 1.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26554
2. 34–151–22053–0014
3. 108 000 000
4. MB Operating Co Inc
5. Burrow-Rodocker Unit #1
6.
7. Stark OH
8. 7.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26555
2. 34–151–22057–0014
3. 108 000 000
4. MB Operating Co Inc
5. Brenner Unit #1
6.
7. Stark OH
8. 3.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26556
2. 34–151–22060–0014
3. 108 000 000
4. MB Operating Co Inc
5. W Hall Unit #1
6.
7. Stark OH
8. 7.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26557
2. 34–151–22069–0014
3. 108 000 000
4. MB Operating Co Inc
5. F Foit Unit #1
6.
7. Stark OH
8. 7.3 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26558
2. 34–151–22071–0014
3. 108 000 000
4. MB Operating Co Inc
5. E Gill Unit #1
6.
7. Stark OH
8. 4.5 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26559
2. 34–151–22075–0014
3. 108 000 000
4. MB Operating Co Inc
5. D & M Pattison Unit #1
6.
7. Stark OH
8. 3.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26560
2. 34–151–22077–0014
3. 108 000 000
4. MB Operating Co Inc
5. Spiker Unit #3
6.
7. Stark OH
8. 4.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26561
2. 34–151–22648–0014
3. 108 000 000
4. MB Operating Co Inc
5. P Lattavo #1
6.
7. Stark OH
8. 10.4 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26562
2. 34–151–22843–0014
3. 108 000 000
4. MB Operating Co Inc
5. C Blend #2
6.
7. Stark OH
8. 1.1 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26563
2. 34–153–20148–0014
3. 108 000 000
4. Wiser Oil Co
5. Wm Smith #1
6.
7. Summit OH
8. 19.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26564
2. 34–153–00167–0014
3. 108 000 000
4. Wiser Oil Co
5. H J Steiner #1
6.
7. Summit OH
8. 7.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26565
2. 34–153–20346–0014
3. 108 000 000
4. Wiser Oil Co
5. D L Derr #2
6.
7. Summit OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26566
2. 34–153–20386–0014
3. 108 000 000
4. Wiser Oil Co
5. Roy Eckart #2
6.
7. Summit OH
8. 9.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26567
2. 34–153–20404–0014
3. 108 000 000
4. Wiser Oil Co
5. Wm Smith #2
6.
7. Summit OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26568
2. 34–155–21291–0014
3. 102 000 000
4. Berea Oil and Gas Corp
5. Bielobockie #2
6.
7. Trumbull OH
8. 15.0 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26569
2. 34–157–20040–0014
3. 108 000 000
4. Wiser Oil co
5. C & M Swank #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26570
2. 34–157–20492–0014
3. 108 000 000
4. William N Tipka
5. Smith C #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26571
2. 34–157–20919–0014
3. 108 000 000
4. MB Operating Co Inc
5. J Levengood #1
6.
7. Tuscarawas OH
8. 1.6 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26572
2. 34–157–20920–0014
3. 108 000 000
4. MB Operating Co Inc
5. D Levengood #1
6.
7. Tuscarawas OH
8. 2.2 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26573
2. 34–157–20935–0014
3. 108 000 000
4. MB Operating Co Inc
5. Gribi #1
6.
7. Tuscarawas OH
8. 2.7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26574
2. 34–157–20936–0014
3. 108 000 000
4. MB Operating Co Inc
5. W Stotzer #1
6.
7. Tuscarawas OH
8. 1.7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26575
2. 34–157–20943–0014
3. 108 000 000
4. MB Operating Co Inc
5. Hale #1
6.
7. Tuscarawas OH
8. .8 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26576

2. 34–157–20948–0014
3. 108 000 000
4. MB Operating Co Inc
5. Hale #3
6.
7. Tuscarawas OH
8. .7 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26577
2. 34–157–20950–0014
3. 108 000 000
4. MB Operating Co Inc
5. Herron Estate #1
6.
7. Tuscarawas OH
8. 3.4 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26578
2. 34–157–20985–0014
3. 108 000 000
4. MB Operating Co Inc
5. Duren #1
6.
7. Tuscarawas OH
8. 2.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26579
2. 34–157–21051–0014
3. 108 000 000
4. MB Operating Co Inc
5. Nixon #1
6.
7. Tuscarawas OH
8. .8 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26580
2. 34–157–21050–0014
3. 108 000 000
4. MB Operating Co Inc
5. Nixon #2
6.
7. Tuscarawas OH
8. .8 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26581
2. 34–157–21059–0014
3. 108 000 000
4. MB Operating Co Inc
5. Duren #3
6.
7. Tuscarawas OH
8. 2.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26582
2. 34–157–21096–0014
3. 108 000 000
4. MB Operating Co Inc
5. Wm Sattler #1
6.
7. Tuscarawas OH
8. 5.3 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26583
2. 34–157–21103–0014
3. 108 000 000
4. H D Collins Trust
5. Roth #1
6.
7. Tuscarawas OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26584
2. 34–157–21127–0014
3. 108 000 000
4. MB Operating Co Inc
5. Markley #4
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26585
2. 34–157–21132–0014
3. 108 000 000
4. H D Collins Trust
5. Kinsey #1
6.
7. Tuscarawas OH
8. 2.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26586
2. 34–157–21164–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Buck #1
6.
7. Tuscarawas OH
8. 3.2 million cubic feet
9. April 11, 1980
10.
1. 80–26587
2. 34–157–21182–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. R Dietrick #1
6.
7. Tuscarawas OH
8. 2.9 million cubic feet
9. April 11, 1980
10.
1. 80–26588
2. 34–157–21187–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Poland-Lorenz #1
6.
7. Tuscarawas OH
8. 3.1 million cubic feet
9. April 11, 1980
10.
1. 80–26589
2. 34–157–21195–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. L A Mizer #1
6.
7. Tuscarawas OH
8. 1.2 million cubic feet
9. April 11, 1980
10.
1. 80–26590
2. 34–157–21196–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Wallace-Green #1
6.
7. Tuscarawas OH
8. 3.1 million cubic feet
9. April 11, 1980
10.
1. 80–26591
2. 34–167–24615–0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Kenneth Ward #1–A
6. Newport
7. Washington OH
8. 1.8 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26592
2. 34–169–21088–0014
3. 108 000 000
4. Dalton and Hanna Co
5. Lester Beyeler #1
6.
7. Wayne OH
8. 1.0 million cubic feet
9. April 11, 1980
10. Columbia Gas Transmission Corp
1. 80–26593
2. 34–157–21197–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. B&E Wallace #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10.
1. 80–26594
2. 34–157–21214–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Artr #2
6.
7. Tuscarawas OH
8. 2.0 million cubic feet
9. April 11, 1980
10.
1. 80–26595
2. 34–157–21215–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Arth #3
6.
7. Tuscarawas OH
8. 1.4 million cubic feet
9. April 11, 1980
10.
1. 80–26596
2. 34–157–21216–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Arth #1
6.
7. Tuscarawas OH
8. 9.0 million cubic feet
9. April 11, 1980
10.
1. 80–26597/121700
2. 34–157–21187–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Deibel Gintz #1
6.
7. Tuscarawas OH
8. .5 million cubic feet
9. April 11, 1980
10.
1. 80–26598
2. 34–157–21218–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Kandell-Sherretts #1
6.

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7. Tuscarawas OH
8. 3.1 million cubic feet
9. April 11, 1980
10.
1. 80–26599
2. 34–157–21230–0014
3. 108 000 000
4. H D Collins Trustee
5. M Wright #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26600
2. 34–157–21232–0014
3. 108 000 000
4. H D Collins Trustee
5. Shipton #1
6.
7. Tuscarawas OH
8. 16.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26601
2. 34–157–21243–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Wherley-Haines #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. April 11, 1980
10.
1. 80–26602
2. 34–157–21244–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Wherley-Gross #1
6.
7. Tuscarawas OH
8. 3.5 million cubic feet
9. April 11, 1980
10.
1. 80–26603
2. 34–157–21245–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. J S Wherley #1
6.
7. Tuscarawas OH
8. 1.3 million cubic feet
9. April 11, 1980
10.
1. 80–26604
2. 34–157–21246–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Ever Hart #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. April 11, 1980
10.
1. 80–26605
2. 34–157–21247–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Geiogue-Vanica #1
6.
7. Tuscarawas OH
8. 1.5 million cubic feet
9. April 11, 1980
10.
1. 80–26606
2. 34–157–21248–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Johns #1
6.
7. Tuscarawas OH
8. .9 million cubic feet
9. April 11, 1980
10.
1. 80–26607
2. 34–157–21249–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. R Dietrick #2
6.
7. Tuscarawas OH
8. 2.5 million cubic feet
9. April 11, 1980
10.
1. 80–26608
2. 34–157–21250–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Johns #2
6.
7. Tuscarawas OH
8. 3.2 million cubic feet
9. April 11, 1980
10.
1. 80–26609
2. 34–157–21251–0014
3. 108 000 000
4. H D Collins Trustee
5. True #1
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26610
2. 34–157–21255–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Hinds #1
6.
7. Tuscarawas, OH
8. 2.3 million cubic feet
9. April 11, 1980
10.
1. 80–26611
2. 34–157–21256–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Lahmers #1
6.
7. Tuscarawas, OH
8. 1.5 million cubic feet
9. April 11, 1980
10.
1. 80–26612
2. 34–157–21257–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Landis #1
6.
7. Tuscarawas, OH
8. 2.9 million cubic feet
9. April 11, 1980
10.
1. 80–26613
2. 34–157–21258–0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Atkinson #1
6.
7. Tuscarawas, OH
8. 1.3 million cubic feet
9. April 11, 1980
10.
1. 80–26614
2. 34–157–21383–0014
3. 108 000 000
4. H D Collins
5. Heddleston #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26615
2. 34–157–21396–0014
3. 108 000 000
4. H D Collins
5. Peter #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26616
2. 34–157–21397–0014
3. 108 000 000
4. H D Collins Trust
5. Randall #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26617
2. 34–157–21408–0014
3. 108 000 000
4. Wiser Oil Co
5. Pancher-Space Unit #1
6.
7. Tuscarawas, OH
8. 16.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26618
2. 34–157–21442–0014
3. 108 000 000
4. Wiser Oil Co
5. Frank Bender Etal Unit #1
6.
7. Tuscarawas, OH
8. 18.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26619
2. 34–157–21463–0014
3. 108 000 000
4. H D Collins Trust
5. T J Anderson #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26620
2. 34–157–21469–0014
3. 108 000 000
4. Phoenix National Petroleum Co
5. Guspyt-Huebner A Unit #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26621

2. 34–157–21471–0014
3. 108 000 000
4. H D Collins Trust
5. Kendall #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26622
2. 34–157–21506–0014
3. 108 000 000
4. H D Collins Trust
5. Henry #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26623
2. 34–157–21510–0014
3. 108 000 000
4. H D Collins Trust
5. Rainsberger #1
6.
7. Tuscarawas, OH
8. 11.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26624
2. 34–157–21517–0014
3. 108 000 000
4. H D Collins Trust
5. Besozzi #1
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26625
2. 34–157–21617–0014
3. 108 000 000
4. H D Collins Trust
5. Duso #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26626
2. 34–157–21619–0014
3. 108 000 000
4. H D Collins Trust
5. Malterer #1
6.
7. Tuscarawas, OH
8. 14.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26627
2. 34–157–21699–0014
3. 108 000 000
4. H D Collins Trust
5. Wright-Insley #1
6.
7. Tuscarawas, OH
8. 15.0 million cubic feet
9. April 11, 1980
10. East Ohio Gas Co
1. 80–26628
2. 34–157–22268–0014
3. 108 000 000
4. MB Operating Co Inc
5. Markley Estate #7
6.
7. Tuscarawas, OH
8. 15.7 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26629
2. 34–157–22414–0014
3. 108 000 000
4. MB Operating Co Inc
5. E Waltz #2
6.
7. Tuscarawas, OH
8. 12.4 million cubic feet
9. April 11, 1980
10. Buckeye-Franklin Co
1. 80–26630
2. 34–167–23847–0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. American Growers #2
6. Flamming
7. Washington, OH
8. 1.4 million cubic feet
9. April 11, 1980
10. River Gas Co
1. 80–26631
2. 34–167–24498–0014
3. 103 000 000
4. L&M Petroleum Co
5. Bernard Strahler #10
6.
7. Washington, OH
8. 12.8 million cubic feet
9. April 11, 1980
10. Gas Transport Inc
1. 80–26632
2. 34–167–24614–0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Kenneth Ward #2–A
6. Newport
7. Washington, OH
8. 1.3 million cubic feet
9. April 11, 1980
10. Columbia Gas Transport Corp

Utah Division of Oil, Gas, and Mining

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26633/K–104–3
2. 43–019–15106–0000
3. 108 000 000
4. Frank B Adams
5. Frank B Adams No 1 Cabeen-State
6. Cisco Dome
7. Grand, UT
8. 4.0 million cubic feet
9. April 11, 1980
10. Northwest Pipeline Corp
1. 80–26634/K–120–1(B)
2. 43–047–30260–0000
3. 102 000 000
4. Mapco Production Co
5. RBU 11–16E
6. Island Field
7. Uinta, UT
8. 130.0 million cubic feet
9. April 11, 1980
10. Pacific Gas & Electric Co
1. 80–26635/K–121–1(A)
2. 43–043–30110–0000
3. 102 000 000
4. Amoco Production Co
5. Island Ranching #2
6. Anschutz Ranch
7. Summit, UT
8. 2700.0 million cubic feet
9. April 11, 1980
10. Mountain Fuel Supply Co
1. 80–26636/K–121–1(B)
2. 43–043–30096–0000
3. 102 000 000
4. Amoco Production Co
5. Bountiful Livestock #1
6. Unnamed
7. Summit, UT
8. 300.0 million cubic feet
9. April 11, 1980
10. Mountain Fuel Supply Co
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26643
2. 47–039–03434–0000
3. 108 000 000
4. Cabot Corp
5. Cannelton Coal 2–1468
6.
7. Kanawha WV
8. 13.1 million cubic feet
9. April 14, 1980
10.
1. 80–26644
2. 47–039–03440–0000
3. 108 000 000
4. Cabot Corp
5. Cannelton Coal 3–1469
6.
7. Kanawha WV
8. 18.5 million cubic feet
9. April 14, 1980
10.
1. 80–26645
2. 47–039–02026–0000
3. 108 000 000
4. Cabot Corp
5. Raymond City 6–1556
6.
7. Kanawha WV
8. 14.1 million cubic feet
9. April 14, 1980
10.
1. 80–26646
2. 47–047–00035–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas-Ford 7–1268
6.
7. McDowell WV
8. 3.4 million cubic feet
9. April 14, 1980
10.
1. 80–26647
2. 47–013–01243–0000
3. 108 000 000

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4. Cabot Corp
5. Allen Hardman 14–1421
6.
7. Calhoun WV
8. 6.5 million cubic feet
9. April 14, 1980
10.

1. 80–26648
2. 47–019–00080–0000
3. 108 000 000
4. Cabot Corp
5. A I. Jackson 1–1374
6.
7. Fayette WV
8. .5 million cubic feet
9. April 14, 1980
10.

1. 80–26649
2. 47–019–00087–0000
3. 108 000 000
4. Cabot Corp
5. Newman 4–1407
6.
7. Fayette WV
8. 19.1 million cubic feet
9. April 14, 1980
10.

1. 80–26650
2. 47–019–00107–0000
3. 108 000 000
4. Cabot Corp
5. E G & F 2–1502
6.
7. Fayette WV
8. 5.7 million cubic feet
9. April 14, 1980
10.

1. 80–26651
2. 47–019–00109—0000
3. 108 000 000
4. Cabot Corp
5. Angus McDonald 1–1505
6.
7. Fayette WV
8. 16.5 million cubic feet
9. April 14, 1980
10

1. 80–26652
2. 47–019–00165–0000
3. 108 000 000
4. Cabot Corp
5. A McDonald 3–1579
6.
7. Fayette WV
8. 17.6 million cubic feet
9. April 14, 1980
10.

1. 80–26653
2. 47–019–00172–0000
3. 108 000 000
4. Cabot Corp
5. E F & G 3–1596
6.
7. Fayette WV
8. 7.3 million cubic feet
9. April 14, 1980
10.

1. 80–26654
2. 47–035–00524–0000
3. 108 000 000
4. Cabot Corp
5. Putnam Co 41–1211
6. Sissonville Oriskany
7. Jackson WV
8. 4.0 million cubic feet
9. April 14, 1980
10.

1. 80–26655
2. 47–035–00547–0000
3. 108 000 000
4. Cabot Corp
5. T D Casto 1–1234
6. Sissonville Oriskany
7. Jackson WV
8. 2.2 million cubic feet
9. April 14, 1980
10.

1. 80–26656
2. 47–035–00548–0000
3. 108 000 000
4. Cabot Corp
5. Lucy Boswell 1–1235
6. Sissonville Oriskany
7. Jackson WV
8. 4.7 million cubic feet
9. April 14, 1980
10.

1. 80–26657
2. 47–079–00408–0000
3. 108 000 000
4. Cabot Corp
5. Whitehouse 2–1303
6.
7. Putnam WV
8. .8 million cubic feet
9. April 14, 1980
10. Devon Corp

1. 80–26658
2. 47–079–00300–0000
3. 108 000 000
4. Cabot Corp
5. Sum Quarrier 1–1162
6.
7. Putnam WV
8. .8 million cubic feet
9. April 14, 1980
10. Union Oil & Gas Inc

1. 80–26659
2. 47–067–00041–0000
3. 108 000 000
4. Cabot Corp
5. Federal Coal Co 4–1167
6.
7. Nicholas WV
8. 15.0 million cubic feet
9. April 14, 1980
10.

1. 80–26660
2. 47–067–00042–0000
3. 108 000 000
4. Cabot Corp
5. Backus 1–1176
6.
7. Nicholas WV
8. 6.7 million cubic feet
9. April 14, 1980
10.

1. 80–26661
2. 47–067–00050–0000
3. 108 000 000
4. Cabot Corp
5. Federal Coal Co 6–1183
6.
7. Nicholas WV
8. 19.6 million cubic feet
9. April 14, 1980
10.

1. 80–26662
2. 47–067–00155–0000
3. 108 000 000
4. Cabot Corp
5. Amick 1–1425
6.
7. Nicholas WV
8. 3.5 million cubic feet
9. April 14, 1980
10.

1. 80–26663
2. 47–079–00304–0000
3. 108 000 000
4. Cabot Corp
5. Sum Quarrier 1–1174
6.
7. Putnam WV
8. 3.4 million cubic feet
9. April 14, 1980
10. Union Oil & Gas Inc

1. 80–26664
2. 47–079–00334–0000
3. 108 000 000
4. Cabot Corp
5. Poca Coal Land 13–1207
6.
7. Putnam WV
8. 9.3 million cubic feet
9. April 14, 1980
10.

1. 80–26665
2. 47–079–00347–0000
3. 108 000 000
4. Cabot Corp
5. Poca Coal Land 14–1213
6. Sissonville Oriskany
7. Putnam WV
8. 5.6 million cubic feet
9. April 14, 1980
10.

1. 80–26666
2. 47–079–00348–0000
3. 108 000 000
4. Cabot Corp
5. J L McLean 30–1214
6. Sissonville Oriskany
7. Putnam WV
8. 7.9 million cubic feet
9. April 14, 1980
10.

1. 80–26667
2. 47–079–00362–0000
3. 108 000 000
4. Cabot Corp
5. Poca Coal Land 15–1232
6. Sissonville Oriskany
7. Putnam WV
8. 7.8 million cubic feet
9. April 14, 1980
10.

1. 80–26668
2. 47–079–00363–0000
3. 108 000 000
4. Cabot Corp
5. J L McLean 33–1233
6. Sissonville Oriskany
7. Putnam WV
8. 7.1 million cubic feet
9. April 14, 1980
10.

1. 80–26669
2. 47–079–00377–0000
3. 108 000 000
4. Cabot Corp
5. J L McLean 36–1255
6.
7. Putnam WV
8. 2.6 million cubic feet
9. April 14, 1980
10.

1. 80–26670
2. 47–079–00380–0000
3. 108 000 000
4. Cabot Corp
5. J L McLean 37–1259
6. Sissonville Oriskany
7. Putnam WV
8. 9.3 million cubic feet
9. April 14, 1980
10.

1. 80–26671
2. 47–079–00454–0000
3. 108 000 000
4. Cabot Corp
5. F Hardy 4–1515
6. Sissonville Oriskany
7. Jackson WV
8. 5.2 million cubic feet
9. April 14, 1980
10.

1. 80–26672
2. 47–079–00465–0000
3. 108 000 000
4. Cabot Corp
5. Whitehouse 3–1348
6.
7. Putnam WV
8. 5.8 million cubic feet
9. April 14, 1980
10. Devon Corporation

1. 80–26673
2. 47–079–00469–0000
3. 108 000 000
4. Cabot Corp
5. F Hardy 4–1516
6. Sissonville Oriskany
7. Putnam WV
8. 3.4 million cubic feet
9. April 14, 1980
10.

1. 80–26674
2. 47–079–00507–0000
3. 108 000 000
4. Cabot Corp
5. J L McLean 47–1381
6.
7. Putnam WV
8. 6.5 million cubic feet
9. April 14, 1980
10. Union Oil & Gas Inc

1. 80–26675
2. 47–079–00508–0000
3. 108 000 000
4. Cabot Corp
5. J L McLean 48–1382
6.
7. Putnam WV
8. 7.8 million cubic feet
9. April 14, 1980
10. Union Oil & Gas Inc

1. 80–26676
2. 47–079–00531–0000
3. 108 000 000
4. Cabot Corp
5. Amherst 7–1394
6. Sissonville Oriskany
7. Putnam WV
8. 5.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26677
2. 47–079–00532–0000
3. 108 000 000
4. Cabot Corp
5. Black Betsey 4–1396
6.
7. Putnam WV
8. 7.6 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26678
2. 47–079–00533–0000
3. 108 000 000
4. Cabot Corp
5. Black Betsey 5–1397
6. Sissonville Oriskany
7. Putnam WV
8. .9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26679
2. 47–079–00538–0000
3. 108 000 000
4. Cabot Corp
5. Putnam Co 46–1401
6.
7. Putnam WV
8. 7.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26680
2. 47–079–00541–0000
3. 108 000 000
4. Cabot Corp
5. Black Betsey 6–1402
6.
7. Putnam WV
8. 5.2 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26681
2. 47–079–00544–0000
3. 108 000 000
4. Cabot Corp
5. Black Betsey 7–1404
6. Sissonville Oriskany
7. Putnam WV
8. 4.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26682
2. 47–079–00545–0000
3. 108 000 000
4. Cabot Corp
5. J J Sigman 1–1405
6. Sissonville Oriskany
7. Putnam WV
8. 14.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26683
2. 47–079–00562–0000
3. 108 000 000
4. Cabot Corp
5. Raymond City 3–1420
6. Sissonville Oriskany
7. Putnam WV
8. 10.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26684
2. 47–079–00570–0000
3. 108 000 000
4. Cabot Corp
5. A Coney 1–1428
6. Sissonville Oriskany
7. Putnam WV
8. 19.1 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26685
2. 47–079–00577–0000
3. 108 000 000
4. Cabot Corp
5. R T Trout 1–1436
6. Sissonville Oriskany
7. Putnam WV
8. 14.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26686
2. 47–021–02303–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Harry Whisman #2
6.
7. Gilmer WV
8. 16.0 million cubic feet
9. April 14, 1980
10. Columbia Gas Transmission Corp

1. 80–26687
2. 47–001–00126–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Lodge-King Knob—K G Lodge #1
6.
7. Barbour WV
8. 6.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26688
2. 47–001–00146–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Lodge-King Knob—K G Lodge #2
6.
7. Barbour WV
8. 6.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26689
2. 47–001–00154–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Lodge-King Knob—Martha Post #2
6.
7. Barbour WV
8. 6.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26690
2. 47–013–02399–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Charles S Despard Jr A #1
6.
7. Calhoun WV
8. 15.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26691
2. 47–013–02449–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Charles S Despard Jr A #2
6.
7. Calhoun WV
8. 15.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26692

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2. 47–021–01620–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Drexell Frame =1
6.
7. Gilmer WV
8. 2.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26693
2. 47–021–01838–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Drexell Frame =2
6.
7. Gilmer WV
8. 2.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26694
2. 47–021–02159–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Thomas R Hendrick A =1
6.
7. Gilmer WV
8. 3.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26695
2. 47–021–02169–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Drexell Frame =3
6.
7. Gilmer WV
8. 2.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26696
2. 47–021–02174–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Thomas R Hendrick A =2
6.
7. Gilmer WV
8. 3.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26697
2. 47–021–02800–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Geneva Stout =1
6.
7. Gilmer WV
8. 11.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26698
2. 47–021–03025–0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Geneva Stout =2
6.
7. Gilmer WV
8. 11.0 million cubic feet
9. April 14, 1980
10. Consolidated Gas Supply Corp

1. 80–26699
2. 47–067–00040–0000
3. 108 000 000
4. Cabot Corp
5. Federal Coal Co 3–1166
6.
7. Nicholas WV
8. 20.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26700
2. 47–067–00029–0000
3. 108 000 000
4. Cabot Corp
5. Allie Jarrett 1–1160
6.
7. Nicholas WV
8. 8.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26701
2. 47–047–00327–0000
3. 108 000 000
4. Cabot Corp
5. Tug Fork 2–1575
6.
7. McDowell WV
8. 18.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26702
2. 47–047–00506–0000
3. 108 000 000
4. Cabot Corp
5. S R Vance 1–1566
6.
7. McDowell WV
8. 3.2 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26703
2. 47–047–00243–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 92–1541
6.
7. McDowell WV
8. 5.2 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26704
2. 47–047–00235–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 90–1528
6.
7. McDowell WV
8. 6.1 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26705
2. 47–047–00232–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 91–1532
6.
7. McDowell WV
8. 12.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26706
2. 47–047–00224–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 89–1527
6.
7. McDowell WV
8. 16.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26707
2. 47–047–00218–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 88–1525
6.
7. McDowell WV
8. 13.2 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26708
2. 47–047–00202–0000
3. 108 000 000
4. Cabot Corp
5. Litz Harman 1–1511
6.
7. McDowell WV
8. 21.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26709
2. 47–047–00199–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 86–1510
6.
7. McDowell WV
8. 4.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26710
2. 47–047–00188–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 85–1491
6.
7. McDowell WV
8. 12.1 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26711
2. 47–047–00187–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 42–1331
6.
7. McDowell WV
8. 8.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26712
2. 47–109–00430–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 7–1432
6.
7. Wyoming WV
8. 13.1 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26713
2. 47–109–00453–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 8–1444
6.
7. Wyoming WV
8. 1.5 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26714
2. 47–109–00454–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 9–1446
6.

7. Wyoming WV
8. 1.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26715
2. 47–109–00485–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 21–1464
6.
7. Wyoming WV
8. 9.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26716
2. 47–109–00504–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 22–1480
6.
7. Wyoming WV
8. 2.2 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26717
2. 47–109–00518–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 24–1486
6.
7. Wyoming WV
8. 3.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26718
2. 47–109–00522–0000
3. 108 000 000
4. Cabot Corp
5. C C Sharp 8–1488
6.
7. Wyoming WV
8. 9.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26719
2. 47–109–00546–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 10–1501
6.
7. Wyoming WV
8. 20.7 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26720
2. 47–109–00652–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 26–1551
6.
7. Wyoming WV
8. 17.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26721
2. 47–109–00654–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 27–1552
6.
7. Wyoming WV
8. 15.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26722
2. 47–109–00666–0000
3. 108 000 000
4. Cabot Corp
5. Jennings 1–1559
6.
7. Wyoming WV
8. 17.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26723
2. 47–109–00670–0000
3. 108 000 000
4. Cabot Corp
5. Red Ash Pocah 1–1564
6.
7. Wyoming WV
8. 18.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26724
2. 47–109–00671–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 29–1563
6.
7. Wyoming WV
8. 17.87 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26725
2. 47–109–00674–0000
3. 108 000 000
4. Cabot Corp
5. Worrell & Worrell 1–1565
6.
7. Wyoming WV
8. 10. 8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26726
2. 47–109–00425–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 20–1431
6.
7. Wyoming WV
8. 3.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26727
2. 47–109–00395–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 15–1411
6.
7. Wyoming WV
8. 4.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26728
2. 47–109–00401–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 17–1417
6.
7. Wyoming WV
8. 13.5 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26729
2. 47–109–00248–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 5–1273
6.
7. Wyoming WV
8. 1.2 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26730
2. 47–109–00274–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 6–1284
6.
7. Wyoming WV
8. 3.6 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26731
2. 47–109–00276–0000
3. 108 000 000
4. Cabot Corp
5. Murphy 4–1285
6.
7. Wyoming WV
8. 15.6 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26732
2. 47–109–00384–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 13–1403
6.
7. Wyoming WV
8. 16.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26733
2. 47–109–00208–0000
3. 108 000 000
4. Cabot Corp
5. J K Brown 1–1251
6.
7. Wyoming WV
8. 3.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26734
2. 47–109–00230–0000
3. 108 000 000
4. Cabot Corp
5. W H Walker 1–1263
6.
7. Wyoming WV
8. 4.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26735
2. 47–109–00238–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff 3–1267
6.
7. Wyoming WV
8. 5.2 million cubic feet
9. April 14, 1980
10. Oceana Gas Co

1. 80–26736
2. 47–109–00131–0000
3. 108 000 000
4. Cabot Corp
5. S M Burgess 2–1205
6.
7. Wyoming WV
8. 5.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26737

V 45 M Y 22 80 UMI

2. 47–109–00150–0000
3. 108 000 000
4. Cabot Corp
5. David Short 2–1170
6.
7. Wyoming WV
8. 4.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26738
2. 47–109–00158–0000
3. 108 000 000
4. Cabot Corp
5. Lusk-Short 1–1224
6.
7. Wyoming WV
8. 7.6 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26739
2. 47–109–00166–0000
3. 108 000 000
4. Cabot Corp
5. Big Huff Coal 2–1216
6.
7. Wyoming WV
8. 13.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26740
2. 47–035–01037–0000
3. 108 000 000
4. Cabot Corp
5. G W Parsons 2–1534
6. Sissonville Oriskany
7. Jackson WV
8. 5.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26741
2. 47–035–00566–0000
3. 108 000 000
4. Cabot Corp
5. D Casto 1–1254
6. Sissonville Oriskany
7. Jackson WV
8. 5.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26742
2. 47–035–00990–0000
3. 108 000 000
4. Cabot Corp
5. H F Brotherton 1–1494
6. Sissonville Oriskany
7. Jackson WV
8. 4.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26743
2. 47–035–00993–0000
3. 108 000 000
4. Cabot Corp
5. C E Brotherton 1–1498
6. Sissonville Oriskany
7. Jackson WV
8. 3.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26744
2. 47–035–01003–0000
3. 108 000 000
4. Cabot Corp
5. G W Carney 2–1500
6. Sissonville Oriskany
7. Jackson WV
8. 1.0 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26745
2. 47–035–01006–0000
3. 108 000 000
4. Cabot Corp
5. G W Vance 1–01507
6. Sissonville Oriskany
7. Jackson WV
8. 6.1 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26746
2. 47–035–01007–0000
3. 108 000 000
4. Cabot Corp
5. J T Moore 1–1508
6. Sissonville Oriskany
7. Jackson WV
8. 4.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26747
2. 47–035–01012–0000
3. 108 000 000
4. Cabot Corp
5. Raymond Kay 1–1512
6. Sissonville Oriskany
7. Jackson WV
8. 1.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26748
2. 47–035–01022–0000
3. 108 000 000
4. Cabot Corp
5. Ray Smith 1–1524
6. Sissonville Oriskany
7. Jackson WV
8. 19.7 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26749
2. 47–035–01030–0000
3. 108 000 000
4. Cabot Corp
5. G W Parsons 1–1531
6. Sissonville Oriskany
7. Jackson WV
8. 4.6 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26750
2. 47–039–01249–0000
3. 108 000 000
4. Cabot Corp
5. Cannelton Coal 15–1471
6.
7. Kanawha WV
8. 3.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26751
2. 47–039–01800–0000
3. 108 000 000
4. Cabot Corp
5. Huntington 53–1529
6.
7. Kanawha WV
8. 9.7 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26752
2. 47–039–01998–0000
3. 108 000 000
4. Cabot Corp
5. N B Tompkins 8–1546
6.
7. Kanawha WV
8. 4.3 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26753
2. 47–039–02019–0000
3. 108 000 000
4. Cabot Corp
5. N B Tompkins 9–1554
6.
7. Kanawha WV
8. 9.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26754
2. 47–039–02916–0000
3. 108 000 000
4. Cabot Corp
5. Cannelton Coal 1–1467
6.
7. Kanawha WV
8. 4.8 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26755
2. 47–047–00029–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR
6.
7. McDowell WV
8. 4.4 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26756
2. 47–047–00032–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas-Ford 6–1261
6.
7. McDowell WV
8. 4.9 million cubic feet
9. April 14, 1980
10. Cabot Corp

1. 80–26757
2. 47–017–01728–0000
3. 108 000 000
4. Ramco Oil & Gas Corp
5. H A Clines #3
6. Big Injun
7. Doddridge WV
8. 12.0 million cubic feet
9. April 1, 1980
10. Columbia Gas Transmission Corp

1. 80–26778
2. 47–021–02613–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Frame No 1 Fossil No 4301
6. Glenville South
7. Gilmer WV
8. 2.3 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26779
2. 47–021–02611–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Lorentz No 2 Fossil No 4202
6. Glenville South

7. Gilmer WV
8. 3.0 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26780
2. 47–021–02610–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Lorentz No 1 Fossil No 4201
6. Glenville South
7. Gilmer WV
8. .7 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26781
2. 47–021–02602–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. J W Wright No 2 Fossil No 4402
6. Glenville South
7. Gilmer WV
8. 3.5 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26782
2. 47–021–02589–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Lazar No 1 Fossil No 4001
6. Glenville South
7. Gilmer WV
8. 5.9 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26783
2. 47–021–02585–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. E Stoneking No 3 Fossil No 3803
6. Glenville South
7. Gilmer WV
8. .2 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26784
2. 47–021–02584–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. E Stoneking No 2 Fossil No 3802
6. Glenville South
7. Gilmer WV
8. 12.0 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26785
2. 47–021–02583–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. E Stoneking No 1 Fossil No 3801
6. Glenville South
7. Gilmer WV
8. .0 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26786
2. 47–021–02581–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Lola McGinnis No 2 Fossil No 3602
6. Glenville South
7. Gilmer WV
8. 1.8 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26787
2. 47–021–02580–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Lola McGinnis No 1 Fossil No 3601
6. Glenville South
7. Gilmer WV
8. 6.5 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26788
2. 47–021–02576–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. I P Martin No 1–B Fossil No 3201
6. Sand Fork
7. Gilmer WV
8. 8.1 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26789
2. 47–021–02575–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. I P Martin No 2 Fossil No 3002
6. Glenville South
7. Gilmer WV
8. 3.5 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26790
2. 47–021–02573–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. I P Martin No 1–A Fossil No 3101
6. Sand Fork
7. Gilmer WV
8. 13.1 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26791
2. 47–021–02569–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Townsend No 2 Fossil No 2702
6. Sand Fork
7. Gilmer WV
8. 1.8 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26792
2. 47–021–02567–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. Sheets No 2 Fossil No 2102
6. Sand Fork
7. Gilmer WV
8. .9 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26793
2. 47–021–02558–0000
3. 108 000 000
4. Fossil Petroleum Corp
5. L D Edwards No 1 Fossil No 2401
6. Sand Fork
7. Gilmer WV
8. 3.3 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26794
2. 47–047–00209–0000
3. 108 000 000
4. Cabot Corp
5. Roy Smokeless 1–1521
6.
7. McDowell WV
8. 16.1 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26795
2. 47–109–00122–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 7–1201
6.
7. Wyoming WV
8. .9 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26796
2. 47–109–00119–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas-Ford 3–1200
6.
7. Wyoming WV
8. 3.7 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26797
2. 47–109–00118–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 19–1199
6.
7. Wyoming WV
8. 6.6 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26798
2. 47–109–00175–0000
3. 108 000 000
4. Cabot Corp
5. Murphy 1–1227
6.
7. Wyoming WV
8. 6.1 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26799
2. 47–109–00110–0000
3. 108 000 000
4. Cabot Corp
5. Toney Cook 1–1198
6.
7. Wyoming WV
8. .3 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26800
2. 47–109–00101–0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 6–1190
6.
7. Wyoming WV
8. 5.8 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26801
2. 47–109–00098–0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 17–1189
6.
7. Wyoming WV
8. 11.3 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26802

V 45 M Y 22 80 UMI

2. 47-109-00092-0000
3. 108 000 000
4. Cabot Corp
5. Lon Byrd 1-1184
6.
7. Wyoming WV
8. 8.4 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26803
2. 47-109-00087-0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 1-1181
6.
7. Wyoming WV
8. 3.1 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26804
2. 47-109-00081-0000
3. 108 000 000
4. Cabot Corp
5. S M Burgess 1-1172
6.
7. Wyoming WV
8. 2.2 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26805
2. 47-109-00079-0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 14-1171
6.
7. Wyoming WV
8. 1.6 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26806
2. 47-109-00074-0000
3. 108 000 000
4. Cabot Corp
5. David Short 1-1168
6.
7. Wyoming WV
8. 16.5 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26807
2. 47-109-00073-0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 8-1153
6.
7. Wyoming WV
8. 1.0 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26808
2. 47-109-00071-0000
3. 108 000 000
4. Cabot Corp
5. John Gilbert TR 5-1164
6.
7. Wyoming WV
8. 2.3 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26809
2. 47-079-00601-0000
3. 108 000 000
4. Cabot Corp
5. Rome Melton 1-1452
6. Sissonville Oriskany
7. Putnam WV
8. 10.7 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26810
2. 47-079-00606-0000
3. 108 000 000
4. Cabot Corp
5. Black Betsey 9-1455
6.
7. Putnam WV
8. 5.9 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26811
2. 47-079-00614-0000
3. 108 000 000
4. Cabot Corp
5. Black Betsey 10-1461
6.
7. Putnam WV
8. 21.4 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26812
2. 47-079-00700-0000
3. 108 000 000
4. Cabot Corp
5. Putnam Co 48-1545
6. Sissonville Oriskany
7. Putnam WV
8. 4.8 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26813
2. 47-079-00714-0000
3. 108 000 000
4. Cabot Corp
5. Raymond City 9-1562
6. Sissonville Oriskany
7. Putnam WV
8. 16.9 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26814
2. 47-081-00056-0000
3. 108 000 000
4. Cabot Corp
5. Piney Coking Coal 3-1178
6.
7. Raleigh WV
8. 6.7 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26815
2. 47-081-00063-0000
3. 108 000 000
4. Cabot Corp
5. Piney Coking Coal 5-1194
6.
7. Raleigh WV
8. 9.6 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26816
2. 47-081-00066-0000
3. 108 000 000
4. Cabot Corp
5. Piney Coking Coal 6-1203
6.
7. Raleigh WV
8. 15.5 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26817
2. 47-081-00067-0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 20-1204
6.
7. Raleigh WV
8. 4.5 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26818
2. 47-081-00068-0000
3. 108 000 000
4. Cabot Corp
5. Geo Smith 1-1238
6.
7. Raleigh WV
8. 6.3 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26819
2. 47-081-00212-R000
3. 108 000 000
4. Cabot Corp
5. Beaver Coal 28-1474
6.
7. Raleigh WV
8. 4.1 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26820
2. 47-081-00217-0000
3. 108 000 000
4. Cabot Corp
5. Beaver Coal 31-1477
6.
7. Raleigh WV
8. 2.8 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26821
2. 47-081-00220-0000
3. 108 000 000
4. Cabot Corp
5. Beaver Coal 33-1482
6.
7. Raleigh WV
8. 11.0 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26822
2. 47-109-00057-0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 9-1154
6.
7. Wyoming WV
8. 8.3 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26823
2. 47-109-00064-0000
3. 108 000 000
4. Cabot Corp
5. Pocahontas Land 10-1155
6.
7. Wyoming WV
8. 4.7 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80-26824
2. 47-021-22806-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Spicer-Bishop #2
6. Glenville District

7. Gilmer WV
8. 14.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26825
2. 47-021-22807-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Spicer-Bishop #3
6. Glenville District
7. Gilmer WV
8. 14.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26826
2. 47-007-01148-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Linger 1-A
6. Salt Lick District
7. Braxton WV
8. 12.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26827
2. 47-007-01164-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. McPherson #1
6. Salt Lick District
7. Braxton WV
8. .0 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80-26828
2. 47-041-02131-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Nellie Barbarow #4
6. Freemans Creek District
7. Lewis WV
8. 10.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26829
2. 47-021-02805-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Spicer-Bishop #1
6. Glenville District
7. Gilmer WV
8. 14.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26830
2. 47-021-02209-0000
3. 108 000 000
4. Roybal Oil & Gas Corp
5. Harold Stout #2
6.
7. Gilmer WV
8. 5.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26831
2. 47-015-27020-0000
3. 108 000 000
4. Big Buck Energy Oil & Gas Inc
5. Swartz No 6
6. Union District
7. Clay County WV
8. .1 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26832
2. 47-015-26730-0000
3. 108 000 000
4. Big Buck Energy Oil & Gas Inc
5. Swartz No 4
6. Union District
7. Clay County WV
8. .1 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26833
2. 47-015-07160-0000
3. 108 000 000
4. Big Buck Energy Oil & Gas Inc
5. Swartz No 8
6. Union District
7. Clay County WV
8. .1 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26834
2. 47-015-00701-0000
3. 108 000 000
4. Big Buck Energy Oil & Gas Inc
5. Swartz No 5
6. Union District
7. Clay County WV
8. .1 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80-26835
2. 47-021-20178-0000
3. 108 000 000
4. Dennis D Blauser
5. Arthur Divers #2-VD-1
6. Glenville
7. Gilmer WV
8. 2.0 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80-26836
2. 47-007-00902-0000
3. 108 000 000
4. Roybal Oil & Gas Corp
5. Fred Gerwig #1
6.
7. Braxton WV
8. 14.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26837
2. 47-021-21801-0000
3. 108 000 000
4. Dennis D Blauser
5. MJ Gainer #3-VG-1 AKA H H Gainer
6. Glenville
7. Gilmer WV
8. 4.0 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80-26838
2. 47-007-00951-0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Albert Gerwig B #1
6.
7. Braxton WV
8. 10.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26839
2. 47-007-00981-0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Fred Gerwig #2
6.
7. Braxton WV
8. 14.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26840
2. 47-007-01039-0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Albert Gerwig B #2
6.
7. Braxton WV
8. 10.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26841
2. 47-021-02133-0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Harry Whisman #1
6.
7. Gilmer WV
8. 16.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26842
2. 47-039-22033-0000
3. 108 000 000
4. Spartan Gas Co
5. J Q Dickinson 1-S-123
6. Campbells Creek
7. Kanawha WV
8. 2.9 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26843
2. 47-039-22046-0000
3. 108 000 000
4. Spartan Gas Co
5. J Q Dickinson 2-S-125
6. Cambells Creep
7. Kanawha WV
8. 6.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26844
2. 47-039-22471-0000
3. 108 000 000
4. Spartan Gas Co
5. Kanawha Hocking C&C 1-S-155
6. Malden
7. Kanawha WV
8. 9.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26845
2. 47-039-22482-0000
3. 108 000 000
4. Spartan Gas Co
5. Kanawha Hocking C&C 3-S-158
6. Malden
7. Kanawha WV
8. 17.5 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26846
2. 47-039-22507-0000
3. 108 000 000
4. Spartan Gas Co
5. Kanawha Hocking C&C 4-S-160
6. Malden
7. Kanawha WV
8. 9.1 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80-26847

V 45 M Y 22 80 UMI

2. 47–039–02655–0000
3. 108 000 000
4. Spartan Gas Co
5. Kanawha Hocking C&C 8–S–167
6. Malden
7. Kanawha WV
8. 18.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80–26848
2. 47–039–02690–0000
3. 108 000 000
4. Spartan Gas Co
5. Kanawha Hocking C&C 9–S–169
6. Malden
7. Kanawha WV
8. 18.0 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80–26849
2. 47–039–02692–0000
3. 108 000 000
4. Spartan Gas Co
5. Kanawha Hockings C&C 10–S–170
6. Malden
7. Kanawha WV
8. 17.8 million cubic feet
9. April 15, 1980
10. Columbia Gas Transmission Corp

1. 80–26850
2. 47–079–20808–0000
3. 108 000 000
4. Spartan Gas Co
5. The Putnam Company 1–S–173
6. Midway-Extra
7. Putnam WV
8. 10.5 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26851
2. 47–079–20815–0000
3. 108 000 000
4. Spartan Gas Co
5. Putnam Company 2–S–179
6. Union
7. Putnam County WV
8. 20.6 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26852
2. 47–017–21640–0000
3. 108 000 000
4. Hugh Spencer
5. Polan #1 Well
6.
7. Doddridge WV
8. 1.5 million cubic feet
9. April 15, 1980
10. Carnegie Natural Gas Co

1. 80–26853
2. 47–021–22803–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Marsh #2
6. Glenville District
7. Gilmer WV
8. 12.0 million cubic feet
9. April 15, 1980
10. Consoldiated Gas Supply Corp

1. 80–26854
2. 47–021–02851–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Robert R Jones #2
6. Glenville District
7. Gilmer WV
8. 5.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26855
2. 47–021–22854–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. R R Marshall 1–A
6. Glenville District
7. Gilmer WV
8. 10.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26856
2. 47–021–22855–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. R R Marshall 2–A
6. Glenville District
7. Gilmer WV
8. 10.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corporation

1. 80–26857
2. 47–007–01149–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Steele 1–A
6. Copen
7. Braxton WV
8. .0 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80–26858
2. 47–007–01153–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. R Hopkins 86A
6. Salt Lick District
7. Braxton WV
8. 10.0 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80–26859
2. 47–021–92651–0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Charley Thompson #4
6. Glenville District
7. Gilmer WV
8. 9.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26860
2. 47–013–22487–0000
3. 108 000 000
4. Franklin Adkins
5. Bennett #2
6. Washington
7. Calhoun WV
8. 5.4 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26861
2. 47–013–22498–0000
3. 108 000 000
4. Franklin Adkins
5. Cottrell #1
6. Washington
7. Calhoun WV
8. 8.1 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26862
2. 47–013–22500–0000
3. 108 000 000
4. Franklin Adkins
5. Bennett #8
6. Washington
7. Calhoun WV
8. 12.7 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26863
2. 47–021–21926–0000
3. 108 000 000
4. Franklin Adkins
5. Stalnaker #1
6. DeKalb
7. Gilmer WV
8. 8.5 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply

1. 80–26864
2. 47–013–02620–0000
3. 108 000 000
4. Minuteman Drilling Fund Ltd
5. Louis Bennett No I–379
6. Orma
7. Calhoun WV
8. 15.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26865
2. 47–013–02614–0000
3. 108 000 000
4. Minuteman Drilling Fund Ltd
5. Louis Bennett No I–375
6. Orma
7. Calhoun WV
8. 15.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26866
2. 47–013–02131–0000
3. 108 000 000
4. Arlen Carpenter
5. Carl Knotts #1
6.
7. Calhoun WV
8. 8.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26867
2. 47–021–01621–0000
3. 108 000 000
4. Pacific States Gas Oil Inc
5. Hannigan-Smith #1
6.
7. Gilmer WV
8. 1.8 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80–26868
2. 47–007–00817–0000
3. 108 000 000
4. Yale Oil Association Inc
5. Lands of Linger #1
6. Heaters
7. Braxton WV
8. 13.0 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80–26869
2. 47–001–00692–0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M V Trimble No 1 W V 84690
6. Grasslands

7. Barbour WV
8. 15.1 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26870
2. 47–039–03431–0000
3. 108 000 000
4. Cabot Corp
5. Quincy Coal 7–660
6.
7. Kanawha WV
8. 2.0 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26871
2. 47–085–20092–0000
3. 108 000 000
4. R & S Gas Co
5. A D Riddle No 1
6. Murphy District
7. Ritchie WV
8. 18.0 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26873
2. 47–085–20431–0000
3. 108 000 000
4. R & S Gas Co
5. A D Riddle No 2
6. Murphy District
7. Ritchie WV
8. 18.0 million cubic feet
9. April 15, 1980
10. Cabot Corp

1. 80–26874
2. 47–007–01134–0000
3. 108 000 000
4. Edwin T. Stitt
5. Edwin T Stitt #1 T Singleton
6. Thomas R Singleton #1
7. Braxton WV
8. 19.1 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80–26875
2. 47–043–21815–0000
3. 108 000 000
4. Franklin Adkins
5. 1–A
6. Sheridan District
7. Lincoln WV
8. 10.5 million cubic feet
9. April 15, 1980
10. Columbia Gas Trans Corp

1. 80–26876
2. 47–043–21816–0000
3. 108 000 000
4. Franklin Adkins
5. 1–B
6. Sheridan District
7. Lincoln WV
8. .0 million cubic feet
9. April 15, 1980
10. Columbia Gas Trans Corp

1. 80–26877
2. 47–013–01950–0000
3. 108 000 000
4. Lendol and Ernest Rogers
5. Dorse Jarvis No 1
6.
7. Calhoun WV
8. 3.0 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26878
2. 47–013–01965–0000
3. 108 000 000
4. Lendol Rogers et al
5. Walter Siers No 1
6.
7. Calhoun WV
8. .6 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26879
2. 47–013–02156–0000
3. 108 000 000
4. Lendol Rogers et al
5. Walter Siers No 2
6.
7. Calhoun WV
8. .5 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26880
2. 47–013–02395–0000
3. 108 000 000
4. Scull and Rogers Lendol Rogers Agen
5. Earl Conley No 1
6.
7. Calhoun WV
8. .3 million cubic feet
9. April 15, 1980
10. Consolidated Gas Supply Corp

1. 80–26881
2. 47–021–22775–0000
3. 108 000 000
4. Franklin Adkins
5. Maxwell #2
6. DeKalb
7. Gilmer WV
8. 8.0 million cubic feet
9. April 15, 1980
10. Carnegie Nat Gas Co

1. 80–26882
2. 47–021–22776–0000
3. 108 000 000
4. Franklin Adkins
5. Maxwell #3
6. DeKalb
7. Gilmer WV
8. 8.0 million cubic feet
9. April 15, 1980
10. Carnegie Nat Gas Co

1. 80–26883
2. 47–043–21618–0000
3. 108 000 000
4. Franklin Adkins
5. W Cremeans #1
6. Sheridan District
7. Lincoln WV
8. 10.7 million cubic feet
9. April 15, 1980
10. Columbia Gas Trans Corp

1. 80–26884
2. 47–099–21592–0000
3. 108 000 000
4. Franklin Adkins
5. Napier #1
6. Lincoln District
7. Wayne WV
8. 13.9 million cubic feet
9. April 15, 1980
10. Columbia Gas Trans Corp

1. 80–26885
2. 47–099–21596–0000
3. 108 000 000
4. Franklin Adkins
5. Atkins #1
6. Lincoln District
7. Wayne County WV
8. 18.3 million cubic feet
9. April 15, 1980
10. Columbia Gas Trans Corp

1. 80–26886
2. 47–099–21602–0000
3. 108 000 000
4. Franklin Adkins
5. Brown #1
6. Lincoln Dist
7. Wayne County WV
8. 14.1 million cubic feet
9. April 15, 1980
10. Columbia Gas Trans Corp

1. 80–26872/
2. 47–007–01248
3. 108
4. Royal Resources Corp
5. Eva Williams #2
6. Rollyson
7. Braxton WV
8. 17.5 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

U.S. Geological Survey, Metairie, La.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–26774/G9–636
2. 17–715–40192–00S1–0
3. 102 000 000
4. C & K Marine Production Co
5. South Timbalier 203 No A–3
6. South Timbalier
7. 203
8. 1080.0 million cubic feet
9. April 14, 1980
10. Trunkline Gas Co

1. 80–26775/G9–954
2. 17–706–40329–01S1–0
3. 102 000 000
4. Tenneco Oil Co
5. Vermilion 261 A–4
6. Vermilion
7. 261
8. 190.0 million cubic feet
9. April 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–26776/G9–956
2. 17–706–40354–0000–0
3. 102 000 000
4. Tenneco Oil Co
5. Vermilion 261 A–7
6. Vermilion
7. 261
8. 8912.0 million cubic feet
9. April 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–26777/G9–1004
2. 17–706–40330–0000–0
3. 102 000 000
4. Tenneco Oil Co
5. Vermilion 261 A–2
6. Vermilion
7. 261
8. 7129.0 million cubic feet
9. April 14, 1980

V 45 M Y 22 80 UMI

10. Tennessee Gas Pipeline Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15697 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[No. 193]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued May 15, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-28000/K-79-0762
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Battin Gas Unit #1
6. Hugoton Chase
7. Finney KS
8. 10.0 million cubic feet
9. April 18, 1980
10. Cities Service Gas Co

1. 80-28001/K-79-0798
2. 15-175-20084-0000
3. 108 000 000
4. Mallonee-Mahoney Inc
5. Gram No 1
6. Kismet
7. Seward KS
8. 7.3 million cubic feet
9. April 18, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-28002/K-79-1369
2. 15-055-20269-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Fuller #1-3
6. Hugoton
7. Finney KS
8. 2.4 million cubic feet
9. April 18, 1980
10. Northern Natural Gas Co

Michigan Department of Natural Resources

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-27989
2. 21-035-27451-0000
3. 102 000 000
4. Dart Oil & Gas Corp
5. Jackson-Mosher #7-30 (27451)
6. Winterfield—29 Filed
7. Clare MI
8. 20.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27990
2. 21-137-32158-0000
3. 102 000 000
4. Amoco Production Co
5. State Chester D 1-25
6. Chester 25-20W-2W
7. Otsego MI
8. 35.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27991
2. 21-079-32532-0000
3. 102 000 000
4. Amoco Production Co
5. Lachinet-State Blue Lake 4-19
6. Coldsprings 25A-28N-6W
7. Kalkaska MI
8. 100.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27992
2. 21-079-32007-0000
3. 103 000 000
4. Amoco Production Co
5. Ricci Unit Well No 3-19
6. Blue Lake 19-28N-5W
7. Kalkaska MI
8. 150.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27993
2. 21-101-33107-0000
3. 102 000 000
4. Miller Brothers
5. Miller Bros Cleon-State #2-19A
6. Cleon-19-24N-13W
7. Manistee MI
8. 180.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27994
2. 21-101-33242-0000
3. 102 000 000
4. Miller Brothers
5. Miller Bros Cleon-State #4-19
6. Cleon-19-24N-13W
7. Manistee Mi
8. 110.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27995
2. 21-101-32997-0000
3. 102 000 000
4. Miller Brothers
5. Miller Bros Cleon-State #3-20
6. Cleon-20A-24N-13W
7. Manistee MI
8. 540.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

1. 80-27996
2. 21-101-32845-0000
3. 102 000 000
4. Miller Brothers
5. Walker PCA Et Al #3-32B
6. Cleaon-32-T24N-R13W
7. Manistee Mi
8. 144.0 million cubic feet
9. April 18, 1980
10. Consumers Power Co

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-27997
2. 30-025-00000-0000
3. 108 000 000
4. Southland Royalty Co
5. Carter #1
6. Eumont
7. Lea NM
8. 19.0 million cubic feet
9. April 17, 1980
10. El Paso Natural Gas Co

1. 80-27998
2. 30-025-26040-0000
3. 103 000 000
4. Conoco Inc
5. State E No 10
6. Undes Langley Dev & Ellenburger
7. Lea NM
8. 910.0 million cubic feet
9. April 17, 1980
10. El Paso Natural Gas CoCo

1. 80-27999
2. 30-025-00000-0000
3. 103 000 000
4. Maralo Inc
5. Jalmat Yates Unit #20
6. Undesignated (Jalmat Yates Unit)
7. Lea NM
8. 108.0 million cubic feet
9. April 17, 1980
10. El Paso Natural Gas Co

Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA

4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-28077/03066
2. 35-051-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Thomas Charlson #9
6. Chickasha
7. Grady OK
8. 9.0 million cubic feet
9. April 21, 1980
10. Arkansas Louisiana Gas Co

1. 80-28078/03054
2. 35-069-00000-0000
3. 108 000 000
4. Charles A Burgett
5. Beaver Lease #10
6. Dillworth
7. Kay OK
8. 4.1 million cubic feet
9. April 21, 1980
10. Eufaula Enterprises

1. 80-28079/03053
2. 35-069-00000-0000
3. 108 000 000
4. Charles A Burgett
5. Beaver Lease #11
6. Dillworth
7. Kay OK
8. 4.1 million cubic feet
9. April 21, 1980
10. Eufaula Enterprises

1. 80-28080/03046
2. 35-007-20540-0000
3. 108 000 000
4. Blaik Oil Co
5. Hilderbrand #1
6. S W Elmwood
7. Beaver OK
8. 5.0 million cubic feet
9. April 21, 1980
10. Phillips Petroleum Co

1. 80-28081/03097
2. 35-087-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Grace McDaniel #3
6. Golden Trend
7. McClain OK
8. .5 million cubic feet
9. April 21, 1980
10. Warren Petroleum Co

1. 80-28082/03071
2. 35-051-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Elmer S Pooler A #4
6. Chickasha
7. Grady OK
8. 3.0 million cubic feet
9. April 21, 1980
10. Arkansas Louisiana Gas Co

1. 80-28083/02958
2. 35-059-20421-0000
3. 108 000 000
4. Dyco Petroleum Corp
5. Deweese No 1
6. Fort Supply Northeast
7. Harper OK
8. 8.0 million cubic feet
9. April 21, 1980
10. Delhi Gas Pipeline Corp

1. 80-28084/03083
2. 35-007-00000-0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. Conner C V No 1
6. Mocane-Laverne
7. Beaver OK
8. 13.0 million cubic feet
9. April 21, 1980
10. Colorado Interstate Gas Co

1. 80-28085/03107
2. 35-019-00000-0000
3. 108 000 000
4. Arco OIl and Gas Co
5. John D Dougherty #1
6. Sho-Vel-Tum
7. Carter OK
8. 3.5 million cubic feet
9. April 21, 1980
10. Aminoil USA Inc

1. 80-28086/03106
2. 35-137-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Beulah A Warden #1
6. Sho—Vel-Tum
7. Stephens OK
8. 4.0 million cubic feet
9. April 21, 1980
10. Getty Oil Co

1. 80-28087/02616
2. 35-019-00000-0000
3. 108 000 000
4. Mobil Oil Corp
5. Walter Nevstadt #21
6. Sho—Vel-Tum
7. Carter OK
8. 9.4 million cubic feet
9. April 21, 1980
10. Lone Star Gas Co

1. 80-28088/02618
2. 35-019-00000-0000
3. 108 000 000
4. Mobil Oil Corp
5. Hefner-Mills #9
6. Sho—Vel-Tum
7. Carter OK
8. .5 million cubic feet
9. April 21, 1980
10. Lone Star Gas Co

1. 80-28089/02623
2. 35-019-00000-0000
3. 108 000 000
4. Mobil Oil Corp
5. Hefner-Mills #5
6. Sho—Vel-Tum
7. Carter OK
8. .5 million cubic feet
9. April 21, 1980
10. Lone Star Gas Co

1. 80-28090/02621
2. 35-019-00000-0000
3. 108 000 000
4. Mobil Oil Corp
5. Hefner-Mills #7
6. Sho—Vel-Tum
7. Carter OK
8. 1.3 million cubic feet
9. April 21, 1980
10. Lone Star Gas Co

1. 80-28091/03052
2. 35-007-20512-0000
3. 108 000 000
4. Blaik Oil Co
5. Jesse Chaloupek #1
6. S W Elmwood
7. Beaver OK
8. 9.0 million cubic feet
9. April 21, 1980
10. Phillips Petroleum Co

1. 80-28092/03050
2. 35-047-21654-0000
3. 103 000 000
4. Texas American Oil Corp
5. Adolph Litschke No 1
6. S E Waukomis Sooner Trend
7. Garfield OK
8. 328.0 million cubic feet
9. April 21, 1980
10. Union Texas Petroleum

1. 80-28093/03068
2. 35-051-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Elmer S Pooler A #3
6. Chickasha
7. Grady OK
8. 17.0 million cubic feet
9. April 21, 1980
10. Arkansas Louisiana Gas Co

Utah Division of Oil, Gas and Mining

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-28003/K-111-12
2. 43-047-30574-0000
3. 102 000 000
4. Belco Development Corp
5. NBU 67-30B 30574
6. Natural Buttes Unit
7. Uintah UT
8. 53.0 million cubic feet
9. April 18, 1980
10. Colorado Interstate Gas Co

1. 80-28004/K-111-11
2. 43-047-30441-0000
3. 102 000 000
4. Belco Development Corp
5. NBU 51-31B 30441
6. Natural Buttes Unit
7. Uintah UT
8. 268.0 million cubic feet
9. April 18, 1980
10. Colorado Interstate Gas Co

West Virginia Department of Mines Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-28005
2. 47-041-01749-0000

V 45 M Y 22 80 UMI

3. 108 000 000
4. A & A Producers and Operators Co
5. Wava Shoulders 1–S–VA–103
6.
7. Lewis WV
8. 3.0 million cubic feet
9. April 18, 1980
10. Equitable Gas Co

1. 80–28006
2. 47–097–01273–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Nola Lane 1–SP–102
6.
7. Upshur WV
8. .6 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28007
2. 47–097–01269–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Mildred Potter SP–107
6.
7. Upshur WV
8. 2.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28008
2. 47–097–01266–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. R R Colerider at 101
6.
7. Upshur WV
8. 2.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28009
2. 47–043–02331–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. I S Rand #1
6.
7. Lincoln WV
8. 3.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28010
2. 47–043–01459–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Elizabeth Adkins Hrs 1–S–SP–134
6.
7. Lincoln WV
8. 6.5 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28011
2. 47–043–01450–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Leander Spurlock 1–S–SP–105
6.
7. Lincoln WV
8. 11.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28012
2. 47–043–01449–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. E & J Miller 1–S–OH–104
6.
7. Lincoln WV
8. 5.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28013
2. 47–043–01446–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. A Elkins AT–102
6.
7. Lincoln WV
8. 13.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28014
2. 47–043–01445–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Elvira Alstea 1–VA–101
6.
7. Lincoln WV
8. 8.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28015
2. 47–043–01444–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Sylvester Adkins De 3
6.
7. Lincoln WV
8. 4.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28016
2. 47–043–01435–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Early Stowers—UF Gas 5–PA–106
6.
7. Lincoln WV
8. 13.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28017
2. 47–043–01443–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Sylvester Adkins De 2
6.
7. Lincoln WV
8. 14.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28018
2. 47–043–01442–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Sylvester Adkins Hrs De 1
6.
7. Lincoln WV
8. 5.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28019
2. 47–045–00908–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. W B McDonald 4–S–NR–102
6.
7. Logan WV
8. 6.5 million cubic feet
9. April 18, 1980
10. Industrial Gas Corp

1. 80–28020
2. 47–045–00881–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Thomas & Ellis #1
6.
7. Logan WV
8. 2.0 million cubic feet
9. April 18, 1980
10. Industrial Gas Corp

1. 80–28021
2. 47–005–01013–0000
3. 108 000 000
4. A & A Producers & Operators Co
5. Cordelia Hill Hrs 1–S–PA–103
6.
7. Boone WV
8. 6.0 million cubic feet
9. April 18, 1980
10. Industrial Gas Corp

1. 80–28022
2. 47–105–00663–0000
3. 108 000 000
4. Seminole Oil & Gas Co
5. David T Tingley #1
6.
7. Wirt WV
8. 9.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28023
2. 47–105–00662–0000
3. 108 000 000
4. Seminole Oil & Gas Co
5. David T Tingley #1
6.
7. Wirt WV
8. 9.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28024
2. 47–033–01063–0000
3. 108 000 000
4. James F Scott
5. H G Porter (S–211)
6. Clark District
7. Harrison WV
8. 19.0 million cubic feet
9. April 18, 1980
10. Consolidated Gas Supply Corp

1. 80–28025
2. 47–043–21475–0000
3. 108 000 000
4. Leestock Gas Co
5. Ward Anderson #1
6. Jefferson District
7. Lincoln WV
8. 15.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28026
2. 47–043–21352–0000
3. 108 000 000
4. Jonas V Alford #1
5. Jonas V Alford #1
6. Duval District
7. Lincoln WV
8. 2.5 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28027
2. 47–043–21194–0000
3. 108 000 000
4. Workman Gas Co
5. Fred workman #1
6. Harts Creek
7. Lincoln WV
8. 6.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28028
2. 47–043–20932–0000
3. 108 000 000
4. Ferdinand Gas Co
5. Frank Vance #1
6. Harts Creek
7. Lincoln WV
8. 7.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28029
2. 47–043–20883–0000
3. 108 000 000
4. Pigeon Creek Gas Co
5. Brad Gill #1
6. Harts Creek
7. Lincoln WV
8. 17.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28030
2. 47–043–20572–0000
3. 108 000 000
4. Lambert Gas Co
5. Martha Lambert #1
6. Jefferson District
7. Lincoln WV
8. 7.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28031
2. 47–043–20465–0000
3. 108 000 000
4. Houston Gas Co
5. Huntington Dev & Gas Co #1
6. Jefferson
7. Lincoln WV
8. 3.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28032
2. 47–043–21370–0000
3. 108 000 000
4. Toney Gas Co
5. A J Belcher #1
6. Duval
7. Lincoln WV
8. 13.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28033
2. 47–043–21418–0000
3. 108 000 000
4. Toney Gas co
5. Ezera McCalister #1
6. Duval
7. Lincoln WV
8. 6.0 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28034
2. 47–043–20591–0000
3. 108 000 000
4. Eldon Gas Co
5. Huntington Dev and Gas Co #2
6. Jefferson District
7. Lincoln WV
8. 8.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28035
2. 47–043–20590–0000
3. 108 000 000
4. Eldon Gas Co
5. Huntington Dev and Gas Co #1
6. Jefferson District
7. Lincoln WV
8. 8.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28036
2. 47–043–20784–0000
3. 108 000 000
4. Etta Gas Co
5. Etta Brooks #1
6. Laurel Hill District
7. Lincoln WV
8. 5.5 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28037
2. 47–043–20842–0000
3. 108 000 000
4. Northfork Gas Co
5. United Fuel Gas Co #1
6. Harts Creek
7. Lincoln WV
8. 7.5 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28038
2. 47–087–21861–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Vinyard #7 62040–7
6. Walton District
7. Roane WV
8. 2.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28039
2. 47–087–21858–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #9 62040–9
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28040
2. 47–087–21857–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #2 62040–2
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28041
2. 47–087–21848–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. L C Swiney #4 62040–4
6. Walton District
7. Roane WV
8. 1.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28042
2. 47–087–21847–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. L C Swiney #5 62040–5
6. Walton District
7. Roane WV
8. 1.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28043
2. 47–087–21628–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Vinyard #62040–6
6. Walton District
7. Roane WV
8. 2.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28044
2. 47–087–21584–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Shaver #1
6. Walton District
7. Roane WV
8. 3.1 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28045
2. 47–087–21552–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. R Swiney #1 62040–1
6. Walton District
7. Roane WV
8. 5.2 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28046
2. 47–087–21520–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Vinyard #5 62040–5
6. Walton District
7. Roane WV
8. 2.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28047
2. 47–087–21420–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Vinyard #4 62040–4
6. Walton District
7. Roane WV
8. 2.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28048
2. 47–087–21382–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. J Pell #3 62040–3
6. Walton District
7. Roane WV
8. 6.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28049
2. 47–087–21380–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Schoolcraft #1 62040–1
6. Walton District
7. Roane WV
8. 2.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28050

V 45 M Y 22 80 UMI

2. 47–087–21374–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. J Pell #2 62040–2
6. Walton District
7. Roane WV
8. 6.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28051
2. 47–087–21327–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. S Taylor #1
6. Walton District
7. Roane WV
8. 3.1 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28052
2. 47–087–21317–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. G Marks #1 62040–1
6. Walton District
7. Roane WV
8. 4.5 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28053
2. 47–087–21312–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #6 62040–6
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28054
2. 47–087–21311–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #5 62040–5
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28055
2. 47–087–21310–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #4 62040–4
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28056
2. 47–087–21859–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #10 62040–10
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28057
2. 47–087–21309–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #3 62040–3
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28058
2. 47–087–21307–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Ryan #1 62040–1
6. Walton District
7. Roane WV
8. 3.4 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28059
2. 47–087–21284–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Vinyard #2 62040–2
6. Walton District
7. Roane WV
8. 2.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28060
2. 47–087–21283–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Vinyard #1 62040–1
6. Walton District
7. Roane WV
8. 2.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28061
2. 47–087–21269–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. G Moffatt #4 62040–4
6. Walton District
7. Roane WV
8. 2.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28062
2. 47–087–21268–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. G Moffatt #3 62040–3
6. Walton District
7. Roane WV
8. 2.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28063
2. 47–087–21267–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. G Moffatt #2 62040–2
6. Walton District
7. Roane WV
8. 2.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Trans Corp

1. 80–28064
2. 47–087–21266–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. G Moffatt #1 62040–1
6. Walton District
7. Roane WV
8. 2.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28065
2. 47–087–21259–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. L C Swiney #3 62040–3
6. Walton District
7. Roane WV
8. 1.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28066
2. 47–087–21243–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. L C Swiney #2 62040–2
6. Walton District
7. Roane WV
8. 1.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28067
2. 47–087–21242–0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. L C Swiney #1 62040–1
6. Walton District
7. Roane WV
8. 1.9 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28068
2. 47–059–00102–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #7
6. Kermit District
7. Mingo WV
8. 11.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28069
2. 47–059–00089–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Mamonca #2
6. Kermit District
7. Mingo WV
8. 11.7 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28070
2. 47–059–00062–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #6
6. Kermit District
7. Mingo WV
8. .9 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28071
2. 47–059–00058–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #5
6. Kermit District
7. Mingo WV
8. 6.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28072
2. 47–059–00057–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #4
6. Kermit District
7. Mingo WV
8. 6.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28073
2. 47–059–00056–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #3
6. Kermit District
7. Mingo WV
8. 6.8 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28074
2. 47–059–00045–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #2
6. Kermit District
7. Mingo WV
8. .9 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

1. 80–28075
2. 47–059–00042–0000
3. 108 000 000
4. East Kentucky Energy Corp
5. Noah A Stepp #1
6. Kermit District
7. Mingo WV
8. .9 million cubic feet
9. April 18, 1980
10. Columbia Gas Transmission Corp

Osage Agency, Bureau of Indian Affairs, Osage County, Okla.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–28076
2. 35–113–00000–0000–0
3. 103 000 000
4. James W Wise
5. Plummer #4
6. Plummer-NW/4 Sec 17 Twp 22 N RGE 7E
7. Osage OK
8. 100.0 million cubic feet
9. April 18, 1980
10. Phillips Petroleum Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15693 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–01–M

[No. 203]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 16, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Board of Oil and Gas Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31435/1–80–38
2. 25–083–21192–0000
3. 102 000 000
4. Shell Oil Co
5. Ranbur 34–23
6. Mondak West
7. Richland MT
8. 35.0 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

1. 80–31436/2–8–37
2. 25–091–21210–0000
3. 102 000 000
4. Patrick Petroleum Co
5. Olsen-Rasmussen #1
6. South Clear Lake
7. Sheridan MT
8. 70.0 million cubic feet
9. May 5, 1980
10. True Oil Co

1. 80–31437/1–80–30
2. 25–083–21284–0000
3. 102 000 000
4. Sheil Oil Co
5. BN 43X–25
6. Mondak West
7. Richland MT
8. 32.8 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

1. 80–31438/2–80–35
2. 25–091–21183–0000
3. 102 000 000
4. Patrick Petroleum Co
5. Miller #2
6. Dagmar
7. Sheridan MT
8. 70.0 million cubic feet
9. May 5, 1980
10. True Oil Co

1. 80–31439/2–80–36
2. 25–091–21189–0000
3. 102 000 000
4. Patrick Petroleum Co
5. Guenther-Anderson #1
6. Clear Lake
7. Sheridan MT
8. 70.0 million cubic feet
9. May 5, 1980
10. True Oil Co

1. 80–31440/2–80–69
2. 25–083–21322–0000
3. 102 000 000
4. Shell Oil Co
5. Sweley 31–22
6. Mondak West
7. Richland MT
8. 9.5 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

1. 80–31441/7–79–227
2. 25–071–21539–0000
3. 108 000 000 Denied
4. Midlands Gas Corp
5. 0270 1–2 Brown
6. Bowdoin
7. Phillips MT
8. 17.0 million cubic feet
9. May 5, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–31442/3–80–68
2. 25–083–21299–0000
3. 102 000 000
4. Shell Oil Co
5. Hundtoft 12–24
6. Mondak West
7. Richland MT
8. 14.0 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

1. 80–31443/2–80–56
2. 25–083–21307–0000
3. 102 000 000
4. Shell Oil Co
5. Lassey 34–14
6. Mondak West
7. Richland MT
8. 45.0 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

1. 80–31444/1–80–32
2. 25–083–21275–0000
3. 102 000 000
4. Shell Oil Co
5. BN 22X–31
6. Mondak West
7. Richland MT
8. 42.0 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

1. 80–31445/1–80–31
2. 25–083–21243–0000
3. 102 000 000
4. Shell Oil Co
5. BN 24X–19
6. Mondak West
7. Richland MT
8. 4.4 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities Co

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Nebraska Oil and Gas Conservation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31434
2. 26–033–21833–0000
3. 102 000 000
4. Clayton Corp
5. No 2 Armstrong
6. Mohatt Field
7. Cheyenne NB
8. 14.6 million cubic feet
9. May 5, 1980
10. Marathon Oil Co

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31191/02996
2. 34–169–21894–0014
3. 108 000 000 Denied
4. John C Mason
5. Louis Gruver #3
6.
7. Wayne OH
8. 18.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31192
2. 34–007–20436–0014
3. 108 000 000
4. J P White
5. Chah #1
6.
7. Ashtabula OH
8. 1.3 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31193
2. 34–007–20437–0014
3. 108 000 000
4. J P White
5. Munz #1 Fka Terry #1
6.
7. Ashtabula OH
8. 3.7 million cubic feet
9. May 6, 1980
10.

1. 80–31194
2. 34–007–20438–0014
3. 108 000 000
4. J P White
5. Munz-Ely Unit #1 Fka Terry-Ely #1
6.
7. Ashtabula OH
8. 3.7 million cubic feet
9. May 6, 1980
10.

1. 80–31195
2. 34–007–21294–0014
3. 103 000 000
4. Giant Petroleum Corp
5. Peter & Marie Kosenko #1
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31196
2. 34–007–21303–0014
3. 103 000 000
4. Robert L Craig Sr
5. Palagyi #1
6.
7. Ashtabula OH
8. 24.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31197
2. 34–007–21306–0014
3. 103 000 000
4. Giant Petroleum Corp
5. Frank N Morris—Unit—#1
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31198
2. 34–007–21309–0014
3. 103 000 000
4. Robert L Craig Sr
5. Palagyi #2
6.
7. Ashtabula OH
8. 28.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31199
2. 34–007–21316–0014
3. 103 000 000
4. Giant Petroleum Corp
5. Edward & Pricilla George #1
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Company

1. 80–31200
2. 34–031–23225–0014
3. 103 000 000
4. Kenoil
5. Sullivan De Marco #1
6.
7. Coshocton OH
8. 1.5 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31201
2. 34–031–23412–0014
3. 103 000 000
4. 7th Street Investment Assoc
5. Conkle Trustees #2
6.
7. Coshocton OH
8. 28.0 million cubic feet
9. May 6, 1980
10.

1. 80–31202
2. 34–053–20355–0014
3. 103 000 000
4. R Gene Brasel d.b.a. Brasel & Brasel
5. M Gilman #1
6.
7. Gallia OH
8. 1.5 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31203
2. 34–053–20517–0014
3. 103 000 000
4. Royal Petroleum VIII Ltd
5. Swisher #1
6.
7. Gallia OH
8. 5.0 million cubic feet
9. May 3, 1980
10. Columbia Gas Transmission Corp

1. 80–31204
2. 34–059–21322–0014
3. 108 000 000
4. Big Piney Oil & Gas Co
5. Zinc #2
6.
7. Guernsey OH
8. 3.2 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31205
2. 34–059–21364–0014
3. 108 000 000
4. Big Piney Oil & Gas Co
5. Gadd-McCracken #1
6.
7. Guernsey OH
8. 2.4 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31206
2. 34–059–21369–0014
3. 108 000 000
4. Big Piney Oil & Gas Co
5. Rushie Hall #1
6.
7. Guernsey OH
8. 3.9 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31207
2. 34–059–21480–0014
3. 108 000 000
4. Big Piney Oil & Gas Co
5. Paul Mathers #1
6.
7. Guernsey OH
8. 1.6 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31208
2. 34–059–22307–0014
3. 103 000 000
4. Buckeye Dev Drilling Project Ltd
5. Frank Neuhart #2
6. Senecaville
7. Guernsey OH
8. 13.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31209
2. 34–073–22250–0014
3. 103 000 000
4. Petro Oil Co
5. Donahey Well #1
6.
7. Hocking OH
8. 4.0 million cubic feet
9. May 6, 1980
10.

1. 80–31210
2. 34–075–22210–0014
3. 103 000 000
4. Future Energy Corp
5. Emerson Giauque #2
6.
7. Holmes OH
8. .0 million cubic feet
9. May 6, 1980
10.

1. 80–31211
2. 34–075–22218–0014
3. 103 000 000
4. M C F Oil Co
5. Ralph Schrock #1
6.
7. Holmes OH
8. 5.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31212
2. 34–075–22303–0014
3. 103 000 000
4. Bands Co Inc
5. Van Sickle #1
6.
7. Holmes OH
8. 90.0 million cubic feet
9. May 6, 1980
10.

1. 80–31213
2. 34–075–22328–0014
3. 103 000 000
4. Bands Co Inc
5. Potts #1
6.
7. Holmes OH
8. 100.0 million cubic feet
9. May 6, 1980
10.

1. 80–31214
2. 34–075–22359–0014
3. 103 000 000
4. H I Smith Oil & Gas Inc
5. Abe Miller #1
6.
7. Holmes OH
8. 12.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31215
2. 34–075–22406–0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. 3A Thomas Evans Foundation
6.
7. Holmes OH
8. 18.0 million cubic feet
9. May 6, 1980
10.

1. 80–31216
2. 34–089–23786–0014
3. 103 000 000
4. LBJ Drilling dba Jeff Moran
5. Carl W & Barbara Baker #1
6.
7. Licking OH
8. .0 million cubic feet
9. May 6, 1980
10.

1. 80–31217
2. 34–099–20216–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Hawkins #B–1
6.
7. Mahoning OH
8. .0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31218
2. 34–103–22199–0014
3. 103 000 000
4. Bartlo Oil and Gas Co
5. Meeker unit #1
6.
7. Medina OH
8. 30.0 million cubic feet
9. May 6, 1980
10. Libbey-Owens-Ford Co

1. 80–31219
2. 34–117–23303–0014
3. 103 000 000
4. Hortin & Huffman
5. David Harruff #1
6.
7. Morrow OH
8. 6.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31220
2. 34–117–23327–0014
3. 103 000 000
4. Hortin & Huffman
5. Hugh Fogle #1
6.
7. Morrow OH
8. 6.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31221
2. 34–117–23330–0014
3. 103 000 000
4. Hortin & Huffman
5. Eston Bachelder #2
6.
7. Morrow OH
8. 10.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31222
2. 34–117–23335–0014
3. 103 000 000
4. Hortin & Huffman
5. Willard Frey #1
6.
7. Morrow OH
8. 20.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31223
2. 34–119–22141–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Patton #1
6.
7. Muskingum OH
8. .0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31224
2. 34–119–23184–0014
3. 108 000 000
4. Chris Oil Co Inc
5. Binion #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31225
2. 34–119–24931–0014
3. 103 000 000
4. W J Lydic Inc
5. Gorley #2
6.
7. Muskingum OH
8. 18.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31226
2. 34–119–24935–0014
3. 103 000 000
4. W J Lydic Inc
5. Gorley #1
6.
7. Muskingum OH
8. 18.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31227
2. 34–119–25163–0014
3. 103 000 000
4. Leader Equities Inc
5. Ferquson #1
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. May 6, 1980
10. American Energy Services Inc

1. 80–31228
2. 34–119–25179–0014
3. 103 000 000
4. Leader Equities Inc
5. Ross #4
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. May 6, 1980
10. American Energy Services Inc

1. 80–31229
2. 34–127–24607–0014
3. 103 000 000
4. Petro Oil Co
5. Kopis #1
6.
7. Perry OH
8. 4.0 million cubic feet
9. May 6, 1980
10.

1. 80–31230
2. 34–127–24610–0014
3. 103 000 000
4. Thomas L Spohn
5. Woodrow & Margaret Riser #1
6.
7. Perry OH
8. 8.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31231
2. 34–133–20250–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Brown #1
6.
7. Portage OH
8. .0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31232
2. 34–133–20252–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Amlin #1

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6.
7. Portage OH
8. .1 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31233
2. 34–133–20287–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Jacobs #1
6.
7. Portage OH
8. .0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31234
2. 34–133–20314–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Twark #1
6.
7. Portage OH
8. .8 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31235
2. 34–133–20321–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Freeman #1
6.
7. Portage OH
8. .4 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31236
2. 34–133–21343–0014
3. 103 000 000
4. Dart Oil Co
5. Weingart #2
6.
7. Portage OH
8. 60.0 million cubic feet
9. May 6, 1980
10.
1. 80–31237
2. 34–133–22061–0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Canter #1
6.
7. Portage OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31238
2. 34–133–22062–0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Canter #2
6.
7. Portage OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31239
2. 34–151–23150–0014
3. 103 000 000
4. Viking Resources Corp
5. Hidden Valley unit #1
6.
7. Stark OH
8. 30.0 million cubic feet
9. May 6, 1980
10.
1. 80–31240
2. 34–155–21413–0014
3. 103 000 000
4. J P White
5. Newcomb Lumber #2
6.
7. Trumball, OH
8. 50.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31241
2. 34–157–20946–0014
3. 108 000 000 denied
4. MB Operating Co Inc
5. Hale #2
6.
7. Tuscarawas, OH
8. 1.4 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co.
1. 80–31242
2. 34–157–23431–0014
3. 103 000 000
4. The Mutual Oil & Gas Co
5. Glass 7–A
6.
7. Tuscarawas, OH
8. 50.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co.
1. 80–31243
2. 34–157–23450–0014
3. 103 000 000
4. The Mutual Oil & Gas Co
5. Edwards 1W
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. May 6, 1980
10. American Energy Service Inc.
1. 80–31244
2. 34–167–25079–0014
3. 103 000 000
4. Zenith Exploration Co
5. Elmer N Jarvis #1
6.
7. Washington, OH
8. 36.0 million cubic feet
9. May 6, 1980
10.
1. 80–31245
2. 34–167–25282–0014
3. 103 000 000
4. Thunderbird Petroleum Devel Co
5. Raymond & Caroline Bostaph #1
6.
7. Washington, OH
8. million cubic feet
9. May 6, 1980
10.
1. 80–31246
2. 34–169–21914–0014
3. 103 000 000
4. Kenoil
5. Chester Stellar #1
6.
7. Wayne, OH
8. 2.5 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31247/01384
2. 34–083–22295–0014
3. 108 000 000
4. Lew Bates Jr
5. Gorsuch #1
6.
7. Knox, OH
8. .4 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31248/01387
2. 34–031–22468–0014
3. 108 000 000
4. Lew Bates Jr
5. McCoy #2
6.
7. Coshocton, OH
8. 2.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31249/01389
2. 34–083–22352–0014
3. 108 000 000
4. Bates Oil & Gas Inc
5. Simpson #1
6.
7. Knox, OH
8. 2.6 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31250/03006
2. 34–127–23999–0014
3. 108 000 000
4. George W Sharp
5. R E Beard #6
6.
7. Perry, OH
8. 7.2 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31251/03367
2. 34–119–25770–0014
3. 108 000 000
4. George W Sharp
5. Ohio Power Co #7
6.
7. Muskingum, OH
8. 2.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp.
1. 80–31252/03368
2. 34–119–25130–0014
3. 108 000 000
4. George W Sharp
5. Ohio Power Co #6
6.
7. Muskingum, OH
8. 2.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp.
1. 80–31253/03369
2. 34–119–21792–0014
3. 108 000 000
4. George W Sharp
5. Ohio Power-Lee West MR71– #1
6.
7. Muskingum, OH
8. 5.4 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31254/03370
2. 34–119–26140–0014
3. 108 000 000
4. George W Sharp
5. Ohio Power Co #8
6.
7. Muskingum, OH
8. 1.8 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp.

1. 80–31255/03371
2. 34–119–27500–0014
3. 108 000 000
4. George W Sharp
5. Ohio Power Co #11
6.
7. Muskingum, OH
8. 1.8 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp.
1. 80–31256/03372
2. 34–119–27880–0014
3. 108 000 000
4. George W Sharp
5. Ohio Power Co #12
6.
7. Muskingum, OH
8. 1.8 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corporation.
1. 80–31257/03522
2. 34–151–22166–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. T E Meyers #1–577
6.
7. Stark, OH
8. .1 million cubic feet
9. May 6, 1980
10. East Ohio Gas Company.
1. 80–31258/03549
2. 34–151–22355–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. C Snyder #1–658
6.
7. Stark, OH
8. .1 million cubic feet
9. May 6, 1980
10. East Ohio Gas Company.
1. 80–31259/03641
2. 34–151–22471–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. J Stempleski Comm #1–691
6.
7. Stark, OH
8. .1 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31260/03643
2. 34–151–22378–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. E & M Schlegel Comm #2–685
6.
7. Stark, OH
8. .1 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co.
1. 80–31261/03813
2. 34–157–22403–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. R Smith et al #1–748
6.
7. Tuscarawas, OH
8. .1 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co.
1. 80–31262/03871
2. 34–151–22297–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. B Williams et al Comm #2–631
6.
7. Stark, OH
8. .1 million cubic feet
9. May 6, 1980
10. Belden & Blake Corp.
1. 80–31263/04321
2. 34–019–20611–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. R & O Smith #4–898
6.
7. Carroll, OH
8. .1 million cubic feet
9. May 6, 1980
10. MB Operating Co Inc.
1. 80–31264/04332
2. 34–019–20511–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. G Dowell #1–557
6.
7. Carroll, OH
8. .1 million cubic feet
9. May 6, 1980
10. MB Operating Co Inc.
1. 80–31265/04333
2. 34–157–21108–0014
3. 108 000 000
4. Belden & Blake Oil Production
5. M & V Rice #2–517
6.
7. Tuscarawas, OH
8. .1 million cubic feet
9. May 6, 1980
10. Buckeye-Franklin C.
1. 80–31266/06299
2. 34–031–22422–0014
3. 108 000 000
4. Lew Bates Jr
5. McCoy #1
6.
7. Coshocton, OH
8. 7.0 million cubic feet
9. May 3, 1980
10. Columbia Gas Transmission Corp.
1. 80–31267
2. 34–005–22214–0014
3. 103 000 000
4. Fred R Ingram
5. Sam Jacobs #1
6.
7. Ashland, OH
8. 80.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31268
2. 34–005–23154–8000
3. 108 000 000
4. Ohio Natural Fuel Co
5. Gibbons #1
6.
7. Ashland, OH
8. 2.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp.
1. 80–31269
2. 34–031–23052–0014
3. 108 000 000
4. The Oxford Oil Co
5. James Lee #1
6.
7. Coshocton, OH
8. 12.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil.
1. 80–31270
2. 34–031–23079–0014
3. 108 000 000
4. The Oxford Oil Co
5. James Lee #2
6.
7. Coshocton, OH
8. 12.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil.
1. 80–31271
2. 34–059–21177–0014
3. 108 000 000
4. David A Waldron DBA Bkt Oil Co
5. Hickenbottom #1
6.
7. Guernsey, OH
8. 4.5 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co.
1. 80–31272
2. 34–059–22079–0014
3. 108 000 000 Denied
4. Consol Resources of Amer Inc
5. Robert & Moyra S Culbertson #1
6. Knox
7. Guernsey, OH
8. 5.1 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.
1. 80–31273
2. 34–059–22080–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. William & James Douglas #1
6. Knox
7. Guernsey, OH
8. 11.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.
1. 80–31274
2. 34–059–22081–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. William & James Douglas #2
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.
1. 80–31275
2. 34–059–27082–0014
3. 108 000 000
4. Consol Resources of America Inc
5. John & Mary Nelson #2
6. Knox
7. Guernsey, OH
8. 12.8 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.
1. 80–31276
2. 34–059–22083–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. John & Mary Nelson #1
6. Knox
7. Guernsey, OH
8. 5.5 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.
1. 80–31277
2. 34–059–20840–0140
3. 108 000 000
4. Consolidated Resources of Amer Inc
5. Charles R Smith #1

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6. Knox
7. Guernsey, OH
8. 12.8 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.

1. 80–31278
2. 34–059–22140–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Glenn & Mildred Kohl #2
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.

1. 80–31279
2. 34–059–22143–0014
3. 108 000 000
4. Consol Resources of Amer Inc.
5. Jesse & Laura Weber #1
6. Knox
7. Guernsey, OH
8. 9.1 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co.

1. 80–31280
2. 34–059–22144–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Jessee & Laura Weber #2
6. Knox
7. Guernsey, OH
8. 11.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31281
2. 34–059–21450–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Jessee & Laura Weber #3
6. Knox
7. Guernsey, OH
8. 9.1 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31282
2. 34–059–22146–0014
3. 108 000 000 Denied
4. Consolidated Resources of Amer Inc
5. Goldie Bell #1
6. Knox
7. Guernsey, OH
8. 45.6 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31283
2. 34–059–22153–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Glenn & Mildred Kohl #1
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31284
2. 34–059–22302–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Earl & Adah Weber #1
6. Knox
7. Guernsey, OH
8. 11.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31285
2. 34–059–22303–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Earl & Adah Weber #2
6. Knox
7. Guernsey, OH
8. 3.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31286
2. 34–059–22304–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Joe & Evelyn Tracy #1
6. Knox
7. Guernsey, OH
8. 3.5 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31287
2. 34–059–22305–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Willard Minigh #1
6. Knox
7. Guernsey, OH
8. 11.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31288
2. 34–059–22306–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Tracy-Rose Unit #1
6. Knox
7. Guernsey, OH
8. 9.1 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31289
2. 34–059–22308–0014
3. 103 000 000
4. Buckeye Dev Drilling Project Ltd
5. Frank Neuhart #1
6. Senecaville
7. Guernsey, OH
8. 73.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31290
2. 34–059–22311–0014
3. 108 000 000
4. Buckeye Dev Drilling Project Ltd
5. Elmer & Mary Lou Bishard #1
6. Knox
7. Guernsey, OH
8. 6.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31291
2. 34–059–22365–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Kenneth Neal #2
6. Knox
7. Guernsey, OH
8. 3.5 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31292
2. 34–059–22366–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Kenneth Neal #1
6. Knox
7. Guernsey, OH
8. 3.5 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31293
2. 34–059–22368–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Neal-Thompson Unit #1
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31294
2. 34–059–22371–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Kenneth Neal #3
6. Knox
7. Guernsey, OH
8. 18.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31295
2. 34–059–22373–0014
3. 108 000 000
4. Buckeye Dev Drilling Project Ltd
5. CRA Fee #1
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31296
2. 34–059–22406–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Clarence Lamson #1
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31297
2. 34–059–22407–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. W Allen Warne #1
6. Knox
7. Guernsey, OH
8. 3.6 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31298
2. 34–059–22421–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Joseph & Loretta Goggin #1
6. Knox
7. Guernsey, OH
8. 3.6 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31299
2. 34–059–22473–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. William L Tallichet #1
6. Knox
7. Guernsey, OH
8. 9.1 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31300
2. 34–059–22474–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Jesse Weber #6
6. Knox
7. Guernsey, OH
8. 9.1 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31301
2. 34–059–22475–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Ellsworth & Ruby Heston #1
6. Knox
7. Guernsey, OH
8. 12.8 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31302
2. 34–059–22487–0014
3. 108 000 000
4. Consol Resources of Amer Inc
5. Stephen Dotson #1
6. Knox
7. Guernsey, OH
8. 5.5 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31303
2. 34–059–22559–0014
3. 103 000 000
4. Consol Resources of Amer Inc
5. K D Hall-Brice Keller #1
6. Senecaville
7. Guernsey, OH
8. 55.0 million cubic feet
9. May 6, 1980
10. Cincinnati Gas & Electric Co

1. 80–31304
2. 34–067–20146–0014
3. 108 000 000
4. The Clinton Oil Company
5. Edie #1
6.
7. Harrison, OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31305
2. 34–067–20154–0014
3. 108 000 000
4. Clinton Oil Co
5. Edie #2
6.
7. Harrison, OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co

1. 80–31306
2. 34–073–22205–0014
3. 103 000 000
4. The Oxford Oil Co
5. Greenhill #16
6.
7. Hocking, OH
8. 10.0 million cubic feet
9. May 6, 1980
10.

1. 80–31307
2. 34–075–22038–0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Wolgamot 38 #1
6.
7. Holmes, OH
8. 3.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31308
2. 34–075–22056–0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Wolgamot 38 #2
6.
7. Holmes, OH
8. 3.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31309
2. 34–075–22223–0014
3. 103 000 000
4. R D Curry Production Co
5. Clarence & Lillian Starner #2
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. May 6, 1980
10. The Columbia Gas Transmission Corp

1. 80–31310
2. 34–075–22311–0014
3. 103 000 000
4. Bands Co Inc
5. Potts #2
6.
7. Holmes, OH
8. 100.0 million cubic feet
9. May 6, 1980
10.

1. 80–31311
2. 34–075–22380–0014
3. 103 000 000
4. William F Hill
5. Roger J Dennerll #2
6.
7. Holmes, OH
8. 8.0 million cubic feet
9. May 6, 1980
10.

1. 80–31312
2. 34–075–22441–0014
3. 103 000 000
4. Buckhorn Oil Company Inc
5. Brumme #1
6.
7. Holmes, OH
8. 20.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Trans

1. 80–31313
2. 34–083–22706–0014
3. 103 000 000
4. Akron Petroleum Co Inc
5. Calun Davis #1
6.
7. Knox, OH
8. .0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31314
2. 34–089–22941–0014
3. 108 000 000
4. The Oxford Oil Co
5. Doris Folk #1
6.
7. Licking, OH
8. 2.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31315
2. 34–089–23310–0014
3. 108 000 000
4. The Oxford Oil Co
5. Doris White Folk #2
6.
7. Licking, OH
8. 1.5 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31316
2. 34–089–23697–0014
3. 103 000 000
4. Johnson Drilling Co
5. William Martin #1
6.
7. Licking, OH
8. .5 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31317
2. 34–103–22203–0000
3. 103 000 000
4. Steve Gnatovich
5. Mugrage #1
6.
7. Medina, OH
8. 25.0 million cubic feet
9. May 6, 1980
10. Columbia Gas of Ohio

1. 80–31318
2. 34–111–21971–0014
3. 103 000 000
4. Drillers Petroleum Corp
5. George Evert West #1–A
6.
7. Monroe, OH
8. 60.0 million cubic feet
9. May 6, 1980
10.

1. 80–31319
2. 34–115–21404–0014
3. 108 000 000
4. The Oxford Oil Co
5. Calvin Fisher #1
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31320
2. 34–115–21591–0014
3. 108 000 000
4. The Oxford Oil Co
5. Robert Foley #1
6.
7. Morgan OH
8. .4 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31321
2. 34–115–21594–0014
3. 108 000 000
4. The Oxford Oil Co
5. Robert Foley #2
6.
7. Morgan OH
8. .4 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31322
2. 34–115–21597–0014
3. 108 000 000
4. The Oxford Oil Co
5. Robert Foley #3

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6.
7. Morgan OH
8. .4 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31323
2. 34–115–21690–0014
3. 108 000 000
4. The Oxford Oil Co
5. William Goode #1
6.
7. Morgan OH
8. 1.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31324
2. 34–115–21794–0014
3. 108 000 000
4. The Oxford Oil Co
5. William Goode #2
6.
7. Morgan OH
8. 1.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31325
2. 34–115–21998–0014
3. 103 000 000
4. American Well Management Co
5. Price No 1
6.
7. Morgan OH
8. 18.0 million cubic feet
9. May 6, 1980
10.

1. 80–31326
2. 34–119–20423–0014
3. 108 000 000
4. The Oxford Oil Co
5. Minnie Maclaine #1
6.
7. Muskingum OH
8. 1.5 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31327
2. 34–119–20706–0014
3. 108 000 000
4. The Oxford Oil Co
5. Margaret McCoid #1
6.
7. Muskingum OH
8. 4.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31328
2. 34–119–20930–0014
3. 108 000 000
4. The Oxford Oil Co
5. Frank Gardner #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31329
2. 34–119–21020–0014
3. 108 000 000
4. The Oxford Oil Co
5. Chestina Fauber #3
6.
7. Muskingum OH
8. 7.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31330
2. 34–119–21522–0014
3. 108 000 000
4. The Oxford Oil Co
5. Pearl Lantz #1
6.
7. Muskingum OH
8. 13.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31331
2. 34–119–21731–0014
3. 108 000 000
4. The Oxford Oil Co
5. Emma Karnes #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31332
2. 34–119–22034–0014
3. 108 000 000
4. Mammoth Producing Corp
5. Blackwood #1
6.
7. Muskingum OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Company

1. 80–31333
2. 34–119–22041–0014
3. 108 000 000
4. The Oxford Oil Co
5. Forrest Headley #1
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31334
2. 34–119–22350–0014
3. 108 000 000
4. The Oxford Oil Co
5. Richard Gill #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31335
2. 34–119–22911–0014
3. 108 000 000
4. The Oxford Oil Co
5. William Harper #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31336
2. 34–119–22965–0014
3. 108 000 000
4. The Oxford Oil Co
5. Earl Harmon #1
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31337
2. 34–119–23064–0014
3. 108 000 000
4. The Oxford Oil Co
5. John Mahon #1
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31338
2. 34–119–23363–0014
3. 108 000 000
4. The Oxford Oil Co
5. Fred Lenhart #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31339
2. 34–119–23422–0014
3. 108 000 000
4. The Oxford Oil Co
5. Millard Grear #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31340
2. 34–119–23491–0014
3. 108 000 000
4. The Oxford Oil Co
5. Donald Hobbs #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31341
2. 34–119–23582–0014
3. 108 000 000
4. The Oxford Oil Co
5. Frank Gardner #3
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31342
2. 34–119–23583–0014
3. 108 000 000
4. The Oxford Oil Co
5. Frank Gardner #2
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31343
2. 34–119–23763–0014
3. 108 000 000
4. The Oxford Oil Co
5. Chalmer Gatewood #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31344
2. 34–119–23781–0014
3. 108 000 000
4. The Oxford Oil Co
5. R H Gibson #1
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31345
2. 34–119–23789–0014
3. 108 000 000
4. The Oxford Oil Co
5. Rowena Fraunfelter #2
6.
7. Muskingum OH
8. 20.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31346
2. 34–119–23955–0014
3. 108 000 000
4. The Oxford Oil Co
5. Fred Lenhart #2
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31347
2. 34–119–23968–0014
3. 108 000 000
4. The Oxford Oil Co
5. Alpine Farms #2
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Trans Corp

1. 80–31348
2. 34–119–24089–0014
3. 108 000 000
4. The Oxford Oil Co
5. Fred Lenhart #3
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31349
2. 34–119–24795–0014
3. 103 000 000
4. The Clinton Oil Co
5. Hittle #2
6.
7. Muskingum OH
8. 25.0 million cubic feet
9. May 6, 1980
10. Timken Co

1. 80–31350
2. 34–119–24877–0014
3. 103 000 000
4. The Oxford Oil Co
5. Maurice Hartley #1
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. May 6, 1980
10.

1. 80–31351
2. 34–119–24956–0014
3. 103 000 000
4. Berea Oil and Gas Corp
5. Cain #2
6.
7. Muskingum OH
8. 120.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission

1. 80–31352
2. 34–119–25006–0014
3. 103 000 000
4. The Clinton Oil Co
5. Madden #1
6.
7. Muskingum OH
8. 25.0 million cubic feet
9. May 6, 1980
10.

1. 80–31353
2. 34–121–22238–0014
3. 103 000 000
4. Thunderbird Petroleum Co
5. Thompson Well #1
6.
7. Noble OH
8. 50.0 million cubic feet
9. May 6, 1980
10.

1. 80–31354
2. 34–121–22257–0014
3. 103 000 000
4. Thunderbird Petroleum Corp
5. Rogers Well #1
6.
7. Noble OH
8. 50.0 million cubic feet
9. May 6, 1980
10.

1. 80–31355
2. 34–121–22261–0014
3. 103 000 000
4. Thunderbird Petroleum Develop
5. Beulah Kehl #1
6.
7. Noble OH
8. 50.0 million cubic feet
9. May 6, 1980
10.

1. 80–31356
2. 34–127–20393–0014
3. 108 000 000
4. The Oxford Oil Co
5. J W Ford #2
6.
7. Perry OH
8. 1.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil

1. 80–31357
2. 34–127–23122–0014
3. 108 000 000
4. The Oxford Oil Co
5. David Lewis #2
6.
7. Perry OH
8. 4.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31358
2. 34–127–23151–0014
3. 108 000 000
4. The Oxford Oil Co
5. Raymond Jones #1
6.
7. Perry OH
8. 1.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp

1. 80–31359
2. 34–127–24515–0014
3. 103 000 000
4. Irvin Producing Co
5. Walter Pettet #3
6.
7. Perry OH
8. 10.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp

1. 80–31360
2. 34–127–24581–0014
3. 103 000 000
4. Altheirs Oil Inc
5. Edgar Newlon #1–A
6. Pike Twp
7. Perry OH
8. .0 million cubic feet
9. May 6, 1980
10.

1. 80–31361
2. 34–127–24613–0014
3. 103 000 000
4. Altheirs Oil Inc
5. Altheirs Oil Inc #1
6. Saltlick Twp
7. Perry OH
8. 5.0 million cubic feet
9. May 6, 1980
10. Nico-Fibers Inc

1. 80–31362
2. 34–127–24614–0014
3. 103 000 000
4. Altheirs Oil Inc
5. Altheirs Oil Inc #2
6. Saltlick Twp
7. Perry OH
8. 5.0 million cubic feet
9. May 6, 1980
10. Nico-Fibers Inc

1. 80–31363
2. 34–127–24617–0014
3. 103 000 000
4. Altheirs Oil Inc
5. Altheirs Oil Inc #7
6. Saltlick Twp
7. Perry OH
8. 5.0 million cubic feet
9. May 6, 1980
10. Nico-Fibers Inc

1. 80–31364
2. 34–133–21324–0014
3. 103 000 000
4. The Clinton Oil Co
5. Siegenthaler #1
6.
7. Portage OH
8. 75.0 million cubic feet
9. May 6, 1980
10. Timken Co

1. 80–31365
2. 34–133–21342–0014
3. 103 000 000
4. Dart Oil Co
5. Weingart #1
6.
7. Portage OH
8. 50.0 million cubic feet
9. May 6, 1980
10.

1. 80–31366
2. 34–153–20722–0014
3. 103 000 000
4. Bartlo Oil & Gas Co
5. Wesche #1
6.
7. Summit OH
8. 20.0 million cubic feet
9. May 6, 1980
10. Libbey-Owens-Ford Co

1. 80–31367
2. 34–157–21052–0014
3. 108 000 000
4. M B Belden Jr
5. B G Handy #1

V 45 M Y 2 2 8 0 UMI

6.
7. Tuscarawas OH
8. 1.5 million cubic feet
9. May 6, 1980
10. Buckeye-Franklin Co
1. 80–31368
2. 34–157–21335–0014
3. 108 000 000
4. David A Waldron
5. Simmers-Wolford #1
6.
7. Tuscarawas OH
8. 65.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31369
2. 34–157–21437–0014
3. 108 000 000
4. H D Collins Trust
5. Gastaldo #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31370
2. 34–157–21578–0014
3. 108 000 000
4. The Clinton Oil Co
5. Guthrie Unit #1
6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31371
2. 34–157–21763–0014
3. 108 000 000
4. Texas Ponderosa Oil & Gas Inc
5. Glass #1
6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31372/1988
2. 34–157–21988–0014
3. 108 000 000
4. Texas Ponderosa Oil & Gas Co
5. McClintock Unit #1
6. Lawrence 23 SW Qtr
7. Tuscarawas OH
8. 20.0 million cubic feet
9. May 6, 1980
10. East Ohio Gas Co
1. 80–31373
2. 34–157–23466–0014
3. 103 000 000
4. New Frontier Exploration Inc
5. James Fisher #1
6.
7. Tuscarawas OH
8. 28.0 million cubic feet
9. May 6, 1980
10.
1. 80–31374
2. 34–167–24389–0014
3. 103 000 000
4. W J Lydic Inc
5. Fort Frye Boe #1
6.
7. Washington OH
8. 15.0 million cubic feet
9. May 6, 1980
10. Columbia Gas of Ohio
1. 80–31375
2. 34–169–21186–0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Wilson #1
6.
7. Wayne OH
8. 3.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Transmission Corp
1. 80–31376
2. 34–169–22063–0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Armstrong #1
6.
7. Wayne OH
8. 14.0 million cubic feet
9. May 6, 1980
10. Pominex Inc
1. 80–31377/03366
2. 34–127–23834–0014
3. 108 000 000
4. George W Sharp
5. Dale & Mabel Garey #6
6.
7. Perry OH
8. 2.2 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp
1. 80–31378
2. 34–115–21485–0014
3. 108 000 000
4. The Oxford Oil Co
5. Wayne Horner #1
6.
7. Morgan OH
8. 5.0 million cubic feet
9. May 6, 1980
10. National Gas & Oil Corp
1. 80–31379
2. 34–019–21069–0014
3. 103 000 000
4. Clay County Productions Co Inc
5. Conotton Quarries #1
6.
7. Carroll OH
8. 5.0 million cubic feet
9. May 6, 1980
10. Bonanza Gas Line

Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–31446/01208
2. 35–003–00000–0000
3. 108 000 000
4. Conoco Inc
5. Ikhard Hague No 1
6. N E Cherokee
7. Alfalfa OK
8. 16.4 million cubic feet
9. May 5, 1980
10. Oklahoma Natural Gas Co
1. 80–31447/01210
2. 35–003–35268–0000
3. 108 000 000
4. Conoco Inc
5. A B Hague No 1
6. N E Cherokee
7. Alfalfa OK
8. 3.9 million cubic feet
9. May 5, 1980
10. Oklahoma Natural Gas Co
1. 80–31448/02840
2. 35–111–00000–0000
3. 108 000 000
4. James W Wise
5. Smith C #1
6. Smith Ranch (E½ NW¼ 19–13–N–11E)
7. Okmulgee OK
8. 5.0 million cubic feet
9. May 5, 1980
10. Phillips Petroleum Co
1. 80–31449/02967
2. 35–019–21747–0000
3. 103 000 000
4. Kingery Drilling Co Inc
5. Isbell #1
6.
7. Carter OK
8. 103.4 million cubic feet
9. May 5, 1980
10. Aminoil USA
1. 80–31450/02841
2. 35–111–00000–0000
3. 108 000 000
4. James W Wise
5. Smith A #1
6. Smith Ranch (E½ NE¼ 19–13N–11E)
7. Okmulgee OK
8. 4.0 million cubic feet
9. May 5, 1980
10. Phillips Petroleum Co
1. 80–31451/02968
2. 35–003–20614–0000
3. 103 000 000
4. Union Texas Petroleum
5. J F Curry No 2
6. Chaney Dell East
7. Alfalfa OK
8. 288.0 million cubic feet
9. May 5, 1980
10. Panhandle Eastern Pipeline Co
1. 80–31452/06179
2. 35–129–20416–0000
3. 107 000 000
4. L G Williams Oil Co Inc
5. Bessire 32–1
6. Unnamed
7. Roger Mills OK
8. .0 million cubic feet
9. May 5, 1980
10. Michigan Wisconsin Pipeline Co
1. 80–31453/03558
2. 35–093–21482–0000
3. 103 000 000
4. Al McCord Inc
5. W Jantz 1–28
6. Meno-Ringwood
7. Major OK
8. 38.0 million cubic feet
9. May 5, 1980
10. Union Texas Petroleum
1. 80–31454/03554
2. 35–047–21801–0000
3. 103 000 000
4. Cummings Oil Co
5. Havlik 1–19
6. Bison Area
7. Garfield OK
8. 8.0 million cubic feet

9. May 5, 1980
10. Panhandle Eastern Pipeline Co
1. 80–31455/02949
2. 35–047–21303–0000
3. 103 000 000
4. Peninsula Resources Corp
5. Gerken No 1
6. Sooner Trend
7. Garfield County OK
8. 182.5 million cubic feet
9. May 5, 1980
10. Grace Petroleum Corp
1. 80–31456/03118
2. 35–003–20675–0000
3. 103 000 000
4. Petroleum Reserve Corp
5. Penner B 4–1
6. Ringwood
7. Alfalfa OK
8. 120.0 million cubic feet
9. May 5, 1980
10. Union Texas Petroleum
1. 80–31457/03488
2. 35–085–00000–0000
3. 108 000 000
4. Lincoln Rock Corp
5. Westheimer B–1
6. Northeast Marietta
7. Love OK
8. .0 million cubic feet
9. May 5, 1980
10. Cimarron Transmission Co
1. 80–31458/02950
2. 35–047–21484–0000
3. 103 000 000
4. Peninsula Resources Corp
5. Eggers No 1
6. Sooner Trend
7. Garfield OK
8. 109.5 million cubic feet
9. May 5, 1980
10. Grace Petroleum Corp
1. 80–31459/02947
2. 35–047–21485–0000
3. 103 000 000
4. Peninsula Resources Corp
5. Mittlesteadt 1–34 A
6. Sooner Trend
7. Garfield OK
8. 182.5 million cubic feet
9. May 5, 1980
10. Grace Petroleum Corp
1. 80–31460/02514
2. 35–123–00000–0000
3. 108 000 000
4. Rockwell Petroleum Corp
5. William-Gilmore #2
6. Allen District
7. Pontotoc OK
8. 2.0 million cubic feet
9. May 5, 1980
10. Arkansas-Louisiana Gas Co
1. 80–31461/03489
2. 35–085–00000–0000
3. 108 000 000
4. Lincoln Rock Corp
5. Daube #3
6. Northeast Marietta
7. Love OK
8. 9.4 million cubic feet
9. May 5, 1980
10. Cimarron Transmission Co
1. 80–31462/03593
2. 35–073–22146–0000
3. 103 000 000
4. E Lyle Johnson Inc
5. Burshik #2–5
6. Sooner Trend
7. Kingfisher OK
8. 36.5 million cubic feet
9. May 5, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–31463/02701
2. 35–137–00000–0000
3. 108 000 000
4. Mobil Oil Corp
5. Myrtle Dillard #84
6. Sho Vel Tum
7. Stephens OK
8. 5.4 million cubic feet
9. May 5, 1980
10. Getty Oil Co
1. 80–31464/03193
2. 35–007–00000–0000
3. 108 000 000
4. Mobil Oil Corp
5. Gustin Well #3
6. Logan S W
7. Beaver OK
8. 1.9 million cubic feet
9. May 5, 1980
10. Phillips Petroleum Co
1. 80–31465/02508
2. 35–123–00000–0000
3. 108 000 000
4. Rockwell Petroleum Corp
5. William-Gilmore #1
6. Allen District
7. Pontotoc OK
8. 2.0 million cubic feet
9. May 5, 1980
10. Arkansas-Louisiana Gas Co

Wyoming Oil and Gas Conservation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–31466/NG–26–80
2. 49–003–20149–0000
3. 108 000 000
4. James T Cliburn
5. Ten Sleep Cattle Co 1
6. Manderson
7. Big Horn WY
8. 14.2 million cubic feet
9. May 6, 1980
10. Montana-Dakota Utilities Co
1. 80–31467/NG–37–80
2. 49–007–20065–0000
3. 108 000 000
4. El Paso Products Co
5. Monell Unit No 105
6. Patrick Draw
7. Sweetwater WY
8. .7 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co
1. 80–31468/NG–36–80
2. 49–007–05391–0000
3. 108 000 000
4. El Paso Products Co
5. Monell Unit #82
6. Patrick Draw
7. Sweetwater WY
8. .0 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co
1. 80–31469/NG–268–79
2. 49–009–21497–0000
3. 102 000 000
4. Chinook Resources Inc
5. Jack Morton 1–6 21496
6. Scott
7. Converse WY
8. 7.0 million cubic feet
9. May 6, 1980
10. McCulloch Gas Processing Corp
1. 80–31470/NG–267–79
2. 49–009–21486–0000
3. 102 000 000
4. Chinook Resources Inc
5. Morton 1–32 21486
6. Scott
7. Converse WY
8. 9.0 million cubic feet
9. May 6, 1980
10. McCulloch Gas Processing Corp

U.S. Geological Survey, Metairie

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–31382/G0–1309
2. 17–700–40417–0000–0
3. 102 000 000
4. Natomas Offshore Exploration Inc
5. West Cameron Blk 281 No A–7
6. West Cameron
7. 281
8. 2920.0 million cubic feet
9. May 6, 1980
10. Mid Louisiana Gas Co; Michigan Wisconsin P L Co
1. 80–31383/G0–1312
2. 17–700–40310–0000–0
3. 102 000 000
4. Natomas Offshore Exploration Inc
5. West Cameron Blk 281 No A–1
6. West Cameron
7. 281
8. 2920.0 million cubic feet
9. May 6, 1980
10. Mid Louisiana Gas Co; Michigan Wisconsin PL Co
1. 80–31384/G0–1313
2. 17–700–40389–0000–0
3. 102 000 000
4. Natomas Offshore Exploration Inc
5. West Cameron Blk 281 No A–2
6. West Cameron
7. 281
8. 2920.0 million cubic feet
9. May 6, 1980
10. Mid Louisiana Gas Co; Michigan Wisconsin P L Co
1. 80–31386/9–1038
2. 17–711–40430–0051–0
3. 102 000 000
4. Ocean Production Company

V 45 M Y 22 80 UMI

5. OCS–G 038 No 4A
6. Ship Shoal 113 Field
7. 120
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas PL Corp

1. 80–31387/G9–1132
2. 17–715–40155–0100–0
3. 102 000 000
4. C & K Offshore Co
5. South Timbalier 190 No A–2
6. South Timbalier
7. 190
8. 1200.0 million cubic feet
9. May 6, 1980
10. Trunkline Gas Co

1. 80–31389/G9–1182
2. 17–705–40285–0052–0
3. 102 000 000
4. Mobil Oil Exploration & Producing
5. Vermilion Block 215 #6B
6. Vermilion
7. 215
8. 450.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–31390/G9–1177
2. 17–711–40382–0103–0
3. 102 000 000
4. Mobil Oil Exploration & Producing
5. Ship Shoal 72 No 14–C
6. Ship Shoal
7. 72
8. 427.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–31391/G9–1083
2. 17–703–40159–0000–0
3. 102 000 000
4. Sonat Exploration Co
5. OCS G–3288 No A–2
6. East Cameron
7. 46
8. 1095.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co

1. 80–31392/G9–1084
2. 17–703–40176–0000–0
3. 102 000 000
4. Sonat Exploration Co
5. OCS G–3288 No A–3
6. East Cameron
7. 46
8. 1095.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co

1. 80–31393/G9–1115
2. 17–715–40230–0051–0
3. 102 000 000
4. Gulf Oil Corp
5. OCS G–2625 No C–2
6. South Timbalier Blk 37
7. 37
8. 365.0 million cubic feet
9. May 6, 1980
10. Texas Eastern Trans Corp; Tennessee Gas P L Co; Southern Natural Gas Co; Columbia Gas Transmission Co

1. 80–31394/G9–1106
2. 17–709–40350–00S1–0
3. 102 000 000
4. Gulf Oil Corp
5. OCS–G 0983 #G–9
6. Eugene Island
7. 252
8. 1095.0 million cubic feet
9. May 6, 1980
10. Sea Robin Pipeline Co; Texas Eastern Transmission Corp

1. 80–31395/G9–1110
2. 17–705–40363–0000–0
3. 102 000 000
4. McMoran Offshore Exploration Co
5. OCS–G–3390 #9
6. Vermilion
7. 25
8. 5475.0 million cubic feet
9. May 6, 1980
10. Transco Gas Pipeline Co; Public Service Electric & Gas Co

1. 80–31397/G0–1272
2. 17–720–40066–0000–0
3. 107 000 000
4. Anadarko Production Co
5. West Delta 138 No A–4
6. West Delta
7. 138
8. 100.0 million cubic feet
9. May 6, 1980
10. Northern Natural Gas Co

1. 80–31398/G0–1302
2. 17–711–40358–0000–1
3. 102 000 000
4. Amoco Production Co
5. OCS–G–3160 No A–3
6. Ship Shoal
7. 84
8. 3650.0 million cubic feet
9. May 6, 1980
10.

1. 80–31399/G0–1303
2. 17–711–40358–0000–2
3. 102 000 000
4. Amoco Production Co
5. OCS–G–3160 No A–3D
6. Ship Shoal
7. 84
8. 3650.0 million cubic feet
9. May 6, 1980
10.

1. 80–31400/G0–1301
2. 17–711–40357–0000–0
3. 102 000 000
4. Amoco Production Co
5. OCS–G–3160 No A–2
6. Ship Shoal
7. 84
8. 3650.0 million cubic feet
9. May 6, 1980
10.

1. 80–31401/9–1039
2. 17–711–40434–0051–0
3. 102 000 000
4. Ocean Production Company
5. OCS–G 038 No 5A
6. Ship Shoal 113 Field
7. 120
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31402/9–1037
2. 17–711–40448–0051–0
3. 102 000 000
4. Ocean Production Company
5. OCS–G 3164 No 1A
6. Ship Shoal
7. 135
8. 1500.0 million cubic feet
9. May 6, 1980
10. Michigan-Wisconsin Pipeline Co

1. 80–31403/G0–1297
2. 17–707–40329–0000–0
3. 102 000 000
4. Shell Oil Co
5. OCS G–0789 #A–12
6. South Marsh Island
7. 48
8. 1726.0 million cubic feet
9. May 6, 1980
10. Michigan Wisconsin Pipeline Co

1. 80–31404/G0–1296
2. 17–707–40311–0000–0
3. 102 000 000
4. Shell Oil Company
5. OCS G–0789 #A–8
6. South Marsh Island
7. 51
8. .0 million cubic feet
9. May 6, 1980
10. Michigan-Wisconsin Pipeline Co

1. 80–31405/G0–1292
2. 17–711–40477–0051–0
3. 102 000 000
4. Ocean Production Co
5. OCS–G–042 No 17 A (ST #3)
6. Ship Shoal 113 Field
7. 94
8. 110.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31406/G9–1184
2. 17–715–40310–0051–0
3. 102 000 000
4. Exxon Corp
5. OCS–G 1251 No C–5
6. South Timbalier
7. 165
8. 1800.0 million cubic feet
9. May 6, 1980
10. Trunkline Gas Co

1. 80–31407/G9–1130
2. 17–707–40331–0000–0
3. 107 000 000
4. Placid Oil Co
5. OCS–G–2600 #E–8
6. South Marsh Island
7. 281
8. 2745.0 million cubic feet
9. May 6, 1980
10. Trunkline Gas Co Southern Natural Gas Co

1. 80–31408/9–1041
2. 17–711–40440–0051–0
3. 102 000 000
4. Ocean Production Company
5. OCS–G 038 No 7A
6. Ship Shoal 113 Field
7. 120
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31409/G0–1251
2. 17–700–40275–0000–0
3. 102 000 000
4. The Superior Oil Co
5. OCS–0244 No 17
6. West Cameron
7. 71
8. 1929.0 million cubic feet
9. May 6, 1980
10. Michigan-Wisconsin Pipeline Co

1. 80–31410/G9–1202
2. 17–711–40468–0000–0
3. 102 000 000
4. Kerr-McGee Corp

5. OCS 0346 No 37
6. Ship Shoal
7. 28
8. 396.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31411/G9–1129
2. 17–702–40491–0000–0
3. 102 000 000
4. Marathon Oil Co
5. OCS G–2233 #B–1
6. West Cameron South Addition
7. 619
8. 4380.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31412/G0–1304
2. 17–711–40479–0000–1
3. 102 000 000
4. Amoco Production Co
5. OCS–G–3160 No A–5
6. Ship Shoal
7. 84
8. 3650.0 million cubic feet
9. May 6, 1980
10.

1. 80–31413/9–1040
2. 17–711–40442–0051–0
3. 102 000 000
4. Ocean Production Company
5. OCS–G 038 No 6A
6. Ship Shoal 113 Field
7. 120
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31414/G0–1305
2. 17–711–40479–0000–2
3. 102 000 000
4. Amoco Production Co
5. OCS–G–3160 No A–5D
6. Ship Shoal
7. 84
8. 3650.0 million cubic feet
9. May 6, 1980
10.

1. 80–31415/G9–1201
2. 17–708–40191–0000–0
3. 102 000 000
4. Pennzoil Co
5. Pennzoil Company No A–9
6. South Marsh Island SA
7. 128
8. .0 million cubic feet
9. May 6, 1980
10. Sea Robin Pipeline Co Florida Gas Transmission Co Florida Power & Light Co

1. 80–31416/G0–1263
2. 17–723–40057–0000–0
3. 102 000 000
4. Shell Oil Co
5. OCS G–1614 #C–45
6. South Pass
7. 70
8. 35.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co

1. 80–31420/G9–1185
2. 17–705–40375–0000–0
3. 102 000 000
4. McMoran Offshore Exploration Co
5. OCS–G 3390 #13
6. Vermilion
7. 25
8. 5475.0 million cubic feet
9. May 6, 1980
10. Transco Gas Pipeline Co

1. 80–31422/G0–1261
2. 17–707–40320–0000–0
3. 102 000 000
4. Aminoil USA Inc
5. OCS–G–1198 No D–4
6. South Marsh Island
7. 66
8. 1200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31423/G9–1128
2. 17–702–40513–0051–0
3. 102 000 000
4. Exxon Corp
5. OCS–G 2560 No A–3
6. West Cameron
7. Parrish LA
8. 500.0 million cubic feet
9. May 6, 1980
10. Columbia Gas Trans Corp Northern Natural Gas Co Trunkline Gas Co Natural Gas PL Co

1. 80–31424/G0–1314
2. 17–700–40398–0000–0
3. 102 000 000
4. Natomas Offshore Exploration Inc
5. West Cameron Blk 281 No A–3
6. West Cameron
7. 281
8. 2920.0 million cubic feet
9. May 6, 1980
10. Mid Louisana Gas Co Michigan Wisconsin PL Co

1. 80–31425/G0–1270
2. 17–703–40199–0000–0
3. 102 000 000
4. Sonat Exploration Co
5. G–3288 No A–6D
6. East Cameron
7. 46
8. 51.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co

1. 80–31426/G9–1197
2. 17–701–40029–0000–1
3. 102 000 000
4. Transocean Oil Inc
5. OCS G–3275 #A–1
6. West Cameron Area W A
7. 331
8. 1278.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co United Gas PL Co

1. 80–31427/G9–1131
2. 17–715–40158–0000–0
3. 107 000 000
4. C&K Marine Production Co
5. OCS–G–1960 No A–3
6. South Timbalier
7. 148
8. 1300.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31428/G0–1315
2. 17–700–40406–0000–0
3. 102 000 000
4. Natomas Offshore Exploration Inc
5. West Cameron Blk 281 No A–5
6. West Cameron
7. 281
8. 2920.0 million cubic feet
9. May 6, 1980
10. Mid Louisiana Gas Co Michigan Wisconsin PL Co

1. 80–31429/G9–1082
2. 17–703–40144–0000–0
3. 102 000 000
4. Sonat Exploration Co
5. G–3288 No A–1
6. East Cameron
7. 46
8. 1825.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co

1. 80–31430/G0–1308
2. 17–700–40408–0000–0
3. 102 000 000
4. Natomas Offshore Exploration Inc
5. West Cameron Blk 281 No A–6
6. West Cameron
7. 281
8. 2920.0 million cubic feet
9. May 6, 1980
10. Mid Louisana Gas Co Michigan Wisconsin PL Co

1. 80–31431/G9–412
2. 17–711–40365–00D2–0
3. 102 000 000
4. Sun Oil Co
5. OCS–G 1023 No B–14E
6. Ship Shoal Block
7. 224
8. 2100.0 million cubic feet
9. May 6, 1980
10. Transcontinental Pipeline Co

1. 80–31432/G9–1198
2. 17–701–40029–0000–2
3. 102 000 000
4. Transocean Oil Inc
5. OCS G–3275 #A–1–D
6. West Cameron Area W A
7. 331
8. .0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co United Gas PL Co

1. 80–31433/G9–1199
2. 17–701–40070–0000–0
3. 102 000 000
4. Transocean Oil Inc
5. OCS G–3275 #A–2
6. West Cameron Area WA
7. 331
8. 1095.0 million cubic feet
9. May 6, 1980
10. Southern Natural Gas Co United Gas PL Co

1. 80–31396/G0–1271
2. 17–720–40064–0000–0
3. 107
4. Anadarko Production Co
5. West Delta 137 #A–2
6. West Delta
7. 137
8.
9. May 6, 1980
10. Northern Natural Gas Co

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

V 45 MY 22 80 UMI

1. 80–31380/G9–1187
2. 42–711–40452–0000–0
3. 102 000 000
4. Transco Exploration Co
5. OCS G–3951 No. 1
6. High Island
7. A–284
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipe Line Corp; Public Service Electric & Gas Co

1. 80–31381/G9–1189
2. 42–711–40456–0000–0
3. 102 000 000
4. Transco Exploration Co
5. OCS G–3951 No. 4
6. High Island
7. A–284
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–31385/G9–1188
2. 42–711–40460–0000–0
3. 102 000 000
4. Transco Exploration Co
5. OCS G–3951 No. 3
6. High Island
7. A–284
8. 2200.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–31388/G9–1155
2. 42–709–40182–0000–0
3. 102 000 000
4. Mobil Oil Co
5. OCS G–2392 C–6
6. High Island South Addition
7. A–572
8. 183.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipe Line Corp; Texas Gas Transmission Corp; Michigan Wisconsin P L Co; Natural Gas Pipeline Co of America

1. 80–31417/G0–1262
2. 42–708–40064–0000–0
3. 102 000 000
4. Shell Oil Co
5. OCS G–3236 #A–10
6. High Island
7. 179
8. .0 million cubic feet
9. May 6, 1980
10. United Gas Pipeline Co; Transcontinental Gas P L Corp

1. 80–31418/G0–1268
2. 42–711–40442–0000–2
3. 102 000 000
4. Aminoil Development Inc
5. OCS–G–2412 No. A–16
6. High Island
7. A–317
8. 1460.0 million cubic feet
9. May 6, 1980
10. Natural Gas Pipeline Co of America; Trunkline Gas Co; Panhandle Eastern P L Co; Transcontinental Gas P L Corp

1. 80–31419/G0–1267
2. 42–714–04420–0000–1
3. 102 000 000
4. Aminoil Development Inc
5. OCS–G–2412 No. A–16
6. High Island
7. A–317
8. 2190.0 million cubic feet
9. May 6, 1980
10. Natural Gas Pipeline Co of America; Trunkline Gas Co; Transcontinental Gas P L Corp Panhandle Eastern P L Co

1. 80–31421/G9–1196
2. 42–711–40400–0000–0
3. 102 000 000
4. Transocean Oil Inc
5. OCS G–2404 #A–3
6. High Island East E A SE
7. A–283
8. 1825.0 million cubic feet
9. May 6, 1980
10. Transcontinental Gas Pipeline Corp

U.S. Geological Survey, Casper, Wyo.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31471/CC–1051–9B
2. 05–103–08058–0000–0
3. 108 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #10
6. Cathedral
7. Rio Blanco Co
8. 6.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31472/CC–1154–9
2. 05–103–08224–0000–0
3. 103 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #12X
6. Cathedral
7. Rio Blanco Co
8. 28.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31473/CC–1155–9
2. 05–103–08064–0000–0
3. 103 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #16
6. Cathedral
7. Rio Blanco Co
8. 28.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31474/CC–1156–9
2. 05–103–08066–0000–0
3. 103 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #17
6. Cathedral
7. Rio Blanco Co
8. 31.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31475/CC–1157–9
2. 05–103–08076–0000–0
3. 103 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #19
6. Cathedral
7. Rio Blanco Co
8. 6.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31476/CC–837–9
2. 05–081–06287–0000–0
3. 102 000 000
4. Rainbow Resources Inc
5. Federal 1–19
6. State Line
7. Moffat Co
8. 365.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31480/CC–1151–9
2. 05–103–07823–0000–0
3. 108 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #7
6. Cathedral
7. Rio Blanco Co
8. 16.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31481/CC–836–9
2. 05–081–06287–0000–0
3. 102 000 000
4. Rainbow Resources Inc
5. Federal 1–19
6. State Line
7. Moffat Co
8. 365.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31476/CC–837–9
2. 05–081–06287–0000–0
3. 102 000 000
4. Rainbow Resources Inc
5. Federal 1–19
6. State Line
7. Moffat Co
8. 365.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31480/CC–1151–9
2. 05–103–07823–0000–0
3. 108 000 000
4. Northwest Exploration Co
5. Philadelphia Creek #7
6. Cathedral
7. Rio Blanco Co
8. 16.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. 80–31481/CC–836–9
2. 05–081–06287–0000–0
3. 102 000 000
4. Rainbow Resources Inc
5. Federal 1–19
6. State Line
7. Moffat Co
8. 365.0 million cubic feet
9. May 6, 1980
10. Northwest Pipeline Corp

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31477/UC–488–9
2. 43–047–30261–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc.
5. NBU 1–78 30261
6. Natural Buttes Unit
7. Uintah UT
8. 100.0 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co

1. 80–31478/UC–482–9B
2. 43–047–30363–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc.
5. NBU 25–20B 30363
6. Natural Buttes Unit
7. Uintah UT
8. 5.0 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co

1. 80–31479/UC–484–9B
2. 43–047–30359–0000–0
3. 102 000 000 Denied
4. Gas Producing Enterprises Inc.
5. NBU 21–20B 30359
6. Natural Buttes Unit
7. Uintah UT
8. 125.0 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co

1. 80–31483/UC–458–9B
2. 43–047–30399–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc.
5. NBU 36–7B 30399
6. Natural Buttes Unit
7. Uintah UT
8. 30.0 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31482/W–59–9
2. 49–013–20721–0000–0
3. 102 000 000
4. Monsanto Co
5. MDU Chevron #1–1
6. Madden
7. Fremont WY
8. 540.0 million cubic feet
9. May 6, 1980
10. Colorado Interstate Gas Co; Kansas-Nebraska Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15694 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. GP80–31]

Cities Service Gas Co.; Third-Party Protests [1]

May 16, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2], and "Order on Rehearing of Order No. 23–B," [3] the Kansas State Corporation Commission (Kansas) protested on February 25, 1980, the assertion by the Cities Service Gas Company (Cities Service) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Kansas stated that the language of the following contracts does not constitute authority for the producer to increase prices to the extent claimed by Cities Service in its evidentiary submission:

Producer	Contract No.	Contract date	Rate schedule
Coastal States	2036	11/25/60	57
Coastal States	1384	11/25/60	57
Continental Oil	1313	2/03/61	104
Lee Dring	1191	12/08/58	Cham 76
Messman Rinehart	0914	1/14/55	S71160
Tema Oil	2045	1/20/75	112
Aminoil USA Inc	1491	7/23/63	10
A Plack Carr	0866	11/20/53	1
James E. Ely	1147	3/03/58	2
John A. Harford	1838	3/01/54	6
Koch Industries	1792	11/01/57	OSB 14
Don D. Montgomery	1807	3/31/66	S71726
Woods Petroleum Corp.	2026	8/10/70	S71647
Woods Petroleum Corp.	2146	8/10/70	S71647
Amerada Hess Corp	2436	4/06/78	107
Amer Public Energy	2557	2/12/79	
Andover Oil Co	2517	10/09/78	S73603
Andover Oil Co	2350	11/21/77	S73603
Andover Oil Co	2412	3/01/78	S73603
Andover Oil Co	2413	2/15/78	S73603
Andover Oil Co	2457	5/25/78	S73603
Arco Oil & Gas Co	2437	10/04/62	470
Arco Oil & Gas Co	1405	10/04/62	470
Beren Corporation	2505	9/21/78	S71704
Best & Sherman Oil	2494	8/31/78	78–732
Bluebell Oil & Gas Co	2417	3/13/78	S76325
CMC Energies Co	2464	6/22/78	S78534
Chase Gath System	2503	9/12/78	78–175
Chase Gath System	2522	10/10/78	S78175
Cimarron Pet. Co	2508	9/28/78	
Colo. Gas Co., Inc	2448	5/04/78	S77419
Consolidated Oil & Gas	2470	7/17/78	S72694
Cotton Petroleum Co	2549	8/09/78	
Craig Morris Oil Co	2495	8/28/78	
El Grande Pl. Corp	2430	3/01/78	S71291
El Grande Pl. Corp	2477	8/10/78	S71291
Energy Reserves Group	2415	3/01/78	2
Flynn Energy Corp	2416	3/09/78	S73382
Gill Mac Inc	2402	2/08/78	S77 38
Gill Mac Inc	2402	2/08/78	S77 38
Great Yellowstone	2378	1/05/78	78–727
Great Yellowstone	2478	8/11/78	78–727
Great Yellowstone	2479	8/11/78	78–727
Great Yellowstone	2480	8/11/78	78–727
Herndon Drilling Co	2544	8/16/78	S78760
Herndon Drilling Co	2493	8/16/78	S78760
Herndon Drilling Co	2484	8/16/78	S78760
George R. Jones	2375	12/28/77	S78155
Kennedy & Mitchl Inc	2395	10/05/60	S76199
W.E. Kirkpatrick	2531	2/22/78	S78297
M & A Petroleum Co	2460	6/19/78	S78468
MP&R Production Co	2438	4/27/78	S78406
Mackellar Inc	2405	2/15/78	S72198
Mackellar Inc	2408	2/28/78	78–603
Mackellar Inc	2435	5/09/78	78–603
Mc McClure	2421	3/23/78	S78298
Al McCord	2357	11/22/77	S74158
Al McCord	2474	8/09/78	S74158
Mel-Ray Oil Co	2376	12/28/77	S78223
Mel-Ray Oil Co	2459	5/12/78	78–223
Mel-Ray Oil Co	2542	7/24/78	S78223
Mull Drilling Co	2492	8/22/78	S71 60
NFC Petroleum Corp	2434	4/17/78	C578–399
Natural Gas Inc	2473	8/11/78	78–614
Petroleum Energy Inc	2399	2/08/78	S77363
R & M Pipeline Inc	2356	11/28/77	
Range Oil Co	2389	12/15/77	S76 37
Samedon Oil Corp	2631	6/11/79	
Dr. John J. Shea	2534	9/27/78	79–80
Tani Tarns	2465	6/23/78	C576–671
Texaco Inc	2490	8/21/78	
Theric Energy Corp	2496	9/05/78	S78426
Tideway Oil Programs	2475	8/09/78	C575410
Tower Oil & Gas Co	2444	5/01/78	S78433
Verdigris Gath Sys	2418	3/01/78	S78333
Walker Withrow, Inc	2384	1/05/78	S78215
Walter D. Wells Jr	2462	6/02/78	
Walter D. Wells Jr	2463	5/22/78	
Walter D. Wells Jr	2467	5/22/78	
Wessely Expl. Inc	2443	4/28/78	S78403
Wilson Drilling Co	2445	5/03/78	S77653
Union Texas Pet	2483	9/09/78	C178–1180
Betts, Boyle & Stovall	1688	9/26/67	486
Energy Sources Inc	1740	3/31/70	S72 40
Union Gas System	2242	3/07/77	S77562

Any person, other than the pipeline and the seller, desiring to be heard or to make any response to these protests should file with the Commission, on or before May 30, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–15700 Filed 5–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–363]

Consumers Power Co.; Filing

May 16, 1980.

The filing company submits the following:

Take notice that on May 9, 1980, Consumers Power Company (Consumers Power) tendered for filing a Wholesale for Resale Electric Service Agreement with the City of Hart, Michigan. Consumers Power states that when construction of certain 46 kV substransmission facilities required for rendition of service is complete, the City of Hart will receive wholesale service under Consumers Power's FERC Electric Service. Tariff First Revised Volume No. 1, under rates and other terms and conditions of service which the Commission permitted to become effective in its order of December 20, 1979 in Docket No. ER80–55, as same may be changed from time to time.

Consumers Power states that service will begin (and the Service Agreement will then become effective under its terms) on or about July 1, 1980 when construction of required facilities is expected to be completed. Consumers Power, accordingly, requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

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with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed by or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15701 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. TC80-88 and RP76-90]

Kansas-Nebraska Natural Gas Company, Inc.; Order Accepting for Filing and Suspending Revised Tariff Sheet and Vacating Docket Designation

May 15, 1980.

On April 15, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska),[1] submitted for filing in Docket No. TC80-88 Third Revised Sheet No. 24 to amend its FERC Gas Tariff, Third Revised Volume No. 1. This amendment would add a clause to Section 13.b(2) which would permit Kansas-Nebraska to reinstate its ability to provide new natural gas service to standby emergency electric generating facilities of Priority 1 and 2 customers, all as more fully set forth in the revised sheet.

The tariff revision would allow Kansas-Nebraska to provide new or additional natural gas service for emergency standby generating facilities operated by high priority customers and essential agricultural establishments such as schools, hospitals, police and fire installations, correctional facilities, and feed lots. The existing § 13.b(2) of the General Terms and Conditions of Kansas-Nebraska's FERC Gas Tariff prohibits the making of new or additional sales of natural gas for electric generation. However, Kansas-Nebraska does provide natural gas service to a number of standby electric generation facilities which were in existence prior to the effective date of § 13.b(2).[2] Kansas-Nebraska states that, when operated only during emergencies, the consumption of gas by these existing facilities has had no measurable impact on its annual gas supply, and it does not expect the proposed new service will have any impact on its level of service.

After due notice of Kansas-Nebraska's April 15, 1980, tariff filing by publication in the **Federal Register** on April 23, 1980 (45 FR 28459), no petition to intervene, notice of intervention, or protest to the acceptance of the filing has been filed.

The Commission concludes that it shall permit the filing by Kansas-Nebraska of the proposed tariff amendment but shall suspend its effectiveness for one day until May 16, 1980, and thereafter until made effective. This action will result in no new proceeding as the permanency and propriety of the tariff sheet will be determined in the pending curtailment proceeding in Docket No. RP76-90.

The Commission finds:

(1) The question of the lawfulness of Kansas-Nebraska's tariff filings is being addressed in an ongoing proceeding in Docket No. RP76-90. The tariff sheets proposed in that proceeding were accepted for filing, suspended and later put into effect subject to refund upon motion filed by Kansas-Nebraska.

(2) The amended tariff sheet tendered for filing in the instant docket is to replace Second Revised Sheet No. 24, previously suspended.

(3) The tariff sheet filed by Kansas-Nebraska on April 15, 1980, hereinbefore described may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under the Natural Gas Act.

The Commission orders:

(A) The emended tariff sheet tendered by Kansas-Nebraska, as hereinbefore described, is accepted for filing and suspended until May 16, 1980, and thereafter until it is made effective in the manner prescribed by the Natural Gas Act.

(B) Docket No. TC80-88 is vacated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15702 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[1] Kansas-Nebraska, a Kansas corporation having its principal place of business in Phillipsburg, Kansas, is a "Natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order issued April 6, 1943, in Docket No. G-259 (3 FPC 966).

[2] On March 14, 1976, the Section 13.b(2) electric generation prohibition was into effect subject to a suspension proceeding in Docket No. RP76-8. On April 22, 1976, the Commission consolidated the issue concerning the effectiveness of the curtailment procedures in Docket No. RP76-8 with other curtailment related issues from Docket No. CP75-334 and instituted a single curtailment proceeding in Docket No. RP76-90. The curtailment proceeding in Docket No. RP76-90 is currently before the Commission on exception from an Initial Decision issued on March 31, 1979.

[Docket No. RA80-33]

Phillips and Munzel Shell; Filing of Petition for Review

May 16, 1980.

Take notice that Phillips and Munzel Shell on May 2, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 30, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15703 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2790]

Proprietors of the Locks and Canals and Boott Mills; Modifying Prior Notice

May 15, 1980.

The Massachusetts Municipal Wholesale Electric Company (MMWEC) filed an application for rehearing on April 21, 1980, of a Notice Designating Joint Applicants and Dismissing Petition to Intervene in Project No. 2790. The notice joined MMWEC with the Proprietors of the Locks and Canals and Boott Mills as applicants for license for Project No. 2790. The notice also dismissed as being moot MMWEC's petition to intervene in the proceding on the application.

In its petition MMWEC stated that it was not its intention to be a joint applicant at this time, but that it wished to inform the Commission that negotiations were continuing with the Proprietors of the Locks and Canals and Boott Mills and that it may wish to be a joint applicant in the future. MMWEC requested that it be granted intervention in the proceeding and deleted as a joint applicant for license.

No response to the petition has been received. The request of MMWEC appears to be appropriate and in the public interest to modify the notice of March 27, 1980.

It is ordered:

(A) Paragraphs (A) and (B) of the Notice of March 27, 1980 in Project No. 2790 are deleted.

(B) Pursuant to § 375.302 of the Commission's regulations, 45 FR 21216 (1980), *amending* 18 CFR 3.5(a) (1979), the Massachusetts Municipal Wholesale Electric Company is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)–825(r). Participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that the intervenor might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15704 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-84]

Rio Petroleum, Inc.; Application for Recovery of Production Related Costs Under Section 110 of the NGPA

May 16, 1980.

Take notice that on April 1, 1980, Rio Petroleum, Inc. (Rio), 1008 Barfield Building, Amarillo, Texas 79101, filed with the Federal Energy Regulatory Commission (Commission), under Section 110 of the Natural Gas Policy Act of 1978 (NGPA) and § 271.1105 of the Commission's regulations, an application relating to the addition of production-related costs to the maximum lawful price determined under the NGPA.

Specifically, Rio states that it produces natural gas from the #1 State of Texas Well Galveston County, Texas, and sells the natural gas to Houston Pipeline Co. (Houston). By contractual agreement with Rio, Coronado Transmission Co. (Coronado) has agreed to transport the gas to Houston for 30 cents per Mcf. The specific cost which Rio seeks to include in the maximum lawful price are compression costs of 10 cents per MMbtu and gathering costs of 30 cents per MMbtu.

Any person desiring to be heard or to protest this proceeding should, within 30 days after publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15705 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER 80-387]

Southern California Edison Co.; Filing of Initial Rate Schedule and Request for Waiver of Prior Notice Requirements

May 15, 1980.

The filing Company submits the following:

Take notice that on May 12, 1980, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, an agreement, dated May 1, 1980, with the Pacific Gas and Electric Company (Pacific). This agreement is entitled "Edison-Pacific Sylmar Midway Transmission Service Agreement".

Under the terms of this Agreement, Edison will provide firm transmission service from Sylmar Converter Station (Sylmar) to the Midway Substation (Midway) and interruptible transmission service from Midway to Sylmar. Edison will charge Pacific for transmission, dispatching and scheduling services, under the conditions and at the rates set forth in the Agreement, and Pacific will reimburse Edison in kind for transmission losses associated with all scheduled deliveries of energy at a rate of 1.78% of hourly scheduled deliveries of energy.

Edison has requested that the prior notice requirement be waived and that the Agreement be made effective as an initial rate schedule no later than July 1, 1980, in order that Pacific may make necessary arrangements to improve its capacity reserve margin during the summer of 1980.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Pacific Gas and Electric Company.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC., 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 80-15706 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-24]

Transcontinental Gas Pipe Line Corp.; Third-Party Protest[1]

May 16, 1980.

Take notice that in accordance with procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B, [2] and "Order on Rehearing of Order No. 23-B," [3] the Staff of the Commission protested on April 21, 1980, the assertion by the Transcontinental Gas Pipe Line Corporation (Transcontinental) and certain producers that the contracts identified in its protests constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts listed in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Transcontinental in its evidentiary submission.

Take further notice that the Associated Gas Distributors (AGD) filed a third-party protest on April 22, 1980. AGD protests that the contracts in Appendix B do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price.

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[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

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Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before May 30, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

Producer	Rate schedule No. or contract date
Aminoil Development	9-18-57
Flour Oil and Gas	9-18-57
Mobil Oil Exploration	176
Murphy Oil Company	9-18-57
Ocean Production Company	5
Petto Oil Company	9-18-57
Sun Oil Company	539
Aminoil Development	9-18-57
Ocean Production Company	5
Petto Oil Company	9-18-57
Sun Oil Company	538
Bethlehem Steel	12-15-77
C&K Manne Production	12-15-77
Candel USA	12-15-77
Four M Properties	12-15-77
St. Joe Petroleum	12-15-77
Louisana Land and Exploration	37
Lynal, Inc.	6-1-78
Natomas North America	8-1-78
Newmont Oil Company	3
Exxon Co.	131
Sun Gas Co.	371
Transco Exploration Co.	24
Liberty Oil & Gas	3-27-78
Mesa Petroleum Co.	103
Ocean Peoduction Co.	27

Appendix B

Seller	Control number	Rate schedule No.	Contract date
Arco Oil & Gas Co.	21436	742	1/15/73
Liberty Oil & Gas	11609	SPC	3/27/78
Lynal Inc.	20621	N.A.	6/1/78
Louisiana Land & Exploration	20746	37	3/22/79
First Nat'l Bank	12762	SPC	5/2/79
Willcorp Inc.	12779	NR	4/30/79
Gruy Management Ser.	11898	SPC	1/17/80
Austin Drilling 1979 Ltd.	11898	SPC	1/17/80
B. J. Gierhart, Inc.	11898	SPC	1/17/80
BJG 79 Ltd.	11898	SPC	1/17/80
C R Lewis	11898	SPC	1/17/80
J. Shelby Bryan	11898	SPC	1/17/80
Knickerbocker Petroleum	11898	SPC	1/17/80
M. A. Radley	11898	SPC	1/17/80
Rick Heintz	11898	SPC	1/17/80
Sowest Energy Corp.	11898	SPC	1/17/80
W M Null	11898	SPC	1/17/80
Weldon I. Thompson	11898	SPC	1/17/80
Whitaker Oil & Gas Co.	11898	SPC	1/17/80
Davis Oil Company	20880	SPC	9/17/79
Killam & Hurd	21850	SPC	8/30/79
Killam & Hurd	12851	SPC	8/30/79
Louisana Land & Exploration	20619	N.A.	5/16/78
Murphy Oil Co.	21117	SPC	9/18/57
Newmont Oil	21118	3	9/18/57
Ocean Production Co.	21358	27	12/15/69
Superior Oil Co.	12805	N.A.	6/21/79
M M Miller & Sons	12899	SPC	1/9/80
Getty Oil Co.	14050	443	9/1/79
Transcontinental Oil Co	29827	SPC	8/3/79
Amerada Hess Corp.	30707	N.A.	12/12/78

Appendix B—Continued

Seller	Control number	Rate schedule No.	Contract date
Holly Energy Inc.	12878	SPC	11/6/79
Tuthill & Barbee	12878	SPC	11/6/79
Tuthill & Barbee	12878	SPC	11/6/79
Marathon Oil Co.	21791	164	6/5/79
Ruth Phillip Bisiker	12918	SPC	1/3/80

[FR Doc. 80-15707 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1891]

Douglas W. Tschappat; Application

May 16, 1980

Take notice that on March 31, 1980, Douglas W. Tschappat (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Pennsylvania Power Company, Public Utility.

Executive Vice President, Director, Ohio Edison Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15708 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-365]

Tucson Electric Power Co.; Cancellation

May 15, 1980

Take notice that Tucson Electric Power Company (Tucson), by letter dated April 24, 1980, filed a Notice of Cancellation of Rate Schedule FERC No. 33, dated October 18, 1979. This rate schedule is identified as the "1980 San Juan Generating Station Power Sale Agreement between Tucson Electric Power Company and the Los Angeles Department of Water and Power, City of Los Angeles". Tucson indicates that the Agreement by its terms provides for a termination date of April 30, 1980.

Tucson indicates that notice of the cancellation has been sent to the Los Angeles Department of Water and Power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 6, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15709 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-391]

Tucson Electric Power Co.; Cancellation

May 16, 1980.

Take notice that Tucson Electric Power Company (Tucson) on May 12, 1980, tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 22, dated May 15, 1978 between Southern California Edison Company and Tucson. Tucson states that this cancellation is to be effective as of December 31, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18, 1.10). All such petitions should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15710 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-390]

Tucson Electric Power Co.; Cancellation

May 16, 1980.

Take notice that Tucson Electric Power Company (Tucson) on May 12, 1980, tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 18, dated October 20, 1977 between The United States Colorado River Project and Tucson. Tucson states that the proposed effective date of cancellation is September 30, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15711 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-389]

Tucson Electric Power Co.; Cancellation

May 15, 1980

Take notice that Tucson Electric Power Company (Tucson on May 12, 1980, tendered for filing a Notice of Cancellation of FPC Rate Schedule No. 17, dated June 1, 1977 between Nevada Power Company and Tucson. Tucson states that the proposed effective date of cancellation is June 30, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15712 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-2712, et al.]

Cities Service Co. et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

May 16, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-2712, May 8, 1980 [1]	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Arkansas Louisiana Gas Company, Panola County, Texas.	(2)	14.65
G-4282, D, Apr 28, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Boonsville Field, Jack County, Texas.	The only well on the lease has ceased to produce and the lease well expire May 13, 1980.	
G-6652 D, May 8, 1980	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Heyser and McFaddin Fields, Victoria County, Texas.	(3)	
G-7008, D, Apr. 18, 1980	Cities Service Company	Kentucky West Virginia Gas Company, Big Sandy Field, Pike County, Kentucky.	(4)	
G-7009, D, Apr. 16, 1980	Cities Service Company	Columbia Gas Transmission Corporation, Big Sandy Field, Eastern Kentucky.	(5)	
G-7645, D, May 6, 1980	Mobil Oil Corporation, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Cities Service Gas Company, Guymon-Hugoton Field, Texas County, Oklahoma.	To release gas for irrigation fuel.	
G-11742, D, May 6, 1980	Mobil Oil Corporation	Cities Service Gas Company, Grant, Haskell and Stevens Counties, Kansas.	To release gas for irrigation fuel.	
G-13704, D, May 5, 1980	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Northern Natural Gas Company, SW. Camp Creek Field, Beaver County, Oklahoma.	(6)	
G-15058, F, Apr. 18, 1980	ONG Exploration, Inc. (Partial Successor to Phillips Petroleum Company), P.O. Box 871, Tulsa, Oklahoma 74102.	Northern Natural Gas Company, SE/4 of Sec. 7-T3N-R26ECM, Beaver County, Oklahoma	(7)	14.65

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI60-149, D, May 6, 1980	General Amercan Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	Arkansas Louisiana Gas Company, Ivan Field, Webster & Bossier Parishes, Louisiana.	Final determination under Section 103 of the NGPA of 1978	
CI61-1413, D, May 3, 1980	Mobil Oil Corporation	Cities Service Gas Company, Hugoton Field, Finney County, Kansas	To release gas for irrigation fuel	
CI73-698, F, Apr 21, 1980	Grace Petroleum Corporation and W. R. Grace & Co. (Successor to Mallard Exploration, Inc. (Operator) *et al.*), Broadway Executive Park, 6501 North Broadway, Oklahoma City, Okla. 73116.	Southern Natural Gas Company, Big Escambia Creek Field, Escambia County, Alabama	(²)	15.025
CI80-290, A, Apr 30, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125	Texas Eastern Transmission Corporation, A portion of West Cameron Block 522, Offshore Louisiana.	(³)	15.025
CI80-291 (CI64-1389), B, Apr 18, 1980	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77001.	Northern Natural Gas Company, Beaver and Texas Counties, Oklahoma.	(⁴)	
CI80-292, A, May 2, 1980	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, California 90051	Tennessee Gas Pipeline Company, Block 65, Vermilion Area, Offshore Louisiana.	(⁵)	15.025
CI80-293, A, Apr 28, 1980	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, High Island Area, Blocks A-446, A-447 and A-448, Offshore Gulf of Mexico.	(⁶)	14.65
CI80-294, A, May 1, 1980	Texaco Inc., P.O. Box 52332, Houston, Texas 77052	Natural Gas Pipeline Company of America, West Delta 109 Field, Offshore Louisiana.	(⁷)	15.025
CI80-295 (CI63-1129), B, Apr 28, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	Arkansas Louisiana Gas Company, North Carter Field, Beckham County, Oklahoma.	Leases have expired and all of wells have been plugged and abandoned	
CI80-296, A, May 2, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150	Florida Gas Transmission Company South Pelto Blocks 9 & 10, Offshore Louisiana.	(⁸)	15.025
CI80-297, A, May 5, 1980	Union Oil Company of California	Columbia Gas Transmission Corporation Block 595, West Cameron Area, Offshore Louisiana	(⁹)	15.025
CI80-298, A, May 5, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001	Columbia Gas Transmission Corporation, High Island Block A-286, Offshore Texas	(¹⁰)	14.65,
CI80-299, B, May 5, 1980	Frank W. Cass, *et al.*, Suite 2555, 2001 Bryan Tower, Dallas, Texas 75201	Allied Chemical Corporation, *et al.*, Certain acreage in Upton County, Texas.	(¹⁴)	
CI80-300, A, May 6, 1980	Union Oil Company of California	Tennessee Gas Pipeline Company, Block 494, West Cameron Area, South Addition, Offshore Louisiana	(¹¹)	15.025
CI80-301, A, May 8, 1980	Mesa Petroleum Co, One Mesa Square, P.O. Box 2009, Amarillo, Texas 79189	Michigan Wisconsin Pipe Line Company, Sec. 22-T11N-R8W, Canadian County, Oklahoma	(¹³)	14.65
CI80-302, A, Apr 30, 1980	Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840	Natural Gas Pipeline Company of America, Southeast Boyd Area, Beaver County, Oklahoma.	(¹⁶)	14.65,
CI80-303, A, May 8, 1980	Pan Eastern Exploration Company, P.O. Box 1642 Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, East Cameron, South Addition, Block 353, Offshore Louisiana.	(¹⁷)	15.025
CI80-304, A, May 7, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150	Michigan Wisconsin Pipe Line Company, High Island Block A-469, Offshore Texas.	(¹⁸)	14.65
CI80-306, A, May 9, 1980	Texaco Inc., P.O. Box 60252, New Orleans, La 70160	Natural Gas Pipeline Company of America, Eugene Island Block 72 Field, Offshore Louisiana	(¹⁹)	15.025
CI80-307, B, May 7, 1980	DMGM Trust, *et al.*, Suite 2555, 2001 Bryan Tower, Dallas, Texas 75201	Phillips Petroleum Company, Certain Acreage in Upton and Reagan Counties, Texas	(¹⁴)	

¹ To provide for an additional delivery point, at the tailgate of Champlin's Carthage Field Plant in Panola County, Texas.
² Applicant is filing under Gas Purchase Contract Amendment dated 4-8-80, amending contract dated 6-30-70, to accommodate gas deliveries from the Pirkle C-3 Well, effective 3-1-80.
³ Well No. 2 on the J. A. McFaddin "B" Lease was the last well on the lease and which was plugged and abandoned on 12-21-78 with the lease expiring on 11-25-78.
⁴ Cities Service hereby seeks release of approximately 24,000 MCF annually from the subject contract in order to continue furnishing gas to the existing domestic users.
⁵ Cities Service hereby seeks release of approximately 160,000 MCF annually from the subject contract in order to continue furnishing gas to the existing domestic users
⁶ Shell has assigned all of its interests in nonproducing formations in Sec. 4-3N-24 ECM, Beaver County, Oklahoma, to lessor.
⁷ Agreement dated 7-26-76, ONG Exploration, Inc. Acquired by assignment from Phillips Petroleum Company oil and gas leases covering said acreage, effective 12-26-76. The acquired acreage is covered by Renewal Gas Purchase Contract dated 7-25-77.
⁸ Effective 7-1-79, Mallard and the following other interest owners selling gas to Southern, conveyed certain assets and properties, including rights under the Gas Contract dated 12-1-72 and the lease acreage committed thereunder to Applicants. These properties are non-fully described in the documents of assignment as follows: (1) Assignment from Mallard Exploration, Inc. to W. R. Grace & Co., dated 1-11-80 (2) Assignment from Cumberland Petroleum Corporation to Grace Petroleum Corporation, dated 11-15-79; (3) Assignment from Robert M. Leibrook and wife, Phyllis Leibrook to Grace Petroleum Corporation, dated 1-11-80 (4) Assignment from Charles E. March, II and wife, Loretta McDermott March to Grace Petroleum Corporation, dated 1-11-80. As a result of these assignments, Applicants now own a 14.78% interest in the gas reserves committed for sale to Southern under the Gas Contract and Applicant respectfully request the Commission's authorization to sell natural gas to Southern pursuant to the terms and conditions of the Gas Contract effective as of 1-15-80
⁹ Applicant is filing under Gas Purchase Contract dated 2-1-80.
¹⁰ As a result of depletion, acreage dedicated under Anadarko Rate Schedule No. 81 was released by Northern Natural due to cessation of production
¹¹ Applicant is willing to accept a certificate at an initial rate of the maximum lawful price as prescribed in subsection 104(b) of the NGPA of 1978.
¹² Applicant is willing to accept a certificate conditioned upon the maximum applicable rate as allowed by the NGPA of 1978.
¹³ Applicant agrees to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned to accordance with the NGPA of 1978 and the Commission's Regulations under said Act.
¹⁴ Available supply of natural gas in subject property cannot be developed pursuant to the terms and provisions of subject Casinghead Gas Contract, and that the continuance of service is unwarranted.
¹⁵ Applicant is willing to accept the applicable rate under Section 104 of the NGPA of 1978.
¹⁶ Applicant is filing under Gas Purchase Contract dated 7-16-79
¹⁷ Applicant is filing under Gas Purchase Contract dated 3-31-80.
¹⁸ Applicant is filing under Gas Purchase Contract dated 4-3-80.
¹⁹ Applicant is filing under Gas Purchase Contract dated 4-17-80.

Filing Code: A—Initial Service B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-15713 Filed 5-21-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 24 through March 28, 1980

Notice is hereby given that during the week of March 24 through March 28, 1980 the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exeception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Cotten, Day & Doyle, Washington, D.C.; BFA-0252, Freedom of Information

Cotten, Day & Doyle filed an Appeal from a denial by the Deputy General Counsel for Enforcement and Litigation of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE determined that the Deputy General Counsel had failed to supply a sufficiently specific index of documents or provide any reason why a more specific index could not be supplied. The DOE also determined that the Deputy General Counsel had not supplied sufficiently specific reasons for applying Exemptions 4 and 7 to the documents withheld. Finally, the DOE determined that the Deputy General Counsel did not address the issue of whether any segregable factual material existed. The DOE therefore concluded that the matter should be remanded to the Deputy General Counsel for futher action.

Doub & Muntzing, Washington, D.C.; BFA-0206, Freedom of Information

Doub & Muntzing filed an Appeal from a denial by the Director of the Office of Policy of the Procurements and Contracts Management Directorate of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeals, the DOE found that certain portions of the document which were initally withheld under Exemption 5 should be released to the public. An important issue that was considered in the Decision and Order was that there was factual material in the document which was segregable from opinions and recommendations.

Getty Refining and Marketing Company, Cherry Hill, New Jersey; DEA-0419, Motor Gasoline

Getty Refining and Marketing Company filed an Appeal from an Assignment Order issued by the Region II Office of Petroleum Operations. In its Appeal, Getty contended that the Assignment Order was based upon erroneous information submitted to the Department of Energy by Award Petrolerum, Inc. In considering the Appeal, the DOE found that there was no indication in the Assignment Order or in the record that the Office of Petroleum Operations had relied on the allegedly erroneous information. Accordingly, the Appeal was denied.

Dolph Honicker, Nashville, Tennessee; BFA-0199, Freedom of Information

Mr. Dolph Honicker filed an Appeal from a denial by the Assistant to the Manager, Oak Ridge Operations, of two Requests for Information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Authorizing Official was correct in stating that the DOE had no documents that were responsive to either request. The Honicker Appeal was therefore denied.

Industrial Fuel and Asphalt of Indiana, Inc., Hammond, Indiana; BEA-0194, BES-0194, BST-0194, BEL-0962, crude oil

IFAI filed an Appeal of a Decision and Order issued to the firm by the Economic Regulatory Administration of the Department of Energy (ERA) which denied an emergency allocation of crude oil under the provisions of 10 CFR 211.65 (the Buy/Sell Program). The firm also filed an Application for Stay and an Application for Temporary Stay. In the Decision and Order which is the subject of the IFAI Appeal, the ERA determined that the firm was not eligible for an emergency allocation of crude oil because the reduction in crude oil availability which it experienced was the result of the discontinuance of a processing agreement with Arizona Fuels Corporation (Arizona Fuels) rather than a drop in IFAI's own supply of crude oil. In its Appeal, IFAI asserted that processing volumes should be included in determining eligibility for an emergency allocation of crude oil. In considering the Appeal, the OHA determined that the ERA methodology was neither in conflict with the regulations, nor arbitrary and capricious. The OHA observed that the regulations specifically provide for the ERA to evaluate the efforts which applicants have made to obtain crude oil, and that the position advanced by IFAI would create an even greater potential for manipulation of crude oil supplies by applicants. The OHA further noted that any refiner which experienced a serious hardship, a gross inequity, or an unfair distribution of burdens as a result of the operation of the emergency allocation portion of the Buy/Sell program could file an Application for Exception. On the basis of these considerations, the OHA determined that IFAI's Appeal should be denied. The OHA concluded, however, that emergency relief should be provided to IFAI, in the form of a temporary exception, in order to permit the firm to keep its refinery running at its minimum physical operating rate. Accordingly, IFAI's Application for Stay and its Application for Temporary Stay were dismissed.

Finally, the OHA stated that the processing agreement between IFAI and Arizona Fuels during the base period appeared to have been economically feasible only as a result of Arizona Fuels' apparent disregard of entitlements purchase obligations. Accordingly, equitable considerations dictated that the OHA evaluate whether, or the extent to which, IFAI should be granted exception relief providing crude oil under the Buy/Sell program. IFAI was therefore directed to file an Application for Exception accompanied by a calculation of revenues it obtained pursuant to its processing arrangement with Arizona Fuels.

Southwestern States Marketing Corp., Abilene, Texas; BFA-0205, Freedom of Information

Southwestern States Marketing Corp. filed an Appeal from a partial denial by the District Manager of Southwest District Office of Enforcement of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemptions 5 and 7(A) should be released to the public. The DOE determined that the District Manager had misconstrued the holding in *Exxon Company, U.S.A.*, 4 DOE Par. 80,109 (1979), in withholding some documents pursuant to Exemption 7(A) on the basis of burdensomeness.

Remedial Orders

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company name, Location, and Case No.

Jerry Rakowski, d/b/a Amoco Dealer, Milwaukee, Wisconsin; BRW-0022
Gerald Sedney, d/b/a Bay Shore Marina, Erie, Pennsylvania; BRW-0023
Tunnel Service Station (Shell), Long Island City, New York; BRW-0024
Cherokee Texaco, Cherokee, North Carolina; BRW-0025
De Luc Service Station (Sunoco, Bronx, New York; BRW-0026
Hancock Exxon Service Station, Quincy, Massachusetts; BRW-0027
Hilgton's Exxon, West Chester, Pennsylvania; BRW-0028
James Bulloch, Inc., Belle Harbor, New York; BRW-0029
Dave James, Bethel Park, Pennsylvania; BRW-0030
Kammerman Marina, Atlantic City, New Jersey; BRW-0031
Mrs. Center, Mineola, New York; BRW-0032
Romeo's Service Station, Seafood, New York; BRW-0034
S&H Texaco, Lancaster, Pennsylvania; BRW-0035
Banks Service Station, Buffalo, New York; BRW-0036
Terrace Mobil, Binghamton, New York; BRW-0037
Terzakis Bros. Getty, Beverly, Massachusetts; BRW-0038
Brothers Amoco, West Seneca, New York; BRW-0039
Yacht Basin, Inc., Wildwood, New Jersey; BRW-0040
Wolf Run Marina, Warren, Pennsylvania; BRW-0041

Remedial Orders

Bill J. Graham, Seminole, Oklahoma, DRO-0216, crude oil

Bill J. Graham objected to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on May 3, 1979. In the Proposed Remedial Order, the Office of Enforcement found that Graham improperly classified several of the firm's properties as stripper well properties. The DOE found that Graham's interpretation of the regulatory definition of property was incorrect and therefore concluded that the Proposed Remedial Order should be issued as a final Order.

Greene's Transport Company, Thomaston, Georgia, DRO-0012, propane

Greene's Transport Company objected to a Proposed Remedial Order which the Southeast District Office of Enforcement issued to the firm on March 8, 1978. In the Proposed Remedial Order, the Office of Enforcement found that Greene's and six affiliated companies sold propane at prices in excess of the maximum permissible selling prices calculated under 212.93. The PRO directed Greene's to roll back prices, make direct refunds or issue credit memoranda to

specified classes of purchaser until the overcharges resulting therefrom were refunded. Upon review of the firm's submission, the DOE determined that the Office of Enforcement had properly treated Greene's and its affiliated companies as a single firm pursuant to 10 CFR 212.31. In addition, the DOE found that Greene's had presented no evidence to support its claim that the firm's various entities should have been accorded separate inventory treatment based on Greene's historical inventory accounting procedures. Accordingly, the DOE rejected Greene's Objections and concluded that the PRO should be issued as a final Order.

Requests for exception

Ergon Refining Inc., Vicksburg, Mississippi, BEE–0308, BEL–0308, crude oil

Ergon Refining, Inc. filed Applications for Exception and Temporary Exception from the provisions of 10 CFR 211.65(a)(1)(iii). The Applications, if granted, would result in the issuance of Orders authorizing Ergon to obtain increased supplies of crude oil through participation in the Crude Oil Buy-Sell Program as a refiner-buyer, in order to allow the firm to expand its refinery. In its Applications, Ergon indicated that the financing of the proposed expansion of its Vicksburg, Mississippi refinery is dependent upon Ergon's ability to obtain an assured supply of crude oil to enable the firm to utilize the refinery's expanded capacity. In considering Ergon's exception requests, the DOE noted that under the provisions of 211.65(a)(1)(iii), Ergon is not eligible to obtain crude oil for the firm's refinery expansion project because Ergon had not made a commitment to the project prior to August 24, 1977. The DOE also determined that Ergon had failed to demonstrate that the Mandatory Petroleum Allocation Regulations are responsible for the difficulties Ergon anticipates incurring in the absence of an exception. Based upon the above considerations, Ergon's Applications were denied.

General Machine Corporation, Duo-Matic Olsen, Inc., Emmaus, Pa. Park Forest South, Il, BEE–0422, BEE–0648, test requirements

The General Machine Corporation and Duo-Matic Olsen, Inc. filed Applications for Exception from the provisions of 10 CFR, Part 430, in which they sought to be relieved of the energy efficiency and fuel utilization test requirements applicable furnaces. In considering the firms' requests, the DOE determined that the test procedures yielded inappropriate results when applied to the multi-fuel furnaces and boilers manufactured by the applicants. Accordingly, exception relief was granted.

Glaser's Texaco Service, Ellisville, Missouri, BEO–0286, motor gasoline

Glaser's Texaco Service filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to show that it was suffering a serious financial hardship as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Holiday Foods, Inc., Seattle, Washington, BEO–0133, motor gasoline

Holiday Foods, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F in which the firm sought an increased allocation of motor gasoline for a retail gasoline outlet which it intended to purchase. In considering the exception request, the DOE found that the firm's plan to purchase an existing retail outlet and expand its operations at the outlet did not constitute a proper basis for exception relief. Accordingly, Holiday's Application was denied.

Lake Chelan School, District #129, Upjohn Company, Cabot Corporation, Chelan, Wash. Kalamazoo, Mich. Pampa, Texas, BEO–0704, BEO–0527, BEO–0261, emergency bldg. temperature restrictions

Lake Chelan School District, Upjohn Company, and Cabot Corporation filed Applications for Exception from the provisions of 10 CFR, Part 490 in which the firms sought permission to raise the maximum heating temperature above 60°F in their locker and shower facilites. In considering the request, the DOE found that the firms had not demonstrated that the 65°F temperature level presents a significant threat to the health of the individuals who use these facilities. Accordingly, exception relief was denied.

C. Lee Waugh, d.b.a. Shamrock Exxon, Columbia, South Carolina, DEE–7752, motor gasoline

C. Lee Waugh d.b.a. Shamrock Exxon filed an Application for Exception from the provisions of 10 CFR 212.93 in which the firm sought permission to increase its maximum permissible markup on sales of motor gasoline. In considering the request, the DOE found that although amendments to Section 212.93 had required the firm to reduce its markup, the firm was not suffering a hardship or inequity. Accordingly, Waugh's Application for Exception was denied.

Wash and Dry, Inc., Hialeah, Florida, BEO–0129, motor gasoline

Wash and Dry, Inc. filed a request for exception from the motor gasoline allocation regulations. The decision denied relief on the basis that Wash and Dry did not experience an anomalous base period and the firm failed to establish that it would be adversely affected in a significant manner by the use of the new base period.

Request for Temporary Exception

Standard Oil Company of Ohio, Cleveland, Ohio, BEL–0974, gasohol

The Standard Oil Company of Ohio filed an Application for Temporary Exception from the provisions of 10 CFR 212.83 in which the firm sought to treat the gasohol it markets as a separate category of gasoline for the purposes of cost allocation. In considering the request, the DOE found that exception relief was necessary to permit the firm to begin a test marketing program for gasohol. Accordingly, exception relief was granted.

Request for Modification and/or Rescission

J&W Refining Inc., Washington, D.C., DMR–0044, crude oil

J&W Refining, Inc. (J&W) filed an Application for Modification or Rescission of a Decision and Order issued by the DOE to J&W on February 2, 1979. The February 2 determination denied J&W an extension of exception relief which was previously accorded the firm and which relieved J&W of a portion of its entitlement purchase obligation. In considering J&W's present request for modification, the DOE found that J&W had not submitted any new financial information which would warrant modification of the conclusions reached in the February 2 Order. Accordingly, the J&W request was denied.

Motion for Discovery

Marathon Oil Company, Washington, D.C., BED–0237, gasohol

Marathon Oil Company filed a Motion for Discovery in which the firm sought access to all information forming the basis for its designation as a supplier of Lawrence & Sons Oil Company (LOCO) in connection with a proposed decision granting exception relief to that firm. In that Decision it was determined that in the absence of exception relief LOCO would be unable to obtain unleaded motor gasoline to produce and distribute gasohol, and would therefore suffer a gross inequity under DOE allocation regulations. In reviewing the Motion for Discovery, the DOE found that the criteria governing the review of such motions had been satisfied. Accordingly, the Motion for Discovery filed by Marathon was granted.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case Number, and Location

Connecticut General Life Insurance Co., DEN–7669, Bloomfield, CT
Great Lakes Dev. Co., Inc., DEN–6465, Foster City, CA

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case Number, and Location

Chevron USA, Inc., Ashland Oil, Inc., BEJ–0054, Washington, D.C.
Midland Energy Corp., Tosco Corp., BEJ–0042, Washington, D.C.

Petitions Involving The Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued a Decision and Order which finalized the Proposed Decisions and Orders issued to each firm:

Name of petitioner	Case No.	Date proposed decision and order issued
Abernathy's Exxon Service	DEE–4327	09/24/79
Anlee Service Station	DEE–7432	12/05/79
Art's Exxon	DEE–4522	01/31/80
Atherton, Libby E	DEE–6995	12/06/79
Bainbridge Enterprises	DEE–3221	01/31/80
Baldwin Petroleum Co., Inc	DEE–3878	09/17/79
Balrone, Anthony R	DEE–6721	11/21/79
Blodgett Oil Co., Inc	DEE–6229	01/31/80
Bob's Gas	DEE–4416	12/05/79
Brighton Auto Body & Repair	DEE–7235	01/22/80
Bristol Service Center, Inc	DEE–6184	12/06/79
Brookside Self Service	DEE–7715	12/05/79
Bruckens Auto	DEE–3201	01/18/80
Bryson's Gulf Service	DEE–7443	12/05/79
Bud's Service Center	DEE–4673	09/21/79
Busbee Service Station	DEE–6103	12/06/79
By-Pass Exxon	DEE–6688	01/31/80
Carlson's Sunoco	DEE–7066	10/31/79
Cave Springs Chevron #8044	DEE–6878	11/15/79
Circle Arco	DEE–6036	12/06/79
Citadel Corporation	BXE–0126	01/09/80
Convenience Petroleum Co	DEE–4495	01/17/80
D.C. Curl	DEE–2911	01/07/80
De Baise, Michael	DEE–4684	12/25/79
Dillion, John	DEE–6285	01/31/80
District Petroleum Products	DEE–4044	11/05/79
Don's Market, Inc	DEE–5680	10/25/79
Enriquez, Servando	DEE–7475	01/31/80
Ernst, Richard H. & Eunice	DEE–6735	12/05/79
Exton Arco	DEE–5908	11/07/79
Fork Shell Service Station	DEE–5126	11/20/79
Forrest General Chevron Ser	DEE–7274	01/08/79
Fred's Exxon	DEE–6752	12/05/79
Fredette Chevrolet, Inc	DEE–7307	01/24/80
Freeway Autocare Shell Ser	DEE–7539	11/29/79
G & C Gulf	DEE–6690	12/05/79
George W. Prescott Pub	DEE–7696	11/15/79
Glenn & Joe's Shell	DEE–4788	01/22/80
Good Deal Self-Service	DEE–5271	12/05/79
Groveland Sales & Service	DEE–5620	01/28/80
H. A. Wallace (Meredith)	DEE–6840	11/15/79
Henry's Conoco Service	DEE–3795	12/11/79
Hollow Tree Grocery	DEE–6302	12/05/79
Hollywood Foreign Auto Rep	DEE–6734	09/24/79
Holmes Mobil Service	DEE–6441	12/25/79
Howard, Bruce	DEE–5893	12/06/79
Huth, Robert	DEE–7042	09/17/79
Ihinger Texaco	DEE–6012	12/06/79
Interstate Mobil	DEE–4699	09/18/79
Jack Russell Oil Co., Inc	DEE–6470	10/18/79
Jim's Standard Service	DEE–3313	01/16/80
John's Standard Service	DEE–7520	12/17/79
Joseph Anastasio	DEE–5669	12/15/79
Ken's Exxon Servicenter	DEE–6758	10/31/79
Ken's Lakeside Gulf	DEE–6833	01/24/80
Kings Corners	DEE–5732	01/31/80
Lakewood Sunoco	DEE–6544	12/05/79
Lampert, Allen L	DEE–5412	12/03/79
Lane, Lee Roy	DEE–6956	12/05/79
Larry's Orangevale Tire #2	DEE–0359	12/05/79
Limehouse Gulf Station	DEE–7511	01/04/80
Litons Orchardhill Amoco	DEE–5497	12/06/79
Loden Oil Company	DEE–7491	01/09/80
Loewy, William	DEE–4177	12/06/79
Lynn Smith's Arco Mini Mart	DEE–7250	09/17/79
Main Street Arco	DEE–6477	12/05/79
Mall Mart	DEE–3492	01/31/80
Martin, John	DEE–6392	12/15/79
Miller's Pack Horse	DEE–5398	01/30/80
Minor, Randolph	DEE–3790	12/06/79
Monk's Shoppette	DEE–7514	10/12/79
Montbello Conoco & Tire Co	DEE–3308	01/07/80
Mount Pleasant Arco	DEE–7070	10/31/79
Murry Petroleum Inc	DEE–6993	01/08/80
Newspaper Printing Corp	DEE–4370	01/16/80
Orlandi's Gulf	DEE–6821	12/05/79
Patterson Exxon Service	DEE–5739	12/05/79
Pedco	DEE–0145	01/22/80
R & R Gulf Service	DEE–4307	01/31/80
Ramirez Texaco	DEE–5341	12/05/79
Ray's Auto Station	DEE–7528	11/21/79
Razhegi Texaco	DEE–2719	12/05/79
Red Carpet Car Wash	DEE–6930	10/22/79
Red Cloud Exxon Service	DEE–6047	12/05/79
Reece Oil Co	DEE–5130	01/17/80
Riggs, Carl	DEE–6579	12/05/79
Rukon, John C	DEE–6967	10/18/79
Scott's Arco Mini Mart	DEE–5578	12/05/79
Simon's Gas	DEE–5290	12/05/79

and Order which finalized the Proposed Decisions and Orders issued to each firm:

Name of petitioner	Case No.	Date proposed decision and order issued
Slone, Mitchell	DEE–7150	01/16/80
Smith, Reginald M	DEE–3351	12/05/79
Snyder's Mini Mart Co., Inc	DEE–5640	01/30/80
South Braintree Mobil	DEE–4739	11/29/79
South Sheridan Conoco	DEE–3528	12/05/79
Staggers Oil Co	DEE–7104	01/24/80
Sun Valley Gas, Inc	DEE–6738	12/06/79
Telly's Arco	DEE–7306	11/06/79
Thigpen, J. A	DEE–7101	12/05/79
Thompson's Texaco	DEE–2706	11/14/79
Twin State Oil Co. of Tabor	DEE–0435	01/30/80
Unimed Management Corp	DEE–7141	09/26/79
Vic's Texaco	DEE–7014	12/05/79
Weir Motors	DEE–5686	12/06/79
White Arrow Service Station	DEE–5812	12/05/79
Will Mart Shell	DEE–4367	11/15/79
William General Store	DEE–7706	01/07/80
Yoerg's Garage	DEE–6839	12/06/79

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued a Decision and Order which finalized the Proposed Decisions and Orders issued to each firm:

Names of Petitioners and Case Numbers

Lou Emma Exxon, BEO–0216
Rusty's Gulf Service, BEO–0749
Miller, Edward R., BEO–0582
Douglas Bennett, BEO–0800
H. Jack Edwards, BEO–0479
Troy Gulf Service Center, BEO–0360
Raymond Brooks Quik Stop Convenience Store, BEO–0168
D. U. Exxon, BEO–0680
Trimat, Inc., BEO–0989
Mid-America Mobil Service, BEO–1060
Avis Rent-a-Car, BEO–0313
Mann & Parker Lumber Company, BEO–0328
Gary Thompson Oil Co., BEO–0207
Gordon's Marathon, BEO–0606
Oakland Tribune, BEO–00685
Fronk, Steven A., BEO–0428
Skyline's Nautical Yacht Basin, BEO–0589
Noland's Mobil, DEO–0223
O'Brian Properties, BEO–0195
D&R Contractors, Inc., BEO–0687
Midan Auto Car, Inc., BEO–0619
Cash "N" Dash, BEO–0067
American Builders Supply Co., Inc., BEO–0513
Wally's Texaco Service, BEO–0709
Tom's Marathon, BEO–0477

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case Number, and Location

Du-Cor Svc. Station, BXE–0494, New York, NY
Greenwood Oil Co., BXE–0323, Greenwood, SC

Petitions Involving the Motor Gasoline Allocations Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOF issued Decisions and Orders which determined that the requests be denied.

Company Name Case No., and Location

A. G. Inc./Town Line Service, DEE–6541; Lynn, MA
Ceed Enterprises t/a Westside Texaco, BEO–0596; Hackensack, NJ
Felter's Store, BEO–1115; New Lebanon, Center, NY
Gateway Texaco, DEE–5550; San Fran., CA
Gill's Amoco, DEE–3648; Herndon, VA
Kwik Six #3, Kwik Six #9, DEE–6536, DEE–6537; Longmont, CO
Middlebrook Exxon, BEO–0668; Bound Brook, NJ
Morton Service Center, BEO–0675; Morton, IL
Mounts Exxon, BEO–0640; Belfry, KY
Silver Spray Car Wash, BEO–0644; Mequon, WI
Slauson Car Wash, DEO–0389; Los Angeles, CA
Spring Valley Gulf, BEO–0822; Wash., DC
Ted Lokey Oil Co., BEO–1076; Austin, TX
V. I. P. Professional Services, Inc., BEO–0380; Oxnard, CA
Wurm's Texaco, BEO–0354; Ferguson, MO
33rd Street Texaco, BEO–0741; Orlando, FL
John B. Walker, Jr, BEO–0515; Jackson, MS

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and case No.

B & T Gulf Station, DEE–6448
Blanton Petroleum Distributors, DES–2340; DST–2340
Bogalusa Material, DEE–6787
Champion Oil Service, BEE–0619; BEL–0619
Chevron USA, Inc., BED–0054
Consolidated X-ray, BEO–0986
D. L. McBrayer, DEE–7240
L & B Car Wash, DEE–6817
Rice-Lindquist, Inc., DES–5312
Belle Haven Sunoco, BEE–0912
Heintz Oil Co., Inc., DEE–7773
Petroleum Sales and Services, Inc., BEE–0394
Vickers Petroleum Corp., BES–0030; BST–0030
Wind Energy Report, BFA–0283 (Request No. 02058015S) and BFA–0282
Carruthers Oil Co., DEE–2571; DES–2571; DST–2571
Currey Enterprises, DEE–6944
Bazell Oil Co., Inc., DES–4490
County of Erie Dept. of Law, BFA–0275
Doug's Distributing Co., DES–3512
Edwin Jason Dryer, Esq., BEA–0194; BES–0194; BST–0194; BEL–0962
Target Stores, DEE–3323; DST–3323
E. R. Tucker, , DEE–6017
Vic's Arco Svc., DES–4838
Warelubco, Inc., DST–2396
Fritz's Standard, BEO–0322; BEO–0323
Hubbard Oil Corp., DEE–2570; DES–2570; DST–2570
Landes Oil Co., Inc., BEE–0697

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Polk Oil Co., DEE–2866
Publicker Industries, BEE–0652
Strickland Oil Co., DEE–5484
Air Transport Assoc. of America, DMR–0006
Broward Fuels Co., DST–3879
City of Cleburne, TX, BEE–0897; BES–0897
Eagle Oil Company, DEE–8322
Fischer's Service Station, Inc., DES–7350
Heltne's Oil Co., DEE–5774
Petroleum Sales, Inc., DEE–3839
Phillips Petroleum Co., BES–0032
Rick's Green Trail's Texaco, BEO–0676
Sun Oil Co., BED–0066; BEJ–0066
Texas Assoc., BED–0436
United Oil Indiana, Inc., DEE–4566; DES–4566
Western Produce Co., Inc., DEE–4385
Whitcomb's Arco, DEE–4561
Dundalk Exxon, DES–3026; DST–3026,
David Harris, BFA–0273
Hawkie's Service Station Corp., DRS–0281
I. V. Cole Petroleum Co., Inc., DEE–4546
Lincoln Land Oil Co., DEE–5040
Midway Petroleum, Inc., DES–3851
Pester Refining Co., DES–0439
Robert H. Hart & Sons, Inc., DEE–2479; DES–2479; DST–2479
Snyder Mini Mart Company, Inc., DES–5840
Southland Corp., DES–5856; DST–5856
Sumter Oil & Gas, Inc., DST–2725
Sunglo Svc., Inc., DEE–3605; DES–3605; DST–3605

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commericially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 8, 1980.

[FR Doc. 80–15504 Filed 5–21–80; 8:45 am]

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Issuance of Decisions and Orders; Week of March 31 Through April 4, 1980

Notice is hereby given that during the week of March 31 through April 4, 1980 the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Fried, Frank, Harris, Shriver & Kampelman, Washington, D.C., BFA–0197, freedom of information.

Fried, Frank, Harris, Shriver & Kampelman filed an Appeal from a partial denial by the Director, Division of Petroleum Price Regulations, Office of Regulations and Emergency Planning of the Economic Regulatory Administration, of a Freedom of Information Act request. In considering the Appeal, the DOE found that four of the documents which were initially withheld under Exemption 5 should be released to the public. In addition, the DOE found that the release of one document was not contrary to the public interest. The DOE also determined that an additional search for documents responsive to the firm's request for information should be performed.

Hogan & Hartson, Washington, D.C., BFA–0247, freedom of information.

Hogan & Hartson filed an Appeal from a partial denial by the Director of the Enforcement Information Division of the Economic Regulatory Administration of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE provided a more thorough description of the withheld documents. The DOE found that two documents and portions of three others which were initially withheld under Exemption 5 should be released to the public either because they were not deliberative documents or because they contained purely factual matter. However, the DOE also determined that the majority of the documents were properly withheld under Exemption 5 since they were deliberative, non-factual, predecisional intra-agency memoranda generated in the formulation of a price regulation for resellers of crude oil. Since the substance of these deliberative rulemaking documents had not already been largely disclosed to the public and since their release could inhibit the frank exchange of views in controversial areas of policymaking, the DOE determined that release of these documents would be contrary to the public interest. In addition, the DOE found that one document identified by the Director was not responsive to Hogan & Hartson's request.

Hughes Oil Company, Atlanta, GA., BFA–0248, freedom of information.

Hughes Oil Company filed an Appeal from a denial by the Manager of the ERA Southeast Enforcement District of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the determination issued by the District Manager contained neither an index of responsive documents nor reasons for their nondisclosure. The DOE also held that the Request for Information was too broadly drawn. The Appeal was therefore granted in part, and remanded to the District Manager for further consideration.

Mid-Atlantic Legal Foundation, Philadelphia, Pa., BFA–0253, freedom of information.

Mid-Atlantic Legal Foundation filed an Appeal from a partial denial by the Director of Buildings and Community Systems of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the appeal, the DOE found that the Director had properly withheld the financial portions of two documents under Exemption 4. The DOE held that a non-profit organization may have a sufficient competitive interest in information that the firm submits to the government to be protected by Exemption 4.

Oettinger's Sunoco service station, Tonawanda, N.Y., BEA–0183, motor gasoline.

Oettinger's Sunoco Service Station filed an Appeal of an Assignment Order issued by the Economic Regulatory Administration (ERA), Region II, in which the firm sought to have the Order rescinded. In considering the request, the DOE found that in issuing the Order the ERA had failed to consider whether the assignment Order would confer an unfair advantage on the firm which had requested the Assignment Order. Accordingly, the Appeal was granted. The DOE also noted that in future Assignment Orders the ERA should specifically consider whether granting an Assignment Order would confer an unfair advantage on the firm which had requested the Assignment Order.

St. Sauver, Joseph E., Troy, N.Y., BFA–0175, freedom of information.

Joseph E. St. Sauver filed an Appeal from a partial denial by the Director of the DOE Office of Classification of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the appeal, the DOE found that the documents which Mr. St. Sauver requested were properly classified as "Restricted Data" under the Atomic Energy Act of 1954, and should therefore not be released to the public.

Transco Trading Co., Tulsa, Okla., BFA–0245, freedom of information.

On March 4, 1980, the transco Trading company filed an Appeal from a partial denial by the assistant Administrator for enforcement of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that a portion of the Enforcement Manual which was initially withheld under Exemption 2 should be released to the public. In addition, a predecisional memorandum was found to be properly withheld under Exemption 5.

Remedial Order

Warwick Oil Corp., Lafayette, La., BRO–0733, crude oil.

Warwick Oil Corporation (Warwick) filed a Notice of Objection to a Proposed Remedial Order (PRO) that the District Manager of the DOE Office of Enforcement, Southwest District, issued to the firm on November 6, 1979. In the PRO, the Southwest Enforcement District found that Warwick had sold crude oil from the Hanks Company Property at prices in excess of the prices which were permissible under the applicable regulations and, as a result of this action, overcharged the purchaser of the crude oil by approximately $89,250. In its Notice of Objection, Warwick indicated that it intended to challenge the findings reached in the PRO. However, Warwick failed to file a Statement of Objections specifying the issues of fact or law in the PRO that the firm disputes. Consequently, the PRO was issued as a final Remedial Order of the Department of Energy.

Request for Modification and/or Rescission

Bassett Oil & Equipment Co., Inc., Bassett, Va., BRR—0006, middle distillate.

Bassett Oil and Equipment Company, Inc. (Bassett) filed a request for modification of a Decision and Order which was issued to the firm on May 4, 1977. *Bassett Oil and Equipment Company, Inc.*, 5 FEA ¶85,059 (1977). In the previous Decision, the FEA stayed the refund provisions of a Remedial Order issued to Bassett by FEA Region III, but conditioned the stay upon the establishment of an escrow account into which Bassett would place the disputed funds. In its request for modification, Bassett requested that it be permitted to substitute a letter of credit for the escrow account. In considering the request, the DOE determined that the diversion of a considerable sum of money from productive use should be avoided particularly when an irrevocable letter of credit would serve the same protective function as an escrow account. Therefore, the Bassett request for modification was granted.

Department of Energy, Economic Regulatory Administration, Washington, D.C., BRR–0027, motor gasoline.

On February 29, 1980, the Economic Regulatory Administration of the Department of Energy requested that the Office of Hearings and Appeals rescind a Remedial Order that had been issued to Jack Lloyd d/b/a Long Point Marina on February 20, 1980. The DOE determined that the ERA's request should be granted and that the Remedial Order should be rescinded because the DOE and the firm had entered into a consent order prior to the issuance of the Remedial Order.

Requests for Exception

Asamera Oil (U.S.) Inc., Denver, Colo., BEE–0018, through BEE–0023, crude oil.

Asamera Oil (U.S.) Inc. filed Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Asamera to sell a portion of the crude oil produced from the Altamont Field at market price levels.

Brock's Automotive, El Paso, Tex., DEE–8275, motor gasoline.

Brock's Automotive filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that anomolous events occurred during the base period which seriously distorted the use of the base period for the purpose of measuring Brock's normal business activities. Accordingly, exception relief was granted.

Chevron U.S.A., Inc., Santa Barbara, Calif., BXE–0986, crude oil.

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D in which the firm sought permission to sell the crude oil produced from the South Flank Lease at market prices. In considering the request, the DOE found that exception relief was necessary to provide the firm with an incentive to continue its crude oil production operations. Accordingly, exception relief was granted.

Chevron U.S.A., Inc., Santa Barbara, Calif., DXE–2115, BXE–0987, crude oil.

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D in which the firm sought permission to sell the crude oil produced from the Main Zone Lease at market prices. In considering the request, the DOE found that exception relief was necessary to provide the firm with an incentive to continue its crude oil production operations. Accordingly, exception relief was granted.

Cociba, Inc., Philadelphia, Pa., DEO–0355, motor gasoline.

Cociba, Inc. filed an Application for Exception from the Mandatory Petroleum Allocation Regulations, 10 C.F.R., Part 211, in which the firm requested that its base period allocation of motor gasoline be increased. In considering the exception request, the DOE determined that certain of Cociba's financial difficulties associated with its car wash were exacerbated by DOE Price Regulations. The DOE therefore granted Cociba an exception which permits the firm to increase its maximum permissible markup on sales of motor gasoline to 21.0 cents per gallon.

FS Services, Inc., Bloomington, ILL., BEE–0274, gasohol.

FS Services, Inc. filed an Application for Exception from the provisions of 10 C.F.R. § 212.93 in which the firm sought to include in the price of gasohol sold to each of its customers the actual cost of transporting gasohol to that customer. In considering the request, the DOE found that exception relief was necessary to enable the firm to expand its gasohol marketing operations. Accordingly, exception relief was granted.

Gilroy Car Wash d.b.a. M.G.C. Sales, Gilroy, Calif., BEO–0374, motor gasoline.

Gilroy Car Wash, d/b/a/ M.G.C. Sales filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a severe financial hardship as a result of DOE regulations. Accoringly, exception relief was denied.

Hayes, ARCO, Yucca Valley, Calif., BEO–0740, motor gasoline.

Hayes Arco filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to show that it was experiencing a serious financial hardship. Accordingly, exception relief was denied.

Lillian Segall's Dresses, Wilmington, Del., BEO–0973, temperature.

Lillian Segall's Dresses filed an Application for Exception from the provisions of 10 C.F.R. § 390.11–.23 in which the firm requested that it be allowed to raise the temperatore in its dress shop above 65°F during the winter heating season. In considering the request, the DOE found that the firm had failed to show that it was suffering any hardship, inequity, or unfair distribution of burdens as a result of the Emergency Building Temperature Restriction Regulations. Accordingly, exception relief was denied.

Miles Farm Supply, Inc., Owensboro, Kentucky, BEE–0089, gasohol.

Miles Farm Supply, Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increase in its allocation of unleaded motor gasoline so that it could blend and sell gasohol. In considering the request, the DOE found that exception relief was necessary to enable the firm to meet the strong demand for gasohol in its market area. Accordingly, exception relief was granted.

Straka's Service, Toledo, Ohio, BEO–1045 motor gasoline.

Straka's Service filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to show that it was experiencing a serious financial hardship or that the applicable standards had been applied in an inconsistent or discriminatory manner. Accordingly, exception relief was denied.

Wentland's Car Wash and Standard Service, Allegan, Michigan, BEO–1019 motor gasoline.

Wentland's Car Wash and Standard Service filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm had not made the types of investments which could reasonably be expected to promote increased sales of motor gasoline. The DOE also found that the firm was not experiencing a serious hardship. Accordingly, exception relief was denied.

Request for Stay

Gulf Oil Corporation, Houston, Texas, BES–0277 crude oil.

Gulf Oil Corporation filed an Application for Stay of an Order issued on February 5, 1980 by the Economic Regulatory Administration to the Commonwealth Oil Refining Company (Corco) which granted Corco an emergency allocation of crude oil under the Buy/Sell Program. In considering the stay request, the DOE determined that Gulf had failed to demonstrate a likelihood of success on the merits of its Appeal of the ERA Order or that Gulf would suffer irreparable injury in the absence of stay relief. Gulf's stay request was therefore denied.

Supplemental Order

Simonson Station Store, Grand Forks, N. Dak., Exxon U.S.A., Inc., Washington, D.C., Texaco, Inc., Denver, Colo., BEX–0041 Motor Gasoline.

The Department of Energy issued a Supplemental Order pertaining to a Decision

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and Order issued on February 22, 1980 by the Western Regional Center of the Office of Hearings and Appeals. In that Decision, the Western Regional Center determined to grant Appeals which had been filed by Simonson Station Store, Exxon U.S.A., Inc. and Texaco, Inc. from assignment orders issued by the Office of Petroleum Operations of the Economic Regulatory Administration, Region VIII. The Western Regional Center therefore remanded the assignment orders to ERA Region VIII for further proceedings and the issuance of revised determinations which were consistent with DOE Regulations and principles set forth in the February 22 Decision.

In the Supplementary Order, the DOE found that ERA Region VIII had indicated that it did not intend to conduct any further proceedings with respect to the assignment orders which has been remanded to it. Accordingly, the DOE concluded that the matter should be forwarded to the Administrator of the ERA with instructions to comply fully with the terms of the February 22 Decision and Order by a specified date.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, case number and location

Ashland Oil, Inc., Gulf Oil Corp., Shell Oil Co., Atlantic Richfield, Marathon Oil Co., Stand. Oil of Ind., Chevron USA, Inc., BEJ–0065, BEJ–0067 thru BEJ–0073, Wash., D.C.
Atlantic Richfield, Cities Service Co., BEJ–0055, Los Angeles, CA, Tulsa, OK.
Chevron USA, Inc., Cities Service Co., BEJ–0036, San Fran., CA, Tulsa, OK.
Gulf Ref. & Mktg., Union Oil Co. of Cal. BEX–0038, Wash., DC.

Petitions Involving the Motors Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, case number and location

Brent-West Car Wash, Inc., DEE–4531, Los Angeles, CA.
K&W Auto Electric, Inc., BEO–0290, Melbourne, FL.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case Number and Location

Angel Car Wash, BEO–0149, Anaheim, CA.
Bernie's Texaco, DEE–4773, Tucson, AZ.
Clark Plumbing, Inc., BEO–0459, Beverly Hills, CA.
Joe's 66 Service, DEE–4033, Columbus, NB.
Phillips & Munzel Shell, DEE–2925, Wash., DC.
Southtown Mobil, BEO–0359, St. Louis, MO.
Tidmore Oil Co., DEE–6022, Wash., D.C.

Petitions Involving the Emergency Building Temperature Restrictions

The following firms filed Applications for Exception from the provisions of the Emergency Building Temperature Restrictions Regulations. The requests, if granted, would permit the firms to change the temperature in their facilities from the temperature level prescribed in the regulations. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., Location

Docktor Pet Center, DEE–7801, Columbus, OH.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, Case No.

Al's Super Shell, BEO–0663.
Coggins Fence & Supply, Inc., BEO–0738.
Getty's Oil Co., DRO–0092; DRD–0092; DRH–0092.
Pollock-Collins Oil Company, Inc., DEE–7497.
Whistle Stop, DEE–5838.
Colonial Car Wash, DEE–2147.
Crown Central Pet, DEE–2035.
Curtiss Oil Co., DEE–2752; DES–2752.
D. W. Small & Sons, Inc., BEE–0461.
Riddell Pet. Co., DST–0032.
Sabre Ref., Inc., BEH–0010.
Sam Iacobellis, DEE–6457.
San Bruno Carwash, DEE–3479; DES–3479.
Weakley Oil & Gas Co., DEE–4060.
Fauser Oil Co., BEE–0776.
Fullerton Rentals & Ready Mix, DEE–6306.
Orange County Towing, DEE–4733.
Pismo Chevron, DES–2639.
C. B. Shell, DST–4254.
Amos Post, Inc., DES–8062.
Bert's Exxon, DES–2496.
Bullard Plaza Union, DES–5207; DST–5207.
Clark's Ferry Auto/Truck Stop, DES–2954.
Bowers & Burrows Inc., DES–0229.
Fast Stop Marts, DES–4995.
Fasgo, Inc., DES–6697.
Telum, Inc., DES–3869; DST–3869.
Auburn Mini-Market Jr., DES–6021.
Brown's Gas Station, DES–5813; DST–5813.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 8, 1980.

[FR Doc. 80–15645 Filed 5–21–80; 8:45 am]

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Medium Btu Industrial Fuel Gasification Demonstration Plant, Memphis, Tenn.; Notice of Floodplain/Wetlands Preliminary Statement of Findings

AGENCY: Department of Energy.

ACTION: Notice of Preliminary Statement of Findings for Locating a Medium-Btu Industrial Fuel Gasification Demonstration Plant within the Mississippi River Floodplain/Wetlands in Memphis, Tennessee.

SUMMARY: The Department of Energy (DOE) announces its Preliminary Statement of Findings for locating a medium-Btu industrial fuel gasification demonstration plant within a floodplain/wetlands area. The Preliminary Statement of Findings and supporting analysis conclude that there is no practicable alternative to locating a plant in the Mississippi River floodplain/wetlands. The proposed DOE action will cost-share the construction and operation of an industrial fuel gas demonstration plant. The plant is to be located in Shelby County, Tennessee (in the immediate vicinity and southwest of Memphis, Tennessee). The applicant, the Memphis Light, Gas and Water Division (MLGW) of the City of Memphis has proposed a facility which would convert 3155 tons per day of high sulfur coal into a fuel gas for pipline distribution to selected customers in the Memphis area. This notice is being published to provide the public with an opportunity to participate early in the decision making process. Comments by: June 6, 1980.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration with this Preliminary Statement of Findings are invited to do so. The comment period for this Preliminary Statement of Findings will close June 6, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Lui at the address noted below.

All comments may be expressed in writing to: U.S. Department of Energy, Chicago Operations and Regional Office, Project Management Division, 9800 South Cass Avenue, Argonne, Illinois 60439. Attn: Peter Lui, Project Manager, telephone (312) 972–2274.

SUPPLEMENTARY INFORMATION: A medium-Btu industrial fuel gas demonstration plant is being proposed for construction and operation in Shelby County, Tennessee, by Memphis Light, Gas and Water Division (MLGW) on a cost-shared basis with the Department of Energy. The Demonstration Plant will convert high sulfur coal to medium Btu gas for industrial applications. MLGW is a municipal chartered utility that distributes electricity, gas and water in Shelby County, Tennessee. The proposed 134-acre site for this plant, named the Allen Site, is located in a 100-year floodplain and contains land which has been designated as wetlands by the U.S. Corps of Engineers and U.S. Fish and Wildlife Service.

In compliance with Executive Order 11988, "Floodplain Management," Executive Order 11990, "Protection of Wetlands," Water Resources Council "Floodplain Management Guidelines," 43 FR 6030, February 10, 1978, and DOE regulations "Compliance with Floodplain/Wetlands Environmental Review Requirements," 10 CFR 1022, various alternatives to this proposed action have been identified and evaluated. Accordingly, a tentative determination has been made by the Secretary, Department of Energy, that no practicable alternative exists to proceeding with the project for construction at the Allen Site.

Identification and Evaluation of Alternatives

In the preliminary identification of alternative sites, basic siting constraints have been identified which candidate sites must satisfy to qualify for consideration. The following is a list of these constraints:

1. Statute Requirements—Land outside of Shelby County, Tennessee is not available for siting the plant since, as a municipal chartered utility, MLGW is governed by Chapter 381 of the Private Act of 1939 which limits all MLGW construction to Shelby County.

2. Zoning, Land-Use—Due to current land use policies, only those areas currently zoned for heavy industry or available for rezoning to heavy industry are available for siting the plant.

3. Barge vs. Rail Delivery of Coal—Based on an economic evaluation of alternative transportation costs for coal, only those regions in the county accessible to barge transport are possible locations for the plant.

4. Proximity to Fuel Gas Users—The capital costs of the fuel gas transmission and distribution system establish a constraint on the maximum distance which the plant can be located from potential fuel gas customers.

5. Minimum Site Area of 100 Acres—The prospective plant site must be a contiguous area of at least 100 acres in size, presently unoccupied by existing facilities or structures and available for development by this project.

Five alternative sites were identified which were not eliminated by these constraints. The sites and a brief description of their location are as follows:

1. *Site A* is the Allen Site located near the confluence of the Mississippi River and Lake McKellar and across a barge turning basin from TVA's Allen Generating Plant. The site is located within the 100-year floodplain and would impact wetlands.

2. *Site B* is the Pidgeon Site located in the northwest section of the 4,000 acre Pidgeon Industrial Park. The site is located within the 100-year floodplain and would impact wetlands.

3. *Site C* is the Rivergate Site located on Lake McKellar adjacent to site is outside the 100-year floodplain but would impact wetlands.

4. *Site D* is the Mud Island Site located on the northern portion of the peninsula, Mud Island, adjacent to the Wolf River Lagoon. The site is outside the 100-year floodplain but would impact wetlands.

5. *Site E* is the North Site located on the bluffs above the Mississippi River as close as possible to the river. The site is located within the 100-year floodplain and would impact wetlands.

In accordance with the Water resources Council Guidelines, siting criteria were used to determine the practicability of each of the five alternative sites. The guidelines state that, at a minimum, site practicability shall be addressed in light of natural, social, economic, and legal considerations. In the context of this project, these considerations have been further analyzed with respect to the following criteria:

1. *Schedule*—The ability of each alternative site to meet program/project schedules for contractual obligations, permit applications, site preparation, foundation requirements, public acceptance, and long lead-time activities.

2. *Cost*—The ability of each alternative site to avoid incurring prohibitive costs as a result of special requirements, such as the construction of new railways, auxiliary facilities, extensive site development; or significant increases in operating costs caused by factors unique to that site.

3. *Environmental*—The ability of each alternative site to satisfy environmental regulations or avoid adverse environmental impacts which cannot be mitigated. These include considerations in the areas of water quality, aquatic ecology, air quality, terrestrial ecology, land use, socio-economics, and noise.

4. *Engineering/Technical*—The ability of each alternative site to avoid high technical risks and an inordinately large number of technical problems.

As a result of the preliminary alternative site evaluations, the Allen Site was found to be the only practicable site within Shelby County upon which to build the plant.

In conjunction with the alternative site determination, an alternative action evaluation was also conducted. The following alternative actions were considered:

1. *Resolicit New Industrial Partner to Construct Outside Shelby County*—Selection by DOE of a site outside Shelby could not involve MLGW and would result in a time delay to the project of at least 18 months, including time to resolicit a new industrial partner, negotiate a suitable new contract, and to modify the existing design with respect to the new site. The added project cost under these circumstances would exceed $90 million for the most economic alternative, and the cost differential could, in fact, be several times greater for some sites.

2. *No Action*—If no action is taken, the demonstration of a viable energy alternative, medium Btu coal gasification for multiple industrial users, in the National Energy Program will be impacted and delayed for a minimum of 18 months. Furthermore, the Tennessee Valley Authority (TVA) plans to exercise ash disposal easement rights which it holds on the site and the Corps of Engineers will continue using the site to accumulate dredge spoils. Ash disposal and dredge deposition will result in aquatic and terrestrial impacts and eventual loss of the floodplain/wetlands area on the Allen Site. Moreover, the economic benefits to the Memphis area associated with the plant, including construction and operating jobs, increased tax revenues, and availability of industrial fuel gas, would be lost with the use of the Allen Site for ash disposal and dredge disposition.

3. *Construct on Proposed Site*—The Allen Site would be used since both the plant and/or surrounding area would encounter negligible danger from flood damage. Existing wetlands are not considered ecologically significant and no other site currently exists within Shelby County which meets the previously described constraints

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imposed on the project. Locating the plant on the Allen Site requires elevation of the site from present levels of 205 to 210 feet (msl) to the project design flood level, 233 feet (msl), recommended by the Corps of Engineers. The elevation can be accomplished in a proven and controllable manner so as to provide adequate bearing capacity for the plant facilities as well as flood protection. A hydraulic fill operation using sand taken from a Mississippi River sand bar, located approximately 2 miles from the site, will be used to raise the site level. A commercially proven process called "vibroflotation" will be employed to compact the fill and minimize the risk from soil liquefaction during a major seismic event. Borings already conducted on soil beneath the site indicate satisfactory conditions for the proposed development. Of the three action alternatives, a preliminary determination has been made that this alternative is the only practicable choice.

The proposed plant could be built such that it will conform with all applicable State and local floodplain protection standards as well as appropriate building codes, zoning codes, and Federal and State Environmental Regulations and Permits.

The elevated site is not located within the main flow channel of the Mississippi River under flood conditions. On the basis of tests conducted on the Mississippi Basin Model, the Corps of Engineers has determined that the elevated site will not significantly (i.e., by less than 0.7 foot) alter the flood depths of surrounding areas in Lake McKellar and downstream during a major flood. Therefore, use of the Allen Site poses no added flood threat.

Coal transportation and unloading can be accomplished by barges utilizing the existing barge turning basin in Lake McKellar without affecting TVA facilities since such facilities would be on the north bank of the barge turning basin.

Site development will result in the loss of approximately 70 acres of wetlands considered to be of low to medium ecological value by the Corps of Engineers and U.S. Fish and Wildlife Service. They contain no unique ecological resources and provide only limited food supply and diversity of habitat. The ecological community is relatively young, since the site area was underwater in the main flow channel of the Mississippi River in the late 1800's and was subsequently built up by dredging activities. Loss of this area will not appreciably affect terrestrial and aquatic wildlife, due to the fact that within a three-mile radius of the plant, there are more than 1,000 acres of high quality wetlands that will not be affected by site development. As a result of site development, mobile wildlife will migrate to these areas.

Based on an evaluation of available data, development of the Allen Site for the plant is considered practicable from the standpoint of environmental and socio-economic acceptability, project cost, and implementation time. Although the Allen Site is zoned industrial, the land would probably not be used for any other industrial purpose in the near future since it is owned by MLGW and the TVA holds ash disposal easement rights. Constructing on the Allen Site would utilize vacant industrial land without impacting future industrial, aesthetic, or recreational potential in the Memphis area. Furthermore, use of the site would expedite the use of advanced technology in accord with the current energy plan. Use of the site would also provide community and national benefits that would not otherwise be realized. No other site currently exists within Shelby County which meets the siting constraints imposed on the project. After considering alternatives, DOE has made a preliminary determination that no practicable alternatives to locating at the Allen Site in the floodplain/wetlands is available. The site alternatives, as well as the action alternatives, will be re-examined in detail following completion of the floodplain/wetlands assessement.

The identification and evaluation of alternatives to locating in the floodplain/wetlands discussed above is supported by a document entitled, "Identification and Evaluation of Alternatives to the Location of a Proposed Federal Action in the Floodplain." Copies of this document, which was used in the preparation of the Preliminary Statement of Findings, are available for public inspection at the following locations:

U.S. Department of Energy, Chicago Operations and Regional Office, Project Management Division, 9800 South Cass Avenue, Argonne, Illinois 60439.

Government Document Room, Memphis-Shelby County Public Library, and Information Center, 1850 Peabody Avenue, Memphis, Tennessee 38101.

Public Reading Room, FOI, Room GA-152, 1000 Independence Avenue SW., Washington, DC 20585.

COMMENTS

All interested parties are invited to submit comments or suggestions in connection with the Preliminary Statement of Findings. Those desiring to submit comments or suggestions should send them to the individual previously listed in this statement.

In conjunction with the development of the Environmental Impact Statement (EIS) for this proposed project, a floodplain/wetlands assessment will be completed which will identify the impacts of locating the project in the floodplain/wetlands. This assessment will be included in the EIS and will also address measures available to mitigate any adverse effects on the floodplain/wetlands.

In addition to this opportunity to comment on the Preliminary Statement of Findings, interested persons will have an opportunity to comment on the floodplain/wetlands assessment when the draft EIS is published for comment.

Following publication of the floodplain/wetlands assessment and the draft EIS, DOE will consider all comments received on both the Preliminary Statement of Findings and floodplain/wetlands assessment. A Statement of Findings which will be incorporated into the Record of Decision will be published subsequent to the final EIS.

All suggestions, comments, and questions submitted to DOE, with respect to the Preliminary Statement of Findings, will be carefully considered in preparing the EIS.

Dated at Washington, D.C. this 16th day of May, 1980.

For the United States Department of Energy.

John C. Sawhill,

Deputy Secretary.

[FR Doc. 80-15923 Filed 5-21-80; 9:42 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1498-4]

Prevention of Significant Deterioration of Air Quality: Partial Delegation of Authority to the State of Mississippi

AGENCY: Environmental Protection Agency.

ACTION: Informational notice.

SUMMARY: Section 301 in conjunction with sections 101 and 110 of the Clean Air Act authorizes the Administrator to delegate his authority to implement and enforce the Prevention of Significant Deterioration of Air Quality (PSD) regulations to any State which has submitted adequate implementation and enforcement procedures. The Mississippi Department of Natural Resources submitted to the EPA Region IV office a request that EPA relinquish to it responsibility for implementing the administrative and technical portions of the PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that such partial delegation was appropriate for the source categories and with the conditions set forth in the letter reproduced below. Under the terms of the partial delegation made by that letter, EPA retains authority to issue and enforce PSD permits for sources in Mississippi while the State performs the administrative and technical review functions associated with the PSD program.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Winston Smith, Chief, Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, 404/881-3043 (FTS 257-3043).

SUPPLEMENTAL INFORMATION: On May 10, 1979, Mr. Charles H. Chisolm, Director, Mississippi Bureau of Pollution Control, submitted to the EPA Regional Office a request that EPA relinquish to Mississippi the responsibility for implementing the administrative and technical portions of PSD. After a thorough review of the request and information submitted, the Regional Administrator determined that for the source categories set forth in the following official letter to the Acting Executive Director of the Mississippi Air and Water Pollution Control Commission, delegation was appropriate subject to the conditions set forth therein. Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator formally notified the Director of the Mississippi Bureau of Pollution Control by the following letter that authority to implement the administrative and technical portions of the PSD regulations was relinquished to the State of Mississippi.

U.S. Environmental Protection Agency,
Atlanta, Georgia 30308, June 14, 1979.

Mr. Charles H. Chisolm,
Acting Executive Director, Mississippi Air and Water Pollution Control Commission, Robert E. Lee Building, Jackson, Mississippi 39205.

Dear Mr. Chisolm: This is in response to your letter of May 10, 1979, requesting responsibility for implementation of the technical and administrative portions of the Prevention of Significant Air Quality Deterioration (PSD) program. We have reviewed the procedures for new source review of the State of Mississippi and determined that they provide an adequate and effective procedure for the implementation of the technical and administrative portions of the PSD program by the State of Mississippi. Therefore, pursuant to 40 CFR 52.21 (1978) and to 40 FR 26380-26410 (June 19, 1978) amending 40 CFR 52.21, and hereinafter referred to as 40 CFR 52.21, we hereby delegate our authority for the technical and administrative portions of the federal PSD program, as described in 40 CFR 52.21 to the State of Mississippi as follows:

A. EPA delegates its authority for all sources located or to be located in the State of Mississippi subject to review under the federal regulations for the Prevention of Significant Air Quality Deterioration promulgated in 40 CFR 52.21. The categories of new sources covered by the delegation are:

Fossil-fuel fired steam electric plants of more than 250,000,000 British thermal units per hour heat input
Coal cleaning plants (with thermal dryers)
Kraft pulp mills
Portland cement plants
Primary zinc smelters
Iron and steel mills
Primary aluminum ore reduction plants
Primary copper smelters
Municipal incinerators capable of charging more than 250 tons of refuse per day
Hydrofluoric acid plants
Sulfuric acid plants
Nitric acid plants
Petroleum refineries
Lime plants
Phosphate rock processing plants
Coke oven batteries
Sulfur recovery plants
Carbon black plant (furnace process)
Primary lead smelters
Fuel conversion plants
Sintering plants
Secondary metal production facilities
Chemical process plants
Fossil-fuel boilers of more than 250,000,000 British thermal units per hour heat input
Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels
Taconite ore processing facilities
Glass fiber processing plants
Charcoal production facilities

B. EPA delegates to the State of Mississippi its authority and procedures for public participation promulgated in 40 CFR 52.21(r), but not its authority under 40 CFR 52.21(r)(vii) and (viii) to take final action on an appliation, or its authority to take enforcement action.

C. For purposes of and in accordance with paragraph B above, the State of Mississippi shall follow the procedures in 40 CFR 52.21(r), except that the word "State" shall be substituted for the word "Administrator". A copy of the State's preliminary determination, a copy of all materials submitted by the owner or operator, a copy or summary of other materials (if any) considered by the State in making its preliminary determination, and a copy of the notice pursuant to 40 CFR 52.21(r)(iii) shall be sent to the EPA regional office immediately upon issuance of a Preliminary Determination. Immediately upon issuance of a Final Determination, the State shall forward a copy of the final analysis to the EPA regional office. Upon receipt of the State's final analysis, the EPA regional office shall take final action on an application pursuant to 40 CFR 52.21(r)(vii) and (viii).

D. This delegation is based upon the following conditions:

1. Quarterly reports containing pertinent information relating to the status of sources subject to 40 CFR 52.21 (or other reports as required by the Regional Administrator) will be submitted to EPA by the State of Mississippi as part of the existing quarterly reports normally submitted to EPA through program plan reporting.

2. Upon approval of the Regional Administrator of Region IV, the Executive Director of the Mississippi Air and Water Pollution Control Commission may subdelegate his authority to implement the technical and administrative portions of PSD to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

3. This technical and administrative authority delegated to the State of Mississippi does not include the authority to implement PSD for sources owned or operated by the United States, which are located in the State. This condition in no way relieves any federal facility from meeting the requirements of 40 CFR 52.21.

4. If at any time there is a conflict between a State regulation and a federal regulation (40 CFR 52.21), the federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to implement a federal regulation that is more stringent that the applicable State regulation, the pertinent portion of the delegation may be revoked.

5. If the Regional Administrator determines that the State procedure for implementing the technical and administrative portions of PSD is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Mississippi Air and Water Pollution Control Commission.

6. Acceptance of this delegation of presently promulated PSD regulations does not commit the State of Mississippi to request or accept technical and administrative review authority of future standards and requirements. A new request for authority will be required for any standards not included in Paragraph A above.

7. Public availability of information shall be in accordance with 40 CFR 52.21(r).

The State and EPA will develop a system of communication sufficient to guarantee a program that includes the items described below:

a. Each agency is informed of the current compliance status of subject sources in the State of Mississippi.

b. Prior EPA concurrence is obtained on any matter involving interpretation of 40 CFR 52.21 (including unique questions of applicability of the standards).

c. PSD reviews (including requests for information and enforcement actions based thereon) already initiated by EPA prior to this delegation, shall be completed by EPA.

d. The State is informed of the data of receipt by EPA, of any and all completed applications for PSD review affecting a

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source owned or operated by the United States and located or to be located in the State, and of the results of each such PSD review conducted; and EPA is informed of any State PSD reviews and progress that might affect the PSD review conducted by EPA.

A notice announcing this delegation will be published in the **Federal Register** in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to PSD by sources located or to be located in the State of Mississippi should be submitted to the Mississippi Air and Water Pollution Control Commission, P.O. Box 827, [this number has since been changed to P.O. Box 10385], Robert E. Lee Building, Jackson, Mississippi 39205. Any such reports which have been or may be received by EPA, Region IV, will be promptly transmitted to the State agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

John C. White,

Regional Administrator.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region IV Office, 345 Courtland Street, NE., Atlanta, Georgia 30308.

Effective immediately, all reports required pursuant to PSD regulations should not be submitted to the EPA Region IV Office, but instead should be submitted to the State agency at the following address:

Department of Natural Resources, Bureau of Pollution Control, P.O. Box 10385, Jackson, Mississippi 39209.

Application for PSD review in process at the time of this delegation shall be processed through to completion by the EPA Region IV Office.

This notice is issued under the authority of Sections 101, 110, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, and 7601).

Dated: May 10, 1980.

Rebecca W. Hammer,

Regional Administrator.

[FR Doc. 80-15716 Filed 5-21-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Thiokol Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of voting securities of Cincinnati Milacron Chemicals, Inc. and related assets from Cincinnati Milacron, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Cincinnati Milacron, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 8, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-15756 Filed 5-21-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Interlibrary Loan of National Archives Microfilm Publications

Notice is hereby given that the National Archives and Records Service will loan selected National Archives microfilm publications to libraries and research institutions in the United States, Canada, and Mexico from the Federal Archives and Records Center in Fort Worth, Texas. Effective July 31, 1980, no further loan of microfilm will be made from any other Federal Archives and Records Center. Loan of microfilm is made in general accordance with the American Library Association "National Inter-library Loan Code, 1968."

Effective August 1, 1980, all requests for interlibrary loan of National Archives microfilm publications should be sent to the following address:

Chief, Archives Branch, Federal Archives & Records Center, P.O. Box 6216, Fort Worth, TX 76115.

There will be an interruption in service in order to complete preparations for the new system; loan requests will be filled from Fort Worth beginning no later than October 1, 1980. All requests will be filled in the order in which they were received.

FOR FURTHER INFORMATION CONTACT: Charles South, General Services Administration (NNB), Washington, DC 20408 (202-523-3081).

Dated: May 9, 1980.

Walter W. Stender,

Acting Archivist of the United States.

[FR Doc. 80-15631 Filed 5-21-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1980.

Basic Behavioral Processes Research Review Committee

June 4-7; 9:00 a.m., Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008. Open—June 4, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Emilie A. Embrey, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of experimental and physiological psychology and comparative behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Alcohol Training Review Committee

June 5-6; 9:00 a.m., Ramada Inn, 1251 West Montgomery Avenue, Rockville, Maryland 20850. Open—June 5, 9:00 to 10:30 a.m. Closed—Otherwise. Contact: Jeanne G. Trumble, Room 14C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4640.

Purpose: The Committee is charged with the initial review of grant applications for Federal Assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, relating to manpower and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 to 10:30 a.m. on June 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing inital review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Minority Group Mental Health Review Committee

June 5-7; 9:00 a.m., Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008. Open—June 5, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Edna M. Hardy Hill, Room 9C-08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1177.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of minority mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing inital review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Social Work Education Review Committee

June 6; 9:00 a.m., Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20014. Open—June 6, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Judith Ann Lynch, Grants Technical Assistant, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4608.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for education and manpower development support in the field of social work, including those which strongly reflect the recommendations of the President's Commission on Mental Health, and in accord to the degree to which these address one or more of the NIMH priority areas on behalf of social work education, i.e., categories of basic mental health education, continuing education, short-term mental health training, and special projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee

June 9-11; 9:00 a.m., Potomac Sheraton Inn, 3 Research Court, Rockville, Maryland 20850. Open—June 9, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Mary M. Martin, Room 9C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance and activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing inital review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Epidemiologic and Services Research Review Committee

June 9-12; 9:00 a.m., Connecticut Room, Holiday Inn-Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20014. Open—June 9, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Shirley R. Margolis, Ph.D., Room 9C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of mental health epidemiology, mental health systems research, and mental health services development, evaluation methodology and knowledge transfer, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 to 10 a.m. on June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee

June 9-13; 9 a.m., Conference Rooms I and K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—June 9, 9 to 10 a.m. Closed—Otherwise. Contact: Daniel L. Mintz, Executive Secretary, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2620.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9 to 10 a.m. on June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Drug Abuse Resource Development Review Committee

June 9-13; 9 a.m., Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—June 9, 9 to 10 a.m. Closed—Otherwise. Contact: Mary C. Knipmeyer, Ph.D., Executive Secretary, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6664.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration treatment services, prevention and education, and training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9 to 10 a.m. on June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the

Committee will be performing initial review of the grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Processes and Social Policy Review Committee

June 11–13; 9 a.m., Holiday Inn—Key Bridge, Cardinal Room, 1850 N. Fort Myer Drive, Arlington (Rosslyn), Virginia 22209. Open—June 11, 9 to 10 a.m. Closed—Otherwise. Contact: Mrs. Rachel Driver, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1177.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the field of institutional and organizational environments, and community social relationships and processes, as these relate to social problems, social policy and individual and family mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 to 10 a.m. on June 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Review Committee

June 11–13; 9 a.m., The Holiday Inn, Adams and Benjamin Franklin Rooms, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

Open—June 11, 9:00 to 10:30 a.m. Closed—Otherwise. Contact: Mrs. Ruby Vaughan, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of crime and delinquency, related law and mental health interactions, individual violent behavior, and sexual assault, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:30 a.m. on June 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Research Education Review Committee

June 11–14; 9:00 a.m., Ramada Inn, 1251 West Montgomery Avenue, Rockville, Maryland 20850. Open—June 12, 9:00 to 10:30 a.m. Closed—Otherwise. Contact: Barbara Spelman, Room 9–102, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of research training activities in the fields of the biological sciences, the psychological sciences, and the social sciences and social problems areas, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:30 a.m. on June 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Psychopharmacology and Neuropsychology Research Review Committee

June 12–13; 9:00 a.m. Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open—June 12, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Jean Pierce, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of basic psychopharmacology and neuropsychology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Treatment Development and Assessment Research Review Committee

June 12–13; 9:00 a.m., Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008. Open—June 12, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Pamela J. Mitchell, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of treatment development and assessment research, e.g., psychosocial and biobehavioral treatments; psychopharmacological, biological, and physical treatments; and clinical program-projects and clinical research centers, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Paraprofessional Education Review Committee

June 12–14; 9:00 a.m., The Executive Room, Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20014. Open—June 12, 9:00 to 12:00 noon. Closed—Otherwise. Contact: Mrs. Carolyn N. Snowden, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1737.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for paraprofessional education, the primary focus of which is on the development, production, and integration of paraprofessional mental health workers into service systems to meet NIMH service priorities such as providing services to unserved and underserved populations, increasing the supply of trained minority mental health service manpower, and providing mental illness prevention services, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 12:00 noon on June 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Cognition, Emotion, and Personality Research Review Committee

June 13–15; 9:00 a.m., Connecticut Inn Motel, 4400 Connecticut Avenue, N.W., Washington, D.C. 20008. Open: June 13, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activity in the fields of personality, cognition, emotion, and higher mental processes, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Services Manpower Development Review Committee

June 16–17; 1:00 p.m., Conference Rooms 1709A–B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—June 16, 1:00 to 2:00 p.m. Closed—Otherwise. Contact: Mrs. Barbara McCracken, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for state mental health manpower development projects, and research and demonstration projects concerning mental health services manpower, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 1:00 to 2:00 p.m. on June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Abuse Prevention Review Committee

June 16–18; 9:00 a.m., Sheraton Hotel, 8127 Colesville Road, Silver Spring, Maryland 20910. Open—June 16, 9:00 to 10:30 a.m. Closed—Otherwise. Contact: Robert E. Davis, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2860.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to prevention activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 to 10:30 a.m. on June 16, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Life Course Review Committee

June 18–20; 9:00 a.m., Terrace Room A and Terrace Room B, Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20014. Open—June 18, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Mrs. Diana Souder, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Alcoholism Services Review Committee

June 18–23; 7:00 p.m., Sheraton Inn, 8727 Colesville Road, Silver Spring, Maryland 20910. Open—June 18, 7:00 to 9:30 p.m. Closed—Otherwise. Contact: Mr. Phillip Dawes, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4273.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program area administered by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) relating to alcoholism service activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 7:00 to 9:30 p.m. on June 18, the meeting will be open for discussion of administrative, legislative, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee

June 19–21; 1:00 p.m., North Scott Room and Parkview Room, The Gramercy Inn, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036. Open—June 19, 1:00 to 2:00 p.m. Closed—Otherwise. Contact: LaVerl P. Klein, Room 9–104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychology, sociology, anthropology, psychiatry, and the biological sciences, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:00 to 2:00 p.m. on June 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug, Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychiatric Nursing Education Review Committee

June 24–25; 9:00 a.m., Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—June 24, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Barbara A. Graves, Room 9–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1737.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities characteristically innovative in educational design methodology, to increase the number of Master prepared nurses for practice in public mental health facilities, i.e., State mental health hospitals, community mental health/health centers, State mental health departments, long-term care facilities, located in underserved or unserved geographic areas, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on June 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d), of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Alcohol Biomedical Research Review Committee

June 25–27; 9:00 a.m., Rosslyn Westpark Hotel, 1900 N. Fort Myer Drive, Arlington, Virginia 22209. Open—June 25, 9:00 to 11:00 a.m. Closed—Otherwise. Contact: Diana Widner, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 to 11:00 a.m. on June 25, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Psychosocial Research Review Committee

June 25–27; 9:00 a.m., The Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014. Open—June 25, 9:00 to 11:00 a.m. Closed—Otherwise. Contact: James C. Teegarden, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 to 11:00 a.m. on June 25, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Sociocultural Research Review Committee

June 26–28: 9:00 a.m., Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015. Open—June 26, 9:00 to 9:30 a.m. Closed—Otherwise. Contact: Marilyn Andersen, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of social psychology, sociology, anthropology, and other social sciences focusing on social and cultural behaviors, processes, and institutions, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 9:30 a.m. on June 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee

June 30–July 3; 9:00 a.m., Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—June 30, 9:00 to 10:00 a.m. Closed—Otherwise. Contact: Camilla Holland, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 to 10:00 a.m. on June 30, the meeting will be open for discussion of general research topics, administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members for NIMH will be furnished by the Office of the Associate Director for Extramural Programs, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4333. For NIAAA: Mr. Paul Garner, Acting Associate Director for Public Affairs, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–3306. For NIDA: Ms. Mary Carol Kelly, Information Officer, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–6245.

Dated: May 19, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80–15685 Filed 5–21–80; 8:45 am]

BILLING CODE 4110–88–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Area Managers, Las Cruces District: Redelegation of Authority

1. Pursuant to the authority contained in Part III Section 3.1 of bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to Area Managers, Las Cruces District, within their areas of responsibility, authority to take all actions on the matters listed in Part III, Section 3.2(b), 3.3(b), 3.3(d), 3.6(m), 3.6(n), Section 3.7(a)(2), (2), and (3), 3.7(b), 3.7(c), 3.7(d), 3.7(e), 3.7(f), 3.8(a), Section 3.9(g) material other than forest products not exceeding $5,000 in value and free use permits for materials other than forest products not exceeding $5,000 in value, section 3.9(m), 3.9(o), and 3.9(z).

2. All previously published orders of redelegation pursuant to the authority of Bureau Order 701, as amended, which pertain to the Area Managers, Las Cruces District, and which are inconsistent with this order are hereby cancelled and superseded.

3. Effective date. This redelegation will become effective May 14, 1980.

Dated: may 14, 1980.

Daniel C. B. Rathbun,

District Manager.

Dated: May 12, 1980.

Larry L. Woodard,

Acting State Director.

[FR Doc. 80–15633 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

Baker District Office, Oregon Emergency Restrictions of Public Lands for Motorized Vehicles and Overnight Camping

Notice is hereby given that use on certain public lands administered by the Bureau of Land Management is limited in accordance with the provisions of 43 CFR 8340 and 43 CFR 8363.

Vehicular use on the affected lands is restricted to designated roads and trail. Vehicular use of lands off these designations is prohibited.

Overnight camping within the boundaries of the area is prohibited.

The area affected by these restrictions total approximately 880 acres of public land described as:

T. 4 N., R. 37 E., Willamette Meridian:
Section 10, S½NE¼, SE¼NW¼, E½SE¼
Section 11, W½SW¼, SE¼SW¼, S½SE¼
Section 14, N½
Section 15, N½NE¼, NE¼NW¼.

This area is currently being seriously damaged by ORV and overnight camping use. These restrictions are needed to prevent further damage to the vegetation, watershed and soils in the area. After consultation with the Oregon Department of Fish and Game, surrounding landowners, Umatilla County and a local Ad Hoc committee appointed by the county, these measures are deemed necessary to protect the area.

Maps showing the area described above are available at the Bureau of Land Management, Baker District Office, P.O. Box 987, Baker, Oregon 97814. These restrictions take effect on May 21, 1980. The camping restriction will remain in effect until further notice; the vehicular restriction will remain in effect until the area can be designated under the Standard ORV designation process.

Dated: May 15, 1980.

Gordon R. Staker,

District Manager.

[FR Doc. 80–15634 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

Montana Wilderness Inventory; Overthrust Belt—Butte District

May 13, 1980.

Background

The intended final inventory decision for Bureau of Land Management (BLM) administered lands within the Montana portion of the Overthrust Belt was announced in the February 22, 1980, **Federal Register**. Another notice appeared in the March 28, 1980, **Federal Register** announcing a 30-day protest period beginning March 30, 1980, and ending at 4:30 p.m., April 30, 1980.

The February 22 notice described 21 inventory units totaling 131,768 acres which were recommended for wilderness study status. Another 27 inventory units totaling 249,360 acres were recommended to be dropped from further wilderness consideration. All of these lands are located in the Butte BLM District.

Final Decision

There were no valid protests received for the following inventory units and the decision to drop these units from futher wilderness consideration is now final:

Unit number	Unit name	Acreage
MT–076–004...	Big Spring Gulch	43,327
MT–076–009...	Antelope Flats	14,130
MT–076–010...	Basin Creek South	10,815
MT–076–024...	Camp Creek South	7,200
MT–076–031...	Cold Spring Creek	7,100
MT–076–042...	Red Rock River Island No. 2	3
MT–076–047...	Jimmy New Creek	8,275
MT–076–051...	Maiden Rock Islands	1
MT–076–054...	Nez Perce Hollow	12,743
MT–076–071...	Elk Gulch	10,292
MT–075–124...	Missouri River Island	12
MT–075–125...	Missouri River Island	5
MT–075–126...	Missouri River Island	17
MT–075–134...	Yellowstone River Island	23
	Total acreage	111,943

Deferred Decision

The decision on the following inventory units is under formal protest and the effective final decision date is deferred pending a decision on the protests:

I. Units Recommended for Wilderness Study Status

Unit number	Unit name	Acreage identified for WSA status	Acreage recommended to be dropped from wilderness consideration
MT–076–001...	Ruby Mountains	26,357	5,643
MT–076–002...	Blacktail Mountains	19,189	2,261
MT–076–007...	E. Fork of Blacktail Deer Creed.	6,180	
MT–076–022...	Hidden Pasture Creek.	15,475	
MT–076–026...	Bell/Limekin Canyons.	6,629	16,100
MT–076–028...	Henneberry Ridge	10,111	27,589
MT–076–034...	Farlin Creek	1,260	Nil
MT–076–063...	Tobacco Root Tack-Ons.	860	
MT–076–069...	Axolotl Lakes	6,578	R55
MT–076–079...	Madison Tack-Ons	1,469	51
MT–075–102...	Blind Horse Creek	4,927	
MT–075–105...	Chute Mountain	3,085	
MT–075–106...	Deep Creek/Battle Creek.	3,088	
MT–075–107...	N. Fork of Sun River	196	
MT–075–110...	Beaver Meadows	595	
MT–075–114...	Elkhorn	3,585	2,113
MT–075–115...	Black Sage	5,976	
MT–075–133...	Yellowstone River Island.	53	
MT–074–151a.	Hoodoo Mountain	11,380	1,293
MT–074–151b.	Gallagher Creek	4,257	1,670
MT–074–155...	Quigg West	520	
Total		131,768	57,666

II. Areas Not Recommended as Wilderness Study Areas

Unit number	Unit name	Acreage recommended to be dropped from wilderness consideration
MT–076–003...	Blacktail Mountains West	2,130
MT–076–006...	White Hills South	8,850
MT–076–008...	Basin Creek North	17,960
MT–076–011...	Lima Reservoir	5,360
MT–076–015...	Red Rocks Refuge North	440
MT–076–025...	McCartney Mtn./Sandy Hollow	16,380
MT–076–029...	Bachelor Mountain	13,000
MT–076–033...	Garrett Hill	1,120
MT–076–059...	Block Mountain	6,700
MT–076–070...	Sweetwater	7,749
MT–075–123...	Missouri River Island	22

II. Areas Not Recommended as Wilderness Study Areas—Continued

Unit number	Unit name	Acreage recommended to be dropped from wilderness consideration
MT–075–138...	Missouri River Island	40
Total		79,751

All inventory units under formal protest will remain under wilderness interim management until the protests have been resolved.

Further information may be obtained by contacting the follwing BLM offices:

Montana State Office (931), Bureau of Land Management, P.O. Box 30157, 222 North 32nd Street, Billings, Montana 59107.

Bureau of Land Management, Butte District Office, P.O. Box 3388, Butte, Montana 59701

Kannon Richards,

Acting State Director.

[FR Doc. 80–15632 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

Uinta-Southwestern Utah Regional Coal Team, Colorado and Utah; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement and Notice of Uinta-Southwestern Utah Federal Regional Coal Team Meeting.

DATE: June 17, 1980—8:30 am.

ADDRESS: The meeting will be held in the Oquirrh Room, 23rd Floor of the University Club Building, 136 East South Temple, Salt Lake City, Utah.

SUMMARY: Pursuant to the responsibilities assigned under 43 CFR 3400.4(b), the Regional Coal Team for the Uinta-Southwestern Utah Federal Coal Production Region will meet on June 17, 1980, to consider the detailed cumulative analysis and final tract ranking and selection of Federal coal lease tracts for sale scheduled to start in mid-1981. The Team will also consider other issues pertaining to tract delineation, site specific analyses, and the Regional Coal Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairperson, (702) 784–5451.

Dated: May 14, 1980.

William G. Leavell,

Associate Utah State Director.

[FR Doc. 80–15635 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

V 45 M Y 22 80 UMI

California Desert Conservation Area Advisory Committee; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 and 94–579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet June 5–7, 1980, in San Bernardino, California. The purpose of the meeting is to: review public documents on the draft California desert plan alternatives; review the issues, options, and proposed planning decisions; and advise on development of the proposed plan and final environmental impact statement for the management plan for the California Desert Conservation Area.

The meeting will be held in Room LC–500(N), California State College at San Bernardino, 5500 State College Parkway, San Bernardino, California 92407, begining at 8 a.m. June 5, 6 and 7, and may be continued on June 8 if the authorized Federal representative and the Committee chairman find it to be necessary to complete the agenda. The meeting is open to the public, and interested persons may attend and file statements with the Advisory Committee.

Further information may be obtained from Mr. Clayton A. Record, Jr., Chairman, California Desert Conservation Area Advisory Committee, c/o Desert Plan Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, California 92506.

Dated: May 14, 1980.

James B. Ruch,

State Director

[FR Doc. 80–15741 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet June 26 and June 27, 1980. The meeting will be held at the Howard Johnson Hotel, 122 West South Temple Street, Salt Lake City, Utah. The meeting hours will be 8:30 a.m. to 5:30 p.m. on the 26th, and 8:00 a.m. to 5:00 p.m. on the 27th. The proposed agenda for the two-day meeting is:

Thursday, June 26: (1) Address by Utah Governor Scott Matheson, expressing his views on management of the public lands; (2) Update on the Bureau of Land Management (BLM) four-year authorization request to Congress; (3) Panel discussion on the proposed MX missile system, focusing on impacts on the public lands, particularly natural resources, environment, and management; and (4) Public statements.

Friday, June 27: (1) Public lands wilderness review policy issues; (2) The proposed Energy Mobilization Board and the public lands; (3) Public lands recreation policy and program; (4) Protection of cultural/historic values on the public lands; (5) Storage of toxic and hazardous wastes on the public lands; and (6) Meetings of Council committees and of other Council working groups, and discussion of Council old and new business, including agenda for the Council's next meeting, September 22 and 23, at Boise, Idaho.

The Council's Issues and Agenda Committee will meet prior to the Council meeting—on Wednesday evening, June 25, from 7:30 to 9:30 o'clock, also at the Howard Johnson Hotel—to discuss details of the June 26–27 meeting.

DATES: June 26 and 27, 1980—Council Meeting; June 26, 1980—Public Statements.

ADDRESS: Copies of public statements may be mailed in advance of the meeting to: Chairman Craig Ritchey, National Public Lands Advisory Council, c/o Director (660), Bureau of Land Management, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20249.

FOR FURTHER INFORMATION CONTACT: Dave Johnson, Office of Cooperative Relations (660), at BLM's Washington Office, telephone (202) 343–8947; or Jack Reed, Public Affairs Officer, Utah State Office, BLM, 136 East South Temple Street, Salt Lake City, Utah, 84111; telephone (801) 524–4227.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, as to policies, plans, and programs for management of the public lands and related resources administered by the Bureau.

All meetings of the Council are open to the public. Opportunity will be provided for members of the public to make oral statements to the Council, from 3:30 to 5:30 p.m., Thursday, June 26.

Such statements should not exceed 10 minutes, should address specific national public lands issues, and should also be submitted in writing and at least two copies filed with the Council Chairman. In addition, written statements alone may be filed with the Council. Early filing or mailing of such statements is encouraged to facilitate consideration by the Council members.

Copies of the detailed agenda may be requested from Dave Johnson, BLM's Washington Office, or from Jack Reed, BLM's Utah State Office, at the addresses or telephone numbers given above.

Dated: May 19, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc 80–15751 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

Chief, Oil and Gas Section, Division of Technical Services, New Mexico State Office; Redelegation of Authority

May 15, 1980.

1. The redelegation of authority promulgated in the February 5, 1972, **Federal Register** (37 FR 2793) to the Chief, Branch of Lands and Minerals Operations, is hereby revoked.

2. Pursuant to the authority contained in Part I, section 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Oil and Gas Section in the Division of Technical Services, authority to take action on the matters listed in Part II–A, sections 2.6 (a), (c), (h) and (n) of Bureau Order No. 701 of July 23, 1964, as amended.

3. The Chief, Division of Technical Services may, in his discretion, personally exercise any authority hereby delegated to the Chief, Oil and Gas Section.

4. The Chief, Oil and Gas Section may redelegate the authority vested in him by this delegation to any qualified employee under his jurisdiction. Any order or redelegation must be approved by the State Director and published in the **Federal Register**.

5. The Chief, Oil and Gas Section may, by written order, designate any qualified employee of the Section to perform the functions of this position in his absence. Such order will be approved by the Chief, Division of Technical Services.

6. Effective date. This redelegation will become effective May 30, 1980.

Arthur W. Zimmerman,

State Director.

[FR Doc. 80–15739 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

[NM 40704]

New Mexico; Application

May 13, 1980.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½ inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 16 S., R. 28 E.,
Sec. 6, lots 12, 13, 16, and E½SW¼;
Sec. 7, E½W½;
Sec. 18, W½E½ and NE¼NW¼;
Sec. 19, SW¼NE¼ and W½SE¼;
Sec. 30, W½E½;
Sec. 31, E½SE¼ and NW¼SE¼.

T. 17 S., R. 28 E.,
Sec. 6, lot 1, SE¼NE¼ and E½SE¼.

This pipeline will convey natural gas across 6.437 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Pauline T. Brown,

Acting Chief, Lands Section.

[FR Doc. 80–15738 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

Western Powder River Basin Management Framework Plan

May 16, 1980.

This notice is to advise you that the Casper, Wyoming District Office of the Bureau of Land Management is reviewing and will amend portions of the Western Powder River Basin Management Framework Plan (MFP). The reasons for the review and amendment is to make certain the MFP reflects, as completely as possible, current statutory requirements and policies, and to continue carrying out the requirements of Section 522 of the Surface Mining Control and Reclamation Act of 1977.

Background standards and procedures for this MFP review and amendment preparation are contained in the **Federal Register**, Vol. 44, No. 140, 42584–42652 of July 19, 1979; and Vol. 44, No. 153, 46386–46401 of August 7, 1970. The standards for this review are also discussed in a final environmental statement describing the Secretary of the Interior's preferred coal program and alternatives, released in April 1979.

The MFP amendment, planned for completion by April 1981, will identify areas acceptable for further consideration for coal leasing. The amendment will be followed by activity planning which includes the identification of tracts for lease, their ranking by economic and environmental factors, and preparation of a regional environmental impact statement for lease sales.

The review area is part of the Powder River Coal Region. Located in Sheridan, Johnson and Campbell Counties, Wyoming, this includes an area 6 to 18 miles wide along the western edge of Campbell County, most of Sheridan County, both north and east of the City of Sheridan, the northeast one-third of Johnson County, and some small areas in southern Johnson County, northeast of the town of Kaycee, and east and south of the town of Sussex. This area includes numerous coal seams in the Wasatch Formation and Ft. Union Formation which have high and moderate development potential.

A major anticipated planning issue is the ability of local communities to absorb growth associated with additional coal development.

An interdisciplinary team will complete the review and amendment. Disciplines to be represented include archeology, geology, hydrology, realty, recreation, socioeconomics, soils and wildlife.

Public participation opportunities will be provided in the following ways: (1) A public information meeting, combined with a meeting to discuss results of an initial application of Coal Unsuitability Criteria, will be held in October 1980 in Buffalo and Sheridan, Wyoming. (2) A draft MFP amendment will be distributed for public review in December 1980. Ninety days will be provided for public review and comment. A public meeting and hearing, in Buffalo and Sheridan, Wyoming, will be held during the 90-day review period.

Public comments will be considered in preparation for the final amendment which will be completed and available to the public in April 1981.

Definite dates and locations for public meetings and hearings will be announced through local news media and correspondence mailed to interested members of the public.

For further information contact Don Whyde at the Bureau of Land Management, Casper District Office, 951 Union Boulevard, Casper, Wyoming 82601, phone (307) 265–5550, ext. 5101. Documents relevant to the planning process are also available to the above address.

Robert E. Wilber,

District Manager.

[FR Doc. 80–15748 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

[W–71198 Amendment]

Wyoming; Application

May 16, 1980.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Michigan Wisconsin Pipe Line Company of Detroit, Michigan filed an amendment application for a right-of-way to construct an 8 inch O.D. natural gas gathering line for the purpose of connecting a well head to their Lysite gathering system across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 39 N., R. 91 W.,
Sec. 28, E½SW¼, S½SW¼SW¼;
Sec. 29, S½S½SE¼;
Sec. 32, NW¼NE¼, NE¼NW¼.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 260, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–15740 Filed 5–21–80; 8:45 am]

BILLING CODE 4310–84–M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit, Agreement No. 14–08–001–3847, submitted on May 8, 1980, a proposed Supplemental Plan of Development/Production describing the activities it

V 45 M Y 22 80 UMI

proposes to conduct on the Main Pass Block 40 Federal Unit, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 15, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-15743 Filed 5-21-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Kerr-McGee Corporation, Unit Operator of the Ship Shoal Block 28 Federal Unit, Agreement No. 14-08-001-2942, submitted on May 7, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the Ship Shoal Block 28 Federal Unit, offshore Louisiana.

The propose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 15, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-15742 Filed 5-21-80; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 167]

Permanent Authority Decisions; Decision-Notice

Decided: May 6, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act]

In the absence of legally sufficient petitions for intervention, filed on or before June 23, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before June 23, 1980, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 2860 (Sub-195F), filed January 11, 1980, and previously noticed in **Federal Register** issue of April 3, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Peter J. Nickles, 888 Sixteenth St., NW., Washington, DC 20006. Transporting *such commodities* as are dealt in or used by container manufacturers (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of Glass Container Corporation, at points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—This republication reflects the correct territorial description.

MC 2860 (Sub-196F), filed January 11, 1980, and previously noticed in **Federal Register** issue of April 3, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Peter J. Nickles, 888 Sixteenth St., NW., Washington, DC 20006. Transporting *paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk, in tank vehicles), between the facilities of Scott Paper Company, at points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—This republication reflects the correct territorial description.

MC 2860 (Sub-197F), filed January 11, 1980, and previously noticed in **Federal Register** issue of April 3, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Peter J. Nickles, 888 Sixteenth St., NW., Washington, DC 20006. Transporting *such commodities* as are dealt in or used by container manufacturers (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Glenshaw Glass Company, Inc., at points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—This republication reflects the correct territorial description.

MC 4941 (Sub-90F), filed November 27, 1979, and previously noticed in the **Federal Register** issue of March 20, 1980. Applicant: QUINN FREIGHT LINES, INC., 1093 N. Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting (1) *paper and paper products, plastic materials, furniture,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), betwen the facilities of Scott Paper Company, at points in DE, ME, NJ, NY, OH, PA and VA, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Boston, MA, or Washington, DC.)

Note.—This republication clarifies territorial description.

MC 6741 (Sub-11F), filed February 22, 1980. Applicant: WILLEY'S EXPRESS, INC., 118 Hall St., P.O. Box 2009, Concord, NH 03301. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in NH as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Boston, MA, or Concord, NH.)

MC 19311 (Sub-69F), filed August 17, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603 (A) OVER REGULAR ROUTES, transporting *general commodities,* (except those of unusual vlaue, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Mackinaw City and Detroit, MI, from Mackinaw City over U.S. Hwy 23 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Detroit and return over the same route, (2) between Saginaw and Standish, MI, over U.S. Hwy 13, (3) between Oscoda and Alpena, MI, over Iosco, Alcona, and Alpena County Roads, (4) between Alpena and Rogers City, MI, over Alpena and Presque Isle County Roads, (5) between Alpena and Liske, MI, from Alpena over U.S. Hwy 23 to Lakewood, then over county roads and U.S. Hwy 23 to Liske, and return over the same route, (6) between Hawks, MI and Junction Presque Isle County Road and U.S. Hwy 23 near Huron Beach, MI, over Presque County Road, (7) between Onaway and Huron Beach, MI, from Onaway, over MI Hwy 211 to Black Lake, then over County Roads to Huron Beach, and return over the same route, (8) between Point Lookout, MI and junction U.S. Hwy 23 and Point Lookout Road, over Point Lookout Road, (9) between Tawas Beach, MI and junction U.S. Hwy 23 and Tawas Beach Road, over Tawas Beach Road, (10) between Afton, MI and

junction U.S Hwy 23 and MI Hwy 33, from Afton over MI Hwy 68 to junction MI Hwy 33, then over MI Hwy 33 to junction U.S. Hwy 23, and return over the same route, (11) between Rogers City and Indian River, MI, over MI Hwy 68, (12) between Hawks and Alpena, MI, over Presque Isle and Alpena County Roads, (13) between Tawas City, MI and junction MI Hwy 55 and MI Hwy 65, over MI Hwy 55, (14) between Whittemore, MI and junction MI Hwy 55 and Iosco County Road, over Iosco County Road, (15) between junction U.S. Hwy 23 and MI Hwy 65 (east of Rogers City, MI) and junction MI Hwy 65 and U.S. Hwy 23 (west of Au Gres, MI), over MI Hwy 65, (16) between Cheboygan and Atlanta, MI, over MI Hwy 33, (17) between Cheboygan, MI and Junction MI Hwy 68 and Cheboygan County Road near Tower, MI, over Cheboygan County Road, (18) between Harrisville, MI and junction MI Hwy 65 and MI Hwy 72, over MI Hwy 72, (19) between junction Hubbard Lake Road and Werth Road and junction Werth Road and MI Hwy 65, over Worth Road, (20) between Long Lake and junction U.S. Hwy 23 and Beck road, over Presque Isle and Alpena County Roads on the east side of Long Lake, (21) between Lincoln and Hubbard Lake, MI, over Alcona and Alpena County Roads, (22) between Alcona and Lincoln, MI, over Alcona County Roads, (23), between Greenbush and Curtisville, MI, over Alcona and Oscoda County Roads, (24) between Oscoda, MI and junction MI Hwy 65 and River Road, over River Road, (25) between East Tawas, MI and junction Silver Creek Road and River Road, over Silver Creek Road, (26) between Hawks and Hillman, MI, over Presque Isle and Montmorency County Roads, serving all intermediate points in (1) through 26, (B) Alternate Routes for operating convenience only, over regular routes, transporting *general commodities*, (1) serving the facilities of Ford Motor Company, at Romeo, MI, as an off-route point in connection with applicant's otherwise authorized service, (2) between Gaylord and Afton, MI, from Gaylord over Interstate Hwy 75 to junction MI Hwy 68, then over MI Hwy 68 to Afton and return over the same route, and (3) between Detroit and Standish, over Interstate Hwy 75, (4) between detroit, MI and junction U.S. Hwy 23 and Interstate Hwy 75, at or near Flint, MI, from Detroit over Interstate Hwy 96 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction Interstate Hwy 75, and return over the same route, subject to the following restrictions: (a) restricted against service to points not otherwise authorized, (b) access routes may be used only for connection with intersecting routes otherwise authorized and (c) access routes may be utilized within commercial zones of points otherwise authorized. (C) over irregular routes, transporting (1) *artistic fencing*, between alpena and Greenbush, MI, on the one hand, and, on the other, points in MI, (2) *paper, paper mill supplies, and empty containers*, between Alpena, MI, on the one hand, and, on the other, points in MI, (3) *household goods, store fixtures, and office furniture*, between points in MI. (Hearing site: Detroit, MI.)

Note.—This application is related, but not directly, to a proceeding entitled *Central Transport, Inc.—Conversion and Elimination of Restrictions*, Docket No. MC–19311 Sub 66F, which proceeding is in turn directly related to a finance proceeding *Central Transport, Inc.—Control and Merger—Mulvena Truck Line, Inc.*, Docket No. MC–F–14126F. This application is filed in the event for any reason all or any portion of the application in the directly related proceeding is denied.

MC 53841 (Sub-43F), filed February 4, 1980. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *glass containers, closures for glass containers, plastic articles, and fiberboard boxes*, from the facilities of Glass Containers Corporation, at Knox, Parker, and Marienville, PA, to points in NJ and NY. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 77061 (Sub-32F), filed February 25, 1980. Applicant: SHERMAN BROS., INC., 29534 Airport Rd., Box 706, Eugene, OR 97401. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting (1) *plastic pipe*, and (2) *accessories* for plastic pipe, (a) from the facilities of Simpson Extruded Plastics Co., at Eugene, OR, to points in WA, CA, and ID, and (b) from the facilities of Simpson Extruded Plastics Co., at Sunnyside, WA, to points in OR, CA, and ID. (Hearing site: Portland or Eugene, OR.)

MC 78400 (Sub-83F), filed January 25, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1) *milking machines, peening machines, tanks, and industrial cleaning equipment* (except those requiring special equipment), from Washington, and Berger, MO, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: St. Louis, MO.)

MC 84450 (Sub-3F), filed January 25, 1980. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 S. Pennsylvania Ave., Morrisville, PA 19067. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *iron and steel articles*, from the facilities of Bredero Price, Inc., in Falls Township (Bucks County), PA, to points in MA, RI, and VA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 110420 (Sub-847F), filed February 25, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *sodium bicarbonate*, in bulk, in tank vehicles, from Old Fort, OH, to points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 115331 (Sub-520F), filed October 10, 1979, and previously noticed in FR issue of March 18, 1980. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Rd., St. Louis, MO 63122. Transporting *oils*, in bulk, from Opelousas, LA, to points in the U.S. (except AK and HI). (Hearing site: Washington, DC, or New Orleans, LA.)

Note.—This republication corrects the commodity description.

MC 115651 (Sub-86F), filed February 21, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., Rockford, IL 61102. Representative: E. Stephen Heisley, 666 11th St., Washington, DC 20001. Transporting *liquefied petroleum gas*, in bulk, in tank vehicles, from Blue Island, IL, to points in IN. Condition: The certificate shall be limited to 5 years from its date of issuance. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 118130 (Sub-118F), filed February 21, 1980. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Transporting (1) *malt beverages*, and (2) *materials and supplies* used in and dealt with by breweries, (a) from points in Jefferson County CO, to points in AR, and (b) from points in AR, to points in Jefferson County, CO. (Hearing site: Fort Worth, TX, or Denver, CO.)

MC 118420 (Sub-8F), filed February 21, 1980. Applicant: BULLDOG TRUCKING OF GEORGIA, INC., P.O. Box 357, Carnesville, GA 30521. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting *insulating materials*, and *glass fibre products*, from the facilities of Certain-Teed Products Corp. in Clarke County, GA to Savannah, GA, restricted to traffic having a subsequent movement by water. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 120181 (Sub-19F), filed March 21, 1980. Applicant: MAIN LINE HAULING CO., INC., Box C, St. Louis, MO 63077. Representative: William H. Shawn, Suite 501, 1730 M St., N.W., Washington, DC 20036. Transporting *such commodities* as are sold by retail hardware and department stores, between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MO, MN, MS, NE, NC, OH, OK, SC, TN, TX, VA, WV and WI. (Hearing site: St. Louis, MO.)

MC 133101 (Sub-7F), filed November 16, 1979. Applicant: PENINSULA AIR DELIVERY, P.O. Box 668, Mountain View, CA 94042. Representative: Thomas Donahue (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CA and OR. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 134150 (Sub-24F), filed December 26, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *Contract carrier*, transporting *paper and paper products*, from the facilities of Container Corporation of America, at or near St. Louis, MO, to those points in the U.S. in and west of MT, WY, CO, and NM, under continuing contract(s) with Container Corporation, of America of Ft. Worth, TX. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 134890 (Sub-10F), filed June 25, 1979, and previously noticed in FR issue of February 5, 1980. Applicant: MARION TRANSFER, INC., 3011 North 30th St., Milwaukee, WI 53210. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. *Contract carrier*, transporting *chemicals, and tanning extracts and chemicals*, (except commodities in bulk), in vehicles equipped with with mechanical refrigeration, from points in CT, MA, NH, NJ, NY, PA, and RI, to the facilities of Gebhardt-Vogel Tanning Co., at Wilwaukee, WI, under continuing contract(s) with Gebhardt-Vogel Tanning Co., of Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

Note.—This republication shows NY as an origin point.

MC 135861 (Sub-65F), filed February 21, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. *Contract carrier*, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C.* 209 and 766, (except hides and commodities in bulk), from Palestine, TX, to poins in the U.S. (except AK and HI), under continuing contract(s) with Vernon Calhoun Packing Company of Palestine, TX. (Hearing site: Fort Worth, or Houston, TX.)

MC 136680 (Sub-1F), filed January 28, 1980. Applicant: E. H. STRALOW TRUCKING, an indiviudal, 101 East Morris St., Morrison, IL 61270. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Contract carrier*, transporting *such commodities* as are dealt in by manufacturers of iron and steel articles, between the facilities of Northwestern Steel and Wire Company, at Rock Falls and Sterling, IL, on the one hand, and, on the other, points in IA, IN, MN, MO, OH, and WI, under continuing contract(s) with Northwestern Steel and Wire Company, of Sterling, IL. (Hearing site: Chicago, IL.)

MC 138000 (Sub-66F), filed February 21, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Transporting *non-carbonated beverages, beverage compounds*, and *beverage containers*, (1) between Baltimore and Havre De Grace, MD, and New York, NY, on the one hand, and, on the other, points in PA, OH, NY, NJ, MD, VA, WV, NC, MI, and DC, and (2) between Detroit, MI, on the one hand, and, on the other, points in PA, OH, NY, NJ, MD, NC, WV, and DC. (Hearing site: Detroit, MI.)

Note.—Dual operations may be involved.

MC 138741 (Sub-80F), filed June 18, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *metal and metal articles*, between the facilities of S–G Metals Industries, Inc., at Kansas City, KS, on the one hand, and, on the other, points in AR, MO, and OK. (Hearing site: Kansas City, MO.)

MC 138960 (Sub-17F), filed January 28, 1980. Applicant: ROKO EXPRESS, INC., 819 West Fifth Ave., Columbus, OH 43212. Representative: H. Barney Firestone, 10 S. La Salle St., Suite 1600, Chicago, IL 60603. Transporting *foodstuffs, drugs, plastic articles, and rubber articles*, and *health care products*, from the facilites of Ross Labs, Inc. at or near (a) Columbus, OH, and (b) Sturgis, MI, to points in AL, AR, KY, GA, LA, MS, and TN, restricted to traffic originating at the named facilities of Ross Labs, Inc. and destined to the indicated destinations. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 142310 (Sub-27F), filed February 4, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI. Transporting *foodstuffs* (except in bulk), from Wethersfield, CT to points in MI. (Hearing site: Madison, WI, or Boise, ID.)

MC 143471 (Sub-22F), filed January 21, 1980, and previously noticed in **Federal Register** issue of April 3, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 West Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Contract carrier*, transporting *lumber and lumber products*, (a) from points in AR, TX, OK, LA, and MS, to the facilities of Whitewood Post and Pole, at Whitewood, SD, and (b) from the facilities of Whitewood Post and Pole, at Whitewood, SD, to points in IA, MN, ND, MT, WI, WY, and CO, under continuing contract(s) with Whitewood Post and Pole Co., Inc., of Whitewood, SD. (Hearing site: Rapid City or Whitewood, SD.)

Note.—This republication shows ND as a destination State in lieu of NS.

MC 144030 (Sub-11F), filed February 21, 1980. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, Lawrenceburg, IN 47025. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. Transporting *beer*, between Eden, NC, and Cincinnati, OH. (Hearing site: Cincinnati, OH, and Indianapolis, IN.)

MC 145491 (Sub-5F), filed January 2, 1980. Applicant: PIGGYBACK TRANSPORTATION SERVICE, INC., P.O. Box 662, Greenwood, IN 46142. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IL, IN, KY and OH, and St. Louis, MO, on the one hand, and, on the other,

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points in IL, IN, KY, and OH, and St. Louis, MO (except between Carbondale, Danville, Decatur, East St. Louis, Mattoon, Morton, Peoria, Quincy, and Villa Grove, IL, on the one hand, and, on the other, points in IN, and Carbondale and West Salem, IL, restricted to traffic having a prior or subsequent movement by rail. (Hearing site: Indianapolis, IN.)

MC 147620 (Sub-2F), filed January 28, 1980. Applicant: K. M. TRUCKING, INC., P.O. Box 254, Stephens City, VA 22655. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transporting *apple products,* and *apple juices,* from Martinsburg, WV, and Winchester, Timberville, and Mt. Jackson, VA, to points in TX, LA, AR, MS, and OK. (Hearing site: Winchester, VA, or Martinsburg, WV.)

MC 148490 (Sub-5F), filed October 3, 1979. Applicant: C & N EVANS TRUCKING CO., INC., RFD 2, Box 39–E, Stoneville, NC 27048. Representative: Clarence B. Evans (same address as applicant). Transporting *wearing apparel,* from Alexander City, AL, Griffin, GA, Asheboro, Madison, Mayadon, and Statesville, NC, and Martinsville, VA, to Appleton, WI, and Dallas, TX. (Hearing site: Raleigh or Charlotte, NC.)

MC 149170 (Sub-5F), filed January 25, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of size or weight), between points in AL, AR, IL, IN, IA, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI, restricted to the transportation of traffic moving to, from or between the facilities of Minnesota Mining & Manufacturing Co. (Hearing site: Minneapolis, MN.)

Note.—Common control may be involved.

MC 149360 (Sub-1F), filed February 20, 1980. Applicant: L. B. TRANSPORT SERVICES, INC., 19114 Pioneer Blvd., Cerritos, CA 90701. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Contract carrier,* transporting *sinks, vanities, toilets, bathroom accessories, mirrors and glass shelves,* (1) from Torance, CA, to points in the U.S. (except AK and HI), and (2) from Charlotte, SC, and Kingsport, TN, to Torrance, CA, under continuing contract(s) with Perma Bilt Industries, of Torrance, CA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 150090F, filed February 19, 1980. Applicant: CHEMLINE DELIVERY SERVICE, INC., 2700 River Road, Des Plaines, IL 60018. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. *Contract carrier,* transporting *acids and chemicals,* in bulk, in tank vehicles, betwen points in IL, IN, IA, KY, MI, MN, MO, NY, OH, PA, WV, and WI, under continuing contracts with K. A. Steel Chemicals, Inc. (Hearing site: Chicago, IL.)

MC 150270F, filed February 5, 1980. Applicant: PEIRONE PRODUCE COMPANY, a corporation, East 524 Trent Ave., Spokane, WA 99202. Representative: James I. Morrow (same address as applicant). *Contract carrier,* transporting *animal feed,* in sacks, from Spokane, WA, to the port of entry on the international boundary line between the U.S. and Canada at or near Oroville, WA, under continuing contract(s) with (1) Ralston Purina Company, of Spokane, WA, and (2) Chow Town, a division of Frandel Farms Ltd., of Penticton, B.C., Canada. (Hearing site: Spokane, WA, or Coeur d'Alene, ID.)

MC 147310 (Sub-1F), filed January 10, 1980. Applicant: RUSTAD BUS SERVICE, INC., Kerkhoven, MN 56252. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *passengers and their baggage,* in the same vehicle with passengers, and (2) *baggage* of passengers, in a separate vehicle, in round-trip charter and special operations, beginning and ending at points in Swift County, MN, and extending to points in the U.S. (including AK, but excluding HI). (Hearing site: St. Cloud or St. Paul, MN.)

[FR Doc. 80–15556 Filed 5–21–80; 8:45 am]

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[Volume No. 13]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1F, M2F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission or or before June 23, 1980 with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). in deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 73688 (Sub-50) (M1F) (notice of filing of petition to modify certificate), filed March 10, 1980. Petitioner: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Petitioner holds a motor *common carrier* Certificate in MC 73688 Sub 50 issued December 9, 1974, authorizing transportation over irregular routes, of *aluminum, aluminum products, aluminum articles, and iron and steel articles,* from the facilities of Planet Corporation, at or near Birmingham, AL, to points in the U.S. in and east of TX, OK, KS, NE, SD, and ND (except AL, GA, and FL), restricted to traffic originating at the above-named facilities. By the instant petition, petitioner seeks to modify the above authority by (1) deleting the plantsite origin of Planet Corporation, (2) deleting the territorial exceptions of AL, GA, and FL, and (3) deleting the plantsite restriction "restricted to traffic originating at the above-named facilities".

MC 89697 (MIF), and MC 89697 E1 (MIF), (notice of filing of petition to delete restrictions), filed March 27, 1980. Petitioner: KRAJACK TANK LINES, INC., 480 Westfield Ave., Roselle Park, NJ 07204. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Petitioner holds motor common carrier authority in Certificate No. MC 89697 issued March 31, 1955, and MC 89697 (Sub-No. E–1), published in the FR issue of November 26, 1974, as pertinent, transporting in lead (1) *commercial solvents, paint, lacquer, and cleaning solvents,* ether, alcohol, and acetates, in bulk, in tank trucks, between Carteret and Bound Brook, NJ, and points in Bergen, Essex, Hudson, and Union Counties, NJ, on the one hand, and, on the other, points in CT, DE, MA, NJ, NY, and PA within 250 miles of Elizabeth, NJ, and (2) *liquid chemicals,* in bulk, in tank vehicles, between South Bound Brook, NJ, and points in Middlesex County, NJ, on the one hand, and, on the other, points in RI, CT, MA, NY, and PA, within 250 miles of Elizabeth, NJ, and in E1 Notice (3) *such commercial solvents, paint, lacquer, and cleaning solvents, ether, alcohol, and acetates* in bulk, in tank trucks as are liquid chemicals, (a) between points in MA, RI, and CT, on the one hand, and, on the other, points in that part of DE and that part of PA within 250 miles of Elizabeth, NJ, (b) between points in DE on the one hand, and, on the other, points in that part of NY within 250 miles of Elizabeth, NJ, (except between points in DE, on the one hand, and, on the other, points in Chautauqua, Cattaraugus, Allegany, and Steuben Counties, NY), and (c) between New York, NY, and points in Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in that part of PA 250 miles of Elizabeth, NJ (except between New York, NY, on the one hand, and, on the other, points in Pike County, PA), (4) *lacquer solvents, cleaning solvents, industrial alcohol, and acetates,* in bulk, in tank trucks, from points in NJ, DE, and that part of PA within 250 miles of Elizabeth, NJ, to New York, NY, and East Berlin, CT (Hudson County, NJ), and (5) inflammable alcohols, acetates, commercial solvents, and paint, lacquer, and cleaning solvents, in bulk, in tank trucks, from points in that part of DE, that part of NJ, and that of PA, within 250 miles of Elizabeth, NJ, to points and places in Bristol and Providence Counties, RI. By the instant petition, petitioner seeks to delete the restriction in each of the above proceedings which reads: "within 250 miles of Elizabeth, NJ".

MC 107544 (Sub–138M1F), filed March 5, 1980. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, VA 24354. Representative: E. Stephen Hiesley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Petitioner holds motor *common* carrier Certificate in MC–107544 Sub 138F, issued April 2, 1979. MC–107544 Sub 138F, authorizes transportation, over irregular routes, of *chemicals,* in bulk, in tank or hopper-type vehicles, (1) from the plantsite of Tennessee Eastman Company, at Kingsport, TN, to points in the United States in and east of MN, IA, NE, KS, OK, and TX, and (2) from those points in the United States in and east of MN, IA, NE, KS, OK, and TX, to points in TN. Restriction: The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that carrier's operations conform to the provisions of Section 210 of the Act. This certificate may not be tacked or joined with the carrier's other irregular-route authority. By the instant petition, petitioner seeks to modify the Certificate by changing the territorial description.

MC 108393 (Sub–142) (MIF) (notice of filing of petition to modify permit), filed March 28, 1980. Petitioner: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Edward F. Schiff, 1333 New Hampshire Avenue, NW, Washington, DC 20036. Petitioner holds a motor *contract carriers* permit in MC–108393 Sub 142, issued December 13, 1979, to transport in interstate or foreign commerce, over irregular routes, such *merchandise* as is dealt in or used by retail departments stores and mail order houses, (except commodities in bulk, in tank vehicles), between points in the US (except AK and HI), under continuing contract(s) with Sears, Roebuck and Co., of Chicago, IL. By the instant petition, petitioner seeks to modify the authority as follows: add an additional shipper, namely, Simpsons-Sears Limited of Toronto, Ontario, Canada.

MC 125687 (Sub-14) (M1F), (notice of filing of petition to modify territorial descriptions), filed March 31, 1980. Petitioner: EASTERN STATES TRANSPORTATION, PA., INC., 1060 Lafayette St., York, PA 17405. Representative: Jeremy Kahn, 1511 K St., NW, Suite 733, Investment Bldg., Washington, DC 20005. Petitioner holds motor common carrier, authority in Certificate No. MC–125687 Sub 14, issued November 4, 1976, authorizing the transportation of (1) malt beverages in containers, from the facilities of the Jos. Schlitz Brewing Company, at Lysander, NY, to points in CT, DE, ME, MD, MA, NH, NJ, PA, RI, and VT, and (2) empty malt beverage containers, from the named destination States in (1) above, to the named facility, at Lysander, NY. By the instant petition, petitioner seeks to modify the territorial descriptions in (1) so as to read: from Lysander, NY, to points in CT, DE, ME, MD, MA, NH, NY, PA, RI, and VT, and in (2) so as to read: From the named destination States in (1) above, to Lysander, NY.

MC 142268 and Subs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 14, 18, 24, 28, 29, 30, and 33 (M1F) (notice of filing of petition to remove restrictions) filed January 2, 1980. Petitioner: GORSKI BULK TRANSPORT, INC., R.R. #4 Harrow, Ontario, Canada, NOR 1GO. Petitioner holds motor *common carrier* Certificates (1) in MC 142268 issued November 18, 1977, authorizing transportation over irregular routes, of (a) *alcoholic beverages,* in bulk, in tank vehicles, from points on the U.S.-Canada Boundary line at or near Champlain, Rouses Point, and Trout River, NY, and Derby Line and Newport, VT, and on the Niagara and St. Lawrence Rivers, to the plantsite of Heublein, Inc., at Hartford, CT; (b) *alcoholic beverages,* in containers, from the plantsite of Heublein, Inc., at Allen Park, MI, to points in AL, AR, KY (except Louisville and points in its commercial zone as defined by the Commission), LA, MS, MO, and TN; (c) *plastic resins* (except in bulk), from the plantsite of Marbon Division of Borg-Warner Corporation, at Washington, WV, and Ottawa, IL, to ports of entry on the U.S.-Canada Boundary line at or near Rouses Point and Champlain, NY, and Derby Line and Newport, VT, and points on the St. Clair, Detroit, Niagara, and St. Lawrence Rivers; (d) *methylene diphenyl diisocyanate,* in bulk, in tank vehicles, from the plantsite of Uniroyal, Inc., at Geismar, LA, to ports of entry on the U.S.-Canada Boundary line located on the Detroit, St. Clair, Niagara and St. Lawrence Rivers, and a Champlain,

Rouses Point, and Trout River, NY, and Derby Line and Newport, VT; (e) *synthetic rubber,* from the plantsite of Uniroyal, Inc. at Geismar, LA, to ports of entry on the U.S.-Canada Boundary line located on the Detroit, St. Clair, Niagara and St. Lawrence Rivers, and at Champlain, Rouses Point and Trout River, NY, and Derby Line and Newport VT; (f) *plastic resins,* in bulk, from the plant site of Uniroyal, Inc., located at Detroit, MI, to ports of entry on the U.S.-Canada Boundary line on the Detroit and St. Clair Rivers; (g) *plastic resins,* from the plantsite of Uniroyal, Inc., at Baton Rouge, LA, to ports of entry on the U.S.-Canada Boundary line on the Detroit, St. Clair, Niagara, and St. Lawrence Rivers, and at Champlain, Rouses Point, and Trout River, NY, and Derby Line and Newport, VT, restricted in (f) and (g) above to the transportation of traffic originating at the named plantsites; (h) *chemicals* (except in bulk), from Painesville, OH, to ports of entry on the U.S.-Canada Boundary line located on the Detroit, St. Clair, Niagara and St. Lawrence Rivers, and at Champlain, Rouses Point and Trout River, NY, and Derby Line and Newport, VT; (i) *methylene diphenyl diisocyanate,* in bulk, in tank vehicles, and *toluene diisocyanate,* in bulk, in tank vehilces, from the plantsite of Uniroyal, Inc., at Painesville, OH, to ports of entry on the U.S.-Canada Boundary line located on the Detroit, St. Clair, Niagara and St. Lawrence Rivers, and Champlain, Rouses Point and Trout River, NY, and Derby Line and Newport, VT; (j) *ammonium sulfide solution,* in bulk, in tank vehicles, from Phillipsburg, NJ, to ports of entry on the U.S.-Canada Boundary line located at Detroit, MI, restricted in (j) above to traffic destined to the plantsite of Allied Chemical Limited, located at Amherstburg, Ontario, Canada; (k) *alcoholic beverages* (except wine), in bulk, in tank vehicles, between the port of entry on the U.S.-Canada Boundary line located at or near Detroit, MI, and Peoria, IL; and (l) *empty bottles and barrels,* between Hillsboro and Peoria, IL, on the one hand, and, on the other, the port of entry on the U.S.-Canada Boundary line located at or near Detroit, MI; (2) in MC–142268 Sub 2 issued November 8, 1977, authorizing transportation over irregular routes, of (a) *alcoholic beverages,* in bulk, in tank vehicles, from ports of entry on the U.S.-Canada Boundary line, located at points in MI and NY, to Paducah, KY, restricted to the transportation of shipments originating at Toronto, Ontario, Canada; and (b) *alcoholic beverages* (except whisky in bulk), from the facilities of Heublein, Inc., at or near Paducah, KY, to points in AL, AR, FL, GA, IL, IN, KS, LA, MI, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, restricted to the transportation of shipments originating at the plantsite facilities of Heublein, Inc., at or near Paducah, KY; (3) in MC 142268 Sub 3 issued November 25, 1977, authorizing transportation over irregular routes, of *alcholic beverages,* in bulk, in tank vehicles, from Bardstown, KY, to points on the U.S.-Canada Boundary line, located in MI, NY, NH, and VT, restricted to the transportation of traffic destined to Montreal, Quebec, Canada; (4) in MC 142268 Sub 4 issued January 17, 1978, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, between points of entry on the U.S.-Canada Boundary line located in MI, on the one hand, and, on the other, Allen Park, MI, restricted to the transportation of shipments originating at Toronto, Ontario, and the port of Montreal, Quebec; (5) in MC 142268 Sub 5 issued November 8, 1977, authorizing transportation over irregular routes, of *animal feed* (except in bulk), from Sherburne, NY, to ports of entry on the U.S.-Canada Boundary line located in NY, MI, MN, ND, MT, ID, and WA, restricted to the transportation of shipments destined to Winnipeg, Manitoba, and Vancouver, British Columbia, Canada; (6) in MC 142268 Sub 6 issued November 7, 1977, authorizing transportation over irregular routes, of *liquid synthetic latex* in bulk, in tank vehicles, from ports of entry on the U.S.–Canada Boundary line located on the Detroit, St. Clair, Niagara and St. Lawrence Rivers, to points in CT, GA, IL, KY, KS, ME, MA, MI, MN, MO, NE, NY, NC, OH, OK, PA, SC, TN, TX, and WI; (7) in MC 142268 Sub 7 issued November 8, 1977, authorizing transportation over irregular routes, of *corn products and blends* containing corn products, in bulk, in tank vehicles, from Detroit, MI, and Decatur, IL, and from the facilities of Clinton Corn Processing Company at Montezuma, NY, and Clinton, IA, to ports of entry on the U.S.–Canada Boundary line located in ME, MI, NH, NY, and VT, restricted to the transportation of shipments destined to points in Ontario and Quebec; (8) in MC 142268 Sub 9 issued November 7, 1977, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, from the ports of entry on the U.S.–Canada Boundary line located at or near Buffalo and Niagara Falls, NY, to Boston, MA, restricted to the transportation of shipments originating at the plant of L. J. McGuiness & Co. Limited, at Toronto, Ontario, Canada; (9) in MC 142268 Sub 10 issued November 7, 1977, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, from the ports of entry on the U.S.–Canada Boundary line located at or near Port Huron, and Detroit, MI, and Buffalo and Niagara Falls, NY, to Bardstown, KY, restricted to traffic originating at the plant of Gilbey's Canada Limited at Toronto, Ontario, Canada, and destined to the plantsite of Barton Brands, Inc., at Bardstown, KY; (10) in MC 142268 Sub 11 issued December 30, 1977, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, from the ports of entry on the U.S.–Canada Boundary line, located in NY and MI, to Cleveland, OH, restricted to the transportation of shipments moving in foreign commerce; (11) in MC 142268 Sub 14 issued April 3, 1978, authorizing transportation over irregular routes, of (a) *plastics, plastic products, and chemicals* (except liquid commodities in bulk), from the plant sites and storage facilities of Arco-Polymers, Inc., at or near Monaca, PA, to ports of entry on the International Boundary line between the U.S. and Canada located in MI, NY, VT, NH, and ME, and (b) *plastics, plastic products and chemicals,* (except commodities in bulk), from the plantsites and storage facilities of Arco-Polymers, Inc., at or near Port Arthur, TX, to ports of entry on the International Boundary line between the U.S. and Canada located in MI, NY, VT, NH, and ME, restricted to shipments destined to points in Ontario and Quebec Provinces, Canada; (1) in MC 142268 Sub 18 issued October 26, 1978, authorizing transportation over irregular routes, of *liquid corn syrup,* in bulk, in tank vehicles, from Chicago, IL, to ports of entry on the international boundary line between the U.S. and Canada located in MI and NY, restricted to the transportation of traffic destined to points in Ontario and Quebec, Canada; (13) in MC 142268 Sub 24 issued November 17, 1977, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, from the ports of entry on the U.S.–Canada Boundary line located in MI, MT, and ND, to Cincinnati, OH, restricted to traffic originating at Calgary, Alberta, Canada; (14) in MC 142268 Sub 28 issued November 9, 1979, authorizing transportation over irregular routes, of (a) *ethyl alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, and brandies,* in bulk, in tank vehicles, (i) from ports of entry on the International Boundary line between the U.S. and Canada in ME, NH, VT, NY, the Lower Peninsula of MI, MN, and WA, to Peoria, IL, Scobeyville, NJ, and Burlingame, CA, restricted to traffic in foreign commerce; (ii) from Peoria, IL, to ports of entry on the International Boundary line between the U.S. and Canada in MN, NY, and the Lower Peninsula of MI, restricted to traffic in foreign commerce; (iii) from Peoria, IL to Burlingame, CA and Scobeyville, NJ, and (iv) from Elizabeth, NJ to Peoria, IL; (b) *wine,* in bulk, in tank vehicles, from points in Kern, Kings, Tulare, and San Bernadino Counties, CA to Peoria, IL; and (c) *ethyl alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, and brandies* (except in bulk), (i) from Peoria, IL, to points in NJ, MD, KY, CA, and the Lower Peninsula of MI; (ii) from Burlingame, CA, to Peoria, IL; (iii) from Scobeyville, NJ, to points in MD; (iv) from Detroit, MI, to points in NJ, IL, and MD, (v) from ports of entry on the International Boundary line between the U.S. and Canada in WA to points in CA, restricted to traffic in foreign commerce; (vii) from Burlingame, CA, to ports of entry on the International Boundary line between the U.S. and Canada in WA, restricted to traffic in foreign commerce, and (vii) from ports of entry on the International Boundary line between the U.S. and Canada in MN and the Lower Peninsula of MI to Detroit, MI, and and Peoria, IL, restricted to the transportation of traffic in foreign commerce; (15) in MC 142268 Sub 29 issued January 9, 1978, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, from Lawrenceburg, IN, to ports of entry on the U.S.–Canada Boundary line, located in MI and NY; (16) in MC 142268 Sub 30 issued April 13, 1978, authorizing transportation over irregular routes, of (a) *alcoholic beverages,* in bulk, between ports of entry on the U.S.–Canada Boundary line, located in MI, NY, NH, VT, and ME, on the one hand, and, on the other, Plainfield, IL, Owensboro, KY, and Dayton, NJ, restricted in (a) above with respect to those originating in Canada shall be restricted to those from Bridgetown, Nova Scotia, Toronto, Ontario, and Montreal, Quebec, and that shipments originating in the U.S. shall be restricted to those from Owensboro, KY, and further restricted with respect to shipments moving to or from Montreal having a prior or subsequent movement by water; (b) *alcoholic beverages,* in bulk, from Owensboro, KY, to Dayton, NJ; (c) *alcohol and alcoholic beverages,* in bulk, from Clinton, IA, to Plainfield, IL, and Dayton, NJ; (d) *alcoholic beverages* (except in bulk), from ports of entry on the U.S.–Canada Boundary line, located in MI, NY, NH, VT, and ME to Plainfield, IL, and Dayton, NJ, restricted in (d) above to the transportation of shipments originating at Montreal, Quebec, Toronto, Ontario and Bridgetown, Nova Scotia, Canada, and further restricted to the transportation of those shipments originating at Montreal having a prior movement by water; (e) *alcoholic beverages* (except in bulk), from Baltimore, MD, New York, NY, and Norfolk, VA, to Plainfield, IL, restricted in (e) above to the transportation of shipments having a prior movement by water; (f) *alcoholic beverages* (except in bulk), between Plainfield, IL, and Dayton, NJ; (g) *Alcoholic beverages,* in bulk, between New Orleans, LA, on the one hand, and, on the other, Ownesboro, KY, and Plainfield, IL, restricted in (g) above to the transportation of shipments having a prior or subsequent movement by water; (h) *empty containers,* between Plainfield, IL, and Dayton, NJ, restricted in parts (a) through (h) above, to shipments destined to or originating at the facilities of the Fleischmann Distilling Corporation, at Dayton, NJ, Plainfield, IL, or Owensboro, KY; and (17) in MC 142268 Sub 33F, issued October 29, 1979, authorizing transportation over irregular routes, of *frozen egg substitutes,* from St. Louis, MO, to ports of entry on the International Boundary line between the U.S. and Canada located at points in MI and NY, restricted to the transportation of traffic destined to points in the Provinces of Ontario and Quebec, Canada. By the instant petition, petitioner seeks to delete from each of the above authorities the restrictions to specific ports of entry and Canadian origins and destinations.

MC 143691 (Sub-19) (M1F) (notice of filing of petition to modify permit) filed January 24, 1979 and amended April 3, 1979. Petitioner: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as petitioner). Petitioner operates motor *contract carrier* authority in MC 143691, (to be issued under Sub-19), pursuant to MCF 13469, decided August 9, 1978, served August 22, 1978, and consummated December 30, 1978. In this MCF proceeding, the operating rights of Financial Courier Corporation in MC 133683 and Sub-4, issued March 8, 1971, and June 8, 1972, respectively, were merged into MC 143691 (petitioner), as follows: MC 133683 pursuant to MCF 13469 authorizes transportation over irregular routes of (a) *such commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between Asheville, Charlotte, Greenville, Raleigh, and Winston, Salem, NC, on the one hand, and on the other, points in NC, SC, VA, and points in Johnson, Sullivan, Hawkins, Hancock, Claiborne, Carter, Washington, Greene, Unicoi, Cocke, Sevier, Blount, Jefferson, Knox, Loudon, Anderson, Union, and Grainger Counties, TN, and Richmond and Columbia Counties, GA, under continuing contract(s) with banks and banking institutions, and Wachovia Services, Inc., (b) *audit and data processing media* and *other business and governmental records,* except as are used in the business of banks and banking institutions, between Asheville, Charlotte, Greenville, Raleigh, and Winston-Salem, NC, and between Asheville, Charlotte, Greenville, Raleigh, and Winston-Salem, NC, on the one hand, and, on the other, points in NC, SC, VA, and points in Johnson, Sullivan, Hawkins, Hancock, Clairborne, Carter, Washington, Greene, Unicoi, Cocke, Sevier, Blount, Jefferson, Knox, Loudon, Anderson, Union, and Grainger Counties, TN, and Richmond and Columbia Counties, GA, under continuing contract(s) with Wachovia Services, Inc. MC 133683 Sub-4 authorizes transportation, over irregular routes, pursuant to MCF 13469 of *commercial papers, documents, written instruments, audit and data processing media,* and *business records* (except currency and negotiable securities), between Raleigh-Durham Airport at Greensboro, NC, Smith Reynolds Airport at Winston-Salem, NC, and Douglas Airport at Charlotte, NC, on the one hand, and, points in NC, on the other, between Tri-City Airport at Kingsport, TN, on the one hand, and, points in Johnson, Sullivan, Hawkins, Hancock, Claiborne, Carter, Washington, Greene, Unicoi, Cocke, Sevier, Blount, Jefferson, Knox, Loudon, Anderson, Union, and Grainger Counties, TN and Washington County, VA, on the other, restricted to the transportation of shipments having an immediately prior or subsequent movement by air, under continuing contract(s) with bank and banking institutions, and Wachovia Services, Inc. By the instant petition, petitioner seeks to modify the above authorities by adding Anacomp, Inc., and Automatic Data Processing, Inc. as contracting shippers.

MC 143978 (Sub-2) (M1F) (notice of filing of petition to add contracting shippers), filed January 23, 1980. Petitioner: EMERSON DELIVERY, INC., P.O. Box 652, Cedar Rapids, IA 52406.

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Representative: George Hogan (same address as applicant). Petitioner holds a motor *contract carrier* Permit in MC 143978 Sub 2 issued February 25, 1980, authorizing transportation over irregular routes, of *machine parts,* between Cedar Rapids, IA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, WY, CO, OK, and TX, under a continuing contract(s) with FMC Corporation, of Cedar Rapids, IA. By the instant petition, petitioner seeks to add Iowa Mfg. Company, and Iowa Precision Industries, both of Cedar Rapids, IA, as additional contracting shippers to the above authority.

Republications of Grants of Operating Rights Authority Prior to Certification; Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 23, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.2470 addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 55869 (Sub-91F) (republication), filed September 1, 1978. Published in the **Federal Register** issue of November 24, 1978, and republished this issue. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). A Decision of the Commission, Review Board No. 2, decided September 7, 1979, and served September 21, 1979, find that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *motor vehicle axles and off-highway vehicleaxles,* from Oshkosh, WI to St. Louis, MO, points in Illinois, Indiana, Michigan, Ohio, and those in Pennsylvania on and west of U.S. Hwy 219, and (2) *parts* used in the manufacture of the commodities in (1), above, from St. Louis, MO, points in Illinois, Indiana, Michigan, Ohio, and those in Pennsylvania on and west of U.S. Hwy 219 to Oshkosh, WI, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 109649 (Sub-26F) (republication), filed December 18, 1978. Published in the **Federal Register** issue of February 1, 1979, and republished this issue. Applicant: L. P. TRANSPORTATION, INC., Main and Cross Streets, Chester, NY 10918. Reentitled, PALMER TRANSPORTATION, INC. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. A Decision of the Commission, Review Board No. 1, decided November 28, 1979, and served December 3, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, transporting *Liquefied petroleum gas,* in bulk, in tank vehicle from Philadelphia, PA, and Delaware City, DE, to points in Delaware, Maryland, and Virginia, limited in points of time to a period expiring 5 years from the date of issuance of the certificate that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 114457 (Sub-490F) (republication), filed March 17, 1979. Published in the **Federal Register** issue of July 27, 1979, and republished this issue. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). A Decision of the Commission, Review Board No. 3, decided February 6, 1980, and served February 26, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by (a) grocery and food business houses, and (b) agricultural feed business houses, except commodities in bulk, and (2) *materials, equipment, and supplies* used in the manufacture, sale, development, and distribution of the products named in (1) above, (except commodities in bulk), between points in the United States (except Alaska and Hawaii), restricted in (1) and (2) above the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. That applicant is fit, willing, able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 121496 (Sub-3) (MIF) (notice of filing of petition to modify a certificate), filed March 26, 1980. Petitioner: CANGO CORPORATION, Suite 2900, 1100 Milam Bldg., Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, DC 20001. Petitioner holds motor common carrier authority in MC 121496 Sub-3, issued January 8, 1980, authorizing transportation over irregular routes, of (1) *petroleum products,* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 (except liquefied petroleum gases, anhydrous ammonia, and asphalt), in bulk, in tank vehicles, from points in Brazoria, Chambers, Calhoun, Galveston, Harris, Jefferson, Liberty, and Montgomery Counties, TX, to points in FL and TN; (2) *petroleum products,* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, in bulk, in tank vehicles, (a) from points in Brazoria, Calhoun, Galveston, Harris, and Jefferson Counties, TX, to points in AL, AR, GA, OK, and SC, (b) from points in Chambers and Montgomery Counties, TX, to points in AL, AR, GA, and SC, (c) from points in Orange Counties, TX, to points in AL, AR, and SC, (d) from points in Liberty County, TX to points in AR, and (e) from points in Matagorda County, TX, to points in AL; (3) *petroleum products* (except liquefied petroleum gases), in bulk, in tank vehicles, from points in Brazoria, Chambers, Calhoun, Galveston, Harris, Jefferson, Liberty, Montgomery, Orange, and Matagorda Counties, TX, to points in LA and MS (except points in Washington and Warren Counties); (4) *liquid petrochemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, (a) from points in Brazoria, Galveston, Harris, and Jefferson Counties, TX, to points in AL, FL, GA, IL, KY, MS, NC, SC, and TN, (b) from points in Calhoun and Montgomery Counties, TX, to points in AL, FL, GA, KY, MS, NC, SC, and TN, (c) from points in Chambers County, TX, to points in AL, FL, GA, KY, MS, SC, and TN, (d) from points in Orange County, TX, to points in AL, KY, MS, NC, and SC and (e) from points in Liberty County, TX, to points in FL and MS; and (5) *liquefied petroleum gases,* in bulk, in tank vehicles, (a) from points in Harris County, TX, to points in AR, LA, and MS, and (b) from points in Jefferson and Liberty Counties, TX, to points in LA, restricted in (1), (2), (3), (4), and (5) against the transportation of cryogenic liquids. By the instant petition, petitioner seeks to modify the commodity descriptions in (1) through (4) so as to read: "petroleum products, in bulk, in tank vehicles"; petitioner also seeks to modify (3) by deleting the restriction in the territorial description which reads "(except points in Washington and Warren Counties)".

MC 123997 (Sub-3F) (republication), filed March 20, 1978 Published in the **Federal Register** issue of May 11, 1978, and republished this issue. Applicant: COMET FAST FREIGHT INC., 101 Wellham Ave. NE., Glen Burnie, MD 21061. Representative: Ralph L. Smith (same address as applicant). A Decision of the Commission, Division 1, Acting as an appellate Division, decided February 15, 1980, and served March 12, 1980, find that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers, closures for glass containers, fibre board boxes, and equipment, materials, and supplies used or useful in the manufacture and shipment of glass containers* (except commodities in bulk), between the facilities of Chattanooga Glass Co. at or near Keyser, WV, and Baltimore, MD, on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Mississipi, Ohio, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virgina, West Virginia, Wisconsin, and the District of Columbia. That applicant is fit, willing, and able properly to perform such service and to conform to the requirement of the Interstate Commerce Act and the Commission rules and regulation. The purpose of this republication is to modify the commodity and territorial description.

MC 124947 (Sub-92F) (republication), filed December 20, 1977 published in the **Federal Register** issue of February 16, 1978, and republished this issue. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Oklahoma 74079. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. A Decision of the Commission, Division No. 2, decided February 1, 1980 and served February 11, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *commodities, the transportation of which because of size or weight require the use of special equipment,* and (2) *self-propelled vehicles, each weighing 15,000 pounds or more* (except motor vehicles as defined in Title 49, Subtitle IVm U.S. Code, sect. 10102 (14)) from points in New Mexico to points in Texas, restricted against the transportation of oilfield and pipeline commodities used in the petroleum industry as defined in *Mercer Extension—Oil Field Commodities,* 74 M.C.C. 459. That applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the commission's rules and regulation. The purpose of this republication is to modify the commodity and territorial description.

MC 138157 (Sub-101F), (republication) filed November 21, 1978. Published in the **Federal Register** issue of February 23, 1979, and republished this issue. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market Street, Chattanooga, TN 37412. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. A Decision of the Commission, Review Board No. 1, decided October 23, 1979, and served October 29, 1979, find that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, transporting *canned fish and canned pet food* from Terminal Island, CA, to those points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. That applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the commission's rules and regulation. The purpose of this republication is to modify the commodity and territorial description.

MC 144027 (Sub-5F) (republication), filed September 5, 1978, published in the **Federal Register** issue of November 14, 1978, and republished this issue. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Rqute #4, Glasgow, KY 42121. Representative: Walter Harwood, P.O. Box 15215, Nashville, TN 37215. A Decision of the Commission, Division 1, acting as an Appellate Division, decided April 17, 1980 and finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tobacco, tobacco products, and cigarette making kits, and* (2) *commodities used in the manufacture, sale and distribution of tobacco, tobacco products, and cigarette making kits* between Louisville, KY, and Chicago, IL, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 146406F (republication), filed February 28, 1979. Published in the **Federal Register** issue of July 19, 1979, and republished this issue. Applicant: PATRICK HILLER LYONS, GERALD L. ROBINSON, d.b.a. L and R TRANSPORT, 1520 Fairmont Court, Clovis, NM 88101. Representative: J. Michael Alexander, 5801 Marnin D. Lone Freeway, Dallas, TX 75237. A Decision of the Commission, Review Board No. 1 decided February 8, 1980 and served February 14, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring the use of special equipment) between Amarillo and Lubbock, TX, on the one hand, and, on the other, Clovis, Hobbs, Carlsbad, Roswell, and Portales, NM, El Paso, TX, and the facilities of Lyons' Angus Ranch, Inc., at or near Cuervo, NM. That applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the commission's rules and regulation. The purpose of this republication is to modify the commodity and territorial description.

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Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must filed with the Commission on or before June 23, 1980, with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, and modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 61264 (Sub-35F), filed March 12, 1980. Applicant: PILOT FREIGHT CARRIERS, INC., a North Carolina corporation, P.O. Box 615, Winston-Salem, NC 27102. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Tuscaloosa, AL and Atlanta GA, serving all intermediate points: From Tuscaloosa over Interstate Hwy 20 to Atlanta, and return over the same route; (2) between Montgomery, AL and Atlanta, GA, serving all intermediate points: From Montgomery over Interstate Hwy 85 to Atlanta, and return over the same route; (3) between Mobile, AL and Nashville, TN, serving all intermediate points: From Mobile over US Hwy 43 (also AL Hwy 13) to Florence, AL, then over US Hwy 43 to junction US Hwy 431, then over US Hwy 431 to Nashville, and return over the same route; (4) between Tuscaloosa, AL and Alachua, FL, serving all intermediate points: From Tuscaloosa over US Hwy 82 to Montgomery, AL, then over US Hwy 231 to Dothan, AL, then over US Hwy 84 to Bainbridge, GA, then over US Hwy 27 to High Springs, FL, then over US Hwy 441 to Alachua, and return over the same route; (5) between Florence, AL and Chattanooga, TN, serving all intermediate points: From Florence over US Hwy 72 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Chattanooga, and return over the same route; 46) between Winfield, AL and Jacksonville, FL, serving all intermediate points: From Winfield over US Hwy 78 to Birmingham, AL, then over US Hwy 280 to junction GA Hwy 55, then over GA Hwy 55 to junction US Hwy 82, then over US Hwy 82 to Waycross, GA, then over US Hwy 1 to Jacksonville, and return over the same route; (7) between Evergreen, AL and Midway, GA, serving all intermediate points: From Evergreen over US Hwy 84 to Waycross, GA, then over US Hwy 82 to Midway, and return over the same route; (8) between Montgomery, AL and Savannah, GA, serving all intermediate points: From Montgomery over US Hwy 82 to Dawson, GA, then over GA Hwy 118 to junction US Hwy 280, then over US Hwy 280 to junction Interstate Hwy 16, then over Interstate Hwy 16 to Savannah, and return over the same route; (9) between Florence, AL and Huntsville, AL, serving all intermediate points: From Florence over Alternate US Hwy 72 to Huntsville, and return over the same route; (10) between Montgomery, AL and Huntville, AL, serving all intermediate points: From Montgomery over US Hwy 231 to Huntsville, and return over the same route; (11) between Dothan, AL and Huntsville, AL, serving all intermediate points: From Dothan over US Hwy 431 to Huntsville, and return over the same route; (12) between Dothan, AL and Junction US Hwy 231 and Interstate Hwy 10, serving all intermediate points:

From Dothan over US Hwy 231 to junction Interstate Hwy 10, and return over the same route; (13) between Ashville, AL and Calhoun, GA, serving all intermediate points: From Ashville over US Hwy 411 to Rome, GA, then over GA Hwy 53 to Calhoun, and return over the same route; (14) between Decatur, AL and Cedartown, GA, serving all intermediate points: From Decatur over AL Hwy 67 to junction US Hwy 231, then over US Hwy 231 to junction US Hwy 278, then over US Hwy 278 to Cedartown, and return over the same route; (15) between Sylacauga, AL and Summerville, GA, serving all intermediate points: From Sylacauga, over Alternate US Hwy 231 to junction AL Hwy 21, then over AL Hwy 21 to Piedmont, AL, then over AL Hwy 9 to junction AL Hwy 68, then over AL Hwy 68 to junction GA Hwy 114, then over GA Hwy 114 to Summerville, and return over the same route; (16) between Scottsboro, AL and Summerville, GA, serving all intermediate points: From Scottsboro over AL Hwy 35 to junction AL Hwy 40, then over AL Hwy 40 to junction AL Hwy 117, then over AL Hwy 117 to junction GA Hwy 48, then over GA Hwy 48 to Summerville, and return over the same route; (17) between Eufaula, AL and Bainbridge, GA, serving all intermediate points: From Eufaula over US Hwy 82 to junction GA Hwy 39, then over GA Hwy 39 to junction US Hwy 27, then over US Hwy 27 to Bainbridge, and return over the same route; (18) between Evergreen, AL and Pensacola, FL, serving all intermediate points: From Evergreen over US Hwy 31 to Brewton, AL, then over US Hwy 29 to Pensacola, and return over the same route; (19) between Montgomery, AL and Ft. Walton Beach, FL, serving all intermediate points: From Montgomery over US Hwy 331 to Florala, AL, then over FL Hwy 85 to Ft. Walton Beach, and return over the same route; (20) between Eufaula, AL and Dudley, GA, serving all intermediate points: From Eufaula over US Hwy 82 to junction GA Hwy 27, then over GA Hwy 27 to Richland, GA, then over US Hwy 280 to Americus, GA, then over GA Hwy 27 to Hawkinsville, GA, then over Alternate US Hwy 129 to Cochran, GA, then over GA Hwy 26 to Dudley, and return over the same route; (21) between Albany, GA and Capps, FL, serving all intermediate points: From Albany over US Hwy 19 to Capps, and return over the same route; (22) between Albany, GA and Winfield, FL, serving all intermediate points: From Albany over GA Hwy 133 to Moultrie, GA, then over GA Hwy 94 to Valdosta, GA, then over US Hwy 41 to Winfield, and return over the same route; (23) between Phenix City, AL and Blakely, GA, serving all intermediate points: From Phenix City over US Hwy 280 to junction US Hwy 27, then over US Hwy 27 to Blakely, and return over the same route; (24) between Dothan, AL and Cordele, GA, serving all intermediate points: From Dothan over AL Hwy 52 to GA Hwy 62, then over GA Hwy 62 to Albany, GA, then over GA Hwy 257 to Cordele, and return over the same route; (25) between Phenix City, AL and Brunswick, GA, serving all intermediate points: From Phenix City over US Hwy 280 to junction GA Hwy 26, then over GA Hwy 26 to Hawkinsville, GA, then over US Hwy 341 to Brunswick, and return over the same route; (26) between Macon, GA and Junction US Hwys 23 and 1 near Alma, GA, serving all intermediate points: From Macon over US Hwy 23 to junction US Hwy 1, and return over the same route; (27) between Demopolis, AL and Columbus, GA, serving all intermediate points: From Demopolis over US Hwy 80 to Columbus, and return over the same route; (28) between Mobile, AL and Jacksonville, FL, serving all intermediate points: From Mobile over Interstate Hwy 10 to Jacksonville, and return over the same route; (29) between Mobile, AL and Jacksonville, FL, serving all intermediate points: From Mobile over US Hwy 90 (also over Alternate US Hwy 90) to Jacksonville, and return over the same route; (30) between Tuscaloosa, AL and Rouses Point, NY, serving all intermediate points: From Tuscaloosa over US Hwy 11 to junction US Hwy 11W, then over US Hwy 11W (also over US Hwy 11E) to junction US Hwy 11, then over US Hwy 11 to Rouses Point, and return over the same route; (31) between Tuscaloosa, AL and Alexandria Bay, NY, serving all intermediate points: From Tuscaloosa over Interstate Hwy 59 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Chatanooga, TN, then over Interstate Hwy 75 to Knoxville, TN, then over Interstate Hwy 81 to junction NY Hwy 12, then over NY Hwy 12 to Alexandria Bay, and return over the same route; (32) between Mobile, AL and Boston, MA, serving all intermediate points: From Mobile over US Hwy 31 to junction AL Hwy 59, then over AL Hwy 59 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 71 to Cincinnati, OH, then over Interstate Hwy 75 to Toledo, OH, then over Interstate Hwy 90 (also US Hwy 20) to Boston (also over Interstate Connector Hwys I264 at Louisville and I275 at Cincinnati), and return over the same route; (33) between Evergreen, AL and Cleveland, OH, serving all intermediate points: From Evergreen over US Hwy 31 to junction US Hwy 31W, then over US Hwy 31W to Louisville, KY, then over US Hwy 42 to Cleveland, and return over the same route; (34) between Knoxville, TN and Cleveland, OH, serving all intermediate points: From Knoxville over Interstate Hwy 75 to Cincinnati, OH, then over Interstate Hwy 71 to Cleveland (also over Interstate Connector Hwy I270 at Columbus, OH), and return over the same route; (35) between Wytheville, VA and Cleveland, OH, serving all intermediate points: From Wytheville over Interstate Hwy 77 to Cleveland, and return over the same route; (36) between Junction US Hwy 23 and Interstate Hwy 64 and Erie, PA, serving all intermediate points: From junction US Hwy 23 over Interstate Hwy 64 to Charleston, WV, then over Interstate Hwy 79 to Erie, and return over the same route; (37) between Asheville, NC and Toledo, OH, serving all intermediate points: From Asheville over US Hwy 23 to Toledo, and return over the same route; (38) between Chattanooga, TN and Cincinnati, OH, serving all intermediate points: From Chattanooga over US Hwy 27 to Cincinnati, and return over the same route; (39) between Paris, KY and Niagara Falls, NY, serving all intermediate points: From Paris over US Hwy 68 to Washington, KY, then over US Hwy 62 to Niagara Falls, and return over the same route; (40) between Morgantown, WV and Hamburg, NY, serving all intermediate points: From Morgantown over US Hwy 119 to junction US Hwy 219, at or near West Liberty, PA, then over US Hwy 219 to Hamburg, and return over the same route; (41) between North Ridgeville, OH and Youngstown, OH, serving all intermediate points: From North Ridgeville over Interstate Hwy 80 to Youngstown, and return over the same route; (42) between Beaver Dam, OH and East Liverpool, OH, serving all intermediate points: From Beaver Dam over US Hwy 30 to East Liverpool, and return over the same route; (43) between Richmond, IN and Wheeling, WV, serving all intermediate points: From Richmond over Interstate Hwy 70 (also over US Hwy 40) to Wheeling, and return over the same route; (44) between Lawrenceburg, IN and Parkersburg, WV, serving all intermediate points: From Lawrenceburg over US Hwy 50 to Parkersburg, and return over the same route; (45) between Cincinnati, OH and Weirton, WV, serving all intermediate points: From Cincinnati over US Hwy 22 to Weirton, and return over the same route; (46) between Junction Interstate Hwy 75 and Ohio Hwy 25 at Cygnet, OH and Toledo, OH, serving all intermediate points: From junction Interstate Hwy 75 over OH Hwy 25 to Toledo, and return over the same route; (47) between Carey, OH and Findlay, OH, serving all intermediate points: From Carey over OH Hwy 15 to Findlay, and return over the same route; (48) between Chillicothe, OH and Richmond, IN, serving all intermediate points: From Chillicothe over US Hwy 35 to Richmond, and return over the same route; (49) between Huntsville, OH and Lima, OH, serving all intermediate points: From Huntsville over OH Hwy 117 to Lima, and return over the same route; (50) between Wapakoneta, OH and Athens, OH, serving all intermediate points: From Wapakoneta over US Hwy 33 to Athens, and return over the same route; (51) between Cincinnati, OH and Eaton, OH, serving all intermediate points: From Cincinnati over US Hwy 127 to Eaton, and return over the same route; (52) between Wooster, OH and Avery, OH, serving all intermediate points: From Wooster over US Hwy 250 to Avery, and return over the same route; (53) between Lodi, OH and Youngstown, OH, serving all intermediate points: From Lodi over US Hwy 224 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 680, then over Interstate Hwy 680 to Youngstown, and return over the same route; (54) between Cleveland, OH and Akron, OH, serving all intermediate points: From Cleveland over OH Hwy 8 to Akron, and return over the same route; (55) between Bellaire, OH and Ashtabula, OH, serving all intermediate points: From Bellaire over OH Hwy 7 to junction OH Hwy 11, then over OH Hwy 11 to Ashtabula, and return over the same route; (56) between junction Interstate Hwy 90 and Interstate Hwy 271 and junction Interstate Hwy 271 and Interstate Hwy 71, serving all intermediate points: From junction Interstate Hwy 90 over Interstate Hwy 271 to junction Interstate Hwy 71, and return over the same route; (57) between junction Interstate Hwy 77 and OH Hwy 21, at or near Strasburg, OH, and Cleveland, OH, serving all intermediate points: From junction Interstate Hwy 77 over OH Hwy 21 to Cleveland, and return over the same route; (58) between Conneaut, OH and New Bedford, MA.

serving all intermediate points: From Conneaut over US Hwy 20 to junction US Hwy 6N, then over US Hwy 6N to junction US Hwy 6, then over US Hwy 6 to New Bedford, and return over the same route; (59) between Binghamton, NY and Troy, NY, serving all intermediate points: From Binghamton over NY Hwy 7 (and also over completed portions of Interstate Hwy 88) to Troy, and return over the same route; (60) between Lucketts, VA and Rochester, NY, serving all intermediate points; From Lucketts over US Hwy 15 to junction NY Hwy 17, then over NY Hwy 17 to junction Interstate Hwy 390, then over Interstate Hwy 390 to junction NY Hwy 15, then over NY Hwy 15 (also over NY Hwy 15A) to Rochester, and return over the same route; (61) between junction Interstate Hwy 276 and US Hwy 130 and Champlain, NY, serving all intermediate points: From junction Interstate Hwy 276 over US Hwy 130 to junction US Hwy 1, then over US Hwy 1 to New York, NY, then over Interstate Hwy 87 to Albany, NY, then over Interstate Hwy 87 (also over US Hwy 9) to Champlain, and return over the same route; (62) between Westfield, NY and Binghamton, NY, serving all intermediate points: From Westfield over NY Hwy 17 to Binghamton, and return over the same route; (63) between junction Interstate Hwys 76 and 276 and junction Interstate Hwy 276 and New Jersey Turnpike, serving all intermediate points: From junction Interstate Hwy 76 over Interstate Hwy 276 to junction New Jersey Turnpike, and return over the same route; (64) between junction Interstate Hwy 81 and Interstate Hwy 78 and New York City, NY, serving all intermediate points: From junction Interstate Hwy 81 over Interstate Hwy 78 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction US Hwy 22, then over US Hwy 22 to junction Interstate Hwy 78, then over Interstate Hwy 78 to New York City, and return over the same route; (65) between Perth Amboy, NJ and junction US Hwy 202 and Interstate Hwy 87, serving all intermediate points: From Perth Amboy over Interstate Hwy 287 to junction US Hwy 202, near Montville, NJ, then over US Hwy 202 to junction Interstate Hwy 87, and return over the same route; (66) between Albany, NY and Boston, MA, serving all intermediate points: From Albany over Interstate Hwy 787 to junction NY Hwy 2, then over NY Hwy 2 to junction MA Hwy 2, then over MA Hwy 2 to Boston, and return over the same route; (67) between Harrisburg, PA and Baltimore, MD, serving all intermediate points: From Harrisburg over Interstate Hwy 83 to Baltimore, and return over the same route; (68) between Winchester, VA and Baltimore, MD, serving all intermediate points: From Winchester over VA Hwy 7 to junction US Hwy 340, then over US Hwy 340 to Frederick, MD, then over Interstate Hwy 70 to Baltimore, and return over the same route; (69) between Morgantown, WV and Hagerstown, MD, serving all intermediate points: From Morgantown over US Hwy 48 to Cumberland, MD, then over US Hwy 40 to Hancock, MD, then over Interstate Hwy 70 to Hagerstown, and return over the same route; (70) between Junction Interstate Hwy 95 and Interstate Hwy 295, at or near Newport, DE, and Elizabeth, NJ, serving all intermediate points: From junction Interestate Hwy 95 over Interstate Hwy 295 to junction New Jersey Turnpike, then over New Jersey Turnpike to Elizabeth, and return over the same route; (71) between Baltimore, MD and Trenton, NJ, serving all intermediate points: From Baltimore over US Hwy 40 to junction Interstate Hwy 295, then over Interstate Hwy 295 to junction US Hwy 130, then over US Hwy 130 to junction US Hwy 206, then over US Hwy 206 to Trenton, and return over the same route; (72) between junction US Hwy 1 and Virginia Hwy 207 and Trenton, NJ, serving all intermediate points: From junction US Hwy 1 over VA Hwy 207 to junction US Hwy 301, then over US Hwy 301 to junction US Hwy 301S, then over US Hwy 301S to junction US Hwy 13, then over US Hwy 13 to junction US Hwy 1, then over US Hwy 1 to Trenton, and return over the same route; (73) between Abingdon, VA and Independence, VA, serving all intermediate points: From Abingdon over US Hwy 58 to Independence, and return over the same route; (74) between Murphy, NC and Chattanooga, TN, serving all intermediate points: From Murphy over US Hwy 64 to Chattanooga, and return over the same route; (75) between Arlington, VA and Baltimore, MD, serving all intermediate points: From Arlington over US Hwy 29 to Baltimore, and return over the same route; (76) between Junction Interstate Hwy 295 and New Jersey Hwy 413, at or near Burlington, NJ, and Levittown, PA, serving all intermediate points: From junction Interstate Hwy 295 over NJ Hwy 413 to junction PA Hwy 413, then over PA Hwy 413 to Levittown, and return over the same route; (77) between Bridgeport, NJ and Chester, PA, serving all intermediate points: From Bridgeport over US Hwy 322 to Chester, and return over the same route; (78) between Philadelphia, PA and Port Jervis, NY, serving all intermediate points: From Philadelphia over US Hwy 611 to junction US Hwy 209, then over US Hwy 209 to Port Jervis, and return over the same route; (79) between Newark, NJ and Junction New York Hwy 17 and Interstate Hwy 87, serving all intermediate points: From Newark over NJ Hwy 17 to junction NY Hwy 17, then over NY Hwy 17 to junction Interstate Hwy 87, and return over the same route; (80) between Alexandria, VA to Boston, MA, serving all intermediate points: From Alexandria over US Hwy 1 to Boston, and return over the same route; (81) between Alexandria, VA and Boston, MA, serving all intermediate points: From Alexandria over Interstate Hwy 95 (also over Interstate Hwy 495 and Interstate Hwy 395 at Washington, DC; Interstate Hwy 695 (Baltimore Beltway) and the Harbor Tunnel Thruway at Baltimore, MD) to Boston, and return over the same route; (82) between junction US Hwy 301 and Delaware Hwy 300 and Dover, DE, serving all intermediate points: From junction US Hwy 301 over MD Hwy 300 to junction DE Hwy 44, then over DE Hwy 44 to Dover, and return over the same route; (83) between Junction US Hwy 50 and Junction Maryland Hwy 404 and Georgetown, DE, serving all intermediate points: From junction US Hwy 50 over MD Hwy 404 to junction DE Hwy 404, then over DE Hwy 404 to junction DE Hwy 18, then over DE Hwy 18 to Georgetown, and return over the same route; (84) between Denton, MD and Milford, DE, serving all intermediate points: From Denton over MD Hwy 404 to junction MD Hwy 313, then over MD Hwy 313 to junction MD Hwy 317, then over MD Hwy 317 to DE Hwy 14, then over DE Hwy. 14 to Milford, and return over the same route; (85) between Laurel, DE and Junction US Hwy 9 and US Hwy 1, serving all intermediate points: From Laurel over US Hwy 9 to Lewes, DE, then over the Delaware River to Cape May, NJ, then over US Hwy 9 to junction US Hwy 1, and return over the same route; (86) between Suffolk, VA and Junction US Hwy 202 and Pennsylvania Hwy 3, serving all intermediate points: From Suffolk over US Hwy 13 to junction DE Hwy 141, then over DE Hwy 141 to Wilmington, DE, then over US Hwy 202 to junction PA Hwy 3, and return over the same route; (87) between Junction Interstate Hwy 95/495 and Interstate Hwy 295 (Washington, DC) and Baltimore, MD, serving all intermediate points: From junction Interstate Hwy 95/495 over Interstate Hwy 295 to junction MD Hwy 295, then over MD Hwy 295 to Baltimore, and return over the same route; (88) between Junction US Hwy 50 and George Washington Memorial Parkway and Junction George Washington Memorial Parkway and US Hwys 29/211, serving all intermediate points: From junction US Hwy 50 over George Washington Memorial Parkway to junction US Hwys 29/211, and return over the same route; (89) between Baltimore, MD and Junction Maryland Hwy 2 and US Hwys 50/301, serving all intermediate points: From Baltimore over MD Hwy 2 to junction US Hwys 50/301, and return over the same route; (90) between Frederick, MD and Washington, DC, serving all intermediate points: From Frederick over Interstate Hwy 270 to Washington, and return over the same route; (91) between Georgetown, DE and Dover, DE, serving all intermediate points: From Georgetown over US Hwy 113 to Dover, and return over the same route; (92) between Oakton, VA and Junction US Hwys 50 and 301, serving all intermediate points: From Oakton over US Hwy 50 to junction US Hwy 301, and return over the same route; (93) between Queenstown, MD and Salisbury, MD, serving all intermediate points: From Queenstown over US Hwy 50 to Salisbury, and return over the same route; (94) between Philadelphia, PA and Atlantic City, NJ, serving all intermediate points: From Philadelphia over US Hwy 30 to Atlantic City, and return over the same route; (95) between Danbury, CT and Junction US Hwys 44 and 202, at or near Canton, CT, serving all intermediate points: From Danbury over US Hwys 7/202 to New Milford, CT, then over US Hwy 202 to junction US Hwy 44, and return over the same route; (96) between Bridgeport, CT and Junction Massachusetts Hwy 8 and Interstate Hwy 90 at or near East Lee, MA, serving all intermediate points: From Bridgeport over CT Hwy 8 to the CT–MA State Line, then over MA Hwy 8 to junction Interstate Hwy 90, and return over the same route; (97) between Winsted, CT and Hartford, CT, serving all intermediate points: From Winsted over US Hwy 44 to Hartford, and return over the same route; (98) between New Haven CT and Greenfield, MA, serving all intermediate points: From New Haven over US Hwy 5 to Greenfield, and return over the same route; (99) between Hartford, CT and junction Interstate Hwy 86 and Interstate Hwy 90 at Interchange #9 in MA, serving all intermediate points: From Hartford over Interstate Hwy 86 to junction Interstate Hwy 90, and return over the same route; (100) betweeen Hartford, CT and Norwich, CT, serving all intermediate points: From Hartford over CT Hwy 2 to Norwich, and return over the same route; (101) between New Haven, CT, and Sandy Hook, CT, serving all intermediate points: From New Haven over CT Hwy 34 to Sandy Hook, and return over the same route; (102) between Marion, CT and Williamantic, CT, serving all intermediate points: From Marion over CT Hwy 66 to junction US Hwy 6, then over US Hwy 6 to Willimantic, and return over the same route; (103) between East Lyme, CT and Danielson, CT, serving all intermediate points: From East Lyme over CT Hwy 52 (Connecticut Turnpike) to Danielson, and return over the same route; (104) between Norwalk, CT and Danbury, CT, serving all intermediate points: From Norwalk over US Hwy 7 to Danbury, and return over the same route; (105) between Milford, CT and Meriden, CT, serving all intermediate points: From Milford over CT Hwy 15 to Meriden, and return over the same route; (106) between Old Saybrook, CT and Hartford, CT, serving all intermediate points: From Old Saybrook over US Hwy 1 to junction CT Hwy 9, then over CT Hwy 9 to junction Interstate Hwy 91, and return over the same route; (107) between Scranton, PA and Bolton Center, CT, serving all intermediate points: From Scranton over Interstate Hwy 84 to Bolton Center, and return over the same route; (108) between Providence, RI and Worcester, MA, serving all intermediate points: From Providence over RI Hwy 146 to the RI–MA State Line, then over MA Hwy 146 to Worcester, and return over the same route; (109) between Providence, RI and junction Connecticut Hwys 52 and 138, serving all intermediate points: From Providence over US Hwy 6 to junction RI Hwy 114, then over RI Hwy 114 to junction RI Hwy 138, then over RI Hwy 138 to junction RI Hwy 4, then over RI Hwy 4 to junction RI Hwy 102, then over RI Hwy 102 to junction RI Hwy 165, then over RI Hwy 165 to CT Hwy 138, then over CT Hwy 138 to junction CT Hwy 52, and return over the same route; (110) between Providence, RI, and junction Interstate Hwy 95 and Connecticut Hwy 184, serving all intermediate points: From Providence over RI Hwy 2 to junction RI Hwy 3, then over RI Hwy 3 to junction Interstate Hwy 95, at or near Hopkinton, RI, then over Interstate Hwy 95 to junction CT Hwy 184, and return over the same route; (111) between junction Interstate Hwy 95 and Interstate Hwy 295 at or near Attleboro, MA and junction Interstate Hwy 295 and Interstate Hwy 95 at or near Warwick, RI, serving all intermediate points: From junction Interstate Hwy 95 over Interstate Hwy 205 to junction Interstate Hwy 95, and return over the same route; (112) between Bristol Ferry, RI and Fall River, MA, serving all intermediate points: From Bristol Ferry over RI Hwy 24 to the RI–MA State Line, then over MA Hwy 24 to Fall River, and return over the same route. Serving all points in AL, OH, MA, CT, RI, NY, NJ, PA on and west of a line beginning at the MD–PA state line over US Hwy 11 to the junction of Interstate Hwy 81 at or near Middlesex, PA, then over Interstate Hwy 81 to the junction of US Hwy 15, then over US Hwy to the PA–NY state line, MD, DE, DC, those points in GA on and south of US Hwy 80, and those in FL in and west of Leon and Wakulla Counties, FL as off-route points in connection with carrier's operations over Routes 1 through 112 described above. (Hearing sites: Hartford, CT; Richmond, VA; Akron, OH; Charlotte, NC; Atlanta, GA; Tampa, FL; Birmingham, AL.)

Broker, Water Carrier, and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 23, 1980. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Authority Decisions Volume; Decision-Notice

Decided: April 30, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR

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1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 23, 1980. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

W-179 (Sub-1F), filed June 12, 1979, previously noticed in FR issue of February 12, 1980. Applicant: ZELLER MARINE SERVICE, INC., 660 Emerson Street, Woodmere, NY 11598. Representative: Gordon P. MacDougall, 1100 17th St., NW, Washington, DC. To operate as a *contract carrier* by water, in interstate or foreign commerce, in furnishing for compensation (under charter, lease, or other agreement) non-self-propelled hopper barges to persons other than carriers subject to the Interstate Commerce Act, to be used by such persons in the transportation of their own property. (Hearing site: New York, NY, or Newark, NJ.)

Note.—This republication removes the individual contracting shippers and the territory description.

W-1291 (Sub-7F), filed January 29, 1980. Applicant: ALUMINA TRANSPORT CORP., 6600 West Broad St., Richmond, VA 23261. Representative: Peter A. Greene, 900 17th St. NW., Washington, DC 20006. To operate as a *contract carrier*, by water, by self-propelled vehicles, in interstate or foreign commerce, transporting *phosphate rock*, in bulk, from Jacksonville, FL, to Crockett and Stockton, CA, via the Panama Canal. (Hearing site: Richmond, VA, or Washington, DC.)

MC 130621, filed October 25, 1979. Applicant's name and address are ACME DELIVERY SERVICE, INC., 4250 Oneida Street, Denver, CO 80216. The name under which operations will be performed is ACME DELIVERY SERVICE, INC. Applicant is represented by Jack L. K. Grunwald in this proceeding whose address is the same as applicant's. Following are the names and business addresses for all persons who are officer and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Jack L. K. Grunwald, President, Officer, Director and shareholder, and Jerry B. Mangan, Senior Vice President, Officer, Director, and shareholder (same address as applicant. The daily operations will be managed by Jack L. K. Grunwald, whose business address is same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130798F, filed February 4, 1980. Applicant's name and address is CONTRACT CARRIER CORPORATION, 25 Thomas Ave., Baltimore, MD 21225. The name under which operations will be performed is CONTRACT CARRIER CORPORATION. Applicant is represented by Walter T. Evans in this proceeding whose address is 7961 Eastern Ave., Silver Spring, MD 20910. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Clifton T. Phillips, President and Director, 303 Sycamore Rd., Linthicum, MD 21090; Lloyd E. Phillips, Vice-President and Director, 9917 Evergreen Ave., Columbia, MD 21046; George W. Betz, Vice-President, 7615 Perring Terrace, Baltimore, MD 21234; Frank C. Kolodiej, Vice-President, 634 Bruce St., Baltimore, MD 21225; Mary C. Higdon, Secretary and Director, 37 Tanglewood Rd., Baltimore, MD 21228; Elva D. Barbarika, Assistant Secretary and Director, 435 Maple Lane NW, Glen Burnie, MD 21060; and Jane S. Phillips, 303 Sycamore Rd., Linthicum, MD 21090. Phillips Brothers Warehousing & Distributing Corp. owns 100% of the stock of Applicant. The daily operations will be managed by Clifton T. Phillips, whose business address is 25 Thomas Ave., Baltimore, MD 21225. Applicant is affiliated with the following

warehouses: Phillips Brothers Warehousers, Inc.

MC 130800F, filed March 4, 1980. Applicant's name and address are WICKMAN TRAFFIC SERVICE, INC., Two North Riverside Plaza, Chicago, IL 60606. The name under which operations will be performed is WICKMAN TRAFFIC SERVICE, INC. Applicant is represented by Charles H. Wickman in this proceeding whose address is Two North Riverside Plaza, Suite 1435, Chicago, IL 60606. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Charles H. Wickman, President and shareholder, Dawn G. Wickman, Director and shareholder, and Harry G. Wickman, Director and shareholder (same address as applicant). The daily operations will be managed by Charles H. Wickman whose business address is Two North Riverside Plaza, Chicago, IL 60606. Applicant is affiliated with the following shipper or warehouse: None.

MC 130809F, filed March 18, 1980. Applicant's name and address are Gerard J. Trippitelli and Eugene C. Bonacci, 1241 Parkway Ave., P.O. Box 7127, W. Trenton, NJ 80628. The name under which operations will be performed is TRANSPLEX SYSTEMS COMPANY. Applicants are represented by themselves in this proceeding whose address is 1241 Parkway Ave., P.O. Box 7127, W. Trenton, NJ 08628. Following are names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders with their appropriate titles: Gerald J. Trippitelli, Partner, 1241 Parkway Ave., P.O. Box 7127, W. Trenton, NJ 08628; and Eugene C. Bonacci, Partner, 1241 Parkway Ave., P.O. Box 7127, W. Trenton, NJ 08628. The daily operations will be managed by Gerard J. Trippitelli and Eugene C. Bonacci, whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130810F, filed March 19, 1980. Applicant: SEE THE WORLD TOURS, INC., Route 1, Box 143A, Seneca, SC 29678. Representative: Pickens M. Lindsay, P.O. Box 1633, Clemson, SC 29631. To engage in operations, in interstate or foreign commerce, as a *broker*, at Seneca, SC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S. (including AK and HI). (Hearing site: Clemson, or Greenville, SC.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension, New York, N.Y.*, 54 M.C.C. 291 (1952).

MC 130811F, filed March 10, 1980. Applicant: ABC TRAVEL, INC., 408 Rodi Road, Pittsburgh, PA 15235. Representative: Dennis S. Shilobod, 1530 Grant Bldg., Pittsburgh, PA 15219. To engage in operations, in interstate or foreign commerce, as a *broker*, at Pittsburgh, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Allegheny County, PA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension, New York, N.Y.*, 54 M.C.C. 291 (1952).

MC 130813F, filed March 13, 1980. Applicant: CHRISTIAN TRAVELERS, INC., P.O. Box 1068, Umatilla, FL 32784. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. To engage in operations, in interstate or foreign commerce, as a *broker*, at Umatilla and Haines City, FL, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations, beginning and ending at points in FL and extending to points in the US (including AK but excluding HI). (Hearing site: Orlando or Tampa, FL.)

MC 130818F, filed March 19, 1980. Applicant's name and address are THOMAS J. MILITELLO, 19 Rosetree Dr., Broomall, PA 19008. The name under which operations will be performed is TRAFFIC EXECUTIVE SERVICE COMPANY, INC. Applicant is represented by Robert B. Einhorn in this proceeding whose address is 3220 Philadelphia Saving Fund Bldg., Twelve South Twelfth St., Philadelphia, PA 19107. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal share-holders, with their appropriate titles: Thomas J. Militello, President, Vice-President, Treasurer, Secretary, and sole shareholder, (same address as applicant). The daily operations will be managed by Thomas J. Militello, (same address as applicant). Applicant is affiliated with the following shipper or warehouse: None.

MC 130819F, filed March, 14, 1980. Applicant's name and address are WESTWAY FORWARDING INTERNATIONAL LIMITED, 7784 Martingrove Rd., W., Woodbridge, Ontario L4L 1A5. The name under which operations will be performed is WESTWAY FORWARDING INTERNATIONAL LIMITED. Applicant is represented by William J. Hirsch in this proceeding, whose address is 43 Court St., Buffalo, NY 14202. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent"), and first five principal share-holders, with their appropriate titles: D. B. Swail, President, Director, and shareholder, 7784 Martingrove Rd. N, Unit 7, Woodbridge, Ontario L4L 1A5; D. R. Marseilles, Vice President, Director, and Shareholder, 7784 Martingrove Rd., N., Unit 7, Woodbridge, Ontario L4L 1A5; S. G. Aldis, Secretary and Shareholder, 1260 Lakeshore Rd., E., Mississauga, Ontario L5E 3B8; F. Guido, Shareholder, Box 630, Concord, Ontario L4K 1C7; E. J. Stebnicki, Shareholder, 600 Evans Ave., Vancouver B.C.; and W. Aston, Shareholder, 1260 Lakeshore Rd., E., Mississauga, Ontario L5E 1A5. The daily operations will be managed by S. G. Aldis, whose business address is 1260 Lakeshore Rd. E., Mississauga, Ontario L5E 3B8. The applicant is affiliated with th following shipper or warehouse: None.

MC 130829F, filed March 17, 1980. Applicant's name and address are: BOSTON CONSOLIDATION SERVICE, INC., P.O. Box 404, South Boston, MA 02127. The name under which operations will be performed is: BOSTON CONSOLIDATION SERVICE, INC. Applicant is represented by Robert J. Gallagher, in this proceeding whose address in Suite 1200, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addesses for all persons who are officers and directors, partners (including limited or "silent" partners) and first five shareholders, with their appropriate titles: Alfred E. Vesperi, Director, P.O. Box 404, South Boston, MA 02127, Joseph Pimentel, Director, P.O. Box 404, South Boston, MA 02127; and Robert T. Coyne, President, Director, and Major Stockholder, P.O. Box 404, South Boston, MA 02127. The daily operations will be managed by Robert T. Coyne, whose business address is P.O. Box 404, South Boston, MA 02127. Applicant is affiliated with the following shipper or warehouse: Boston Freight Terminals, Inc.

MC 130830F, filed March 28, 1980. Applicant's name and address are Dean

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Forwarding Company, Inc., P.O. Box 1412, Huntington, Beach, CA 92647. The name under which operations will be performed is DEAN FORWARDING COMPANY, INC. Applicant is represented by Alan F. Wohlstetter in this proceeding whose address is 1700 K St., NW, Washington, D.C. 20006. Following are the names and business addesses for all persons who are officer and directors, partners (including limited or "silent"), and first five principal shareholders, with their appropriate titles: James E. Thompson, Jr., Director, and stockholder, 5722 John Chaffey Circle, Garden Grove, CA 92645. Hazel Gaines, President, Treasurer, and Director, 6601 Orangewood, Cypress, CA 90630, and Bernard Dannucci, Vice President, and Secretary, 4162 Trumbull Dr., Huntington Beach, CA 92649. The daily operations will be manged by Hazel Gaines, whose business address is 5252 Argosy Drive, Huntington Beach, CA 92647. Applicant is affiliated with the following shipper or warehouse: None.

MC 130831F, filed March 31, 1980. Applicant: TRAVELBOUND, INC., 1111 E. 54th St., #146, Indianapolis, IN 46220. Representative: Joan C. Miller (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Indianapolis, IN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Marion County, IN, and extending to points in the U.S. (including AK and HI). (Hearing site: Indianapolis, IN, or Chicago, IL.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension-New York, N.Y.* 54 M.C.C. 291 (1952).

MC 130843F, filed April 2, 1980. Applicant: VIGNERI ENTERPRISES, INC., 11436 Queens Dr. Omaha, NE 68164. Representative: Vincent S. Vigneri (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Omaha, NE, in arranging for the transportation by motor vehicle, of *passengers and their baggage, in special and charter operations, between Omaha, NE, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI). (Hearing site: Omaha, NE.)*

MC 130835F, filed March 28, 1980. Applicant: INGRAM BUS LINES, INC., 313 Jordan Ave., Tallassee, AL 36078. Representative: Don Ingram (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Tallassee, AL, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in AL, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI). (Hearing site: Montgomery, AL.)

MC 130838F, filed March 31, 1980. Applicant's name and address are: EXECUTIVE TRANSPORTATION SERVICES, INC., 6309 Overcourt, Oklahoma City, OK 73132. The name under which operations will be performed is: EXECUTIVE TRANSPORTATION SERVICES, INC. Applicant is represented by Robert J. Gallagher, in this proceeding whose address is Suite 1112, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Wayne H. Theus, President and Major Shareholder, 6309 Overcourt, Oklahoma City, OK 73132; and Beverly H. Theus, Secretary-Treasurer, 6309 Overcourt, Oklahoma City, OK 73132. The daily operations will be managed by Wayne H. Theus whose business address is 6309 Overcourt, Oklahoma City, OK 73132. Applicant is affiliated with the following shipper or warehouse: None.

MC 130840F, filed March 13, 1980. Applicant's name and address are Peter Milone, doing business as P & R Enterprises, 51 East Aurora St., Waterbury, CT 06712. The name under which operations will be preformed is PETER MILONE, d.b.a. P & R ENTERPRISES. Applicant is represented by James M. Burns in this proceeding whose address is Suite 413, 1383 Main St., Springfield, MA 01103. The following are the names and business addresses for all persons who are officer and directors, partners (including limited or "silent" partners), and first five principal shareholders with their appropriate titles: Peter Milone, President (proprietorship), same address as applicant. The daily operations will be managed by Peter Milone whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130842, filed April 14, 1980. Applicant's name and address are: PREFERRED SYSTEMS GROUP, LTD, 4940 N.E. 122nd Ave., Portland, OR, 97230. The name under which operations will be performed is: PREFERRED SYSTEMS GROUP, LTD. Applicant is represented by Louis A. Santiago in the proceeding whose address is: 1200 S.W. Main Bldg., Portland, OR 97205. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Eugene C. Bowman, President, Treasurer, Director and shareholder; Jane E. Bowman, Vice President, Secretary, Director and shareholder, whose addresses are same as applicant. The daily operations will be managed by Daniel D. Donnelly, whose business address is same as applicant. Applicant is affiliated with the following shippers or warehouse: None.

MC 130843F, filed April 11, 1980. Applicant: BLUE & WHITE TRAVEL AGENCY, INC., 516 West Plank St., Altoona, PA 16602. Representative: Charles A. Webb, Suite 800 South, 1800 M St. NW., Washington, DC 20036. To engage in operations as a *broker*, in interstate or foreign commerce, at Altoona, Johnstown, Huntingdon, Pittsburgh, Bedford, Indiana, Somerset, Lewiston, State College, and Monroeville, PA, and LaValle and Hagerstown, MD, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter operations, between points in the U.S. (including AK and HI). (Hearing site: Pittsburgh, PA.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension, New York, N.Y.*, 54 M.C.C. 291 (1952).

MC 130853F, filed April 8, 1980. Applicant's name and address are ROBERT J. CRAIG, 10 Windgate Lane, Cherry Hill, NJ 08003. The name under which operations will be performed is CROSS-COUNTRY BROKERS. Applicant is represented by Steven M. Tannenbaum, Esquire, in this proceeding whose address is 133 N. 4th Street, Philadelphia, PA 19106. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Robert J. Craig, sole proprietor, no other officers, directors or partners, 10 Windgate Lane, Cherry Hill, NJ 08003. The daily operations will be managed by Robert J. Craig whose business address is 10 Windgate Lane, Cherry Hill, NJ 08003. Applicant is affiliated with the following shipper or warehouse: None.

MC 130859F, filed November 13, 1979. Applicant's name and address are GRADY MOVING & STORAGE, INC., P.O. Box Q, Jacksonville, NC 28540. The name under which operations will be performed is GRADY MOVING & STORAGE, INC. Applicant is represented by Robert J. Gallagher in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., N.W. Washington, DC 20036. Following are the names and business eddresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Melvin W. Grady, President & Shareholder, Alex Warlick, Vice President & Shareholder, Edith C. Grady, Secretary/Treasurer & Shareholder, (same address as applicant). The daily operations will be managed by Melvin W. Grady, whose business address is same as applicant. Applicant is affiliated with the following warehouse or shipper: None.

Permanent Authority Decisions Volume, Decision-Notice

Decided: April 22, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 23, 1980. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2. Members Liberman, Eaton, and Jensen. Member Eaton not participating.

MC 130346 (Sub–1F), filed January 7, 1980. Applicant: HOLIDAY INTERNATIONAL, INC., 1605 Tartan Way, Louisville, KY 40205. Representative: J. Smiley Collins (same address as applicant). To operate as a *broker*, in interstate or foreign commerce, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in special and charter operations, between points in the United States (including AK and HI). Condition: Prior or coincidental cancellation, at carrier's written request, of its license in MC–130346, issued September 2, 1977. (Hearing site: Louisville, KY.)

MC 130756F, filed January 3, 1980. Applicant: PACESETTER TOURS, INC., 1505 Dresden Circle, Nashville, TN 37215. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. To operate as a *broker*, in interstate or foreign commerce at Nashville, TN, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Robertson, Cheatham, Dickson, Williamson, Davidson, Sumner, Wilson, and Rutherford Counties, TN, and extending to point in the United States, including AK but excluding HI. (Hearing site: Nashville, TN.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, N.Y., 54 M.C.C. 291 (1954).

MC 130776F, filed January 4, 1980. Applicant: GRAY INTERNATIONAL AIR FORWARDING, INC., 1290 South Pearl, Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. To operate as a *broker*, in interstate or foreign commerce, at Denver, CO, in arranging for the transportation by motor vehicle, of *household goods*, between points in the United States, including AK and HI. (Hearing site: Denver, CO.)

MC 130777F, filed February 8, 1980. Applicant's name and address are JOSEPH V. MILONE, 117 Patricia Ave., Delran, NJ, 08075. The name under which operations will be performed is CHASE ONE TRAFFIC SERVICE, INC. Applicant is represented by Joseph V. Milone, in this proceeding, whose address is the same as applicant.

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Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Joseph V. Milone, President, same address as applicant, Gerald L. Forte, Vice President, 202 Devon R., Cinnaminson, NJ, Mercedes Milone, Stockholder, same address as applicant, and Angela Forte Stockholder, 202 Devon Rd., Cinnaminson, NJ. The daily operations will be managed by Joseph Milone whose address is the same as applicant's. Applicant is affiliated with the following shipper or warehouse: None.

Permanent Authority Notices, Substitution Applications: Single-Line; Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before June 23, 1980.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Notice of Correction

The following applications were published in the FR issue of February 22, 1980, in the incorrect section of Motor Carrier Operating Rights Applications. The correct heading is Permanent Authority Notices, Substitution Applications: Single-Line Service For Existing Joint-Line Service as noted above.

MC 136782 (Sub-21F), filed July 11, 1979. Applicant: R.A.N. TRUCKING COMPANY, a corporation, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603.

MC 136782 (Sub-23F), filed August 3, 1979. Applicant: R.A.N. TRUCKING COMPANY, a corporation, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603.

Note.—All petitions filed pursuant to the February 22, 1980, **Federal Register** will be disregarded. Petitions must comply with the requirements of Ex Parte No. MC 109.

Permanent Authority Decisions, Decision-Notice; Substitution Applications: Single-Line, Service for Existing Joint-Line Service

Decided; May 2, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before June 23, 1980.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fide of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the application may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell. Member Dowell not participating.

MC 105120 (Sub-22F), filed November 29, 1979. Applicant: FREIGHTWAYS EXPRESS, INC., 2700 Sterick Bldg., Memphis, TN 38103. Representative: James N. Clay, III (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cairo, IL, on the one hand, and, on the other, points in IL. (Hearing site: Memphis, TN, or St. Louis, MO.)

Note.—Applicant intends to tack with existing authority at Cairo, IL. The purpose of this application is to substitute single-line for joint-line operations.

MC 113974 (Sub-68F), filed January 7, 1980. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities* which by reason of size or weight require the use of special handling or special equipment and (2) *iron and steel articles*, from points in CT, ME, MA, NH, NJ, NY, OH, PA, RI, VT, and points in MD within 150 miles of Norristown, PA, and points in WV within 125 miles of Wheeling, WV, to points in IL, IN, KY, MI, MN, MO, and WI. *The sole purpose of this application is to substitute single-line for joint-line operations.* (Hearing site: Washington, DC.)

Irregular-Route Motor Common Carriers of Property-Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 43038 (Sub-E3), filed June 4, 1974. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, MI 48174. Representative: Paul H. Jones (same as above). *Automobiles, truck bodies, chassis* and *parts* thereof, in secondary movements, in truckaway and driveaway service, (1) between points in AR on and north of a line beginning at the OK–AR State line extending along U.S. Hwy 270 to junction U.S. Hwy 70, then to junction U.S. Hwy 49, then to the AR–MS State line, on the one hand, and, on the other, points in AL; (2) between points in AR, on the one hand, and, on the other, points in FL on and east of a line beginning at the GA–FL State line extending along U.S. Hwy 129 to Cheifland, then along FL Hwy 345 to junction FL Hwy 24, then to Cedar Key; (3) between points in GA, on the one hand, and, on the other, points in AR north and west of a line beginning at the AR–LA State line extending along U.S. Hwy 79 to junction U.S. Hwy 49, then to the AR–MS State line; (4) between points in AR, on the one hand, and, on the other, points in KY, MI, OH, and TN; (5) between points in FL on and east of a line beginning at the FL–GA State line extending along U.S. Hwy 27 to Tallahassee, then along FL Hwy 363 to junction U.S. Hwy 98, then to Carrabelle, on the one hand, and, on the other, points in AL; (6) between points in FL on and east of U.S. Hwy 231, on the one hand, and, on the other, points in IL, IN, KY, and TN; (7) between points in FL, on the one hand, and, on the other, points in GA north of U.S. Hwy 78, MI, and OH; (8) between points in KS, on the one hand, and on the other, points in FL on and east of FL Hwy 85, AL, LA, KY, MI, OH, and TN; (9) between points in LA on north and west of a line beginning at the TX–LA State line extending along U.S. Hwy 90 to junction U.S. Hwy 171, then along U.S. Hwy 171 to U.S. Hwy 8, then to LA Hwy 123, then to U.S. Hwy 165, then to the AR–LA State line, on the one hand, and, on the other, points in AL on and north of a line beginning at the MS–AL State line extending along U.S. Hwy 78 to junction U.S. Hwy 278, then along U.S. Hwy 278 to the AL–GA State line; and points in GA on and north of I Hwy 20; (10) between points in LA on, north and west of a line beginning at the TX–LA State line extending along U.S. Hwy 20 to junction U.S. Hwy, then along U.S. Hwy 165 to the AR–LA State line, on the one hand, and, on the other, points in FL on and south of a line beginning at Naples and extending along FL Hwy 84 to junction I Hwy 95, thence to FL Hwy 808, thence to Boca Raton; (11) between points in LA, on the one hand, and, on the other, points in MI; OH; points in KY on, north and west of a line beginning at the KY–TN State line extending along U.S. Hwy 27 to KY Hwy 95, then to U.S. Hwy 119, then to U.S. Hwy 421, then to

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the KY–VA State line and points in TN on, west and north of a line beginning at the TN–AL State line extending along U.S. Hwy 231 to Murfreesboro, then along U.S. Hwy 70S to U.S. Hwy 70, then to Crossville, then along TN Hwy 62 to U.S. Hwy 27, then to the TN–KY State line. (12) between points in MS on, west and north of a line beginning at the AR–MS State line extending along U.S. Hwy 82 to U.S. Hwy 49W, then to MS Hwy 3, then to U.S. Hwy 61, then to the MS–TN State line, on the one hand, and, on the other, points in AL on and north of a line beginning at the MS–AL State line extending along U.S. Hwy 78 to U.S. Hwy 278 to the GA–AL State line; points in FL south of a line beginning at Sarasota extending along FL Hwy 72 to FL Hwy 70, to FL Hwy 710, to Riveria Beach and points in GA on and north of I Hwy 20, (13) between points in MS on and west of I Hwy 55 on the one hand, and, on the other, points in KY, and points in TN on, west and north of a line beginning at the TN–AL State line extending along U.S. Hwy 231 to TN Hwy 50 to TN Hwy 55, to U.S. Hwy 70S, to U.S. Hwy 70, to Knoxville, then U.S. Hwy 11W to the TN–VA State line. (14) between points in MS on the one hand, and, on the other, points in MI and OH. (15) between points in MO, on the one hand, and, on the other, points in AL, FL on and east of U.S. Hwy 231, TN, GA, KY, MI, and OK. (16) between points in OK north and west of a line beginning at the OK–AR State line extending along OK Hwy 63 to U.S. Hwy 271, to OK Hwy 7, to OK Hwy 99, to OK Hwy 78, to OK Hwy 12, to U.S. Hwy 70, to U.S. Hwy 81, to the OK–TX State line, on the one hand, and, on the other, points in AL. (17) between points in OK, on the one hand, and, on the other, points in FL on and east of a line beginning at the FL–GA. State line extending along U.S. Hwy 27 to Tallahassee, then along FL Hwy 363 to U.S. Hwy 98, to Carrabelle; points in GA, KY, MI, OH, and TN. (18) between Orange, TX, on the one hand, and, on the other, points in AL on and north of a line beginning at the MS–AL State line extending along U.S. Hwy 78 to U.S. Hwy 278, then to the AK–GA State line; GA on and north of I Hwy 20; KY; MI; OH; TN; AR; IL; IN; KS; LA; MS; MO; and OK. (19) between Texarkana, TX, on the one hand, and, on the other, points in AL on, north and east of a line beginning at the AL–FL State line extending along U.S. Hwy 331 to U.S. Hwy 80, then to the AL–MS State line; FL on and east of a line beginning at the FL–GA State line extending along U.S. Hwy to Tallahassee, then, FL Hwy 363 to U.S. Hwy 98, then to Carrabelle; GA; KY; MI; OH; TN; AR; IL; IN; KS; LA; MS; MO; and OK. (Gateways eliminated: points in GA and Memphis, TN.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15649 Filed 5-21-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 181]

Assignment of Hearings

May 16, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 129032 (Sub-89F), Tom Inman Trucking, Inc., now being assigned for hearing on June 9, 1980 (1 day) at St. Louis, MO, location of hearing room will be designated later.

MC 2754 (Sub-30F), Neuendorf Transportation Co., now assigned for hearing on June 2, 1980, at Madison, WI (3 days) in Lieu of 2 weeks and continued to June 5, 1980 (2 days) at Minneapolis, MN; June 9, 1980 (5 days) at Appleton, WI and June 16, 1980 (5 days) at Chicago, IL, location of hearing room will be designated later.

MC 128273 (Sub-326F), Midwestern Distribution, Inc., now assigned for hearing on May 27, 1980 (3 days) at Orlando, FL in the Hilton Inn, 3200 West Colonial Drive.

MC 102616 (Sub-993F), Coastal Tank Lines, Inc., now assigned for hearing on May 28, 1980 (1 day) at New Orleans, LA, in Room 648, F. Edward Hebert Federal Bldg., 600 South Street.

MC 145526 (Sub-1F), CTC Transportation, Inc., now assigned for hearing on May 29, 1980 (2 days) at New Orleans, LA, in Room 648, F. Edward Hebert Federal Building, 600 South Street.

MC 113651 (Sub-303F), Indiana Refrigerator Lines, Inc., is transferred to Modified Procedure.

MC 143698 (Sub-2F), Cast North America LTD, is transferred to Modified Procedure.

MC 146352 (Sub-2F), Avery Trucking Co., Inc., is transferred to Modified Procedure.

MC 128273 (Sub-326F), Midwestern Distribution, Inc., now assigned for hearing on May 27, 1980, at Orlando, FL, is postponed indefintely.

MC 58549 (Sub-29F), General Motor Lines, Inc. and

MC 58549 (Sub-32F), General Motor Lines, Inc., now being assigned for Prehearing Conference on June 30, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 114211 (Sub-411F), Warren Transport, Inc., now being assigned for Prehearing Conference on June 18, 1980, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 123407 (Sub-581F), Sawyer Transport, Inc., now assigned for Prehearing Conference on June 19, 1980, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 107403 (Sub-1186F), Matlack, Inc., now assigned for hearing on May 28, 1980, will be held in Room No. 1052A, Federal Building, Federal Place, Louisville, KY.

MC 110525 (Sub-1296F), Chemical Leaman Tank Lines, Inc., now assigned for hearing on June 2, 1980, will be held at the Environmental Protection Agency, Room 130, 26 West St. Clair, Cincinnati, OH, and on June 3, 1980, will be held in Room No. 305, U.S. Post Office & Courthouse, 5th & Walnut, Cincinnati, OH.

MC 146677 (Sub-2F), Granny's Express, Inc., now assigned for hearing on June 4, 1980, will be held in Room No. 305, U.S. Post Office & Courthouse, 5th & Walnut, Cincinnati, OH.

MC 2202 (Sub-597F), Roadway Express, Inc., transferred to Modified Procedure.

MC 35807 (Sub-90F), Wells Fargo Armored Service Corporation, now assigned for hearing on June 5, 1980, at Washington, DC, is canceled and transferred to Modified Procedure.

MC 109533 (Sub-111F), Overnite Transportation Company, is transferred to Modified Procedure.

MC 145441 (Sub-35F), A.C.B. Trucking, Inc., is transferred to Modified Procedure.

MC 44445 (Sub-8F), Harold Klein Cartage, Inc., now assigned for hearing on June 9, 1980, at Milwaukee, WI, is canceled and Application Dismissed.

MC 52709 (Sub-352F), Ringsby Truck Lines, Inc., transferred to Modified Procedure.

MC 108926 (Sub-96F), W. T. Mayfield Sons Trucking Company, is transferred to Modified Procedure.

MC 107496 (Sub-1215F), Ruan Transport Corporation, now assigned for hearing on June 9, 1980, is canceled and Application Dismissed.

MC 58549 (Sub-29F), General Motor Lines, Inc., now assigned for hearing on May 12, 1980, at Roanoke, VA, is postponed indefinitely.

MC 65802 (Sub-66F), Lynden Transport, Inc., now assigned for hearing on June 2, 1980, will be held in Room No. 3086, New Federal Building, 915 2nd Avenue, Seattle, WA.

MC 145384 (Sub-32F), Rose-Way, Inc., now assigned for hearing on June 9, 1980, will be held in Room No. 103, Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR.

MC 42487 (Sub-916F), Consolidated Freightways Corporation of Delaware, now assigned for hearing on May 19, 1980, at Omaha, NE, is canceled and transferred to Modified Procedure.

MC 140829 (Sub-253F), Cargo, Inc., now assigned for hearing on May 9, 1980, at Chicago, IL, is canceled and transferred to Modified Procedure.

MC 114552 (Sub-158), M1F, Senn Trucking Company, now assigned for continued hearing on June 10, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 124251 (Sub-68F), Jack Jordan, Inc., now assigned for hearing on June 3, 1980, will be held at the I.C.C.—Room No. 401—4th Floor, 1776 Peachtree Street, N.W., Atlanta, GA.

MC 124251 (Sub-69F), Jack Jordan, Inc., now assigned for hearing on June 5, 1980, will be held at the I.C.C.—Room No. 401—4th Floor, 1776 Peachtree Street, N.W., Atlanta, GA.

MC 121254 (Sub-2F), O'Leary Transportation Co., Inc., now being assigned for hearing on July 28, 1980 (1 Week), at Boston, MA in a hearing room to be designated later.

MC 138438 (Sub-44F), D. M. Bowman, Inc., now being assigned for hearing on July 21, 1980 (1 Week), at Hagerstown, MD, in a hearing room to be designated later.

MC 37417, Shipments in Marine Containers on Railroad Flatcars, April 1980, and No. FSA 33656, Commodity Rates East of the Rocky Mountains, F.S.O. 18982, now being assigned for hearing on May 28, 1980, at the Office of the Interstate Commerce Commission in Washington, DC.

MC 146551 (Sub-2F), Taylor Transport, Inc., transferred to Modified Procedure.

MC 138432 (Sub-14F), Garland Gehrke, now assigned for hearing on May 5, 1980, at Chicago, IL, is canceled and transferred to Modified Procedure.

MC 146002 (Sub-2F), Brookridge Leasing, Inc., now assigned for hearing July 17, 1980, at Tampa, FL, is canceled and transferred to Modified Procedure.

MC 88161 (Sub-95F), Inland Transportation Company, Inc., now assigned for hearing on June 16, 1980, will be held in Room 3086, New Federal Building, 915 2nd Avenue, Seattle, WA.

MC 143698 (Sub-2F), Cast North American Ltd., now assigned for hearing on June 10, 1980, will be held in Room No. 649, Court House, 231 W. Lafayette, Detroit, MI.

MC 106647 (Sub-44F), Clark Transport Company, Inc., now assigned for hearing on June 4, 1980, will be held in Room 3883, 219 South Dearborn Street, Chicago, IL.

MC 119493 (Sub-297F), Monkem Company, Inc., now assigned for hearing on June 9, 1980, will be held in Room 1669, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 108633 (Sub-17F), Barnes Freight Line, Inc., now assigned for continued hearing on June 3, 1980 (4 Days), at Birmingham, AL, examination of documents on May 29, and 30, 1980. Hearing room will be designated later.

MC 133689 (Sub-275F), Overland Express, Inc., now assigned for hearing on June 10, 1980, at New York, NY, is canceled and transferred to Modified Procedure.

MC 116763 (Sub-528F), Carl Subler Trucking, Inc., now being assigned for hearing on July 8, 1980 (1 Day), at Chicago, IL, in a hearing room to be designated later.

MC 113764 (Sub-84F), Laidlaw Transport Limited, now assigned for hearing on June 17, 1980, will be held in Room 1440, Federal Building, 111 West Huron Street, Buffalo, NY, and on June 26, 1980 will be held in Room 914, Federal Building, 111 West Huron Street, Buffalo, NY.

MC 96992 (Sub-17F), Highway Pipeline Trucking Company, now assigned for hearing on June 2, 1980, will be held in Court Room No. 4—9th Floor, Federal Building, 515 Rusk, Houston, TX.

MC 105457 (Sub-97F), Thurston Motor Lines, Inc., now being assigned for Prehearing Conference on June 29, 1980, at the Offices of Interstate Commerce Commission, Washington, D.C.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15653 Filed 5-21-80; 8:45 am]

BILLING CODE 7035-01-M

Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before June 11, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Motor Carrier Board, Members Holyfield, Hedetniemi, and Healy.

Agatha L. Mergenovich,

Secretary.

F.D. 29334. By decision of May 5, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1151. The Motor Carrier Board approved the transfer to American World Forwarders, Inc., of Daytona Beach, FL, of Permit No. FF–450 issued February 18, 1976, to American World Forwarders Express, Inc., of Daytona Beach, FL, authorizing forwarder service as follows: (a) used household goods, (b) unaccompanied baggage, and (c) used automobiles, Between points in the United States (including HI·but excluding AK), restricted in (C) to transportation of export-import traffic. Applicant's representative is: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006. Transferee is not a carrier or a freight forwarder.

MC–FC–78275. By decision of May 5, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132 The Motor Carrier Board approved the transfer to Mobile Transporters, Inc. of Joppa, MD, of that portion of Certificate No. MC–142359 (Sub-No. 2) issued September 8, 1978 to Port East Transfer, Inc. authorizing the transportation of (a) trailers designed to be drawn by passenger automobiles (except recreational vehicles), in initial movements and buildings, in sections, mounted on wheeled undercarriages with hitchball connectors from Baltimore, MD, to points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, and thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada and (b) trailers designed to be drawn by passenger automobiles (except recreational vehicles), in secondary movement, between Baltimore, MD, on the one hand, and, on the other, points in the United States on and east of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca County, MN and thence northward along the western boundaries of Itasca and Koochicking Counties, MN, to the international boundary line between the United States and Canada, restricted in (a) above to the transportation of traffic from origins which are points of manufacture. Applicant's representative is: Mel P. Booker, Jr., 110 South Columbus St., Alexandria, VA 22314. TA

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application has been filed. Transferee holds no authority.

MC–FC–78485. By decision of February 27, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Regency Motor Freight, Inc., of Southgate, MI, of Certificate No. MC–68980, issued September 24, 1946, and all subs thereunder, to Checker Express Co., at Milwaukee, WI, authorizing the transportation of *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over a series of regular routes including operations between Milwaukee, WI and Chicago, IL and intermediate and off-route points; serving the off-route points of Greendale, West Milwaukee, and Wauwatosa, WI; between Chicago, IL and the junction of Edens Expressway and U.S. Hwy 41; between Milwaukee, WI and Port Washington, WI and the off-route points of Knellsville and Saukville, WI; serving the plant site of Bethlehem Steel Corporation, Burns Harbor, Porter County, IN as an off-route point; serving the site of Cooper-Jarrett, Inc. terminal, County Line Road, DuPage County, IL as an off-route point; between Milwaukee and Fillmore, WI and intermediate points and off-route points of Fredonia, WI and alternate route; between North Lake, WI and Milwaukee, WI and intermediate points; between Allentown, WI and Milwaukee, WI serving intermediate points; between Racine, WI and Chicago, IL and intermediate points and off-route points of Kenosha, WI and those in the Chicago Commercial Zone and alternate routes; between points in Macon, Moultrie, Coles, Edgar, Piatt, Champaign, Vermilion, De Witt, McLean, Ford, and Douglas Counties, IL and that part of Livingston and Iroquois Counties, IL on and south of U.S. Hwy 24 and intermediate and off-route points, restricted to traffic moving between such points on the one hand, and, on the other, Cook, Lake, McHenry, DeKalb, Kane, DuPage, Kendall, Grundy, Will and Kankekee Counties, IL; serving Burns Harbor, IN as an off-route point; serving the plant site of Eastman Kodak Company at Oak Brook, IL as an off-route point between Chicago, IL and Milwaukee, WI serving intermediate and off-route points subject to certain restrictions; between Chicago, IL and St. Louis, MO serving the intermediate and off-route points in the Chicago, IL and St. Louis, MO Commercial Zones and serving the plant site of Hussmann Refrigerator Company at Bridgeton, MO; and *New Furniture and Household Goods* between points in Ozaukee County, WI and IL, IA and MN; *Iron and Steel Articles* from the plant site of Jones & Laughlin Steel Corporation in Putnam County, IL to points in WI and return of materials, equipment and supplies; *Food and Foodstuffs* (except in bulk) over irregular routes from Champaign, IL to points in WI. Transferee presently holds no authority from the Commission. Application has been filed for temporary authority under 49 U.S.C. 11349. Representatives: Edwin M. Snyder, Representative for Transferee, 22375 Haggerty Road, P. O. Box 400, Northville, Michigan 48167. Rodney H. Dow, Foley & Lardner, Representative for Transfer, First Wisconsin Center, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

MC–FC–78530. By decision of May 5, 1980, issued under 49 U.S.C. 10926, 10931, and 10932, and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Edwin N. Bacorn and Jill Bacorn, d.b.a. Bisher Freight Service, Ramona, CA, of Certificate No. MC–4363, issued January 31, 1968, to John C. Degenfelder & Arvonne B. Degenfelder d.b.a. Bisher Freight Service, Romona, CA, authorizing the transportation of *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between San Diego and Ramona, CA, serving all intermediate points, from San Diego over U.S. Hwy 80 to El Cajon, CA, then over CA Hwy 67 to Ramona, and return over the same route; between junction unnumbered hwy (north of Lakeside, CA), and junction Mount Woodson Rd. and unnumbered hwy (north of Shady Dell, CA, serving all intermediate points, from junction unnumbered hwy and Mount Woodson Rd. over Mount Woodson Rd. to junction unnumbered hwy and return over the same route; and Certificate of Registration No. MC–4363 (Sub-No. 3) issued September 15, 1978, to John C. Degenfelder & Arvonne B. Degenfelder d.b.a. Bisher Freight Service, Ramona, CA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to state Certificate No. 62128, dated June 13, 1961, and transferred by Decision Nos. 72231 and 87790 dated April 4, 1967, and August 30, 1977, respectively, issued by the Public Utilities Commission of the State of California, subject to the condition that prior to or concurrently with consummation of the transaction, transferee shall submit (1) a certified copy of the State certificate as reissued to transferee, or—if the State Commission does not reissue the certificate—a certified copy of the State order approving the transfeer of the underlying intrastate rights of the Certificate of Registration, and (2) a written notice confirming the date of consummation of that intrastate transaction. Applicants' representative: Edwin N. Bacorn, 357 Main St., Ramona, CA.

MC–FC–78553. By decision of May 2, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Florida-Eastern U.S. Van Lines, Inc. of Conshohocken, PA of Certificate No. MC–11988, issued October 14, 1964, to Manning's Moving & Storage, Inc. of Trenton, NJ, authorizing the transportation of *Household Goods,* between Trenton, NJ, and points in NJ and PA, within 25 miles of Trenton, NJ, on the one hand, and, on the other, points in DE, MD, CT, MA, NY, PA, NJ, and DC; and *Household Goods,* as defined by the Commission, Between Trenton, NJ, and points in NJ and PA within 25 miles of Trenton, NJ, on the one hand, and, on the other, points in RI, VA, NC, SC, OH, and GA. Applicant's representative is: Robert J. Gallagher, Esq., 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. TA application have been filed.

MC–FC–78568. By decision of May 2, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Consolidated Carriers International Transport Corporation of Charlotte, NC of Permit No. MC–143926 issued August 25, 1980 to Consolidated Carriers Corporation authorizing the transportation of ornaments and decorations, and materials and supplies used in the manufacture and sale of these commodities (except commodities in bulk), between the facilities of Rauch Industries, Inc., located at or near Gastonia, NC, on the one hand, and, on the other, points in the United States (except North Carolina, Alaska, and Hawaii), subject to the following condition: prior to or concurrently with consummation of the transfer, transferor shall settle its debts with owner-operators and confirm this in writing to the Commission's Office of Proceedings. Applicant's representative is: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. TA application has been filed. Transferee hold no authority.

MC–FC–78569. By decison of May 1, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Night hawk Motor Transport, Inc. of Cincinnati, OH of Certificate No. MC–114273 Sub-No. 613 (in part) issued August 30, 1979 to CRST, Inc. of Cedar Rapids, IA, authorizing the transportation of *general commodities,* (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the Chicago, IL Commercial Zone as defined by the Commission, on the one hand, and, on the other, Cincinnati, Dayton and Hamilton, OH, and points in that part of OH on and north of U.S. Hwy 20 extending from the Ohio-Indiana state line to and including Toledo, OH. Applicant's representative is: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Kenneth L. Core, P.O. Box 68, Cedar Rapids, IA 52406. TA application has not been filed. Transferee holds no authority.

MC–FC–78579. By decison of May 5, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Bernie Berger, d.b.a. Berger Bros. Trucking of Mandan, ND a portion of Certificate No. MC–139420 Sub-3 issued June 15, 1979 to Glacier Transport, Inc. of Grand Forks, ND authorizing the transportation of *hydraulic cylinders,* from Rugby, ND, to points in the United States (except AK and HI); *materials and supplies* used in the manufacture of hydraulic cylinders, hydraulic hoist and truck bodies, from Minneapolis, MN, and Chicago, IL to Rugby, ND. Applicant's representative is: James B. Hovland, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55402. TA application has been filed.

MC–FC–78587. By decision of May 15, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Sans Transport Co., Inc., of Chicago, IL, of Certificate No. MC–142685 issued December 7, 1979, to John R. Verdino, d.b.a. J&S Motor Service, of Chicago, IL, authorizing the transportation of packaging materials and supplies, used in butcher shops, from the facilities of Kraft Paper Sales Co., located at Harvey, IL, to Goshen, Portage, and Valparraiso, IN. Applicant's representative is: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transferee is not a carrier. An application seeking temporary lease authority has not been filed.

[FR Doc. 80–15652 Filed 5–21–80: 8:45 am]

BILLING CODE 7035–01–M

[No. MC–C–10251]

Interpretation of Commodity Descriptions; Motor Vehicle Descriptions

AGENCY: Interstate Commerce Commission.

ACTION: The introduction of a time-limit for the filing of petitions for commodity description changes as described in the decision of May 11, 1979.

SUMMARY: Morgan Drive-Away Inc., a party to this proceeding, has filed a petition seeking, among other things, a time-limit for the changing of narrow commodity descriptions to the broader automobile authority as adopted in this proceeding. This request is granted for the reasons indicated below.

EFFECTIVE DATE: Petitions for commodity changes as described in this proceeding should be filed with the Commission on or before August 20, 1980.

FOR FURTHER INFORMATION CONTACT:
Donald J. Shaw, Jr., Phone: 202–275–7292.

SUPPLEMENTARY INFORMATION:

In the decision served May 21, 1979, the Commission issued a "Commodity Interpretation" dealing with a wide range of commodity descriptions in the motor vehicle industry. The Commission decided that the "recreational vehicles" in question were actually automobiles and that the broad commodity descriptions of "automobile", "trucks", "buses", and "motor homes" should be used in lieu of narrower descriptions.

The Commission, after making that determination, allowed carriers authorized to transport more specific types of recreational vehicles to petition to modify their certificates and permits to reflect the broader automobile description. Morgan Drive-Away, now seeks a time limit for the filing of these petitions. A time limit for filing would speed up the changeover process and alleviate the confusion existing in the motor vehicle industry. Therefore, any carriers presently holding authority to transport the more specific commodity descriptions outlined in our previous decision will be allowed 90 days from the date of publication of this notice in the **Federal Register.**

The decision does not affect significantly the quality of the human environment or energy consumption.

It is ordered:

The petitions for commodity description changes as described in the decision of May 11, 1979, and served May 21, 1979, must be filed on or before August 20, 1980, or the parties are precluded from changing their authorities in this manner.

Decided: May 14, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins voted not to approve the decision. His position remains as it was in January, that the 90-day limit is unnecessary. Commissioner Gilliam did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–15650 Filed 5–21–80: 8:45 am]

BILLING CODE 7035–01–M

Long-and-Short-Haul Application for Relief; (Formerly Fourth Section Application)

May 19, 1980.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before June 6, 1980.

No. 43820, Southwestern Freight Bureau, Agent No. B–58, on cottonseed, peanut and soybean hulls, in carloads, from, to and between stations in Southwestern Territory published in Supplements 114 and 14 to Tariffs ICC SWFB 4450 and ICC SWFB 4454, respectively, effective June 13, 1980. Grounds for relief—need for additional revenue to offset increased costs.

No. 43821, Southwestern Freight Bureau, Agent No. B–66, on cement, in carloads, from and to stations in Official Territory published in Supplements 11 and 163 to Tariffs ICC SWFB 4739–A and ICC SWFB 4740, respectively, effective June 15, 1980. Grounds for relief—need for additional revenue to offset increased costs.

No. 43822, Southwestern Freight Bureau, Agent No. B–62, on beet or cane sugar, in carloads, from stations in Minnesota and North Dakota to Braum, Moore, Oklahoma City and Tulsa, OK., published in Supplement 28 to Tariff ICC SWFB 3003–H, effective June 13, 1980.

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Grounds for relief—destination rate relationships.

No. 43823, Southwestern Freight Bureau, Agent No. B–71, on brewer's grain, corn cob chaff, malt cleanings, etc., in carloads, from, to and between stations in Colorado-Utah-Wyoming Committee, Illinois Rate Committee, Southwestern and Western Trunk Line territories to be published in Item 345 series of Tariff ICC SWFB 4023–A of Southwestern Freight Bureau, Agent and similar items in other agency and individual lines' tariffs as listed in the application. Grounds for relief—rate relationships.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–15651 Filed 5–21–80; 8:45 am]

BILLING CODE 7035–01–M

[Application No. 1939]

Detroit, Toledo & Ironton Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rate Application No. 1939.

SUMMARY: The Detroit, Toledo & Ironton Railroad Co., seeks authority to establish and maintain, in its Tariff ICC DTI 7444–C, rates on "Freight, All Kinds" between its ramp at Cincinnati, OH and its ramp at Brownstown Township, MI, subject to a released value not exceeding $150,000 per trailer. The applicant proposes to maintain two scales of rates. One scale will apply if the trailer is *not* released as to value and the second will apply if the trailer *is* released. The rate scale for trailers such *are* released will be uniformly 10 percent less than the scale for trailer which are *not*.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. C. Barret, Transportation Consultant, 11764 Indian Ridge Road, Reston, VA 22091. Tel. (703) 860–8521.

FOR FURTHER INFORMATION CONTACT: Mr. Max Pieper, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423. Tel. (202) 275–7553.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–15654 Filed 5–21–80; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[701–TA–40 (Final)]

Fish, Fresh, Chilled, or Frozen, Whether or not Whole, but Not Otherwise Prepared or Preserved, From Canada

Determination. On the basis of the record [1] developed in investigation No. 701–TA–40 (Final), the Commission determines,[2] pursuant to section 104(a)(2) of the Trade Agreements Act of 1979, that an industry in the United States is not materially injured, is not threatened with material injury, and that the establishment of an industry is not materially retarded by reason of imports of fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada, with respect to which the Department of Commerce has reported that a subsidy is being provided in the amount of 1.08 percent of the f.o.b. import prices of such fish harvested in the Atlantic region of Canada, and which are subject to outstanding countervailing duty orders, but for which the imposition and collection of such duties have been waived.

Background. Section 104(a) of the Trade Agreements Act of 1979 (P.L. 96–39, July 26, 1979) requires that the United States International Trade Commission make an injury determination in those cases in which the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act of 1930 or which had been published on or after the date of enactment of the Trade Agreements Act of 1979.

On January 2, 1980, the Commission received advice from the U.S. Department of Commerce, the administering authority under the provisions of the Trade Agreements Act of 1979, that a countervailing duty order that had been waived pursuant to section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), was in effect on January 1, 1980, with respect to fish from Canada. On February 5, 1980, the Commission received from the Department of Commerce, the most current net subsidy information available with respect to the countervailing duty order(s) on fish from Canada. Accordingly, the Commission instituted investigation No. 701–TA–40 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada, which are subject to the outstanding waived countervailing duty order(s).

Notice of the Commission's investigation and of the public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and at the Commission's New York City Office, and by publishing the notice in the **Federal Register** of February 22, 1980 (45 FR 11938). The public hearing for this investigation was held in Washington, D.C. on April 21, 1980, and all persons who had requested the opportunity were permitted to appear in person or through counsel.

Views of Vice Chairman Bill Alberger and Commissioner Michael J. Calhoun

On the basis of the record developed in investigation 701–TA–40 (Final), we determine pursuant to section 104(a)(2) of the Trade Agreements Act of 1979 that an industry in the United States is not materially injured, and is not threatened with material injury, and the establishment of an industry is not materially retarded,[3], by reason of imports of fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada with respect to which the Department of Commerce has reported that a subsidy is being provided in the amount of 1.08 percent of f.o.b. import price of the fish harvested in the Atlantic region of Canada,[4] and which

Footnotes continued on next page

[1] The "record" is defined in sec. 207.2(j) of the Commission's *Rules of Practice and Procedure* (19 CFR 207.2(j)).

[2] Concurring in the unanimous negative determination where Vice Chairman Bill Alberger and Commissioners George M. Moore, Paula Stern and Michael J. Calhoun. Chairman Bedell did not participate in the determination.

[3] Since fish of the species and types that are subject to countervailing duty waivers and that are the subject of this investigation are produced by numerous fishermen and processors, the establishment of an industry is not at issue in this investigation and will not be discussed further.

[4] The Department of Commerce also found that fish harvested on the Pacific Coast of Canada were benefiting from Canadian subsidies of 0.38 percent, which the Dept. of Commerce has declared as legally *de minimis*. The Commission has no power in this investigation to consider any injurious impact of such imports of fish harvested off the Pacific Coast of Canada. Objections on this issue (Counsel for the Fisherman's Marketing Association of Seattle, Washington has raised such concerns in

are subject to outstanding countervailing duty orders, but for which the imposition and collection of countervailing duties have been waived.

The domestic industry and the product in question. Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) provides in part as follows:

(A) In General.—The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

(D) Product Lines.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available that permit the separate identification of production in terms of such criteria as the production process or the producers profits. If the domestic production of the like product has no separate indentity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

Section 771(10) (19 U.S.C. 1677(10)) provides that:

The term "like product" means a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

In this investigation we have concluded that the appropriate domestic industry against which the impact of subsidized imports of fish from Canada should be measured consists of those facilities in the United States producing the following two categories of like merchandise:

(1) Fish that are whole, fresh, chilled or frozen or, if not whole, fish that are processed only by the removal of heads, viscera, fins or any combination thereof, but which are not otherwise processed,[5] and

(2) certain fish that are "otherwise processed" (but not merely by scaling and not including fish that are skinned and boned and frozen into blocks each weighing over 10 pounds), whether or not heads, viscera, fins, scales, or any combination thereof, have been removed.[6]

The fish covered by the two categories under consideration are virtually all groundfish, deriving that name from the fact that they live at or near the sea bottom (or the ground). All of the fish species discussed here are collectively referred to as "groundfish." The principal species of whole groundfish covered are Atlantic Ocean perch (including rosefish), flatfish (except halibut), wolf fish and whiting. The principal species of groundfish fillets covered are Atlantic Ocean perch (including rosefish), cod, cusk, haddock, hake, and pollock.

Some 700 New England and 300 west coast fishing vessels land such groundfish in the United States. Since almost all of the catch of these vessels is converted into fillets, they are part of the industry that produces the subject fillets. They are also harvesters of the whole fish under investigation. There are approximately 100 firms in the United States producing fillets like those imported Canadian fillets subject to countervailing duty waivers. Many of these firms also produce fillets from both domestic and imported fish. Of the 100 processing firms, 71 are on the Atlantic coast.

Section 771(4)(C) of the Tariff Act of 1930 provides that, in appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if—

(i) the producers within such market sold all or alsmost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied to any substanital degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, section 771(4)(c) continues, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry, even if the domestic industry as a whole, or those producers whose collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened with material injury, or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

Fishermen and fish processors in the Northeastern States sell all or almost all of their product in the Northeastern States and the demand for subject fish is the Northeastern States is not supplied, to any substantial degree, by producers outside that region. The movement of imports is generally from the Atlantic region of Canada to the Northeastern United States, and from the Pacific region of Canada to the west coast. We find in this case, that the criteria for a regional industry are met. Although the criteria required for consideration of a regional industry have been met, such identification is not necessary in this case since we would not find injury to the domestic industry whether the industry is defined in terms of the entire United States or in terms of the Eastern region.

Discussion. During the period 1976–79, U.S. output of the whole and filleted groundfish subject to this investigation, converted to fillet weight, rose annually from 100 million pounds in 1974 to 138 million pounds in 1979, and east coast output rose from 86 million pounds in 1975 to 114 million pounds in 1978.

Imports from Canada of whole and filleted groundfish subject to countervailing duty waivers rose irregularly from 82 million pounds in 1974 to 115 million pounds in 1979. The market share held by such imports amounted to 23.3 percent in 1974 and 23.5 percent in 1979. Imports of such fish from Canada not subject to countervailing duty waivers and imports of like fish products from countries other than Canada were far larger than the subject imports, bringing the total ratio of imports to U.S. consumption to more than 70 percent for each of the years during the 1974–79 period.

Imports from eastern Canada subject to countervailing duty waivers rose from 93 million pounds in 1975 to 101 million pounds in 1976; they accounted for 23.6 percent of east coast consumption in 1975 and 22.5 percent of east coast consumption in 1978.

Imports of like products from all sources not subject to countervailing duty waivers push the ratio of imports to east coast consumption up to 78.2 percent in 1975 and 74.5 percent in 1978.

The domestic industry's output has been affected by numerous factors including (1) conservation quotas established in the last several years for numerous species of fish that had suffered depleted stocks owing to overfishing prior to the expansion of the U.S. territorial limit for domestic fisheries to 200 miles from shore, (2) licensing of foreign vessels to fish within the expanded 200-mile limit, and (3) possible overexpansion of the U.S. fishing fleet in response to the expansion of the territorial limit, leaving the potential fishing resources per vessel lower than it had been previously.

In a recent investigation under section 201 of the Trade Act of 1974 (Inv. No.

Footnotes continued from last page

a submission for the Record) must be raised with the Department of Commerce, not with the Commission.

[5] The fish in this category are referred to as "whole fish."

[6] The fish in this category are referred to as "fillets", since virtually all the fish in this category are fillets, even though minor portions of other cuts of fish, such as fish steaks, are also included.

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TA-201-41), concluded in January 1980, the Commission sent more than 700 questionnaires concerning profitability to fisherman and processors throughout the United States and received only 6 complete responses, none of which were from east coast fishermen. In investigations conducted by this Commission, the injury to a domestic industry must be demonstrated by the data which are accumulated by the Commission's investigation and the data which are submitted by the petitioner and those in support of the petition. Where the petitioner fails to bring forth any data—either directly or through responses to Commission questionnaires—that silence may not be construed as evidence of injury. That silence may, in the right case, lead to the inference that there is no injury to a domestic industry, since we assume that injured parties would desire that evidence of injury be brought to the Commission's attention. There is no need to draw such an inference here, however, since the evidence adduced by the investigation—without the questionnaire responses from the domestic industry—clearly demonstrates that there is no injury to a domestic industry.

On the average, the ex-vessel prices for east coast groundfish, except flounder, were at record levels in December 1979 and, on the average, were substantially higher throughout 1979, than in previous years, indicating the absence of price suppression or depression in the market most affected by imports of the fish subject to countervailing duty waivers.

Sections 771(7)(B) and (C) of the Act require the consideration of the volume of imports, their effect on domestic prices, and their impact on domestic producers of a like product using guidelines of certain specific economic factors. The following are our findings based on the record in this investigation.

Findings of Fact

A. Volume of Imports

1. Total U.S. imports from Canada of whole groundfish subject to countervailing duty waivers increased from 2.9 million pounds, round weight in 1974 to 4.4 million pounds in 1978, and 9.5 million pounds in 1979 (Report, table 14, p. A-48). U.S. imports from the Atlantic region of Canada of whole groundfish subject to countervailing duty waivers into the eastern United States increased from 2.1 million pounds in 1975 to 2.7 million pounds in 1976, fell to 2 million pounds in 1977 and rose to 3.7 million pounds in 1979 (Report, table J-15, p. A-112).

2. Total U.S. imports from Canada of filleted groundfish subject to countervailing duty waivers rose from 81 million pounds in 1974 to 97 million pounds in 1975, fell to 79 million pounds in 1977, and rose to 112 million pounds in 1979 (Report, table 15, p. A-48). Imports into the eastern United States from the Atlantic region of Canada of filleted groundfish subject to countervailing duty waivers fell from 93 million pounds in 1975 to 78 million pounds in 1977 and rose to 111 million pounds in 1979 (Report, table J-16, p. A-112).

3. The ratio of all subsidized imports of whole groundfish from Canada subject to countervailing duty waivers to U.S. consumption was 1.2 percent in 1974, remained in the range of 1.5-1.6 percent each year during the period 1975-78, and rose to 3.5 percent in 1979 (Report, table 14, p. A-48). The ratio of imports of whole groundfish subject to countervailing duty waivers from the Atlantic region of Canada into the eastern United States rose from 0.9 percent in 1975 to 1.3 percent in 1976, fell to 0.9 percent in 1977 and 1978, and rose to 1.5 percent in 1979 (Report, table J-15, p. A-112). The ratio of such imports from eastern Canada to total U.S. consumption of whole groundfish amounted to 0.9 percent in 1975, 1.1 percent in 1976, 0.8 percent in 1977 and 1978, and 1.4 percent in 1979 (Report, tables 14 and J-15, at pp. A-48 and A-112).

4. The ratio of all subsidized imports of filleted groundfish from Canada subject to countervailing duty waivers to total U.S. consumption of filleted groundfish rose from 38.5 percent in 1974 to 39.4 percent in 1975, fell to 28.6 percent in 1977, and rose again to 34.4 percent in 1979 (Report, table 15, p. A-48). The ratio of imports of filleted groundfish from the Atlantic regions of Canada subject to countervailing duty waivers to eastern U.S. consumption fell from 40.3 percent in 1975 to 30.3 percent in 1977 and rose to 36.3 percent in 1979 (Report, table J-16, p. A-112). The ratio of such imports from the Atlantic region of Canada to total U.S. consumption amounted to 37.7 percent in 1975, 32.7 percent in 1976, 28.3 percent in 1977, 33.1 percent in 1978 and 34.0 percent in 1979 (Report, tables 15 and J-16, at pp. A-48 and A-112).

5. Imports of the fish products from Canada covered by countervailing duty waivers are smaller in volume and account for lower import penetration in the U.S. market or the east coast U.S. market than do other imports of like products from Canada and imports of like products from other countries (Report, tables 14-16 and J-15-J-17, pp. A-48, A-49 and A-112 and A-113).

6. The most rapid growth in imports from Canada has occurred during the period in which Canada was in the process of eliminating its subsidy payments to fishermen and processors. Prior to March 31, 1978, the Canadian subsidies amounted to 17.22 percent of the f.o.b. value of Canadian exports; from April 1, 1978 through September 30, 1978, the subsidies amounted to 5.22 percent, and since October 9, 1978, the subsidy has amounted to 1.22 percent or less (Report, p. A-7).

B. Effect of Imports on U.S. Prices

7. Between January 1976 and January 1979, the east coast prices of ocean perch rose by 70 percent, and the price of yellowtail flounder rose by 33 percent. In comparison, the Bureau of Labor Statistics index of meat, fish, and poultry prices rose by only 26 percent during the period. December 1979 prices for most of the fish considered herein were at record levels and, in general, 1979 prices for whole fish were at higher levels than in previous years, and prices of domestic fillets have risen sharply in recent years despite increased imports from Canada (Report, pp. A-52-A-61, tables 17-22).

8. Despite the presence of underselling of the domestic product in the U.S. market the bulk of the importers' product is sold in the frozen form and the bulk of the domestic product is sold in the fresh form. Frozen fish products are ordinarily sold at a lower price than fresh fish products because of quality, taste, and texture considerations (Report, A-12 and A-50).

C. Impacts on Domestic Producers of the Like Product

9. U.S. landings of whole groundfish of species subject to countervailing duty waivers rose irregularly from 223 million pounds, round weight, in 1974 to 255 million pounds in 1978 but fell slightly to 249 million pounds in 1979 (Report, table 14, p. A-48). East coast landings of whole goundfish of the species subject to countervailing duty waivers, rose annually from 180 million pounds, round weight, in 1975 to 211 million pounds, round weight, in 1979 (Report, table J-15, p. A-112).

10. U.S. production of filleted groundfish of the species subject to countervailing duty waivers rose from 46 million pounds, fillet weight, in 1974 and 1975, to 73 million pounds, fillet weight, in 1979 (Report, table 15, p. A-48). East coast production also increased annually, from 32 million pounds in 1975 to 58 million pounds in 1979 (Report, table J-16, p. A-112).

11. U.S. capacity to catch groundfish of the types under investigation, in numbers of fishing vessels, has expanded in recent years, but conservation quotas on the east coast, the licensing of foreign vessels to fish within the 200 mile limits (Report, pp. A-18-A-21), and the sharing of the limited resources among an expanded number of vessels may have prevented the U.S. fishing fleet from operating at full capacity. On the west coast, trip limits by processors, because supply was outstripping demand, has resulted in declining capacity utilization (Report, pp. A-120—A-122).

12. U.S. inventories of frozen ocean perch fillets in December 1979 were higher than in any year since 1973, except 1974. U.S. inventories of frozen cod fillets were higher in December 1979 than in December of 1978 or 1976, but were lower than the December 1978 levels. Inventories of frozen haddock fillets wre lower in December 1979 than in any preceding year of the 1973-79 period (Report, p. A-34).

13. U.S. employment in the domestic groundfish industry has probably expanded in recent years in line with the expansion of production and the expansion of the fishing fleet. In Massachuetts, employment increased by 11 percent between 1974 and 1977, and the number of Gloucester fishermen grew from 650 in 1976 to 1,000 in 1978 (Report, pp. A-34 and A-35).

14. No response on their financial statistics was received from any east coast groundfishermen during the Commission's recent investigation of fish under section 201 of the Trade Act of 1974, but six responses received from west coast fishermen indicated increasing profits from 1975 through 1978 and a reduction in profits in 1979 (Report, pp. A-35-A-37). The reduced profits for the west coast fishermen may be attributable to trip limits established by processors and may not be reflective of profits of east coast fishermen.

15. U.S. fishermen and fish processors have alleged sales lost to imports of fish from Canada, however, the largest volume of fish from Canada is of fish not covered by the current investigation, these have previously been investigated by the Commission and have been found not to be injurious to the domestic industry (Report, A-46, A-47, and A-63).

16. Since many of the fish products are interchangeable with one another in the market place, total demand for the subject fish is also directly affected by imports of similar species of fish at the same and at different stages of processing. Any injury to the domestic industry resulting from any imports of fish products is more likely to be caused by those not covered by this investigation, than by imports of fish subject to countervailing duty waivers, which account for less than 3 percent of total fish imports (Report, p. A-47).

17. No information has been received by the Commission regarding return on investment, wages, cash flows, or the ability to raise capital.

Conclusions of Law

A. The appropriate domestic industry against which the impact of subsidized imports of fish from Canada should be measured consists of those facilities in the United States producing:

(1) Fish that are whole, fresh, chilled or frozen or, if not whole, fish that are processed only by the removal of heads, viscera, fins or any combination thereof, but which are not otherwise processed, and

(2) certain fish that are "otherwise processed" (but not merely by scaling and not including fish that are skinned and boned and frozen into blocks each weighing over 10 pounds), whether or not heads, viscera, fins, scales, or any combination thereof, have been removed.

B. The domestic industry is not materially injured or threatened with material injury by reason of subsidized imports of fish from Canada which are subject to countervailing duty waivers.

Views of Commissioner George M. Moore

For the Commission to make an affirmative determination in this investigation, the Commission must find that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded,[7] by reason of imports of fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada, which are the subject of outstanding waived countervailing duty orders.

The nature and extent of the subsidy. The Department of Commerce reported to the Commission that a subsidy is being provided in the amount of 1.08 percent of the f.o.b. import price of specified fish products harvested in the Atlantic region of Canada and that a subsidy is being provided in the amount of 0.38 percent of the f.o.b. import price of specified fish products harvested in other regions of Canada, but that only the subsidies applicable to fish harvested in the Atlantic region of Canada are more than *de minimis*. The earlier history of this case is outlined fully in the Commission's report.

The domestic industry and the product in question. In this investigation I find that the appropriate domestic industry against which the impact of subsidized imports from Canada (subject to countervailing duty waivers) should be measured consists of those facilities in the United States producing the following two categories of like merchandise:

(1) Fish that are whole, fresh, chilled or frozen or, if not whole, fish that are processed only by the removal of heads, viscera, fins or any combination thereof, but which are not otherwise processed,[8] and

(2) certain fish that are "otherwise processed" (but not merely by scaling and not including fish that are skinned and boned and frozen into blocks each weighing over 10 pounds), whether or not heads, viscera, fins, scales, or any combination thereof, have been removed.[9]

The principal species of whole groundfish [10] covered by this investigation are Atlantic ocean perch (including rosefish), flatfish (except halibut), wolf fish and whiting. The principal species of groundfish fillets covered by the investigation are Atlantic ocean perch (including rosefish), cod, cusk, haddock, hake, and pollock.

The movement of groundfish imports is generally from the Atlantic region of Canada to the Northeastern United States, and from the Pacific region of Canada to the west coast, but since the subsidies found by Commerce were more than *de minimis* only for fish harvested in the Atlantic region of Canada, the relevant industry in this investigation consists of the fishermen and processors located on the east coast of the United States.

However, regardless of whether the relevant U.S. industry is composed of all vessels that land groundfish of the subject species in the United States and all processing plants that produce groundfish fillets, or only those vessels that land their catch on the east coast of

[7] Since fish of the species and types that are subject to countervailing duty waivers and that are the subject of this investigation are produced by numerous fishermen and processors, the establishment of an industry is not at issue in this investigation and will not be discussed further.

[8] The fish in this category are referred to as "whole fish."

[9] The fish in this category are referred to as "fillets", since virtually all of the fish in this category are fillets, even though minor portions of other cuts of fish, such as fish steaks, are also included.

[10] Since virtually all of the fish species covered by countervailing duty waivers live at or near the sea bottom (or ground), they are referred to in these views collectively as "groundfish".

V 45 M Y 22 80 UMI

the United States and the filleting plants on the east coast of the United States, my determination in this investigation is the same; namely, that the domestic industry is not materially injured or threatened with material injury by reason of imports of such fish from Canada that are subject to countervailing duty waivers.

The question of material injury. (a) *The volume of subsidized imports subject to countervailing duty waivers.*—Total U.S. imports from Canada of whole groundfish subject to countervailing duty waivers increased from 2.9 million pounds, round weight, in 1974 to 4.4 million pounds in 1978, and 9.5 million pounds in 1979.[11] U.S. imports from the Atlantic region of Canada of whole groundfish subject to countervailing duty waivers into the eastern United States increased from 2.1 million pounds in 1975 to 2.7 million pounds in 1976, fell to 2 million pounds in 1977 and rose to 3.7 million pounds in 1979.[12]

Total U.S. imports from Canada of filleted groundfish subject to countervailing duty waivers rose from 81 million pounds in 1974 to 97 million pounds in 1975, fell to 79 million pounds in 1977, and rose to 112 million pounds in 1979.[13] Imports into the eastern United States from the Atlantic region of Canada of filleted groundfish subject to countervailing duty waivers fell from 93 million pounds in 1975 to 78 million pounds in 1977 and rose to 111 million pounds in 1979.[14]

The ratio of all subsidized imports of whole groundfish from Canada subject to countervailing duty waivers to U.S. consumption was 1.2 percent in 1974, remained in the range of 1.5–1.6 percent each year during the period 1975–78, and rose sharply to 3.5 percent in 1979.[15] The ratio of imports of whole groundfish subject to countervailing duty waivers from the Atlantic region of Canada into the eastern United States rose from 0.9 percent in 1975 to 1.3 percent in 1976, fell to 0.9 percent in 1977 and 1978, and rose to 1.5 percent in 1979.[16] The ratio of such imports from eastern Canada to total U.S. consumption of whole groundfish amounted to 0.9 percent in 1975, 1.1 percent in 1976, 0.8 percent in 1977 and 1978, and 1.4 percent in 1979.[17]

The ratio of all subsidized imports of filleted groundfish from Canada subject to countervailing duty waivers to total U.S. consumption of filleted groundfish rose from 38.5 percent in 1974 to 39.4 percent in 1975, fell to 28.6 percent in 1977, and rose again to 34.4 percent in 1979.[18] The ratio of imports of filleted groundfish from the Atlantic region of Canada subject to countervailing duty waivers to eastern U.S. consumption fell from 40.3 percent in 1975 to 30.3 percent in 1977 and rose to 36.3 percent in 1979.[19] The ratio of such imports from the Atlantic region of Canada to total U.S. consumption amounted to 37.7 percent in 1975, 32.7 percent in 1976, 28.3 percent in 1977, 33.1 percent in 1978 and 34.0 percent in 1979.[20]

The ratio of combined imports from Canada of whole and filleted groundfish subject to countervailing duty waivers accounted for 23.3 percent of U.S. consumption in 1974 and 23.5 percent of U.S. consumption in 1979. The ratio of combined imports from the Atlantic region of Canada of whole and filleted groundfish subject to countervailing duty waivers to eastern U.S. consumption amounted to 23.6 percent in 1975 and 22.5 percent in 1978.[21]

The most rapid growth in imports from Canada has occurred during the period in which Canada was in the process of eliminating its subsidy payments to fishermen and processors. Prior to March 31, 1978, the Canadian subsidies amounted to 17.22 percent of the f.o.b. value of Canadian exports; from April 1, 1978 through September 30, 1978, the subsidies amounted to 5.22 percent, and since October 9, 1978, the subsidy has amounted to 1.22 percent or less.[22]

(b) *Price effects of subsidized imports.*—Between January 1976 and January 1979, the east coast prices of ocean perch rose by 70 percent, and the price of yellowtail flounder rose by 33 percent. In comparison, the Bureau of Labor Statistics index of meat, fish, and poultry prices rose by only 26 percent during the period. December 1979 prices for most of the fish considered herein were at record levels and, in general, 1979 prices for whole fish were at higher levels than in previous years, and prices of domestic fillets have risen sharply in recent years despite increased imports from Canada.[23] These factors indicate the absence of price suppression or price depression in the domestic industry.

Despite the presence of underselling of the domestic product in the U.S. market the bulk of the importers' product is sold in the frozen form and the bulk of the domestic product is sold in the fresh form. Frozen fish products are ordinarily sold at a lower price than fresh fish products because of quality, taste, and texture considerations.

(c) *Impact of subsidized imports on the domestic industry.*—U.S. landings of whole groundfish of species subject to countervailing duty waivers rose irregularly from 223 million pounds, round weight, in 1974 to 255 million pounds in 1978 but fell slightly to 204 million pounds in 1979.[24] East coast landings of the subject whole groundfish rose annually from 180 million pounds, round weigh, in 1975 to 211 million pounds, round weight, in 1979.[25]

U.S. production of the subject filleted groundfish rose from 46 million pounds, fillet weight, in 1974 and 1975, to 73 millions pounds, fillet weight in 1979.[26] East coast production also increased annually from 32 million pounds in 1975 to 58 million pounds in 1979.[27]

U.S. inventories of frozen ocean perch fillets in December 1979 were higher than in any year since 1973, except 1979. U.S. inventories of frozen cod fillets were higher in December 1979 than in December of 1978 or 1976, but were lower than the December 1977 levels. Inventories of frozen haddock fillets were lower in December 1979 than in any preceding year of the 1973–79 period.[28]

U.S. employment in the domestic groundfish industry has probably expanded in recent years in line with the expansion of production and the expansion of the fishing fleet. In Massachusetts, employment increased by 11 percent between 1974 and 1977, and the number of Gloucester fishermen grew from 650 in 1976 to 1,000 in 1978.[29]

No response on their financial statistics was received from any east coast groundfishermen during the Commission's recent investigation of fish under section 201 of the Trade Act of 1974 (Investigation No. TA–201–41), but six responses received from west coast fishermen indicated increasing profits from 1975 through 1978 and a reduction in profits in 1979.[30]

U.S. fishermen and fish processors have alleged sales lost to imports of fish from Canada, however, the largest

[11] Staff report at p. A–48, table 14.
[12] Staff report at p. A–112, table J–15.
[13] Staff report at p. A–48, table 15.
[14] Staff report at p. A–112, table J–16.
[15] Staff report at p. A–48, table 14.
[16] Staff report at p. A–112, table J–15.
[17] Staff report at pp. A–48, and A–112, tables 14 and J–15.
[18] Staff report at p. A–48, table 15.
[19] Staff report at p. A–112, table J–116.
[20] Staff report at pp. A–48 and A–112, tables 15 and J–16.
[21] Staff report at pp. A–49 and A–113; tables 16 and J–17.
[22] Staff report at p. A–7.
[23] Staff report at pp. A–51—A–61, tables 17–22.
[24] Staff report at p. A–48, tables 14.
[25] Staff report at p. A–112, table J–15.
[26] Staff report at p. A–48, table 15.
[27] Staff report at p. A–112, table J–16.
[28] Staff report at pp. A–33 and A–34.
[29] Staff report at pp. A–34 and A–35.
[30] Staff report at pp. A–36 and 39.

volume of such fish from Canada is not covered by this investigation.[31]

Conclusion. I determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of fish, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada, which are the subject of waived countervailing duty orders.

Views of Commissioner Paula Stern

Introduction. For the Commission to make a determination in this investigation, pursuant to section 104(a)(2) of the Trade Agreements Act of 1979, it must find that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded,[32] by reason of imports of fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada, which are the subject of outstanding waived countervailing duty orders.

The relevant domestic industry in this investigation consists of fishermen in the Northeastern States who harvest fish of the species imported from Canada in whole or fillet form that are subject to countervailing duty waivers and processors in the Northeastern States that produce fillets like those imported from Canada that are subject to countervailing duty waivers. There are almost no indications of material injury to this industry. Further, no causal linkage has been established between the imports and any alleged problems of the domestic producers.

The nature and extent of the subsidy. The Department of Commerce has reported to the Commission that a subsidy is being provided in the amount of 1.08 percent of the f.o.b. import price of specified fish products harvested in the Atlantic region of Canada and that a subsidy is being provided in the amount of 0.38 percent of the f.o.b. import price of specified fish products harvested in other regions of Canada, but that only the subsidies applicable to fish harvested in the Atlantic region of Canada are more than *de minimis.*

Domestic groundfish harvesters and processors. Two categories of like merchandise are harvested and processed in the United States:

(1) Fish that are whole, fresh, chilled or frozen or, if not whole, fish that are processed only by the removal of heads, viscera, fins or any combination thereof, but which are not otherwise processed,[33] and

(2) certain fish that are "otherwise processed" (but not merely by scaling and not including fish that are skinned and boned and frozen into blocks each weighing over 10 pounds), whether or not heads, viscera, fins, scales, or any combination thereof, have been removed.[34]

The species of fish covered by the two categories under consideration are virtually all groundfish which derive their name from the fat that they live at or near the sea bottom (or the ground) and will be collectively referred to as groundfish. The principal species of whole groundfish covered by this investigation are Atlantic ocean perch (including rosefish), flatfish (except halibut), wolf fish and whiting. The principal species of groundfish fillets covered by the investigation are Atlantic ocean perch (including rosefish), cod, cusk, haddock, hake, and pollock.

About 700 New England and 300 west coast fishing vessels land such groundfish in the United States. Since virtually all of the catch of these vessels is converted into fillets, the processors are part of the industry that produces the subject fillets as well as harvesters of the subject whole fish under investigation. There are approximately 100 groundfish filleting firms in the United States producing fillets like the fillets imported from Canada that are subject to countervailing duty waivers. In addition to whole fish obtained from U.S. fishing vessels, many of these firms also produce fillets from whole fish imported from Canada. Of the 100 processing firms, 71 are on the Atlantic coast.

Regional considerations. In the present case, the criteria for treating a regional U.S. industry as the relevant domestic industry for purposes of the law are met. Section 771(4)(C) of the Tariff Act of 1930 provides that in appropriate circumstances the United States may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if—

(i) the producers within such market sold all or almost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied to any substantial degree, by producers of the product in question located elsewhere in the United States.[35]

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry, even if the domestic industry as a whole, or those producers whose collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened with material injury, or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

The fishermen and fish processors in the Northeastern States sell all or almost all of their product in the Northeastern States. The demand for the subject fish in the Northeastern States is not supplied to any substantial degree by producers outside the Northeastern States. Because the movement of imports is generally from the Atlantic region of Canada to the Northeastern United States and from the Pacific region of Canada to the west coast, and because the subsidies found by Commerce were *de minimis* for fish harvested in the Pacific region of Canada, the subject imports—those receiving a more than *de minimis* subsidy—are concentrated in the Northeast market of the United States.

In my view, to justify singling out a geographic segment of the country, the region should be significant enough to constitute an industry potentially meriting a remedy which, for constitutional reasons, may only be imposed on a national, rather than a regional, scale under the countervailing duty statutes.[36] The Northeastern States

[31] Staff report at pp. A–46 and A–63.
[32] Since fish of the species and types that are subject to countervailing duty waivers and that are the subject of this investigation are produced by numerous fishermen and processors, the establishment of an industry is not at issue in this investigation and will not be discussed further.
[33] The fish in this category are referred to as "whole fish."
[34] The fish in this category are referred to as "fillets", since virtually all of the fish in this category are fillets, even though minor portions of other cuts of fish, such as fish steaks, are also included.
[35] 19 U.S.C. 1677(4)(C).
[36] See "Additional Views of Commissioners Bill Alberger and Paula Stern with Respect to Regional Injury," *Carbon Steel Plate From Taiwan . . .*, Investigation No. AA1921–197, USITC Publication 970 (May 1979) at 23. That case was decided under the Antidumping Act of 1921, the predecessor to the current antidumping statute. However, the discussion of the criteria for regionality found in those views is a helpful background for considering whether a regional analysis is appropriate under the current law. Sec. 771(4)(C), which defines regional industries, applies to both countervailing duty and antidumping investigations and provides the

Footnotes continued on next page

V 45 M Y 22 80 UMI

obviously meet the criterion of significance as a region since that area accounted for 83 percent of total U.S. production.

Thus because the Northeastern States satisfy the appropriate criteria of market isolation, import concentration, and significance, the relevant industry in this investigation consists of the fishermen and processors located in that region.

The question of material injury. Whether the affected U.S. industry is composed of all vessels that land groundfish of the subject species in the United States and all U.S. processing plants that produce the subject groundfish fillets, or only those vessels that land their catch on the Northeast coast and the filleting plants in the Northeast region, my determination in this investigation would be the same—that the domestic industry is not materially injured or threatened with material injury be reason of the imports of the fish from Canada that are subject to countervailing duty waivers.

With respect to the question of material injury, the Commission is directed by section 771 of the Tariff Act of 1930 to consider, among other factors, the volume of imports of the merchandise subject to the investigation, the price effects of such imports, and the impact of such imports on the affected U.S. industry.

The volume of subsidized imports subject to countervailing duty waivers.—Although both import categories subject to countervailing duty waivers are of like merchandise, I have considered absolute and relative import penetration levels separately and together on both a regional and on a national basis. Combined subject imports moderately increased by 9 percent in absolute volume during the four-year period 1975-1978. However, their combined shares of both national and regional markets was lower in 1978 than it had been in 1975. The far smaller category of subject imported whole groundfish did increase its market share; however, this was outweighed by developments in the much more important category of subject imported groundfish fillets.[37] [38]

The most rapid growth in imports from Canada occurred during the period in which Canada was in the process of eliminating its subsidy payments to fishermen and processors. Prior to March 31, 1978, the Canadian subsidies amounted to 17.22 percent of the f.o.b. value of Canadian exports; from April 1, 1978 through September 30, 1978, the subsidies amounted to 5.22 percent, and since October 9, 1978, the subsidy has amounted to 1.22 percent or less.[39] U.S. imports from the Atlantic region of Canada [40] of whole groundfish subject to countervailing duty waivers into the Northeastern States increased from 2.1 million pounds in 1975 to 2.7 million pounds in 1976, fell to 2 million pounds in 1977 and rose to 3.7 million pounds in 1979.[41] Imports into the Northeastern States from the Atlantic region of Canada of filleted groundfish subject to countervailing duty waivers fell from 93 million pounds in 1975 to 78 million pounds in 1977 and rose to 111 million pounds in 1979.[42] Combined imports from eastern Canada of the whole and filleted groundfish subject to countervailing duty waivers rose from 93 million pounds, fillet weight, in 1975 to 101 million pounds in 1978.

The ratio to U.S. consumption of imports of whole groundfish subject to countervailing duty waivers from the Atlantic region of Canada into the Northeastern States rose from 0.9 percent in 1975 to 1.3 percent in 1976, fell to 0.9 percent in 1977 and 1978, and rose to 1.5 percent in 1979.[43] The ratio of such imports to total U.S. consumption of whole groundfish amounted to 0.9 percent in 1975, 1.1 percent in 1976, 0.8 percent in 1977 and 1978, and 1.4 percent in 1979.[44]

The ratio of imports of filleted groundfish from the Atlantic region of Canada subject to countervailing duty waivers to consumption in the Northeastern States fell from 40.3 percent in 1975 to 30.3 percent in 1977 and rose to 36.3 percent in 1979.[45] The ratio of such imports to total U.S. consumption amounted to 37.7 percent in 1975, 32.7 percent in 1976, 28.3 percent in 1977, 33.1 percent in 1978 and 34.0 percent in 1979.[46]

The ratio of combined imports from the Atlantic region of Canada of whole and filleted groundfish subject to countervailing duty waivers to consumption in the Northeastern States amounted to 23.6 percent in 1975 and 22.5 percent in 1978.[47] The ratio of such imports to total U.S. consumption fell from 22.7 percent in 1975 to 17.7 percent in 1976, before rising to 21.3 percent in 1978.[48]

Price effects of subsidized imports.—There are no meaningful indications of price suppression or price depression for domestic producers of the products under investigation. The bulk of the importers' product is sold in the frozen form, and the bulk of the domestic product is sold in the fresh form. Frozen fish products are ordinarily sold at a lower price than fresh fish products because of quality, taste, and texture considerations.[49] For example, frozen fillets of ocean perch and frozen flatfish fillets are sold for substantially lower prices than are fresh fillets of the same species of fish, even when both are from the same sources.[50]

Between January 1976 and January 1979, the east coast prices of ocean perch rose by 70 percent, and the price of yellowtail flounder rose by 33 percent. In comparison, the Bureau of Labor Statistics index of meat, fish, and poultry prices rose by only 26 percent during the period. December 1979 prices for most of the subject fish were at record levels. In general, 1979 prices for whole fish were at higher levels than in previous years, and prices of domestic fillets have risen sharply in recent years despite increased imports from Canada.[51] These factors indicate the absence of price suppression or price depression in the domestic industry.

Impact of subsidized imports on the affected industry.—Section 771 of the act instructs the Commission to examine, with respect to the impact of the subsidized imports on the domestic industry, all relevant economic factors including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment. With the sole exception of inventories, none of the indicators for which adequate data are available show any injury to the domestic industry.

U.S. landings of whole groundfish of species subject to countervailing duty waivers rose irregularly from 223 million pounds, round weight, in 1974 to 255 million pounds in 1978 but fell slightly to 249 million pounds in 1979.[52] East coast landings of whole groundfish of the species subject to countervailing duty waivers, rose annually from 180 million pounds, round weight, in 1975 to 211 million pounds, round weight, in 1979.[53]

U.S. production of filleted groundfish of the species subject to countervailing duty waivers rose from 46 million pounds, fillet weight, in 1974 and 1975, to 73 million pounds, fillet weight, in 1979.[54] East coast production also increased annually, from 32 million pounds in 1975 to 58 million pounds in 1979.[55]

U.S. capacity to catch groundfish of the types under investigation, in numbers of fishing vessels, has expanded in recent years, but conservation quotas on the east coast, the licensing of foreign vessels to fish within the 200 mile limits,[56] and the sharing of the limited resources among an expanded number of vessels may have prevented the U.S. fishing fleet from operating at full capacity. On the west coast, trip limits by processors, because supply was outstripping demand, have resulted in declining capacity utilization.[57]

U.S. inventories of frozen ocean perch fillets in December 1979 were higher than in any year since 1973, except 1974. U.S. Inventories of frozen cod fillets were higher in December 1979 than in December of 1978 or 1976, but were lower than the December 1977 levels. Inventories of frozen haddock fillets were lower in December 1979 than in any preceding year of the 1973–79 period.[58] Increases in frozen inventories may be due to the expanded capacity of the domestic fleet which, on the west coast, has supplied fresh fish in excess of demand.[59]

U.S. employment in the domestic groundfish industry has probably expanded in recent years in line with the expansion of production and the expansion of the fishing fleet. In Massachusetts, employment increased by 11 percent between 1974 and 1977, and the number of Gloucester fishermen grew from 650 in 1976 to 1,000 in 1978.[60]

No financial data were submitted in this investigation, nor were any financial statistics received from east coast groundfishermen during the Commission's recent investigation of fish under section 201 of the Trade Act of 1974. Therefore no judgment can be made as to their profits. Six responses received from west coast fishermen indicated increasing profits from 1975 through 1978 and a reduction in profits in 1979.[61] The reduced profits for the west coast fishermen may be attributable to trip limits established by processors and may not be reflective of profits of east coast fishermen.[62]

The fishermen in the northeastern region have been repeatedly requested to supply financial data to the Commission and they have repeatedly failed to comply with the Commission's requests. Section 771(7)(E)(ii) of the Tariff Act of 1930 states that the presence or absence of any factors which the Commission is required to evaluate under subparagraph (C) or (D) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury. Although the Commission undertakes its own investigations and cannot shirk this obligation by concluding that a party has failed to presuade it of the correctness of its position, a certain burden is placed upon the petitioner. That burden is the obligation of coming forward with necessary information, an obligation which the petitioners in this investigation have obviously failed to meet.[63]

U.S. fishermen and fish processors have alleged sales lost to imports of fish from Canada. However, confirmation of the lost sales was not possible because no customer names were provided.

Conclusion. I have not been able to find any persuasive indications of material injury in this investigation. Moreover, no casual linkage has been shown between any alleged injury and the subject imports which are benefitting from a rather small subsidy. Therefore, I conclude that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55, from Canada, which are the subject of waived countervailing duty orders.

By Order of the Commission.

Issued: May 19, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-15682 Filed 5-21-80; 8:45 am]

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Footnotes continued from last page

Commission with considerable discretion in determining on a case-by-case bases whether or not to make its finding based on a regional industry.

[37] The most recent year for which data are available for the subject imports, production, consumption, and the market penetration by imports for the Northeastern market, on a combined basis, is 1978.

[38] Imports of the fish products from Canada covered by countervailing duty waivers are substantially smaller in volume and account for lower import penetration in the national U.S. market on the east coast U.S. market than do other imports of similar products from Canada and from other countries. These other imports have not been found injurious in *Certain Fish from Canada . . .*, Inv. No. 303-TA-3 (1978) and *Certain Fish and Certain Shellfish from Canada . . .*, Inv. No. 303-TA-9 (1979).

[39] Staff report at A-7.

[40] Virtually all imports from the Atlantic region of Canada are destined for consumption in the Northeastern States.

[41] Staff report at A-112, table J-15.

[42] Staff report at A-112, table J-16.

[43] Staff report at A-112, table J-15.

[44] Staff report at A-48 and A-112, tables 14 and J-15.

[45] Staff report at A-112, table J-16.

[46] Staff report at A-48 and A-112, tables 15 and J-16.

[47] Staff report at A-113; table J-17.

[48] Staff report at A-49 and A-113; tables 16 and J-17.

[49] Staff report at A-11, A-58, and A-60.

[50] Staff report at A-59 and A-61. Specific price comparisons between the domestic and imported products are not possible to make in these views because of the confidentiality of the information available to the Commission.

[51] Staff report at A-51-61, tables 17-22.

[52] Staff report at A-48, table 14.

[53] Staff report at A-112, table J-15.

[54] Staff report at A-48, table 15.

[55] Staff report at A-112, table J-16.

[56] Staff report at A-18-A-21.

[57] Staff report at A-120 and A-121.

[58] Staff report at A-33 and A-34.

[59] See "Views of the Commission," *Certain Fish . . .*, Investigation No. TA-201-41, USITC Publication 1028, (January 1980) at 6 and 8.

[60] Staff report at A-34.

[61] Staff report at A-39.

[62] The Commission is lacking information regarding return on investment wages, cash flows, or the ability to raise capital, as well as the above cited financial data on east coast fishermen.

[63] See "Additional views of Commissioners Stern and Calhoun," *Countertop Microwave Ovens From Japan . . .*, Investigation No. 731-TA-4 (Preliminary), USITC Publication 1033 (February 1980), at 5 and 6; see also S. Rept. No. 96-249 (96th Cong., 1st sess.) 1979, at 88.

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. CBS Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h) that a proposed Final Judgment, Stipulation And Order, and Competitive Impact Statement have been filed with the United States District Court for the Central District of California in *United States* v. *CBS Inc.*, Civil No. 74-3599-RJK. CBS has consented to the Proposed Judgment. The complaint in this action alleged that in violation of the Sherman Act, defendant had entered into restrictive contracts and had combined with its affiliated CBS Television Network to restrain and monopolize prime time entertainment programming exhibited on that network. The Judgment would: limit for a period of 10 years, the amount of television entertainment programming that CBS may produce for use on its Network; prohibit CBS from conditioning access to its television network upon an independent program supplier's grant of any other right or interest to CBS; limit for periods of 10 or 15 years the contractual rights which CBS may obtain in connection with network exhibition of a program including limitations on CBS's right to exclusive use of a program; enjoin CBS from obtaining any right or interest in television entertainment programs produced by others, except for the right to network exhibition; enjoin CBS from engaging in domestic syndication of any television entertainment programs, from engaging in foreign distibution of programs other than those produced abroad or by CBS, limit CBS's ability to

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enforce rights in any agreements with talent so as to prevent such talent from being able to provide services in connection with program series switching to other networks or television stations; and prohibit for a period of 10 years reciprocal program arrangements between CBS and either American Broadcasting Companies, Inc., or National Broadcasting Company, Inc. Certain of these provisions will not go into effect until similar relief is obtained in the companion action against ABC. A Final Judgment was entered in the NBC case on November 28, 1977, and it in large part forms the basis for the proposed CBS Judgment. The competitive Impact Statement describes the antitipated effects of the proposed Judgment on competition, and evaluates the alternative relief proposals actually considered by the Untied States. Public comment is invited within the statutory 60 day time period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Bernard M. Hollander, Chief, Judgment Enforcement Section, Antiturst Division, Department of Justice Room 3706, Washington, D.C. 20530.

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Central District of California

United States of America, Plaintiff v. *CBS Inc.,* Defendant.

Civil No. 74–3599–RJK.

Stipulation and Order.

Filed: May 8, 1980.

It is stipulated by and between the undersigned parties, by their respective attorneys and subject to the approval of the Court, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. = 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation and Order, this Stipulation and Order and the proposed Final Judgment shall be of no effect whatever, and the making of this Stipulation and Order, and the proposed Final Judgment shall be without prejudice to the plaintiff or defendant in this or any other proceeding.

3. This Stipulation and Order shall not stop plaintiff or defendant, or any person, in this or any other action or proceeding, from asserting any issue of fact or law as to the subject matter of Section VI(E)(iii)(e), originally included in the proposed Final Judgment in *United States* v. *National Broadcasting Company, Inc.,* Civil Action No. 74–36010–RJK (C.D. Cal.), lodged November 17, 1976, nor shall it constitute any evidence or admission as to any such issue.

Dated: ————.

For the Plaintiff: Sanford M. Litvack, *Assistant Attorney General;* Joseph H. Widmar, *Director of Operations.*

For the Defendants: Robert S. Rifkind, David Boies, *Attorneys for Defendant CBS, Inc.;* Bernard M. Hollander, Barry J. Kaplan, Bernard J. O'Reilly, Ruth Dicker, James R. Kahn, John A. Kolar, Sandra L. Willis, *Attorneys for the United States.*

Order

IT IS SO ORDERED this 8th day of May, 1980.

United States District Judge.

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *CBS Inc.,* Defendant.

Civil Action No. 74–3599–RJK.

Filed: May 8, 1980.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on December 10, 1974, and defendant, CBS Inc., having filed its answer herein on December 30, 1974, by their respective attorneys, each having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law in any action or proceeding;

Now, therefore, before any testimony has been taken, the Court being advised and having considered the matter, it is hereby:

Ordered, adjudged and decreed as follows:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant under the provisions of Sections 1 and 2 of the Act of Congress of July 2, 1890, 15 U.S.C. §§ 1, 2 entitled "An act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II.

As used in this Final Judgment:

(A) "Person" means an individual, partnership, corporation or any other form of legal or business entity.

(B) "CBS" means CBS Inc. and its subsidiaries.

(C) A "person controlling CBS" means any person owning at least ten percent (10%) of, or a controlling share of, the outstanding voting stock of CBS.

(D) "CBS Television Network" means a CBS owned or operated business which provides television programs and related advertising messages to affiliated television broadcast stations.

(E) "Entertainment Program" means any program, including a feature film, exhibited or intended to be exhibited on television other than the following programs: news, public affairs, agricultural, religious, instructional, and sports (as those terms are defined in Appendix A to this Final Judgment). The inclusion of incidental or occasional entertainment or non-entertainment elements in a program or program series shall not be deemed to change the classification of the program or program series.

(F) "Independent Program Supplier" means a person who produces or offers one or more entertainment programs for network exhibition, other than CBS, a person controlling CBS, or a person in which CBS or a person controlling CBS has an ownership interest.

(G) "Network Exhibition" means the initial and repeat exhibitions of a television program on the CBS television network during the term of any agreement between CBS and an independent program supplier for such exhibition of such program.

(H) "Prime Time Hours" means the hours from 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 5:00 p.m. to 10:00 p.m. in the Central and Mountain Time Zones of the United States.

(I) "Daytime Hours" means the hours from 9:00 a.m. to 6:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 9:00 a.m. to 5:00 p.m. in the Central and Mountain Time Zones of the United States.

(J) "Fringe Hours" means the hours from 11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 10:00 p.m. to 1.00 a.m. and 6:00 a.m. to 9:00 a.m. in the Central amd Mountain Time Zones of the United States.

(K) "Television Broadcast Station" means a station licensed as a television broadcast station by the Federal Communications Commission.

(L) "CBS Production Facilities" means studio facilities, including but not limited to, scenery, props and other production equipment, which are used for the production of entertainment programs exhibited or intended to be exhibited on television, and which are owned or leased by CBS, by any person controlling CBS, or by any person in which CBS or any person controlling CBS has any ownership interest.

(M) "Stripping" means the broadcasting of more than one (1) episode per week of a television program series.

(N) "Broadcast Year" means the television broadcast year customarily commencing in September of one year and continuing until September of the following year.

III.

The provisions of this Final Judgment are applicable to CBS, to any person controlling CBS and to each of CBS's directors, officers, agents, employees, subsidiaries, successors, and assigns, and to all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

CBS is enjoined and restrained from:

(A) Acquiring any financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by an independent program supplier, other than the right to the Network Exhibition of the program, except as provided in Sections VIII(A)–(D) of this Final Judgment, *provided that* an agreement granting CBS the right to Network Exhibition may include provisions concerning subject matters incident to the licensing and use of network programs, of which the following are examples: geographic scope and manner of transmission and delivery of network broadcasts; approval of creative elements and program content; technical quality and delivery requirements; union and Equal Employment Opportunity Act compliance; act of God; force majeure; preemptions; obligation to pay for, rather than play, programs; number of episodes or programs ordered; assignability; warranties; indemnification; completion bonds; security agreements and financing statements; insurance; public morals; advertising conflicts; advertising, promotion and publicity of programs; audience testing and screening; cancellation; exclusivity for talent and creative personnel (except as limited by Section VI(I) herein; see also Section VIII(E) herein); exclusive exhibition rights (except as limited by Sections VI(E)(ii)–(iii) herein); plates (except as limited by Section VI(F) herein); options (except as limited by Sections VI(E)(i), VI(F) and VI(G) herein); first negotiation and first refusal rights (except as limited by Sections VI(E)(i) and VI(G) herein); spinoffs (except as limited by Section VI(G) herein); repeats (except as limited by Section VI(H) herein); same day protection against once weekly syndication programs and theatrical feature films; title protection for the length of the applicable contract or contracts; format and continuing character protection; breach; and remedies, so long as any such provision does not violate the antitrust laws.

(B) Selling, licensing, or distributing entertainment programs to television broadcast stations for non-network television exhibition (or otherwise engaging in the business commonly known as "syndication"), or to foreign television stations or networks, except as provided in Section VIII(D) of this Final Judgment.

V.

(A) CBS is enjoined and restrained for a period of ten (10) years from the effective date of this Section from offering for CBS network broadcast during Prime Time Hours, Daytime Hours or Fringe Hours, more than two and one-half (2½) hours per week in Prime Time Hours, more than eight (8) hours per week in Daytime Hours, and more than eleven (11) hours per week in Fringe Hours, determined on the average per compliance period, of entertainment programs obtained from sources other than independent program suppliers, *provided that* during each compliance period CBS may add to the total number of allowable hours of entertainment programming from sources other than independent program suppliers, two (2) non-regularly scheduled special programs, and *provided further that* in any compliance period, CBS may, during Fringe Hours, increase the number of allowable hours of entertainment programming from sources other than independent program suppliers by reducing to the same extent the number of allowable hours of such programming in Prime Time Hours and/or Daytime Hours.

(B) For purposes of this Section V, compliance periods shall be consecutive semi-annual periods commencing at the start of each broadcast year. Compliance reports in the form set forth in Appendix B to this Final Judgment shall be submitted by CBS to plaintiff within thirty (30) days following the conclusion of each compliance period.

VI.

CBS is enjoined and restrained:

(A) From purchasing or offering to purchase from an independent program supplier the right to Network Exhibition of one or more entertainment programs upon the condition, express or implied, that CBS, or any person controlling CBS, will obtain any other right or interest from said supplier, except as to contractual provisions concerning subject matters incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(B) For a period of fifteen (15) years from the effective date of this Section, from purchasing or offering to purchase from an independent program supplier any right to the exhibition of a program, other than a live program, as a CBS television network entertainment program upon the condition, express or implied, that said supplier produce the program, in whole or in part, utilizing CBS production facilities.

(C) For a period of fifteen (15) years from the effective date of this Section from agreeing with an independent program supplier that said supplier use CBS production facilities to produce a program, other than a live program, as a CBS television network entertainment program for a period in excess of the time required to produce episodes for one (1) broadcast year, *provided that* CBS and said supplier are not precluded each year from negotiating and contracting for additional periods not to exceed one (1) year each.

(D) For a period of ten (10) years from the effective date of this Section from purchasing or offering to purchase from National Broadcasting Company, Inc. ("NBC") or American Broadcasting Companies, Inc. ("ABC") any right to Network Exhibition of any entertainment program upon the condition, express or implied, that NBC or ABC agrees to purchase or offers to purchase a right to network exhibition of any entertainment program produced or controlled by CBS.

(E) For period of fifteen (15) years from the effective date of this Section from:

(i) Acquiring from an independent program supplier options for Network Exhibition of a prime time network entertainment program series exercisable for a period in excess of four (4) years from the date of first broadcast of an episode of such program as part of a CBS prime time television network entertainment program series, and the balance of any broadcast year in which such four (4) year period ends, *provided that:* (a) with respect to any such program series which commences at the start of a broadcast year, nothing herein shall prevent CBS, at any time[s] in or after the Spring of the first broadcast year, from negotiating new provisions which may include the purchase of an extension of the option period, so long as the maximum term at no time exceeds four (4) years from the date such new provisions are entered into, except that where such new provisions are entered into at or after the time when CBS exercises its option for the following broadcast year the maximum term shall be four (4) years from the start of such following broadcast year; and (b) with respect to any such program series which commences at a time other than the beginning of a broadcast year, nothing herein shall prevent CBS, at any time[s] after twelve months subsequent to the date of first broadcast, from negotiating new provisions which may include the purchase of an extension of the option period, so long as the maximum term at no time exceeds four (4) years, and the balance of any broadcast year in which such four (4) years period ends, and *provided further that* nothing herein shall prevent CBS from acquiring first negotiation and first refusal rights for new agreements with said supplier so long as any such first refusal rights shall not be more favorable to CBS than a contractual obligation which prevents said supplier from entering into an agreement with a person other than CBS on terms less favorable to said supplier than said supplier's last offer to CBS without giving CBS the first opportunity to meet such terms, and *provided further that* nothing herein shall prevent CBS from entering into contractual provisions incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(ii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for prime time network entertainment program series episodes for which CBS has a contractual right to Network Exhibition, in excess of the following:

(a) For prime time use, the duration of any contract term or terms by which CBS acquires the right to Network Exhibition;

(b) For non-prime time stripping on television broadcast stations, four (4) years from the first prime time episode broadcast; and

(c) For all other broadcast uses, three (3) years from the first prime time episode broadcast,

Provided that nothing herein shall prevent CBS from negotiating for and acquiring rights, including exclusive rights, for stripping and once weeking exhibition to be utilized after the periods of exclusivity set forth above, so long as negotiation for and acquisition of such rights takes place after CBS has agreed to order episodes of such program for the first year of broadcast as a CBS prime time television network entertainment program series, and *provided further that* nothing herein shall prevent CBS from acquiring exclusive exhibition rights to series episodes

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for the broadcast year for which such episodes are ordered.

(iii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for theatrical feature films for which CBS has a contractual right to Network Exhibition, against:

(a) Theatrical and non-theatrical direct projection;

(b) Closed circuit TV in non-residential hotels, motels, bars, restaurants, hospitals and similar non-residential institutions;

(c) Passenger-carrying vehicles;

(d) Video discs, cartridges or cassettes or other such equipment.

(F) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier a first year pick-up option for exhibition of a prime time network entertainment program series based on a program designated by CBS and said supplier as a "pilot program" ("pilot") which is exercisable after the following times:

(i) Where CBS has not advanced said supplier any part of the costs of pilot development, subsequent to the earliest date that the agreement contemplates that broadcast of the series may commence; and

(ii) Where CBS has advanced said supplier any part of the costs of pilot development, more than one (1) year after delivery to CBS of the completed pilot, *provided that* as to those series which CBS does not include in the network schedule at the earliest date that the agreement contemplates that broadcast of the series may commence:

(a) For those pilot which have been delivered to CBS between October 2 on one year and April 1 of the following year, CBS must designate by June 1 of the latter year sixty-five percent (65%) of such pilots as to which CBS will release its option for series exhibition upon payment to CBS of all of CBS' unrecouped costs for the development of such pilots; and

(b) For those pilots which have been delivered to CBS between April 2 and October 1 of the same year, CBS must designate by January 1 of the following year sixty-five percent (65%) of such pilots as to which CBS will release its option for series exhibition upon payment to CBS of all of CBS' unrecouped costs for the development of such pilots;

And *provided further that* CBS may purchase additional first year pick-up options for series which CBS has not designated for release and for series which CBS has designated for option release but which CBS wishes to retain, so long as such additional options are acquired, for pilots described in Section VI(F)(ii)(a), after June 1, or after the announcement of the CBS television network schedule for the next broadcast year, whichever is later, and, for pilots described in Section VI(F)(ii)(b), after December 1, and so long as such additional options do not exceed increments of six (6) months.

For purposes of this Section VI(F):

A pilot shall be deemed to have been delivered to CBS when CBS has received, in the case of a film pilot, an answer print, and, in the case of a tape pilot, a program complying with customary tape requirements.

In computing the number of pilots to be released under Sections VI(F)(ii)(a) and (b), any fraction of a pilot shall be rounded off to the next lower whole number.

Unrecouped costs shall be deemed to be the amount of money advanced by CBS to an independent program supplier for the development of a pilot, except that if the CBS television network broadcasts a pilot once, two-thirds (⅔) of CBS's costs shall be deemed to have been recouped, and if CBS broadcasts a pilot more than once, all of CBS's costs shall be deemed to have been recouped.

(G) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier rights in excess of first negotiation and first refusal rights for a spinoff involving a non-continuing character.

For purposes of this Section VI(G):

First refusal rights shall not be more favorable to CBS than a contractual obligation which prevents said supplier from entering into an agreement with a person other than CBS on terms less favorable to said supplier than said supplier's last offer to CBS without giving CBS the first opportunity to meet such terms.

A non-continuing character shall be deemed to mean one who appeared in no more than twenty-five percent (25%) of the original episodes of the program upon which such spinoff is based during the twelve (12) months prior to the time exhibition rights to such spinoff are offered for licensing by said supplier.

(H) For a period of ten (10) years from the effective date of this Section, from purchasing from an independent program supplier a right to first run Network Exhibition of any television entertainment program series which includes the right to exhibit repeats of episodes in years subsequent to the broadcast year of initial exhibition of such episodes, *provided that* repeat rights to three (3) initial episodes per broadcast year of each such program series may be purchased for exhibition in subsequent broadcast years as part of the right to Network Exhibition, and *provided further that* additional rights to repeats may be purchased for exhibition in subsequent broadcast years, so long as negotiation for and acquisition of such additional repeat rights takes place after CBS has agreed to order episodes of such program series for the first year of broadcast as a CBS television network entertainment program series, and *provided further that* the limitation as to the use of repeats contained in this Section VI(H) shall not apply to (i) made-for-television and theatrical feature films, (ii) specials, and (ii) cartoons or other children's programs.

(I) For a period of ten (10) years from the effective date of this Section, from asserting or exercising any right under any agreement for the services of any continuing performing or essential creative talent providing services in connection with a particular prime time entertainment program series licensed to CBS so as to preclude such talent from being able to continue to provide services in connection with that program series if licensed to any other licensee up to and including ninety (90) days after the expiration of CBS's option[s] for that series.

VII.

The following Sections of this Final Judgment shall not take effect until similar injunctive relief is obtained in a Final Order, Judgment or Decree entered against ABC in *United States v. American Broadcasting Companies, Inc.*, Civil Action No. 74–3600–RJK (C.D. Cal.) which is not appealable or from which no timely appeal is taken: V, VI(C), VI(E)(i), and VI (F) through (I) and VIII(E).

VIII.

Nothing contained in this Final Judgment shall be construed:

(A) To prohibit CBS from acquiring rights for non-network broadcast of programs by CBS owned and operated television broadcast stations where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights including renewal rights, for the exhibition, distribution or use of any program as a CBS television network program.

(B) To prohibit CBS from seeking repayment, in whole or in part, of money or other consideration loaned, advanced or furnished by CBS in connection with the development or production of a television network program or of a project or activity that may result in a television network program, to the extent of the amount loaned, advanced or furnished, including interest.

(C) To prohibit CBS from acquiring rights with respect to non-broadcast uses, including but not limited to publication of books or music, where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as a CBS television network program.

(D) To prohibit CBS from selling, licensing, or distributing outside the United States programs (i) produced in foreign countries and not included in CBS's television network schedule, where the acquisition of such distribution rights is not conditioned, directly or indirectly, upon the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as a CBS television network program, or (ii) produced by CBS, by any person controlling CBS, or by any person in which CBS or any person controlling CBS has any ownership interest.

(E) To preclude plaintiff, upon a showing that CBS has used exclusive rights to performing or creative talent to circumvent Section VI(F) of this Final Judgment, from applying to the Court for additional relief under this Judgment against such conduct, provided that such additional relief would not place CBS at a competitive disadvantage with respect to ABC or NBC.

IX.

If a Final Order, Judgment or Decree or modification thereof is entered with respect to ABC in *United States v. American Broadcasting Companies, Inc.*, Civil Action No. 74–3600–RJK (C.D. Cal.), or with respect to NBC in *United States v. National Broadcasting Company, Inc.*, Civil Action No. 74–3601–RJK (C.D. Cal.), which is not appealable or from which no timely appeal is taken, which shall order or decree for either ABC or NBC injunctions different in terms or provisions than those required by this Final Judgment, or which shall result in the dismissal of either or both of such actions, CBS may apply to the Court and shall be granted a modification of or relief from any terms set forth herein as may be necessary to prevent CBS from being placed at a competitive disadvantage with respect to ABC or NBC.

(A) Within thirty (30) days after the entury of this Final Judgment, CBS shall furnish to its officers, directors, and appropriate employees and agents a copy of this Final Judgment, and each year for a period of ten (10) years thereafter CBS shall furnish a copy to all new officers, directors and appropriate employees and agents. CBS shall maintain a file listing all persons to whom it has furnished such copies.

(B) Within thirty (30) days after entry of this Final Judgment and once each year during the succeeding ten (10) calendar years following entry of this Final Judgment, CBS shall send a copy of this Final Judgment to the last known address of each independent program supplier known to have offered any entertainment program to CBS for inclusion in its schedule of CBS television network programs within the preceding five (5) years and to each person listed in the then current issue of Television Factbook as a provider of television production facilities.

XI.

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, and on reasonable notice to CBS made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) access during the office hours of CBS to all books, ledgers, accounts, coorespondence, memoranda, and other records and documents in the possession or under the control of CBS relating to any matter contained in this Final Judgment; and

(2) subject to the reasonable convenience of CBS and without restraint or interference by it, the right to interview officers or employees of CBS, who may have counsel present, regarding any such matter.

(B) CBS, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XII.

Jurisdiction is retained by this Court for the purpose of enabling either party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIII.

Entry of this Final Judgment is in the public interest.

Dated: May 8, 1980.

United States District Judge.

Appendix A [1]

(a) "Agricultural programs" include market reports, farming, or other information specifically addressed, or primarily of interest, to the agricultural population.

(b) "News programs" include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis, and sports news.

(c) "Public affairs programs" include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.

(d) "Religious programs" include sermons or devotionals; religious news; and music, drama, and other types of programs designed primarily for religious purposes.

(e) "Instructional programs" include programs (other than those classifed under Agricultural, News, Public Affairs, Religious or Sports) involving the discussion of, or primarily designed to further an appreciation or understanding of, literature, music, fine arts, history, geography, and the natural and social sciences; and programs devoted to occupational and vocational instruction, instruction with respect to hobbies, and similar programs intended primarily to instruct.

(f) "Sports programs" include play-by-play and pre- or post-game related activities and separate programs of sports instruction, news or information (e.g., fishing opportunities, golfing instructions, etc.).

Appendix B

Compliance Report—CBS Produced Programs

Compliance Period _____
No. weeks _____

Prime Time Hours

Entertainment:

Program name	Number minutes per week	Number weeks offered for network broadcast

Non-Entertainment:

Program name	Number minutes per week	Number weeks offered for network broadcast

Daytime Hours

Entertainment:

Program name	Number minutes per week	Number weeks offered for network broadcast

Non-Entertainment:

Program name	Number minutes per week	Number weeks offered for network broadcast

Fringe Hours

Entertainment:

Program name	Number minutes per week	Number weeks offered for network broadcast

Non-Entertainment:

Program name	Number minutes per week	Number weeks offered for network broadcast

[1] Taken from 47 CFR § 73.670, n. 1 (1975).

U.S District Court, Central District of California

United States of America, Plaintiff, v. *CBS INC.*, Defendant.

Civil No. 74–3599–RJK.

Filed: May 8, 1980.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)–(h) Pub. L. 93–528 (December 21, 1974)], the United States of America hereby files this competitive impact statement relating to a proposed consent judgment in the above-entitled action to be entered against the defendant, CBS Inc. ("CBS"). Entry of the proposed judgment should not, of course, bar the Government from bringing another action involving any aspect of CBS's operations should the facts warrant such an action in the future.

This proposed judgment is based in large part on the Final Judgment entered on November 28, 1977, in *United States v. National Broadcasting Company, Inc.*, 74–3601–RJK (C.D. Cal.).

(1) *Nature and purpose of the proceeding.*

This action is one of three filed on December 10, 1974, against each of the nationwide commercial television networks, [1] charging that each had combined with its affiliated stations to use its control over access to network air time to restrain and monopolize prime time television entertainment programming in violation of Sections 1 and 2 of the Sherman Act (15 U.S.C. §§ 1 and 2). This suit is similar to an earlier suit against CB, filed on April 14, 1972, which, with suits against the other two

[1] In addition to CBS, complaints were filed against American Broadcasting Companies, Inc. ("ABC") and National Broadcasting Company, Inc. ("NBC").

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networks (ABC and NBC), was dismissed without prejudice to new filings by the Court on November 13, 1974. CBS's news, public affairs and sports programming are not involved in either this or the previous suit.

The complaint alleges that CBS used its control over access to the broadcasting time of the CBS Television Network during prime evening hours for the following purposes: to exclude from network broadcast those entertainment programs in which CBS had no financial interest; to compel independent program suppliers to grant to CBS financial interests in television programs which it accepted for broadcast; to refuse to sell air time to advertisers and other independent program suppliers seeking to have their own programs shown on the CBS network; to control the prices paid by CBS for television exhibition rights to motion picture feature films and to obtain competitive advantages over other producers and distributors of television entertainment programs and of motion picture feature films. In the complaint, the Government sought to have CBS enjoined from the following practices: obtaining any interest, except for the right of network exhibition, in independently produced programs; engaging in syndication of any television entertainment programs; producing entertainment programs itself; and using its control over access to the CBS Television Network to foreclose competition or obtain an unfair competitive advantage in any other field. The proposed judgment provides relief similar and substantially equivalent to that requested in the complaint.

(2) Practices and events giving rise to the alleged violation of the antitrust laws.

CBS is a substantial purchaser, exhibitor and producer of commercial television programs. There are approximately 700 television stations in the United States which are licensed by the Government to broadcast commercial television programs. CBS operates a national television network which provides television programs and related advertising messages to approximately 200 affiliated television stations located throughout the United States and to the five television stations which are owned and operated by CBS (in New York City, Los Angeles, Chicago, Philadelphia and St. Louis).

Commercial television programs are created and produced by television networks, television stations, and independent program suppliers, including motion picture studios. In 1973, the three nationwide commerical television networks (CBS, ABC, and NBC) spent more than $1,000,000,000 for television programs, of which CBS spent more than $340,000,000. In 1973, total television broadcasting revenues for the aforementioned three networks were in excess of $1,400,000,000, of which CBS received more than $500,000,000.

The value of any television program to its producer, and to an advertiser whose message is broadcast in conjunction with it, depends in large part on the number of television viewers who see the program and observe the commercial messages. CBS, through its affiliated television stations, has control over access to approximately 98 percent of all United States television households for programs which it offers for broadcast. This is because during prime evening hours [2] when television viewing is at its peak, most of the 200 CBS affiliated stations and all the CBS owned and operated stations depend upon CBS for virtually all of their television entertainment programming. In early 1976, for example, CBS's primary affiliates [3] and its owned and operated stations broadcast over 90 percent of the programs regularly offered by the CBS Television Network during prime evening hours.

The commercial value of a television entertainment program is not exhausted by its first network showing. It may also be stripped (broadcast a number of times per week) by a network. Frequently, usually after its network run is completed, a program is distributed to individual television stations in the United States for non-network broadcast (this is generally referred to as syndication). In addition, a program may be distributed to foreign television stations while it is appearing over a domestic television network. Merchandising, literary and music rights in a television program could also provide substantial revenue to the producer.

There is a substantial economic incentive for CBS to gain control of programming on its network, and CBS has exercised its control over access to the viewing public so as to exclude from the CBS Television Network programs controlled by others. One effect of this is to reduce the number of program purchasers with a resultant lessening of competition for television programs. For example, in the 1950's and early 1960's, advertisers were able to purchase television entertainment programs acceptable to CBS from independent program suppliers for broadcast on air time purchased from the CBS Television Network. In November of 1957, approximately 40 percent of all entertainment program series offered by the CBS Television Network during prime evening hours were advertiser-supplied; thus, advertisers constituted a substantial market for independent program suppliers. However, by November, 1967, only 11 percent of all entertainment program series offered by the CBS Television Network during prime evening hours were advertiser-supplied. At the present time, no such series is advertiser-supplied.

CBS embarked upon a policy of replacing advertiser-supplied programming with programs which it controlled through internal production, exclusive long-term network licenses, or talent exclusivity. Often CBS obtained rights or interests in excess of network exhibition. While, in November, 1957, only approximately 49 percent of all prime time entertainment program series offered by the CBS Television Network were programs which CBS produced or in which it had subsidiary rights or interests, such programs constituted 68 percent of all prime time entertainment program series offered by the CBS Television Network in November 1967.

As a result of this situation, which obtained on all three networks, the Federal Communications Commission ("FCC") promulgated rules which forbade CBS, ABC, and NBC from exacting certain financial interests or syndication rights in television programs from independent producers. 47 C.F.R. § 73.658(j).[4] However, despite the FCC financial interest and syndication rules, CBS and the other networks continued to exact from producers such rights as: (1) long-term yearly renewal options for exclusive CBS network exhibition of the program with pre-set license fee escalation rates; (2) exclusive use of the program by CBS as against other communications markets; (3) exclusive rights in CBS with respect to program spinoffs; (4) creative program controls in CBS; (5) CBS's right to all profits from network exhibition of the producer's program; and (6) a CBS right of first refusal at the end of the option period.[5]

Were this case to go to trial, the Government would contend that CBS had used and continues to use its dominance and control over access to the broadcasting time of the CBS Television Network, to condition independent program suppliers' access to said network upon the suppliers' relinquishing valuable rights and interests in their programs, and that this course of conduct violates Sections 1 and 2 of the Sherman Act. The Government would also contend that CBS has favored programs in which it obtained such rights and interests over other programs, with the result that trade and commerce in CBS's prime time television entertainment programming has been illegally restrained and monopolized. Finally, the Government would contend that CBS's unrestricted ability to produce prime time television entertainment programming, together with its control over access to its television network and its past and present restrictive course of conduct, constitutes an unreasonable and unlawful restraint of independent program suppliers' ability to produce and negotiate for distribution and exhibition of their programming.

(3) The proposed consent judgment and its *anticipated effect on competition.*

The proposed judgment is directed at minimizing the substantial advantage CBS has acquired in television programming because of its market power as one of the three nationwide commercial networks, which not only purchase and exhibit but also produce television programs. The structure of the market is such that each of the three networks controls program producers' and advertisers' access to the nation's commercial television audiences, and each network has abused its power by refusing

[2] 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific time zones. 5:00 p.m. to 10:00 p.m. in the Central and Mountain time zones.

[3] A CBS primary affiliate is a television station to which CBS generally offers first call on television programs which it offers for broadcast.

[4] Such rights and interests included distribution rights and profit shares for domestic and foreign syndication of the program, and for merchandising, music and literary rights.

[5] At the same time, similar practices have been followed by ABC and NBC with respect to programming on their networks. The existence of uniform terms and conditions of purchase among the three major networks acts to deprive independent program suppliers of the benefits of network competition for their programs. Moreover, the network practice of obtaining exclusive exhibition rights often occurs at a time when the program is in the idea or script stage and the program supplier has little or no bargaining power.

access to programs which it did not produce or in which it had no financial interest. Consequently, the only meaningful relief that can be obtained short of restructuring the networks is to limit network program production and restrict the program rights that each network may obtain from outside suppliers to the rights essential to networking, which are those incident to the right to exhibit the program. This the proposed CBS judgment seeks to do. It would establish specific outer limits on CBS's own program production and on the type of rights and interests which CBS may acquire from independent program suppliers in addition to the right of network exhibition. This should minimize CBS's incentive to select a program on the basis of financial interests in it. The judgment does not, of course, require independent program producers to grant to CBS particular rights and interests, even to the extent permitted. However, it is anticipated that because of the proposed judgment, the forces of competition would be able to operate more freely on CBS's program procurement practices.

The following is a discussion of the key provisions of the judgment:

Section IV

The proposed judgment would enjoin CBS from acquiring syndication and other distribution rights or profit shares in the non-network exploitation of television entertainment programs produced by others, and would thereby permanently preserve the prohibitions in the FCC's financial interest and syndication rules. To prevent CBS from utilizing its inherent competitive advantage over other domestic syndicators, the proposed judgment would prohibit domestic syndication of programs by CBS, but, consistent with the FCC's rules, would allow CBS-produced programs and certain foreign programs to be distributed by CBS in foreign markets.

Section V

The judgment would enhance competition in television entertainment program production and exhibition by eliminating the possibility that CBS could substantially increase its internal production of its network programs and thereby exclude independent program suppliers. For a period of 10 years it would limit the amount of television entertainment programming which may be produced by CBS to no more than: two and one-half hours per week in prime time hours,[6] eight hours per week in daytime hours (9:00 a.m. to 6:00 p.m. in the Eastern and Pacific time zones and 9:00 a.m. to 5:00 p.m. in the Central and Mountain time zones), and eleven hours per week in fringe hours (11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific time zones and 10:00 p.m. to 1:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Central and Mountain time zones).[7] [8]

[6] For definition, see n. 2, supra at p. 4.

[7] CBS would also be allowed to produce two additional special programs every six months. CBS will report to the Department of Justice, semi-annually, its own program production during the preceding period.

Section VI

The complaint alleges that CBS uses its control over access to its national television network to gain an unfair competitive advantage in other fields. Section VI contains prohibitions designed to prevent this from occurring and to give those competing in such other fields an opportunity to compete free of the artificial leverage which CBS, and the other networks, have exercised in the past. Because of the regulatory nature of many of the injunctions in Section VI, and the possiblity of changes in the industry, the Department has determined that the prohibitions should contain the time limitations spelled out in this section [15 years for subsections (B), (C) and (E) and 10 years in subsections (D), (F), (G), (H), and (I)].

VI(A)

The judgment would prohibit CBS from purchasing or offering to purchase exhibition rights to an independent program supplier's television entertainment program on condition that the supplier would grant CBS any right or interest other than those incident to network licensing and use of the program. This continuing injunction is based on the assumption that CBS, and the other two existing commercial television networks, will continue to have substantial market power for the foreseeable future.

VI(B)

To specifically clarify the scope of Section VI(A), this provision would assure that CBS would not, in connection with its acquisition of network exhibition rights, require that the supplier use CBS production facilities. It would expire in fifteen years.

VI(C)

For a period of fifteen years, any facilities contract between CBS and such a program supplier would be limited to the period required to produce one year's episodes, with a right to renew the contract at the end of each year.[9]

VI(D)

To guard against CBS's possible avoidance of its program production limitation through reciprocal dealing with other networks, for a period of ten years, CBS would be prohibited from purchasing network exhibition rights to any ABC or NBC entertainment program on condition that ABC or NBC purchase similar rights from CBS.

VI(E)

For a period of fifteen years, the proposed judgment would place the following outer limits on the exclusive rights that CBS may acquire from an independent program supplier in obtaining network exhibition rights for a prime time entertainment program (the supplier can, of course, grant CBS fewer and lesser rights than these):

For program series [VI(E)(i)]:

CBS's initial contracts with program suppliers for the production and network exhibition of a prime time entertainment program series could not include exclusive yearly options for more than four years and the balance of any broadcast year in which such four year period ends. However, CBS could, pursuant to the limitations set forth in this provision, renegotiate the contract with the supplier to provide for additional options as follows:

[a] *In the case of a program series which commences at the start of a broadcast year:* CBS could begin negotiating in or after the Spring of the first broadcast year for an additional one-year option, but only upon CBS's exercising its existing option for the second broadcast year could it enter into an agreement for the additional one-year option. At no time after CBS exercises its option to go to series could CBS hold more than three years of additional options to programs in this category. CBS and the supplier can negotiate a contract for an additional option at any time in or after the Spring of the first broadcast year, so long as the maximum of four years of options is not exceeded. To illustrate, if they wait until the Spring of the second broadcast year, CBS may negotiate for at most two years of additional options; if they wait until the Spring of the third year, CBS may negotiate for at most three additional options. [VI(E)(i)(a)]; [10]

(b) *In the case of a program series which commences after the start of a broadcast year:* CBS could negotiate, after twelve months subsequent to the date of first broadcast, for an additional one-year option, but CBS need not wait until it exercises its option for the following broadcast year before entering into an agreement for the additional one-year option. In subsequent broadcast years, CBS may negotiate for and obtain additional options so long as it at no time holds options for more than four years and the balance of any broadcast year in which the four-year period ends. [VI(E)(i)(b)].

In either situation, CBS and the supplier are free to negotiate for additional options at any time after CBS obtains, if it does, an additional option year, so long as the maximum limits are observed. They are, of course, also free to abstain from any additional negotiations or to negotiate for less than the limits set forth in the proposed judgment. When the contract approaches the end of its term, the supplier would be free to offer the program to others, subject only to CBS's first negotiation/first refusal rights by CBS.[11, 12]

IV (E)(ii)

CBS could not prohibit the use of any prime time television program in other domestic communications markets for more than three

[8] This provision would not take effect until similar relief is obtained against ABC. See discussion of Section VII, infra at p. 20.

[10] If negotiations are conducted in any Summer, Fall, or Winter after the Spring of the first broadcast year, CBS is limited to that which it was permitted to acquire in the Spring which preceded such negotiations. If the initial contract term were three years, rather than four, CBS could negotiate for at most two years of additional options during the first Spring following initial broadcast.

[11] CBS's permissible first refusal rights for new contracts, exercisable at the end of any contract term, could not prohibit the program supplier from entering into a new contract with someone else at the end of any contract term, if the terms were equal to or better than the supplier's last offer to CBS.

[12] This provision would not take effect until similar relief is obtained against ABC.

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years,[12] except that CBS may obtain four years of exclusivity as against nonprime time stripping (the broadcast of program series episodes more than once a week after their network exhibition),[14] and may have exclusivity for prime time use of the program during the life of CBS's right to network exhibition. This provision should free a substantial number of entertainment program series for syndication and other uses much earlier than is currently possible.[15]

For theatrical feature films [VI(E)(iii)]:

(1) CBS cannot acquire exclusivity as against exhibition of feature films by theatrical and nontheatrical direct projection, on closed circuit TV in nonresidential hotels, motels, bars, restaurants, and hospitals, or on passenger-carrying vehicles.

(2) CBS cannot acquire exclusivity as against use of feature films in discs, cartridges or cassettes.

VI (F)

Program selections for each network's new fall season are generally made in the preceding spring, and for "second season" replacement, in the preceding fall. For a period of ten years, this provision would prevent CBS from retaining its exclusive options to more than 35% of the program pilots not selected by it, after CBS's program selection for the next broadcast season has been made. This provision would permit increased competition between the networks by freeing the producers of as many as 65% of the program pilots not selected by CBS to offer their pilots to other networks or television stations.[16]

VI(G)

To protect independent program suppliers' rights to additional program ideas developed from program series on CBS, for a period of ten years this provision would limit CBS's ability to obtain exclusive rights to spinoffs[17] from such series to situations involving continuing characters. Where the spinoff involves a non-continuing character,[18] CBS may obtain no contractual option beyond first negotiation and a limited first refusal right.[19] [20]

VI(H)

This provision would limit CBS's use of repeats acquired as part of Network Exhibition, to the same year as that in which the initial episodes of the program series are broadcast. However, as to three episodes of each series per year, there would be no limitation on rerunning them in subsequent years. Also, once it had ordered program series episodes for the first year of broadcast, CBS could purchase additional repeats for subsequent years. Finally, CBS would not be limited in purchasing repeat rights of made-for-television and threatrical feature films, specials, or cartoons or other children's programs.[21]

VI(I)

This provision would prevent CBS from asserting or exercising any right in any agreement with continuing [22] performing or essential [23] creative talent which is providing services in connection with a particular prime time series licensed to CBS so as to preclude such talent from being able to continue to provide services in connection with that series if it were licensed to any other licensee. This prohibition lasts for ninety days after CBS's options for that series have expired. This provision would permit the program supplier to take a series which has run out its term, or which has been cancelled by CBS, to another network or television station, with the essential talent still in the series even though CBS may have the essential talent under contract.

The ninety day period is designed to provide a reasonable time during which the program supplier could attempt to license the series, but not so much as would prevent the talent and CBS from being able to proceed with assurance on some alternative project if the series remained unlicensed.[24]

This provision would in no way limit the talent's freedom of choice. The talent would be free to stay with CBS, or to continue with the series, a choice which might otherwise be foreclosed by an exclusive agreement with CBS. While this provision does not limit CBS's ability to offer the talent projects which are alternatives to continuing with the series, it prohibits use by CBS of an existing agreement to prevent the talent from being able to continue with the series.

After the expiration of ninety days, CBS would be free to attempt to enter into a new agreement with the talent for the exclusive use of such talent's services, whether or not the series has been licensed to another licensee. Further, this provision would not affect the contracts between the talent and other suppliers or licensees. Nor would this provision prevent the talent from providing services to the series, if contractually free to do so, if the series were licensed to another licensee after the ninety-day period.[25]

Section VII

In order to avoid placing CBS at a competitive disadvantage with respect to ABC or NBC, this provision would delay the effectuation of certain Sections of the judgment [V, VI(C), VI(E)(i), VI(F)–(I), and VIII(E)] until similar injunctive relief is obtained against ABC. Similar injunctive relief has already been obtained against NBC.[26] While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of the companion action.

Section VIII

This provision describes certain areas of CBS activity with which the judgment would not interfere. They are: (1) CBS's ability to acquire rights for non-network broadcast by its owned and operated television stations and rights for non-broadcasting uses, and CBS's ability to sell, license or distribute foreign or CBS produced programs abroad, provided that none of the above rights are acquired in connection with CBS's acquisition of rights for the exhibition, distribution or use of a CBS television network program; and (2) CBS's ability to recover money advanced in connection with the development or production of a television network program.

Section VIII(E) imposes no specific limitation on CBS's use of an exclusive agreement with performing or creative talent when it decides not to take a pilot to series. However, if CBS should circumvent Section VI(F) by using exclusive talent agreements to inhibit program suppliers' ability to program suppliers' ability to license CBS rejected program concepts elsewhere, this provision permits the Government to obtain appropriate relief against such conduct without having to justify a modification of the judgment.[27] [28]

Section IX

If a non-appealable judgment were entered dismissing the companion action against ABC, or decreeing injunctions in that action which were different from those in this proposal judgment, or if the Final Judgment entered in the NBC action on November 28, 1977, were modified in such a manner, CBS would be permitted to seek and obtain whatever relief, if any, were necessary to prevent it from being placed at a competitive disadvantage with respect to ABC or NBC. While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of the companion action.

[12] CBS presently has exclusive rights for the duration of its network exhibition contract.

[14] The judgment would not permit CBS to obtain further stripping rights from the suplier until after it has ordered its first year's episodes for network exhibition.

[15] To permit contract adjustments, this provision would take effect thirty days after entry of the final judgment.

[16] This provision would not take effect until similar relief is obtained against ABC.

[17] A spinoff is a new series evolving from an episode or character of a series currently being offered for broadcast.

[18] A non-continuing character is one who appears in no more than 25% of the original episodes during the twelve months prior to the time exhibiiton rights for the licensing of such spinoff are offered by the independent supplier.

[19] The first refusal right would be limited as discussed in n. 8, supra at p. 12.

[20] This provision would not take effect until similar relief is obtained against ABC.

[21] This provision would not take effect until similar relief is obtained against ABC.

[22] In this context, a continuing talent is one who appeared in more than twenty-five percent of the original episodes of the program series during the twelve months prior to cancellation or expriation of CBS's options for that series. [See Section VI(G)].

[23] The term "essential" is not limited to those persons who are "of the essence" in a license agreement; rather, it describes those persons whose services are reasonably necessary to the successful continuation of the series in the manner it has been produced for CBS.

[24] The ninety-day period was suggested by Section 24(c) of the 1977 Screen Actors Guild Television Agreement.

[25] This provision would not take effect until similar relief is obtained against ABC.

[26] See Final Judgment in *United States v. National Broadcasting Company, Inc.*, 74–3601–RJK (C.D. Cal.), entered on November 28, 1977.

[27] A similar provision was entered into by NBC and the Government which covered the use of exclusive rights to talent to circumvent any provision of the judgment. Stipulation and Order, dated may 4, 1977, *United States v. National Broadcasting Company, Inc.*, 74–3601–RJK (C.D. Cal.).

[28] This provision would not take effect until similar relief is obtained against ABC.

Section X

This provision would require CBS to furnish copies of this judgment to all its officers, directors, and appropriate employees and agents within thirty days after its entry, and for ten years thereafter to furnish copies to all new CBS officers, directors or appropriate employees, to each independent program supplier known to have offered any entertainment program to CBS within the preceding five years, and to all known providers of television production facilities.

The consent judgment would afford ways of determining compliance by permitting the Government, upon proper notice, to interview CBS employees, secure reports from CBS and inspect CBS documents and records.

The District Court would retain jurisdiction of the case to permit any necessary construction or modification of the judgment, to enforce compliance and to punish any judgment violation.

Stipulation and Order

The proposed consent judgment is subject to a stipulation between the United States and CBS that, when ordered by the Court, the Stipulation and Order providing for the entry of the CBS consent judgment shall not estop the parties or any person in this or any other action from asserting any issue of fact or law concerning CBS's acquisition of exclusivity for the exhibition of theatrical feature films as against pay television.[29]

(4) *Remedies available to potential private plaintiffs.*

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages, and any other legal or equitable relief to which they would have been entitled were the proposed judgment not entered. However, this judgment may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

(5) *Procedures available for modification of the proposed consent judgment.*

The proposed consent judgment is subject to a stipulation between the United States and the defendant which provides that the United States may withdraw its consent to the proposed consent judgment at any time before the Court has found that entry of the judgment is in the public interest. By its terms, jurisdiction of this action is retained by the Court in order, among other things, to permit either of the parties to apply for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, during the sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Bernard M. Hollander, Chief, Judgment Enforcement Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the **Federal Register** such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

(6) *Alternatives to the proposed judgment considered by the United States.*

A full trial on the merits was considered as an alternative to settlement. However, because the agreed to relief would be substantially equivalent to that sought in the complaint, because significant relief would become effective upon entry of the judgment, and finally because appeals following a trial could delay the obtaining of effective relief for a period of years, the alternative of a trial on the merits was rejected.

In addition to considering provisions substantially similar to those contained in the proposed judgment, proposals considered by the Government and then rejected included the following:

(a) Section VI(E)(i) was the subject of intense negotiation between the parties. Although not specifically requested in the complaint, an important element of the proposed judgment is the initial four year limitation on yearly options obtainable by CBS when it contracts for the production and possible exhibition of a new program series. As in the NBC situation, the Government initially proposed a two year limit on the option period, and various compromises were considered, including, of course, that obtained in the NBC Final Judgment. Agreement was reached by shortening the permissible length of the option term to four one-year terms, instead of the permissible total five year term in the NBC Judgment, but permitting CBS and program suppliers the flexibility of negotiating for additional one-year options in the Spring of the first broadcast year and in subsequent broadcast years.

(b) As to Section VI(I), the Government initially sought to include as "in-house" produced programs which are limited by Section V, any program in which a performing or creative talent exclusive to CBS provided essential services. This provision was sought to prevent CBS from designating as a non "in-house" program, one over which it maintained a large degree of control through an exclusive talent agreement. A more direct solution was reached by prohibiting CBS from exercising any exclusive talent agreement so as to prevent the talent from staying with a program series which its supplier was able to license to another network or station within ninety days after the expiration of CBS's options for that series.

When the parties agreed to the concept, the Government sought to extend it to pilots which did not go to series, as well as to series which CBS dropped. It sought to do so by prohibiting CBS from using exclusive agreements with talent to prevent rejected series concepts based on pilots from being marketed to other networks or stations. Based, in part, on the lack of sufficient proof that CBS had, in fact, utilized exclusive agreements with talent for such a purpose, and also upon the recognition that pilots are part of the development process of a potential program series, and that CBS has a legitimate interest in attempting to develop successful program concepts with its exclusive talent (which may require more than one pilot to be made), a compromise was reached which permits the Government to seek additional relief upon a showing that CBS has used exclusive rights to talent to circumvent the pilot section of the judgment [Section VIII(E)].

(c) With respect to CBS's exclusive rights to the exhibition of theatrical feature films as against pay television, plaintiff was convinced during pre-trial discovery that such rights should be curtailed.[30] However, the relief initially obtained in the proposed NBC judgement was almost uniformly criticized by the commentors as establishing a detrimental industry standard. Unable to reach an agreement with CBS on a more limited period of exclusivity, the parties determined to include no provision as to exclusivity for theatrical feature films as against pay television in the proposed judgment. As in the NBC case, however, the parties have stipulated that this non-inclusion does not estop any possible future action in this area by any person, and does not constitute any evidence or admission respecting any related issue of fact or law.

Finally, had the Government prevailed at a trial on the merits, it would have considered seeking a Court order voiding CBS's existing contracts with independent program suppliers and providing an opportunity for all such suppliers to negotiate new contracts in light of the then-existing circumstances.

(7) *Determinative Documents.*

There are no materials or documents which the Government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement.

Dated: May 8, 1980.

Bernard M. Hollander
Barry J. Kaplan
Bernard J. O'Reilly
Ruth Dicker
James R. Kahn
John A. Kolar
Attorneys for the United States.

[FR Doc. 80–15637 Filed 5–21–80; 8:45 am]
BILLING CODE 4410–01–M

[29] A similar agreement was entered into by NBC and the Government. Stipulation and Order, dated May 4, 1977, *United States v. National Broadcasting Company, Inc.*, 74–3601–RJK (C.D. Cal.).

United States v. Rockwell International Corporation, et al.; Proposed Final Judgment, and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C Section 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement (CIS) have been filed with the United States District Court for the Eastern District of Pennsylvania in *United States of America* v. *Rockwell International*

[30] The corresponding NBC situation is discussed in the Competitive Impact Statement filed in *United States v. National Broadcasting Company, Inc.*, 74–3601–RJK (C.D. Cal.) on November 17, 1976.

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Corporation, et al., Civil Action No. 78–3656. The Complaint in this case alleged that three corporations engaged in a combination and conspiracy to raise, fix, maintain and stabilize prices of gas meters in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins the defendants from entering into or maintaining, any agreement, understanding, combination or conspiracy with any other manufacturer of gas meters to raise, fix, maintain, stablize or adhere to prices or other terms or conditions for the sale of gas meters to any third person. The proposed judgment further enjoins the defendants from communicating to, requesting from, or discussing with any other manufacturer of gas meters information about prices at which gas meters were sold or are to be bid or sold, and information concerning gas meter production or sales volume or costs. Each defendant is required to establish an antitrust compliance program which shall include the biannual distribution of the judgment and a written corporate directive to certain employees. The employees would also be required to sign a statement acknowledging their receipt of the judgment and directive, and their understanding that non-compliance may result in criminal penalties.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the court. Comments should be directed to Anthony V. Nanni, Chief, Trial Section, Room 3268, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: 202–633–2541).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plantiff, v. *Rockwell International Corporation, the Singer Company, and Tetron Inc.*, Defendants.

Civil Action No. 78–3656.
Filed: May 13, 1980.

Stipulation

We stipulate that:

1. The parties consent that the court may file and enter a Final Judgment, in the form attached to this Stipulation, on the court's own motion or on motion of any party at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. 16(b)–(h)], and without further notice to any party or other proceedings, if plantiff has not withdrawn its consent, which it may do at any time before entry of the judgment by serving notice of its withdrawal on defendants and filing that notice with the court.

2. If plantiff withdraws its consent or if the proposed judgment is not entered pursuant to this stipulation, the stipulation shall be of no effect whatever and the making of it shall be without prejudice to any party in this or any other proceeding.

April —, 1980.

For the plantiff: Sanford M. Litvack, Assistant Attorney General, Joseph H. Widmar, Charles F. B. McAleer, Anthony V. Nanni, Gordon L. Lang, Sara V. Dobb, Attorneys, United States Department of Justice.

For the defendents: Edward W. Mullinix; Susan K. Herschel, Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia, Pennsylvania 19102, Attorneys for Rockwell International Corporation. Harold R. Tyler, Jr., Patterson, Belknap, Webb & Tyler, 30 Rockefeller Plaza, New York, New York 10020, Attorney for the Singer Company. Henry P. Sailer, Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006, Attorney for Textron Inc.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Rockwell International Corporation, the Singer Company, and Textron Inc.*, Defendants.

Civil Action No. 78–3656.
Filed: May 13, 1980.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on November 1, 1978, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon consent of the parties, it is hereby,

Ordered, adjudged and decreed as follows:

I

This court has jurisdiction of the subject matter of this action and of the parties. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

A. "Person" shall mean any individual, partnership, firm, corporation, association or other business or legal entity;

B. "Gas meters" shall mean all sizes of diaphragm meters used to measure the flow of gas.

III

This Final Judgment applies to each defendant and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment does not apply to sales for use outside the United States in which delivery is made to the vendee outside the United States.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other manufacturer of gas meters to raise, fix, stabilize, maintain or adhere to prices, discounts or other terms or conditions for the sale of gas meters to any third person.

V

Each defendant is enjoined and restrained from communicating to, requesting from or discussing with any other manufacturer of gas meters information about (a) any past, present, future or proposed bid, or the consideration of whether to make any bid, for the sale of gas meters to any third person; (b) any past, present, future or proposed price, discount or other term or condition for the sale of gas meters or the consideration of whether to make any change in any actual or proposed price, discount or other term or condition for the sale of gas meters; or (c) gas meter production or sales volume or costs; provided, however, that this Section V shall not apply to (1) any communication that is made to the public or the trade generally but is not made directly to any other manufacturer of gas meters and (2) any necessary communication in connection with a bona fide contemplated or actual purchase or sales transaction between the parties to the communication.

VI

A. Each defendant shall, within 60 days after entry of this Final Judgment, furnish a copy of it to each of its employees who has management responsibility for the sale of gas meters or any responsibility for or authority over the establishment of prices for gas meters.

B. Each defendant shall furnish a copy of this Final Judgment to each person who becomes an employee described in subsection A of this section, within 60 days after he assumes the position that brings them within that description.

C. Each defendant shall take additional affirmative steps to advise each of its employees described in subsections A and B of this section of its and of their obligations. These steps shall include distribution to each of them, at least once every two years, of copies of this Final Judgment and of a written directive about the defendant's policy requiring compliance with the Sherman Act and with the judgment. The directive shall include an admonition that noncompliance will result in appropriate disciplinary action, which may include dismissal, and advice that the defendant's legal advisors are available to confer about any compliance questions. The defendant shall require that each of them submit to it a signed statement, which it shall retain in its files, acknowledging each receipt of copies of the judgment and the directive, acknowledging that he has read them, acknowledging that he has been advised and understands that noncompliance will result in appropriate disciplinary action, which may include dismissal, and acknowledging that he has been advised and understands that noncompliance with the judgment may also result in conviction for contempt of court and fine or imprisonment, or both.

D. Each defendant shall file with the court and serve on the plaintiff, within 90 days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsection A of this section.

VII

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the total assets of its gas meter business, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the court, and serve on the plaintiff, its consent to be bound by this Final Judgment.

VIII

For the purpose of determining or securing compliance with this Final Judgment, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division or his agent made to any defendant at its principal office, subject to any legally recognized privilege:

A. On reasonable notice to the defendant, which may have counsel present, duly authorized representatives of the Department of Justice shall be permitted:

1. Access, during office hours of the defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, directors, employees or agents of the defendant, any of whom may have counsel present, regarding any matters contained in this Final Judgment; and

B. The defendant shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

If, at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in the information or documents to be of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure and the defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give ten day's notice to the defendant before divulging the material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

IX

Jurisdiction is retained by this court for the purpose of enabling any of the parties to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with it or for the punishment of any violation of it.

X

This Final Judgment shall be in effect for the period of ten years following the date of its entry.

XI

Entry of this Final Judgment is in the public interest.

J.

U.S. District Court, Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Rockwell International Corporation, The Singer Company, and Textron Inc.*, Defendants.

Civil Action No. 78–3656.

Filed: May 13, 1980.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On November 1, 1978, the United States filed a civil antitrust Complaint under Section 4 of the Sherman Act (15 U.S.C. § 4) to enjoin the above-named corporate defendants from continuing or renewing violations of Section 1 of the Sherman Act (15 U.S.C. § 1).

The Complaint alleges that beginning in or about May 1973 and continuing thereafter until November 1977, the defendants engaged in a combination and conspiracy to restrain interstate commerce by fixing, maintaining and stabilizing the prices of gas meters. The Complaint seeks a judgment by the court that the defendants engaged in a combination and conspiracy in restraint of trade in violation of Section 1 of the Sherman Act and an order to enjoin them from continuing or resuming such activities in the future.

Proceedings in this case were stayed pending disposition of a companion criminal prosecution, *United States v. Rockwell International Corporation, et al.*, Criminal No. 78–325 (E.D. Pa.). The indictment, returned by a grand jury on November 1, 1978, charged Rockwell International Corporation and Textron Inc. with a criminal violation of the Sherman Act arising out of the same conspiracy alleged in the Complaint. On January 15, 1979, Rockwell International Corporation entered a plea of guilty. On January 25, 1979, Textron Inc. was found guilty after a jury trial. On January 26, 1979, the Honorable Edward N. Cahn, United States District Court Judge, imposed fines of $525,000 against Rockwell and $200,000 against Textron. Both fines were paid on February 8, 1979, and the criminal case is now concluded.

The Singer Company was named as an unindicted co-conspirator in the criminal case. Singer was not indicted in the criminal case because of its voluntary disclosure to the Department of Justice of its participation in the price-fixing conspiracy. The decision not to press criminal charges against Singer was in accord with the Antitrust Division policy of leniency designed to encourage business firms to come forward with information about suspected antitrust wrongdoing.

II. The Terms of the Alleged Conspiracy

The three corporate defendants are engaged in the production and sale of the types and sizes of gas meters commonly used by public utility companies, and commercial and industrial concerns to measure the flow of gas. Rockwell International makes and sells gas meters under the Rockwell name. Textron Inc. makes and sells gas meters through a division called Sprague Meter Company. The Singer Company makes and sells gas meters through a division called American Meter Company. The Complaint alleges that the defendant corporations have accounted for approximately 98 percent of total sales in the United States of such gas meters. During the period of time covered by the Complaint the total sales of such gas meters by the defendants amounted to approximately 5.9 million units valued at approximately $231 million.

The Complaint alleges that the defendants combined and conspired to restrain interstate commerce beginning in or about May 1973 until November 1977 in violation of Section 1 of the Sherman Act by fixing, raising, maintaining and stabilizing the prices of gas meters. As stated in the Complaint, for the purpose of forming and effectuating the conspiracy, the defendants: agreed to increase the prices of gas meters; published price lists and adopted pricing schedules in accordance with agreements reached; agreed to maintain published prices of gas meters; exchanged price lists and sales data for gas meters; telephoned or otherwise contacted one another to coordinate prices to be bid on the sale of gas meters; telephoned or otherwise contacted one another to police the agreement and secure adherence to agreed upon increased prices; met periodically at hotels, motels, restaurants and airports and at the occasion of meetings of the American Gas Association, Institute of Gas Technology, Guild of Ancient Suppliers and other industry trade groups, and discussed pricing strategy including the coordinated increase of prices for gas meters and the curtailment and elimination of price cutting and discount practices; and coordinated bids so as to divide business and obtain either alternate awards or split awards of orders for gas meters. According to the Complaint, the conspiracy among the defendants has had the effect throughout the United States of raising and stabilizing the prices of gas meters at artificial and non-competitive levels, depriving buyers of gas meters of free and open competition in the sale of gas meters, and eliminating competition between the defendants in the sale of gas meters.

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III. Explanation of the Proposed Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The Final Judgment between the parties provides that there is no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the court that the proposed Final Judgment is in the public interest.

Gas meters are defined in the proposed Final Judgment as all sizes of diaphragm meters used to measure the flow of gas. This definition is consistent with the focus of the investigation leading to the criminal indictment and the filing of the Complaint and the evidence introduced at the criminal trial of Textron Inc.

The proposed Final Judgment enjoins and restrains each defendant from directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other manufacturer of gas meters to raise, fix, stabilize, maintain or adhere to prices, discounts or other terms or conditions for the sale of gas meters to any third person.

The proposed Final Judgment also enjoins and restrains each defendant from communicating to, requesting from or discussing with any other manufacturer of gas meters information about (a) any past, present, future or proposed bid, or the consideration of whether to make any bid, for the sale of gas meters to any third person; (b) any past, present, future or proposed price, discount or other term or condition for the sale of gas meters or the consideration of whether to make any change in any actual or proposed price, discount or other term or condition for the sale of gas meters; or (c) gas meter production or sales volume or costs. This restraint on communications does not apply to any communication that is made to the public or the trade generally but is not made directly to any other manufacturer of gas meters and any necessary communication in connection with a bona fide contemplated or actual purchase or sales transaction between the parties to the communication.

The proposed Final Judgment requires each defendant to take affirmative steps to advise each of its employees who has management responsibility for the sale of gas meters or any responsibility for or authority over the establishment of gas meter prices of the defendant's and the employee's obligations under the judgment and the Sherman Act. Each defendant is required to furnish a copy of the Final Judgment to each of the described employees within 60 days after the judgment is entered, and to each person who becomes a described employee within 60 days of the person's assuming the described position. In addition, each defendant is required to distribute, at least once every two years, a copy of the Final Judgment and a written directive to each of the described employees. The directive must include a warning that noncompliance with the Final Judgment and the Sherman Act will result in disciplinary action, which may include dismissal, and advice that the defendant's legal advisors are available for consultation concerning compliance questions. Upon receipt of the judgment and directive, the employee must submit a signed statement to his employer. The signed statement must acknowledge that the employee has received and read the judgment and directive, that he had been advised and understands that noncompliance will result in disciplinary action, which may include dismissal, and that he had been advised and understands that noncompliance with the judgment may result in conviction for contempt of court and fine or imprisonment, or both.

The proposed Final Judgment also provides that each defendant require, as a condition of the sale or other disposition of all, or substantially all, of the total assets of its gas meter business that the acquiring party agree to be bound by the provisions of the Final Judgment. The acquiring party must file with the court, and serve on the United States, its consent to be bound by the judgment.

The Department of Justice is given access under the proposed Final Judgment to the files and records of the defendant corporations, subject to reasonable notice requirements, in order to examine such records to determine compliance or noncompliance with the Final Judgment. The Department is also granted access to interview officers, directors, agents or employees of the defendants to determine whether the defendants and their representatives are complying with the Final Judgment. Finally, the defendants, upon the written request of the Department of Justice, shall submit reports in writing, under oath if requested, with respect to any of the matters contained in the Final Judgment.

The Final Judgment is to be in effect for ten years from its date of entry.

IV. Remedies Available to Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. The entry of the proposed Final Judgment will neither impair nor assist any person in bringin or prosecuting any private antitrust claim arising out of the combination and conspiracy charged in the Complaint. Under Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), this Final Judgment may not be used as prima facie evidence in legal proceedings against the defendants.

Shortly after the commencement of this case and the criminal case by the United States a number of private actions were filed in various federal district courts throughout the United States seeking treble damages. On January 17, 1979, the Panel on Multi-district Litigation consolidated the private actions before Judge Charles R. Weiner, *In Re Gas Meter Antitrust Litigation*, M.D.L. No. 341 (E.D. Pa.). All of the consolidated private actions were settled by the parties and have been dismissed.

V. Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Anthony V. Nanni, Department of Justice, Antitrust Division, 10th & Constitution Avenue, N.W., Washington, D.C. 20530, within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is appropriate and necessary to the public interest. The proposed Final Judgment provides that the court will retain jurisdiction over this action, and that the parties may apply to the court for such orders as may be necessary or appropriate for its modification or enforcement. The Final Judgment is to remain in effect for a period of ten years from the date of its entry.

IV. Alternatives to the Proposed Final Judgment

The United States originally proposed a decree provision requiring each defendant to withdraw its present price announcements and lists, to adopt new gas meter prices and terms and conditions of sale for gas meter on the basis of its own cost figures and judgment, and to submit an affidavit to the court and plaintiff certifying that such new prices and conditions for sale were independently arrived at. This proposal was withdrawn because each of the defendants had issued new prices after the initiation of the civil and criminal cases. In addition, each of the defendants has submitted to the Department of Justice an affidavit executed by one of its officers stating that its current prices were independently determined. These affidavits are filed by the United States with this Competitive Impact Statement.

The proposed Final Judgement will dispose of the United States' claim for injunctive relief. The only alternative available to the Department of Justice is a trial of this case on the merits. Such a trial would require a substantial expenditure of public funds and judicial time. Since the relief obtained in the proposed Final Judgment is substantially similar to the relief the Department of Justice would expect to obtain after winning a trial on the merits, the United States believes that entry of the proposed Final Judgement is in the public interest.

VII. Determinative Materials

Each of the defendants has submitted an affidavit stating its current prices were independently determined. Those affidavits are filed with this Competitive Impact Statement.

Respectfully submitted,

Gordon L. Lang,

Attorney, U.S. Department of Justice, Antitrust Division, Room 3248, 10th & Pennsylvania Avenue, NW., Washington, D.C. 20530 (202) 633–2485.

COMMONWEALTH OF PENNSYLVANIA

County of Philadelphia, SS:

Richard W. Bohlen, being duly sworn according to law, deposes and says that he is Vice President and Division Manager of the Municipal & Utility Division of Rockwell International Corporation ("Rockwell"), that he is authorized to make this affidavit on its behalf, and that, to the best of his knowledge and belief, all prices of gas meters and terms and conditions for the sale of gas meters that Rockwell has adopted and issued since November 1977 have been adopted and issued solely as a result of Rockwell's independent business judgment.

Richard W. Bohlen,

Vice President and Division Manager, Municipal & Utility Division, Rockwell International Corporation.

Affidavit

COMMONWEALTH OF PENNSYLVANIA

County of Philadelphia, SS:

Jack H. Venner, being duly sworn, deposes and says:

1. I am the President of the American Meter Division of The Singer Company, and I am authorized to make this affidavit on its behalf.

2. Based upon my personal knowledge and my consultations with other officers and employees of the American Meter Division of The Singer Company, to the best of my knowledge and belief, all prices of gas meters and terms and conditions for the sale of gas meters that the American Meter Division of The Singer Company has dopted and issued since at least November 1977 have been adopted and issued solely as a result of the American Meter Division of The Singer Company's independent business judgment.

Jack H. Venner.

COMMONWEALTH OF CONNECTICUT

County of Fairfield, SS:

Philip R. Sayre, being duly sworn according to law, deposes and says that he is the President of the Sprague Meter Division of Textron Inc., that he is authorized to make this affidavit on its behalf, and that, to the best of his knowledge and belief, all prices of gas meters and terms and conditions for the sale of gas meters that Sprague Meter Division of Textron Inc. has adopted and issued since November 1977 have been adopted and issued solely as a result of Sprague Meter Division of Textron Inc. independent business judgment.

Philip R. Sayre,

President, Sprague Meter, Division of Textron Inc.

[FR Doc. 80–15636 Filed 5–21–80; 8:45 am]

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NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 80–21]

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Report: *Thurman L. Munson Cessna Citation 501, N15NY, near Canton, Ohio, August 2, 1979 (NTSB–AAR–80–2).*—The National Transportation Safety Board on May 12 released its formal investigation report on the crash of last August 2 which occurred short of runway 19 at the Akron-Canton Airport. The pilot, famed baseball star Thurman Munson, was practicing touch-and-go landings during a local flight with two passengers aboard. The aircraft first touched down in a relatively level, clear area about 870 ft short of the runway. The aircraft slid through a small clump of trees, hit a large stump, and came to rest on a road adjacent to the airport boundary fence. Fire erupted immediately after the aircraft came to rest. The two passengers escaped from the wreckage, and the pilot was killed.

The Safety Board has determined that the probable cause of the accident was the pilot's failure to recognize the need for, and to take action to maintain, sufficient airspeed to prevent a stall into the ground during an attempted landing. The pilot also failed to recognize the need for timely and sufficient power application to prevent the stall during an approach conducted inadvertently without flaps extended. Contributing to the pilot's inability to recognize the problem and to take proper action was his failure to use the appropriate checklist and his nonstandard pattern procedures which resulted in an abnormal approach profile.

Highway Accident Report: *Van/Slow-Moving Farm Vehicle Collision, U.S. Route 6/50, near Delta, Utah, September 12, 1979 (NTSB–HAR–80–2).*—The Safety Board's investigation report, released May 12, shows that when the 1976 Dodge van, occupied by 14 senior citizens, overtook the slow-moving farm vehicle, the right front corner of the van struck the left rear edge of the 15½-ft-wide cutting attachment that was mounted to the front of the farm vehicle. The van rolled onto its left wheels, traveled off the right side of the road, and struck a concrete bridge parapet that was located 4½ ft beyond the edge of the pavement. Eight of the van occupants were killed, and six were injured; the driver of the farm vehicle was not injured.

The Safety Board determined that the probable cause of this accident was the farm vehicle's inadequate rear lighting system, which failed to identify the slow-moving, overwidth windrower as a hazard to higher-speed traffic approaching from the rear, and the van driver's inability to detect and avoid striking the projecting cutting attachment on the windrower while operating at the posted speed limit.

As a result of its investigation of this accident, the Safety Board on May 5 issued one recommendation (H–80–36) to the American Society of Agricultural Engineers, calling for reevaluation of present ASAE lighting and marking standards applicable to agricultural equipment being driven on public highways. Also, the Safety Board asked the National Committee on Uniform Traffic Laws and Ordinances to provide guidelines in the Uniform Vehicle Code to insure that farm equipment lighting and delineation systems do not mask each other and to require systems delineating the extreme projections of all overwidth equipment (H–80–37). The Governors of all the States were asked by recommendation H–80–38 to adopt amended Uniform Vehicle Code Standards regarding the marking and lighting of farm vehicles (implements of husbandry). The Safety Board, also on May 5, recommended that the Utah Highway Patrol insure that its selective enforcement program properly emphasize enforcement of Utah regulations concerning safe operation of farm vehicles on the highway (H–80–39) and that the State of Utah reactivate its roadside obstacle elimination program to emphasize improvement of unsafe bridge traffic barrier systems and assign project priorities according to accident experience (H–80–40). (See also 45 FR 32147, May 15, 1980.)

Pipeline Accident Report: *Columbia LNG Corporation Explosion and Fire of Substation, Cove Point, Maryland, October 6, 1979 (NTSB–PAR–80–2).*—The investigation report, released May 14, shows that an explosion caused by liquefied natural gas vapors (LNG) destroyed a transformer building at the reception facility of the Columbia LNG Corporation. Odorless liquefied natural gas leaked through an inadequately tightened LNG pump seal, vaporized, passed through approximately 210 ft of underground electrical conduit, and entered the substation building. One person was killed and one person was seriously injured. Damage to the facility was estimated at about $3 million.

The Safety Board determined that the probable cause of this accident was LNG which leaked through an inadequately tightened LNG pump seal, vaporized, and migrated through a 3-inch conduit, into a substation building where the vaporized LNG-air mixture was ignited by the arcing contacts of a circuit breaker interlock. Contributing to the accident was the absence of any combustible gas indicator to detect and warn personnel of the presence of flammable vapors in the building.

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Six days after the accident, the Safety Board recommended to the American Gas Association immediate industrywide inspection of electric conduit seals and appropriate preventive action. (44 FR 62972, November 1, 1979.) On May 7, the Board issued 13 additional recommendations to the Department of Transportation's Research and Special Programs Administration (P–80–26 through –30), the United States Coast Guard (P–80–31 through –33), and to the Columbia LNG Corporation (P–80–34 through –38). In addition to further tightening of LNG facility regulations by DOT, the recommendations seek for all LNG facilities (1) a Federal program of safety inspection, (2) licensing or certification of operating personnel, (3) required periodic and realistic emergency drills, (4) regulations requiring adequately protected firefighting water systems, and (5) adequately marked firefighting facilities. The Board also recommended for Cove Point adequate LNG vapor detection and improved firefighting facilities and training. (See also 45 FR 32148, May 15, 1980.)

Safety Recommendation Letters

Aviation

A–80–36 and –37 to the Federal Aviation Administration, May 8, 1980.) Because of the burgeoning increase in air taxi and commuter carrier operations, the matter of pilot age and physical condition in Part 135 operations has become increasingly important from the standpoint of aviation safety and the protection of the traveling public. Safety Board investigation of three air taxi/commuter accidents has disclosed significant medical problems involving pilots over 60 years old.

The Board notes that studies to assess the effects of aging on human performance have generally been inconclusive. However, the progressive degeneration of certain important physiological functions in humans is important to aviation safety when it may cause sudden incapacitation, such as cardiovascular disease, metabolic disease, and central nervous system disorders—conditions relating to a pilot's ability to resist fatigue, to adapt to rapidly changing environmental conditions, and to perform under stress.

Based on these physiological factors and other considerations, FAA in 1959 promulgated a regulation restricting the services of pilots in air carrier operations to those under age 60 (14 CFR 121.383). Because the air taxi industry at that time was not a significant factor in transportation and was minimally regulated, it was not included in this regulation. Today, the air taxi/commuter industry has attained a scale of operations which rivals that of air carriers. The Board notes that because of the nature of air taxi/commuter-type operations—the shorter flight segments, the numerous approaches, landings and takeoffs, and the relatively low altitudes which subject these flights to more weather-related problems—the duty day of the pilot in Part 135 operations may be more arduous than that worked by most pilots in Part 121 operations. Moreover, pilots may fly certain aircraft in Part 135 operations without a copilot. Consequently, the Safety Board believes that since the rationale used to establish the age limitation in 14 CFR 121 has, in the FAA's opinion, established an acceptable level of safety for commercial operations, this requirement should be equally and immediately applied to Part 135 operations on an interim basis.

Also, the Board notes that recently, Congress mandated the National Institutes of Health, in consultation with the Department of Transportation, to further study the aging process with respect to a pilot's ability to safely perform his duties, to determine the efficacy of medical certification of pilots, and to determine the medical need for an age limitation for pilots. The results of this study may well require FAA to reevaluate the present age limitation rule in 14 CFR 121.383. The Board believes, however, that the operational environment and operating rules for Part 135 operators are sufficiently different from Part 121 operations to warrant a separate study or expansion of the current study to include the effects of fatigue and stress on pilots engaged in air taxi and commuter operations with a view toward establishing the need for a different age limitation in 14 CFR Part 135.

Therefore, the Safety Board recommends that FAA:

Determine through a study of the operating environment and rules for Part 135 operators whether the working conditions of Part 135 pilots are sufficiently different to warrant an age limitation different from that established for Part 121 pilots. (A–80–36)

Amend 14 CFR 135.95 to include as an interim measure, pending completion of an appropriate study, an upper age limit for airmen under this Part which provides a level of safety equivalent to air carrier operations. (A–80–37)

A–80–38 to the Federal Aviation Administration, May 14, 1980.—Last August 7 a Beech 65–80 (Queen Air), N99FA, serial No. LD–26, departed Gaithersburg, Md., and climbed southbound. Shortly after reaching 20,000 feet m.s.l., the crew saw white smoke and smelled fumes in the cockpit. An emergency was declared and the aircraft was landed without further incident at Dulles International Airport, Washington, D.C.

Board investigation revealed that both voltage regulators and both alternator-rectifiers were inoperative and the nickel-cadmium battery was venting gas overboard. Fire damage was found on the voltage regulators and associated wire bundles under the cockpit floor between the pilot seats, and both alternator field windings were burned and shorted. The alternators are protected by two alternator field (10 ampere) circuit breakers which are mounted on the floor, in the aisle, adjacent to the right pilot's seat and by two mainline (105 ampere) circuit breakers which are similarly floor-mounted in the aisle adjacent to the left pilot's seat. Both of the mainline circuit breakers and the adjacent landing gear circuit breaker were mechanically damaged.

Both of the alternator field circuit breakers were also damaged, the Board notes. The housing of one circuit breaker was partially separated from the metal retaining cap which allowed dust and other debris to collect within the housing in the contact point area. There was arcing within the breaker housing across the foreign material at the contact points, which welded both sets of contact points closed. This closed the circuit and left the field without circuit breaker protection. The damaged and inoperable floor-mounted circuit breakers failed to provide protection to the electrical system which resulted in damage to the d.c. alternator system, and an electrical fire.

The Safety Board is aware of a Service Bulletin issued December 29, 1967, by Beech Aircraft Corporation, requiring relocation of circuit breakers. This bulletin, No. 67–28, affects Queen Airs such as the incident aircraft model. The purpose of the bulletin is to prevent accidental damage to the alternator field circuit breakers. It gives the procedure for relocating the floor-mounted field circuit breaker bracket to a lower, less vulnerable position. This Service Bulletin was not accomplished on the incident aircraft.

Further, the Board notes that a General Aviation Inspection Aid was issued in August 1968 by FAA regarding the alternator field circuit breakers floor-mounted location for Beech Model 65–80. This Inspection Aid states:

These floor-mounted circuit breakers are subject to damage as a result of heavy foot pressures and inadvertently being struck by persons in the cockpit. If damaged, these circuit breakers may not provide protection for the alternator field circuit and associated aircraft wiring.

Cockpit personnel are cautioned to avoid stepping on these circuit breakers.

The Beechcraft Shop Manual, Section VII, Queen Air Series, requires that the circuit breakers be checked for looseness and proper operation during the 100-hour inspection in the pilot's compartment.

Information received from FAA records shows that there are 95 registered Beech Models 65–80 aircraft recorded as of January 10, 1980. The Safety Board believes that Beech Model 65–80 owner-operators and maintenance personnel should again be reminded that floor-mounted circuit breakers can be damaged and made inoperative if they are not protected. They should be informed of the importance of complying with Beech Service Bulletin No. 67–28.

Accordingly, the Safety Board recommends that FAA:

Issue a General Aviation Airworthiness Alert describing the effects of damage to the floor-mounted alternator field current breakers and mainline circuit breakers in Beech Model 65–80 aircraft. The advisory should emphasize the desirability of compliance with Beech Service Bulletin No. 67–28, dated December 29, 1967. (A–80–38)

Each of the above aviation safety recommendations is classified "Class II, Priority Action."

Highway

H–80–41 through –44 to the City of Spokane, Washington, May 14, 1980.—The accident which prompted these recommendations concerned the collision last November 2 of a westbound Union Pacific train on the Spokane subdivision of the Spokane International Railroad with a gasoline truck and trailer at the Stone Street crossing. The trailer's cargo tank ruptured, resulting in an explosion and ignition of its 5,500-gallon cargo of gasoline. Two brakemen and a foreman in the cab of the diesel locomotive unit were killed. The engineer was critically injured.

Safety Board investigation disclosed that the train was moving at about 10 mph, which was within the maximum timetable speed of 20 mph. The estimated speed of the truck was less than 5 mph. Washington State law and the Code of Federal Regulations require a driver of any motor vehicle carrying a flammable liquid as a cargo to stop within 50 feet but not less than 15 feet from the nearest rail of a railroad crossing. The driver said that he stopped before proceeding across the tracks. However, because a building and a parked boxcar obstructed his view, the truckdriver could not see the train from a lawfully stopped position. The truckdriver said that his window was half open but that he did not hear the engine's bell which, according to a witness, was ringing. Its sound could have been attenuated by the obstructions or drowned out by the noise from the truck's engine. Once the truck had started from the stopped position and the truckdriver could see the train, the truck could be neither stopped short of the tracks nor accelerated clear of the tracks before being struck by the train.

A Spokane ordinance prohibits the use of a train whistle within city limits except in emergency situations. The engineer said that he had sounded the whistle when he first saw the truck, but the driver said he never heard it. The driver noticed the locomotive unit's headlights, but only after he was on the tracks.

The Safety Board notes there are three additional railroad/highway grade crossings within 1,000 feet west of the Stone Street crossing, at Lee, Crestline, and Napa Streets. Of these, only Napa Street has active crossing protection which consists of crossbucks and double-flashing lights; however, it does not have advance signs and pavement markings as required by the Manual on Uniform Traffic Control Devices.

A traffic count made last November 5 showed that during the 24-hour period beginning at 10 a.m., 383 vehicles crossed the tracks at Stone Street, 67 vehicles cross at Lee Street, 229 vehicles crossed at Crestline Street, and 8,295 vehicles crossed at Napa Street. If there had not been crossings at Stone, Lee, or Crestline Streets, the truckdriver probably would have used Napa Street to cross the tracks. The active devices there would have given him advance warning of the approaching train, and the collision probably would not have occurred. Since it is generally accepted that elimination of crossings increases transportation safety, crossings which are not necessary for traffic flow should be closed. The Safety Board believes that the low number of vehicles using the Stone, Lee, and Crestline Street crossings suggests that these crossings could be closed without adversely affecting traffic flow in the area. Board investigation also revealed that other railroad/highway grade crossings in the city are potential candidates for closing. The Napa Street crossing should be studied to determine if gates are warranted, especially with the increased traffic which can be expected if the other three crossings are closed.

Therefore, the Safety Board recommends that the city of Spokane:

Examine the effects of closing Stone, Lee, and Crestline Street crossings using the Railroad-Highway Grade Crossing Handbook as a guide and take appropriate action to either close these crossings or install active crossing protective devices, and inform the Safety Board of the action taken. (Class II, Priority Action) (H–80–41)

Erect Railroad Advance Warning signs and pavement markings on Napa Street at the crossing with the Spokane International Railroad. The signs and markings and their installation should be in accordance with the Manual and Uniform Traffic Control Devices. (Class I, Urgent Action) (H–80–42)

Prohibit the parking of railroad boxcars within the critical sight triangle of those railroad/highway grade crossings where only passive control devices exist. Require that flagmen be provided when such standing is necessary during loading or unloading. (Class I, Urgent Action) (H–80–43)

Study and evaluate all other railroad/highway grade crossings in the city of Spokane, with a view to closing those not necessary for traffic flow and upgrading crossing protection where warranted, and inform the Safety Board of the action taken. (Class II, Priority Action) (H–80–44)

Railroad

R–74–9 (reiterated) to Federal Railroad Administration, May 12, 1980.—On June 25, 1973, two Southern Pacific Transportation Company (SP) freight trains were involved in a rear-end collision at Indio, Calif. The engineer and head brakeman were killed, and the damage was estimated at $1,632,199. In part, the Safety Board determined that the probable cause of that accident was the failure of the crew of Extra 8992 West to stop their train, which was being operated at excessive speed by an engineer under the influence of alcohol.

As a result of investigation of that accident, the Safety Board recommended that the FRA:

Include in its proposed Standards for Rules Governing the Operation of Trains, regulations that will in effect prohibit the use of narcotics and intoxicants by employees for a specified period prior to their reporting for duty and while they are on duty. (R–74–9)

FRA responded that it have reviewed its accident causal code and modified it to broaden its data base to be used for a study of the alcohol/drug problem. On the basis of it statistical records, FRA concluded that, since the use of alcohol was the confirmed cause of only one accident during 1975 and two accidents during 1976, Federally enforced regulations would not be effective and, in fact, would be inferior to a cooperative program already in progress that was being supported by railroad labor and management. Also, SP responded to recommendation R–74–9 with the connotation that it supported

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FRA and that it was of the opinion that SP's current Rule G was more restrictive than the intent of the Safety Board recommendation.

On July 24, 1979, two SP freight trains were involved in a rear-end collision at Thousand Palms, Calif., about 10 miles west of Indio. The engineer died as a result of the fire which erupted after the impact, and damage was estimated at $1,479,700. The Safety Board determined that the probable cause of that accident was the failure of the engineer, whose performance was significantly impaired by alcohol, to stop his train as required by the stop aspect displayed by the interlocking home signal. (See 45 FR 20254, March 27, 1980). The circumstances of the accident at Thousand Palms closely paralleled those of the Indio accident; i.e., the activities of the crews during their layover status at Yuma, Ariz., and the involvement of alcohol.

On October 1, 1979, a ConRail Freight train disregarded signal indications and the attempts of a flagment to stop it and struct the rear of a standing ConRail train. The accident occurred near Royersford, Pa. The engineer and conductor, who were on the lead locomotive unit, were killed. Damage was estimated at $562,000. The Safety Board determined that the probable cause of that accident was the failure of the conductor of train ALPG–2, who was operating the train without authority and under the influence of marijuana, to comply with a "stop and proceed" signal aspect located 3,600 feet from the collision site and to respond to flagging protection provided by the rear brakeman of train APJ–2 and stop the train. Contributing to the accident was the conductor's failure to perform has assigned duties by (1) ensuring that the head breakeman performed his duties in his assigned location in the locomotives; and (2) ensuring that the engineer was physically fit and capable of operating the train in conformity with all applicable rules and regulations. Also contributing was the absence of an adequate backup system to control the train in the event that the crew failed to do so. (See also 45 FR 22311, April 3, 1980.)

The Safety Board notes that since recommendation R–74–9 was issued, FRA has revised its accident causal code to allow railroads to report the involvement of alcohol as a cause of accidents. Little has been done to change the effect of alcohol, drugs, or hallucinogens on railroad operations. FRA's lack of action is not acceptable to the Safety Board. Further, the Board believes that it is unrealistic to assume that railroad management and labor unions cannot agree on the need for and a method that will identify an employee who has been using intoxicants or drugs and who should not be allowed to assume a tour of duty.

The Board is firmly convinced that FRA cannot remain adamant any longer about a real problem, which is with the industry here and now, and which will not go away or be reduced unless positive, comprehensive action is taken. This action must be in the form of enforceable regulations with the penalty being a sufficient deterrant. Accordingly, the Board reiterates recommendation R–74–9 to FRA.

Responses to Safety Recommendations

Aviation

A–80–13 and –14, from the Federal Aviation Administration, May 13, 1980.—Response is to recommendations issued last February 13 as a result of investigation of a fatal accident of a Beech 70 Excalibur Conversion (Queen Air), N777AE, which crashed just after takeoff on March 1, 1979, at Gulfport, Miss. The recommendations asked FAA to take action to provide double failure protection by means of a secondary locking device on nose baggage doors of light twin engine aircraft engaged in Part 135 operations (A–80–13), and to require that the nose baggage door interrupter system on all Beech Aircraft models so equipped be operational before flight (A–80–14). (See 45 FR 11629, February 21, 1980.)

FAA concurs in the intent of recommendation A–80–13. FAA will initiate a study to determine if an additional nose baggage door locking mechanism is needed for any specific light twin engine aircraft engaged in Part 135 operations. If the study shows that additional mechanism is needed on certain model airplanes, FAA will coordinate with the appropriate manufacturer to develop such an improvement, and will inform the Board.

FAA also concurs in the requirement of recommendation A–80–14. Federal Aviation Regulations (FAR's) 135.143a, 91.29, and 91.165 were cited by enforcement action that was completed on February 7, 1980, against Universal Airways, Inc., as a result of operating airplane N777AE in an unairworthy condition with the baggage door starter interrupter system inoperative. FAA notes that Approved Minimum Equipment Lists that are related to FAR 135.179 do not mention the interrupter system; however, this system is specified by the type designs for the airplanes that are under consideration. Consequently, FAR 135.143 requires the interrupter system to be operational before flight for air taxi coperations. For general operations, the same requirements are imposed by FAR's 91.29 and 91.165.

FAA notes that noncompliance with the above requirements, rather than the absence of requirements, caused the service difficulties cited by the Board. In order to achieve compliance, Order 8440.5A was revised on April 9, 1979, to incorporate revised Operations Bulletin No. 75–1; FAA also issued a Maintenance Note on page 12 of General Airworthiness Alert No. 10 during May 1979 (copies provided).

A–80–20 and –21, from the Federal Aviation Administration, May 13, 1980.—Response is to recommendations issued during investigation of a door failure and rapid decompression at 16,000 feet of a Swearingen SA–226 AT on March 8 near Albany, N.Y. The Board's preliminary examination of the aircraft indicated that there were static failures of the door's latching mechanism, possibly because the mechanism was adjusted improperly. The Safety Board urged FAA to issue telegraphic Airworthiness Directives requiring an immediate inspection of the door latching mechanism of the aft cargo doors on all Swearingen SA–226 aircraft to assure proper adjustment and structural integrity (A–80–20) and restricting the cabin pressure differential in Swearingen SA–226 aircraft until the cause of the aft cargo door failure can be determined and an appropriate corrective action carried out (A–80–21). (See 45 FR 20225, March 27, 1980.)

FAA reports that emergency telegraphic Airworthiness Directive (AD), No. T80SW 14, applicable to operators of Swearingen Model SA226TC and SA226AT airplanes, was issued on March 15, 1980. The AD required an immediate inspection of the door latching mechanism of the aft cargo door to assure proper adjustment, operation, and structural integrity, and prohibited flight operation with a pressurized cabin. Later on March 15, AD T80W 14 was amended by adding a clarifying paragraph requiring compliance prior to further flight.

On March 19, telegraphic AD T80SW 15 was issued, superseding AD T80SW 14, as amended. This AD T80SW 15 includes the provisions of AD T80SW 14 and provides for inspection at 250-hour intervals to assure proper adjustment, operation, and structural integrity of the door system. (Copies of all referenced AD's were provided.)

The Safety Board on May 5 advised FAA that recommendations A–80–20 and –21 were to be classified in a "Closed—Acceptable Action" status, since the Board is satisfied that compliance with these AD's will fulfill the Board's intent.

Marine

M–79–32 through –37, from the United States Coast Guard, April 29, 1980.—Response is to Safety Board letter of February 6, 1980, commenting on USCG's previous response of last October 1 to recommendations developed as a result of investigation and analysis of the collision of the SS FROSTA and the ferry M/V GEORGE PRINCE in the Mississippi River above New Orleans, La., October 26, 1976. (See 44 FR 64933, November 8, 1979.)

With respect to M–79–32 and M–79–33, the Safety Board expressed acceptance of the statement that USCG lacks authority to require not-for-hire State operated ferry systems to perform the activities outlined in these recommendations. The Board classified these two recommendations as "Closed-Reconsidered" and stated in its February 6 letter that the Louisiana State Department of Highways, the operator of the ferry, would be approached concerning passenger safety during emergencies.

The Board agreed that the implementation of 33 CFR 164.15 may help to achieve some of the results sought in issuing M–79–34. The Board expressed concern, however, as to the future of this regulation, since the lack of a list of confined or congested waters leaves 164.15 with no area of application. The Board wished to know if/when the list of confined or congested waters will be published. The Board believes that a propulsion machinery readiness requirement at designated "caution" areas is needed even though Coast Guard estimates that this is a standard operating procedure for most vessels in or near pilotage waters. The Board asked Coast Guard to substantiate its statement with numbers of vessels that have this readiness requirement in a set of written operating procedures.

The Board accepted Coast Guard's proposals for fulfilling recommendation M–79–35 through publication of the final unified inland rules. The Board accepted the planned rulemaking activity without the cautionary note regarding the closing of pilot house windows and doors, and stated that these proposed actions will be adequate to solve the problem addressed by the recommendation.

With respect to recommendation M–79–36, the Safety Board's February 6 letter notes that on the portion of the National Oceanic and Atmospheric Administration (NOAA) Nautical Chart 11370 "Mississippi River, New Orleans, to Baton Rouge, Louisiana" that shows the Luling-Destrehan ferry crossing, there is a "CAUTION" note near the ferry crossing which is concerned with a bridge under construction and there are three general notes on "crossing channels," "river lights," and "river bouys." The ferry crossing is depicted by a thin dashed line with the word "Ferry" in small print on each bank. The words are lost because of the dark chart coloring and the symbols for dike structures. The line and the lettering tend to blend in with other general charge features. The Board notes that while symbols on maps and charts make the document more readable, they must also be effective in communicating the desired message. Ferry crossings as now depicted on NOAA Charts do not effectively illustrate or express any sense of urgency that would require special attention or caution when navigating past ferry crossings. The Board urges the Coast Guard to work with NOAA to at least have the ferry crossing track lines emphasized and illustrated in more vivid cautionary coloring.

The Safety Board is holding recommendations M–79–34 through –36 in open status.

Recommendation M–79–37 was, by the Safety Board's letter of February 6, classified "Closed—Reconsidered." The Board has restudied the possible effects of requiring nonskid surfacing for vessels such as the GEORGE PRINCE and has determined that the concept would not greatly enhance the safety of the operation. The Board further agrees that the use of restraints for individual vehicles in this type of quick turnaround roll-on/roll-off operation may be too restrictive.

Coast Guard's April 29 response to the Safety Board's February 6 comments addresses recommendations M–79–34 and M–79–36. Coast Guard reiterates its nonconcurrence with recommendation M–79–34, stating, "This recommendation would require pilots to ring "stand-by" in main engines or use other means to alert the engineroom when approaching cross-traffic lanes on U.S. navigable waterways. We still maintain that too frequent use of the stand-by bell would degrade its effectiveness." In regard to the Board's inquiry as to the implementation of the 33 CFR 164.15 (Navigation underway: confined or congested waters) rulemaking project, Coast Guard provided a discussion of the problems and possible solutions associated with the project.

Coast Guard also reiterates its nonconcurrence with recommendation M–79–36, stating that the previous discussion in its letter of last October 1 still applies. The cautionary notation referenced in the excerpt from NOAA Nautical Chart 11370 enclosed in the Safety Board's letter of February 6 was intended to notify mariners of a potentially hazardous and unusual situation which might exist from time to time as bridge construction continued at approximately mile 121.8 lower Mississippi River. Coast Guard said that it noted previously that using similar notations for marking situations which demand routine increased attentiveness, such as ferry crossings, would clutter a chart and reduce the value of cautionary notes. Additionally, a pilot is employed, when required, for the express purpose of providing unfamiliar vessel crews with the local knowledge necessary to safely navigate their vessel. By using periodically published charts to obtain general information and notices to mariners to identify situations requiring special care, all vessel crews are provided with up-to-date and accurate navigational information. Coast Guard states that the chart symbol used to designate ferry crossings is an International Hydrographic Organization-approved symbol and recognized by at least 47 member nations. Coast Guard has consulted with NOAA and has determined that it would be inappropriate to recommend any action, national or international, to modify an established chart symbol that would not materially improve vessel safety.

Railroad

R–79–75 through –77 and R–80–17 through –19, from Illinois Central Gulf (ICG), April 30, 1980.—Response is to recommendations resulting from investigation of the collision last October 12 at Harvey, Ill., of an Amtrak passenger train and an ICG freight train. The three "Class I, Urgent Action" recommendations issued last December 18 asked ICG to provide at the Harvey Yard location an interlocking or other positive means to prevent inadvertent misalignment of switches in advance of a train operating within the signal block (R–79–75); to restrict speeds through the Harvey crossover area, until positive safeguards can be provided for operation of switches, so that trains can be stopped short of a switch which is not properly aligned, but not exceeding 20 mph (R–79–76); and to immediately qualify all switchmen/brakemen who function as switchtenders by providing sufficient training in the specific rules that apply to switchtenders, in the physical layout of tracks and switches, and in train operations in the area of

their responsibility (R–79–77). (See 44 FR 76606, December 27, 1979.)

In response to these recommendations, ICG reports that electric lock switches have been installed at the Harvey Yard accident location to preclude inadvertent switch misalignment in advance of a train operating within the signal block (R–79–75), and that restricted train operating speeds through the Harvey crossover imposed since the accident have been continued in effect, notwithstanding the installation of the electric lock switches positive safeguards (R–79–76). With respect to recommendation R–79–77, ICG reports that a training/conference room has been constructed at the Chicago Division headquarters location (Markham Yard). Further, the superintendent has designated an operating officer from his staff to serve as instructor-trainer in brakemen-switchmen training. His safety training responsibility and activities are coordinated with those of ICG's northern region assistant superintendent—safety. ICG also notes that full-day program of safety refresher training has been implemented for all Chicago Division brakemen and switchmen with less than 18 months ICG service. Operating rules and procedures as well as safety rules were stressed in these remedial sessions. A performance evaluation was completed on each employee.

ICG further notes that the safety training program for new Chicago Division Transportation Department employees has been redesigned. The program comprehends classroom and field instruction built around student trips. In addition to the study and review of relevant safety and Transportation Department rules, "Special Instructions for Guidance of Employees in the Transportation Department in the Operation of Markham Yard" are covered, as well as utilization of an Open Book Quiz for new Transportation Department employees.

Recommendations R–80–17 through –19, issued April 21, called on ICG to: Install a system that will ensure that the switchtender at Harvey and the train director can have direct communication when necessary for moving trains through the Harvey area (R–80–17); when radios with multiple channels are used in train operations by employees who must use several channels, to issue instructions that identify the channel the employee must monitor for receiving instructions (R–80–18); and to instruct supervisors to monitor the activities of the employees performing the switchtender duties at Harvey for fitness and ability to perform those duties of the assignment (R–80–19). (See 45 FR 29145, May 1, 1980.)

In response to these recommendations, ICG reports: Three telephones are available to the switchtender at Harvey for purposes of direct communication with the train director (R–80–17); radio channel selection is coordinated between interested parties prior to commencement of duty—yardmaster-engineer-engine foreman (R–80–18); and employee safety performance audits and Transportation Department rule efficiency tests are conducted at regular intervals by division officers, with particular attention focused on new employees to ascertain employee fitness and ability (R–80–19).

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters and responses or related correspondence are also provided free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

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NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 5–7, 1980, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was previously published on May 15, 1980 (45 FR 32151).

The agenda for the subject meeting will be as follows:

Thursday, June 5, 1980

8:30 a.m.–9:15 a.m.: Executive Session (Open)

The Committee will hear and discuss the report of the Acting ACRS Chairman regarding matters to be considered during the meeting with the NRC Commissioners and miscellaneous matters relating to ACRS activities.

The Committee will hear and discuss the report of its Subcommittee and consultants who may be present on the request for an operating license for the Sequoyah Nuclear Power Plant, Unit 1.

9:15 a.m.–1:00 p.m.: Sequoyah Nuclear Power Plant, Unit 1 (Open)

The Committee will hear reports from and hold discussions with representatives of the NRC Staff and the Tennessee Valley Authority regarding the request for a full-power operating license for this plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

2:00 p.m.–4:30 p.m.: Meeting with NRC Staff (Open)

The NRC Staff will brief the Committee on the April 19, 1980 incident at the Davis-Besse Nuclear Power Plant, Unit 1 which resulted in loss of decay heat removal capability and will discuss the proposed NRC rule (10 CFR Part 50) on emergency planning.

4:30 p.m.–7:00 p.m.: Executive Session (Open)

The Committee will discuss its proposed report to the NRC on the Stability of Babcock and Wilcox-Designed Reactors (NUREG–0667) and will discuss comments to the NRC Chairman clarifying the ACRS report of March 11, 1980 on the NRC Action Plan, Near-Term Operating Licenses.

Portions of this session will be closed as necessary to discuss Proprietary Information.

Friday, June 6, 1980

8:30 a.m.–9:15 a.m.: Executive Session (Open)

The Committee will hear and discuss comments of the Subcommittee Chairman regarding preparation of the ACRS report to the NRC on the proposed FY–82 Safety Research Program and related budget.

Portions of this session will be closed as necessary to discuss Proprietary Information and information the release of which would frustrate the ACRS in the accomplishment of its statutory responsibilities.

9:15 a.m.–12:30 p.m.: Meeting with NRC Staff (Open)

The Committee will hear and discuss reports from designated Generic Subcommittee chairmen and representatives of the NRC Staff regarding the proposed NRC Safety Research Program and related budget for FY–82.

Portions of this session will be closed as necessary to discuss Proprietary Information and information the release of which would frustrate the ACRS in the accomplishment of its statutory responsibilities.

1:30 p.m.–2:15 p.m.: Meeting with NRC Chairman and Other NRC Commissioners (Open)

The Committee will meet with the NRC Chairman, John F. Ahearne, and other Commissioners who may have an interest in discussing ACRS activities.

2:15 p.m.–3:30 p.m.: Meeting with NRC Staff (Open)

The Committee will continue to hear and discuss reports from designated Generic Subcommittee chairmen and representatives of the NRC Staff regarding the proposed NRC Safety Research Program and related budget for FY–82.

Portions of this session will be closed as necessary to discuss Proprietary Information and information the release of which would frustrate the ACRS in the accomplishment of its statutory responsibilities.

3:30 p.m.–6:00 p.m.: Executive Session (Open)

The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding development of quantitative risk criteria. Proposed ACRS comments regarding the April 19, 1980 incident at the Davis-Besse Nuclear Power Plant, Unit 1 will also be discussed.

Saturday, June 7, 1980

8:30 a.m.–3:30 p.m.: Executive Session (Open)

The Committee will complete discussion of and prepare its reports to the NRC regarding matters considered during this meeting. In addition, the Committee will discuss proposed reports to the NRC regarding safety related items identified by individual members including shutdown heat removal in nuclear power plants, and systematic analysis of routinely reported information from operating nuclear facilities.

A status report of the ACRS Subcommittee on Regulatory Activities and the schedule for future Committee activities will also be discussed.

The Committee will discuss the qualifications of candidates proposed for appointment to the Committee.

Portions of this session will be closed as necessary to discuss Proprietary Information and information the release of which would frustrate the ACRS in the accomplishment of its statutory responsibilities. Portions of this session will also be closed as necessary to protect information the release of which would represent an unwarranted invasion of privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1979 (44 FR 56408). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)), to protect information the release of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), and to enable frank discussions with members of the NRC Staff regarding budget information which would not be possible if held in public. Such discussions must be held in closed session to prevent frustration of the ACRS in performance of its statutory responsibilities (5 U.S.C. 552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, or in his absence the ACRS Deputy Director, Mr. Marvin C. Gaske, (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EDT.

Dated: May 19, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–15731 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320–OLA]

Metropolitan Edison Co., et al.; Establishment of Atomic Safety and Licensing Board To Preside in Processing

Pursuant to Commission order, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Metropolitan Edison Company, Et Al.

(Three Mile Island Nuclear Station, Unit 2)

Facility Operating Lincense No. DPR–73

This action is in reference to an order of the Commission dated May 12, 1980, concerning a February 11, 1980, order of the Director, Office of Nuclear Reactor Regulation, published in the **Federal Register** on February 20, 1980 (45 F.R. 11282–84).

The Chairman of this Board and his address is as follows:

John F. Wolf, Esq., 3409 Shepherd Street, Chevy Chase, Maryland 20015.

The other members of the Board and their addresses are as follows:

Dr. Oscar H. Paris, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Mr. Frederick J. Shon, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

All parties are requested to use the intials "OLA" following the docket number on all future filings in this proceeding to designate the case as an "Operating Lincense Amendment" proceeding

Dated at Bethesda, Md., this 15th day of May 1980.

Robert M. Lazo.

Acting Chairman, Atomic Safety and Licensing, Board Panel.

[FR Doc. 80–15725 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–245]

Northeast Nuclear Energy Co., Hartford Electric Light Co., Western Massachusetts Electric Co. and Connecticut Light & Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Provisional Operating License No. DPR–21, issued to Northeast Nuclear Energy Company, the Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Appendix A Technical Specifications to add an automatic initiation of the Isolation Condenser on reactor vessel low-low water level and to allow credit for the Isolation Condensor System in the Emergency Core Cooling System performance calculations.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 19, 1980, and supplements thereto dated April 16, 1980, April 29, 1980 and May 2, 1980 and the licensee's letter dated February 14, 1980, (2) Amendment No. 67 to License No. DPR–21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., 20555, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 8th day of May 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield, Chief,

Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80–15726 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc. (Susquehanna Steam Electric Station, Units 1 and 2), Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Richard S. Salzman, Chairman, Dr. John H. Buck, Thomas S. Moore.

Dated: May 16, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80–15727 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

Screening Committee for Lawyer Vacancies on the Licensing Board Panel; Meetings

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that the NRC's Advisory Screening Committee for Lawyer Vacancies on the Licensing Board Panel will hold its third, fourth, and fifth meetings on May 27, 1980, June 6, 1980, and June 9, 1980, respectively. Each meeting will be held in the Chairman's Conference Room at 1717 H Street, N.W., Washington, D.C. on each of the days noticed.

Notice of the third meeting of this advisory committee was first published on page 28030 of the **Federal Register** for Friday, April 25, 1980. That notice gave the time and location of the meeting as 9:30 a.m. at East-West Towers, 4350 East-West Highway, Room 415, Bethesda, Maryland 20014. This notice announces that the time for the third meeting has been changed to 9:00 a.m. and that all three meetings will be held at the H Street location. The time for the fourth and fifth meetings on June 6 and June 9 is 9:30 a.m.

The Committee will meet in closed session in all of these meetings. The Committee will interview candidates for the position of Chairman of the Atomic Safety and Licensing Board Panel and will consider the qualifications of applicants.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, that it is necessary to close these meetings in order to protect information the release of which would represent an unwarranted invasion of personal privacy, under Sec. 5 U.S.C. 552b(c)(6). Separation of factual information from information considered exempt from disclosure is not considered practical.

For further information contact Charles J. Fitti, Assistant Executive Secretary, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission 20555. (Telephone: (301) 492–7814).

Dated in Washington, D.C., this 19th day of May 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–15730 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co. and San Diego Gas & Electric Co; Issuance of Modification To Relief Granted From ASME Section XI Inservice Inspection (Testing) Requirements

On September 26, 1979, the U.S. Nuclear Regulatory Commission (the Commission) issued Amendment No. 46 to Provisional Operating License No. DPR–13 to Southern California Edison Company and San Diego Gas & Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, California. The amendment incorporated an inservice program in accordance with 10 CFR section 50.55a and granted relief from certain requirements of the ASME Code, Section XI (44 FR 58557, October 10, 1979).

By letter dated April 30, 1980, as supported by the Safety Evaluation (SE) pages 1, 11, 12, and 13 enclosed thereto, the Commission has modified the relief from certain requirements of ASME Code, Section XI discussed in Item I.A. 1 of the SE supporting Amendment No. 46 to: (1) Include relief from repairs of the pressure retaining boundary for Class 2 and Class 3 components and (2) require, in the event that the repaired cavity exceeds 10% of the minimum design wall thickness, performance of hydrostatic tests for piping, pump and valve repairs that do not penetrate through the pressure boundary.

The request for the revised relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter and the appropriate safety evaluation pages granting the modified relief.

The Commission has determined that the granting of the modified relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's submittal dated February 14, 1980, (2) Amendment No. 46 to License No. DPR–21, dated September 26, 1979, and the Commission's supporting SE, and (3) the Commission's letter to the licensee dated April 30, 1980, and replacement pages 1, 2, 5, 8, 11, 12, 13, and 14 for the above referenced SE enclosed thereto. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Mission Viejo Branch Library, 24851 Crisanta Drive, Mission Viejo, California 92676. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 30th day of April 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield

Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80–15728 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–266–CO]

Wisconsin Electric Power Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to Commission order, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on a request for hearing and to preside over the proceeding in the event that a hearing is ordered.

Wisconsin Electric Power Co.

(Point Beach Nuclear Plant, Unit 1)

Facility Operating License No. DPR–24

This action is in reference to an order of the Commission dated May 12, 1980, concerning a November 30, 1979, order of the director, Office of Nuclear Reactor Regulation (NRR) entitled, "Confirmatory Order for Modification of License", published in the **Federal Register** on December 7, 1979 (44 FR 70608–09) and a subsequent January 3, 1980, order of the Director of NRR entitled "Order Modifying Confirmatory Order of November 30, 1979" published in the **Federal Register** on January 11, 1980 (45 FR 2452).

The Chairman of this Board and his address is as follows:

Herbert Grossman, Esq., U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Richard F. Cole, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Dr. J. Venn Leeds, 10807 Atwell, Houston, Texas 77096.

All parties are requested to use the initials "CO" following the docket number on all future filings in this proceeding to designate the case as a "Confirmatory Order" proceeding.

Dated at Bethesda, Md., this 15th day of May 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80–15729 Filed 5–21–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE FEDERAL REGISTER

Agreements Between the American Institute in Taiwan and the Coordination Council for North American Affairs

AGENCY: Office of the Federal Register (NARS).

ACTION: Notice of availability of agreements.

SUMMARY: The American Institute in Taiwan has concluded a number of agreements with the Coordination Council for North American Affairs in order to maintain cultural, commercial and other unofficial relations between the American people and the people on Taiwan. The Director of the **Federal Register** is publishing the list of these agreements on behalf of the American Institute in Taiwan in the public interest.

SUPPLEMENTARY INFORMATION: Cultural, commercial and other unofficial relations between the American people and the people on Taiwan are maintained on a nongovernmental basis through the American Institute in Taiwan (AIT), a private nonprofit corporation incorporated under the laws of the District of Columbia. The Coordination Council for North American Affairs (CCNAA) is its nongovernmental Taiwan counterpart.

Pursuant to section 12(a) of the Taiwan Relations Act (Pub. L. 96–8; 93 Stat. 14), agreements concluded between the AIT and the CCNAA are transmitted to the Congress, and pursuant to sections 6 and 10(a) of the Act, such agreements have full force and effect under the law of the United States. The texts of the agreements are available from the American Institute in Taiwan, 1700 North Moore Street, 17th floor, Arlington, Virginia 22209. For further information contact Joseph Kyle, at this address, telephone (703) 525–8474.

Following is a list of agreements concluded by AIT with CCNAA as of May 1, 1980:

Aviation

Air transport agreement, with exchange of letters. Signed at Washington March 5, 1980; entered into force March 5, 1980.

Education and Cultural

Implementing agreement financing certain educational and cultural exchange programs Exchange of letters at Taipei April 14 and June 4, 1979; entered into force June 4, 1979.

Privileges and Immunities

Agreement relating to privileges and immunities of courier system. Signed at Washington and Arlington December 31, 1979 and January 7, 1980; entered into force January 7, 1980.

Trade and Commerce

Agreement on trade matters, with annexes. Exchange of letters at Arlington and Washington October 24, 1979; entered into force October 24, 1979.

Implementing agreement relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington November 5 and 21, 1979; entered into force November 21, 1979.

Implementing agreement relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington December 13 and 17, 1979; entered into force December 17, 1979.

Implementing agreement relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington March 7 and April 10, 1980; entered into force April 10, 1980.

Dated: May 15, 1980.

Joseph B. Kyle,

Corporate Secretary, American Institute in Taiwan.

Dated: May 19, 1980.

Ernest J. Galdi,

Director of the Federal Register.

[FR Doc. 80–15779 Filed 5–21–80; 8:45 am]

BILLING CODE 1505–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

May 19, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and

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recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF–83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim. J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New Forms

Farmer's Home Administration
Pretest—Rural congregate housing demonstration evaluation
Other (see SF–83)
Elderly applicants for congregate housing
Charles A. Ellett, 395–7340

Revisions

Economics, Statistics, and Cooperatives Service Cooperative oil seed mills
Annually
Cooperative cottonseed and soybean plants, 30 responses; 136 hours
Office of Federal Statistical Policy and Standard, 673–7974
Farmer's Home Administration
7CFR 1945–C, insured economic emergency loans
1845–22, 1940–38
On occasion
Farmers suffering from economic emergency, 243,660 responses; 49,794 hours
Charles A. Ellett, 395–7340

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245–7488

New Forms

Social Security Administration
Energy assistance for low income families
On occasion
State agency administering Federal energy programs
Barbara F. Young, 395–6880

Revisions

Center for Disease Control
National disease surveillance—I. Case reports
On occasion
State and territorial health departments, 35,864 responses; 12,047 hours
Office of Federal Statistical Policy and Standard, 673–7974
Social Security Administration
Student's statement regarding resumption of attendance
SSA–1386
On occasion
Student beneficiaries, 650,000 responses; 65,000 hours
Barbara F. Young, 395–6880

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

Extensions

Housing Management
Report of construction status of advance planning project
HUD–4435
Annually
Non-Federal public bodies, 2,800 responses; 2,800 hours
Richard Sheppart, 395–6880

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

Extensions

Bureau of Labor Statistics
Annual OSHA prenotification of recordkeeping requirements and survey
OSHA 200s and OSHA No. 200PRE
Annually
Employers in the private sector and State and local government, 280,000 responses; 70,000 hours
Arnold Strasser, 395–6880

Reinstatements

Employment Standards Administration
Coal mine employment statements
CM–913, CM–918, CM–1093
On occasion
Coal miners and survivors, 55,000 responses; 17,500 hours
Arnold Strasser, 395–6880

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Roy A. Nierenberg—456–6286

New Forms

Council on Wage and Price Stability
Form Pay–1
Semi-annually
Private sector companies, 1,400 responses; 5,600 hours
Warren Topelius, 395–7340

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shirley—254–9515

Reinstatements

Fair Plan Quarterly Report
FEMA form
Quarterly
State fair plan (insurance), 112 responses; 1,120 hours
Edward C. Springer, 395–4814.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—452–3512

New Forms

Statement of purpose of extension of credit by a creditor
FR T–4
On occasion
Brokers/dealers that extend credit to purchase sec. and cust.
Warren Topelius, 395–7340
Record of facts concerning non-U.S. credit collateralized by securities
FR X–1
On occasion
U.S. borrowers of overseas credit secured by U.S. sec.
Warren Topelius, 395–7340

Extensions

Registration statement, deregistration statement,
Annual report
G–1, G–2 G–4
On occasion
Lendr (othr than bks brokr/dealr) who ext cped sec by stk, 671 responses; 1,311 hours
Warren Topelius, 395–7340

INTERNATIONAL COMMUNICATION AGENCY

Agency Clearance Officer—Mary Jane Winnett—523–4308

New Forms

Supplemental qualifications statement international radio broadcaster
LA–1178
On occasion
Nationwide, 200 responses; 400 hours
Phillip T. Balazs, 395–4814

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—357–7811

New Forms

Alan T. Waterman award nomination for national medal of science
NSF 1122, 1123, 1124
Scientists, 300 responses; 1,200 hours
Marsha D. Traynham, 395–7340

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

Annuitant's report of earnings and disability
RL–150
On occasion
Disability annuitants, 150 responses; 38 hours
Barbara F. Young, 395–6880

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653–6890

New Forms

Groundfish vessel questionnaire
Single time
Groundfish fisheries in New England, 1,170 responses; 585 hours
Edward C. Springer, 395–4814

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–15753 Filed 5–21–80; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP); Human Resources Task Force.
Date: Friday, June 6, 1980, 9:30 a.m.–3:00 p.m.
Place: Municipal Building, 1600 Pacific Highway, San Diego, Ca.
Type of Meeting: Open.
Contact Person: Dr. Michael Gruber, Staff Director, ISETAP Human Resources Task Force, U.S. Department of Health and Human Services, 202/245–6156.

Minutes of the meeting: Executive minutes of the meeting will be available from the office of Dr. Gruber.

Agenda

9:30 a.m. Briefing on the status of the OMB memorandum;
10:30 a.m. Report on research into the fiscal crisis of public hospitals; Discussion and panel recommendations;
11:30 a.m. Discussion and adoption of resolution on Administration on Aging's project for technology transfer in support of the frail elderly;
12:30 p.m. Lunch;
1:30 p.m. Discussion and adoption of resolution on research into health aspects of hazardous chemical dumps;
2:20 p.m. Discussion and recommendations on Long Term Care research strategy at the Department of Health and Human Services;
3:00 p.m. Open discussion of task force plans and other activities.

William J. Montgomery,

Executive Officer, Office of Science & Technology Policy.

[FR Doc. 80–15721 Filed 5–21–80; 8:45 am]

BILLING CODE 3170–01–M

POSTAL RATE COMMISSION

[Docket No. A80–9]

Huggins, Mo. 65484 (Laveta Kelley, Petitioner); Notice and Order of Filing of Appeal

May 15, 1980.

On May 5, 1980, the Commission received a handwritten letter from Laveta Kelley (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to close the Huggins, Missouri, post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)], so as to preserve Petitioner's right to appeal which is subject to a 30-day time limit.[1] The petition does not conform perfectly with the Commission's rules of practice, which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[2] However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Huggins post office be reversed. From the face of the petition it is unclear whether any hearings were held and whether a determination has been made under 39 U.S.C. 404(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404 (b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*
[2] 39 CFR 3001.111(a).
[3] 39 CFR 3001.1.
[4] 39 U.S.C. 404(b)(1).

on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post office.[7]

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Whether the Postal Service considered the importance of the post office to the community under the effect on the community factor, section 404(b)(2)(A). The Petitioner alleges that the post office is the focal point of the community.

2. Whether the Postal Service considered the change the closing would cause in the community's use of postal services under the effect on postal service factor, section 404(b)(2)(C). The Petitioner claims that residents of a wide area around the post office go there to purchase money orders and stamps.

3. Whether the Postal Service must consider as an effect on the community [section 404(b)(2)(A)] the inconvenience and expense to the Huggins' residents of changing their addresses.

4. Whether the Postal Service's proposed substitute for the post office is in compliance with the policy stated in 39 U.S.C. 101(b).

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79–1, *et al.* (May 7, 1979), and the Commission's subsequent decisions on appeals of post office closings and consolidations. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the determination and record pursuant to section 113 of the rules of practice (39 CFR 3001.113) make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[8] and none is being appointed. The Commission orders that:

(A) The letter of May 5, 1980, from Laveta Kelley be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register**.

(C) The Postal Service shall file the administrative record in this case on or before May 20, 1980, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,

Secretary.

Appendix

May 5, 1980: Filing of Petition.
May 15, 1980: Notice and Order of Filing of Appeal.
May 14, 1980: Record filed by Postal Service [*see* 39 CFR 3001.113(a)].
May 26, 1980: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
June 4, 1980: Petitioner's initial brief [*see* 39 CFR 3001.115(a)].
June 19, 1980: Postal Service answering brief [*see 39 CFR 3001.115(b)].*
July 7, 1980:
(1) Petitioner's reply brief, should petitioner choose to file such brief [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
Sept. 2, 1980: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 80-15647 Filed 5-21-80; 8:45 am]

BILLING CODE 7715-01-M

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 U.S.C. 101(b).

[7] 42 FR 59079–85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the Matter of Gresham, S.C., Route No. 1, Docket No. A78–1 (May 11, 1978).

POSTAL SERVICE

Permanent Change in Mail Classification Schedule; Merchandise Return Service

On August 13, 1979, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on a change in the mail classification schedule establishing a new merchandise return service, pursuant to Chapter 36 of Title 39, United States Code (Postal Rate Commission Docket No. MC 79–4). An explanation of the Postal Service proposal was published in the **Federal Register** by the Postal Rate Commission on August 28, 1979 (44 FR 50420).

On January 7, 1980, a settlement proposal recommending a modified merchandise return service was filed with the Postal Rate Commission by several parties to the merchandise return proceeding. The Postal Service and the Officer of the Commission were among the signatories of the settlement proposal. The one party which had expressed opposition to the concept of merchandise return subsequently withdrew its opposition and signed the proposal.

Because the Postal Rate Commission had not transmitted its recommended decision to the Governors of the Postal Service within 90 days after submission of the settlement proposal (January 7, 1980), the Postal Service, under the authority of 39 U.S.C. 3641(e), placed the changes in the mail classification schedule proposed in the settlement into effect on April 27, 1980 (45 FR 26194 (April 17, 1980)).

On April 21, 1980, the Postal Rate Commission issued a Recommended Decision in Docket No. MC79–4. The Commission recommended that the Governors adopt the merchandise return service as provided in the settlement proposal. On May 6, 1980, the Governors, pursuant to 39 U.S.C. 3625, approved the Commission's Recommended Decision and ordered the recommended changes in the mail classification schedule into effect on a permanent basis. The Board of Governors concurrently determined that those changes would become effective at 12:01 a.m. on May 21, 1980. (The Governors's decision, the record of the Commission's hearings, and the Commission's recommended decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' decision and the Commission's recommended decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the changes to the classification schedule and rate schedules established on a temporarty basis on April 27, 1980, and set forth at 45 FR 26194 (April 17, 1980) become effective permanently at 12:01 a.m., May 21, 1980 (39 USC 3625). The temporary changes will remain in effect until that time.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80-15669 Filed 5-21-80; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21579; 70–6434]

Alabama Power Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

Notice is hererby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, a public-utility subsidiary company of The Southern Company, a registered holding company, has filed an application and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designated Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $100,000,000 principal amount of its First Mortgage Bonds of a new series having a term of not less than five nor more than 30 years. Alabama will determine and give notice to prospective bidders of the amount and the term of the new bonds not less than 24 hours prior to the time of bidding. The interest rate of the bonds and the price, exclusive of accrued interest, to be paid to Alabama, which will be not less than 98% nor more than 101¾% of the principal amount thereof, will be determined by competitive bidding. It is stated that Alabama may request by amendment that such proposed sale be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Alabama's management make such exception in the best interest of Alabama and its investors and consumers.

The new bonds will be issued under the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto and as to be further supplemented by a supplemental Indenture to be dated as of June 1, 1980. The supplemental indenture will include a prohibition, for a period of not more than five years, against refunding the bonds, directly or indirectly, with funds borrowed at a lower effective interest cost.

Alabama intends to use the proceeds from the sale of the new bonds, along with other funds, principally in financing its construction costs, estimated for 1980 to be $459,165,000, and in paying outstanding short-term unsecured indebtedness.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $338,000, including legal fees of $38,000, accountants' fee of $12,000, and charges of the system service company, at cost, of $7,000. It is stated that the issuance and sale of the new bonds have been expressly authorized by the Alabama Public Service Commission and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 2, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provded in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-15770 Filed 5-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Re. No. 34-16814; File No. SR-Amex-80-9]

American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)91) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 2, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange has adopted amendments to Rules 576 and 585 which deal with the transmission by member organizations of any issuer's proxy solicitation materials and other corporate reports to stockholders.

Rules 576 and 585 require member organizations holding customer securities in street name to transmit proxy solicitation material and interim financial reports to each beneficial owner whenever the issuer furnishes the materials to such member and agrees to reimburse the firm for its reasonable

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expenses, including clerical costs. The amendments to Rule 576 and 585 will:

(1) increase the reimbursement rate for followup proxy solicitation mailings from 10¢ perset of material to 30¢ per set if mailed to all stockholders, or 50¢ per set if selectively mailed only to shareholders who did not reply to the initial solicitation;

(2) increase the minimum charge for transmitting proxy materials from $3 to $5 (the initial per set charge remains the same);

(3) increase the reimbursement rate for mailing interim reports from 10¢ per copy to 20¢ per copy and establish a $2 minimum; and

(4) modify the form of invoice used by member organizations in order to specify all charges.

The new rate increases were endorsed by the Exchange's Listed Company Advisory Committee. They are identical to changes made in comparable New York Stock Exchange rules approved by the SEC last year (SR–NYSE–79–47).

The Exchange's Statement of Purpose and Basis

The reimbursement rates set forth in Rules 576 and 585 have not been changed since 1974. The rates are now being changed solely to permit member organizations to recoup increased costs, thereby enabling them to maintain adequate clerical staff devoted to the timely and efficient processing of proxy solicitation and other corporate mailings. Moreover, it is believed that the detailed presentation of these charges in the revised invoice form will permit easier review and processing by the issuer. The cost impact on issuers is not expected to be significant.

The amendments to Rule 576 and 585 are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) in particular in that the rate increases will insure the continued orderly processing and transmittal of corporate materials, thereby effectively protecting investors and the public interest.

Comments Received from Members, Participants, or Others on Proposed Rule Change

The Exchange's Listed Company Advisory Committee has endorsed the amendments to Rules 576 and 585.

The Exchange's Burden on Competition

The Exchange has determined that no burden on competition will be imposed by these amendments.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 16, 1980

[FR Doc. 80–15787 Filed 5–21–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–16810; File No. SR–BSE–80–5]

Boston Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 5, 1980, the above-mentioned self-regulartory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

1. *Exchange's Statement of the Terms of Substance of the Proposed Constitutional Change.*

To rescind in their entirety the provisions of sub-sections (e), (f), and (g) of Section 3 of Article I of the Constitution, as follows:

[Associate member

(e) The term "associate member" means an individual admitted to associate membership in the Exchange in accordance with the provisions of Article XXII of the Constitution.

Associate member firm

(f) The term "associate member-firm" means a firm, transacting business as a broker or dealer in securities, at least one of whose general partners is an associate member of the Exchange.

Associate member corporation

(g) The term "associate member-corporation" means a corporation, transacting business as a broker or a dealer in securities, at least one of whose officers is an associate member of the Exchange.]

To rescind in its entirely Article XXII of the Constitution, as follows:

[Associate Membership

Eligibility

Sec. 1. Associate membership shall be available (a) to all present or future members of the Philadelphia Stock Exchange, Inc., who qualify, in accordance with written Agreements entered into from time to time by the Board of Governors of the Boston Stock Exchange, Inc., of the Philadelphia Stock Exchange, Inc.; (b) to all present or future members of the Montreal Stock Exchange who qualify, in accordance with written Agreements entered into from time to time by the Board of Governors of the Boston Stock Exchange, Inc., and the Governing committee of the Montreal Stock Exchange.

Privileges

Sec. 2. The rights and benefits of associate membership shall be restricted solely to such trading privileges as may be defined in the written Agreements provided for in Section I of this Article, such trading privileges to be exercised under such rules and regulations as such Agreements shall prescribe.

Dues

Sec. 3. The dues of associate members shall be in such amount and shall be payable in such manner as the Agreements provided for in Section I of this Article may prescribe.

Not Transferable

Sec. 4. Associate membership shall not be transferable and shall be available only as prescribed in Section 1 of this Article.]

2. *Procedures of Self-Regulatory Organization.*

The Board of Governors approved the proposed amendments on April 24, 1980.

3. *Exchange's Statement on Purpose of the Proposed Changes.*

To rescind the provisions of the Constitution dealing with Associate Membership which has been in effect since 1957. The objectives of such Agreements are now being achieved through the capabilities of the Intermarket Trading System to reach out to other participant markets.

4. *Exchange's Statement on Bases of Proposed Change.*

The bases under the Act for the proposed Constitutional changes are Section 6(b)(5) and 11(a)(1). By rescinding the Associate Membership provision, all orders will now be exposed to ITS and all of its participants, rather than to individual exchanges with which this Exchange had reciprocal agreements for Associate Membership.

5. *Comments Received from Members, Participants or Others on Proposed Constitutional Changes.*

No comments were solicited or received. The Board of Governors of the Philadelphia Stock Exchange, Inc., voted on March 19, 1980, to terminate the Associate Membership Agreement between the Exchanges.

6. *Exchange's Statement on Burden on Competition.*

No burden on competition is perceived by the termination of Associate Membership.

7. *Extension of Time Periods for Commission Action.*

The Exchange does not consent to the extension of the time period specified in Rule 19(b)(2) of the Act.

On or before June 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date, if it finds such longer period to be appropriate and published its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed constitutional change, or

(b) Institute proceedings to determine whether the proposed constitutional change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, DC 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 15, 1980.

[FR Doc. 80–15768 Filed 5–21–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–16815; File No. SR–BSE–80–2]

Boston Stock Exchange, Inc., Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 14, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change to amend Chapter XII–A of their rules, concerning odd-lot dealers in securities the primary market for which is on another market. The proposed rule would require odd-lot orders to be filled on the basis of the last reported round-lot transaction on the primary market, rather than the current rule which requires specialists to wait two minutes after an order is received before executing it on the basis of the next round lot transaction. The rule also would state that specialists may charge a reasonable differential, although the rules would not require differentials to be charged, and they would specifically prohibit the charging of differentials on odd-lot market orders received before the opening of trading for execution at the opening.

Exchange's Statement of Purpose of the Proposed Rule Change

In the present environment of large volume in the primary markets it becomes virtually impossible to adhere to an execution of odd-lot transactions based upon the "two-minute rule". With the interrogation equipment now in place on our Floor, a specialist can immediately ascertain the last sale of a security on such primary markets and such odd-lots will be executed against that last round lot transaction, plus or minus a differential, if any.

By executing the odd-lots on the last sale on the primary market, the Exchange will have an effective and uniform method of determining the accuracy of such executions for surveillance purposes and instantaneous reports of execution will be generated.

Exchange's Statement of Basis Under the Act of the Proposed Rule Change

The proposed rule change relates to Section 6(b)(5), and 11(a) of the Act in that it would assist the Exchange by providing an effective and uniform method for the execution of odd-lots, thereby protecting the investors and the public and providing a means of determining the accuracy of execution for surveillance purposes.

Comments Received from Members, Participants or Others on Proposed Rule Change

No comments were solicited or received.

Exchange's Statement on Burden on Competition

No burden on competition is perceived by adoption of the proposed amendment. The Exchange believes the proposed Rule will aid in the protection of investors and the public interest by providing instantaneous reports of executions.

On or before June 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange commission, Washington, DC 20549.

Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 12, 1980.

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For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 16, 1980.

[FR Doc. 80-15786 Filed 5-21-80; 8:45 am]

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[Rel. No. 21580; 70-6459]

Central and South West Corp.; Proposal To Issue and Sell Authorized and Unissued Common Stock

May 16, 1980.

Notice is hereby given that Central and South West Corporation ("CSW"), 2700 One Main Place, Dallas, Tex. 75250, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, 6,000,000 shares of its authorized and unissued common stock par value $3.50 per share ("additional shares").

The net proceeds, estimated at approximately $87,000,000, to be derived by CSW from the sale of the additional shares (after deducting expenses of issue), will be used to retire a like amount of short-term borrowings and commercial paper by CSW (see File No. 70-6163) which were incurred to finance in part capital contributions aggregating $30,000,000 to Central Power and Light Company and $45,000,000 to Southwestern Electric Power Company, each of which is a wholly owned subsidiary company of CSW. The capital contributions were, in each case, added to the respective subsidiary companies' common equity and will be used to repay short-term debt incured in connection with 1980 construction expenditures.

CSW will issue and sell the additional shares whenever it feels market conditions are most advantageous. Based on current conditions, they will be issued and sold no later than August 31, 1980. No funds generated from the additional shares, any of the borrowings retired thereby nor any of the subsidiary companies' expenditures will be or have been utilized to pay the cost of facilities which would not be needed to provide service to customers of the subsidiary companies if they were not part of the Central and South West System, nor will any expenditures be made for the construction or acquisition of which would be part of any proposal forming the subject of the proceedings in *Central and South West Corporation, et. al.* (Admin. Proc. File No. 3-4951) would be needed to provide services to customers of the subsidiary companies if they were not part of the Central and South West System.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than June 9, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-15769 Filed 5-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. 34-16812; File No. SR-NASD-80-5]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on May 5, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed revisions to Schedule D under Section XVI of the By-Laws of the National Association of Securities Dealers, Inc., (new language is italicized deleted language is bracketed. Material omitted by ellipses is unchanged).

I

Qualifications of Users of Service

A. Level 1 Service

1. Nature of Service. This service will provide the subscriber with *the highest bid and the lowest ask quotation* [data in the form of representative bid and ask quotations] for each authorized security [in] *for* which a minimum of two registered market makers are entering [quotes] *quotations* during the day. *Provided, however, that in the case of a locked or crossed market, only the highest bid will be displayed.*

XI

Publication and Dissemination of Quotations to the News Media

All quotations released to newspapers or other news media shall be [inter-dealer quotations only, and shall reflect a representative spread, and shall contain, except in unusual circumstances, both bid and asked quotations.] *Level I quotations in the case of NASDAQ Securities and, in the case of issues not included in NASDAQ, bid and ask quotations representative of the inter-dealer market.* "Asked only" and nominal quotations shall not be released for publication. Also, no issue shall appear in either the National OTC-NASDAQ or Additional OTC-NASDAQ Lists unless the issue has been continually quoted in the NASDAQ System during the 30 calendar days prior to its appearance.

A. National OTC-NASDAQ List

The National OTC-NASDAQ List shall include approximately 1,400 NASDAQ issues which have the highest dollar value of average weekly volume*

Footnotes continued on next page

*Explanation of Average Weekly Volume—To monitor security volume data in NASDAQ, a statistical moving average method called exponential averaging is used and is recomputed weekly. This technique gives more weight to the most current volume and less weight to the most

Footnotes continued from last page

distant past. For example, at present the weighting parameter is chosen to give [20%] *10%* weight to the most current volume and less than 1% weight to the volume that occurred [13] *23* weeks ago. Thus, the significance of the reported volume as maintained for more than [one quarter] *6 months* is virtually nil. Wherever average weekly volume requirements are mentioned in this Section, they are compiled in the above manner.

(i.e., the product of their average weekly volume multiplied by the *Level 1* [representative] bid quotation at the time of compilation of the list). In addition, no issue shall be initially eligible for inclusion in the list, or continue to be eligible for such list when revised, whose average weekly volume is less than 750 shares at the time of compilation. [See Paragraph D below].

B. Additional OTC-NASDAQ List

The additional OTC-NASDAQ List shall include approximately 950 NASDAQ issues which have the next highest dollar value of average weekly volume (i.e., the product of their average weekly volume multiplied by the *Level 1* [representative] bid quotation at the time of compilation of the list).

Procedures for Self Regulatory Organization

The proposed amendments were developed by the Association's NASDAQ Committee and approved by the Board of Governors at its March 1980 meeting.

The NASD's Statement of Purpose of Proposed Rule Change

The proposed rule change will conform Schedule D to the dissemination of inside quotation requirements contained in SEC Rule 11Acl-2 (17 C.F.R. § 240.11Acl-2).

In addition, the proposed rule change amends the footnote to Section A of Part XI of Schedule D to reflect a technical change in the ranking formula for average weekly volume.

The NASD's Statement on Basis Under the Act for the Proposed Rule Change

Section 11A(c) of the Act provides that no self-regulatory organization may collect, process, distribute or publish any information with respect to quotations in contravention of such rules and regulations prescribed by the Commission. SEC Rule 11Acl-2 prohibits vendors from providing a representative bid or ask.

Comments Received From Members, Participants or Others on Proposed Rule Change

Article XVI of the Association's By-Laws does not require membership approval of changes to Schedule D. Therefore, no comments were solicited or received regarding this proposed rule change.

The NASD's Statement on Burden on Competition

As noted above, this rule change is filed in direct response to the adoption of SEC Rule 11Acl-2. The Association envisions no effects on competition beyond those considered by the Commission in the adoption of such rule.

On or before June 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 16, 1980.

[FR Doc. 80-15772 Filed 5-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21575; 31-774]

Sho-Me Power Corp. et al.; Application for Exemption Pursuant to Section 3(a)(1) or 3(a)(2)

In the Matter of Sho-Me Power Corporation, P.O. Drawer D, Marshfield, Missouri 65706; Crawford Electric Coop., Inc., P.O. Box 10, Bourbon, Missouri 65441; Gascosage Electric Coop., P.O. Drawer G, Dixon, Missouri 65459; Howell-Oregon Electric Coop., Inc., P.O. Box 649, West Plains, Missouri 65775; Intercounty Electric Coop., P.O. Box 209, Licking, Missouri 65542; Laclede Electric Coop., P.O. Drawer M, Lebanon, Missouri 65536; SE-MA-NO Electric Coop., P.O. Box 318, Mansfield, Missouri 65704; Southwest Electric Coop., P.O. Box 150, Bolivar, Missouri 65613; Webster Electric Coop., P.O. Box 87, Marshfield, Missouri 65706; and White River Valley Electric Coop., P.O. Box 969, Branson, Missouri 65616; (31-774).

Notice is hereby given that Sho-Me Power Corporation ("Sho-Me"), an electric utility company organized under the laws of Missouri, and each of the nine rural electric distribution cooperative corporations ("the Distribution Cooperatives") which own all of the issued and outstanding capital stock of Sho-Me, have filed an application for exemption pursuant to Section 3(a)(1) and (a)(2) of the Public Utility Holding Company Act of 1935 ("Act"). All interested persons are referred to the application, which is summarized below, for a complete statement as to the basis upon which the exemption is sought.

Sho-Me is the wholesale power supplier for the Distribution Cooperatives and for eighteen municipalities in Missouri, and serves approximately 8000 retail customers in rural Missouri. Sho-Me has 24,993 shares of common stock issued and outstanding which are owned equally by the nine Distribution Cooperatives. At December 31, 1979, Sho-Me reported total assets of $54,042,765, and, for the year then ended, gross operating revenues of $40,592,173.

Each of the Distribution Cooperatives is organized under the laws of and operates exclusively within Missouri. The Distribution Cooperatives are subject to regulation by the Rural Electrification Administration. They are not engaged in any business other than the business of supplying electric energy to their respective consumer members, and have no subsidiary companies other than Sho-Me. At December 31, 1979, and for the year ended, the Distribution Cooperatives reported total assets and operating revenues and patronage capital as follows:

Distribution cooperative	Total assets	Operating revenues and patronage capital
1. Crawford Electric Coop., Inc	$12,203,453	$4,815,103
2. Gascosage Electric Coop	3,858,079	2,247,549
3. Howell-Oregon Electric Coop., Inc	14,157,955	6,340,855
4. Intercounty Electric Coop., Assn	17,792,378	8,918,459
5. Laclede Electric Coop	14,898,639	7,204,687
6. Se-Ma-No Electric Coop	[3]890,203	(*)
7. Southwest Electric Coop	15,124,479	7,779,556
8. Webster Electric Coop	5,887,719	3,209,057

Distribution cooperative	Total assets	Operating revenues and patronage capital
9 White River Valley Electric Coop., Inc	20,257,315	8,986,304

[1] At August 31, 1979.
[2] To be supplied by amendment.

Section 3(a) provides, in part, that the Commission may exempt a holding company and its subsidiaries, as such, if:

(1) such holding company, and every subsidiary company thereof which is a public-utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such holding company and every such subsidiary company thereof are organized; (or)

(2) such holding company is predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto.

On the basis of the facts in the application, the Distribution Cooperatives state that they are entitled to an exemption under Section 3(a)(1) or (a)(2), and that the exemption would be in the public interest and interest of investors and consumers.

Notice is further given that any interested person may, not later than June 9, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it deems appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-15771 Filed 5-21-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/299]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Open Meeting

The General Panel of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 9:15 a.m. on Monday, June 2, 1980 in the Boardroom, National Academy of Science, Washington, D.C.

At this meeting, officers responsible for scientific and environmental affairs in the Department of State and members of the Advisory Committee will discuss three broad issues: Follow-up to the International Nuclear Fuel Cycle Evaluation, Controls on the Export of Toxic Wastes and Hazardous Materials and U.S./Soviet S&T relations. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and may be given the opportunity to participate in discussions according to the instructions of the Chairperson.

Requests for further information on the meetings may be directed to Bronson Percival of the OES Policy Assessment Staff, Department of State. He may be reached by telephone on (202) 632-0796.

Thomas R. Pickering,

Chairman.

May 7, 1980.

[FR Doc. 80-15638 Filed 5-21-80; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice CM-8/300]

Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on June 17, 1980, from 9:00 am until 12:30 pm in the Auditorium of the Communications Satellite Corporation Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group 8 studies matters relating to systems of radiocommunications and radiodetermination for the mobile services. The purpose of the meeting will be to review and adopt documents proposed for submission to the international meeting of Study Group 8 in November, 1980.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

May 13, 1980.

[FR Doc. 80-15639 Filed 5-21-80; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-80-15]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 11, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on May 16, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20352	Amyway Corporation	14 CFR 61.58(c)	To permit the petitioner's pilots to complete the entire 24-month pilot-in-command check in an FAA approved flight simulator
20353	Elmer F. Collin	14 CFR 122.383(c)	To permit petitioner to serve as a pilot crewmember in Part 121 operations after reaching his 60th birthday
20354	Sky Flite, Inc	14 CFR 135.89 and 121.333(c)(3) and (4)	To permit flightcrews to operate Learjet aircraft above FL 350 up to and including FL 410 without requiring one pilot to wear and use oxygen mask at all times
20355	Aero America, Inc	14 CFR 121.48, 121.49, and 121.55	To provide relief from a requirement to prepare, certify, and provide certain financial reports to the Federal Aviation Administration (FAA)
20356	United Airlines	14 CFR 61.39(a)	To allow certain airmen to take the Airline Transport Pilot Rating Flight Test (ATPR) in spite of interrupted employment
20358	Key Airlines	14 CFR 121.61(c)(1)	To allow Mr. Sidney Hurst to serve as Director of Maintenance for Key Airlines without meeting the full 5-year expenence requirement

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19278	Moody Aviation	14 CFR 135.115	Reconsideration of the denial of a petition for exemption to allow the operation of aircraft with a second in command who does not meet Section 135.115 qualifiation Requirements. *Denied 5/7/80*
20165	British Midland Airways, Ltd. (BMA)	14 CFR Parts 21 and 91	To amend Exemption No. 2931, as amended, to name Deutsche Lufthansa in place of Sabena Airlines as the Federal Aviation Administration (FAA) repair station responsible for maintenance support of BMA's leased B-707-321C aircraft N448M. *Granted 5/9/80.*
20320	Air Tanzania Corp	14 CFR Parts 21 and 91	To permit petitioner to operate and maintain a B-707-331 aircraft of United States Registry, N762TW, leased from Caledonian Airlines, Inc., using an FAA-approved Master Minimum Equipment List (MMEL). *Granted 5/9/80*

[FR Doc. 80-15661 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 143—Ground Based Automated Weather Observation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App I) notice is hereby given of a meeting of RTCA Special Committee 143 on Ground Based Automated Weather Observation Equipment to be held on June 19-20, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Fifth Meeting Held on March 19-20, 1980; (3) Review Comments Received on Second Draft Report on Minimum Operational Performance Standards for Automated Weather Observation Equipment; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 9, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-15662 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

Timely Submission of Preapplications Under the Airport Development Aid Program (ADAP)

In order to allow sufficient time to process requests for Federal assistance under the Airport Development Aid Program (ADAP) (14 CFR Part 152) this fiscal year, airport sponsors are advised to submit preapplications no later than June 30. Unless this deadline is met, the Federal Aviation Administration (FAA) cannot assure processing of preapplications in time to allocate funds, including funds apportioned to the sponsors of air carrier airports. This deadline is necessary to assure the efficient administration and effective use of ADAP funds.

This deadline is intented for projects that require normal handling. Submission prior to June 30, however, cannot guarantee processing of any project. For projects involving time-consuming issues such as substantial environmental concerns, earlier submission will be necessary and timetables for these will have to be considered with FAA field offices on a case-by-case basis.

Sponsors may submit preapplications after June 30, but processing of late submissions may not be accomplished this fiscal year.

V 4 5 M Y 2 2 8 0 UMI

Issued in Washington, D.C., May 15, 1980.

Paul L. Galis,

Acting Director, Office of Airport Planning and Programming.

[FR Doc. 80-15663 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Jim Wells County, Tex.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Jim Wells County, Texas.

FOR FURTHER INFORMATION CONTACT: W. L. Hall, Jr., P.E., District Engineer, Federal Highway Administration, 826 Federal Building, Austin, Texas 78701, Telephone: (512) 397-5966.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an environmental impact statement (EIS) on a proposal to improve U.S. Highway 281 (U.S. 281), from north of Alice, Texas to south of Alice, Texas. Because of difficulty in predicting availability of funds, the State Department of Highways and Public Transportation has not decided whether to use state or federal funds to finance construction of this project.

Overall plans call for the upgrading of U.S. 281 to serve as an inter-regional route. When the present and planned improvements are complete, the highway will be an integral part of a four lane route, from San Antonio, Texas to the Rio Grande Valley in South Texas. The current project consists of approximately eight miles of improvements.

The existing route now traverses through the city of Alice. Numerous businesses line both sides of the route.

Proposed improvements will relieve the congestion caused by access to the businesses and the local street intersections. Travel time from one side of the city to the other will be reduced. Local traffic will have a more free flow due to the reduced congestion. This improvement in free flow will also conserve energy. Access to business and recreation facilities will be enhanced due to the decrease in congestion.

Four alternatives will be considered for this project: (1) East route will by-pass the city to the east, (2) West route—this route will by-pass the city to the west, (3) upgrading the existing facility, and (4) no-build.

There are currently no plans to hold a formal scoping meeting for this proposal. A public meeting was held during the early stages of project planning. This meeting was held October 25, 1979. Additional public meetings will be limited to the Public Hearing held during the middle of 1980. Adequate notice will be given to the public through the news media as to the time and place of the meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: May 13, 1980.

W. L. Hall, Jr.,

District Engineer, Austin, Texas.

[FR Doc. 80-15664 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Monroe County, Ind.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for two proposed intersections improvements (SR 37 and SR 45) and (SR 37 and SR 48) on the west side of Bloomington, Monroe County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. John Breitwieser, Staff Environmentalist, Federal Highway Administration, Room 254 Federal Office Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204. Telephone: (317) 269-7481.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana State Highway Commission, will prepare an environmental impact statement (EIS) on a proposal to improve two intersections, on SR 37 at the intersection of SR 45 and SR 48. Two intersections, located on the western edge of the city of Bloomington, Indiana, within the Urban Area Limits, are independent of each other. However, as the secondary impacts arising from the operating characteristics of specified proposals at each site are interrelated, a combined environmental impact statement will be prepared for the two projects.

Improvements to these two intersections are considered necessary to efficiently accommodate the traffic demands for existing and projected levels in these corridors.

For each site, the following alternatives are being considered: (1) Do-nothing; (2) upgrading the existing intersection; (3) construct an interchange (grade separation with access ramps).

The project has been coordinated with the following: Heritage Conservation and Recreation Service, Department of Natural Resources, U.S. Fish and Wildlife Service, U.S. Soil Conservation Service, Indiana Aeronautics Commission, Indiana Geological Survey, Indiana Stream Pollution Control Board, Wayne-Hoosier National Forest, and the Monroe County Commissioners. The city of Bloomington has agreed to participate as a coordinating agency, and a public information meeting was held on January 24, 1980. In addition, the opportunity for a public hearing will be advertised. Public notice will be given of the time and place of the public hearing, if a hearing is requested. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned.

To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments and/or questions should direct them to the FHWA at the address provided above.

Issued on: May 14, 1980.

G. D. Gibson, Jr.,

Division Administrator, Indianapolis, Indiana.

[FR Doc. 80-15665 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Monroe County, Ga.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway safety project in Monroe County, Georgia.

FOR FURTHER INFORMATION CONTACT: David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, N.E., Atlanta, Georgia 30309, telephone (404)881-4758, or Peter Malphurs, Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on the proposal consisting of safety improvements to two interchanges along I-75 through central Monroe County in the vicinity of Forsyth, Georgia. The proposed project is identified as I-75-2(93). Improvements would involve the reconstruction of existing elements of I-75 associated with the safety improvements at the two interchanges (Juliette Road and State Route 83) along a distance of 2.7 miles. The Georgia DOT is considering, as an alternate to the safety improvements, the construction of a bypass to the northeast of the City of Forsyth (5.9 miles). If the Georgia DOT proceeds with the bypass construction, it would include access to existing I-75.

Scoping will be handled through correspondence with appropriate Federal, State and local agencies and any local citizens or other interested persons wishing to participate in the scoping process. An advertised public information meeting to inform local citizens and concerned persons of the proposed project was held on October 11, 1979 in the City of Forsyth. In addition, a committee of local citizens has been formed to aid in the planning of the proposed project. A public hearing will also be held. Public notice will be given for the time and place of the hearing. The draft EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be addressed to either the FHWA, or the Georgia DOT, addresses of which are provided above.

Issued on: May 12, 1980.

David H. Densmore,

Development Engineer, Atlanta, Georgia.

[FR Doc. 80-15384 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS-80-3]

Portland Traction Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Portland Traction Company (PTC) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the PTC be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The PTC seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-80-3 and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, SW, Washington, DC 20590. Communications received before June 30, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, SW, Washington, DC 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, DC on May 9, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-15385 Filed 5-21-80; 8:45 am]

BILLING CODE 4910-06-M

V 45 M Y 22 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 101
Thursday, May 22, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1—3
Federal Election Commission	4
Federal Home Loan Bank Board	5
Federal Maritime Commission	6
Federal Reserve System (Board of Governors)	7
Interstate Commerce Commission	8

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting. Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, May 27, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Final rule amending Parts 341 and 343 of the Corporation's rules and regulations by deleting forms.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Memorandum from the Office of Corporate Audits regarding the Corporation's Security Portfolio as of June 30 and December 31, 1979.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 – 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: May 20, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–1016–80 Filed 5–20–80; 11:56 am]
BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting. Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, May 27, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Applications for consent to merge and establish branches:

The Dime Savings Bank of New York, New York (Brooklyn), New York, an insured mutual savings bank, for consent to merge, under its charter and title, with First Federal Savings and Loan Association of Port Washington, Port Washington, New York, a Federally insured mutual savings and loan association, and for consent to establish the five offices of First Federal Savings and Loan Association of Port Washington as branches of the resultant bank.

First Trust Union Bank, Wellsville, New York, an insured State nonmember bank, for consent to merge, under its charter and title, with The State Bank of Fillmore, Fillmore, New York, and for consent to establish the sole office of The State Bank of Fillmore as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,316–SR—Elm Creek State Bank, Elm Creek, Nebraska.
Case No. 44,319–L—The State National Bank of Lovelady, Lovelady, Texas.
Case No. 44,324–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.
Case No. 44,326–L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.
Case No. 44,328–L—American National Bank, Houston, Texas.
Case No. 44,330—Farmers Bank of the State of Delaware, Dover, Delaware.
Memorandum re: Northeast Bank of Houston, Houston, Texas.

Receivership Audit Report dated March 28, 1980.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Grievance officer's findings and recommendations in connection with the formal grievance of a Corporation employee:

Name of employee authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Federal Deposit Insurance Corporation.
Dated: May 20, 1980.

Hoyle L. Robinson,
Executive Secretary.
[S–1017–80 Filed 5–20–80; 11:56 am]
BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting. Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 19, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of First Peoples Bank of New Jersey, Haddon Township (P.O. Westmont), New Jersey, for advance consent to the retirement of preferred stock.

Memorandum re: Fair Lending Analysis System—Housing (FLASH)

The Board further determined, by that same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 19, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–1015–80 Filed 5–20–80; 11:56 am]
BILLING CODE 6714–01–M

4

[FR No. 977]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: 10 a.m., Thursday, May 22, 1980.

CHANGE IN MEETING: The following items have been added:

FEC forms 4, 5, and 7.
Clearinghouse project review (continued from May 14 meeting).
Impact of free distribution of regulations.
* * * * *

DATE AND TIME: 10 a.m., Thursday, May 29, 1980.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED: Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Draft advisory opinion 1980–60—C. Page Hamrick, III, Treasurer, Galperin for Congress Committee.
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administration matters.

Portions closed to the public (follows conclusion of Open Meeting):

Audit and review policy. Personnel. Compliance. Audit matter.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202–523–4065.

Lena L. Stafford,
Acting Secretary to the Commissioner.
[S–1020–80 Filed 5–20–80; 2:54 pm]
[BILLING CODE 6715–01–M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., May 22, 1980.

PLACE: 1700 G Street NW., amphitheater, second floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Request for Waiver Under Section 5(d)(12)(B) of the HOLA.
Permission to Organize a New Federal Association.
No. 347, May 20, 1980.

[S–1019–80 Filed 5–20–80; 12:23 p.m.]
BILLING CODE 6720–01–M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 28, 1980, 10 a.m.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10355: Bank and Saville Line, Ltd. and Shipping Corporation of New Zealand, Ltd. joint service arrangement.
2. Amendments to General Order 13 accommodating the tariff filing requirements for controlled carriers under the Ocean Shipping Act of 1978.
3. Identification of Controlled Carriers.
4. Proposed rule to exempt certain non-exclusive husbanding agreements from the approval requirements of section 15, Shipping Act, 1916.
5. Docket No. 80–15: Rules of Practice and Procedure Proceedings Under the Intercoastal Shipping Act—Consideration of comments received in response to notice of proposed rulemaking.
6. Docket No. 79–86: Japan/Korea–Atlantic and Gulf Freight Conference Rules Pertaining to Chassis Availability and Demurrage Charges That Result When Chassis are not Made Available—Compliance with Commission Order.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1014–80 Filed 5–20–80; 11:56 am]
BILLING CODE 6730–01–M

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Tuesday, May 27, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchases, under competitive bidding, of high speed currency equipment by the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: May 19, 1980.

Griffith L. Garwood,
Deputy Secretary of the Board.
[S–1013–80 Filed 5–20–80; 10:36 am]
BILLING CODE 6210–01–M

8

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, May 27, 1980.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Reminder of Open Special Conference.

MATTERS TO BE DISCUSSED:

1. Compliance and Enforcement Issues.
2. Fitness Policy.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202)275–7252.

May 19, 1980.

[S–1018–80 Filed 5–20–80; 12:14 pm]
BILLING CODE 7035–01–M

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Federal Register

Vol. 45, No. 101

Thursday, May 22, 1980

INFORMATION AND ASSISTANCE

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Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
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202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
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523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MAY

29001-29262.....1
29263-29554.....2
29555-29780.....5
29781-30058.....6
30059-30414.....7
30415-30610.....8
30611-31044.....9
31045-31290.....12
31291-31694.....13
31695-31926.....14
31927-32286.....15
32287-32654.....16
32655-33588.....19
33589-33944.....20
33945-34256.....21
34257-34860.....22

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-16 of Apr. 14, 1980 (Amended by Presidential Determination No. 80-18 of May 2, 1980).....20787
No. 80-17 of May 2, 1980.....20785
No. 80-18 of May 1, 1980.....20787

Executive Orders:

12169 (Amended by EO 12213).....29781
12212.....29557
12213.....29781
12214.....29783

Proclamations:

4754.....29555
4755.....30059
4756.....30415
4757.....31695
4758.....31927
4759.....32655
4760.....33945
4761.....33947

4 CFR

418.....31929

5 CFR

300.....29530
351.....29263
891.....30611

Proposed Rules:

351.....31379, 33640
412.....29300
532.....31382
550.....31379

6 CFR

706.....31935
707.....31935

Proposed Rules:

Ch. VII.....30445

7 CFR

2.....30417, 31697, 33589
6.....33589
25.....30417
210.....32502
230.....33589
319.....31572
418.....29001
419.....29001
421.....29001
600.....30061
799.....32312
907.....29002, 30418, 31698, 31953, 34257
908.....29002, 30418, 31953, 34257
910.....29265, 30612, 32308
916.....32308
917.....32309, 33596
918.....29003
928.....29559
953.....31045
1124.....29559
1280.....32572
1421.....31699
1425.....31699
1430.....30419
1435.....33597
1464.....32311
1701.....32312
1945.....29265
1980.....29265
2880.....31692

Proposed Rules:

Subtitle A.....32192
Ch. I.....32192
Ch. II.....32192
Ch. III.....32192
Ch. IV.....29056, 32192
Ch. V.....32192
Ch VI.....32192
Ch. VII.....32192
Ch. IX.....32192
Ch. X.....32192
Ch. XI.....32192
Ch. XII.....32192
Ch. XIV.....29302, 32192
Ch. XV.....32192
Ch. XVI.....32192
Ch. XVII.....32192
Ch. XVIII.....32192
Ch. XXI.....32192
Ch. XXIV.....32192
Ch. XXV.....32192
Ch. XXVI.....32192
Ch. XXVII.....32192
Ch. XXVIII.....32192
Ch. XXIX.....32192
6.....33640, 33642
29.....30080
401.....29056
427.....30445
437.....29056
760.....31393
800.....32284
810.....30446
908.....29063
911.....31726
913.....30638
915.....29843, 33643
944.....29843, 31726, 33643
953.....29846
971.....32319
991.....30447
1002.....32321

1036 30638
1071 30447
1073 30447
1097 30447
1102 30447
1104 30447
1106 30447
1108 30447
1120 30447
1126 30447
1132 30447
1138 30447
1207 31118
1701 29847
1804 30364
1930 30364
1944 30364
2859 30980

8 CFR

101 32657
103 ..... 32657, 33949
204 32657
211 32657
223 32657
223a 32657
231 32657
239 29243
245 32657
246 32657
247 32657
249 32657
261 32657
264 32657
299 32657

Proposed Rules:

211 ..... 29848, 30062
214 29848
242 30063

9 CFR

50 32287
78 29267
82 30612
92 29268
94 29270

Proposed Rules:

Ch. I 32192
Ch. II 32192
Ch. III 32192
Ch. IV 32192
92 29302
308 30980
381 30980

10 CFR

35 31701
50 30614
205 33950
211 29546
212 29546
456 33643
798 31604
1024 29764

Proposed Rules:

Ch. II 30448
Ch. III 30448
Ch. X 30448
2 34279
20 31118
50 34279
60 31393
205 32322
210 34846
211 ..... 29770, 31682, 32003, 34008, 34846

212 ..... 29553, 32003, 34846
461 31408
474 34008
477 34015
486 32560

11 CFR

4 31291
5 31292

Proposed Rules:

140 32003
141 32003
142 32003
143 32003
144 32003
145 32003
146 32003
9001 32003
9002 32003
9003 32003
9004 32003
9005 32003
9006 32003
9007 32003
9009 32003

12 CFR

VII 32290
205 31705
226 33599
303 30616
309 31294
524 31045
528 31954
545 ..... 31046, 32288
561 31050
701 29270
1201 31706
1202 32288
1203 31707
1204 31710

Proposed Rules:

Ch. V 31119
211 30081-30082
225 30082
226 ..... 29702, 33644
523 31727
545 31727
556 31121
563 31408
590 13122
1204 32323

13 CFR

Proposed Rules:

Ch. I 30338
108 31410
121 33645
304 30320
305 30320
306 30320
307 30320
308 30320
315 30320

14 CFR

39 ..... 29004, 29005, 29007, 29008, 29560-29562, 30421, 31052, 32659, 34258-34261
71 ..... 29009, 29563, 29564, 30422, 31053, 31971, 32661, 34261-34263
73 ..... 30424, 31974
97 ..... 29565, 31974
121 ..... 30424, 31057
152 34782
183 32668
231 31059
249 31059
250 30063
302 34264
380 32669
385 30065

Proposed Rules:

Ch. I 31125, 32700
39 ..... 30448, 32011
47 34286
49 34286
71 ..... 29063, 30449, 31128, 32702, 34289, 34290
75 30452
121 29064
127 29064
135 29064
152 30398
199 30398
221 ..... 31411, 34291
250 ..... 30086, 31413
385 31411

15 CFR

30 29567
369 29010
385 ..... 29568, 30617, 33955
399 ..... 29568, 30617
502 29271
503 29272

Proposed Rules:

936 ..... 33645, 33649
937 33645

16 CFR

13 ..... 29010, 31712, 31979
1025 29206

Proposed Rules:

13 ..... 30650, 31416, 34291, 34293, 34296
1512 32705

17 CFR

15 ..... 30426, 31713
230 29275
240 33957

Proposed Rules:

21 31731
229 31733
230 29847
240 ..... 29853, 30454, 31418, 31733
249 33650
270 29067

18 CFR

1 31059
35 31294
141 ..... 30066, 33600
154 29011
250 33600
260 ..... 30066, 33600
270 29569
271 29569
273 30068
282 ..... 29573, 31300, 31622, 31980, 33601
284 34264
292 ..... 33603, 33958

Proposed Rules:

Ch.I 31743
2 31744
271 31744
273 31418
284 ..... 34299, 34302

19 CFR

6 29247
200 31988
353 30618
355 ..... 30619, 33964

20 CFR

655 29854
675 33846
676 33846
677 33846
678 33846
679 33846
680 33846

Proposed Rules:

676 33923
677 33923
678 33923
679 33923

21 CFR

5 32550
101 29275
201 32550
207 32393
250 31303
520 ..... 31304, 32294, 33604
522 ..... 29275, 29789
540 ..... 29276, 32294
561 32295
610 32396
660 32296

Proposed Rules:

70 32324
109 30984
110 30984
182 ..... 29304, 32324
184 ..... 29304, 32324
225 30984
226 30984
330 31422
349 30002
355 33650
500 30984
509 30984
680 29305
1030 29307

22 CFR

143 31713
51 30619

Proposed Rules:

51 34302

23 CFR

663 29015

Proposed Rules:

420 30398
450 30398
625 34302
630 30398
1204 30398

24 CFR

111 1880
203 ..... 29277, 29573, 30602, 31716, 33964
204 ..... 30602, 31716, 33964
213 ..... 29277, 30602, 33964
220 ..... 30602, 33964
221 ..... 29277, 30602, 31894

227 29277
234 ..... 29277, 30602
235 ..... 29277, 30602, 33964
240 33964
275 29279
841 ..... 29279, 34265
865 30346
868 30349
885 31990
3280 29539

Proposed Rules:

203 29855
215 31132
234 29855
241 30352
570 ..... 30328, 31262, 33651
571 30455
600 30330
865 33651

25 CFR

11 29790

Proposed Rules:

55b 30302
172 29070

26 CFR

1 ..... 33969, 33971
301 33973

Proposed Rules:

1 ..... 29308, 34016, 34303
48 29309

27 CFR

Proposed Rules:

19 33976
178 33651
179 33978
181 33651
194 33978
197 33978
245 33978
250 33978
251 33978
252 33978

28 CFR

0 ..... 31061, 34268, 34269
2 33604
16 32670
45 ..... 29574, 31717
50 29530
544 33938
546 33938
545 33938
552 33938
572 33938

Proposed Rules:

42 ..... 32710, 33652

Proposed Rules:

42 33652
524 33942

29 CFR

56 29280
1601 33605
2702 33606
1607 29530

Proposed Rules:

Ch. XII 29590
1903 33652

30 CFR

57 32300
250 29280
731 33926
732 33926

Proposed Rules:

Ch. VII 29072, 29309-29311, 29855, 32328
19 32554
70 31426
71 31426
90 31426
211 32715
250 29309
715 32331
716 ..... 30651, 32331
816 32331
817 32331
826 32331
886 30382

31 CFR

13 30619
342 32301
51 29530
515 32671
535 29287

32 CFR

Ch. I 30623
555 32302
706 ..... 31116, 32671
811a 32301
880 31113

Proposed Rules:

286b 29590
1900 29855

32A CFR

Proposed Rules:

651 34304
663 34304

33 CFR

Ch. II 32302
100 ..... 30430, 31991
110 ..... 30431, 32672, 34269
117 29020
165 ..... 29020, 30436
207 31061

Proposed Rules:

110 29593
117 ..... 29593, 29594, 31132, 34305
140 29072
141 29072
142 29072
143 29072
144 29072
145 29072
146 29072
147 29072
157 ..... 29087, 34306

34 CFR

Subtitle A 30802
Ch. I 30802
Ch. II 30802
Ch. III 30802
Ch. IV 30802
Ch. V 30802
Ch. VI 30802
Ch. VII 30802
Ch. VIII 30802

36 CFR

7 ..... 32228, 32234
61 30623
1201 30623
216 29289
920 34752

Proposed Rules:

Ch. I 30414
Ch. II 32192
Ch. IX 34017
7 ..... 31752, 34759
50 29856
223 30652
1207 30378

38 CFR

3 31717
21 31062
36 ..... 29292, 31063, 34270

Proposed Rules:

17 30392
36 30370

39 CFR

111 ..... 32305, 34271

Proposed Rules:

Ch. III 34309
267 30069

40 CFR

51 31304
52 ..... 29293, 29790, 30069, 30626, 31304, 32674, 33607, 33981, 34271
81 30070
85 ..... 34802, 34829
86 ..... 31719, 34718
122 ..... 29589, 33290, 33516
123 ..... 33290, 33516
124 ..... 33290, 33516
125 29589
180 ..... 29802-29803, 31312, 32305, 33994
205 30630
260 33066
261 33084
262 33140
263 33150
264 ..... 33154, 34055
265 ..... 33154, 34055
408 32675
415 31992
775 32676

Proposed Rules:

35 30374
51 ..... 30088, 34762
52 ..... 29312, 29313, 29595, 29596, 29864, 30089, 30456, 30654, 32333, 32743, 33656, 34018, 34271
61 34315
81 ..... 30091, 34020
112 33814
167 29597
169 29597
180 ..... 29597, 32338, 32743
258 30095
261 33136
264 33260
265 ..... 33260, 33280
761 30989

41 CFR

Ch. 101 ..... 29294, 31313
1 30633
3-1 ..... 31721, 32306
3-4 33995
3-7 32306
5-1 ..... 29574, 29575
5A 30633
5A-1 29574
5B-1 29576
5B-2 29576
5B-7 29576
5B-16 29576
14R-9 31066
18 30633
60-3 29530
101-26 ..... 31315, 31992
105-61 29577

Proposed Rules:

Ch. 4 32192
101-11 32012

42 CFR

54a 31094
57 29803
110 31721

Proposed Rules:

405 29535
420 30634
440 20535
447 30634
456 29535
462 30634
482 29535

Proposed Rules:

405 30655

43 CFR

34 31095
35 30140
2610 34230
2650 31110
3100 30056
9260 31276

Public Land Orders:

5309 (Amended by PLO 5724) 31993
5716 (corrected by PLO 5725) 31722
5719 29021
5720 31315
5721 29295
5722 31316
5723 31722
5724 31993
5725 31722

Proposed Rules:

9 31284
2650 30606
2920 31284
3809 31284

44 CFR

64 31316
65 ..... 29021, 31318, 32000
67 ..... 29577, 31993
70 ..... 29807-29830, 30071, 30076
76 32687

Proposed Rules:

67 ..... 29090, 29313-29323, 29598, 31133, 31427, 31754, 32339

45 CFR

74 34272
104 30635
162 34210
162a 34210

V 45 MY 22 80 UMI

162b.....34210
162c.....34210
163c.....29588
185.....32588
186.....34152
186a.....34152
186b.....34152
186c.....34152
186d.....34152
186e.....34152
186f.....34152
186g.....34152
186h.....34152
186i.....34152
186j.....34152
186k.....34152
186l.....34152
187.....34152
188.....34152
205.....29831
235.....29831
801.....33628
1061.....32690, 33788

Proposed Rules:
Ch. X.....30457
100a.....30386
100b.....30386
1069.....31133
1385.....31006
1386.....31006
1387.....31006

46 CFR

33.....29588
35.....29588
71.....29588
75.....29588
78.....29588
91.....29588
94.....29588
97.....29588
148.....31110
160.....29588
189.....29588
192.....29588
196.....29588
252.....30439
530.....31722
547.....33996

Proposed Rules:
261.....30410
276.....29610
536.....29323, 31139
538.....29323, 31139

47 CFR

0.....29835, 31722
2.....33629
64.....31319, 32001
76.....31723
90.....30637
22.....29023
73.....29835–29840
90.....29297

Proposed Rules:
Ch. I.....30052, 33657, 33662
2.....29323, 32013
21.....29323, 29335, 29350
22.....32013
61.....29865
67.....34315
73.....29865–29872, 30094, 30656, 31139, 32028, 32744
74.....29323, 29350
87.....31764
94.....29323, 29350

48 CFR

Proposed Rules:
4.....29612

49 CFR

107.....32690
171.....32692, 34560
172.....34560
173.....32692, 34560
174.....32692, 34560
175.....32690
176.....34560
177.....32692, 34560
220.....30443
510.....29032, 32001
571.....29045
635.....30444
1021.....31374
1022.....31374
1033.....29048–29054, 29840–29841, 31111, 31375, 31724, 34002, 34274, 34276
1131.....31374
1131a.....31374
1201A.....31110
1243.....34276
1249.....34276

Proposed Rules:
173.....32030, 34316
177.....32030, 34316
258.....30398
260.....30398
266.....30398
571.....29102
1033.....32745
1045.....31139
1048.....34316
1056.....31766
1057.....34020
1102.....29102
1254.....31767
1262.....30659
1270.....29104
1271.....29104
1272.....29104
1273.....29104
1274.....29104
1275.....29104
1276.....29104
1277.....29104
1278.....29104
1279.....29104
1320.....31766
1321.....31766
1322.....31766
1323.....31766
1324.....31766

50 CFR

12.....31725
17.....33768
26.....30077
33.....29841
227.....29054
611.....31377, 32001, 34003
651.....32699
652.....33637
655.....32001
656.....32002
661.....29250
671.....31112
674.....30444

Proposed Rules:
17.....29370, 29371, 29373, 31446, 32348
23.....32353, 33842, 34025, 34317
216.....29375
674.....34020
810.....34025

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday)

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Community Planning and Development, Office of Assistant Secretary—

27382 4–22–80 / Community Development Block Grants; policies for use of reallocated funds

List of Public Laws

Last Listing May 21, 1980

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

V 45 MY 22 80 UMI

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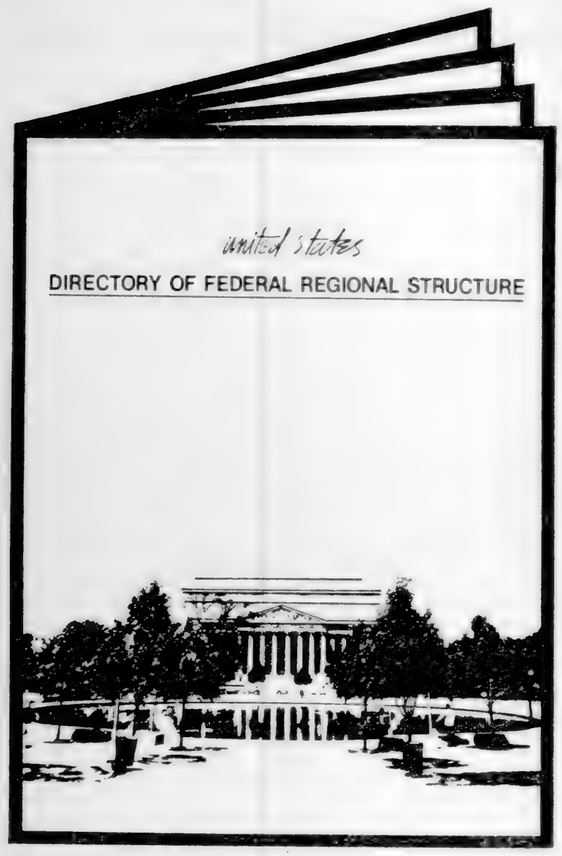

ORDER NOW!

Directory of Federal Regional Structure

Revised as of May 8, 1979

The Directory serves as a guide to the regional administrative structure of the departments and agencies of the Federal Government.

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Included in the Directory is a map showing the 10 standard Federal regions followed by tables listing the key personnel, addresses, and telephone numbers for agencies with offices in those regions. In addition, maps and tables are provided for those agencies with regional structures other than that of the standard regional system.

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Vol. 45—No. 101
5-22-80
BOOK 2:
PAGES
34557-34860

Federal Register

Book 2 of 2 Books
Thursday May 22, 1980

34560 Part II—DOT/RSPA:
Identification Numbers, Hazardous Wastes, Hazardous Substances, International Descriptions, Improved Descriptions, Forbidden Materials, and Organic Peroxides

34708 Part III—U.S. Regulatory Council:
Guidelines for the May 1980 Calendar of Federal Regulations

34718 Part IV—EPA:
Light-Duty Diesel Vehicles; Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen for 1981-1982 Model Years; Applications for Waiver of 1981-1985 Model Year Oxides of Nitrogen Emission Standard

34752 Part V—Pennsylvania Avenue Development Corporation:
Guidelines and Standards for Design of Development

34759 Part VI—Interior/NPS:
Mount McKinley National Park; Mining, Climbing and Vehicle Regulations

34762 Part VII—Environmental Protection Agency:
Visibility Protection for Federal Class I Areas

34782 Part VIII—DOT/FAA:
Airport Aid Program; Revision of Requirements

34802 Part IX—EPA:
Motor Vehicle Emission Control System Performance; Warranty Regulations; Warranty Short Tests

34846 Part X—DOE/ERA:
Gasohol Pricing and Allocation

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Thursday
May 22, 1980

Part II

Department of Transportation

Research and Special Programs Administration

Transport of Hazardous Wastes and Hazardous Substances

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 176, 177

[Docket Nos. HM-118, 126A, 126B, 145A, 145B, 159, and 171; Amdt. Nos. 171-53, 172-56, 173-137, 174-37, 176-11, 177-48]

Identification Numbers, Hazardous Wastes, Hazardous Substances, International Descriptions, Improved Descriptions, Forbidden Materials, and Organic Peroxides

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to accomplish the following: (1) adopt a numerical identification system for hazardous materials transported in commerce; (2) adopt regulations pertaining to the transportation of hazardous wastes; (3) adopt regulations pertaining to the identification of, and discharge notifications for, hazardous substances; (4) list certain forbidden materials by name and revise the general criteria applicable to forbidden materials; (5) provide proper shipping names for organic peroxides; (6) require inclusion on shipping papers of the technical names of certain hazardous components of materials covered by n.o.s. entries; and (7) provide for the optional use of certain United Nations shipping descriptions. The principal objective of this rule, as it pertains to the use of the identification numbers, is to improve the capabilities of emergency response personnel, such as firemen and policemen, to quickly identify hazardous materials and to assure the accurate transmission of information to and from the scenes of accidents involving hazardous materials.

EFFECTIVE DATE: November 20, 1980, unless otherwise specified in the regulations adopted under this rulemaking. Shipments may be prepared, offered for transportation, and transported in accordance with these amendments beginning July 1, 1980.

FOR FURTHER INFORMATION CONTACT: L. Metcalfe (202–426–0656) or Delmer Billings (202–426–2075), Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. Office hours are 8 a.m. to 4:30 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This action by the Materials Transportation Bureau (MTB) consolidates several related rulemakings into one final rule. By "related", MTB means that in many instances, the same sections of the Hazardous Materials Regulations are affected by the different rulemakings covered by this final rule. The notices of rulemakings containing the proposals, identified by docket number, Federal Register publication, date of publication and title are as follows:

1. Docket HM–118, Notice No. 74–9 (39 FR 25235, July 9, 1974), Expanded Polystyrene Resin and the Definition of a Flammable Solid.
2. Docket HM–145A, Notice No. 78–6 (43 FR 22626, May 25, 1978), Transportation of Hazardous Waste Materials.
3. Docket HM–145B, Notice No. 79–2 (44 FR 10676, February 22, 1979), Transportation of Hazardous Substances.
4. Docket HM–126A, Notice No. 79–9 (44 FR 32972, June 7, 1979), Display of Hazardous Materials Identification Numbers; Improved Emergency Response Capability.
5. Docket HM–126A (additional proposal), Notice No. 79–9 (44 FR 43858, July 26, 1979), Descriptions for Organic Peroxides.
6. Docket HM–159, Notice No. 79–12 (44 FR 43861, July 26, 1979), Forbidden Materials.
7. Docket HM–171, Notice No. 79–11 (44 FR 43864, July 26, 1979), Use of United Nations Shipping Descriptions.
8. Docket HM–126B, Notice No. 79–14 (44 FR 65020, November 8, 1979), Improved Descriptions of Hazardous Materials for Emergency Response.

This consolidated publication of final regulations pertaining to the subjects covered by the dockets identified above was requested by many commenters responding to the different proposals. MTB agrees that all the referenced proposals should be acted upon in one body of final regulations so that persons affected by these new and revised regulations may plan their future business activities relative to training, development and acquisition of shipping documents, the marking of packages, and the development of procedures to comply with the revised incident reporting and newly adopted identification requirements. However, MTB is not able to be fully responsive to those commenters who requested that all of the amendments covered by this action be made effective on the same date (in several comments, the date suggested was two to three years from the date of publication of final regulations). With the exception of regulations pertaining to hazardous wastes, hazardous substances, empty packagings, and certain organic peroxides, more than one year is being provided for the implementation of procedures to comply with the requirements adopted in this action; in fact approximately three years is being provided for compliance with the packaging marking requirements. Instead of specifying a set of lengthy and complicated effective dates in this preamble, the effective date for compliance with each regulation that is effective after November 20, 1980, is set forth in a specific regulation associated with each new or revised requirement. Sections containing compliance dates after November 20, 1980, are § 172.101 (j) and (k); § 172.200(c); § 172.203(k); § 172.300(c)(3); § 172.324(b); § 172.336(c)(6) and (7); and § 172.402(a)(10). The principal requirements that become effective on November 20, 1980 (with certain exceptions) pertain to the transportation of hazardous wastes, hazardous substances, certain forbidden materials (organic peroxides), and empty packagings.

Also bearing on the matter of effective dates, is the requirement for compliance by MTB with the Federal Reports Act of 1942 and procedures administered thereunder by the Office of Management and Budget (OMB) relating to prior clearance of recordkeeping requirements imposed by Federal regulatory action. Prior OMB clearance is required with respect to the provisions adopted herein which impose recordkeeping or report preparation requirements.

MTB will inform the public through notification in the **Federal Register** when OMB clearance of these requirements has been received. It is anticipated that this clearance process will be completed prior to November 20, 1980, the earliest of the effective dates prescribed herein.

It should be noted that most of the materials that this rule indicates by name to be "Forbidden" materials in column 3 of the Table in § 172.101 are and have been "Forbidden" materials in the past under general prohibitions. The listing of these materials by name, and the effective dates specified for these amendments, does not change the present "Forbidden" status of these materials if they were not authorized to be offered for transportation prior to this publication.

Concerning special requirements pertaining to hazardous wastes and hazardous substances, it is important to note that those requirements do not apply unless a material is a hazardous waste or a hazardous substance (or both) according to the definitions in § 171.8. This determination is separate from determining if a material is otherwise a hazardous material.

This preamble is structured to provide a discussion of the comments received and MTB's action relative to significant matters pertaining to the individual rulemaking proposals under captions identifying each docket. The termination of Docket HM–118 is covered by the discussion of Docket HM–159 relating to forbidden materials. The Review by Sections also contains discussions of many comments received in response to the various proposals.

Docket HM–126A—Display of Hazardous Materials Identification Numbers

The amendments under this Docket require the display of identification numbers on shipping papers and packages in association with proper shipping names and the display of identification numbers on orange panels or placards affixed to portable tanks, cargo tanks, and tank cars. The numbering system is based on the system adopted for worldwide use by the United Nations Committee of Experts on the Transport of Dangerous Goods. The purpose of these amendments is to improve the capability of emergency personnel to quickly identify hazardous materials and ensure the accurate transmission of information to and from the scenes of accidents involving hazardous materials. The identification numbers will also enable emergency response personnel to gain quick access to immediate response information in a guidebook that will be widely distributed by the Department in the near future.

MTB received more than 250 comments in response to the proposal, a majority of which expressed complete support for the proposal. Approximately 50 comments supported the use of the identification numbering system generally, but did not agree with the proposed extent to which the display would be required. There were 12 comments received supporting other types of systems: the Standard Transportation Commodity Codes, Chemical Abstract Service (CAS) numbers, the National Fire Protection Association 704 system, and the HAZCHEM system which is used in the United Kingdom. With the exception of the CAS numbers, each of the alternative systems suggested was discussed in the preamble to the Notice. The CAS registry system, while not discussed in the Notice, was given consideration by MTB and discussed in the regulatory evaluation for the Notice as follows:

The Chemical Abstract Service (CAS) registry system for chemicals was given consideration. This system is presently in use at the Environmental Protection Agency (EPA) pursuant to EPA Order 2800.2 dated June 30, 1975. Each chemical substance is assigned a unique, multi-digit identifying number. There are an estimated 4,500,000 chemical registrations presently on file at CAS and there are an estimated 375,000 entries being added to the registry annually.

Examination of this system raises several significant problems relative to its being employed as the basis for an emergency response program. A principal concern would be the use of numbers having up to nine digits to convey emergency response information to and from the scene of a hazardous materials transportation accident. The use of more than four digits to convey specific identification information would not be suitable for such a purpose, and considering the variable number of digits under such a system, it would likely be counterproductive. There is no need for such a large number of specific identifications of chemicals to accomplish an appropriate emergency response program. With such a large number, it would be impractical to publish a manual [for on-scene use] indexing the shipping name of each material. . . . Also, the shipping community would be faced with a tremendous burden and expense in stocking identification mechanisms for display on vehicles, making appropriate entries on shipping papers and packages, and determining the assignment of appropriate numbers to mixtures and solutions of the materials.

The distinction between this system and the UN number assignment system previously discussed is the fact that the UN assigns numbers to recognize under separate identifications those materials that are shipped in large volumes, such as nitric acid, or to separately identify materials having certain properties that would call for their being specifically identified without regard to the volume of such materials being transported. An example in the latter category is the specific identification of all organic peroxides that are commercially produced and shipped. It is recognized that it would be of benefit to all concerned with the regulation and transportation of chemicals if a common code were promulgated for all purposes, including toxic substances control and emergency response actions. This is one of the rationale[s] behind a forthcoming recommendation of the Toxic Substances Strategy Committee to the President, which states: "All the research and regulatory agencies concerned with toxic substances control should be required to use the CAS Registry Numbers as a uniform chemical identification system in all their files and proceedings." While the CAS registry system may be appropriate as a mechanism for the identification and control of the introduction of toxic substances into commerce, it would not be appropriate for emergency response purposes and would be detrimental to the proper implementation of such a program.

As stated in the Notice, the HAZCHEM and NFPA 704 systems would require a preassigned before-shipment numbering technique to provide specific action information or an indication of the level of hazard. One commenter, responding to MTB's statement that no criteria have been established for the (NFPA 704) health and reactivity presentations, stated: "In fact, over a thousand chemicals have been already rated and assigned and can be used as a basis for rating similar materials. NFPA #704 is designed for user development of qualitative criteria. Further, if quantitative criteria need to be developed, it can be done using existing procedures." In the Notice, MTB indicated its concern over the qualitative approach by illustrating the application of the same health hazard number to materials such as liquid oxygen and hydrogen sulfide, etc., and believes that this kind of assignment would not provide a sound basis for the communication of emergency response information nor for the assessment of risk at a transportation accident. Concerning the development of quantitative criteria, MTB agrees this could be accomplished. However, more than three basic fields of display and more than four levels of hazard would be required. Considering the millions of variables presented by hazardous materials in transportation, MTB believes that such a system would be severely impeded by the difficulties that would be encountered in seeking its effective implementation.

Several commenters took exception to the views expressed by MTB relative to use of Standard Transportation Commodity Code (STCC) numbers for the identification of hazardous materials. They indicated their intent to continue use of STCC numbers for their own purposes, including emergency response activities, and saw no reason why MTB could not implement requirements for the identification of hazardous materials based on this existing system. MTB stated its reasons

in the Notice for not proposing the use of STCC numbers and understands fully the desire of the railroad industry to use the STCC system. MTB views that were expressed in the Notice (44 FR 32976) concerning the STCC system remain unchanged relative to the appropriate implementation of an identification numbering system for hazardous materials.

A commenter stated: "Our final concern is that only one identification system be adopted nationally and internationally. In the US, the railroads already have their STCC code for identification of hazardous materials. Will the DOT proposal eliminate this requirement? If not, shipping papers and containers will have two sets of numbers—the DOT's and the railroad's." MTB does not intend to take any action prohibiting use of the STCC system, nor any other economic/statistical system, such as the Brussels Nomenclature. These systems were designed for purposes other than identification of hazardous materials. While the 49 series STCC numbers are separately assigned to hazardous materials, the railroad industry has adopted a "bridge" for 49 series numbers to the basic STCC system in order that correct rates and statistics can be generated according to different basic freight classifications. MTB is not aware of any requirement that shippers provide STCC numbers on bills of lading or display of STCC numbers on packages, as suggested by the commenter. A railroad waybill generally contains a special block which appears above the space provided for the description of articles or commodities. This block would contain identifying STCC numbers, not only for hazardous materials, but also for machinery, lumber, and other nonhazardous commodities. The identification number required by DOT will be displayed as part of the basic hazardous material description and MTB sees no potential for conflict between the two systems.

Five commenters expressed the view that no change to the present hazardous materials identification system is necessary. One commenter suggested that MTB continue to work to improve the emergency response capabilities of its hazard information system, based on existing regulations, through increased activity in the training of emergency response personnel. Further, the commenter placed great emphasis on the potential for mistakes in the display of identification numbers. MTB acknowledges that there may be some errors in entering identification numbers on shipping documents. It is for this reason that the suggestion of another commenter that the requirement for proper shipping names on the shipping papers be dropped is not adopted, and is one of several reasons for MTB's adoption of the requirement that identification numbers be displayed on packagings of 110-gallon capacity or less, as well as larger packagings. The Notice mentioned the value of an identification number in verifying the shipping information displayed on documents with the information displayed on packages. The proper display of shipping names will assist in verification of an identification number when doubt exists. Further, the Emergency Response Guidebook has been revised during its development by MTB to include a complete alphabetical index in addition to the numerical index for hazardous materials. However, in a study performed for MTB, using members of the Baltimore Police Department as test subjects, the number identification approach to accessing the response information in the draft Emergency Response Guidebook produced a lower error rate than did the use of the shipping name identification approach (2% vs 10% errors). Also, accessing the response information through use of identification numbers was twice as fast as accessing through use of shipping names. While the potential for clerical error in transferring identification numbers to carrier documents is real, this potential is outweighed by the potential for miscommunication of many complicated names of different hazardous materials shipped in commerce. Therefore, MTB is adopting the identification numbering system basically as proposed in the Notice. MTB agrees that there should be increased activity in the training of emergency response personnel. However, it is also obligated to implement adequate regulatory requirements leading to the quick and accurate communication of hazardous material information, which cannot be accomplished, as suggested by these commenters, through use of the system in existence up to the time of this rule.

MTB stated in the Notice that the adoption of the identification numbering system it proposed will ". . . provide the basis for an improved emergency response capability that is not presently available through direct use of technical names; e.g., hexadecyltrichlorosilane (UN 1781), to identify hazardous materials and accurately and quickly communicate information about them." The basic UN numbering system, and associated North American (NA) identification numbers for materials not appropriately covered by the UN, was selected by MTB as the basis for an improved emergency response information system because (1) the numbers are assigned by governmental authorities and easily incorporated by the Department in its regulations; (2) all of the identification numbers preceded by the letters "UN" will have the same meaning throughout worldwide commerce; (3) identification numbers have been assigned specifically to identify hazardous materials and have no other intended meaning or use; (4) their formulation and application are not dictated or driven by economic considerations for freight classification, rate-making, or statistical purposes; (5) they are assigned, for the most part, to materials requiring separate recognition that are shipped in commercial quantities, thereby precluding the need for more than four digits; and (6) the identification numbers are assigned on the basis of the next open number without regard to the particular chemical properties or end-use of a material, thereby avoiding any problems in the validity of numbers for future assignments.

Further, MTB stated that use of identification numbers for hazardous materials will (1) serve to verify descriptions of chemicals; (2) provide for rapid identification of materials when it might be inappropriate or confusing to require the display of lengthy chemical names on vehicles; (3) aid in speeding communication of information on materials from accident scenes and in the receipt of more accurate emergency response information; and (4) provide a means for quick access to immediate emergency response information in the Emergency Response Guidebook (manual) that will be distributed by MTB.

Several commenters objected to the proposal that identification numbers be displayed on packages in association with required shipping names. One commenter stated that his organization does not recommend that emergency services personnel enter vehicles to determine the identification number for hazardous materials and that reliance should be placed on identification numbers displayed on shipping papers. MTB agrees that emergency services personnel should not place themselves unnecessarily in jeopardy by entering vehicles for the purpose of identifying hazardous materials if they can identify the materials by other means. However, there are circumstances which require entry into vehicles during or following emergencies. In the Notice, MTB stated the following (44 FR 32976):

> Concerning the marking of identification numbers on packages, two major factors were considered. First, freight personnel often become the first contact "emergency" personnel when spills and leaks occur. The MTB visualizes that they will be able to make use of the manual in the same manner as emergency response personnel. Sole dependence on complex chemical names without reference to an identification number may lead to an erroneous response. This same view applies to emergency response personnel coming into contact with packages directly in vehicles, on freight docks, or elsewhere. The second factor is the value of the identification number in verifying the shipping information displayed on documents with the information displayed on packages to preclude error.

While this quoted language clearly makes reference to the possibility that emergency personnel could come into contact with packages directly in vehicles, this factor was given undue emphasis by the commenter. Other factors support MTB's action. For example, according to the incident reports on file at MTB, a large percentage of the total of hazardous materials incidents occurs during freight handling operations and not in vehicles. MTB believes that identification numbers on packages will be of significant use in mitigating the consequences of spills occurring during freight handling operations when shipping papers are not always immediately available.

A commenter questioned the benefit that could be derived from the use of identification numbers by the public. He stated: "To expect the general public to notice, or be knowledgeable of, the numerical system is beyond realism." The prime objective of the proposals and the adopted rule is improved emergency response information. MTB has a continuing program to educate industry and emergency response personnel. It is also hoped that the new system will be given much publicity by industry and the emergency services organizations. The present placarding system serves as a hazard alerting system for the benefit of the general public and emergency services. With the added display of identification numbers on tanks, MTB visualizes that there may be many instances where members of the general public, even if not generally knowledgeable of the system, would be able to convey to the emergency services by telephone the identification numbers they see on orange panels or placards.

One commenter, a trade association of chemical manufacturers, expressed support for the display of identification numbers on shipping papers and stated its conclusion "* * * that [identification] numbers on portable tanks, cargo tanks and tank cars can contribute to the safe evaluation and initial handling of an emergency." However, the commenter recommended "* * * the modification of existing hazardous materials placards to incorporate the four-digit number in the center section of placards." In support of this recommendation, the commenter stated:

> A dual placarding system is unnecessary in that the present placard format can be modified to incorporate the four-digit numbers in the center section of the placards in a size and display that meets the visibility objectives of the MTB and emergency response services. In training personnel to comply with operating procedures, the more simplistic a procedure, the higher the degree of compliance. Thus a one step procedure, keeping it simple, will receive a higher degree of correct implementation than a two step procedure.
>
> The proposed application of ID panels on portable tanks, cargo tanks and tank cars establishes a double process to select, match and apply a set of placards and a set of ID panels. Training personnel to meet present placarding requirements is difficult enough because of turnover, absenteeism and multiplicity of products at a loading station. The more complex an operation—the more confused employees are apt to become. We are convinced a dual placarding requirement would cause a sharp rise in placarding errors, thereby reducing the increase in safety sought by this docket. Such errors would create an added threat to emergency response personnel. . . .
>
> In our view the concept of applying adhesive backed ID panels to vehicles and tanks is not practical. CMA member companies have had less than desirable experience with adhesive placards in that under certain weather conditions they are next to impossible to apply and removal after use is often extremely difficult and costly. Therefore, it is likely that if transport vehicles are required to display ID panels, as proposed in the docket, the vehicles would need to be equipped with ID panel holders. Costs to install ID panels and costs on labor for dual placarding is an unwarranted and unnecessary expense, and is inflationary and wasteful.
>
> The integration of ID numbers into the placards provides two other significant advantages. It directly associates product identity for emergency response with the other hazard precautions communicated on the container, i.e. the placard. The display of the placard in a holder assures that the identification numbers have not fallen off the vehicle and avoids confusion that would set in if the ID number on the vehicle was different than the placard required for the ID panel. CMA's proposal permits use of existing vehicle placard holders.
>
> The MTB in HM Docket No. 126 dated June 25, 1975, stated—"It is the Board's position that any alpha/numeric/symbolic hazard information system adopted in the future be compatible with and adaptable to the placards it adopts under Docket HM–103."

CMA's proposal is consistent with this MTB objective, and conversely the ID panel is not. CMA has developed a reasonable one-step process that will accomplish the objectives of MTB in the docket with no lowering of the level of visibility.

The commenter also proposed the use of plain placards for display of identification numbers addressing materials that are not otherwise subject to the placarding requirements (e.g., hazardous substances to be covered by 9000 series identification numbers).

Except for the special consideration that must be given to Class A poison gases and radioactive materials and their associated placards, POISON GAS and RADIOACTIVE, MTB agrees with many of the points raised by the commenter and has modified the rule to allow the display of identification numbers on placards as an alternative to their display on orange panels. Even though a number of commenters supported the display of identification numbers on placards as the only means of display, there may be circumstances when it would be appropriate to display identification numbers on orange panels (e.g., for international shipments or the identification of hazardous substances), as was proposed in the Notice.

Included in the same comments were suggested alternative methods for the display of "class" words on placards. Of necessity, there would be a substantial reduction in the size of the letters in the words, thereby lessening the benefit of their display on placards. The commenter suggested the words be placde immediately above the identification numbers (letters approximately ¾" high), or in the bottom triangle below the identification numbers (letters ranging in size from approximately ¾" to 1¾" high). In addressing this matter, MTB was faced with one of its most difficult decisions relative to the rulemaking actions covered by this publication.

In deciding to allow display of identification numbers on placards, as an alternative to their display on orange panels, MTB decided to address not only the potential problem raised by a reduction in the size of "class" words, but also the need for words on placards and future problems relative to their display in a single language. MTB has received inquiries concerning bilingual displays in English/Spanish (for example, Puerto Rico is declared by law to be a State for the purposes of these regulations) and English/French (for example, it is anticipated that there will be increasing interest in bilingual requirements relative to commerce between the U.S. and Canada).

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MTB has concluded that "class" words having substantially reduced letter size, will be of little benefit to emergency services in recognizing the kinds of hazards they may be dealing with that also has concluded that, with two exceptions, the removal of "class" words from placards will not significantly affect the ability of emergency services personnel to recognize hazards based solely on the hazard alerting presentation and format of a placard; i.e., size, shape, color, and pictograph.

One exception is the distinction between liquids and gases. The loss of this distinction, which would result from the removal of "class" words, is counterbalanced by the requirements that gases be identified by name on tanks and that the international class number (2 for gases) be displayed at the bottom of placards.

A second exception involves the fact that there are operational considerations relative to placement of cars in trains based on the type of placard displayed. The car placement rules in Subpart D of Part 174 specify restrictions on the location of cars containing Class A poison gases and radioactive materials in a train solely on the basis of the placard type displayed; i.e., POISON GAS or RADIOACTIVE. There are also references to COMBUSTIBLE placards in Part 174 that provide exceptions to the car placement rules when combustible liquids, rather than flammable liquids or gases, are being carried. (However, an error in recognizing a placard bearing identification numbers identifying a combustible liquid would not cause a violation of the car placement rules.)

After considering these problems, MTB is promulgating a final rule that removes the requirement that "class" words be displayed on placards, except when a POISON GAS or RADIOACTIVE placard is required. In those two instances, the "class" words must be on a placard in the same manner as presently required. This will necessitate that identification numbers in those two instances be displayed using orange panels without the option of placing the numbers on the placards. Also, in recognition of the fact that combustible liquids are subject to fewer constraints than flammable liquids and gases (e.g., car placement requirements by rail and use of tunnels by highway), this rule specifies that the bottom of placards for combustible liquids, when identification numbers are placed thereon, shall be white rather than red. This distinction will facilitate the identification of combustible liquids in tanks.

MTB is adopting a requirement that, as a condition relative to the display of identification numbers on placards, the international class designation for hazardous materials be displayed at the bottom of a placard. This kind of display will overcome the lack of distinction between gases and liquids, since a number "2" will be required on the bottom of a placard for a gas. Admittedly, it will take some time for the emergency services to become fully familiar with this type of designation. As a step to improve familiarity, a description of each of the international class numerical designations is contained in the Emergency Response Guidebook. Also, a special display has been added to the Guidebook to illustrate a placard bearing identification numbers with a number "2" in the bottom triangle. The caption reads: "A number 2 at the bottom of a placard without any name means that the material in the tank is a gas. See the next page for the meaning of other numbers at the bottom of placards." However, this is not an initial step, since MTB has been distributing placard and label charts to emergency service personnel and other interested persons for more than 7 years (more than 1½ million copies to date). These charts show the international class designations on labels and placards.

Denial of Petition. By petition dated March 6, 1979, the Association of American Railroads (AAR) requested "* * * that the MTB broaden the scope of HM–145A and HM–145B * * * by proposing the adoption of a requirement that shippers include on the shipping papers the code numbers for 'hazardous materials,' 'hazardous substances,' and 'hazardous wastes' through use of the 49-Series of the Standard Transportation Commodity Code Tariff." The petition pointed out the need for the code numbers to give shippers and carriers the ability to make precise commodity information known to emergency personnel.

MTB agrees with the AAR concerning the need for a numerical coding system to assure the communication of precise commodity information; however, for the reasons stated in Notice 79–9 (44 FR 32972) under Docket HM–126A and earlier in this preamble, and following full consideration of all comments received on its proposal, MTB has decided that a numbering system based on the United Nations' system will be used. Therefore, the AAR petition, to the extent that it request MTB to propose use of the 49 Series of the Standard Transportation Commodity Code Tariff, is hereby denied.

HM–126A—Descriptions for Organic Peroxides

An additional proposal under Docket HM–126A contained a listing of each organic peroxide (with identification number) that may be shipped in commerce in order that the different kinds of risks presented by these materials may be recognized during implementation of emergency response procedures. These differing risks include (1) thermal sensitivity; (2) violence of thermal decomposition; (3) susceptibility to ignition by friction; (4) flammability; and (5) corrosivity. Approximately 135 organic peroxide entries were proposed to be added to the Hazardous Materials Table (Table).

One commenter requested that di-n-propyl peroxydicarbonate 87% maximum, di-sec-butyl peroxydicarbonate 77% maximum, and di-(2-ethylhexyl) peroxydicarbonate 77% maximum be added to the Table. These materials were proposed (and adopted) to be in the Table as technical by pure materials, and, therefore, these entries would adequately cover those peroxides in the concentrations requested by the commenter.

One commenter objected to the proposed requirement that the technical names of the organic peroxides be used as proper shipping names. The reasons given were that such complicated names do not assist emergency personnel in recognizing a hazard quickly, misspellings and errors are more likely on shipping papers and the required use of these names would place a burden on domestic producers of organic peroxides that would be out of proportion to the volume of organic peroxides imported or exported. MTB does not agree with these objections. The use of the technical names of organic peroxides has been required for many years by the International Maritime Dangerous Goods Code and by § 172.203(i)(2) for water shipments without the difficulties noted by the commenter. No other commenters objected to the use of the technical names as the proper shipping names.

Another commenter said that in some instances the hazard of the material in which an organic peroxide was dissolved might completely overshadow the hazard of the peroxide. MTB agrees with this comment and has changed the wording in § 173.151a(a)(3) to authorize organic peroxide solutions to be classed as other than an organic peroxide.

Two commenters pointed out that the adoption of the United Nations (UN) nomenclature for organic peroxides would automatically bring some peroxide formulations under regulation which have previously not been subject to regulation in the United States. This situation can be handled under the provisions of § 173.151a(a)(4) which provides for data to be submitted to MTB indicating that a particular peroxide formulation does not present a hazard in transportation and, based on the data submitted, that product may be shipped as not subject to the regulations.

One commenter suggested that a listing of the peroxides be deferred until complete packaging and shipping requirements have been developed. The reason given was that the cross-referencing to a general entry can lead to errors and inconsistencies. MTB believes that it is necessary to publish the technical names of the peroxides at this time due to the development of the Emergency Response Guidebook. MTB acknowledges that there were some errors in the listings and cross references that appeared in the Notice of Proposed Rulemaking, and these errors have been corrected in this final rule.

A commenter noted that the proposed list of organic peroxides contained several entries in which the concentrations of peroxide solutions were lower than those presented in the UN recommendations. It was urged that the U.S. had representatives at the UN meetings when the international concentrations were agreed upon and took no exception to them following detailed review and consideration of data presented. MTB agrees with this commenter and has changed the concentrations of those peroxides in question to agree with the concentrations proposed in the UN recommendations.

One commenter noted that the organic peroxide, n.o.s. entries and two specific peroxides listed by the UN did not appear in the Notice. The listing of proposed entries in the Notice was in addition to the entries already appearing in the Table. The entries cited by this commenter already appear in the Table and, therefore, were not included in the Notice.

A commenter suggested that the organic peroxide nomenclature be brought into conformance with the latest proposals by the UN Editorial Committee. MTB agrees with this suggestion and the entries in this final rule have been modified to reflect the latest UN accepted nomenclature.

A commenter suggested that, since there are two Organic peroxide, liquid or solution, n.o.s. entries—one classed as an Organic peroxide and the other as a Flammable liquid— § 172.100 should be amended to identify this difference. MTB does not agree that this difference needs to be specifically addressed. These entries presently appear in the Hazardous Materials Table and no specific explanation of these entries is provided. It remains the responsibility of the shipper to determine the proper class of the hazardous material being shipped, to determine a proper shipping name in accordance with that class and then ship that material in compliance with the applicable regulations. This final rule does not alter this responsibility.

A commenter referenced his Docket HM–126A comments to the comments he made in response to Docket HM–159 in regard to a 9% active oxygen content for certain organic peroxides. MTB's response to this commenter is contained in that portion of this preamble addressing Docket HM–159.

Several commenters noted that neither the UN nor North America (NA) indicator was placed before the identification numbers for the organic peroxides in the proposal. This final rule places either a UN or NA indicator, as appropriate, before the identification numbers for organic peroxide entries in the Table.

Docket HM–126B—Improved Descriptions of Hazardous Materials for Emergency Response

The amendments under this Docket require more specific identification of certain hazardous materials, mainly in four areas, as follows:

1. New generic descriptions for pesticides are being added to the Table in § 172.101. These descriptions identify and describe pesticides by chemical groups based on their chemical structures. Each of the 15 groups is divided into liquids and solids. The liquids are further divided to distinguish between materials that are classed as Flammable liquids and those classed as Poison B.

2. If the technical name of the principal poisonous constituent of a material is not identified in a shipping name, it must be identified in association with the basic description on a shipping paper.

3. If a shipping name or class name for a poisonous material does not indicate the material is a poison, the word "Poison" must be shown on the shipping paper. Also, for water reactive materials (other than Water reactive solid, n.o.s.), the words Dangerous When Wet must be shown.

4. Nine n.o.s. descriptions addressing multiple hazards are added to the Table.

Certain other amendments under the Docket are addressed in the Review by Sections.

MTB received many comments expressing support for the proposals it made under this Docket, with one major exception—the display of technical names after n.o.s. descriptions. The principal arguments against this proposal were that (1) many of the technical names that would be required would be lengthy and complex; (2) such information would be of little or no value in an emergency; (3) the four-digit identification number, tied to emergency response information in a manual or provided by CHEMTREC, would be sufficient for emergency response purposes; (4) the purpose of the additional information stated in the preamble of the Notice for this Docket was in conflict with statements referencing lengthy technical names in the preamble to Docket HM–126A; and (5) such a requirement would require the disclosure of proprietary information.

Upon completion of its review of the comments on its proposal pertaining to technical names, MTB was compelled to fully reconsider the proposal. At the outset, MTB acknowledges that it erred in not explaining the proposal in sufficient detail in the Notice and that one sentence in the preamble did not sufficiently discuss the distinction between the benefits of the proposed additional descriptive information and the benefits from using identification numbers. The sentence which read, in part, "MTB agrees that safety would be enhanced by such a requirement since more specific information would be immediately available for use in emergency response actions," should more accurately have stated, "MTB agrees that safety would be enhanced by such a requirement since more specific information would be available for first-aid and clean-up actions immediately following the initial phases of an emergency."

Upon further consideration, MTB concludes that the requirement for more specific information should relate only to poisonous materials. If some form of technical identification is not provided in the shipping name for a material that is poisonous, neither a manual nor an emergency response information center can overcome this shortcoming when it comes to providing appropriate first-aid measures beyond initial actions. For example, if a shipping paper contains only the description "Poison B liquid", no specific response information can be provided as to appropriate antidotal procedures within a sufficient time interval. Even if a response center were

V 45 M Y 22 80 UMI

able to reach the shipper of the material, considerable time would be lost in attempting to ascertain the specific identification of the poisonous material in the vehicle involved in the accident of concern, unless the shipper introduces only products of the same chemical group into commerce.

MTB has concluded that this kind of immediate information would be of less importance for materials such as flammable liquids and corrosives. Also, MTB believes that it has become necessary to distinguish materials that cause death by systemic poisoning from those that result in death due to corrosive destruction of tissue. While this distinction is not made for consumer products, MTB believes it should be made in regard to the transportation of hazardous materials.

MTB has dropped proposed § 172.203(j) and has merged the requirement for the identification of poisons into paragraph (k), entitled "Poisonous materials." A provision has been added to exclude consumer commodities and chemical groups identified in shipping names. The "technical" identification would not be required for limited quantities because of difficulties that may be encountered in shipping untested samples for laboratory examination. A major feature is a provision allowing use of names contained in the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances or more commonly, NIOSH Registry. The NIOSH Registry contains many short and specific names which are cross-referenced to technical names. The NIOSH Registry will be kept on file at CHEMTREC. Shippers desiring the addition of their materials to the NIOSH Registry should contact The Editor, Registry of Toxic Effects of Chemical Substances, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: (513) 684–8317. By allowing alternative use of names in the NIOSH Registry or identification by chemical groups, MTB believes the claimed problem with potential disclosure of proprietary information has been alleviated.

The proposed requirement that the technical names of all n.o.s. described materials be marked on packages has not been adopted. While MTB agrees that many product labels, in particular those for pesticides, contain this information, this is not the case for all poisonous materials. However, MTB is aware of labeling proposals presently under development by the EPA and the Occupational Safety and Health Administration (OSHA), which are much more extensive than those proposed by MTB under Docket HM–126B. For this reason, MTB believes it appropriate to drop the marking portion of its proposal in light of the contemplated actions of EPA and OSHA in order to avoid any conflicts or unnecessary duplication of requirements.

Many commenters supported the proposed and adopted requirement that the word Poison be added to shipping descriptions when not included in a shipping name or class description for a material meeting the DOT poison criteria. Also, most commenters supported the required display of information for water reactive materials, except they recommended Dangerous When Wet rather than Water Reactive as being more appropriate in communicating the risk. MTB agrees and the requirement has been adopted accordingly.

A commenter correctly pointed out that MTB failed to include Oxidizer, poisonous liquid or solid in the Notice. This is contained in § 172.402(a)(3). As noted earlier, appropriate entries have been included in the amendment. Also, commenters pointed out MTB's failure to address labeling for multiple hazards in § 172.402 in addition to the proposed dual labeling specified for the eight generic n.o.s. entries in the Table. One commenter suggested that dual labeling not be required if the identification numbering system is adopted. MTB does not agree. MTB views the DOT required labels to be a hazard-alerting portion of the hazard information system and, in terms of incident prevention and immediate knowledge of risk, an essential element of the system. In adopting the dual labeling requirements for the generic entries, MTB agrees that similar treatment should be given to other materials having the same hazards. Therefore, a change is being made to § 172.402 accordingly.

Docket HM–145A—Transportation of Hazardous Waste Materials

The amendments under this Docket provide for the proper identification of hazardous waste materials for transportation and to ensure that such wastes ultimately are delivered to predetermined designated facilities through implementation of certain record-handling requirements. The requirements apply to hazardous waste carried in either interstate or intrastate (with one exception) transportation. The hazardous waste regulations have been coordinated with the Environmental Protection Agency's (EPA) development of a national hazardous waste regulatory program as mandated by § 3003 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6923).

MTB's Office of Hazardous Materials Operations published a Notice of Proposed Rulemaking regarding the transportation of hazardous wastes under Docket HM–145A on May 25, 1978 (43 FR 22626; Notice 78–6). The preamble to the Notice provided an extensive explanation of the proposed regulations from the standpoint of what is expected in implementing RCRA requirements; the differences in the jurisdiction of EPA and DOT; and the overall objective of the proposed requirements. Rather than repeating that discussion here, interested readers are referred to the earlier document.

As a part of this rulemaking proceeding, six EPA–DOT joint public hearings were held in various parts of the United States. Virtually all the comments made at the hearings were addressed to EPA proposals, except that many commenters expressed the view that MTB should issue the regulations pertaining to the transportation of hazardous wastes. MTB agrees with those views insofar as the requirements pertain to carrier activities. Further, MTB is adopting a limited number of requirements that apply to generators (shippers) of hazardous wastes in addition to existing applicable hazardous materials regulations. EPA has recently published regulations, to be codified at 40 CFR Part 262 (45 FR 12722, February 26, 1980), applicable to generators of wastes. The EPA regulations are extensive in scope and apply to a generator's nontransportation activities as well as to the offering of wastes for transportation. MTB believes that it will be necessary for shippers to be fully cognizant of EPA's regulations, which include requirements relating to record-handling, storage limitations, and special package markings, since many of these requirements are inappropriate for MTB to adopt under the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1801–1812).

EPA also has published regulations, to be codified at 40 CFR Part 263 (45 FR 12737, February 26, 1980), applicable to transporters (carriers) of hazardous wastes (hereinafter referred to as wastes). With two exceptions, however, the EPA has acknowledged (at 40 CFR 263.10) that a carrier complying with DOT requirements, as amended by this rule, applicable to transportation of wastes, will be considered in compliance with corresponding EPA requirements even though those requirements may be stated differently.

One exception is EPA's requirement for carrier identification numbers, which must be obtained as a one-time requirement; the second exception is EPA's requirements for the cleanup of spills or discharges. For the convenience of carriers, the former exception is cited and the latter quoted in notes to § 171.3 of this rule.

Throughout this rulemaking proceeding, MTB worked closely with EPA in the joint development of appropriate transportation requirements. This rule is being promulgated under the HMTA to address the carriage of hazardous wastes, which may pose an unreasonable risk to health and safety or property when transported in commerce. Consistent with the regulations adopted by EPA, MTB is adopting requirements primarily to ensure that hazardous wastes are properly identified to carriers and that they are delivered to predetermined designated facilities. Proper identification of wastes is essential in order to implement the transportation aspects of a "cradle to grave" hazardous waste tracking system.

One commenter, referring to proposed § 171.3(e)(3) (which is § 171.3(c)(3) of this final rule), stated that the proposal "[does] not uphold the preemption of inconsistent state or local requirements with regard to additional requirements on shipping papers" and, therefore, stands in opposition to Section 112 of the HMTA and the preemption procedures in 49 CFR Part 107, Subpart C. Another commenter was concerned about possible regulation by the State or locality to which a waste shipment is destined and claimed that the specific preemption language in the proposal did not go as far as Section 112 of the HMTA would allow.

Both comments misconstrue the proposal. The term "inconsistent" as used in the HMTA describes the type of state and local transportation safety regulation that is preempted by requirements under the HMTA. Section 171.3(c) lists and classifies as "inconsistent" certain areas of possible State and local regulatory actions pertaining to hazardous wastes which MTB believes would be disruptive of the national uniformity required in the identification of hazardous materials (including wastes) in transportation. Section 171.3(c) does not list all the conditions under which it might view a State or local law as "inconsistent," nor does it apply to non-transportation requirements that may be imposed by State or local law. The final rule says that MTB considers that State and local requirements pertaining to certain aspects of the transportation of wastes are inconsistent with DOT requirements if they apply differently from or in addition to them. Section 171.3(c) is a declaration of intent that State and local requirements in this safety area be uniform to encourage compliance by shippers and carriers of hazardous wastes and to avoid unnecessary regulatory impediments to the reliable transportation and delivery of these materials.

In a related matter, a recently issued MTB inconsistency ruling (IR–2) (44 FR 75566, December 20, 1979) expresses a view of HMTA preemption in other regulatory areas similar to that expressed in this final rule. While preemption is customarily a judicial matter, the statement in § 171.3(c) may reduce the need for subsequent dispute resolution.

In the final rule, the reference to additional requirements for shipping papers (including hazardous waste manifests) by states and localities to which a shipment is consigned has been dropped. When a hazardous waste manifest is being carried, as required by this rule, it is considered a shipping paper, and the language in § 171.3(c) applies. Any agency of a state which requires waste disposal facilities to obtain information in addition to or differing from that required by EPA and DOT to be contained in manifests must specify some means other than shipping papers (including hazardous waste manifests) for those waste facilities to obtain that additional or different information from generators. MTB believes that a nationwide standard for manifests is an important factor in accomplishing the safe and effective delivery of wastes to designated facilities without delays due to the manner of documentation.

After the comment period on this docket had closed, representatives of environmental protection departments of several Northeastern States, most notably New Jersey, expressed concern to Departmental representatives that the final rule might contain language preempting certain aspects of in-place State hazardous waste management programs. They were especially concerned about State requirements for information about individual waste shipments that may be in addition to that required by DOT's shipping paper requirements.

The language of the final rule does not preclude State requirements for such additional information with regard to wastes generated or disposed of within that State. However, as mentioned earlier, § 171.3(c) does not state all the conditions under which a State or local law might be preempted. State or local requirements applicable to hazardous waste transportation that are not addressed by § 171.3(c) may nonetheless be found preempted under administrative procedures found at 49 CFR Part 107, Subpart C.

Several commenters discussed the proposed changes to § 173.28 which addresses the reuse of containers (packagings). One commenter suggested that proposed paragraph (n) be revised to make it consistent with existing § 173.28(i) and to make it clear that NRC (nonreusable container) marked specification packagings may be used to transport the indicated hazardous materials. MTB agrees and has modified the rule accordingly. Another commenter suggested that STC (single trip container) marking requirements be removed from the regulation. While this suggestion may have merit, it would require action that is considerably beyond the scope of this rulemaking since each packaging specification in Part 178 that references such a marking would have to be modified.

One commenter expressed strong objection to proposed § 173.28(p) which proposed to permit the reuse of NRC-and-STC-marked packagings for shipments of wastes under specified conditions. The same commenter concurred subsequently in the submission of another commenter who recommended that the requirement be restated to allow the reuse of NRC and STC marked packagings for wastes if they are "reconditioned * * * in accordance with this part." Since there are no reconditioning requirements for NRC-marked packagings, these commenters may be suggesting allowing their reuse for wastes, as proposed in the Notice, while the more substantial STC-marked drums would have to be reconditioned before use for waste shipments. MTB does not agree with this point of view. It is more likely, however, that the commenters oppose allowing NRC- and STC-marked packagings to be used for waste shipments unless they are reconditioned. For the on-time use authorized by this final rule, MTB does not believe reconditioning to be necessary for either STC- or NRC-marked packagings.

The same commenter pointed out the important contribution of the drum reconditioning industry to the saving of national resources and energy. MTB acknowledges the significant contribution of the drum reconditioning industry to savings in energy and resources. However, NRC-marked packagings are not presently covered by reconditioning requirements, and MTB

V 45 M Y 22 80 UMI

believes they should be put to appropriate use in waste disposal activities under limited circumstances and that there is no logical reason to exclude STC-marked drums from similar use. Shipments of hazardous wastes in reused STC- and NRC-marked drums are subject to special requirements: (1) they must be moved under manifests; (2) discharges must be reported and cleaned up; (3) deliveries are restricted to designated facilities; (4) the adopted rule limits transportation to highway; (5) packages must be held 24 hours after filling for inspection (a requirement that does not apply to reconditioned drums); (6) and packages may not be loaded or unloaded by common carrier personnel, who would not normally be as familiar or trained to deal with a waste material as would the employees of private and contract carriers. This last fact is relevant to the objection of another commenter who suggested common carriers should not be treated differently. On a number of occasions, MTB has recognized the distinction between private (and at times contract) carriers and common carriers in the application of regulations and the issuance of exemptions (see, for example, § 173.29 in this rule and § 173.316(a)(2)(vi)) and believes such a distinction is appropriate in this case. MTB considers that the adoption of this rule will contribute to saving energy and national resources since many packagings that are used to bring materials into industrial concerns may now be reused for wastes and it will be unnecessary for new or reconditioned drums to be used in their place.

Several commenters addressed MTB's proposed revision of § 173.29 dealing with empty packagings. One commenter challenged MTB's statement in the Notice preamble which indicated that "it is essential to deal with the subject of so-called 'empty packagings' containing the residues of hazardous materials" (43 FR 22629). The commenter suggested that MTB did not have data to justify this action. By a separate and subsequent submission, this commenter petitioned for rulemaking to delete § 173.29(e) as it pertains to required removal, obliteration, or covering of labels when packagings are transported in open-top or flat bed vehicles. Another commenter considered the proposal to be outside the scope of this proceeding and suggested that it should only be addressed to wastes. MTB is in substantial disagreement with these comments. However, MTB does agree that the rulemaking petition has merit since the deletion of § 173.29(e) was proposed in the Notice and is adopted here.

The revision to § 173.29 addresses all so-called empty packagings having a capacity of 110 gallons or less—not only drums. The residues in a packaging may pose an unreasonable risk to health and safety or property regardless of whether or not the packaging is being transported for recovery of residue, reconditioning, refilling, or disposal. Even small quantities of certain poisonous residues can be lethal upon contact with the skin. Residues of corrosives can cause severe burns. Residues of some flammable liquids can generate vapors that can be explosive when mixed in certain volumes with air. The commenter is correct in suggesting that MTB does not have accident data to support this requirement, for the simple reason that so-called empty containers have never been subject to the reporting requirement of § 171.15 or § 171.16. MTB believes it is appropriate to take action based on the fact that hazardous materials currently are subject to regulation as such when in smaller quantities than are often contained in so-called empty packagings. One commenter suggested that a drum "having less than 1% of the marked capacity of the container, should be deemed 'empty'." This would mean that in excess of two quarts of residue could remain in a 55-gallon drum and be excepted from the rule. Furthermore, the commenter did not suggest how the 1% or less would be determined. MTB does not agree with this suggestion because of the hazards these quantities may pose. Concerning the same commenter's petition to allow prescribed hazardous materials labels to remain on a packaging containing the residues of hazardous materials, MTB agrees and has adopted the requirement as proposed in the Notice. Labels, as required for filled packagings, must remain on so-called empty packagings unless the packagings have been cleaned and purged of all residues.

MTB does not consider the adoption of rules for all so-called empty packagings, and not just those being discarded as waste, to be outside the scope of this rulemaking action. MTB's intention to do this was expressed and thoroughly discussed in the Notice. Obviously, the status of packagings containing the residues of hazardous materials is often subject to change. While it may have been originally intended that they be transported for recovery or reuse, it could be decided at any point in the cycle that they be discarded. MTB is unable to perceive any rational approach that would call for a distinction in how a hazard is communicated (i.e., through labels, markings, and shipping papers) merely due to a difference in destination. Therefore, it was essential that the entire matter be dealt with in this rulemaking action (the first action addressing the subject since it was removed from Docket HM–112 in 1976), to assure uniform application of the requirement to all so-called empty packagings.

The hazardous waste regulations being issued under Docket HM–145A constitute a significant regulation under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034; February 26, 1979). In accordance with regulation evaluation requirements contained in those documents, MTB invites public comments, responses and reactions to this rule during the first year of its implementation. Comments should be titled "Hazardous Waste Rules" and addressed to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies of any comments be submitted. Comments received prior to November 20, 1981, will be considered.

At the conclusion of the comment period, MTB will reexamine the rule based on the comments received. Subsequently, MTB will publish a notice in the **Federal Register** indicating what, if any, action it is taking or proposing to take based on its reexamination.

HM–145B—Transportation of Hazardous Substances

This rule provides for the identification of hazardous substances when a "reportable quantity" is contained in a package. The identification will be accomplished by requiring that the name of the hazardous substance and the letters "RQ" be placed on shipping papers and displayed on packages in association with the descriptions for hazardous substances. Also adopted is a new § 171.17 specifying the reporting requirements for discharges of hazardous substances into or upon the navigable waters or adjoining shorelines.

The Notice proposed to identify a hazardous substance as any material that is subject to the EPA regulations found in 40 CFR Parts 116 and 117, and to require the identification of hazardous substances when loaded in reportable quantities at any one loading location, considering all packages loaded at that site. If final rules were adopted as proposed, there would have been no qualification or exception

relative to the aggregation of packages in vehicles other than limiting their application to aggregate quantities loaded at one loading location. Also, there would have been no qualification or exception for small quantities of these materials in mixtures or solutions. The Notice also proposed the entry of a statement on each shipping document specifying a notification requirement, including a telephone number to be called in the event of a discharge. The notification requirement set forth in proposed § 171.17 specified that a report would be required when any amount of a hazardous substance was discharged during transportation, if a reportable quantity of a hazardous substance was present in a vehicle, as indicated by the identification statement on the shipping paper. The proposal also would have required special markings on portable tanks, cargo tanks, and tank cars for the identification of hazardous substances. Significant changes have been made to the proposal.

Several commenters stated that the DOT would exceed its authority under the Hazardous Materials Transportation Act (HMTA) 49 U.S.C. 1801–1812) by adding the ORM–E hazard class to cover hazardous substances which, they stated, are not hazardous materials that meet the definition of any existing hazard class. Other commenters stated that MTB holds no authority to promulgate regulations pertaining to materials identified as hazardous substances by another Government agency because Section 104 of the HMTA requires the Secretary of Transportation or his delegate, per 49 CFR 1.53(b)(1) and paragraph 5 of Appendix A to Part 1, to make a finding that "a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property * * *" while in the past MTB has primarily dealt with materials that may pose acute hazards to persons or property, addressing materials that may pose chronic hazards to health through the environment is well within DOT's authority under the HMTA. The pertinent language in Section 311 of the Clean Water Act (33 U.S.C. 1321), EPA's authority for designating hazardous substances, is contained in paragraph (b)(4), which provides for determination of "those quantities of * * * any hazardous substances the discharge of which may be harmful to the public health or welfare * * *." Clearly, many of the risks involved from the transportation of hazardous materials relate to the possibility of unintentional release, and such releases may involve discharges into the navigable waters of the United States. To the extent that EPA has designated certain substances in specified quantities as potentially harmful, it is appropriate for MTB to designate those quantities of those materials as hazardous materials under the HMTA. Moreover, should MTB not take this action, it would be left to EPA to fill the void covering the transportation of those hazardous substances not reached by DOT regulations. Such a split in regulatory coverage would be inefficient and a hinderance to all concerned.

Several commenters suggested that the definition of a hazardous substances and a reportable quantity should be redefined to agree with EPA and that Part 117 of EPA's regultions pertaining to hazardous substances should be incorporated into the DOT regulations as an appendix. MTB agrees that there is a need to redefine hazardous substances. However, in recognition of the distinction between transportation operations and fixed facilities, MTB believes it should adopt a definition for hazardous substances under the HMTA that recognizes the unique features of our transportation system while sufficiently accomplishing the purposes and intent of § 311 of the Clean Water Act. Therefore, MTB has revised its definition of a hazardous substance by addition of two major features that were not included in the Notice. The first feature is a limitation of the application of DOT's regulations to reportable quantities of a hazardous substance contained in one package (see the definition of a package in § 171.8); in fact, the concept of a reportable quantity in a single package is now contained in the definition of "hazardous substance" in § 171.8. The second feature is a limitation of the application of DOT's regulations with regard to mixtures and solutions containing materials identified by the letter "E" in § 172.101. Certain concentrations of these materials will be excluded from the applicability of DOT's regulations pertaining to hazardous substances. This is being accomplished by the inclusion of a table in the definition. For example, if the reportable quantity for a certain hazardous substance is 1,000 pounds, less than a 2 percent concentration by weight of that material in a mixture or solution will *not* be subject to DOT's regulations as a hazardous substance. Further, the 2 percent or greater concentration (by weight) of that material must result in a reportable quantity being contained in one package to be subject to DOT's regulations as a hazardous substance. Concerning discharge notifications, MTB has modified the requirement consistent with the suggestions of many commenters who stated that MTB was proposing a rule that was considerably beyond the scope of the purpose and intent of § 311 of the Clean Water Act. MTB proposed the rule in that fashion because it anticipated considerable difficulty on the part of transport workers in establishing when reportable quantities were discharged. MTB erred in overstating the proposed reporting requirement for that purpose and agrees that the discharge reporting requirement should be closely aligned with the statutory reporting requirement.

A number of commenters stated that transportation employees would not always be able to make notifications of discharges directly and that many communications would of necessity be through carrier personnel other than the operators of vehicles. MTB has modified the rule to recognize such a situation by stating that the person in charge of the transport vehicle, etc., shall make the notification directly or indirectly through the carrier. The prime responsibility still rests with the person in charge, however, the final rule grants flexibility in the method of notification. MTB believes this is consistent with the intent of § 311 of the Clean Water Act. A new paragraph (e) has been added to § 171.17 to require the carrier to make a notification if the person in charge of a vehicle is incapacitated or otherwise unable to make a notification. For instance, there may be a situation when the driver of a motor vehicle is severely injured in an accident and would not be able to make the required notification. In such a case, an official of the carrier operating the vehicle would be required to make the notification as soon as he has knowledge that a hazardous substance (i.e. a reportable quantity) has been discharged.

Many commenters objected to the proposed requirement for a notification statement on shipping papers, stating that such a statement was not necessary to accomplish the purposes of the proposed rulemaking. Several commenters stated a simple identification of hazardous substances in a shipment would be sufficient to implement the reporting requirements and that carrier employees could be educated to know and understand the meaning of the identification. MTB agrees with these commenters and has decided that the letters "RQ", entered on shipping papers and packages (other than portable tanks, (cargo tanks and tank cars), in association with required descriptions, will be sufficient to implement the identification of

V 45 M Y 22 80 UMI

hazardous substances. This decision also addresses the concern expressed by several commenters concerning the unique display of the letter "E" as was proposed in the Notice.

Many commenters discussed the significant impact of the proposed regulations on consumer commodities expressing the view that, if adopted, the effective use of the ORM–D hazard class would be essentially negated and that the concept of limited quantities would be destroyed. MTB believes that this concern has been overcome by the manner in which it has defined hazardous substances for purposes of application of the hazardous materials regulations.

While the regulations for hazardous substances adopted by DOT in these amendments are closely related to those of the EPA found in 40 CFR Part 117, they are not identical in their applicability. EPA's regulations require, without qualification, notification of discharges of reportable quantities of hazardous substances under conditions specified in § 311(b)(5) of the Clean Water Act and, as specified in the notice, provisions of 40 CFR 117.21. The DOT regulations require notification when a reportable quantity is discharged from a package (e.g., a drum, cargo tank motor vehicle or tank car) that is marked or documented as containing a reportable quantity.

Persons who do not have knowledge that a reportable quantity of a hazardous substance has been discharged are not required by EPA to make notifications. MTB has been advised by EPA that it will not bring civil or criminal suit for failure to make notification when such notification is not required by DOT's regulations, unless it can be shown that there was actual knowledge that a reportable quantity was discharged.

Shippers and carriers must also bear in mind that compliance with the provisions of this rule do not relieve them from possible civil liability under § 311 resulting from discharges of reportable quantities. This liability relates to the discharge itself and removal costs and is addressed in regulations promulgated by the EPA and the U.S. Coast Guard.

HM–159 (HM–118)—Forbidden materials

This rule adds the names of materials to the Hazardous Materials Table that MTB considers to be too hazardous to be permitted in commercial transportation. Also, the rule adds N-methy-N'-nitro-N-nitrosoguanidine as a flammable solid and adds a new § 173.179 prescribing packaging requirements for this material. Changes have been made to §§ 173.21 and 173.51 pertaining to forbidden materials and packaging.

A total of 28 comments were received in response to the Notice. All commenters were in general agreement with the proposal to add certain materials considered to be too hazardous for commercial transportation to the Table. A commenter presented data indicating that 2,6-dichloro-4-nitrophenol is not a forbidden material. MTB agrees with the data presented and this material has been removed from the list. The same commenter also stated that some iodoso compounds might be considered forbidden, but that others would not be in this category. Pending further detailed investigation of these substances, the proposed entry of iodoso and iodoxy compounds (dry) has been removed from the list of named forbidden materials.

A comment from a manufacturer of organic peroxides suggested that the term "active oxygen" would be better than "available oxygen" for those entries in the Table containing such limitations. MTB agrees with the commenter and the term "active oxygen" has been substituted for the term "available oxygen."

Two air carrier associations concurred in the proposed § 172.100(d) and suggested that the idea contained in that section be applied to all commodities in the Table. Based on these comments, MTB has reviewed the entire use and meaning of the asterisk in the Table and has decided to eliminate the asterisk, thus allowing a shipper to determine if a specific material should be regulated under the hazard class identified in the Table. However, in conjunction with this change, it is necessary for MTB to introduce a new symbol into the table in order to identify those materials which have been designated as hazardous materials of a particular class, whether or not they meet the definition for the hazard class in which they have been designated. If a shipper wishes to ship a formulation of a material identified by the plus (+) symbol as non-regulated, or in a class other than that specified in the Table, he must supply the Associate Director, Office of Hazardous Materials Regulation, MTB with data which establishes that it does not present a hazard in transportation, or presents a different hazard than that which is listed in the Table.

Another commenter objected to the limiting of peroxyacetic acid to 40% by weight instead of the 43% authorized in the UN Recommendations and the IMCO regulations. There are several current organic peroxide entries which have different concentration limits in the UN Recommendations and the DOT Hazardous Materials Regulations. Since the concentration limits in the UN Recommendations were agreed to by the U.S. delegations to the UN meetings, MTB has revised the limits in the Table to agree with those in the UN Recommendations.

Several commenters objected to all or parts of the proposed revision of § 173.21. Some organic peroxide manufacturers objected to the use of 130°F. in paragraph (a)(2) because their interpretation was that this temperature is the minimum decomposition temperature for which refrigeration would be required. They argued that they have shipped certain organic peroxides with decomposition temperatures of 120°F. without refrigeration for years and, also, that the UN Recommendations use 122°F. as the decomposition or polymerization temperature below which refrigeration is required for the most active organic peroxides. MTB considers 130°F. the maximum temperature that could be expected during transportation, and there are many sections in the regulations which reference 130°F. The fact that an organic peroxide, or any other material, decomposes below 130°F. does not necessarily mean that it must be stabilized or refrigerated. The paragraph states in part "with an evolution of a dangerous quantity of heat or gas . . . ." If the decomposition or polymerization does not create a hazard in transportation, the provisions of the paragraph do not apply regardless of the decomposition temperature of the material. Therefore, the temperature reference of 130°F. has been maintained in the final rule.

Several commenters objected to the fact that § 173.21(a)(2) did not contain a statement concerning the time a material would have to be exposed to the 130°F. temperature in order to be considered forbidden from transportation. MTB agrees that this is a weakness in the proposed wording and has altered the wording of the rule to reference two test methods. The test methods are: ASTM E–487 "Standard Method of Test for Constant Temperature Stability of Chemical Materials" and the Organic Perioxide Producers' Safety Division (OPPSD) "Self Accelerating Decomposition Test (SADT)." Several commenters expressed concern that this paragraph does not make it clear that approvals issued by the Bureau of Explosives would be continued in effect until an orderly transition to approval by the

Associate Director for Operations and Enforcement, MTB could be accomplished. MTB acknowledges the validity of the objection and has included a clarification statement in the rule which references § 171.19.

Several commenters stated that proposed § 173.21(a)(3) was too vague and it was suggested that a phrase be added such as ". . .e.g., the release of flammable vapor in such quantities that an explosive mixture would be created within the transport vehicle." MTB agrees with this objection, and wording to the effect of that suggested has been included in the rule.

On July 9, 1974, the Hazardous Materials Regulations Board, the predecessor of MTB, published a Notice a Proposed Rulemaking under Docket No. HM–118 proposing to list and classify polystyrene resin, expandable, containing a flammable liquid or gas, as a flammable solid. No final action was taken on this rulemaking proposal. Section 173.21(a)(3) of this rule will forbid the offering for transportation of packages which evolve a dangerous quantity of flammable gas or vapor from a material not otherwise subject to the regulations. MTB believes this prohibition is sufficient to preclude the type of potential hazard which was the concern addressed by the Hazardous Materials Regulations Board in its proposal under Docket No. HM–118. Therefore, the proposals under Docket No. HM–118 are hereby terminated.

Several commenters said that § 173.21(a)(4) needed clarification. The objections were based on the fact that there was no definition of detonation and that there is no recognized test method for determining whether detonation has occurred in a package as a result of a thermal stimulus. In response to the first objection, MTB has included a definition of detonation in the final rule. The second objection is not correct. There are three tests specified in the regulations for determining whether a packaged material detonates as a result of a thermal stimulus. One of these is described in § 173.88(g), Note 2. Another method is found in DOD TB 700–2 (May 19, 1967) which is referenced in §§ 173.86(b) (2) and (3). Both of these test methods have been in the DOT regulations for many years and have been used extensively on both military and commercial materials to determine whether a detonation will occur in a package exposed to a thermal stimulus. While both test methods were designed for testing propellants, they can be and have been used to test other hazardous materials. The third test method is described in § 173.114a(b)(6) and may be used in evaluating whether a detonation has occurred. MTB has considered it inadvisable to reference these methods in this rule because such a reference could suggest that a chemical manufacturer who is not familiar with testing explosives should attempt to perform these tests. This type of testing should be done only by personnel who are well versed in the testing of explosives and this fact has been stated in the rule.

Docket HM–171—Use of United Nations Shipping Descriptions

The amendments under this Docket authorize the use of United Nations shipping descriptions and identification numbers for certain hazardous materials in place of the descriptions required by existing DOT regulations. These amendments are intended to facilitate the international transportation of hazardous materials and to minimize the economic burdens imposed on shippers by the multiplicity of package markings and shipping paper descriptions now required for compliance with both domestic and international requirements. In addition, the amendments provide optional stowage locations for hazardous materials when transported by vessel. The optional stowage locations authorized are those provided for the particular hazardous materials in the International Maritime Dangerous Goods (IMDG) Code published by the Inter-Governmental Maritime Consultative Organization (IMCO).

A number of comments were received which expressed complete support for the proposal. In general, the supporting commenters endorsed the proposal since it would eliminate costly redundancy in shipping paper descriptions and packaging markings. One supporting comment is quoted since it provides some quantification of the importance of the international transportation of chemicals to our economy:

> Shipments of chemicals and allied products were valued at $126.5 billion in 1978. The export activity continued to be strong in 1978 with the value of all chemical exports totaling $12.62 billion, an increase of 16.7 percent over 1977. While the imports of chemicals also increased, the favorable balance of trade in the chemical area increased from $5.84 billion in 1977 to $6.19 billion in 1978, a gain of 6 percent. In the future, these shipments are expected to increase and will be affected by international regulations to a greater degree.

Several comments were received expressing opposition to the proposal. It should first be noted that many of the issues raised concerned the use of IMCO classifications and labeling for certain hazardous materials. Although limited to import and export shipments in the present regulations, this authorization has been a provision of the DOT regulations since adoption of amendments under Docket No. HM–112 in 1976. For this reason, MTB believes it is reasonable to assume that shipper and carrier personnel should, in the execution of their responsibilities in the preparation and acceptance of shipments, already have gained a basic familiarity regarding the use of IMCO classifications and labels as an alternative to the class and labels prescribed for certain hazardous materials in § 172.101.

The fundamental argument raised in opposition to the proposed amendments is that the existence of an optional hazardous materials list will, in the words of one commenter, have a "chaotic effect" on the regulated industries, particularly on the rail and motor carrier industries, because it would complicate the regulations. MTB agrees that the provision of options to various requirements increases the volume of regulations and, to a certain degree, their complexity. In spite of this fact, experience has shown that such regulatory provisions are essential if the regulations are to be effective without unnecessarily burdening industry. For example, it could be argued that the hazardous materials placarding requirements could be vastly simplified by eliminating the "DANGEROUS" placard and certain exceptions to the placarding requirements, and simply requiring that appropriate placards be displayed for each hazardous materials transported regardless of quantity. Such simplification is obviously not in the best interests of the regulated industries and would undoubtedly be declared totally unacceptable by the very commenters who oppose the amendments under Docket HM–171. MTB believes that these amendments will do much to enhance safety by minimizing redundant, conflicting and confusing shipping paper and package marking requirements. Under the current practice of incorporation of IMCO classification and labeling provisions by reference, it is difficult for rail or motor carrier personnel to determine compliance with these provisions. The optional list will eliminate confusion and errors on the part of carrier personnel by making this information readily available to them in § 172.102.

A number of objections to the proposed amendments were raised on the basis of placarding implications. One commenter expressed concern that rail carrier personnel would be unable

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to replace missing placards with placards conforming to IMCO labels. The proposal did not address the use of placards conforming to IMCO specifications either in place of, or in addition to, DOT placards. This same commenter also incorrectly interpreted the existing § 171.12(b) as allowing freight containers to which IMCO enlarged labels have been affixed in place of DOT specification placards, to be transported by railway, motor vehicle or aircraft in the United States.

Several commenters suggested that use of the optional list will make it impossible for carrier personnel to verify the correctness of placarding and various operational measures such as segregation. Still other commenters requested clarification of the relationship between offering a material under its classification in § 172.102, and the DOT placarding requirements. Both placarding and segregation, as well as other operational considerations such as car placement, are dictated by the classification of the particular hazardous material. It is for this reason that, when a material is offered under its IMCO class, the name of the DOT class which most closely corresponds to that IMCO class must be shown as part of the description on shipping papers. This indication is currently required by § 171.12(b) and was subsequently proposed for inclusion in § 172.102. When a shipper offers a hazardous material under the class provided in § 172.102, it is that class which governs all applicable transportation requirements regardless of what the classification of the material might be under § 172.101. Since the DOT class name corresponding to that IMCO class will be written out in the basic description, carrier personnel need only verify that the class shown on the shipping papers is, in fact, the class shown for that description in § 172.102, and that placarding, segregation, etc., have been accomplished as required for the class under which the material is offered.

A commenter noted that the classification of certain hazardous materials was different in § 172.101 and § 172.102. It was precisely this observation which prompted the authorization currently contained in § 171.12(b) which accommodates these classification differences so that it is not necessary for shippers to relable their export shipments.

The same commenter observed that the proper shipping name, marking, labeling and placarding may be different for different shipments of the same material from the same shipper. This is a valid observation that could also be made regarding existing authorizations contained in § 171.12(b). In the period since § 171.12(b) was adopted in 1976, MTB has not been informed that this potential difference in description, classification and labeling provisions for the same material offered by a particular shipper has created any difficulties. In addition, MTB believes that by extending the authorization to use optional descriptions, labeling and classification to domestic as well as international transportation, individual shippers will tend to use one of the two options for all shipments of a particular material rather than prepare some shipments according to § 172.101 and other shipments according to § 172.102.

One commenter, who represents a large group of motor carriers, maintained that "* * * to allow a second type of shipping description to be utilized by shippers in the U.S., in place of those specified in existing rules which have been in place only 2-½ [sic] years is wrong" because it invites non-compliance and results in expensive retraining of personnel, and summarized the proposal as "* * * another case of the international shipment tail-wagging the domestic dog." MTB questions the implication that expensive and extensive retraining of carrier personnel will be necessitated by the adoption of Docket HM-171. In general, carrier personnel will have to be informed that, should they not find in § 172.101 a hazardous materials description which appears on a shipping paper, they should check to see if it appears in § 172.102. If it does not, the shipment is in non-compliance. If it does appear, they may then proceed to verify the correctness of the classification, labeling, placarding, etc. For this reason, MTB does not believe this change will result in a necessity for extensive retraining of personnel.

This same commenter offered a National Transportation Safety Board (NTSB) report on non-compliance with the hazardous materials regulations in support of this argument that adoption of the optional list would further complicate the regulations and detract from transportation safety. MTB does not accept this argument for reasons previously stated and would draw the attention of this commenter to the fact that NTSB has supported this proposal as being "* * * responsive, in part, to the Safety Board's Recommendation I-78-71 dated January 17, 1978, in that it provides for the use and cross-reference of IMCO shipping descriptions."

One commenter suggested that the need for an optional hazardous materials list could be eliminated for import/export shipments by retaining existing § 171.12(b) and by allowing the IMCO description for a material to appear on shipping papers and requiring that the description and class of the material appearing in § 172.101 must precede the IMCO proper shipping name and class on the shipping papers. Adoption of this suggestion would be more restrictive than current regulations in that, in addition to a requirement to always show the proper shipping name from § 172.101, the class prescribed for the materials in § 172.101 would also have to be indicated. Under the existing regulations, the IMCO classification may be used in place of the DOT class for import/export shipments of certain hazardous materials. For this reason, and because this suggestion would do nothing to eliminate redundant shipping paper description and package marking requirements, the suggestion is not adopted. This commenter also maintained that authorization to use IMCO descriptions for purely domestic transportation was "totally unacceptable" at this time because the IMCO system is obscure to carrier and emergency response personnel. MTB notes that water carrier personnel have been successfuly using the IMCO system for several years and that, as indicated in numerous comments, this segment of the carrier industry does not agree with the statement made by this commenter. Furthermore, as previously stated, one of the benefits of the optional list, as opposed to the existing practice of incorporation of IMCO by reference, is that it removes the "obscurity" of the IMCO system by placing the necessary information in the hands of all carrier personnel. MTB assumes also that carrier personnel have been properly trained to deal with the current authorization for use of IMCO descriptions, classes and labels for import/export shipments. With the provision of this information in § 172.102 readily available for use by all carrier personnel, MTB can see no valid reason why the option should not be extended to domestic as well as import/export shipments.

A commenter noted that certain materials have different identification numbers assigned under § 172.101 and § 172.102, and that this difference could thwart emergency response efforts. These differences result from the fact that IMCO lags several years behind the UN in adoption of UN Recommendations. The identification numbers assigned in § 172.101 have been based on the most recent UN Recommendations while those indicated in § 172.102 are those identification numbers assigned to materials in the current edition of the IMCO Code. It is essential that § 172.102 be maintained consistent with the IMCO Code to prevent frustration of international shipments. These occasional number differences should not affect response actions since the Emergency Response Guidebook has been designed to function with identification numbers contained in either list.

A request was received to include in the regulations a list of countries who have adopted the IMCO Code. MTB does not believe it appropriate to include such a list in the regulations. This information, is, however, available from MTB upon request.

The Emergency Response Guidebook

Notice 79-9, under Docket HM-126A (44 FR 32972), included a discussion of MTB's proposed distribution of a manual. This document is now entitled "Emergency Response Guidebook" (ERG). Its development is completed and it is expected that its production will begin within forty-five days after publication of these amendments. The format of the ERG is essentially the same as was discussed in the Notice.

The MTB is completing its planning for distribution of the ERG, without charge, to emergency response entities throughout the United States. MTB has been advised by two firms that they plan to make commercial distribution of the ERG.

Since the ERG contains materials closely associated with the regulations published herein, it bears a copyright provision authorizing its reproduction, without modification, without further permission from DOT.

The MTB expresses its appreciation to the many individuals, organizations and businesses that assisted in the development of the ERG. The many exchanges of ideas and information resulted in the development of a much improved document. MTB recognizes that further improvement will be suggested and may be warranted; therefore, it contemplates that the ERG will be republished in approximately two years.

Corrections

MTB anticipates that a limited number of errors will be discovered upon review of the amendments in this publication; e.g., a printing error in the pound or kilogram entries for "E" identified materials in the Table to § 172.101. MTB plans to handle corrections in one **Federal Register** publication before September 1, 1980. Any person discovering an error may contact the individuals named earlier in this preamble, directly by telephone or by letter. A distinction should be made between discovery of errors and taking exception (disagreeing) with MTB's decisions concerning substantive matters in the amendments. Substantive matters will be handled in accordance with 49 CFR 106.35 and 106.37.

Review by Sections

Section 171.1. Section 171.1 is revised from its proposed scope in Dockets HM-145A and HM-145B to specify the applicablity of the Hazardous Materials Regulations with regard to the transportation of hazardous wastes and hazardous substances by intrastate motor carriers. No such distinction is considered necessary relative to transportation by rail car, aircraft or vessel since the nature of such modes makes their operations subject to DOT's regulations without regard to the intrastate or interstate nature of individual shipments. The revision of this section was not proposed in the Notice. However, this does not constitute a substantive change since the new § 171.1 language merely includes hazardous waste and restates the jurisdictional scope originally proposed in §171.3, which was discussed in the Notice to Docket HM-145A preamble. In anticipation of applications to EPA for interim authorizations to manage State hazardous waste programs pursuant to procedures specified in 49 CFR Part 123, MTB has excluded intrastate hazardous waste motor carriers from the application of the regulations in States holding interim authorizations (See Section 3006 of the RCRA).

Section 171.2. Two minor amendments are made to this section to reduce the references to § 171.12 and to add a reference to § 176.11. The provisions of current § 171.12(b) are transferred to the new § 172.102. These changes were proposed in Docket HM-171.

Section 171.3. Section 171.3 contains the basic requirements pertaining to the offering, transportation, and delivery of hazardous wastes, generally as proposed in Docket HM-145A. It should be noted that the applicability of specific hazardous waste requirements is based on a determination that a hazardous waste manifest is required according to EPA's regulations in 40 CFR Part 262. Under paragraph (b), a motor carrier may not transport a hazardous waste for which a manifest is required unless the carrier is identified on the vehicle in the manner prescribed by 49 CFR 397.21, one of the Federal Highway Administration's Federal Motor Carrier Safety Regulations, or 49 CFR 1058.2, a regulation of the Interstate Commerce Commission. This requirement applies when a manifest is required, regardless of the quantity of wastes transported. Paragraph (b)(2) requires compliance with the manifest requirements, and paragraph (b)(3) specifies the limitations on the delivery of wastes. A note is added following paragraph (b) emphasizing the fact that penalties exist for discharging hazardous waste at other than designated facilities. Paragraph (c) (§ 171.3(e) of the Notice) addresses those actions of a state, or its political subdivision, considered inconsistent with DOT's Hazardous Materials Regulations. A change has been made to proposed § 171.3(c)(3) that was not contained in the Docket HM-145A Notice to clarify the fact that hazardous waste manifests are considered to be shipping papers when they are being carried aboard transport vehicles. Paragraph (d) specifies the conditions under which an official may authorize the removal of a waste without the preparation of a manifest when a discharge occurs during transportation. Note 1 to this section provides advisory information to shippers and carriers that they are required by EPA's regulations to obtain identification numbers. Note 2 quotes EPA's regulation pertaining to the clean up of hazardous wastes discharged during transportation. With the addition of these two notes, and the amendments to the regulations set forth in this action, EPA has stated in its rules (see 40 CFR 263.10; 45 FR 12743, February 26, 1980) that carriers (transporters) of hazardous wastes will know of the hazardous waste transportation requirements applicable to their operations by reading DOT's Hazardous Materials Regulations (and Note 2 to § 171.3) without the necessity of reading EPA's corresponding regulations.

As published, § 171.3 differs from the version shown in the Notice. Most of the textual change eliminates unnecessary duplication of requirements proposed and adopted elsewhere in the rule. The reference to 49 CFR 397.21 has been adjusted to reflect the necessity of displaying the required vehicle markings regardless of whether or not placarding is necessary, a fact to which the scope of § 397.21 otherwise keys. Proposed, but not adopted, was a lengthy reference to an exception for certain shipments not subject to EPA hazardous waste manifest requirements. This exception has been broadened to include all shipments not subject to EPA manifest requirements and therefore not incorporated into the DOT definition of

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"Hazardous waste" in § 171.8 of this rule.

To preclude anticipated problems, MTB has provided for the substitution of equivalent specification drums for hazardous wastes that may be impractical to package in the authorized specification drums.

Section 171.7. In § 171.7 paragraphs (c)(27), (c)(28), (d)(5)(ix), (d)(20), (d)(21) and (d)(22) are added. Paragraph (d)(20) is added to recognize the latest edition of the NIOSH Registry of Toxic Effects of Chemical Substances as an acceptable source of common names, chemical names and trade names that may be used in place of a technical name to meet the requirements of § 172.203(k). Paragraph (d)(21) is added to provide proper reference to the UN Recommendations on the Transport of Dangerous Goods which had been cited in § 172.519 in Docket HM-103. The other additions to this section provide citations to obtain test methods used to determine thermal stability (as addressed in § 173.21). An explanation of the addition of these test references can be found in the portion of the preamble of this document addressing Docket HM-159.

Section 171.8. Section 171.8 contains definitions related to hazardous wastes and hazardous substances, revised somewhat from those proposed in Dockets HM-145A and HM-145B. Note that the definition of "Hazardous waste" is limited to materials that are subject to EPA hazardous waste manifest requirements specified in 40 CFR Part 262. Added to the definition is a qualification concerning manifests so that carriage of hazardous wastes in States holding interim authorizations from EPA, in accordance with 40 CFR Part 123, is not excluded from the application of DOT's Hazardous Materials Regulations (other than carriage by intrastate motor carriers—See Section 171.1(a)(3)). As stated earlier, MTB believes that a nationwide standard for manifests is an important factor in accomplishing the safe and effective delivery of wastes to designated facilities. This factor is particularly important relative to the operations of carriers transporting materials in interstate commerce. Note also that for the purposes of the DOT regulations, a material is a hazardous substance based on certain conditions that are set forth in the definition. Any hazardous material that may also be a hazardous substance under DOT regulations is identified in the Table by the letter "E" along with the reportable quantity for that material. When a material identified by the letter "E" is in a mixture or solution, the material is evaluated against the percentage concentration by weight in paragraph (d) to determine whether it falls within the definition. If a pure material is involved, or a mixture or solution with letter "E" materials which equal or exceed the paragraph (d) concentrations, the final step is to determine if it is a hazardous substance. For the purposes of DOT regulations, a material identified by the letter "E" becomes a hazardous substance when a reportable quantity (indicated in pounds and kilograms following the proper name) is contained within one package, or if not packaged, within one transport vehicle. For a mixture, each material must be separately evaluated since a hazardous substance determination must be made for each letter "E" material in a mixture. Thus, a package with a net weight of 20 pounds and containing a mixture of material "A" having an RQ of 10 pounds and "B" having an RQ of 100 pounds could, depending on the concentration, contain a hazardous substance with regard to "A", but not "B." Different percentages of an RQ for each substance in a mixture would *not* be aggregated. Note well that letter "E" materials that are not classed as ORM-E's, are hazardous materials even if they are not hazardous substances.

Section 171.12. Paragraph (b) of this section is no longer necessary since its provisions are contained in § 172.102 as proposed in Docket HM-171. Therefore, this paragraph is replaced by an appropriate cross reference to § 172.102.

Sections 171.15 and 171.16. It was proposed, in Dockets HM-145A and HM-145B, to set forth the hazardous waste and hazardous substance discharge reporting requirements in a new § 171.17. However, EPA has proceeded to align its hazardous waste discharge reporting requirements closely with those presently set forth in DOT's Hazardous Materials Regulations. Therefore, a new provision is not necessary and § 171.15 is modified to make it clear that hazardous wastes are covered by the reporting requirements, and § 171.16 is modified to require that a copy of the hazardous waste manifest (or other document used in place of the manifest) be attached to the report, thereby ensuring the availability of information such as generator and carrier identification numbers. The only other change to the present DOT reporting requirement is the required entry of an estimate of the amount of waste removed from the site of a discharge, the name and address of the facility to which it was taken, and the manner of disposition of any unremoved waste. This information is to be entered in the "Remarks" portion of the presently required report. MTB added the toll call telephone number to §§ 171.15 and 171.17 for reporting hazardous waste and hazardous substance discharges from locations where toll free 800 numbers do not apply, such as Hawaii, Alaska and Puerto Rico.

Section 171.17. Section 171.17 provides a reporting requirement for the discharge of a hazardous substance that is closely aligned with the notification requirement of § 311 of the Clean Water Act. The final rule requires notification when the carrier determines that a hazardous substance in transportation has been discharged into the navigable water or adjacent shorelines. This is a lesser reporting requirement than was contained in notice to Docket HM-145B in which it was proposed that each discharge of a letter "E" material be required to be reported, regardless of the location of the discharge and whether it was a sufficient quantity to constitute a hazardous substance.

Section 172.101. Present §§ 172.100 and 172.101 are combined into a revised and amended § 172.101 in order that the Hazardous Materials Table and the language introducing the Table may be contained in one section of the regulations. Indications of changes are to the language presently appearing at § 172.100, which as a result of this rule will appear at § 172.101. Paragraph (a) has been revised to accommodate this change.

The introductory text to pargraph (b) is revised to eliminate the asterisk (*), add the plus (+), and to include the letter "E."

Paragraph (b)(1) is revised to acknowledge the new plus symbol (+) in column 1 for material in column 2. The plus (+) was added to this section to identify materials for which the hazard class is fixed, without regard to whether the material meets the definition of the hazard class assigned. The asterisk (*) is no longer referenced in this paragraph or in column 1 of the Table. Justification for the removal of the asterisk, is discussed in this preamble text dealing with HM-159. An alternate shipping name and hazard class for materials may be authorized by the Office of Hazardous Materials Regulation, MTB upon submission of data justifying such reclassification and description changes.

Paragraphs (b)(2) and (b)(3) are modified to exclude from any limitation of requirements to single mode applicability those materials which are hazardous wastes or hazardous substances, both of which are subject to certain regulations regardless of the mode of transportation involved.

Paragraph (b)(4) is added to include the meaning of the letter "E" used in column 1 of the Table. The letter "E" identifies materials named in column 2 that may be hazardous substances depending on quantity contained in a single package, in which case they are subject to applicable regulations regardless of the transporting mode. It is important to note that although a hazardous material may be reclassed according to its hazard(s), if a hazardous substance does not meet the definition of any other hazard class, it must be reclassed as such (ORM-E) and shipped in accordance with the applicable regulations for hazardous substances.

The introductory text to paragraph (c) is revised editorily to reflect the authorized modification of a proper shipping name as specified in paragraphs (b)(4), (c)(10), (c)(11), (c)(12) and (c)(13).

Paragraph (c)(4) has been amended by adding a recommendatory sentence indicating that the sequence of each entry as shown in column 2 of the Table is the preferred sequence for marking and shipping paper requirements. The use of the preferred sequence will better enable emergency response personnel to locate the material when using the Emergency Response Guidebook since it is this sequence which appears in the Guidebook. Paragraph (c)(5) is revised, as proposed in Docket HM-126A, to require the technical name to be used as the proper shipping name for all "see" references for Organic peroxides. This is discussed in the Docket HM-126A preamble.

Paragraph (c)(6) contains a provision to limit the application of the DOT Hazardous Materials Regulations concerning hazardous materials identified as poisons. Under this limitation, a hazardous material having the word poison or poisonous in the proper shipping name must be considered to be a poison only if tests indicate death resulted from systemic poisoning rather than by corrosive destruction of tissue. MTB believes this limitation is appropriate and will provide adequately for emergency response information.

Paragraph (c)(9) is added, as proposed in Docket HM-145B, to explain the addition of the reportable quantity to the Table as an italicized entry in parentheses following the proper shipping name of potentially hazardous substances in § 172.101. This makes the reportable quantity for each of these materials readily available for reference so a determination can be made as to whether a hazardous substance is being offered for transportation.

Paragraph (c)(10) is added, as proposed in Docket HM-145A as § 172.101(c)(8), to specify that a proper shipping name include the word "waste" when the material described is a hazardous waste subject to EPA's requirements in 40 CFR Part 262. Use of this method to appropriately prescribe the proper shipping name for a hazardous waste alleviates the necessity for the addition of hundreds of proper shipping name entries to the Table. Only one new shipping name "Hazardous waste, liquid or solid, n.o.s." is added to the Table for hazardous waste.

Paragraph (c)(11) is added to aid in improving the identification of hazardous materials for emergency response personnel. To reduce the use of n.o.s. entries, MTB is authorizing the use of the name of the hazardous material in certain solutions and mixtures as part of the proper shipping name. This new procedure provides a partial answer to questions such as "What is Acetone under DOT regulations?" by allowing a mixture of a hazardous material and non-hazardous materials to be identified by the proper shipping name of the hazardous material, providing the hazard class remains unchanged. Thus, an Acetone, water and mineral oil solution that is a Flammable liquid may be identified as Acetone solution, Flammable liquid instead of Flammable liquid, n.o.s.

Paragraph (c)(12) is added to provide a means for identifying hazardous substances when they are not identified in a proper shipping name. This could occur through the use of the proper shipping name Hazardous substance, liquid *or* solid (as appropriate), n.o.s., which was requested by commenters for mixtures or solutions of hazardous substances. MTB was provided with an example of a mixture of Toxaphene and Xylene with a flash point above 200°F. consisting of a hazardous substance (i.e., any letter "E" material that has equalled or exceeded a reportable quantity in one package). Therefore, the entry would be Hazardous substance, liquid, n.o.s. This would be followed by the hazard class, ORM-E, the identification number for Hazardous substance, liquid, n.o.s., which is NA9188, and the identifier, RQ. In association with the basic description, the name of the hazardous substance that equals or exceeds a reportable quantity in one package must be identified.

Paragraph (c)(13) contains a provision that was proposed in Docket HM-145B in paragraph (b)(1)(iii) and that has been revised by MTB for clarity. It also contains a requirement for consideration of forbidden materials and those materials identified with the plus (+) symbol when determining a hazard class for a material that no longer meets the defining criteria for the class shown for the material in the Table. For example, Xylene is identified with the letter E and is classed as a Flammable liquid. However, in certain mixtures, the flash point could be raised to between 100° and 200° F. and, if shipped in a cargo tank or tank car, could equal or exceed Xylene's 1,000 pound reportable quantity. In this case, it would meet the definition of a hazardous substance in § 171.8 and its proper shipping name would be Combustible liquid, n.o.s. It may not be shipped as Xylene under the paragraph (c)(11) rule because its hazard class has changed.

It is important to note that although a hazardous substance may be reclassed according to its hazard(s), if it does not meet the definition of any other hazard (and since by definition it is a reportable quantity), it must be reclassed as an ORM-E.

Paragraph (d) is revised as proposed in Docket HM-159 to clarify the intent of the term "Forbidden" as it appears in column 3 of the Table. The prohibition as "Forbidden" does not apply if the materials are diluted, stabilized or incorporated in devices and are classed in accordance with the definitions of hazardous materials contained in Part 173.

New paragraph (e) describes the addition of column 3(a) containing the identification numbers as proposed in Docket HM-126A. Present paragraphs (f), (g), (h), and (i) were formerly paragraphs (e), (f), (g), and (h) and contain no revisions.

MTB added paragraph (j) to establish a general grandfather provision for shipping paper entries and package markings for materials packaged before the effective date of an amendment to the Table that changes a proper shipping name or hazard class of a material in the Table.

Except for hazardous wastes and hazardous substances, if the proper shipping names or hazard classes of materials are changed by this rule, such changes are not manditory prior to July 1, 1981, as stated in paragraph (k) of this section.

Hazardous Materials Table: The Hazardous Materials Table is amended to identify potentially environmentally hazardous materials through the use of the letter "E." These letter "E" materials include hazardous substances designated by the EPA under 40 CFR Part 117 and not presently subject to the

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DOT regulations (classed as OMR–E), as well as presently regulated hazardous materials that have been designated by the EPA as hazardous substances. These latter materials are in two major categories. One is materials that are now listed by name in § 172.101, and the other is materials not now identified by name but which are now regulated under the n.o.s. listings in § 172.101. A total of 368 entries in the Hazardous Materials Table are identified as potentially hazardous substances. A total of 369 had been proposed, but EPA dropped Calcium oxide and Calcium hydroxide from their hazardous substance list and MTB did likewise. MTB added Aluminum sulfate, solid, to the ORM–E list. Aluminum sulfate, solution, remains as an ORM–B. Guthion is changed to a "see" entry referenced to the entry Azinphos methyl because Guthion is a registered trade name.

Fourteen potential hazardous substances are identified as ORM–A. This is based on the chemical, physical and other comparable properties of the compounds. The properties of these compounds are such that each compound can cause extreme annoyance or discomfort to passengers and crew in the event of leakage during transportation. Based on data provided by commenters, Xylenol was transferred from the ORM–E list to the ORM–A list and the following five ORM–A's were transferred to the ORM–E list:

2,4-Dichlorophenoxyacetic acid ester
2,4,5-Trichlorophenoxyacetic acid amine
2,4,5-Trichlorophenoxyacetic acid ester
2,4,5-Trichlorophenoxyacetic acid salt
2,4,5-Trichlorophenoxypropionic acid ester

Ninety-nine materials are classed as ORM–E. This is based on the EPA designation of certain materials as hazardous substances on March 13, 1978 (42 FR 10494), and the fact that according to MTB's evaluation they do not meet the defining criteria of any other hazard class. In addition to the five materials transferred from ORM–A to ORM–E as discussed above, Aluminum sulfate, solid, was added to the ORM–E's and Heptachlor and Vanadium pentoxide were reclassed from Poison B to ORM–E based on data provided by commenters. Also, the following changes in class assignments were made by MTB based on data submitted by commenters: Xylenol was reclassed from an ORM–E to ORM–A; Dodecylbenzenesulfonic acid was reclassed from an ORM–E to a Corrosive material; Ethylenediamine was reclassed from a Flammable liquid to a Corrosive material; and Sodium hydrosulfide, solid, was reclassed from a Flammable solid to a Corrosive material.

Although there appears to be a discrepancy between the number of newly identified materials in this proposal and the number of materials in the EPA list of hazardous substances, the materials in this proposal are those covered in the EPA list. The difference in the number of materials results from the necessity of identifying in § 172.101 the different forms, mixtures or solutions of a material for proper regulation. For example, "Aldrin" appears once in the EPA list and six times in § 172.101. Two materials, Calcium oxide and Calcium hydroxide, were dropped from the hazardous substance list by EPA. Therefore, neither is identified in the Table as a potentially hazardous substance; however, Calcium oxide remains as an ORM–B as it was before the EPA hazardous substance list was developed.

In addition to the changes to the Table to accommodate the potential hazardous substances, MTB made changes to improve packaging or to more accurately describe a hazardous material based on data provided by commenters. One commenter was concerned that MTB did not include a generic description for a flammable liquid that is also toxic. Dual hazards presented by some materials were addressed subsequently in HM–126B. Among others, the proper shipping name Flammable liquid, poisonous, n.o.s. with identification number UN 1992 was proposed. With this addition to the Table, both toxic and non-toxic flammable liquids are now covered by generic descriptions.

The discrepancy between identification numbers for Uranium Hexafluoride, fissile and Uranium Hexafluoride, low specific activity appearing in proposed HM–126A (NA9173 and NA9174, respectively) and the draft Emergency Response Guidebook (UN2926 and UN2927, respectively) has been corrected. The correct identification numbers are NA9173 and NA9174.

One commenter petitioned that morpholine, a flammable liquid, should be added by name to the Table. Morpholine appears by name in the UN Recommendations on the Transport of Dangerous Goods (UN2054), but not in the DOT Regulations. Since Morpholine is not in the Table by name, it must presently be described as Flammable liquid, n.o.s. MTB agrees and is adding the proper shipping name Morpholine to the Table, classed as Flammable liquid and assigned identification number UN2054.

One commenter was concerned that Pine oil was assigned identification number UN1272. Pine oil is listed by name in the Table and classed as a Combustible liquid. The UN Recommendations on the Transport of Dangerous Goods also lists Pine oil by name but classes this material as Flammable liquid. Since the upper flash point limit for the UN flammable liquid hazard class overlaps with the lower flash point limit for DOT's combustible liquid hazard class, and the emergency response for most flammable liquids and combustible liquids is identical, MTB believes that the appropriate identification number for Pine oil is UN1272.

One commenter suggested that the wrong identification number had been assigned to several proper shipping names and that the "UN" or "NA" prefix assigned to some identification numbers was wrong. The commenter submitted recommendations to correct these errors. Upon review, MTB has changed certain identification numbers and prefixes.

Another commenter stated that Hydrofluoric acid, anhydrous (UN1052) and Hydrogen fluoride (NA1790) are the same material and should be assigned the same identification number. MTB agrees with the commenter that UN 1052 is the correct identification number for both materials and has changed the Table accordingly.

Another commenter was concerned that the prefixes in the identification numbers assigned to certain cross referenced proper shipping names do not agree. For example, identification number NA1133 was assigned to Cement, liquid, n.o.s. but identification number UN1133 was assigned to Adhesive, n.o.s. which is cross referenced to Cement, liquid, n.o.s. In order to resolve the difficulty of assigning identification numbers to cross referenced proper shipping names, MTB is deleting identification numbers from certain proper shipping names that are cross referenced to another shipping description. This does not apply to organic peroxides because both entries are pertinent.

Various commenters reported that the Table has been affected by other final rules that have been published recently. MTB is well aware of this and has made necessary changes in the Table to keep it up to date.

Several commenters reported that certain potentially hazardous substances were classed incorrectly and submitted data to support their position. Additionally, these and other commenters stated that requirements and/or limitations for certain of these materials were wrong or inconsistent with those for materials having similar properties. Based on the comments and MTB's evaluation, changes that affect hazard class, packaging, quantity in one package, etc., have been made.

At the request of a commenter, the proper shipping name Metal alkyl solution, n.o.s., classed as Flammable liquid, has been added to the Table. Addition of this entry, provides a better description for nonpyrophoric solutions of metal alkyls in flammable solvents than Flammable liquid, n.o.s. which is currently used. Also, the commenter stated that the emergency response for an accident involving metal alkyls in flammable solvents differs somewhat from that for a flammable liquid. Technical adjustments have been made to the descriptions for formaldehyde so the proper shipping name correctly describes the material as Formaldehyde solution. The hazard class depends on the size of the packaging, and the identification number assigned depends on the flash point of the formaldehyde solution. An alternate shipping name is Formalin, not Formalin solution. The section for specific packaging requirements for Nicotine, liquid referenced in the Table has been changed from § 173.358 to relect the correct reference, § 173.346.

MTB added Gasohol to the Table to reflect the increasing use of the gasoline-ethyl alcohol mixtures as a vehicle fuel and to permit an emergency response reference for it.

MTB has revised the entry for Aluminum sulfate, based on commenter recommendation, to include both the solid form and solutions. Aluminum sulfate, solid is classed as ORM–E, whereas Aluminum sulfate solution is classed as ORM–B.

One commenter expressed concern that Zinc phosphide had been incorrectly classed as a Flammable solid. Data submitted by the commenter indicated that Zinc phosphide meets the definition of a Poison B material and, although Zinc phosphide reacts with water, its reaction rate is so slow that liberated gases are dissipated before a hazard develops. MTB agrees and has reclassed Zinc phosphide as a Poison B.

One commenter took exception to the classification of Heptachlor as Poison B. Data he submitted included oral toxicity for analytical reference standard grade (99.8%) and technical grade (74%) heptachlor, and inhalation and skin absorption toxicity for technical grade heptachlor. Also, skin corrosion data was submitted. MTB agrees with the commenter that the data does not support classification of heptachlor as a poison B or corrosive material. Hence, Heptachlor has been reclassed as ORM–E.

One commenter pointed out that Dichlorvos is a Poison B liquid. However, the applicable sections for packaging referenced in column 5 of the Table (i.e., § 173.364 and § 173.365) are for a Poison B solid. The packaging references for Dichlorvos, therefore, are corrected to § 173.345 and §173.346, respectively.

Two commenters stated that they ship Dodecylbenzenesulfonic acid as a corrosive liquid. The properties are similar to an alkanesulfonic acid, which is listed by name in the Table and classed as a corrosive material. MTB agrees with these commenters and has reclassed Dodecylbenzenesulfonic acid as Corrosive material from ORM–E based on the data provided.

One commenter from a company that manufactures agricultural chemicals objected to the inclusion of Guthion as a proper shipping name. Guthion is the trade name for one of the company's registered pesticides. The commenter stated that azinphos methyl is the common name and should be the proper shipping name. As a compromise, MTB has added Azinphos methyl as an alternate name for Guthion.

A commenter stated that Zinc hydrosulfite does not meet the definition for a Flammable solid and that the material is not hazardous in transportation. The UN Recommendations on the Transport of Dangerous Goods lists Zinc hydrosulfite in Class 9—Miscellaneous dangerous goods. Goods listed in this class are not considered to be dangerous when transported by rail or motor vehicle. Thus, MTB has reclassed Zinc hydrosulfide as an ORM–A.

One commenter stated that Vanadium pentoxide had been improperly proposed to be classed as Poison B. Data he submitted indicate that the oral toxicity (LD_{50}) of Vanadium pentoxide is greater than 50 mg/kg. MTB review supports this conclusion, therefore, Vanadium pentoxide has been reclassed as an ORM–E.

Sodium hydrosulfide, solid, is reclassed as a Corrosive material. MTB had classed this material as a Flammable solid in the proposal based on information obtained from the United Nations Recommendations on the Transport of Dangerous Goods. However, data submitted by a commenter was sufficient for MTB to conclude that Sodium hydrosulfide, solid, is not a Flammable solid but is corrosive to skin.

Several commenters stated that pesticides identified and described by chemical groups based on their chemical structures provide sufficient information to specify appropriate action to be taken in event of an accident involving spillage or leakage. The 45 new descriptions for 15 pesticide groups identify the type of pesticide and enable first aid and medical advice to be linked to these pesticides. MTB agrees with the commenters that the n.o.s. modifier should be deleted from these descriptions. Coupled with other action taken in this rulemaking, this eliminates the proposed requirement to provide the technical name of the pesticide when a proper shipping name includes the chemical element or group. MTB now estimates that these descriptions cover at least 95 percent of the pesticides transported. Pesticides not described by technical names or family groups in the Table can be described by general or generic descriptions such as Insecticide, liquid, n.o.s.; Compound, tree *or* weed killing, liquid; Flammable liquid, poisonous, n.o.s. The use of a generic name or general description to describe a pesticide requires that the technical name of the pesticide be included as part of the shipping description. These commenters argued that the Table already contains descriptions for organic phosphates and the addition of three new descriptions for organophosphorus pesticides is not necessary. MTB believes that these new descriptions provide vital information on both the chemical structure and end use of the material. Many organophosphorus materials in commerce are not pesticides. Thus, the new organophosphorus pesticide descriptions do not apply to these materials. However, the descriptions for organic phosphates may apply.

A pesticide in the 15 chemical groups that does not meet the defining criteria for a flammable liquid and/or poison, may meet the definition of another hazard class and have to be described by a shipping name appropriate to that class. For example, an organotin pesticide in a liquid formulation that does not meet the definition of a flammable liquid or poison, may be a corrosive liquid. In this case, the proper shipping name for that organotin pesticide would be Corrosive liquid, n.o.s.

Nitrogen trifluoride was proposed to be listed in the Table as Forbidden in the notice to Docket HM–126B. MTB has made the necessary corrections based on commenter suggestions. Nitrogen trifluoride is classed as Nonflammable gas with identification number UN2451.

Two commenters objected to the proposed addition of Pinene to the Table

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classed as Flammable liquid without an asterisk in column 1, since an asterisk denotes that a material may or may not be regulated under the class shown depending on whether or not the commodity meets the definition of the class listed for that entry. One commenter stated that tests conducted indicate that pinene has a closed cup flash point range between 99° and 100° F. With a flash point below 100° F., a material meets the definition of a Flammable liquid. With a flash point at or above 100° F. and below 200° F., a material meets the definition of a Combustible liquid. According to MTB data, pinene has two isomers. Alpha-pinene has a flash point of 91° F. Beta-pinene has a flash point of 117° F. The flash point of pinene containing an isomeric mixture falls between 91° and 177° F. and depends on the percentage of each isomer present. Since this rulemaking deletes all asterisks from the Table, pinene, when classed as a Flammable liquid, would be described as Pinene. When classed as a Combustible liquid, pinene would be described as Combustible liquid, n.o.s.

A commenter pointed out that "Alcoholic beverages", classed as Flammable liquid, in containers having a rated capacity of one gallon or less, are not subject to the hazardous materials regulations per § 173.118(c). Thus, the proposed one quart net quantity per package limitation for passenger carrying aircraft is wrong. MTB agrees and column 6(a) in the Table has been changed to read "See § 173.118(c)." This commenter also pointed out that the correct identification number is UN1170 and not NA1987.

Since the proper shipping name Engine, internal combustion has been proposed, one commenter recommended that Motor, internal combustion be deleted from the Table stating: "The motor receives its power from an outside source. The engine develops power internally." MTB does not dispute the commenter's argument, however, the description has been retained. The terms "motor" and "engine" have become synonymous in the automobile industry. MTB seriously doubts that motor companies in this industry would consider changing their names to engine companies.

A commenter objected to the proposed requirement to label hydrogen peroxide solutions (up to and including 52% peroxide) with a corrosive label to identify the secondary hazard. This commenter stated that "the non-corrosiveness for less than 52% is an industry fact." Based on the data presented, MTB has deleted the requirement for a CORROSIVE label on hydrogen peroxide solutions containing not more than 52% peroxide.

Comments were received concerning the new entry and requirements for Calcium hypochlorite, hydrated. The description has been revised to include in italicized print "(minimum 5.5% but not more than 10% water, and more than 39% available chlorine)". The material is a potential hazardous substance and has been so designated by an "E" in column 1 of the Table. The associated RQ is 100/45.4. Specific packaging requirements are referenced to § 173.217. This section contains packaging requirements for similar type compounds. The statement "keep cool and dry" has been added in column 7(c) of § 172.101.

Stowage requirements have been changed to authorize both "on deck" and "below deck" locations on board cargo vessels and passenger vessels for certain potential hazardous substances. The proposed regulation in Docket HM-145B authorized only "below deck" locations which were unduly restrictive.

EPA has changed the reportable quantity (RQ) for Calcium hypochlorite from RQ-10/4.54 to RQ-100/45/4. This change has been incorporated into the entry for Calcium hypochlorite mixture in the Table.

Several hazardous materials that contain one or more potential hazardous substances were not properly identified in the HM-145 proposal. The materials are identified now by an "E" in column 1. The RQ assigned to these materials is based on the RQ of the potential hazardous substance. If two or more potential hazardous substances are present, the lower/lowest RQ value is listed. For example, Nitrating acid (RQ-1000/454) is a mixture containing Nitric acid (RQ-1000/454) and Sulfuric acid (RQ-5000/2270). The other materials in this category that are identified in the Table as potential hazardous substances are Chlorosulfonic acid-sulfur trioxide mixture (RQ-1000/454); Hypochlorite solution (RQ-100/45.4); Methyl bromide and ethylene dibromide mixture, liquid (RQ-1000/454); Nitrating acid (RQ-1000/454); Nitrating acid, spent (RQ-1000/454); Nitrohydrochloric acid (RQ-1000/454); Nitrohydrochloric acid, spent (1000/454); Sodium nitrite mixed with potassium nitrate (RQ-100/45.4); Soduim nitrite mixture (RQ-100/454), and White acid (RQ-5000/2270).

Section 172.102. A new §172.102 is added as proposed in Docket HM-171. This section contains the Optional Table as well as the text necessary to explain the table and implement its use.

Paragraph (a) of this section sets forth the basic purpose of the Optional Table which provides hazardous materials descriptions, classification, labeling and vessel stowage requirements which may be used for certain hazardous materials as an alternative to the corresponding requirements provided in § 172.101. However, materials subject to the DOT regulations that are not considered dangerous under IMCO recommendations must be transported in accordance with the applicable DOT regulations. This exclusion has been included to insure that it is clearly understood that materials such as a combustible liquid with a flash point greater than 141° F. and less than 200° F. (in packagings with a capacity exceeding 110 gallons), which are not considered dangerous according to IMCO definitions are subject to all applicable DOT requirements.

A statement is also included in this paragraph to clarify the fact that many of the materials shown in the Optional Table are not subject to the DOT regulations and that their inclusion in the Optional Table does not constitute a designation of the material as a hazardous material. Only materials (1) designated as hazardous materials in § 172.101, including hazardous wastes and hazardous substances; (2) identified as forbidden in § 172.101; or (3) covered by the prohibition specified in § 173.21 or § 173.51, are subject to the DOT regulations. Entries for materials not designated as hazardous in § 172.101 are retained in the Optional Table to alert persons who may be engaged in importing or exporting such materials that the materials may be considered hazardous under widely applied international standards and to provide basic guidance relative to the classification and labeling of these materials in international transport.

One commenter suggested that proposed § 172.102 should be amended to recognize the fact that materials not regulated by DOT may be described on shipping papers by the IMCO proper shipping name and hazard class, and the package marked and labeled as provided in IMCO. MTB believes this change is unnecessary. Section 172.401, concerning prohibited labeling, specifically authorizes labels prescribed by IMCO to be applied to packages even though the material may not be considered hazardous under the DOT regulations. Regarding shipping paper descriptions and package markings, the DOT regulations do not prohibit description and marking as prescribed by IMCO in the case of materials not regulated by DOT. It is, however, suggested that in such cases the shipping papers bear a notation

indicating that the particular material is not subject to regulation under the DOT Hazardous Materials Regulations. The same commenter suggested that the proposed § 172.102 be revised to include a specific authorization to allow IMCO placards to be affixed to portable tanks and freight containers in addition to any placards required by the DOT regulations. MTB believes this comment has merit and it will be addressed in a future rulemaking.

Paragraph (b) of § 172.102 specifies conditions under which the description, class or label(s) provided in the Optional Table may be used rather than the DOT description, class or label(s), respectively. Class A and B explosives and radioactive materials are excluded from application of the provisions of § 172.102. Therefore, in order for a shipper to determine if he may use the Optional Table he must first establish the hazard class of the hazardous material under consideration in accordance with all applicable requirements of the DOT regulations. This is particularly important in the case of explosives where the hazard class may not necessarily be established solely by the shipper. Once the shipper has classed the hazardous material as provided in the DOT regulations, has determined that the material is not a Class A or B explosive or a radioactive material, and is not a forbidden material, he may then proceed to use the Optional Hazardous Materials Table if he so desires.

One commenter suggested that a symbol be introduced in Column (1) of the Optional Table to indicate to a shipper that a particular material listed is not subject to the DOT Hazardous Materials Regulations. Another commenter suggested that a symbol be introduced in Column (1) to indicate to a shipper that a particular material is considered a hazardous substance under the Hazardous Materials Regulations. MTB believes that neither of these amendments is necessary and that adoption of these amendments could result in improper use of the Optional Table. As stated in § 172.102(a), designations of materials as hazardous materials are made only in § 172.101. Therefore, it is always necessary to determine whether a material is regulated, and, if regulated, the appropriate description and class for the material provided in § 172.101, before using the Optional Table.

Several commenters suggested future inclusion of Explosives A and B entries in the Optional Table. Although MTB is not prepared to recognize IMCO description, classification, and labeling provisions for these materials for transportation in the United States at this time, this information has been included in § 172.102 with the letter "N" indicated in Column (1) adjacent to each entry.

The conditions in the existing § 171.12(b) under which the IMCO class and label(s) may be used when a hazardous material is transported by air, highway, or rail have been retained in § 172.202, with the exception of the condition that limited the application of that paragraph to import, export or transiting shipments. The IMCO shipping name may be used only when the material conforms to all additional defining or limiting conditions prescribed for the description in the appropriate schedule in the IMCO Code. Individual IMCO Code schedules often contain criteria or additional information which limit the applicability of a particular description, and MTB believes that these additional provisions must be observed in selecting an IMCO shipping description from § 172.102. The use of an IMCO shipping name is also made conditional upon inclusion of the UN number shown for the entry (if any) in the Optional Table immediately after the required class entry in the shipping papers. This is required not only to insure consistency with the United Nations standards for transport documentation, but also to enhance emergency response capabilities.

Paragraph (e) of § 172.102 requires that the description for a material designated as a potential hazardous substance in § 172.101 and offered for transportation as a hazardous substance (i.e., a reportable quantity in a single package) must be augmented by the technical name of the substance if that name does not appear in the optional shipping description. This is to insure that hazardous substances do not lose their basic identity when a shipper chooses to use a shipping description from the Optional Table in place of the name that would be otherwise required by § 172.101.

One request for clarification of the intent of paragraph (e) was received. The provisions of this paragraph would only apply to a material that is transported as a hazardous substance under § 172.101, but is offered for transportation under a description in the Optional Table. Materials designated as potential hazardous substances are identified by the letter "E" in Column (1) of the Hazardous Materials Table in § 172.101.

One commenter proposed that entries be inserted in the Optional Table in connection with IMCO's provisions for limited quantity shipments. MTB considers the addition of these entries inappropriate in that they are not considered proper shipping names under the IMCO Code.

Paragraphs (f) through (l) explain the content of Columns 1 through 7, respectively, of the Optional Table. Column 1 contains the letter "N" adjacent to certain entries. This indicates, as explained in paragraph (f), that the particular shipping description, class and label(s) shown in § 172.102 are not acceptable alternatives to the applicable DOT requirements in § 172.101 and, therefore, may not be used. This prohibition is imposed only when MTB believes the IMCO description and/or classification appearing in § 172.102 will not adequately communicate the hazard(s) of the material in all modes of transport.

Column 2 of the Optional Table lists the proper shipping names contained in the IMCO Code. The basic format of entries and methods of selection and presentation of proper shipping names on shipping documents and packages are identical to those in § 172.101. As previously discussed, entries that are contained in the IMCO Code which describe materials that could only be classified as Class A or B explosives or Radioactive materials under DOT regulations are proceeded by the letter "N." Also omitted from the Optional Table are a limited number of entries from the IMCO Code which:

(1) Are not included in the UN Recommendations and have no UN number assigned;

(2) Are not "n.o.s." entries that require addition of the technical name of the hazardous material; and,

(3) In the opinion of MTB, are not sufficiently explicit to permit appropriate response measures to be initiated in the event of an incident.

Examples of such entries are the IMCO shipping names "Acaricides" and "Nematocides." Hazardous materials falling within such descriptions will, therefore, be transported under the next most appropriate description in § 172.102 (such as Poisonous liquid, n.o.s., in the case of the above examples), or under the appropriate description in § 172.101.

Column 3 of the Optional Table sets forth the IMCO hazard class or division for the material as appropriate. Paragraph (h) of § 172.102 includes a brief definition of each of the IMCO hazard classes and divisions and refers the user to the IMCO Code for more detailed definitions.

A comment was received which proposed that a table be included in this section providing the name of the DOT class which most closely corresponds to

each IMCO class or division. MTB believes this information would be helpful and, rather than include this information in tabular format, has revised the proposed paragraph (f) of § 172.102, which is now paragraph (h), to include the name of the DOT class(es) most closely corresponding to each IMCO class or division in parentheses following the name of that class or division. MTB believes that this addition should satisfy the concerns of another commenter who proposed that a column be added to the Optional Table to provide this information for each entry.

Column 4 of the Table indicates the United Nations number assigned to the material, if any. In certain cases where no UN number has been assigned to a particular material, MTB has inserted in Column 4 the UN number of the appropriate generic, or "n.o.s.," entry under which the material would be included. In such cases, the UN number listed has been shown in parentheses and is the required identification number if the optional description is used.

Column 5 specifies the labels to be applied to a package containing the hazardous material. Specifications for the labels may be either as provided in the DOT regulations or in the IMCO Code. The label described as "St. Andrew's Cross" in this column refers to the label specified for Division 6.1, Packaging Group III materials in the UN and IMCO recommendations.

Column 6, which is for informational purposes only, provides the packaging group assigned to the material in the IMCO Code. An explanation of the meaning and purpose of this grouping system, as well as the grouping criteria developed for certain hazard classes, is presented in the recommendations prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods. These recommendations, entitled "Transport of Dangerous Goods," may be obtained from the United Nations bookstores in New York or Geneva, Switzerland. MTB believes that a number of individuals involved in the international transportation of hazardous materials have gained sufficient working knowledge of the grouping system to merit the inclusion of packaging groups in the Optional Table.

A number of comments were received which concerned the implications of these amendments relative to packaging. As indicated in the Notice of Proposed Rulemaking, these amendments do not in any way affect the packaging currently required for hazardous materials under the DOT regulations and the Packaging Group column was included primarily for informational purposes. It should be noted, however, that the packaging group of a material is necessary information under IMCO labeling recommendations in determining the appropriate label to be applied to materials of Division 6.1. For this reason, the packaging group column in the optional list has been retained notwithstanding one comment which suggested deletion of the column. One commenter proposed that this column be expanded to include the IMCO Code page number for the particular material to provide further packaging guidance. This proposal was not adopted since, as previously indicated, this portion of the rules is not intended to address specific packaging provisions, and because there is a possibility that the four digit IMCO Code page number could be confused with the identification number. Several commenters expressed the opinon that MTB should explore means of addressing differences between IMCO and DOT packaging requirements. This comment is not within the scope of this rulemaking and will have to be addressed in a future rulemaking.

Column 7 sets forth the vessel stowage requirements for the hazardous materials as provided in the IMCO Code. Although § 172.101 was revised with the publication of Docket HM-103/112 to inlcude IMCO stowage requirements to the maximum extent possible, the differences between shipping descriptions for certain hazardous materials in the DOT regulations and the IMCO Code made it impossible to include the IMCO stowage requirements for all hazardous materials. MTB believes that consistency between the DOT and IMCO stowage requirements is necessary to insure that vessels loaded in United States ports will not be in violation of the stowage requirements in force in those nations that have incorporated the IMCO Code into their national regulations, and so that vessels of those nations will not be in violation of U.S. requirements. Inclusion of the majority of the IMCO shipping descriptions in the Optional Table will make it possible to authorize the use of IMCO stowage when hazardous materials are transported under an appropriate IMCO description. The meanings of numbers used to designate acceptable stowage locations are explained in paragraph (k). The numbers used in § 172.102 retain the same meaning assigned to them in § 172.101; however, the explanations of the meanings of these numbers have been revised in an effort to provide greater clarity.

One commenter suggested that the maximum transport temperature specified for organic peroxides in Column 7(c) of the Optional Table should be replaced with the appropriate emergency and control temperatures recently adopted by the UN. In order to maintain consistency with existing IMCO vessel stowage requirements, these revisions have not been made. It is envisioned that these changes will be made to § 172.102 when IMCO adopts amendments to the Code to replace maximum transport temperature with control temperature and emergency temperature.

Several requests were received to include various hazardous materials in the Optional Table which have been assigned UN numbers but have not yet been included by IMCO in the Code. MTB believes it would be premature to include such entries in the Optional Table at this time since they are not yet authorized by IMCO for use in international transportation. It is anticipated that many of these entries will be adopted by IMCO in the near future and that, thereupon, the entries will be added to the Optional Table.

A number of commenters took issue with the classification or labeling provided for certain materials in the IMCO Code and requested either that the Optional Table be modified or that appropriate amendment proposals be submitted to the UN or IMCO. No such changes have been incorporated in the Optional Table since this would result in inconsistencies with IMCO recommendations. MTB believes such action would be contrary to the intent of this rulemaking. However, the issues raised by these commenters will be considered and amendment proposals may be submitted to the UN or IMCO, if appropriate.

A number of modifications have been made to the Optional Table. Through a careful editorial review and as a result of several comments received, errors in a number of entries were identified. These errors have been corrected to insure that entries in the Optional Table are consistent with the corresponding entry in the IMCO Code. In addition, IMCO Code Amendment 16-78, which became effective March 1, 1980, has been incorporated into the Optional Table to assure that it reflects the latest IMCO Code provisions. MTB envisions that the Optional Table will be amended upon publication of each IMCO Code amendment so that it will always contain the most up-to-date information.

One commenter suggested that the stowage locations specified for Alkaline corrosive liquids, n.o.s.; Corrosive liquids, n.o.s.; and Corrosive solids, n.o.s. be revised to agree with those provided for the same entries in § 172.101. Since the IMCO Code allows stowage of these materials as specified by the competent authority, MTB agrees that the proposed change is entirely appropriate and has revised the stowage location designations accordingly.

An objection was raised to the identification numbers indicated for the entries Sodium fluoride, solution and Silicofluorides, solid, n.o.s. on the basis that neither the IMCO Code nor the UN Recommendations specifies an identification number for those entries. Numbers for these materials were, however, adopted by the UN Committee at its Tenth Session (December 1978) and will appear in the next edition of the UN Recommendations. The numbers contained in the proposal have, therefore, been retained. The same commenter suggested that the letter "N" be inserted before the entry "Hydrazine, anhydrous and solutions containing less than 36% water by weight" because the class and labels provided for these hydrazine solutions in the Optional Table disagree with the DOT class and labels for these materials and because he considered the DOT classification to be adequate. MTB believes that use of the IMCO class and labels for these solutions will not result in a derogation of safety in transportation. The insertion of the letter "N" before entries solely because the class and label(s) under IMCO may be different from those provided in § 172.101 is contrary to the purpose and intent of adopting the Optional Table. The suggestion has, therefore, not been incorporated into the Optional Table.

A number of requests were received to add certain shipping descriptions to the Optional Table which appear as proper shipping names in § 172.101 and are also acceptable alternate descriptions for the materials in the IMCO Code. Such descriptions have been included in Roman type in the Optional Table with a cross reference to the entry which appears as the primary description for the material in the IMCO Code. Other comments requested the addition to the Optional Table of certain shipping descriptions which appear in § 172.101 but not in the IMCO Code. MTB does not consider it appropriate to add such entries because they are not recognized by IMCO for international shipments.

One commenter noted several discrepancies between the entries for "Fishmeal" or "Fishscrap" in the Optional Table and those in the IMCO Code. The entries in the Optional Table have been revised to agree with those in the IMCO Code.

Section 172.200. Section 172.200(b) is revised as proposed in Dockets HM-145A and HM-145B, to remove the ORM exceptions to the shipping paper requirements when a material being offered or transported is a hazardous waste or a hazardous substance. The wording of the proposal has been simplified in the final rule, without changed effect. The proposed entry for ORM-E materials has been deleted since the exception proposed in the Notice is unnecessary under the final rules.

Section 172.201. Paragraphs (a)(1)(ii), (a)(1)(iii), and (a)(4)(i) of § 172.201 are revised by MTB to accommodate the revision to § 172.202(a)(3) which requires the identification number preceded by "UN" or "NA", as appropriate, to be entered as the third element of the basic description, as proposed in Docket HM-126A. Also, MTB added a provision to paragraph (a)(1)(iii) to authorize the entry of "RQ" in the "HM" column in place of the "X" to identify the entry as representing a hazardous substance. This was recommended by several commenters, and MTB concurs. As proposed in Docket HM-171, paragraph (a)(4)(i) is amended to allow the optional insertion of the entries "IMCO" or "IMCO Class" in the hazardous materials description on the shipping papers. MTB believes that certain shippers may desire to include these entries to clarify the fact that a hazardous material is being offered under the IMCO hazard class, particularly when this hazard class differs from that provided for the material in § 172.101. A proposal that the entry "IMCO" be allowed to appear immediately before the proper shipping name has not been adopted since it is MTB's belief that the proper shipping name should appear first in the basic hazardous materials description.

Section 172.202. Paragraphs (a)(1) and (a)(2) are revised by MTB to clarify the fact that the entries in § 172.102 are optional. Also, paragraph (a)(2) is revised to reduce some of the shipping paper entries. Whenever entries from the Optional Table are used for domestic shipments, § 171.102 applies. A number of commenters expressed concern that the proposal would allow unrestricted mixing of DOT and IMCO shipping descriptions, classification and labeling which could result in confusion and suggested that this paragraph be amended to prevent such unrestricted mixing. MTB agrees with these comments and has amended § 172.202 to require that the proper shipping name, class and identification number for a material appearing on the shipping paper must be taken either entirely from § 172.101 or entirely from § 172.102, and has amended § 172.400 to insure that the package labeling is consistent with the proper shipping name market on the package.

Various methods were suggested by commenters for insuring that some indication is included in the shipping paper description when an entry from § 172.102 is being utilized. MTB believes that such an indication is already provided, since the class of a material is always expressed numerically in Column (3) of the Optional Table and, therefore, would have to be indicated in the same manner on the shipping papers. This means that a numerical indication of the class on the shipping papers will serve as a direct indication that the entry under which the material is offered is taken from § 172.102.

Paragraph (b) is revised for clarity and to provide an example since the rule change to paragraph (a)(2)(ii) made the previous example, Corrosive liquid, n.o.s., incorrect. It should be noted, as paragraph (b) now indicates, that the basic description now consists of three elements: the proper shipping name, the hazard class, and the identification number. However, technical names may be required to be entered after the proper shipping name. These requirements were proposed in Dockets HM-126A and HM-145B.

Some shipping paper entries are required to be made "in association with" the basic description. The term "in association with" means that the additional entry may follow the complete description for a hazardous material in any reasonable format, as long as it is clearly part of the entry.

The requirement to enter the basic description in a prescribed sequence, with certain exceptions specified, does not preclude the use of a shipping paper format with columns. However, the basic description sequence must be maintained, with authorized exceptions.

Paragraph (b) is revised to show the addition of the identification number to the basic description.

One commenter suggested that a provision be added which would require the indication of flashpoint on shipping papers in order to assist water carriers in planning vessel stowage. MTB believes that, in general, the indication of the appropriate IMCO division number for flammable liquids sufficiently specifies flashpoint for stowage purposes, and that the relatively few instances where the stowage of hazardous materials of other classes is dependent on flashpoint

V 45 MAY 22 80 UMI

would not justify a requirement to show flashpoint in all cases. However, as authorized by § 172.201(a)(4), such an entry may be added after the basic description.

Section 172.203. The deletion of paragraph (i)(2), the redesignation of paragraph (i)(3) as (i)(2), and the addition of paragraphs (j), (k), and (l) were proposed in HM–126B. However, paragraph (i)(2) has been revised and not deleted. General shipping paper requirements for hazardous substances are consolidated in paragraph (c). Paragraph (e) is revised to include required hazardous substance shipping papers entries for "empty" packagings. MTB revised paragraph (d)(1)(ii) to authorize the entry of a generic chemical description for the chemical form of a Radioactive material. This provision was not proposed, but is included by MTB as part of this final rulemaking. It is a relaxation of present rules.

Paragraph (i)(2) is revised to provide for the identification of at least two hazardous components of certain mixtures and solutions for shipping paper entries for export shipments by vessel. Based on a considerable number of comments, the general requirement for such an identification of components for all n.o.s. entries as was proposed in § 172.203(j) of Docket HM–126B has been deleted. Paragraph (i)(2) also contains two significant exceptions from the two component requirement: First, for an n.o.s. material, other than a mixture that meets the definition of more than one hazard class, if the description identifies the name of the chemical element or group that is primarily responsible for the material being classed as it is, no additional component needs to be identified. Second, for an n.o.s. material which is a mixture of materials of different hazard classes and meets the definition of more than one hazard class, if the description contains the name of the chemical element or group responsible for one of the hazard classes, only the technical name of the components(s) not identified must be entered in parentheses.

Paragraph (j) is added to require the "Dangerous When Wet" entry on shipping papers for material labeled "DANGEROUS WHEN WET." In Docket HM–126B, it was proposed that "Water Reactive" be entered on the shipping paper, but commenters pointed out that the hazard should be identified, and MTB agrees.

Several commenters stated that a blanket requirement for entering the technical name for all n.o.s. entries, as was proposed in § 172.203(j) of Docket HM–126B, would contribute little to safety and yet be a fairly costly requirement. MTB agrees and as a final rule in paragraph (k) of § 172.203 the requirement has been limited to materials that are poisonous, but are not identified as such by their basic description. The compliance date for the identification of poisons on the shipping paper is July 1, 1981, but such entries may be made voluntarily after July 1, 1980.

It was proposed in Docket HM–145A to require the EPA name for the waste to be included in parentheses whenever the DOT shipping name did not include the technical name of the material. Since publication of that Notice, EPA has decided to use DOT shipping nomenclature. Consequently, there are no additional EPA names and this provision has been eliminated from the final rule.

Section 172.204. Paragraph (b)(1) is revised to exclude hazardous waste from the exceptions from certification. This revision is necessary for consistency with EPA's requirement for certification of hazardous waste shipments. This provision was overlooked in DOT's May 25, 1978, Notice and has been added to the final rule. Based on a petition, MTB is authorizing a permissive revision to the certification so it will read "This is to certify that the herein-named materials. . . ." This will permit a shipper to place the certification beside or above the hazardous materials entries if desired. This authorization is contained in a new note following the certification. The previous note was deleted by MTB because it was no longer pertinent.

Section 172.205. A new § 172.205 is added as proposed in Docket HM–145A concerning the carriage and disposition of hazardous waste manifests which are required by EPA in 40 CFR Part 262. It is important to note that no hazardous waste subject to the manifest requirement may be offered, transported, transferred or delivered without a manifest with signatures and dates for receipt of the waste. The wording in this section of the final rule differs from that proposed in the Notice to more clearly state the requirements and to reduce the potential compliance costs to persons affected. There are specific requirements pertaining to the hazardous waste manifest relative to acceptance for transportation, delivery to a designated facility or a place outside the United States, and the retention of copies by the shipper and carrier(s) for three years from the date of receipt by the initial carrier. The format of a manifest is not specified in referenced EPA regulations; therefore, any document that contains all the required entries, signatures and dates is acceptable. A manifest that contains all the information required on a shipping paper by § 172.202 and § 172.203 may be used as a shipping paper. Paragraph (h) allows use of the present railroad waybill system to document the delivery of hazardous wastes. However, a representative of the railroad receiving a waste shipment from a generator or a motor carrier must date and sign a copy of the manifest. The person delivering the hazardous waste to the initial rail carrier must send a copy of the dated and signed manifest to a representative of the designated facility. This provision does not apply to an intermodal transfer following transportation by a rail carrier.

Section 172.300. Section 172.300 has been revised by MTB to reflect the package marking requirements resulting from the proposals in Dockets HM–126A and HM–126B, and to reflect suggestions from commenters. Marking requirements proposed in this section in Docket HM–145A for waste have been dropped since they are adequately covered elsewhere in this rule. The proposed HM–145A package marking requirement is now covered by EPA marking and certification requirements, and the proposed additional § 172.306 requirement in Docket HM–145A was deleted by MTB since a companion proposal was dropped by EPA.

Several commenters suggested that clarification should be provided relative to the applicability of the provisions of § 172.102 to the marking of packagings with the name of contents. It is the intent of MTB that the proper shipping name in § 172.102 may be marked on packagings. To eliminate any confusion in this regard, § 172.300 has been amended to include a specific reference to § 172.102. One petitioner recommended § 172.300 be revised to include an exclusion from the identification number marking requirements for Limited Quantity packages. MTB agrees and has included such a provision. The compliance date for displaying identification numbers on packages is July 1, 1983. Voluntary compliance may begin after June 30, 1980, and is encouraged.

Section 172.316. Section 172.316 is amended as proposed in Dockets HM–145A and HM–145B, to include ORM–E materials in the package marking requirements for ORM's.

Section 172.324. The requirement to enter the letters RQ in association with the proper shipping name on certain packages is a slight modification from the requirement proposed in Docket HM–145B, as a result of commenters' suggestions.

The compliance date for marking RQ on packages of hazardous substances is July 1, 1983. Voluntary compliance may begin after June 30, 1980, and is encouraged.

Section 172.326. Based on commenters' suggestions, MTB has revised for clarity the wording from that proposed in HM–126A for the portable tank marking requirement, and has added paragraph (e) to provide for portable tanks that are "empty" of previously contained hazardous materials. This later provision was omitted from the HM–126A proposal, however, it incorporates "empty" packaging concepts previously addressed elsewhere, but more appropriately contained in this section. A basic provision for "empty" packagings is contained in § 173.29 as presented in this final rulemaking.

Commenters recommended that consideration be given to revising the portable tank marking requirements by differentiating between those tanks having a capacity of 1000 gallons or more and those having a capacity of less than 1000 gallons. MTB agrees and has made separate provisions in paragraph (a) for the two sizes indicated. Paragraph (d) requires a motor vehicle or rail car transporting portable tanks to display identification markings if those markings on the portable tank are not visible. This change to § 172.326 was not proposed, but it is necessary to carry out the basic intent of the indentification marking requirements.

Section 172.328. Several comments were received describing the difficulties that would be encountered in complying with the identification number marking requirement with a separate orange panel for each material being transported in a portable tank, cargo tank or tank car, as proposed in Docket HM–126A. MTB has revised the proposed requirements in this final rule by accepting a suggestion to permit application of an identification number on an appropriate square-on-point vehicle placard as as alternative to the orange panel. This is provided for in §§ 172.332 to 172.338.

Section 172.330. Changes were proposed to § 172.330 in Docket HM–126A to provide for displaying identification numbers on cargo tanks transporting hazardous materials. Based on commenter suggestions, MTB has made minor editorial revisions to clarify the provisions for rail cars and for multi-unit tank car tanks, with no change in scope. Also, based on commenter suggestions, MTB has added a provision which clarifies the marking requirements for empty tank cars and multi-unit tank car tanks.

The required compliance date for displaying the appropriate identification number on tank cars and multi-unit tank car tanks is July 1, 1983. On a voluntary basis, compliance may begin after June 30, 1980, and is encouraged.

Section 172.332. Identification number marking specifications were proposed in Docket HM–126A. However, MTB has reduced the overall physical dimensions slightly to eliminate unneeded area. Based on numerous comments, MTB has revised the requirements somewhat, and in § 172.336 has limited their application with regard to: (1) cargo tanks transporting fuel oils or distillate fuels; (2) multi-compartmented cargo tanks and tank cars; and (3) multi-unit tank car tanks. Also, based on comments, an alternative method for displaying the identification number on a hazard warning placard is authorized in § 172.334. Paragraphs (a) and (d) of § 172.332 contain the basic description of the orange panel and paragraph (b) prescribes the type of material required for its fabrication. Because metal or plastic was not prescribed for placards, the question has frequently been asked as to whether such material could be used. The answer with regard to placards is also appropriate with regard to these panels: Any material may be used as long as it is at least as durable as the tag board specified in the rule. Based on suggestions from commenters, MTB authorized, in paragraph (c), the name and hazard class of the material transported to be shown on the orange panel in letters no larger than 18 point type.

The intent of the requirement in paragraph (e) that the identification number on an orange panel be displayed in proximity to any required placard(s) was questioned by some commenters. If placards are required, any required orange panels with the identification number must be located in proximity to the placards, so they may be readily visible to emergency response personnel. Some hazardous materials do not require placarding, but an identification number may be required, for example on materials classed as ORM–E.

Section 172.334. This section provides an alternative method for displaying identification numbers. Basically, it provides for 3½ inch black number on a white background to be displayed near the center of the placard. This display must be on the appropriate placard for the material, and it will necessarily replace or essentially cover the words on the placard. The name and hazard class of the material may be shown in the top outer border of the space bearing the identification number in letters no larger than 18 point type when an identification number is displayed on a placard.

Paragraph (b) contains a black and white illustration, in miniature, of the identification number for Acetone displayed on a FLAMMABLE placard. As illustrated, the hazard class number 3 is in reverse print. If this alternative method for displaying the identification number is used and the identification number block is affixed over or in place of the hazard word on the placard, in this case FLAMMABLE, the hazard class number in the lower corner may be a black number on a white background, if not already present as a 1¾ inch numeral in reverse print.

Section 172.336. Sections 172.336 and 172.338 were not in the proposal, but MTB separated the identification number marking requirements into compatible areas and renumbered the sections accordingly. Paragraph (a) provides for permissive identification number marking on full load shipments by transport vehicles and freight containers. This is expected to enhance safety and emergency response effort and may be desired by some shippers. Paragraph (b) establishes a specification for a white square-on-point configuration background for displaying an identification number under the alternative provision (alternative to the orange panel) for materials that are not authorized or required to be placarded. It is important to note that *this white display background containing an identification number is not a placard.* Paragraph (c) contains exceptions to the identification number display requirements. These exceptions vary from total exception, under certain circumstances, for nurse tanks, to partial exception, as for the forward end of cargo tank trucks and cargo tank semi-trailers. Limited exceptions are also provided for multi-compartmented cargo tanks and tank cars as well as certain cargo tanks transporting distillate fuels such as fuel oil. Several commenters pointed out the problems created with multi-compartmented cargo tanks and tank cars and a partial exception is provided. MTB believes that with this exception the basic intent of identifying the materials adequately for emergency response is accomplished and, at the same time, certain burdens are relieved and possible confusion avoided. This is true as well in the other instances where exceptions are provided.

Paragraph (c) contains the July 1, 1981, compliance date for displaying the identification number on portable tanks,

V 45 M Y 22 80 UMI

cargo tanks, and tank cars. For multi-unit tank car tanks the compliance date is July 1, 1983. On a voluntary basis, the identification number may be displayed on these tanks any time after the July 1, 1980, effective date.

Section 172.338. The proposal did not contain a provision for replacement of lost or missing identification numbers, however, several commenters identified this as a potential problem area needing resolution. This section provides for this occurrence.

Section 172.400. Paragraph (b)(3) is revised to add the words "freight container load" in the sequence of "carload or truckload shipments." This change updates a regulation that was published before freight containers were a common form of transportation and allows MTB to eliminate an exemption (under 49 CFR Part 107, Subpart B). As requested by several commenters, a new paragraph (d) is added to this section and paragraph (a) is revised to insure that packages marked only with a proper shipping name from the Optional Table also will be labeled in accordance with that Table. This reflects the requirement in § 172.202 that the entire basic description and the label requirement must be taken from either the § 172.101 Table or the § 172.102 Optional Table.

Section 172.402. Paragraphs (a)(5) through (a)(9) are added to reflect additional multiple labeling requirements that are established as proposed in Docket HM–126B. Initially, it was considered adequate to have the multiple labling reflected in Column (4) of the Table, but commenters recommended that, for consistency, it be entered in this section. MTB agrees and has so provided. The compliance date of July 1, 1983, is contained in paragraph (a)(10). Voluntary compliance may begin any time after the July 1, 1980, effective date.

Section 172.407. Paragraph (h) is amended for consistency with § 172.102(h) as it was proposed in Docket HM–171. This rule authorizes IMCO specification labels in all cases except Explosives A and Explosives B. This change clarifies that, except for the specifications for color tolerance which must meet DOT requirements, labels may meet either DOT or IMCO specifications, except that a foreign language text alone is authorized only on import shipments. In addition, to eliminate an exemption issued to the Department of Defense to authorize additional text on labels as required by the country of destination, MTB is adding a provision to paragraph (h) of this section authorizing such an addition.

Section 172.503. Section 172.503 is added to provide a reference from the placarding rules to the identification number marking alternative authorized in § 172.334.

Section 172.504. Table 2 in paragraph (a) is revised to provide for using the DANGEROUS placard for Class C explosives. This has been authorized under exemption DOT–E 7902 which was issued after the applicant pointed out that in case of fire involving Class C explosives, emergency response personnel could be injured when taking routine actions applicable to the FLAMMABLE placard without checking to determine what was involved in the fire. A normal precaution for emergency response personnel when observing the DANGEROUS placard is to try to determine the materials involved by obtaining shipping papers or through other available means. Also, changes are made to Table 2 to eliminate the requirement for affixing the DANGEROUS placard for Class C explosives, the BLASTING AGENTS placard for Blasting agents or the OXIDIZER placard for Nitrocarbonitrate, if the freight container or transport vehicle is transporting Class A or B explosives and is appropriately placarded for Class A or Class B explosives. Further provisions are made for affixing only the FLAMMABLE GAS placard when a motor vehicle is transporting Nonflammable gas and Flammable gas. Although these placarding changes had not been proposed, they provide relief from some of the existing rules, eliminate an outstanding exemption and at the same time provide adequate warning for the materials involved. Also, a new paragraph (d) is added to exclude certain packagings containing only the residue of hazardous materials from consideration in determining the applicability of the placarding requirements.

Section 172.519. Paragraph (d) is revised as suggested by commenters to increase the size of the UN hazard class number display on placards. Where such a display had been permissive, it now becomes mandatory in certain situations when required by this subchapter, such as under § 172.334. Paragraph (f) is added to authorize a variance in the placard specification so the alternative identification number marking requirement can be accomplished. The alternative, provided by § 172.334, authorizes the display of identification numbers on the appropriate placard for the hazardous material being transported.

Section 173.2. Paragraph (a)(16) is added to include ORM–E in its proper order of hazard.

Section 173.21. The title is revised and the text is amended as proposed in HM–159 to provide better guidance on materials or packaging conditions that are not acceptable in transportaion. The term "Forbidden materials" in the context of this section is new and clarification of the application of the term is provided. Section 173.21 applies to any material considered to be forbidden and is not limited to materials falling within established hazard classes. Included in the revision of this section is a prohibition against the offering of packages that evolve a dangerous quantity of flammable gas or vapor released from a material not otherwise subject to the regulations, e.g. the release of flammable blowing agent vapors from a manufactured product in such quantities that an explosive mixture would be created within the transport vehicle. Under this final rule, each refrigeration method, when used as a means of stabilization, must be approved by the Associate Director for Operations and Enforcement. This change is in accord with the approval authority withdrawals from the Bureau of Explosives presently being handled by amendments published under Docket HM–163. Several commenters objected to the fact that proposed paragraph (a)(2) did not contain any statement concerning the time a material would have to be exposed to the 130°F. temperature in order to be considered forbidden from transportation. MTB agrees that it is a weakness in the proposed wording and has altered the wording to reference two test methods. The test methods are: ASTM E–487 "Standard Method of Test for Consent Temperature Stability of Chemical Materials" and the Organic Peroxide Producers' Safety Division (OPPSD) "Self Accelerating Decomposition Test (SADT)." Several commenters expressed concern that this paragraph does not make it clear that approvals issued by the Bureau of Explosives would be continued in effect until an orderly transition to approval by the Associate Director for Operations and Enforcement could be accomplished. MTB acknowledges this objection and has included a clarification statement in the rule referencing § 171.19.

Section 173.28. Section 173.28 is amended to consolidate three paragraphs that contain restrictions pertaining to containers marked NRC or STC. Paragraph (n) is amended to include a reference to ORM–E materials regarding reuse of STC-marked

packagings and a new paragraph (p) is added to permit the reuse of NRC or STC specification packagings for one-time shipments of hazardous wastes under certain specified conditions. Note the first condition stipulates that the material must be packaged "in accordance with this Part". For example, a Flammable liquid, n.o.s., must be packaged in accordance with § 173.119. This reuse authorization for hazardous wastes does not permit any deviation from the packaging requirements of Part 173 except as specifically stated. This final rule differs from the Docket HM–145A proposal to reflect input from commenters.

Section 173.29. Section 173.29 is amended, as proposed in Docket HM–145A, to require, with certain exceptions, a packaging that contains the residue of a hazardous material to be offered for transportation in the same manner as required when it previously contained a greater quantity of a hazardous material. However, there are significant exceptions in paragraph (a) concerning marking, placarding, shipping papers, and stowage.

Paragraph (a)(3)(ii) excepts from shipping paper requirements the transportation by contract or private carrier of certain "empty" packagings containing a hazardous materials residue when the purpose of the transportation is to reuse or recondition the packaging. This was not proposed in the Notice but was requested by several commenters. The exception recognizes the fact that private and contract carriers who perform this transportation are familiar with the hazards and packagings involved in the transportation of these materials.

Section 173.51. Section 173.51 is revised as proposed in the notice to Docket HM–159 to make provisions for additional coverage of forbidden materials.

Section 173.118a. Section 173.118a is amended to exclude a combustible liquid from the 110 gallons or less exception when it is a hazardous waste subject to 40 CFR Part 262. Thus, a combustible liquid that is a hazardous waste and is offered for transportation in a packaging having a capacity of 110 gallons or less must be shipped as a waste combustible liquid and all regulations pertaining to the transportation of waste materials apply. This was not proposed, but is added by MTB based on a comment that pointed out the omission. Paragraph (b)(1) is amended to include a reference to hazardous waste manifests. Paragraph (b)(2) is revised by MTB to eliminate a conflict between the identification number marking requirements for portable tanks, cargo tanks and tank cars in the Docket HM–126A proposal and the exception authorization in paragraph (b). Paragraph (b)(5) is revised to include the hazardous substance discharge reporting requirements of § 171.17.

Section 173.151a. As proposed in Docket HM–126B, paragraph (a)(13) is revised to permit continued classification of a hazardous material according to its predominant hazard when it contains an organic peroxide without having to place a plus before each organic peroxide entry. It is possible that when certain stabilizing dilutents are added to certain organic peroxides the predominant hazard is that of the dilutent rather than the organic peroxide.

Section 173.154. Based on a petition, MTB is adding "Calcium hypochlorite, hydrated" to the Hazardous Materials Table as a proper shipping name with specification packaging referencing § 173.217. In order to eliminate confusion, the reference in § 173.154(a)(20) to hydrated calcium hypochlorite is deleted.

Section 173.179. As proposed in Docket HM–159, § 173.179 is added to prescribe packaging for N-methyl-N'-nitro-N-nitrosoguanidine, which is added to the Table as a Flammable solid.

Section 173.182. The introductory text to paragraphs (a) and (b) are amended as proposed in Docket HM–145B to provide appropriate packaging for the following materials that have been identified by EPA as hazardous substances: Beryllium nitrate, Cupric nitrate, Ferric nitrate, Mercuric nitrate, Nickel nitrate, and Zirconium nitrate.

Section 173.217. Section 173.217 is amended based on a petition for rulemaking requesting that "calcium hypochlorite hydrated" be added to the Table, with a packaging reference to § 173.217. MTB is in agreement with the data presented in the petition and has added the entry.

Section 173.352. The heading and paragraph (a) are revised to include Cyanide solutions, n.o.s. classed as a Poison B, UN 1935, which is added to the Table as proposed in Docket HM–126B. MTB believes the packagings authorized by § 173.352 for sodium cyanide or potassium cyanide are more appropriate for Cyanide solutions, n.o.s. than the general packagings that would otherwise be authorized for this material under § 173.346 for a poisonous liquid, n.o.s.

Section 173.364. Paragraph (a) is revised to provide certain exceptions for Poisonous solid Limited Quantities that are similar to those authorized for Poisonous liquid Limited Quantities. This was an apparent omission from the Docket HM–112 rulemaking and provides relief from certain regulations for shipments of these materials.

Section 173.389. Section 173.389 is amended as proposed in Docket HM–145A to restate the definition of radioactive materials to clarify the fact that the definition applies only for purposes of the Hazardous Materials Regulations. This clarification is necessary since EPA regulations address materials having lower levels of radiation.

Section 173.500. Section 173.500 is amended to clarify the definition of ORM materials. This clarification is essential to implementation of the ORM–E class which is included in new paragraph (b)(5). Note that the ORM–E definition includes hazardous wastes subject to the regulations of the EPA in 40 CFR Part 262, and hazardous substances as defined in § 171.8. Except for the amendment of Note 1, which resulted from a comment about the apparent conflict between the hazardous waste requirements and the exception for combustible liquids in certain packagings, the final rule is as was proposed in Dockets HM–145A and HM–145B.

Section 173.505. Paragraph (a) is revised to acknowledge a restriction on the ORM exceptions in that § 173.21 applies to any hazardous material offered for transportation. As adopted, the provision differs from the HM–145A proposal in format, but the content remains the same.

Section 173.510. Section 173.510 is amended to exclude the basic packaging requirements from the exceptions specified in § 173.505, and a new paragraph (a)(5) is added requiring that transport vehicles used to transport ORM materials must have discharge openings securely closed. This is a significant change from the HM–145A proposal which would have precluded the use of open-top vehicles. Numerous comments were received describing procedures for effectively using tarps to cover dump trucks and other open-top vehicles. MTB believes that many of the comments have merit and has revised the requirement accordingly. MTB added a note in paragraph (a)(1) to inform shippers that EPA has prescribed packaging for certain PCB's for storage for disposal.

Section 173.1300. A new Subpart O is added to Part 173 to address ORM–E materials, and a new § 173.1300 is added to address Hazardous waste, liquid or solid, n.o.s., and Hazardous substance, liquid or solid, n.o.s. These two entries resulted from Dockets HM–145A and

V 45 MAY 2 2 80 UMI

HM-145B. No specific packaging requirements are specified in this rule for such materials other than a reference to the basic requirements for ORM's in § 173.510. For example, if a hazardous waste is to be offered for transportation by air, the additional requirements of § 173.6 in Subpart A apply. It may be necessary in the future to add specific packaging requirements for certain hazardous wastes or hazardous substances if problems relative to the safe transportation of materials in this class (ORM-E) are identified.

Section 174.24. This section is amended to exclude hazardous substances and hazardous wastes from the exceptions specified for ORM materials.

Section 174.25. Paragraph (b)(6) is added to require that the letters "RQ" be entered on the shipping paper either before or after the basic description for hazardous substances. Although a similar requirement was proposed in Docket HM-145B in § 172.203, it was not proposed for this section. Several suggestions were made during a joint EPA/MTB hearing on hazardous waste that the identifier be entered after the basic description and that it contain the reportable quantity for the material. MTB agrees in part and has authorized the placement of the identifier "RQ" to be entered either before or after the basic description. Thus, under § 172.201(a)(4), if it is placed after the basic description, the shipper may enter the designated reportable quantity. MTB agrees with commenters who suggested provisions be added to require identification on a shipping paper of a hazardous substance residue in a tank car and has added such a provision to the end of paragraph (c).

Section 174.45, 175.45, 176.48 and 177.807. As proposed in Dockets HM-145A and HM-145B, §§ 174.45, 176.48 and 177.807 are revised to provide for the reporting of the discharges of hazardous wastes and hazardous substances. As a result of a change in the EPA reporting requirements for hazardous waste, reporting can be accommodated through a slight revision to §§ 171.15 and 171.16. However, § 171.17, modified somewhat from the Docket HM-145B proposal, is in the final rule for the reporting of the discharge of a hazardous substance. Based on several comments that suggested hazardous substance discharge reports be limited to reportable quantity discharges (incorporated in the definition of hazardous substance) into or upon navigable waters, MTB deleted the § 175.45 proposal because it appears unlikely that such a discharge would occur from an aircraft.

Section 176.11. This section is amended to exclude hazardous substances and hazardous wastes from the exceptions specified for ORM materials.

Section 177.823. In Docket HM-145A MTB had proposed a marking requirement for motor vehicles used for transporting hazardous waste. However, since the requirement appears to duplicate a requirement in § 171.3, the § 177.823 requirement is dropped.

In consideration of the foregoing, Parts 171, 172, 173, 174, 176, and 177 of Title 49 Code of Federal Regulations are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. Section 171.1 is revised to read as follows:

§ 171.1 Purpose and scope.

This subchapter prescribes the requirements of the Department of Transportation governing—

(a) The transportation of hazardous materials by, and their offering to—

(1) Carriers by rail car, aircraft and vessel (except as delegated at § 1.46(t) of this title);

(2) Interstate and foreign carriers by motor vehicle; and

(3) Intrastate carriers by motor vehicle so far as this subchapter relates to—

(i) Hazardous waste, except in a state operating a hazardous waste program under interim authorization in accordance with 40 CFR Part 123, Subpart F.

(ii) Hazardous substances.

(b) The manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a packaging or container which is represented, marked, certified, or sold for use in such transportation as specified in paragraph (a) of this section.

2. In § 171.2 paragraphs (a) and (b) are revised to read as follows:

§ 171.2 General transportation requirements.

(a) No person may offer or accept a hazardous material for transportation in commerce within the United States unless that material is properly classed, described, packaged, marked, labeled, and in the condition for shipment as required or authorized by this subchapter including §§ 171.12 and 176.11.

(b) No person may transport a hazardous material in commerce within the United States unless that material is handled and transported in accordance with this subchapter.

* * * * *

3. Section 171.3 is added to read as follows:

§ 171.3 Hazardous waste.

(a) No person may offer for transportation or transport a hazardous waste (as defined in § 171.8 of this subchapter) in interstate or intrastate commerce except in accordance with the requirements of this subchapter.

(b) No person may accept for transportation, transport, or deliver a hazardous waste for which a manifest is required unless that person—

(1) Has marked each motor vehicle used to transport hazardous waste in accordance with § 397.21 or § 1058.2 of this title even though placards may not be required;

(2) Complies with the requirements for manifests set forth in § 172.205 of this subchapter; and

(3) Delivers, as designated on the manifest by the generator, the entire quantity of the waste received from the generator or a transporter to—

(i) The designated facility or, if not possible, to the designated alternate facility;

(ii) The designated subsequent carrier; or

(iii) A designated place outside the United States.

Note.—Federal law specifies penalties up to $25,000 fine and 5 years imprisonment for the willful discharge of hazardous waste at other than designated facilities. 49 U.S.C. 1809.

(c) With regard to hazardous waste subject to this subchapter, any requirement of a state or its political subdivision is inconsistent with this subchapter if it applies because that material is a waste material and applies differently from or in addition to the requirements of this subchapter concerning—

(1) Packaging, marking, labeling, or placarding;

(2) Format or contents of discharge reports (except immediate reports for emergency response); and

(3) Format or contents of shipping papers, including hazardous waste manifests.

Note.—Paragraph (c)(3) does not apply to any requirements of a state relative to additional information that must be provided by a generator to the operator of a designated facility at or prior to the time of delivery of, or with the shipment of, a hazardous waste to that facility.

(d) If a discharge of hazardous waste occurs during transportation, and an official of a State or local government or a Federal agency, acting within the scope of his official responsibilities, determines that immediate removal of the waste is necessary to prevent further consequence, that official may authorize the removal of the waste without the preparation of a manifest. [NOTE: In such cases, EPA does not require carriers to have EPA identification numbers.]

(e) If a hazardous material that is a hazardous waste is required by this subchapter to be shipped in a closed head DOT specification drum, and the hazardous waste contains solids or semisolids that would make its placement in a closed head drum impracticable (e.g., a drum with a 2.3 inch bung opening), an equivalent specification open head drum (except for closure) may be used for such a waste.

Note.—1—EPA requires shippers (generators) and carriers (transporters) of hazardous wastes to have identification numbers which must be displayed on hazardous waste manifests. See 40 CFR 262.21 and 263.11. (Identification number application forms (EPA Form 8700-12) may be obtained from EPA Regional Offices.)

Note.—2—The following EPA regulation is set forth in 40 CFR Part 263:

§ 263.31 Discharge clean up

A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by Federal, State, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

4. Paragraphs (c)(27), (c)(28), (d)(5)(ix), (d)(20), (d)(21) and (d)(22) are added to § 171.7 to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(27) UN: United Nations: United Nations Sales Section, New York, New York 10017.

(28) OPPSD: Organic Peroxide Producers' Safety Division, Society of the Plastic Industries, Inc., 250 Park Avenue, New York, N.Y. 10017.

(d) * * *

(5) * * *

(ix) ASTM E487-74 is titled, "Standard Test Method for Constant-Temperature Stability of Chemical Materials," 1974 edition.

* * * * *

(20) NIOSH Registry is titled, "Registry of Toxic Effects of Chemical Substances," 1978 edition, available from the Superintendent of Documents.

(21) United Nations Recommendations (UN Recommendations) is titled, "Transport of Dangerous Goods (1977)."

(22) SADT is titled, "Self Accelerating Decomposition Temperature Test," published by the OPPSD.

5. Section 171.8 is amended to add the following definitions in their proper alphabetical sequence:

§ 171.8 Definitions and abbreviations.

* * * * *

"Designated facility" means a hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator.

* * * * *

"EPA" means U.S. Environmental Protection Agency.

* * * * *

"Hazardous substance", for the purposes of this subchapter, means a quantity of a material offered for transportation in one package, or transport vehicle when the material is not packaged, that—

(a) Equals or exceeds the reportable quantity (RQ) specified for the material in EPA regulations at 40 CFR Parts 116 and 117;

(b) is identified by the letter "E" in column 1 of § 172.101; and

(c) When in a mixture or solution in any package offered for transportation is in a concentration which equals or exceeds the following (based on the RQ weight quantities specified in § 172.101):

RQ pounds	RQ kilograms	Concentration by weight	
		Percent	PPM
5000	2270	10	100,000
1000	454	2	20,000
100	45.4	0.2	2,000
10	4.54	0.02	200
1	0.45	0.002	20

"Hazardous waste", for the purposes of this subchapter, means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a state under 40 CFR Part 123, Subpart F.

"Navigable waters" means, for the purposes of this subchapter, waters of the United States, including the territorial seas.

* * * * *

6. Section 171.12 paragraph (b) is revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) Provisions under which certain hazardous materials may be transported when classed, labeled and described in accordance with the IMCO Code are set forth in § 172.102 of this subchapter.

* * * * *

§ 171.15 [Amended]

7. In § 171.15(a), "(including hazardous wastes)" is added after "hazardous materials" in the third line; in paragraph (b), the period at the end of the first sentence is deleted and the following is added to the end of the first sentence, "or (toll call) on 202-426-2675."

8. In § 171.16, the period at the end of paragraph (a) is deleted and the following is added:

§ 171.16 Detailed hazardous materials incident reports.

(a) * * * or any quantity of hazardous waste has been discharged during transportation. If a report pertains to a hazardous waste discharge—

(1) A copy of the hazardous waste manifest for the waste must be attached to the report, and

(2) An estimate of the quantity of the waste removed from the scene, the name and address of the facility to which it was taken, and the manner of disposition of any unremoved waste, must be entered in Part H of the report (Form F 5800.1).

* * * * *

9. Section 171.17 is added to read as follows:

§ 171.17 Hazardous substance discharge notification.

(a) When a hazardous substance is discharged (accidentally or intentionally) into or upon the navigable waters or adjoining shorelines, the person in charge of the aircraft, vessel, transport vehicle or facility shall, as soon as that person has knowledge of such discharge, notify directly, or indirectly through the carrier, the U.S. Coast Guard National Response Center at (toll free) 800-424-8802, or (toll call) 202-426-2675, and furnish the official to whom the discharge notification is made—

(1) The information required by § 171.15,

(2) The name of the shipper of the hazardous substance, and

(3) The quantity of the hazardous substance discharged, if known.

(b) If the person in charge of the aircraft, vessel, transport vehicle or facility is incapacitated or otherwise unable to make the notification required by this section, the carrier shall make the notification.

(c) An estimate of the quantity of the hazardous substance removed from the scene and the manner of disposition of any removed hazardous substance shall be entered in Part H of the report required by § 171.16 of this Part.

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PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

10. The title of Part 172 is amended by replacing the word "TABLE" with the word "TABLES."

11. The title of Subpart B is amended by replacing the word "TABLE" with the word "TABLES."

12. Section 172.100 is deleted. A new § 172.101 in association with a revised Hazardous Material Table is adopted as follows:

§ 172.101 Purpose and use of hazardous materials table.

(a) The Hazardous Materials Table (Table) in this section designates the materials listed therein as hazardous materials for the purpose of transportation of those materials in commerce. The Table identifies the class of each listed material, and specifies or references requirements in this subchapter pertaining to its packaging, labeling, and transportation.

(b) Column 1 contains the four symbols as appropriate: Plus (+) and the letters "A", "W", and "E".

(1) The plus (+) fixes the proper shipping name and the hazard class for that entry without regard to whether the material (including its mixtures and solutions) meets the definition of that class. An alternate proper shipping name and hazard class may be authorized by the Associate Director, Office of Hazardous Materials Regulation, MTB.

(2) A letter "A" restricts the application of this subchapter to materials being transported by aircraft, but a letter "A" has no significance or effect when—

(i) A letter "E" also appears with it and the material is a hazardous substance; or

(ii) The material is a hazardous waste.

(3) A letter "W" restricts the application of this subchapter to materials being transported by vessel, but a letter, "W" has no significance or effect when—

(i) A letter "E" also appears with it and the material is a hazardous substance; or

(ii) The material is a hazardous waste.

(4) A letter "E" identifies materials which are subject to the requirements of this subchapter, regardless of the mode of transportation or hazard class, if it is a hazardous substance (as defined in § 171.8 of this subchapter). A hazardous substance which does not meet the defining criteria for another hazard class remains subject to certain requirements of this subchapter as an ORM–E.

(c) Column 2 lists the proper shipping name of materials designated as hazardous materials. Modification of a proper shipping name may otherwise be required or authorized by this section (see Paragraphs (b)(4), (c)(10), (c)(11), (c)(12) and (c)(13) of this section). Proper shipping names are limited to those shown in Roman type (not italics).

(1) Shipping names may be used in the singular or plural and in either capital or lower case letters.

(2) The words in italics are not part of the proper shipping name but may be used in addition to the proper shipping name. The word "or" in italics indicates that any terms in the sequence may be used as the proper shipping name as appropriate.

(3) The abbreviation "n.o.i.", which means "not otherwise indexed", or "n.o.i.b.n.", which means "not otherwise indexed by name", may be used interchangeably with "n.o.s.".

(4) Except for hazardous wastes, when qualifying words are used as part of proper shipping name, their sequence on the package markings and shipping paper descriptions is optional. However, the entry in the Table reflects the preferred sequence.

(5) Except for organic peroxides, when one entry references another entry by use of the word *"see"*, if both names are in Roman type, either name may be used as the proper shipping name (e.g., Carbolic acid. *See* Phenol). For an organic peroxide, the technical name shall be used as the proper shipping name.

(6) The words "poison" or "poisonous" in this column refer to materials that would cause death by systemic poisoning rather than by corrosive destruction of tissue.

(7) When a shipping name includes a concentration range as part of the shipping description, the actual concentration being shipped, if it is within the range stated, may be used in place of the concentration range. For example, a hydrogen peroxide solution containing 30% peroxide may be shipped as either "Hydrogen peroxide solution (8% to 40% peroxide)" or "Hydrogen peroxide solution, 30% peroxide".

(8) The use of the prefix "mono" is optional in any shipping name when appropriate. Thus, Monoethanolamine may be used interghangeably with Ethanolamine. In "Difluoromonochloroethane" the term "mono" is considered to be a prefix to the term "chloroethane" and may be deleted.

(9) The numbers in italics following a proper shipping name of a material identified by the letter "E" in column 1 specify, in pounds and kilograms, the minimum quantity of the material that constitutes a reportable quantity. For example: Sodium arsenate *(RQ–1000/454)* means that the reportable quantity is 1,000 pounds or 454 kilograms.

(10) If not included in a proper shipping name in the Table, the proper shipping name for a hazardous material that is a hazardous waste must include the word "Waste" preceding the name of the material. For example: Waste acetone.

(11) A mixture or solution comprised of a hazardous material identified in the Table by technical name and a non-hazardous material may be described using the proper shipping name of the hazardous material, if—

(i) The mixture or solution is not specifically identified in the Table;

(ii) The hazard class of the mixture or solution is the same as that of the hazardous material, and

(iii) The qualifying word "mixture" or "solution", as appropriate, is added as part of the proper shipping name. For example, a solution of Acetone, mineral oil, and water, meeting the defintion of a flammable liquid, may be described under this optional provision as "Acetone solution, Flammable liquid, UN 1090."

(12) If the proper shipping name for a mixture or solution that is a hazardous substance does not include the name of the hazardous substance or substances, each hazardous substance must be identified in association with the basic description.

(13) Except for proper shipping names in the Table that are preceded by a plus (+)—

(i) If it is specifically determined that a material meets the definition of a hazard class other than the class shown in association with the proper shipping name, the material must be described by an appropriate shipping name listed in association with the correct class for the material or—

(ii) If an appropriate technical name is not shown in the Table, selection of a proper shipping name must be made from the general descriptions or n.o.s. entries corresponding to the specific hazard class of the material being shipped. The name that most appropriately describes the material must be used e.g., an alcohol not listed by name in the Table must be shipped as "Alcohol, n.o.s." rather than "Flammable liquid, n.o.s." Some mixtures may be more appropriately described according to their application, such as "Compound, cleaning, liquid" or "Compound rust removing," rather than by an n.o.s. entry, such as "Corrosive liquid, n.o.s."

(iii) If a material meets the definition of more than one hazard class, and is not specifically identified in the Table, the hazard class of the material must be determined by using the precedence specified in § 173.2 of this subchapter, and an appropriate shipping description must be selected as described in paragraph (c)(13)(ii) of this section.

(iv) If it is specifically determined that a material is not a forbidden material and does not meet the definition of any hazard class, the material is not a hazardous material.

(d) Column 3 contains a designation of the hazard class corresponding to each proper shipping name, or the word "Forbidden".

(1) A material for which the entry in this column is "Forbidden" is prohibited from being offered or accepted for transportation. This prohibition does not apply if these materials are diluted, stabilized, or incorporated in devices and they are classed in accordance with the definitions of hazardous materials contained in Part 173 of this subchapter.

(2) When re-evaluation of test data or new data indicates a need to modify the "Forbidden" designation or the hazard class specified for a material specifically identified in the Table, this data should be submitted to the Associate Director, Office of Hazardous Materials Regulation, MTB.

(e) Column 3(a) lists the identification numbers assigned to hazardous materials. Those preceded by a "UN" are associated with descriptions considered appropriate for international shipments as well as domestic shipments. Those preceded by an "NA" are associated with descriptions that are not recognized for international shipments, except to and from Canada. If an identification number is in the "NA9000" series, it is either associated with the description of a material that is not appropriately covered by international hazardous materials (dangerous goods) shipping standards or not appropriately addressed by such standards for emergency response information purposes, except for transportation between the United States and Canada.

(f) Column 4 specifies the labels required to be applied to each package, subject to the additional labeling requirements in § 172.402.

(g) Column 5 references the applicable packaging section of Part 173 of this subchapter. Exceptions from some of the requirements of this subchapter are noted in column 5(a). Other exceptions relating to the specific mode of transportation are contained in Parts 174, 175, 176, and 177 of this subchapter. Reference to specific packaging requirements and certain additional exceptions are noted in column 5(b).

(h) Column 6 specifies the maximum net quantity in one package for transportation by aircraft or passenger railcar. In this column, "Forbidden" means the material may not be offered or carried and is limited in its applicability only to the types of transportation covered by the column. In addition, an exception for certain flammable liquids is provided in § 173.118 of this subchapter.

(1) Column 6(a) specifies the maximum net quantity permitted in one package for transportation by passenger-carrying aircraft or passenger railcar. For transportation by aircraft, any material forbidden on passenger-carrying aircraft but permitted on cargo aircraft, or which exceeds the maximum quantity authorized on passenger-carrying aircraft, must be shipped by cargo-only aircraft and bear the CARGO AIRCRAFT ONLY label as described in § 172.448.

(2) Column 6(b) specifies the maximum net quantity permitted in one package for transportation by cargo-only aircraft. When offered for transportation by aircraft, a package must bear the CARGO AIRCRAFT ONLY label when the quantity of hazardous material in one package exceeds that authorized on passenger-carrying aircraft, or is forbidden on passenger-carrying aircraft.

(i) Column 7 specifies each of the authorized locations on board cargo vessels and passenger vessels and certain additional requirements for shipments of each listed hazardous material. Section 176.63 of this subchapter sets forth the physical requirements for each of the authorized locations listed in Column 7. (For bulk shipments by vessel see 46 CFR Parts 30 to 40, 70, 98, 148, 151, 153, and 154.)

(1) "1" means the material may be stowed "on deck" subject to the requirements of § 176.63(b) of this subchapter. When both "on deck" and "under deck" are authorized, "under deck" should be used if is available.

(2) "2" means the material may be stowed "under deck" in a compartment or hold subject to the requirements of § 176.63(c). When both "on deck" and "under deck" are authorized, "under deck" should be used if it is available.

(3) "3" means the material may be stowed "under deck away from heat" in a ventilated compartment or hold subject to the requirements of § 176.63(d) of this subchapter.

(4) "4" means the material is authorized to be transported in only the limited quantities specified in the CFR section listed in Column 5 and is subject to the stowage requirements specified for a cargo vessel for the same material.

(5) "5" means the material is forbidden and may not be offered or accepted for transportation.

(6) "6" means the material is authorized to be transported in a magazine subject to the requirements of §§ 176.135 through 176.144 of this subchapter.

(j) If the proper shipping name or hazard class of a material is changed by an amendment to the Table, such a change does not apply to the shipment of any package filled prior to the effective date of the amendment, unless specifically stated otherwise in the amendment.

(k) Except for hazardous substances and hazardous wastes, Amendment No. 172–58, to the extent that it requires a change in the shipping name or class of a material, applies after June 30, 1981.

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§172.101 Hazardous Materials Table

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Accumulator, pressurized (pneumatic or hydraulic), containing nonflammable gas	Nonflammable gas	NA1956	Nonflammable gas	173.306		No limit	No limit	1,2	1,2	
	Acetal	Flammable liquid	UN1088	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
E	Acetaldehyde (*ethyl aldehyde*) (*RQ-1000/454*)	Flammable liquid	UN1089	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
EA	Acetaldehyde ammonia (*RQ-1000/454*)	ORM-A	UN1841	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Acetic acid (*aqueous solution*) (*RQ-1000/454*)	Corrosive material	UN2790	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials
E	Acetic acid, glacial (*RQ-1000/454*)	Corrosive material	UN2789	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials. Segregation same as for flammable liquids
E	Acetic anhydride (*RQ-1000/454*)	Corrosive material	UN1715	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
	Acetone	Flammable liquid	UN1090	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
E	Acetone cyanohydrin (*RQ-10/4.54*)	Poison B	UN1541	Poison	None	173.346	Forbidden	55 gallons	1	5	Shade from radiant heat. Stow away from corrosive materials
	Acetone oil	Flammable liquid	UN1091	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Acetonitrile	Flammable liquid	UN1648	Flammable liquid	173.118	173.119	1 quart	10 gallons	1	4	Shade from radiant heat
	Acetyl acetone peroxide, in solution with not more than 9% by weight active oxygen. See Organic peroxide, liquid or solution, n.o.s.		UN2080								
	Acetyl acetone peroxide with more that 9% by weight active oxygen	Forbidden									
	Acetyl benzoyl peroxide, *not more than 40% in solution. See* Acetyl benzoyl peroxide solution, *not over 40% peroxide*		UN2081								
	Acetyl benzoyl peroxide, solid, or more than 40% in solution	Forbidden									
	Acetyl benzoyl peroxide solution, *not over 40% peroxide*	Organic peroxide	UN2081	Organic peroxide	None	173.222	Forbidden	1 quart	1,2	1	
E	Acetyl bromide (*RQ-5000/2270*)	Corrosive material	UN1716	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Acetyl chloride (*RQ-5000/2270*)	Flammable liquid	UN1717	Flammable liquid	173.244	173.247	1 quart	1 gallon	1	1	Stow away from alcohols. Keep cool and dry. Separate longitudinally by an intervening complete compartment or hold from explosives
	Acetyl cyclohexanesulfonyl peroxide, more than 82%, wetted with less than 12% water	Forbidden									
	Acetyl cyclohexanesulphonyl peroxide, *not more than 82%, wetted with not less than 12% water. See* Organic peroxide, solid, n.o.s.		UN2082								
	Acetyl cyclohexanesulphonyl peroxide, *not more than 32% in solution. See* Organic peroxide, liquid or solution, n.o.s.		UN2083								
	Acetylene	Flammable gas	UN1001	Flammable gas	None	173.303	Forbidden	300 pounds	1	1	Shade from radiant heat
	Acetylene (liquid)	Forbidden									
	Acetylene silver nitrate	Forbidden									
V	Acetylene tetrabromide	ORM-A	UN2504	None	173.505	173.510	10 gallons	55 gallons			
	Acetyl iodide	Corrosive material	UN1898	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Acetyl peroxide, *not more than 25% in solution. See* Acetyl peroxide solution, *not over 25% peroxide*		UN2084								
	Acetyl peroxide, solid, or more than 25% in solution	Forbidden									
	Acetyl peroxide solution, *not over 25% peroxide*	Organic peroxide	UN2084	Organic peroxide	173.153	173.222	Forbidden	1 quart	1,2	1	
	Acid butyl phosphate	Corrosive material	UN1718	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
	Acid carboy, empty. *See* Carboy, empty										
	Acid, liquid, n.o.s.	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep cool
	Acid, sludge	Corrosive material	UN1906	Corrosive	None	173.248	Forbidden	1 quart	1,2	1	
E	Acrolein, inhibited (*RQ-1/.454*)	Flammable liquid	UN1092	Flammable liquid and Poison	None	173.122	Forbidden	1 quart	1,2	5	Keep cool. Stow away from living quarters
	Acrylic acid	Corrosive material	UN2218	Corrosive	173.244	173.245	1 quart	5 pints	1	1	
E	Acrylonitrile (*RQ-100/45.4*)	Flammable liquid	UN1093	Flammable liquid and Poison	None	173.119	Forbidden	1 quart	1,2	5	Keep cool
	Actuating cartridge, explosive (*fire extinguisher, or valve*)	Class C explosive		Explosive C	173.114		50 pounds	150 pounds	1,2	1,2	Keep cool and dry
	Adhesive, n.o.s. *See* Cement, liquid, n.o.s										

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
E	Adipic acid (*RQ-5000/2270*)	ORM-E	NA9077	None	None	173.510	No limit	No limit	1,2	1,2	
	Aerosol product. See Compressed gas, n.o.s.										
	Air, compressed	Nonflammable gas	UN1002	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	Air conditioning machine. *See* Refrigerating machine										
	Aircraft rocket engine (*Commercial*)	Flammable solid	NA2791	Flammable solid	None	173.238	Forbidden	550 pounds	1,3	5	
	Aircraft rocket engine igniter (*Commercial*)	Flammable solid	UN2792	Flammable solid	None	173.238	Forbidden	25 pounds	1,3	5	
	Airplane flare. See Fireworks, special										
	Alcoholic beverage	Flammable liquid	UN1170	Flammable liquid	173.118	173.125	See 173.118(c)	10 gallons	1,2	1	
	Alcoholic beverage	Combustible liquid	UN1170	None	173.118a	None	No limit	No limit	1,2	1,2	
	Alcohol, n.o.s.	Flammable liquid	UN1987	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Alcohol, n.o.s.	Combustible liquid	UN1987	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Aldrin (*RQ-1/.454*)	Poison B	NA2761	Poison	173.364	173.376	50 pounds	200 pounds	1,2	1,2	
EA	Aldrin, cast solid (*RQ-1/.454*)	ORM-A	NA2761	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Aldrin mixture, dry (*with more than 65% aldrin*) (*RQ-1/.454*)	Poison B	NA2761	Poison	173.364	173.376	50 pounds	200 pounds	1,2	1,2	
EA	Aldrin mixture, dry, with 65% or less aldrin (*RQ-1/.454*)	ORM-A	NA2761	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Aldrin mixture, liquid (*with more than 60% aldrin*) (*RQ-1/.454*)	Poison B	NA2762	Poison	173.345	173.361	1 quart	55 gallons	1,2	1,2	If flash point less than 141 deg F, segregation same as for flammable liquids
EA	Aldrin mixture, liquid, with 60% or less aldrin (*RQ-1/.454*)	ORM-A	NA2762	None	173.505	173.510	No limit	No limit	1,2	1,2	
	Alkaline (*corrosive*) liquid, n.o.s.	Corrosive material	NA1719	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
	Alkaline battery fluid	Corrosive material	NA2797	Corrosive	173.244	173.249 173.257	1 quart	5 gallons	1,2	1,2	
	Alkaline battery fluid with empty storage battery	Corrosive material	NA2797	Corrosive	None	173.258	Forbidden	5 pints	1,2	1,2	
	Alkanesulfonic acid	Corrosive material	UN2584	Corrosive	173.244	173.245	5 pints	1 gallon	1,2	1	
	Alkyl aluminum halides. See Pyrophoric liquid, n.o.s.										
A	Allethrin	ORM-A		None	173.505	173.510	No limit	No limit			
E	Allyl alcohol (*RQ-100/45.5*)	Flammable liquid	UN1098	Flammable liquid and Poison	173.118	173.119	1 quart	10 gallons	1,2	1	
	Allyl bromide	Flammable liquid	UN1099	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,2	1	
E	Allyl chloride (*RQ-1000/454*)	Flammable liquid	UN1100	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Allyl chlorocarbonate	Flammable liquid	UN1722	Flammable liquid	None	173.288	Forbidden	5 pints	1	5	Keep dry. Separate longitudinally by an intervening complete hold or compartment from explosives. Segregation same as for corrosive materials
	Allyl chloroformate. *See* Allyl chlorocarbonate										
	Allyl trichlorosilane	Corrosive material	UN1724	Corrosive	None	173.260	Forbidden	10 gallons	1	1	Keep dry
	Aluminum alkyl. *See* Pyrophoric liquid, n.o.s.										
	Aluminum bromide, anhydrous	Corrosive material	UN1725	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Aluminum dross, wet or hot. See 173.173	Forbidden									
	Aluminum hydride	Flammable solid	UN2463	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Aluminum, liquid. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish, *etc.*										
	Aluminum, metallic, powder	Flammable solid	UN1396	Flammable solid	173.232	173.232	25 pounds	100 pounds	1,2	1,2	Keep dry. Segregation same as for flammable solids labeled dangerous when wet
	Aluminum nitrate	Oxidizer	UN1438	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Aluminum phosphate solution	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Aluminum phosphide	Flammable solid	UN1397	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1,2	1,2	Stow away from acids and oxidizing materials
E	Aluminum sulfate, solid (*RQ-5000/2270*)	ORM-E	NA9078	None	None	173.510	No limit	No limit	1,2	1,2	
EA	Aluminum sulfate solution (*RQ-5000/2270*)	ORM-B	NA1760	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
	Amatol. See High explosive										
	2-(2-Aminoethoxy) ethanol	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	

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§172.101 Hazardous Materials Table (cont'd)

(1) + / E / A / W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	N-Aminoethylpiperazine	Corrosive material	UN2815	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Aminopropyldiethanolamine	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	N-Aminopropylmorpholine	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	bis (Aminopropyl) piperazine	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
E	Ammonia, anhydrous (*RQ-100/45.4*)	Nonflammable gas	UN1005	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow in well ventilated space
E	Ammonia solution (*containing more than 44% ammonia*) (*RQ-1000/454*)	Nonflammable gas	UN3318	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow in well ventilated space
	Ammonia solution (containing 44% or less ammonia in water). See Ammonium hydroxide										
F	Ammonium acetate (*RQ-5000/2270*)	ORM-E	NA9079	None	None	173.510	No limit	No limit	1,2	1,2	
	Ammonium arsenate, solid	Poison B	UN1546	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	Stow away from alkaline corrosives
	Ammonium azide	Forbidden									
E	Ammonium benzoate (*RQ-5000/2270*)	ORM-E	NA9080	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium bicarbonate (*RQ-5000/2270*)	ORM-E	NA9081	None	None	173.510	No limit	No limit	1,2	1,2	
F	Ammonium bifluoride, solid *or* solution. *See* Ammonium hydrogen fluoride, solid *or* solution										
EA	Ammonium bisulfite, solid (*RQ-5000/2270*)	ORM-B	NA2693	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
E	Ammonium bisulfite solution (*RQ-5000/2270*)	Corrosive material	NA2693	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Ammonium bromate	Forbidden									
EA	Ammonium carbamate (*RQ-5000/2270*)	ORM-A	NA9087	None	173.505	173.510	50 pounds	No limit	1,2	1,2	Keep away from heat
EA	Ammonium carbonate (*RQ-5000/2270*)	ORM-A	NA9084	None	173.505	173.510	50 pounds	No limit	1,2	1,2	Keep away from heat, acids, alum and salts of iron or zinc
	Ammonium chlorate	Forbidden									
E	Ammonium chloride (*RQ-5000/2270*)	ORM-E	NA9085	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium chromate (*RQ-1000/454*)	ORM-E	NA9086	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium citrate (*RQ-5000/2270*)	ORM-E	NA9087	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium dichromate (*ammonium bichromate*) (*RQ-1000/454*)	Oxidizer	UN1439	Oxidizer	173.153	173.154 173.245	25 pounds	100 pounds	1,2	1,2	
EA	Ammonium fluoborate (*RQ-5000/2270*)	ORM-B	NA9088	173.505	None	173.510	25 pounds	100 pounds	1,2	1,2	
EA	Ammonium fluoride (*RQ-5000/2270*)	ORM-B	UN2505	173.505	173.505	173.800	25 pounds	100 pounds	1,2	1,2	
	Ammonium fulminate	Forbidden									
E	Ammonium hydrogen fluoride, solid (*RQ-5000/2270*)	Corrosive material	UN1727	Corrosive	173.244	173.2456	25 pounds	100 pounds	1,2	1,2	Keep dry
E	Ammonium hydrogen fluoride solution (*RQ-5000/2270*)	Corrosive material	UN2817	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Keep dry
A	Ammonium hydrogen sulfate	ORM-B	UN2506	None	173.505	173.800	25 pounds	100 pounds			
A	Ammonium hydrosulfide solution	ORM-A	NA2683	None	173.505	173.605	10 gallons	55 gallons			
E	Ammonium hydroxide (*containing not more than 44% ammonia*) (*RQ-1000/454*)	Corrosive material	NA2672	Corrosive	173.244	173.245	2 gallons	2 gallons	1	4	
	Ammonium nitrate-carbonate mixture	Oxidizer	UN2068	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate fertilizer, *containing no more than 0.2% carbon*	Oxidizer	UN2067	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate - fuel oil mixture. See High explosive										
	Ammonium nitrate - fuel oil mixture (*Containing only prilled ammonium nitrate and fuel oil*). *See* Blasting agent, n.o.s.										
	Ammonium nitrate mixed fertilizer	Oxidizer	UN2069	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate (no organic coating)	Oxidizer	NA1942	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate (organic coating)	Oxidizer	NA1942	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate-phosphate	Oxidizer	UN2070	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate, solution (*containing not less than 15% water*). *See 173.154(a)(17) and 173.154(a)(18)*	Oxidizer	NA2426	Oxidizer							
	Ammonium nitrite	Forbidden									
E	Ammonium oxalate (*RQ-5000/2270*)	ORM-A	NA2449	None	173.505	173.510	50 pounds	200 pounds	1,2	1,2	
	Ammonium perchlorate	Oxidizer	UN1442	Oxidizer	173.153	173.238a	25 pounds	100 pounds	1,2	4	Stow away from powdered metals
	Ammonium perchlorate. *See* High explosive										
	Ammonium permanganate	Oxidizer	NA9190	Oxidizer	None	173.154	Forbidden	Forbidden	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide. This material may be forbidden in water transportation by certain countries
	Ammonium picrate, dry. See High explosive										
	Ammonium picrate, wet (*with 10% or more water*)	Flammable solid	UN1310	Flammable solid	173.192		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
	Ammonium picrate, wet, with 10% or more water, over 16 ounces in one outside packaging. See High explosive										

§172.101 Hazardous Materials Table (cont'd)

(1) + / E / A / W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
A	Ammonium polysulfide solution	ORM-A	UN2818	None	173.505	173.605	10 gallons	55 gallons			
EA	Ammonium silicofluoride (*RQ-1000/454*)	ORM-B	UN2854	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
E	Ammonium sulfamate (*RQ-5000/2270*)	ORM-E	NA9089	None	None	173.510	No limit	No limit	1,2	1,2	
W	Ammonium sulfate nitrate	ORM-C	NA1477	None	173.505	173.910			1,2	1,2	Must not be accepted for transportation while hot. Separate by an intervening hold or compartment from Class A explosives. Separate from other explosives, corrosive materials, flammable solids, liquids, or gases, oxidizing materials, organic peroxides, or organic materials
E	Ammonium sulfide solution (*RQ-5000/2270*)	Flammable liquid	UN2683	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
E	Ammonium sulfite (*RQ-5000/2270*)	ORM-E	NA9090	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium tartrate (*RQ-5000/2270*)	ORM-E	NA9091	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium thiocyanate (*RQ-5000/2270*)	ORM-E	NA9092	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ammonium thiosulfate (*RQ-5000/2270*)	ORM-E	NA9093	None	None	173.510	No limit	No limit	1,2	1,2	
	Ammunition, chemical (containing a Poison A liquid or gas). See Chemical ammunition, nonexplosive (*containing a Poison A material*)										
	Ammunition, chemical (containing a Poison B material). See Chemical ammunition, nonexplosive (*containing a Poison B material*)										
	Ammunition, chemical (containing an irritating liquid or solid). See Chemical ammunition, nonexplosive (*containing an irritating material*)										
	Ammunition, chemical, explosive, with Poison A material	Class A explosive		Explosive A and Poison gas	None	173.59	Forbidden	Forbidden	6	5	No other cargo may be stowed in the same hold with these items
	Ammunition, chemical, explosive, with Poison B material	Class A explosive		Explosive A and Poison	None	173.59	Forbidden	Forbidden	6	5	No other cargo may be stowed in the same hold with these items
	Ammunition, chemical, explosive, with irritant	Class A explosive		Explosive A and Irritant	None	173.59	Forbidden	Forbidden	6	5	No other cargo may be stowed in the same hold with these items
	Ammunition for cannon with empty projectile	Class B explosive		Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition for cannon with explosive projectile	Class A explosive		Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with gas projectile	Class A explosive		Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with illuminating projectile	Class A explosive		Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with incendiary projectile	Class A explosive		Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with inert loaded projectile	Class B explosive		Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition for cannon without projectile	Class B explosive		Explosive B	None	173.89	Forbidden	Forbidden	1,2		5
	Ammunition for cannon with smoke projectile	Class A explosive		Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with solid projectile	Class B explosive		Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition for cannon with tear gas projectile	Class A Explosive		Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with tear gas projectile	Class B Explosive		Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition for small-arms with explosive projectile	Class A explosive		Explosive A	None	173.58	Forbidden	Forbidden	6	5	
	Ammunition for small-arms with incendiary projectile	Class A explosive		Explosive A	None	173.58	Forbidden	Forbidden	6	5	
	Ammunition, non-explosive. See 173.55										
	Ammunition, rocket. See Rocket ammunition with ...										
	Ammunition, small-arms. *See* Small-arms ammunition										
E	Amyl acetate (*RQ-1000/454*)	Flammable liquid	UN1104	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Amyl acid phosphate	Corrosive material	UN2819	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Amylamine	Flammable liquid	UN1106	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Amyl chloride	Flammable liquid	UN1107	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Amylene, *normal*	Flammable liquid	UN1108	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	1,3	
	Amyl formate	Flammable liquid	UN1109	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Amyl mercaptan	Flammable liquid	UN1111	Flammable liquid	None	173.141	Forbidden	10 gallons	1,2	1	
	Amyl nitrite	Flammable liquid	UN1113	Flammable liquid	173.118	173.119	1 quart	10gallons	1,3	4	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	tert-Amyl peroxy-2-ethylhexanoate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2998								
	tert-Amyl peroxyneodecanoate, *not more than 75% with phlegmatizer. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2891								
	Amyl trichorosilane	Corrosive material	UN1728	Corrosive	None	173.280	Forbidden	10 gallons	1	5	Keep dry
E	Anhydrous ammonia. *See* Ammonia, anhydrous										
	Anhydrous hydrazine. *See* Hydrazine, anhydrous										
E	Anhydrous hydrofluoric acid. *See* Hydrogen fluoride										
	Aniline oil drum, empty *See 173.347(d)*	Poison B							1,2	1	Do not accept unless returnable package notice is on drum and the instructions thereon have been carried out
+E	Aniline oil, liquid (*RQ-1000/454*)	Poison B	UN1547	Poison	None	173.347	Forbidden	55 gallons	1,2	1,2	Stow away from oxidizing materials and acids
	Anisoyl chloride	Corrosive material	UN1729	Corrosive	173.244	173.279	1 quart	1 quart	1	1	Keep dry
	Antifreeze compound, liquid	Flammable liquid	NA1142	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Antifreeze compound, liquid	Combustible liquid	NA1142	None	173.118a	None	No limit	No limit	1,2	1,2	
	Antifreeze preparation, liquid	Flammable liquid	NA1142	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Antifreeze preparation, liquid	Combustible liquid	NA1142	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Antimonous chloride. *See* Antimony trichloride										
A	Antimony lactate, solid	ORM-A	UN1550	None	173.505	173.510	No limit	No limit			
E	Antimony pentachloride (*RQ-1000/454*)	Corrosive material	UN1730	Corrosive	None	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Antimony pentachloride solution (*RQ-1000/454*)	Corrosive material	UN1731	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Antimony pentafluoride	Corrosive material	UN1732	Corrosive	None	173.246	Forbidden	25 pounds	1	5	Keep dry
EA	Antimony potassium tartrate, solid (*RQ-1000/454*)	ORM-A	UN1551	None	173.505	173.510	No limit	No limit	1,2	1,2	
	Antimony sulfide and a chlorate, mixtures of	Forbidden									
A	Antimony sulfide, solid	ORM-A	NA1325	None	173.505	173.510	No limit	No limit			
E	Antimony tribromide, solid (*RQ-1000/454*)	Corrosive material	NA1549	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry.
E	Antimony tribromide solution (*RQ-1000/454*)	Corrosive material	NA1549	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep dry.
E	Antimony trichloride, solid (*RQ-1000/454*)	Corrosive material	UN1733	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
E	Antimony trichloride solution (*RQ-1000/454*)	Corrosive material	UN1733	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep dry
E	Antimony trifluoride, solid (*RQ-1000/454*)	Corrosive material	NA1549	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry.
E	Antimony trifluoride solution (*RQ-1000/454*)	Corrosive material	NA1549	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep dry.
E	Antimony trioxide (*RQ-5000/2270*)	ORM-E	NA9201	None	None	173.510	No limit	No limit	1,2	1,2	
E	Aqua ammonia solution *(containing 44% or less ammonia). See* Ammonium hydroxide										
	Argon	Nonflammable gas	UN1006	Nonflammable gas	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,3	
	Argon, liquid pressurized	Nonflammable gas	UN1951	Nonflammable gas	None	173.304	Forbidden	300 pounds	1,3	1,3	
	Arsenic acid, solid	Poison B	UN1554	Poison	173.364	173.366	50 pounds	200 pounds	1,2	1,2,	
	Arsenic acid solution	Poison B	UN1553	Poison	173.345	173.348	1 quart	55 gallons	1,2	1,2	
	Arsenical compound, liquid, n.o.s., *or* Arsenical mixture, liquid, n.o.s.	Poison B	UN1556	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsenical compound, solid, n.o.s., *or* Arsenical mixture, solid, n.o.s.	Poison B	UN1557	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	Keep dry
	Arsenical dip, liquid *(sheep dip)*	Poison B	NA1557	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsenical dust	Poison B	UN1562	Poison	173.364	173.368	50 pounds	200 pounds	1,2	1,2	
	Arsenical pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2760	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Arsenical pesticide (*compounds and preparations*), liquid	Poison B	UN2759	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsenical pesticide (*compounds and preparations*), solid	Poison B	UN2759	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Arsenic bromide, solid	Poison B	UN1555	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Arsenic chloride *(arsenious)* liquid. *See* Arsenic trichloride										
E	Arsenic disulfide. *See* Arsenic sulfide, solid										
	Arsenic iodide, solid	Poison B	NA1557	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Arsenic pentoxide, solid (*RQ-5000/2270*)	Poison B	UN1559	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Arsenic, solid	Poison B	UN1558	Poison	173.364	173.366	50 pounds	200 pounds	1,2	1,2	
	Arsenic sulfide and a chlorate, mixtures of	Forbidden									
E	Arsenic sulfide, solid (*RQ-5000/2270*)	Poison B	NA1557	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	Keep dry
E	Arsenic trichloride, liquid (*RQ-5000/2270*)	Poison B	UN1560	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Arsenic trioxide, solid (*RQ-5000/2270*)	Poison B	UN1561	Poison	173.364	173.366 173.368	50 pounds	200 pounds	1,2	1,2	
E	Arsenic trisulfide (*RQ-5000/2270*)	Poison B	NA1557	Poison	173.364	173.365	50 pounds	200 pounds	2	2	
E	Arsenic, white, solid. *See* Arsenic trioxide, solid										
E	Arsenious acid, solid. *See* Arsenic trioxide, solid										
	Arsenious and mercuric iodide solution	Poison B	NA2810	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsine	Poison A	UN2188	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	
	Asbestos	ORM-C		None	173.1090	173.1090	No limit	No limit	1,2	1,2	Stow and handle to avoid airborne particles.
	Ascaridole (organic peroxide)	Forbidden									
W	Asphalt, *at or above its flashpoint*	ORM-C	NA1999	None	None	None	Forbidden	Forbidden	1	5	When applicable, no fire or residue thereof may be present in the furnace heating the substance while the vehicle is on board a cargo vehicle
	Asphalt, cut back	Flammable liquid	NA1999	Flammable liquid	173.118	173.131	1 quart	10 gallons	1,2	1	
	Asphalt, cut back	Combustible liquid	NA1999	None	173.118a	None	No limit	No limit	1,2	1,2	
	Automobile, motorcycle, tractor, or other self-propelled vehicle. See Motor vehicle										
	Automobile, motorcycle, tractor, or other self-propelled vehicle, engine, or other mechanical apparatus, with charged electric storage battery, wet. See Motor vehicle										
	Azaurolic acid (salt of). (dry)	Forbidden									
	3-Azido-1,2-Propylene glycol dinitrate	Forbidden									
	5-Azido-1-hydroxy tetrazole	Forbidden									
	Azidodithiocarbonic acid	Forbidden									
	Azidoethyl nitrate	Forbidden									
	Azido guanidine picrate (dry)	Forbidden									
	Azido hydroxy tetrazole (mercury and silver salts)	Forbidden									
E	Azinphos methyl (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.364	173.365	50 pounds	200 pounds	1,2	4	
	1-Aziridinyl phosphine oxide (tris). *See* Tris-(1-aziridinyl) phosphine oxide										
	Azotetrazole (dry)	Forbidden									
	Bags, burlap, used, must be classed for the hazardous material previously contained in bag. See 173.28, 173.29										
	Bags, sodium nitrate, empty and unwashed	Flammable solid	UN1359	Flammable solid	None	173.155	Forbidden	25 pounds	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Barium azide, wet, *50% or more water*	Flammable solid	UN1571	Flammable solid	None	173.239	Forbiddenn	1 pound	1,2	1,2	Stow away from heavy metals
	Barium chlorate	Oxidizer	UN1445	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals
	Barium chlorate, wet	Oxidizer	NA1445	Oxidizer	173.153	173.163	25 pounds	200 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals
E	Barium cyanide, solid (*RQ-10/4.54*)	Poison B	UN1565	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Barium nitrate	Oxidizer	UN1446	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
A	Barium oxide	ORM-B	UN1884	None	173.505	173.800	25 pounds	100 pounds			
	Barium perchlorate	Oxidizer	UN1447	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow away from powdered metals
	Barium permanganate	Oxidizer	UN1448	Oxidizer	173.153	172.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Barium peroxide	Oxidizer	UN1449	Oxidizer	173.153	173.156	25 pounds	100 pounds	1,2	1,2	Keep dry
	Barrel, empty. *See* Drum, empty										
	Battery charger with electrolyte (acid) *or* alkaline battery fluid	Corrosive material	NA2794	Corrosive	None	173.259	Forbidden	5 pints	1,2	1,2	
	Battery, dry. Not subject to Parts 170-189 of this subchapter										
	Battery, electric storage, wet	Corrosive material	NA2794	Corrosive	173.260	173.260	Forbidden	No limit	1,2	1,2	
	Battery, electric storage, wet, with automobile, auto parts, engine (*or other specifically named mechanical apparatus*)	Corrosive material	NA2794	Corrosive	173.250	173.260	No limit	No limit	1,2	1,2	Keep dry
	Battery, electric storage, wet, with containers of electrolyte (acid) *or* alkaline battery fluid	Corrosive material	NA2794	Corrosive	None	173.258	Forbidden	2 gallons	1,2	1,2	
	Battery fluid. See Electrolyte (acid) *or* Alkaline battery fluid										
	Battery, lithium. See 173.206(f)										
W	Battery parts *(plates, grids, etc. unwashed, exhausted)*	ORM-C		None	173.505	173.915			1,2	4	

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Benzaldehyde	Combustible liquid	UN1990	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Benzene (*benzol*) (*RQ-1000/454*)	Flammable liquid	UN1114	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Benzene diazonium chloride (dry)	Forbidden									
	Benzene diazonium nitrate (dry)	Forbidden									
	Benzene phosphorus dichloride	Corrosive material	UN2798	Corrosive	None	173.250a	Forbidden	5 pints	1	5	
	Benzene phosphorus thiodichloride	Corrosive material	UN2799	Corrosive	None	173.250a	Forbidden	5 pints	1	5	
	Benzene triozonide	Forbidden									
	Benzidine	Poison B	UN1885	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1	
	Benzine	Flammable liquid	UN1115	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Benzoic acid (*RQ-5000/2270*)	ORM-E	NA9094	None	None	173.510	No limit	No limit	1,2	1,2	
	Benzoic derivative pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2770	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Benzoic derivative pesticide (*compounds and preparations*), liquid	Poison B	UN2769	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Benzoic derivative pesticide (*compounds and preparations*), solid	Poison B	UN2769	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Benzonitrile (*RQ-1000/454*)	Combustible liquid	UN2224	None	173.118b	None	No limit	No limit	1,2	1,2	
	Benzoxidiazoles (dry)	Forbidden									
	Benzoyl azide	Forbidden									
E	Benzoyl chloride(*RQ-1000/454*)	Corrosive material	UN1736	Corrosive	173.244	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Benzoyl peroxide	Organic peroxide	NA2085	Organic peroxide	None	173.157 173.158	Forbidden	25 pounds	1,2	1	
	Benzoyl peroxide, *more than 77% but less than 95% with water. See* Benzoyl peroxide.		UN2088								
	Benzoyl peroxide, *not less than 30% but not more than 52% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2089								
	Benzoyl peroxide, *not more than 72% as a paste. See* Organic peroxide, solid, n.o.s.		UN2087								
	Benzoyl peroxide, *not more than 77% with water. See* Benzoyl peroxide.		UN2090								
	Benzoyl peroxide, *technically pure or* Benzoyl peroxide, *more than 52% with inert solid. See* Benzoyl peroxide.		UN2085								
	Benzyl bromide (*bromotoluene, alpha*)	Corrosive material	UN1737	Corrosive	None	173.281	Forbidden	5 pints	1	5	Keep dry
E	Benzyl chloride (*RQ-100/45.4*)	Corrosive material	UN1738	Corrosive	173.244	173.295	Forbidden	1 quart	1	4	Keep dry
	Benzyl chloroformate (*benzyl chlorocarbonate*)	Corrosive	UN1739	Corrosive	None	173.288	Forbidden	5 pints	1	5	Keep dry
E	Beryllium chloride (*RQ-5000/2270*)	Poison B	NA1566	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Beryllium compound, n.o.s.	Poison B	UN1566	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Beryllium fluoride (*RQ-5000/2270*)	Poison B	NA1566	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Beryllium nitrate (*RQ-5000/2270*)	Oxidizer	UN2464	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Biphenyl triazonide	Forbidden									
	Bipyridilium pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2782	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Bipyridilium pesticide (*compounds and preparations*), liquid	Poison B	UN2781	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Bipyridilium pesticide (*compounds and preparations*), solid	Poison B	UN2781	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Black powder	Class A explosive		Explosive A	None	173.60	Forbidden	Forbidden	6	5	
	Black powder igniter with empty cartridge bag	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Blasting agent, n.o.s.	Blasting agent		Blasting agent	None	173.114a	Forbidden	100 pounds	1,2	1,2	
	Blasting caps. See Detonators, Class A *or* Class C explosives										
	Blasting caps, electric. See Detonators, Class A *or* Class C explosives										
	Blasting caps, percussion activated. See Detonators, Class A *or* Class C explosives										
	Blasting caps with detonating cord. See Detonators *and* Detonating primers										
	Blasting caps with metal clad mild detonating fuze. See Detonators, Class A *or* Class C explosives										
	Blasting caps with safety fuse. See Detonators, Class A *or* Class C explosives										
	Blasting caps with shock tubes. See Detonators, Class A *or* Class C explosives										
	Blasting gelatin. See High explosive										

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Blasting powder. See Black powder										
W	Bleaching powder, *containing 39% or less available chlorine*	ORM-C	UN2208	None	173.505	173.920			1,2	1,2	Keep dry. Stow separate from flammable liquids and acids. Stow away from oils, grease, and similar organic materials.
	Boiler compound, liquid	Corrosive material	NA1760	Corrosive	173.244	173.249	1 quart	10 gallons	1,2	1,2	
	Bomb, explosive. See Explosive bomb										
	Bomb, explosive with gas, smoke, or incendiary material. See Explosive bomb										
	Bomb, fireworks. See Fireworks, special										
	Bomb, gas, smoke, or incendiary, nonexplosive. See Chemical ammunition, nonexplosive										
	Bomb, incendiary, or smoke without bursting charge. See Fireworks, special										
	Bomb, practice, with electric primer or electric squib (non-explosive). See 173.55										
	Bomb, sand-loaded or empty (non-explosive). See 173.55										
A	Bone oil	ORM-A		None	173.505	173.510	No limit	No limit			
	Booster, explosive	Class A explosive		Explosive A	None	173.89	Forbidden	Forbidden	6	5	
	Bordeaux arsenite, liquid	Poison B	NA2759	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Bordeaux arsenite, solid	Poison B	NA2759	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Boron tribromide	Corrosive material	UN2692	Corrosive	None	173.251	Forbidden	1 quart	1	5	
	Boron trichloride	Corrosive material	UN1741	Corrosive	None	173.251	Forbidden	1 quart	1,2	5	Stow in well ventilated space. Shade from radiant heat. Segregation same as for nonflammable gases.
+	Boron trifluoride	Nonflammable gas	UN1008	Nonflammable gas and Poison	None	173.302	Forbidden	Forbidden	1	5	Stow away from living quarters and foodstuffs
	Boron trifluoride-acetic acid complex	Corrosive material	UN1742	Corrosive	173.244	173.247	1 quart	1 gallon	1,2	1,2	
	Bottles, having previously contained a hazardous material and not cleaned. See 173.29										
W	Box toe board (*nitrocellulose base*)	ORM-C		None	173.505	173.925			1,3	1,3	Provide cool stowage in a compartment having a temperature not exceeding 130 deg F., well away from any sources of heat, and in position to protect or move, even to jettison in event of fire. Separate from explosives, flammable liquids or gases, oxidizing materials, organic peroxides, or corrosive liquids.
	Box toe gum	Combustible liquid	UN2060	None	173.118a	None	No limit	No limit	1,2	1,2	
	Box toe gum	Flammable liquid	UN2059	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Bromine	Corrosive material	UN1744	Corrosive	None	173.252	Forbidden	1 quart	1	5	Keep cool
	Bromine azide	Forbidden									
	Bromine pentafluoride	Oxidizer	UN1745	Oxidizer	None	173.246	Forbidden	100 pounds	1	5	Shade from radiant heat. Segregation same as for corrosives
	Bromine trifluoride	Oxidizer	UN1746	Oxidizer and Poison	None	173.246	Forbidden	100 pounds	1	5	Shade from radiant heat. Segregation same as for corrosives
	4-Bromo-1,2-dinitrobenzene (unstable at 59 deg C.)	Forbidden									
	1-Bromo-2-nitrobenzene (unstable at 59 deg C.)	Forbidden									
	Bromoacetic acid, solid	Corrosive material	UN1938	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Bromoacetic acid solution	Corrosive material	UN1938	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
	Bromoacetone, liquid	Poison A	UN1569	Poison gas	None	173.329	Forbidden	Forbidden	1	5	Segregation same as for flammable liquids
	Bromobenzene	Combustible liquid	UN2514	None	173.118a	None	No limit	No limit	1,2	1,2	
A	Bromochloromethane	ORM-A	UN1887	None	173.505	173.605	10 gallons	55 gallons			
	Bromosilane	Forbidden									
	Bromotoluene, alpha. See Benzyl bromide										
	Brucine, solid (*dimethoxy strychnine*)	Poison B	UN1570	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
W	Burlap bags, cleaned (*vacuum cleaned, wheel cleaned, or otherwise mechanically brushed*). *See* Burlap cloth										
W	Burlap bags, new. *See* Burlap cloth										
AW	Burlap bags, used and unwashed, *or* not cleaned	ORM-C		None	173.505	173.930	No limit	No limit	1	1	Keep cool
W	Burlap cloth (*hessian*)	ORM-C		None	173.505	173.931			1,2	1,2	Keep dry. Stow away from organic liquids
	Burnt cotton, not repicked	Flammable solid	NA1325	Flammable solid	None	173.159	Forbidden	Forbidden	1	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Burnt fiber	Flammable solid	NA1372	Flammable solid	None	173.169	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials or organic peroxides.

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Burster, explosive	Class A explosive		Explosive A	None	173.69	Forbidden	Forbidden	6	5	
+	Buradiene, inhibited	Flammable gas	UN1010	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	Stow away from living quarters
	Butane or Liquefied petroleum gas. *See* Liquefied petroleum gas										
	1,2,4-Butanetriol trinitrate	Forbidden									
	tert-Butoxycarbonyl azide	Forbidden									
	n-Butyl-4,4-di-(tert-butylperoxy)valerate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2140								
	n-Butyl-4,4-di-(tert-butylperoxy)valerate, *not more than 52% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2141								
E	Butyl acetate (*RQ-5000/2270*)	Flammable liquid	UN1123	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	n-Butyl acid phosphate. *See* Acid butyl phosphate										
	Butyl alcohol	Flammable liquid	NA1120	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
E	Butylamine (*RQ-1000/454*)	Flammable liquid	UN1125	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyl bromide, *normal*	Flammable liquid	UN1126	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyl chloride	Flammable liquid	UN1127	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	tert-Butyl cumyl peroxide, *technically pure or* tert-Butyl cumene peroxide, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2094								
	Butyl ether	Flammable liquid	UN1149	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Butyl formate	Flammable liquid	UN1128	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	tert-Butyl hydroperoxide, *more than 72% but not more than 90% with water. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2094								
	tert-Butyl hydroperoxide, *not more than 72% with water. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2093								
	tert-Butyl hydroperoxide, *not more than 80% in di-tert-butyl peroxide and solvent. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2092								
	tert-Butyl hydroperoxide, *not more than 80% in di-tert-butyl peroxide or solvent. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2092								
	tert-Butyl hydroperoxide, more than 90% with water	Forbidden									
	n-Butyl isocyanate	Flammable liquid	UN2485	Flammable liquid and Poison	173.118	173.119	1 quart	10 gallons	1,2	1	
	tert-Butyl isopropyl benzene hydroperoxide	Organic peroxide	NA2091	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Butyl mercaptan	Flammable liquid	UN2347	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	5	
	tert-Butyl peroxy-2-ethylhexanoate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2143								
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 30%* with 2,2-Di-(tert-butylperoxy)butane, *not more than 35% with not less than 35% phlegmatizer. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2886								
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 12%* with 2,2-Di-(tert-butylperoxy)butane, *not more than 14% with not less than 14% phlegmatizer and 60% inert inorganic solid. See* Organic peroxide, solid, n.o.s.		UN2887								
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 50% with phlegmatizer. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2888								
	tert-Butyl peroxy-3,5,5-trimethylhexanoate *or* tert-Butyl peroxyisononanoate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2104								
	3-tert-Butyl peroxy-3-phenylphthalide, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2596								

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	tert-Butyl peroxyacetate, *not more than 76% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2095								
	tert-Butyl peroxyacetate, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2096								
	tert-Butyl peroxyacetate, more than 76% in solution	Forbidden									
	tert-Butyl peroxybenzoate, *not more than 75% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2098								
	tert-Butyl peroxybenzoate, *not more than 50% with inert inorganic solid. See* Organic peroxide, solid, n.o.s.		UN2890								
	tert-Butyl peroxybenzoate, *technically pure or* tert-Butyl peroxybenzoate, *more than 75% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2097								
	tert-Butyl peroxycrotonate, *not more than 76% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2183								
	n-Butyl peroxydicarbonate, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2169								
	n-Butyl peroxydicarbonate, *not more than 27% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2170								
	n-Butyl peroxydicarbonate, more than 52% in solution	Forbidden									
	tert-Butyl peroxydiethylacetate, *33%* with tert-Butyl peroxybenzoate, *33%, and solvent. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2551								
	tert-Butyl peroxydiethylacetate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2144								
	tert-Butyl peroxyisobutyrate, *more than 52% but not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2142								
	tert-Butyl peroxyisobutyrate, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2562								
	tert-Butyl peroxyisobutyrate, more than 77% in solution	Forbidden									
	tert-Butyl peroxyisopropyl carbonate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2103								
	tert-Butyl peroxymaleate, *not more than 55% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2100								
	tert-Butyl peroxymaleate, *not more than 55% as a paste. See* Organic peroxide, solid, n.o.s.		UN2101								
	tert-Butyl peroxymaleate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2099								
	tert-Butyl peroxyneodecanoate, *not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2177								
	tert-Butyl peroxyneodecanoate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2594								
	tert-Butyl peroxyphthalate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2105								
	tert-Butyl peroxypivalate, *not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2110								
	Butyl phosphoric acid. *See* Acid butyl phosphate										
E	n-Butyl phthalate (*RQ-100/45.4*)	ORM-E	NA9095	None	None	173.510	No limit	No limit	1,2	1,2	
	Butyl trichlorosilane	Corrosive material	UN1747	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Butyraldehyde	Flammable liquid	UN1129	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Butyric acid (*RQ-5000/2270*)	Corrosive material	UN2820	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Cabazide	Forbidden									
E	Cadmium acetate (*RQ-100/45.4*)	ORM-E	NA2570	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cadmium bromide (*RQ-100/45.4*)	ORM-E	NA2570	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cadmium chloride (*RQ-100/45.4*)	ORM-E	NA2570	None	None	173.510	No limit	No limit	1,2	1,2	
E	Calcium arsenate, solid (*RQ-1000/454*)	Poison B	UN1573	Poison	173.364	173.367 173.368	50 pounds	200 pounds	1,2	1,2	If stowed under deck, must be stowed in a recoverable location.
E	Calcium arsenite, solid (*RQ-1000/454*)	Poison B	NA1574	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Calcium bisulfite solution. *See* Calcium hydrogen sulfite solution										
E	Calcium carbide (*RQ-5000/2270*)	Flammable solid	UN1402	Flammable solid and Dangerous when wet	None	173.178	Forbidden	25 pounds	1,2	1,2	Keep dry. Stow away from copper, its alloys, and salts
	Calcium chlorate	Oxidizer	UN1452	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals and cyanide
	Calcium chlorite	Oxidizer	UN1453	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Separate from ammonium compounds, powdered materials, and cyanides
E	Calcium chromate (*RQ-1000/454*)	ORM-E	NA9096	None	None	173.510	No limit	No limit	1,2	1,2	
AW	Calcium cyanamide, not hydrated (*containing more than 0.1% calcium carbide*)	ORM-C	UN1403	None	None	173.945	25 pounds	200 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
E	Calcium cyanide, solid *or* Calcium cyanide mixture, solid (*RQ-10/4.54*)	Poison B	UN1575	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from corrosive liquids. Keep dry
E	Calcium dodecylbenzenesulfonate (*RQ-1000/454*)	ORM-E	NA9097	None	None	173.510	No limit	No limit	1,2	1,2	
	Calcium hydrogen sulfite solution	Corrosive material	NA2693	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
E	Calcium hypochlorite, hydrated (*minimum 5.5% but not more than 10% water, and containing more than 39% available chlorine*) (*RQ-100/45.4*)	Oxidizer	UN2880	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
E	Calcium hypochlorite mixture, *dry, (Containing more than 39% available chlorine)* (*RQ-100/45.4*)	Oxidizer	UN1748	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	Keep cool and dry
	Calcium, metal	Flammable solid	NA1401	Flammable solid and Dangerous when wet	173.153	173.154	25 pounds	100 pounds	1,2	4	Keep cool and dry. Segregation same as for flammable solids labeled Dangerous When Wet
	Calcium, metal, crystalline	Flammable solid	NA1401	Flammable solid and Dangerous when wet	None	173.231	Forbidden	25 pounds	1,2	5	Keep cool and dry. Segregation same as for flammable solids labeled Dangerous When Wet
	Calcium nitrate (*See 173.182(a) Note*)	Oxidizer	UN1454	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
AW	Calcium oxide	ORM-B	UN1910	None	173.505	173.850	25 pounds	100 pounds	1,2	1,2	Keep dry. Stow away from explosives, acids, combustible materials, and ammonium salts
	Calcium permanganate	Oxidizer	UN1456	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Calcium peroxide	Oxidizer	UN1457	Oxidizer	173.153	173.156	25 pounds	100 pounds	1,2	1,2	Keep dry
	Calcium phosphide	Flammable solid	UN1360	Flammable solid and Dangerous when wet	None	173.161	Forbidden	25 pounds	1	5	Keep cool and dry. Segregation same as for flammable solids labeled Dangerous When Wet
	Calcium resinate	Flammable solid	UN1313	Flammable solid	None	173.166	Forbidden	125 pounds	1	5	
	Calcium resinate, fused	Flammable solid	UN1314	Flammable solid	None	173.166	Forbidden	125 pounds	1	5	
AW	Camphene	ORM-A	NA9011	None	173.505	173.610	No limit	No limit	1,3	1,3	Stow away from foodstuffs and living quarters
	Camphor oil	Combustible liquid	UN1130	None	173.118a	None	No limit	No limit	1,2	1,2	
	Cannon primer	Class C explosive		None	None	173.107	50 pounds	150 pounds	1,3	5	
	Caprylyl peroxide solution	Organic peroxide	NA2125	Organic peroxide	173.153	173.221	1 quart	1 quart	1,2	4	Keep cool. Stow separate from combustible materials, explosives, or acids
	Caps, blasting. See Detonators, Class A *or* Class C explosives										
	Caps, toy. See Toy caps										
E	Captan (*RQ-10/4.54*)	ORM-E	NA9099	None	None	173.510	100 pounds	No limit	1,2	1,2	
	Carbamate pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2758	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Carbamate pesticide (*compounds and preparations*), liquid	Poison B	UN2757	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Carbamate pesticide (*compounds and preparations*), solid	Poison B	UN2757	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	Carbaryl (*RQ-100/45.4*)	ORM-A	NA2757	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Carbofuran (*RQ-10/4.54*)	Poison B	NA2757	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	Carbolic acid. *See* Phenol										
E	Carbolic acid, liquid (*liquid tar acid containing over 50% phenol*). *See* Phenol, liquid										
E	Carbon bisulfide, *or* Carbon disulfide (*RQ-5000/2270*)	Flammable liquid	UN1131	Flammable liquid	None	173.121	Forbidden	Forbidden	1	5	Keep cool. Not permitted on any vessel transporting explosives
	Carbon dioxide, liquefied	Nonflammable gas	UN2187	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Carbon dioxide-nitrous oxide mixture	Nonflammable gas	UN1015	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Carbon dioxide-oxygen mixture	Nonflammable gas	UN1014	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
AW	Carbon dioxide, solid, *or* Dry ice, *or* Carbonice	ORM-A	UN1845	None	None	173.615	440 pounds	440 pounds	1	1	Stow away from open ventilators. Stow away from cyanides or cyanide mixtures, liquid or dry
+	Carbon monoxide	Flammable gas	UN1016	Flammable gas	173.306	173.302	Forbidden	150 pounds	1	4	
	Carbon remover, liquid	Flammable liquid	UN1132	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EAW	Carbon tetrachloride (*RQ-5000/2270*)	ORM-A	UN1846	None	173.505	173.620	1 quart	55 gallons	1,2	1,2	Stow away from living quarters
	Carbonyl chloride. See Phosgene										
	Carboys, empty, must be classed for the hazardous material previously contained in carboy. See 173.29										
	Cartridge bags, empty, with black powder igniter	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Cartridge cases, empty, primed	Class C explosive		None	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Cartridge, practice ammunition	Class C explosive		Explosive C	None	173.101a	50 pounds	150 pounds	1,2	1,2	
	Case oil. See Gasoline *or* Naptha										
	Casinghead gasoline. See Gasoline										
W	Castor Beans	ORM-C		None	173.505	173.952			1,2	1,2	Stow away from living quarters and foodstuffs. Bulk shipments permitted in tight vans or containers only on cargo vessels (Castor beans only)
W	Castor pomace. *See* Castor beans										
E	Caustic, potash, dry, solid, flake, bead, *or* granular. *See* Potassium hydroxide, dry, *etc.*										
E	Caustic potash, liquid *or* solution. *See* Potassium hydroxide solution										
E	Caustic soda, dry, solid, flake, bead, *or* granular. *See* Sodium hydroxide, dry, *etc.*										
E	Caustic soda, liquid *or* solution. *See* Sodium hydroxide solution										
W	*Cellosolve. See* Ethylene glycol monoethyl ether										
W	*Cellosolve acetate. See* Ethylene glycol monoethyl ether acetate										
	Cement, adhesive, n.o.s. *See* Cement, liquid, n.o.s.										
	Cement, container, linoleum, tile, *or* wallboard, liquid	Flammable liquid	NA1133	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
	Cement, leather	Flammable liquid	NA1133	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cement, liquid, n.o.s.	Combustible liquid	NA1133	None	173.118a	None	No limit	No limit	1,2	1,2	
	Cement, liquid, n.o.s.	Flammable liquid	NA1133	Flammable liquid	173.118	173.132	1 quart	10 gallons	1,2	1	
	Cement, pyroxylin	Flammable liquid	NA1133	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
	Cement, roofing, liquid	Flammable liquid	NA1133	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cement, rubber	Flammable liquid	NA1133	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
	Cesium metal	Flammable solid	UN1407	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Charcoal, activated	Flammable solid	UN1362	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,3	1,3	
	Charcoal briquettes *or* briquets	Flammable solid	NA1361	Flammable solid	173.162	173.162	50 pounds	50 pounds	1,2	1,2	
	Charcoal screenings, made from 'pinon' wood	Flammable solid	NA1361	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,2	1,	
	Charcoal screenings, wet	Forbidden									
	Charcoal, shell	Flammable solid	NA1361	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,2	1,2	
	Charcoal, wet	Forbidden									
	Charcoal, wood, ground, crushed, granulated, *or* pulverized	Flammable solid	NA1361	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,2	1,2	
	Charcoal, wood, lump	Flammable solid	NA1361	Flammable solid	173.162	173.162	50 pounds	50 pounds	1,2	1,2	
	Charcoal wood screenings, other than 'pinon' wood screenings	Flammable solid	NA1361	Flammable solid	None	173.162	Forbidden	Forbidden	1	1	
	Charged oil well jet perforating gun (*total explosive contents in guns 20 pounds or more per motor vehicle*)	Class A explosive		Explosive A	None	173.53 173.80	Forbidden	Forbidden			Forbidden
	Charged oil well jet perforating gun (*total explosive contents in guns not exceeding 20 pounds per motor vehicle or special offshore down hole tool pallet*)	Class C explosive		Explosive C	None	173.53 173.110	Forbidden	Forbidden	1,2	5	Forbidden

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) + / E / A / W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Chemical ammunition, explosive. See Ammunition, chemical, explosive, with										
	Chemical ammunition, nonexplosive (*containing a Poison B material*)	Poison B	UN2016	Poison	173.345	173.350	Forbidden	55 gallons			See correct shipping name of applicable Poison B material for stowage, special handling, and special segregation requirements
	Chemical ammunition, nonexplosive (*containing an irritating material*)	Irritating material	UN2017	Irritant	None	173.383	Forbidden	20 pounds			See correct shipping name of applicable Irritant material for stowage, special handling, and special segregation requirements
	Chemical ammunition, nonexplosive (*containing a Poison A material*)	Poison A	UN2016	Poison gas	None	173.330	Forbidden	Forbidden			See correct shipping name of applicable Poison A material for stowage, special handling, and special segregation requirements
	Chemical kit	Corrosive material	NA1760	Corrosive	173.286		1 quart	1 quart	1,3	1,3	
	Chlorate and borate mixture (*containing more than 28% chlorate*)	Oxidizer	UN1458	Oxidizer	173.153	173.229	25 pounds	100 pounds	1,2	4	Stow away from ammonium compounds and away from powdered metals
	Chlorate and magnesium chloride mixture (*containing more than 28% chlorate*)	Oxidizer	UN1459	Oxidizer	173.153	173.229	25 pounds	100 pounds	1,2	4	Stow away from ammonium compounds, and away from powdered metals
	Chlorate explosive, dry. See High explosive										
	Chlorate, n.o.s.	Oxidizer	UN1461	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	4	Stow away from ammonium compounds and away from powdered metals
	Chlorate, n.o.s., wet	Oxidizer	NA1461	Oxidizer	173.153	173.163	25 pounds	200 pounds	1,2	4	Stow away from ammonium compounds and away from powdered metals
	Chlorate of potash. *See* Potassium chlorate										
	Chlorate of soda. *See* Sodium chlorate										
	Chlorate powder. *See* High explosive										
E	Chlordane, liquid (*RQ-1/0.454*)	Flammable liquid	NA2762	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Chlordane, liquid (*RQ-1/0.454*)	Combustible liquid	NA2762	None	173.118a	None	No limit	No limit	1,2	1,2	
	Chloric acid	Oxidizer	NA2626	Oxidizer and Poison	None	173.237	Forbidden	Forbidden			Forbidden
	Chloride of phosphorus. *See* Phosphorus trichloride										
	Chloride of sulfur. *See* Sulfur chloride										
W	Chlorinated lime (*chloride of lime.*) *See* Bleaching powder										
+ E	Chlorine (*RQ-10/4.54*)	Nonflammable gas	UN1017	Nonflammable gas and Poison	None	173.304 173.314 173.315	Forbidden	Forbidden	1,2	5	Stow in a well-ventilated space. Stow away from organic materials
	Chlorine azide	Forbidden									
	Chlorine dioxide hydrate, frozen	Oxidizer	NA9191	Oxidizer and Poison	None	173.237	Forbidden	Forbidden			Forbidden
	Chlorine dioxide (not hydrate)	Forbidden									
	Chlorine trifluoride	Oxidizer	UN1749	Oxidizer and Poison	None	173.246	Forbidden	100 pounds	1,3	5	Stow in well ventilated area away from organic material
	Chloroacetic acid, liquid *or* solution	Corrosive material	UN1750	Corrosive	173.244	173.294	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
	Chloroacetic acid, solid	Corrosive material	UN1751	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Chloroacetophenone, gas, liquid, *or* solid (*CN*)	Irritating material	UN1697	Irritant	None	173.382	Forbidden	75 pounds	1	5	
	Chloroacetyl chloride	Corrosive material	UN1752	Corrosive	None	173.253	Forbidden	1 quart	1	5	Keep dry
E	Chlorobenzene(*RQ-100/45.4*)	Flammable liquid	UN1134	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
E	Chlorobenzol. *See* Chlorobenzene										
	p-Chlorobenzoyl peroxide	Organic peroxide	UN2113	Organic peroxide	None	173.157 173.158	Forbidden	25 pounds	1	1	
	p-Chlorobenzoyl peroxide, *not more than 75% with water. See* p-Chlorobenzoyl peroxide.		UN2113								
	p-Chlorobenzoyl peroxide, *not more than 52% as a paste. See* Organic peroxide, solid, n.o.s.		UN2114								
	p-Chlorobenzoyl peroxide, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2115								
	Chlorodinitrobenzene. See Dinitrochlorobenzene										
EAW	Chloroform (*RQ-5000/2270*)	ORM-A	UN1888	None	173.505	173.630	10 gallons	55 gallons	1,2	1,2	Stow away from living quarters and foodstuffs
+	4-Chloro-o-toluidine hydrochloride	Poison B	UN1579	Poison	None	173.362	Forbidden	1 quart	1,2	1,2	
	3-Chloroperoxybenzoic acid, *not more than 86% with 3-chlorobenzoic acid See* Organic peroxide, solid, n.o.s.		UN2755								
	Chlorophenyltrichlorosilane	Corrosive material	UN1753	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
+	Chloropicrin, absorbed	Poison B	NA1583	Poison	None	173.357	Forbidden	Forbidden	1	5	Keep cool
+	Chloropicrin and methyl chloride mixture	Poison A	UN1582	Flammable gas and Poison gas	None	173.329	Forbidden	Forbidden	1	5	Keep cool

§172.101 Hazardous Materials Table (cont'd)

(1) + / E / A / W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
+	Chloropicrin and nonflammable, nonliquefied compressed gas mixture	Poison A	NA1955	Nonflammable gas and Poison gas	None	173.329	Forbidden	Forbidden	1	5	Keep cool
+	Chloropicrin, liquid	Poison B	UN1580	Poison	None	173.357	Forbidden	Forbidden	1	5	Keep cool
+	Chloropicrin mixture (*containing no compressed gas or Poison A liquid*)	Poison B	UN1583	Poison	None	173.357	Forbidden	Forbidden	1	5	Keep cool
A	Chloroplatinic acid, solid	ORM-B	UN2507	None	173.505	173.800	25 pounds	100 pounds			
	Chloroprene, inhibited	Flammable liquid	UN1991	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Chloroprene, uninhibited	Forbidden									
	2-Chloropropene	Flammable liquid	UN2456	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
E	Chlorosulfonic acid (*RQ-1000/454*)	Corrosive material	UN1754	Corrosive	173.244	173.264	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Chlorosulfonic acid-sulfur trioxide mixture (*RQ-1000/45.4*)	Corrosive material	UN1754	Corrosive	173.144	173.264	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
EA	Chlorpyrifos (*RQ-1/0.454*)	ORM-A	NA2783	None	173.505	173.510	100 pounds	No limit	1,2	1,2	
E	Chromic acetate (*RQ-1000/454*)	ORM-E	NA9101	None	None	173.510	No limit	No limit	1,2	1,2	
E	Chromic acid mixture, dry (*RQ-1000/454*)	Oxidizer	NA1463	Oxidizer	173.153	173.164	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
E	Chromic acid, solid (*RQ-1000/454*)	Oxidizer	NA1463	Oxidizer	173.153	173.164	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs. Stow separate from flammable liquids and solids
E	Chromic acid solution (*RQ-1000/454*)	Corrosive material	UN1755	Corrosive	173.244	173.287	1 quart	1 gallon	1	1	
E	Chromic anhydride. *See* Chromic acid, solid										
	Chromic fluoride, solid	Corrosive material	UN1756	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
	Chromic fluoride solution	Corrosive material	UN1757	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
E	Chromic sulfate (*RQ-1000/454*)	ORM-E	NA9100	None	None	173.510	No limit	No limit	1,2	1,2	
E	Chromic trioxide. *See* Chromic acid, solid										
	Chromium oxychloride *or* Chromyl chloride	Corrosive material	UN1758	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Chromous chloride (*RQ-1000/454*)	ORM-E	NA9102	None	None	173.510	No limit	No limit	1,2	1,2	
	Cigar and cigarette lighter fluid. See Lighter fluid										
	Cigarette lighter (*or other similar ignition device*)	Flammable gas	UN1057	Flammable gas	173.21 175.10	173.308	21 ounces	25 pounds	1	1	
	Cigarette lighter (*or other similar ignition device*)	Flammable liquid	UN1226	Flammable liquid	173.21 175.10	173.118	Forbidden	Forbidden	1	1	
	Cigarette load	Class C explosive		Explosive C	None	173.111	50 pounds	150 pounds	1,2	1,2	
	Cloud gas cylinder. See Chemical ammunition, nonexplosive										
	Coal briquettes, hot	Forbidden									
	Coal facings. *See* Coal ground bituminous, *etc.*										
	Coal gas. See Hydrocarbon gas, nonliquefied										
	Coal, ground bituminous, sea coal, coal facings, *etc.*	Flammable solid	NA1361	Flammable solid	173.165		Forbidden	Forbidden	1	1	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Coal oil (*export shipment only*). *See* Kerosene										
	Coal tar distillate	Combustible liquid	UN1137	None	173.118a	None	No limit	No limit	1,2	1,2	
	Coal tar distillate	Flammable liquid	UN1136	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Coal tar dye, liquid (*not otherwise specifically named in 172.101*)	Corrosive material	NA2801	Corrosive	173.244	173.249a	1 quart	10 gallons	1,2	1,2	
	Coal tar light oil	Combustible liquid	NA1137	None	173.118a	None	No limit	No limit	1,2	1,2	
	Coal tar light oil	Flammable liquid	NA1136	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Coal tar naptha	Combustible liquid	NA2553	None	173.118a	None	No limit	No limit	1,2	1,2	
	Coal tar naptha	Flammable liquid	NA2553	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Coal tar oil	Combustible liquid	NA1137	None	173.118a	None	No limit	No limit	1,2	1,2	
	Coal tar oil	Flammable liquid	NA1136	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Coating solution	Flammable liquid	UN1139	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
E	Cobaltous bromide (*RQ-1000/454*)	ORM-E	NA9103	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cobaltous formate (*RQ-1000/454*)	ORM-E	NA9104	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cobaltous sulfamate (*RQ-1000/454*)	ORM-E	NA9105	None	None	173.510	No limit	No limit	1,2	1,2	
	Cobalt resinate, precipitated	Flammable solid	UN1318	Flammable solid	None	173.166	Forbidden	125 pounds	1,2	1,2	
	Cocculus, solid (*fishberry*)	Poison B	UN1584	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
W	Coconut meal pellets *containing at least 6% and not more than 13% moisture and not more than 10% residual fat content*	ORM-C		None	173.505	173.455			1,2	4	Keep dry
	Coir. *See* Fibers										
	Coke, hot	Forbidden									
	Collodion	Flammable liquid	NA2059	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cologne spirits (*alcohol*)	Flammable liquid	NA1170	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Columbian spirits (*wood alcohol*)	Flammable liquid	NA1230	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Combination fuze	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Combination primer	Class C explosive		None	None	173.107	50 pounds	150 pounds	1,3	3	
	Combustible liquid, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Commercial shaped charge. See High explosive										
	Common fireworks. *See* Fireworks, common										
	Compound, cleaning, liquid	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Compound, cleaning, liquid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Compound, cleaning, liquid	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Compound, cleaning, liquid (*containing phosphoric acid, acetic acid, sodium hydroxide or potassium hydroxide*)	Corrosive material	NA1760	Corrosive	173.244	173.245b	1 quart	1 quart	1,2	1,2	
	Compound, cleaning, liquid (containing hydrochloric (muriatic) acid)	Corrosive material	NA1789	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	
	Compound, cleaning, liquid (containing hydrofluoric acid)	Corrosive material	NA1790	Corrosive	172.244	173.256	1 quart	1 gallon	1	4	
	Compound, enamel	Flammable liquid	NA1263	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
	Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid	Combustible liquid	NA1142	None	173.118a				1,2	1,2	
	Compound, lacquer, paint, *or* varnish removing, liquid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
	Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid	Flammable liquid	NA1142	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
	Compound, polishing, liquid	Flammable liquid	NA1142	Flammable liquid	173.118	173.129	1 quart	55 gallons	1,2	1	
	Compound, rust preventing *or* Compound, rust removing	Corrosive material	NA1760	Corrosive	173.144	173.245	1 quart	1 gallon	1,2	1,2	
	Compound, tree *or* weed killing, liquid	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Compound, tree *or* weed killing, liquid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Compound, tree *or* weed killing, liquid	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Compound, tree *or* weed killing, liquid	Poison B	NA2810	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Compound, tree *or* weed killing, solid	Oxidizer	NA1479	Oxidizer	173.153	173.154 173.229	25 pounds	100 pounds			
	Compound, vulcanizing, liquid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Compound, vulcanizing, liquid	Flammable liquid	NA1142	Flammable liquid	173.118	172.119	1 quart	10 gallons	1,2	1	
	Compound, water treatment, liquid. *See* Water treatment, liquid										
	Compressed gas, n.o.s	Flammable gas	UN1954	Flammable gas	173.306	173.302 173.304 173.305	Forbidden	300 pounds	1	4	
	Compressed gas, n.o.s.	Nonflammable gas	UN1956	Nonflammable gas	173.306 173.307	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Consumer commodity	ORM-D		None	None	173.510 173.1200	65 pounds gross	65 pounds gross			Not subject to requirements of Part 176
	Container, reused or empty, must be classed for the hazardous material previously contained. See 173.28, 173.29										
E	Copper acetoarsenite, solid (*RQ-100/45.4*)	Poison B	UN1585	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Copper acetylide	Forbidden									
	Copper amine azide	Forbidden									
	Copper arsenite, solid	Poison B	UN1586	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Copper based pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2776	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Copper based pesticide (*compounds and preparations*), liquid	Poison B	UN2775	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Copper based pesticide (*compounds and preparations*), solid	Poison B	UN2775	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
E,A	Copper chloride (*RQ-10/4.54*)	ORM-B	UN2802	None	173.505	173.800	25 pounds	100 pounds	1,2	1,2	
	Copper cyanide	Poison B	UN1587	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Copper tetramine nitrate	Forbidden									
W	Copra	ORM-C	UN1363	None	173.505	173.900			1,2	1,2	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Copra pellets. See Coconut meal pellets										
	Cordeau detonant fuse	Class C explosive		Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Corrosive liquid, n.o.s.	Corrosive material	UN1760	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	For material that meets only the corrosion to skin criteria of 49 CFR 173.240(a)(1), 'under deck' stowage is also authorized if the description includes the additional entry specified by 172.203(d)(2)
	Corrosive liquid, poisonous, n.o.s	Corrosive material	UN2922	Corrosive and Poison	173.244	173.245	1 quart	1 quart	1	4	
	Corrosive solid, n.o.s.	Corrosive material	UN1759	Corrosive	173.244	173.245b	25 pounds	100 pounds	1	4	For material that meets only the corrosion to skin criteria of 49 CFR 173.240(a)(1), 'under deck' stowage is also authorized if the description includes the additional entry specified by 172.203(d)(2)
	Cosmetics, liquid, n.o.s.	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Cosmetics, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Cosmetics, n.o.s.	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cosmetics, n.o.s	Flammable solid	NA1325	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
	Cosmetics, n.o.s	Oxidizer	NA1479	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
	Cosmetics, solid, n.o.s	Corrosive material	NA1759	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
W	Cotton	ORM-C		None	173.505	173.965			1,2	1,2	Segregation same as for flammable solids. See 176.900 to 176.904
W	Cotton batting	ORM-C		None	173.505	173.970			1,2	1,2	Keep dry. Stow away from vegetable or animal oils. See 176.900 to 176.904
W	Cotton batting dross. *See* Cotton batting										
	Cotton, burnt. See Burnt cotton										
W	Cotton seed hull fiber *or* shavings, pulp, *or* cut linters. See Cotton batting										
	Cotton sweepings. *See* Cotton waste										
W	Cotton wadding. *See* Cotton batting										
W	Cotton waste	ORM-C		None	173.505	173.975			1,2	1,2	Keep dry. Stow away from vegetable or animal oils. See 176.900 to 176.904
	Cotton waste, oily (*with more than 5% of animal or vegetable oil*)	Flammable solid	UN1364	Flammable solid			Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
E	Coumaphos (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Creosote, coal tar	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Creosote oil. See Creosote coal tar										
E	Cresol (*RQ-1000/454*)	Corrosive material	NA2076	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
E	Crotonaldehyde (*RQ-100/45.4*)	Flammable liquid	UN1143	Flammable liquid and Poison	173.118	173.119	1 quart	1 gallon	1,2	1	
	Crotonic acid	Corrosive material	UN2823	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Crotonylene	Flammable liquid	UN1144	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Crude nitrogen fertilizer solution (*more than 25.3 p.s.i.g.*)	Nonflammable gas	NA1043	Nonflammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,3	1,3	
	Crude oil, petroleum	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Crude oil, petroleum	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cumene hydroperoxide	Organic peroxide	UN2116	Organic peroxide	173.155	173.224	1 quart	1 quart	1,2	1	
	Cumene hydroperoxide, *technically pure*. *See* Cumene hydroperoxide.		UN2116								
E	Cupric acetate (*RQ-100/45.4*)	ORM-E	NA9106	None	None	173.510	No limit	No limit	1,2	1,2	
	Cupric cyanide. See Copper cyanide										
E	Cupric nitrate (*RQ-100/45.4*)	Oxidizer	NA1479	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
E	Cupric oxalate (*RQ-100/45.4*)	ORM-E	NA2449	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cupric sulfate (*RQ-10/4.54*)	ORM-E	NA9109	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cupric sulfate, ammoniated (*RQ-100/45.4*)	ORM-E	NA9110	None	None	173.510	No limit	No limit	1,2	1,2	
E	Cupric tartrate (*RQ-100/45.4*)	ORM-E	NA9111	None	None	173.510	No limit	No limit	1,2	1,2	
	Cuprietylene-diamine solution	Corrosive material	UN1761	Corrosive	173.244	173.248	1 quart	1 gallon	1,2	1,2	
	Cyanide *or* cyanide mixture, dry	Poison B	UN1588	Poison	173.364	173.370	25 pounds	200 pounds	1,2	1,2	Keep dry. Stow away from acids
	Cyanide solution, n.o.s.	Poison B	NA1588	Poison	173.345	173.352	1 quart	55 gallons	1,2	1,2	Stow away from acids

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) + E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Cyanogen bromide	Poison B	UN1889	Poison	None	173.379	Forbidden	25 pounds	1	5	Shade from radiant heat. Segregation same as for corrosive materials
E	Cyanogen chloride *containing less than 0.9% water (RQ-10/4.54)*	Poison A	UN1589	Nonflammable gas and Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Cyanogen gas	Poison A	UN1026	Flammable gas and Poison gas	None	173.328	Forbidden	Forbidden	1	5	
	Cyanuric triazide	Forbidden									
E	Cyclohexane *(RQ-1000/454)*	Flammable liquid	UN1145	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Cyclohexanone peroxide, *50 to 85% peroxide*	Organic peroxide	UN2119	Organic peroxide	173.157	173.158	Forbidden	25 pounds	1	1	
	Cyclohexanone peroxide, *as a paste with not more than 9% by weight active oxygen. See* Cyclohexanone peroxide, *50 to 85% peroxide,*		UN2896								
	Cyclohexanone peroxide, *in solution with not more than 9% by weight active oxygen. See* Cyclohexanone peroxide, *50 to 85% peroxide*		UN2118								
	Cyclohexanone peroxide, *not over 50% peroxide*	Organic peroxide	UN2896	Organic peroxide	173.153	173.154	2 pounds	25 pounds	1,2	1,2	
	Cyclohexanone peroxide and di-(1-hydroxy cyclohexyl) peroxide mixture. *See appropriate cyclohexanone peroxide entry*										
	Cyclohexenyl trichlorosilane	Corrosive material	UN1762	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Cyclohexylamine	Flammable liquid	UN2357	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cyclohexyl trichlorosilane	Corrosive material	UN1763	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Cyclopentane	Flammable liquid	UN1146	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Cyclopentane, methyl	Flammable liquid	UN2298	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Cyclopropane	Flammable gas	UN1027	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1	
	Cyclotetramethylene tetranitramine (dry) (HMX)	Forbidden									
	Cyclotetramethylene tetranitramine, wet with not less than 10% water. See High explosive.										
	Cyclotrimethylene trinitramine, desensitized. See High explosive										
	Cyclotrimethylene trinitramine, wet with not less than 10% water. See High explosive										
	Cylinder, empty, including ton tanks, must be classed for the hazardous material previously contained in cylinder. See 173.29										
EA	2,4-D. *See* 2,4-Dichlorophenoxyacetic acid										
EA	DDT *or* Dichlorodiphenyltrichloroethane *(RQ-1/.454)*	ORM A	NA2761	None	173.505	173.510	No limit	No limit	1,2	1,2	
	Dead oil. See Creosote, coal tar										
	Decaborane	Flammable solid	UN1868	Flammable solid and Poison	173.118a	None	No limit	No limit	1,2	1,2	
	Decahydronaphthalene	Combustible liquid	UN1147	None	173.118a	None	No limit	No limit	1,2	1,2	
	Decalin. See Decahydronaphthalene										
	Decanoyl peroxide, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2120								
	Delay electric igniter	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Denatured alcohol	Flammable liquid	NA1986	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Depth bomb. See Explosive bomb										
EA	2,4-D ester. *See* 2,4-Dichlorophenoxyacetic acid ester										
	Detonating fuze, Class A, *with or without radioactive components*	Class A explosive		Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Detonating fuze, Class C explosive	Class C explosive		Explosive C	None	173.113	50 pounds	150 pounds	1,3	1,3	
	Detonating primers, Class A explosives. *See 173.53*	Class A explosive		Explosive A	None	173.68	Forbidden	Forbidden	6	5	Do not stow detonating primers, Class A explosives with any high explosives. Do not handle at the same time high explosives are being loaded.

§172.101 Hazardous Materials Table (cont'd)

(1) + E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Detonating primers, Class C explosives. *See 173.100*	Class C explosive		Explosive C	None	173.68	173.103(d)	150 pounds	1,2	1,2	The maximum net quantity in one package for this material shipped aboard passenger vessel is limited to 50 pounds. Must not be stowed in portable magazine for metal locker. Do not stow detonating primers, Class C explosives with high explosives. Do not handle at the same time high explosives are being loaded
	Detonators, Class A explosives. *See 173.53*	Class A explosive		Explosite A	None	173.66	Forbidden	Forbidden	6	..	Do not stow detonators, Class A with any high explosives. Do not handle at the same time high explosives are being loaded.
	Detonators, Class C explosives. *See 173.100*	Class C explosive		Explosive C	None	173.66	173.103(d)	150 pounds	1,2	1,2	The maximum net quantity in one package for this material shipped aboard passenger vessel is limited to 50 pounds. Must be stowed in portable magazine or metal locker. Do not stow detonators, Class C explosives with high explosives. Do not handle at the same time high explosives are being loaded
	Detonators, commercial. See Detonators, Class A *or* Class C explosives										
	Di-(1-hydroxycyclohexyl) peroxide, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2148								
	Di-(1-hydroxytetrazole) (dry)	Forbidden									
	Di-(1-naphthoyl)peroxide	Forbidden									
	Di-(2-ethylhexyl) peroxydicarbonate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2122								
	Di-(2-ethylhexyl) peroxydicarbonate, *not more than 67% in solution. See* Organic peroxide, liquid *or* solution, n.o.s		UN2123								
	Di-(2-ethylhexyl) phosphoric acid	Corrosive material	NA1902	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Di-(2-methylbenzoyl)peroxide, *not more than 85% with water. See* Organic peroxide, solid, n.o.s.		UN2593								
	1,3-Di-(2-tert-butylperoxyisopropyl) benzene, *technically pure or more than 40% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2112								
	1,3-Di-(2-tert-butylperoxyisopropyl) benzene and 1,4-Di-(2-tert-butylperoxyisopropyl) benzene mixture, *technically pure or more than 40% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2112								
	1,4-Di-(2-tert-butylperoxyisopropyl) benzene, *technically pure or more than 40% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2112								
	Di-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide, *not more than 50% as a paste, with phlegmatizer. See* Organic peroxide, solid, n.o.s.		UN2597								
	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl)propane, *not more than 42% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2168								
	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl) propane, more than 42% with inert solid	Forbidden									
	Di-(4-tert-butylcyclohexyl)peroxydicarbonate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2154								
	Di-(4-tert-butylcyclohexyl)peroxydicarbonate, *not more than 42%, stable dispersion, in water. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2894								
	Diacetone alcohol	Flammable liquid	UN1148	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diacetone alcohol peroxide, *not more than 57% in solution with not more than 9% hydrogen peroxide, not less than 26% diacetone alcohol and not less than 9% water, total active oxygen content not more than 9%. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2163								
	Diacetone alcohol peroxides, more than 57% in solution with more than 9% hydrogen peroxide, less than 26% diacetone alcohol and less than 9% water; total active oxygen content more than 9% by weight	Forbidden									
	Diacetyl	Flammable liquid	UN2346	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	p-Diazidobenzene	Forbidden									
	1,2-Diazidoethane	Forbidden									

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
EA	Diazinon (*RQ-1/.454*)	ORM-A	NA2783	None	173.505	173.510	No limit	No limit	1,2	1,2	
	1,1'-Diazoaminonaphthalene	Forbidden									
	Diazoaminotetrazole (dry)	Forbidden									
	Diazodinitrophenol. *See* Initiating explosive										
	Diazodinitrophenol (dry)	Forbidden									
	Diazodiphenylmethane	Forbidden									
	Diazonium nitrates (dry)	Forbidden									
	Diazonium perchlorates (dry)	Forbidden									
	1,3-Diazopropane	Forbidden									
	Dibenzyl peroxydicarbonate, *not more than 87% with water. See* Organic peroxide, solid, n.o.s.		UN2149								
	Dibenzyl peroxydicarbonate, more than 87% with water	Forbidden									
	Di-(beta-nitroxyethyl)ammonium nitrate	Forbidden									
+	Diborane *or* diborane mixtures	Flammable gas	UN1911	Flammable gas and Poison	None	173.302	Forbidden	Forbidden	1	5	Separate from Chlorine and materials bearing the oxidizer label.
	Dibromoacetylene	Forbidden									
A	Dibromodifluoromethane	ORM-A	UN1941	None	173.505	173.605	10 gallons	55 gallons			
EW	1,2-Dibromoethane. *See* Ethylene dibromide										
E	Dicamba (*RQ-1000/454*)	ORM-E	NA2769	None	None	173.510	No limit	No limit	1,2	1,2	
	Dicetyl peroxydicarbonate, *not more than 42% stable dispersion, in water. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2895								
	Dicetyl peroxydicarbonate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2164								
E	Dichlobenil (*RQ-1000/454*)	ORM-E	NA2769	None	None	173.510	No limit	No limit	1,2	1,2	
E	Dichlone (*RQ-1/0.454*)	ORM-E	NA2761	None	None	173.510	No limit	No limit	1,2	1,2	
	N,N'-Dichlorazodicarbonamidine (salts of), (dry)	Forbidden									
E	*1,1-Dichloro-2,2-bis(parachlorophenyl) ethane. See* TDE										
	Dichloroacetic acid	Corrosive material	UN1764	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
	Dichloroacetyl chloride	Corrosive material	UN1765	Corrosive	173.244	173.247	1 quart	1 gallon	1	4	Keep dry
	Dichloroacetylene	Forbidden									
EA	Dichlorobenzene, ortho, liquid (*RQ-100/45.4*)	ORM-A	UN1591	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	Dichlorobenzene, para, solid (*RQ-100/45.4*)	ORM-A	UN1592	None	173.505	173.510	No limit	No limit	1,2	1,2	
	2,4-Dichlorobenzoyl peroxide, *not more than 75% with water. See* Organic peroxide, solid, n.o.s.		UN2137								
	2,4-Dichlorobenzoyl peroxide, *not more than 52% as a paste. See* Organic peroxide, solid, n.o.s.		UN2138								
	2,4-Dichlorobenzoyl peroxide, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2139								
	2,4-Dichlorobenzoyl peroxide, more than 75% with water	Forbidden									
	Dichlorobutene	Flammable liquid	NA2924	Flammable liquid and Corrosive	173.118	173.119	1 quart	1 quart	1,2	1	
	Dichlorobutene	Corrosive material	NA2924	Corrosive	173.244	173.245 173.245a	1 quart	10 gallons	1	4	
A	Dichlorodifluoroethylene	ORM-A	NA9018	None	173.505	173.605	10 gallons	55 gallons			
	Dichlorodifluoromethane	Nonflammable gas	UN1028	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*)	Nonflammable gas	UN2602	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-dichlorotetrafluoroethane mixture	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304 173 314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-monochlorodifluoromethane mixture	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichloromonofluoromethane mixture	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichlorotrifluoroethane mixture	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
EA	Dichlorodiphenyltrichloroethane. *See* DDT										
	Dichloroethylene	Flammable liquid	UN1150	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloroisopropyl ether	Corrosive material	UN2490	Corrosive	173.244	173.254	1 quart	10 gallons	1,2	1,2	
A	Dichloromethane *or* Methylene chloride	ORM-A	UN1593	None	173.505	173.605	10 gallons	55 gallons			
	Dichloropentane	Flammable liquid	UN1152	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
EA	2,4-Dichlorophenoxyacetic acid (*RQ-100/45.4*)	ORM-A	NA2765	None	173.505	173.510	50 pounds	No limit	1,2	1,2	
E	2,4-Dichlorophenoxyacetic acid ester (*RQ-100/45.4*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
	Dichlorophenyltrichlorosilane	Corrosive material	UN1766	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
E	Dichloropropane. *See* Propylene dichloride										
E	Dichloropropene (*RQ-5000/2270*)	Flammable liquid	UN2047	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloropropene and propylene dichloride mixture	Flammable liquid	NA2047	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	2,2-Dichloropropionic acid (*RQ-5000/2270*)	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
E	Dichlorvos (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.345	173.346	Forbidden	1 quart	1,2	1,2	
	Dicumyl peroxide *50% solution*	Organic peroxide	NA2121	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Dicumyl peroxide, *technically pure or* Dicumyl peroxide, *with inert solid. See* Dicumyl peroxide, dry.		UN2121								
	Dicumyl peroxide, dry	Organic peroxide	UN2121	Orgaaic peroxide	173.153	173.154	2 pounds	25 pounds	1,2	1,2	
	Dicyclohexyl peroxydicarbonate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2152								
	Dicyclohexyl peroxydicarbonate, *not more than 91% with water. See* Organic peroxide, solid, n.o.s.		UN2153								
EA	Dieldrin (*RQ-1/.454*)	ORM-A	NA2761	None	173.505	173.510	No limit	No limit	1,2	1,2	
	Diesel Fuel. *See* Fuel oil										
	Diethanol nitrosamine dinitrate (dry)	Forbidden									
E	Diethylamine (*RQ-1000/454*)	Flammable liquid	UN1154	Flammable liquid	173.118	173.119	Forbidden	5 pints	1,3	4	
	Diethyl cellosolve. *See* Ethylene glycol diethyl ether										
	Diethyl dichlorosilane	Flammable liquid	UN1767	Flammable liquid	None	173.135	Forbidden	10 gallons	1	1	Keep dry. Segregation same as for corrosives
	Diethylene glycol dinitrate. See 173.51	Forbidden									
	Diethylgold bromide	Forbidden									
	Diethyl ketone	Flammable liquid	UN1156	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethyl peroxydicarbonate, *not more than 27% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2175								
	Diethyl peroxydicarbonate, more than 27% in solution	Forbidden									
	1,1-Difluoro-1-chloroethane. *See* Difluoromonochloroethane										
+	Difluoroethane	Flammable gas	UN1030	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
+	Difluoromonochloroethane	Flammable gas	UN2517	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Difluorophosphoric acid, anhydrous	Corrosive material	UN1768	Corrosive	None	173.275	Forbidden	1 gallon	1,2	1,2	
	2,2-Dihydroperoxy propane, *not more than 25% with inert organic solid. See* Organic peroxide, solid, n.o.s.		UN2178								
	Dihydropyran	Flammable liquid	UN2376	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	4	
	1,8-Dihydroxy-2,4,5,7-tetranitroanthraquinone (chrysamminic acid)	Forbidden									
	Diiodoacetylene	Forbidden									
	Diisobutyl ketone	Combustible liquid	UN1157	None	173.118a	None	No limit	No limit	1,2	1,2	
	Diisobutyryl peroxide, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2182								
	Diisooctyl acid phosphate	Corrosive material	UN1902	Corrosive	173.244	173.296	1 quart	1 quart	1,2	1,2	(Glass carboys in hampers not permitted under deck
	Diisopropylamine	Flammable liquid	UN1158	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	

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§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) (c) Other requirements
	Diisopropylbenzene hydroperoxide solution, *not over 72% peroxide*	Organic peroxide	UN2171	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Diisopropylbenzene hydroperoxide, *not more than 72% in solution. See* Diisopropylbenzene hydroperoxide solution, *not more than 72% peroxide.*		UN2171								
	Diisopropylbenzene hydroperoxide, more than 72% in solution	Forbidden									
	Diisopropyl ether	Flammable liquid	UN1159	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Diisotridecyl peroxydicarbonate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2889								
	2,5-Dimethyl-2,5-di-(2-ethylhexanoylperoxy)hexane, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2157								
	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2172								
	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane, *not more than 82% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2173								
	2,5-Dimethyl-2,5-dihydroperoxy hexane, *not more than 82% with water. See* Dimethylhexane dihydroperoxide, *with 18% or more water.*		UN2174								
	2,5-Dimethyl-2,5-dihydroperoxy hexane, more than 82% with water	Forbidden									
	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2155								
	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane, *not more than 52% with inert solid. See* Organic peroxide, solid n.o.s.		UN2156								
	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2158								
	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3, *not more than 52% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2159								
+E	Dimethylamine, anhydrous (*RQ-1000/454*)	Flammable gas	UN1032	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	
E	Dimethylamine, aqueous solution (*RQ-1000/454*)	Flammable liquid	UN1160	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	2,3-Dimethylbutane	Flammable liquid	UN2457	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Dimethyl carbonate	Flammable liquid	UN1161	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyl chlorothiophosphate	Corrosive material	NA2922	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	1,4-Dimethylcyclohexane	Flammable liquid	UN2263	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyldichlorosilane	Flammable liquid	UN1162	Flammable liquid	None	173.135	Forbidden	5 pints	1,2	1	
+	Dimethyl ether	Flammable gas	UN1033	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Dimethylhexane dihydroperoxide (dry)	Forbidden									
	Dimethylhexane dihydroperoxide, (with 18% or more water)	Organic peroxide	UN2174	Organic peroxide	None	173.157	Forbidden	25 pounds	1	1	
	Dimethylhydrazine, unsymmetrical (*UDMH*)	Flammable liquid	UN1163	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Keep dry. Separate from corrosive and oxidizing materials, and organic peroxides.
	Dimethyl phosphorochloridothioate. *See* Dimethyl clorothiophosphate.										
	Dimethyl sulfate	Corrosive material	UN1595	Corrosive	None	173.255	Forbidden	1 quart	1	5	Keep cool
	Dimethyl sulfide	Flammable liquid	UN1164	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Dimyristyl peroxydicarbonate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2595								
	Dimyristyl peroxydicarbonate, *not more than 22%, stable dispersion, in water. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2892								
	1,4-Dinitro-1,1,4,4-tetramethylolbutanetetranitrate (dry)	Forbidden									
	2,4-Dinitro-1,3,5-trimethylbenzene	Forbidden									

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) (c) Other requirements
	1,3-Dinitro-4,5-dinitrosobenzene	Forbidden									
	1,3-Dinitro-5,5-dimethyl hydantoin	Forbidden									
	Dinitro-7,8-dimethylglycoluril (dry)	Forbidden									
E	Dinitrobenzene, solid, *or* Dinitrobenzol, solid (*RQ-1000/454*)	Poison B	UN1597	Poison	173.364	173.371	50 pounds	200 pounds	1,2	1,2	
E	Dinitrobenzene solution (*RQ-1000/454*)	Poison B	UN1597	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Dinitrochlorobenzene	Poison B	UN1577	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
A	Dinitrocyclohexylphenol	ORM-A	NA9026	None	173.505	173.510	No limit	No limit			
	1,2-Dinitroethane	Forbidden									
	1,1-Dinitroethane (dry)	Forbidden									
	Dinitroglycoluril	Forbidden									
	Dinitromethane	Forbidden									
E	Dinitrophenol solution (*RQ-1000/454*)	Poison B	UN1599	Poison	173.345	173.362a	1 quart	65 pounds	1,2	1,2	Stow away from heavy metals and their compounds. If flash point is 141 deg F or less segregation same as for flammable liquids
	Dinitropropylene glycol	Forbidden									
	2,4-Dinitroresorcinol (heavy metal salts of), (dry)	Forbidden									
	4,6-Dinitroresorcinol (heavy metal salts of), (dry)	Forbidden									
	3,5-Dinitrosalicylic acid (lead salt), (dry)	Forbidden									
	Dinitrosobenzylamidine and salts of (dry)	Forbidden									
	2,2-Dinitrostilbene	Forbidden									
E	Dinitrotoluene (*RQ-1000/454*)	ORM-E	UN1600	None	None	173.510	No limit	No limit	1,2	1,2	
	a,a'-Di-(nitroxy)methylether	Forbidden									
	1,9-Dinitroxy pentamethylene-2,4,6,8-tetramine (dry)	Forbidden									
	Di-n-propyl peroxydicarbonate, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2176								
	Dioxane	Flammable liquid	UN1165	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dioxolane	Flammable liquid	UN1166	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diphenylaminechloroarsine (*DM*)	Irritating material	UN1698	Irritant	None	173.382	Forbidden	75 pounds	1	5	
	Diphenyl dichlorosilane	Corrosive material	UN1769	Corrosive	None	173.280	Forbidden	10 gallons	1	1	
	Diphenyl methyl bromide, solid	Corrosive material	UN1770	Corrosive	173.244	173.245b	25 pounds	100 pounds	1	4	
	Diphenyl methyl bromide solution	Corrosive material	UN1770	Corrosive	173.244	173.247	1 quart	1 gallon	1,2	1,2	
	Diphosgene. See Phosgene										
E	Diquat (*RQ-1000/454*)	ORM-E	NA2781	None	None	173.510	No limit	No limit	1,2	1,2	
	Di-sec-butyl peroxydicarbonate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2150								
	Di-sec-butyl peroxydicarbonate, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2151								
	Disinfectant, liquid	Corrosive material	UN1903	Corrosive	173.244	173.245	1 quart	10 gallons	1	4	
	Disinfectant, liquid	Poison B	UN1601	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	
	Disinfectant, liquid, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Disinfectant, solid	Poison B	UN1601	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1	
	Dispersant gas *or* Refrigerant gas. *See 173.314 NOTE 13 and 173.315 NOTE 9*										
	Distearyl peroxydicarbonate, *not more than 85% with stearyl alcohol. See* Organic peroxide, solid, n.o.s.		UN2592								
E	Disulfoton (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.364	173.365	Forbidden	1 quart	1,2	5	
	Di-tert-Butyl peroxide, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2102								
	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *technically pure. See* Organic peroxide, liquid *or* solution n.o.s.		UN2145								
	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *not more than 57% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2146								
	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *not more than 58% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2147								
	2,2-Di-(tert-butylperoxy)butane, *not more than 55% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2111								
	2,2-Di-(tert-butylperoxy) butane, more than 55% in solution	Forbidden									

V 45 MY 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification numbers	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) (c) Other requirements
	1,1-Di-(tert-butylperoxy)cyclohexane, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2129								
	1,1-Di-(tert-butylperoxy)cyclohexane, *not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2130								
	1,2-Di-(tert-butylperoxy)cyclohexane, *not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2161								
	1,1-Di-(tert-butylperoxy)cyclohexane, *not more than 40% with inert inorganic solid, with not less than 13% phlegmatizer. See* Organic peroxide, solid, n.o.s.		UN2885								
	1,1-Di-(tert-butylperoxy)cyclohexane, *not more than 50% with phlegmatizer. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2897								
	Di-(tert-butylperoxy) phthalate, more than 55% in solution	Forbidden									
	Di-(tert-butylperoxy)phthalate, *technically pure. See* Organic peroxide, solid, n.o.s		UN2106								
	Di-(tert-butylperoxy)phthalate, *not more than 55% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2107								
	Di-(tert-butylperoxy)phthalate, *not more than 55% as a paste. See* Organic peroxide, solid, n.o.s		UN2108								
	2,2-Di-(tert-butylperoxy)propane, *not more than 50% with phlegmatizer. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2083								
	2,2-Di-(tert-butylperoxy)propane, *not more than 40% with inert inorganic solid with not less than 13% phlegmatizer. See* Organic peroxide, solid, n.o.s.		UN2984								
	Dithiocarbamate pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2772	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dithiocarbamate pesticide (*compounds and preparations*), liquid	Poison B	UN2771	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Dithiocarbamate pesticide (*compounds and preparations*), solid	Poison B	UN2771	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Diuron (*RQ-100/45.4*)	ORM-E	NA2767	None	None	173.510	No limit	No limit	1,2	1,2	
	Divinyl ether	Flammable liquid	UN1167	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
E	Dodecylbenzenesulfonic acid (*RQ-1000/454*)	Corrosive material	NA2584	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Dodecyl trichlorosilane	Corrosive material	UN1771	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Dressing, leather	Combustible liquid	NA1142	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dressing, leather	Flammable liquid	NA1142	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Drier. See Paint drier, liquid										
	Drill cartridge. See 173.55										
	Drugs, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Drugs, n.o.s.	Flammable solid	NA1325	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
	Drugs, n.o.s.	Oxidizer	NA1479	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
	Drugs, n.o.s,	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Drugs, n.o.s. liquid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Drugs, n.o.s. liquid	Poison B	NA2810	Poison	173.345	173.346	1 quart	55 gallons	1,3	1	
	Drugs, n.o.s. solid	Corrosive material	NA1759	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Drugs, n.o.s. solid	Poison B	NA2811	Poison	173.364	173.365	50 pounds	200 pounds	1,3	1,3	
	Drums, empty, must be classed for the hazardous material previously contained in drum. See 173.29										
	Dry ice. *See* Carbon dioxide, solid										
	Dye intermediate, liquid	Corrosive material	UN2801	Corrosive	173.244	173.249a	1 quart	10 gallons	1,2	1,2	Stow away from foodstuffs and living quarters
	Dynamite. See High explosive										
E	EDTA. *See* Ethylenediaminetetraacetic acid										
	Electric blasting caps. See Detonators, Class A *or* Class C explosives										
	Electric squib	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Electric storage battery, wet. *See* Battery, electric storage, wet										

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification numbers	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) (c) Other requirements
	Electrolyte (acid) *or* alkaline battery fluid, packed with dry-storage battery	Corrosive material	NA2797	Corrosive	None	173.258	Forbidden	5 pints	1,2	1,2	
	Electrolyte (acid) *or* alkaline battery fluid, packed with battery charger, radio current supply device, *or* electronic equipment and actuating device.	Corrosive material	NA2797	Corrosive	None	173.259	Forbidden	5 pints	1,2	1,2	
	Electrolyte (acid) battery fluid (*not over 47% acid*)	Corrosive material	UN2796	Corrosive	173.244	173.257	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
	Empty cartridge bag with black powder igniter	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Enamel. *See* Paint, Enamel, Lacquer, *etc.*										
E	Endosulfan (*RQ-1/0.454*)	Poison B	NA2761	Poison	173.364	173.365	1 pound	10 pounds	1,2	1,2	If stowed under deck, must be stowed in a recoverable location
E	Endrin (*RQ-1/0.454*)	Poison B	NA2761	Poison	173.364	173.365	1 pounds	10 pounds	1,2	1,2	If stowed under deck, must be stowed in a recoverable location.
	Engine, internal combustion				173.120						
	Engine starting fluid	Flammable gas	UN1960	Flammable gas	None	173.304	Forbidden	60 pounds	1,2	4	
E	Epichlorohydrin (*RQ-1000/454*)	Flammable liquid	UN2023	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Eradicator, paint *or* grease, liquid	Flammable liquid	UN1850	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Escape *or* Evacuation slide, inflatable. *See* Life rafts, inflatable										
E	Etching acid, liquid, n.o.s. (*RQ-1000/454*)	Corrosive material	NA1790	Corrosive	None	173.299	Forbidden	10 pounds	1	5	
+	Ethane	Flammable gas	UN1035	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Ethanol amine dinitrate	Forbidden									
E	Ethion (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.364	173.365	Forbidden	1 quart	1,2	5	
	Ethyl-3,3-di-(tert-butylperoxy)butyrate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2184								
	Ethyl-3,3-di-(tert-butylperoxy)butyrate, *not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2185								
	Ethyl-3,3-di-(tert-butylperoxy)butyrate, *not more than 50% with inert inorganic solid. See* Organic peroxide, solid, n.o.s.		UN2598								
	Ethyl acetate	Flammable liquid	UN1173	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl acrylate, inhibited	Flammable liquid	UN1917	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl alcohol	Flammable liquid	UN1170	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
E	Ethyl aldehyde. *See* Acetaldehyde										
E	Ethyl benzene (*RQ-1000/454*)	Flammable liquid	UN1175	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl borate	Flammable liquid	UN1176	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	Keep dry
	Ethyl butyl acetate	Combustible liquid	UN1177	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl butyl ether	Flammable liquid	UN1179	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl butyraldehyde	Flammable liquid	UN1178	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl butyrate	Flammable liquid	UN1180	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Ethyl chloride	Flammable liquid	UN1037	Flammable liquid	None	173.123	Forbidden	See 173.123	1,2	1	Segregation same as for flammable gases
	Ethyl chloroacetate	Combustible liquid	UN1181	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl chloroformate (*chlorocarbonate*)	Flammable liquid	UN1182	Flammable liquid and Poison	None	173.288	Forbidden	5 pints	1,2	1	
	Ethyl chlorothioformate	Corrosive material	UN2826	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1,2	1	
	Ethyl crotonate	Flammable liquid	UN1862	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl dichlorosilane	Flammable liquid	UN1183	Flammable liquid	None	173.135	Forbidden	5 pints	1,2	1	
+	Ethylene	Flammable gas	UN1962	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Ethylene chlorohydrin	Poison B	UN1135	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	Segregation same as for flammable liquids
E	Ethylenediamine (*RQ-1000/454*)	Corrosive material	UN1604	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Ethylene diamine diperchlorate	Forbidden									
E	Ethylenediaminetetraacetic acid (*RQ-5000/2270*)	ORM-E	NA9117	None	None	173.510	No limit	No limit	1,2	1,2	
EAW	Ethylene dibromide (*RQ-1000/454*)	ORM-A	UN1605	None	173.505	173.620	1 quart	55 gallons	1,2	1,2	Stow away from living quarters
E	Ethylene dichloride (*RQ-5000/2270*)	Flammable liquid	UN1184	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Ethylene glycol diethyl ether (*diethyl 'Cellosolve'*)	Combustible liquid	UN1153	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol dinitrate	Forbidden									
	Ethylene glycol monoethyl ether (*'Cellosolve'*)	Combustible liquid	UN1171	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monoethyl ether acetate (*'Cellosolve acetate'*)	Combustible liquid	UN1172	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monomethyl ether (*methyl 'Cellosolve'*)	Combustible liquid	UN1188	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monomethyl ether acetate (*methyl 'Cellosolve acetate'*)	Combustible liquid	UN1189	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene imine, inhibited	Flammable liquid	UN1185	Flammable liquid and Poison	None	173.139	Forbidden	5 pints	1,2	1	
	Ethylene oxide	Flammable liquid	UN1040	Flammable liquid	None	173.124	Forbidden	See 173.124	1,2	1	Segregation same as for flammable gases
	Ethyl ether	Flammable liquid	UN1155	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Ethyl formate	Flammable liquid	UN1190	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Ethylhexaldehyde	Combustible liquid	UN1191	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl hydroperoxide (explodes above 100 deg C)	Forbidden									
	Ethyl lactate	Combustible liquid	UN1192	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl mercaptan	Flammable liquid	UN2363	Flammable liquid	None	173.141	Forbidden	10 gallons	1,2	1	
	Ethyl methyl ether	Flammable liquid	UN1039	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	1	Segregation same as for flammable gases
	Ethyl methyl ketone	Flammable liquid	UN1193	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl nitrate (*nitric ether*)	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	Forbidden	Forbidden	1,2	1	
	Ethyl nitrite (nitrous ether)	Flammable liquid	UN1194	Flammable liquid	None	173.119	Forbidden	Forbidden	1,3	5	
	Ethyl perchlorate	Forbidden									
	Ethyl phenyl dichlorosilane	Corrosive material	UN2435	Corrosive	None	173.280	Forbidden	10 gallons	1	5	
	Ethyl phosphonothioic dichloride, anhydrous	Corrosive material	NA1760	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Ethyl phosphonous dichloride, anhydrous	Corrosive material	NA1760	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Ethyl phosphorodichloridate	Corrosive material	NA1760	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Ethyl propionate	Flammable liquid	UN1195	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl silicate (*tetraethyl orthosilicate*)	Combustible liquid	UN1292	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl trichlorosilane	Flammable liquid	UN1196	Flammable liquid	None	173.135	Forbidden	5 pints	1,2	1	
	Etiologic agent, n.o.s	Etiologic agent	NA2814	Etiologic agent	173.386	173.387	See 173.386	4 liters			Not permitted except under specific conditions approved by the Department
W	Excelsior (shredded wood) *when dry, clear, and free from oil*	ORM-C		None	173.505	173.980			1,3	1,3	Stow away from organic, corrosive, or oxidizing materials
	Explosive auto alarm	Class C explosive		Explosive C	None	173.111	50 pounds	150 pounds	1,2	1,2	
	Explosive bomb	Class A explosive		Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with these items
	Explosive cable cutter	Class C explosive		Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Explosive, forbidden. See Sec. 173.51	Forbidden									
	Explosive mine	Class A explosive		Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with these items
	Explosive, new approval, and evaluation. See 173.86										
	Explosive power device, Class B	Class B explosive		Explosive B	None	173.94	Forbidden	150 pounds	1,2	5	
	Explosive power device, Class C	Class C explosive		Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Explosive projectile	Class A explosive		Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Explosive release device	Class C explosive		Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Explosive rivet	Class C explosive		Explosive C	None	173.100	50 pounds	150 pounds	1,2	1,2	
	Explosive, sample for laboratory examination				173.86		Forbidden	See 173.86			

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Explosive torpedo	Class A explosive		Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Extract, liquid, flavoring	Flammable liquid	UN1197	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Fabric with animal or vegetable oil. See Fibers or fabric, containing not more than 5% animal *or* vegetable fat										
AW	Feed, wet, mixed	ORM-C		None	173.505	173.990	Forbidden	Forbidden	3	3	Stow in cool, dry, well ventilated compartment. Do not stow bags over ten tiers high without flooring off. Do not overstow.
W	Felt, waste. *See* Cotton waste										
	Felt, waste, wet. *See* Waste wool, wet										
E	Ferric ammonium citrate (*RQ-1000/454*)	ORM-E	NA9118	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ferric ammonium oxalate (*RQ-1000/454*)	ORM-E	NA9119	None	None	173.510	No limit	No limit	1,2	1,2	
	Ferric arsenate, solid	Poison B	UN1606	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Ferric arsenite, solid	Poison B	UN1607	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	Ferric chloride, solid, *anhydrous* (*RQ-1000/454*)	ORM-B	UN1773	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
E	Ferric chloride solution (*RQ-1000/454*)	Corrosive material	UN2582	Corrosive	173.244	173.245	1 quart	10 quarts	1,2	1,2	
E	Ferric fluoride (*RQ-100/45.4*)	ORM-E	NA9120	None	None	173.510	No limit	No limit	1,2	1,2	
E	Ferric nitrate (*RQ-1000/454*)	Oxidizer	UN1466	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
E	Ferric sulfate (*RQ-1000/454*)	ORM-E	NA9121	None	None	173.510	No limit	No limit	1,2	1,2	
W	Ferrochrome, exothermic	ORM-C		None	173.505	173.985			1	1	
W	Ferromanganese, exothermic. *See* Ferrochrome, exothermic										
W	Ferrophosphorus	ORM-A		None	173.505	173.635			1,2	1,2	Keep dry. Stow away from living quarters
AW	Ferrosilicon, *containing 30% or more but not more than 70% silicon*	ORM-A	UN1408	None	173.505	173.645	Forbidden	25 pounds	1,2	1,2	Keep dry. Stow away from living quarters. Segregation same as for flammable solids labeled Dangerous When Wet
E	Ferrous ammonium sulfate (*RQ-1000/454*)	ORM-E	NA9122	None	None	173.510	No limit	No limit	1,2	1,2	
	Ferrous arsenate (*iron arsenate*), solid	Poison B	UN1608	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	Ferrous chloride, solid (*RQ-100/45.4*)	ORM-B	NA1759	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Ferrous chloride, solution (*RQ-100/45.4*)	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
E	Ferrous sulfate (*RQ-1000/454*)	ORM-E	NA9125	None	None	173.510	No limit	No limit	1,2	1,2	
	Fertilizer ammoniating solution *containing free ammonia (more than 25.3 p.s.i.g.)*	Nonflammable gas	UN1043	Nonflammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,2	4	
	Fertilizer, tankage. *See* Garbage, tankage										
	Fibers or fabric, containing not more than 5% animal *or* vegetable oil	Flammable solid	NA1373	Flammable solid	None	173.170	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
W	Fibers (*jute, hemp, flax, sisal, coir, kapok, and similar vegetable fibers*)	ORM-C	NA1372	None	173.505	173.985			1,2	1,2	Stow away from animal or vegetable oils. Segregation same as for flammable solids
	Fibers, burnt	Flammable solid	NA1372	Flammable solid	None	173.169	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Film (*nitrocellulose*)	Flammable solid	NA1324	Flammable solid	None	173.177	50 pounds	200 pounds	1,3	1,3	Stow away from other flammable cargo or substances
	Film, photographic, (including scrap film), safety, nonflammable, or slow burning. Not subject to requirements of this subchapter										
	Firecracker. See Fireworks, common *or* special										
	Firecracker salute. See Fireworks, common *or* special										
	Fire extinguisher	Nonflammable gas	UN1044	Nonflammable gas	173.306		150 pounds	300 pounds	1,2	1,2	
	Fire extinguisher charge containing not more than 50 grains of propellant explosive per unit. Not subject to requirements of this subchapter.										
	Fire extinguisher charge containing sulfuric acid	Corrosive material	UN1774	Corrosive	173.261		1 quart	1 gallon	1,2	1,2	
	Fireworks, common	Class C explosive		Explosive C	None	173.100 173.108	50 pounds	200 pounds	1,3	1,3	Passenger vessels in metal lockers only
	Fireworks, exhibition display piece. See Fireworks, special										
	Fireworks, special	Class B explosive		Explosive B	None	173.88 173.91	Forbidden	200 pounds	3	3	Passenger vessels in metal lockers only. Toy torpedoes must not be packed with other special fireworks
W	Fish meal *or* fish scrap containing 6% to 12% water	ORM-C	NA2216	None	173.505	173.995			1,2	1,2	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides. *Use double strip stowage* for cargo 6-12 percent moisture containing not more than 12 percent fat. *Use single strip stowage* for cargo 6-12 percent moisture containing 12-15 percent fat.
	Fish meal *or* fish scrap containing less than 6% or more than 12% water	Flammable solid	NA1374	Flammable solid	None	173.171	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Fissile radioactive material. *See* Radioactive material, fissile										

V 45 MY 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Flame retardant compound liquid	Corrosive material	NA1760	Corrosive	173.244	173.291	1 quart	10 gallons	1,2	1,2	
+	Flammable gas n.o.s. *See* Compressed gas, n.o.s.										
	Flammable liquid, corrosive, n.o.s.	Flammable liquid	UN2924	Flammable liquid and Corrosive	173.118	173.119	1 quart	1 quart	1,2	1	
	Flammable liquid, n.o.s.	Flammable liquid	UN1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Flammable liquid, poisonous, n.o.s.	Flammable liquid	UN1992	Flammable liquid and Poison	173.118	173.119	1 quart	10 gallons	1,2	1	
	Flammable solid, corrosive, n.o.s.	Flammable solid	UN2925	Flammable solid and Corrosive	173.153	173.154	25 pounds	25 pounds	1	1	
	Flammable solid, n.o.s.	Flammable solid	UN1325	Flammable solid	173.153	173.154	25 pounds	25 pounds	1,2	1,2	
	Flammable solid, poisonous, n.o.s.	Flammable solid	UN2926	Flammable solid and Poison	173.153	173.154	25 pounds	25 pounds	1,2	1	
	Flare. See Fireworks, common										
	Flare, airplane. See Fireworks, special										
	Flash cartridge. See Fireworks, special *or* Low explosives										
	Flash cracker. See Fireworks, common *or* special										
	Flash powder. See Fireworks, special *or* Low explosives										
	Flax. See Fibers										
	Flexible linear shaped charge, metal clad	Class C explosive		Explosive C	None	173.104	50 pounds	300 pounds	1,3	1,3	
	Flowers of sulfur. *See* Sulfur										
	Flue dust, poisonous	Poison B	NA2811	Poison	173.364	173.368	50 pounds	200 pounds	1,2	1,2	
	Fluoboric acid	Corrosive material	UN1775	Corrosive	173.244	173.283	1 quart	1 gallon	1,2	1,2	
E	Fluoric acid. *See* Hydrofluoric acid										
	Fluorine	Nonflammable gas	UN1045	Poison and Oxidizer	None	173.302	Forbidden	Forbidden	1	5	Stow in well-ventilated space away from organic materials
	Fluorophosphoric acid, anhydrous. *See* Monofluorophosphoric acid, anhydrous										
	Fluorosilicic acid. *See* Hydrofluorosilicic acid										
	Fluorosulfonic acid *or* Fluosulfonic acid	Corrosive material	UN1777	Corrosive	None	173.274	Forbidden	1 gallon	1	5	Keep dry
	Forbidden explosives. See 173.51	Forbidden									
	Forbidden materials. See 173.21	Forbidden									
EAW	Formaldehyde solution (*flash point more than 141 deg F.; in containers of 110 gallons or less*) (*RQ-100/454*)	ORM-A	UN2209	None	173.505	173.510	10 gallons	55 gallons	1,2	4	
E	Formaldehyde solution (*flash point not more than 141 deg F.; in containers over 110 gallons*) (*RQ-1000/454*)	Combustible liquid	UN1198	None	173.118a	None	10 gallons	55 gallons	1,2	1,2	
EAW	Formaldehyde solution (*flash point not more than 141 deg F.; in containers of 110 gallons or less*) (*RQ-1000/454*)	ORM-A	UN1198	None	173.505	173.510	10 gallons	55 gallons	1,2	4	
E	Formaldehyde solution (*flash point more than 141 deg F.; in containers over 110 gallons*) (*RQ-1000/454*)	Combustible liquid	UN2209	None	173.118a	None	10 gallons	55 gallons	1,2	1,2	
	Formalin. *See* Formaldehyde solution										
E	Formic acid (*RQ-5000/2270*)	Corrosive material	UN1779	Corrosive	173.244	173.245 173.289	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
E	Formic acid solution (*RQ-5000/2270*)	Corrosive material	NA1779	Corrosive	173.244	173.245 173.289	1 quart	5 gallons	1,2	1,2	
	Fuel, aviation, turbine engine	Flammable liquid	UN1863	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Fuel, aviation, turbine engine	Combustible liquid	UN1863	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuel oil	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuel oil, Diesel. *See* Fuel oil										
	Fuel oil, No. 1, 2, 4, 5 *or* 6	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fulminate of mercury (dry)	Forbidden									
	Fulminate of mercury, wet. See Initiating explosive										
	Fulminating gold	Forbidden									
	Fulminating mercury	Forbidden									
	Fulminating platinum	Forbidden									
	Fulminating silver	Forbidden									
	Fulminic acid	Forbidden									
E	Fumaric acid (*RQ-5000/2270*)	ORM-E	NA9126	None	None	173.510	No limit	No limit	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Fumaryl chloride	Corrosive material	UN1780	Corrosive	173.244	173.245	1 quart	1 quart	1	1	Glass carboys not permitted
	Fumigant. See 173.152(a) Note 1										
	Furan	Flammable liquid	UN2389	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
F	Furfural (*RQ-1000/454*)	Combustible liquid	UN1199	None	173.118a	None	No limit	No limit	1,2	1	
	Fuse, (*railway or highway*)	Flammable solid	NA1325	Flammable solid	None	173.154a	50 pounds	200 pounds	1,3	1,3	
	Fuse igniter	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Fuse, instantaneous	Class C explosive		Explosive C	173.100		50 pounds	150 pounds	1,2	1,2	
	Fuse lighter	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Fusel oil	Combustible liquid	UN1201	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuse, mild detonating, metal clad	Class C explosive		Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Fuse, safety	Class C explosive		Explosive C	173.100	173.100	50 pounds	300 pounds	1,2	1,2	
	Fuze, combination	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Fuze, detonating	Class A explosive		Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Fuze, detonating, Class C explosive	Class C explosive		Explosive C	None	173.113	50 pounds	150 pounds	1,3	1,3	
	Fuze, detonating, radioactive	Class A explosive		Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Fuze, percussion	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Fuze, time	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Fuze, tracer	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Galactsan trinitrate	Forbidden									
	Gallium metal, liquid	ORM-B	UN2803	None	None	173.861	Forbidden	Forbidden	1	5	None
	Gallium metal, solid	ORM-B	UN2803	None	None	173.862	40 pounds	40 pounds	1,3	1	Shade from radiant heat
W	Garbage tankage *containing 8% or more water*	ORM-C		None	173.505	173.1000			1,2	1,2	
	Garbage tankage, *containing less than 8% water*	Flammable solid	NA1325	Flammable solid	None	173.209	Forbidden	Forbidden	1	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Gas cylinder, empty. *See* Cylinder, empty										
	Gas drips, hydrocarbon	Combustible liquid	UN1864	None	173.118a	None	No limit	No limit	1,2	1,2	
	Gas drips, hydrocarbon	Flammable liquid	UN1864	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Gas identification set	Poison A	NA9035	Poison gas	None	173.331	Forbidden	Forbidden	1	5	
	Gas identification set	Irritating material	NA9035	Irritant	None	173.331	Forbidden	Forbidden	1	5	
	Gas mine. See Explosive mine										
	Gasohol *(gasoline mixed with ethyl alcohol). See* Gasoline										
	Gas oil. *See* Fuel oil										
	Gasoline (*including casing-head and natural*)	Flammable liquid	NA1257	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	4	
	Gelatine Dynamite. See High explosive										
	Germane	Poison A	UN2192	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	
	Glycerol-1,3-dinitrate	Forbidden									
	Glycerol monogluconate trinitrate	Forbidden									
	Glycerol monolactate trinitrate	Forbidden									
	Grenade *without bursting charge. (With incendiary material)*	Class B explosive		Explosive B	None	173.91	Forbidden	Forbidden	3	3	Passenger vessels in metal lockers only
	Grenade *without bursting charge. (With smoke charge)* (Smoke grenade)	Class C explosive		Explosive C	None	173.108	50 pounds	150 pounds	1,3	1,3	
	Grenade *without bursting charge. (With Poison A gas charge)*	Poison A	NA2016	Poison gas	None	173.330	Forbidden	Forbidden			*See* correct shipping name of applicable Poison A material for stowage, special handling, and special segregation requirements
	Grenade *without bursting charge. (With Poison B charge)*	Poison B	NA2016	Poison	None	173.350	Forbidden	Forbidden			*See* correct shipping name of applicable Poison B material for stowage, special handling, and special segregation requirements
	Grenade, empty, primed	Class C explosive		None	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Grenade, hand *or* rifle, explosive (*with or without gas, smoke, or incendiary material*)	Class A explosive		Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	No other cargo may be stowed in the same hold with these items

V 4 5 M Y 2 2 8 0 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Grenade, tear gas	Irritating material	NA2017	Irritant	None	173.385	Forbidden	75 pounds	1,2	1	
	Guanidine nitrate	Oxidizer	UN1467	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	Separate from nitro-compounds, chlorates, and acids
	Guanyl nitrosamino guanylidene hydrazine. See Initiating explosive										
	Guanyl nitrosamino guanylidene hydrazine (dry)	Forbidden									
	Guanyl nitrosamino guanyl tetrazene. See Initiating explosive										
	Guided missile, without warhead. See Rocket motor, Class A explosive *or* Rocket motor, Class B explosive										
	Guided missile with warhead. See Rocket ammunition with explosive, illuminating, gas, incendiary, *or* smoke projectile										
	Guncotton. See High explosive										
E	Guthion. *See* Azinphos methyl										
	Hafnium metal, dry. *(See 173.214 Note 3)*	Flammable solid	UN2545	Flammable solid	None	173.214	Forbidden	75 pounds	1	5	
	Hafnium metal, wet	Flammable solid	UN1326	Flammable solid	None	173.214	Forbidden	150 pounds	1,2	5	
	Hair, wet	Flammable solid	NA1372	Flammable solid	None	173.172	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Hand signal device	Class C explosive		Explosive C	None	173.108	50 pounds	200 pounds	1,2	1,2	
W	Hay	ORM-C	UN1327	None	173.505	173.1005			1,2	1,2	Segregation same as for flammable solids. Stow away from animal or vegetable oils
W	Hay or straw *(loose, wet, or damp)*		UN1327								Forbidden for water shipment
E	Hazardous substance, liquid *or* solid, n.o.s.	ORM-E	NA9188	None	None	173.1300	No limit	No limit	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s.	ORM-E	NA9189	None	173.505	173.1300	Forbidden	550 pounds	1,2	1,2	
	Hazardous waste, meeting the definition of a hazard class other than ORM-E. See 172.101(c)(10).										
	Heater for refrigerator car, liquid fuel type *(containing fuel)*	Flammable liquid	NA1993	Flammable liquid	173.146		Forbidden	Forbidden	1,2	1	
	Helium	Nonflammable gas	UN1046	Nonflammable gas	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,2	
	Helium-oxygen mixture	Nonflammable gas	NA1980	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
E	Heptachlor *(RQ-1/0.454)*	ORM-E	NA2761	None	None	173.510	No limit	No limit	1,2	1,2	If stowed under deck, must be stowed in a recoverable location.
	Heptane	Flammable liquid	UN1206	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
W	*Hessian. See* Burlap cloth										
E	Hexachlorocyclopentadiene *(RQ-1/0.454)*	Corrosive material	UN2646	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
W	Hexachloroethane	ORM-A	NA9037	None	173.505	173.650			1,2	1,2	
	Hexadecyltrichlorosilane	Corrosive material	UN1781	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Hexadiene	Flammable liquid	UN2458	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Hexaethyl tetraphosphate and compressed gas mixture	Poison A	UN1612	Poison gas	None	173.384	Forbidden	Forbidden	1	5	Shade from radiant heat
	Hexaethyl tetraphosphate, liquid	Poison B	UN1611	Poison	None	173.358	Forbidden	1 quart	1	4	
	Hexaethyl tetraphosphate mixture, dry *(containing more than 2% hexaethyl tetraphosphate)*	Poison B	NA2783	Poison	None	173.377	Forbidden	200 pounds	1,2	5	
	Hexaethyl tetraphosphate mixture, dry *(containing not more than 2% hexaethyl tetraphosphate)*	Poison B	NA2783	Poison	173.377	173.377	50 pounds	200 pounds	1,2	4	
	Hexaethyl tetraphosphate mixture, liquid *(containing more than 25% hexaethyl tetraphosphate)*	Poison B	NA2783	Poison	None	173.359	Forbidden	1 quart	1,2	5	
	Hexaethyl tetraphosphate mixture, liquid *(containing not more than 25% hexaethyl tetraphophate)*	Poison B	UN2783	Poison	173.359	173.359	1 quart	1 quart	1,2	4	
	Hexafluorophosphoric acid	Corrosive material	UN1782	Corrosive	None	173.275	Forbidden	1 gallon	1,2	1,2	
	Hexafluoropropylene	Nonflammable gas	UN1858	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1	4	
	Hexafluoropropylene oxide	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Hexaldehyde	Flammable liquid	UN1207	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2165								

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *not more than 52% with inert solid. See* Organic peroxide, solid, n.o.s.		UN2166								
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2167								
	Hexamethylenediamine, solid	Corrosive material	UN2280	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
	Hexamethylenediamine, solution	Corrosive material	UN1783	Corrosive	173.244	173.292	1 quart	10 gallons	1,2	1,2	
	Hexamethyleneimine	Corrosive material	UN2493	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Hexamethylene triperoxide diamine (dry)	Forbidden									
	Hexamethylol benzene hexanitrate	Forbidden									
	Hexane	Flammable liquid	UN1208	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	4	
	2,2',4,4',6,6'-Hexanitro-3,3'-dihydroxyazobenzene (dry)	Forbidden									
	Hexanitroazoxy benzene	Forbidden									
	2,2',3',4,4',6-Hexanitrodiphenylamine	Forbidden									
	2,3',4,4',6,6'-Hexanitrodiphenylether	Forbidden									
	N,N'-(hexanitrodiphenyl)ethylene dinitramine (dry)	Forbidden									
	Hexanitrodiphenyl urea	Forbidden									
	Hexanitroethane	Forbidden									
	Hexanitrooxanilide	Forbidden									
	Hexanoic acid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Hexyltrichlorosilane	Corrosive material	UN1784	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	High explosive	Class A explosive		Explosive A	173.655	173.61 to 173.87	Forbidden	Forbidden	6	5	
	High explosive, liquid	Class A explosive		Explosive A	None	173.62	Forbidden	Forbidden	6	5	
	Hydraulic accumulator. *See* Accumulator, pressurized										
	Hydrazine, anhydrous	Flammable liquid	UN2029	Flammable liquid and Poison	None	173.276	Forbidden	5 pints	1	5	Segregation same as for corrosives
	Hydrazine, aqueous solution	Corrosive material	UN2030	Corrosive	None	173.276	Forbidden	5 pints	1	5	
	Hydrazine azide	Forbidden									
	Hydrazine chlorate	Forbidden									
	Hydrazine dicarbonic acid diazide	Forbidden									
	Hydrazine perchlorate	Forbidden									
	Hydrazine selenate	Forbidden									
	Hydriodic acid	Corrosive material	UN1787	Corrosive	173.244	173.245	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
	Hydrobromic acid, *more than 49% strength*	Corrosive material	UN1788	Corrosive	None	173.262	Forbidden	Forbidden	1	1	Glass carboys not permitted on passenger vessel
	Hydrobromic acid, anhydrous. *See* Hydrogen bromide										
	Hydrobromic acid not more than 49% strength	Corrosive material	UN1788	Corrosive	173.244	173.262	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
+	Hydrocarbon gas, liquefied	Flammable gas	UN1965	Flammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,2	1	
+	Hydrocarbon gas, nonliquefied	Flammable gas	UN1964	Flammable gas	173.306	173.302	Forbidden	300 pounds	1,2	1	
E	Hydrochloric acid *(RQ-5000/2270)*	Corrosive material	UN1789	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
E	Hydrochloric acid, anhydrous. *See* Hydrogen chloride										
E	Hydrochloric acid mixture *(RQ-5000/2270)*	Corrosive material	NA1789	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
E	Hydrochloric acid solution, inhibited *(RQ-5000/2270)*	Corrosive material	UN1789	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
E	Hydrocyanic acid *(prussic)* solution *(5% or more hydrocyanic acid) (RQ-10/4.54)*	Poison A	UN1613	Flammable gas and Poison gas	None	173.332	Forbidden	Forbidden	1	5	Shade from radiant heat. Aqueous solutions containing more than 20 percent hydrogen cyanide are not permitted in transportation by water
E	Hydrocyanic acid, liquefied *(RQ-10/4.54)*	Poison A	NA1051	Flammable gas and Poison gas	None	173.332	Forbidden	Forbidden	1	5	
	Hydrocyanic acid (prussic), unstabilized	Forbidden									
+E	Hydrocyanic acid solution, less than 5% hydrocyanic acid *(RQ-10/4.54)*	Poison B	UN1613	Poison	None	173.351	Forbidden	25 pounds	1	5	Shade from radiant heat
E	Hydrofluoric acid, anhydrous. *See* Hydrogen fluoride										

V 45 MY 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
E	Hydrofluoric acid solution (*RQ-5000/2270*)	Corrosive material	UN1790	Corrosive	173.244	173.264	1 quart	1 gallon	I	II	
E	Hydrofluoric and sulfuric acid mixture (*RQ-5000/2270*)	Corrosive material	UN1786	Corrosive	None	173.290	Forbidden	1 gallon	I	5	
	Hydrofluoroboric acid. *See* Fluoboric acid										
	Hydrofluorosilicic acid	Corrosive material	NA1778	Corrosive	None	173.285	1 quart	1 gallon	1,2	1,2	
+	Hydrogen	Flammable gas	UN1049	Flammable gas	173.306	173.302 173.314	Forbidden	300 pounds	1,2	54	
	Hydrogen bromide	Nonflammable gas	UN1048	Nonflammable gas	173.308	173.304	Forbidden	300 pounds	1	4	
E	Hydrogen chloride (*RQ-5000/2270*)	Nonflammable gas	UN1050	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1	4	
E	Hydrogen fluoride (*RQ-5000/2270*)	Corrosive material	NA1780	Corrosive	None	173.264	Forbidden	110 pounds	1	5	Segregation same as for nonflammable gases
	Hydrogen iodide solution. *See* Hydriodic acid										
+	Hydrogen, liquefied	Flammable gas	UN1966	Flammable gas	None	173.316	Forbidden	Forbidden			Forbidden
	Hydrogen peroxide solution (*40% to 52% peroxide*)	Oxidizer	UN2014	Oxidizer	173.244	173.266	Forbidden	Forbidden	I	4	Shade from radiant heat. Separate from permanganates. Keep away from powdered metals
	Hydrogen peroxide solution (*8% to 40% peroxide*)	Oxidizer	UN2014	Oxidizer	173.244	173.266	1 quart	1 gallon	1,2	1	Shade from radiant heat. Separate from permanganates. Keep away from powdered metals
	Hydrogen peroxide solution (*over 52% peroxide*)	Oxidizer	UN2015	Oxidizer and Corrosive	None	173.266	Forbidden	Forbidden	I	5	Shade from radiant heat. Separate from permanganates. Keep away from powdered metals. Concentrations greater than 60% hydrogen peroxide not permitted on any vessel except under conditions approved by the Department
+	Hydrogen selenide	Flammable gas	UN2202	Flammable gas and Poison	None	173.328	Forbidden	Forbidden	II	5	
E	Hydrogen sulfate. *See* Sulfuric acid										
+ E	Hydrogen sulfide (*RQ-100/45.4*)	Flammable gas	UN1053	Flammable gas and Poison	None	173.304 173.314	Forbidden	300 pounds	I	5	
	Hydrosilicofluoric acid. *See* Hydrofluorosilicic acid										
	Hydroxyl amine iodide	Forbidden									
E	Hypochlorite solution *containing more than 7% available chlorine by weight* (*RQ-100/45.4*)	Corrosive material	NA1791	Corrosive	173.244	173.277	1 quart	4 gallons	1,2	II	Glass carboys in hampers not permitted under deck
EA	Hypochlorite solution containing not more than 7% available chlorine *by weight* (*RQ-100/45.4*)	ORM_y B	NA1791	None	173.505	173.510	No limit	No limit			
	Hyponitrous acid	Forbidden									
	Igniter	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Igniter cord	Class C explosive		Explosive C	None	173.100	50 pounds	150 pounds	1,3	1,3	
	Igniter fuse, metal clad	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Igniter, jet thrust (jato)	Class A explosive		Explosive A	None	173.79	Forbidden	Forbidden	6	5	
	Igniter, jet thrust (jato)	Class B explosive		Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Igniter, rocket motor	Class A explosive		Explosive A	None	173.79	Forbidden	Forbidden	II	5	
	Igniter, rocket motor	Class B explosive		Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Illuminating projectile. See Fireworks, special										
	Iminobispropylamine	Corrosive material	UN2269	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Initiating explosive (*diazodinitrophenol*)	Class A explosive		Explosive A	None	173.70	Forbidden	Forbidden	6	5	
	Initiating explosive (*fulminate of mercury*)	Class A explosive		Explosive A	None	173.71	Forbidden	Forbidden	6	5	
	Initiating explosive (*guanyl nitrosamino guanylidene hydrazine*)	Class A explosive		Explosive A	None	173.72	Forbidden	Forbidden	6	5	
	Initiating explosive (*lead azide, dextrinated type only*)	Class A explosive		Explosive A	None	173.73	Forbidden	Forbidden	6	5	
	Initiating explosive (*lead mononitroresorcinate*)	Class A explosive		Explosive A	None	173.70	Forbidden	Forbidden	6	5	
	Initiating explosive (*lead styphnate (lead trinitroresorcinate)*)	Class A explosive		Explosive A	None	173.74	Forbidden	Forbidden	6	5	
	Initiating explosive (*nitro mannite*)	Class A explosive		Explosive A	None	173.75	Forbidden	Forbidden	6	5	
	Initiating explosive (*nitrosoguanidine*)	Class A explosive		Explosive A	None	173.76	Forbidden	Forbidden	6	5	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Initiating explosive (*pentaerythrite tetranitrate*)	Class A explosive		Explosive A	None	173.77	Forbidden	Forbidden	6	5	
	Initiating explosive (*tetrazene (guanyl nitrosamine guanyl tetrazene)*)	Class A explosive		Explosive A	None	173.78	Forbidden	Forbidden	II	5	
	Initiating explosives (dry)	Forbidden									
	Ink	Combustible liquid	UN2867	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ink	Flammable liquid	UN1210	Flammable liquid	173.118	173.144	1 quart	10 gallons	1,2	1	
	Inositol hexanitrate (dry)	Forbidden									
	Insecticide, dry, n.o.s.	Poison B	NA2588	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Insecticide, liquefied gas (*containing no Poison A or B material*)	Nonflammable gas	NA1968	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,3	1,3	
	Insecticide, liquefied gas, containing Poison A material *or* Poison B material	Poison A	NA1967	Poison gas	None	173.329 173.334	Forbidden	Forbidden	1	5	Shade from radiant heat
	Insecticide, liquid, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Insecticide, liquid, n.o.s.	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Insecticide, liquid, n.o.s.	Poison B	NA2902	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
W	Insulation tape (*varnished cloth type*). *See* Oiled material										
	Inulin trinitrate (dry)	Forbidden									
	Iodine azide (dry)	Forbidden									
	Iodine monochloride	Corrosive material	UN1792	Corrosive	None	173.293	Forbidden	1 quart	1	5	Keep dry
	Iodine pentafluoride	Oxidizer	UN2495	Oxidizer and Poison	None	173.246	Forbidden	100 pounds	1	1	Keep dry
	Iodoxy compounds (dry)	Forbidden									
	Iridium nitratopentamine iridium nitrate	Forbidden									
E	Iron chloride, solid. *See* Ferric chloride, solid										
	Iron mass *or* sponge, *not properly oxidized*	Flammable solid	NA1383	Flammable solid	None	173.174	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Iron mass *or* sponge, spent	Flammable solid	UN1376	Flammable solid	None	173.174	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Iron oxide, spent. *See* Iron mass *or* sponge, spent										
E	Iron sesquichloride, solid. *See* Ferric chloride										
	Irritating agent, n.o.s.	Irritating material	NA1693	Irritant	None	173.382	Forbidden	75 pounds	1	1	Stow away from living quarters
	Isobutane *or* Liquefied petroleum gas. *See* Liquefied petroleum gas										
	Isobutyl acetate	Flammable liquid	UN1213	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isobutylamine	Flammable liquid	UN1214	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isobutylene *or* Liquefied petroleum gas. *See* Liquefied petroleum gas										
	Isobutyric acid	Corrosive material	UN2529	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Isobutyric anhydride	Corrosive material	UN2530	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Isononanyl peroxide, *technically pure or* Isononanyl peroxide, *in solution.* *See* Organic peroxide, liquid *or* solution, n.o.s.		UN2128								
	Isooctane	Flammable liquid	UN1262	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isooctene	Flammable liquid	UN1216	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Isopentane	Flammable liquid	UN1265	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	
	Isopentanoic acid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
E	Isoprene (*RQ-1000/454*)	Flammable liquid	UN1218	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	II	
	Isopropanol	Flammable liquid	UN1219	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,0	1,2	
E	Isopropanolamine dodecylbenzenesulfonate (*RQ-1000/454*)	ORM-E	NA9127	None	None	173.510	No limit	No limit	1,2	1,2	
	Isopropyl acetate	Flammable liquid	UN1220	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isopropyl acid phosphate, solid	Corrosive material	UN1793	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
	Isopropyl alcohol. *See* Isopropanol										
	Isopropylamine	Flammable liquid	UN1221	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Isopropyl mercaptan	Flammable liquid	UN2703	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	II	

V 45 M Y 2 2 8 0 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Isopropyl nitrate	Flammable liquid	UN1222	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isopropyl percarbonate, stabilized	Organic peroxide	NA2134	Organic peroxide	None	173.282	Forbidden	Forbidden	5	5	
	Isopropyl percarbonate, unstabilized	Organic peroxide	NA2133	Organic peroxide	None	173.218	Forbidden	Forbidden	5	5	
	Isopropyl peroxydicarbonate, *technically pure. See* Isopropyl percarbonate, unstabilized		UN2133								
	Isopropyl peroxydicarbonate, *not more than 52% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2134								
	Isopropyl phosphoric acid, solid. *See* Isopropyl acid phosphate, solid										
	Isothiocyanic acid (polymerization hazard)	Forbidden									
	Jet thrust igniter. *See* Igniter, jet thrust										
	Jet thrust unit (*jato*)	Class A explosive		Explosive A	None	173.79	Forbidden	Forbidden	6	5	
	Jet thrust unit (*jato*)	Class B explosive		Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
W	*Jute. See* Fibers										
W	*Kapok. See* Fibers										
E	Kelthane (*RQ-5000/2270*)	ORM-E	NA2761	None	None	173.510	No limit	No limit	1,2	1,2	
E	Kepone (*RQ-1/0.454*)	ORM-E	NA2761	None	None	173.510	No limit	No limit	1,2	1,2	
	Kerosene	Combustible liquid	UN1223	None	173.118a	None	No limit	No limit	1,2	1,2	
	Lacquer. *See* Paint, Enamel, Lacquer, Stain, *etc.*										
	Lacquer base *or* Lacquer chips, plastic (*Wet with alcohol or solvent*)	Flammable liquid	NA1263	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,2	1	
	Lacquer base, *or* Lacquer chips, dry	Flammable solid	NA2557	Flammable solid	173.153	173.175	25 pounds	100 pounds	1	1	
	Lacquer base, liquid. *See* Paint, Enamel, Lacquer, Stain, *etc.*										
	Lacquer removing, reducing, *or* thinning compound. *See* Compound, lacquer, paint, *or* varnish, removing, reducing *or* thinning liquid										
	Lauroyl peroxide	Organic peroxide	UN2124	Organic peroxide	173.153	173.157 173.158	2 pounds	25 pounds	1,2	1	
	Lauroyl peroxide, *not more than 42%, stable dispersion, in water. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2893								
	Lauroyl peroxide, *technically pure. See* Lauroyl peroxide		UN2124								
E	Lead acetate (*RQ-5000/2270*)	ORM-E	UN1616	None	None	173.510	No limit	No limit	1,2	1,2	
E	Lead arsenate, solid (*RQ-5000/2270*)	Poison B	UN1617	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Lead arsenite, solid	Poison B	UN1618	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Lead azide. See Initiating explosive										
	Lead azide (dry)	Forbidden									
EA	Lead chloride (*RQ-5000/2270*)	ORM-B	NA2291	None	173.505	173.800	25 pounds	100 pounds	1,2	1,2	
	Lead cyanide	Poison B	UN1620	Poison	173.370		25 pounds	No limit	1,2	1,2	Stow away from acids
W	Lead dross (*containing 3% or more free acid*)	ORM-C	NA1794	None	173.505	173.1010			1,2	1,2	Segregation same as for corrosive materials
EA	Lead fluoborate (*RQ-5000/2270*)	ORM-B	NA2291	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
EA	Lead fluoride (*RQ-1000/454*)	ORM-B	NA2811	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
E	Lead iodide (*RQ-5000/2270*)	ORM-E	NA2811	None	None	173.510	No limit	No limit	1,2	1,2	
	Lead mononitroresorcinate. See Initiating explosive										
	Lead mononitroresorcinate (dry)	Forbidden									
E	Lead nitrate (*RQ-5000/2270*)	Oxidizer	UN1469	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
	Lead peroxide	Oxidizer	UN1872	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
	Lead picrate (dry)	Forbidden									
W	Lead scrap. *See* Lead dross										
E	Lead stearate (*RQ-5000/2270*)	ORM-E	NA2811	None	None	173.510	No limit	No limit	1,2	1,2	
	Lead styphnate (dry)	Forbidden									
	Lead styphnate (lead trinitroresorcinate). See Initiating explosive										
E	Lead sulfate, solid (*containing more than 3% free acid*) (*RQ-5000/2270*)	Corrosive material	UN1794	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
E	Lead sulfide (*RQ-5000/2270*)	ORM-E	NA2291	None	None	173.510	No limit	No limit	1,2	1,2	
E	Lead thiocyanate (*RQ-5000/2270*)	ORM-E	NA2291	None	None	173.510	No limit	No limit	1,2	1,2	
	Leather bleach *or* dressing	Flammable liquid	NA1142	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Leather bleach *or* dressing	Combustible liquid	NA1142	None	173.118a	None	No limit	No limit	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Life-rafts, inflatable	ORM-C		None	None	173.906	1 per inaccessible cargo compartment	No limit	1,2	1,2	
	Lighter fluid	Flammable liquid	UN1226	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Lime-nitrogen. See Calcium cyanamide, not hydrated										
	Lime, unslaked. *See* Calcium oxide										
EA	Lindane (*RQ-1/.454*)	ORM-A	NA2761	None	173.505	173.510	No limit	No limit	1,2	1,2	
+	Liquefied hydrocarbon gas. *See* Hydrocarbon gas, liquefied										
	Liquefied nonflammable gas (*charged with nitrogen, carbon dioxide, or air*)	Nonflammable gas	NA1956	Nonflammable gas	173.306	173.304	300 pounds	300 pounds	1,2	1,2	
+	Liquefied petroleum gas	Flammable [redacted]	UN1075	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Liquid other than one classed as flammable, corrosive, poison or irritant, charged with nitrogen, carbon dioxide, or air. See Compressed gas n.o.s.										
	Lithium acetylide-ethylene diamine complex	Flammable solid	NA2813	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Lithium aluminum hydride	Flammable solid	UN1410	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Lithium aluminum hydride, ethereal	Flammable liquid	UN1411	Flammable liquid	None	173.137	Forbidden	1 quart	1	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium amide, powdered	Flammable solid	UN1412	Flammable solid	173.153	173.168	25 pounds	100 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium battery. See 173.206(f).										
	Lithium borohydride	Flammable solid	UN1413	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Lithium chromate (*RQ-1000/454*)	ORM-E	NA9134	None	None	173.510	No limit	No limit	1,2	1,2	
	Lithium ferrosilicon	Flammable solid	UN2830	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hydride	Flammable solid	UN1414	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hydride in fused solid form	Flammable solid	UN2805	Flammable solid and Dangerous when wet	None	173.206	Forbidden	100 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hypochlorite compound, dry (*containing more than 39% available chlorine*)	Oxidizer	UN1471	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
	Lithium metal	Flammable solid	UN1415	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium metal, in cartridges	Flammable solid	NA1415	Flammable solid and Dangerous when wet	173.206	173.206	1 pound	25 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium nitride	Flammable solid	UN2806	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium peroxide	Oxidizer	UN1472	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
	Lithium silicon	Flammable solid	UN1417	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	London purple, solid	Poison B	UN1621	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Low blasting explosive. See Low explosive										
	Low explosive	Class A explosive		Explosive A	None	173.60	Forbidden	Forbidden	6	5	
	Lye. See Sodium hydroxide, solid										
	Magnesium aluminum phosphide	Flammable solid	UN1419	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
+	Magnesium arsenate, solid	Poison B	UN1622	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Magnesium dross, wet or hot. See 173.173	Forbidden									

V 45 MY 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

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	Magnesium, metal (*powdered, pellets, turnings, or ribbons*)	Flammable solid	UN1869	Flammable solid and Dangerous when wet	173.153	173.220	25 pounds	100 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	Magnesium nitrate	Oxidizer	UN1474	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Magnesium perchlorate	Oxidizer	UN1475	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Magnesium peroxide, solid	Oxidizer	UN1476	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
	Magnesium scrap (*borings, clippings, shavings, sheet, turnings, or scalpings*)	Flammable [illegible]	NA2793	Flammable solid and Dangerous when wet	173.153	173.220	Forbidden	Forbidden	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
A	Magnetized material	ORM-C	UN2807	Magnetized material	None	173.1020	No limit	No limit			
EA	Malathion (*RQ-10/4.54*)	ORM-A	NA2783	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	Maleic acid (*RQ-5000/2270*)	ORM-A	NA2215	None	173.505	173.510	50 pounds	200 pounds	1,2	1,2	Keep tightly closed.
EAW	Maleic anhydride (*RQ-5000/2270*)	ORM-A	UN2215	None	173.505	173.510	50 pounds	200 pounds	1,2	1,2	Stow away from foodstuffs
A	Manganese dioxide	ORM-B	NA1479	None	173.505	173.510	No limit	No limit			
	Mannitan tetranitrate	Forbidden									
	Matches, block. See Matches, strike anywhere										
	Matches, safety, *book, card, or strike-on-box*	Flammable solid	UN1944	Flammable solid	173.176	173.176	50 pounds	50 pounds	1,2	1	
	Matches, strike anywhere	Flammable solid	UN1331	Flammable solid	None	173.176	Forbidden	Forbidden	1,2	1	
E	Matting acid. *See* Sulfuric acid										
	Medicines, n.o.s.	Combustible liquid	UN1851	None	173.118a	None	No limit	No limit	1,2	1,2	
	Medicines, n.o.s.	Flammable liquid	UN1851	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Medicines, n.o.s.	Flammable [illegible]	UN1851	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
	Medicines, n.o.s.	Oxidizer	UN1851	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
	Medicines, n.o.s., liquid	Corrosive material	UN1851	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Medicines, n.o.s., liquid	Poison B	UN1851	Poison	173.345	173.346	1 quart	55 gallons	1,3	1	
	Medicines, n.o.s., solid	Corrosive material	UN1851	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Medicines, n.o.s., solid	Poison B	UN1851	Poison	173.364	173.365	50 pounds	200 pounds	1,3	1,3	
	Memtetrahydro phthalic anhydride	Corrosive material	NA1760	Corrosive	None	173.298	Forbidden	1 quart	1,2	1	
	p-Menthane hydroperoxide, *technically pure. See* Paramenthane hydroperoxide		UN2125								
	Mercaptan mixture, aliphatic	Flammable liquid	NA1228	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	5	
	Mercaptan mixture, aliphatic (*in containers over 110 gallons*)	Combustible liquid	NA1228	None	173.118a	None	Forbidden	10 gallons	1,2	1,2	
AW	Mercaptan mixture, aliphatic (*in containers of 110 gallons or less*). *See 173.141(b)*	ORM-A	NA1228	None	173.505	173.510	Forbidden	10 gallons	1,3	5	Stow in well ventilated space away from living quarters
E	Mercaptodimethur (*RQ-100/45.4*)	ORM-E	NA2757	None	None	173.510	No limit	No limit	1,2	1,2	
+	Mercuric acetate	Poison B	UN1629	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercuric ammonium chloride, solid	Poison B	UN1630	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercuric benzoate, solid	Poison B	UN1631	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercuric bromide, solid	Poison B	UN1634	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric chloride, solid	Poison B	UN1624	Poison	173.364	173.372	Forbidden	25 pounds	1,2	1,2	
+E	Mercuric cyanide, solid (*RQ-1/.454*)	Poison B	UN1636	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric iodide, solid	Poison B	UN1638	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric iodide solution	Poison B	NA1638	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Mercuric nitrate (*RQ-10/4.54*)	Oxidizer	UN1625	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	If stowed under deck, must be stowed in a recoverable location.
+	Mercuric oleate, solid	Poison B	UN1640	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric oxide, solid	Poison B	UN1641	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercuric oxycyanide, solid	Poison B	UN1642	Poison	173.364	173.365	25 pounds	200 pounds	1,2	1,2	Stow away from acids
+	Mercuric potassium cyanide, solid	Poison B	UN1626	Poison	173.364	173.365 173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
+	Mercuric potassium iodide, solid	Poison B	UN1643	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercuric salicylate solid	Poison B	UN1644	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercuric subsulfate, solid	Poison B	NA2625	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	Mercuric sulfate, solid (*RQ-10/4.54*)	Poison B	UN1645	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	Mercuric sulfocyanate, solid *or* Mercuric thiocyanate, solid (*RQ-10/4.54*)	Poison B	UN1646	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercurol *or* Mercury nucleate, solid	Poison B	UN1639	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercurous acetate, solid	Poison B	UN1629	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous azide	Forbidden									
+	Mercurous bromide, solid	Poison B	UN1634	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercurous gluconate, solid	Poison B	UN1637	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercurous iodide, solid	Poison B	NA1638	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Mercurous nitrate, solid (*RQ-10/4.54*)	Oxidizer	UN1627	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

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+	Mercurous oxide, black, solid	Poison B	UN1641	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Mercurous sulfate, solid	Poison B	UN1628	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercury acetylide	Forbidden									
	Mercury based pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2778	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Mercury based pesticide (*compounds and preparations*), liquid	Poison B	UN2777	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Mercury based pesticide (*compounds and preparations*), solid	Poison B	UN2777	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercury compound, n.o.s., solid	Poison B	UN2025	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercury fulminate. See Initiating explosive										
	Mercury iodide aquabasic ammonobasic (Iodide of Million's base)	Forbidden									
A	Mercury, metallic	ORM-B	NA2809	None	None	173.860	173.860	See 173.860			
	Mercury nitride	Forbidden									
	Mercury oxycyanide	Forbidden									
	Mesityl oxide	Flammable liquid	UN1229	Flammable liquid	None	173.119	1 quart	10 gallons	1,2	1,2	
	Metal alkyl solution, n.o.s.	Flammable liquid	NA9195	Flammable liquid	173.118	173.119	1 quart	1 gallon	1,2	1	
W	Metal borings, shavings, turnings, *or* cuttings (*ferrous metals only, except stainless steel*)	ORM-C	NA2793	None	173.505	173.1025			1,2	1,2	Keep dry, not permitted if temperature of material is at or above 130 deg F
	Metal salts of methyl nitramine (dry)	Forbidden									
+	Methane	Flammable gas	UN1971	Flammable [illegible]	173.306	173.302	Forbidden	300 pounds	1,2	4	
	Methanol. *See* Methyl alcohol										
	Methazoic acid	Forbidden									
E	Methoxychlor (*RQ-1/0.454*)	ORM-E	NA2761	None	None	173.510	No limit	No limit	1,2	1,2	
	Methyl acetate	Flammable liquid	UN1231	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl acetone	Flammable liquid	UN1232	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
+	Methylacetylene-propadiene, stabilized	Flammable [illegible]	UN1060	Flammable [illegible]	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Methyl acrylate, inhibited	Flammable liquid	UN1919	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methylal	Flammable liquid	UN1234	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Methyl alcohol	Flammable liquid	UN1230	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
+E	Methylamine, anhydrous (*RQ-1000/454*)	Flammable [illegible]	UN1061	Flammable [illegible]	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
E	Methylamine, aqueous solution (*RQ-1000/454*)	Flammable liquid	UN1235	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	Stow away from mercury and its compounds
	Methylamine dinitramine and dry salts thereof	Forbidden									
	Methylamine nitroform	Forbidden									
	Methylamine perchlorate (dry)	Forbidden									
	Methylamyl acetate	Flammable liquid	UN1233	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Methyl amyl ketone	Combustible liquid	UN1110	None	173.118a	None	No limit	No limit	1,2	1,2	
+	Methyl bromide and more than 2% chloropicrin mixture, liquid	Poison B	NA1581	Poison	None	173.353	Forbidden	Forbidden	1	5	Shade from radiant heat
+	Methyl bromide and nonflammable, nonliquefied compressed gas mixture, liquid (*including up to 2% chloropicrin*)	Poison B	NA1955	Poison	None	173.353a	Forbidden	300 pounds	1	5	Stow away from living quarters
+E	Methyl bromide - ethylene dibromide mixture, liquid (*RQ-1000/454*)	Poison B	UN1647	Poison	None	173.353	Forbidden	55 gallons	1	1	
+	Methyl bromide, liquid (*including up to 2% chloropicrin*)	Poison B	NA1581	Poison	None	173.353	Forbidden	55 gallons	1	5	Stow away from living quarters. Segregation same as for nonflammable gas.
	Methyl butene	Flammable liquid	NA2460	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Methyl butyrate	Flammable liquid	UN1237	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl cellosolve. See Ethylene glycol monomethyl ether										
	Methyl cellosolve acetate. See Ethylene glycol monomethyl ether acetate										
+	Methyl chloride	Flammable [illegible]	UN1063	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	
+	Methyl chloride-methylene chloride mixture	Flammable gas	UN1912	Flammable [illegible]	173.306	173.304 173.314	Forbidden	300 pounds	1,2	4	
	Methyl chlorocarbonate. *See* Methyl chloroformate										

V 45 M Y 2 2 8 0 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not exempted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
A	Methyl chloroform. *See* 1,1,1-Trichloroethane										
	Methyl chloroformate	Flammable liquid	UN1238	Flammable liquid and Poison	None	173.288	Forbidden	5 pints	1,2	1	
	Methylchloromethyl ether, anhydrous	Flammable liquid	UN1239	Flammable liquid and Poison	None	173.143	Forbidden	Forbidden	1	5	Shade from radiant heat
	Methylcyclohexane	Flammable liquid	UN2296	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	I	
	Methylcyclopentane	Flammable liquid	UN2298	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Methyl dichloroacetate	Corrosive material	UN2299	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Methyldichloroarsine	Poison A	NA1556	Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Methyl dichlorosilane	Flammable liquid	UN1242	Flammable liquid	None	173.136	Forbidden	5 pints	1,2	1	
	Methylene chloride. *See* Dichloromethane										
	Methylene glycol dinitrate	Forbidden									
	Methyl ethyl ether. *See* Ethyl methyl ether										
	Methyl ethyl ketone	Flammable liquid	UN1193	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl ethyl ketone peroxide, *in solution with not more than 9% by weight active oxygen.* See Organic peroxide, liquid, *or* solution, n.o.s.		UN2550								
	Methyl ethyl ketone peroxide, in solution with more than 9% by weight active oxygen	Forbidden									
	Methyl ethyl pyridine	Corrosive material	UN2300	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Methyl formate	Flammable liquid	UN1243	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	
	Methylfuran	Flammable liquid	UN2301	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	a-Methylglucoside tetranitrate	Forbidden									
	a-Methylglycerol trinitrate	Forbidden									
	Methylhydrazine	Flammable liquid	UN1244	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Stow separate from oxidizing materials and corrosives
	Methyl isobutyl ketone peroxide, *in solution with not more than 9% by weight active oxygen.* See Organic peroxide, liquid *or* solution, n.o.s.		UN2126								
	Methyl isobutyl ketone peroxide, in solution with more than 9% by weight active oxygen	Forbidden									
	Methyl isopropenyl ketone, inhibited	Flammable liquid	UN1246	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl magnesium bromide in ethyl ether *not over 40% concentration*	Flammable liquid	UN1928	Flammable liquid	None	173.149	Forbidden	Forbidden	1	1	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials or organic peroxides
+E	Methyl mercaptan (*RQ-100/45.4*)	Flammable gas	UN1064	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
E	Methyl methacrylate monomer, inhibited (*RQ-5000/2270*)	Flammable liquid	UN1247	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Methyl methacrylate monomer, uninhibited (*high-purity, if acceptable under 173.21 of this subchapter*) (*RQ-5000/2270*)	Flammable liquid	NA1247	Flammable liquid	173.118	173.119	Forbidden	Forbidden	1,2	1	
	Methyl nitrate	Forbidden									
	N-Methyl-N'-nitro-N-nitrosoguanidine (*not exceeding 25 grams in one outside packaging*)	Flammable solid	NA1325	Flammable solid	None	173.179	Forbidden	Forbidden	4	5	
	Methyl norbornene dicarboxylic anhydride. *See* Memtetrahydro phthalic anhydride										
E	Methyl parathion, liquid (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
E	Methyl parathion mixture, dry (*RQ-100/45.4*)	Poison B	NA2783	Poison	173.377	173.377	50 pounds	200 pounds	1,2	1,2	
E	Methyl parathion mixture, liquid, (containing 25% or less methyl parathion) (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.359	1/2 pint	1 quart	1,2	1,2	
E	Methyl parathion mixture, liquid, (*containing over 25% methyl parathion*) (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.359	Forbidden	1 quart	1,2	1,2	
	Methylpentadiene	Flammable liquid	UN2461	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl pentane	Flammable liquid	UN2462	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl phosphonothioic dichloride, anhydrous	Corrosive material	NA1760	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Methyl phosphonous dichloride	Corrosive material	NA1760	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Methyl picric acid (heavy metal salts of)	Forbidden									

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not exempted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Methyl propionate	Flammable liquid	UN1248	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	I	
	Methyl propyl ketone	Flammable liquid	UN1249	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	I	
	Methyl sulfate. *See* Dimethyl sulfate										
	Methyl sulfide. *See* Dimethyl sulfide										
	Methyltrichlorosilane	Flammable liquid	UN1250	Flammable liquid	None	173.135	Forbidden	10 gallons	1,2	1	
	Methyl trimethylol methane trinitrate	Forbidden									
	Methyl vinyl ketone, inhibited	Flammable liquid	UN1251	Flammable liquid	173.147	173.147	4 ounces	10 gallons	1,2	I	
E	Mevinphos (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.364	173.365	Forbidden	1 quart	2	II	
E	Mexacarbate (*RQ-1000/454*)	Poison B	NA2757	Poison	173.364	173.365	50 pounds	200 pounds	II	2	
	Mild detonating fuse, metal clad. See Fuse, mild detonating, metal clad										
	Mine, empty. See 173.55										
	Mine, explosive, with gaseous material. See Explosive mine										
	Mine rescue equipment containing carbon dioxide	Nonflammable gas		Nonflammable gas	173.306			150 pounds	300 pounds	1,2	1,2
	Mining reagent, liquid (*containing 20% or more cresylic acid*)	Corrosive material	NA2022	Corrosive	173.244	173.245 173.249a	1 quart	10 gallons	1,2	1,2	
A	Mipafox	ORM-A	UN2783	None	173.505	173.510	No limit	No limit			
E	Mixed acid. *See* Nitrating acid										
A	Molybdenum pentachloride	ORM-B	UN2508	None	173.505	173.800	25 pounds	100 pounds			
	Monobromotrifluoromethane	Nonflammable gas	UN1009	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochloroacetone, stabilized *or* inhibited	Irritating material	NA1695	Irritant	None	173.384	Forbidden	5 gallons	1	1	Stow away from living quarters
	Monochloroacetone (unstabilized)	Forbidden									
	Monochlorodifluoromethane	Nonflammable gas	UN1018	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Monochloroethylene. *See* Vinyl chloride										
	Monochloropentafluoroethane	Nonflammable gas	UN1020	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Monochlorotetrafluoroethane	Nonflammable gas	UN1021	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorotrifluoromethane	Nonflammable gas	UN1022	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Monoethanolamine	Corrosive material	UN2491	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
E	Monoethylamine (*RQ-1000/454*)	Flammable liquid	UN1036	Flammable liquid	None	173.148	Forbidden	5 pints	1,2	5	Segregation same as for flammable gas
	Monofluorophosphoric acid, anhydrous	Corrosive material	UN1776	Corrosive	None	173.275	Forbidden	1 gallon	1,2	1,2	Keep dry
	Morpholine	Flammable liquid	UN2054	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Morpholine, aqueous, mixture	Flammable liquid	NA2054	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Morpholine, aqueous, mixture	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1	4	
	Mortar stain, liquid	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Mortar stain, liquid	Flammable liquid	NA1993	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	I	
	Moth balls. See Naphthalene										
	Motion picture film. See Film										
E	Motor fuel antiknock compound *or* Antiknock compound (*RQ100/45.4*)	Poison B	UN1649	Poison	[illegible]	173.354	Forbidden	55 gallons	1	II	If flashpoint less than 141 deg F, segregation same as for flammable liquids
E	Motor fuel antiknock compound *or* Antiknock compound; containing tetraethyl lead (*RQ-100/45.4*)	[illegible] Poison B	UN1649	Poison	None	173.354	Forbidden	55 gallons	1	II	If flashpoint is less than 141 DEG F, segregation same as for flammable liquids
	Motor fuel, n.o.s.	Combustible liquid	NA1203	None	173.118a	None	No limit	No limit	1,2	1,2	
	Motor fuel, n.o.s.	Flammable liquid	NA1203	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Motor, internal combustion				173.120						
	Motor vehicle, *etc., including automobile, motorcycle, truck, tractor, and other self-propelled vehicle or equipment powered by internal combustion engine, when offered new or used for transportation and which contain fuel in the engine or fuel tank or the electric storage battery is connected to either terminal of the electrical system*	ORM-C		None	173.120 173.250 173.257 173.306 175.305 176.905				1,2	1,2	
E	Muriatic acid. *See* Hydrochloric acid										
E	Naled (*RQ-10/4.54*)	ORM-E	NA2783	None	None	173.510	No limit	No limit	1,2	1,2	
	Naphtha	Combustible liquid	UN2553	None	173.118a	None	No limit	No limit	1,2	1,2	

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

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	Naphtha	Flammable liquid	UN2553	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphtha distillate	Combustible liquid	NA1268	None	173.118a	None	No limit	No limit	1,2	1,2	
	Naphtha distillate	Flammable liquid	NA1268	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EAW	Naphthalene *or* Naphthalin (*RQ-5000/2270*)	ORM-A	UN1334	None	173.505	173.655	25 pounds	300 pounds	1,2	1,2	Segregation same as for flammable solids
	Naphthalene diozonide	Forbidden									
	Naphtha petroleum. See Petroleum naphtha										
	Naphtha, solvent	Combustible liquid	UN1256	None	173.118a	None	No limit	No limit	1,2	1,2	
	Naphtha, solvent	Flammable liquid	UN1256	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Naphthenic acid (*RQ-100/45.4*)	ORM-E	NA9137	None	None	173.510	No limit	No limit	1,2	1,2	
	Naphthyl amineperchlorate	Forbidden									
	Natural gasoline. See Gasoline										
	Neohexane	Flammable liquid	UN1208	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Neon	Nonflammable gas	UN1065	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	New explosive or explosive device. See 173.51 and 173.86										
E	Nickel ammonium sulfate (*RQ-5000/2270*)	ORM-E	NA9138	None	None	173.510	No limit	No limit	1,2	1,2	
	Nickel carbonyl	Flammable liquid	UN1259	Flammable liquid and Poison	None	173.126	Forbidden	Forbidden	1	5	Not permitted on a vessel carrying explosives. Shade from radiant heat. Segregation same as for flammable liquids 1a[2]
	Nickel catalyst, wet, *finely divided, activated, or spent. With not less than 40% water or other suitable liquid*	Flammable [redacted]	UN1378	Flammable solid	None	173.233	Forbidden	100 pounds	1,2	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
E	Nickel chloride (*RQ-5000/2270*)	ORM-E	NA9139	None	None	173.510	No limit	No limit	1,2	1,2	
+	Nickel cyanide, solid	Poison B	UN1653	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
E	Nickel hydroxide (*RQ-1000/454*)	ORM-E	NA9140	None	None	173.510	No limit	No limit	1,2	1,2	
E	Nickel nitrate (*RQ-5000/2270*)	Oxidizer	UN2725	Oxidiser	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Nickel picrate	Forbidden									
E	Nickel sulfate (*RQ-5000/2270*)	ORM-E	NA9141	None	None	173.510	No limit	No limit	1,2	1,2	
	Nicotine hydrochloride	Poison B	UN1656	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nicotine, liquid	Poison B	UN1654	Poison	None	173.346	Forbidden	55 gallons	1,2	1,2	
	Nicotine salicylate	Poison B	UN1657	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+	Nicotine sulfate, liquid	Poison B	UN1658	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
+	Nicotine sulfate, solid	Poison B	UN1658	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Nicotine tartrate	Poison B	UN1659	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Nitrated paper (unstable)	Forbidden									
	Nitrate, n.o.s.	Oxidizer	NA1477	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Nitrate of ammonia explosives. See High explosive										
	Nitrates of diazonium compounds	Forbidden									
E	Nitrating acid (*RQ-1000/454*)	Oxidizer	NA1796	Oxidizer	None	173.267	Forbidden	1 quart	1	5	
E	Nitrating acid, spent (*RQ-1000/454*)	Corrosive material	NA1796	Corrosive	None	173.248	Forbidden	1 quart	1	5	Segregation same as for corrosive materials
E	Nitric acid (*over 40%*) (*RQ-1000/454*)	Oxidizer	UN2031	Oxidizer and Corrosive	None	173.268	Forbidden	5 pints	1	5	Segregation same as for corrosive materials. Stow away from hydrazine, separate from diethylenetriamine
E	Nitric acid, 40% or less (*RQ-1000/454*)	Corrosive material	NA1760	Corrosive	None	173.268	Forbidden	5 pints	1	5	Stow away from hydrazine, separate from diethylenetriamine
E	Nitric acid, fuming (*RQ-1000/454*)	Oxidizer	UN2032	Oxidizer and Poison	None	173.268	Forbidden	Forbidden	1	5	Segregation same as for corrosive materials. Stow away from hydrazine, separate from diethylenetriamine
	Nitric ether. See Ethyl nitrate										
	Nitric oxide	Poison A	UN1660	Poison gas	None	173.337	Forbidden	Forbidden	1	5	
	2-Nitro-2-methylpropanol nitrate	Forbidden									
	6-Nitro-4-diazotoluene-3-sulfonic acid (dry)	Forbidden									
	p-Nitroaniline. *See* Nitroaniline										
	N-Nitroaniline	Forbidden									
+	Nitroaniline	Poison B	UN1661	Poison	173.364	173.373	50 pounds	200 pounds	1,2	1,2	
	m-Nitrobenzene diazonium perchlorate	Forbidden									
E	Nitrobenzene, liquid *or* Nitrobenzol, liquid (*oil of mirbane*) (*RQ-1000/454*)	Poison B	UN1662	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nitro carbonitrate. See Blasting agent, n.o.s.										
	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% alcohol *or* solvent, *or* block, wet with not less than 25% alcohol	Flammable liquid	NA2059	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,3	1	
	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% water	Flammable solid	NA2555	Flammable solid	173.153	173.184	25 pounds	100 pounds	1,3	1	
	Nitrocellulose, *dry. See* High explosive										
	Nitrocellulose, wet with not less than 30% alcohol *or* solvent	Flammable liquid	NA2556	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,3	1	

§172.101 Hazardous Materials Table (cont'd)

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	Nitrocellulose, wet with not less than 20% water	Flammable solid	NA2555	Flammable solid	173.153	173.184	25 pounds	100 pounds	1,3	1	
+	Nitrochlorobenzene, meta *or* para, solid	Poison B	NA1578	Poison	173.364	173.374	50 pounds	200 pounds	1,2	1,2	
+	Nitrochlorobenzene, ortho, liquid	Poison B	NA1578	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nitroethylene polymer	Forbidden									
	Nitroethyl nitrate	Forbidden									
	Nitrogen	Nonflammable gas	UN1066	Nonflammable gas	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,2	
E	Nitrogen dioxide, liquid (*RQ-1000/454*)	Poison A	UN1067	Poison gas and Oxidizer	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials
	Nitrogen fertilizer solution	Nonflammable gas	NA1043	Nonflammable [redacted]	173.306	173.304 173.314	150 pounds	300 pounds	1,3	1,3	
	Nitrogen peroxide, liquid	Poison A	NA1067	Poison gas and Oxidizer	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gas. Stow away from organic materials
	Nitrogen, pressurized liquid	Nonflammable [redacted]	UN1977	Nonflammable [redacted]	None	173.304	Forbidden	300 pounds	1,3	1,3	
	Nitrogen tetroxide, liquid	Poison A	NA1067	Poison gas and Oxidizer	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials
	Nitrogen trichloride	Forbidden									
	Nitrogen trifluoride	Nonflammable [redacted]	UN2451	Nonflammable gas	None	173.302	Forbidden	300 pounds	1	5	Stow away from living quarters and organic materials
	Nitrogen triiodide	Forbidden									
	Nitrogen triiodide monoamine	Forbidden									
	Nitroglycerin, liquid, desensitized. See High explosive, liquid										
	Nitroglycerin, liquid, not desensitized. See 173.51	Forbidden									
	Nitroglycerin, spirits of. See Spirits of nitroglycerin										
	Nitroguanidine, dry. See High explosive										
	Nitroguanidine nitrate	Forbidden									
	Nitroguanidine, wet with not less than 20% water	Flammable solid	UN1336	Flammable solid	173.153	173.184	25 pounds	100 pounds	1,2	4	
	1-Nitro hydantoin	Forbidden									
E	Nitrohydrochloric acid (*RQ-1000/454*)	Corrosive material	UN1798	Corrosive	None	173.278	Forbidden	5 pints	1	5	
E	Nitrohydrochloric acid, diluted (*RQ-1000/454*)	Corrosive material	NA1798	Corrosive	None	173.278	Forbidden	5 pints	1	5	
	Nitro isobutane triol trinitrate	Forbidden									
	Nitromannite. See High explosive										
	Nitromannite (dry)	Forbidden									
	Nitromethane	Flammable liquid	UN1261	Flammable liquid	173.118	173.149a	1 quart	10 gallons	1,2	1,2	
E	Nitromuriatic acid. *See* Nitrohydrochloric acid										
	N-Nitro-N-methylglycolamide nitrate	Forbidden									
E	Nitrophenol (*RQ-1000/454*)	ORM-E	UN1663	None	None	173.510	No limit	No limit	1,2	1,2	
	Nitrophenol pesticide, substituted (*compounds and preparations*), liquid *or* solid. *See* Substituted nitrophenol pesticide (*compounds and preparations*), liquid *or* solid										
	m-Nitrophenyldinitro methane	Forbidden									
	Nitrosoguanidine. *See* Initiating explosive										
	Nitrostarch, dry. *See* High explosive										
	Nitrostarch, wet with not less than 30% alcohol *or* solvent	Flammable liquid	NA1993	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,2	1	
	Nitrostarch, wet with not less than 20% water	Flammable [redacted]	UN1337	Flammable solid	173.153	173.184	25 pounds	100 pounds	1	4	
	Nitrosugars (dry)	Forbidden									
	Nitrosyl chloride	Nonflammable gas	UN1069	Nonflammable [redacted]	173.306	173.304 173.314	Forbidden	300 pounds	1	4	
E	Nitrotoluene (*RQ-1000/454*)	ORM-E	UN1664	None	None	173.510	No limit	No limit	1,2	1,2	
	Nitrourea. See High explosive										
	Nitrous oxide	Nonflammable [redacted]	UN1070	Nonflammable [redacted]	173.306	173.304 173.315	150 pounds	300 pounds	1,2	1,2	Under deck stowage must be in well-ventilated space
+	Nitroxylol	Poison B	NA1665	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	
	Nonflammable gas, n.o.s. *See* Compressed gas, n.o.s.										
+	Nonliquefied hydrocarbon gas. *See* Hydrocarbon gas, nonliquefied										
	Nonyltrichlorosilane	Corrosive material	UN1799	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
E W	Nordhausen acid. *See* Sulfuric acid										
	Oakum	ORM-C		None	173.505	173.1030			1,2	1,2	

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§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Octadecyltrichlorosilane	Corrosive material	UN1800	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	1.7-Octadiene-3.5-diyne-1.8-dimethoxy-9-octodecynoic acid	Forbidden									
	Octane	Flammable liquid	UN1262	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	n-Octanoyl peroxide, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2129								
	Octyltrichlorosilane	Corrosive material	UN1801	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Oil, *described as oil*, Oil, n.o.s., Petroleum oil, *or* Petroleum oil, n.o.s.	Combustible liquid	NA1270	None	173.118a	None	No limit	No limit	1,2	1,2	
	Oil, *described as oil*, Oil, n.o.s., Petroleum oil, *or* Petroleum oil, n.o.s.	Flammable liquid	NA1270	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Oiled clothing (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material										
AW	Oiled material (*manufactured article properly dried to prevent spontaneous heating*)	ORM-C	NA9053	None	173.505	173.1035	No limit	No limit	1,3	1,3	
	Oiled paper (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material										
	Oil of mirbane. See Nitrobenzene, liquid										
	Oil of vitriol. See Sulfuric acid										
	Oil well cartridge	Class C explosive		Class C explosive	None	173.112	50 pounds	150 pounds	1,3	1,3	
E	Oleum (*fuming sulfuric acid*) (*RQ-1000/454*)	Corrosive material	NA1831	Corrosive	None	173.272	Forbidden	5 pints	1,2	1	Under deck stowage must be in metal drums only. Keep dry.
	Organic peroxide liquid *or* solution, n.o.s.	Flammable liquid	NA1993	Flammable liquid and Organic peroxide	None	173.119	Forbidden	1 quart	1,2	5	Stow separate from combustible materials, explosives, or acids
	Organic peroxide, liquid, *or* solution, n.o.s.	Organic peroxide	NA9183	Organic peroxide	173.153	173.221	Forbidden	1 quart	1,2	1,2	Stow separate from combustible materials, explosives, or acids.
	Organic peroxide, mixture. *See* Organic peroxide, solid, n.o.s. *or* Organic peroxide, liquid *or* solution, n.o.s., *as appropriate*		UN2756								
	Organic peroxide, sample, n.o.s. *See* Organic peroxide, solid, n.o.s. *or* Organic peroxide, liquid *or* solution, n.o.s., *as appropriate*		UN2255								
	Organic peroxide, solid, n.o.s.	Organic peroxide		Organic peroxide	173.153	173.154	Forbidden	25 pounds	1,2	1,2	Stow separate from combustible materials, explosives, or acids.
	Organic peroxide, trial quantity, n.o.s. *See* Organic peroxide, solid, n.o.s. *or* Organic peroxide, liquid *or* solution, n.o.s., *as appropriate*		UN2899								
	Organic phosphate mixture, Organic phosphate compound mixture, *or* Organic phosphorus compound mixture; liquid	Poison B	NA2783	Poison	173.358	173.359	1/2 pint	1 quart	1,2	5	
	Organic phosphate mixture, Organic phosphate compound mixture, *or* Organic phosphorus compound mixture; solid *or* dry	Poison B	NA2783	Poison	173.377	173.377	50 pounds	200 pounds	1,2	4	
	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; mixed with compressed gas	Poison A	NA1955	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat
	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; liquid	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; solid *or* dry	Poison B	NA2783	Poison	None	173.377	Forbidden	200 pounds	1,2	4	
	Organochlorine pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2762	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Organochlorine pesticide (*compounds and preparations*), liquid	Poison B	UN2761	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Organochlorine pesticide (*compounds and preparations*), solid	Poison B	UN2761	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Organophosphorus pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2784	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	5	
	Organophosphorus pesticide (*compounds and preparations*), liquid	Poison B	UN2783	Poison	173.359	173.359	Forbidden	1 quart	1,2	5	
	Organophosphorus pesticide (*compounds and preparations*), solid	Poison B	UN2783	Poison	173.377	173.377	Forbidden	200 pounds	1,2	4	
	Organotin pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2787	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Organotin pesticide (*compounds and preparations*), liquid	Poison B	UN2786	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Organotin pesticide (*compounds and preparations*), solid	Poison	UN2786	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
A	ORM-A, n.o.s.	ORM-A	NA1693	None	173.505	173.510	No limit	No limit			

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
A	ORM-B, n.o.s.	ORM-B	NA1760	None	173.505	173.510	No limit	No limit			
	ORM-C. See 173.500 and 176.900										
	Orthonitroaniline. *See* Nitroaniline										
	Oxidizer, corrosive, liquid, n.o.s.	Oxidizer	NA9193	Oxidizer and Corrosive	None	173.245	[redacted]	1 quart	1	5	
	Oxidizer, corrosive, solid, n.o.s.	Oxidizer	NA9194	Oxidizer and Corrosive	173.153	173.154	25 pounds	25 pounds	1	[redacted]	
	Oxidizer material packed with other articles. See 173.152										
	Oxidizer, n.o.s. *or* Oxidizing material, n.o.s.	Oxidizer	UN1479	Oxidizer	173.153	173.154	25 pounds	25 pounds	1,2	1,2	
	Oxidizer, poisonous, liquid, n.o.s.	Oxidizer	NA9199	Oxidizer and Poison	None	173.154	Forbidden	1 quart	1	5	
	Oxidizer, poisonous, solid, n.o.s.	Oxidizer	NA9200	Oxidizer and Poison	173.153	173.154	25 pounds	25 pounds	1,2	[redacted]	
	Oxygen	Nonflammable [redacted]	NA1072	Oxidizer	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,2	Under deck stowage must be in well ventilated space
	Oxygen, pressurized liquid	Nonflammable [redacted]	NA1073	Oxidizer	None	173.304	Forbidden	Forbidden	1,3	1,3	Stow separate from acetylene. Do not overstow with other cargo
	Paint drier, liquid	Combustible liquid	UN1168	None	173.118a	None	No limit	No limit	1,2	1,2	
	Paint drier, liquid	Flammable liquid	UN1168	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
	Paint, Enamel, Lacquer, Stain, Shellac, *or* Varnish; Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base, liquid	Combustible liquid	UN1263	None	173.118a	None	No limit	No limit	1,2	1,2	
	Paint, Enamel, Lacquer, Stain, Shellac, *or* Varnish; Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base, liquid	Flammable liquid	UN1263	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
	Paint, reducing or thinning compound. See Compound, lacquer, paint, *or* varnish, removing, reducing *or* thinning, liquid										
	Paper caps. See Toy caps										
W	Paper scrap (*when dry, clean, and free from oil*)	ORM-C		None	173.505	173.1075			1,2	1,2	
	Paper stock, wet	Flammable solid	NA1325	Flammable solid	None	173.185	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Paper waste (*when dry, clean, and free from oil*). *See* Paper scrap										
	Paper waste, wet. *See* Waste Paper, wet										
EAW	Paraformaldehyde (*RQ-1000/454*)	ORM-A	UN2213	None	173.505	173.510	50 pounds	200 pounds	1,2	1,2	
	Paraldehyde	Flammable liquid	UN1264	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Paramenthane hydroperoxide	Organic peroxide	UN2125	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Paranitroaniline, solid. *See* Nitroaniline										
E	Parathion and compressed gas mixture (*RQ-1/.454*)	Poison A	NA1967	Poison gas	None	173.334	Forbidden	Forbidden	1,3	5	
E	Parathion, liquid (*RQ-1/.454*)	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
E	Parathion mixture, dry (*RQ-1/.454*)	Poison B	NA2783	Poison	173.377	173.377	50 pounds	200 pounds	1,3	1,3	
E	Parathion mixture, liquid (*RQ-1/.454*)	Poison B	NA2783	Poison	None	173.359	Forbidden	1 quart	1,3	1,3	
E	Paris green, solid. *See* Copper acetoarsenite, solid										
E	PCB. *See* Polychlorinated biphenyls										
	Pelargonyl peroxide, *technically pure. See* Organic peroxide, solid, n.o.s.		UN2130								
	Pentaborane	Flammable liquid	UN1380	Flammable liquid and Poison	None	173.138	Forbidden	Forbidden	1	5	Segregation same as for flammable solids. Separate from flammable gases or liquidsids, oxidizing materials, or organic peroxides
E	Pentachlorophenol (*RQ-10/4.54*)	ORM-E	NA2020	None	None	173.510	No limit	No limit	1,2	1,2	
	Pentaerythrite tetranitrate. See Initiating explosive										
	Pentaerythrite tetranitrate, desensitized, wet. See High explosive										
	Pentaerythrite tetranitrate (dry)	Forbidden									
	Pentane	Flammable liquid	UN1265	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	
	Pentanitroaniline (dry)	Forbidden									
	Pentolite, dry. See High explosive										
	Peracetic acid solution, *not over 43% peracetic acid and not over 6% hydrogen peroxide*	Organic peroxide	NA2131	Organic peroxide	173.223	173.223	1 pint	5 pints	1	4	Shade from radiant heat
	Perchlorate, n.o.s.	Oxidizer	NA1481	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Perchloric acid, *exceeding 50% but not* exceeding 72% strength	Oxidizer	UN1873	Oxidizer	None	173.269	Forbidden	5 pints	1	5	Segregation same as for corrosive materials. Stow away from hydrazine.
	Perchloric acid exceeding 72% strength	Forbidden									
	Perchloric acid, not over 50% acid	Oxidizer	UN1802	Oxidizer	173.244	173.269	Forbidden	5 pints	1	1	Segregation same as for corrosive materials. Stow away from hydrazine
+	Perchloromethyl mercaptan	Poison B	UN1670	Poison	173.345	173.360	Forbidden	10 pounds	1	4	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Percussion cap	Class C explosive		None	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Percussion fuze	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
A	Perfluoro-2-butene	ORM-A	NA2422	None	173.505	173.605	10 gallons	55 gallons			
	Permanganate, n.o.s.	Oxidizer	NA1482	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds, hydrogen peroxide, and acids
E	*Permanganate of potash. See* Potassium permanganate										
	Peroxide, organic. See Organic Peroxide										
	Peroxyacetic acid, *not more than 43% and with not more than 6% hydrogen peroxide See* Peracetic acid solution, *not over 43% peracetic acid and not over 6% hydrogen peroxide.*		UN2131								
	Peroxyacetic acid, more than 43% and with more than 6% hydrogen peroxide	Forbidden									
W	Pesticide, water reactive, *including but not limited to fungicides, and herbicides, etc., which contain manganese ethylenebisdithiocarbamate*	ORM-C	NA2210	None	173.505	173.1040			2	2	Keep dry
W	Petroleum coke (*uncalcined*)	ORM-C		None	173.505	173.1045			1,2	1,2	Not permitted if temperature of material is at or above 130 deg F
	Petroleum crude. See Crude oil										
	Petroleum distillate	Combustible liquid	UN1268	None	173.118a	None	No limit	No limit	1,2	1,2	
	Petroleum distillate	Flammable liquid	UN1268	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Petroleum ether	Flammable liquid	UN1271	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Petroleum gas, liquefied. *See* Liquefied petroleum gas										
	Petroleum naphtha	Combustible liquid	UN1255	None	173.118a	None	No limit	No limit	1,2	1,2	
	Petroleum naphtha	Flammable liquid	UN1255	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
A	Phencapton	ORM-A	NA2783	None	173.505	173.510	No limit	No limit			
+E	Phenol (*RQ-1000/454*)	Poison B	UN1671	Poison	173.364	173.369	50 pounds	250 pounds	1,2	1,2	
E	Phenol, liquid *or* solution (*liquid tar acid containing over 50% phenol*) (*RQ-1000/454*)	Poison B	NA2821	Poison	173.345	173.349	1 quart	55 gallons	1,2	1,2	
	Phenoxy pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2766	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Phenoxy pesticide (*compounds and preparations*), liquid	Poison B	UN2765	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Phenoxy pesticide (*compounds and preparations*), solid	Poison B	UN2765	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
A	Phenylenediamine, meta *or* para, solid	ORM-A	UN1673	None	173.505	173.510	No limit	No limit			
	Phenyldichloroarsine	Poison B	NA1556	Poison	None	173.355	Forbidden	30 gallons	1	5	
	m-Phenylene diaminediperchlorate (dry)	Forbidden									
	Phenyltrichlorosilane	Corrosive material	UN1804	Corrosive	None	173.280	Forbidden	10 gallons	I	I	Keep dry
	Phenylurea pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2768	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Phenylurea pesticide (*compounds and preparations*), liquid	Poison B	UN2767	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Phenylurea pesticide (*compounds and preparations*), solid	Poison B	UN2767	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Phosgene (*diphosgene*) (*RQ-5000/2270*)	Poison A	UN1076	Poison gas	None	173.333	Forbidden	Forbidden	1	5	
	Phosphine	Poison A	UN2199	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	
E	Phosphoric acid (*RQ-5000/2270*)	Corrosive material	UN1805	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
	Phosphoric acid triethyleneimine. *See* Tris-(1-aziridiyl) phosphine oxide										
	Phosphoric anhydride (*phosphorus pentoxide*)	Corrosive material	NA1807	Corrosive	None	173.188	Forbidden	100 pounds	1,2	1,2	Keep dry. Glass bottles not permitted under deck
E	Phosphorus, amorphous, red (*RQ-1/.454*)	Flammable solid	UN1338	Flammable solid	None	173.189	Forbidden	11 pounds	1,2	1,2	
	Phosphorus bromide. *See* Phosphorus tribromide										
E	Phosphorus chloride. *See* Phosphorus trichloride										
	Phosphorus heptasulfide	Flammable solid	UN1339	Flammable solid	None	173.225	Forbidden	10 pounds	1,2	1	Separate from oxidizing materials
	Phosphorus oxybromide	Corrosive material	UN1939	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Phosphorus oxychloride (*RQ-5000/2270*)	Corrosive material	UN1810	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Phosphorus pentachloride, solid	Corrosive material	UN1806	Corrosive	None	173.191	Forbidden	5 pounds	1	1	Keep dry
E	Phosphorus pentasulfide (*RQ-1000/454*)	Flammable solid	UN1340	Flammable solid and Dangerous when wet	None	173.225	Forbidden	11 pounds	1,2	1,2	Separate from oxidizing material
	Phosphorus sesquisulfide	Flammable	UN1341	Flammable solid and Dangerous when wet	None	173.225	Forbidden	11 pounds	1,2	1	Separate from oxidizing materials
	Phosphorus tribromide	Corrosive material	UN1808	Corrosive	None	173.270	Forbidden	1 quart	II	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Phosphorus trichloride (*RQ-5000/2270*)	Corrosive material	UN1809	Corrosive	None	173.271	Forbidden	1 quart	II	1	Keep dry. Glass carboys not permitted on passenger vessels
	Phosphorus trisulfide	Flammable solid	UN1343	Flammable	None	173.225	Forbidden	10 pounds	1,2	1	Separate from oxidizing materials
E	Phosphorus, white *or* yellow, dry (*RQ-1/.454*)	Flammable solid	UN1381	Flammable solid and Poison	None	173.190	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
E	Phosphorus, white *or* yellow, in water (*RQ-1/.454*)	Flammable solid	UN1381	Flammable solid and Poison	None	173.190	Forbidden	25 pounds	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Phosphorus (white or red) and a chlorate, mixtures of	Forbidden									
E	Phosphoryl chloride. *See* Phosphorus oxychloride										
	Photographic film. See Film										
	Photographic flash powder. See Fireworks, special *or* Low explosive										
	Phthalimide derivative pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2774	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Phthalimide derivative pesticide (*compounds and preparations*), liquid	Poison B	UN2773	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Phthalimide derivative pesticide (*compounds and preparations*), solid	Poison B	UN2773	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Picrate, dry. See High explosive										
	Picrate of ammonia. See High explosive										
	Picric acid, dry. See High explosive										
	Picric acid, wet, with not less than 10% water	Flammable solid	NA1344	Flammable solid	173.192	173.193	1 pound	25 pounds	1	5	Under deck stowage permitted on cargo vessels if wet with more than 30% water. Stow away from heavy metals and their compounds
	Picric acid, wet with not less than 10% water, over 25 pounds. See High explosive										
	Pinane hydroperoxide, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2162								
	Pinane hydroperoxide solution *not over 45% peroxide.*	Organic peroxide	UN2162	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Pinene	Flammable liquid	UN2368	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Pine oil	Combustible liquid	UN1272	None	173.118a	None	No limit	No limit	1,2	1,2	
	Pinwheels. *See* Fireworks, common										
	Pivaloyl chloride. *See* Trimethylacetyl chloride										
	Plastic solvent, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Plastic solvent, n.o.s.	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Plutonium nitrate solution	Radioactive material	NA9185	Radioactive (See 172.403)	173.393	173.396				1,2	1,2
	Poisonous liquid *or* gas, n.o.s.	Poison A	NA9035	Poison gas	None	173.328	Forbidden	Forbidden	1	5	
	Poisonous liquid, n.o.s. *or* Poison B, liquid, n.o.s.	Poison B	NA2810	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	
	Poisonous solid, corrosive, n.o.s.	Poison B	UN2928	Poison and Corrosive	173.364	173.365	25 pounds	100 pounds	1	4	
	Poisonous solid, n.o.s. *or* Poison B, solid, n.o.s.	Poison B	NA2811	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1	
	Polish, metal, stove, furniture *or* wood, liquid	Combustible liquid	NA1142	None	173.118a	None	No limit	No limit	1,2	1,2	
	Polish, metal, stove, furniture *or* wood, liquid	Flammable liquid	NA1142	Flammable liquid	173.118	173.129	1 quart	55 gallons	1,2	1	
E	Polychlorinated biphenyls (*RQ-10/4.54*)	ORM-E	UN2315	None	None	173.510	No limit	No limit	1,2	1,2	If stowedunder deck, must be stowed in a recoverable location.
	Polymerizable material. See 173.21										
E	Potassium arsenate, solid (*RQ-1000/454*)	Poison B	UN1677	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Potassium arsenite, solid (*RQ-1000/454*)	Poison B	UN1678	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Potassium bifluoride solution. *See* Potassium hydrogen fluoride solution										

V 45 MY 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Potassium bromate	Oxidizer	UN1484	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals.
	Potassium carbonyl	Forbidden									
	Potassium chlorate (*potash chlorate*)	Oxidizer	UN1485	Oxidizer	173.153	173.168	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals.
E	Potassium chromate (*RQ-1000/454*)	ORM-E	NA9142	None	None	173.510	No limit	No limit	1,2	1,2	
E	Potassium cyanide, solid (*RQ-10/4.54*)	Poison B	UN1680	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
E	Potassium cyanide solution (*RQ-10/4.54*)	Poison B	UN1680	Poison	173.345	173.352	1 quart	55 gallons	1,2	1,2	Stow away from acids
	Potassium dichloro isocyanurate. See Potassium dichloro-s-triazinetrione										
	Potassium dichloro-s-triazinetrione, *dry (containing more than 39% available chlorine)*	Oxidizer	NA2465	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
EA	Potassium dichromate (*RQ-1000/454*)	ORM-A	NA1479	None	173.505	173.510	No limit	No limit	1,2	1,2	
A	Potassium fluoride	ORM-B	UN1812	None	173.505	173.510	No limit	No limit			
	Potassium fluoride solution	Corrosive material	UN1812	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
E	Potassium hydrate. *See* Potassium hydroxide										
	Potassium hydrogen fluoride solution	Corrosive material	NA1811	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
A	Potassium hydrogen sulfate, solid	ORM-B	UN2509	None	173.505	173.800	25 pounds	100 pounds			
E	Potassium hydroxide, dry solid, flake, bead, *or* granular (*RQ-1000/454*)	Corrosive material	UN1813	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry. Do not stow with metals or alloys such as brass, copper, tin, zinc, aluminum, solder, or lead
E	Potassium hydroxide, liquid *or* solution (*RQ-1000/454*)	Corrosive material	UN1814	Corrosive	173.244	173.249	1 quart	10 gallons	1,2	1,2	
	Potassium hypochlorite solution. *See* Hypochlorite solutions containing more than 7% available chlorine by weight										
A	Potassium metabisulfite	ORM-B	NA2693	None	173.505	173.510	No limit	No limit			
	Potassium, metal *or* metallic	Flammable solid	UN2257	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Potassium, metal liquid alloy	Flammable solid	UN1420	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Potassium nitrate	Oxidizer	UN1486	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
E	Potassium nitrate mixed (*fused*) with sodium nitrite. *See* Sodium nitrite mixed (*fused*) with potassium nitrate										
	Potassium nitrite	Oxidizer	UN1488	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and cyanides. Stow away from foodstuffs
	Potassium perchlorate	Oxidizer	UN1489	Oxidizer	173.153	173.219	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
E	Potassium permanganate (*RQ-100/45.4*)	Oxidizer	UN1490	Oxidizer	173.153	173.154 173.194	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Potassium peroxide	Oxidizer	UN1491	Oxidizer	None	173.154	Forbidden	100 pounds	1,2	1,2	Keep dry
	Potassium sulfide	Flammable solid	UN1382	Flammable solid	173.153	173.207	25 pounds	300 pounds	1,2	1,2	Separate from liquid acids, flammable gases or liquids, oxidizing materials or organic peroxides
	Pressurized product. See Compressed gas, n.o.s.										
	Primer. See Cannon primer, Combination primer, *or* Small-arms primer										
	Primer, detonating. See Detonating primers										
	Projectile, explosive. See Explosive projectile										
	Projectile, gas, nonexplosive. See Chemical ammunition, nonexplosive (*containing a Poison A, Poison B or irritating material, as appropriate*)										
	Projectile, gas, smoke, or incendiary, with burster or booster with or without detonating fuze. See Explosive projectile										
	Projectile, illuminating, incendiary or smoke, with expelling charge but without bursting charge. See Fireworks, special										
	Projectile, sand-loaded, empty or solid. See 173.53										
	Propane *or* Liquefied petroleum gas. *See* Liquefied petroleum gas										
E	Propargite (*RQ-10/4.54*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
	Propargyl alcohol	Flammable liquid	NA1986	Flammable liquid and Poison	None	173.119	Forbidden	1 quart	1,2	5	
	Propellant explosive	Class A explosive		Explosive A	None	173.64	Forbidden	Forbidden	6	5	
	Propellant explosive in water (*smokeless powder*)	Class B explosive		Explosive B	None	173.93	Forbidden	Forbidden	1,3	5	Magazine stowage authorized

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Propellant explosive in water, unstable, condemned, *or* deteriorated (*smokeless powder*)	Class B explosive		Explosive B	None	173.93	Forbidden	Forbidden	1,3	5	Magazine stowage authorized
	Propellant explosive, liquid	Class B explosive		Explosive B	None	173.93	Forbidden	10 pounds	1,2	II	Magazine stowage authorized
	Propellant explosive, solid	Class B explosive		Explosive B	None	173.93	Forbidden	10 pounds	1,3	5	Magazine stowage authorized
	Propionaldehyde	Flammable liquid	UN1275	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Propionic acid (*RQ-5000/2270*)	Corrosive material	UN1848	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Separated by a complete compartment or hold from organic peroxides
E	Propionic acid solution (*RQ-5000/2270*)	Corrosive material	NA1848	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Separated by a complete compartment or hold from organic peroxides
E	Propionic anhydride (*RQ-5000/2270*)	Corrosive material	UN2496	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1	Keep dry
	Propionyl peroxide, *not more than 28% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2132								
	Propionyl peroxide, more than 28% in solution	Forbidden									
	Propyl acetate	Flammable liquid	UN1276	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propyl alcohol	Flammable liquid	UN1274	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1,2	
	Propylamine	Flammable liquid	UN1277	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Propyl chloride	Flammable liquid	UN1278	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Propylene *or* Liquefied petroleum gas. *See* Liquefied petroleum gas										
	Propylenediamine	Flammable liquid	UN2258	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Propylene dichloride (*RQ-5000/2270*)	Flammable liquid	UN1279	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propyleneimine, inhibited	Flammable liquid	UN1921	Flammable liquid	None	173.189	Forbidden	5 pints	1,2	1	
E	Propylene oxide (*RQ-5000/2270*)	Flammable liquid	UN1280	Flammable liquid	173.118	173.119	Forbidden	1 gallon	1,3	4	
	Propyl formate	Flammable liquid	UN1281	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propyl mercaptan	Flammable liquid	UN2704	Flammable liquid	None	173.141	Forbidden	10 gallons	1,2	5	
	Propyl trichlorosilane	Corrosive material	UN1816	Corrosive	None	173.280	Forbidden	10 gallons	I	1	Keep dry
	Prussic acid. See Hydrocyanic acid, as appropriate										
E	Pyrethrins (*RQ-1000/454*)	ORM-E	NA9184	None	None	173.510	No limit	No limit	1,2	1,2	
	Pyridine	Flammable liquid	UN1282	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Pyridine perchlorate	Forbidden									
	Pyrophoric liquid, n.o.s. *or* Pyroforic liquid, n.o.s.	Flammable liquid	UN2845	Flammable liquid	None	173.134	Forbidden	Forbidden	I	5	Shade from radiant heat. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Pyrosulfuryl chloride	Corrosive material	UN1817	Corrosive	173.244	173.247	1 quart	1 quart	1	4	Keep dry. Glass carboys not permitted on passenger vessels
	Pyroxylin plastic scrap	Flammable solid	NA2006	Flammable solid	None	173.195	Forbidden	Forbidden	I	5	Shade from radiant heat
	Pyroxylin plastics, rods, sheets, rolls, *or* tubes	Flammable solid	NA2006	Flammable solid	173.197	173.197	50 pounds	350 pounds	1,3	1	
	Pyroxylin solution	Combustible liquid	NA2059	None	173.118a	None	No limit	No limit	1,2	1,2	
	Pyroxylin solution	Flammable liquid	NA2059	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Pyroxylin solvent, n.o.s.	Combustible liquid	NA2059	None	173.118a	None	No limit	No limit	1,2	1,2	
	Pyroxylin solvent, n.o.s.	Flammable liquid	NA2059	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Pyrrolidine	Flammable liquid	UN1922	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,2	1	
	Quebrachitol pentanitrate	Forbidden									
	Quicklime. *See* Calcium oxide										
E	Quinoline (*RQ-1000/454*)	ORM-E	UN2656	None	None	173.510	No limit	No limit	1,2	1,2	
	Radioactive device, n.o.s.	Radioactive material	UN2911	None	173.391				1,2	1,2	
	Radioactive material, fissile, n.o.s.	Radioactive material	UN2918	Radioactive	173.393	173.396			1,2	1,2	
	Radioactive material, limited quantity, n.o.s.	Radioactive material	UN2910	None	173.391				1,2	1,2	
	Radioactive material, low specific activity *or* LSA, n.o.s.	Radioactive material	UN2912	Radioactive	173.392	173.393			1,2	1,2	
	Radioactive material, n.o.s.	Radioactive material	NA9181	Radioactive	173.393	173.395			1,2	1,2	

V 4 5 M Y 2 2 2 8 0 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Radioactive material, special form, n.o.s.	Radioactive material	NA9182	Radioactive	173.393	173.394			1,2	1,2	
	Rags, oily	Flammable solid	UN1856	Flammable	None	173.199	Forbidden	Forbidden	1,2	1,2	Keep dry. Separate from flammable gases, or liquids, oxidizing materials, or organic peroxides
	Rags, wet	Flammable solid	NA1325	Flammable	None	173.200	Forbidden	Forbidden	1	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Railway Fusee. See Fusee										
	Railway torpedo. *See* Torpedo, railway										
	Range oil. *See* Fuel oil										
	Reducing compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint *or* varnish, removing, reducing, *or* thinning, liquid										
	Refrigerant gas. *See* Dispersant Gas										
	Refrigerating machine	Nonflammable gas	UN2857	Nonflammable gas	173.306 173.307		No limit	No limit	1,3	1,3	
	Refrigerating machine	Flammable gas	NA1954	Flammable gas	173.306		No limit	No limit	1,3	1,3	
	Refrigerating machine	Flammable liquid	NA1993	Flammable liquid	173.130 173.306		No limit	No limit	1,2	1	
	Removing compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid										
	Resin solution (*resin compound, liquid*)	Combustible liquid	UN2868	None	173.118a	None	No limit	No limit	1,2	1,2	
	Resin solution (*resin compound, liquid*)	Flammable liquid	UN1866	Flammable liquid	173.118	173.119	1 quart	55 gallons	1,2	1	
E	Resorcinol (*RQ-5000/2270*)	ORM-E	UN2876	None	None	173.510	No limit	No limit	1,2	1,2	
	Rifle grenade. See Grenade, hand *or* rifle, explosive										
	Rifle powder. See Propellant explosive *or* Black powder										
	Road asphalt *or* tar, liquid *See* Asphalt, cut back										
	Road asphalt *or* tar (*when heated to or above its flash point*). *See* Asphalt										
	Road oil	Combustible liquid	NA1268	None	173.118a	None	No limit	No limit	1,2	1,2	
	Rocket ammunition with empty projectile	Class B explosive		Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Rocket ammunition with explosive projectile	Class A explosive		Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with gas projectile	Class A explosive		Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with illuminating projectile	Class A explosive		Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with incendiary projectile	Class A explosive		Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with inert loaded projectile	Class B explosive		Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Rocket ammunition with smoke projectile	Class A explosive		Explosive A	None	173.57	Forbidden	Forbidden	II	5	
	Rocket ammunition with solid projectile	Class B explosive		Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Rocket body, with electric primer or electric squib. See 173.55										
	Rocket engine, liquid	Class B explosive		Explosive B	None	173.95	Forbidden	Forbidden	1,2	5	Magazine stowage authorized
	Rocket fireworks. See Fireworks, common										
	Rocket head. *See* Explosive projectile										
	Rocket motor	Class A explosive		Explosive A	None	173.79	Forbidden	Forbidden	6	5	
	Rocket motor	Class B explosive		Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Roman candle. See Fireworks, common										
W	Rosin (*colaphony*) *or* Resin	ORM-C		None	173.505	173.1060			1,2	1,2	
	Rough ammoniate tankage (*7% or more moisture content*)	Flammable solid	NA1325	Flammable solid	None	173.210	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides. Temperature of tankage must not exceed 100 deg F
	Rough ammoniate tankage (*less than 7% moisture content*)	Flammable solid	NA1325	Flammable solid	None	173.210	Forbidden	Forbidden	1	5	
W	Rubber curing compound (*solid*)	ORM-C		None	173.505	173.1065			1,2	1,2	
	Rubber scrap *or* Rubber buffings	Flammable solid	NA1345	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	
	Rubber shoddy *or* Rubber, regenerated *or* Rubber, reclaimed	Flammable solid	NA1345	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Rubidium metal	Flammable	UN1423	Flammable solid and Dangerous when wet	None	173.206	Forbidden	225 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Rubidium metal, in cartridges	Flammable solid	NA1423	Flammable solid and Dangerous when wet	173.206		1 pound	25 pounds	1,2	4	Segregation same as for flammable solid labeled Dangerous When Wet
	Rum, denatured	Flammable liquid	NA1986	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Rust preventive coating	Combustible liquid	NA1142	None	173.118a	None	No limit	No limit	1,2	1,2	
	Safety fuse. *See* Fuse, safety										
	Safety squib	Class C explosive		Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Salute. See Fireworks common *or* special										
	Sand acid. *See* Hydrofluorosilicic acid										
W	Sawdust (*when dry, clean, and free from oil*)	ORM-C		None	173.505	173.1070			1,2	1,2	Keep dry
	Selenic acid, liquid	Corrosive material	UN1905	Corrosive	None	173.245	Forbidden	5 pints	1,2	1,2	
	Selenium nitride	Forbidden									
E	Selenium oxide (*RQ-1000/454*)	Poison B	NA2811	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Self-lighting cigarette	Flammable solid	NA1325	Flammable	173.21		Fobidden	Forbidden	1,2	1,2	Keep dry
	Self propelled vehicle. *See* Motor vehicle										
	Shaped charge, commercial. See High explosive (*173.65(h)*)										
	Shaped charges (commercial) containing more than 8 ounces of explosives	Forbidden									
	Shellac. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish; *etc.*										
	Shell, fireworks. *See* Fireworks, common *or* special										
	Ship, distress signal. See Fireworks, special										
	Signal flare	Class C explosive		Explosive C	None	173.108	50 pounds	200 pounds	1,2	1,2	
	Silicofluoric acid. *See* Hydrofluorosilicic acid										
	Silicon chloride *or* Silicon tetrachloride	Corrosive material	UN1818	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Silicon chrome, exothermic. *See* Ferrochrome, exothermic										
+	Silicon tetrafluoride	Nonflammable gas	UN1859	Nonflammable	173.306	173.302	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Silver acetylide (dry)	Forbidden									
	Silver azide (dry)	Forbidden									
	Silver chlorite (dry)	Forbidden									
+	Silver cyanide	Poison B	UN1684	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Silver fulminate (dry)	Forbidden									
E	Silver nitrate (*RQ-1/.454*)	Oxidizer	UN1493	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
	Silver oxalate (dry)	Forbidden									
	Silver picrate (dry)	Forbidden									
	Sisal. See Fibers										
	Sludge acid. *See* Acid, sludge										
	Small arms ammunition	Class C explosive		None	173.101		50 pounds	150 pounds	1,3	1,3	
	Small arms ammunition, irritating (*tear gas*) cartridge	Class C explosive		Irritant	None	173.101	Forbidden	150 pounds	1,3	1,3	
	Small arms primer	Class C explosive		None	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Smoke candle	Class C explosive		Explosive C	None	173.106	50 pounds	200 pounds	1,3	1,3	
	Smoke generator. See Chemical ammunition, nonexplosive (*containing a Poison A, Poison B, or irritating material, as appropriate*)										
	Smoke grenade	Class C explosive		Explosive C	None	173.108	50 pounds	150 pounds	1,3	1,3	
	Smokeless powder for cannon or small arms. See Propellant explosive, *Class A or B, as appropriate*										
	Smokeless powder for small arms (*100 pounds or less*)	Flammable solid	NA1325	Flammable solid	173.88	173.197a	Forbidden	Forbidden	1,3	1,3	Segregation same as for explosives
	Smoke pot	Class C explosive		Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Smoke projectile with bursting charge. See Explosive projectile										
	Smoke projectile with expelling charge but without bursting charge. See Fireworks, special										

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Smoke signal	Class C explosive		Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Soda amatol. See High explosive										
	Soda lime, solid	Corrosive material	UN1907	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Sodium acid sulfate, solid *or* solution. *See appropriate* Sodium hydrogen sulfate *entry*										
A	Sodium aluminate, solid	ORM-B	UN2812	None	173.505	173.800	25 pounds	100 pounds			
	Sodium aluminate solution	Corrosive material	UN1819	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
	Sodium aluminum hydride	Flammable solid	UN2835	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium amide	Flammable solid	UN1425	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium arsenate (*RQ-1000/454*)	Poison B	UN1685	Poison	173.364	173.365 173.368	50 pounds	200 pounds	1,2	1,2	
E	Sodium arsenite (*solution*), liquid (*RQ-1000/454*)	Poison B	UN1686	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
+	Sodium azide	Poison B	UN1687	Poison	173.364	173.375	50 pounds	100 pounds	1,2	1,2	Stow away from heavy metals, especially lead and its compounds. Stow separate from acids
E	Sodium bifluoride, solid (*RQ-5000/2270*)	Corrosive material	UN2439	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
E	Sodium bifluoride, solution (*RQ-5000/2270*)	Corrosive material	UN2439	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Sodium bisulfate, solid *or* solution. *See* Sodium hydrogen sulfate, solid *or* solution										
E	Sodium bisulfite, solid. *See* Sodium hydrogen sulfite, solid										
	Sodium bromate	Oxidizer	UN1494	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium chlorate (*soda chlorate*)	Oxidizer	UN1495	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium chlorite	Oxidizer	UN1496	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium chlorite solution (*not exceeding 42% sodium chlorite*)	Corrosive material	UN1908	Corrosive	173.244	173.263	1 quart	4 gallons	1,2	1	Glass carboys in hampers not permitted under deck
E	Sodium chromate (*RQ-1000/454*)	ORM-E	NA9145	None	None	173.510	No limit	No limit	1,2	1,2	
E	Sodium cyanide, solid (*RQ-10/4.54*)	Poison B	UN1689	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
E	Sodium cyanide solution (*RQ-10/4.54*)	Poison B	UN1689	Poison	173.345	173.352	1 quart	55 gallons	1,2	1,2	Stow away from acids
	Sodium dichloroisocyanurate. *See* Sodium dichloro-s-triazinetrione										
	Sodium dichloro-s-triazinetrione (*dry, containing more than 39% available chlorine*)	Oxidizer	UN2465	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
EA	Sodium dichromate (*RQ-1000/454*)	ORM-A	NA1479	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Sodium dodecylbenzenesulfonate (*RQ-1000/454*)	ORM-E	NA9146	None	None	173.510	No limit	No limit	1,2	1,2	
EA	Sodium fluoride, solid (*RQ-5000/2270*)	ORM-B	UN1690	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Sodium fluoride solution (*RQ-5000/2270*)	Corrosive material	NA1690	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Stow away from acids
E	Sodium hydrate. *See* Sodium hydroxide										
	Sodium hydride	Flammable solid	UN1427	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
A	Sodium hydrogen sulfate, solid	ORM-B	UN1821	None	173.505	173.800	25 pounds	100 pounds			
	Sodium hydrogen sulfate solution	Corrosive material	UN2837	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
EA	Sodium hydrogen sulfite, solid (*RQ-5000/2270*)	ORM-B	NA2693	None	173.505	173.800	25 pounds	100 pounds	1,2	1,2	
E	Sodium hydrosulfide, solid (*RQ-5000/2270*)	Flammable solid	UN2318	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
E	Sodium hydrosulfide, solution (*RQ-5000/2270*)	Corrosive material	NA2922	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Sodium hydrosulfite (*sodium dithionite*)	Flammable solid	UN1384	Flammable solid	173.153	173.204	25 pounds	100 pounds	1,2	1,2	Keep dry. Below deck stowage in metal drums only. Separate from flammable gases, liquids, oxidizing materials, or organic peroxides
E	Sodium hydroxide, dry solid, flake, bead, *or* granular (*RQ-1000/454*)	Corrosive material	UN1823	Corrosive	173.244	173.245b	25 pounds	200 pounds	1,2	1,2	Keep dry
E	Sodium hydroxide, liquid *or* solution (*RQ-1000/454*)	Corrosive material	UN1824	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
E	*Sodium hypochlorite. See* Hypochlorite solution *or* Hypochlorite solution containing not more than 7% available chlorine										
A	Sodium metabisulfite	ORM-B	NA2693	None	173.505	173.510	No limit	No limit			

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
E	Sodium, metal *or* metallic (*RQ-1000/454*)	Flammable solid	UN1428	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium, metal dispersion in organic solvent (*RQ-1000/454*)	Flammable solid	UN1429	Flammable solid and Dangerous when wet	None	173.230	Forbidden	10 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium, metal liquid alloy (*RQ-1000/454*)	Flammable solid	NA1421	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium methylate, alcohol mixture (*RQ-1000/454*)	Combustible liquid	NA1289	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Sodium methylate, alcohol mixture (*RQ-1000/454*)	Flammable liquid	NA1289	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Sodium methylate, alcohol mixture (*RQ-1000/454*)	Corrosive material	NA1289	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
E	Sodium methylate, dry (*RQ-1000/454*)	Flammable solid	UN1431	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium monoxide, solid	Corrosive material	UN1825	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Sodium nitrate	Oxidizer	UN1498	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Sodium nitrate bags. See Bags, sodium nitrate, empty and unwashed										
E	Sodium nitrite (*RQ-100/45.4*)	Oxidizer	UN1500	Oxidizer	173.153	173.234	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and cyanides. Bagged material not permitted on passenger vessels
E	Sodium nitrite mixed (*fused*) with potassium nitrate (*RQ-100/45.4*)	Oxidizer	UN1487	Oxidizer	173.153	173.183	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and cyanides
E	Sodium nitrite mixture (*sodium nitrate, sodium nitrite, and potassium nitrate*) (*RQ-100/45.4*)	Oxidizer	NA1487	Oxidizer	173.153	173.234	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and cyanides
A	Sodium pentachlorophenate	ORM-A	UN2567	None	173.505	173.510	No limit	No limit			
	Sodium perchlorate	Oxidizer	UN1502	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Sodium permanganate	Oxidizer	UN1503	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Sodium peroxide	Oxidizer	UN1504	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	1	Keep dry. Stow away from powdered metals, permanganates, combustible packing of other cargo, and combustible foodstuffs
	Sodium phenolate, solid	Corrosive material	UN2497	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
E	Sodium phosphate, dibasic (*RQ-5000/2270*)	ORM-E	NA9147	None	None	173.510	No limit	No limit	1,2	1,2	
E	Sodium phosphate, tribasic (*RQ-5000/2270*)	ORM-E	NA9148	None	None	173.510	No limit	No limit	1,2	1,2	
	Sodium phosphide	Flammable solid	UN1432	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1	5	
	Sodium picramate, wet (*with at least 20% water*)	Flammable solid	UN1349	Flammable solid	None	173.205	Forbidden	25 pounds	1,2	5	Stow away from heavy metals, especially lead, and its compounds
	Sodium pieryl peroxide	Forbidden									
	Sodium potassium alloy (liquid)	Flammable solid	UN1422	Flammable solid and Dangerous when wet	None	173.202	Forbidden	25 pounds	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solid labeled Dangerous when wet.
	Sodium potassium alloy (solid)	Flammable solid	UN1422	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium selenite (*RQ-1000/454*)	Poison B	UN2630	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Sodium sulfide, anhydrous	Flammable solid	UN1385	Flammable solid	173.153	173.207	25 pounds	300 pounds	1,2	1,2	Stow separate from liquid acids. Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Sodium tetranitride	Forbidden									
	Solvent, n.o.s.	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Solvent, n.o.s.	Flammable liquid	NA1993	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Sparklers. See Fireworks, common										
	Spent iron mass. See Iron mass, spent										
	Spent iron sponge. See Iron sponge, spent										
	Spent mixed acid. See Nitrating acid, spent										
	Spent sulfuric acid. See Sulfuric acid, spent										
	Spirits of nitroglycerin, (*1 to 10%*)	Flammable liquid	NA1204	Flammable liquid	None	173.133	Forbidden	6 quarts	1,2	5	Segregation same as for explosives
	Spirits of nitroglycerin, not exceeding 1% nitroglycerin by weight	Flammable liquid	NA1204	Flammable liquid	173.118	173.133	1 quart	6 quarts	1,2	1	
E	Spirits of salt. *See* Hydrochloric acid										
	Sporting powder. See Black powder *or* Propellant explosive, solid										
	Spray starting fluid. See Engine starting fluid										
	Spreader cartridge. See Fireworks, special										

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Squib, electric or safety. See Electric squib *or* Safety squib										
	Stain. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish; *etc.*										
	Stannic phosphide	Flammable solid	UN1433	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1	5	Segregation same as for flammable solid labeled Dangerous When Wet
A	Stannous chloride, solid	ORM-B	NA1759	None	173.505	173.510	No limit	No limit			
	Starter cartridge	Class B explosive		Explosive B	None	173.92	Forbidden	200 pounds	1,3	5	
	Starter cartridge	Class C explosive		Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Storage battery, wet. See Battery, electric storage, wet										
	Straw. *See* Hay										
	Strontium arsenite, solid	Poison B	UN1691	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Strontium chlorate	Oxidizer	UN1506	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Strontium chlorate, wet	Oxidizer	UN1506	Oxidizer	173.153	173.163	25 pounds	200 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
E	Strontium chromate (*RQ-1000/454*)	ORM-E	NA9149	None	None	173.510	No limit	No limit	1,2	1,2	
	Strontium nitrate	Oxidizer	UN1507	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Strontium peroxide	Oxidizer	UN1509	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
E	Strychnine salt, solid (*RQ-10/4.54*)	Poison B	UN1692	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	Keep dry
	Strychnine, solid	Poison B	UN1692	Poison	173.364	173.365	Forbidden	200 pounds	1,2	1,2	
	Styphnate of lead. See Initiating explosive										
E	Styrene monomer, inhibited (*RQ-1000/454*)	Flammable liquid	UN2055	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Substituted nitrophenol pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2780	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Substituted nitrophenol pesticide (*compounds and preparations*), liquid	Poison B	UN2779	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Substituted nitrophenol pesticide (*compounds and preparations*), solid	Poison B	UN2779	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Succinic acid peroxide	Organic peroxide	UN2135	Organic peroxide	173.153	173.157 173.158	Forbidden	25 pounds	1	1	
	Succinic acid peroxide, *technically pure. See* Succinic acid peroxide.		UN2135								
	Sucrose octanitrate (dry)	Forbidden									
	Sulfur and chlorate, loose mixtures of	Forbidden									
E	Sulfur chloride (*mono and di*) (*RQ-1000/454*)	Corrosive material	UN1828	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfur dioxide	Nonflammable gas	UN1079	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow away from living quarters
	Sulfur flower. *See* Sulfur, solid										
	Sulfur hexafluoride	Nonflammable gas	UN1080	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
E	Sulfuric acid (*For fuming sulfuric acid, see* Oleum) (*RQ-1000/454*)	Corrosive material	UN1830	Corrosive	173.244	173.272	1 quart	1 gallon	1	1	Keep dry. Under deck stowage is permitted on cargo vessels only in metal drums
E	Sulfuric acid, spent (*RQ-1000/454*)	Corrosive material	UN1832	Corrosive	None	173.248	Forbidden	1 quart	1	1	Under deck stowage is permitted on cargo vessels only in metal drums
	Sulfuric anhydride. *See* Sulfur trioxide										
	Sulfurous acid	Corrosive material	UN1833	Corrosive	173.244	173.245	2 gallons	2 gallons	1,2	1	Glass carboys in hampers not permitted under deck
W	Sulfur, solid	ORM-C	UN1350	None	173.505	173.1080			1,2	1,2	Protect from sparks and open flame. Stow separate from oxidizing materials. Segregation same as for flammable solids
	Sulfur trioxide	Corrosive material	UN1829	Corrosive	173.244	173.273	Forbidden	1 gallon	1,2	1,2	Keep dry. Glass bottles not permitted under deck
	Sulfuryl chloride	Corrosive material	UN1834	Corrosive	173.244	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfuryl fluoride	Nonflammable gas	UN2191	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,3	1	
	Sulphur. *See* Sulfur, solid										
	Supplementary charge (explosive)	Class A explosive		Explosive A	None	173.69	Forbidden	Forbidden	6	5	
EA	2,4,5-T. *See* 2,4,5-Trichlorophenoxyacetic acid										
E	2,4,5-T amine, ester, *or* salt. *See* 2,4,5-Trichlorophenoxyacetic acid, amine, ester, *or* salt										
	Tankage. See Garbage tankage										
	Tankage fertilizer	Flammable solid	NA1325	Flammable solid	None	173.209	Forbidden	Forbidden	1	5	Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Tankage, rough ammoniate	Flammable solid	NA1325	Flammable solid	None	173.210	Forbidden	Forbidden	1	5	Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Tank car, containing residual phosphorus and filled with water or inert gas. See 173.190										
	Tank car, empty (*previously used for a hazardous material*), *See 173.29*										
	Tank car, empty (*previously used for a Poison A material*), *See 172.510 and 173.29*										
	Tank, portable, empty (*previously used for a hazardous material*). *See 172.510, 172.514 and 173.29*										
	Tank truck, empty. *See 172.510, 172.514 and 173.29*										
	Tar, liquid	Combustible liquid	UN1999	None	173.118a	None	No limit	No limit	1,2	1,2	
	Tar, liquid	Flammable liquid	UN1999	Flammable liquid	173.118	173.131	1 quart	10 gallons	1,2	1	
EA	TDE (*1,1-Dichloro-2,2-bis(p-chlorophenyl) ethane*) (*RQ-1/0.454*)	ORM-A	NA2761	None	173.505	173.510	50 pounds	No limit	1,2	1,2	
	Tear gas ammunition. See Chemical ammunition, nonexplosive *(containing an irritant material)*										
	Tear gas candle	Irritating material	UN1700	Irritant	None	173.385	Forbidden	75 pounds	1	5	Stow away from living quarters
	Tear gas cartridge. See Small arms ammunition, irritating (*tear gas*) cartridge										
	Tear gas grenade. See Grenade, tear gas										
	Tertiary alcohol. See Alcohol, n.o.s.										
	Tetraazido benzene quinone	Forbidden									
AW	Tetrachloroethane	ORM-A	UN1702	None	173.505	173.620	1 quart	10 gallons	1,2	1,2	
A	Tetrachloroethylene *or* Perchloroethylene	ORM-A	UN1897	None	173.505	173.605	10 gallons	55 gallons			
	Tetraethylammonium perchlorate (dry)	Forbidden									
	Tetraethyl dithiopyrophosphate and compressed gas mixture	Poison A	UN1703	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from living quarters. Segregation same as for nonflammable gases
	Tetraethyl dithiopyrophosphate, liquid	Poison B	UN1704	Poison	None	173.358	Forbidden	1 quart	1	5	
	Tetraethyl dithiopyrophosphate mixture, dry	Poison B	UN1704	Poison	None	173.377	Forbidden	200 pounds	1	5	
	Tetraethyl dithiopyrophosphate mixture, liquid	Poison B	UN1704	Poison	None	173.359	Forbidden	1 quart	1	5	
E	Tetraethyl lead, liquid (*including flash point for export shipment by water*) (*RQ-100/45.4*)	Poison B	NA1649	Poison	None	173.354	Forbidden	55 gallons	1	5	If flash point is 141 deg F. or less, segregation must be the same as for flammable liquids
E	Tetraethyl pyrophosphate and compressed gas mixture (*RQ-100/45.4*)	Poison A	UN1705	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from living quarters. Segregation same as for nonflammable gases
E	Tetraethyl pyrophosphate, liquid (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,2	5	
E	Tetraethyl pyrophosphate mixture, dry (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.377	Forbidden	200 pounds	1,2	5	
E	Tetraethyl pyrophosphate mixture, liquid (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.359	Forbidden	1 quart	1,2	5	
+	Tetrafluoroethylene, inhibited	Flammable gas	UN1081	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	1,2,3,6-Tetrahydrobenzaldehyde	Corrosive material	UN2498	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Tetrahydrofuran	Flammable liquid	UN2056 UN2136	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Tetralin hydroperoxide, *technically pure. See* Organic peroxide, solid, n.o.s.										
	Tetramethylammonium hydroxide, liquid	Corrosive material	UN1835	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	1,1,3,3-Tetramethylbutyl hydroperoxide, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2160								
	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate, *technically pure. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2161								
	Tetramethylene diperoxide dicarbamide	Forbidden									
A	Tetramethylmethylenediamine	ORM-A	NA9069	None	173.505	173.510	No limit	No limit			
	Tetranitro diglycerin	Forbidden									
	Tetranitromethane	Oxidizer	UN1510	Oxidizer	None	173.203	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from foodstuffs
	2,3,4,6-Tetranitrophenol	Forbidden									
	2,3,4,6-Tetranitrophenyl methyl nitramine	Forbidden									
	2,3,4,6-Tetranitrophenylnitramine	Forbidden									
	Tetranitroresorcinol (dry)	Forbidden									
	2,3,5,6-Tetranitroso-1,4-dinitrobenzene	Forbidden									
	2,3,5,6-Tetranitroso nitrobenzene (dry)	Forbidden									
	Tetrazene (guanyl nitrosamino guanyltetrazene). See Initiating explosive										
	Tetrazine (dry)	Forbidden									

V 45 MY 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Tetrazolyl azide (dry)	Forbidden									
	Tetryl. See High explosive										
	Textile treating compound *or* mixture, liquid	Corrosive material	NA1760	Corrosive	173.244	173.245 173.249a	1 quart	10 gallons	1,2	1,2	
	Textile waste. *See* Cotton waste										
	Textile waste, wet	Flammable solid	UN1857	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Thallium salt, solid, n.o.s.	Poison B	NA1707	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Thallium sulfate, solid (*RQ-1000/454*)	Poison B	NA1707	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Thinner for rust preventive coating. *See* Rust preventive coating										
	Thinning compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint *or* varnish, removing, reducing *or* thinning, liquid										
	Thiocarbonylchloride. See Thiophosgene										
	Thioglycolic acid	Corrosive material	UN1940	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	Glass carboys in hampers not permitted under deck
	Thionyl chloride	Corrosive material	UN1836	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
+	Thiophosgene	Poison B	UN2474	Poison	None	173.356	Forbidden	1 gallon	1	5	Shade from radiant heat
	Thiophosphoryl chloride	Corrosive material	UN1837	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
A	Thiram	ORM-A	NA2771	None	173.505	173.510	No limit	No limit			
	Thorium metal, pyrophoric	Radioactive material	NA9170	Radioactive and Flammable solid	173.226	173.226			1,2	1,2	
	Thorium nitrate	Radioactive material	NA9171	Radioactive and Oxidizer	173.392	173.393			1,2	1,2	Separate longitudinally by a complete hold or compartment from explosives
	Time fuze. See Fuze, time										
	Tin chloride, fuming. *See* Tin tetrachloride, anhydrous										
	Tinning flux. *See* Zinc chloride solution										
	Tin perchloride. *See* Tin tetrachloride, anhydrous										
	Tin tetrachloride, anhydrous	Corrosive material	UN1827	Corrosive	173.244	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Titanium metal powder, dry *or* wet *with less than 20% water*	Flammable solid	NA2546	Flammable solid	None	173.208	Forbidden	75 pounds	1,2	5	
	Titanium metal powder, wet with 20% or more water	Flammable solid	NA1352	Flammable solid	None	173.208	Forbidden	150 pounds	1,2	5	
	Titanium sulfate solution *containing not more than 45% sulfuric acid*	Corrosive material	NA1760	Corrosive	173.244	173.297	1 quart	1 gallon	1	4	Shade from radiant heat. Keep dry
	Titanium tetrachloride	Corrosive material	UN1838	Corrosive	173.244	173.247	1 quart	10 gallons	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Toluene (*toluol*) (*RQ-1000/454*)	Flammable liquid	UN1294	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
A	Toluenediamine	ORM-A	NA1709	None	173.505	173.510	No limit	No limit			
+	Toluene diisocyanate	Poison B	UN2078	Poison	173.345	173.346	Forbidden	55 gallons	1,3	1,3	Shade from radiant heat
	Toluene sulfonic acid, liquid	Corrosive material	NA2584	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Torch. See Fireworks, common										
	Torpedo, railway	Class B explosive		Explosive B	None	173.91	Forbidden	200 pounds	1,2	1,2	Passenger vessels in metal lockers only
EA	Toxaphene (*RQ-1/0.454*)	ORM-A	NA2761	None	173.505	173.510	25 pounds	100 pounds	1,2	1,2	
	Toy caps	Class C explosive		Explosive C	None	173.100 173.109	50 pounds	150 pounds	1,3	1,3	
	Toy propellant device	Class C explosive		Explosive C	None	173.111	50 pounds	150 pounds	1,3	1,3	
	Toy smoke device	Class C explosive		Explosive C	None	173.111	50 pounds	150 pounds	1,3	1,3	
	Toy torpedo. See Fireworks, special										
E	2,4,5-TP. *See* 2,4,5-Trichlorophenoxypropionic acid										
E	2,4,5-TP ester. *See* 2,4,5-Trichlorophenoxypropionic acid ester										
	Tracer	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Tracer fuze	Class C explosive		Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Tractor. *See* Motor vehicle										
	Trailer *or* truck body with refrigeration *or* heating equipment. *See* Motor vehicle										
	Treated paper (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material										
	Treated textile (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material										

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Triazine pesticide (*compounds and preparations*), liquid	Flammable liquid	UN2764	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Triazine pesticide (*compounds and preparations*), liquid	Poison B	UN2763	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Triazine pesticide (*compounds and preparations*), solid	Poison B	UN2763	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Tri-(b-nitroxyethyl)ammonium nitrate	Forbidden									
EA	Trichlorfon (*RQ-1000/454*)	ORM-A	NA2783	None	173.505	173.510	50 pounds	200 pounds	1,2	1,2	
	Trichloroacetic acid, solid	Corrosive material	UN1839	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1	
	Trichloroacetic acid solution	Corrosive material	UN2564	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
A	1,1,1-Trichloroethane	ORM-A	UN2831	None	173.505	173.510	10 gallons	55 gallons			
EA	Trichloroethylene (*RQ-1000/454*)	ORM-A	UN1710	None	173.505	173.605	10 gallons	55 gallons	1,2	1,2	
	Trichloromethyl perchlorate	Forbidden									
EA	Trichlorophenol (*RQ-10/4.54*)	ORM-A	NA2020	None	173.505	173.510	100 pounds	No limit	1,2	1,2	
EA	2,4,5-Trichlorophenoxyacetic acid (*RQ-100/45.4*)	ORM-A	NA2765	None	173.505	173.510	50 pounds	No limit	1,2	1,2	
E	2,4,5-Trichlorophenoxyacetic acid amine, ester, *or* salt (*RQ-100/45.4*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
EA	2,4,5-Trichlorophenoxypropionic acid (*RQ-100/45.4*)	ORM-A	NA2765	None	173.505	173.510	50 pounds	No limit	1,2	1,2	
E	2,4,5-Trichlorophenoxypropionic acid ester (*RQ-100/45.4*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
	Trichlorosilane	Flammable liquid	UN1295	Flammable liquid	None	173.136	Forbidden	10 gallons	1	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Trichloro-s-triazinetrione *dry, containing over 39% available chlorine*	Oxidizer	UN2468	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,3	1,3	Keep dry
	(mono-(Trichloro) tetra-(monopotassium dichloro))-penta-s-triazinetrione, dry (*containing over 39% available chlorine*)	Oxidizer	NA2468	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,3	1,3	Keep dry
	Trick matches	Class C explosive		Explosive C	None	173.111	Forbidden	Forbidden	1,3	1,3	
	Trick noise maker, explosive	Class C explosive		Explosive C	None	173.111	50 pounds	150 pounds	1,3	1,3	
E	Triethanolamine dodycylbenzenesulfonate (*RQ-1000/454*)	ORM-E	NA9151	None	None	173.510	No limit	No limit	1,2	1,2	
E	Triethylamine (*RQ-5000/2270*)	Flammable liquid	UN1296	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
+	Trifluorochlorethylene	Flammable gas	UN1082	Flammable gas	173.306	173.304 173.314	Forbidden	10 gallons	1,2	1	
	Triformoxime trinitrate	Forbidden									
	1,3,5-Trimethyl-2,4,6-trinitrobenzene	Forbidden									
	Trimethylacetyl chloride	Corrosive material	UN2438	Corrosive	173.244	173.247	1 quart	1 quart	1,2	1,2	
E	Trimethylamine, anhydrous (*RQ-1000/454*)	Flammable gas	UN1083	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
E	Trimethylamine, aqueous solution (*RQ-1000/454*)	Flammable liquid	UN1297	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	Stow away from mercury and mercury compounds
	Trimethylchlorosilane	Flammable liquid	UN1298	Flammable liquid	None	173.135	Forbidden	10 gallons	1,2	1	
	Trimethylene glycol diperchlorate	Forbidden									
	Trimethylol nitromethane trinitrate	Forbidden									
	2,4,6-Trinitro-1,3,5-triazido benzene (dry)	Forbidden									
	2,4,6-Trinitro-1,3-diazobenzene	Forbidden									
	Trinitroacetic acid	Forbidden									
	Trinitroacetonitrile	Forbidden									
	Trinitroamine cobalt	Forbidden									
	Trinitrobenzene, dry. See High explosive										
	Trinitrobenzene, wet *containing at least 10% water*	Flammable liquid	UN1354	Flammable liquid	173.212		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
	Trinitrobenzene, wet, containing at least 10% water, over 16 ounces in one outside packaging. See High explosive										
	Trinitrobenzoic acid, dry. See High explosive										
	Trinitrobenzoic acid, wet, *containing at least 10% water*	Flammable solid	UN1355	Flammable solid	173.192	173.193	1 pound	25 pounds	1	5	Stow away from heavy metals and their compounds
	Trinitrobenzoic acid, wet, containing at least 10% water, over 25 pounds in one outside packaging. See High explosives										
	Trinitroethanol	Forbidden									
	Trinitroethylnitrate	Forbidden									
	Trinitromethane	Forbidden									
	1,3,5-Trinitronaphthalene	Forbidden									
	2,4,6-Trinitrophenyl guanidine (dry)	Forbidden									
	2,4,6-Trinitrophenyl nitramine	Forbidden									
	2,4,6-Trinitrophenyl trimethylol methyl nitramine trinitrate (dry)	Forbidden									

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Trinitroresorcinol. See High explosive										
	2,4,6-Trinitroso-3-methyl nitraminoanisole	Forbidden									
	Trinitrotetramine cobalt nitrate	Forbidden									
	Trinitrotoluene, dry. See High explosive										
	Trinitrotoluene, wet *containing at least 10% water*	Flammable solid	UN1356	Flammable solid	173.212		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
	Trinitrotoluene, wet, containing at least 10% water, over 16 ounces in one outside packaging. See High explosive										
	Tris-(1-aziridinyl) phosphine oxide	Corrosive material	UN2501	Corrosive	173.244	173.299a	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Tris, bis-bifluoroamino diethoxy propane (TVOPA)	Forbidden									
	Tungsten hexafluoride	Corrosive material	UN2196	Corrosive	None	173.284	Forbidden	110 pounds	1	5	Segregation same as for nonflammable gases.
	Turpentine	Combustible liquid	UN1299	None	173.118a	None	No limit	No limit	1,2	1,2	
	Turpentine	Flammable liquid	UN1299	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Turpentine substitute	Combustible liquid	UN1300	None	173.118a	None	No limit	No limit	1,2	1,2	
	Turpentine substitute	Flammable liquid	UN1300	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
W	Twisted jute packing (*rope*) (*treated or untreated*). *See* Oakum										
	Uranium hexafluoride, fissile (*containing more than 0.7% U-235*)	Radioactive material	NA9173	Radioactive and Corrosive	173.393	173.396			1,2	1,2	
	Uranium hexafluoride, low specific activity (*containing 0.7% or less U-235*)	Radioactive material	NA9174	Radioactive and Corrosive	173.392	173.393			1,2	1,2	
	Uranium metal, pyrophoric	Radioactive material	NA9175	Radioactive and Flammable solid	173.392	173.393 173.396			1,2	1,2	
E	Uranyl acetate (*RQ-5000/2270*)	Radioactive material	NA9180	Radioactive material	173.391	173.395			1,2	1,2	
E	Uranyl nitrate hexahydrate solution	Radioactive material	NA9178	Radioactive and Corrosive	173.392	173.393 173.395 173.396			1,2	1,2	
E	Uranyl nitrate, solid (*RQ-5000/2270*)	Radioactive material	NA9177	Radioactive and Oxidizer	173.392	173.393 173.396			1,2	1,2	Separate longitudinally by an intervening hold or compartment from explosives
	Urea nitrate, dry. See High explosive										
	Urea nitrate, wet *with 10% or more water*	Flammable solid	NA1357	Flammable solid	173.192	173.193	1 pound	25 pounds	1,2	1,2	
	Urea nitrate, wet with 10% or more water, over 25 pounds in one outside packaging. See High explosive										
	Urea peroxide	Organic peroxide	NA1511	Organic peroxide	173.153	173.227	2 pounds	25 pounds	1	4	Keep dry. Shade from radiant heat
	Valeric acid	Corrosive material	NA1760	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Valeryl chloride	Corrosive material	UN2502	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
	Vanadium oxytrichloride	Corrosive material	UN2443	Corrosive	173.244	173.247a	Forbidden	1 quart	1	4	Shade from radiant heat
	Vanadium oxytrichloride and titanium tetrachloride mixture	Corrosive material	NA2443	Corrosive	None	173.245 173.245a	Forbidden	1 quart	1	4	Shade from radiant heat
E	Vanadium pentoxide (*RQ-1000/454*)	ORM-E	UN2862	None	None	173.510	No limit	No limit	1,2	1,2	
	Vanadium tetrachloride	Corrosive material	UN2444	Corrosive	173.244	173.247a	Forbidden	1 quart	1	4	Shade from radiant heat
E	Vanadyl sulfate (*RQ-1000/454*)	ORM-E	NA9152	None	None	173.510	No limit	No limit	1,2	1,2	
	Varnish. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish; *etc.*										
	Varnish drier. See Paint drier, liquid										
	Varnish remover or reducer. See Compound, lacquer, paint *or* varnish, removing, reducing, *or* thinning, liquid										
	Varnish thinning compound. See Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid										
	Very signal cartridge	Class C explosive		Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
E	Vinyl acetate (*RQ-1000/454*)	Flammable liquid	UN1301	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
+	Vinyl chloride	Flammable gas	UN1086	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow away from living quarters
	Vinyl ethyl ether, inhibited	Flammable liquid	UN1302	Flammable liquid	None	173.119	Forbidden	1 gallon	1,3	5	

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Vinyl fluoride, inhibited	Flammable gas	UN1860	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
E	Vinylidene chloride, inhibited (*RQ-5000/2270*)	Flammable liquid	UN1303	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Vinyl isobutyl ether	Flammable liquid	UN1304	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
+	Vinyl methyl ether	Flammable gas	UN1087	Flammable gas	173.306	173.304 173.314	Forbidden	20 pounds	1,2	1	Stow away from living quarters
	Vinyl nitrate polymer	Forbidden									
	Vinyl trichlorosilane	Flammable liquid	UN1305	Flammable liquid	None	173.135	Forbidden	10 gallons	1,2	1	
	Vitriol, oil of. See Sulfuric acid										
	War head. See Explosive projectile										
	Waste, hazardous. See Hazardous waste, liquid *or* solid, n.o.s.										
	Waste paper, wet	Flammable solid	NA1325	Flammable solid	None	173.186	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Waste textile, wet	Flammable solid	UN1857	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Waste wool, wet	Flammable solid	UN1387	Flammable solid	None	173.213	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Water pump system *tank charged with compressed air or nitrogen*	Nonflammable gas	NA1956	None	173.306		Forbidden	Forbidden	1,2	1,2	
	Water reactive solid, n.o.s.	Flammable solid	UN2813	Flammable solid and Dangerous when wet	173.153	173.154	Forbidden	25 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Water treatment compounds, liquid	Corrosive material	NA1760	Corrosive	173.244	173.249	1 quart	10 gallons	1	1	
	Wax, liquid	Combustible liquid	NA1993	None	173.118a	None	No limit	No limit	1,2	1,2	
	Wet hair. See Hair, wet										
	Wet textile waste. *See* Waste textile, wet										
E	White acid (*ammonium bifluoride and hydrofluoric acid mixture*) (*RQ-5000/2270*)	Corrosive material	NA1760	Corrosive	173.244	173.264	1 quart	1 gallon	1	1	
	Wood filler, liquid. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish; *etc.*										
	Wood shavings (*when dry, clean and free from oil*). *See* Sawdust										
	Wool waste. *See* Cotton waste										
	Wool waste, wet. See Waste wool, wet										
	Xenon	Nonflammable gas	UN2036	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	X-ray film. *See* Film										
E	Xylene (*xylol*) (*RQ-1000/454*)	Flammable liquid	UN1307	Flammable liquid	173.118	173.119	1 quart	1 quart	1,2	1,2	
EA	Xylenol (*RQ-1000/454*)	ORM-A	UN2261	None	173.505	173.510	100 pounds	No limit	1,2	1,2	
	Xylyl bromide	Irritating material	UN1701	Irritant	None	173.382	Forbidden	75 pounds	1	5	Stow away from living quarters
	p-Xylyl diazide	Forbidden									
A	Yeast, active, *in liquid or pressed form*	ORM-C		None	None	173.1085	No limit	No limit			
E	Zinc acetate (*RQ-1000/454*)	ORM-E	NA9153	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc ammonium chloride (*RQ-5000/2270*)	ORM-E	NA9154	None	None	173.510	No limit	No limit	1,2	1,2	
	Zinc ammonium nitrite	Oxidizer	UN1512	Oxidizer	None	173.228	25 pounds	100 pounds	1,3	E	This material may be forbidden in water transportation by certain countries
	Zinc arsenate	Poison B	UN1712	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Zinc arsenite, solid	Poison B	UN1712	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Zinc borate (*RQ-1000/454*)	ORM-E	NA9155	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc bromide (*RQ-5000/2270*)	ORM-E	NA9156	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc carbonate (*RQ-1000/454*)	ORM-E	NA9157	None	None	173.510	No limit	No limit	1,2	1,2	
	Zinc chlorate	Oxidizer	UN1513	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and away from powdered metals
E	Zinc chloride, solid (*RQ-5000/2270*)	ORM-E	UN2331	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc chloride solution (*RQ-5000/2270*)	Corrosive material	UN1840	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
E	Zinc cyanide (*RQ-10/4.54*)	Poison B	UN1713	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Zinc ethyl. See Pyrophoric liquid, n.o.s.										
E	Zinc fluoride (*RQ-1000/454*)	ORM-E	NA9158	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc formate (*RQ-1000/454*)	ORM-E	NA9159	None	None	173.510	No limit	No limit	1,2	1,2	
EA	Zinc hydrosulfite (*RQ-1000/454*)	ORM-A	UN1931	None	173.505	173.510	50 pounds	100 pounds	1,2	1,2	Keep dry. Stow away from acids and oxidizers
E	Zinc muriate solution. *See* Zinc chloride solution										
E	Zinc nitrate (*RQ-5000/2270*)	Oxidizer	UN1514	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Zinc permanganate	Oxidizer	UN1515	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Zinc peroxide	Oxidizer	UN1516	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
E	Zinc phenolsulfonate (*RQ-5000/2270*)	ORM-E	NA9160	None	None	173.510	No limit	No limit	1,2	1,2	

V 45 M Y 22 80 UMI

§172.101 Hazardous Materials Table (cont'd)

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(c) Other requirements
E	Zinc phosphide (*RQ-1000/454*)	Poison B	UN1714	Poison	173.364	173.365	25 pounds	100 pounds	1,2	1,2	Stow away from acids and oxidizers
E	Zinc silicofluoride (*RQ-5000/2270*)	ORM-E	UN2855	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc sulfate (*RQ-1000/454*)	ORM-E	NA9161	None	None	173.510	No limit	No limit	1,2	1,2	
	Zirconium hydride	Flammable solid	UN1437	Flammable solid and Dangerous when wet	None	173.206	Forbidden	150 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Zirconium metal, dry, *chemically produced, finer than 20 mesh particle size*	Flammable solid	UN2008	Flammable solid	None	173.214	Forbidden	75 pounds	1	5	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Zirconium metal, dry, *mechanically produced, finer than 270 mesh particle size*	Flammable solid	UN2008	Flammable solid	None	173.214	Forbidden	75 pounds	1	5	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Zirconium, metal, liquid, suspensions	Flammable liquid	UN1308	Flammable liquid	None	173.140	Forbidden	5 gallons	1	5	
	Zirconium metal, wet, *chemically produced, finer than 20 mesh particle size*	Flammable solid	UN1358	Flammable solid	None	173.214	Forbidden	150 pounds	1,2	5	
	Zirconium metal, wet, *mechanically produced, finer than 270 mesh particle size*	Flammable solid	UN1358	Flammable solid	None	173.214	Forbidden	150 pounds	1,2	5	
E	Zirconium nitrate (*RQ-5000/2270*)	Oxidizer	UN2728	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Zirconium picramate, wet *with at least 20% of water*	Flammable solid	UN1517	Flammable solid	None	173.216	Forbidden	25 pounds	1	1	Stow away from heavy metals and their salts
E	Zirconium potassium fluoride (*RQ-5000/2270*)	ORM-E	NA9162	None	None	173.510	No limit	No limit	1,2	1,2	
	Zirconium scrap (*borings, clippings, shavings, sheets, or turnings*)	Flammable solid	UN1932	Flammable solid	173.153	173.220	Forbidden	Forbidden	1	4	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
EA	Zirconium sulfate (*RQ-5000/2270*)	ORM-B	NA9163	None	None	173.510	100 pounds	No limit	1,2	1,2	
E	Zirconium tetrachloride, solid (*RQ-5000/2270*)	Corrosive material	UN2503	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	

13. A new § 172.102 in association with the Optional Hazardous Materials Table is added to read as follows:

§ 172.102 Purpose and use of the optional hazardous materials table.

(a) The Optional Hazardous Materials Table (Optional Table) set forth in this section provides description, classification, labeling and vessel stowage requirements which may be used as an alternative to the corresponding requirements in § 172.101 under conditions set forth in this section. The provisions of this section do not apply to materials designated as hazardous materials under this subchapter that are not subject to the requirements of the IMCO Code. This section does not designate materials as hazardous materials. Such designations are made only in § 172.101. A number of materials listed in the Optional Table may not be subject to the requirements of this subchapter, but they are subject to regulation under widely applied international standards and are listed in this section in the interest of providing consistency with those standards and to alert persons offering or accepting these materials for transportation that the materials may be subject to regulation in international transport.

(b) The requirements of § 172.101 notwithstanding, a hazardous material (other than Class A or B explosives and Radioactive materials) may be classed, labeled, or described in accordance with this section provided the material conforms to all additional defining or limiting conditions prescribed for the description in the appropriate schedule of the IMCO Code.

(c) When a material is transported by aircraft, motor vehicle, or rail transport vehicle under the description and IMCO class or division provided in the Optional Table, the shipping paper required by § 172.202(a) must include the class name from Part 173 of this subchapter which most closely corresponds to the IMCO class indicated for the material in the Optional Table. For example, the IMCO proper shipping name, class and identification number for Ethylene oxide are "Ethylene oxide, 2.1, UN1040". While Ethylene oxide would be classed as a Flammable liquid under § 172.101, the class in Part 173 of this subchapter that most closely corresponds to the IMCO class provided in the Optional Table is "Flammable gas". The proper shipping paper description would be "Ethylene oxide, 2.1, Flammable gas, UN 1040".

(d) When appropriate, the entries "IMCO" or "IMCO Class" may be entered immediately before or immediately following the class entry in the basic description. For example: "Ethylene oxide, IMCO Class 2.1, Flammable gas, UN 1040."

(e) If a hazardous material that is a hazardous substance is offered, accepted or transported under an acceptable shipping name from the Optional Table that does not contain the name of the hazardous substance, the name of the hazardous substance shall be entered in association with the proper shipping name.

(f) Column 1 contains the letter "N" immediately adjacent to certain entries. The letter "N" means that the entry is not an acceptable alternative and the material must be transported under the appropriate entry in § 172.101.

(g) Column 2 lists the optional proper shipping names for hazardous materials. Proper shipping names are limited to those shown in Roman type (not italics). In the selection of a proper shipping name to describe a particular material, if the correct technical name is not shown, or is not appropriate, selection must be made from the general description or "n.o.s." entries corresponding to the specific hazard class of the material being shipped. The name that most appropriately describes the material must be used; e.g., an alcohol not listed by name in the Optional Table must be shipped as an "Alcohol n.o.s." rather than "Flammable liquid n.o.s." unless the technical name of the alcohol is listed, e.g., Methanol. Some mixtures may be more appropriately described by their application, such as "Paint" or "Cleaning compound".

(1) Shipping names may be entered in either upper or lower case letters.

(2) The words in italics are not part of the proper shipping name but may be used in addition to the proper shipping name. The word "or" in italics indicates that any terms in the sequence may be used as the proper shipping name, as appropriate.

(3) When one entry references another entry by use of a "*see*" and both names are in Roman type, either name may be used as a proper shipping name (e.g., Methyl alcohol. *See* Methanol).

(4) If not included in the proper shipping name in the Optional Table, the proper shipping name for a hazardous material that is a hazardous waste must include the word "Waste" preceding the name of the material. For example: Waste turpentine.

(h) Column 3 contains the hazard class or division designated for the material in the IMCO Code. In the case of explosives, a letter designating the "compatibility group" of the substance or article is also included immediately following the division. Detailed definitions of the classes, divisions, and compatibility groups are provided in the IMCO Code. Basic definitions of the IMCO classes and divisions (with corresponding DOT classes shown in parentheses) are follows:

(1) Class 1—Explosives.

(i) Division 1.1—Substances and articles which have a mass explosion hazard. (*Explosive A*)

(ii) Division 1.2—Substances and articles which have a projection hazard but not a mass explosion hazard. (*Explosive A* or *B*)

(iii) Division 1.3—Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard. (*Explosive B*)

(iv) Division 1.4—Substances and articles which present no significant hazard. (*Explosive C*)

(v) Division 1.5—Very insensitive substances. (*Blasting Agent*)

(2) Class 2—Gases (compressed, liquefied or dissolved under pressure).

(i) Division 2.1—Flammable gases. (*Flammable gas*)

(ii) Division 2.2—Nonflammable gases. (*Nonflammable gas*)

(iii) Division 2.3—Poison gases. (*Poison A*)

(3) Class 3—Flammable liquids.

(i) Division 3.1—Low flash point group (liquids with flash points below 0°F.). (*Flammable liquid*)

(ii) Division 3.2—Intermediate flash point group (liquids with flash points of 0°F. or above but less than 73°F.). (*Flammable liquid*)

(iii) Division 3.3—High flash point group (liquids with flash points of 73°F. or above but less than 141°F.). (*Flammable liquid* or *Combustible liquid*)

(4) Class 4—Flammable solids or substances.

(i) Division 4.1—Flammable solids. (*Flammable solid*)

(ii) Division 4.2—Substances liable to spontaneous combustion. (*Flammable solid* or, for pyroforic liquids, *Flammable liquid*)

(iii) Division 4.3—Substances emitting flammable gases when wet. (*Flammable solid*)

(5) Class 5—Oxidizing substances.

(i) Division 5.1—Oxidizing substances or agents. (*Oxidizer*)

(ii) Division 5.2—Organic peroxides. (*Organic peroxide*)

(6) Class 6— Poisonous and infectious substances.

(i) Division 6.1—Poisonous substances. (*Poison B*)

(ii) Division 6.2—Infectious substances. (*Etiologic agent*)

(7) Class 7—Radioactive substances. (*Radioactive material*)

V 45 M Y 2 2 8 0 UMI

(8) Class 8—Corrosives. (*Corrosive material*)

(9) Class 9—Miscellaneous dangerous substances. (*Other regulated material*)

(i) Column 4 contains the United Nations number listed for the substance or article in the IMCO Code. A number of substances or articles have no UN number provided for them in the IMCO Code. For some of these entries, the UN number of the article or substance which most appropriately corresponds to that particular entry is shown in parentheses.

(j) Column 5 specifies the labels to be applied to each package. Specifications for labels for domestic and export shipments shall be either as provided in this subchapter or as provided in the IMCO Code, except that color shall be as prescribed in § 172.407(d). The label referred to as the "St. Andrews Cross" label is the "Harmful-Stow Away From Foodstuffs" label provided by IMCO for materials of Class 6.1 Packaging Group III.

(k) Column 6 provides the packaging group specified for the material in the IMCO Code.

(l) Column 7 specifies each of the authorized stowage locations on board cargo vessels and passenger vessels and certain additional requirements for shipments of listed hazardous materials. Section 176.63 of this subchapter sets forth the physical requirements for each of the authorized stowage locations listed in Column 7. The authorized stowage locations are defined as follows:

(1) "1" means the material must be stowed "on deck."

(2) "2" means the material must be stowed "under deck."

(3) "3" means the material must be stowed "under deck away from heat."

(4) "1,2" means the material may be stowed either "on deck" or "under deck"; however, "under deck" stowage should be used if available.

(5) "1,3" means the material may be stowed either "on deck" or "under deck away from heat"; however, "under deck away from heat" stowage should be used if it is available.

(6) "5" means the material is forbidden and may not be offered or accepted for transportation by vessel.

(7) "6" means the material is authorized to be transported in a magazine subject to the requirements of §§ 176.135 through 176.144 of this subchapter.

172.102 Optional Hazardous Materials Table

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Acetal	3.1	UN 1088	Flammable Liquid	II	1,3	5	Keep cool
	Acetaldehyde	3.1	UN 1089	Flammable Liquid	I	1,3	5	Keep cool
	Acetaldehyde oxime	3.3	UN 2332	Flammable Liquid	III	1,2	1,2	
	Acetic acid, *solution containing not less than 80% of acid*	3.3	UN 1842	Flammable Liquid, Corrosive	III	1,2	1,2	
	Acetic anhydride	8	UN 1715	Corrosive	II	1,2	1,2	Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Acetone	3.1	UN 1090	Flammable Liquid	II	1,3	5	
	Acetone cyanohydrin, *stablilized*	6.1	UN 1541	Poison	I	1	5	Shade from radiant heat. Stow 'away from' acids and alkalis
	Acetone oils	3.2	UN 1091	Flammable Liquid	II	1,2	1	
	Acetonitrile. *See* Methyl cyanide							
	Acetyl acetone peroxide, *maximum concentration 40% in solution*	5.2	UN 2080	Organic Peroxide	II	1	5	
	Acetyl benzoyl peroxide, *maximum concentration 45% in solution*	5.2	UN 2081	Organic Peroxide	II	1	5	
	Acetyl bromide	8	UN 1716	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Acetyl chloride	8	UN 1717	Corrosive, Flammable Liquid	I	1	1	Keep dry. Shade from radiant heat. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Acetyl cyclohexane sulphonyl peroxide, *maximum concentration 82%, wetted with minimum 12% water*	5.2	UN 2082	Organic Peroxide	I	1	5	Maximum transport temperature -10 degrees C
	Acetyl cyclohexane sulphonyl peroxide, *maximum concentration 32% in solution*	5.2	UN 2083	Organic Peroxide	II	1	5	Maximum transport temperature -10 degrees C
	Acetylene, *dissolved*	2.1	UN 1001	Flammable Gas	--	1	1	Shade from radiant heat. Stow 'separated from' chlorine
	Acetylene tetrabromide	6.1	UN 2504	St. Andrews Cross	III	1,2	1,2	
	Acetyl iodide	II	UN 1898	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Acetyl methyl carbinol	3.3	UN 2621	Flammable Liquid	III	1,2	1,2	
	Acetyl peroxide, *maximum concentration 27% in solution*	5.2	UN 2084	Organic Peroxide	II	1	5	
	Acid butyl phosphate	II	UN 1718	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Acid mixtures, *hydrofluoric and sulphuric*	II	UN 1786	Corrosive	I	1	5	Stow 'away from' fluorides
	Acid mixtures, *nitrating acid*	II	UN 1796	Corrosive	I/II	1	5	Stow 'away from' fluorides
	Acid mixtures, *spent*	8	UN 1826	Corrosive	I/II	1	5	Stow 'away from' fluorides
	Acids, liquid, n.o.s.. *See* Corrosive liquids, n.o.s							
	Acrolein dimer, *stabilized*	3.3	UN 2607	Flammable Liquid	II	1,2	1,2	
	Acrolein, *inhibited*	3.1	UN 1092	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Acrylamide	6.1	UN 2074	St. Andrews Cross	III	1,2	1,2	Keep cool. Shade from radiant heat
	Acrylamide	6.1	UN 2074	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat. Keep cool
	Acrylic acid, *inhibited*	8	UN 2218	Corrosive	II	1	1	Shade from radiant heat. Keep cool. Glass carboys prohibited on passenger vessels
	Acrylonitrile, *inhibited*	3.1	UN 1093	Flammable Liquid, Poison	I	1,3	II	Keep cool
	Activated carbon. *See* Carbon, *activated*							
	Activated charcoal. *See* Carbon, *activated*							
	Adhesives, n.o.s.. *See* Cement, adhesive, *containing a flammable liquid*							
	Adiponitrile	6.1	UN 2205	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
	Aerosol dispensers, *with a capacity below 1400 cubic cm.*:							
	(1) more than 10% by weight of total contents consisting of flammable gas	2.1	UN 1950	Flammable Gas	--	1,3	1,3	
	(2) internal pressure greater than 160 psig at 130 deg F.	2.2	UN 1950	Nonflammable Gas	--	1,3	1,3	
	(3) more than 45% by weight of total contents consisting of flammable liquid. This limit is reduced to 35% if there is any flammable gas present.	3.1 3.2 3.3	UN 1950 UN 1950 UN 1950	Flammable Liquid Flammable Liquid Flammable Liquid	-- -- --	1,3 1,3 1,3	1,3 1,3 1,3	
	(4) more than 10% by weight of toxic substances in the liquid concentrate	6.1 6.1	UN 1950	Poison St. Andrews Cross	I/II III	1,3 1,3	1,3 1,3	
	(5) more than 5% by weight of corrosive substances in the liquid concentrate	II	UN 1950	Corrosive	--	1,3	1,3	
	(6) as specified under Group 2 on page 9011 of IMCO Code	II	UN 1950	None	--			
N	Aerosol dispensers, *with a capacity of 1400 cubic cm. or more*	2	UN 1950		--			
	Aerosols *or* aerosol product. *See* Aerosol dispensers							
	Agents, blasting, Type B. *See* Explosives, blasting, Type B							
	Agents, blasting, Type E. *See* Explosives, blasting, Type E							
	Air, *compressed*	2.2	UN 1002	Nonflammable Gas	--	1,2	1,2	
	Air, *liquid*	2.2	UN 1003	Nonflammable Gas, Oxidizer	--	1,3	1,3	Stow 'separated from' acetylene. Do not overstow
	Alarm devices, explosive	1.4 S	UN 0001	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Alcohol, *denatured*	3.2 3.3	UN 1095 UN 1095	Flammable Liquid Flammable Liquid	II II	1,2 1,2	1 1,2	
	Alcohol, *industrial*	3.2 3.3	UN 1096 UN 1096	Flammable Liquid Flammable Liquid	II II	1,2 1,2	1 1,2	
	Alcohols, *(non-toxic)*, n.o.s.	3.2 3.3	UN 1987 UN 1987	Flammable Liquid Flammable Liquid	II II	1,2 1,2	1 1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Alcohols, *(toxic)*, n.o.s.	3.2	UN 1986	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1986	Flammable Liquid, Poison	II	1,2	1	
	Aldehydes, *(non-toxic)*, n.o.s.	3.2	UN 1989	Flammable Liquid	II	1,2	1	
		3.3	UN 1989	Flammable Liquid	II	1,2	1,2	
	Aldehydes, *(toxic)*, n.o.s.	3.2	UN 1988	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1988	Flammable Liquid, Poison	II	1,2	1,2	
	Aldrin *and its mixtures*	6.1	UN 1542	Poison	II/III	1,2	1,2	
	Alkali metal amalgams, n.o.s.	4.3	UN 1389	Dangerous When Wet	I	1,2	1,2	
	Alkali metal amides, n.o.s.	4.3	UN 1390	Dangerous When Wet	II	1,2	5	
	Alkali metal dispersions, n.o.s.	4.3	UN 1391	Dangerous When Wet	I	1,2	5	
	Alkali metals, *liquid alloys of*	4.3	UN 1421	Dangerous When Wet	I	1,2	5	
	Alkaline caustic liquids, n.o.s. *See* Caustic alkali liquids, n.o.s							
	Alkaline corrosive liquids, n.o.s.	8	UN 1760	Corrosive	II	1,2	1,2	
	Alkaline earth metal amalgams, n.o.s.	4.3	UN 1382	Dangerous When Wet	I	1,2	1,2	
	Alkaloids, *(poisonous)*, *and their salts*, n.o.s.	6.1	UN 1544	Poison	I/II	1,2	1,2	
		6.1	UN 1544	St. Andrews Cross	III	1,2	1,2	
	Alkanesulphonic acids	8	UN 1899	Corrosive	II	1,2	1	
	Alkylamines and polyamines, *flashpoint below 23 deg C and boiling point above 35 deg C but not more than 200 deg C*, n.o.s.	3.2	UN 2733	Flammable Liquid, Corrosive	II	1,2	1	
		3.3	UN 2733	Flammable Liquid, Corrosive	II	1,2	1,2	
	Alloys of alkaline earth metals, *(non-pyrophoric)*, n.o.s.	4.3	UN 1393	Dangerous When Wet	II	1,2	5	
	Allyl acetate	3.2	UN 2333	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Allyl alcohol	3.2	UN 1098	Flammable Liquid, Poison	I	1,2	1	
	Allylamine	3.1	UN 2334	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Allyl bromide	3.2	UN 1099	Flammable Liquid	I	1,2	1	
	Allyl chloride	3.1	UN 1100	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Allyl chlorocarbonate. *See* Allyl chloroformate							
	Allyl chloroformate	8	UN 1722	Corrosive	I	1	5	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Allyl ethyl ether	3.2	UN 2335	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Allyl formate	3.2	UN 2336	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Allyl glycidyl ether	3.3	UN 2219	Flammable Liquid	III	1,2	1,2	
	Allyl iodide	8	UN 1723	Corrosive	I	1	5	Keep dry
	Allyl isothiocyanate, *stabilized*	6.1	UN 1545	Poison	II	1	5	Shade from radiant heat
	Allyl trichlorosilane, *stabilized*	8	UN 1724	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Aluminium alkylchlorides	4.2	UN 2003	Spontaneously Combustible	I	1	1	
	Aluminium alkyl halides, in solution	4.2	UN 2220	Spontaneously Combustible	II	1	1	
	Aluminium alkyl halides, *pure*	4.2	UN 2221	Spontaneously Combustible	I	1	1	
	Aluminium alkyls	4.2	UN 2003	Spontaneously Combustible	I	1	1	
	Aluminium bromide, *(anhydrous or solutions)*	II	UN 1725	Corrosive	II	1,2	1,2	Keep dry
	Aluminium carbide	4.3	UN 1394	Dangerous When Wet	II	1,2	1,2	
	Aluminium chloride, *(anhydrous or solutions)*	II	UN 1726	Corrosive	II	1,2	1,2	Keep dry
	Aluminium ferrosilicon, *powder*	4.3	UN 1395	Dangerous When Wet	II	1,2	1,2	
	Aluminium hydride	4.2	UN 2463	Spontaneously Combustible	I	1,2	5	
	Aluminium nitrate	5.1	UN 1438	Oxidizer	III	1,2	1,2	
	Aluminium phosphide	6.1	UN 1397	Poison, Dangerous When Wet	I	1,2	1,2	Stow 'away from' acids and oxidizing substances
	Aluminium, *powder, coated*	4.1	UN 1309	Flammable Solid	III	1,2	1,2	Keep dry. Stow 'away from' nonflammable gases and poisons
	Aluminium, *powder, pyrophoric*. *See* Pyrophoric metals							
	Aluminium, *powder, uncoated, non-pyrophoric*	4.3	UN 1396	Dangerous When Wet	II	1,2	1,2	Keep dry. Stow 'away from' nonflammable gases and poisons
	Aluminium silicon, *powder, uncoated*	4.3	UN 1398	Dangerous When Wet	III	1,2	1,2	
	Aluminium tributyl	4.2	UN 2003	Spontaneously Combustible	I	1	1	
	Aluminium triethyl	4.2	UN 1102	Spontaneously Combustible	I	1	1	
	Aluminium trimethyl	4.2	UN 1103	Spontaneously Combustible	I	1	1	
	Aminophenols (*o-*, *m-*, *p-*)	6.1	UN 2512	St. Andrews Cross	III	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Ammonia, *anhydrous, liquefied, and ammonia solutions below S.G. 0.88 at 15 degrees C. ammonia liquid and ammonia solutions in water containing over 50% of ammonia.*	2.3	UN 1005	Poison Gas	--	1,2	5	Stow 'separated from' chlorine
	Ammonia, *solutions below S.G. 0.88 at 15 degrees C. containing more than 35% and not above 50% ammonia.*	2.2	UN 2073	Nonflammable Gas	--	1,2	5	Stow 'separated from' chlorine
	Ammonia solutions *having a density (specific gravity) between 0.880 and 0.957 at 15 deg C, in water, containing more than 10% and not more than 35% by weight ammonia.*	8	UN 2672	Corrosive	III	1,2	1,2	Stow 'away from' living quarters
	Ammonium arsenate	6.1	UN 1546	Poison	II	1,2	1,2	Stow 'away from' alkalis
	Ammonium bifluoride. *See* Ammonium hydrogen fluoride							
	Ammonium dichromate	5.1	UN 1439	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Ammonium dinitro-o-cresolate	9	UN 1843	None	II	1,2	1,2	Stow 'away from' heavy metals, 'separated from' flammable substances and 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Ammonium fluoride	6.1	UN 2505	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Ammonium hydrogen fluoride	8	UN 1727	Corrosive	III	1,2	1,2	Keep dry
	Ammonium metavanadate	6.1	UN 2859	Poison	II	1,2	1,2	
	Ammonium nitrate, *containing more than 0.2% by weight of combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance*	1.1 D	UN 0222	Explosive (1.1D)	--	1,2	1,2	
	Ammonium nitrate, *containing not more than 0.2% of combustible material (including organic material calculated as carbon) and free from any other added matter*	5.1	UN 1942	Oxidizer	III	1,2	1,2	
	Ammonium nitrate fertilizer, *containing ammonium nitrate*, n.o.s.	5.1	UN 2072	Oxidizer	III	1,2	1,2	
	Ammonium nitrate fertilizers, *of the same composition as defined in class 5.1 on pages 5015 and 5016 of the IMCO Code but containing greater amounts of organic and/or combustible material than specified in these entries*	1.1 D	UN 0223	Explosive (1.1D)	--	1,2	1,2	
	Ammonium nitrate fertilizers, *Type A*							
	(1) Uniform non-segregating mixtures of ammonium nitrate with added matter which is inorganic and chemically inert towards ammonium nitrate, containing not less than 90% of ammonium nitrate and not more than 0.2% of combustible material (including organic material calculated as carbon), or containing less than 90% but more than 70% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2067	Oxidizer	III	1,2	1,2	
	(2) Uniform non-segrating mixtures of ammonium nitrate with calcium carbonate and/or dolomite, containing more than 80% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2068	Oxidizer	III	1,2	1,2	
	(3) Uniform non-segregating mixtures of ammonium nitrate/ammonium sulphate, containing more than 45% but not more than 70% of ammonium nitrate and containing not more than 0.4% of total combustible material	5.1	UN 2069	Oxidizer	III	1,2	1,2	
	(4) Uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, containing more than 70% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2070	Oxidizer	III	1,2	1,2	
	Ammonium nitrate fertilizers, *Type B. Uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, containing not more than 70% of ammonium nitrate and not more than 0.4% of total added combustible material or containing not more than 45% of ammonium nitrate with unrestricted combustible material*	9	UN 2071	None	III	1,2	1,2	
	Ammonium perchlorate	5.1	UN 1442	Oxidizer	II	1,2	5	Stow 'away from' powdered metals
	Ammonium persulphate	5.1	UN 1444	Oxidizer	III	1,2	1,2	
N	Ammonium picrate, *dry or containing, by weight, less than 10% water*	1.1D	UN 0004	Explosive (1.1D)	--	--	--	
	Ammonium picrate, *wetted with not less than 10% water*	4.1	UN 1310	Flammable Solid	I	1	5	Stow 'away from' heavy metals
	Ammonium picrate, *wetted with not less than 33⅓% of water*	4.1	UN 1310	Flammable Solid	II	1,2	5	Stow 'away from' heavy metals
	Ammonium polyvanadate	6.1	UN 2861	Poison	II	1,2	1,2	
	Ammunition, illuminating, *with or without burster, expelling charge or propelling charge*	1.4 G	UN 0297	Explosive (1.4G)	--	1,3	1,3	
N	Ammunition, illuminating, *with or without burster, expelling charge or propelling charge*	1.2G	UN 0171	Explosive (1.2G)	--	--	--	
N	Ammunition, illuminating, *with or without burster, expelling charge or propelling charge*	1.3G	UN 0254	Explosive (1.3G)	--	--	--	
N	Ammunition, incendiary, *liquid or gel, with burster, expelling charge or propelling charge*	1.3J	UN 0247	Explosive (1.3J)	--	--	--	
	Ammunition, incendiary *(other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.4 G	UN 0300	Explosive *(1.4G)*	--	1,3	1,3	
N	Ammunition, incendiary *(other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.2G	UN 0009	Explosive (1.2G)	--	--	--	
N	Ammunition, incendiary *(other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.3G	UN 0010	Explosive (1.3G)	--	--	--	
N	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge*	1.2H	UN 0243	Explosive (1.2H)	--	--	--	
N	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge*	1.3H	UN 0244	Explosive (1.3H)	--	--	--	
	Ammunition, practice	1.4G	UN 0362	Explosive (1.4G)	--	1,3	1,3	
	Ammunition, proof	1.4G	UN 0363	Explosive (1.4G)	--	1,3	1,3	

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
N	Ammunition, smoke *(other than water-activated ammunition)* with or without burster, expelling charge or propelling charge	1.2G	UN 0015	Explosive (1.2G), Corrosive	--	--	--	
N	Ammunition, smoke *(other than water-activated ammunition)* with or without burster, expelling charge or propelling charge	1.3G	UN 0016	Explosive (1.3G), Corrosive	--	--	--	
N	Ammunition, smoke *(other than water-activated ammunition)* with or without burster, expelling charge or propelling charge	1.4G	UN 0303	Explosive (1.4G), Corrosive	--	--	--	
N	Ammunition, smoke, white phosphorus *(other than water-activated ammunition)*, with burster, expelling charge or propelling charge	1.2H	UN 0245	Explosive (1.2H)	--	--	--	
N	Ammunition, smoke, white phosphorus *(other than water-activated ammunition)*, with burster, expelling charge or propelling charge	1.3H	UN 0246	Explosive (1.3H)	--	--	--	
	Ammunition, *(tear producing)*, non-explosive, with neither burster nor expelling charge, non-fuzed	6.1	UN 2017	Poison	II	1,2	5	Keep dry
N	Ammunition, tear producing, with burster, expelling charge or propelling charge	1.2G	UN 0018	Explosive (1.2G), Poison, Corrosive	--	--	--	
N	Ammunition, tear producing, with burster, expelling charge or propelling charge	1.3G	UN 0019	Explosive (1.3G), Poison, Corrosive	--	--	--	
	Ammunition, tear-producing, with burster, expelling charge or propelling charge	1.4 G	UN 0301	Explosive (1.4G), Poison, Corrosive	--	1,3	1,3	
	Ammunition, *(toxic)*, non-explosive, with neither burster nor expelling charge, non-fuzed	6.1	UN 2016	Poison	II	1,2	5	Keep dry
N	Ammunition, toxic *(other than water-activated ammunition)* with burster, expelling charge or propelling charge	1.2K	UN 0020	Explosive (1.2K), Poison	--	--	--	
N	Ammunition, toxic *(other than water-activated ammunition)* with burster, expelling charge or propelling charge	1.3K	UN 0021	Explosive (1.3K), Poison	--	--	--	
	Amorces	1.4 S	UN 0022	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Amyl acetates	3.2	UN 1104	Flammable Liquid	II	1,2	1	
		3.3	UN 1104	Flammable Liquid	II	1,2	1,2	
	Amyl alcohols	3.2	UN 1105	Flammable Liquid	II	1,2	1	
		3.3	UN 1105	Flammable Liquid	II	1,2	1,2	
	Amylamine	3.2	UN 1106	Flammable Liquid	II	1,2	1	
	Amyl chloride	3.2	UN 1107	Flammable Liquid	II	1,2	1	
	n-Amylene	3.1	UN 1108	Flammable Liquid	I	1,2	II	
	Amyl formates	3.3	UN 1109	Flammable Liquid	II	1,2	1,2	
	Amyl hydride. *See* Pentane							
	Amyl mercaptan	3.2	UN 1111	Flammable Liquid	II	1,2	1	
	Amyl methyl ketone	3.3	UN 1110	Flammable Liquid	III	1,2	1,2	
	Amyl nitrate	3.3	UN 1112	Flammable Liquid	II	1,3	5	
	Amyl nitrite	3.1	UN 1113	Flammable Liquid	II	1,2	5	Keep cool
	Amyl trichlorosilane	8	UN 1728	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Aniline	6.1	UN 1547	Poison	II	1,2	1,2	Stow 'away from' acids and oxidizers
	Aniline hydrochloride	6.1	UN 1548	St. Andrews Cross	III	1,2	1,2	Stow 'away from' alkalis
	Aniline oil. *See* Aniline							
	o-Anisidine	6.1	UN 2431	St. Andrews Cross	III	1,2	1,2	
	Anisole	3.3	UN 2222	Flammable Liquid	III	1,2	1,2	
	Ansoyl chloride	8	UN 1729	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Anti-freeze. *See* Flammable liquid preparations, n.o.s							
	Antimony chloride. *See* Antimony trichloride, *liquid or solid*							
	Antimony compounds, *(inorganic)*, n.o.s.	6.1	UN 1549	Poison	I/II	1,2	1,2	
		6.1	UN 1549	St. Andrews Cross	III	1,2	1,2	
	Antimony lactate	6.1	UN 1550	St. Andrews Cross	III	1,2	1,2	
	Antimony pentachloride, *liquid*	8	UN 1730	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Antimony pentachloride, *solutions*	8	UN 1731	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Antimony pentafluoride	8	UN 1732	Corrosive, Poison	II	1	5	Keep dry
	Antimony potassium tartrate	6.1	UN 1551	St. Andrews Cross	III	1,2	1,2	
	Antimony trichloride, *liquid*	8	UN 1733	Corrosive	II	1	1	Keep dry
	Antimony trichloride, *solid*	8	UN 1733	Corrosive	II	1,2	1,2	Keep dry
	Argon, *compressed*	2.2	UN 1006	Nonflammable Gas	--	1,3	1,3	
	Argon, *liquid*	2.2	UN 1951	Nonflammable Gas	--	1,3	1,3	
	Arsenic acid, *liquid*	6.1	UN 1553	Poison	I	1,2	1,2	
	Arsenic acid, *solid*	6.1	UN 1554	Poison	II	1,2	1,2	
	Arsenical dust	6.1	UN 1562	Poison	II	1,2	1,2	
	Arsenical flue dust. *See* Arsenical dust							
	Arsenic bromide	6.1	UN 1555	Poison	II	1,2	1,2	
	Arsenic chloride. *See* Arsenic trichloride							
	Arsenic compounds, *(liquid)*, n.o.s.	6.1	UN 1556	Poison	I/II	1,2	1,2	
		6.1	UN 1556	St. Andrews Cross	III	1,2	1,2	
	Arsenic compounds, *(solid)*, n.o.s.	6.1	UN 1557	Poison	I/II	1,2	1,2	Keep dry.
		6.1	UN 1557	St. Andrews Cross	III	1,2	1,2	Keep dry
	Arsenic, metallic	6.1	UN 1558	Poison	II	1,2	1,2	
	Arsenic pentoxide	6.1	UN 1559	Poison	II	1,2	1,2	
	Arsenic sulphides, *(solid)*, n.o.s. *See* Arsenic compounds, *(solid)*, n.o.s							
	Arsenic trichloride	6.1	UN 1560	Poison	I	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Arsenic trioxide	6.1	UN 1561	Poison	II	1,2	1,2	
	Arsine	2.3	UN 2188	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
	Articles, explosive, n.o.s.	1.4B	UN 0350	Explosive (1.4B)	--	1,3	1,3	
	Articles, explosive, n.o.s.	1.4C	UN 0351	Explosive (1.4C)	--	1,3	1,3	
	Articles, explosive, n.o.s.	1.4D	UN 0352	Explosive (1.4D)	--	1,3	1,3	
	Articles, explosive, n.o.s.	1.4G	UN 0353	Explosive (1.4G)	--	1,3	1,3	
	Articles, explosive, n.o.s.	1.4S	UN 0349	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Articles, explosive, n.o.s.	1.1L	UN 0354	Explosive (1.1L)	--	--	--	
N	Articles, explosive, n.o.s.	1.2L	UN 0355	Explosive (1.2L)	--	--	--	
N	Articles, explosive, n.o.s.	1.3L	UN 0356	Explosive (1.3L)	--	--	--	
N	Articles, pyrophoric	1.2L	UN 0380	Explosive (1.2L)	--	--	--	
	Asbestos, blue	III	UN 2212	None	II	1,2	1,2	
	Asbestos, white	III	UN 2590	None	III	1,2	1,2	
	Asphalt cut-backs. *See* Cut-backs, *asphalt or bitumen*							
	Bags, *(empty and unwashed)*, *having contained* Potassium nitrate *or* sodium nitrate	4.1	UN 1359	Flammable Solid	III	1,2	5	
	Barium, *alloys, non-pyrophoric*	4.3	UN 1399	Dangerous When Wet	II	1,2	II	
	Barium alloys *pyrophoric*	4.2	UN 1854	Spontaneously Combustible	II	1	5	
	Barium azide, *containing at least 50% water or alcohol*	6.1	UN 1571	Poison	II	1,2	1,2	Stow 'away from' heavy metals
N	Barium azide, *dry or containing, by weight, less than 50% water or alcohol*	1.1A	UN 0224	Explosive (1.1A), Poison	--	--	--	
	Barium chlorate	5.1	UN 1445	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs and powdered metals, 'separated from' Ammonium compounds
	Barium compounds, n.o.s.	6.1	UN 1564	Poison	I/II	1,2	1,2	
		6.1	UN 1564	St. Andrews Cross	III	1,2	1,2	
	Barium cyanide	6.1	UN 1565	Poison	I	1,2	1,2	Stow 'away from' acids
	Barium, *metal, non-pyrophoric*	4.3	UN 1400	Dangerous When Wet	II	1,2	5	
	Barium nitrate	5.1	UN 1446	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs
	Barium oxide	6.1	UN 1884	St. Andrews Cross	III	1,2	1,2	
	Barium perchlorate	5.1	UN 1447	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' powdered metals and foodstuffs
	Barium permanganate	5.1	UN 1448	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs and 'separated from' ammonium compounds and hydrogen peroxide
	Barium peroxide	5.1	UN 1449	Oxidizer, Poison	II	1,2	1,2	Keep dry. Stow 'away from' foodstuffs
	Batteries, *electric, storage, wet or filled*	8	UN 1734	Corrosive	III	1,2	1,2	
	Battery fluid, *acid*	8	UN 1735	Corrosive	II	1,2	1,2	Glass carboys in hampers prohibited under deck
	Battery fluid, *alkaline corrosive*	8	UN 1735	Corrosive	II	1,2	1,2	
	Battery fluid, *alkaline corrosive, with storage battery*	8	UN 1735	Corrosive	II	1,2	1,2	
	Benzaldehyde	3.3	UN 1990	Flammable Liquid	III	1,2	1,2	
	Benzene	3.2	UN 1114	Flammable Liquid	II	1,2	1	
	Benzene sulphonyl chloride	6.1	UN 2225	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids and alkalis
	Benzidine	6.1	UN 1885	Poison	II	1,2	1,2	
	Benzine	3.1	UN 1115	Flammable Liquid	II	1,2	5	
		3.2	UN 1115	Flammable Liquid	II	1,2	II	
		3.3	UN 1115	Flammable Liquid	III	1,2	1,2	
	Benzonitrile	6.1	UN 2224	Poison	II	1,2	1,2	Stow 'away from' acids
	Benzotrichloride	8	UN 2226	Corrosive	II	1,2	1,2	Stow 'away from' living quarters
	Benzotrifluoride	3.2	UN 2338	Flammable Liquid	II	1,2	1	
	Benzoyl chloride	III	UN 1736	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Benzoyl peroxide, *in a concentration of more than 80% but less than 95% with water*	5.2	UN 2088	Organic Peroxide	I	1	5	
	Benzoyl peroxide, *in a concentration of more than 72% but less than 95% as a paste*	5.2	UN 2086	Organic Peroxide	I	1	5	
	Benzoyl peroxide, *in a concentration of not more than 72% as a paste*	5.2	UN 2087	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *in a concentration of not more than 55% as a paste*	5.2	UN 2087	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *in a concentration of not more than 80% with water*	5.2	UN 2090	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *in concentrations from 30% to maximum 52% with inert solid*	5.2	UN 2089	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *technical pure or in a concentration of more than 52% with inert solid*	5.2	UN 2085	Organic Peroxide	I	1	5	
	Benzyl bromide	8	UN 1737	Corrosive	II	1	5	Keep dry
	Benzyl chloride	8	UN 1738	Corrosive	II	1	5	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Benzyl chloroformate	8	UN 1739	Corrosive	I	1	5	Keep dry
	Benzyl cyanide, *liquid*	6.1	UN 2470	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Benzyl dimethylamine	3.3	UN 2619	Flammable Liquid	III	1,2	1,2	
	Benzylidene chloride	6.1	UN 1886	Poison	II	1	5	
	Beryllium compounds	6.1	UN 1566	Poison	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Beryllium, *metal powder*	6.1	UN 1567	Poison, Flammable Solid	II	1,2	1,2	Segregation same as for flammable solids
	Beryllium nitrate	5.1	UN 2464	Oxidizer, Poison	II	1,2	1,2	Keep cool. If packaged in a liner within a wooden barrel, fiber drum or plywood drum or in plastic bags within a fiberboard box, stow 'away from' sources of heat
	Bhusa	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Bifluorides, n.o.s.	8	UN 1740	Corrosive	III	1,2	1,2	Keep dry
	Bis-(4-tert-butyl cyclohexyl) perdicarbonate, *technical pure*	5.2	UN 2154	Organic Peroxide	II	1	5	Maximum transport temperature 30 deg C
	2,2-Bis-(tert-butylperoxy) butane, *maximum concentration 55% in solution*	5.2	UN 2111	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy) cyclohexane, *maximum concentration 77% in solution*	5.2	UN 2180	Organic Peroxide	II	1	II	
	1,2-Bis-(tert-butylperoxy) cyclohexane, *maximum concentration 77% in solution*	5.2	UN 2181	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy) cyclohexane, *technical pure*	5.2	UN 2179	Organic Peroxide	II	1	5	
	1,4-Bis-(2-tert-butylperoxy isopropyl) benzene, *or* 1,3-bis-(2-tert-butylperoxy isopropyl) benzene, *and mixtures thereof, (including technical pure or in a concentration of more than 40% with inert solid)*	5.2	UN 2112	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *technical pure*	5.2	UN 2145	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *maximum concentration 57% in solvent*	5.2	UN 2146	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *maximum concentration 58% with inert solid*	5.2	UN 2147	Organic Peroxide	II	1	5	
	2,2-Bis-(4,4-di-tert-butylperoxy cyclohexyl) propane, *maximum concentration 42% with inert solid*	5.2	UN 2168	Organic Peroxide	II	1	5	
	Bis-(1-hydroxy cyclohexyl) peroxide, *technical pure*	5.2	UN 2148	Organic Peroxide	II	1	5	
	Bis-(2-methylbenzoyl)peroxide, *with at least 15% water*	5.2	UN 2593	Organic Peroxide	I	1	5	Maximum transport temperature 30 deg C
	Bis-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide, *as a paste with at least 50% phlegmatizer*	5.2	UN 2597	Organic Peroxide	II	1	5	Maximum transport temperature 30 deg C
N	Black powder, compressed	1.1D	UN 0028	Explosive (1.1D)	--	--	--	
N	Black powder, *granular or as meal*	1.1D	UN 0027	Explosive (1.1D)	--	--	--	
	Blasting cap assemblies, non electric	1.4B	UN 0361	Explosive (1.4B)	--	1,3	1,3	
N	Blasting cap assemblies, non-electric	1.1B	UN 0360	Explosive (1.1B)	--	--	--	
	Blasting caps, electric	1.4 B	UN 0255	Explosive (1.4B)	--	1,2	5	Portable magazine or metal locker. Do not handle blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
N	Blasting caps, electric	1.1B	UN 0030	Explosive (1.1B)	--	--	--	
	Blasting caps, non-electric	1.4 B	UN 0267	Explosive (1.4B)	--	1,2	5	Portable magazine or metal locker. Do not handle blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
N	Blasting caps, non-electric	1.1B	UN 0029	Explosive (1.1B)	--	--	--	
	Bleaching powder. *See* Calcium hypochlorite *mixtures, dry, containing 39% or less, but more than 10% available chlorine*							
	Blue asbestos. *See* Asbestos, blue							
N	Bombs, photo-flash	1.1D	UN 0038	Explosive (1.1D)	--	--	--	
N	Bombs, photo-flash	1.1F	UN 0037	Explosive (1.1F)	--	--	--	
N	Bombs, photo-flash	1.2G	UN 0039	Explosive (1.2G)	--	--	--	
N	Bombs, photo-flash	1.3G	UN 0299	Explosive (1.3G)	--	--	--	
	Bombs, smoke, *containing a corrosive liquid, non-explosive, without initiating device*	8	UN 2028	Corrosive	II	1,2	5	Keep dry. Stow 'away from' living quarters
N	Bombs, *with bursting charge*	1.1D	UN 0034	Explosive (1.1D)	--	--	--	
N	Bombs, *with bursting charge*	1.2D	UN 0035	Explosive (1.2D)	--	--	--	
N	Bombs, *with bursting charge*	1.1F	UN 0033	Explosive (1.1F)	--	--	--	
N	Bombs, *with bursting charge*	1.2F	UN 0291	Explosive (1.2F)	--	--	--	
N	Boosters, with detonator	1.1B	UN 0225	Explosive (1.1B)	--	--	--	
N	Boosters, with detonator	1.2B	UN 0268	Explosive (1.2B)	--	--	--	
N	Boosters, *without detonator*	1.1D	UN 0042	Explosive (1.1D)	--	--	--	
N	Boosters, *without detonator*	1.2D	UN 0283	Explosive (1.2D)	--	--	--	
	Borate and chlorate, *mixtures*	5.1	UN 1458	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Bordeaux arsenites, *liquid*	6.1	UN 1568	Poison	I	1,2	1,2	
	Bordeaux arsenites, *solid*	6.1	UN 1568	Poison	II	1,2	1,2	
	Borneol	4.1	UN 1312	None. Package to be marked 'Class 4.1'	III	1,2	1,2	
	Boron trichloride	2.3	UN 1741	Poison Gas, Corrosive	--	1	5	Shade from radiant heat. Stow 'away from' foodstuffs and living quarters
	Boron trifluoride	2.3	UN 1008	Poison Gas	--	1	5	Stow 'away from foodstuffs and living quarters
	Boron trifluoride acetic acid complex	8	UN 1742	Corrosive	II	1,2	1,2	
	Boron trifluoride diethyl etherate	8	UN 2604	Corrosive	II	1,2	1	Segregation same as for flammable liquids
	Boron trifluoride propionic acid complex	8	UN 1743	Corrosive	II	1,2	1,2	
	Box toe gum. *See* Nitrocellulose							
	Brake fluid, hydraulic	3.2	UN 1118	Flammable Liquid	II	1,2	1	
	Bromates, *(inorganic)*, n.o.s.	5.1	UN 1450	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Bromine, *(and solutions)*	8	UN 1744	Corrosive, Poison	I	1	5	Keep cool

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Bromine pentafluoride	8	UN 1745	Corrosive, Poison, Oxidizer	I	1	5	Shade from radiant heat. Stow 'away from' all other corrosives
	Bromine trifluoride	8	UN 1746	Corrosive, Poison	I	1	5	Shade from radiant heat
	Bromoacetic acid, *solid*	8	UN 1938	Corrosive	II	1,2	1,2	Keep dry
	Bromoacetic acid, *solution*	8	UN 1938	Corrosive	II	1,2	1,2	Glass carboys in hampers not permitted under deck
	Bromoacetone	6.1	UN 1569	Poison	II	1	II	Segregation same as for flammable liquids
	Bromoacetyl bromide	8	UN 2513	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Bromobenzene	3.3	UN 2514	Flammable Liquid	III	1,2	1,2	
	Bromobenzyl cyanide	6.1	UN 1694	Poison	I	1	5	Keep cool
	2-Bromobutane	3.2	UN 2339	Flammable Liquid	II	1,2	1	
	Bromochloromethane	9	UN 1887	None	III	1,2	1,2	Stow 'away from' foodstuffs
	1-Bromo-2,3-epoxypropane	6.1	UN 2558	Poison	I	1	5	
	2-Bromoethyl ethyl ether	3.2	UN 2340	Flammable Liquid	II	1,2	1	
	Bromoform	6.1	UN 2515	St. Andrews Cross	III	1,2	1,2	
	1-Bromo-3-methylbutane	3.2	UN 2341	Flammable Liquid	II	1,2	1	
	Bromomethylpropanes	3.2	UN 2342	Flammable Liquid	II	1,2	1	
	Bromomethylpropanes	3.3	UN 2342	Flammable Liquid	II	1,2	1,2	
	2-Bromopentane	3.2	UN 2343	Flammable Liquid	II	1,2	1	
	Bromopropanes	3.2	UN 2344	Flammable Liquid	II	1,2	1	
	Bromopropanes	3.3	UN 2344	Flammable Liquid	II	1,2	1,2	
	3-Bromopropyne	3.2	UN 2345	Flammable Liquid	II	1,2	1	
	Bromotrifluoromethane	2.2	UN 1009	Nonflammable Gas	--	1,2	1,2	
	Brucine	6.1	UN 1570	Poison	II	1,2	1,2	
N	Bursters, *explosive*	1.1D	UN 0043	Explosive (1.1D)	--	--	--	
	Butadiene, *inhibited*	2.1	UN 1010	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Butanedione	3.2	UN 2346	Flammable Liquid	II	1,2	1	
	Butane *or butane mixtures*	2.1	UN 1011	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Butane-1-thiol	3.2	UN 2347	Flammable Liquid	II	1,2	1	
	sec-Butanol	3.3	UN 1121	Flammable Liquid	II	1,2	1,2	
	tert-Butanol	3.2	UN 1122	Flammable Liquid	II	1,2	1	
	Butanol	3.3	UN 1120	Flammable Liquid	II	1,2	1,2	
	Butoxyl	3.3	UN 2708	Flammable Liquid	III	1,2	1,2	
	sec-Butyl acetate	3.2	UN 1124	Flammable Liquid	II	1,2	1	
	n-Butyl acetate	3.2	UN 1123	Flammable Liquid	II	1,2	1	
	Butylacrylate, *inhibited*	3.3	UN 2348	Flammable Liquid	II	1,2	1,2	
	Butyl alcohol. *See* Butanol							
	sec-Butyl alcohol. *See* sec-Butanol							
	tert-Butyl alcohol. *See* tert-Butanol							
	n-Butylamine	3.2	UN 1125	Flammable Liquid	II	1,2	1	
	Butyl benzenes	3.3	UN 2709	Flammable Liquid	III	1,2	1,2	
	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate, *maximum concentration 52% with inert solid*	5.2	UN 2141	Organic Peroxide	II	1	5	
	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate, *technical pure*	5.2	UN 2140	Organic Peroxide	II	1	5	
	n-Butyl bromide	3.3	UN 1126	Flammable Liquid	II	1,2	1,2	
	n-Butyl chloride	3.2	UN 1127	Flammable Liquid	II	1,2	1	
	tert-Butyl cumene peroxide. *See* tert-Butyl cumyl peroxide							
	tert-Butyl cumyl peroxide, *technical pure*	5.2	UN 2091	Organic Peroxide	II	1	5	
	tert-Butyl diperoxyphthalate. *See* tert-Butyl diperphthalate							
	tert-Butyl diperphthalate, *maximum concentration 55% as a paste*	5.2	UN 2108	Organic Peroxide	II	1	5	
	tert-Butyl diperphthalate, *maximum concentration 55% in solution*	5.2	UN 2107	Organic Peroxide	II	1	5	
	tert-Butyl diperphthalate, *technical pure*	5.2	UN 2106	Organic Peroxide	II	1	5	
	Butylene	2.1	UN 1012	Flammable Gas	--	1,2	1	Stow 'away from living quarters
	Butyl ether. *See* Dibutyl ethers							
	n-Butyl formate	3.2	UN 1128	Flammable Liquid	II	1,2	1	
	tert-Butyl hydroperoxide, *in a concentration over 72% to maximum 90% with water*	5.2	UN 2094	Organic Peroxide	I	1	5	
	tert-Butyl hydroperoxide, *maximum concentration 80% in di-tert-butyl peroxide and/or solvent*	5.2	UN 2092	Organic Peroxide, Flammable Liquid (only if flashpoint of solvent is 23 deg C. or below)	I	1	5	
	tert-Butyl hydroperoxide, *maximum concentration 72% with water*	5.2	UN 2093	Organic Peroxide	II	1	5	
	tert-Butyl isocyanate	3.2	UN 2484	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	n-Butyl isocyanate	3.2	UN 2485	Flammable Liquid, Poison	II	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	n-Butyl methacrylate	3.3	UN 2227	Flammable Liquid	III	1,2	1,2	
	Butyl methyl ether	3.2	UN 2350	Flammable Liquid	II	1,2	1	
	tert-Butyl monoperoxyphthalate. *See* tert-Butyl monoperphthalate							
	tert-Butyl monoperphthalate, *technical pure*	5.2	UN 2105	Organic Peroxide	II	1	5	
	Butyl nitrite	3.2	UN 2351	Flammable Liquid	II	1,2	1	
	tert-Butyl peracetate, *in a concentration of more than 52% to a maximum concentration of 76% in solution*	5.2	UN 2095	Organic Peroxide	II	1	5	
	tert-Butyl peracetate, *maximum concentration 52% in solution*	5.2	UN 2096	Organic Peroxide	II	1	5	

V 45 MY 22 2 2 8 0 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	tert-Butyl perbenzoate, *maximum concentration 75% in solution*	5.2	UN 2098	Organic Peroxide	II	1	5	
	tert-Butyl perbenzoate, *technical pure or in a concentration of more than 75% in solution*	5.2	UN 2097	Organic Peroxide	II	1	5	
	tert-Butyl percrotonate, *maximum concentration 76% in solution*	5.2	UN 2183	Organic Peroxide	II	1	5	
	n-Butyl perdicarbonate, *in a concentration of more than 27% to a maximum concentration of 52% in solution*	5.2	UN 2169	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	n-Butyl perdicarbonate, *maximum concentration 27% in solution*	5.2	UN 2170	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	tert-Butyl perdiethylacetate, *(in a maximum concentration of 33%),* with tert-butyl perbenzoate, *(in a maximum concentration of 33%), and solvent*	5.2	UN 2551	Organic Peroxide	II	1	5	
	tert-Butyl perdiethylacetate, *technical pure*	5.2	UN 2144	Organic Peroxide	II	1	5	
	tert-Butyl per-(2-ethyl) hexanoate, *technical pure*	5.2	UN 2143	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	tert-Butyl perisobutyrate, *in a concentration of more than 52% to a maximum concentration of 77% in solution*	5.2	UN 2142	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
	tert-Butyl perisobutyrate, *maximum concentration 52% in solution*	5.2	UN 2562	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
	tert-Butyl permaleate, *maximum concentration 55% as a paste*	5.2	UN 2101	Organic Peroxide	II	1	5	
	tert-Butyl permaleate, *maximum concentration 55% in solution*	5.2	UN 2100	Organic Peroxide	II	1	5	
	tert-Butyl permaleate, *technical pure*	5.2	UN 2099	Organic Peroxide	II	1	5	
	tert-Butyl per-neodecanoate, *maximum concentration 77% in solution*	5.2	UN 2177	Organic Peroxide	II	1	5	Maximum transport temperature 5 deg C
	tert-Butylperneodecanoate, *technical pure*	5.2	UN 2594	Organic Peroxide	II	1	5	Maximum transport temperature -5 deg C
	tert-Butyl peroxide, *technical pure*	5.2	UN 2102	Organic Peroxide, Flammable Liquid	II	1	5	
	tert-Butyl peroxyacetate. *See* tert-Butyl peracetate							
	tert-Butyl peroxybenzoate. *See* tert-Butyl perbenzoate							
	tert-Butyl peroxycrotonate. *See* tert-Butyl percrotonate							
	n-Butyl peroxydicarbonate. *See* n-Butyl perdicarbonate							
	tert-Butyl peroxydiethylacetate. *See* tert-Butyl perdiethylacetate							
	tert-Butyl peroxydiethylacetate with tert-butyl peroxybenzoate. *See* tert-Butyl perdiethylacetate with tert-butyl perbenzoate							
	tert-Butyl peroxy-(2-ethyl) hexanoate. *See* tert-Butyl per-(2-ethyl) hexanoate							
	tert-Butyl peroxyisobutyrate. *See* tert-Butyl perisobutyrate							
	tert-Butyl peroxy isopropyl carbonate, *technical pure*	5.2	UN 2103	Organic Peroxide	II	1	5	
	tert-Butyl peroxymaleate. *See* tert-Butyl permaleate							
	tert-Butyl peroxy-neodecanoate. *See* tert-Butyl per-neodecanoate							
	3-tert-Butylperoxy-3-phenyl phthalide, *technical pure*	5.2	UN 2596	Organic Peroxide	II	1	5	
	tert-Butyl peroxypivalate. *See* tert-Butyl perpivalate							
	tert-Butyl peroxy-3,5,5-trimethyl hexanoate, *technical pure*	5.2	UN 2104	Organic Peroxide	II	1	5	
	tert-Butyl perpivalate, *maximum concentration 77% in solution*	5.2	UN 2110	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	Butylphenols, *liquid*	6.1	UN 2228	St. Andrews Cross	III	1,2	1,2	
	Butylphenols, *solid*	6.1	UN 2229	St. Andrews Cross	III	1,2	1,2	
	Butyl phosphoric acid. *See* Acid butyl phosphate							
	Butyl propionate	3.3	UN 1914	Flammable Liquid	II	1,2	1,2	
	Butyl trichlorosilane	8	UN 1747	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Butyl vinyl ether	3.2	UN 2352	Flammable Liquid	II	1,2	1	
	Butyraldehyde	3.2	UN 1129	Flammable Liquid	II	1,2	1	
	Butyrone	3.3	UN 2710	Flammable Liquid	III	1,2	1,2	
	Butyronitrile	3.2	UN 2411	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Butyryl chloride	3.2	UN 2353	Flammable Liquid, Poison	II	1	1	Keep dry. Shade from radiant heat
	Cacodylic acid	6.1	UN 1572	Poison	II	1,2	5	Stow 'away from' acids
	Cadmium compounds	6.1	UN 2570	St. Andrews Cross	III	1,2	1,2	
	Caesium, *metal*	4.3	UN 1407	Dangerous When Wet	I	1,2	5	
	Caesium nitrate	5.1	UN 1451	Oxidizer	III	1,2	1,2	
	Caesium, *powdered.* *See* Pyrophoric metals							
	Calcium arsenate	6.1	UN 1573	Poison	II	1,2	1,2	
	Calcium arsenate and arsenite, *solid mixtures*	6.1	UN 1574	Poison	II	1,2	1,2	
	Calcium bisulphite, *solution.* *See* Calcium hydrogen sulphite, *solution*							
	Calcium carbide	4.3	UN 1402	Dangerous When Wet	II	1,2	1,2	Stow 'away from' copper, its alloys and its salts
	Calcium chlorate	5.1	UN 1452	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Calcium chlorate, *aqueous solution*	5.1	UN 2429	Oxidizer	II	1,2	1	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Calcium chlorite	5.1	UN 1453	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and cyanides, 'separated from' ammonium compounds
	Calcium cyanamide, *containing more than 0.1% of calcium carbide*	4.3	UN 1403	Dangerous When Wet	III	1,2	1,2	
	Calcium cyanide	6.1	UN 1575	Poison	I	1,2	1,2	Stow 'away from' acids
	Calcium dithionite	4.2	UN 1923	Spontaneously Combustible	III	1,2	5	Keep dry
	Calcium hydride	4.3	UN 1404	Dangerous When Wet	I	1,2	5	
	Calcium hydrogen sulphite, *solution*	8	UN 1901	Corrosive	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Calcium hypochlorite, *dry, including mixtures containing more than 39% available chlorine (8.8% available oxygen)*	5.1	UN 1748	Oxidizer	II	1,2	1,2	
	Calcium hypochlorite mixtures, *dry containing 39% or less, but more than 10% available chlorine*	9	UN 2208	None	III	1,2	1,2	Stow 'separated from' flammable liquids and acids, 'away from' combustible materials
	Calcium, *metal and alloys, non-pyrophoric*	4.3	UN 1401	Dangerous When Wet	II	1,2	5	
	Calcium nitrate	5.1	UN 1454	Oxidizer	III	1,2	1,2	
	Calcium perchlorate	5.1	UN 1455	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Calcium permanganate	5.1	UN 1456	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Calcium peroxide	5.1	UN 1457	Oxidizer	II	1,2	1,2	Keep dry
	Calcium phosphide	4.3	UN 1360	Dangerous When Wet	I	1	5	
	Calcium, *powdered*	4.2	UN 1855	Spontaneously Combustible	II	1	5	
	Calcium resinate, *fused*	4.1	UN 1314	Flammable Solid	III	1,2	1,2	
	Calcium resinate, *technical pure*	4.1	UN 1313	Flammable Solid	III	1,2	1,2	
	Calcium silicide	4.3	UN 1405	Dangerous When Wet	II	1,2	1,2	
	Calcium silicon	4.3	UN 1406	Dangerous When Wet	III	1,2	1,2	
	Camphor oil	3.3	UN 1130	Flammable Liquid	III	1,3	1,3	
	Capryloyl peroxide. *See* n-Octanoyl peroxide							
	Caps, blasting. *See* Blasting caps							
	Caps, percussion	1.4 S	UN 0044	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Caps, toy. *See* Amorces							
	Carbolic acid. *See* Phenol							
	Carbon, activated	4.2	UN 1362	Spontaneously Combustible	III	1,3	1,3	Keep cool
	Carbon bisulphide. *See* Carbon disulphide							
	Carbon dioxide	2.2	UN 1013	Nonflammable Gas	--	1,2	1,2	
	Carbon dioxide and nitrous oxide, *mixtures*	2.2	UN 1015	Nonflammable Gas	--	1,2	1,2	
	Carbon dioxide and oxygen, *mixtures*	2.2	UN 1014	Nonflammable Gas	--	1,2	1,2	
	Carbon disulphide	3.1	UN 1131	Flammable Liquid, Poison	I	1	5	Keep cool. Not permitted on any vessel carrying explosives
	Carbon monoxide	2.1	UN 1016	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
	Carbon, non-activated, *of animal or vegetable origin*	4.2	UN 1361	Spontaneously Combustible	III	1,3	1,3	Keep cool. Stow 'away from' oily matter
	Carbon paper. *See* Paper, *treated with unsaturated oils, incompletely dried*							
	Carbon remover, *liquid*	3.2	UN 1132	Flammable Liquid	II	1,2	1	
	Carbon sulphide. *See* Carbon disulphide							
	Carbon tetrabromide	6.1	UN 2516	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
	Carbon tetrachloride	6.1	UN 1846	Poison	II	1,2	1,2	
	Carbonyl chloride. *See* Phosgene							
	Carbonyl fluoride	2.3	UN 2417	Poison Gas	--	1	5	Stow 'away from' living quarters
	Carbonyl sulfide	2.3	UN 2204	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
N	Cartouche	2.1	UN 2037	Flammable Gas	--			
	Cartridge cases, empty, with primer. *See* Cases, cartridges, empty, with primer							
N	Cartridges, flash	1.1G	UN 0049	Explosive (1.1G)	--	--	--	
N	Cartridges, flash	1.3G	UN 0050	Explosive (1.3G)	--	--	--	
	Cartridges for weapons, blank	1.4 C	UN 0338	Explosive (1.4C)	--	1,3	1,3	
	Cartridges for weapons, blank	1.4 S	UN 0014	None. Package to be marked '1.4 S'	--	1,3	1,3	
N	Cartridges for weapons, blank	1.1C	UN 0326	Explosive (1.1C)	--	--	--	
N	Cartridges for weapons, blank	1.3C	UN 0327	Explosive (1.3C)	--	--	--	
	Cartridges for weapons, *other than blank*	1.4 S	UN 0012	None. Package to be marked '1.4 S'	--	1,3	1,3	
N	Cartridges for weapons, *with bursting charge*	1.1E	UN 0006	Explosive (1.1E)	--	--	--	
N	Cartridges for weapons, *with bursting charge*	1.2E	UN 0321	Explosive (1.2E)	--	--	--	
N	Cartridges for weapons, *with bursting charge*	1.1F	UN 0005	Explosive (1.1F)	--	--	--	
N	Cartridges for weapons, *with bursting charge*	1.2F	UN 0007	Explosive (1.2F)	--	--	--	
N	Cartridges for weapons, *with bursting charge*	1.4F	UN 0348	Explosive (1.4F)	--	--	--	
	Cartridges for weapons, with inert projectile	1.4 C	UN 0339	Explosive (1.4C)	--	1,3	1,3	
N	Cartridges for weapons, with inert projectile	1.2C	UN 0328	Explosive (1.2C)	--	--	--	
	Cartridges, oil well	1.4 C	UN 0278	Explosive (1.4C)	--	1,3	1,3	
N	Cartridges, oil well	1.3C	UN 0277	Explosive (1.3C)	--	--	--	
	Cartridges, power device	1.4 C	UN 0276	Explosive (1.4C)	--	1,3	1,3	
	Cartridges, power device	1.4 S	UN 0323	None. Package to be marked '1.4 S'	--	1,3	1,3	
N	Cartridges, power device	1.2C	UN 0381	Explosive (1.2C)	--	--	--	
N	Cartridges, power device	1.3C	UN 0275	Explosive (1.3C)	--	--	--	
	Cartridges, safety. *See* Cartidges for weapons, *other than blank (UN 0012) or* Cartridges for weapons, blank *(UN 0014)*							
	Cartridges, signal	1.4 G	UN 0312	Explosive (1.4G)	--	1,3	1,3	
N	Cartridges, signal	1.3G	UN 0054	Explosive (1.3G)	--	--	--	

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Cases, cartridge, empty, with primer	1.4C	UN 0379	Explosive (1.4C)	--	1,3	1,3	
	Cases, cartridges, empty, with primer	1.4 S	UN 0055	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Casinghead gasoline	3.1	UN 1257	Flammable Liquid	II	1,2	5	
	Caustic alkali liquids, n.o.s.	8	UN 1719	Corrosive	II	1,2	1,2	
	Caustic potash. *See* Potassium hydroxide, *solution*							
	Caustic potash, solid. *See* Potassium hydroxide, *solid*							
	Celluloid, *in blocks, rods, rolls, sheets, tubes, etc. (scrap excluded)*	4.1	UN 2000	Flammable Solid	III	1,2	1,2	
	Celluloid, *scrap*	4.2	UN 2002	Spontaneously Combustible	II	1	II	
	Cement, adhesive, *(containing a flammable liquid)*, n.o.s.	3.2	UN 1133	Flammable Liquid	II	1,2	1	
		3.3	UN 1133	Flammable Liquid	II	1,2	1,2	
	Cement, *(liquid)*, n.o.s.. *See* Cement, adhesive, *(containing a flammable liquid)*, n.o.s							
	Charcoal, activated. *See* Carbon, activated							
	Charcoal, non-activated, of animal or vegetable origin. See Carbon, non-activated							
N	Charges, demolition	1.1D	UN 0048	Explosive (1.1D)	--	--	--	
N	Charges, depth	1.1D	UN 0056	Explosive (1.1D)	--	--	--	
N	Charges, propelling, for cannon	1.1C	UN 0279	Explosive (1.1C)	--	--	--	
N	Charges, propelling, for cannon	1.3C	UN 0242	Explosive (1.3C)	--	--	--	
N	Charges, propelling, for rocket motors	1.1C	UN 0271	Explosive (1.1C)	--	--	--	
N	Charges, propelling, for rocket motors	1.3C	UN 0272	Explosive (1.3C)	--	--	--	
N	Charges, propelling, for rocket motors, *composite mixture*	1.1C	UN 0273	Explosive (1.1C)	--	--	--	
N	Charges, propelling, for rocket motors, *composite mixture*	1.3C	UN 0274	Explosive (1.3C)	--	--	--	
N	Charges, shaped, *commercial, without detonator*	1.1D	UN 0059	Explosive (1.1D)	--	--	--	
	Charges, shaped, flexible, linear, *metal clad*	1.4 D	UN 0237	Explosive (1.4D)	--	1,3	1,3	
N	Charges, shaped, flexible, linear, *metal clad*	1.1D	UN 0288	Explosive (1.1D)	--	--	--	
N	Charges, supplementary, explosive	1.1D	UN 0060	Explosive (1.1D)	--	--	--	
	Chloral, *anhydrous, inhibited*	6.1	UN 2075	Poison	II	1	5	
	Chlorate and borate, mixtures. See Borate and chlorate *mixtures*							
	Chlorate and magnesium chloride, *mixtures*	5.1	UN 1459	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Chlorates, *(inorganic)*, n.o.s.	5.1	UN 1461	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Chlorinated anthracene oil	6.1	UN 2230	Poison	II	1,3	1,3	Stow 'away from' sources of heat. Segregation same as for flammable liquids
	Chlorine	2.3	UN 1017	Poison Gas, Oxidizer	--	1	5	Stow 'away from' living quarters and organic materials, 'separated from' acetylene, ammonia, diborane and hydrogen
	Chlorine trifluoride	2.3	UN 1749	Poison Gas, Oxidizer, Corrosive	--	1,2	5	Stow 'away from' food stuffs and living quarters
	Chlorites, *(inorganic)*, n.o.s.	5.1	UN 1462	Oxidizer	II	1,2	II	Stow 'away from' powdered metals and cyanides, 'separated from' ammonium compounds
	Chloroacetaldehyde	6.1	UN 2232	Poison	II	1	5	
	Chloroacetic acid, *liquid*	8	UN 1750	Corrosive	II	1,2	1,2	Glass carboys in hampers not permitted under deck
	Chloroacetic acid, *solid*	8	UN 1751	Corrosive	II	1,2	1,2	Keep dry
	Chloroacetone, *stabilized*	6.1	UN 1695	Poison	II	1	5	
	Chloroacetophenone	6.1	UN 1697	Poison	II	1	5	
	Chloroacetyl chloride	8	UN 1752	Corrosive	II	1	5	Keep dry
	Chloroanilines, *liquid*	6.1	UN 2019	Poison	II	1,2	1,2	
	Chloroanilines, *solid*	6.1	UN 2018	Poison	II	1,2	1,2	
	Chlorobenzene	3.3	UN 1134	Flammable Liquid	II	1,3	1,3	
	Chlorobenzotrifluorides	3.3	UN 2234	Flammable Liquid	III	1,2	1,2	
	p-Chlorobenzoyl peroxide, *maximum concentration 52% as a paste*	5.2	UN 2114	Organic Peroxide	II	1	5	
	p-Chlorobenzoyl peroxide, *maximum concentration 52% in solution*	5.2	UN 2115	Organic Peroxide	II	1	5	
	p-Chlorobenzoyl peroxide, *maximum concentration 75% with water*	5.2	UN 2113	Organic Peroxide	II	1	5	
	p-Chlorobenzyl chloride	6.1	UN 2235	St. Andrews Cross	III	1,2	1,2	
	Chlorodifluorobromomethane	2.2	UN 1974	Nonflammable Gas	--	1,2	1,2	
	Chlorodifluoromethane	2.2	UN 1018	Nonflammable Gas	--	1,2	1,2	
	Chlorodifluoromethane and chloropentafluoroethane, *mixture with a fixed boiling point containing about 49% of chlorodifluoromethane*	2.2	UN 1973	Nonflammable Gas	--	1,2	1,2	
	Chlorodinitrobenzene	6.1	UN 1577	Poison	II	1,2	1,2	
	2-Chloroethanol	3.3	UN 1135	Flammable Liquid	II	1,2	1,2	
	Chloroform	6.1	UN 1888	Poison	II	1,2	1,2	
	Chloromethyl ethyl ether	3.2	UN 2354	Flammable Liquid, Poison	II	1,3	5	Keep cool
	3-Chloro-4-methylphenyl isocyanate	6.1	UN 2236	Poison	II	1,2	1,2	Shade from radiant heat
	Chloronitroanilines	6.1	UN 2237	St. Andrews Cross	III	1,2	1,2	
	Chloronitrobenzenes *(o-, m-, p-)*	6.1	UN 1578	Poison	II	1,2	1,2	
	p-Chloro-o-anisidine	6.1	UN 2233	St. Andrews Cross	III	1,2	1,2	
	Chloro-o-nitrotoluene	6.1	UN 2433	St. Andrews Cross	III	1,2	1,2	
	4-Chloro-o-toluidine hydrochloride	6.1	UN 1579	St. Andrews Cross	III	1,2	1,2	
	Chloropentafluoroethane	2.2	UN 1020	Nonflammable Gas	--	1,2	1,2	
	m-Chloroperoxybenzoic acid, *maximum concentration 86%*	5.2	UN 2755	Organic Peroxide	II	1	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Chlorophenates, *liquid*	6.1	UN 2021	St. Andrews Cross	III	1,2	1,2	
	Chlorophenates, *solid*	6.1	UN 2020	St. Andrews Cross	III	1,2	1,2	
	Chlorophenols, *liquid*	6.1	UN 2021	St. Andrews Cross	III	1,2	1,2	
	Chlorophenols, *solid*	6.1	UN 2020	St. Andrews Cross	III	1,2	1,2	
	Chlorophenyl trichlorosilane	8	UN 1753	Corrosive	II	1	1	Keep dry
	Chloropicrin	6.1	UN 1580	Poison	I	1	5	
	Chloropicrin and methyl bromide, *mixtures*	6.1	UN 1581	Poison	--	1	5	Shade from radiant heat
	Chloropicrin and methyl chloride, *mixtures*	6.1	UN 1582	Poison	--	1	5	
	Chloropicrin mixtures, n.o.s.	6.1	UN 1583	Poison	I-II	1	5	
	Chloroplatinic acid, *solid*	6.1	UN 1583	St. Andrews Cross	III	1,2	1,2	
	Chloroprene, *inhibited*	8	UN 2507	Corrosive	III	1,2	1,2	
	2-Chloropropane	3.2	UN 1991	Flammable Liquid	I	1,2	1	
	2-Chloropropene	3.1	UN 2356	Flammable Liquid	I	1,3	5	Keep cool
	Chloropropionic acid	3.1	UN 2456	Flammable Liquid	I	1,3	5	Keep cool
	Chlorosulphonic acid, *with or without sulphur trioxide*	8	UN 2511	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Chlorotetrafluoroethane	8	UN 1754	Corrosive	I	1	1	Glass carboys prohibited on passenger vessels
	Chlorotoluenes *(o-, m-, p-)*	2.2	UN 1021	Nonflammable Gas	--	1,2	1,2	
	Chlorotoluidines	3.3	UN 2238	Flammable Liquid	III	1,2	1,2	
	Chlorotrifluoroethane. See Trifluorochloroethane	6.1	UN 2239	St. Andrews Cross	III	1,2	1,2	
	Chlorotrifluoroethylene. See Trifluorochloroethylene							
	Chlorotrifluoromethane	2.2	UN 1022	Nonflammable Gas	--	1,2	1,2	
	Chromic acid, *solid. See* Chromium trioxide, *anhydrous*							
	Chromic acid, *solution*	8	UN 1755	Corrosive	II	1	1	
	Chromic anhydride. *See* Chromium trioxide, *anhydrous*							
	Chromic fluoride, *solid*	8	UN 1756	Corrosive	II	1,2	1,2	
	Chromic fluoride, *solution*	8	UN 1757	Corrosive	II	1,2	1,2	
	Chromium oxychloride	8	UN 1758	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Chromium trioxide, *anhydrous*	5.1	UN 1463	Oxidizer, Corrosive	II	1,2	1,2	Stow 'away from' foodstuffs
	Chromosulphuric acid	8	UN 2240	Corrosive	I	1,2	1	Carboys not permitted on passenger vessels and permitted only on deck on cargo vessels
	Chrysotile. See Asbestos, white							
	Cigarettes, *self-lighting*	4.1	UN 1867	Flammable Solid	III	1,2	1,2	Keep dry
	Cleaning compound. *See* Flammable liquid preparations, n.o.s							
	Cleaning compounds, *liquid, corrosive*	8	UN 1759	Corrosive	II	1,2	1,2	
	Coal gas	2.1	UN 1023	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
	Coal tar distillate	3.2	UN 1136	Flammable Liquid	--	1,2	1	
		3.3	UN 1136	Flammable Liquid	--	1,2	1,2	
	Coal tar light oil	3.2	UN 1137	Flammable Liquid	--	1,2	1	
		3.3	UN 1137	Flammable Liquid	--	1,2	1,2	
	Coal tar naphtha	3.2	UN 2553	Flammable Liquid	II	1,2	1	
	Coal tar oil. *See* Coal tar distillate							
	Coating solution	3.2	UN 1139	Flammable Liquid	II	1,2	1	
		3.3	UN 1139	Flammable Liquid	II	1,2	1,2	
	Cobalt naphthenates, *powder*	4.1	UN 2001	Flammable Solid	III	1,2	1,2	
	Cobalt resinate, *precipitated*	4.1	UN 1318	Flammable Solid	III	1,2	1,2	
	Cocculus, *solid*	6.1	UN 1584	Poison	II	1,2	1,2	
	Cologne spirits. *See* Ethanol							
	Columbian spirits. *See* Methanol							
	Components, explosive train, n.o.s.	1.4B	UN 0383	Explosive (1.4B)	--	1,3	1,3	
	Components, explosive train, n.o.s.	1.4S	UN 0384	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Components, explosive train, n.o.s.	1.2B	UN 0382	Explosive (1.2B)	--	--	--	
	Compressed *or* liquefied gases, *(flammable, non-toxic)*, n.o.s.	2.1	UN 1954	Flammable Gas	--	1	5	Stow 'away from' living quarters
	Compressed *or* liquefied gases, *(flammable, toxic)*, n.o.s.	2.1	UN 1953	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
	Compressed *or* liquefied gases, *(non-flammable, non-toxic)*, n.o.s.	2.2	UN 1956	Nonflammable Gas	--	1,2	1,2	
	Compressed *or* liquefied gases, *(non-flammable, toxic)*, n.o.s.	2.3	UN 1955	Poison Gas	--	1	5	Stow 'away from' living quarters
N	Contrivances, water-activated, *with burster, expelling charge or propelling charge*	1.2L	UN 0248	Explosive (1.2L), Dangerous When Wet	--	--	--	
N	Contrivances, water-activated, *with burster, expelling charge or propelling charge*	1.3L	UN 0249	Explosive (1.3L), Dangerous When Wet	--	--	--	
	Copper acetoarsenite	6.1	UN 1585	Poison	II	1,2	1,2	
	Copper arsenite	6.1	UN 1586	Poison	II	1,2	1,2	
	Copper cyanide	6.1	UN 1587	Poison	II	1,2	1,2	Stow 'away from' acids
	Copra	4.2	UN 1363	None. Package to be marked 'Class 4.2'	III	1,2	1,2	Keep dry. Protect from sparks and open flame
	Cord, detonating, *flexible*	1.4 D	UN 0289	Explosive (1.4D)	--	1,3	1,3	
N	Cord, detonating, *flexible*	1.1D	UN 0065	Explosive (1.1D)	--	--	--	
N	Cord, detonating, *metal clad*	1.1D	UN 0290	Explosive (1.1D)	--	--	--	
N	Cord, detonating, *metal clad*	1.2D	UN 0102	Explosive (1.2D)	--	--	--	

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Cord, detonating, mild effect, *metal clad*	1.4 D	UN 0104	Explosive (1.4D)	..	1,3	1,3	
	Cord, igniter	1.4 G	UN 0066	Explosive (1.4G)	..	1,3	1,3	
	Corrosive liquids, n.o.s.	8	UN 1760	Corrosive	II	1	5	For a material that meets only the corrosion to skin criteria of 49 CFR 173.240(a)(1), 'under deck' stowage is also authorized if the description includes the additional entry specified in Sec. 172.203(i)(3)
	Corrosive solids, n.o.s	8	(UN 1759)	Corrosive	I/II/III	1	5	For a material that meets only the corrosion to skin criteria of 49 CFR 173.240(a)(1), 'under deck' stowage is also authorized if the description includes the additional entry specified in Sec. 172.203(i)(3)
	Cosmetics, n.o.s. *See* Perfumery products							
	Cotton, dry. *See* Fibres, *vegetable, dry*							
	Cotton waste, *oily*	4.2	UN 1364	Spontaneously Combustible	III	1,2	1,2	Keep dry. Stow 'separated from' explosives, animal oils or vegetable oils
	Cotton, *wet or contaminated*	4.2	UN 1365	Spontaneously Combustible	III	1,2	1,2	Keep dry
	Cresols *(o-, m-, p-)*	6.1	UN 2076	Poison	II	1,2	1,2	
	Cresylic acid	6.1	UN 2022	Poison	II	1,2	1,2	
	Crocidolite. *See* Asbestos, blue							
	Crotonaldehyde, *inhibited*	3.2	UN 1143	Flammable Liquid	I	1,2	1	
	Crotonylene	3.1	UN 1144	Flammable Liquid	I	1,3	5	Keep cool
	Cumene hydroperoxide, *technical pure*	5.2	UN 2116	Organic Peroxide	I	1	5	
	Cupric cyanide. See Copper cyanide							
	Cuprnethylenediamine, *solution*	8	UN 1761	Corrosive, Poison	II	1,2	1,2	
	Cut-backs, *asphalt or bitumen*	3.2	UN 1999	Flammable Liquid	II	1,2	1	
		3.3	UN 1999	Flammable Liquid	II	1,2	1,2	
	Cutters, cable, explosive	1.4 S	UN 0070	None. Package to be marked '1.4 S'	..	1,3	1,3	
	Cyanide mixtures. *See* Cyanides, *(inorganic)*, n.o.s							
	Cyanides, *(inorganic)*, n.o.s.	6.1	UN 1588	Poison	I/II	1,2	1,2	Stow 'away from' acids.
		6.1	UN 1588	St. Andrews Cross	III	1,2	1,2	
	Cyanides, *solutions*	6.1	UN 1935	Poison	I	1,2	1,2	Stow 'away from' acids
	Cyanogen	2.3	UN 1026	Poison Gas, Flammable Gas	..	1	5	Stow 'away from' foodstuffs and living quarters
	Cyanogen bromide	6.1	UN 1889	Poison, Corrosive	I	1	5	Shade from radiant heat. Segregation same as for corrosives
	Cyanogen chloride, *inhibited*	2.3	UN 1589	Poison Gas	..	1	5	
	Cyanuric chloride (*cyanuric trichloride*)	8	UN 2670	Corrosive	II	1,2	1,2	Keep dry
	1,5,9-Cyclododecatrene	8	UN 2518	Corrosive	III	1	II	Stow 'away from' living quarters
	Cycloheptane	3.2	UN 2241	Flammable Liquid	II	1,2	1	
	Cycloheptatriene	3.2	UN 2603	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Cycloheptene	3.2	UN 2242	Flammable Liquid	II	1,2	1	
	Cyclohexane	3.1	UN 1145	Flammable Liquid	II	1,2	5	
	Cyclohexanone	3.3	UN 1915	Flammable Liquid	III	1,2	1,2	
	Cyclohexanone peroxide. *See* 1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide *and mixtures, etc.*							
	Cyclohexene	3.1	UN 2256	Flammable Liquid	II	1,3	5	Keep cool
	Cyclohexene	3.2	UN 2256	Flammable Liquid	II	1,2	1	
	Cyclohexenyl trichlorosilane	8	UN 1762	Corrosive	II	1	1	Keep dry
	Cyclohexyl acetate	3.3	UN 2243	Flammable Liquid	III	1,2	1,2	
	Cyclohexylamine	3.2	UN 2357	Flammable Liquid, Poison	II	1,2	1	
	Cyclohexylamine	3.3	UN 2357	Flammable Liquid, Corrosive	II	1,2	1,2	
	Cyclohexyl isocyanate	6.1	UN 2488	Poison	II	1	5	Shade from radiant heat. Stow 'away from' sources of heat
	Cyclohexyl trichlorosilane	8	UN 1763	Corrosive	II	1	1	Keep dry
	Cyclooctadienes	3.3	UN 2520	Flammable Liquid	II	1,2	1,2	
	Cyclooctatetraene	3.2	UN 2358	Flammable Liquid	II	1,2	1	
	Cyclopentane	3.1	UN 1146	Flammable Liquid	II	1,2	5	
	Cyclopentanol	3.3	UN 2244	Flammable Liquid	III	1,2	1,2	
	Cyclopentanone	3.3	UN 2245	Flammable Liquid	II	1,2	1,2	
	Cyclopentene	3.1	UN 2246	Flammable Liquid	II	1,3	5	Keep cool
	Cyclopropane	2.1	UN 1027	Flammable Gas	..	1,2	1	Stow 'away from' living quarters
N	Cyclotetramethylenetetranitramine, *containing, by weight, at least 15% water or at least 10% phlegmatizer*	1.1D	UN 0226	Explosive (1.1D)	..	..	..	
N	Cyclotrimethylenetrinitramine, *containing, by weight, at least 15% water or at least 10% phlegmatizer*	1.1D	UN 0072	Explosive (1.1D)	..	..	..	
N	Cyclotrimethylenetrinitramine mixed with cyclotetramethylenetetranitramine, *containing, by weight, at least 15% water or at least 10% phlegmatizer*	1.1D	UN 0391	Explosive (1.1D)	..	..	..	
	p-Cymene	3.3	UN 2046	Flammable Liquid	II	1,2	1,2	
	Decaborane	4.1	UN 1868	Flammable Solid, Poison	II	1,2	1,2	
	Decahydronaphthalene	3.3	UN 1147	Flammable Liquid	II	1,2	1,2	
	Decalin. See Decahydronaphthalene							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	n-Decane	3.3	UN 2247	Flammable Liquid	III	1,2	1,2	
	Decanoyl peroxide, *technical pure*	5.2	UN 2120	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
N	Deflagrating metal salts of aromatic nitro-derivatives, n.o.s.	1.3C	UN 0132	Explosive (1.3C)	..	..	..	
	Detonators for ammunition	1.4B	UN 0365	Explosive (1.4B)	..	1,3	1,3	
	Detonators for ammunition	1.4S	UN 0366	None. Package to be marked '1.4S'	..	1.3	1.3	
N	Detonators for ammunition	1.1B	UN 0073	Explosive (1.1B)	..	..	..	
N	Detonators for ammunition	1.2B	UN 0364	Explosive (1.2B)	..	..	..	
	Deuterium	2.1	UN 1957	Flammable Gas	..	1,2	5	Stow 'away from' living quarters
	Diacetone alchohol	3.2	UN 1148	Flammable Liquid	II	1,2	1	
		3.3	UN 1148	Flammable Liquid	II/III	1,2	1,2	
	Diacetone alcohol peroxides, *maximum 57% in solution with maximum 9% hydrogen peroxide, minimum 26% diacetone alcohol and minimum 9% water; total active oxygen content maximum 10%*	5.2	UN 2163	Organic Peroxide	II	1	5	Maximum transport temperature 25 deg C
	Diallylamine	3.2	UN 2359	Flammable Liquid	II	1,2	1	
	Diallylether	3.2	UN 2360	Flammable Liquid, Poison	II	1,3	5	Keep cool
N	Diazodinitrophenol, *containing, by weight, at least 40% water or mixture of alcohol and water*	1.1A	UN 0074	Explosive (1.1A)	..	..	..	
	Dibenzyldichlorosilane	8	UN 2434	Corrosive	II	1	1	Keep dry
	Dibenzyl perdicarbonate, *maximum concentration 87% with water*	5.2	UN 2149	Organic Peroxide	I	1	5	Maximum transport temperature 25 deg C
	Dibenzyl peroxydicarbonate. *See* Dibenzyl perdicarbonate							
	Diborane	2.1	UN 1911	Flammable Gas, Poison Gas	..	1	5	Stow 'away from' foodstuffs and living quarters, 'separated from' chlorine
	Dibromobenzene	3.3	UN 2711	Flammable Liquid	III	1,2	1,2	
	Dibutyl ethers	3.3	UN 1149	Flammable Liquid	III	1,2	1,2	
	Di-sec-butyl perdicarbonate, *maximum concentration 52% in solution*	5.2	UN 2151	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	Di-sec-butyl perdicarbonate, *technical pure*	5.2	UN 2150	Organic Peroxide	I	1	5	Maximum transport temperature -20 deg C
	Di-sec-butyl peroxydicarbonate. *See* Di-sec-butyl perdicarbonate							
	Dicetyl perdicarbonate, *technical pure*	5.2	UN 2164	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	Dicetyl peroxydicarbonate. *See* Dicetyl perdicarbonate							
	Dichloroacetic acid	8	UN 1764	Corrosive	II	1,2	1,2	Glass carboy in hampers not permitted under deck
	Dichloroacetyl chloride	8	UN 1754	Corrosive	II	1	5	Keep dry
	Dichloroanilines	6.1	UN 1590	Poison	II	1,2	1,2	Stow 'away from' acids
	p-Dichlorobenzene	9	UN 1592	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Dichlorobenzenes *(o-, m-)*	6.1	UN 1591	St. Andrews Cross	III	1,2	1,2	
	2,4-Dichlorobenzoyl peroxide, *maximum concentration 75% with water*	5.2	UN 2137	Organic Peroxide	II	1	5	
	2,4-Dichlorobenzoyl peroxide, *maximum concentration 52% as a paste*	5.2	UN 2138	Organic Peroxide	II	1	5	
	2,4-Dichlorobenzoyl peroxide, *maximum concentration 52% in solution*	5.2	UN 2139	Organic Peroxide	II	1	5	
	Dichlorodifluoromethane	2.2	UN 1028	Nonflammable Gas	..	1,2	1,2	
	sym-Dichlorodimethyl ether	6.1	UN 2249	Poison	I	1	5	
	1,1-Dichloroethane	3.2	UN 2362	Flammable Liquid	II	1,2	1	
	Dichloroethylene	3.2	UN 1150	Flammable Liquid	II	1,2	1	
	Dichloroethyl ether	3.3	UN 1916	Flammable Liquid, Poison	II	1,2	1,2	
	Dichloroisocyanuric acid, *dry or* dichloroisocyanuric acid salts	5.1	UN 2465	Oxidizer	II	1,2	1,2	
	Dichloroisopropyl ether	6.1	UN 2490	Poison	II	1,2	1	
	Dichloromethane	6.1	UN 1593	St. Andrews Cross	III	1,2	1,2	
	Dichloromonofluoromethane	2.2	UN 1029	Nonflammable Gas	..	1,2	1,2	
	Dichloropentanes	3.3	UN 1152	Flammable Liquid	II	1,2	1,2	
	Dichlorophenyl isocyanates	6.1	UN 2250	Poison	II	1,3	1,3	Shade from radiant heat. Stow 'away from' sources of heat
	Dichlorophenyl trichlorosilane	8	UN 1766	Corrosive	II	1	1	Keep dry
	Dichloropropene	3.3	UN 2047	Flammable Liquid	II	1,2	1,2	
	Dichlorosilane	2.3	UN 2189	Poison Gas, Flammable Gas	..	1	5	Stow 'away from' living quarters
	Dichlorotetrafluoroethane	2.2	UN 1958	Nonflammable Gas	..	1,2	1,2	
	Dichromates, *(inorganic)*, n.o.s.	5.1	UN 1464	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Dicumyl peroxide, *technical pure or in a mixture with inert solid*	5.2	UN 2121	Organic Peroxide	II	1	5	
	Dicyclohexylamine	8	UN 2565	Corrosive	III	1	5	Keep dry
	Dicyclohexyl perdicarbonate, *maximum concentration 91% with water*	5.2	UN 2153	Organic Peroxide	I	1	5	Maximum transport temperature 5 deg C
	Dicyclohexyl perdicarbonate, *technical pure*	5.2	UN 2152	Organic Peroxide	I	1	5	Maximum transport temperature 5 deg C
	Dicyclohexyl peroxydicarbonate. *See* Dicyclohexyl perdicarbonate							
	Dicyclopentadiene	3.3	UN 2048	Flammable Liquid	II	1,2	1,2	
	Didymium nitrate	5.1	UN 1465	Oxidizer	III	1,2	1,2	
	1,2-Diethoxyethane	3.3	UN 1153	Flammable Liquid	III	1,2	1,2	
	Diethoxymethane	3.1	UN 2373	Flammable Liquid	II	1,3	5	Keep cool
	Diethylaluminium chloride	4.2	UN 1101	Spontaneously Combustible	I	1	1	
	Diethylamine	3.1	UN 1154	Flammable Liquid	II	1,3	II	Keep cool
	Diethylaminoethanol	3.3	UN 2686	Flammable Liquid	III	1,2	1,2	
	N,N-Diethylaniline	6.1	UN 2432	St. Andrews Cross	III	1,2	1,2	

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Diethylbenzene	3.3	UN 2049	Flammable Liquid	II	1,2	1,2	
	Diethylcarbinol	3.3	UN 2706	Flammable Liquid	II	1,2	1,2	
	Diethyl carbonate	3.3	UN 2366	Flammable Liquid	II	1,2	1,2	
	Diethyl dichlorosilane	8	UN 1767	Corrosive	II	1	1	Keep dry. Separate longitudinally by an intervening compartment or hold from explosives
N	Diethyleneglycol dinitrate, *containing, by weight, at least 25% non-volatile water-insoluble phlegmatizer*	1.1D	UN 0075	Explosive (1.1D)	--	--	--	
	Diethylenetriamine	8	UN 2079	Corrosive	II	1,2	1,2	Stow 'away from' acids, copper and copper alloys, and living quarters; 'separated from' nitric acid
	Diethyl ether	3.1	UN 1155	Flammable Liquid	I	1,3	5	Keep cool
	Di-(2-ethylhexyl) perdicarbonate, *maximum concentration 67% in solution*	5.2	UN 2123	Organic Peroxide	II	1	5	Maximum transport temperature -15 deg C
	Di-(2-ethylhexyl) perdicarbonate, *technical pure*	5.2	UN 2122	Organic Peroxide	II	1	5	Maximum transport temperature -20 deg C
	Di-(2-ethylhexyl) peroxydicarbonate. *See* Di-(2-ethylhexyl) perdicarbonate							
	Diethyl ketone	3.2	UN 1156	Flammable Liquid	II	1,2	1	
	Diethylmagnesium	4.2	UN 1367	Spontaneously Combustible	I	1	II	Prohibited on any ship carrying explosives
	Diethyl perdicarbonate, *maximum concentration 27% in solution*	5.2	UN 2175	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	Diethyl peroxydicarbonate. *See* Diethyl perdicarbonate							
	Diethyl-p-nitrosoaniline	4.2	--	Spontaneously Combustible	--	1,2	II	
	Diethyl sulfide	3.2	UN 2375	Flammable Liquid, Poison	II	1,3	II	Keep cool and dry
	Diethyl sulphate	6.1	UN 1594	Poison	II	1	1	
	Diethylzinc	4.2	UN 1366	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	1,1-Difluoroethane	2.1	UN 1030	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	1,1-Difluoroethylene	2.1	UN 1959	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Difluoromonochloroethane	2.1	UN 1031	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Difluorophosphoric acid, *anhydrous*	8	UN 1768	Corrosive	II	1,2	1,2	
	2,2-Dihydroperoxy propane, *maximum concentration 25% with inert organic solid*	5.2	UN 2178	Organic Peroxide	II	1	II	
	2,3-Dihydropyran	3.2	UN 2376	Flammable Liquid	III	1,2	1	
	Diisobutylamine	3.3	UN 2361	Flammable Liquid	II	1,2	1,2	
	Diisobutylene, *(isomeric compounds)*	3.2	UN 2050	Flammable Liquid	II	1,2	1	
	Diisobutyl ketone	3.3	UN 1157	Flammable Liquid	III	1,2	1,2	
	Diisooctyl acid phosphate	8	UN 1902	Corrosive	III	1,2	1,2	Glass carboys in hampers not permitted under deck
	Diisopropylamine	3.2	UN 1158	Flammable Liquid	II	1,2	1	
	Diisopropylbenzene hydroperoxide, *maximum concentration 72% in solution*	5.2	UN 2171	Organic Peroxide	I	1	II	
	Diisopropyl ether	3.1	UN 1159	Flammable Liquid	II	1,3	II	Keep cool
	Diisopropyl perdicarbonate, *technical pure*	5.2	UN 2133	Organic Peroxide	II	1	5	Maximum transport temperature -15 deg C
	Diisopropyl perdicarbonate, *maximum concentration 52% in solution*	5.2	UN 2134	Organic Peroxide	II	1	II	Maximum transport temperature -10 deg C
	Diketene, *inhibited*	3.3	UN 2521	Flammable Liquid	II	1,2	1,2	
	1,1-Dimethoxyethane	3.2	UN 2377	Flammable Liquid	III	1,2	1	
	1,2-Dimethoxyethane	3.2	UN 2252	Flammable Liquid	II	1,2	1	
	Dimethylamine, *anhydrous*	2.1	UN 1032	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Dimethylamine, *solution*	3.2	UN 1160	Flammable Liquid	II	1,2	1	
	Dimethylaminoethyl methacrylate	6.1	UN 2522	Poison	II	1,2	1	
	N,N-Dimethylaniline	6.1	UN 2253	Poison	II	1,3	1,3	Stow 'away from' sources of heat
	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane, *maximum concentration 82% with inert solid*	5.2	UN 2173	Organic Peroxide	II	1	II	
	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane, *technical pure*	5.2	UN 2172	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane, *maximum concentration 52% with inert solid*	5.2	UN 2156	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane, *technical pure*	5.2	UN 2155	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3, *maximum concentration 52% with inert solid*	5.2	UN 2159	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3, *technical pure*	5.2	UN 2158	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(2-ethylhexanoylperoxy) hexane, *technical pure*	5.2	UN 2157	Organic Peroxide	II	1	II	Maximum transport temperature 20 deg C
	Dimethylbutane	3.1	UN 2457	Flammable Liquid	II	1,2	5	
	1,3-Dimethylbutylamine	3.2	UN 2379	Flammable Liquid	II	1,2	1	
	Dimethyl carbonate	3.2	UN 1161	Flammable Liquid	II	1,2	1	
	Dimethylcyclohexanes	3.2	UN 2263	Flammable Liquid	II	1,2	1	
	Dimethyldichlorosilane	3.2	UN 1162	Flammable Liquid, Corrosive	I	1,2	1	
	Dimethyldiethoxysilane	3.2	UN 2380	Flammable Liquid	II	1,2	1	
	2,5-Dimethyl-2,5-dihydroperoxy hexane, *maximum concentration 82% with water*	5.2	UN 2174	Organic Peroxide	I	1	II	
	3,5-Dimethyl-3,5-dihydroxydioxolane-1,2. *See* Acetyl acetone peroxide, *maximum concentration 40% in solution*							
	Dimethyldioxanes	3.2	UN 2707	Flammable Liquid	II	1,2	1	
	Dimethyldioxanes	3.3	UN 2707	Flammable Liquid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Dimethyl disulfide	3.2	UN 2381	Flammable Liquid	II	1,2	1	
	Dimethylethanolamine	3.3	UN 2051	Flammable Liquid	II	1,3	1,3	
	Dimethyl ether	2.1	UN 1033	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	N,N-Dimethylformamide	6.1	UN 2265	St. Andrews Cross	III	1,3	1,3	Stow 'away from' sources of heat and halogenated hydrocarbons
	2,5-Dimethylhexane-2,5-dihydroperoxide. *See* 2,5-Dimethyl-2,5-dihydroxy hexane							
	Dimethylhydrazine, *symmetrical*	3.2	UN 2382	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Dimethylhydrazine, *unsymmetrical*	3.2	UN 1163	Flammable Liquid	I	1,2	1	Stow 'separated from' corrosive liquids and oxidizers
	Dimethylmagnesium	4.2	UN 1368	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	Dimethyl-p-nitrosoaniline	4.2	UN 1369	Spontaneously Combustible	II	1,2	5	Stow 'away from' foodstuffs
	2,2-Dimethylpropane	2.1	UN 2044	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Dimethyl-N-propylamine	3.2	UN 2266	Flammable Liquid, Corrosive	II	1,2	1	
	Dimethyl sulphate	6.1	UN 1595	Poison	I	1	5	
	Dimethyl sulphide	3.1	UN 1164	Flammable Liquid	I	1,3	5	Keep cool
	Dimethyl thiophosphoryl chloride	8	UN 2267	Corrosive	III	1,2	1	Keep dry. Shade from radiant heat. Glass carboys prohibited on passenger vessels
	Dimethylzinc	4.2	UN 1370	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	Dimyristylperoxydicarbonate, *technical pure*	5.2	UN 2595	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	Di-(n-butyl)amine	8	UN 2248	Corrosive, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Dinitroanilines	6.1	UN 1596	Poison	II	1,2	1,2	
	Dinitrobenzenes *(o-, m-, p-)*	6.1	UN 1597	Poison	II	1,2	1,2	
	Dinitrogen tetroxide. *See* Nitrogen dioxide							
	4,6-Dinitro-o-cresol	6.1	UN 1598	Poison	II	1,2	1,2	
N	Dinitrophenates *(alkali metals), dry or containing, by weight, less than 15% water*	1.3C	UN 0077	Explosive (1.3C), Poison	--	--	--	
	Dinitrophenolates, *wetted with not less than 15% of water*	4.1	UN 1321	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds
N	Dinitrophenol, *dry or containing, by weight, less than 15% water*	1.1D	UN 0076	Explosive (1.1D), Poison	--	--	--	
	Dinitrophenol, *solution in water or flammable liquid*	6.1	UN 1599	Poison	II	1,2	5	Stow 'away from' heavy metals and their compounds. Segregation same as for flammable liquids if flash point below 61 deg C
	Dinitrophenol, *wetted with not less than 15% of water*	4.1	UN 1320	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds and sodium compounds
N	Dinitroresorcinol, *dry or containing, by weight, less than 15% water*	1.1D	UN 0078	Explosive (1.1D)	--	--	--	
	Dinitroresorcinols, *wetted with not less than 33 1/3% of water*	4.1	UN 1322	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Dinitrotoluenes, *liquid*	6.1	UN 1600	Poison, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Dinitrotoluenes, *solid*	6.1	UN 2038	Poison	II	1,2	1,2	
	Di-n-propyl perdicarbonate. *See* Di-n-propyl peroxydicarbonate							
	Di-n-propyl peroxydicarbonate, *technical pure*	5.2	UN 2176	Organic Peroxide	I	1	5	Maximum transport temperature -25 deg C
	Dioxane	3.2	UN 1165	Flammable Liquid	II	1,2	1	
	Dioxolane	3.2	UN 1166	Flammable Liquid	II	1,2	1	
	Dipentene	3.3	UN 2052	Flammable Liquid	II	1,2	1,2	
	Diphenylaminechloroarsine	6.1	UN 1698	Poison	I	1	5	
	Diphenylchloroarsine	6.1	UN 1699	Poison	I	1	5	
	Diphenyl dichlorosilane	8	UN 1769	Corrosive	II	1	1	Keep dry
	Diphenylmethane diisocyanate *(M.D.I.)*	9	UN 2489	None	III	1,3	1,3	Stow 'away from' foodstuffs
	Diphenylmethyl bromide	8	UN 1770	Corrosive	III	1	5	
	Dipropylamine	3.2	UN 2383	Flammable Liquid	II	1,2	1	
	Dipropylene triamine	8	UN 2269	Corrosive	III	1,2	1,2	
	Dipropyl ether	3.1	UN 2384	Flammable Liquid	II	1,3	5	Keep cool
	Disinfectants, *corrosive, liquid*	8	UN 1903	Corrosive	III	1,2	1,2	
	Disinfectants, *(poisonous)*, n.o.s.	6.1	UN 1601	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs.
		6.1	UN 1601	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' foodstuffs.
		9	UN 1601	None	III	1,2	1,2	Stow 'away from' foodstuffs.
	Distearylperoxydicarbonate, *with 15% of stearyl alcohol*	5.2	UN 2592	Organic Peroxide	II	1	II	
	Disuccinic acid peroxide. *See* Succinic acid peroxide							
	Divinyl ether, *inhibited*	3.1	UN 1167	Flammable Liquid	II	1,3	5	Keep cool
	Dodecyl trichlorosilane	8	UN 1771	Corrosive	II	1	1	Keep dry
	Dressing, leather. *See* Flammable liquid preparations, n.o.s							
	Driers, *(paint or varnish, liquid)*, n.o.s.	3.2	UN 1168	Flammable Liquid	II	1,2	1	
		3.3	UN 1168	Flammable Liquid	II	1,2	1,2	
	Driers, *(paint or varnish, solid)*, n.o.s.	4.1	UN 1371	Flammable Solid	III	1,2	1,2	
	Dye intermediates, *(poisonous, liquid or solid)*, n.o.s.	6.1	UN 1602	Poison	I/II	1,2	1,2	
		6.1	UN 1602	St. Andrews Cross	III	1,2	1,2	
	Electrolyte, *acid*. *See* Battery fluid, *acid*							
	Electrolyte, *alkaline*. *See* Battery fluid, *alkaline corrosive*							

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Enamels. *See* Paints, *etc.*							
	Endrin, *mixtures, dry or liquid*	6.1	UN 2065	Poison	I/II	1,2	1,2	If flashpoint below 61 deg C segregation same as for flammable liquids
		6.1	UN 2065	St. Andrews Cross	III	1,2	1,2	If flashpoint below 61 deg C segregation same as for flammable liquids
	Engine starting fluid, *with flammable gas*	2.1	UN 1960	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Epibromohydrin. *See* 1-Bromo-2,3-epoxypropane							
	Epichlorohydrin	6.1	UN 2023	Poison, Flammable Liquid (only if flashpoint is below 23 deg C.)	II	1,2	1,2	Separation same as for flammable liquids
	1,2-Epoxy-3-ethyloxy propane	3.3	UN 2752	Flammable Liquid	III	1,2	1,2	
	Eradicators, *paint or grease, liquid. To be classified and labeled according to the principle hazardous constituent*	--	UN 1850		--	1,2	1	
	Essences. *See* Extracts, *aromatic, liquid*							
	Ethane, *compressed*	2.1	UN 1035	Flammable Gas	--	1,2	5	
	Ethane, *liquid*	2.1	UN 1961	Flammable Gas	--	1,2	5	
	Ethanol	3.2	UN 1170	Flammable Liquid	II	1,2	1	
	Ethanolamine, *and solutions thereof*	8	UN 2491	Corrosive	III	1,2	1,2	Stow 'away from' copper, copper alloys, copper compounds and rubber products
	Ether. *See* Diethyl ether							
	2-Ethoxyethanol	3.3	UN 1171	Flammable Liquid	III	1,2	1,2	
	2-Ethoxyethyl acetate	3.3	UN 1172	Flammable Liquid	III	1,2	1,2	
	Ethyl acetate	3.2	UN 1173	Flammable Liquid	II	1,2	1	
	Ethyl acrylate, *inhibited*	3.2	UN 1917	Flammable Liquid	II	1,2	1	
	Ethyl alcohol. *See* Ethanol							
	Ethyl aldehyde. *See* Acetaldehyde							
	Ethyl aluminium dichloride	4.2	UN 1924	Spontaneously Combustible	I	1	1	
	Ethyl aluminium sesquichloride	4.2	UN 1925	Spontaneously Combustible	I	1	1	
	Ethylamine	2.1	UN 1036	Flammable Gas	--	1,2	II	
	Ethylamine solution *in water, concentrations up to 70%*	3.1	UN 2270	Flammable Liquid	II	1,3	5	Keep cool
	Ethylamine solution, *in water, concentrations up to 70%*	3.2	UN 2270	Flammable Liquid	II	1,2	1	
		3.3	UN 2270	Flammable Liquid	II	1,2	1,2	
	Ethyl amyl ketone	3.3	UN 2271	Flammable Liquid	III	1,2	1,2	
	N-Ethylaniline	6.1	UN 2272	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	2-Ethylaniline	6.1	UN 2273	St. Andrews Cross	III	1,2	1,2	
	Ethylbenzene	3.3	UN 1175	Flammable Liquid	II	1,2	1,2	
	Ethyl-3,3-bis-(tert-butylperoxy) butyrate, *maximum concentration 77% in solution*	5.2	UN 2185	Organic Peroxide	II	1	5	
	Ethyl-3,3-bis-(tert-butylperoxy) butyrate, *technical pure*	5.2	UN 2184	Organic Peroxide	II	1	5	
	Ethyl-3,3-bis(tert-butylperoxy)butyrate, *with at least 50% inert, inorganic solid*	5.2	UN 2598	Organic Peroxide	II	1	5	
	Ethyl borate	3.2	UN 1176	Flammable Liquid	II	1,2	1	
	Ethyl bromide	II	UN 1891	None	II	1,2	1,2	Stow 'away from' foodstuffs and living quarters
	Ethyl bromoacetate	6.1	UN 1603	Poison	II	1	5	
	2-Ethylbutanol	3.3	UN 2275	Flammable Liquid	III	1,2	1,2	
	Ethylbutyl acetate	3.3	UN 1177	Flammable Liquid	III	1,2	1,2	
	Ethyl butyl ether	3.2	UN 1179	Flammable Liquid	II	1,2	1	
	2-Ethylbutyraldehyde	3.2	UN 1178	Flammable Liquid	II	1,2	1	
	Ethyl butyrate	3.3	UN 1180	Flammable Liquid	II	1,2	1,2	
	Ethyl chloride	2.1	UN 1037	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Ethyl chloroacetate	3.3	UN 1181	Flammable Liquid	II	1,2	1,2	
	Ethyl chlorocarbonate. See Ethyl chloroformate							
	Ethyl chloroformate	3.2	UN 1182	Flammable Liquid, Poison, Corrosive	I	1,2	1	
	Ethyl crotonate	3.2	UN 1862	Flammable Liquid	II	1,2	1	
	Ethyl dichloroarsine	6.1	UN 1892	Poison	I	1	5	
	Ethyldichlorosilane	3.2	UN 1183	Flammable Liquid	II	1,2	1	
	Ethylene chlorohydrin. *See* 2-Chloroethanol							
	Ethylene, *compressed*	2.1	UN 1962	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Ethylenediamine	8	UN 1604	Corrosive	II	1,2	1,2	Stow 'away from' oxidizers. Segregation same as for flammable liquids
	Ethylene dibromide	6.1	UN 1605	Poison	II	1,2	1,2	
	Ethylene dichloride	3.2	UN 1184	Flammable Liquid	II	1,2	1	
	Ethylene glycol diethyl ether. *See* 1,2-Diethoxyethane							
	Ethylene glycol monobutyl ether	6.1	UN 2369	St. Andrews Cross	III	1,3	1,3	Stow 'away from' sources of heat. Segregation same as for flammable liquids
	Ethylene glycol monoethyl ether acetate. *See* 2-Ethoxyethyl acetate							
	Ethylene glycol monoethyl ether. *See* 2-Ethoxyethanol							
	Ethylene glycol monomethyl ether	3.3	UN 1188	Flammable Liquid	III	1,2	1,2	
	Ethylene glycol monomethyl ether acetate	3.3	UN 1189	Flammable Liquid	III	1,2	1,2	
	Ethyleneimine, *inhibited*	3.2	UN 1185	Flammable Liquid, Poison	I	1,2	1	
	Ethylene, *liquid*	2.1	UN 1038	Flammable Gas	--	1,2	5	Stow 'away from' living quarters

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Ethylene oxide and carbon dioxide, *mixtures containing not more than 10% carbon dioxide*	2.1	UN 1041	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Ethylene oxide and carbon dioxide, *mixtures containing not more than 17% of ethylene oxide*	2.1	UN 1952	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Ethylene oxide, *containing not more than 0.2% of nitrogen*	2.1	UN 1040	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Ethyl ether. See Diethyl ether							
	Ethyl formate	3.1	UN 1190	Flammable Liquid	II	1,3	5	Keep cool
	Ethyl hexaldehyde	3.3	UN 1191	Flammable Liquid	III	1,2	1,2	
	2-Ethylhexylamine	8	UN 2276	Corrosive	III	1,2	1,2	
	Ethylisobutyrate	3.2	UN 2385	Flammable Liquid	II	1,2	1	
	Ethyl isocyanate	3.2	UN 2481	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Ethyl lactate	3.3	UN 1192	Flammable Liquid	III	1,2	1,2	
	Ethyl mercaptan	3.1	UN 2363	Flammable Liquid	I	1,3	5	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
	Ethyl methacrylate, *inhibited*	3.2	UN 2277	Flammable Liquid	II	1,2	1	
	Ethyl methyl ether	2.1	UN 1039	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Ethyl methyl ketone	3.2	UN 1193	Flammable Liquid	II	1,2	1	
	Ethyl methyl ketone peroxide(s), *maximum concentration 60%*	5.2	UN 2127	Organic Peroxide	I	1	5	
	Ethyl methyl ketone peroxide(s), *maximum concentration 50%, containing not more than 10% available oxygen*	5.2	UN 2550	Organic Peroxide	I	1	5	
	N-Ethyl-n-benzylaniline	6.1	UN 2274	St. Andrews Cross	III	1,2	1,2	
	Ethyl nitrite, *solutions*	3.1	UN 1194	Flammable Liquid	I	1,3	5	Keep cool
	Ethyl orthoformate	3.3	UN 2524	Flammable Liquid	II	1,2	1,2	
	Ethyl oxalate	6.1	UN 2525	St. Andrews Cross	III	1,2	1	
	Ethylphenyldichlorosilane	8	UN 2435	Corrosive	II	1	1	Keep dry
	1-Ethyl piperidine	3.2	UN 2386	Flammable Liquid	II	1,2	1	
	Ethyl propionate	3.2	UN 1195	Flammable Liquid	II	1,2	1	
	Ethyl propyl ether	3.1	UN 2615	Flammable Liquid	II	1,3	5	Keep cool
	Ethyl silicate. *See* Tetraethyl silicate							
	Ethyltrichlorosilane	3.2	UN 1196	Flammable Liquid, Corrosive	II	1,2	1	
N	Explosives, blasting, Type A	1.1D	UN 0081	Explosive (1.1D)	--	--	--	
	Explosives, blasting, Type B	1.5 D	UN 0331	Explosive (1.5D)	--	6	5	
N	Explosives, blasting, Type B	1.1D	UN 0082	Explosive (1.1D)	--	--	--	
N	Explosives, blasting, Type C	1.1D	UN 0083	Explosive (1.1D)	--	--	--	
N	Explosives, blasting, Type D	1.1D	UN 0084	Explosive (1.1D)	--	--	--	
	Explosives, blasting, Type E	1.5 D	UN 0332	Explosive (1.5D)	--	6	II	
N	Explosives, blasting, Type E	1.1D	UN 0241	Explosive (1.1D)	--	--	--	
	Extracts, *aromatic, liquid*	3.2	UN 1169	Flammable Liquid	II	1,2	1	
		3.3	UN 1169	Flammable Liquid	II	1,2	1,2	
	Extracts, *flavouring, liquid*	3.2	UN 1197	Flammable Liquid	II	1,2	1	
		3.3	UN 1197	Flammable Liquid	II	1,2	1,2	
	Fabric, *animal or vegetable, containing more than 5% of animal or vegetable oil*	4.2	UN 1373	Spontaneously Combustible	III	1,2	1,2	
	Ferric arsenate	6.1	UN 1606	Poison	II	1,2	1,2	
	Ferric arsenite	6.1	UN 1607	Poison	II	1,2	1,2	
	Ferric chloride, *anhydrous or solutions*	8	UN 1773	Corrosive	III	1,2	1,2	
	Ferric nitrate	5.1	UN 1466	Oxidizer	III	1,2	1,2	
	Ferrocerium	4.1	UN 1323	Flammable Solid	III	1,2	1,2	
	Ferrosilicon, *containing between 30% and 90% silicon*	4.3	UN 1408	Dangerous When Wet, Poison	III	1,2	1,2	Stow in a well ventilated compartment
	Ferrous arsenate	6.1	UN 1608	Poison	II	1,2	1,2	
	Fertilizer ammoniating solution, *containing free ammonia in excess of 35% ammonia*	2.2	UN 1043	Nonflammable Gas	--	1,2	5	Stow 'away from' living quarters
	Fibres, *animal or vegetable, burnt, wet or damp*	4.2	UN 1372	Spontaneously Combustible	III	1,2	1,2	
	Fibres, *animal or vegetable, containing more than 5% of animal or vegetable oil*	4.2	UN 1373	Spontaneously Combustible	III	1,2	1,2	
	Fibres, *vegetable, dry*	4.1	--	None	--	1,2	1,2	Stow 'away from' animal or vegetable oils
	Fillers, *liquid.* See Paints, *etc.*							
	Film from which gelatine has been removed. See Celluloid, *scrap*							
	Film, motion picture, *nitrocellulose base, exposed or unexposed, developed or undeveloped*	4.1	UN 1324	Flammable Solid	III	1,2	1,2	Stow 'away from' flammable substances. Maximum 250 Kg. net on deck on passenger vessels
	Film, motion picture, *nitrocellulose base, old film*	4.1	UN 1324	Flammable Solid	III	1	5	Stow 'away from' flammable substances
	Fire extinguisher charges, *corrosive liquid*	II	UN 1774	Corrosive	II	1,2	1,2	
	Fire extinguishers, *containing compressed or liquefied gas*	2.2	UN 1044	Nonflammable Gas	--	1,2	1,2	
N	Fireworks, Type A	1.1G	UN 0333	Explosive (1.1G)	--	--	--	
N	Fireworks, Type B	1.2G	UN 0334	Explosive (1.2G)	--	--	--	
N	Fireworks, Type C	1.3G	UN 0335	Explosive (1.3G)	--	--	--	
	Fireworks, Type D	1.4 G	UN 0336	Explosive (1.4G)	--	1,3	1,3	
	Fireworks, Type D	1.4 S	UN 0337	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Fishmeal *or* fishscrap, *antioxidant treated, moisture content greater than 6% but not exceeding 12% by weight, fat content not exceeding 18% by weight*	4.1	UN 2216	None. Package to be marked 'Class 4.1'	III	1,2	1,2	Double strip stowage recommended. Provide good surface and through ventilation

V 4 5 M Y 2 2 8 0 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Fishmeal *or* fishscrap, *antioxidant treated, moisture content between 5% and 11% by weight, fat content not more than 18% by weight*	9	UN 2216	None	III	2	2	
	Fishmeal *or* fishscrap, *antioxidant treated, unrestricted moisture content, fat content exceeding 18% by weight*	4.2	UN 2216	Spontaneously Combustible	II	1,2	1,2	
	Fishmeal *or* fishscrap, *not antioxidant treated, moisture content greater than 6% but not exceeding 12% by weight, fat content not exceeding 15% by weight*	4.1	UN 1374	None. Package to be marked 'Class 4.1'	III	1,2	1,2	Double strip stowage recommended. Provide good surface and through ventilation
	Fishmeal *or* fishscrap, *not antioxidant treated, moisture content greater than 6% but not exceeding 12% by weight, fat content not exceeding 12% by weight*	9	UN 1374	None	III	1,2	1,2	
	Fishmeal *or* fishscrap, *not antioxidant treated, unrestricted moisture content, fat content exceeding 15% by weight*	4.2	UN 1374	Spontaneously Combustible	II	1,2	1,2	
	Flammable liquid preparation, n.o.s	3.2	UN 1142	Flammable Liquid	II	1,2	1	
		3.3	UN 1142	Flammable Liquid	II	1,2	1,2	
	Flammable liquids, *(non-toxic)*, n.o.s.	3.2	UN 1993	Flammable Liquid	II	1,2	1	
		3.3	UN 1993	Flammable Liquid	II	1,2	1,2	
	Flammable liquids, *(toxic)*, n.o.s.	3.2	UN 1992	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1992	Flammable Liquid, Poison	II	1,2	1,2	
	Flammable solids, n.o.s.	4.1	UN 1325	Flammable Solid	II	1,2	1,2	
N	Flares, aerial	1.3G	UN 0093	Explosive (1.3G)	--	--	--	
N	Flares, surface *(other than water-activated flares)*	1.3G	UN 0092	Explosive (1.3G)	--	--	--	
	Flax, dry. See Fibres, *vegetable, dry*							
	Fluoboric acid	8	UN 1775	Corrosive	II	1,2	1,2	
	Fluoric acid. *See* Hydrofluoric acid, *solution*							
	Fluorine	2.3	UN 1045	Poison Gas, Oxidizer	--	1	5	Stow 'away from' foodstuffs, organic materials, and living quarters
	Fluorobenzene	3.2	UN 2387	Flammable Liquid	II	1,2	1	
	Fluorophosphoric acid, *anhydrous*	8	UN 1776	Corrosive	II	1,2	1,2	
	Fluorosulphonic acid	8	UN 1777	Corrosive	I	1	5	Keep dry. Stow 'away from' fluorides
	Fluorotoluenes	3.2	UN 2388	Flammable Liquid	II	1,2	1	
		3.3	UN 2388	Flammable Liquid	II	1,2	1,2	
	Fluosilicic acid	8	UN 1778	Corrosive	II	1,2	1,2	
	Formaldehyde, *in solutions*	3.3	UN 1198	Flammable Liquid	II	1,2	1,2	Stow 'away from' foodstuffs
	Formaldehyde, *solutions flashpoint above 61 degrees C*	9	UN 2209	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Formalin. *See* Formaldehyde							
	Formic acid	8	UN 1779	Corrosive	II	1,2	1,2	Glass carboy in hampers prohibited
N	Fracturing devices, explosive, *for oil wells*	1.1D	UN 0099	Explosive (1.1D)	--	--	--	
	Fuel, aviation, *turbine engine*	3.2	UN 1863	Flammable Liquid	II	1,2	1	
	Fumaryl chloride	8	UN 1780	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Fungicides, *(poisonous)*, n.o.s.	6.1	UN 1699	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs
		6.1	UN 1699	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' foodstuffs
		9	UN 1699	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Furan	3.1	UN 2389	Flammable Liquid	I	1,3	II	Keep cool
	Furfural	3.3	UN 1199	Flammable Liquid	II	1,2	1,2	
	Furfurylamine	3.3	UN 2526	Flammable Liquid	II	1,2	1,2	
	Fuse, igniter, *tubular, metal clad*	1.4 G	UN 0103	Explosive (1.4G)	--	1,3	1,3	
N	Fuse, instantaneous, non-detonating	1.3G	UN 0101	Explosive (1.3G)	--	--	--	
	Fusel oil	3.2	UN 1201	Flammable Liquid	II	1,2	1	
	Fuse, safety	1.4 S	UN 0105	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Fuzes, detonating	1.4S	UN 0367	None. Package to be marked '1.4S'	--	1,3	1,3	
	Fuzes, detonating	1.4 B	UN 0257	Explosive (1.4B)	--	1,3	1,3	
N	Fuzes, detonating	1.1B	UN 0106	Explosive (1.1B)	--	--	--	
N	Fuzes, detonating	1.2B	UN 0107	Explosive (1.2B)	--	--	--	
	Fuzes, igniting	1.4S	UN 0368	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Fuzes, igniting	1.3G	UN 0316	Explosive (1.3G)	--	--	--	
N	Fuzes, igniting	1.4G	UN 0317	Explosive (1.4G)	--	--	--	
N	Gaines, with detonator	1.1B	UN 0225	Explosive (1.1B)	--	--	--	
N	Gaines, with detonator	1.2B	UN 0268	Explosive (1.2B)	--	--	--	
N	Gaines, without detonator	1.1D	UN 0042	Explosive (1.1D)	--	--	--	
N	Gaines, without detonator	1.2D	UN 0283	Explosive (1.2D)	--	--	--	
	Gas cartridges	2.1	UN 2037	Flammable Gas	--			
	Gas drips, *hydrocarbon*	3.2	UN 1864	Flammable Liquid	II	1,2	1	
	Gas oil	3.3	UN 1202	Flammable Liquid	II	1,2	1,2	
	Gasoline	3.1	UN 1203	Flammable Liquid	II	1,2	5	
	Germane	2.3	UN 2192	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
	Germicides, *(poisonous)*, n.o.s.	6.1	(UN 1601)	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs.
		6.1	(UN 1601)	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' foodstuffs.

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbol-	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
		9	(UN 1601)	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Glyceryl trinitrate, *solution up to 1% in alcohol*	3.2	UN 1204	Flammable Liquid	II	1,2	1	
	Glycidaldehyde	3.3	UN 2622	Flammable Liquid, Poison	II	1,2	1,2	
N	Grenades, *hand or rifle, with bursting charge*	1.1D	UN 0284	Explosive (1.1D)	--	--	--	
N	Grenades, *hand or rifle, with bursting charge*	1.2D	UN 0285	Explosive (1.2D)	--	--	--	
N	Grenades, *hand or rifle, with bursting charge*	1.1F	UN 0292	Explosive (1.1F)	--	--	--	
N	Grenades, *hand or rifle, with bursting charge*	1.2F	UN 0293	Explosive (1.2F)	--	--	--	
	Grenades, practice, *hand or rifle*	1.4 S	UN 0110	None. Package to be marked '1.4 S'	--	1,3	1,3	
N	Grenades, practice, *hand or rifle*	1.2G	UN 0372	Explosive (1.2G)	--	--	--	
N	Grenades, practice, *hand or rifle*	1.3G	UN 0318	Explosive (1.3G)	--	--	--	
	Guanidine nitrate	9	UN 1467	None	III	1,2	1,2	Stow 'separated from' nitro compounds, chlorates or acids
N	Guanyl nitrosamino guanylidene hydrazine, *containing, by weight, at least 30% water*	1.1A	UN 0113	Explosive (1.1A)	--	--	--	
N	Guanyl nitrosamino guanyl tetrazene, *containing, by weight, at least 30% water or mixture of alcohol and water*	1.1A	UN 0114	Explosive (1.1A)	--	--	--	
	Gutta percha, *solution*	3.3	UN 1205	Flammable Liquid	II	1,2	1,2	
	Hafnium metal powder, dry	4.2	UN 2545	Spontaneously Combustible	II	1	5	
	Hafnium metal powder, wet, *with not less than 25% water (a visible excess of water must be present)*	4.1	UN 1326	Flammable Solid	II	1,2	5	
	Halogenated irritating liquids, n.o.s.	6.1	UN 1610	Poison	I/II	1	5	
		6.1	UN 1610	St. Andrews Cross	III	1	5	
	Hay	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Helium, *compressed*	2.2	UN 1046	Nonflammable Gas	--	1,2	1,2	
	Helium, *liquid*	2.2	UN 1963	Nonflammable Gas	--	1,2	1,2	
	Hemp, dry. See Fibres, *vegetable, dry*							
	Heptane	3.2	UN 1206	Flammable Liquid	II	1,2	1	
	n-Heptene	3.2	UN 2278	Flammable Liquid	II	1,2	1	
	Hexachlorobutadiene	6.1	UN 2279	St. Andrews Cross	III	1,2	1,2	
	Hexadecyl trichlorosilane	8	UN 1781	Corrosive	II	1	1	Keep dry
	Hexadiene	3.1	UN 2458	Flammable Liquid	II	1,3	5	Keep cool
	Hexaethyl tetraphosphate	6.1	UN 1611	Poison	I/II	1,2	5	
		6.1	UN 1611	St. Andrews Cross	III	1,2	5	
	Hexaethyl tetraphosphate *and compressed gas mixture*	6.1	UN 1612	Poison, Non-flammable Compressed gas	I/II	1	5	Shade from radiant heat. Segregation same as nonflammable gas
		6.1	UN 1612	St. Andrews Cross, Non-flammable Compressed Gas	III	1	5	Shade from radiant heat. Segregation same as for non-flammable gas
	Hexafluoroacetone	2.3	UN 2420	Poison Gas	--	1	II	Stow 'away from' living quarters
	Hexafluoroacetone hydrate	6.1	UN 2552	Poison	II	1,2	1	
	Hexafluorophosphoric acid	8	UN 1782	Corrosive	II	1,2	1,2	
	Hexafluoropropylene	2.2	UN 1858	Nonflammable Gas	--	1,2	1,2	
	Hexaldehyde	3.3	UN 1207	Flammable Liquid	III	1,2	1,2	
	Hexamethylenediamine, *solid*	8	UN 2280	Corrosive	III	1,3	1,3	Keep cool
	Hexamethylenediamine, *solution*	8	UN 1783	Corrosive, Poison	II	1,2	1,2	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane, *maximum concentration 52% with inert solid*	5.2	UN 2166	Organic Peroxide	II	1	5	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane, *maximum concentration 52% in solution*	5.2	UN 2167	Organic Peroxide	II	1	5	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane, *technical pure*	5.2	UN 2165	Organic Peroxide	I	1	5	
	Hexamine	4.1	UN 1328	Flammable Solid	III	1,2	1,2	
	Hexane	3.1	UN 1208	Flammable Liquid	II	1,2	5	
N	Hexanitrodiphenylamine	1.1D	UN 0079	Explosive (1.1D)	--	--	--	
N	Hexanitrostilbene	1.1D	UN 0392	Explosive (1.1D)	--	--	--	
	Hexanols	3.3	UN 2282	Flammable Liquid	III	1,2	1,2	
N	Hexatonal, cast	1.1D	UN 0393	Explosive (1.1D)	--	--	--	
	Hex-1-ene	3.1	UN 2370	Flammable Liquid	II	1,3	5	Keep cool
N	Hexolite, *dry or containing, by weight, less than 15% water*	1.1D	UN 0118	Explosive (1.1D)	--	--	--	
	Hexyl trichlorosilane	8	UN 1784	Corrosive	II	1	1	Keep dry
	Hydrazine, *anhydrous and solutions containing less than 36% water, by weight*	8	UN 2029	Corrosive, Poison	I	1	5	
	Hydrazine, *solutions containing 36% or more water, by weight*	8	UN 2030	Corrosive, Poison	II	1,2	5	Under deck not permitted if containing less than 64% water by weight. Stow 'away from' nitric acids and perchloric acids exceeding 50% acid by weight
	Hydrides, *(metal)*, n.o.s.	4.3	UN 1409	Dangerous When Wet	I	1,2	5	
	Hydriodic acid	8	UN 1787	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Hydrobromic acid	8	UN 1788	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels. Stow 'away from' fluorides
	Hydrocarbon gases *(and mixtures of such gases, compressed)*, n.o.s.	2.1	UN 1964	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Hydrocarbon gases *(and mixtures of such gases, liquefied)*, n.o.s	2.1	UN 1965	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Hydrochloric acid	8	UN 1789	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels. Stow 'away from' fluorides

V 45 M Y 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Hydrocyanic acid, *anhydrous. See* Hydrogen cyanide							
	Hydrocyanic acid, *aqueous solution of not more than 20% of hydrogen cyanide*	6.1	UN 1613	Poison	I	1	5	
	Hydrofluoric acid, *solution*	8	UN 1790	Corrosive	I/II	1	5	Keep cool
	Hydrofluoric and sulphuric acid, *mixtures. See* Acid mixtures, *hydrofluoric and sulphuric*							
	Hydrofluosilicic acid. *See* Fluosilicic acid							
	Hydrogen and methane, *mixtures*	2.1	UN 2034	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Hydrogen bromide, *anhydrous*	2.3	UN 1048	Poison Gas, Corrosive	--	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen chloride, *anhydrous*	2.3	UN 1050	Poison Gas, Corrosive	--	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen, *compressed*	2.1	UN 1049	Flammable Gas	--	1,2	5	Stow 'separated from' chlorine, 'away from' living quarters
	Hydrogen cyanide, *anhydrous, stabilized*	2.3	UN 1051	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen cyanide, *anhydrous, stabilized, absorbed in a porous inert material*	6.1	UN 1614	Poison	I	1	5	Shade from radiant heat
	Hydrogen fluoride, *anhydrous*	2.3	UN 1052	Poison Gas, Corrosive	--	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen iodide, *anhydrous*	2.3	UN 2197	Poison Gas, Corrosive	--	1	5	Stow 'away from' living quarters
	Hydrogen iodide, *solution. See* Hydriodic acid							
	Hydrogen, *liquid*	2.1	UN 1966	Flammable Gas	--	5	5	
	Hydrogen peroxide, *concentrations of over 40% up to 60% peroxide*	5.1	UN 2014	Oxidizer, Corrosive	II	1	5	Shade from radiant heat. Stow 'away from' powdered metals and 'separated from' permanganates
	Hydrogen peroxide, *concentrations of 8% up to 40% peroxide*	5.1	UN 2014	Oxidizer	II	1,2	1	Shade from radiant heat. Stow 'away from' powdered metals and 'separated from' permanganates
	Hydrogen peroxide, *stabilized, concentrations of over 60% peroxide*	5.1	UN 2015	Oxidizer, Corrosive	I	1	5	Permitted only under conditions approved by the Department
	Hydrogen selenide	2.3	UN 2202	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
	Hydrogen sulphide	2.1	UN 1053	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrosilicofluoric acid. *See* Fluosilicic acid							
	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, *and mixtures with bis-(1-hydroxy cyclohexyl) peroxide, in a concentration of more than 90% with less than 10% water*	5.2	UN 2117	Organic Peroxide	I	1	5	
	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, *and mixtures with bis-(1-hydroxy cyclohexyl) peroxide, in a concentration of 99% or less with at least 10% water*	5.2	UN 2119	Organic Peroxide	I	1	5	
	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, *and mixtures with bis-(1-hydroxy cyclohexyl) peroxide, maximum concentration 72% as a paste or in solution*	5.2	UN 2118	Organic Peroxide	I	1	5	
	Hypochlorite, *solutions containing more than 5% available chlorine*	8	UN 1791	Corrosive	II/III	1,2	1	Glass carboys in hampers prohibited under deck
	Igniters	1.4 G	UN 0325	Explosive (1.4G)	--	1,3	1,3	
N	Igniters	1.1G	UN 0121	Explosive (1.1G)	--	--	--	
N	Igniters	1.2G	UN 0314	Explosive (1.2G)	--	--	--	
N	Igniters	1.3G	UN 0315	Explosive (1.3G)	--	--	--	
	Inflammable gas for lighters. *See* Lighters, *for cigars and cigarettes, containing flammable gas*							
	Inflammable liquid preparations, n.o.s.. *See* Flammable liquid preparations, n.o.s							
	Inflammable liquids, *(non-toxic)*, n.o.s.. *See* Flammable liquids, *(non-toxic)*, n.o.s							
	Inflammable liquids, *(toxic)*, n.o.s.. *See* Flammable liquids, *(toxic)*, n.o.s							
	Inflammable solids, n.o.s.. *See* Flammable solids, n.o.s							
	Ink, printers	3.2	UN 1210	Flammable Liquid	II	1,2	1	
		3.3	UN 1210	Flammable Liquid	II	1,2	1,2	
	Insecticide gases, *(non-toxic)*, n.o.s	2.1	UN 1968	Flammable Gas	--	1,2	1	
		2.2	UN 1968	Nonflammable Gas	--	1,3	1,3	
	Insecticide gases, *(toxic)*, n.o.s.	2.3	UN 1967	Poison Gas	--	1	5	Shade from radiant heat
	Insecticide gases, *toxic*, n.o.s.	2.3	UN 1967	Poison Gas	--	I	5	Shade from radiant heat
	Insecticides, n.o.s.	6.1	UN 1615	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs
		6.1	UN 1615	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' foodstuffs
		9	UN 1615	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Iodine monochloride	8	UN 1792	Corrosive	II	I	5	Keep dry
	Iodine pentafluoride	5.1	UN 2495	Oxidizer, Poison	I	I	5	Keep dry
	2-Iodobutane	3.2	UN 2390	Flammable Liquid	II	1,2	1	
	Iodomethylpropanes	3.2	UN 2391	Flammable Liquid	II	1,2	1	
	Iodopropanes	3.2	UN 2392	Flammable Liquid	II	1,2	1	
		3.3	UN 2392	Flammable Liquid	II	1,2	1,2	
	Iron carbonyl	3.1	UN 1994	Flammable Liquid, Poison	I	I	5	Shade from radiant heat
	Iron chloride. *See* Ferric chloride							
	Iron oxide, *spent*	4.2	UN 1376	Spontaneously Combustible	III	1,2	5	
	Iron pentacarbonyl. *See* Iron carbonyl							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Iron sesquichloride. *See* Ferric chloride							
	Iron sponge, *spent. See* Iron oxide, *spent*							
	Iron swarf, *e.g. borings, cuttings, drillings, filings, shavings, turnings*	4.2	UN 2793	None	--	1,2	1,2	
	Isobutane *or isobutane mixtures*	2.1	UN 1969	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Isobutanol	3.3	UN 1212	Flammable Liquid	III	1,2	1,2	
	Isobutyl acetate	3.2	UN 1213	Flammable Liquid	II	1,2	1	
	Isobutyl acrylate, *inhibited*	3.3	UN 2527	Flammable Liquid	III	1,2	1,2	
	Isobutyl alcohol. *See* Isobutanol							
	Isobutyl aldehyde. *See* Isobutyraldehyde							
	Isobutylamine	3.2	UN 1214	Flammable Liquid	II	1,2	1	
	Isobutylene	2.1	UN 1055	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Isobutyl formate	3.2	UN 2393	Flammable Liquid	II	1,2	1	
	Isobutylisobutyrate	3.3	UN 2528	Flammable Liquid	III	1,2	1,2	
	Isobutyl isocyanate	3.2	UN 2486	Flammable Liquid, Poison	II	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Isobutyl methacrylate, *inhibited*	3.3	UN 2283	Flammable Liquid	III	1,2	1,2	
	Isobutyl methyl ketone peroxide, *maximum concentration 62% in solution*	5.2	UN 2126	Organic Peroxide	I	1	5	
	Isobutyl propionate	3.2	UN 2394	Flammable Liquid	II	1,2	1	
	Isobutyraldehyde	3.1	UN 2045	Flammable Liquid	II	1,3	5	Keep cool
	Isobutyric acid	3.3	UN 2529	Flammable Liquid	III	1,2	1,2	
	Isobutyric anhydride	3.3	UN 2530	Flammable Liquid	III	1,2	1,2	
	Isobutyronitrile	3.2	UN 2284	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Isobutyryl chloride	3.2	UN 2395	Flammable Liquid, Poison	II	1	1	Keep dry. Shade from radiant heat
	Isobutyryl peroxide, *maximum concentration 52% in solution*	5.2	UN 2182	Organic Peroxide	II	1	5	Maximum transport temperature -20 deg C
	Isocyanates *(and solutions)*, n.o.s.	3.1	UN 2478	Flammable Liquid, Poison	II	1	5	Stow 'away from' living quarters and sources of heat
	Isocyanates *(with a boiling point below 300 degrees C and a flashpoint of 23 degrees C or above, and their solutions)*, n.o.s.	6.1	UN 2206	Poison, Flammable Liquid (only if flashpoint of the substance or solution is below 61 deg C.)	II	1,3	1,3	Shade from radiant heat. Stow 'away from' sources of heat. Segregation same as for flammable liquids if flashpoint below 61 deg C
	Isocyanates *(with a boiling point of 300 degrees C and above and their solutions)*, n.o.s	9	UN 2207	None	III	1,2	1,2	Stow 'away from' foodstuffs and sources of heat
	Isododecane	3.3	UN 2286	Flammable Liquid	III	1,2	1,2	
	Isoheptene	3.1	UN 2287	Flammable Liquid	II	1,3	5	Keep cool
	Isohexene	3.1	UN 2288	Flammable Liquid	II	1,3	5	Keep cool
	Isononanoyl peroxide, *technical pure or in solution*	5.2	UN 2128	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	Isooctene	3.1	UN 1216	Flammable Liquid	II	1,2	5	
	Isopentane	3.1	UN 1265	Flammable Liquid	I	1,2	5	
	Isopentenes	3.1	UN 2371	Flammable Liquid	I	1,3	5	Keep cool
	Isophoronediamine	8	UN 2289	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Isophorone diisocyanate	6.1	UN 2290	Poison	II	1,2	1	
	Isoprene, *inhibited*	3.1	UN 1218	Flammable Liquid	I	1,3	5	Keep cool
	Isopropanol	3.2	UN 1219	Flammable Liquid	II	1,2	1	
	Isopropenyl acetate	3.2	UN 2403	Flammable Liquid	II	1,2	1	
	Isopropenylbenzene	3.3	UN 2303	Flammable Liquid	II	1,2	1,2	
	Isopropyl acetate	3.2	UN 1220	Flammable Liquid	II	1,2	1	
	Isopropyl acid phosphate	8	UN 1793	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Isopropyl alcohol. *See* Isopropanol							
	Isopropylamine	3.1	UN 1221	Flammable Liquid	I	1,3	5	Keep cool
	Isopropylbenzene	3.3	UN 1918	Flammable Liquid	II	1,2	1,2	
	Isopropyl butyrate	3.3	UN 2405	Flammable Liquid	II	1,2	1,2	
	Isopropyl chloroformate	3.2	UN 2407	Flammable Liquid, Corrosive	II	1,2	1	
	Isopropyl formate	3.2	UN 2408	Flammable Liquid	II	1,2	1	
	Isopropyl isobutyrate	3.2	UN 2406	Flammable Liquid	II	1,2	1	
	Isopropyl isocyanate	3.2	UN 2483	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Isopropyl mercaptan	3.1	UN 2703	Flammable Liquid	II	1,3	5	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
		3.2	UN 2703	Flammable Liquid	II	1,3	1	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
	Isopropyl nitrate	3.2	UN 1222	Flammable Liquid	II	1,2	1	
	Isopropyl peroxydicarbonate. *See* Diisopropyl perdicarbonate							
	Isopropyl propionate	3.2	UN 2409	Flammable Liquid	II	1,2	1	
N	Jet perforating guns, charged, *oil well, without detonator*	1.1D	UN 0124	Explosive (1.1D)	--	--	--	
	Jute, dry. See Fibres, *vegetable, dry*							
	Kapok, dry. See Fibres, *vegetable, dry*							
	Kerosene	3.3	UN 1223	Flammable Liquid	II	1,2	1,2	
	Ketones, *(liquid, non-toxic)*, n.o.s.	3.2	UN 1224	Flammable Liquid	II	1,2	1	
		3.3	UN 1224	Flammable Liquid	II	1,2	1,2	

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Ketones, *(liquid, toxic)*, n.o.s.	3.2	UN 1224	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1224	Flammable Liquid, Poison	II	1,2	1,2	
	Krypton, *compressed*	2.2	UN 1056	Nonflammable Gas	--	1,2	1,2	
	Krypton, *liquid*	2.2	UN 1970	Nonflammable Gas	--	1	5	
	Lacquer base. *See* Paints, *etc.*							
	Lacquer chips. *See* Nitrocellulose, *wetted with, by weight, more than 40% flammable liquids.*							
	Lacquers. *See* Paints, *etc.*							
	Lauroyl peroxide, *technical pure*	5.2	UN 2124	Organic Peroxide	II	1	5	
	Lead acetate	6.1	UN 1616	St. Andrews Cross	III	1,2	1,2	
	Lead arsenates	6.1	UN 1617	Poison	II	1,2	1,2	
	Lead arsenites	6.1	UN 1618	Poison	II	1,2	1,2	
N	Lead azide, *containing, by weight, at least 20% water or mixture of alcohol and water*	1.1A	UN 0129	Explosive (1.1A)	--	--	--	
	Lead compounds, *(water soluble)*, n.o.s.	6.1	UN 2291	St. Andrews Cross	III	1,2	1,2	
	Lead cyanide	6.1	UN 1620	Poison	II	1,2	1,2	Stow 'away from' acids
	Lead dioxide	5.1	UN 1872	Oxidizer	III	1,2	1,2	Stow 'away from' foodstuffs
	Lead dross. *See* Lead sulphate, *containing more than 3% free acid*							
	Lead nitrate	5.1	UN 1469	Oxidizer,Poison	II	1,2	1,2	Store 'away from' foodstuffs
	Lead perchlorate	5.1	UN 1470	Oxidizer,Poison	II	1,2	1,2	Stow 'away from' powdered metals and foodstuffs
	Lead peroxide. *See* Lead dioxide							
N	Lead styphnate, *containing, by weight, at least 20% water or mixture of alcohol and water*	1.1A	UN 0130	Explosive (1.1A)	--	--	--	
	Lead sulphate, *containing more than 3% free acid*	8	UN 1794	Corrosive	II	1,2	1,2	
	Life-rafts, *inflatable*	9	--	None	--	1,2	1,2	
	Lighter fuels, *cigar and cigarette*	3.2	UN 1226	Flammable Liquid	II	1,2	1	
	Lighters *for cigars and cigarettes, etc., containing flammable gas*	2.1	UN 1057	Flammable Gas	--	1	1	Stow 'away from' living quarters. Not permitted in nonventilated containers
	Lighters *for cigars and cigarettes, etc., containing fuel*	3.2	UN 1226	Flammable Liquid	II	1,2	1	
	Lighters, fuse	1.4 S	UN 0131	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Liquefied non-flammable gases charged with nitrogen, carbon dioxide or air	2.2	UN 1058	Nonflammable Gas	--	1,2	1,2	
	Lithium alkyls	4.2	UN 2445	Spontaneously Combustible	I	1	1	
	Lithium aluminium hydride	4.3	UN 1410	Dangerous When Wet	I	1,2	II	
	Lithium aluminium hydride, *ethereal*	4.3	UN 1411	Dangerous When Wet, Flammable Liquid	II	1	5	
	Lithium amide	4.3	UN 1412	Dangerous When Wet	II	1,2	5	
	Lithium borohydride	4.3	UN 1413	Dangerous When Wet	I	1,2	5	
	Lithium hydride	4.3	UN 1414	Dangerous When Wet	I	1,2	5	
	Lithium hypochlorite, *dry, including mixtures containing more than 39% available chlorine (8.8% available oxygen)*	5.1	UN 1471	Oxidizer	II	1,2	1,2	
	Lithium, *(metal)*	4.3	UN 1415	Dangerous When Wet	II	1,2	II	
	Lithium peroxide	5.1	UN 1472	Oxidizer	II	1,2	1,2	Keep dry
	Lithium silicon	4.3	UN 1417	Dangerous When Wet	II	1,2	1,2	
	London purple	6.1	UN 1621	Poison	II	1,2	1,2	
	Lye. *See* Sodium hydroxide							
	Magnesium alloys, *containing more than 50% magnesium, pellets, turnings or ribbon*	4.1	UN 1869	Flammable Solid	III	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Magnesium alloys, *containing more than 50% magnesium, powder, non-pyrophoric*	4.3	UN 1418	Dangerous When Wet	II	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Magnesium aluminium phosphide	4.3	UN 1419	Dangerous When Wet	I	1	5	
	Magnesium arsenate	6.1	UN 1622	Poison	II	1,2	1,2	
	Magnesium bromate	5.1	UN 1473	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Magnesium diamide	4.2	UN 2004	Spontaneously Combustible	II	1	1	
	Magnesium diphenyl	4.2	UN 2005	Spontaneously Combustible	I	1	1	
	Magnesium hydride	4.3	UN 2010	Dangerous When Wet	I	1,2	5	
	Magnesium nitrate	5.1	UN 1474	Oxidizer	III	1,2	1,2	
	Magnesium, *pellets, turnings or ribbon*	4.1	UN 1869	Flammable Solid	III	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Magnesium perchlorate	5.1	UN 1475	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Magnesium peroxide	5.1	UN 1476	Oxidizer	II	1,2	1,2	Keep dry
	Magnesium phosphide	4.3	UN 2011	Dangerous When Wet, Poison	I	1	5	
	Magnesium, *powder, non-pyrophoric*	4.3	UN 1418	Dangerous When Wet	II	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Maleic anhydride	8	UN 2215	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Maneb, *or* maneb preparation(s) *containing 60% or more maneb*	4.2	UN 2210	Spontaneously Combustible	III	1,2	1,2	Stow 'away from' acids, living quarters and foodstuffs
	Manganese ethylene-bis-dithiocarbamate. See Maneb							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Manganese resinate	4.1	UN 1330	Flammable Solid	III	1,2	1,2	
N	Mannitol hexanitrate, *containing, by weight, at least 40% water or mixture of alcohol and water*	1.1D	UN 0133	Explosive (1.1D)	--	--	--	
	Matches, *fusee*	4.1	UN 2254	Flammable Solid	III	1,2	1,2	
	Matches, *safety*	9	UN 1944	None	III	1,2	1,2	Keep dry
	Matches, *strike anywhere*	4.1	UN 1331	Flammable Solid	III	1,2	1	
	Matches, *wax 'vesta'*	4.1	UN 1945	Flammable Solid	III	1,2	1	
N	Medicines, n.o.s. *to be classified and labeled according to the principle hazardous constituent*	--	UN 1851		--			
	MEKP. See Ethyl methyl ketone peroxide							
	p-Menthane hydroperoxide, *technical pure*	5.2	UN 2125	Organic Peroxide	I	1	5	
	Mercaptans *and* mercaptan mixtures, *(liquid)*, n.o.s.	3.1	UN 1228	Flammable Liquid	II	1,3	5	Keep cool
	Mercuric acetate. *See* Mercury acetate							
	Mercuric arsenate	6.1	UN 1623	Poison	II	1,2	1,2	
	Mercuric bromide. *See* Mercury bromides							
	Mercuric chloride	6.1	UN 1624	Poison	II	1,2	1,2	
	Mercuric cyanide. *See* Mercury cyanide							
	Mercuric nitrate	6.1	UN 1625	Poison	II	1,2	1,2	
	Mercuric oxycyanide. *See* Mercury oxycyanide							
	Mercuric potassium cyanide	6.1	UN 1626	Poison	I	1,2	1,2	Stow 'away from' acids
	Mercuric sulphate	6.1	UN 1645	Poison	II	1,2	1,2	
	Mercurol. *See* Mercury nucleate							
	Mercurous acetate. *See* Mercury acetate							
	Mercurous bromide. *See* Mercury bromides							
	Mercurous nitrate. *See* Mercury acetate							
	Mercurous sulphate	6.1	UN 1628	Poison	II	1,2	1,2	
	Mercury acetate	6.1	UN 1629	Poison	II	1,2	1,2	
	Mercury ammonium chloride	6.1	UN 1630	Poison	II	1,2	1,2	
	Mercury benzoate	6.1	UN 1631	Poison	II	1,2	1,2	
	Mercury bisulphate	6.1	UN 1633	Poison	II	1,2	1,2	
	Mercury bromides	6.1	UN 1634	Poison	II	1,2	1,2	
	Mercury compounds, *(inorganic)*, n.o.s.	6.1	UN 2024	Poison	I/II	1,2	1,2	
		6.1	UN 2024	St. Andrews Cross	III	1,2	1,2	
	Mercury compounds, *(organic)*, n.o.s.	6.1	UN 2025	Poison	I/II	1,2	1,2	
		6.1	UN 2025	St. Andrews Cross	III	1,2	1,2	
	Mercury cyanide	6.1	UN 1636	Poison	II	1,2	1,2	Stow 'away from' acids
N	Mercury fulminate, *containing, by weight, at least 20% water or mixture of alcohol and water*	1.1A	UN 0135	Explosive (1.1A)	--	--	--	
	Mercury gluconate	6.1	UN 1637	Poison	II	1,2	1,2	
	Mercury iodide	6.1	UN 1638	Poison	II	1,2	1,2	
	Mercury nucleate	6.1	UN 1639	Poison	II	1,2	1,2	
	Mercury oleate	6.1	UN 1640	Poison	II	1,2	1,2	
	Mercury oxide	6.1	UN 1641	Poison	II	1,2	1,2	
	Mercury oxycyanide	6.1	UN 1642	Poison	II	1,2	1,2	Stow 'away from' acids
	Mercury potassium iodide	6.1	UN 1643	Poison	II	1,2	1,2	
	Mercury salicylate	6.1	UN 1644	Poison	II	1,2	1,2	
	Mercury thiocyanate	6.1	UN 1646	Poison	II	1,2	1,2	
	Mesityl oxide	3.3	UN 1229	Flammable Liquid	II	1,2	1,2	
	Metal alkyls, n.o.s.	4.2	UN 2003	Spontaneously Combustible	I	1	5	Shade from radiant heat. Stow 'separated from flammable liquids or gases, oxidizers or organic peroxides
	Metaldehyde	4.1	UN 1332	Flammable Solid	III	1,2	1,2	
	Methacraldehyde	3.2	UN 2396	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Methacrylic acid, *inhibited*	8	UN 2531	Corrosive	II	1	1	Keep cool. Glass carboys prohibited on passenger vessels
	Methallyl alcohol	3.3	UN 2614	Flammable Liquid	II	1,2	1,2	
	Methane *or* natural gases *with a high methane content, compressed*	2.1	UN 1971	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Methane *or* natural gases *with a high methane content, refrigerated liquid*	2.1	UN 1972	Flammable Gas	--	1	5	Stow 'away from' living quarters
	Methanol	3.2	UN 1230	Flammable Liquid, Poison	III	1,2	1	
	Methoxymethyl isocyanate	3.2	UN 2605	Flammable Liquid, Poison	I	1	II	Keep cool. Stow 'away from' living quarters and sources of heat
	4-Methoxy-4-methylpentan-2-one	3.3	UN 2293	Flammable Liquid	III	1,2	1,2	
	Methyl acetate	3.2	UN 1231	Flammable Liquid	II	1,2	1	
	Methyl acetone	3.2	UN 1232	Flammable Liquid	II	1,2	1	
	Methyl acetylene, *mixed with 15% to 20%* propadiene	2.1	UN 1060	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	beta-Methyl acrolein. *See* Crotonaldehyde, *inhibited*							
	Methyl acrylate, *inhibited*	3.2	UN 1919	Flammable Liquid	II	1,2	1	
	Methylal	3.1	UN 1234	Flammable Liquid	II	1,3	5	Keep cool
	Methyl alcohol. *See* Methanol							
	Methyl allyl chloride	3.1	UN 2554	Flammable Liquid	II	1,3	II	Keep cool
	Methyl aluminium sesquibromide	4.2	UN 1926	Spontaneously Combustible	I	1	1	

V 45 MY 2 2 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Methyl aluminium sesquichloride	4.2	UN 1927	Spontaneously Combustible	I	1	1	
	Methylamine, *anhydrous*	2.1	UN 1061	Flammable Gas	--	1,2	5	
	Methylamine, *aqueous solution*	3.1	UN 1235	Flammable Liquid	II	1,3	5	Keep cool. Stow 'away from' mercury and its compounds
	Methylamyl acetate	3.3	UN 1233	Flammable Liquid	III	1,2	1,2	
	Methyl amyl ketone. *See* Amyl methyl ketone							
	N-Methylaniline	6.1	UN 2294	St. Andrews Cross	III	1,2	1,2	
	Methyl bromide	2.3	UN 1062	Poison Gas	--	1	5	
	Methyl bromide and chloropicrin, mixtures. *See* Chloropicrin and methyl bromide, mixtures							
	Methyl bromide and ethylene dibromide, *liquid mixtures*	6.1	UN 1647	Poison	I	1	1	
	2-Methyl-1,3-butadiene. *See* Isoprene							
	3-Methyl butan-2-one	3.2	UN 2397	Flammable Liquid	II	1,2	1	
	2-Methyl-1-butene	3.1	UN 2459	Flammable Liquid	I	1,3	5	Keep cool
	2-Methyl-2-butene	3.1	UN 2460	Flammable Liquid	II	1,3	5	Keep cool
	Methyl-tert-butyl ether	3.2	UN 2398	Flammable Liquid	II	1,2	1	
	Methyl butyrate	3.2	UN 1237	Flammable Liquid	II	1,2	1	
	Methyl chloride	2.1	UN 1063	Flammable Gas	--	1,2	5	Stow 'away from' living quarters
	Methyl chloride and chloropicrin, mixtures. See Chloropicrin and methyl chloride, mixtures							
	Methyl chloride and methylene chloride, *mixtures*	2.1	UN 1912	Flammable Gas	--	1,2	5	
	Methyl chloroacetate	3.3	UN 2295	Flammable Liquid	II	1,2	1,2	
	Methyl chlorocarbonate. *See* Methyl chloroformate							
	Methyl chloroformate	3.2	UN 1238	Flammable Liquid, Poison, Corrosive	I	1,2	1	
	Methylchloromethyl ether	3.1	UN 1239	Flammable Liquid	II	1	5	Keep cool
	Methyl chlorosilane	3.2	UN 2534	Flammable Liquid, Corrosive	I	1,2	1	
	Methyl cyanide	6.1	UN 1648	Poison, Flammable Liquid	II	1	5	Shade from radiant heat. Segregation as for flammable liquids
	Methyl cyclohexane	3.2	UN 2296	Flammable Liquid	II	1,2	1	
	Methyl cyclohexanol	3.3	UN 2617	Flammable Liquid	III	1,2	1,2	
	Methyl cyclohexanone	3.3	UN 2297	Flammable Liquid	III	1,2	1,2	
	Methyl cyclopentane	3.1	UN 2298	Flammable Liquid	II	1,2	5	
	Methyl dichloroacetate	6.1	UN 2299	St. Andrews Cross	III	1,2	1,2	
	Methyldichlorosilane	3.2	UN 1242	Flammable Liquid, Corrosive	I	1,2	1	
	Methylene bis (phenylene isocyanate). *See* Diphenylmethane diisocyanate							
	Methylene chloride. *See* Dichloromethane							
	Methyl ethyl ether. *See* Ethyl methyl ether							
	Methyl ethyl ketone peroxide(s). *See* Ethyl methyl ketone peroxide							
	Methyl ethyl ketone. *See* Ethyl methyl ketone							
	2-Methyl-5-ethylpyridine	6.1	UN 2300	St. Andrews Cross	III	1,2	1,2	
	Methyl formate	3.1	UN 1243	Flammable Liquid	I	1,3	5	Keep cool
	2-Methylfuran	3.1	UN 2301	Flammable Liquid	II	1,3	5	Keep cool
	5-Methylhexan-2-one	3.3	UN 2302	Flammable Liquid	III	1,2	1,2	
	Methylhydrazine	3.2	UN 1244	Flammable Liquid, Corrosive	I	1,2	1	
	Methyl isobutyl carbinol	3.3	UN 2053	Flammable Liquid	III	1,2	1,2	
	Methyl isobutyl ketone	3.2	UN 1245	Flammable Liquid	II	1,2	1	
	Methyl isocyanate *and solutions*	3.1	UN 2480	Flammable Liquid, Poison	I	1	5	Stow 'away from' living quarters and sources of heat
	Methyl isocyanate *(and solutions)*	3.2	UN 2480	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Methyl isopropenyl ketone, *inhibited*	3.2	UN 1246	Flammable Liquid	II	1,2	1	
	Methyl isothiocyanate	3.2	UN 2477	Flammable Liquid, Poison	II	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Methylisovalerate	3.2	UN 2400	Flammable Liquid	II	1,2	1	
	Methyl magnesium bromide, *in ethyl ether*	4.2	UN 1928	Spontaneously Combustible	I	1	5	
	Methylmercaptan	2.1	UN 1064	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Methyl methacrylate, *monomer, inhibited*	3.2	UN 1247	Flammable Liquid	II	1,2	1	
	Methylmorpholine	3.3	UN 2535	Flammable Liquid, Corrosive	II	1,2	1,2	
	Methyl orthosilicate	3.2	UN 2606	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Methylpentadiene	3.1	UN 2461	Flammable Liquid	II	1,3	5	Keep cool
	Methylpentanes	3.1	UN 2462	Flammable Liquid	II	1,3	5	Keep cool
	Methylphenyldichlorosilane	8	UN 2437	Corrosive	II	1	1	Keep dry. Segregation same as for flammable liquids
	1-Methylpiperidine	3.2	UN 2399	Flammable Liquid	II	1,2	1	
	Methyl propionate	3.2	UN 1248	Flammable Liquid	II	1,2	1	
	Methyl propyl ether	3.1	UN 2612	Flammable Liquid	II	1,3	5	Keep cool
	Methyl propyl ketone	3.2	UN 1249	Flammable Liquid	II	1,2	1	
	Methyl sulphide. *See* Dimethyl sulfide							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Methyltetrahydrofuran	3.2	UN 2536	Flammable Liquid	III	1,2	1	
	Methyl trichloroacetate	6.1	UN 2533	St. Andrews Cross	III	1,2	1	
	Methyltrichlorosilane	3.2	UN 1250	Flammable Liquid, Corrosive	II	1,2	1	
	alpha-Methyl valeraldehyde	3.3	UN 2367	Flammable Liquid	III	1,2	1,2	
	Methyl vinyl ketone	3.2	UN 1251	Flammable Liquid	II	1,2	1	
N	Mines, *with bursting charge*	1.1D	UN 0137	Explosive (1.1D)	--	--	--	
N	Mines, *with bursting charge*	1.2D	UN 0138	Explosive (1.2D)	--	--	--	
N	Mines, *with bursting charge*	1.1F	UN 0136	Explosive (1.1F)	--	--	--	
N	Mines, *with bursting charge*	1.2F	UN 0294	Explosive (1.2F)	--	--	--	
	Mischmetal, *powder*	4.1	UN 1333	Flammable Solid	II	1,2	5	Stow 'separated from' flammable substances and oxidizers
	Mischmetal, *slabs or ingots*	4.1	UN 1333	Flammable Solid	III	1,2	1,2	Stow 'separated from' flammable substances and oxidizers
	Mixed acid. *See* Acid mixtures, *nitrating acid*							
	Mixed acid, spent. See Acid mixtures, *spent*							
	Molybdenum pentachloride	8	UN 2508	Corrosive	III	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Monochlorodifluoromethane. *See* Chlorodifluoromethane							
	Monochloropentafluoroethane. *See* Chloropentafluoroethane							
	Monochlorotetrafluoroethane. *See* Chlorotetrafluoroethane							
	Monochlorotrifluoromethane. *See* Chlorotrifluoromethane							
	Monoethanolamine. *See* Ethanolamine *and solutions thereof*							
	Monoethylamine. *See* Ethylamine							
	Monomethylamine, *anhydrous.* See Methylamine, *anhydrous*							
	Monomethylamine, *aqueous solution.* See Methylamine, *aqueous solution*							
	Monopropylamine	3.1	UN 1277	Flammable Liquid	II	1,2	5	
	Morpholine	3.3	UN 2054	Flammable Liquid	II	1,2	1,2	
	Motor fuel anti-knock mixtures	6.1	UN 1649	Poison	I	1	5	If flashpoint below 61 deg C segregation same as for flammable liquids
	Motor fuel, n.o.s.	3.1	(UN 1203)	Flammable Liquid	II	1,2	5	
	Motor spirit. *See* Gasoline							
	Muriatic acid. *See* Hydrochloric acid							
	Naphtha distillate	3.2	(UN 1268)	Flammable Liquid	II	1,2	1	
	Naphthalene, *crude or refined*	4.1	UN 1334	Flammable Solid	III	1,2	1,2	
	Naphtha, petroleum	3.2	UN 1255	Flammable Liquid	II	1,2	1	
	Naphtha, solvent	3.2	UN 1256	Flammable Liquid	II	1,2	1	
	Naphthylamine *(alpha)*	6.1	UN 2077	St. Andrews Cross	III	1,2	1,2	
	Naphthylamine *(beta)*	6.1	UN 1650	Poison	II	1,2	1,2	
	alpha-Naphthylthiourea	6.1	UN 1651	Poison	II	1,2	1,2	
	Naphthylurea	6.1	UN 1652	Poison	II	1,2	1,2	
	Napthalene, molten	4.1	UN 2304	Flammable Solid	III	1	1	Protect from sparks and open flame
	Natural gases with a high methane content. See Methane or natural gases, *etc.*							
	Natural gasoline. *See* Casinghead gasoline							
	N, N-Dimethylcyclohexylamine	8	UN 2264	Corrosive	II	1,2	1,2	Keep cool. Segregation same as for flammable liquids
	Neohexane. *See* Dimethyl butane							
	Neon, *compressed*	2.2	UN 1065	Nonflammable Gas	--	1,2	1,2	
	Neon, *liquid*	2.2	UN 1913	Nonflammable Gas	--	1	5	
	Nickel carbonyl	3.1	UN 1259	Flammable Liquid, Poison	I	1	5	Keep cool. Prohibited on any ship carrying explosives
	Nickel catalyst, *finely divided, activated or spent, wetted with not less than 40% of water or other suitable liquid*	4.2	UN 1378	Spontaneously Combustible	II	1,2	1	
	Nickel cyanide	6.1	UN 1653	Poison	II	1,2	1,2	
	Nicotine	6.1	UN 1654	Poison	II	1,2	1,2	
	Nicotine, *(compounds and preparations)*, n.o.s	6.1	UN 1655	Poison	I/II	1,2	1,2	
		6.1	UN 1655	St. Andrews Cross	III	1,2	1,2	
	Nicotine hydrochloride, *and solutions*	6.1	UN 1656	Poison	II	1,2	1,2	
	Nicotine salicylate	6.1	UN 1657	Poison	II	1,2	1,2	
	Nicotine sulphate, *solid or solution*	6.1	UN 1658	Poison	II	1,2	1,2	
	Nicotine tartrate	6.1	UN 1659	Poison	II	1,2	1,2	
	Nitrate of soda and potash, mixture. *See* Sodium nitrate and potash, *mixture*							
	Nitrates, *(inorganic)*, n.o.s.	5.1	UN 1477	Oxidizer	II	1,2	1,2	
	Nitrating acid. *See* Acid mixtures, *nitrating acid*							
N	Nitric acid, *other than red fuming, all concentrations*	8	UN 2031	Corrosive	I/II			
N	Nitric acid, *red fuming*	8	UN 2032	Corrosive, Oxidizer	I			
	Nitric oxide	2.3	UN 1660	Poison Gas, Oxidizer	--	1	5	Stow 'away from' foodstuffs and living quarters.
	Nitric oxide and nitrogen tetroxide, *mixtures*	2.3	UN 1975	Poison Gas, Oxidizer	--	1	5	Stow 'away from' foodstuffs, organic materials and living quarters
	Nitroanilines *(o-, m-, p-)*	6.1	UN 1661	Poison	II	1,2	1,2	
	Nitrobenzene	6.1	UN 1662	Poison	II	1,2	1,2	

V 4 5 M Y 2 2 8 0 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Nitrobenzenesulphonic acid	8	UN 2305	Corrosive	II	1,2	1,2	
	Nitrobenzol. *See* Nitrobenzene							
N	5-Nitrobenzotriazol	1.1D	UN 0385	Explosive (1.1D)	--	--	--	
	Nitrobenzotrifluoride	6.1	UN 2306	Poison	II	1,2	1,2	
	Nitrocellulose, *containing at least 25% alcohol, by weight, and not exceeding 12.6% nitrogen by dry weight*	4.1	UN 2556	Flammable Solid	I	1	5	Shade from radiant heat, keep away from heat and open flame
	Nitrocellulose, *containing at least 25%, by weight, water*	4.1	UN 2555	Flammable Solid	II	1	5	Shade from radiant heat. Keep away from heat and open flame
	Nitrocellulose, *containing at least 18% plasticizing substance, by weight, and not exceeding 12.6% nitrogen by dry weight*	4.1	UN 2557	Flammable Solid	I	1	1	Shade from radiant heat. Keep away from heat and open flame
	Nitrocellulose, *in solution in flammable liquids*	3.2	UN 2059	Flammable Liquid	II	1,2	1	
		3.3	UN 2060	Flammable Liquid	II	1,2	1,2	
	Nitrocellulose, *wetted with, by weight, more than 40% flammable liquids*	3.2	(UN 2556)	Flammable Liquid	II	1,2	1	
		3.3	(UN 2556)	Flammable Liquid	II	1,2	1,2	
N	Nitrocellulose with *less than 25% alcohol, by weight*	1.1D	UN 0340	Explosive (1.1D)	--	--	--	
N	Nitrocellulose with *less than 18% plasticizing substance, by weight*	1.1D	UN 0341	Explosive (1.1D)	--	--	--	
N	Nitrocellulose with *less than 25% water, by weight*	1.1D	UN 0340	Explosive (1.1D)	--	--	--	
N	Nitrocellulose with *not less than 25% alcohol, by weight*	1.3C	UN 0342	Explosive (1.3C)	--	--	--	
N	Nitrocellulose with *not less than 18% plasticizing substance, by weight*	1.3C	UN 0343	Explosive (1.3C)	--	--	--	
	3-Nitro-4-chlorobenzotrifluoride	6.1	UN 2307	Poison	II	1,2	1,2	
	Nitrocresols	6.1	UN 2446	Poison	III	1,2	1,2	
	Nitrogen, *compressed*	2.2	UN 1066	Nonflammable Gas	--	1,2	1,2	
	Nitrogen dioxide	2.3	UN 1067	Poison Gas, Oxidizer	--	1	5	Stow 'away from' foodstuffs, organic materials and living quarters
	Nitrogen, *liquid*	2.2	UN 1977	Nonflammable Gas	--	1	5	
	Nitrogen tetroxide. *See* Nitrogen dioxide							
	Nitrogen trifluoride	2.3	UN 2451	Poison Gas	--	1	5	Stow 'away from' living quarters and organic materials
	Nitrogen trioxide	2.3	UN 2421	Poison Gas	--	1	5	Stow 'away from' living quarters and readily combustible substances
N	Nitroglycerine, desensitized, *containing, by weight, at least 40% nonvolatile water-insoluble phlegmatizer*	1.1D	UN 0143	Explosive (1.1D), Poison	--	--	--	
N	Nitroglycerine, spirit of, *containing more than 1% but not more than 10% nitroglycerine in solution in alcohol*	1.1D	UN 0144	Explosive (1.1D)	--	--	--	
	Nitroglycerin solution, *up to 1% in alcohol. See* Glyceryl trinitrate, *solution*							
N	Nitroguanidine, *dry or containing, by weight, less than 20% water*	1.1D	UN 0282	Explosive (1.1D)	--	--	--	
	Nitroguanidine, *wetted with not less than 20% of water*	4.1	UN 1336	Flammable Solid	II	1,2	II	
	Nitrohydrochloric acid	8	UN 1798	Corrosive	I	I	5	Stow 'away from' fluorides
	Nitromethane	3.3	UN 1261	Flammable Liquid	II	1,2	1,2	
	Nitromuriatic acid. *See* Nitrohydrochloric acid							
	Nitronapthalene	4.1	UN 2538	Flammable Solid	III	1,2	1,2	
	Nitrophenols *(o-, m-, p-)*	6.1	UN 1663	St. Andrews Cross	III	1,2	1,2	
	Nitropropanes	3.3	UN 2608	Flammable Liquid	III	1,2	1,2	
	p-Nitrosodimethylaniline	4.2	UN 1369	Spontaneously Combustible	II	1,2	5	Stow 'away from' foodstuffs
N	Nitrostarch, *dry or containing, by weight, less than 20% water*	1.1D	UN 0146	Explosive (1.1D)	--	--	--	
	Nitrostarch, *wetted with not less than 20% of water*	4.1	UN 1337	Flammable Solid	I	1	5	
	Nitrosyl chloride	2.3	UN 1069	Poison Gas, Corrosive	--	1	II	Stow 'away from' foodstuffs and living quarters
	Nitrosylsulphuric acid	8	UN 2308	Corrosive	II	1	5	Stow 'away from' organic materials
	Nitrotoluenes *(o-, m-, p-)*	6.1	UN 1664	Poison	II	1,2	1,2	
N	Nitro urea	1.1D	UN 0147	Explosive (1.1D)	--	--	--	
	Nitrous oxide	2.2	UN 1070	Nonflammable Gas, Oxidizer	--	1,2	1,2	
	Nitroxylenes *(o-, m-, p-)*	6.1	UN 1665	Poison	II	1,2	1,2	
	Nonane	3.3	UN 1920	Flammable Liquid	II	1,2	1,2	
	n-Nonanoyl peroxide, *technical pure*	5.2	UN 2130	Organic Peroxide	II	I	II	Maximum transport temperature 0 deg C
	Nonyl trichlorosilane	8	UN 1799	Corrosive	II	I	I	Keep dry
	Octadecyl trichlorosilane	II	UN 1800	Corrosive	II	I	I	Keep dry
	Octadiene	3.2	UN 2309	Flammable Liquid	III	1,2	I	
	Octafluorocyclobutane	2.2	UN 1976	Nonflammable Gas	--	1,2	1,2	
	Octane *and its isomers*	3.2	UN 1262	Flammable Liquid	II	1,2	1	
	n-Octanoyl peroxide, *technical pure*	5.2	UN 2129	Organic Peroxide	II	1	II	Maximum transport temperature 10 deg C
N	Octolite, *dry or containing, by weight, less than 15% water*	1.1D	UN 0266	Explosive (1.1D)	--	--	--	
	Octyl trichlorosilane	8	UN 1801	Corrosive	II	1	1	Keep dry
	Oil gas	2.1	UN 1071	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
	Oleum. *See* Sulphuric acid, *fuming*							
	Organic peroxides, mixture (*this description must be supplemented with the name of the primary constituent of the mixture*)	5.2	UN 2756	Organic Peroxide	I/II	1	5	
	Organic peroxides, n.o.s.	5.2	UN 2255	Organic Peroxide	I/II	1	5	
	Organophosphates, *(poisonous)*, n.o.s.	6.1	UN 1893	Poison	I/II	1,2	1,2	
	Osmium tetroxide	6.1	UN 1893	St. Andrews Cross	III	1,2	1,2	
		6.1	UN 2471	Poison	I	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Oxalates, *water soluble*	6.1	UN 2449	St. Andrews Cross	III	1,2	1,2	
	Oxidizing substances, n.o.s.	5.1	UN 1479	Oxidizer	II	1,2	1,2	
	Oxygen and carbon dioxide, mixtures. See Carbon dioxide and oxygen *mixtures*							
	Oxygen, *compressed*	2.2	UN 1072	Nonflammable Gas, Oxidizer	--	1,2	1,2	
	Oxygen difluoride	2.3	UN 2190	Poison Gas	--	1	5	Keep dry. Stow 'away from' living quarters and readily combustible substances
	Oxygen, *liquid*	2.2	UN 1073	Nonflammable Gas, Oxidizer	--	1	5	Stow 'separated from' acetylene. Do not overstow
	Paint, enamel, lacquer, stain, shellac, varnish, polish, filler (liquid), lacquer base *and* thinner (*not including substances containing nitrocellulose for which See* Nitrocellulose.)	3.2	UN 1263	Flammable Liquid	II/III	1,2	1	
		3.3	UN 1263	Flammable Liquid	II/III	1,2	1,2	
	Paper, *treated with unsaturated oils, incompletely dried*	4.2	UN 1379	Spontaneously Combustible	III	1,2	1,2	
	Paraformaldehyde	4.1	UN 2213	None. Package to be marked 'Class 4.1'	III	1,2	1,2	
	Paraldehyde	3.3	UN 1264	Flammable Liquid	III	1,2	1,2	
	Parathion, *and mixtures, solid, liquid or under compressed gas*	6.1	UN 1668	Poison	I/II	1,2	1,2	Shade cylinders from radiant heat.
		6.1	UN 1668	St. Andrews Cross	III	1,2	1,2	Shade cylinders from radiant heat
	Pentaborane	4.2	UN 1380	Spontaneously Combustible	I	1	5	
	Pentachloroethane	6.1	UN 1669	Poison	II	1,2	1,2	
N	Pentaerythrite tetranitrate, *containing, by weight, at least 25% water or at least 15% phlegmatizer*	1.1D	UN 0150	Explosive (1.1D)	--	--	--	
	Pentane	3.1	UN 1265	Flammable Liquid	II	1,2	II	
	2,4-Pentanedione	3.3	UN 2310	Flammable Liquid	III	1,2	1,2	
N	Pentolite, *dry or containing, by weight, less than 15% water*	1.1D	UN 0151	Explosive (1.1D)	--	--	--	
	Peracetic acid, *maximum concentration 43% in acetic acid or in a mixture of acetic acid and water, with in either case not more than 6% hydrogen peroxide and not more than 1% sulphuric acid*	5.2	UN 2131	Organic Peroxide, Corrosive	I	1	5	
	Perborates, *(inorganic)*, n.o.s.	5.1	UN 1480	Oxidizer	II	1,2	1,2	
	Perchlorates, *(inorganic)*, n.o.s.	5.1	UN 1481	Oxidizer	II	1,3	1,3	Stow 'away from' powdered metals
	Perchloric acid, *not exceeding 50%, by weight, of acid*	8	UN 1802	Corrosive, Oxidizer	II	1	1	Stow 'away from' hydrazine
	Perchloric acid, *over 50% and not exceeding 72% of acid*	5.1	UN 1873	Oxidizer, Corrosive	II	1	5	
	Perchloroethylene. *See* Tetrachloroethylene							
	Perchloromethyl-mercaptan	6.1	UN 1670	Poison	II	1	II	
	Perchloryl fluoride	2.3	(UN 1955)	Poison Gas	--	1	5	Stow 'away from' living quarters and readily combustible substances
	Perfumery products, *flammable liquid*	3.2	UN 1266	Flammable Liquid	II	1,2	I	
		3.3	UN 1266	Flammable Liquid	II	1,2	1,2	
	Permanganates, *(inorganic)*, n.o.s	5.1	UN 1482	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds, hydrogen peroxide and strong liquid acids
	Peroxides, *(metallic)*, n.o.s.	5.1	UN 1483	Oxidizer	II	1,2	1,2	
	Pesticides, *(high hazard, solid or liquid)*, n.o.s.	6.1	UN 2588	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs
		6.1	UN 2588	St. Andrews Cross	III	1,2	1,2	Stow 'away from' foodstuffs
	Pesticides, *(liquid, non-toxic)*, n.o.s.	3.2	UN 1996	Flammable Liquid	II	1,2	I	
		3.3	UN 1996	Flammable Liquid	II	1,2	1,2	
	Pesticides, *(liquid, toxic)*, n.o.s.	3.2	UN 1995	Flammable Liquid, Poison	II	1,2	I	
		3.3	UN 1995	Flammable Liquid, Poison	II	1,2	1,2	
	Pesticides, *(low hazard, solid or liquid)*, n.o.s	9	--	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Petroleum crude oil	3.1	UN 1267	Flammable Liquid	II	1,2	5	
		3.2	UN 1267	Flammable Liquid	II	1,2	I	
		3.3	UN 1267	Flammable Liquid	II	1,2	1,2	
	Petroleum distillates, n.o.s.	3.1	UN 1268	Flammable Liquid	II	1,2	II	
		3.2	UN 1268	Flammable Liquid	II	1,2	I	
		3.3	UN 1268	Flammable Liquid	II	1,2	1,2	
	Petroleum ether. *See* Petroleum spirit							
	Petroleum gases, *liquefied*	2.1	UN 1075	Flammable Gas	--	1,2	I	Stow 'away from' living quarters
	Petroleum oil	3.1	UN 1270	Flammable Liquid	II	1,2	II	
		3.2	UN 1270	Flammable Liquid	II	1,2	I	
		3.3	UN 1270	Flammable Liquid	II	1,2	1,2	
	Petroleum spirit	3.1	UN 1271	Flammable Liquid	II	1,2	II	
		3.2	UN 1271	Flammable Liquid	II	1,2	I	
		3.3	UN 1271	Flammable Liquid	II	1,2	1,2	
	Petrol. *See* Gasoline							
	Phenetidines	6.1	UN 2311	St. Andrews Cross	III	1,2	1,2	
	Phenol	6.1	UN 1671	Poison	II	1,2	1,2	
	Phenolsulphonic acid, *liquid*	8	UN 1803	Corrosive	II	1,2	1	Metal drums only under deck
	Phenylacetonitrile. *See* Benzyl cyanide, *liquid*							
	Phenylcarbylamine chloride	6.1	UN 1672	Poison	I	1	II	
	Phenylenediamines *(o-, m-, p-)*	6.1	UN 1673	St. Andrews Cross	III	1,2	1,2	
	Phenylhydrazine	6.1	UN 2572	Poison	II	1,2	1,2	
	Phenyl isocyanate	6.1	UN 2487	Poison	II	1	5	Shade from radiant heat
	Phenyl mercaptan	3.2	UN 2337	Flammable Liquid, Poison	II	1,2	1	

V 45 M Y 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Phenylmercuric acetate	6.1	UN 1674	Poison	II	1,2	1,2	
	Phenylmercuric compounds, n.o.s.	6.1	UN 2026	Poison	I/II	1,2	1,2	
		6.1	UN 2026	St. Andrews Cross	III	1,2	1,2	
	Phenylmercuric hydroxide	6.1	UN 1894	Poison	II	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 1895	Poison	II	1,2	1,2	
	Phenyl trichlorosilane	8	UN 1804	Corrosive	II	1	1	Keep dry
	Phosgene	2.3	UN 1076	Poison Gas, Corrosive	--	1	II	Stow 'away from' living quarters
	Phosphine	2.3	UN 2199	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
	o-Phosphoric acid, *liquid*	8	UN 1805	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck. Keep dry
	o-Phosphoric acid, *solid*	8	UN 1805	Corrosive	III	1,2	1,2	
	Phosphoric anhydride. *See* Phosphorus pentoxide							
	Phosphorous bromide. *See* Phosphorus tribromide							
	Phosphorous chloride. *See* Phosphorus trichloride							
	Phosphorus, *amorphous*	4.1	UN 1338	Flammable Solid	III	1,2	1,2	
	Phosphorus heptasulphide, *free from yellow or white phosphorus*	4.1	UN 1339	Flammable Solid	II	1,2	I	Stow 'separated from' oxidizing substances
	Phosphorus oxybromide	8	UN 1939	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus oxychloride. *See* Phosphoryl chloride							
	Phosphorus pentachloride	8	UN 1806	Corrosive	II	1	1	Keep dry
	Phosphorus pentafluoride	2.3	UN 2198	Poison Gas	--	1	II	Stow 'away from' living quarters
	Phosphorus pentasulphide, *free from yellow or white phosphorus*	4.1	UN 1340	Flammable Solid	II	1,2	1,2	Stow 'separated from' oxidizing substances
	Phosphorus pentoxide	8	UN 1807	Corrosive	II	1,2	1,2	Glass bottles prohibited under deck
	Phosphorus sesquisulphide, *free from yellow or white phosphorus*	4.1	UN 1341	Flammable Solid	II	1,2	I	Stow 'separated from' oxidizing substances
	Phosphorus tribromide	8	UN 1808	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus trichloride	8	UN 1809	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus trifluoride	2.3	(UN 1955)	Poison Gas	--	1	5	Stow 'away from' living quarters
	Phosphorus trisulphide, *free from yellow or white phosphorus*	4.1	UN 1343	Flammable Solid	II	1,2	1	Stow 'separated from' oxidizing substances
	Phosphorus white, molten	4.2	UN 2447	Spontaneously Combustible	I	1	5	
	Phosphorus, *white or yellow, dry*	4.2	UN 1381	Spontaneously Combustible	I	1,2	5	
	Phosphorus, *white or yellow, in water*	4.2	UN 1381	Spontaneously Combustible	I	1,2	5	
	Phosphoryl chloride	8	UN 1810	Corrosive	II	1	1	
N	Photo-flash powder *in units*	1.1G	UN 0094	Explosive (1.1G)	--	--	--	Glass carboys prohibited on passenger vessels
N	Photo-flash powder *in units*	1.2G	UN 0096	Explosive (1.2G)	--	--	--	
N	Photo-flash powder *in units*	1.3G	UN 0305	Explosive (1.3G)	--	--	--	
	Phthalic anhydride, *dust, powder or molten liquid*	8	UN 2214	None	III	1,2	1,2	Stow 'away from' foodstuffs and oxidizing substances
	Picolines	3.3	UN 2313	Flammable Liquid	II	1,2	1,2	
	Picric acid, *wetted with not less than 10% of water*	4.1	UN 1344	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Picric acid, *wetted with not less than 30% of water*	4.1	UN 1344	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Pinane hydroperoxide, *technical pure*	5.2	UN 2162	Organic Peroxide	I	1	5	
	alpha-Pinene	3.3	UN 2368	Flammable Liquid	III	1,2	1,2	
	Pine oil	3.3	UN 1272	Flammable Liquid	III	1,2	1,2	
	Piperidine	3.2	UN 2401	Flammable Liquid	II	1,2	1	Keep dry
	Pivaloyl chloride	8	UN 2438	Corrosive, Flammable Liquid	II	1	5	Shade from radiant heat. Segregation same as for flammable liquids
	Plastics moulding materials *evolving flammable vapours*	9	UN 2211	None	III	1,2	1,2	
	Plastics, *(spontaneously combustible)*, n.o.s.	4.2	UN 2006	Spontaneously Combustible	III	1	5	
	Poisonous liquids, n.o.s.	6.1	UN 2810	Poison	I/II	1,2	1	
		6.1	UN 2810	St. Andrews Cross	III	1,2	1,2	
	Poisonous solids, n.o.s.	6.1	UN 2811	Poison	I/II	1,2	1	
		6.1	UN 2811	St. Andrews Cross	III	1,2	1,2	
	Polishes. *See* Paints, *etc.*							
	Polishing fluid. *See* Flammable liquid preparations, n.o.s							
	Polystyrene beads, *expandable, containing flammable liquid. See* Plastics moulding materials							
	Potassium arsenate	6.1	UN 1677	Poison	II	1,2	1,2	
	Potassium arsenite	6.1	UN 1678	Poison	II	1,2	1,2	
	Potassium bifluoride, *solid*	8	UN 1811	Corrosive	II	1,2	1,2	Keep dry
	Potassium bifluoride, *solution*	8	UN 1811	Corrosive	II	1,2	1,2	
	Potassium borohydride	4.3	UN 1870	Dangerous When Wet	I	1,2	5	
	Potassium bromate	5.1	UN 1484	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' powdered metals
	Potassium chlorate	5.1	UN 1485	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' powdered metals
	Potassium chlorate, *aqueous solution*	5.1	UN 2427	Oxidizer	II	1,2	1	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Potassium cuprocyanide	6.1	UN 1679	Poison	II	1,2	1,2	Stow 'away from' acids

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Potassium cyanide	6.1	UN 1680	Poison	I	1,2	1,2	Stow 'away from' acids
	Potassium dithionite	4.2	UN 1929	Spontaneously Combustible	II	1,2	5	Keep dry
	Potassium fluoride	6.1	UN 1812	St. Andrews Cross, Corrosive	III	1,2	1,2	Stow 'away from' acids
	Potassium hydrogen fluoride. *See* Potassium bifluoride, *solution*							
	Potassium hydroxide, *solid*	8	UN 1813	Corrosive	II	1,2	1,2	Keep dry
	Potassium hydroxide, *solution*	8	UN 1814	Corrosive	III	1,2	1,2	
	Potassium hypochlorite, *solution. See* Hypochlorite, *solutions, etc.*							
	Potassium metal	4.2	UN 2257	Spontaneously Combustible	II	1,2	5	
	Potassium, metal alloys	4.3	UN 1420	Dangerous When Wet	II	1,2	5	
	Potassium metavanadate	6.1	UN 2864	Poison	II	1,2	1,2	
	Potassium nitrate	5.1	UN 1486	Oxidizer	III	1,2	1,2	
	Potassium nitrate and sodium nitrite, *mixture*	5.1	UN 1487	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and cyanides, and 'away from' foodstuffs
	Potassium nitrate bags, *empty. See* Bags, *empty and unwashed, etc.*							
	Potassium nitrite	5.1	UN 1488	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and cyanides, and 'away from' foodstuffs
	Potassium oxide	8	UN 2033	Corrosive	II	1,2	1,2	Keep dry
	Potassium perchlorate	5.1	UN 1489	Oxidizer	II	1,2	1,2	Stow 'away from powdered metals
	Potassium permanganate	5.1	UN 1490	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Potassium peroxide	5.1	UN 1491	Oxidizer	I	1,2	1,2	Keep dry
	Potassium persulphate	5.1	UN 1492	Oxidizer	III	1,2	1,2	
	Potassium phosphide	4.3	UN 2012	Dangerous When Wet, Poison	I	1	5	
N	Potassium salts of nitro-aromatic derivatives, *explosive*	1.3C	UN 0158	Explosive (1.3C)	--	--	--	
	Potassium silicofluoride, *solid*	6.1	UN 2655	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Potassium-sodium, *alloy*	4.3	UN 1422	Dangerous When Wet	I	1,2	5	
	Potassium sulphide, *anhydrous or containing less than 30% water of crystallization*	4.2	UN 1382	Spontaneously Combustible	II	1,2	1,2	Stow 'separated from' liquid acids
	Potassium sulphide, *hydrated, containing not less than 30% water of crystallization*	8	UN 1847	Corrosive	II	1,2	1,2	Stow 'separated from' explosives and acids
	Potassium superoxide	5.1	UN 2466	Oxidizer	I	1,2	1	Keep dry. Stow 'away from' combustible materials including packaging of other cargo
N	Powder paste, *containing, by weight, at least 35% water*	1.3C	UN 0159	Explosive (1.3C)	--	--	--	
N	Powder, smokeless	1.1C	UN 0160	Explosive (1.1C)	--	--	--	
N	Powder, smokeless	1.3C	UN 0161	Explosive (1.3C)	--	--	--	
	Primers, cap type	1.4B	UN 0378	Explosive (1.4B)	--	1,3	1,3	
	Primers, cap type	1.4S	UN 0044	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Primers, cap type	1.1B	UN 0377	Explosive (1.1B)	--	--	--	
	Primers, tubular	1.4G	UN 0320	Explosive (1.4G)	--	1,3	1,3	
	Primers, tubular	1.4S	UN 0376	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Primers, tubular	1.3G	UN 0319	Explosive (1.3G)	--	--	--	
	Projectiles, *inert, with tracer*	1.4 S	UN 0345	None. Package to be marked '1.4 S'	--	1,3	1,3	
N	Projectiles, *with burster or expelling charge*	1.2D	UN 0346	Explosive (1.2D)	--	--	--	
N	Projectiles, *with burster or expelling charge*	1.4D	UN 0347	Explosive (1.4D)	--	--	--	
N	Projectiles, *with bursting charge*	1.1D	UN 0168	Explosive (1.1D)	--	--	--	
N	Projectiles, *with bursting charge*	1.2D	UN 0169	Explosive (1.2D)	--	--	--	
N	Projectiles, *with bursting charge*	1.4D	UN 0344	Explosive (1.4D)	--	--	--	
N	Projectiles, *with bursting charge*	1.1F	UN 0167	Explosive (1.1F)	--	--	--	
N	Projectiles, *with bursting charge*	1.2F	UN 0324	Explosive (1.2F)	--	--	--	
	Propane	2.1	UN 1978	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Propanethiols	3.1	UN 2402	Flammable Liquid	II	1,3	5	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo.
		3.2	UN 2402	Flammable Liquid	II	1,3	1	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
	Propanol	3.2	UN 1274	Flammable Liquid	III	1,2	1	
	Propionaldehyde	3.2	UN 1275	Flammable Liquid	II	1,2	1	
	Propionic acid, *solution containing not less than 80% acid*	II	UN 1848	Corrosive	III	1,2	1,2	Stow 'separated by a complete compartment or hold from' organic peroxides, and 'separated longitudinally by and intervening complete compartment or hold from' explosives
	Propionic anhydride	8	UN 2496	Corrosive	III	1,2	1,2	Keep dry. Glass carboys prohibited on passenger vessels
	Propionitrile	3.2	UN 2404	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Propionyl chloride	8	UN 1815	Corrosive, Flammable Liquid	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Propionyl peroxide, *maximum concentration 28% in solution*	5.2	UN 2132	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
	n-Propyl acetate	3.2	UN 1276	Flammable Liquid	II	1,2	1	
	sec-Propyl alcohol. *See* Isopropanol							
	n-Propyl alcohol. *See* Propanol							

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Propylamine. *See* Monopropylamine							
	Propyl benzene	3.3	UN 2364	Flammable Liquid	II	1,2	1,2	
	Propyl chloride	3.1	UN 1278	Flammable Liquid	II	1,3	5	Keep cool
	n-Propyl chloroformate	3.3	UN 2740	Flammable Liquid, Poison, Corrosive	I	1,2	1,2	
	Propylene	2.1	UN 1077	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Propylene diamine	3.3	UN 2258	Flammable Liquid, Corrosive	II	1,2	1,2	
	Propylenediamine	3.2	UN 2258	Flammable Liquid, Corrosive	II	1,2	1	
	Propylene dichloride	3.2	UN 1279	Flammable Liquid	II	1,2	1	
	Propyleneimine, *inhibited*	3.2	UN 1921	Flammable Liquid	I	1,2	1	
	Propylene oxide, *inhibited*	3.1	UN 1280	Flammable Liquid	I	1,3	5	Keep cool
	Propyl formates	3.2	UN 1281	Flammable Liquid	II	1,2	1	
	n-Propyl isocyanate	3.2	UN 2482	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Propyl mercaptan	3.1	UN 2704	Flammable Liquid	II	1,3	5	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
		3.2	UN 2704	Flammable Liquid	II	1,3	1	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
	n-Propyl nitrate	3.2	UN 1865	Flammable Liquid	II	1,2	1	
	Propyl trichlorosilane	8	UN 1816	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening compartment or hold from' explosives
	Pyridine	3.2	UN 1282	Flammable Liquid, Poison	II	1,2	1	
	Pyrophoric alloys	4.2	UN 1383	Spontaneously Combustible	II	1	5	
	Pyrophoric fuel, n.o.s.	4.2	UN 1375	Spontaneously Combustible	I	1	5	Prohibited on vessels carrying explosives
	Pyrophoric liquids, n.o.s.. *See* Pyrophoric fuel, n.o.s							
	Pyrophoric metals	4.2	UN 1383	Spontaneously Combustible	II	1	5	
	Pyrosulphuryl chloride	8	UN 1817	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Pyroxylin. *See* Nitrocellulose							
	Pyrrolidine	3.2	UN 1922	Flammable Liquid	II	1,2	1	
	Rags, *oily*	4.2	UN 1856	Spontaneously Combustible	III	1,2	1,2	Keep dry
	Rare gases, *mixtures*	2.2	UN 1979	Nonflammable Gas	--	1,2	1,2	
	Rare gases, *mixtures with* nitrogen	2.2	UN 1981	Nonflammable Gas	--	1,2	1,2	
	Rare gases, *mixtures with* oxygen	2.2	UN 1980	Nonflammable Gas	--	1,2	1,2	
	Receptacles, *small, containing flammable compressed gas, not fitted with a dispersion device, not refillable*	2.1	UN 2037	Flammable Gas	--			
	Reducing liquid. *See* Flammable liquid preparation, n.o.s							
	Refrigerant gases, n.o.s.	2.1	UN 1078	Flammable Gas	--	1	1	
		2.2	UN 1078	Nonflammable Gas	--	1,2	1,2	
	Release devices, explosive	1.4 S	UN 0173	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Removing liquid. *See* Flammable liquid preparations, n.o.s							
	Resin, *solution in flammable liquid*	3.2	UN 1866	Flammable Liquid	II	1,2	1	
		3.3	UN 1866	Flammable Liquid	II	1,2	1,2	
	Rivets, explosive	1.4 S	UN 0174	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Road asphalt, *liquid, tars or oil. See* Cut-backs, *asphalt or bitumen*							
N	Rocket motors	1.1C	UN 0280	Explosive (1.1C)	--	--	--	
N	Rocket motors	1.2C	UN 0281	Explosive (1.2C)	--	--	--	
N	Rocket motors	1.3C	UN 0186	Explosive (1.3C)	--	--	--	
N	Rocket motors, *containing hypergolic liquids, with or without expelling charge*	1.2L	UN 0322	Explosive (1.2L)	--	--	--	
N	Rocket motors, *containing hypergolic liquids, with or without expelling charge*	1.3L	UN 0250	Explosive (1.3L)	--	--	--	
N	Rockets, line throwing	1.2G	UN 0238	Explosive (1.2G)	--	--	--	
N	Rockets, line throwing	1.3G	UN 0240	Explosive (1.3G)	--	--	--	
N	Rockets, *with bursting charge*	1.1E	UN 0181	Explosive (1.1E)	--	--	--	
N	Rockets, *with bursting charge*	1.2E	UN 0182	Explosive (1.2E)	--	--	--	
N	Rockets, *with bursting charge*	1.1F	UN 0180	Explosive (1.1F)	--	--	--	
N	Rockets, *with bursting charge*	1.2F	UN 0295	Explosive (1.2F)	--	--	--	
N	Rockets, *with inert head*	1.3C	UN 0183	Explosive (1.3C)	--	--	--	
	Rodenticides, n.o.s.	6.1	UN 1681	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs.
		6.1	UN 1681	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' foodstuffs.
	Rosin oil	9	UN 1681	None	III	1,2	1,2	Stow 'away from' foodstuffs
		3.2	UN 1286	Flammable Liquid	III	1,2	1	
		3.3	UN 1286	Flammable Liquid	III	1,2	1,2	
	R 22. See Chlorodifluoromethane							
	R 12. See Dichlorodifluoromethane							
	Rubber scrap, *powdered or granulated*	4.1	UN 1345	Flammable Solid	II	1,2	1,2	
	Rubber shoddy. *See* Rubber scrap							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Rubber solution	3.2	UN 1287	Flammable Liquid	II	1,2	1	
		3.3	UN 1287	Flammable Liquid	II	1,2	1,2	
	Rubidium, *(metal)*	4.3	UN 1423	Dangerous When Wet	I	1,2	5	
N	Samples, explosive substance, *other than primary explosives*	1	UN 0190	None	--	--	--	
	Sand acid. *See* Fluosilicic acid							
	Seed cake, *containing vegetable oil, mechanically expelled seeds, containing more than 10% of oil or more than 20% of oil and moisture combined*	4.2	UN 1386	None. Package to be marked 'Class 4.2'	III	1,2	5	
	Seed cake, *containing vegetable oil, solvent extractions and expelled seeds, containing not more than 10% of oil and, when the amount of moisture is higher than 10%, not more than 20% of oil and moisture combined*	4.2	UN 1386	None. Package to be marked 'Class 4.2'	III	1,2	1,2	
	Seed cake, *containing vegetable oil, solvent extractions containing not more than 1.5% of oil and 11% of moisture*	4.2	UN 2217	None. Package to be marked 'Class 4.2'	III	1,2	1,2	
	Selenic acid	8	UN 1905	Corrosive	I	1,2	1,2	Keep dry
	Selenium hexafluoride	2.3	UN 2194	Poison Gas	--	1	5	Stow 'away from' living quarters
	Shale oil	3.2	UN 1288	Flammable Liquid	II	1,2	1	
		3.3	UN 1288	Flammable Liquid	II	1,2	1,2	
	Sheep dips, *(poisonous)*, n.o.s.	6.1	UN 1682	Poison	I/II	1,2	1,2	Stow 'separated from' foodstuffs.
		6.1	UN 1682	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' foodstuffs
		9	UN 1682	None	III	1,2	1,2	Stow 'away from' foodstuffs.&
	Shellac. *See* Paints, *etc.*							
	Signal devices, hand	1.4S	UN 0373	None. Package to be marked '1.4S'	--	1,3	1,3	
	Signal devices, hand	1.4 G	UN 0191	Explosive (1.4G)	--	1,3	1,3	
N	Signals, distress, *ship (other than water-activated)*	1.1G	UN 0194	Explosive (1.1G)	--	--	--	
N	Signals, distress, *ship (other than water-activated)*	1.3G	UN 0195	Explosive (1.3G)	--	--	--	
N	Signals, railway track, explosive	1.1G	UN 0192	Explosive (1.1G)	--	--	--	
N	Signals, railway track, explosive	1.4S	UN 0193	None. Package to be marked '1.4S'	--	--	--	
N	Signals, smoke, *with explosive sound unit*	1.1G	UN 0196	Explosive (1.1G)	--	--	--	
N	Signals, smoke, *with explosive sound unit*	1.2G	UN 0313	Explosive (1.2G)	--	--	--	
	Signals, smoke, *without explosive sound unit*	1.4 G	UN 0197	Explosive (1.4G)	--	1,3	1,3	
	Silane	2.3	UN 2203	Poison Gas, Flammable Gas	--	1	5	Shade from radiant heat. Stow 'away from' living quarters, 'separated from' oxidizers
	Silicofluoric acid. *See* Fluosilicic acid							
	Silicofluorides, *solid*, n.o.s.	6.1	(UN 2811)	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Silicon chloride. *See* Silicon tetrachloride							
	Silicon powder, *amorphous*	4.1	UN 1346	Flammable Solid	III	1,2	1,2	
	Silicon tetrachloride	8	UN 1818	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Silicon tetrafluoride	2.3	UN 1859	Poison Gas, Corrosive	--	1	5	
	Silver arsenite	6.1	UN 1683	Poison	II	1,2	1,2	
	Silver cyanide	6.1	UN 1684	Poison	II	1,2	1,2	Stow 'away from' strong liquid acids
	Silver nitrate	5.1	UN 1493	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Sisal, dry. See Fibre, *vegetable, dry*							
	Sludge acid	8	UN 1906	Corrosive	II	1,2	1	Stow 'away from' fluorides. Metal drums only under deck
	Soda lime	8	UN 1907	Corrosive	III	1,2	1,2	Keep dry
	Sodium aluminate, *solution*	8	UN 1819	Corrosive	II	1,2	1,2	
	Sodium amalgam	4.3	UN 1424	Dangerous When Wet	I	1,2	1,2	
	Sodium amide	4.3	UN 1425	Dangerous When Wet	II	1,2	5	
	Sodium-ammonium-vanadate	6.1	UN 2863	Poison	II	1,2	1,2	
	Sodium arsanilate	6.1	UN 2473	St. Andrews Cross	III	1,2	1,2	
	Sodium arsenate	6.1	UN 1685	Poison	II	1,2	1,2	
	Sodium arsenite, *aqueous solutions*	6.1	UN 1686	Poison	I/II	1,2	1,2	
		6.1	UN 1686	St. Andrews Cross	III	1,2	1,2	
	Sodium arsenite, *solid*	6.1	UN 2027	Poison	II	1,2	1,2	Stow 'away from' oxidizers and organic peroxides
	Sodium azide	6.1	UN 1687	Poison	II	1,2	1,2	Stow 'away from' heavy metals and their compounds, 'separated from' acids
	Sodium bisulphate, *solid. See* Sodium hydrogen sulphate							
	Sodium bisulphite, *solution. See* Sodium hydrogen sulphite, *solution*							
	Sodium borohydride	4.3	UN 1426	Dangerous When Wet	I	1,2	5	
	Sodium bromate	5.1	UN 1494	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Sodium cacodylate	6.1	UN 1688	Poison	II	1,2	1,2	Stow 'away from' acids
	Sodium chlorate	5.1	UN 1495	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Sodium chlorate, *aqueous solution*	5.1	UN 2428	Oxidizer	II	1,2	1	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Sodium chlorite	5.1	UN 1496	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Sodium chlorite, *solution containing more than 5% available chlorine*	8	UN 1908	Corrosive	II	1,2	1	Glass carboys in hampers not permitted under deck
	Sodium cuprocyanide, *solid*	6.1	UN 2316	Poison	I	1,2	1,2	Keep dry. Stow 'separated from' acids
	Sodium cyanide	6.1	UN 1689	Poison	I	1,2	1,2	Stow 'away from' acids

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
N	Sodium dinitro-o-cresolate, *dry or containing, by weight, less than 15% water*	1.3C	UN 0234	Explosive (1.3C)	--	--	--	
	Sodium dinitro-o-cresolate, *wetted with not less than 15% of water*	4.1	UN 1348	Flammable Solid, Poison	I	1,2	II	Stow 'away from' heavy metals and their compounds
	Sodium dinitro-o-cresolate, *wetted with not less than 10% of water*	4.1	UN 1348	Flammable Solid, Poison	I	1	5	Stow 'away from' heavy metals and their compounds
	Sodium dithionite	4.2	UN 1384	Spontaneously Combustible	II	1,2	1,2	New metal drums only under deck
	Sodium fluoride, *solid*	6.1	UN 1690	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Sodium fluoride, *solution*	6.1	(UN 2810)	Poison	II	1,2	1,2	
	Sodium hydrate. *See* Sodium hydroxide, *solution*							
	Sodium hydride	4.3	UN 1427	Dangerous When Wet	I	1,2	5	
	Sodium hydrogen fluoride	8	UN 2439	Corrosive	II	1,3	1,3	Keep cool and dry
	Sodium hydrogen sulphate, *containing more than 3% free acid*	8	UN 1821	Corrosive	III	1,2	1,2	
	Sodium hydrogen sulphite, *solution*	8	UN 1909	Corrosive	II	1,2	1,2	
	Sodium hydrosulphide, *solid*	4.2	UN 2318	Spontaneously Combustible	II	1,2	1,2	
	Sodium hydroxide, *solid*	8	UN 1823	Corrosive	II	1,2	1,2	Keep dry
	Sodium hydroxide, *solution*	8	UN 1824	Corrosive	II	1,2	1,2	
	Sodium, *(metal)*	4.3	UN 1428	Dangerous When Wet	II	1,2	5	
	Sodium *metal, dispersion in organic liquids*	4.3	UN 1429	Dangerous When Wet	I	1,2	II	
	Sodium methylate	4.3	UN 1431	Dangerous When Wet	I	1,2	1	
	Sodium methylate, *solutions in alcohol*	3.2	UN 1289	Flammable Liquid	II	1,2	1	
		3.3	UN 1289	Flammable Liquid	II	1,2	1,2	
	Sodium monoxide	8	UN 1825	Corrosive	II	1,2	1,2	Keep dry
	Sodium nitrate	5.1	UN 1498	Oxidizer	III	1,2	1,2	
	Sodium nitrate and potash, *mixture*	5.1	UN 1478	Oxidizer	II	1,2	1,2	
	Sodium nitrate and potassium nitrate, *mixtures*	5.1	UN 1499	Oxidizer	III	1,2	1,2	
	Sodium nitrate bags, *empty*. *See* Bags, *empty and unwashed, etc.*							
	Sodium nitrite	5.1	UN 1500	Oxidizer	II	1,2	1,2	
	Sodium pentachlorophenate	6.1	UN 2567	Poison	II	1,2	1,2	
	Sodium percarbonates	5.1	UN 2467	Oxidizer	III	1,2	1,2	Keep dry
	Sodium perchlorate	5.1	UN 1502	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs, 'separated from' ammonium compounds and cyanides. Paper bags prohibited on passenger vessels
	Sodium permanganate	5.1	UN 1503	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Sodium peroxide	5.1	UN 1504	Oxidizer	I	1,2	1	Keep dry. Stow 'away from' powdered metals, permanganates, and combustible packagings and cargo
	Sodium persulphate	5.1	UN 1505	Oxidizer	III	1,2	1,2	
	Sodium phenolate, *solid*	8	UN 2497	Corrosive	III	1,2	1,2	
	Sodium phosphide	4.3	UN 1432	Dangerous When Wet, Poison	I	1	5	
N	Sodium picramate, *dry or containing, by weight, less than 20% water*	1.3C	UN 0235	Explosive (1.3C)	--	--	--	
	Sodium picramate, *wetted with not less than 20% of water*	4.1	UN 1349	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Sodium-potassium, *alloy*. *See* Potassium-sodium, *alloy*							
N	Sodium salts of nitro-aromatic derivatives, *explosive*	1.3C	UN 0203	Explosive (1.3C)	--	--	--	
	Sodium silicofluoride, *solid*	6.1	UN 2674	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Sodium sulphide, *anhydrous or containing less than 30% water of crystallization*	4.2	UN 1385	Spontaneously Combustible	II	1,2	1,2	Stow 'separated from' acids
	Sodium sulphide, *hydrated, containing not less than 30% water of crystallization*	9	UN 1849	None	II	1,2	1,2	Stow 'separated from' explosives and acids
	Sodium superoxide	5.1	UN 2547	Oxidizer	I	1,2	5	*Keep dry. Stow 'away from' powdered metals, permanganates and combustible packaging and cargo
	Solvents, *(non-toxic)*, n.o.s.	3.2	UN 1998	Flammable Liquid	II	1,2	1	
		3.3	UN 1998	Flammable Liquid	II	1,2	1,2	
	Solvents, *(toxic)*, n.o.s.	3.2	UN 1997	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1997	Flammable Liquid, Poison	II	1,2	1,2	
N	Sounding devices, explosive	1.1E	UN 0374	Explosive (1.1E)	--	--	--	
N	Sounding devices, explosive	1.2E	UN 0375	Explosive (1.2E)	--	--	--	
N	Sounding devices, explosive	1.1F	UN 0296	Explosive (1.1F)	--	--	--	
N	Sounding devices, explosive	1.2F	UN 0204	Explosive (1.2F)	--	--	--	
	Spent mixed acid. *See* Acid mixtures, *spent*							
	Spirits of salts. *See* Hydrochloric acid							
	Squibs	1.4 S	UN 0206	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Stains. *See* Paints, *etc.*							
	Stannic chloride, *anhydrous*	8	UN 1827	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Stannic chloride pentahydrate	8	UN 2440	Corrosive	III	1,2	1,2	Keep dry
	Stannic phosphides	4.3	UN 1433	Dangerous When Wet	I	1	5	
	Steel swarf. *See* Iron swarf							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Stibine	2.3	(UN 1953)	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
	Straw	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Strike anywhere matches. *See* Matches, *strike anywhere*							
	Strontium, *alloys, non-pyrophoric*	4.3	UN 1434	Dangerous When Wet	II	1,2	5	
	Strontium arsenite	6.1	UN 1691	Poison	II	1,2	1,2	
	Strontium chlorate	5.1	UN 1506	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Strontium nitrate	5.1	UN 1507	Oxidizer	III	1,2	1,2	
	Strontium perchlorate	5.1	UN 1508	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Strontium peroxide	5.1	UN 1509	Oxidizer	II	1,2	1,2	Keep dry
	Strontium phosphide	4.3	UN 2013	Dangerous When Wet, Poison	I	1	5	
	Strontium, powdered. *See* Pyrophoric metals							
	Strychnine, *and salts*	6.1	UN 1692	Poison	I	1,2	1,2	
	Styrene monomer, *inhibited*	3.3	UN 2055	Flammable Liquid	II	1,2	1,2	
N	Substances, explosive, n.o.s.	1.1L	UN 0357	Explosive (1.1L)	--	--	--	
N	Substances, explosive, n.o.s.	1.2L	UN 0358	Explosive (1.2L)	--	--	--	
N	Substances, explosive, n.o.s.	1.3L	UN 0359	Explosive (1.3L)	--	--	--	
	Succinic acid peroxide, *technical pure*	5.2	UN 2135	Organic Peroxide	I	1	5	
	Sulphides, n.o.s.	4.2	--	Spontaneously Combustible	III	1	5	
	Sulphur chlorides	8	UN 1828	Corrosive	I	1	1	Keep dry. Glass carbons prohibited on passenger vessels
	Sulphur dichloride. *See* Sulphur chlorides							
	Sulphur dioxide	2.3	UN 1079	Poison Gas	--	1,2	5	Stow 'away from' living quarters
	Sulphur hexafluoride	2.2	UN 1080	Nonflammable Gas	--	1,2	1,2	
	Sulphuric acid, *containing more than 51% acid*	8	UN 1830	Corrosive	II	1,2	1	Stow 'away from' fluorides and all other corrosives except nitric acids, sulphur trioxide and other sulphuric acids
	Sulphuric acid, *containing not more than 51% acid*	8	UN 1830	Corrosive	II	1,2	1	Stow 'away from' fluorides. Glass carboys in hampers not permitted under deck
	Sulphuric acid, *fuming*	8	UN 1831	Corrosive	I	1,2	1	Stow 'away from' fluorides and all other corrosives except nitric acids, sulphur trioxide and other sulphuric acids
	Sulphuric acid, *spent*	8	UN 1832	Corrosive	II	1,2	1	Stow 'away from' fluorides. For concentrations of more than 51% acid, stow 'away from' all other corrosives except nitric acids, sulphur trioxide and other sulphuric acids
	Sulphuric and hydrofluoric acid, mixtures. *See* Acid mixtures, *hydrofluoric and sulphuric*							
	Sulphuric anhydride. *See* Sulphur trioxide, *stabilized*							
	Sulphur, *lump or powder*	4.1	UN 1350	Flammable Solid	III	1,2	1,2	Protect from sparks and open flame. Stow 'separated from' oxidizing substances
	Sulphur, molten	4.1	UN 2448	Flammable Solid	III	1	1	Stow 'separated from' oxidizers, 'away from' living quarters. Protect from sparks and open flame
	Sulphurous acid	8	UN 1833	Corrosive	II	1,2	1	Glass carboys in hampers not permitted under deck
	Sulphur tetrafluoride	2.3	UN 2418	Poison Gas	--	1	5	Stow 'away from' living quarters
	Sulphur trioxide, *stabilized*	8	UN 1829	Corrosive	I	1,2	1,2	Keep dry. Glass bottles not permitted under deck. Stow 'away from' other corrosives except nitric and sulphuric acids
	Sulphuryl chloride	8	UN 1834	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Sulphuryl fluoride	2.2	UN 2191	Nonflammable Gas. Corrosive	--	1,2	5	Stow 'away from' living quarters
	Tars, *liquid*. *See* Cut-backs, *asphalt or bitumen*							
	Tear gas candles, *non-explosive*	6.1	UN 1700	Poison	II	1	5	
	Tear gas grenades, *non-explosive*. *See* Tear gas candles							
	Tear gas, *(irritating substances, liquid or solid)*, n.o.s.	6.1	UN 1693	Poison	I/II	1	5	
		6.1	UN 1693	St. Andrews Cross	III	1	5	
	Tellurium hexafluoride	2.3	UN 2195	Poison Gas	--	1	5	Stow 'away from' living quarters
	T.E.L.. *See* Motor fuel anti-knock mixtures							
	Terpene hydrocarbons n.o.s.	3.3	UN 2319	Flammable Liquid	III	1,2	1,2	
	Terpinolene	3.3	UN 2541	Flammable Liquid	III	1,2	1,2	
	Tetrabromoethane. *See* Acetylene tetrabromide							
	1,1,2,2-Tetrachloroethane	6.1	UN 1702	Poison	II	1,2	1,2	
	Tetrachloroethylene	6.1	UN 1897	St. Andrews Cross	III	1,2	1,2	
	Tetraethyl dithiopyrophosphate, *liquid and mixtures*	6.1	UN 1704	Poison	I/II	1	5	
		6.1	UN 1704	St. Andrews Cross	III	1	5	
	Tetraethyl dithiopyrophosphate *with gases, including solutions and mixtures thereof*	6.1	UN 1703	Poison, Nonflammable gas	I/II	1	5	Shade from radiant heat. Segregation same as for nonflammable gases
		6.1	UN 1703	St. Andrews Cross, Nonflammable gas	III	1	5	Shade from radiant heat. Segregation same as for nonflammable gases.
	Tetraethylenepentamine	8	UN 2320	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Tetraethyl lead. *See* Motor fuel anti-knock mixtures							
	Tetraethyl pyrophosphate and compressed gas, *mixture*	6.1	UN 1705	Poison, Nonflammable gas	I/II	1	5	Shade from radiant heat. Segregation same as for nonflammable gases

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
		6.1	UN 1705	St. Andrews Cross, Nonflammable gas	III	1	5	Shade from radiant heat. Segregation same as for nonflammable gases
	Tetraethyl silicate	3.3	UN 1292	Flammable Liquid	II	1,2	1,2	
	Tetrafluoroethylene, *inhibited*	2.2	UN 1081	Nonflammable Gas	--	1,2	1,2	Stow 'away from' living quarters
	Tetrafluorohydrazine	2.3	(UN 1955)	Poison Gas	--	11	5	Stow 'away from' living quarters and readily combustible substances, 'separated from' hydrogen
	Tetrafluoromethane	2.2	UN 1982	Nonflammable Gas	--	1,2	1,2	
	1,2,3,6-Tetrahydrobenzaldehyde	3.3	UN 2498	Flammable Liquid	III	1,2	1,2	
	Tetrahydrofuran	3.1	UN 2056	Flammable Liquid	II	1,3	5	Keep cool
	1,2,3,6-Tetrahydropyridine	3.2	UN 2410	Flammable Liquid	II	1,2	1	
	Tetrahydrothiophene	3.2	UN 2412	Flammable Liquid	II	1,2	1	
	Tetralin hydroperoxide, *technical pure*	5.2	UN 2136	Organic Peroxide	I	1	5	
	Tetramethylammonium hydroxide	8	UN 1835	Corrosive	II	1,2	1,2	
	1,1,3,3-Tetramethyl butyl hydroperoxide, *technical pure*	5.2	UN 2160	Organic Peroxide	II	1	II	
	1,1,3,3-Tetramethyl butyl peroxy-2-ethyl hexanoate, *technical pure*	5.2	UN 2161	Organic Peroxide	I	1	II	Maximum transport temperature 20 deg C
	Tetramethylsilane	3.1	UN 2749	Flammable Liquid	I	1	5	Keep cool. Shade from radiant heat
N	Tetranitro-aniline	1.1D	UN 0207	Explosive (1.1D)	--	--	--	
	Tetranitromethane	5.1	UN 1510	Oxidizer	I	1	5	Shade from radiant heat. Stow 'away from' foodstuffs
	Textile waste, *(wet)*, n.o.s.	4.2	UN 1857	Spontaneously Combustible	III	1,2	1,2	
	Thallium chlorate	5.1	UN 2573	Oxidizer, Poison	II	1,2	1,2	
	Thallium compounds	6.1	UN 1707	Poison	II	1,2	1,2	
	Thinners. *See* Paints, *etc.*							
	Thinning liquid. *See* Flammable liquid preparations, n.o.s.							
	Thioacetic acid	3.2	UN 2436	Flammable Liquid	II	1,2	1	
	Thiocarbonyl chloride. *See* Thiophosgene							
	Thioglycolic acid	8	UN 1940	Corrosive	II	1,2	1,2	Glass carboys in hampers prohibited under deck
	Thionyl chloride	8	UN 1836	Corrosive	I	1	I	Keep dry. Glass carboys prohibited on passenger vessels
	4-Thiopentenal	6.1	UN 2785	St. Andrews Cross	III	1	5	Segregation same as for flammable liquids if flashpoint below 61 deg C. Shade from radiant heat and sunlight. Stow 'away from' living quarters, acids and bases
	Thiophene	3.2	UN 2414	Flammable Liquid	II	1,2	1	
	Thiophosgene	6.1	UN 2474	Poison	II	1,2	1	Stow 'away from' acids
	Thiophosphoryl chloride	8	UN 1837	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Tin chloride, *fuming.* *See* Stannic chloride, *anhydrous*							
	Tinctures, *medicinal*							
	Tin tetrachloride. *See* Stannic chloride, *anhydrous*	3.2	UN 1293	Flammable Liquid	II	1,2	1	.
	Titanium hydride	4.1	UN 1871	Flammable Solid	II	1,2	5	
	Titanium metal powder, dry	4.2	UN 2546	Spontaneously Combustible	II	1,2	II	
	Titanium metal powder, wet, *with not less than 25% water (a visible excess of water must be present)*	4.1	UN 1352	Flammable Solid	II	1,2	5	
	Titanium tetrachloride	8	UN 1838	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Titanium trichloride	4.2	UN 2441	Spontaneously Combustible, Corrosive	II	1,2	1,2	
	Toe puffs, *nitrocellulose base*	4.1	UN 1353	Flammable Solid	III	1	5	
	Toluene	3.2	UN 1294	Flammable Liquid	II	1,2	1	
	Toluene diisocyanate *(T.D.I.)*	6.1	UN 2078	Poison	II	1,3	1,3	Shade from radiant heat. Stow 'away from' living quarters and sources of heat
	Toluidines *(o-, m-, p-)*	6.1	UN 1708	Poison	II	1,2	1,2	Stow 'away from' acids
	2,4-Toluylenediamine	6.1	UN 1709	St. Andrews Cross	III	1,2	1,2	
N	Torpedoes, *with bursting charge*	1.1E	UN 0329	Explosive (1.1E)	--	--	--	
N	Torpedoes, *with bursting charge*	1.1F	UN 0330	Explosive (1.1F)	--	--	--	
	Tracers for ammunition	1.4 G	UN 0306	Explosive (1.4G)	--	1,3	1,3	
N	Tracers for ammunition	1.3G	UN 0212	Explosive (1.3G)	--	--	--	
	Triallylamine	3.3	UN 2610	Flammable Liquid	II	1,2	1,2	
	Tributylamine	8	UN 2542	Corrosive	III	1,2	1,2	
	Trichloroacetic acid, *solid*	8	UN 1839	Corrosive	II	1,2	1,2	Keep dry
	Trichloroacetic acid, *solutions*	8	UN 2564	Corrosive	II	1,2	1	Glass carboys in hampers prohibited under deck
	Trichloroacetyl chloride	8	UN 2442	Corrosive	II	1	5	Keep dry
	Trichlorobenzene, *liquid*	6.1	UN 2321	St. Andrews Cross	III	1,2	1,2	
	Trichlorobutene	6.1	UN 2322	St. Andrews Cross	III	1,3	1,3	Stow 'away from' sources of heat. Segregation same as for flammable liquids
	Trichloroethylene	6.1	UN 1710	St. Andrews Cross	III	1,2	1,2	
	Trichloroisocyanuric acid, *dry*	5.1	UN 2468	Oxidizer	II	1,2	1,2	Shade from radiant heat. Keep dry. Stow 'separated from' nitrogen compounds
	Trichlorosilane	4.3	UN 1295	Dangerous When Wet, Flammable Liquid	I	1	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Tricresylphosphate, *with more than 3% ortho isomer*	6.1	UN 2574	Poison	II	1,2	1,2	
	Triethylaluminium. *See* Aluminium triethyl							
	Triethylamine	3.2	UN 1296	Flammable Liquid	II	1,2	II	
	Triethylenetetramine	8	UN 2259	Corrosive	II	1,2	II	Stow 'separated from' nitric acid, 'away from' acids, copper and copper alloys and living quarters
	Triethyl phosphite	3.3	UN 2323	Flammable Liquid	III	1,2	1,2	
	Trifluorobromomethane. *See* Bromotrifluoromethane							
	Trifluorochloroethane	2.2	UN 1983	Nonflammable Gas	--	1,2	1,2	
	Trifluorochloroethylene	2.1	UN 1082	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Trifluorochloromethane. *See* Chlorotrifluoromethane							
	Trifluoroethane	2.1	UN 2035	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Trifluoromethane	2.2	UN 1984	Nonflammable Gas	--	1,2	1,2	
	Triisobutyl aluminium	4.2	UN 1930	Spontaneously Combustible	I	1	I	
	Triisobutylene	3.3	UN 2324	Flammable Liquid	III	1,2	1,2	
	Triisopropyl borate	3.3	UN 2616	Flammable Liquid	II	1,2	1,2	
	Trimethylaluminium. *See* Aluminium trimethyl							
	Trimethylamine, *anhydrous*	2.1	UN 1083	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
	Trimethylamine, *aqueous solutions containing not more than 30% of trimethylamine*	3.2	UN 1297	Flammable Liquid	II	1,2	1	Stow 'away from' mercury and its compounds
	1,3,5-Trimethylbenzene	3.3	UN 2325	Flammable Liquid	III	1,2	1,2	
	Trimethyl borate	3.1	UN 2416	Flammable Liquid	II	1,3	5	Keep cool
	Trimethylchlorosilane	3.2	UN 1298	Flammable Liquid, Corrosive	I	1,2	1	
	Trimethylcyclohexylamine	8	UN 2326	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	3,3,5-Trimethylhexamethylene diamine	8	UN 2327	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Trimethylhexamethylene diisocyanate	6.1	UN 2328	Poison	II	1,2	1	
	Trimethyl phosphite	3.3	UN 2329	Flammable Liquid	III	1,2	1,2	
N	Trinitro-aniline	1.1D	UN 0153	Explosive (1.1D)	--	--	--	
N	Trinitroanisole	1.1D	UN 0213	Explosive (1.1D)	--	--	--	
N	Trinitrobenzene, *dry or containing, by weight, less than 35% water*	1.1D	UN 0214	Explosive (1.1D)	--	--	--	
N	Trinitrobenzenesulfonic acid	1.1L	UN 0386	Explosive (1.1L)	--	--	--	
	Trinitrobenzene, *wetted with not less than 10% of water*	4.1	UN 1354	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
N	Trinitrobenzoic acid, *dry or containing, by weight, less than 30% water*	1.1D	UN 0215	Explosive (1.1D)	--	--	--	
	Trinitrobenzoic acid, *wetted with not less than 10% of water*	4.1	UN 1355	Flammable Solid	I	1	II	Stow 'away from' heavy metals and their compounds
N	Trinitrochlorobenzene	1.1D	UN 0155	Explosive (1.1D)	--	--	--	
N	Trinitrofluorenone	1.1D	UN 0387	Explosive (1.1D)	--	--	--	
N	Trinitrometacresol	1.1D	UN 0216	Explosive (1.1D)	--	--	--	
N	Trinitronaphthalene	1.1D	UN 0217	Explosive (1.1D)	--	--	--	
N	Trinitrophenetole	1.1D	UN 0218	Explosive (1.1D)	--	--	--	
N	Trinitrophenol, *dry or containing, by weight, less than 30% water*	1.1D	UN 0154	Explosive (1.1D)	--	--	--	
	Trinitrophenol, wetted. *See* Picric acid, wetted							
N	Trinitrophenylmethylnitramine	1.1D	UN 0208	Explosive (1.1D)	--	--	--	
N	Trinitroresorcinol, *containing, by weight, not less than 20% water or mixture of alcohol and water*	1.1D	UN 0394	Explosive (1.1D)	--	--	--	
N	Trinitroresorcinol, *dry or containing, by weight, less than 20% water or mixture of alcohol and water*	1.1D	UN 0219	Explosive (1.1D)	--	--	.	
N	Trinitrotoluene, *dry or containing, by weight, less than 30% water*	1.1D	UN 0209	Explosive (1.1D)	--	--	--	
N	Trinitrotoluene *mixed* with hexanitrostilbene	1.1D	UN 0388	Explosive (1.1D)	--	--	--	
N	Trinitrotoluene *mixed* with trinitrobenzene	1.1D	UN 0388	Explosive (1.1D)	--	--	--	
N	Trinitrotoluene *mixed* with trinitrobenzene and hexanitrostilbene	1.1D	UN 0389	Explosive (1.1D)	--	--	--	
	Trinitrotoluene, *wetted with not less than 10% of water*	4.1	UN 1356	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Tripropylamine	3.3	UN 2260	Flammable Liquid, Corrosive	II	1,2	1,2	
	Tripropylene	3.2	UN 2057	Flammable Liquid	II	1,2	1	
		3.3	UN 2057	Flammable Liquid	II	1,2	1,2	
	Tris-(1-aziridinyl)phosphine oxide, *solution*	6.1	UN 2501	Poison	II	1,2	1,2	
N	Tritonal	1.1D	UN 0390	Explosive (1.1D)	--	--	--	
	Tungsten hexafluoride	2.3	UN 2196	Poison Gas	--	1	5	Stow 'away from' living quarters
	Turpentine	3.3	UN 1299	Flammable Liquid	III	1,2	1,2	
	Turpentine substitute	3.2	UN 1300	Flammable Liquid	II	1,2	1	
		3.3	UN 1300	Flammable Liquid	II	1,2	1,2	
	U D M H. *See* Dimethylhydrazine, *unsymmetrical*							
	Undecane	3.3	UN 2330	Flammable Liquid	III	1,2	1,2	
	Urea hydrogen peroxide	5.1	UN 1511	Oxidizer	III	1,2	1,2	Keep dry. Shade from radiant heat
N	Urea nitrate, *dry or containing, by weight, less than 20% water*	1.1D	UN 0220	Explosive (1.1D)	--	--	--	
	Urea nitrate, *wetted with not less than 10% of water*	4.1	UN 1357	Flammable Solid	I	1,2	1,2	
	Valeraldehyde	3.2	UN 2058	Flammable Liquid	II	1,2	1	
	Valeryl chlorides	8	UN 2502	Corrosive	II	1	1	Keep dry
	Vanadium oxitrichloride	8	UN 2443	Corrosive	II	1	1	Keep dry. Stow 'away from' organic compounds

V 45 MY 22 80 UMI

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Vanadium pentoxide, *non-fused form*	6.1	UN 2862	Poison	II	1,2	1,2	
	Vanadium tetrachloride	8	UN 2444	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Vanadium trichloride	8	UN 2475	Corrosive	III	1,2	1,2	Keep dry
	Vanadium trioxide, *non-fused form*	6.1	UN 2860	Poison	II	1,2	1,2	
	Varnish. *See* Paints, *etc.*							
	Vinyl acetate, *inhibited*	3.2	UN 1301	Flammable Liquid	II	1,2	1	
	Vinyl bromide, *inhibited*	2.1	UN 1085	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Vinyl chloride, *inhibited*	2.1	UN 1086	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Vinyl ethyl ether, *inhibited*	3.1	UN 1302	Flammable Liquid	I	1,3	5	Keep cool
	Vinyl fluoride, *inhibited*	2.1	UN 1860	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Vinyl isobutyl ether, *inhibited*	3.2	UN 1304	Flammable Liquid	II	1,2	1	
	Vinyl methyl ether, *inhibited*	2.1	UN 1087	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Vinyl Toluenes *(mixed isomers), inhibited*	3.3	UN 2618	Flammable Liquid	III	1,2	1,2	
	Vinyl trichlorosilane, *inhibited*	3.2	UN 1305	Flammable Liquid, Corrosive	I	1,2	1	
N	Warheads, rocket, *with burster or expelling charge*	1.4D	UN 0370	Explosive (1.4D)	--	--	--	
N	Warheads, rocket, *with burster or expelling charge*	1.4F	UN 0371	Explosive (1.4F)	--	--	--	
N	Warheads, rocket, *with bursting charge*	1.1D	UN 0286	Explosive (1.1D)	--	--	--	
N	Warheads, rocket, *with bursting charge*	1.2D	UN 0287	Explosive (1.2D)	--	--	--	
N	Warheads, rocket, *with bursting charge*	1.1F	UN 0369	Explosive (1.1F)	--	--	--	
N	Warheads, torpedo, *with bursting charge*	1.1D	UN 0221	Explosive (1.1D)	--	--	--	
	Water-gas	2.1	(UN 1953)	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
	White asbestos. *See* Asbestos, white							
	White phosphorus, *dry. See* Phosphorus, *white or yellow, dry*							
	White phosphorus, *wet. See* Phosphorus, *white or yellow, in water*							
	Wood alcohol. See Methanol							
	Wool waste, *wet*	4.2	UN 1387	Spontaneously Combustible	III	1,2	1,2	
	Xenon	2.2	UN 2036	Nonflammable Gas	--	1,2	1,2	
	Xylenes	3.2	UN 1307	Flammable Liquid	II	1,2	1	
		3.3	UN 1307	Flammable Liquid	II	1,2	1,2	
	Xylenols	6.1	UN 2261	Poison	II	1,2	1,2	
	Xylidines	6.1	UN 1711	Poison	II	1,2	1,2	Stow 'away from' acids
	Xylols. See Xylenes							
	Xylyl bromide	6.1	UN 1701	Poison	II	1	5	
	Yellow phosphorus, *dry. See* Phosphorus, *white or yellow, dry*							
	Yellow phosphorus, *wet. See* Phosphorus, *white or yellow, in water*							
	Zinc arsenate and arsenite, *solid mixtures*	6.1	UN 1712	Poison	II	1,2	1,2	
	Zinc ashes	4.3	UN 1435	Dangerous When Wet	III	1,2	1,2	
	Zinc bromate	5.1	UN 2469	Oxidizer	III	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Zinc chlorate	5.1	UN 1513	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Zinc chloride, *anhydrous*	8	UN 2331	Corrosive	III	1,2	1,2	Keep dry
	Zinc chloride, *solution*	8	UN 1840	Corrosive	III	1,2	1,2	
	Zinc cyanide	6.1	UN 1713	Poison	I	1,2	1,2	Stow 'away from' acids
	Zinc dithionite	9	UN 1931	None	III	1,2	1,2	Keep dry. Stow 'away from' acids
	Zinc ethyl. See Diethylzinc							
	Zinc nitrate	5.1	UN 1514	Oxidizer	II	1,2	1,2	
	Zinc permanganate	5.1	UN 1515	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Zinc peroxide	5.1	UN 1516	Oxidizer	II	1,2	1,2	Keep dry
	Zinc phosphide	6.1	UN 1714	Poison, Dangerous When Wet	II	1,2	1,2	Stow 'away from' acids and oxidizers
	Zinc, *powder or dust, non-pyrophoric*	4.3	UN 1436	Dangerous When Wet	II	1,2	1,2	
	Zinc, *powder or dust, pyrophoric. See* Pyrophoric metals							
	Zirconium hydride	4.1	UN 1437	Flammable Solid	II	1,2	II	
	Zirconium, *metal, dry, coiled wire, finished metal sheets, strip (thinner than 18 microns)*	4.2	UN 2009	Spontaneously Combustible	III	1	5	
	Zirconium, *metal, dry coiled wire or finished metal sheets, strip (thinner than 254 microns but not thinner than 18 microns)*	4.1	(UN 1325)	Flammable Solid	III	1,2	1,2	
	Zirconium, *metal, dry, powder or sponge*	4.2	UN 2008	Spontaneously Combustible	II	1	5	
	Zirconium metal powder, dry	4.2	UN 2008	Spontaneously Combustible	II	1	5	
	Zirconium metal powder, wet *with not less than 25% water (a visible excess of water must be present)*	4.1	UN 1358	Flammable Solid	II	1,2	5	
N	Zirconium picramate, *dry or containing, by weight, less than 20% water*	1.3C	UN 0236	Explosive (1.3C)	--	--	--	
	Zirconium picramate, *wetted with not less than 20% of water*	5.1	UN 1517	Oxidizer	I	1	5	Stow 'away from' heavy metals and their salts
	Zirconium, *scrap*	4.2	UN 1932	Spontaneously Combustible	III	1	II	
	Zirconium, *suspended in flammable liquid*	3.1	UN 1308	Flammable Liquid	II	1	5	Keep cool
	Zirconium tetrachloride	8	UN 2503	Corrosive	III	1,2	1,2	Keep dry

14. A Numeric-Alpha index is added as Appendix A to Subpart B of Part 172 to read as follows:

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0001 ...	102	Alarm devices, explosive
UN 0004 ...	102	Ammonium picrate
UN 0005 ...	102	Cartridges for weapons
UN 0006 ...	102	Cartridges for weapons
UN 0007 ...	102	Cartridges for weapons
UN 0009 ...	102	Ammunition, incendiary
UN 0010 ...	102	Ammunition, incendiary
UN 0012 ...	102	Cartridges for weapons
UN 0014 ...	102	Cartridges for weapons, blank
UN 0015 ...	102	Ammunition, smoke
UN 0016 ...	102	Ammunition, smoke
UN 0018 ...	102	Ammunition, tear producing
UN 0019 ...	102	Ammunition, tear producing
UN 0020 ...	102	Ammunition, toxic
UN 0021 ...	102	Ammunition, toxic
UN 0022 ...	102	Amorces
UN 0027 ...	102	Black powder
UN 0028 ...	102	Black powder, compressed
UN 0029 ...	102	Blasting caps, non-electric
UN 0030 ...	102	Blasting caps, electric
UN 0033 ...	102	Bombs
UN 0034 ...	102	Bombs
UN 0035 ...	102	Bombs
UN 0037 ...	102	Bombs, photo-flash
UN 0038 ...	102	Bombs, photo-flash
UN 0039 ...	102	Bombs, photo-flash
UN 0042 ...	102	Boosters
UN 0042 ...	102	Gaines, without detonator
UN 0043 ...	102	Bursters
UN 0044 ...	102	Caps, percussion
UN 0044 ...	102	Primers, cap type
UN 0048 ...	102	Charges, demolition
UN 0049 ...	102	Cartridges, flash
UN 0050 ...	102	Cartridges, flash
UN 0054 ...	102	Cartridges, signal
UN 0055 ...	102	Cases, cartridges, empty, with primer
UN 0056 ...	102	Charges, depth
UN 0059 ...	102	Charges, shaped
UN 0060 ...	102	Charges, supplementary, explosive
UN 0065 ...	102	Cord, detonating
UN 0066 ...	102	Cord, igniter
UN 0070 ...	102	Cutters, cable, explosive
UN 0072 ...	102	Cyclotrimethylenetrinitramine
UN 0073 ...	102	Detonators for ammunition
UN 0074 ...	102	Diazodinitrophenol
UN 0075 ...	102	Diethyleneglycol dinitrate
UN 0076 ...	102	Dinitrophenol
UN 0077 ...	102	Dinitrophenates
UN 0078 ...	102	Dinitroresorcinol
UN 0079 ...	102	Hexanitrodiphenylamine
UN 0081 ...	102	Explosives, blasting, Type A
UN 0082 ...	102	Explosives, blasting, Type B
UN 0083 ...	102	Explosives, blasting, Type C
UN 0084 ...	102	Explosives, blasting, Type D
UN 0092 ...	102	Flares, surface
UN 0093 ...	102	Flares, aerial
UN 0094 ...	102	Photo-flash powder
UN 0096 ...	102	Photo-flash powder
UN 0099 ...	102	Fracturing devices, explosive
UN 0101 ...	102	Fuse, instantaneous, non-detonating
UN 0102 ...	102	Cord, detonating
UN 0103 ...	102	Fuse, igniter
UN 0104 ...	102	Cord, detonating, mild effect
UN 0105 ...	102	Fuse, safety
UN 0106 ...	102	Fuzes, detonating
UN 0107 ...	102	Fuzes, detonating
UN 0110 ...	102	Grenades, practice
UN 0113 ...	102	Guanyl nitrosamino guanylidene hydrazine
UN 0114 ...	102	Guanyl nitrosamino guanyl tetrazene
UN 0118 ...	102	Hexolite
UN 0121 ...	102	Igniters
UN 0124 ...	102	Jet perforating guns, charged
UN 0129 ...	102	Lead azide
UN 0130 ...	102	Lead styphnate
UN 0131 ...	102	Lighters, fuse
UN 0132 ...	102	Deflagrating metal salts of aromatic nitro-derivatives, n.o.s.
UN 0133 ...	102	Mannitol hexanitrate
UN 0135 ...	102	Mercury fulminate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0136 ...	102	Mines
UN 0137 ...	102	Mines
UN 0138 ...	102	Mines
UN 0143 ...	102	Nitroglycerine, desensitized
UN 0144 ...	102	Nitroglycerine, spirit of
UN 0146 ...	102	Nitrostarch
UN 0147 ...	102	Nitro urea
UN 0150 ...	102	Pentaerythrite tetranitrate
UN 0151 ...	102	Pentolite
UN 0153 ...	102	Trinitro-aniline
UN 0154 ...	102	Trinitrophenol
UN 0155 ...	102	Trinitrochlorobenzene
UN 0158 ...	102	Potassium salts of nitro-aromatic derivatives
UN 0159 ...	102	Powder paste
UN 0160 ...	102	Powder, smokeless
UN 0161 ...	102	Powder, smokeless
UN 0167 ...	102	Projectiles
UN 0168 ...	102	Projectiles
UN 0169 ...	102	Projectiles
UN 0171 ...	102	Ammunition, illuminating
UN 0173 ...	102	Release devices, explosive
UN 0174 ...	102	Rivets, explosive
UN 0180 ...	102	Rockets
UN 0181 ...	102	Rockets
UN 0182 ...	102	Rockets
UN 0183 ...	102	Rockets
UN 0186 ...	102	Rocket motors
UN 0190 ...	102	Samples, explosive substance
UN 0191 ...	102	Signal devices, hand
UN 0192 ...	102	Signals, railway track, explosive
UN 0193 ...	102	Signals, railway track, explosive
UN 0194 ...	102	Signals, distress
UN 0195 ...	102	Signals, distress
UN 0196 ...	102	Signals, smoke
UN 0197 ...	102	Signals, smoke
UN 0203 ...	102	Sodium salts of nitro-aromatic derivatives
UN 0204 ...	102	Sounding devices, explosive
UN 0206 ...	102	Squibs
UN 0207 ...	102	Tetranitro-aniline
UN 0208 ...	102	Trinitrophenylmethylnitramine
UN 0209 ...	102	Trinitrotoluene
UN 0212 ...	102	Tracers for ammunition
UN 0213 ...	102	Trinitroanisole
UN 0214 ...	102	Trinitrobenzene
UN 0215 ...	102	Trinitrobenzoic acid
UN 0216 ...	102	Trinitrometacresol
UN 0217 ...	102	Trinitronaphthalene
UN 0218 ...	102	Trinitrophenetole
UN 0219 ...	102	Trinitroresorcinol
UN 0220 ...	102	Urea nitrate
UN 0221 ...	102	Warheads, torpedo
UN 0222 ...	102	Ammonium nitrate
UN 0223 ...	102	Ammonium nitrate fertilizers
UN 0224 ...	102	Barium azide
UN 0225 ...	102	Boosters, with detonator
UN 0225 ...	102	Gaines, with detonator
UN 0226 ...	102	Cyclotetramethylenetetranitramine
UN 0234 ...	102	Sodium dinitro-o-cresolate
UN 0235 ...	102	Sodium picramate
UN 0236 ...	102	Zirconium picramate
UN 0237 ...	102	Charges, shaped, flexible, linear
UN 0238 ...	102	Rockets, line throwing
UN 0240 ...	102	Rockets, line throwing
UN 0241 ...	102	Explosives, blasting, Type E
UN 0242 ...	102	Charges, propelling, for cannon
UN 0243 ...	102	Ammunition, incendiary, white phosphorus
UN 0244 ...	102	Ammunition, incendiary, white phosphorus
UN 0245 ...	102	Ammunition, smoke, white phosphorus
UN 0246 ...	102	Ammunition, smoke, white phosphorus
UN 0247 ...	102	Ammunition, incendiary
UN 0248 ...	102	Contrivances, water-activated
UN 0249 ...	102	Contrivances, water-activated
UN 0250 ...	102	Rocket motors
UN 0254 ...	102	Ammunition, illuminating
UN 0255 ...	102	Blasting caps, electric
UN 0257 ...	102	Fuzes, detonating
UN 0266 ...	102	Octolite
UN 0267 ...	102	Blasting caps, non-electric
UN 0268 ...	102	Boosters, with detonator

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0268 ...	102	Gaines, with detonator
UN 0271 ...	102	Charges, propelling, for rocket motors
UN 0272 ...	102	Charges, propelling, for rocket motors
UN 0273 ...	102	Charges, propelling, for rocket motors
UN 0274 ...	102	Charges, propelling, for rocket motors
UN 0275 ...	102	Cartridges, power device
UN 0276 ...	102	Cartridges, power device
UN 0277 ...	102	Cartridges, oil well
UN 0278 ...	102	Cartridges, oil well
UN 0279 ...	102	Charges, propelling, for cannon
UN 0280 ...	102	Rocket motors
UN 0281 ...	102	Rocket motors
UN 0282 ...	102	Nitroguanidine
UN 0283 ...	102	Bursters
UN 0283 ...	102	Gaines, without detonator
UN 0284 ...	102	Grenades
UN 0285 ...	102	Grenades
UN 0286 ...	102	Warheads, rocket
UN 0287 ...	102	Warheads, rocket
UN 0288 ...	102	Charges, shaped, flexible, linear
UN 0289 ...	102	Cord, detonating
UN 0290 ...	102	Cord, detonating
UN 0291 ...	102	Bombs
UN 0292 ...	102	Grenades
UN 0293 ...	102	Grenades
UN 0294 ...	102	Mines
UN 0295 ...	102	Rockets
UN 0296 ...	102	Sounding devices, explosive
UN 0297 ...	102	Ammunition, illuminating
UN 0299 ...	102	Bombs, photo-flash
UN 0300 ...	102	Ammunition, incendiary
UN 0301 ...	102	Ammunition, tear-producing
UN 0303 ...	102	Ammunition, smoke
UN 0305 ...	102	Photo-flash powder
UN 0306 ...	102	Tracers for ammunition
UN 0312 ...	102	Cartridges, signal
UN 0313 ...	102	Signals, smoke
UN 0314 ...	102	Igniters
UN 0315 ...	102	Igniters
UN 0316 ...	102	Fuzes, igniting
UN 0317 ...	102	Fuzes, igniting
UN 0318 ...	102	Grenades, practice
UN 0319 ...	102	Primers, tubular
UN 0320 ...	102	Primers, tubular
UN 0321 ...	102	Cartridges for weapons
UN 0322 ...	102	Rocket motors
UN 0323 ...	102	Cartridges, power device
UN 0324 ...	102	Projectiles
UN 0325 ...	102	Igniters
UN 0326 ...	102	Cartridges for weapons, blank
UN 0327 ...	102	Cartridges for weapons, blank
UN 0328 ...	102	Cartridges for weapons, with inert projectile
UN 0329 ...	102	Torpedoes
UN 0330 ...	102	Torpedoes
UN 0331 ...	102	Explosives, blasting, Type B
UN 0332 ...	102	Explosives, blasting, Type E
UN 0333 ...	102	Fireworks, Type A
UN 0334 ...	102	Fireworks, Type B
UN 0335 ...	102	Fireworks, Type C
UN 0336 ...	102	Fireworks, Type D
UN 0337 ...	102	Fireworks, Type D
UN 0338 ...	102	Cartridges for weapons, blank
UN 0339 ...	102	Cartridges for weapons, with inert projectile
UN 0340 ...	102	Nitrocellulose with
UN 0341 ...	102	Nitrocellulose with
UN 0342 ...	102	Nitrocellulose with
UN 0343 ...	102	Nitrocellulose with
UN 0344 ...	102	Projectiles
UN 0345 ...	102	Projectiles
UN 0346 ...	102	Projectiles
UN 0347 ...	102	Projectiles
UN 0348 ...	102	Cartridges for weapons
UN 0349 ...	102	Articles, explosive, n.o.s.
UN 0350 ...	102	Articles, explosive, n.o.s.
UN 0351 ...	102	Articles, explosive, n.o.s.
UN 0352 ...	102	Articles, explosive, n.o.s.
UN 0353 ...	102	Articles, explosive, n.o.s.
UN 0354 ...	102	Articles, explosive, n.o.s.
UN 0355 ...	102	Articles, explosive, n.o.s.

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0356 ...	102	Articles, explosive, n.o.s.
UN 0357 ...	102	Substances, explosive, n.o.s.
UN 0358 ...	102	Substances, explosive, n.o.s.
UN 0359 ...	102	Substances, explosive, n.o.s.
UN 0360 ...	102	Blasting cap assemblies, non-electric
UN 0361 ...	102	Blasting cap assemblies, non electric
UN 0362 ...	102	Ammunition, practice
UN 0363 ...	102	Ammunition, proof
UN 0364 ...	102	Detonators for ammunition
UN 0365 ...	102	Detonators for ammunition
UN 0366 ...	102	Detonators for ammunition
UN 0367 ...	102	Fuzes, detonating
UN 0368 ...	102	Fuzes, igniting
UN 0369 ...	102	Warheads, rocket
UN 0370 ...	102	Warheads, rocket
UN 0371 ...	102	Warheads, rocket
UN 0372 ...	102	Grenades, practice
UN 0373 ...	102	Signal devices, hand
UN 0374 ...	102	Sounding devices, explosive
UN 0375 ...	102	Sounding devices, explosive
UN 0376 ...	102	Primers, tubular
UN 0377 ...	102	Primers, cap type
UN 0378 ...	102	Primers, cap type
UN 0379 ...	102	Cases, cartridge, empty, with primer
UN 0380 ...	102	Articles, pyrophonic
UN 0381 ...	102	Cartridges, power device
UN 0382 ...	102	Components, explosive train, n.o.s.
UN 0383 ...	102	Components, explosive train, n.o.s.
UN 0384 ...	102	Components, explosive train, n.o.s.
UN 0385 ...	102	5-Nitrobenzotriazol
UN 0386 ...	102	Trinitrobenzenesulfonic acid
UN 0387 ...	102	Trinitrofluorenone
UN 0388 ...	102	Trinitrotoluene
UN 0389 ...	102	Trinitrotoluene
UN 0390 ...	102	Tritonal
UN 0391 ...	102	Cyclotrimethylenetrinitramine mixed with cyclotetramethylenetetranitramine
UN 0392 ...	102	Hexanitrostilbene
UN 0393 ...	102	Hexatonal, cast
UN 0394 ...	102	Trinitroresorcinol
UN 1001 ...	101	Acetylene
UN 1002 ...	102	Air
UN 1002 ...	101	Air, compressed
UN 1003 ...	102	Air
UN 1005 ...	102	Ammonia
UN 1005 ...	101	Ammonia, anhydrous
UN 1006 ...	101	Argon
UN 1008 ...	101	Boron trifluoride
UN 1009 ...	102	Bromotrifluoromethane
UN 1009 ...	101	Monobromotrifluoromethane
UN 1010 ...	102	Butadiene
UN 1010 ...	101	Butadiene, inhibited
UN 1011 ...	102	Butane
UN 1012 ...	102	Butylene
UN 1013 ...	102	Carbon dioxide
UN 1014 ...	102	Carbon dioxide and oxygen
UN 1014 ...	101	Carbon dioxide-oxygen mixture
UN 1015 ...	102	Carbon dioxide and nitrous oxide
UN 1015 ...	101	Carbon dioxide-nitrous oxide mixture
UN 1016 ...	101	Carbon monoxide
UN 1017 ...	101	Chlorine
UN 1018 ...	102	Chlorodifluoromethane
UN 1018 ...	101	Monochlorodifluoromethane
UN 1020 ...	102	Chloropentafluoroethane
UN 1020 ...	101	Monochloropentafluoroethane
UN 1021 ...	102	Chlorotetrafluoroethane
UN 1021 ...	101	Monochlorotetrafluoroethane
UN 1022 ...	102	Chlorotrifluoromethane
UN 1022 ...	101	Monochlorotrifluoromethane
UN 1023 ...	102	Coal gas
UN 1026 ...	102	Cyanogen
UN 1026 ...	101	Cyanogen gas
UN 1027 ...	101	Cyclopropane
UN 1028 ...	101	Dichlorodifluoromethane
UN 1029 ...	102	Dichloromonofluoromethane
UN 1030 ...	102	1,1-Difluoroethane
UN 1030 ...	101	Difluoroethane
UN 1031 ...	102	Difluoromonochloroethane
UN 1032 ...	102	Dimethylamine
UN 1032 ...	101	Dimethylamine, anhydrous
UN 1033 ...	101	Dimethyl ether
UN 1035 ...	101	Ethane

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1036 ...	102	Ethylamine
UN 1036 ...	101	Monoethylamine
UN 1037 ...	101	Ethyl chloride
UN 1038 ...	102	Ethylene
UN 1039 ...	101	Ethyl methyl ether
UN 1040 ...	101	Ethylene oxide
UN 1041 ...	102	Ethylene oxide and carbon dioxide
NA 1043 ...	101	Crude nitrogen fertilizer solution
UN 1043 ...	101	Fertilizer ammoniating solution
NA 1043 ...	101	Nitrogen fertilizer solution
UN 1044 ...	101	Fire extinguisher
UN 1044 ...	102	Fire extinguishers
UN 1045 ...	101	Fluorine
UN 1046 ...	101	Helium
UN 1048 ...	101	Hydrogen bromide
UN 1049 ...	101	Hydrogen
UN 1050 ...	101	Hydrogen chloride
NA 1051 ...	101	Hydrocyanic acid, liquefied
UN 1051 ...	102	Hydrogen cyanide
UN 1052 ...	102	Hydrogen fluoride
UN 1053 ...	101	Hydrogen sulfide
UN 1053 ...	102	Hydrogen sulphide
UN 1055 ...	102	Isobutylene
UN 1056 ...	102	Krypton
UN 1057 ...	101	Cigarette lighter
UN 1057 ...	102	Lighters
UN 1058 ...	102	Liquefied non-flammable gases charged with nitrogen, carbon dioxide or air
UN 1060 ...	102	Methyl acetylene
UN 1060 ...	101	Methylacetylene-propadiene, stabilized
UN 1061 ...	102	Methylamine
UN 1061 ...	101	Methylamine, anhydrous
UN 1062 ...	102	Methyl bromide
UN 1063 ...	101	Methyl chloride
UN 1064 ...	101	Methyl mercaptan
UN 1064 ...	102	Methylmercaptan
UN 1065 ...	101	Neon
UN 1066 ...	101	Nitrogen
UN 1067 ...	102	Nitrogen dioxide
UN 1067 ...	101	Nitrogen dioxide, liquid
NA 1067 ...	101	Nitrogen peroxide, liquid
NA 1067 ...	101	Nitrogen tetroxide, liquid
UN 1069 ...	101	Nitrosyl chloride
UN 1070 ...	101	Nitrous oxide
UN 1071 ...	102	Oil gas
NA 1072 ...	101	Oxygen
UN 1073 ...	102	Oxygen
NA 1073 ...	101	Oxygen, pressurized liquid
UN 1075 ...	101	Liquefied petroleum gas
UN 1075 ...	102	Petroleum gases
UN 1076 ...	101	Phosgene
UN 1077 ...	102	Propylene
UN 1078 ...	102	Refrigerant gases, n.o.s.
UN 1079 ...	101	Sulfur dioxide
UN 1079 ...	102	Sulphur dioxide
UN 1080 ...	101	Sulfur hexafluoride
UN 1080 ...	102	Sulphur hexafluoride
UN 1081 ...	102	Tetrafluoroethylene
UN 1081 ...	101	Tetrafluoroethylene, inhibited
UN 1082 ...	101	Trifluorochloroethylene
UN 1082 ...	102	Trifluorochloroethylene
UN 1083 ...	102	Trimethylamine
UN 1083 ...	101	Trimethylamine, anhydrous
UN 1085 ...	102	Vinyl bromide
UN 1086 ...	101	Vinyl chloride
UN 1087 ...	101	Vinyl methyl ether
UN 1088 ...	101	Acetal
UN 1089 ...	101	Acetaldehyde
UN 1090 ...	101	Acetone
UN 1091 ...	101	Acetone oil
UN 1091 ...	102	Acetone oils
UN 1092 ...	102	Acrolein
UN 1092 ...	101	Acrolein, inhibited
UN 1093 ...	101	Acrylonitrile
UN 1095 ...	102	Alcohol
UN 1096 ...	102	Alcohol
UN 1096 ...	101	Allyl alcohol
UN 1099 ...	101	Allyl bromide
UN 1100 ...	101	Allyl chloride
UN 1101 ...	102	Diethylaluminium chloride
UN 1102 ...	102	Aluminium triethyl
UN 1103 ...	102	Aluminium trimethyl
UN 1104 ...	101	Amyl acetate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1104 ...	102	Amyl acetates
UN 1105 ...	102	Amyl alcohols
UN 1106 ...	101	Amylamine
UN 1107 ...	101	Amyl chloride
UN 1108 ...	101	Amylene
UN 1108 ...	102	n-Amylene
UN 1109 ...	101	Amyl formate
UN 1109 ...	102	Amyl formates
UN 1110 ...	102	Amyl methyl ketone
UN 1110 ...	101	Methyl amyl ketone
UN 1111 ...	101	Amyl mercaptan
UN 1112 ...	102	Amyl nitrate
UN 1113 ...	101	Amyl nitrite
UN 1114 ...	101	Benzene
UN 1115 ...	101	Benzine
UN 1118 ...	102	Brake fluid, hydraulic
UN 1120 ...	102	Butanol
NA 1120 ...	101	Butyl alcohol
UN 1121 ...	102	sec-Butanol
UN 1122 ...	102	tert-Butanol
UN 1123 ...	101	Butyl acetate
UN 1123 ...	102	n-Butyl acetate
UN 1124 ...	102	sec-Butyl acetate
UN 1125 ...	101	Butylamine
UN 1125 ...	102	n-Butylamine
UN 1126 ...	101	Butyl bromide
UN 1126 ...	102	n-Butyl bromide
UN 1127 ...	101	Butyl chloride
UN 1127 ...	102	n-Butyl chloride
UN 1128 ...	101	Butyl formate
UN 1128 ...	102	n-Butyl formate
UN 1129 ...	101	Butyraldehyde
UN 1130 ...	101	Camphor oil
UN 1131 ...	101	Carbon bisulfide, *or* Carbon disulfide
UN 1131 ...	102	Carbon disulphide
UN 1132 ...	102	Carbon remover
UN 1132 ...	101	Carbon remover, liquid
UN 1133 ...	102	Cement, adhesive
NA 1133 ...	101	Cement, container, linoleum, tile, *or* wallboard, liquid
NA 1133 ...	101	Cement, leather
NA 1133 ...	101	Cement, liquid, n.o.s.
NA 1133 ...	101	Cement, pyroxylin
NA 1133 ...	101	Cement, roofing, liquid
NA 1133 ...	101	Cement, rubber
UN 1134 ...	101	Chlorobenzene
UN 1135 ...	102	2-Chloroethanol
UN 1135 ...	101	Ethylene chlorohydrin
UN 1136 ...	101	Coal tar distillate
NA 1136 ...	101	Coal tar light oil
NA 1136 ...	101	Coal tar oil
UN 1137 ...	101	Coal tar distillate
NA 1137 ...	101	Coal tar light oil
NA 1137 ...	101	Coal tar oil
UN 1139 ...	101	Coating solution
NA 1142 ...	101	Antifreeze compound, liquid
NA 1142 ...	101	Antifreeze preparation, liquid
NA 1142 ...	101	Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid
NA 1142 ...	101	Compound, polishing, liquid
NA 1142 ...	101	Compound, vulcanizing, liquid
NA 1142 ...	101	Dressing, leather
UN 1142 ...	102	Flammable liquid preparation, n.o.s.
NA 1142 ...	101	Leather bleach *or* dressing
NA 1142 ...	101	Polish, metal, stove, furniture *or* wood, liquid
NA 1142 ...	101	Rust preventive coating
UN 1143 ...	101	Crotonaldehyde
UN 1144 ...	101	Crotonylene
UN 1145 ...	101	Cyclohexane
UN 1146 ...	101	Cyclopentane
UN 1147 ...	101	Decahydronaphthalene
UN 1148 ...	102	Diacetone alchohol
UN 1148 ...	101	Diacetone alcohol
UN 1149 ...	101	Butyl ether
UN 1149 ...	102	Dibutyl ethers
UN 1150 ...	101	Dichloroethylene
UN 1152 ...	101	Dichloropentane
UN 1152 ...	102	Dichloropentanes
UN 1153 ...	102	1,2-Diethoxyethane
UN 1153 ...	101	Ethylene glycol diethyl ether
UN 1154 ...	101	Diethylamine
UN 1155 ...	102	Diethyl ether
UN 1156 ...	101	Ethyl ether

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1156 ...	101	Diethyl ketone
UN 1157 ...	101	Diisobutyl ketone
UN 1158 ...	101	Diisopropylamine
UN 1159 ...	101	Diisopropyl ether
UN 1160 ...	102	Dimethylamine
UN 1160 ...	101	Dimethylamine, aqueous solution
UN 1161 ...	101	Dimethyl carbonate
UN 1162 ...	101	Dimethyldichlorosilane
UN 1163 ...	102	Dimethylhydrazine
UN 1163 ...	101	Dimethylhydrazine, unsymmetrical
UN 1164 ...	101	Dimethyl sulfide
UN 1164 ...	102	Dimethyl sulphide
UN 1165 ...	101	Dioxane
UN 1166 ...	101	Dioxolane
UN 1167 ...	101	Divinyl ether
UN 1168 ...	102	Driers
UN 1168 ...	101	Paint drier, liquid
UN 1169 ...	102	Extracts
UN 1170 ...	101	Alcoholic beverage
NA 1170 ...	101	Cologne spirits
UN 1170 ...	102	Ethanol
UN 1170 ...	101	Ethyl alcohol
UN 1171 ...	102	2-Ethoxyethanol
UN 1171 ...	101	Ethylene glycol monoethyl ether
UN 1172 ...	102	2-Ethoxyethyl acetate
UN 1172 ...	101	Ethylene glycol monoethyl ether acetate
UN 1173 ...	101	Ethyl acetate
UN 1175 ...	101	Ethyl benzene
UN 1175 ...	102	Ethylbenzene
UN 1176 ...	101	Ethyl borate
UN 1177 ...	102	Ethylbutyl acetate
UN 1177 ...	101	Ethyl butyl acetate
UN 1178 ...	102	2-Ethylbutyraldehyde
UN 1178 ...	101	Ethyl butyraldehyde
UN 1179 ...	101	Ethyl butyl ether
UN 1180 ...	101	Ethyl butyrate
UN 1181 ...	101	Ethyl chloroacetate
UN 1182 ...	101	Ethyl chloroformate
UN 1183 ...	101	Ethyl dichlorosilane
UN 1183 ...	102	Ethyldichlorosilane
UN 1184 ...	101	Ethylene dichloride
UN 1185 ...	102	Ethyleneimine
UN 1185 ...	101	Ethylene imine, inhibited
UN 1188 ...	101	Ethylene glycol monomethyl ether
UN 1189 ...	101	Ethylene glycol monomethyl ether acetate
UN 1190 ...	101	Ethyl formate
UN 1191 ...	102	Ethyl hexaldehyde
UN 1191 ...	101	Ethylhexaldehyde
UN 1192 ...	101	Ethyl lactate
UN 1193 ...	101	Ethyl methyl ketone
UN 1193 ...	101	Methyl ethyl ketone
UN 1194 ...	102	Ethyl nitrite
UN 1194 ...	101	Ethyl nitrite (nitrous ether)
UN 1195 ...	101	Ethyl propionate
UN 1196 ...	101	Ethyl trichlorosilane
UN 1196 ...	102	Ethyltrichlorosilane
UN 1197 ...	101	Extract, liquid, flavoring
UN 1197 ...	102	Extracts
UN 1198 ...	102	Formaldehyde
UN 1198 ...	101	Formaldehyde solution
UN 1199 ...	101	Furfural
UN 1201 ...	101	Fusel oil
UN 1202 ...	102	Gas oil
UN 1203 ...	102	Gasoline
NA 1203 ...	101	Motor fuel, n.o.s.
UN 1204 ...	102	Glyceryl trinitrate
NA 1204 ...	101	Spirits of nitroglycerin
NA 1204 ...	101	Spirits of nitroglycerin, not exceeding 1% nitroglycerin by weight
UN 1205 ...	102	Gutta percha
UN 1206 ...	101	Heptane
UN 1207 ...	101	Hexaldehyde
UN 1208 ...	101	Hexane
UN 1208 ...	101	Neohexane
UN 1210 ...	101	Ink
UN 1210 ...	102	Ink, printers
UN 1212 ...	102	Isobutanol
UN 1213 ...	101	Isobutyl acetate
UN 1214 ...	101	Isobutylamine
UN 1216 ...	101	Isooctene
UN 1218 ...	101	Isoprene
UN 1219 ...	101	Isopropanol
UN 1220 ...	101	Isopropyl acetate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1221 ...	101	Isopropylamine
UN 1222 ...	101	Isopropyl nitrate
UN 1223 ...	101	Kerosene
UN 1224 ...	102	Ketones
UN 1226 ...	101	Cigarette lighter
UN 1226 ...	101	Lighter fluid
UN 1226 ...	102	Lighter fuels
UN 1226 ...	102	Lighters
NA 1228 ...	101	Mercaptan mixture, aliphatic
UN 1228 ...	102	Mercaptans *and* mercaptan mixtures
UN 1229 ...	101	Mesityl oxide
NA 1230 ...	101	Columbian spirits
UN 1230 ...	102	Methanol
UN 1230 ...	101	Methyl alcohol
UN 1231 ...	101	Methyl acetate
UN 1232 ...	101	Methyl acetone
UN 1233 ...	101	Methylamyl acetate
UN 1234 ...	101	Methylal
UN 1235 ...	102	Methylamine
UN 1235 ...	101	Methylamine, aqueous solution
UN 1237 ...	101	Methyl butyrate
UN 1238 ...	101	Methyl chloroformate
UN 1239 ...	102	Methylchloromethyl ether
UN 1239 ...	101	Methylchloromethyl ether, anhydrous
UN 1242 ...	101	Methyl dichlorosilane
UN 1242 ...	102	Methyldichlorosilane
UN 1243 ...	101	Methyl formate
UN 1244 ...	101	Methylhydrazine
UN 1245 ...	102	Methyl isobutyl ketone
UN 1246 ...	102	Methyl isopropenyl ketone
UN 1246 ...	101	Methyl isopropenyl ketone, inhibited
UN 1247 ...	102	Methyl methacrylate
UN 1247 ...	101	Methyl methacrylate monomer, inhibited
NA 1247 ...	101	Methyl methacrylate monomer, uninhibited
UN 1248 ...	101	Methyl propionate
UN 1249 ...	101	Methyl propyl ketone
UN 1250 ...	101	Methyltrichlorosilane
UN 1251 ...	102	Methyl vinyl ketone
UN 1251 ...	101	Methyl vinyl ketone, inhibited
UN 1255 ...	102	Naphtha, petroleum
UN 1255 ...	101	Petroleum naphtha
UN 1256 ...	101	Naphtha, solvent
UN 1257 ...	102	Casinghead gasoline
NA 1257 ...	101	Gasoline
UN 1259 ...	101	Nickel carbonyl
UN 1261 ...	101	Nitromethane
UN 1262 ...	101	Isooctane
UN 1262 ...	101	Octane
NA 1263 ...	101	Compound, enamel
NA 1263 ...	101	Lacquer base *or* Lacquer chips, plastic
UN 1263 ...	101	Paint, Enamel, Lacquer, Stain, Shellac, *or* Varnish; Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base, liquid
UN 1263 ...	102	Paint, enamel, lacquer, stain, shellac, varnish, polish, filler (liquid), lacquer base *and* thinner
UN 1264 ...	101	Paraldehyde
UN 1265 ...	101	Isopentane
UN 1265 ...	101	Pentane
UN 1266 ...	102	Perfumery products
UN 1267 ...	102	Petroleum crude oil
NA 1268 ...	101	Naphtha distillate
UN 1268 ...	101	Petroleum distillate
UN 1268 ...	102	Petroleum distillates, n.o.s.
NA 1268 ...	101	Road oil
NA 1270 ...	101	Oil
UN 1270 ...	102	Petroleum oil
UN 1271 ...	101	Petroleum ether
UN 1271 ...	102	Petroleum spirit
UN 1272 ...	101	Pine oil
UN 1274 ...	102	Propanol
UN 1274 ...	101	Propyl alcohol
UN 1275 ...	101	Propionaldehyde
UN 1276 ...	102	n-Propyl acetate
UN 1276 ...	101	Propyl acetate
UN 1277 ...	102	Monopropylamine
UN 1277 ...	101	Propylamine
UN 1278 ...	101	Propyl chloride
UN 1279 ...	101	Propylene dichloride
UN 1280 ...	101	Propylene oxide
UN 1281 ...	101	Propyl formate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1281 ...	102	Propyl formates
UN 1282 ...	101	Pyridine
UN 1286 ...	102	Rosin oil
UN 1287 ...	102	Rubber solution
UN 1288 ...	102	Shale oil
UN 1289 ...	102	Sodium methylate
NA 1289 ...	101	Sodium methylate, alcohol mixture
UN 1292 ...	101	Ethyl silicate
UN 1292 ...	102	Tetraethyl silicate
UN 1293 ...	102	Tinctures
UN 1294 ...	101	Toluene
UN 1295 ...	101	Trichlorosilane
UN 1296 ...	101	Triethylamine
UN 1297 ...	102	Trimethylamine
UN 1297 ...	101	Trimethylamine, aqueous solution
UN 1298 ...	101	Trimethylchlorosilane
UN 1299 ...	101	Turpentine
UN 1300 ...	101	Turpentine substitute
UN 1301 ...	101	Vinyl acetate
UN 1302 ...	102	Vinyl ethyl ether
UN 1302 ...	101	Vinyl ethyl ether, inhibited
UN 1303 ...	101	Vinylidene chloride, inhibited
UN 1304 ...	101	Vinyl isobutyl ether
UN 1305 ...	101	Vinyl trichlorosilane
UN 1307 ...	101	Xylene
UN 1307 ...	102	Xylenes
UN 1308 ...	102	Zirconium
UN 1308 ...	101	Zirconium, metal, liquid, suspensions
UN 1309 ...	102	Aluminum
UN 1310 ...	102	Ammonium picrate
UN 1310 ...	101	Ammonium picrate, wet
UN 1312 ...	102	Borneol
UN 1313 ...	101	Calcium resinate
UN 1314 ...	102	Calcium resinate
UN 1314 ...	101	Calcium resinate, fused
UN 1318 ...	102	Cobalt resinate
UN 1318 ...	101	Cobalt resinate, precipitated
UN 1320 ...	102	Dinitrophenol
UN 1321 ...	102	Dinitrophenolates
UN 1322 ...	102	Dinitroresorcinols
UN 1323 ...	102	Ferrocenum
NA 1324 ...	101	Film
UN 1324 ...	102	Film, motion picture
NA 1325 ...	101	Antimony sulfide, solid
NA 1325 ...	101	Burnt cotton, not repicked
NA 1325 ...	101	Cosmetics, n.o.s.
NA 1325 ...	101	Drugs, n.o.s.
UN 1325 ...	101	Flammable solid, n.o.s.
UN 1325 ...	102	Flammable solids, n.o.s.
NA 1325 ...	101	Fusee
NA 1325 ...	101	Garbage tankage
NA 1325 ...	101	N-Methyl-N'-nitro-N-nitrosoguanidine
NA 1325 ...	101	Paper stock, wet
NA 1325 ...	101	Rags, wet
NA 1325 ...	101	Rough ammoniate tankage
NA 1325 ...	101	Self-lighting cigarette
NA 1325 ...	101	Smokeless powder for small arms
NA 1325 ...	101	Tankage fertilizer
NA 1325 ...	101	Tankage, rough ammoniate
NA 1325 ...	101	Waste paper, wet
(UN 1325).	102	Zirconium
UN 1326 ...	102	Hafnium metal powder, wet
UN 1326 ...	101	Hafnium metal, wet
UN 1327 ...	102	Bhusa
UN 1327 ...	101	Hay
UN 1327 ...	101	Hay or straw
UN 1327 ...	102	Straw
UN 1328 ...	102	Hexamine
UN 1330 ...	102	Manganese resinate
UN 1331 ...	102	Matches
UN 1331 ...	101	Matches, strike anywhere
UN 1332 ...	102	Metaldehyde
UN 1333 ...	102	Mischmetal
UN 1334 ...	102	Naphthalene
UN 1334 ...	101	Naphthalene *or* Naphthalin
UN 1336 ...	102	Nitroguanidine
UN 1336 ...	101	Nitroguanidine, wet with not less than 20% water
UN 1337 ...	102	Nitrostarch
UN 1337 ...	101	Nitrostarch, wet with not less than 20% water
UN 1338 ...	102	Phosphorus
UN 1338 ...	101	Phosphorus, amorphous, red
UN 1339 ...	101	Phosphorus heptasulfide
UN 1339 ...	102	Phosphorus heptasulphide

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APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1340	101	Phosphorus pentasulfide
UN 1340	102	Phosphorus pentasulphide
UN 1341	101	Phosphorus sesquisulfide
UN 1341	102	Phosphorus sesquisulphide
UN 1343	101	Phosphorus trisulfide
UN 1343	102	Phosphorus trisulphide
UN 1344	102	Picric acid
NA 1344	101	Picric acid, wet, with not less than 10% water
UN 1345	102	Rubber scrap
NA 1345	101	Rubber scrap *or* Rubber buffings
NA 1345	101	Rubber shoddy *or* Rubber, regenerated *or* Rubber, reclaimed
UN 1346	102	Silicon powder
UN 1348	102	Sodium dinitro-o-cresolate
UN 1349	102	Sodium picramate
UN 1349	101	Sodium picramate, wet
UN 1350	101	Sulfur, solid
UN 1350	102	Sulphur
UN 1352	102	Titanium metal powder, wet
NA 1352	101	Titanium metal powder, wet with 20% or more water
UN 1353	102	Toe puffs
UN 1354	102	Trinitrobenzene
UN 1354	101	Trinitrobenzene, wet
UN 1355	102	Trinitrobenzoic acid
UN 1355	101	Trinitrobenzoic acid, wet
UN 1356	102	Trinitrotoluene
UN 1356	101	Trinitrotoluene, wet
UN 1357	102	Urea nitrate
NA 1357	101	Urea nitrate, wet
UN 1358	102	Zirconium metal powder, wet
UN 1358	101	Zirconium metal, wet
UN 1359	102	Bags
UN 1359	101	Bags, sodium nitrate, empty and unwashed
UN 1360	101	Calcium phosphide
UN 1361	102	Carbon, non-activated
NA 1361	101	Charcoal briquettes *or* briquets
NA 1361	101	Charcoal screenings, made from 'pinon' wood
NA 1361	101	Charcoal, shell
NA 1361	101	Charcoal, wood, ground, crushed, granulated, *or* pulverized
NA 1361	101	Charcoal, wood, lump
NA 1361	101	Charcoal wood screenings, other than 'pinon' wood screenings
NA 1361	101	Coal, ground bituminous, sea coal, coal facings
UN 1362	102	Carbon, activated
UN 1362	101	Charcoal, activated
UN 1363	101	Copra
UN 1364	102	Cotton waste
UN 1364	101	Cotton waste, oily
UN 1365	102	Cotton
UN 1365	102	Diethylzinc
UN 1367	102	Diethylmagnesium
UN 1368	102	Dimethylmagnesium
UN 1369	102	Dimethyl-p-nitrosoaniline
UN 1369	102	p-Nitrosodimethylaniline
UN 1370	102	Dimethylzinc
UN 1371	102	Dners
NA 1372	101	Burnt fiber
NA 1372	101	Fibers
NA 1372	101	Fibers, burnt
UN 1372	102	Fibres
NA 1372	101	Hair, wet
UN 1373	102	Fabric
NA 1373	101	Fibers *or* fabric, containing not more than 5% animal *or* vegetable oil
UN 1373	102	Fibres
UN 1374	102	Fishmeal *or* fishscrap
NA 1374	101	Fish meal *or* fish scrap containing less than 6% or more than 12% water
UN 1375	102	Pyrophoric fuel, n.o.s.
UN 1376	101	Iron mass *or* sponge, spent
UN 1376	102	Iron oxide
UN 1378	102	Nickel catalyst
UN 1378	101	Nickel catalyst, wet
UN 1379	102	Paper
UN 1380	101	Pentaborane
UN 1381	102	Phosphorus
UN 1381	101	Phosphorus, white *or* yellow, dry
UN 1381	101	Phosphorus, white *or* yellow, in water

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1382	102	Alkaline earth metal amalgams, n.o.s.
UN 1382	101	Potassium sulfide
UN 1382	102	Potassium sulphide
NA 1383	101	Iron mass *or* sponge
UN 1383	102	Pyrophoric alloys
UN 1383	102	Pyrophoric metals
UN 1384	102	Sodium dithionite
UN 1384	101	Sodium hydrosulfite
UN 1385	101	Sodium sulfide, anhydrous
UN 1385	102	Sodium sulphide
UN 1386	102	Seed cake
UN 1387	101	Waste wool, wet
UN 1387	102	Wool waste
UN 1389	102	Alkali metal amalgams, n.o.s.
UN 1390	102	Alkali metal amides, n.o.s.
UN 1391	102	Alkali metal dispersions, n.o.s.
UN 1393	102	Alloys of alkaline earth metals
UN 1394	102	Aluminium carbide
UN 1395	102	Aluminium ferrosilicon
UN 1396	102	Aluminium
UN 1396	101	Aluminum, metallic, powder
UN 1397	102	Aluminium phosphide
UN 1397	101	Aluminum phosphide
UN 1398	102	Aluminium silicon
UN 1399	102	Barium
UN 1400	102	Banum
UN 1401	102	Calcium
NA 1401	101	Calcium, metal
NA 1401	101	Calcium, metal, crystalline
UN 1402	102	Calcium carbide
UN 1403	102	Calcium cyanamide
UN 1403	101	Calcium cyanamide, not hydrated
UN 1404	102	Calcium hydride
UN 1405	102	Calcium silicide
UN 1406	102	Calcium silicon
UN 1407	102	Caesium
UN 1407	101	Cesium metal
UN 1408	101	Ferrosilicon
UN 1409	102	Hydrides
UN 1410	102	Lithium aluminium hydride
UN 1410	101	Lithium aluminum hydride
UN 1411	102	Lithium aluminium hydride
UN 1411	101	Lithium aluminum hydride, ethereal
UN 1412	102	Lithium amide
UN 1412	101	Lithium amide, powdered
UN 1413	101	Lithium borohydride
UN 1414	101	Lithium hydride
UN 1415	102	Lithium
UN 1415	101	Lithium metal
NA 1415	101	Lithium metal, in cartridges
UN 1417	101	Lithium silicon
UN 1418	102	Magnesium
UN 1418	102	Magnesium alloys
UN 1419	102	Magnesium aluminium phosphide
UN 1419	101	Magnesium aluminum phosphide
UN 1420	102	Potassium, metal alloys
UN 1420	101	Potassium, metal liquid alloy
UN 1421	102	Alkali metals
NA 1421	101	Sodium, metal liquid alloy
UN 1422	102	Potassium-sodium
UN 1422	101	Sodium potassium alloy (liquid)
UN 1422	101	Sodium potassium alloy (solid)
UN 1423	102	Rubidium
UN 1423	101	Rubidium metal
NA 1423	101	Rubidium metal, in cartridges
UN 1424	102	Sodium amalgam
UN 1425	101	Sodium amide
UN 1426	102	Sodium borohydride
UN 1427	101	Sodium hydride
UN 1428	102	Sodium
UN 1428	101	Sodium, metal *or* metallic
UN 1429	102	Sodium
UN 1429	101	Sodium, metal dispersion in organic solvent
UN 1431	102	Sodium methylate
UN 1431	101	Sodium methylate, dry
UN 1432	101	Sodium phosphide
UN 1433	101	Stannic phosphide
UN 1433	102	Stannic phosphides
UN 1434	102	Strontium
UN 1435	102	Zinc ashes
UN 1436	102	Zinc
UN 1437	101	Zirconium hydride
UN 1438	102	Aluminium nitrate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1438	101	Aluminum nitrate
UN 1439	101	Ammonium dichromate
UN 1442	101	Ammonium perchlorate
UN 1444	102	Ammonium persulphate
UN 1445	101	Banum chlorate
NA 1445	101	Banum chlorate, wet
UN 1446	101	Banum nitrate
UN 1447	101	Barium perchlorate
UN 1448	101	Barium permanganate
UN 1449	102	Barium peroxide
UN 1449	101	Banum peroxide
UN 1450	102	Bromates
UN 1451	102	Caesium nitrate
UN 1452	101	Calcium chlorate
UN 1453	101	Calcium chlorite
UN 1454	101	Calcium nitrate
UN 1455	102	Calcium perchlorate
UN 1456	101	Calcium permanganate
UN 1457	101	Calcium peroxide
UN 1458	102	Borate and chlorate
UN 1458	101	Chlorate and borate mixture
UN 1459	102	Chlorate and magnesium chloride
UN 1459	101	Chlorate and magnesium chloride mixture
UN 1461	101	Chlorate, n.o.s.
NA 1461	101	Chlorate, n.o.s., wet
UN 1461	102	Chlorates
UN 1462	102	Chlorites
NA 1463	101	Chromic acid mixture, dry
NA 1463	101	Chromic acid, solid
UN 1463	102	Chromium trioxide
UN 1464	102	Dichromates
UN 1465	102	Didymium nitrate
UN 1466	101	Ferric nitrate
UN 1467	101	Guanidine nitrate
UN 1469	101	Lead nitrate
UN 1470	102	Lead perchlorate
UN 1471	102	Lithium hypochlorite
UN 1471	101	Lithium hypochlorite compound, dry
UN 1472	101	Lithium peroxide
UN 1473	102	Magnesium bromate
UN 1474	101	Magnesium nitrate
UN 1475	101	Magnesium perchlorate
UN 1476	102	Magnesium peroxide
UN 1476	101	Magnesium peroxide, solid
NA 1477	101	Ammonium sulfate nitrate
NA 1477	101	Nitrate, n.o.s.
UN 1477	102	Nitrates
UN 1478	102	Sodium nitrate and potash
NA 1479	101	Compound, tree *or* weed killing, solid
NA 1479	101	Cosmetics, n.o.s.
NA 1479	101	Cupric nitrate
NA 1479	101	Drugs, n.o.s.
NA 1479	101	Manganese dioxide
UN 1479	101	Oxidizer, n.o.s. *or* Oxidizing material, n.o.s.
UN 1479	102	Oxidizing substances, n.o.s.
NA 1479	101	Potassium dichromate
NA 1479	101	Sodium dichromate
UN 1480	102	Perborates
NA 1481	101	Perchlorate, n.o.s.
UN 1481	102	Perchlorates
NA 1482	101	Permanganate, n.o.s.
UN 1482	102	Permanganates
UN 1483	102	Peroxides
UN 1484	101	Potassium bromate
UN 1485	101	Potassium chlorate
UN 1486	101	Potassium nitrate
UN 1487	102	Potassium nitrate and sodium nitrite
UN 1487	101	Sodium nitrite mixed
NA 1487	101	Sodium nitrite mixture
UN 1488	101	Potassium nitrite
UN 1489	101	Potassium perchlorate
UN 1490	101	Potassium permanganate
UN 1491	101	Potassium peroxide
UN 1492	102	Potassium persulphate
UN 1493	101	Silver nitrate
UN 1494	101	Sodium bromate
UN 1495	101	Sodium chlorate
UN 1496	101	Sodium chlorite
UN 1498	101	Sodium nitrate
UN 1499	102	Sodium nitrate and potassium nitrate
UN 1500	101	Sodium nitrite
UN 1502	101	Sodium perchlorate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1503	101	Sodium permanganate
UN 1504	101	Sodium peroxide
UN 1505	102	Sodium persulphate
UN 1506	101	Strontium chlorate
UN 1506	101	Strontium chlorate, wet
UN 1507	101	Strontium nitrate
UN 1508	102	Strontium perchlorate
UN 1509	101	Strontium peroxide
UN 1510	101	Tetranitromethane
UN 1511	102	Urea hydrogen peroxide
NA 1511	101	Urea peroxide
UN 1512	101	Zinc ammonium nitrite
UN 1513	101	Zinc chlorate
UN 1514	101	Zinc nitrate
UN 1515	101	Zinc permanganate
UN 1516	101	Zinc peroxide
UN 1517	102	Zirconium picramate
UN 1517	101	Zirconium picramate, wet
UN 1541	101	Acetone cyanohydrin
UN 1542	102	Aldrin
UN 1544	102	Alkaloids
UN 1545	102	Allyl isothiocyanate
UN 1546	102	Ammonium arsenate
UN 1546	101	Ammonium arsenate, solid
UN 1547	102	Aniline
UN 1547	101	Aniline oil, liquid
UN 1548	102	Aniline hydrochloride
UN 1549	102	Antimony compounds
NA 1549	101	Antimony tribromide, solid
NA 1549	101	Antimony tribromide solution
NA 1549	101	Antimony trifluoride, solid
NA 1549	101	Antimony trifluoride solution
UN 1550	102	Antimony lactate
UN 1550	101	Antimony lactate, solid
UN 1551	102	Antimony potassium tartrate
UN 1551	101	Antimony potassium tartrate, solid
UN 1553	102	Arsenic acid
UN 1553	101	Arsenic acid solution
UN 1554	102	Arsenic acid
UN 1554	101	Arsenic acid, solid
UN 1555	102	Arsenic bromide
UN 1555	101	Arsenic bromide, solid
UN 1556	101	Arsenical compound, liquid, n.o.s., *or* Arsenical mixture, liquid, n.o.s.
UN 1556	102	Arsenic compounds
NA 1556	101	Methyldichloroarsine
NA 1556	101	Phenyldichloroarsine
UN 1557	101	Arsenical compound, solid, n.o.s., *or* Arsenical mixture, solid, n.o.s.
NA 1557	101	Arsenical dip, liquid
UN 1557	102	Arsenic compounds
NA 1557	101	Arsenic iodide, solid
NA 1557	101	Arsenic sulfide, solid
NA 1557	101	Arsenic trisulfide
UN 1558	102	Arsenic, metallic
UN 1558	101	Arsenic, solid
UN 1559	102	Arsenic pentoxide
UN 1559	101	Arsenic pentoxide, solid
UN 1560	102	Arsenic trichloride
UN 1560	101	Arsenic trichloride, liquid
UN 1561	102	Arsenic trioxide
UN 1561	101	Arsenic trioxide, solid
UN 1562	101	Arsenical dust
UN 1564	102	Banum compounds, n.o.s.
UN 1565	102	Barium cyanide
UN 1565	101	Barium cyanide, solid
NA 1566	101	Beryllium chloride
UN 1566	101	Beryllium compound, n.o.s.
UN 1566	102	Beryllium compounds
NA 1566	101	Beryllium fluoride
UN 1567	102	Beryllium
UN 1568	102	Bordeaux arsenites
UN 1569	102	Bromoacetone
UN 1569	101	Bromoacetone, liquid
UN 1570	102	Brucine
UN 1570	101	Brucine, solid
UN 1571	102	Banum azide
UN 1571	101	Barium azide, wet
UN 1572	102	Cacodylic acid
UN 1573	102	Calcium arsenate
UN 1573	101	Calcium arsenate, solid
UN 1574	102	Calcium arsenate and arsenite
NA 1574	101	Calcium arsenite, solid
UN 1575	102	Calcium cyanide
UN 1575	101	Calcium cyanide, solid *or* Calcium cyanide mixture, solid

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1577	102	Chlorodinitrobenzene
UN 1577	101	Dinitrochlorobenzene
UN 1578	102	Chloronitrobenzenes
NA 1578	101	Nitrochlorobenzene, meta *or* para, liquid
NA 1578	101	Nitrochlorobenzene, ortho, liquid
UN 1579	102	4-Chloro-o-toluidine hydrochloride
UN 1579	101	4-Chloro-o-toluidine hydrochloride
UN 1580	102	Chloropicrin
UN 1580	101	Chloropicrin, liquid
UN 1581	102	Chloropicrin and methyl bromide
NA 1581	101	Methyl bromide and more than 2% chloropicrin mixture, liquid
NA 1581	101	Methyl bromide, liquid
UN 1582	102	Chloropicrin and methyl chloride
UN 1582	101	Chloropicrin and methyl chloride mixture
NA 1583	101	Chloropicrin, absorbed
UN 1583	101	Chloropicrin mixture
UN 1583	102	Chloropicrin mixtures, n.o.s.
UN 1584	102	Cocculus
UN 1584	101	Cocculus, solid
UN 1585	102	Copper acetoarsenite
UN 1585	101	Copper acetoarsenite, solid
UN 1586	102	Copper arsenite
UN 1586	101	Copper arsenite, solid
UN 1587	101	Copper cyanide
UN 1588	101	Cyanide *or* cyanide mixture, dry
UN 1588	102	Cyanides
NA 1588	101	Cyanide solution, n.o.s.
UN 1589	101	Cyanogen chloride
UN 1590	102	Dichloroanilines
UN 1591	101	Dichlorobenzene, ortho, liquid
UN 1591	102	Dichlorobenzenes
UN 1592	101	Dichlorobenzene, para, solid
UN 1592	102	p-Dichlorobenzene
UN 1593	102	Dichloromethane
UN 1593	101	Dichloromethane *or* Methylene chloride
UN 1594	102	Diethyl sulphate
UN 1595	101	Dimethyl sulfate
UN 1595	102	Dimethyl sulphate
UN 1596	102	Dinitroanilines
UN 1597	102	Dinitrobenzenes
UN 1597	101	Dinitrobenzene, solid, *or* Dinitrobenzol, solid
UN 1597	101	Dinitrobenzene solution
UN 1598	102	4,6-Dinitro-o-cresol
UN 1599	102	Dinitrophenol
UN 1599	101	Dinitrophenol solution
UN 1600	101	Dinitrotoluene
UN 1600	102	Dinitrotoluenes
UN 1601	101	Disinfectant, liquid
UN 1601	102	Disinfectants
UN 1601	101	Disinfectant, solid
(UN 1601)	102	Germicides
UN 1602	102	Dye intermediates
UN 1603	102	Ethyl bromoacetate
UN 1604	101	Ethylenediamine
UN 1605	101	Ethylene dibromide
UN 1606	102	Ferric arsenate
UN 1606	101	Ferric arsenate, solid
UN 1607	102	Ferric arsenite
UN 1607	101	Ferric arsenite, solid
UN 1608	101	Ferrous arsenate
UN 1609	102	Fungicides
UN 1610	102	Halogenated irritating liquids, n.o.s.
UN 1611	102	Hexaethyl tetraphosphate
UN 1611	101	Hexaethyl tetraphosphate, liquid
UN 1612	102	Hexaethyl tetraphosphate
UN 1612	101	Hexaethyl tetraphosphate and compressed gas mixture
UN 1613	101	Hydrocyanic acid
UN 1613	101	Hydrocyanic acid solution, less than 5% hydrocyanic acid
UN 1614	102	Hydrogen cyanide
UN 1615	102	Insecticides, n.o.s.
UN 1616	101	Lead acetate
UN 1617	102	Lead arsenates
UN 1617	101	Lead arsenate, solid
UN 1618	102	Lead arsenites
UN 1618	101	Lead arsenite, solid
UN 1620	101	Lead cyanide
UN 1621	102	London purple
UN 1621	101	London purple, solid

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1622	102	Magnesium arsenate
UN 1622	101	Magnesium arsenate, solid
UN 1623	102	Mercuric arsenate
UN 1624	102	Mercuric chloride
UN 1624	101	Mercuric chloride, solid
UN 1625	101	Mercuric nitrate
UN 1626	102	Mercuric potassium cyanide
UN 1626	101	Mercuric potassium cyanide, solid
UN 1627	101	Mercurous nitrate, solid
UN 1628	101	Mercurous sulfate, solid
UN 1628	102	Mercurous sulphate
UN 1629	101	Mercuric acetate
UN 1629	101	Mercurous acetate, solid
UN 1629	102	Mercury acetate
UN 1630	101	Mercuric ammonium chloride, solid
UN 1630	102	Mercury ammonium chloride
UN 1631	101	Mercuric benzoate, solid
UN 1631	102	Mercury benzoate
UN 1633	102	Mercury bisulphate
UN 1634	101	Mercuric bromide, solid
UN 1634	101	Mercurous bromide, solid
UN 1634	102	Mercury bromides
UN 1636	101	Mercuric cyanide, solid
UN 1636	102	Mercury cyanide
UN 1637	101	Mercurous gluconate, solid
UN 1637	102	Mercury gluconate
UN 1638	101	Mercuric iodide, solid
NA 1638	101	Mercuric iodide solution
NA 1638	101	Mercurous iodide, solid
UN 1638	102	Mercury iodide
UN 1639	101	Mercurol *or* Mercury nucleate, solid
UN 1639	102	Mercury nucleate
UN 1640	101	Mercuric oleate, solid
UN 1640	102	Mercury oleate
UN 1641	101	Mercuric oxide, solid
UN 1641	101	Mercurous oxide, black, solid
UN 1641	102	Mercury oxide
UN 1642	101	Mercuric oxycyanide, solid
UN 1642	102	Mercury oxycyanide
UN 1643	101	Mercuric potassium iodide, solid
UN 1643	102	Mercury potassium iodide
UN 1644	101	Mercuric salicylate solid
UN 1644	102	Mercury salicylate
UN 1645	101	Mercuric sulfate, solid
UN 1645	102	Mercuric sulphate
UN 1646	101	Mercuric sulfocyanate, solid *or* Mercuric thiocyanate, solid
UN 1646	102	Mercury thiocyanate
UN 1647	102	Methyl bromide and ethylene dibromide
UN 1647	101	Methyl bromide - ethylene dibromide mixture, liquid
UN 1648	101	Acetonitrile
UN 1648	102	Methyl cyanide
UN 1649	101	Motor fuel antiknock compound *or* Antiknock compound
UN 1649	102	Motor fuel anti-knock mixtures
NA 1649	101	Tetraethyl lead, liquid
UN 1650	102	Naphthylamine
UN 1651	102	alpha-Naphthylthiourea
UN 1652	102	Naphthylurea
UN 1653	102	Nickel cyanide
UN 1653	101	Nickel cyanide, solid
UN 1654	102	Nicotine
UN 1654	101	Nicotine, liquid
UN 1655	102	Nicotine
UN 1656	101	Nicotine hydrochloride
UN 1657	101	Nicotine salicylate
UN 1658	101	Nicotine sulfate, liquid
UN 1658	101	Nicotine sulfate, solid
UN 1658	102	Nicotine sulphate
UN 1659	101	Nicotine tartrate
UN 1660	101	Nitric oxide
UN 1661	101	Nitroaniline
UN 1661	102	Nitroanilines
UN 1662	102	Nitrobenzene
UN 1662	101	Nitrobenzene, liquid *or* Nitrobenzol, liquid
UN 1663	101	Nitrophenol
UN 1663	102	Nitrophenols
UN 1664	101	Nitrotoluene
UN 1664	102	Nitrotoluenes
UN 1665	102	Nitroxylenes
NA 1665	101	Nitroxylol
UN 1668	102	Paraffins

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APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1669	102	Pentachloroethane
UN 1670	101	Perchloromethyl mercaptan
UN 1670	102	Perchloromethyl-mercaptan
UN 1671	101	Phenol
UN 1672	102	Phenylcarbylamine chloride
UN 1673	101	Phenyenediamine, meta *or* para, solid
UN 1673	102	Phenylenediamines
UN 1674	102	Phenylmercuric acetate
UN 1677	102	Potassium arsenate
UN 1677	101	Potassium arsenate, solid
UN 1678	102	Potassium arsenite
UN 1678	101	Potassium arsenite, solid
UN 1679	102	Potassium cuprocyanide
UN 1680	102	Potassium cyanide
UN 1680	101	Potassium cyanide, solid
UN 1680	101	Potassium cyanide solution
UN 1681	102	Rodenticides, n.o.s.
UN 1682	102	Sheep dips
UN 1683	102	Silver arsenite
UN 1684	101	Silver cyanide
UN 1685	101	Sodium arsenate
UN 1686	101	Sodium arsenite
UN 1687	101	Sodium azide
UN 1688	102	Sodium cacodylate
UN 1689	102	Sodium cyanide
UN 1689	101	Sodium cyanide, solid
UN 1689	101	Sodium cyanide solution
UN 1690	102	Sodium fluoride
UN 1690	101	Sodium fluoride, solid
NA 1690	101	Sodium fluoride solution
UN 1691	102	Strontium arsenite
UN 1691	101	Strontium arsenite, solid
UN 1692	102	Strychnine
UN 1692	101	Strychnine salt, solid
UN 1692	101	Strychnine, solid
NA 1693	101	Irritating agent, n.o.s.
NA 1693	101	ORM-A, n.o.s.
UN 1693	102	Tear gas
UN 1694	102	Bromobenzyl cyanide
UN 1695	102	Chloroacetone
NA 1695	101	Monochloroacetone, stabilized *or* inhibited
UN 1697	102	Chloroacetophenone
UN 1697	101	Chloroacetophenone, gas, liquid, *or* solid
UN 1698	101	Diphenylaminechloroarsine
UN 1699	102	Diphenylchloroarsine
UN 1700	101	Tear gas candle
UN 1700	102	Tear gas candles
UN 1701	101	Xylyl bromide
UN 1702	102	1,1,2,2-Tetrachloroethane
UN 1702	101	Tetrachloroethane
UN 1703	102	Tetraethyl dithopyrophosphate
UN 1703	101	Tetraethyl dithopyrophosphate and compressed gas mixture
UN 1704	102	Tetraethyl dithiopyrophosphate
UN 1704	101	Tetraethyl dithiopyrophosphate, liquid
UN 1704	101	Tetraethyl dithiopyrophosphate mixture, dry
UN 1704	101	Tetraethyl dithiopyrophosphate mixture, liquid
UN 1705	102	Tetraethyl pyrophosphate and compressed gas
UN 1705	101	Tetraethyl pyrophosphate and compressed gas mixture
UN 1707	102	Thallium compounds
NA 1707	101	Thallium salt, solid, n.o.s.
NA 1707	101	Thallium sulfate, solid
UN 1708	102	Toluidines
UN 1709	102	2,4-Toluylenediamine
NA 1709	101	Toluenediamine
UN 1710	101	Trichloroethylene
UN 1711	102	Xylidines
UN 1712	101	Zinc arsenate
UN 1712	102	Zinc arsenate and arsenite
UN 1712	101	Zinc arsenite, solid
UN 1713	101	Zinc cyanide
UN 1714	101	Zinc phosphide
UN 1715	101	Acetic anhydride
UN 1716	101	Acetyl bromide
UN 1717	101	Acetyl chloride
UN 1718	101	Acid butyl phosphate
NA 1719	101	Alkaline
UN 1719	102	Caustic alkali liquids, n.o.s.
UN 1722	101	Allyl chlorocarbonate
UN 1722	102	Allyl chloroformate
UN 1723	102	Allyl iodide
UN 1724	101	Allyl trichlorosilane
UN 1725	102	Aluminum bromide
UN 1725	101	Aluminum bromide, anhydrous
UN 1726	102	Aluminum chloride
UN 1727	102	Ammonium hydrogen fluoride
UN 1727	101	Ammonium hydrogen fluoride, solid
UN 1728	102	Amyl trichlorosilane
UN 1728	101	Amyl trichorosilane
UN 1729	101	Anisoyl chloride
UN 1730	101	Antimony pentachloride
UN 1731	102	Antimony pentachloride
UN 1731	101	Antimony pentachloride solution
UN 1732	101	Antimony pentafluoride
UN 1733	102	Antimony trichloride
UN 1733	101	Antimony trichloride, solid
UN 1733	101	Antimony trichloride solution
UN 1734	102	Batteries
UN 1735	102	Battery fluid
UN 1736	101	Benzoyl chloride
UN 1737	101	Benzyl bromide
UN 1738	101	Benzyl chloride
UN 1739	101	Benzyl chloroformate
UN 1740	102	Bifluorides, n.o.s.
UN 1741	101	Boron trichloride
UN 1742	102	Boron trifluoride acetic acid complex
UN 1742	101	Boron trifluoride-acetic acid complex
UN 1743	102	Boron trifluoride propionic acid complex
UN 1744	101	Bromine
UN 1745	101	Bromine pentafluoride
UN 1746	101	Bromine trifluoride
UN 1747	101	Butyl trichlorosilane
UN 1748	102	Calcium hypochlorite
UN 1748	101	Calcium hypochlorite mixture
UN 1749	101	Chlorine trifluoride
UN 1750	102	Chloroacetic acid
UN 1750	101	Chloroacetic acid, liquid *or* solution
UN 1751	102	Chloroacetic acid
UN 1751	101	Chloroacetic acid, solid
UN 1752	101	Chloroacetyl chloride
UN 1753	102	Chlorophenyl trichlorosilane
UN 1753	101	Chlorophenyltrichlorosilane
UN 1754	101	Chlorosulfonic acid
UN 1754	101	Chlorosulfonic acid-sulfur trioxide mixture
UN 1754	102	Chlorosulphonic acid
UN 1754	102	Dichloroacetyl chlonde
UN 1755	102	Chromic acid
UN 1755	101	Chromic acid solution
UN 1756	102	Chromic fluoride
UN 1756	101	Chromic fluoride, solid
UN 1757	102	Chromic fluoride
UN 1757	101	Chromic fluoride solution
UN 1758	102	Chromium oxychonde
UN 1758	101	Chromium oxychloride *or* Chromyl chlonde
UN 1759	102	Cleaning compounds
UN 1759	101	Corrosive solid, n.o.s.
(UN 1759)	102	Corrosive solids, n.o.s.
NA 1759	101	Cosmetics, solid, n.o.s.
NA 1759	101	Drugs, n.o.s. solid
NA 1759	101	Ferrous chloride, solid
NA 1759	101	Stannous chloride, solid
NA 1760	101	Acid, liquid, n.o.s.
UN 1760	102	Alkaline corrosive liquids, n.o.s.
NA 1760	101	Aluminum phosphate solution
NA 1760	101	Aluminum sulfate solution
NA 1760	101	2-(2-Aminoethoxy) ethanol
NA 1760	101	Aminopropyldiethanolamine
NA 1760	101	N-Aminopropylmorpholine
NA 1760	101	bis (Aminopropyl) piperazine
NA 1760	101	Boiler compound, liquid
NA 1760	101	Chemical kit
NA 1760	101	Compound, cleaning, liquid
NA 1760	101	Compound, lacquer, paint, *or* varnish removing, liquid
NA 1760	101	Compound, rust preventing *or* Compound, rust removing
NA 1760	101	Compound, tree *or* weed killing, liquid
NA 1760	101	Compound, vulcanizing, liquid
UN 1760	101	Corrosive liquid, n.o.s.
UN 1760	102	Corrosive liquids, n.o.s.
NA 1760	101	Cosmetics, liquid, n.o.s.
NA 1760	101	2,2-Dichloropropionic acid
NA 1760	101	Drugs, n.o.s. liquid
NA 1760	101	Ethyl phosphonothioic dichlonde, anhydrous
NA 1760	101	Ethyl phosphonous dichloride, anhydrous
NA 1760	101	Ethyl phosphorodichloridate
NA 1760	101	Ferrous chloride, solution
NA 1760	101	Flame retardant compound liquid
NA 1760	101	Hexanoic acid
NA 1760	101	Isopentanoic acid
NA 1760	101	Memtetrahydro phthalic anhydride
NA 1760	101	Methyl phosphonothioic dichloride, anhydrous
NA 1760	101	Methyl phosphonous dichloride
NA 1760	101	Morpholine, aqueous, mixture
NA 1760	101	Nitric acid, 40% or less
NA 1760	101	ORM-B, n.o.s.
NA 1760	101	Textile treating compound *or* mixture, liquid
NA 1760	101	Titanium sulfate solution
NA 1760	101	Valeric acid
NA 1760	101	Water treatment compounds, liquid
NA 1760	101	White acid
UN 1761	102	Cupriethylenediamne
UN 1761	101	Cupriethylene-diamine solution
UN 1762	101	Cyclohexenyl trichlorosilane
UN 1763	101	Cyclohexyl trichlorosilane
UN 1764	101	Dichloroacetic acid
UN 1765	101	Dichloroacetyl chloride
UN 1766	102	Dichlorophenyl trichlorosilane
UN 1766	101	Dichlorophenyltrichlorosilane
UN 1767	101	Diethyl dichlorosilane
UN 1768	102	Difluorophosphoric acid
UN 1768	101	Difluorophosphoric acid, anhydrous
UN 1769	101	Diphenyl dichlorosilane
UN 1770	102	Diphenylmathyl bromide
UN 1770	101	Diphenyl methyl bromide, solid
UN 1770	101	Diphenyl methyl bromide solution
UN 1771	101	Dodecyl trichlorosilane
UN 1773	102	Ferric chloride
UN 1773	101	Ferric chloride, solid
UN 1774	101	Fire extinguisher charge containing sulfuric acid
UN 1774	102	Fire extinguisher charges
UN 1775	101	Fluoboric acid
UN 1776	102	Fluorophosphoric acid
UN 1776	101	Monofluorophosphoric acid, anhydrous
UN 1777	101	Fluorosulfonic acid *or* Fluosulfonic acid
UN 1777	102	Fluorosulphonic acid
UN 1778	102	Fluosilicic acid
NA 1778	101	Hydrofluorosilicic acid
UN 1779	101	Formic acid
NA 1779	101	Formic acid solution
UN 1780	101	Fumaryl chloride
UN 1781	102	Hexadecyl trichlorosilane
UN 1781	101	Hexadecyltrichlorosilane
UN 1782	101	Hexafluorophosphoric acid
UN 1783	102	Hexamethylenediamne
UN 1783	101	Hexamethylenediamne, solution
UN 1784	102	Hexyl trichlorosilane
UN 1784	101	Hexyltrichlorosilane
UN 1786	102	Acid mixtures
UN 1786	101	Hydrofluoric and sulfuric acid mixture
UN 1787	101	Hydriodic acid
UN 1788	101	Hydrobromic acid
UN 1788	101	Hydrobromic acid not more than 49% strength
NA 1789	101	Compound, cleaning, liquid (containing hydrochloric (muriatic) acid)
UN 1789	101	Hydrochloric acid
NA 1789	101	Hydrochloric acid mixture
UN 1789	101	Hydrochloric acid solution, inhibited
NA 1790	101	Compound, cleaning, liquid (containing hydrofluoric acid)
NA 1790	101	Etching acid, liquid, n.o.s.
UN 1790	102	Hydrofluoric acid
UN 1790	101	Hydrofluoric acid solution
NA 1790	101	Hydrogen fluoride

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1791	102	Hypochlorite
NA 1791	101	Hypochlorite solution
NA 1791	101	Hypochlorite solution containing not more than 7% available chlorine
UN 1792	101	Iodine monochloride
UN 1793	102	Isopropyl acid phosphate
UN 1793	101	Isopropyl acid phosphate, solid
NA 1794	101	Lead dross
UN 1794	101	Lead sulfate, solid
UN 1794	102	Lead sulphate
UN 1796	102	Acid mixtures
NA 1796	101	Nitrating acid
NA 1796	101	Nitrating acid, spent
UN 1798	101	Nitrohydrochloric acid
NA 1798	101	Nitrohydrochloric acid, diluted
UN 1799	102	Nonyl trichlorosilane
UN 1799	101	Nonyltrichlorosilane
UN 1800	102	Octadecyl trichlorosilane
UN 1800	101	Octadecyltrichlorosilane
UN 1801	102	Octyl trichlorosilane
UN 1801	101	Octyltrichlorosilane
UN 1802	102	Perchloric acid
UN 1802	101	Perchloric acid, not over 50% acid
UN 1803	102	Phenolsulphonic acid
UN 1804	102	Phenyl trichlorosilane
UN 1804	101	Phenyltrichlorosilane
UN 1805	102	o-Phosphoric acid
UN 1805	101	Phosphoric acid
UN 1806	102	Phosphorus pentachloride
UN 1806	101	Phosphorus pentachloride, solid
NA 1807	101	Phosphoric anhydride
UN 1807	102	Phosphorus pentoxide
UN 1808	101	Phosphorus tribromide
UN 1809	101	Phosphorus trichloride
UN 1810	101	Phosphorus oxychloride
UN 1810	102	Phosphoryl chloride
UN 1811	102	Potassium bifluoride
NA 1811	101	Potassium hydrogen fluoride solution
UN 1812	101	Potassium fluoride
UN 1812	101	Potassium fluoride solution
UN 1813	102	Potassium hydroxide
UN 1813	101	Potassium hydroxide, dry solid, flake, bead, *or* granular
UN 1814	102	Potassium hydroxide
UN 1814	101	Potassium hydroxide, liquid *or* solution
UN 1815	102	Propionyl chloride
UN 1816	101	Propyl trichlorosilane
UN 1817	101	Pyrosulfuryl chloride
UN 1817	102	Pyrosulphuryl chloride
UN 1818	101	Silicon chloride *or* Silicon tetrachloride
UN 1818	102	Silicon tetrachloride
UN 1819	102	Sodium aluminate
UN 1819	101	Sodium aluminate solution
UN 1821	101	Sodium hydrogen sulfate, solid
UN 1821	102	Sodium hydrogen sulphate
UN 1823	102	Sodium hydroxide
UN 1823	101	Sodium hydroxide, dry solid, flake, bead, *or* granular
UN 1824	102	Sodium hydroxide
UN 1824	101	Sodium hydroxide, liquid *or* solution
UN 1825	102	Sodium monoxide
UN 1825	101	Sodium monoxide, solid
UN 1826	102	Acid mixtures
UN 1827	102	Stannic chloride
UN 1827	101	Tin tetrachloride, anhydrous
UN 1828	101	Sulfur chloride
UN 1828	102	Sulphur chlorides
UN 1829	101	Sulfur trioxide
UN 1829	102	Sulphur trioxide
UN 1830	101	Sulfuric acid
UN 1830	102	Sulphuric acid
NA 1831	101	Oleum
UN 1831	102	Sulphuric acid
UN 1832	101	Sulfuric acid, spent
UN 1832	102	Sulphuric acid
UN 1833	101	Sulfurous acid
UN 1833	102	Sulphurous acid
UN 1834	101	Sulfuryl chloride
UN 1834	102	Sulphuryl chloride
UN 1835	102	Tetramethylammonium hydroxide
UN 1835	101	Tetramethylammonium hydroxide, liquid
UN 1836	101	Thionyl chloride
UN 1837	101	Thiophosphoryl chloride
UN 1838	101	Titanium tetrachloride
UN 1839	102	Trichloroacetic acid
UN 1839	101	Trichloroacetic acid, solid
UN 1840	102	Zinc chloride
UN 1840	101	Zinc chloride solution
UN 1841	101	Acetaldehyde ammonia
UN 1842	102	Acetic acid
UN 1843	102	Ammonium dinitro-o-cresolate
UN 1845	101	Carbon dioxide, solid, *or* Dry ice, *or* Carbonice
UN 1846	101	Carbon tetrachloride
UN 1847	102	Potassium sulphide
UN 1848	101	Propionic acid
NA 1848	101	Propionic acid solution
UN 1849	102	Sodium sulphide
UN 1850	101	Eradicator, paint *or* grease, liquid
UN 1850	102	Eradicators
UN 1851	101	Medicines, n.o.s.
UN 1851	101	Medicines, n.o.s., liquid
UN 1851	101	Medicines, n.o.s., solid
UN 1854	102	Barium alloys
UN 1855	102	Calcium
UN 1856	102	Rags
UN 1856	101	Rags, oily
UN 1857	102	Textile waste
UN 1857	101	Textile waste, wet
UN 1857	101	Waste textile, wet
UN 1858	101	Hexafluoropropylene
UN 1859	101	Silicon tetrafluoride
UN 1860	102	Vinyl fluoride
UN 1860	101	Vinyl fluoride, inhibited
UN 1862	101	Ethyl crotonate
UN 1863	102	Fuel, aviation
UN 1863	101	Fuel, aviation, turbine engine
UN 1864	102	Gas drips
UN 1864	101	Gas drips, hydrocarbon
UN 1865	102	n-Propyl nitrate
UN 1866	102	Resin
UN 1866	101	Resin solution
UN 1867	102	Cigarettes
UN 1868	101	Decaborane
UN 1869	102	Magnesium
UN 1869	102	Magnesium alloys
UN 1869	101	Magnesium, metal
UN 1870	102	Potassium borohydride
UN 1871	102	Titanium hydride
UN 1872	102	Lead dioxide
UN 1872	101	Lead peroxide
UN 1873	101	Perchloric acid
UN 1884	101	Banum oxide
UN 1885	101	Benzidine
UN 1886	102	Benzylidene chloride
UN 1887	101	Bromochloromethane
UN 1888	101	Chloroform
UN 1889	101	Cyanogen bromide
UN 1891	102	Ethyl bromide
UN 1892	102	Ethyl dichloroarsine
UN 1893	102	Organophosphates
UN 1894	102	Phenylmercuric hydroxide
UN 1895	102	Phenylmercuric nitrate
UN 1897	102	Tetrachloroethylene
UN 1897	101	Tetrachloroethylene *or* Perchloroethylene
UN 1898	101	Acetyl iodide
UN 1899	102	Alkanesulphonic acids
UN 1901	102	Calcium hydrogen sulphite
NA 1902	101	Di-(2-ethylhexyl) phosphoric acid
UN 1902	101	Diisooctyl acid phosphate
UN 1903	101	Disinfectant, liquid
UN 1903	102	Disinfectants
UN 1905	102	Selenic acid
UN 1905	101	Selenic acid, liquid
UN 1906	101	Acid, sludge
UN 1906	102	Sludge acid
UN 1907	102	Soda lime
UN 1907	101	Soda lime, solid
UN 1908	102	Sodium chlorite
UN 1908	101	Sodium chlorite solution
UN 1909	102	Sodium hydrogen sulphite
UN 1910	101	Calcium oxide
UN 1911	102	Diborane
UN 1911	101	Diborane *or* diborane mixtures
UN 1912	102	Methyl chloride and methylene chloride
UN 1912	101	Methyl chloride-methylene chloride mixture
UN 1913	102	Neon
UN 1914	102	Butyl propionate
UN 1915	102	Cyclohexanone
UN 1916	102	Dichloroethyl ether
UN 1917	102	Ethyl acrylate
UN 1917	101	Ethyl acrylate, inhibited
UN 1918	102	Isopropylbenzene
UN 1919	102	Methyl acrylate
UN 1919	101	Methyl acrylate, inhibited
UN 1920	102	Nonane
UN 1921	102	Propyleneimine
UN 1921	101	Propyleneimine, inhibited
UN 1922	101	Pyrrolidine
UN 1923	102	Calcium dithionite
UN 1924	102	Ethyl aluminium dichloride
UN 1925	102	Ethyl aluminium sesquichloride
UN 1926	102	Methyl aluminium sesquibromide
UN 1927	102	Methyl aluminium sesquichloride
UN 1928	102	Methyl magnesium bromide
UN 1928	101	Methyl magnesium bromide in ethyl ether
UN 1929	102	Potassium dithionite
UN 1930	102	Triisobutyl aluminium
UN 1931	102	Zinc dithionite
UN 1931	101	Zinc hydrosulfite
UN 1932	102	Zirconium
UN 1932	101	Zirconium scrap
UN 1935	102	Cyanides
UN 1938	102	Bromoacetic acid
UN 1938	101	Bromoacetic acid, solid
UN 1938	101	Bromoacetic acid solution
UN 1939	101	Phosphorus oxybromide
UN 1940	101	Thioglycolic acid
UN 1941	101	Dibromodifluoromethane
UN 1942	102	Ammonium nitrate
NA 1942	101	Ammonium nitrate (no organic coating)
NA 1942	101	Ammonium nitrate (organic coating)
UN 1944	102	Matches
UN 1944	101	Matches, safety
UN 1945	102	Matches
UN 1950	102	Aerosol dispensers
UN 1951	102	Argon
UN 1951	101	Argon, liquid pressurized
UN 1952	102	Ethylene oxide and carbon dioxide
UN 1953	102	Compressed *or* liquefied gases
(UN 1953)	102	Stibine
(UN 1953)	102	Water-gas
UN 1954	101	Compressed gas, n.o.s.
UN 1954	102	Compressed *or* liquefied gases
NA 1954	101	Refrigerating machine
NA 1955	101	Chloropicrin and nonflammable, nonliquefied compressed gas mixture
UN 1955	102	Compressed *or* liquefied gases
NA 1955	101	Methyl bromide and nonflammable, nonliquefied compressed gas mixture, liquid
NA 1955	101	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound, mixed with compressed gas
(UN 1955)	102	Perchloryl fluoride
(UN 1955)	102	Phosphorus trifluoride
(UN 1955)	102	Tetrafluorohydrazine
NA 1956	101	Accumulator, pressurized
UN 1956	101	Compressed gas, n.o.s.
UN 1956	102	Compressed *or* liquefied gases
NA 1956	101	Dichlorodifluoromethane-dichlorotetrafluoroethane mixture
NA 1956	101	Dichlorodifluoromethane-monochlorodifluoromethane mixture
NA 1956	101	Dichlorodifluoromethane-trichloromonofluoromethane mixture
NA 1956	101	Dichlorodifluoromethane-trichlorotrifluoroethane mixture
NA 1956	101	Hexafluoropropylene oxide
NA 1956	101	Liquefied nonflammable gas
NA 1956	101	Water pump system
UN 1957	102	Deuterium
UN 1958	102	Dichlorotetrafluoroethane

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APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1959	102	1,1-Difluoroethylene
UN 1960	101	Engine starting fluid
UN 1961	102	Ethane
UN 1962	101	Ethylene
UN 1963	102	Helium
UN 1964	102	Hydrocarbon gases
UN 1964	101	Hydrocarbon gas, nonliquefied
UN 1965	102	Hydrocarbon gases
UN 1965	101	Hydrocarbon gas, liquefied
UN 1966	102	Hydrogen
UN 1966	101	Hydrogen, liquefied
UN 1967	102	Insecticide gases
NA 1967	101	Insecticide, liquefied gas, containing Poison A material *or* Poison B material
NA 1967	101	Parathion and compressed gas mixture
UN 1968	102	Insecticide gases
NA 1968	101	Insecticide, liquefied gas
UN 1969	102	Isobutane
UN 1970	102	Krypton
UN 1971	101	Methane
UN 1971	102	Methane *or* natural gases
UN 1972	102	Methane *or* natural gases
UN 1973	102	Chlorodifluoromethane and chloropentafluoroethane
UN 1974	102	Chlorodifluorobromomethane
UN 1975	102	Nitric oxide and nitrogen tetroxide
UN 1976	102	Octafluorocyclobutane
UN 1977	102	Nitrogen
UN 1977	101	Nitrogen, pressurized liquid
UN 1978	102	Propane
UN 1979	102	Rare gases
NA 1980	101	Helium-oxygen mixture
UN 1980	102	Rare gases
UN 1981	102	Rare gases
UN 1982	102	Tetrafluoromethane
UN 1983	102	Trifluorochloroethane
UN 1984	102	Trifluoromethane
UN 1986	102	Alcohols
NA 1986	101	Denatured alcohol
NA 1986	101	Propargyl alcohol
NA 1986	101	Rum, denatured
UN 1987	101	Alcohol, n.o.s.
UN 1987	102	Alcohols
UN 1988	102	Aldehydes
UN 1989	102	Aldehydes
UN 1989	101	Benzaldehyde
UN 1990	102	Benzaldehyde
UN 1991	102	Chloroprene
UN 1991	101	Chloroprene, inhibited
UN 1992	101	Flammable liquid, poisonous, n.o.s
UN 1992	102	Flammable liquids
NA 1993	101	Combustible liquid, n.o.s.
NA 1993	101	Compound, cleaning, liquid
NA 1993	101	Compound, tree *or* weed killing, liquid
NA 1993	101	Cosmetics, n.o.s.
NA 1993	101	Creosote, coal tar
NA 1993	101	Crude oil, petroleum
NA 1993	101	Disinfectant, liquid, n.o.s
NA 1993	101	Drugs, n.o.s.
NA 1993	101	Drugs, n.o.s.
NA 1993	101	Ethyl nitrate
UN 1993	101	Flammable liquid, n.o.s.
UN 1993	102	Flammable liquids
NA 1993	101	Fuel oil
NA 1993	101	Fuel oil, No. 1, 2, 4, 5 *or* 6
NA 1993	101	Heater for refrigerator car, liquid fuel type
NA 1993	101	Insecticide, liquid, n.o.s.
NA 1993	101	Mortar stain, liquid
NA 1993	101	Nitrostarch, wet with not less than 30% alcohol *or* solvent
NA 1993	101	Organic peroxide liquid *or* solution, n.o.s.
NA 1993	101	Plastic solvent, n.o.s.
NA 1993	101	Refrigerating machine
NA 1993	101	Solvent, n.o.s.
NA 1993	101	Wax, liquid
UN 1994	102	Iron carbonyl
UN 1995	102	Pesticides
UN 1996	102	Pesticides
UN 1997	102	Solvents
UN 1998	102	Solvents

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
NA 1999	101	Asphalt
NA 1999	101	Asphalt, cut back
UN 1999	102	Cut-backs
UN 1999	101	Tar, liquid
UN 2000	102	Celluloid
UN 2001	102	Cobalt naphthenates
UN 2002	102	Celluloid
UN 2003	102	Aluminium alkylchlondes
UN 2003	102	Aluminium alkyls
UN 2003	102	Aluminium tributyl
UN 2003	102	Metal alkyls, n.o.s.
UN 2004	102	Magnesium diamide
UN 2005	102	Magnesium diphenyl
UN 2006	102	Plastics
NA 2006	101	Pyroxylin plastic scrap
NA 2006	101	Pyroxylin plastics, rods, sheets, rolls, *or* tubes
UN 2008	102	Zirconium
UN 2008	101	Zirconium metal, dry
UN 2008	102	Zirconium metal powder, dry
UN 2009	102	Zirconium
UN 2010	102	Magnesium hydnde
UN 2011	102	Magnesium phosphide
UN 2012	102	Potassium phosphide
UN 2013	102	Strontium phosphide
UN 2014	102	Hydrogen peroxide
UN 2014	101	Hydrogen peroxide solution
UN 2015	102	Hydrogen peroxide
UN 2015	101	Hydrogen peroxide solution
UN 2016	102	Ammunition
UN 2016	101	Chemical ammunition, nonexplosive
NA 2016	101	Grenade
UN 2017	102	Ammunition
UN 2017	101	Chemical ammunition, nonexplosive
NA 2017	101	Grenade, tear gas
UN 2018	102	Chloroanilines
UN 2019	102	Chloroanilines
UN 2020	102	Chlorophenates
UN 2020	102	Chlorophenols
NA 2020	101	Pentachlorophenol
NA 2020	101	Trichlorophenol
UN 2021	102	Chlorophenates
UN 2021	102	Chlorophenols
UN 2022	102	Cresylic acid
NA 2022	101	Mining reagent, liquid
UN 2023	101	Epichlorohydrin
UN 2024	102	Mercury compounds
NA 2025	101	Mercuric subsulfate, solid
UN 2025	101	Mercury compound, n.o.s., solid
UN 2025	102	Mercury compounds
UN 2026	102	Phenylmercuric compounds, n.o.s
UN 2027	102	Sodium arsenite
UN 2028	102	Bombs, smoke
UN 2029	102	Hydrazine
UN 2029	101	Hydrazine, anhydrous
UN 2030	102	Hydrazine
UN 2030	101	Hydrazine, aqueous solution
UN 2031	101	Nitric acid
UN 2032	102	Nitric acid
UN 2032	101	Nitric acid, fuming
UN 2033	102	Potassium oxide
UN 2034	102	Hydrogen and methane
UN 2035	102	Trifluoroethane
UN 2036	101	Xenon
UN 2037	102	Cartouche
UN 2037	102	Gas cartridges
UN 2037	102	Receptacles
UN 2038	102	Dinitrotoluenes
UN 2044	102	2,2-Dimethylpropane
UN 2045	102	Isobutyraldehyde
UN 2046	102	p-Cymene
UN 2047	101	Dichloropropene
NA 2047	101	Dichloropropene and propylene dichloride mixture
UN 2048	102	Dicyclopentadiene
UN 2049	102	Diethylbenzene
UN 2050	102	Diisobutylene
UN 2051	102	Dimethylethanolamine
UN 2052	102	Dipentene
UN 2053	102	Methyl isobutyl carbinol
UN 2054	101	Morpholine
NA 2054	101	Morpholine, aqueous, mixture
UN 2055	102	Styrene monomer
UN 2055	101	Styrene monomer, inhibited
UN 2056	101	Tetrahydrofuran

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2057	102	Tripropylene
UN 2058	102	Valeraldehyde
UN 2059	101	Box toe gum
NA 2059	101	Collodion
UN 2059	102	Nitrocellulose
NA 2059	101	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% alcohol *or* solvent, *or* block, wet with not less than 25% alcohol
NA 2059	101	Pyroxylin solution
NA 2059	101	Pyroxylin solvent, n.o.s
UN 2060	101	Box toe gum
UN 2065	102	Endrin
UN 2067	101	Ammonium nitrate fertilizer
UN 2067	102	Ammonium nitrate fertilizers
UN 2068	101	Ammonium nitrate-carbonate mixture
UN 2069	101	Ammonium nitrate mixed fertilizer
UN 2070	101	Ammonium nitrate-phosphate
UN 2071	102	Ammonium nitrate fertilizers
UN 2072	102	Ammonium nitrate fertilizer
UN 2073	102	Ammonia
UN 2073	101	Ammonia solution
UN 2074	102	Acrylamide
UN 2075	102	Chloral
NA 2076	101	Cresol
UN 2076	102	Cresols
UN 2077	102	Naphthylamine
UN 2078	101	Toluene diisocyanate
UN 2079	102	Diethylenetriamine
UN 2080	101	Acetyl acetone peroxide
UN 2081	101	Acetyl benzoyl peroxide
UN 2081	101	Acetyl benzoyl peroxide solution
UN 2082	101	Acetyl cyclohexanesulphonyl peroxide
UN 2082	102	Acetyl cyclohexane sulphonyl peroxide
UN 2083	101	Acetyl cyclohexanesulphonyl peroxide
UN 2083	102	Acetyl cyclohexane sulphonyl peroxide
UN 2084	101	Acetyl peroxide
UN 2084	101	Acetyl peroxide solution
NA 2085	101	Benzoyl peroxide
UN 2086	102	Benzoyl peroxide
UN 2087	101	Benzoyl peroxide
UN 2088	101	Benzoyl peroxide
UN 2089	101	Benzoyl peroxide
UN 2090	101	Benzoyl peroxide
UN 2091	101	tert-Butyl cumyl peroxide
NA 2091	101	tert-Butyl isopropyl benzene hydroperoxide
UN 2091	102	tert-Butyl cumyl peroxide
UN 2092	101	tert-Butyl hydroperoxide
UN 2092	102	tert-Butyl hydroperoxide
UN 2093	101	tert-Butyl hydroperoxide
UN 2093	102	tert-Butyl hydroperoxide
UN 2094	101	tert-Butyl hydroperoxide
UN 2094	102	tert-Butyl hydroperoxide
UN 2095	101	tert-Butyl peroxyacetate
UN 2095	102	tert-Butyl peracetate
UN 2096	101	tert-Butyl peroxyacetate
UN 2096	102	tert-Butyl peracetate
UN 2097	101	tert-Butyl peroxybenzoate
UN 2097	102	tert-Butyl perbenzoate
UN 2098	101	tert-Butyl peroxybenzoate
UN 2098	102	tert-Butyl perbenzoate
UN 2099	101	tert-Butyl peroxymaleate
UN 2099	102	tert-Butyl permaleate
UN 2100	101	tert-Butyl peroxymaleate
UN 2100	102	tert-Butyl permaleate
UN 2101	101	tert-Butyl peroxymaleate
UN 2101	102	tert-Butyl permaleate
UN 2102	101	Di-tert-Butyl peroxide
UN 2102	102	tert-Butyl peroxide
UN 2103	101	tert-Butyl peroxyisopropyl carbonate
UN 2103	102	tert-Butyl peroxy isopropyl carbonate
UN 2104	101	tert-Butyl peroxy-3,5,5-trimethylhexanoate *or* tert-Butyl peroxyisononanoate
UN 2104	102	tert-Butyl peroxy-3,5,5-trimethyl hexanoate
UN 2105	101	tert-Butyl peroxyphthalate
UN 2105	102	tert-Butyl monoperphthalate
UN 2106	101	Di-(tert-butylperoxy)phthalate
UN 2106	102	tert-Butyl diperphthalate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2107	101	Di-(tert-butylperoxy)phthalate
UN 2107	102	tert-Butyl dperphthalate
UN 2108	101	Di-(tert-butylperoxy)phthalate
UN 2108	102	tert-Butyl diperphthalate
UN 2110	101	tert-Butyl peroxypivalate
UN 2110	102	tert-Butyl perpivalate
UN 2111	102	2,2-Bis-(tert-butylperoxy) butane
UN 2111	101	2,2-Di-(tert-butylperoxy)butane
UN 2112	102	1,4-Bis-(2-tert-butylperoxy isopropyl) benzene, *or* 1,3-bis-(2-tert-butylperoxy isopropyl) benzene
UN 2112	101	1,3-Di-(2-tert-butylperoxyisopropyl) benzene
UN 2112	101	1,3-Di-(2-tert-butylperoxyisopropyl) benzene and 1,4-Di-(2-tert-butylperoxyisopropyl) benzene mixture
UN 2113	101	p-Chlorobenzoyl peroxide
UN 2113	102	p-Chlorobenzoyl peroxide
UN 2114	101	p-Chlorobenzoyl peroxide
UN 2114	102	p-Chlorobenzoyl peroxide
UN 2115	101	p-Chlorobenzoyl peroxide
UN 2115	102	p-Chlorobenzoyl peroxide
UN 2116	101	Cumene hydroperoxide
UN 2117	102	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide
UN 2118	102	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide
UN 2118	101	Cyclohexanone peroxide
UN 2119	102	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide
UN 2119	101	Cyclohexanone peroxide
UN 2120	101	Decanoyl peroxide
NA 2121	101	Dicumyl peroxide
UN 2121	101	Dicumyl peroxide, dry
UN 2122	102	Di-(2-ethylhexyl) perdicarbonate
UN 2122	101	Di-(2-ethylhexyl) peroxydicarbonate
UN 2123	102	Di-(2-ethylhexyl) perdicarbonate
UN 2123	101	Di-(2-ethylhexyl) peroxydicarbonate
UN 2124	101	Lauroyl peroxide
UN 2125	101	p-Menthane hydroperoxide
UN 2125	101	Paramenthane hydroperoxide
UN 2125	102	p-Menthane hydroperoxide
UN 2126	102	Isobutyl methyl ketone peroxide
UN 2126	101	Methyl isobutyl ketone peroxide
UN 2127	102	Ethyl methyl ketone peroxide(s)
UN 2128	102	Isononanoyl peroxide
UN 2128	101	Isononanyl peroxide
NA 2129	101	Caprylyl peroxide solution
UN 2129	102	n-Octanoyl peroxide
UN 2129	101	n-Octanoyl peroxide
UN 2130	102	n-Nonanoyl peroxide
UN 2130	101	Pelargonyl peroxide
UN 2131	102	Peracetic acid
NA 2131	101	Peracetic acid solution
UN 2131	101	Peroxyacetic acid
UN 2132	101	Propionyl peroxide
UN 2133	102	Diisopropyl perdicarbonate
NA 2133	101	Isopropyl percarbonate, unstabilized
UN 2133	101	Isopropyl peroxydicarbonate
UN 2134	102	Diisopropyl perdicarcbonate
NA 2134	101	Isopropyl percarbonate, stabilized
UN 2134	101	Isopropyl peroxydicarbonate
UN 2135	101	Succinic acid peroxide
UN 2136	101	Tetralin hydroperoxide
UN 2137	102	2,4-Dichlorobenzoyl peroxide
UN 2137	101	2,4-Dichlorobenzoyl peroxide
UN 2138	102	2,4-Dichlorobenzoyl peroxide
UN 2138	101	2,4-Dichlorobenzoyl peroxide
UN 2139	102	2,4-Dichlorobenzoyl peroxide
UN 2139	101	2,4-Dichlorobenzoyl peroxide
UN 2140	101	n-Butyl-4,4-di-(tert-butylperoxy)valerate
UN 2140	102	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate
UN 2141	101	n-Butyl-4,4-di-(tert-butylperoxy)valerate
UN 2141	102	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate
UN 2142	101	tert-Butyl peroxyisobutyrate
UN 2142	102	tert-Butyl perisobutyrate
UN 2143	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2143	102	tert-Butyl per-(2-ethyl) hexanoate
UN 2144	101	tert-Butyl peroxydiethylacetate
UN 2144	102	tert-Butyl perdiethylacetate

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2145	102	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2145	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2146	102	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2146	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2147	102	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2147	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2148	102	Bis-(1-hydroxy cyclohexyl) peroxide
UN 2148	101	Di-(1-hydroxycyclohexyl) peroxide
UN 2149	102	Dibenzyl perdicarbonate
UN 2149	101	Dibenzyl peroxydicarbonate
UN 2150	102	Di-sec-butyl perdicarbonate
UN 2150	101	Di-sec-butyl peroxydicarbonate
UN 2151	102	Di-sec-butyl perdicarbonate
UN 2151	101	Di-sec-butyl peroxydicarbonate
UN 2152	102	Dicyclohexyl perdicarbonate
UN 2152	101	Dicyclohexyl peroxydicarbonate
UN 2153	102	Dicyclohexyl perdicarbonate
UN 2153	101	Dicyclohexyl peroxydicarbonate
UN 2154	102	Bis-(4-tert-butyl cyclohexyl) perdicarbonate
UN 2154	101	Di-(4-tert-butylcyclohexyl)peroxydicarbonate
UN 2155	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane
UN 2155	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane
UN 2156	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane
UN 2156	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane
UN 2157	102	2,5-Dimethyl-2,5-bis-(2-ethylhexanoylperoxy) hexane
UN 2157	101	2,5-Dimethyl-2,5-di-(2-ethylhexanoylperoxy)hexane
UN 2158	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3
UN 2158	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3
UN 2159	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3
UN 2159	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3
UN 2160	102	1,1,3,3-Tetramethyl butyl hydroperoxide
UN 2160	101	1,1,3,3-Tetramethylbutyl hydroperoxide
UN 2161	102	1,1,3,3-Tetramethyl butyl peroxy-2-ethyl hexanoate
UN 2161	101	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate
UN 2162	101	Pinane hydroperoxide
UN 2162	101	Pinane hydroperoxide solution
UN 2163	101	Diacetone alcohol peroxide
UN 2163	102	Diacetone alcohol peroxides
UN 2164	102	Dicetyl perdicarbonate
UN 2164	101	Dicetyl peroxydicarbonate
UN 2165	102	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane
UN 2165	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2166	102	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane
UN 2166	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2167	102	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane
UN 2167	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2168	102	2,2-Bis-(4,4-di-tert-butylperoxy cyclohexyl) propane
UN 2168	101	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl)propane
UN 2169	101	n-Butyl peroxydicarbonate
UN 2169	102	n-Butyl perdicarbonate
UN 2170	101	n-Butyl peroxydicarbonate
UN 2170	102	n-Butyl perdicarbonate
UN 2171	101	Diisopropylbenzene hydroperoxide
UN 2171	101	Diisopropylbenzene hydroperoxide solution

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2172	102	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane
UN 2172	101	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane
UN 2173	102	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane
UN 2173	101	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane
UN 2174	102	2,5-Dimethyl-2,5-dihydroperoxy hexane
UN 2174	101	2,5-Dimethyl-2,5-dihydroperoxy hexane
UN 2174	101	Dimethylhexane dihydroperoxide, (with 18% or more water)
UN 2175	102	Diethyl perdicarbonate
UN 2175	101	Diethyl peroxydicarbonate
UN 2176	101	Di-n-propyl peroxydicarbonate
UN 2177	101	tert-Butyl peroxyneodecanoate
UN 2177	102	tert-Butyl per-neodecanoate
UN 2178	102	2,2-Dihydroperoxy propane
UN 2178	101	2,2-Dihydroperoxy propane
UN 2179	102	1,1-Bis-(tert-butylperoxy) cyclohexane
UN 2179	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2180	102	1,1-Bis-(tert-butylperoxy) cyclohexane
UN 2180	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2181	102	1,2-Bis-(tert-butylperoxy) cyclohexane
UN 2181	101	1,2-Di-(tert-butylperoxy)cyclohexane
UN 2182	101	Diisobutyryl peroxide
UN 2182	102	Isobutyryl peroxide
UN 2183	101	tert-Butyl peroxycrotonate
UN 2183	102	tert-Butyl percrotonate
UN 2184	102	Ethyl-3,3-bis-(tert-butylperoxy) butyrate
UN 2184	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2185	102	Ethyl-3,3-bis-(tert-butylperoxy) butyrate
UN 2185	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2187	101	Carbon dioxide, liquefied
UN 2188	101	Arsine
UN 2189	102	Dichlorosilane
UN 2190	102	Oxygen difluoride
UN 2191	101	Sulfuryl fluonde
UN 2191	102	Sulphuryl fluonde
UN 2192	101	Germane
UN 2194	102	Selenium hexafluonde
UN 2195	102	Tellurium hexafluonde
UN 2196	101	Tungsten hexafluonde
UN 2197	102	Hydrogen iodide
UN 2198	102	Phosphorus pentafluonde
UN 2199	101	Phosphine
UN 2202	101	Hydrogen selenide
UN 2203	102	Silane
UN 2204	102	Carbonyl sulfide
UN 2205	102	Adiponitrile
UN 2206	102	Isocyanates
UN 2207	102	Isocyanates
UN 2208	101	Bleaching powder
UN 2208	102	Calcium hypochlorite mixtures
UN 2209	102	Formaldehyde
UN 2209	101	Formaldehyde solution
UN 2210	102	Maneb, *or* maneb preparation(s)
NA 2210	101	Pesticide, water reactive
UN 2211	102	Plastics moulding materials
UN 2212	102	Asbestos, blue
UN 2213	101	Paraformaldehyde
UN 2214	102	Phthalic anhydride
NA 2215	101	Maleic acid
UN 2215	101	Maleic anhydride
UN 2216	102	Fishmeal *or* fishscrap
NA 2216	101	Fish meal *or* fish scrap containing 6% to 12% water
UN 2217	102	Seed cake
UN 2218	101	Acrylic acid
UN 2219	102	Allyl glycidyl ether
UN 2220	102	Aluminium alkyl halides, in solution
UN 2221	102	Aluminium alkyl halides
UN 2222	102	Anisole
UN 2224	101	Benzonitrile
UN 2225	102	Benzene sulphonyl chlonde
UN 2226	102	Benzotrichlonde
UN 2227	102	n-Butyl methacrylate
UN 2228	102	Butylphenols

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2229 ...	102	Butylphenols
UN 2230 ...	102	Chlorinated anthracene oil
UN 2232 ...	102	Chloroacetaldehyde
UN 2233 ...	102	p-Chloro-o-anisidine
UN 2234 ...	102	Chlorobenzotrifluorides
UN 2235 ...	102	p-Chlorobenzyl chloride
UN 2236 ...	102	3-Chloro-4-methylphenyl isocyanate
UN 2237 ...	102	Chloronitroanilines
UN 2238 ...	102	Chlorotoluenes
UN 2239 ...	102	Chlorotoluidines
UN 2240 ...	102	Chromosulphuric acid
UN 2241 ...	102	Cycloheptane
UN 2242 ...	102	Cyclohexene
UN 2243 ...	102	Cyclohexyl acetate
UN 2244 ...	102	Cyclopentanol
UN 2245 ...	102	Cyclopentanone
UN 2246 ...	102	Cyclopentene
UN 2247 ...	102	n-Decane
UN 2248 ...	102	Di-(n-butyl)amine
UN 2249 ...	102	sym-Dichlorodimethyl ether
UN 2250 ...	102	Dichlorophenyl isocyanates
UN 2252 ...	102	1,2-Dimethoxyethane
UN 2253 ...	102	N,N-Dimethylaniline
UN 2254 ...	102	Matches
UN 2255 ...	101	Organic peroxide, sample, n.o.s.
UN 2255 ...	102	Organic peroxides, n.o.s.
UN 2256 ...	102	Cyclohexene
UN 2257 ...	102	Potassium metal
UN 2257 ...	101	Potassium, metal *or* metallic
UN 2258 ...	102	Propylene diamine
UN 2258 ...	101	Propylenediamine
UN 2259 ...	102	Triethylenetetramine
UN 2260 ...	102	Tripropylamine
UN 2261 ...	101	Xylenol
UN 2261 ...	102	Xylenols
UN 2263 ...	102	1,4-Dimethylcyclohexane
UN 2263 ...	102	Dimethylcyclohexanes
UN 2264 ...	102	N, N-Dimethylcyclohexylamine
UN 2265 ...	102	N,N-Dimethylformamide
UN 2266 ...	102	Dimethyl-N-propylamine
UN 2267 ...	102	Dimethyl thiophosphoryl chloride
UN 2269 ...	102	Dipropylene triamine
UN 2269 ...	101	Iminobispropylamine
UN 2270 ...	102	Ethylamine solution
UN 2271 ...	102	Ethyl amyl ketone
UN 2272 ...	102	N-Ethylaniline
UN 2273 ...	102	2-Ethylaniline
UN 2274 ...	102	N-Ethyl-n-benzylaniline
UN 2275 ...	102	2-Ethylbutanol
UN 2276 ...	102	2-Ethylhexylamine
UN 2277 ...	102	Ethyl methacrylate
UN 2278 ...	102	n-Heptene
UN 2279 ...	102	Hexachlorobutadiene
UN 2280 ...	102	Hexamethylenediamine
UN 2280 ...	101	Hexamethylenediamine, solid
UN 2282 ...	102	Hexanols
UN 2283 ...	102	Isobutyl methacrylate
UN 2284 ...	102	Isobutyronitrile
UN 2286 ...	102	Isododecane
UN 2287 ...	102	Isoheptene
UN 2288 ...	102	Isohexene
UN 2289 ...	102	Isophoronediamine
UN 2290 ...	102	Isophorone diisocyanate
NA 2291 ...	101	Lead chloride
UN 2291 ...	102	Lead compounds
NA 2291 ...	101	Lead fluoborate
NA 2291 ...	101	Lead sulfide
NA 2291 ...	101	Lead thiocyanate
UN 2293 ...	102	4-Methoxy-4-methylpentan-2-one
UN 2294 ...	102	N-Methylaniline
UN 2295 ...	102	Methyl chloroacetate
UN 2296 ...	102	Methyl cyclohexane
UN 2296 ...	101	Methylcyclohexane
UN 2297 ...	102	Methyl cyclohexanone
UN 2298 ...	101	Cyclopentane, methyl
UN 2298 ...	102	Methyl cyclopentane
UN 2298 ...	101	Methylcyclopentane
UN 2299 ...	101	Methyl dichloroacetate
UN 2300 ...	102	2-Methyl-5-ethylpyridine
UN 2300 ...	101	Methyl ethyl pyridine
UN 2301 ...	102	2-Methylfuran
UN 2301 ...	101	Methylfuran
UN 2302 ...	102	5-Methylhexan-2-one
UN 2303 ...	102	Isopropenylbenzene
UN 2304 ...	102	Napthalene, molten
UN 2305 ...	102	Nitrobenzenesulphonic acid
UN 2306 ...	102	Nitrobenzotrifluoride
UN 2307 ...	102	3-Nitro-4-chlorobenzotrifluoride
UN 2308 ...	102	Nitrosylsulphuric acid
UN 2309 ...	102	Octadiene
UN 2310 ...	102	2,4-Pentanedione
UN 2311 ...	102	Phenetidines
UN 2313 ...	102	Picolines
UN 2315 ...	101	Polychlorinated biphenyls
UN 2316 ...	102	Sodium cuprocyanide
UN 2318 ...	101	Sodium hydrosulfide, solid
UN 2318 ...	102	Sodium hydrosulphide
UN 2319 ...	102	Terpene hydrocarbons n.o.s.
UN 2320 ...	102	Tetraethylenepentamine
UN 2321 ...	102	Trichlorobenzene
UN 2322 ...	102	Trichlorobutene
UN 2323 ...	102	Triethyl phosphite
UN 2324 ...	102	Trisobutylene
UN 2325 ...	102	1,3,5-Trimethylbenzene
UN 2326 ...	102	Trimethylcyclohexylamine
UN 2327 ...	102	3,3,5-Trimethylhexamethylene diamine
UN 2328 ...	102	Trimethylhexamethylene diisocyanate
UN 2329 ...	102	Trimethyl phosphite
UN 2330 ...	102	Undecane
UN 2331 ...	102	Zinc chloride
UN 2331 ...	101	Zinc chloride, solid
UN 2332 ...	102	Acetaldehyde oxime
UN 2333 ...	102	Allyl acetate
UN 2334 ...	102	Allylamine
UN 2335 ...	102	Allyl ethyl ether
UN 2336 ...	102	Allyl formate
UN 2337 ...	102	Phenyl mercaptan
UN 2338 ...	102	Benzotrifluoride
UN 2339 ...	102	2-Bromobutane
UN 2340 ...	102	2-Bromoethyl ethyl ether
UN 2341 ...	102	1-Bromo-3-methylbutane
UN 2342 ...	102	Bromomethylpropanes
UN 2343 ...	102	2-Bromopentane
UN 2344 ...	102	Bromopropanes
UN 2345 ...	102	3-Bromopropyne
UN 2346 ...	102	Butanedione
UN 2346 ...	101	Diacetyl
UN 2347 ...	102	Butane-1-thiol
UN 2347 ...	101	Butyl mercaptan
UN 2348 ...	102	Butylacrylate
UN 2350 ...	102	Butyl methyl ether
UN 2351 ...	102	Butyl nitrite
UN 2352 ...	102	Butyl vinyl ether
UN 2353 ...	102	Butyryl chloride
UN 2354 ...	102	Chloromethyl ethyl ether
UN 2356 ...	102	2-Chloropropane
UN 2357 ...	101	Cyclohexylamine
UN 2358 ...	102	Cyclooctatetraene
UN 2359 ...	102	Diallylamine
UN 2360 ...	102	Diallylether
UN 2361 ...	102	Diisobutylamine
UN 2362 ...	102	1,1-Dichloroethane
UN 2363 ...	101	Ethyl mercaptan
UN 2364 ...	102	Propyl benzene
UN 2366 ...	102	Diethyl carbonate
UN 2367 ...	102	alpha-Methyl valeraldehyde
UN 2368 ...	102	alpha-Pinene
UN 2368 ...	101	Pinene
UN 2369 ...	102	Ethylene glycol monobutyl ether
UN 2370 ...	102	Hex-1-ene
UN 2371 ...	102	Isopentenes
UN 2373 ...	102	Diethoxymethane
UN 2375 ...	102	Diethyl sulfide
UN 2376 ...	102	2,3-Dihydropyran
UN 2376 ...	101	Dihydropyran
UN 2377 ...	102	1,1-Dimethoxyethane
UN 2379 ...	102	1,3-Dimethylbutylamine
UN 2380 ...	102	Dimethyldiethoxysilane
UN 2381 ...	102	Dimethyl disulfide
UN 2382 ...	102	Dimethylhydrazine
UN 2383 ...	102	Dipropylamine
UN 2384 ...	102	Dipropyl ether
UN 2385 ...	102	Ethylisobutyrate
UN 2386 ...	102	1-Ethyl piperidine
UN 2387 ...	102	Fluorobenzene
UN 2388 ...	102	Fluorotoluenes
UN 2389 ...	101	Furan
UN 2390 ...	102	2-Iodobutane
UN 2391 ...	102	Iodomethylpropanes
UN 2392 ...	102	Iodopropanes
UN 2393 ...	102	Isobutyl formate
UN 2394 ...	102	Isobutyl propionate
UN 2395 ...	102	Isobutyryl chloride
UN 2396 ...	102	Methacraldehyde
UN 2397 ...	102	3-Methyl butan-2-one
UN 2398 ...	102	Methyl-tert-butyl ether
UN 2399 ...	102	1-Methylpiperidine
UN 2400 ...	102	Methylisovalerate
UN 2401 ...	102	Pipendine
UN 2402 ...	102	Propanethiols
UN 2403 ...	102	Isopropenyl acetate
UN 2404 ...	102	Propionitrile
UN 2405 ...	102	Isopropyl butyrate
UN 2406 ...	102	Isopropyl isobutyrate
UN 2407 ...	102	Isopropyl chloroformate
UN 2408 ...	102	Isopropyl formate
UN 2409 ...	102	Isopropyl propionate
UN 2410 ...	102	1,2,3,6-Tetrahydropyridine
UN 2411 ...	102	Butyronitrile
UN 2412 ...	102	Tetrahydrothiophene
UN 2414 ...	102	Thiophene
UN 2416 ...	102	Trimethyl borate
UN 2417 ...	102	Carbonyl fluoride
UN 2418 ...	102	Sulphur tetrafluoride
UN 2420 ...	102	Hexafluoroacetone
UN 2421 ...	102	Nitrogen trioxide
NA 2422 ...	101	Perfluoro-2-butene
NA 2426 ...	101	Ammonium nitrate, solution
UN 2427 ...	102	Potassium chlorate
UN 2428 ...	102	Sodium chlorate
UN 2429 ...	102	Calcium chlorate
UN 2431 ...	102	o-Anisidine
UN 2432 ...	102	N,N-Diethylaniline
UN 2433 ...	102	Chloro-o-nitrotoluene
UN 2434 ...	102	Dibenzyldichlorosilane
UN 2435 ...	101	Ethyl phenyl dichlorosilane
UN 2435 ...	102	Ethylphenyldichlorosilane
UN 2436 ...	102	Thioacetic acid
UN 2437 ...	102	Methylphenyldichlorosilane
UN 2438 ...	102	Pivaloyl chloride
UN 2438 ...	101	Trimethylacetyl chloride
UN 2439 ...	101	Sodium bifluoride, solid
UN 2439 ...	101	Sodium bifluoride, solution
UN 2439 ...	102	Sodium hydrogen fluoride
UN 2440 ...	102	Stannic chloride pentahydrate
UN 2441 ...	102	Titanium trichloride
UN 2442 ...	102	Trichloroacetyl chloride
UN 2443 ...	102	Vanadium oxytrichloride
UN 2443 ...	101	Vanadium oxytrichloride
NA 2443 ...	101	Vanadium oxytrichloride and titanium tetrachloride mixture
UN 2444 ...	101	Vanadium tetrachloride
UN 2445 ...	102	Lithium alkyls
UN 2446 ...	102	Nitrocresols
UN 2447 ...	102	Phosphorus white, molten
UN 2448 ...	102	Sulphur, molten
NA 2449 ...	101	Ammonium oxalate
NA 2449 ...	101	Cupric oxalate
UN 2449 ...	102	Oxalates
UN 2451 ...	101	Nitrogen trifluoride
UN 2456 ...	102	2-Chloropropene
UN 2456 ...	101	2-Chloropropene
UN 2457 ..	101	2,3-Dimethylbutane
UN 2458 ...	101	Hexadiene
UN 2459 ...	102	2-Methyl-1-butene
UN 2460 ...	102	2-Methyl-2-butene
NA 2460 ...	101	Methyl butene
UN 2461 ...	101	Methylpentadiene
UN 2462 ...	101	Methyl pentane
UN 2462 ...	102	Methylpentanes
UN 2463 ...	102	Aluminium hydride
UN 2463 ...	101	Aluminium hydride
UN 2464 ...	101	Beryllium nitrate
UN 2465 ...	102	Dichloroisocyanuric acid
NA 2465 ...	101	Potassium dichloro-s-triazinetrione
UN 2465 ...	101	Sodium dichloro-s-triazinetrione
UN 2466 ...	102	Potassium superoxide
UN 2467 ...	102	Sodium percarbonates
UN 2468 ...	102	Trichloroisocyanuric acid
UN 2468 ...	101	Trichloro-s-triazinetrione
NA 2468 ...	101	(mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2469 ...	102	Zinc bromate
UN 2470 ...	102	Benzyl cyanide
UN 2471 ...	102	Osmium tetroxide
UN 2473 ...	102	Sodium arsanilate
UN 2474 ...	101	Thiophosgene
UN 2475 ...	102	Vanadium trichloride
UN 2477 ...	102	Methyl isothiocyanate
UN 2478 ...	102	Isocyanates
UN 2480 ...	102	Methyl isocyanate
UN 2481 ...	102	Ethyl isocyanate
UN 2482 ...	102	n-Propyl isocyanate
UN 2483 ...	102	Isopropyl isocyanate
UN 2484 ...	102	tert-Butyl isocyanate
UN 2485 ...	101	n-Butyl isocyanate
UN 2485 ...	102	n-Butyl isocyanate
UN 2486 ...	102	Isobutyl isocyanate
UN 2487 ...	102	Phenyl isocyanate
UN 2488 ...	102	Cyclohexyl isocyanate
UN 2489 ...	102	Diphenylmethane diisocyanate
UN 2490 ...	101	Dichloroisopropyl ether
UN 2491 ...	102	Ethanolamine
UN 2491 ...	101	Monoethanolamine
UN 2493 ...	101	Hexamethyleneimine
UN 2495 ...	101	Iodine pentafluoride
UN 2496 ...	101	Propionic anhydride
UN 2497 ...	102	Sodium phenolate
UN 2497 ...	101	Sodium phenolate, solid
UN 2498 ...	102	1,2,3,6-Tetrahydrobenzaldehyde
UN 2498 ...	101	1,2,3,6-Tetrahydrobenzaldehyde
UN 2501 ...	102	Tris-(1-azinidinyl)phosphine oxide
UN 2501 ...	101	Tris-(1-azinidinyl) phosphine oxide
UN 2502 ...	101	Valeryl chloride
UN 2502 ...	102	Valeryl chlorides
UN 2503 ...	102	Zirconium tetrachloride
UN 2503 ...	101	Zirconium tetrachloride, solid
UN 2504 ...	101	Acetylene tetrabromide
UN 2505 ...	101	Ammonium fluoride
UN 2506 ...	101	Ammonium hydrogen sulfate
UN 2507 ...	102	Chloroplatinic acid
UN 2507 ...	101	Chloroplatinic acid, solid
UN 2508 ...	101	Molybdenum pentachloride
UN 2509 ...	101	Potassium hydrogen sulfate, solid
UN 2511 ...	102	Chloropropionic acid
UN 2512 ...	102	Aminophenols
UN 2513 ...	102	Bromoacetyl bromide
UN 2514 ...	101	Bromobenzene
UN 2515 ...	102	Bromoform
UN 2516 ...	102	Carbon tetrabromide
UN 2517 ...	101	Difluoromonochloroethane
UN 2518 ...	102	1,5,9-Cyclododecatriene
UN 2520 ...	102	Cyclooctadienes
UN 2521 ...	102	Diketene
UN 2522 ...	102	Dimethylaminoethyl methacrylate
UN 2524 ...	102	Ethyl orthoformate
UN 2525 ...	102	Ethyl oxalate
UN 2526 ...	102	Furfurylamine
UN 2527 ...	102	Isobutyl acrylate
UN 2528 ...	102	Isobutylisobutyrate
UN 2529 ...	101	Isobutyric acid
UN 2530 ...	101	Isobutyric anhydride
UN 2531 ...	102	Methacrylic acid
UN 2533 ...	102	Methyl trichloroacetate
UN 2534 ...	102	Methyl chlorosilane
UN 2535 ...	102	Methylmorpholine
UN 2536 ...	102	Methyltetrahydrofuran
UN 2538 ...	102	Nitronapthalene
UN 2541 ...	102	Terpinolene
UN 2542 ...	102	Tributylamine
UN 2545 ...	101	Hafnium metal, dry.
UN 2545 ...	102	Hafnium metal powder, dry
UN 2546 ...	102	Titanium metal powder, dry
NA 2546 ...	101	Titanium metal powder, dry *or* wet
UN 2547 ...	102	Sodium superoxide
UN 2550 ...	102	Ethyl methyl ketone peroxide(s)
UN 2550 ...	101	Methyl ethyl ketone peroxide
UN 2551 ...	101	tert-Butyl peroxydiethylacetate
UN 2551 ...	102	tert-Butyl perdiethylacetate
UN 2552 ...	102	Hexafluoroacetone hydrate
UN 2553 ...	102	Coal tar naphtha
NA 2553 ...	101	Coal tar naptha
UN 2553 ...	101	Naphtha
UN 2554 ...	102	Methyl allyl chlonde
UN 2555 ...	102	Nitrocellulose
NA 2555 ...	101	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% water
NA 2555 ...	101	Nitrocellulose, wet with not less than 20% water
UN 2556 ...	102	Nitrocellulose
NA 2556 ...	101	Nitrocellulose, wet with not less than 30% alcohol *or* solvent
NA 2557 ...	101	Lacquer base, *or* Lacquer chips, dry
UN 2557 ...	102	Nitrocellulose
UN 2558 ...	102	1-Bromo-2,3-epoxypropane
UN 2562 ...	101	tert-Butyl peroxyisobutyrate
UN 2562 ...	102	tert-Butyl perisobutyrate
UN 2564 ...	102	Trichloroacetic acid
UN 2564 ...	101	Trichloroacetic acid solution
UN 2565 ...	102	Dicyclohexylamine
UN 2567 ...	101	Sodium pentachlorophenate
NA 2570 ...	101	Cadmium acetate
NA 2570 ...	101	Cadmium bromide
NA 2570 ...	101	Cadmium chloride
UN 2570 ...	102	Cadmium compounds
UN 2572 ...	102	Phenylhydrazine
UN 2573 ...	102	Thallium chlorate
UN 2574 ...	102	Tricresylphosphate
UN 2582 ...	101	Ferric chloride solution
UN 2584 ...	101	Alkanesulfonic acid
NA 2584 ...	101	Dodecylbenzenesulfonic acid
NA 2584 ...	101	Toluene sulfonic acid, liquid
NA 2588 ...	101	Insecticide, dry, n.o.s.
UN 2588 ...	102	Pesticides
UN 2590 ...	102	Asbestos, white
UN 2592 ...	101	Distearyl peroxydicarbonate
UN 2592 ...	102	Distearylperoxydicarbonate
UN 2593 ...	102	Bis-(2-methylbenzoyl)peroxide
UN 2593 ...	101	Di-(2-methylbenzoyl)peroxide
UN 2594 ...	101	tert-Butyl peroxyneodecanoate
UN 2594 ...	102	tert-Butylperneodecanoate
UN 2595 ...	101	Dimyristyl peroxydicarbonate
UN 2595 ...	102	Dimyristylperoxydicarbonate
UN 2596 ...	102	3-tert-Butylperoxy-3-phenyl phthalide
UN 2596 ...	101	3-tert-Butyl peroxy-3-phenylphthalide
UN 2597 ...	102	Bis-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide
UN 2597 ...	101	Di-(3,5,5-tnmethyl-1,2-dioxolanyl-3)peroxide
UN 2598 ...	102	Ethyl-3,3-bis(tert-butylperoxy)butyrate
UN 2598 ...	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2602 ...	101	Dichlorodifluoromethane and difluoroethane mixture
UN 2603 ...	102	Cycloheptatriene
UN 2604 ...	102	Boron trifluoride diethyl etherate
UN 2605 ...	102	Methoxymethyl isocyanate
UN 2606 ...	102	Methyl orthosilicate
UN 2607 ...	102	Acrolein dimer
UN 2608 ...	102	Nitropropanes
UN 2610 ...	102	Triallylamine
UN 2612 ...	102	Methyl propyl ether
UN 2614 ...	102	Methallyl alcohol
UN 2615 ...	102	Ethyl propyl ether
UN 2616 ...	102	Triisopropyl borate
UN 2617 ...	102	Methyl cyclohexanol
UN 2618 ...	102	Vinyl Toluenes
UN 2619 ...	102	Benzyl dimethylamine
UN 2621 ...	102	Acetyl methyl carbinol
UN 2622 ...	102	Glycidaldehyde
NA 2626 ...	101	Chloric acid
UN 2630 ...	101	Sodium selenite
UN 2646 ...	101	Hexachlorocyclopentadiene
UN 2655 ...	102	Potassium silicofluoride
UN 2656 ...	101	Quinoline
UN 2670 ...	102	Cyanuric chloride
UN 2672 ...	102	Ammonia solutions
NA 2672 ...	101	Ammonium hydroxide
UN 2674 ...	102	Sodium silicofluoride
NA 2683 ...	101	Ammonium hydrosulfide solution
UN 2683 ...	101	Ammonium sulfide solution
UN 2686 ...	102	Diethylaminoethanol
UN 2692 ...	101	Boron tribromide
NA 2693 ...	101	Ammonium bisulfite, solid
NA 2693 ...	101	Ammonium bisulfite solution
NA 2693 ...	101	Calcium hydrogen sulfite solution
NA 2693 ...	101	Potassium metabisulfite
UN 2693 ...	101	Sodium hydrogen sulfite, solid
NA 2693 ...	101	Sodium metabisulfite
UN 2703 ...	101	Isopropyl mercaptan
UN 2704 ...	101	Propyl mercaptan
UN 2706 ...	102	Diethylcarbinol
UN 2707 ...	102	Dimethyldioxanes
UN 2708 ...	102	Butoxyl
UN 2709 ...	102	Butyl benzenes
UN 2710 ...	102	Butyrone
UN 2711 ...	102	Dibromobenzene
UN 2725 ...	101	Nickel nitrate
UN 2728 ...	101	Zirconium nitrate
UN 2733 ...	102	Alkylamines and polyamines
UN 2740 ...	102	n-Propyl chloroformate
UN 2749 ...	102	Tetramethylsilane
UN 2752 ...	102	1,2-Epoxy-3-ethyloxy propane
UN 2755 ...	101	3-Chloroperoxybenzoic acid
UN 2755 ...	102	m-Chloroperoxybenzoic acid
UN 2756 ...	101	Organic peroxide, mixture
UN 2756 ...	102	Organic peroxides, mixture
UN 2757 ...	101	Carbamate pesticide
NA 2757 ...	101	Carbaryl
NA 2757 ...	101	Carbofuran
NA 2757 ...	101	Mercaptodimethur
NA 2757 ...	101	Mexacarbate
UN 2758 ...	101	Carbamate pesticide
UN 2759 ...	101	Arsenical pesticide
NA 2759 ...	101	Bordeaux arsenite, liquid
NA 2759 ...	101	Bordeaux arsenite, solid
UN 2760 ...	101	Arsenical pesticide
NA 2761 ...	101	Aldrin
NA 2761 ...	101	Aldrin, cast solid
NA 2761 ...	101	Aldrin mixture, dry
NA 2761 ...	101	Aldrin mixture, dry, with 65% or less aldrin
NA 2761 ...	101	DDT *or* Dichlorodiphenyltrichloroethane
NA 2761 ...	101	Dichlone
NA 2761 ...	101	Dieldrin
NA 2761 ...	101	Endosulfan
NA 2761 ...	101	Endrin
NA 2761 ...	101	Heptachlor
NA 2761 ...	101	Kelthane
NA 2761 ...	101	Kepone
NA 2761 ...	101	Lindane
NA 2761 ...	101	Methoxychlor
NA 2761 ...	101	Organochlorine pesticide
NA 2761 ...	101	TDE
NA 2761 ...	101	Toxaphene
NA 2762 ...	101	Aldrin mixture, liquid
NA 2762 ...	101	Aldrin mixture, liquid, with 60% or less aldrin
NA 2762 ...	101	Chlordane, liquid
NA 2762 ...	101	Organochlorine pesticide
UN 2763 ...	101	Triazine pesticide
UN 2764 ...	101	Triazine pesticide
NA 2765 ...	101	2,4-Dichlorophenoxyacetic acid
NA 2765 ...	101	2,4-Dichlorophenoxyacetic acid ester
UN 2765 ...	101	Phenoxy pesticide
NA 2765 ...	101	Propargite
NA 2765 ...	101	2,4,5-Trichlorophenoxyacetic acid
NA 2765 ...	101	2,4,5-Trichlorophenoxyacetic acid , amine, ester, *or* salt
NA 2765 ...	101	2,4,5-Trichlorophenoxypropionic acid
NA 2765 ...	101	2,4,5-Trichlorophenoxypropionic acid ester
UN 2766 ...	101	Phenoxy pesticide
NA 2767 ...	101	Diuron
UN 2767 ...	101	Phenylurea pesticide
UN 2768 ...	101	Phenylurea pesticide
UN 2769 ...	101	Benzoic derivative pesticide
NA 2769 ...	101	Dicamba
NA 2769 ...	101	Dichlorprop
UN 2770 ...	101	Benzoic derivative pesticide
UN 2771 ...	101	Dithiocarbamate pesticide
NA 2771 ...	101	Thiram
UN 2772 ...	101	Dithiocarbamate pesticide
UN 2773 ...	101	Phthalimide derivative pesticide
UN 2774 ...	101	Phthalimide derivative pesticide
UN 2775 ...	101	Copper based pesticide
UN 2776 ...	101	Copper based pesticide
UN 2777 ...	101	Mercury based pesticide
UN 2778 ...	101	Mercury based pesticide
UN 2779 ...	101	Substituted nitrophenol pesticide
UN 2780 ...	101	Substituted nitrophenol pesticide
UN 2781 ...	101	Bipyridilium pesticide
NA 2781 ...	101	Diquat
UN 2782 ...	101	Bipyridilium pesticide
NA 2783 ...	101	Azinphos methyl
NA 2783 ...	101	Chlorpyrifos

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APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only

(1) Identification Number	(2) Source 172.***	(3) Description
NA 2783	101	Coumaphos
NA 2783	101	Dazinon
NA 2783	101	Dichlorvos
NA 2783	101	Disulfoton
NA 2783	101	Ethion
NA 2783	101	Hexaethyl tetraphosphate mixture, dry
NA 2783	101	Hexaethyl tetraphosphate mixture, liquid
NA 2783	101	Malathion
NA 2783	101	Methyl parathion, liquid
NA 2783	101	Methyl parathion mixture, dry
NA 2783	101	Methyl parathion mixture, liquid
NA 2783	101	Methyl parathion mixture, liquid, (containing 25% or less methyl parathion)
NA 2783	101	Mevinphos
UN 2783	101	Mipafox
NA 2783	101	Naled
NA 2783	101	Organic phosphate mixture, Organic phosphate compound mixture, *or* Organic phosphorus compound mixture; liquid
NA 2783	101	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; liquid
UN 2783	101	Organophosphorus pesticide
NA 2783	101	Parathion, liquid
NA 2783	101	Parathion mixture, dry
NA 2783	101	Parathion mixture, liquid
NA 2783	101	Phencapton
NA 2783	101	Tetraethyl pyrophosphate, liquid
NA 2783	101	Tetraethyl pyrophosphate mixture, dry
NA 2783	101	Tetraethyl pyrophosphate mixture, liquid
NA 2783	101	Trichlorfon
UN 2784	101	Organophosphorus pesticide
UN 2785	102	4-Thiopentenal
UN 2786	101	Organotin pesticide
UN 2787	101	Organotin pesticide
UN 2789	101	Acetic acid, glacial
UN 2790	101	Acetic acid
NA 2791	101	Aircraft rocket engine
UN 2792	101	Aircraft rocket engine igniter
UN 2793	102	Iron swarf
NA 2793	101	Magnesium scrap
NA 2793	101	Metal borings, shavings, turnings, *or* cuttings
NA 2794	101	Battery charger with electrolyte (acid) *or* alkaline battery fluid
NA 2794	101	Battery, electric storage, wet
NA 2794	101	Battery, electric storage, wet, with automobile, auto parts, engine
NA 2794	101	Battery, electric storage, wet, with containers of electrolyte (acid) *or* alkaline battery fluid
UN 2796	101	Electrolyte (acid) battery fluid
NA 2797	101	Alkaline battery fluid
NA 2797	101	Alkaline battery fluid with empty storage battery
NA 2797	101	Electrolyte (acid) *or* alkaline battery fluid, packed with dry-storage battery
UN 2798	101	Benzene phosphorus dichloride
UN 2799	101	Benzene phosphorus thodichloride
NA 2801	101	Coal tar dye, liquid
UN 2801	101	Dye intermediate, liquid
UN 2802	101	Copper chloride
UN 2803	101	Gallium metal, liquid
UN 2803	101	Gallium metal, solid
UN 2805	101	Lithium hydride in fused solid form
UN 2806	101	Lithium nitride
UN 2807	101	Magnetized material
NA 2809	101	Mercury, metallic
NA 2810	101	Arsenious and mercuric iodide solution
NA 2810	101	Compound, tree *or* weed killing, liquid
NA 2810	101	Drugs, n.o.s. liquid
NA 2810	101	Poisonous liquid, n.o.s. *or* Poison B, liquid, n.o.s.
UN 2810	102	Poisonous liquids, n.o.s.
(UN 2810)	102	Sodium fluoride
NA 2811	101	Drugs, n.o.s. solid

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
NA 2811	101	Flue dust, poisonous
NA 2811	101	Lead fluoride
NA 2811	101	Lead iodide
NA 2811	101	Lead stearate
NA 2811	101	Poisonous solid, n.o.s. *or* Poison B, solid, n.o.s.
UN 2811	102	Poisonous solids, n.o.s.
NA 2811	101	Selenium oxide
(UN 2811)	102	Silicofluorides
UN 2812	101	Sodium aluminate, solid
NA 2813	101	Lithium acetylide-ethylene diamine complex
UN 2813	101	Water reactive solid, n.o.s.
NA 2814	101	Etiologic agent, n.o.s.
UN 2815	101	N-Aminoethylpiperazine
UN 2817	101	Ammonium hydrogen fluoride solution
UN 2818	101	Ammonium polysulfide solution
UN 2819	101	Amyl acid phosphate
UN 2820	101	Butyric acid
NA 2821	101	Phenol, liquid *or* solution
UN 2823	101	Crotonic acid
UN 2826	101	Ethyl chlorothioformate
UN 2830	101	Lithium ferrosilicon
UN 2831	101	1,1,1-Trichloroethane
UN 2835	101	Sodium aluminum hydride
UN 2837	101	Sodium hydrogen sulfate solution
UN 2845	101	Pyrophoric liquid, n.o.s. *or* Pyroforic liquid, n.o.s.
UN 2854	101	Ammonium silicofluoride
UN 2855	101	Zinc silicofluoride
UN 2857	101	Refrigerating machine
UN 2859	102	Ammonium metavanadate
UN 2860	102	Vanadium trioxide
UN 2861	102	Ammonium polyvanadate
UN 2862	101	Vanadium pentoxide
UN 2863	102	Sodium-ammonium-vanadate
UN 2864	102	Potassium metavanadate
UN 2867	101	Ink
UN 2868	101	Resin solution
UN 2876	101	Resorcinol
UN 2880	101	Calcium hypochlorite, hydrated
UN 2883	101	2,2-Di-(tert-butylperoxy)propane
UN 2884	101	2,2-Di-(tert-butylperoxy)propane
UN 2885	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2886	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2887	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2888	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2889	101	Diisotridecyl peroxydicarbonate
UN 2890	101	tert-Butyl peroxybenzoate
UN 2891	101	tert- Amyl peroxyneodecanoate
UN 2892	101	Dimyristyl peroxydicarbonate
UN 2893	101	Lauroyl peroxide
UN 2894	101	Di-(4-tert-butylcyclohexyl)peroxydicarbonate
UN 2895	101	Dicetyl peroxydicarbonate
UN 2896	101	Cyclohexanone peroxide
UN 2897	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2898	101	tert-Amyl peroxy-2-ethylhexanoate
UN 2899	101	Organic peroxide, trial quantity, n.o.s.
NA 2902	101	Insecticide, liquid, n.o.s.
UN 2910	101	Radioactive material, limited quantity, n.o.s.
UN 2911	101	Radioactive device, n.o.s.
UN 2912	101	Radioactive material, low specific activity *or* LSA, n.o.s.
UN 2918	101	Radioactive material, fissile, n.o.s.
UN 2922	101	Corrosive liquid, poisonous, n.o.s.
NA 2922	101	Dimethyl chlorothiophosphate
NA 2922	101	Sodium hydrosulfide, solution
NA 2924	101	Dichlorobutene
UN 2924	101	Flammable liquid, corrosive, n.o.s.
UN 2925	101	Flammable solid, corrosive, n.o.s.
UN 2926	101	Flammable solid, poisonous, n.o.s.
UN 2928	101	Poisonous solid, corrosive, n.o.s.
NA 9011	101	Camphene
NA 9018	101	Dichlorodifluoroethylene
NA 9026	101	Dinitrocyclohexylphenol
NA 9035	101	Gas identification set
NA 9035	101	Poisonous liquid *or* gas, n.o.s.
NA 9037	101	Hexachloroethane
NA 9053	101	Oiled material
NA 9069	101	Tetramethylmethylenediamine
NA 9077	101	Adipic acid

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
NA 9078	101	Aluminum sulfate, solid
NA 9079	101	Ammonium acetate
NA 9080	101	Ammonium benzoate
NA 9081	101	Ammonium bicarbonate
NA 9083	101	Ammonium carbamate
NA 9084	101	Ammonium carbonate
NA 9085	101	Ammonium chloride
NA 9086	101	Ammonium chromate
NA 9087	101	Ammonium citrate
NA 9088	101	Ammonium fluoborate
NA 9089	101	Ammonium sulfamate
NA 9090	101	Ammonium sulfite
NA 9091	101	Ammonium tartrate
NA 9092	101	Ammonium thiocyanate
NA 9093	101	Ammonium thiosulfate
NA 9094	101	Benzoic acid
NA 9095	101	n-Butyl phthalate
NA 9096	101	Calcium chromate
NA 9097	101	Calcium dodecylbenzenesulfonate
NA 9099	101	Captan
NA 9100	101	Chromic sulfate
NA 9101	101	Chromic acetate
NA 9102	101	Chromous chloride
NA 9103	101	Cobaltous bromide
NA 9104	101	Cobaltous formate
NA 9105	101	Cobaltous sulfamate
NA 9106	101	Cupric acetate
NA 9109	101	Cupric sulfate
NA 9110	101	Cupric sulfate, ammoniated
NA 9111	101	Cupric tartrate
NA 9117	101	Ethylenediaminetetraacetic acid
NA 9118	101	Ferric ammonium citrate
NA 9119	101	Ferric ammonium oxalate
NA 9120	101	Ferric fluoride
NA 9121	101	Ferric sulfate
NA 9122	101	Ferrous ammopium sulfate
NA 9125	101	Ferrous sulfate
NA 9126	101	Fumaric acid
NA 9127	101	Isopropanolamine dodecylbenzenesulfonate
NA 9134	101	Lithium chromate
NA 9137	101	Naphthenic acid
NA 9138	101	Nickel ammonium sulfate
NA 9139	101	Nickel chloride
NA 9140	101	Nickel hydroxide
NA 9141	101	Nickel sulfate
NA 9142	101	Potassium chromate
NA 9145	101	Sodium chromate
NA 9146	101	Sodium dodecylbenzenesulfonate
NA 9147	101	Sodium phosphate, dibasic
NA 9148	101	Sodium phosphate, tribasic
NA 9149	101	Strontium chromate
NA 9151	101	Triethanolamine dodycylbenzenesulfonate
NA 9152	101	Vanadyl sulfate
NA 9153	101	Zinc acetate
NA 9154	101	Zinc ammonium chloride
NA 9155	101	Zinc borate
NA 9156	101	Zinc bromide
NA 9157	101	Zinc carbonate
NA 9158	101	Zinc fluoride
NA 9159	101	Zinc formate
NA 9160	101	Zinc phenolsulfonate
NA 9161	101	Zinc sulfate
NA 9162	101	Zirconium potassium fluoride
NA 9163	101	Zirconium sulfate
NA 9170	101	Thorium metal, pyrophoric
NA 9171	101	Thorium nitrate
NA 9173	101	Uranium hexafluoride, fissile
NA 9174	101	Uranium hexafluoride, low specific activity
NA 9175	101	Uranium metal, pyrophoric
NA 9177	101	Uranyl nitrate, solid
NA 9178	101	Uranyl nitrate hexahydrate solution
NA 9180	101	Uranyl acetate
NA 9181	101	Radioactive material, n.o.s.
NA 9182	101	Radioactive material, special form, n.o.s.
NA 9183	101	Organic peroxide, liquid, *or* solution, n.o.s.
NA 9184	101	Pyrethrins
NA 9185	101	Plutonium nitrate solution
NA 9188	101	Hazardous substance, liquid *or* solid, n.o.s.
NA 9189	101	Hazardous waste, liquid *or* solid, n.o.s.

APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102—Continued

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
NA 9190	101	Ammonium permanganate
NA 9191	101	Chlorine dioxide hydrate, frozen
NA 9193	101	Oxidizer, corrosive, liquid, n.o.s.
NA 9194	101	Oxidizer, corrosive, solid, n.o.s.
NA 9195	101	Metal alkyl solution, n.o.s.
NA 9199	101	Oxidizer, poisonous, liquid, n.o.s.
NA 9200	101	Oxidizer, poisonous, solid, n.o.s.
NA 9201	101	Antimony trioxide

15. In § 172.200 the introductory text of paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 172.200 Applicability.

* * * * * *

(b) This subpart does not apply to any material, other than a hazardous waste or a hazardous substance, that is—

* * * * *

(c) The requirement of § 172.202(a)(3) pertaining to the display of identification numbers on shipping papers does not apply prior to July 1, 1981.

16. In § 172.201 paragraphs (a)(1)(ii), (a)(1)(iii), the introductory text of (a)(4), and (a)(4)(i) are revised to read as follows:

§ 172.201 General entries.

(a) * * *

(1) * * *

(ii) Must be entered in a color that clearly contrasts with any description on the shipping paper of a material not subject to the requirements of this subchapter, except that a description on a reproduction of a shipping paper may be highlighted, rather than printed, in a contrasting color (the provisions of this paragraph apply only to the basic description required by §§ 172.202(a) (1), (2), and (3)), or

(iii) Must be identified by the entry of an "X" (or "RQ" if appropriate) placed before the proper shipping name in a column captioned "HM".

* * * * *

(4) A shipping paper may contain additional information concerning the material provided the information is not inconsistent with the required description. Unless otherwise permitted or required by this subpart, additional information must be placed after the basic description required by § 172.202(a).

(i) When appropriate, the entries "IMCO" or "IMCO Class" may be entered immediately before or immediately following the class entry in the basic description.

* * * * *

17. In § 172.202, paragraph (a) is amended, paragraphs (b) and (c) are revised and paragraph (d) is added to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

(a) The basic description of a hazardous material on a shipping paper must include—

(1) The proper shipping name prescribed for the material in the Hazardous Materials Table in § 172.101 or the Optional Hazardous Materials Table in § 172.102;

(2) The hazard class prescribed for the material in the same Table. Inclusion of the hazard class is not required when the words of the proper shipping name contain the key word or words of the class, such as Flammable liquid; Poison B, liquid; Radioactive device; or Corrosive liquid; and

(3) The identification number (proceeded by "UN" or "NA" as appropriate) prescribed for the material in the same Table.

* * * * *

(b) Except as provided in this subpart, the basic description specified in paragraphs (a) (1), (2) and (3) of this section must be shown in sequence. For example: "Gasoline, Flammable liquid, UN 1203."

(c) The total quantity of the material covered by one description must appear before or after, or both before and after, the basic description required and authorized by this subpart.

(1) Abbreviations may be used to specify the type of packaging and weight or volume. For example: "40 cyl. Nitrogen, Nonflammable gas, UN 1066, 800 pounds"; "1 box Cement, liquid, n.o.s., Flammable liquid, NA 1133, 25 lbs."

(2) The type of packaging may be entered in any appropriate manner.

(d) Technical and chemical group names may be entered in parentheses between the proper shipping name and hazard class.

18. In § 172.203 paragraphs (d), (1)(ii), (e), and (i)(2) are revised; paragraphs (c), (j) and (k) are added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) *Hazardous substances.*

(1) If the proper shipping name for a mixture or solution that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of such constituents shall be entered in association with the basic description. This requirement also applies to descriptions from the Optional Table in § 172.102.

(2) The letters "RQ" shall be entered on the shipping paper either before or after the basic description required by § 172.202 for each hazardous substance (see definition in § 171.8). For example: "RQ, Cresol, Corrosive material, NA 2076"; or "Adipic acid, ORM-E, NA 9077, RQ."

(d) * * *

(1) * * *

(ii) A description of the physical and chemical form of the material, if the material is not in special form (generic chemical description is acceptable for chemical form).

* * * * *

(e) *Empty packagings:*

(1) Except for a tank car or any packaging that contains a hazardous substance, the description on the shipping paper for an empty packaging containing the residue of a hazardous material may contain the word(s) "EMPTY" or "EMPTY: Last contained * * * *" followed by the name of the hazardous material last contained in the packaging. This entry may be before or after the basic description.

(2) For empty tank cars, see § 174.25(c), of this subchapter.

(3) If a packaging, including a tank car, contains a residue that is a hazardous substance, the description on the shipping paper shall be prefaced with the phrase "EMPTY: Last contained * * * *" and shall have "RQ" entered before or after the basic description.

* * * * *

(i) * * *

(2) The shipping paper for a hazardous material offered for transportation by vessel to any country outside the United States must have in parentheses the technical name of the material immediately following the proper shipping name when the material is described by an n.o.s. entry in § 172.101 or § 172.102. For example: "Corrosive liquid, n.o.s. (Caprylyl chloride), UN 1760." If the material is a mixture of two or more hazardous materials, the names of at least two components most predominately contributing to the hazard or hazards of the mixture shall be entered in parentheses. For example: "Flammable liquid, corrosive, n.o.s. (Methyl alcohol, Potassium hydroxide), UN 2924." The provisions of this paragraph do not apply if—

(i) The n.o.s. description for the material (other than a mixture of hazardous materials of different classes meeting the definition of more than one

V 45 MY 22 80 UMI

hazard class) contains the name of the chemical element or group which is primarily responsible for the material being included in the hazard class indicated. For example: "Mercury compound, n.o.s., solid, Poison B, UN 2025."

(ii) The n.o.s. description for the material (which is a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group responsible for the material meeting the definition of one of these classes. In such cases, only the technical name of the component that is not appropriately identified in the n.o.s. description shall be entered in parentheses.

For example: "Carbamate pesticide, liquid, n.o.s. (contains Xylene), Flammable liquid, UN 2758."

* * * * *

(j) *Dangerous When Wet.* The words "Dangerous When Wet" shall be entered on the shipping paper in association with the basic description when a package covered by the basic description is required to be labeled with a DANGEROUS WHEN WET label.

(k) *Poisonous materials.* Notwithstanding the class to which a material is assigned—

(1) If the name of the compound or principal constituent that causes the material to meet the definition of a poison (according to this subchapter) is not included in the proper shipping name for the material, the name of that compound or constituent shall be entered on the shipping paper in association with the shipping description for the material. The name of the compound or principal constituent may be either a technical name or any name for the material that is listed in the NIOSH Registry. This subparagraph does not apply to—

(i) A material having a proper shipping name that includes the chemical element or group which causes the material to be a poison.

(ii) Limited Quantities.

(2) If the material in a package meets the definition of a poison according to this subchapter, and the fact that it is a poison is not disclosed in the shipping name or class entry, the word "Poison" shall be entered on the shipping paper in association with the shipping description.

(3) The provisions of paragraphs (k)(1) and (2) of this section do not apply—

(i) To consumer commodities, ORM-D, or

(ii) To compounds or principal constituents that would cause death by corrosive destruction to tissue rather than by systemic poisoning.

(iii) Prior to July 1, 1981.

19. In § 172.204, the note following paragraph (a) is deleted and a new note is added; the introductory text to paragraph (b)(1) is revised to read as follows:

§ 172.204 Shipper's certification.

(a) * * *

Note.—In line one of the certification in paragraph (a) of this section, the words "herein-named" may be substituted for the words "above-named."

(b) * * *

(1) Except for a hazardous waste, no certification is required for a hazardous material offered for transportation by motor vehicle and transported—

* * * * *

20. Section 172.205 is added to read as follows:

§ 172.205 Hazardous waste manifest.

(a) No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless a hazardous waste manifest (manifest) is prepared, signed, carried, and given as required of that person by this section.

(b) The shipper (generator) shall prepare the manifest in accordance with 40 CFR Part 262.

(c) The original copy of the manifest must be dated by, and bear the handwritten signature of, the person representing—

(1) The shipper (generator) of the waste at the time it is offered for transportation, and

(2) The initial carrier accepting the waste for transportation.

(d) A copy of the manifest must be dated by, and bear the handwritten signature of the person representing—

(1) Each subsequent carrier accepting the waste for transportation, at the time of acceptance, and

(2) The designated facility receiving the waste, upon receipt.

(e) A copy of the manifest bearing all required dates and signatures must be—

(1) Given to a person representing each carrier accepting the waste for transportation,

(2) Carried during transportation in the same manner as required by this subchapter for shipping papers,

(3) Given to a person representing the designated facility receiving the waste,

(4) Returned to the shipper (generator) by the carrier that transported the waste from the United States to a foreign destination with a notation of the date of departure from the United States, and

(5) Retained by the shipper (generator) and by the initial and each subsequent carrier for three years from the date the waste was accepted by the initial carrier. Each retained copy must bear all required signatures and dates up to and including those entered by the next person who received the waste.

(f) The requirements of paragraphs (d) and (e) of this section do not apply to a rail carrier when waste is delivered to a designated facility by railroad if—

(1) All of the information required to be entered on the manifest (except generator and carrier identification numbers and the generator's certification) is entered on the shipping paper carried in accordance with § 174.26(c) of this subchapter;

(2) The delivering rail carrier obtains and retains a receipt for the waste that is dated by and bears the handwritten signature of the person representing the designated facility; and

(3) A copy of the shipping paper is retained for three years by each railroad transporting the waste.

(g) The person delivering a hazardous waste to an initial rail carrier shall send a copy of the manifest, dated and signed by a representative of the rail carrier, to the person representing the designated facility.

(h) A hazardous waste manifest required by 40 CFR Part 262, containing all of the information required by this subpart, may be used as the shipping paper required by this subpart.

Subpart D—Marking

21. Section 172.300 is revised to read as follows:

§ 172.300 General marking requirements.

(a) Except as provided by this subchapter, each person who offers a package containing a hazardous material for transportation shall mark the package with the proper shipping name and identification number assigned to the material in § 172.101 or § 172.102.

(b) When it has been determined by the shipper that a package has been previously marked as required for the material it contains, it need not be remarked. (For empty packagings, see § 173.29 of this subchapter.)

(c) This section does not apply to—

(1) A portable tank, cargo tank, or tank car.

(2) The display of identification numbers on packages containing Limited Quantities (see § 171.8 of this subchapter), and

(3) The display of identification numbers on packages prior to July 1, 1983.

22. In § 172.316 the introductory text of paragraph (a) and paragraph (c) are revised; paragraph (a)(7) is added to read as follows:

§ 172.316 Packagings containing material classed as ORM.

(a) Each package containing a material classed as ORM-A, B, C, D, or E must be plainly, durably, and legibly marked on at least one side or end with the appropriate ORM designation immediately following or below the proper shipping name of the material. The appropriate ORM designation must be placed within a rectangle that is approximately ¼ inch (6.3 mm.) larger on each side than the designation. The appropriate designation for each ORM must be:

* * * * *

(7) ORM-E for an ORM-E.

* * * * *

(c) The marking ORM-A, B, C, D, or E is the certification by the person offering the package for transportation that the material is properly described, classed, packaged, marked and labeled (when appropriate) and in proper condition for transportation according to the applicable regulations of this subchapter. This form of certification does not preclude the requirement for a certificate on a shipping paper when required by § 172.204.

23. Section 172.324 is added to read as follows:

§ 172.324 Package containing a hazardous substance.

(a) If the proper shipping name for a mixture or solution that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of such constituents shall be entered in association with the basic description. This requirement also applies to descriptions from the Optional Table in § 172.102.

(b) The letters RQ shall be displayed in association with the proper shipping name on a package containing a hazardous substance before the package may be offered for transportation.

(c) This section does not apply—

(1) To a portable tank, cargo tank, or tank car.

(2) Until July 1, 1983.

24. In § 172.326 paragraphs (a) and (b) are revised; paragraphs (d) and (e) are added to read as follows:

§ 172.326 Portable tanks.

(a) No person may offer for transportation or transport a portable tank containing a hazardous material unless it is legibly marked with letters or numerals, as required, measuring no less than two inches (50.8 mm.) in height—

(1) On two opposing sides with the proper shipping name of the material, and

(2) As prescribed by § 172.332, with the identification number specified for the material in § 172.101 or § 172.102, and

(i) On each side and each end, if the tank has a capacity of 1,000 gallons or more, or

(ii) On two opposing sides or ends in association with the proper shipping name, if the tank has a capacity of less than 1,000 gallons.

(b) A portable tank marked with the name or identification number of a hazardous material may not be used to transport any other material unless the marking is removed, or changed to identify the hazardous material in the portable tank, whichever is appropriate.

* * * * *

(d) If the marking required by paragraph (a) of this section is not visible, a transport vehicle, or freight container used to transport a portable tank must be marked on each side and each end as required by § 172.332 with the identification number specified for the material in § 172.101 or § 172.102.

(e) Each portable tank marked as required by paragraph (a) of this section must remain marked unless it is—

(1) Filled with a material not subject to this subchapter; or

(2) Sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

25. In § 172.328 paragraphs (a), (b) and (e) are revised and paragraph (f) is added to read as follows:

§ 172.328 Cargo tanks.

(a) Except as provided in this subpart, no person may offer for transportation or transport a hazardous material in a cargo tank unless the cargo tank is marked as required by § 172.332 on each side and each end with the identification number specified for the material in § 172.101 or § 172.102.

(1) A person who offers a motor carrier a hazardous material for transportation in a cargo tank shall provide to the motor carrier the required identification numbers on panels or placards, as appropriate, prior to or at the time the material is offered for transportation unless the cargo tank is already marked with the identification number required by this subpart.

(2) A person who offers a cargo tank containing a hazardous material for transportation shall affix the required identification numbers on panels or placards prior to or at the time the cargo tank is offered for transportation unless it is already marked with identification numbers as required by this subpart.

(b) Except as specified in paragraph (a) of this section, when the name of a material or other marking is required by this subchapter to be marked on a cargo tank, it must be legibly displayed in lettering or numbers no less than two inches (50.8 mm.) in height.

* * * * *

(e) A cargo tank marked with the name or identification number of a hazardous material may not be used to transport any other material unless the marking is removed, or changed to identify the hazardous material in the cargo tank, whichever is appropriate.

(f) A cargo tank that is required to be marked with the name or identification number of a hazardous material must remain marked when empty unless it is—

(1) Reloaded with a material not subject to this subchapter; or

(2) Sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

26. Section 172.330 is revised to read as follows:

§ 172.330 Tank cars and multi-unit tank car tanks.

(a) No person may offer for transportation or transport a hazardous material in a tank car (other than a multi-unit tank car tank) unless the tank car is—

(1) Marked on each side, when required by Part 173 or 179 of this subchapter, with the—

(i) Proper shipping name of the material, or

(ii) Common name authorized in this subchapter for the material such as "Refrigerant Gas."

(2) Marked on each side and each end, as required by § 172.332, with the identification number specified for the material in § 172.101 or § 172.102.

(b) The letters in the marking of a proper shipping name or common name must be 4 inches (101.6 mm.) or more in height with at least a ⅝ inch (15.9 mm.) stroke. The separation between each letter must be at least ¾ inch (19.0 mm.).

(c) No person may offer for transportation or transport a hazardous material in a multi-unit tank car tank unless it is marked on opposing sides, in letters and numerals no less than two inches high, with the—

(1) Proper shipping name specified for the material in § 172.101 or § 172.102, or common name authorized for the material in this subchapter, and

(2) Identification number specified for the material in § 172.101 or § 172.102.

(d) A tank car or a multi-unit tank car tank marked with the identification number or name of a hazardous material may not be used to transport any other

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material unless the marking is removed, or changed to identify the hazardous material that the tank car or multi-unit tank car tank contains, whichever is appropriate

(e) A motor vehicle or rail car used to transport a multi-unit tank car tank must be marked on each side and each end, as required by § 172.332, with the identification number specified for the material in § 172.101 or § 172.102.

(f) If a multi-unit tank car tank contains chlorine, marking of the name "Chlorine" is not required when the CHLORINE label is used as provided in § 172.405(b).

(g) Each tank car and multi-unit tank car tank marked as required by this section must remain marked when empty unless—

(1) Reloaded with a material not subject to this subchapter, or

(2) Sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

(h) Display of identification numbers on multi-unit tank car tanks is not required prior to July 1, 1983.

27. Section 172.332 is added to read as follows:

§ 172.332 Identification number markings.

(a) Identification numbers on portable tanks, cargo tanks and tank cars shall be displayed on orange panels 5⅞ inches (15 cm.) high by 15¾ inches (40 cm.) wide with a ⅜ of an inch (9.5 mm.) black outer border. The indentification number shall be displayed in 4-inch (10 cm.) black Helvetica Medium numerals. Measurements may vary from those specified plus or minus 0.1 of an inch (3 mm.).

(b) The orange display panel may be made of any durable material prescribed for placards in § 172.519, and shall be of the orange color specified for labels or placards in Appendix A to this Part.

(c) The name and hazard class of a material represented by the identification number may be shown in the upper left border of the orange panel in letters not more than 18 point (¼-inch) high.

(d) Except for size and color, the orange panel and identification numbers shall be as illustrated for Liquefied petroleum gas.

(e) The identification number on an orange panel shall be displayed in proximity to any placard required by § 172.504.

28. Section 172.334 is added to read as follows:

§ 172.334 Identification numbers; alternative display.

(a) As an alternative to the display of an identification number on an orange panel as required by § 172.332, an identification number may be displayed on the placard specified for the material subject to the following conditions:

(1) The placard may not be a POISON GAS or RADIOACTIVE placard.

(2) The identification number shall be displayed across the center area of the placard in 3½ inch (89 mm.) black Helios Bold Condensed numerals on a white background 4 inches (10 cm.) high and approximately 8½ inches (21.5 cm.) wide.

(3) The top of the 4-inch (10 cm.) high white background shall be approximately 1⅝ inches (40.0 mm.) above the placard horizontal center line.

(4) Whenever this alternative is used, the United Nations hazard class number for the material shall be displayed in the lower corner of each placard as specified in § 172.519(d).

(5) Whenever the alternate identification number marking procedure is used for marking a cargo tank or tank car transporting a combustible liquid, the entire area below the white background for the identification number on the placard must be white, except for the hazard class number.

(6) If an identification number is placed over the word(s) on a placard, the word(s) should be substantially covered to maximize the effectiveness of the identification number.

(7) The name of the hazardous material and the hazard class may be shown in letters not more than 18 points (¼) inch) high immediately within the upper border of the space on the placard bearing the identification number of the material.

(b) Except for size and color, the alternative display of an identification number on a placard shall be as illustrated for Acetone:

28A. Section 172.336 is added to read as follows:

§ 172.336 Identification numbers; special provisions and exceptions.

(a) When not required by this subpart, identification numbers may be displayed on a transport vehicle or a freight container in the manner prescribed by this subpart when all hazardous materials contained therein are identified by the identification numbers displayed.

(b) For hazardous materials in hazard classes for which placards are not authorized or required, identification numbers may be displayed on a plain white square-on-point configuration having the same outside dimensions as those prescribed for a hazard warning placard. [Note: A display containing an identification number as authorized in this paragraph is not considered a placard.]

(c) Identification numbers are not required—

(1) On the ends of a portable tank, cargo tank or tank car having more than one compartment if hazardous materials having different identification numbers are being transported therein. In such a circumstance, the identification numbers on the sides of the tank must be displayed in the same sequence as the compartments containing the materials they identify.

(2) On a cargo tank containing only fuel oil, if the cargo tank is marked "Fuel Oil" on each side and rear in letters no less than 2 inches high.

(3) for different distillate fuels in the same cargo tank or tank car, if the identification number is displayed for the distillate fuel having the lowest flash point.

(4) On nurse tanks meeting the provisions of § 173.315(m) of this subchapter.

(5) On the forward end of cargo tank trucks or semi-trailers.

(6) On mulit-unittank car tanks prior to July 1, 1983.

(7) On orange panels or placards prior to July 1, 1981.

29. Section 172.338 is added to read as follows:

§ 172.338 Replacement of identification numbers.

If an identification number on a vehicle or portable tank is lost or destroyed during transportation, the carrier shall replace the missing identification number as soon as practicable. However, in such a case, the numerals may be entered legibly by hand using an indelible marking material.

30. In § 172.400, paragraph (a) is amended by inserting "or § 172.102" immediately following "§ 172.101"; paragraph (b)(3) is amended by inserting the words "freight containerload," in the third line immediately before the word "carload"; and a new paragraph (d) is added to read as follows:

§ 172.400 General labeling requirements.

* * * * *

(d) Except as provided in paragraph (b) of this section, when the proper shipping name marked on a package is a proper shipping name from § 172.102 that does not appear in § 172.101, the package must be labeled as provided in § 172.102.

31. In § 172.402 subparagraphs (a)(5) to (a)(10) are added to read as follows:

§ 172.402 Additional labeling requirements.

(a) * * *

(5) A material classed as a Corrosive material that also meets the definition of a Poison B shall be labeled with a POISON label in addition to the class label. This subparagraph does not apply to a material that would cause death due to corrosive destruction of tissue rather than by systemic poisoning.

(6) A material classed as a Poison B that also meets the definition of a corrosive material shall be labeled with a CORROSIVE label in addition to the class label.

(7) A material classed as a Flammable liquid that also meets the definition of a Corrosive material shall be labeled with a CORROSIVE label in addition to the class label.

(8) A material classed as a Flammable solid that also meets the definition of a Corrosive material shall be labeled with a CORROSIVE label in addition to the class label.

(9) A material classed as an Oxidizer that also meets the definition of a Corrosive material shall be labeled with a CORROSIVE label in addition to the class label.

(10 The requirements of subparagraphs (5) through (9) of this paragraph do not apply prior to July 1, 1983.

32. In § 172.407 paragraph (h) is revised to read as follows:

§ 172.407 Label specifications.

* * * * *

(h) Except for EXPLOSIVE A and EXPLOSIVE B labels, IMCO specifications for labels may be used provided the labels bear English language inscriptions as prescribed in this subpart, and color tolerances are as prescribed by paragraph (d) of this section. EXPLOSIVE A and EXPLOSIVE B labels may bear inscriptions in addition to those prescribed in this subpart if required for purposes of import or export. A label may contain inscriptions required by the country of origin subject to the limitations specified in § 172.401.

* * * * *

33. A new § 172.503 is added to read as follows:

§ 172.503 Identification number display on placards.

For procedures and limitations pertaining to the display of identification numbers on placards, see § 172.334.

34. In § 172.504 Table 2 of paragraph (a) is revised and paragraph (d) is added to read as follows:

§ 172.504 General placarding requirements.

(a) * * *

Table 2

If the motor vehicle, rail car, or freight container contains a material classed (described) as—	The motor vehicle, rail car, or freight container must be placarded on each side and each end—
Class C explosives	DANGEROUS.[1][3]
Blasting agents	BLASTING AGENTS.[3]
Nonflammable gas	NON-FLAMMABLE GAS.[1]
Nonflammable gas (Chlorine)	CHLORINE.[1]
Nonflammable gas (Fluorine)	POISON
Nonflammable gas (Oxygen, pressurized liquid)	OXYGEN.[2]
Flammable gas	FLAMMABLE GAS.[3]
Combustible liquid	COMBUSTIBLE.[4]
Flammable liquid	FLAMMABLE.
Flammable solid	FLAMMABLE SOLID.[5]
Oxidizer	OXIDIZER.[3]
Organic peroxide	ORGANIC PEROXIDE.
Poison B	POISON.
Corrosive material	CORROSIVE.[4]
Irritating material	DANGEROUS.

[1] A NON-FLAMMABLE GAS placard is not required on a motor vehicle displaying a FLAMMABLE GAS placard

[3] BLASTING AGENTS, OXIDIZER and DANGEROUS placards need not be displayed if a freight container, motor vehicle, or rail car also contains Class A or B explosives and is placarded EXPLOSIVES A or EXPLOSIVES B as required.

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* * * * *

(d) Any packaging having a capacity of 110 gallons or less that contains only the residue of a hazardous material covered by Table 2 of this section need not be included in determining the applicability of the placarding requirements.

35. In § 172.519 paragraphs (d) and (f) are revised to read as follows:

§ 172.519 General specifications for placards.

* * * * *

(d) The hazard class and division number prescribed for dangerous goods in the UN Recommendations titled "Transport of Dangerous Goods" may be entered on each placard in the lower corner of the diamond. If a placard is used to display identification numbers as authorized by § 172.334, the class number must be entered in a numeral approximately 1¾-inches (45 mm.) in height (numeral height may be between 1⅝ inches (41 mm.) and 1¾ inches (45 mm.)). They must be black on each placard except on NON-FLAMMABLE GAS, FLAMMABLE GAS, FLAMMABLE, COMBUSTIBLE and CORROSIVE placards. The class numbers on NON-FLAMMABLE GAS, FLAMMABLE GAS and FLAMMABLE placards may be white, and the class numbers on the CORROSIVE placard must be white.

* * * * *

(f) Except as provided in § 172.334, placards shall be as described in this section and as prescribed in Appendix B to this Part.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

36. In § 173.2 the section title is changed: the introductory text of paragraph (a) is revised; paragraph (a)(16) is added, to read as follows:

§ 173.2 Classification of material.

(a) *Classification of material having more than one hazard as defined in this Part.* Except as provided in paragraph (b) of this section, a hazardous material, having more than one hazard as defined in this Part, must be classed according to the following order of hazards:

* * * * *

(16) ORM–E

* * * * *

37. Section 173.21 is revised to read as follows:

§ 173.21 Forbidden materials and packages.

Unless otherwise provided in this subchapter, the offering for transportation of the following is forbidden:

(a) A hazardous material in the same packaging, freight container, or overpack with another hazardous material, the mixing of which would be liable to cause a dangerous evolution of heat or gas, or produce corrosive materials, except as provided in §§ 173.152(a) and 173.242(a) and (b).

(b) A package containing a material which is liable to decompose or polymerize at a temperature of 130°F. (54.4°C.) or less with an evolution of a dangerous quantity of heat or gas unless stabilized or inhibited in a manner that will preclude such evolution.

(1) The determination of whether a material is forbidden under this paragraph may be made by one of the following methods: Standard Method of Test for Constant Temperature Stability of Chemical Materials (ASTM E–487–74) or the Self Accelerating Decomposition Temperature (SADT) Test published by the Organic Peroxide Producers' Safety Division (OPPSD).

(2) Refrigeration may be used as a means of stabilization only when approved by the Associate Director for Operations and Enforcement, MTB. (For status of approvals issued by the Bureau of Explosives, see § 171.19 of this subchapter.)

(c) Packages which evolve a dangerous quantity of flammable gas or vapor realeased from a material which would not otherwise be subject to this subchapter, i.e., the release of flammable vapor or gas in such quantities that a flammable mixture with air would be created within a transport vehicle.

(d) Packages containing materials (other than those classed as explosives) which will detonate in a fire. For the purposes of this paragraph, a detonation is a type of explosion in which a shock wave travels through the material at a speed greater than the speed of sound in the undecomposed material. When tests are required to evaluate a package under the provisions of this paragraph, the testing must be done or approved by one of the agencies specified in § 173.86.

(e) Any package containing a cigarette lighter or other similar device with fuel and equipped with an ignition element, unless the design of the device and its packaging insofar as they affect safety in transportation have been examined by the Bureau of Explosives (B of E) and approved by the Associate Director for Operations and Enforcement, MTB. (An approval which was issued by the B of E remains valid to the same extent as if it had been issued by MTB.) For lighters containing gases, also see § 173.308.

38. In § 173.28 the section heading, the introductory text of paragraph (h), and paragraph (n) are revised; paragraph (h)(1) is deleted, paragraphs (i) and (j) are deleted and reserved; paragraph (p) is added to read as follows:

§ 173.28 Reuse of packagings (containers).

* * * * *

(h) Except as provided in paragraphs (m), (n), and (p) of this section, single-trip containers (marked STC) and nonreusable containers (marked NRC) subject to the specification requirement of Part 178 of this subchapter from which contents have been removed following use for transportation of any material, may not be used thereafter for the transportation of hazardous materials.

(i) [Reserved]

(j) [Reserved]

* * * * *

(n) A packaging marked as STC or NRC according to the specification requirements of Part 178 of this subchapter may be reused for the shipment of any corrosive solid, ORM–A, ORM–B, ORM–C, ORM–E or any material not required by this subchapter to be shipped in a DOT specification packaging. Paragraph (m) of this section does not apply to these materials.

* * * * *

(p) A packaging marked NRC or STC according to the specification requirements of Part 178 of this subchapter may be reused for the shipment of hazardous waste to designated facilities subject to the following conditions:

(1) Except as authorized by this paragraph, the waste must be packaged in accordance with this Part and offered for transportation in accordance with the requirements of this subchapter.

(2) Transportation is performed by highway only.

(3) A package is not offered for transportation less than 24 hours after it is finally closed for transportation, and each package is inspected for leakage immediately prior to being offered for transportation.

(4) Each package is loaded by the shipper and unloaded by the consignee, unless the motor carrier is a private or contract carrier.

(5) The packaging may be used only once under this paragraph and may not be used again for shipment of hazardous materials except in accordance with paragraph (m) or (n) of this section.

39. In § 173.29 paragraph (a) is revised; paragraphs (b), (c), and (e) are deleted; paragraph (d) is redesignated paragraph (b); paragraph (f) is redesignated paragraph (c) to read as follows:

§ 173.29 Empty packagings, portable tanks, cargo tanks, and tank cars.

(a) Except as otherwise provided in this section, a packaging having a capacity of 110 gallons or less that previously contained a hazardous material may not be offered for transportation unless offered in the same manner as required when it previously contained a greater quantity of hazardous material.

(1) This paragraph does not apply to a packaging that has been cleaned and purged of all residue or to a packaging filled with a material that is not subject to this subchapter.

(2) The word "waste" does not have to be displayed as part of the marking required by § 172.300 of this subchapter on a packaging having a capacity of 110 gallons or less that contains only the residue of a hazardous material.

(3) Any packaging having a capacity of 110 gallons or less that contains only the residue of a hazardous material covered by Table 2 of § 172.504 of this subchapter—

(i) Does not have to be included in determining the applicability of the placarding requirements of that section, and

(ii) Is not subject to the shipping paper requirements of this subchapter when collected and transported by a private motor carrier for reconditioning or reuse.

(4) Notwithstanding the stowage requirements in Columns 7(a) and (b) of the Table in § 172.101 or of the Optional Table in § 172.102 of this subchapter, for transportation by water, empty drums or empty cylinders not meeting the exception in paragraph (a)(1) of this section may be stowed on deck or under deck. Also, these packagings are not subject to Subparts D through O of Part 176 of this subchapter.

* * * * *

40. Section 173.51 is revised to read as follows:

§ 173.51 Forbidden explosives.

Unless otherwise provided in this subchapter, the transportation of the following explosives is forbidden:

(a) Explosive compounds, mixtures or devices which ignite spontaneously or undergo marked decomposition when subjected to a temperature of 167° F. (75° C.) for 48 consecutive hours.

(b) New explosive compounds, mixtures or devices except as provided for in § 173.86.

(c) Explosive mixtures or devices containing an ammonium salt and a chlorate.

(d) Explosive mixtures or devices containing an acidic metal salt and a chlorate.

(e) Leaking or damaged packages of explosives.

(f) Nitroglycerin, diethylene glycol dinitrate or other liquid explosives not authorized by §173.53(e) or (h). (For shipment by motor vehicle other than by common carrier, see § 177.822(b) of this subchapter.)

(g) Loaded firearms.

(h) Fireworks that combine an explosive and a detonator or blasting cap.

(i) Fireworks containing yellow or white phosphorous.

(j) Toy torpedoes, the maximum outside dimension of which exceeds ⅞-inch, or toy torpedoes containing a mixture of potassium chlorate, black antimony, and sulfur with an average weight of explosive composition in each torpedo exceeding four grains.

41. In § 173.118a paragraphs (a) and (b)(1), (2), (3) and (5) are revised to read as follows:

§ 173.118a Exceptions for combustible liquids.

(a) Unless otherwise stated for a specific material, the regulations in this subchapter do not apply to a material classed as a combustible liquid in a packaging having a rated capacity of 110 gallons or less, unless the combustible liquid is a hazardous substance, or a hazardous waste.

(b) * * *

(1) Shipping papers, waybills, switching orders, and hazardous waste manifests;

(2) Marking of portable tanks and identification number marking of portable tanks, cargo tanks, tank cars and mult-unit tank car tanks;

(3) Placarding of portable tanks, cargo tanks and tank cars.

* * * * *

(5) Reporting incidents as prescribed by §§ 171.15, 171.16, and 171.17 of this subchapter.

42. In § 173.151a, paragraph (a)(3) is revised to read as follows:

§ 173.151a Organic peroxide; definition.

(a) * * *

(3) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

* * * * *

42A. In § 173.154, the second sentence of paragraph (a)(20) is revised to delete the comma and all the text after the word "dry" and by adding a period after the word "dry".

43. A new § 173.179 is added to read as follows:

§ 173.179 N-methyl-N'-nitro-N-nitrosoguanidine.

N-methyl-N'nitro-N-nitrosoguanidine must be packaged as follows: The quantity in one outside packaging may not exceed 25 grams and must be placed in a polyethylene bottle which is tightly closed and the closure secured in place with pressure sensitive tape. The bottle must be sealed in a polyethylene bag constructed of polyethylene at least 4 mils thick. The bag containing the bottle must be cushioned in a hermetically sealed can with noncombustible cushioning material. There must be at least one inch of cushioning material between the outer surface of the bag and the inner surface of the can. The metal can must be cushioned in a DOT 12B fiberboard box constructed of at least 350 pound test fiberboard. There must be at least one inch of cushioning material between the outer surface of the can and the inner surface of the fiberboard box.

§ 173.182 [Amended]

44. In § 173.182(a) and § 173.182(b) the following materials are added in the text by being entered in their proper alphabetical sequence: "beryllium nitrate, cupric nitrate, ferric nitrate, mercuric nitrate, nickel nitrate, and zirconium nitrate."

45. In § 173.217 the heading and introductory text to paragraph (a) are amended by inserting the entry "Calcium hypochlorite, hydrated" in proper alphabetical order; present paragraph (b) is redesignated paragraph (c) and a new paragraph (b) is added to read as follows:

§ 173.217 Calcium hypochlorite mixture, dry; lithium hypochlorite mixture, dry; mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry; potassium dichloro-s-triazinetrione, dry; sodium dichloro-s-triazinetrione, dry; trichloro-s-triazinetrione, dry.

* * * * *

(b) As prescribed in § 173.163(a)(7). Authorized only for calcium hypochlorite, hydrated.

* * * * *

46. In § 173.352, the section heading and the introductory text of paragraph (a) are revised to read as follows:

§ 173.352 Sodium and potassium cyanide solutions, and cyanide solution, n.o.s.

(a) Sodium and potassium cyanide solutions, and cyanide solutions, n.o.s.

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must be packed in specification packagings as follows:

* * * * *

47. In § 173.364, the introductory text of paragraph (a) is revised to read as follows:

§ 173.364 Limited quantities of poison B solids.

(a) Unless otherwise excluded by paragraph (a)(3) of this section, Limited Quantities of Poison B solids for which exceptions are permitted, as noted by reference to this section in § 172.101 of this subchapter, are excepted from specification packaging requirements of this Part if in tightly closed inside packaging securely cushioned when necessary to prevent breakage according to the following subparagraphs. (In addition, these shipments are not subject to Subpart F of Part 172 of this subchapter except § 174.24 and § 174.680, nor Part 177 of this subchapter except § 177.817 and § 177.841(e).)

* * * * *

48. In § 173.389 paragraph (e) is revised to read as follows:

§ 173.389 Radioactive materials; definitions.

* * * * *

(e) "Radioactive material" means any material or combination of materials which spontaneously emit ionizing radiation. Material in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, is not classed as a Radioactive material under this subchapter.

* * * * *

49. In § 173.500, paragraph (a) and the Note to paragraph (a) are revised; former paragraphs (a)(1) through (a)(4) are redesignated paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) respectively and the introductory text of paragraph (b) and a new paragraph (b)(5) are added to read as follows:

§ 173.500 Definitions.

(a) An Other Regulated Material (ORM) is a material that—

(1) May pose an unreasonable risk to health and safety or property when transported in commerce; and

(2) Does not meet any of the definitions of the other hazard classes specified in this subchapter, or

(3) Has been reclassed an ORM (specifically or permissively) according to this subchapter.

Note.—A material with a flashpoint of 100° F. to 200° F. may not be classed as an ORM if it is a hazardous waste or is offered in a packaging having a rated capacity of more than 110 gallons.

(b) ORM's are divided into classes as follows:

* * * * *

(5) An ORM–E is a material that is not included in any other hazard class, but is subject to the requirements of this subchapter. Materials in this class include—

(i) Hazardous waste.

(ii) Hazardous substances as defined in § 171.8 of this subchapter.

50. In § 173.505 the introductory text to paragraph (a) is revised to read as follows:

§ 173.505 Exceptions for other regulated material (ORM).

(a) The following ORM's, unless otherwise provided by § 172.101 of this subchapter, are not subject to the requirements of this subchapter, except §§ 173.6, 173.21 and 173.24, and Subparts C and D of Part 172 of this subchapter when packaged as follows:

* * * * *

51. In § 173.510 paragraph (a)(1) is revised and paragraph (a)(5) is added to read as follows:

§ 173.510 General packaging requirements.

(a) * * *

(1) Each material must be offered for transportation and transported in compliance with Subparts B, C, and D of Part 172 of this subchapter and Subparts A and B of Part 173. [Note: Packaging for certain PCB's for disposal, and for storage for disposal is prescribed by EPA in 40 CFR 761.10 and 761.42.]

* * * * *

(5) Portable tanks, tank cars, cargo tanks, hopper and dump type transport vehicles must be free from leaks and all discharge openings must be securely closed during transportation.

52. A heading to Subpart O, to precede sections numbered 173.1300 through 173.1399, is added to read as follows:

Subpart O—Other Regulated Material; ORM–E.

53. Section 173.1300 is added to read as follows:

§ 173.1300 Hazardous waste, liquid or solid, n.o.s.; hazardous substance, liquid or solid, n.o.s.

Hazardous waste, liquid or solid, n.o.s., or Hazardous substance, liquid or solid, n.o.s., may not be offered for transportation unless packaged in accordance with § 173.510.

PART 174—CARRIAGE BY RAIL

54. In § 174.24 paragraph (b) is revised to read as follows:

§ 174.24 Shipping papers.

* * * * *

(b) This subpart does not apply to a material classed as an ORM–A, B, C, or D unless it is a—

(1) Hazardous substance, or

(2) Hazardous waste.

55. In § 174.25 paragraph (b)(6) is added and at the end of paragraph (c) a new sentence is added to read as follows:

§ 174.25 Additional information on waybills, switching orders and other billings.

* * * * *

(b) * * *

(6) For any entry for a material that is a hazardous substance, the letters "RQ" shall be entered on the shipping paper either before or after the basic description, and

* * * * *

(c) * * * For an empty tank car that last contained a hazardous substance and still contains a reportable quantity, "RQ" shall be entered on the shipping paper either before or after the basic description.

* * * * *

56. Section 174.45 is revised to read as follows:

§ 174.45 Reporting hazardous materials incidents.

When an incident occurs during transportation in which a hazardous material is involved, a report may be required (see §§ 171.15, 171.16 and 171.17 of this subchapter).

PART 176—CARRIAGE BY VESSEL

57. In § 176.11 paragraph (e) is revised and paragraph (f) is added to read as follows:

§ 176.11 Exceptions.

* * * * *

(e) Hazardous materials classed and shipped as ORM–D are not subject to the requirements of this Part unless they are offered for transporation as hazardous wastes.

(f) The stowage requirements of § 172.101 of this subchapter notwithstanding, a hazardous material which is classed, labeled and described in accordance with § 172.102 may be stowed as provided in that section.

58. In § 176.48 paragraph (b) is revised to read as follows:

§ 176.48 Situation requiring report.

* * * * *

(b) When an incident occurs during transportation in which a hazardous material is involved, a report may be required (see §§ 171.15, 171.16 and 171.17 of this subchapter).

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

59. Section 177.807 is revised to read as follows:

§ 177.807 Reporting hazardous materials incidents.

When an incident occurs during transporation in which a hazardous material is involved, a report may be required (see §§ 171.15, 171.16, and 171.17 of this subchapter).

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1).

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.) A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on May 7, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

Note.—Incorporation by reference provisions approved by the Director of the **Federal Register** on May 15, 1980.

[FR Doc. 80-15510 Filed 5-21-80; 8:45 am]

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May 22, 1980

Part III

U.S. Regulatory Council

Guidelines for Entries in the Calendar of Federal Regulations; Request for Public Comments

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U.S. REGULATORY COUNCIL

Guidelines for Entries in the Calendar of Federal Regulations; Request for Public Comments

AGENCY: United States Regulatory Council.

ACTION: Request for public comment.

SUMMARY: We are asking members of the public to suggest any revisions they feel are necessary to the Guidelines for the **Calendar of Federal Regulations.** The Regulatory Council issued these Guidelines to help Federal agencies prepare entries for the May 1980 edition of the **Calendar** that would be as complete and consistent as possible given the different activities and goals of the 36 Council agencies and the different stages of development of the regulations the agencies describe. We want the **Calendar** to be as useful as possible to its readers, and we welcome comments that will help us revise the Guidelines we will issue for the November 1980 edition of the **Calendar.**

The **Calendar,** which we publish twice a year in May and November, is a catalog of the most important regulations which Council agencies are developing at the time of publication. We hope to increase public involvement in the regulatory development process by asking for comments to the Guidelines now, and by indicating in the **Calendar** how interested parties may contact the appropriate agencies on specific regulations.

COMMENTS: We are asking for your comments by June 30, 1980.

Please address your comments to: Mark G. Schoenberg, Associate Director, U.S. Regulatory Council, Washington, D.C. 20503, (202) 426–1962 or (202) 653–7240.

FOR FURTHER INFORMATION CONTACT: Peter J. Petkas, Director, U.S. Regulatory Council, Washington, D.C. 20503, (202) 395–6110.

SUPPLEMENTARY INFORMATION: The President directed the creation of the U.S. Regulatory Council on October 31, 1978. Its principal duties are to help coordinate Federal regulatory activities and to help manage the regulatory process more effectively. The Council is comprised of 36 Federal departments and agencies that have significant regulatory responsibilities.

The President directed the Council to develop and publish a semiannual calendar of important upcoming Federal regulations. The Council published the first edition of the **Calendar of Federal Regulations** in February 1979 (44 FR 11388 *et seq.,* February 28, 1979), and the second edition in November 1979 (44 FR 68202 *et seq.,* November 28, 1979). The Council will publish subsequent editions every May and November.

The **Calendar** serves the President, the Congress, the regulators and the public as a tool for understanding and helping to shape the way we implement national regulatory policy goals. It also serves the public by describing opportunities for them to participate in the development of specific regulations.

The Council designed the **Calendar** to be a comprehensive catalog of the most important Federal regulations that agencies are developing. It presents the following information for each proposed regulation:

—Why the proposed regulation is important;

—Problems the agency intends to address in the proposed regulation;

—Major alternatives the agency is considering;

—Sectors of the economy that could be affected by the proposal;

—Expected costs and benefits of the proposal;

—Related regulations and actions;

—Collaboration between the issuing agency and other Federal and State agencies;

—Timetable for action;

—List of available documents; and

—Agency contact.

We realize that the amount of information an agency can supply varies according to a regulation's state of development, and the different activities and operations for the agency itself. Because experts sometimes disagree on the method that should be used to estimate costs, benefits, and other economic impacts, we tried to structure the Guidelines so that the 36 Council agencies could express their analytic data in as consistent a way as possible. These Guidelines do not assume a particular methodology for economic analysis or any particular means for expressing the results of such analysis.

The **Calendar** is an evolving document that has benefited from the comments submitted by readers of previous editions, and the experience and ideas of the Council agencies. We want to continue this evolution and refinement, and are therefore seeking your comments on these latest Guidelines. Specifically, should we revise the Guidelines to:

—Request additional information? If so, on what subjects?

—Delete information we now request? If so, what?

—Organize the material differently? If so, how?

We would also appreciate any other comments you may have. The Guidelines for the May 1980 **Calendar** entries are reprinted below for your information. We have made a few minor changes in them to correct such things as typographical errors.

Dated May 6, 1980.

Douglas M. Costle,

Chairman.

Guidelines for the May 1980 Edition of the Calendar of Federal Regulations—Table of Contents

Introduction.

General Instructions for Preparing Entries

Agency Clearance.
Criteria for Including a Proposed Regulation.
Timing.
Writing Style.
Format.

Basic Outline for Entries

Agency Designation/Title of Regulation.
Legal authority.
Laws.
Regulations.
Executive Orders.
Reason for Including This Entry.
Statement of Problem.
Alternatives Under Consideration.
Innovative Regulatory Techniques.
Summary of benefits
Sectors Affected.
Direct Benefits.
Indirect Benefits.
Summary of costs.
Sectors Affected.
Direct Costs.
Indirect Costs.
Related Regulations and Actions.
Active Government Collaboration.
Timetable.
Available Documents.
Agency Contact.

Checklist/Outline of Guidelines

INTRODUCTION

The United States Regulatory Council publishes the **Calendar of Federal Regulations** to provide a comprehensive overview of important regulations that the 36 Council agencies are proposing. Because we want the **Calendar** to be as useful as possible to readers—interested citizens, public and private interest groups, the business community, and government officials—we are offering these Guidelines to help agencies prepare material for the third edition of the **Calendar** which we will publish in May. With the help of staff members in your agency and suggestions from many private and public interest groups, we have refined the basic format we used for the second edition.

The principal changes in this new edition that we made to improve both the content and appearance of the **Calendar** are:

1. Asking for agency head or designated Council Representative clearance on the entries.

2. Asking for a Code of Federal Regulations citation listed immediately after the title of the proposed regulation.

3. Adding a new section entitled "Reason for Including This Entry" to briefly describe the reason the agency finds the entry important enough to include it in the **Calendar.**

4. Deleting the separate "Sectors Affected" section and rearranging the relevant information to appear as a subheading within both the costs and the benefits sections.

We are also:

1. Trying to elicit more substantial cost and benefit data by changing the way we ask for this information. The information we request is the same.

2. Giving more examples of legal citations. The information we request remains the same.

3. Describing in more detail examples of innovative regulatory techniques you may wish to discuss in your alternatives section.

4. Clarifying some small format points.

These Guidelines provide a comprehensive framework that attempts to accommodate the different reporting approaches of 36 agencies. We realize that what you include in your entries will depend on: (1) the types of information your agency analyzes; (2) the stage of development of the regulation at the time you write your entries; (3) the appropriateness of certain information for certain rules; and (4) whether your agency has performed or will perform a regulatory analysis. However, we have structured the Guidelines so that you can provide as much information as you have available, thus making the **Calendar** as useful as possible to its wide variety of readers.

GENERAL INSTRUCTIONS FOR PREPARING ENTRIES

1. Agency Clearance

Calendar Representatives are responsible for ensuring that the Agency Head or Council Representative clears agency submissions prior to the time we publish the Calendar in the **Federal Register.** We must have a transmittal letter from your Agency Head or Council Representative accompanying the entries from your agency.

We have found that the best entries in the last **Calendar** were those which were reviewed by economists as well as lawyers and plain English editors within the agency. We suggest that if you have not established internal legal, economic, and plain English reviews of your entries, you may wish to do so. This will expedite our joint editorial process.

2. Criteria for Including a Proposed Regulation

We would like to have a minimum of five entries from each participating executive agency and three from each participating independent agency, unless, of course, you do not have a sufficient number of actions under development which meet the criteria described below.

Each entry should meet one or more of the following criteria, which are also those you use to determine whether you should prepare a regulatory analysis under Executive Order 12044:

- Regulations that have an annual effect on the economy of $100 million or more;
- Regulations that will impose a major increase in costs or prices for individual industries, levels of government, or geographic regions; and
- Regulations otherwise determined by the agency head.

In addition, you should prepare an entry for the following types of regulations which also require regulatory analysis:

- Grants and income transfer program regulations which may impose annual compliance costs of $100 million or more; and
- Any regulation you have reviewed under the provisions of EO 12044 if you are reproposing it and if the changes you propose to make in the regulation would themselves be considered "major" under the Executive Order.

You should also include an entry for any other proposed regulation as follows:

- Any proposed regulation for which an agency is not likely to prepare a regulatory analysis, but which the agency might want to include because:

—It is precedent setting;

—It concerns an issue of great public interest; or

—It would cause an increase in productivity and/or profits without causing any adverse effects.

The importance of such rules might make public information and/or participation in developing the proposed rule desirable.

- Any entry that appeared in the second edition, unless it has been promulgated or withdrawn, in which case we will note this fact in the Calendar's Appendix II: Status of Regulations from the November 1979 Edition.

3. Timing

You should submit an entry for any regulation that meets one or more of the above criteria and for which an agency is *reasonably likely* to have a regulatory action [e.g. Advance Notice of Proposed Rulemaking (ANPRM), Notice of Proposed Rulemaking (NPRM), Commission Decision, Final Rule, etc.] *within the next twelve months.* If you have a proposed rule that meets the above criteria and that may become final around the date we publish the **Calendar,** please prepare an entry for that regulation—we can always withdraw it at the last minute. Our experience shows that final actions often "slip" and we don't want you or ourselves to be embarrassed by a glaring omission from the **Calendar.**

4. Writing Style

Because the **Calendar** has such a varied readership, you, of course, should prepare all **Calendar** entries in clear and concise language. You can accomplish this goal by making sure that:

- You write all sentences in the *active rather than passive voice* whenever possible. If you use the active voice you will make your sentences clearer and more forceful. Also, when you use the passive voice you tend to obscure "who does what to whom," leaving the reader unsure who is responsible.

Example: Active: "We will seek public comment." Passive: "Public comment will be sought."

- You precisely define *"jargon"* or *"state of the art"* terms that are not generally understood by a nonspecialized readership.
- You *spell out acronyms and other abbreviations* the first time they appear in the text of each entry. In addition please spell out all acronyms the first time they appear in the "Active Government Collaboration" section. We will accept three acronyms without your spelling them out—ANPRM (Advanced Notice of Proposed Rulemaking), NPRM (Notice of Proposed Rulemaking) and EO (Executive Order). We will define these terms in the Users' Guide to the **Calendar.**

If any entries appear confusing because of multiple, complicated acronyms, you should spell out as many acronyms as possible so that you make the entry more understandable.

- *You do not use footnotes.* Explain your point in parentheses or by some other means in the text itself.
- If possible, you ask *an editor in your agency* to review entries to make sure they are written in plain English before the material reaches us; if you do this you will facilitate our mutual editorial process.

5. Format

We suggest that, if possible, you type draft entries on a memory typewriter to facilitate any rewriting you need to make your entries final.

You should make sure:

- You make your entries consistent with the basic outline indicated in these Guidelines;
- You type your entries *double-spaced* with at least one-inch margins on *all* sides of the page;
- You indent paragraphs five spaces; and
- You type section headings in upper and lower case, and place them flush with the left margin. Do NOT underline them because the the printer italicizes underlined words.

In addition:

- Please submit a clean final copy because we will send it directly to the printer.
- If possible, please submit original manuscript; we must photostat your material several times.

BASIC OUTLINE FOR ENTRIES

Agency Designation/Title of Regulation

Type the agency name and issuing division in abbreviated form, *entirely in upper case,* e.g., DOE–ERA. Type the word "Title" on a separate line, two lines below the agency designation and two lines above the actual title. Give the title of the regulation or action, *capitalizing the first letter of all the important words.*

In parentheses immediately after the title, give the **Code of Federal Regulations** (CFR) citation, if one is available. If the regulation you are proposing is a revision to an existing CFR citation, place an asterisk (*) after the citation. If the proposed regulation will occupy a new CFR section, you do not need the asterisk. We are doing this to distinguish between rules which you are revising or reproposing, and new rules.

Example: DOE–ERA

Title
Gasohol Market Regulations (10 CFR Parts 202, 205, 210–212, 218, 500, 660, 661)

Legal Authority

We are trying to maintain a consistent format for legal citations. The information we need is the same as that in the last **Calendar**, but we are giving you more detailed examples to help you prepare this section. If possible, please review your citations with an attorney in your agency to ensure accuracy, and to save editing time.

1. Laws

A. Whenever you give a citation to a U.S. Law you should cite to the United States Code (U.S.C.), the document which contains the consolidated and codified Public Laws, *except* in the cases outlined under B below.

Example

When you wish to cite to:	Write:
Title 10, Section 501 of the U.S.C.	10 U.S.C. 501

B. In some instances, if you cite to the U.S. Code you will not communicate where the reader can find the particular provision. Examples of this are provisions in appropriations acts and provisions that are amendments to an existing law but have not been codified separately in the U.S. Code. For these exceptional cases you should use Pub. L. (Public Law) and Stat. (U.S. Statutes at Large) citations.

Example

When you wish to cite to:	Write:
Public Law 96–187, titled Federal Election Campaign Act Amendments of 1979, found in the 93rd edition of the U.S. Statutes at Large on page 1339.	Federal Election Campaign Act Amendments of 1979, Pub. L. 96–187, 93 Stat. 1339

2. Regulations

A. When you give a citation to a regulation you should cite the Code of Federal Regulations, except as provided under B below.

Example

When you wish to cite to:	Write:
Title 1, Chapter 1 of the CFR	1 CFR Chapter 1
Title 1, Chapter 1, Part 18	1 CFR Part 18
Title 1, Chapter 1, Parts 18 and 19	1 CFR Parts 18, 19
Title 1, Chapter 1, Part 18, § 18.12	1 CFR 18.12
Title 1, Chapter 1, Part 18, § 18.12 Paragraph (c)(3)	1 CFR 18.12 (c)(3)

B. In four instances, your citations should include references to both **Federal Register** (FR), and the Code of Federal Regulations (CFR). These cases are:

- Proposed regulations and ANPRMs.
- Where the regulation, although published in the FR, and assigned a CFR number, has not yet been included in the annual revision of the CFR.
- Where the document, although published in the FR, is not a regulation but is related to one. Even though the document itself does not appear in the CFR, if it references material in the CFR, you should cite to these references.
- Where the regulation in question, formerly included in the CFR, is no longer effective and does not appear in the most recent annual revision of the CFR. You should give that original citation.

Example

When you wish to cite to:	Write:
A proposed rule in the 44th Edition of the **Federal Register**, Page 33804, published on June 12, 1979, which would appear at Title 24 of the Code of Federal Regulations, Part 880	24 CFR Part 880 (44 FR 33804, June 12, 1979)

3. Executive Orders

The President issues Executive Orders (EOs) which are always published in the **Federal Register** and compiled in CFR Title 3. You should have a CFR citation for EOs, if possible. Since there are no Chapters or Parts in the CFR Title 3, you should give a page number when you have a citation in 3 CFR.

Example

When you wish to cite to:	Write:
EO 11382, published in Title 3 of the CFR, compilation of 1966–67, at page 691	EO 11382, 3 CFR, 1966–67 Comp., p. 691.

If the EO has not yet been published in the CFR, give an FR citation as you do with regulations.

You may wish to cite only to the **Federal Register** in some cases, e.g., documents which appeared in the FR but that are not laws or regulations.

When you wish to cite to:	Write:
The 44th Edition of the **Federal Register**, page 33804, published on June 12, 1979	44 FR 33804, June 12, 1979

Reason for Including This Entry

Many readers who have used the first two editions of the **Calendar** have commented that it is unclear why agencies have included certain rules. We therefore have added a new section to each entry to address this concern. Please state briefly why you are including the proposed regulation in the **Calendar**—in other words, why you consider the regulation important.

Example

The Department of Agriculture thinks this rule is important because it will set a precedent that will allow public participation at an earlier stage in our rulemaking process. The proposed rule will also allow groups to participate that have been financially unable to do so in the past.

Example

The Department of Housing and Urban Development thinks that this rule is important because we expect it will have an annual effect of $100 million or more on the economy.

One or two sentences should suffice for this section; you will give more detailed descriptions of the importance and effects of the proposed regulation later in the entry. You can refer to Criteria for Including a Proposed Regulation earlier in these Guidelines, to help you prepare this new section.

Statement of Problem

In this section describe the magnitude of the problem and why you need to take regulatory action to help solve it.

1. Start by giving a brief amount of background information so the reader understands why the problem arose.

Example

DOE's Economic Regulatory Administration is proposing to amend its regulations on Puerto Rican naptha entitlements. The agency began its narrative by briefly describing why the Federal government promulgated its original regulations, the content of those regulations, and the circumstances of the last ten years which made the agency wish to revise them.

2. Discuss the magnitude of the problem as best you can:

A. In quantitative terms, if possible.

Example

OSHA is proposing a regulation to reduce safety and health hazards in abrasive blasting operations. In describing the problem which led the agency to propose the regulations, OSHA stated that approximately 80,000 persons work as abrasive blasters across the country, and they as well as others in the blasting area face health and safety hazards in their work. OSHA described these hazards, which include a lung disease called silicosis, and stated that investigators had documented over 100 cases of silicosis, resulting in 25 deaths among sandblasters since 1958, in the U.S. Gulf Coast states alone.

B. If you do not have precise figures available, use a range or percentage to describe the problem.

Example

In describing why it is proposing fuel economy standards for model years 1982–85 light duty trucks, DOT stated that in 1978 roughly half of the total petroleum consumed in the United States was used for transportation. The light truck fleet, which includes vehicles such as conventional pickups and vans, consumed approximately 20 percent of that amount.

C. If you cannot make a quantitative statement, you should try to provide a qualitative description of the problem.

Example

The difficulty minority groups find in gaining access to public broadcasting may mean that these groups cannot adequately voice their concerns through the broadcast media.

3. Describe why the agency decided to act on this problem at this time. Possible explanations include new legislation, identification of a problem, a court decision, or prodding by consumers or industry.

Example

The Federal Highway Administration (FHWA) is considering revising the regulations that limit the driving hours and prescribed rest periods for drivers of vehicles engaged in interstate or foreign commerce. FHWA is taking this action in response to: (1) Numerous requests from public interest groups, labor organizations, motor carriers, and individual drivers; (2) Research studies showing that driver fatigue causes many commercial motor vehicle accidents; and (3) A 1974 decision of a Federal District Court involving a suit brought by PROD, Inc., an interest group representing some commercial truck drivers. PROD sought judicial review of FHWA's failure to initiate rulemaking proceedings on the hours of service regulations. The court dismissed the suit to allow FHWA to begin rulemaking, but allowed PROD to reinstate the suit if FHWA failed to initiate rulemaking within 18 months.

4. You should describe the consequences of not responding to the problem. "Doing nothing" is the base case against which all benefits and costs are measured. You should describe this base case, so later you can show the need for your proposed regulation by discussing how you will improve on the "do nothing" situation.

Example

If the agency does not take any action, a certain percentage of land across the country might irretrievably erode, or an estimated number of people a year might lose their lives, or the amount of a particular pollutant in the air might increase, causing illness in older people or those with respiratory problems.

Alternatives Under Consideration

The Carter Administration has emphasized the value of making an explicit and deliberate choice from among a selection of regulatory options. For example, the Administration's regulatory analysis program places importance on identifying and evaluating each major option in draft and final regulatory analyses. The Administration also has placed strong emphasis, through a November 16, 1979 Presidential directive, on developing regulations that take the size and nature of affected businesses and organizations into consideration (Weekly Compilation of Presidential Documents, Week of November 26, 1979 Vol. 15, No. 47; *Regulatory Programs and Small Businesses and Organizations).*

This section should include a succinct description of the major alternatives you are considering to solve the problem that you outlined in the preceding section and that improve on the "no action" base case. Please include the major pros and cons of each alternative when you describe it, so the reader will know why you are considering each one.

If you have decided to propose or have proposed one alternative, you should indicate that choice and describe it in detail.

In most cases, the two to four alternatives you list here will be identical to those that you are evaluating in your regulatory analysis, if you are preparing one.

Example

An outline of the paragraphs describing your alternatives section would look like this:

We are considering Option "A"
- "A" would solve the problem in the following way
- "A" has the following advantages
- "A" has the following disadvantages

We are also considering Option "B"
- "B" would solve the problem in the following way
- "B" has the following advantages
- "B" has the following disadvantages

We are also considering Option "C"
- Etc.

We prefer Option "A" over "B" and "C" because of the following reasons:

1. "A" will cause minimum additional expense to the regulated sector, and still meet the agency's regulatory objective of . . . by . . . .

2. "A" will be easier for us to enforce because . . . .

Example

The FAA stated that possible alternatives to establishing flammability standards for uniforms of crewmembers are:

(A) No regulation; do not require uniforms worn by crewmembers to meet any flammability standard. Current materials used to make uniforms provide maximum comfort, a range of styling, and are easily cleaned. However, they are constructed of conventional fabric that is flammable and may provide inadequate protection from radiant heat in cabin fires which people could survive if they wore adequate protective clothing. Also, without protective clothing, crewmembers may be incapable of performing necessary functions in certain emergencies.

(B) Require crewmembers to put on special garments such as firemen wear in case of a fire. This option was fully explored and reported in FAA Report No. FAA–RD–77–18. Although the garment provides maximum protection from flame and radiant heat, it is very expensive and difficult to put on.

(C) Require that crewmember uniforms meet a standard similar to the current children's sleepwear standard. This is a performance standard that requires that materials used for children's sleepwear resist ignition when exposed to flame, and self-extinguish rapidly. Materials which satisfy the children's sleepwear standard must be flame-resistant, but need not protect the wearer from radiant heat transferred through clothing.

(D) Require crewmember uniforms to meet a test measuring resistance to ignition and

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ability to self-extinguish as well as a standard designed to protect the wearer from injury from the transfer of radiant heat through clothing.

We currently regard alternative D as the most desirable alternative, since crewmembers must be adequately protected from both flame and radiant heat injury if they are to perform their duties adequately in an emergency.

Kinds of alternatives you are considering or have considered of course will vary according to the regulation. While the authorizing statute itself may specify that you must issue the regulation or take some other action, there are usually options you will have to or can consider to implement the law through regulation. You should try to describe the following kinds of alternatives, where appropriate:

1. The *different kinds of actions* you might take to achieve your statutory objective.

Example

If the statute requires that you reduce mining accidents, you might regulate the kind of protective clothing miners wear at work, the safety equipment available to them, or the structural safety supports mine operators must use when they construct a mine.

2. The *level of control* you will require for the action you are recommending.

Example

You might limit chemical discharges to 50 parts per million (ppm), 75 ppm, or 100 ppm.

3. The *flexibility* you build into your regulation to take into account the size and nature of the affected businesses or sectors, and to alleviate unnecessary burdens on them.

Example

EPA Guidelines and Standards on the Discharge of Effluents into Navigable Waters tailor regulatory limitations to the size of the industry and the effluent it produces. For instance, in the regulations covering receiving stations for bulk milk, the more stringent set of limitations applies to stations receiving and processing large amounts of milk each day. Stations processing smaller amounts of milk have to meet less stringent standards.

4. The *timing* of compliance.

Example

You might require that libraries install ramps for the handicapped within two years or within five years of the time the regulation becomes effective.

5. The *degree of reporting* you will require from businesses in order to comply with the proposed regulation. You might consider a range of reporting requirements. Reporting is a tool that can help you to reach your regulatory objectives and minimize unnecessary burdens on your agency or the regulated sector.

Example

OSHA reduced its reporting requirements for small firms which had little equipment and low accident rates; 131,000 businesses with fewer than 11 employees no longer have to fill out OSHA's annual survey. OSHA also cut 75 percent of its questions from the forms that larger businesses must complete. OSHA said that these actions have reduced the required man-hours by 80 percent, from 320,000 to 70,000 hours, and saved business an estimated $100,000,000 a year.

If there are no realistic alternatives to the action that you propose, please explain why.

Innovative Regulatory Techniques

In your description of alternatives you should highlight any innovative techniques you are considering. We define innovative techniques as departures from the traditional "command and control" form of regulation, which involves strictly specified rules and formal government sanctions for failure to comply. Innovative techniques typically involve approaches that use the economic forces of the marketplace to achieve regulatory goals. Regulatory reform is an important goal of the Administration, and this section can document your innovations publicly and reflect the information you have given to us already for the Council's reform initiatives report.

We have defined seven categories of innovative techniques.

1. Enhance Competition (including deregulation)

These actions remove artificial barriers to competition. Deregulation may be appropriate because the need for regulation no longer exists.

Example

On May 1, 1975, the SEC abolished fixed commission rates on stock market transactions. This action resulted in greater competition among brokerage houses, allowing investors to negotiate brokerage fees and rates that more accurately reflect the services received.

Example

In the 1930s and 1940s, when the FCC first began to regulate radio broadcasting, the radio marketplace was very different from what it is today. There were many fewer stations, for example, and television was not the dominant medium. The FCC is exploring whether the regulatory assumptions it made in the 1930s and 1940s are still valid. In particular, the Commission has proposed to modify or eliminate some of its present controls on news and public affairs programming and on commercial time.

2. Marketable Rights

In some cases you can meet your regulatory objectives by granting rights to engage in certain activities and allowing these rights to be sold or traded among private parties. This mechanism can provide an overall limit on regulated activities while allowing voluntary transactions to arrange the detailed allocation of rights. Market forces thereby can replace centralized government decisionmaking.

Example

DOI administers aspects of the Outer Continental Shelf (OCS) drilling program by suing marketable rights techniques. The agency designates certain areas of the OCS as suitable locations for oil drilling. DOI then solicits bids from oil companies that wish to lease those designated plots. The OCS is still public property which the Federal government owns and oversees, but the right to drill for and sell oil and resell the leases is bought by the oil companies.

3. Economic Incentives

These include structuring fees or providing subsidies such as energy tax credits or government procurement subsidies to encourage the private sector to achieve regulatory goals, instead of using direct regulation to achieve these goals.

Example

EPA and GSA decided jointly to pay a premium to manufacturers to make lawnmowers that operate at a lower noise level. This encouraged manufacturers to produce mowers with lower noise levels without forcing them to do so.

4. Performance Standards

These approaches permit sectors that an agency regulates to meet a desired overall performance standard rather than a specific design standard. This leaves regulated firms free to find the most cost effective means of compliance while maintaining the desired level of overall quality.

Example

The Motor Vehicle Information and Cost Savings Act requires that automobiles attain a fuel economy standard of 27.5 miles per gallon (mpg) by 1985. DOT in enforcing this statute has chosen to allow manufacturers to meet the 27.5 mpg limit through performance standards, i.e., manufacturers can meet this limit in any way they consider best. They can, for example, reduce vehicle size, construct vehicles from different materials, design more efficient engines, etc., rather than have DOT mandate a particular method of reaching the 27.5 mpg limit.

5. Information Disclosure

In this approach, agencies take steps to ensure that users of products or services are adequately informed about them. With this information, users can decide whether or not to purchase or use these products or services. By providing information or requiring that suppliers disclose specific information, rather than by regulating them directly, the agency increases the suppliers' operating freedom and the users' freedom of choice.

Example

Giving information about a product on its label, for instance, provides the consumer informed freedom of choice in the products he/she purchases. Disclosure, as required in truth-in-lending documents for various types of loans, describes the rights, obligations, and implications of a transaction.

6. Voluntary Standard Setting

In these approaches, sectors that agencies regulate can develop a voluntary standard rather than conform to one set by the agency. This brings private sector expertise into the regulation development process.

Example

CPSC aims to reduce deaths and injuries from fires caused by smoldering cigarettes dropped on upholstered furniture. The agency was considering taking regulatory action, but agreed to defer this action for a year to allow industry to operate its own voluntary program. The agency will carefully assess the results of the voluntary program before proposing further action.

7. Compliance Reform

These approaches use market-oriented techniques as a part of Federal compliance programs. Such techniques include government-licensed private auditors, consumer deputies, third party inspections, verifiable self-reporting, whistle blower programs, and economically based noncompliance penalties.

Example

The Food Safety and Quality Service of USDA is proposing to allow meat and poultry plants to conduct their own quality control program as a substitute for certain Federal inspection programs. Meat and poultry plants would still meet government standards without the need for continual on-site government inspection.

Your agency may have developed nontraditional regulatory approaches that we have not mentioned above. We encourage you to include such approaches in this section.

Summary of Benefits

This section and the next one on costs contain some of the most important information in the **Calendar.** However, many entries in the previous edition showed that entry writers had difficulty in providing the data we requested. We are attempting to improve these two sections by restructuring the Guidelines in this area in order to make the information easier to present.

Sectors Affected

There will no longer be a separate "Sectors Affected" section. Instead, the information you previously provided in that section will now be divided between the "Summary of Benefits" and "Summary of Costs" sections and will appear as a "Sectors Affected" subheading at the beginning of each of these sections. Please identify the sectors that will be most strongly affected, either directly or indirectly, by your proposed regulation.

Example

(For FHLBB "Branching" proposal)

Summary of Benefits

Sectors Affected: Federally chartered savings and loan associations in Washington, DC, Maryland, and Virginia; customers who use the services of these associations.

The information you highlight in the "Sectors Affected" subheading should match the information your agency supplies in the "Sectors Affected" Index. We have given the index form to the **Calendar** Representative.

The information under the "Special Impacts" category of the Index should be described in the subheading of the narrative in the following ways:

1. Special populations—by age, income, health status, ethnicity, etc.

2. Geographic areas—by region, State, county, local, inner city, metropolitan area, rural, etc. If you have prepared an Urban Impact Statement, please say so and try to incorporate information from that document into this section.

3. Levels of government—by Federal, State, and local.

After you have highlighted the sectors affected, you can proceed with the narrative, describing just how your proposal benefits these sectors.

Direct Benefits

First discuss the sectors that the proposal would benefit directly, and describe these benefits. Relate your discussion to the "no action" situation that caused the problem you described earlier. Your benefits would be those positive effects resulting from the action you propose to take.

If you are still considering a range of alternatives, you should discuss the direct benefits, in both qualitative and quantitative terms, for each major alternative you are considering, where such benefits differ. Your discussion will be most useful if you compare and contrast the benefits of each alternative where appropriate. You should also indicate how the benefits will be distributed over time.

1. Measurable (quantitative) terms.

A. Where possible, give *specific figures* for benefits that specified sectors would enjoy. If you give dollar values for benefits, please *state what year's dollars you are using.*

Example

Amounts of dollars saved by a specified sector over a specified time period, reduction in number of lost work days or injuries, amount of pollution or paperwork.

B. Where specific figures cannot be given, please give a range or "guesstimate."

Example

This proposal may result in an estimated savings of 3,000–5,000 acres of farmland in the next 15 to 20 years; or

We expect that "x" industry will add 10 to 20 percent to its yearly profits; or

We estimate that a particular sector may be able to save a total of $10 to $20 million over the next ten years (in 1980 dollars). Fifty percent of these savings would occur in the first three years.

2. Unmeasurable (qualitative) terms.

Equally important in a discussion of benefits is a *qualitative* discussion of the expected results from the proposal. Presenting qualitative information has often been a problem in cost and benefit discussions simply because the information is not precisely measurable. Aesthetics, quality of life, worker morale, and a general healthy environment are all very important, but hard to measure. However, you should try to include a discussion of such factors.

Example

The FTC stated that an important qualitative benefit of any final trade regulation rule concerning credit practices would be that creditors would treat people suffering from financial difficulties more fairly. At present, some creditors may harass the friends and relatives of those in debt, or threaten debtors with the loss of their jobs.

Indirect Benefits

Indirect, or "secondary," benefits are less obvious results of the proposal, and are harder to define precisely because they are indirect. They are results of the direct impact on other sectors, and are felt by the clientele or constituencies of the directly affected sector.

Over the long term, indirect effects can be as important as the direct effects. There are almost an infinite variety of such indirect effects, but, of course, you should identify only the most important ones.

If you are still considering a range of alternatives, you should discuss, compare, and contrast the indirect benefits for each alternative.

1. Measurable (quantitative) terms.

Discuss the indirect benefits of the regulation in quantitative terms if possible.

Example

For instance, a rule which you might propose to require child-proof tops on

V 45 MAY 22 1980 UMI

medicines could indirectly benefit parents by reducing the hospital bills that might occur if a child accidentally ingested the medicine. You might be able to identify the amount or percentage the proposed rule would reduce these bills if you knew the statistics on medical treatment for such accidents.

2. Unmeasurable (qualitative) terms. Discuss the indirect benefits of the regulation in qualitative terms as well.

Example

The CAB stated that its proposal for guidelines on subsidies to preserve essential air service to small communities should lead to many benefits. One of the intangible benefits may be an improved way of life for residents of small communities. This would result from continued or better access to the Nation's air transportation system.

Summary of Costs

Sectors Affected

As with the preceding section, "Summary of Benefits," this section should now start with a subheading identifying the sectors directly and indirectly affected by your proposed regulation.

Example

(For an EPA regulation for noise emission standards for newly manufactured motorcycles)

Summary of Costs

Sectors Affected: motorcycle manufacturers; manufacturers and distributors of motorcycle mufflers; and purchasers of motorcycles and motorcycle mufflers.

You should then proceed with a narrative discussing what costs you expect sectors which you have identified to bear as a result of the proposal or the alternatives you are considering. It is important to note that the word "costs" does NOT *only* apply to monetary figures. The "cost" of the proposed regulation is any negative impact which the proposal might cause either initially or over the long term, not only including dollars paid by an affected sector, but also including intangibles such as changes in established ways of conducting business, or in the habits and expectations of the general public.

Direct Costs

You should structure your discussion as you did for that in the Summary of Benefits section. Relate your discussion to the "no action" base case that caused the problem you described earlier. If you are still considering a range of alternatives, you should discuss the direct costs, in both quantitative and qualitative terms, for each major alternative which you are considering, where such costs differ. Your discussion will be most useful if you compare and contrast the cost of each alternative where appropriate. You should also indicate how the compliance costs will be distributed over time.

1. Measurable (quantitative) terms. Please include a discussion of the total compliance cost of the proposal.

Differentiate between the kinds of costs you are discussing.

- Capital costs. These include the investment in physical plants and equipment necessary to comply with the regulation.
- Annual costs. These include operation and maintenance costs as well as interest and depreciation costs. Please differentiate among these costs in your discussion.
- Administrative costs. These include additional reporting burdens, such as periodic reports imposed upon the regulated sector. They may also include increased personnel and budget expenditures for those levels of government which must oversee compliance. Please differentiate between costs on regulating and regulated groups.
- You may want to note other types of costs, such as research and development costs. If you do, please distinguish between the capital and annual components of such costs.

In all of your cost discussions you should:

- Use specific figures where possible and state what year's dollars you are using.
- Use ranges, percentages, or "guesstimates" where specific figures are not possible, but clearly identify them as such.
- Briefly identify the rate and method which you use if you discount costs.

Example

(For OSHA's abrasive blasting regulations) We list the preliminary estimates of the incremental costs of the first alternative below. The size of the range reflects variations in the stringency and timing of selected provisions of this alternative.

Type of cost	Amount in millions of dollars (1978)
Installed capital	13–185
Annual capital charge	3–44
Annual energy	.01–8
Annual operating and maintenance	51–78
Total annualized	54–130

OSHA estimates that the alternative of banning sand would cost an additional $90 million in annual operating and maintenance costs due to the extra cost of substitutes for silica sand. Since sand sold for blasting is less than 3 percent of the sales of sand suppliers, the incremental effect on sand suppliers would be minor.

The implications of the upper bound cost estimates listed above for price, output, and employment in the affected industries are displayed below. The final two ratios in the table estimate the effect on the market structure.

	Percent change in price	Percent change in output	Net employment change (percent)	Total annualized cost to profit ratio	Installed capital cost to normal investment ratio
Alternative 1	0.0750	−0.0989	−0.0929	0.0167	0.0266
Ban Sand	0.1782	−0.2201	−0.5388	0.0396	0.0266

2. Unmeasurable (qualitative) terms. As with the benefits discussion, give information here on the potential effects on aesthetics, quality of life, and other intangibles which are important but cannot be specifically measured.

Example

(In a CPSC discussion of insulation for omnidirectional citizens band [CB] base station antennas)

Certain producers may leave the CB antenna market if they cannot provide insulation at a reasonable cost.

Indirect Costs

If you are still considering a range of alternatives, you should discuss, compare, and contrast the indirect costs for each alternative.

1. Measurable (quantitative) terms. Discussion of indirect costs/impacts could include such items as plant closings, job losses, increases in energy use, as well as price increases that may occur as a result of implementing the proposed regulation.

Example

CPSC estimated that customers would pay $114 to $174 a year in increased prices for furniture as a result of the agency's proposed furniture flammability standard.

2. Unmeasurable (qualitative) terms.

Example

FTC's proposed rulemaking on children's advertising could indirectly affect the television audience by causing changes in the quantity and quality of programing by television stations. If the proposed rule to restrict advertising would cause advertisers to cut down on the amount as well as the kind of advertising time purchased, the stations may lose some advertising revenues and this may force them to change some of their existing programs.

Related Regulations and Actions

Internal

Mention by title any existing programs and/or regulations and any regulations under development in your own agency that are related to the proposed regulation.

External

Summarize the regulations or actions of other Federal agencies or major State agencies which are related to the proposed regulation.

If the information for both subheadings is "none", you can omit the subheadings and put "none" directly under the category. However, if there is information for at least one subheading, please use both. Please underline "*Internal*" and "*External*" so the **Federal Register** will put the words in italics.

Example

(For a FERC entry on sales of power and exemptions of certain facilities from regulation)

Related Regulations and Actions

Internal: On June 27, 1979, FERC issued proposed regulations providing for qualification of small power production and cogeneration facilities under § 201 of PURPA, in Docket No. RM79–54. These rules establish criteria by which FERC may certify small power production and cogeneration facilities as qualifying facilities which are then eligible for the rate and exemption provisions of § 201 of PURPA.

External: Each State regulatory authority must set specific rates for these sales of power. States may do so by issuing regulations or on a case-by-case basis, but in all events must provide notice and opportunity for a hearing. States may also establish operating standards for interfacilities.

Because you may mention other agencies in this section, it is important that you remember to spell out any acronyms you are using for the first time in your entry.

Active Government Collaboration

Briefly describe the steps your agency is taking to coordinate the proposed regulation with any other Federal, State, or local agencies and any agreements between agencies specifying which agency has the lead for the coordination. Mention actions related to an issuing division within your own agency (e.g., The Occupational Safety and Health Administration of the Department of Labor) under "Related Regulations and Actions" and not here. Provide proper citations (see "Legal Authority") when appropriate.

In this section, you *must* spell out the names of agencies, other than your own, on first reference, even if you have spelled them out elsewhere in the entry.

Example

(For an HEW entry) HEW has worked with the National Bureau of Standards in the Department of Commerce, which developed the system for rating equivalent means of achieving Life Safety Code standards. HEW is also collaborating with the Veterans Administration, which has adopted the National Bureau of Standards system for veterans' hospitals.

Timetable

In this section, please state the *future* actions you plan to take on the proposed rule.

Please note that we will emphasize in the Users' Guide that dates in the **Calendar** are tentative and subject to change. We will make it clear that these dates are your present best estimates, but that the reader should contact the person listed for the most current information. For this reason it is not necessary to use the word "estimate" in your entry.

Where applicable, you should give dates for all of the following if they are actions which you are planning for the *future:*

- ANPRM—Insert date.
- NPRM—Insert date.
- Regulatory Analyses; other analyses—If your agency performs separate analyses in addition to a regulatory analysis, please also list them here. Examples would be Environmental Impact Statements, Urban Impact Statements, etc. Please also indicate the current status of your regulatory analysis—under preparation, draft or final.
- Public Hearing—Please indicate the date and place.
- Public Comment Period—Please indicate the opening and closing dates for the comment period, and where the public can send or take their comments. Make sure this information is reflected accurately in the new Index III: Dates For Public Participation Opportunities.
- Final Rule—Insert date.
- Final Rule Effective—Insert date.
- Commission Decision or other action peculiar to your agency—Insert date.

If you do not have exact dates for an action, such as a public comment period, but know when and/or where it will occur in relation to future regulatory actions, you should state this.

Example

Public Comment Period—60 days following publication of NPRM.

Available Documents

List the major available documents related to the proposed regulation. These documents may include information that you drew upon to propose the regulation. Most of the items listed under "Timetable" will appear as references in the "Available Documents" section as the action on the proposal progresses. These include:

- ANPRM or NPRM
- Regulatory analyses or other impact statements,
- Transcripts from open agency meetings and public hearings, and
- Summary reports of legislative activity.

State where documents are available for review or how readers can obtain copies if this information is not evident. Include a *docket number* if applicable. This information is especially important if the document originated outside your agency. If you refer to the **Federal Register** here, please give complete citations (see Legal Authority above).

Example

NPRM—41 FR 51622, November 23, 1976
Federal Maritime Commission Docket 76–63

All documents available for review in the Office of the Secretary, Federal Maritime Commission, 1100 L Street, Room 11101, Washington, DC 26513.

Agency Contact

Please use a single name under this category, followed by the person's formal title, complete address, and telephone number, written in block form.

If you need to list more than one contact, please indicate who is responsible for what information regarding the regulation.

Example

Agency Contact:
Ms. Elizabeth A. Delf, Special Assistant to Commissioner Dupont,
Postal Rate Commission,
Suite 500, 2000 L Street NW.,
Washington, DC 20268,
(202) 254–3816.

CHECKLIST/OUTLINE OF GUIDELINES

GENERAL INSTRUCTIONS

To help you prepare your entries, we offer this checklist. By using it as you write each entry, you can ensure that you have included all the necessary information.

1. **Agency Clearance**

—Include letter from Agency Head or Council Representative accompanying entries

—Include an economist, lawyer, and plain English editor in your agency review of drafts

2. **Criteria for Inclusion**

—Submit for the **Calendar** at least five entries from executive agencies, three from independent agencies, meeting one or more of the following requirements:

EO 12044 Requirements for Regulatory Analysis; Regulations which:

—Have an annual effect of $100 million or more on economy

V 45 M Y 22 80 UMI

—Impose major increase in costs or prices for specific sectors
—Are included as determined by agency head
Other Regulations which Require Regulatory Analysis:
—Grants and income transfer programs with annual compliance costs of $100 million or more
—Regulations you are reproposing with major changes
Other Criteria:
—Regulations which are precedent setting, concern an issue of great public interest, or would increase productivity or profits without causing adverse effects
—Entries which appeared in the last edition of the **Calendar** and which are still active within the agency

3. **Timing**—Include entries if you anticipate regulatory action on them within the next twelve months, or if the Final Rule is close to the **Calendar** publication date

4. **Writing Style**—Write in active voice; define jargon; spell out acronyms on first use, with the exception of ANPRM, NPRM, and EO; do not use footnotes

5. **Format**
—Use a memory typewriter, if possible
—Be consistent with the Guidelines
—Type double-spaced, with one-inch margins on all sides of the page
—Indent paragraphs *five* spaces
—Type section headings in upper and lower case, flush with the left margins of the page; do not underline
—Submit clean final copy
—Submit original manuscript

BASIC OUTLINE FOR ENTRIES

AGENCY DESIGNATION/TITLE OF REGULATION

—Include acronym for agency and issuing division
—Include word "Title"
—Include title, with all important words capitalized
—Include CFR citation, in parentheses after title, with an asterisk if the proposed regulation is a revision to an existing CFR citation.

LEGAL AUTHORITY

REASON FOR INCLUDING THIS ENTRY

—Briefly state importance of the proposed regulation

STATEMENT OF PROBLEM

—Discuss background of problem
—Discuss magnitude of problem
—Discuss reason the agency is acting at this time
—Discuss consequences of not responding to the problem

ALTERNATIVES UNDER CONSIDERATION

Option A

—How it would solve the problem
—The advantages it offers
—The disadvantages it offers

Option B

—How it would solve the problem
—The advantages it offers
—The disadvantages it offers

Option C

—How it would solve the problem
—The advantages it offers
—The disadvantages it offers
—Discuss the option the agency prefers (if any at this point)
—Discuss the reasons for that preference
—Please include the following considerations if appropriate, when you discuss alternatives:
—Different kinds of actions you might take to achieve the statutory objective
—Level of control
—Flexibility to take into account size and nature of affected businesses or other sectors
—Timing of compliance
—Degree of reporting required
—An explanation, if you have no alternatives
—Innovative techniques (enhance competition, marketable rights, economic incentives, performance standards, information disclosure, voluntary standard setting, compliance reform)

SUMMARY OF BENEFITS

—List *Sectors Affected* in a subheading
—Relate your discussion to the "no action" base case
—If the agency is not yet recommending one alternative, discuss benefits for each major option which the agency is considering and compare and contrast the effects
—Indicate how the benefits will be distributed over time
—Discuss direct effects in measurable (quantitative) terms
—Discuss direct effects in unmeasurable (qualitative) terms
—Discuss indirect effects in measurable terms
—Discuss indirect effect in unmeasurable terms

SUMMARY OF COSTS

—List *Sectors Affected* in a subheading
—Relate your discussion to the "no action" base case
—If the agency is not yet recommending one alternative, discuss costs for each major option which the agency is considering and compare and contrast the effects
—Indicate how compliance costs will be distributed over time
—Discuss direct effects in measurable (quantitative) terms
—Discuss direct effects in unmeasurable (qualitative) terms
—Discuss indirect effects in measurable terms
—Discuss indirect effects in unmeasurable terms
In discussing quantifiable costs:
—Differentiate between kinds of costs
—Capital costs
—Annual costs
—Administrative costs
—Other types of costs such as research and development
—Use specific figures and state what year's dollars you are using
—If there are no specific figures, use ranges, percentages or "guesstimates," but clearly identify them as such
—If you discount costs, briefly identify the rate and method you use

RELATED REGULATIONS AND ACTIONS

—*Internal:* within your own agency
—*External:* within other Federal and/or State agencies

ACTIVE GOVERNMENT COLLABORATION

—Identify steps to coordinate the proposal with other Federal, State, or local agencies

TIMETABLE

—State all *future* actions, including where appropriate
—ANRM
—NPRM
—Regulatory or other analyses, such as environmental impact statements
—Public Hearing
—Public Comment Period (indicate where comments may be sent)
—Final Rule
—Final Rule Effective
—Commission Decision or other action peculiar to your agency

AVAILABLE DOCUMENTS

—List major documents such as ANPRMs, regulatory or other analysis, transcripts from public meetings, etc.
—State where available
—Include docket number if applicable

AGENCY CONTACT

—Use a single name, or if more than one, indicate why the reader should contact one rather than the other

[FR Doc. 80-14416 Filed 5-21-80; 8:45 am]
BILLING CODE 6560-24-M

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federal register

Thursday
May 22, 1980

Part IV

Environmental Protection Agency

1981 and 1982 Model Year Light-Duty Diesel Vehicles: Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen; 1981-1985 Model Year Light-Duty Diesel Motor Vehicles: Applications for Waiver of Oxides of Nitrogen Emission Standard

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1496-3]

Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 and 1982 Model Year Light-Duty Diesel Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes oxides of nitrogen (NO_x) emission standards for 1981 and 1982 model year light-duty vehicles belonging to certain diesel engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(B).

EFFECTIVE DATE: June 23, 1980.

ADDRESS: Information relevant to this rule is contained in Public Docket EN-80-3 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for copying services.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(B), requires that regulations applicable to NO_x emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which provide that such emissions from vehicles or engines shall not exceed 1.0 gram per vehicle mile. Regulations implementing this requirement have established this NO_x standard.

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any light-duty diesel engine family for which the Administrator can make the required statutory findings. I must promulgate interim NO_x standards applicable to the subject light-duty diesel engine families for those model years for which I have granted waivers.

Volkswagen AG, and Automobiles Peugeot have submitted new applications for those waivers. The statutory criteria, my determinations with respect to the vehicle models covered by the waiver applications, and my decision to grant or deny the waiver applications appear in the consolidated decision published along with this notice. In that decision, I granted waivers covering the following engine families for 1981 and 1982 model years only:

Manufacturer and engine family	Model year
Peugeot: 2.3 Liter (L)-Turbocharged (TC)-XD2S..	1981, 1982
Volkswagen AG:	
1.6L naturally aspirated (NA), 2375 pounds inertia weight (I.W.)	1981, 1982
1.6L-NA-2500 I.W.	1981
2.0L-NA-3250 I.W.	1981, 1982
1.6L-TC-2375 I.W.	1982
1.6L-TC-2625 I.W.	1982
2.0L-TC-3250 I.W.	1982

Having decided to grant waiver applications for these diesel engine families, I am simultaneously promulgating regulations adopting emission standards not permitting NO_x emissions from 1981 and 1982 model year vehicles of these engine families to exceed the prescribed levels. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this rule. Also, the 1981 model year certification process is underway. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this action does not constitute a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

In addition, because the decision accompanying this rulemaking is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

Dated: May 13, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines

40 CFR 86.081-8(a)(1)(iii) published at 45 FR 5480 (January 23, 1980), is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 and later model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 and 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 and 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer and engine family	Model year	NO_x (gpm)
General Motors Corp.: 5.7 liter (L)....	1981, 1982	1.5
Daimler-Benz AG:		
2.4L	1981, 1982	1.5 1.25
3.0L naturally aspirated (NA).....	1981, 1982	1.5
3.0L turbocharged (TC)	1981, 1982	1.5
AB Volvo: 2.4L naturally aspirated....	1981, 1982	1.5

Manufacturer and engine family	Model year	Interim standard (gpm)
Peugeot: 2.3L-TC-XD2S.....	1981, 1982	1.5
Volkswagen AG:		
1.6L-NA-2375 pounds inertia weight (I.W.)	1981, 1982	1.3
1.6L-NA-2500 I.W	1981	1.4
2.0L-NA-3250 I.W	1981, 1982	1.5
1.6L-TC-2375 I.W.....	1982	1.3
1.6L-TC-2625 I.W.....	1982	1.4
2.0L-TC-3250 I.W.....	1982	1.5

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7601(a)(Supp. I 1977))

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1496-4]

Applications for Waiver of the 1981-85 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Second Consolidated Decision of the Administrator

I. Introduction

This is the second consolidated decision I have issued under section 202(b)(6)(B) of the Clean Air Act, as amended (Act)[1] regarding applications from automobile manufacturers for waiver of the 1.0 gram per mile (gpm) oxides of nitrogen (NO_x) emission standard scheduled to apply to 1981 and subsequent model year light-duty diesel vehicles and engines.[2]

As the introduction to the first diesel NO_x waiver decision explains, section 202(b)(1)(B) of the Act establishes the standards applicable to emissions of oxides of nitrogen (NO_x) from light-duty vehicles and engines manufactured during and after model year 1977.[3] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 grams per vehicle mile (gpm) for model years 1977 through 1980, and may not exceed 1.0 gpm for 1981 and later model years.

Section 202(b)(6)(B) of the Act authorizes the Administrator to delay implementation of the 1.0 gpm NO_x standard by waiving it under certain conditions to permit the use of diesel engine technology. Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 gpm NO_x standard to a level not to exceed 1.5 gpm, for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that the waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which it has requested a waiver. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health,

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act ("EPCA"), and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver.[4]

On July 14, 1978, guidelines for the submission of applications under this waiver provision were published in the **Federal Register**.[5] The guidelines follow the language of the Act in placing an affirmative burden on the manufacturer to supply information sufficient to satisfy independently each of the waiver criteria set forth above for each engine family for which a waiver was requested. The guidelines also stress that although the waiver might be requested for the four model year period beginning with the 1981 model year up to a NO_x level of 1.5 gpm, the waiver could be granted for a shorter period of time and to an intermediate NO_x level between 1.0 and 1.5 gpm.

EPA held public hearings in response to an initial group of waiver applications, and on January 23, 1980, I published my consolidated decision on those applications. I granted the waiver applications covering certain engine familes which met all of the prescribed statutory criteria, and I denied the remaining applications on the basis that the applicants had submitted insufficient information to show the need for NO_x waivers to permit use of diesel engine technology in those engine families. Specifically, I denied Automobiles Peugeot's (Peugeot) request for waivers for two of its engine families and Volkswagen AG's (VW) request for three of its engine families because these manufacturers had failed to supply sufficient data by which I could assess adequately the respective NO_x emission control capabilities of their engine families. As a result, Peugeot and VW failed to show that waivers are necessary for any of these engine families, as the statute requires.[6]

Subsequent to my decision, I received reapplications from Peugeot and VW on February 6, 1980, and February 11, 1980, respectively. Specifically, Peugeot submitted a reapplication for four-year waivers for its diesel engine families while VW submitted a reapplication for two year waivers for its diesel engine families. Each of these reapplications included new emission data on each of the subject engine families. EPA held public hearings on these reapplications on February 27, 1980. The transcripts of these hearings, the materials submitted by the applicants in their original and follow-up waiver requests, and all other information upon which I have based my decision on this set of waiver requests are included in EPA Public Docket EN-80-3.

II. Summary of Decision

A. Waiver Applications Granted

The waiver applications which I have decided to grant cover the following engine families for the model years specified:

Waiver Applications Granted

Manufacturer	Model year	Engine family
Peugeot	1981, 1982	2.3 liter (L), turbocharged (TC)-XD2S
VW	1981, 1982	1.6L naturally aspirated (NA), 2375 pounds inertia weight (I.W.)
	1981	1.6L-NA-2500 I.W
	1981, 1982	2.0L-NA-3250 I.W
	1982	1.6L-TC-2375 I.W.
	1982	1.6L-TC02625 I.W.
	1982	2.0L-TC-3250 I.W.

As discussed more fully below, I have concluded that applications covering these engine families meet each of the statutory criteria for receiving a waiver for the years noted. I am prescribing an interim NO_x standard of 1.5 gpm for Peugeot for these model years. For VW, I am prescribing the interim standards it proposed in its application, which are reproduced in the following chart:[7]

Engine family	Model year	Interim Standard (gpm)
1.6L-NA-2375 I.W	1981, 1982	1.3
1.6L-NA-2500 I.W	1981	1.4
2.0L-NA-3250 I.W	1981, 1982	1.5
1.6L-TC-2375 I.W.....	1982	1.3
1.6L-TC-2625 I.W.....	1982	1.4
2.0L-TC-3250 I.W.....	1982	1.5

B. Waiver Applications Denied

I am denying waiver requests covering the following engine families for the model years specified:

[1] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977).

[2] The first decision was published at 44 FR 5480 (January 23, 1980) (hereinafter "Orig. decision").

[3] 42 U.S.C. 7521(b)(1)(B) (Supp. I 1977). See the first diesel NO_x waiver decision for a discussion of the statutory history leading up to this provision. Orig. decision at 5480, n.1.

[4] For a discussion of the Congressional purpose behind this provision, see the discussion accompanying notes 2 and 3 of my original decision at 5480.

[5] 43 FR 30341 (July 14, 1978) (hereinafter "Guidelines").

[6] Orig. decision at 5487.

[7] Application for Waiver of Oxides of Nitrogen Emissions Standards for Light-Duty Engines submitted by Volkswagen AG, dated May, 1979 (hereinafter "Orig. VW App.") 2.-4.

Waiver Applications Denied

Manufacturer	Model year	Engine family
Peugeot	1983, 1984	2.3L-TC-XD2S, SC3S

As I will discuss more fully below, I have concluded that the ever-accelerating development of NO_x control technology and a California production phase-in should provide sufficient experience for Peugeot to develop the technology necessary to enable the XD2S engine family to meet the 1.0 gpm NO_x standard by the 1983 model year. I have denied a waiver for the XD3S engine family because Peugeot submitted insufficient data by which I could adequately assess the NO_x emission control capabilities of this engine family.

III. Discussion

A. Assessing Need for Waivers

Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue I must address under this criterion is whether the applicant has shown that unless I grant the waiver, the engine family which the waiver request covers will not be able to meet applicable emission standards, even with the addition of any device, equipment or aspect of diesel engine technology presently available or expected to become available during the period covered by the waiver request.[8]

1. *Decision Methodology*

The methodology this decision employs to assess an engine family's need for a waiver is the same as the methodology I used in my original diesel NO_x waiver decision.[9] Appendix A to this consolidated decision contains an assessment of technology available to meet the 1.0 gpm NO_x standard for each diesel engine family in question. The assessment is derived from a review of the diesel engine family as described in the waiver application and of each family after hypothetically factoring in one or more purposely conservative "Projected Technological Improvements" ("factors"). The methodology applies these factors for currently-known improvements and hardware that an applicant may implement during the waiver period (such as advanced EGR systems, compression ratio changes, or injection timing modifications.[10] Appendix A contains this evaluation for each engine family for which sufficient emission test data were available by using a "Monte Carlo" statistical simulation technique used in previous suspension and waiver decisions to project the likelihood that a given engine family will be able to pass EPA's certification test requirements under a 1.0 gpm NO_x standard.[11]

Appendix A also evaluates the effect of NO_x emission controls on emissions of particulate matter. This evaluation relies on information supplied by applicants in this proceeding and in the diesel particulate rulemaking proceedings,[12] as well as on other information contained in the record for this consolidated decision.

2. *Individual Applicants*

Each manufacturer has reached a state in its development of NO_x emission controls at which it has narrowed the range of strategies it contemplates employing to meet the 1.0 gpm NO_x standard and the particulate standard [13] to, at most, a few alternative systems. To support their contentions that waivers are necessary to permit the use of diesel technology for the engine families in question, both Peugeot and VW have provided descriptions of the systems each has been considering in efforts to meet 1981 and later model year emission standards.

(a) *Peugeot.* Peugeot reapplied for a waiver of the 1981–1984 NO_x standard applicable to its light-duty diesel vehicles. For the 1981 and 1982 model years, the waiver request applies to its XD2S engine family. For the 1983 and 1984 model years, the waiver request applies to the XD2S or the XD3S engine family.[14] I denied a waiver for these engine families in my first NO_x consolidated decision on the ground that Peugeot provided insufficient emission test data for evaluating the engine families' emission control capabilities.[15]

The reapplication provides additional emissions data and requests that I grant a waiver on the basis of Peugeot's assertions that it is unable to meet both the 1.0 gpm NO_x standard and the 0.6 gpm particulate standard that EPA had proposed at the time of Peugeot's application. Peugeot is relying totally on Exhaust Gas Recirculation (EGR) to lower its NO_x emissions.[16] EPA's analysis projects this engine family to be unable in the 1981 model year to meet the 1.0 gpm NO_x standard.[17]

EPA's analysis projects that vehicles in this engine family could certify at a 1.2 gpm NO_x standard without incorporating any available technological improvements, such as increased EGR rate.[18] Peugeot, however, asserted that this engine family needs a waiver of the NO_x standard to 1.5 gpm in order for Peugeot to have adequate confidence that production vehicles of this engine family wold meet applicable NO_x emission requirements.[19]

The data which Peugeot has submitted to support its position do not necessarily show that without a waiver up to 1.5 gpm this engine family will not be able to meet applicable NO_x emission requirements in production.[20] Nevertheless, because of Peugeot's

[8] Guidelines, at 30342. Beginning in the 1981 model year, applicable statutory standards will be 0.41 gpm hydrocarbons (HC), 3.4 gpm carbon monoxide (CO), and 1.0 gpm NO_x. Beginning in the 1982 model year, the light-duty diesel vehicle particulate standard of 0.6 gpm takes effect. That standard becomes 0.2 gpm as of the 1985 model year. 45 FR 14496 (March 5, 1980).

[9] For a more complete discussion of the methodology employed see Orig. decision at 5484–5485.

[10] Appendix A, § IV.

[11] See Orig. decision at 5484 and discussion of Monte Carlo technique in the previous suspension decision published at 38 FR 10317, 10323 (April 26, 1973). EPA's certification test requirements are located at 40 CFR Part 86.

[12] EPA Public Docket No. OMSAPC–78–3.

[13] At the time of the applications, the proposed particulate standard for light-duty diesel vehicles was 0.6 gpm for the 1981 model year and 0.2 gpm for the 1983 and later model years. 44 FR 6650 (February 1, 1979). On February 21, 1980, I promulgated a final standard of 0.6 gpm for the model years 1982–1984 and 0.2 gpm for the 1985 model year and beyond. See 45 FR 14496 (March 5, 1980). The impact of this change on my evaluation of the manufacturers' data will be noted.

[14] Automobiles Peugeot Application for Waiver of the 1981–1984 NO_x Emission Standard, dated February 6, 1980 (hereinafter "P. App.") 1.–6. Peugeot indicated that its marketing plan for the 1983 and 1984 model years was uncertain and that it would actually market either the XD2S or the XD3S engine, or both. See Transcript of February 27, 1980 Public Hearing on the Waiver of the 1981–1984 Model Year Light-Duty Diesel NO_x Emissions Standard (hereinafter "Tr.") 55–56.

[15] Orig. decision at 5487.

[16] Until June, 1979 Peugeot's "first choice" system was its "advanced" hydraulic EGR system with a "mixed control unit". Peugeot stated that technical and mass production problems have necessitated a delay in applying that system, and it is uncertain whether this system will be available for 1982 model year California vehicles, although it is making a concerted effort to have the system ready at that time. Thus, an electropneumatic EGR system is the sole system available for 1981. The electropneumatic system is incapable of reaching the lower NO_x and particulate emission levels achieved by the "advanced" system. See P. App. 1–2, 2–1 and 2–3; and Tr. 11.

[17] Appendix A, Table II–1. This engine family did pass when the "factor" for the use of a fuel available in France but not in the United States was applied. See Appendix A, § IV.

[18] Appendix A, § V.

[19] See Letter from Richard H. Lucki, Government and Engineering Liaison (Peugeot) to Charles Freed, Director Manufacturers Operations Division (EPA), March 6, 1980 (Appendix 2) (hereinafter "Lucki Letter").

[20] For example, it is at least questionable that Peugeot will need to manufacture as much as 97.5% of its production vehicles to meet standards in order to satisfy Federal emission requirements pertaining to production vehicles. See Lucki Letter, p. 1.

expressed position, a significant risk does exist that, where I to set an interim standard less than 1.5 gpm, Peugeot would conclude that it needs to incorporate additional available technological improvements to reduce further this engine family's NO_x emission levels, and thereby provide what it deems to be adequate assurance that its certification and production vehicles will comply with any interim NO_x standard applicable in the 1981 model year.

The technological improvement which Peugeot would likely incorporate to accomplish this end would be use of an increased EGR rate.[21] While increasing the EGR rate tends to decrease NO_x emissions it also tends to place an upward pressure on particulate emissions.[22] As the public health discussion in Section III(B)(2) of this decision points out, I have concluded that increased particulate emissions pose potentially greater health risks than increased NO_x emissions. As a result, I am setting an interim NO_x standard of 1.5 gpm because available information shows that a significant risk exists that Peugeot needs the waiver to minimize the likelihood that it will increase its "base" EGR rates to meet any lower NO_x standard.[23]

With regard to the 1982 model year, Peugeot has also indicated its intent to use California as a proving ground for compliance with a 1.0 gpm NO_x standard.[24] Peugeot would then extend the technology of its 1982 California light-duty diesel vehicles to its 49-state models in the 1983 model year. I find that this phase-in period is necessary for Peugeot to identify and correct quality control problems that may arise with the application of the new control technology.[25]

[21] Appendix A, § IV. When the factor for increased EGR was applied for the 2.3L–TC–XD2S engine family, a significant reduction in NO_x emissions was noted. This technological improvement is available for the 1981 model year.

[22] Appendix A, § IV. See also 45 FR 14496, 14498 (March 5, 1980). The technology-based particulate standard for light-duty diesel vehicles does not take effect until the 1982 model year.

[23] In *International Harvester Co.* v. *Ruckelshaus*, the Court instructed EPA in deciding on requests for delays in implementing scheduled emission standards to take into account the possibility of environmental harm that could result from failure to grant the requested delay. 478 F. 2d 615, 641 (D.C. Cir. 1974).

[24] P. App. 1–2.

[25] The California phase-in is necessary for Peugeot to mitigate the risks of national production, such as a recall of the national fleet, should it turn out that diesel vehicles with previously untried technology experience problems in complying with applicable emission standards in use. See discussion of the need for California phase-in in my original decision at 5485–5486. Peugeot has not shown here that the California phase-in opportunity will not give it adequate lead time to permit it to develop the technology needed to market this engine family nationally in the 1983 model year and the model years thereafter.

b. *VW.* VW reapplied for a waiver of the 1981 and 1982 model year NO_x standards applicable to three classes of its light-duty diesel vehicles: Rabbit, Dasher and Audi 5000.[26] VW sought interim NO_x standards that decrease over time and vary for each vehicle class. The standards chosen reflect VW's assessment of the lowest NO_x levels it can achieve in each year in which it plans to produce a given class.[27] In its reapplication, VW split the vehicle classes for which it requested waivers in its original application into smaller classes according to method of aspiration, engine displacement, and vehicle model. VW's purpose in distinguishing among vehicle models was to show the best emissions control capability for the different inertia weight classes associated with each model, and to make it clear that VW believes that for these vehicles the higher inertia weight classes require a higher NO_x standard.[28] Therefore, in response to VW's request, and because it will result in increased emissions control, I have distinguished between VW's diesel classes on the basis of inertia weight for purposes of this consolidated decision. I denied waivers for these vehicles in my first consolidated NO_x waiver decision on the grounds that VW provided insufficient emission test data for evaluating the engine families' emission control capabilities.[29]

This reapplication provides new emission data and requests that I grant waivers on the basis of VW's assertions that 1) its diesel engine families planned for 1981 and/or 1982 cannot meet 1.0 gpm NO_x, 0.41 gpm HC, or both the statutory NO_x and HC standards and 2) the public health benefit resulting from decreasing particulates emissions if the waiver is granted for the remaining engine families, outweighs the possible danger resulting from the "additional" NO_x that would be emitted if the waiver is denied.[30]

My technical analysis of data submitted by VW showed the 1.6L–NA–2500 I.W. engine family to be incapable of meeting the 1981 NO_x standard.[31] It also showed the 1.6L–NA–2375 I.W. and 2.0L–NA—3250 I.W. engine families to be incapable of meeting both the NO_x standard and the HC standard of 0.41 gpm simultaneously in 1981.[32]

For the engine families VW plans to introduce in the 1982 model year, my analysis shows the 2.0L–TC–3250 I.W. engine family to be incapable of meeting the statutory 1.0 gpm NO_x standard in that year.[33] My analysis also shows that the 1.6L–TC–2625 I.W. engine family fails both the NO_x and the HC standard, as do the 1.6L–NA–2375 I.W. and 2.0L–NA–3250 I.W. engine families.[34] Finally, my analysis showed that the 1.6L–TC–2375 I.W. engine family was capable of passing the NO_x standard, but not capable of simultaneously passing the HC standard.[35]

In its waiver reapplication, VW indicated that in some instances these engine families were capable of meeting interim NO_x standards less than 1.5 gpm, and in fact requested waivers to those interim levels for the engine families in question.[36] EPA's analysis projects that these VW engine families will not be able to meet interim NO_x standards below these levels (and that VW's other diesel engine families will not be able to meet interim NO_x standards below 1.5 gpm).[37]

Because VW indicated that it did not need waivers of the NO_x standard to levels beyond those interim levels listed in its waiver reapplication, VW has not adequately shown that a significant risk exists that it will decide it needs to incorporate technological improvements (such as EGR) which may pose a health risk insofar as they affect emissions or unregulated pollutants to ensure that its

[26] Volkswagen Application for NO_x Waiver (hereinafter "VW App.") 1. VW indicated it would reasssess the need for a waiver for 1983 and 1984 and reapply for those years in the future if necessary.

[27] See table in section II.A. of this decision for the designated standards and model years of planned production.

[28] Tr. 65–66.

[29] In its original application, VW requested waivers for its 1.6 liter naturally-aspirated, 1.6 liter turbocharged, and 2.0 liter naturally-aspirated engine families. VW did not request a waiver for its 1.5 liter engine, although it did submit data for this engine family sufficient for EPA to make a technological assessment. The emission results of the 1.5 liter engine, however, could not be used as a substitute for 1.6 liter engine emission data as VW requested, because of the different technologies associated with each engine. Since VW submitted no durability data for the 1.6 liter turbocharged engine and submitted only low-mileage development vehicle data for the naturally-aspirated 1.6 liter engine, I classified both as "no-data" engine families. VW submitted no durability data for its 2.0 liter engines. See Appendix A—Summary of Technological Capability, Orig. decision at 5504.

[30] VW App. 4.

[31] Appendix A, Table II–2. Several engine families were projected to be capable of meeting the 1.0 NO_x standard with the catalyzed trap oxidizer factor applied. This technology, however, will not be available until after the 1982 model year. See Appendix A, § IV.

[32] Appendix A, Table II–2.

[33] Appendix A, Table II–2.

[34] Appendix A, Table II–2.

[35] Appendix A, Table II–2.

[36] VW App., Table I, p. 2. VW stated that it does not plan on using EGR on its 49-State vehicles to achieve its requested interim NO_x standards in 1981 and 1982. See Tr. 69.

[37] Appendix A, § V.

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engine families will comply with its suggested interim NO_x levels.[38] As a result, I have determined that VW needs waivers of the statutory NO_x standard only to its requested interim levels for those engine families for which VW has suggested those levels, and to 1.5 gpm for its other diesel families.

VW indicated it would probably be able to market light-duty diesel vehicles in California in the 1982 model year, but only because of the benefit of the California HC evaporative emissions credit, a credit unavailable in the 49-state market.[39] VW also has the opportunity to use California as a "pilot market" in 1982 for Federal systems it will market in 1983.[40] This will enable VW to evaluate the data it receives from the California market, especially with respect to potential durability problems. Therefore, I have determined that effective emissions control technology is not available for these engine families for 1981 and 1982 to meet NO_x standards below the standards which VW suggested.

B. Endangerment to Public Health

In order to grant a waiver request, section 202(b)(6)(B)(i) requires me to determine that a waiver of the statutory standard of 1.0 gpm NO_x would not endanger the public health. Congress intended my assessment of this criterion to include consideration of the potential health effects of unregulated pollutants from diesel engines as well as the health effects associated with increased NO_x emissions.[41]

1. Oxides of Nitrogen (No_x)

a. *Air Quality Impact.* In my original decision, I concluded that the potential impact on ambient NO_x levels resulting from a NO_x waiver covering the engine families for which I granted a waiver would not be significant.[42] Granting waivers today for the engine families listed in section IIA will not alter this conclusion; that is, the potential impact on NO_x levels resulting from granting these additional waivers, even when combined with the impact from the waivers I granted earlier, will not be significant.[43]

b. *Public Health Impact.* In my original decision, I concluded that granting the waiver would have little impact on the projected annual decrease in ambient NO_x levels, and therefore granting those waivers would not endanger the public health.[44] Granting a waiver today for those engine families listed in section IIA will not alter that conclusion. Thus, I also conclude that today's waivers will not endanger the public health.

2. Particulates

My main health concern in these proceedings relating to emissions from diesel engines is over potential increased emissions of diesel particulates and focuses on the potential for an increase in the incidence of respiratory ailments, and the potential that organic components of the diesel particulates are carcinogenic.[45] These concerns warrant action, where appropriate, that would minimize particulate emissions from light-duty diesels.

a. *Air Quality Impact.* It is undisputed that the projected increase in diesel light-duty vehicle production will increase human exposure to respirable particulates.[46] This fact underscores my concern for action minimizing particulate emissions from light-duty diesels.

b. *Health Impact—i. Assessment of Risks—Granting or Denying Waivers.* In my original decision, I noted that to the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would gasoline-powered vehicles. However, my assessment of the risk posed by these emissions must be made in light of the greater risk posed by the particulate emission levels that might result from waiver denial.[47]

If I deny a waiver, an applicant may choose not to manufacture the diesel engine family at all, or it may attempt to manufacture the diesels and successfully certify them in compliance with the 1.0 gpm NO_x standard. This is indeed a real possibility, not withstanding EPA's evaluation of the manufacturers' technological capabilities. EPA's Monte Carlo evaluation serves to quantify the risk that a given engine family will fail to comply with the standard in certification, and is purposely conservative in order to assure that an engine family classified in Appendix A as a "pass" would almost certainly pass certification requirements.[48] Thus, failing the Monte Carlo analysis does not indicate for certain that the engine family using currently-developed technology would not actually meet certification requirements under a 1.0 gpm NO_x standard, nor does it preclude the possibility of the manufacturer's making an all-out effort up until the start of the 1981 model year to develop calibrations which would permit successful certification of its diesel engine families.[49]

Peugeot stated that in 1979, 74% of Peugeot Motors of America's total sales

[38] Despite EPA's projection on the basis of available emission data, that these VW non-EGR engine families will not pass al certification requirements at the requested interim standards (Appendix A. § V), VW has nonetheless decided to attempt to successfully certify these engine families. This points out the conservative nature of the Monte Carlo analysis, and that a manufacturer might decide to go ahead with production despite EPA's projection that the manufacturer's vehicles will not pass all certification requirements.

[39] Tr. 71. California provides manufacturers with an evaporative emissions "credit" which results in a lower tailpipe HC standard for vehicles with low HC evaporative emissions (such as diesels). See California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, as amended May 22, 1979, p.8.

[40] Tr. 71. As is the case for Peugeot, VW needs the California phase-in to mitigate the risks of national production, such as recall of the national fleet.

[41] See, e.g., H.R. Rep. No. 294, 95th Cong., 1st Sess. 19, 237, 250–51 (1977); S. Rep. No. 127, 95th Cong., 1st Sess. 70 (1977).

[42] Orig. decision at 5488–89.

[43] Appendix A. § VI.

[44] Orig. decision at 5489.

[45] Orig. decision at 5489. Although there is no current definitive epidemiologic evidence establishing cancer risk from exposure to diesel particulates, the uncertainty surrounding the potential health risk posed by diesel particulates warrants a cautious approach in regulating the vehicles which produce them. See discussion in Orig. decision at 5490.

[46] Diesel-powered vehicles emit particulates at a far greater rate than catalyst-equipped gasoline-powered vehicles. Orig. decision at 5489–5490.

[47] Orig. decision at 5490.

[48] The methodology provides a margin of error to provide manufacturers with a cushion for the risks of failing to comply with the emission requirements during actual certification testing and in production. This is necessary because the consequences of discovering at a later date that a manufacturer cannot comply after it makes development and production commitments could have serious economic consequences. See *International Harvester Co.* v. *Ruckelshaus*, 478 F. 2d 615, 630 (D.C. Cir. 1973).

[49] For a fuller discussion of the possibility that a manufacturer failing the Monte Carlo analysis would still produce diesel engine families under a 1.0 gpm NO_x standard see pages 5490–5492 of my original decision. Manufacturers have previously asserted that they were unable to produce the technology (Viz., catalytic converters) necessary to meet the 1975 model year statutory CO standard, and that a suspension was necessary to permit production. See Decision of the Administrator on Remand from the United States Court of Appeals for the District of Columbia Circuit, 38 FR 10317 (April 26, 1973). Even though EPA granted the requested suspensions, many manufacturers did produce 1975 model year vehicles employing catalysts.

Although waiver denial does not necessarily preclude the manufacturers from producing light-duty diesels, section 202(a)(4) of the Act does make specific provision for the assessment of health risks from emissions of unregulated pollutants associated with competing technologies. This section provides me with authority to deny certification to vehicles with technologies which "will cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function". (42 U.S.C. 7521(a)(4) [Supp. I 1977]). When the manufacturers apply for certification for the engine families at issue in this decision, I expect to be in a position to determine whether the vehicles presented for certification will pose an unreasonable risk to public health, welfare or safety.

in the U.S. were diesels.[50] Peugeot, therefore, has a strong incentive to attempt to certify and market its diesels even without a waiver. Peugeot might attempt to accomplish this by hastening the development of its "advanced" EGR system,[51] or by taking other actions that may require increased use of EGR. EPA's analysis of Peugeot's data for its XD2S engine family shows that increasing the use of EGR to reduce NO_x toward the statutory level of 1.0 gpm would place upward pressure on particulate emissions.[52]

By establishing a NO_x standard that Peugeot will be able to meet without using increased EGR for its diesel engine families, I can avoid giving rise to the risk that Peugeot will produce its diesel engine families under a 1.0 gpm NO_x standard with higher particulate emissions. Because increased particulates pose potentially greater health risks than increased NO_x, I conclude that granting waivers for Peugeot's diesel engine families, thereby precluding any need for the use of increased EGR systems that put upward pressure on particulates, is more protective of the public health than waiver denial.

The same reasoning is applicable to VW. VW indicated that without a waiver it would not be able to market diesel models in 1981.[53] It did admit, however, that simply because the data obtained from prototype vehicles of these models were above the engineering goals it would establish for a 1.0 gpm NO_x standard, did not necessarily mean it would not decide to mass produce these models. VW explained that the decision whether to produce or not is a management decision.[54] Depending on marketing and other factors, VW indicated its management might decide to accept the risk it perceived of committing its resources, without a waiver, to efforts to produce complying vehicles, even if the efforts might fail.

VW's management has significant incentives to make the decision to produce its diesel vehicles without a waiver. VW projects demand for diesels to be over 50% in some product lines.[55] VW indicated it seriously doubts whether it can maintain its sales volume without diesel models.[56] VW also stated that the continued viability of its Westmoreland, Pennsylvania plant would be threatened if it could not market diesels, because the plant cannot produce all gasoline-powered models.[57] Finally, VW would have to cancel its preliminary agreement with the state of Michigan for the construction of a new plant.[58] These facts suggests a strong possibility that VW may ultimately decide to produce diesel models without a waiver.

The engine families contained in VW's waiver request include some "concepts" that employ EGR and some that do not.[59] The most promising concepts in terms of NO_x emission reductions for model years 1981 and 1982, however, appear to be those employing EGR systems.[60] Use of this EGR technology will generally put upward pressure on particulate emissions.[61] Therefore, I conclude that granting VW's NO_x waiver requests also is more protective of the public health than waiver denial.

C. Fuel Economy

Fuel economy considerations are contained in the second and third criteria of section 202(b)(6)(B).[62] The second criterion provide that I may grant a waiver if I determine that it will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the EPCA.[63] To meet this criterion, the applicant must show that the "base level" for a class or category for which the applicant has requested a waiver will meet the applicable EPCA fuel economy standards.[64] The fuel economy standard for the 1981 model year is 22 miles per gallon (mpg) and the standard for the 1982 model year is 24 mpg.[65] All of the base levels of the engine families granted waivers in this decision will meet or better the fuel economy standards for 1981 and 1982 (the waiver years).[66]

The third criterion provides that I may grant a waiver if I determine, among other things, that the diesel engine technology has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver. To meet this criterion, the applicant must show that there is a substantial likelihood that the average fuel economy of the applicant's diesel fleet will meet or exceed the EPCA standard.[67] The EPCA standard for 1983, the expiration year of the waivers, is 26 mpg.[68] I find that there is a substantial likelihood that the average fuel economy of the diesel fleets of the applicants will meet or exceed 26 mpg.[69]

D. Long-Term Air Quality Benefit

In order for me to grant a waiver, I must find that diesel engine technology has the potential for long-term air quality benefit.[70] The applicant will meet this criterion if there is a substantial likelihood that the engine families covered by its waiver request will be able to comply with the applicable emissions standards at the expiration of the waiver period.[71] The standards applicable at the expiration of the waiver period, model year 1983, are, in addition to the 1.0 NO_x standard, standards of 3.4 gpm for emissions of carbon monoxide (CO), 0.41 gpm for

[50] Tr. 9.

[51] See P. App. 2–1 and 2–3 for discussion on Peugeot's differing EGR systems.

[52] Appendix A. § IV. As a result of my delaying the effective date of the light-duty diesel vehicle particulate standard until the 1982 model year, Peugeot could arguably increase the EGR rate in its 1981 model year diesel vehicles, thereby lowering the NO_x emissions from those vehicles below the 1.0 gpm standard, without concerning itself with violating any particulate standard. Moreover, the particulate standard I promulgated for the 1982 model year is a technology-based standard that reflects the greatest degree of particulate emission reduction achieveable through the application of technology which I have determined will be available for a given model year, considering lead time and other constraints. 42 U.S.C. 7521(a)(3)(A)(iii). An upward pressure on particulate emissions from increasing the EGR rate still could present a threat to the public health, even though the increase in particulate emissions would not cause Peugeot to be in violation of a particulate standard.

[53] Tr. 93.

[54] Tr. 80.

[55] Tr. 64.

[56] Tr. 94–95.

[57] Tr. 95.

[58] Tr. 92.

[59] VW App., 7–11.

[60] VW App., Table II, p. 5.

[61] In EPA's action promulgating light-duty diesel particulate standards, EPA noted that recognized deleterious effect of EGR on particulate emissions. 45 FR 14496, 14498 (March 5, 1980.)

[62] Clean Air Act, as amended, § 202(b)(6)(B) (ii) and (iii), 42 U.S.C. 7521(b)(6)(B) (ii) and (iii) (Supp. I 1977), a major consideration for Congress in providing for a waiver of the NO_x satandard for diesel-powered vehicles was the potential fuel economy benefits of diesel technology. See discussion accompanying footnote 3 of my original decision at 5480.

[63] Section 302(A)(i) of EPCA establishes fuel economy standards for 1978–80 and 1985 and thereafter and provides the Secretary of Transportation with the authority to promulgate standards for 1981–84. 15 U.S.C. 2002(a)(1)(1975).

[64] Guidelines, at 30343. Base level means "a unique combination of basic engine, inertia weight, and transmission class". 40 CFR 600.002–77(23) (1977).

[65] 49 CFR 531.5 (1978).

[66] Appendix A. § VI: P. App. 4–1, 4–1(a)(b); and Tr. 12–13. See discussion in my original decision at 5493.

[67] Average fuel economy means "the production-weighted combined fuel economy value of all passenger automobiles produced by a manufacturer in a single model year as computed in 40 CFR 600.510." 40 CFR 600.002–77 (14) (1977).

[68] 49 CFR 531.5 (1978).

[69] Appendix A. § VI. See also, Letter from W. Groth, Administrator, Emissions Regulations & Testing (VW) to Central Docket Section, Docket EN–80–3 (EPA) (March 4, 1980) (Attachment 3).

[70] 42 U.S.C. 7521(b)(6)(B)(iii) (Supp. I 1977).

[71] See 123 Cong. Rec. 13703 (Aug. 4, 1977) [remarks of Senator Muskie). See also 43 Fed. Reg. 30343, 30347 (July 14, 1978).

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emissions of hydrocarbons (HC), and 0.6 gpm for emissions of particulates.[72]

1. *Peugeot*

I have already found that a small-scale phase-in of the technology necessary to meet a 1.0 gpm NO_x standard in California in model year 1982 will be necessary to permit Peugeot to avoid undue risks in nationwide production of the 49-state diesel fleet.[73] Peugeot has indicated that it could use the California market in 1982 in this manner.[74] The one-year California phase-in will provide Peugeot with an opportunity to develop reliable diesel emission control technologies necessary to meet a 1.0 gpm NO_x standard at lower particulate levels. Specifically, EPA's technical analysis indicates that Peugeot's hydraulic EGR system, coupled with some technology changes has the potential to achieve lower NO_x and particulate emission levels when fully developed.[75] Therefore, I find there is a substantial likelihood that Peugeot's engine family for which I am granting waivers today will be capable of meeting the Federal statutory standards in model year 1983.

2. *VW*

VW also has the opportunity to take advantage of California as a "pilot market" in 1982, for Federal production in 1983.[76] VW, however, is experiencing difficulties meeting a 0.41 gpm HC standard with some of its diesel engine families.[77] VW has stated that it intends to apply a catalytic converter to its California vehicles in 1982 to decrease HC emissions, and indicated it might meet all Federal standards in 1983 with its use, without an evaporative emissions credit.[78] Thus, I find there is a substantial likelihood that VW's engine families for which I am granting a waiver today will meet the Federal statutory standards in 1983.[79]

E. Final Decision and Amended Rule

Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 gpm NO_x and to prescribe interim standards which provide that NO_x emissions may not exceed 1.5 gpm for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983, and/or 1984 which meet the statutory waiver criteria. Based upon the foregoing discussion of the classes or categories for which waiver applications were made, I am granting waivers and simultaneously promulgating interim standards for engine families for model years 1981 and 1982 as follows:

Manufacturer and engine family	Model year	Interim standard (gpm)
Peugeot: 2.3L-TC-XD2S	1981, 1982	1.5
VW		
1.6L-NA-2375 I.W	1981, 1982	1.5
1.6L-NA-2500 I.W	1981	1.4
2.0L-NA-3250 I.W	1981, 1982	1.5
1.6L-TC-2375 I.W	1982	1.3
1.6L-TC-2625 I.W	1982	1.4
2.0L-TC-3250 I.W	1982	1.5

Dated: May 13, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Summary of Technological Capability

Contents

I. Introduction.
II. Summary of Technological Capability.
III. Statistical Treatment of the Data.
IV. Projected Technological Improvements (Factors).
V. Discussion of Individual Manufacturer's Technical Capability.
VI. Other Technological Considerations.
VII. References.

I. Introduction

The existing 1981 model year exhaust emission standards for light duty vehicles are 0.41 grams per mile HC, 3.4 grams per mile CO, and 1.0 grams per mile NO_x. Section 202(b)(6)(B) of the Clean Air Act, as amended, [42 U.S.C. 7521(b)(6)(B)] provides a waiver procedure by which a manufacturer may apply for relaxation of the 1.0 gram per mile NO_x standard up to 1.5 grams per mile for some period during model years 1981 through 1984 for Diesel-powered vehicles. Since the initial decision by the Administrator [1 at 5480]*, two vehicles manufacturers, Volkswagen and Peugeot, have resubmitted data for waiver consideration.

This appendix reviews the technological capability of the applicant manufacturers to meet the 1981 and subsequent model year NO_x standard of 1.0 grams per mile. The analysis contained in this appendix relies on analyses contained in previous technical appendices. These appendices are incorporated by reference [1 at 5494].

As required by Section 202(b)(6)(B), the technological feasibility evaluation performed by the technical staff is made to evaluate the technological capability of each applicant to achieve the 1.0 grams per mile NO_x emission standard, in order to determine whether or not a waiver is necessary to permit the use of Diesel engine technology.

II. Summary of Technological Capabilities

Tables II-1 and II-2 are the summaries of the two applicants' capabilities for achieving 0.41 HC, 3.4 CO, and 1.0 NO_x with the Diesel-powered vehicles for which data were submitted in the NO_x waiver re-applications.

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[72] 42 U.S.C. 7521(b)(1)(A), (B) (Supp. I 1977); and 45 FR 14496 (March 5, 1980).

[73] Orig. Decision at 5485.

[74] P. App. 1–2.

[75] Appendix A, § IV.

[76] See footnote 32.

[77] See, for example, VW APP., Table II, p. 4.

[78] Tr. 71–72.

[79] VW plans to introduce a "catalyzed" trap oxidizer that it expects will be ready for production sometime after model year 1982. This technology is designed to reduce particulates and HC simultaneously, thereby allowing greater EGR rates. See VW App. 14. Additionally, VW has only applied for waivers for a two-yeer period, and it has stated its intent to reapply for waivers for additional model years if it finds it is unable to meet the 1983 Federal standards.

* The brackets contain the description x at y. This means the referenced material is located in reference number x (listed at the end of this document) at page number y.

Table II-1

Applicant: Peugeot

[0.41 HC, 3.4 CO, 1.0 NOx]

Engine Family	No. of Vehicles (last 3 nos. of VIN)	W/O Factors: Vehicles P/F	W/O Factors: Reason for Failures			Vehicle	Factor	W/Factors: Vehicles P/F	W/Factors: Reason for Failures			Probability		
		P	F	HC	CO	NOx			P	F	HC	CO	NOx	HC	CO	NOx
2.3L-TC (XD2S)	3 (516)	X		X		X										
											X		X	78	100	28
							1.	A		X						
								B		X						
								C		X		X				
								D		X						
								E		X						
								F	X							
	(909)*	X				X										
											X		X	117	100	63
							2	A		X						
								B		X						
								C		X						
								D		X						
								E		X						
								F	X							
	(041)	X		X		X										
											X		X	69	100	32
							3	A		X						
								B		X						
								C		X		X				
								D		X						
2.3L-TC (XD3S)	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	No data----------		

Official 1981 Certification vehicle

Table II-2

Applicant: Volkswagen*

[0.41 HC, 3.4 CO, 1.0 NOx]

Engine Family	No. of Vehicles (last 3 nos. of VIN)	W/O Factors: Vehicles P/F	W/O Factors: Reason for Failures	Vehicles P/F	V/Factors: Reason for Failures	Probability			Vehicle	Factor
		P	F	P	F	HC	CO	NOx		
1.6L-NA-Rabbit	2 (522)	X	X	X	X	75	100	98	1	A
						95	100	100		B
	(845)	X	X	X	X	87	100	79	2	A
						98	100	100		B
1.6L-TC-Rabbit	2 (697)	X	X		X	61	100	98	1	A
						89	100	100		B
	(822)	X	X		X	58	100	75	2	A
						92	100	98		B
1.6L-NA-Dasher	1 (108)	X			X	93	100	0	1	A
						99	100	67		B
1.6L-TC-Dasher	1 (102)	X	X		X	64	100	30	1	A
						89	100	94		B
2.0L-NA-Audi	2 (803)	X	X		X	78	100	0	1	A
						92	100	0		B
	(525)	X	X		X	55	100	96		C
2.0L-TC-Audi	1 (610)	X			X	93	100	97	2	A
						73	100	0		B
				X	X	97	100	72	1	A
				X	X	85	100	0		B
				X	X	18	0	98		C

*Engine Family as Designated in Appendix

1.6L-NA-Rabbit
1.6L-TC-Rabbit
1.6L-NA-Dasher
1.6L-TC-Dasher
2.0L-NA-Audi
2.0L-TC-Audi

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The key to the summary tables is as follows. The first five column headings refer to analysis of the vehicles in an as-received condition; i.e., without any technological improvements applied to these vehicles. The first column heading lists the engine families. The second column heading is the number of vehicles in each engine family that were evaluated through the Monte Carlo analysis. [A detailed description of these vehicles is presented in Section V.] The third column heading is he number of vehicles that passed or failed the Monte Carlo analysis. The fourth column heading is the reason(s) for these failures, that is, which of the exhaust emissions were determined to have less than an 80 percent chance of certifying when it was evaluated by the Monte Carlo analysis. The fifth column heading is the probability of passing the particular standards as generated by the Monte Carlo analysis.

Column headings six through ten reflect the "technological improvements" applied to the as-received vehicles. Column heading six refers to the vehicles that were used for the Monte Carlo analysis. Column heading seven is a shorthand notation of the factors that were applied to the vehicles. This notation is further developed and explained in Section IV. Column heading eight refers to the number of vehicles again that passed or failed, this time with the improvements applied. Column heading nine is the reason for the failure, if the vehicle indeed failed, and whether it was a HC, CO, or NO_x failure. Column heading ten refers to the probabilites for compliance with the HC, CO, or NO_x standards that go along with the indication of a failure.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's technological analysis. Applicants have, for several years, known the types of data necessary for EPA to make a determination whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in many cases there were a lack of acceptable data for specific engine families. This effectively precluded EPA from making a pass/fail determination for those families. In these cases, the families are called no data and no pass/fail determination was made.

In the technological analysis, data from prior year's certification programs were not used. These data were not used because the technology and calibrations employed on these vehicles were not for may not be representative of the technology and calibrations that will be used for model year 1981. Vehicles designed and calibrated or much different, more lenient, emissions than those at issue here have little relevance to a forecast of technological availability.

III. Statistical Treatment of the Data

Again, no changes have been made in the basic Monte Carlo methodology since its last use in a technical appendix. This methodology has been discussed and used previously [1 at 5496]. There were no changes made to the variability inputs of the basic Monte Carlo methodology as a result of these re-applications [1 at 5496].

IV. Projected Technological Improvements (Factors)

The rationale for technological improvements (factors) is well discussed in previous technical appendices and will not be elaborated upon further [1 at 5496].

Unfortunately, the new data submitted did not allow the development of numerous technological improvements factors. For example, Peugeot provided limited development data, from which technological improvements are generated, for emission control systems other than their prime system. Volkswagen failed to provide development data for one engine family for which they are seeking a waiver.

Factor for EGR Settings (Rates) on the Peugeot Electropneumatic EGR System

Peugeot is planning to introduce an electropneumatic EGR system on their 2.3L turbocharged engine in model year 1981 [4 at 2-1]. Peugeot maintains that this system is sufficiently advanced to attain the model year 1981 calibrations necessary to complete the certification process by the start of production.

While the calibrations for model year 1981 may be fixed, according to Peugeot, Peugeot did present data which would allow the EPA technical staff to evaluate the effect of varying EGR rates on the electropneumatic EGR system. These data are presented in Table IV-1 [4 at 2.23-75/76]. In all cases the "setting" numbers in the table correspond to higher EGR rates.

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Table IV-1

Effects of EGR Settings (Rates) on the Peugeot Electropneumatic EGR System

VIN 2663022, 3500 IW, XD2S Engine, M4 [4 at 2.23-76]

HC	CO	NOx	Part	MPG	Remarks*
0.15	1.58	1.02	0.443	27.73	'81 setting
0.18	1.84	0.86	0.591	28.31	setting "No. 6"
(1.20)	(1.16)	(0.84)	(1.33)	(1.02)	(Factors)
0.15	1.58	1.02	0.443	27.73	'81 setting
0.25	3.12	0.78	0.95	27.67	setting "No. 2"
(1.67)	(1.97)	(0.76)	(2.14)	(1.00)	(Factors)

VIN 2769007, 3500 IW, XD2S Engine [4 at 2.23-75]

0.15	1.38	0.92	0.4151	31.73	'81 setting
0.23	2.23	0.84	0.5249	30.89	setting "No. 2"
(1.53)	(1.77)	(0.91)	(1.26)	(0.97)	(Factors)
0.15	1.38	0.92	0.4151	31.73	'81 setting
0.26	2.97	0.83	0.5785	30.79	setting "No. 3"
(1.73)	(2.15)	(0.90)	(1.39)	(0.97)	(Factors)

*From graphs at 2.23-75/76 1, 2, and 3, EGR settings "No. 6", "No. 2", and "No. 3" correspond to higher EGR rates than the base calibration.

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The effects of these higher EGR rates were to lower NO_x levels, raise HC and CO levels, and put upward pressure on particulates.

The factors for EGR setting corresponding to numbers 6, 2, and 3 were simulated in the Monte Carlo analysis of vehicles numbered 2867516 and 909. This factor was selected for simulation because: (1) this technology has a short lead time and could be implemented by 1981 model year introduction, (2) low cost, and (3) nominal impact on fuel economy.

Factors for Injection Timing Changes with the Peugeot Electropneumatic EGR Systems

Peugeot also supplied data which showed the effects of injection timing changes on the EGR system proposed for model year 1981. These data are shown in Table IV-2.

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Table IV-2

Effects of Injection Timing Changes on the Peugeot Electropneumatic EGR System

Timing 7° BTDC vs. '81 Calibration at 5° BTDC

	HC	CO	NOx	Part	MPG	Vehicle No.
	0.15	1.06	1.04	0.3125	26.35	3076549
	0.29	1.70	0.83	-	27.68	53ATA75
	0.32	2.27	0.90	0.4614	28.06	1001670
	0.14	1.30	1.06	0.3019	25.32	2867516
Avg. 7°	0.22	1.58	0.96	0.3586	26.85	
[4 at 2.23-79, 80, 81, and 84]						
	0.23	1.31	0.97	0.4929	28.23	2867516
	0.11	1.43	1.01	-	27.83	1002721
	0.39	2.52	0.75	0.4355	28.02	1001670
Avg. 5°	0.24	1.75	0.91	0.4642	28.02	
Factors	(1.08)	(1.11)	(0.95)	(1.29)	(1.04)	
Same Vehicle Comparison						
[4 at 2.23-81]						
	0.32	2.27	0.90	0.4614	28.06	7°
	0.39	2.52	0.75	0.4355	28.02	5°
Factor	(1.22)	(1.11)	(0.83)	(0.94)	(1.00)	
[4 at 2.23-84]						
	0.14	1.30	1.06	0.3019	25.32	7°
	0.23	1.31	0.97	0.4929	28.23	5°
Factor	(1.64)	(1.01)	(0.91)	(1.63)	(1.11)	

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It can be noted that while retarded injection timing has a positive effect on reduction of NO_x and fuel consumption, deleterious effects on HC, CO and in most cases particulate matter were observed. Since Peugeot is having difficulty in achieving NO_x and HC standards simultaneously, [4 at 2-12] the use of factors based on retarded injection timing may not help Peugeot achieve the emission levels necessary for 1.0 gram per mile NO_x.

These factors were also applied to vehicles 2867516 and 909 in the Monte Carlo simulation. Two factors were selected, one to represent an average reduction achievable with different vehicles, and one set of factors representative of what is achievable on one vehicle.

Peugeot presented data from vehicles equipped with their electropneumatic EGR system which could have provided factors for such things as the effect of transmission shift schedule, injector pump changes, time before initiation of EGR, EGR versus engine speed, and injector type. Generally, these technical changes produced little benefits towards reducing NO_x or particulate levels. Factors based on these changes were not pursued further since it is possible that these technical changes were incorporated into the model year 1981 calibration and little or no data were available to assess their effects on NO_x or particulate levels.

Effect of French Specification Fuel on the Peugeot Electropneumatic EGR System

Peugeot has long maintained that the quality of U.S. Diesel fuel has been detrimental to the ability of their engines to achieve HC and NO_x standards [4 at 2-12]. In Peugeot's additional data submission, they presented additional data which allowed the EPA technical staff to derive factors [8 at 2-23—31-1, 2]. These data are reproduced in Table IV-3. The factors generated indicate an improvement for all pollutants and a benefit on fuel economy. These factors were applied to all of the Peugeot vehicles analyzed in the Monte Carlo simulation.

Table IV-3

Effect of Fuel on the Peugeot Electropneumatic EGR System

U.S. Fuel	HC	CO	NOx	Part	MPG
	0.13	1.16	1.16	0.4283	26.62
	0.11	1.26	1.22	0.4763	26.13
Avg.	0.12	1.21	1.19	0.4523	26.38
[8 at 2-23 - 31-2]					
French fuel	0.09	0.69	1.06	0.3585	28.52
	0.09	0.96	1.09	0.3515	28.65
Avg.	0.09	0.84	1.08	0.3550	28.60
[8 at 2-23 - 31-1]					
Factors	(0.75)	(0.69)	(0.91)	(0.78)	(1.08)

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While this technological improvement indicates a benefit in achieving emissions standards, the availability of higher quality fuel in the United States could be severely limited. Therefore, while the EPA technical staff concludes that French specification (improved quality) fuel could potentially allow Peugeot to achieve 1.0 gram per mile NO_x levels, the lack of this type of fuel on the U.S. market makes this approach unrealistic for the 1981 and 1982 model years. Peugeot supplied no information that would lead EPA to conclude that such fuel will be available throughout the U.S.

Factors for the Changes of EGR Rates on the Peugeot Hydraulic EGR System

Peugeot has been experimenting with an EGR system developed by the Robert Bosch Company that Peugeot has labeled the "hydraulic" as opposed to the "electropneumatic" system [4 at 2–8]. This system, even though Peugeot has started a durability vehicle with this system installed, will not be available before model year 1983 [4 at 2–1 and section 2.2.1.4]. Consequently, factors were developed to ascertain the viability of this technology for the post-1983 model year achievement of 1.0 gram per mile NO_x standards.

Table IV–4 shows the data which were used to develop the factors for judging the effects of EGR rates on the hydraulic EGR system. It is assumed that the 25% idle EGR rate would be Peugeot's preferred EGR setting. This is consistent with Peugeot's experience on the electropneumatic EGR system; i.e., as low an EGGR rate as possible to minimize particulate and HC problems. Note that the factors developed from vehicle 8000056 have a modest effect in reducing NO_x levels, but put upward pressure on particulates. However, the converse effect on particulates is true for the data from vehicle 8000004. Both of these factors were simulated on vehicle 041 in the Monte Carlo analysis.

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Table IV-4

Effects of EGR Settings (Rates) on the Peugeot Hydraulic EGR System

[4 at 2.23-77/78]

For Engine No. 8000056

	HC	CO	NOx	Part	MPG	Setting of Idle EGR
	0.28	2.98	0.72	1.042	26.12	35%
	0.19	2.96	0.81	1.433	26.34	30%
	0.21	2.58	0.83	1.009	25.71	30%
Avg.	0.20	2.77	0.82	1.221	26.03	
	0.23	2.46	0.86	0.8932	27.53	25%
	0.18	2.18	0.91	0.8617	25.96	25%
Avg.	0.21	2.32	0.89	0.8774	26.75	
Factors						
	(0.95)	(1.19)	(0.92)	(1.39)	(0.97)	30%/25%
	(1.33)	(1.28)	(0.81)	(1.19)	(0.98)	35%/25%

For Engine No. 8000004

	0.30	1.78	0.74	0.4081	29.69	35%
	0.21	1.69	0.79	0.3731	30.17	35%
Avg.	0.25	1.73	0.77	0.3906	29.93	
	0.19	1.83	0.84	0.3772	28.63	30%
	0.18	1.72	0.81	0.4112	29.30	25%
	0.24	1.68	0.90	.3836	29.29	25%
Avg.	0.21	1.70	0.86	0.3974	29.29	
Factors						
	(0.90)	(1.08)	(0.98)	(0.95)	(0.98)	30%/25%
	(1.19)	(1.01)	(0.90)	(0.98)	(1.02)	35%/25%

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Factor for Compression Ratio Changes on the Peugeot Hydraulic EGR System

The effects of compression ratio changes are observed in the data displayed in Table IV-5. These data indicate that compression ratio changes can have a beneficial effect on reducing either engine hydrocarbon or reducing NO_x emissions. Both sets of data indicate upward pressure on particulates. Again, factors for full time EGR were simulated in the Monte Carlo analysis of vehicle 041. This factor was selected because of its benefit for reduction of hydrocarbons and it would have less of an adverse impact on particulate levels. The EPA technical staff believes that the use of higher compression ratio coupled with EGR could have the potential to achieve both NO_x levels below 1.0 gram per mile and particulate levels below 0.6 gram per mile. However, lead time precludes the use of this system before model year 1983.

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Table IV-5

Effect of Compression Ratio on the Peugeot Hydraulic EGR System

	HC	CO	NOx	Part	MPG	Remarks
[4 at 2.23-90]			VIN 042, M4, XD2S-TC Engine			
	0.22	1.56	1.12	0.4344	28.98	12° Timing, 30% EGR,
	0.17	1.46	1.03	0.3034	29.25	No EGR before 120 sec.
	0.20	1.51	1.10	0.3689	29.12	CR 21.59
	0.34	1.75	0.94	0.5900	29.26	Same as above except
	0.14	1.74	0.99	0.5710	30.27	CR 22.56
	0.24	1.75	0.97	0.5835	29.77	
Factor CR 22.56 / CR 21.59	(1.20)	(1.16)	(0.88)	(1.58)	(1.02)	
[4 at 2.23-91]						
	0.49	1.93	0.63	0.4294	27.02	10° Timing, 30% EGR,
	0.36	1.90	0.65	0.3480	28.07	CR 21.54
	0.43	1.92	0.64	0.3887	27.55	
	0.20	1.72	0.79	0.5580	28.04	Same as above except
	0.24	1.99	0.80	0.5373	27.84	CR 22.56
	0.22	1.86	0.80	0.5476	27.94	
Factors CR 22.56 / CR 21.54	(0.51)	(0.97)	(1.25)	(1.41)	(1.01)	

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Factors for the Effect of Injection Timing Change and Injection Timing Changes Without EGR for the First 160 Seconds of Vehicle Operation on the Peugeot Hydraulic EGR System

Tables IV-6 and 7 illustrate the effects of injection timing retardation on the hydraulic EGR system. These factors were developed but *not* used in the Monte Carlo simulation. They are included here as illustrations of the potential for achieving both a NO_x *and* particulate reduction simultaneously by use of the hydraulic EGR system and injection timing retarded. There is a penalty for hydrocarbons and fuel economy, however. These timing changes, possibly coupled with the aforementioned technologies, indicate that there is a potential for the hydraulic EGR system to achieve lower NO_x and particulate levels when fully developed.

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Table IV-6

Influence of Injecton Timing on the Peugeot Hydraulic EGR System

[4 at 2.23-86] Vehicle 042 "Permanent" EGR - 30% EGR

	HC	CO	NOx	Part	MPG_u	Timing
	0.19	1.83	0.84	0.3772	28.63	12°
	0.34	1.61	0.81	0.3260	27.02	10°
	0.49	1.93	0.63	0.4294	27.02	10°
	0.36	1.90	0.64	0.3480	28.07	10°
	0.40	1.81	0.69	0.3678	27.77	
	0.91	2.19	0.72	0.3975	29.13	8°
	0.65	1.95	0.62	0.3573	27.79	8°
	0.78	2.07	0.67	0.3774	28.46	
Factors						
10°/12°	(2.11)	(0.99)	(0.82)	(0.98)	(0.97)	
8°/12°	(4.11)	(1.13)	(0.80)	(1.00)	(0.99)	

[4 at 2.23-88] Vehicle 012 "Permanent" EGR - 30% EGR

	0.20	1.64	0.81	0.8595	24.45	10°
	0.22	2.18	0.88	0.8580	23.55	10°
	0.21	1.91	0.85	0.8588	24.00	
	0.32	1.63	0.87	0.5613	22.89	8°
	0.37	2.06	0.79	0.4145	23.69	6°
	0.51	2.00	0.76	0.4312	23.09	6°
	0.44	2.03	0.78	0.4228	23.39	
Factors						
8°/10°	(1.52)	(0.85)	(1.02)	(0.66)	(0.95)	
6°/10°	(2.10)	(1.06)	(0.92)	(0.49)	(0.97)	
6°/ 8°	(1.38)	(1.25)	(0.90)	(0.75)	(1.02)	

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Table IV-7

Effect of Injection Timing on the Peugeot Hydraulic EGR System Calibration for No EGR in the First 160 Seconds of Vehicle Operation

HC	CO	NOx	Part	MPG	Timing
0.22	1.85	1.00	0.6935	22.38	10°
0.21	1.83	0.92	0.7686	23.09	10°
0.21	1.84	0.96	0.7310	22.73	
0.23	1.52	0.87	0.5621	23.33	8°
0.44	2.07	0.80	0.4736	22.68	6°
Factors					
8°/10° (1.10)	(0.83)	(0.91)	(0.77)	(1.03)	
6°/10° (2.10)	(1.13)	(0.83)	(0.65)	(1.00)	

[4 at 2.23-89]

Technology Improvements (Factors) for Volkswagen Engines

Volkswagen has applied for NO_x waivers for six engine families in the latest submission for a NO_x waiver [5 at 2]. Unfortunately, Volkswagen did not provide detailed technical development data for their 1.6L naturally aspirated or turbocharged engines from which the EPA technical staff could develop technological improvement factors. Of the data supplied [References 2, 3 and 5], the EPA technical staff was able to extract a set of factors for a combustion chamber ratio change, a long lead time item, and to extrapolate the results from the 2.0L engine equipped with a catalytic converter or trap oxidizer. Again, these data would indicate the potential for this technology, but Volkswagen maintains this is a long lead time item not ready before 1982 [5 at 7] or 1985 [5 at 11]. Also, the EPA technical staff would prefer not to translate technology between engine families which are family specific, but the paucity of 1.6L engine family data necessitates this transfer.

Volkswagen did submit data which indicated the effects of injection timing, injector nozzle modifications, and EGR in their initial application [3 at Table 1]. However, the injection timing modifications and nozzle modifications are now incorporated into 1981 model year vehicles and these two factors are no longer applicable. The EPA technical staff did evaluate the effects of EGR on the 2.0L engines. Additionally, Volkswagen evaluated concepts employing EGR for all of their available engine families for 1981 and 1982. Table IV-9 will detail the factors applicable to a non-modified 1979 engine. Volkswagen provided, for simulation only, one durability vehicle which did not incorporate the injection timing changes and injector nozzle modifications [5 at 59].

Volkswagen affirmed there were no additional 1.6L development vehicle data available for analysis [6 at 88].

Volkswagen Combustion Chamber Ratio Change Factor

A technology evaluated by VW was to change the prechamber volume to main combustion chamber volume in an attempt to reduce NO_x emissions. A comparison was made to ascertain the effect of this change, the data being presented in Table IV-8 [2 at 2.b.1-51].

While this type of change may be a long lead time item if retooling heads, patterns, and casting changes are needed, these factors were simulated in the Monte Carlo analysis to see if they affected VW's ability to pass. These factors were applied to all 1.6L engines, either NA or TC.

Table IV-8

Volkswagen Combustion Chamber Ratio Change Factor

Engine Family/Vehicle	HC	CO	NOx	Part	Remarks
4 cyl., 1.6L,	0.35	1.32	1.21	0.32	No. 14
2250 IW, M4	0.31	1.33	0.98	-	No. 17 (low cc ratio)
Factors	(0.88)	(1.01)	(0.81)	-	

Volkswagen EGR and Increased EGR Factors for the 2.0L–NA Engine

The data analyzed for these factors are detailed in Table IV–9. The factors of interest are those for low rate EGR (Cond. 3 versus Cond. 2), and for high rate EGR (Cond. 4 versus Cond. 2). It should be noted there is a dramatic reduction in NO_x for these factors, but a severe penalty for HC, particulates, and fuel economy with greater amounts of EGR.

For those engines not equipped with concept 1, injection timing and injector nozzle modifications (VIN 148–809), the factor of interest in Table IV–9 is condition 3 versus condition 1. These factors were applied to the Volkswagen 2.0L durability vehicles.

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Table IV-9

Audi 5000 EGR Evaluation, 2.0L-NA M4, 3250 IW

Vehicle No. 847-521 [5 at 41]

Cond.	Test	HC	CO	NOx	Part	FE	Comments
1	1	0.291	1.125	1.467	0.53	26.6	1979 Prod. vehicle as received
	2	0.447	1.372	1.502	0.49	24.6	
	3	0.351	1.400	1.534	0.58	26.2	
	Avg.	0.363	1.299	1.501	0.53	25.8	
2	1	0.254	1.231	1.371	0.32	29.6	With modified injection curve + reduced nozzle tolerance
	2	0.232	1.164	1.282	0.39	29.0	
	3	0.219	1.307	1.328	0.38	28.7	
	Avg.	0.235	1.234	1.327	0.36	29.1	
3	1	0.439	1.871	1.057	0.50	26.7	With modified injection curve + reduced nozzle tolerance and EGR (low rate)
	2	0.478	1.936	0.909	0.48	26.7	
	3	0.372	1.812	0.953	0.40	25.8	
	4	0.408	1.899	0.912	0.46	26.7	
	Avg.	0.424	1.879	0.957	0.46	26.5	
4	1	0.602	2.486	0.726	0.56	27.1	With modified injection curve + reduced nozzle tolerance and EGR (high rate)
	2	0.762	2.530	0.638	0.62	27.2	
	Avg.	0.682	2.508	0.682	0.59	27.1	
Factors							
Cond. 2/Cond. 1		(0.65)	(0.95)	(0.88)	(0.68)	(1.13)	
Cond. 3/Cond. 1		(1.17)	(1.45)	(0.64)	(0.86)	(1.03)	
Cond. 4/Cond. 1		(1.88)	(1.93)	(0.46)	(1.11)	(1.05)	
Cond. 3/Cond. 2		(1.80)	(1.52)	(0.72)	(1.27)	(0.91)	
Cond. 4/Cond. 2		(2.90)	(2.03)	(0.51)	(1.63)	(0.93)	

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Volkswagen Trap Oxidizer Factor

Volkswagen provided the data displayed in the upper portion of Table IV-10 as representative of the results to date with a trap oxidizer applied to a vehicle equipped with EGR. Volkswagen maintains that this concept is no longer viable because of its adverse effects on NO_x levels (5 at 14). This technology was simulated on all 2.0L engines to ascertain the HC/NO_x reduction potential of this technology as the technology does provide a particulate reduction benefit

Table IV-10

Volkswagen

Trap Oxidizer and Catalyzed Trap Oxidizer Factors

Trap Oxidizer VIN 503-611, 2.0L-NA, 3250 IW, M4 [5 at 44]

	HC	CO	NOx	Part	MPG	Remarks
	0.413	1.985	1.300	0.54	28.6	Baseline
	0.377	2.033	1.390	0.42	27.5	w/Trap Oxidizer
Factors	(0.91)	(1.02)	(1.07)	(0.78)	(0.96)	

Catalyzed Trap Oxidizer VIN 490-667, 2.0L-NA, 3250 IW, M5 [5 at 46]

	0.461	1.914	1.832	0.69	27.3	Baseline
	0.231	0.216	1.130	0.42	27.8	w/Catalyst Trap Oxidizer
Factors	(0.50)	(0.11)	(0.62)	(0.61)	(1.02)	

Volkswagen Catalyzed Trap Oxidizer Factor

The lower portion of Table IV-10 contains the data for the factors attributable to the technology Volkswagen feels will solve their emissions problems when fully developed [5 at 14]. As the data show, this technology has the ability to simultaneously reduce HC, CO, NO_x and particulate levels without adversely affecting fuel economy. The reduction in NO_x levels may be attributable to the fact this technology allows the use of more EGR than would be allowed without it. Volkswagen commented there were driveability problems with the use of the technology which will have to be overcome [5 at 14].

Volkswagen maintains trap oxidizer technology is a long lead time technology not available until the 1985 period [5 at 17, 18]. The EPA technical staff does not necessarily agree with Volkswagen's time schedule of 1985 because of the background experience that could allow transfer of similar technology developed for gasoline powered vehicle catalyst systems, but they agree it would take at least through model year 1982 to complete development of the Volkswagen concepts.

These factors were simulated on all 1.6L and 2.0L engines in the Monte Carlo analysis. While the use of these factors may not be appropriate for the 1.6L engines because they were developed on a 2.0L engine, the EPA technical staff used them to assess the potential for this technology in the post 1982 time frame [6 at 76].

Volkswagen 2.0L-TC No EGR to EGR Factor

One of the durability vehicles submitted was equipped with injection timing and injector nozzle modifications, but no EGR. To assess the effects of the addition of EGR to this vehicle, the factors in Table IV-11 were developed. These factors were only applied to vehicle VIN 503-610. This factor also has an adverse effect on HC, CO and particulates.

Table IV-11

Volkswagen 2.0L-TC No EGR to EGR Factor

VIN 490-674, 2.0L-TC, 3250 IW, M5 [5 at 42]

	HC	CO	NOx	Part	MPG	Remarks
	0.313	1.407	1.496	-	-	Baseline, 2.0L-TC engine, 4K miles [5 at 39]
	0.291	1.125	1.467	0.42	26.6	Timing and nozzle mods
	0.212	0.891	1.563	0.39	27.3	
Avg.	0.251	1.008	1.515	0.41	26.9	
	0.443	4.522	0.755	0.61	26.7	Same as above + EGR
Factors (No EGR / EGR)	(1.76)	(4.49)	(0.50)	(1.49)	(0.99)	

Summary of Factors Applied in Monte Carlo Simulation

The factors applied to the vehicles simulated in the Monte Carlo analysis are all listed in Table IV-12.

Table IV-12

Factors Used in the Monte Carlo Simulation

Mfg.	VIN-Monte Carlo	Letter Code	Factors HC	CO	NOx	Remarks
Peugeot 2.3L-TC	2867516	A	1.20	1.16	0.84	EGR Setting #6
		B	1.53	1.72	0.91	" " #2
		C	1.73	2.15	0.90	" " #3
		D	1.22	1.11	0.83	2° Timing Change (Diff. Vehs.)
		E	1.08	1.11	0.95	" " " (Same Vehs.)
		F	0.75	0.69	0.91	French fuel vs. U.S. fuel
	909	A	1.20	1.16	0.84	EGR Setting #6
		B	1.53	1.72	0.91	" " #2
		C	1.73	2.15	0.90	" " #3
		D	1.22	1.11	0.83	2° Timing Change (Diff. Vehs.)
		E	1.08	1.11	0.95	" " " (Same Vehs.)
		F	0.75	0.69	0.91	French fuel vs. U.S. fuel
		Z	1.00	1.00	1.00	w/o particulate tunnel
	041	A	0.51	0.97	1.25	CR Change
		B	0.90	1.08	0.98	30% EGR vs. 25% EGR
		C	0.95	1.19	0.92	" " " " " (Diff. Eng.)
		D	0.75	0.69	0.91	French fuel vs. U.S. fuel
Volkswagen Rabbit 1.6L-NA	449-522	A	0.88	1.01	0.81	Comb Chamber Change
		B	0.50	0.11	0.62	Catalyzed Trap Oxid.
	449-845	A	0.88	1.01	0.81	Comb Chamber Change
		B	0.50	0.11	0.62	Catalyzed Trap Oxid.
Rabbit 1.6L-TC	449-697	A	0.88	1.01	0.81	Comb Chamber Change
		B	0.50	0.11	0.62	Catalyzed Trap Oxid.
	463-022	A	0.88	1.01	0.81	Comb Chamber Change
		B	0.50	0.11	0.62	Catalyzed Trap Oxid.
Dasher 1.6L-NA	476-108	A	0.88	1.01	0.81	Comb Chamber Change
		B	0.50	0.11	0.62	Catalyzed Trap Oxid.
Dasher 1.6L-TC	455-102	A	0.88	1.01	0.81	Comb Chamber Change
		B	0.50	0.11	0.62	Catalyzed Trap Oxid.
Audi 2.0L-NA	148-809	A	0.50	0.11	0.62	Catalyst Trap Oxid.
		B	0.91	1.02	1.07	Trap Oxidizer
		C	1.17	1.45	0.64	No EGR — EGR
	847-525	A	0.50	0.11	0.62	Catalyst Trap Oxid.
		B	0.91	1.02	1.07	Trap Oxidizer
Audi 2.0L-TC	503-610	A	0.50	0.11	0.62	Catalyst Trap Oxid.
		B	0.91	1.02	1.07	Trap Oxidizer
		C	1.76	4.49	0.50	No EGR — EGR

V 45 M Y 22 80 UMI

V. Discussion of Individual Manufacturer's Technical Capability

Once more, as in the previous analysis, this section discusses all the vehicles which, (1) were submitted by both of the applicants, and (2) were also acceptable for input into the Monte Carlo simulation. Additionally, acceptability for input means, (1) that the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components, and (2) that a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

A discussion of the pass/fail determinations noted in Section II are also presented in this section. To pass the 1981 emission standards of 0.41 HC, 3.4 CO, 1.0 NO_x, the probabilities of passing each individual pollutant must be greater than or equal to 80%. If the probability of passing HC, for example, is less than or equal to 79%, the vehicle fails—even if the probabilities for CO and NO_x greatly exceed the 80% cutpoint.

Pass/fail analysis is provided only for emission standards for 0.41 HC, 3.4 CO, and 1.5 NO_x. The complete data needed for a similar analysis in emission standards of 0.41 HC, 3.4 CO, and 1.0 NO_x are presented in the Monte Carlo outputs. An analysis of a NO_x standard between 1.0 gpm and 1.5 gpm are included in the discussion of the vehicles entered into the Monte Carlo simulation where appropriate.

Peugeot

The durability vehicles contained in the Peugeot NO_x waiver applications [4 at 23.1–7/8, 23.1–9/10] which met the minimum criteria for entry into the Monte Carlo simulation are shown in Table V–1. It will be noted that a model year 1981 Certification durability vehicle has also been simulated in the Monte Carlo analysis. The reasons for the use of this vehicle in the simulation were; 1) sufficient time has passed since the first waiver application that model year 1981 certification durability vehicles, equipped with technologies targeted to achieve 1.0 gram per mile NO_x levels, are now actively being tested, and 2) the results of the certification vehicle analysis were used only for comparison with the results obtained from the technical analysis conducted for the noncertification vehicles.

Table V-1

Vehicles in Peugeot Motors Waiver Application
Meeting the Minimum Criteria for Entry into Monte Carlo

Engine Family	VIN	Control System	Entered into M.C.	If not-Why not
2.3L-TC (XD2S)	286516	Electropneumatic EGR	Yes	
	041	Hydraulic EGR	Yes	
	909*	Electropneumatic EGR	Yes	
XD3S		- No data supplied -		

*Official Model Year 1981 Certification vehicle.

Pass/Fail Analysis for 2.3L–TC Engines

Both non-certification prototype vehicles which were powered by the 2.3L–TC engine, *failed* the Monte Carlo analysis at 1.0 gram per mile NO_x levels with and without factors. Refer to Table II–1 for the probabilities of passing at 1.0 gram per mile NO_x levels.

A discussion of the vehicles follow. Vehicle 2867516, equipped with a turbocharger and an electropneumatic EGR system, was unable to achieve the 1.0 gram per mile NO_x levels either without factors or when simulated with the factors discussed previously. Vehicle VIN 041, equipped with a turbocharger and hydraulic EGR system (a post-1982 system) also failed with and without factors.

The Monte Carlo analyses at interim NO_x levels were reviewed, and they revealed that vehicle VIN 2867516 could certify to a 1.2 gram per mile NO_x level *without* application of factors. However, supplemental durability data submitted by Peugeot has caused the Monte Carlo analysis now to project that this vehicle will *fail* the HC standard of 0.41 grams per mile [8 at 22.3–8]. Previously, the original data submitted by Peugeot displayed a probability of 87% passing at 0.41 HC for this vehicle. These data are shown in Table V–2.

Table V-2.—*Monte Carlo Simulation Probability of Passing Interim NO_x Levels for Vehicle VIN 2867516—Without Factors*

NO, level	Probabilities (percent) HC	CO	NO_x
1.0	78	100	28
1.1	78	100	75
1.2	78	100	92
1.3	78	100	97
1.4	78	100	100
1.5	78	100	100

As a check on the prototype vehicle, the Monte Carlo simulation of the 1981 model year Certification vehicle, VIN 909, indicated that vehicle could certify to 1.1 grams per mile NO_x with an 87% probability of achieving the 0.41 HC standard at all NO_x levels. This simulation is shown in Table V–3.

Table V-3.—*Monte Carlo Simulation Probability of Passing Interim NO_x Levels for Vehicle VIN 909—Without Factors*

NO, level	Probabilities (percent) HC	CO	NO_x
1.0	87	100	63
1.1	87	100	84
1.2	87	100	99
1.3	87	100	98
1.4	87	100	100
1.5	87	100	100

In the post-hearing data submission by Peugeot, it was revealed that vehicle VIN 909 had been durability emission tested both under the 1981 test procedures and with the 1982 test procedures which call for the use of the particulate tunnel [8 at 2–23—6–2]. The above data were generated with the particulate tunnel in operation. The EPA technical staff analyzed the data without the tunnel and the results are to be found in Table V–4. The vehicle data used for these simulations are found in Table V–5.

Table V-4—*Monte Carlo Simulation Probability of Passing Interim NO_x Levels for Vehicle VIN 909—Without Factors—Without Particulate Tunnel*

NO, level	Probabilities (percent) HC	CO	NO_x
1.0	89	100	15
1.1	89	100	65
1.2	89	100	91
1.3	89	100	98
1.4	89	100	100
1.5	89	100	100

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V 45 MY 22 80 UMI

Table V-5

Effects of a Particulate Tunnel on Gaseous Emission from a XD2S Powered Peugeot Vehicle

Vehicle VIN 909, 505 Sedan, 3500 #IW, A3, Electropneumatic EGR, HY81 Calibrations, Official EPA Durability Vehicle

Mileage		HC		CO		NOx		Particulate		MPG	
W/Part. Tunnel	WO/Part. Tunnel	W/Part. Tunnel	WO/Part. Tunnel	W/Part. Tunnel	WO/Part. Tunnel	W/Part. Tunnel	WO/Part. Tunnel	W/Part. Tunnel	WO/Part. Tunnel	W/Part. Tunnel	WO/Part. Tunnel
4982	4962	0.265	0.242	0.99	1.56	1.02	0.94	0.439	-	24.50	24.87
5002	9991	0.267	0.240	1.10	1.10	0.99	0.97	0.407	-	24.51	24.35
5017	14998	0.291	0.242	1.31	1.62	0.95	1.04	0.510	-	24.91	24.60
5035	15056	0.324	0.194	1.31	1.34	0.97	0.96	0.449	-	24.80	24.80
5021	20041	0.157	0.205	1.03	1.08	1.07	1.03	0.446	-	24.20	24.03
5041	25064	0.148	0.185	0.96	1.07	1.07	1.03	0.428	-	23.93	24.63
5035	29953	0.151	0.142	0.85	0.92	1.08	1.06	0.334	-	24.16	24.69
5073	29991	0.244	0.202	0.99	0.95	1.01	1.08	0.441	-	24.31	24.02
5085	25104	0.140	0.192	0.97	1.04	0.96	0.97	0.397	-	24.94	24.82
5054	39973	0.146	0.201	0.86	1.07	0.94	1.03	0.311	-	24.54	25.22
4000		0.28	0.22	1.19	1.46	1.01	0.96				
50000		0.09	0.16	0.80	0.76	0.99	1.07				
DF		0.32	0.71	0.67	0.52	0.98	1.11				

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What these simulations in the preceding tables project is that the 2.3L-TC engine family could certify to 1.2 grams per mile NO_x without additional technological improvements.

A check was made on particulate levels for both of these engines, and Peugeot reports both of the vehicles are exhibiting particulate levels below 0.6 grams per mile. The particulate levels range from .28 to .44 grams per mile for vehicle 2867516 and .33 to .51 grams per mile for vehicle 909.

Pass/Fail Analysis XD3S Engine Family

Peugeot provided no durability data for this engine family. It is considered a no data family.

Analysis of Volkswagen Engine Families

All of the durability vehicles submitted by Volkswagen were acceptable for Monte Carlo simulation and were so simulated. Table IV-12 identifies these vehicles.

It should be further noted that Volkswagen has asked for different interim NO_x levels for an engine family (1.6L-NA and TC), depending on the vehicle model. Table V-6 outlines these requested NO_x levels [5 at 2]. While this is a deviation from present EPA certification practices i.e., the largest sales, inertia weight model, is usually selected to simulate the emission levels from an engine family marketed in different models (body styles), this split does not pose a problem for Monte Carlo simulation. Consequently, the pass/fail analysis will be discussed as per the Volkswagen waiver request.

Table V-6

Volkswagen Interim NOx Levels

Disp. (Liter)	Method of aspiration	Models	1980 Eng. Fam. Designation	Volkswagen Proposed NOx Std. 1981 (g/mile)	1982
1.6	N.A.	Rabbit Jetta	D	1.3	1.3
1.6	N.A.	Dasher Audi 4000	D	1.4	-
2.0	N.A.	Audi 5000	D-A	1.5	1.5
1.6	T.C.	Rabbit Jetta	(new)	-	1.3
1.6	T.C.	Dasher Audi 4000	(new)	-	1.4
2.0	T.C.	Audi 5000	(new)	-	1.5

[5 at 2]

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Pass/Fail Analysis 1.6L–NA Rabbit Engine Family

Two vehicles were submitted for Monte Carlo simulation of this engine family. Both of these vehicles failed the Monte Carlo analysis at the 1.0 gram per mile NO_x level. Both of the vehilces passed the 1.0 gram per mile NO_x level with factors applied. The factors applied are the long lead time factors of combustion chamber change and catalyzed trap oxidizer. No data was submitted for this engine family to allow the EPA technical staff to analyze the effects of factors for EGR or increased EGR on particulate emissions. Therefore, the EPA technical staff considers this engine family to have *failed* at 1.0 gram per mile NO_x levels for model years 1981 and 1982 both with and without factors. There are however, interim NO_x levels that these vehicles pass. The discussion of these vehicles follows.

Vehicle VIN 449–522 fails the Monte Carlo analysis at all NO_x levels above 1.0 gram per mile because of a *hydrocarbon* pass rate of only 65 percent.

As mentioned previously, the use of a catalyzed trap oxidizer would improve the hydrocarbon pass rate while allowing a simultaneous NO_x pass probability. This technological improvement was simulated for this vehicle and resulted in a pass at 1.0 gram per mile NO_x. However, the trap oxidizer technology will not be available before 1983. Therefore, the EPA technical staff concludes that this vehicle could pass at an interim NO_x level 1.1 gram per mile *provided* Volkswagen could control the hydrocarbon emissions. When questioned about control of hydrocarbon emissions, Volkswagen stated they would indeed achieve the statutory hydrocarbon levels if they were granted the interim NO_x levels they requested [6 at 83]. The EPA technical staff does not contest Volkswagen's affirmation that they can achieve the statutory HC and CO standards. The EPA technical staff concludes that the statutory HC and CO standards will be met at the interim NO_x level of 1.3 grams per mile based on the conservative Monte Carlo analysis and Volkswagen apparent willingness to proceed with certification.

The possibility that Volkswagen can meet the statutory HC and CO standard at 1.3 gram per mile NO_x is at least corroborated by the second vehicle, VIN 449–845 which gives the following probabilities for HC, CO and NO_x at the 1.3 gram per mile NO_x level, 79, 100, 90. These levels are achieved without application of factors. The *hydrocarbon* pass rate is below the necessary 80% probability, as projected by the Monte Carlo analysis, but because of the conservative nature of the analysis, Volkswagen's contention that it will achieve all statutory emissions levels if granted a NO_x waiver of 1.3 grams per mile is not contradicted.

Therefore, on the basis of Volkswagen's request, an interim NO_x standard of 1.3 grams per mile for the 1.6L–NA Rabbit engine family for model years 1981 and 1982 is appropriate. This timeframe will allow the applicant to benefit from the California experience [1 at 5485] and to complete the development of the catalyzed trap oxidizer.

Pass/Fail Analysis of the 2.6L–TC Rabbit Engine Family

Volkswagen has requested the same interim NO_x standard, 1.3 grams per mile, for this engine as for the 1.6L–NA version. The only difference is they want that standard for model year 1982 only. As shown in Table II–2, the simulated vehicles failed at the 1.0 gram per mile NO_x levels without factors, but passes at 1.0 gram per mile NO_x levels with the catalyzed trap oxidizer factor. The results of the 1.6L–TC Rabbit engine family Monte Carlo simulation are analogous to the 1.6L–NA Rabbit engine family results. The individual vehicle results are discussed.

Vehicle VIN 449–697 was found to have the following HC, CO and NO_x probabilities of passing at 1.3 gram per mile NO_x levels: 45, 100, 99. Again, there appears to be a problem with *hydrocarbons* at this NO_x level.

The second vehicle, VIN 463–022, has NO_x passing probabilities of 47, 100, 81 at 1.3 grams per mile. Here, also, a situation similar to the 1.6L–NA Rabbit engine family exists. Again, because of the conservative nature of the Monte Carlo analysis, the manufacturer's contention that they will achieve the statutory emission levels for HC and CO at the 1.3 gram per mile NO_x level, is not contradicted, and an interim standard of 1.3 grams per mile is appropriate in 1982.

Pass/Fail Analysis 1.6L–NA Dasher Engine Family

Volkswagen has requested an interim 1.4 gram per mile NO_x level for this engine family for one model year only (1981). The one vehicle, VIN 476–108, simulated in the Monte Carlo analysis indicates that this engine family will fail at the 1.0 gram per mile NO_x level with or without factors. The Monte Carlo simulation indicates that this vehicle will achieve an interim NO_x level of 1.4 grams per mile NO_x with the factor for change in combustion chamber ratio, and 1.1 gram per mile NO_x with the catalyzed trap oxidizer factor. As both of these factors represent long lead items, the conservative Monte Carlo analysis would *not* predict that the 1.4 gram per mile interim NO_x levels proposed by Volkswagen could be achieved by 2981. However, the EPA technical staff concludes nevertheless that the 1.4 gram per mile interim NO_x level would be appropriate for this engine family.

Pass/Fail Analysis 1.6L–TC Dasher Engine Family

The situation analagous to the Rabbit engine family also exists for this engine family. The Monte Carlo simulation predicts that his engine family would fail at 1.0 gram per mile NO_x without factors and pass 1.0 gram per mile NO_x with the catalyzed trap factor. The Monte Carlo simulation also indicates the probability of passing 1.4 gram per mile NO_x levels are 45, 100, 100 without factors. Again, *hydrocarbons* are the problem and consequently, the EPA technical staff recommends an interim 1.4 gram per mile NO_x standard for this engine family.

Pass/Fail Analysis for 2.0L–NA Audi Engine Family

As the data in Table II–2 shows, the two vehicles simulated without factors fail at the 1.0 gram per mile NO_x standard. One vehicle passed at 1.0 gram per mile NO_x with the factor for the catalyzed trap oxidizer. One vehicle, 148–809, achieves, without factors, the 1.5 gram per mile NO_x level but fails *hydrocarbons*. The other vehicle, 847–525, achieves without factors, the 1.4 gram per mile NO_x level but also is predicted to fail *hydrocarbon* levels.

Therefore, the EPA technical staff concludes that of all the vehicles simulated, these two require the use of a catalyzed trap oxidizer and EGR to achieve NO_x levels below 1.5 gram per mile NO_x. As trap oxidizer technology is not available until post model year 1982, the technical staff concludes that 1.5 gram per mile NO_x is the only achievable NO_x level before 1983 for this engine family. The simulation of the technological factors of No EGR to EGR and increased EGR on EGR equipped vehicles also placed upward pressure on particulates for this engine family.

Pass/Fail Analysis for 2.0L–TC Audi Engine Family

Table II–2 indicates that the vehicle simulated in the Monte Carlo analysis failed both with and without factors at the 1.0 gram per mile NO_x standard. With the factor for EGR applied, a reduction in NO_x emissions was noted but with a penalty for particulate emissions. The technical staff concludes that this engine family will not be able to achieve NO_x emissions levels below 1.5 gram per mile NO_x in model year 1982.

The EPA technical staff concludes that 1.5 gram per mile will be the lowest NO_x levels achievable in 1982 for this engine family.

VI. Other Technological Considerations

Fuel Economy

Fuel economy is a criterion which the Administrator must consider in his decision to grant or deny the applicants, NO_x waiver request. The two issues of importance are individual engine family fuel economy results or projections and fleet sales weighted average fuel economy effects.

Individual Engine Family Fuel Economy Results

Only those engine families for which an emission control capability analysis was conducted are considered in this section. Data displayed in Section IV show that those engine families which were analyzed comply with the required fuel economy standards of 22 MPG and 24 MPG in 1981 and 1982 respectively. The data given in Section IV are Urban fuel economy values; and the "composite" fuel economy levels will be higher than the Urban fuel economy levels shown. Therefore, the engine families considered should have no difficulty achieving the fuel economy standards.

Fleet Sales Weighted Average Fuel Economy Effects

The applicants provided no new data upon which to make projections for the time period of interest, 1981–82. Therefore, the analysis prescribed in the first remains unchanged [1 at 5505].

Post-Waiver Period Issues

Two post-waiver period issues, long-term air quality benefits and fuel economy potential, were discussed in detail in the last NO_x waiver decision [1 at 5506]. The present applications provided no new data to modify the previously articulated conclusions.

Air Quality Summary

The two applicants provided no new information other than their previously supplied air quality analyses for the first NO_x waiver applications. Therefore, the conclusions reached in the first NO_x waiver decision remain unchanged [1 at 5507 thru 5511].

VII. References

1. Federal Register, Vol. 45, No. 16, Wednesday, January 23, 1980, Notices.
2. Application for Waiver of the 1981–1984 NO_x Emission Standards for light duty engines submitted to the Environmental Protection Agency by Volkswagen AG, May, 1979.
3. Volkswagen of America, Inc.—additional information for NO_x Waiver Hearings official records—dated July 13, 1979 from Mr. W. Groth (VW) to Mr. B. Jackson (MSED).
4. *Automobiles Peugeot,* Application for Waiver of the 1981–1984 NO_x Emission Standard, dated February 6, 1980.
5. Volkswagen Application for NO_x Waiver, dated February 20, 1980.
6. Transcript of Proceedings, United States Environmental Protection Agency, In the Matter of: Public Hearing on the Waiver of the 1981–1984 Model Year Light-Duty Diesel NO_x Emissions Standard, Washington, D.C., February 27, 1980, Acme Reporting Company.
7. Volkswagen of America Inc.—additional information for NO_x Waiver Hearings official records—dated March 4, 1980, from W. Groth (VWA) to EPA, Central Docket Section.
8. U.S. Technical Research Co., Automobiles Peugeot—additional information for NO_x Waiver Hearings official records—dated March 6, 1980—from R. H. Lucki (Peugeot) to C. Freed (EPA).
9. Volkswagen of America Inc.—additional information for NO_x Waiver Hearings official records—dated March, 1980—from W. Groth (VWA) to EPA, Central Docket Section.

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Part V

Pennsylvania Avenue Development Corporation

General Guidelines and Uniform Standards for Urban Planning and Design of Development Within the Pennsylvania Avenue Development Area

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PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 920

General Guidelines and Uniform Standards for Urban Planning and Design of Development Within the Pennsylvania Avenue Development Area

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Interim Rule; request for comment.

SUMMARY: The Pennsylvania Avenue Development Corporation (Corporation) is adopting this document as an interim rule governing implementation of urban planning and design features of the Pennsylvania Avenue Plan—1974, as amended. Subparts A and B describe the purpose and policy of the Corporation as well as the general framework against which development proposals will be evaluated by the Corporation. Subpart C contains those Standards that are applicable throughout the Corporation's development area. These Standards will be applicable in addition to the Controls and Standards for the coordinated planning area within which a particular proposed development is located. Subpart D is a Glossary of Terms which will apply to this Part 920 and each set of Controls and Standards comprising Subchapter B of 36 CFR Chapter IX.

Public comment is invited on the substance of this interim rule as well as the readability and clarity of presentation.

DATES: Effective Date: April 1, 1980. Comments must be received on or before June 15, 1980.

ADDRESS: Send comments to Mary M. Schneider, Attorney, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Mary M. Schneider (202) 566–1078, or Yong-Duk Chyun, Architect, (202) 566–1218, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C., 20004.

SUPPLEMENTARY INFORMATION: The Pennsylvania Avenue Development Corporation (the Corporation) is a wholly owned government corporation of the United States with authority to develop and rejuvenate 21 blocks along Pennsylvania Avenue, N.W., Washington, D.C. The Corporation has prepared a development plan, The Pennsylvania Avenue Plan—1974, which has been adopted by Congress. In order to facilitate development in accordance with the Plan, the Corporation has prepared this interim rule to provide a general description of the urban planning and design concepts expressed in The Pennsylvania Avenue Plan—1974, as amended. In addition, this interim rule provides that requirements and definitions that will be applicable throughout the development area, thereby eliminating the need to restate these in each set of Controls and Standards.

To simplify access to those regulations of the Corporation having a direct impact on planning and design issues, Chapter IX of Title 36 of the Code of Federal Regulations is separated into two Subchapters. This Part 920 is the first part of Subchapter B that is exclusively devoted to those issues. Subchapter A contains general administrative regulations and those required by statutes other than the Corporation's enabling legislation.

This interim rule has been reviewed against the "Design and Construction Guidelines for New Development" approved by the Advisory Council on Historic Preservation (ACHP) and is consistent with the document. Therefore, this Interim Rule is in compliance with Stipulation 5 of the Memorandum of Agreement between the Corporation and ACHP.

STATEMENT OF SIGNIFICANCE: The Pennsylvania Avenue Development Corporation has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044.

36 CFR Chapter IX is amended by adding a new Part 920 to read as follows:

PART 920—GENERAL GUIDELINES AND UNIFORM STANDARDS FOR URBAN PLANNING AND DESIGN OF DEVELOPMENT WITHIN THE PENNSYLVANIA AVENUE DEVELOPMENT AREA.

Subpart A—General.

Sec
920.1 Policy.
920.2 Purpose and program administration.

Subpart B—Urban Planning and Design Concerns.

920.10 General.
920.11 Comprehensive urban planning and design.
920.12 Development density.
920.13 Urban design of Washington, D.C.
920.14 Historic preservation.
920.15 New development design.
920.16 Land use.
920.17 Pedestrian circulation systems.
920.18 Vehicular circulation and storage systems.

Subpart C—Standards Uniformly Applicable to the Development Area.

920.30 General.
920.31 High architectural quality.
920.32 Historic preservation.
920.33 Off-street parking.
920.34 Accommodations for the physically handicapped.
920.35 Fine arts.
920.36 Energy conservation.
920.37 Fire and life safety.
920.38 Building exterior illumination.

Subpart D—Glossary of Terms.

920.50 General.
920.51 Access.
920.52 Buildable area.
920.53 Building restriction line.
920.54 Build-to height.
920.55 Build-to line.
920.56 Controls and standards.
920.57 Coordinated planning area.
920.58 Curb-cut.
920.59 Development.
920.60 Development parcel.
920.61 Gross floor area.
920.62 Height of development.
920.63 The plan.
920.64 Rehabilitation.
920.65 Replication.
920.66 Restoration.
920.67 Sidewalk setback.
920.68 Storefront.
920.69 Structural bay.
920.70 Vault.
920.71 Weather protection.

Authority: Section 6(8) Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 875(8)).

Subpart A—General

§ 920.1 Policy.

(a) Public Law 92–578, The Pennsylvania Avenue Development Corporation Act of 1972, October 27, 1972, (the "Act"), established the Pennsylvania Avenue Development Corporation (the "Corporation") with jurisdiction over the Pennsylvania Avenue Development Area ("Development Area"). The Development Area is generally described as an area in Washington, D.C., bounded by Pennsylvania Avenue, N.W., on the south, East Executive Drive on the west, 3rd Street, N.W., on the east, and E and F Streets, N.W., on the north.

(b) Prior to creation of the Corporation, the Development Area had deteriorated, adversely impacting upon the physical, economic, and social life of Washington, D.C. The Corporation was created as the vehicle to develop, maintain, and use the Development Area in a manner suitable to its ceremonial, physical, and historic relationship to the legislative and executive branches of the Federal government, to the governmental buildings, monuments, memorials, and parks in and adjacent to that area, and to the downtown commercial core of Washington, D.C. The Corporation was directed to prepare a development plan for the Development Area and to submit that plan to the United States Congress. Congress accepted that plan and directed its implementation by the Corporation. The Corporation through a broad range of statutory powers has begun this implementation process.

(c) The Pennsylvania Avenue Plan—1974, as amended (*the "Plan"*) is a blueprint for social, economic, and architectural rejuvenation of the Development Area. Its goal is to make the Development Area once again a relevant and contributing element of Washington, D.C. With the implementation of *the Plan*, the Development Area will become a showpiece of the Nation's Capital, proudly displaying the successful joint efforts of the Corporation, other Federal and District of Columbia government agencies, and private entrepreneurs.

(d) *The Plan*, containing the goals and objectives for *development*, is supplemented by various adopted policies and programs of the Corporation. *The Plan*, in conjunction with these policies and programs, represent the basis upon which the *development* and rejuvenation of the Development Area will proceed, whether publicly or privately inspired and accomplished. These policies and programs amplify, elaborate, and refine the planning and urban design concepts expressed in *the Plan*. Among these policies and programs are:

(1) the Public Improvements Program of the Corporation which is a comprehensive plan for the design and construction of public amenities by the Corporation in major public urban spaces and selected thoroughfares within the Development Area. This program outlines the details of street and sidewalk improvements, special landscaping, public space reconfiguration and pedestrian amenities;

(2) the Historic Preservation Plan of the Corporation which constitutes the Corporation's program for preservation, *rehabilitation*, and *restoration* of historically and architecturally significant properties located within the Development Area. The program establishes a methodology to guide the Corporation in both short and long term decision making that affects historic and significant architectural resources located within the Development Area.

§ 920.2 Purpose and Program Administration.

(a) Implementation of *the Plan* occurs through two component actions: public improvements construction and square development. Public improvements construction consists of implementation by the Corporation of the Public Improvements Program. Square development consists of design and construction of *development* projects primarily on city blocks, known as squares, within the Development Area. These development projects are generally pursued by private entrepreneurs with varying degrees of participation and involvement by the Corporation, through such means as land assemblage and leasing.

(b) This Subchapter B pertains solely to square development and specifies the regulatory mechanism for implementation of *the Plan* required by Chapter Six of *the Plan*.

(c) This Subchapter B provides interested parties with the urban planning and design information sufficient to understand and participate in the process of square development within the Development Area.

(1) This Part 920, General Guidelines and Uniform Standards for Urban Planning and Design of Development Within the Pennsylvania Avenue Development Area, identifies the general planning and design goals and objectives which govern the implementation of *the Plan*, provides a glossary of defined terms applicable to Subchapter B, and specifies standards which are uniformly applicable to *development* within the Development Area.

(2) Each subsequent part of Subchapter B, identified as *"Controls and Standards,"* is applicable to one *coordinated planning area* within the Development Area, a *coordinated planning area* being a square, a portion of a square, or a combination of squares. Each part specifies detailed urban planning and design requirements and recommendations which are applicable to the particular *coordinated planning area*. These requirements and recommendations set forth intentions and refinements of *the Plan* in light of the identified Planning and Design Concerns specified in Subpart B of this Part.

(d) Pursuant to Section 7(b) of the Act, each proposal for *development* within the Development Area must be submitted to the Corporation to determine its consistency with *the Plan*. The Corporation's adopted development policy, entitled "Development Policy of the PADC", sets forth the process for this determination. In determining whether a *development* proposal is consistent with *the Plan*, in regard to urban planning and design, the Corporation will apply the General Guidelines contained in this Part and the *Controls and Standards* for the *coordinated planning area* within which the proposed *development* is to be located.

(e) Pursuant to the Act, Federal and District of Columbia agencies and departments may exercise such existing authority and lawful powers over urban planning and design features of *development* as are consistent with *the Plan*. No department or agency may release, modify, or depart from any feature of *the Plan* without the prior approval of the Corporation.

Subpart B—Urban Planning and Design Concerns.

§ 920.10 General.

To facilitate review of each *development* proposal in light of the identified urban planning and design goals of *the Plan*, the following urban planning and design concerns will be the basis upon which the evaluation of such proposals will be made.

(a) Comprehensive planning and design;
(b) Development density;
(c) Urban design of Washington, D.C.;
(d) Historic preservation;
(e) New development design;
(f) Land use;
(g) Pedestrian circulation systems; and
(h) Vehicular circulation and storage systems.

§ 920.11 Comprehensive urban planning and design.

(a) All new *developments* are conceived as integral parts of their surroundings, which include the remainder of the Development Area, the Mall, the Federal Triangle, and the District's downtown, and should support Pennsylvania Avenue's function as a bridge between the monumental Federal core to the south and the District's downtown to the north.

(b) The design of any *development* shall take into account *the Plan's* proposed future treatment of buildings, squares, and pedestrian spaces in the immediate surrounding area.

(c) The design of any *development* shall be coordinated with the massing, architectural design, servicing, pedestrian amenities, and uses of nearby *development* as perceived under *the Plan*.

(d) Any *development* adjacent to F Street, N.W. shall be accomplished in a manner that will strengthen F Street as a major retail core of Washington, D.C.

(e) Any *development* along Pennsylvania Avenue shall be designed so as to support the transformation of the Avenue into an attractive and pleasant place for residents and visitors alike, offering pleasant places to stroll, rest, sit and talk, eat, and shop.

(f) All *developments* within a *coordinated planning area* shall, to the maximum extent possible, be integrated with regard to the off-street loading and servicing, pedestrian features.

§ 920.12 Development density.

(a) Land would be developed to the fullest extent appropriate in terms of uses, economics, and design so that new economic life can be brought in and the city's tax base can be increased.

(b) *The Plan* is structured to create high density commercial *developments* west of the FBI and lower density residential-commercial *developments* east of the FBI.

(c) New *development* shall be designed to achieve maximum development density within the building envelope delineated by specific height restrictions, but shall also establish a compatible and appropriate scale for historic preservation, residential and other uses, and other urban design elements.

(d) Development density is limited by the Zoning Regulations of the District of Columbia and may be further restricted by the Corporation in specific *coordinated planning areas.*

(e) The density of new *development* should bring new economic life—jobs, shopping, and business opportunities—to Pennsylvania Avenue, while also reinforcing existing activity both on the Avenue and in the adjacent downtown area.

§ 920.13 Urban design of Washington, D.C.

(a) The legacy of the L'Enfant Plan, which essentially consists of channeled vistas focusing on man-made objects or natural elements and open spaces created by buildings and trees, shall be reinforced and enriched.

(b) Pennsylvania Avenue's unique role as the physical and symbolic link between the White House and the U.S. Capitol should be reinforced by new *development* along it.

(c) In terms of relating to the L'Enfant Plan, the primary function of new *development* in the Development Area is to define open spaces and plazas, or to reinforce vistas along major streets and thoroughfares.

§ 920.14 Historic preservation.

(a) The Development Area is located almost entirely within the Pennsylvania Avenue National Historic Site, which was established to preserve the exceptional values of Pennsylvania Avenue and its environs in commemorating or illustrating the history of the United States. The Pennsylvania Avenue Area achieves national historic significance because of both its ceremonial role in the life of the nation and as the center of social and economic activity for the residents of Washington for more than a century.

(b) The sense of historic continuity and evolution that exists in the Historic Site would be maintained by ensuring that new buildings are designed within the evolutionary context of the Historic Site, responding sympathetically to the legacy of the L'Enfant Plan and buildings to be preserved.

(c) The Historic Preservation Plan of the Corporation sets forth the adopted policy of the Corporation to accomplish this objective and *development* within the Development Area must be consistent with this policy.

(d) New construction adjacent to historic structures will be required to take into account the qualities of the adjacent structures (with regard to height, scale, proportion, rhythm, texture, materials, architectural detail, and the amount of variety among the structures with respect to these qualities as well as style and date of erection) to ensure that these structures maintain their historic or architectural integrity, but will not necessarily be required to conform to them.

(e) Wholly new construction and new construction in conjunction with preservation will, where appropriate, take into account the historic buildings to remain, aiming for the highest quality of contemporary design, consistent with the goals and objectives of the Historic Preservation Plan.

§ 920.15 New development design.

(a) All new *developments* shall represent the best contemporary architectural and urban planning concepts.

(b) Where new *development* includes or relates to historic or architecturally meritorious buildings which are to be preserved, the design of the new *development* should be aimed at retaining as much of the significant fabric of the Development Area as is possible consistent with the goals of *the Plan.*

§ 920.16 Land use.

(a) *Development* within the Development Area shall provide, and stimulate in neighboring areas, more lively and varied shopping, cultural, entertainment, and residential opportunities, as well as high quality office uses.

(b) That portion of the Development Area west of the FBI Building is designated for high density commercial *development,* primarily office and hotel uses with attendant retail and service uses. That portion of the Development Area east of the FBI Building is designated for lower density *development* with residential uses predominating, supported by service and retail uses. Office, institutional and entertainment uses while permitted are of secondary importance in this portion of the Development Area.

(c) The kinds of uses and their location shall be directly related to creating a lively atmosphere within the Development Area, and to promoting an active street life throughout the day, evening, and weekend.

(d) While recognized as important to the commercial life of any inner city, uses that do not generate lively activities, are discouraged from locating along those street fronts within the Development Area which are considered major pedestrian thoroughfares.

§ 920.17 Pedestrian circulation system.

(a) An efficient, pleasant, and stimulating pedestrian circulation system shall be developed to link the components of the Development Area with the Mall and the city's downtown.

(b) Pedestrian circulation systems shall be designed to provide pedestrian comfort and convenience, to create more linear footage of shopfront, to encourage recognition of the location of various METRO stops or other mass transit locations, and to link various historic and architecturally significant buildings, sites, and monuments which are scattered throughout and beyond the Historic Site.

(c) Curb cuts across the north sidewalk areas of Pennsylvania Avenue shall be prohibited in order to reinforce its importance as the major pedestrian thoroughfare of the Development Area.

§ 920.18 Vehicular circulation and storage systems.

(a) Improvement of the existing vehiclar storage and circulation system is necessary in order to create the balanced transportation system called for in *the Plan,* which recognizes the need to maintain air quality, to encourage the use of mass transit, and to provide sufficient off-street parking and loading to make development economically viable.

(b) The general policies of the Corporation are as follows:

(1) by requiring adequate off-street loading facilities and integrated off-street parking facilities on a block-by-block basis, the conflict between vehicles and the need for storage space will be reduced;

(2) by limiting the number of parking spaces per *development,* the quantity of vehicles in the area will not substantially increase;

(3) by linking new *development* to transit stops through the system of pedestrian ways, more people will depend on public transportation rather than on private vehicles.

Subpart C—Standards Uniformly Applicable to the Development Area.

§ 920.30 General

In addition to the specific requirements and recommendations contained in the individual *Controls and Standards,* the Standards set forth in this Subpart C are uniformly applicable to any *development* within the Development Area.

§ 920.31 High Architectural Quality.

Development must maintain a uniformly high standard of architecture, representative of the best contemporary design and planning concepts. Great care and sensitivity must be shown in the architectural treatment of new buildings, particularly in terms of massing, facade design (including materials, composition, and detailing), the ground floor and sidewalk pedestrian environment, interior public spaces, and provisions for pedestrian and vehicular access. Special design considerations for each *coordinated planning area* are referenced in the *Controls and Standards.*

§ 920.32 Historic Preservation.

Rehabilitation of buildings within the Development Area, which, according to *the Plan* and the Historic Preservation Plan of the Corporation, are specified for preservation, shall be accomplished in accordance with the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," issued by the Technical Preservation Services Division, Heritage Conservation and Recreation Service, U.S. Department of the Interior, and consultation with the State Historic Preservation Officer for the District of Columbia.

§ 920.33 Off-Street Parking.

(a) Off-street parking as a principal use is prohibited. Off-street parking as an accessory use in a *development* is permitted.

(b) All parking spaces shall be located below grade level.

(c) The maximum number of parking spaces for a *development* may not exceed the aggregate of the number of spaces allowed for each use within the *development.* The schedule of limitations for parking spaces is as follows:

(1) Hotel: One parking space for each four sleeping rooms or suites;

(2) Places of public assemblage other than hotels: (i.e., arena, armory, theater, auditorium, community center, convention center, concert hall, etc.) one parking space for each ten seats of occupancy capacity for the first 10,000 seats plus one for each 20 seats above 10,000: Provided, That where seats are not fixed, each seven square feet of *gross floor area* usable for seating shall be considered one seat;

(3) Retail, trade, and service establishments: One parking space for each 750 square feet of *gross floor area;*

(4) Residential: One parking space for each 1.2 units;

(5) Offices: One parking space for each 1,800 square feet of *gross floor area.*

§ 920.34 Accommodations for the Physically Handicapped.

(a) Every *development* shall incorporate features which will make the *development* accessible by the physically handicapped. The standards in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1961 (1971)), are recommended.

(b) Where a *development* includes a historic structure, the Advisory Council on Historic Preservation's policy, "Supplementary Guidance—Handicapped Access to Historic Properties," (45 Federal Register 9757), should be observed.

§ 920.35 Fine Arts.

(a) Fine arts, including sculpture, paintings, decorative windows, bas-reliefs, ornamental fountains, murals, tapestries, and the like, should be included in each *development.* Commissions for original works of art which are appropriate for the *development* are encouraged.

(b) The Corporation is available to assist a developer in selecting and evaluating artists and works of art.

(c) A reasonable expenditure for fine arts is deemed to be one half of one percent of the total construction cost of the *development.*

§ 920.36 Energy Conservation.

All new *development* should be designed to be economical in energy consumption. The Energy Guidelines of the Corporation, and the District of Columbia Energy Conservation Code Act of 1979 and its implementing regulations set forth the appropriate standards to be observed.

§ 920.37 Fire and Life Safety.

As a complementary action to satisfying required District of Columbia codes related to fire safety, it is highly recommended that all new *development* be guided by standards of the NFPA Codes for fire and life safety and that all buildings be equipped with an approved sprinkler system.

§ 920.38 Building Exterior Illumination.

Exterior illumination of a building shall be in conformance with the standards specified in the Pennsylvania Avenue Lighting Plan of the Corporation.

Subpart D—Glossary of Terms.

§ 920.50 General.

The definitions appearing in this Glossary of Terms are applicable to Subchapter B in its entirety. In addition, definitions appearing in the Section 1202 of the Zoning Regulations of the District of Columbia are also applicable to Subchapter B. Where a conflict between this subpart and Section 1202 of the Zoning Regulations arises in terminology or interpretation, this subpart shall be controlling.

§ 920.51 Access.

Access, when used in reference to parking or loading, means both ingress and egress.

§ 920.52 Buildable area.

Buildable area means that portion, as specified by the Corporation, of the established *development parcel,* which is utilized to compute the maximum *gross floor area* of the *development.* Generally, this area is bounded by any applicable *building restriction lines,* right-of-way lines and *development parcel* lines relevant to the specific parcel for which the maximum *gross floor area* is being computed.

§ 920.53 Building restriction line.

Building restriction line means a line beyond which an exterior wall of any building of a *development* may not be constructed or project, except that architectural articulation, minor architectural embellishments, and subsurface projections are permitted.

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§ 920.54 Build-to height.

Build-to height means a minimum height to which the exterior wall of a building in a *development* must rise. Minor deviations from the *build-to height* for architectural embellishments and articulations of the cornice and roof level are permitted, unless otherwise prohibited by these *Controls and Standards* or the District of Columbia's codes and regulations.

§ 920.55 Build-to line.

Build-to line means a line with which the exterior wall of a building in a *development* is required to coincide. Minor deviations from the *build-to line* for such architectural features as *weather protection*, recesses, niches, ornamental projections, entrance bays, or other articulations of the facade are permitted, unless otherwise prohibited by the applicable *Controls and Standards* or the District of Columbia's codes and regulations.

§ 920.56 Controls and Standards.

Controls and Standards means the formal regulations adopted by the Corporation for each *coordinated planning area* that set forth the specific requirements and recommendations pertaining to urban planning and design and applicable to all *development* within the appropriate *coordinated planning area*. *Development* proposals submitted to the Corporation for a determination of consistency with *the Plan*, and therefore final approval by the Corporation, are reviewed against the applicable *Controls and Standards*, as well as the General Guidelines contained in Part 920.

§ 920.57 Coordinated planning area.

Coordinated planning area means a Square, portion of a Square, or group of Squares that is composed of one or more *development parcels* and is treated as a unit under these *Controls and Standards*, in order to achieve comprehensive planning and design.

§ 920.58 Curb-cut.

Curb-cut means that portion of the curb and sidewalk over which vehicular access is allowed. Unless otherwise specified, a single *curb-cut* shall accommodate no more than two *access* lanes.

§ 920.59 Development.

Development means a structure, including a building, planned unit development, or project resulting from the process of planning, land acquisition, demolition, construction, or *rehabilitation* consistent with the objectives and goals of *the Plan*.

§ 920.60 Development parcel.

Development parcel means an area of land established by the Corporation to be a minimum site on which a *development* may occur under *the Plan* and any applicable Planning and Design Objectives or *Controls and Standards* adopted by the Corporation.

§ 920.61 Gross floor area.

Gross floor area is defined in section 1202, Zoning Regulations of the District of Columbia and generally means the sum of the gross horizontal areas of the several floors of all buildings of a *development* occurring on a lot measured from the exterior faces of exterior walls and from the center line of walls separating two buildings.

§ 920.62 Height of development.

Height of development means the vertical distance measured from a specified point at the curb level to the highest point of the roof or parapet of the *development*, whichever is higher, exclusive of all *roof structures* except as otherwise specified.

§ 920.63 The Plan.

The Plan means The Pennsylvania Avenue Plan—1974, as amended, and prepared pursuant to Public Law 92–578, 86 Stat. 1266 (40 USC 871), and the document which sets forth the *development* concepts upon which these *Controls and Standards* are based.

§ 920.64 Rehabilitation.

Rehabilitation means the process of adapting improvements on real property to make possible an efficient contemporary use achieved by means of a combination of construction, repair or alteration, as well as *restoration* and *replication* of those portions and features of the property that are significant to its historic, architectural, and cultural values, consistent with the goals and objectives of *the Plan*.

§920.65 Replication.

Replication means the process of using modern methods and materials to reproduce the exact form and details of a vanished building, structure, object, or portion thereof, as it appeared at a particular period of time, and consistent with the objectives and goals of *the Plan*.

§ 920.66 Restoration.

Restoration means the process of accurately recovering the form and details of a property as they appeared at a particular period of time by means of removal of later work and the replacement of missing original work, consistent with the objectives and goals of *the Plan*.

§ 920.67 Sidewalk setback.

Sidewalk setback means that area between a *building restriction line* and the right-of-way of a street into which projections except architectural articulations, minor architectural embellishments, and subsurface structures, are prohibited. The area is to be dedicated to open space activities related to the public improvements program of the Pennsylvania Avenue Development Corporation. Subsurface structures may intrude into the area if they are in compliance with the standards and controls specified herein.

§ 920.68 Storefront.

Storefront means the street level frontage relating to a single establishment.

§ 920.69 Structural bay.

Structural bay means the distance or span from one vertical structural member fronting on a street to the immediately adjacent vertical structural member fronting on the same street.

§ 920.70 Vault.

A *vault* means an enclosure of space beneath the surface of the public space or *sidewalk setback*, except that the term *vault* shall not include public utility structures.

§ 920.71 Weather protection.

Weather protection means a seasonal or permanent shelter to protect pedestrians from sun or precipitation, consisting of arcades, canopies, awnings, or other coverings.

Dated: May 8, 1980

Thomas F. Murphy,

Chairman.

[FR Doc. 80-15492 Filed 5-21-80; 8:45 am]

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Thursday
May 22, 1980

Part VI

Department of the Interior

National Park Service

Mount McKinley National Park; Mining, Climbing and Vehicle Regulations

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Mount McKinley National Park; Mining, Climbing and Vehicle Regulations

AGENCY: National Park Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to delete three regulations and to revise a fourth for Mount McKinley National Park, Alaska. The three regulations recommended for deletion are founded in 36 CFR 7.44 (a), (b) and (e). The pertain to the registration of prospectors and miners, surface use of mineral land locations, and vehicle and traffic safety. The fourth regulation on mountain climbing, found in 36 CFR 7.44(g) is recommended for revision. This proposed action would delete unnecessary regulations, and is intended to encourage the most liberal use of Mount McKinley National Park for recreation purposes consistent with 16 U.S.C. 347 et seq.

DATES: Written comments, suggestions, or objections will be accepted until June 23, 1980.

ADDRESS: Comments should be directed to: Superintendent, Mount McKinley National Park, Post Office Box 9, McKinley Park, Alaska 99755.

FOR FURTHER INFORMATION CONTACT: Gary Brown, Chief Ranger, Mount McKinley National Park, Post Office Box 9, McKinley Park, Alaska 99755, Telephone: (907) 683–2294.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed action is to delete those subsections of the special regulations for Mount McKinley National Park that are now either adequately covered by other parts of this Chapter or are no longer necessary to provide for protection of park resources and visitor safety. No new regulations are proposed.

The Mining in the Partks act of September 28, 1976, 90 Stat. 1342 (16 U.S.C. 1901 *et seq.*), and subsequent promulgation of regulations contained in 36 CFR Part 9 Subpart A, created a comprehensive body of regulations governing mining and mining claims in all units of the National Partk System. Prior regulations specific to Mount McKinley are now duplicative, confusing, and serve no valid purpose. Deletion of 36 CFR 7.44(a) and 36 CFR 7.44(b) would clarify this situation.

Changes in climbing activities within Mount McKinley National Park have taken place in recent years which makes portions of 36 CFR 7.44(g)(1) and all of 36 CFR 7.44(g)(2) and 36 CFR 7.44(g)(3) unnecessary. Regulations governing mountain climbing within the park were first enacted in 1959 (24 FR 11049) and relaxed in 1970 (35 FR 13017). Since 1970 the annual number of total climbers has increased over 400 percent. In addition, better and more sophisticated equipment, techniques, and clothing, have reduced the need for regulated safety considerations. For example, while two-way radio communications are still an advisable precaution for any climbing party, the greater number of climbers and ready availability of citizen's band radios makes a regulated precaution requiring radio communications capability with Park Headquarters unnecessary. Registration for climbing Mount McKinley and Mount Foraker would be retained as a requirement since it affords a necessary level of safety for both climbers and potential rescue parties should a search be warranted.

Vehicle and traffic safety regulations are found in 36 CFR Part 4. Specific regulations governing vehicle speed limits (36 CFR 4.17) and load limitations (36 CFR 4.11), as well as the completion of state Highway No. 3 which passes through the park and connects Anchorage, and Fairbanks, Alaska, make 36 CFR 7.44(e) obsolete.

Public Participation

The policy of the Department of the Interior is whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulation to the address noted at the beginning of the rulemaking.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment; which would require preparation of an Environmental Impact Statement.

Drafting Information

The following persons participated in writing these regulations: Frank Betts, former Superintendent, and Gary Brown, Chief Ranger, Mount McKinley National Park; and William F. Paleck, Alaska Area Office.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478), as amended.

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations.

In consideration of the foregoing, § 7.44 of Title 36 of the Code of Federal Regulations is proposed to be revised to read as follows:

§ 7.44 Mount McKinley National Park, Alaska

(a) *Fishing limit of catch and in possession.* The limit of catch per person per day shall be 10 fish but not to exceed 10 pounds and one fish, except that the limit of catch of lake trout (mackinaw) per person per day shall be two fish including those hooked and released. Possession of more than one day's limit of catch by any one person at any one time is prohibited.

(b) *Special wildlife protection area.* The area within one mile of the park road (Denali Highway) between milepost 37 and milepost 42 (Sable Pass area) is closed to photographers, hikers, and other park visitors except as may be specifically authorized by the Superintendent. Observations and photography of wildlife and other features are permitted from the road shoulders and designated turnouts.

(c) *Motorboats.* Motorboats are prohibited on all the ponds, lakes and streams of Mount McKinley National Park.

(d) *Mountain Climbing.* Registration is required in advance on a form provided by the Superintendent for climbing Mount McKinley and Mount Foraker.

(e) *Aircraft operations.* Aircraft shall be operated within the park as provided by § 2.2 of this chapter, except as hereinafter specified:

Landing of aircraft shall be permitted on the airstrip locally known as the McKinley Park Station Airport, located in Secs. 3 and 4, T. 14 S., R. 7 W.; and Secs. 33 and 34, T. 13 S., R. 7 W., Fairbanks Meridian.

[FR Doc. 80-15720 Filed 5-21-80; 8:45 am]

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Part VII

Environmental Protection Agency

Visibility Protection for Federal Class I Areas

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL 1487-2, Docket No. A-79-40]

Visibility Protection for Federal Class I Areas

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Section 169A of the Clean Air Act requires EPA to promulgate regulations to assure reasonable progress toward the congressionally declared goal of "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution." Today's action proposes regulations which would require thirty-six States to develop and implement programs to address the congressionally declared national goal. EPA is also making available today certain guidelines which would provide analytical tools for carrying out the regulations. This proposal would also provide additional procedures for conducting visibility analyses under EPA's prevention of significant deterioration regulations. This notice establishes a 75-day comment period and schedules two legislative-type public hearings for the purpose of receiving comments on both the proposal and the guidelines.

DATES: Written comments must be postmarked no later than August 5, 1980. Public hearings will be held on June 30, 1980 (Washington, D.C.). and July 2, 1980 (Salt Lake City, Utah).

ADDRESS: All written comments should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Docket No. A-79-40, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Docket No. A-79-40, containing material relevant to this action, is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2902, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

Public hearings are scheduled for the following locations:

(a) Room 3906, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 9:00 a.m. (EDT), June 30, 1980.

(b) Little Theater, Salt Palace, 100 S.W. Temple, Salt Lake City, Utah, 9:00 a.m. (MDT), July 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Johnnie L. Pearson, Office of Air Quality Planning and Standards (MD-15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541-5497.

I. Supplementary Information

A. Public Hearings

EPA is announcing two legislative-type public hearings on the proposed regulations. These public hearings will be held in Washington, D.C., and Salt Lake City, Utah. The purpose of these public hearings is to receive public comment on the proposed regulations. A verbatim transcript of each hearing will be made and placed in Docket No. A-79-40, Central Docket Section (A-130), U.S. Environmental Protection Agency, Room 2902, 401 M Street, SW., Washington, D.C. 20460.

Any person who wishes to speak at the meeting should, by June 23, 1980, notify the Information Contact listed above of the intent to make an oral presentation, giving name, address, telephone number, and length of presentation. In order to permit as many views as possible, presentations will, in general, be limited to 15 minutes. Additional time will be made available based upon the number of commenters and the demonstrated need for additional time. EPA will develop a schedule for presentations based upon the notices it receives. Persons not providing prior notice but desiring to speak will be accommodated as time permits. Persons with a written statement should submit three copies of the statement to aid in its prompt evaluation. A copy of any written statement received at the hearing will be placed in the docket noted above.

B. Request for Extension of Comment Period

The Agency recognizes the substantial amount of material presented by this proposal and accompanying guidelines but is confident the 75-day comment period and the two public hearings present ample opportunity for the written and oral presentations of data, views, and arguments, especially since this proposal was preceded by an Advance Notice of Proposed Rulemaking (ANPR), published November 30, 1979 (44 FR 69116), which itself established a 30-day written comment period and three public workshops that were held in Seattle, Washington; Salem, Oregon; and Denver, Colorado, the week of January 20, 1980. Thus, EPA intends to deny any request for extension of the comment period without a showing of extraordinary circumstances. EPA notes, additionally, that any extension of the comment period would seriously jeopardize its ability to promulgate final regulations by November 15, 1980 as it must under an order entered November 5, 1979 in the United States District Court for the District of Columbia in *Friends of the Earth, Inc. v. Costle*, No. 80-3081. This litigation resulted from EPA's inability to promugate regulations by August 7, 1979 as required by Section 169(a)(4) of the Clean Air Act (Act) 42 USC 7491(a)(4).

II. Background

A. The Statute

Section 169A of the Clean Air Act requires visibility protection for mandatory class I Federal areas where it has been determined that visibility is an important value. "Mandatory class I Federal areas" are all international parks and certain national parks and wilderness areas as described in Section 162(a) of the Act. To work toward meeting the national visibility goal set out in Section 169A(a)(1) of the prevention of any future and remedying of any existing man-made visibility impairment in such areas, Section 169A requires that the:

- Department of Interior review all mandatory class I Federal areas and identify those where visibility is an important value [Section 169(a)(2)].
- EPA, after consulting with the Department of Interior, promulgate a list of the mandatory class I Federal areas in which visibility is an important value [Section 169A(a)(2)].
- EPA prepare a report to Congress on methods for achieving progress toward the visibility goal. The report must include methods to determine visibility impairment, modeling techniques, methods for preventing and remedying man-made air pollution and resulting visibility impairment, and a discussion of visibility related pollutants and sources [Section 169A(a)(3)].
- EPA promulgate regulations which will (1) provide guidelines to States for including visibility protection in State Implementation Plans (SIPs); (2) require SIPs to include emission limits, schedules for compliance, and other measures as may be necessary to make reasonable progress toward meeting the national visibility goal; and (3) provide guidelines for determining best available retrofit technology emission limitations for fossil-fuel fired power plants in excess of 750 megawatts generating capacity [Section 169A(a)(4) and (b)].

- EPA approve or disapprove SIP revisions submitted in response to the promulgated requirements [Section 110(a)(2)] and promulgate regulations for those States which submit inadequate regulations or fail to submit regulations in response to EPA's requirements [Section 110(c)].
- In addition, Congress also included visibility protection requirements in the preconstruction requirements for prevention of significant deterioration (PSD) in Section 165 of the Act:
- Federal Land Managers have "an affirmative responsibility" to protect the visibility values of a class I area and may recommend the denial of a PSD permit if an adverse impact on visibility would result, even if the class I PSD increments would be met [Section 165(d)].
- PSD applicants must analyze the visibility at the site of the proposed construction and any area potentially affected by the proposed construction [Section 165(e)].

B. Rulemaking

On November 30, 1979, the Agency initiated informal regulatory development by publishing an Advance Notice of Proposed Rulemaking (ANPR) (44 FR 69116). The purpose of this ANPR was to inform the public of this effort and to solicit comments on various major issues which needed resolution during regulatory development. A summary and a copy of all comments received is included in Docket A-79-40. EPA's response to many of those comments is included in the various sections of this preamble. Also on November 30, 1979, EPA published its final determination under Section 169A(a)(2) of mandatory class I Federal areas where visibility is an important value (44 FR 69122).

C. Document Availability

The Agency relied on the documents listed below, which served as background to these proposed regulations. The Agency is soliciting comments, especially on the DRAFT documents. The documents listed as final have previously received substantial public review. Both draft and final documents are in Docket No. A-79-40 and are also available from the sources indicated below.

(1) "Protecting Visibility: An EPA Report to Congress' (EPA-450/5-79-008) (final), will be available shortly from: National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

(2) "The Development of Mathematical models for the Prediction of Anthropogenic Visibility Impairment" (EPA-450/3-78-110 a, b, c), (final), National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (PB 293119, PB 293120, PB 293121).

(3) "Criteria for the Identification of Integral Vistas (draft)," Control Programs Development Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. The Agency is proposing to incorporate this guideline by reference in the **Federal Register** and expects to ask the Director of the **Federal Register** for approval before promulgation.

(4) "Proposed Guidelines for Determining Best Available Retrofit Technoligy for Coal-Fired Power Plants and Other Major Stationary Sources (Draft)," Control Programs Development Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

The Agency is proposing to incorporate this guideline by reference in the **Federal Register** and expects to ask the Director of the **Federal Register** for approval before promulgation.

(5) "Preliminary Assessment of Economic Impacts of Visibility Regulations (Draft)," Control Programs Development Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

III. PROGRAM OVERVIEW

This preamble provides a brief description of the regulatory program, serving to introduce the specific regulatory language. Following the regulatory language is a Supplemental Statement of Basis and Purpose which discusses the reasons why we have taken certain positions in this proposal.

THE PROBLEM

Congress has set aside certain international parks and national wilderness areas, national memorial parks, and national parks (mandatory class I Federal areas) to preserve and enhance their beauty for present and future generations to enjoy. The intrinsic beauty of these areas, however, has been threatened due to visibility degrading pollution. Congress became aware of the need to protect visibility in these areas and directed EPA to explore the relationship between man-caused pollution and visibility.

From this research we can say there are generally two types of air pollution which reduce or impair visibility:

(1) smoke, dust, or colored gas plumes that are emitted from stacks and obscure the sky or horizon relatable to a single source or a small group of sources, and (2) widespread, regionally homogeneous haze from a multitude of sources which impairs visibility in every direction over a large area.

These types of pollution are caused by factories, plants, and other sources that emit particles and gases into the air. These substances either absorb or scatter the light, thus reducing the amount of light a person can receive from a viewed object. The practical effect is that impaired visibility degrades the aesthetic value of surrounding landscape by either discoloring the atmosphere to produce a visible plume or whitening the horizon and causing objects to appear flattened so that landscape colors and textures become less discernible or, in the case of a discernible plume, obsuring some portion of the landscape.

The Program

A Phased Approach to the Problem

Congress, in recognition of the need to protect such aesthetics declared as a national visibility goal the remedying of existing pollution and the prevention of any future pollution that interferes with visibility in mandatory class I Federal areas. We reviewed the techniques for identifying, measuring, predicting, and controlling visibility impairment, and In November, 1979, published "Protecting Visibility: An EPA Report to Congress" which discusses in detail the present scientific knowledge of visibility, including monitoring, modeling, and control of visibility impairment.

As described in that report, we determined that the present mathematical models and monitoring techniques, while showing promise, should be evaluated further before they are routinely required in a regulatory program which applies to existing sources that impair visibility. However, in some instances we can idenfity the origin of visibility impairment caused by a single source or small group of sources without the use of sophisticated analytical techniques. Simple monitoring techniques such as visual observation (either ground based or with aircraft) can often identify which source contributes to the impairment.

Modeling and monitoring techniques which address impairment caused by single sources will soon be available. Similar techniques which deal with multiple-source problems (regional haze and urban plumes) need additional research and will not be available for some time.

Recognizing the need to initiate protection as soon as possible while also realizing that certain scientific and technical limitations do exist, we are proposing a phased approach to

visibility protection. Phase I of this program would:

1. Require control of impairment that can be traced to a single major source or small group of sources.

2. Evaluate and control new sources to prevent future impairment, and

3. Require States to adopt other strategies to remedy existing and prevent future visibility impairment.

Future phases will further implement the visibility program by addressing more complex problems such as regional haze and urban plumes. We will propose and promulgate future phases when improvement in monitoring techniques provides more data on source specific levels of visibility, regional scale models become refined, and our general scientific knowledge of visibility improves.

Even though we are calling these proposed regulations "Phase I of the visibility protection program," the basic structure of the regulations provided today will remain constant for *all* phases. These regulations function as the basic framework from which this present program can be implemented and into which future phases can be incorporated. In other words, the basic plan requirements will remain consistent while only the elements which define the scope of the program will change in response to advances in our technical knowledge.

The proposed regulations require input into the program by all affected parties. Thus, coordination between the States, the Federal Land Managers, and EPA will be necessary to implement an effective visibility program. The State retains the primary responsibility of developing a viable visibility program. The Federal Land Manager has the responsibility of protecting the visibility values of Federal class I areas. These two must work together to ensure the visibility values of these areas are protected. EPA's responsibility is to (1) promulgate visibility regulations which would require States to revise their State Implementation Plans (SIPs), and (2) continue research into visibility for use in future phases.

The Program—In Detail

We are proposing regulations that require the 36 States containing mandatory class I Federal areas to submit revisions to their SIPs within 9 months. These revisions will (1) require certain existing major stationary sources to install the Best Available Retrofit Technology (BART) for controlling those pollutants which cause visibility impairment, (2) identify and evaluate long-term strategies for making reasonable progress toward remedying existing and preventing future impairment in the mandatory class I Federal Areas, and (3) require the adoption of certain measures that will supplement the States' new source review program regarding visibility impacts. These requirements are summarized below.

A. BART Requirements

1. *The Federal Land Managers and the States will begin early consultation with each other.* We expect these two groups to work closely with each other throughout the process of developing all aspects of the SIP revision. Because the Clean Air Act charges the Federal Land Managers with protecting air quality related values, including visibility, the State must adequately consider comments from the Federal Land Managers.

2. *The Federal Land Manager or the State identifies whether, within any mandatory class I Federal area, there exists any impairment of visibility.* This impairment must be identified within 90 days of promulgation of these regulations. We are defining "impairment" as any "humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions."

3. *Federal Land Managers or the State will identify the integral vistas (if any) for each mandatory class I Federal area.* These regulations would permit the Federal Land Managers to identify integral vistas. An integral vista is a view from within the area of a scenic landmark that is located outside the boundary of the area.

4. *The State, in consultation with the Federal Land Managers, will identify the existing major stationary sources which cause the visibility impairment.* The regulation provides a specific definition for existing major stationary sources. During Phase I of the visibility program, the State and the Federal Land Manager must be able to "reasonably attribute" the visibility impairment in the mandatory class I Federal area to a major stationary source through visual observation or other monitoring technique. During later phases of the program, the Agency will likely require the State and Federal Land Managers to place more emphasis on the use of modeling in identifying pollution sources.

5. *The State, in consultation with the Federal Land Manager, will perform a BART analysis on existing major stationary sources identified as impairing visibility.* The BART analysis does not apply to any source which was in operation before August 7, 1962. In the BART analysis, the State determines what additional air pollution control technologies need to be required in order to reduce existing visibility impairment.

In conducting this analysis, the State first identifies those control techniques that could improve visibility. If techniques exist then the State proceeds with the BART analysis, but if no technique exists, then the State stops the analysis at this point. For example, while methods might exist for the partial control of a pollutant the reductions achievable may not be sufficient to achieve any improvement in visibility.

In such a case the State would not be obligated to require controls. If control techniques do exist that would improve visibility, the State begins studying alternative control strategies. The State should consider, on a case-by-case basis, how much various alternative control techniques would cost, the energy and environmental impact of the controls, what air pollution technologies the source already has in place, the remaining useful life of the source, and to what degree the control alternatives would improve visibility. In order to assist States in the analysis of BART, the Agency has developed a guideline. For large power plants, BART must be determined pursuant to this guideline. The BART guideline proposed today is necessarily general. The Agency is considering supplementing this guideline in the near future, particularly with regard to specific large fossil-fuel fired power plants or categories of such power plants.

The last stage of the BART analysis is for the State to specify an emission limitation that reflects BART. The source must then install, operate, and maintain the control technology to meet the emission limitation.

6. *The source may apply to the Administrator for an exemption from BART on the basis that the source does not cause or contribute to significant impairment of visibility.* The source must notify the Federal Land Manager of its application and must receive written concurrence from the State on the application. To receive an exemption, the source must demonstrate to the Administrator that it does not cause or contribute to significant impairment of visibility.

By significant impairment we mean the level of impairment that interferes with the intended use of the area. When applying for an exemption, a source should address the frequency, extent, time of occurrence, intensity and duration of the impairment. If the Administrator grants an exemption, the Federal Land Manager must concur before the exemption will become effective.

B. Monitoring of Visibility Impacts.

1. *The State will develop a monitoring strategy.* This strategy would assess the State's need for visibility monitoring taking into consideration available and forthcoming monitoring techniques and guidelines.

2. *The State will provide for consideration of monitoring requirements for new sources.* The State should assess the need for monitoring by a source to provide information on any potential impacts on visibility in the Federal Class I area as part of the new source review process.

3. *The State will evaluate any available monitoring data.* Any existing monitoring data available to the State should be incorporated into the State's decision-making process for BART determinations and new source review decisions.

C. Development of the Long-Term Strategy.

The proposal would require each plan to include a long-term (10–15 year) strategy for making reasonable progress toward remedying existing and preventing future visibility impairment. The requirements are summarized below.

Remedying Existing Impairment

1. *The State must consider any land management plans to protect or enhance visibility in the mandatory class I Federal area.* This will also be useful in developing the part of the long-term strategy relating to prevention of future impairment.

2. *Some of the measures the State must consider are:*

a. *The effectiveness of existing air pollution control programs in reducing visibility impairment.* For example, the attainment/maintenance of National Ambient Air Quality Standards may have a positive effect on reducing or eliminating visibility impairment in mandatory class I Federal areas. If this is the case, the State should explain how this would contribute to reasonable progress.

b. *Additional emission limitations and schedules for compliance for uncontrolled or poorly controlled sources not covered by BART.* This recognizes that States may have to control sources not covered by BART to make reasonable progress toward the national goal.

c. *Retirement of existing sources and replacement with new, well controlled facilities.* Where possible this should be encouraged because this measure may have a positive effect on visibility.

3. *The State must do a reanalysis for each existing major stationary source which contributes to visibility impairment in a mandatory class I Federal area.* This reanalysis would occur when the Administrator determines new technology is available which would more effectively control a pollutant which causes visibility impairment. All pollutants would be analyzed for their contribution to the visibility impairment regardless of previous BART requirements. Where control representing BART has not been previously required for a pollutant reanalyzed, the State shall require the imposition of such control as indicated by this reanalysis.

Preventing Future Impairment

The States must review all major emitting facilities and major modifications as defined in EPA's Prevention of Significant (PSD) regulations for their anticipated impacts on visibility in mandatory class I Federal areas.

The prevention of future visibility impairment was a major concern of Congress. It is addressed not only in Section 169A, which deals exclusively with visibility, but also in Sections 160–169 on PSD. We have already promulgated regulations meeting the visibility requirements of the PSD Sections. In these PSD regulations, the owner or operator of new major emitting facilities or major modifications of a major emitting facility must assess whether they would impair visibility. Thus, a State's compliance with the PSD program would go a long way toward preventing future visibility impairment in mandatory class I Federal areas.

There is, however, a gap in the PSD regulations in that they do not call for the review of a major emitting facility or major modification locating in a "non-attainment" area, even if it would impair visibility in a mandatory class I Federal area. Today's proposal would remedy this with regard to visibility impacts by covering all such sources irrespective of their location.

D. *Review of the Long-term Strategy.*

The State will review its strategy in consultation with the Federal Land Manager and report its findings to the public and the Administrator at least every three years. We believe that the periodic review of the long-term strategy is an important part of assessing reasonable progress toward the national visibility goal. Because the visibility program is new and evolving, it is necessary to 1) take into account advances in technology, 2) evaluate progress toward the goal, 3) evaluate specific program effectiveness and 4) provide a reassessment of the reasonableness of measures incorporated into the long-term strategy. In this review of the long-term strategy the regulations would require certain analyses, including: an assessment of the progress achieved in remedying existing impairment, an evaluation of the change in visibility, an assessment of the strategy's long-term ability to prevent future impairment, and identification of additional measures that may be necessary to make reasonable progress toward the national goal.

E. *New Source Review Requirements for Visibility Impacts.*

EPA's PSD regulations require that a proposed major emitting facility or major modification evaluate its potential impact on visibility and, if the source would cause an adverse impact on visibility in a Federal class I area that the State deny the permit.

Commenters on the Advance Notice of Proposed Rulemaking noted that the States need additional guidance for new source review. We are therefore proposing a definition of "adverse impact" and clarifying certain procedural relationships between the Federal Land Manager and the State in the review of new source impacts on visibility in Federal class I areas. Section 51.307 of the visibility regulations specifies requirements the States must meet during the new source review process.

As the first step in the review process the State notifies the Federal Land Manager of any potential new source that may impact visibility in a Federal class I area. The State and Federal Land Managers then begin consulting with each other, which consultation will continue throughout the permitting process. Where the PSD class I increments are not violated, the Federal Land Manager may demonstrate that the source will have an adverse impact on visibility in the Federal class I area. The manager provides this demonstration to the State which then either grants or denies the permit application. If the State agrees with the Federal Land Manager's assessment that the source will adversely impact visibility, then the State will deny the permit. If the State disagrees with the Federal Land Manager's demonstration then it will provide the Federal Land Manager with a written explanation of its findings. The State may also require the source to monitor visibility at the proposed site as part of the PSD permit application.

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F. *Conclusion*

The immediate, principal benefit of these regulations will be (1) the reduction or elimination of impacts reasonably attributable to specific existing sources, and (2) clarification of procedures for the review of new sources. The focus of these regulations will be principally in the West since western areas have generally good visibility now and are extremely sensitive to degradation of their visibility. Also, the majority of the mandatory class I Federal areas are located in the western United States.

The phased approach of these regulations will limit the amount of resources the States will have to expend on revising their SIPs. Preliminary indications are that a limited number of existing major stationary sources in a few States will have to retrofit controls. The one major requirement applicable to all 36 States would be the development of a long-term strategy, which includes a review of all new sources impacting visibility, for making reasonable progress toward the national visibility goal. EPA believes, however, that some of the basic elements of an acceptable strategy already exist within the framework of other air pollution programs. Therefore, the State will need to examine the feasibility and efficacy of only a few other measures to determine if they should or need to be included in the long-term strategy.

It should be noted, however, that although these regulations require a new source review program, *all* States must review new sources in accordance with PSD regulations. The visibility regulations *neither subsume* nor eliminate the State responsibility under the PSD program.

The other requirements of these proposed regulations are primarily procedural in nature and while they must be addressed, we believe that the regulations provide sufficient guidance to preclude the expenditure of vast State resources for compliance.

IV. REGULATORY IMPACT

The Agency has prepared a draft regulatory impact analysis for review in concert with these proposed rules. This document is included in Docket No. A–79–40 and may be obtained by writing Control Programs Development Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

V. SOLICITATION OF COMMENTS

The Agency actively solicits comments on all aspects of the proposed regulations and guidelines.

These proposed rules are issued under the authority granted in Sections 110, 114, 160–169, 169A, and 301 of the Clean Air Act, 42 U.S.C. 7410, 7414, 7470–7479, 7491, and 7601.

Dated: May 15, 1980.

Douglas Costle,

Administrator.

It is proposed to add a new Subpart P to Part 51, Title 40 of the Code of Federal Regulations to read as follows:

Subpart P—Protection of Visibility

Sec.

51.300 Purpose and applicability.
51.301 Definitions.
51.302 Implementation control strategies.
51.303 Exemptions from control.
51.304 Identification of integral vistas.
51.305 Monitoring.
51.306 Long-term strategy.
51.307 New Source review.

Authority: 42 U.S.C. 7410, 7414, 7470–7479, 7491, 7601.

Subpart P—Protection of Visibility

§ 51.300 Purpose and applicability

(a) *Purpose.* The primary purpose of this Subpart is (1) to require States to develop programs to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory class I Federal areas which impiarment results from man-made air pollution, and (2) to establish procedures for new source permit applicants, States, and Federal Land Managers to use in conducting the visibility impact analysis required at 40 CFR 51.24(p) for new sources.

(b) *Applicability.* (1) The provisions of this Subpart are applicable to: (i) each State and has a mandatory class I Federal area identified in 40 CFR Part 81, Subpart D, and (ii) each State in which there is any source the emissions from which may reasonably be anticipate to cause or contribute to any impairment of visibility in any such area. (iii) Section 51.307 is applicable to all States for the purpose of new source review under the Clean Air Act of visibility impacts in Federal class I areas.

(2) The provisions of this Subpart, except as provided for in subparagraph (iii) above, are applicable to the following States unless the Administrator later determines that the provisions of subparagraph (1) above are not met. Applicability of the provisions of this Subpart to other States shall become effective only upon the determination of the Adminstrator that either of the provisions in subparagraph (1) above apply.

(i) Alabama
(ii) Alaska
(iii) Arizona
(iv) Arkansas
(v) California
(vi) Colorado
(vii) Florida
(viii) Georgia
(ix) Hawaii
(x) Idaho
(xi) Kentucky
(xii) Louisiana
(xiii) Maine
(xiv) Michigan
(xv) Minnesota
(xvi) Missouri
(xvii) Montana
(xviii) Nevada
(xix) New Hampshire
(xx) New Jersey
(xxi) New Mexico
(xxii) North Carolina
(xxiii) North Dakota
(xxiv) Oklahoma
(xxv) Oregon
(xxvi) South Carolina
(xxvii) South Dakota
(xxviii) Tennessee
(xxix) Texas
(xxx) Utah
(xxxi) Vermont
(xxxii) Virginia
(xxxiii) Virgin Islands
(xxxiv) Washington
(xxxv) West Virginia
(xxxvi) Wyoming

§ 51.301 Definitions.

As used in this Subpart, all terms shall have the meaning provided for in the Clean Air Act except as defined herein.

(a) "Existing Major Stationary Source" means any of the following stationary sources of air pollutants which was not in operation prior to August 7, 1962, or reconstructed after that date, and was in existence on August 7, 1977 and has the potential to emit 250 tons per year or more of any pollutant regulated under the Clean Air Act:

(1) fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,
(2) coal cleaning plants (thermal dryers),
(3) kraft pulp mills,
(4) Portland cement plants,
(5) primary zinc smelters,
(6) iron and steel mill plants,
(7) primary aluminum ore reduction plants,
(8) primary copper smelters,
(9) municipal incinerators capable of charging more than 250 tons of refuse per day,
(10) hydrofluoric, sulfuric, and nitric acid plants,
(11) petroleum refineries,
(12) lime plants,
(13) phosphate rock processing plants,

(14) coke oven batteries,
(15) sulfur recovery plants,
(16) carbon black plants (furnace process),
(17) primary lead smelters,
(18) fuel conversion plants,
(19) sintering plants,
(20) secondary metal production facilities,
(21) chemical process plants,
(22) fossil-fuel boilers of more than 250 million British thermal units per hour heat input,
(23) petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
(24) taconite ore processing facilities,
(25) glass fiber processing plants, and
(26) charcoal production facilities.

(b) "Potential to emit" means the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment. Annual potential shall be based on the maximum annual rated capacity of the stationary source assuming continuous year round operation. Enforceable permit conditions on the type of materials combusted or processed may be used in determining the annual potential. Fugitive emissions count, to the extent quantifiable, for each existing major stationary source in determining the annual potential. Secondary emissions are specifically excluded from the determination of annual potential.

(c) "Fugitive Emissions" means those emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

(d) "Secondary emissions" means emissions which occur or would occur as a result of the construction or operation of an existing major stationary source but do not come from the existing major stationary source.

(e) "Stationary Source" means any building, structure, facility, or installation which emits or may emit any air pollutant regulated under the Clean Air Act.

(f) "Building, structure, facility, or installation" means any grouping of pollutant emitting activities which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or persons under common control).

(g) "Best Available Retrofit Technology (BART)" means an emission limitation (including a visible emission standard) based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing major stationary source. The emission limitation shall be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(h) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new component(s) exceeds 50 percent of the fixed capital cost of a comparable entirely new source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1–3). A reconstructed source will be treated as a new major stationary source for purposes of this Subpart, except that use of an alternative fuel or raw material by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, shall not be considered reconstruction.

(i) "Fixed capital cost" means the capital needed to provide all of the depreciable components.

(j) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(k) "Natural Conditions" means the visibility which would be expected to occur in the absence of man-made air pollution.

(l) "Significant impairment" means for purposes of Section 51.303 visibility impairment which, in the judgment of the Administrator, interferes with the management, protection, preservation, or enjoyment of the mandatory class I Federal area, including interference with and impairment of the visitor's visual experience. This determination shall be made on a case-by-case basis taking into account the extent, intensity, and duration of the impairment, frequency and time of occurrence of the impairment, the correlation between times of visitors use and access to the mandatory class I Federal area and the frequency of occurrence and timing of natural conditions.

(m) "Integral vista" means the perception from within the Federal class I area of a specific historical, cultural, or scenic landmark or panorama which is located outside the boundary of a Federal class I area, which vista is important to the vistor experience of the area or the fundamental purpose for which the area was established and preserved.

(n) "In operation" means engaged in activity related to the primary design function of the source.

(o) "Reasonably attributable" means attributable by means of visual observation or other monitoring technique.

(p) "In existence" means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

(q) "Major emitting facility" and "major modification" means "major stationary source" and "major modification" as defined in 40 CFR 51.24.

(r) "Adverse impact" means for purposes of § 51.307 visibility impairment which interferes with the management, protection, preservation, or enjoyment of the Federal class I area, including interference with and impairment of the visitor's visual experience. This determination shall be made on a case-by-case basis taking into account the extent, intensity and duration of visibility impairment, the frequency and time of occurrence of the impairment, the correlation between time of visitors use and access to the Federal class I area, and the frequency of occurrence and timing of natural conditions.

(s) "Federal Land Manager" means the secretary of the department with authority over any Federal class I area, the Chairman of the Roosevelt-Campobello International Park Commission, or their designated agents.

(t) "Agency" means the U.S. Environmental Protection Agency.

§ 51.302 Implementation control strategies.

(a) *Plan Revision Procedures.* (1) Each State identified in § 51.300(b)(2) shall submit, no later than nine months from the date of promulgation of this regulation, an implementation plan revision for the purposes of meeting the requirements of this Subpart.

(2)(i) The State, prior to adoption of any implementation plan required by this Subpart, shall conduct one or more public hearings on such plan.

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(ii) Any hearing required by this Subpart shall be held only after reasonable notice, which shall include at least thirty days prior to the date of such hearing(s):

(A) Notice given to the public by prominent advertisement in the region affected announcing the data(s), time(s), and place(s) of such hearing(s);

(B) Availability of each proposed plan and all supporting documentation in at least one location in each region to which it will apply, and the availability of each compliance schedule for public inspection in at least one location in the region in which the affected source is located;

(C) Written notification to the Administrator (through the appropriate Regional Office);

(D) Written notification to each local air pollution control agency in each region to which the plan will apply;

(E) Written notification of each affected Federal Land Manager;

(F) In the case of interstate impacts, written notification to any other States which may be affected as a result of such plan; and

(G) A summary prepared by the Federal Land Manager of the conclusions and recommendations, if any, on the proposed plan.

(3) Submission of plans as required by this Subpart shall be conducted in accordance with the procedures in 40 CFR 51.5.

(4) The State shall include, as part of the information available to the public prior to public hearing(s) on such proposed plan, evidence of consultation with all affected Federal Land Managers and their conclusions and recommendations, if any, on the proposed plan.

(5) The Administrator, prior to proposed approval or disapproval of a plan submitted under this Subpart, shall consult with all appropriate Federal Land Managers.

(b) *State and Federal Land Manager Coordination.* (1) The State shall identify, to the Director of the National Park Service, the Director of the Fish and Wildlife Service, the Chief of the Forest Service and/or the Chairman of the Roosevelt-Campobello International Park Commission, as appropriate, in writing and within 30 days of the date of promulgation of these regulations, the title of the official to which the Federal Land Manager of any area listed in 40 CFR Part 81, Subpart D shall:

(i) Submit the list of integral vistas that are to be afforded visiability protection for the purpose of implementing Section 51.304, and

(ii) Identify visibility impairment for the purpose of implementing subparagraph (4)(ii) below.

(2) The State, at least 60 days prior to holding public hearings on the plan, shall consult in person with the affected Federal Land Manager on all aspects of the proposed plan revision for the purpose of meeting the requirements of this Subpart.

(3) The plan shall provide procedures for continuing consultation between the State and Federal Land Manager on the implementation of the visiability protection program required by this Subpart.

(c) *General Plan Requirements.* (1) The plan shall contain:

(i) A long-term (10–15 years) strategy, including such emission limitations, schedule of compliance, and other such measures, as may be necessary to make reasonable progress toward the national goal specified in § 51.300(a) in the manner specified in § 51.306.

(ii) An assessment prepared after consultation with the Federal Land Manager and including such comments as provided by the Federal Land Manager, of the impairment of visibility in each mandatory class I Federal area and a discussion of how each element of the plan addresses the impairment.

(2)(i) Any integral vista identified under § 51.304(b) shall be protected under the requirements of this Subpart to the same extent as any mandatory class I Federal area identified in 40 CFR Part 81, Subpart D. The plan shall identify all mandatory class I Federal areas, including all integral vistas to be protected.

(ii) The plan shall provide for the protection of additional integral vistas identified in accordance with § 51.304(c) at the earliest opportunity, but in no case less frequent than the time of the periodic review of the long-term strategy required by § 51.306(c).

(iii) The plan shall provide for the protection of integral vistas identified in accordance with § 51.304 (b) or (c) or (d) for purposes of review of new major emitting facilities and major modifications as provided for in § 51.306(d).

(iv) The State need not provide visibility protection of a vista identified as integral by the Federal Land Manager, if it demonstrates to the satisfaction of the Administrator, that such an integral vista has not been identified in accordance with "Criteria for the Identification of Integral Vistas."

(3) The plan shall require each source to maintain control equipment required by this Subpart and establish procedures to ensure such control equipment is properly operated and maintained.

(4) *Determination of BART.* (i) The plan shall include emission limitations representing BART for each existing major stationary source identified according to the procedures in subparagraph (ii) below.

(ii) The State, in consultation with the appropriate Federal Land Manager, shall analyze for BART each existing major stationary source which may reasonably be anticipated to cause or contribute to visibility impairment in any area identified in 40 CFR Part 81, Subpart D, which impairment is identified by the State, or by the appropriate Federal Land Manager within 90 days of promulgation of these regulations. The Federal Land Manager may recommend to the State for BART analysis existing major stationary sources suspected of causing or contributing to visibility impairment in the mandatory class I Federal area. The State, in determining whether the identified impairment is reasonably attributable to an existing major stationary source, shall consult with and take into account the recommendations of the affected Federal Land Manager and the appropriate EPA Regional Administrator, or his designated representative, and shall provide, in writing and at least 30 days prior to any public hearing on the plan, all supporting documentation on any existing major stationary source not analyzed for BART as recommended by the affected Federal Land Manager or appropriate EPA Regional Administrator.

(iii) If the State determines that technological or economic limitations on the applicability of measurement methodology to a particular existing major stationary source would make the imposition of an emission standard infeasible it may, in consultation with the Federal Land Manager, instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(iv) Emission limitations set under this paragraph for fossil-fuel fired generating plants having a total generating capacity in excess of 750 megawatts shall be determined due to "Proposed Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Major Stationary Sources."

(v) The plan shall require that each existing major stationary source required to install and operate BART do so as expeditiously as practicable but in no case later than five years after plan approval.

(vi) The plan shall require that each existing major stationary source required to install and operate BART install continuous emission monitoring, as applicable, in accordance with 40 CFR Part 51, Appendix P.

§ 51.303 Exemptions from control.

(a)(1) Any existing major stationary source required by action under § 51.302 to install, operate, and maintain BART may apply to the Administrator for an exemption from that requirement.

(2) An application under this Section shall include all available documentation relevant to the impact of the source's emissions on visibility for any area listed in 40 CFR Part 81, Subpart D, and a demonstration by the existing major stationary source that it does not or will not by itself or in combination with other sources emit any air pollutant which may be reasonably anticipated to cause or contribute to any significant impairment of visibility in any mandatory class I Federal area identified in 40 CFR Part 81, Subpart D.

(b) Fossil-fuel fired power plants with a total generating capacity of 750 megawatts or more may receive an exemption from BART only after demonstration to the satisfaction of the Administrator that such source is located at such a distance from all areas listed in 40 CFR Part 81, Subpart D that such power plant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to significant impairment of visibility in any such area.

(c) Application under this Section must be accompanied by written concurrences from all affected States.

(d) The existing major stationary source shall provide for prior written notice to all affected Federal Land Managers of any application for exemption under this Section.

(e) The Federal Land Manager may provide an initial recommendation on the disposition of such application. Such recommendation, where provided, shall be part of the exemption application. This recommendation shall not be construed as the concurrence required under subparagraph (h) below.

(f) The Administrator, within 90 days of receipt of an application for exemption from control, shall provide notice and opportunity for public hearing on the application.

(g) After notice and opportunity for public hearing, the Administrator may grant or deny the exemption. For purposes of judicial review, final EPA action on an application for an exemption under this Section shall not occur until EPA approves or disapproves the State Implementation Plan revision.

(h) An exemption granted by the Administrator under this Section shall be effective only upon concurrence by the appropriate Federal Land Manager with the Administrator's determination.

§ 51.304 Identification of integral vistas.

(a) The Federal Land Manager may, in accordance with "Criteria for the Identification of Integral Vistas", identify to the State integral vistas to be afforded visibility protection.

(b) Integral vistas identified within 90 days from the date of promulgation of these regulations shall be subject to § 51.302(c)(2)(i).

(c) Integral vistas identified more than 90 days from the date of promulgation of the regulations shall be subject to § 51.302(c)(2)(ii).

(d) Integral vistas identified prior to the calendar year in which a complete new source permit application is filed shall be subject to § 51.302(c)(2)(iii).

(e) The State may identify such additional integral vistas, within its boundaries, as it deems necessary and appropriate.

(f) The provision for identification of integral vistas for mandatory class I Federal areas under paragraphs (c) and (d) above shall not be effective after December 31, 1985.

§ 51.305 Monitoring

(a) The State, in consultation with the Federal Land Manager, shall include in the plan a strategy for evaluating visibility in the mandatory class I Federal areas by visual observation or other monitoring techniques. Such strategy shall take into account current and anticipated visibility monitoring research and the availability of appropriate techniques for monitoring visibility and such guidance as is provided by the Agency.

(b) The plan shall provide for the consideration of available visibility data and shall provide a mechanism for its use in BART analyses, new source permit decisions, and other actions under the plan.

§ 51.306 Long-term strategy.

(a)(1) Each plan shall include a long-term (10–15 years) strategy for making reasonable progress toward the national goal specified in Section 51.300(a).

(2) A long-term strategy shall be identified for each area listed in 40 CFR Part 81, Subpart D.

(3) The plan shall set forth with reasonable specificity why the long-term strategy is adequate for making reasonable progress toward the national goal.

(b) The State, in developing a long-term strategy shall consider any plans and goals provided by the Federal Land Manager for the protection and enhancement of visibility in the mandatory class I Federal area.

(c)(1) The plan shall provide for periodic review and revision, as appropriate, of the long-term strategy not less than every three years. This review shall include consultation with the appropriate Federal Land Manager and a report to the public and the Administrator on progress toward the national goal.

(2) This report shall include:

(i) An assessment, prepared after consultation with the Federal Land Manager and including any evaluations as provided by the Federal Land Manager under § 51.302(c)(4)(ii) of the progress achieved in remedying existing impairment;

(ii) An evaluation, prepared after consultation with the Federal Land Manager and including any evaluations provided by the Federal Land Manager, of any change in visibility since the last such report, or, in the case of the first report, since plan approval;

(iii) A reassessment of the ability of the long-term strategy to prevent future impairment of the mandatory class I Federal area;

(iv) An identification of additional measures, including the need for SIP revisions, that may be necessary to assure reasonable progress toward the national goal;

(v) An assessment of the progress achieved in implementing BART and meeting other schedules set forth in the long-term strategy; and

(vi) An assessment of the impact of an exemption granted under Section 51.303.

(d)(1) The long-term strategy shall provide for review of the impacts on visibility for any area listed in 40 CFR Part 81, Subpart D of all new major emitting facilities and major modifications.

(2) This review of new major emitting facilities and major modifications shall be in accordance with such guidance as is provided by the Agency.

(e) The long-term strategy shall include a review of the impacts on visibility of all pollutants regulated under the Clean Air Act at such times, as determined by the Administrator, as new technology becomes reasonably

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available for the control of the pollutant for each existing major stationary source causing or contributing to impairment in any mandatory class I Federal area which impact is reasonably attributable to that source. Where control representing BART has not been previously required for a pollutant reanalyzed at the source, the plan shall require the imposition of such control as indicated by this reanalysis.

(f) The State in developing the long-term strategy shall consider, at a minimum, the following measures for incorporation into the long-term strategy:

(1) Emission reductions due to ongoing air pollution control programs,

(2) Additional emission limitations and schedules for compliance,

(3) Mitigation of impacts of construction activities,

(4) Source retirement and replacement schedules,

(5) Smoke management techniques for agricultural and forestry management purposes, and

(6) Enforceability of emission limitations and control measures.

(g) The plan shall discuss the reasons why the above and other reasonable measures considered in the development of the long-term strategy were or were not adopted as part of the long-term strategy.

(h) The plan shall include schedules for the implementation of the elements of the long-term strategy.

(i) The long-term strategy shall take into account the effect of new sources; and, for existing sources, the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, the remaining useful life of any affected existing source and equipment therein, and the degree of improvement in visibility anticipated to result from control.

§ 51.307 New source review.

(a) For purposes of new source review under the Clean Air Act, the State plan shall provide for written notification of all appropriate Federal Land Managers of any proposed new major emitting facility or major modification that may affect visibility in any Federal class I area. Such notification shall be made in writing and within 30 days of receipt of and at least 30 days prior to public hearing by the State on the application for permit to construct. Such notification shall include an analysis of the anticipated impacts on visibility on the Federal class I area.

(b) The plan shall provide for consideration of any demonstration by a Federal Land Manager, provided within 30 days of the notification required by paragraph (a) above, that such proposed major emitting facility or major modification will have an adverse impact on visibility in any Federal class I area, including any integral vista identified in accordance with paragraph (h) below. Where the State finds that such a demonstration does not adequately support a determination by the State that an adverse impact will result, the State shall provide the Federal Land Manager with such analyses and discussion as supports the State's findings. This must be submitted to the Federal Land Manager in writing and at least 30 days prior to any public hearing on such application or, if there is no public hearing, 30 days prior to issuance of the permit.

(c) Where the State, in consultation with the Federal Land Manager, determines that an adverse impact on visibility in any Federal class I area will result from a new major emitting facility or major modification, the State shall not issue the permit.

(d) The State plan shall provide for the opportunity for review, by the public, of any new major emitting facility or major modification that may have an impact on visibility in any Federal class I area.

(e) The plan shall provide for consultation by the State with the appropriate Federal Land Manager on any application for a new source review permit submitted by any major emitting facility or major modification that may affect visibility in any Federal class I area.

(f) The State may, after considering the recommendation of the appropriate Federal Land Manager, require monitoring of visibility in the Federal class I area near the proposed new major emitting facility or major modification for such purposes and by such means as the State deems necessary and appropriate.

(g) The plan shall provide for an opportunity for consultation, prior to issuance of any new source review permit, with the Agency where a dispute between the Federal Land Manager and the State exists on the issuance of such permit.

(h) The plan shall provide for the protection of integral vistas for Federal class I areas identified in accordance with "Criteria for the Identification of Integral Vistas" as follow:

(1) For Federal class I areas so designated as of the date of promulgation of these regulations.

(i) Integral vistas identified prior to the calendar year in which a complete new source permit application is filed, and

(ii) Identified prior to December 31, 1985.

(2) For Federal class I areas designated after the date of promulgation of these regulations, as identified at the time of reclassification of such area to class I.

(3) The State need not provide visibility protection of a vista identified as integral by the Federal Land Manager, if it determines that such integral vista has not been identified in accordance with "Criteria for the Identification of Integral Vistas."

Supplemental Statement of Basis and Purpose [1]

The following discussion supplements various aspects of the basis and purpose for EPA's proposed regulations on visibility protection.

1. *The phased approach*—Congress required that EPA promulgate regulations to (a) assure reasonable progress toward meeting the national visibility goal set out in Section 169A(a)(1), (b) require BART analyses for existing major stationary sources, and (c) require development of a long-term strategy [Section 169A(a)(4), (b)(2)]. Congress, however, did not address the problem of visibility protection from a scientific perspective since, at the time of the Clean Air Act Amendments of 1977, there was scant technical and virtually no regulatory experience with the protection of visibility. Recognizing this, Congress left the appropriate techniques and methods for implementing the visibility protection program of Section 169A and, indeed, the precise definition of the problem to be addressed to EPA's study and regulations [Section 169A(a)(2), (a)(3), and (b)(1)]. EPA's subsequent study of visibility impairment revealed that man-made visibility impairment manifests itself in various forms. Some of these forms can be attributed to specific sources. EPA has determined, however, that there exist at present limitations in source/impairment relationships which make it impossible in many cases, particularly for multi-source impacts, to predict confidently that a given amount of control will yield a specific degree of improvement in visibility. EPA is thus proposing, as anticipated by the Advanced Notice of Proposed Rulemaking (ANPR), a "phased approach" to these regulations.

This phased approach will permit State control agencies to focus initially on the most clearly defined cases of existing impairment and on strategies to prevent future impairment, while

[1] Note: This statement will not appear in the Code of Federal Regulations.

allowing evolution of additional guidelines and control strategies as scientific understanding of source/impairment relationships improves. EPA received support for this approach in comments from representatives of both environmental and industrial groups.

Even though the Agency has referred to the proposed rules as Phase I the basic structure of the regulations provided today will remain consistent for all phases. These regulations function as the basic framework from which this present program can be implemented and future phases can be incorporated. In other words, the basic plan requirements will remain consistent while only the elements which define the scope of Phase I will change in response to advances in technical knowledge.

2. *General definitions*—As explained below several definitions are consistent with the proposed PSD regulations (44 FR 51924). Where modifications are made in the final promulgation, expected shortly, these definitions will be changed accordingly.

A. *"Existing major stationary source"*—Section 169A(g)(7) defines the term "major stationary source"; however, to avoid confusion with the PSD regulations, EPA has defined the term "existing major stationary source" which includes the age limitations specified in Section 169A(b)(2)(A). The proposed definition of "existing major stationary source" follows the definition in Section 169A(g)(7). It is limited to specific source categories with the potential to emit 250 tons or more per year of any pollutant regulated under the Act. The meaning of Section 169A(g)(7)'s definition of "stationary sources with the potential to emit 250 tons per year of any pollutant" depends on the interpretation of "potential to emit" and "stationary source." Since Congress used similar language in Section 169(1) without indicating a change in meaning, it is appropriate to examine what Congress intended in Section 169(1), in interpreting these terms [H. Rep. No. 95–564, 95th Cong., 1st Sess. 155 (1977)]. In *Alabama Power* v. *Costle*, 13 ERC 1993, the Court has already examined this and the result of this interpretation is the basis for today's proposed definition of "existing major stationary source" as defined in Section 169A(g)(7). Any change in EPA's proposed interpretation of Section 169(1) for purposes of PSD may affect the definition proposed today for visibility unless legal authority and differing program objectives would support different definitions for each program. Specifically, today's proposal defines "potential to emit" as "the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment." This definition parallels that proposed in the PSD regulations on September 5, 1979 (44 FR 51924). "Potential to emit" would be calculated on the assumption that air pollution control equipment incorporated into the design of a source will control emissions in the manner reasonably anticipated when the calculation is made. Therefore, whether a source is an existing major stationary source might depend primarily on what control equipment has been incorporated in its design.

The definition of "potential to emit" also states: "Annual potential shall be based on the maximum annual rated capacity of the stationary source assuming continuous year round operation.

Enforceable permit conditions on the type of materials combusted or processed may be used in determining the annual potential." This is consistent with the *Alabama Power* decision which calls for calculation of a source's "potential to emit" based on its "full design capacity" [13 ERC at 2003]. However, this calculation could reflect enforceable permit conditions on the amount of materials combused or processed. Also, again consistent with EPA's PSD proposal, "Secondary emissions" would not count in determining a source's potential to emit.

In determining whether a source, as defined in Section 169A(g)(7), has the potential to emit 250 tons per year of a pollutant, EPA proposes to take into account all of the emissions of that pollutant—even fugitive emissions, at least to the extent that they are reasonably quantifiable. EPA believes that there is no reason why a source of a particular pollutant should escape the BART requirement merely because the emissions of the pollutant are fugitive, when a source emitting the same pollutant might have to install BART if the emissions are vented through a stack or other opening. In both cases, the emissions could cause or contribute to visibility impairment.

In *Alabama Power*, the Court said fugitive emissions could not be counted in determining whether a source is major unless EPA issues an appropriate legislative rule [13 ERC at 2017]. Today's proposal, therefore, explicitly states that fugitive emissions shall be included in determining the potential to emit for each of the source categories listed in Section 169A(g)(7). Consistent with the Court's holding, the proposal defines "fugitive emissions" as "those emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening."

As for "stationary" in *Alabama Power*, the Court said that the definition of "stationary source" in Section 111(a)(3) controls the meaning of that term when used in the PSD part of the statute [13 ERC at 2038].

The proposed regulations would define "building, structure, facility, or installation" as "any grouping of pollutant-emitting activities which is located on one or more contiguous or adjacent properties and which are controlled by the same person (or by persons under common control)." This definition would be important in determining whether additions to, or reconstructions of, an existing stationary source in operation before August 7, 1962 would be subject to the BART requirement. For example, a fossile-fuel fired steam electric plant (power plant) of more than 250 million Btu an hour heat input may have been "in operation" before August 7, 1962, but also may have added two boilers in 1967. These two boilers would be considered an "existing major stationary source" if individually or together they had the potential to emit 250 tons a year or more of any pollutant, and if they were of more than 250 million Btu heat input since "source" would, in effect, mean *any* grouping of pollutant-emitting activities at one site and under common control. The two boilers would also be an "existing major stationary source" if they were "reconstructed." The proposed definition of "reconstruction" is consistent with that in 40 CFR 60.15, dealing with new source performance standards.

In *Alabama Power*, the Court stated that Congress gave EPA latitude to define the component terms of "stationary source" to reflect the purpose and structure of the program for which the definition is intended [13 ERC at 2040]. The purpose of the visibility regulations is to assure reasonable progress toward the remedying of any existing and the preventing of any future impairment of visibility in certain class I areas. Congress structured the program so that the BART requirement would be an important mechanism for achieving one part of that purpose, the remedying of existing visibility impairment. Although the BART analysis itself considers the remaining useful life of the source, cost, and other factors, Congress decided that EPA should not be required by statute to require BART for all sources regardless of age as a minimum condition for SIP approval.

Where a source has had an addition or reconstruction with the potential to emit 250 tons a year of a pollutant

V 45 M Y 22 80 UMI

between August 7, 1962 and August 7, 1977. EPA believes that the implicit concern of Congress regarding remaining useful life does not apply to the new components at the site and that, therefore, Congress did not intend to "grandfather" such additions or reconstructions. Such a "grandfathering" approach would be without reason and could seriously undermine progress toward remedying existing visibility impairment. Indeed, preliminary EPA data show that a source cited by Congress in the legislative history of the visibility provisions as causing existing visibility impairment in the Grand Canyon would escape BART review entirely under such a grandfathering approach, even though nearly half its boiler capacity was added since August 7, 1962.

On this basis, EPA believes both the proposed definition of "reconstruction" and "building, structure, facility, or installation" are authorized by the Act and are vital to achieving Congress' purpose.

B. *"In existence" and "in operation"*—The Section 169A requirement for a BART analysis applies only to a major stationary source "in existence" on August 7, 1977 and which, on that date, had not been "in operation" for more than 15 years. EPA has proposed to define "in existence" as meaning "that the owner or operator has obtained all necessary preconstruction or air quality laws or regulations and has either (i) begun or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in allowable time." The proposal would define "in operation" as meaning "engaged in activity related to the primary design function of the source." EPA intends a broad interpretation of "primary design function"; thus for example, the production of coke in a steel plant is related to its primary design function, just as is the production of steel.

EPA believes the Act requires that each existing major stationary source that started operation after August 7, 1962 be potentially subject either to the BART requirements or to the PSD requirements as set out in the Clean Air Act Amendments of 1977. EPA specifically solicits comment on whether this interpretation is correct and whether the proposed definition of "in existence" would serve that interpretation.

C. *Reasonably attributable*—The proposed regulations would define "reasonably attributable" to mean attributable by visual observation or other monitoring techniques. This is the mechanism that implements the first phase of the visability protection program. Thus, if an existing major stationary source emits any air pollutant which can normally be anticipated to cause or contribute to any impairment in an area which impairment can be reasonably attributable to such a source *only* by analytical techniques (i.e., modeling) it will not be subject to a BART analysis in this first phase of the visibility protection program. This definition will likely change in later phases to take advantage of any improvements in understanding of the source/impairment relationship for visibility. EPA specifically solicits comment on this approach to implementing the BART requirement, including whether there are circumstances where current modeling techniques could be employed to indicate that impairment is reasonably attributable to a source.

(3) *Visibility impairment*—EPA is proposing to define "visibility impairment" as any humanly perceptible change in visibility (visual range, contrast, and coloration) from that which would have existed under natural conditions.

The first part of this definition would require that the impairment be humanly perceptible. EPA, in the ANPR, solicited comment on three separate approaches to treating perceptibility as an element of visibility impairment. These were (1) the smallest measurable change in visibility which is detectable by instruments; (2) impairment which is perceptible to humans; and (3) a visually perceptible impairment which is considered significant or adverse. There were no comments received in support of the first approach. Several commenters supported the second approach, which EPA is today proposing, because the Act intends for visibility protection to be primarily directed at preserving the enjoyment and benefits of good visibility for people.

The restriction to perceptibility, as may be observed by humans, is critical. As noted, varying conditions can affect the perceptibility of a specific impact. Additionally, available instrumentation is more sensitive to contrast and reduction in visual range than is the human eye. The Agency feels that the interpretation used in these regulations is correct based upon the Congressional concern regarding visibility. The intent of Congress in including Section 169A in the Act was to protect the public's enjoyment of the class I area and, thus, impacts on visibility which cannot be perceived by a human observer should not be considered impairment in the context of the national visibility goal. As discussed below, the proposed regulations charge the appropriate Federal Land Managers with identifying impairment in an area and EPA expects that, in doing so, the Federal Land Managers will keep the public's enjoyment of that area in mind.

Also, several commenters suggested that the third approach to impairment suggested by the ANPR was the most appropriate because, they argued, Congress intended to remedy only that impairment that is considered significant or adverse. EPA believes Congress, in declaring the national goal of "the prevention of *any* future, and the remedying of *any* existing impairment of visibility" (emphasis added), clearly did not intend that the visibility protection program be directed at only those impacts considered significant or adverse. If this had been the intent, Congress clearly could have stated the national goal as the prevention of *significant* future impairment and the remedying of *significant* existing impairment. This it did not do. In the provisions of Section 169A which provide guidance on the nature of the regulations EPA should promulgate, the concept of "significant impairment" is mentioned only in connection with an exemption from BART [Section 169A(c)]. Clearly, it would be nonsensical for Congress to provide an exemption based on a lack of significant visibility impairment if, by definition, visibility impairment could not be other than "significant."

The second part of the proposed definition includes "contrast," as well as "visual range" and "coloration" as expressions of visibility impairment. EPA believes virtually all manifestations of visibility impairment can be expressed by one of these terms. Contrast, as discussed in the Report to Congress, is generally a much more easily understood indicator of visibility impairment and is mathematically interrelated to visual range. One can often perceive and express contrast changes in visibility more easily than changes in visual range or coloration.

Preliminary studies (see *Protecting Visibility: An EPA Report to Congress*) indicate that a contrast change in the range of 0.02 to 0.05 is capable of being perceived by a human observer. The variation expressed is a result of variability in observer sensitivity and

spacing of contrasting objects. Additionally, reductions in visual range as small as 5% may be perceptible to the human observer. Where the impairment is in the form of a coherent plume, the above values will not necessarily be limiting. In this case, other factors, such as a substantial difference in color between the sky and plume, may heighten the viewer's ability to perceive the contrast change. Current efforts to describe visibility impairment in terms of coloration are promising but are, as yet, incomplete. While strict values for contrast and visual range reduction have not been and may never be established, the vicinity of the lower bounds on perceptibility can be estimated. The final determination is, however, related directly to whether the effect could be observed by man. It is important to note that the Agency is continuing to evaluate visibility data and that data obtained from studies conducted in 1979 indicate a range of 0.01 to 0.04 contrast change may be perceptible. Additional studies are being conducted in 1980 to confirm past research.

One commenter on the ANPR argued that Section 169A(g)(6), which says "the terms 'visibility impairment' and 'impairment of visibility' shall include reduction in visual range and atmospheric discoloration," cannot be expanded to include "contrast." This argument contradicts the plain meaning of the statutory language. The use of the words "shall include" in Section 169A(g)(6), clearly indicates that EPA must treat "visibility impairment" as including "reduction in visual range and atmospheric discoloration." Just as clear, however, is Congress' intent that Section 169A(g)(6) be inclusive, not restrictive. Congress was explicit when it intended the statutory definition to be restrictive, as shown by the definitions in Section 169A(g) (3), (4), (5), and (7).

That Congress gave EPA discretion to clarify the meaning of visibility impairment is also supported by Section 169A(a)(3)(A). That section requires EPA to study and report to Congress "on available methods for implementing the national goal." That report must include recommendations for:

"(A) methods for identifying, characterizing, determining, quantifying, and measuring visibility impairment in [mandatory class I Federal areas]."

This language unmistakably indicates Congress' intent that EPA has discretion on how broadly "visibility impairment" should be defined to effectuate the national goal. This discretion was not solely for purposes of the Report to Congress. Section 169A(b)(1) says the visibility regulations shall "tak[e] into account the recommendations" in the Report to Congress. EPA's careful study of the visibility problem, including that contained in the Report to Congress, supports the definition of "visibility impairment" proposed today and, therefore, it is authorized.

Finally, the definition of impairment restricts impairment to that resulting from human activities, i.e., impairment which would not have existed under natural conditions. While visibility may be degraded as a result of natural causes, Congress clearly limited the scope of the national visibility goal by including only "impairment [which] results from manmade air pollution." Although the determination of natural conditions would be difficult and is to some extent dependent on the monitoring research being done, as discussed elsewhere in this notice, EPA believes such a determination will not be critical to some aspects of the first phase of the program. If impairment can, by visual means, be reasonably attributed to a source, the determination of whether the impairment is man-made involves no precise measurement of natural conditions.

The remedying of existing impairment will require the control of certain existing sources and, therefore, in some circumstances it may be appropriate to evaluate the potential improvement in visibility against existing conditions. However, as we approach the national goal the impact of new sources will become more perceptible and since new sources are expected to last longer than existing sources their impacts should be evaluated against natural conditions which would exist in the absence of man-made impairment. It will therefore be important to attempt to provide some assessment of natural and existing conditions. Although such an assessment will be difficult, one method of achieving this would be through an analysis of available information to determine the best visibility that currently exists in an area. In making this assessment the State should recognize that frequently visibility is dependent upon seasonal factors. As such, available information should be subdivided into seasonal patterns. The seasonal best visibility would then be chosen on the basis of seasonal variations in naturally occurring phenomena which would then represent natural conditions. Of course one valuable method for obtaining data is through visibility monitoring. Although the Agency is currently evaluating monitoring techniques, these proposed rules would require the State to develop a monitoring strategy which would include a strategy for assessing natural conditions and provide for the reevaluation of natural conditions, based upon new data for the purpose of assessing new source impacts on visibility.

(4) *Significant impairment*—The proposed regulations define significant impairment as "visibility impairment which, in the judgment of the Administrator, interferes with the management, protection, preservation, or enjoyment of the mandatory class I Federal area, including interference with and impairment of the visitor's visual experience. This determination shall be made on a case-by-case basis taking into account the extent, intensity, and duration of the impairment frequency and time of occurrence of the impairment, the correlation between times of visitor use and access to the mandatory class I Federal area and the frequency of occurrence and timing of natural conditions."

The Agency believes that while the national goal calls for "the prevention of *any* future, and the remedying of *any* existing impairment in visibility" (emphasis added), by establishing exemptions in Sections 169A(c)(1) and 169A(c)(2) of the Act, Congress clearly recognized that there may be circumstances where impairment may exist but, due to the circumstances surrounding that impairment, reduction or elimination of the impairment may not be appropriate.

Secondly, in determining whether impairment is significant, the Administrator will evaluate:

(a) How frequently the impairment occurs,

(b) The extent or degree of the impairment,

(c) The time at which the impairment occurs.

(d) The intensity of the impairment, and

(e) The duration of the impairment.

There are clearly cases where impairment may exist but does not interfere with the public's enjoyment of the mandatory class I Federal area as pointed out by several commenters. An example may be where the impairment occurred only when visitor use was negligible or nonexistent. Since the intent of Congress, through Section 169A, is to protect the public's enjoyment of these areas, impairment which does not affect public enjoyment should not be considered significant. The Administrator will consider the recommendations of the appropriate Federal Land Manager since the Federal Land Manager has expert knowledge of an area.

(5) *Reanalysis of BART*—Proposed Section 51.306(e) would require that BART be reanalyzed at such times as the Administrator determines that new technology exists for the control of a pollutant having an impact on visibility. The basic purpose of this requirement for reanalysis is to ensure the maximum opportunity for the consideration of new technology for the control of visibility impairment.

Where a source has had to retrofit controls for a pollutant as a result of a BART analysis, EPA believes that there may be instances where the source should not later be subject to a different requirement for retrofit control of that pollutant. However, EPA believes that, as a part of its long-term strategy, a State should reevaluate each existing major stationary source for the applicability of new controls for all pollutants. Since the State would be free to require additional controls for a pollutant even where BART has previously been required for that pollutant the State may desire to do so as part of its long-term strategy. Where the control representing BART has not been previously required for a pollutant reanalyzed at the source, the State must require the imposition of such control as indicated by this reanalysis. This reanalysis must also include a consideration of in-place controls.

EPA recognizes that a broader "grandfathering" of sources which have applied BART controls could insulate such sources from future BART requirements for a pollutant even if the previous BART control was minimal. For example, a power plant would have an incentive to modify its burners to reduce emissions of NO_x in response to a BART analysis in order to escape further BART requirements for NO_x even though much more effective control technology may become available in the future. EPA, thus, specifically invites comments on this and other approaches to the problem. Several alternatives commenters may wish to address are:

(1) Requiring reanalysis of sources and imposition of controls on pollutants regardless of previous BART determinations.

(2) Requiring automatic, periodic review of all BART determinations;

(3) Requirng reanalysis of sources and implementation of controls as a reasonable progress measure;

(4) Requiring reanalysis of BART for all pollutants during each new phase of regulatory development; and

(5) Not requiring reanalysis.

Commenters are encouraged to include a discussion of the legal and policy basis for any alternatives recommended.

6. *Visability monitoring*—Many commenters addressed the issue of visibility monitoring. Many of these comments dealt with whether EPA, the State, or the Federal Land Manager should have the primary responsibility for visibility monitoring. Today's proposal recognizes the need for cooperation and consultation in the area of visibility monitoring, not only in the area of instrumentation but in the use and interpretation of data obtained. Although EPA will be continuing research in the area of visibility monitoring, primarily for the purpose of developing EPA-approved standardized ("reference method") visibility monitoring techniques and data collection for validation of analytical techniques, this proposal would require the consideratin of visibility monitoring and data in two aspects. The first of these areas is the development of a visibility monitoring strategy. The Agency believes that the use of available monitoring data and the collection of supplemental data can serve the State well in preparation of the SIP revision and the assessment of the long-term strategy's ability to make reasonable progress toward the national goal. In this strategy the State is expected to discuss the use of visual observations and other monitoring techniques as decided upon by the State after consultation with the Federal Land Manager. It is anticipated that the supervisor of the particular mandatory class I Federal area will be able to provide some assessment over a period of time as to the impairment that exists or may not exist in the area. Where agreements of this type can be reached they should be incorporated into the monitoring strategy.

The second aspect of visibility monitoring is the consideration of the need for monitoring associated with a proposed major emitting facility or major modification. The permitting authority should consult with the Federal Land Manager on the individual decision and take into account available visibility monitoring data and the need for additional monitoring data. The authority can require new sources collect such data under the auspices of the PSD program. Where necessary, additional assistance can be obtained through the EPA Regional Offices.

Though the Agency is not prepared to promulgate "reference methods," there is substanial information available regarding visibility monitoring methods currently in use. A discussiion of techniques currently in use and under evaluation for visibility monitoring may be found in "Protecting Visibility: An EPA Report to Congress." Interim guidance on monitoring is expected to be released by the Agency in the near future. After appropriate public review and comment, the interim guidance will be incorporated by reference in the promulgated visibility regulations. A **Federal Register** notice will announce the document's availability.

7. *Visibility modeling*—Almost all commenters on the issue of visibility modeling agreed with the position set forth in the ANPR that visibility models should be used only with a recognition of their limitations. However, a substantial number of commenters expressed the opinion that limitations on visibility models were so substantial as to totally preclude their use. As noted in the ANPR, the Agency is attempting to validate several analytical techniques for the purpose of addressing visibility impacts. The Agency believes that although these techniques are currently unvalidated, they can provide valuable input in the decision-making process when combined with common sense interpretations of all available data. The Agency believes that the proposed regulations recognize both the limitations and the presence of these analytical techniques.

EPA is currently attempting to validate these techniques through various research programs, and will make available for public review and comments these results as soon as they are available. Additionally, the Agency is preparing interim guidance on the use of analytical techniques and will also make this available for review and public comment.

Results obtained from visibility analytical techniques may be useful in addressing the impacts of single sources on visibility in two parts of this proposed rule. The first of these is the BART guideline, the use of which is optional except for power plants with a generating capacity in excess of 750 megawatts. This guideline suggests the use of analytical techniques to estimate the degree of improvement anticipated from control of certain pollutants. The techniques would estimate the level of impairment under existing conditions and compare it with the impairment estimated by the "model" under a new control scenario. EPA specifically solicits comment on whether this comparison to existing conditions is appropriate in all circumstances, for example, where existing impairment may be attributed in part to other sources which have not been required to install reasonably available control technology.

EPA does not believe these predicted levels of impairment should be used in an absolute manner for all pollutants. Instead, the Agency intends that the predicted levels of impairment only be used to assess the relative improvement that may be achieved under the new control scenario. However, EPA believes it is important to qualify this predicted relative improvement with all available data. For example, it would be useful to compare the impairment resulting from an actual source similar to the analyzed source to that estimated under the new control scenario. Thus, the guideline requires the estimated relative improvement to be qualified by other available data. While the above discussion qualifies the use of analytical techniques, it is important to remember that any such analysis should use all available tools recognizing that each provides valuable information relevant to the analysis and the limitations on the tool should be recognized.

The other program area for which analytical results can be of value is in the evaluation of visibility impacts from new sources. An interim guidance document for the assessment of these new sources is being developed and will be made available for public comment.

8. *Intergovernmental cooperation*—The Agency received 20 comments pertaining to the roles of States, Federal Land Managers, and EPA in the development and implementation of visibility regulations. Nine commenters felt the regulations should be structured to provide authoritative input form the Federal Land Managers. Others felt the Act gave the State final decision-making authority and the Federal Land Manager only an advisory role.

The regulations, as proposed, provide an active role for both Federal land Managers and States. The Federal Land Managers are guaranteed input into the SIP revision process, including identification of integral vistas and concurrence on any BART exemption. The State, however, retains final authority for the development of the SIP, BART determinations, and implementation of the visibility program. EPA would remain primarily in a technical and policy advisory position, continuing research on visibility and developing Phase II regulations when it becomes technically feasible.

EPA believes the visibility program should truly be a cooperative one. While the States are aware of local conditions and preferences, the Federal Land Managers remain most familiar with conditions unique to the parks and wildernesses and the importance of the visibility values to the visitor experience in an area. The regulations are structured to provide input into the decision-making process by both the States and the Federal Land Managers, but EPA believes for the visibility program to be a viable one, all affected parties must work together.

Several commenters were also concerned that the subjective judgment of the Federal Land Managers may be given too much weight. These commenters suggested that objective guidelines or specific minimum criteria be applied to any decision by the Federal Land Managers. Under the proposal, judgments by the Federal Land Managers will be necessarily somewhat subjective because visibility is a perceived quality and difficult to quantify. However, many of these decisions, such as identification of integral vistas, are to be made according to EPA guidelines or criteria which will provide consistency and prevent random, capricious determinations. Others will be made in coordination with the States or with assistance from EPA.

9. *Protection of integral vistas*—The proposed regulations would require a State to protect any integral vistas which are identified by the Federal Land Manager within 90 days of the promulgation of these regulations, unless the State in its SIP demonstrates to the Administrator that the Federal Land Manager did not identify the vista according to the criteria set out in "Criteria for the Identification of Integral Vistas". A vista identified by the Federal Land Manager more than 90 days after promulgation would have to be protected for visibility not later than at the time of the periodic review of the long-term strategy.

The reason for the 90-day period for identification of vistas to be affected by this first phase of visibility SIP revisions is that the Act requires SIPs to be revised within 9 months of the promulgation date and, in order for a state to meet this deadline, it will need to know within 90 days of the promulgation date what integral vistas must be protected in that revision. Some Federal Land Managers have informed EPA that identification within the 90-day period will be possible, although difficult, to meet while others have commented that, because of the need to integrate visibility protection with planning for certain other management objectives, identification of vistas within 90 days of promulgation is unlikely.

Under the proposed regulations, the decision when and whether to identify an integral vista is primarily the responsibility of the appropriate Federal Land Manager who, under the Act (and the legislation creating an area), has a special role in protecting the values of an area.

Although EPA recognizes the difficulties in identifying the vistas within 90 days, it believes in most cases the appropriate Federal Land Manager should be able to identify the integral vista within that time. All the areas have already been analyzed pursuant to action under Section 169A(a)(2) to determine whether visibility is an important value. Also, since it seems unlikely that EPA will promulgate these regulations before November 1980, the time by when the integral vistas must be identified to receive protection in the first phase of SIP revisions for visibility is still many months away. EPA is releasing the identification criteria for public comment along with this proposal and it should be possible for the Federal Land Managers to take preliminary steps now to prepare for the identification of integral vistas, even though the criteria may change in light of comments received. For example, one important criterion unlikely to be changed by public comment is whether the legislation creating an area specifically mentioned an integral vista as a reason for its being given special protection. It is important to note that the identification criteria present two different techniques for the final identification process. Comment is specifically requested on the appropriateness of both techniques.

Over the next few years Federal Land Managers will be developing area management programs which could include identification of additional integral vistas to be protected. As a result EPA has proposed a procedure which affords protection of integral vistas which have been identified by the Federal Land Manager prior to the calendar year in which a new source submits a complete permit application. However, EPA believes that this procedure could result in some uncertainty for new sources and therefore has proposed that no additional vistas be identified beyond December 31, 1985 for any Federal class I area which exists at the time of promulgation of these regulations. Additionally, the proposed procedure would allow a new source to escape the requirement for protection of an integral vista that may have been identified nearly a year before, by submitting a complete application late in the calendar year in which the vista was identified. The Agency also believes that the procedures for the reclassification of Federal Lands to class I should also involve the identification of integral vistas in order to prevent such uncertainties in the future. The Agency specifically solicits

V 45 M Y 22 80 UMI

comments on whether this procedure will result in too much uncertainty for new sources between now and December 31, 1985 and on other systems which could be used to accomplish the objective of protecting new integral vistas while providing time for the Federal Land Manager to develop management plans for their areas. Based upon the comment received, EPA may retain, modify, or delete this requirement. Three alternatives which the Agency is soliciting comment on are:

(1) providing protection for integral vistas identified at least a minimum time period prior to the submission of a complete application,

(2) a requirement that the source consult with appropriate Federal Land Manager at some designated interval prior to submission of the application and requiring protection of vistas identified within a specific time period after that consultation, and

(3) a provision which allows the Federal Land Manager to identify additional integral vistas within 30 days of being notified about a new source permit.

EPA recognizes that there are other procedural mechanisms that could be devised for identifying integral vistas. One alternative might be a procedure like that in Section 169A(a)(2) of the Act, whereby the Federal Land Managers recommend integral vistas to EPA, and EPA then promulgates the list with any change it feels is appropriate. EPA believes the proposed approach avoids the unnecessarily protracted process involved in this alternative, but specifically solicits comments on this and other alternative procedure for identification of integral vistas.

There has been comment that Congress did not intend to protect vistas which include places outside the boundaries of mandatory class I Federal areas. This intent is expressed, these commenters say, in the plan language of Section 169A(a)(1) which identifies the national goal of visibility protection "in" mandatory class I Federal areas. Examination of the statutory language and legislative history, however, reveals that they both support EPA's position and that removing integral vistas from protection would seriously undermine the purpose of Section 169A.

EPA's proposal agrees with the plain language of Section 169A. It protects no views into a class I area from outside the area as some commenters urged. The only visibility values protected are those "in" a mandatory class I Federal area, just as Section 169A provides. This follows because "visibility" is a perceptual value and the perception occurs "in" an area.

In identifying the visibility values of a mandatory class I Federal area, both the House and Senate Report counsel attention to the fundamental purposes for which Congress established such lands, and both quote the 1916 National Parks Organic Act (16 U.S.C. Section 1) that the purpose of such lands "is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations" [H. Rep. No. 95–294, 95th Cong., 1st Sess. 137 (1977), S. Rep. No. 95–127, 1st Sess. 36 (1977)]. In 1978, Congress amended this act to "reaffirm" this purpose and direct that the "protection of [areas of the National Park System] shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of values and purposes for which these various areas have been established, except as may have been or shall be directly or specifically provided by Congress" [16 U.S.C. Section 1a-1]. The specific legislation establishing the mandatory class I Federal areas cited in many cases the magnificent scenery of the area as a reason for its establishment [44 FR 69122 (November 30, 1979)]. Congress, in framing the visibility regulations, clearly was aware that many of these areas were set aside because of their "extensive vistas, expansive scenic views, unique natural formations or primitive value" [123 Cong. Rec. S9172 (daily ed. June 8, 1977)]. EPA's proposal carries out Congress' intent that air quality-related values (including visibility) be protected. These values include vistas, regardless of the location of the places viewed, if they are an integral part of the visibility experience in an area. Some areas may have no integral vistas; others may. For example, the view from Mesa Verde National Park of Shiprock (New Mexico), a unique natural feature, could be identified as essential to the public enjoyment and values of the park. By requiring the participation of interested persons and a careful analysis of pertinent criteria, the proposal assures that integral vistas will not be identified carelessly as an air quality-related value of the area but, rather, that any such identification will result from a prudent, circumscribed effort.

The legislative history contains many references to the "grand," "distant," and "breathtaking" "vistas" and "panoramas" of mandatory class I Federal areas which merit visibility protection [See, e.g., H. Rep. No. 95–294, supra, at 148, 204, 205; 123 Cong. Rec. H8661, H8669 (daily ed. August 4, 1977)]. In addition, Congress repeatedly stressed that public enjoyment of the parks and the economic benefits tourism brings were reasons for protecting visibility in mandatory class I Federal areas [See, e.g., H. Rep. No. 95–294, supra, at 204]. Even opponents of far-ranging protection against deterioration of air quality recognized that "visibility" means the ability to see distant places and panoramic sweeps like the view from the top of a mountain, and that such visibility is a requisite to the full enjoyment of mandatory class I Federal areas [123 Cong. Rec. S9249 (daily ed. June 9, 1977)]. Nowhere is there the suggestion that grand vistas integral to public enjoyment of a mandatory class I Federal area were not entitled to protection if the place viewed lay outside the area. The reason is clear: denying such integral vistas protection would compromise Congress' intention to preserve the scenic values for which the area was created and which the public enjoys.

Another commenter inquired whether EPA intends to interpret the word "within" in Section 165(d)(2) to include integral vistas. As noted previously, EPA has promulgated PSD regulations implementing this section and this aspect of the regulations was not at issue in the *Alabama Power* decision which adjudicated various other issues relating to those PSD regulations. Whether a Federal Land Manager considers an integral vista to contribute to a visibility value of an area is for him to decide; he has the "affirmative responsibility" to protect those values. Although, as stated, EPA does not intend to change its PSD regulations regarding visibility protection, EPA does interpret both the statute and its PSD regulations as authorizing the protection of integral vistas. Congress could not have intended such vistas to be protected by one program and impaired by the other.

EPA urges that proposed major emitting facilities, early in the planning process, discuss with the appropriate Federal Land Manager the visibility values of the area including the existence of any integral vistas.

10. *Section 51.306 Long-Term Strategy*—Consistent with Section 169A(b)(2)(B), the proposed regulations would require each plan to contain a long-term strategy for making reasonable progress toward meeting the national goal. The proposal requires the strategy to contain several measures and suggests others the State should consider in devising the "mix" of measures appropriate for the particular

mandatory class I Federal area circumstances.

Because of the limited applicability of BART requirements, the development of long-term strategies will be central to making reasonable progress toward the national visibility goal. Consequently, EPA views the requirement as an exceedingly important one, even though it will be necessarily somewhat limited by the phased approach to the visibility program as discussed above. The long-term strategy can, however, begin to address the more complex problems such as regional haze. For example, although visibility impairment resulting from multi-source situations may not be reasonably attributable to any specific source, other programs for control of such sources should consider the impact, to the degree possible, of control decisions on visibility.

The ANPR suggested that, as an element of a long-term strategy, EPA might require the setting and meeting of reasonable progress visibility objectives. Today's proposal would not require specific objectives because EPA believes such objectives could be unduly rigid, easily misinterpreted, and difficult to assess. The proposed regulations would, however, require periodic review by the State and a report to the public on the efficacy of the long-term strategy. This review would primarily assess the effectiveness of the long-term strategy and in this way may be viewed as objective oriented.

Also required would be review of the impacts of all pollutants emitted by a source previously analyzed for BART when the Administrator determines that new control technology is available. Although the proposal would not automatically require the installation of additional control equipment for a pollutant for which a BART analysis has already imposed retrofit control, a State would have to do the analysis to determine whether additional retrofit control for the pollutant would be a sensible step toward the national visibility goal. In many cases EPA believes it would be a sensible step and, therefore, urges States to require imposition of retrofit control for any pollutant regardless of its control history if a BART reanalysis to consider new control equipment indicates such retrofitting is appropriate.

The proposal would require all new major emitting facilities and major modifications, as those terms are defined in EPA's PSD regulations, 40 CFR 51.24 and amendments, to be reviewed for their impacts on visibility for any area listed in 40 CFR Part 81, Subpart D. EPA is currently preparing a guideline for such review. This requirement will assure that any major new source that may impact visibility in any of these areas will be reviewed for such impacts. For example, a source located in a nonattainment area may not be reviewed under the PSD program for visibility impacts in such areas [*Alabama Power*, supra, 13 ERC at 2016].

Proposed Section 51.306(f) sets out certain measures which the State must consider in developing its long-term strategy. Although the State may develop its own particular "mix" of measures, the long-term strategy must be sufficient to make reasonable progress toward the national visibility goal. In evaluating the adequacy of the long-term (10–15 years) strategy, EPA will consider whether the elements incorporated provide sufficient consideration of impacts on visibility so that reasonable progress toward the national goal is a reasonable assumption. In order to ensure this, many of the elements are mandatory, and the State must explain why it did or did not incorporate the optional elements.

An essential starting point in developing long-term strategies is assessment of other air pollution related control programs. Many of these programs, such as SIP emission limits and compliance schedules for attainment and maintenance of the national ambient air quality standards, new source performance standards, motor vehicle emission standards, and PSD will likely contribute to making reasonable progress toward the national visibility goal. Once the impact of these and other regulatory programs is evaluated, the need for additional measures can be assessed.

Additional measures that must be considered include additional emission limitations and schedules for compliance, source retirement and replacement schedules, and smoke management techniques. Whether all of these measures (or other ones) are necessary to a long-term strategy for making reasonable progress toward meeting the national visibility goal depends on the particular circumstances of the area. Many commenters to the ANPR favored this flexible, area-specific approach. Others, however, felt EPA should establish a national visibility objective along with well designed timetables to monitor reasonable progress. EPA believes that regional differences in meteorological conditions around the country and varying degrees of visibility impairment and land management practices in and around the class I areas should be reflected in the visibility program. EPA's proposal would allow for this; setting a national visibility objective would not. The proposal is consistent with the Act and its legislative history which also required the BART analysis to consider local factors and recognized that a national visibility standard would be "impracticable" [H. Rep. No. 95–294, supra, at 205].

One area-specific measure, control of prescribed burning, i.e., burning for agricultural and forestry management purposes, will need to be considered in certain areas. Substantial comment was received on prescribed burning, its importance to forest and range management, and ability to influence its extent, timing, and duration. One comment suggested that prescribed burning was not man-made (a natural part of many ecosystems) and, thus, did not constitute "visibility impairment." Others noted the impacts of smoke from prescribed burning. EPA recognizes that prescribed fire is an ecologically sound forest and range management tool used both inside and outside class I areas. The Agency does not intend that prescribed burning be eliminated or unnecessarily restricted, but rather, that its impacts on visibility be reduced where feasible and appropriate. Prescribed burning is a necessary part of land management but EPA believes there are techniques to limit its effect on visibility. EPA has requested the Forest Service, U.S. Department of Agriculture, in coordination with land management and air regulatory agencies, to prepare a management guideline for the use of techniques to manage smoke from prescribed fires. It is anticipated that this guideline will not only include evaluation of alternatives to burn but will also suggest best management practices for minimizing adverse effects of smoke. This document is scheduled for completion in early 1981 and EPA intends to make a draft of the guideline available for public comment when it is completed.

(11) *Application of section 169A to new sources*—Today's proposal limits the BART requirements to certain existing sources, but applies the other requirements of Section 169A (such as the strategy for making reasonable progress toward the national goal) to new sources as well. Although EPA has received comment that the requirements of Section 169A apply to existing sources only, the Agency feels the plain language and legislative history of the visibility provisions support this proposal, as does common sense.

The plain language of Section 169A shows that this section is not limited to existing sources. The national goal

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toward which the regulations must assure reasonable progress encompasses not only the "remedying of any existing" impairment of visibility, but also "the prevention of any future" impairment [Section 169A(a)(1)]. The recommendations in the Report to Congress, which are to be taken into account in the regulations, must include "methods for *preventing* and remedying * * * manmade air pollution and resulting visibility impairment" (emphasis added) [Sections 169A(a)(3)(C), (b)(1)]. While the BART requirement in Section 169A(b)(2)(A) focuses on control of existing sources, subparagraph (B) expressly requires "a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal." There is no indication that a 15-year plan must be restricted to only existing sources.

The language of other sections of Part C of Title I of the Act underscores the intent to apply Section 169A to new sources in order to prevent future air degradation. In section 160, Congress states the purposes "of this part." "This part," means Part C. Part C includes Section 169A. Since nearly all the purposes in Section 160 relate to future goals and activities, and hence to new sources, it is apparent that Section 169A applies to new as well as existing sources. Similarly, Section 167, which is also in Part C, mandates enforcement action by the Administrator "to prevent the construction of a major emitting facility which does not conform to the requirements of this part. . . ." If Congress had intended this enforcement authority to be limited to PSD requirements, it would have referred to "this subpart." But using the term "this part," Congress included Section 169A. There would be no necessity to include the requirements of Section 169A in Section 167 unless Section 169A applied to new as well as existing sources.

The comment that Section 169A is limited to existing sources minimized the plain language of the Act and addressed two passages in the legislative history. The first is from the Conference Report:

> "A major concern which prompted the House to adopt the visibility protection provision was the need to remedy existing pollution in Federal mandatory class I areas from existing sources. Issues with respect to visibility as an air quality value in application to new sources are to be resolved within the *procedures* for prevention of significant deterioriation." (emphasis added). H. Rep. No. 95–564, supra, at 155.

This passage simply recognizes that existing sources, in addition to new sources, must be controlled in order to make progress toward the national goal and that, for purposes of visibility protection, program procedures for new sources and those for existing sources be dovetailed so as to minimize any bureaucratic burden. Nothing in this passage, however, is inconsistent with EPA's proposal. The second passage is Senator Muskie's response to Senator McClure's question whether Section 169A applies only to existing sources. Senator Muskie replied:

> "Yes, the Federal interest is limited to existing sources, which have been in existence 15 year or less. Visibility restrictions with regard to new sources would result under the [PSD] provisions." 123 Cong. Rec. S13709 (daily ed. Aug. 4, 1977).

Senator Muskie, however, is apparently speaking of the BART requirement being limited to existing sources and, like the conference report, of the desire to dovetail new source visibility requirements with PSD procedures.

Thus, these two passages of the legislative history, taken alone, do not support the commenter's position nor do they justify deviation from the plain language of the statute. Further, the House Committee left no doubt that Section 169A was intended to apply to new sources:

> "* * * the committee recognizes that one mechanism which has been suggested for protecting these areas, the mandatory class I increments of new Section 160 [subpart 1 "Prevention of Significant Deterioration"] do not adequately protect visibility in class I areas.
>
> * * * In light of the foregoing, the committee concluded that a separate approach was necessary to control the visibility problem, in mandatory Federal class I areas.
>
> * * * The committee recognizes that [the national] goal cannot be achieved overnight. But the very difficulty of curing existing problems after the fact argues strongly for a strong preventive approach for the future." Rep. No. 95–294, supra, at 205–206.

The opponents of the measure in the House Committee also agreed that it would apply to new as well as existing sources. Id. at 529.

The conference committee report indicates that "[t]he conferees agreed to the House provision [on visibility protection] with modifications." The point, noted above, that the conference report does not in any way indicate that the substantive requirements of Section 169A were applicable only to existing sources was underscored by various House members:

> "* * * as in the House bill, [Section 169A] as agreed to in conference applies both to new and existing sources. As pointed out in the House Committee report, merely meeting class I increments under prevention of significant deterioration will not be adequate to assure visibility protection. Clearly the conferees did not want to impose two separate pre-construction permit requirements for a new source for the purpose of assuring compliance with requirements. One permit should suffice." 123 Cong. Rec. H8663 (daily ed. Aug. 4, 1977).

Rep. Rogers provided further explanation on this point in his statement accompanying the technical amendments to the 1977 Clean Air Act Amendments (P.L. 95–190):

> "It was suggested that the apparent conflict between the reading of some Senators and the House view on the visibility section (section 169A) should be resolved by a technical amendment. However, such an amendment seems unnecessary to me. The conference provision essentially adopted the House bill's approach. This is made clear at page 155 of the conference report. Nowhere in the conference report is it suggested that any limitation of the provision to existing sources was adopted by the conferees. While the report recognizes that '[a] major concern which prompted the House to adopt the visibility protection [provision] was the need to remedy existing pollution,' it does not state, nor does it imply that 'existing sources' were the only concern. As the House Committee report makes clear, new sources were also of concern. (H. Rep. No. 95–294). What sense would it make to solve existing problems, but allow the same situation to develop as a result of new sources?
>
> The conference committee, of course, did not want to subject new sources to two separate procedural steps under the PSD and visibility protection provisions. That is why the conference report states, 'Issues with respect to visibility * * * in application to new sources are to be resolved within the *procedures* for prevention of significant deterioration.' (emphasis added). But in the one-stop permit process for new or modified major sources, the substantive criteria and standards of PSD and visibility provisions would have to be met. This point is underscored by the statutory language of section 169(A)(1) retaining as a national goal the prevention of any future * * * impairment of visibility in mandatory class I Federal areas. Given this clear statement of legislative intent, I do not believe any technical or conforming amendment is necessary." 123 Cong. Rec. H11958 (Nov. 1, 1977).

To answer Rep. Ropers' rhetorical question, it would make no sense to create a visibility program which attacks the problem by controlling older sources, but allows new sources simultaneously to create the problem anew. In effect, this would ignore the portion of the national goal calling for the prevention of new impairment.

(12) *Visibility Protection of Non-Mandatory Class I Lands*—The regulations required by Section 169A are limited to mandatory class I Federal areas where visibility is an important value [Section 169A(b)(2)]. In contrast, Section 165(d)(2), which concerns new sources, applies to Federal lands in all class I areas. As noted above, EPA's PSD regulations also are not limited to "mandatory class I Federal areas," and this aspect of the regulations was not at issue in *Alabama Power*. This means that Federal Land Managers also have an "affirmative responsibility" to protect air quality-related values with respect to Federal lands that are redesignated class I by the States (or Congress). This directive to Federal Land Managers to respect State redesignations is consistent with the general principle in the Act to recognize State's authority to set stricter standards than the Act requires [Sections 116, 164].

The legislative history supports this interpretation. The summary and the discussion of Section 165(d) in the Senate Report express no intention to limit the air quality-related values test to mandatory class I Federal areas, but instead consistently refer to "class I areas." S. Rep. No. 95–294, supra, at 35–36. The Conference Report says flatly that the "air quality-related values test, including visibility, is applied to sources affecting class I areas" [H. Rep. No. 95–564, 95th Cong., 1st Sess. 153 (1977)]. Statements by conferees during House debate on the Conference Report corroborate this construction [123 Cong. Rec. H866], H8660 (daily ed. August 4, 1977)].

Section 165(d) does not, however, apply to redesignations of reservation land to class I by Indian tribes. This is because Indian land is not Federal land, and Indian tribes are not Federal Land Managers. The Act treats separately lands within the boundaries of Indian reservations and lands subject to the jurisdiction of Federal Land Managers.

It is the "Federal Land Manager * * * charged with direct responsibility for management of any lands within a class I area" that Section 165(d)(2) gives an "affirmative responsibility to protect the air quality-related values (including visibility) of any such lands within a class I area." Section 302(i) defines "Federal Land Managers" as, "with respect to any lands in the United States, the Secretary of the department with authority over such lands." This definition dropped the language from the Senate bill which included as Federal Land Managers "Indian tribes which have legal jurisdiction over tribal lands" [S. 252, 95th Cong., 1st Sess. Section 6 (May 10, 1977)]. This does not appear to have been inadvertent, since the Conference Report states the Federal Land Manager is "the Secretary of the Department which has the authority over any specific *Federal land*" (emphasis added) [H. Rep. No. 95–564, 95th Cong., 1st Sess. 172 (1977). Thus, Indian tribes are not Federal Land Managers.

As for the term "Federal land," Congress intended it to "hold its traditional context, and impl[y] no new departure from definitions or systems of classifying Federal lands and land-related rights" [S. Rep. No. 95–127, supra, at 34]. The traditional position of the Department of the Interior has been that lands within lands within Indain reservations are not Federal lands. There is, therefore, no Federal Land Manager to be charged with the "affirmative responsibility" of protecting under Section 165(d) Indian Lands redesignated class I. This interpretation is consistent with Part C of the Act which treats Indian lands uniquely and sets out in Section 164(e) a mechanism for protection of the air quality-related values of Indian lands affected by a redesignation.

(13) *National Emission Standards for Visibility*—One commenter suggested that the agency establish uniform national emission standards for the major stationary sources, but this would violate the intent of Congress which, in regard to the determination of BART, is clearly stated in Section 169A(b)(2)(A): "each major stationary source * * * shall procure, install, and operate, as expeditiously as practicable (and maintain thereafter) the best available retrofit technology, *as determined by the State*" (emphasis added). Section 169A(b) requires BART for large fossil-fuel fired power plants (750 MW) to "be determined pursuant to guidelines promulgated by the Administrator * * *" However, the only general authority of the administrator to determine BART for specific sources is for plans promulgated by the Administrator where the State has failed to fulfill the requirements of the Act. The Bart considerations include available technology, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the sources, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. Each of these considerations is source-specific and, therefore, BART must be decided on an individual source-by-source basis. Indeed, the conference committee specifically eliminated the regulations and Federal guidelines for determining this technology required by the House passed bill for determining BART except for fossil-fuel fired generating power plants having a total generating capacity in excess of 750 megawatts [H. Rep. No. 95–564, Supra, at 155]. The BART guideline for these large power plants is available for public review and comment (See Document Availability). Commenters should recognize that the retrofit of control technology is usually much more expensive than the incorporation of similar technology during construction of a new source. The Agency particularly solicits all available factual information on the cost of retrofitting control technology on existing large power plants.

(14) *Baseline*—In the ANPR, EPA introduced the term "baseline," stating that it might be useful in defining certain other terms used in the visibility program. The ANPR did note, however, that both of the contemplated definitions of "baseline" had drawbacks. Today's proposal does not use the term. EPA believes its use, as indicated by the comments received, would lead to confusion.

(15) *Plume blight*—Fifteen commenters expressed opinions on the definitions of plume blight and regional haze presented in the ANPR. EPA's intent in the ANPR was to focus on clearly definable cases of visibility impairment for purposes of Phase I regulations. The comments indicated that the term "plume blight" caused some confusion. Therefore, the Agency is defining the scope of the Phase I regulations by the term "reasonably attributable," which is defined as attributable to a single source or group of sources by visual observation or other monitoring technique. The key distinction between this Phase I definition and future phases is by what means a source can be identified. Most sources which contribute to long-range transport visibility impacts cannot be adequately assessed for their impacts on such impairment at present. As mentioned previously, these forms of impairment will be dealt with in future phases of the program.

One commenter felt water vapor should not be considered as visibility impairment. EPA agrees with this assessment. Water vapor plumes are generally confined to an area near the source and should not have an impact on visibility in a mandatory class I Federal area. However, there are cases in which the steam from an industrial process combines with other substances such as SO_2 or NO_2. This is not considered water vapor by the Agency and could be identified as visibility impairment.

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federal register

Thursday
May 22, 1980

Part VIII

Department of Transportation

Federal Aviation Administration

Revision of Airport Aid Program Requirements

DEPARTMENT OF TRANSPORTATION

In order to achieve these goals, the

minimum or none at all. However, this

C. Changes in the Final Rule

Sections 152.111(f)(7) and 152.113(b)(6)

§ 152.305 Accounting Records.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 152

[Docket No. 19430; Amdt. No. 152-10]

Revision of Airport Aid Program Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts revisions to the rules pertaining to the Airport Aid Program for airport development and planning grant projects. These revisions update current requirements and eliminate certain provisions that, based on the FAA's continuing review of the program, are considered unnecessary. This action is taken by the FAA in an effort to simplify the grant process.

EFFECTIVE DATE: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Peter T. Gourdouros (APP-510), Office of Airport Planning and Programming, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426-3050.

SUPPLEMENTARY INFORMATION:

A. Background

Interested persons have been afforded an opportunity to participate in the making of this final rule by a notice of proposed rule making (Notice No. 79-14) issued on August 2, 1979, and published in the **Federal Register** on August 9, 1979 (44 FR 46858). Due consideration has been given to all comments received in response to the notice.

Notice 79-14 proposed to amend Part 152, Airport Aid Program, of the Federal Aviation Regulations to provide regulations that are easier to understand and less of a burden on the sponsor or planning agency seeking assistance. The proposed changes were based on the FAA's continuing review of the program, and they implement the President's direction to simplify regulatory procedures, as expressed in Executive Order 12044, Improving Government Regulations (43 FR 12661; March 24, 1978). The Executive Order requires that regulations be as simple and clear as possible, and that they achieve legislative goals effectively and efficiently. In addition, the order requires that regulations impose no unnecessary burdens on the economy, on individuals, on public or private organizations, or on State or local governments.

In order to achieve these goals, the FAA made a comprehensive review of all provisions of Part 152. Wherever possible, this amendment simplifies these requirements, and deletes redundant and unnecessary material. As a result, the number of regulatory sections has been reduced from 72 to 41, and, even with the addition of a new appendix, the number of appendices has been reduced from 13 to 4.

Part 152 has been simplified and updated in the following ways: (1) By deleting discussion of FAA policy and procedures that do not impose a requirement on the sponsor or planning agency, and publishing them separately; (2) by deleting explanatory and descriptive material, including some unnecessary definitions, and making them available in advisory publications; (3) by removing lengthy technical requirements and incorporating them by reference in Part 152; (4) by omitting references to out-of-date provisions and revising the part to incorporate changed requirements of statutes other than the Airport and Airway Development Act of 1970 (AADA); (5) by consolidating certain provisions, eliminating redundant provisions and reorganizing the entire part on a chronological basis; (6) by revising the part to reflect certain changes already made in the Airport Aid Program as a result of changes in the AADA; (7) by adding a new appendix that publishes the assurances made by the applicant for an airport development grant or an airport planning grant at the time of application; (8) by reducing the number of requirements imposed on applicants to the extent that it is practicable and consistent with the FAA's responsibilities under the AADA; and (9) by deleting certain appendices that set out the requirements of other Federal agencies with respect to the administration of Federal grant programs and replacing them with references to those requirements.

B. Comments

The FAA received 8 public comments in response to Notice 79-14, all of which favored the adoption of the revised part. Comments stated that they expected the revised rule to "streamline the application process and lessen our paperwork burdens" and "greatly increase a sponsor's ability to use and understand Part 152."

Project Eligibility. Some commenters objected to proposed § 152.107, which requires that a project for airport development must involve more than $25,000 to be eligible for consideration. For a number of reasons the commenters would prefer that there be a lower minimum or none at all. However, this minimum amount was proposed to encourage sponsors to include all eligible airport development items within a single grant application, rather than filing separate applications for each eligible item. This is intended to reduce administrative costs which could meet or exceed the amount of U.S. funds approved for a small project. It should also be noted that almost all recent grant applications have been for projects in excess of $25,000, and that the rule does allow the Administrator to accept applications for projects of a smaller amount when circumstances warrant it.

Unified Planning Work Program. One commenter objected to proposed § 152.109(a)(4) that requires incorporation of proposed airport master planning projects, determined to have areawide significance, into a unified planning work program. The commenter contended that this would inject areawide agencies with no implementing powers into the planning process, thus making planning ineffective.

The intent of this incorporation is to improve coordination between areawide transportation planning and planning at individual airports. The unified planning work program serves as the vehicle for ensuring adequate consideration of airport development in relation to ground transportation systems. For this reason the rule has been adopted as proposed.

New Structures. Another commenter suggested that proposed § 152.203 should be revised to permit reimbursement for the cost of a new structure, when it would be less than the cost of removal or relocation of an existing building. However, expenditure of funds for the constuction of any building is prohibited by the AADA, except where the act specificially authorizes it.

New Legislation. Some commenters suggested that the revision of Part 152 be delayed until new legislation is enacted. Although the Airport and Airway Development Act of 1970 expires on September 30, 1980, a significant portion (approximately $400,000,000) of the fiscal year 1980 authorization ($640,000,000) will not be obligated until the fourth quarter of the fiscal year. Accordingly, a majority of the 1980 grants will be issued under the revised regulations, providing experience with, among other things, its waiver, exemption, and certification provisions. Experience with revised Part 152 will provide an important bridge to new regulations implementing post-1980 legislation.

C. Changes in the Final Rule

Some changes have been made in the rule as adopted based on comments received and further consideration by the FAA. These changes are discussed below.

§ 152.3 Definition of Audit.

The definition of the term "audit" in proposed § 152.3 has been revised to incorporate the requirements of Attachment P of Office of Management and Budget Circular (OMB) A-102 (44 FR 60958). That attachment sets forth uniform administrative audit requirements for federal grants-in-aid to state and local governments.

§ 152.5 Exemptions.

Section 152.5, as adopted, provides for the required publication of a summary of a grant or denial of a petition for exemption in the **Federal Register**. This publication provision parallels that of § 11.27 of the Federal Aviation Regulations (14 CFR 11.27), which provides procedures for processing petitions for exemption from Federal Aviation Regulations other than Part 152. However, since exemptions under Part 152 are processed by regional offices and basically concern local situations which are of limited interest to the general public, publication of the petition for exemption itself has not been provided for.

§§ 152.103 and 152.105 Eligible Sponsors and Planning Agencies.

Sections 152.103 and 152.105 have been corrected to provide that applicants for airport development projects and for airport master planning grants must be public agencies as required by the Airport and Airway Development Act of 1970.

§ 152.209 Withholding of Payment.

In accordance with OMB Circular A-102, § 152.209(g) has been expanded to provide for withholding payment to the sponsor or planning agency when it has withheld payment to a contractor to ensure satisfactory completion of work. These amounts will be paid to the sponsor or planning agency when it makes final payment, including the amount it withheld from the contractor.

§§ 152.111 and 152.113 Civil Rights Assurance.

On February 7, 1980, the FAA adopted a new Subpart E, Nondiscrimination in Airport Aid Program, to Part 152 (45 FR 10184; February 14, 1980). That new subpart is unaffected by this amendment, but has not been republished in this issue of the **Federal Register**.

Sections 152.111(f)(7) and 152.113(b)(6) have been expanded to require submission of the civil rights assurances required by § 152.405 of new Subpart E with each application.

§ 152.111 Compliance with Environmental Order.

Proposed § 152.111 would have required that a sponsor's application or preapplication for Federal assistance be accompanied by an environmental impact assessment report that complies with the applicable DOT and FAA environmental orders. In the rule, as adopted, the reference to the applicable FAA order has been updated to refer to FAA Order 1050.1C (45 FR 2244; January 10, 1980). The reference to the DOT order has been eliminated since the FAA order incorporates the applicable DOT requirements, and compliance with it results in compliance with the DOT order. Also the terminology used in the rule has been updated, and the rule has been revised to make it clear that an environmental assessment must be submitted only if one is required by the FAA order.

The FAA is currently issuing an Airport Environmental Handbook that contains detailed guidance for considering environmental impacts of Federal airport actions. In the near future, this handbook will be incorporated by reference into Part 152, and compliance with it will be required for airport development projects.

§ 152.115 Reduction of U.S. Share.

A new paragraph has been added to § 152.115 to provide that when project work for which costs have been incurred is deleted from a grant agreement, the Administrator reduces the maximum obligation of the United States proportionately, based on the cost or value of the deleted work as shown on the project application. This is required by the FAA's contract regulations which reflect the general rule of law that the Government does not have authority to waive or surrender gratuitously any vested right or interest acquired by contract.

§ 152.205 United States Share of Project Costs.

Section 152.205 has been revised to implement the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193; February 18, 1980) which raises the United States share of allowable project costs to 90 percent for grants made from funds for fiscal year 1980.

§ 152.305 Accounting Records.

In lieu of the list in proposed § 152.305(a) of cost classifications for the sponsor's accounting records, the rule, as adopted, merely references the classifications set forth in Standard Form 271. This form, entitled "Outlay Report and Request for Reimbursement for Construction Programs," is published in OMB Circular A-102 (42 FR 45841), and is used by the sponsor in requesting reimbursement under its grant.

Appendices

The titles of Appendices A and C have been revised to make clear their content and distinguish them from one another.

Changes have been made in proposed Appendix C to reflect the revision of Attachment O to OMB Circular A-102 (44 FR 47874; August 15, 1979). The revised Attachment O provides for, and encourages, grantor agency review of grantee procurement systems.

Attachment O provides that, when a grantee procurement system meets the standards of Attachment O, it may be certified by the grantor agency, thus reducing the need for individual pre-award contract reviews by the grantor agency. Section 1 of Appendix C, as adopted, provides for reviews of this kind by the FAA, when funding and time permits. To be consistent with this review procedure, the individual pre-award review requirements for contracts in proposed section 13 of the appendix have also been revised as provided in Attachment O.

Proposed section 13 of Appendix C provided that the allowable project costs of the work, on which the Federal participation is computed, may not be more than the bid of the lowest responsible bidder. That provision has been removed because it would be inconsistent with the national policy to award a fair share of contracts to small and minority business firms, as expressed in section 9 of Attachment O of OMB Circular A-102 (44 FR 47875).

A new paragraph 15 has been added to Appendix C to require compliance with the equal employment opportunity requirements of the Department of Labor. This new paragraph updates and replaces the requirements of former § 152.61, Paragraph 15 has been renumbered as 16.

Assurances

The assurances contained in Appendix D which each sponsor or planning agency must submit with its application have been updated to reflect those currently in use.

Assurance 7, Access for the Handicapped, has been revised to require compliance with Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance, which was adopted by the Department of Transportation on May 25, 1979 (49 FR 31442; 14 CFR Part 27).

Assurance 17 has been revised to provide that the 20 year limitation on the effectiveness of the assurances does not apply to those affecting the use of real property acquired with Federal funds. This is consistent with attachments N, Property Management Standards, of OMB Circular A-102 which requires that the grantee use that property for the authorized purpose of the original grant as long as it is needed.

D. Economic Impact

While the actual cost benefits of this revision of Part 152 cannot be readily established, the benefits to sponsors and planning agencies will be tangible, and the government sector will benefit from a more efficient program. Simplification and clarification of the part, as well as improvement of its organization, will yield tangible administrative benefits to applicants and grantees.

The updating of some provisions will result in minor administrative costs to the applicant, but the over-all impact will be important savings in time and money.

Savings will result from no longer requiring the submission of certain documentation. Under the revised part, preapplications are no longer required for projects under $100,000. The Administrator may waive an application requirement where an item is already available to the FAA or where a substitute should be accepted. The amendment provides for the acceptance of the sponsor's certification that it has complied with a statutory or administrative requirement, in lieu of demonstrating compliance.

Sponsors will benefit from the issuance of exemptions from requirements of Part 152 where conditions beyond a sponsor's control make it difficult for it to comply with specific requirements.

E. Adoption Date

Because of the benefits to sponsors and planning agencies that will result from this revision of Part 152, good cause exists for making this amendment effective on publication in the **Federal Register** (May 22, 1980).

F. The Amendment

Accordingly, Part 152 of the Federal Aviation Regulations (14 CFR Part 152) is amended, effective May 22, 1980, by revising Subparts A, B, C, and D, and by adding a new Subpart F to read as follows:

PART 152—AIRPORT AID PROGRAM

Subpart A—General

Sec.
152.1 Applicability.
152.3 Definitions.
152.5 Exemptions.
152.7 Certifications.
152.9 Forms.
152.11 Incorporation by reference.

Subpart B—Eligibility Requirements and Application Procedures

152.101 Applicability.
152.103 Sponsors: airport development.
152.105 Sponsors and planning agencies: airport planning.
152.107 Project eligibility: airport development.
152.109 Project eligibility: airport planning.
152.111 Application requirements: airport development.
152.113 Application requirements: airport planning.
152.115 Grant agreement: offer, acceptance and amendment.
152.117 Public hearings.
152.119 Contract requirements and procurement standards.

Subpart C—Funding of Approved Projects

152.203 Allowable project costs.
152.205 United States share of project costs.
152.207 Proceeds from disposition of land.
152.209 Grant payments: general.
152.211 Grant payments: land acquisition.
152.213 Grant closeout requirements.

Subpart D—Accounting and Reporting Requirements

152.301 Applicability.
152.303 Financial management system.
152.305 Accounting records.
152.307 Retention of records.
152.309 Availability of sponsor's records.
152.311 Availability of contractor's records.
152.313 Property management standards.
152.315 Reporting on accrual basis.
152.317 Report of Federal cash transactions.
152.319 Monitoring and reporting of program performance.
152.321 Notice of delay or acceleration.
152.323 Budget revision: airport development.
152.325 Financial status report: airport planning.

Subpart E—Nondiscrimination in Airport Aid Program

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Subpart F—Suspension and Termination of Grants

152.501 Applicability.
152.503 Suspension of grant.
152.505 Termination for cause.
152.507 Termination for convenience.
152.509 Request for reconsideration.
Appendix A—Contract Provisions and Labor Requirements
Appendix B—Advisory Circulars
Appendix C—Contracting Requirements
Appendix D—Assurances

Authority: Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*); sec. 1.47(f)(1) Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1)).

Subpart A—General

§ 152.1 Applicability.

This part applies to airport planning and development under the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

§ 152.3 Definitions.

The following are definitions of terms used throughout this part:

"AADA" means the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

"Air carrier airport" means—

(1) An existing public airport regularly served, or a new public airport that the Administrator determines will be regularly served, by an air carrier, other than a charter air carrier, certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958; and

(2) A commuter service airport.

"Airport" means—

(1) Any area of land or water that is used, or intended for use, for the landing and takeoff of aircraft;

(2) Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and

(3) All airport buildings and facilities located on the areas specified in this definition.

"Airport development" means—

(1) Any work involved in constructing, improving, or repairing a public airport or portion thereof, including the removal, lowering, relocation, and marking and lighting or airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and including safety equipment required by rule or regulation for certification of the airport under section 612 of the Federal Aviation Act of 1958, and security equipment required of the sponsor by the FAA by rule or regulation for the safety and security of persons or property on the airport, and including snow removal equipment, and including the purchase of noise suppressing equipment, the construction of physical barriers, and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public airport.

(2) Any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards; and

(3) Any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport.

"Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport, that—

(1) Obstructs the airspace required for the flight of aircraft landing or taking off at the airport; or

(2) Is otherwise hazardous to aircraft landing or taking off at the airport.

"Airport layout plan" means a plan for the layout of an airport, showing existing and proposed airport facilities.

"Airport master planning" means the development for planning purposes of information and guidance to determine the extent, type, and nature of development needed at a specific airport.

"Airport system planning" means the development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public airports.

"Audit" means the examination and verification of part or all of the documentary evidence supporting an item of project cost in accordance with Attachment P of Office of Management and Budget Circular A-102 (44 FR 60958).

"Commuter service airport" means an air carrier airport—

(1) That is not served by an air carrier certificated under section 401 of the Federal Aviation Act of 1958;

(2) That is regularly served by one or more air carriers operating under an exemption granted by the Civil Aeronautics Board from section 401(a) of the Federal Aviation Act of 1958; and

(3) At which not less than 2,500 passengers were enplaned during the preceding calendar year by air carriers operating under an exemption from section 401(a).

"Force account" means—

(1) The sponsor's or planning agency's own labor force; or

(2) The labor force of another public agency acting as an agent of the sponsor or planning agency.

"General aviation airport" means a public airport other than an air carrier airport.

"Landing area" means an area used, or intended to be used, for the landing, takeoff, or surface maneuvering of aircraft.

"NASP" means the National Airport System Plan.

"National Airport System Plan" means the plan for the development of public airports in the United States formulated by the Administrator under section 12 of the AADA.

"Nonrevenue producing public-use areas" means areas that are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport.

"Passengers enplaned" means—

(1) United States domestic, territorial, and international revenue passenger enplanements in scheduled and nonscheduled service of air carriers; and

(2) Revenue passenger enplanements by foreign air carriers in intrastate and interstate commerce.

"Planning agency" means a planning agency designated by the Administrator that is authorized by the laws of a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam, or by the laws of a political subdivision of any of those entities, to engage in areawide planning for the areas in which assistance under this part is to be used.

"Project" means a project for the accomplishment of airport development, airport master planning, or airport system planning.

"Project costs" means any costs involved in accomplishing a project.

"Project formulation costs" means, with respect to projects for airport development, any necessary costs of formulating a project including—

(1) The costs of field surveys and the preparation of plans and specifications;

(2) The acquisition of land or interests in land, or easement through or other interests in airspace; and

(3) Any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of a project for airport development, that would not have been incurred otherwise.

"Public agency" means—

(1) A state, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Government of the Northern Marianas, Guam, or any agency of those entities;

(2) A municipality or other political subdivision;

(3) A tax-supported organization; or

(4) An Indian tribe or pueblo.

"Public airport" means any airport that—

(1) Is used, or intended to be used, for public purposes;

(2) Is under the control of a public agency; and

(3) Has a property interest satisfactory to the Administrator in the landing area.

"Reliever airport" means a general aviation airport designated by the Administrator as having the primary function of relieving congestion at an air carrier airport by diverting from that airport general aviation traffic.

"Runway Clear Zone" means an area at ground level underlying a portion of the approach surface specified in the standards incorporated into this part by § 152.11.

"Satisfactory property interest" means—

(1) Title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance that, in the opinion of the Administrator would—

(i) Create an undue risk that it might deprive the sponsor of possession or control;

(ii) Interfere with the use of the airport for public airport purposes; or

(iii) Make it impossible for the sponsor to carry out the agreements and convenants in its grant application;

(2) Unless a shorter term is authorized by the Administrator, a lease of not less than 20 years granted to the sponsor by another public agency, or the United States, that has title as described in paragraph (1) of this definition, on terms that the Administrator considers satisfactory;

(3) In the case of an off-airport area, title or an agreement, easement, leasehold or other right or property interest that, in the Administrator's opinion, provides reasonable assurance that the sponsor will not be deprived of its right to use the land for the intended purpose during the period necessary to meet the requirements of the grant agreement; or

(4) In the case of a runway clear zone, an easement or a covenant running with the land, giving the airport operator or owner enough control to rid the clear zone of all airport hazards and prevent the creation of future airport hazards.

"Sponsor" means any public agency that, whether individually or jointly with one or more other public agencies, submits to the Administrator, in accordance with this part, an application for financial assistance.

"Stage development" means airport development accomplished under stage construction over not less than two years where the sponsor assures that

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any development not funded under the initial grant agreement will be completed with or without Federal funds.

"State" means a State of the United States or the District of Columbia.

"Terminal development" means airport development in the nonrevenue producing public-use areas which are associated with the terminal and which are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities and aircraft.

"Unified Planning Work Program" means a single document prepared by a local areawide planning agency that identifies all transportation and related planning activities that will be undertaken within the metropolitan area during a one-year or two-year period.

§ 152.5 Exemptions.

(a) Except as provided in paragraph (b) of this section, any interested person may petition the Regional Director concerned for a temporary or permanent exemption from any requirement of this part.

(b) The Regional Director concerned does not issue an exemption from any rule of this part if the grant of exemption would be inconsistent with a specific provision of, or the purpose of, the AADA, or any other applicable Federal law.

(c) Each petition filed under this section must—

(1) Unless otherwise authorized by the Regional Director concerned, be submitted not less than 60 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate to the FAA Regional Office or Airports District Office having jurisdiction over the area in which the airport is located;

(3) Contain the text or substance of the rule from which the exemption is sought;

(4) Explain the nature and extent of the relief sought; and

(5) Contain any information, views, or arguments in support of the exemption.

(d) The Regional Director concerned either grants or denies the exemption and notifies the petitioner of the decision. The FAA publishes a summary of the grant or denial of petition for exemption in the **Federal Register.**

The summary includes—

(1) The docket number of the petition;

(2) The name of the petitoner;

(3) A citation of each rule from which relief is requested;

(4) A brief description of the general nature of the relief requested; and

(5) The disposition of the petition.

(e) Official FAA records, including grants and denials of exemptions, relating to petitions for exemption are maintained in current docket form in the Office of the Regional Counsel for the region concerned.

(f) Any interested person may—

(1) Examine any docketed material at the Office of the Regional Counsel, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504); and

(2) Obtain a photostatic or similar copy of docketed material upon paying the same fee as that prescribed in 49 CFR Part 7.

§ 152.7 Certifications.

(a) Subject to such terms and conditions as the Administrator may prescribe, a sponsor or a planning agency may submit, with respect to any provision of this part implementing a statutory or administrative requirement imposed on the sponsor or planning agency under the AADA, a certification that the sponsor or planning agency has complied or will comply with the provision, instead of making the showing required.

(b) The Administrator exercises discretion in determining whether to accept a certification.

(c) Acceptance by the Administrator of a certification from a sponsor or planning agency may be rescinded by the Administrator at any time if, in the Administrator's opinion, it is necessary to do so.

(d) If the Administrator determines that it is necessary, the sponsor or planning agency, on request, shall show compliance with any requirement for which a certification was accepted.

§ 152.9 Forms.

Any form needed to comply with this part may be obtained at any FAA Regional Office or Airports District Office.

§ 152.11 Incorporation by reference.

(a) *Mandatory standards.* The advisory circulars listed in Appendix B to this part are incorporated into this part by reference. The Director, Office of Airport Standards, determines the scope and content of the technical standards to be included in each advisory circular in Appendix B, and may add to, or delete from, Appendix B any advisory circular or part thereof. Except as provided in paragraph (c) of this section, these guidelines are mandatory standards.

(b) *Modification of standards.* When necessary to meet local conditions, any technical standard set forth in Appendix B may be modified for individual projects, if it is determined that the modifications will provide an acceptable level of safety, economy, durability, and workmanship. The determination and modification may be made by the Director, Office of Airport Standards, or the appropriate Regional Director, in instances where the authority has not been specifically reserved by the Director, Office of Airport Standards.

(c) *State standards.* Standards established by a state for airport development at general aviation airports in the state may be the standards applicable to those airports when they have been approved by the Director, Office of Airport Standards, or the appropriate Regional Director, in instances where approval authority has not been specifically reserved by the Director, Office of Airport Standards.

(d) *Availability of advisory circulars.* The advisory circulars listed in Appendix B may be inspected and copied at any FAA Regional Office or Airports District Office. Copies of the circulars that are available free of charge may be obtained from any of those offices or from the FAA Distribution Unit, M–443.1, Washington, D.C. 20590. Copies of the circulars that are for sale may be bought from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Subpart B—Eligibility Requirements and Application Procedures

§ 152.101 Applicability.

This subpart contains requirements and application procedures applicable to airport development and planning projects.

§ 152.103 Sponsors: airport development.

(a) To be eligible to apply for a project for airport development with respect to a particular airport the following requirements must be met:

(1) Each sponsor must be a public agency authorized by law to submit the project application;

(2) If a sponsor is the holder of an airport operating certificate issued for the airport under Part 139 of this chapter, it must be in compliance with the requirements of Part 139.

(3) When any of the the following agreements is applicable to an airport which the sponsor owns or controls, the sponsor must have complied with the agreement, or show to the satisfaction of the Administrator that it will comply or, for reasons beyond its control, cannot comply with the agreement:

(i) Each grant agreement made with it under the Federal Airport Act (49 U.S.C. 1101 *et seq.*), or the AADA.

(ii) Each convenant in a conveyance to it under section 16 of the Federal Airport Act or section 23 of the AADA.

(iii) Each convenant in a conveyance to it of surplus airport property under section 13(a) of the Surplus Property Act (50 U.S.C. App 1622(g)) or under Regulation 16 of the War Assets Administration.

(4) The sponsor, in the case of a single sponsor, or one or more of the cosponsors must have, or be able to obtain—

(i) Funds to pay all estimated costs of the project that are not to be born by the United States; and

(ii) Satisfactory property interests in the lands to be developed or used as part of, or in connection with, the airport as it will be after the project is completed.

(b) Another public agency may act as agent of the public agency that is to own and operate the airport, for the purpose of channeling grant funds in accordance with state or local law, without becoming a sponsor.

§ 152.105 Sponsors and planning agencies: airport planning.

(a) To be eligible to apply for a project for airport planning—

(1) If the project is for airport master planning—

(i) Each sponsor must be a public agency and meet the requirements of § 152.103(a)(3); and

(ii) The sponsor, in the case of a single sponsor, or one or more cosponsors must be legally able to implement the planning, within the existing or proposed airport boundaries, that results from the project study.

(2) If the project is for airport system planning, each sponsor must be a planning agency.

(b) Another public agency or planning agency may act as agent of another public agency or planning agency, for the purpose of channeling grant funds in accordance with state or local law, without becoming a sponsor.

§ 152.107 Project eligibility: airport development.

(a) Except in the case of approved stage development, each project for airport development must provide for—

(1) Development of an airport or unit of an airport that is safe, useful, and usable; or,

(2) An additional facility that increases the safety, usefulness, and usability of an airport.

(b) Unless otherwise authorized by the Administrator, a project for airport development must involve more than $25,000 in United States funds.

(c) The development included in a project for airport development must—

(1) In the opinion of the Administrator, be "airport development" as defined in § 152.3;

(2) Be identified as airport development in the mandatory standards incorporated into this part by § 152.11; and

(3) Be described in an approved airport layout plan.

(d) The airport involved in a project for airport development must be included in the current NASP.

(e) In complying with paragraph (a) of this section, the sponsor must—

(1) Own, acquire, or agree to acquire control over, or a property interest in, runway clear zones that the Administrator considers adequate; and

(2) Provide for approach and runway lighting systems satisfactory to the Administrator.

§ 152.109 Project eligibility: airport planning.

(a) *Airport master planning.* A proposed project for airport master planning is not approved unless—

(1) The location of the existing or proposed airport is included in the current NASP;

(2) In the opinion of the Administrator, the proposed planning would promote the effective location of public airports and the development of an adequate NASP;

(3) The project is airport master planning as defined in § 152.3;

(4) If the project has been determined to have areawide significance by an appropriate areawide agency, it has been incorporated into a unified planning work program; and

(5) In the case of a proposed project for airport master planning in a large or medium air traffic hub, in the opinion of the Administrator—

(i) There is an appropriate system plan identifying the need for the airport;

(ii) The absence of a system plan is due to the failure of the responsible planning agency to proceed with its preparation; or

(iii) An existing system plan is not acceptable.

(b) *Airport system planning.* A proposed project for airport system planning is not approved unless—

(1) In the opinion of the Administrator, the project promotes the effective location of public airports;

(2) In the opinion of the Administrator, the project promotes the development of an adequate NASP;

(3) The project is airport system planning as defined in § 152.3; and

(4) When the project encompasses a metropolitan area that includes a large or medium hub airport, the project is incorporated in a unified planning work program.

§ 152.111 Application requirements: airport development.

(a) An eligible sponsor that desires to obtain Federal aid for eligible airport development must apply to the FAA in accordance with this section. The sponsor must apply on a form and in a manner prescribed by the Administrator, through the FAA Airports District Office or Airports Field Office having jurisdiction over the area where the sponsor is located or, where there is no such office, the Regional Office having that jurisdiction.

(b) *Preapplication for Federal assistance.* A preapplication for Federal assistance must be submitted unless—

(1) The Federal fund request is for $100,000 or less; or,

(2) The project does not include construction, land acquisition, or land improvement.

(c) Unless otherwise authorized by the Administrator, the preapplication required by paragraph (b) of this section must be accompanied by the following:

(1) A list of the items of airport development requested for programming, together with an itemized estimated cost of the work involved.

(2) A sketch or sketches of the airport layout indicating the location for each item of work proposed, using the same item numbers used in the list required by paragraph (c)(1) of this section.

(3) If the proposed project involves the displacement of persons or the acquisition of real property, the assurances required by §§ 25.57 and 25.59, as applicable, of the Regulations of the Office of the Secretary of Transportation (49 CFR 25.57 and 25.59), whether or not remimbursement is being requested for the costs of displacement or real property acquisition.

(4) Any comments or statements required by Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A–95, with a showing that they have been considered by the sponsor.

(5) If the proposed development involves the construction of eligible airport buildings or the acquisition of eligible fixed equipment to be contained in those buildings, a statement whether the proposed development will be in an area of the community that has been identified by the Department of Housing and Urban Development as an area of special flood hazard, as defined in the

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Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 *et seq.*).

(6) If the proposed development is in an area of special flood hazard, a statement whether the community is participating in the National Flood Insurance Program (42 U.S.C. 4011 *et seq.*).

(7) The sponsor's environmental assessment prepared in conformance with Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1C, Appendix 6; 45 FR 2244, January 10, 1980) if an assessment is required by the order.

(8) A showing that the sponsor has complied with the public hearing requirements in § 152.117.

(9) In the case of a proposed new airport serving any area that does not include a metropolitan area, a showing that each community in which the proposed airport is to be located has approved the proposed airport site through the body having general legislative jurisdiction over it.

(10) In the case of a proposed project at an air carrier airport, a statement that the sponsor, in making the decision to undertake the project, has consulted with air carriers using the airport.

(11) In the case of a proposed project at a general aviation airport, a statement that the sponsor, in making the decision to undertake the project, has consulted with fixed-base operators using the airport.

(12) In the case of terminal development, a certification that the airport has, or will have, all safety and security equipment required for certification of the airport under Part 139 and has provided, or will provide, for access to the passenger enplaning and deplaning area to passengers enplaning or deplaning from aircraft other than air carrier aircraft.

(d) *Allocation of funds.* If the proposed project for airport development is selected by the Administrator for inclusion in a program, a tentative allocation of funds is made for the project and the sponsor is notified of the allocation. The tentative allocation may be withdrawn if the sponsor does not submit a project application in accordance with paragraph (f) of this section.

(e) *Application for Federal assistance.* As soon as practicable after receiving notice of a tentative allocation or, if a preapplication is not required (as provided in paragraph (b) of this section), an application for Federal assistance must be submitted.

(f) Unless otherwise authorized by the Administrator, the application required by paragraph (e) of this section must be accompanied by the following:

(1) When a preapplication has not been previously submitted, the information required by paragraph (c) of this section.

(2) A property map of the airport showing—

(i) the property interests of each sponsor in all the lands to be developed or used as part of, or in connection with, the airport as it will be when the project is completed; and

(ii) all property interests acquired or to be acquired, for which U.S. aid is requested under the project.

(3) With respect to all lands to be developed or used as a part of, or in connection with, the airport (as it will be when the project is completed) in which a satisfactory property interest is not held by a sponsor, a covenant by the sponsor that it will obtain a satisfactory property interest before construction is begun or within a reasonable time if not needed for construction.

(4) If the proposed project involves the displacement of persons, the relocation plan required by § 25.55 of the Regulations of the Office of the Secretary of Transportation.

(5) When the project involves an airport location, a runway location, or a major runway extension, a written certification from the Governor of the state in which the project may be located (or a delegatee), providing reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

(6) A statement whether any building, installation, structure, location, or site of operations to be utilized in the performance of the grant or any contract made pursuant to the grant appears on the list of violating facilities distributed by the Environmental Protection Agency under the provisions of the Clean Air Act and Federal Water Pollution Control Act (40 CFR Part 15).

(7) The assurances on Civil Rights required by § 21.7 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21.7) and § 152.405.

(8) Plans and specifications for the proposed development in accordance with the design and construction standards listed in Appendix B to this part.

(9) The applicable assurances required by Appendix D to this part.

(10) If cosponsors are not willing to assume, jointly and severally, the obligations imposed on them by this part and the grant agreement, a statement satisfactory to the Administrator indicating—

(i) The responsibilities of each sponsor with respect to the accomplishment of the proposed project and the operation and maintenance of the airport;

(ii) The obligations each will assume to the United States; and

(iii) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

(g) *Additional documentation.* The Administrator may request additional documentation as needed to support specific items of development or to comply with other Federal and local requirements as they pertain to the requested development.

§ 152.113 Application requirements: airport planning.

(a) *Application for Federal assistance.* An eligible sponsor or planning agency that desires to obtain Federal aid for eligible airport master planning or airport system planning must submit an application for Federal assistance, on a form and in a manner prescribed by the Administrator, to the appropriate FAA Airports District Office or Airports Field Office having jurisdiction over the area where the sponsor or planning agency is located or, where there is no such office, the Regional Office having that jurisdiction.

(b) Unless otherwise authorized by the Administrator, the application required by paragraph (a) of this section must be accompanied by the following:

(1) Any comments or statements required by Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A–95.

(2) Budget (project costs) information subdivided into the following functions, as appropriate, and the basis for computation of these costs:

(i) Third party contracts.

(ii) Sponsor force account costs.

(iii) Administrative costs.

(3) A program narrative describing the proposed planning project including—

(i) The objective;

(ii) The results and benefits expected;

(iii) A Work Statement including—

(A) A detailed description of each work element;

(B) A list of each organization, consultant, and key individual who will work on the planning project, and the nature of the contribution of each; and

(C) A proposed schedule of work accomplishment; and

(iv) The geographic location of the airport or the boundaries of the planning area.

(4) If the sponsor proposes to accomplish the project with its own forces or those of another public or planning agency—

(i) An assurance that adequate, competent personnel are available to satisfactorily accomplish the proposed planning project, and

(ii) A description of the qualifications of the key personnel.

(5) If cosponsors are not willing to assume, jointly, and severally, the obligations imposed on them by this part and the grant agreement, a statement satisfactory to the Administrator indicating—

(i) The responsibilities of each sponsor with respect to the accomplishment of the proposed project;

(ii) The obligations each will assume to the United States; and

(iii) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

(6) The assurances on Civil Rights required by § 21.7 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21.7).

(7) The applicable assurances required by Appendix D of this part.

(c) *Additional documentation.* The Administrator may request additional documentation as needed to support a master plan or system plan, or to comply with other Federal and local requirements as they pertain to the requested plan.

§ 152.115 Grant agreement: offer, acceptance, and amendment.

(a) *Offer.* Upon approving a project for airport development, airport master planning, or airport system planning, the Administrator issues a written offer that sets forth the terms, limitations, and requirements of the proposed agreement.

(b) *Acceptance.* The acceptance of an offer or an amendment to a grant agreement must be in writing. The sponsor's or planning agency's attorney must certify that the acceptance complies with all applicable law, and constitutes a legal and binding obligation of the sponsor or planning agency.

(c) *Amendment: airport development grants.* The maximum obligation of the United States under a grant agreement for an airport development project may be increased by an amendment if—

(1) Except as otherwise provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the maximum obligation of the United States is not increased by more than 10 percent;

(2) Funds are available for the increase;

(3) The sponsor shows that the increase is justified; and

(4) The change does not prejudice the interest of the United States.

(d) *Reduction of U.S. Share: airport development grants.* When project work for which costs have been incurred is deleted from a grant agreement, the Administrator reduces the maximum obligation of the United States proportionately, based on the cost or value of the deleted work as shown on the project application.

(e) *Amendment: airport planning.* A grant agreement for airport planning may be changed if—

(1) The change does not increase the maximum obligation of the United States under the grant agreement; and

(2) The change does not prejudice the interest of the United States.

§ 152.117 Public hearings.

(a) Before submitting a preapplication for Federal assistance for an airport development project involving the location of an airport, an airport runway, or a runway extension, the sponsor must give notice of opportunity for a public hearing, in accordance with paragraph (b) of this section, for the purpose of—

(1) Considering the economic, social, and environmental effects of the location of the airport, the airport runway, or the runway extension; and

(2) Determining the consistency of the location with the goals and objectives of any urban planning that has been carried out by the community.

(b) The notice of opportunity for public hearing must—

(1) Include a concise statement of the proposed development;

(2) Be published in a newspaper of general circulation in the communities in or near which the project may be located;

(3) Provide a minimum of 30 days from the date of the notice for submission of requests for a hearing by persons having an interest in the economic, social, or environmental effects of the project; and

(4) State that a copy is available of the sponsor's environmental assessment, if one is required by Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1C, Appendix 6; 45 FR 2244, January 10, 1980), and will remain available, at the sponsor's place of business for examination by the public for a minimum of 30 days, beginning with the date of the notice, before any hearing held under the notice.

(c) A public hearing must be provided if requested. If a public hearing is to be held, the sponsor must publish a notice of that fact, in the same newspaper in which the notice of opportunity for a hearing was published.

(d) The notice required by paragraph (c) of this section must—

(1) Be published not less than 15 days before the date set for the hearing;

(2) Specify the date, time, and place of the hearings;

(3) Contain a concise description of the proposed project; and

(4) Indicate where and at what time more detailed information may be obtained.

(e) If a public hearing is held, the sponsor must—

(1) Provide the Administrator a summary of the issues raised, the alternatives considered, the conclusion reached, and the reasons for that conclusion; and

(2) If requested by the Administrator before the hearing, prepare a verbatim transcript of the hearing for submission to the Administrator.

(f) If a hearing is not held the sponsor must submit with its preapplication a certification that notice of opportunity for a hearing has been provided in accordance with this section and that no request for a public hearing has been received.

§ 152.119 Contract requirements and procurement standards.

To the extent applicable, all grant agreements, contracts, and subcontracts involving airport development projects or airport planning must be in accordance with the contract requirements in Appendixes A and C, as applicable, and the procurement standards in Attachment O of Office of Management and Budget Circular A–102 (42 FR 45828).

Subpart C—Funding of Approved Projects

§ 152.201 Applicability.

This subpart contains the requirements for funding projects for airport development, airport master planning, and airport system planning.

§ 152.203 Allowable project costs.

(a) *Airport development.* To be an allowable project cost, for the purposes of computing the amount of an airport development grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport development in conformity with—

(i) The approved plans and specifications for an approved project; and

(ii) The terms of the grant agreement for the project;

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(2) Be reasonable in amount (subject to partial disallowance to the extent the Administrator determines it is unreasonable);

(3) Have been incurred after the date the grant agreement was executed, except that project formulation costs may be allowed even though they were incurred before that date.

(4) Be supported by satisfactory evidence;

(5) Have not been included in an airport planning grant; and

(6) Be a cost determined in accordance with the cost principles for State and local governments in Federal Management Circular 74–4 (39 FR 27133; 43 FR 50977).

(b) *Airport Planning.* To be an allowable project cost, for the purposes of computing the amount of an airport planning grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport planning in comformity with an approved project and the terms of the grant agreement for the project;

(2) Be reasonable in amount;

(3) Have been incurred after the date the grant agreement was entered into, except for substantiated and reasonable costs incurred in designing the study effort;

(4) Be supported by satisfactory evidence; and

(5) Be figured in accordance with Federal Management Circular 74–4 (39 FR 27133; 43 FR 50977).

§ 152.205 United States share of project costs.

(a) *Airport development.* Except as provided in paragraphs (b) and (c) of this section, the following is the United States share of the allowable cost of an airport development project approved for the specified year:

(1) 90 percent in the case of grants made from funds for fiscal years 1976, 1977, and 1978, and grants from funds for fiscal year 1980 made after February 17, 1980, for—

(i) Each air carrier airport, other than a commuter service airport, which enplanes less than one quarter of one percent of the total annual passengers enplaned as determined for purposes of making the latest annual apportionment under section 15(a)(3) of the AADA;

(ii) Each commuter service airport; and

(iii) Each general aviation or reliever airport.

(2) 80 percent in the case of grants made from funds for fiscal year 1979 and grants from funds for fiscal year 1980 made before February 18, 1980, for the airports specified in paragraph (a)(1) of this section.

(3) 75 percent in the case of grants made from funds for fiscal years 1976 through 1980 for airports other than those specified in paragraph (a)(1) of this section.

(b) In a State in which the unappropriated and unreserved public lands and nontaxable Indian lands, both individual and tribal, are more than five percent of the total land in that State, the United States' share under paragraph (a) of this section—

(1) Except as provided in paragraph (b)(2) of this section, shall be increased by the smaller of—

(i) 25 percent; or

(ii) A percentage (rounded to the nearest one-tenth of a percent) equal to one-half of the percentage which the area of those lands is of the total land area of the state; and

(2) May not exceed the greater of—

(i) The percentage share determined under paragraph (a) of this section; or

(ii) The percentage share applying on June 30, 1975, as determined under paragraph (b)(1) of this section.

(c) In the case of terminal development, the United States share shall be 50 percent.

(d) *Airport planning.* The United States share of the allowable project costs of an airport planning project shall be—

(1) In the case of an airport master plan, that percent for which a project for airport development at that airport would be eligible;

(2) In the case of an airport system plan, 75 percent.

§ 152.207 Proceeds from disposition of land.

Unless otherwise authorized by the Administrator, when a release has been granted authorizing the sponsor to dispose of land acquired with assistance under Part 151 of this chapter or this part, or through conveyances under the Surplus Property Act, the proceeds realized from the disposal may not be used as matching funds for any airport development project or airport planning grant, but may be used for any other airport purpose.

§ 152.209 Grant payments: general.

(a) An application for a grant payment is made on a form and in a manner prescribed by the Administrator, and must be accompanied by any supporting information, that the FAA needs to determine the allowability of any costs for which payment is requested.

(b) *Methods of payment.* Grant payments to sponsors and planning agencies will be made by—

(1) Letter of credit;

(2) Advance by Treasury check; or

(3) Reimbursement by Treasury checks.

(c) *Letter of credit funding.* Letter of credit funding may not be used unless—

(1) There is or will be a continuing relationship between a sponsor or planning agency and the FAA for at least a 12-month period and the total amount of advances to be received within that period is $120,000 or more;

(2) The sponsor or planning agency has established or demonstrated to the FAA the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee; and

(3) The sponsor's or planning agency's financial management system meets the standards for fund control and accountability prescribed in Attachment G of Office of Management and Budget Circular A–102 (42 FR 45828).

(d) *Advance by Treasury check.* Advance of funds by Treasury check may be made subject to the following conditions—

(1) The sponsor or planning agency meets the requirements of paragraphs (c) (2) and (3) of this section;

(2) The timing and amount of cash advances are as close as administratively feasible to actual disbursements by the sponsor or planning agency; and

(3) Except as provided in paragraph (e) of this section, in the case of an airport development project, advance payments do not exceed the estimated project costs of the airport development expected to be accomplished within 30 days after the date of the sponsor's application for the advance payment.

(e) No advance payment for airport development projects may be made in an amount that would bring the aggregate amount of all partial payments to more than the lower of the following:

(i) 90 percent of the estimated United States' share of the total estimated cost of all airport development included in the project, but not including contingency items; or

(ii) 90 percent of the maximum obligation of the United States as stated in the grant agreement.

(f) *Reimbursement by Treasury check.* Reimbursement by Treasury check will be made if the sponsor or planning agency does not meet the requirements of paragraphs (c) (2) and (3) of this section.

(g) *Withholding of payments.* Payment to the sponsor or planning agency may be withheld at any time during the grant

period under the following circumstances:

(1) The sponsor or planning agency has failed to comply with the program objectives, grant award conditions, or Federal reporting requirements.

(2) The sponsor or planning agency is indebted to the United States and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the United States.

(3) The sponsor or planning agency has withheld payment to a contractor to assure satisfactory completion of work. Payment will be made to the sponsor or planning agency when it has made final payment to the contractor, including the amounts withheld.

(h) *Labor violations.* If a contractor or a subcontractor fails or refuses to comply with the labor provisions of a contract under a grant agreement for an airport development project, further grant payments to the sponsor are suspended until—

(1) The violations are corrected;

(2) The Administrator determines the allowability of the project costs to which the violations relate; or

(3) If the violations consist of underpayments to labor, the sponsor furnishes satisfactory assurances to the FAA that restitution has been or will be made to the affected employees.

(i) *Excess payments.* Upon determination of the allowability of all project costs of a project, if it is found that the total of grant payments to the sponsor or planning agency was more than the total United States share of the allowable costs of the project, the sponsor or planning agency shall promptly return the excess to FAA.

§ 152.211 Grant payments: land acquisition.

If an approved project for airport development includes land acquisition as an item for which payment is requested, the sponsor may apply to the FAA for payment of the United States share of the allowable project costs of the acquisition, after—

(a) The Administrator determines that the sponsor has acquired satisfactory title to the land; or

(b) In the case of a request for advance payment under § 152.209(d), the Administrator is assured that a satisfactory title will be acquired.

§ 152.213 Grant closeout requirements.

(a) *Program income.* Sponsors or planning agencies that are units of local government shall return all interest earned on advances of grant-in-aid funds to the Federal Government in accordance with a decision of the Comptroller General (42 Comp. Gen. 289). All other program income (gross income) earned by grant-supported activities during the grant period shall be retained by the sponsor and, if required by the grant agreement—

(1) Be added to funds committed to the project by the FAA and the sponsor, and used to further eligible program objectives; or

(2) Be deducted from the total project cost for the purpose of determining the net costs on which the Federal share of costs will be based.

(b) *Financial reports.* The sponsor or planning agency shall furnish, within 90 days after completion of all items in a grant, all reports, including financial performance reports, required as a condition of the grant.

(c) *Project completion.* When the project for airport development or planning is completed in accordance with the grant agreement, the sponsor or planning agency may apply for payment for all incurred costs, as follows:

(1) *Airport development.* When allowability of costs can be determined under § 152.203, payment may be made to the sponsor if—

(i) A final inspection of all work at the airport site has been made jointly by the appropriate FAA office and representatives of the sponsor and the contractor, unless that office agrees to a different procedure for final inspection; and

(ii) The sponsor has furnished final "as constructed" plans, unless otherwise agreed to by the Administrator.

(2) *Airport planning.* When the final planning report has been received and accepted by the FAA.

(d) *Property accounting reports: airport development projects.* The sponsor of an airport development project shall account for any property acquired with grant funds or received from the United States, in accordance with the provisions of Attachment N of Office of Management and Budget Circular A–102 (42 FR 45828).

(e) *Final determination of U.S. share.* Based upon an audit or other information considered sufficient in lieu of an audit, the Administrator determines the total amount of the allowable project costs and makes settlement for any adjustments to the Federal share of costs.

Subpart D—Accounting and Reporting Requirements

§ 152.301 Applicability.

This subpart contains accounting and reporting requirements applicable to—

(a) Each sponsor of a project for airport development;

(b) Each sponsor of a project for airport master planning; and

(c) Each planning agency conducting a project for airport system planning.

§ 152.303 Financial management system.

Each sponsor or planning agency shall establish and maintain a financial management system that meets the standards of Attachment G of Office of Management and Budget Circular A–102 (42 FR 45828).

§ 152.305 Accounting records.

(a) *Airport development.* Each sponsor of a project for airport development shall establish and maintain, for each individual project, an accounting record satisfactory to the Administrator which segregates cost information into the cost classifications set forth in Standard Form 271 (42 FR 45841).

(b) *Airport planning.* Each sponsor of a project for airport master planning and each planning agency conducting a project for airport system planning shall establish and maintain, for each planning project, an adequate accounting record that segregates and groups direct and indirect cost information in the following classifications:

(1) Third party contract costs.

(2) Force account costs.

(3) Administrative costs.

§ 152.307 Retention of records.

Each sponsor or planning agency shall retain, for a period of 3 years after the date of submission of the final expenditure report—

(a) Documentary evidence, such as invoices, cost estimates, and payrolls, supporting each item of project costs; and

(b) Evidence of all payments for items of project costs, including vouchers, cancelled checks or warrants, and receipts for cash payments.

§ 152.309 Availability of sponsor's records.

(a) The sponsor or planning agency shall allow any authorized representative of the Administrator, the Secretary of Transportation, or the Comptroller General of the United States access to any of its books, documents, papers, and records that are pertinent to grants received under this part for the purposes of accounting and audit.

(b) The sponsor or planning agency shall allow appropriate FAA or DOT representatives to make progress audits at any time during the project, upon reasonable notice to the sponsor or planning agency.

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(c) It audit findings have not been resolved, the applicable records shall be retained by the sponsor or planning agency until those findings have been resolved.

(d) Records for nonexpendable property that was acquired with Federal funds shall be retained for three years after final disposition of the property.

(e) Microfilm copies of original records may be substituted for original records with the approval of the FAA.

(f) If the FAA determines that certain records have long-term retention value, the FAA may require transfer of custody of those records to the FAA.

§ 152.311 Availability of contractor's records.

The sponsor or planning agency shall include in each contract of the cost reimbursable type a clause that allows any authorized representative of the Administrator, the Secretary of Transportation, or the Comptroller General of the United States access to the contractor's records pertinent to the contract for the purposes of accounting and audit.

§ 152.313 Property management standards.

(a) The sponsor shall establish and maintain property management standards in accordance with Attachment N of Office of Management and Budget Circular A-102 (42 FR 45828) for the utilization and disposition of property furnished by the Federal government, or acquired in whole or in part by the sponsor with Federal funds.

(b) A sponsor may use its own property management standards and procedures as long as the standards required by paragraph (a) of this section are included.

§ 152.315 Reporting on accrual basis.

(a) Except as provided in paragraph (b) of this section each sponsor or planning agency shall submit all financial reports on an accrual basis.

(b) If records are not maintained on an accrual basis by a sponsor or planning agency, reports may be based on an analysis of records or best estimates.

§ 152.317 Report of Federal cash transactions.

When funds are advanced to a sponsor or planning agency by Treasury check, the sponsor or planning agency shall submit the report form prescribed by the Administrator within 15 working days following the end of the quarter in which check was received.

§ 152.319 Monitoring and reporting of program performance.

(a) The sponsor or planning agency shall monitor performance under the project to ensure that—

(1) Time schedules are being met;

(2) Work units projected by time periods are being accomplished; and,

(3) Other performance goals are being achieved.

(b) Reviews shall be made for—

(1) Each item of development or work element included in the project; and

(2) All other work to be performed as a condition of the grant agreement.

(c) *Airport development.* Unless otherwise requested by the Administrator, the sponsor of a project for airport development shall submit a performance report, on an annual basis, that must include—

(1) A comparison of actual accomplishments to the goals established for the period, made, if applicable, on a quantitative basis related to cost data for computation of unit costs;

(2) The reasons for slippage in each case where an established goal was not met; and

(3) Other pertinent information including, when appropriate, an analysis and explanation of each cost overrun and high unit cost.

(d) *Airport planning.* The sponsor of a project for airport master planning or a planning agency conducting a project for airport system planning shall submit a performance report, on a quarterly basis, that must include:

(1) A comparison of actual accomplishments to the goals established for the period, made, if applicable, on a quantitative basis related to costs for computation of work element costs:

(2) Reasons for slippage in each case where an established goal was not met; and

(3) Other pertinent information including, when appropriate, an analysis and explanation of each cost overrun and high work element cost.

§ 152.321 Notice of delay or acceleration.

(a) The sponsor or planning agency shall promptly notify the FAA of each condition or event that may delay or accelerate accomplishment of the project.

(b) In the event that delay is anticipated, the notice required by paragraph (a) of this section must include—

(1) A statement of actions taken or contemplated; and

(2) Any federal assistance needed.

§ 152.323 Budget revision: airport development.

(a) If any performance review conducted by the sponsor discloses a need for change in the budget estimates, the sponsor shall submit a request for budget revision on a form prescribed by the Administrator.

(b) A request for prior approval for budget revision shall be made promptly by the sponsor whenever—

(1) The revision results from changes in the scope or objective of the project; or

(2) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(c) The sponsor shall promptly notify the FAA whenever the amount of the grant is expected to exceed the needs of the sponsor by more than $5,000, or 5 percent of the grant amount, whichever is greater.

§ 152.325 Financial status report: airport planning.

Each sponsor of a project for airport master planning and each planning agency conducting a project for airport system planning shall submit a financial status report on a form prescribed by the Administrator at the completion of the project.

Subpart F—Suspension and Termination of Grants

§ 152.501 Applicability.

This subpart contains procedures for suspending or terminating grants for airport development projects and airport planning.

§ 152.503 Suspension of grant.

(a) If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, suspend the grant and withhold further payments pending—

(1) Corrective action by the sponsor or planning agency; or

(2) A decision to terminate the grant.

(b) Except as provided in paragraph (c), after receipt of notice of suspension, the sponsor or planning agency may not incur additional obligations of grant funds during the suspension.

(c) All necessary and proper costs that the sponsor or planning agency could not reasonably avoid during the period of suspension will be allowed, if those costs are in accordance with Appendix C of this part.

§ 152.505 Termination for cause.

(a) If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, terminate the grant in whole, or in part.

(b) The notice of termination will contain—

(1) The reasons for the termination, and

(2) The effective date of termination.

(c) After receipt of the notice of termination, the sponsor or planning agency may not incur additional obligations of grant funds.

(d) Payments to be made to the sponsor or planning agency, or recoveries of payments by the FAA, under the grant shall be in accordance with the legal rights and liabilities of the parties.

§ 152.507 Termination for convenience.

(a) When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated in whole, or in part, upon mutual agreement of the FAA and the sponsor or planning agency.

(b) If an agreement to terminate is made, the sponsor or planning agency—

(1) May not incur new obligations for the terminated portion after the effective date; and

(2) Shall cancel as many obligations, relating to the terminated portion, as possible.

(c) The sponsor or planning agency is allowed full credit for the Federal share of the noncancellable obligations that were property incurred by the sponsor before the termination.

§ 152.509 Request for reconsideration.

If a grant is suspended or terminated under this subpart, the sponsor or planning agency may request the Administrator to reconsider the suspension or termination.

Appendix A—Contract and Labor Provisions

This appendix sets forth contract and labor provisions applicable to grants under the Airport and Airway Development Act of 1970.

This appendix does not apply to: (1) Any contract with the owner of airport hazards, buildings, pipelines, powerlines, or other structures or facilities, for installing, extending, changing, removing, or relocating that structure or facility, and (2) any written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, under which the public agency undertakes construction work for or as agent of the sponsor.

I. Contract Provisions Required by the Regulations of the Secretary of Labor

Each sponsor entering into a construction contract for an airport development project shall insert in the contract and any supplemental agreement:

(1) The provisions required by the Secretary of Labor, as set forth in paragraphs A through K;

(2) The provisions set forth in paragraph L, and

(3) Any other provisions necessary to ensure completion of the work in accordance with the grant agreement.

The provisions in paragraphs A through K and provision (5) in paragraph L need not be included in prime contracts of $2,000 or less.

A. Minimum wages. (1) All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act [29 CFR Part 3], the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subparagraph (4) below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period (29 CFR 5.5(a)(1)(i)).

(2) Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the [insert sponsor's name] to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination (29 CFR 5.5(a)(1)(ii)).

(3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalend of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination (29 CFR 5.5(a)(1)(iii)).

(4) If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however,* the Secretary of Labor has found, upon written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program (29 CFR 5.5(a)(1)(iv)).

B. Withholding: FAA from sponsor. Pursuant to the terms of the grant agreement between the United States and [insert sponsor's name], relating to Airport Development Aid Project No. ———, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), the FAA may withhold or cause to be withheld from the [insert sponsor's name] so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by this contract. In the event of failure to pay any laborer or mechanics, including any apprentice or trainee, employed or working on the site of the work all or part of the wages required by this contract, the FAA may, after written notice to the [insert sponsor's name], take such action as may be necessary to cause the suspension of any further payment or advance of funds until such violations have ceased (29 CFR 5.5(a)(2)).

C. Payrolls and basic records. (1) Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph A above), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits (29 CFR 5.5(a)(3)(i)).

(2) The contractor will submit weekly a copy of all payrolls to the [insert sponsor's name] for availability to the FAA. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that

the wage rates contained therein are not less

(2) *Trainees.* Except as provided in 29 CFR

such contractor and subcontractor shall be

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the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph A above), shall satisfy this requirement. The prime contractor shall be responsible for submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the FAA and the Department of Labor, and will permit such representatives to interview employees during working hours on the job. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the [insert sponsor's name] for availability to the FAA, that their employment is pursuant to an approved program and shall identify the program (29 CFR 5.5(a)(3)(ii)).

D. Apprentices and trainees. (1) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph (2) of this paragraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the [insert sponsor's name] or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination (29 CFR 5.5(a)(4)(i)).

(2) *Trainees.* Except as provided in 29 CFR 5.15 trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish the [insert sponsor's name] or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved (29 CFR 5.5(a)(4)(ii)).

(3) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this paragraph shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30 (29 CFR 5.5(a)(4)(iii)).

(4) *Application of 29 CFR 5.5(a)(4).* On contracts in excess of $2,000 the employment of all apprentices and trainees as defined in 29 CFR 5.2(c) shall be subject to the provisions of 29 CFR 5.5(a)(4) (see paragraph D(1), (2), and (3) above).

E. Compliance with Copeland Regulations. The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference (29 CFR 5.5(a)(5)).

F. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek unless such laborer or mechanic received compensation at a rate not less than 1½ times his basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, as the case may be (29 CFR 5.5(c)(1)).

G. Violations; liability for unpaid wages; liquidated damages. In the event of any violation of paragraph F of this provision, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of said paragraph F of this provision, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by said paragraph F of this provision (29 CFR 5.5(c)(2)).

H. Withholding for unpaid wages and liquidated damages. The FAA may withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph G of this provision (29 CFR 5.5(c)(3)).

I. Working conditions. No contractor may require any laborer or mechanic employed in the performance of any contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards (29 CFR Part 1926) and other occupational and health standards (29 CFR Part 1910) issued by the Department of Labor.

J. Subcontracts. The contractor will insert in each of his subcontracts the clauses contained in paragraphs A through K of this provision, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made (29 CFR 5.5(a)(6), 5.5(c)(4)).

K. Contract termination debarment. A breach of clause A, B, C, D, E, or J may be grounds for termination of the contract, and for debarment as provided in § 5.6 of the Regulations of the Secretary of Labor as codified in 29 CFR 5.6 (29 CFR 5.5(a)(7)).

L. Additionol contract provisions. (1) *Airport Development Aid Program Project.* The work in this contract is included in Airport Development Aid Program Project No. ——— which is being undertaken and accomplished by the [insert sponsor's name] in accordance with the terms and conditions of a grant agreement between the [insert sponsor's name] and the United States, under the Airport and Airway Development Act of 1970 (84 Stat. 219) and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), pursuant to which the United States has agreed to pay a certain percentage of the costs of the project that are determined to be allowable project costs under that Act. The United States is not a party to this contract and no reference in this contract to the FAA or any representative thereof, or to any rights granted to the FAA or any representative thereof, or the United States, by the contract, makes the United States a party to this contract.

(2) *Consent to assignment.* The contractor shall obtain the prior written consent of the [insert sponsor's name] to any proposed assignment of any interest in or part of this contract.

(3) *Convict labor.* No convict labor may be employed under this contract.

(4) *Veterans preference.* In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501) and have been honorably discharged from the service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.

(5) *Withholding: sponsor from contractor.* Whether or not payments or advances to the [insert sponsor's name] are withheld or suspended by the FAA, the [insert sponsor's name] may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract.

(6) *Nonpayment of wages.* If the contractor or subcontractor fails to pay any laborer or mechanic employed or working on the site of the work any of the wages required by this contract the [insert sponsor's name] may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds until the violations cease.

(7) *FAA inspection and review.* The contractor shall allow any authorized representative of the FAA to inspect and review any work or materials used in the performance of this contract.

(8) *Subcontracts.* The contractor shall insert in each of his subcontracts the provisions contained in paragraphs [insert designation of 6 paragraphs of contract corresponding to subparagraphs (1), (3), (4), (5), (6), and (7) of this paragraph], and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(9) *Contract termination.* A breach of paragraphs [insert designation of 3 paragraphs corresponding to subparagraphs (6), (7), and (8) of this paragraph] may be grounds for termination of the contract.

II. Adjustment in Liquidated Damages

A contractor or subcontractor who has become liable for liquidated damages under the provision set out in paragraph I.G of this appendix and who claims that the amount administratively determined as liquidated damages under section 104(a) of the Contract Work Hours and Safety Standards Act is incorrect or that he violated inadvertently the Contract Work Hours and Safety Standards Act, notwithstanding the exercise of due care, may—

(1) If the amount determined is more than $100, apply to the Administrator for a recommendation to the Secretary of Labor that an appropriate adjustment be made or that he be relieved of liability for the liquidated damages; or

(2) If the amount determined is $100 or less, apply to the Administrator for an appropriate adjustment in liquidated damages or for release from liability for the liquidated damages.

III. Corrected Wage Determinations

The Secretary of Labor corrects any wage determination included in any contract under this Appendix whenever the wage determination contains clerical errors. A correction may be made at the Administrator's request or on the initiative of the Secretary of Labor.

IV. Applicability of Interpretations of the Secretary of Labor

When applicable by their terms, the regulations of the Secretary of Labor (29 CFR 5.20–5.32) interpreting the "fringe benefit provisions" of the Davis-Bacon Act apply to the contract provisions in this Appendix.

V. Records

A sponsor who is required to include in a construction contract the labor provisions required by this appendix shall require the contractor to comply with those provisions and shall cooperate with the FAA in effecting that compliance. For this purpose the sponsor shall—

(1) Keep, and preserve, the record described in paragraph IC for a 3-year period beginning on the date the contract is completed, each affidavit and payroll copy furnished by the contractor, and make those affidavits and copies available to the FAA, upon request, during that period;

(2) Have each of those affidavits and payrolls examined by its resident engineer (or any other of its employees or agents who is qualified to make the necessary determinations), as soom as possible after receiving it, to the extent necessary to determine whether the contractor is complying with the labor provisions required by this appendix and particularly with respect to whether the contractor's employees are correctly classified;

(3) Have investigations made during the performance of work under the contract, to the extent necessary to determine whether the contractor is complying with those labor provisions, including in the investigations, interviews with employees and examinations of payroll information at the work site by the sponsor's resident engineer (or any other of its employees or agents who is qualified to make the necessary determinations);

(4) Keep the appropriate FAA office fully advised of all examinations and investigations made under this appendix, all determinations made on the basis of those examinations and investigations, and all efforts made to obtain compliance with the labor provisions of the contract; and

(5) Give priority to complaints of alleged violations, and treat as confidential any written or oral statements made by any employee in connection with a complaint, and not disclose an employee's statement made in connection with a complaint to a contractor without the employee's consent.

Appendix B—List of Advisory Circulars Incorporated by 152.11

(a) Circulars available free of charge.

Number and Subject

150/5100–12—Electronic Navigational Aids Approved for Funding Under the Airport Development Aid Program (ADAP).
150/5190–3A—Model Airport Hazard Zoning Ordinance.
150/5210–7A—Aircraft Fire and Rescue Communications.
150/5210–10—Airport Fire and Rescue Equipment Building Guide.
150/5300–2C—Airport Design Standards—Site Requirements for Terminal Navigational Facilities.
150/5300–4B—Utility Airports—Air Access to National Transportation.
150/5300–6—Airport Design Standards—General Aviation Airports—Basic and General Transport.
150/5300–8—Planning and Design Criteria for Metropolitan STOL Ports.
150/5320–6B—Airport Pavement Design and Evaluation.
150/5320–10—Environmental Enhancement at Airports—Industrial Waste Treatment.
150/5320–12—Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces.
150/5325–2C—Airport Design Standards—Airports Served by Air Carriers—Surface Gradient and Line-of-Sight.
150/5325–4—Runway Length Requirements for Airport Design.
150/5325–6A—Airport Design Standards—Effect and Treatment of Jet Blast.
150/5325–8—Compass Calibration Pad.
150/5335–1A—Airport Design Standards—Airports Served by Air Carriers—Taxiways.
150/5335–2—Airport Aprons.
150/5335–3—Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports.
150/5335–4—Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics.
150/5340–1D—Marking of Paved Areas on Airports.
150/5340–4C—Installation Details for Runway Centerline and Touchdown Zone Lighting Systems.
150/5340–5A—Segmented Circle Airport Marker System.
150/5340–8—Airport 51-foot Tubular Beacon Tower.
150/5340–14B—Economy Approach Lighting Aids.
150/5340–17A—Standby Power for Non-FAA Airport Lighting System.
150/5340–18—Taxiway Guidance Sign System.
150/5340–19—Taxiway Centerline Lighting System.
150/5340–20—Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines.
150/5340–21—Airport Miscellaneous Lighting Visual Aids.
AC/5340–22—Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights.
150/5340–23A—Supplemental Wind Cones.

150/5340-24—Runway and Taxiway Edge Lighting System.
150/5340-25—Visual Approach Slope Indicator (VASI) Systems.
150/5345-1E—Approved Airport Lighting Equipment.
150/5345-2—Specification for L-810 Obstruction Light.
150/5345-3C—Specification for L-821 Panels for Remote Control of Airport Lighting.
150/5345-4—Specification for L-829 Internally Lighted Airport Taxi Guidance Sign.
150/5345-5—Specification for L-847 Circuit Selector Switch, 5.000 Volt 20 Ampere.
150/5345-7C—Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits.
150/5345-10C—Specification for L-828 Constant Current Regulators.
150/5345-11—Specification for L-812 Static Indoor Type Constant Current Regulator Assembly: 4 KW and 7½ KW, With Brightness Control for Remote Operation.
150/5345-12A—Specification for L-801 Beacon.
150/5345-13—Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits.
150/5345-18—Specification for L-811 Static Indoor Type Constant Current Regulator Assembly, 4 KW; With Brightness Control and Runway Selection for Direct Operation.
150/5345-21—Specification for L-813 Static Indoor Type Constant Current Regulator Assembly: 4 KW and 7½ KW; for Remote Operation of Taxiway Lights.
150/5345-26A—Specification for L-823 Plug and Receptacle, Cable Connectors.
150/5345-27A—Specification for L-807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies.
150/5345-28C—Specification for L-851 Visual Approach Slope Indicators and Accessories.
150/5345-36—Specification for L-808 Lighted Wind Tee.
150/5345-39A—FAA Specification for L-853, Runway and Taxiway Retroreflective Markers.
150/5345-42A—FAA Specification L-857, Airport Light Bases, Transformer Housings, and Junction Boxes
150/5345-43B—FAA/DOD Specification L-856, High Intensity Obstruction Lighting Systems.
150/5345-44A—Specification for L-858 Retroreflective Taxiway Guidance Sign
150/5345-45—Lightweight Approach Light Structure.
150/5345-46—Specification for Semiflush Airport Lights.
150/5345-47—Isolation Transformers for Airport Lighting Systems.
150/5345-48—Specification for Runway and Taxiway Edge Lights.
150/5360-6—Airport Terminal Building Development with Federal Participation.
150/5360-7—Planning and Design Considerations for Airport Terminal Building Development.
150/5370-7—Airport Construction Controls to Prevent Air and Water Pollution.
150/5370-9—Slip-Form Paving—Portland Cement Concrete.
150/5370-11—Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements.

(b) *Circulars for sale.*

Number and Subject

150/5320-5B—Airport Drainage: $1.30.
150/5370-10—Standards for Specifying Construction of Airports: $7.25.
150/5390-1A—Heliport Design Guide: $1.50.

Appendix C—Procurement Procedures and Requirements

There is set forth below procurement procedures and requirements applicable to grants for airport development under the Airport and Airway Development Act of 1970.

1. *General.* Each contract under a project must meet the requirements of local law and the requirements and standards contained in this appendix. The sponsor shall establish procedures for procurement of supplies, equipment, construction, and services funded under the project which meet the requirements of Attachment O of Office of Management and Budget (OMB) Circular A-102 (44 FR 47874) and of this appendix. Subject to funding and time limitations, the FAA reviews the sponsor's procurement system to determine whether it may be certified in accordance with Attachment O of OMB Circular A-102.

2. *Out-of-state labor.* No procedure or requirement shall be imposed by any grantee which will operate to discriminate against the employment of labor from any other State, possession, or territory of the United States in the construction of a project.

3. *Bid guarantee.* All bids for construction or facility improvement in excess of $100,000 shall be accompanied by a bid guarantee consisting of a firm commitment such as a bid bond, certified check or other negotiable instrument equivalent to five percent of the bid price as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

4. *Construction work.* All construction work under a project must be performed under contract, except in a case where the Administrator determines that the project, or a part of it, can be more effectively and economically accomplished on a force account basis by the sponsor or by another public agency acting for or as agent of the sponsor.

5. *Change order.* Unless otherwise authorized by the Administrator, no sponsor may issue any change order under any of its construction contracts or enter into a supplemental agreement unless three copies of that order or agreement have been sent to, and approved by, the FAA.

6. *Beginning work.* No sponsor may allow a contractor or subcontractor to begin work under a project until—

a. The sponsor has furnished three conformed copies of the contract to the appropriate FAA office;

b. The sponsor has, if applicable, submitted a statement that comparable replacement housing, as defined in § 25.15 of the Regulations of the Office of the Secretary of Transportation, will be available within a reasonable period of time before displacement.

c. The appropriate FAA office has agreed to the issuance of a notice to proceed with the work to the contractor.

7. *Supervision and inspection.* No work will be commenced until the sponsor has provided for adequate supervision and inspection of construction and advised the appropriate FAA office.

8. *Engineering and planning services.* Unless otherwise authorized by the Administrator, each proposal for engineering and planning services shall be reviewed by FAA before the commencement of the Development of design plans and specifications.

9. *Advertising general.* Unless the Administrator approves another method for use on a particular airport development project, each contract and supplemental agreement for construction work on a project in the amount of more than $10,000 must be awarded on the basis of public advertising and open competitive bidding under the local law applicable to the letting of public contracts.

10. *Advertising: conditions and contents.* There may be no advertisement for bids on, or negotiation of, a construction contract or supplemental agreement until the Administrator has either approved the plans and specifications or accepted a certification in accordance with § 152.7 that they meet all applicable standards prescribed by this part. The advertisement shall inform the bidders of the equal employment opportunity requirements of Part 152. Unless the estimated contract price or construction cost in $2,000 or less, there may be no advertisement for bids or negotiations until the Administrator has given the sponsor a copy of a decision of the Secretary of Labor establishing the minimum wage rates for skilled and unskilled labor under the proposed contract. In each case, a copy of the wage determination decision, including fringe benefits, must be set forth in the initial invitation for bids or proposed contract, or incorporated therein by reference to a copy set forth in the advertised or negotiated specifications.

11. *Procedures for obtaining wage determinations.* (a) *Specific request for wage determination.* At least 60 days before the intended date of advertising or negotiating of this section, the sponsor shall send to the appropriate FAA office, completed Department of Labor Form DB-11 or DB-11(a), as appropriate, with only the classifications needed in the performance of the work checked. General entries (such as "entire schedule" or "all applicable classifications") may not be used. Additional necessary classifications not on the form may be typed in the blank spaces or on an attached separate list. A classification that can be fitted into classifications on the form, or a classification that is not generally recognized in the area or in the industry, may not be used. Except in areas where the wage patterns are clearly established, the Form must be accompanied by any available pertinent wage payment or locally prevailing fringe benefit information.

(b) *General wage determination.* Whenever the wage patterns in a particular area for a particular type of construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for that type of construction, the Secretary of Labor, upon the request of a Federal agency or in his discretion, may issue a general wage determination when, after consideration of the facts and circumstances involved, he finds that the applicable statutory standards and those of Part 1, 29 CFR, Subtitle A, will be met. This general wage determination is used for all projects located in the area and for the type of construction covered by the general wage determination.

12. *Advertising: wage determinations.* (a) Wage determinations are effective only for 120 days from the date of the determinations. If it appears that a determination may expire between bid opening and award, the sponsor shall so advise the FAA as soon as possible. If it wishes a new request for wage determination to be made and if any pertinent circumstances have changed, it shall submit the appropriate form of the Department of Labor and accompanying information. If it claims that the determination expires before award and after bid opening due to unavoidable circumstances, it shall submit proof of the facts which it claims support a finding to that effect.

(b) The Secretary of Labor may modify any wage determination before the award of the contract or contracts for which it was sought. If the proposed contract is awarded on the basis of public advertisement and open competitive bidding, any modification that the FAA receives less than 10 days before the opening of bids is not effective, unless the Administrator finds that there is reasonable time to notify bidders. A modification may not continue in effect beyond the effective period of the wage determination to which it relates. The Administrator sends any modification to the sponsor as soon as possible. If the modification is effective, it must be incorporated in the invitation for bids, by issuing an addendum to the specifications or otherwise.

13. *Awarding contracts.* (a) A sponsor may not award a construction contract without the written concurrence of the Administrator (through the appropriate FAA office) that the contract prices are reasonable. A sponsor that awards contracts on the basis of public advertising and open competitive bidding, shall, after the bids are opened, send a tabulation of the bids and its recommendations for award to the appropriate FAA office. The sponsor may not accept a bid by a contractor whose name appears on the current list of ineligible contractors published by the Comptroller General of the United States under § 5.6(b) of the regulations of the Secretary of Labor (29 CFR Part 5), or a bid by any firm, corporation, partnership, or association in which an ineligible contractor has a substantial interest.

(b) A sponsor's proposed contract must have pre-award review and approval by the FAA in any of the following circumstances:

(1) The sponsor's procurement system is not in compliance with one or more significant aspects of Attachment O of OMB Circular A-102 or with the standards of this appendix.

(2) The procurement is expected to exceed $10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

(3) The procurement is expected to exceed $10,000 and specifies a "brand name" product.

(c) The FAA may require pre-award review and approval of a sponsor's proposed contract under any of the following circumstances:

(1) The sponsor's procurement system has not yet been reviewed by the FAA for compliance with OMB Circular A-102 and this appendix.

(2) The sponsor has requested pre-award assistance.

(3) The proposal is for automatic data processing in accordance with paragraph C1 of Attachment B to Federal Management Circular 74-4 (39 FR 27133; 43 FR 50977).

(4) The proposal is one of a series with the same firm.

(5) The proposal is to be performed outside the recipient's established procurement system or office.

(6) The proposal is for construction and is to be awarded through the negotiation procurement method or without competition.

14. *Force account work.* Before undertaking any force account construction work, the sponsor (or any public agency acting as agent for the sponsor) must obtain the written consent of the Administrator through the appropriate FAA office. In requesting that consent, the sponsor must submit—

(a) Adequate plans and specifications showing the nature and extent of the construction work to be performed under that force account;

(b) A schedule of the proposed construction and of the construction equipment that will be available for the project;

(c) Assurance that adequate labor, material, equipment, engineering personnel, as well as supervisory and inspection personnel as required by this appendix, will be provided; and

(d) A detailed estimate of the cost of the work, broken down for each class of costs involved, such as labor, materials, rental of equipment, and other pertinent items of cost.

15. *Each sponsor shall—*

(a) Include the equal opportunity clause required by 41 CFR 60-1.4(b) in each nonexempt construction contract and subcontract.

(b) Prior to the award of each nonexempt contract, require each prime contractor and subcontractor to submit the certification required by 41 CFR 60-1.8(b);

(c) Include the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) required by 41 CFR 60-4.2 in all solicitations for offers and bids on each nonexempt construction contract and subcontract;

(d) Include the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) required by 41 CFR 60-4.3(a) in each nonexempt construction contract and subcontract.

16. *Exceptions.* (a) Paragraphs 1 through 5 and paragraphs 9 through 13 of this section do not apply to contracts with the owners of airport hazards, buildings, pipelines, powerlines, or other structures or facilities, for installing, extending, changing, removing, or relocating any of those structures or facilities. However, the sponsor must obtain the approval of the appropriate FAA office before entering into such a contract.

(b) Any oral or written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, under which that public agency undertakes construction work for or as agent of the sponsor, is not considered to be a construction contract for the purposes of this appendix.

Appendix D—Assurances

There is set forth below the assurances that the sponsor or planning agency must submit with its application in accordance with §§ 152.111 or 152.113, as applicable.

I. General Assurance

Each applicant for an airport development grant or an airport planning grant shall submit the following assurance:

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including Office of Management and Budget Circulars No. A-95 (41 FR 2052), A-102 (42 FR 45828), and FMC 74-4 (39 FR 27133; as amended by 43 FR 50977), as they relate to the application, acceptance, and use of Federal funds for this federally-assisted project.

II. Airport Development

A. *Assurances.* Each applicant for an airport development grant shall submit the following assurances:

1. *Authority of applicant.* It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. *E.O. 11296 and E.O. 11288.* It will comply with the provisions of: Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.

3. *Sufficiency of funds.* It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

4. *Construction.* It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final

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completion in accordance with the application and approved plans and specification; that it will submit to the appropriate Federal agency for prior approval changes that alter the costs of the project, use of space, or functional layout; that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

5. *Supervision, inspection, and reporting.* It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may require.

6. *Operation of facility.* It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.

7. *Access to records.* It will give the grantor agency and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant.

8. *Access for handicapped.* It will require the facility to be designed to comply with Part 27, Nondiscrimination on the Basis of Handicap in Federallly Assisted Programs and Activities Receiving or Benefiting from Federal Financial Assistance, of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 27). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

9. *Commencement and completion.* It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and that the project will be prosecuted to completion with reasonable diligence.

10. *Disposition of interest.* It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.

11. *Civil Rights.* It will comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

12. *Private gain.* It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

13. *Relocation assistance.* It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.

14. *OMB Circular A–102.* It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with Office of Management and Budget Circular No. A–102.

15. *Hatch Act.* It will comply with the provisions of the Hatch Act which limit the political activity of employees.

16. *Federal Fair Labor Standards Act.* It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and eduational institution employees of State and local governments.

17. *Effective date and duration.* These covenants shall become effective upon acceptance by the sponsor of an offer of Federal aid for the Project or any portion thereof, made by the FAA and shall constitute a part of the Grant Agreement thus formed. These covenants shall remain in full force and effect throughout the useful life of the facilities developed under this Project, but in any event not to exceed twenty (20) years from the date of said acceptance of an offer of Federal aid for the Project. However, these limitations on the duration of the covenants do not apply to the covenant against exclusive rights and real property acquired with Federal funds. Any breach of these covenants on the part of the sponsor may result in the suspension or termination of, or refusal to grant Federal assistance under, FAA administered programs, or such other action which may be necessary to enforce the rights of the United States under this agreement.

18. *Conditions and limitations on airport use.* The Sponsor will operate the Airport as such for the use and benefit of the public. In furtherance of this covenant (but without limiting its general applicability and effect), the Sponsor specifically agrees that it will keep the Airport open to all types, kinds, and classes of aeronautical use on fair and reasonable terms without discrimination between such types, kinds, and classes. Provided, that the sponsor may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the Airport; And Provided Further, That the Sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public.

19. *Exclusive right.* The Sponsor—

a. Will not grant or permit any exclusive right forbidden by Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) at the Airport, or at any other airport now owned or controlled by it;

b. Agrees that, in furtherance of the policy of the FAA under this covenant, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the Airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity.

c. Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

d. Agrees that it will terminate any other exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under the Airport and Airway Development Act.

20. *Public use and benefit.* The Sponsor agrees that it will operate the Airport for the use and benefit of the public, on fair and reasonable terms, and without unjust discrimination. In furtherance of the covenant (but without limiting its general applicability and effect), the Sponsor specifically covenants and agrees:

a. That in its operation and the operation of all facilities on the Airport, neither it nor any person or organization occupying space or facilities thereon will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of any of the facilities provided for the public on the Airport.

b. That in any agreement, contract, lease or other arrangement under which a right or privilege at the Airport is granted to any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the Airport, the Sponsor will insert and enforce provisions requiring the contractor—

(1) to furnish said service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and

(2) to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; Provided, That the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. That it will not exercise or grant any right or privilege which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own aircraft

with its own employees (including, but not limited to maintenance and repair) that it may choose to perform.

d. In the event the Sponsor itself exercises any of the rights and privileges referred to in subsection b, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the Sponsor under the provisions of such subsection b.

21. *Nonaviation activities.* Nothing contained herein shall be construed to prohibit the granting or exercise of an exclusive right for the furnishing of nonaviation products and supplies or any service of a nonaeronautical nature or to obligate the Sponsor to furnish any particular nonaeronautical service at the Airport.

22. *Operation and maintenance of the airport.* The Sponsor will operate and maintain in a safe and serviceable condition the Airport and all facilities thereon and connected therewith which are necessary to serve the aeronautical users of the Airport other than facilities owned or controlled by the United States, and will not permit any activity thereon which would interfere with its use for airport purposes; Provided, That nothing contained herein shall be construed to require that the Airport be operated for aeronautical uses during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance; And Provided Further, That nothing herein shall be construed as requiring the maintenance, repair, restoration or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Sponsor. In furtherance of this covenant the sponsor will have in effect at all times arrangements for—

a. Operating the airport's aeronautical facilities whenever required;

b. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

c. Promptly notifying airmen of any condition affecting aeronautical use of the Airport.

23. *Airport Hazards.* Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, prevent the construction, erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways of the Airport, which would constitute an airport hazard.

In addition, the Sponsor will not erect or permit the erection of any permanent structure or facility which would interfere materially with the use, operation, or future development of the Airport, in any portion of a runway approach area in which the Sponsor has acquired, or hereafter acquires, property interests permitting it to so control the use made of the surface of the land.

24. *Use of adjacent land.* Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, take action to restrict the use of land adjacent to or in the immediate vicinity of the Airport to activities and purposes compatible with normal airport operations including landing and takeoff of aircraft.

25. *Airport layout plan.* The Sponsor will keep up to date at all times an airport layout plan of the Airport showing (1) boundaries of the Airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Sponsor for airport purposes, and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plan and each amendment, revision, or modification thereof, shall be subject to the approval of the FAA, which approval shall be evidenced by the signature of a duly authorized representative of the FAA on the face of the airport layout plan. The Sponsor will not make or permit any changes or alterations in the airport or in any of its facilities other than in conformity with the airport layout plan as so approved by the FAA, if such changes or alterations might adversely affect the safety, utility, or efficiency of the Airport.

26. *Federal use of facilities.* All facilities of the Airport developed with Federal aid and all those usable for the landing and taking off of aircraft, will be available to the United States at all times, without charge, for use by government aircraft in common with other aircraft, except that if the use by government aircraft is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining facilities so used, may be charged. Unless otherwise determined by the FAA, or otherwise agreed to by the Sponsor and the using agency, substantial use of an airport by government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the FAA, would unduly interfere with use of the landing area by other authorized aircraft, or during any calendar month that—

a. Five (5) or more government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement and each takeoff as a movement) of government aircraft is 300 or more, or the gross accumulative weight of government aircraft using the Airport (the total movements of government aircraft multiplied by gross certified weights of such aircraft) is in excess of five million pounds.

27. *Areas for FAA Use.* Whenever so requested by the FAA, the Sponsor will furnish without cost to the Federal government, for construction, operation, and maintenance of facilities for air traffic control activities, or weather reporting activities and communication activities related to air traffic control, such areas of land or water, or estate therein, or rights in buildings of the Sponsor as the FAA may consider necessary or desirable for construction at Federal expense of space or facilities for such purposes. The approximate amounts of areas and the nature of the property interests and/or rights so required will be set forth in the Grant Agreement relating to the project. Such areas or any portion thereof will be made available as provided herein within 4 months after receipt of written requests from the FAA.

28. *Fee and rental structure.* The airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the Airport as self-sustaining as possible under the circumstances existing at the Airport, taking into account such factors as the volume of traffic and economy of collection.

29. *Reports to FAA.* The Sponsor will furnish the FAA with such annual or special airport financial and operational reports as may be reasonably requested. Such reports may be submitted on forms furnished by the FAA, or may be submitted in such manner as the Sponsor elects so long as the essential data are furnished. The Airport and all airport records and documents affecting the Airport, including deeds, leases, operation and use agreements, regulations, and other instruments, will be made available of inspection and audit by the Secretary and the Comptroller General of the United States, or their duly authorized representatives, upon reasonable request. The Sponsor will furnish to the FAA or to the General Accounting Office, upon request, a true copy of any such document.

30. *System of accounting.* All project accounts and records will be kept in accordance with a standard system of accounting if so prescribed by the Secretary.

31. *Interfering right.* If at any time it is determined by the FAA that there is any outstanding right or claim of right in or to the Airport property, other than those set forth in Part II of the Application for Federal Assistance, the existence of which creates an undue risk of interference with the operation of the Airport or the performance of the covenants of this Part, the sponsor will acquire, extinguish, or modify such right or claim of right in a manner acceptable to the FAA.

32. *Performance obligation.* The Sponsor will not enter into any transaction which would operate to deprive it of any of the rights and powers necessary to perform any or all of the covenants made herein, unless by such transaction the obligation to perform all such covenants is assumed by another public agency found by the FAA to be eligible under the Act and Regulations to assume such obligations and having the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance with the Act, the Regulations, and these covenants.

33. *Meaning of terms.* Unless the contex otherwise requires, all terms used in these covenants which are defined in the Act and

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the Regulations shall have the meanings assigned to them therein.

B. *Airport Layout Plan Approval.* A sponsor seeking FAA approval of a new or revised airport layout plan shall submit with the plan an environmental assessment prepared in conformance with Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1C, Appendix 6; 45 FR 2244, January 10, 1980) if an assessment is required by the order.

III. Airport Planning

Each applicant for an airport planning grant shall submit the assurances numbered 1 (except for the phrase "and to finance and construct the proposed facilities"), 7, 9, 11 (except for the last sentence), and 12, 14, 15, 30, and 33 of Part II of this appendix.

(Airport and Airway Development Act of 1970, as amended (49 U.S.C. § 1701 *et seq.*); Sec. 1.47 (f) (1) Regulations of the Office of the Secretary of Transportation (49 CFR 1.47 (f) (1)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact:".

Issued in Washington, D.C., on May 16, 1980

Langhorne Bond,

Administrator.

FR Doc. 80-15672 Filed 5-21-80; 8:45]

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Federal Register

Thursday
May 22, 1980

Part IX

Environmental Protection Agency

Motor Vehicles; Emission Control System Performance Warranty Short Tests and Warranty Regulations; Final Rules

V 4 5 M Y 2 2 8 0 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[FRL 1488-3]

Motor Vehicles; Emission Control System Performance Warranty Short Tests

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action establishes emission performance warranty "short tests" as provided in Section 207(b) of the Clean Air Act, 42 U.S.C. 7541(b). These short tests and corresponding warranty regulations (proposed April 20, 1979; 44 FR 23784) will be used in conjunction with state and local government vehicle inspection/maintenance (I/M) programs. Under certain circumstances, a vehicle owner will be entitled to repairs at the manufacturer's expense if his vehicle exceeds short test standards. This action promulgates three test procedures; idle, two speed idle and a two mode loaded tests for 1981 and later model year light duty vehicles and light duty trucks. For each test, uniform standards apply to all vehicles: 1.0% CO and 200 ppm HC (hexane) on the two speed idle test, 1.2% CO and 220 ppm HC (hexane) for the idle and two mode loaded procedures. The regulations give the manufacturers the option of requesting alternate standards and procedures if the general provisions are not appropriate because of special designs, unique technology and other similar factors.

EFFECTIVE DATE: These regulations take effect on June 23, 1980.

FOR FURTHER INFORMATION CONTACT: Richard W. Nash, Inspection/Maintenance Staff, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4412; FTS 374-8412.

SUPPLEMENTARY INFORMATION: On May 25, 1977 a notice of proposed rulemaking to establish emission performance warranty short tests was published, 42 F.R. 26742. In that notice five specific short tests were proposed with various alternate standard setting mechanisms. Under the proposal, standards would have been developed for groups of vehicles, each group having common characteristics. To establish standards, a number of production vehicles would have been tested on the various short tests.

In light of the comments received, and further consideration of the issues by the Agency, the proposed approach to the short test and associated standards has been simplified. The number of short tests under consideration was reduced to three (idle, two speed idle, two mode loaded). Instead of developing short test standards for many different groups of vehicles, a single uniform set of standards appeared to be the best approach. (Standards were developed by analyzing data collected in EPA's Portland Oregon I/M evaluation project.) The comment period was reopened for 30 days by **Federal Register** notice on January 31, 1980, 45 FR 6960. All comments have been reviewed and considered in formulating the final regulations.

These short tests will also be available in non-Inspection/Maintenance areas. Under the dealer certification provisions of the proposed warranty regulations (40 CFR 85.108, 44 FR 23797), the manufacturer would be responsible for repairing any vehicle which fails a short test within three months of its initial sale. This requirement is not dependent upon an I/M program with its "penalties or sanctions"; it may be invoked upon failure of the short test.

Statutory Requirements

Vehicle emission inspections are an effective tool in combating urban air pollution. Several jurisdictions have I/M programs operating, and more will take effect over the next few years. While in many instances failure of an emission inspection is caused by improper maintenance, some failures can be attributed to the vehicle manufacturer. An effective emission performance warranty will remove the financial burden of repairs attributable to the manufacturer (for the warranty period). In addition, this potential remedy should make I/M programs more attractive to states and the general public, thereby encouraging their adoption for areas in which they are needed.

This action is taken under authority of Section 207(b) of the Clean Air Act, 42 U.S.C. 7541(b), which provides in pertinent part:

> If the Administrator determines that:
> (i) There are available testing methods and procedures to ascertain whether when in actual use * * * each vehicle * * * complies with (applicable) emission standards * * *
> (ii) Such methods and procedures are in accordance with good engineering practices, and
> (iii) Such methods and procedures are reasonably capable of being correlated with (certification tests), then * * *
> he shall establish such methods and procedures by regulation * * *.

The first criterion requires that testing methods and procedures be available. The second and third criteria establish the parameters that the testing methods and procedures must meet: the tests must be consistent with good engineering practices (section 207(b)(ii)) and must be reasonably capable of being correlated with the tests used in certification (section 207(b)(iii)).

Those three requirements have been satisfied; accordingly, this action establishes the short tests and associated standards. The final emission performance warranty regulations, needed to complete this scheme, will be promulgated in the very near future.

A short test is "available" if equipment exists and can be readily obtained and also if the procedure can be reasonably expected to serve its function: identifying non-complying vehicles. The adopted tests clearly meet this requirement. These, or similar procedures, are currently in use in a number of jurisdictions as inspection tools. Many private repair facilities also have the capability of performing either of the idle tests; and, in fact, it has been common practice for a vehicle manufacturer to specify an idle CO concentration for tune-up purposes or for major carburetor repairs.

The second criterion, which requires that the procedures be in accordance with good engineering practices, is satisfied if the tests can be conducted within the reasonable capability of personnel and equipment. Again, these tests meet the requirements. Test results on almost 6000 vehicles have been analyzed. These results indicated that the short test can accurately identify high emitting vehicles. These tests were performed in a number of locations and, in some cases, included actual I/M lane results. (As suggested in comments to the original NPRM, "real world" experience was deemed to be necessary to validate any short tests and standards.) Over 2200 vehicles were tested at an actual I/M lane with typical equipment and personnel. Short test results obtained were compared with FTP emissions determined by EPA's contractor. Such a long term and extensive evaluation of an operating program is an excellent way to determine if the procedures comply with good engineering practice. Further, a comparison of results obtained on the short tests (using "garage" equipment) with certification test results (using "laboratory" equipment) verified that these procedures are within the capabilities of field equipment.

By far the most difficult aspect of short test development is the

"correlation" requirement. A bit of background may prove useful in explaining this item. Before a new passenger car (light duty vehicle) or light truck may be sold in the United States, it must be tested for emissions and must receive a certificate of conformity from the Environmental Protection Agency. These emission tests are performed on a limited number of prototype vehicles; the test is complex and covers a great many operating modes. When Congress passed Section 207(b), it required that any short test be "reasonably capable of being correlated" with the certification test, known as the Federal Test Procedure (FTP). A possible motive for this requirement was to insure that the manufacturer only be required to certify his vehicle to the existing Federal Test Procedure and not have to face a new set of standards imposed by any short tests that the Agency would adopt. Also, without the correlation requirement, the vehicle manufacturer might be required to make warranty repairs on properly functioning cars and trucks. Trying to match the complicated, lengthy test with a procedure to be used for "production line" or "in-use" inspections, however, is most difficult.

In the NPRM several methods of correlation were proposed. These methods employed standard statistical tools (linear regressions, contingency tables), at that time believed to be feasible methods for determining correlation. In an effort to promote the maximum possible correlation, vehicles were to be classified into groups with many common elements (engines, weight, etc.). Extensive test programs would be run on each group to determine its correlation characteristics and, subsequently, to set short test standards.

Comments received in response to the NPRM pointed out the limitations of the linear regression and contingency table techniques as well as the difficulty in achieving perfect correlation due to the nature of the two tests. The FTP is a "cold start" test while the I/M short tests all begin with a warm, running engine. (During the FTP, a vehicle is kept in a controlled temperature environment. This insures that the cold start is as repeatable as possible. For short tests, vehicles are tested at operating temperature since this also lends itself to repeatable testing.) Since vehicles have high emissions during cold starts, it is impossible for a practical I/M test to detect such emissions. Concerns were also raised about the large amount of testing necessary to establish short test standards for each vehicle group, and about the type of vehicles which would be tested. After careful consideration of the comments and analysis of data from an I/M evaluation program in Portland, Oregon, a simplified approach is being adopted. A uniform set of short test standards will apply to all vehicles, with standards set to detect a substantial portion of emissions in excess of the certification standards.

The agency has chosen a correlation methodology which holds false short test failures, i.e. errors of commission (Ec's), to the same approximate level as if the full FTP had been used as the short test. An Ec occurs if a vehicle which would pass the FTP is failed by the short test. EPA believes that this approach satisfies the requirement of "reasonable correlation"; further, the Agency emphatically rejects the contention that "perfect correlation" (i.e. prediction of numerical FTP results) is required. "Perfect correlation" would mean that the short test would have to accurately predict both FTP passes and failures. Such a requirement certainly cannot be met at this time, if it can be met at all. The FTP is an extremely complicated test which begins with a cold engine; a large portion of the total HC and CO emissions comes from the cold start, which requires at least a 12 hour shut-down. Since no practical short test can ever begin with a cold start, it appears that perfect correlation can never be obtained. EPA believes that Congress could not have intended such an impossible construction, which would in effect prevent the creation of a program which Congress wished to see implemented. None of the commenters who raised objections to EPA's correlation methodology proposed any alternatives that satisfied their objections.

A statute should ordinarily be read to effectuate its purposes rather than to frustrate them. In construing Section 207(b), one should not lightly infer that Congress intended to adopt a requirement that simply cannot be met. Indeed, the fact that Congress chose the language *"reasonably* capable of being correlated" (emphasis added) indicates its intent that the short test be a reasonable predictor of what could be expected if a vehicle were subjected to the certification (FTP) test. Reading Section 207(b) in its entirety suggests that Congress intended only that the short test identify non-conforming vehicles with reasonable accuracy.

In any event, the approach EPA has chosen in setting short test standards is quite conservative; in order to avoid an excessive Ec rate, the standards have been set high. However, these standards will identify a substantial portion of any emissions above FTP standards. For current technology cars, these short tests and standards will identify approximately 75 percent of the excess emissions. The end result is an emission performance warranty program which will identify most high emitting vehicles and will have about the same Ec rate as the FTP. Accordingly, I conclude that the short test methods and procedures adopted are reasonably correlated with the FTP and are totally in keeping with the language and spirit of Section 207(b).

No short test for NOx emissions is being adopted at this time. NO_x emissions are more difficult to measure than HC and CO emissions and require a more demanding test procedure. Satisfying the correlation requirement for NO_x is an even more difficult task. Since the law does not specifically require that all three pollutants be covered by the short test, the Agency believes that omitting a test for NO_x at this time is justified. Further, to delay the emission performance warranty while a NO_x test is being developed would frustrate the Congressional intent to have a Section 207(b) warranty program established. Efforts will continue to be made to develop NO_x short tests, and a notice of proposed rulemaking will be issued if an adequate NO_x short test is developed. Lack of an NO_x short test does not detrimentally impact vehicle manufacturers since any additional requirements would only increase their exposure to warranty claims. No commenter objecting to the lack of such a test was able to suggest a simple, inexpensive test for NO_x.

Short Test/Standard Discussion

The idle test is adopted as an approved short test because it meets the statutory criteria and also because of its widespread use and simplicity. It is currently used by several jurisdictions in their inspection programs. A number of manufacturers make the equipment required to perform this test. This equipment is priced such that many garages, service stations, and dealerships are now using it in their normal maintenance work. It is also significant that the idle mode represents a substantial portion of the Federal Test Procedure, about 19 percent of the total test time. For that reason, even if correcting a vehicle's idle emissions did nothing to the non-idle modes it would still have the benefit of significant air quality improvements. However, the idle test does more. It accurately predicts excessive emissions from many operating modes by indicating the presence of defective parts and maladjustments. A vehicle with high idle

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emissions will generally not pass the Federal Test Procedure.

A variation on the idle test is also approved as a short test. It is the two-speed idle, a sequence of idle-2500 rpm-idle. Results from the idle or 2500 rpm modes (or both) can be used. Also, the lowest HC and the lowest CO readings from the two low speed idle modes are combined to yield a composite score. This latter procedure gives the vehicle owner (and the manufacturer) the benefit of any test or vehicle variability.

The third approved short test is a two mode loaded procedure. It is a simplification of the proposed Federal Three Mode (42 FR 26754). The first test condition is a cruise at 30 mph under a dynamometer load of 9.0 hp. This test condition applies to all vehicles, and is followed by an idle in neutral. The single loaded test condition was adopted to promote efficiency and eliminate errors at the I/M lanes. It imposes a modest load on the vehicle's engine and should detect some malfunctions which are not apparent at idle.

The transient tests originally proposed (Federal Short Cycle and New Jersey/New York Composite) have not been adopted at this time due to the expense involved in purchasing and operating the necessary equipment.

A fixed set of standards applicable to all light duty vehicles and light duty trucks is being adopted in this regulation. This represents a change from the proposal. In the NPRM, standards were to be set for numerous groups of vehicles with similar technologies by testing large samples of then current model year vehicles. Since numerous problems with this approach were raised in comments on the NPRM, this approach has been modified. Rather than obtaining the maximum possible correlation (and correspondingly the most stringent standards) for each group of vehicles, a uniform standard is being adopted for a broad group of vehicles, i.e. all cars and light trucks. This approach is significantly less expensive since large numbers of cars from each group will not have to be tested to establish standards. Also, short test standards will be in place at the start of the model year and will not have to be delayed while the testing of assembly line, certification or in-use vehicles is completed. Finally, the actual standards will be known well in advance of the time they would have been under the previous approach. This will benefit the manufacturer's warranty repair stations, I/M officials and the general public in that the administrative burden to determine if short test standards have been issued for a particular vehicle will be eliminated. Under the NPRM, testing would have taken place at the start of the model year. Test results would be analyzed and short test standards for specific vehicle types would have been established. In order to ensure the greatest extent of warranty coverage standards would have been published as they were developed. Ascertaining if a vehicle was covered and what the standards were would be cumbersome. Of necessity, this uniform standard is less stringent. However, even with less stringent standards, large air quality impacts are possible because vehicles failing these short tests are the ones with the highest FTP emission levels. Also, the uniform standards will eliminate confusion and the burden on the I/M lane of determining what standard applies to a given vehicle with a particular engine.

Optional short tests and standards will be made available if those promulgated today are not appropriate for a particular vehicle type. An example would be a vehicle which meets certification standards while exceeding short test limits.

The short test standards were derived by examining current model, 1975 through 1977, light duty vehicles tested in EPA's Portland Oregon I/M evaluation program. (This program was designed to evaluate an actual I/M program for effectiveness and appropriateness of short test standards.) These vehicles have significantly higher emission standards than their 1981 and later counterparts. Since lower emission standards are applicable in 1981, future model year passenger cars should also have lower short test emissions. Thus, the standards derived from tests on 1975–1977 model year light duty vehicles are conservative; failure rates and errors of commission should be lower for light duty vehicles required to meet the 1981 standards, since those vehicles are required to meet more stringent requirements than the 1975 to 1977 models.

Since 1981 and later light truck emission standards were designed to be of equivalent stringency to 1977 passenger car emission standards, the Agency believes that it is appropriate to develop short test standards for light duty trucks from the Portland data. Cars and light trucks have used similar engines and emission control technologies, and when malfunctioning, truck engines will respond to short tests about the same as passenger cars. The higher numerical values for light duty trucks reflect the slightly higher weight and larger frontal areas.

Applicable Federal emission standards are listed in the table below:

Federal Emission Standards—g/mile

	Passenger cars		Light trucks—1981 and later [1]
	1975–79	1981 and later	
HC	1.5	0.41	1.7
CO	15.0	[2] 3.4	18.0

[1] More stringent standards expected in 1983
[2] Possible waiver to 7.0 g/mile for 1981 and 1982 under Section 202 of the Clean Air Act.

As indicated above, the short test standards were developed from emission test results on 1975 through 1977 in-use light duty vehicles tested in EPA's Portland, Oregon project. Approximately 2200 vehicles were involved. The vehicles were borrowed from their owners and represent a cross-section of available emission control systems. Each vehicle was tested under the Federal Test Procedure and the proposed short tests. By means of a computer, a number of simulated short test standards were applied to the fleet. The vehicles which "failed" were checked to determine their FTP emissions. The percentage of excess emissions identified, as well as the failure rate and number of Ec's were noted. As a result of this analysis, EPA has determined that the short test standards shown in Table 1 are appropriate:

Table 1.—*Short Test Warranty Standards*

Test and mode	HC [1] (ppm)	CO (percent)
Idle: Idle	220	1.2
2-speed idle:		
2500 rpm	200	1.0
Idle	200	1.0
Two mode loaded:		
30 mph loaded	220	1.2
Idle	220	1.2

[1] Ppm as hexane.
[2] Lowest readings observed of the two idle modes

When these standards are applied to the Portland data base, the results shown in Table 2 are obtained. These short tests have acceptable error of commission rates while identifying a large portion of the excess (above standard) emissions. The FTP is shown for comparison purposes; its own test variability will produce an estimated 5.3% Ec's and less than 100% identification of excess emissions.

Table 2 shows the short test results. For example, if the idle mode of the two speed idle test is used, 37% of the Portland vehicles failed with 4% (of all vehicles) being failed incorrectly; 63% passed. The failed vehicles were responsible for 81% of the "excess" HC and 83% of the "excess" CO; "excess" meaning the total emissions over the certification standards. If the idle and 2500 RPM modes are combined, the failure rate rises to 42% with corresponding increases in the other parameters. While not all the vehicles which failed the FTP were detected, an extremely high percentage of the excess emissions were identified.

Table 2.—*Short Test Results*

(In percentage)

Test and mode	Failure rate	Errors of commission	Excess emissions identified	
			HC	CO
Idle Test: Idle	39	5.6	82	84
Two speed idle test:				
2500 RPM	22	2.8	60	59
Idle	37	4.0	81	83
Combined	42	6.0	87	90
Two mode loaded test:				
30 mph loaded	24	4.3	59	54
Idle	40	5.2	83	85
Combined	46	7.0	93	93
FTP: (Comparison only)	53	[1] 5.3	[2] 100	[2] 100

[1] Estimated from test variability.
[2] Actually slightly less than 100% due to test variability.
Standards: 1.2% CO/220 ppm HC except two speed idle 1.0% CO/200 ppm HC.

NOTES

Failure Rate—Percentage of all Portland vehicles that failed the short test.
Ec's—(Errors of Commission) Vehicles which failed the short test but met certification standards.
Excess Emissions Identified: The portion of emissions over the certification standard detected by the short test

As indicated above, the results in Table 2 are for the 1975 to 1977 vehicles tested in the Portland study. Since 1981 and later passenger cars will be certified to lower emission levels they should be "cleaner" on the short test. Therefore, the figures given in Table 2 are numerically larger than those anticipated for 1981 and later passenger cars. On the other hand, light trucks in the 1981 model year will have similar emission control systems to the vehicles used to generate Table 2; therefore results should be similar.

A full development of the rationale behind these standards is contained in the report "Light Duty Vehicle and Light Duty Truck Emission Performance Warranty; Short Tests and Standards" which is in the Public Docket. Single copies are available from the address above.

An investigation was made of the suitability of the short tests for light trucks and of geographic variability of the tests for light duty vehicles. For this purpose, EPA's emission factor data for 1975 through 1979 cars and light trucks was used. (This data is routinely collected to quantify mobile source emissions.) No major differences from the analysis presented above were noted. Light trucks had lower failure and error of commission rates than passenger cars. Slight differences between the various cities existed; however, the basic functioning of the idle test was verified. The results of applying the idle standards resulted in a failure rate which ranged from 31% in Los Angeles to 52% in Phoenix compared to an average of 39% for all cities surveyed. Similarly the idle test errors of commission ranged from 2% in Denver to 7.3% in Phoenix compared to a 5.6% average for all cities surveyed. These differences can be attributed, in part, to the smaller sample sizes (which enhance variability) and differences in owner maintenance habits. California vehicles have stricter exhaust standards so Los Angeles had fewer short test failures. Conversely, at high altitudes vehicle emissions increase and more cars will exceed their emission standards.

Therefore, errors of commission will decrease because there are fewer cars for the short test to incorrectly fail. (For the same reasons, similar variations would occur if this analysis were performed for the other short tests.) This acceptable level of geographic variability confirms the general applicability of the short tests. A more detailed evaluation can be found in the report cited above.

No altitude limit has been set for the short test. The same factors affecting short test emissions at high altitudes also impact results on the full FTP procedure. Results from an examination of Denver data bear this out: an overall 50% failure rate with only 2% errors of commission. This performance meets the criteria for short tests. However, Congress debated requirements for high altitude emissions certification, and has established a 4000 foot limit for low altitude standards. Since there is presently no certification test conducted at high altitude, the emission performance warranty will not be available initially at elevations over 4000 feet. Once EPA has adopted new high altitude emission standards (projected for 1982) the warranty can then be made available.

The Agency has recently proposed high altitude emission standards for light duty vehicles (LDVs) and light duty trucks (LDTs), 45 FR 5988, January 24, 1980. The following limits have been published for comment:

Proposed High Altitude Standards (g/mile)

	Year	HC	CO
LDV	1982/83	0.57	7.8
LDT	1982	2.0	26.0
	1983	1.0	14.0

Except for 1982 light trucks, all these standards are below the LDV certification standards for 1975 through 1977, which are 1.5 g/mile HC and 15.0 g/mile CO. As stated above, an analysis of high altitude test results (in Denver) on 1975 through 1977 passenger cars shows that correlation exists between the certification procedure and the short tests. When more stringent certification standards are promulgated this correlation will still exist; such vehicles will be "cleaner", and their short test results will be lower. By similar reasoning, errors of commission will be reduced because of the increased stringency of the certification standards. So, except for the proposed 1982 LDT standards, the Section 207(b) criteria for a high altitude emission performance warranty have been satisfied. When such high altitude standards are promulgated the warranty will be available, except for 1982 light trucks.

The proposed 1982 LDT high altitude standards represent an 18% increase in HC (1.7 to 2.0 g/mile) and a 44% increase in CO (18 to 26 g/mile) from the applicable low altitude standards. The 1982 low altitude LDT standards were developed to be of equal stringency to the 1975 through 1977 LDV standards. (Increases in the standards were needed to compensate for the higher weight and larger frontal areas of light duty trucks.) To estimate how such 1982 high altitude trucks will respond to the short test, data from 1975 through 1977 passenger cars tested in Denver have been reviewed. But, instead of using the passenger car certification standards (1.5 HC, 15.0 CO), standards equivalent in stringency to the proposed 1982 light

truck limits have been substituted. This calculation results in standards of 1.76 g/mile HC, an 18% increase, and 21.8 g/mile CO, a 44% increase. (These percentage increases are the same as for 1982 light trucks from low to high altitudes.) Evaluating the high altitude data against these derived limits yields the following: 50% idle test failures and 3.9% Ecs.

This analysis was performed using idle test results and the short test standards adopted herein. Based on the relationship between short test and FTP emissions, similar results can be expected for the other short tests.

These short test regulations will take effect for 1982 LDTs at high altitude when high altitude certification standards are promulgated for that model year. However, if the light truck high altitude standards for 1982 are less stringent than those proposed, this matter will be re-examined in a subsequent rulemaking.

Diesel vehicles are covered by the adopted short tests. EPA believes that there are no failure modes peculiar to diesels which would result in a loss of correlation. No specific comments were made on this issue. Moreover, diesels operate with very lean fuel/air mixtures resulting in very low hydrocarbon and carbon monoxide emissions under short test conditions. Only in the case of a major fault in the fuel system could emissions increase dramatically such that the vehicle would fail the short test. Thus, the percentage of Ec's should be less than that for gasoline-powered vehicles.

The standards set forth in this regulation are the minimums at which the Section 207(b) warranty may be invoked. States and local jurisdictions are free to set less stringent standards for their I/M programs; in such cases, a warranty remedy will also be available, but only for those vehicles which fail the state inspection. (Section 207(b) requires that a penalty or sanction be imposed before the warranty can be invoked.) While it is not anticipated that any I/M programs will have more stringent standards, under those circumstances the warranty would be available only to those vehicles which failed both sets of standards. (I/M programs will not generally need to use as stringent standards to meet their air quality requirements.) It would not be available if the vehicle fails inspection but not the standards adopted herein. For example, a vehicle with 0.7% CO at idle would fail an I/M standard of 0.5%; it would not qualify for warranty because the standard is 1.2% which the vehicle would meet.

Public Participation

Slightly less than 100 written comments were received in response to the NPRM and testimony at three public "workshops". Private citizens, the service industry, local governments, civic organizations, parts and automotive manufacturers were all represented. Most comments were general; a few went into great detail on the technical aspects. Of the general comments, many were concerned with the overall desirability of I/M programs. EPA's position on the major statutory issues has been outlined in the previous sections. A complete response to the comments has been prepared and is attached as an appendix.

In December 1979, the Motor Vehicle Manufacturers Association (MVMA) filed a petition with EPA requesting that a new Notice of Proposed Rulemaking be issued on Section 207(b) short tests. MVMA cited the passage of time, new developments and changed circumstances as reasons for a reproposal. This Agency believes that the rules promulgated today are within the scope of the original NPRM. Nevertheless, the comment period was reopened to give MVMA and the public an opportunity to comment on data generated since the close of the original comment period and on EPA's current approach to short tests and standards. Twelve parties responded during the reopened comment period, and their comments have been considered in developing the final regulations.

MVMA also filed a supplement to its original petition asserting that the additional time allotted for comments was inadequate. MVMA's submissions have been reviewed, and EPA's response is being published today in the **Federal Register**. The Agency's response to MVMA's petition and supplement to its petition has also been made part of the record of this rulemaking.

Copies of all comments, rulemaking support documents and other materials relevant to this rulemaking are contained in Docket A-79-57. The docket may be reviewed at the U.S. Environmental Protection Agency, Central Docket Section, Room 2903 B (EPA Library), Waterside Mall, 401 M Street S.W., Washington D.C. 20460. Copies of all items in the docket may be obtained. As provided in 40 CFR Part 2, the Agency may charge a reasonable fee for copying services.

Proprietary Rights

Users of the processes required under the regulations below should be aware that any of them may be subject to claims that all or portions of the processes involve proprietary rights. For example, the Clayton Manufacturing Company alleges that the process covered by Clayton's U.S. Patent 3,998,095 may be involved in the Federal Two-Mode Test (see § 85.2214(b)(4)). Except as EPA specifically otherwise informs potential users, EPA takes no position on the validity of allegations of infringement of proprietary rights. Whenever EPA becomes aware of such claims, however, EPA will try to inform potential users. We request that users inform us of such claims made against them, so that we can in turn pass that information on to other potential users.

Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no more than five years after initial implementation of the final regulations. In particular, EPA will solicit comments from affected parties with regard to cost and other burdens associated with compliance and will also review data on the gaseous emissions from vehicles built before and after implementation of the regulations to determine how effective this measure has been.

Reporting and Record-Keeping Requirements

This rulemaking will not impose additional reporting or record-keeping requirements. Under EPA's recently established "sunset" policy, the reporting requirements of a regulation normally expire after five years unless action is taken to extend them.

Note.—The Environmental Protection Agency has determined that this document is not a significant major regulation requiring the preparation of a regulatory analysis under Executive Order 12044.

Dated: May 12, 1980.

Douglas M. Costle,

Administrator.

Part 85 of Chapter I, Title 40 of the Code of Federal Regulations is revised as follows:

1. The title of Part 85 is amended to read:

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

2. A new Subpart W is added:

Subpart W—Emission Control System Performance Warranty Short Tests

Sec.

85.2201 Applicability.
85.2202 General provisions.
85.2203–81 Short test standards for 1981 and later model year light-duty vehicles.
85.2204–81 Short test standards for 1981 and later model year light-duty trucks.
85.2205 to 85.2210 [Reserved]
85.2211 Alternative standards and procedures.
85.2212 Idle test.
85.2213 Two-speed idle test.
85.2214 Loaded test.
85.2215 Exhaust sampling system.
85.2216 Dynamometer.
85.2217 Calibrations, adjustments.
85.2218 Test report.

Authority: Sec. 207, 301(a), Clean Air Act as amended (42 U.S.C. 7545 and 7601(a))

§ 85.2201 Applicability.

This subpart contains the short test and standards to be employed in conjunction with the Emission Performance Warranty, Subpart V.

§ 85.2202 General provisions.

The definitions and abbreviations in Subpart A of Part 86 of this chapter apply to this subpart.

§ 85.2203–81 Short test standards for 1981 and later model year light-duty vehicles.

(a) For 1981 and later model year light duty vehicles at low altitude, and for 1982 and later model year light duty vehicles at high altitude to which high altitude certification standards of 1.5 g/mile HC and 15 g/mile or less apply, short test emissions shall not exceed.

(1) Idle test.

(i) *Hydrocarbons:* 220 ppm as hexane.

(ii) *Carbon monoxide:* 1.2%.

(2) Two speed idle test, idle mode. The lowest readings from the two idle modes shall be used to determine compliance.

(i) *Hydrocarbons:* 200 ppm as hexane.

(ii) *Carbon monoxide:* 1.0%.

(3) Two speed idle test, high speed mode.

(i) *Hydrocarbons:* 200 ppm as hexane.

(ii) *Carbon monoxide:* 1.0%.

(4) Loaded test, idle mode.

(i) *Hydrocarbons:* 220 ppm as hexane.

(ii) *Carbon monoxide:* 1.2%.

(5) Loaded test, low speed mode.

(i) *Hydrocarbons:* 220 ppm as hexane.

(ii) *Carbon monoxide:* 1.2%.

§ 85.2204–81 Short test standards for 1981 and later model year light-duty trucks.

(a) For 1981 and later model year light duty trucks at low altitude, and for 1982 and later model year light duty trucks at high altitude to which high altitude certification standards of 2.0 g/mile HC and 26. g/mile CO or less apply, short test emissions shall not exceed:

(1) Idle test.

(i) *Hydrocarbons:* 220 ppm as hexane.

(ii) *Carbon monoxide:* 1.2%.

(2) Two speed idle test, idle mode. The lowest readings from the two idle modes shall be used to determine compliance.

(i) *Hydrocarbons:* 200 ppm as hexane.

(ii) *Carbon monoxide:* 1.0%.

(3) Two speed idle test, high speed mode.

(i) *Hydrocarbons:* 200 ppm as hexane.

(ii) *Carbon monoxide:* 1.0%.

(4) Loaded test, idle mode.

(i) *Hydrocarbons:* 220 ppm as hexane.

(ii) *Carbon monoxide:* 1.2%.

(5) Loaded test, low speed mode.

(i) *Hydrocarbons:* 220 ppm as hexane.

(ii) *Carbon monoxide:* 1.2%.

§§ 85.2204 to 85.2210 [Reserved]

§ 85.2211 Alternative standards and procedures.

(a) As a part of the certification process, as set forth in § 86.078 et seq., a manufacturer may request an alternative short test standard or short test procedure for any vehicle or engine for which the standards or procedures specified in this subpart are not appropriate. The manufacturer shall supply relevant test data and technical support to substantiate his claim and shall also recommend alternative test procedures and/or standards for the Administrator's consideration. Upon an acceptable showing that the general standards or procedures are not appropriate, the Administrator shall set through rulemaking procedures alternative standards or procedures. The administrative provisions of the certification process (see § 86.078 et seq.), apply to such a request for alternative standards or procedures.

(b) Any such alternative standard or test procedure must be specified on the emission control information label to be effective for that particular vehicle or engine.

§ 85.2212 Idle test.

(a) *General requirements:* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stabilized operating conditions and adjusted as required in § 85.2217.

(2) Optional: The engine may be preconditioned by operating it at 2500 ± 300 rpm for up to 30 seconds.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into the tailpipe. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes. However, multiple readings are not necessary for exhaust originating from a common point.

(4) Results from multiple exhaust pipes shall be numerically averaged.

§ 85.2213 Two speed idle test.

(a) *General requirements:* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stabilized operating conditions and adjusted as required in § 85.2217.

(2) Attach tachometer pick up.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into the tailpipe. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes. However, multiple readings are not necessary for exhaust originating from a common point.

(4) The engine speed shall be increased to 2500 ± 300 rpm, with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as in subparagraph (3) for multiple exhaust pipes, if necessary.

(5) The engine speed shall be reduced to free idle with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as specified in subparagraph (3) for multiple exhaust pipes, if necessary.

(6) For vehicles with multiple exhaust pipes, the separate results from each pipe for each mode (subparagraphs (3), (4), and (5) above) shall be numerically averaged for each pollutant.

(7) The idle mode final results shall be the lowest HC and lowest CO readings from steps (3) and (5).

(c) Exhaust concentration measurements from both the idle mode and the high speed mode are not required. The short test may be used to evaluate emissions from either mode alone or from both modes, the choice being made by the jurisdiction implementing the inspection program. If exhaust concentrations are not measured on a given mode, the vehicle shall be operated at the specified test condition for 15 to 30 seconds. The final idle mode, paragraph (b)(5) of this section, may be omitted if only high speed mode exhaust concentrations are to be measured or if the vehicle is below idle standards on the first measurement, paragraph (b)(3) of this section. The high speed mode and final idle mode may be

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omitted if only idle mode exhaust concentrations are to be measured and if the vehicle is below idle standards on the first measurement.

§ 85.2214 Loaded test.

(a) *General requirements.* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge, warning light or boiling radiator) with all accessories off. An auxiliary cooling fan is optional.

(b) *Test Sequence.* (1) The dynamometer and analyzers shall be warmed-up, in stabilized operating conditions and adjusted as required in §§ 85.2216 and 85.2217.

(2) The vehicle shall be placed on the dynamometer.

(3) The sample probe shall be inserted into the tailpipe.

(4) Optional: A high speed mode, maximum 50 mph and 30 seconds duration, is permitted if vehicle overheating does not occur.

(5) Drive for automatic or 3rd gear for manual transmissions shall be used. The vehicle shall be operated at 30 ± 1 mph roll speed while measuring exhaust HC and CO. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes. However, multiple readings are not necessary for exhaust pipes originating from a common point.

(6) The vehicle shall be idled in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as specified in subparagraph (5) of this paragraph for multiple exhaust pipes, if necessary.

(7) For vehicles with multiple exhaust pipes, the separate results from each pipe for each mode (subparagraphs (5) and (6) of this paragraph) shall be numerically averaged for each pollutant.

(c) Exhaust concentration measurements from both the loaded mode and the idle mode are not required. The short test may be used to evaluate emissions from either mode alone or from both modes, the choice being made by the jurisdiction implementing the inspection program. If exhaust concentrations are not measured on the loaded mode the vehicle shall be operated at the specified test condition for 15 to 30 seconds. If idle exhaust concentrations are not measured, the idle mode may be omitted.

§ 85.2215 Exhaust sampling system.

(a) The exhaust sampling system shall consist of a sample probe, moisture separator and analyzers for HC and CO.

(b)(1) The HC analyzer shall have an accuracy of ± 15 ppm at 200 to 220 ppm concentration HC (as hexane); the CO analyzer shall have an accuracy of ± 0.10% CO from 1.0% to 1.2% concentration.

(2) Response time of the analyzers shall be 15 seconds to 95% of the final reading.

(3) Analyzer drift (up-scale and down-scale zero and span wander) shall not exceed ± 0.1% CO and ± 15 ppm HC (as hexane) on the lowest range capable of reading 1.0% CO or 200 ppm HC (as hexane) during a one-hour period.

§ 85.2216 Dynamometer.

(a) The loaded test dynamometer shall be adjusted to produce a load of 9.0 ± 1.0 hp at 30 mph.

(b) Speed shall be measured from the dynamometer roll(s) with an accuracy of ± 1.5 mph at 30 mph true roll speed.

§ 85.2217 Calibrations, adjustments.

(a) Equipment shall be calibrated in accordance with the manufacturers' instructions.

(b) Within one hour prior to a test, the analyzers shall be zeroed and spanned. Ambient air is acceptable as a zero gas; an electrical span check is acceptable. Zero and span checks shall be made on the lowest range capable of reading the short test standard.

(c) Within eight hours prior to a loaded test, the dynamometer shall be checked for proper power absorber settings.

(d)(1) The analyzers shall have been spanned and adjusted, if necessary, using gas traceable to NBS standards ± 2% within one week of the test. These span gases shall have concentrations either:

(i) Between the standards specified in this subpart and the jurisdictions inspection standards for 1981 model year light duty vehicles, or

(ii) Be within −50% to +100% of the standards in this subpart.

(2) For analyzers with a separate calibration or span port, CO readings using calibration gas through the probe and through the calibration port shall be made; discrepancies of over 3% shall require repair of leaks. No analyzer adjustments shall be permitted during this check.

§ 85.2218 Test report.

(a) Upon failure of a short test, the vehicle's operator or owner shall be furnished with a test report containing:

(1) Vehicle description, including either license plate or manufacturer's identification number, and odometer reading.

(2) Date of test.

(3) Name of individual or organization performing the test and location thereof.

(4) Type of short test performed.

(5) Test results, exhaust concentrations for each mode measured.

(b) The test report shall certify that the short test was performed in accordance with these regulations and it shall be signed by an individual who either performed the test or has actual knowledge of the performance of the test.

(c) For purposes of this section, "failure of a short test" means that the vehicle exceeded the standards in this subpart or the Inspection/Maintenance standards of the jurisdiction, whichever is less stringent.

(Sec. 207, 301(a) of the Clean Air Act, as amended (42 V.S.C. 7545 and 7601(a)))

Appendix—Analysis of Comments

Emission Performance Warranty Short Test and Standards

Note.—This Appendix will not appear in the Code of Federal Regulations.

Table of Contents

I. Introduction
II. Statutory Requirements
III. General
IV. Summary and Analysis of Comment
A. *Legal*
1. Procedure
2. Proposed Alternatives
3. De Facto Standards
4. NOx Measurement Required
5. Lead Time
6. Production Short Test
7. Light Duty Truck Coverage
8. Manufacturer Testing
9. Regulatory Language
B. *Availability*
1. Ability To Ascertain Compliance
2. Real World Demonstration
3. Idle Test Recommended
C. *Good Engineering Practice*
1. Performance in Actual Use
2. Variability
3. Short Test Structure
D. *Correlation*
1. Classical Correlation Required
2. Reasonable Correlation
3. Fundamental Relationship
4. FTP Problems
5. Short Test for Certification
6. Future Technology Vehicles
7. Contingency Tables
8. Data Base
9. FTP Errors of Commission
10. Errors of Omission
11. Tampered Vehicles
E. *Standards*
1. Criteria
2. Timing
3. Setting Procedure
4. Errors of Commission

5. Vehicle Grouping
6. High Altitude
7. Optional Standards
F. *Short Test*
1. Recommendation
2. Preconditioning
3. Idle Test Procedures
4. Idle RPM
5. Data Submission
6. Variability
7. Garage Instruments
8. Miscellaneous Comments

I. Introduction

On May 25, 1977, the Environmental Protection Agency proposed regulations to establish a short test and standards for an emission performance warranty (42 FR 26742). The emission performance warranty is intended to complement state inspection/maintenance programs. Under these "I/M" programs, a vehicle owner is required to submit his car for inspection on a periodic basis. If, as determined by the "short test," the vehicle has excessive emissions, some type of repair is mandated. Pursuant to Section 207(b) of the Clean Air Act, the vehicle manufacturer, under certain circumstances, is liable for the cost of repairs. This document addresses only the short test and its associated emission standards. The actual emission performance warranty regulations are the subject of a separate rulemaking and were proposed for comment on April 20, 1979, 44 FR 23784.

The comment period was reopened on January 31, 1980, for thirty days. Comments were solicited on EPA's current positions and data not available at the time of the original NPRM.

The short test notice of proposed rulemaking (NPRM) contained five recommended short tests and an equal number of standard setting methods. These multiple proposals were designed to generate comments encompassing the entire field of possible solutions. Since that NPRM, the area of consideration has been reduced substantially. In this regard, the diverse views and information presented by the commenters have been most helpful.

II. Statutory Requirements

In order to understand the public comments discussed below, it is necessary to be familiar with the requirements of the Clean Air Act, Section 207(b).

If the Administrator determines that

(i) There are available testing methods and procedures to ascertain whether, when in actual use * * * each vehicle * * * complies with emission standards,

(ii) Such methods and procedures are in accordance with good engineering practices, and

(iii) Such methods and procedures are reasonably capable of being correlated with (certification tests) then * * *

He shall establish such methods and procedures by regulation * * * (emphasis added).

It should be noted that the Administrator has no discretion whether to establish the short test once the requisite three findings have been made. In addition to the short test and standards, the Administrator is required to promulgate the actual warranty regulations requiring no-cost repairs by the manufacturer. (These no-cost repairs are conditioned upon certain time and mileage limitations as well as maintenance requirements.) It is certain that the Congress felt very strongly about enforcing the manufacturers' obligation to produce vehicles which conform to the emission standards while in actual use. Unlike some other provisions of the Clean Air Act, under Section 207(b) the Agency is not required to make determinations concerning the cost or effectiveness of the emission performance warranty.

III. General

In all, slightly less than 100 comments were recieved in response to the original Notice of Proposed Rulemaking; twelve comments were made during the reopened comment period. Included were individuals, small businesses, civic organizations, government agencies and the automotive industry. All five major domestic manufacturers commented, as well as many of the larger foreign vehicle manufacturers. The small businesses which commented were in the automotive repair industry. Those state and local governments which commented either had or were considering adopting their own inspection/maintenance programs. The commenters represented a cross section of those individuals and organizations most likely to be affected by the adoption of short tests and standards.

A majority of the comments were opposed to the proposed regulations. A few individuals, the civic organizations and local governments supported the proposal.

Comments submitted by the manufacturers dealt primarily with the three statutory requirements. Their comments raised rather detailed, technical matters which are addressed below. The small businesses, mostly automotive repair shops, complained that the proposal would have anti-competitive and monopoly aspects. This allegedly would result from the owner having more incentive to use the manufacturer's dealers for repair purposes. Citizens who objected to the NPRM were opposed for both philosophical and other reasons. Some citizens objected to further regulation by the Federal government, and assumed that the regulations would force adoption of Inspection/Maintenance programs. They also complained that the costs of the program would be passed on in the form of higher vehicle prices. Several suggested that Inspection/Maintenance programs be combined with existing safety checks. Many comments are not germane to the three statutory requirements, and will not be addressed here. It should be pointed out that the short test regulations will not impose I/M programs; they will merely establish an approved short test and associated standards. Implementation of I/M programs will be done by state and local governments.

Commenters in support of the regulations felt that the emission performance warranty would be an incentive for vehicle owners to get repairs and thus result in an air quality improvement. Also, the manufacturers would have an incentive to reduce warranty costs and thus make their emission control systems more reliable. Again, this would result in an air quality improvement. One vehicle manufacturer supported the I/M concept when used to detect gross emitting vehicles, but not when it was aimed at those marginally above emission standards.

All comments submitted in response to the original NPRM and during the recently reopened comment period have been carefully reviewed. Those comments which are relevant to the statutory requirements have been combined and summarized. The final rulemaking has been modified to incorporate many of the suggestions. Comments have been divided into six broad categories (Legal, Availability, Good Engineering Practice, Correlation, Standards, Short Test), with particular items addressed as subtopics. Where appropriate, comments during the reopened comment period have been so identified.

IV. Summary and Analysis of Comments

A. Legal

1. Procedure. Comment: The proposed regulations should be considered to be an advanced Notice of Proposed Rulemaking. The supporting data set was incomplete; proposed rulemaking should have been deferred until the Portland study was finished. This will allow all parties time to review the basis for the proposed rules and permit evaluation of the data before the final rules were promulgated.

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Response: The course of action suggested would have delayed the entire program by several years. Adequate data existed at the time of the NPRM to satisfy the statutory criteria. Basic relationships between short test and FTP emissions were established; subsequent data from Portland (and other programs) merely refined these relationships.

Comment: The reopened comment period was too short. Thirty days is entirely inadequate to sufficiently analyze all the new data and information which has only recently been made available. (The Portland report contains over 500 pages of data; it is impossible to analyze all this data in the time available). Further, it is impossible to thoroughly examine the interaction of the short test regulations with the aftermarket parts certification regulations, and the emission performance warranty regulations both of which have been recently proposed.

Response: The agency disagrees that the comment period was too short. In its comment, the Motor Vehicle Manufacturers Association stated that they reproduced EPA's calculations, performed additional calculations and data analysis, and were able to submit 130 pages of analysis and data presentations. While it may be true that further data analysis could have been performed had additional time been available, only two firm suggestions for additional analysis were made. The first suggestion for further analysis was that the Portland data be examined to see if particular engine families were treated unfairly by the proposed tests. As stated in the technical report, EPA sorted the data by engine displacement and catalyst usage. Minor differences in failure and error of commission rates were noted. The report recommended that special short test standards be established for those vehicles for which the general short test standards are not appropriate. Procedures to accomplish this have been incorporated into the regulations. The second suggestion was that additional data be analyzed to estimate the actual reduction in air pollution, rather than the potential reduction. Such an analysis is not required to support promulgation of the short tests; it would be more appropriately directed at determining the overall effectiveness of I/M programs. A short test can only identify vehicles needing repairs. The repairs made determine the actual benefit. (It is difficult to imagine what would be shown by such an analysis that would indicate the short tests should not be adopted. If repairs are effective the short tests would be supported. But, even if current repairs are not effective that would not establish the effectiveness of warranty repairs.)

While it is true that the Portland report contains extensive listings of data, this information, in the form of a computer tape, was available upon request, and was, in fact, supplied to MVMA. Further, not all of the Portland data was relevant to this rulemaking. MVMA was able to check EPA's calculations using this data and was able to supply analysis from different data sets. It seems rather unlikely that any significant new revelations would have occurred had a substantially longer comment period been granted.

The aftermarket parts and warranty regulations have no impact upon the short test regulations. The 207(b) short test regulations have been established in accordance with the statutory criteria in the Clean Air Act. Those criteria do not include an analysis of the warranty and aftermarket parts certification regulation. Although the short test regulations are prerequisites to implementing the warranty regulations, they could have been promulgated before the warranty and aftermarket parts regulations were proposed. Indeed, some commenters felt this is the course EPA should have followed. The only "impact" the short test has on the other regulations is that, depending on the short test standards, it may affect the number of vehicles failing I/M. The end result may be that a manufacturer has more warranty claims, but this fact does not require an extensive new comment period. The obligation to build vehicles which comply with emission standards for their useful life is already imposed by the Clean Air Act. Nevertheless, EPA granted an opportunity to comment on the impact which any change in the short test proposal or new data would have on the other two proposed regulations. No comments were received. The 207(b) short test regulations are only concerned with the statutory criteria in the Clean Air Act. The emission performance warranty rules and aftermarket parts certification regulations are independent.

The comment period was reopened in part to solicit comments on data or analysis not available previously. In addition, the Agency's current thinking on the substance of the regulations was set forth in the notice. Interested parties were invited to submit their views on those short tests and standards.

It should also be noted that the Motor Vehicle Manufacturers Association was given an advance notice that the comment period would be reopened. So, instead of the thirty days, the manufacturers in effect had over forty days to prepare comments. And, in the same vein, the data and analysis which prompted the reopening of the comment period had been made available to MVMA over two months prior to the closing of the comment period. (One MVMA member had the data for more than 6 months from the start of the comment period.)

2. Proposed Alternatives. Comment: It is impossible to comment on all possible combinations of short test and cutpoint selection methodologies.

Response: Comments on each combination were certainly not required or expected. Many manufacturers commented on each short test as well as on each cutpoint method; there was no logical reason to comment on each combination.

3. De Facto Standards. Comment: Congress did not intend to authorize any emission standards other than those already established. Therefore, the emission performance warranty requirements should not establish a new set of de facto requirements to which the manufacturers must design.

Response: It is required by statute that short tests and standards must reasonably correlate with the existing certification test. Since the two procedures must be correlated, the manufacturer will face no additional burden in certifying his vehicles. The final regulations recognize this concern and are structured so that the possibility that vehicles complying with the certification standards will fail the short test is very small.

Comment: Correlation was required by Congress so that the manufacturer will only have one engineering goal to attain. Otherwise, it would be possible to have to design to both the certification and to the short tests, and these goals might conflict.

Response: The short test standards adopted eliminate this concern. The correlation requirement is satisfied in that the short tests do not fail, in significant numbers, vehicles which comply with the certification standards. The number of incorrect failures (errors of commission) will be about the same as if the certification test itself had been used. A manufacturer who designs vehicles to comply with the certification standards over the vehicle's useful life (as required by law) will not be subject to unnecessary warranty claims.

4. NO_x Measurement Required. Comment: Congress intended that any short test adopted must measure and evaluate NO_x emissions.

Response: The Agency rejects this viewpoint. Section 207(b) does not specifically require measurement of all

three pollutants. It is unreasonable to attribute such a desire on the part of Congress where the net result would be to frustrate the very intent of Congress in adopting Section 207(b), i.e., that once a reasonable means of determining vehicle noncompliance is developed that can be used in state I/M programs, then manufacturers under the circumstances described in Section 207(b)(2) (A) through (C) should pay for repairs necessary to bring into compliance a vehicle that has failed an I/M test. Further, the vehicle manufacturers who made this comment will certainly not be prejudiced by exclusion of NO_x emissions from the short test. Any test procedure which would fail vehicles for excessive NO_x emissions would potentially result in their having to pay a larger number of warranty claims. EPA is continuing to work on a short test and standards for NO_x. There is no reason to delay the entire program until the NO_x effort is complete.

The approach taken by the Agency established correlation as the ability to identify failing vehicles. A vehicle which fails only one pollutant (on the FTP) does not comply with the emission standards. Once a vehicle fails for HC or CO, testing for NO_x is not necessary. EPA recognizes that this approach will fail to detect some vehicles with excessive NO_x emissions. This course is necessary because inclusion of NO_x measurement would dictate a more expensive loaded test with additional instrumentation; this procedure may not be as "available" to private garages in decentralized I/M programs as an HC and CO only test.

5. Lead Time. Comment: The Agency must allow for eighteen months (prior to production) between promulgation and the effective date of the regulations. This allows the manufacturer time to design for the short test. Otherwise, it is possible that a manufacturer will design a system which will subsequently not be able to pass the short test when it is sold. This would result in an unconstitutional lack of due process; penalties would be imposed without the ability to avoid them.

Response: The question of lead time is addressed in the Clean Air Act. The only requirement is that the subject vehicles be manufactured "in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph." There is no requirement for any additional lead time. Further, lead time is not necessary since the Act requires that the short test be "reasonably capable of being correlated" with the certification test. A class of vehicles designed to meet the certification requirements will, in fact, pass the short test and its standards. If new technology is developed which has different characteristics, specific optional standards will be applied to such vehicles. No additional design burden will be created by the regulations.

Comment: If promulgated for the 1981 model year, there will be inadequate lead time for the manufacturers to react to the emission performance warranty regulations. Since designs have been fixed and commitments have been made to purchase the necessary emission control hardware, these regulations will have a retroactive effect.

Response: Section 207(b) of the Clean Air Act requires that the regulations be promulgated prior to the model year for which they apply. The requirement that the approved short test be "reasonably capable of being correlated" with the certification test ensures that there will be no increased burden placed upon the manufacturer by these regulations. Therefore, concerns about inadequate lead time are not justified. Further, Section 207(a) of the Clean Air Act requires that manufacturers build vehicles that are capable of meeting emission standards for their useful life. The regulations being promulgated will only aid in enforcing an obligation that already exists.

6. Production Test. Comment: The Congress intended that the Section 207(b) short test must correlate with any production line short test. (Reference—Clean Air Act Conference Report, page 171, HR 6161).

Response: To date, no production line short test has been adapted. This concern will be addressed in the future.

7. Light Duty Truck Coverage. Comment: Inclusion of light duty trucks in the NPRM was improper. The data base for proposed rulemaking considered only passenger cars and not light trucks. Since light trucks perform an entirely different function than passenger cars, any regulation of them must be supported by a separate light truck data base.

Response: Light-duty trucks are tested for emissions certification by the same procedure as passenger cars. As concluded in the previous light duty truck rulemaking (41 FR 55345; December 20, 1976), the majority of light trucks are personal use vehicles performing the same function as passenger cars. Many of the mechanical and emission control components used on these vehicles are very similar (or even identical) to the components used on passenger cars. Finally, standards for 1979 and later light trucks were established to be of the same stringency as 1977 passenger car limits. (The car standards were adjusted to account for the slightly heavier weights and larger frontal areas.) With all of these common points, the Agency believes use of the same short tests is both logical and justified.

Comment: It is inconsistent for EPA to state that the short tests and standards are appropriate for both light duty vehicles and light duty trucks beginning in the 1981 model year. There are significant differences in emission control technology that should result in different responses to the short test. Light duty trucks will experience an error of commission rate greater than 5%; there were no light duty trucks tested in Portland and EPA has not done enough testing to justify their inclusion in this rulemaking.

Response: It is acknowledged that light duty trucks will be treated somewhat more severely than will the passenger cars. (Passenger cars will have more advanced emission control systems to meet the more stringent certification standards. These emission controls should also give an advantage in passing the short test standards.) However, 1981 and later trucks will have the same types of emission control systems as were found on vehicles forming the basis for the Technical Report and therefore should experience a 5% Ec rate. One hundred seventy five trucks tested in EPA's emissions factors program substantiate that the short test standards are appropriate for this class of vehicle. (See Technical Report Figure 8.) As data is gathered on advanced technology vehicles, EPA will evaluate the feasibility of revising short test standards for passenger cars. No substantiation has been offered for the assertion that the standards are not appropriate for light trucks.

Short test standards for 1981 light trucks (and passenger cars) were derived from EPA's Portland program. Data from 1975 through 1977 model year cars were used to establish short test levels which will yield acceptable correlation. Since 1981 light trucks will employ similar emission control systems (and many other components as well) as the passenger cars in the data base, the short test standards thus developed will be appropriate.

EPA evaluated data on 1975 through 1978 model trucks tested in various cities under the emission factors program. Results on the idle test and FTP were compared for short test and certification standards. Results compared closely to that observed for passenger cars in the same test program. (See Technical Report Figure 8.)

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	In percentage	
	Failures	Ec s
Cars	39	5.4
Trucks	31	3.6

This data supports incorporating light trucks.

8. Manufacturer Testing. Comment: EPA does not have authority to require manufacturer testing to establish emission performance warranty standards.

Response: The requirement for manufacturer testing has been deleted.

9. Regulatory Language. Comment: In order to fully comment it is necessary that the specific regulatory language be disclosed. This was not done.

Response: In the original NPRM, the specific text of the proposed short test regulations was provided. Refinements reflected in the final rule were derived from the proposal and comments received thereon. Accordingly, reproposal was unnecessary. Moreover, as part of the notice extending the comment period (45 FR 6960), EPA provided a summary of the short tests then under consideration. This summary was consistent with Administrative Procedure Act rulemaking provisions that require only the "substance" or "a description of the subjects and issues involved" in the rule be provided. 5 U.S.C. Section 553(b). Accordingly, EPA rejects this comment.

B. Availability

1. Ability to Ascertain Compliance. Comment: The five proposed tests are available, but the statute requires that they be available to ascertain compliance with the Federal Certification standards. This has not been demonstrated.

Response: The Agency does not agree with this viewpoint. The Clean Air Act specifies in Section 207(b) that the emission performance warranty can take effect only after it is established that "* * * there are available testing methods and procedures to ascertain whether * * * each vehicle * * * complies with the emission standards * * *." While this language could be read as sanctioning only those methods that establish a vehicle's capability (as opposed to inability) to pass the Federal Test Procedure, this clearly was not the intent of Congress. When the above-quoted language is read in conjunction with the correlation requirement, 207(b)(iii), it is clear that Congress intended that the short test identify with reasonable accuracy vehicles which failed to meet the Federal Test Procedure so that the manufacturers could be required to repair them. Indeed, the committee report accompanying the Senate proposal to establish the Section 207(b) warranty, which was adopted by Congress, indicated that the purpose of the short tests was "to determine *whether or not* those [production and in-use] vehicles comply or continued to comply with standards for which they were certified". S. Rep. No. 91–1196, 91st Cong., 2nd Sess. 29. This result has been accomplished in the final regulations. However, it would be totally unreasonable to expect that a short test would be developed which would predict compliance with the emission standards. For one thing, no short test can measure cold start emissions, an important component of FTP results. A vehicle could be very clean when warm (on the short test) but still have excessive FTP emissions. The Agency believes that a short test which predicts failure of the FTP with a high level of confidence is adequate and complies with the statute. This issue is addressed more completely under the heading "Correlation".

2. Real World Demonstration. Comment: Many of the proposed short tests have not been tried in actual use. The Portland program will not evaluate either the Clayton or New York/New Jersey composite test. Without such real world experience it cannot be stated that the short tests are "available". Even the idle test has not been adequately demonstrated in the Portland program because of EPA's supervision. A prototype I/M lane is not sufficient to establish real world availability.

Response: The idle test is being used by Oregon and New Jersey for vehicle inspection programs. Arizona employs a steady state loaded mode procedure, using only the idle mode for compliance. (Data collected under the loaded modes is used for vehicle diagnostics.) Since these tests are actually in use, there is no question concerning their availability. EPA's Portland program utilized data collected by Oregon's Department of Environmental Quality as well as that gathered by EPA's contractor. EPA hired a separate contractor to perform more detailed tests and evaluate the effectiveness of the Portland I/M program. The Agency agrees with the comments of another manufacturer that stated the availability requirement is satisfied when the necessary equipment can be obtained and effectively used for its intended purpose. These conditions have been met.

3. Idle Test Recommended. Comment: In order to be fully effective, a short test must be available to garages in performing their repair work. This requirement is satisfied by the idle test only. Required equipment is available, reliable, and relatively inexpensive. This test is also the most informative to the service industry. All of the other short tests are both too sophisticated and expensive.

Response: Both the idle test (two versions) and a simplified loaded mode test are being adopted at this time. The states will be free to choose among them or even elect to use only one mode from a test. While the loaded test does require more equipment, its additional cost is not beyond the reach of many repair facilities. Further, a simple dynamometer for this testing will cost about $5,000; this is only slightly greater than the price of exhaust and ignition analyzers. Even in jurisdictions which adopt the loaded mode test, a dynamometer will not be required of every repair garage. The emission results from the I/M test, when combined with the mechanics knowledge and other tools, will enable proper repairs to be made. (Of course, with a dynamometer the mechanic would be able to verify that the vehicle was fixed.)

C. Good Engineering Practice

1. Performance in Actual Use. Comment: It has not been demonstrated that the proposed short test can be done with reasonable demands on the inspection personnel. A practical demonstration of the short test is required to establish that they are in accordance with good engineering practice. Further, the accuracy of any short test will decrease (from laboratory conditions) when put in actual use.

Response: As discussed above, both the idle and loaded mode tests have been used in actual inspection lanes. The ability of the personnel and equipment to perform these tests has been demonstrated. Idle test standards have been developed using data collected at the Portland I/M lane; loaded-mode standards were derived from tests by EPA's contractor; they were verified by checking against a limited number of loaded tests run at the I/M lane. In any event, the short test standards are conservative, espeically when applied to later model year vehicles with lower emissions. The conservative nature of the short tests will mitigate any problems arising from their implementation.

2. Variability. Comment: The variability of the short test is too great (approximately 15%) for purposes of warranty enforcement. This results from many uncontrolled variables such as preconditioning, idle RPM, fuel, altitude, and ambient temperatures. All of these are controlled under the Federal Test Procedure.

Response: The short test standards were established by evaluating test data from EPA's Portland program. This data inherently includes test variability. The impact of these uncontrolled variables is not so great as to defeat the basic value of the short tests as evidenced by the high capture rate and low errors of commission. Since the standards established are not very stringent, the impact of any variability is reduced. Results from other test programs confirm this conclusion. See Technical Report, Light Duty Vehicle and Light Duty Truck Emission Performance Warranty: Short Tests and Standards. November 1979.

3. Short Test Structure. Comment: Good engineering practice requires that high emitting FTP modes be included in the short test. This includes the cold start portion as well as loaded operating modes. It is essential that any short test operate the emission control system as it would be operated during the FTP. Without these qualities, any short test cannot consistently predict FTP results and is not in accordance with good engineering practice.

Response: Any test meeting the requested requirements would not be "short". The practical considerations of running an I/M lane must be addressed. Taken literally, the commenter would require that the short test be very similar to the FTP and thus would not be at all suitable for inspection lane use. It is not believed that this is what Congress intended. A short test complies with the requirements of "good engineering practice" if it can detect high emitting vehicles. It is not required that the short test be equivalent to the FTP.

D. Correlation

1. Classical Correlation Required. Comment: "Correlation" implies that either test can be used as a measure of the effectiveness of the complete emission control system. One relationship must exist between the two tests such that the results of one will be capable of consistently and reliably predicting results of the other. Correlation is a function of the tests and not of the sample used to evaluate correlation.

The Clean Air Act requires that classical correlation exist between the short test and Federal Test Procedure. In interpreting Section 207(b), one must use the common meaning of the language. Further, it is improper to assume that one part of the paragraph is superfluous to another. Specifically, the third requirement "reasonably capable of being correlated" should not be construed to be redundant with the first requirement "availability to ascertain compliance." Both provisions must be given interpretations that will not make them redundant. To do otherwise is improper statutory construction. Finally, it is incorrect to assume that "correlation" is satisfied by identifying failed vehicles only.

Response: The Agency disagrees that Congress intended the short test to correlate in the classical statistical sense. For reasons addressed below, this is not possible. Certainly, Congress did not intend to draft legislation which could not be put into effect; some type of short test was intended. Section 207(b)(i) requires that a short test be available that can determine whether or not a vehicle complies with emission standards. Section 207(b)(iii), and not Section 207(b)(i), establishes the correlation requirements for the short test. If the language in 207(b)(i) were read to require strict, classical correlation, as some manufacturers have suggested, it would be inconsistent with Section 207(b)(iii) which requires only that the short test reasonably correlate to the certification test. The requirement for reasonable correlation was to insure that vehicle manufacturers would not be forced to repair significant numbers of conforming vehicles. A short test satisfies the requirements of Section 207(b) if it can identify a large part of the excess emission with a low error of commission. (That is, it does not incorrectly select conforming vehicles as failing.)

Due to the inherent shortcomings of any short test, it is only possible to identify failing vehicles with a high degree of certainty. None of the short tests investigated by the Agency can reliably predict compliance with emission standards. This results partially because short test cannot measure cold start emissions. There is no practical way to eliminate this deficiency. As has been addressed above, the Agency feels the adopted approach is reasonable.

Comment: No classical or contingency correlation exists for the proposed short tests and standards. It is impossible to extrapolate or project results from several data sets to get such correlation. (Several data sets were cited to illustrate this point.)

Response: The Agency agrees that classical and contingency table correlation are not possible in the traditional sense. The approach taken sets short test standards so that a vehicle failing those standards has a high probability of failing the certification test. More emphasis is placed on reducing errors of commission than on identifying vehicles which marginally exceed the certification standards. This approach was supported by the Ford Motor Company in its comments, during the reopened comment period. The data sets cited by this commenter show that short tests identify a substantial amount of the excess emissions for older vehicles. Vehicles tested at the end of the assembly line, and newer vehicles in general, do not have high emissions. It is not appropriate to use such data to evaluate the short tests. None of the data cited refutes the fact that a 1981 vehicle which exceeds the short test standards will have a high probability of exceeding its certification standard. As is discussed elsewhere, the Agency's approach regarding correlation is consistent with the language, legislative history and purpose of the Clean Air Act.

2. Reasonable Correlation. Comment: "Ideal" correlation would imply back-to-back Federal Test Procedures. Reasonable correlation would be less than ideal but considerably better than chance.

Response: The short tests and standards adopted comply with this comment.

Comment: Reasonable correlation does not exist as indicated by the California audit ~~data~~ on 1980 model light duty vehicles.

Response: Test results from vehicles just off the assembly line are not representative. With age and mileage one can expect components to fail and cause excessive emissions. It is this type of in-use failure which the short tests are designed to detect. Brand new vehicles would have very low failure rates and very few defects as compared to in-use vehicles that will be subject to short tests. Many NPRM commenters objected to the use of anything other than "real world" data to establish correlation; assembly line tests are not "real world."

3. Fundamental Relationship. Comment: A physical, technical relationship between the short test and FTP is required. Otherwise, any correlation obtained is fictitious. In order to comply with this requirement, the short test must incorporate modes with high correlation to the FTP. Of necessity, this would have to include a cold start and warm up. (Higher technology vehicles are expected to have increasingly larger proportions of their emissions come from these modes.) The idle test does not correlate because it misses many of the high emitting modes.

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Response: The Agency rejects this interpretation. As with the previous assertions that classical correlation is required, this comment would make adoption of the short test impossible. It is sufficient that a vehicle which fails the short test have high probability of failing the FTP. To that extent, there is "a fundamental relationship" between the two tests. High short test emissions are a symptom of malperformance.

Comment: It is impossible to obtain classical correlation without a cold start test which in itself is impossible for inspection purposes.

Response: The Agency agrees with this comment and has adopted a functional definition of correlation: vehicles failing the short test will have a high probability of failing the full certification test.

4. FTP Problems. Comment: The Federal Test Procedure is extremely variable and does not correlate well with itself. In recognition of this fact, EPA allows retests on certification vehicles. Even a hot start FTP will not correlate with itself. Under these circumstances, it can be stated that no short test will ever correlate with the FTP.

Response: The limitations of FTP to FTP correlation establish a limit on the correlation that a short test can obtain. The ability of the short tests to identify high emitting vehicles satisfies the requirement of "reasonable correlation".

5. Short Test for Certification. Comment: If the short test works, then it should be used for certification to save expense.

Response: The short test is not equivalent to the FTP and serves an entirely different function. As adopted in the final rules, it is a diagnostic tool for accurately predicting the occurrence of high emissions. It will not, and need not, predict with certainty the precise FTP emission levels.

6. Future Technology Vehicles. Comment: Two significant changes in future passenger cars can be foreseen. First, under the parameter adjustment regulations, cars will be "tamperproof." Second, with increasingly stringent emission standards, more sophisticated electronic control systems will be installed. Also, these lower emitting vehicles will have a larger proportion of their total emissions coming from the cold start phase of the Federal Test Procedure. Most of these changes should make the establishment of correlation between the short test and FTP more difficult. Further, it is required that this correlation be established with vehicles to which the emission performance warranty will apply.

Response: This concern has been addressed in development of the short test emission standards. These standards were developed from the highest technology production vehicles for which adequate data was available, specifically 1975–77 passenger cars tested in EPA's Portland Program. Analysis of this data yields short test standards appropriate for 1981 light trucks and cars. Light trucks for 1981 and later will have similar emission controls to 1975–77 passenger cars. Future cars will be certified to lower emission levels with an expected decrease in short test emissions; consequently, the short test standards established in this rulemaking will be less stringent. As experience is gained, revised standards will be promulgated in future rulemaking actions. If it were required that short test standards be developed using the class of vehicles to which such standards would apply, the time required to do the requisite testing would significantly reduce the period of warranty coverage.

In the unlikely event that a manufacturer uses technology which has increased short test emissions, a specific alternate standard can be applied to such vehicles.

7. Contingency Tables. Comment: The contingency table approach is not acceptable because of the higher sensitivity of the correlation index to the emission standard. Further, the contingency table approach is not appropriate for correlating measurements. Finally, it is incapable of accurately predicting compliance with the FTP standards.

Response: The use of contingency table correlation indices has been deleted. In its place an absolute standard has been adopted. While this approach gives up some possible increase in correlation, it compensates by being very simple and by having an acceptable error of commission rate.

8. Data Base. Comment: Tampered vehicles with rich idle mixtures should be deleted from the data base. Such vehicles will not qualify for 207(b) emission performance warranty work, and should not be used to establish correlation. Inclusion of such a vehicle distorts the short test to FTP relationship, and makes the correlation appear better than it really is.

Response: The adopted standards have been developed to identify all types of malfunctioning vehicles, not just those which would qualify for 207(b) warranty repairs. This approach does not prejudice the manufacturers, since under the terms of the statute they will not normally be liable for repairs to tampered or maladjusted vehicles. Short tests and standards were developed in a manner as close to their actual use as possible—this required "real world" cars. Practical considerations would prohibit EPA from running an experiment using 2200 vehicles whose maintenance and operation would meet warranty requirements without any deviation.

9. FTP Errors of Commission. Comment: The FTP error of commission rate would be lower than the three to six percent claimed by EPA.

Response: No data or basis for this statement are cited. While for a very clean group of vehicles, such as certification test fleet, the error of commission rate may be lower, EPA still feels that, based on the analysis in the Technical Report, a three to six percent Ec rate for in-use vehicles is correct.

10. Errors of Omission. Comment: Vehicles which marginally fail the certification test are part of a distribution which would pass on the average. It is appropriate that the short test not fail them.

Response: The Agency does not share this view that it is only average emissions which are important. The Clean Air Act specifies that *each* vehicle shall comply with the emission standards for its useful life. It is only due to short test limitations that more errors of omission are not detected. Congress intended that vehicles exceeding their emission standard have a warranty remedy; no mention is made of average emissions.

11. Tampered Vehicles. Comment: The proposed short tests were successful in identifying a large portion of the excess emissions but only because tampered vehicles were included in the sample. These tampered vehicles will not qualify for warranty repairs. Also, in the future, cars will be less susceptible to tampering due to the parameter adjustment regulations.

Response: Of course tampered vehicles may not qualify for the emission performance warranty. Manufacturers are protected by the requirements of section 207(b) concerning the maintenance and operation of a vehicle in order for consumers to qualify for warranty repairs. The Act requires that the *tests*, and not vehicles be reasonably capable of being correlated, that they be available and be in accordance with good engineering practice. The fact that a vehicle is tampered does not destroy the relationship between the tests, whereas it may affect the manufacturer's liability. Inclusion of tampered vehicles reflects the real world. The only time that the presence of tampering shall be considered is in determining whether a manufacturer is liable for the vehicle non-conformity.

E. Standards

1. Criteria. Comment: Short test standards should be optimized for cost-effectiveness or public acceptance.

Response: These criteria are not contained in the statute. Standards have been established to maximize the number of high emitting vehicles identified while keeping the errors of commission (false failures) low enough to satisfy the requirement of "reasonable correlation." However, the Agency has made revisions to simplify the standard setting process which should make them more acceptable and cost efficient.

2. Timing. Comment: It is not desirable to have new vehicles on the road and exempt from the emission performance warranty while standards for these vehicles are being established.

Response: Unlike the proposal, standards are being established prior to the new vehicles going on sale. These standards would be based on previous technology vehicles and may not be as stringent as ultimately possible. However, they will be available for the entire period of the warranty.

3. Standard Setting Procedure. Comment: It is desirable to establish standards by testing a large sample with the same distribution as the "real world". The use of prototype, assembly line or induced fault vehicles is not typical and should not be permitted. Any use of certification vehicles would result in disruption of the certification process and can not be tolerated. it is impossible to reproduce the real world situation by other than in-use motor vehicles. The standard setting process is expensive if 50 vehicles per group are required and with groups based on engine family criteria.

Response: Standards have been developed from the latest technology in-use vehicles for which data are available—1975–77 model year passenger cars tested in EPA's Portland program. These standards will apply to 1981 and later model year Fedeal vehicles which will be certified to slightly lower (i.e., more stringent) emission levels. This approach reduces the expense and complexity of setting standards and makes them available at the start of the model year for which they are effective. Revised standards will be promulgated based on later model year (higher technology) vehicles if needed. Any such standards will be proposed as a separate notice of proposed rulemaking with full opportunity for public comment.

4. Errors of Commission. Comment: Errors of commission are not desirable since they penalize the manufacturer unjustly and result in the inspection lane personnel being in the position of settling disputes. Further, any fixed level of errors of commission would be arbitrary and illegal.

Response: The Agency desagrees with the position that no errors of commission can be tolerated. The Congress clearly specified "reasonable" and not "absolute" correlation. Every effort has been made ins setting the standards to keep the error of commission rate as low as possible.

Comment: Setting short test standards with an average error of commission rate at 5% may have a serious adverse impact for some engine families.

Response: Optional short tests and short test standards are possible in instances where excessive errors of commission will occur. These situations will be handled on a case-by-case basis upon a manufacturer's request since such occurrences will depend on the type of emission control technology used.

Comment: A 5% error of commission rate is unacceptable. Even if the FTP gives such an error of commission rate it is still too high to be used for short tests. The standard should be raised to make the errors of commission almost nil.

Response: Short test standards have been selected to yield approximately the same level of errors of commission as if the certification test itself had been used. The Agency feels this is a reasonable approach and complies with the statutory requirements. It is totally unreasonable to expect that no errors of commission will occur. To achieve that result would require short test standards so high that they would not be effective, because many defective vehicles would pass the short test standard (including even some gross emitters), so that the short test would identify a very small portion of excess emissions. The Agency feels that the approach taken is a reasonable compromise between protecting the manufacturer from unnecessary warranty claims and giving the consumer protection for defective vehicles.

5. Vehicle Grouping. Comment: If the desired result is to identify "gross emitters" then a general vehicle grouping is possible, but a higher level of correlation is required. The NPRM was aimed at identifying marginal emission failures. Of course, any broad grouping tends to be biased. A limited number of groupings would aid in the operation of state inspection/maintenance programs. (Several manufacturers expressed a preference for engine/vehicle/technology groupings.)

Response: The Agency has adopted one broad group to cover all light duty vehicles; light trucks are categorized into a separate group. This eliminates the expense of establishing initial standards, and, as pointed out by the commenters, aids in the operation of inspection/maintenance programs. The increase in air quality resulting from a more complicated approach would have been marginal and would have involved significant added expense and administrative burden.

6. High Altitude. Comment: The short tests and standards should be voluntary for the 1981 model year at high altitude. The 1982 and 1983 short test standards should be somewhat more lenient at high altitude than for low altitude areas.

Response: There will be no approved short test for high altitude for the 1981 model year. Beginning in 1982, the same short tests and standards will apply both at low and high altitudes. EPA has analyzed data indicating that vehicles tested at high altitude using the approved short tests respond in approximately the same manner as those tested at the low altitude. (See Technical Report figure 8 for data collected in Denver.) Therefore the same standards can be applied. However, these high altitude standards will not take effect until high altitude certification standards are promulgated. (This is expected for the 1982 model year.) For light duty trucks the situation is somewhat more complicated. The short tests and standards will not take effect unless the high altitude standards (also expected for the 1982 model year) are below certain specified limits. These limits were established so that the high altitude light duty truck standards are of equivalent stringency to the 1975 through 1977 light duty vehicle standards at low altitude, upon which the short test standards were developed. (See Technical Report.)

7. Optional Standards. Comment: Short test standards with an average error of commission rate of 5% may prove to be too stringent for some particular models. For example, a small displacement non-catalyst light duty truck can be certified with an idle specification higher than that proposed for the emission performance warranty short test. Also, some types of emission control equipment are more effective at high speeds and vehicles equipped with those systems will be unfairly discriminated against by the short test. For example, pulse air systems are not as effective at idle as at higher speeds.

Response: The final regulations provide for such occurrences by

permitting a manufacturer to apply for optional short tests and standards. In such cases, the Administrator will set separate short tests and/or standards of equivalent stringency for appropriate vehicles.

F. Short Test

1. Recommendations. Comment: The adopted short test must have a high probability of passing conforming vehicles, identifying vehicles with broken emission components, and correctly determining maintenance and use histories. (Functional checks may be the best approach.) In order to minimize expense, there should be only one approved short test, otherwise aftermarket part manufacturers would have to design to each separately, passing the additional cost to purchasers. In order to be totally effective, the short test should be available to the service industry.

Response: Both versions of the idle test are totally available to the service industry and meet the concerns raised by the comment. While the loaded test requires a dynamometer, the expense should be within the capabilities of dealerships and larger repair garages. Even a mechanic without a dynamometer will be able to use information from the inspection test report to make proper repairs. Having multiple short tests will not burden the aftermarket part manufacturers. Designs will not have to be changed to accommodate the short tests: replacement parts should conform to the originals as at present. A vehicle operating as it was designed to (and as demonstrated during its emission certification) will pass the short tests.

Comment: The idle test is preferred for two main reasons. First, vehicles failed by additional modes (other than idle) tend to have higher error of commission rates. Second, the idle test would not require that automobile dealers purchase a chassis dynamometer to verify that warranty repairs have been done properly.

Response: The idle test has been adopted. The loaded two mode and two speed idle have also been approved because those procedures (or variations of them) are currently in use and those tests meet the statutory requirements. And, while the loaded mode and two speed idle procedures may not be necessary for 1980 and earlier passenger cars, these tests will be more effective with future vehicles as pointed out in the General Motors comment. A chassis dynamometer will not be necessary in order to perform or verify warranty repairs when the loaded two mode test is adopted by the jurisdiction. The test results can be used in conjunction with other diagnostic tools by the warranty outlet to make necessary corrections. Furthermore, chassis dynamometers are in the same general cost range ($5–10,000) as other pieces of sophisticated test equipment (exhaust gas analyzers, $3–4,000, and electronic engine analyzers, up to $20,000) used by some repair garages and dealerships.

Comment: Only one short test should be approved to prevent possible conflicts between short tests. For example, a vehicle could fail the two speed idle test and yet pass the two mode loaded procedure. Also, it is recommended that the two mode loaded test be approved since it is the most similar to the certification test procedure.

Response: Conflicts between the three approved short test procedures will not occur since a jurisdiction will select a single short test and vehicles will be tested accordingly.

Comment: The three proposed short tests will not be able to detect many malfunctions with 1981 and later light duty vehicles. This is especially true of the idle test. Under the circumstances the statutory requirements of Section 207(b) have not been met.

Response: The data cited by General Motors (during the reopened comment period) was generated on a prototype vehicle with induced malfunctions. These results indicate that the idle test will not be as effective on future vehicles as it is at present. However, the Agency does not share the view that the limited test data provided is conclusive in showing that the idle procedure is of no use. It should be noted that the test results were on a prototype vehicle with induced malfunctions. First, it is far from certain that all vehicles will employ the same control systems or even the same control technology. As manufacturers gain experience with the more stringent emission standards, changes will be made in the control systems. These changes will probably be in the direction of less sophisticated and less expensive systems which may be more susceptible to both malfunction and to detection by the idle test. Second, induced failures are not the same as real world experience. The components which will fail in actual use and their mode of failure cannot be predicted with absolute certainty. In any event, it can be safely stated that any future vehicle which fails the idle short test will be exceeding its certification emission standards so that the manufacturers' warranty liability is not increased by the inability of a given test procedure to detect all failure conditions. Finally, if the short tests adopted appear to be ineffective on future technology vehicles, EPA may consider revising such tests in a future rulemaking.

Comment: Instead of the emission short tests proposed, it is recommended that a procedure be developed to inspect critical emission control components.

Response: Such an approach would not meet the statutory requirements for an emission performance warranty short test. Also, this would be equating the 207(b) performance warranty with the 207(a) defect warranty, contrary to the intent of Congress in adopting two warranty provisions with distinct criteria.

2. Preconditioning. Comment: There is no data to substantiate the need for preconditioning on the idle test. It is essential that waiting time be minimized to reduce expense of the I/M programs. Further, the action of minimizing a waiting time would be more effective than preconditioning and obtaining accurate idle readings.

Response: No preconditioning is required for the straight idle test. A 2500 rpm mode can be elected by the implementing jurisdiction. The idle tests, and their associated standards, were developed from actual I/M lane data. As such, the variability attributed to preconditioning and waiting time have been reflected in the standards. Similar efforts were made on the loaded-mode test using the EPA emission testing contractor. Results of this work were verified by using a smaller number of loaded tests at the I/M lane.

3. Idle Test Procedures. Comment: The idle test should be run with all accessories off and with the engine fully warmed up. Engine condition can be evaluated by water temperature and open choke.

Response: These comments have been incorporated into the final regulations.

4. Idle RPM. Comment: Idle speed has some effect upon idle emissions. However, catalyst vehicles are not affected as much as prior technology and idle speed measurement takes time in an inspection lane.

Response: Except for specifying the high speed idle test condition, engine speed is not addressed in the final short test regulation. The States are free to adopt whatever requirements they wish.

5. Data Submissions. Comment: The extensive data submission requirements in the NPRM should be minimized.

Response: The entire data submission portion of the regulation has been deleted.

6. Variability. Comment: Altitude, ambient temperature, and fuel composition can affect the short test results.

Response: Availability of the emission performance warranty has been limited to low altitude areas until high altitude emission standards are promulgated. The effects of ambient temperature and fuel are less pronounced and are not deemed to be significant at the level of standards adopted.

Comment: Test conditions should be adequately defined to eliminate the possible influence on emission test results. Specifically, the vehicle should be warmed up, but not overheated, the ambient conditions should be specified, and the test procedures should be specified in more detail.

Response: Appropriate additions have been made to the final regulations. The suggestion concerning vehicle temperature has been incorporated in the regulations. Also, test conditions have been adequately defined to reduce, or eliminate, some of the sources of test variability mentioned in the comment. The restriction on ambient test condition has not been incorporated. When a warmed up and non-overheating vehicle is tested, ambient temperature is not a critical factor in determining short test emissions.

Comment: Differences observed between the I/M lane and the EPA's contractor when employing the same short test indicate that there is excessive variability. This excessive variability is an indication that the short tests do not comply with good engineering practice. Furthermore, EPA did not consider this variability in developing the short test standards.

Response: EPA acknowledges that some (short test) variability was noticed in the test reports from the two test stations. However, this variability could not be attributed solely to the short test. Vehicle variability undoubtedly contributed a great deal to the total, and there was no way to separate these components. Furthermore, this variability was considered in developing a short test standard by the fact that a large number of vehicles were analyzed. Results from over 2200 vehicles tested at the I/M lane were compared with scores from the official certification test at the contractor laboratory. This number of cars tested will eliminate the effect of test variability on the final results. Conclusions derived from the Portland data were tested against other EPA test results to verify their correctness. (This verification is found in Figure 8 of the Technical Report). As noted, the other data sets supported the original conclusions. In all, approximately 6,000 vehicles were analyzed to compare short test and certification test results. These results support the position taken in this rulemaking.

7. Garage Instruments. Comment: Garage instruments are not accurate enough to be used for purposes of the emission performance warranty.

Response: As revealed in the Technical Report, garage analyzers are accurate enough to be used for emission performance warranty short tests. High emitting vehicles are accurately identified with acceptable errors of commission. This is illustrated in Figure 8 of the Technical Report while idle test results from various programs (using garage analyzers) are compared.

8. Miscellaneous Comments. Comment: From reanalyzing the Portland data a lower percentage of excess emissions identified was observed than stated in EPA's short test report. There was no time to resolve this discrepancy.

Response: Similar calculations were rerun with essentially the same results. In any case, the difference in excess emissions identified is not significant (about 10%), so that the conclusions reached remain valid under both calculations of excess emissions.

Comment: EPA did not report results of its analysis of the California Air Resources Board data.

Response: This data was not used in development of the short test standards. Some preliminary calculations were made which would support much lower short test standards. However, due to the limited number of vehicles and the fact that the tests were performed under "laboratory" conditions, no final calculations employing this data were made. The fact that these results support lower standards does not mean that the current standards are invalid.

Comment: There is no requirement that states adopt the same short test standards as applied for 207(b) warranty work. In order to gain additional credit in their state implementation plan, states have an incentive to adopt more stringent standards. This would place the automobile dealer in a difficult position between only having to repair the car back to the 207(b) standards with a subsequently unhappy owner. EPA should take steps to insure that inappropriate state short tests and standards are not adopted.

Response: States are free to adopt whatever short tests and standards they deem appropriate. EPA reviews State Implementation Plans to see that certain performance criteria are met; the Agency has no authority to interfere with their decisions. However, it is extremely unlikely that states will adopt short test standards more stringent than those now adopted for the 207(b) emission performance warranty. The 207(b) standards are quite effective in identifying excess emissions, and more stringent standards would gain very little. Also, high failure rates without warranty protection would result in significant citizen dissatisfaction.

Comment: The proposed short test regulations would require local jurisdictions to have sophisticated and expensive test equipment. Also, the local jurisdiction would be put in the middle of disputes between the manufacturer and the vehicle owner.

Response: This comment came from a jurisdiction considering adoption of an I/M program. It is contrasted with comments submitted by vehicle manufacturers, both parties wanting to avoid being in the middle of disputes over warranty coverage. EPA does not expect that such three-way disputes will occur.

The emission performance warranty does not require action on the part of the state or local government in order to be effective. The State's responsibility will be only to pass or fail vehicles and to impose penalties or sanctions. The consumer is responsible for meeting the requirements. Since the manufacturer is liable to consumers under the warranty provisions, disputes over warranty claims will not involve local or state jurisdictions.

Environmental Protection Agency

May 12, 1980.

Theodore Souris, Esq.,
Bodman, Longley and Dahling, 35th Floor, 100 Renaissance Center, Detroit, Michigan.

Dear Mr. Souris: On December 21, 1979, you submitted a petition on behalf of the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), requesting that the Environmental Protection Agency (EPA) repropose the Emission Performance Warranty Short Test regulations which were proposed initially on May 25, 1977 (42 FR 26742). The basis for your request was that several events had occurred during the two and one-half years since EPA first published the proposed short test regulations, all of which allegedly are significant to the proper establishment of an emissions short test program. You also claimed in a subsequent letter dated January 16, 1980, that EPA's technical report on the short test standards [1] that were to be developed from new data supported your previous contention that the regulations should be reproposed.

We do not believe we were legally required to reopen the comment period, since the Agency's then current thinking on the approach that should be taken in the final rules was a direct outgrowth of the comments received on the various approaches proposed in the May 1977 Notice of Proposed Rulemaking (NPRM). Nevertheless, EPA

[1] "Light Duty Vehicle and Light Duty Truck Emission Performance Warranty: Short Tests and Standards," December 1979 (IMS–009/ST–1) [hereinafter "Technical Report"].

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reopened the comment period for 30 days to allow interested persons to consider and to submit comments on any new information not previously available for comment, in order to allow the public to participate to the maximum extent feasible and to address the concerns raised in MVMA's petition. The Federal Register notice announcing the reopening of the comment period until March 3, 1980 (45 FR 6980 (January 31, 1980)), included a summary of the approaches proposed in the NPRM and a summary of EPA's current thinking on how the regulations should be finalized. The summaries were intended to enable interested persons to focus their comments on any impacts from the specific information not previously available for comment, and to provide a regulatory framework to which the comments could be directed.

Prior to publication of the Federal Register notice on January 31, 1980, EPA notified by mailgram several manufacturers' representatives, including MVMA and yourself, that the comment period was being reopened for submission of comments on new data, EPA analyses and conclusions from the data, and that all new information would be placed in the appropriate public docket. On January 24, 1980, you sent a reply mailgram objecting to the adequacy of the 30 day comment period, and alleging that much of the background information essential to making informed comment was not publicly available. Our February 13, 1980, mailgram to you pointed out that all information essential to informed evaluation and comment on data, analyses and conclusions generated since the close of the original comment period had been placed in the public docket prior to the start of the comment period. In addition, we reminded you that EPA previously had sent copies of this essential information to MVMA and/or individual member companies upon request throughout 1979, and that additional background information and assistance on clarifying information had been or would be provided by EPA's technical staff.

On February 11, 1980, you submitted a Supplement to the MVMA Petition for Reproposal, alleging the inadequacy of the 30 day extension to the original five and one-half month comment period for consideration of the "substantial changes" you claimed EPA has made in the proposed data base, short test standards, and correlation methodology. In the Supplement, you cited 54 pieces of information that you claimed were essential to making informed comment. On March 3, 1980, Mr. Harry B. Weaver of MVMA submitted extensive written comments and supplementary computer analyses critiquing the data and analyses EPA had used as a basis for emphasizing the particular regulatory approach then being considered.

Upon consideration of the objections you raised in support of your request for reproposal of the proposed short test regulations, and upon examination of the comments MVMA and others submitted to the public docket, I have decided that reproposal is totally unwarranted at this time, and, therefore, I am issuing the final regulations concurrently with this letter.

All interested persons have been provided with ample opportunity to consider and comment on all aspects of the proposed short test regulations. The entire field of possible solutions was set out in the NPRM, with all subjects and issues before the Agency described. Comments were requested on a broad base of issues involved in establishing the short tests and short test standards, including the appropriateness of the proposed short tests, the data base for setting standards and methods for determining standards. All aspects of the rule being adopted were the subject of detailed and exhaustive comment during the five and one-half month comment period initially provided.[2] The views expressed in those comments were the primary force in EPA's decision to eliminate the complex regulatory approach discussed in the NPRM and to adopt a far simpler and less costly approach for the 1981 model year. In fact, that the Agency chose a simpler approach in response to concerns raised in comments indicates that the public participation process has functioned properly and effectively.

Since the final rules were developed in such a way as to address the concerns raised in the initial comments, and because the final rules present no new subjects or issues, reproposal was unnecessary. Moreover, to the extent that information recently made available and EPA's analysis of that information would change any comments previously submitted, the recent 30 day extension for additional comment provided an adequate opportunity for submission of those views in the context of the regulatory approach outlined in the Federal Register notice announcing the reopening of the comment period.

I am convinced of the adequacy of the 30 day extension for MVMA, its member companies and other interested parties to address any new data, information or analyses, and the impact of these items on the NPRM. MVMA raised in its petition several issues that auto manufacturers and others had addressed in previous comments on the NPRM. Indeed, many of MVMA's current objections apply to the more conservative and less burdensome approach adopted by EPA as a result of previous comments submitted by MVMA member companies and others. It is apparent from the extensive analyses which MVMA performed on several sets of data and the issues addressed in its recently submitted comments, that a reasonable opportunity for presentation of MVMA's views on the final plan has been afforded. Moreover, MVMA has not specified what would be accomplished by additional analyses of the data EPA has relied on, or how reproposing the regulations would allow MVMA to raise new or different criticisms. Therefore, I believe that further provision for notice and comment is not required and would merely delay implementation of the short test regulations, and ultimately, the performance warranty regulations.

I also question the reasons for MVMA's persistence in requesting reproposal, since many of the objections raised are with regard to modifications designed to reduce the burden of these regulations on auto manufacturers by limiting their potential exposure to warranty claims. Ample protection for manufacturers has been built into the statute and the regulations. As discussed in the attached memorandum,[3] I do not deem the issues raised in the MVMA Petition and Supplement sufficient to prevent me from making the statutory findings necessary to establish the short tests for application to 1981 and later model year vehicles. Therefore, MVMA's contention that I must delay establishing the short tests is unwarranted and contrary to Congress' intention to provide a mechanism for implementation of the vehicle performance warranty.

The enclosed memorandum contains responses to each of the issues raised in support of MVMA's request for reproposal, and sets out in more detail the basis for my denial.

Sincerely yours,

Douglas M. Costle.

Memorandum in Support of Denial by the U.S. Environmental Protection Agency of Petition for Reproposal Submitted on Behalf of the Motor Vehicle Manufacturers Association re: Notice of Proposed Rulemaking on Short Test Establishment

On May 25, 1977, the Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking (NPRM) pursuant to section 207(b) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7541(b), to establish testing methods and procedures for ascertaining whether vehicles in actual use comply with emissions standards.[1] As explained in the NPRM, establishing such "short tests" is necessary for implementation of the section 207(b) vehicle performance warranty, which is the subject of a separate rulemaking.

On December 21, 1979, the Motor Vehicle Manufacturers Association (MVMA) submitted a petition for reproposal [2] of the proposed short test regulations. After EPA reopened the comment period for an additional 30 days to allow interested parties to comment on the impact of new information EPA has relied on to develop the final rules, MVMA submitted a Supplement to the Petition.[3]

[2] Three workshops also were sponsored by EPA during the original comment period for discussion of short test and warranty issues with affected parties. MVMA member companies participated in these workshops.

[1] Memorandum in Support of Denial by the United States Environmental Protection Agency of Petition for Reproposal Submitted on Behalf of The Motor Vehicle Manufacturers Association Re: Notice of Proposed Rulemaking on Short Test Establishment."

[1] 42 FR 26742 (May 25, 1977).

[2] Letter from Theodore Souris to Douglas M. Costle, December 21, 1979, and attached *Motor Vehicle Manufacturers Association's* (MVMA's) *Petition for Reproposal* (hereinafter "Petition").

[3] Letter from Theodore Souris to Douglas M. Costle, February 11, 1980, and attached *Motor Vehicle Manufacturers Association's Supplement to Petition for Reproposal* (hereinafter "Supplement").

in which MVMA claimed that the extension to the comment period was inadequate to allow informed comment on the changes to the NPRM contemplated by EPA.

This memorandum sets out the basis for the Administrator's denial of MVMA's request for reproposal of the short test regulations. Part I of this memorandum explains why reproposal is not necessary and addresses the arguments raised in MVMA's Petition. Part II addresses the arguments raised in the Supplement, and explains why the recent extension to the comment period for the proposed rules provided adequate opportunity for interested parties to comment on any new data or information which EPA has used in developing the final rules and which was unavailable during the initial comment period.

I. Reproposal Is Not Necessary Since Adequate Notice Was Provided in NPRM

MVMA alleges in its petition that significant changes have occurred since the conclusion of the public comment period for the NPRM published in May 1977, which, individually and collectively, warrant reproposal of the regulations. MVMA contends that, although EPA presumably has considered changes in emission control equipment and new information, its analyses and conclusions have not been publicly disclosed and interested parties neither know what change may be contemplated in the NPRM nor have they been accorded an opportunity to comment on EPA's analyses and conclusions. MVMA cites as the most important of the events warranting reproposal the following: (1) The generation of new data and EPA analyses of the data; (2) significant improvements in emission control system technology; (3) EPA's failure to gather or publish any data on the applicability of the short test regulations to light duty trucks or diesel powered light duty vehicles; (4) EPA's failure to consider recent test data from current model year production of motor vehicles built for use in California; (5) EPA's change in the number and character of short tests being considered; and (6) EPA's adoption or proposal of other regulations.[4]

MVMA also contends that the changes EPA has made in the proposed short test regulations were not in response to public comment, but apparently were the result of EPA analysis of data not previously available for comment and of decisions within EPA to modify the methodology to be used in establishing "reasonable correlation."[5] MVMA alleges that, for these reasons, the changes do not follow logically from the NPRM, nor are they of the type intended to occur through the public participation process under the Administration Procedure Act. MVMA concludes that they require and deserve the complete study and analysis that can only be assured by complete reproposal of the regulations.[6]

MVMA's conclusion that it is essential for EPA to repropose the regulations in order to fulfill the purpose of the statutorily mandated notice and comment procedure lacks any factual or legal support. The "new developments" which MVMA claims to warrant reproposal involve issues or information that the Agency presented in the NPRM, that were considered as a result of public participation in the rulemaking process, or that are not relevant to this rulemaking. It is apparent from the following comparison of the subjects and issues presented in the NPRM with those addressed in the final rule that the final rule is well within the scope of the notice provided in the NPRM. All interested parties were fairly apprised of the subjects and issues before the Agency. Therefore, even if the final rules differ substantially from the proposal, the Agency was not required to subject the proposal to further public scrutiny, i.e., additional notice and opportunity for comment, before taking final action. *See Int'l Harvester Corp. v. Ruckelshaus*, 478 F.2d 615, 632 n.51 (D.C. Cir. 1973); *South Terminal Corp. v. EPA*, 504 F.2d 646, 659 (1st Cir. 1974).

The changes to the NPRM also were the logical outgrowth of the notice and comment process because they were made primarily to address concerns raised during the original 5½ month comment period, while remaining within the framework of the NPRM. Criticisms of the proposed test methods and procedures, including the sophisticated and expensive nature of several of the proposed tests, the failure of most of the proposed data sources to reflect real world conditions and the lack of a sufficiently large vehicle test group for selecting short test standards, had a major impact on the development of the final rule. The Administrative Procedure Act, 5 U.S.C. 553(b) ("APA"), does not require precise notice of each aspect of regulations eventually adopted, since this would result in repeated and essentially unlimited rounds of notice and opportunity for comment as the Agency modified the regulation to address public comments received. *See, e.g., Cal. Citizens Band Ass'n v. U.S.*, 375 F.2d 43 (9th Cir. 1967). Since the final rule is the "logical outgrowth" of the NPRM and public comments considered, additional notice and comment was unnecessary. *See, e.g., Nat'l Constructors Ass'n v. Marshall*, 581 F.2d 960, 970–71 (D.C. Cir. 1978). (The "logical outgrowth" test was developed under the APA to determine to what extent proposals on which public comments have been received may be altered without allowing further public comment. *Id.* at 971.)

One factor to be considered in whether to repropose is whether the regulated parties would suffer substantial detriment as a result of the alleged failure to give adequate notice. *See National Helium Corp. v. EPA*, 569 F.2d 1137 (3rd Cir. 1977). Here, EPA's modifications worked to reduce the potential burden upon the vehicle manufacturers subject to the Act's warranty provisions. In contrast, courts have upheld final regulations which embody more severe requirements upon the regulated parties than specifically provided for in the proposed rules. *See, e.g., American Iron and Steel Institute v. EPA*, 568 F.2d 284 (3rd Cir. 1977) (where the court found that persons should have been aware from the discussion in EPA's proposal that the Agency might adopt more stringent treatment technologies than embodied in the proposal).

Even assuming that the notice contained in the NPRM was inadequate to apprise interested parties of the subjects and issues before the Agency, the recent extension to the comment period afforded interested parties a reasonable opportunity to participate in the rulemaking process. *See South Terminal Corp. v. EPA*, 504 F.2d at 656–59; *Foster v. Consumer Product Safety Commission*, 559 F.2d 774, 787–88 (D.C. Cir. 1977). The notice of extension not only specified the new data and analyses for which comments were being invited; it also provided an explanation of the ways in which EPA was planning to incorporate the results of that information into the final rule. This notice, along with the 30 days provided for submission of comments, provided interested parties with a "fair opportunity to present their views on the contents of the final plan." *BASF Wyandotte Corp. v. Costle*, 598 F.2d 636, 642 (1st Cir. 1979).

As discussed below, the adequacy of the 30 day extension was made apparent by MVMA's ability to repeat EPA's analysis of the new data it has relied on and to conduct analyses of

[4] MVMA Petition, 5–19.

[5] MVMA Supplement, 35.

[6] *Id.*, 38.

several other sets of data not relied on by EPA.[7] Although MVMA claimed that it did not have sufficient time within which to submit complete and informed comments on the new information, it was unable to specify the nature of the comments or criticisms it would raise. In addition, EPA had provided MVMA and several of its member companies with information and assistance well in advance of the reopening of the comment period, so that they were familiar with both the data and the methods EPA used to formulate a final rule. Since MVMA had, in effect, much more than 30 days in which to consider the new information, as well as 5½ months in which to commment on the underlying issues presented by the NPRM, EPA believes that it has provided more than adequate opportunity for comment in this rulemaking.

A. Regulatory and Statutory Scheme

On May 25, 1977, EPA published an NPRM dealing with the establishment of test methods and procedures for ascertaining whether a vehicle complies with emission standards under section 207(b) of the Act. As explained in the NPRM, establishing such methods and procedures ("short tests"), to be used in conjunction with state or local Inspection/Maintenance (I/M) programs, is just one aspect of the section 207(b) warranty scheme. A separate rulemaking is required to establish a warranty under which vehicle owners whose vehicles fail to demonstrate compliance with emission standards in such a short test (and, as a result, are subject to sanctions) may have their vehicles repaired free of charge by the manufacturer, provided the owners properly operated and maintained the vehicles. The warranty regulations were proposed on May 25, 1977,[8] and reproposed on April 20, 1979.[9]

Section 207(b)(1) requires the Administrator to establish the short test "methods and procedures" by regulation if he determines that: (1) Such testing methods are available, (2) such methods are in accordance with good engineering practice and (3) they are reasonably capable of being correlated with the Federal Test Procedure (FTP). Section 207(b)(2) requires the performance warranty regulations to be prescribed at such time as the Administrator determines that inspection facilities or equipment are available to carry out the testing methods established by the short test regulations. The NRPM described the basic scheme for determining whether a vehicle complies with emission standards for purposes of section 207(b) warranty coverage: short tests determined to meet the statutory criteria could be adopted through I/M programs, and compliance with short test standards ("cutpoints"), which would be established either annually or on an as-needed basis, would determine whether a vehicle passes or fails the short test. Failure of the short test would trigger a manufacturer's warranty liability if the vehicle owner were subject to penalties or sanctions under the I/M program. Thus, the short test regulations merely provide the foundation for state or local I/M programs to determine whether a vehicle complies with emission standards. Whether a vehicle manufacturer is liable for repair of a noncomplying vehicle is the subject of separate criteria under the warranty regulations.

The basic scheme for determining whether a vehicle complies with emission standards for purposes of section 207(b) coverage has remained intact, i.e., vehicle non-compliance with short test standards (cutpoints), as administered through I/M programs, triggers the coverage of the warranty regulations. What remains at issue, and what MVMA has objected to, are the components of the three statutory determinations to be made by the Administrator in establishing the short tests and standards. These components, as set out below, were described in the NPRM, subjected to comments and criticism, and modified accordingly.

B. Subjects and Issues Treated in the Notice of Proposed Rulemaking

1. Short Tests. EPA proposed three categories of short tests as being suitable for use, either in total or in part, in inspection programs, and which were deemed to meet the statutory criteria of availability, reasonable correlatability with the FTP and reflecting good engineering practice. The idle test, with several procedural variations thereof, was described as one proposed test method. Although the test's inability to measure NO_x emissions was noted, it was pointed out that the idle test was the predominant procedure used in existing and planned state I/M programs. The second category of test methods, the steady state modal tests, was described as measuring HC, CO and NO_x emissions while a vehicle is driven on a dynamometer at two different speeds and idle. Two specific loaded tests were cited as being within this category—the Federal 3 Mode and Clayton Key Mode—and the procedural variation between them was attributed to the severity of the load simulated. The third category, transient tests, was cited as being the only category for which no field data was available (no state was using or planning to use such a test), and requiring greater investment in resources than the idle or steady state modal tests. The idle and steady state tests had been used in state I/M programs, although use of the steady state tests demanded more equipment, manpower and time than the idle tests.

2. Data Sources. The NPRM set out five sources of data to be used in making the statutorily prescribed determinations. Four sets of data from a total of approximately 500 1973–1975 model year vehicles, tested under laboratory conditions, were described as forming the basis for EPA's proposal that each of the five proposed short tests met the statutory requirements of availability, correlation and good engineering practice. The fifth source of data was a program planned to generate additional data on correlatability. Approximately 2400 vehicles (1975/76 model year) would be tested in Portland, Oregon's I/M program. The vehicles tested in this "Portland Study" (Element I) would be drawn from an in-use fleet rather than from assembly-line or certification vehicle fleets, making the test data more representative of real world conditions. Each vehicle was tested under the FTP and under each of the five proposed short tests to determine the extent of correlatability between the two at various cutpoint levels. The test program, which ultimately derived data from 2207 1975–77 model year vehicles, was completed in April 1979.[10]

3. Methods of Treating Data To Determine Correlatability. Although the NPRM described three techniques for determining whether the short tests and procedures could be "reasonably correlated" to the FTP, the Agency proposed adoption of the approach using a "contingency table". This method was deemed sufficient for determining correlatability because it could be used to determine if the short tests were capable of reliably and consistently predicting whether a vehicle would pass or fail the FTP. How reasonable the correlation would be was described as being dependent upon the ratio of incorrect to correct predictions. The number of incorrect predictions would in turn be determined by the extent of errors of commission (short test incorrectly predicts FTP failure) and errors of omission (short test incorrectly predicting FTP passed). It was pointed out that errors of commission (Ec) could be reduced to any desired level by reducing the severity of the cutpoints, thereby reducing the cost incurred by the manufacturer in repairing those vehicles that comply with emission standards. Since doing so would necessarily increase the errors of omission, the incremental air quality improvement from fine tuning such vehicles would be foregone.

4. Development of Short Test Standards. The three major aspects to be addressed in setting cutpoints to be applied in conjunction with the short tests were: (i) The methodology to be applied to the test data for selecting the cutpoint levels; (ii) the numbers and types of vehicles to be tested (groups) to generate test data; and (iii) how often to test vehicles and set new cutpoints.

The Agency proposed that cutpoints be established each year by testing privately owned production vehicles and/or assembly line vehicles during the first nine months of each model year and applying the prescribed methodology to the test data. A vehicle group would be selected on the basis of significant differences in production vehicles' engine/size/emission control technology combinations, and the number tested in each group would be large enough to satisfy statistical requirements for sample size. The methodology to be applied to this test data was to be derived from one of five approaches. The simplest approach described was to set the short test cutpoints at a level corresponding to a 5 percent Ec commission rate within each group. This "easy to implement" approach was ultimately chosen.

The NPRM noted that the Agency might provide short test cutpoints only on an as-needed basis, since further testing might show that setting cutpoints annually for as many groups of vehicles as anticipated might not be necessary. Also, the NPRM indicated that the effects of real world variables shown by the Portland data would be incorporated into the cutpoints.

5. Scope of Regulations. The Agency proposed that light-duty trucks (LDT's) be subject to the light-duty vehicle (LDV) short tests and methodology for setting cutpoints, although the actual cutpoints for LDT's might differ. The basis for this proposed approach was the similarity in engineering design and usage between LDT's and LDV's.

Although the proposed short tests were expected to function effectively as predictors of the FTP emissions of all future technology vehicles, the NPRM proposed that in the event the emissions of a new technology vehicle could not be measured effectively by the proposed tests, one or more new short tests would be implemented to apply to those vehicles.

C. Development of the Final Rule. A majority of the approximately 100 comments submitted in response to the NPRM were opposed to the proposed regulations.[11] A recurring criticism of the NPRM was the cost and complexity of the proposed tests and standard setting scheme. Many of the proposed short tests were criticized as being too sophisticated and expensive and were claimed to be unavailable since they had not been tried in-use (only the idle and loaded mode tests actually have been used in inspection lanes). The automotive industry raised arguments similar to MVMA's recent comments on the extent of correlation required between the short tests and the FTP and the method of determining correlation. Objections to the annual standard-setting scheme covered all aspects of the scheme of testing/analyzing data/cutpoint selection for various vehicle groups.

The proposed testing of numerous vehicle groups for establishing different cutpoints was criticized as being expensive if sufficiently large samples were to be tested. Whereas the NPRM was aimed at identifying marginal FTP failures, it was pointed out by one auto manufacturer that a more general vehicle grouping would be possible (and would aid the operation of state I/M programs) if identification of "gross emitters" rather than marginal failures was the desired goal.[12] The use of data from assembly line or prototype vehicles was criticized as being unrepresentative of real world conditions; it was urged that only in-use vehicles be used as the data source. Also, the timing of the testing (during each model year) was claimed to be undesirable since new vehicles exempt from the performance warranty would be on the road. The use of errors of commission in determining short test correlation and in setting cutpoint levels was criticized as unjustly penalizing manufacturers.

Upon considering these and other objections, the Agency modified the proposed rule to emphasize detection of high emitting vehicles rather than marginally noncomplying vehicles. By doing so, much of the expense involved in detecting those incremental emissions through complex tests and standard-setting procedures could be eliminated. Each revision to the NPRM is discussed below, along with the reasons for rejection of MVMA's arguments for reproposal.

1. Data sources. MVMA claimed in its petition that reproposal is warranted because, among other items, EPA had not yet published for public comment the data developed during the study it had conducted in Portland [13] or other data that "may be relevant to short tests".[14] MVMA also claimed that recent test data from current model year production of motor vehicles built for use in California should be considered by EPA before its final regulations are promulgated.[15] These arguments do not warrant reproposal of the regulations.

EPA recognized the importance of real world effects on the appropriateness of the selected short tests and cutpoints, and pointed out in the NPRM that the effects shown by the Portland Study, the only test program that would generate data from in-use vehicles in an actual I/M lane, would be factored into the final rules. Commenters, including members of the MVMA, still objected to the failure of the proposal to reflect real world variables. Manufacturers insisted that data derived from "real world" conditions serve as the basis for setting short tests and establishing correlation, rather than the laboratory data cited in the NPRM.[16]

As a result of these comments, the Agency decided that rather than relying at the outset on the very limited laboratory data from approximately 500 autos and factoring in the results of the

[7] See discussion in Part II of this memorandum: MVMA's Response to the Extension of the Comment Period for the Emission Control Systems Performance Warranty Regulations—Short Test Establishment, February 29, 1980 (hereinafter "MVMA Comments").

[8] 42 FR 26742 (1977).

[9] 44 FR 23784 (1979). The warranty regulations were reproposed because the 1977 amendments to the Act changed the length and character of the section 207(b) warranty; however, the short test provision was not affected by the amendments, and EPA notified the public in 1977 that reproposal of the short test NRPM was not anticipated. See Notice of Public Workshops, 42 FR 43412 (August 29, 1977).

[10] Element 1 of the EPA Portland Study, contained in computer files along with other in-use data EPA used to support the results of the Portland data, is located in EPA's Ann Arbor, MI, laboratory. Element 1 is the first of three elements comprising the Portland Study, and is the only element used in developing the short test regulations.

[11] A summary and analysis of all comments submitted on the proposed rule is published concurrently with the final rule.

[12] "Comments submitted by General Motors Corporation on the Notice of Proposed Rulemaking on section 207(b) Emission Control System Warranty Regulations—Short Test Establishment" November 7, 1977, (hereinafter "GM 1977 Comments"), at 78–80.

[13] MVMA Petition, 6.

[14] *Id.*, 7.

[15] *Id.*, 12.

[16] For example, General Motors commented that the short tests used to evaluate "reasonable correlation" must be conducted under "real world" conditions, since real world influences would result in correlation less than that obtained under laboratory conditions. GM 1977 Comments, 8

2400 vehicle Portland study to determine

2400 vehicle Portland study to determine the correlation of the short tests, as proposed, it made more sense in view of the objections to use the Portland data as a base for determining correlation and short test standards.

Since all relevant aspects of the Portland Study had been described in the NPRM (i.e., testing of 2400 1975/76 model year vehicles under FTP and all proposed short tests) and an opportunity to comment was provided, the Agency felt it unnecessary to present for further comment the actual results obtained. Nevertheless, in view of MVMA's objection that EPA had not made available for public comment all data from the Portland Study and other relevant test data, EPA provided 30 additional days[17] for submission of comments on EPA's reliance on the Portland data in making the statutory determinations. Other data, used only to support the conclusions drawn from the Portland data, also was made available for comment.[18]

MVMA claims that EPA must consider all data that may be relevant to short tests, such as the test results of other states' I/M programs and the experimental I/M test investigations soon to be commenced by several states.[19] However, EPA did analyze in-use vehicle data from eight cities, and this data supported the conclusions reached from the results of the Portland Study. MVMA has given no indication why EPA analysis of additional in-use data is necessary, in light of the volume of in-use data already analyzed; nor has it shown why the particular data cited would be anything more than cumulative.

EPA also need not analyze California new vehicle data and conduct further correlation studies on current model year motor vehicles, as asserted by MVMA.[20] EPA has found that the statutory criteria have been met by its analysis of in-use data, used primarily as a means to address concerns raised previously by MVMA member companies and others that the data used by EPA in making the statutory determinations would not reflect real world influences. The California data cited by MVMA is derived from new vehicles with no, or very little, accumulated mileage, and therefore would not be representative of the in-use vehicles which would be tested in I/M programs, nor would the results reflect real world effects.[21]

2. Short Tests. MVMA asserted in its petition that if EPA has reduced the number or changed the character, of tests being considered, affected parties should be accorded an opportunity to submit more thorough and comprehensive analysis in light of intervening events which have occurred since the 1977 NPRM.[22] However, further analysis of the short tests is unnecessary in view of the fact that, in responding to criticisms of several of the more complex tests, EPA traded off some of the accuracy inherent in those tests for the additional availability of the simpler tests being adopted.

Commenters had objected to the complexity and expense involved in several of the proposed short tests, as well as to the lack of in-use experience with these tests. As a result, EPA considered establishing only those tests that would meet both the requirements of the Act and the needs of parties that would be administering the tests. Those tests given further consideration, and ultimately adopted, all fell within the descriptions outlined in the NPRM. The idle tests, one meeting the "classical" idle test description (measuring HC and CO emissions while engine idles) and the other, a two-speed idle test, meeting the description of the procedural variations of the idle test, were pursued due to their widespread availability. A simpler steady state modal test using two modes, replaced the three-mode tests proposed. The transient tests were eliminated altogether largely because their complexity and expense would discourage States from adopting them, and because their lack of in-use demonstration prevented adequate evaluation.

Although the original 5½ month comment period should have been sufficient time for affected parties to consider and comment on the benefits and disadvantages of idle, steady state and transient tests, the recent extension to the comment period provided additional opportunity for comment on the specific tests being considered by the Agency.

3. Methods of Treating Data. MVMA claimed in its Supplement that EPA's correlation methodology does not resemble that proposed in the NPRM because: (1) The contingency table analysis is replaced by an estimate of the errors of commission in the FTP and short tests with approximately the same Ec rate would be acceptable; (2) the NPRM focused on comparisons of results on the FTP and short tests for individual vehicles, whereas now the comparison is over a fleet of vehicles; (3) the calculation of errors of omission has been abandoned; and (4) NO_x emissions are not being considered in the determination of reasonable correlation. Therefore, MVMA asserts, reproposal is necessary for adequate analysis and comment.[23] MVMA has overstated the modifications made to the methodology. EPA has introduced no new factors into its methodology, and has merely given greater weight to those factors that would reduce manufacturers' exposure to unnecessary warranty liability.

In line with EPA's efforts to reduce the cost and complexity of the proposed rules by concentrating only on detection of vehicles with excessively high emissions, EPA developed a final approach to correlation that would trade off some incremental air quality benefits in exchange for a reduction in potential repair costs to manufacturers and consumers. The methodology described in the NPRM for determining "reasonable correlation" was in fact used. EPA balanced the potential consequences of incorrect predictions and correct predictions, and the costs incurred by errors of commissions and omission. Greater weight was given to the potential costs to manufacturers if short tests and standards designed to detect marginally failing (FTP) vehicles incorrectly failed substantial numbers of vehicles. Less weight was accorded to the incremental emissions not detected by short tests and standards designed to fail only gross emitters.

The resulting methodology was one which would require a short test to: (1) Identify a substantial portion of excess emissions (emissions above the Federal standards) and (2) have low errors of commission, i.e., incorrectly fail vehicles actually in compliance in a low percentage of tests conducted. This would allow detection of gross emitters, thereby retaining most of the air quality benefits, while preventing most unnecessary repairs. EPA accomplished this goal by reducing the severity of the short test cutpoints to a level corresponding to a 5 percent error of commission rate, which was one of the options set out in the NPRM. By monitoring the short test's ability to identify with reasonable accuracy vehicles which would fail the FTP, the extent of incorrect failures (errors of commission) which would affect

[17] As discussed in Part II of this memorandum, MVMA had much more than 30 days in which to examine the data and analyses generated since the close of the original comment period, since EPA had provided copies of the information to MVMA and/or its member companies during 1979.

[18] Eight city composite study (data from 3700 vehicles), restorative maintenance data, and emission factors data.

[19] MVMA Petition, 7.

[20] *Id.*, 12.

[21] *See infra* note 40.

[22] MVMA Petition, 13.

[23] MVMA Supplement, 22–26.

warranty liability by requiring unnecessary repairs, could be limited to the desired level. Therefore, EPA's calculation of the errors of commission of the FTP (approximately 5 percent) and positing that short tests with a similar rate of incorrect failures are reasonably correlated, is totally consistent with the purpose of the proposed methodology, i.e., to require manufacturers to repair noncomplying vehicles.

Moreover, EPA's selecting the level of Ec demonstrated by the FTP (approximately 5% as stated in the NPRM's Option 1) as a basis for correlating the short tests and standards is the direct result of comments submitted by MVMA member companies. For example, General Motors had suggested that "ideal" correlation is the degree of correlation between back-to-back FTP tests.[24] Therefore, the Agency has applied an Ec rate corresponding to the FTP's Ec rate in defining correlation and selecting short test standards.

MVMA claimed that EPA's classifying all vehicles as a single group is the opposite of what was proposed in the NPRM, and that this possibility was not discussed in the NPRM.[25] This is not true, since the NPRM explicity anticipated vehicle grouping on a different basis than that proposed. The NPRM did not focus on comparing FTP and short test results for individual vehicles, as asserted by MVMA,[26] but rather for vehicle "groups" which, as indicated in the NPRM, possibly would be made broader than the proposed engine/size/technology categories. EPA's evaluation of fleet data is a result of its establishing the vehicle test group on the basis of "latest available in-use data", i.e., the Portland test fleet. In fact, this use of the broader grouping of vehicles in a "gross emitter" scheme also was suggested by one MVMA member company in its comments on the NPRM.[27]

MVMA's conclusion that EPA's interpretation of "reasonable correlation" has changed since it is now based on a comparison of test results over a fleet of vehicles rather than individual vehicles, also is erroneous.[28] "Reasonable correlation" must be established between the FTP and the short tests, not between vehicles. Regardless of the specificity of vehicle grouping, reasonable correlation may be established between the tests to fulfill EPA's interpretation that the short test must be capable of reliably and consistently predicting whether the vehicle would pass or fail the FTP. Although testing individual vehicles with similar technologies would obtain the maximum correlation possible, and in turn, would allow selection of the most stringent short test standards possible, this would require complex calculation of individualized standards for numerous vehicle groups, which was criticized by commenters. Therefore, the procedure was simplifed by comparing test results from a broader group, i.e., one vehicle fleet, in order to reduce the burden on manufacturers and administrators of the short tests.

MVMA's claim that the NPRM did not meet minimal procedural requirements if the final determination on correlation is to be based largely on data from the Portland study [29] ignores two facts: that the NPRM listed the Portland study as a source of data to be used in establishing correlatability, and that using in-use fleet data to determine "reasonable correlation" was suggested in comments submitted by manufacturers. One MVMA member company stated that because real world influences would reduce correlation, the short tests evaluated must be conducted under real world conditions.[30]

MVMA asserted that nothing in the NPRM warned interested parties that EPA did not consider measurement of NO_x emissions or correlation between the short test and the FTP as to NO_x to be part of the statutory requirements of available technology and reasonable correlation.[31] This argument is frivolous. The lack of short tests and cutpoints for NO_x works to the manufacturer's advantage in that there will be no detection of high NO_x emitters, and as a result, no warranty liability in this circumstance. In any event, EPA's decision not to consider NO_x emissions in establishing correlation certainly should have been foreseen since the NPRM pointed out that the proposed idle short test would measure HC and CO emissions only, and the manufacturers are aware that in order to measure NO_x one of the proposed tests capable of measuring NO_x would have to be adopted by the states.

Since a short test standard for NO_x is not being established at this time, measurement of NO_x emissions is not relevant to the correlatability of the short tests being adopted. Furthermore, there is no legal requirement that NO_x emissions be considered in establishing correlation between the FTP and short tests adopted to measure only HC and CO.

Therefore, contrary to MVMA's assertion that the methodology contained in EPA's Technical Report does not resemble that in the NPRM, the methodology chosen for determining correlation of the short tests with the FTP is drawn from the NPRM and comments submitted on the alternatives proposed. In any event, MVMA and others were given an opportunity to submit comments and criticisms on EPA's conclusions, as stated in the Technical Report (see discussion in Part II below).

4. Development of Short Test Standards. MVMA claimed in its Petition that unless the regulations are reproposed, affected parties would not be accorded an opportunity to coment on the short tests and cutpoints or cutpoint methodology as they may apply to the emissions control system technology developed since the 1977 NPRM and which will be used on 1981 and later model vehicles.[32] In its Supplement, MVMA claimed that the NPRM did not discuss the possibility that EPA would consider classifying all vehicles as one group with uniform short test standards, and that adequate opportunity must be given for review of pertinent data and for comment on this allegedly startling development.[33] However, this approach was chosen to address comments on the NPRM.

Establishing short test standards to apply to all future model year vehicles was suggested by an MVMA member company in its comments on the NPRM. General Motors suggested the following: beginning with a model year in which emission standards and control system hardware have stabilized, EPA should attempt to establish reasonable correlation between the FTP and selected short test, conducted under real world conditions, determine the cutpoints from the current model year vehicles in actual use, and then carry over the selected short test and cutpoints to subsequent model year vehicles which are in all material respects the same as the model year vehicles tested.[34] As mentioned previously, General Motors also espoused use of a more general vehicle grouping than that proposed if a "gross emitter" concept were adopted,[35] as well

[24] General Motors 1977 Comments, 13.

[25] MVMA Supplement, 26.

[26] MVMA Supplement, 23.

[27] General Motors stated that a general vehicle grouping is possible if the desired result is to identify gross emitters rather than marginal failures. GM 1977 Comments, 19.

[28] MVMA Supplement, 23.

[29] MVMA Supplement, 27.

[30] GM 1977 Comments, 6.

[31] MVMA Supplement, 26.

[32] MVMA Petition, 9.

[33] MVMA Supplement, 26.

[34] GM 1977 Comments, 9.

[35] *Id.*, 78–80.

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as conducting the evaluation of the short tests under real world conditions.[36]

Other commenters had objected to the proposed development of cutpoints during the course of the subject model year because vehicles not subject to the warranty requirements would be on the road while cutpoints for the same model year were being developed.

Since it would be highly impracticable to evaluate a short test for correlatability and to establish cutpoints for different vehicle groups by testing sufficiently large samples of in-use vehicles during the same model year in which the short test and standards were to apply, EPA chose to establish cutpoints (and reasonable correlation) in such a way as to address the concerns on timing and use of real world data. By deriving cutpoints from the Portland data, drawn from a large sample of current technology vehicles, the cutpoints could be established well in advance of the beginning of the applicable model year. In addition, because the standards would be based on the emissions from previous model year vehicles (1975–1977) and would not be fine-tuned to each vehicle type, they necessarily would be less stringent as applied to cleaner future model year vehicles. However, as pointed out in EPA's Technical Report, a substantial percentage of excess emissions will still be identified, retaining most of the air quality benefits of the short test when used in conjunction with I/M programs.

MVMA's reference to the recent improvements in emission control system technology and the major shift in technology that will occur in the 1981 model year (i.e., the almost universal adoption of 3-way catalytic converters and electronic engine controls) that should be considered by EPA and subjected to comment [37] already had been addressed in comments on the NPRM, and already had been considered by EPA, as described in the Technical Report. EPA concluded that short test standards developed from 1975–77 model year Federal vehicles could be applied to 1981 and later model year vehicles without prejudicing manufacturers' rights because with the lower emission standards in the future, lower short test emissions could be expected.[38]

EPA's conclusions on the impact of future technologies in adopting the uniform cutpoint/broad vehicle grouping approach have been drawn, again, from manufacturers' initial comments on the NPRM. For instance, General Motors stated that the disproportionate amount of HC and CO emitted during the first few minutes of the FTP test after a 12-hour cool-down period is especially true for present systems employing catalytic converters and will probably be more pronounced for advanced catalytic systems meeting future stringent standards. GM also stated that catalytic systems are more effective in controlling emissions after they have reached normal operating temperature.[39] Since short tests and cutpoints are applied only to warmed-up vehicles, the obvious conclusion is that a vehicle's HC and CO emissions would be at the lowest levels during application of the short test, and that future catalyst technology vehicles designed to meet lower standards would emit even less HC and CO than current technology vehicles.[40] Thus, future model year vehicles would most certainly meet short test standards derived from the earlier model year Portland vehicles, with their higher tailpipe emissions. Conversely, if a future technology vehicle, with supposedly very low emissions, exceeds short test standards developed from current model year vehicles, it would have very high probability of failing the FTP.[41]

EPA also anticipated in the NPRM the possibility that particular future technologies might not conform to the emissions pattern exhibited by most vehicles. EPA stated in the NPRM that different short tests and/or cutpoints would be developed for these vehicles. EPA also stated in the Technical Report that if unforeseen technology is developed for which the standards are not appropriate, the manufacturer could be allowed to apply for a separate short test standard for those vehicles.[42] Therefore, there is no basis for MVMA's assertion that the public record did not reveal that EPA had considered the impact of future technology changes on the proposed short tests.[43]

5. Scope of Regulations. MVMA has objected to EPA's failure to include LDT's or diesel-powered passenger cars and LDT's among any of the test fleets on which the proposed short tests were tested, even though the NPRM explictly applies to these vehicles.[44] It claims that the existing volume of LDT's and accelerating proliferation of diesel-powered cars and trucks require EPA to repropose the regulations after considering their utility when applied to such vehicles. MVMA also claimed in its Supplement that EPA did not support with any data its assumption that it could derive the LDT cutpoints by adjusting LDV data and that EPA should disclose its supportive data.[45]

The basis for EPA's approach to setting all cutpoints is set out in the Technical Report. EPA does not believe it is essential to the rule's applicability to all LDV's and LDT's that diesels or LDT's be included in the test vehicle data base. This is because the vehicles tested are adequately representative of all vehicles to be covered by the rule.

There is a sound technical basis for EPA's deriving LDT cutpoints in this way. LDT's produced in 1981 and later model years will employ the technologies used to meet 1977 model year passenger car standards, since 1979 and later model LDT emission standards were derived from the 1977 LDV standards. The 1975–1977 model year Portland LDV data adequately represents the LDT vehicle group because similar emission control technologies are used, so that 1981 LDT's would respond to short tests in the same way that those earlier model year LDV's would.[46] EPA's supporting data in this rulemaking, the testing of 1975 LDT's under the short tests to

[36] *Id.*, 6.
[37] MVMA Supplement, 11–13.
[38] Technical Report, 5.
[39] GM 1977 Comments, 19–20.
[40] GM made the general statement that emissions during warm vehicle operation are very low. GM 1977 Comment, 9–20.
[41] MVMA contends that current model year vehicles produced for use in California are more representative of the future technologies that will be used in 1981 and later models, so that current model year California vehicle data should be considered by EPA. *See* MVMA Petition, 10; MVMA Comments, In support of this argument, MVMA submitted in its recent comments its testing and analysis of 82 Ford California-equipped 1975–78 model year passenger cars under the FTP and idle test, and its analysis of California 1979–80 Ford model assembly-line test data, as well as California surveillance data on 1975–77 model vehicles. *See* MVMA Comments, 11–21, Appendices A, B, C. Although MVMA's analyses and conclusions from these data are addressed more fully in EPA's Summary and Analysis of Comments, it should be noted here that MVMA's statement regarding the "* * * one drawback to the data * * * it is new vehicle data * * *" (MVMA Comments, 17) is deemed by EPA to be a significant reason for not including such data in the short test scheme chosen for 1981. MVMA concedes that "both idle and FTP emission levels may be lower than would be expected from in-use vehicles, particularly from ones which may have been misused, improperly maintained, or maladjusted." *Id.* This tends to support EPA's use of the Portland in-use data, since establishing correlation or selecting cutpoints from the cleaner, unused California vehicles would necessarily require more testing of larger vehicle samples, and application of factors to account for real world effects. In addition, EPA does not believe that MVMA's analyses demonstrate serious shortcomings of the idle test as a predictor of FTP failures of new technology vehicles, since the selected short tests and cutpoints are designed to identify only gross emitters.
[42] Technical Report, 5.
[43] MVMA Supplement, 13.
[44] MVMA Petition, 10.
[45] *See* MVMA Supplement, 32.
[46] Technical Report, 6. The Technical Report referenced the rulemaking for light duty truck emission standards, which discussed in detail the technologies expected to be used for compliance with the new emission standards.

ascertain whether the conclusions made for LDV's would apply to LDT's, also was set out in the Technical Report (Figure 8). MVMA and others were provided with an opportunity to present data or information to show that EPA's affirmative conclusion from this testing was erroneous; however, the only information presented was the reproduction of the applicable Federal 1981 emission standards and MVMA's "belief" that errors of commission for LDT's would be much higher than 5 percent.[47] This statement, by itself, is insufficient to overcome EPA's conclusion and supporting data base.

As set out in the Technical Report, diesel-powered vehicles are adequately represented because diesels generally emit lower levels of HC and CO, the only two pollutants measured by the short tests being adopted in the final rule. Therefore, a diesel-powered LDV or LDT would be less likely to fail the short tests and standards than comparable gasoline-powered vehicles. This also supports the Ec rate chosen by EPA to protect manufacturers from excessive exposure to warranty liability.

D. MVMA's Additional Reasons for Reproposal Are Without Merit

Several "new developments" which MVMA claims that EPA must consider in developing the final rule, and which it claims require reproposal of the NPRM, are EPA's proposal or adoption of a number of regulations and new information on the air quality benefits which might accrue from use of the short tests in Inspection/Maintenance programs.[48] None of these factors justify reproposal.

1. Warranty and Aftermarket Part Certification Regulations. MVMA asserted in its petition that EPA should repropose the short test regulations upon consideration and analysis of comments made by interested parties on the recently reproposed section 207(b) warranty regulations and the recently proposed section 207(a) aftermarket part certification regulations,[49] so that interesfed parties may comment upon the interrelationship between the three sets of regulations.[50] This contradicts previous assertions by MVMA member companies in their comments on the proposed warranty regulations, in which they claimed that EPA should promulgate the short tests prior to proposing warranty regulations, so that they and other interested parties could meaningfully comment on the warranty regulations.[51] In particular, they claimed that prior to being able to comment on the warranty regulations, it is necessary for them to know the details of the short test regulation and recommended cutpoints so that information can be developed on projected rates of vehicle failures, projected cost consequences, and whether any different calibrations to new vehicles will be required to assure that vehicles can pass the short tests.

Although EPA does not agree that EPA must promulgate final short test regulations prior to proposing warranty regulations, the suggested scheme does support EPA's view that upon the Administrator's determining that a correlatable short test exists and that the necessary equipment is available, the final warranty regulations would be promulgated. If EPA followed MVMA's logic on the need to repropose the short test regulations due to the "intricate relationship" among the various section 207 regulations, each rule would undergo numerous reproposals, and no rule would every be finalized.

In any case, interested parties were afforded an opportunity to comment both on the effect of the recent warranty and dealer certification proposals upon the short tests, and on the effect of the short test strategy outlined in the Notice of Extension upon the other two proposed rules.[52]

2. Parameter Adjustment Regulations and Changes in FTP. Other regulatory actions cited by MVMA in its Petition which allegedly "have complicated the effort to establish proper short tests" [53] are EPA's changes in the FTP [54] and the recently promulgated parameter adjustment regulations.[55] However, any impact on the short tests from these events would not destroy the correlation established between the FTP and the short tests.

MVMA asserted that EPA must consider the impact of the recently adopted parameter adjustment (PA) regulations upon the data relied on in its preliminary finding that the section 207(b) criteria have been met.[56] MVMA alleges that EPA's preliminary finding was principally based on data derived from vehicles whose failure to meet the applicable standard was largely the consequence of maladjustment or misadjustment, and that the PA regulations, which are designed to prevent such maladjustment or to require vehicles to meet standards even when maladjusted, may significantly affect the capacity of the proposed short tests to meet the statutory criteria.[57]

While the PA regulations might have affected the "reasonable correlation" determination under the NPRM, EPA's current approach, i.e., using the Portland data and a more progmatic defintion of correlation, disposes of any concerns regarding misadjusted, or tampered, vehicles. The data base for EPA's preliminary finding of reasonable correlation was based on laboratory data and a statistical method for deriving classical correlation. As mentioned previously, EPA's current approach to correlation is the short test's ability to detect vehicles with high levels of excess emissions, with an Ec rate equal to that of the FTP. This relationship between the FTP and the short tests, i.e., high short test emissions reflect high FTP emissions, is not affected by either the use of misadjusted vehicles in the data base,[58] or the prevention of misadjustment on future vehicles. This is because the reason for the high emission levels is not significant with respect to a short test's ability to identify high emitters, whereas it is significant with respect to manufacturer liability under the warranty regulations. Therefore, any impact of the PA regulations is relevant only to whether a manufacturer must repair a vehicle that fails a short test, and not to the ability of the short tests to meet the statutory criteria.

MVMA also claims that there have been numerous and potentially significant changes in the FTP since the close of the short test rulemaking, and that EPA should state its views on the impact of those changes, and should allow comment on those matters.[59] The approach adopted in the final rule, short test detection of gross emitters, disposes of any concern that incremental changes to the FTP would impact the correlatability of the short tests. All

[47] MVMA Comments, 24.
[48] MVMA Petition, 14–19.
[49] 44 FR 23784 (April 20, 1979); 44 FR 46686 (August 8, 1979).
[50] MVMA Petition, 14.
[51] See Comments Submitted by General Motors and Ford to the Public Docket on the Emission Performance Warranty Regulations (No. EN–79–6).
[52] The Notice of Extension announced that the comment period for the proposed warranty and aftermarket parts regulations would be reopened for the same 30-day period. 45 FR 6960, 6962 (January 31, 1980).
[53] MVMA Supplement, 11.
[54] MVMA Petition, 16.
[55] MVMA Supplement, 10–12.
[56] MVMA Petition, 15.
[57] MVMA Petition, 15–16
[58] MVMA objected to EPA's failure to exlcude tampered vehicle from the Portland data. Although the Summary and Analysis of Comments addresses this objection, it should be mentioned here that correlation is to be established between tests so that the short test will predict FTP failure for both tampered and non-tampered vehicles. In addition, excluding tampered vehicles would result in an artificially clean vehicle fleet, thereby failing to account for a potentially significant real world effect.
[59] MVMA Petition, 16.

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emission-related changes to the FTP made since publication of the 1977 NPRM have been designed to increase accuracy and reduce variability in the test.[60] Such refinement of the FTP would have virtually no effect on the short tests, because the changes are of insignificant magnitude when compared to the rough predictions made by the short tests.

In addition, MVMA has not identified any potential impact on the ability of the short tests to meet the statutory critieria as a result of these changes to the FTP. Although MVMA stated that a description of the FTP changes and an identification of some of their potential impact have been submitted previously by some of MVMA's member companies, MVMA's reference to General Motors and Ford petitions on FTP changes [61] provides no insight into the nature of any impact on the correlatability of the short tests, since those petitions dealt only with the impact on measurement of fuel economy. Arguably, any change which affects fuel economy results would affect measurement of emissions; however, just as EPA was unable to discern from those petitions the basis for the claimed 3 percent difference in average fuel economies from the FTP changes, there is no information from which EPA could assess the potential for any impact on the ability of the short tests to detect high HC and CO emissions which would also be detected by the FTP. MVMA also did not attempt to specify the reasons for its concern in the comments recently submitted.

C. Air Quality Benefits

MVMA asserted in its petition that EPA should publish all data being considered on the air quality benefits expected from I/M programs, and all interested parties then should be given an opportunity to comment on the validity of the analyses and judgments made by EPA in determining the benefits to air quality it expects to result from use of a short test in I/M programs.[62] Although MVMA is correct in its statement that the ultimate justification for section 207(b) short tests is air quality improvement,[63] section 207(b) does not require EPA to justify establishment of particular short tests by predicting the air quality benefits expected to accrue from their implementation, and specifically requires EPA to promulgate short test regulations upon making the statutorily-prescribed determinations. For that reason, EPA did not conduct or rely upon any air quality analyses in conjunction with its development of the final rules.

The data cited by MVMA, such as the Mobile 1 computer program, [64] were prepared for an entirely separate purpose, i.e., for States' use in preparation of their Implementation Plans under section 110 of the Clean Air Act, as amended. Therefore, there is no reason for EPA to publish data on air quality benefits from I/M programs, or to make such data the subject of public comment with regard to establishment of the section 207(b) short tests.

II. Extension to Comment Period Provided Adequate Notice and Opportunity for Comment on Relevant New Information

Although EPA has not deemed the modifications in the final rule sufficient to require additional notice and opportunity for comment on the NPRM, an additional 30 days was provided and all data relied on by the Agency, as well as analyses and conclusions from the data, were placed or referenced in the Public Docket for consideration and submission of comments by interested persons.[65] Nevertheless, MVMA has claimed the 30 day extension to be totally inadequate to assure effective public participation in the rulemaking process.[66] MVMA bases its claim on the following assertions: (1) The very limited period for comment granted by EPA is insufficient to assemble, analyze and comment upon the Portland study data;[67] (2) the issues relevant to the development of short tests are extremely complex and involve much more than the Portland study and the new information placed in the Public Docket by EPA;[68] (3) even if the necessary analysis could be performed within a 30 day period, logistic difficulties prevented effective use of that entire period of time;[69] and (4) EPA's limitation on the public comments it will consider to only those which address the impact upon the proposal of the new information it has placed in the Public Docket constitutes a refusal to consider many other issues raised by MVMA's petition that deserve public comment.[70] MVMA's allegations are without merit for the reasons set out below:

A. Information Necessary for Informed Comment.

The Portland data used to formulate the final rule, generated over a 2½ year period, was delivered to EPA in April 1979 in the form of a data tape (Element I data tape). EPA added to the data tape other in-use data obtained from eight different cities. This eight-city data was used only to support conclusions drawn from an analysis of the Portland data.

EPA's analysis of the Portland data, and incorporation of the results of the analyses in a coherent approach to develop the short test regulations, took place between April 1979 and December 1979, the date of publication of the Technical Report. This document reflected EPA's analysis and conclusions drawn from the data. Several assumptions made in the Technical Report were drawn from a second document, the Berg Report.[71] The data tape, Technical Report and Berg Report, the only information generated since the close of the original comment period which EPA has relied on in developing the final rule, were placed in the Public Docket upon the reopening of the comment period.

At the same time EPA was assessing the results of the Portland study, it was supplying data to and responding to requests for assistance in using the data from requesting parties. In this regard, EPA provided the Portland study data tape as early as July 1979 to one MVMA member at its request.[72] On December 27, 1979, the Technical Report, which contained all the information on EPA's evaluation of the data, was sent directly to MVMA. Therefore, MVMA had access to the data in July 1979 and was made aware of the extent of reliance and type of analysis applied by the Agency to the data well in advance of publication of the notice of extension.

[60] For a description of all changes EPA has made to the FTP, see "Memorandum in Support of EPA Denial of Petitions submitted by Ford and General Motors Re: Fuel Economy Test Procedure Changes", February 1979.

[61] MVMA Petition, 15 (citing Ford submission of July 6, 1979, and General Motors submission of July 27, 1979).

[62] MVMA Petition, 17–19.

[63] MVMA Petition, 17.

[64] MVMA Petition, 18–19.

[65] *See* 45 FR 6960 (January 31, 1980).

[66] MVMA Supplement, 1.

[67] *Id.*, 6.

[68] *Id.*, 8.

[69] *Id.*, 8.

[70] *Id.*, 6. MVMA added in a footnote that critical to informed comment on a rulemaking proposal is the text of the proposed rules, but that EPA has not published proposed rules to substitute for the repudiated proposed rules published in the NPRM. *Id.*, 5. However, the text of the rules proposed in the 1977 NPRM would be changed only to bring them into conformity with the short test and cutpoints adopted in the final rule. In addition, there is no requirement that agencies publish new language to be commented on if the proposed language has been changed to address, in part, comments received. *Cf. Appalachian Power Co.* v. *EPA*, 579 F. 2d 546, 851 n. 6 (4th Cir. 1978).

[71] Berg, D., "Survey of Sources of Test Variability in the 1975 Federal Test Procedure," August 1978.

[72] Ford Motor Company requested, and was sent, a copy of the data tape.

MVMA's claim that its receipt of an advance copy of the Notice of Extension was the first intimation that the Technical Report contained the basis for changes in EPA's approach in establishing the short tests [73] is totally unfounded. The Technical Report itself states that:

> In response to comments reviewed, new data, a revision to the Clean Air Act which shortened the warranty, and internal policy decisions, EPA's position (on the proposed data base, cutpoints and correlation methodology) has been revised.[74]

Moreover, in a January 16, 1980, letter to the Administrator, counsel for MVMA referred to the Technical Report as verification of MVMA's previous assumption that EPA was considering changes in its original proposal.[75]

Since MVMA apparently was aware of the revisions contemplated by the Agency in December 1979, and the data relied on previously was made available to member companies, there is no basis for MVMA's claim that "interested parties could not actually review these documents until some time after January 31, 1980, the date of publication of the Notice." [76] Nor is it true, as claimed, that "MVMA was not aware until it received a copy of the Notice (advance copy sent by EPA on January 24, 1980) that EPA intended to use, as the data source of its proposal, only the Portland study and, for a limited purpose, data from the eight city tests." [77] EPA's efforts to provide MVMA and/or its member companies with advance notice, materials and assistance in evaluating the new materials resulted in their being provided with effectively more than 60 days within which to consider and comment on any impact of those materials on previous comments to the NPRM.[78]

The extensive analyses and comments submitted by MVMA before the official close of the 30 day comment period on March 3, 1980, show that, despite its complaints to the contrary, MVMA was indeed able to perform the analyses necessary for it to comment effectively. MVMA apparently reproduced EPA's analyses and calculations and performed additional analyses on several other sets of data, resulting in its submission of over 130 pages of analysis and data presentation.

In this case, a full 30 days period was provided for comment on new data generated since the initial proposal. Considering that the Portland data and Technical Report were provided to MVMA and/or member companies well in advance of the extension, the period provided for comment by MVMA was effectively much longer. The original 5½ month comment period [79] should not be ignored, since all issues directly related to use of the Portland data and modified methodologies were raised previously. Therefore, even if the new information were sufficient to require additional notice and opportunity for comment, the 30 day extension fulfilled such a requirement, with regard to both the intent of the law [80] and the realistic capabilities of interested parties.

B. Additional Information and Issues Need Not Be Considered in this Rulemaking.

MVMA claimed that a substantial amount of additional background information must be analyzed by MVMA in order to perform the reasoned analysis which the law requires and this issue deserves. In support of this claim MVMA identified several allegedly unsubstantiated assumptions made in EPA's Technical Report, as well as 54 "unrevealed" items of information that it claims are needed to adequately assess those assumptions and other "new issues" raised by the Technical Report.[81]

EPA has considered each of the 54 requests for information which MVMA claims to require for informed assessment of the approach set out in the Technical Report. The requested documentation already has been made available for consideration and comment, or need not be made available because it is generally available or irrelevant to this rulemaking. The methodologies, assumptions and data sources relied on in formulating the conclusions set out in the Technical Report are contained in the Technical Report itself, the Berg Report, or the supportive data, which were made available to MVMA and/or its members prior to the reopening of the comment period, and which are contained in the public docket. Many of the "assumptions" MVMA raised which it claimed EPA must support with data or analyses (e.g., that the Portland FTP data is representative of the general population [82]) are based upon well known analytical methods and assumptions, and supportive information would be drawn from generally available sources such as elementary statistics textbooks. Other "assumptions" claimed to be unsupported (e.g., that measurement of NO_x is not required) are legal conclusions based upon EPA's interpretation of the statutory requirements contained in section 207(b) of the Act, and do not require supporting data and analyses.

EPA has considered each of the 54 requests for information which MVMA claims to require for informed assessment of the approach set out in the Technical Report. The requested documentation already has been made available for consideration and comment, or need not be made available because it is generally available or irrelevant to this rulemaking. The methodologies, assumptions and data sources relied on in formulating the conclusions set out in the Technical Report are contained in the Technical Report itself, the Berg Report, or the supportive data, which were made available to MVMA and/or its members prior to the reopening of the comment period, and which are contained in the public docket. Many of the "assumptions" MVMA raised which it claimed EPA must support with data or analyses (e.g., that the Portland FTP data is representative of the general population [82]) are based upon well known analytical methods and assumptions, and supportive information would be drawn from generally available sources such as elementary statistics textbooks. Other "assumptions" claimed to be unsupported (e.g., that measurement of NO_x is not required) are legal conclusions based upon EPA's

[73] MVMA Supplement, 3.

[74] Technical Report, 3.

[75] Letter from Theodore Souris, Bodman, Longley & Dahling, to Douglas M. Costle, Administrator, EPA, January 16, 1980, and attached Technical Report.

[76] MVMA Supplement, 35.

[77] *Id.*, 36.

[78] MVMA also alleges that, although EPA stated at the November 1979 EPA-Industry meeting that it would make available a copy of the computer tape, this data was not effectively available to MVMA until January 2, 1980, due to the industry shutdown for the Christmas holidays. MVMA Supplement, 36. Such an excuse certainly does not justify extending the comment period so that MVMA may perform unspecified analyses at its leisure, thereby possibly causing so much delay in the rulemaking process that the 207(b) warranty is postponed for another model year.

[79] The original comment period included three EPA public workshops held during September 1977, which provided a forum for informal discussion and submission of comments on the proposed short test and warranty regulations by parties potentially affected by the performance warranty. See 42 FR 43412 (August 29, 1977). A number of MVMA members companies participated in the workshops. See "Registrants At The September 30th Emission Performance Warranty Workshop Held in Portland, Oregon," EPA Public Docket No. MSAPC–A–79–57.

[80] The applicable procedural requirements on notice and opportunity for comment are derived from the Administrative Procedure Act, 5 U.S.C. § 553(b), rather than from the Clean Air Act, as amended in 1977, because the NPRM was issued prior to enactment of the procedural requirements in section 307 of the Act.

[81] MVMA Supplement, 29–32 and Appendix A; Mailgram from Theodore Souris to David G. Hawkins, EPA, February 4, 1980.

[82] MVMA Supplement, 30.

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interpretation of the statutory requirements contained in section 207(b) of the Act, and do not require supporting data and analyses.

Finally, EPA's conclusions with regard to many issues have been based on its consideration of comments on the NPRM (e.g., previously discussed GM comments on vehicle grouping). In short, all new information and analyses relied on by EPA in promulgating the final rule were made available in the public docket. In addition, EPA did provide MVMA and others with additional background materials and assistance when requested. [83]

Since EPA had disclosed the bases for the conclusions contained in the Technical Report, it was incumbent upon commenting parties to submit information to show that these conclusions were improper, and, therefore, that the statutory criteria for establishing the short tests could not be met. MVMA apparently had sufficient information available to it to critique EPA's selection of data sources, short tests, correlation methodology, short test standards, as well as other issues.

Although MVMA makes the general assertion that it could not perform an adequate analysis of the new information without additional background materials and additional time, it does not indicate what the nature of those additional analyses would be. The only firm suggestion of potential additional analyses that it was unable to perform within the time limitation was an examination of individual engine families' errors of commission, as compared to the average. [84] However, there was no indication of what such an analysis would accomplish, i.e., how it would affect the validity of EPA's approach in treating a broad group of vehicles as the data base. Moreover, EPA has provided for exemption of particular engine families in the final rule, as discussed previously.

In short, MVMA has submitted no information to show why EPA's approach in selecting the short tests and related cutpoints for broad vehicle groups does not fulfill the statutory criteria.

MVMA argued in support of its attack on the adequacy of the extended comment period that EPA's "limitation" on the comments it will consider to only those which address the impact on the proposal of the new information it has placed in the Public Docket, "constitutes a refusal by EPA to consider any other new information, however relevant it might be, and ignore *[sic]* the many other issues raised by MVMA's petition that deserve public comment." [85] EPA's Notice of Extension invited comment on the impact which the data or analyses not previously available for comment would have on the proposed regulations and on previously submitted comments. The opportunity for comment was far reaching. The "limitation", if any, in the Notice of Extension was designed only to preclude submission of comments that had been made or could have been made during the original comment period. Even so, no party was prevented from commenting on any issue raised in the NPRM, and all comments received have been considered, placed in the public docket, and made part of the record of the rulemaking. MVMA has not specified in its Supplement or its recently submitted comments how the scope of the subject matter covered by the Notice of Extension adversely impacted on its ability to submit informed comment on all relevant issues.

MVMA also has failed to provide any specifics on why the 30 day extension was inadequate to allow submission of informed comment. MVMA made the general allegation that the complexity of issues involved in the short test rulemaking requires much more than 30 days within which to develop considered, specific comments on these issues [86]. In support of its conclusion, MVMA cited the interrelationship between the short tests and other regulations affected parties must satisfy, as well as several rulemaking actions initiated or implemented since the NPRM was published (e.g., the reproposed warranty regulations, the parameter adjustment regulations). According to MVMA, EPA's assessment of these interrelationships, and the background information supporting those assessments, must be provided to the public. [87]

As discussed previously, other warranty-related rulemaking activities would not affect the determinations to be made in establishing the short tests. Moreover, MVMA's own members have argued that, in order to assess the impact of the warranty and aftermarket part certification regulations, they must know the content of the final short test regulations. [88] Since there is some merit to this argument, EPA announced in the Notice of Extension on the short test proposal that the comment period for both the warranty and aftermarket part certification proposals was extended for an additional 30 days in order to allow interested parties to comment on the impact which the modifications to the short test proposal might have on those proposals. No comments from any party were submitted to the appropriate public dockets; nor were any comments submitted to the docket on the short test proposal on the interrelationship among the three proposals. MVMA has provided no insight at all on the effect of the refined short test proposal on those proposals, or vice versa, or the issues it would raise had a longer comment period been provided.

MVMA also cited several rules establishing emission standards for future model year vehicles (new light duty truck and high altitude emission standards), claiming that "these actions will affect the types of emission control systems utilized on future model year vehicles." [89] However, as mentioned previously, it is the emissions levels from the tailpipe that are measured by the short test, and future technology vehicles will be less likely to fail the short tests because they will be designed to meet lower HC and CO federal emission standards. Although the type of emission control system used should not cause a vehicle to fail the short test if it would not fail the FTP, again, the possibility that an unforeseen technology would cause short test failure has been taken into account, as stated in the NPRM.

MVMA and others did not raise any arguments in their recent comments to support their general claim that the emission standards regulations cited would affect the ability of the short tests to identify gross emitters with an Ec rate approximately equal to that of the FTP, despite the fact that over 60 days had lapsed from the time MVMA first raised this argument until the close of the comment period. [90]

III. Conclusion

EPA has provided interested persons with the opportunity for effective participation in the development of the section 207(b) short test regulations, and has in fact, benefitted from comments and criticisms on the proposal submitted during both the original 5½ month comment period and the recent 30 day extension. In view of the extent to which interested parties have participated in

[83] *See* mailgram from David G. Hawkins, EPA, to Theodore Souris, Bodman, Longley, & Dahling, February 13, 1980.

[84] MVMA Comments, 22–23. MVMA stated that particular engine families, with special settings, could have a much higher error of commission.

[85] MVMA Supplement, 6.

[86] MVMA Supplement, 10–11.

[87] *Id.*, 10.

[88] *Id.*, 11.

[89] MVMA Supplement, 10.

[90] MVMA submitted its Petition on December 21, 1979, and the comment period for the short test proposal closed on March 3, 1980.

the rulemaking process, reproposal of the regulations is unnecessary, and would introduce unwarranted delay into the Agency's efforts to establish correlatable short tests. Although MVMA has objected to EPA's "inexplicable haste to promulgate its final regulations for use on 1981 model year vehicles," this Agency deems the establishment of the short tests, and in turn, the warranty regulations, essential to the success of the I/M programs, which must be adopted by many States in order to attain and/or maintain the National Ambient Air Quality Standards. However, a factor that must be considered in establishing the short tests for 1981 is the lead time required by manufacturers to comply with the warranty regulations, which must be promulgated one model year prior to the applicable model year. Therefore, the Agency has attempted to satisfy the demands of timeliness by the manufacturers while providing the States with the mechanism required for implementation of the section 207(b) performance warranty requirements.

[FR Doc. 80-15718 Filed 5-21-80; 8:45 am]

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40 CFR Part 85

[FRL 1488-4]

Emission Control System Performance; Warranty Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These regulations implement the emission performance warranty of section 207(b)(2) of the Clean Air Act, 42 U.S.C. 7541(b)(2) (hereinafter "Act"). In general, the emission performance warranty will require a vehicle manufacturer to repair, at no charge to the owner, any emission control device or system which causes a vehicle to fail an EPA approved emission short test during its useful life if the owner is subject to a penalty or sanction under state or Federal law because of the short test failure, and if the owner has maintained and operated the vehicle in accordance with the manufacturer's written instructions.

DATES: These regulations shall become effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Feldman, Field Operations and Support Division (EN-397) Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460 (202) 472-9350.

Public Docket

Copies of materials relevant to this rule are contained in Public Dockets EN-79-6 and EN-79-8 at the Central Docket Section of the U.S. Environmental Protection Agency, Room 2902B, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460, and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION: EPA first proposed emission performance warranty regulations on May 25, 1977, at 42 FR 26742 (hereinafter "Proposal"). However, the August 7, 1977, amendments to the Act, Pub. L. No. 95-95 (hereinafter "Amendments"), altered some of the basic provisions of the law such that the Agency decided to repropose the regulations. The Agency reproposed the regulations on April 20, 1979, at 44 FR 23784 (hereinafter "Reproposal"). In addition to the Amendments, the Agency considered comments received in response to the Proposal and at three emission performance warranty workshops in developing the Reproposal.

The Agency held two public hearings on the Reproposal. The first was held on May 22, 1979, in Washington, D.C., and the second on May 31, 1979, in Chicago, Illinois. In addition to the comments received at these public hearings, the Agency received 69 written comments on the Reproposal. These comments were summarized by EPA and may be found at IX-2 Public Docket EN-79-6.

The Agency also received a number of comments on the Reproposal in comments on the Voluntary Aftermarket Part Certification Program regulations which were proposed on August 8, 1979 at 44 FR 46686. Those comments that related to the effect that certified parts should have on the emission performance warranty were considered in drafting this Rule.

The major comments are discussed in appropriate sections of this Preamble.

Index

I. BASIS FOR THE REGULATIONS
II. GENERAL COMMENTS
III. SPECIFIC PROVISIONS
A. General Applicability
B. Definitions
C. Warranty Statement
D. Owner's Compliance With Instructions for Proper Maintenance and Use
E. Replacement Parts
F. Warranty Claim Procedures
G. Warranty Remedy
H. Dealer Certification
I. Inclusions of Warranty Provisions in Owner's Manuals and Warranty Booklets
J. Submission of Owner's Manuals and Warranty Statement to EPA
K. Warranty Enforcement
L. Evaluation Plan
M. Reporting and Recordkeeping Requirements

I. Basis for the Regulations

A number of the provisions of the Act are relevant to the Emission Performance Warranty. These were set out in the Reproposal and will not, with the exception of section 207(b), be reproduced here.

Section 207(b) of the Act is the principal authority for the emission performance warranty regulations. This section provides as follows:

"(b) If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 202 (d)), each vehicle and engine to which regulations under section 202 apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 206(a)(1), then—

(1) he shall establish such methods and procedures by regulation, and

(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 202 applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph. The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3),

(B) it fails to conform at any time during its useful life (as determined under section 202(d)) to the regulations prescribed under section 202, and

(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law,

then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer. No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2). For purposes of the warranty under this subsection, for the period after twenty-four months or twenty-four thousand miles (whichever first occurs) the term "emission control device or system" means a catalytic converter, thermal reactor, or other

component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such terms shall not include those vehicle components which were in general use prior to model year 1968."

Full implementation of section 207(b) requires a number of findings by the Administrator leading to emission short test regulations under subsection 207(b)(1), and also a separate finding leading to warranty regulations under subsection 207(b)(2). The Administrator has made all of the findings necessary for the short test regulations, including the finding that there are identifiable short tests reasonably capable of being correlated with the Federal Test Procedure. The Federal Test Procedure is set out at 40 CFR Part 86, Subpart B Consequently, the Agency proposed short test regulations at 42 FR 26742 (May 25, 1977) and has published final regulations.

Under subsection (b)(2) the Administrator must "determine that inspection facilities or equipment are available for purposes of carrying out (the identified short test)." The Administrator has made this determination. Since this determination has been made, the Agency is required under the Act to promulgate emission performance warranty regulations.

II. General Comments

The vehicle manufacturers, in their comments to the Reproposal, asserted that the Act set forth a strict sequence for the promulgation of the section 207(b) regulations and that the Agency did not properly follow this sequence. According to the manufacturers, the Agency "put the cart before the horse" by proposing the warranty regulations prior to final promulgation of the short test regulations.

The manufacturers claimed that Congress intended the short test to be established by final rules prior to proposing warranty regulations, so that they and other interested parties could meaningfully comment on the warranty regulations. In particular, they claimed that Congress believed it was necessary to know the details of the short test regulation and the recommended cut points before estimates could be made as to projected rates of short test failures which in turn were necessary to project the cost of the warranty.

Ford, in support of this position, cited the legislative history of section 207(b) for the proposition that Congress believed that it would make little sense to require manufacturers to make the emission performance warranty before the shorts tests necessary to trigger their warranty liability are in existence. (See the Senate Comm. on Public Works, 93rd Cong., 2nd Sess., *A Legislative History of the Clean Air Amendments of 1970*, (Comm. Print 1974) at 337.))

EPA agrees that it would make little sense to require vehicle manufacturers to provide a section 207(b) warranty statement with vehicles before the short test is promulgated. However, EPA does not agree that Congress intended, or that the Act requires, the Agency to follow the rulemaking sequence proposed by the vehicle manufacturers. Rather, the Agency believes that the legislative history, including the parts cited by Ford, demonstrates that Congress anticipated that EPA would promulgate the warranty regulations at the time that the Administrator determined that (1) a correlatable short test exists, and (2) that the necessary equipment to conduct the short test is available, provided that the warranty regulations are not put into effect prior to the effective date of the short test regulations. Moreover, the Agency believes that once the Administrator of EPA has made the necessary findings with respect to the availability of the short test, the Agency is required to promulgate the warranty regulations.

The Agency believes that to be able to comment on the warranty proposal it was unnecessary for parties to know more than that a "correlatable" short test is available for use in I/M programs that will trigger the warranty. The number of vehicles that would fail a "correlatable" short test that would not also fail a test utilizing the full Federal Test Procedure would be insignificant. Therefore, vehicle manufacturers should not have to make any modifications to vehicles, including calibration changes, to allow them to pass any of the short tests. In addition, the notice reopening the comment period on the short test proposal invited further comments on any aspect of the warranty affected by the short tests (45 FR 6960 January 31, 1980). This notice provided interested parties with an update of the Agency's present thinking on the short tests. No comments were submitted to the Agency during this additional comment period on how the short tests might impact on the warranty. EPA believes that if the details of the short test would affect the warranty provisions then the vehicle manufacturers would have taken advantage of this opportunity to provide additional comments on the warranty.

III. Specific Provisions

The major sections of the regulations are discussed below. Included in these discussions are the significant comments made on each section as well as the changes brought about by these comments. A more extensive summary of comments is contained in a separate document which may be found at IX-3 Public Docket EN-79-6. A more detailed discussion of the basic provisions was contained in the preamble to the Reproposal. That discussion will not be repeated here.

A. Section 85.2101 General Applicability

As proposed, the warranty would have applied to all classes of vehicles and engines beginning with the model year after short tests for the applicable classes of vehicles had been promulgated. Since short tests have only been developed for light-duty passenger cars and trucks, the regulations would have applied at first only to these vehicles. However, the regulations as proposed would have been applicable for other types of vehicles the model year after short tests for those vehicles were established.

Representatives of the heavy duty engine and motorcycle industries commented that EPA had drafted the warranty proposal with only light duty vehicles in mind. These parties stated that differences in their vehicles, as well as practices used in their industries that differed from the light-duty vehicle industries, make application of the proposed warranty regulations to their industries impractical.

Since some of these arguments may have merit, and since applicable short tests do not presently exist for other than light duty passenger cars and light duty trucks, EPA has limited the applicability of these regulations to light-duty passenger cars and light-duty trucks. EPA is reexamining the matter of extending the warranty provisions to other vehicles and engines.

The Act states that the warranty will be effective beginning in the model year after the promulgation of this regulation. The Reproposal specified that this would be the 1980 model year. However, since the 1980 model year has already begun, the warranty will be applicable beginning with 1981 model year vehicles.

The Agency determined in the course of promulgating the final short test regulations that the short tests correlate with the emission standards and test procedures proposed for use at high altitudes. However since high altitude standards are expected to become mandatory with the 1982 model year rather than 1981, the warranty remedy will not be mandatory at high altitude locations until the 1982 model year (unless a vehicle manufacturer voluntarily certifies a 1981 model year vehicle to meet high altitude standards). Beginning in 1982, vehicles equipped to meet high altitude emission standards will be eligible for section 207(b) warranty repairs at high altitude.

B. Section 85.2102 Definitions

Relatively few comments were raised regarding the Definitions section of the Reproposal. As a result, most of the definitions have remained unchanged.

Many of the vehicle manufacturers objected to the proposed definition of "Original Equipment Part," which included all parts installed on a vehicle prior to sale to the ultimate purchaser. These commenters pointed out that dealers often install components in or on vehicles prior to the sale of the vehicle to the ultimate purchaser without the direction of the manufacturer. Because vehicle manufacturers have little control over these parts or their installation, they objected to these parts being included in the definition of "Original Equipment Part", for which they would automatically be responsible under the warranty. These manufacturers, therefore, stated that the definition should be modified to exclude these parts. EPA agrees and has adopted this modification.

Many vehicle manufacturers also requested a change in the definition of "Written Instructions for Proper Maintenance and Use." As defined in the Reproposal, the maintenance and use instructions were required to be in compliance with certain existing and future EPA regulations and were limited to the instructions performed during vehicle certification. Some vehicle manufacturers questioned the Agency's authority to restrict "in-use" maintenance instructions. In particular, they asserted that EPA could not limit these instructions to maintenance performed during vehicle certification. Ford recommended that EPA, therefore, amend the definition of "Written Instructions for Proper Maintenance and Use" to read those specified in the owner's manual "as may be reasonable and necessary to assure the proper functioning of the emission control system."

The Agency did not adopt this change. Prior to the Amendments, section 207(c) of the Act contained language similar to that suggested by Ford. However, the amendments clearly altered the maintenance and use instruction requirements such that maintenance and use instructions provided with new motor vehicles and motor vehicle engines must correspond to regulations which the Administrator "shall promulgate." Thus, the Agency believes that Congress intended that EPA have greater control over maintenance and use instructions than existed prior to the Amendments. The full extent of that control will be determined through a future rulemaking under section 207(c)(3) of the Act. Until then, the maintenance and use instructions shall be required to be reasonable and necessary to assure vehicle compliance with emission standards, and also not to be more burdensome than those performed during vehicle certification.

General Motors requested that the definition of "Written Instruction for Proper Maintenance and Use" be expanded to include not only those instructions specified by the vehicle manufacturer as being "necessary" to assure compliance of a vehicle with applicable emission standards for the useful life of the vehicle, but also to include those instructions that are "recommended" for that purpose. If the Agency adopted this definition, vehicle owners could have emission performance warranty claims denied for the failure to follow a mere recommendation. The Agency believes that it is important that vehicle owners not be faced with unnecessary obstacles to recovery under the warranty. The Agency feels that limiting the maintenance necessary to assure continued warranty coverage to that which is actually necessary to assure that the vehicle meets emission standards accomplishes this goal. However, the Agency does not intend for this provision to prevent vehicle manufacturers from recommending additional maintenance. Rather, it only prevents vehicle manufacturers from denying warranty claims because of an owner's failure to perform such additional maintenance.

The Agency also received comments from vehicle manufacturers that there are some special circumstances, such as constant use at low temperatures or through deserts, where extra or different maintenance is necessary to assure vehicle compliance. However, the Agency received no technical support for these allegations. The Agency realizes that there may be special conditions where additional maintenance is necessary. Therefore, the Agency has amended the definition of "Written Instructions for Proper Maintenance and Use" to include instructions for additional maintenance under special circumstances where necessary. However, any such instruction must be specified to EPA at the time of vehicle certification, or as may be required under future maintenance and use instruction regulations.

C. Section 85.2103 Warranty Statement

The warranty statement in the Reproposal did not exactly follow the language of section 207(b) of the Act. This was because section 207(b) provides that the warranty cover the performance of a vehicle's "emission control devices and systems". However, section 207(b) defines "emission control devices and systems" differently before and after the first 24 months or 24,000 miles of a vehicle's useful life. To avoid possible confusion over the double meaning of "emission control devices or systems" the Reproposal did not specifically define these devices. Instead, the Reproposal referred to the vehicle as the object warranted and limited the remedy under the warranty to the appropriate components for the periods before and after 24 months or 24,000 miles.

The Agency has made a number of changes in this section of the Reproposal. These changes, however, are not intended to have a substantive effect. Rather they are intended to clarify the requirements of the provision.

First, the provision no longer refers to "the vehicle" as the warranted object. This change was made in response to comments asserting that this reference is misleading as it will lead vehicle owners to believe that the warranty coverage is broader than it really is.

Second, the warranty period is described as the vehicle's "useful life" as it reads in the Act, rather than for "a period of 5 years or 50,000 miles (whichever first occurs)," as it read in the Reproposal. Although all light-duty vehicles, including light-duty trucks, are presently certified to have a useful life of 5 years or 50,000 miles (whichever first occurs), some light-duty vehicle classes may eventually have longer useful life periods. If any such vehicles do have a longer useful life, they will be expected to be warranted for that full period.

The third change made in this section is in the description of the required remedy for vehicles that fail a short test after 24 months or 24,000 miles. Under the Reproposal, a manufacturer would have been required to remedy a nonconformity caused by those "components or modifications to components" installed in or on a vehicle for the sole or primary purpose of reducing vehicle emissions and that were not in general use prior to model year 1968.

The words "modifications to components" raised considerable objection from many commenters. These commenters asserted that the Act requires vehicle manufacturers to

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warrant components, not "modifications to components." This additional coverage, they asserted, was an illegal attempt to expand the scope of the warranty in direct contradiction to the intent of Congress that the warranty be narrowed to limit the potential anticompetitive effect which accompanies broad warranties.

The Agency's intent was to clarify the warranty through the use of the above language, not expand it. The comments received showed that the Agency is in agreement with most of the commenters as to what should be covered by the warranty during this period. For instance, Ford explicitly agreed that an electric choke and a dual diaphragm vacuum advance unit, the two examples of "modifications" cited by the Agency in the preamble to the Reproposal, should be covered items. However, Ford believed that these items could be covered because they are themselves components installed primarily for emissions purposes. The Agency, therefore, had deleted the words "modifications to components" from this section as it has apparently caused, rather than limited, potential confusion.

Many parties requested that EPA promulgate a list of parts covered after the initial 24 month or 24,000 mile period. Because of the amount of time it takes to promulgate a rule, the Agency does not believe that it is possible to comply with this request in a timely manner such that all new parts installed on vehicles for emissions purposes would be specified at the beginning of the model year. EPA believes that Congress desired that all new parts installed for emissions purposes be included. Therefore, EPA will not develop lists through the rulemaking process, but rather will, from time to time, publish in the **Federal Register** a generic list of parts that it believes should be warranted under the emission performance warranty for the vehicle's full useful life. Such a list, reflecting EPA's current views in this regard is included as an appendix to the regulations promulgated today. These lists are not intended to be all inclusive. The Agency expects vehicle manufacturers that use different emission control technologies to warrant all "emission control devices and systems" even if they are not included in the EPA list. However, the Agency believes that, at a minimum, the components listed in the Appendix to these regulations should be covered by the emission performance warranty for the full useful life of a vehicle for present technology vehicles. This list is consistent with a list suggested by Ford Motor Company, the only party that offered such a list in commenting on this point.

Commenters also disagreed as to what should be a covered "emission control device or system" for the initial 24 month or 24,000 mile period. Although many, including Chrysler Corporation, agreed with EPA's determination that all vehicle components are covered during that period, others thought that EPA's interpretation was overbroad and, as a result, anticompetitive. Of those that thought that EPA's determination was overbroad, some suggested that the coverage during this initial period be limited to the same components that Congress specified for the remainder of the vehicle's useful life. Most of these commenters suggested that the list be broader than the post-24 month or 24,000 mile list, but still be limited to certain parts which have a demonstrable effect on vehicle emissions.

The Agency believes that Congress intended that any vehicle components necessary to remedy a nonconformity pursuant to the requirements of section 207(b) be covered by the warranty for the first 24 month or 24,000 mile period. As a result of the Proposal, Congress was aware of EPA's interpretation of the phrase "emission control devices and systems," as well as any potential anticompetitive consequences, at the time it amended the Act in 1977. However, Congress chose to alter EPA's interpretation only for the period after 24 months or 24,000 miles. The Agency, therefore, believes that Congress supported EPA's interpretation for the initial period and meant for it to remain unchanged.

D. Section 85.2104 Owner's Compliance With Instructions for Proper Maintenance and Use.

The overall scheme for demonstrating an owner's compliance with the instructions for proper maintenance or use has been slightly modified in the Final Rule as a result of the comments received on this provision.

The Reproposal set forth a scheme for demonstrating compliance with the written instructions for proper maintenance and use. This scheme was primarily based on an effort to balance the interests of the vehicle manufacturers, vehicle owners, and the various segments of the automotive aftermarket parts industry. Under the scheme, the vehicle manufacturer would bear the initial burden of finding evidence of improper vehicle maintenance that relates to the particular nonconformity. Only upon such a finding would the vehicle manufacturer be allowed to ask the vehicle owner to present evidence that a particular maintenance instruction was performed. If the manufacturer found no objective reason to believe that an instruction was not followed, or if such an objective reason existed and the owner presented evidence to the contrary, the owner would be considered to have complied with the written instructions for proper maintenance and use unless the manufacturer could show that the vehicle failed the short test because (1) the maintenance was performed on the vehicle in a manner resulting in a component being substantially misadjusted, (2) the vehicle was tampered with, or (3) the vehicle was abused.

Some commenters believed that too great a burden would be placed on vehicle manufacturers under the scheme described in the Reproposal, while others believed that the scheme would make it too easy for vehicle manufacturers to avoid their warranty obligations. Some commenters believed that the scheme represented a proper balance between the competing concerns of consumer protection and a vehicle manufacturer's right to avoid paying for improper claims. The Federal Trade Commission stated that the scheme would be "procompetitive" as it would make it difficult for vehicle manufacturers to deny emission performance warranty claims arbitrarily on the basis of work performed by independent repair facilities.

EPA remains convinced that the procedure for demonstrating owner non-compliance with the maintenance and use instructions is not overly burdensome for vehicle manufacturers. Normal diagnostic procedures would require that the cause of the nonconformity be identified under any condition. Once these procedures are performed, reasonably informed mechanics and service personnel can then readily evaluate whether the identified problem is related to any required maintenance. Further, EPA believes that the scheme set forth in the Reproposal is consistent with the Congressional intent that the warranty be invalidated only upon a showing "by the manufacturer," that the owner abused or did not maintain his or her vehicle. (See H.R. Rep. No. 95–564, 95th Cong., 1st. Sess. 168 (1977).) The Agency does not believe that this scheme relieves vehicle owners of their responsibility to maintain their vehicles in accordance with manufacturers' instructions. It merely sets forth how determination of compliance with this obligation are to be made.

The Reproposal specifically requested examples of what could constitute "objective evidence" of noncompliance with an instruction. Only one vehicle manufacturer chose to provide a possible list. However, the examples contained in that list, although likely acceptable under the objective evidence criterion, were also very vague. Therefore, the Agency doubts that it is possible to provide a specific list now. However, if the vehicle manufacturers have difficulty with this standard the Agency will work with them to establish a list of specific examples.

The Agency does not intend for this "objective evidence" finding to present vehicle manufacturers with an insurmountable barrier from denying improper warranty claims. In some cases, for example, objective evidence could mean that the performance of a particular maintenance instruction is so integral to an identified part failure that the fact that the failure occurred is objective evidence that the maintenance was not performed. The Agency will not bring actions for civil penalties based upon vehicle manufacturers' requests for evidence of compliance with instructions for maintenance and use made in good faith even if based on somewhat questionable "objective evidence."

Under § 85.2104(c) of the Reproposal, it was unclear what type of evidence a person who performs his or her own vehicle maintenance would have to show in order to prevent having a warranty claim denied under paragraph (d)(1). Many commenters questioned this uncertainty and stated that they believed that this might force such persons to needlessly bring their vehicles to repair facilities to protect their warranty coverage.

The Agency believes that any competent individual should be able to perform vehicle maintenance and maintain emission warranty coverage. Further, section 207(c)(3)(A) of the Act specifically states that maintenance may be performed by individuals. Therefore, the Agency has redrafted paragraph (c) to specify how a person who performs his or her own maintenance may demonstrate compliance with the maintenance instructions. First, the owner (or any party acting on behalf of the owner) may present evidence that he or she purchased the proper parts for carrying out the maintenance instruction in question. Second, for maintenance requiring special knowledge or tools to perform, the owner should be prepared to inform the vehicle manufacturer, upon request, of the procedures used to perform the maintenance, as well as to state where he or she obtained access to any necessary specialized equipment.

Although the rule does not require vehicle manufacturers to supply a maintenace logbook with each new motor vehicle, the Agency encourages manufacturers to do so. If a vehicle manufacturer does supply a maintenance logbook, or if a vehicle owner obtains an appropriate logbook for a vehicle, then the completion of the logbook may constitute evidence of compliance with the instructions for proper maintenance and use under this final rule. For all service not performed by the owner, a completed logbook by itself will qualify as evidence of compliance with a maintenance instruction if it has been validated by someone who regularly engages in the business of servicing automobiles. For basic maintenance items that do not require special knowledge or tools, a maintenance logbook completed by any party, including the vehicle owner, could qualify as evidence.

Perhaps the most heavily commented upon segment of this section of the Reproposal was the set of limitations upon a vehicle manufacturer's ability to deny warranty claims set forth in paragraph (e). Although a few parties were in favor of one or more of these limitations, the majority of those commenting on this aspect were opposed to them. In light of the objections to these limitations, the Agency has re-evaluated each of them, making changes where appropriate.

The first limitation was that no emission performance warranty claim could be denied on the basis of maintenance or service performed by a dealer or other authorized service agent of the manufacturer. EPA based this limitation on an "agency" theory. Parties objected to this limitation for two reasons. Some of the vehicle manufacturers argued that dealers are not their agents, but are independent businessmen. Other commenters, including the Federal Trade Commission, feared that this limitation could be anticompetitive as it would drive cautious vehicle owners to dealers for routine servicing so as to be assured of continued emission performance warranty coverage. Further, these parties pointed out that this provision distinguishes between service performed by franchised dealers and other commercial repair establishments. Such a distinction they argued is prohibited by sections 207(c)(3)(B) and 203(a)(4)(C) of the Act.

The Agency remains unconvinced that franchised dealers are not agents of vehicle manufacturers for the purpose of performing emission related maintenance and repair. However, to prevent the possible anticompetitive impacts that could result from this limitation, this section has been amended to provide that vehicle manufacturers cannot deny warranty claims on the basis of any predelivery service or warranty work, both of which are performed by a repair outlet at the direction and expense of a vehicle manufacturer. This would include non-franchised warranty outlets as well as franchised repair facilities. The Agency believes that vehicle manufacturers can and will retain sufficient control over the performance of these types of services to justify this provision. Both types of services traditionally have been provided only by facilities authorized by vehicle manufacturers. As is discussed more fully below, in designating such facilities, the manufacturer is subject to appropriate antitrust laws. Therefore the adoption of this provision should not cause any anticompetitive effects.

The Agency is still concerned that vehicle owners will be misled by vehicle manufacturers' endorsements of their franchised dealerships in owners' manuals and in various advertisements. By limiting liability as discussed above, the Agency does not intend to preclude any individual from making an "apparent agency" argument in support of a warranty claim. (An apparent agency situation arises where a party appears to hold another out as an agent even though that other is not actually an agent. In some instances the courts have held the principal liable for the acts of such "apparent agents.") Moreover, the Agency does not intend for the amendment of this exception to preclude an "agency" argument from being raised under special circumstances that could arise in a recall action under section 207(c) of the Act.

Vehicle manufacturers also objected to the provision in the proposal that stated that vehicle manufacturers cannot deny warranty claims on the basis of maintenance performed by certified or licensed mechanics or repair facilities. The vehicle manufacturers asserted that it was unreasonable and unfair that they be responsible for work performed by parties over which they have absolutely no control, particularly since EPA is apparently not setting minimum standards for such certification or licensing. The Agency has decided to delete this provision from this rule. However, the Agency is investigating the idea of setting standards for a mechanics or repair facility certification program. If such standards are set by EPA or another

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governmental organization, the Agency will reconsider this provision.

A number of objections were raised in regard to paragraphs (e)(3) and (e)(4) of proposed § 85.2104. These paragraphs would have precluded a vehicle manufacturer from denying an emission warranty claim on the basis of any work performed to rectify an unsafe condition, or work not performed or misperformed due to a cause which the manufacturer should have foreseen would result in such malmaintenance.

Objections were raised to these provisions on a number of grounds. Some argued that these standards were too vague. Others argued that these exceptions were unfair because maintenance instructions are approved by EPA at the time of vehicle certification. Some argued that these provisions would encourage improper maintenance and even vehicle tampering in an attempt to achieve better vehicle performance. Finally, some stated that these limitations set up a strong enforcement mechanism, but are virtually useless to consumers. The Agency, as a result of these comments, has decided to modify these provisions.

Under § 85.2104(e)(2), as modified, no manufacturer will be allowed to deny an emission performance warranty claim on the basis of emergency work performed to rectify an unsafe condition, provided the vehicle owner has used or is using reasonable diligence to have a temporary repair made into a more permanent one. For example, if a vehicle owner must misadjust or disconnect a vehicle component while traveling because of a safety problem that manifests itself at a time when it would be unreasonable for the owner to bring the vehicle in for a permanent repair, the owner could not be denied a warranty claim on the basis of such temporary repair provided that he or she used reasonable diligence to bring the vehicle in for a permanent repair. What constitutes reasonable diligence will vary depending upon the circumstances. Although not required by these regulations, a vehicle manufacturer may want to include space in the owner's manual or maintenance instructions in which vehicle owners can record dates and times of such emergency repairs.

Proposed § 85.2104(e)(4), regarding foreseeable malmaintenance, has been amended to provide that no emission warranty claim may be denied for any reason "determined to be attributable" to the vehicle manufacturer. Under this exception, vehicle owners will not look to what a vehicle manufacturer should have known would happen. Instead, they will look to see if maintenance was not performed, was improperly performed, or even that a vehicle was tampered with, because of a problem that is attributable to the manufacturer. For instance, if a service procedure is so complicated as to be beyond the competence of most mechanics or requires tools or other equipment not readily available in the field, then failure to properly perform such service procedure would be attributable to the vehicle manufacturer and could not be used as a basis to deny an otherwise valid emission performance warranty claim. Although it is the responsibility of vehicle manufacturers to repair vehicles which fail for such reasons, the Agency will not consider it a violation of the Act for a vehicle manufacturer to deny claims on the basis of improper maintenance or vehicle abuse which is later determined by the Agency or a court to be attributable to the vehicle manufacturer, provided that the denial was made in good faith and that once the vehicle manufacturer is made aware that the lack of maintenance or tampering was attributable to it, that it promptly fix the vehicle or reimburse the vehicle owner and repair vehicles under warranty for similar circumstances that arise later.

The final rule continues to provide that an emission performance warranty claim may not be denied on the basis of: (1) The use of any non-certified part or noncompliance with any written instruction for proper maintenance and use which is not relevant to the reason that the vehicle failed to comply with applicable emission standards; or (2) the use of any fuel which is commonly available in the geographical area in which the vehicle is located, unless use of that particular fuel is prohibited in the maintenance and use instructions with a sufficient description for a vehicle owner to reasonably know which fuel(s) not to use.

Some parties stated that the geographically available fuel limitation should be limited to fuels recommended by the vehicle manufacturer. Some of these manufacturers expressed concern that fuels such as "gasohol" are untried and that vehicle manufacturers should not be responsible for component failure resulting form the use of such fuels. The Agency believes that fuel requirements specified for vehicles by vehicle manufacturers should be followed by owners. However, all limitations on fuel should be clearly specified and reasonable. This means that there should be an adequate amount of any specified fuel available in the geographic area and that information should be provided such that the owner can readily assure compliance with that limitation (e.g., minimum octane requirement).

Section 211(f) of the Act prohibits the introduction into commerce of potentially harmful fuel and fuel additives without a waiver from the Agency. This prohibition will provide vehicle manufacturers substantial protection from incurring emission warranty costs associated with part failures or excess emissions resulting from any new fuels or fuel additives.

E. Section 85.2105 Replacement Parts

Many of the commenters stated that they were not able to fully comment on any provision of the Reproposal dealing with replacement parts because they were uninformed as to what the requirements will be for the aftermarket part certification program. However, the Reproposal set forth how the aftermarket part certification program would affect the warranty, which is what commenters needed to evaluate the influence of that program on the proposed regulations. Commenters have also had an opportunity to comment on the stringency of the Part certification regulations in light of the warranty requirements since the certification regulations were proposed on August 8, 1979 at 44 FR 46686. During the public hearings on the aftermarket part certification proposal, it became apparent that much of the industry did not take advantage of the opportunity to comment on the impact of the part certification program on the warranty during the section 207(b) comment period. The Agency therefore extended the comment period for the certification program from November 12, 1979, to January 15, 1980, and further requested comments on how the certification program would impact on the warranty, 44 FR 62914 (November 1, 1979).

Generally, the vehicle manufacturers asserted that it would be illegal for the Agency to hold them vicariously liable for parts manufactured by others. They argued that, although a warranty should not automatically be voided on the basis of the use of a certified part, the warranty should be invalid if the certified part is defective or not actually equivalent to the original equipment part.

The Agency does not agree. As reflected in section 207(b), Congress clearly intended that consumers be able to purchase certified parts without having to be concerned about losing their emission performance warranty coverage. If the Agency were to follow the scheme set forth by the vehicle manufacturers, vehicle owners would not have this assurance.

Rather, owners would fear that a vehicle manufacturer would merely allege that the part is defective or otherwise improper and deny the claim. This could encourage vehicle owners to use only original equipment parts, contrary to the legislative intent.

Even if the manufacturers of certified parts warrant that they will reimburse a vehicle owner for repairs that would have been covered under the emission performance warranty had the certified part not been defective, the problem would not be remedied. It will often be difficult to determine whether an aftermarket part caused a vehicle to fail a short test because it is defective or because it is not actually equivalent to the original equipment (OE) part it replaced. This could result in neither the vehicle nor part manufacturer assuming liability for the repair. If a consumer may be forced to go back and forth between parts manufacturers and vehicle manufacturers, he or she may simply not risk the use of any parts other than OE parts, whether they are certified or not.

As thoroughly discussed in the comment of the Automotive Products Emissions Committee to the part certification proposal, Congress created the aftermarket part provisions to prevent potential anticompetitive impacts on the automotive aftermarket industry. If a vehicle manufacturer may refuse to repair a vehicle because a certified non-original aftermarket part is defective and, as a result, people choose not to use certified parts, the purpose of the provision will be defeated. The aftermarket provision will work only if the vehicle manufacturer honors claims in every instance. Therefore, the Agency believes that Congress intended that the vehicle manufacturer honor claims involving certified parts, even if the parts are defective, provided the vehicle manufacturer may be reimbursed for the expenses of such activities by the aftermarket part manufacturer.

The vehicle manufacturers assert that Congress included the provisions relating to part certification in the Act to assure that business would go on as usual. They assert that they presently do not invalidate section 207(a) emission warranty claims merely because non-OE parts are used, but do so only if the parts are determined by them to be nonequivalent or defective. The part certification provisions, they contend, were meant to preserve the latter exception.

The Agency does not agree that Congress included the aftermarket part certification provisions in the Act merely to ensure that vehicle manufacturers follow past practices that may already be required by antitrust laws. Rather, the Agency believes that Congress included the provisions to prevent the emission performance warrantly, coupled with today's business practices (including potential denial of warranty claims based on the equivalency or performance of a part), from creating a market shift.

In fact, prior to the Amendments, EPA had proposed guidelines for a voluntary aftermarket part certification program. However, because EPA had no authority to make certification of a part binding on a vehicle manufacturer, the program was considered by many to be anticompetitive and anti-consumer, even if the part manufacturer provided its own warranty with its certified parts. For example, the Subcommittee on Environmental Problems Affecting Small Business in its Report on the Monopolistic Tendencies of Auto Emission Warranty Provisions, H.R. Rep. No. 93–1628, 93d Cong. 2nd Sess. 31 (December 18, 1974), commenting on the EPA proposed certification program which would have required a warranty of certified parts, stated:

> The parts certification program merely proliferates the number of warranties without providing any mechanism for adequately determining why the emission control system failed. Thus, should the parts manufacture dispute the franchised dealer's assertion that the replacement part caused the failure, the consumer is left with no means to resolve the dispute, other than court action which would probably be so time consuming as to be prohibitive."

Therefore, rather than have EPA put out a program which would not be binding on vehicle manufacturers, EPA believes that Congress amended the Act to make part certification binding on vehicle manufacturers.

This view is not inconsistent with the Court of Appeals decision in *Chrysler Corporation v. EPA*, 600 F2d. 904 (D.C. Cir. 1979), which invalidated EPA regulations promulgated under the Noise Control Act. The regulations placed warranty liability on the manufacturer of an unfinished truck for work performed by a subsequent manufacturer who completes the truck and is unrelated to the first manufacturer. In that case, the Court pointed out that there was nothing in the Noise Control Act of 1972 or its legislative history that would support a regulation imposing liability on one party for actions of another party. Here, the Agency believes that both the plain language of the statute, as well as its legislative history, mandates imposing such liability.

To assure an equitable situation, the Agency intends to incorporate requirements in the final aftermarket part certification regulations which will ensure that vehicle manufacturers will be reimbursed for all emission performance warranty costs resulting from repairs necessitated by a defective or nonequivalent certified part.

Some representatives of the aftermarket part industry objected to being liable for warranty repairs necessitated as a result of their parts. However, as will be discussed further in the preamble to the final part certification regulations, the Agency believes that this scheme is equitable, as it is only reasonable to expect a part certifier to reimburse a vehicle manufacturer who incurred expenses due to a fault in a certified part. Much of the part manufacturers' concern centers around their fear that they will have no role in determining whether their parts caused the emission nonconformity. The Agency does not intend for this to be the case. Rather, this requirement will remove an owner, who is likely to have little or no ability to determine the cause of an emission nonconformity, from the decision and instead allow two knowledgeable parties, the part manufacturer and the vehicle manufacturer, to determine the cause of the emission nonconformity.

The Agency does not believe that any party will incur significant costs because of this scheme. The scope of warranty coverage is limited after the first 24 months or 24,000 miles. As stated in the Economic Analysis, the Agency expects that relatively few valid warranty claims will be made for vehicles during this period of limited coverage.

Prior to the end of the initial 24 month or 24,000 mile period, the Agency believes the vast majority of vehicles will still have the OE part installed. Since the amount of maintenance required of most vehicles during this period is limited, few claims should be the result of failures by certified parts. This is especially true since the certification program will assure that certified parts do not cause vehicle emissions to exceed standards.

The Agency believes it must follow the Congressionally mandated scheme and require that vehicle manufacturers honor warranty claims resulting from properly installed certified parts. The Agency notes, however, that outside of an emission warranty situation, part manufacturers, and not vehicle manufacturers, will be expected to deal with problems arising from use of their parts.

Some part manufacturers stated that the Reproposal made it too easy for vehicle manufacturers to deny claims on

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the basis of uncertified parts. These part manufacturers stated that this will force them to certify their parts and, therefore, the aftermarket part certification program will not actually be voluntary as intended by Congress. The vehicle manufacturers, on the other hand, stated that they believed that Congress intended for them to be able to deny a claim simply on the basis of the use of an uncertified part.

The Agency does not believe that Congress intended the result set forth by the vehicle manufacturers. To do so would mean that Congress intended for manufacturers of uncertified parts to receive less protection than they receive today. EPA does not believe that the certification provisions were meant merely to limit vehicle manufacturer liability.

Neither does it agree with those members of the automotive aftermarket industry who assert that it is up to a vehicle manufacturer to prove conclusively that an uncertified part is defective or unequivalent with regard to its effects on emissions. Instead, the Agency believes that it is reasonable only to expect vehicle manufacturers to provide evidence that the uncertified part has caused the vehicle to fail the emission short test. Once the vehicle manufacturer provides this evidence, it would be able to deny the emission performance warranty claim, unless the vehicle owner or the part manufacturer could prove that the uncertified part did not cause the vehicle to fail the emission short test.

The Reproposal set forth different degrees of evidence that a vehicle manufacturer would have to provide prior to denying an emission warranty claim on the basis of the use of an uncertified part, depending upon whether a certified part was available at the time the uncertified part was installed. Based upon the comments, the Agency felt that the distinction between the two types of situations was too confusing and that it would be simpler to treat all uncertified parts the same. Therefore the final rule does not distinguish between those parts for which a certified replacement was available and those for which there was not.

F. Section 85.2106 Warranty Claim Procedures

The warranty claim procedures are basically unchanged from the Reproposal. The time period for making determinations of warranty coverage has been extended to alleviate some of the concerns of the vehicle manufacturers. However, the regulations now provide that if a state requires a vehicle to be repaired within a shorter time frame than normally allowed by the regulations, then the determination and repair must be made within the shorter time frame.

The vehicle manufacturers uniformly commented that the time limit for deciding the validity of warranty claims was too short even though most admitted that almost all claims could be decided well within the proposed time limit. The Agency expects that no vehicle manufacturer should have trouble complying with the time requirement. Further, the Agency believes that the limit is reasonable and necessary to assure that emission problems with vehicles are corrected expediently, and no owner will be forced to incur any additional penalty or sanction as a result of delays attributed to the vehicle manufacturer.

The vehicle manufacturers also asserted that the time limit should take into account factors outside their control, such as acts of God. The agency agrees and therefore has modified the regulations such that the time for responding to emission performance warranty claims is tolled when a delay results from a cause beyond the control of the vehicle manufacturer or the authorized repair facility, such as an act of God.

One issue heavily commented upon was that of whether independent repair facilities should be allowed to perform warranty repairs. The Reproposal would have allowed manufacturers to designate that only their dealers can perform emission performance warranty repairs. A discussion of the basis upon which that decision was made is contained in the preamble to the Reproposal. Because segments of the automotive service industry and the Bureau of Competition of the Federal Trade Commission believed that allowing vehicle manufacturers to designate only their franchised dealers as warranty repair facilities would have severe anticompetitive impacts and possibly would be in violation of antitrust law, the Agency stated that it would continue to consider the issue.

The Agency received well reasoned comments on both sides of the issue. Most of those parties who believed that non-franchised repair facilities should be able to perform warranty repairs did not advocate allowing all independents to perform such repairs. These parties agreed that vehicle manufacturers should be able to designate who can perform warranty repairs, but alleged that it was unreasonable and perhaps illegal for them to arbitrarily designate only their dealers as warranty repair stations. A frequent suggestion was for vehicle manufacturers to establish similar requirements (equipment, mechanic qualifications, record keeping, etc.) for independent repair facilities desiring to perform emission performance warranty repairs, as they have for their dealers. In addition, some suggested that EPA require vehicle manufacturers to designate only those repair facilities that can compete competitively for this service with the manufacturer franchised facilities.

Parties suggesting that EPA require that independents be permitted to perform warranty repairs cited the general intent of several Clean Air Act provisions, which was to limit the potential anticompetitive effect of the warranty. These parties were unconvinced that the position stated by EPA in the Reproposal was conclusive as to EPA's lack of authority to require vehicle manufacturers to permit independent repair facilities to perform emission performance warranty repairs. They claimed that the language cited in the Reproposal from the statute and its legislative history clearly implies that Congress intended that vehicle manufacturers be able to designate their own warranty outlets but only if independent repair facilities were also designated; otherwise, their exclusion would be anticompetitive.

These parties further disagreed with EPA's interpretation of the statement in the Conference Report that "to the extent permitted by the Moss-Magnson [sic] any establishment (would have) * * * the right to perform work covered by the section 207(b) warranty with the right to reimbursement by the vehicle manufacturer." EPA stated in the Reproposal that since the Magnuson-Moss Act allows manufacturers to designate who performs warranty repairs, non-franchised repair facilities could perform warranty repairs, only to the extent that vehicle manufacturers chose to designate them.

The Federal Trade Commission and other parties in favor of independents performing emission performance warranty repairs pointed out that while the Magnuson-Moss Act generally authorizes product manufacturers to choose their warranty establishments, it also provides that nothing in that Act shall be construed to "repeal, invalidate, or supersede the Federal Trade Commission Act" or any other antitrust statute, 15 U.S.C. 2311(a). Consequently, they suggested that the Conference Report language should be read to require vehicle manufacturers to choose warranty outlets so as to minimize the anticompetitive effects. This would include allowing independents the opportunity to participate.

The vehicle manufacturers agreed with the statement in the Reproposal that EPA cannot require vehicle manufacturers to designate non-franchised repair facilities as warranty outlets. In addition to the statements in the Reproposal, these parties pointed to the House Commerce Committee bill, which would have expressly permitted the Agency to promulgate regulations allowing independent garages to perform warranty repairs (see H.R. Rept. No. 95–294, 95th Cong., 1st Sess. 424 (1977)). This aspect of the bill was rejected by the House in favor of the Dingell-Broyhill amendments, which expressly included a provision allowing manufacturers to control the performance of paid warranty work. In addition, these parties focused on the words of Congressman Broyhill during the debate over the adoption of the Dingell-Broyhill amendments. He stated that although the amendment would in no way restrict the ability of the independent parts, repair, or service outlets to service or maintain a vehicle in order to keep a warranty valid, or to perform non-warranty repair work, that "as with any warranty, whether it relates to any large consumer product, the manufacturer has the right to specify who may do the work for which it bears both the cost and the responsibility for repair." Further, Congressman Broyhill went on to say, "This is not only consistent with the concepts of the Moss-Magnuson (sic) Warranty Act, but is also supported by the trade associations which represent more than 166,000 aftermarket repair firms." 123 Cong. Rec. 5138 (daily ed. May 26, 1977).

In addition, proponents on both sides of the issue set forth numerous policy reasons in behalf of their positions. These policy discussions are set forth in more detail in the comment summary, which can be found at EN–79–6 at IX–2.

After careful consideration of all of the comments received on this issue, the Agency has decided that it lacks authority to require vehicle manufacturers to allow independents to perform emission performance warranty repairs. However, the Agency encourages vehicle manufacturers to do so. Further, to the extent that any existing or future antitrust law requires vehicle manufacturers to do so, this regulation should not be construed as permitting a vehicle manufacturer to do otherwise. Indeed, the regulations provide that to the extent required by any law, whether state or Federal, whether statutory or common law, a vehicle manufacturer is required to let independent repair facilities participate in performing warranty repairs.

Two other significant changes were made in this section. First, under the Reproposal, vehicle manufacturers would have been required to pay for diagnosing vehicles even if a diagnosis resulted in a vehicle's being ineligible for an emission warranty claim. The final rule will require the vehicle manufacturer to bear the cost of diagnoses leading to honored claims only. This change was made in response to comments on the fairness and legality of providing otherwise, and also to charges of the Federal Trade Commission and the independent aftermarket associations that the proposed provision would be anticompetitive.

Second, § 85.2106(f) of the Reproposal would have required vehicle manufacturers to bear the cost of repairs performed without the vehicle owner's consent if the vehicle had been left with an authorized repair facility for an emission performance warranty diagnosis or repair. This paragraph has been deleted. The Agency believes that many state and local laws already address this situation. However, if the Agency determines that warranty repair facilities are taking advantage of having vehicles returned to them for emission warranty repairs, the Agency will reconsider amending the regulations to prevent such abuse.

G. Section 85.2107 Warranty Remedy

Proposed § 85.2107(a)(2) was criticized by many parties as being overexpansive. This paragraph would have required vehicle manufacturers to repair, free of charge, all components which must be adjusted, repaired or replaced to assure the continued performance of a described emission control device or system for the remainder of the vehicle's useful life. Read literally, this paragraph would have required a vehicle manufacturer to replace, under the warranty, a part such as a failed spark plug even if the vehicle had been in use for greater than 24 months or 24,000 miles and the "emission control device or system", such as a catalyst, was itself unharmed, merely because the part could harm such device or system in the future. The Agency did not intend this result. Rather, the Agency intended that after the initial 24 months or 24,000 mile period, a spark plug would be replaced under the warranty only if (1) it had already failed, (2) such failure contributed to a catalyst failure, and (3) failure to repair or replace would prevent the replacement catalyst from performing its function. This paragraph has been modified accordingly in the final rule.

Even assuming the interpretation noted above, many parties claimed that the proposed provision was beyond the scope of the warranty and anticompetitive. Other parties did not agree and expressed their belief that the provision was well within the intent of Congress and, in addition, would be necessary for a workable warranty program. The Center for Automotive Safety asserted that the anticompetitive claims of the aftermarket part and service industry were greatly exaggerated and, in support of this statement, pointed to the rapid growth of the independent automotive aftermarket part and service industry during the late 1960's, when many new vehicles were covered by a more comprehensive warranty for 5 years or 50,000 miles.

The Agency believes that the inclusion of this provision, as modified, is necessary. It makes no sense to replace a failed part, such as a catalyst, which fails as a result of a second component, such as a spark plug, and not to replace the second component to prevent the replaced part from failing promptly for the same reason its predecessor did.

Moreover, it is significant that the section 207(b) warranty is a "performance warranty" and not a "defect warranty." As such, the warranty covers the performance of a covered part. Obviously a catalytic converter which has failed as a result of a failed spark plug will not perform properly unless the spark plug is also replaced.

The Agency believes that Congress limited the scope of the warranty after the initial 24 month or 24,000 mile period in response to concerns of the automotive aftermarket industry that too broad a warranty would be anticompetitive. As originally proposed, the warranty would have covered spark plug changes, valve and carburetor adjustments, air filter changes and other "tune up" services for the full useful life of the vehicle. Therefore, many parties feared that vehicle owners would routinely have their scheduled maintenance performed under the warranty. This, they feared, would have a substantial anticompetitive impact on the automotive aftermarket. Therefore, the Agency believes that Congress amended the Act to assure that scheduled maintenance would continue to be performed at any place of the owner's choosing. These regulations will not result in owners receiving free tune-ups for the vehicles' useful life. Rather, small portions of such services will be

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performed after the first 24 months or 24,000 miles only when necessary to repair an "emission control device or system," and should never obviate the need to have a car serviced at any scheduled interval. Thus, this provision should not cause any market shift.

The Agency believes that requiring the warranty repair to include components other than "emission control devices or systems", if such repair is necessary for a covered emission control device or system to function, should not have significant anticompetitive effects. If such repairs or replacements were not covered by the warranty they might not be performed at all; and where they were performed despite the lack of warranty coverage, they would, in many instances, be performed by the warranty outlet for reasons of convenience. In either situation, the lack of warranty coverage would not have helped the independent repair facility.

In fact, this provision could prove to be "procompetitive." For example, warranty outlets would be less likely to perform an unnecessary full tune-up with a catalytic converter replacement if the full tune-up would be covered under the warranty and not paid for by the consumer. The warranty facility would tend to perform the least repair necessary to restore the vehicle and thus, the consumer would be free to have the full tune-up performed at an appropriate service interval at any repair facility of his or her choice. Without this provision, the warranty outlet could take advantage of the "captured repair" situation feared by the aftermarket part industry by advising the vehicle owner to have an unnecessary tune-up performed at the time of the warranty repair.

The Agency has attempted to minimize the potential anticompetitive effect of the warranty and does not believe that § 85.2107(c)(2) will be anticompetitive. Moreover, the Agency believes that in addition to anticompetitive considerations, it has a responsibility to carry out the purposes of section 207(b), and that for those purposes it is essential to require repair or replacement, under the warranty, of components that cause "emission control devices and systems" to fail. For all the above reasons, the final rule requires the emission performance warranty remedy to include the repair or replacement of all components which (1) have caused a covered emission control device or system to fail, and (2) if not repaired or replaced, will prevent the new or repaired emission control device or system from performing properly.

Section 85.2107(d) of the Reproposal would have required vehicle manufacturers to adjust the maintenance instructions each time a maintenance item is repalced under the emission performance warranty. This paragraph has been deleted in response to the many parties who alleged that this requirement would be time consuming, costly and, in addition, so confusing as to provide consumers little benefit.

Under the final rule, a manufacturer is normally required to perform emission performance warranty repairs within 30 days rather than 21 days, as was proposed. However, in cases where the vehicle owner is required by local, State or Federal law to repair the vehicle in a shorter period, the vehicle manufacturer must perform the repair within the shorter period. The rule as modified, makes clear that failure to meet the time deadline for reasons beyond the manufacturer's control will not subject it to liability.

H. Section 85.2108 Dealer Certification

This section interprets section 207(h) of the Act which requires dealers to provide a certificate with each new light-duty vehicle, stating that the vehicle meets Federal emission standards. Many parties commenting on this section supported it because they believed it would greatly aid in remedying the problem of new vehicles being sold that are not equipped and adjusted to meet emission standards.

Few comments were received regarding the dealer's requirements in providing a certificate. One commenter suggested that it would take a dealer too much time to perform a visual inspection of the vehicle to assure that all emission related components had been properly installed. Therefore, the commenter asserted that this requirement should be modified. The Agency does not agree. Full vehicle inspections, including a check of part numbers for numerous parts on many different vehicle configurations, takes EPA employees between 15 to 20 minutes per vehicle. Since dealers will be required to inspect fewer vehicle configurations, they should be more familiar with the vehicles. Thus, the dealer inspections should take far less time than the EPA inspections. The Agency does not consider this requirement burdensome.

General Motors, in its comment to the standards for light-duty truck regulations, appeared to believe that the dealer certification provision provides vehicle manufacturers the right to require dealers to perform any dealer preparation it chooses. Moreover, General Motors stated that this (i.e., the warranty certificate provision) was inconsistent with attempts by EPA to disallow vehicle manufacturers from performing dealer preparation instructions during assembly-line testing. EPA does not believe that these two provisions are inconsistent, or that the GM statement is correct. The warranty provision merely states that any dealer preparation that is ultimately required by a vehicle manufacturer must be performed in order for the dealer to be able to in good faith provide a warranty certificate which indicates that a vehicle meets emission standards at the time of sale. The issuance of a warranty certificate does not mean that the dealer has performed or is capable of performing all instructions. Therefore, the warranty certificate should not be construed as proof that the dealers actually performed dealer preparation procedures. EPA does not generally discourage manufacturers from performing dealer preparation procedures during its Selective Enforcement Audits (SEA-assembly line tests). If the manufacturer can demonstrate that these procedures are being carried out routinely and correctly at its dealerships, i.e., that test vehicles adequately represent production vehicle at the point they are sold to an ultimate purchaser, EPA may approve the use of these procedures during SEA testing.

General Motors suggested including a mileage limit, as well as a time limit, for the period during which a vehicle is eligible for a free repair under the certificate. EPA has accepted this recommendation, and has included a 4,000 mile limit.

Other manufacturers stated that since their vehicles require maintenance prior to three months subsequent to delivery, that the dealer certificate remedy should be conditioned on performance of that maintenance. The Agency has inserted a provision requiring an owner to comply with the instructions for maintenance and use in order to recover under the dealer certification provision. The demonstration of an owner's compliance with these instructions is to be made in the same manner as is set forth in § 85.2104.

I. Section 85.2109 Inclusion of Warranty Provisions in Owners' Manuals and Warranty Booklets

The basic information required to be provided to a vehicle owner is the same as was contained in the Reproposal. However, because many of the vehicle manufacturers claimed that including all of the information in both the owner's manual and warranty booklet was unnecessarily burdensome, the Agency has changed this requirement. The final

regulation adopts a concept suggested by Ford Motor Company, requiring that the warranty booklet contain all of the relevant information, except for the maintenance instructions which the booklet will usually reference. The owner's manual must only reference the emission warranties and also must contain information on how to obtain a replacement warranty booklet if it is lost or misplaced. However, if a manufacturer does not normally provide a separate warranty booklet with the vehicle, the manufacturer may include the emission performance warranty information in the owner's manual along with the other vehicle warranties.

J. Section 85.2110 Submission of Owners' Manuals and Warranty Statements to EPA

The Reproposal would have required vehicle manufacturers to submit copies of the owners' manuals and warranty booklets in their final printed format 60 days prior to the introduction of the vehicle for sale. Many of the vehicle manufacturers stated that this requirement is impractical because the booklets are not finalized at that time. Many of these parties recommended that vehicle manufacturers be given an option to provide EPA with draft copies 60 days prior to the introduction of vehicles for sale, and final copies within 15 days after the final printing. The Agency has adopted this suggestion.

K. Section 85.2111 Warranty Enforcement

This section remains substantially unchanged from the Reproposal. The rule provides that it is a prohibited act not to comply with the terms and conditions of the emission performance warranty and further sets forth a partial list of acts that would constitute a failure to comply.

Chrysler Corporation alleged in its comments that the Agency had erroneously interpreted the Act in regard to this section. Chrysler alleged that Congress did not mean for particular cases of noncompliance with the warranty to subject vehicle manufacturers to liability for failing to comply with the terms and conditions of the warranty. Rather, Chrysler believes that the Act contemplates that EPA will bring actions only when a vehicle manufacturer shows a pattern of noncompliance. The Agency does not agree. The legislative history of the Amendments clearly indicates that Congress intended for EPA to become involved when an individual warranty claim has not been properly honored. H.R. Rep. No. 95-564, 95th Cong., 1st sess. 169 (1977). Further, since EPA's interpretation is consistent with a literal interpretation of the Act, this section has remained basically intact.

L. Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action within five years. In particular, the Agency will solicit comments from the affected parties concerning the effectiveness and economic impact of the emission performance warranty.

M. Reporting and Recordkeeping Requirements

This rulemaking will not impose any significant new or additional reporting or recordkeeping requirements on any party.

Note.—The Agency has determined that this document is not a "significant regulation" requiring the preparation of a Regulatory Analysis under Executive Order 12044. An Economic Analysis has been prepared and is included in the Public Docket.

Dated: May 13, 1980.

Douglas M. Costle,

Administrator.

Accordingly, Part 85 of Title 40 of the Code of Federal Regulations is revised by adding a new Subpart V, as set forth below.

Subpart V—Emissions Control System Performance Warranty Regulations

Sec.

85.2101 General applicability.
85.2102 Definitions.
85.2103 Emission warranty performance.
85.2104 Owners' compliance with instructions for proper maintenance and use.
85.2105 Replacement parts.
85.2106 Warranty claim procedures.
85.2107 Warranty remedy.
85.2108 Dealer certification.
85.2109 Inclusions of warranty provisions in owners' manuals and warranty booklets.
85.2110 Submission of owner manuals and warranty statement to EPA.
85.2111 Warranty enforcement.
85.2112–85.2150 [Reserved]

Authority: Secs. 203, 207, 208, and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7522, 7541, 7542, and 7601(a))

Subpart V—Emissions Control System Performance Warranty Regulations

§ 85.2101 General applicability.

Sections 85.2101 through 85.2111 are applicable to all 1981 and later model year light-duty vehicles and light-duty trucks.

§ 85.2102 Definitions.

(a) As used in §§ 85.2101 through 85.2111 all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 7421 *et seq.* (formerly 42 U.S.C. 1857 *et seq.*), as amended.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or an authorized representative of the Administrator.

(3) "Certified Part" means a part certified in accordance with the aftermarket part certification regulations contained in this subpart.

(4) "Emission Performance Warranty" means that warranty given pursuant to this subpart and section 207(b) of the Act.

(5) "EPA–Approved Emission Test" or "Emission Short Test" means any test prescribed under 40 CFR 85.2201 *et seq.*, and meeting all of the requirements thereunder.

(6) "Model Year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year; however, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(7) "Original Equipment Part" means a part present in or on a vehicle at the time the vehicle is sold to the ultimate purchaser, except for components installed by a dealer which are not manufactured by the vehicle manufacturer or are not installed at the direction of the vehicle manufacturer.

(8) "Owner" means the original purchaser or any subsequent purchaser of a vehicle.

(9) "Owner's Manual" means the instruction booklet normally provided to the purchaser of a vehicle.

(10) "Useful Life" means that period established pursuant to section 202(d) of the Act and regulations promulgated thereunder.

(11) "Vehicle" means a light duty vehicle or a light duty truck.

(12) "Warranty Booklet" means a booklet, separate from the owner's manual, containing all warranties provided with the vehicle.

(13) "Written Instructions for Proper Maintenance And Use" means those maintenance and operation instructions specified in the owner's manual as being necessary to assure compliance of a vehicle with applicable emission standards for the useful life of the vehicle that are,

"(i) In accordance with the instructions specified for performance on the manufacturer's prototype vehicle used in certification (including those specified for vehicles used under special circumstances), and

(ii) In compliance with the requirements of §§ 86.XXX–38 (as

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appropriate for the applicable model year vehicle/engine classification), and

(iii) In compliance with any other regulations promulgated by EPA governing maintenance and use instructions.

§ 85.2103 Emission performance warranty.

(a) The manufacturer of each vehicle to which this subpart applies shall warrant in writing that if:

(1) The vehicle is maintained and operated in accordance with the written instructions for proper maintenance and use and

(2) The vehicle fails to conform at any time during its useful life to the applicable emissions standards as judged by an EPA-approved emission test, and

(3) Such nonconformity results or will result in the vehicle owner having to bear any penalty or other sanction (including the denial of the right to use the vehicle) under local, State or Federal law, then the manufacturer shall remedy the nonconformity at no cost to the owner; *except that*, if the vehicle has been in operation for more than 24 months or 24,000 miles, the manufacturer shall be required to remedy only those nonconformities resulting from the failure of components which have been installed in or on the vehicle for the sole or primary purpose of reducing vehicle emissions and that were not in general use prior to model year 1968.

(b) The warranty period shall begin on the date the vehicle is delivered to its ultimate purchaser, or if the vehicle is first placed in service as a "demonstrator" or "company" car prior to delivery, on the date it is first placed in service.

§ 85.2104 Owners' compliance with instructions for proper maintenance and use.

(a) An emission performance warranty claim may be denied on the basis of noncompliance by a vehicle owner with the written instructions for proper maintenance and use.

(b) When determining whether an owner has complied with the written instructions for proper maintenance and use, a vehicle manufacturer may require an owner to submit evidence of compliance only with those written maintenance instructions for which the manufacturer has an objective reason for believing:

(1) Were not performed; and

(2) If not performed could be the cause of the particular vehicle's exceeding applicable emission standards.

(c) Evidence of compliance with a maintenance instruction may consist of:

(1) A maintenance log book which has been validated at the approximate time or mileage intervals specified for service by someone who regularly engages in the business of servicing automobiles for the relevant maintenance instruction(s); or

(2) A showing that the vehicle has been submitted for scheduled maintenance servicing at the approximate time or mileage intervals specified for service to someone who regularly engages in the business of servicing automobiles for the purpose of performing the relevant maintenance; or

(3) A statement by the vehicle owner that he or she performed the maintenance at the approximate time or mileage interval specified including a showing.

(i) That the owner purchased and used proper parts, and

(ii) Upon request by the vehicle manufacturer, that the owner is able to perform the maintenance properly.

(d) Except as provided in paragraph (c)(5) of this section, the time/mileage interval for scheduled maintenance services shall be the service interval specified for that part in the written instructions for proper maintenance and use.

(e) For certified parts having a maintenance or replacement interval different from that specified in the written instructions for proper maintenance and use, the time/mileage interval shall be the service interval for which the part was certified.

(f) The owner may perform maintenance or have maintenance performed more frequently then required in the maintenance instructions.

(g) Except as provided in paragraph (h) of this section, a manufacturer may deny an emission performance warranty claim on the basis of noncompliance with the written instructions for proper maintenance and use only if:

(1) An owner is not able to comply with a request by a manufacturer for evidence pursuant to paragraph (c) of this section; or

(2) Notwithstanding the evidence presented pursuant to paragraph (c) of this section, the manufacturer is able to prove that the vehicle failed an emission short test because

(i) The vehicle was abused, or

(ii) An instruction for the proper maintenance and use was performed in a manner resulting in a component's being improperly installed or a component or related parameter's being adjusted substantially outside of the manufacturer's specifications, or

(iii) Unscheduled maintenance was performed on a vehicle which resulted in the removing or rendering inoperative of any component affecting the vehicle's emissions.

(h) In no case may a manufacturer deny an emission performance warranty claim on the basis of:

(1) Warranty work or predelivery service performed by any facility authorized by the vehicle manufacturer to perform such work or service; or

(2) Work performed in an emergency situation to rectify an unsafe condition, including an unsafe driveability condition, attributable to the manufacturer, provided the vehicle owner has taken steps to put the vehicle back in a conforming condition in a timely manner; or

(3) The use of any uncertified part or non-compliance with any written instruction for proper maintenance and use which is not relevant to the reason that the vehicle failed to comply with applicable emission standards; or

(4) Any cause attributable to the vehicle manufacturer; or

(5) The use of any fuel which is commonly available in the geographical area in which the vehicle or engine is located, unless the written instructions for proper maintenance and use specify that the use of that fuel would adversely affect the emission control devices and systems of the vehicle, and there is commonly available information for the owner to identify the proper fuel to be used.

§ 85.2105 Replacement parts.

(a) No emission performance warranty claim shall be denied on the basis of the use of a properly installed certified part in the maintenance or repair of a vehicle.

(b) Except as provided in § 85.2104(h), a vehicle manufacturer may deny an emission performance warranty claim on the basis of an uncertified replacement part used in the maintenance or repair of a vehicle if the vehicle manufacturer presents evidence that the uncertified replacement part is:

(1) Either defective in materials or workmanship, or not equivalent from an emission standpoint to the original equipment part; and

(2) The owner is unable to rebut the evidence.

(c) A part not required to be replaced at a definite interval in accordance with the written instructions for maintenance and use shall be warranted for the full term of any warranty mandated by the Act. Instructions to replace a component only if checked and found to be operating below specification shall have no bearing on warrranty coverage.

unless an owner did not follow such an instruction prior to the short test failure and noncompliance with that instruction caused the failure of another vehicle component relevant to the nonconformity.

§ 85.2106 Warranty claim procedures.

(a) A claim under the emission performance warranty may be raised immediately upon the failure of an EPA-approved emission test if, as a result of that failure, an owner is required to take action of any kind in order to avoid imposition of a penalty or sanction. An owner need not suffer the loss of the right to use a vehicle, be fined, incur repair expenses, or actually bear any penalty or sanction to satisfy the requirement of § 85.2103(a)(3). That requirement shall be met if a test failure sets a procedure in motion under which the owner will bear a penalty or sanction if a vehicle is not brought into conformity or repaired to some specified extent within some specified period of time.

(b) A warranty claim may be submitted by bringing a vehicle to

(1) Any repair facility authorized by the vehicle manufacturer to service that model vehicle, or

(2) Any repair facility authorized by the vehicle manufacturer to perform emission performance warranty repairs for that model vehicle.

(c) To the extent required by any Federal or State law, whether statutory or common law, a vehicle manufacturer shall be required to provide a means for non-franchised repair facilities to perform emission performance warranty repairs.

(d) The manufacturer of each vehicle to which the warranty is applicable shall establish procedures as to the manner in which a claim under the emission performance warranty is to be processed. The procedures shall:

(1) provide for a final decision by the vehicle manufacturer within a reasonable time, not to exceed 30 days from the time at which the vehicle is initially presented for repair or within the time period during which an owner is required by local, state or federal law to have the vehicle repaired without incurring further penalties or sanctions (whichever is shorter), unless a delay

(i) Is requested by the vehicle owner, or

(ii) Is caused by an event not attributable to the vehicle manufacturer or the warranty repair facility; and

(2) Require that if the facility at which the vehicle is initially presented for repair is unable for any reason to honor the particular claim, then, unless this requirement is waived in writing by the vehicle owner, the repair facility shall forward the claim to an individual or office authorized to make emission performance warranty determinations for the manufacturer.

(e) Within the time period specified in paragraph (d) of this section the manufacturer shall:

(1) Notify the owner that it will honor the claim; or

(2) Provide the owner, in writing, with an explanation of the basis upon which the claim is being denied.

(f) Failure to notify an owner within the required time period (as determined under paragraph (d) of this section) for reasons that are not attributable to the vehicle owner or events which are not beyond the control of the vehicle manufacturer or the repair facility, shall result in the vehicle manufacturer being responsible for repairing the vehicle free to charge to the vehicle owner.

(g) The vehicle manufacturer shall incur all costs associated with a determination that an emission performance warranty claim is valid.

§ 85.2107 Warranty remedy.

(a) The manufacturer's obligation under the emission performance warranty shall be to make all adjustments, repairs or replacements necessary to assure that the vehicle complies with applicable emission standards of the U.S. Environmental Protection Agency, that it will continue to comply for the remainder of its useful life (if proper maintenance and operation are continued), and that it will operate in a safe manner. The manufacturer shall bear all costs incurred as a result of the above obligation, *except that* after the first 24 months or 24,000 miles (whichever first occurs) the manufacturer shall be responsible only for:

(1) The adjustment, repair or replacement of those components which have been installed in or on a vehicle for the sole or primary purpose of reducing vehicle emissions, and which were not in general use prior to model year 1968; and

(2) All other components which must be adjusted, repaired or replaced to enable a component repaired or replaced under paragraph (a)(1) of this section to perform properly.

(b) Under the Emissions Performance Warranty, the manufacturer shall be liable for the total cost of the remedy for any vehicle validly presented for repair to any authorized service facility authorized by the vehicle manufacturer. State or local limitations as to the extent of the penalty or sanction imposed upon an owner of a failed vehicle shall have no bearing on this liability.

(c) The remedy provided under paragraph (a) of this section shall include the repair or replacement of certified parts.

(d) If a manufacturer is unable (for reasons not attributable to the vehicle owner or events beyond the control of the vehicle manufacturer or an authorized repair facility) to repair a vehicle within the time period specified under § 85.2106(d) after the initial presentation of the vehicle to an authorized repair facility, then the owner shall be entitled to have the warranty remedy performed, at the expense of the manufacturer, by any repair facility of the owner's choosing.

§ 85.2108 Dealer certification.

(a) Upon the sale of each new light-duty motor vehicle, the dealer shall furnish to the purchaser a certificate that the motor vehicle conforms to all applicable emission standards of the U.S. Environmental Protection Agency.

(b) The certificate shall state that it is being made upon the basis of:

(1) The dealer's knowledge that the vehicle is covered by an EPA Certificate of Conformity;

(2) A visual inspection of the vehicle, including the engine, to assure that all emission related components have been properly installed; and

(3) The dealer's performance of all emission related preparation required by the manufacturer prior to the sale of the vehicle.

(c) The certificate shall further state that if the vehicle fails an EPA-approved emission test prior to the expiration of three months or 4,000 miles (whichever occurs first) from the date or mileage at the time of delivery of the vehicle to the ultimate purchaser, and the vehicle has been maintained and used in accordance with the written instructions for proper maintenance and use, then the vehicle manufacturer shall remedy the nonconformity under the emission performance warranty.

(d) A vehicle manufacturer shall provide the § 85.2107 remedy, free of charge to the vehicle owner, for any vehicle which, although maintained in accordance with the written instructions for proper maintenance and use, fails an emission short test prior to the expiration of three months or 4,000 miles from the time of sale to the ultimate purchaser, without regard to whether a penalty or sanction is imposed because of the emission short test failure.

§ 85.2109 Inclusion of warranty provisions in owner's manuals and warranty booklets.

(a) A manufacturer shall furnish with each new motor vehicle, a full explanation of the Emission

Performance Warranty, including at a minimum the following information:

(1) A basic statement of the coverage of the emissions performance warranty as set out in § 85.2103. This shall be separated from any other warranty given by the manufacturer and shall be prefaced by the title "Emissions Performance Warranty" set in bold face type; and

(2) A list of all items which are covered by the emission performance warranty for the full useful life of the vehicle. This list shall contain all components which have been installed in or on a vehicle solely or primarily for the purpose of reducing vehicle emissions, except those components which were in general use prior to model year 1968. All items listed pursuant to this subsection shall be described in the same manner as they are likely to be described on a service facility work receipt for that vehicle; and

(3) A list or a reference to the location of the instructions for proper maintenance and use, together with the time and/or mileage interval at which such instructions are to be performed; and

(4) An explanation of the effect that the use of certified parts will have on the emission performance warranty. This explanation shall comport with the provisions of §§ 85.2105(b) and (c), including a statement in boldface type that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any certified part; and

(5) Complete instructions as to when and how an owner may bring a claim under the emissions performance warranty, as governed by §§ 85.2104 and 85.2106. These instructions shall include:

(i) An explanation of the point in time at which a claim may be raised; and

(ii) Complete procedures as to the manner in which a claim may be raised; and

(iii) The provisions for manufacturer liability contained in § 85.2106(f) if the manufacturer fails to respond within the time period set in accordance with § 85.2106(d);

(6) An explanation that an owner may obtain further information concerning the emission performance warranty or that an owner may report violations of the terms of the Emission Performance Warranty by contacting the Director, Field Operation and Support Division (EN-397), Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460.

(b) The warranty information shall be provided in the same document as other warranties provided with the vehicle.

(c) If a separate warranty booklet is provided with the vehicle, the owner's manual shall contain, at a minimum, the following information:

(1) A general list of all warranties covering the vehicle; and

(2) A statement that detailed warranty information can be found in the warranty booklet.

(d) If a separate warranty booklet is not provided with the vehicle, the information specified in paragraph (a) of this section shall be contained in the owner's manual.

§ 85.2110 Submission of owners' manuals and warranty statements to EPA.

(a) The manufacturer of each vehicle to which this subpart applies shall submit a copy to EPA of both the owner's manual and warranty booklet (if applicable) for each model vehicle, *except that*, if the same warranty information is to be provided for more than one model vehicle, the manufacturer may submit copies for a single model vehicle with a statement that such copies are complete and accurate representation of the warranty information provided with all other specified models.

(1) The owner's manuals and warranty booklets should be received by EPA 60 days prior to the introduction of the vehicle for sale.

(2) If the manuals and warranty booklets are not in their final printed format 60 days prior to the introduction of the vehicle for sale, a manufacturer may submit the most recent draft at that time, provided that final versions are submitted within 15 days of the final printing.

(b) All materials described in paragraph (a) of this section shall be sent to: Director, Field Operation and Support Division (EN-397), Office of Enforcement, Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

§ 85.2111 Warranty enforcement.

The following acts are prohibited and may subject a manufacturer to up to a $10,000 civil penalty for each offense:

(a) Selling or leasing a light duty vehicle without providing in writing the warranty information required by § 85.2109;

(b) Failing or refusing to comply with the terms and conditions of the Emission Performance Warranty with respect to any vehicle to which this subpart applies. Acts constituting such a failure or refusal shall include, but are not limited to, the following.

(1) Failure to honor a valid warranty claim,

(2) Performance of a warranty repair in a manner which cannot reasonably be expected to allow the vehicle to meet applicable emission standards for the remainder of its useful life,

(3) Failure of a manufacturer to reimburse a dealer or other designated agent for performance of a vehicle repair made pursuant to this subpart, and

(4) Failure of a manufacturer to supply a part necessary to perform a warranty repair within the time limit specified under § 85.2106(d), unless such failure is for a reason not attributable to the vehicle manufacturer or the warranty repair facility;

(c) To provide directly or indirectly in any communication to the ultimate purchaser or any subsequent purchaser that the emission performance warranty coverage is conditioned upon the use of any name brand part, component, or system or upon service (other than a component or service provided without charge under the terms of the purchase agreement), unless the communication is made pursuant to a written waiver by the Administrator.

§§ 85.2112 through 85.2150 [Reserved]

(Sec. 203, 207, 208 and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7522, 7541, 7542 and 7601(a)))

Appendix

Note.—This Appendix will not appear in the Code of Federal Regulations.

5 Year/50,000 Mile Performance Warranty Parts List

I. Air/Fuel Metering System
- Feedback Control System and Sensors.
- Electric Choke.
- Altitude Compensation System.
- Deceleration Controls.
- Early Fuel Evaporative Controls.

II. Ignition Spark Advance/Retard System
- Dual Diaphragm Vacuum Advance Unit.
- Electronic Spark Controls.
- Valves and Switches Sensing Vacuum, Temperature, Time, Transmission Gear, etc. used to control advance/retard.

III. Evaporative Emission Control System
- Vapor Storage Canister and Filter.
- Vapor Liquid Separator.

IV. Positive Crankcase Ventilation (PCV) System
- PCV Valve.

V. Exhaust Gas Recirculation (EGR) System
- EGR Valve.
- EGR Backpressure Transducer.
- EGR Spacer Plate.
- Sensors and Switches used to control EGR flow.

VI. Air Injection System
- Air Pump.
- Air Distribution System.
- Diverter, Bypass or Gulp Valve.
- Anti-Backfire or Deceleration Valve.
- Reed Valve.
- Sensors or Valves used to control Air Injection.

VII. Catalytic and Thermal Reactor System
- Catalytic Converter.
- Catalyst Material and Internal Structure.
- Thermal Reactor.
- Oxygen and Exhaust Gas Sensors.
- Fuel Filler Neck Restrictor.

VIII. Electronic Engine Controls
- Engine Parameter Sensors and Controls.
- Electronic Control Unit.

IX. Hoses, Clamps, Brackets, Pipes, Gaskets, Belts, Seals, Connectors, etc. Used in the Above Systems

[FR Doc. 80-15719 Filed 5-21-80; 8:45 am]

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Thursday
May 22, 1980

Part X

Department of Energy

Economic Regulatory Administration

Gasohol Pricing and Allocation; Proposed Rulemaking

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 210, 211 and Part 212

[Docket No. ERA-R-80-11]

Gasohol Pricing and Allocation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing alternative amendments to the Mandatory Petroleum Allocation and Price Regulations concerning the treatment of gasohol and unleaded gasoline used as blend stock in the production of gasohol and unleaded gasoline used as blend stock in the production of gasohol. The first alternative proposal would amend the allocation regulations set forth in Part 211 to permit prospective gasohol blenders to obtain allocations of unleaded gasoline for use as gasohol blend stock and provide for the allocation of gasohol. An optional proposal to amend the allocation regulations would restrict access to allocations of unleaded gasoline for use as gasohol blend stock to alcohol producers only. This proposal would also amend the price regulations set forth in Part 212 to permit refiners, resellers, reseller-retailers and retailers to recover increased costs associated with producing gasohol, including the cost of the ethanol component of the blend, in the maximum lawful selling price permitted to be charged for gasohol.

The second alternative proposal would exempt from the provisions of the allocation and price regulations both unleaded gasoline sold by a supplier for use by the purchaser as gasohol blend stock and gasohol.

The amendments are intended to encourage increased production and marketing of gasohol.

DATES: Written comments on or before July 21, 1980.

Hearing dates: Des Moines, June 23, 1980; New Orleans, June 26, 1980; Washington, D.C., July 8, 1980.

Requests to speak by 4:30 p.m.: June 16, 1980, for the Des Moines hearing; June 18, 1980 for the New Orleans hearing; June 30, 1980, for the Washington, D.C. hearing.

ADDRESSES: All comments and requests to speak at the Washington, D.C. hearing should be submitted to the Economic Regulatory Administration, office of Public Hearings Management, Docket No. ERA-R-80-*11*, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Requests to speak at other hearings: Des Moines hearing—Department of Energy, Attn: Lou Brownlee, 175 W. Jackson Boulevard, Chicago, Illinios 60604. New Orleans hearing—Department of Energy, Attn: Mac L. Lacefield, 2626 W. Mockingbird Lane, P.O. Box 35228, Dallas Texas 75235.

HEARING LOCATIONS: Des Moines hearing: Federal Building, Room 113, 210 Walnut Street, Des Moines, Iowa 50359; New Orleans hearing: Hale Boggs Building, Room 125, 500 Camp Street, New Orleans, Louisana 70130; Washington, D.C. hearing: Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–4055.

Robert Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3757.

James Berry (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202N, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3256.

Maurice Boehl (Petroleum Pricing Regulations), Economic Regulatory Administration, Room 7302–D, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3199.

William Funk (Office of General Counsel), Department of Energy, Room 6A–099, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6736.

Christopher M. Was or Mayo Lee (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6744 or 252–6754.

SUPPLEMENTARY INFORMATION:

I. Background
II. General Objectives of this Proceeding
III. First Alternative Proposal—Regulation of the Allocation and Pricing of Gasohol and Unleaded Gasoline Used As Gasohol Blend Stock
A. Amendments to the Allocation Regulations
1. Definition of "Gasohol"
2. Allocation of Unleaded Gasoline for Gasohol
3. Allocation of Gasohol
B. Alternative Allocation Amendments
C. Specific Comments Requested
D. Amendments to the Price Regulations
1. Current Regulations
a. Refiners
b. Resellers and Reseller-Retailers
c. Retailers
2. Proposed Amendments
a. Refiners
b. Resellers and Reseller-Retailers
c. Retailers
IV. Second Alternative Proposal—Deregulation
V. Procedural Requirements
VI. Written Comments and Public Hearings Procedures

I. Background

The term "Gasohol" is a trademark held by the State of Nebraska for a petroleum product created when unleaded gasoline and ethyl alcohol are blended in a nine to one ratio. However, the term has come into more general use to describe any motor fuel that consists of a blend of gasoline and ethyl alcohol.

The use of alcohol and alcohol-petroleum mixtures as motor fuel is not new (see DOE Alcohol Fuels Policy Review Report, June, 1979), but until the mid-1970s plentiful supplies of relatively inexpensive gasoline made widespread use of gasohol uneconomical. With sharp increases in gasoline prices, uncertainty about the availability of adequate supplies of crude oil, concern about our dependence upon foreign oil imports, and reduced gasoline allocations, there has been heightened interest in the use of gasohol as motor fuel. The economics of gasohol are becoming increasingly competitive as the price of gasoline continues to rise, and the opportunity to increase the available supply of gasoline makes gasohol attractive. The number of retail outlets which offer gasohol for sale has grown rapidly from only three in January 1978 to over 2500 documented retail outlets in 38 states in April, 1980.[1]

The President has announced a program aimed at accelerating American production and use of gasohol. A target has been set to quadruple year end 1979 gasohol production capacity by the end of 1980. Incentives exist and have been proposed which are designed to encourage the future production of ethanol for blending into gasohol. To the extent that gasohol replaces unleaded gasoline, our supplies of unleaded gasoline are stretched by an amount roughly equivalent to the volumes of ethanol blended to produce gasohol.

[1] From data compiled by the National Gasohol Commission. The Commission estimates that once data is received from the remaining states, the number of retail outlets offering gasohol for sale could increase to as many as 4,000.

DOE has taken several major actions to integrate gasohol into the existing regulatory scheme governing gasoline and to remove regulatory hindrances to the production and marketing of gasohol. On January 17, 1978, the DOE Office of Hearings and Appeals (OHA) granted a temporary stay of the price regulations to expedite the opening in Illinois of the first retail gasohol outlets (other than test markets) in the United States. *Congressman Paul Findley*, Washington, D.C., 1 DOE ¶ 82,026 (1978). On February 3, 1978, a further stay was granted by OHA to gasohol marketers in Illinois, Iowa and Wisconsin, pending issuance by the ERA of an amendment to the DOE price regulations, to permit gasohol resellers and retailers to pass through the increased cost of the non-petroleum based alcohol component blended with gasoline as a product cost for purposes of pricing gasohol. *Illinois Petroleum Marketers Association*, 1 DOE ¶ 82,028 (1978). Such an amendment was adopted by ERA on May 30, 1978. (43 FR 24265, June 5, 1978.)

On May 12, 1978, the ERA amended the Entitlements Program to provide that ERA could grant, on a case by case basis, entitlements for those volumes of non-petroleum based ethanol used as blend stock for gasoline. (43 FR 21429, May 18, 1978.) On October 31, 1979, ERA amended the entitlements program to extend entitlements benefits automatically to producers of ethyl alcohol derived from biomass, rather than upon application. (44 FR 63515, November 5, 1979.) A producer of ethyl alcohol earns 0.6189 runs credits (calculated on a BTU equivalent basis) for each barrel of ethyl alcohol produced and blended with gasoline as fuel.

Prior to mid-1979, gasohol was blended and sold by resellers and retailers, but not by refiners. In May and June 1979, however, certain refiners advised DOE of their intention to begin blending and marketing gasohol and expressed concern that the DOE refiner price regulations provided a disincentive to gasohol production. Specifically, the refiners were concerned that under current regulations they would not have the flexibility to pass through all alcohol costs in the price of gasohol or the various grades of gasoline. On June 26, 1979, the DOE Office of Hearings and Appeals issued a stay of specific pricing regulations to allow Amoco Oil Company to pass through the increased costs of the alcohol additive in prices charged for gasohol. *Amoco Oil Company*, 3 DOE ¶82,073 (1979). Similar relief was granted subsequently to other refiners.

On November 14, 1979, ERA amended the refiner price rules to provide that the increased cost of alcohol and other additives in gasoline could be passed through in the prices charged for one or more existing grades of gasoline. (44 FR 69594, December 3, 1979).

A growing number of firms have begun to market gasohol; however, many may have been deterred by the difficulty of obtaining the unleaded gasoline required for this purpose and by uncertainty as to the application of DOE's regulations to gasohol marketing. Accordingly, DOE is hereby proposing to amend its regulations to provide access to unleaded gasoline for use as gasohol blend stock, and otherwise to remove any regulatory impediments which may discourage the production and marketing of gasohol.

We are considering two different proposals for the treatment of gasohol under the regulations. First, we are proposing amendments to the allocation regulations to provide a means for potential blenders of gasohol to obtain allocations of unleaded gasoline for blend stock, and to adopt specific provisions regarding the allocation of gasohol. This proposal also contains amendments to our price regulations to permit greater flexibility in the pricing of gasohol.

Our second, and alternative, proposal is to exempt gasohol and unleaded gasoline used as gasohol blend stock from our allocation and price regulations. We are giving serious consideration to both proposals and we will consider the public response in determining which proposal to adopt as a final rule.

II. General Objectives of this Proceeding

We solicit comments of two kinds. First, comments are requested on the specific proposals, alternatives and matters of inquiry identified in sections III and IV of this notice. We may in this proceeding adopt one or more of these alternatives, or variations of these alternatives, as appropriate.

Second, comments and information are requested concerning any other possible actions which have not been included in our proposal which might be appropriate in view of existing regulations or to promote the increased use of gasohol generally.

You are encouraged to provide your own analyses of any problems, and to support your views with appropriate data.

III. First Alternative Proposal—Regulation of the Allocation and Pricing of Gasohol and Unleaded Gasoline Used As Gasohol Blend Stock

A. *Amendments to the Allocation Regulations*

We propose to amend Subpart F of the Mandatory Petroleum Allocation Regulations to add a new § 211.111 containing regulations governing the allocation of unleaded gasoline for use as gasohol blend stock and the allocation of blended gasohol.

1. *Definition of Gasohol*

There are a number of alcohol fuel blends that are technically suitable as motor fuels. However, section 211(f) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) generally prohibits the use of nonconforming motor fuels such as gasoline/alcohol blends. Section 211(f)(4) of that Act (42 U.S.C. 7545(f)(4)) provides for a waiver of the general prohibition of Section 211(f) to permit the use of specific motor fuels. We have been advised by the Environmental Protection Agency that waivers for alcohol blend fuels are currently in effect for (1) a blend of 90 percent unleaded gasoline and 10 percent anhydrous ethanol, (2) a blend of 0–7 percent tertiary butyl alcohol in unleaded gasoline (Arconol), and (3) a blend consisting of 2.75 percent methanol and 2.75 percent tertiary butyl alcohol in unleaded gasoline.

Alternative definitions of "gasohol" are proposed at § 211.111(b) of the proposed rule for purposes of these amendments to the Mandatory Petroleum Allocation and Price Regulations. The first alternative definitions of gasohol would be limited to a blend of 90 percent unleaded gasoline and 10 percent anhydrous ethanol derived from biomass. The second alternative definition would define gasohol as the 90 percent/10 percent blend of unleaded gasoline and anhydrous ethanol, or any other blend of gasoline and ethanol subsequently approved under the provisions of Section 211(f)(4) of the Clean Air Act, provided the ethanol is derived from non-petroleum or non-natural gas sources. Therefore, should additional waivers be granted under the Clean Air Act for other gasoline/ethanol blends, those motor fuels would be included automatically within the scope of this proposed rule. By requiring the ethanol blended by an applicant for an allocation of unleaded gasoline to be derived from non-petroleum or non-natural gas sources, DOE seeks to reduce our dependence on non-renewable fossil fuels and to encourage renewable energy sources.

The proposed alternative definitions of gasohol are limited to gasoline/alcohol blends consisting of ethanol derived from non-petroleum or non-natural gas sources as the alcohol component. Gasoline/alcohol blends consisting of methanol as the alcohol component would not be included for purposes of these amendments.

We solicit comments on the proposed alternative definitions, and the feature incorporated in them limiting the definition of gasohol to blends comprised of non-petroleum or non-natural gas based ethanol. The alcohol components in the blend of 0–7 percent tertiary butyl alcohol in unleaded gasoline (Arconol) and the blend consisting of 2.75 percent methanol and 2.75 percent tertiary butyl alcohol in unleaded gasoline for which EPA has granted waivers are petroleum based. Therefore, both of these alcohol blends would not be included in the proposed alternative definitions of "gasohol" for purposes of these amendments.

2. *Allocation of Unleaded Gasoline For Gasohol*

The principal proposal would permit any firm other than a refiner with access to an assured supply of ethanol of at least 800 gallons per month for at least one year to apply for an assignment of a supplier and a volume of unleaded gasoline for the production of gasohol or the removal of water to upgrade hydrous ethanol into anhydrous ethanol used as gasohol blend stock. Thus, under the proposed regulation existing motor gasoline suppliers and retail outlets, as well as ethanol producers and other firms which currently are not engaged in motor gasoline sales or ethanol production, would be permitted to apply for allocations of unleaded gasoline to be used as blend stock for gasohol. DOE also proposes to include within the definition of firms eligible to receive allocations of unleaded gasoline those firms engaged in the removal of water from hydrous ethanol to upgrade it into anhydrous ethanol used as gasohol blend stock by that firm or another firm which actually blends the gasohol. We solicit comments, however, which address whether firms that need unleaded gasoline for use in processes which upgrade hydrous ethanol into anhydrous ethanol used as gasohol blend stock, but do not necessarily engage in the actual blending of gasohol, should be eligible to receive allocations of unleaded gasoline and, if so, whether they should be required to have access to more or less than 800 gallons of ethanol per month.

Of course, firms that have an allocation of unleaded gasoline remain free to devote those allocated supplies to the production of gasohol.

We are proposing to amend the allocation regulations to permit ERA to make assignments of suppliers and volumes of unleaded gasoline for use as gasohol blend stock using existing criteria and procedures contained in Subpart C of 10 CFR Part 205, which governs the assignment of suppliers. However, additional criteria would govern applications for supplies of unleaded gasoline for gasohol blending. To be eligible for such an assignment, an applicant would be required to certify that it had access to a minimum of 800 gallons of non-petroleum or non-natural gas based ethanol per month for at least one year. Applicants would be required to describe the source and volumes of ethanol to be purchased by the applicant for blending into gasohol, the customers proposed to be supplied by the applicant, the market area for gasohol to be served by the applicant, and the method of distribution of the gasohol produced for a period of at least one year. Unless waived by DOE, applicants would be required to market gasohol as described in their application for the duration of an assignment order, which would continue in effect for the period of time covered by the applicant's description of his plan to market gasohol or two years, whichever is less. Applicants would also be required to describe their investment in gasohol marketing facilities already made or proposed to be made in order to provide them with the capability to blend and market gasohol as described in their application.

We are concerned that assignments of volumes of unleaded gasoline for gasohol blending might disrupt existing distribution patterns or cause regional shortages of unleaded gasoline. Any dislocations in supply which might be caused by assignments of unleaded gasoline for gasohol blending would be felt most acutely during any future periods of shortage of unleaded gasoline supplies. By requiring firms to describe to ERA how they plan to market the gasohol produced, we hope to reduce the likelihood that any disruptions will result as a consequence of increased gasohol marketing.

An additional eligibility requirement would be imposed upon ethanol producers (including firms engaged in upgrading ethanol into anhydrous ethanol suitable for use as gasohol blend stock). Ethanol producers which use petroleum based fuel or natural gas as a boiler fuel in the ethanol production process, and which have an alternate boiler fuel capability (other than petroleum or natural gas) in place, would not be permitted to receive an assignment of unleaded gasoline to blend gasohol unless they demonstrated good cause why they were not currently using their alternate boiler fuel capability. Ethanol producers without a current alternate boiler fuel capability would be permitted to receive an assignment of unleaded gasoline to blend gasohol only upon certification that they plan to convert to a non-petroleum or non-natural gas based boiler fuel within four years. We solicit comments on the desirability of adopting this provision, which is intended to reduce our reliance upon insecure supplies of petroleum and natural gas fuels.

ERA would be permitted to deny allocations of unleaded gasoline for gasohol blending based on the criteria established in Subpart C of Part 205 for the evaluation of applications for assignments and the additional criteria established in proposed new § 211.111(c)(2). In addition to the considerations specified in Subpart C of Part 205, ERA would have discretion to deny an application under the following circumstances: (1) Where the allocation sought is likely to have an adverse impact on distribution of gasoline or gasohol supplies in a given area; (2) where the applicant is unable to demonstrate that it will be able to perform as described in its application; or (3) where the applicant has sufficient existing supplies of unleaded gasoline for blending which will satisfy the projected demand for gasohol as described in its application.

The volume of unleaded gasoline permitted to be assigned would be up to nine times the volume of ethanol available to an applicant. If the alternative definition of gasohol is adopted, and in the event that other proportional blends of gasohol consisting of greater than 10 percent of ethanol were granted a waiver of the provisions of section 211(f) of the Clean Air Act, a volume of unleaded gasoline would be allocated not to exceed the amount which the applicant intended to blend with the volumes of ethanol available to it. If other proportional blends consisting of less than 10 percent ethanol were granted a waiver, an applicant would not be prohibited from blending gasohol with less than 10 percent ethanol content; however it would not be allocated volumes of unleaded gasoline reflecting a blend comprised of less than ten percent ethanol content.

Another provision would enable ERA to make the effectiveness of the

assignment of an allocation (and thus the assigned supplier's obligation to supply) conditional upon submission of satisfactory evidence by the applicant of a sufficient commitment of resources for gasohol marketing facilities.

Any volumes of unleaded gasoline assigned to a purchaser for gasohol blending would be required to be used for that purpose only and could not be resold as motor gasoline.

In addition to the above features, the proposal contains another provision which we believe will provide flexibility to present disruptions of supply and distribution patterns of unleaded gasoline. Under the proposal, any recipient of an allocation of unleaded gasoline for use in blending gasohol could be required to offer to sell to each assigned supplier a volume of gasohol not to exceed the volume of unleaded gasoline received that supplier. For example, ERA would have the discretion to specify that a firm which supplied 1,000 gallons per month of unleaded gasoline to a gasohol blender would have the right to purchase up to 1,000 gallons per month of gasohol from that blender. The remaining volume of gasohol would remain available to the blender to market to prospective customers described in its application. In some instances, permitting suppliers to make these purchases of gasohol might tend to avert dislocations in supply which otherwise could result from diverting large quantities of unleaded gasoline to gasohol blenders.

It is ERA's intention to use this discretionary authority sparingly. ERA would require an applicant to sell a portion of the gasohol which it blends back to its assigned supplier only to prevent significant dislocations resulting from a reduction of the supplier's allocable supply of unleaded gasoline, while also attempting to minimize any adverse impact upon the applicant's capability to market gasohol as described in its application for assignment.

3. *Allocation of Gasohol*

We believe it is appropriate that entrants into the gasohol market have relative freedom to determine in what manner and to whom they will market gasohol. Under the proposal, refiners and those wholesale purchaser-resellers which either blend gasohol using their existing supply of unleaded gasoline or which purchase gasohol for resale would be permitted to offer gasohol for sale to any of their base period purchasers, subject to the following limitations: (1) Refiners and such wholesale purchaser-resellers would be permitted to offer gasohol for sale only among base period purchasers of gasoline; (2) the base period purchaser would be entitled to elect whether or not it wanted to receive gasohol in place of part or all of its entitlement to receive unleaded gasoline (on a ten for nine basis); and (3) no purchaser could be *required* to accept gasohol in place of any portion of its entitlement to receive unleaded gasoline. The practical effect of this latter provision would be to make it necessary for a refiner or a wholesale purchaser-reseller to ascertain before producing gasohol which of its prospective gasohol customers would, in fact, be willing to accept gasohol in place of unleaded gasoline, and in what volumes. Without such advance planning, a refiner or wholesale purchaser-reseller might risk blending too much of its unleaded gasoline supplies into gasohol and otherwise be unable to meet its obligations to supply unleaded gasoline.

We have not proposed to allocate gasohol as a particular grade of gasoline. Gasohol would be supplied in accordance with the requirements applicable to the allocation of the unleaded gasoline content, but in volumes increased by approximately one ninth (i.e., an amount equal to the alcohol content). As an example, a purchaser entitled to purchase 9000 gallons of unleaded gasoline from its supplier would be entitled to purchase 10,000 gallons of gasohol in fulfillment of the same supply obligation. The regulations which govern the allocation of unleaded gasoline would continue to govern the allocation of the unleaded gasoline content of gasohol as if the unleaded gasoline had not been blended with alcohol. We believe that this provision will make it attractive to purchasers to accept gasohol in place of unleaded gasoline and that it will encourage the marketing of gasohol.

Successful applicants for an allocation of unleaded gasoline for use as gasohol blend stock (including wholesale purchaser-resellers of motor gasoline which receive an allocation of unleaded gasoline in addition to their established base period volumes) would be required to distribute gasohol as described in their applications submitted to DOE.

We believe these amendments, as proposed, will promote the distribution of gasohol and give access to new market entrants without disrupting existing gasoline allocation distribution chains.

B. *Alternative Allocation Amendments*

We are proposing an alternative regulation which would restrict access to allocations of unleaded gasoline for blending stock. Under the alternative, only ethanol producers would be eligible to apply for and receive assignments of unleaded gasoline for use in blending gasohol. The rationale for this approach is that an ethanol producer has no means of entering the gasohol industry without receiving an assignment of a supplier and a base period volume from ERA, whereas refiners, jobbers, and others already engaged in wholesale purchasing and reselling of motor gasoline may blend their existing supplies of unleaded gasoline into gasohol. Given the ten percent increase in volume of product which results from blending, sufficient incentive may exist for refiners, wholesale purchaser-resellers and retailers to enter into the marketing of gasohol without access to additional supplies of unleaded gasoline.

Thus, under our primary proposal to amend the allocation regulations three categories of firms would have access to additional supplies of unleaded gasoline: (1) Ethanol producers, (2) wholesale purchaser-resellers and retailers, and (3) any other firms. The alternative allocation proposal, on the other hand, would limit access to ethanol producers, including firms engaged in the removal of water to upgrade hydrous ethanol into anhydrous ethanol used as gasohol blend stock.

Consistent with the primary allocation proposal, producers of ethanol which use petroleum based fuel or natural gas as a boiler fuel in the ethanol production process, and which have an alternate boiler fuel capability (other than petroleum or natural gas) in place, would not be permitted to receive an assignment of unleaded gasoline to blend gasohol unless they demonstrated good cause why they were not currently using their alternate boiler fuel capability. Ethanol producers without a current alternate boiler fuel capability would be permitted to receive an assignment of unleaded gasoline to blend gasohol only upon certification that they plan to convert to a non-petroleum or non-natural gas based boiler fuel within four years. As with the primary proposal to amend the allocation regulations, we solicit comments on the desirability of adopting this provision.

The alternative allocation proposal would employ the same gasohol allocation scheme as the primary proposal.

The principal difference between the primary and alternative allocation proposals relates to the types of firms that will be eligible to apply for an allocation of unleaded gasoline to blend gasohol. We seek comments concerning which categories of potential gasohol blenders should be eligible to receive

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allocations of unleaded gasoline for use as gasohol blend stock. We also seek comments as to whether the final rule should combine features of both the primary and alternative allocation proposals. For example, an option would be to modify the alternative allocation proposal to allow independent gasohol jobbers that do not currently have access to a supply of gasoline to be eligible to apply for an allocation of unleaded gasoline to blend gasohol, in addition to ethanol producers.

C. *Specific Comments Requested*

We would like to receive comments on the following matters which we are considering in connection with the allocation of unleaded gasoline for use as a gasohol blend stock and the allocation of gasohol. Although we may not have proposed specific regulatory language concerning each of the matters with respect to which we solicit comments in this section, these alternatives and the comments received will be considered and they may be reflected in the final rule.

1. Would allocating unleaded gasoline to gasohol blenders be likely to have an adverse impact on supplies and distribution of unleaded gasoline, or other grades of gasoline, particularly given the high concentration of supplies of ethanol in the midwestern United States? Should there be restrictions or limits on the volume or percentage of its unleaded gasoline supply which any one supplier must supply to gasohol blenders?

2. Should we include some type of provision in the final rule to prohibit suppliers of unleaded gasoline to wholesale and retail outlets from taking retaliatory action related to supply or price against wholesale and retail purchasers which convert their facilities to gasohol?

3. What impediments to the successful marketing of gasohol might arise from existing state branding laws or from normal contractual relationships between suppliers and purchasers of unleaded motor gasoline? Specifically, we are concerned that branding laws or contractual arrangements between suppliers and purchasers throughout the gasoline distribution chain might effectively prevent jobbers or retail gasoline dealers from becoming gasohol blenders or marketers. We seek comments on whether, and to what extent, these factors might constitute impediments to the marketing of gasohol and, further, what appropriate regulatory solutions might be available to DOE under its legislative authority or under other legislation.

4. Should ERA develop regulations to allocate gasohol as a separate product and, if so, what allocation mechanism should be adopted?

5. Is it appropriate to permit refiners to offer gasohol for sale only through refiner-owned retail outlets or should refiners be required to market gasohol equally through independent retail outlets?

6. Is it appropriate to permit assigned suppliers to purchase volumes of gasohol back from gasohol blenders up to the amount of the unleaded gasoline supplied in those circumstances where ERA exercises its discretionary authority to include such a provision? If not, what other volume limitation would be appropriate? Is any amendment to the reseller price regulations necessary to specify the price for gasohol in such transactions between gasohol blenders and their assigned suppliers of unleaded gasoline?

7. Would it be appropriate to provide additional incentives to resellers and retailers to convert to the sale of gasohol? For example, should a reseller or retailer which ceases to offer unleaded gasoline for sale and converts all of its unleaded gasoline facilities to the blending and sale of gasohol be given an increased allocation (perhaps by ten percent) of unleaded gasoline for blending? Is such an incentive appropriate, in view of the increased volume of motor fuel which results, or is such an incentive inappropriate, considering possible shortages of unleaded gasoline and the adverse impact it might have on other resellers of unleaded gasoline which do not have access to alcohol supplies?

8. Should prospective gasohol blenders be required to have access to more than 800 gallons per month of ethanol for a period of one year to be eligible to apply for an allocation of unleaded gasoline? Should an applicant be required to describe investments in gasohol marketing facilities? If so, comments are solicited regarding what minimum volume of ethanol should govern the eligibility of applicants for an assignment of unleaded gasoline, what time period applicants should demonstrate ethanol availability and the extent to which they should be required to demonstrate investments to market gasohol?

D. *Amendments to the Price Regulations*

1. *Current Regulations*

a. *Refiners*

Under the current refiner price rules, a refiner may pass through increased costs attributable to additives such as ethanol. The increased cost of additives reflects the per unit increase in the cost of additives since May, 1973, adjusted to reflect current volumes. Section 212.83(c)(2)(iii)(E), the "N" factor. Pursuant to final rules adopted November 14, 1979 (44 FR 69594, December 3, 1979), effective December 1, 1979, the increased costs of additives attributable to the production of gasoline may be passed through in prices charged for the various types and grades of gasoline. Section 212.83(c)(2)(iii)(D). Accordingly, the increased costs of alcohol (which is an additive) used in the production of gasohol may be passed through in prices charged for gasoline.

The current regulations, however, do not permit refiners to treat gasohol as a separate and distinct type or grade of gasoline. That is, gasohol has not been "consistently and historically differentiated" as a type or grade of gasoline as required in § 212.83(c)(1)(i)(B). Consequently, even though § 212.83(c)(1)(i)(B) permits refiners to apportion amounts of increased costs to a particular type or grade of gasoline in whatever amounts they deem appropriate, because gasohol is not defined as a type or grade of gasoline, the increased costs of ethanol may not be allocated and passed through only in prices charged for gasohol. In other words, a refiner cannot recover the entire cost of the ethanol component of gasohol in sales of gasohol alone, but must instead apportion the cost of the ethanol to at least one of its consistent and historical grades or types of gasoline.

Furthermore, the current refiner pricing rules were adopted prior to the introduction of gasohol as a major covered product. Thus, because the price charged for gasohol is based on the base price of one of the refiner's consistent and historical grades of gasoline, the incremental costs incurred in producing, blending and marketing gasohol may not be recovered solely in the price charged for gasohol. As a result, most refiners are required to sell gasohol at the selling price charged for unleaded gasoline even though gasohol is a higher quality product and more expensive to manufacture. Accordingly, changes in the price rules are necessary to reflect DOE's intention to encourage the production of gasohol.

b. *Resellers and Reseller-Retailers*

Final rules amending the price regulations applicable to sales of gasoline by resellers and reseller-retailers have been adopted by ERA, effective May 1, 1980. 45 FR 29546, May 2, 1980. Under the amendments, resellers and reseller-retailers are required to compute maximum lawful selling prices for gasoline using the acquisition cost of gasoline plus a fixed cents per gallon markup, or they may elect to continue

computing prices under the reseller and reseller-retailer price rules in effect prior to May 1, 1980, if they notify ERA of that election before July 1, 1980.

(i) *Price Regulations In Effect Prior to May 1, 1980 Which May Be Elected By Resellers and Reseller-Retailers*

Under the old regulations applicable to sales by sellers other than retailers, if an election is made by the particular reseller or reseller-retailer to continue pricing under those rules, the maximum lawful selling price for gasohol is calculated on the basis of a May 15, 1973 weighted average selling price, plus increased product costs, plus allowable non-product cost increases. Pursuant to § 212.93(a)(1), the May 15, 1973 weighted average selling price for gasohol is imputed to be the lawful price charged by the seller for the predominant covered product in the blend, which is the unleaded gasoline component of gasohol. If unleaded gasoline was not sold by a seller on or before May 15, 1973, the base date weighted average selling price is imputed to be the lawful weighted average selling price of leaded gasoline with the same or nearest octane rating, pursuant to § 212.112(b)(2).

The regulations permit the cost of the ethanol component of gasohol to be passed through as an increased product cost. Pursuant to the definition of "increased product costs" set forth in § 212.92, as it was revised in June 1978, increased product costs for gasohol are calculated by taking the difference *between* the weighted average unit cost of the gasohol blend in inventory *and* the weighted average unit cost of the predominant covered product in the blend (*i.e.*, unleaded gasoline) in inventory on May 15, 1973. *See* subsection (b) of the definition of "increased product costs" in § 212.92. If unleaded gasoline was not sold by the seller on or before May 15, 1973, the weighted average unit cost of unleaded gasoline is imputed to be the weighted average unit cost of leaded gasoline of the same nearest octane number in inventory on May 15, 1973. *See* § 212.112(b)(3).

Those regulations also permit the maximum lawful selling price for gasohol charged by resellers and reseller-retailers to be increased to reflect non-product cost increases. The amount of non-product cost increases permitted pursuant to § 212.93(b) depends upon the size of the seller and the type of sale, *i.e.*, whether the transaction is a "resale" (a sale other than retail sale) or a retail sale by the particular seller. The provisions of the second clause of § 212.93(b)(1)(i), § 212.93(b)(1)(iii), and § 212.93(b)(1)(iv) specify the amount of permissible non-product cost increases with respect to "resales." The provisions of the first clause of § 212.93(b)(1)(i) and § 212.93(b)(1)(ii) specify the permissible non-product cost increases applicable to retail sales by sellers other than retailers.

Ethanol producers which blend gasohol and have no history of gasoline marketing on the base date are required to establish prices for resales of the gasohol pursuant to the rule applicable to resellers of "new items", set forth in § 212.111(b)(3).

(ii) *New Price Regulations Effective May 1, 1980 Applicable to Resellers and Reseller-Retailers*

The new price rules applicable to sales of gasoline by resellers and reseller-retailers effective May 1, 1980 establish maximum fixed cents per gallon markups depending on the type of sale. Accordingly, the maximum lawful selling price with respect to resales of gasohol by resellers or reseller-retailers which blend gasohol is the acquisition cost of the gasoline blended into gasohol, plus 7.7 cents per gallon, plus tax costs. The maximum lawful selling price applicable to retail sales of gasohol by reseller-retailers which blend gasohol is the most recent dealer tank wagon price charged to the nearest independent retailer, plus 16.1 cents per gallon, plus tax costs. If a reseller-retailer which blends gasohol did not make any dealer tank wagon sales to an independent retailer in the most recent 30-day period, the maximum lawful selling price applicable to retail sales of gasohol is the reseller-retailer's acquisition cost, plus 23.8 cents per gallon, plus tax costs.

The present definition of "acquisition cost" set forth in § 212.92, however, does not permit the cost of the ethanol acquired by resellers and reseller-retailers which blend gasohol to be included in their cost basis. Rather, the cost of the ethanol component of the gasohol blend will be borne by resellers and reseller-retailers as an offset against the allowable fixed cents per gallon markup. As a result, in some instances resellers and reseller-retailers which blend gasohol may not recoup all of the costs of the ethanol component in the selling price of gasohol.

C. *Retailers*

With the adoption of the new retailer price rules in July, 1979 (44 FR 45352, August 1, 1979), the current maximum lawful selling price for retailers which blend gasohol is the acquisition cost of the gasoline blended into the gasohol plus a fixed 16.1 cents per gallon markup, plus tax costs. *See* § 212.93(a)(2). However, the present definition of "acquisition cost" set forth in § 212.92 does not permit the cost of the ethanol acquired by a retailer which blends gasohol to be included in its cost basis. Rather, the cost of the ethanol component of the gasohol blend must be borne by the retailer as an offset against the allowable fixed cents per gallon markup. Accordingly, in some instances retailers which blend gasohol may not recoup all of the costs of the ethanol component in the selling price of gasohol.

2. *Proposed Amendments*

a. *Refiners*

DOE proposes to amend its refiner price rules to permit refiners the flexibility to recoup all the increased product costs associated with producing gasohol, including the cost of ethanol, in the selling price of gasohol. Specifically, DOE proposes to designate gasohol as a separte and distinct category of gasoline for purposes of the refiner pricing formulae. Accordingly, a refiner, at its discretion, would be permitted to allocate a part or all of the increased costs associated with gasohol, which must be apportioned among the particular categories of gasoline under the current rules, to gasohol.

b. *Resellers and Reseller-Retailers*

With respect to resellers and reseller-retailers which elect to continue pricing under the reseller price rules in effect prior to May 1, 1980, DOE believes that the regulations are adequate insofar as they permit the cost of the ethanol component of the gasohol blend to be passed through as an increased product cost. However, those regulations limit the amount of non-product cost increases which may be passed through. The non-product cost limitations in effect may not be adequate to take into account increased costs associated with the blending and marketing of gasohol by resellers and reseller-retailers. Accordingly, in order to provide an additional incentive for resellers and reseller-retailers to blend gasohol, DOE proposes to permit an additional nonproduct cost allowance of 1.6 cents per gallon applicable to retail sales of gasohol, and .8 cents per gallon applicable to all other sales of gasohol by sellers other than independent retailers which blend gasohol.

With respect to resellers and reseller-retailers which price gasoline under the new price rules effective May 1, 1980, DOE proposes to amend the definition of "acquisition cost" set forth in § 212.92 to permit resellers and reseller-retailers which blend gasohol to include the cost of the ethanol component in the blend. The maximum lawful price permitted to be charged for gasohol by resellers and reseller-retailers which blend gasohol

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would be the acquisition cost of the unleaded gasoline and ethanol components blended into the gasohol, plus a fixed cents per gallon markup, plus applicable tax costs. The amount of the fixed cents per gallon markup would be adjusted every six months to take into account inflation, just as with the current gasoline retailer price rule and the new reseller and reseller-retailer price rules effective May 1, 1980.

The acquisition cost of the gasohol would depend on the cost of and the ratio of the unleaded gasoline and ethanol components blended into the gasohol. For example, if the gasohol is 90 percent unleaded gasoline and 10 percent ethanol, the acquisition cost for a gallon of the gasohol would be 90 percent of the acquisition cost of a gallon of the unleaded gasoline and 10 percent of the purchase price of a gallon of the ethanol. The acquistion cost for the unleaded gasoline component of the gasohol blend would be calculated by resellers and reseller-retailers according to the same rules applicable to resellers and reseller-retailers for other products. The purchase price for the ethanol component of the gasohol blend would be the actual purchase price paid for the most recent purchase of ethanol. DOE is considering an alterative approach which would require the purchase price of the ethanol component to be calculated on the basis of the weighted average cost of ethanol in inventory of the reseller or reseller-retailer that blends gasohol. We request comments on the advisability of adopting either of these alternative approaches for calculating the purchase price of ethanol blended into gasohol.

Resellers that blend gasohol which are ethanol producers may not be able to calculate the cost of the ethanol component of the gasohol blend in this manner, because they do not purchase ethanol. We are proposing several options by which ethanol producers which blend gasohol would impute a cost for the ethanol component. The first option would allow ethanol producers that sell a portion of their ethanol output to other purchasers to impute an ethanol cost based on the sales price for ethanol. The second option would be for DOE to establish a cost for the ethanol component based on its relationship to the cost of unleaded gasoline. Under this option, DOE would determine the ratio of the average cost of a gallon of ethanol to the average cost per gallon of unleaded gasoline to resellers based on data submitted in this rulemaking. The fixed ratio would be reflected in the language of the regulations, subject to periodic adjustment by DOE, and would be used to calculate the cost of the ethanol component based on the most recent purchase price of the unleaded gasoline component. The third option would require ethanol producers to impute a purchase price for ethanol based on prices charged for comparable sales of ethanol within the same market area.

We solicit comments concerning the desirability of adopting one, or a combination, of the options discussed above for ethanol producers to impute a cost of the ethanol component of a gasohol blend. In particular, we solicit comments in order to determine whether there are any ethanol producers which contemplate blending gasohol and that do not make any other purchases or sales, of ethanol which will provide a basis for imputing an ethanol cost. We request ethanol producers to provide us with price data for ethanol sales from January 1, 1980 to the present to enable us to evaluate this option.

We also solicit comments concerning any accounting difficulties which may be encountered by resellers and reseller-retailers with respect to: (1) Maintaining records of the costs of the unleaded gasoline and ethanol components of the gasohol blend; and (2) maintaining records of the cost of the unleaded gasoline blended into gasohol separate from records of the cost of unleaded gasoline purchased for resale, as required by the proposed regulations.

DOE proposes to permit resellers and reseller-retailers that blend gasohol a ten percent upward adjustment to the fixed cents per gallon markups applicable to sales of gasoline established by the new price rules effective may 1, 1980. DOE believes a ten percent upward adjustment to allowable reseller and reseller-retailer markups is justified to provide an incentive to blend gasohol and to reflect increased costs associated with the blending and marketing of gasohol. Thus, resellers and reseller-retailers that blend and resell gasohol would be permitted a fixed 8.5 cents per gallon markup in resales of gasohol. The maximum lawful selling price for blenders in resales of gasohol would be calculated as follows:

Resales of gasohol by resellers and reseller-retailers that blend: Acquisition cost + 8.5 cents + tax costs.

Reseller-retailers that blend gasohol would be permitted a fixed 17.7 cents per gallon markup over the most recent dealer tankwagon price it charged to the nearest independent retailer in retail sales of gasohol. Reseller-retailers that blend gasohol but did not make any dealer tank wagon sales of gasohol to an independent retailer in the most recent 30-day period would be permitted a fixed 26.2 cents per gallon markup over the acquisition cost. The maximum lawful selling price at retail for reseller-retailers that blend gasohol would be calculated as follows:

Retail sales of gasohol by reseller-retailers that blend gasohol: Most recent DTW price to nearest independent retailer + 17.7 cents + tax costs or acquisition cost + 26.2 cents + tax costs.

DOE requests comments on the appropriateness of the fixed 8.5 cents per gallon markup applicable to resales by blenders of gasohol, and the fixed 17.7 and 26.2 cents per gallon markups applicable to retail sales of gasohol by reseller-retailers that blend gasohol. In particular, DOE requests data and information which will justify DOE's permitting resellers and reseller-retailers that blend gasohol a higher fixed cents per gallon markup than is permitted in sales of gasoline. If comments and data do not reflect that a higher fixed cents per gallon markup is justified by costs associated with the blending of gasohol, then DOE proposes to make the fixed cents per gallon markups for gasoline applicable to sales of gasohol by resellers and reseller-retailers that blend.

DOE also requests comments on the appropriateness of the proposed additional non-product cost allowances with respect to sales of gasohol by resellers or reseller-retailers that elect to continue pricing under the regulations in effect prior to May 1, 1980. In particular, DOE requests data and information which will justify our proposal to permit resellers and reseller-retailers that blend gasohol additional non-product cost allowances with respect to sales of gasohol than is permitted with respect to gasoline sales. If the comments and data do not support the need for additional non-product cost allowances to reflect increased costs associated with the blending and marketing of gasohol by resellers or reseller-retailers, DOE proposes not to permit any additional non-product cost allowances applicable to sales of gasohol.

c. *Retailers.*

The amendment of the definition of "acquisition cost" set forth in § 212.92 proposed by DOE would also permit retailers which blend gasohol to include the cost of the ethanol component in the blend. The maximum lawful price permitted to be charged for gasohol by retailers which blend gasohol would be the acquisition cost of the unleaded gasoline and ethanol components blended into the gasohol, plus a fixed cents per gallon markup, plus applicable tax costs. The amount of the fixed cents per gallon markup would be adjusted every six months to take into account inflation, just as with the current gasoline retailer price rule.

Similar to the reseller price rule, a retailer's acquisition cost of gasohol would depend on the cost of and the ratio of the unleaded gasoline and ethanol blended into the gasohol. For example, if the gasohol is 90 percent unleaded gasoline and 10 percent ethanol the acquisition cost for a gallon of the gasohol would be 90 percent of the acquisition cost of a gallon of the unleaded gasoline and 10 percent of the purchase price of a gallon of the ethanol. The acquisition cost for the unleaded gasoline component of the gasohol blend would be calculated for retailers according to the same rules applicable to retailers for other products. The purchase price for the ethanol component of the gasohol blend would be the actual purchase price paid for the most recent purchase of ethanol.

DOE proposes to permit retailers that blend gasohol a ten percent upward adjustment to the fixed cents per gallon markup applicable to retail sales of gasoline. DOE proposes that retailers that blend gasohol be permitted a fixed 17.7 cents per gallon markup. DOE believes the ten percent upward adjustment to the allowable retailer margin is justified to provide an incentive to blend gasohol and to reflect increased costs associated with the blending and marketing of gasohol by retailers. Accordingly, the maximum lawful selling price for retailers that blend gasohol would be calculated as follows:

Retail sales of gasohol: Acquisition cost + 17.7 cents + tax costs.

DOE requests comments on the appropriateness of the fixed 17.7 cents per gallon markup applicable to retail sales of gasohol by retailer-blenders. In particular, DOE requests data and information which will justify DOE's permitting retailers that blend gasohol a higher fixed cents per gallon markup than is permitted in sales of gasoline. If comments and data do not reflect that a higher fixed cents per gallon markup is justified by costs associated with the blending of gasohol, then DOE proposes to make the fixed cents per gallon markup for gasoline applicable to sales of gasohol by retailer-blenders.

IV. Second Alternative Proposal—Deregulation

Alternatively, DOE proposes to exempt gasohol and the unleaded gasoline component of gasohol from the provisions of the Mandatory Petroleum Allocation and Price Regulations. We are considering this alternative because we believe it would provide strong incentives for the production of gasohol, would eliminate the regulatory burden of applying for an allocation of unleaded gasoline by gasohol marketers between now and decontrol in October 1981, and would eliminate the need for DOE to allocate unleaded gasoline for use as blend stock.

Under the deregulation proposal, the alternative definitions of gasohol would be the same as proposed in our regulatory proposal, either (1) a blend of 90 percent unleaded gasoline and 10 percent anhydrous ethanol derived from biomass, or (2) a 90 percent/10 percent blend of unleaded gasoline and anhydrous ethanol and any other blends of gasoline and ethanol subsequently approved under the Clean Air Act, provided the ethanol is derived from non-petroleum or non-natural gas sources. Gasohol would not be subject to allocation regulations, nor would the price of gasohol be regulated.

In addition, the proposal would exempt the sale of unleaded gasoline used to blend gasohol from the Mandatory Petroleum Allocation and Price Regulations. Any person would be permitted to sell unleaded gasoline at unregulated prices and without regard to the allocation regulations. § 211.108 of the regulations, pertaining to the allocation of unleaded gasoline notwithstanding, provided the unleaded gasoline was used by the purchaser in the blending of gasohol. This exemption for unleaded gasoline would apply *only* to the sales transaction between the firm which uses the unleaded gasoline to blend gasohol and its immediate supplier, thus eliminating the necessity of "tracing" gallons of unleaded gasoline from first sale to point of blending. We wish to emphasize that the exemption for unleaded gasoline is available only to the single transaction where unleaded gasoline is sold to the blender which produces gasohol.

If unleaded gasoline sold by the immediate supplier to a gasohol blender pursuant to the proposed exemption is not used as gasohol blend stock for any reason, except impossibility due to circumstances beyond the blender's control, that constitutes a violation of the regulations. Under no circumstances would the volume of unleaded gasoline acquired by a blender unable to blend gasohol be permitted to be sold at a markup over the blender's acquisition cost. Firms that acquired unleaded gasoline for blending but did not produce gasohol would be subject to appropriate enforcement action, including refunds of any unlawful markup on the resale of the volumes of unleaded gasoline acquired for blending into gasohol and possible civil and criminal penalties.

In such a case, we also proposed that a firm receiving exempt volumes of unleaded gasoline acquired for blending into gasohol but not blended would be required to return that volume of gasoline to its supplier. The supplier in turn would be required to allocate that volume of unleaded gasoline in accordance with the regulations to firms that would have been entitled to receive it if the exempt sale had not occurred. If there was an existing supplier/purchaser relationship between the firms, the seller of exempt unleaded gasoline could specify that the purchaser retain those volumes of unleaded gasoline acquired in excess of volumes it otherwise would have been able to purchase under the allocation regulations as an offset against a current obligation to supply unleaded gasoline.

This deregulation proposal imposes an obligation to return volumes of unleaded gasoline acquired for blending into gasohol, but not actually blended, and to allocate those volumes pursuant to the regulations as if the exempt sale had not occurred. In order to provide a basis for enforcing this obligation, purchasers of unleaded gasoline for blending into gasohol will be required to certify to their suppliers that the exempt volumes of unleaded gasoline will be used only as gasohol blend stock.

We solicit comments on the effectiveness of this provision to deter exempt sales of unleaded gasoline for use as gasohol blend stock but which then are not actually blended into gasohol, or proposals for alternative sanctions.

We would expect that the deregulation of unleaded gasoline for use as gasohol blend stock and of gasohol itself will provide sufficient incentive for refiners, resellers, retailers and other firms to engage in gasohol production. The actual volume of unleaded gasoline subject to deregulation under this proposal will be constrained by the limited availability of ethanol for blending. These impacts are discussed in greater detail in the regulatory analysis prepared by ERA which accompanies this proposal.

Our allocation proposals require suppliers to meet their obligation to supply a purchaser's allocation entitlement to unleaded gasoline if the purchaser elects not to receive gasohol in place of its entitlement to receive unleaded gasoline. However, the deregulation proposal does not incorporate a comparable safeguard for

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purchasers that are unwilling to accept gasohol in place of their entitlement to unleaded gasoline. As a practical matter, to the extent that a supplier's allocable supply of unleaded gasoline is reduced as a result of diversion to gasohol blending, there would be less unleaded gasoline available to be supplied to purchasers electing not to receive gasohol. In such a situation, a supplier's allocation fraction for unleaded gasoline would be decreased by an amount corresponding to the volumes of unleaded gasoline diverted for gasohol blending. We solicit comments on the likelihood that this problem might develop, the potential adverse impacts upon a supplier's remaining purchasers of unleaded gasoline, and what steps might be taken to reduce the potential for such dislocation.

We invite comments on the effect that the decontrol of prices charged for gasohol will have on the selling price of gasohol at each level of distribution and its impact on competition within the industry. We also solicit comments on whether this proposal will result in an increase in the amount of gasohol produced at each level of production, compared with the regulatory alternative. Finally, we solicit comments on the impact that this limited deregulation of unleaded gasoline might have on prices, supplies and distribution of all grades of gasoline, as well as on the regulatory burdens on the industry is gasohol were to remain under the price and allocation regulations.

V. Procedural Requirements

A. *Section 404 of the DOE Act*

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (the DOE Act), we have referred this proposed rule this date to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission will have until the close of the public comment period to make this determination.

B. *Section 7 of the FEA Act*

Pursuant to section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. No. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of this notice was sent to the EPA Administrator. In a letter dated April 22, 1980, the Director of the Office of Environmental Review submitted the following comments on behalf of the EPA Administrator:

"As stated, it is correct that a waiver for gasohol (90 percent unleaded gasoline and 10 percent anhydrous ethanol) has gone into effect pursuant to Section 211(f)(4) of the Clean Air Act. However, we should note that EPA continues to retain authority to regulate gasohol in the future under Section 211(c) of the Clean Air Act, should it be determined that emissions from gasohol usage would endanger public health or welfare or significantly impair the performance of emission control devices.

It should be noted in the discussion on page 9 in the section entitled *Definition of Gasohol* that EPA has granted waivers for alcohol blends in addition to the blend of ten percent anhydrous ethanol and ninety percent unleaded gasoline. Specifically, waivers are also in effect for a blend of 0–7 percent tertiary butyl alcohol (TBA) in unleaded gasoline (Arcono)), and for a blend consisting of 2.75 percent methanol and 2.75 percent TBA in unleaded gasoline. We recommend that the Department of Energy solicit comments on whether to include under this rulemaking these other alcohol blends which have been granted waivers.

Finally, we are concerned that the proposed amendments to allocate unleaded gasoline to gasohol blenders could create local spot shortages of unleaded gasoline. We appreciate that you have identified this potential problem as a possible issue and have invited comments on it."

The EPA also reserved the right to submit further comments in accordance with its responsibilities under Section 309 of the Clean Air Act after the proposed rule was issued for public comment.

DOE has undertaken to prepare an Environmental Protection Assessment of the possible impacts of these proposed amendments pertaining to gasohol. Once the Environmental Assessment has been completed, DOE will publish a notice of its availability for review by the public as well as the agency's determination on the basis of the Assessment with respect to whether the proposals will have a significant impact on the environment. The basis for whatever determination is reached by DOE will also be made publicly available.

C. *Executive Order 12044*

In accordance with Executive Order No. 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978) and DOE's implementing Order 2030.1, "Procedures for the Development and Analysis of Regulations, Standards, and Guidelines" (44 FR 1032, January 3, 1979), a draft regulatory analysis has been prepared which examines the impacts of the proposals set forth above. The entire draft regulatory analysis is available for public inspection at Room B–110, 2000 M Street, NW., Washington, D.C. 20461.

You are invited to provide comments on the draft regulatory analysis at the same time you submit comments on the proposed rule. The comments will be taken into account before the preparation of a final regulatory analysis on any final rule that may be adopted.

The following summary of the draft regulatory analysis is set forth for publication with this notice.

Summary of Draft Regulatory Analysis

The three principal problem area addressed in the regulatory analysis of the proposed gasohol allocation and price rule and its deregulation alternative are: how to price unleaded blend stock and gasohol; how blenders are to obtain unleaded blend stock to blend with ethanol to produce gasohol; and how gasohol suppliers may distribute gasohol to purchasers. The proposed pricing and allocation rules, if adopted as final rules, would be in effect for about a year, because the statutory authority for gasoline price and allocation controls expires September 30, 1981.

The principal issues addressed in the draft regulatory analysis are: what volume of ethanol and gasohol production can be expected between now and the end of 1981; what prices these products are likely to reach, independent of the rule and its alternative; what effect the rule and its alternative may have on the price and distribution of ethanol and gasohol; and what effect the rule and its alternative may have on motor vehicle misfueling and competition in the motor gasoline industry.

With respect to supply issues, the draft regulatory analysis concludes that by December 1981, ethanol and gasohol production should increase by a threefold or fourfold factor above present levels, enough to meet the President's goals, without requiring additional corn acreage or adversely affecting food production. Ethanol production should increase from it present level of about 92 million gallons per year (6,062 B/D) to the 3, 4 and 7 hundred million gallons per year levels (20,000, 30,000, and 45, 000 B/D) necessary to produce gasohol at year-end rates of 200,000 B/D in 1980, 300,000 B/D in 1981 and 450,00 B/D in 1982. In 1980 gasohol will represent about 3.2 percent of the total gasoline market, and 7.9 percent of the total unleaded market, but its ethanol component, which represents the total increase in the supply of motor gasoline, will constitute less than .3 percent of the total gasoline market and less than .8 percent of the total unleaded market.

Gasohol should help extend, rather than adversely affect, unleaded supplies. Regional dislocations of unleaded supply should not occur for three reasons. First, to the extent that demand for unleaded gasoline is reduced in PAD II by gasohol comsumption, unleaded suppliers will redirect unleaded to other regions, either by greater exports from the region or fewer imports, facilitated by exchange agreements for gasoline between refiners. Second, the lower cost of transporting one gallon of ethanol out of the Midwest than the cost of importing nine gallons of unleaded gasoline into the Midwest constitutes a strong economic incentive for ethanol to flow to other regions in addition to the Midwest. (These two factors will operate in either the regulatory or deregulation alternatives.) Third, in the regulatory alternative, DOE can offset possible shifts in the regional availability of unleaded gasoline in cases where a prospective unleaded blend stock supplier is short of supply by the use of the proposed rule's "buyback" provision. DOE would afford the unleaded supplier the opportunity to buy back an amount of gasohol equal to the unleaded blend stock DOE required it to supply to the blender. In addition, most of the blend stock subject to supply orders would come from suppliers that would have provided unleaded gasoline to the region in which the order is issued in any event.

The concern that the deregulation alternative would deny volumes of blend stock to independent ethanol producers and thereby produce an anticompetitive effect does not appear to be valid. It seems more likely that gasoline marketers at all levels would compete to sell unleaded gasoline to ethanol producers.

On price issues, the analysis concludes that in the "base case," with no change in the present price rules, the retail price of gasohol before taxes (taxes would vary from state to state according to the aggregate exemptions in those states) would be about $1.21 in 1980 and $1.45 in 1981; the refiner, reseller and retailer incentives in the proposed price rule would raise the before-tax gasohol retail price to about $1.31 in 1980 and $1.55 in 1981.

In the decontrol case, the analysis assumes that competition is presently restraining unleaded gasoline prices at or below maximum lawful prices, and therefore concludes that decontrolled gasohol prices would be roughly similar to those in the proposed price rule case: $1.31 in 1980 and $1.55 in 1981. Disparities in gasohol, leaded, and unleaded gasoline prices resulting from several factors including tax exemption and variations in crude oil costs, may produce a small, environmentally insignificant incidence of fuel switching. This effect is discussed in more detail in a separate environmental assessment which is being prepared.

VI. Written Comments and Public Hearings Procedure

A. *Written Comments*

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this notice or proposed rulemaking. All comments should be submitted by 4:30 p.m., e.d.t., (July 21, 1980.) Comments should be submitted to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Gasohol," Docket No. ERA–R–80–11. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., and in the ERA Office of Public Information, Room B–110, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. *Public Hearings*

1. *Procedure for Request to Make Oral Presentation.*

The time and place for the hearings are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, the hearings will resume at 9:30 a.m. on the next business day following the first day of each hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The requests should contain a telephone number where you may be contacted through the day before the particular hearing at which you will speak.

If you are selected to be heard at the Des Moines hearing, we will notify you before 4:30 p.m., June 18, 1980; if you are selected to be heard at the New Orleans hearing, we will notify you before 4:30 p.m., June 23, 1980; or if you are selected to be heard at the Washington hearing, we will notify you before 4:30 p.m., July 2, 1980. You will be required to submit 100 copies of your statement on the morning of the hearings scheduled for Des Moines and New Orleans at the respective hearing locations and to Room 2313, 2000 M Street, NW., Washington, D.C. 20461 by 4:30 p.m., July 7, 1980 for the Washington, D.C. hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based upon the numbers of persons requesting to be heard.

An ERA official will be designated to preside at the hearings. These will not be judicial or evidentiary type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements have been made and will be subject to time limitations.

You may also submit questions to be asked by the presiding officer of any person making a statement at any hearing to the addresses indicated above for requests to speak, for the location concerned, before 4:30 p.m. on the day before the hearing. If you wish to ask a question at one of the hearings, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be asked.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made. The entire record of the hearings, including the transcripts, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room CA–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., and in

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the ERA Office of Public Information, Room B–110, 2000 M Street NW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 210, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C., May 16, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Appendix A

First Alternative Proposal—Regulation of the Allocation and Pricing of Gasohol and Unleaded Gasoline Used as Gasohol Blend Stock

1. Part 211 is amended to add a new § 211.111 to read as follows:

§ 211.111 Allocation of gasohol and unleaded gasoline to blend gasohol.

(a) *General.* Gasohol shall be subject to the provisions of this subpart is if it were included among those substances meeting the definition of motor gasoline, except as otherwise provided in this section.

(b) *Definitions.* "Gasohol" means a motor fuel consisting of 90 percent unleaded gasoline and 10 percent anhydrous ethanol derived from biomass.

Alternative proposed paragraph (b):

(b) *Definitions.* "Gasohol" means a motor fuel consisting of 90 percent unleaded gasoline and 10 percent anhydrous ethanol derived from non-petroleum or non-natural gas sources, or any other fuel consisting of a blend of gasoline and ethanol derived from non-petroleum or non-natural gas sources permitted to be used as a motor fuel pursuant to waiver of the provisions of section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

(c) *Method of allocation of unleaded gasoline to producers of gasohol.*—(1) *Application for an assignment of a supplier of unleaded gasoline for use as gasohol blend stock.* Any firm other than a refiner may apply for an assignment of a supplier and a volume of unleaded gasoline to be used as gasohol blend stock or to be used to remove water to upgrade hydrous ethanol into anhydrous ethanol used as gasohol blend stock. The application shall be submitted to an ERA regional office in accordance with the procedures of Subpart C of Part 205 and this section. An application for an allocation of unleaded gasoline to be used as gasohol blend stock may be submitted for volumes of unleaded gasoline in addition to a base period volume of gasoline already established for a firm. An application for assignment of a supplier and a base period volume shall contain:

(i) Identification of the applicant's base period suppliers and the base period volume obligated to be supplied by each supplier.

(ii) Certification that the applicant has executed contracts for the purchase of ethanol derived from non-petroleum or non-natural gas sources in volumes of 800 gallons or more per month for a period of not less than one year, and intends to use a minimum of 800 gallons of such ethanol per month as blend stock in the production of gasohol.

(iii) A description covering a period of no less than one year of the source and volumes of ethanol to be purchased by the applicant for blending into gasohol, the customers and monthly volumes of gasohol proposed to be supplied to each by the applicant, the market area for gasohol to be served by the applicant, and the manner of distribution of the gasohol.

(iv) A description of the resources committed or proposed to be committed by the applicant in order to provide it with the capability to blend and market gasohol as described in its application.

(v) The identity of the willing suppliers, if any, of the unleaded gasoline and the volumes available to be supplied.

(vi) If the applicant is an ethanol producer (including firms engaged in upgrading ethanol into anhydrous ethanol suitable for use as gasohol blend stock), a description of the boiler fuel used in the ethanol production process and any alternate boiler fuel capability (other than petroleum or natural gas based fuel) in place. If the applicant is an ethanol producer as described herein but does not have an alternate boiler fuel capability in place, it shall certify that it plans to convert to a non-petroleum or non-natural gas based boiler fuel within four years.

(2) *ERA evaluation; decision and order.* (i) ERA shall evaluate and issue an appropriate order under this section in accordance with the criteria and procedures specified in Subpart C of Part 205 of this chapter.

(ii) In addition to the criteria contained in Subpart C of Part 205 of this Chapter, ERA may evaluate an application taking into consideration the following factors:

(A) Whether the assignment sought by the applicant is likely to have an adverse impact on the availability or distribution of gasoline, unleaded gasoline or gasohol in an area;

(B) Whether the applicant has committed or will commit sufficient resources to enable it to perform as described in its application; and

(C) Whether the applicant has sufficient existing supplies of unleaded gasoline for blending which will satisfy the projected demand for gasohol reflected in its application.

(iii) If the applicant is an ethanol producer (including firms engaged in upgrading ethanol into anhydrous ethanol suitable for use as gasohol blend stock) which uses petroleum based fuel or natural gas as a boiler fuel in the ethanol production process and has an alternate boiler fuel capability in place, ERA shall deny the application for an allocation of unleaded gasoline unless the applicant demonstrates good cause why it is not using its alternate boiler fuel capability.

(iv) The volume of unleaded gasoline assigned shall not exceed nine times the volume of ethanol available to the applicant during the period of time covered by the assignment order, or otherwise shall not exceed that volume of unleaded gasoline which the applicant demonstrates it is able to use as gasohol blend stock, whichever is more.

(v) ERA may condition the effectiveness of the assignment upon the submission of satisfactory evidence of a sufficient commitment of resources by the applicant to provide it with the capability to blend and market gasohol as described in its application.

(vi) The period of time covered by an assignment shall not exceed the period of time covered by an applicant's description of its plan to market gasohol, or two years, whichever is less.

(3) *Restriction on the use of unleaded gasoline allocated for use as a gasohol blend stock.* Any volume of unleaded gasoline allocated under this paragraph shall be used only in the production of gasohol and in accordance with the terms of the applicant's description of its plan to market gasohol as approved by ERA. The receipient of an allocation of unleaded gasoline under this paragraph shall not fail to blend those volumes of unleaded gasoline into gasohol and resell the unleaded gasoline as motor gasoline.

(4) *Offer of sale of gasohol by blender back to supplier of unleaded gasoline.* ERA may require that an applicant receiving an allocation of unleaded gasoline under this paragraph be required to offer for sale to its supplier of unleaded gasoline a volume of gasohol on a monthly basis not to exceed the volume of unleaded gasoline supplied.

(d) *Allocation of gasohol.*—(1) *Ethanol producers and firms which are not wholesale purchaser-resellers of gasoline.* Any ethanol producer or other firm which receives an allocation of unleaded motor gasoline for the production of gasohol shall distribute the gasohol in accordance with the description of its plan to market gasohol contained in its application as approved by ERA under paragraph (c) of this section.

(2) *Refiners and wholesale purchaser-resellers.* (i) Notwithstanding any provision in this part to the contrary, and subject to the provisions of 42 U.S.C. 7545(f), a refiner or wholesale purchaser-reseller of unleaded motor gasoline may elect to blend its supply of unleaded motor gasoline with ethanol to produce gasohol subject to the restrictions contained in paragraph (d)(2)(ii) of this section.

(ii) Refiners and those wholesale purchaser-resellers which either blend their existing available unleaded gasoline with ethanol to produce gasohol or which purchase gasohol for resale may allocate gasohol at their discretion to their base period purchasers of motor gasoline, except that:

(A) No purchaser shall be required to accept any quantity of gasohol in place of part or all of its allocation entitlement to unleaded gasoline except as previously agreed between the purchaser and supplier; and

(B) If a purchaser elects to receive gasohol in satisfaction of part or all of its allocation entitlement to unleaded gasoline, the supplier shall be obligated to supply to the purchaser a volume of gasohol equal to the volume of unleaded gasoline to which the purchaser would have otherwise been entitled plus a volume equal to the ethanol content of the gaohol blend.

(iii) A wholesale purchaser-reseller which receives an allocation of unleaded gasoline for use as a gasohol blend stock pursuant to this section shall distribute the gasohol produced in accordance with the description of its plan to market gasohol contained in its application as approved by ERA under paragraph (c) of this section.

Appendix B

First Alternative Proposal—Regulation of the Allocation and Pricing of Gasohol and Unleaded Gasoline Used As Gasohol Blend Stock

Alternative Allocation Amendments—Restricting Access to Allocations of Unleaded Gasoline for Use As a Gasohol Blend Stock to Alcohol Producers

1. Part 211 is amended to add a new § 211.111 to reas as follows:

§ 211.111 Allocation of gasohol and unleaded gasoline to blend gasohol.

[Paragraphs (a) and (b) are unchanged from the First Alternative Proposal)

(c) *Method of allocation of unleaded gasoline to producers of gasohol.*—(1) *Application for an assignment of a supplier of unleaded gasoline for use as gasohol blend stock.* Any firm which is a producer of ethanol derived from non-petroleum or non-natural gas sources (including firms engaged in the removal of water to upgrade hydrous ethanol into anhydrous ethanol used as gasohol blend stock) may apply for an assignment of a supplier and a base period volume of unleaded gasoline to be used as gasohol blend stock or to be used to remove water to upgrade hydrous ethanol into anhydrous ethanol used as gasohol blend stock. The application shall be submitted to an ERA regional office in accordance with the procedures of Subpart C of Part 205 and this section. Any application for assignment of a supplier and a base period volume shall contain:

(i) Certification that the applicant has access to a supply of ethanol derived from non-petroleum or non-natural gas sources in volumes of 800 gallons or more per month for a period of not less than one year, and intends to use a minimum of 800 gallons of such ethanol per month as blend stock in the production of gasohol.

(ii) A description of the source and volumes of ethanol to be produced or purchased by the applicant for blending into gasohol, the customers and monthly volumes of gasohol proposed to be supplied to each customer by the applicant, the market area for gasohol to be served by the applicant, and the manner of distribution of the gasohol.

(iii) A description of the resources committed or proposed to be committed by the applicant in order to provide it with the capability to blend and market gasohol as described in its application.

(iv) The identity of the willing suppliers, if any, of the unleaded gasoline and the volumes available to be supplied.

(v) A description of the boiler fuel used by the applicant in the ethanol production process and any alternate boiler fuel capability (other than petroleum or natural gas based fuel) in place. If the applicant does not have an alternate boiler fuel capability in place, it shall certify that it plans to convert to a non-petroleum or non-natural gas based boiler fuel within four years.

(2) *ERA evaluation; decision and order.* (i) ERA shall evaluate and issue an appropriate order under this section in accordance with the criteria and procedures specified in Subpart C of Part 205 of this chapter.

(ii) In addition to the criteria contained in Subpart C of Part 205 of this chapter, ERA may evaluate an application taking into consideration the following factors:

(A) Whether the assignment sought by the applicant is likely to have an adverse impact on the availability or distribution of gasoline, unleaded gasoline or gasohol in an area; and

(B) Whether the applicant has committed or will commit sufficient resources to enable it to perform as described in its application.

(iii) If the applicant uses petroleum based fuel or natural gas as a boiler fuel in the ethanol production process and has an alternate boiler fuel capability in place, ERA shall deny the application for an allocation of unleaded gasoline unless the applicant demonstrates good cause why it is not using its alternate boiler fuel capability.

(iv) The volume of unleaded gasoline assigned shall not exceed nine times the volume of enthanol available to the applicant during the period of time covered by the assignment order; or otherwise shall not exceed that volume of unleaded gasoline which the applicant demonstrates it is able to use as gasohol blend stock, whichever is more.

(v) ERA may condition the effectiveness of the assignment upon the submission of satisfactory evidence of a sufficient commitment of resources by the applicant to provide it with the capability to blend and market gasohol as described in its application.

(vi) The period of time covered by an assignment shall not exceed the period of time covered by an applicant's description of its plan to market gasohol, or two years, whichever is less.

[Paragraphs (c)(3) and (c)(4) are unchanged from the First Alternative Proposal.]

(d) *Allocation of gasohol.*—(1) *Ethanol producers.* An ethanol producer which receives an allocation of unleaded gasoline for the production of gasohol

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shall distribute the gasohol in accordance with the description of its plan to market gasohol contained in its application as approved by ERA under paragraph (c) of this section.

(2) *Refiners and wholesale purchaser-resellers.* (i) Notwithstanding any provison in this part to the contrary, and subject to the provisions of 42 U.S.C. 7545(f), a refiner or wholesale purchaser-reseller of unleaded motor gasoline may elect to blend its supply of unleaded motor gasoline with ethanol to produce gasohol, subject to the restrictions contained in paragraph (d)(2)(ii) of this section.

(ii) Refiners and those wholesale purchaser-resellers which either blend their existing available unleaded gasoline with ethanol to produce gasohol or which purchase gasohol for resale may allocate gasohol at their discretion to their base period purchasers of motor gasoline, except that:

(A) No purchaser shall be required to accept any quantity of gasohol in place of part or all of its allocation entitlement to unleaded gasoline except as previously agreed between the purchaser and supplier; and

(B) If a purchaser elects to receive gasohol in satisfaction of part or all of its allocation entitlement to unleaded gasoline, the supplier shall be obligated to supply to the purchaser a volume of gasohol equal to the volume of unleaded gasoline to which the purchaser would have otherwise been entitled plus a volume equal to the ethanol content of the gasohol blend.

2. 10 CFR Part 212 is amended by revising § 212.83(c)(1)(i)(B) to read as follows:

§ 212.83 Price Rule.

* * * * *

(c) *Allocation of increased costs.* * * *

(1) *Allocation of increased costs incurred in the period "t"—* * * *

(i) * * *

(B) Notwithstanding any other provision of this subpart, for purposes of this section, a refiner, upon notice to and unless and until disapproved by the DOE, may designate as categories within the product gasoline different types (unleaded gasoline as differentiated from leaded gasoline) and grades (differentiated by octane number), if the categories so designated by the refiner represent discrete gasoline types and grades that have been consistently and historically differentiated by that refiner. A refiner may designate gasohol as a category within the product gasoline. In apportioning the total amount of increased costs allocable to gasoline among categories of gasoline, a refiner may apportion amounts of increased costs to a particular category of gasoline in whatever amounts it deems appropriate. The notice required by this paragraph shall be sent to the ERA's Assistant Administrator for Enforcement or the DOE's Special Counsel, as appropriate.

* * * * *

3. Section 212.92 is amended by revising the definition of "Acquisition cost" to add a new paragraph (c) and redesignating former paragraphs (c) and (d) as paragraphs (d) and (e), respectively, to read as follows:

§ 212.92 Definitions.

* * * * *

"Acquisition cost" means:

* * * * *

(c) for retailers, resellers and reseller-retailers which blend gasohol, calculated on a cents per gallon basis, the sum of (1) the acquisition cost of the unleaded gasoline component of the gasohol blend times the percentage of unleaded gasoline in the gasohol, and (2) the acquisition cost of the ethanol component of the gasohol blend times the percentage of ethanol in the gasohol blend. The acquisition cost for the unleaded gasoline component of the gasohol blend shall be calculated according to paragraphs (a) or (b) of this section for the respective classes of marketers. The acquisition cost for the ethanol component of the gasohol blend shall be the actual purchase price paid for the most recent purchase of ethanol. Sellers that are ethanol producers shall impute an acquisition cost for the ethanol component of the gasohol blend based on:

First option—imputed ethanol cost based on ethanol sales price

(1) The actual sales price received for the most recent sale of ethanol; or

Second option—imputed ethanol cost based on the cost of unleaded gasoline

(2) Calculated by multiplying the acquisition cost for the unleaded gasoline component by ————; or

Third option—imputed ethanol cost based on comparable ethanol sales

(3) Prices charged for comparable sales of ethanol within the same market area.

(d) The purchase price shall:

(1) Be computed on a cents per gallon basis;

(2) Be substantiated by written evidence of delivered product; and

(3) Include transportation costs of bringing the product into inventory.

(e) DOE may disallow any purchase which has the effect of frustrating the purpose of the price regulations.

* * * * *

4. Section 212.93(a) is amended by adding new subparagraphs (5) and (6) and redesignating former subparagraph (5) as subparagraph (7), to read as follows:

§ 212.93 Price rule.

* * * * *

(a) * * *

(5)(i) With respect to retail sales of gasohol by retailers that blend gasohol, a retailer may not charge a price for gasohol which exceeds the acquisition cost of the gasoline and ethanol blended to produce the gasohol, plus 17.7 cents per gallon, plus tax costs attributable to sales of gasohol. Beginning January 1, 1981, the fixed cents per gallon markup set forth above shall be adjusted by DOE semi-annually to reflect the GNP deflator.

(ii) Except as provided in subparagraph (7) of this paragraph, a reseller-retailer that blends gasohol may not charge a price in retail sale of gasohol which exceeds its most recent dealer tank wagon for gasohol charged to the nearest independent retailer to the reseller-retailer's retail sale in the most recently preceding 30-day period, plus 17.7 cents per gallon, plus tax costs attributable to sales of gasohol. If the reseller-retailer has no dealer tank wagon sales of gasohol to an independent retailer in the most recently preceding 30-day period, the price may not exceed the reseller-retailer's acquisition cost, plus 26.2 cents per gallon, plus tax costs attributable to sales of gasohol. Beginning January 1, 1981, the fixed cents per gallon markups set forth above shall be adjusted by DOE semi-annually to reflect the GNP deflator.

(6) Except as provided in subparagraph (7) of this paragraph, with respect to resales of gasohol by resellers and reseller-retailers that blend gasohol, a seller may not charge a price in a sale for gasohol which exceeds the most recent acquisition cost, plus 8.5 cents per gallon, plus tax costs attributable to sales of gasohol. Beginning January 1, 1981, the DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

5. Section 212.93(b)(1) is amended by adding a new subparagraph (v) to read as follows:

§ 212.93 Price rule.

* * * * *

(b) * * *

(v) Beginning June 1, 1980 with respect to sales of gasohol by sellers other than retailers which blend gasohol: (A) In retail sales a seller (other than a retailer) may charge an additional 1.6 cents per gallon in excess of the amount otherwise permitted to be charged pursuant to this section to reflect non-product costs increases; (B) with respect to all sales of gasohol other than retail sales, a seller may charge an additional .8 cents per gallon in excess of the amount otherwise permitted to be charged pursuant to this section to reflect non-product cost increases.

* * * * *

Appendix C

Second Alternative Proposal—Deregulation

1. Part 210 is amended at § 210.35 to add two new paragraphs (k) and (l) to read as follows:

§ 210.35 Exempted products.

* * * * *

(k) Unleaded gasoline used as blend stock in the production of gasohol is exempt from the provisions of Part 211 and Part 212 of this chapter.

(l) Gasohol as defined in § 211.111 is exempt from the provisions of Part 211 and Part 212 of this chapter.

2. Paragraph (b) of § 211.1 is amended to add two new §§ 211.1(b)(12) and 211.1(b)(13) to read as follows:

§ 211.1 Scope.

* * * * *

(b) *Exclusions.* * * *

(12) Notwithstanding the other provisions of this part, including Subpart F of this part, unleaded gasoline used by a firm as gasohol blend stock or sold to be blended into gasohol by the purchaser is excluded from the provisions of this part: *Provided,* That such unleaded gasoline is used solely as gasohol blend stock.

(13) Notwithstanding the other provisions of this part, gasohol as defined in § 211.111 is excluded from the provisions of this part.

3. A new § 211.111 is added to read as follows:

§ 211.111 Unleaded Gasoline Sold Pursuant to Exemption But Not Used As Gasohol Blend Stock.

(a) *Definitions.* "Gasohol" means a motor fuel consisting of 90 percent unleaded gasoline and 10 percent anhydrous ethanol derived from biomass.

Alternative proposed paragraph (a):

(a) *Definitions.* "Gasohol" means a motor fuel consisting of 90 percent unleaded gasoline and 10 percent anhydrous ethanol derived from non-petroleum or non-natural gas sources, or any other fuel consisting of a blend of gasoline and ethanol derived from non-petroleum or non-natural gas sources permitted to be used as a motor fuel pursuant to waiver of the provisions of section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

(b) *Limitation on Use and Remedies.* (1) A purchaser of volumes of unleaded gasoline sold pursuant to the exemption set forth in § 211.1 shall be required to certify in writing to its supplier that those volumes of unleaded gasoline will be blended by the purchaser to produce gasohol.

(2) A volume of unleaded gasoline sold pursuant to the exemption set forth in § 211.1 shall be used by the purchaser only in the production of gasohol except in cases of impossibility due to circumstances beyond the control of the purchaser.

(3) A purchaser shall be required to return to its supplier any exempt volumes of unleaded gasoline acquired for blending into gasohol but not used to produce gasohol. The supplier may offset any exempt volumes of unleaded gasoline acquired in excess of volumes which the purchaser was otherwise entitled to purchase under the regulations, and which the purchaser is obligated to return to the supplier, against current volumes of unleaded gasoline that the supplier is obligated to supply the purchaser.

(4) The supplier shall offer equivalent volumes of unleaded gasoline for sale to those firms that would have been entitled to receive the volumes of unleaded gasoline if the exempt sale had not occurred.

4. The definition of "covered products" in § 212.31 is amended to read as follows:

§ 212.31 Definitions.

* * * * *

"Covered products" means crude oil, gasoline (except unleaded gasoline sold to be blended by the purchaser into gasohol: *Provided, however,* That such unleaded gasoline is used as gasohol blend stock), natural gas liquids, and propane.

* * * * *

5. Subpart C of Part 212 is amended to add two new §§ 212.63 and 212.64 to read as follows:

§ 212.63 Gasohol.

The prices charged for gasohol as defined in § 211.111 are exempt from the provisions of this Part.

§ 212.64 Unleaded gasoline used as gasohol blend stock.

(a) The price charged for unleaded gasoline sold to be blended by the purchaser into gasohol is exempt from the provisions of this part: *Provided,* That such unleaded gasoline is used by the purchaser as gasohol blend stock.

(b) Volumes of unleaded gasoline acquired by a purchaser to be blended into gasohol but not used by the purchaser to produce gasohol are not permitted to be resold by the purchaser at a markup over the price paid by the purchaser.

[FR Doc. 80-15759 Filed 5-21-80; 8:45 am]

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Federal Register

Friday
May 23, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.; Chicago, Ill.; Pittsburgh, Pa.; and St. Louis, Mo.**, see announcement in the **Reader Aids** section at the end of this issue.

35032 **Grant Programs—Juveniles** Justice/LEAA announces amendments to previously announced solicitation for grant applications by the National Institute for Juvenile Justice and Delinquency Prevention; apply by 6–25 and 7–3–80

35102 **Minimum Wages** Labor/ESA gives notice of general wage determinations for Federal and Federally assisted construction (Part II of this issue)

34865 **Elections** FEC transmit regulations to Congress to govern application of the Federal Election Campaign Act

35186 **Budget** OMB reports a proposal to rescind $12.4 million in budget authorized previously by Congress (Part V of this issue)

35156 **Oil and Gas** Interior/BLM publishes final regulations regarding changes in the simultaneous oil and gas leasing system, effective 6–16–80 (Part III of this issue)

CONTINUED INSIDE

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

34895 **Government** OPM publishes proposed regulations regarding classification under the General Schedule; comments by 7–22–80

34899 **Retirement** PBGC proposes regulations prescribing the rules for determining payment of employer liability for a single employer plan termination; comments by 7–22–80

34910 **Taxes** Interior/HCRS proposes to amend procedures by which owners desiring tax benefits for rehabilitations of historic buildings or demolishing buildings with Registered Historic Districts, apply for certifications pursuant to Tax Reform Act of 1976; comments by 7–22–80

35016 **Oil and Gas** Interior/GS advises public of availability of booklet describing the U.S. Geological Survey's Best Available and Safest Technology program

34886 **Veterans** VA amends regulations governing the effective date of an award of additional compensation, dependency and indemnity compensation, or pension by reason of need for aid and attendance or housebound status; effective 5–13–80

35206 **Natural Gas** DOE/ERA publishes regulations regarding sale and direct industrial use of gas for outdoor lighting; effective 5–23–80 (Part VI of this issue)

34887 **Pipelines** Interior/BLM publishes regulations regarding management of oil and natural gas pipelines and facilities on Federal lands and reimbursement of costs; effective 6–23–80

34871 **Trade Agreements** Trade provides remedies for acts, policies or practices of foreign governments which are inconsistent with international trade agreements; effective 6–23–80

35212, 35284, 35298 **Medical Records** Labor/OSHA publishes rules and proposals regarding access to employee's medical records; comments by and effective 8–21–80 (Part VII of this issue) (3 documents)

34951, 34956 **Privacy Act Documents** DOD

35062 **Sunshine Act Meetings**

Separate Parts of This Issue

35102 **Part II, Labor/ESA**
35156 **Part III, Interior/BLM**
35168 **Part IV, USDA/AMS**
35186 **Part V, OMB**
35206 **Part VI, DOE/ERA**
35212 **Part VII, Labor/OSHA**

Contents

Federal Register
Vol. 45, No. 102
Friday, May 23, 1980

Administration Conference of United States
NOTICES
Meetings:
34940 Plenary Session

Agricultural Marketing Service
RULES
Milk marketing orders:
34864 Oregon-Washington
34863 Lemons grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
35168 Alabama-West Florida; hearing
34898 Middle Atlantic

Agricultural Stabilization and Conservation Service
RULES
34861 Peanuts, marketing quotas and acreage allotments

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Forest Service; Rural Electrification Administration.

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
34940 Rangeland grasshopper cooperative management program

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
34949 Procurement list, 1980; additions and deletions (2 documents)

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
34949 Economic Advisory Board

Commodity Futures Trading Commission
RULES
Commodity Exchange Act regulations:
34873 Contract market rules; standard for disapproval; interpretation
NOTICES
35062 Meetings; Sunshine Act (2 documents)

Consumer Product Safety Commission
NOTICES
Meetings:
34950 Product Safety Advisory Council

Customs Service
NOTICES
35057 Tariff classification of lightweight cab chassis; change of practice

Defense Department
See also Navy Department.
RULES
Charters:
34882 American Forces Information Service
34880 Deputy Secretary of Defense; authority delegation to act for Secretary of Defense
34880 DOD Health Council
34881 Joint Chiefs of Staff; organization and relationships with the Office of Secretary of Defense
NOTICES
34951, 34956 Privacy Act; systems of records (2 documents)

Economic Regulatory Administration
RULES
Powerplant and industrial fuel use:
35206 Natural gas and fixtures for outdoor lighting; sale and direct industrial use; definition of natural gas outdoor lighting fixture and exemption guidelines
NOTICES
Consent orders:
34961 Utah Petroleum Co.
34957 Gasoline and distillates; State set-aside program; proposed monthly reporting requirement (Form ERA-471); hearing and inquiry
Powerplant and industrial fuel use; prohibition orders; exemption requests, etc.:
34961 Atlantic City Electric Co.

Employment Standards Administration
RULES
34879 Farm labor contractor registration; housing for agricultural workers; cross reference to ETA regulations; correction
PROPOSED RULES
34899 Federal service contract labor standards; extension of time
NOTICES
35066 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Calif., Ga., Ind., La., Minn., N.J., N.M., Oreg., Pa., Tex., Va., Wash., and Wisc.)

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
34957 Norway
Meetings:
34998 State Planning Council on Radioactive Waste Management; change in location

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
34920 California

34920 Connecticut; advance notice
34919 Massachusetts
34918 New Hampshire
34917 Ohio
34921 Oregon
34919 Vermont
NOTICES
Environmental statements; availability, etc.:
35003 Agency statements; weekly receipts
35002 Senior Executive Service Performance Review Board
Toxic and hazardous substances control:
34998, 35001 Premanufacture notices receipts (2 documents)
35007 Premanufacture notices receipts; correction

Equal Employment Opportunity Commission
NOTICES
35062 Meetings; Sunshine Act

Federal Communication Commission
RULES
Radio stations; table of assignments:
34888 Arkansas
PROPOSED RULES
Radio stations; table of assignments:
34931 Maine
34933 Ohio
34934-34938 South Carolina (5 documents)
NOTICES
35007 FM and television translator applications ready and available for processing
Hearings, etc.:
35009 Lee Broadcasting, Inc., et al.
35010 R & R Associates, Inc., et al.
35008 Spears Aviation Service et al.

Federal Election Commission
RULES
34865 Delegates to National nominating convention; contributions to and expenditures by

Federal Emergency Management Agency
RULES
Preparedness:
34884 Mobilization base preservation; placement of procurement and facilities in labor surplus areas
PROPOSED RULES
Flood elevation determinations:
34923 Alabama et al.
NOTICES
Disaster and emergency areas:
35011 Missouri

Federal Energy Regulatory Commission
NOTICES
Natural Gas Policy Act of 1978:
34962, 34984 Jurisdictional agency determinations (2 documents)

Federal Home Loan Bank Board
NOTICES
35062 Meetings; Sunshine Act

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
34877 Flexible subsidy program; funding of eligible projects with rent supplement contracts; interim
34878 Homes, existing one-to-four unit; improvement and rehabilitation; correction

Federal Mine Safety and Health Review Commission
NOTICES
35062 Meetings; Sunshine Act

Federal Prevailing Rate Advisory Committee
NOTICES
35011 Meetings; cancellation

Federal Reserve System
RULES
Authority delegations:
34868 Board members acting in absence of quorum; "sunset" provision extended
NOTICES
Applications, etc.:
35012 Bankshares of Park County, Inc.
35012 Central Bancompany
35012 Drexel Holding Co.
35012 First National Cincinnati Corp.
35013 Liberty National Bancorp, Inc.
35013 Liberty National Corp.
35014 M B Group Inc.
35013 Mills County Bancorp
35014 Southern Banks of Florida
35013 U.S. Bancorp
35011 U.S. Bancorp; correction
35013 Wood Lake Corp.
35062 Meetings; Sunshine Act

Fish and Wildlife Service
RULES
Fishing and hunting:
34891 Benton Lake National Wildlife Refuge, Mont., et al.
NOTICES
35014, 35015 Endangered and threatened species permits; applications (3 documents)
Environmental statements; availability, etc.:
35016 Wildlife restoration projects; under Pittman-Robertson Act; inquiry

Food and Drug Administration
NOTICES
Meetings:
35014 Radiological health; light sources, biological effects and measurement; research efforts

Forest Service
NOTICES
Environmental statements; availability, etc.:
34941 Gifford Pinchot National Forest, Mt. Adams Ranger District, 1980 site preparation project, Wash.

Geological Survey
NOTICES
35019 Coal mining management on Indian lands; memorandum of understanding with BIA and SMO; availability
Outer Continental Shelf:
35016 Oil and gas operations; best available and safest technology program; booklet availability

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See Food and Drug Administration.

Heritage Conservation and Recreation Service
RULES
34886 Historic preservation certifications; CFR redesignation
34886 Historic surveys and plans; comprehensive statewide criteria; CFR Part redesignation and clarification of State Historic Preservation Officers; correction
PROPOSED RULES
34909 Historic Places National Register; determinations of eligibility procedures
34910 Historic preservation certification; rehabilitation or demolition of historic buildings; application procedures

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Indian Affairs Bureau
NOTICES
35019 Coal mining management on Indian lands; memorandum of understanding with SMO and GS; availability
Environmental statements; availability, etc.:
35016 Tulalip Tribes Fish Hatchery, Tulalip Indian Reservation, Wash.; scoping meeting

Interior Department
See Fish and Wildlife Service; Geological Survey; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office; Water and Power Resources Service.

Internal Revenue Service
RULES
Income taxes:
34879 Homeowners associations; qualifications; correction
PROPOSED RULES
Excise taxes:
34899 Crude oil windfall profit tax; hearing
NOTICES
Meetings:
35060 Commissioner's Advisory Group

International Trade Administration
NOTICES
Antidumping:
34941 Steel wire nails from Korea
Countervailing duty petitions and preliminary determinations:
34945 Iron-metal castings from India
Meetings:
34947, 34948 President's Export Council (2 documents)

International Trade Commission
NOTICES
35063 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
35019 Finance applications
35028 Transportation of Government traffic; special certificate letter
Railroad freight rates and charges; various States, etc.:
35026 Nationwide
Railroad operation, acquisition, construction, etc.:
35024 Hillsdale County Railway Co., Inc.
Rerouting of traffic:
35032 All Railroads
35031 Illinois Central Gulf Railroad Co.

Justice Department
See Law Enforcement Assistance Administration.

Labor Department
See also Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
35041 Alma Foundations, Inc., et al.
35050 Canron Corp. et al.
35040 Chrysler Corp.
35051 D&K Service et al.
35052 Firestone Tire & Rubber Co.
35052 General Tire & Rubber Co.
35053 Leach-Heckel Leather Corp.
35053 Motor Wheel Corp.

Land Management Bureau
RULES
Mineral leasing; rights-of-way:
34887 Oil and natural gas pipelines; management and cost reimbursement; correction
35156 Oil and gas leasing, simultaneous system
NOTICES
Coal areas, federally owned under non-Federal surface:
35017 Wyoming
Management framework plans; review and supplement:
35017 Wyoming
Meetings:
35016 Idaho Falls District Multiple Use Advisory Council
35018 Rawlins District Grazing Advisory Board
35018 Salt Lake District Grazing Advisory Board
Resource management plans:
35018 Wells Resource Area, Elko District, Nev.; comprehensive land use

Law Enforcement Assistance Administration
NOTICES
Grants solicitation, competitive research:
35032 Juvenile justice and delinquency prevention minority research initiative

Management and Budget Office
NOTICES
35186 Budget rescissions and deferrals
Meetings:
35054 National Agenda for the Eighties, President's Commission

V 45 M Y 23 80 UMI

Merit Systems Protection Board
RULES
34861 Appeals filing; appropriate field offices; address change

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
35034 AMAX Chemical Corp.
35032 Cannelton Industries, Inc.
35032 Consolidation Coal Co.
35034 Independent Salt Co.
35033 Milburn Colliery Co.
35034, 35035 National Mines Corp. (2 documents)
35035 Slab Fork Coal Co.
35033 Union Carbide Corp.

National Bureau of Standards
NOTICES
Information processing standards; Federal:
34948 I/O channel level interface; exclusion list; proposed changes; inquiry

National Credit Union Administration
RULES
Federal credit unions:
34870 Share certificate accounts; dividend payment for automatic renewals; exemption from early withdrawal penalty
34869 Share certificate accounts; dividend rate grace period on 26-week money market certificates

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
34889 Pacific halibut
NOTICES
Grants; availability, etc.:
34948 Marine pollution research, development and monitoring assistance programs; correction
Marine mammal permit applications, etc.:
34949 Sovrybflot, Moscow, U.S.S.R.

National Park Service
RULES
34885 Historic preservation certifications; CFR redesignation

National Transportation Safety Board
NOTICES
35063 Meetings; Sunshine Act

Navy Department
NOTICES
34950 Strategic submarine base at the Naval Submarine Support Base, Kings Bay, Ga.; availability of draft environmental impact statement and notice of public hearing

Nuclear Safety Oversight Committee
NOTICES
35054 Meeting

Occupational Safety and Health Administration
RULES
Health and safety standards:
35212 Employee exposure and medical records, access
Practice and procedure rules:
35284 Employee medical records; access
PROPOSED RULES
Agriculture safety and health standards:
35298 Employee exposure and medical records; access

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans:
35035, 35036, 35038 Prohibition on transactions; exemption proceedings, applications, hearings, etc. (3 documents)
35040 Prohibition on transactions; exemption proceedings, applications, hearings, etc.; correction

Pension Benefit Guaranty Corporation
PROPOSED RULES
34899 Employer liability for single employer plan termination

Personnel Management Office
PROPOSED RULES
34895 General Schedule; classification

Radiation Policy Council
NOTICES
35055 Meetings

Rural Electrification Administration
PROPOSED RULES
Telephone borrowers:
34898 Coaxial splicing connectors; specification; advance notice
34898 Plastic-insulated ground wires; specification; advance notice

Science and Technology Policy Office
NOTICES
Meetings:
35054 Intergovernmental Science, Engineering, and Technology Advisory Panel

Securities and Exchange Commission
RULES
Investment companies:
34876 Contingent advisory compensation arrangements; staff interpretation
NOTICES
Hearings, etc.:
35055 Lowell Gas Co. et al.
Self-regulatory organizations; proposed rule changes:
35056 National Association of Securities Dealers, Inc. (2 documents)

State Department
RULES
Nondiscrimination:
34877 Age discrimination in federally assisted programs; correction

Surface Mining Office
RULES
Surface coal mining and reclamation enforcement operations:
34879 Initial regulatory program; reimbursement to States for aircraft purchases

PROPOSED RULES
34907 Permanent program submission; various States: Missouri; comment period procedures and hearing
NOTICES
35019 Coal mining management on Indian lands; memorandum of understanding with BIA and GS; availability

Tennessee Valley Authority
NOTICES
35057 Floodplain, 100-year; location of transmission line; class review and inquiry

Trade Representative, Office of United States
RULES
34870 Complaint procedures

Treasury Department
See Customs Service; Internal Revenue Service.

Veterans Administration
RULES
Adjudication; pensions, compensation, dependency, etc.:
34886 Aid and attendance and housebound benefits; effective date of awards
NOTICES
35060 Administrator's Education and Rehabilitation Advisory Committee; annual report availability
35060 Central Office Education and Training Review Panel; annual report availability
Environmental statements; availability, etc.:
35060 Culpeper, Va.; Culpeper National Cemetery; facility upgrading
35060 Minneapolis, Minn.; modernization replacement

Water and Power Resources Service
NOTICES
Environmental statements; availability, etc.:
35019 Creston Steam Electric Station, Wash.

Women, President's Advisory Committee
NOTICES
35054 Meetings

MEETINGS ANNOUNCED IN THIS ISSUE

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
34940 Meetings, 6–5 and 6–6–80

COMMERCE DEPARTMENT
International Trade Administration—
34948 President's Export Council, 6–17–80
34947 President's Export Council, Export Promotion Subcommittee, 6–12–80
Office of the Secretary—
34949 Economic Advisory Board, 6–24–80

CONSUMER PRODUCT SAFETY COMMISSION
34950 Product Safety Advisory Council, 6–9 and 6–10–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
35014 Light Sources; Biological Effects and Measurement, 6–9 and 6–10–80

INTERIOR DEPARTMENT
Bureau of Indian Affairs—
35016 Tulalip Indian Reservation, State of Washington, Tulalip Tribes Fish Hatchery, 7–8–80
Bureau of Land Management—
35016 Multiple Use Advisory Council, 7–9–80
35018 Rawlins District Grazing Advisory Board, 6–26–80
35018 Salt Lake District Grazing Advisory Board, 6–18 and 6–19–80

MANAGEMENT AND BUDGET OFFICE
35054 President's Commission for a National Agenda for the Eighties, Panel 8 (Quality of American Life), 5–30–80

NUCLEAR SAFETY OVERSIGHT COMMITTEE
35054 Meeting, 5–28–80

PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN
35054 Meeting, 6–19–80

RADIATION POLICY COUNCIL
35055 Meeting, 6–11–80

SCIENCE AND TECHNOLOGY POLICY OFFICE
35054 Intergovernmental Science, Engineering, and Technology Advisory Panel, 6–8–80

TREASURY DEPARTMENT
Internal Revenue Service—
35060 Commissioner's Advisory Group, 6–9 and 6–10–80

CANCELLED MEETING

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
35011 Meeting, 6–5–80 Cancelled

HEARINGS

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
35168 Milk in the Alabama-West Florida Marketing Area, 6–23–80

DEFENSE DEPARTMENT
Navy Department—
34950 Draft environmental impact statement on preferred alternative location for strategic submarine base at Naval Submarine Support Base, Kings Bay, Ga., 6–17, 6–18 and 6–19–80

ENERGY DEPARTMENT
Economic Regulatory Administration—
34957 State Set-Aside Monthly Report, 6–26–80

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office—
34907 Missouri Permanent Regulatory Program, 6–23–80

TREASURY DEPARTMENT
Internal Revenue Service—
34899 Crude Oil Windfall Profit Tax, 7–16–80

V 45 M Y 23 80 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
1201 34861
Proposed Rules:
511 34895

7 CFR
729 34861
910 34863
1124 34863
Proposed Rules:
1004 34898
1093 35168
1701 (2 documents) 34898

10 CFR
516 35206

11 CFR
100 34865
110 34865

12 CFR
265 34868
701 (2 documents) 34869, 34870

15 CFR
2006 34870

17 CFR
1 34873
276 34876

22 CFR
143 34877

24 CFR
203 34878
204 34878
213 34878
219 34877
220 34878
235 34878
240 34878

26 CFR
1 34879
7 34879
Proposed Rules:
51 34899

29 CFR
40 34879
1910 35212
1913 35284
Proposed Rules:
4 34899
1928 35298
2613 34899

30 CFR
725 34879
Proposed Rules:
Ch. VII 34907

32 CFR
369 34880
370 34880
371 34881
372 34882

32A CFR
134 34884

36 CFR
67 34885
1201 34886
1208 34886
Proposed Rules:
1204 34909
1208 34910

38 CFR
3 34886

40 CFR
Proposed Rules:
52 (7 documents) 34917–34921

43 CFR
2880 34887
3100 35156

44 CFR
Proposed Rules:
67 34923

47 CFR
73 34888
Proposed Rules:
73 (7 documents) 34931–34938

50 CFR
32 34891
33 34891
301 34889

Rules and Regulations

Federal Register
Vol. 45, No. 102
Friday, May 23, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Appendix II; Appropriate Office for Filing Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Final rules; change of address.

SUMMARY: This document amends Merit Systems Protection Board regulations relating to the appropriate field office for filing appeals. This amendment is necessary because of change of address.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Stanislav, Jr., Assistant to the Deputy Managing Director—202–254–3063.

SUPPLEMENTARY INFORMATION: 5 CFR, Part 1201, Appendix II, Appropriate Field Office for Filing Appeals is amended by revising paragraph 7 to read as follows:

7. New York Field Office, New Federal Building, 26 Federal Plaza, Room 2341, New York, New York 10278. (New Jersey, New York, Puerto Rico, Virgin Islands.)

Merit Systems Protection Board.

Ruth T. Prokop,

Chairwoman.

[FR Doc. 80–15670 Filed 5–22–80; 8:45 am]

BILLING CODE 6325–20–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

[Amdt. 3]

Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: These regulations provide the method for determining a farm yield when nonallotment tracts are placed in combination; authorize the State committee to set the filing date for filing a record of transfer not later than June 14 and extends the date for filing a record of transfer after the normal planting season; implement the provisions of Pub. L. 96–113 (approved November 16, 1979) which exempts monetary penalties on marketing of peanuts grown on State prison farms for consumption within such State prison farms and prohibits the reapportionment of acres released from State prison farms; and announce the basic penalty rate and the reduced penalty rate for unintentional errors for the 1980–81 and subsequent marketing years.

EFFECTIVE DATE: May 22, 1980.

ADDRESSES: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Paul Kume (ASCS) (202) 447–7935.

SUPPLEMENTARY INFORMATION: Section 729.15 is being amended to provide the method for determining a farm yield when farms are placed in combination if the combination is between (1) allotment and non-allotment farms or (2) non-allotment farms. When farm yields were first determined under the Food and Agriculture Act of 1977, a farm yield was established for each farm on which peanuts were produced during 3 or more of the years 1973–77. The farm yield established was the average of the three highest actual yields per acre on the farm during the crop years 1973 through 1977. If peanuts were not produced on the farm in at least 3 years of the 5-year period 1973–77, the farm yield was appraised based on the farm yield on similar farms. Although a non-allotment farm did not have an established peanut allotment, because of production data during at least 3 or more of the years 1973–77, a farm yield was established for the farm. This amendment provides that when allotment and non-allotment farms are placed in combination, the combined farm will assume the farm yield of the tract with the established allotment even though a farm yield was previously established for the non-allotment tract. The method used to establish the farm yield for farms place in combination is to take the weighted average of the tract yields for each identifiable tract in the combined farm, based on the peanut allotment attributable to each tract and the tract yield for that tract. Since a non-allotment tract does not have a peanut allotment attributed to it, the method for determining the farm yield provided by this amendment is the only acceptable method to use.

This amendment also provides that the farm yield for non-allotment tracts placed in combination shall be appraised even though one or more of the tracts had an established farm yield. This method is the most advisable since the production capabilities for the tracts may have now changed and because there is no peanut allotment attributable to the tracts to obtain a weighted average farm yield.

This amendment provides in § 729.30 that the State committee may set a date for filing a record of transfer. Under this section a transfer may be filed during the normal planting season and after the normal planting season. Transfers filed during the normal planting season must be filed by the date set by the State committee; however, no later than June 14. Transfers filed after the normal planting season must be filed no later than December 31. The State committee has been given the authority to set the filing date during the normal planting season because of the different planting periods in the peanut producing area. The filing of a record of transfer after the normal planting period is extended from November 30 to December 31 because in some peanut producing areas peanuts are being harvested and marketed later, due to a longer growing season and the later date gives

producers an opportunity to transfer poundage quota to or from a farm.

This amendment also provides for accepting the filing of a late-filed record of transfer if certain conditions are met and acceptable to the State and County committees.

This amendment implements the provisions of Pub. L. 96–113, approved November 16, 1979, in § 729.53, which provides that no marketing quota penalty shall be collected on peanuts grown on State prison farms if the peanuts are consumed within the State prison system. The law provides that this provision covers 1978 and subsequent crops.

Under the Food and Agriculture Act of 1977, each peanut farm has an established farm poundage quota which may not be exceeded as quota marketings without marketing quota penalties being assessed. Any peanuts retained or utilized on the farm are considered as marketings of quota peanuts and if the retained or utilized peanuts cause the farm poundage quota to be exceeded, marketing quota penalties are due. The legislation provides an exception for State prison farms from the assessment and collection of mandatory marketing quota penalties. Because the level of production associated with State prison farms is relatively small and peanuts are consumed internally, there is no threat to other commercial peanut enterprises.

The Food and Agriculture Act of 1977 provided that marketing quota penalties shall be assessed at 120 percent of the basic support price for quota peanuts as announced by the Secretary. These rates, as applicable to handlers, are provided in Part 1446 of this title. For the 1980 crop year the basic support rate for quota peanuts has been announced at $455 per ton. Pub. L. 96–31 authorized the Secretary to issue regulations to reduce the amount of penalty (120 percent of the support price for quota peanuts) if the Secretary determines that the excess marketings were done unintentionally or unknowingly and that the reduction in penalty would not impair the effective operation of the price support program for peanuts. The Department felt a reduction in penalty would be desirable in order to provide fair and equitable treatment of producers and handlers.

Marketing quota penalty rates should deter violations and absorb any gain a grower might realize by marketing quota peanuts in excess of the effective farm poundage quota. Accordingly, for the 1978–79 marketing year, the rate announced, applicable to producers, was 10 percent of the basic support price for quota peanuts which was determined to be $42 per ton or 2.1 cents per pound. Under § 729.46, this amendment provides that for the 1979–80 marketing year, the rate announced shall be 20 percent of the basic support price for quota peanuts. In the **Federal Register** of January 25, 1980 (45 FR 6081), the rate for the 1979 crop year was published as $84 per ton or 4.2 cents per pound. By this amendment, it is determined that 20 percent of the basic support price for quota peanuts ($455 per ton) for the 1980 crop year will be $91 per ton or 4.6 cents per pounds.

It is essential that these provisions be made effective as soon as possible since producers and State prison farms are currently making plans for the marketing of the current crop and they need to know the penalty rates and other changes provided by this rule. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553, and Executive Order 12044 is impracticable and contrary to the public interest. Therefore, this amendment to the regulations shall become effective upon the filing of this document with the Director, Office of Federal Register, with respect to the 1978 and subsequent crops of peanuts.

Final Rule

PART 729—PEANUTS

Effective for the 1978 and subsequent crop of peanuts, the regulations in 7 CFR Part 729 are amended to read as follows:

1. Section 729.3 (j) and (11) (2) (i) are revised to read as follows:

§ 729.3 Definitions.

* * * * *

(j) *Excess acreage.* The amount by which the final acreage of peanuts exceeds the effective farm acreage allotment after approval of any transfer agreement (ASCS–375) filed on or before the earlier of: (1) The date the farm operator files a report of the planted acreage of peanuts on the farm, or (2) the date set by the State committee, except that the excess acreage will not be considered as excess acreage when: (i) The final acreage is 1 acre or less, (ii) no acreage and quota has been transferred from the farm or released to the county committee for reapportionment, and (iii) no producer who shares in the peanuts also shares in peanuts on any other farm.

* * * * *

(11) *Undermarketings* * * *

(2) *Effective undermarketings* * * *

(i) The farm shall be an eligible farm if the planted acreage of peanuts in the preceding year was equal to or greater than the product of the national quota factor times the farm acreage allotment in effect after approval of any transfer agreement which was filed on or before the date set by the State committee.

* * * * *

2. Paragraph (a) of § 729.15 is revised to read as follows:

§ 729.15 Determination of farm yield on a farm reconstituted after farm yields have been determined.

* * * * *

(a) *Combinations.* (1) *Allotment farms.* The farm yield shall be the weighted average of the tract yields for each identifiable tract in the combined farm, based on the peanut allotment attributable to each respective tract and the tract yield for that tract.

(2) *Allotment and non-allotment farms.* A combined farm shall assume the farm yield of the tract with an established allotment if placed in combination with a non-allotment tract even though a farm yield previously has been established for such tract.

(3) *Non-allotment farms.* The farm yield for combined non-allotment tracts shall be appraised under section 729.14 by the county committee even though a farm yield previously has been established for such tracts.

* * * * *

3. Paragraphs (b), (d), (g)(1), and (j) of § 729.30 are revised to read as follows:

§ 729.30 Terms and conditions applicable to transfers under Section 358a of the Act.

* * * * *

(b) *Filing Transfer Agreements.* No lease of any quota under this section shall become effective until a record of transfer, determined by the county committee to be in compliance with the provisions of this section, has been executed on Form ASCS–375 and filed within the time periods prescribed in subparagraphs (1) or (2) of this paragraph, with the county committee in the county where the farms are administratively located.

(1) *Transfers filed during normal planting period.* Transfers to be effective beginning with the normal planting period shall be filed by the date set by the State committee which shall be no later than June 14 of the current year. Records of transfer filed after the date set by the State committee but prior to August 16 may be considered timely filed by the date set by the State committee if the county committee with approval of the State committee finds that (i) the lease was agreed upon no later than the date set by the State committee, and (ii) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the lessee or lessor.

Transfer agreements filed or considered as timely filed by the date set by the State committee requires adjustments in the acreage allotments for both the lessor and lessee farms.

(2) *Transfers filed after normal planting period.* Transfers filed under the conditions in paragraph (j)(2) of this section shall not become effective unless filed no later than December 31 of the current year. Records of transfers filed after December 31 but prior to January 31 may be considered timely filed by December 31 if the county committee with approval of the State committee finds that (i) the lease was agreed upon no later than December 31, and (ii) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the lessee or lessor. No adjustments in acreage allotments shall be made for transfers filed under this subparagraph (2).

* * * * *

(d) *Farm poundage quota basis for transfer.* Transfers shall be effected by transfer of farm poundage quota. For a transfer filed (or considered filed) on or before the date set by the State committee under paragraph (b)(1) of this section, the transfer of farm poundage quota will result in adjustment in the farm acreage allotment on the basis of the farm yields for the transferring and receiving farms, respectively. The adjusted acreage shall be determined by multiplying the farm poundage quota transferred by the reciprocal of the national quota factor (1.0 ÷ the national quota factor) and dividing the results by (1) the farm yield for the transferring farm to determine the reduction in acreage for the transferring farm, and (2) the farm yield for the receiving farm to determine the acreage to add to the receiving farm. For transfers filed after the date set by the State committee under the conditions prescribed in paragraph (j)(2), no adjustment in the farm acreage allotments for the transferring and receiving farms shall be made.

* * * * *

(g) *Transfer not to be approved.* * * *

(1) If after approval the total increase in the farm peanut allotment from transfers by purchase in prior years and by lease and purchase in the current year will exceed 50 acres, except that this limitation shall not apply to transfers approved under the conditions of paragraph (j)(2) of this section.

* * * * *

(j) *Transfers to and from a farm.*

(1) *Transfer filed during normal planting period.* The county committee shall not approve a transfer which is filed (or considered filed) on or before the date set by the State committee under paragraph (b)(1) of this section if the approval would result in a transfer both to and from the farm during the period ending on the date set by the State committee of the same crop year; *Provided,* That a transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(2) *Transfer filed after the normal planting period.* A temporary transfer of poundage quota either to or from the same farm (but not both) may be approved by the county committee if filed after the date set by the State committee under paragraph (b)(1) of this section, even though a transfer which was filed before such date is in effect for the farm.

* * * * *

4. Paragraph (e) of § 729.32 is revised to read as follows:

§ 729.32 Release and reapportionment.

* * * * *

(e) *Reapportionment of farm poundage quota.* A farm shall be eligible to receive reapportionment of released poundage quota only if a written request is filed by the farm owner or operator at the office of the county committee pursuant to this section. The farm poundage quota released pursuant to this section, except poundage quota released from State prison farms, may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

* * * * *

5. Section 729.46 is revised to read as follows:

§ 729.46 Penalty rates.

(a) *Basic penalty rate.* The basic penalty rate is 120 percent of the basic support price for quota peanuts for the current marketing year as provided in Part 1446 of this title.

(b) *Penalty rate for unintentional error.*

(1) *1978–79 Marketing Year*—The penalty rate shall be 10 percent of the basic support price for the current marketing year as provided in Part 1446 of this title.

(2) *1979–80 and Subsequent Marketing Years*—The penalty rate shall be 20 percent of the basic support price for quota peanuts for the current marketing year as provided in Part 1446 of this title.

6. A new section, § 729.53, is added to read as follows:

§ 729.53 Peanuts grown on State prison farms.

Effective with the 1978 crop, no penalty shall be collected on peanuts grown on State prison farms for consumption within such State prison system.

(Secs. 301, 358, 358a, 359, 361–368, 373, 375, 377. 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, 55 Stat. 90, as amended, 70 Stat. 206, as amended (7 U.S.C. 1301, 1358, 1358a, 805, 806, 91 Stat. 944 (7 U.S.C. 1358, 1358a, 1359, 1373, 1377); and Sec. 359, 93 Stat. 81 (7 U.S.C. 1359 note); and Sec. 372, 93 Stat. 850 (7 U.S.C. 1372))

Signed at Washington, D.C., on May 15, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–15586 Filed 5–22–80; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 253; Lemon Reg. 252, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period May 25–31, 1980, and increases the quantity of such lemons that may be so shipped during the period May 18–24, 1980. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective May 25, 1980, and the amendment is effective for the period May 18–24, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action

is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 20, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is steady.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.553 is added as follows:

§ 910.553 Lemon regulation 253.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 25, 1980, through May 31, 1980, is established at 280,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.552 Lemon Regulation 252 (45 FR 32308) is amended to read as follows:

§ 910.552 Lemon regulation 252.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period May 18, 1980, through May 24, 1980, is established at 305,000 cartons.

. . . . . .

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 22, 1980.

D.S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16052 Filed 5-22-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Order Suspending Certain Provisions and Termination of Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules and termination of proceeding.

SUMMARY: This action will continue through August 1980 the present suspension of certain provisions that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension is based on a proposal of three cooperative associations considered at a public hearing held for this order on April 22, 1980, in Wilsonville, Oregon. Continuation of the suspension will help the proponent cooperatives to efficiently dispose of milk not needed for fluid use while maintaining producer status for their dairy farmer members regularly associated with the market.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (telephone: 202/447–7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing issued April 9, 1980; published April 15, 1980 (45 FR 25407). Order suspending certain provisions issued April 29, 1980; published May 5, 1980 (45 FR 29559).

This order of suspension and termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the order regulating the handling of milk in the Oregon-Washington marketing area.

It is hereby found and determined that for the months of June, July and August 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In the third sentence of paragraphs (a) and (b) of § 1124.11, the word "not".

Statement of Consideration

This action continues through August 1980 the current suspension which removed the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The current suspension, which has been in effect since April 1980, expires May 31, 1980 (45 FR 29559). Normally, a cooperative association or other handlers may divert to nonpool plants a total quantity of producer milk not in excess of the total quantity received at a pool plant(s).

The two suspension actions are based upon a public hearing held for this order on April 22, 1980, at Wilsonville, Oregon. Three cooperative associations (Farmers Cooperative Creamery, Corvallis Milk Producers Association and Eugene Farmers' Creamery) that supply the market with a substantial part of its fluid needs and handle significant quantities of the market's reserve milk supplies proposed that emergency action be taken to permit unlimited diversions of producer milk under the order during April through August 1980.

Proponent cooperatives testified that beginning this spring they have experienced problems of maintaining producer status under the order for their member dairy farmers who have been regularly associated with the market. They indicated that beginning with this year's flush period they have been unnecessarily hauling milk to pool plants and then to nonpool plants, rather than by-passing the pool plants, to stay within the diversion limits provided by the order so as to maintain producer status for their members. The cooperatives claim this situation will become more serious during the next several months because milk production of producers on the market is expected to be at seasonally record levels. This situation, according to the proponent cooperatives, is further aggravated by the fact that sales to one of their principal fluid outlets have declined substantially since the beginning of the year because the outlet lost a large wholesale account and another outlet ceased being a pool plant under the order. They indicated that since other fluid outlets in the market are not immediately available the three cooperatives must move to nonpool manufacturing plants the milk formerly moved to these pool plants.

In view of these changes in marketing conditions, the proponent cooperatives expect their reserve milk supplies during April through August 1980 to exceed substantially the quantity of producer milk that may be diverted under the order's diversion limitations. The cooperatives indicated that without immediate action a large part of the milk of their member producers who have regularly supplied the fluid market would have to be moved uneconomically if such milk is not to be excluded from the pool beginning April 1980. The cooperatives also stated that beginning in September 1980 they except not to have any trouble meeting the order's diversion requirements when the market's supply-demand conditions are expected to return to a more normal pattern.

Because of the urgency of the marketing situation indicated at the hearing and before a complete review could be made of the record evidence and post-hearing briefs, a temporary suspension of the order's diversion limits for April and May 1980 was issued on April 29, 1980 (45 FR 29559). On the basis of an analysis of the hearing record and the post-hearing briefs, it is concluded that the current suspension should be continued through August 1980. Without the suspension the proponent cooperatives would be forced to make uneconomic shipments of a substantial part of their member milk that has been associated with the market on a regular basis in order to qualify it for pooling during the months of June through August 1980.

Mayflower Farms, Inc., a cooperative association who also represents a substantial number of producers on the market, opposed the proponent cooperatives' proposal. The cooperative contended that pooling the increased reserve milk supplies of the proponent cooperatives will "dilute" the pool to the disadvantage of those producers whose milk is needed at pool plants. This, the cooperative argued, would be contrary to the purposes of the order in maintaining orderly marketing. The cooperative maintained proponents did not establish that disorderly marketing conditions exist in the Oregon-Washington market that warrant the emergency action requested.

The opposing arguments are not overriding in this matter. There is no indication that the suspension, which would be effective for only a short period of time, would adversely affect producers as the cooperative contends. Also, it is not likely that the blend prices under the order would be materially enhanced if the diversion limit were continued. The proponent cooperatives have been taking steps to assure the continued pooling of their milk. Presumably, they would continue to do so in the absence of any suspension, even though hauling inefficiencies were involved. Moreover, the additional reserve milk supplies on the market are not the result of new producers coming on to the market but rather the result of increased production of those producers who have been regularly supplying the market's fluid needs, with such increases coming at a time of stagnation in Class I sales.

Any delay in removing the limit on diversions could result in inefficient handling to assure producer milk status for a substantial quantity of the reserve milk associated with the market beginning in June. Therefore, this suspension order is the only practicable means of assuring continued producer status of the proponent cooperatives' dairy farmer members regularly associated with the market for June, July, and August 1980, without them being forced to make uneconomic movements of milk to pool plants and then reship it to nonpool manufacturing plants. There is insufficient time to resolve the diversion problem for June and July 1980 on an amendatory basis. Although amendatory action for August could be accomplished, it appears reasonable to include all three months under the same type of action. It is concluded, therefore, that the requested relief for all three months should be resolved by this suspension and that the hearing proceeding be terminated.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most economical method of handling reserve milk supplies is by direct movement from producers' farms to manufacturing outlets. This suspension allows such economical movement of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problem that provides the basis for this suspension action was fully reviewed at a public hearing and all interested parties had the opportunity to be heard on this matter.

It is therefore ordered, that the aforesaid provisions of the order are hereby suspended for June, July and August 1980, and that the proceeding which began April 9, 1980 (Docket No. AO–368–A10) is hereby terminated.

(Secs. 1–19, 48 Stat. 31, as amended; U.S.C. 601–674.)

Effective date: May 23, 1980.

Signed at Washington, D.C., on: May 19, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-15871 Filed 5-22-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 1980–21]

Contributions to and Expenditures by Delegates to National Nominating Conventions

AGENCY: Federal Election Commission.

ACTION: Final Rule; transmittal of Regulations to Congress.

SUMMARY: The Commission has transmitted regulations to Congress to govern the application of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 *et seq.*), to contributions to and expenditures by delegates to national party nominating conventions. The regulations set forth reporting obligations of delegates and delegate committees under the Act as well as treatment of contributions to and expenditures by delegates and delegate committees.

2 U.S.C. 438(d) requires that any rule or regulation proposed by the Commission to implement Chapter 14 of Title 2, United States Code be transmitted to the Speaker of the House and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulation within 30 legislative days after its transmittal, the Commission may finally prescribe the regulation in question. The following regulations were transmitted to Congress on May 14, 1980.

EFFECTIVE DATE: Further action, including the announcement of an effective date will be taken after the regulations have been before Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT:

Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463 (202) 523–4143.

SUPPLEMENTARY INFORMATION: On September 5, 1979, the Commission published an Advance Notice of Proposed Rulemaking on Contributions to and Expenditures by Delegates to National Party Nominating Conventions (44 FR 51962). The regulations transmitted to Congress incorporate suggestions received in response to the

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ANPRM as well as provisions required by the enactment on January 8, 1980, of the 1979 Amendments to the Federal Election Campaign Act of 1971 (Pub. L. 96–187).

Under the regulations as proposed and transmitted to Congress, contributions to a delegate for the purpose of furthering that delegate's selection are not subject to the contribution limitations of 2 U.S.C. 441a(a)(1) and (2), but such contributions would still count against the individual contributor's aggregate contribution limit of $25,000 per calendar year under 2 U.S.C. 441a(a)(3). Also, contributions to a delegate by the campaign committee of a presidential candidate receiving public financing would count against that candidate's expenditure limitations.

Expenditures by delegates from their personal funds to defray the costs of advocating their own selection are not limited or reportable by the proposed rules. In addition, expenditures by delegates to defray the cost of certain campaign materials, such as pins, bumper stickers, handbills, brochures, posters and yard signs, which advocate the delegate's selection and also mention a presidential candidate are not limited provided the material is used in connection with volunteer activity. However, expenditures by delegates to defray costs incurred in the use of broadcasting, newspapers, magazines, direct mail or similar types of general public communication or political advertising which advocate the delegate's selection and which also mention a presidential candidate may result in an expenditure which would be either chargeable against the Presidential candidate's expenditure limits, an in-kind contribution by the delegate to the candidate, or an independent expenditure reportable by the delegate. The regulations provide that administrative expenses incurred by State and local party committees in connection with the sponsoring of conventions and caucuses are not reportable under the Act. Similarly, payments made by individuals to qualify as delegates would not be contributions or expenditures under the Act and need not be reported as such. In addition, the regulations define the term "delegate committee" and set out registration and reporting requirements for such committees.

The regulations provide that contributions to and expenditures made by delegates or by delegate committees are subject to the prohibitions of 2 U.S.C. 441b and 441e.

Explanation and Justification of Regulations Concerning Contributions to and Expenditures by Delegates to National Nominating Conventions

These regulations govern contributions to and expenditures by delegates and delegate committees at all levels of the delegate selection process. Funds received or expended to further the selection of a delegate are contributions or expenditures under the Federal Election Campaign Act. Under 2 U.S.C. 431, the terms "contribution" and "expenditure" are defined, in part, to include amounts received or expended "* * * for the purpose of influencing any election for Federal office." 2 U.S.C. 431(8)(A)(i), 431(9)(A)(i). The term "election" is defined to include a national nominating convention, as well as any primary election held to select delegates to such a convention. 2 U.S.C. 431(1) (B) and (C). In addition, the term "federal office" includes the Office of President. 2 U.S.C. 431(3). Amounts received or spent to further the selection of a delegate are received or spent for the purpose of influencing a national nominating convention or for the purpose of influencing a primary election held to select delegates to such a convention. Hence, such amounts fall squarely within the definition of the terms "contribution" or "expenditure" under the Act.

The term "delegate" includes those individuals who seek to become delegates as well as those individuals who are selected as delegates. "Delegate committee" is defined as a political committee which receives contributions or makes expenditures for the purpose of influencing the selection of delegates to a national nominating convention and includes any group of individuals supporting delegates, as well as any group of individuals seeking selection as delegates.

If several persons acting as a group receive contributions or make expenditures in an aggregate amount exceeding $1,000 in a calendar year for the purpose of influencing the selection of any delegate(s), the group is a political committee as defined by 2 U.S.C. 431(4). A delegate committee would be treated as any other political committee is treated under the Act. Thus, delegate committees, by virtue of their status as political committees, must register and report their contributions and expenditures in accordance with 2 U.S.C. 433 and 434. Contributions made by such committees would be subject to limitation under 2 U.S.C. 441a(a); contributions to a delegate committee are subject to limitation under 2 U.S.C. 441a; and all expenditures by such committees must be reported in accordance with the provisions of 2 U.S.C. 434 and 11 CFR Part 104.

A delegate who acts as an individual to further his or her own selection is treated differently under the regulations than a delegate committee. While amounts received or spent by such a delegate are contributions or expenditures, a delegate is not a candidate under the Act. The term "candidate" is defined as "* * * an individual who seeks nomination for election, or election to Federal office * * *" 2 U.S.C. 431(2). Since a delegate does not seek nomination or election to a federal office, he or she is not a "candidate" under the Act.

The Act imposes limitations only on contributions to *candidates* or *political committees*. 2 U.S.C. 441a(a). Thus, contributions to a delegate to further his or her selection as a delegate are not limited by the Act. However, even though no limitation is placed on the amount of a contribution to a delegate, such contributions count against a contributor's $25,000 limitation under 2 U.S.C. 441a(a)(3). Moreover, because the Act imposes reporting requirements only on contributions to candidates and political committees, contributions to a delegate are not required to be reported. In addition, it should be noted that contributions made to a delegate for the purpose of furthering his or her selection are not considered contributions to any presidential candidate, regardless of whether or not the delegate is pledged to or supports a particular presidential candidate.

Because the Act imposes reporting requirements on expenditures by candidates or political committees, expenditures made by a delegate for the purpose of advocating only his or her own selection are neither limited nor reportable under the act. Examples of such expenditures are: travel and subsistence during the delegate selection process, including the national nominating convention; and the costs of any communications advocating only a delegate's selection. Moreover, expenditures of this type are not chargeable against the expenditure limitations of any presidential candidate under the Act.

The Act exempts from the definition of contribution and expenditure the payment by a "candidate * * * to any public office (including State or local office)" of the cost of certain campaign material such as pins, bumper stickers, handbills, brochures, posters and yard signs, which include reference to any other candidate for Federal office, provided that such campaign materials are used in connection with volunteer activities. 2 U.S.C. 431(8)(B)(xi). This exemption was designed to permit candidates to seek office as a team. 125 Cong. Rec. H7628 (daily ed. Sept. 10, 1979) (remarks of Mr. Frenzel). Since similar campaign activity in the delegate selection process should be encouraged, the subsections governing expenditures by delegates incorporate this exemption.

Thus, expenditures made by a delegate to defray the costs of certain campaign materials (such as pins, bumper stickers, handbills, brochures, posters and yard signs) which advocate the selection of a delegate and which also include reference to any presidential candidate are not subject to limitation and need not be reported under the Act as long as the materials are used in connection with volunteer activities and further, that such expenditures are not for costs incurred for the use of broadcasting, newspapers, magazines, billboards, direct mail or other similar types of general public communication or political advertising.

Expenditures by a delegate to defray costs incurred in the use of broadcasting, newspapers, magazines, direct mail or similar types of general public communication or political advertising which advocate the delegate's selection and which also mention a presidential candidate are not limited or reportable unless the expenditures are either contributions in-kind to the presidential candidate or independent expenditures advocating the election of the presidential candidate. Delegate expenditures which qualify as in-kind contributions, that is, they are made by the delegate in cooperation, consultation or concert with, or at the request or suggestion of the candidate or his or her authorized political committee(s) are subject to contribution limitations, must be reported by the presidential candidate's authorized political committees and, are chargeable against the presidential candidate's statutory expenditure limitations.

Alternatively, expenditures by a delegate to defray the cost incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communications or political advertising are independent expenditures if they are made to expressly advocate the election of a clearly identified presidential candidate and are not made with the cooperation or prior consent of or at the request or suggestion of the presidential candidate. If such independent expenditures by an individual delegate exceed $250 during a calendar year, the delegate must report them in accordance with the Act. (*See* 2 U.S.C. 434(c)).

The general prohibitions of 2 U.S.C. 441b on contributions and expenditures by corporations, labor unions, and national banks apply to all contributions to and expenditures by delegates and delegate committees.

Administrative expenses incurred by State and local party committees in connection with the sponsoring of conventions and caucuses are not reportable under the Act but they may not be paid with contributions which are otherwise prohibited by the Act.

Ballot fees paid to State or local party committees by individuals to qualify as delegates are not contributions or expenditures under the Act. Such payments are not subject to limitation under the Act and they need not be reported by the party committee.

11 CFR Chapter I is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. 11 CFR 100.5(e)(5) is added to read as follows:

§ 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).

* * * * *

(e) * * *

(5) *Delegate Committee.* A delegate committee is a political committee which receives contributions or makes expenditures for the purpose of influencing the selection of delegates to a national nominating convention. The term "delegate committee" includes a group of delegates, a group of individuals seeking selection as delegates and a group of individuals supporting delegates. (See definition of "delegate" at 11 CFR 110.14(b)(i).)

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

2. 11 CFR 110.5(d) is added to read as follows:

§ 110.5 Annual contribution limitation.

* * * * *

(d) Contributions to delegates or delegate committees count against the individual contributor's aggregate annual contribution limit in 11 CFR 110.5(a).

3. 11 CFR 110.14 is added to read as follows:

§ 110.14 Contributions to and expenditures by delegates.

(a) 11 CFR 110.14 applies to all levels of a delegate selection process and sets forth the prohibitions, limitations and requirements applicable under the Act to delegates.

(b) *Definitions.*—(1) *Delegate.* "Delegate" means an individual who becomes or seeks to become a delegate, as defined by State law or party rule, to a national nominating convention or to a State, district, or local convention, caucus or primary which is held to select delegates to a national nominating convention.

(2) *Delegate Committee.* A delegate committee is a political committee which receives contributions or makes expenditures for the purpose of influencing the selection of delegates to a national nominating convention. The term "delegate committee" includes a group of delegates, a group of individuals seeking selection as delegates and a group of individuals supporting delegates.

(c) *Contributions to Delegates.* Contributions to a delegate for the purpose of furthering that delegate's selection are not subject to the limitations of 11 CFR 110.1 and 110.2 and 2 U.S.C. 441a(a)(1) and (2); nor are such contributions reportable under 11 CFR Part 104 or 2 U.S.C. 434. (See 11 CFR 110.14(e) for limitations and reporting requirements relating to contributions to delegate committees.) However, if an individual makes such a contribution, it counts against that individual's aggregate contribution limit of $25,000 in a calendar year under 11 CFR 110.5 and 2 U.S.C. 441a(a)(3). Contributions made to a delegate by the campaign committee of a presidential candidate count against that presidential candidate's expenditure limitation under 11 CFR 110.8(a) and 2 U.S.C. 441a(b).

(d) *Expenditures by Delegates.* (1) Expenditures by a delegate from contributions to him or her, or from personal funds, to defray costs incurred to advocate only his or her own selection are neither subject to limitations under 11 CFR Part 110 and 2 U.S.C. 441a nor reportable under 11 CFR Part 104 and 2 U.S.C. 434. (See 11 CFR 110.14(e) for reporting requirements relating to delegate committees.) Such costs may include but are not limited to: costs of travel and subsistence during the delegate selection process, including the national nominating convention, and the cost of any communications advocating only a delegate's selection. Such expenditures are also not chargeable against the expenditure limits of any presidential candidate under 11 CFR 110.8(a) or 2 U.S.C. 441a(b). (2)(i) Expenditures by a delegate from contributions to him or her or from personal funds for costs of certain campaign materials (such as pins, bumper stickers, handbills,

brochures, posters and yard signs) which advocate the selection of a delegate and which also include information on or reference to any candidate for the office of President are not reportable by the delegate under 11 CFR Part 104 and 2 U.S.C. 434. (See 11 CFR 110.14(e) for reporting requirements relating to delegate committees.) Such expenditures are neither contributions to the presidential candidate subject to limitations under 11 CFR 110.1(a) and 2 U.S.C. 441a(a)(1) nor expenditures which count against the expenditure limitation of the presidential candidate under 11 CFR 110.8(a) and 2 U.S.C. 441a(b), provided that:

(A) Such materials are used in connection with volunteer activities; and

(B) Such expenditures are not for costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising.

(ii) Expenditures by a delegate from contributions to him or her or from personal funds for costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising which advocates the selection of a delegate and which also includes information on or reference to a candidate for the office of President are neither subject to limitations under 11 CFR 110.1(a) and 2 U.S.C. 441a(a)(1) and (2), nor reportable under 11 CFR Part 104 and 2 U.S.C. 434, except as provided 11 CFR 110.14(d)(2)(ii)(A)(B). (See 11 CFR 110.14(e) for reporting requirements relating to delegate committees.)

(A)(*1*) Such expenditures are subject to limitations if they are in-kind contributions to the presidential candidate. Such expenditures are in-kind contributions to the presidential candidate under 2 U.S.C. 441a(a)(7) if the delegate makes such expenditures in cooperation, consultation, or concert with, or at the request or suggestion of the presidential candidate, his or her authorized political committee(s), or their agents. Such an in-kind contribution is subject to the contribution limitations of 11 CFR 110.1 and 2 U.S.C. 441a(a)(1) and must be reported by the presidential candidate's authorized committee(s) as a contribution under 11 CFR Part 104 and 2 U.S.C. 434. Except as provided in 11 CFR 110.14(d)(2)(ii)(A)(3). Such in-kind contributions are chargeable against the presidential candidate's expenditures limitation under 11 CFR 110.8(a) and 2 U.S.C. 441a(b).

(*2*) If the delegate finances the dissemination, distribution or republication, in whole or in part, of any broadcast or materials prepared by the presidential candidate, his or her authorized committee(s) or their agents, such expenditure shall not be chargeable against that candidate's expenditure limitations unless it was made with the cooperation, or with the prior consent of, or in consultation with, or at the request or suggestion of, the candidate or any authorized agent or committee thereof.

(B) Such expenditures are not subject to limitations, but are reportable if they are independent expenditures. Such expenditures are independent expenditures under 11 CFR 109.1(a) and 2 U.S.C. 431(17), if they are made to expressly advocate the election of a clearly identified presidential candidate and are not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, the presidential candidate or authorized committee of such candidate. Such independent expenditures are not limited but must be reported by the delegate in accordance with 11 CFR 109.2. and 2 U.S.C. 434(c) and are otherwise subject to the requirements of 11 CFR Part 109. The disclaimer requirements of 11 CFR 110.11 are applicable to such independent expenditures.

(C) Only that portion of such expenditures allocable to the presidential candidate shall be considered an in-kind contribution to the candidate and an expenditure chargeable against the candidate's expenditure limitations. Only that portion of an independent expenditure allocable to the presidential candidate shall be reportable as an independent expenditure.

(D) For purposes of 11 CFR 110.14(d)(2), "direct mail" means any mailing(s) by commercial vendors or any mailing(s) made from lists which were not developed by the delegate.

(e) *Delegate Committees.* Delegate committees as defined at 11 CFR 100.5(e)(5) which qualify as political committees under 11 CFR 100.5 and 2 U.S.C. 431(4) must register with the Commission pursuant to 11 CFR Part 102 and 2 U.S.C. 433, and file reports of contributions received and expenditures made pursuant to 11 CFR Part 104 and 2 U.S.C. 434. Contributions to delegate committees are subject to limitation under 11 CFR 110.1 and 2 U.S.C. 441a(a). Contributions made by delegate committees are subject to limitations under 11 CFR 110.1 and 2 U.S.C. 441a(a).

(f) *Prohibited Sources.* All contributions to and expenditures by any delegate or by a delegate committee are subject to the prohibitions of 11 CFR 110.4(a), Part 114 and 2 U.S.C. 441b and 441e.

(g) *Administrative Expenses of Party Committees and Payments to Qualify as Delegates.* (1) Administrative expenses incurred by local, county, district or State party committees in connection with the sponsoring of conventions or caucuses during which delegates to a national nominating convention are selected, are not reportable under the Act; however, such expenses may not be paid from contributions or expenditures which are prohibited under 11 CFR 110.4(a) and Part 114 and 2 U.S.C. 441b and 441e.

(2) Payments to a State or district party committee by individuals for the purpose of qualifying as delegates would not be contributions or expenditures under the Act, nor would such payments be reportable under 11 CFR Part 104 and 2 U.S.C. 434 or subject to limitation under 11 CFR Part 110 and 2 U.S.C. 441a.

Dated: May 19, 1980.

Max L. Friedersdorf,

Chairman, Federal Election Commission.

[FR Doc. 80-15918 Filed 5-22-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0296]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical Amendment to Final Rule.

SUMMARY: This rule change provides a technical amendment advancing the "sunset" provision contained in the final sentence of 12 CFR 265.1a(c) to June 30, 1982, for the delegation of authority contained in § 265.1a(c). This action will continue the delegation of authority by the Board of Governors to any three Board members designated by the Chairman to act on certain matters in the absence of a quorum of the Board where delay would be inconsistent with the public interest.

EFFECTIVE DATE: May 19, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Mannion, Deputy General Counsel, 202/452-3274, or Sara A. Kelsey, Attorney, 202/452-3236, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: From time to time, the Board is required to act upon various matters where a delay in Board action would not be consistent with the public interest. In order to provide for those times when a quorum of the Board may not be available in person to act upon such a matter, 12 CFR 265.1a(c) provides for the delegation of authority by the Chairman. This delegation of authority, added effective August 2, 1978, was to be effective only until June 30, 1980, so that the Board could evaluate its utility for a trial period. Based upon its experience since that time, the Board has determined that this delegation of authority is an effective means of acting promptly on matters to avoid delay that would be inconsistent with the public interest and therefore should be continued. The instant amendment modifies the "sunset" provision contained in the final sentence of 12 CFR 265.1a(c) by continuing this delegation of authority for an additional two years.

The provisions of 5 USC 553 relating to notice and public participation and deferred effective date are not followed in connection with the adoption of this amendment because the change involved herein is technical in nature and does not constitute a substantive rule subject to the requirements of such section. The amendment is effective immediately.

In order to accomplish this purpose, 12 CFR 265.1a(c) is amended by changing the final sentence of that section to read "This delegation of authority shall terminate June 30, 1982."

By order of the Board of Governors of the Federal Reserve System, May 19, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-15916 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Final Rule—Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration Board, after considering a final rule adopted by the Depository Institutions Deregulation Committee, has adopted a final rule to permit Federal credit unions to continue to pay dividends on 26-week, $10,000 minimum share certificates (26-week money market certificates) at the originally agreed upon dividend rate for up to seven days after the maturity date. Prior to this amendment, grace periods on 26-week money market certificates were not permitted.

EFFECTIVE DATE: May 21, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, NW Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel, at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: The National Credit Union Administration Board (Board) is amending its regulations to permit Federal credit unions to continue to pay dividends on 26-week money market share certificates for up to 7 days after the certificate matures at the originally specified dividend rate. A Federal credit union may specify in its agreement that a lower rate will be paid during the grace period but that rate cannot be less than that paid on a regular share account.

Prior to this amendment, a grace period was not permitted because the qualifying period had to be exactly 26 weeks and any grace period would violate that restriction. Other types of share certificates were not subject to that same restriction and therefore grace periods had always been allowed. However, there had been no requirements governing grace periods in the past. Grace periods have been permitted to allow for unexpected problems that may arise where a member cannot notify the Federal credit union of his or her intention of what should be done with funds in the share certificate account on the maturity date. The present amendment provides this same flexibility in the case of 26-week money market certificates but limits the grace period to 7 days and it applies whether or not the certificate is automatically renewable. The Board will soon issue a proposed regulation to limit grace periods on all other share certificates to 7 days.

The Depository Institutions Deregulation Committee (Committee) has recently adopted a uniform rule for commercial banks, mutual savings bank, and savings and loan associations. That rule provides that those depository institutions may provide in their time deposit contracts for the payment of interest on funds withdrawn not more than 7 days after a maturity date and the interest rate must be that originally specified unless the contract provides for a lower rate. However, the lower rate cannot be less than that paid on regular savings accounts. The Committee's rule applies to single maturity time deposits as well as to time deposits that are automatically renewable.

Although the Chairman of the NCUA Board is a voting member of the Committee, the uniform rule issued by the Committee does not apply to Federal credit unions. However, as a member of that Committee, the Chairman is responsible for participating in the implementation of the Congressional intent of ultimately eliminating the limitations on the maximum rates of interest and dividends that may be paid on deposits and accounts maintained in the various types of financial institutions as economic conditions warrant and subject to statutory guidelines. Therefore, in the interest of facilitating the equitable administration of rate regulations, it will be incumbent upon the NCUA Board to consider actions taken by the Committee, and, where feasible, to issue conforming regulations. For this reason, the Board, after considering the Committee's final rule on grace periods, has adopted this amendment. The final rule, which removes a restriction, affects only 26-week money market certificates. Federal credit unions have been able to provide grace periods on other types of share certificates but no limitation on grace periods has been imposed. The Board does, however, intend to issue a proposed rule limiting grace periods on all share certificates to 7 days in the interest of uniformity and urges Federal credit unions not to provide grace periods greater than 7 days.

The Board has adopted this amendment after considering the final rule adopted by the Committee referred to above. Because of the action taken by the Committee, the Board finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this amendment is contrary to the public interest and, because it relieves a restriction, publication 30 days prior to its effective date is unnecessary. Also, certain procedures provided for in NCUA's Report on improving Government Regulations were not followed because the process is unnecessary for the public interest. This determination was made by James J. Engel, Assistant General Counsel.

Accordingly, § 701.35 is amended as set forth below.

Rosemary Brady,

Secretary of National Credit Union Administration Board.

May 20, 1980.

(Sec. 107, 91 Stat. 49 (12 U.S.C. 1757), sec. 120 Stat. 635 (12 U.S.C. 1766); sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

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§ 701.35 [Amended]

1. By redesignated § 701.35(c)(2) as § 701.35(c)(2)(i); and

2. By adding a new § 701.35(c)(2)(ii) to read as follows:

* * * * *

(c) * * *
(2) * * *
(ii) * * *

In the case of share certificates issued pursuant to paragraph (g)(5) of this section, the share certificate account agreement may provide for the payment of dividends on withdrawals made not more than 7 days after the maturity date. The agreement may specify that the dividends will be paid at the originally specified dividend rate or at a lower rate but in no event may the rate specified be less than the current rate paid on regular share accounts.

[FR Doc. 80-15932 Filed 5-22-80; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 701

Final Rule—Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration Board, after considering a final rule adopted by the Depository Institutions Deregulation Committee, adopted a final rule concerning the treatment of dividends earned on share certificates for purposes of the early withdrawal penalty. This rule amends 12 CFR 701.35 to provide that if a share certificate is automatically renewed at the same terms and conditions, a Federal credit union may pay the dividends earned during any preceding terms as well as during the renewal term without imposition of an early withdrawal penalty. Prior to this amendment, any accumulated dividends became part of the principal amount of the share certificate at the time it was renewed and thus subject to the penalty provisions if withdrawn prior to the renewal maturity date.

EFFECTIVE DATE: May 21, 1980

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel, at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: The National Credit Union Administration Board (Board) is amending its regulations governing the payment of dividends earned on a share certificate account after it has been automatically renewed. Under previously adopted rules (June 5, 1979, 44 FR 32202) a share certificate account holder was permitted to withdraw dividends earned on a certificate at any time before maturity without incurring a penalty for early withdrawal. However, any accumulated dividends in the share certificate account at the time of renewal became part of the principal and thus subject to the penalty provisions if withdrawn prior to the renewal maturity date. (44 FR at 32204).

The effect of this amendment is to permit a Federal credit union to pay the dividends earned during any preceding term as well as during the renewal term without imposing an early withdrawal penalty if the share certificate account is automatically renewed at the same terms and conditions (including dividend rate) as initially issued. Thus, where a certificate is automatically renewed at the same terms and conditions, a Federal credit union may permit a certificate holder to withdraw dividends earned during the preceding term or terms as well as during the renewal term without subjecting the certificate holder to early withdrawal penalties. In effect then, dividends earned or accumulated during previous qualifying periods need not be merged with the principal upon renewal of the certificate. It should be noted, however, that a Federal credit union is not precluded from specifying otherwise in its share certificate agreement if it so desires.

The Board has adopted these amendments after considering the final rule adopted by the Depository Institutions Deregulation Committee (Committee) that permits penalty-free withdrawals of interest. That Committee adopted its rule to provide for competitive equality between savings and loan associations, which have been permitted to allow these types of withdrawals, and commercial banks and mutual savings banks, which, as in the case of Federal credit unions, could not. The Board, to avoid placing Federal credit unions at a competitive disadvantage, finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this action is contrary to the public interest and, because it relieves a restriction, publication 30 days prior to its effective date is unnecessary. Also, certain procedures provided for in NCUA's Report on Improving Government Regulations were not followed because the process is unnecessary for the public interest. This determination was made by James J. Engel, Assistant General Counsel.

Accordingly, § 701.35 is amended as set forth below.

Rosemary Brady,

Secretary to National Credit Union Administration Board.

May 20, 1980.

(Sec. 107, 91 Stat. 49 (12 U.S.C. 1757), sec. 120 Stat. 635 (12 U.S.C. 1766), and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Section 701.35(c)(3)(ii) is revised to read as follows:

* * * * *

(c) * * *
(3) * * *
(ii) * * *

A share certificate account holder may withdraw any and all dividends previously paid on a share certificate account during its current qualifying period without incurring a penalty. If the share certificate account is automatically renewed at the same terms and conditions (including the same dividend rate), a Federal credit union may permit a share cerificate account holder to withdraw dividends paid during the preceding qualifying period or periods at any time during the renewal period without penalty, unless the share certificate agreement provides otherwise. If any term or condition of the renewal certificate is different, dividends in the account at the commencement of the renewal period shall be treated as principal and subject to the penalty provisions for early withdrawal. Any amendment to a share certificate account that results in an increase in the dividend rate or a reduction in the qualifying period constitutes a payment of the account before maturity.

[FR Doc. 80-15933 Filed 5-22-80 8:45 am]

BILLING CODE 7535-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

15 CFR Part 2006

Procedures for Complaints Received Pursuant to Section 301 of the Trade Act of 1974, as Amended

AGENCY: Office of the United States Trade Representative.

ACTION: Final regulations.

SUMMARY: This document amends the proposed regulations, published on September 14, 1979 (44 FR 53535), to implement section 301 of the Trade Act of 1974 (19 U.S.C. 2411), as amended by the Trade Agreements Act of 1979 (Pub. L. 96-39, section 901).

Section 301 of the Trade Act of 1974, as amended authorizes the President to provide remedies for acts, policies or practices of foreign governments which are inconsistent with international trade agreements, or otherwise unreasonable, unjustifiable, or discriminatory and burden or restrict U.S. commerce, or against failure of a foreign government to grant United States rights under a trade agreement. Petitions filed under Section 301 will be treated as specified in these regulations.

EFFECTIVE DATE: These regulations shall be effective June 26, 1980.

FOR FURTHER INFORMATION CONTACT: R. Michael Gadbaw, or Alice Zalik (202) 395-3432.

SUPPLEMENTARY INFORMATION: On September 14, 1979, the **Federal Register** published proposed regulations (15 CFR 2006) to implement section 301 of the Trade Act of 1974 (19 U.S.C. 2411), as amended by the Trade Agreements Act of 1979 (Pub. L. 96-39, section 901). Comments were requested by October 14, 1979. Two written comments were received. The regulations, including the changes suggested in the comments, are adopted as revised below. However, additional comments and proposals will be considered and amendments proposed as appropriate.

Comments: No public comments were received. Comments were received from three Government agencies directed to the role of the 301 Committee in the handling of 301 complaints.

Part 2006 is amended by revising the part heading, the Table of Contents and the text to read as follows:

PART 2006—PROCEDURES FOR COMPLAINTS FILED UNDER SECTION 301 OF THE TRADE ACT OF 1974, AS AMENDED

Sec.

2006.0 Submission of petition requesting Presidential action under section 301.
2006.1 Information to be included in petition.
2006.2 Adequacy of the petition.
2006.3 Determinations regarding petitions.
2006.4 Requests for information made to foreign governments and instrumentalities.
2006.5 Procedures upon initiation of investigation: consultations and formal dispute settlement.
2006.6 Termination or suspension of review.
2006.7 Public hearings.
2006.8 Submission of written briefs.
2006.9 Presentation of oral testimony at public hearings.
2006.10 Waiver of requirements.
2006.11 Consultations before making recommendations.
2006.12 Recommendations: time limits.
2006.13 Information open to public inspection.
2006.14 Information not available.
2006.15 Information exempt from public inspection.

Authority: Sec. 306 of the Trade Act of 1974, as amended by sec. 901 of the Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 299 (19 U.S.C. 2416).

§ 2006.0 Submission of Petition Requesting Presidential Action under Section 301.

(a) Section 301 of the Trade Act of 1974, as amended authorizes the President to provide remedies for acts, policies or practices of foreign governments which are inconsistent with international trade agreements, or otherwise unreasonable, unjustifiable, or discriminatory and burden or restrict U.S. commerce, or against failure of a foreign government to grant United States rights under a trade agreement. Petitions filed under Section 301 will be treated as specified in these regulations.

(b) Petitions may be submitted by an interested party. An interested party is deemed to be a party who has a significant interest; for example, a producer or a commercial importer or exporter of a product which is affected either by the failure to grant rights to the United States under a trade agreement or by the act, policy or practice complained of; a trade association, a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production or wholesale distribution in the United States of a product so affected; or any person representing a significant economic interest affected either by the failure of a foreign government to grant United States rights under a trade agreement or by the act, policy or practice complained of in the petition.

(c) The petition shall be submitted in twenty copies, clearly typed, photocopied or printed to:

Chairman, Section 301 Committee, Office of the United States Trade Representative, 1800 G Street, NW, Washington, D.C. 20506

(d) The telephone number of the Section 301 Committee is (202) 395-3432.

§ 2006.1 Information to be included in petition.

Petitions submitted pursuant to section 301 of the Trade Act of 1974 shall clearly state on the first page that the petition is filed under section 301 of the Trade Act of 1974 and shall contain information reasonably available to the petitioner in substantially the form specified below. Petitioners for whom such information is difficult or impossible to obtain shall provide as much information as possible and assistance in filing their petition may be obtained through the Chairman of the Section 301 Committee. Petitions shall:

(a) Identify the petitioner and the person, firm or association, if any, which petitioner represents and describe briefly the interest of the petitioner which is affected by the failure of a foreign government or instrumentality to grant rights of the United States under a trade agreement or which is otherwise affected by the act, policy or practice which is the subject of the petition.

(b) Describe the rights of the United States being denied under the trade agreement which petitioner seeks to enforce or the act, policy or practice which is the subject of the petition and provide a reference to the particular part of section 301 related to the assertion in the petition.

(c) Include, wherever possible, copies of laws or regulations which are the subject of the petition. If this is not possible, the laws and regulations shall be identified with the greatest possible particularity, such as by citation.

(d) Identify the foreign country or instrumentality with whom the United States has an agreement under which petitioner is asserting rights claimed to be denied or whose acts, policies or practices are the subject of the petition.

(e) Identify the product or service for which the rights of the United States under the agreement, claimed to be denied, are sought or which is subject to the act, policy or practice of the foreign government or instrumentality named in paragraph (d) of this section.

(f) Demonstrate that rights of the United States under a trade agreement are not being provided or show the manner in which the act, policy or practice is inconsistent with the provisions of a trade agreement or otherwise denies benefits due the United States under a trade agreement or is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States' commerce. Provide specific information showing the volume of trade involved and the impact on petitioner and on U.S. commerce. If the petition includes an assertion that subsidy payments are having an adverse effect upon a product or products of the United States in United States' markets or in other foreign markets, it shall include, to the extent possible, the following information:

(1) The volume of trade in the goods or services involved.

(2) A quantification of the economic or other impact on the petitioner and on U.S. commerce in general.

(3) A statement of the manner in which the subsidy complained of is inconsistent with any trade agreement

and the manner in which it burdens or restricts United States' commerce.

(g) State whether petitioner has filed or is filing for other forms of relief under the Trade Act of 1974 or any *other* provision of law.

§ 2006.2 Adequacy of the petition.

If the petition filed pursuant to § 2006.0 does not conform substantially to the requirements of §§ 2006.0 and 2006.1, the Chairman of the Section 301 Committee may nevertheless determine that there is sufficient information on which to proceed to a determination whether to initiate an investigation, or at the request of the petitioner, may return the petition with guidance on making the petition conform to the requirements.

§ 2006.3 Determinations regarding petitions.

Within 45 days after the day on which the petition is received, the U.S. Trade Representative shall determine, after receiving the advice of the 301 Committee, whether to initiate an investigation.

(a) If the U.S. Trade Representative determines not to initiate an investigation, he shall notify the petitioner of his reasons and shall publish notice of the negative determination and a summary of the reasons therefor in the **Federal Register**.

(b) If the U.S. Trade Representative determines to initiate an investigation, he shall publish the text of the petition in the **Federal Register**, and provide an opportunity for the presentation of views concerning the issues.

§ 2006.4 Requests for information made to foreign governments or instrumentalities.

If the U.S. Trade Representative receives a petition alleging violations of any international agreement, he will notify the foreign government or instrumentality of the allegations and may request information, in English, necessary to a determination of the case. The U.S. Trade Representative may proceed on the basis of best information available if, within a reasonable time, no information is received in response to the request.

§ 2006.5 Procedures upon initiation of investigation. Consultations and formal dispute settlement.

(a) If the U.S. Trade Representative determines to initiate an investigation on the basis of a petition, he shall, on behalf of the United States, request consultations with the foreign government or instrumentality concerned regarding the issues raised in the petition.

(b) If the issues in a petition are covered by a trade agreement between the United States and the foreign government involved and a mutually acceptable resolution cannot be reached within the consultation period provided for in the agreement, the U.S. Trade Representative shall institute the formal dispute settlement proceedings, if any, provided for in the agreement. In preparing United States presentations for consultations and dispute settlement proceedings, the U.S. Trade Representative shall seek information and advice from the petitioner and from the appropriate private sector representatives.

§ 2006.6 Termination or suspension of review.

(a) The review of a complaint received under section 301 may be terminated or suspended by the U.S. Trade Representative after receiving the advice of the Section 301 Committee.

(b) Termination or suspension of a section 301 review shall be given effect by notification to the complainant and by publication in the **Federal Register** of a notice and a statement of the reasons for such termination or suspension.

§ 2006.7 Public hearings.

(a) A public hearing shall be held if requested by the petitioner in writing under 302(b)(2):

(1) Within 30 days after the date of an affirmative determination under § 2006.3(b) if the request for public hearing within such period is included with the petition; or

(2) On a date after that period if agreed to by the petitioner; or

(3) At such other time as agreed to by the petitioner if a timely request for a public hearing is made by the petitioner following the filing of the petition.

(b) A public hearing shall be held by the U.S. Trade Representative if requested under section 304(b)(1) by any interested person submitting an application in writing stating briefly the interest of the person requesting the hearing, the firm, person or association he represents and the position to be taken. A hearing so requested shall be held:

(1) Prior to a recommendation that the President take action; or

(2) Within 15 days after the recommendation to the President for action is made, if the U.S. Trade Representative determines that expeditious action is required.

(c) After receipt of a request for a public hearing under section 304(b)(1) of the Trade Act, the Chairman of the Section 301 Committee will notify the applicant whether his request meets the requirements of this part, and if not, the reasons therefor. If the applicant has met the requirements of this part, he will be notified of the time and place of the public hearing.

(d) Notice of public hearings to be held under section 302(b)(2) and 304(b)(1) shall be published in the **Federal Register** by the Chairman of the Section 301 Committee.

§ 2006.8 Submission of written briefs.

(a) In order to participate in the presentation of views either at a public hearing or otherwise, an interested person must submit a written brief before the close of the period of submission announced in the public notice. The brief may be, but need not be, supplemented by the presentation of oral testimony in any public hearing scheduled in accordance with § 2006.6.

(b) The brief shall state clearly the position taken and shall describe with particularity the supporting rationale. It shall be submitted in twenty (20) copies which shall be legibly typed, printed or duplicated.

(c) In order to assure each party an opportunity to contest the information provided by other parties, the Section 301 Committee will entertain rebuttal briefs filed by any party within a time limit specified in the public notice. Rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearing and should be as concise as possible.

§ 2006.9 Presentation of oral testimony at public hearings.

(a) A request by an interested person to present oral testimony at a public hearing shall be submitted in writing before the close of the period of submission announced in the public notice and shall state briefly the interest of the applicant. Such request will be granted if a brief has been submitted in accordance with § 2006.7.

(b) After consideration of a request to present oral testimony at a public hearing, the Chairman of the Section 301 Committee will notify the applicant whether the request conforms to the requirements of § 2006.8(a), and, if it does not, will give the reasons. If the applicant has submitted a conforming request he shall be notified of the time and place for the hearing and for his oral testimony.

§ 2006.10 Waiver of requirements.

To the extent consistent with the requirements of the Trade Act of 1974, as amended, the requirements of §§ 2006.0 through 2006.3 and 2006.6 through 2006.8 may be waived by the U.S. Trade Representative or the Chairman of the Section 301 Committee upon a showing of good cause and for reasons of equity and the public interest.

§ 2006.11 Consultations before making recommendations.

Prior to making recommendations on what action, if any, should be taken in regard to issues raised in the petition, the U.S. Trade Representative shall obtain advice from the appropriate private sector advisory representatives unless expeditious action is required, in which case he shall seek such advice after making the recommendation. The U.S. Trade Representative may also request the views of the International Trade Commission on the probable economic impact of the proposed action.

§ 2006.12 Recommendations: Time limits.

The U.S. Trade Representative, after receiving the advice of the 301 Committee through the TPC or an appropriate subgroup, shall recommend to the President what action, if any, should be taken under Section 301 with respect to the issues raised in the petition not later than:

(a) Seven months after the date of the initiation of the investigation if the petition alleges only an export subsidy covered by the Agreement on Interpretation and Applications of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade;

(b) Eight months after the date of the initiation of the investigation if any matter covered by the Subsidies Agreement other than only an export subsidy is alleged in the petition;

(c) Thirty days after the conclusion of the dispute settlement procedure where the petition raises issues covered by a trade agreement approved under section 2(a) of the Trade Agreements Act of 1979 (other than the Subsidies Agreement);

(d) 12 months after the date of investigation initiation in cases not included under paragraphs (a), (b), or (c) of this section

§ 2006.12 Information open to public inspection.

(a) With the exception of information subject to § 2006.14, an interested person may, upon written request, inspect at the office of the Chairman of the Section 301 Committee:

(1) Any written petition, brief, or similar submission of information made pursuant to section 301.

(2) Any stenographic record of a public hearing held pursuant to section 301.

(3) Information on the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular products or services, to the extent that such information is available to the U.S. Trade Representative or other Federal agencies.

(4) Information on the rights of the United States under any trade agreement and the remedies which may be available under the agreement and under the laws of the United States.

(b) Fees will be charged for duplication of documents requested in accordance with the fee schedule and payments provisions of 15 CFR 2004.9 and 2004.10.

§ 2006.14 Information not available.

If the U.S. Trade Representative does not have, and cannot obtain from other federal agencies, information requested in writing, by any person, he shall, within 30 days after the receipt of the request—

(a) Request the information from the foreign government involved; or

(b) Decline to request the information and inform the person in writing of the reasons for the refusal.

§ 2006.15 Information exempt from public inspection.

(a) The Chairman of the Section 301 Committee shall exempt from public inspection business information submitted in confidence if he determines that such information involves trade secrets or commercial and financial information the disclosure of which is not authorized by the person furnishing such information nor required by law.

(b) A party requesting that the Chairman exempt from public inspection business information submitted in writing shall clearly mark each page "Business Confidential" at the top, and shall submit a nonconfidential summary of the confidential information. Such person shall also provide the Chairman of the Section 301 Committee with a written explanation of the reasons the material should be so classified.

(c) The Chairman may deny a request that he exempt from public inspection any particular business information if he determines that such information is not entitled to exemption under law. In the event of a denial, the party submitting the particular business information will be notified of the reasons for the denial and will be permitted to withdraw the submission.

R. Michael Gadbaw,

Chairman, Section 301 Committee.

[FR Doc. 80-15930 Filed 5-22-80; 8:45 am]

BILLING CODE 3190-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Standard To Be Applied by the Commission in Disapproving Contract Market Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Agency Interpretation.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is announcing its interpretation of the standard to be applied to contract market rules submitted for Commission approval pursuant to Section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by 92 Stat. 871 (1978), and Rule 1.41 of the Commission's regulations, 17 CFR 1.41 (1979). Under this interpretation, the Commission may disapprove contract market rules which conflict or are inconsistent with the policies, purposes and public interests embodied in the Act as well as the provisions of the Act and the Commission's regulations.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy Yanofsky, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-9880.

SUPPLEMENTARY INFORMATION: Under the Act, futures contracts may lawfully be traded only through the facilities of boards of trade—commodity exchanges—which have been designated as contract markets by the Commission.[1] In 1974, when Congress extensively amended the Act, Congress understood that contract market "self-regulation had become noticeably ineffectual" and, therefore, a strong federal regulatory umbrella was needed "to insure the efficacy of the regulatory efforts undertaken by exchanges."[2] It has been recognized that

> "[t]he mainstay of this umbrella, Congress decided, would be the CFTC. Armed with strong regulatory powers, the CFTC was designed to guarantee 'fair practices and honesty on the exchanges' and curb 'speculative activities that periodically demoralize markets.' "[3]

Under section 5a(12) of the Act, contract markets must submit for Commission approval most contract market rules relating to terms and

[1] Section 4 and 4h, 7 U.S.C. 6 and 6h (1976).

[2] *Smith* v. *Groover*, 468 F. Supp. 105, 109-110 (N.D. Ill. 1979), citing H.R. Rep. No. 975, 93d Cong., 2d Sess. 48 (1974) ("1974 House Report").

[3] *Id.*, quoting from 120 Cong. Rec. 30458 (1974) (remarks of Senator Herman Talmadge).

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conditions in futures contracts and other trading requirements before those rules may be made effective.[4] The Commission is authorized to approve only those contract market rules which are "not in violation of the provisions of this Act or the regulations of the Commission * * *" (Section 5a(12)). Consistent with this authority, Section 5a(12) empowers the Commission to "disapprove * * * (a contract market rule) which the Commission finds at any time is in violation of the provision of this Act or the regulations of the Commission."[5]

Among these provisions is the requirement in Section 5(g) of the Act, 7 U.S.C. 7(g), which also was added in 1974, that futures trading in a particular commodity not be "contrary to the public interest."[6] One of the components of the public interest standard in Section 5(g) is an economic purpose test.[7] The Committee of Conference on the 1974 amendments emphasized that Section 5(g) "would include the concept of the 'economic purposed test * * * subject to the final test of the 'public interest.'"[8] Thus, consistent with Section 5(g), the Commission has the responsibility under Section 5a(12), in determining whether a proposed rule is in violation of the provisions of the Act or Commission regulations, to consider whether the rule will be contrary to the economic purposes and other public interests embodied in the Act.

Congress has expressly defined several of the public interests to be considered by the Commission in connection with contract market rules. Section 8a(7) of the Act, as amended in 1974, 7 U.S.C. 12a(7) (1976), authorizes the Commission, after first requesting the contract market to change one of its rules, to alter or supplement the contract market's rule if the Commission determines that

> "such changes are necessary or appropriate for the protection of persons producing, handling, processing or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market."

A contract market rule proposal which the Commission determines will hamper the protections afforded traders, for example, is thus inconsistent with the public interest test of Section 5(g) as expounded by Section 8a(7).[9]

In addition, when Congress amended the Act in 1974 it also added Section 15, 7 U.S.C. 19. Section 15 specifically directs the Commission, in considering whether to approve contract market rules, to take into account the public interests served by the antitrust laws and to endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. Section 15, therefore, contemplates that under Section 5a(12) the Commission will disapprove, or attempt to modify, a contract market rule which would have serious anticompetitive effects that are not outweighed by the policies and purposes of the Act to be served by the rule. Congress understood that the objectives of the Act would be a paramount consideration in a Commission determination whether to approve a contract market rule.

It is the view of the Commission that these provisions of the Act demonstrate that Congress did not intend to limit the Commission's authority to disapprove a contract market rule under Section 5a(12) merely to those rules which are directly contrary to a specific substantive or procedural requirement of the Act or the Commission's regulations. Rather, the Commission understands its statutory responsibility to disapprove as well those contract market rules which conflict or are inconsistent with any of the policies, purposes and public interest considerations embodied in the Act and the Commission's regulations.

A more limited construction of the Commission's rule disapproval authority—whereby the Commission could disapprove only those rules which directly conflict with a provision of the Act or the Commission's regulations—would lead to a somewhat anomalous result. Under this approach, for example, the Commission would be required to approve a contract market rule which did not directly conflict with a provision of the Act even though the Commission determined that the rule would result in inadequate protection to traders, an express basis for the Commission to alter or supplement a contract market rule under Section 8a(7). Therefore, the contract market rule would be approved by the Commission and placed into effect under Section 5a(12), and the Commission could, under Section 8a(7), immediately request the contract market to alter or supplement that rule. This would create instability and uncertainty in the contract market rule approval process. Market participants and the contract markets are entitled to expect a rule approval process which will permit them generally to rely upon a rule approved by the Commission, rather than waiting to see if the rule would be amended at the Commission's direction shortly after approval had been granted.[10]

[4] The Commission has defined these contract market rules as "reviewable rules" in Commission Rule 1.41(a)(2), 17 CFR 1.41(a)(2) (1979). Consistent with the provisions of Section 5a(12), the Commission has also specified those operational, administrative and temporary emergency rules which need not be submitted for approval by the Commission before being placed into effect. *See* Commission Rules 1.41(c) and (f), 17 CFR 1.41(c) and (f) (1979).

[5] In general, rules do not violate a statutory provision in the traditional sense of the term "violate." Intead, persons violate provisions of the Act or regulations. Rules, however, may be in conflict or inconsistent with or contrary to other provisions of law. Accordingly, the Commission construes the term "violation" in Section 5a(12) to embrace rules which are in conflict or inconsistent with or contrary to the Act or the regulations of the Commission.

[6] Section 6 of the Act, 7 U.S.C. 8, makes this requirement, among others, a prerequisite to and continuing condition of a contract market's designation. For example, if the Commission found that trading in a particular futures contract was no longer in the public interest, the Commission could suspend or revoke the contract market's designation. *See* Section 6b, 7 U.S.C. 13a (1976).

[7] S. Rep. No. 1194, 93d Cong., 2d Sess. 36 (1974) (Report of the Committee of Conference). The Commission has advised Congress that if a proposed rule did not serve a valid economic purpose, the Commission would disapprove the rule under Section 5a(12). In connection with the 1978 amendments to Section 5a(12) of the Act, the Commission explained to the Committee of Conference that "the Commission, consistent with the requirement of Section 5(g), presently analyzes the economic purpose of proposed exchange rules, particularly as to whether they conform to commercial practices, and would disapprove those that do not serve a valid economic purpose." (Letter of August 8, 1978, from chairman William T. Bagley, for the Commission, to Senator Herman E. Talmadge and Representative Thomas S. Foley.)

[8] S. Rep. No. 1194, 93d Cong., 2d Sess. 36 (1974) (Report of Committee of Conference).

[9] *See also* Section 3 of the Act, 7 U.S.C. 5, which sets forth basic policies and purposes of the Commodity Exchange Act.

[10] Under the Commission's intrepretation of Section 5a(12), Section 8a(7) could be used to alter or supplement contract market rules which have previously received Commission approval in order to cure defects in rules that operate against the interests protected by Section 8a(7). Of course, at the time that the Commission approved such rules, it would anticipate that the rules would or might reasonably be expected to comport with the public interests set forth in Section 8a(7). However, a change in market conditions may take place to which the contract market may not respond in a manner consistent with a particular interest defined in Section 8a(7). In addition, a contract market rule could be applied in a manner contrary to the Commission's expectation when it approved the rule. Or, the Commission may adopt a regulation, subsequent to its approval of a contract market rule, which conflicts with the rule. Section 8a(7) could be used in any of these circumstances. In this connection, the Commission is of the view that it is authorized to revoke a contract market rule under Section 5a(12) or to effect a revocation under Section 8a(7). Section 5a(12) authorizes the Commission to approve contract market rules and "thereafter * * * [to] disapprove * * * (any contract market rule) which the Commission finds *at any time* is in violation of the provisions of this Act or the regulations of the Commission." (Emphasis added). Thus, the Commission is authorized to disapprove a rule, even though that rule has previously received Commission approval, if after reviewing the operation of the rule the

Footnotes continued on next page

The Commission's interpretation of its rule disapproval authority is fully consistent with the legislative evolution of these statutory provisions. In 1968 Congress enacted Section 8a(7) of the Act, which authorized the Secretary of Agriculture to disapprove any contract market rule which "violates or will violate any of the provisions of this Act, or any of the rules, regulations or orders * * * [adopted] thereunder." *See* Pub. L. No. 90–258, section 23(b), 82 Stat. 26 (1968).[11] Congress granted this authority to the Secretary despite the vigorous protests of most contract markets.[12] The rationale for the rule disapproval authority was provided by George L. Mehren of the Department of Agriculture who stated:

> It seems obvious that when there is a conflict between an exchange rule and the law, or regulations, or orders issued pursuant to authority granted by the law, the exchange rule should be revoked or so changed as to bring it into compliance.[13]

In 1974, Congress amended Section 8a(7) by removing the rule disapproval authority from that Section and placing it in Section 5a(12) and by further amending Section 8a(7) to authorize the Commission to alter or supplement contract market rules.[14] The rationale for the amendments to Section 8a(7) and the enactment of Section 5a(12) was provided by Dr. Clayton Yeutter, Assistant Secretary of Agriculture, who stated that the proposed provisions

> * * * would extend to the Commission even broader authority * * * to make certain that in every instance the rules protect all traders and the public and provide for orderly trading in futures contracts.[15]

In 1978, Congress again addressed the Commission's authority to approve or disapprove contract market rules. As amended in 1978, Section 5a(12) requires the Commission to provide notice and opportunity for public comment prior to approving contract market rules the Commission determines to be of major economic significance. The sponsor of the amendment, Representative AuCoin, stated that the amendment was necessary because the absence of a provision for public notice regarding proposed rule changes

> is disturbing when one considers that the Commission is a public agency charged with insuring that the public interest is adequately served and protected in rules and regulations promulgated by the private contract markets.[16]

Thus, the sponsor of the 1978 amendment to Section 5a(12), understood the Commission's authority under that Section to incorporate the public interests and purposes served by the provisions of the Act and the Commission's regulations.[17]

The 1978 amendment to Section 5a(12) underscores the propriety of the Commission's interpretation of its contract market rule disapproval authority. The purpose of this amendment was to ensure that the Commission would receive public comments on contract market rules of major economic significance. The publication requirement evidences Congress' intent that the Commission be responsive to concerns expressed by producers, traders or other members of the public and to disapprove those rules which do not serve a valid economic purpose or are contrary to the other public interests of the Act. Thus, the Commission intends to construe its rule disapproval authority in a manner which will ensure that all rules approved by the Commission under Section 5a(12) comport with the policies, purposes and provisions of the Act and regulations.

The Commission has received correspondence from three boards of trade concerning this interpretation of its rule disapproval authority. In essence, these exchanges disagree with the Commission's view and have asked the Commission to defer publishing its interpretation until an opportunity is provided for public comment on the interpretation.

The Commission appreciates that these boards of trade and others may not concur in the Commission's interpretation of its rule disapproval authority. In this connection, the Commission welcomes comments from all persons concerning this interpretation. Nevertheless, the Commission is announcing a general statement of its present policy concerning the rule disapproval authority vested in it under the Act. This policy does not impose any new obligations upon any entity. Congress has made plain that general statements of agency policy or interpretative rules are exempt from the requirement of notice and public comment applicable to agency rule making proceedings. *See* 5 U.S.C. 553(b)(A) (1976).

The Commission emphasizes that it is merely notifying the public that the Commission intends to apply this interpretation and policy to contract market rules which have been or will be submitted under Section 5a(12). Prior to disapproving a contract market rule, the Commission will provide the affected contract market and, wherever practicable, the public with notice and opportunity to comment upon the rule and the grounds the Commission may rely upon to disapprove the rule. Of course, during this comment process, the public may comment upon the Commission's interpretation of its rule disapproval authority as well as the specific application of the policy to the contract market rule at issue. The Commission believes that comment on this interpretation will be most meaningful in the context of a concrete disapproval proceeding involving a particular contract market rule.

Issued by the Commission on May 19, 1980.

Jane K. Stuckey

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 80–15814 Filed 5–22–80; 8:45 am]

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Footnotes continued from last page

Commission finds that the rule in practice operates contrary to the policies, purposes or provisions of the Act or regulations.

[11] Prior to the 1974 amendments to the Act, which established the Commission, the Act was administered by the Commodity Exchange Authority within the Department of Agriculture.

[12] *Hearings Before the House Committee on Agriculture on H.R. 11930 and H.R. 12317*, 90th Cong., 1st Sess. 24–25, 89 and 111 (1967) ("1967 House Hearings"). Only one contract market supported the enactment of Section: 8a(7). A representative of the Chicago Mercantile Exchange stated that "there might be a need to have some Government supervision of our rulemaking functions in order to secure a semblance of immunity from the antitrust law." 1967 House Hearings at 136. That contract market also testified that the Secretary of Agriculture's authority under Section 8a(7) should be broadened so that the disapproval could be based upon a finding that the rule is "not in the best interests of the investors and traders in cash and futures commodities." *Id.* at 136.

[13] *Id.* at 49. In 1968 Congress also enacted Section 5a(8) which imposed a duty on contract markets to enforce those rules which had not been disapproved by the Secretary of Agriculture. *See* 7 U.S.C. 5a(8) (1970). Congress considered Section 5a(8) to be necessary because the contract markets had failed to enforce their own rules. S. Rep. No. 947, 90th Cong., 2d Sess. 2–3 (1968). *See also*, 1967 House Hearings at 50 (statement of George L. Mehren).

[14] *See* Pub. L. No. 93–463, §§ 210 and 213, 88 Stat. 1401–1402 and 1404 (1974).

[15] 1974 House Report at 78. Congress amended Section 8a(7) in response to a particular problem regarding self-regulation. The House reported that allegations had been made that, in order to circumvent the statutory requirement of enforcing their rules, contract markets were reducing the number of their regulations designed to insure fair trading. 1974 House Report at 44–48. Thus, Congress empowered the Commission to change or supplement contract market rules under Section 8a(7) to assure that contract markets would have adequate rules to protect the integrity of the marketplace. *See Smith* v. *Groover*, 468 F. Supp. 105, 118 (N.D. Ill. 1979).

[16] 124 Cong. Rec. H7312 (daily ed., July 26, 1978).

[17] *See also* 124 Cong. Rec. H7313 (daily ed., July 26, 1978) (remarks of Representative Glickman; "in many cases the Board of Trade rules are more significant than those the Commission promulgates").

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 276

[Release No. IA-721]

Contingent Advisory Compensation Arrangements

AGENCY: Securities and Exchange Commission.

ACTION: Statement of staff interpretive position.

SUMMARY: The Commission is announcing the interpretive views of its Division of Investment Management ("staff") as to the application of the performance fee prohibitions of the Investment Advisers Act of 1940 ("Advisers Act") to investment advisory compesnation arrangements which are contingent on the investment performance of the funds of advisory clients. The purpose of this release is to provide general interpretive guidance to the public regarding the application of the Advisers Act to the variety of contingent advisory compensation arrangements which have come to the staff's attention, and thereby to obviate the need for further requests for staff interpretive or no action advice concerning such compensation arrangements where the requests do not present any novel factual or interpretive issues.

EFFECTIVE DATE: May 16, 1980.

FOR FURTHER INFORMATION CONTACT: Michael J. Eizelman, Esq., (202) 272-2079, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Section 205(1)[1] of the Advisers Act,[2] with certain exceptions, prohibits an investment adviser, unless exempt from registration pursuant to Section 203(b) of the Advisers Act,[3] from entering into, extending, renewing or performing any investment advisory contract which "provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client." The staff's position, as previously articulated in a number of no action and interpretive letters, is that Section 205(1) generally prohibits an investment adviser from being a party to any advisory contract which provides that advisory fees will be waived or refunded, in whole or in part, if a client's account does not meet a specified level of performance or which otherwise makes receipt of advisory fees contingent on the investment performance of the funds of advisory clients.[4] In the view of the staff, the realization of "contingent" fees is dependent on a client's account achieving a specified level of capital gains or appreciation. Thus, such fees, in effect, are based on a share of capital gains or appreciation of the funds of a client within the meaning of Section 205(1), and are therefore proscribed by that section.[5]

Section 205(1) of the Advisers Act was intended "to prohibit arrangements for contingent compensation to investment advisers based on profit-sharing arrangements with clients which encourage advisers to take undue risks with the funds of clients."[6] The concerns about undue speculation[7] which prompted the Congress to adopt Section 205(1) are as opposite to advisory fees which are contingent upon an advisory account obtaining a certain level of performance as they are to fees which vary directly with capital gains or appreciation. For example, an investment adviser whose compensation was contingent on a discretionary account achieving a certain level of performance might be inclined to purchase for the account speculative securities, involving a high potential reward and a high risk, if the account's value was below that necessary for the adviser to earn his fee. In this regard, the Commission report which helped form the basis for the Advisers Act contained the following views of industry representatives:

> Arrangements for contingent compensation to investment counselors, such as percentage of profits, [were] strongly condemned [by industry representatives] as inimical to the interest of the client, for . . . , aside from the 'heads I win, tails you lose' aspect of such arrangements, such a basis for compensation 'encouraged the advisor to recommend a degree of risk that the investor himself would not knowingly undertake, inasmuch as the advisor has everything to gain if he is successful and nothing to lose if he is wrong' and may have been a strong temptation to take unusual risks, to speculate or to overtrade.[8]

To the extent there is any question as to whether Section 205(1) directly prohibits contingent advisory compensation arrangements, the staff believes that such arrangements are prohibited by Section 208(d) of the Advisers Act.[9] Section 208(d) provides, among other things, that it shall be unlawful for any person indirectly to do any act or thing which it would be unlawful to do directly under the provisions of the Advisers Act. If Section 208(d), together with Section 205(1), were not construed to prohibit contingent advisory compensation arrangements, an investment adviser who was subject to Section 205(1) could employ indirectly a compensation arrangement which was the practical equivalent of a fee structure directly proscribed by Section 205(1) and thereby frustrate the prophylactic purposes of that section. For example, rather than charging a fee which was a direct share of the capital appreciation of a client's account, and which was thus expressly prohibited by Section 205(1), a registered investment adviser might choose to approximate such a fee by charging a fixed fee which it would agree to waive or refund, in whole or in part, if the client's account did not achieve a specified level of appreciation.

Among the proposed contingent advisory compensation arrangements that have come to the attention of the staff are those in which (i) fees are waived or refunded, in whole or in part, by an adviser if a specified level of investment performance in a client's account is not achieved,[10] (ii) fees are contingent upon an advisory account having sufficient capital gains or appreciation during a specified period to pay the fees,[11] (iii) fees are waived if recommended securities do not appreciate in value within a designated period of time,[12] and (iv) fees are contingent upon an account either not decreasing in value or avoiding a specified amount of capital depreciation.[13] For the reasons discussed above, the staff believes that the foregoing contingent advisory compensation arrangements, which each pose the inherent conflicts of interest that Section 205(1) was intended to prevent, are properly characterized as involving a fee based upon a share of capital gains or appreciation of the funds of a client and, are thus, proscribed by Section 205(1).

The general interpretive guidance provided in this release should obviate the need, in most instances, for further requests for no action or interpretive advice from the staff relating to contingent advisory compensation arrangements. Accordingly, the staff will not respond to such requests unless they present novel factual or interpretive issues, such as departures from the specific contingent compensation arrangements described above.

Part 276 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding Investment Advisers Act Release No. IA-721—Statement of the staff as to the application of the Investment Advisers Act to contingent advisory compensation arrangements.

By the Commission.

George A. Fitzsimmons,

Secretary.

May 16, 1980.

[FR Doc. 80-15892 Filed 5-22-80; 8:45 am]

BILLING CODE 8010-01-M

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[1] 15 U.S.C. 80b-5(1).

[2] 15 U.S.C. 80b-1 *et seq.*

[3] 15 U.S.C. 80b-3(b).

[4] *See, e.g.*, McCuen & Russell, Inc. (avail. Apr. 27, 1979); Tessco Management Corporation (avail. Apr. 24, 1979); V. L. McKenzie (avail. Sept. 29, 1975); Bruce Bennett (avail. May 10, 1973); and Robert Reinhart, Jr. (avail. Sept. 21, 1971), reprinted in [71-72 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶78,464.

[5] Section 205(1), by its express terms, applies only to compensation arrangements based upon a share of capital gains or appreciation of the funds of an advisory client. Thus, the Advisers Act does not prohibit, for example, a fee arrangement based upon the interest income (exclusive of capital gains or appreciation) derived from the funds of a client, assuming, of course, compliance with the antifraud provisions of Section 206 thereof. *See, e.g.*, Welch & Forbes, Inc. (avail. Jan. 26, 1974).

[6] H.R. Rep. No. 2639, 76th Cong., 3d Sess. 29 (1940).

[7] *Id. See also* Hearings on S. 3580 before Subcomm. of Senate Comm. on Banking and Currency, 76th Cong., 3d Sess., pt. 1, at 252 (1940). For a discussion of the legislative history of the prohibition against profit-sharing and other contingent fee arrangements, *see* SEC Institutional Investor Study Report, H.R. Doc. NO. 64, 92d Cong., 1st Sess., pt. 1, 259-263 (1971).

[8] *See* Securities and Exchange Commission. *Investment Counsel. Investment Management. Investment Supervisor and Investment Advisory Services*, H.R. Doc. No. 477, 76th Cong., 2d Sess. at 30 (1939).

[9] U.S.C. 80b-8(d).

[10] *See, e.g.*, McCuen & Russell, Inc. (avail. Apr. 27, 1979).

[11] *See*, e.g., Stanley F. Raczynski (avail. Dec. 5, 1973).

[12] *See*, e.g., V. L. McKenzie (avail. Sept. 20, 1975).

[13] *See, e.g.*, Pension Investment Associates of America (avail. Jan. 25, 1977). Although an argument could be made that Section 205(1) literally does not extend to fees based upon "negative" capital gains or appreciation, the staff believes that, for the reasons discussed above regarding contingent fees in general, such fees come within the purview of Section 205(1). As one commentor has observed: "It seems . . . clear that, in a falling market, an adviser may not [under Section 205(1)] compensate himself on the basis of a percentage of the saving of capital loss or depreciation which he has effected by selling out certain securities and buying others whose market price did not fall as much; such a scheme of compensation, which is in effect based on a share of 'negative gains,' involves the same temptations as a profit-sharing scheme which comes within the letter of the statutory provision." 2 Loss, Securities Regulation 1411 (2d Ed. 1961).

DEPARTMENT OF STATE

Office of the Secretary

22 CFR Part 143

[Departmental Regulation 108.789]

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

Correction

In FR Doc. 80-14872 appearing at page 31713 in the issue for Wednesday, May 14, 1980, second column, the Departmental Regulation number should have appeared as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 219

[Docket No. R-80-810]

Flexible Subsidy Program; Interim Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: This interim rule amends Part 219 of Title 24 of the Code of Federal Regulations, to provide for funding of eligible projects having HUD rent supplement contracts and which are in need of additional funding due to rent increases.

EFFECTIVE DATE: June 22, 1980.

COMMENTS DUE: July 22, 1980.

ADDRESS: Comments should be submitted to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Occupancy Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-8730. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development has exhausted its appropriated rent supplement contract and budget authority funds, which it uses to fund rent supplement contract increases. These contract increases are needed to cover the Department's share of payments toward the tenants' rents brought about by HUD approved rent increases. The Department received no additional contract or budget authority in its FY 1980 appropriations. Accordingly, the Department is amending 24 CFR Part 219 on an interim basis, effective June 22, 1980.

24 CFR Part 219 is itself an interim rule which was published on May 21, 1979, and this amendment does not change any aspect of the interim rule; it provides, merely, for funding of eligible projects that otherwise would have received rent supplement payments. The Department is evaluating, at present, the comments received during the published Interim rules comment period and will also evaluate the comments received on this amendment prior to formulating and issuing its final regulation.

This amendment is consistent with Sec. 201 of the HUD Amendments of 1978 which states "the purposes of this Section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, and to maintain the low-to-moderate income character of certain projects assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965." Failure on the part of HUD to fund those projects which are in need of additional Rent Supplement Authority would lead to their financial and physical deterioration. Since there is no Rent Supplement Contract Authority available, those HUD Insured or Held projects which have rent supplement contract under Section 101 of the Housing and Urban Development Act of 1965 in need of additional Rent Supplement Contract Authority are eligible under this program. Any project receiving flexible subsidy payments in lieu of rent supplement payments and which would also qualify for assistance under 24 CFR Part 219, as published on May 21, 1979, may also receive additional flexible subsidy payments.

The Secretary has determined that it is urgent to make this rule effective as soon as possible, in order to avoid the financial and physical deterioration of rent supplement projects. Since providing an opportunity for public comment on this rule prior to its effective date would delay it for a substantial period of time, the Secretary has found that such rulemaking procedure would be contrary to the public interest. Accordingly, this amendment is being published as an interim rule to become effective as provided above, with a 60-day public

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comment period following this publication.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The finding of inapplicabilty in accordance with HUD's Environmental procedures is available for inspection at the Office of the Rules Docket Clerk, at the above address. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Part 219 is amended as follows:

PART 219—FLEXIBLE SUBSIDY PROGRAM

1. Section 219.101 is revised to read as follows:

§ 219.101 Purpose.

The purposes of the Flexible Subsidy Program are:

(a) To provide assistance to restore or maintain the financial soundness, to assist in the improvement of management and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965, and

(b) On a temporary and interim basis to provide the funds necessary to pay the Department's share of the rent in a project whose owners are receiving assistance on behalf of eligible tenants under Section 101 of the Housing and Urban Development Act of 1965, Rent Supplements, and whose contracts need to be increased due to a HUD approved rent increase and where no Section 101 contract and budgetary funds are available for HUD to amend said contracts. This provision will expire pursuant to § 219.140 of the regulation.

2. Section 219.110 is amended by redesignating paragraphs (a) and (b) as (b) and (c), respectively, and by adding a new paragraph (a), to read as follows:

§ 219.110 Conditions for approval.

(a) Assistance may be made available under this Part to any project owner who has a Section 101 Rent Supplement contract which is in need of an increase due to a HUD-approved rent increase and where HUD cannot amend the Rent Supplement contract terms due to the lack of Rent Supplement contract and budgetary authority. For project owners in this category, the project either must receive a satisfactory management review and pass a physical inspection or the owner must submit an acceptable plan to remedy the deficiencies cited in such review or inspection before such assistance is granted. For troubled projects, paragraphs (b) and (c) of this section apply.

* * * * *

3. Section 219.115 is revised to read as follows:

§ 219.115 Local government assurances.

Except for those projects covered under paragraph (b) of § 219.101 which have substantially met this requirement prior to executing a Rent Supplement Contract, the Department, prior to making assistance available to a project, shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that:

(a) The community in which the project is located is providing or will provide essential services to the project in keeping with the community's general level of these services;

(b) The real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(c) Assistance to the project under this part would not be inconsistent with local plans and priorities.

4. Section 219.120 is revised to read as follows:

§ 219.120 Use and amount of assistance.

The assistance shall be provided in any amount which the Secretary determines is consistent with the project's management-improvement and operating plan, subject to the availability of funds appropriated by the Congress in annual appropriation acts. Assistance will not exceed the sum of:

(a) An amount determined by the Secretary to be necessary to correct project deficiencies existing at the beginning of the first year of assistance, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made. Any project deficiencies which require capital improvements are eligible for funding only if: (1) They are necessary to meet local building codes or to maintain the project in a decent, safe and sanitary condition, and (2) such expenditure is necessary and the most efficient method to make the improvement.

(b) An amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, existing at the beginning of the first year of such assistance and for which payment has not previously been made in the reserve funds established by the project owner for the purpose of replacing capital items; and

(c) An amount not greater than the amount by which the estimated operating expenses for the year of such assistance, exceeds the estimated revenues to be recived by the project during such a year, or

(d) In the case of those projects covered in paragraph (b) of § 219.101, which has complied with § 219.110 paragraph (a), the amount of assistance provided for funding of Rent Supplement contracts due to rent increases shall be limited to the difference between 77% of the gross potential rent approved on the units covered by the Rent Supplement contract and the amount being paid under such contract.

5. Section 219.125 is amended by adding a new paragraph (c) to read as follows:

§ 219.125 Estimating project revenue and operating expenses.

* * * * *

(c) For those projects covered paragraph (b) of § 219.101 the amount of assistance provided under this part is limited to the difference between 77% of the gross potential rent approved on the units coverd by the Rent Supplement contract and the amount being paid under such contract.

6. A new § 219.140 is added, to read as follows:

§ 219.140 Time limitation on flexible subsidy payments in lieu of rent supplement payments.

No Flexible Subsidy contracts for payments in lieu of Rent Supplement contracts shall be executed after December 31, 1981.

(Sec. 201(g), Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1))

Issued at Washington, D.C., May 6, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80–15961 Filed 5–22–80; 8:45 am]

BILLING CODE 4210–01–M

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24 CFR Parts 203, 204, 213, 220, 235 and 240

[Docket No. R–79–687]

Mutual Mortgage Insurance and Insured Home Improvement Loans

Correction

In FR Doc. 80–15585 appearing on page 33964 in the issue for Wednesday, May 21, 1980; on page 33965, first column, the EFFECTIVE DATE should read "June 20, 1980".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 7

[T.D. 7692]

Homeowners Associations; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the **Federal Register** publication beginning at 45 FR 26321 of the full text of the regulations which were the subject of Treasury Decision 7692 relating to homeowner associations under section 528 of the Internal Revenue Code of 1954.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1973. This correction is to be effective the same date.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3671, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1979, the **Federal Register** published a notice of proposed rulemaking (44 FR 1985) which proposed amendments to the Income Tax Regulations (26 CFR Parts 1 and 7) under section 528 of the Internal Revenue Code of 1954. On April 18, 1980, the **Federal Register** published Treasury Decision 7692 (FR Doc. 80–12000) at 45 FR 26319. The purpose of these amendments to the Income Tax Regulations made by the Treasury decision was to provide guidance to the public to determine whether a particular organization qualifies as a homeowners association.

Need for a Correction

As published, the full text of the regulations which were the subject of Treasury Decision 7692 contained a misprint in the figure for the percentage of lots which must be zoned for residential purposes in order to meet the requirement that substantially all of the lots or buildings of an association be used by individuals as residences.

Correction of Publication

Accordingly, the publication of the full text of the regulations which were the subject of FR Doc. 80–12000 (45 FR 26319) is amended by the following correction:

Section 1.528–4 (26 CFR Part 1), at 45 FR 26322, is corrected by revising the first sentence of paragraph (c) to read as follows:

§ 1.528–4 Substantially test.

* * * * *

(c) *Residential real estate management associations.* Substantially all of the lots or buildings of a residential real estate management association (including unimproved lots) will be considered as used by individuals as residences if at least 85% of the lots are zoned for residential purposes. * * *

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80–15920 Filed 5–22–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 40

Farm Labor Contractor Registration Act; Housing for Agricultural Workers; Correction

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: Editorial review of FR Doc. 80–6797, appearing at pages 14185–14186 in the **Federal Register** of March 4, 1980, which amended 29 CFR Part 40, has disclosed that said document did not contain a citation of authority under which the affected section (29 CFR 40.20) was issued. This document corrects the omission.

EFFECTIVE DATE: April 3, 1980.

FUR FURTHER INFORMATION CONTACT: Paul E. Myerson, Counsel for Employment Standards, Division of General Legal Services, Office of the Solicitor of Labor, 200 Constitution Avenue, NW., Room N2464, Washington, D.C. 20210, telephone 202–523–8244.

Correction of Publication

In FR 80–6797, appearing at 45 FR 14185–14186 (March 4, 1980), a citation of authority is added to read as follows:

(Sec. 14, 78 Stat. 924 (7 U.S.C. 2050c), and sec. 17, 88 Stat. 1659 (7 U.S.C. 2053); Secretary's Order No. 16–75, 40 FR 55913; and Employment Standards' Order 2–75, 40 FR 56743.

Signed at Washington, D.C. this 18th day of May 1980.

Donald Elisburg,

Assistant Secretary for Employment Standards.

[FR Doc. 80–15896 Filed 5–22–80; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 725

Reimbursement to States for Purchase of Aircraft

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final Rules.

SUMMARY: Policies and procedure providing for financial assistance to the States for administration and enforcement of the initial regulatory program were promulgated in December of 1977. The use of funds for the purchase of aircraft was excluded because there was insufficient time for budget planning that is necessary to cover such purchases. Section 725.12(h)(2) of the Office of Surface Mining permanent rules are amended to eliminate the exclusion from funding the purchase of aircraft during the initial regulatory program.

EFFECTIVE DATE: May 20, 1980.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Roon 224, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, telephone (202) 343–4221.

SUPPLEMENTARY INFORMATION: On December 13, 1977, the Secretary of the Interior promulgated the final rules for reimbursement to States for activities performed under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act). These regulations established the Office's policies and procedures for providing financial assistance for the administration and enforcement of the initial regulatory program, the development and implementation of permanent State regulatory programs and the administration of cooperative agreements for State regulation of surface coal mining and reclamation operations on Federal lands.

Part 725 sets forth requirements for grant reimbursement under the initial

regulatory program. Section 725.12, "Coverage of Grants," identifies items eligible for reimbursement during the initial regulatory program. It explicitly prohibits the use of Federal funds for the purchase of aircraft at § 725.12(h)(2). The preamble to this section (42 FR 62673) explains that the purchase of aircraft was thought to require more advance budget planning than would be possible during the interim regulatory phase. Funding for aircraft purchase under the permanent program administrative and enforcement grants is authorized under § 735.14 of the final grant regulations.

Since promulgation of these regulations, the Office's original June 3, 1980, date for termination of the initial regulatory program was extended seven months. The revised initial regulatory program deadline is January 3, 1981.

In view of the expanded initial regulatory program and corresponding budget planning experience gained by the States since the initial program's inception, OSM no longer believes the rationale for prohibiting the use of federal funds for the purchase of aircraft during the interim program to be valid. Accordingly, 30 CFR 725.12(h)(2) is amended to allow the purchase of aircraft under the initial regulatory program where cost recovery through use charges is prohibited, made impractical or more costly than purchase by existing State laws or procedures. States requesting financial assistance for such purchases will also be required to detail fully conditions making aircraft utilization particularly suited to program implementation and information concerning the projected or, if previously employed, established effectiveness of such use, as compared with any alternative approach.

This amendment is being promulgated today without having been initially proposed since notice and public comment are deemed unnecessary. Use of grant funds for aircraft was discussed in the public comment period on the initial regulations, and with States prior to publication of the proposed regulations. Comments received at both points consistently favored allowing aircraft purchase with grant funds. The only reason cited for not allowing aircraft purchase was that there was insufficient time for the advance budget planning that would be necessary to cover such purchases. This objection is no longer valid. Consequently, the Department has determined that the limitation should be removed.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 12, 1978).

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Primary author of this document is David Halpern, State Programs Division, Office of Surface Mining.

Dated May 19, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Text of Amendment

§ 725.12 [Amended]

30 CFR 725.12(h)(2) is amended by deleting the words "excluding aircraft."

(Sec. 501 and 502, Pub. L. 95–87)

[FR Doc. 80–15890 Filed 5–20–80; 3:44 pm]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR 369

[DoD Directive 5105.2] [1]

Delegation of Authority to Deputy Secretary of Defense

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule delegates authority to the Deputy Secretary of Defense granting him full power and authority to act for the Secretary of Defense. It is being incorporated into this title in compliance with 5 U.S.C. 552(a)(1) and 1 CFR 305.76–2.

EFFECTIVE DATE: February 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. H. Becker, Office of the Deputy Assistant Secretary of Defense (Administration), O&MP, Washington, D.C. 20301. Telephone: 202–697–1143.

Accordingly, 32 CFR is being amended by adding a new Part 369, reading as follows:

PART 369—DELEGATION OF AUTHORITY TO DEPUTY SECRETARY OF DEFENSE

Sec.
369.1 Purpose.

Authority: 10 U.S.C., Section 133.

§ 369.1 Purpose.

(a) In accordance with Title 10, U.S.C., Section 133(d), I hereby reaffirm my delegation of August 24, 1979, to Deputy Secretary of Defense W. Graham Claytor, Jr., granting him full power and authority to act for the Secretary of Defense and to exercise the powers of the Secretary of Defense upon any and all matters concerning which the Secretary of Defense is authorized to act under the law.

(b) This authority may not be redelegated.

Harold Brown,

Secretary of Defense.

May 19, 1980.

[FR Doc. 80–15889 Filed 5–22–80; 8:45 am]

BILLING CODE 3810–70–M

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32 CFR 370

[DoD Directive 5136.8] [1]

DoD Health Council

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes the Department of Defense Health Council, sets forth its responsibilities, and provides a forum for consultation, discussion and advice on DoD health plans and policies. The Council will advise the Assistant Secretary of Defense (Health Affairs) on defense health matters in accordance with Part 367 of this title.

EFFECTIVE DATE: March 18, 1980.

FOR FURTHER INFORMATION CONTACT:
Lt. Col. W. D. Rasco, Office of the Assistant Secretary of Defense, (Health Affairs), The Pentagon, Washington, D.C. 20301. Telephone 202–697–9525.

Accordingly, 32 CFR is being amended by adding a new Part 370, reading as follows:

PART 370—DoD HEALTH COUNCIL

Sec.
370.1 Purpose.
370.2 Applicability.
370.3 Organization and Management.
370.4 Responsibilities.

Authority: 10 U.S.C., Section 133.

§ 370.1 Purpose.

This Part establishes the DoD Health Council. The Council complements the statutory responsibilities of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), in accordance with 32 CFR 367 by advising him on defense health matters; provides a forum for consultation, discussion, and advice on DoD health plans, policies, and related issues; and facilities coordination among the organizations represented by the Council members.

§ 370.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, and the Organization of the Joint Chiefs of Staff (OJCS). The term "Military Service" refers to the Army, Navy, Air Force, and Marine Corps.

§ 370.3 Organization and Management.

(a) The Defense Health Council is composed of the ASD(HA), who serves as the Chair, the Surgeons General from each of the Military Departments, and one representative from the OJCS and from the Uniformed Services University of the Health Sciences.

(b) The Council meets regularly at the call of the Chair.

(c) The Council is supported by an Executive Director who is selected by the ASD(HA). To assist the Executive Director, each member of the Council, other than the ASD(HA), designates an individual within its organization on a part-time basis to prepare issue items.

(d) The Executive Director of the Defense Health Council, subject to the direction of the Chair:

(1) Plans, organizes, and manages the administrative activities of the Council.

(2) Coordinates the development of reports and issues for consideration by the Council.

(3) Develops and coordinates plans and programs that are required to accomplish the Council's responsibilities.

(4) Performs other directed duties.

§ 370.4 Responsibilities.

(a) In carrying out the provisions of this Charter, the *Chair, Defense Health Council,* shall:

(1) Advise the ASD(HA) on policy changes required to improve wartime readiness and the delivery of health care.

(2) Advise the ASD(HA) on coordination with other Federal agencies to enhance health care delivery.

(3) Develop and maintain health objectives, with appropriate tasks and priorities approved by the ASD(HA), that:

(i) Increase the wartime medical readiness of the Military Departments.

(ii) Increase the productivity, efficiency, and economy of the Armed Forces health care system without unnecessary duplication of resources.

(iii) Enhance recruitment, retention, training, and use of health care professionals within the Armed Forces health care system to meet Military Service requirements.

(iv) Improve the effectiveness of the direct and indirect health care delivery system to meet the demands of the eligible beneficiary population.

(b) The *Assistant Secretary of Defense (Health Affairs)* shall report to the Secretary of Defense on any issue of importance that comes before the Council and that warrants the Secretary's consideration.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 19, 1980.

[FR Doc. 80–15868 Filed 5–22–80; 8:45 am]

BILLING CODE 3810–70

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32 CFR Part 371

[DoD Directive 5158.1] [1]

Organization of the Joint Chiefs of Staff and Relationships With the Office of the Secretary of Defense

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule sets forth policies, procedures and organizational relationships of the Organization of the Joint Chiefs of Staff, Office of the Secretary of Defense, and other offices established by the Secretary of Defense. It is being incorporated into this title in compliance with 5 U.S.C. 552(a)(1) and 1 CFR 305.76–2.

EFFECTIVE DATE: January 26, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. H. Becker, Office of the Deputy Assistant Secretary of Defense (Administration), O&MP, Washington, D.C. 20301 Telephone: 202–697–1143.

Accordingly, 32 CFR is being amended by adding a new Part 371, reading as follows:

PART 371—ORGANIZATION OF THE JOINT CHIEFS OF STAFF AND RELATIONSHIPS WITH THE OFFICE OF THE SECRETARY OF DEFENSE

Sec.
371.1 Purpose.
371.2 Responsibilities and Procedures.

Authority: 10 U.S.C., Section 133.

§ 371.1 Purpose.

(a) The Department of Defense Reorganization Act of 1958 and the President's Message to the Congress of April 3, 1958, set forth general policies, procedures, and organizational relationships required for the effective direction of the defense establishment.

(b) The President's Message singles out the accomplishment of the following objective as one of the paramount duties of the Secretary of Defense, acting with the advice and assistance of the Joint Chiefs of Staff and under the supervision of the Commander in Chief: "Strategic and tactical planning must be completely unified, combat forces organized into unified commands, each equipped with the most efficient weapons systems that science can develop, singly led and prepared to fight as one, regardless of Service."

(c) The purpose of this Part is to implement the Department of Defense Reorganization Act of 1958 and the President's Message of April 3, 1958, with respect to the Organization of the Joint Chiefs of Staff and its relationship with the major offices in the Office of the Secretary of Defense, such as the Under Secretaries of Defense, the Assistant Secretaries of Defense, the General Counsel of the Department of Defense, the Assistants to the Secretary of Defense, and the heads of other offices established by the Secretary of Defense.

(d) The functions of the Department of Defense and its major components have been set forth in DoD Directive 5100.1, "Functions of the Department of Defense and its Major Components," January 26, 1980.

§ 371.2 Responsibilities and Procedures.

(a) The duties of the Chiefs of the Military Services as members of the Joint Chiefs of Staff shall take precedence over all of their other duties. To ensure that the Chief of the Military Services have adequate time to devote to their duties as members of the Joint Chiefs of Staff, they shall delegate appropriate duties to their Vice Chiefs.

(b) The Joint Chiefs of Staff shall, in discharging their responsibilities, avail themselves of the most competent and considered thinking that represents every pertinent point of view, such as scientific, industrial, economic, as well as military.

(c) To ensure that planning and operations are of the highest order:

(1) All elements of the Organization of the Joint Chiefs of Staff shall cooperate fully and effectively with appropriate offices of the Office of Secretary of Defense. In all stages of important staff studies, the Organization of the Joint

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

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Chiefs of Staff shall avail itself of the views and special skills in the Office of the Secretary of Defense. As a normal procedure, specialized data necessary for the preparation of such studies shall be obtained from or through the appropriate offices of the Office of the Secretary of Defense.

(2) The Directors of the various Directorates of the Joint Staff shall maintain active liaison with appropriate offices of the Office of the Secretary of Defense. This shall include, but not be limited to, an exchange of information, interchange of technical advice, and guidance for mutual benefit. The heads of offices in the Office of the Secretary of Defense shall maintain similar liaison and make representatives available to meet formally or informally with appropriate members of the Organization of the Joint Chiefs of Staff.

(d) Directives and orders to the Joint Chiefs of Staff shall be issued by the Secretary or the Deputy Secretary of Defense. Requests to the Joint Chiefs of Staff or to the Chairman of the Joint Chiefs of Staff involving action by the Joint Chiefs of Staff may be issued by responsible officials of the Office of the Secretary of Defense, in accordance with authority specifically delegated by the Secretary of Defense.

(e) Development of strategic and logistic plans shall be based on the broadest concepts of overall national interests. Personnel of the Organization of the Joint Chiefs of Staff shall be selected for their competency and their ability to support such interests.

(f) The Chairman of the Joint Chiefs of Staff shall have the authority and responsibility to:

(1) Serve as a member of and preside over the Joint Chiefs of Staff.

(2) Provide the agenda for meetings of the Joint Chiefs of Staff and assist them in prosecuting their business as promptly as is practicable.

(3) Furnish the Secretary of Defense with periodic progress reports on important items of current interest that are being considered by the Joint Chiefs of Staff.

(4) Keep the Secretary of Defense informed on issues upon which agreement among the Joint Chiefs of Staff has not been reached, and forward to the Secretary of Defense the recommendations, advice, and views of the Joint Chiefs of Staff, including any divergencies.

(5) Arrange for the provision of military advice to all offices of the Office of the Secretary of Defense.

(6) Make arrangements to relieve the Joint Chiefs of Staff of matters of lesser importance.

(7) Organize the Joint Staff and the subordinate structure of the Organization of the Joint Chiefs of Staff to ensure that they are designed to accomplish efficiently the tasks to be assigned.

(8) Manage the Joint Staff and its Director on behalf of the Joint Chiefs of Staff by conducting, guiding, administering the work of the elements affected, and ensuring that the work is performed in a manner that permits the Secretary of Defense and the Joint Chiefs of Staff to discharge their total responsibilities. The Joint Staff shall perform such duties as the Joint Chiefs of Staff or the Chairman of the Joint Chiefs of Staff prescribes.

(9) Keep the Joint Chiefs of Staff informed, as appropriate, about any matter that is referred by the Chairman to the Secretary of Defense with a recommendation that the matter be assigned to a Military Department for consideration or action.

(10) Appoint consultants to the Joint Chiefs of Staff from outside the Department of Defense, subject to the approval of the Secretary of Defense and with the advice of the Joint Chiefs of Staff.

(g) The selection of the Director, Joint Staff, and of the members of the Organization of the Joint Chiefs of Staff shall be as follows:

(1) The Director, Joint Staff, shall be selected and his tenure fixed by the Chairman of the Joint Chiefs of Staff, in consultation with the Joint Chiefs of Staff and with the approval of the Secretary of Defense. The normal tenure of the Director shall be 2 years. Any extension of this tenure may not exceed 1 year, except in time of war.

(2) The members of the Organization of the Joint Chiefs of Staff shall be selected by the Joint Chiefs of Staff with the approval of the Chairman of the Joint Chiefs of Staff.

(h) The duties and manner of operation of the Operations Deputies shall be prescribed by the Joint Chiefs of Staff.

(i) In order to carry out the objectives of section 2(c) of this Part, the Director, Joint Staff, and appropriate heads of offices in the Office of the Secretary of Defense have the specific duty and authority of ensuring that there is full cooperation between their respective agencies.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 19, 1980.

[FR Doc. 80-15867 Filed 5-22-80; 8:45 am]

BILLING CODE 3810-70-M

32 CFR Part 372

[DoD Directive 5122.10] [1]

American Forces Information Service

AGENCY: Office of the Secretary of Defense

ACTION: Final rule.

SUMMARY: This rule defines the Department of Defense mission, functions, authorities, and relationships of the American Forces Information Service (AFIS); and establishes the American Forces Information Council. The AFIS' mission is to provide media materials for DoD-wide use.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. H. Becker, Office of the Deputy Assistant Secretary of Defense (Administration), O&MP, Washington D.C. 20301. Telephone: 202-697-1143.

Accordingly, 32 CFR is being amended by adding a new PART 372, reading as follows:

PART 372—AMERICAN FORCES INFORMATION SERVICE

Sec.

372.1 Purpose.
372.2 Applicability.
372.3 Mission.
372.4 Organization and Management.
372.5 Responsibilities and Functions.
372.6 Relationships.
372.7 Authority.
372.8 Administration.
Enclosure 1—Definitions.
Enclosure 2—Delegations of Authority.

Authority: 10 U.S.C. 133.

§ 372.1 Purpose.

Under the authority vested in the Secretary of Defense by Title 10, U.S.C., this Part defines the mission, functions, authorities, and relationships of the American Forces Information Service (AFIS) and establishes the American Forces Information Council (AFIC).

§ 372.2 Applicability.

This Part applies to the Office of the Secretary of Defense and its field activities, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

§ 372.3 Mission.

(a) The AFIS shall:

(1) Provide joint interest print, radio, and television materials for use in the internal information programs of the Military Departments and other DoD Components.

(2) Advise and assist the Assistant Secretary of Defense (Public Affairs) [ASD(PA)] in the management of DoD internal information programs.

(b) The AFIC shall serve as a forum for the exchange of information and advice on DoD internal information matters.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120. Attention: Code 301

§ 372.4 Organization and Management.

(a) The AFIS is established as a field activity of the Office of the Secretary of Defense under the direction, authority, and control of the ASD(PA). It shall consist of a Director and such subordinate organizational elements as are established by the Director within resources assigned by the Secretary of Defense.

(b) The AFIC is established as a policy committee reporting to the ASD(PA). It shall consist of the following:

(1) A chair, who shall be designated by the ASD(PA).

(2) A representative from each Military Department and the AFIS.

(3) An Executive Secretary, who shall be designated by the ASD(PA).

§ 372.5 Responsibilities and Functions.

(a) The *Secretaries of the Military Departments* shall:

(1) Conduct internal information activities pertaining to their Department's programs, operations, and activities.

(2) Operate information and entertainment broadcast outlets (American Forces Radio and Television (AFRT)) in designated geographic areas.

(3) Centrally manage and control all AFRT activities of their Departments.

(b) The *Assistant Secretary of Defense (Public Affairs)* shall:

(1) Develop policies and provide guidance on the Administration of DoD internal information programs.

(2) Designate geographic areas of responsibility for the operation of Military Department AFRT broadcast outlets, and exercise program and resource management control of AFRT, through the AFIS.

(3) Provide policy and operational direction to the Director, AFIS.

(c) The *Commanders of the Unified Commands* shall:

(1) Develop plans for and assume control of AFRT facilities within their geographic areas of responsibility during periods of military contingency, as required, to ensure a coordinated internal information effort.

(2) Notify the Secretaries of the Military Departments and the ASD(PA) expeditiously of military contingency occurrences, and return control to the Military Departments immediately upon termination of the contingency situation.

(3) Provide advice with respect to host country sensitivities concerning the nature and content of radio and television programs.

(d) The *Director, American Forces Information Service,* shall:

(1) Organize, direct, and manage the AFIS and all assigned resources.

(2) For print media internal information programs:

(i) Develop and oversee the implementation of policies and procedures pertaining to the management, content, and publication of periodicals, armed forces newspapers, and civilian enterprise publications, including the provisions of Parts 202 and 248 of this title.

(ii) Serve as DoD point of contact in the United States for Unified Command newspaper matters.

(iii) Serve as DoD point of contact with the Congressional Joint Committee on Printing for matters pertaining to DoD periodicals, armed forces newspapers, and civilian enterprise publications.

(iv) Develop and publish appropriate internal information material of a DoD-wide, joint-interest nature.

(3) For AFRT radio and television internal information programs:

(i) Develop and oversee the implementation of policies and procedures pertaining to the management and operation of broadcasting and mini-TV activities, including the provisions of DoD Instruction 5120.20[1], "American Forces Radio and Television (AFRT)," April 26, 1971.

(ii) Exercise fiscal and manpower resource control through the Planning, Programming, and Budgeting System. Provide guidance on, review, and approve or revise proposed resource programs, formulate budget estimates, recommend resource allocations, and monitor the implementation of approved programs.

(iii) Administer centralized management information and resource management systems, in accordance with DoD Directives 5000.19,[1] "Policies for the Management and Control of Information Requirements," March 12, 1976, and 5000.11,[1] Data Elements and Data Codes Standardization Program," December 7, 1964.

(iv) Establish guidelines for and authorize the establishment of new stations, the disestablishment of existing stations, and the configuration of broadcast networks.

(v) Develop and maintain a program for the standardization of broadcast equipment. Establish broadcast equipment technical specifications and performance standards, and certify equipment for use.

(vi) Establish manning standards for stations and overhead staffs, and qualifications standards for broadcast and technical support personnel. Review and concur or nonconcur in the selection of network commanders.

(vii) Negotiate for, acquire, and provide public service and commercial program materials, and a free flow of general and military news, sports, and current events programs.

(4) Develop and provide DoD information training requirements and guidance, and provide liaison with the Defense Information School, established under DoD Directive 5160.48,[1] Department of Defense Information Training," February 21, 1964.

(5) Perform other related internal information functions that the ASD(PA) may assign.

(e) The *Members of the American Forces Information Council* shall meet periodically to:

(1) Consider questions of policy and advise the ASD(PA) with respect to internal information programs.

(2) Exchange information among the membership.

§ 372.6 Relationships.

(a) In the performance of assigned functions, the Director, AFIS, shall:

(1) Coordinate actions with other DoD Components having collateral or related functions in the field of assigned responsibility.

(2) Maintain appropriate liaison with DoD Components and other governmental and nongovernmental agencies for the exchange of information and advice on programs in the field of assigned responsibility.

(3) Make use of established facilities and services in the Department of Defense and other governmental agencies to avoid duplication and achieve maximum efficiency and economy.

(b) Heads of DoD Components shall coordinate with the Director, AFIS, on all matters related to the mission, responsibilities, and functions of AFIS.

§ 372.7 Authority.

The Director, AFIS, is authorized to:

(a) Obtain from DoD Components consistent with the policies and criteria of DoD Directive 5000.19, information,

[1] See footnote 1, page 34882.

advice, and assistance necessary to carry out AFIS programs and activities.

(b) Communicate directly with appropriate personnel in the Military Departments and other DoD Components on matters related to AFIS programs and activities.

(c) Communicate with other government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out the functions assigned under this Directive.

(d) Exercise the administrative authorities contained in enclosure 2 of this Part.

§ 372.8 Administration.

(a) The Director, AFIS, shall be selected by the ASD(PA).

(b) The AFIS shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense considers necessary.

(c) The Military Departments shall assign military personnel to AFIS in accordance with approved authorizations and established procedures for assignment to joint duty.

(d) Administrative support for AFIS shall be provided by DoD Components through interservice support agreements in accordance with DoD Directive 4000.19,[1] "Basic Policies and Principles for Interservice, Interdepartmental and Interagency Support," March 27, 1972.

Enclosure 1.—Definitions

Acquisition. The process through which broadcast equipment, programs, materials, products, and services are obtained from public and commercial sources.

Broadcast Activities. Organizations or functions relating to the management of radio and television resources or the provision of services and products, to include equipment, facilities, personnel, supplies, accessions, maintenance, and support.

Broadcast Equipment. Items of a durable nature used for recording, producing, mixing, reproducing, broadcasting, and all items commonly used in the broadcasting and television industry for the recording, processing, distribution, reproduction, and transmission of radio and TV signals.

Broadcast Facilities. Physical plants in which broadcast activities are housed.

Broadcast Network. Multiple radio and/or television stations linked by transmission lines, microwave, coaxial cable, or satellite.

Broadcast Outlet. Any radio, television, relay station, or closed-circuit installation, authorized by Director, AFIS, in accordance with policy, to broadcast radio or television programs.

Broadcast Programs. Radio or television program materials authorized for transmission by authorized broadcast outlets.

Internal Information. All information that is intended to keep DoD military and civilian personnel, and their dependents, fully informed on matters concerning their morale and well being. This includes information disseminated through publications, periodicals, radio and television, motion picture, videotape, and related media.

Mini-TV. A self-contained videotape playback system used in remote or isolated areas not accessible to a radiated AFRT television signal.

Print Media. Printed publications issued in support of the internal information program of the Department of Defense. This includes, but is not limited to, newspapers, periodicals, newsletters, news summaries, and news bulletins.

Enclosure 2.—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DoD policies, directives, and instructions, the Director, AFIS, or, in the absence of the Director, the person acting for the Director is hereby delegated authority, as required in the administration and operation of AFIS, to:

1. Perform the following functions in accordance with the provisions of 5 U.S.C. 7532 (1976), Executive Order 10450, as amended, 3 CFR 936 (1949–1953 Compilation), reprinted as 5 U.S.C. 7311 (1976).

a. Designate any position in AFIS as a sensitive position;

b. Authorize, in case of an emergency, the appointment of a person to a sensitive position in AFIS for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Security Check, has not been completed; and

c. Authorize the suspension, but not the termination of services, of an employee in the interest of national security in positions within AFIS.

2. Authorize and approve overtime work for AFIS civilian employees, in accordance with the Federal Personnel Manual, Supplement 990–1, § 550.111 (5 CFR 550.111 (1978)).

3. Develop, establish, and maintain an active and continuing Records Management Program, pursuant to 44 U.S.C.A. 3102 (1969 and Supplement 1978).

4. Authorize the publication of advertisements, notices, or proposals in public periodicals, as required for the effective administration of AFIS, pursuant to 44 U.S.C. 3702 (1970).

5. Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of regulations, instructions, reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD Directive 5025.1 [1], "Department of Defense Directives System," November 18, 1977.

[1] See footnote, page 34882.

Dated: May 19, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 80–15886 Filed 5–22–80; 8:45 am]

BILLING CODE 3810–70–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

32A CFR Part 134

[Docket No. FEMA–PP–32A–134]

Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Defense Manpower Policy 4A (DMP–4A) (Part 134) is revised to recognize Executive Order 12073 (43 FR 36873, August 18, 1978), and to preserve the mobilization aspects of the labor surplus area program. Federal departments and agencies, in carrying out this policy, shall be guided by Executive Order 12073, as well as the policy direction of the Office of Federal Procurement Policy and implementing regulations. Because of the revision to DMP–4A, the Surplus Manpower Committee is abolished.

DATE: This regulation is effective June 23, 1980.

ADDRESSES: Comments should be addressed to: Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Henry M. Hyatt, Federal Emergency Management Agency, Washington, D.C. 20472, telephone number 202/566–1324.

SUPPLEMENTARY INFORMATION: On April 2, 1979, the Federal Preparedness Agency, the predecessor to the Federal Emergency Management Agency, issued a proposed rule (44 FR 19207) which revised DMP–4A and requested comments thereon by May 2, 1979. Two comments were received. One noted that no regulatory analysis was being performed and suggested that one be performed because a purpose of the policy was to cause an economic impact by "assisting in the maintenance of economic balance and employment stability." However, this aspect of the regulation merely repeats the existing provision and hence this rulemaking has no impact. Further, contract regulations like this are exempt from Executive Order 12044. (See 6(b)(4).) Thus, FEMA has not performed the regulatory analysis.

The other comment noted that this new policy is substantially less comprehensive than the former Defense Manpower Policy and did not cross-reference other documents. It was suggested that the final rule reincorporate the former material. However, the revision was designed to separate mobilization policy from procurement policy. The latter is quite adequately covered by Executive Order 12073 and implementing regulations of the General Services Administration and the Office of Federal Procurement Policy. The FEMA role under the revised regulation is one of mobilization oversight; while the day-to-day activities are handled by GSA and OFPP.

The functions of the Secretary of Commerce and the Administrator of Small Business which appeared in the prior regulation and which were deleted in the proposed rule have been reinstated in the rule with a role for OFPP.

The former regulation in this part is also known as Defense Manpower Policy 4A (DMP–4A). The revised regulation will also be known as DMP–4B. Accordingly, 32A CFR Part 134 (DMP–4A) is amended to be a revised Part 134 (DMP–4B) as follows:

PART 134—PRESERVATION OF THE MOBILIZATION BASE THROUGH THE PLACEMENT OF PROCUREMENT AND FACILITIES IN LABOR SURPLUS AREAS

Sec.
134.1 Purpose.
134.2 Policy.
134.3 Scope and Applicability.
134.4 Special Consideration
134.5 Production Facilities.

Authority: Reorganization Plan No. 3 of 1978, Executive Order 10480, as amended, Executive Order 12148.

§ 134.1 Purpose.

Success of the national defense program depends upon efficient use of all of our resources, including the labor force and production facilities, which are preserved through utilizing the skills of both management and labor. A primary aim of Federal manpower policy is to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers, thus assisting in the maintenance of economic balance and employment stability. When large numbers of new workers move to labor surplus areas, heavy burdens are placed on community facilities, such as schools, hospitals, housing, transportation, and utilities. On the other hand, when unemployment develops in certain areas, unemployment costs increase the total cost to the Government, and plants, tools, and workers' skills remain idle and unable to contribute to our national defense program. Consequently, it is the purpose of Defense Manpower Policy No. 4B to direct attention to the potential of labor surplus areas when awarding appropriate procurement contracts and when locating new plants or facilities.

§ 134.2 Policy.

(a) It is the policy of the Federal Government to award appropriate contracts to eligible labor surplus area concerns, to place production facilities in labor surplus areas, and to make the best use of our natural, industrial and labor resources in order to achieve the following objectives:

(1) To preserve management and employee skills necessary to the fulfillment of Government contracts and purchases;

(2) To maintain productive facilities;

(3) To improve utilization of the Nation's total economic potential by making use of the labor force resources of each area; and

(4) To help ensure timely delivery of required goods and services and to promote readiness for mobilization by locating procurement where the needed labor force and facilities are fully available.

(b) This policy is consonant with the intent of Public Law 95–89 and Public Law 95–507 as implemented by EO 12073. In carrying out this policy, Federal departments and agencies shall be guided by Executive Order 12073, the policy direction of the Office of Federal Procurement Policy and implementing regulations.

§ 134.3 Scope and applicability.

The provisions of this policy apply to all Federal departments and agencies, except as otherwise prohibited by law. In addition to these normal duties:

(a) The Secretary of Commerce shall:

(1) In cooperation with State economic development agencies, the Secretary of Defense, the Administrator of General Services, and the Administrator of Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by providing such concerns with timely information on proposed Government procurements.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planning industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(b) The Administrator of the Small Business Administration shall make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set-asides with Government procurement agencies.

(c) OFPP shall coordinate the maintenance by Federal agencies of current information on the manufacturing capabilities of labor surplus area concerns with respect to Government procurement and disseminate such information to Federal departments and agencies.

§ 134.4 Special consideration

When an entire industry that sells a significant proportion of its production to the Government is generally depressed or has a significant proportion of its production, manufacturing and service facilities located in a labor surplus area, the Director, Federal Emergency Management Agency, or successor in function, after notice to and hearing of interested parties, will give consideration to appropriate measures applicable to the entire industry.

§ 134.5 Production facilities.

All Federal departments and agencies shall give consideration to labor surplus areas in the selection of sites for Government-financed production facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors.

Dated: May 16, 1980.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 80–15905 Filed 5–22–80; 8:45 am]

BILLING CODE 6718–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 67

Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976

AGENCY: National Park Service.

V 45 M Y 23 80 UMI

ACTION: Redesignation of Part 67, Title 36, Chapter I to Part 1208, Title 36, Chapter XII.

SUMMARY: Since the Heritage Conservation and Recreation Service was established on January 25, 1978, regulations currently published in Title 36, Chapter I which pertain to the programs of the Service must be transferred to Title 36, Chapter XII. So that the Service's regulations are consolidated under one Title and Chapter, this document redesignates 36 CFR Chapter I, Part 67 to 36 CFR Chapter XII, Part 1208.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT:
Ms. Carol D. Shull, Acting Keeper of the National Register, Heritage Conservation and Recreation Service, United States Department of the Interior, Washington, D.C. 20243 (202) 343–6401.

SUPPLEMENTARY INFORMATION:

PART 67—[REDESIGNATED AS PART 1208, CHAPTER XII]

This document transfers and redesignates 36 CFR, Chapter I, Part 67 to 36 CFR, Chapter XII, Part 1208. Therefore, Part 67 is deleted from Chapter I, Title 36. Elsewhere in this **Federal Register**, proposed regulations are published to amend 36 CFR, Chapter XII, Part 1208.

Dated: May 16, 1980.

Robert L. Herbst,

Assistant Secretary of the Interior.

[FR Doc. 80–15784 Filed 5–22–80; 8:45 am]

BILLING CODE 4310–03–M

Heritage Conservation and Recreation Service

36 CFR Part 1201

Criteria for Comprehensive Statewide Historic Surveys and Plans

Correction

In FR Doc. 80–14401, appearing at page 30623 in the issue of Friday, May 9, 1980, the signature on page 30624 should have read, "Bob Herbst".

BILLING CODE 1505–01–M

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36 CFR Part 1208

Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976

AGENCY: Heritage Conservation and Recreation Service.

ACTION: Redesignation of regulations.

SUMMARY: Since the Heritage Conservation and Recreation Service was established on January 25, 1978, regulations currently published in Title 36, Chapter I, which pertain to the programs of the Service must be transferred to Title 36, Chapter XII. So that the Service's regulations are consolidated under one Title and Chapter, this document adopts the transfer of 36 CFR, Chapter I, Part 67.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT:
Ms. Carol D. Shull, Acting Keeper of the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (202) 343–6401.

SUPPLEMENTARY INFORMATION: This document adopts the transfer of 36 CFR, Chapter I, Part 67 to 36 CFR, Chapter XII, Part 1208. Elsewhere in this **Federal Register**, proposed regulations are published to amend 36 CFR, Chapter XII, Part 1208.

Dated: May 16, 1980.

Robert L. Herbst,

Assistant Secretary of the Interior.

[FR Doc. 80–15786 Filed 5–22–80; 8:45 am]

BILLING CODE 4310–03–M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Effective Date of Awards

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The Veterans Administration has amended its regulations governing the effective date of an award of additional compensation, dependency and indemnity compensation, or pension by reason of need for aid and attendance or housebound status. The need for this action was brought to our attention by several of our field stations who pointed out that the regulations did not provide specific rules for the effective dates of these benefits. This action corrects that situation.

EFFECTIVE DATE: May 13, 1980.

FOR FURTHER INFORMATION CONTACT:
T. H. Spindle, Jr. (202–389–3005).

SUPPLEMENTARY INFORMATION: On pages 9297–98 of the **Federal Register** of February 12, 1980, the Veterans Administration published proposed amendments to §§ 3.401, 3.402 and 3.404 of Title 38, Code of Federal Regulations. We gave the public until March 13, 1980, to submit comments, suggestions, or objections to the proposed amendments. We received one letter of comment.

The commentator made two suggestions. Neither suggestion, however, was directly related to our proposed amendments. Consequently, the proposed amendments of §§ 3.401, 3.402 and 3.404 are adopted as proposed.

Approved: May 13, 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

§ 3.400 [Amended]

1. Section 3.400 is amended by deleting the words "widow (widower)" and inserting the words "surviving spouse" in the headnote of paragraph (v).

2. Section 3.401 is amended as follows:

(a) By deleting "§ 3.3(b)" and inserting "§ 3.3(a)" in paragraph (f).

(b) By revising paragraph (a) as follows:

§ 3.401 Veterans.

Awards of pension or compensation payable to or for a veteran will be effective as follows:

(a) *Aid and attendance and housebound benefits.* (1) Except as provided in § 3.400(o)(2), the date of receipt of claim or date entitlement arose, whichever is later. However, when an award of pension or compensation based on an original or reopened claim is effective for a period prior to the date of receipt of the claim, any additional pension or compensation payable by reason of need for aid and attendance or housebound status shall also be awarded for any part of the award's retroactive period for which entitlement to the additional benefit is established. (38 U.S.C. 210(c); 3010(b)(1), (3))

(2) Date of departure from hospital, institution, or domiciliary. (38 U.S.C. 210(c))

(3) Spouse, additional compensation for aid and attendance: Date of receipt of claim or date entitlement arose, whichever is later. However, when an award of disability compensation based on an original or reopened claim is effective for a period prior to date of receipt of the claim additional disability compensation payable to a veteran by reason of the veteran's spouse's need for aid and attendance shall also be awarded for any part of the award's retroactive period for which the spouse's entitlement to aid and attendance is established. (38 U.S.C. 210(c); 3010(b)(1), (2))

* * * * *

3. Section 3.402 is revised to read as follows:

§ 3.402 Surviving spouse.

Awards of pension, compensation, or dependency and indemnity compensation to or for a surviving spouse will be effective as follows:

(a) *Additional allowance of dependency and indemnity compensation for children § 3.5(e).* Commencing date of surviving spouse's award. See § 3.400(c).

(b) *Legal surviving spouse entitled.* See § 3.657.

(c) *Aid and attendance and housebound benefits.* (1) Date of receipt of claim or date entitlement arose whichever is later. However, when an award of DIC (dependency and indemnity compensation) or pension based on an original or reopened claim is effective for a period prior to date of receipt of the claim, any additional DIC or pension payable to the surviving spouse by reason of need for aid and attendance or housebound status shall also be awarded for any part of the award's retroactive period for which entitlement to the additional benefit is established. (38 U.S.C. 210(c); 3010(d))

(2) Date of departure from hospital, institutional or domiciliary care at Veterans Administration expense. This is applicable only to aid and attendance benefits. Housebound benefits may be awarded during hospitalization at Veterans Administration expense. (38 U.S.C. 210(c))

§ 3.403 [Amended]

4. Section 3.403 is amended by deleting the words "widow (widower)" and inserting the words "surviving spouse" in the introductory portion preceding paragraph (a).

5. Section 3.404 is revised to read as follows:

§ 3.404 Parents.

Awards of additional amounts of compensation and dependency and indemnity compensation based on a parent's need for aid and attendance will be effective the date of receipt of claim or date entitlement arose, whichever is later. However, when an award of dependency and indemnity compensation based on an original or reopened claim is effective for a period prior to date of receipt of claim, any additional dependency and indemnity compensation payable by reason of need for aid and attendance may also be awarded for any part of the award's retroactive period for which entitlement to aid and attendance is established. When the parent is provided hospital, institutional or domiciliary care at Veterans Administration expense, the effective date will be the date of departure therefrom. (38 U.S.C. 210(c); 3010(d))

[FR Doc. 80–15904 Filed 5–22–80; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

[Circular No. 2464]

Amendment and Correction of Regulations Relating to Management of Oil and Natural Gas Pipelines and Related Facilities on Federal Lands and Reimbursement of Costs

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Rulemaking.

SUMMARY: This final rulemaking makes a procedural change in the regulations on Management of Oil and Natural Gas Pipelines and Facilities on Federal Lands and Reimbursement of Costs to allow an application for a right-of-way grant to be filed in the District Office in addition to the State Office of the Bureau of Land Management. This amendment should simplify filing procedure for applicants. This rulemaking also contains two corrections to the regulations.

EFFECTIVE DATE: June 23, 1980.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (330), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Orval L. Hadley (202) 343–5537.

SUPPLEMENTARY INFORMATION: After the publication of the final rulemaking on Management of Oil and Natural Gas Pipelines and Related Facilities on Federal Lands and Reimbursement of Costs, it was determined that the rulemaking should be amended to allow applications for right-of-way grants for oil and natural gas pipelines to be filed in either the appropriate District or Area Office or the State Office of the Bureau of Land Management. This amendment was necessary because of a recent change in the designated official who may issue a grant. There was concern that there would be delays in the issuance of right-of-way grants for some oil and gas pipelines because of Bureau of Land Management requirements for issuance of right-of-way grants. It was thought this would delay the production of oil and natural gas. In an effort to prevent procedural delays, the Bureau of Land Management issued instructions to its field organization to ensure that the issuance of right-of-way grants for oil and gas pipelines would move smoothly, efficiently and quickly.

This amendment goes hand-in-hand with an amended Bureau of Land Management Order No. 701, Redelegation of Authority, which allows the State Directors to redelegate their authority to grant rights-of-way to District Managers and Area Managers.

In addition, two corrections were needed in the final rulemaking as it appeared in the **Federal Register** on October 9, 1979. This document includes those corrections to section 2882.2–3(a) and section 2882.2–4(e).

This rulemaking is being published as a final rulemaking, without being considered in proposed form, because it is a procedural change that lessens the impact of the regulation on the public. The existing regulations authorize the filing of applications for a right-of-way grant at State Offices of the Bureau of Land Management. This amendment will increase the locations where such applications can be filed by authorizing their filing at District and Area Offices of the Bureau of Land Management. It does not increase the burden on the public in any way.

The principal authors of this final rulemaking are Orval L. Hadley, Division of Rights-of-Way and Project Review and Robert C. Bruce, Office of Legislation and Regulatory Management, both of the Bureau of Land Management.

It is hereby determined that publication of this final ruelmaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National and Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Part 2880, Group 2800, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations, is amended and corrected as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

May 20, 1980.

1. Section 2882.2–2(a) is amended by deleting "any State Office" and inserting in lieu thereof "the nearest Bureau of Land Management Office".

V 45 M Y 23 80 UMI

2. Section 2882.2–2(b) is amended by striking the period at the end of the first sentence and adding the following:

"or at the nearest Bureau of Land Management Office that has jurisdiction over a portion of the Federal lands involved."

3. Section 2882.2–3(a) is corrected by deleting "§ 2882.22–1" and inserting in lieu thereof "§ 2882.2–1".

4. Section 2882.2–4(e) is corrected by deleting "§ 2882.3–3" and inserting in lieu thereof "§ 2882.2–4(f)".

[FR Doc. 80–75915 Filed 5–22–80 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79–53; RM–3250; RM–3368]

FM Broadcast Stations in Stuttgart and West Helena, Ark.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 288A to Stuttgart, Arkansas, and Channel 285A to West Helena, Arkansas, as first FM assignments to those communities. The assignments would provide for a first local aural broadcast service to Stuttgart and West Helena.

EFFECTIVE DATE: June 26, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Molly Pauker, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Stuttgart and West Helena, Arkansas), BC Docket No. 79–53, RM–3250, RM–3368.

Report and Order—Proceeding Terminated

Adopted: May 9, 1980.

Released: May 15, 1980.

1. By *Notice of Proposed Rule Making*, March 30, 1979, 44 FR 18997, the Commission proposed to amend § 73.202(b) of its rules, the FM Table of Assignments, by assigning Channel 288A to West Helena, Arkansas. The *Notice* was issued in response to a petition from West Helena Radio, Inc. ("WHR"). A counterproposal was filed by Dr. John D. Miller ("Miller"), seeking assignment of Channel 288A to Stuttgart, Arkansas, approximately 83 kilometers (52 miles) from West Helena.[1] The parties have each filed reply comments, "further comments," and "supplemental comments," opposing each other's proposals. Coastal Communications, Ltd. ("Coastal"), licensee of Station KMJX(FM)[2] (Channel 286), Conway, Arkansas, filed comments relating to its proposed site change, which could be affected by the assignment of Channel 288A to Stuttgart.

2. West Helena, Arkansas (pop. 11,007),[3] located in Phillips County (pop. 40,046), is located approximately 72 kilometers (45 miles) southwest of Memphis, Tennessee. Daytime-only AM Station KCRI[4] is currently licensed to West Helena. However, the licensee, Twin Cities Broadcasting Company ("Twin Cities"), has applied for a waiver of § 73.30(a) of the Commission's rules, so that it might relocate its main studio in Helena, 11 kilometers (7 miles) from West Helena. West Helena receives some service from Helena Stations KFFA(AM) (fulltime) and KCRI(FM) (Channel 276A), licensed to Twin Cities. Channel 288A could be assigned to West Helena in compliance with the minimum distance separation requirements, provided that the transmitter site is located approximately 5 kilometers (3 miles) west of the community. WHR has affirmed its intent to apply for the channel, if assigned tc West Helena.

3. Stuttgart (pop. 10,477), is located in Arkansas County (pop. 23,347), 63 kilometers (40 miles) east of Little Rock, Arkansas. Miller states that Stuttgart is primarily agricultural, with major crops of rice, cotton, soy beans, corn and small grains. Stuttgart has no present local FM service, but is currently served by fulltime AM Station KWAK. Channel 288A could be assigned to Stuttgart in compliance with the minimum distance separation requirements, provided that the transmitter site is located at least 5 kilometers (3 miles) east of the community.[5] Miller has affirmed his intent to apply for Channel 288A, if assigned to Stuttgart.

4. WHR and Miller, through various rounds of comments and replies, have thoroughly aired the issues relating to the mutually exclusive requests for the assignment of Channel 288A to their respective communities. WHR, opposing the assignment to Stuttgart in reply comments, suggests an alternative, Channel 269A, for assignment to Stuttgart. Miller, in response to WHR's reply comments, states that Channel 269A could not be used at Stuttgart because the requisite site limitation, 10 kilometers (6 miles) northwest of the community, would place the transmitter in low-lying, swampy terrain, within the approach path of the Stuttgart airport and where sufficient electric power may not be available. WHR disputes these claims in "further comments." In "supplemental comments," however, Miller states affirmatively that he will not apply for Channel 269A, if it is assigned to Stuttgart, for the reasons discussed above. In addition, Miller argues that eventual construction of a station north of Fordyce, where Channel 269A has also been assigned, would further reduce the site area available for Channel 269A at Stuttgart. WHR, replying to Miller's supplemental comments, submitted engineering data to substantiate its claim that at least a portion of the Channel 269A site area could support a transmitter tower and studio. WHR's contentions to the contrary notwithstanding, we would be constrained from assigning Channel 269A to Stuttgart, since Miller has indicated that he is not interested in applying for it.

5. Both Miller and WHR submitted Roanoke Rapids[6] data. Although this is ordinarily not required in cases where a first FM assignment of a Class A channel is sought, it may be used as a comparative factor in deciding between two mutually incompatible assignments. Miller's engineering data indicates that assignment of Channel 288A to Stuttgart would provide 5,138 persons in an area of 825 square kilometers (321 square miles) with a first nighttime aural service and 5,145 persons in an area of 423 square kilometers (164 square miles) with second nighttime aural service.[7] WHR submitted data purporting to show that assignment of Channel 288A to West Helena would provide first nighttime service to 4,697 persons in a 252 square kilometer (98 square miles) area and second nighttime service to 16,423 persons in a 915 square kilometer (357 square miles) area.

6. Coastal's comment points out that its proposed site change is not incompatible with the assignment of Channel 288A to Stuttgart, as Miller suggests in his supplemental comments. Coastal contends that a site limitation 2 kilometers (1 mile) east of that originally proposed by Miller would solve the short-spacing problem created by relocation of Station KMJX. Additionally, Coastal submitted engineering data to confirm that this site limitation would not significantly reduce Miller's ability to provide the requisite coverage to Stuttgart. Alternatively, Coastal suggests a waiver of the separation requirements in this case, to permit the slight short-spacing between Conway and Stuttgart. However, we do not believe waiver to be appropriate or necessary here, since we are assured that there are non-short-spaced sites available for Channel 288A at Stuttgart, even in the event of a relocation of the site for Station KMJX.

7. Although WHR and Miller have actively pursued the assignment of Channel 288A to each proposed community throughout the pleadings, staff study indicates that Channel 285A is available for assignment to West Helena, with approximately the same site restriction as assignment of Channel 288A would have required. This leaves Channel 288A available for assignment to Stuttgart, and neither community need be deprived of a first FM service. We believe that this result would best serve the public interest, and, consequently, we shall assign Channel 288A to Stuttgart, with a site limitation of 7 kilometers (4.5 miles) east-southeast of the community, and Channel 285A to West Helena, with a site limitation of 5 kilometers (3 miles) southwest of the community.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective June 26, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the communities listed below as follows:

City	Channel No.
Stuttgart, Ark.	288A
West Helena, Ark.	285A

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Molly Pauker, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–15815 Filed 5–22–80; 8:45 am]

BILLING CODE 6712–01–M

[1] The required spacing between co-channel Class A stations is 104 kilometers (65 miles).

[2] Former call letters KKLF.

[3] Population figures are taken from the 1970 U.S. Census.

[4] Former call letters WKDL.

[5] This limitation would be imposed by the granting of the application of Coastal to relocate the transmitter site of Station KMJX, Conway, Arkansas.

[6] 9 F.C.C. 2d 672 (1967).

[7] WHR disputed these figures on the grounds that Miller overlooked the proposed modification of Station KOTN(FM), Pine Bluff, Arkansas, which would reduce them to 1,479 persons in a 350 square kilometer (135 square miles) area for first nighttime service and 4,156 persons in a 450 square kilometer (175 square miles) for second nighttime service. However, the assignment of Channel 224A to Conway, Arkansas, effectively prevented the modification of Station KOTN at the proposed site, so that Miller's figures remain operative. See *Mayflower, Conway, and Jacksonville, Arkansas*, BC Docket No. 78–220, 44 FR 74836, released December 18, 1979.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Halibut; Final Regulations

50 CFR Part 301

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of final regulations.

SUMMARY: The Assistant Administrator for Fisheries, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery for 1980.

The purpose of this regulation is to achieve conservation measures, and protective measure where necessary, to help rebuild and sustain at an adequate level the halibut stocks of the northern Pacific Ocean and the Bering Sea.

EFFECTIVE DATE: May 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, (907) 586–7221, or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, Washington, 98105, (206) 634–1838.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC), pursuant to the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on March 2, 1953, as amended by a Protocol Amending the Convention, signed at Washington on March 29, 1979, has promulgated regulations governing the Pacific Halibut Fishery for 1980. The regulations have been approved by the Secretary of State of the United States of America and by the Governor-General of Canada, by Order-in-Council. On behalf of the International Commission, the regulations are now published in order to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements established therein. The regulations are very similar to those which have been in effect in previous years under the Convention.

Signed this 20th day of May, 1980 at Washington, D.C.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR Part 301 is revised to read as follows:

PART 301—PACIFIC HALIBUT FISHERIES

Sec.
301.1 Regulatory areas.
301.2 Commercial fishing for halibut.
301.3 Fishing seasons.
301.4 Closed periods.
301.5 Closed area.
301.6 Catch limits.
301.7 Size limits.
301.8 Licensing of vessels.
301.9 Requirements for halibut processors.
301.10 Fishing gear.
301.11 Retention of tagged halibut.
301.12 Supervision of unloading and weighing.
301.13 Sport fishing for halibut.
301.14 Previous regulations superseded.

Authority: 5 UST 5; TIAS 2900 16 USC 772–772j.

§ 301.1 Regulatory Areas

(a) "Convention waters" means the waters off the west coasts of the United States and Canada, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each Party exercises exclusive fisheries jurisdiction as of March 29, 1979. For purposes of this Convention, the "maritime area" in which a Party exercise exclusive fisheries jurisdiction includes without distinction areas within and seaward of the territorial sea or internal waters of that Party. All bearings are magnetic unless otherwise stated, and all positions are determined by the most recent charts issued by the United States Coast and Geodetic Survey or National Ocean Survey.

(b) Area 2 includes all waters east of a line running northwest one-quarter west (312°) from Cape Spencer Light (latitude 58° 11′ 57″ N., longitude 136° 38′ 18″ W.), and south and east of a line running south one-quarter east (177°) from said light.

(c) Area 3 includes all waters north and west of Area 2 that are east of the meridian of 170° W., excluding the Bering Sea.

(d) Area 4 includes all waters in the Bering Sea and all waters in the Gulf of Alaska west of the meridian of 170° W.

(e) The boundary between Area 3 and Area 4 is from Cape Kabuch Light (latitude 54° 49′ 00″ N., longitude 163° 21′ 36″ W.) to Cape Sarichef Light (latitude 54° 36′ 00″ N., longitude 164° 55′ 42″ W.); then to point in Pumicestone Bay on Unalaska Island (latitude 53° 31′ 45″ N., longitude 166° 58′ 15″ W.); then to Anangula (Ananiuliak) Island Light (latitude 52° 59′ 48″ N., longitude 168° 55′ 06″ W.); then to the point of intersection with the meridian of 170° W. on Chuginadak Island (latitude 52° 49′ 42″ N., longitude 170° 00′ 00″ W.); then true south.

§ 301.2 Commercial fishing for halibut.

The regulations and requirements in Sections 301.3 to 301.12 of these regulations pertain only to commercial fishing. The regulations for sport fishing are listed in Section 301.13.

§ 301.3 Fishing seasons.

(a) In Area 2 the fishing season shall be divided into four periods providing that the catch limit specified in Section 301.6 of these regulations is not taken earlier. The first period, in the maritime area in which the United States exercise exclusive fisheries jurisdiction, shall begin on May 20 and terminate on May 30, and in the maritime area in which Canada exercises exclusive fisheries jurisdiction, shall begin on May 20 and terminate on June 3. All subsequent fishing periods are identical for United States and Canadian waters and are as follows. The second period shall begin on July 15 and terminate on July 29. The third period shall begin on August 12 and terminate on August 26. The fourth period shall begin on September 9 and terminate on September 23. Each fishing period shall begin at 1500 hours and terminate at 0600 hours on the designated dates.

(b) In Area 3, the fishing season shall be divided into four periods providing that the catch limit specified in Section 301.6 of these regulations is not taken earlier. The first period shall begin on May 19 and terminate on June 4. The second period shall begin on July 15 and terminate on July 31. The third period shall begin on August 12 and terminate on August 26. The fourth period shall begin on September 9 and terminate on September 23. Each fishing period shall begin at 1500 hours and terminate at 0600 hours on the designated dates.

(c) In Area 4 the fishing season shall be divided into two periods provided that the catch limit specified in Section 301.6 of these regulations is not taken earlier. The first period shall begin on April 10 and terminate on April 30. The second period shall begin 20 days after the last closure of Area 3 as provided in Section 301.3(b) and terminate on November 15. Each fishing period shall begin at 1500 hours and terminate at 0600 hours on the designated dates.

(d) All hours of opening and closing shall be Pacific Standard Time.

§ 301.4 Closed periods.

(a) All waters shall be closed to commercial halibut fishing except as provided in Section 301.3 of these regulations, and the retention and landing of any halibut caught during any closed period is prohibited.

(b) Except as provided in Section 301.10(c), these regulations shall not prohibit fishing for species of fish other than halibut during the closed periods, provided that it shall be unlawful for a vessel to have halibut aboard, or for any person to have halibut in his possession while so engaged. Nor shall these regulations prohibit the International Pacific Halibut Commission, hereinafter referred to as "the Commission", from conducting or authorizing fishing operations for research purposes.

§ 301.5 Closed area.

All waters in the Bering Sea (Area 4) that are east of a line from Cape Sarichef Light to a point northeast of St. Paul Island (latitude 57° 15′ 00″ N., longitude 170° 00′ 00″ W.); and south of a line from the latter point to Cape Newenham (latitude 58° 39′ 00″ N., longitude 162° 10′ 25″ W.) are closed to halibut fishing and no person shall fish for halibut therein, or shall have halibut in his possession therein except in the course of a continuous transit across the area.

§ 301.6 Catch limits.

(a) The total allowable catch of halibut to be taken in Area 2 during the halibut fishing periods shall be limited to 9,300,000 pounds (4,218 metric tons). It shall be divided as follows: 3,200,000 pounds (1,452 metric tons) of the total allowable catch may be caught in the maritime area in which the United States exercises exclusive fisheries jurisdiction, and 6,100,000 pounds (2,767 metric tons) in the maritime area in which Canada exercises exclusive fisheries jurisdiction.

(b) The total allowable catch of halibut to be taken in Area 3 during the halibut fishing periods shall be limited to 10,000,000 pounds (4,536 metric tons).

(c) The total allowable catch of halibut to be taken in Area 4 during the halibut fishing periods shall be limited to 1,000,000 pounds (454 metric tons).

(d) The Commission will determine and announce the dates on which the catch limits will be attained in each area. Fishing for halibut in the area will be prohibited after that date.

§ 301.7 Size limits.

(a) No person, firm or corporation shall take or have in possession any halibut that with head on is less than 32 inches (81.3 centimeters) as measured in a straight line, passing over the pectoral fin, from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. If the head has been removed, a size limit of not less than 24 inches (61.0 centimeters) as measured from the base of the pectoral fin, at its most anterior point, to the extreme end of the middle of the tail shall apply (see illustration on back page).

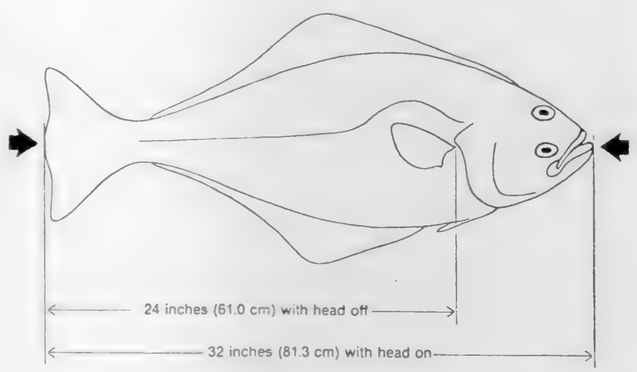

Minimum commercial size.

(b) It is unlawful for any person while on a fishing vessel and engaged in commercial fishing to mutilate or otherwise disfigure a halibut in any manner which prevents determining the minimum sized set forth under paragraph (a) of this section.

§ 301.8 Licensing of vessels.

(a) All vessels 5 net tons or over that fish for halibut with setline gear must be licensed by the Commission. Vessels of less than 5 net tons or vessels which use hook and line gear other than setlines do not need a Commission license. The Commission's license requirements do not obviate licensing requirements of State or Federal Governments.

(b) The halibut license must be carried on the vessel at all times and shall be subject to inspection by customs and fishery officers of the Governments of Canada or the United States, hereinafter referred to as "the Governments" or by representatives of the Commission.

(c) The halibut license shall be issued without fee by customs or fishery officers of the Governments or by representatives of the Commission. Halibut licenses need not be renewed except that a new license is required for a vessel that is sold, transferred, renamed or redocumented.

(d) The captain or operator of any vessel licensed under these regulations that shall fish for halibut in Area 4 shall notify the Commission representative at Sand Point, Alaska, or the Commission headquarters in Seattle, Washington, by telephone at least 48 hours before entering the area and at least 48 hours before halibut taken in the area are unloaded at any port outside the area.

(e) A halibut license shall not be valid for halibut fishing nor for possession of halibut in any area closed to halibut fishing except while in transit to an area open to halibut fishing, or to or within a port of sale. The license shall be invalid for the possession of halibut if the licensed vessel if fishing or attempting to fish for any species of fish in any area closed to halibut fishing.

(f) Any vessel which is not required to be licensed for halibut fishing under paragraph (a) of this section of these regulations shall not possess any halibut of any origin in any area closed to halibut fishing except while in actual transit to or within a port of sale.

(g) No person on any vessel required to be licensed under Section 8 shall fish for halibut or have halibut in his possession, unless said vessel has a valid license issued in conformity with the provisions of this section.

(h) The captain or operator of any vessel holding a license under these regulations shall keep an accurate log of all fishing operations including date, locality, amount of gear used, and amount of halibut taken daily in each such locality. This log record shall be retained for a period of two years and shall be open to inspection by authorized representatives of the Commission.

(i) The captain, operator or any other person engaged on shares in the operation of any vessel licensed under these regulations may be required by the Commission or by any officer of the Governments to certify to the correctness of such log record to the best of his information and belief and to support the certificate by a sworn statement.

§ 301.9 Requirements for halibut processors.

(a) All persons, firms or corporations that buy halibut or receive halibut from fishing or transporting vessels or other carrier shall keep records of each purchase or receipt of halibut, showing date, locality (statistical area), name of vessel, person, firm or corporation purchased or received from and the amount in pounds according to trade categories of the halibut.

(b) These records shall be retained for a period of two years and shall be open to inspection by officers of the Governments or by any authorized representative of the Commission. Such persons, firms or corporations may be required to certify to the correctness of such records and to support the certificate by a sworn statement.

(c) The possession of halibut known to have been taken in contravention of these regulations is prohibited.

§ 301.10 Fishing gear.

(a) Halibut are to be taken only with hook and line gear. The retention or possession of halibut taken with any other gear, such as nets or pots, is prohibited.

(b) The retention or possession of halibut is prohibited when any commercial fishing gear other than hook and line gear or nets used solely for the capture of bait are on board.

(c) No person or vessel that has deployed any longline fishing gear in any area of convention waters during the 72 hours immediately preceding the opening of any applicable halibut fishing period shall catch, retain, or possess halibut in convention waters prior to the opening of the succeeding halibut fishing period.

§ 301.11 Retention of tagged halibut.

Nothing contained in these regulations shall prohibit any vessel at any time from retaining and landing a halibut which bears a Commission tag at the time of capture, provided that the halibut with the tag still attached is reported at the time of landing and made available for examination by representatives of the Commission or by officers of the State, Provincial or Federal Governments.

§ 301.12 Supervision of unloading and weighing.

The unloading and weighing of halibut may be subject to the supervision of customs or other authorized officers to assure the fulfillment of the provisions of these regulations.

§ 301.13 Sport fishing for halibut.

(a) Sport fishing is permitted from March 1 to October 31, and may be conducted with a hook attached to handline or rod, or by spear. Not more than two halibut of any size per person per day shall be caught, possessed or landed from a vessel that is engaged in sport fishing. After two halibut have been taken by any person, those halibut shall be landed before that person takes more halibut on any succeeding day.

(b) No sport-caught halibut shall be possessed aboard a vessel when the fish or shellfish aboard said vessel are destined for commercial use (sale, trade or barter).

§ 301.14 Previous regulations superseded.

These regulations shall supersede all previous regulations of the Commission. These regulations shall be effective each succeeding year, until superseded.

Michael Hunter, *Chairman,*
Robert W. Schoening, *Vice Chairman,*
Neils M. Evens
Willian S. Gilbert
John A. O'Connor
Peter C. Wallin

Approved by: The Governor-General of Canada, by Order-In-Council, The Secretary of State of the United States of America.

[FR Doc 80-15782 Filed 5-22-80; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

Hunting and Sport Fishing; National Wildlife Refuges in Montana and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting and sport fishing of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting and sport fishing will be permitted on portions of certain National Wildlife Refuges in Montana and Wyoming.

DATES: June 1, 1980, through May 31, 1981.

FOR FURTHER INFORMATION CONTACT: The Area Manager, or appropriate Refuge Manager, at the address or telephone number listed below:

Wally Steucke, Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 North 26th Street, Billings, Montana 59101. Telephone: (406) 657–6115.

Robert Pearson, Refuge Manager, Benton Lake National Wildlife Refuge, P.O. Box 450, Black Eagle, Montana 59414. Telephone: (406) 727–7400.

Eugene Sipe, Refuge Manager, Bowdoin National Wildlife Refuge, P.O. Box J, Malta, Montana 59538. Telephone: (406) 654–2863.

Ralph Fries, Refuge Manager, Charles M. Russell, UL Bend, and Lake Mason National Wildlife Refuges, P.O. Box 110, Lewistown, Montana 59457. Telephone: (406) 538–8707.

Robert Twist, Refuge Manager, Lee Metcalf National Wildlife Refuge, P.O. Box 257, Stevensville, Montana 59870. Telephone: (406) 777–5552.

Robert C. Brown, Refuge Manager, National Bison Range, Moiese, Montana 59824. Telephone: (406) 644–2354.

Eugene D. Stroops, Refuge Manager, Red Rock Lakes National Wildlife Refuge, Monida Star Route, Box 15, Lima, Montana 59739. Telephone: (406) 276–3347.

Jay Bellinger, Refuge Manager, Medicine Lake National Wildlife Refuge, Medicine Lake, Montana 59247. Telephone: (406) 789–2305.

John E. Wilbrecht, Refuge Manager, National Elk Refuge, Box C, Jackson, Wyoming 83001. Telephone: (307) 733–9212.

SUPPLEMENTARY INFORMATION: *General:* Hunting and sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal seasons and regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting and sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (1) That any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) That funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational uses authorized by these regulations will not interfere with the primary purposes for which the following National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sections 32.12, 32.22 and 32.32 are amended by adding the following:

§ 32.12 Special Regulations: Hunting of migratory game birds for individual wildlife refuge areas.

Montana

Benton Lake National Wildlife Refuge

Hunting of geese, ducks, coot and mergansers is permitted on approximately 4,100 acres of the Benton Lake National Wildlife Refuge, Black Eagle, Montana.

The following special regulations apply:

1. The refuge will be open to hunting from one-half hour before sunrise to 12:00 noon on the first two days of the general waterfowl season only. Thereafter, hunting hours will be from one-half hour before sunrise to sunset each day.

2. Refuge roads and dikes are closed to hunting. Hunters with retrievers or boats may hunt from the specifically posted 5/6 dike area.

3. Access to and from refuge hunting areas will be on designated roadways only. (This prohibits access from the refuge onto adjacent private lands.)

4. Vehicle travel will be restricted to designated roadways and parking will be restricted to designated parking areas.

5. Hunters are prohibited from constructing permanent blinds on the refuge. Hunting blinds are provided by the refuge. Daily occupancy of the blinds will be on a first-come, first-served basis.

6. Boats without motors may be used in conjunction with waterfowl hunting activities.

7. Hunting of migratory game birds closes November 30.

Bowdoin National Wildlife Refuge

Hunting of migratory waterfowl and coot is permitted on approximately 6,200 acres of the Bowdoin National Wildlife Refuge, Malta, Montana.

Charles M. Russell and UL Bend National Wildlife Refuges

Hunting of migratory game birds is permitted on approximately 700,000 acres of the Charles M. Russell and UL Bend National Wildlife Refuges, Lewistown, Montana. Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited.

Lake Mason National Wildlife Refuge

Hunting of migratory game birds is permitted on approximately 1,600 acres of Lake Mason National Wildlife Refuge, Lewistown, Montana.

Vehicle parking is permitted only in designated areas. No motorized watercraft is allowed. Vehicle travel is permitted only on designated roads and trails.

Lee Metcalf National Wildlife Refuge

Hunting of ducks, geese, coots and mergansers is permitted on portions of Lee Metcalf National Wildlife Refuge, Stevensville, Montana.

The following special regulations apply:

1. All hunters must enter the public hunting area through appropriate check stations.

2. Hunters will be limited to three shells per duck of the daily bag limit.

3. All hunters must set blind selection pointer to "taken" upon selecting a blind, and return blind selection pointer to "open" upon leaving the hunting area.

4. Placing blind selection pointer to "taken" determines the occupant of the blind.

5. During periods of high hunter demand, as determined by the Refuge Manager, hunters will be limited to one period only during a day: Period No. 1: Start of shooting hours to 12:00 noon. Period No. 2: 1:00 p.m. until close of shooting hours.

6. Hunters must be within ten feet of designated blind sites while attempting to take and taking of waterfowl game birds.

7. Blind sites will be limited to five hunters each.

8. A designated area will be open to the taking of ducks, geese, coot and mergansers by means of falconry from the opening of the migratory waterfowl season through end of general deer season. No firearms may be carried in this area.

9. The public hunting area will be closed to entry from one hour after sunset until 1½ hours before sunrise.

10. No fishing equipment of any type will be permitted on the public hunting area.

11. Boats are not permitted.

Medicine Lake National Wildlife Refuge

Migratory game bird hunting is permitted on the Medicine Lake National Wildlife Refuge, Montana, only on the area designated by signs as being open to migratory game bird hunting. This area comprises 10,163 acres and is delineated on maps available at the refuge headquarters and from the office of the Area Manager. Vehicle travel is permitted only on designated trails.

Red Rock Lakes National Wildlife Refuge

Migratory game bird hunting is permitted only on areas designated by signs as being open to such hunting. This area comprises approximately 10,000 acres.

Swan River National Wildlife Refuge (Headquarters National Bison Range)

Hunting of migratory game birds is permitted on approximately 630 acres. The hunting area is delineated on maps available at Creston National Fish Hatchery, Kalispell, and National Bison Range, Moiese, Montana.

§ 32.22 Special Regulations: Hunting of upland game birds for individual wildlife refuge areas.

Montana

Bowdoin National Wildlife Refuge

Hunting of upland game birds is permitted on approximately 6,200 acres of Bowdoin National Wildlife Refuge, Malta, Montana.

Charles M. Russell and UL Bend National Wildlife Refuges

Sage grouse, sharp-tailed grouse, gray partridge, and ring-necked pheasant hunting is permitted on approximately 700,000 acres of the Charles M. Russell National Wildlife Refuge and UL Bend National Wildlife Refuges, Lewistown, Montana.

Vehicle travel is permitted only on designated roads and trails, and all off-road vehicle traffic is prohibited.

Medicine Lake National Wildlife Refuge

Upland game bird and jackrabbit hunting is permitted on the Medicine Lake National Wildlife Refuge, Montana, only on the areas designated by signs as being open to upland game hunting. These areas comprising 10,163 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager. Vehicle travel is permitted only on designated trails.

§ 32.32 Special Regulations: Hunting of big game for individual wildlife refuge areas.

Montana

Charles M. Russell and UL Bend National Wildlife Refuges

Either sex elk, either sex antelope and antlered mule deer may be hunted with firearms on the Charles M. Russell and UL Bend National Wildlife Refuges, Lewistown, Montana. Either sex white-tailed deer may also be hunted in Phillips, Valley, McCone, Fergus and Garfield Counties. In addition, either sex elk, mule deer, and white-tailed deer archery hunting is permitted. These areas comprise approximately 750,000 acres.

Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited, including the retrieval of downed game.

Lee Metcalf National Wildlife Refuge

The taking of white-tailed and/or mule deer by bow and arrow will be permitted on designated areas of Lee Metcalf National Wildlife Refuge by means of archery only. The following special conditions apply:

1. All hunters must check in and out at checking stations.

2. No firearms may be carried in this area.

3. The public hunting area will be closed to entry from one hour after sunset until one and one-half hours before sunrise.

Medicine Lake National Wildlife Refuge

Big game hunting is permitted on the Medicine Lake National Wildlife Refuge, Montana, only on the areas designated by signs as being open to big game hunting. These areas, comprising 10,163 acres, are delineated on maps available at the refuge headquarters and from the office of the Area Manager. Unlimited vehicle travel is permitted only on county roads. In the hunting areas, vehicle travel is permitted only for the retrieval of deer on designated retrieval roads. Horses may be used only for the retrieval of big game.

Red Rock Lakes National Wildlife Refuge

Big game hunting is permitted only on areas designated by signs as being open to such hunting. These areas comprise approximately 20,000 acres.

Wyoming

National Elk Refuge

Hunting of elk on the National Elk Refuge, Jackson, Wyoming, is permitted on approximately 16,327 acres. Hunting shall be in accordance with the following special conditions:

1. A special permit is required in addition to a valid current State elk hunting license. One hundred twenty special permits (for three hunt periods each week) shall be issued to applicants by drawing.

2. Persons without permits may accompany special permit holders, but only permit holders may be armed. Anyone entering hunt area must wear flourescent orange.

3. Permits will be revoked in the event of a violation of refuge regulations and can result in denial of future privileges on the refuge.

4. Access to the refuge is only through the main gate east of refuge headquarters in Jackson.

5. Vehicles must be parked only in designated parking areas. No camping is allowed on refuge, including parking lots and hunt area.

6. All motorized travel is prohibited in the hunt area, except that vehicles will be permitted on designated roads after 4:00 p.m. to dark each day to facilitate retrieval of elk killed. Horses are permitted.

7. Citizens Band (C.B.) radios are not allowed in hunt areas.

The provisions of these special regulations supplement the regulations which govern hunting or wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

Section 33.5 is amended as follows:

§ 33.5 Special Regulations: Sport fishing for individual wildlife refuge areas.

Montana

Charles M. Russell and UL Bend National Wildlife Refuges

Sport fishing is permitted year round on all waters of the Missouri River, Musselshell River, and Fort Peck Reservior within the Charles M. Russell

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National Wildlife Refuge and the UL Bend National Wildlife Refuge, Montana. These fishing areas comprise approximately 250,000 acres and are delineated on maps available at the refuge headquarters in Lewistown, Montana. All sport fishing shall be subject to the following regulations:

1. Portable icehouses and other structures expressly used for ice fishing are permitted within the Charles M. Russell National Wildlife Refuge only from December 1 through March 31 of the following year. These structures must be removed from the wildlife refuge entirely by March 31 of each year. In addition, each structure must be labeled with the owner's name permanent address in a prominent location on an outside sidewall.

Violations of this regulation will be treated under the provisions of Parts 27.92 and 27.93 of Title 50 of the Code of Federal Regulations, dealing with unauthorized private structures and abandoned property. Penalties described in Part 28 will be applicable.

2. Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited.

Lee Metcalf National Wildlife Refuge

Sport fishing using only a single line and hook or hooks, with or without a pole, is permitted throughout the year on a portion of the Lee Metcalf National Wildlife Refuge. The open area is approximately four miles of the Bitterroot River, which borders the refuge on the west, and the Burnt Fork Creek and its related oxbow (Francois Slough). Fishermen must remain below the upland portion of the river banks. The fishing area is designated by signs and delineated on maps available at refuge headquarters, Stevensville, Montana.

Medicine Lake National Wildlife Refuge

Sport fishing is allowed on waters of the Medicine Lake National Wildlife Refuge as follows: Medicine Lake, Deep Lake, and Sayer Bay, November 15-September 15, waters in the public hunting area August 15-March 31 and Number 12 Lake, November 15 through March 31. In Medicine Lake all motorized equipment is prohibited and no trespassing is allowed on islands. Waters other than Medicine Lake are open to motor boats with less than 16 h.p. motors. Open fires, camping and driving off improved roads or established trails are prohibited on the public fishing areas. Maps of the fishing area are available at refuge headquarters.

National Bison Range

Sport fishing on the National Bison Range, Moiese, Montana, is only permitted along the portions of the Jocko River as posted. These open areas are delineated on maps available at refuge headquarters, one-half mile east of Moiese, Montana.

Ninepipe National Wildlife Refuge (Headquarters National Bison Range, Moiese, Montana)

Entire refuge is open from July 15, until beginning of waterfowl hunting season, and before July 15 on west and north shorelines from picnic area to Allentown bridge, except central portion of north shore (⅞ of a mile), as posted. Entire refuge is closed during migratory waterfowl hunting season. Ice fishing is permitted after the closure of waterfowl hunting season until March 1. A Tribal Recreation Permit is required.

Sport fishing is permitted in accordance with the following special regulations:

1. Offshore islands are closed to fishing and trespass.
2. Use of boats if prohibited.
3. Vehicles must be parked at designated areas.
4. Motorized travel on the ice is prohibited.
5. No ice fishing shelters may be left overnight.
6. Camping is prohibited.

Pablo National Wildlife Refuge (Headquarters National Bison Range, Moiese, Montana)

Sport fishing is not permitted on Pablo Reservoir during the migratory waterfowl hunting season. Sport fishing is permitted during the rest of the year, in accordance with the special regulations shown below, on the north and east shorelines from the inlet canal to the south end of the dam as posted. Ice fishing is permitted after the closing of the waterfowl hunting season. A Tribal Recreation Permit is required.

Sport fishing is permitted in accordance with the following special regulations:

1. Offshore islands are closed to fishing and trespass.
2. Use of boats if prohibited.
3. Vehicles must be parked at designated areas.
4. Motorized travel on the ice is prohibited.
5. No ice fishing shelters may be left overnight.
6. Camping is prohibited.

Northwest Montana Waterfowl Production Areas (Headquarters National Bison Range, Moiese, Montana).

Flathead Lake Waterfowl Production Area and Smith Lake Waterfowl Production Area are open to sport fishing. Fishing from shore is prohibited, from March 1 to July 15, on lands within the boundary of posted Waterfowl Production Areas. All islands at the mouth of the Flathead River are closed to trespass except during the waterfowl hunting season. The following special regulations apply to fishing:

1. Vehicle travel is permitted only on designated roads and parking areas.
2. Camping is prohibited.

Swan River National Wildlife Refuge (Headquarters National Bison Range. Moiese, Montana)

Sport fishing is permitted on those parts of the Swan River and Swan Lake which lie within the boundaries of Swan River National Wildlife Refuge. Fishing from shore within the refuge is prohibited from March 1 to July 15. Fishing is subject to the following regulations:

1. Vehicle travel is permitted only on designated roads and parking areas.
2. Camping is prohibited.

Red Rock Lakes National Wildlife Refuge

Sport fishing is permitted on the Red Rock Lakes National Wildlife Refuge, Montana, as posted. Fishing opens the third Saturday in June and closes November 30. All areas open to fishing are delineated on maps available at the refuge headquarters and from the office of the Area Manager, subject to the special condition that boats with motors are prohibited.

Wyoming

National Elk Refuge

Sport fishing is permitted from Saturday preceding Memorial Day through October 31, only on the areas designated by signs as being open to fishing. Fishing and access on refuge waters are permitted during daylight hours only. Use of boats or other floating devices, overnight camping, and fires are prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044, 43 CFR Part 14.

Dated: May 13, 1980.

Wally Steucke,

Area Manager.

[FR Doc. 80-15658 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 102
Friday, May 23, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 511

Classification Under the General Schedule

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: These proposed regulations would: [A] incorporate changes mandated by Presidential Reorganizational Plan No. 2; [B] incorporate changes mandated by the Civil Service Service Reform Act of 1978; and [C] incorporate changes to streamline the administrative classification review process and increase the level of classification consistency Governmentwide.

DATE: Written comments will be considered if received no later than July 22, 1980.

ADDRESS: Send or deliver written comments to the Office of Personnel Management, Classification Review Division, Room 443–H, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Frank Cantenaccio, Classification Review Division, Agency Compliance and Evaluation, Office of Personnel Management, Room 443–H, 1900 E Street, N.W., Washington, D.C. 20415, telephone (202) 632–7744.

SUPPLMENTARY INFORMATION: OPM has determined that this is a significant regulation for the purposes of EO 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 511 as set out below:

(1) The table of sections is revised to read as follows:

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

Subpart A—General Provisions

Sec.
511.101 Definitions.

Subpart B—Coverage of the General Schedule

511.201 Coverage of and exclusions from the General Schedule.
511.202 Authority of agency.
511.203 Exercise of authority.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Administrative Classification Reviews

511.601 Applicability of regulations.
511.602 Notification of classification decision.
511.603 Right to request a review.
511.604 Requesting a review.
511.605 Time limits.
511.606 Form and contents of review.
511.607 Issues excluded from review.
511.608 Employee representatives.
511.609 Ascertainment of facts.
511.610 Notification.
511.611 Cancellation of employee request.
511.612 Finality of decision.
511.613 Classification review division.
511.614 Review by the director.
511.615 Temporary compliance authority.

Subpart G—Effective Dates of Position—Classification Actions or Decisions

511.701 Effective dates generally.
511.702 Agency or Office classification review decisions.
511.703 Retroactive effective date.

Authority: The provisions of this Part 511 issued under 5 U.S.C. 5115, 5338, 5351, unless otherwise noted.

(2) Subparts F and G are revised to read as follows:

Subpart F—Administrative Classification Reviews

§ 511.601 Applicability of regulations.

This subpart applies to a request from an employee or an agency for the Office to review the classification of a position subject to chapter 51 of title 5, United States Code, or for the Office to determine whether a position is subject to that chapter.

§ 511.602 Notification of classification decision.

An employee who suffers a loss of grade which is based in whole or in part on a classification decision is entitled to a prompt written notice from the agency. If the loss of grade is due to an Office classification certificate issued under the authority of 5 U.S.C. 5110, the agency will also promptly notify the employee. This notice shall also inform the employee:

(a) Of his or her right to request a review of the classification decision by the agency (if it has the authority to take corrective action), or by the Office as provided in this subpart if such a review has not already been made; and

(b) Of the time limits within which the employee must request such review in order to preserve any retroactive benefits under § 511.703.

§ 511.603 Right to request a review.

(a) *Employee request.* An employee, or the employee's representative may request an Office decision as to:

(1) The appropriate class or grade of the employee's current position.

(2) The inclusion under or exclusion from chapter 51 of title 5, United States Code, of the position by the employee's agency or the Office, except in the case of a position in the Office of the Architect of the Capitol.

(b) *Agency request.* The head of an agency, or an authorized representative, may request a review of any classification certificate issued by the Office under section 5110 of title 5, U.S.C., with respect to any position in the agency.

§ 511.604 Requesting a review.

(a) *Employee.* An employee may request a review by writing to the Office directly, or by forwarding the request through the employing agency.

(b) Referral of an employee request to the Office. An agency shall forward, within 45 calendar days of its receipt in the agency, an employee's request filed through the agency to the Office when:

(1) The employee has directed the request to the Office and the agency does not act favorably on it; or

(2) The agency is not authorized to act on the employee's request.

§ 511.605 Time limits.

(a) *Employees.*

(1) An employee may submit a request for a classification review of his or her current position at any time.

(2) If the employee is requesting a review of an agency decision or an Office classification decision issued under 5 U.S.C. 5110 which resulted in a

loss of grade, the employee shall promptly request a review if he or she disagrees with the classification decision. Employees must meet the time limits provided in § 511.703 in order to preserve the right to retroactive adjustment.

(b) *Agency.* An agency may request a review of an Office classification certificate issued under authority of section 5103 or 5110 of title 5, United States Code.

(c) *Reconsideration.* An employee or agency may request reconsideration of an Office review decision. The request must be in writing, and filed not later than 45 days after the review decision is issued.

§ 511.606 Form and contents of review.

(a) Employee requested review. An employee's request shall be in writing, and shall contain the reasons why the employee believes his or her position is erroneously classified, or should be brought under or excluded from chapter 51 of title 5, United States Code. The agency, when forwarding the employee's request or when requested by the Office, shall furnish all relevant facts concerning the position and the agency's justification for its classification decision. The agency shall also comment on the information submitted by the employee if requested to do so by the Office.

(b) *Agency request.* An agency's request shall be in writing, and shall contain its reasons and justification for requesting a review of the Office's certificate.

(c) *Inspection of the file.* The employee, an employee's representative and the agency will be permitted to inspect the file on request.

§ 511.607 Issues excluded from review.

(a) The following issues are not subject to review by the Office under this subpart. Such issues may be reviewed under the appropriate grievance procedures:

(1) The accuracy of the official position description, and the inclusion or exclusion of a major duty in the official position description. When the accuracy of the official position description is questionable, the agency will be asked to review the position's duties, responsibilities and qualification requirements consistent with management's right to assign work. If the accuracy of the position description cannot be resolved in this manner, the Office will decide the request on the basis of the actual duties and responsibilities performed;

(2) An assignment or detail out of the scope of normally performed duties as outlined in the official position description;

(3) The accuracy, consistency or use of agency supplemental classification guides; or,

(4) The title of the position unless a specific title is authorized in a published Office classification standard or guide, or the title reflects a qualification requirement or authorized area of specialization.

(b) The following issues are not subject of review under this subpart nor under grievance procedures:

(1) The class, grade, or pay system of a position to which the employee is not officially assigned by an official personnel action;

(2) An agency's proposed classification decision;

(3) The class, grade, or pay system of a position to which the employee is detailed or temporarily promoted;

(4) The classification of the employee's position based on position-to-position comparisons;

(5) The accuracy of grade level criteria contained in an Office classification guide or standard; or

(6) A classification decision that has been issued by the Office under this subpart when there have been no changes in the governing classification standard(s) and the major duties of the position.

§ 511.608 Employee representatives.

An employee may select a representative of his or her choice to assist in the preparation and presentation of a request for review. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of the priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government.

§ 511.609 Ascertainment of facts.

The employee, a designated representative, and the agency shall furnish such facts as may be requested by the Office. These facts shall be in writing when so requested. The Office, in its discretion, may investigate or audit the position.

§ 511.610 Notification.

The Office shall notify the employee, or a representative if one is designated, and the agency in writing of its decision.

§ 511.611 Cancellation of an employee request.

An employee's request shall be cancelled and the employee so notified in the following circumstances:

(a) On receipt of the employee's written request for cancellation.

(b) On failure to prosecute, when the employee or the designated representative does not furnish requested information, or proceed with the advancement of the request for review. The Office may at its discretion reopen a cancelled review on a showing that circumstances beyond the control of the employee prevented pursuing of the request.

(c) On notice that the employee died or has left the position through a personnel action, except where the employee would be entitled to the retroactive benefits of § 511.703. An employee detail or temporary promotion will not be cause to cancel a pending review.

§ 511.612 Finality of decision.

A review decision made by the Office is final. There is no further right to review. The decision shall constitute a certificate which is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government. Agencies shall review their own classification decisions of identical, similar or related positions to insure consistency with the Office's certificate.

§ 511.613. Classification review division.

The Office's Classification Review Division may, at its discretion, reopen and reconsider a decision made by the Office under this subpart. The Classification Review Division may remand to the respective region of the Office any request for reconsideration which requires extensive factfinding or investigation. The Classification Review Division may reopen and reconsider a decision when written argument or evidence is presented which establishes a reasonable doubt concerning the technical accuracy of the decision.

§ 511.614 Review by the director.

The Director may, at his or her discretion, reopen and reconsider any decision when written argument or evidence is submitted which tends to establish that:

(a) The previous decision involves an erroneous interpretation of law or regulation, or a misapplication of established policy;

(b) The previous decision is of a precedential nature involving a new or unreviewed policy consideration that may have effects beyond the actual case at hand, or is otherwise of such an exceptional nature as to merit the personel attention of the Director.

§ 511.615 Temporary compliance authority.

Agencies may use temporary or conditional compliance actions, i.e., temporary promotions, details, etc., if:

(a) A position has been certified by the Office under sections 5110 or 5112 of title 5, United States Code;

(b) The certificate has not been suspended; and,

(c) the agency or employee has requested reconsideration.

This authority will not be used if the employee is entitled to grade retention under section 5326 of title 5, United States Code.

Subpart G—Effective Dates of Position Classification Actions or Decisions

§ 511.701 Effective dates generally.

(a) *Agency classification actions.* (1) A classification action is a determination to establish or change the title, series, grade or pay system of a position based on application of published position classification standards or guides. The effective date of a classification action or decision taken by an agency shall be the date an official with properly delegated authority approves (certifies) the classification action. This is accomplished when the authorized official(s) signs the allocation of the position.

(2) A classification action is implemented by a personnel action. The implementation must occur within a reasonable period of time. The Office may authorize extended implementation dates on written request of an agency.

(3) If the classification action requires a personnel action which results in a loss of grade to the incumbent of the position, the agency must advise the employee, in writing, of the classification action and the proposed date for the personnel action. This notice shall be issued prior to taking a personnel action.

(4) Neither classification actions nor personnel actions implementing these decisions may be made retroactive.

(b) *Office of Personnel Management's classification decision.* (1) The effective date of a classification decision made by means of a certificate issued under the authority of section 5110, title 5, United States Code is not earlier than the date of the certificate, and not later than the beginning of the fourth pay period following the date of the certificate, unless a subsequent date is specifically stated in the certificate. Except as otherwise provided by this paragraph, the filing of a request to review such a certificate does not delay its effective date.

(2) The implementation of the certificate may be suspended when it is determined before its effective date that a review of the classification decision is warranted and suspension is desirable. The determination to suspend implementation may be made by

(i) A regional, or a designee, when the decision is made by the regional office; or,

(ii) The Assistant Director, Agency Compliance and Evaluation, or a designee, when the decision is made within the central office or by a region, or

(iii) The Director with respect to any classification decision.

Suspending the implementation of a certificate does not automatically change the effective date except when the certificate required that the grade of the position be reduced and the employee is not entitled to grade retention.

(3) When the original decision requires that the grade of the position be reduced and the employee is not entitled to grade retention, the reviewing authority shall issue a new certificate if it sustains the original decision. The effective date of the new certificate shall be not earlier than the date of the certificate, and not later than the beginning of the fourth pay period after the date of the new certificate unless a subsequent date is specifically stated.

§ 511.702 Agency or office classification review decisions.

(a) Subject to § 511.703, the effective date of a change in the classification of a position resulting from a classification review by either an agency or the Office is not earlier than the date of the decision and not later than the beginning of the fourth pay period following the date of the decision, except when a subsequent date is specifically provided in the decision.

(b) The implementation of the decision may be suspended by the Office when it determines before the effective date that a review of the decision is warranted. The determination to suspend implementation may be made by:

(1) The regional director or a designee, when the review decision is made by an agency under the jurisdiction of the region; or

(2) The Assistant Director, Agency Compliance and Evaluation, or the Chief, Classification Review division when the review decision is made within the central office, by a region or by an agency; or

(3) The Director with respect to any review decision.

Suspending the implementation does not change the effective date of the decision except when the original decision requires that the grade of the position be reduced and the employee is not entitled to grade retention.

(c) When the original decision requires that the grade of the position be reduced and the employee is not entitled to grade retention, the reviewing authority, if sustaining the original decision, shall issue a new certificate and the effective date of the new certificate shall be not earlier than the date of the new decision and not later than the beginning of the fourth pay period following the date of the new decision unless a subsequent date is specifically stated in the new decision.

§ 511.703 Retroactive effective date.

(a) *Applicability.* A retroactive effective date may be required only if the employee is wrongfully demoted.

(b) *Downgrading.* (1) The effective date of a classification review certificate or agency review decision can be retroactive only if it corrects a classification action which resulted in a loss of grade. In order for the decision to be made retroactive, the employee must file the initial request for review with either the agency or the Office not later than 15 calendar days after the effective date of the reclassification action.

(2) However, if the review decision raises the grade of the position above the original grade, retroactivity will apply only to the extent of restoration to the original grade.

(3) The right to a retroactive effective date provided by this section is preserved on subsequent requests for review from an agency classification decision to the Office when the subsequent request is filed not later than 15 calendar days following receipt of written notification of final agency administration decision or 15 calendar days after the effective date of the action taken as a result of the classification decision, whichever is later.

(c) *Grade change based on new duties and responsibilities.* Retroactivity may be based only on duties and responsibilities existing at the time of demotion and cannot be based on duties and responsibilities assigned later.

(d) *Retroactivity when time limits are extended.* The right to a retroactive effective date provided by this section may be preserved at the discretion of the Office, on a showing by the employee that he was not notified of the

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applicable time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented filing a request for review within the prescribed time limit.

[FR Doc. 80-15891 Filed 5-22-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

Milk in the Middle Atlantic Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend an order provision affecting the regulatory status of milk plants. The action was requested by a cooperative association and a handler operating a distributing plant. It would remove the limit on the type of pool plant that is qualified for pool plant status on the basis of being a pool plant during the prior September through February period. The suspension is proposed for May 1980 through August 1980.

DATE: Comments are due not later than May 30, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Middle Atlantic marketing area are being considered for May 1980 through August 1980:

In § 1004.7(e) the words "of paragraph (e)(1)" and the words "paragraph (b) of" as they first appear in the paragraph.

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**.

The period for filing comments is limited to 7 days because a longer period would not provide the time to complete the required procedures by the pool computation date for milk delivered in May.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative for May 1980 through August 1980 the provisions that limit the type of pool plant that is qualified for pool plant status on the basis of being a pool plant during the prior September through February period. The proposed action was requested by Lehigh Valley Cooperative Farmers, who operates pool plants, and Michaels Dairies, Inc., a proprietary handler who operates a pool distributing plant.

Lehigh Valley Cooperative Farmers states that it is reorganizing its operations, and its reserve processing plant, that has been qualified for pool plant status on the basis of being operated by the cooperative, will no longer be owned by Lehigh Valley Cooperative Farmers.

Michaels Dairies, Inc., indicates that it expects its Class I disposition to be less than 40 percent of the milk supply associated with its distributing plant because of the loss of Class I milk sales volume to another handler. The handlers claim that the failure of their plants to meet the pooling requirements would result in the milk of producers who are regular suppliers on the market not being priced and pooled under the order. Proponents state that the temporary suspension action will permit the orderly marketing of the milk supply associated with their plants.

Signed at Washington, D.C., on: May 20, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-15925 Filed 5-22-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Plastic-Insulated Ground Wires; Advance Notice of Proposed Specification

AGENCY: Rural Electrification Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: REA proposes to prepare a new specification covering plastic-insulated ground wires. This specification will cover the minimum requirements necessary for production of quality ground wires. Currently these wires are covered by guidelines containing limited requirements which are not stringent enough to continually produce quality products. Therefore, a specification should be prepared containing more stringent requirements which will insure the continued quality of these wires.

DATE: Public comments must be received by REA no later than June 23, 1980.

ADDRESS: Submit written comments to the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, telephone number AC(202)447-3827.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to prepare a new specification covering plastic-insulated ground wires.

All written submissions made pursuant to this notice will be made available for public inspection during regular business hours, address above.

Dated: May 13, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80-15564 Filed 5-22-80; 8:45 am]

BILLING CODE 3410-15-M

7 CFR Part 1701

Coaxial Splicing Connectors, Advance Notice of Proposed Specification

AGENCY: Rural Electrification Administration.

ACTION: Advance Notice of Proposal Rule Making.

SUMMARY: REA proposes to prepare a new specification covering coaxial splicing connectors. This specification will cover the minimum requirements necessary for production of quality coaxial splicing connectors. Currently these connectors are not covered by any guidelines. Therefore, a specification should be prepared to insure that materials purchased by REA borrowers will provide reliable service to the rural public.

DATE: Public comments must be received by REA no later than June 23, 1980.

ADDRESS: Submit written comments to the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, telephone number (202) 447-3827.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to prepare a new specification covering coaxial splicing connectors.

All written submissions made pursuant to this notice will be made available for public inspection during regular business hours, address above.

Dated: May 13, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80-15565 Filed 5-22-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-48-80, LR-71-80]

Crude Oil Windfall Profit Tax; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to title I of the Crude Oil Windfall Profit Tax Act of 1980.

DATES: The public hearing will be held on July 16, 1980, beginning at 10:00 a.m., and if necessary, on July 17, 1980. Outlines of oral comments must be delivered or mailed by July 2, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-48-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations published in two notices of proposed rulemaking appearing in the **Federal Register** for Friday, April 4, 1980 (45 FR 23384) and Friday, April 25, 1980 (45 FR 27929). These regulations were proposed under title 1 of the Crude Oil Windfall Profit Tax Act of 1980.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notices of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by July 2, 1980.

Each speaker will be limited to one 10 minute oral presentation, whether on one or both notices, exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-15919 Filed 5-22-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts, Further Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; further extension of comment period.

SUMMARY: This document further extends the period for filing comments regarding a proposed rule intended to revise Part 4 of Title 29 of the Code of Federal Regulations (29 CFR Part 4) which concerns Labor Standards for Federal Service Contracts. This action is taken to permit additional comment from the public.

DATE: Comments must be received on or before June 26, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S-3502, 200 Constitution Avenue, NW., Washington D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C., 20210. Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 28, 1979 (44 FR 77086) the Department of Labor published a proposed rule intended to revise 29 CFR Part 4 which concerns Labor Standards for Federal Service Contracts. Interested persons were requested to submit comments on or before February 26, 1980. Extensions of the period for comment until May 27, 1980, have previously been granted.

Because of the continuing interest of the public in this proposal, the agency believes that it is desirable to grant a further extension of the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 4 (Labor Standards for Federal Service Contracts), is extended to June 26, 1980.

Signed at Washington, D.C., this 20th day of May, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc. 80-15942 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-27-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2613

Employer Liability for a Single Employer Plan Termination

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation prescribes the rules for the determination and payment of employer liability under §§ 4062 and 4067 of the employee Retirement Income Security Act of 1974. In addition, portions of this regulation are also applicable to the

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determination and payment of liability under §§ 4063 and 4064, which pertain to plans to which more than one employer contributes.

Section 4062 imposes liability on an employer who maintains a single employer defined benefit pension plan that terminates without sufficient assets to pay the liabilities guaranteed by the Pension Benefit Guaranty Corporation ("PBGC"). The liability is equal to the amount by which the value of the plan's guaranteed benefits exceed plan assets at the date of plan termination, up to 30% of the employer's net worth. This proposed regulation sets forth the method by which PBGC will determine an employer's net worth and the rules for payment of the employer's liability, including provisions for deferred payment of the liability. The effect of the regulation if adopted would be to provide needed guidance with respect to the calculation and payment of an employer's statutory liability.

DATES: comments must be received on or before July 22, 1980.

ADDRESSES: Comments should be addressed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. R. Goldstein, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006 (202) 254–4895.

SUPPLEMENTARY INFORMATION: Each person submitting comments should include his or her name and address, identify this notice and give reasons for any recommendation. This proposal may be changed in light of the comments received.

Overview

The Statute

Section 4062 of the Employee Retirement Income Security Act of 1974 (the "Act") provides that any employer who terminates a single employer plan covered under § 4021(a) of the Act shall be liable to the Pension Benefit Guaranty Corporation ("PBGC") for the lesser of (1) the amount by which the value of guaranteed benefits under the plan exceeds the value of plan assets (referred to as the "plan asset insufficiency" or "PAI"), or (2) 30 percent of the employer's net worth. Under §§ 4063 and 4064, liability for the withdrawal from or termination of a plan to which more than one employer contributes is computed by first determining what the liability would be under § 4062 and then allocating that amount among the liable employers.

Pursuant to § 4062(b), the PBGC is to value an employer's net worth as of a date chosen by PBGC, but not more than 120 days prior to the date of plan termination. Net worth is valued on whatever basis best reflects the current status and prospects of the employer's operation on the valuation date, and the employer's net worth includes the value of any assets transferred by the employer when PBGC determines that the transfers were improper under the circumstances (§ 4062(c)). Further, an employer's liability to PBGC under § 4062 is disregarded in making the net worth determination (§ 4062(b)).

PBGC is authorized under § 4067 of the Act to make arrangements with employers for payment of employer liability, including deferred payment terms, on such conditions and for such periods as the PBGC deems equitable and appropriate. Section 4068 of the Act imposes a lien in favor of the PBGC upon all assets of an employer for the amount of its employer liability, including interest, if the employer, upon demand, neglects or refuses to pay its liability.

The Proposed Regulation

Under § 2613.3 of the proposed rule, employer liability is due on the date of plan termination, and the liability is equal to the plan asset insufficiency ("PAI") unless the employer asserts that its liability is limited by its net worth and the PBGC determines that this is so. Interest on any unpaid portion of employer liability runs from the plan termination date. To avoid paying interest on its liability, an employer may pay the amount of the liability on or before the plan termination date.

Since the PBGC, which makes the determination of liability under this part, ordinarily will not have made its determination by the plan termination date, an employer's payment of the liability on or before the plan termination date must necessarily be based on the employer's estimate of the liability. However, the employer can estimate fairly accurately the upper limit of the liability by calculating the plan asset insufficiency. (By the time this regulation goes into effect, the PBGC expects to have implemented a system for publishing its interest rates for valuing plan benefits on a prospective basis.) The employer may then pay that amount, or, if the employer believes that its liability is limited by its net worth, it may pay the lesser amount it estimates to be the liability. If the employer's estimate turns out to be high and the employer has overpaid, proposed § 2613.7 provides that the overpayment will be refunded with interest from the date of payment (or, if later, from 10 days prior to the termination date). If the employer has underpaid, interest at the same rate will be assessed on the unpaid portion of the liability from the date of plan termination.

Whether the employer net worth limitation is pertinent in a given case depends upon information within the control of the employer. Accordingly, the proposed rule provides that PBGC will not determine an employer's net worth unless an employer notifies PBGC, pursuant to § 2613.3, that it believes the net worth limitation is applicable and demonstrates that 30% of its net worth is less than the PAI as required by proposed § 2613.6. An employer's failure to assert and demonstrate that net worth is limiting will result in the PBGC making an initial determination of liability under this part without regard to the employer's net worth.

Under the proposed regulation, an employer asserting the net worth limitation must submit certain financial information to PBGC (proposed § 2613.6, so that PBGC can determine net worth. The PBGC's determination of net worth will be based on an analysis of the factors set forth in proposed § 2613.4. When the PBGC has determined the employer's liability, it will notify the employer of that determination; the determination may be appealed by the employer under Part 2618 of the PBGC's regulations (proposed § 2613.9). Finally, at any point in this process, the employer may apply for deferred payment terms pursuant to proposed § 2613.8.

The Proposed Regulation

Scope

Pursuant to proposed § 2613.1, the rules set forth in this proposed regulation apply to the termination of any single employer pension plan covered under Title IV of the Act occurring on or after the effective date of the regulation. In addition, many of the rules are also applicable to cases arising on or after the effective date of the regulation under §§ 4063 and 4064, which apply to plans to which more than one employer contributes. Both of those sections use as a starting point for the calculation of liability the liability that would be computed under § 4062 if that section were applicable. Accordingly, the PBGC believes it is appropriate to use the same rules for determining employer net worth (set forth in proposed § 2613.4) in § 4063 and § 4064 cases as in § 4062 cases. Similarly, the rules for setting the valuation date (set forth in proposed § 2613.5) would be equally applicable to cases under §§ 4063 and 4064. Of course, in a § 4063 case, there is no date of plan termination; the analogous date is the date of the substantial employer's withdrawal from the plan.

Since § 4063 or § 4064 liability is different from § 4062 liability and more complicated to determine, PBGC proposes that proposed § 2613.3, which sets forth the employer's liability under this regulation and the time for payment of it, would not be applicable to cases under §§ 4063 and 4064. Similarly, the time limit for submitting net worth data contained in proposed § 2613.6(a) would also not apply to cases under §§ 4063 and 4064. However, the net worth information listed in § 2613.6 would normally be pertinent to those cases, and the PBGC will generally request its submission.

Again, since proposed § 2613.3 would not apply to §§ 4063 and 4064 cases, much of proposed § 2613.7 dealing with interest on unpaid employer liability and on overpayments of employer liability would not be germane to those cases. However, the PBGC believes that it would be appropriate to use the same interest rate for late or deferred payments under §§ 4063 and 4064 as under § 4062, and therefore proposes to make Paragraph (c) of § 2613.7 applicable to cases covered under those sections.

The PBGC also believes that it is appropriate to use the same standards for granting deferred payment terms in all employer liability cases, and accordingly, it is proposed that proposed § 2613.8 of this regulation apply to cases arising under §§ 4063 and 4064.

Section 4068 of the Act, which establishes PBGC's lien in the case of non-payment of employer liability, applies to employer liability under §§ 4062, 4063 and 4064. It follows, in PBGS's view, that proposed § 2613.9 of the regulation dealing with the lien should apply to all such cases; the proposed regulation so provides. However, it should be kept in mind that the lien only arises upon the neglect or refusal to pay the liability after demand by PBGC, and not all cases under § 4063 will result in PBGC's demanding payment of the liability; PBGC may accept an indemnification agreement instead. In those situations, then, proposed § 2613.9 would be inapplicable.

Finally, while under this proposal the various provisions relating to the time for payment of employer liability, assertion of the net worth limitation, and submission of net worth information would not apply to cases under §§ 4063 and 4064, the PBGC would rely on these rules for guidance in establishing appropriate time limits for § 4063 and § 4064 liability proceedings.

PBGC proposes that this regulation would be applicable with respect to terminations and withdrawals occurring more than 30 days after publication of the final regulation in the **Federal Register**. As a practical matter, this means that many of the procedural aspects, including the various time limits, of the regulation would not apply with respect to plans that terminate before that time, although, of course, the several statutory provisions that are interpreted and implemented by this regulation have been in effect since September 2, 1974, the date of the enactment of ERISA, and apply to terminations on or after that date. Of particular note in this regard is the fact that § 4068 of the Act provides for the assessment of interest on unpaid employer liability from the date of plan termination.

The PBGC is aware that heretofore there has been uncertainty in the minds of plan sponsors with respect to the rules and procedures for the calculation and payment of employer liability. Because of this uncertainty, the PBGC has often foregone collection of interest on unpaid employer liability from the date of termination until after PBGC has given a plan sponsor specific advice as to the amount of and rules for payment of its employer liability.

However, the publication of this regulation in final form will provide that same guidance to plan sponsors whose plans have already terminated; *i.e.*, it will advise them of how the § 4062 liability is determined and of the consequences of late or non-payment of employer liability imposed by the Act. Accordingly, the PBGC believes it is appropriate with respect to plans that terminate prior to the effective date of this regulation, to give plan sponsors a reasonable period of time (30 to 45 days) after publication of the regulation to calculate and pay their employer liability, using the regulation for guidance, without the imposition of interest; failure to pay within the time allowed will result in the imposition of interest on the unpaid liability accruing from the expiration of the 30 or 45 day payment period. The PBGC will send a written notice to the affected plan sponsors advising them of this procedure and providing them with a copy of the final regulation. (Plan sponsors who have already received employer liability request or demand letters prior to final publication of this regulation will be given the period of time specified in their letters within which to pay their liability without the assessment of interest.)

Definitions

An "employer" is defined in proposed § 2613.2 as a trade or business maintaining a plan at termination and all trades or businesses (whether or not incorporated) under common control with that business. Most frequently, an employer will be a corporation, partnership or sole proprietorship, although other entities, such as trusts or joint ventures, would also be included. Further, the definition includes not-for-profit organizations as well. All trades or businesses (whether or not incorporated) under common control are considered to be one "employer" for purposes of Title IV of the Act. Thus, if a terminating plan is maintained by one or more members of a controlled group, the entire group is the "employer" and thus responsible for any employer liability.

As noted above, § 4062(c)(1) of the Act provides that the PBGC may determine net worth on "whatever basis *best* reflects, in the determination of the corporation, the *current status* of the employer's operations and prospects . . . ." (emphasis supplied). To accountants, "net worth" may suggest "book value," as shown on a balance sheet. However, book value represents the depreciated cost of net assets and does not necessarily indicate the company's realizable asset value; nor does it measure the company's earning potential. Thus, book values, in the accounting sense, are not always an accurate reflection of the actual value of an ongoing business. Therefore, under the proposed regulation, "net worth" is defined as the fair market value of the employer's business. This valuation takes into account all of the circumstances affecting the financial status of a business, including book value, in order to establish a net worth figure that represents the current status and future prospects of the business.

Use of fair market value as the measure of employer net worth is in accord with Congressional intent underlying § 4062. In imposing employer liability up to 30% of the employer's net worth, Congress made a judgment that each employer terminating an insufficient pension plan would be required to reimburse PBGC for the guaranteed benefits under the pension plan that PBGC pays, if the employer's operations could sustain that expense. In general, a business is worth what it

can reasonably be expected to earn, giving due account to its anticipated expenses. Thus, fair market value measures an ongoing company's capacity to generate earnings and, consequently, its capacity to acquire funds to pay its liability under § 4062. Of course, in the case of a company facing liquidation, this capacity is very limited, and the fair market value would reflect that.

Amount of Employer Liability

As noted above, under proposed § 2613.3, the amount of an employer's liability is generally equal to the plan asset insufficiency, unless the employer notifies PBGC that 30% of its net worth is less than the PAI, the employer demonstrates that its net worth is limiting, and the PBGC determines that this is so. If these conditions are met, the liability is equal to 30% of the employer's net worth.

Pursuant to proposed § 2613.3(b), an employer must notify PBGC that it believes its liability is limited by its net worth within 30 days after the establishment of the date of plan termination. Pursuant to § 4042 of the Act, the plan termination date may be established either in an agreement between the PBGC and the plan administrator or by court order. In the former situation, the date is "established" on the date the agreement is signed by the last party to sign it, and in the latter case, the date is established on the date the court order is issued. Since either of these dates will occur some time after submission of the notice of intent to terminate the plan, this 30-day rule should give employers adequate time to determine whether they wish to assert the net worth limitation. It is important to remember in this connection that the employer need not be prepared to submit its calculations of its net worth at this time. Rather, the employer's calculation of its net worth showing that 30% thereof is less than the PAI need not be submitted until 120 days after the establishment of the date of plan termination (proposed § 2613.6(a)).

If the employer fails to make a timely assertion of the net worth limitation or a timely demonstration that its net worth does limit its liability, the PBGC will proceed to compute the employer's liability under this part without regard to the employer's net worth; the PBGC will not calculate the employer's net worth in reaching its determination under this part (proposed § 2613.3(c)). It is noted, however, that an employer may appeal the liability determination under this part (proposed § 2613.9 and Part 2618 of this chapter) and in so doing, may assert and attempt to demonstrate the net worth limitation. (It should be kept in mind in this regard, that the time limit for taking an appeal under Part 2618 is generally shorter than the time allowed under this part for demonstrating the net worth limitation.) If, in the course of the appeal, the employer demonstrates in accordance with proposed § 2613.6(a)(1) that its net worth does limit its liability, the PBGC will then determine the employer's net worth.

Determination of Net Worth

Under the proposal, the net worth of the employer is its fair market value, as determined by PBGC, as of the net worth record date (proposed § 2613.4(a)). The net worth record date will normally be the date of plan termination. (This is explained more fully in the next section.) The PBGC will determine the fair market value based on the facts and circumstances of the particular case, including any information submitted by the employer as probative of its fair market value. The various factors PBGC will consider in reaching its determination are set forth in proposed § 2613.4(b). These factors are quite broad and, of course, not all of them will be relevant in every case.

In some cases, one factor may provide a better measure of the fair market value of one part of the employer (*e.g.* a separate facility, a division, etc.), while another factor would provide a better valuation of a different part of the employer. When this situation exists, PBGC may use different factors to value different parts of the employer. The final result, however, is one figure—the fair market value of the employer—that reflects the impacts of each of the constituent parts on the value of the whole.

For example, a liable employer may be two corporations, a parent and a subsidiary. PBGC may determine that because the subsidiary is in the process of ceasing operations, the fair market value of the subsidiary is its appraised liquidating value. On the other hand, the fair market value of the parent, a going concern, might be based on several of the other factors, including a bona fide offer to purchase, its current financial condition, its price/earnings ratio, and its prior business history. The final result, the net worth of the employer, would reflect the impact, if any, of the liquidation of the subsidiary on the fair market value of the parent.

PBGC has attempted to list specifically all the common factors that might be pertinent, but their relevancy in any one situation is a matter of judgment. A sale of an employer's business, or agreement to sell, would generally be strong evidence of fair market value, unless other evidence suggests the transaction was not at arm's length. A sale price would not be conclusive evidence. Bona fide offers to purchase would suggest a minimum value; offers by an employer to sell would ordinarily suggest a maximum value. The sale of stock or of a partnership interest would be evaluated similarly. In determining whether the sale or offer price is an accurate reflection of employer net worth, PBGC will consider whether the stock was traded on a recognized exchange, the relative size of the interest in the business sold, and the existence of a change in control or other event which would have an impact on the price.

As reflected in the proposed rule, any of these transactions occurring on or about (including after) the net worth record date will be considered by the PBGC. Generally, transactions occurring closer to the net worth record date will be given greater probative value than more remote transactions.

Other data that PBGC will examine include projections of future earnings; prior business history, current financial condition; earnings and dividend prospects as viewed by management (subject to evaluation of objectivity); economic outlook for the industry; market prices of stocks and price/earnings ratios of stocks of similar firms; research and development activities; value of employer goodwill or other intangibles; replacement cost of assets such as land, buildings or equipment; and employer book value. Each factor is generally indicative of the employer's financial status, and would be considered by either a prospective buyer or an employer who intends to sell his business. Since these factors would affect and reflect the fair market value of an on-going business, PBGC will evaluate them in determining an employer's net worth.

Two other factors are important to mention. First, in a failing or failed business, the liquidating value of the employer may be a more accurate reflection of the employer's net worth, and the PBGC will consider this. Second, in the case of an employer that recently underwent or is currently in a reorganization proceeding under Chapter 11 of the Bankruptcy Code of 1978 (or under Chapter XI of the prior Bankruptcy Act), the plan or reorganization may provide a good indication of the debtor's and, perhaps, the creditor's estimate of the value of the business. Specifically, provisions for stockholders and other equity holders will often reflect the assumed equity of the employer. In these cases, this may be the most accurate measure of fair market value. Thus, the PBGC will consider plans of reorganization, whether or not confirmed, although plans that have not yet been or were not confirmed would generally be accorded less probative value.

Under the proposed regulation, the valuation of partnerships or sole proprietorships would be based on the same set of factors (discussed above) used to value a corporate employer. Thus, in determining the net worth of a partnership or sole proprietorship that maintained a plan, PBGC would include any other trade or business (whether or not incorporated) which is under common control with the plan sponsor through the ownership interest of the sole proprietor of one or more of the general partners. The valuation would not, however, look to the personal assets and liabilities of a sole proprietor or partner. On the other hand, it is contemplated that any liability assessed under this part would extend to the personal, non-business, assets of a sole proprietor or general partner. Nonetheless, there may be circumstances in which it would also be appropriate, in valuing the net worth of a partnership or sole proprietorship, to include the personal assets and liabilities of the general partners or sole proprietor, even though such assets and liabilities are unrelated to a commonly controlled trade or business. For this reason, the PBGC is especially interested in receiving public comment on what circumstances might warrant consideration, for valuation purposes, of such personal assets and liabilities.

Finally, the net worth of the employer would also include the value of any assets transferred by the employer that the PBGC finds were improperly transferred under the circumstances (proposed § 2613.4(c)). The proposed regulation in this regard does little more than incorporate the statutory language, and the PBGC specifically requests public comment on how to implement this provision. The legislative history of this provision indicates that Congress was concerned with preventing employers from avoiding or limiting their liability for an underfunded plan by transferring assets out of the business in contemplation of plan termination. An example of this would be a closely-held corporation declaring large dividends in advance of plan termination. Moreover, the fact that § 4062(c) specifically refers to transfers that would be improper under the Bankruptcy Act indicates that Congress was concerned with a wide range of transactions that could in some way be considered fraudulent as against a creditor, the PBGC. The PBGC is particulary interested in suggestions with respect to the specific types of transfers to be covered by this provision, or whether the "improper transfers" should be broadly defined, and with respect to how the PBGC might detect the "improper transfers" (*e.g.*, required reporting of certain transfers as part of the net worth information submitted by an employer under this regulation).

Net Worth Record Date

The net worth record date is the valuation date under the regulation, and normally it will be the date of plan termination (proposed § 2613.5(a)). However, under proposed § 2613.5, the PBGC would retain authority to establish a net worth record date at an earlier date up to 120 days prior to the date of plan termination. the PBGC does not expect that it will need to exercise this power frequently. Generally, this authority would be exercised when necessary to prevent abuses of the plan termination insurance system. Under this proposal, PBGC can establish an earlier net worth record date at any time during the employer liability proceeding, but usually it would do so after the review of the employer net worth information submitted pursuant to proposed § 2613.6(a).

Whenever the PBGC determines that it should establish an earlier net worth record date, it will immediatly so notify the employer (proposed § 2613.5(b)). Thus, unless and until an employer receives a notice from PBGC that it has established an earlier net worth record date, the employer may assume that the net worth record date is the date of plan termination.

In addition, when PBGC sets an earlier net worth record date and the employer has already submitted net worth information pursuant to proposed § 2613.6(a), PBGC's notice to the employer may also include a request for additional net worth information pursuant to proposed § 2613.6(b). Generally, the request would be for the same kinds of information already submitted pursuant to § 2613.6(a), but as of a date nearer to the new net worth record date. (This is discussed more fully in the next section.)

Submission of Net Worth Information

Proposed § 2613.6 sets forth the information that each employer asserting the net worth limitation must submit. In addition, employers may submit any other information they consider pertinent. The information must be submitted within 120 days after the establishment of the date of plan termination, although PBGC reserves the right to require the submission of the information earlier in specific cases. It is not expected that PBGC will need to exercise this authority frequently.

The information required includes a statement of net worth prepared by the employer in accordance with proposed § 2613.4. This should include a brief discussion of the factual and methodological justifications for the valuation, and it will provide a starting point for PBGC's analysis. Failure to submit this will result in PBGC computing the employer liability under this part without regard to the employer's net worth (proposed § 2613.3(c)).

Some of the specific information called for under proposed § 2613.6(a) (*e.g.* appraisals of the employer's assets) is requested as of a date "on or about the net worth record date." Of course, employers will not always have the required data as of the net worth record date, and thus what is required under this section is that they submit the data they have as of the closes date to (either before or after) the net worth record date. As a general proposition, information as of a date on or near the net worth record date is more likely to give an accurate indication of fair market value on the net worth record date than information as of a more remote date. PBGC will evaluate the information submitted accordingly (proposed § 2613.6(c)).

Because PBGC wants valuation data as close to the net worth record date as possible, when it exercises its authority to establish an earlier net worth record date after the employer has submitted the net worth information, PBGC will often request the submission of new data as of a date closer to the new net worth record date. Obviously, if the employer does not have any net worth information other than that already submitted, it cannot comply with the request; but the PBGC may give less weight to the information previously submitted since it is more remote from the new net worth record date.

Finally, the PBGC may in any case request additional information to assist it in determining net worth (proposed § 2613.6(b)).

Interest on Employer Liability and Refunds

Under the proposed rule, interest on unpaid employer liability runs from the date of plan termination. This is consistent with § 4068 of the Act, pursuant to which a lien for the amount

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of the employer liability, including interest, arises on that date. In addition, in order to encourage employers to pay their full liability by the date of plan termination, the PBGC will pay interest on any overpayments by employers. Interest on overpayments will accrue from the later of (1) the date of the overpayment or (2) 10 days prior to the date of plan termination, until the date of the refund by PBGC (proposed § 2613.7(b)). In other words, if an employer pays its liability simultaneously with the filing of the Notice of Intent to Terminate (which is due 10 days before the proposed termination date) or subsequent thereto, PBGC will pay interest on any overpayment from the date of the payment. However, in order to avoid creating a situation where employers might use PBGC as a short-term investment vehicle, if an overpayment of employer liability is made more than 10 days prior to the date of plan termination, PBGC will not pay interest from the date of the overpayment; in this case, interest would accrue from the 10th day prior to the termination date.

Under proposed § 2613.7, the interest rate for both unpaid employer liability and refunds of overpayments will be the interest rate charged and paid by the Internal Revenue Service for late payment and overpayment of taxes. This is the interest rate established under § 6621 of the Internal Revenue Code of 1954, as amended. The rate so established is currently 12% per annum. The Secretary of the Treasury may adjust this rate pursuant to § 6621(b), but not more often than once every two years. The current rate was set by the Secretary effective February 1, 1980. The PBGC proposes that the interest rate charged under this part will change concurrently with any change in the IRS rate, and will become immediately effective with respect to any liabilities then outstanding, including those that arose prior to the change in the interest rate. The new rate would be effective, however, on a prospective basis only.

The rate prescribed by proposed § 2613.7(c) will apply to deferred payment of employer liability under proposed § 2613.8, as well. If the interest rate changes during the deferral period, the new rate is applicable to that portion of the principal liability unpaid as of the date of the interest rate change.

Finally, proposed § 2613.7 provides that the interest rate assessed on employer liability will be the same for all employers regardless of an employer's financial condition. The reason for this is that an interest rate that is variable among classes of employers would require that sound employers be offered a lower rate and weak employers be offered a higher rate. This result would conflict with two important objectives: (1) for healthy employers, the interest rate would not be high enough to discourage such employers from using PBGC financing; and (2) for employers suffering financial hardship, the higher interest rate might be an undue burden.

Deferred Employer Liability Payments

Deferred payment terms may be granted at PBGC's discretion (proposed § 2613.8). Deferred payment terms must be requested in writing, and an employer may make its request at any time during the termination process. The PBGC will grant deferred payment terms only when necessary to avoid severe hardship and only when there is a reasonable probability that the employer will be able to pay its full liability in accordance with the repayment terms.

The existence of severe business hardship cannot be defined according to a predetermined formula that can be applied in every case. Each application for deferral must necessarily be evaluated on its merits. However, certain factors stated in proposed § 2613.8(c) will be utilized as guidelines. One important factor will be the percentage of employer net worth that the liability represents. An employer whose liability is fully 30% of its net worth will likely be eligible for deferred payment terms. As the ratio of the liability to the net worth decreases, the hardship on the employer that full payment would create would probably also decrease, and thus the granting of deferred payment would become less likely. Other criteria for measuring hardship are the employer's overall financial condition and its cash flow.

The PBGC does not believe it would be appropriate for it to become a major source of financing for employers through its granting of deferred payment terms. Accordingly, it is contemplated that in most cases the deferral period will be relatively short. Specifically, the payment terms would typically call for monthly or quarterly installment payments based on a 10-year repayment period, but with a balloon payment for the entire unpaid balance at the end of the third year. If the employer advised PBGC during the third year that it would be unable to make the balloon payment, the PBGC would re-negotiate the payment terms if it found that compliance with the original terms would cause the employer severe hardship.

Finally, the PBGC may, as a condition of granting deferred payment terms, require the employer to provide security for its liability. The PBGC recognizes, however, that in may cases when the employer meets the hardship standard for deferred payment, the employer will not be able to provide security.

Lien

When PBGC has calculated the PAI, or, when necessary, completed its net worth determination, PBGC will inform the employer of PBGC's initial determination of the employer's liability and request payment, if any is owed. The employer may appeal the determination and obtain review by PBGC under the PBGC Rules for Administrative Review of Agency Decisions, Part 2618 of this chapter. When PBGC has completed its review, it will issue a final decision. Simultaneously with any decision finding liability, PBGC will issue a demand letter for payment of the employer liability. If the employer fails to pay the liability by the date specified in the demand letter, then a lien will arise, as of the date of plan termination, against all the employer's assets for the unpaid amount of the employer liability, plus interest, from the date of plan termination.

In consideration of the foregoing, it is proposed to amend Chapter XXVI of Title 29, Code of Federal Regulations, by adding a new Part 2613 to read as follows:

PART 2613—EMPLOYER LIABILITY FOR A SINGLE EMPLOYER PLAN TERMINATION

Sec.

2613.1 Purpose and scope.
2613.2 Definitions.
2613.3 Imposition and amount of employer liability.
2613.4 Determination of net worth.
2613.5 Net worth record date.
2613.6 Submission of net worth information.
2613.7 Interest on employer liability and refunds of overpayments.
2613.8 Deferred payment of employer liability.
2613.9 Notification of and lien for employer liability.
2613.10 Filing of documents.
2613.11 Computation of time.

Authority: Sections 4002(b)(3), 4062, 4063, 4064, 4067 and 4068, Pub. L. 93–406, 88 Stat. 1004, 1029, 1030, 1031, 1032 (29 U.S.C. §§ 1302(b)(3), 1362, 1363, 1364, 1367, 1368).

§ 2613.1 Purpose and scope.

Section 4062 of the Act imposes liability on an employer for the termination of an insufficient (*i.e.* lacking sufficient assets to pay guaranteed benefits) single employer pension plan. Section 4063 of the Act imposes liability for the withdrawal of a substantial employer from an insufficient pension plan to which more than one employer contributes. Section 4064 imposes termination liability on all employers who contributed within 5 years prior to plan termination to an insufficient plan to which more than one employer contributes.[1] Under both § 4063 and § 4064, liability is determined by first calculating what the liability would be under § 4062 if that section were applicable to the plan in question, and then prorating or allocating that liability among the affected employers. Section 4067 of the Act authorizes PBGC to grant deferred payment terms to employers liable under §§ 4062, 4063 or 4064, and 4068 gives the PBGC a lien on the employer's assets in the event of non-payment of the liability imposed by §§ 4062, 4063 or 4064. The purpose of this part is to set forth the rules for determining and paying employer liability under § 4062. Thus, this part applies to the termination of any single employer plan covered under § 4021(a) of the Act and, to the extent appropriate, to substantial employer withdrawals from and terminations of plans covered under § 4021(a) of the Act to which more than one employer contributes. This part also contains rules relating to deferred payments of employer liability under § 4067 and to the PBGC's lien under § 4068, and these rules apply to all terminations covered under either §§ 4062 or 4064 and, to the extent appropriate, to substantial employer withdrawals under § 4063.

§ 2613.2 Definitions.

For the purposes of this part (unless otherwise required by the context):

"Act" means the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1001 *et seq.* (1976)).

"Date of plan termination" means the date established under § 4048 of the Act.

"Employer" means the trade or business (whether or not incorporated) maintaining the plan and all trades or businesses (whether or not incorporated) under common control, within the meaning of Part 2612 of this chapter, with such trade or business.

"Net worth" means the fair market value of an employer, as determined by the PBGC pursuant to this part.

"Net worth record date" means the date as of which the PBGC determines the net worth of an employer.

"Plan asset insufficiency" means the amount, calculated as of the date of plan termination, by which the value of a plan's benefits guaranteed by the PBGC under § 4022 of the Act exceeds the value of the plan's assets allocable to such benefits under § 4044 of the Act.

"Plan year" means the fiscal year on which the records of a plan are kept.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Single employer plan" means a defined benefit pension plan described in § 4021(a) of the Act that is maintained by one trade or business (whether or not incorporated) or by more than one trade or business (whether or not incorporated) all of which are under common control within the meaning of Part 2612 of this chapter.

"Title IV" means Title IV of the Act.

§ 2613.3 Imposition and amount of employer liability.

(a) *Amount of employer liability.* An employer who maintains a terminating single employer plan is liable to the PBGC as of the date of plan termination in the amount of any plan asset insufficiency, as determined by the PBGC, unless—

(1) Thirty percent (30%) of the employer's net worth, determined in accordance with this part, is less than the plan asset insufficiency;

(2) The employer notifies the PBGC, in accordance with Paragraph (b) of this section, that 30% of its net worth is less than the plan asset insufficiency; and

(3) The employer demonstrates, in accordance with § 2613.6(a)(1), that 30% of its net worth is less than the plan asset insufficiency.

If these three conditions are satisfied, the employer is liable to PBGC as of the date of plan termination in the amount of 30% of its net worth, as determined by the PBGC.

(b) *Notice of net worth limitation.* An employer who believes that 30% of its net worth is less than the plan asset insufficiency shall so notify the PBGC in writing within 30 days after the establishment of the date of plan termination.

(c) *Failure to notify PBGC of or to demonstrate net worth limitation.* If an employer fails to submit a timely notice in accordance with Paragraph (b) of this section, or to demonstrate in accordance with § 2613.6(a)(1) that its liability is limited by its net worth, the PBGC will compute and assess liability under this part without regard to the net worth of the employer.

§ 2613.4 Determination of net worth.

(a) *General rule.* An employer's net worth is equal to the fair market value of the employer determined at the discretion of the PBGC, as of the net worth record date established pursuant to § 2613.5, and includes those assets that PBGC determines pursuant to Paragraph (c) of this section to have been improperly transferred. The PBGC's determination will be based on its review and analysis of the factors set forth in Paragraph (b) of this section.

(b) *Factors for determining net worth.* In determining an employer's net worth, the PBGC will consider the factors set forth below as they pertain to the employer; different factors may be considered with respect to different portions of the employers' operations.

(1) A bona fide sale of, agreement to sell, or offer to purchase or sell the business of the employer made on or about the net worth record date.

(2) A bona fide sale of, agreement to sell, or offer to purchase or sell stock or a partnership interest in the employer, made on or about the net worth record date.

(3) If stock in the employer is publicly traded, the price of such stock on or about the net record date.

(4) The price/earnings ratios and prices of stocks of similar trades or businesses on or about the net worth record date.

(5) The employer's economic outlook, as reflected by its earnings and dividend projections, current financial condition, and business history.

(6) The economic outlook for the employer's industry.

(7) The appraised value, including the liquidating value, of the employer's fixed and intangible assets.

(8) The value of the equity assumed in a plan of reorganization of an employer in a proceeding under Chapter 11 of the Bankruptcy Code of 1978 (or under Chapter XI of the prior Bankruptcy Act).

(9) Any other factor PBGC finds to be relevant in determining the employer's net worth.

(c) *Improper Transfers.* An employer's net worth shall include the value of any assets transferred by the employer which the PBGC determines to have been improperly transferred under the circumstances.

§ 2613.5 Net worth record date.

(a) *General.* Unless the PBGC establishes an earlier net worth record date pursuant to Paragraph (b) of this section, the net worth record date is, for all purposes under this part, the date of plan termination established pursuant to § 4048 of the Act.

[1] The liabilities under §§ 4063 and 4064 are related. Under the prior section, if the plan does not terminate within 5 years after the withdrawal of the employer, the withdrawal liability is abated. If there is a plan termination within that period, the withdrawn employer's liability under § 4064 is offset by the amount of liability paid under § 4063.

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(b) *Establishment of an earlier net worth record date.* Notwithstanding Paragraph (a) of this section, the PBGC may in case establish an earlier date as the net worth record date, but in no event may that date be more than 120 days prior to the date of plan termination. The PBGC may exercise its authority under this paragraph at any time during a termination proceeding, although it will usually do so, if at all, after PBGC staff have reviewed the information submitted pursuant to § 2613.6(a).

(c) *Notification to the employer.* Whenever the PBGC does establish an earlier net worth record date, it shall immediately give the employer written notification of that fact. The written notice may also include a request for more information pursuant to § 2613.6(b).

§ 2613.6 Submission of net worth information.

(a) *General.* An employer who has notified the PBGC pursuant to § 2613.3(b) that thirty percent (30%) of its net worth is less than the plan asset insufficiency shall submit the following information to the PBGC within 120 days after the establishment of the date of plan termination. The PBGC reserves the right in any case to require the submission of the information within a shorter period after the establishment of the date of plan termination.

(1) The employer's estimate, made in accordance with § 2613.4, of its net worth on the net worth record date and a statement of the basis for the estimate.

(2) A copy of the employer's audited (or if not available, unaudited) financial statements for the five (5) full fiscal years plus any partial fiscal year preceding the net worth record date. The statements must include balance sheets, income statements, statements of changes in financial position, and annual reports.

(3) A statement of all sales and copies of all offers or agreements to buy or sell at least 25% of employer assets or at least 5% of employer stock or partnership interest, made on or about the net worth record date.

(4) A statement of the employer's current financial condition and business history.

(5) A statement of the employer's business plans, including projected earnings and, if available, dividend projections.

(6) Any appraisals of the employer's fixed and intangible assets made on or about the net worth record date.

(7) A copy of any plan or reorganization, whether or not confirmed, with respect to a proceeding under Chapter 11 of the Bankruptcy Code of 1978 (or under Chapter XI of the prior Bankruptcy Act) involving the employer and occurring within five (5) calendar years prior to or any time after the net worth record date.

(b) *Additional information.* Whenever the PBGC establishes a net worth record date earlier than the date of plan termination and the employer has already submitted the information specified in Paragraph (a) of this section, the PBGC may require the employer to submit additional information like that described in Paragraph (a), as of a date closer to the net worth record date than the information already submitted pursuant to Paragraph (a). In addition, the PBGC may require the submission by the employer of any other informtion the PBGC determines it needs to calculate the employer's net worth.

(c) *Failure or inability to submit information.* If an employer fails or is unable to submit all of the information required or requested under this section (other than that required by Paragraph (a)(1) of this section), the PBGC shall determine the employer's net worth on the basis of the information that was submitted, as well as any other pertinent information the PBGC may have. In general, when the information submitted is as of a date further removed from the net worth record date, it will be given less probative value by PBGC then would be given to information as of a date nearer to the net worth record date. As provided in § 2613.3(c), if the employer fails to submit the information required by Paragraph (a)(1) of this section, the PBGC shall compute the employer liability under this part without regard to the employer's net worth.

§ 2613.7 Interest on employer liability and refunds of overpayments.

(a) *Interest on employer liability.* If an employer fails to pay its full liability under this part on or before the date of plan termination, and whether or not the PBGC has granted the employer deferred payment terms pursuant to § 2613.8, interest on the unpaid principal portion of the liability will accrue at the rate set forth in Paragraph (c) of this section from the date of plan termination until the liability is paid in full.

(b) *Refunds of employer liability.* If an employer pays the PBGC an amount that exceeds the employer's full liability under this part (including any interest owed pursuant to Paragraph (a) of this section), the PBGC shall refund the excess amount to the employer, with interest on that amount at the rate set forth in Paragraph (c) of this section. Interest on the overpayment will accrue from the later of the date of the overpayment or 10 days prior to the date of plan termination, until the date of refund.

(c) *Interest rate.* The interest rate on employer liability and refunds of employer liability shall be at the rate prescribed in § 6621(a) of the Internal Revenue Code of 1954, as amended, or at the adjusted rate prescribed by the Secretary of the Treasury pursuant to § 6621(b) if one is so prescribed. The interest under this part shall be a variable rate, changing whenever the interest rate under § 6621 of the Code changes.

§ 2613.8 Deferred payment of employer liability.

(a) *General.* PBGC may, in its discretion and at the request of an employer, grant deferred payment terms for employer liability. PBGC will grant deferred payment terms only when necessary to avoid the imposition of a severe hardship on the employer, and only when there is a reasonable possibility that the employer will be able to meet the deferred payment terms and pay the entire liabilty.

(b) *Request for deferred payment terms.* An employer may request deferred payment terms at any time. The request shall be in writing and include the information specified in § 2613.6(a) unless that information has already been submitted to the PBGC.

(c) *Criteria.* PBGC shall examine the following factors in determining what, if any, deferred payment terms it will grant an employer:

(1) The ratio of employer liability to the employer's net worth.

(2) The employer's overall financial condition, including—

(i) The amounts and terms of the employer's existing debts;

(ii) The amount and availability of the employer's liquid assets;

(iii) The employer's current and past cash flow; and

(iv) The employer's projected cash flow, including a projection of the impact on the employer's operations that would be caused by the immediate full payment of employer liability.

(3) The availability of credit to the employer from private sector sources.

(d) *Security during period of deferred payment.* As a condition to the granting of deferred payment terms, PBGC may, in its discretion, require that an employer provide PBGC with such security for its obligations as the PBGC deems adequate.

§ 2613.9 Notification of and lien for employer liability.

(a) *Notification of liability.* Except as provided in Paragraph (c) of this section, when the PBGC has determined the amount of an employer's liability under this part, it shall notify the employer in writing of the amount of the liability. The notification will include a request for payment of the liability and a statement of the employer's right to appeal the assessment of liability pursuant to Part 2618 of this chapter.

(b) *Demand for liability.* If the employer fails to pay its liability within the time specified in the notification of liability described in Paragraph (a) of this section, the PBGC will issue a demand letter for the liability—

(1) if no appeal is filed, upon the expiration of time to file an appeal under Part 2618; or

(2) if an apeal is filed, upon issuance of a decision on the appeal finding that there is liability under this part.

(c) *Special rule.* Notwithstanding Paragraphs (a) and (b) of this section, the PBGC may, in its discretion, issue a demand letter for an employer's liability under this part immediately upon determining the liability, without first issuing a notification of liability pursuant to Paragraph (a) of this section.

(d) *Lien.* If the employer fails or refuses to pay the full amount of its liability within the time specified in the demand letter, the PBGC shall have a lien in the amount of the liability, including interest, arising as of the date of the plan termination, on all of the property and rights to property belonging to the employer.

§ 2613.10 Filing of documents.

(a) *Date of filing.* Any document required or permitted to be filed under this part is considered filed on the date of the United States postmark stamped on the cover in which the document is mailed, provided that—

(1) The postmark was made by the United States Postal Service; and

(2) The document was mailed postage prepaid, properly packaged and addressed to the PBGC.

If the conditions stated in both (1) and (2) are not met, the document is considered filed on the date it is received by the PBGC. Documents received after regular business hours are considered filed on the next regular business day.

(b) *Where to file.* Payments of employer liability shall be sent to the Division of the Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Any document required or permitted to be filed under this part, except for documents relating to appeals, shall be submitted to the Office of Program Operations, Pension Benefit Guaranty Corporation, at the above address. Any document submitted pursuant to Part 2618 in connection with an appeal of an initial determination shall be submitted to the Appeals Board, Pension Benefit Guaranty Corporation, at the above address.

§ 2613.11 Computation of time.

In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a Federal holiday.

Issued in Washington, D.C. this 20th day of May, 1980.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 80-15928 Filed 5-22-80; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Notice of Public Hearing and Public Comment Period on the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: Comment Period and Public Hearing on Missouri Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substance of the proposed Missouri regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Missouri program is available for public inspection; additions or modifications to the submission made since February 1, 1980; the date when and the location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Missouri program submission will be held from 4:00 p.m. to 7:00 p.m. on June 23, 1980, at the address listed below.

Written comments, data or other relevant information may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Comments from the public must be received on or before 4:30 p.m., July 1, 1980, to be considered in the Secretary of the Interior's decision on the proposed Missouri regulatory program.

ADDRESSES: The public hearing will be held at the Federal Building, Room 140, 601 East 12th Street, Kansas City, Missouri 64106. Written comments should be sent to:

Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region IV Office and the Missouri Land Reclamation Commission office listed below, Monday through Friday, 8:00 a.m., to 4:00 p.m., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Missouri Land Reclamation Commission, 1026-D., N.E. Drive, Jefferson City, Missouri 65101.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region IV Office and the Missouri Land Reclamation Commission listed above, and the OSM Headquarters Office, listed below:

U.S. Department of the Interior, Office of Surface Mining, Interior South Building, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining, Reclamation and Enforcement, Scarritt Bldg., 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-3920.

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SUPPLEMENTARY INFORMATION: On February 1, 1980, the State of Missouri submitted to OSM a proposed state regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328, March 13, 1979), the Regional Director published notification of receipt of the program submission in the February 11, 1980, **Federal Register** (45 FR 9123–9124) and in newspapers of general circulation in Missouri. In accordance with that announcement public comments were solicited and a public meeting was held on March 13, 1980, on the issue of the program's completeness.

On March 24, 1980, the Regional Director published a notice announcing that he had determined the program to be complete, **Federal Register** (45 FR 18987). This determination of completeness was not a determination of whether the submitted materials complied with the substantive provisions of SMCRA and the Permaent Regulatory Program.

On May 14, 1980, the Missouri Land Reclamation Commission submitted to OSM numerous revisions to the Missouri permanent program submission. Revisions were made to the Missouri Surface Coal Mining Law, the surface coal mining regulations, the section-by-section analysis of both the Act and regulations, and the program narrative.

A number of the revisions were minor in nature such as corrections of typographical errors, incorrect references to section numbers in the Act and regulations, dropped lines, and other items of clarification. These minor modifications will not be discussed or summarized in this notice. However, the significant modifications to the Act and proposals for modifying the regulations will be summarized below as required by 30 CFR 732.12(a)(1). Public comments are invited on these revisions.

ACT

(1) Section 444.570 of the Missouri Act was amended to allow operators to submit personal bonds secured by a certificate of deposit in lieu of a surety bond for the purpose of insuring adequate reclamation.

(2) Section 444.820 of the Missouri Act was amended to allow mining permits to expire on the anniversary date of issuance rather than January 1 of each year.

Regulations

(1) Missouri deleted a provision found at 10 CSR 40–3.040 that granted a variance for stream channel restoration.

(2) Missouri amended 10 CSR 40–5.020, concerning petitions to designate lands unsuitable for mining.

(3) Missouri added language at 10 CSR 40–6.010 stating that persons engaged in mining and reclamation operations shall comply with the terms of their mining permit.

(4) Missouri provided procedures at 10 CSR 40–8.070 for petitioning the Director of the Land Reclamation Commission to initiate rulemaking.

(5) Missouri provided performance standards at 10 CSR 40–4.060 for concurrent surface and underground mining.

(6) Missouri submitted new regulations to amend 10 CSR 40–4.070 in-site processing of coal.

(7) Missouri amended 10 CSR 40–6.010 relative to the expiration date of mining permits to make this regulation consistent with amended section 444.820 of the Act.

(8) Missouri added provisions at 10 CSR 40–8.030 providing for discovery, intervention, award of costs and attorney's fees, and an informal hearing on enforcement proceedings comparable to the provisions of 43 CFR 4.

Subsequent to the public hearing announced today and review of all comments, the Regional Director will transmit to the Director of OSM his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12(d) and (e) (44 FR 15326–15327). For further details refer to Sections 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

At the public hearing, all persons wishing to comment on the proposed program will have the opportunity to do so. Persons who wish to make arrangements to comment at a specific time at the hearing may contact Richard Rieke at the OSM Region IV Office or by phone at (816) 374–3920. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter.

The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444–54445) OSM published guidelines in the **Federal Register** governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Missouri Program:

1. The Missouri Surface Coal Mining Law.
2. Surface coal mining regulations.
3. Other State laws directly affecting the regulation of surface coal mining operations, i.e., Mining Safety Rules, Missouri Clean Water Law, Missouri Air Conservation Law, Air Pollution Control Regulations, Missouri Dam and Reservoir Safety Act, Missouri Hazardous Wastes Act, and the Missouri Administrative Procedures Act.
4. A legal opinion of the Missouri Attorney General stating that the Land Reclamation Commission has the necessary authority to implement, administer and enforce a permanent regulatory program in accordance with SMCRA and all regulations promulgated thereunder.
5. A section-by-section comparison of the state's laws and regulations with SMCRA and 30 CFR Chapter VII.
6. A letter from Governor Teasdale designating the Missouri Department of Natural Resources, Land Reclamation Commission, as the regulatory authority for administering SMCRA.
7. A description of the existing and proposed sturctural organization of the Department of Natural Resources, Division of Environmental Quality, Land Reclamation Commission.

A copy of supporting agreements between the Land Reclamation Commission and other agencies that will have duties in the state program.

9. A description of the proosed system for:

(a) Receiving, reviewing, disapproving or approving and issuing permits for exploration and mining operations;

(b) Assessing fees for permit applications, including a fee schedule;

(c) Implementing, administering and enforcing a system of performance bonds and public liability insurance;

(d) Inspecting and monitoring coal exploration and mining and reclamation operations, and providing opportunity for public participation in the inspection process;

(e) Enforcing the administrative, civil and criminal provisions of the state Act and regulations, including citizen suit provisions;

(f) Administering and enforcing the permanent program performance standards of the state Act and regulations;

(g) Assessing and collecting civil penalties;

(h) Issuing public notices and holding public hearings;

(i) Coordinating issuance of permits with other state, Federal and local agencies;

(j) Consulting with other appropriate state and Federal agencies in the imlementation of the program;

(k) Designating lands unsuitable for surface coal mining operations, including a description of a planning process for identifying lands unsuitable, a description of the process to allow the public to petition the Land Reclamation Commission to have lands designated as unsuitable for mining;

(l) Monitoring, reviewing and enforcing restrictions against financial interests of state employees in coal mining operations;

(m) Training, examining and certifying blasters;

(n) Providing for public participation in the promulgation of regulations, in the development of the state program under SMCRA, and in the permitting process;

(o) Providing administrative and judicial review of actions taken by regulatory authority, including permit decisions and enforcement actions;

(p) Providing a Small Operator Assistance Program.

10. A listing of statistical information pertaining to the existing program as well as information pertinent to the proposed regulatory program, including:

(a) Coal production figures for each of the last three years;

(b) Acreage approved or permitted for exploration or mining for each of the last three years;

(c) A map showing the geologic distribution of coal in Missouri;

(d) The number of applications for Exploration and Development Operations permits received by the Land Reclamation Commission for each of the last three years;

(e) Projections of annual production and geographic distribution of both exploration and mining operations for the next five years.

11. A summary of both the existing and proposed staff of the Department of Natural Resources, Land Reclamation Program showing job functions, titles, and required job experience and training.

12. A description of how the proposed staffing will be adequate to carry out the functions for the projected workload.

13. A description of projected use of professional and technical personnel available from other state and Federal agencies.

14. A description of the projected annual budget for each of the next two fiscal years.

15. A description of the existing and proposed physical resources to be used in implementing the permanent program.

16. A brief description of other programs administered by the Land Reclamation Commission.

Single copies of the Missouri Surface Mining Act and regulations adopted under that act are available to the public at no charge. Persons interested in obtaining copies should write the Regional Director of OSM at the address listed above.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Missouri program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval of a state program does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: May 19, 1980.

Raymond L. Lowrie,

Regional Director.

[FR Doc. 80-15917 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-05-M

Heritage Conservation and Recreation Service

36 CFR Part 1204

Determinations of Eligibility for Inclusion in the National Register of Historic Places

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Proposed rule.

SUMMARY: These proposed amendments expand and clarify the role of the State Historic Preservation Officer in the Determination of Eligibility process and amend the procedures by which determinations of eligibility are reviewed by the Heritage Conservation and Recreation Service. The amendments provide for an opinion of eligibility for the National Register of Historic Places and a concise evaluation by the State Historic Preservation Officer on all properly documented determinations of eligibility submitted to the State Historic Preservation Officer by Federal agencies.

DATES: Comments must be received on or before July 22, 1980.

ADDRESS: Written comments should be addressed to the Acting Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT: Ms. Carol D. Shull, Acting Keeper of the National Register, United States Department of the Interior, Heritage Conservation and Recreation Service, Washington, D.C. 20243 (202) 343–6401.

SUPPLEMENTARY INFORMATION: Recognizing the importance of the State Historic Preservation Officer in the evaluation process and the Heritage Conservation and Recreation Service's reliance on the State Historic Preservation Officer to interpret National Register criteria in each State, the State Historic Preservation Officer shall provide an opinion on the ligibility of properties, at an agency's request, and provide a concise evaluation on properly documented determinations of eligibility to be submitted with the agency's request for a determination of eligibility.

It is important to emphasize that this change is not designed to modify the basic Federal agency responsibility to identify all potentially eligibile properties within a potential project impact area, to gather the information to evaluate their eligibility in terms of National Register criteria, and to request a determination of eligibility or nominate the identified properties, as appropriate. The changes are designed to emphasize the important role the State Historic Preservation Officer plays in the determination process, to provide greater information from the State Historic Preservation Officer, and to allow greater reliance upon his opinion in the review process at the Heritage Conservation and Recreation Service.

The time frames outlined in the procedures are designed as outside guidelines. The Heritage Conservation and Recreation Service encourages State Historic Preservation Officers to cooperate fully with Federal agencies by responding to requests for their opinions in less than 45 days when possible. The Heritage Conservation and Recreation Service will make every effort to

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provide decisions on determinations as expeditiously as possible.

These amendments are developed under the authority of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.* Because the amendments have to do with procedural aspects of the National Register program and have no impact upon the environment, an environmental impact statement is not necessary. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The originator of these procedures is W. Ray Luce of the National Register of Historic Places (202) 343–8401.

Dated: May 19, 1980.

Chris T. Delaporte,

Director, Heritage Conservation and Recreation Service.

Section 1204.2 (formerly § 63.2 of Part 63, Title 36) is proposed to be amended by adding a new paragraph (d) and by revising and renumbering current paragraphs (d) and (e) as (e) and (f) as follows:

§ 1204.2 Determination of eligibility process.

. . . . .

(d)(1) Before submitting a request for a determination of eligibility to the Keeper of the National Register, the Federal agency is responsible for requesting the opinion and comments of the State Historic Preservation Officer.

(2) Upon receipt of adequate documentation, the State Historic Preservation Officer shall provide the Federal agency with a substantive opinion and comments on the determination of eligibility request including a concise evaluation of significance or non-significance in terms of the National Register criteria for evaluation, identifying criterion/criteria under which the property is judged to be eligible, if applicable, and agreement or disagreement with the proposed boundaries.

(3) The State Historic Preservation Officer's evaluation should address the adequacy of the documentation. If the State Historic Preservation Officer believes the significance of the resource is not fully discussed or disagrees in any way with the agency's comments, his comments should address these concerns. These comments particularly important when the State Historic Preservation Officer disagrees with the agency's assessment. The State Historic Preservation Officer's opinion shall be forwarded to the Federal agency within 45 days of receipt of an adequately documented request, unless the agency and State Historic Preservation Officer agree upon a longer time period.

(e)(1) To request a determination of eligibility, the agency shall submit a letter of request with a description, statement of significance, photographs, and a map, or a statement in accord with 1204.3 below, and the opinion and comments of the State Historic Preservation Officer to the Keeper of the National Register, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20243.

(2) Where possible, the documentation on the property should be submitted on a National Register nomination form to expedite review by the State Historic Preservation Officer and the Heritage Conservation and Recreation Service. A Federal agency determination request will be returned to the agency if the State Historic Preservation Officer's opinion and comments are not included unless the Federal agency submits documentation with the request that the State Historic Preservation Officer's opinion has been requested in writing and he/she has not responded. In such instances, the Keeper of the National Register will again request the opinion of the State Historic Preservation Office on the eligibility of the property.

(f)(1) The Keeper of the National Register will respond in writing to the agency's request within 45 days of receipt of a documented request submitted in accord with 1204.2(e) of these procedures. If the Keeper determines that documentation submitted with the request is not sufficient to make a profesional evaluation of the significance of the property, the agency will be advised in writing of the additional information needed. The Keeper will respond to the agency's request within 45 days of receipt of the requested documentation on the property.

(2) The Keeper of the National Register reserves the right to make a determination of eligibility without the State Historic Preservation Officer's opinion, if necessary.

[FR Doc. 80-15803 Filed 5-22-80; 8:45 am]
BILLING CODE 4310-03-M

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36 CFR Part 1208

Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976 and the Revenue Act of 1978

AGENCY: Heritage Conservation and Recreation Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the procedures by which owners desiring tax benefits for rehabilitations of historic buildings or desiring to demolish buildings within Registered Historic Districts, apply for certifications pursuant to the Tax Reform Act of 1976. This proposed rule also incorporates the technical corrections contained in the Revenue Act of 1978.

DATE: Written comments must be delivered or mailed by July 22, 1980.

ADDRESS: Send comments to: Acting Chief, Division of the National Register of Historic Places or Chief, Technical Preservation Services Division, Heritage Conservation and Recreation Service, U.S. Department of the Interior, 440 G Street, N.W., Washington, D.C. 20243.

SUPPLEMENTARY INFORMATION: On October 7, 1977, final rulemaking was published in the **Federal Register** (42 FR 54548) to amend Chapter I Title 36 of the Code of Federal Regulations by adding a new part 67 concerning historic preservation certifications pursuant to the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1519) made by the Secretary of the Interior (this rulemaking has since been designated and transferred to Chapter XII, Title 36 CFR Part 1208). On November 6, 1978, the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2828) became law, necessitating amendments to these regulations. Sec. 701(f) of this act clarifies portions of Section 2124 of the Tax Reform Act of 1976, while Sec. 315 provides a new tax incentive—an investment tax credit—to encourage the rehabilitation of older buildings. Certifications of rehabilitation are required by the Secretary if an owner chooses to elect the tax credit when the structure is a "certified historic structure."

The purpose of this proposed rule is to incorporate the technical corrections relating to historic preservation certifications contained in the Revenue Act of 1978, to incorporate comments received on the statute certification process, to make minor modifications to the existing certification process, and to more fully explain the process for appealing certification decisions.

To permit a public understanding of the tax-related certifications made by the Secretary of the Interior, the following general description is given of the tax provisions contained in Section 2124 of the Tax Reform Act of 1976, as amended by Sec. 701(f) of the Revenue Act of 1978:

1. Section 2124(f). (Section 191 of the Internal Revenue Code of 1954). Permits a 60-month amortization of certain rehabilitation expenses made in connection with qualified depreciable properties;

2. Section 2124(b). (Section 280B of the Internal Revenue Code of 1954). Disallows a deduction for demolition of qualified depreciable properties;

3. Section 2124(c). (Section 167(n) of the Internal Revenue Code of 1954). Generally precludes accelerated depreciation for structures built on the site of qualified depreciable properties;

4. Section 2124(d). (Section 167(o) of the Internal Revenue Code of 1954). Provides special depreciation rules for qualified rehabilitated property;

5. Section 2124(e). (Sections 170(f)(3), 2055(e)(2) and 2522(c)(2) of the Internal Revenue Code of 1954). Amends charitable contribution deductions on income, estate, and gift taxes to liberalize deductions for conservation purposes (including historic preservation).

The term "depreciable properties" as used above generally means those properties subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954 and generally excludes owner-occupied homes.

The following general description is given of the tax provision contained in Section 315 of the Revenue Act of 1978:

1. Section 315 (Sections 38 and 48 of the Internal Revenue Code of 1954). Permits an investment tax credit for expenses incurred in rehabilitating certain depreciable properties.

Section 2124 of the Tax Reform Act and Section 315 of the Revenue Act as briefly described above require the Secretary of the Interior to make one or more of the following classes of certifications:

a. Certified Historic Structures. All the tax provisions described above (except subsection 2124(e)) are related to so-called "Certified Historic Structures," which, generally, are defined as qualified depreciable properties of historic character which are either listed in the National Register or are located within a Registered Historic District and certified by the Secretary as contributing to the significance of the district.

b. Certified Rehabilitations. In order for the tax consequences relating to rehabilitation to accrue, the Secretary must determine not only that the rehabilitation was done to a certified historic structure but also that it meets certain standards with respect to the historic character of the property.

c. Certified Statutes and Certified State or Local Historic Districts. Qualified historic structures located in historic districts designated under a statute of the appropriate State or local government are subject to the tax consequences discussed above if the statute is certified by the Secretary as containing criteria which will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance to the district and if the district is certified by the Secretary as meeting substantially all the requirements for the listing of districts in the National Register.

Comments on the Certification of State and Local Statutes.

In addition to revising the final rulemaking published in the **Federal Register** on October 7, 1977, concerning certifications of significance and rehabilitation (36 CFR Part 67), this proposed rulemaking also takes into consideration comments received on the interim rulemaking published in the **Federal Register** on August 10, 1977, concerning the certification of statutes (36 CFR 67.9). It revises the interim rulemaking in accordance with these comments and with the technical corrections included in the Revenue Act of 1978 and fully integrates this section with the rest of Part 1208.

When the certification of State statutes will have an impact on local historic districts, the Department of the Interior urges State governments to notify and consult appropriate local officials before submitting a request for certification of the statute.

Discussion of Comments

Several comments were received addressing the criteria a State or local statute must meet to be certified by the Secretary of the Interior.

One organization suggested that the regulations contain more detailed requirements for a certifiable statute including a model statute or ordinance. However, such detailed requirements would exclude many valid statutes and ordinances that otherwise would meet the general criteria of "substantially achieving the purpose of preserving and rehabilitating buildings of historic significance to the district." The criteria adopted in the final rulemaking which require a review body to review alterations to structures within a district is a minimum standard which permits flexibility by allowing the certification of State and local legislation that achieves the purposes of preservation.

The amount of time required to review the request for certification was an issue in some of the comments. However, the present review periods, 45 days at the State level and 45 days at the Department of the Interior, place an outer limit on the processing of a request. In many cases the review can be accomplished in a shorter time frame.

Another suggestion was made to send only a copy of a certification request to the appropriate State Historic Preservation Officer (SHPO) and eliminate the SHPO from the review process. It is the policy of the Heritage Conservation and Recreation Service that the SHPOs participate in the implementation of historic preservation programs, and it is, therefore, appropriate that they participate in the certification process.

A comment was received suggesting that all statutes submitted for certification be authenticated by the proper officials as representing exact legal copies of legislation in effect. The Department of the Interior presumes that the statutes, ordinances, and by-laws submitted for certification by the duly authorized representatives are exact legal copies. Further § 1208.8 requires the appropriate State or local government to notify the SHPO and the Secretary of the Interior in the event of the repeal of a certified statute and to submit any amendments to certified statutes to the SHPO and the Secretary of the Interior for review.

The Revenue Act of 1978 and the Certification of Local Districts

Several comments were received on the interim regulations concerning the procedure for submitting documentation for a State or local district after a statute has been certified. One comment indicated that the requirements for documentation were onerous to prepare and tantamount to preparing a National Register nomination. The Revenue Act, however, requires that before a structure can be certified as being of historic significance to a historic district designated by or under a certified statute, the district must be certified as meeting substantially all of the requirements for the listing of districts in the National Register. The documentation required includes a description of the historic district, a statement of its significance, a map defining the district's boundaries on which is indicated buildings which do not contribute to the district's significance, and representative photographs showing the character of typical streets and buildings. The documentation on a State or local district must be sufficient for the Secretary of the Interior to evaluate it on the basis of National Register criteria for evaluation (see 36 CFR Part 1201). The documentation also must be sufficient for the Secretary of the Interior to determine the contribution made by an individual structure to the historic

character of the district and whether the rehabilitation is consistent with the historic characer of the district in which it is located. It should be noted, however, that while a State or locally designated district may be determined to "substantially meet National Register criteria," this designation is for purposes of the historic preservation provisions of the Tax Reform Act and Revenue Act only.

It has been the experience of the Department of the Interior that it is sometimes difficult to fulfill requests for certification of significance in a timely fashion because the districts in question cannot be certified due to lack of documentation. The Department of the Interior considers the Duly Authorized Representative requesting certification of a statute to be the official responsible for submitting district documentation to the SHPO for certification. If another person is to assume responsibility for the district documentation, the letter requesting statute certification shall indicate that person's name, address and telephone number. The Department of the Interior considers the authorizing statement of the Duly Authorized Representative to indicate that the jurisdiction involved wishes not only that the statute in question be certified but also wishes all historic districts designated by the statute to be certified unless otherwise indicated. A State or local district will not be considered a Registered Historic District until the district itself has been certified by the Secretary. Therefore, the provisions of the Tax Reform Act will not apply to buildings within a State or local district until the district has been certified, even if the statute creating the district has been approved or certified by the Secretary.

Changes have been incorporated in this final rulemaking in response to comments received, based on Heritage Conservation and Recreation Service review and based upon the technical corrections included in the Revenue Act of 1978. The minor changes are as follows:

1. To be certified, a State or local statute need not designate specific historic districts, but must provide a mechanism by which historic districts are designated.

2. Districts created by statutes certified before passage of the Revenue Act of 1978 must themselves be certified before request for certification of significance in those districts can be processed.

3. Statutes that establish historic districts whether by State law or by local statute, must meet the criteria as stated in § 1208.8 to be certified by the Secretary of the Interior. However, State enabling legislation that requires implementing legislation at the local level will not be certified.

For this reason § 1208.8(a) has been changed to reflect the distinction between State statutes designating, or providing a method for designating, historic districts and State statutes enabling local governments to establish historic districts.

4. The certification process, § 1208.8(c), has been altered to require that the letter from the Duly Authorized Representative requesting certification of a State or local statute include the authorized representative's address, telephone number, and the name or position of a person who can be consulted concerning the request for certification. This letter must clearly state that the person or organization requesting certification is the authorized representative for the purpose of that action. In addition, if this person or organization is not to be considered responsible for submitting district documentation for certification, the letter should indicate the responsible person or organization along with an address and telephone number.

5. With regard to the request for certification of individual historic districts, § 1208.9 has been reordered and treated separately recognizing that documentation on such districts need not accompany the request for certification of a statute. Documentation must be submitted through the SHPO for review and forwarded to the Department of the Interior for certification before processing the first request for certification of an individual structure in the district. To avoid longer delays, the Department of the Interior urges that documentation be submitted at the earliest convenient time.

This rulemaking is developed under the authority of Section 101(a)(1) of the National Historic Preservation Act of 1966 U.S.C. 470a–1(a) (170 ed.), as amended, Section 2124 of the Tax Reform Act of 1976, 90 Stat. 1519, and sections 701(f) and 315 of the Revenue Act of 1978, 92 Stat. 2828. In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331, et seq.) the Heritage Conservation and Recreation Service has prepared an environmental assessment of these regulations. Based on this assessment, it is determined that implementation of the regulation is not a major Federal action that would have a significant effect on the quality of the human environment and that an environmental impact statement is not required. The assessment, on file in the office of the Acting Associate Director for Cultural Programs, Heritage Conservation and Recreation Service, U.S. Department of the Interior, 440 G Street NW., Washington, D.C. 20243, is available for public inspection. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under E.O. 12044 and 43 CFR Part 14.

The originators of these procedures are Sally Oldham of the National Register of Historic Places (202) 343–6401 and Ward Jandl of of Technical Preservation Services (202) 343–6384.

Dated: May 16, 1980.

Robert L. Herbst,

Assistant Secretary of Interior.

In consideration of the foregoing comments it is proposed to amend 36 CFR Part 1208 as follows:

PART 1208—HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO THE TAX REFORM ACT OF 1976 AND THE REVENUE ACT OF 1978

Sec.

1208.1 The Tax Reform Act of 1976 and the Revenue Act of 1978.
1208.2 Definitions.
1208.3 Introduction to certifications of significance and rehabilitation.
1208.4 Certifications of historic significance.
1208.5 Standards for evaluating structures within registered historic districts.
1208.6 Certifications of rehabilitation.
1208.7 Standards for rehabilitation.
1208.8 Certifications of statutes.
1208.9 Certifications of state of local historic districts.
1208.10 Appeals.

Authority: Sec. 101(a)(1), 80 Stat. 915, as amended (16 U.S.C. 470–1(a)); Sec. 2124, Stat. 1519. Sec. 315, 92 Stat. 2828.

§ 1208.1 The Tax Reform Act of 1976 and the Revenue Act of 1978.

The Tax Reform Act of 1976, 90 Stat. 1519, and the Revenue Act of 1978, 92 Stat. 2828, require the Secretary to make certifications of historic district statutes and of State and local districts, certifications of significance, and certifications of rehabiliation in connection with certain tax incentives involving historic preservation. The procedures for obtaining such certifications are set forth below. It is the responsibility of owners wishing certifications to provide sufficient documentation to their State Historic Preservation Officers (SHPOs) and the Heritage Conservation and Recreation Service to make certification decisions. The Internal Revenue Service is responsible for all procedures, legal determinations and rules and regulations concerning the tax consequences of the historic preservation provisions of the Tax Reform Act of 1976 and the Revenue Act of 1978. Any certifications made by the Secretary pursuant to this part shall not be considered as binding upon the Internal Revenue Service with respect to tax consequences or interpretations of the Internal Revenue Code of 1954. Certifications made by the Secretary do no constitute determinations that a structure is of the type subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954.

§ 1208.2 Definitions.

As used in these procedures:

(a) "Certified Historic Structure" means a structure which is of a character subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code of 1954 which is either (1) listed in the National Register; or (2) located in a Registered Historic District and certified by the Secretary of the Interior as being of historic significance to the district.

(b) "Certified Rehabilitation" means any rehabilitation of a certified historic structure within the time frame specified by the law, which the Secretary has certified to the Secretary of the Treasury as being consistent with the historic character of such property, and, where applicable, with the district in which such property is located.

(c) "Historic District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects which are united by past events or aesthetically by plan or physical development.

(d) "Inspection" means a visit by an authorized representative of the Secretary of Interior to a certified historic structure for the purposes of reviewing and evaluating the significance of the structures and the completed rehabiliation work.

(e) "National Register of Historic Places" means the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture that the Secretary is authorized to expand and maintain pursuant to Section 101(a)(1) of the National Historic Preservation Act of 1966.

(f) "National Register Program" means the survey, planning, and registration program that has evolved under the Secretary's authority pursuant to 101(a)(1) of the National Historic Preservation Act of 1966. The procedures of the National Register program appear in 36 CFR Part 1202.

(g) "Owner" means a person who holds a fee-simple interest in a structure; or a holder of a life estate in property; or a holder of a life estate in property with remainder to another person; or a lessee whose lease term without regard to renewal periods extends beyond the useful life of the improvements or for 30 years, whichever is greater.

(h) "Registered Historic District" means any district listed in the National Register or any district designated under a State or local statute which has been certified by the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of significance to the district and which is certified by the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(i) "Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

(j) "Secretary" means the Secretary of the Interior or the designee authorized to carry out his responsibilities.

(k) "Standards for Rehabilitation" means the Secretary of the Interior's "Standards for Rehabilitation" as set forth in § 1208.7 hereof.

(l) "State or local statute" means a law of the State or local government designating, or providing a method for the designation of, a historic district or districts.

(m) "State Historic Preservation Officer" (SHPO) means the official within each State, designated by the Governor at the request of the Secretary of the Interior, to act as liasion for purposes of implementing historic preservation programs within the States.

§ 1208.3 Introduction to certifications of significance and rehabilitation.

Who may apply:

(a) Ordinarily, only the owner (as defined in § 1208.2 above) of the property in question may apply for the certifications described in §§ 1208.4 and 1208.6 hereof.

(b) Upon request of a SHPO, the Secretary may determine whether or not a particular structure located within a Registered Historic District qualifies as a certified historic structure. The Secretary shall do so, however, only after notifying the property owner of record of the request, informing such owner of the possible tax consequences of such a decision, and permitting the property owner a 30 day time period to submit written comments to the Secretary prior to decision.

(c) Owners of structures which (1) appear to meet National Register criteria but are not yet listed in the National Register; or (2) are located within a historic district which appears to meet National Register criteria but has not yet been listed in the National Register; or (3) are located within a State or locally designated historic district for which a certification request has been received and adequate documentation for district certification has been submitted, may request preliminary determinations of the Secretary, as to whether such structures may qualify as certified historic structures when and if the property or district is listed in the National Register or the State or local district is certified by the Secretary. Any such determinations are preliminary only and not binding upon the Secretary. The property will be considered by the Secretary for actual certification at the time the individual property or district is listed in the National Register.

(d) The Secretary will review and evaluate rehabilitation proposals in accordance with the Secretary's "Standards for Rehabilitation," when submitted by persons other than owners, but will issue certifications of rehabilitation only to owners of "certified historic structures." Requests for these determinations shall be made in accordance with procedures set forth in § 1208.6(i) hereof. How to apply:

(1) Requests for certifications of historic significance and/or of rehabilitation shall be made on "Historic Preservation Certification Applications" (approved OMB form No. 42R–1765). Part 1 of the application shall be used in requesting an evaluation and certification (or decertification) of historic significance or a preliminary determination of historic significance, while part 2 shall be used in requesting an evaluation of proposed rehabilitation work or a certification of completed rehabilitation.

(2) Application forms are supplied to the SHPOs by the Department of the Interior. Owners may obtain "Historic Preservation Certification Applications" from the appropriate SHPO.

(3) Requests for certifications shall be made through the appropriate SHPO. The recommendations of the SHPO are generally accepted by the Secretary. If for some reason the review periods specified in §§ 1208.4 and 1208.6 for the SHPO have expired without recommendations being made and/or the requests forwarded to the Secretary, the owner may notify HCRS directly of this fact. HCRS in turn will consult with the SHPO to ensure that a review of the application is completed in a timely manner.

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(4) Although certifications of significance and rehabilitation are discussed separately below, owners are encouraged to submit parts 1 and 2 of the "Historic Preservation Certification Application" together to the SHPO.

§ 1208.4 Certifications of historic significance.

(a) Requests for evaluation of historic significance as required by sections 2124(a), (b), (c), and (d) of the Tax Reform Act of 1976 should be made by the owner in accordance with respective procedures for the following categories of certifications: (1) That a structure is located within a Registered Historic District and is of historic significance to such district; (2) that a structure is located within a Registered Historic District and is not of historic significance to such district.

(b) If the property is individually listed in the National Register, it automatically is considered a certified historic structure.

(1) To determine whether or not a property is individually listed in the National Register, the owner should consult the listing of National Register properties in the **Federal Register** (found in most large libraries). If access to the **Federal Register** is difficult, the owner should contact the appropriate SHPO for this information.

(2) If the property is individually listed in the National Register and the owner believes it has lost the characteristics which caused it to be nominated and therefore wishes it delisted, the owner should consult the SHPO and refer to the delisting procedures outlined in 36 CFR 1202.

(3) Many listings in the National Register include more than one structure but are not designated historic districts (i.e. an estate or a mill complex). For these listings if the resource is under a single ownership, the entire resource will be considered a certified historic structure (if depreciable) unless (i) the owner specifically requests that a portion be decertified; or (ii) in the course of a review of a request for certification of rehabilitation the Secretary determines that a portion or portions of the resource are not specifically eligible for certification. When forwarding certification applications to the Secretary for these listings, the SHPO shall submit written comments addressing what portions of the listing, if any, should not be considered for certification and the reasons which form the basis for this opinion. If the resource is under multiple ownership, separate applications should be submitted.

(4) If it is proposed that a structure individually listed in the National Register be moved as a part of a request for certification of rehabilitation, the owner must follow the procedures outlined in 36 CFR 1202.16. Properties listed in the National Register should be moved only when there is no feasible alternative for preservation. When a property is moved, every effort should be made to reestablish its historic orientation, immediate setting, and general environment.

(c) If the property is located within the boundaries of a Registered Historic District and the owner wishes the Secretary to certify as to whether the structure is or is not of historic significance to the district, the owner must complete Part 1 of the "Historic Preservation Certification Application" and submit it to the SHPO. The following minimum documentation is required:

(1) Name of owner;
(2) Name and address of structure;
(3) Name of historic district;
(4) Current photographs of structure, photographs of the structure prior to alteration if rehabilitation has been completed, and photograph(s) showing the structure along with adjacent structures on the street;
(5) Brief description of appearance including alterations, distinctive features and spaces, and date(s) of construction;
(6) Brief statement of significance (architectural and/or historical);
(7) Sketch map showing structure's location within the district; and
(8) Signature of property owner requesting the evaluation.

(d) If an owner begins or completes demolition or substantial alteration of a structure in a Registered Historic District without knowledge of the Tax Reform Act requirements for certification of non-significance, he may request certification that the structure was not of historic significance to the district prior to substantial alteration or demolition in the same manner as stated in paragraph (c) of this section. The owner should be aware, however, of the requirements under the Revenue Act of 1978 (92 Stat. 2900, 2903) sections 701(f)(2)(B)(iii) and 701(f)(5)(b) that the taxpayer must certify to the Secretary of the Treasury that, at the beginning of such demolition or substantial alteration, he in good faith was not aware of the certification requirement by the Secretary of the Interior.

(e) If an owner wishes to obtain certified rehabilitation status for a building which is proposed to be moved into a Registered Historic District or which is within a Registered Historic District and will be moved elsewhere in the district, he must complete Part 1 of the "Historic Preservation Certification Application" and, in addition to the minimum documentation outlined above, should submit documentation which discusses:

(i) The reasons for the move;
(ii) The effect of the move on the property's appearance (any proposed demolition, proposed changes in foundations, etc.);
(iii) The new setting and general environment of the proposed site.

Photographs showing the proposed location must be sent with the documentation. Properties included in Registered Historic Districts should be moved only when there is no feasible alternative for preservation. When a property is moved, every effort should be made to re-establish its historic orientation, immediate setting, and general environment.

(f) Structures within Registered Historic Districts will be evaluated for conformance with the Secretary's "Standards for Evaluating Structures within Registered Historic Districts" as set forth in § 1208.5.

(g) The SHPO will sign Part 1 indicating his recommendation as to the significance of the structure and forward Part 1, the photographs, and the map to the Department of the Interior within 45 days after the owner has submitted the required information.

(h) A preliminary certification of significance may be requested by the owner by filling out Part 1 of the Historic Preservation Certification Application and sending it to the SHPO. Preliminary certification requests will be reviewed by the SHPO for conformance with the National Register criteria and/or the Secretary's Standards and for the State's ability to handle the future nomination or district certification in a timely manner. The SHPO is not compelled to sign the application form even if he believes the propery meets the necessary criteria. The SHPO shall forward the application with his recommnedation to the Secretary for review. The Secretary shall notify the owner and the SHPO of the preliminary certification decision. The time frames applicable to other certification of significance requests shall apply to preliminary certification requests also.

(i) In certain cases where it is difficult to make a determination of significance because it is impossible to determine the amount of remaining historic fabric (i.e. where metal screening obscures facades) or where it is impossible to assess the potential for rehabilitation due to structural or other conditions, it may be necessary to make a certification of significance conditional upon approval of the completed rehabilitation. A conditional certification indicates that the property appears to have the potential to contribute to the district but will not be considered a certified historic structure until such time as a certification of rehabilitation is issued.

(j) Once the significance of a structure located within a Registered Historic District has been determined by the Secretary, written notification will be sent to the property owner and the SHPO in the form of a certification of significance or conditional certification or as a notice that the structure does not contribute to the historic significance of the district. Written notification will be made within 30 days of receipt of Part 1 of a "Historic Preservation Certification Application," with documentation as specified above.

§ 1208.5 Standards for evaluating structures within registered historic districts.

Structures located within Registered Historic Districts are reviewed by the Secretary for conformance to the following "Standards for Evaluating Structures within Registered Historic Districts." These standards shall be used by the SHPO in making recommendations to the Secretary.

(a) A structure contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.

(b) A structure not contributing to the historic significance of a district is one which detracts from the district's sense of time and place and historical development; or one where the integrity of the original design or individual architectural features or spaces have been irretrievably lost; or one which cannot reasonably be returned to a state of utility through rehabilitation.

(c) Ordinarily structures that have been built within the past 50 years shall not be considered eligible unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.

§ 1208.6. Certification of rehabilitation.

Property owners desirous of having rehabilitations of certified historic structures certified by the Secretary as being consistent with the historic character of the structure or district in which the structure is located, thus qualifying as "certified rehabilitations," shall comply with the following procedures:

(a) Complete Part 2 of the "Historic Preservation Certification Application" and submit it to the SHPO. The application may describe a proposed rehabilitation project, work in progress, or a completed rehabilitation. In all cases, however, photographs showing the appearance of the structure prior to rehabilitation, both on the exterior and on the interior, must accompany the application. Other documentation, such as sketch plans and elevation drawings, may be necessary to evaluate certain rehabilitation projects. Owners who undertake rehabilitation projects without prior approval from the Secretary do so at their own risk.

(b) If the work described in Part 2 of the application form is not completed, the appropriate SHPO shall review the proposed project as to whether or not the project is likely to meet the Secretary of the Interior's "Standards for Rehabilitation" and forward the application and written recommendations to the Secretary. In most cases, this shall be done within 45 days of receipt of the documentation detailed in paragraph (a) of this section.

(c) Upon receipt of the application describing the proposed project and the recommendation of the SHPO, the Secretary shall determine, normally within 45 days, if the proposed project is consistent with the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for Rehabilitation," the owner shall be advised of necessary revisions to meet such standards. These notifications will be made in writing.

(d) When the rehabilitation project has been completed, the owner shall notify the appropriate SHPO in writing of the project completion date and shall sign a statement that, in the owner's opinion, the completed rehabilitation meets the Secretary's "Standards for Rehabilitation" and is consistent with the work described in Part 2 of the "Historic Preservation Certification Application." At this time the owner will be requested to provide photographs of the completed rehabilitation project; other documentation that the SHPO believes is necessary to make a recommendation to the Secretary; and his social security or employee identification number. Certifications will be issued to rehabilitations which have been carried out in accordance with proposed plans previously approved by the Secretary.

(e) The SHPO shall forward his recommendations as to certification to the Secretary within 45 days of receipt of the project completion date and documentation described in paragraph (d) of this section.

(f) The completed project may be inspected by an authorized representative of the Secretary to determine if the work meets the "Standards for Rehabilitation." The Secretary reserves the right to make inspections at any time after completion of the rehabilitation and to withdraw certification of the rehabilitation upon determining that the project does not meet or no longer meets the Secretary's "Standards for Rehabilitation" as completed.

(g) Notification as to certification shall be in writing and will normally be made by the Secretary within 15 days of receipt of the SHPO's recommendations if the proposed rehabilitation had been previously approved by the Secretary. Otherwise, notification will normally be made within 45 days.

(h) In the event that the completed rehabilitation project does not meet the "Standards for Rehabilitation," an explanatory letter will be sent to the owner. An appeal from this decision may be made by the owner pursuant to § 1208.10 herein.

(i) A preliminary determination that a rehabilitation project is consistent with the Secretary's "Standards for Rehabilitation" may be made for structures not yet designated "certified historic structures," although issuance of a certification of rehabilitation will be made only for "certified historic structures." Such a determination may be requested by the owner by completing part 2 of a "Historic Preservation Certification Application." A determination that rehabilitation of a structure not yet designated a "certified historic structure" meets the Secretary's "Standards for Rehabilitation" does not constitute a certification of rehabilitation but does provide an owner with guidance as to the appropriateness of the rehabilitation. In cases where such a determination is requested for a property which is not yet listed in the National Register or for a property located in a State or local district which has not yet been certified, the SHPO shall send written notification to the person requesting the determination outlining the procedural steps necessary to qualify the property as a certified historic structure. It should be understood that additional research on the structure and/or the district may affect the Secretary's final determination as to whether the rehabilitation project is consistent with the Secretary's "Standards for rehabilitation."

V 45 M Y 23 80 UMI

V 4 5 M Y 2 3 8 0 UMI

(j) SHPOs will be notified in writing of all rehabilitation certification decisions made by the Secretary.

§ 1208.7 Standards for rehabilitation.

(a) The following "Standards for Rehabilitation," a section of the Secretary's "Standards for Historic Preservation Projects," shall be used to determine if rehabilitation of a certified historic structure qualifies as "certified rehabilitation." The Standards shall be applied taking into consideration the economic and technical feasibility of each project; in the final analysis, however, the rehabilitation must be consistent with the historic character of the structure and, where applicable, with the district in which it is located.

(1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alterations of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(2) The distinguishing original qualities or character of a building, structure, or site and its environment, shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any rehabilitation project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(b) Guidelines and other technical information to help property owners formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the intent of the Secretary's "Standards for Rehabilitation," are available from the Heritage Conservation and Recreation Service, U.S. Department of the Interior, 440 G Street NW., Washington, D.C. 20243.

(c) In certain limited cases, it may be necessary to dismantle and rebuild portions or all of a certified historic structure to stabilize and repair weakened structural members and systems. In such cases, the Department of the Interior will consider such extreme interventions as part of a certified rehabilitation if (1) significant architectural features are retained; and (2) adequate historic fabric is retained to maintain the architectural and historic integrity of the overall structure. Substantial alterations may be subject to the provisions of sections 280B and 167(n) of the Internal Revenue Code of 1954.

§ 1208.8 Certifications of statutes.

(a) State or local statutes which will be certified by the Secretary of the Interior. For the purpose of this regulation, a State or local statute is a law of the State or local government designating, or providing a method for the designation of, a historic district or districts. This includes any bylaws or ordinances that contain information necessary for the certification of the statute. A statute must contain criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district. To be certified by the Secretary of the Interior, the statute generally must provide for a duly designated review body, such as a review board or commission, with power to review proposed alterations to structures within the boundaries of the district or districts designated under the statute. When the certification of State statutes will have an impact on districts in specific localities, the Department of the Interior urges State governments to notify and consult with appropriate local officials prior to submitting a request for certification of the statute. State enabling legislation which authorizes local governments to designate, or provides local governments with a method to designate, a historic district or districts will not be certified unless accompanied by local statutes that implement the purpose of the State law.

(b) Who may apply. Requests for certification of State or local statutes may be made only by the duly authorized representative of the government which enacted the statute. The applicant shall certify in writing that he or she is authorized by the appropriate State or local governing body to apply for certification.

(c) Statute certification process. Requests for certification of State or local statutes shall be made as follows:

(1) Requests for certification of statutes shall be submitted to the appropriate SHPO and shall include the following information:

(i) A request in writing from the Duly Authorized Representative certifying that he or she is authorized to apply for certification. The request should include the name or title of a person to contact for further information and his or her address and telephone number. The authorized representative is responsible for providing historic district documentation for review and certification prior to the first certification or significance in a district unless another responsible person is indicated including his or her address and telephone number.

(ii) A copy of the statute(s) for which certification is requested, including any by-laws or ordinances that contain information necessary for the certification of the statute.

(iii) Local governments shall submit a copy of the State enabling legislation, if any, authorizing the designation of historic districts.

(2) The SHPO shall review the statute(s) and assess whether the statute(s) contain criteria which will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance to the district(s) based upon the standards set out above in § 1208.8(a). If the statute(s) contain such a provision and if, in the opinion of the SHPO, this and other provisions in the statute will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, the SHPO should recommend that the statute be certified.

(3) The SHPO shall forward the request with the material submitted as specified in § 1208.8(c) with his or her written recommendation as to whether the statute should be certified to the Secretary. The SHPO shall forward the request with his or her recommendation within 45 days of receipt of the request from the duly authorized representative, provided the request is submitted in accord with § 1208.8(c) above. If this period has expired without such actions being taken, the owner may notify HCRS directly of this fact. HCRS in turn will consult with the SHPO to ensure that a review of the application is completed in a timely manner.

(4) The Secretary shall review the request and the recommendation of the SHPO and make a decision as to certification within 45 days of receipt of the request. If the statute(s) contain criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, the Secretary will certify the statute(s).

(5) The Secretary shall provide written notification to the applicant and the appropriate SHPO when certification of the statute is given or denied. If certification is denied, the notification will provide a justification for such denial.

(d) Amendment or Repeal of statute(s). State or local governments, as appropriate, must notify the Secretary of the Interior in the event that certified statutes are repealed. If a certified statute is amended, the Duly Authorized Representative shall submit the amendment(s) to the SHPO for review in accordance with procedures outlined above. The SHPO shall forward the amendment within 45 days of receipt with his or her opinion as to whether the amended statute continues to meet the criteria outlined in § 1208.8(a) to the Secretary. Written notification of the Secretary's decision as to whether the amended statute continues to meet these criteria will be sent to the duly authorized representative within 45 days of receipt and to the SHPO.

§ 1208.9 Certification of State or local historic districts.

(a) The documentation on a particular State or local historic district must be submitted to the SHPO and the district must be certified by the Secretary before the Secretary will process requests for certification of an individual structure within a district or districts established under a certified statute.

(b) The following documentation shall be submitted on each district designated under a State or local statute to the appropriate SHPO and shall include the following information:

(1) A concise description of the general physical or historical qualities which makes this a district; an explanation for the choice of boundaries for the district; descriptions of typical architectural styles and types of structures in the district.

(2) A concise statement of why the district has significance and why it substantially meets National Register criteria.

(3) A definition of what types of structures do not contribute to the significance of the district as well as an estimate of the percentage of structures within the district that do not contribute to its significance.

(4) A map showing all district structures with, if possible, identification of contributing and non-contributing structures; the map should clearly show the district's boundaries.

(5) Photographs of typical streets in the district as well as major types of contributing and non-contributing structures (all photos should be keyed to the map).

(c) The SHPO shall evaluate the district using the National Register criteria for evaluation (36 CFR Part 1202). Within 45 days of the receipt of the district documentation, the SHPO shall forward this information to the Department of the Interior along with his or her written recommendation as to whether the district meets substantially all the requirements for National Register listing. If for some reason this review period expires without a recommendation being made and for the requests forwarded to the Secretary, the owner may notify HCRS directly of this fact. HCRS in turn will consult with the SHPO to ensure that a review of the information is completed in a timely manner.

(d) Districts designated by certified State or local statutes shall be evaluated using the National Register Criteria for Evaluation (36 CFR Part 1202) within 45 days of the receipt of the required documentation by the Department of the Interior. Written notification of the Secretary's decision will be sent to the Duly Authorized Representative or to the person designated as responsible for the district documentation and the SHPO.

Certification of such statutes under this part in no way constitutes certification of significance of individual structures within the district or of the rehabilitation by the Secretary for purposes of section 2124.

(f) Additional Districts. Documentation on additional districts designated under a State or local statute that has been certified by the Secretary of the Interior should be submitted to the Secretary for certification following the same procedure and including the same information outlined in the section above.

(g) The Department of the Interior urges State and local review boards or commissions to become familiar with the standards used by the Secretary of the Interior for certifying the rehabilitation of historic structures and to consider their adoption for local design review.

§ 1208.10 Appeals.

An appeal may be made from any of the certifications or denials of certification made pursuant to this part. Such appeals must be in writing and received by the Director, Heritage Conservation and Recreation Service, U.S. Department of the Interior, 440 G Street, NW., Washington, D.C. 20243 within 30 days of receipt of the decision which is the subject of the appeal. The appellant may request the opportunity for a meeting with Director to discuss the appeal. The Director, Heritage Conservation and Recreation Service, or his designee, will review such appeals, the written record of the decision in question, and shall notify the appellant of his decision within 30 days of its receipt unless the appellant is required to submit additional information. In reviewing such appeals, the Director shall consider: (1) Errors in professional judgment; (2) additional information provided; and (3) substantial procedural errors before rendering a final decision. The decision of the Director shall be the final administrative decision on the matter. Appeals pursuant hereto should be mailed to the address noted above.

[FR Doc. 80-15785 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1499-6]

Approval and Promulgation of Ohio Implementation Plan; Emergency Episode Revision

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

V 4 5 M Y 2 3 8 0 UMI

SUMMARY: This rulemaking proposes to approve revisions to the Emergency Episode Procedures in the State Implementation Plan (SIP) for the State of Ohio. This revision was submitted by the Ohio Environmental Protection Agency (Ohio EPA) on May 8, 1979.

DATES: Comments must be submitted by no later than June 23, 1980.

ADDRESS: Comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Environmental Protection Specialist, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, 312–886–6053.

Copies of the revision and the technical support document are available at the addresses cited below:

Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Ohio Environmental Protection Agency, P.O. Box 1049, Columbus, Ohio 43216

SUPPLEMENTARY INFORMATION: On January 30, 1972, the Governor of Ohio submitted its SIP to the Environmental Protection Agency for approval pursuant to Section 110 of the Clean Air Act. This submittal included, among other things, provisions addressing procedures for emergency episodes pursuant to Section 110(a)(2)(F)(v) of the Clean Air Act. On April 15, 1974, the United States Environmental Protection Agency (USEPA) completed Federal rulemaking on the procedures to implement control plans in case of emergency episode situations by approving Ohio Rules AP–11–01 through AP–11–04 as part of the federally approved Ohio SIP (39 FR 12539).

Elements of an emergency episode plan include, but are not limited to, a contingency plan which will prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons, specifications for two or more stages of episode criteria, and provisions for public announcement whenever any episode stage has been determined to exist. The complete requirements for an emergency episode plan are outlined in 40 CFR 51.16.

On May 8, 1979, the Ohio EPA submitted revisions of Rules 3745–25–01 through 3745–25–04, previsouly codified as Rules AP–11–01 through AP–11–04, which comprise Ohio EPA's Emergency Episode Procedures. The major amendments to the existing rules are:

Rule 3745–25–01, Air Pollution Emergency

The reference in this rule to "Air Pollutants" was changed to "Air Contaminants."

Rule 3745–25–02, Episode Criteria

(a) The definition of "Air Pollution Forecast" for photochemical oxidants was modified. The new definition is: "An internal watch by the Ohio EPA shall be actuated by a National Weather Service advisory that an Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric condition. The air pollution forecast for photochemical oxidants shall take into consideration, but not be limited to, ambient temperatures, surface winds, and ultraviolet solar radiation levels."

(b) Based on a study of potential health effects of ozone and photochemical oxidants, the Ohio EPA has changed the alert level for photochemical oxidants from 0.1 ppm to 0.2 ppm.

(c) The condition that an episode may be completely eliminated when no episode stage criteria continue to exist was added to the termination clause for all pollutants.

Rule 3745–25–03, Emission Control Action Programs—Tables 1 to 5

Table 4 was modified to reflect revised emission reduction objectives for hydrocarbons. Sources must reduce hydrocarbon emissions during periods of alerts, warnings, and emergencies for each industrial process. The degree of reduction is related to the episode level and ranges from voluntary reduction, reduction considering reasonable economic hardships, and reduction without causing injury to persons or damage to equipment, respectively.

Rule 3745–25–04, Emergency Orders

Provisions were added to this rule to encourage less automobile use during "Alerts", "Warnings" and "Emergencies". To encourage less automobile usage, the public will be informed of the severity of the levels through the communications network.

USEPA has reviewed these revisions to Rules 3745–25–01 through 3745–25–04 and has determined that they satisfy the statutory and regulatory requirements of the Clean Air Act. Therefore, USEPA proposes to approve the revisions to Rules 3745–25–01 through 3745–25–04, inclusive, as part of the Federally approved Ohio SIP.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations, "specialized". I have reviewed this proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations", signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of Proposed Rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: April 9, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–15882 filed 5–22–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1499–5]

Approval and Promulgation of Implementation Plans—New Hampshire; Receipt of Implementation Plan Revisions: Public-Participation and Impact Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: This notice is to announce the receipt of State Implementation Plan (SIP) revisions for New Hampshire. The revisions were submitted on February 22, 1980 to satisfy two of the conditions of EPA's recent approval of New Hampshire's Attainment Plan SIP revisions, which were required under Part D of the Clean Air Act. New Hampshire's submittal amends the narrative portion of the SIP by adding public participation provisions and an analysis of the effects of the Attainment Plan on air quality, health, welfare, the economy, energy supply, and the social environment.

DATES: See Supplementary Information.

ADDRESSES: Copies of the New Hampshire submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and New Hampshire Air Resources Agency, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Gail Petersen, Office of Public Awareness, EPA Region I, Room 2203, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–0967.

SUPPLEMENTARY INFORMATION: EPA published a final rulemaking notice in the **Federal Register** on April 11, 1980 (45 FR 24869), conditionally approving New Hampshire's Attainment Plan SIP revisions submitted on May 29, 1979. These SIP revisions were found to be in substantial compliance with the requirements of Part D of the Clean Air Act, since they implement new measures for controlling air pollution which will result in attainment of the primary National Ambient Air Quality Standards by December 31, 1982. However, one of the conditions for approval of the Attainment Plan was that by March 31, 1980, the State must submit a comprehensive plan for public participation in compliance with Section 105 grant conditions for 1980; a second condition was that the state must submit an analysis of and public comment on the health, welfare, air quality, economic, energy, and social effects of the provisions adopted in the Attainment Plan, also by March 31, 1980.

New Hampshire has submitted SIP revisions, adding public participation provisions and an impact analysis of the Attainment Plan, by the required deadline. EPA is presently reviewing the state's submittal to determine compliance with Clean Air Act requirements, and intends to publish a proposed rulemaking notice in the **Federal Register** by May 30, 1980. The conditional approval of the SIP will be continued until EPA's final action is published in the **Federal Register**.

Dated: May 12, 1980.

Robert C. Thompson,

Acting Regional Administrator, Region I.

[FR Doc. 80–15883 Filed 5–22–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1499–4]

Approval and Promulgation of Implementation Plans—Vermont; Receipt of Implementation Plan Revision: Public Participation Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Condition of Plan Approval.

SUMMARY: This notice is to announce the receipt of a State Implementation Plan (SIP) revision for Vermont. The revision was submitted on March 28, 1980 to satisfy a condition of EPA's recent approval of Vermont's Attainment Plan SIP revisions, which were required under Part D of the Clean Air Act. Vermont's submittal amends the narrative portion of the SIP by adding public participation provisions.

DATES: See Supplementary Information.

ADDRESSES: Copies of the Vermont submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and Vermont Agency of Environmental Conservation, Air and Solid Waste Programs, State Office Building, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: Gail Petersen, Office of Public Awareness, EPA, Region I, Room 02203, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–0967.

SUPPLEMENTARY INFORMATION: EPA published a final rulemaking notice in the **Federal Register** on February 19, 1980 (45 FR 10775), conditionally approving Vermont's Attainment Plan SIP revisions submitted on March 21, 1979. These SIP revisions were found to be in substantial compliance with the requirements of Part D of the Clean Air Act, since they implement new measures for controlling air pollution which will result in attainment of the primary National Ambient Air Quality Standards by December 31, 1982. However, one of the conditions of approval of the Attainment Plan was that by March 31, 1980 the state must submit as a SIP revision a plan to provide a mechanism for the public and for local and state officials to participate in the development of future SIP revisions.

Vermont has submitted a SIP revision adding public participation provisions by the required deadline. EPA is presently reviewing the state's submittal to determine compliance with Clean Air Act requirements and intends to publish a proposed rulemaking notice in the **Federal Register** by May 30, 1980. The conditional approval of the SIP will be continued until EPA's final action is published in the **Federal Register**.

Dated: May 12, 1980.

Robert C. Thompson,

Acting Regional Administrator, Region I.

[FR Doc. 80–15884 Filed 5–22–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1499–3]

Approval and Promulgation of Implementation Plans—Massachusetts; Receipt of Implementation Plan Revision: Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: This notice is to announce the receipt of State Implementation Plan (SIP) revisions for Massachusetts. The revisions were submitted on March 20, 1980 to satisfy three of the conditions of EPA's proposed approval of Massachusetts' Attainment Plan SIP revisions, which were required under Part D of Clean Air Act. Massachusetts' submittal adds regulations to the SIP to control volatile organic compound (VOC) emissions from solvent metal degreasing, petroleum storage and marketing, and cutback asphalt.

DATES: See Supplementary Information.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, Room 320, 600 Washington Street, Boston, Massachusetts 02111.

FOR FURTHER INFORMATION CONTACT: Barbara Ikalainen, Air Branch, EPA Region I, Room 1903, JFK Building, Boston, Massachusetts 02203, (617) 223–5609.

SUPPLEMENTARY INFORMATION: EPA published a proposed rulemaking notice in the **Federal Register** on March 7, 1980 (45 FR 14886), proposing conditional approval of Massachusetts' Attainment Plan SIP revisions submitted on May 16, 1979. These revisions were submitted to comply with the requirements of Part D of the Clean Air Act by implementing new measures for controlling air pollution which are designed to achieve attainment of the primary and

secondary National Ambient Air Quality Standards for ozone and carbon monoxide by December 31, 1987. However, EPA's proposed approval is based on a commitment by the state to meet several conditions, three of which specified that by March 15, 1980 the state must adopt and submit regulations controlling VOC emissions from solvent metal degreasing, petroleum storage and marketing, and cutback asphalt.

Massachusetts has submitted SIP revisions regulating these three types of sources within five days of the required deadline. EPA is presently reviewing the state's submittal to determine compliance with Clean Air Act requirements, and intends to publish a proposed rulemaking notice in the **Federal Register** by May 15, 1980.

Dated: May 12, 1980.

Robert C. Thompson,

Acting Regional Administrator, Region I.

[FR Doc. 80-15885 Filed 5-22-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1499-2]

Approval and Promulgation of Implementation Plans—Connecticut; Receipt

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Advance Notice of Proposed Rulemaking.

SUMMARY: This notice is to announce the receipt of additions to the State Implementation Plan (SIP) revisions for Connecticut which are available for public review and comment. Earlier revisions to the Connecticut SIP, which were received by EPA on June 27, and December 28, 1979, were described in Notices published in the **Federal Register** on July 10, 1979 (44 FR 40360) and February 13, 1980 (45 FR 9750).

A Notice of Proposed Rulemaking describing this and the prior submittals and EPA's intended approval or disapproval action will be published in the **Federal Register** at a later date.

DATES: See Supplementary Information.

ADDRESSES: Copies of the revisions are available for inspection at the following addresses: Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20406; and the Department of Environmental Protection, Air Compliance Unit, State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06115.

Written Comments Should Be Sent To: Harley F. Laing, Acting Chief, Air Branch, Environmental Protection Agency, Region 1, J.F.K. Federal Building, Room 1903, Boston Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Harley F. Laing, Acting Chief, Air Branch, Environmental Protection Agency, J.F.K. Federal Building, Room 1903, Boston, Massachusetts 02203, (617)223-6883.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants. The non-attainment areas in Connecticut designated in those Notices were:

Connecticut

	TSP		CO	O_x
	Primary	Secondary		
AQCR 41		X		X
AQCR 42	X		X	X
AQCR 43	X		X	X
AQCR 44	X			X

Part D of the Clean Air Act requires each state to revise its SIP to meet specific requirements in the non-attainment areas. These SIP revisions were due on January 1, 1979 and must demonstrate attainment of the NAAQS, as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and ozone, no later than December 31, 1987.

On June 27 and December 28, 1979 EPA received revised SIPs for Connecticut for areas designated as not attaining the NAAQS for certain pollutants and described in Notices published in the **Federal Register** on July 10, 1979 (44 FR 40360) and February 13, 1980 (45 FR 9750). On May 1, 1980, EPA received additional material on the revisions which include commitments concerning: the I/M program; total suspended particulate, ozone and carbon monoxide attainment; the new source review program and the public participation program.

All interested persons are advised that the proposed revisions are available for review at the locations listed, and are invited to comment on their approvability. A file of documents explaining EPA's criteria for approval is also available at EPA offices. The proposed notice referred to above will announce the last day for public comment. This public comment period will end not less than 60 days from this date and not less than 30 days from the published date of EPA's proposal for approval or disapproval.

Dated: May 12, 1980.

Robert C. Thompson,

Acting Regional Administrator, Region I.

[FR Doc. 80-15886 Filed 5-22-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1499-1]

Approval and Promulgation of Implementation Plans; Rule Revisions for Five Air Pollution Control Districts in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Rule revisions for the Fresno County, Kern County, Lake County, Monterey Bay Unified and Siskiyou County Air Pollution Control Districts (APCD's) have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for incorporation into the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP.

These rules have been evaluated and generally found to be in conformance with the requirements of 40 CFR Parts 51 and 58 and EPA policy. Therefore, with certain exceptions, this notice proposes to approve the rule revisions and incorporate them into the SIP. The EPA invites public comments on this rulemaking action.

DATES: Comments may be submitted on or before July 22, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Fresno County Air Pollution Control District, 1246 "L" Street, Fresno, CA 93721

Kern County Air Pollution Control District, P.O. Box 997, 1700 Flower Street, Bakersfield, CA 93302

Lake County Air Pollution Control District, 255 N. Forbes Street, Lakeport, CA 95453

Monterey Bay Unified Air Pollution Control District, 1270 Natividad Road, Salinas, CA 93906

Siskiyou County Air Pollution Control District, 525 So. Foothill Drive, Yreka, CA 96097

California Air Resources Board, P.O. Box 2815, 1102 "Q" Street, Sacramento, CA 95814

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105 (415) 556-2938

SUPPLEMENTARY INFORMATION: The California Air Resources Board, as the Governor's designee, submitted the following rules on January 2, 1979:

Fresno County APCD

Rule 110 Equipment Breakdown
Rule 416.1 Agricultural Burning
Rule 519 Emergency Variances

Kern County APCD

Rule 111 Equipment Breakdown
Rule 301 Permit Fees
Rule 519 Emergency Variances

Lake County APCD

Section 434 Exceptions
Section 435 Exception
Section 436 Mechanized Burners
Table V Concentrations and Methods
Table VI Schedule of Fees for Permits

Monterey Bay Unified APCD

Rule 301 Permit Fee Schedules

Siskiyou County APCD

Rule 4.3 Open Fires

The EPA has evaluated all the above rules for conformance with the requirements of 40 CFR Parts 51 and 58 and EPA policy. All the above rules are consistent with these requirements and are therefore proposed to be approved and incorporated into the California SIP, except as follows:

Rules 110(B), *Equipment Breakdown*, and 519, *Emergency Variance*, of the Fresno County APCD and Rules 111(b), *Equipment Breakdown*, and 519, *Emergency Variance*, of the Kern County APCD are proposed to be disapproved. These rules are inconsistent with the requirements of 40 CFR Part 51.22 and EPA Policy (see 42 FR 21472 and 58171) because they lack explicit provisions to assure that the National Ambient Air Quality Standards (NAAQS) will not be exceeded while equipment breakdown periods are in effect.

Section 435, *Exception*, of the Lake County APCD is proposed to be disapproved because a control strategy has not been submitted showing that the proposed increase in particulate emissions due to open burning would not interfere with maintenance of the NAAQS.

Table V, *Concentrations and Methods*, of the Lake County APCD is identical to the old Table V submitted on February 10, 1976, and previously approved at 42 FR 42224. Both tables are now proposed to be disapproved because they permit the use of "any equivalent" measurement technique. This is inconsistent with 40 CFR Part 58 which requires that the EPA approve all alternate measurement techniques.

Rule 4.3, Section 2, *Open Fires*, of the Siskiyou County APCD is proposed to be disapproved because it could allow increased emissions and no control strategy demonstration has been submitted to show that these emissions would not interfere with maintenance of the NAAQS.

The State also submitted regulations concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on January 2, 1979, for the Kern County APCD. These NSPS and NESHAPS regulations implement Sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under Section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of Sections 111 and 112. Announcement of such delegation would appear in a separate **Federal Register** notice.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove rules submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons, may participate by submitting written comments to the Region IX Office. Comments received on or before 60 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Parts 51 and 58. EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: May 13, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-15887 Filed 5-22-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1498-8]

Notice of Proposed Rulemaking for the State of Oregon

AGENCY Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this Notice is to invite public comment on EPA's proposed approval of revisions to the State of Oregon's program for regulating the open burning of grass seed fields.

The State of Oregon Department of Environmental Quality (DEQ) submitted to EPA on April 22, 1980 proposed revisions to the field burning rules which are presently enforceable as part of the Oregon State Implementation Plan (SIP). Also submitted were amendments to applicable Oregon statutes and revisions to the Field Burning Smoke Management Operational Guidelines.

The proposed revision would allow an increase in the number of acres to be open burned from the current limit of 180,000 acres to 250,000 acres per year. The revision also imposes additional controls on the methods of burning and tightens the criteria under which the DEQ will allow burning to occur.

DATE: Comments will be accepted up to June 23, 1980.

ADDRESSES: The Oregon submittal may be examined during normal business hours at the following locations:

Central Docket Section, Library System Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460

Library, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101

State of Oregon, Department of Environmental Quality, 522 S.W. 5th

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Avenue, Yeon Building, 4th Floor, Portland, OR 97207

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Program Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–1226, FTS 399–1226.

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–1125, (FTS) 399–1125.

SUPPLMENTARY INFORMATION:

Background

The open burning of grass seed fields in the State of Oregon has been recognized as a very sensitive and complex air pollution problem for a number of years. EPA's involvement in a control program for Oregon open field burning dates from 1972. In May 1972, the Administrator of EPA approved the Oregon State Implementation Plan (SIP) which had been submitted to EPA in accordance with Section 110 of the Clean Air Act. Included in that plan were Oregon Revised Statutes, 449.930 through 449.943, Field Burning, and a control strategy for total suspended particulate (TSP) which called for a total ban on open field burning in the Willamette Valley as of January 1, 1975.

The 1975 session of the Oregon Legislature, however, amended the applicable statute to eliminate the total ban and to replace it with a program to phase down the number of acres burned each year so that by 1978 and each year thereafter no more than 50,000 acres could be open burned. These legislative changes, as reflected in administrative rules which substituted a phase down program for a total ban of open field burning, were submitted to EPA on August 1, 1975 and February 17, 1976 as proposed revisions to the Oregon SIP. After determining that these revisions met the requirements of Section 110 of the Clean Air Act (hereafter referred to as the Act) and EPA's public participation provisions (40 CFR Part 51) the Administrator approved the revisions on April 18, 1977.

In 1977, the Oregon Legislature again amended the State statute regarding field burning. The major changes included: (1) Increasing the maximum number of acres allowed to be burned to 195,000 in 1977 and 180,000 in 1978 and leaving it up to the Environmental Quality Commission (EQC) to determine the number of acres to be burned in subsequent years; (2) Changing the language of the previous statute so that the EQC must authorize the maximum allowable acreage "unless the EQC finds after hearing that other reasonable and economically feasible alternatives to the practice of annual open field burning have been developed" (ORS 468.475). Previous wording of the statute allowed maximum acreage to be authorized "only if" the EQC found that reasonable alternatives to open burning were not available.

Thereafter, on July 15, 1977 the EQC amended the state administrative rules OAR, 340–26–005 through 26–030, to comply with the 1977 statute. These rules were then submitted to EPA for consideration as a proposed SIP revision on October 6, 1977. EPA reviewed the amended rules and determined that they did not meet either the substantive or the procedural requirements of the Act and therefore would have to be disapproved.

On January 27, 1978 EPA informed the State of Oregon of its findings and provided the State an opportunity to correct the noted procedural and substantive deficiencies. The DEQ decided not to correct the proposed SIP revision prior to the 1978 burning season, but opted instead to develop an interim control strategy for the 1978 field burning season. The EQC approved a one-year interim control strategy, which in conjunction with a number of additional control measures and a comprehensive study, provided for the burning during the 1978 burning season of up to 180,000 acres of grass fields. This compromise between interested parties, which included the Oregon Seed Council, resulted in the recorded burning of approximately 152,000 acres during the 1978 season.

During the above noted SIP revision activity, EPA issued a Notice of Violation (NOV) to the State of Oregon for violation of its SIP provisions during the 1977 field burning season by permitting the burning of 171,500 acres in the Willamette Valley, substantially in excess of the 95,000 acre SIP limitation approved by EPA in April 197..

The DEQ, following its statutory mandate, again submitted to EPA on May 14, 1979 a proposed revision to the Oregon SIP which was adopted by the EQC on December 15, 1978. This proposed SIP revision for field burning also complied with the 1977 statute but included a number of additional control measures to further minimize the impact of field burining. On June 28, 1979 DEQ resubmitted to EPA its proposed SIP revision as amended on May 25, 1979. These amendments were made in response to several issues raised by EPA staff subsequent to EPA's receipt of the May 14, 1979 submittal. In an associated action, on June 29, 1979, the EQC adopted temporary rules with respect to field burning (OAR 340–26–005, 015). These temporary rules were submitted to EPA on July 5, 1979 as amendments to the June 28, 1979 submittal.

In a SIP-related matter, on July 17, 1979, EPA issued a NOV to the State of Oregon for violation of the prohibition in the SIP against the issuance of permits for more than 50,000 acres during the 1979 field burning season. Records indicate that approximately 153,000 acres were burned during the 1979 field burning season, substantially in excess of the sip allowable.

On July 31, 1979 Governor Victor Atiyeh citing Section 110(g)(1) of the Clean Air Act, signed Executive Order 79–14. The order was intended to suspend subsection (2)(g) of ORS 468.475(g) of the federally aproved Oregon SIP which placed a 50,000 acre limitation upon open field burning. The temporary emergency suspension issued by the Governor failed to meet the procedural requirements of Section 110(g) of the Act and was therefore invalid on its face.

On August 3, 1979 EPA proposed in the **Federal Register** approval of the Oregon submittal (44 FR 45647). However, EPA noted a number of substantive concerns regarding the technical support documents for the proposed revision which were submitted to EPA at that time. Additionally, EPA raised a number of concerns with the proposed field burning rules themselves. Further, EPA identified procedural problems associated with the State submittal. EPA noted in the initial **Federal Register** proposal that these various concerns made it difficult to determine whether the proposed SIP relaxation would satisfy all of the applicable requirements of the Act.

In the August 3, 1979 proposal (44 FR 45649), EPA suggested steps which the State of Oregon could explore to remedy the problems noted by EPA. The State followed these suggestions and on August 31, 1979 and September 21, 1979 held public hearings to readopt the June 29, 1979 amendments as permanent and adopt new amendments as necessary to correct the identified problems. These amendments were submitted to EPA on September 13, 1979 and October 10, 1979, respectively. Revised technical support documents were also submitted to EPA on September 13, 1979.

Subsequently, on January 8, 1980, EPA published a reproposal notice in the **Federal Register** (45 FR 1643). In this notice, EPA indicated that the September 13, 1979 and October 10, 1979 submittals had adequately resolved all but one of the concerns. EPA further indicated that the remaining concern would be resolved with the immediate submission of smoke management program operational guidelines and the submission, by July 1980, of the SIP attainment strategy for the Eugene-Springfield TSP nonattainment area. The **Federal Register** notice invited public comment on EPA's proposed approval and indicated that final action would be taken upon receipt of the smoke management program operational guidelines.

On March 11, 1980, DEQ submitted the operational guidelines as requested by EPA. Subsequently, on April 18, 1980, the Administrator approved the revisions (45 FR 26327).

In 1979, the Oregon Legislature again amended the State statute regarding field burning. The major change was to increase the number of acres allowed to be burned in 1980 and thereafter from 180,000 to 250,000.

On January 18, 1980 the EQC amended the state administrative rules OAR 340–26–005 through 26–030 to comply with the 1979 statute. These rules were then submitted to EPA as a proposed SIP revision on January 23, 1980. EPA reviewed the proposed revision and determined that it did not meet the substantive requirements of the Act and therefore would have to be disapproved.

On March 10, 1980 EPA informed the State of Oregon of its findings and provided the State with an opportunity to withdraw the submittal before EPA initiated a disapproval action. The DEQ requested that EPA not begin a disapproval action and indicated that the State would develop and submit a proposed SIP revision to replace the Janauary 23, 1980 submittal.

In a concerted effort by the DEQ, City of Eugene and Oregon Seed Council, a replacement SIP revision was developed which was intended to address EPA's concerns. A new technical support document was prepared, the smoke management operational guidelines were greatly expanded and revised, and on April 18, 1980 the EQC amended the state rules. Thereafter, on April 22, 1980 the State submitted to EPA a new proposed SIP revision to replace the January 23, 1980 submittal.

Discussion

The proposed revision consists of Oregon Administrative Rules, Chapter 340, Division 26, Sections 005 through 030 as adopted on January 18, 1980 and amended on April 18, 1980; Oregon Revised Statutes, Chapter 468.450 through 468.495 as amended by the 179 Oregon Legislative Assembly; and revised Field Burning Smoke Management Program Operations Guidelines.

The major changes which would result from the proposed revision are to:

(1) increase the number of acres which are allowed to be burned from 180,000 to 250,000 per year;

(2) establish a daily maximum number of acres which are allowed to be burned in the South Willamette Valley;

(3) restrict burning based on existing and predicted air quality in areas impacted by burning; and

(4) clarify the requirements for use of specific burning techniques.

In addition, the rules were recognized and clarified, and the Smoke Management Program Operational Guidelines were revised to reflect the rule changes and greatly expanded to provide further detail on the currrent program.

The expected impace on air quality was evaluated in the report "An Analysis of Particulate Air Quality Impact in the Willamette Valley Resulting from Increased Field Burning", March 1980. This analysis was performed jointly by the DEQ, City of Eugene and Oregon Seed Council and was submitted to EPA in support of the proposed SIP revision. The analysis concluded that the increased burning would not cause or significantly contribute to violations of the National Ambient Air Quality Standards for Total Suspended Particulates (TSP) or the Class II Prevention of Significant Deterioration (PSD) increments for TSP. However, the increased burning would consume 54 percent of the available 24—hour Class II PSD increment for TSP on northerly wind burning days with general quota releases and 73 percent of the available 24-hour Class II PSD increment for TSP on sourtherly wind burning days with general quota releases.

Because of the unusual nature of field burning and the significant amount of PSD increment consumed by the increased burning, EPA proposes that the following procedure be used by an applicant for a PSD permit to determine the remaining increment available:

(1) Using the meteorological data from the proposed source's impact analysis, determine, with assistance from DEQ, per the field burning rules and smoke management operational guidelines:

(a) those days which would accommodate general quota releases;

(b) the general area of burning on such days, and

(c) the probable area of impact downwind from such burning.

(2) Identify those general quota release days for which the area of significant air quality impact of proposed source is impacted by field burning (i.e. downwind of burning).

(3) For those days with field burning impact, the remaining increment in the vicinity of the proposed source is 46 percent of the 24-hour Class II increment for TSP under northerly winds and 27 percent of the 24-hour Class II increment for TSP under southerly winds.

It should be recognized that this is an interim procedure and that the increment consumed by increased field burning in the vicinity of a proposed source may and should be reevaluated as more sophisticated analysis techniques become available. However, until such time, the above technique is proposed as the method for assessing the remaining increment available for accommodating a new or modified major stationary source subject to PSD requirements.

Proposed Action. The proposed SIP revision satisfies the procedural and substantive requirements of the Act. Therefore, EPA proposes to approve the revision as submitted.

Call for Comments. EPA solicits comments on the proposed revision to the Oregon SIP, EPA's proposed approval of the revision, and EPA's proposed procedure for assessing the increment available to a source subject to PSD review.

Authority: Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502).

Dated: May 19, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80–15888 Filed 5–22–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–5825]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426—1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Birmingham, Jefferson County	Village Creek	Just upstream of Avenue "W"	*523
			Just upstream of 16th Street	*551
			Just upstream of Vanderbilt Road	*578
			Just downstream of 85th Street	*651
		Fivemile Creek (Fivemile Creek Basin).	Confluence of Tarrant Springs Branch	*591
			Just downstream of Point Road	*708
		Tarrant Springs Branch	Just downstream of Killough Road	*636
			Just downstream of Carson Road	*712
		Dry Creek (Fivemile Creek Basin).	Just downstream of Old Springville Road	*748
		Unnamed Creek 23	Just downstream of Lawson Road	*617
		Camp Branch	Just downstream of Birmingham Road	*509
		Black Creek (Village Creek Basin)	Just upstream of Old Pratt Highway	*521
			Just upstream of U.S. 78	*536
			Just downstream of Cherry Avenue	*544
		Unnamed Creek 31	Just upstream of Louisville and Nashville Rail	*581
			Just upstream of Airport Highway	*599
		Unnamed Creek 32	Just upstream of 51st Street	*606
			Just downstream of 3rd Avenue	*629
			Just downstream of (66th Street) Brussels Avenue	*653
		Unnamed Creek 34	Just upstream of the lower road entenng Bays Industnal School	*678
		Valley Creek	Just downstream of Seaboard Coastline Railroad	*511
			Just downstream of 18th Street southwest	*541
		Unnamed Creek 48	Just upstream of Cotton Avenue	*562
			Just upstream of Southern Railway	*573
			Just downstream of 6th Avenue S.W	*576
		Unnamed Creek 49	Just downstream of 3rd Street South	*575
			Just downstream of 6th Avenue South	*588
		Nabors Branch	Just downstream of 24th Street	*530
			Just upstream of Mims Street	*550
			Just upstream of 16th way	*562

Maps available at City Hall, 710 North 20th Street, Birmingham, Alabama 35203.

Send comments to Mayor Richard Arrington or Mr. John Duncan, Acting City Engineer, City Hall, 710 North 20th Street, Birmingham, Alabama 35203.

Arkansas	City of Strong, Union County	Lapile Creek	Approximately 200 feet downstream of New London Road	*105

Maps available at City Hall, Pine Street, Strong, Arkansas 71765.

Send comments to Mayor Mayo Stevens or Ms. Annett Pagan, Treasurer, City Hall, Pine Street, Strong, Arkansas 71765.

Illinois	(C), Lake Forest, Lake County	Skokie River	Just upstream Old Elm Road	*651
			Just downstream Westleigh Road	*657
			About 300 feet downstream Deerpath Road	*661
			About 1,900 feet upstream Chicago and North Western railroad (at corporate limits)	*669
		Middle Fork, North Branch, Chicago River.	Downstream corporate limt	*659
			Just downstream Everett Road	*663
			Just downstream Kennedy Road	*668
			Upstream corporate limit	*669
		Lake Michigan	Shoreline	*584

Maps available at Assistant Engineer's Office, City Hall, 220 E. Deerpath, Lake Forest, Illinois.

Send comments to Honorable Frank Waldeck, Mayor, City of Lake Forest, City Hall, 220 E. Deerpath, Lake Forest, Illinois 60045.

Iowa	(C), Fairfield, Jefferson County	Kaghaghee Creek	About 120 feet downstream of Park Avenue at downstream corporate limits	*696
			About 2,640 feet upstream of Park Avenue	*706
			About 140 feet downstream of D Street	*714
			About 100 feet upstream of D Street	*726
			About 1,300 feet upstream of D Street	*727
		Crow Creek	At downstream corporate limit	*689
			Approximately 150 feet upstream of confluence of Kaghaghee Creek	*692
			Just upstream of U.S. Highway 34	*700

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 200 feet downstream of the Burlington Northern Railroad	*704
			Approximately 1,100 feet upstream of the Burlington Northern Railroad	*706
			Just downstream of Salina Road	*709
			Just upstream of Salina Road	*714
			Just downstream of B Street	*715
			Just upstream of B Street	*720
			Just upstream of Main Street	*721
			Just downstream of State Highway 1	*722
			Just upstream of State Highway 1	*725
			At upstream corporate limits	*725

Maps available at City Hall, P.O. Box 850, Fairfield, Iowa.

Send comments to Honorable Bob Rasmussen, Mayor, City of Fairfield, City Hall, P.O. Box 850, Fairfield, Iowa 52556 to the attention of Mr. Bob Moore, Director of Public Works

Iowa	(Uninc.), Lee County	Dry Creek	At City of Fort Madison northern corporate limits	*572
			About 2,200 feet upstream of City of Fort Madison corporate limits	*584
		Mississippi River	Just upstream City of Keokuk corporate limits	*519
			Upstream county boundary	*531

Maps available at the Lee County Engineer's Office, 17 Avenue F, Fort Madison, Iowa.

Send comments to Mr. Charles J. Krogmeier, Chairman of the Board of Supervisors, Lee County, County Office Building, 933 Avenue H, Fort Madison, Iowa 52627 to the attention of Mr Thomas E. Nelson, County Engineer

Iowa	(C), Montrose, Lee County	Mississippi River	Within corporate limits	*522
		Horton Creek	About 1,200 feet downstream Second Street	*522
			Just downstream Second Street	*523
			Just upstream Second Street	*526
			About 1,940 feet upstream Second Street	*533
		Horton Creek Tributary	Mouth at Horton Creek	*526
			Just downstream 5th Street	*527
			Just upstream 5th Street	*530
			Just downstream 7th Street	*533

Maps available at City Hall, Montrose, Iowa.

Send comments to Honorable Ralph St. Clair, Mayor, City of Montrose, Iowa 52639.

Kansas	(C), Perry; Jefferson County	Delaware River	Within corporate limits	*850
		Kansas River	Just southeast of Ceder Street and Union Pacific Railroad	*849
			Just south of Union Pacific Railroad, about 1,300 feet east of Delaware River.	*850

Maps available at City Hall, Perry, Kansas.

Send comments to Honorable James L. Abel, Mayor, City of Perry, Perry, Kansas 66073.

Kentucky	City of Sadieville, Scott County	Eagle Creek	Just upstream of Spoon Branch Road	*779
			Just downstream of Corporate Limits	*779
			Just upstream of Route 32	*781

Maps available at City Hall, Main Street, Sadieville, Kentucky 40370.

Send comments to Mayor Ken Wilson or Mr. Herman Fields, Councilman, City Hall, Main Street, Sadieville, Kentucky 40370

Kentucky	City of Stamping Ground, Scott County.	Locust Fork	Just upstream of Main Street	*761

Maps available at City Hall, Stamping Ground, Kentucky 40379.

Send comments to Mayor Donald Thompson, or Ms. Louise Poindexter, Clerk-Treasurer, City Hall, Stamping Ground, Kentucky 40379.

Maine	(T), Brownfield, Oxford County	Shepard's River	At game management area boundary	*376
			Approximately 300 feet upstream from State Route 113	*381
			Approximately 800 feet downstream from Perry Mountain Road	*412
			Just upstream from Perry Mountain Road	*431
			Just downstream from River Road	*440
			Just upstream from River Road	*448
			Just upstream from old county road plank bridge	*482
			Approximately 12,200 feet upstream from old county road plank bridge	*516
		Saco River	At southeastern corporate limits	*366
			Approximately 400 feet downstream of the confluence of Tenmile River	*371
			Approximately 1 mile upstream of State Route 160	*376
			At confluence with Pleasent Pont	*378

Maps available at Town Selectmen's Office, Town Office, Brownfield, Maine.

Send comments to Mr. Ronald Holt, First Selectman, Town of Brownfield, Town Office, Brownfield, Maine 04010.

Michigan	(C), Plymouth Wayne County	Tonquish Creek	Just upstream Ann Arbor Road	*700
			Just upstream Harding Stree	*710
			Just downstream of Sheldon Road	*736
		South Branch Tonquish Creek	At mouth at Tonquish Creek	*700
			Just upstream Main Street	*707
			Just upstream Harvey Street	*708
			Just downstream of Sheldon Road	*717

Maps available at City Hall, 201 S. Main Street, Plymouth, Michigan.

Send comments to Honorable Mary B. Childs, Mayor, City of Plymouth, City Hall, 201 S. Main Street, Plymouth, Michigan 48170.

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(C), Sterling Heights, Macomb County.	Clinton River	Just upstream of Hayes Road	*602
			About 200 feet upstream of Kleino Road	*606
			About 250 feet upstream of Earl Memonal Highway	*614
			Just downstream of Van Dyke Road	*624
		Red Run Drain	Just downstream of Utica Road	*602
			Just upstream of 16 Mile Road	*605
			Just downstream of 14 Mile Road	*610
		Plum Brook	Just upstream of Schoenherr Road	*603
			Just upstream of Van Dyke Road	*615
			About 200 feet upstream of Mound Road	*624
			Just downstream of Golf Course Weir	*632
			Just upstream of 19 Mile Road	*643
			Just downstream of Hall Road	*677
		Gibson Drain	Mouth at Plum Brook	*632
			Just downstream of Dequinder Road	*642
		Chrissman Drain	Just downstream of culvert	*622
			Just upstream of culvert	*623
			Just upstream of Mound Road	*633
			Just downstream of State Highway 59	*648
		Chrissman Drain (Old Channel)	Mouth at Plum Brook	*621
			At divergence from Chrissman Drain	*623
		Chrissman Drain (Overland Flow at 19 Mile Road)	At confluence with Chrissman Drain	*635
			Just upstream of 19 Mile Road	*636
		Big Beaver Creek	Just upstream of Conrail	*611
			Just downstream of Dequinder Road	*630
		Spencer Drain	Mouth at Big Beaver Creek	*623
			Just downstream of Dequinder Road	*627
		Sterling Relief Drain	Mouth at Red Run Drain	*606
			About 3,600 feet upstream of Dodge Park Road	*606
		Shanahan Drain	Mouth at Big Beaver Creek	*626
			About 1,200 feet upstream of 16 Mile Road	*632
		Phiel Drain	Mouth at Clinton River	*607
			Just downstream of Dodge Park Road	*607

Maps available at City Engineer's Office, 400555 Utica Road, Sterling Heights, Michigan.

Send comments to Honorable Anthony Dobry, Mayor, City of Sterling Heights, 400555 Utica Road, Sterling Heights, Michigan 48078 to the attention of Mr. Leonard Hendrick, City Manager

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(Uninc.), Wabasha County	Zumbro River	Approximately 1.6 miles downstream confluence of Silver Spring Creek.	*788
			Approximately 2,400 feet upstream of confluence of Silver Spring Creek.	*797
			Just upstream County Highway 7	*868
			Just downstream Zumbro Lake Dam	*876
		Miller Creek	Just downstream U.S. Highway 61	*681
			Just upstream County Highway 9	*699
			Just upstream Marion Street	*707
			About 3,400 feet upstream confluence of unnamed tributary	*732
		Gilbert Creek	At City of Lake City western corporate limit	*705
			Approximately 200 feet downstream confluence of Sugarloaf Creek	*721
			About 4,600 feet upstream confluence of Sugarloaf Creek	*739
		Sugarloaf Creek	Mouth at Gilbert Creek	*729
			Just downstream of unnamed gravel road at county boundary	*740

Maps available at the Zoning Administrator's Office, Wabasha County Courthouse, Wabasha, Minnesota.

Send comments to Mr. William Holmes, Zoning Administrator, Wabasha County, Wabasha County Courthouse, Wabasha, Minnesota 55981.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Mississippi	City of Starkville, Oktibbeha County	Sand Creek	Just upstream of West Point Road	*289
		Sand Creek Tributary 1	Just upstream of West Point Road	*290
		Sand Creek Tributary 2	Just upstream of West Point Road	*291
			Just upstream of Trotter Road	*293
		Hollis Creek	Just upstream of Academy Road	*323
			Just downstream of yellowjacket Drive	*335
		Josey Creek Tributary 1	Confluence of Josey Creek Tributary 1 and Josey Creek Tributary 2	*259
		Josey Creek Tributary 2	Just downstream of Reed Road	*268
		Josey Creek Tributary 3	Just downstream of Reed Road	*273
		Glen Creek	Just upstream of Industrial Park Drive	*312
			Just upstream of Lynn Lane	*320

Maps available at City Hall, Lampkin Street, Starkville, Mississippi 39759.

Send comments to Mayor H. P. Davis, Jr., or Mr. Thomas E. Beitch, Vice Mayor, City Hall, Lampkin Street, Starkville, Mississippi 39759.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C), Frontenac, St. Louis County	Two Mile Creek	About 300 feet upstream of Geyer Road	*537
			About 175 feet downstream confluence of North Tributary Two Mile Creek.	*540
			About 200 feet upstream confluence of North Tributary Two Mile Creek.	*544
			At western corporate limits	*552
		Monsanto Sunswept Creek	About 160 feet upstream Glen Abbey	*527
			At northern corporate limits	*531
		Deer Creek	At eastern corporate limits	*518
			Just upstream Lindbergh Boulevard	*523
			Just downstream private road	*524
			Just upstream private road	*526
			Just downstream of Spoede Road	*530
			At western corporate limits	*541

Maps available at 10555 Clayton Road, Frontenac, Missouri.

Send comments to Honorable Morgan B. Lawton, Mayor, City of Frontenac, 10555 Clayton Road, Frontenac, Missouri 63131 to the attention of Mr. Donald J. Rohlfing.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Missouri	(C), New Haven, Franklin County	Missouri River	At eastern corporate limits	*502
			At western corporate limits	*505

Maps available at City Hall, P.O. Box 236, New Haven, Missouri

Send comments to Honorable Thomas McDonald, Mayor, City of New Haven, City Hall, P.O. Box 236, New Haven, Missoun 63068.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
New Hampshire	(C), Manchester, Hillsborough County.	Merrimack River	Southern corporate limits	*124
			Upstream side of Interstate 193	*128
			Confluence of Piscataquog River	*134
			1,850 feet downstream of Amoskeag Dam	*143
			Just upstream of Amoskeag Dam	*182
			Northern corporate limits	*186
		Piscataquog River	Upstream side of the Frederick E. Everett Turnpike	*135
			Downstream side of Kelley's Falls Dam	*148
			Just upstream of Kelley's Falls Dam	*167
			Western corporate limits	*167
		Great Cohas Brook	Mouth at Merrimack River	*126
			Just upstream Brown Avenue	*145
			Just upstream of Pine Island Pond Dam	*153
			4,500 feetupstream of Pine Island Pond Dam	*156
			2,800 feet downstream of Boston and Maine Railroad	*178
			Upstream side of Boston and Maine Railroad	*188
			Just upstream of South Willow Street	*207
			Just upstream of South Mammoth Road	*210
			Just upstream of Cohas Road	*216
			Downstream side of Canal Avenue Dam	*227
			Just upstream of Canal Avenue Dam	*253
		North Channel Piscataquog River	Confluence with Merrimack River	*135
			Convergence with Piscataquog River	*135

Maps available at City Planning Office, City Hall—3rd Floor, 908 Elm Street, Manchester, New Hampshire.

Send comments to Honorable Charles R. Stanton, Mayor, City of Manchester, City Hall, 908 Elm Street, Manchester, New Hampshire 03101.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
New Jersey	Haworth (Borough), Bergen County	Steinals Ditch	Intersection of Steinals Ditch and center of Contant Avenue	*29
			40 feet upstream from center of Haworth Avenue	*42
			40 feet upstream from center of Sunset Avenue	*54
		Kips Brook	40 feet upstream from center of Lake Shore Drive	*28
			50 feet upstream from center of Conrail	*48
			150 feet northeast of intersection at Seneca Trace and Owatenna Street	*73
		Charles Creek	Intersection of Charlies Creek and the downstream corporate limit	*78
			Intersection of charlies Creek and center of Delaware Avenue	*87
		Oradell Reservoir	200 feet northwest of intersection of Lake Shore Drive and Sunset Avenue.	*25

Maps available at Municipal Center, 300 Haworth Avenue, Haworth, New Jersey.

Send comments to the Honorable John Johl, 300 Haworth avenue, Haworth, New Jersey 07641.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
New Jersey	Hillsdale (Borough), Bergen County.	Hillsdale Brook	60 feet upstream from center of Everdell Avenue	*48
			Intersection of Hillsdale Brook and the upstream corporate limits	*74
		Holdrum Brook	185 feet southeast of intersection of Baylor Avenue and Kent Road	*56
		Musquapsink Brook	250 feet west of intersection of Hillsdale Court and Ell Road	*108
			20 feet upstream from center of Hillsdale Avenue	*122
			Intersection of Musquapsink Brook and center of Wienmus Lane	*157
		Pascack Brook	70 feet southeast of intersection of Bueno Vista Avenue and Carlyle Place.	*43
			25 feet downstream from center of Patterson Street	*58
			Intersection of Pascack Brook and Church Road	*100
		Tandy Brook	80 feet upstream from center of Saddlewood Drive	*71
			Intersection of Tandy Brook and center of Pascack Road	*98
		Township Brook	60 feet upstream from center of Maple Avenue	*69

Maps available at Borough Hall, 380 Hillsdale Avenue, Hillsdale, New Jersey.

Send comments to the Honorable Alfred Murphy, 380 Hillsdale Avenue, Hillsdale, New Jersey 07642.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
New Jersey	Park Ridge (Borough), Bergen County.	Bear Brook	Intersection of Bear Brook and center of Glen Road	*132
			40 feet downstream from intersection of Bear Brook and Glen Brook Drive.	*268
		Echo Glen Brook	Intersection of Echo Glen Brook and center of Albernon Drive	*241
			40 feet downstream from intersection of Echo Glen Brook and center of Grand Avenue	*261
		Mill Brook	Intersection of Mill Brook and center of Pascack Road	*136
			80 feet upstream from intersection of Mill Brook and the center of Fifth Street.	*189
			60 feet upstream from intersection of Mill Brook and Spring Valley Road	*257
		Holdrum Brook	Intersection of Holdrum Brook and center of Prospect Avenue	*67
		Hillsdale Brook	30 feet upstream from intersection of Hillsdale Brook and the center of Sibbald Drive.	*92
			Intersection of Hillsdale Brook and center of Park Avenue	*138
			Intersection of Hillsdale Brook and center of New Street	*157
		Pascack Brook	50 feet upstream from intersection of Pascack Brook and center of Park Avenue	*115
			Intersection of Pascack Brook and Electric Lake Dam	*137

Maps available at Municipal Building, 55 Park Avenue, Park Ridge, New Jersey.

Send comments to the Honorable Donald Gelnaw, 55 Park Avenue, Park Ridge, New Jersey 07656.

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
New Jersey	River Vale (Township), Bergen County.	Oradell Reservoir	200 feet east of the intersection of Marshall Road and Cambridge Road.	*25
		Hackensack River	100 feet upstream from center of Westwood Avenue	*30
			50 feet upstream from center of Old Tappan Road	*40
			Intersection of Hackensack River (Lake Tappan Reservoir) and center of Poplar Road	*56
		Pascack Brook	100 feet upstream from center of Brookside Avenue	*32
			100 feet downstream from center of Demarest Avenue	*42
		Holdrum Brook	50 feet upstream from center of Piermont Avenue	*43
			150 feet upstream from center of Prospect Avenue	*76
			75 feet upstream from center of Rolling Hills Drive	*139
		Cherry Brook	25 feet upstream from center of Poplar Road	*48
			Intersection of Cherry Brook and center of Orangeburgh Road	*107
			50 feet downstream from center of Blue Hill Road	*168
		Rivervale Brook	100 feet upstream from center of Rivervale road	*47
			50 feet upstream from center of Ridge Road	*87
	Maps available at Town Hall, 628 River Vale Road, River Vale, New Jersey.			
	Send comments to the Honorable Stanley R. Moore, 628 River Vale Road, River Vale, New Jersey 07675.			
New Jersey	Woodcliff Lake (Borough), Bergen County.	Pascack Brook	Intersection of Pascack Brook and center of Woodcliff Avenue	*100
		Musquapsink Brook	80 feet upstream from center of Wiennus Lane	*159
			120 feet downstream from center of Saddle River Road	*227
		Hillsdale Brook	50 feet upstream from center of Prospect Avenue	*78
		Bear Brook	40 feet upstream from center of Pascack Road	*109
			200 feet northeast of intersection of Rose Avenue and Glen Road	*183
			85 feet upstream from center of Spring Valley Road	*270
		Reservoir Brook	Intersection of Reservoir Brook and center of Woodcliff Avenue	*154
	Maps available at 188 Pascack Road, Woodcliff Lake, New Jersey.			
	Send comments to the Honorable Robert L. Ellis, 188 Pascack Road, Woodcliff Lake, New Jersey			
Ohio	(C), Akron, Summit County	Cuyahoga River	At the northern corporate limit, (about 3,750 feet downstream of Bath Road)	*732
			About 800 feet upstream of the Chessie System railroad crossing	*740
			At the confluence of Mud Brook	*744
			About 160 feet upstream of Akron Peninsula Road	*751
			About 5,650 feet upstream of Akron Peninsula Road	*757
		Little Cuyahoga River	Just upstream of Memorial Parkway	*775
			Just upstream of Cuyahoga Street	*811
			About 1,200 feet upstream of Home Avenue	*936
			About 140 feet downstream of Hazel Street	*946
			Just upstream of Hazel Street	*948
			About 500 feet upstream of Bank Street	*957
			Just downstream of the dam near Kent Street	*962
			Just upstream of the dam near Kent Street	*974
			About 100 feet upstream of South Case Avenue	*980
			Just upstream of the weir north of the Goodyear Plant	*986
			Just downstream of the dam near Kelly Avenue	*992
			Just upstream of the dam near Kelly Avenue	*1,000
			About 1,600 feet upstream of Seiberling Street, below the dam	*1,006
			At the confluence of Springfield Lake Outlet	*1,009
		Hands Lateral	At the confluence with Schocalog Run	*976
			At the confluence of Frank Lateral	*977
		Frank Lateral	Just upstream of Mull Avenue	*979
			Just upstream of the culvert, near Auten Drive	*985
			Just upstream of Ohio Edison Drive	*985
		Mud Run	At the southern corporate limit (about 780 feet downstream of Swinehart Road	*969
			About 1,500 feet upstream of Morse Street	*973
		Ohio and Erie Canal (North of Summit Lake.	Just downstream of Cedar Street	*967
			Just upstream of Bartges Street	*968
			Just upstream of South Street	*968
		Ohio and Erie Canal (South of Summit Lake).	At downstream corporate limits	*967
			Just downstream of Kenmore Boulevard	*968
		Roosevelt Ditch	Mouth at Little Cuyahoga River	*1,033
			Just upstream of the Akron, Canton and Youngstown Railroad	*1,041
			Just upstream of Gilchrist Road	*1,050
			At confluence of West Branch Roosevelt Ditch	*1,099
			About 250 feet upstream of Eastwood Avenue	*1,108
		West Branch Roosevelt Ditch	About 200 feet upstream Eastwood Avenue	*1,106
		Springfield Lake Outlet	At confluence with Little Cuyahoga River	*1,009
			About 400 feet upstream of confluence with Little Cuyahoga River	*1,010
			At the confluence of Haley's Ditch	*1,015
			Just upstream of Massillon Road	*1,024
			About 200 feet upstream of Wedgewood Drive	*1,060
			About 500 feet upstream of Triplett Boulevard	*1,070
			At the southern corporate limits	*1,071
		Yellow Creek	Within corporate limits	*735
	Maps available at City Hall, Akron, Ohio.			
	Send comments to Honorable Roy Ray, Mayor, City of Akron, City Hall, Akron, Ohio 44308.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Ohio	(V), Boston Heights, Summit County	Brandywine Creek	Approximately 600 feet upstream from northern corporate limits	*971
			Approximately 1,200 feet downstream from Hines Hill Road	*975
			Just downstream from Hines Hill Road	*980
	Maps available at Office of the Village Clerk, 45 E. Boston Mills Road, Hudson, Ohio.			
	Send comments to Mr. Robert R. Riedel, Village Clerk, Village of Boston Heights, 45 E. Boston Mills Road, Hudson, Ohio 44236.			
Ohio	(C), Eastlake, Lake County	Chagrin River	Mouth at Lake Erie	*576
			About 1.0 mile downstream of Lake Shore Boulevard	*577
			Approximately 0.3 mile downstream from Lake Shore Boulevard	*581
			Approximately 0.1 mile downstream from Lake Shore Boulevard	*583
			Approximately 0.7 mile upstream from Lake Shore Boulevard	*587
			Approximately 0.5 mile downstream from Eastlake easternmost corporate limit	*591
			Approximately 160 feet downstream from Eastlake easternmost corporate limit	*594
	Maps available at City Hall, 35150 Lake Shore Boulevard, Eastlake, Ohio.			
	Send comments to Honorable Morris Becker, Mayor, City of Eastlake, City Hall, 35150 Lake Shore Boulevard, Eastlake, Ohio 44094.			
Ohio	(V), Fredericktown, Knox County	North Branch Kokosing River	Approximately 750 feet downstream of Montgomery Road	*1,059
			Just upstream of Mill Street	*1,067
			At upstream corporate limit approximately 0.7 mile upstream of corporate limit	*1,070
	Maps available at Village Hall, 2 East Sandusky Street, Fredencktown, Ohio.			
	Send comments to Honorable J. Boyd Blackburn, Mayor, Village of Fredericktown, Village Hall, 2 East Sandusky Street, Fredericktown, Ohio 43019.			
Ohio	(C), Independence, Cuyahoga County.	Cuyahoga River	At downstream corporate limit	*598
			Just downstream of Chessie System	*600
			Just upstream of Chessie System	*602
			Just downstream of Rockside Road	*606
		Tributary 2	Just upstream of Brecksville Road	*806
			Just downstream of Meadowbrook Boulevard	*834
			Just upstream of Elmwood Park entrance	*844
			Just downstream of Interstate 77	*858
	Maps available at City Hall, 6675 Brecksville Road, Independence, Ohio.			
	Send comments to Honorable Winfred Wisnieski, Mayor, City of Independence, City Hall, 6675 Brecksville Road, Independence, Ohio 44131.			
Ohio	(C), Marietta, Washington County	Ohio River	Southwestern corporate limit	*615
			Southeastern corporate limit	*616
		Muskingum River	At mouth	*615
			Northern corporate limit	*615
		Duck Creek	At mouth	*616
			Northern corporate limit	*616
	Maps available at City Hall, 301 Putnam Street, Marietta, Ohio.			
	Send comments to Honorable George F. Cranston, Mayor, City of Marietta, City Hall, 301 Putnam Street, Marietta, Ohio 45750.			
Ohio	(V), Valley View, Cuyahoga County.	Cuyahoga River	At downstream corporate limit	*602
			Just downstream of Hillside Road	*613
			Just upstream of Hillside Road	*616
			Just downstream of Pleasant Valley Road	*620
		Tinkers Creek	At confluence with Cuyahoga River	*619
			About 9,950 feet upstream of confluence with Cuyahoga River	*646
	Maps available at Village Hall, 6848 Hathaway Drive, Valley View, Ohio.			
	Send comments to Honorable Authur Westfall, Mayor, Village of Valley View, Village Hall, 6848 Hathaway Drive, Valley View, Ohio 44125.			
Ohio	(Uninc.), Washington County	West Fork Duck Creek	About 3,200 feet downstream of unnamed bridge, northwest of Elba	*665
			About 500 feet upstream of unnamed bridge, northwest of Elba	*668
			Downstream corporate limits of Macksburg	*676
			Just upstream of Broad Street in Macksburg	*679
			Upstream corporate limits of Macksburg	*680
		Little Hocking River	Just downstream of State Route 339	*606
			About 100 feet downstream of Township Route 289	*607
			Just upstream of Township Route 289	*609
		East Fork Duck Creek	Downstream corporate limits of Lower Salem	*652
			Upstream corporate limits of Lower Salem	*657
		Duck Creek	Mouth of Marietta	*616
			Upstream Marietta corporate limits	*616
		Muskingum River	Just upstream of Marietta corporate limits	*615
			Downstream corporate limits of Lowell, Ohio	*623
			Just downstream of the Lowell Lock and Dam No. 3	*624
			Downstream corporate limit of Beverly, Ohio	*637
			Just downstream of the Beverly Lock and Dam No. 4	*638
			About 4 miles downstream of Lock and Dam No. 5	*640
			About 3000 feet downstream of Locke and Dam No. 5	*643
			Just upstream of Lock and Dam No. 5	*645
		Ohio River	Downstream county boundary	*604
			Just upstream of Neal Island	*611
			About 9 miles downstream of St. Mary's Bridge	*620
			Just upstream of St. Mary's Bridge	*626
			Just downstream of Grandview Island	*631
			Upstream county boundary	*632
	Maps available at Washington County Courthouse Annex, Marietta, Ohio.			
	Send comments to Mr. William Schaefer, President of County Commissioners, Washington County, Washington County Courthouse Annex, Marietta, Ohio 45750.			

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Oklahoma	Town of Grove, Delaware County.	Spring Branch	Just upstream of Main Street	*762
			Just upstream of Delaware Avenue	*768
		North Tributary to Spring Branch	Just downstream of Madison Avenue	*779
	Maps available at City Hall, 104 West 3rd Street, Grove, Oklahoma 74344			
	Send comments to Ms. Menth Mound, City Clerk, City Hall, 104 West 3rd Street, Grove, Oklahoma 74344.			
Oklahoma	Town of North Enid, Garfield County	Skeleton Creek	Approximately 50 feet downstream of Purdue Avenue	*1,237
			Just upstream of Purdue Avenue	*1,244
			Just upstream of Chicago Rock Island and Pacific Railroad	*1,245
	Maps available at Mayor's Home, Route 6, Box 71, Enid, Oklahoma 73701			
	Send comments to Mayor Jim Powell, Route 6, Box 71, Enid, Oklahoma 73701			
Oklahoma	City of Sulphur, Murray County	Rock Creek	Just upstream of Oklahoma State Highway 7 (Broadway Avenue)	*949
			Just downstream of U.S. Highway 177 (West 1st Street)	*960
		West Tributary of Rock Creek	Approximately 150 feet upstream of Oklahoma State Highway 7 (Broadway Avenue)	*948
	Maps available at City Manager's Office, City Hall, 400 W. Muskogee, Sulphur, Oklahoma 73086			
	Send comments to Robert H. Collings, City Manager, City Hall, 400 W. Muskogee, Sulphur, Oklahoma 73086.			
Oregon	Medford (City), Jackson	Bear Creek	50 feet downstream from center of McAndrews Road	*1,330
			Intersection of creek and center of Jackson Street	*1,345
			75 feet upstream from center of Barnett Road	*1,386
		Lazy Creek	Intersection of Black Oak Drive and Siskiyou Boulevard	*1,448
		Larson Creek	Intersection of creek and center of Morrison Avenue	*1,478
		Unnamed Tributary to Larson Creek	Confluence of creek and Larson Creek	*1,500
		Crooked Creek	40 feet downstream from center of Garfield Road	*1,431
		Lone Pine Creek	Intersection of creek and center of Crater Lake Avenue	*1,350
	Maps available at Planning Department, Mr. Jim Eisenhart, 411 W. 8th Street, Medford, Oregon.			
	Send comments to the Honorable Al Densmore, City Hall, 411 W. 8th Street, Medford, Oregon.			
South Carolina	Town of Ravenel, Charleston County	Middle Branch	Just upstream of Miley Hill Road	*15
			Just downstream of U.S. Highway 165	*27
			Just upstream of U.S. Highway 165	*30
		Atlantic Ocean (Backwater flooding along Middle Branch and Tributary to Wallace)	On Tributary to Wallace River just downstream of U.S. Highway 17	*7
			On Tributary to Middle Branch just upstream of U.S. Highway 17	*8
	Maps available at Town Hall, P.O. Box 88, Route 1, Ravenel, South Caroline 29470			
	Send comments to Mayor Raymond Williams or Ms. Betty Gainey, Town Councilwoman, P.O. Box 88, Route 1, Ravenel, South Carolina 29470			
Tennessee	Town of Ashland, Cheatham County	Cumberland River	At Frey Street extended	*402
	Maps available at City Hall, Court Street, Ashland City, Tennessee 37015.			
	Send comments to Mayor James C. Bailey or Mr. W.C. Jackson, City Recorder, City Hall, Court Street, Ashland City, Tennessee 37015			
Texas	City of Nacogdoches, Nacogdoches County	Bonita Creek	Just downstream of South Pecan Street	*277
			Just upstream of Powers Street	*290
			Just downstream of South Pacific R.R.	*339
		Bayou La Nana	Approximately 250 feet downstream of Butt Street	*267
			Starr Avenue	*286
			Just upstream of East College Street	*289
			Just downstream of East Austin Street	*295
		Tributary A	Just upstream of Press Road	*261
			Approximately 250 feet downstream of State Highway 7	*305
		Tributary B	Just upstream of South Fredonia Street	*275
			Just downstream of South Street	*284
			Just upstream of South Street	*285
		Tributary C	FM 1638	*299
			Approximately 100 feet downstream of DAM	*325
			Approximately 175 feet upstream of DAM	*331
		Tributary D	Approximately 200 feet upstream of FM 1275	*291
			Approximately 100 feet upstream of FM 1878	*305
		Egg Nog Branch	Approximately 100 feet downstream of F.M. 2259	*308
			Just upstream of F.M. 2239	*313
	Maps available at Office of City Inspector, City Hall, 212 East Pilar Street, Nacogdoches, Texas 75961			
	Send comments to Mayor A. L. Mangham, Jr., or Mr. J. T. Ammons, City Manager, City Hall, 212 East Pilar Street, Nacogdoches, Texas 75961.			
Texas	City of North Richland Hills, Tarrant County	Little Bear Creek	Approximately 175 feet upstream of Kirk Lane	*620
			Just upstream of F.M. 1938	*635
		Little Bear Creek Tributary No. 1	Just upstream of F.M. 1938	*635
			Just downstream of Shady Grove Road	*662
		Little Bear Creek Tributary No. 2	Just upstream of North Field Street	*638
			Just downstream of F.M. 1938	*647
		Walker Branch	Just upstream of Cardinal Lane	*607
			Approximately 150 feet downstream of Brookridge Drive	*643

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Walker Branch Tributary No. 3	Just upstream of Cardinal Lane	*620
		Calloway Branch	Just upstream of Booth Calloway Drive	*558
			Just upstream of St. Louis-Southwestern Railroad	*612
			Approximately 100 feet downstream of Hightower Drive	*639
		Calloway Branch Tributary No. 4	Just upstream of Chapman Drive	*626
			Just upstream of Hightower Drive	*644
		Calloway Branch Tributary No. 5	Just upstream of Watauga Drive	*627
			Just upstream of St. Louis-Southwestern Railroad	*633
		Mackey Creek	Just upstream of Richland Plaza Drive	*540
			Just downstream of Harmonson Road	*560
			Just downstream of Pipeline Road	*580
		Big Fossil Creek	Approximately 200 feet downstream of Onyx Drive	*521
		Big Fossil Creek Tributary No. 6	Just upstream of State Highway 820	*550
		Big Fossil Creek Tributary No. 7	Just upstream of the dam	*579
			Just upstream of Roaring Creek Drive	*582
	Maps available at Sub-Courthouse, 6000 Bedfordeuless Road, North Richland Hills, Texas 76118.			
	Send commerits to Mr. Jim Anderson, Director Public Work, City Hall, 7301 North East Loop 820, North Richland Hills, Texas 76118.			
Texas	City of Palestine, Anderson County.	Wells Creek Northwest	Just upstream of U.S. Highway 79	*396
			Just downstream of the northern corporate limits	*421
		Well Creek Tributary South	Just upstream of Highway Loop 256	*395
			Just upstream of Old Rusk Road	*405
			Approximately 50 feet downstream of East Park Avenue	*406
			Just upstream of East Park Avenue	*417
		Basset Creek	Just downstream of Basset Road	*333
			Just upstream of Farm to Market Road 2394	*347
	Maps available at City Secretary's Office, City Hall, 504 North Queen Street, Palestine, Texas 75801			
	Send comments to Mayor Jack Rogers, or Mr. Ken Berry, City Manager, City Hall, P.O. Drawer Z, Palestine, Texas 75801.			
Vermont	South Burlington, City, Chittenden County.	Winooski River	Downstream Corporate Limits	*167
			Upstream of Dam	*204
			Upstream of Airport Parkway	*217
			Upstream Corporate Limits	*220
		Lake Champlain	Entire shoreline within community	*102
	Maps available at the City Manager's Office, City Hall, South Burlington, Vermont.			
	Send comments to Mr. Paul A. Farrar, President of the City Council of South Burlington, City Hall, 1137 Williston Road, South Burlington, Vermont 05401.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: April 30, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-15732 Filed 5-22-80; 5:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 809-204; RM-3421]

FM Broadcast Station in Auburn, Maine; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to substitutue FM Channel 260 for Channel 261A at Auburn, Maine, and modify the license of the station currently operating on Channel 261A to specify operation on Channel 260. This proposal is made in response to a petition filed by The Great Down East Wireless Talking Machine Company. The Class B channel could provide for wider coverage of southern Maine.

DATES: Comments must be filed on or before June 30, 1980, and reply comments must be filed on before July 21, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Auburn, Maine), BC Docket No. 80–204, RM–3421.

Adopted: May 1, 1980.

Released: May 12, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by The Great Down East Wireless Talking Machine Company ("petitioner"), licensee of FM Station WWAV (Channel 261A), proposing the replacement of Channel 261A with Class B FM Channel 260 at Auburn, Maine, and Modification of its license (for Channel 261A) to specify Channel 260. No responses to the proposal have been filed.

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

V 45 M Y 23 80 UMI

(b) The proposed channel can be assigned to Auburn in compliance with the minimum distance separation requirements, provided the transmitter site is located approximately 3 kilometers (2 miles) south southwest or south southeast of Auburn. The proposed site is 17 kilometers (10.7 miles) south.

2. *Demographic Data.*—(a) *Location.* Auburn, seat of Androscoggin County, is located in southwestern Maine, approximately 43 kilometers (27 miles) southwest of Augusta, Maine.

(b) *Population.* Auburn—24,151 [2]; Androscoggin County—91,279.

(c) *Local Aural Broadcast Service.* Auburn is served locally by daytime-only AM Station WPNO and by FM Station WWAV (Channel 261A), licensed to petitioner.

3. *Economic Considerations.* Petitioner asserts that Auburn serves as the county's governmental, social, cultural and trading center. Contained in Auburn are the school board, social service agencies and other governmental units.

4. Petitioner claims that with its present operation on Channel 261A, WWAV can serve only 63% of the county with a 1 mV/m or better signal. It states that a full strength Class B station on Channel 260 would encompass 96% of the country within its 1 mV/m contour. Petitioner asserts that local news programming of county-wide matters and announcements of county school closings, and other winter-storm related information cannot reach all Androscoggin residents without a Class B facility. Petitioner notes that there has been a trend in WWAV's service area toward regionalization of public service facilities and since most of the consolidated community services will be centered in the Auburn/Lewiston area, it will be necessary to communicate with residents of three counties. Assignment of a Class B channel to Auburn would also enable WWAV to reach a portion of southeastern Oxford County not presently served within its 1 mV/m contour. Further, petitioner claims that five communities in Cumberland County would, for the first time, be encompassed by WWAV's 1 mV/m contour if Class B facilities could be employed.

5. Petitioner states that it competes for listening audience and advertising revenues with two FM stations (both Class B) located in nearby Lewiston. It adds that since it cannot reach as many potential listeners as the two Lewiston FM stations, it is handicapped in competing for revenues in the Auburn-Lewiston market.

6. Petitioner states that should the Commission decide to consider potential applicants for Channel 260 on a comparative basis, petitioner reserves the right to seek withdrawal of its petition without change in existing frequency.

7. *Preclusion Study.* Preclusion would be caused on Channels 259, 260, and 261A. Twenty-two communities, with populations greater than 1,000, would sustain preclusion on one or more of these channels. Twelve have no AM stations or FM assignments.[3] Petitioner has indicated that Channel 284 and Channel 292A could be assigned to some of the affected communities. Petitioner should indicate if alternative channels are available at each community.

8. In the event an additional interest were expressed in the Class B channel here proposed, petitioner's license could not be modified to specify operation on Channel 260. According to Commission policy, as expressed in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), other parties must be afforded an opportunity to state their interest in applying for a newly assigned Class B channel. Only in the absence of such interest could petitioner's license be modified. Since no person has yet expressed an interest in the proposed assignment of Channel 260 at Auburn, we are proposing to modify the license of Station WWAV(FM). However, should petitioner desire to withdraw its request in the face of a competing interest, we would be amenable to permit termination of the proceeding. See *Statesboro, Ga.*, RM-2566, Mimeo No. 82040, *Memorandum Opinion and Order*, released May 17, 1977, 40 R.R. 2d 1021.

9. An *Order to Show Cause* to the petitioner is not necessary since consent to a modification of its license is indicated by its request for a Class B channel.

10. Since Auburn is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 260 to Auburn, Maine, requires coordination with the Canadian Government before it can be adopted.

11. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as to the named community, as follows:

Community	Channel No	
	Present	Proposed
Auburn, Maine	261A	260

12. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

13. Interested parties may file comments on or before June 30, 1980, and reply comments on or before July 21, 1980.

14. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral preservation required by the Commission.

Federal Communications Commission.

Henrry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-204 RM-3421]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-15816 Filed 5-22-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

[3] *Maine:* Vinalhaven (pop. 1,135), Thomaston (2,646), Boothbay Harbor (2,320), Lisbon Falls (3,257), Freeport (4,781), Wiscasset (2,244), Richmond (2,168), Belfast (5,957), Bucksport (3,756), Newport (2,260), Winslow (7,299), and Winthrop (4,335).

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47 CFR Part 73

[BC Docket No. 80-212; RM-3452]

FM Broadcast Station in Geneva, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Geneva, Ohio, in response to a petition filed by the American Ethnic Voice of Northeast Ohio. The proposed channel could provide for a first local aural broadcast service to the community.

DATES: Comments must be filed on or before July 7, 1980, and reply comments must be filed on or before July 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Geneva, Ohio), BC Docket No. 80-212, RM-3452.

Adopted: May 6, 1980.

Released: May 14, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by the American Ethnic Voice of Northeast Ohio ("petitioner"), proposing the assignment of FM Channel 285A to Geneva, Ohio, as that community's first FM assignment. No responses to the petition have been received.

(b) The channel can be assigned to Geneva, provided the transmitter site is located approximately 4.7 kilometers (2.93 miles) west northwest of the community. Petitioner states that the proposed channel would involve a short-spacing of approximately 31 kilometers (18.5 miles) to a co-channel Canadian Class B assignment in Port Colburne, Ontario. However, Canadian authorities have agreed to waive the short-spacing to permit operation on Channel 285A at Geneva.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data.*—(a) *Location.* Geneva, in Ashtabula County, is located approximately 80 kilometers (50 miles) southwest of Erie, Pennsylvania, and 88 kilometers (55 miles) northeast of Cleveland, Ohio.

(b) *Population.* Geneva—6,499; [2] Ashtabula County—98,237.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that, as of 1978, Geneva's population had increased 6.2% since 1970, while the population of Astabula County increased 10.3% during the same period.[3] Petitioner asserts that the principal economic industries in Geneva and Ashtabula County are manufacturing, including chemicals, rubber, plastics, fabricated metal products and electrical machinery construction. Petitioner has submitted demographic information with respect to Geneva which demonstrates the need for a first FM assignment.

4. As stated before, Canada has given its concurrence to this proposal as a specially negotiated short-spaced assignment.

5. In view of the apparent need for a first FM channel at Geneva, the Commission believes it would be in the public interest to propose the assignment of Channel 285A to that community.

6. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Geneva, Ohio, as follows:

City	Channel No.	
	Present	Proposed
Geneva, Ohio		285A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 7, 1980, and reply comments on or before July 28, 1980.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-212; RM-3452]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] Population figures are taken from the 1970 U.S. Census.

[3] This information was taken from *Alternative Futures for Ashtabula County*. Ashtabula County Planning Commission.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-15817 Filed 5-22-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 809-214; RM-3443]

FM Broadcast Stations in Beaufort and Ridgeland, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to substitution of Class A channels at Beaufort, South Carolina, or, in the alternative, the substitution of a Class C for a Class A channel in the same community. It also proposes the assignment of a Class A FM channel to Ridgeland, South Carolina. Action is taken in response to a petition filed by J. Olin Tice, Jr. The proposed channel at Ridgeland would provide that community with its first FM local broadcast service.

DATES: Comments must be filed on or before July 7, 1980, and reply comments must be filed on before July 28, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Beaufort and Ridgeland, South Carolina), BC Docket No. 80-214, RM-3443.

Adopted: May 6, 1980.

Released: May 14, 1980.

1. The Commission has under consideration a petition for rule making[1] filed by J. Olin Tice, Jr. ("petitioner"), proposing the substitution of Class C Channel 259 for Channel 285A[2] at Beaufort, South Carolina, and the reassignment of Channel 285A to Ridgeland, South Carolina, as that community's first FM assignment. No responses to the proposal have been received.

2. Ridgeland (pop. 1,165),[3] seat of Jasper County (pop. 11,885) is located approximately 101 kilometers (63 miles) southwest of Charleston, South Carolina. Ridgeland is served locally by daytime-only AM Station WBUG. Channel 285A can be assigned to Ridgeland, provided the transmitter site is located 6 kilometers (3.8 miles) east of the community.

3. Beaufort (pop. 9,434), seat of Beaufort County (pop. 51,136) is located approximately 80 kilometers (50 miles) southwest of Charleston, and 29 kilometers (18 miles) east of Ridgeland. It is served locally by fulltime AM Station WSIB, daytime-only AM Station WBEU and Station WBEU-FM (Channel 254).

4. Petitioner states that the proposed Class A channel would provide Ridgeland with a first fulltime radio facility which is needed in the community, especially for its large minority population. He notes that the substitution of a Class C channel at Beaufort would comply with the Commission's policies by removing and intermixture of classes of channel assignments at Beaufort which is so situated that it is highly unlikely a Class A station could cover all of its area.

5. Channel 259 could be assigned to Beaufort provided the transmitter site is located 16 kilometers (10.2 miles) north northeast of Beaufort. This restricted siting on Channel 259 would not meet the separation requirements for the proposed site chosen by the applicant for Channel 285A at Beaufort. However, Channel 261A, which is available for assignment to Beaufort, would meet the spacing requirements at that site. Although the substitution of Channel 259 for Channel 285A would eliminate intermixture in Beaufort, we believe it would be in the public interest to propose, in the alternative, the assignment of Channel 261A for Channel 285A so that the applicant for Channel 285A would have an opportunity to indicate whether it would apply for the Class C assignment or whether it desires to amend its application specifiying Channel 261A. The applicant for the Class A channel at Beaufort is requested to comment on both proposals, and if the Class C channel is desired, to submit a preclusion study indicating alternate available channels for the affected communities. A preclusion study for the Class A proposals is not required since it would be a first Class A channel for Ridgeland and a substitute assignment for Beaufort.

6. In view of the foregoing information, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with respect to Beaufort and Ridgeland, South Carolina, as follows:

City	Channel No.	
	Present	Proposed
Beaufort, S.C.	254, 285A	254, 261A
Ridgeland, S.C.		285A

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] An application for Channel 285A at Beaufort has been filed by Beaufort County Broadcasting Company (BPH790918AC).

[3] Population figures are taken from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
or		
Beaufort, S.C.	254, 285A	254, 259
Ridgeland, S.C.		285A

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before a channel will be assigned.

8. Interested parties may file comments on or before July 7, 1980, and reply comments on or before July 28, 1980.

9. It is ordered, That the Secretary of the Commission shall send a copy of this Notice by certified mail, return receipt requested, to Beaufort County Broadcasting Company, P.O. Box 7398, Chatsworth, Georgia 30705.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-214 RM-3443]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-15818 Filed 5-22-80; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 80-211; RM-3579]

FM Broadcast Station in Elloree, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Elloree, South Carolina, in reponse to a petition filed by Santee-Cooper Broadcasting Company. The proposed channel would provide for a first local aural broadcast service to Elloree.

DATES: Comments must be filed on or before July 7, 1980, and reply comments must be filed on or before July 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Elloree, South Carolina), BC Docket No. 80-211, RM-3579.

Adopted: May 6, 1980.

Released: May 14, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Santee-Cooper Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 257A to Elloree, South Carolina, as that community's first FM assignment.

(b) Channel 257A could be assigned to Elloree in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Elloree, in Orangeburg County, is located approximately 108 kilometers (67 miles) northwest of Charleston, South Carolina.

(b) *Population.* Elloree—970[2]; Orangeburg County—69,789.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Elloree and its surrounding area is the retirement and recreational spot in the heart of South Carolina. It asserts that the proposed station would provide a first local aural service to Elloree and would also serve an important section of rural population in Orangeburg County. Petitioner has submitted demographic data in order to demonstrate the need for a first FM assignment to Elloree.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Elloree, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Elloree, South Carolina, as follows:

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

V 45 M Y 23 80 UMI

City	Channel No.	
	Present	Proposed
Elloree, S.C.		257A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before July 7, 1980, and reply comments on or before July 28, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideratin or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-211 RM-3579]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-15819 Filed 5-22-80; 8:45 am]

BILLINGH CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-202; RM-3234)]

FM Broadcast Station in Goose Creek, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Goose Creek, South Carolina, in response to a petition filed by William K. Durst. The proposed assignment would provide a first local aural broadcast service to the community.

DATES: Comments must be filed on or before June 30, 1980, and reply comments must be filed on or before July 21, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 1, 1980.

Released: May 9, 1980.

In the matter of amendment of § 73.202(b), *Table of assignments,* FM Broadcast Stations. (Goose Creek, South Carolina), BC Docket No. 80-202, RM-3234.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is hereby given of the assignment of FM Channel 269A to Goose Creek, South Carolina, in response to a petition [1] filed by William K. Durst.[2]

(b) Supporting comments were filed by B. M. Tennyson, stating that he will apply for the channel, if assigned to Goose Creek.

2. *Community Data*—(a) *Location.* Goose Creek, in Berkeley County, is located approximately 26 kilometers (16 miles) north of Charleston, South Carolina.[3]

(b) *Population.* Goose Creek—3,656 [4]; Berkeley County—56,199.

(c) *Local Aural Broadcast Service.* None. Goose Creek receives service from Stations WKTM(FM) (Channel 273) and WNCG(AM), North Charleston.

3. *Economic Considerations.* Petitioner states that Goose Creek is a rapidly growing community in South Carolina and readily accessible to the major industrial and commercial area of North Charleston. He adds that economic expansion is continuing with construction of a new aluminum plant adjacent to Goose Creek.

4. In view of the fact that the proposed FM channel could provide a first local aural broadcast service to Goose Creek, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules with regard to Goose Creek, South Carolina:

[1] Public Notice of the petition was given on November 15, 1978, Report No. 1150.

[2] Durst had requested that Channel 240A be assigned to Goose Creek. However, that channel number conflicts with a petition which requests Class C FM Channel 241 or in the alternative Channel 259 to North Charleston, South Carolina (RM-3429). To avoid the conflict, we have determined that Channel 269A could be assigned to Goose Creek.

[3] Although a preclusion study was submitted and considered by us, we have not included that information because we believe that Goose Creek is far enough away from the city of Charleston to remove the issue as an obstacle to the assignment of a Class A channel to Goose Creek.

[4] Population figures are taken from the 1970 U.S. Census.

Community	Channel No.	
	Present	Proposed
Goose Creek, S.C.		269A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before June 30, 1980, and reply comments on or before July 21, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a meassage (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-202 RM-3234]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompained by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-15820 Filed 5-22-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-213; RM-3406]

FM Broadcast Station in Mount Pleasant, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Mount Pleasant, South Carolina, in response to a petition filed by John M. Dunnagan. The proposed channel could provide for a first local aural service to Mount Pleasant.

DATES: Comments must be filed on or before July 7, 1980, and reply comments on or before July 26, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 6, 1980.

Released: May 14, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Mount Pleasant, South Carolina), BC Docket No. 80-213, RM-3406.

1. *Petitioner, Proposal, Comments.* (a) *Notice of Proposed Rule Making* is hereby given of the assignment of FM Channel 221A to Mount Pleasant, South Carolina, in response to a petition [1] filed by John M. Dunnagan ("petitioner").[2, 3]

(b) Channel 221A can be assigned to Mount Pleasant in compliance with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Mount Pleasant, in Charleston County, is located approximately 6 kilometers (4 miles) from Charleston, South Carolina.

(b) *Population.* Mount Pleasant—6,155; [4] Charleston County—247,650.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner points out that Mount Pleasant has had a 20.3% increase in population between 1960-1970. He states that the most important single industry in and around Mount Pleasant is fishing, with large seafood packing companies located in Mount Pleasant. Petitioner notes that because of the community's rapid growth, the construction and service industries have expanded greatly.

4. Because of the proximity of Mount Pleasant to the city of Charleston, a preclusion study should be submitted for Channel 221A.

5. In view of the apparent need for a first local aural broadcast service in Mount Pleasant, the Commission

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] Dunnagan had requested that Channel 269A be assigned to Mount Pleasant. However, that petition conflicts with a proposal to assign Channel 269A to Goose Creek, South Carolina, which, in turn, was selected to avoid a conflict with a channel proposed for North Charleston, South Carolina. Since it has been determined that Channel 221A can be assigned to Mount Pleasant, we are proposing it for that community.

[3] A petition filed by Santee-Cooper Broadcasting Company on March 23, 1960, also requested that Channel 221A be assigned to Mount Pleasant. We treated this petition as comments in support of the instant petition.

[4] Population figures are taken from the 1970 U.S. Census.

V 45 M Y 23 80 UMI

V 45 M Y 2 3 0 8 0 UMI

proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Mount Pleasant, South Carolina, as follows:

City	Channel No.	
	Present	Proposed
Mount Pleasant, S.C.		221A

6. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 7, 1980, and reply comments on or before July 28, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–213 RM–3406]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–15821 Filed 5–22–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–201; RM–3249]

FM Broadcast Station in North Charleston, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a second Class C FM channel to North Charleston, South Carolina, in response to a petition filed by T. B. Trammel. The proposed assignment would provide for a second local FM broadcast service to the community.

DATES: Comments must be filed on or before June 30, 1980, and reply comments must be filed on or before July 21, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 1, 1980.

Released: May 12, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (North Charleston, South Carolina), BC Docket No. 80–201, RM–3249.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by T. B. Trammel ("petitioner"), proposing the assignment of Class C Channel 241, or in the alternative, Channel 259, to North Charleston, South Carolina. William K. Durst, petitioner for a Class A channel at Goose Creek, South Carolina (RM–3234), also expressed an interest in applying for the Class C assignment at North Charleston, if assigned.

(b) Either Class C channel could be assigned to North Charleston in conformity with the minimum distance separation requirements. However, because Channel 259 conflicts with two other pending petitions, including Ridgeland and Beaufort, South Carolina (RM–3443) and Elloree, South Carolina (RM–3579), we have proposed Channel 241 for North Charleston.

(c) Petitioner states it will apply for the Class C channel, if assigned.

2. *Community Data*—(a) *Location.* North Charleston, in Charleston County, is located approximately 10 kilometers (6 miles) north of Charleston.

(b) *Population.* North Charleston—19,854; [2] Charleston County—247,650.

(c) *Local Aural Broadcast Service.* North Charleston is served locally by daytime-only AM Station WNCG, and FM Station WKTM (Channel 273).

3. *Economic Considerations.* Petitioner asserts that North Charleston plays an important role in the growth and expansion of the entire county. It states that North Charleston contains the largest share of industry in the area, as well as the Charleston Naval Base, which makes North Charleston a large center of employment.

4. *Preclusion Study.* Preclusion would occur on Channels 240A and 241 as a result of the assignment of Channel 241 to North Charleston. Channels 238, 239, 242, 243 and 244A are already precluded by existing assignments. Nineteen communities of over 1,000 population are located in one or both of North Charleston's newly precluded areas. Of these, fourteen have no local AM stations or FM assignments.[3] Although the petitioner states that alternate channels are available for all of these communities except Summerton, the alternate channels suggested are being proposed in other pending rule makings. If all proposals are adopted, these communities would be precluded with no alternative channels available. It also appears that no first or second FM or nighttime aural service would be provided by the addition of the North Charleston assignment.

5. In light of the foregoing information, and the fact that the proposed assignment would provide a growing community with a second local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to North Charleston, South Carolina:

City	Channel No	
	Present	Proposed
North Charleston, S.C.	273	241, 273

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before June 30, 1980, and reply comments on or before July 21, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice a proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–201 RM–3249]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authroized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–15822 Filed 5–22–80; 8:45 am]

BILLING CODE 6712–01–M

[1] Public Notice of the petition was given on December 6, 1978, Report No. 1154.

[2] Population figures are taken from the 1970 U.S. Census. The North Charleston population figure is shown as an urbanized civil division rather than a city or town.

[3] *South Carolina:* Summerton (pop. 1,305), Pinehurst-Sheppard Park (1,711), Charleston Base (6,238), Hanahan (8,376), Isle of Palms (2,657), Sullivans Island (1,426), Folly Beach (1,157), Avondale-Mooreland (5,236), Charleston Yard (13,565), James Island (24,197), St. Andrews (9,202), Dupont (not listed), Mount Pleasant (6,155), and Goose Creek (3, 656).

Notices

Federal Register
Vol. 45, No. 102
Friday, May 23, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, June 5, 1980, at 1:45 p.m. and on Friday, June 6, 1980, at 9:45 a.m. in The Amphitheater of the Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C.

The Conference will consider proposed recommendations on the following matters:

1. Trade Regulation Rulemaking under the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act.
2. Forum for Enforcement of Petroleum Price Regulations.
3. Interpretation and Implementation of the Federal Advisory Committee Act.
4. Disqualification of Decisional Officials in Informal and Hybrid Rulemaking.

In addition, the Conference will consider reports and proposed resolutions on Conference research planing and the implementation of Conference recommendations and a proposed resolution to suspend a portion of Section 2(B) of the Conference Bylaws.

Plenary Sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, D.C. 20037, telephone (202) 254–7020.

Dated: May 19, 1980.

Richard K. Berg,

Executive Secretary.

[FR Doc. 80–15845 Filed 5–22–80; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Availability of a Final Revised Environmental Impact Statement of the Rangeland Grasshopper Cooperative Management Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of the final revised environmental impact statement on the Rangeland Grasshopper Cooperative Management Program.

SUMMARY: This gives notice that the Department has prepared the final revised environmental impact statement (FEIS) on the Rangeland Grasshopper Cooperative Management Program. The FEIS (USDA–APHIS–ADM–79–1–F) was sent to the Environmental Protection Agency (EPA) on May 16, 1980, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

ADDRESS: Requests for a copy of the FEIS should be addressed to the Pest Program Development Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782.

Copies are available for public inspection at the following locations.

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302–E, Administration Building, 14th and Independence Avenue, Washington, D.C. 20250

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 7100 West 44th Avenue, Suite 102, Wheat Ridge, CO 80033

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 620 Central Avenue, Building 2B, Alameda, CA 94501

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 2100 Boca Chica Boulevard, Suite 400, Brownsville, TX 78521

FOR FURTHER INFORMATION CONTACT: Shannon W. Wilson, 301–436–8745.

SUPPLEMENTARY INFORMATION: A notice of the Department's intent to prepare a draft revised environmental impact statement (DEIS) on the Rangeland Grasshopper Cooperative Management Program was published in the **Federal Register** (44 FR 66008) on November 16, 1979. After consideration of comments received in response to this notice, a DEIS was prepared. A notice of availability of the DEIS for review was published in the **Federal Register** (45 FR 1113) on January 4, 1980.

The public was given the opportunity to participate in the development of the DEIS. Based on comments received in response to the DEIS, a notice of a supplemental DEIS was published in the **Federal Register** (45 FR 23003), on April 4, 1980, to obtain further comments to assist in the preparation of the FEIS. Comments were due May 2, 1980. However, the EPA requested extension of the comment period from May 2 to May 7. In order to accomodate EPA's request, the Plant Protection and Quarantine Programs of APHIS extended the acceptance of all comments to May 7, 1980.

All comments received pursuant to the notice of availability of the supplementary DEIS were considered in the preparation of this FEIS. The FEIS has been transmitted to the Environmental Protection Agency.

Done at Washington, D.C., this 16th day of May 1980.

Thomas G. Darling,

Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 80–15599 Filed 5–22–80; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Finding of No Significant Impact; Site Preparation Project for 1980, Skamania and Klickitat Counties, Wash., Gifford Pinchot National Forest, Mt. Adams Ranger District

An Environmental Assessment investigating a proposed program for 1980 of site preparation to increase survival of planted seedlings on backlog units within the Mt. Adams Ranger District of the Gifford Pinchot National Forest is available at the Mt. Adams Ranger District office and the Gifford Pinchot National Forest Supervisor's Office.

This assessment considers treatment of 1,702 acres of cutover plantations. The Forest Service preferred alternative consists of treating 602 acres with the chemical Roundup in an early summer spot application, 518 acres with the chemical Roundup with fall broadcast application, 294 acres of manual treatments, 109 acres treated by mechanical methods, and 180 acres considered for no treatment.

These projects are not considered to be a major Federal action significantly affecting quality of the human environment; therefore, it has been determined that an environmental impact statement is not needed.

There is no effect on prime farmlands, range or forest lands. No flood plains or wetlands are located in the project area.

The project is not soiled and land disturbing; therefore, a cultural resource inventory is not required.

No endangered plants or animals are known to exist in the project area. This project meets all requirements of the National Forest Management Act, specifically the five year regeneration requirement.

The preferred alternative provides the best combination of physical, biological, social and economic benefits and is considered to be the environmentally preferable alternative.

Implementation of this action may take place 30 days after publication of this notice in the **Federal Register**.

The responsible official is Robert D. Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

Dated: May 15, 1980.

Duane G. Tucker,

Deputy Forest Supervisor.

[FR Doc. 80–15790 Filed 5–22–80; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Steel Wire Nails From the Republic of Korea; Antidumping: Final Determination of Sales at Less Than Fair Value and Exclusion From Investigation

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Final determination of sales at less than fair value and exclusion from investigation.

SUMMARY: In this antidumping investigation the Department of Commerce has determined that certain steel wire nails from certain Korean companies are being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). We are referring this case to the United States International Trade Commission for a determination whether the sales made at less than fair value by these companies have caused or are likely to cause material injury to a domestic industry.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–1785).

SUPPLEMENTARY INFORMATION:

Background

On April 20, 1979, the Treasury Department began this investigation with publication of an "Antidumping Proceeding Notice" in the **Federal Register** (44 FR 23621). Treasury started the investigation on its own initiative in conjunction with its administration of the "Trigger Price Mechanism" (TPM). The TPM was established in December 1977 to monitor prices at which certain steel mill products enter the United States.

Special Summary Steel Invoices submitted by importers indicated that steel wire nails imported from 22 Korean companies were being sold at prices less than the appropriate "trigger price" for that product. Further investigation revealed the possibility that these steel wire nails were being, or were likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The "Antidumping Proceeding Notice" indicated that there was evidence on the record concerning injury to, or likelihood of injury to, an industry in the United States. However, the notice also indicated that there was substantial doubt that imports of such merchandise from Korea were causing, or were likely to cause, injury. Treasury so advised the United States International Trade Commission (ITC) pursuant to section 201(c)(2) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(c)(2)). On May 23, 1979, the ITC published its decision that there was reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of certain steel wire nails from Korea possibly sold at less than fair value (44 FR 29989). Therefore, the investigation proceeded.

On October 26, 1979, Treasury published a notice of "Tentative Determination of No Sales at Less Than Fair Value and Tentative Discontinuance" in the **Federal Register** (44 FR 61722). This notice advised the public that, with the exception of merchandise produced by Murakami Kogyo Company, there was no reason to believe or suspect that steel wire nails from Korea were being sold to the United States at less than fair value. In the case of Murakami Kogyo, the investigation was tentatively discontinued because the margins found were minimal and assurances of no future sales at less than fair value had been received.

Counsel for the parties raised a number of issues following the Tentative Determination, both in written submissions and orally at a hearing held on December 12, 1979. Among the issues raised were:

—The time period over which certain production costs were calculated in determining constructed value.
—Adjustments for differences in merchandise in those instances where fair value comparisons involved purchase prices and either home market or third Country prices.
—The applicability of the multinational corporation provision (Sec. 773(d) of the Tariff Act of 1930) to certain firms subject to the investigation.
—Changes in circumstances following the priod selected for examination of price and cost of production data (the investigatory period).

On January 1, 1980, the Trade agreements Act of 1979, Pub. L. 96–39, took effect. The 1979 Act repealed the Antidumping Act of 1921 and replaced it with Subtitle B of Title VII of the Tariff Act of 1930 (hereinafter referred to as "the Act"). The Department of Commerce determined that the transition rules of the 1979 Act, specifically section 102(b)(2) (93 Stat. 189, 19 U.S.C. 1671 note), covered pending investigations of less than fair

V 45 M Y 23 80 UMI

value sales in which no final determination had been made but in which a tentative negative determination had been made by December 31, 1979.

In accordance with these rules the investigation under the Antidumping Act of 1921, as amended, covering certain steel wire nails from the Republic of Korea was terminated on January 1, 1980, and the investigation continued under the provisions of Title VII of the Act (93 Stat. 150 et seq.) as if the preliminary determination under the Antidumping Act has been a preliminary determination under section 733 of the Act, (93 Stat. 163, 19 U.S.C. 1673b), made on January 1, 1980.

The Commerce Department subsequently determined under section 735(a)(2) of the Act that an extension of the time period in which to make a final determination was necessary in this case and published notice to this effect in the **Federal Register** on March 19, 1980 (45 FR 17624). This determination was based upon the need to collect, verify and analyze additional information, particularly with respect to (1) the possible application of the multinational corporation provision of the Act and (2) the possible recalculation of constructed value.

For purposes of this determination, the term "steel wire nails" refers to nails, brads, spikes, staples and tacks of one-piece construction which are made of round steel wire and which enter the United States under item numbers 646.25 and 646.26 of the Tariff Schedules of the United States Annotated (TSUSA).

Scope of the Investigation

This case was initiated as a result of sales by twenty-two Korean companies of steel wire nails in the U.S. market at prices below the prevailing trigger price level. Because of the difficulties in examining in detail price and cost of production data of all Korean producers which sold nails below trigger prices a representative sample of twelve producers was used for purposes of the investigation. The companies investigated were:

1. Daegu Moolsan Co., Ltd. (Daegu Moolsan).
2. Dae Han Sang Sa Co., Ltd. (Dae Han Sang Sa).
3. Jin Heung Iron and Steel Co. (Jin Heung).
4. Kankoku Nittei Co., Ltd. (Kankoku Nittei).
5. Kankoku Nitto Co., Ltd. (Kankoku Nitto).
6. Korea Murata Industrial Co., Ltd. (Korea Murata).
7. Korea Nail Manufacturing Co., Ltd. (Korea Nail).
8. Korea Nippon Seisen Co., Ltd. (Korea Nippon Seisen).
9. Kuk Dong Metal Ind., Co. (Kuk Dong).
10. Murakami Kogyo Co., (Masan) Ltd. (Murakami Kogyo).
11. New Korea Nails Ind., Co., Ltd. (New Korea Nails).
12. Young Sin Metal Industrial Co., Ltd. (Young Sin).

During the period of investigation, these twelve companies accounted for 73% of U.S. imports of steel wire nails from Korea.

Korean exporters (both manufacturers and trading companies) which were not included in the sample of producers selected for purposes of investigation but were found to be selling in the U.S. at prices below trigger prices were given the opportunity to provide price and cost of production information to demonstrate that they did not sell the merchandise at less than fair value during the period of investigation. One company, Korea Electrode, provided such information. However, the information submitted did not include a nonconfidential summary of confidential information, as required by § 353.28 of Commerce Regulations, and was accordingly returned. Korea Electrode was given an opportunity to revise its submission to include such a summary, but chose not to do so.

Pricing information and cost of production information were obtained and examined for shipments to the United States, to the home market and to third countries during the period December 1, 1978 through March 31, 1979.

U.S. Price

Purchase price, as defined in Section 772 of the Act (19 U.S.C. 1677a) was used for determining the "United States price" because all sales by the companies investigated were made to unrelated U.S. customers prior to the date of importation. Purchase price was calculated on the basis of the f.o.b., f.o.b.c., c&f and c.i.f., packed price to an unrelated trading company or to an unrelated purchaser in the United States, as appropriate. Where applicable, we deducted from this price ocean freight, insurance, stevedorage, wharfage, Customs clearance, handling, inland freight, and commissions. Where applicable, we added to the price the Korean value-added tax, defense tax, and duties on imported raw materials rebated on export but which are included in the price of products sold in Korea.

Foreign Market Value

Home market prices could be used as the basis for foreign market value for only two companies (Kuk Dong and New Korea Nails). The overwhelming proportion of all sales by the companies investigated were to the U.S. market. Only three of the companies sold in the home market during the period of investigation. Of these three, one company (Jin Heung) sold in Korea so small a fraction of the amount it sold to the United States (less than 2.5%) that the home market sales do not provide an adequate basis for determining foreign market value. The other two companies, Kuk Dong and New Korea Nails, shipped to the home market 5% or more of the quantity shipped to the United States and, where there were third country sales, shipped greater quantities to the home market than were shipped to the third country. Home market prices were calculated by making adjustments for differences in packing to the weighted-average ex-factory price to unrelated purchasers in Korea. In the case of Kuk Dong, we disallowed an adjustment claimed under § 353.15 Customs Regulations (19 CFR 353.15) for extension of credit to domestic purchasers due to insufficient documentation.

Third country sales were used as the basis for foreign market value for the one company whose sales in Canada were 5% or more of the company's sales in the U.S. (Korea Nails). Foreign market value was calculated by deducting from the c&f value of sales to unrelated Canadian purchasers deductions for ocean freight, wharfage, inland freight, stevedorage, and Customs brokerage. Third country sales were not used in the case of Daegu Moolsan, whose shipments to Japan were well below 5% of shipments to the United States, or in the case of Murakami Kogyo, which was subject to the the multinational corporation provision of the Act (see below).

The use in this case of the 5% benchmark for deciding whether sales in the home market or to third countries are adequate for determining foreign market value does not establish a rigid rule of general application. The 5% benchmark does provide a guideline from which our analysis begins, but in some cases there may be particular facts that require another result in order to implement the purposes of the Act. In this case there are no such special facts.

For four of the remaining nine companies that were investigated constructed value was the basis for foreign market value (Daegu Moolsan, Dae Han Sang Sa, Jin Heung and Young Sin).

Sales in both the home market and third country market for each of these companies were either nonexistent or inadequate to form a basis for comparison with the U.S. price.

We calculated constructed value by adding the cost of raw materials and fabrication, general expenses and profit considered usual in the trade (but not less than the minimum amounts required by Section 773(e) of the Act) and the cost of all containers and coverings used to pack the merchandise for shipment to the United States.

In the tentative determination constructed value was computed from the average cost of production data supplied by each company for an entire year. Counsel for the domestic industry maintained that the use of annual data is improper for calculation of the cost of raw materials and fabrication elements of constructed value. Section 773(e) of the Act (19 U.S.C. 1677(b) states that the constructed value shall be "the cost of materials * * * and of fabrication or other processing * * * at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of this particular merchandise * * *." Counsel argued that average annual raw material and fabrication costs did not represent the costs "at the time preceding the date of exportation" which would "ordinarily" permit the manufacture of the nails exported during the investigatory period and that the use of annual data, as opposed to data for a more limited period, significantly understated the proper raw material and fabrication costs.

Based upon a review of the Korean nail industry, and in particular the average lag time between date of purchase of raw materials and date of exportation of the finished product made from these materials, we determined that raw material and fabrication costs for the period August through November 1978 provided a more appropriate basis for calculating the value of those elements of the constructed value during the period of investigation than did annual data.

General expenses and profit for each company were calculated using the annual data originally supplied, because section 773(e) distinguishes between the treatment of raw materials and fabrication, on the one hand, and general expenses (e.g. general overhead, capacity utilization) and profit, on the other. For general expenses and profit the use of annual data or data over an appropriate "normalized" period (e.g. a business cycle) may be used.

Foreign market value for the remaining five companies (Kankoku Nittei, Kankoku Nitto, Korea Murata, Korea Nippon Seisen and Murakami Kogyo) must be determined in an unusual way. All five are located in the Masan Free Trade Zone and hereafter referred to collectively as the Masan Companies. The Trade Act of 1974 added to the Antidumping Act of 1921 a special rule for determining foreign market value for certain multinational corporations. This provision was retained in section 773(d) of the 1979 Act (19 U.S.C. 1677b(d). It requires that where:

(1) Merchandise exported to the United States is being produced in facilities which are owned * * * by a person, firm or corporation which also owns or controls * * * other facilities for the production of such or similar merchandise which are located in another country or countries;

(2) The sales of such or similar merchandise by the company concerned in the home market of the exporting country are nonexistent or inadequate as a basis for comparison with sales of the merchandise to the United States; and

(3) The foreign market value of such or similar merchandise produced in one or more of the facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in the facilities located in the country of exportation."

Then the foreign market value of such merchandise shall be determined "by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation." Congress added this provision to ensure that our antidumping laws "cannot be evaded by a multinational company which practices price discrimination through plants situated in several countries" S. Rep. 93–1298 at 175 (1974).

The five Masan Companies were subsidiaries of Japanese corporations. None sold steel wire nails in Korea during the investigatory period. Thus, the first two criteria of 773(d) were met.

With respect to the third criterion, the Treasury Department had developed "trigger prices" for nails based on data supplied by steel producers in Japan. Because trigger prices for the nails under investigation were higher than the foreign market values established for the production of each of the Masan companies, there was sufficient cause to request actual home market price information from each of the Japanese companies related to the Korean exporters.

A request was made to the Government of Japan to collect information from the Japanese companies related to the nail producers in the Masan Free Export Zone. The Commerce Department was unable to obtain authorization to present the questionnaires necessary to collect the appropriate data.

Section 776(b) of the Act (19 U.S.C. 1677e) states that whenever any party refuses or is unable to produce information requested, the Commerce Department will use the "best information otherwise available" in determining the existence of "less than fair value" sales. In this case, the relevant trigger prices for steel wire nails are the "best available information" of the foreign market value for nails in Japan. Because these trigger prices are greater than the foreign market value which would otherwise be used for the Masan Companies, section 773(d) is applicable. For these five companies, therefore, we compared the purchase price to the foreign market value in Japan, as represented by trigger prices.

Respondents requested that the foreign market value for the five companies subject to the multinational corporation provisions of the Act should be adjusted for differences in the cost of production between Japan and Korea. No information has been submitted by the Japanese parents which would permit the determination of whether such cost differences in fact exist and how great any such differences may be. In light of the inability of the Japanese companies to provide verifiable information, no adjustment has been allowed.

In early 1980 two of the multinational companies subject to the provision of Section 773(d) of the Act were sold by their Japanese owners to Korean enterprises. Counsel for the Korean producers has argued that, even though the two companies were sold after the period investigated, Section 773(d) should not apply to these companies because they no longer meet the criteria of section 773(d).

The issue raised is an important one. Under what conditions and to what extent should a determination under the Act take into account circumstances which differ from the situation that existed during the period investigated?

In every anti dumping investigation information is collected and examined concerning prices and/or cost of production over a finite period. The result is necessarily a "snap-shot" of the companies under investigation at a specific point in time. Economic and business conditions are, of course, constantly changing. The "snap-shot" taken will not reflect subsequent changes in circumstances affecting the companies being investigated.

There will undoubtedly be cases in which the impact of developments

subsequent to the period selected for examination of information are of such overriding significance that they must be factored into a determination of sales at less than fair value. As a rule, however, adjustment to findings for subsequent changed circumstances will not be made. Selection of a specific investigatory period is the only practical way of thoroughly investigating a large volume of complex international business transactions. Without a general presumption against adjustment for subsequent change in circumstances, claims for analysis of revised data or other adjustments for such changes would be made continuously. Under these circumstances, firm conclusions would at best prove elusive.

In this particular case, the purportedly changed circumstances could quite easily change again soon after publication of this determination (i.e., resale of the two companies back to Japanese or other foreign interests).

Assuming that an antidumping order is issued after the material injury investigation of the U.S. International Trade Commission, a company may petition for review under Section 751(b) of the Act, based on changed circumstances. Where good cause is shown, we will undertake such a review expeditiously.

Cost of Production

At the time it initiated the investigation, Treasury had evidence indicating possible sales of steel wire nails at prices below the cost of production. Pursuant to section 773(b) of the Act (19 U.S.C. 1677b(b)), substantial home market or third country sales made at less than the cost of production must be disregarded in determining fair value. Cost of production data was collected from all of the companies under investigation for the most recent full fiscal year for which cost of production data was available. For all but two of the companies that period was calendar year 1978. For the remaining two firms, cost of production data was supplied for the period April 1, 1978, through March 31, 1979.

Based on analysis of this data, we determined that for those three companies in which home market price or third country price was used for purposes of determining foreign market value, no sales were made at prices below the cost of production and therefore no home market or third country sales were disregarded.

Other Issues

In determining whether merchandise is being, or is likely to be, sold in the United States at less than fair value, comparisons are, to the maximum extent possible, made between sales of identical merchandise. Where such merchandise is not available for comparison purposes, similar merchandise is used. In this case, some sales of items similar to but not identical with merchandise sold to the United States were used when foreign market value based upon the price of home market or third country sales.

Section 353.16 of the Commerce Regulations (19 CFR 353.16) states that in comparing U.S. price with the selling price of merchandise sold in the home market or for sale to third countries, due allowance shall be made for differences in the physical characteristics of the items being compared. This allowance is generally established on the basis of differences in the cost of manufacturing of the items under consideration.

At the time of the tentative determination in this case, no adjustments for differences in physical characteristics were made in the comparisons involving similar merchandise. Counsel for domestic industry claimed that adjustments for such differences should be made on the basis of verified cost data, or in the absence of such data, on the basis of the trigger price differences for these products.

Cost information was submitted and verified as part of our determination that sales in the home market or to third countries were not being made at less than cost of producing the merchandise. On the basis of this verified information on the cost of materials and fabrication of the similar items, we have made appropriate adjustments for differences in physical characteristics of the merchandise.

Counsel for the domestic industry has also argued that conditions have changed materially since the four month period selected for evaluation of price and cost of production data and that the subsequent developments should be factored into this determination. Counsel for the Korean producers has challenged the contentions of materially changed circumstances.

This issue has been reviewed in some detail in the discussion of the sale of two Masan Companies, surpra. As stated above, a thorough investigation of sales and cost of production data on a large number of complex international business transactions requires that we examine transactions over a fixed period. Economic and business conditions are contantly changing. In order for adjustments to be made for developments following the period selected for examination of data, there must be compelling reasons to make such adjustments. While changed circumstances have been alleged and limited supporting data presented, the issues are not clear on thier face. Without a full investigation of subsequent developments it is impossible to determine what, if any, impact they would have on the findings made. A compelling case for adjustment for subsequent developments has not been made.

Information submitted and relied upon in this determination was verified by on-site examination of the manufacturing and accounting records of the companies investigated, including:

1. Manufacturing expense ledgers;
2. Raw material purchase ledgers;
3. Production ledgers;
4. Invoices and supporting documents such as purchase orders, letters of credit;
5. Salary records;
6. Raw materials account books;
7. Labor cost account books;
8. Production expense account books; and
9. Financial statements.

Results of Fair Value Comparisons

During the period under consideration, comparisons were made on all nails shipped to the Untied States by Dae Han Sang Sa, Kuk Dong and Young Sin. Approximately 92 percent, 98.6 percent and 78.9 percent by value of the nails shipped by Daegu Moolsan, Jin Heung and Kankoku Nittei respectively were compared for this determination. In the case of Kankoku Nitto, Korea Murata and Korea Nails, approximately 97 percent, 86 percent and 76.8 percent of their respective nail shipments to the U.S. were compared for this determination. Approximately 94.4 percent, 98.5 percent and 75 percent by value of the nails shipped by Korea Nippon Seisen, Murakami Kogyo and New Korea Nails were compared for this determination. Taken together comparisons were made or approximately 64 percent by value of all nails shipped from Korea to the U.S. during the period of investigation. The results of these comparisons follow:

Manufacturer	Percent margin range	Percent weighted average margin on all sales compared
Daegu Moolsan	0–23.1	.28
Dae Han Sang Sa	0–4.2	.16
Jin Heung	0–3.0	.005
Kankoku Nittei	0–19.4	5.5
Kankoku Nitto	.1–19.8	11.5
Korea Murata	0–27.9	11.1
Korea Nails	0–9.3	.21
Korea Nippon Seisen	4–13	10.5
Kuk Dong	0–31.2	1.3
Murakami Kogyo	0–32.1	5.7
New Korea Nails		
Young Sin		

In the case of Daegu Moolsan, Dae Han Sang Sa, Jin Heung and Korea Nails, weighted average margins are *de minimis.*

On the basis of above list, the following companies are selling below fair value: Kankoku Nittei, Kankoku Nitto, Korea Murata, Korea Nippon Seisen, Kuk Dong and Murakami Kogyo.

In initiating TPM based cases, it has been the policy of the Treasury Department to only initiate against those companies which were found to be selling below the applicable trigger price. (See for example, T.P. 79–166, *Certain Carbon Steel Plate from Taiwan,* 44 FR 33877). The Tentative Determination in this investigation excluded from the scope of investigation a number of companies. Companies which were so excluded as well as those companies investigated and found not to be selling at less than fair value or found to be selling at less than fair value in *de minimis* amounts are excluded from the scope of this determination and, in the event an antidumping order is issued, will be excluded from the scope of any such order. Korean nail manufacturers not exporting to the United States, either directly or indirectly, during the period May 1978–March 1979 are also excluded from the scope of this determination and any subsequent antidumping order. This determination applies to all other Korean manufacturers of steel wire nails, as such nails are defined herein, whether exporting to the United States directly or indirectly.

Pursuant to Section 735(c)(1)(B) of the Act, I hereby direct appropriate customs officers to suspend the liquidation of all entries of Korean nails subject to this determination which are entered, or withdrawn from warehouses for consumption on or after May 23, 1980. A cash deposit, bond or other security shall be posted for each entry of steel wire nails (as defined herein) from companies subject to this determination).

This notice is published pursuant to § 353.44(f), Commerce Regulations (19 CFR 353.44(f)).

Robert Herzstein,

Under Secretary for International Trade.

[FR Doc. 80–15926 Filed 5–22–80; 8:45 am]

BILLING CODE 3510–25–M

Certain Iron-Metal Castings From India Preliminary Countervailing Duty Determination

AGENCY: United States Department of Commerce.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that it has been preliminarily determined that benefits are granted by the Government of India to manufacturers, producers, or exporters of certain iron-metal castings which constitute a subsidy within the meaning of the countervailing duty law. A final determination will be made not later tan July 29, 1980.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230. New telephone number (202) 377–3965.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on February 19, 1980, from James W. Pinkerton, Jr. of Pinkerton Foundry, Inc., Lodi, California, alleging that subsidies are provided by the Government of India on the production and exportation of certain iron-metal castings from India. Such subsidies are alleged to constitute a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended, (93 Stat. 190, 19 U.S.C. 1303) (hereinafter referred to as the Act). It should be noted that India is not a "country under the Agreement" within the meaning of section 701(b). Therefore, section 303 of the Act as amended by section 103 of the Trade Agreements Act of 1979 after referred to as the Trade Act), continues to apply to this investigation. A Notice of Initiation of a Countervailing Duty Investigation was published in the **Federal Register** on March 14, 1980 (45 FR 16521).

Iron-metal castings from India enter the United States free of duty. Therefore, it has been necessary to refer this matter to the United States International Trade Commission for determinations of injury. The United States International Trade Commission made a determination "that there is reasonable indication that an industry in the United States is materially injured by reason of the importation from India of manhole covers and frames, catch basin grates and frames and clean out covers and frames provided for in item number 657.09 of the Tariff Schedules of the United States (TSUS)." 45 FR 25972, April 16, 1980.

The bounties or grants alleged in the petition are as follows:

1. Cash grant program on exports,
2. Tax credit against business and income taxes based on export value.
3. Tax deduction at 150 percent on expenses for overseas export promotion.
4. Remission of Customs duties and excise taxes on machinery used for export production.
5. Subsidized export insurance and export credit available to Indian exporters.
6. Favorable import licenses and foreign exchange treatment.
7. Special incentives granted to manufacturers within free trade zones, including income tax holidays, financing at preferred rates, and cash subsidies by state and national governments.
8. Subsidized inland transportation and subsidized ocean freight.
9. Government underwriting of foreign trade shows.
10. Tax deductions for capital investment reserves for selected industries and new industrial ventures.

1. *Cash compensatory support on Export (CCS).* The Government of India (GOI) provides payments to exporters of iron-metal castings entitled "Cash Compensatory Support on Export". The level of payment is currently 12.5 percent of the f.o.b. value of the exported product. the GOI claims that the payment is a rebate of indirect taxes that is to compensate for indirect taxes paid but not otherwise refunded and has been calculated upon documented actual tax experience.

In determining either the existence of a subsidy or determining the net subsidy, the refund of indirect taxes is accepted under the General Agreement on Tariffs and Trade (see Article VI, paragraph 4) and the Agreement on Interpretation and Application of Articles VI, XVI, XXIII of the General Agreement on Tariffs and Trade, relating to Subsidies and Countervailing Measures, (See Annex A). The legislative history of the Trade Agreement Act of 1979 indicates that Congress was concerned about the Treasury Department practice of offsetting indirect taxes paid from the gross subsidy for exported products. However, the Senate Report (Senate Report No. 96–249, July 17, 1979, pp. 84 and 85) states quite clearly that the limitations on offsets:

> Contained in section 771(6) of the Act are not intended to prohibit the administering authority from determining that export payments are not subsidies, if those payments are reasonably calculated, are specifically provided as non-excessive rebates of indirect taxes within the meaning of Annex A of the Agreement and are directly related to the merchandise exported.

Administrative guidelines have been published by the Department (19 CFR Part 355 Annex 1, para. 2, 45 FR 4949) providing that generally, the payment of

V 45 M Y 23 1980 UMI

a lump sum calculated and identified as a non-excessive rebate of the indirect tax incidence of the exported product, and its components, will not be treated as a subsidy, provided that the government has reasonably calculted and documented the actual tax experience of the product under investigation. *Ex post facto* rationalizations of export payment programs will not be accepted to determine the appropriateness of the export payments as rebates of indirect taxes paid. Any study which purports to show the linkage between export payments and indirect taxes must (a) have served as the official basis upon which the export rebate was calculated; (b) include a thorough analysis and degree of quantification of tax incidence; and (c) have reflected an undertaking to calculate the tax rebate for purposes other than to satisfy the requirements of U.S. law.

Information adequate to satisfy these criteria has not yet been submitted in this case. In the absence of such data, the refunds under the CCS have been preliminary determined to constitute a subsidy in their full amount, 12.5 percent of the f.o.b. value of the exported merchandise.

2. *Import Permits* (REP). Indian exporters may be entitled to receive permits to import goods up to a percentage of what is exported. In the case of iron castings, the license entitles its holder to 10 percent of the value of thed amount exported. Based on an official publication dated 1978, *Import Policy, April, 1978—March, 1979* the Government of India differentiated REP licenses from Actual User Import licenses, stating:

> The REP licenses will be issued in the name of the Register Exporters only but will not be subject to Actual User condition. The license-holder may transfer the license in favour of any other person. The License Holder himself or such transferee may import the goods permitted therein . . .
>
> The transfer of the license will not require any endorsement or permission from the licensing authority, i.e., it will be governed by the ordinary law.

Utilization of REPS for purposes other than stock replenishment (e.g. transfer) could constitute a subsidy. However, the Government of India has stated that castings are made from indigenous materials and so exports of castings are not eligible for REPS. In light of this information supplied by the Government of India, no subsidy has, at this time, been found to exist. This finding will be subject to confirmation during the verification proceeding.

3. *Duty Drawback.* Based on oral representations made by counsel for the Government of India and information found in a publication, *The New Drawback Manual, 1977*, it appears that Duty Drawback is a nonexcessive rebate of indirect taxes (Central Excises and Salt Act) and therefore has not been considered a subsidy for purposes of this determination. However, prior to a final determination in this case, the facts upon which this duty drawback is paid will have to be verified.

4. *Support for Indigenous Suppliers.* Based on information available concerning Indian export policies it is believed that pig and scrap iron manufacturers may be eligible for REPS and CCS for materials sold for use in castings which are subsequently exported.

Because the Government of India's denial of REP benefits for relied on as best evidence, there is no evidence that pig-iron is eligible for benefits that iron castings are not eligible for.

Therefore, no benefit is presumed to accrue as a pass-through for the benefit of iron castings which is attributable to a reduction in the cost of raw material because of REPS to the materials supplier.

Pig-iron and scrap do not appear to be eligible for CCS benefits. Consequently, it is presumed that there are no CCS benefits provided for scrap iron or pig iron. Therefore, no benefit could accrue to casting manufacturers from a pass through of such benefits.

5. *Market Development Assistance.* Under the Market Development Assistance (MDA) Program, grants in aid for export efforts have been provided. Two organizations, the Engineering Export Promotion Council (EEPC) and the Trade Development Authority (TDA) have received grants which might be applicable to exports of castings from India.

The EEPC has received funds for exhibits in the United States and the operation of the Chicago office. The response from the GOI indicates that the exhibition and the Chicago office operation benefit all engineering products exported to all of North America, and spread over the value of engineering products imported from India to the region covered by the Office. The GOI paid expenses amount to an 0.056 percent subsidy. The EEPC has additionally paid for travel by private castings firms from marketing research here which is roughly 0.021 percent of the value of these castings sold in the U.S. in 1979. It is noted that membership of the EEPC is compulsory and that members must pay dues whether they wish to use EEPC services or not.

The TDA receives grants from the MDA in the same way as does the EEPC. Membership in the TDA handles most compulsory although members are required to pay dues. The TDA handles most manufactured Indian products. The TDA maintains an office in New York City which received funds from the GOI which have been preliminary determined to constitute a subsidy of 0.159 percent. Additional clarifying data is being requested from the GOI. In the absence of the clarifying data, the MDA grants to the EEPC and the TDA have been determined to constitute a subsidy in the amount of 0.24 percent of the f.o.b. value of the exported merchandise.

6. *Kandla Free Trade Zone.* The petition alleged that benefits constituting subsidies were received by manufacturers or exporters of iron-metal castings based on their location within a free trade zone. The GOI response indicates that no manufacturers or exporters of this product are located within such a zone and therfore no benefit may be received.

7. *Freight Subsidies and Income Tax Concessions.* The Government of India was asked it there was any difference in ocean freight tariffs and cargo insurance from Indian ports to ports in the United States between vessels of Indian registry and vessels registered in other countries. The Government of India said there was none. The Government of India was asked if there was any difference in freight rates between castings for domestic use and castings for export for iron castings when shipped between inland points of origin to major ocean ports in India. The Government of India said there was none and there was no rebate or credit for inland freight against other expenses.

The Government of India denied that there were any tax credits against business and/or income taxes based on the value of exports which are applicable to iron castings. However, based on the copending fasteners investigation it has been determined that other tax relief provisions exist which may by germane to this investigation. The GOI has several programs which allow special income tax deductions. These include the Export Markets Development Allowance (EMDA) income tax deduction, a special deduction for capital investment in new equipment, and deductions for the first five years for new industrial undertakings. No definte information is known concerning the extent to which these programs might be utilized by manufacturers or exporters of castings.

The Export Market Development Allowance provides for a deduction from revenues for income tax purposes equal to one and one-third times the expenses incurred in export transaction. Such a deduction may fall within the Illustrative List of Export Subsidies contained in Annex A of the Agreement incorporated by reference in the Act as Section 771(5)(A) (93 Stat. 177, 19 U.S.C. 1677(5)(A)):

> (f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.

The Government of India has claimed that the other two programs should not be considered subsidies since they are not related to exports. The export relation test is no longer in effect. (See para. 4 of Annex 1 to the Commerce Regulations, 19 CFR Part 355 Annex 1, 45 F.R. 4949). If these programs were utilized, were not made available to all industries, and they provide more favorable tax treatment to exporting firms than otherwise allowed under the Indian tax, laws, they would constitute a subsidy. For purposes of this preliminary determination they are considered to constitute a subsidy. Further information on these programs will be developed in arriving at our final determination.

The benefit derived from the above subsidies, for purposes of the preliminary determination, is estimated to be 0.2 percent of the f.o.b. value of the merchandise. This benefit is attributable to the EMDA program. Benefits under the other two programs are currently believed to be negligible.

8. *Preferential Export Financing.* The Government of India allows commercial banks to provide short-term export financing at rates which are considered to be preferential when compared to commercial interest rates presently charged in India. Rates of domestic commercial financing were said to vary between 12.5 and 15 percent or higher depending on the bank, the borrower, and other credit considerations. Pre-shipment export financing is available for periods of up to 270 days at interest rates which are graduated depending on the length of utilization. Post-shipment export financing is available where payments are delayed for at least one year. (A basis of only one year for post-shipment financing was assumed in estimating postshipment export financing benefits.) The financing rate charged to castings exporters is only 8 percent. Information is being requested regarding the actual utilization of the lower rates available on export financing for manufacturers and exporters of the subject castings.

In the absence of other information, the availability of preshipment credit at preferential rates is deemed to constitute a subsidy of 1.81 percent and post-shipment credit is deemed to constitute a subsidy of 7 percent. The total benefit is determined to be 8.81 percent of the f.o.b. price of the exported castings.

On the basis of the analysis made to date of possible subsidies provided by the Government of India, I hereby preliminarily determine that subsidies do exist within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). It has been further determined that these subsidies on castings amount to 21.75 percent of the f.o.b. value of the exported merchandise.

The amount of subsidy preliminarily found to exist has, in certain respects, been based on incomplete or inadequate information concerning the nature and utilization of specific programs. Where the information provided has been incomplete or inadequate the assumption has been made that a subsidy program exists and has been fully utilized by producers of iron metal castings. To the extent adequate supplementary information is provide in a timely manner and can be verified, the amount of subsidy found to exist may change.

An opportunity to present oral views is being afforded to interested parties in accordance with § 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, room 3817, 14th and Constitution Avenue, NW., Washington, D.C. 20230, beginning at 10:00 a.m., Tuesday, July 1, 1980. Interested parties who are interested in having such a conference should provide a written request for a conference with the Office of the Deputy Assistant Secretary for Import Administration, room 2800, at the address shown above. These requests shall contain: (1) The name, address, and telephone number of the requester; (2) the number of participants and the reason for attending and (3) a list of the issues to be discussed. All requests must be received no later than 10 days after publication of this notice.

Any written views filed in accordance with § 355.34, Commerce Regulations (19 CFR 355.34, 45 FR 4946) should be filed with the address indicated above, in at least 10 copies. Any written views should be filed not later than June 23, 1980.

In accordance with section 703, Tariff Act of 1930, as amended (93 Stat. 153, 19 U.S.C. 1671b) Customs offices will be advised to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise on or after May 23, 1980. The posting of a cash deposit, bond, or other security, in the amount of 21.75 percent of the f.o.b. value of the merchandise will be required. This suspension of liquidation shall remain in effect until further notice.

This determination is published in accordance with § 355.28, Commerce Regulations (19 CFR 355.28, 45 FR 4943).

May 20, 1980.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-15846 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-25-M

Export Promotion Subcommittee of the President's Export Council; Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Export Promotion Subcommittee of the President's Export Council will be held on Thursday, June 12, 1980, from 9:30 a.m. until 4:30 p.m. in Room 4830 of the Main Commerce Department Building, 14th Street and Constitution Ave., N.W., Washington, D.C. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade. The Subcommittee has been formed to make recommendations to the Council regarding programs to promote U.S. exports and to create greater export awareness in the U.S. The Subcommittee is composed solely of members of the Council.

The purpose of the meeting is to continue work on ongoing projects of the Subcommittee.

The agenda for the meeting will include discussion of old business including the following projects:

Multiplier programs
Role of Commerce Department export programs
Advertising campaign
Export trading company legislation
Export executive corps
Chamber of Commerce export proposal

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may

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file written statement with the Subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and futher information concerning the President's Export Council may be obtained from Ms. Wendy Haimes or Ms. Ellen MacCaffray, Room 4015B, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–5719.

Dated: May 16, 1980

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 80-15802 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Executive Committee of the President's Export Council will be held on Tuesday, June 17 at 8:30 a.m., in room B354, Rayburn House Office Building, Washington, D.C. The President's Export Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12110 of December 28, 1978. The President's Export Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy.

The agenda for the meeting will be as follows:

Welcoming remarks and brief introduction
Remarks by Cabinet level attendees, Senators and Congressmen
Reports from the Chairmen of the Subcommittees on: GATT and the MTN East-West Trade, Export Promotion, Export Expansion, Export Administration, Agriculture
Discussion
Other organizational business, announcements and plans for next meeting

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes or Ms. Elizabeth Ruskin, room 4015B, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–5719.

Dated: May 15, 1980.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 80-15801 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Proposed Changes Pertaining to the Interface Standards Exclusion List

In a notice published in the **Federal Register** on March 19, 1979 (44 FR 16466), the National Bureau of Standards announced the exclusion criteria and procedures for maintaining an exclusion list pertaining to Federal Information Processing Standards Publication 60, I/O Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; and Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems. The exclusion list also pertains to Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems, approval of which by the Secretary of Commerce was announced in the **Federal Register** on August 27, 1979 (44 FR 50078). The March 19, 1979, notice stated that one the exclusion list was established, interested parties would be invited to submit to the Director, Institute for Computer Sciences and Technology (ICST), comments or recommendations regarding that list, and that notice of any proposed changes in the exclusion list would be published in the **Federal Register.**

As a result of a review and analysis of comments received since the publication in the **Federal Register** on February 27, 1980 (45 FR 12862) of changes to the exclusion list, NBS is proposing the following additions to the exclusion list:

Manufacturer and Model

IBM Corp., 5280 Distributed Data System.
Rolm, MSE/30 System.
Rolm, 1603A System.
Rolm, 1602B System.
Rolm, 1606 System.
Rolm, 1650 System.
Rolm, 1664 System.
Rolm, 1666 System.
Vydec, 1200 Series.
Vydec, 1400 Series.
Vydec, 1800 Series.
Vydec, 2000 Series.
Vydec, 4000 Series.
Zilog, MCZ Series.
Zilog, ZDS Series.

Interested parties will be allowed until July 7, 1980, to submit written comments regarding the proposed changes. Such written comments should be submitted to the Director, ICST, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Following review of comments received in response to this notice, NBS will make a determination on the proposed changes and will announce that determination in a subsequent notice published in the **Federal Register.**

NBS is maintaining a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments in response to this notice.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: May 19, 1980.

Thomas A. Dillon,

Acting Director.

[FR Doc. 80-15837 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmosphere Administration

Acceptance of Competitive Applications for Assistance With Marine Pollution Research, Development and Monitoring; Extension of Closing Date

AGENCY: Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), Office of Research and Development, Office of Marine Pollution Assessment.

ACTION: Correction.

SUMMARY: On May 13, 1980, the Office of Marine Pollution Assessment of NOAA published a notice in the **Federal Register** (45 FR 31457) inviting applications for participation in two programs dealing with marine pollution research and development and monitoring. The closing date for receipt of applications was announced as May 16, 1980. The closing date for applications is being extended until June 23, 1980.

DATE: June 23, 1980, is the closing date for receipt of applications.

ADDRESS: Office of Marine Pollution Assessment, NOAA, Old Biology Building, State University of New York, Stony Brook, N.Y. 11794.

FOR FURTHER INFORMATION CONTACT: Harold Stanford (516) 751–7002.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

May 20, 1980.

[FR Doc. 80-15844 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-12-M

National Marine Fisheries Service, Marine Mammals; Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

Sovrybflot, Moscow, U.S.S.R. has applied for a Category 1: "Towed or Dragged Gear" general permit.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Interested parties may submit written views on the application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: May 20, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-15909 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, June 24, 1980, from 9:30 a.m. to 12:00 noon in Room 4830 Main Commerce Building, and from 1:30 to 4:00 in Room 6802 Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-serve basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230 (202) 377–3523.

Dated: May 19, 1980.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-15789 Filed 5-22-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 23, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATON: On February 29, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (45 FR 13499) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 7510

Envelope, Transparent
7110–00–782–6274
7510–00–782–6275
7510–00–782–6276

C. W. Fletcher,

Executive Director.

[FR Doc. 80-15847 Filed 5-22-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 25, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 6530

Bag, Urine, Collection
6530–00–761–0932
6530–00–761–0936

V 4 5 M Y 2 3 8 0 UMI

SIC 7641
Furniture Rehabilitation
Lawton, Oklahoma (55 miles)
C. W. Fletcher,
Executive Director.
[FR Doc. 80-15848 Filed 5-22-80; 8:45 am]
BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Monday, June 9, 1980, 9:30 a.m.—5:00 p.m., and Tuesday, June 10, 1980, 9:30 a.m.—3:30 p.m. The meeting will be held at 1111 18th Street, NW, Washington, DC 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Barbara Rosenfeld, Director, Office of Public Participation, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202/634-7700.

SUPPLEMENTAL INFORMATION: The Product Safety Advisory Council was established by Section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The proposed agenda for the June 9-10 meeting will include future CPSC policy initiatives, the petitions process, and the state designee program. For further information on agenda topics or schedule, contact Ms. Rosenfeld at the address and telephone number noted above.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by June 2, 1980. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: May 19, 1980.
Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.
[FR Doc. 80-15788 Filed 5-22-80; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Preferred Alternative Location for a Strategic Submarine Base at the Naval Submarine Support Base, Kings Bay, Ga.; Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given pursuant to the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, and the Council on Environmental Quality Guidelines, 40 CFR Part 1500, that a series of public hearings at three different locations will be held for the purpose of providing the public with relevant information on a proposed addition of a shore-based Fleet Ballistic Missile (FBM) Submarine Squadron to the existing Naval Submarine Support Base located at Kings Bay, Georgia, and to afford the public an opportunity to present their views on the proposed Navy project. Joint hearings are planned with the U.S. Army Corps of Engineers, who will also take comments relative to the dredging requirements proposed for this site as part of their procedures to issue a dredging permit. In accordance with Executive Orders 11988 and 11990, comments will be entertained during the hearings relative to construction in the coastal flood plain. Hearings will be on the following dates, at the locations and times specified.

June 17, 1980—Camden County High School, Intersection Route 40 and Spur 40, St. Marys, GA—7:00 p.m.
June 18, 1980—Jacksonville Civic Auditorium, The Theater, 300 Water Street, Jacksonville, FL—7:00 p.m.
June 19, 1980—Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, GA—7:00 p.m.

Public hearings are being held at three sites in order that all persons, municipalities, agencies and groups who so desire are afforded the opportunity to comment on the proposed action.

The hearing concerning the site will be conducted by Captain Richard A. Petersen, U.S. Navy, of the Trident System Project Office, and will include a presentation on the Navy's proposed action, expected environmental impact, alternatives, and what may be expected for the future.

The proposed project provides for the construction and operation of an Atlantic Coast Strategic Submarine Base at the current Naval Submarine Support Base, Kings Bay, GA. The proposed action is the basing of one Trident (or follow-on SSBN) submarine squadron including strategic and defensive weapons facilities, refit industrial support, training facilities, waterfront support, relocation of some existing waterfront facilities, administrative and personnel support, and on-base housing. Torpedo maintenance and Trident I missile production are expected to remain in Charleston, South Carolina; however, the impacts of constructing additional defensive weapons and Trident II missile facilities at Kings Bay are also addressed. This action also considers the possibility of future construction on the site to accommodate one additional tender-supported Poseidon submarine squadron or an additional shore-supported Trident submarine squadron.

The proposed action is expected to have a number of environmental impacts. Dredging (and ship traffic, to a limited extent) would alter water circulation, substrate erosion, and deposition patterns. Some adverse changes in dissolved oxygen, turbidity, organic material concentration, or benthic organism population are expected. Industrial and waterfront operations have the potential for increasing levels of chemical and oil contamination; however, collection and treatment systems will be used to minimize that potential. Small increases in local vicinity air pollutant concentrations are expected from thermal energy generation and increased vehicular traffic. Dredged materials disposal and facilities construction would cover about 1800 acres, primarily pine timber land. Additionally, some 80 acres of wetland systems, including 24 acres of salt marsh, would be lost. Plants and animals found in these habitats would be adversely affected; however, reclamation of dredged materials disposal areas would partially offset the adverse effect.

The proposed action is expected to have significant economic impacts. Over 7000 primary and 3000 secondary new jobs would be created with an annual payroll of over $150 million. The expected regional population growth of about 22,000 would cause impacts to housing, transportation, and all public services. The most significant impacts and changes would occur in Camden County, GA, which is primarily rural in nature.

The following procedures will be employed during the public hearings. For record purposes, all persons attending the hearings will be asked to provide their names upon entering the hearing. Speakers wishing to comment at the hearing will have five minutes each, and group spokespersons are encouraged to present the consolidated views of their group. Each speaker will identify himself and any organization he may be representing. One speaker may not relinquish time to another. Individuals and organizations wishing to submit written statements to be included in the hearing record are encouraged to do so by June 10, 1980, or such statements may be presented to the Hearing Officer during the hearing. Pre-registration of speakers is desired, and should be made in person or writing. Speakers may also register at the attendance desk at the hearing. The name and title of the speaker for organizations should be included in the pre-registration. The closing date for including additional written statements is the Navy hearing record is 10 calendar days after the date of the individual hearings. Speaker pre-registration and submission of written statements should be addressed to:

Commander E. R. Wilson, U.S. Navy, Officer in Charge of Construction, Trident, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332.

Detailed information on the proposed action and anticipated environmental impacts are documented in the Draft Supplement Environmental Impact Statement (DSEIS) for the proposed project. Copies of the DSEIS have been widely distributed and are available to the public at the following locations should perusal of the DSEIS be desired:

Office in Charge of Construction, Trident, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, Va. 22332.
Public Affiars Office, Naval Submarine Support Base, Kings Bay, Ga. 31547.
Atlanta, Ga., Public Library.
University of Georgia Library, Athens, Ga.
St. Marys, Ga., Public Library.
Kingsland, Ga., Public Library.
Chatham County, Ga., Public Library.
Okefenokee Regional Library (Waycross, GA).
Brunswick, Ga., Regional Library.
St. Simons, Ga., Library.
Waycross, Ga., Public Library.
Folkston, Ga., Public Library.
Fernandina Beach, FL., Public Library.
Jacksonville, FL., Public Library.

Dated: May 21, 1980.
P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate, General (Administrative Law).
[FR Doc. 80-15976 Filed 5-22-80; 8:45 am]
BILLING CODE 3810-71-M

Office of the Secretary

Privacy Act of 1974; Deletions and Amendments to Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of deletion and amendments to systems of records.

SUMMARY: The Defense Logistics Agency (DLA) proposes to delete three and amend five systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below followed by the systems published in their entirety as amended.

DATES: Proposed actions shall be effective June 22, 1980 unless public comments result in a contrary determination requiring republication for further comments.

ADDRESS: Send any comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Smith, Chief, Administrative Management Division (DLA-XA), Defense Logistics Agency, HQ DLA, Cameron Station, Alexandria, Va. 22314 Telephone 202-274-6250.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's systems of records inventory as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), have been published in the Annual Compilation at 44 FR 74719, December 17, 1979. The systems of records being amended are not deemed to be within the purview of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of a new or altered system report to Office of Management and Budget guidance set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

May 19, 1980.
M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

Deletions

S334.05 DLA-L

SYSTEM NAME:

334.05 Civilian Personnel Administration Career Program (44 FR 74746) December 17, 1979

REASON:

Records maintained under this system have been terminated.

S334.10 DLA-KT1

SYSTEM NAME:

334.10 Central Inventory, Comptroller/Financial Management Career Program (44 FR 74747) December 17, 1979

REASON:

Records maintained under this system have been terminated.

S339.10 DLA-C

SYSTEM NAME:

339.10 Auditor Profile (44 FR 74751)

REASON:

Records maintained under this system have been terminated.

AMENDMENTS

S214.20DLA-L

SYSTEM NAME:

214.20 Emergency Assignment and Training Records (44 FR 74734) December 17, 1979

CHANGES:

CATEGORIES OF RECORDS IN THE SYSTEM:

Insert "Social Security Number, home address" so that it now reads "Individuals' names, grades, Social Security Number, home address, organizational locations, . . ."

ROUTINE USES:

Add "emergency recall rosters" so that it now reads "These include emergency recall rosters, the war and emergency support plan . . ."

SYSTEM MANAGER(S) AND ADDRESS:

Delete: "Military Plans" and substitute: "Command and Control".

S322.10DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base (44 FR 74740) December 17, 1979

CHANGES:

ROUTINE USES:

Add new Routine Use: "To the Office of Child Support Enforcement, Department of Health, Education, and Welfare, pursuant to Pub. L. 93-647, for the purpose of assisting state child support enforcement offices in locating absent parents in order to establish and/or enforce child support obligations."

Add new Routine Use: "To the Director of the Selective Service System for use in wartime or emergency mobilization and for mobilization planning."

V 4 5 M Y 2 3 8 0 UMI

S434.15DLA-C

SYSTEM NAME:

434.15 Automated Payroll Cost and Personnel System (APCAPS) (44 FR 74757)

CHANGES:

SYSTEM NAME:

Insert: after (APCAPS) "—Segment I".

ROUTINE USES:

Add new Routine Use; "Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from APCAPS—to determine leave usage, manpower allowances, labor distributions and costs.

After "Local Courts—to determine" delete: "disposition of pay withheld" and substitute: "the withholding of pay".

SAFEGUARDS:

After "* * * accessible only to" delete: "office" and substitute: "agency".

S434.20DLA-C

SYSTEM NAME:

343.20 Mechanization of Contract Administration Services—1B Payroll (MOCAS 1B) (44 FR 74758)

CHANGES:

ROUTINE USES:

After "manpower allocations." delete: "." and insert "and labor distribution."

Add new Routine Use: "Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from MOCAS 1B—To determine leave usage, manpower allocations, labor distributions and costs."

RECORD ACCESS PROCEDURES:

Delete: "Written requests must contain the full name of the employee. Employees making a personal request for information must present identification, i.e., employee badge, driver's license, etc. Official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices." and substitute: "Employees making a personal request for information must present identification. Official mailing addresses are in the Department of Defense directory in the appendix to the DLA system or record notices. Written requests must contain the full name of the employee."

S434.87DLA-C

SYSTEM NAME:

434.87 Debt Records for Individuals (44 FR 74759)

CHANGES:

ROUTINE USES:

Add new Routine Use: "If debtors do not enter into satisfactory payment arrangements or demonstrate a legitimate dispute within a specific period, the debt will be reported to a commercial credit bureau."

In last sentence after "* * * U.S. General Accounting Office." add: "Department of Justice or a United States Attorney for further collection action."

S214.20DLA-L

SYSTEM NAME:

214.20 Emergency Assignment and Training Records

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency (DLA) and all DLA field activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present DLA civilian/military personnel who have volunteered for, or been designated to perform, some duty or assignment in time of emergency that is not regularly included in their present duties. Former personnel who have recently left the activity may also be included to the extent that the records have not yet been purged of their names.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' names, grades, Social Security Number, home address, organizational locations, titles, office and residential phone numbers, training as pertaining to emergency duties, authority to operate Government vehicles, emergency assignment, agreement to perform emergency duties, and similar information related to the emergency assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

50 U.S.C., 402 through 405, National Security Act of 1947; 50 U.S.C., App. 2251, Federal Civil Defense Act of 1950; E.O. 10952, Assigning Civil Defense Responsibilities to the Secretary of Defense, E.O. 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by the management and supervisory personnel of DLA in the day-to-day planning and management of emergency actions. These include emergency recall rosters, the war and emergency support plan, staffing of fallout shelters, physical security of the post or other premises, and similar purposes. The use might involve emergencies of both a civil or military nature, in time of peace or war, and would also include natural as well as man-made disasters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and card files.

RETRIEVABILITY:

Accessed by organizations, type of emergency assignment, or individual name.

SAFEGUARDS:

Maintained in areas accessible only to authorized DLA management and staff, and afforded appropriate protection at all times.

RETENTION AND DISPOSAL:

Continuous updating/purging to reflect current information.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Command and Control Division, HQ, DLA; and Commanders, DLA Primary Level Field Activities and subordinate field activities.

NOTIFICATION PROCEDURE:

Written or personal requests should be directed to the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Individuals should contact SYSMANAGER. Official mailing addresses are in the DoD directory in the appendix to the DLA systems notice. Written requests should include the requestor's full name, job title and name of organization where employed or formerly employed. For personal visits, employee should be able to provide some acceptable identification such as driver's license or employee identification badge.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from the employee, official personnel records, and present and former supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.10DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the Defense Manpower Data Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. pursuant to court order in IBM anti-trust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments—military personnel centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel who served on active duty from July 1, 1968 and later; or who have been a member of a reserve component since July 1975; or are retired military; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs; all individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examinating Station from July 1, 1970, and later; DoD civilian employees or civilian employees separated since January 1, 1971; all veterans who have utilized Vietman-era GI Bill education and training entitlements, who visited a State Employment Service office since July 1, 1971, or who participated in a Department of Labor special training program since July 1, 1971; all individuals who ever participated in an educational program sponsored by the U.S Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969, individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the DHEW, Office of Education and Longitudinal Survey, individuals responding to Recruiting Advertisements since January 1978.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as hometown, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs, military hospitalization records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of the system of records is to provide a longitudinal statistical analysis capability for assessing military manpower trends and evaluation programs impacting of military personnel, potential enlistees, and veterans.

Defense Manpower Data Center—used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, post-service experiences of veterans, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal agencies.

Personnel Research and Personnel Management activities of the Military Services—uses are same as those specified above.

Veterans Administration, Management Sciences Staff, Reports and Statistics Service, Office of the Comptroller—used to select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services, and to validate eligibility for VA benefits.

Office of Research and Statistics, Social Security Administration—used for statistical analyses of impact of military service and use of GI Bill benefits on long term earning.

DoD Civilian Contractors— used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Office Personnel Management (OPM) concerning pay, benefits, retirement deductions; and other information necessary for the OPM to carry out its Government-wide personnel management functions.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of official business.

Name and address information of former military personnel obtained from the Veterans Administration or the Military Department may be released to a number of DoD Components for use in attempting to recruit and reenlist prior service personnel through direct contact methods. These components are as follows: U.S. Army Recruiting Command; U.S. Army Forces Command; Navy Recruiting Command; Chief of Naval Personnel; Chief of Naval Reserve; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Headquarters Air Force Reserve; National Guard Bureau; Headquarters, U.S Maine Corps; District Directors, U.S. Marine Corps; Commanding General, 4th Marine Division; Commanding General, 4th Marine Air Wing; Commandant, U.S Coast Guard.

Information on the name, rank, social security accounting number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health, Education, and Welfare (DHEW) for the following purposes:

To the Office of Education, DHEW, for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit the DHEW to take action, where appropriate, to accelerate recoveries of defaulted loans.

To the Bureau of Supplemental Security Income, Social Security Administration, DHEW, in order to verify and adjust as necessary payments made to active and retired military members under the Supplemental Security Income Program.

To the Office of the Inspector General, DHEW, for the purpose of identifying

and investigating DoD employees (military and civilian) who may be improperly receiving funds under the Aid for Families of Dependent Children program.

To the Office of Child Support Enforcement Department of Health, Education, and Welfare, pursuant to PL93–647, for the purpose of assisting state child support enforcement offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Director of the Selective Service System for use in wartime or emergency mobilization and for mobilization planning.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Retrievable by name, SSAN, age, occupation, or any other data element contained in system.

SAFEGUARDS:

Primary location—at W. R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

The Air Force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all Top Secret facilities.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Chief, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940. Telephone: Area Code 408/646–2951.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Deputy Chief, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940.

Written requests for information should contain the full name, Social Security Account Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as drivers license, or military or other ID card.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The Military Services, the Veterans Administration, the Office of Education of the Department of HEW, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.15DLA–C

SYSTEM NAME:

434.15 Automated Payroll Cost and Personnel System (APCAPS)—Segment I

SYSTEM LOCATION:

Records maintained at Defense Logistics Agency (DLA) Centers and Depots.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian and military personnel who have been paid or costed by APCAPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in manual and mechanical files for all data which affect an employee's pay, deductions, employer contributions, leave, retirement, position status, or cost accumulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, DOD Dir 5105.22.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used in preparing payrolls, cost and manpower reports.

Information is used by: Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution. Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from APCAPS—to determine lease usage, manpower allocations, labor distributions and costs.

Payroll office—to compute and control payroll and allocate labor costs.

Personnel office—to determine leave usage and changes that affect an employee's pay.

Security office—to determine location of employees.

Disbursing office—to determine the distribution of checks and bonds.

Financial Institutions—to determine disposition of net pay or allotments of pay.

Treasury Department—to determine registration of bonds and federal tax allocation.

Unions, charities, and insurance organizations—to determine participation in these organizations.

Office of Personnel Management—to determine status of employee and for disposition of retirement records.

State and local taxing authorities—to determine tax liability.

Non-government organizations—to verify employment and credit data furnished to financial institutions by the employee.

Bureau of Employment Compensation—to process employee disability claims.

State employment offices—to submit data for unemployment compensation.

Local courts—to determine the withholding of pay for garnishment of wages.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm, magnetic tape, disc pack, computer paper printouts, vertical file cards, paper records in file folders.

RETRIEVABILITY:

Hardcopy documents are filed by payroll block and/or alphabetically by last name. Data stored on mechanized storage devices are retrieved by SSAN.

SAFEGUARDS:

Access to mechanical records is limited to authorized DLA data systems personnel. All other records are maintained in areas accessible only to agency personnel.

RETENTION AND DISPOSAL:

Retention of data varies from 1 to 3 days for mechanical working files up to an employee's total length of service with an activity for permanent payroll information.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, DLA.

NOTIFICATION PROCEDURE:

Written or personnel requests for information may be directed to the Chief, Payroll Branch, Accounting and Finance Division, Office of Comptroller at each DLA Center and Depot.

RECORD ACCESS PROCEDURES:

Written requests must contain full name and social security account number of the employee. Employees making a personel request must present identification. Official mailing addresses are in the Department of Defense directory in the appendix to the DLA systems of record notices.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the Sysmanager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel office, military personnel office, financial institutions, local courts, military services or other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.20DLA–C

SYSTEM NAME:

434.20 Mechanization of Contract Administration Services—1B Payroll (MOCAS 1B)

SYSTEM LOCATION:

Records maintained at all Defense Contract Administration Service Regions (DCASRs) less Philadelphia (DCRP).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian personnel who have been paid by the DCASRs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in manual and mechanical files for all data which affect an employee's pay, deductions, employer contributions, leave, retirement, or position status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, DOD Dir 5105.22.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used in preparing payrolls.

Information is used by:

Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution.

Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from MOCAS 1B—To determine leave usage, manpower allocations, labor distributions and costs.

Payroll Office—to compute and control payroll.

Personnel office—to determine leave usage and changes that affect an employee's pay.

Security office—to determine location of employees.

Disbursing office—to determine the distribution of checks and bonds.

Financial Institutions—to determine disposition of net pay or allotments of pay.

Treasury Department—to determine registration of bonds and federal tax allocation.

Unions, charities, and insurance organizations—to determine participation in these organizations.

Office of Personnel Management—to determine status of employee and for disposition of retirement records.

State and local taxing authorities—to determine tax liability.

Non-government organizations—to verify employment and credit data furnished to financial institutions by the employee.

Bureau of Employment Compensation—to process employee disability claims.

State employment offices—to submit data for unemployment compensation.

Local courts—to determine the withholding of pay for garnishment of wages.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm, magnetic tape, disc pack, computer paper printouts, vertical file cards, paper records in file folders.

RETRIEVABILITY:

Hardcopy documents are filed by payroll block and/or alphabetically by last name. Data stored on mechanized storage devices are retrieved by name, employee number or SSAN.

SAFEGUARDS:

Access to mechanical records is limited to authorized DLA data systems personnel. All other records are maintained in areas accessible only to agency personnel.

RETENTION AND DISPOSAL:

Retention of data varies from 1 to 3 days for mechanical working files up to an employee's total length of service with an activity for permanent payroll information.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, DLA.

NOTIFICATION PROCEDURE:

Written or personnel requests for information may be directed to the Chief, Payroll and Travel Branch, Accounting and Finance Division, Office of Systems and Financial Management at DCASRs.

RECORD ACCESS PROCEDURES:

Employees making a personal request for information must present identification. Official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices. Written requests must contain the full name of the employee.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the Sysmanager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel office, financial institutions, local courts, military services or other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.87DLA–C

SYSTEM NAME:

434.87 Debt Records for Individuals.

SYSTEM LOCATION:

Primary System: Accounting and Finance Division, Finance Systems Branch, Headquarters, Defense Logistics Agency (HQ DLA).

Secondary System: DLA Primary Level Field Activities (PLFAs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian and military personnel who are indebted to the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative reports with supporting documentation; employee's financial condition; personnel actions, and requests for waiver.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 951–953 (Federal Claims Collection Act of 1966); Public Law 90–616; Public Law 92–453.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used to collect monies owed the U.S. Government. Information is maintained to support case files; financial statements provide an understanding of individuals' financial condition with respect to request for deferment of payments. If debtors do not enter into satisfactory payment arrangements or demonstrate a legitimate dispute within a specific period, the debt will be reported to a commercial credit bureau. When debts are uncollectible, case files are forwarded to the U.S. General Accounting Office, Department of Justice, or a United States Attorney for further collection action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by employee name.

SAFEGUARDS:

Records are maintained in areas accessible only to office personnel.

RETENTION AND DISPOSAL:

Records are destroyed ten years after all aspects of the case are closed. Collected in full claims are retained for six months and then destroyed. Claims terminated, compromised or waived are retained for three years and subsequently retired to Federal Records Center, held for remaining years and destroyed. Claims settled by U.S. General Accounting Office, retained one year after settlement and retired to Federal Records Center, held for remaining years and retired.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Finance Systems Branch, Accounting and Finance Division, Office of Comptroller, HQ DLA.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the Sysmanager.

RECORD ACCESS PROCEDURES:

Official mailing address is in the DOD Directory in the appendix to the DLA systems notice. Written requests from individuals should contain their full name, current address and telephone number. For personal visits, the individual should be able to provide acceptable identification, such as an employee badge or driver's license, etc.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the Sysmanager.

RECORD SOURCE CATEGORIES:

Primary Level Field Activities, civilian and military personnel offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-15774 Filed 5-22-80; 8:45 am]

BILLING CODE 3620-01-M

Privacy Act of 1974; New System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of a new record system.

SUMMARY: The Office of the Secretary of Defense is adding a new system of records to its inventory of record systems subject to the Privacy Act. This new system is identified as DUSDPR 02, entitled: "Special Personnel Security Cases" and is set forth below in its entirety.

DATES: This system shall become effective as proposed without further notice on June 22, 1980 unless comments are received on or before June 22, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, Chief, Records Management Division, Rm. 5C-315, The Pentagon, Washington, D.C. 20301, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense record system notices inventory as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc. 79-37052 (44 FR 74088), December 17, 1979.
FR Doc. 80-8135 (45 FR 17057), March 17, 1980.

The Office of the Secretary of Defense has submitted a new system report dated February 5, 1980, for this new record system under the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of a new system report and in accordance with Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 19, 1980.

DUSDPR 02

SYSTEM NAME:

Special Personnel Security Cases.

SYSTEM LOCATION:

Security Plans and Programs Directorate, Office of the Deputy Under Secretary of Defense (Police Review), ODUSD (PR), Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals affiliated with the DoD, upon whom an investigation has been conducted by a Department of Defense (DoD) Component investigative organization authorized to conduct personnel security investigations; other investigative organizations of the Federal Government; or individuals who have been the subject of a DoD Component personnel security determination, or who have had access to DoD classified information, whenever the investigation, personnel security determination, or access involves unique circumstances having special significance with respect to DoD personnel security policy. Also, individuals for whom waivers have been granted from specific provisions of the Industrial Security Regulation (5220.22-R) and/or Industrial Security Manual (5220.22-M).

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of personal history; investigative reports; adjudicative findings; intra-office memoranda; policy interpretations; memoranda recommending courses of action; legal opinions, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes: This system will be used as basis for Security Plans and Programs Directorate staff access to determine the need for overall personnel security policy revision or adjustment; to ensure that component personnel security determinations are consistent with DoD personnel security program policy; to assure that personnel security investigations conducted by the Defense Investigative Service (DIS), the National Security Agency (NSA), and the Military Departments are in compliance with DoD personnel security investigative policy; and to provide precedents for use in determining whether to grant waivers of the provisions of the Industrial Security Regulation and/or Industrial Security Manual.

External users, uses, and purposes: See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are in file folders.

RETRIEVABILITY:

Records are filed alphabetically by last name of the subject of the investigation or personnel security determination having special significance with respect to DoD personnel security policy. Also, records are filed alphabetically by last name of the personnel for whom waivers have been granted under the Industrial Security Program.

SAFEGUARDS:

Records are stored in security combination lock file containers, and are accessible only by Security Plans and Programs personnel who are properly cleared and who are the official authorized users.

RETENTION AND DISPOSAL:

Routine investigations are destroyed 15 years after the date of the last action. Those involving significant incidents are destroyed 25 years after the date of the last action.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Plans and Programs Directorate, Office of Deputy Under Secretary of Defense (Policy Review), Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Office of the Deputy Under Secretary of Defense (Policy Review), Security Plans and Programs Directorate, Room 3C271, Pentagon, Washington, D.C. 20301. Telephone: 202-697-3969.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Office of the Deputy Under Secretary of Defense (Policy Review), Security Plans and Programs Directorate, Room 3C277, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, date and place of birth, Social Security Number (SSN), and notarized signature.

The records requested may be made available to individuals for review at the following location: Security Plans and Programs Directorate, ODUSD (PR), Room 3C277, Pentagon, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is obtained from record subjects; Federal Bureau of Investigation; Office of the Secretary of Defense; Organization of the Joint Chiefs of Staff; DoD Defense Agencies; and the Military Departments, including investigative reports, inter and intra Department memoranda and letters, case analyses, memoranda for the record, and other correspondence related to the cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this record system may be exempt under 5 U.S.C. 552a(k)(5).

[FR Doc. 80-15775 Filed 5-22-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following retransfer RTD/EU(NO)-30, from Norway to the United Kingdom, 917 grams Uranium, containing 83.8 grams U-235 (9.138%) and 2.3 grams Plutonium, for destructive examination. This material was originally supplied to Norway by the United States for irradiation, and after examination in the United Kingdom it is planned to return the material to the United States for ultimate disposal.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 21, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Programs.

[FR Doc. 80-16002 Filed 5-22-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-R-80-12]

State Set-Aside Monthly Report

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Form and Public Hearing.

SUMMARY: The Economic Regulatory Administration (FRA) of the Department of Energy (DOE) gives notice of its intent to establish a monthly reporting requirement applicable to state energy offices participating in the state set-aside program. The new proposed form ERA-471 will solicit monthly data on total volumes available, assigned, and released by state offices under the program.

Recent experience has confirmed the value of the flexibility available through the set-aside program to allocate product during times of localized shortages. We believe that the collection of accurate data on the operation of this aspect of the allocation program will enable us to improve the ability of the ERA and the state offices to prepare for and respond to emergency supply conditions. By this notice, the ERA is proposing a new form ERA-471 and soliciting public comment on all aspects of its design and implementation.

DATES: Written comments by June 26, 1980; requests to speak by 4:30 p.m., June

17, 1980. Hearing Date: 9:30 a.m., June 26, 1980. If necessary, the hearing will continue at 9:30 a.m. the following day.

ADDRESSES: All comments and requests to speak to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–80–12, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing Location: Room 2214–14 at GSA Office Bldg., 2639 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

FOR FURTHER INFORMATION CONTACT:

Robert G. Gillette (Comment Procedure), Economic Regulatory Administration, Room 2214B, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3757.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–4055.

C. Eric Hager (Regulations & Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3263.

Alan Lockard (Office of Petroleum Operations), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3443.

Joel M. Yudson (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6744.

SUPPLEMENTAL INFORMATION:

I. *Background.*
II. *Proposed Report Form.*
III. *Written Comment and Public Hearing Procedures.*

I. Background.

Section 211.17 of the Mandatory Petroleum Allocation Regulations set forth at Part 211, 10 C.F.R. provides for a state set-aside program to permit state energy offices to assign allocated product for wholesale purchaser-consumers and end-users experiencing hardship or emergency supply problems. The set-aside volume available for assignment is calculated as a percentage of the total allocable product estimated by a prime supplier to be included within the first sales into a state's distribution system for consumption within the state. Notwithstanding the exemption of middle distillates from the price and allocation regulations, Special Rule No. 10 to Subpart A of Part 211 provides an optional distillate set-aside level of up to four percent of prime supplies for relief of hardship and emergency supply conditions. Section 211.107 of the regulations also provides a five percent set-aside level for motor gasoline for assignment to retail sales outlets experiencing a demonstrated gasoline supply emergency.

The set-aside program supplements the overall supplier purchaser framework imposed by the allocation program and provides a flexible capability to respond to localized hardships and special needs as identified by local officials. During last summer's gasoline shortfall, the ability of state offices to direct product in response to emergency situations was an important factor in minimizing the adverse effects of temporary supply disruptions.

In the preamble to the rule permanently setting the state set-aside level for gasoline at five percent, ERA stated:

> We intend to initiate a reporting requirement under which States would submit monthly reports concerning the amount of the state set-aside for each month, the dates on which specific amounts were released during that month, the political subdivisions that obtained amounts, and end-users or resellers that obtained amounts.
>
> (44 FR 56067, October 4, 1979).

Because of its significance within the overall allocation scheme, we have been collecting informally some information relating to the availability and disposition of set-aside amounts. It is evident, however, that the essential data on the operation of the program should be collected on a more systematic basis. By implementation of a limited data collection procedure as proposed, we believe our ability to monitor the effectiveness of the set-aside program can be substantially improved.

The DOE has broad information gathering authority under Section 13 of the Federal Energy Administration Act of 1974, as amended, to permit monitoring and policy guidance with respect to the programs which it is required to administer. Currently, state offices are not subject to a formal DOE reporting requirement under the program.

The proposed form ERA–471 is intended to solicit only the minimum data necessary as we are concerned that its monthly preparation could impose additional burdens on state officials with respect to the retrieval, compilation and submission of program data. Further, we understand that the requirement will have varying impacts upon state offices depending upon the relative sophistication of the information gathering systems available to each.

For these reasons we are proposing to limit the information reportable to amounts available for assignment, amounts assigned for wholesale purchaser-consumers, end-users and retail outlets, and amounts released by state offices for distribution by prime suppliers. We have determined at this time not to propose requiring submission of information concerning the political or other geographical subdivisions of a state benefiting from assignments under the set-aside, notwithstanding that having such data would improve our ability to monitor the relative availability of set-aside volumes to rural and urban markets within a state. In this connection, we are requesting comments on the merit and practicability of collecting volumetric data by county or other geographic areas within a state. As our experience with the proposed report form evolves, we may determine to adopt such a requirement in the future.

For now, we believe that the proposed form achieves a proper balance between collecting the minimum data needed and avoiding unnecessary burdens on respondents. As a part of the public comment procedure, we are specifically inviting the views of state officials on the administrative and other complications that submission of the proposed form may entail.

II. Proposed Report Form

The proposed form ERA–471 as set forth herein would be required to be received by ERA ten days following the close of each calendar month. The proposed form would solicit information with respect to petroleum products subject to set-aside procedures during a month, irrespective of whether they are currently subject to allocation controls. The form is proposed to include total estimated amounts reported by prime suppliers as available to state offices for assignment; amounts assigned for wholesale purchase-consumers and end-users; amounts of leaded and unleaded gasoline and diesel fuel assigned to retain outlets; and total amounts released for distribution by prime suppliers and amounts released prior to the sixteenth day of a month.

Upon consideration of the comments received in this proceeding and in accordance with applicable procedures, we will in the future submit the proposed form to obtain approval from the United States Office of Management and Budget.

III. Written Comments and Public Hearing Procedures

We have determined that opportunity should be provided to the public including representatives of the state governments to submit written and oral comments on our proposed form.

A. *Written Comments.*

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted by 4:30 p.m., local time, on the date and to the address indicated in the "Dates" and "Addresses" sections of this notice. Comments should be identified on the outside envelope and on the document with the docket number and the designation: "State Set-Aside Monthly Report." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing.*

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation at the hearing by 4:30 p.m., local time, on the date set forth in the "Dates" section of this notice. You should also provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified on or before June 20, 1980. You will be required to submit one hundred copies of your statement to the hearing location by 9:30 a.m. on the day of the hearing.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. It will not be a judicial-type hearing. Questions may be asked only those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given an opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing by submitting the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the reporters.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, we propose to adopt a new form ERA–471 as set forth below.

Issued in Washington, D.C., May 16, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

BILLING CODE 6450–01–M

This report is mandatory under P.L. 93-159, the Emergency Petroleum Allocation Act of 1973 and P.L. 93-275, the Federal Energy Administration Act of 1974. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by Law. This data will not be treated as confidential.

U.S. Department of Energy
Economic Regulatory Administration
Washington, D.C. 20461

STATE SET-ASIDE MONTHLY REPORT

Part I Identification Data

1. This report is
☐ Original
☐ Revision, to report dated Month Day Year

2. Date of Report Month Day Year

3. This report covers the month of

4. This report is for the state of

5. Reporting agency's name

6. Street/Box/RFD

7. City

8. State

9. Zip Code

10. Name of contact person who can answer questions concerning this report

11. Telephone number of contact person

Part II - Set-Aside Volumes Available, Assigned, and Released During Preceding Month

Report Total Volumes in Gallons

Petroleum Products	Code	Available for Set-Aside (convert EIA-25 data to gallons at 42 gallons per barrel) (A)	Assigned for Purchaser-Consumers and End-Users (B)	Assigned for Retail Outlets (C)	Released Prior to 16th Day of Month (D)	Total Released for month (E)
Propane	110					
Motor Gasoline (Total)	200					
Unleaded Motor Gasoline	220					
#1 Fuel and Kerosene	310					
#2 Heating Oil	320					
#2 Diesel Fuel	330					
Other Middle Distillates	340					

Part III Certification

I certify that the information shown above and appended hereto (if any) is true and accurate to the best of my knowledge.

12. Name 13. Title 14. Signature 15. Date Signed Month Day Year

[FR Doc. 80-15807 Filed 5-22-80; 8:45 am]
BILLING CODE 6450-01-C

[ERA Case No. 50126-9062-08-82]

Atlantic City Electric Co.; Notice of Intention to Proceed With Prohibition Order Proceedings

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of its intention to proceed with the pending Prohibition Order Proceedings relating to one powerplant, Deepwater Unit #8, owned by Atlantic City Electric Company (ACEC) and located at Pennsgrove, New Jersey.

Pursuant to Sections 301(b) and 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, a proposed prohibition order for Deepwater Unit #8, was issued by ERA on December 21, 1979, and published in the **Federal Register** on January 2, 1980, 45 FR 72.

Description of Prohibition Order Proceedings

In accordance with 10 CFR Part 501, Section 501.51 of the implementing FUA regulations (Regulations) applicable to existing powerplants, the proposed prohibition order commenced an initial public comment period, during which period ACEC was given an opportunity to challenge ERA's initial finding that Deepwater Unit #8 had the technical capability to burn an alternative fuel (coal) as a primary energy source. During this period, the utility was required to furnish ERA with evidence bearing upon the other statutory findings which ERA must make prior to the issuance of a final prohibition order. The utility must also identify any exemptions for which the powerplant may qualify. The recipient of the proposed order need not submit evidence attempting to demonstate entitlement to an exemption.

The publication of this Notice of Intention to Proceed commences a second three-month period during which ACEC may present evidence to demonstrate that the powerplant would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of this second three-month period ERA will, if it intends to issue a final prohibition order, prepare and publish in the **Federal Register** a Notice of Availability of a Tentative Staff Decision concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by Section 301(b) of FUA, are: (1) that the powerplant has the technical capability to use coal or another alternative fuel as a primary energy source, or it could have such capability without: (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of Section 701(d) of FUA and Section 501.33 of the Regulations afford any interested person an opportunity to request a public hearing on the proposed prohibition order. Any interested person may request a hearing but must make their request, in writing, no later than 45 days after the Notice of Availability of the Tentative Staff Decision is published in the **Federal Register**. If a hearing is requested, the hearing will be held in accordance with Subpart C of the Regulations. Interested persons may also submit written comments during this 45 days period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued, based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submission Received On Proposed Prohibition Order

During the initial comment period, comments on the proposed prohibition order to Deepwater Unit No. 8 were received only from ACEC which indicated that the company did not presently intend to contest the issuance of a prohibition order to Deepwater Unit. No. 8. Additionally, ACEC indicated that it planned to petition the Environmental Protection Agency for a Delayed Compliance Order in accordance with the provisions of Section 113(d)(5) of the Clean Air Act.

During this period, neither Atlantic City Electric Company nor any other interested person submitted any information contrary to ERA's initial finding that Deepwater Unit No. 8 had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with Section 501.51 of the Regulations, ACEC identified those exemptions for which Deepwater Unit No. 8 may qualify. The temporary exemptions authorized by Section 311 of the Act which Deepwater Unit No. 8 identified are:

(1) Inability to comply with applicable Environmental Requirements.

(2) Public Interest.

(3) Retirement.

(4) Powerplant Necessary to Maintain Reliability of Service.

(5) Peakload.

In addition, Atlantic City Electric Company identified the following permanent exemptions for which Deepwater Unit No. 8 may qualify as authorized by Section 312 of the Act:

(1) Lack of Alternate Fuel Supply.

(2) Site Limitations.

(3) Inability to comply with applicable Environmental Requirements.

(4) State and Local Requirements.

(5) Mixtures containing Natural Gas or Petroleum.

(6) Peakload Powerplant.

(7) Intermediate Load Powerplant.

For further information contact:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

R. James Caverly, Existing MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 2304, Washington, D.C. 20461, (202) 653-3805.

Jim Renjilian, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C. on May 16, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-15805 Filed 5-22-80; 8:45 am]
BILLING CODE 6450-01-M

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of April. The consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than $500,000 in the aggregate, exclusing penalties and interest. For Consent Orders involving sums of $500,000 or more, Notice will be separately published in the **Federal Register.** These Consent Orders are concerned exclusively with payment of the

refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Ken Merica, District Manager of Enforcement, 1075 So. Yukon, Lakewood, Colorado 80226, telephone number 303/234-3195.

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Utah Petroleum Co., Sandy, Utah 84070	$18,216.90	Gasoline	Mar. 1, 1979 thru July 31, 1979.	Numerous wholesale and retail customers.

Issued in Lakewood, Colo., on the 29th day of April 1980.

Kirkley O. Madsen,

Acting District Manager of Enforcement

[FR Doc. 80-15804 Filed 5-22-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[No. 191]

Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued May 19, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-27436/80-790
2. 17-111-21072-0000
3. 108 000 000
4. IMC Exploration Co
5. Olin Mathieson Chemical Corp #28
6. Monroe Gas Field
7. Union LA
8. .9 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27437/80-1004
2. 17-073-20314-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-225
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27438/80-1003
2. 17-111-20274-0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-204
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27439/80-746
2. 17-045-20502-0000
3. 107 000 000
4. Dyco Petroleum Corp
5. Petit Anse #2
6. Avery Island
7. Iberia LA
8. 200.0 million cubic feet
9. April 16, 1980
10. Louisiana Intrastate Gas Corp

1. 80-27440/80-745
2. 17-045-20555-0000
3. 107 000 000
4. Dyco Petroleum Corp
5. Petit Anse #5
6. Avery Island
7. Iberia LA
8. 350.0 million cubic feet
9. April 16, 1980
10. Louisiana Intrastate Gas Corp

1. 80-27441/80-744
2. 17-045-20597-0000-
3. 107 000 000
4. Dyco Petroleum Corp
5. Petit Anse #6
6. Avery Island
7. Iberia LA
8. 400.0 million cubic feet
9. April 16, 1980
10.

1. 80-27442/80-743
2. 17-073-00545-0000-
3. 108 000 000
4. Sho-Van Gas Producing Co Inc
5. West Virginia #5
6. Monroe Gas Field
7. Ouachita LA
8. 1.4 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80-27443/80-960
2. 17-073-20286-0000-
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-158
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27444/80-959
2. 17-111-20265-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-214
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27445/80-958
2. 17-111-20262-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-212
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27446/80-957
2. 17-111-20228-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-211
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27447/80-954
2. 17-111-20263-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-206
6. Monroe Gas Field
7. Union LA
8. 7.7 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27448/80-955
2. 17-111-20264-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-207
6. Monroe Gas Field
7. Union LA
8. 7.7 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27449/80-956
2. 17-111-20227-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-210
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27450/80-953
2. 17-073-20347-0000-
3. 108 000 000
4. IMC Exploration Co
5. Phillips #N-215

6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27451/80-952
2. 17-111-20282-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-219
6. Monroe Gas Field
7. Union LA
8. 7.8 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27452/80-951
2. 17-111-20283-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-220
6. Monroe Gas Field
7. Union LA
8. 7.8 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27453/80-950
2. 17-111-20202-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N-221
6. Monroe Gas Field
7. Union LA
8. 7.8 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27454/80-949
2. 17-073-20293-0000-
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Est #F-148
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27455/80-948
2. 17-073-20295-0000-
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Est #F-150
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27456/80-947
2. 17-111-20248-0000-
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N-188
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27457/80-1022
2. 17-073-20380-0000-
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-232
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27458/80-1021
2. 17-073-20381-0000-
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-233
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27459/80-1040
2. 17-073-20313-0000-
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-224
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27460/80-1039
2. 17-073-20323-0000-
3. 108 000 000
4. IMC Exploration Co
5. Ladel #F-248
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27461/80-1038
2. 17-073-20308-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-211
6. Monroe Gas Field
7. Ouachita LA
8. 4.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27462/80-1037
2. 17-073-20369-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-212
6. Monroe Gas Field
7. Ouachita LA
8. 4.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27463/80-1036
2. 17-073-20304-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-213
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27464/80-1035
2. 17-073-20305-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation Co #F-214
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27465/80-1034
2. 17-073-20309-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-215
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27466/80-1033
2. 17-073-20357-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-216
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27467/80-1031
2. 17-073-20328-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-175
6. Monroe Gas Field
7. Ouachita LA
8. 1.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27468/80-1032
2. 17-073-20329-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-176
6. Monroe Gas Field
7. Ouachita LA
8. 1.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27469/80-1030
2. 17-073-20327-0000
3. 108 000 000
4. IMC Exploration
5. Central Immigration #F-174
6. Monroe Gas Field
7. Ouachita LA
8. 1.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27470/80-1029
2. 17-073-20298-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Est F-167
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27471/80-1028
2. 17-073-20297-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Est F-166
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27472/80-1041
2. 17-073-20312-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-223
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

V 45 M Y 23 80 UMI

1. 80–27473/80–791
2. 17–111–21016–0000
3. 108 000 000
4. IMC Exploration Co
5. Olin Mathieson Chemical Corp #26
6. Monroe Gas Field
7. Union LA
8. .6 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27474/80–712
2. 17–067–21212–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 8 Ser #160536
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27475/80–711
2. 17–067–21211–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 7 Ser #160535
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27476/80–710
2. 17–067–21210–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 6 Ser #160534
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27477/80–709
2. 17–067–21155–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 5 Ser #159535
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27478/80–708
2. 17–067–21154–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 4 Ser #159534
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27479/80–707
2. 17–067–21153–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 3 Ser #159533
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27480/80–706
2. 17–067–21152–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 2 Ser #159532
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27481/80–705
2. 17–067–21151–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 1 Ser #159531
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27482/80–704
2. 17–067–21368–0000
3. 103 000 000
4. Primos Production Co
5. Georgia Pacific D #7
6. Monroe Field
7. Morehouse LA
8. 20.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27483/80–703
2. 17–067–21369–0000
3. 103 000 000
4. Primos Production Co
5. Georgia Pacific D #3
6. Monroe Field
7. Morehouse LA
8. 25.7 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27484/80–702
2. 17–067–21366–0000
3. 103 000 000
4. Primos Production Co
5. Georgia Pacific D #2
6. Monroe Field
7. Morehouse LA
8. 26.7 million cubic feet
9. April 16, 1980
10. United Gas Pipeline

1. 80–27485/80–701
2. 17–067–21365–0000
3. 103 000 000
4. Primos Production Co
5. Georgia Pacific D #1
6. Monroe Field
7. Morehouse LA
8. 30.8 million cubic feet
9. April 16, 1980
10. United Gas Pipeline

1. 80–27486/80–700
2. 17–067–21346–0000
3. 103 000 000
4. Primos Production Co
5. Georgia Pacific C #5
6. Monroe Field
7. Morehouse LA
8. 10.3 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27487/80–724
2. 17–073–21102–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 20 Ser #160679
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27488/80–723
2. 17–073–21101–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 19 Ser #160678
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27489/80–722
2. 17–073–21100–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 18 Ser #160677
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27490/80–721
2. 17–067–21218–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 17 Ser #160676
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27491/80–720
2. 17–073–21099–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 16 Ser #160669
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27492/80–906
2. 17–111–20323–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #1
6. Monroe
7. Union LA
8. 5.9 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27493/80–905
2. 17–111–20315–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft #3
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27494/80–904
2. 17–111–20387–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A #12
6. Monroe Gas Field
7. Union LA
8. 7.2 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27495/80–903
2. 17–111–20331–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A #4
6. Monroe Gas Field
7. Union LA
8. 7.3 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27496/80–799
2. 17–111–21194–0000
3. 103 000 000
4. Ergon Inc
5. Cora C Smith No 2
6. Monroe (6824)
7. Union (056) LA
8. 5.6 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27497/80–798
2. 17–111–21324–0000
3. 103 000 000
4. Ergon Inc
5. S L Reeves No 1
6. Monroe (6824)
7. Union (056) LA
8. 19.4 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27498/80–797
2. 17–111–21214–0000
3. 103 000 000
4. Ergon Inc
5. Iris Russell No 1
6. Monroe (6824)
7. Union LA
8. 5.3 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27499/80–805
2. 17–111–21218–0000
3. 103 000 000
4. Ergon Inc
5. D Miller No 1
6. Monroe (6824)
7. Union LA
8. 4.8 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27500/80–804
2. 17–111–21234–0000
3. 103 000 000
4. Ergon Inc
5. Milas Medlin No 2
6. Monroe (6824)
7. Union LA
8. 9.4 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27501/80–803
2. 17–111–21378–0000
3. 103 000 000
4. Ergon Inc
5. Post No 1
6. Monroe (6824)
7. Union LA
8. 4.8 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27502/80–802
2. 17–111–21326–0000
3. 103 000 000
4. Ergon Inc
5. Jarmon Estate No 1
6. Monroe (6824)
7. Union LA
8. 20.3 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27503/80–801
2. 17–111–21169–0000
3. 108 000 000
4. Ergon Inc
5. Stowe No 1
6. Monroe (6824)
7. Union LA
8. 2.6 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27504/80–719
2. 17–073–21096–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 15 Ser #160666
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27505/80–718
2. 17–073–21097–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 14 Ser #160667
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27506/80–717
2. 17–073–21098–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 13 Ser #160668
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27507/80–716
2. 17–067–21215–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 12 Ser #160581
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27508/80–1088
2. 17–067–21310–0000
3. 103 000 000
4. Nip N Tuck Minerals Inc
5. Pipes #4
6. Monroe Gas Field
7. Morehouse LA
8. 28.0 million cubic feet
9. April 16, 1980
10. Louisiana Gas Service Co

1. 80–27509/80–1087
2. 17–073–20943–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #29
6. Monroe Gas Field
7. Ouachita LA
8. 17.8 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27510/80–1086
2. 17–073–20942–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #28
6. Monroe Gas Field
7. Ouachita LA
8. 17.8 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27511/80–1085
2. 17–073–20995–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #11
6. Monroe Gas Field
7. Ouachita LA
8. 17.9 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27512/80–1084
2. 17–073–20997–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #10
6. Monroe Gas Field
7. Ouchita LA
8. 17.9 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27513/80–1083
2. 17–073–20996–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #19
6. Monroe Gas Field
7. Ouachita LA
8. 17.9 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27514/80–1053
2. 17–111–20278–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–201
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27515/80–1052
2. 17–111–20280–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–202
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27516/80–1001
2. 17–111–20181–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–216
6. Monroe Gas Field
7. Union LA
8. 9.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27517/80–1000
2. 17–111–20203–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–218
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

V 45 M Y 23 80 0 UMI

1. 80–27518/80–999
2. 17–111–20230–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–222
6. Monroe Gas Field
7. Union LA
8. 15.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27519/80–998
2. 17–111–20231–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–223
6. Monroe Gas Field
7. Union LA
8. 15.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27520/80–997
2. 17–111–20208–0000
3. 108 000 000
4. IMC Exploration Co
5. Union Producing #N–225
6. Monroe Gas Field
7. Union LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27521/80–694
2. 17–111–21406–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #25
6. Monroe Gas Field
7. Union LA
8. 20.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27522/80–670
2. 17–073–21179–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #12
6. Monroe
7. Ouachita LA
8. 10.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27523/80–688
2. 17–111–21401–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #19
6. Monroe Gas Field
7. Union LA
8. 20.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27524/80–687
2. 17–111–21400–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #18
6. Monroe Gas Field
7. Union LA
8. 21.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27525/80–686
2. 17–111–21376–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #17
6. Monroe Gas Field
7. Union LA
8. 19.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27526/80–685
2. 17–111–21375–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #16
6. Monroe Gas Field
7. Union LA
8. 17.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27527/80–672
2. 17–073–21182–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #14
6. Monroe Gas
7. Ouachita LA
8. 13.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27528/80–749
2. 17–057–21479–0000
3. 103 000 000
4. Texaco Inc
5. Mid A–17 RG SUA BDC UB 122
6. Bay De Chene
7. Lafourche LA
8. 15.0 million cubic feet
9. April 16, 1980
10. Kaiser Aluminum & Chemical Corp, American Cyanamid Co, Argus Chemical Corp, Beker Industries Corp

1. 80–27529/80–748
2. 17–051–20450–0000
3. 103 000 000
4. Texaco Inc
5. BDC LWE B–25 RH–1 SU BDC UA 118
6. Bay De Chene
7. Jefferson LA
8. 55.0 million cubic feet
9. April 16, 1980
10. Kaiser Aluminum & Chemical Corp, American Cyanamid Co, Argus Chemical Corp, Beker Industries Corp

1. 80–27530/80–984
2. 17–073–20300–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F–152
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27531/80–983
2. 17–073–20296–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–151
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27532/80–982
2. 17–067–20383–0000
3. 108 000 000
4. IMC Exploration Co
5. Texas Delta #F–188
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27533/80–987
2. 17–073–20303–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–155
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27534/80–986
2. 17–073–20302–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–154
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27535/80–985
2. 17–073–20301–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–153
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27536/80–752
2. 17–067–20384–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Earven White #1 Serial #140054
6. Monroe
7. Morehouse Parish LA
8. 1.0 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27537/80–1002
2. 17–111–20275–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–205
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27538/80–788
2. 17–111–21011–0000
3. 108 000 000
4. Investment Trends Corp
5. Navarro #1
6. Monroe
7. Union LA
8. 1.0 million cubic feet
9. April 16, 1980
10. International Minerals Corp

1. 80–27539/80–787
2. 17–111–21020–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost Lumber Ind #10
6. Monroe Gas Field
7. Union LA
8. .8 million cubic feet
9. April 16, 1980
10. Mid Louisiana Co

1. 80–27540/80–786

2. 17–111–21071–0000
3. 108 000 000
4. Investment Trends Corp
5. Navarro #6
6. Monroe
7. Union LA
8. .9 million cubic feet
9. April 16, 1980
10. International Minerals Corp

1. 80–27541/80–785
2. 17–111–21077–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost Lumber Ind #13
6. Monroe Gas Field
7. Union LA
8. .7 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27542/80–784
2. 17–111–21151–0000
3. 108 000 000
4. IMC Exploration Co
5. Olin Mathieson Chem Corp #29
6. Monroe Gas Field
7. Union LA
8. .8 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27543/80–783
2. 17–111–21152–0000
3. 108 000 000
4. IMC Exploration Co
5. Olin Mathieson Chem Corp #30
6. Monroe Gas Field
7. Union LA
8. .8 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27544/80–782
2. 17–111–21153–0000
3. 108 000 000
4. Investment Trends Corp
5. Navarro #11
6. Monroe
7. Union LA
8. .3 million cubic feet
9. April 16, 1980
10. International Minerals Corp

1. 80–27545/80–781
2. 17–111–21148–0000
3. 108 000 000
4. Investment Trends Corp
5. Navarro #12
6. Monroe
7. Union LA
8. .9 million cubic feet
9. April 16, 1980
10. International Minerals Corp

1. 80–27546/80–780
2. 17–111–21076–0000
3. 108 000 000
4. IMC Exploration Company
5. Olin Gas Trans Corp #70
6. Monroe Gas Field
7. Union LA
8. .5 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27547/80–750
2. 17–721–20307–0000
3. 103 000 000
4. Shell Oil Co
5. SL 2590 No 4
6. South Pass Block 6
7. Plaquemines LA
8. 400.0 million cubic feet
9. April 16, 1980
10. Tennessee Gas Pipeline Co, Air Products & Chemical Inc

1. 80–27548/80–666
2. 17–111–20657–0000
3. 108 000 000
4. Central Transmission Inc C/O Energy
5. Sturgis-Nix #1
6. Monroe Gas
7. Union LA
8. 2.6 million cubic feet
9. April 16, 1980
10. IMC Exploration Co

1. 80–27549/80–665
2. 17–111–20672–0000
3. 108 000 000
4. Central Transmission Inc C/O Energy
5. Read #3
6. Monroe Gas
7. Union LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Exploration Co

1. 80–27550/80–664
2. 17–111–20626–0000
3. 108 000 000
4. Central Transmission Inc C/O Energy
5. Spencer #1
6. Monroe Gas
7. Union LA
8. 11.7 million cubic feet
9. April 16, 1980
10. IMC Exploration Co

1. 80–27551/80–663
2. 17–111–00314–0000
3. 108 000 000
4. D J Simmons & Co of Louisiana
5. Union #61
6. Monroe Gas
7. Union LA
8. 1.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27552/80–684
2. 17–111–21373–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #14
6. Monroe Gas Field
7. Union LA
8. 17.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27553/80–683
2. 17–111–21372–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #13
6. Monroe Gas Field
7. Union LA
8. 19.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27554/80–682
2. 17–111–21371–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #12
6. Monroe Gas Field
7. Union LA
8. 15.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27555/80–681
2. 17–111–21370–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #11
6. Monroe Gas Field
7. Union LA
8. 20.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27556/80–680
2. 17–111–21369–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #10
6. Monroe Gas Field
7. Union LA
8. 18.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27557/80–679
2. 17–111–21367–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #8
6. Monroe Gas Field
7. Union LA
8. 16.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27558/80–678
2. 17–111–21312–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #7
6. Monroe Gas Field
7. Union LA
8. 18.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27559/80–677
2. 17–111–21311–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #6
6. Monroe Gas Field
7. Union LA
8. 17.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27560/80–676
2. 17–111–21262–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #5
6. Monroe Gas Field
7. Union LA
8. 18.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27561/80–696
2. 17–111–21359–0000
3. 103 000 000
4. Ergon Inc
5. John Green No 1
6. Monroe (6824)
7. Union LA
8. 14.3 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27562/80–695
2. 17–111–21429–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #27

V 45 MY 23 80 UMI

6. Monroe Gas Field
7. Union LA
8. 19.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27563/80–911
2. 17–111–20348–0000
3. 108 000 000
4. Luffey Gas Corp
5. La Gas Lands #1
6. Monroe Gas Field
7. Union LA
8. 4.4 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27564/80–910
2. 17–111–20377–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #10
6. Monroe Gas Field
7. Union LA
8. 5.7 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27565/80–909
2. 17–111–20334–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #4
6. Monroe Gas Field
7. Union LA
8. 5.7 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27566/80–675
2. 17–111–21261–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #4
6. Monroe Gas Field
7. Union LA
8. 16.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27567/80–674
2. 17–111–21258–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #2
6. Monroe Gas Field
7. Union LA
8. 17.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27568/80–908
2. 17–111–20325–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #3
6. Monroe Gas Field
7. Union LA
8. 5.9 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27569/80–907
2. 17–111–20324–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #2
6. Monroe Gas Field
7. Union LA
8. 5.9 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27570/80–693
2. 17–111–21405–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #24
6. Monroe Gas Field
7. Union LA
8. 19.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27571/80–692
2. 17–111–21404–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #23
6. Monroe Gas Field
7. Union LA
8. 21.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27572/80–691
2. 17–111–21403–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #22
6. Monroe Gas Field
7. Union LA
8. 19.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27573/80–690
2. 17–111–21427–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #21
6. Monroe Gas Field
7. Union LA
8. 16.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27574/80–689
2. 17–111–21402–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #20
6. Monroe Gas Field
7. Union LA
8. 17.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27575/80–941
2. 17–111–20201–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N–182
6. Monroe Gas Field
7. Union LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27576/80–940
2. 17–111–20247–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N–183
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27577/80–939
2. 17–111–20243–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N–184
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27578/80–938
2. 17–111–20244–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N–185
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27579/80–937
2. 17–111–20246–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N–186
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27580/80–1082
2. 17–073–20990–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs Corp #8
6. Monroe Gas Field
7. Ouachita LA
8. 17.9 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27581/80–1081
2. 17–073–20976–0000
3. 108 000 000
4. Primos Production Co
5. Cole Heirs #7
6. Monroe Gas Field
7. Ouachita LA
8. 17.9 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line

1. 80–27582/80–673
2. 17–111–21257–0000
3. 103 000 000
4. Reliance Trusts
5. Olinkraft #1
6. Monroe Gas Field
7. Union LA
8. 16.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27583/80–669
2. 17–073–21178–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #11
6. Monroe
7. Ouachita LA
8. 10.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27584/80–668
2. 17–073–21146–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #9
6. Monroe
7. Ouachita LA
8. 10.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27585/80–667
2. 17–073–21144–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #7
6. Monroe Gas
7. Ouachita LA
8. 10.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27586/80–671
2. 17–073–21180–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #13
6. Monroe
7. Ouachita LA
8. 10.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27587/80–901
2. 17–111–20482–0000
3. 108 000 000
4. Luffey Gas Corp
5. Montery #17
6. Monroe Gas Field
7. Union LA
8. 10.8 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27588/80–900
2. 17–111–20483–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #19
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–275589/80–899
2. 17–111–20381–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #15
6. Monroe Gas Field
7. Union LA
8. 2.2 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27590/80–898
2. 17–111–20481–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #16
6. Monroe Gas Field
7. Union LA
8. 10.8 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27591/80–897
2. 17–111–20337–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #7
6. Monroe Gas Field
7. Union LA
8. 4.7 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27592/80–896
2. 17–111–20367–0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #9
6. Monroe Gas Field
7. Union LA
8. 3.5 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27593/80–916
2. 17–111–20349–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A #7
6. Monroe Gas Field
7. Union LA
8. 2.8 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27594/80–915
2. 17–111–20376–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A #11
6. Monroe Gas Field
7. Union LA
8. 7.3 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27595/80–914
2. 17–111–20314–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft #2
6. Monroe Gas Field
7. Union LA
8. 5.7 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27596/80–913
2. 17–111–20359–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A No 9
6. Monroe Gas Field
7. Union LA
8. 7.3 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27597/80–912
2. 17–111–20343–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A #5
6. Monroe Gas Field
7. Union LA
8. 3.5 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27598/80–1089
2. 17–111–21806–0000
3. 103 000 000
4. Ergon Inc
5. T L Kennedy No 2
6. Monroe (6824)
7. Union LA
8. 15.5 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27599/80–1062
2. 17–111–20276–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–199
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27600/80–1061
2. 17–111–20277–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–200
6. Monroe Gas Field
7. Union LA
8. 10.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27601/80–995
2. 17–073–20287–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–159
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27602/80–994
2. 17–073–20367–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–170
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27603/80–993
2. 17–073–20370–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F–171
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27604/80–1046
2. 17–073–20368–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–217
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27605/80–1095
2. 17–726–20175–0000
3. 102 000 000
4. Kerr-McGee Corp
5. S L 4574 Well No 7
6. Breton Sound Block 20
7. Plaquemines LA
8. 33.0 million cubic feet
9. April 16, 1980
10. Southern Natural Gas Co

1. 80–27606/80–1094
2. 17–073–21089–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. Vgn Ra Sul Emma Cade Price
6. South Drew
7. Ouachita LA
8. .0 million cubic feet
9. April 16, 1980
10. Olinkraft Inc

1. 80–27607/80–1093
2. 17–049–20119–0000
3. 103 000 000
4. Wessely Energy Corp
5. Ferguson Cv C Sur No 1 164436

V 45 M Y 23 80 UMI

6. Vernon
7. Jackson LA
8. 175.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27608/80–1091
2. 17–073–21184–0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith et al #16
6. Monroe
7. Ouachita LA
8. 10.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27609/80–1090
2. 17–111–21807–0000
3. 103 000 000
4. Ergon Inc
5. Oliver Civic Center No 1
6. Monroe (6824)
7. Union (056) LA
8. 17.3 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27610/80–699
2. 17–067–21345–0000
3. 103 000 000
4. Primos Production Co
5. Georgia Pacific C #4
6. Monroe Field
7. Morehouse LA
8. 20.5 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line

1. 80–27611/80–698
2. 17–111–21441–0000
3. 103 000 000
4. Ergon Inc
5. E L Medlin No 1
6. Monroe (6824)
7. Union LA
8. 15.5 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27612/80–697
2. 17–111–21318–0000
3. 103 000 000
4. Ergon Inc
5. Mary Phillips No 3
6. Monroe
7. Union LA
8. 18.0 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27613/80–936
2. 17–111–20245–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–187
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27614/80–935
2. 17–111–20188–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–181
6. Monroe Gas Field
7. Union LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27615/80–934
2. 17–111–20187–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–180
6. Monroe Gas Field
7. Union LA
8. 3.9 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27616/80–933
2. 17–111–20186–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–179
6. Monroe Gas Field
7. Union LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27617/80–932
2. 17–111–20185–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–178
6. Monroe Gas Field
7. Union LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27618/80–931
2. 17–111–20180–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–177
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27619/80–930
2. 17–111–20179–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–176
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27620/80–929
2. 17–111–20178–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–175
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27621/80–928
2. 17–111–20175–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–174
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27622/80–927
2. 17–111–20176–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–173
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27623/80–926
2. 17–111–20174–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N–172
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27624/80–1050
2. 17–073–20359–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–226
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27625/80–1049
2. 17–073–20360–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–227
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27626/80–1048
2. 17–111–20242–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–224
6. Monroe Gas Field
7. Union LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27627/80–1047
2. 17–073–20383–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–228
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27628/80–1070
2. 17–067–20389–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–192
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27629/80–1069
2. 17–067–20391–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–193
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27630/80–1068
2. 17–067–20382–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–187
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27631/80–1067
2. 17–111–20268–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–192
6. Monroe Gas Field
7. Union LA
8. 8.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27632/80–1066
2. 17–111–20269–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–193
6. Monroe Gas Field
7. Union LA
8. 8.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27633/80–1065
2. 17–111–20270–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–194
6. Monroe Gas Field
7. Union LA
8. 8.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27634/80–1064
2. 17–111–20272–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–197
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27635/80–1063
2. 17–111–20273–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–198
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27636/80–800
2. 17–111–21282–0000
3. 103 000 000
4. Ergon Inc
5. Eugenia Thomas No 1
6. Monroe (6824)
7. Union LA
8. 8.3 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27637/80–1092
2. 17–109–21368–0000
3. 107 000 000
4. Tenneco Oil Co
5. Dennis Cenac No 12
6. Lake Barre
7. Terrebonne Parish LA
8. 1.0 million cubic feet
9. April 16, 1980
10.

1. 80–27638/80–1059
2. 17–073–20331–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F–169
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27639/80–1058
2. 17–111–20266–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–213
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27640/80–1057
2. 17–067–20404–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–198
6. Monroe Gas Field
7. Morehouse LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27641/80–1056
2. 17–067–20392–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–194
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27642/80–1055
2. 17–073–20277–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–144
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27643/80–1054
2. 17–073–20281–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–145
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27644/80–1077
2. 17–067–20372–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–182
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27645/80–1076
2. 17–067–20373–0000
3. 108 000 000
4. IMC Exploration Company
5. Tensas Delta #F–183
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27646/80–902
2. 17–111–20332–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkroft A #2
6. Monroe Gas Field
7. Union LA
8. 7.2 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80–27647/80–1051
2. 17–111–20281–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–203
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27648/80–737
2. 17–073–00044–0000
3. 108 000 000
4. Estate Mrs Clara B Guthrie
5. Guthrie #7
6. Monroe
7. Ouachita LA
8. 3.6 million cubic feet
9. April 16, 1980
10. Ashland Exploration Inc

1. 80–27649/80–736
2. 17–073–00000–0000
3. 108 000 000
4. Estate of Mrs Clara B Guthrie
5. Guthrie #5
6. Monroe
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. Ashland Exploration Inc

1. 80–27650/80–735
2. 17–073–00042–0000
3. 108 000 000
4. J G Guthrie
5. Guthrie #4
6. Monroe
7. Ouachita LA
8. 2.6 million cubic feet
9. April 16, 1980
10. Ashland Exploration Inc

1. 80–27651/80–734
2. 17–073–00000–0000
3. 108 000 000
4. J G Guthrie
5. Guthrie #3
6. Monroe Gas
7. Ouachita LA
8. 3.2 million cubic feet
9. April 16, 1980
10. Ashland Exploration Inc

1. 80–27652/80–726
2. 17–073–21104–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 22 Ser #160681

6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27653/80-778
2. 17-111-21273-0000
3. 108 000 000
4. Investment Trends Corp
5. Olincraft #1
6. Monroe
7. Union LA
8. .7 million cubic feet
9. April 16, 1980
10. International Minerals Corp

1. 80-27654/80-777
2. 17-111-21274-0000
3. 108 000 000
4. Investment Trends Corp
5. Olinkraft #2
6. Monroe
7. Union LA
8. .3 million cubic feet
9. April 16, 1980
10. International Minerals Corp

1. 80-27655/80-776
2. 17-111-21224-0000
3. 108 000 000
4. Investment Trends Corp
5. Dodd #1
6. Monroe
7. Union LA
8. 1.0 million cubic feet
9. April 16, 1980
10. Darbonne Gas Gathering

1. 80-27656/80-775
2. 17-111-21134-0000
3. 108 000 000
4. Investment Trends Corp
5. T & R Smith #2
6. Monroe
7. Union LA
8. .4 million cubic feet
9. April 16, 1980
10. Darbonne Gas Gathering

1. 80-27657/80-774
2. 17-111-21133-0000
3. 108 000 000
4. Investment Trends Corp
5. T & R Smith #1
6. Monroe
7. Union LA
8. .6 million cubic feet
9. April 16, 1980
10. Darbonne Gas Gathering

1. 80-27658/80-773
2. 17-073-20936-0000
3. 108 000 000
4. Investment Trends Corp
5. Crescent #1
6. Monroe
7. Ouachita LA
8. .2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80-27659/80-789
2. 17-111-21075-0000
3. 108 000 000
4. IMC Exploration Co
5. Olin Gas Trans Corp #69
6. Monroe Gas Field
7. Union LA
8. .6 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27660/80-1075
2. 17-067-20374-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-184
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27661/80-1074
2. 17-067-20381-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-185
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27662/80-1073
2. 17-067-20398-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-186
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27663/80-1072
2. 17-067-20388-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-196
6. Monroe Gas Field
7. Morehouse LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27664/80-1071
2. 17-067-20387-0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F-195
6. Monroe Gas Field
7. Morehouse LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27665/80-715
2. 17-067-21217-0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs #11 Ser #160597
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27666/80-714
2. 17-067-21214-0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 10 Ser #160538
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27667/80-713
2. 17-067-21213-0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 9 Ser #160537
6. Monroe
7. Morehouse LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27668/80-1060
2. 17-073-20330-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F-168
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27669/80-841
2. 17-073-20244-0000
3. 108 000 000
4. James A Noe
5. Breard M No 1
6. Monroe Gas
7. Ouachita LA
8. 8.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80-27670/80-840
2. 17-111-20149-0000
3. 108 000 000
4. James A Noe
5. Talton No A-1
6. Monroe Gas
7. Ouachita LA
8. 6.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80-27671/80-1027
2. 17-073-20363-0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F-236
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27672/80-1026
2. 17-073-20366-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-234
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27673/80-10-25
2. 17-073-20377-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-235
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27674/80-1024
2. 17-073-20378-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-230
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27675/80-1023
2. 17-073-20379-0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F-231
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27676/80-847
2. 17-073-21183-0000
3. 103 000 000
4. Lock Arbor Production Co
5. HSU 253 Smith Et Al #15
6. Monroe Gas
7. Ouachita LA
8. 8.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80-27677/80-924
2. 17-111-20172-0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N-170
6. Monroe Gas Field
7. Union LA
8. 8.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27678/80-923
2. 17-111-20171-0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N-169
6. Monroe Gas Field
7. Union LA
8. 8.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27679/80-922
2. 17-111-20366-0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #8
6. Monroe Gas Field
7. Union LA
8. 2.0 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80-27680/80-921
2. 17-111-20335-0000
3. 108 000 000
4. Luffey Gas Corp
5. Monterey #5
6. Monroe Gas Field
7. Union LA
8. 11.1 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co

1. 80-27681/80-988
2. 17-073-20278-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-156
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27682/80-796
2. 17-111-21323-0000
3. 103 000 000
4. Ergon Inc
5. J O Wisecarver No 1
6. Monroe (6824)
7. Union (056) LA
8. 12.4 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80-27683/80-996
2. 17-073-20294-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-149
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27684/80-740
2. 17-107-00538-0000
3. 108 000 000
4. Richard B. Nelson
5. J T Curry No 1 099328
6. Locust Ridge
7. Tensas LA
8. 19.8 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27685/80-739
2. 17-111-20640-0000
3. 108 000 000
4. O O Cummings
5. Sturgis Nix #1
6. Monroe Gas Field
7. Union LA
8. 8.6 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80-27686/80-738
2. 17-111-21208-0000
3. 108 000 000
4. O O Cummings
5. Sturgis Nix #2
6. Monroe Gas Field
7. Union LA
8. 12.0 million cubic feet
9. April 16, 1980
10. Mid Louisana Gas Co

1. 80-27687/80-765
2. 17-067-20370-0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs B #4 Serial #139936
6. Monroe
7. Morehouse LA
8. 1.2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80-27688/80-764
2. 17-067-20350-0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs B #3 Serial #139754
6. Monroe
7. Morehouse LA
8. 1.2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80-27689/80-964
2. 17-073-20291-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-163
6. Monroe Gas Field
7. Ouachita LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27690/80-963
2. 17-073-20289-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-162
6. Monroe Gas Field
7. Ouachita LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27691/80-962
2. 17-073-20299-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-161
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27692/80-961
2. 17-073-20288-0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F-160
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27693/80-946
2. 17-111-20249-0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lbr Co #N-189
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27694/80-945
2. 17-111-20209-0000
3. 108 000 000
4. IMC Exploration Co
5. Union Prod #N-190
6. Monroe Gas Field
7. Union LA
8. 11.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27695/80-971
2. 17-073-20354-0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F-143
6. Monroe Gas Field
7. Ouachita LA
8. 5.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27696/80-970
2. 17-073-20353-0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F-142
6. Monroe Gas Field
7. Ouachita LA
8. 5.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80-27697/80-969
2. 17-073-20352-0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F-141

V 45 M Y 23 80 UMI

6. Monroe Gas Field
7. Ouachita LA
8. 5.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27698/80–968
2. 17–073–20351–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–140
6. Monroe Gas Field
7. Ouachita LA
8. 5.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27699/80–763
2. 17–067–20342–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs B #2 Serial #139720
6. Monroe
7. Morehouse LA
8. 1.2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27700/80–762
2. 17–067–20394–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs B #1 Serial #140252
6. Monroe
7. Morehouse LA
8. 1.2 million cubic feet
9. April 16, 1980
10. Gas Transmission Corp

1. 80–27701/80–761
2. 17–067–20425–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs A #4 Serial #140616
6. Monroe
7. Morehouse LA
8. 1.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27702/80–760
2. 17–067–20431–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs A #2 Serial #140798
6. Monroe
7. Morehouse LA
8. 1.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27703/80–759
2. 17–067–20297–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs A #1 Serial #140797
6. Monroe
7. Morehouse LA
8. 1.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27704/80–758
2. 17–067–20422–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Julius White #3 Serial #140512
6. Monroe
7. Morehouse LA
8. 2.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27705/80–875
2. 17–073–21177–0000
3. 103 000 000
4. Primos Production Co
5. Arent No 5
6. Monroe Field
7. Ouachita LA
8. 25.7 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27706/80–874
2. 17–073–21176–0000
3. 103 000 000
4. Primos Production Co
5. Arent No 1
6. Monroe Field
7. Ouachita LA
8. 41.1 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27707/80–873
2. 17–111–21813–0000
3. 103 000 000
4. Primos Production Co
5. Steele No 2
6. Monroe Field
7. Union LA
8. 25.7 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27708/80–872
2. 17–111–21812–0000
3. 103 000 000
4. Primos Production Co
5. Steele No 1
6. Monroe Field
7. Union LA
8. 30.8 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27709/80–871
2. 17–073–21126–0000
3. 103 000 000
4. Primos Production Co
5. Lieber No 1
6. Monroe Field
7. Ouachita LA
8. 11.3 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27710/80–846
2. 17–067–21386–0000
3. 103 000 000
4. Nip N Tuck Minerals Inc
5. Pipes #6
6. Monroe Gas
7. Morehouse LA
8. 36.5 million cubic feet
9. April 16, 1980
10. Louisiana Gas Sercice Co

1. 80–27711/80–844
2. 17–067–21176–0000
3. 108 000 000
4. Relco Exploration Co Inc
5. USA #2
6. Monroe
7. Morehouse LA
8. 7.5 million cubic feet
9. April 16, 1980
10. Georgia Pacific Corp

1. 80–27712/80–843
2. 17–067–21175–0000
3. 108 000 000
4. Relco Exploration Co Inc
5. USA #1
6. Monroe Gas
7. Morehouse LA
8. .8 million cubic feet
9. April 16, 1980
10. Georgia Pacific Corp

1. 80–27713/80–842
2. 17–073–20662–0000
3. 108 000 000
4. Equity Monroe Partners
5. Maude Harris No 1 #148774
6. Monroe Gas
7. Ouachita LA
8. .7 million cubic feet
9. April 16, 1980
10. Strahan Oil & Gas Co Inc

1. 80–27714/80–772
2. 17–111–20642–0000
3. 108 000 000
4. Investment Trends Corp
5. Dickson #1
6. Monroe
7. Union LA
8. .3 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27715/80–771
2. 17–111–20713–0000
3. 108 000 000
4. Investment Trends Corp
5. Wilson #1
6. Monroe
7. Union LA
8. .3 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27716/80–725
2. 17–073–21103–0000
3. 108 000 000
4. Glenda Petroleum Corp
5. Perry Heirs No 21 Ser #160680
6. Monroe
7. Ouachita LA
8. 9.1 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27717/80–976
2. 17–067–20390–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–197
6. Monroe Gas Field
7. Morehouse LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27718/80–975
2. 17–073–20335–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–135
6. Monroe Gas Field
7. Ouachita LA
8. 4.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27719/80–974
2. 17–073–20334–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–134
6. Monroe Gas Field
7. Ouachita LA
8. 4.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27720/80–973
2. 17–073–20333–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–133
6. Monroe Gas Field
7. Ouachita LA
8. 4.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27721/80–972
2. 17–073–20332–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–132
6. Monroe Gas Field
7. Ouachita LA
8. 5.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27722/80–779
2. 17–073–20937–0000
3. 108 000 000
4. Investment Trends Corp
5. Crescent #2
6. Monroe
7. Ouachita LA
8. .2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27723/80–981
2. 17–067–20397–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–189
6. Monroe Gas Field
7. Morehouse LA
8. .0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27724/80–980
2. 17–067–20385–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–190
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27725/80–979
2. 17–067–20386–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–191
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27726/80–978
2. 17–073–20283–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–146
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27727/80–977
2. 17–073–20285–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–147
6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27728/80–944
2. 17–111–20211–0000
3. 108 000 000
4. IMC Exploration Co
5. Union Prod #N–191
6. Monroe Gas Field
7. Union LA
8. 4.8 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27729/80–943
2. 17–111–20192–0000
3. 108 000 000
4. IMC Exploration Co
5. Westbrook #1
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27730/80–942
2. 17–111–20193–0000
3. 108 000 000
4. IMC Exploration Co
5. Westbrook #2
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27731/80–751
2. 17–109–22123–0000
3. 102 000 000
4. Sun Oil Company
5. VUC State Nelson et al #13
6. Point Au Fer
7. Terrebonne LA
8. 274.0 million cubic feet
9. April 16, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–27732/80–757
2. 17–067–20418–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Julius White #1 serial #140453
6. Monroe
7. Morehouse LA
8. 2.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27733/80–756
2. 17–067–20421–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Julius White #2 serial #140511
6. Monroe
7. Morehouse LA
8. 2.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27734/80–755
2. 17–067–20427–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Green #1 serial #140596
6. Monroe
7. Morehouse LA
8. 4.3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27735/80–754
2. 17–067–20419–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Vernon White #2 serial #140509
6. Monroe
7. Morehouse LA
8. 1.6 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27736/80–753
2. 17–067–20417–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Vernon White #1 serial #140452
6. Monroe
7. Morehouse LA
8. 1.6 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27737/80–747
2. 17–055–20149–0000
3. 103 000 000
4. Dyco Petroleum Corp
5. Broussard #1
6. Maurice
7. Lafayette LA
8. 10.0 million cubic feet
9. April 16, 1980
10. Louisiana Intrastate Gas Corp

1. 80–27738/80–967
2. 17–073–20350–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–139
6. Monroe Gas Field
7. Ouachita LA
8. 5.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27739/80–966
2. 17–073–20362–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–138
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27740/80–965
2. 17–073–20348–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–137
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27741/80–1020
2. 17–067–20450–0000
3. 108 000 000
4. IMC Exploration Co
5. Ethridge #F–240
6. Monroe Gas Field
7. Morehouse LA
8. 2.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27742/80–1019
2. 17–073–20376–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–218

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6. Monroe Gas Field
7. Ouachita LA
8. 3.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27743/80–1018
2. 17–111–20284–0000
3. 108 000 000
4. IMC Exploration Co
5. Green #N–227
6. Monroe Gas Field
7. Union LA
8. 5.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27744/80–1017
2. 17–067–20412–0000
3. 108 000 000
4. IMC Exploration Co
5. Temsas Delta #F–206
6. Monroe Gas Field
7. Morehouse LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27745/80–1016
2. 17–067–20413–0000
3. 108 000 000
4. IMC Exploration Co
5. Temsas Delta #F–207
6. Monroe Gas Field
7. Morehouse LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27746/80–1015
2. 17–067–20414–0000
3. 108 000 000
4. IMC Exploration Co
5. Temsas Delta #F–208
6. Monroe Gas Field
7. Morehouse LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27747/80–1014
2. 17–067–20415–0000
3. 108 000 000
4. IMC Exploration Co
5. Temsas Delta #F–209
6. Monroe Gas Field
7. Morehouse LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27748/80–1013
2. 17–111–20285–0000
3. 108 000 000
4. IMC Exploration Co
5. Green #N–228
6. Monroe Gas Field
7. Union LA
8. 5.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27749/80–1012
2. 17–067–20379–0000
3. 108 000 000
4. IMC Exploration Co
5. Griffing #F–177
6. Monroe Gas Field
7. Morehouse LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27750/80–1011
2. 17–111–20267–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–195
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27751/80–1010
2. 17–111–20271–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling Lumber Co #N–196
6. Monroe Gas Field
7. Union LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27752/80–1008
2. 17–073–20290–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate F–164
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27753/80–1009
2. 17–073–20292–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–165
6. Monroe Gas Field
7. Ouachita LA
8. 5.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27754/80–1007
2. 17–073–20349–0000
3. 108 000 000
4. IMC Exploration Co
5. Briggs #F–137
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27755/80–1006
2. 17–073–20345–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Imigration #F–238
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27756/80–1005
2. 17–073–20364–0000
3. 108 000 000
4. IMC Exploration Co
5. Central Immigration #F–237
6. Monroe Gas Field
7. Ouachita LA
8. 2.5 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co

1. 80–27757/80–742
2. 17–073–00549–0000
3. 108 000 000
4. Sho-Van Gas Producing Co Inc
5. West Virginia #3
6. Monroe Gas Field
7. Ouachita LA
8. 3.1 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27758/80–741
2. 17–073–00585–0000
3. 108 000 000
4. Sho-Van Gas Producing Co Inc
5. West Virginia #1
6. Monroe Gas Field
7. Ouachita LA
8. 4.4 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27759/80–770
2. 17–111–20782–0000
3. 108 000 000
4. Investment Trends Corp
5. Hearn #3
6. Monroe
7. Union LA
8. .2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp

1. 80–27760/80–769
2. 17–111–20677–0000
3. 108 000 000
4. Investment Trends Corp
5. Taunton #1
6. Monroe
7. Union LA
8. .5 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27761/80–768
2. 17–111–20701–0000
3. 108 000 000
4. Investment Trends Corp
5. Hearn #1
6. Monroe
7. Union LA
8. .2 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp.

1. 80–27762–767
2. 17–067–20432–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs C #3 serial #140799
6. Monroe
7. Morehouse LA
8. 1.6 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp.

1. 80–27763/80–766
2. 17–067–20299–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Snyder Heirs C # serial #140615
6. Monroe
7. Morehouse LA
8. 1.6 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp.

1. 80–27764/80–879
2. 17–073–20147–0000
3. 108 000 000
4. Allied Pétroleum Co
5. Smith #1
6. Monroe
7. Ouachita LA
8. 10.6 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27765/80–878
2. 17–073–20325–0000
3. 108 000 000
4. Allied Petroleum Co
5. Kollitz #3
6. Monroe
7. Ouachita LA
8. 8.9 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27766/80–877
2. 17–073–20324–0000
3. 108 000 000
4. Allied Petroleum Co
5. Kollitz #2
6. Monroe
7. Ouachita LA
8. 6.4 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27767/80–876
2. 17–073–00228–0000
3. 108 000 000
4. Allied Petroleum Co
5. Kollitz #1
6. Monroe
7. Ouachita LA
8. 6.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27768/80–815
2. 17–111–21204–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon S No 1 serial #155719
6. Monroe
7. Union LA
8. 2.4 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27769/80–814
2. 17–111–21201–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Cora Jarmon et al S No 6 serial #155
6. Monroe
7. Union LA
8. 4.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27770/80–813
2. 17–111–21200–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Cora Jarmon et al S No 5 serial #1556
6. Monroe
7. Union LA
8. 4.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27771/80–812
2. 17–111–21199–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Cora Jarmon et al S No 4 serial #155
6. Monroe
7. Union LA
8. 4.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27772/80–811
2. 17–111–21003–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Cora Jarmon et al S No 3 serial #1526
6. Monroe
7. Union Parish LA
8. 4.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27773/80–810
2. 17–111–21002–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Cora Jarmon et al S No 2 serial #152
6. Monroe
7. Union Parish LA
8. 4.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27774/80–809
2. 17–111–21001–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Cora Jarmon et al S No 1 serial #1526
6. Monroe
7. Union Parish LA
8. 4.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27775/80–808
2. 17–111–21213–0000
3. 103 000 000
4. Ergon Inc
5. Mary Phillips No 1
6. Monroe (6824)
7. Union (056) LA
8. 10.4 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27776/80–807
2. 17–111–21230–0000
3. 103 000 000
4. Ergon Inc
5. W T Miller No 3
6. Monroe (6824)
7. Union (056) LA
8. 7.3 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27777/80–806
2. 17–111–21212–0000
3. 103 000 000
4. Ergon Inc
5. W T Miller No 2
6. Monroe (6824)
7. Union LA
8. 4.9 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27778/80–839
2. 17–073–20225–0000
3. 108 000 000
4. James A Noe
5. Davis M No 2
6. Monroe Gas Field
7. Ouachita LA
8. 6.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27779/80–838
2. 17–073–20221–0000
3. 108 000 000
4. James A Noe
5. Davis M No 1
6. Monroe Gas Field
7. Ouachita LA
8. 6.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27780/80–837
2. 17–073–00530–0000
3. 108 000 000
4. Gemini Explorations Inc
5. Union Producing Co E #2—106079
6. Monroe
7. Ouachita LA
8. 8.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27781/80–795
2. 17–111–21232–0000
3. 103 000 000
4. Ergon Inc
5. L B Wofford No 1
6. Monroe (6824)
7. Union (056) LA
8. 5.4 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27782/80–794
2. 17–111–21231–0000
3. 103 000 000
4. Ergon Inc
5. Vua Roy Oliver et al No 1
6. Monroe (6824)
7. Union LA
8. 5.5 million cubic feet
9. April 16, 1980
10. Texas Gas Transmission Corp

1. 80–27783/80–793
2. 17–111–21012–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost Lumber Ind #11
6. Monroe Gas Field
7. Union LA
8. .8 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27784/80–792
2. 17–111–21013–0000
3. 108 000 000
4. IMC Exploration Co
5. Frost Lumber Ind #12
6. Monroe Gas Field
7. Union LA
8. .7 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27785/80–920
2. 17–111–20336–0000
3. 108 000 000
4. Luffey Gas Corp
5. Montery #6
6. Monroe Gas Field
7. Union LA
8. 4.9 million cubic feet
9. April 16, 1980
10. La Gas Prod A Division of IMC Co

1. 80–27786/80–836
2. 17–073–00529–0000
3. 108 000 000
4. Gemini Explorations Inc
5. Union Producing Co E #1—104273
6. Monroe
7. Ouachita LA
8. 8.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27787/80–821
2. 17–111–21008–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon II No 3 serial #152885

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6. Monroe
7. Union Parish LA
8. 1.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27788/80–820
2. 17–111–21007–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon II No 2 serial #152884
6. Monroe
7. Union Parish LA
8. 1.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27789/80–919
2. 17–111–20330–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkroft A #3
6. Monroe Gas Field
7. Union LA
8. 7.3 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co
1. 80–27790/80–918
2. 17–111–20362–0000
3. 108 000 000
4. Luffey Gas Corp
5. Frost #2
6. Monroe Gas Field
7. Union LA
8. 7.0 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co
1. 80–27791/80–917
2. 17–111–20344–0000
3. 108 000 000
4. Luffey Gas Corp
5. Olinkraft A #6
6. Monroe Gas Field
7. Union LA
8. 3.5 million cubic feet
9. April 16, 1980
10. Louisiana Gas Production Co
1. 80–27792/80–925
2. 17–111–20173–0000
3. 108 000 000
4. IMC Exploration Co
5. Grayling LBR Co #N–171
6. Monroe Gas Field
7. Union LA
8. 8.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27793/80–992
2. 17–073–20371–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–172
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27794/80–991
2. 17–073–20372–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–173
6. Monroe Gas Field
7. Ouachita LA
8. 4.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27795/80–990
2. 17–067–20416–0000
3. 108 000 000
4. IMC Exploration Co
5. Tensas Delta #F–210
6. Monroe Gas Field
7. Morehouse LA
8. 6.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27796/80–989
2. 17–073–20280–0000
3. 108 000 000
4. IMC Exploration Co
5. Fairbanks Real Estate #F–157
6. Monroe Gas Field
7. Ouachita LA
8. 1.0 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27797/80–1043
2. 17–073–20345–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–221
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27798/80–1042
2. 17–073–20358–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–222
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27799/80–895
2. 17–073–20243–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil MR 850 #3
6. Monroe
7. Ouachita LA
8. 3.3 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27800/80–894
2. 17–073–20242–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil MR 850 #2
6. Monroe
7. Ouachita LA
8. 4.2 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27801/80–893
2. 17–073–20241–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil MR 850 #1
6. Monroe
7. Ouachita LA
8. 13.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27802/80–892
2. 17–073–20254–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil MR 152 #1
6. Monroe
7. Ouachita LA
8. 5.6 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27803/80–891
2. 17–073–20384–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil 9460 #5
6. Monroe
7. Ouachita LA
8. 11.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27804/80–890
2. 17–073–20316–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil 9460 #4
6. Monroe
7. Ouachita LA
8. 16.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27805/80–870
2. 17–111–20440–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. R Savage G No 1 Serial #147399
6. Monroe
7. Union Parish LA
8. 6.1 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp Central Transmission Inc
1. 80–27806/80–869
2. 17–111–20878–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. R Savage R No 1 Serial #151659
6. Monroe
7. Union Parish LA
8. 5.9 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp Central Transmission Inc
1. 80–27807/80–819
2. 17–111–21006–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon II No 1 Serial #152883
6. Monroe
7. Union Parish LA
8. 1.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27808/80–818
2. 17–111–21000–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. R L Edwards Et Al S No 2 Serial #152
6. Monroe
7. Union Parish LA
8. 2.3 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27809/80–817
2. 17–111–20999–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. R L Edwards Et Al S No 1 Serial #15
6. Monroe
7. Union Parish LA
8. 2.3 million cubic feet

9. April 16, 1980
10. Central Transmission Inc
1. 80–27810/80–816
2. 17–111–21205–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon S No 2 Serial #155720
6. Monroe
7. Union Parish LA
8. 2.4 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27811/80–850
2. 17–051–20511–0000
3. 103 000 000
4. Texaco Inc
5. VUA BDC UA 121
6. Bay de Chene
7. Jefferson LA
8. 35.0 million cubic feet
9. April 16, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80–27812/80–849
2. 17–101–21102–0000
3. 107 000 000
4. Exxon Corp
5. Williams Inc No 1
6. Weeks Island
7. St Mary LA
8. 4.0 million cubic feet
9. April 16, 1980
10.
1. 80–27813/80–848
2. 17–073–21183–0000
3. 108 000 000
4. Lock Arbor Production Co
5. Smith Et Al #15
6. Monroe Gas Field
7. Ouachita LA
8. 8.0 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co
1. 80–27814/80–867
2. 17–111–20595–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. W Ward H No 1 Serial #147774
6. Monroe
7. Union LA
8. 2.3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27815/80–867
2. 17–111–20653–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. M Noland H No 3 Serial #148966
6. Monroe
7. Union LA
8. 2.0 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27816/80–866
2. 17–111–20594–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. M Noland H No 2 Serial #147773
6. Monroe
7. Union LA
8. 2.0 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27817/80–865
2. 17–111–20593–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. M Noland H No 1 Serial #147772
6. Monroe
7. Union LA
8. 2.0 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27818/80–1045
2. 17–073–20344–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–219
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27819/80–1044
2. 17–073–20315–0000
3. 108 000 000
4. IMC Exploration Co
5. Richland Plantation #F–220
6. Monroe Gas Field
7. Ouachita LA
8. 1.6 million cubic feet
9. April 16, 1980
10. IMC Pipeline Co
1. 80–27820/80–864
2. 17–111–20438–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. L Parker III No 2 Serial #145217
6. Monroe
7. Union LA
8. .8 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27821/80–863
2. 17–111–20437–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. L Parker III No 1 serial #145216
6. Monroe
7. Union La
8. .8 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27822/80–862
2. 17–111–20436–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. L Parker J No 2 serial #145215
6. Monroe
7. Union La
8. 2.0 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27823/80–861
2. 17–111–20435–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. L Parker J No 1 serial #145214
6. Monroe
7. Union La
8. 192.7 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27824/80–860
2. 17–111–20398–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon-Arco III No 6 serial #144320
6. Monroe
7. Union La
8. .3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27825/80–859
2. 17–111–20399–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon-Arco III No 5 serial #144321
6. Monroe
7. Union La
8. .3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27826/80–858
2. 17–111–20400–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon-Arco III No 2 serial #144322
6. Monroe
7. Union La
8. .3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27827/80–857
2. 17–111–20401–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon-Arco III No 3 serial #144323
6. Monroe
7. Union La
8. .3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27828/80–856
2. 17–111–20402–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon-Arco III No 2 Serial #144324
6. Monroe
7. Union La
8. .3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27829/80–855
2. 17–111–20403–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon-Arco III No 1 serial #144325
6. Monroe
7. Union La
8. .3 million cubic feet
9. April 16, 1980
10. Gas Transportation Corp
1. 80–27830/80–830
2. 17–111–20897–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. J H Reppond B No 2 serial #151767
6. Monroe
7. Union La
8. 5.2 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27831/80–829
2. 17–067–21000–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper D No 7 serial #
6. Monroe
7. Morehouse La
8. 5.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc
1. 80–27832/80–828

V 45 M Y 23 80 UMI

2. 17–067–20999–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper D No 6 serial #1
6. Monroe
7. Morehouse La
8. 5.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27833/80–827
2. 17–067–20981–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper D No 5 serial #
6. Monroe
7. Morehouse La
8. 5.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27834/80–826
2. 17–067–20980–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper D No 4 serial #1
6. Monroe
7. Morehouse La
8. 5.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27835/80–825
2. 17–067–20977–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper D No 1 serial #
6. Monroe
7. Morehouse La
8. 5.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27836/80–824
2. 17–067–20952–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper F No 2 serial #1
6. Monroe
7. Morehouse La
8. 8.1 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27837/80–823
2. 17–067–20951–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. International Paper F No 1 serial #
6. Monroe
7. Morehouse La
8. 8.1 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27838/80–822
2. 17–111–21009–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon II No 9 serial #152886
6. Monroe
7. Union La
8. 1.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27839/80–889
2. 17–073–20311–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil 9460 #3
6. Monroe
7. Ouachita La
8. 10.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27840/80–888
2. 17–073–20310–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil 9460 #2
6. Monroe
7. Ouachita La
8. 13.8 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27841/80–887
2. 17–073–20282–0000
3. 108 000 000
4. Allied Petroleum Co
5. Pennzoil 9460 #1
6. Monroe
7. Ouachita La
8. 8.3 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27842/80–886
2. 17–073–20105–0000
3. 108 000 000
4. Allied Petroleum Co
5. Osterland #C–1
6. Monroe
7. Ouachita La
8. 1.6 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27843/80–885
2. 17–073–20094–0000
3. 108 000 000
4. Allied Petroleum Co
5. Osterland #3
6. Monroe
7. Ouachita La
8. 5.2 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27844/80–884
2. 17–073–20093–0000
3. 108 000 000
4. Allied Petroleum Co
5. Osterland #2
6. Monroe
7. Ouachita La
8. 4.5 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27845/80–883
2. 17–073–20092–0000
3. 108 000 000
4. Allied Petroleum Co
5. Osterland #1
6. Monroe
7. Ouachita La
8. 6.6 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27846/80–882
2. 17–073–20227–0000
3. 108 000 000
4. Allied Petroleum Co
5. Waddill #2
6. Monroe
7. Ouachita La
8. 5.2 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27847/80–881
2. 17–073–20226–0000
3. 108 000 000
4. Allied Petroleum Co
5. Waddill #1
6. Monroe
7. Ouachita La
8. 5.2 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27848/80–880
2. 17–073–20175–0000
3. 108 000 000
4. Allied Petroleum Co
5. Smith #2
6. Monroe
7. Ouachita La
8. 10.7 million cubic feet
9. April 16, 1980
10. United Gas Pipeline Co

1. 80–27849/80–835
2. 17–083–20308–0000
3. 108 000 000
4. Strahan Oil & Gas Co Inc
5. O B Mitchell #4
6. Richland Gas
7. Richland La
8. 9.9 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27850/80–834
2. 17–083–20202–0000
3. 108 000 000
4. Strahan Oil & Gas Co Inc
5. W G Taylor #1
6. Richland Gas
7. Richland La
8. 13.6 million cubic feet
9. April 16, 1980
10. Mid Louisiana Gas Co

1. 80–27851/80–833
2. 17–111–20961–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon Cti No 3 Serial #152380
6. Monroe
7. Union LA
8. 4.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27852/80–832
2. 17–111–20960–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. Exxon Cti No 2 Serial #152379
6. Monroe
7. Union LA
8. 4.7 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27853/80–831
2. 17–111–20895–0000
3. 108 000 000
4. Equitable Petroleum Corp
5. N S McCormick B No 1 Serial #151765
6. Monroe
7. Union Parish LA
8. 3.3 million cubic feet
9. April 16, 1980
10. Central Transmission Inc

1. 80–27854/80–854
2. 17–049–20120–0000
3. 102 000 000
4. McGoldrick Oil Co
5. Hoss Ra Suff H L Hogan #1
6. Clear Branch
7. Jackson LA
8. 1095.0 million cubic feet
9. April 16, 1980
10. Louisiana Intrastate Gas Corp

1. 80–27855/80–853
2. 17–063–20020–0000
3. 107 000 000
4. Amoco Production Co
5. Barnett Heirs No 1
6. Lockhart Crossing
7. Livingston LA
8. 1825.0 million cubic feet
9. April 16, 1980
10.

1. 80–27856/80–851
2. 17–073–00005–0000
3. 108 000 000
4. Pennzoil Producing Co
5. Smith No 4–D
6. Monroe
7. Ouachita LA
8. 12.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

1. 80–27857/80–852
2. 17–057–21382–0000
3. 107 000 000
4. Union Oil Co of California
5. State Lease 3088 Well No 16
6. Timbalier Bay
7. LaFourche LA
8. 40.0 million cubic feet
9. April 16, 1980
10. United Gas Pipe Line Co

Oklahoma Corporation Commission

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80–27406/02957
2. 35–003–00000–0000
3. 108 000 000
4. Vaughn Good
5. Castle =1
6. Wildcat
7. Alfalfa OK
8. 21.0 million cubic feet
9. April 17, 1980
10. Pioneer Gas Products Co

1. 80–27407/02962
2. 35–053–00000–0000
3. 103 000 000
4. Vaughn Good
5. Parker =1
6. South Deer Creek
7. Grant OK
8. 35.0 million cubic feet
9. April 17, 1980
10.

1. 80–27408/02558
2. 35–139–00000–0000
3. 108 000 000
4. Kaiser Francis Oil Co
5. A E Sharp =1
6. Hugoton
7. Texas OK
8. 21.0 million cubic feet
9. April 17, 1980
10. Cities Service Gas Co

1. 80–27409/02955
2. 35–003–00000–0000
3. 103 000 000
4. Vaughn Good
5. Keiffer #1
6. Ringwood
7. Alfalfa OK
8. 40.0 million cubic feet
9. April 17, 1980
10. Oklahoma Gas and Electric Co

1. 80–27410/02964
2. 35–019–21670–0000
3. 103 000 000
4. Shell Oil Co
5. Pruitt 17
6. Sholem Alechem
7. Carter OK
8. 110.0 million cubic feet
9. April 17, 1980
10. Mobil Oil Corp

1. 80–27411/02988
2. 35–063–26556–0000
3. 108 000 000
4. Mitchell Oil Co
5. Argo #1
6. Greasy Creek
7. Hughes OK
8. 1.5 million cubic feet
9. April 17, 1980
10. Public Service Co of Oklahoma

1. 80–27412/02451
2. 35–093–00000–0000
3. 108 000 000
4. Okmar Oil Co
5. Burdick 1–23
6. Goltry
7. Major OK
8. 14.0 million cubic feet
9. April 17, 1980
10. Union Texas Petroleum

1. 80–27413/02984
2. 35–059–20371–0000
3. 108 000 000
4. Cotton Petroleum Corp
5. Chabino No 1
6. Lovedale
7. Harper OK
8. 18.5 million cubic feet
9. April 17, 1980
10. Delhi Gas Pipeline Corp

1. 80–27414/03001
2. 35–093–21291–0000
3. 103 000 000
4. Universal Resources Corp
5. State #2–33
6. Dane
7. Major OK
8. 13.0 million cubic feet
9. April 17, 1980
10. Delhi Gas Pipeline Corp

1. 80–27415/03020
2. 35–059–20735–0000
3. 103 000 000
4. Gulf Oil Corp
5. W A Dunsworth No 3–27
6. Laverne
7. Harper OK
8. 178.0 million cubic feet
9. April 17, 1980
10. Colorado Interstate Gas Co, Michigan Wisconsin Pipeline Co

1. 80–27416/03019
2. 35–103–20792–0000
3. 103 000 000
4. Texas American Oil Corp
5. Oren Clavin Well No 2
6. Northeast Billings Prospect
7. Noble OK
8. 16.0 million cubic feet
9. April 17, 1980
10. Atlantic Richfield Company

1. 80–27417/03024
2. 35–071–21158–0000
3. 103 000 000
4. Demco Oil & Gas Company
5. Hensley #1
6. Unnamed
7. Kay OK
8. 6.8 million cubic feet
9. April 17, 1980
10. Chase Exploration Corporation, Cities Service Gas Co

1. 80–27418/01236
2. 35–137–21939–0000
3. 103 000 000
4. Arco Oil and Gas Company
5. East Velma West Blk Sims Sant Ut #42
6. Sho-Vel-Tum
7. Stephens OK
8. 3.6 million cubic feet
9. April 17, 1980
10. Getty Oil Company

1. 80–27419/03310
2. 35–147–20809–0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Cato-Woodall (BN–8)
6. N E Wayside
7. Washington OK
8. .0 million cubic feet
9. April 17, 1980
10. Cities Service Gas Co

1. 80–27420/03014
2. 35–139–00000–0000
3. 108 000 000
4. Cities Service Co
5. Roofner A #1 (Topeka)
6. Carthage
7. Texas OK
8. 4.8 million cubic feet
9. April 17, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–27421/03026
2. 35–017–21055–0000
3. 103 000 000
4. NFC Petroleum Corp
5. Drabek No 1–18
6. Richland
7. Canadian OK
8. 200.0 million cubic feet
9. April 17, 1980
10. Continental Oil Company, Phillips Petroleum Co

1. 80–27422/03018
2. 35–103–20737–0000
3. 103 000 000
4. Texas American Oil Corporation
5. Oren Clavin Well No 1
6. Northeast Billings Prospect
7. Noble OK
8. 16.0 million cubic feet
9. April 17, 1980
10. Atlantic Richfield Company

1. 80–27423/03041
2. 35–011–20482–0000
3. 108 000 000 Denied
4. Universal Resources Corporation
5. Goforth #1–30

V 45 M Y 23 80 UMI

6. Okeene Northwest
7. Blaine OK
8. 18.0 million cubic feet
9. April 17, 1980
10. Delhi Gas Pipeline Corporation

1. 80–27424/02992
2. 35–109–20396–0000
3. 103 000 000
4. Cities Service Company
5. Lord Prue Sand Unit #405
6. Oklahoma City
7. Oklahoma OK
8. .3 million cubic feet
9. April 17, 1980
10. Phillips Petroleum Company

1. 80–27425/02916
2. 35–043–00000–0000
3. 108 000 000
4. Sarkeys Inc
5. Bailey No 1–18
6. N W Leedey
7. Dewey OK
8. 2.5 million cubic feet
9. April 17, 1980
10. Phillips Petroleum Company

1. 80–27426/02980
2. 35–047–00000–0000
3. 103 000 000
4. Petro-Lewis Corporation
5. Havlik 18–1
6. N W Bison
7. Garfield OK
8. 75.0 million cubic feet
9. April 17, 1980
10. Panhandle Eastern Pipeline Co

1. 80–27427/02981
2. 35–047–00000–0000
3. 103 000 000
4. Petro-Lewis Corporation
5. Goodpasture 26–2
6. Sooner Trend
7. Garfield OK
8. 19.0 million cubic feet
9. April 17, 1980
10. Partnership Properties Co

1. 80–27428/02982
2. 35–093–00000–0000
3. 103 000 000
4. Petro-Lewis Corporation
5. Osborne 25–2
6. Sooner Trend
7. Major OK
8. 52.0 million cubic feet
9. April 17, 1980
10. Partnership Properties Co

1. 80–27429/02978
2. 35–073–22010–0000
3. 103 000 000
4. Petro-Lewis Corporation
5. Pribyl 4–2
6. Sooner Trend
7. Kingfisher OK
8. 7.0 million cubic feet
9. April 17, 1980
10. Exxon Company USA

1. 80–27430/02976
2. 35–073–21921–0000
3. 103 000 000
4. Petro-Lewis Corporation
5. Marcy 9–1
6. Sooner Trend
7. Kingfisher OK
8. 19.0 million cubic feet
9. April 17, 1980
10. Partnership Properties Co

1. 80–27431/02979
2. 35–073–22059–0000
3. 103 000 000
4. Petro-Lewis Corporation
5. Nixon 2–1 Edna
6. Sooner Trend
7. Kingfisher OK
8. 14.0 million cubic feet
9. April 17, 1980
10. Partnership Properties Co

1. 80–27432/02993
2. 35–017–21030–0000
3. 103 000 000
4. Phillips Petroleum Company
5. Parizek A–1
6. Yukon
7. Canadian OK
8. 333.0 million cubic feet
9. April 17, 1980
10. Panhandle Eastern Pipeline Co

1. 80–27433/02995
2. 35–093–21403–0000
3. 103 000 000
4. Universal Resources Corporation
5. Cain #1–20
6. Dane
7. Major OK
8. 30.0 million cubic feet
9. April 17, 1980
10. Delhi Gas Pipeline Corporation

1. 80–27434/02996
2. 35–093–21277–0000
3. 103 000 000
4. Universal Resources Corporation
5. McConnell #1–26
6. Okeene NW
7. Major OK
8. 18.0 million cubic feet
9. April 17, 1980
10. Delhi Gas Pipeline Corporation

1. 80–27435/02985
2. 35–025–00060–0000
3. 108 000 000
4. Cig Exploration Inc
5. Wilson #1
6. Keyes
7. Cimarron OK
8. 5.0 million cubic feet
9. April 17, 1980
10. Colorado Interstate Gas Co

1. 80–27863/03043
2. 35–093–21573–0000
3. 103 000 000
4. Pioneer Production Corp
5. Jellison #2–6 U
6. NE Chester
7. Major OK
8. 500.0 million cubic feet
9. April 18, 1980
10. Delhi Gas Pipe Line Corp

1. 80–27864/03042
2. 35–093–21573–0000
3. 103 000 000
4. Pioneer Production Corp
5. Jellison #2–6L
6. N E Chester
7. Major OK
8. 730.0 million cubic feet
9. April 18, 1980
10. Dehli Gas Pipeline Corp

1. 80–27865/03373
2. 35–017–20869–0000
3. 103 000 000
4. Conoco Inc
5. Porter Unit No 1–1
6. S El Reno
7. Canadian OK
8. 76.3 million cubic feet
9. April 18, 1980
10. Transok Pipe Line Co

1. 80–27866/03044
2. 35–047–21705–0000
3. 103 000 000
4. Andover Oil Co
5. Markwell Guardian #4–1
6. Enid Northeast
7. Garfield OK
8. 140.0 million cubic feet
9. April 18, 1980
10.

1. 80–27867/02615
2. 35–019–00000–0000
3. 108 000 000
4. Mobil Oil Corp
5. Walter Neustadt #22
6. Sho Vel Tum
7. Carter OK
8. 12.8 million cubic feet
9. April 18, 1980
10. Lone Star Gas Co

1. 80–27868/03099
2. 35–017–20966–0000
3. 103 000 000
4. Andover Oil Co
5. Ratcliff #19–1
6. Richland
7. Canadian OK
8. 175.0 million cubic feet
9. April 18, 1980
10. Phillips Petroleum Co

1. 80–27869/03101
2. 35–047–21746–0000
3. 103 000 000
4. Andover Oil Co
5. Hedges #22–1
6. Sooner Trend
7. Garfield OK
8. 60.0 million cubic feet
9. April 18, 1980
10.

1. 80–27870/03102
2. 35–103–20822–0000
3. 103 000 000
4. Southwestern Explor Consultants Inc
5. Edwards #1
6. Polo
7. Noble OK
8. .0 million cubic feet
9. April 18, 1980
10. Arco Oil & Gas Co

1. 80–27871/03100
2. 35–129–20361–0000
3. 103 000 000
4. Kerr-McGee Corp
5. Easterling Well #1
6. NE Reydon Field
7. Roger Mills OK
8. .0 million cubic feet
9. April 18, 1980
10. El Paso Natural Gas Co

1. 80–27872/03069
2. 35–051–00000–0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Thomas Charlson #4
6. Chickasha
7. Grady OK
8. 14.0 million cubic feet
9. April 18, 1980
10. Arkansas Louisiana Gas Co

1. 80–27873/03065
2. 35–007–00000–0000
3. 108 000 000
4. Crawley Petroleum Corp
5. Gene Grove #1
6. Light Gas Area
7. Beaver OK
8. 13.0 million cubic feet
9. April 18, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–27874/03375
2. 35–017–20931–0000
3. 103 000 000
4. Conoco Inc
5. Yeck No 1
6. Banner
7. Canadian OK
8. 82.1 million cubic feet
9. April 18, 1980
10. Phillips Petroleum Co

1. 80–27875/03061
2. 35–045–20679–0000
3. 103 000 000
4. An-Son Corp
5. Berryman #1–23
6. Berryman #1–23
7. Ellis OK
8. 110.0 million cubic feet
9. April 18, 1980
10. Panhandle Eastern Pipeline Co

1. 80–27876/03337
2. 35–075–00000–0000
3. 108 000 000
4. Ed L Markwell Jr
5. Osmond No 1–075–11625
6. North Gotebo NE/4 of Sec 4–7N–16W
7. Kiowa OK
8. 15.6 million cubic feet
9. April 18, 1980
10. Oklahoma Natural Gas Co

1. 80–27877/01409
2. 35–117–00000–0000
3. 102 000 000
4. Ronald Grubb
5. State Tract 15-Well No 3
6. Northwest Ingalls
7. Payne OK
8. 200.0 million cubic feet
9. April 18, 1980
10. Colorado Gas Compression Inc

1. 80–27878/01413
2. 35–117–00000–0000
3. 102 000 000
4. Ronald Grubb
5. State Tract 15-Well No 1
6. Northwest Ingalls
7. Payne OK
8. 200.0 million cubic feet
9. April 18, 1980
10. Colorado Gas Compression Inc

1. 80–27879/03035
2. 35–073–00000–0000
3. 108 000 000
4. Kirkpatrick Oil Co
5. Haymaker B No 1
6. Sooner Trend
7. Kingfisher OK
8. 1.2 million cubic feet
9. April 18, 1980
10. Exxon Corp

1. 80–27880/03077
2. 35–059–20387–0000
3. 108 000 000
4. Ong Exploration Inc
5. Smith #1 Well
6. Southwest Parker
7. Harper OK
8. 9.8 million cubic feet
9. April 18, 1980
10. Delhi Gas Pipeline Corp

1. 80–27881/03103
2. 35–093–00000–0000
3. 108 000 000
4. Sun Oil Co
5. Scannell–B Ut No 1
6. Ringwood
7. Major OK
8. 17.0 million cubic feet
9. April 18, 1980
10. Oklahoma Natural Gas Gathering Corp

1. 80–27882/03058
2. 35–017–21098–0000
3. 103 000 000
4. ONG Exploration Inc
5. Zaloudik #4
6. North Yukon
7. Canadian OK
8. .0 million cubic feet
9. April 18, 1980
10.

1. 80–27883/03064
2. 35–047–21656–0000
3. 103 000 000
4. Harper Oil Co
5. Courter #2
6. Sooner Trend
7. Garfield OK
8. 310.0 million cubic feet
9. April 18, 1980
10. Arkansas Louisiana Gas Co

1. 80–27884/03049
2. 35–047–21521–0000
3. 103 000 000
4. Texas American Oil Corp
5. Hubbard Farms Inc Well No 1
6. Sooner Trend
7. Garfield OK
8. 2.0 million cubic feet
9. April 18, 1980
10. Oklahoma Natural Gas Co

1. 80–27885/03105
2. 35–137–00000–0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Beulah A Warden #9
6. Sho-Vel-Tum
7. Stephens OK
8. 7.5 million cubic feet
9. April 18, 1980
10. Getty Oil Co

United States Geological Survey, Casper, Wyoming

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80–27858/UC 1299–9
2. 43–407–30563–0000–0
3. 103 000 000
4. Conoco Inc
5. Conoco Federal 35 No 5
6. Ouray
7. Uintah UT
8. 240.0 million cubic feet
9. April 16, 1980
10. Mountain Fuel Supply Co

1. 80–27859/UC 1282–9
2. 43–019–30308–0000–0
3. 103 000 000
4. NP Energy Corporation
5. Federal #31–1A
6. Cisco Dome
7. Grand UT
8. 23.0 million cubic feet
9. April 16, 1980
10. Northwest Pipeline Corp

1. 80–27860/UC 1252–9
2. 43–019–30487–0000–0
3. 103 000 000
4. NP Energy Corp
5. Federal #14–2
6. Cisco Dome
7. Grand UT
8. 36.0 million cubic feet
9. April 16, 1980
10. Northwest Pipeline Corp

1. 80–27861/UC 1245–9
2. 43–019–30356–0000–0
3. 103 000 000
4. NP Energy Corp
5. Federal 24–1
6. Cisco Dome Area
7. Grand UT
8. 18.2 million cubic feet
9. April 16, 1980
10. Northwest Pipeline Corp

1. 80–27862/UC 1244–9
2. 43–019–30485–0000–0
3. 103 000 000
4. NP Energy Corp
5. Federal #1–11
6. Cisco Dome
7. Grand UT
8. 144.0 million cubic feet
9. April 16, 1980
10. Northwest Pipeline Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

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[No. 204]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

May 19, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Mississippi Oil and Gas Board

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31796/19–80–483
2. 23–087–20033–0000
3. 102 000 000
4. Elf Aquitaine Inc
5. L Smith #1–A
6. Caledonia
7. Lowndes MS
8. 730.0 million cubic feet
9. May 6, 1980
10. Tennessee Gas Pipeline Co

Texas Railroad Commission, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31484/00335
2. 42–483–00000–0000
3. 108 000 000
4. Morgas
5. George B#2 26391
6. East Panhandle
7. Wheeler TX
8. .4 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co

1. 80–31485/00336
2. 42–483–00000–0000
3. 108 000 000
4. Morgas
5. Coates #1 26703
6. East Panhandle
7. Wheeler TX
8. 1.1 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co

1. 80–31486/00338
2. 42–483–00000–0000
3. 108 000 000
4. Morgas
5. George A #1 26705
6. East Panhandle
7. Wheeler TX
8. 12.1 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co

1. 80–31487/00339
2. 42–483–00000–0000
3. 108 000 000
4. Morgas
5. George C #1 26706
6. East Panhandle
7. Wheeler TX
8. 4.4 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co

1. 80–31488/00470
2. 42–203–00000–0000
3. 108 000 000
4. The Maurice L Brown Co
5. Kranson-Green Gas Unit #1
6. Bethany-Pettit
7. Harrison TX
8. 19.0 million cubic feet
9. May 7, 1980
10. United Gas Pipeline Co

1. 80–31489/00602
2. 42–483–00000–0000
3. 103 000 000
4. Amarex Inc
5. Rogers Unit #1
6. Wheeler-Pan (Hunton)
7. Wheeler TX
8. 1427.9 million cubic feet
9. May 7, 1980
10. Arkansas Louisiana Gas Co

1. 80–31490/00920
2. 42–179–00000–0000
3. 108 000 000
4. F A Alvey
5. Gethin BI 25898
6. Panhandle East District 10
7. Gray TX
8. 11.1 million cubic feet
9. May 7, 1980
10. Cities Service Co, Coltexo

1. 80–31491/00921
2. 42–179–00000–0000
3. 108 000 000
4. F A Alvey
5. Gethin #2 25897
6. Panhandle East District 10
7. Gray TX
8. 8.9 million cubic feet
9. May 7, 1980
10. Coltexo Corp

1. 80–31492/01353
2. 42–079–30857–0000
3. 103 000 000
4. Sun Oil Co
5. League 91 Project No 129
6. Slaughter (Slaughter Plant)
7. Cochran TX
8. 7.0 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co, Amoco Production Company

1. 80–31493/01385
2. 42–105–31681–0000
3. 103 000 000
4. American Petrofina Co of Texas
5. Baggett C No 3
6. Baggett (Clearfork)
7. Crockett TX
8. 32.0 million cubic feet
9. May 7, 1980
10. Northern Natural Gas Co

1. 80–31494/01917
2. 42–481–31525–0000
3. 102 103 000
4. Vanderbilt Resources Corp
5. Stockton No 1
6. Stockton (Catahoula)
7. Wharton TX
8. 73.0 million cubic feet
9. May 7, 1980
10. Tennessee Gas Pipeline Co

1. 80–31495/01988
2. 42–211–00000–0000
3. 108 000 000
4. Anadarko Production Co
5. Macias A No 1–25
6. Hemphill GW
7. Hemphill TX
8. 5.7 million cubic feet
9. May 7, 1980
10. Panhandle Eastern Pipeline Co

1. 80–31496/02089
2. 42–221–00000–0000
3. 102 000 000
4. UV Industries Inc
5. Seale No 1
6. Bratten Ranch Strawn & Marble Falls
7. Hood TX
8. 21.9 million cubic feet
9. May 7, 1980
10.

1. 80–31497/02151
2. 42–123–00000–0000
3. 103 000 000
4. Varn Petroleum Co
5. Wuest No 1
6. Thomaston Field
7. Dewitt TX
8. 110.0 million cubic feet
9. May 7, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31498/02207
2. 42–003–00000–0000
3. 108 000 000
4. Adobe Oil & Gas Corp
5. Cowden B No 2
6. North Goldsmith (San Andres Consolidated)
7. Andrews TX
8. 11.8 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31499/02285
2. 42–497–31212–0000
3. 102 000 000
4. Mitchell Energy Corp
5. Winford Carter A =1 76794
6. Boonesville Bend Conglomerate
7. Wise TX
8. 263.0 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America

1. 80–31500/–02317
2. 42–461–31219–0000
3. 103 000 000
4. Gulf Oil Corp
5. Crier—McElroy No 302
6. McElroy
7. Upton TX
8. 2.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31501/02321
2. 42–461–31222–0000
3. 103 000 000
4. Gulf Oil Corp

5. Crier—McElroy No 307
6. McElroy
7. Upton TX
8. 4.7 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31502/02333
2. 42–461–31245–0000
3. 103 000 000
4. Gulf Oil Corp
5. McElroy Cons No 1 M–1022
6. McElroy
7. Upton TX
8. .5 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31503/02337
2. 42–461–31180–0000
3. 103 000 000
4. Gulf Oil Corp
5. J T McElroy Cons No 998
6. McElroy
7. Upton TX
8. .8 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31504/02377
2. 42–461–31170–0000
3. 103 000 000
4. Gulf Oil Corp
5. J T McElroy Cons No 995
6. McElroy
7. Upton TX
8. 12.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31505/02381
2. 42–461–31182–0000
3. 103 000 000
4. Gulf Oil Corp
5. J T McElroy Cons No 1000
6. McElroy
7. Upton TX
8. .6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31506/02385
2. 42–461–31190–0000
3. 103 000 000
4. Gulf Oil Corp
5. J T McElroy Cons No 1004
6. McElroy
7. Upton TX
8. 1.2 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31507/02733
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Jordan D No 22
6. Panhandle—West
7. Carson TX
8. .8 million cubic feet
9. May 7, 1980
10. Cabot Corp

1. 80–31508/02887
2. 42–427–05128–0000
3. 108 000 000
4. Energy Reserves Group Inc
5. Groos National Bank =3-L
6. S. Gregg Wood
7. Starr TX
8. 1.0 million cubic feet
9. May 7, 1980
10. South Texas Natural Gas Gathering Co

1. 80–31509/02888
2. 42–427–03069–0000
3. 108 000 000
4. Energy Reserves Group Inc
5. Groos National Bank #1
6. Gregg Wood
7. Starr TX
8. 1.0 million cubic feet
9. May 7, 1980
10. South Texas Natural Gas Gathering Co

1. 80–31510/02918
2. 42–237–00000–0000
3. 108 000 000
4. Miles Production Co
5. J B Whitaker #1 21578
6. East Perrin (CADDO)
7. Jack TX
8. 9.0 million cubic feet
9. May 7, 1980
10. Southwestern Gas Pipeline Inc

1. 80–31511/03006
2. 42–355–30535–0000
3. 108 000 000
4. Energy Reserves Group Inc
5. Thompson Gas Unit 23 #2T
6. East Riverside
7. Nueces TX
8. 11.0 million cubic feet
9. May 7, 1980
10. Tennessee Gas Pipeline Co

1. 80–31512/03043
2. 42–133–30352–0000
3. 108 000 000
4. Transierra Exploration Corp
5. Plowman #3 Lease No 75530
6. Eastland County Regular (Gas)
7. Eastland TX
8. .0 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co

1. 80–31513/03073
2. 42–391–00000–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Marberry A Well #6
6. McFaddin (Greta Stringer)
7. Refugio TX
8. 128.0 million cubic feet
9. May 7, 1980
10. United Gas Pipeline Co

1. 80–31514/03160
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg 62 No 12
6. Panhandle Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co

1. 80–31515/03174
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 18
6. Panhandle Hutchinson
7. Hutchinson TX
8. .1 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co

1. 80–31516/03391
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cooper Olive No 2
6. Panhandle Carson
7. Carson TX
8. .2 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31517/03401
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cooper Olive No 1
6. Panhandle Carson
7. Carson TX
8. .5 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31518/03424
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cooper Olive No 4
6. Panhandle Carson
7. Carson TX
8. .6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31519/03512
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J J Perkins C #2-D
6. Panhandle—Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31520/03513
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J J Perkins C 3-D (01762–3)
6. Panhandle—Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31521/03515
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J J Perkins #5 Lease #01762
6. Panhandle—Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31522/03516
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J J Perkins C. #4-D
6. Panhandle—Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31523/03517
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. Gulf Whittenburg #2—Lease 02271
6. Panhandle—Hutchinson
7. Hutchinson TX
8. .0 million cubic feet

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9. May 7, 1980
10. Phillips Petroleum Co
1. 80-31524/03518
2. 42-233-00000-0000
3. 108 000 000
4. Rogatz & Glass
5. Gulf Whittenburg #1—Lease 02271
6. Panhandle—Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80-31525/03678
2. 42-135-03166-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Goldsmith Andector Unit J-7 (21193)
6. Goldsmith (Clearfork)
7. Ector TX
8. 1.5 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co
1. 80-31526/03682
2. 42-135-00388-0000
3. 108 000 000
4. Phillips Petroleum Co
5. G S Andector Unit H-19 (21193)
6. Goldsmith (Clearfork)
7. Ector TX
8. 10.7 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co
1. 80-31527/03692
2. 42-481-31468-0000
3. 102 000 000
4. Eaton Operating Co
5. North Unit No 1-75988
6. Bonus N (Wilcox) Field
7. Wharton TX
8. 400.0 million cubic feet
9. May 7, 1980
10. Trunkline Gas Co
1. 80-31528/03753
2. 42-215-00000-0000
3. 103 000 000
4. Forest Oil Corp
5. A A McAllen No 16 RRC ID #74826
6. McAllen Ranch Field
7. Hidalgo TX
8. 341.0 million cubic feet
9. May 7, 1980
10. Lo-Vaca Gathering Co, Channel Industries Gas Co
1. 80-31529/03770
2. 42-135-02440-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Alma No 7 (06960)
6. TXL (Ellenburger)
7. Ector TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Shell Oil Co
1. 80-31530/03930
2. 42-185-30059-0000
3. 102 000 000
4. Cashco Energy Corp
5. F I Johnson No 4
6. Hill (Woodbine)
7. Grimes TX
8. 150.0 million cubic feet
9. May 7, 1980
10. Armour Pipe Line Co
1. 80-31531/03944
2. 42-025-00000-0000
3. 108 000 000
4. Reserve Oil Inc.
5. Edler #22 RRC #74607
6. Yougeen
7. Bee TX
8. 3.6 million cubic feet
9. May 7, 1980
10. United Gas Pipeline Co
1. 80-31532/03991
2. 42-427-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Eloy No 3
6. Kelsey South
7. Starr TX
8. 5.5 million cubic feet
9. May 7, 1980
10. Sun Oil Co
1. 80-31533/04005
2. 42-135-06441-0000
3. 108 000 000
4. Phillips Petroleum Co
5. North Penwell Unit 97 (21556)
6. Penwell
7. Ector, TX
8. .4 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co
1. 80-31534/04022
2. 42-475-30993-0000
3. 102 000 000
4. Monsanto Co
5. Rodgers #1 #75102
6. Rodgers (Ellenburger)
7. Ward County, TX
8. 1058.0 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31535/04086
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. C P Davis #1 10029
6. Alvord (Atoka Cong)
7. Wise, TX
8. 2.2 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31536/04080
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Thomas Hodges #1 42002
6. Boonsville Bend Cong
7. Wise, TX
8. 2.3 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31537/04100
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. D P Everett #1 21159
6. Alvord (Caddo Congl)
7. Wise TX
8. 3.9 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31537/04104
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W W Hollingsworth #1 28676
6. Boonsville Bend Cong
7. Wise, TX
8. 7.3 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31539/04108
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W R Hipp #1 68368
6. Whitehall (Caddo Cong)
7. Wise, TX
8. 3.1 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31540/04125
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Ornee Stewart #2 28817
6. Boonsville Bend Cong
7. Jack, TX
8. 4.9 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31541/04242
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J D Evans #2 12967
6. Tidwell (Strawn 4600)
7. Wise, TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31542/04255
2. 42-357-00000-0000
3. 108 000 000
4. Texaco Inc
5. W C Herndon C #1
6. Dude Wilson
7. Ochiltree, TX
8. 2.5 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co
1. 80-31543/04256
2. 42-179-00000-0000
3. 108 000 000
4. Texaco Inc
5. McLarty Lester A #1
6. Panhandle East
7. Gray, TX
8. 6.9 million cubic feet
9. May 7, 1980
10. Coltexo Corp
1. 80-31544/04272
2. 42-179-00000-0000
3. 108 000 000
4. Texaco Inc
5. McLarty Lester B #15
6. Panhandle East
7. Gray, TX
8. 13.9 million cubic feet
9. May 7, 1980
10. Coltexo Corp
1. 80-31545/04435
2. 42-003-10498-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Bitler No 60 (17015)
6. Fullerton
7. Andrews, TX
8. .2 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co
1. 80-31546/04478

2. 42-135-04592-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Slat No 3 (18184)
6. TXL (Central Waddell)
7. Ector, TX
8. 9.2 million cubic feet
9. May 7, 1980
10. Shell Oil Co
1. 80-31547/04741
2. 42-479-00000-0000
3. 108 000 000
4. Fremont Energy Corp
5. T S Scibienski (T-2-1) 74276
6. La Cruz (Olmos)
7. Webb, TX
8. 7.1 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31548/04763
2. 42-103-31934-0000
3. 103 000 000
4. Warren Pet Co Div/Gulf Oil Corp
5. P J Lea et al =83
6. Lea (San Andres)
7. Crane, TX
8. 44.0 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co
1. 80-31549/04742
2. 42-479-00000-0000
3. 108 000 000
4. Fremont Energy Corp
5. RO & G Delores 1 60956
6. La Cruz (Olmos)
7. Webb, TX
8. 4.7 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31550/04770
2. 42-479-00000-0000
3. 108 000 000
4. Fremont Energy Corp
5. Rosa De Benavides =1 55649
6. La Cruz (Olmos)
7. Webb, TX
8. 7.4 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31551/04771
2. 42-479-00000-0000
3. 108 000 000
4. Fremont Energy Corp
5. Rosa De Benavides =2 55651
6. La Cruz (Olmos)
7. Webb, TX
8. 18.6 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31552/04840
2. 42-479-00000-0000
3. 108 000 000
4. Fremont Energy Corp
5. Rosa De Benavides =6 56269
6. La Cruz (Olmos)
7. Webb, TX
8. 21.6 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31553/04842
2. 42-479-00000-0000
3. 108 000 000
4. Fremont Energy Corp
5. Rosa De Benavides =9 57588
6. La Cruz (Olmos)
7. Webb, TX
8. 2.2 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31554/04843
2. 42-479-31782-0000
3. 108 000 000
4. Fremont Energy Corp
5. Rosa De Benavides #12 74864
6. Mesquite (Escondido)
7. Webb, TX
8. 19.5 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80-31555/04902
2. 42-233-00000-0000
3. 108 000 000
4. Superior Well Servicing Co
5. Whittenburg #1 Lease #57375
6. Panhandle
7. Hutchinson, TX
8. .0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80-31556/04927
2. 42-317-31983-0000
3. 103 000 000
4. Amoco Production Co
5. E L Turnbow Well No 3
6. Breedlove
7. Martin, TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co Northern Natural Gas Co
1. 80-31557/04944
2. 42-371-31862-0000
3. 103 000 000
4. Amoco Production Co
5. Edward Dickinson II A 7
6. Pecos Valley/Devonian 5400
7. Pecos, TX
8. 34.0 million cubic feet
9. May 7, 1980
10. PGP Gas Products Inc
1. 80-31558/04963
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. T W Womack #2 28857
6. Boonsville Bend Cong
7. Wise, TX
8. 3.1 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31559/05051
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Bernice Peek #2 44005
6. Boonsville Bend Cong
7. Wise, TX
8. 13.2 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31560/05087
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J W Crawford #1 34722
6. Boonsville Bend Cong
7. Wise, TX
8. 6.6 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31561/05088
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J R Lewis #1 35050
6. Boonsville Bend Cong
7. Wise, TX
8. 7.5 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America
1. 80-31562/05115
2. 42-079-30519-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 189
6. Slaughter
7. Cochran, TX
8. 6.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co
1. 80-31563/05117
2. 42-079-30521-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 187
6. Slaughter
7. Cochran TX
8. 40.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co
1. 80-31564/05119
2. 42-079-30522-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 185
6. Slaughter
7. Cochran TX
8. 45.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co
1. 80-31565/05138
2. 42-079-30520-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 188
6. Slaughter
7. Cochran TX
8. 35.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co
1. 80-31566/05139
2. 42-079-30518-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 190
6. Slaughter
7. Cochran TX
8. 6.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co
1. 80-31567/05141
2. 42-079-30977-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 193
6. Slaughter
7. Cochran TX
8. 12.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co
1. 80-31568/05142
2. 42-79-30516-0000
3. 103 000 000
4. Getty Oil Co
5. C S Dean Unit A No 192

V 45 M Y 23 80 UMI

6. Slaughter
7. Cochran TX
8. 18.0 million cubic feet
9. May 7, 1980
10. Amoco Production Co

1. 80–31569/05527
2. 42–179–00000–0000
3. 108 000 000
4. W L Bruce Oil & Gas Co
5. Merten #12 RRC 00332
6. Panhandle Field
7. Gray TX
8. 1.4 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31570/05529
2. 42–179–00000–0000
3. 108 000 000
4. W L Bruce Oil Co
5. Walberg #7 RRC 00242
6. Panhandle Field
7. Gray TX
8. 1.1 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31571/05541
2. 42–483–30532–0000
3. 103 000 000
4. Chevron USA Inc
5. W W Wheeler #1
6. Mills Ranch
7. Wheeler TX
8. 146.0 million cubic feet
9. May 7, 1980
10. Mississippi River Transmission Corp

1. 80–31572/05558
2. 42–355–31267–0000
3. 102 000 000
4. Sun Oil Co
5. State Tract 424 Well #8
6. Red Fish Bay (Zone 45)
7. Nueces TX
8. 120.0 million cubic feet
9. May 7, 1980
10. United Gas Pipe Line Co

1. 80–31573/05622
2. 42–123–00000–0000
3. 103 000 000
4. Expando Oil Co
5. Egg-Junker No 1 76102
6. Arneckeville (Wilcox A 8150)
7. Dewitt TX
8. 12.0 million cubic feet
9. May 7, 1980
10. Texas Eastern Transmission Corp

1. 80–31574/05725
2. 42–179–00000–0000
3. 108 000 000
4. W L Bruce Co
5. Meers C #12 RRC 00332
6. Panhandle
7. Gray TX
8. 3.4 million cubic feet
9. May 7, 1980
10. Cities Service

1. 80–31575/05987
2. 42–135–30544–0000
3. 103 000 000
4. Conoco Inc
5. West Flowers Unit (11787) #60
6. Flowers W/Canyon Sand
7. Stonewall TX
8. .7 million cubic feet
9. May 7, 1980
10. Cities Service Co

1. 80–31576/06255
2. 42–389–30910–0000
3. 103 000 000
4. Arco Oil & Gas Company
5. R W Hord Well #3
6. Worsham (Cherry Canyon)
7. Reeves TX
8. 175.0 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co

1. 80–31577/06867
2. 42–065–00000–0000
3. 108 000 000
4. Natural Gas Pipeline Co of America
5. J C McConnell No B–1–T
6. Panhandle West
7. Carson TX
8. 6.0 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co of America

1. 80–31578/06892
2. 42–483–30465–0000
3. 102 000 000
4. Pennzoil Company
5. Forsman Gas Unit #1—75882
6. Thorndike (Hunton)
7. Wheeler TX
8. 360.0 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31579/06918
2. 42–065–00000–0000
3. 108 000 000
4. Gene Thomas Hudspeth Jr
5. Bryan–A– (00175) No 2
6. Panhandle Carson County
7. Carson TX
8. 16.6 million cubic feet
9. May 7, 1980
10. Cabot Corp

1. 80–31580/07000
2. 42–057–30830–0000
3. 102 000 000
4. The Superior Oil Co
5. Maude B Traylor 10
6. Maude B Traylor N (78)
7. Calhoun TX
8. 250.0 million cubic feet
9. May 7, 1980
10. Lo Vaca Gathering Co

1. 80–31581/07010
2. 42–179–00000–0000
3. 108 000 000
4. Petro-Search Inc
5. Read #15 (1–090–02709–3)
6. Panhandle
7. Gray TX
8. 7.5 million cubic feet
9. May 7, 1980
10. Dorchester Gas Producing Co

1. 80–31582/07015
2. 42–495–00000–0000
3. 108 000 000
4. Amerada Hess Corp
5. J B Walton #1
6. Kermit
7. Winkler TX
8. 16.8 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31583/07071
2. 42–375–00000–0000
3. 108 000 000
4. Pioneer Production Corp
5. Bivins D #6 35003
6. West Panhandle
7. Potter TX
8. 9.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31584/07162
2. 42–483–00000–0000
3. 108 000 000
4. Beverly M Axelrod
5. D N Massey No 1 26861
6. Panhandle East
7. Wheeler TX
8. 3.0 million cubic feet
9. May 7, 1980
10. Warren Petroleum Corp

1. 80–31585/07165
2. 42–483–00000–0000
3. 108 000 000
4. Kenneth M Axelrod
5. W Hatcher No 5 26973
6. Panhandle East
7. Wheeler TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Warren Petroleum Corp

1. 80–31586/07167
2. 42–483–00000–0000
3. 108 000 000
4. Kenneth M Axelrod
5. Gooch No 1 26963
6. Panhandle East
7. Wheeler TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Warren Petroleum Corp

1. 80–31587/07176
2. 42–483–00000–0000
3. 108 000 000
4. Kenneth M Axelrod
5. A N Williams No 1 26449
6. Panhandle East
7. Wheeler TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31588/07179
2. 42–483–00000–0000
3. 108 000 000
4. Beverly M Axelrod
5. E F Bell No 1 26819
6. Panhandle East
7. Wheeler TX
8. 7.0 million cubic feet
9. May 7, 1980
10. Warren Petroleum Corp

1. 80–31589/07241
2. 42–341–00000–0000
3. 108 000 000
4. W L Bruce Co
5. Morton #10 RRC 02364
6. Panhandle
7. Moore TX
8. 11.2 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31590/07328
2. 42–365–00000–0000
3. 108 000 000
4. Getty Oil Co
5. Carroll A No 1 #32015
6. Carthage (Paluxy)
7. Panola TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Texas Gas Transmission Corp

1. 80–31591/07333
2. 42–365–00000–0000
3. 103 000 000
4. Getty Oil Co
5. J D Brasher No 2 ID #73536
6. Carthage (Cotton Valley)
7. Panola TX
8. 150.0 million cubic feet
9. May 7, 1980
10. United Gas Pipeline Co

1. 80–31592/07356
2. 42–233–00000–0000
3. 108 000 000
4. Cal-Tex Oil Company
5. Carver-C (02730) No 3
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 2.2 million cubic feet
9. May 7, 1980
10. Diamond Shamrock Corp

1. 80–31593/07362
2. 42–233–00000–0000
3. 108 000 000
4. Cal-Tex Oil Co
5. W. A. Carver (25453) Well No. 1
6. Panhandle West
7. Hutchinson, TX
8. 20.1 million cubic feet
9. May 7, 1980
10. Diamond Shamrock Corp

1. 80–31594/07397
2. 42–233–00000–0000
3. 108 000 000
4. Cal-Tex Oil Co
5. Lucas (01111) No. 4
6. Panhandle Hutchinson County
7. Hutchinson, TX
8. 3.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31595/07409
2. 42–233–00000–0000
3. 108 000 000
4. Cal-Tex Oil Co
5. Carver Waterfl Unit No. 2 (00729) No. 1
6. Panhandle Hutchinson County
7. Hutchinson, TX
8. 7.3 million cubic feet
9. May 7, 1980
10. Diamond Shamrock Corp

1. 80–31596/07458
2. 42–065–30632–0000
3. 103 000 000
4. Blair Oil Co
5. Burnett Lease No. 1–101
6. Panhandle Carson County
7. Carson, TX
8. 153.3 million cubic feet
9. May 7, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–31597/07458
2. 42–065–30649–0000
3. 103 000 000
4. Blair Oil Co
5. Burnett Lease No. 2–101
6. Panhandle-Carson County
7. Carson, TX
8. 34.7 million cubic feet
9. May 7, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–31598/07459
2. 42–065–30587–0000
3. 103 000 000
4. Blair Oil Co
5. Burnett Lease No. 2–83
6. Panhandle-Carson County
7. Carson, TX
8. 102.2 million cubic feet
9. May 7, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–31599/07515
2. 42–505–30556–0000
3. 103 000 000
4. Gulf Oil Corporation
5. G. Martinez No. 3 RRC No. 72013
6. J. C. Martin (LOBO)
7. Zapata, TX
8. 20.0 million cubic feet
9. May 7, 1980
10. Tennessee Gas Pipeline Co

1. 80–31600/07602
2. 42–283–30642–0000
3. 102 000 000
4. Mormac Oil & Gas Co
5. C. N. Cooke B No. 3
6. Cooke (Wilcox 4100 West)
7. LaSalle, TX
8. 55.0 million cubic feet
9. May 7, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–31601/07617
2. 42–427–32440–0000
3. 108 000 000
4. Fischer Petroleum Corp
5. Garza B–3
6. Ross North (2490)
7. Starr, TX
8. 10.8 million cubic feet
9. May 7, 1980
10. Tennessee Gas Pipeline Co

1. 80–31602/08058
2. 42–219–30280–0000
3. 102 000 000
4. Amoco Production Co
5. Slaughter G No. 51
6. Sundown (CISCO)
7. Hockley, TX
8. 1.2 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co

1. 80–31603/08070
2. 42–203–30280–0000
3. 102 000 000
4. Amoco Production Co
5. Shaw Gas Unit No. 2
6. Blocker (Cotton Valley)
7. Harrison, TX
8. 95.2 million cubic feet
9. May 7, 1980
10. Delhi Gas Pipeline Corp

1. 80–31604/08096
2. 42–179–31966–0000
3. 108 000 000
4. Travelers Oil Co G-V Project
5. Saunders No. 1
6. East Panhandle
7. Gray, TX
8. 9.1 million cubic feet
9. May 7, 1980
10. Coltexo Corp

1. 80–31605/08361
2. 42–479–31948–0000
3. 102 000 000
4. Houston Oil & Minerals Corp
5. Floyd Billings A No. 4
6. Lopez West (Queen City)
7. Webb, TX
8. 2993.0 million cubic feet
9. May 7, 1980
10. Lovaca Gathering Co

1. 80–31606/08362
2. 42–479–31966–0000
3. 102 000 000
4. Houston Oil & Minerals Corp
5. Floyd Billings A No. 5–C
6. Lopez West (Queen City Upper)
7. Webb, TX
8. 438.0 million cubic feet
9. May 7, 1980
10. Lovaco Gathering Co

1. 80–31607/08374
2. 42–295–30511–0000
3. 103 000 000
4. Jack G Jones
5. Schwab No. 1 75709
6. Darren (Morrow Lower)
7. Lipscomb, TX
8. 375.0 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co

1. 80–31608/08442
2. 42–383–31289–0000
3. 103 000 000
4. Saxon Oil Co
5. University 16–58 No. 2
6. Spraberry (Trend Area)
7. Reagan County, TX
8. 11.0 million cubic feet
9. May 7, 1980
10. Northern Natural Gas Co

1. 80–31609/08526
2. 42–135–32977–0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E. F. Cowden F No. 2
6. Foster
7. Ector, TX
8. 16.4 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31610/08630
2. 42–003–00000–0000
3. 108 000 000
4. B & B Production
5. Cowden A No. 1
6. East Goldsmith (Grayburg)
7. Andrews, TX
8. 1.2 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31611/08648
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Guleke No. 7
6. Panhandle
7. Moore, TX
8. 25.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31612/08661
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. T. G. Smith No. 12
6. Panhandle
7. Moore, TX
8. 16.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31613/08662
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. T. G. Smith No. 13

6. Panhandle
7. Moore, TX
8. 16.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31644/08664
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Guleke No. 4
6. Panhandle
7. Moore, TX
8. 24.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31615/08665
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Guleke No. 3
6. Panhandle
7. Moore, TX
8. 24.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31616/08670
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Ware No. 6
6. Panhandle
7. Moore, TX
8. 11.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31617/08671
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Ware No. 5
6. Panhandle
7. Moore, TX
8. 11.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31618/08672
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Ware No. 4
6. Panhandle
7. Moore, TX
8. 11.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31619/08673
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Ware No. 3
6. Panhandle
7. Moore, TX
8. 12.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31620/08676
2. 42–233–00000–0000
3. 108 000 000
4. DCW Production
5. Burnett K No. 4
6. Panhandle
7. Hutchinson, TX
8. 11.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31621/08677
2. 42–233–00000–0000
3. 108 000 000
4. DCW Production
5. Burnett K No. 5
6. Panhandle
7. Hutchinson, Tx
8. 11.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31622/08682
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. J. F. Weatherly A No. 6
6. Panhandle
7. Hutchinson, TX
8. 29.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31623/08683
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. J F Weatherly A #8
6. Panhandle
7. Hutchinson TX
8. 29.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31624/08690
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. J F Weatherly A #4
6. Panhandle
7. Hutchinson TX
8. 29.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31625/08699
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. Burnett I #1
6. Panhandle
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31626/08700
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. McCarty #10
6. Panhandle
7. Hutchinson TX
8. 13.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31627/08702
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. McCarty #8
6. Panhandle
7. Hutchinson TX
8. 13.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31628/08732
2. 42–427–00000–0000
3. 108 000 000
4. Huisache Operating Co
5. J F B Heard #3 #62155
6. Rincon North (4100)
7. Starr County TX
8. 12.8 million cubic feet
9. May 7, 1980
10. Lovaca Gathering Co
1. 80–31629/08734
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. J A Whittenburg #2
6. Panhandle
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31630/08735
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. J A Whittenburg #3
6. Panhandle
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31631/08736
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. J A Whittenburg #4
6. Panhandle
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31632/08738
2. 42–065–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Four Sixes #2
6. Panhandle
7. Carson TX
8. 17.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31633/08739
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Four Sixes #1
6. Panhandle
7. Carson, TX
8. 17.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31634/08741
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Whittenburg A #7
6. Panhandle
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31635/08742
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Whittenburg A #6
6. Panhandle
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31636/08743
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Whittenburg A #5
6. Panhandle
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31637/08748
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Turner Smith #4
6. Panhandle
7. Hutchinson TX
8. 14.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31638/08749
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Turner Smith #3
6. Panhandle
7. Hutchinson TX
8. 15.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31639/08777
2. 42–179–00000–0000
3. 108 000 000
4. J W Snider
5. Johnson Estate 1–176
6. Panhandle-Gray County
7. Gray TX
8. 4.9 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co
1. 80–31640/08812
2. 42–165–31208–0000
3. 108 000 000
4. Samedan Oil Corp
5. Andrews A No 5
6. Robertson (SA)
7. Gaines TX
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31641/08842
2. 42–495–00000–0000
3. 108 000 000
4. Walsh & Watts Inc
5. Colby #2 03202
6. Kermit
7. Winkler TX
8. 78.0 million cubic feet
9. May 7, 1980
10. Cabot Corp
1. 80–31642/08852
2. 42–495–00000–0000
3. 108 000 000
4. Walsh & Watts Inc
5. Colby #25 03202
6. Kermit
7. Winkler TX
8. 78.0 million cubic feet
9. May 7, 1980
10. Cabot Corp
1. 80–31643/08863
2. 42–233–00000–0000
3. 108 000 000
4. Walsh & Watts Inc
5. Kingsland F #5 00975
6. Panhandle
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31644/08897
2. 42–479–30610–0000
3. 108 000 000
4. W B Yarborough
5. Palafox #1–298 #70211
6. Santo Tomas (Escondido)
7. Webb County TX
8. 8.4 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80–31645/09105
2. 42–175–00000–0000
3. 102 000 000
4. Killam & Hurd Ltd
5. A Wendel #1 ID #79956
6. Schroeder (FRIO 2830) Field
7. Goliad TX
8. 100.0 million cubic feet
9. May 7, 1980
10.
1. 80–31646/09138
2. 42–103–31928–0000
3. 103 000 000
4. Warren Pet Co Div/ Gulf Oil Corp
5. P J Lea et al #78
6. Lea (San Andres)
7. Crane TX
8. 37.0 million cubic feet
9. May 7, 1980
10.El paso Natural Gas Co
1. 80–31647/09160
2. 42–123–30772–0000
3. 102 000 000
4. Monsanto Co
5. Alves #1
6. Henze (Wilcox 12300)
7. Dewitt TX
8. 540.0 million cubic feet
9. May 7, 1980
10. Texas Eastern Transmission Corp
1. 80–31648/09194
2. 42–483–30588–0000
3. 102 000 000
4. CIG Exploration Inc
5. Zybach 1–11
6. Zybach Morrow A
7. Wheeler TX
8. 210.0 million cubic feet
9. May 7, 1980
10. Colorado Interstate Gas Co
Pioneer Natural Gas Co
1. 80–31649/09418
2. 42–603–30119–0000
3. 102 000 000
4. The Superior Oil Co
5. State of Texas 582–S Gas Unit 4–U
6. Matagorda Island Blk 582–S (35)
7. Offshore Matagorda TX
8. 196.0 million cubic feet
9. May 7, 1980
10. United Texas Transmission
1. 80–31650/09420
2. 42–239–31286–0000
3. 102 000 000
4. The Superior Oil Co
5. Dorothy Ploeger 7
6. Foss Brown (3300)
7. Lavaca TX
8. 175.0 million cubic feet
9. May 7, 1980
10. United Texas Transmission
1. 80–31651/09745
2. 42–371–32668–0000
3. 102 000 000
4. Zinke & Philpy Inc
5. Grant State No 1 80083
6. Di-Mar (Devonian) Field
7. Pecos TX
8. 182.5 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co
1. 80–31652/09651
2. 42–179–00000–0000
3. 108 000 000
4. Mobil Oil Corp
5. Tom Catlin #7
6. Panhandle
7. Gray TX
8. 1.3 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31653/09689
2. 42–401–30778–0000
3. 102 000 000
4. The Long Trusts
5. Holt Rene E et al #1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 180.0 million cubic feet
9. May 7, 1980
10. Arkansas Louisiana Gas Co
1. 80–31654/09759
2. 42–135–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. R B Cowden #1
6. Goldsmith North (San Andres Consolidate)
7. Ector TX
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31655/09763
2. 42–003–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. University 5600 #1
6. Embar 5600 #1
7. Andrews TX
8. 8.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31656/09767
2. 42–135–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. R B Cowden #6
6. Goldsmith N (San Andres Consolidate)
7. Ector TX
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31657/09785
2. 42–135–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. R B Cowden H #4
6. Goldsmith 5600
7. Ector TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31658/09786
2. 42–135–00000–0000
3. 108 000 000

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4. American Petrofina Co of Texas
5. R B Cowden H #3
6. Goldsmith 5600
7. Ector TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–31659/09803
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #1
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31660/09804
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #2
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31661/09805
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #3
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31662/09806
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #4
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31663/09807
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #5
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31664/09808
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #6
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31665/09809
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #7
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31666/09810
2. 42–065–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Cooper #8
6. Panhandle
7. Carson TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31667/09811
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #1
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31668/09812
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #2
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31669/09813
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #3
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31670/09818
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #9
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31671/09819
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #10
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31672/09820
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #11
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31673/09821
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #12
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31674/09822
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #13
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31675/09823
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #15
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31676/09824
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #16
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31677/09825
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #17
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31678/09826
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Benny #18
6. Panhandle
7. Gray TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Pioneer Natural Gas Co

1. 80–31679/09828
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Lewis #4
6. Panhandle
7. Hutchinson TX
8. .8 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31680/09830
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Lewis #13
6. Panhandle
7. Hutchinson TX

8. .8 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31681/09831
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Moore =1
6. Panhandle
7. Hutchinson TX
8. 2.4 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31682/09832
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Moore =3
6. Panhandle
7. Hutchinson TX
8. 2.4 million cubic feet
9. May 7, 1980
10. Getty Oil Co

1. 80–31683/09833
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Moore =5
6. Panhandle
7. Hutchinson TX
8. 2.4 million cubic feet
9. May 7, 1980
10 Getty Oil Co

1. 80–31684/09834
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Moore =6
6. Panhandle
7. Hutchinson TX
8. 2.4 million cubic feet
9. May 7, 1980
10 Getty Oil Co

1. 80–31685/09835
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Moore =7
6. Panhandle
7. Hutchinson TX
8. 2.4 million cubic feet
9. May 7, 1980
10 Getty Oil Co

1. 80–31686/09836
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Andy =1
6. Panhandle
7. Gray TX
8. 2.4 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31687/09843
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Andy =8
6. Panhandle
7. Gray TX
8. 2.4 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31688/09847
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Major #2
6. Panhandle
7. Gray TX
8. .2 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31689/09851
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Major #7
6. Panhandle
7. Gray TX
8. .2 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31690/09852
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Major #8
6. Panhandle
7. Gray TX
8. .2 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31691/09854
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Beavers #1
6. Panhandle
7. Gray TX
8. .4 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31692/09856
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Beavers #4
6. Panhandle
7. Gray TX
8. .4 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31693/09857
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Beavers #5
6. Panhandle
7. Gray TX
8. .4 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31694/09858
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Beavers #6
6. Panhandle
7. Gray TX
8. .4 million cubic feet
9. May 7, 1980
10 Pioneer Natural Gas Co

1. 80–31695/09895
2. 42–195–00000–0000
3. 108 000 000
4. Texaco Inc.
5. C C Oloughlin Sr Trust #2–U
6. Twin (Des Moines)
7. Hansford TX
8. 3.4 million cubic feet
9. May 7, 1980
10 Northern Natural Gas Co

1. 80–31696/09810
2. 42–179–00000–0000
3. 108 000 000
4. Texaco Inc
5. H M Davis #11
6. Panhandle
7. Gray TX
8. 2.3 million cubic feet
9. May 7, 1980
10 Phillips Petroleum Co

1. 80–31697/09914
2. 42–233–00000–0000
3. 108 000 000
4. Texaco Inc
5. S B Bennett N CT–5 #18
6. Panhandle
7. Hutchinson TX
8. 7.7 million cubic feet
9. May 7, 1980
10 Phillips Petroleum Co

1. 80–31698/09917
2. 42–389–00000–0000
3. 108 000 000
4. Texaco Inc
5. Reeves P Fee #8
6. Screwbran Northeast (Delaware)
7. Reeves TX
8. 2.5 million cubic feet
9. May 7, 1980
10 Continental Oil Co

1. 80–31699/09920
2. 42–135–00000–0000
3. 108 000 000
4. Texaco Inc
5. A E Thomas A NCT–1 #31
6. TXL (San Andres)
7. Ector TX
8. 7.8 million cubic feet
9. May 7, 1980
10 El Paso Natural Gas Co

1. 80–31700/09923
2. 42–357–00000–0000
3. 108 000 000
4. Texaco Inc
5. G M Cooper NCT–3 #1
6. Spicer
7. Ochiltree TX
8. 8.1 million cubic feet
9. May 7, 1980
10 Phillips Petroleum Co

1. 80–31701/09965
2. 42–301–00000–0000
3. 108 000 000
4. Texaco Inc
5. El Mar Delaware Unit No 2312
6. El Mar (Delaware)
7. Loving TX
8. .8 million cubic feet
9. May 7, 1980
10 Phillips Petroleum Co

1. 80–31702/09984
2. 42–233–00000–0000
3. 108 000 000
4. Texaco Inc
5. R L Pond #44
6. Panhandle
7. Hutchinson TX
8. 14.8 million cubic feet
9. May 7, 1980
10 Getty Oil Co

1. 80–31703/10139

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2. 42–227–00000–0000
3. 108 000 000
4. Conoco Inc
5. H R Clay A No 54 (18992)
6. Howard/Glassock/Glorieta/
7. Howard TX
8. .4 million cubic feet
9. May 7, 1980
10 Phillips Petroleum Gas Co
1. 80–31704/10189
2. 42–151–00000–0000
3. 108 000 000
4. Conoco Inc
5. Sohio-Coates No 9 (06139)
6. Round Top/Swastika/
7. Fisher TX
8. 4.6 million cubic feet
9. May 7, 1980
10 Lone Star Gas Co
1. 80–31705/10216
2. 42–389–00000–0000
3. 108 000 000
4. Conoco Inc
5. Ford-Geraldine Unit No 21 (21021)
6. Geraldine/Ford/
7. Reeves TX
8. .0 million cubic feet
9. May 7, 1980
10 El Paso Natural Gas Co
1. 80–31706/10264
2. 42–227–00000–0000
3. 108 000 000
4. Conoco Inc
5. H R Clay No 25 (02690)
6. Howard-Glasscock
7. Howard TX
8. .4 million cubic feet
9. May 7, 1980
10 Phillips Pet Co
1. 80–31707/10272
2. 42–433–00000–0000
3. 108 000 000
4. Conoco Inc
5. Guest (Canyon SD) Unit No 40 (10855)
6. Guest (Canyon Sand)
7. Stonewall TX
8. .4 million cubic feet
9. May 7, 1980
10 Cities Service Oil Co
1. 80–31708/10308
2. 42–295–30259–0000
3. 108 000 000
4. Cotton Petroleum Corp
5. Koch No 1
6. Lipscomb (Cleveland)
7. Lipscomb TX
8. 9.5 million cubic feet
9. May 7, 1980
10 Northern Natural Gas Co
1. 80–31709/10322
2. 42–203–00000–0000
3. 108 000 000
4. Huggs Inc
5. Mrs Hattie W Griffin #1 SN 29393
6. Bethany/Pettit
7. Harrison TX
8. 38.0 million cubic feet
9. May 7, 1980
10 United Gas Pipe Line Co
1. 80–31710/10415
2. 42–079–30222–0000
3. 108 300 000
4. United Co
5. Reed Wright B #1 57167
6. Levelland (SA)
7. Cochran TX
8. 18.2 million cubic feet
9. May 7, 1980
10 El Paso Natural Gas Co
1. 80–31711/10419
2. 42–079–00000–0000
3. 108 000 000
4. United Co
5. Marty Wright #31 55631
6. Levelland (SA)
7. Cochran TX
8. 8.2 million cubic feet
9. May 7, 1980
10 El Paso Natural Gas Co
1. 80–31712/10422
2. 42–079–30497–0000
3. 108 000 000
4. United Co
5. Marty Wright #22 76215
6. Levelland (SA)
7. Cochran TX
8. 2.5 million cubic feet
9. May 7, 1980
10 El Paso Natural Gas Co
1. 80–31713/10435
2. 42–409–31196–0000
3. 102 000 000
4. Wainoco Oil & Gas Co
5. J R C Brannon Gas Unit No. 1
6. Brannon (Lower Herron)
7. San Patricio, TX
8. 1033.0 million cubic feet
9. May 7, 1980
10. Texas Eastern Transmission Corp
1. 80–31714/10438
2. 42–233–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. Hedgecoke—Whittenburg No. 32
6. Panhandle
7. Hutchinson, TX
8. 3.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31715/10449
2. 42–065–00000–0000
3. 108 000 000
4. Brian Production
5. B F Block (00076) No. 4
6. Panhandle Carson County
7. Carson, TX
8. .6 million cubic feet
9. May 7, 1980
10. Cabot Corp
1. 80–31716/10451
2. 42–065–00000–0000
3. 108 000 000
4. Brian Production
5. B F Block (00076) No. 3
6. Panhandle Carson County
7. Carson, TX
8. 1.0 million cubic feet
9. May 7, 1980
10. Cabot Corp
1. 80–31717/10507
2. 42–233–00000–0000
3. 108 000 000
4. G C Hermann Co
5. Whittenburg Well No. 3
6. Panhandle
7. Hutchinson, TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31718/10509
2. 42–233–00000–0000
3. 108 000 000
4. G C Hermann Co
5. Whittenburg Well No. 6
6. Panhandle
7. Hutchinson, TX
8. 1.8 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31719/10604
2. 42–179–00000–0000
3. 108 000 000
4. Lefors Petroleum Co Inc
5. GC & HE Saunders No. 1
6. Panhandle
7. Gray, TX
8. .8 million cubic feet
9. May 7, 1980
10. Coltexo Corp
1. 80–31720/10605
2. 42–179–00000–0000
3. 108 000 000
4. Lefors Petroleum Co Inc
5. GC & HE Saunders No. 2
6. Panhandle
7. Gray, TX
8. .7 million cubic feet
9. May 7, 1980
10. Coltexo Corp
1. 80–31721/10670
2. 42–483–00000–0000
3. 108 000 000
4. Roy Production Co
5. Hunter No. 1 01378
6. Panhandle Osborne Area
7. Wheeler, TX
8. 2.8 million cubic feet
9. May 7, 1980
10. Ashland Exploration Inc
1. 80–31722/10671
2. 42–483–00000–0000
3. 108 000 000
4. Roy Production Co
5. Hunter No. 3 01378
6. Panhandle Osborne Area
7. Wheeler, TX
8. 2.8 million cubic feet
9. May 7, 1980
10. Ashland Exploration Inc
1. 80–31723/10672
2. 42–483–00000–0000
3. 108 000 000
4. Roy Production Co
5. Hunter No. 4 01378
6. Panhandle Osborne Area
7. Wheeler, TX
8. 2.8 million cubic feet
9. May 7, 1980
10. Ashland Exploration Inc
1. 80–31724/10771
2. 42–427–31256–0000
3. 102 000 000
4. Shell Oil Co
5. Judd Estate-State No. 6
6. La Copita (Vicksburg X SE) (Propose
7. Starr, TX
8. 300.0 million cubic feet
9. May 7, 1980
10. Tennessee Gas Pipeline Co
1. 80–31725/10774
2. 42–483–00000–0000
3. 108 000 000
4. Stahl Petroleum Co
5. Schlegel No. 1 70680
6. East Panhandle

7. Wheeler, TX
8. 8.4 million cubic feet
9. May 7, 1980
10. Transwestern Pipeline Co, Warren Petroleum Co
1. 80–31726/10776
2. 42–239–31384–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Clements Well No. 1
6. Panhandle Cordele East (3850)
7. Jackson, TX
8. 128.0 million cubic feet
9. May 7, 1980
10.
1. 80–31727/10787
2. 42–383–00004–0000
3. 108 000 000
4. Hanson Corp
5. Monk No. 1
6. Calvin (Dean)
7. Reagan, TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Union Texas Petroleum
1. 80–31728/10805
2. 42–081–30170–0000
3. 108 000 000
4. Pearson-Sibert Oil Co of Texas
5. Millican Reef Unit No. 3-P
6. Millican (Strawn Reef)
7. Coke, TX
8. 6.0 million cubic feet
9. May 7, 1980
10. Sun Oil Co
1. 80–31729/10874
2. 42–179–00000–0000
3. 108 000 000
4. Pipeline Services Inc
5. Colebank No. 3A RRC No. 02500
6. East Panhandle
7. Gray, TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31730/10876
2. 42–179–00000–0000
3. 108 000 000
4. Pipeline Services Inc
5. Colebank No. 1 RRC 26487
6. East Panhandle
7. Gray, TX
8. 9.3 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31731/10878
2. 42–179–00000–0000
3. 108 000 000
4. Pipeline Services Inc
5. Colebank No. 2 RRC No. 02500
6. East Panhandle
7. Gray, TX
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31732/10976
2. 42–165–31534–0000
3. 103 000 000
4. Exxon Corp
5. Robertson (Clearfork) Unit No. 6102
6. Robertson N (Clearfork 7100)
7. Gaines, TX
8. 40.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31733/12002
2. 42–233–00000–0000
3. 108 000 000
4. Petro-Search Inc
5. Coleman No. 28 (1–117–00969–4)
6. Panhandle
7. Hutchinson, TX
8. 10.6 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31734/12143
2. 42–211–31072–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Billy Jarvis & Sons G No. 1
6. Canadian SE
7. Hemphill, TX
8. 600.0 million cubic feet
9. May 7, 1980
10. Northern Natural Gas Co., Pioneer Natural Gas Co
1. 80–31735/12148
2. 42–181–30620–0000
3. 103 000 000
4. Gulf Oil Corp
5. Montgomery No. 1
6. Southmayd NE (Davis)
7. Grayson, TX
8. 203.0 million cubic feet
9. May 7, 1980
10. Lone Star Gas Co
1. 80–31736/12196
2. 42–337–00000–0000
3. 108 000 000
4. Walsh & Watts Inc
5. Hankins No. 2 (04121)
6. Montague County Regular
7. Montague, TX
8. 1.0 million cubic feet
9. May 7, 1980
10. J L Davis
1. 80–31737/12231
2. 42–427–00000–0000
3. 108 000 000
4. Exxon Corp
5. Vicente Saenz No. 5–C 64426
6. Sun (D–1)
7. Starr, TX
8. 5.8 million cubic feet
9. May 7, 1980
10. Tennessee Gas Pipeline Co
1. 80–31738/12239
2. 42–261–00000–0000
3. 108 000 000
4. Exxon Corp
5. Sarita Fld O & G Unit 95–F 05994
6. Sarita (17–I)
7. Kenedy, TX
8. 2.5 million cubic feet
9. May 7, 1980
10. Natural Gas Pipeline Co
1. 80–31739/12241
2. 42–047–00000–0000
3. 108 000 000
4. Exxon Corp
5. McGill Bros No. 107–T 50563
6. Kelsey South (20–F/N)
7. Brooks, TX
8. 6.1 million cubic feet
9. May 7, 1980
10. Trunkline Gas Co
1. 80–31740/12253
2. 42–435–00000–0000
3. 108 000 000
4. Suburban Propane Gas Corp
5. Mayer Ranch Et Al No. 1
6. Mayer Ranch Canyon
7. Sutton, TX
8. 12.0 million cubic feet
9. May 7, 1980
10. Northern Natural Gas Co
1. 80–31741/12346
2. 42–179–00000–0000
3. 108 000 000
4. O F Warren
5. E E Reynolds No. 2
6. Panhandle Gray County
7. Gray, TX
8. .2 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31742/12347
2. 42–179–00000–0000
3. 108 000 000
4. O F Warren
5. E E Reynolds No 3
6. Panhandle Gray County
7. Gray, TX
8. .2 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31743/12354
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. Patton-Purviance No 1 (00616)
6. Panhandle Gray County Field
7. Gray TX
8. 4.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31744/12355
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. Patton-Purviance No 4 (00616)
6. Panhandle Gray County Field
7. Gray TX
8. 4.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31745/12356
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. Patton-Purviance No 5 (00616)
6. Panhandle Gray County Field
7. Gray TX
8. 4.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31746/12358
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. Patton-Purviance No 8 (00616)
6. Panhandle Gray County Field
7. Gray TX
8. 4.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31747/12359
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. H M Davis No 7 (00429)
6. Panhandle Gray County Field
7. Gray TX
8. 1.6 million cubic feet
9. May 7, 1980

10. Phillips Petroleum Co
1. 80–31748/12360
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. H M Davis No 6 (00429)
6. Panhandle Gray County Field
7. Gray TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31749/12361
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. H M Davis No 2 (00429)
6. Panhandle Gray County Field
7. Gray TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31750/12362
2. 42–179–00000–0000
3. 108 000 000
4. Alfred J Smith
5. H M Davis No 3 (00429)
6. Panhandle Gray County Field
7. Gray TX
8. 1.6 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–31751/12394
2. 42–233–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Haile No 3 (00820)
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 10.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31752/12404
2. 42–233–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Haile No 16 (00820)
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 10.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31753/12414
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold No 5
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31754/12416
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold No 8
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31755/12421
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold No 15
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31756/12422
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold No 16
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31757/12430
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 1
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31758/12431
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 2
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31759/12432
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 3
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31760/12433
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 5
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31761/12434
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 6
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31762/12435
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 7
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31763/12436
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 9
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31764/12437
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 10
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31765/12438
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 11
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31766/12439
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah No 12
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31767/12463
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Alex Smith No 1
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31768/12464
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Alex Smith No 3
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31769/12465
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Alex Smith No 5
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31770/12467
2. 42–179–00000–0000

3. 108 000 000
4. Gulf Oil Corp
5. Alex Smith No 7
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31771/12469
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson Etal No 4
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31772/12470
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson Etal No 5
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31773/12471
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson Etal No. 7
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31774/12472
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson Etal No. 8
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31775/12474
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson Etal No. 10
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31776/12477
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson Etal No. 14
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31777/12495
2. 42–233–00000–0000
3. 108 000 000
4. Cities Service Co
5. Cockrell J No. 7
6. Panhandle-Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31778/12496
2. 42–233–00000–0000
3. 108 000 000
4. Cities Service Co
5. Cockrell J No. 8
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .6 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31779/12505
2. 42–233–00000–0000
3. 108 000 000
4. Cities Service Co
5. Cockrell L No. 3
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .9 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31780/12861
2. 42–317–00000–0000
3. 103 000 000
4. Maquire Oil Co
5. Hale No. 1–29
6. Ackerly (Dean Sand)
7. Martin TX
8. 50.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31781/12937
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No. 8
6. Panhandle-Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31782/13316
2. 42–365–30913–0000
3. 102 000 000
4. Phillips Petroleum Co
5. Naomi O No. 3
6. Carthage
7. Panola TX
8. 900.0 million cubic feet
9. May 7, 1980
10.
1. 80–31783/13389
2. 42–233–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Cockrell C–19 (00816)
6. Panhandle-Hutchinson County
7. Hutchinson TX
8. 2.3 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31784/13391
2. 42–233–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Cockrell C–17 (00816)
6. Panhandle-Hutchinson County
7. Hutchinson TX
8. 2.3 million cubic feet
9. May 7, 1980
10. Getty Oil Co
1. 80–31785/14359
2. 42–161–30471–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Holmes A No. 1
6. Bear Grass (Cotton Valley Lime)
7. Freestone TX
8. 1000.0 million cubic feet
9. May 7, 1980
10. United Gas Pipeline Co
1. 80–31786/15502
2. 42–367–31099–0000
3. 102 000 000
4. Diamond Shamrock Corp
5. A J Hutcheson No. 1
6. Reno
7. Parker TX
8. 249.0 million cubic feet
9. May 7, 1980
10. Southwestern Gas Pipeline Inc
1. 80–31787/15673
2. 42–195–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Hitch E No. 2
6. W Hitchland L Morrow
7. Hansford TX
8. 16.0 million cubic feet
9. May 7, 1980
10. Panhandle Eastern Pipeline Co
1. 80–31788/16119
2. 42–365–30880–0000
3. 102 000 000
4. Jack L Phillips
5. Bill Powers No. 1 83939
6. Carthage (Cotton Valley)
7. Panola TX
8. 219.0 million cubic feet
9. May 7, 1980
10. United Gas Pipe Line Co
1. 80–31789/16571
2. 42–051–30462–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Worthy A No. 1
6. Bear Grass (Cotton Valley Lime)
7. Freestone TX
8. .0 million cubic feet
9. May 7, 1980
10. United Gas Pipe Line Co
1. 80–31790/16627
2. 42–285–31165–0000
3. 102 000 000
4. Howell Drilling Inc
5. Mertz Gas Unit No. 2 Well No. 1
6. Word
7. Lavaca TX
8. 250.0 million cubic feet
9. May 7, 1980
10.
1. 80–31791/16934
2. 42–395–00000–0000
3. 102 000 000
4. Lear Petroleum Corp
5. Lee Martin Gas Unit No. 1
6. Bald Prairie
7. Robertson TX
8. 730.0 million cubic feet
9. May 7, 1980
10. Producers Gas Company United Texas Transmission Co Texas Utilities Fuel Co
1. 80–31792/16991
2. 42–365–30900–0000
3. 102 000 000
4. Pennzoil Producing Co
5. Shaw Unit No. 3

6. Carthage/Cotton Valley
7. Panola TX
8. 550.0 million cubic feet
9. May 7, 1980
10. United Gas Pipe Line Co

1. 80–31793
2. 42–051–30427–0000
3. 102 000 000
4. Keith D Graham
5. E Knesek No. 1 ID No. 12465
6. Giddings (Austin Chalk)
7. Burleson TX
8. 90.0 million cubic feet
9. May 7, 1980
10. Champlin Petroleum Co

U.S. Geological Survey, Metairie, La.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31794/GO–1244
2. 42–709–40391–0000–0
3. 102 000 000
4. Amoco Production Co
5. OCS–G–2698 #B–10
6. High Island Area-South Addition
7. A–537
8. 183.0 million cubic feet
9. May 2, 1980
10. Northern Natural Gas Co

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31795/NM 32–79–SA
2. 30–039–06540–0000–0
3. 108 000 000 denied
4. Mobil Oil Corp
5. Jicarilla H No. 10
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. April 28, 1980
10. Northwest Pipeline Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection,except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15813 Filed 5-22-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Nuclear Energy

The State Planning Council on Radioactive Waste Management; Change in Meeting Location

This notice is given to advise of a change in location of meeting of The State Planning Council on Radioactive Waste Management. The Council will meet Tuesday, June 3, 1980, 9:00 a.m. to 5:00 p.m., in the Campus Room of the Capstone Conference Center, University of South Carolina, Columbia, South Carolina, rather than the Hanford House Thunderbird, 802 George Washington Way, Richland, Washington, as previously announced. A notice of meeting was published in the issue of May 15, 1980 (45 FR 32113). For further informaton contact Janie Shaheen, Staff Contact for the State Planning Council, Telephone: 202–624–5834.

Issued at Washington, D.C. on May 19, 1980.

Georgia Hildreth,

Director Advisory Committee Management.

[FR Doc. 80-15806 File 5-22-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1500–1; OPTS–51066]

Certain Companies Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of six PMN's and provides a summary of each.

DATE: Written comments by July 4, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Green, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency 401 M St. SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanfacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventoy, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before July 4, 1980, submit to the document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control "[OPTS–51066]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: May 16, 1980.

John P. DeKany,

Deputy Assisant Administrator for Chemical Control.

PMN 80–93

Close of Review Period. August 3, 1980.

Manufacturer's Identity. International Flavors & Fragrances Inc., 521 West 57th St., New York, NY 10019.

Specific Chemical Identity. 4,7-Methano-1*H*-inden-5-o1- 3a,4,5,6,7,7a-hexahydro-dimethyl.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Fragrance material for soaps and detergents, functional products, and fine fragrances.

Production Estimates:

	(kg/yr)	
	Minimum	Maximum
First year	50	[illegible]
Second year	100	1,000
Third year	200	2,000

Physical/Chemical Properties:

Appearance—Colorless semi-solid liquid.
Boiling point—Range 88°–99° at 3mm.
Solubility—Soluble in organic solvents; insoluble in water.
Flashpoint—>180°F.

Toxicity Data:

Dermal LD_{50} (rat)—>5 g/kg body weight.
Phototoxicity (mouse)—Not phototoxic at 5% in ethanol on the skin of the hairless mouse.
Eye irritation (rabbit)—Neat material produced conjunctival irritation which did not clear in seven days, when tested with no washout (modified draize); Draize Index = 40 in one of six animals vessel injection.
Skin irritation/sensitization (guinea pig)—Mild irritation at 10% in ethanol under occlusion; no irritation at 5% in ethanol under occlusion; At 5% in ethanol under occlusion, 9 of 15 guinea pigs were sensitized (Buehler protocol).
Oral LD_{50} (rat)—In progress.
Skin irritation/sensitization (human)—In progress; Draize Shelanski RIPT underway at 2.5%.

Exposure/Disposal

Activity	Exposure route	Maximum number exposed	Maximum duration Hour/day	Maximum duration Day/year	Concentration Average	Concentration Peak
Occupational:						
Union Beach, NJ site						
Manufacture	Dermal inhalation	10	Accidental contact only	0–1 ppm		1–10 ppm
Disposal	Dermal inhalation	10	Accidental contact only	0–1 ppm		1–10 ppm
Physical state of substance to which workers may be exposed: Fume or liquid						
Hazlet, NJ site						
Processing	Dermal inhalation	Unknown	Accidental contact only	0–1 ppm		1–10 ppm
Disposal	Dermal inhalation	Unknown	Accidental contact only	0–1 ppm		1–10 ppm
Physical state of substance to which workers may be exposed: fume or liquid						
Effluent plant discharge into regional sewage system. Charcoal filters present in all exhaust fans						

PMN 80–94

Close of Review Period. August 3, 1980.

Manufacturer's Identity. E. I. Du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Monosubstitutedbenzenesulfonamide.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Captive intermediate.

Production Estimates. Claimed confidential.

Occupational Exposure:

Submitter's site	Route(s)	Number [1]	Maximum duration of exposure
Belle, West Va	Inhalation	4	256 da/yr; 8 hr/da
(2nd & 3rd years)	Dermal	4	256 da/yr; 8 hr/da
Wilmington, DE	Inhalation	7	135 da/yr; 8 hr/da
(1st year)	Dermal	7	135 da/yr; 8 hr/da

[1] Potentially exposed workers.

Physical/Chemical Properties:

Melting Points—180°–185°C crude; 187°–189°C pure.
Minimum purity—95%.
Description—Orange to brown crystalline solid. White when pure.
Reaction—Stable to ambient conditions.

Toxicity Data:

Oral approximate lethal dose (ALD) (rats)—7,500 mg/kg.
Eye irritation (rabbits)—Non-irritant.
Skin irritation and sensitization (guinea pigs)—Mild to non-irritant.
Mutagenicity-Ames (*Salmonella typhimurium*)—Non-mutagenic.

Environmental Release/Disposal:

Submitter's site	Method(s) of disposal	Release to the environment
Belle, West VA	Water	Minimal and incidental.
(2nd & 3rd years)	Land	Minimal and incidental.
Wilmington, DE	Water	Minimal and incidental.
(1st year)	Land	Minimal and incidental.

PMN 80–95

Close of Review Period. August 3, 1980.

Manufacturer's Identity. E. I. Du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Monosubstitutedbenzenesulfonyl chloride.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Captive intermediate.

Production Estimates. Claimed confidential.

Occupational Exposure:

Submitter's site	Route(s)	Number [1]	Maximum duration of exposure
Belle, West Va	Dermal	8	146 da/yr; 8 hr/da.
(2nd & 3rd years)	Inhalation	8	146 da/yr; 8 hr/da.
Wilmington, DE	Inhalation	7	90 da/yr; 8 hr/da.
(1st year)	Dermal	7	90 da/yr; 8 hr/da.

[1] Potentially exposed workers.

Environmental Release/Disposal:

Submitter's site	Method(s) of disposal	Release to the environment
Belle, West VA	Water	Minimal, incidental.
(2nd & 3rd years)	Land	Minimal, incidental.
Wilmington, DE	Water	Minimal, incidental.
(1st year)	Land	Minimal, incidental.

PMN 80–96

Close of Review Period. August 3, 1980.

Manufacturer's Identity. E. I. Du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Monosubstitutedbenzenediazomium chloride.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Captive intermediate.

Production Estimates. Claimed confidential.

Physical/Chemical Properties:

Boiling Point—94°C/.6 mm.
Appearance—Reddish brown liquid. Colorless when pure.
Reactions—Stable to ambient conditions. Reacts slowly with an ethanol-water solution.

Toxicity Data:

Oral LD_{50} (rats)—3,427 mg/kg.
Eye irritation (rabbits)—Severe eye irritant.
Skin irritation and sensitization (guinea pigs)—Moderate to no irritation at 2.5% solution.
Mutagenicity-Ames (*Salmonella typhimurium*)—Non-mutagenic.

PMN 80–97

Close of Review Period. August 3, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical identity. Claimed confidential. Generic name provided: Trisubstitutedtriazine.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Captive intermediate.

Production Estimates. Claimed confidential.

Physical/Chemical Properties:

Solubility—Water 0.5 g/L. Methanol 1.94 g/L.
Minimum purity—97–99.
Description—Off-white crystalline solid.
Reaction—Stable to ambient conditions.

Toxicity Data:

Oral LD_{50} (rats)—1,680 mg/kg.
Eye irritation (rabbits)—Mild irritant.
Skin irritation and sensitization (guinea pigs)—Mild to none.
Mutagenicity-Ames (*Salmonella typhimurium*)—Non-mutagenic.

Occupational Exposure:

Submitter's site	Route(s)	Number [1]	Maximum duration of exposure
Belle, West VA	Inhalation	4	219 da/yr; 8 hr/da.
(2nd & 3rd years)	Dermal	4	219 da/yr; 8 hr/da.
Wilmington, DE	Inhalation	7	90 da/yr; 8 hr/da.
(1st year)	Dermal	7	90 da/yr; 8 hr/da.

[1] Potentially exposed workers.

Environmental Release/Disposal:

Submitter's site	Method(s) of disposal	Release to the environment
Belle, West VA	Water	Minimal, incidental.
(2nd & 3rd years)	Land	Minimal, incidental.
Wilmington, DE	Water	Minimal, incidental.
(1st year)	Land	Minimal, incidental.

PMN 80–98

Close of Review Period. August 3, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Monosubstituted alkanimidic acid, alkyl ester.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Captive intermediate.

Occupational Exposure:

Submitter's site	Route(s)	Number [1]	Maximum duration of exposure
Belle, West VA	Inhalation	8	110 da/yr; 8 hr/da.
(2nd & 3rd years)	Dermal	8	110 da/yr; 8 hr/da.
Wilmington, DE	Inhalation	7	45 da/yr; 8 hr/da.
(1st year)	Dermal	7	45 da/yr; 8 hr/da.

[1] Potentially exposed workers.

Environmental Release/Disposal.

Submitter's site	Method(s) of disposal	Release to the environment
Belle, West VA	Water	Minimal, incidental.
(2nd & 3rd years)	Land	Minimal, incidental.
Wilmington, DE	Water	Minimal, incidental.
(1st year)	Land	Minimal, incidental.

Production Estimates. Claimed confidential.

Physical/Chemical Properties:

Boiling point—65°C/5 mm.
Appearance—Colorless liquid.
Reaction—Stable to ambient conditions.

Toxicity Data:

Oral LD_{50} (rats)—494 mg/kg.
Eye irritation (rabbits)—Mild.
Skin irritation and sensitization (guinea pigs)—Moderate to none.
Mutagenicity-Ames *(Salmonella typhimurium)*—Weakly mutagenic.

[FR Doc. 80-15880 Filed 5-22-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1499-8; OPTS-51065]

Certain Companies Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by June 23, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim

confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under a section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before June 23, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51065]" and the specific PMN number. Comments received may be seen in the above office between 8 a.m. and 4 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: May 14, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PM 80–34.

Close of Review Period. July 23, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical identity. Claimed confidential. Generic name provided: Phosphorodithioic acid, dialkyl ester, C_{12-14} tertalkylamine salts.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Not known to manufacturer.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. (Submitted April 11, 1980.)

Oral LD_{50}	2.8 gm/kg.
Primary skin irritation index	3.54.
Eye irritation score	6.7, 3.0, 2.3, 0 and 0 at 24, 48, and 72 hours, 5 and 7 days respectively.

Exposure and Environmental Release. Human exposure and environmental release at the manufacturer's sites.

Maximum number exposed	10.
Maximum duration of exposure	4 hr/wk, 50 wk/yr.

PMN 80–35.

Close of Review Period. July 23, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Substituted phenol, reaction products with C_{22-30} alkenes.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Lubricant additive.

Production Estimates. Claimed confidential.

Toxicity Data.

Estimated oral LD_{50} (rats)	>16 g/kg
Primary skin irritation index	3.42.
Eye irritation score	5.3, 2.0, 1.0, 0 and 0 at 24, 48, 72 hours, 5 and 7 days respectively

Exposure and Evironmental Release. Due to the chemical substance high boiling point and low order of acute oral toxicity no environmental hazard in its use and/or disposal is anticipated.

Maximum number exposed	10.
Maximum duration	4 hr/wk, 50 wk/yr

[FR Doc. 80–15881 Filed 5–22–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1499–7]

Establishment and Membership of the Performance Review Board

May 15, 1980.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Establishment and Membership of the Performance Review Board.

SUMMARY: This Notice announces the establishment by the Administrator of the Environmental Protection Agency (EPA) of the Agency's Performance Review Board (PRB) and the appointment of the twelve individuals who will serve on this body, as provided for in Section 4314 of Title 5, United States Code.

The purpose of the Performance Review Board is to review initial senior executive appraisals and to make recommendations to the Administrator concerning performance of senior executives in the Agency and performance awards.

ADDRESSES: The names, titles, and addresses of the individuals appointed to the EPA Performance Review Board are:

1. Mr. David O. Bickart, Deputy General Counsel, Office of General Counsel, Environmental Protection Agency, Washington, D.C. 20460.

2. Dr. Marilyn C. Bracken, Deputy Assistant Administrator for Program Integration and Information, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460.

3. Mr. Charles L. Elkins, Deputy Assistant Administrator for Noise Abatement and Control, Office of Air, Noise, and Radiation, Environmental Protection Agency, Washington, D.C. 20460.

4. Ms. Louise Giersch, Director, Air and Hazardous Materials Division, Region IX, Environmental Protection Agency, San Francisco, California 94105.

5. Mr. Clarence Hardy, Director of Personnel, Office of Planning and Management, Environmental Protection Agency, Washington, D.C. 20460 (Executive Secretary, PRB).

6. Mr. Robert J. Knox, Acting Director, Office of Civil Rights, Environmental Protection Agency, Washington, D.C. 20460.

7. Mr. Donald B. Mausshardt, Assistant to the Deputy Administrator and Director, Office of Operations Coordination, Environmental Protection Agency, Washington, D.C. 20460.

8. Ms. Marian Mlay, Associate Deputy Assistant Administrator for Drinking Water, Office of Water and Waste Management, Environmental Protection Agency, Washington, D.C. 20460.

9. Mr. John B. Molloy, Director, Enforcement Division, Office of Enforcement, Environmental Protection Agency, Washington, D.C. 20460.

10. Ms. Frances E. Phillips, Deputy Regional Administrator, Region VI, Environmental Protection Agency, Dallas, Texas 75270.

11. Mr. Samuel Rondberg, Director Office of Research Program Management, Office of Research and Development, Environmental Protection Agency, Washington, D.C. 20460.

12. Mr. Saul R. Rosoff, Associate to the Assistant Administrator for Management Reform, Office of Planning and Management, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Environmental Protection Agency Performance Review Board may contact Mr. Clarence Hardy, Director of Personnel, Environmental Protection Agency, Washington, D.C. 20460; telephone (202) 755–2922.

Douglas M. Costle,

Administrator.

[FR Doc. 80–15879 Filed 5–22–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1500–3]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of May 12, 1980 to May 16, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from May 16, 1980 and will end on July 7, 1980. The 30-day review period for final EIS's as calculated from May 23, 1980 will end on June 23, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Suite 700A, Arlington, Va 22209, (703) 558–8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of May 12, 1980 to May 16, 1980 the 30-day review period will be calculated from May 23, 1980. The review period will end on June 23, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of May 12, 1980 to May 16, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III set forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: May 20, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Appendix I—EIS's Filed With EPA During The Week of May 12 Through 16, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Animal and Plant Health Inspec. Service

On May 16, 1978 CEQ, in view of an emergency situation, approved the following action for the Rangeland Grasshopper Mgmt. EIS:

(a) issuance of a record of decision on May 22, 1980 for only those elements of the proposed program now scheduled to commence prior to July 1, 1980;

(b) consideration to all comments received by June 23, 1980 on elements of the proposed program scheduled to commence on or July 1, 1980;

(c) June 30, 1980 issuance of a separate record of decision for the balance of the 1980 program.

Final

Rangeland Grasshopper Cooperative Management, programmatic, several, May 16: Proposed is a management program for the protection of rangelands and agricultural crops from damage by grasshoppers. Several alternatives are considered which include: (1) no action; (2) biological control: (3) use of biological agents such as fungi, bacteria, viruses, protozoa, and parasites and predators; (4) cultural and mechanical; (5) integrated pest management; (6) eradication; and (7) chemical insecticides. The plan of work will be site specific for a grasshopper management action plan. (USDA–APHIS–ADM–79–1–F). Comments made by: USDA DOI, State agencies, groups, individuals and businesses. (EIS order No. 800381.)

Forest Service

Draft

Mt. Howard/Wing Ridge Expansion Wallowa-Whitman NF, Wallowa County, Oregon, May 15: Proposed is the expansion of Mt. Howard and the development of Wing Ridge within the Wallowa-Whitman National Forest, Wallowa County, Oregon, for winter sports. The alternatives to consider: (1) no action, (2) approval of Mt. Howard Master Plan, (3) approval of Wing Ridge proposal, and (4) approve both Wing Ridge and Mt. Howard proposals. (EIS order No. 800373.)

V 45 M Y 23 80 UMI

Soil Conservation Service

Final

South Priceboro Creek, Flood Prevention, Linn County, Oregon, May 16: The proposed project will reduce the time of flooding on 330 acres of cropland accomplished by channel improvements to South Priceboro Creek located in Linn County, Oregon. The measures to be taken include enlargement and improvement of approximately 2 miles of the creek, and a small concrete structure to be built at the upper end of the project to divert irrigation waters. Comments made by: EPA, USDA, DOE, State agencies, groups. (EIS order No. 800380.)

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Maryland Coast and Assateague Island Beach Erosion, Virginia, May 13: Proposed are beach erosion and hurricane protection plans for the Atlantic Coast of Maryland and Assateague Island, Virginia. Plan 1 consists solely of beach nourishment for the purpose of erosion control. Plan 2 provides for storm protection only. Plan 3 is a combined plan providing storm protection and erosion control. Plan 4 provides for limited storm protection. Plan 5 consists of nonstructural measures which utilize the existing beach. (Baltimore District), (EIS order No. 800369.)

Saipan Small Boat Harbor, Saipan, US Territory Proposed is the creation of a small boat harbor on the Island of Saipan in the Commonwealth of the Northern Mariana Islands. The Garapan Dock and Saipan Harbor areas are being studied. Both plans consist of dredging an entrance channel and basin and the construction of protective rock structures. Plan 2 (Saipan Harbor) would involve less dredging than Plan 1 (Garapan Dock). (Honolulu District) (EIS order No. 800364.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

Narragansett Bay Estuarine Sanctuary, Grant, Rhode Island, May 16: Proposed is the awarding of a grant for establishment of an estuarine sanctuary in Narragansett Bay, Rhode Island. The grant would be used for acquisition of 203 acres of uplands and wetlands on Patience Island. The sanctuary would be used primarily for research and educational purposes, especially to provide information useful for coastal zone management decision making. Recreational uses would be encouraged where compatible. Boundary and management alternativea are considered. (EIS Order No. 800378.)

Northern Mariana Islands Coastal Resources Mgmt., U.S. Territory, May 16: Proposed is a coastal resources management plan for the Commonwealth of the Northern Mariana Islands. Approval would permit implementation of the proposed program, allow program administration grants to be awarded to the state, and require that federal actions be consistent with the program. The effect of these policies and standards is to condition, restrict, or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. (EIS Order No. 800375.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Room 2203, Boston, Massachusetts 02203, (617) 223–4635.

Final

Central Massachusetts Water Quality Mgmt. Plan, several counties in Massachusetts, May 15: Proposed is the Central Massachusetts 208 Water Quality Management Plan. Alternatives are identified and recommendations are made in areas of land use, facility planning, on-lot waste disposal systems, industrial wastes, residual waters, urban runoff, non-point sources and other lesser sources of water pollution as well as the management structures to carry out these recommendations. Comments made by: USDA, DOI, DOT, State and Local Agencies, Businesses. (EIS Order No. 800371.)

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2716.

Bleached Kraft Market Pulp Mill, NPDES Permit, Newton County, Texas, May 15: Proposed is the issuance of an NPDES permit for the discharge of treated wastewater into the Sabine river resulting from the proposed construction of a 650 ton/day bleached kraft market pulp mill to be located near Bon Weir in Newton County, Texas. The alternatives consider build and no-build. Within the build alternative two types of processing are considered: 1) conventional five stage bleaching, and 2) the addition of oxygen delignification to the bleaching process. Provisions are also made for the management of solid wastes. Comments made by: DOT, AHP, DOE, HUD, DOI, COE, USDA, State and Local Agencies, Groups, and Individuals. (EIS Order No. 800372.)

Contact: Patrica Eklund, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, California, 94105, (415) 556–8030.

Santa Cruz Wastewater Facilities Plan, 201 Grant, Santa Cruz County, California, May 12: Proposed is a wastewater treatment facilities plan for the City and County of Santa Cruz, California. The selected alternative would provide oxygen-activated sludge secondary treatment at Nearys Lagoon plant site with year round discharge through an extended outfall to the Pacific Ocean. All of the alternatives considered maintain ocean discharge from the Santa Cruz treatment plant and all upgrade treatment to at least secondary treatment. (EPA–9–CA–Santa Cruz–WWPT–79). Comments made by: AHP, COE, DOI, State and Local Agencies, Groups, and Individuals. (EIS Order No. 800383.)

DEPARTMENT OF HEW

Contact: Mr. Charles Custard, Director, Office of Environmental Affairs, Department of Health, Education and Welfare, Room 524 F2, Hubert H. Humphrey Bldg., 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245–7243.

Draft

FDA Headquarters Laboratory Facilities, Prince Georges County, Maryland, May 16: Proposed is the construction of FDA Headquarters Laboratory Facilities in Beltsville, Prince Georges County, Maryland. A phased development program for new facilities has been established which would provide FDA with new facilities in several stages. The site encompasses approximately 244 acres. Several site alternatives were considered. (EIS Order No. 800377.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Final

First Colony Subdivision, Sugar Land, Fort Bend County, Texas, May 14: Proposed is the issuance of HUD home mortgage insurance for the First Colony Subdivision in Sugar Land, Fort Bend County, Texas. When completed, the subdivision, which encompasses 7,300 acres, will include approximately 13,200 single-family units, and 9,000 multi-family units, plus some shopping and recreational facilities. (HUD–RO6–EIS–6F) Comments made by: EPA, COE, USDA, AHP, DOI, FEMA, State and Local Agencies, Groups, Individuals, and Businesses (EIS Order No. 800370.)

Final Supplement

Jonathan New Community, Chaska, Carver County, Minnesota, May 16: Proposed is the acquisition and disposition of Jonathan New Community in Chaska, Carver County, Minnesota. The actions involved are: 1) termination of Title IV status and assistance, 2) complete acquisition through judicial foreclosure, 3) implement a plan of disposition, and 4) provide limited funding for operation of the Jonathan Association. The alternative considered entails a contested foreclosure with indefinite period of no development. Comments made by: EPA, DOI, DOT, Local Agencies, Individuals, and Businesses. (EIS Order No. 800382.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Draft Supplement

Beaufort Sea Oil and Gas Lease Sale (DS–1) Alaska, May 16: Proposed is the issuance of leases on federally-managed tracts in the Beaufort Sea, Alaska, under the terms and conditions set out in the Notice of Sale of November 7, 1979. The alternatives to his action are: 1) Proceed with sale, 2) modify

sale, 3) reschedule sale, and 4) cancel sale. With regard to the four Dinkum Sands tracts, the action under consideration is the temporary relinquishment of Federal claims to management control. This statement supplements a final EIS, No. 790870, filed 8–10–79. (EIS Order No. 800379.)

DEPARTMENT OF DEFENSE—Navy

Contact: Mr. Ed Johnson: Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697–3689.

Draft Supplement

Kings Bay FBM Submarine Support Base, Camden County, Georgia, May 15: Proposed is the construction and operation of an Atlantic Coast Strategic Submarine Base at the current Naval Submarine Support Base, Kings, Bay, Camden County, Georgia. The action also includes strategic and defensive weapons storage and transfer, refit industrial support, complete pipeline refresher and off-crew training, waterfront support, possible relocation of some waterfront facilities, administrative and personnel support and on-base housing. Also considered is future expanison to accommodate two other squadrons. This statement supplements final EIS, No. 771513, filed 12/12/77. (EIS Order No. 800374.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Mohamed T. El-Ashry, Director of Environmental Quality, Tennessee Valley Authority, Forestry Building 37828, Norris, Tennessee 37828, (615) 632–6450; FTS 856–6450.

Final

Mallard-Fox Creek Area Development and use, Morgan and Lawrence Counties, Alabama, May 13: Proposed is a development and use plan for the Mallard-Fox Creek area on Wheeler Reservoir in Morgan and Lawrence Counties, Alabama. The TVA owns approximately 1,950 acres of the area and has received two industrial requests for portions of the property which is currently being managed as a wildlife area. As a result, TVA proposes to make available 44 acres for the construction of a rail barge facility, up to 200 acres for the construction of a plastics manufacturing plant, and 206 acres for future industrial use. The remaining 1,500 acres would be committed to long-term, intensive wildlife management. The draft EIS No. 90284, filed 3–16–79 is replaced by revised draft No. 91157, filed 11–13–79. Comments made by: USDA, COE, DOI, EPA, State and Local Agencies, Groups, Individuals, and Businesses. (EIS Order No. 800367.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transporation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Aviation Administration

Final

Tulsa International Airport Development, Tulsa County, Oklahoma, May 13: Proposed is the approval of funding for improvements of the Tulsa International Airport in the City and County of Tulsa, Oklahoma. The improvements include: 1) extension of Runway 15R/35L and parallel taxiway, 2) relocation of airport perimeter road, 3) acquisition of 17 acres of land south and east of Runway 17R/35L for clear zone and approach protection, and 4) installation of a full instrument landing system and medium intensity aproach lighting system/runway alignment indicator lights. Comments made by: DOI, USDA, DOT, COE, HEW, EPA, State and Local Agencies, Groups. (EIS Order No. 800366.)

Federal Highway Administration

Draft

I–94 Interchange Improvements, City of Romulus, Wayne County, Michigan, May 16: Proposed are interchange improvements at the junctions of I–94 at Merriman and Middlebelt Roads in the City of Romulus, Wayne County, Michigan. The improvements would consist of reconstruction or relocation of exit and entrance ramps at the two roads and collector-distributor roads. The alternatives include: (1) no action, (2) alternate mode of transportation, and (3) upgrading the existing facility. (FHWA–MI–EIS–79–03–D) (EIS Order No. 800376.)

TN–92, Dumplin Valley Road to Jefferson City, Jefferson County, Tennessee, May 13: Proposes is the improvement of TN–92 from Dumplin Valley Road to the Southern Railroad Crossing north of Jefferson City, in Jefferson County, Tennessee. The length of improvement extends for 7.2 miles and would include a four-lane divided highway in rural areas and as a five lane highway in urban areas. The alternatives consider: (1) no build, (2) postponement, (3) lower level of service, (4) public transportation, and (5) three build alternatives. (FHWA–TN–EIS–80–01–D) (EIS Order No. 800368.)

Final

U.S. 50, White River, Washington City Bypass, Daviess and Knox Counties, Indiana, May 13: Proposed is the upgrading of a portion of US 50 extending from 5 miles east of the City of Vicinnes, Knox County, 27 miles to the east line of Daviess County, Indiana. The improvements to this section will include the transition to a four-lane divided highway with controlled access right-of-way. The alignment will be basically the same in the rural areas but relocated to bypass the City of Washington and for location of structures over the White River. (FHWA–IND–EIS–76–04–F) Comments made by: DOI, EPA, HUD, COE, DOT, State and local agencies. (EIS Order No. 800365.)

EIS's Filed During the Week of May 12 Through 16, 1980

[Statement title index—by State and county]

State	County	Status	Statement Title	Accession No	Date Filed	Originating agency No.
Alabama	Lawrence	Final	Mallard-Fox Creek Area Development and Use	800367	May 13, 1980	TVA
	Morgan	Final	Mallard-Fox Creek Area Development and Use	800367	May 13, 1980	TVA
Alaska		Supple	Beaufort Sea Oil and Gas Lease Sale (DS–1)	800379	May 16, 1980	DOI
California	Santa Cruz	Final	Santa Cruz Wastewater Facilities Plan, 201 Grant	800383	May 12, 1980	EPA
Georgia	Camden	Supple	Kings Bay FBM Submarine Support Base	[illegible]	May 15, 1980	USN
Indiana	Daviess	Final	US 50), White River Washington City Bypass	[illegible]	May 13, 1980	DOT
	Knox	Final	US 50, White River, Washington City Bypass	800365	May 13, 1980	DOT
Maryland		Draft	Maryland coast and Assateague Island Beach Erosion	800369	May 13, 1980	COE
	Prince Georges	Draft	FDA Headquarters Laboratory Facilities	800377	May 16, 1980	HEW
Massachusetts	Several	Final	Central Massachusetts Water Quality Mgmt. Plan	800371	May 15, 1980	EPA
Michigan	Wayne	Draft	I–94 Interchange Improvements, City of Romulus	800376	May 16, 1980	DOT
Minnesota	Carver	Supple	Jonathan New Community, Chaska	[illegible]	May 16, 1980	HUD
Oklahoma	Tulsa	Final	Tulsa International Airport Development	[illegible]	May 13, 1980	DOT
Oregon	Linn	Final	South Priceboro Creek, Flood Prevention	800380	May 16, 1980	USDA
	Wallowa	Draft	Mt. Howard/Wing Ridge Expansion Wallowa-Whitman NF	800373	May 15, 1980 USDA	
Programmatic		Final	Rangeland Grasshopper Cooperative Management	[illegible]	May 16, 1980	USDA
Rhode Island		Draft	Narragansett Bay Estuarine Sanctuary, Grant	[illegible]	May 16, 1980	DOC
Several		Final	Rangeland Grasshopper Cooperative Management	800381	May 16, 1980	USDA
Tennessee	Jefferson	Draft	TN–92, Dumplin Valley Road to Jefferson City	[illegible]	May 13, 1980	DOT
Texas	Fort Bend	Final	First Colony Subdivision, Sugar Land	800370	May 14, 1980	HUD
	Newton	Final	Bleached Kraft Market Pulp Mill, NPDES Permit	800372	May 15, 1980	EPA
U.S. Territory		Draft	Saipan Small Boat Harbor, Saipan	[illegible]	May 15, 1980	COE
		Draft	Northern Mariana Islands Coastal Resources Mgmt.	800375	May 15, 1980	DOC
Virginia		Draft	Maryland Coast and Assateague Island Beach Erosion	[illegible]	May 13, 1980	COE

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Appendix II—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/ extension	Date review terminates
DEPARTMENT OF INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building Department of the Interior, Washington, D.C. 20240, (202) 343–3891.	Superior Oil Co., Land Exchange and Oil Shale Resource Development.	Final 800258	May 21, 1980	Extension	June 4, 1980.
	McGregor Range Grazing Mgmt. program, Otero County, N. Mex.	Draft 800280	Apr. 25, 1980 (see app. I).	Extension	June 17, 1980.
	Beaufort Sea Oil and Gas Lease Sale, Alaska.	Draft supp. 800379	May 23, 1980 (see app. I).	Waiver	June 23, 1980.
U.S. ARMY CORPS OF ENGINEERS					
Mr Richard Makinen, Office of Environmental Policy, Attn. DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121	Saipan Small boat Harbor, Saipan, Commonwealth of the Northern Marianas.	Draft 800364	May 23, 1980 (see app. I).	Extension	July 15, 1980.
	Atlantic Coast of Maryland and Assateague Island, Beach Erosion Control.	Draft 800369	May 23, 1980 (see app. I).	Extension	July 11, 1980.

Appendix III—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Onginating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
FEDERAL ENERGY REGULATORY COMMISSION				
Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8228.	Kootenai River hydroelectric project, License, Lincoln County, Mon.	Draft 800340	May 9, 1980	The abstract is expanded to include the following: "This notice supercedes a previous notice of availability published by the FERC in the FEDERAL REGISTER on Apnl 15, 1980, 44 FR 25547. The Rural Electrification Administration (REA) is participating in the EIS process for the proposed project, as a cooperating Federal Agency with its internal identification number (USDA–REA–EIS (Adm.–80–1–D); the REA may use the forthcoming final EIS on this project to fulfill the NEPA requirements in conjunction with an REA potentially forthcoming major Federal action for guaranteeing loan funds in support of the proposed project to the Applicant. Other cooperating agencies are the U.S. Forest Service and Bonneville Power Administration."

Appendix VI.—Official Correction—Continued

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in FEDERAL REGISTER	Correction
DEPARTMENT OF INTERIOR				
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343–3891..	McGregor Range grazing mgmt. program, Otero County, N. Mex	Draft 800280	Apr. 25, 1980	In the Notice published in the May 16, 1980 FR, an extension was published with an incorrect terminabon date. The correct terminabon date is June 17, 1980. (See Appendix II).

[FR Doc. 80–15263 Filed 5–22–80: 8:45 am]

BILLING CODE 6560–01–M

[FRL 1472–1; OPTS–51053]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 80–12303 appearing at page 27006 in the issue for Tuesday, April 22, 1980, make the following corrections:

1. On page 27007, in the second column, the tenth paragraph under *"Environmental Release/Disposal."*, the second and third lines reads "(rat) — $LD_{50} \leq 5.0$ g/kg, no deaths. Acute dermal toxicity (rabbit) — $LD_{50} \leq 2.9$ g/kg," should be corrected to read "(rat) — $LD_{50} > 5.0$ g/kg, no deaths. Acute dermal toxicity (rabbit) — $LD^{50} > 2.0$ g/kg,".

2. Also on page 27007, in the third column, the seventh paragraph, the second line reads "(rat — $LD_{50} \leq 5.0$ g/kg; 1/10 died at 5g/k." Should be corrected to read "(rat) — $LD_{50} > 5.0$ g/kg; 1/10 died at 5 g/kg."

3. Also on page 27007, in the third column the seventh paragraph, the fourth line reads "< 2.0 Kg, no deaths. Primary dermal" should be corrected to read "> 2.0 Kg, no deaths. Primary dermal".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing

Adopted: May 8, 1980.

Released: May 14, 1980.

Notice is hereby given pursuant to §§ 73.3572(c) and 73.3573(d) of the Commission's rules, that on June 20, 1980, the TV and FM translator applications listed in the attached Appendix below will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 73.3591(b) of the rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on June 19, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on June 19, 1980.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 73.3584(a) of the rules, which specifies the time for filing and other requirements relating to such pleadings.

FM Translator Applications

BPFT–791001IH (new), Marshfield, Stratford, Auburndale & Pittsville, Wisconsin, Living Word Communications, Inc. Req: Channel 261, 100.1 MHz, 1.0 watt. Primary: WWIB–FM, Ladysmith, Wisconsin.

BPFT–791001II (new), Pioche, Panaca, Caliente, Peck, Lund & Preston, Nevada, Trinity Temple Church db/as Tri-State Translators. Req: Channel 285, 104.9 MHz, 10 watts. Primary: KILA–FM, Henderson, Nevada.

BPFT–791016IC (new), Big Park Valley Area, Village of Oakcreek, Jacks Canyon, Valley Vista Estates, Arizona, Bell Rock TV Club, Inc. Req: Channel 257, 99.5 MHz, 1 watt. Primary: KOOL–FM, Phoenix, Arizona.

BPFT–791016IE (new), Big Park Valley Area, Village of Oakcreek, Jacks Canyon & Valley Vista Estates, Arizona, Bell Rock TV Club, Inc. Req: Channel 288, 105.5 MHz, 1 watt. Primary: KMEO–FM, Phoenix, Arizona.

BPFT–791022ID (new), Indian Springs, Nevada, Trinity Temple Church db/as Tri-State Translators. Req: Channel 285, 104.9 MHz, 10 watts. Primary: KIIA–FM, Henderson, Nevada.

BPFT–791107IC (new), Coalville & Unincorporated Summit County, Utah, Community Wireless of Park City, Inc. Req: Channel 201, 88.1 MHz, 10 watts. Primary: BPED–790507AD, Part City, Utah.

BPFT–791106IC (new), Trinity Center, California, North Lake Translator Group. Req: Channel 265, 100.9 MHz, 1 watt. Primary: KTMT–FM, Medford, Oregon.

BPFT–791108IF (new), Orangville & Rural Emery County, Utah. University of Utah. Req: Channel 202, 88.3 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IG (new), Randolph & Woodruff, Utah. University of Utah. Req: Channel 201, 88.1 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IH (new), Delta & Rural Millard County, Utah, University of Utah. Req: Channel 201, 88.1 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108II (new), Milford & Rural Beaver County, Utah, University of Utah. Req: Channel 202, 88.3 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IJ (new), Tabiona & Myton, Utah, University of Utah. Req: Channel 202, 88.3 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IK (new), Rural Summit County, Utah, University of Utah. Req: Channel 202, 88.3 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IL (new), Rural Wayne & Sevier Counties, Utah, University of Utah. Req: Channel 202, 88.3 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IM (new), Price & Rural Carbon County, Utah, University of Utah. Req: Channel 204, 99.7 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IN (new), Monticello, Blanding & Rural San Juan County, Utah. Req: Channel 216, 91.1 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IO (new), Tropic & Rural Garfield County, Utah, University of Utah. Req: Channel 216, 91.1 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IP (new), Laketown & Garden City, Utah, University of Utah. Req: Channel 216, 91.1 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IQ (new), Vernal & Redwash, Utah, University of Utah. Req: Channel 218, 91.5 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791108IR (new), Moab, Rural Grand & San Juan, Counties, University of Utah. Req: Channel 218, 91.5 MHz, 10 watts. Primary: KUER–FM, Salt Lake City, Utah.

BPFT–791128IK (new), Morgan Hill, California, The Audio House, Inc. Req:

Channel 257, 99.3 MHz, 1 watt. Primary: KOME–FM, San Jose, California.
BPFT–791129ID (new), Linden, New Jersey, John Randolph Getz. Req: Channel 205, 88.9 MHz, 10 watts. Primary: WVRM–FM, Hazlet, New Jersey.

UHF TV Translator Applications

BPTT–790503IF (new), Walsenburg, Colorado, University of Southern Colorado. Req: Channel 56, 722–728 MHz, 100 watts. Primary: KTSC–TV, Pueblo, Colorado.
BPTT–790904IL (new), Axial Basin Rural, Colorado, Moffat County. Req: Channel 60, 746–752 Mhz, 100 watts. Primary: KBTV–TV, Denver, Colorado.
BPTT–791911IC (new), Winnemucca, Nevada., Humboldt County. Req: Channel 55, 716–722 MHz, 100 watts. Primary: KCRL–TV, Reno, Nevada.
BPTT–790926IA (new), South Fork & Rural Area, Colorado, South Fork TV Association. Req: Channel 57, 728–734 Mhz, 20 watts. Primary: KNME–TV, Albuquerque, New Mexico.
BPTT–800211IH (new), Trinidad, Valdez & Hoehne, Colorado, University of Southern Colorado. Req: Channel 69, 800–806 Mhz, 100 watts. Primary: KTSC–TV, Pueblo, Colorado.
BPTT–800211II (new), Alamosa, La Jara, Manassa, Romeo & Antonito, Colorado, University of Southern Colorado. Req: Channel 55, 716–722 MHz, 100 watts. Primary: KTSC–TV, Pueblo Colorado.
BPTT–800211IJ (new), Saldia, Buena Vista, Center & Monte Vista, Colorado, University of Southern Colorado. Req: Channel 53, 704–710 MHz, 100 watts. Primary: KTSC–TV, Pueblo, Colorado.
BPTT–800421IA (new), Port Orford, Oregon, State of Oregon Acting By and Through The State Board of Higher Education. Req: Channel 61, 752–758 Mhz, 100 watts. Primary: KOAP–TV, Portland, Oregon.
BPTT–800421IB (new), Gold Beach, Oregon, State of Oregon Acting By and Through The State Board of Higher Education. Req: Channel 55, 716–722 MHz, 100 watts. Primary: KOAP–TV, Portland, Oregon.
BMPTT–790803IC (K55BU), Milton-Freewater, Oregon, State of Oregon, Board of Higher Education. Req: Change frequency to Channel 61.
BPTT–800109IB (W68AA), Danville, Illinois, Wand Television, Inc. Req: Increase output power to 1000 watts.
BPTT–800328IA (new), Providence, Rhode Island, Boston Heritage Broadcasting, Inc. Req: Channel 48, 674–680 MHz, 100 watts. Primary: KQTV–TV, Boston, Massachusetts.

VHF TV Translator Applications

BPTTV–791001IJ (new), Oregon Canyon, Oregon, John Echave. Req: Channel 11, 198–204 MHz, 1 watt. Primary: KIVI–TV, Nampa, Idaho.
BPTTV–791004IB (new), Sutank, & Rural Areas to the West, Colorado, Garfield County. Req: Channel 4, 66–72 MHz, 5 watts. Primary: KWGN–TV, Denver, Colorado.
BPTTV–791004IC (new), East Elk Creek, Colorado, Garfield County. Req: Channel 8, 180–186 MHz, 1 watt. Primary: KWGN–TV, Denver, Colorado.
BPTTV–791004ID (new), East Elk Creek, Colorado, Garfield County. Req: Channel 10, 192–198 MHz, 1 watt. Primary: KRMA–TV, Denver, Colorado.
BPTTV–791004IE (new), Grand Valley, Colorado, Garfield County. Req: Channel 11, 198–204 MHz, 5 watts. Primary: KWGN–TV, Denver, Colorado.
BPTTV–791004IF (new), Suntank & Rural Areas to the West, Colorado, Garfield County. Req: Channel 12, 204–210 MHz, 5 watts. Primary: KRMA–TV, Denver, Colorado.
BPTTV–791004IG (new), Grand Valley, Colorado, Garfield County. Req: Channel 13, 210–216 MHz, 10 watts. Primary: KRMA–TV, Denver, Colorado.
BPTTV–791012IB (new), Merrill/Malin, Oregon, Southern Oregon Education Company. Req: Channel 4, 66–72 MHz, 5 watts. Primary: KSYS–TV, Medford, Oregon.
BPTTV–791015IG (new), Lordsburg, New Mexico, Regents of New Mexico State University. Req: Channel 2, 54–60 MHz, 10 watts. Primary: KRWG–TV, Las Cruces, New Mexico.
BPTTV–791025IC (new), Greasewood, Arizona, Greasewood Community Club. Req: Channel 8, 180–186 MHz, 1 watt. Primary: KOB–TV, Albuquerque, New Mexico.
BPTTV–800211IK (new), Aguilar, Colorado, University of Southern Colorado. Req: Channel 4, 66–72 MHz, 10 watts. Primary: KTSC–TV, Pueblo, Colorado.
BPTTV–800211IL (new), San Luis, Colorado, University of Southern Colorado. Req: Channel 2, 54–60 MHz, 1 watt. Primary: KTSC–TV, Pueblo, Colorado.
BPTTV–800211IM (new), Del Norte, Colorado, University of Southern Colorado. Req: Channel 2, 54–60 MHz, 10 watts. Primary: KTSC–TV, Pueblo, Colorado.
BPTTV–800211IN (new), La Veta, Colorado, Garfield County. Req: Channel 3, 66–72 MHz, 1 watt. Primary: KTSC–TV, Pueblo, Colorado.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–15811 Filed 5–22–80; 8:45 am]

BILLING CODE 6712–01–M

[PR Docket Nos. 80–181, 80–182, File Numbers 93–A–RL–79, 307–A–L–69]

FM Spears, et al.; Application for Renewal of Aeronautical Advisory Station

In re the application of F. M. Spears d.b.a. Spears Aviation Service, Jackson, Tennessee, PR Docket No. 80–181, Filed Number 93–A–RL–79; Jackson-Madison County Airport Authority, Jackson, Tennessee, for an Aeronautical Advisory Station to serve McKellar Field, Jackson, Tennessee, PR Docket No. 80–182, File Number 307–A–L–69.

Order

Adopted: April 23, 1980.

Released: May 14, 1980.

1. F. M. Spears d.b.a. Spears Aviation Service (hereafter called Spears) has filed an application for renewal of Aeronautical Advisory Station KJB3 located at McKellar Field, Jackson, Tennessee and the Jackson-Madison County Airport Authority has filed an application for a new Aeronautical Advisory Station at McKellar Field. Since § 87.251(a) of our rules provides that only one aeronautical advisory station may be authorized at an airport, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing, it is ordered, that pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-based operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other aviation service organizations;

(b) To determine the manner in which Spears has operated Aeronautical Advisory Station KJB3 and whether such operations were in accordance with the rules governing the operation of this class of station.

(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. It is further ordered, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on Spears and issue (c) which is conclusory.

4. It is further ordered, That to avail themselves of an opportunity to be heard, Spears and the Jackson-Madison County Airport Authority pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 80–15810 Filed 5–22–80; 8:45 am]

BILLING CODE 6712–01–M

[BC Dockets Nos. 80–205 to 80–208; Files Nos. BPH–11091, etc.]

Lee Broadcasting, Inc., et al.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: April 24, 1980.
Released: May 14, 1980.

In re applications of Lee Broadcasting, Inc., Fort Myers Beach, Florida, Req: 99.3 MHz, Channel 257, 3.0 kW (H&V), 300 ft., BC Docket No. 80–205, File No. BPH–11091; Phillips Broadcasting of Florida, Inc., Fort Myers Beach, Florida, Req: 99.3 MHz, Channel 257, 3.0 kW (H&V), 300 ft., BC Docket No. 80–206, File No. BPH–780824AB; Local Sound Waves, Inc., Fort Myers Beach, Florida, Req: 99.3 MHz, Channel 257, 3.0 kW (H&V), 300 ft., BC Docket No. 80–207, File No. BPH–780829AC; Nathan L. Goetz, Fort Myers Beach, Florida, Req: 99.3 MHz, Channel 257, 3.0 kW (H&V), 300 ft., BC Docket No. 80–208, File No. BPH–780830AE; for construction permit for new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Lee Broadcasting, Inc. (Lee), Phillips Broadcasting of Florida, Inc. (Phillips), Local Soundwaves, Inc. (Local), and Nathan L. Goetz (Goetz), and related pleadings.

2. *Lee.* Lee has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applications*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has failed to survey leaders of a significant population group set forth in its demographic study, as required by Questions and Answers 10, 13(a) and 16 of the *Primer*. Specifically, Lee has failed to survey leaders of the elderly whereas the application states that "the 65 and over age group is the largest and fastest-growing segment in Southwest Florida. Therefore, a limited ascertainment issue will be specified.

3. Lee has requested that grant of the construction permit be conditioned on divestiture of its existing broadcast interests. Lee's only remaining broadcast interest is station WACI in Fort Myers, Florida. (See *Other Matters*, below.) In the event Lee's application is granted, the construction permit will be conditioned in that manner.

4. *Phillips.* Analysis of the financial data submitted by applicant reveals that $93,496.70 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$3,521.80
Equipment payments with interest	30,674.90
Land	5,000.00
Building	8,000.00
Miscellaneous	20,300.00
Operating Costs (three months)	26,000.00
Total	93,496.70

Phillips plans to finance construction and operation with the following funds: (i) $803.26 in existing capital, (ii) an $80,000 bank loan of which $72,000 net will be available to the applicant, and (iii) a $20,000 loan from George W. Phillips. Analysis of Mr. Phillip's balance sheet reveals that current liquid assets of $44,490, exceed current liabilities of $43,158 by $1,332, the extent to which Mr. Phillips can contribute to the applicant. Therefore, applicant has only shown $74,135.26 available to meet a commitment of $93,496.70. Accordingly, a limited financial issue will be specified.

5. *Other Matters.* Lee amended its application twice after August 23, 1979, the deadline for filing amendments as a matter of right. Both amendments contain information concerning the transfer of control of stations WBEX and WBEX–FM in Chillicothe, Ohio, owned by Shawnee Broadcasting Company, 50.2 percent parent of Lee. Local filed conditional oppositions to the amendments opposing the consideration of these amendments as to Lee's comparative position on diversification and claimed that the amendments should be considered solely for purposes of disclosure under § 1.65 of the Commission's rules. In reply, Lee argued that its August 23, 1979 amendment stated its intention to divest itself and its principals (Shawnee is wholly owned by Truman A. Morris, President of Lee) of all broadcast interests prior to any grant of a construction permit. Since Lee indicated its intention to dispose of its other interests prior to the amendment deadline, the amendments will be accepted and any grant to Lee will be conditioned on its sale of its remaining broadcast interest, WCAI. An amendment by Phillips is also accepted.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Lee interviewed leaders of the elderly in Fort Myers Beach, Florida.

2. To determine with respect to Phillips:

(a) The source and availability of additional funds over and above the $74,135 indicated; and

(b) Whether, light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, would best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered that, in the event of a grant of the application of Lee, the construction permit shall contain a condition that program tests will not be authorized until the permittee has shown that Lee has divested itself of all interest in, and

severed all connections with, station WCAI, Fort Myers, Florida.

10. It is further ordered, that the petitions for leave to amend filed by Lee and Phillips are granted and the corresponding amendments are accepted.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-15808 Filed 5-22-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-209, 80-210; File Nos. BPH-10907, BPH-781128AC]

R & R Associates, Inc. and Tri City Broadcasting, Inc.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 2, 1980.
Released: May 14, 1980.

In re applications of R & R Associates, Inc., Craig, Colorado, Req: 102.5 MHz, Channel #273, 100 kW (H&V) 879 feet, BC Docket No. 80-209, File No. BPH-10907; Tri City Broadcasting, Inc., Craig, Colorado, Req: 102.5 MHz, Channel #273, 100 kW (H&V) 1259 feet, BC Docket No. 80-210, File No. BPH-781128Ac; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned mutually exclusive applications of R&R Association, Inc. (R&R) and Tri City Broadcasting, Inc. (Tri City); (b) a petition to dismiss filed by the Tri City; (c) a petition to specify issues filed by R&R, and (d) related pleadings thereto. [1]

2. *R&R.* The applicant's ascertainment showing is not in substantial compliance with the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971). Question and Answer 29 requires that the applicant give "the description and anticipated time segment, duration, and frequency of broadcast of the program or program series and the community problem or problems which are to be treated by it." An applicant's proposed programming must address the needs of the community. R&R proposed four programs but did not indicate the community problems to be adddressed by these programs. Three of these proposed programs originate nationally and do not specifically focus on the problems of Craig. The only locally originated program proposed by the applicant does not specify the anticipated time, duration, frequency or indicate the community problems to be addressed. R&R merely indicates that "this will be an interview show with applicant's new staff". Accordingly, a limited ascertainment issue will be specified against R&R.

3. R&R indicates that it plans to employ eight people at its proposed facility. The applicant has not stated whether any of its employees will be part-time. Section 73.2080 of the Commission's rules requires that a program designed to provide equal employment opportunities be filed with the FCC by any station having 5 or more full-time employees. The applicant has failed to file such a program. Accordingly, an issue will be specified.

4. *Tri City.* Tri City's ascertainment survey is in substantial compliance with the *Primer* , although the applicant failed to state the dates that its general public survey was held as required by Question and Answer 2 and 15. As a result, no ascertainment issue will be specified.

5. *Other Matters.* On February 16, 1969, Tri City petitioned the Commission to dismiss R&R's application for violation of § 73.240(a) of the Rules. In R&R's application, as originally filed, Robert F. Sweeney is listed as a 50% stockholder of R&R and owner of Northwest Colorado Publishing, Inc., publisher of two newspaper in Craig, Colorado. The owner 50% stockholder is Royal Maxwell. On March 15, 1979. R&R amended its application to reflect the transfer of Mr. Sweeney's 50% interest to Homer and Beverly Wilson. In a "Motion to Strike Amendment to R&R Associates", filed March 28,1979, Tri-City argued that the transfer to the Wilsons constituted a "major change" pursuant to § 1.573(b) thus requiring the assignment of a new file number and return of R&R's application to the processing line.[2] Tri City reasoned that since the cut-off date for filing competing applications was January 17, 1979, acceptance of the March 15 amendment must necessarily result in the dismissal of R&R's application. On April 17, 1979, R&R amended its application to reflect a further transfer of stock increasing the interest of Royal Maxwell from 50% to 51% and giving the Wilsons a 49% interest. By this action, Mr. Maxwell acquired positive control of R&R. In *Barnes Enterprises, Inc.*, 55 FCC 2d 721, 725 n. 4, 35 RR 2d 176, n. 4 (1975), the Commission determined that where an existing stockholder with negative control (50%) acquires postive control, the application for consent to the transfer may be filed on Form 316 (short form) rather than on Form 315. *See also Gaffney Broadcasting, Inc.*, 35 RR 1067 (1975) and *In Re Charles Esposito*, 45 RR 2d 755 (Broadcast Bureau, 1979). As a result of its amendments viewed in their totality, R&R increased the ownership interest of an existing stockholder from negative to positive (51%) control and brought in two new minority stockholders holding 49% of the stock. Since the net effect would not require a filing of a long form transfer application, R&R's amendments do not effect a major change pursuant to § 1.573(b) and Tri City's petition to dismiss will be denied.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the broadcast matter proposed by R&R Associates, Inc., is responsive to the community needs and problems ascertained by its survey.

2. To determine whether R&R has complied with § 73.2080 of the rules regarding equal employment opportunity.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

9. It is further ordered, that the petition to dismiss filed by Tri-City is denied.

10. It is further ordered, that the petitions for leave to amend filed by R&R and Tri-City are granted, and the corresponding amendments are accepted.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

12. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-15809 Filed 5-22-80; 8:45 am]

BILLING CODE 6712-01-M

[1] The R&R application was tendered for filing on December 14, 1977, and appeared on public notice of cut-off in November 1978. Accordingly, the amendment and predesignation issue pleadings procedures of former §§ 1.522 and 1.584 of the rules were applicable and the parties filed numerous issue and amendment pleadings. However, pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications; Amendments of Part I of the Commission's rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by the parties in issue pleadings have been considered herein only to the extent they relate to issues specifically included in this Order. Accordingly, an opportunity to seek to raise any allegations contained in the issue pleadings which have not been discussed herein will be afforded the parties post designation pursuant to § 1.229.

[2] Section 1.573(b) of the Commission's rules requires the assignment of a new file number of an application upon a voluntary transfer of control—one for which an application for Commission consent would have to be filed on Form 315.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-620-DR]

Missouri Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA-620-DR), dated May 15, 1980, and related determinations.

DATED: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143), notice is hereby given that, in a letter of May 15, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms and tornadoes beginning on May 12, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Missouri.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. David R. Ruby of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Missouri to have been affected adversely by this declared major disaster.

Pettis County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-15838 Filed 5-22-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Cancellation of Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-462) notice was published in 45 FR 31492 of May 13 1980, that a meeting of the Federal Prevailing Rate Advisory Committee would be held on June 5, 1980. Notice is hereby given that the meeting scheduled for that date has been cancelled.

Jerome H. Ross

Chairman, Federal Prevailing Rate Advisory Committee.

May 16, 1980.

[FR Doc. 80-15836 Filed 5-22-80; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies, Notice of Proposed De Novo Nonbank Activities; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 80-1455) published at page 31203 of the issue for Monday, May 12, 1980. The final date for receipt of comments is corrected to read June 12, 1980.

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce

benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 12, 1980.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

U.S. BANCORP, Portland, Oregon (financing and insurance activities; Oregon): to engage through its subsidiary, U.S. Creditcorp., in making, acquiring and servicing of loans and other extensions of credit for its own account or for the account of others, including the making of consumer installment loans, purchasing consumer installment and real estate sales finance contracts and evidences of debt and making industrial loans, and acting as an insurance agent for the sale of credit life and disability insurance directly related to extensions of credit by U.S. Creditcorp. These activities would be conducted from an office in Salem, Oregon, serving the counties of Marion, Benton, Linn, Lincoln, Polk, Clackamas and Yamhill, Oregon.

B. *Other Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15849 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Bankshares of Park County, Inc.; Formation of Bank Holding Company

Bankshares of Park County, Inc., Bailey, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Bank of Park County, Bailey, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15851 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Central Bancompany; Acquisition of Bank

Central Bancompany, Jefferson City, Missouri, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 74.7 per cent or more of the voting shares of Empire Bank, Springfield, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 12, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15852 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Drexel Holding Company; Formation of Bank Holding Company

Drexel Holding Company, Chicago, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 82 percent or more of the voting shares of Drexel National Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15853 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

First National Cincinnati Corp.; Acquisition of Bank

First National Cincinnati Corporation, Cincinnati, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by acquisition to The Portsmouth Banking Company, Portsmouth, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15854 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Liberty National Bancorp, Inc.; Formation of Bank Holding Company

Liberty National Bancorp, Inc., Louisville, Kentucky, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Liberty National Bank and Trust Company. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the reserve Bank, to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn

Assistant Secretary of the Board

[FR Doc. 80-15855 Filed 5-22-80; 8:45 am]

Billing Code 6210-01-M

Liberty National Corp.; Proposed Retention of 50 Percent Interest in Liberty-Heller Factors, Inc.

Liberty National Corporation, Oklahoma City, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain 50% of the voting shares of Liberty-Heller Factors, Inc., Oklahoma City, Oklahoma.

Applicant states that the subsidiary engages in business lending and financing inventories for small and medium size companies. These activities are performed from offices of Applicant's subsidiary in Oklahoma City, Oklahoma, and the geographic area served includes the State of Oklahoma. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits of the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 13, 1980.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15856 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Mills County Bancorp.; Formation of Bank Holding Company

Mills County Bancorp., Glenwood, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 96 percent of the voting shares of Mills County State Bank, Glenwood, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15859 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp; Acquisition of Bank

U.S. Bancorp, Portland, Oregon, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent or more of the voting shares of The Bank of Milwaukie, Milwaukie, Oregon, a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15850 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Wood Lake Corp.; Proposed Retention of Wood Lake Insurance Agency

Wood Lake Corporation, Wood Lake, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(C)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain Wood Lake Insurance Agency (a division of Wood Lake Corporation), Wood Lake, Minnesota.

Applicant states that the agency engages in general insurance sales and activities to businesses and consumers in a town of less than 5,000. These activites are peformed from offices of Applicant in Wood Lake, Minnesota, and the geographic area served includes an area within a six mile radius of the town of Wood Lake. Such activites have been specified by the Board in section

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225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 16, 1980.

Board of Governors of the Federal Reserve System, May 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15860 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

M B Group Inc.; Formation of Bank Holding Company

M B Group Inc., Marathon, Florida, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82 per cent or more of the voting shares of The Marathon Bank, Marathon, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15858 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

Southern Banks of Florida; Formation of Bank Holding Company

Southern Banks of Florida, Gainesville, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 99.1 per cent or more of the voting shares of High Springs Bank, High Springs, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15857 Filed 5-22-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0190]

Light Sources; Biological Effects and Measurement; Open Meeting

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an open meeting to discuss research efforts sponsored by the agency's Bureau of Radiological Health (BRH) in the area of biological effects and measurement of light sources.

DATE: The meeting will be held June 9 and 10, 1980; sessions will convene at 9 a.m. each day.

ADDRESS: The meeting will be held at the Bureau of Radiological Health, Rm. 416, 12720 Twinbrook Parkway, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: DeWitt G. Hazzard, Bureau of Radiological Health (HFX-14), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4190.

SUPPLEMENTARY INFORMATION: Presentations will be divided between intramural projects and extramural research supported through grants, contracts, and interagency agreements. To the extent that time permits, opportunity will be provided for comments by interested persons.

Proceedings of the open meeting will be published as a BRH technical report. Availability of the report will be announced in the BRH Bulletin at a later date.

Dated: May 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-15783 Filed 5-20-80; 12:06 pm]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Notice of Receipt of Application

Applicant: Mr. Richard S. Funk, Dept. of Biological Sciences, Illinois State University, Normal, IL 61761.

The applicant requests a permit to import 2.2 Jamaican boas *(Epicrates subflavus)* and 2.2 Puerto Rican boas *(Epicrates inornatus)* from Mr. Tom Huff, Reptile Breeding Foundation, Picton, Ontario, Canada, for propagation purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington D.C. 20240.

This application has been assigned file number PRT 2-7052. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 20, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-15911 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Mark Runnals, 220 Pine St., Holyoke, MA 01040.

The applicant requests a permit to import up to 6 (total) male and female turquoise *(Neophema pulchella)* and scarlet-chested *(Neophema splendida)* parakeets from Holland and Germany for the purpose of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-6532. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: May 20, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-15912 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered and Threatened Species Permit; Notice of Receipt of Application

Applicant: Virgin Island Bureau of Fish & Wildlife, Frederiksted, St. Croix.

The applicant requests a permit to take green *(Chelonia mydas)*, hawksbill *(Eretmochelys imbricata)* and leatherback *(Dermochelys coriacea)* sea turtles for tagging studies. No sea turtles will be intentionally killed under this permit.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-6582. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: May 20, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-15913 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-55-M

Availability of Environmental Assessments for Wildlife Restoration Projects

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability for inspection and public comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review to supplement those previously listed in the **Federal Register** July 20, August 3, September 6, October 5, November 16, and December 27, 1979, and March 7 and April 3, 1980. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public is invited to comment, and information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by June 23, 1980.

ADDRESSES: The assessments are available for inspection at the following locations:

FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201
Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232
Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103
Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111
Region 4, FWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303
Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158
Region 6, FWS, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225
Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507

Central headquarters office of the State fish and wildlife agency.

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional addresses within 30 days. Copies of the assessment may be obtained at the Regional Offices upon payment of reasonable reproduction costs pursuant to 43 CFR, Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT: Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 78-430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the **Federal Register** a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703-235-1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal Aid projects funded in part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq.: (Activities listed are not exclusive.)

Region 6

Utah W-136-D (Portions of this project were formerly under Utah W-107D.)

This project provides for research, development, and maintenance activities in selected pinyon/juniper rangeland throughout the State. The project is designed to improve and protect the vegetation on critical big game winter ranges, with secondary benefits for nongame species. Activities proposed include development of fences, signs, firebreaks, springs for wildlife watering, range improvements, and reseeding. Routine maintenance of existing roads, fences, signs and firebreaks will be performed. Research on the range quality and its potential for improvement are proposed.

Addendum—Region 6

Utah W-117-LDR (Previously cited in October 5, 1979, **Federal Register**, p. 57520.)

This Supplemental EA provides for Federal Aid participation in research, development, and maintenance activities on 18 Waterfowl Management Areas statewide totalling 229,000 acres. Research includes basic survey and inventory of waterfowl to determine population status and trends, mortality, harvests, and migration patterns. Routine census and data collection techniques are used such as aerial and ground surveys, hunter bag checks and questionnaires. Development and maintenance of habitat and facilities includes: seeding of herbaceous crops for waterfowl food and cover, water level management, tree and shrub plantings on selected upland areas, repair and replacement of waterfowl nesting structures, upkeep of buildings, dams, dikes, canals and channels, bridges, roads and trails, fences, signs and public use facilities.

Dated: May 20, 1980.

Robert S. Cook,

Acting Director, U.S. Fish & Wildlife Service.

[FR Doc. 80-15781 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

U.S. Geological Survey's Best Available and Safest Technology Program for Offshore Oil and Gas Operations

The purpose of this Notice is to advise the public of the availability of a booklet describing the U.S. Geological Survey's (USGS) Best Available and Safety Technology (BAST) program.

The USGS BAST program is a result of the OCS Lands Act Amendments of 1978 and comments received in regard to the USGS **Federal Register** Notice, Volume 44, No. 28, February 8, 1979, and a subsequent study by the Marine Board of the National Research Council, entitled "Implementing Best Available and Safest Technologies For Offshore Oil and Gas Operations," completed in September 1979.

The BAST program provides a systematic approach toward the incorporation of various program elements into an overall OCS regulatory scheme. Recognizing the evolutionary nature of the BAST program, as improvements, additions, and advances are made in safety concepts and technology, changes will be made to the existing body of regulations, Orders, and standards which govern the extraction of minerals from OCS leased lands. Although many BAST standards are applicable to the entire OCS, it is recognized that the application of BAST must be tailored to each Region's geological and environmental condition, and its application must also be suited to the type of operation.

The booklet entitled "Program to Assure the Use of Best Available and Safest Technologies on the Outer Continental Shelf" describes the USGS program for BAST in four components, i.e.: where the BAST requirement is found, how BAST is to be applied, information relative to BAST determinations, and organization and procedures to incorporate BAST into the regulatory program.

Single copies of the booklet are free upon request and can be obtained by writing the U.S. Geological Survey, Deputy Division Chief, Offshore Minerals Regulation, National Center—Mail Stop 640, Reston, Virginia 22092.

Dated: May 19, 1980.

Robert R. Rioux,

Deputy Division Chief, Offshore Minerals Regulation Conservation Division.

[FR Doc. 80-15639 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Indian Affairs

Tulalip Tribes Fish Hatchery; Intent To Prepare and Consider an Environmental Statement and Notice of Scoping Meeting

The Department of Interior, Bureau of Indian Affairs (BIA), Portland Area Office, the lead Federal Agency, will be preparing an environmental impact statement (EIS) on a proposal to develop a fish hatchery and related facilities on the Tulalip Indian Reservation, approximately ten miles north of Everett, Washington.

If initiated, the proposal will include development of a hatchery building, laboratory, employee residences, parking, landscaping, utilities, and facilities for egg collection, incubation, rearing, fingerling distribution, adult fish holding, maintenance, and wastewater treatment. The preliminary objective of the facilities is to raise approximately 15 million chum salmon, 1.2 million coho, and 1.5 million fall chinook per year.

Information obtained from the EIS will assist BIA line officials in making a Federal decision concerning construction and operations of this hatchery.

The EIS will address alternative sites for the facilities on the Reservation, conventional and innovative rearing techniques, use of up to approximately 34 cfs of ground and surface waters at peak demand, wastewater treatment and discharge, coordination of hatchery raised salmon with the timing of native outmigrant juveniles and returning adult stocks as well as the effects of such a development on the Tulalip Indian Reservation community and adjacent areas.

Initial issues and concerns identified by the BIA, the Tulalip Tribes, consultants to the Tribes, and Washington Department of Fisheries, include availability of sufficient water, competition and predation between hatchery and native fish, and economic effect on the Tribal fishery.

Pursuant to the Council on Environmental Quality National Environmental Policy Act regulations, §§ 1501.7(a)(1), 1506.6 and 1508.22, a public meeting will be held for the purpose of additional scoping (determining the scope of issues to be addressed, and for identifying the significant issues related to the proposed action) for the environmental statement. The meeting will be on July 8, 1980, at 2:00 p.m. in the Tribal Community Center, 6800 Totum Beach Road, on the Tulalip Indian Reservation, Washington.

Interested parties may attend this meeting or submit written comments to this office.

For further information concerning the meeting, the proposed action, or the environmental impact statement, contact: Jack Hunt, Land Services Officer, Portland Area Office, Bureau of Indian Affairs, P.O. Box 3785, Portland, Oregon 97208. Telephone number 503-231-6744 (FTS 8-429-6744).

Vincent Little,

Area Director.

[FR Doc. 80-15791 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Multiple Use Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Idaho Falls District Multiple Use Advisory Council will be held on Wednesday, July 9, 1980, at 9:00 a.m., at the Bureau of Land Management Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

Agenda for the meeting will include:

1. introduction and biographical sketch of members;
2. discussion of the function of the Council;
3. election of officers;
4. overview of BLM in general, Idaho Falls District in particular, and major programs by Resource Area, to include, but not be limited to, Diamond Creek Environmental Assessment, Little Lost-Birch Creek, Big Desert and Big Lost-Mackay Rangeland Management Environmental Impact Statements, Omitted Lands, South Fork of Snake River, Great Rift, and Medicine Lodge Management Framework Plan;
5. presentation on Sagebrush Rebellion;
6. establishment of committees;
7. arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by July 2, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 16, 1980.

O'dell A. Frandsen,

District Manager.

[FR Doc. 80-15793 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-84-M

Preplanning Activities for the Management Framework Plans; Divide and Overland Resource Areas, Rawlins District, Wyoming

Pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management (BLM), Rawlins District has begun preparation for Management Framework Plan (MFP) updates to guide and control future management actions on the public lands within the Divide and Overland Resource Areas. The MFP's will be completed in 1982.

The Divide and Overland Resource Areas are located in south-central Wyoming. They include approximately 4 million acres in Carbon and Sweetwater counties: 35 percent of the land surface is privately owned, four percent is state land, 60 percent (approximately 2.3 million acres) is public land administered by BLM, and one percent is administered by other federal agencies.

The Divide Resource Area is bounded on the east by the North Platte River, on the west by Rock Springs BLM District, on the south by Interstate Highway 80, and on the north by the Casper BLM District and the Lander BLM Resource Area.

The Overland Resource Area is bounded on the east by the North Platte River, on the west by the Rock Springs BLM District, on the south by the Colorado state line, and on the north by Interstate Highway 80.

The plans will be comprehensive land use plans which address multiple resource uses, levels of use, resource condition goals, and general management practices needed to achieve these goals. The MFP will also establish a sequence for implementation, the necessary support actions, and the need for more detailed or specific plans.

Public Involvement will be an essential component of the MFP process. As a public resource management agency, BLM will ensure that attitudes, interests, and desires of local, regional and national groups are considered throughout the decision making process. News releases which explain the planning process and ask the general public for issues they wish to have addressed will be printed in local and regional newspapers.

In order to focus the direction of the MFP at the outset of the process, the public, other federal agencies, and state and local governments are encouraged to assist in identifying the issues that should be addressed by the MFP.

Some of the general planning topics expected to generate issues include: rangeland uses, present and future developments for energy minerals, land development, recreation uses, cultural resources, wildlife resources, social and economic conditions, public access, rights-of-way, and soil, air, and water resources.

An interdisciplinary team will be formed to complete the MFP's. Disciplines to be represented will include:

Geology, Realty, Range Conservation, Archeology, Economics, Fire Management, Watershed, Hydrology, Wildlife, Recreation, Soils and Access.

If you wish to discuss, review, or obtain copies of planning documents, you may write, call or visit the BLM at the office address below:

Fred Wolf, District Manager
or
Ed Coy, Area Manager, Overland Resource Area
or
Ron Wenker, Area Manager, Divide Resource Area, Rawlins BLM District Office, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301. Telephone (307-324-7171).

Comments and suggestions on issues to be addressed in the MFP's should be submitted to the address as stated by June 30, 1980.

Fred Wolf,

District Manager.

[FR Doc. 80-15792 Filed 5-22-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Requesting Filing of Existing Surface Owner Consent for Surface Coal Mining

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Filing of existing surface owner consent for surface coal mining.

SUMMARY: This notice is to advise the public that, pursuant to 43 CFR 3427, valid written consent for surface coal mining given by qualified surface owners should be filed with the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming.

This notice applies only to areas identified as acceptable for futher leasing consideration in the Casper Distrcit's Highlight Review Area, Powder River Management Framework Plan in eastern Wyoming.

The consent documents should contain evidence that qualified surface owners have agreed: (1) to permit a coal operator to enter and commence surface mining of Federal coal; (2) to describe any financial or other consideration given or promised in return for the permission, including in-kind considerations; (3) to describe any consideration given in terms of type or method of operation or reclamation for the area; (4) to provide any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) to provide a full and accurate description of the area covered by the permission.

These consents, when filed, will be used by the Powder River Regional Coal Team to assist in determining, during the tract delineaton, ranking, and selection process, the competitive nature of the possible lease tracts.

DATES: All surface owner consents for the Highlight Review Area within the State of Wyoming of the Powder River Coal Region should be received by the Bureau of Land Management, Wyoming State Office, by June 16, 1980, in order to assist in the tract delineation. However, consent or evidence of written consent shall be filed 30 working days prior to the publication of lease sale notice of the lands to which it applies. It shall be the responsibilities of parties intending

to file consent to be aware of pending lease sale notice dates.

ADDRESS: Written consents should be sent to: State Director (933), Bureau of Land Management, P. O. Box 1828, Cheyenne, WY 82001.

Legal descriptions of areas acceptable for further coal leasing consideration in the Highlight Review Area may be obtained from: Mr. Stan McKee, Powder River Project Manager, Bureau of Land Management, Division of Resources (933), P. O. Box 1828, Cheyenne, Wyoming 82001. (Telephone: AC 307–778–2220 extension 2413).

FOR FURTHER INFORMATION CONTACT: Mr. James Edlefsen or Mr. Stan McKee at the address shown above.

Maxwell T. Lieurance,

State Director.

[FR Doc. 80–15861 Filed 5–22–80: 8:45 am]

BILLING CODE 4310–84–M

Nevada Elko District; Preparation of Resource Management Plan; Wells Resource Area

Pursuant to the Federal Land Policy and Management Act of 1976 and the Code of Federal Regulations, Title 43, Part 1601.3, the Wells Resource Area of the Elko, Nevada, District hereby gives notice of its intent to prepare a Resource Management Plan (RMP) for the Wells Resource Area. Located in Elko County in northeastern Nevada, the Wells Resource Area encompasses an area of 5,479,000 acres, more than 80% of which is public land. The area is bordered on the north by Idaho, on the east by Utah, on the south by White Pine County, Nevada, and on the west by the Elko Resource Area of the Elko District.

The RMP is a comprehensive land use plan which identifies goals for resource condition and use levels, program constraints, and measures required to implement management recommendations. The RMP also outlines needs for more detailed or specific management plans.

Issues preliminarily identified to be addressed in the plan include management of vegetation use on public lands, public land disposal and exchanges, the Desert Land Entry program, mineral prospecting and development, and the wilderness program. Extensive public participation will be sought to clarify and develop these and other management concerns. Public comment will also be solicited following publication of draft planning criteria, after publication of draft RMP (and associated Environmental Impact Statement), after publication of final RMP, and in the event of significant change(s) made to the plan as a result of action on a protest. Public involvement activities will include requests for written comments, open houses, workshops, formal public meetings, tours, and similar events deemed useful for stimulating and facilitating desired levels of public participation.

An interdisciplinary team will be formed to examine all identified land use issues, and to formulate alternative management plans. This team will include representatives of the following fields: range science, aquatic and terrestrial wildlife biology, soil science, geology, archaeology, recreation and wilderness, hydrology, social economics, forestry, realty, and fire management.

All persons, groups, and other government agencies with an interest in the planning area and its future management are requested to make their comments or recommendations on issues on or before June 23, 1980. Comments and requests for further information should be directed to Lee Wangsgard, Area Manager, Wells Resource Area, at the Elko District Office, BLM, 2002 Idaho St., P.O. Box 831, Elko, NV 89801 (telephone 702–738–4071). Planning documents and other pertinent materials may be examined at the Elko District Office Between 7:30 a.m. and 4:30 p.m. weekdays.

Rodney Harris,

District Manager.

[FR Doc. 80–15794 Filed 5–22–80: 8:45 a.m.]

BILLING CODE 4310–84–M

Rawlins District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Rawlins District Grazing Advisory Board will be held on June 26, 1980.

The meeting will begin at 10:00 a.m. in the annex conference room of the Rawlins District Office, Bureau of Land Management, 1300 N. Third Street, Rawlins, Wyoming 82301.

The agenda for the meeting will include: (1) Election of officers; (2) Coordination and consultation procedures for development of fiscal year 1980 or 81 allotment management plans; (3) Review fiscal year 1980 allotment management plan schedule and fiscal year 1980 range improvement program; and (4) Recommendations for fiscal year 1981 range improvement projects.

The meeting will be open to the public. Interested persons may make oral statements before the board or file written statements for the Board's consideration. Persons wishing to make an oral statement are asked to notify the District Manager, 1300 N. Third Street, P.O. Box 670, Rawlins, Wyoming 82301 by close of business on June 24, 1980.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction on or before June 23, 1980.

Fred Wolf,

District Manager.

[FR Doc. 80–15796 Filed 5–22–80: 8:45 am]

BILLING CODE 4310–84–M

Salt Lake District Grazing Advisory Board, Meeting

Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Salt Lake District Grazing Advisory Board will be held on June 18 and 19, 1980.

The meeting will begin at 10:00 A.M. in the Bureau of Land Management field office in Randolph, Utah.

The purpose of the meeting will be to give advice and recommendations for the Allotment Management Plan development and a status report on the District's Environmental Impact Statement progress.

The proposed agenda will be as follows:

June 18—Northern Sub-committee meeting
- 10:00 A.M.—Review AMP's and concepts
- Noon—Lunch
- 1:00 to 5:00 P.M.—Tour allotments to be put under AMPs
- 5:30 to 6:30 P.M.—Supper
- 7:00 to 9:00 P.M.—Give written recommendations

June 19—
- 8:00 to 10:00 A.M.—Finalize recommendations
- 10:00 A.M.—Tour with public—Stew Hopkins Ranch east of Woodruff
- Noon—Lunch
- 1:00 to 2:00 P.M.—Drive to Hopkins summer range in Echo Canyon
- 2:00 to 5:00 P.M.—Tour summer range
- 5:00 P.M.—Adjourn—Return home.

The meeting is open to the public. Interested persons may make oral statements between 8:00 and 10:00 A.M., June 19, 1980, or file written statements for Board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119, by June 10, 1980. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the Board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Dated: May 15, 1980.

W. Cliff Yardley,

Acting District Manager.

[FR Doc. 80–15795 Filed 5–22–80: 8:45 am]

BILLING CODE 4310–84–M

Office of Surface Mining Reclamation and Enforcement

Bureau of Indian Affairs

Geological Survey

Memorandum of Understanding

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM); Bureau of Indian Affairs (BIA); and Geological Survey (GS).

ACTION: Notice of Availability of Memorandum of Understanding (MOU).

SUMMARY: Notice is given of the availability for public review of a document entitled "Memordanum of Understanding, BIA–GS–OSM, Management of Coal Mining on Indian Lands," which was executed May 8, 1980, by the Office of Surface Mining (OSM), Bureau of Indian Affairs (BIA), and Geological Survey (GS). The MOU provides a reference framework and procedural arrangement by which the BIA, GS and OSM will coordinate and carry out their functions and responsibilities for coal operations on Indian lands.

The MOU addresses only those responsibilities and functions that must be coordinated. It recognizes the role of Indian tribes as coal owners and as government entities having basic authorities and responsibilities for the development and administration of Indian resource programs. The MOU recognizes the lead role of the BIA in the Federal-Indian trust relationship and in securing consultation with the tribes. Uniques situations not adapted to standard procedures set forth in the MOU will be resolved on a case-by-case basis.

ADDRESS: Copies of the document may be obtained from the following offices:

Commissioner, Bureau of Indian Affairs, 18th & C Streets, NW., Washington, D.C. 20240.

Director, Office of Surface Mining, 19th & Constitution Avenue, NW., Washington, D.C. 20240.

Director, Geological Survey, National Center (171), Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

BIA—David Harrison (202) 343–5831.

OSM—Donald Maurer (202) 343–5335.

GS—Andrew Bailey (703) 860–7506.

Dated: May 8, 1980.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80–15797 Filed 5–22–80: 8:45 am]

BILLING CODE 4310–05–M

Water and Power Resources Service

Creston Steam Electric Station, Creston, Wash.; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental statement jointly with the State of Washington Energy Facility Site Evaluation Council on the proposed Creston Steam Electric Station to be constructed and operated by the Washington Water Power Company. The Creston Steam Electric Station Project is intended to assist in meeting regional energy supply deficiencies projected to occur in the years following 1987.

The proposed project would be located in eastern Washington near the town of Creston and would consist of four 500–MW units and related facilities. Coal for the plant would be shipped by rail from a source in either Montana or Wyoming. Water for the project would be obtained from Franklin D. Roosevelt Lake and piped to the project.

Alternatives to be considered in the environmental statement would include: (1) to take no action, i.e., alternative power sources and the creation of new generating capacity; (2) alternative power sources and generating methods—including nuclear power, oil, natural gas, solar energy, and others; (3) alternative sites; and (4) alternative designs.

Environmental studies and preparation and processing of an environmental impact statement for this proposed project will be in accordance with provisions of the National Environmental Policy Act of 1969 and the Washington State Environmental Policy Act. It will be accomplished under Council on Environmental Quality regulations, published in the **Federal Register** on November 29, 1978, and under Title 463, State of Washington Administrative Code, relating to siting energy facilities. A Memorandum of Agreement between the Department of the Interior and the Washington State Energy Facility Site Evaluation Council has been signed to facilitate the preparation of a joint environmental impact statement.

To insure that the full range of issues related to this proposal are discussed and all significant issues are identified, scoping meetings will be held.

Public Meeting and Scoping Session Schedule

Location, date, time, and place

Creston, WA, June 10, 1980, 7:30 p.m., Creston Public School Auditorium.

Spokane, WA, June 11, 1980, 7:30 p.m., Holiday Inn West, 4212 Sunset Boulevard, Spokane, WA.

Seattle, WA, June 12, 1980, 7:30 p.m., Seattle Center, Northwest Rooms Complex, Chaw Room.

The Department of the Interior invites comments and suggestions on the proposal to insure that all significant issues are identified and discussed in the statement. Interested agencies, organizations, and individuals should write to or contact the Water and Power Resources Service at the address provided below. The contact person will be: Dr. Ronald R. McKown, Project Environmental Officer, Grand Coulee Project Office, Water and Power Resources Service, P.O. Box 620, Grand Coulee, WA 99133, Telephone: 509–633–1360, Extension 508.

Dated: May 16, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80–15750 Filed 5–22–80: 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Registers**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should

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comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(c) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: May 14, 1980.

Note.—In MC–F–14305F, Board member Taylor dissents and finds the proposed division of rights to be in impediment. In MC–F–14347, Board member Taylor dissents stating that the proposed division of operating rights would be contrary to the public interest.

Agatha L. Mergenovich,
Secretary.

MC–F–14118, filed January 5, 1980. The purchase by C&E Trucking Co., Inc., of operating rights embraced in transferor Wheeler Freightways certificate No. MC–106679 (Sub-No. 9), was approved by Review Board Number 5 by decision of April 9, 1980 in No. MC–F–14118F subject to publication of this authority in the Federal Register to afford any interested party the opportunity to file a protest within 30 days thereof demonstrating how it might be prejudiced by the transfer. If no protest is filed within 30 days the review board decision will be effective. The operating rights embraced in seller's certificate, No. MC–106679 (Sub-No. 9) authorizing the transportation, over irregular routes, or *gypsum plaster, gypsum wallboard, and gypsum lath,* from points in Clark County, NV, to points in Orange, Riverside, and San Bernardino Counties, CA.

MC–F–14347F, filed March 24, 1980. WILMAR TRUCKING, INC. (Wilmar) (P.O. Box 369, Oaks, PA 19456)—Purchase (Portion)—B & P MOTOR EXPRESS, INC. (B&P) (780 Gross Street, Pittsburgh, PA 15224). Representatives: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006, and John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15216). Wilmar seeks authority to purchase a portion of the interstate operating rights of B & P. Wil-Ford Incorporated, a non-carrier and the sole stockholder of Wilmar, and in turn, William J. Ford, the sole stockholder of Wil-Ford Incorporation, seek authority to acquire control of said rights through the transaction. Wilmar is purchasing that portion of the interstate operating rights contained in B & P's certificate in MC–1936 which authorizes the transportation of *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore and Elkton, MD, serving all intermediate points: from Baltimore over U.S. Hwy 40 to Elkton and return over the same route, restricted (1) against local service between Baltimore and Elkton, MD, and all intermediate points, and (2) for joinder purposes only. Wilmar is authorized to operate as a motor common carrier in PA, NJ, NY, DE, MD, VA, and DC, pursuant to certificates issued in MC–61624 and sub-numbers thereunder, as granted in MC–F–13189F. Wilmar is affiliated with De-Pen Line, Inc., a motor common carrier pursuant to certificates issued in MC–123159 and sub-numbers thereunder and authority awarded in MC–F–13862F and MC–F–13967F. Condition: Wil-Ford Incorporated, the parent of Wilmar, is a non-carrier with investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Wil-Ford Incorporated will be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Philadelphia, PA.)

Note.—Application for temporary authority has been filed.

MC–F–14305F, filed January 25, 1980. PACIFIC INTERMOUNTAIN EXPRESS CO. (Pacific) (25 North Via Monte, Walnut Creek, CA 94598)—Purchase (Portion)— TWIN CITY FREIGHT, INC. (Twin City) (2550 Long Lake Road, Roseville, MN 55113). Representatives: Roland Rice, 501 Perpetual Bldg., 1111 E Street, NW, Washington, DC 20004; Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102; and H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, PA 19102. Pacific seeks authority to purchase a portion of the

interstate operating rights of Twin City. I.U. Transportation Services, Inc., a non-carrier and sole stockholder of Pacific, and in turn, I.U. International Corporation, a non-carrier and sole stockholder of I.U. Transportation Services, Inc., both of 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, seek authority to acquire control of said rights through the transaction. Twin City holds authority in MC 111496 (Sub-21) which authorizes the transportation of *general commodities,* with the usual exceptions, between St. Cloud and Duluth, MN: from St. Cloud over MN Hwy 23 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Duluth, and return over the same route, serving all intermediate points on MN Hwy 23, and restricted against service to any point on U.S. Hwy 61 except the City of Duluth. Pacific is purchasing that portion of Sub-21 between Mora and Duluth, MN: from Mora over MN Hwy 23 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Duluth and return over the same route, serving all intermediate points on MN Hwy 23 except Mora, and serving Mora for purposes of joinder only. Twin City is retaining that portion of Sub-21 between St. Cloud and Mora, over MN Hwy 23, serving all intermediate points and serving Mora as a terminal point. Twin City holds authority in MC 111496 (Sub-25) which authorizes the transportation of *general commodities,* with the usual exceptions, between Minneapolis and Mora, MN, over MN Hwy 65, serving no intermediate points. Pacific is purchasing that portion of Sub-25 between Minneapolis and Mora, MN, over MN Hwy 65, serving no intermediate points and serving Mora for purposes of joinder only. Twin City is retaining that portion of Sub-25 between Minneapolis and Mora, MN, over MN Hwy 65, serving no intermediate points. Pacific is authorized to operate as a motor common carrier in all States in the United States (except AK and HI), pursuant to certificates issued in MC–730 and sub-numbers thereunder. Pacific is also under common control with Ryder Truck Lines, Inc., a motor common carrier pursuant to certificates issued in MC–2900 and sub-numbers thereunder. Condition: I.U. Transportation Services, Inc., the sole stockholder of Pacific, is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, I.U. Transportation Services, Inc., will be considered a motor carrier within the meaning of 49 U.S.C. § 11348 of subtitle IV. It will therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Washington, DC, or Minneapolis, MN.)

Note:—(1) Common traversal by buyer and seller of U.S. Hwy 65 would occur between Minneapolis and Mora, MN, but there would be no duplicate service anywhere. (2) Application for temporary authority has been filed.

MC F–14344F, filed March 18, 1980. D'AGATA NATIONAL TRUCKING CO. (D'Agata) (3240 South 61st Street, Philadelphia, PA 19153)—Purchase—HIGHWAY TRANSPORTATION CO., INC. (Highway) (419 Belleview Avenue, Hammonton, NJ 08037). Representative: Leonard A. Jaskiewicz, 1730 M Street, NW. Suite 501, Washington, DC 20036. D'Agata seeks authority to purchase the interstate operating rights of Highway. Joseph A. D'Agata and Joseph G. D'Agata, equal stockholders of D'Agata, seek authority to acquire control of said rights through the transaction. D'Agata is purchasing the interstate operating rights contained in Highway's certificates issued in MC 62904, which authorize the transportation, as a motor common carrier, as follows: (A) *General commodities* (except those of unusual value, Classes A and B explosives, liquors, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), over regular routes (1) between Hammonton, NJ and Philadelphia, PA: from Hammonton over unnumbered highway to junction U.S. Highway 30, then over U.S. Highway 30 to Camden, NJ, and then across the Delaware River to Philadelphia, and return over the same route; and from Hammonton, over unnumbered highway to junction U.S. Highway 322, then over U.S. Highway 322 to Glassboro, NJ, then over New Jersey Highway 47 to Westville, NJ, then over New Jersey Highway 45 to Camden, NJ, and then across the Delaware River to Philadelphia, and return over the same route; (2) between Hammonton, NJ, and Bridgeton, NJ: from Hammonton over unnumbered highways via Vineland, NJ, to junction New Jersey Highway 47, then over New Jersey Highway 47 to Millville, NJ, and then over New Jersey Highway 49 to Bridgeton; and from Bridgeton over unnumbered highways via Vineland, East Vineland, and Buena, NJ, to Hammonton; (3) between Hammonton, NJ, and Atlantic City, NJ: from Hammonton over unnumbered highway to junction U.S. Highway 30, and then over U.S. Highway 30 to Atlantic City, and from Atlantic City over U.S. Highway 40 to junction unnumbered highway near Mays Landing, NJ, and then over unnumbered highways via Milliville and Buena, NJ, to Hammonton. Serving all intermediate points on the above-specified routes; and off-route points within ten miles of the above-specified routes; (4) between Hammonton, NJ, and New York, NY, serving no intermediate points: From Hammonton over unnumbered highway to Junction U.S. Highway 206, then over U.S. Highway 206 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 1, then over U.S. Highway 1 to Jersey City, NJ, and then across the Hudson River via ferry or Holland Vehicular Tunnel to New York, and return over the same route; (5) between Cape May, NJ, and Philadelphia, PA, serving all intermediate points between Cape May and Landisville, NJ, including Landisville, and serving the off-route points of Avalon, Stone Harbor, Sea Isle City, Woodbine, Wildwood, and Ocean View, NJ: From Cape May over U.S. Highway 9 to Seaville, NJ, then over New Jersey Highway 50 to junction Secondary State Highway 557 one mile north of Buck Hill, NJ, then over Secondary State Highway 557 to Buena, NJ, then over U.S. Highway 40 via Landisville, NJ, to Malaga, NJ, then over New Jersey Highway 47 to junction unnumbered highway, then over unnumbered highway to Woodbury, NJ, then over New Jersey Highway 45 to Camden, NJ, and then across the Delaware River to Philadelphia, and return over the same route; (6) between Cape May, NJ, and Philadelphia, PA, serving all intermediate points between Cape May and Port Elizabeth, NJ, including Port Elizabeth, and serving the off-route points of Avalon, Stone Harbor, Sea Isle City, Woodbine, Wildwood, and Ocean View, NJ; From Cape May over unnumbered highway (Bay Shore Road) to Green Creek, NJ, then over New Jersey Highway 47 via Millville, NJ, to Glassboro, NJ, then over New Jersey Highway 41 to Haddonfield, NJ, then over unnumbered highway via Collingswood, NJ, to Camden, NJ, and then across the Delaware River to Philadelphia, and return over the same route. (b) As a common carrier over irregular routes: *Malt beverages,* from Philadelphia, PA, to New York, NY, Wilmington, DE, Baltimore and Frederick, MD, Atlantic City, Hammonton, Gloucester, and Trenton, NJ, and Washington, D.C.; and *Empty malt-beverage containers,* from the above specified destination points to Philadelphia, PA; and *Wine and bitter,*

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from Egg Harbor, NJ, to Greenwich, New Haven, and Stamford, CT, Providence, RI, Boston, Norwood, Roxbury, Salem, and Worcester, MA, New York and Tarrytown, NY, Harrisburg, Philadelphia, Pittsburgh, and Scranton, PA, Wilmington, DE, Baltimore, MD, and Washington, D.C., and *Alcoholic beverages,* from Hammomton, NJ, to points in Cape May and Salem Counties, NJ, in connection with carrier's authorized operations in the transportation of the specified commodities between Hammonton and interstate points; and *Rejected shipments* of the commodities specified immediately above the *empty beverage containers,* from points in Cape May and Salem Counties, NJ, to Hammonton, NJ. D'Agata is authorized to operate as a motor common carrier in ME, NY, VA, NJ, PA, OH, DE, MI, WI, CT, KY, MA, RI, NC, SC, IN, VT, ME, NH, and WV, pursuant to certificates issued in MC 128746 and sub-numbers thereunder. (Hearing site: Philadelphia, PA.)

Note.—Application for temporary authority has been filed.

MC F–14346F, filed March 17, 1980. LAWRENCE HANCOCK, JR., AND ROSE MARIE HANCOCK (Individuals) (2115 N. Chelton Road, Colorado Springs, CO 80909)—CONTROL—CARGO VAN LINES, INC. (Cargo) (6020 Galley Road, Colorado Springs, CO 80915). Representative: John H. Lewis, The 1650 Grant St. Bldg., Denver, CO 80203. Lawrence Hancock, Jr. and Rose Marie Hancock, individuals, seek authority to acquire control, by purchase of all the outstanding stock, of Cargo Van Lines, a non-carrier and sole stockholder of Elbert Transfer, 6020 Galley Road, Colorado Springs, CO 80915. Lawrence Hancock, Jr. and Rose Marie Hancock own all of the outstanding stock of Hancock Moving & Storage, Inc., owner of common carrier authority in MC 140017 authorizing the transportation, over irregular routes, of *used household goods,* between points in Douglas, Elbert, El Paso, Fremont, Pueblo and Teller Counties, CO, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Elbert Transfer holds common carrier authority pursuant to certificate MC 136345 which authorizes the transportation, over irregular routes, of *used household goods,* between points in Douglas, Elbert, Fremont, El Paso, Pueblo and Teller Counties, CO, restricted (1) to transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Impediment: Duplicating operating rights will exist under common control. (Hearing site: Denver, CO.)

MC F–14342F, filed March 18, 1980. REFRIGERATED TRANSPORT CO., INC. (Refrigerated) P.O. Box 308 Forest Park, GA)—CONTROL—WALTER GRIFFIN, INC., AND WALTER J. GRIFFIN, JR. (519 Morgan Mill Road, Monroe, NC 28110). Representative: Alan E. Serby, 3390 Peachtree Road, NE, 5th Floor, Lenox Towers South, Atlanta, GA 30326. Refrigerated seeks authority to acquire control of Walter Griffin, Inc., through the purchase of all its issued and outstanding capital stock. Walter Griffin, Inc., is controlled by Walter J. Griffin, Jr., who will simultaneously transfer his interstate operating rights to Walter Griffin, Inc. Richard A. Beauchamp and Lamar Beauchamp, the majority stockholders of Refrigerated, seek authority to acquire control of Walter Griffin, Inc., and Walter J. Griffin, Jr., through the transaction. The interstate operating rights to be controlled are contained in Permit No. MC–140130 (Sub-Nos. 1 and 3), which authorize the transportation of (1) *office and business machine stands and office and business machine stand parts,* from Monroe, NC, to Plymouth, MI, under continuing contract(s) with Oro Manufacturing Co., Inc., of Monroe, NC, and (2)(a) *textiles, textile products and household accessories,* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (a) above, (except commodities in bulk and those which because of size or weight require the use of special equipment), (i) between Los Angeles, CA, and Monroe, NC, on the one hand, and, on the other, points in AL, GA, IL, KS, MD, MA, MI, MN, NJ, NY, PA, SC, TN, TX, VA, and DC, and (ii) between Los Angeles, CA, and points in NC, under continuing contract(s) with Barth and Dreyfuss of California, of Los Angeles, CA. Refrigerated is authorized to operate as a motor common carrier pursuant to certificates issued in MC–107515 and sub-numbers thereunder. Coastal Transport and Trading Co., a subsidiary of Refrigerated, is authorized to operate as a motor common carrier pursuant to certificates issued in MC–121654 and sub-numbers thereunder. (Hearing site: Washington, DC.)

Note.—(1) Application for temporary authority has been filed. (2) Dual operations may be involved.

MC F–14301F, filed January 21, 1980. MICHAUD BUS LINES, INC. (Michaud) (63 Jefferson Avenue, Salem, MA 01970)—PURCHASE (PORTION)—TRAILWAYS OF NEW ENGLAND, INC., d.b.a. TRAILWAYS (Trailways) (230 West 41st Street, New York, NY 10036). Representatives: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181 and George W. Hanthorn, 1500 Jackson Street, Dallas, TX 75201. Michaud seeks authority to purchase a portion of the interstate operating rights of Trailways. J. Alex Michaud II, sole stockholder of voting stock, seeks authority to acquire control of said rights through the transaction. Michaud is purchasing those portions of the interstate operating rights contained in Trailways certificate issued in MC–1940 (Sub-No. 37), which authorizes the transportation, as a motor common carrier, as follows: (A) *passengers and their baggage, and express, mail and newspapers, in the same vehicle with passengers,* (1) between Boston, MA, and Wolfeboro, NH, serving all intermediate points; from Boston over U.S. Hwy 1 (portion formerly MA Hwy 17) to Newburyport, MA, then over unnumbered hwy to Amesbery, MA, then over MA Hwy 150 to the MA–NH state line, then over NH Hwy 150 to junction NH Hwy 108, then over NH Hwy 108 to Dover, NH, then over NH Hwy 16 to junction NH Hwy 16A, then over NH Hwy 16A to Somersworth, NH, then across the Salmon Falls River to Berwick, ME, then across the Salmon Falls River to Somersworth, NH, then over NH Hwy 16A to junction NH Hwy 16, then over NH Hwy 16 to Rochester, NH (also from Dover, NH, over NH Hwy 16 to Rochester) then over NH Hwy 11 to Alton Bay, NH, then over NH Hwy 28A to junction NH Hwy 28, and then over NH Hwy 28 to Wolfeboro, and return over the same route. (2) Between Rochester, NH, and Wolfeboro, NH, serving the intermediate points of Wolfeboro Falls, Wolfeboro Center, Brookfield, Sanbornville, Union, Milton, Milton Mills, and North Rochester, NH; from Rochester over NH Hwy 16 to junction unnumbered hwy, then over unnumbered hwy to Milton Mills, NH, then return over unnumbered hwy to junction NH Hwy 16, then over NH Hwy 16 to junction NH Hwy 109, then over NH Hwy 109 to junction NH Hwy 28, and then over NH Hwy 28 to Wolfeboro, and return over the same route. (B)

Passengers and their baggage, and express and newspapers in the same-vehicle with passengers, (1) between Salisbury, MA, and Portland, ME, serving all intermediate points; from Salisbury over U.S. Hwy 1 via Kittery and York Corner, ME, to Cape Neddick, ME (also from York Corner over Alternate U.S. Hwy 1 to Cape Neddick), and then over U.S. Hwy 1 to Portland, and return over the same routes. (2) Between Smithtown, NH, and Portland, ME, serving all intermediate points; also over U.S. Hwy 1 via Saco, ME, to West Scarboro, ME (also from Saco over ME Hwy 9 via Old Orchard Beach, ME, to junction U.S. Hwy 1 at West Scarboro, ME) then over U.S. Hwy 1 to junction unnumbered hwy at or near Oak Hill, ME, then over unnumbered hwy to Scarboro, ME, then return over said unnumbered hwy to junction U.S. Hwy 1, then over U.S. Hwy 1 to Portland, and return over the same route. (3) Between Portland, ME, and Biddeford, ME, serving all intermediate points; from Portland over U.S. Hwy 1 to junction ME Hwy 9, then over ME Hwy 9 to Old Orchard, ME, (also from Portland over U.S. Hwy 1 to junction Cascade Road, then over Cascade Road to Old Orchard), then over ME Hwy 5 to Saco, ME, and then over U.S. Hwy 1 to Biddeford, and return over the same routes. (4) Between Kittery, ME, and Kittery Navy Yard, ME, serving all intermediate points; from Kittery over Government Street to Kittery Navy Yard, and return over the same route. (5) between Dover, NH, and the Portsmouth Navy Yard, Kittery, ME, serving all intermediate points; (a) from Dover over NH Hwy 16 to junction U.S. Hwy 4, then over U.S. Hwy 4 to junction Bypass U.S. Hwy 1, then over Bypass U.S. Hwy 1 and the interstate Bridge, to Kittery, ME, and then over Government Street to the Portsmouth Navy Yard, Kittery, and return over the same route. (b) from Dover over NH Hwy 16 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction Government Street in Kittery, ME, then over Government Street to the Portsmouth Navy Yard, Kittery, and return over the same route. (6) between Portsmouth, NH, and Rye, NH, serving all intermediate points; from Portsmouth over NH Hwy 1A to Rye North Beach, and then over unnumbered hwy to Rye, and return over the same route. (7) between Hampton, NH, and Hampton Beach, NH, serving all intermediate points; from Hampton over NH Hwy 101E to Hampton Beach, and return over the same route. (C) *Passengers and their baggage, and express, mail and newspapers in the same vehicle with passengers, during the season extending from the 15th day of May to the 30th day of October, inclusive.* (1) between Rye, NH, and Hampton Beach, NH, serving all intermediate points; from Rye over unnumbered hwy to Rye North Beach, NH, and then over NH Hwy 1A to Hampton Beach, and return over the same route. (2) *Passengers and their baggage, and express, mail and newspapers* in the same vehicle with passengers, as alternate routes for operating convenience only; between Kittery, ME, and Portland, ME, serving no intermediate points; from Kittery over city streets to junction U.S. Hwy 1 and Maine Turnpike, then over ME Turnpike to Portland, and return over the same route. (3) between junction U.S. Hwy 1 and cut-off south of Portsmouth, NH, and junction ME Turnpike and U.S. Hwy 1 at South Portland, ME, serving no intermediate points; from junction U.S. Hwy 1 and cut-off south of Portsmouth over the cut-off and ME Turnpike to U.S. Hwy 1 at South Portland, and return over the same route. (4) between Salisbury, MA, and junction NH Turnpike and ME Turnpike at the ME–NH state line, serving non intermediate points, but serving the northern termini for joinder only; from Salisbury over unnumbered hwy to junction NH Turnpike, then over NH Turnpike to junction ME Turnpike, and return over the same route. (D) *passengers and their baggage, and newspapers in the same vehicle with passengers,* (1) between South Berwick, ME, and Dover, NH, serving all intermediate points; from South Berwick over ME Hwy 4 to the ME–NH state line, and then over NH Hwy 4 to Dover, and return over the same route. (2) between South Berwick, ME, and Dover, NH, serving the intermediate points of Salmon Falls and Rollinsford, NH; from South Berwick over unnumbered hwy to ME—NH state line, near Salmon Falls, NH, then over unnumbered hwy via Salmon Falls and Rollinsford, NH, to Dover, and return over the same route. (E) *passengers and their baggage,* (1) between Dover, NH, and Kittery, ME, serving the intermediate points of Jewett, Gould Corner, and Eliot, ME; from Dover over NH Hwy 4 to the NH–ME state line, then over ME Hwy 4 to South Berwick, ME, then over ME Hwy 103 to Kennard Corner, in the Town of Eliot, ME, and then over unnumbered hwy to Kittery, and return over the same route. RESTRICTION: No passengers shall be accepted for transportation in either direction between Dover, NH, on the one hand, and, on the other, points between Kennard Corner and Kittery, ME. (F) *passengers and their baggage, and express, newspapers and mail, in the same vehicle with passengers, during the period from April 1, to November 30, inclusive of each year,* (1) between Rochester, NH, and the Lincoln Downs Race Track, Lincoln, RI, serving the intermediate points of Somersworth, Dover, Durham, Newmarket and Exeter, NH, and Amesbury, MA; from Rochester over NH Hwy 16 to junction NH Hwy 16A, then over NH Hwy 16A via Somersworth, NH, to junction NH Hwy 16, then over NH Hwy 16 to Dover, NH, then over NH Hwy 108 via Exeter, NH, to junction NH Hwy 150, then over NH Hwy 150 to the NH–MA state line, then over MA Hwy 150 to Amesbury, MA, then over unnumbered hwy to Newburyport, MA, then over U.S. Hwy 1 to junction MA Hwy 128, then over MA Hwy 128 to junction MA Hwy 1A, then over MA Hwy 1A to junction MA Hwy 121, then over MA Hwy 121 to the MA–RI state line, then over RI Hwy 121 to junction Rhode Island Hwy 114, then over RI Hwy 114 to junction RI Hwy 116, then over RI Hwy 116 to junction RI Hwy 146, then over RI Hwy 146 to Lincoln-Downs Race Track, Lincoln, RI, and return over the same route. (2) between Rochester, NH, and the Narragansett Race Track, Pawtucket, RI, serving the intermediate points of Somersworth, Dover, Durham, Newmarket, and Exeter, NH, and Amesbury, MA; from Rochester as specified in the immediately above described route to junction MA Hwy 128 and 1A, then over MA Hwy 128 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction MA Hwy 1A at or near South Attleboro, MA, then over MA Hwy 1A to the MA–RI state line, then over RI Hwy 1A to the Narragansett Race Track, Pawtucket, RI, and return over the same route. (3) between Rochester, NH, and the Suffolk Downs Race Track, East Boston, MA, serving the intermediate points of Somersworth, Dover, Durham, Newmarket and Exeter, NH, and Amesburg, MA; from Rochester as specified in the two paragraphs described next above to junction U.S. Hwy 1 and MA Hwy 128 at or near Lynnfield, MA, then over U.S., Hwy 1 to junction MA Hwy C1, then over MA Hwy C1 to the Suffolk Downs Race Track, East Boston, MA, and return over the same route. (4) between Rochester, NH, and Scarboro Downs Race Track, at or near Scarboro, ME, serving the intermediate points of Dover and Somersworth, NH; from Rochester over NH Hwy 16 to Dover, NH, then over NH Hwy 16 to junction NH Hwy 16A, then over NH Hwy 16A to Somersworth, NH, then over NH Hwy 9 to the NH–ME State line, then over ME Hwy 9 to

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junction ME Turnpike, then over ME Turnpike to Scarboro Downs Race Track at or near Scarboro, ME, and return over the same route.

MC 1940 (Deviation No. 14), published May 27, 1964 in the **Federal Register**, to operate as a common carrier, by motor vehicle, of *passengers and their baggage*, over a deviation route between Danvers, MA, and Portsmouth, NH, over Interstate Hwy 95, and No. MC–1940 (Deviation No. 13), published May 20, 1964 in the **Federal Register**, to operate as a common carrier, by motor vehicle, of *passengers and their baggage*, over a deviation route from Alton, NH, over NH Hwy 28 to junction MH Hwy 28A, and return over the same route. Michaud operates over irregular and regular routes, as a common carrier under Certificate No. MC–94742 and sub-numbers thereunder. (Hearing site: Boston, MA, or Washington, D.C.)

Note.—An application for temporary authority has been filed.

MC–F–14244F, filed November 27, 1979. HILL & HILL TRUCK LINE, INC. (Hill) (14942 Talcott, P.O. Box 9698, Houston, TX 77105)—PURCHASE—SIGNAL TRUCKING SERVICE, LTD., CURTIS B. DANNING, TRUSTEE IN BANKRUPTCY, (Signal) (15233 Ventura Blvd, Suite 300, Sherman, Oaks, CA 91403). Representatives: Martin J. Rosen, 256 Montgomery Street, 5th Floor, San Francisco, CA 94104 and Warren N. Grossman, 1800 United California Bank Building, 707 Wilshire Blvd, Los Angeles, CA 90017. Hill seeks authority to purchase the interstate operating rights of Signal. J. W. Hershey, Olive D. Hershey, H. F. Ormston, and G. Cameron Duncan who together control Hill, through stock ownership, also seek authority to acquire control of said rights through the transaction. Hill is purchasing the interstate operating rights contained in Signal's Certificate in MC-886 and sub-numbers thereunder, which authorize operations, in interstate or foreign commerce, as a motor common carrier, as follows: (1) *general commodities*, usual exceptions, (a) between Los Angeles Harbor, CA, on the one hand, and, on the other, Los Angeles and Vernon, CA, (b) from Los Angeles Harbor, CA, to Walnut Park and Huntington Park, CA, and points within five miles of the intersection of 9th and Indiana Streets, Los Angeles, CA, (c) From Huntington Park and South Gate, CA, and points south of Whittier Boulevard and east of Alameda Street within five miles of the east Los Angeles City limits, to Los Angeles Harbor, CA; (d) From Los Angeles Harbor, CA; to South Gate, CA, and points south of Whittier Boulevard and east of Alameda Street within five miles of the east Los Angeles City limits, except those points within five miles of the intersection of Ninth and Indiana Streets, Los Angeles, CA; (e) Between Long Beach, CA; on the one hand, and, on the other, Vernon, Huntington Park, and South Gate, CA, and points south of Whittier Boulevard and east of Alameda Street within five miles of east Los Angeles City limits, CA; (f) Between Los Angeles, Wilmington, and Moneta, CA, on the one hand, and, on the other, points in CA within 80 miles of Los Angeles, not including points in San Diego County, CA; (g) Between the terminal of said carrier situated in Los Angeles County, CA, within one mile of Los Angeles, CA, and near the intersection of East 26th Street and Indiana Street, on the one hand, and, on the other, points in CA within 80 miles of Los Angeles, not including points in San Diego County, CA; (h) From Long Beach and Los Angeles Harbor, CA, to San Diego, CA; (2) *General commodities*, except commodities requiring special equipment, in pickup and delivery service, between points in the Los Angeles, CA, Commercial Zone, as defined by the Commission in 3 M.C.C. 248. The authority herein granted shall be subject to the following restrictions: Except for deliveries to and from job sites such as construction projects, oil, gas, or water wells, or mines, oil fields, warehouses or field storage yards, no freight shall be transported in excess of ten miles on either side of the highway designated in paragraphs above. Applicant shall not transport, as a common carrier, any shipments of iron and steel, and iron or steel articles, including tinplate, and clay and clay products, when such commodities originate at, or are destined to Kaiser, California. (3) (1) *Iron and steel articles*, (2) *non-ferrous metals*, and *non-ferrous metal products* (except household appliances and housewares), (3) *clay and clay products*, (4) *heavy machinery and heavy machinery parts*, (5) (a) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas, petroleum, their products and by-products, water, and sewage, and (b) *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines used in the transmission of natural gas, petroleum, their products and by-products, water, and sewage, (6) *contractors, mining, and military equipment, materials and supplies*, (7) *power or communications distribution and metal processing equipment, materials and supplies*, (8) *commodities* the transportation of which requires by reason of their size or weight the use of special equipment, (9) *electrical cables*, (10) *scrap metals*, and (11) *firefighting equipment, materials and supplies*. Between points in CA. (4) *General commodities* (except household goods as defined by the Commission, commodities in bulk, classes A and B explosives, commodities requiring special equipment, and commodities of unusual value, and except motor vehicles and commodities in vehicles equipped with mechanical refrigeration), (a) Between points in San Francisco, Alameda, San Mateo, and Contra Costa Counties, CA, (b) Between points in Santa Clara County, CA, San Mateo, CA, points in that part of San Mateo County located south of San Mateo on U.S. Highways 101 and 101 By-pass, Hayward, CA, and points in that part of Alameda County, CA, located south of Hayward on CA Highways 9 and 17. Hill operates as a motor common carrier, in interstate or foreign commerce pursuant to its certificates in MC-107678 and sub-numbers. Hill controls Hill & Hill Transport of Canada, Ltd. Hill & Hill Transport of Canada, Ltd., operates pursuant to certificate in MC-118453 (Sub-No. 3). Common control was approved by Review Board Number 5 by a decision served December 31, 1974. (Hearing site: Los Angeles, CA.)

[FR Doc. 80–15878 Filed 5–22–80; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29242]

Hillsdale County Railway Co., Inc.—Common Control of Designated Operators and Motor Common Carrier Operating Rights, Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343–11347

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Hillsdale County Railway Company, Inc. (Hillsdale) and its controlling officers filed an application on March 30, 1978, supplemented February 20, 1980, seeking motor common carrier operating rights ancilliary to its presently held rail designated operator authority. Hillsdale's four principal operating officers hold positions of control in other designated operators. The common control of designated operators is exempt from the requirement of prior approval for the common control of

carriers. [*See* Ex Parte No. 361, *Exemption of Certain Designated Operators from Section 11343*, 361 I.C.C. 379 (1979). This exemption applies only to railroads exclusively operating as designated operators.]

After issuance of a certificate of public convenience and necessity for motor carrier operating rights, Hillsdale et al. will no longer operate exclusively as designated operator. Therefore, the designated operator exemption will be inapplicable. The motor carrier authority sought by Hillsdale was found warranted by the public convenience and necessity, but its issuance was conditioned upon Hillsdale et al. filing an application for approval of the common control relationship under 49 U.S.C. 11343.

Upon our own motion we will hold a proceeding for exemption of this matter under 49 U.S.C. 10505. The exemption proposed here, if granted, would be in lieu of that statutory approval found necessary.

DATES: Comments must be received on or before June 23, 1980.

ADDRESS: Send comments to: Interstate Commerce Commission 12th & Constitution Ave. N.W., Washington, DC 20423. All written submissions will be available for public inspection during regular business at the same address. Written submissions should refer to Finance Docket No. 29242.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245.

SUPPLEMENTARY INFORMATION: The principal operating officers of Hillsdale contend that both they and Hillsdale should be exempt from formal approval by the Commission of their affiliation with commonly controlled carriers. John H. Marino is president of both Hillsdale and Lenawee County Railroad Co. Inc. (LCRC). Franklin S. Macomber is vice president of both Hillsdale and LCRC. Eric D. Gerst is secretary and general counsel for Hillsdale, LCRC and Tuscola and Saginaw Bay Railroad Company, Inc. (TSBY). Charles J. Lapp is assistant vice president of Hillsdale and president of TSBY.

We will begin a proceeding to exempt this common control from the requirements of obtaining prior Commission approval under 49 U.S.C. 11343–11347. This authority is specifically permitted by 49 U.S.C. 10505.

The principal operating officers of Hillsdale point out that common control of designated operators is exempt from the normal common control requirements by the decision in Ex Parte No. 361, *Exemption of Certain Designated Operators from 49 U.S.C. 11343, supra*. It is argued that the motor common carrier rights to be acquired are of such small scope and are so tied to the operations of the designated operator, that the transaction should be exempted from Commission jurisdiction. Otherwise, it is argued, the intent of Ex Parte No. 361 will be frustrated.

The Transaction

Hillsdale presently operates over certain branch lines that were not transferred to Conrail as part of the Final System Plan on April 1, 1976. These lines total approximately 60 miles in Hillsdale and Branch Counties, MI and Steuben County, IN. Hillsdale has a single connection with Conrail at Quincy, MI, but it has no direct rail connection to the east. Although Hillsdale has maintained rail service to the 10 communities previously served by the Penn Central Transportation Company, the substitute trucking authority held by its predecessor was not conveyed to Hillsdale. Therefore, it is forced to operate in a circuitous manner on east bound traffic.

Hillsdale sought to acquire the subject motor carrier operating rights in order to fill a void in its service requirements. By a series of decisions of Review Board No. 2, the most recent of which was served November 29, 1979, this authority was granted in No. MC—144576. However, the Board conditioned the grant requiring those persons in common control or management of the designated operator rights of Hillsdale and the motor common carrier rights of Hillsdale, to be acquired, to file an application for approval of the common control or relationship under 49 U.S.C. 11343, or an affidavit indicating why such approval is unnecessary.

The authority conditionally granted would allow Hillsdale to operate as a motor common carrier transporting general commodities, when moving in trailer-on-flat car service, between points in Indiana and Michigan on the one hand, and, on the other, Toledo, OH, and Detroit, MI. The authority is restricted to service which is auxiliary to, or supplemental of, rail service of Hillsdale. Hillsdale argues that this motor common carrier authority would eliminate its present circuity of operations. It maintains that presently a carload of freight destined for eastern points which originates in Angola, IN must first be backhauled to Elkhart, IN, before it can move east. This is an unnecessary movement of 164 miles. Hillsdale claims that this circuity causes delay of up to three days in shipments resulting in customers switching to other modes of transportation.

Hillsdale argues that if the subject motor common carrier authority is granted it will be able to provide a single carrier movement from its service area to eastern points. It will also be able to participate in piggyback service via the major eastern intermodal carriers such as Conrail and Chessie. Hillsdale contends that this is the only way for it to recapture a portion of the freight traffic previously moved over Penn Central.

Hillsdale contends that this plan is environmentally beneficial because present truck movements to eastern cities of 600 miles will be replaced by truck movements of 100 miles and rail movements of 500 miles. This will reduce air and noise pollution and congestion on the highways.

The fact that the principal operating officers of Hillsdale will also control motor common carrier rights normally requires the filing or application with the Commission for authority and approval of the transaction. The motor common carrier rights sought are restricted to traffic moving in trailer-on-flatcar service between points in Indiana and Michigan on the one hand, and, on the other, Toledo, OH and Detroit, MI. It is further restricted to service which is auxiliary to or supplemental of Hillsdale's rail service. As such, the authority sought is very closely related with the rail operations of the designated operator Hillsdale, and not actually an independent operation.

It is argued that the transaction will not adversely affect other carriers, shippers, the public, or the present operations of Hillsdale. It is also maintained that the transaction will have a positive effect on energy consumption and the environment.

It is argued that the usual regulatory requirements contained in 49 U.S.C. 11343–11347 would be an undue burden on Hillsdale and its principal operating officers and would serve little or no useful purpose.

The Statute

Acquisition of control of a carrier by: (1) A person that is not a carrier but controls any number of carriers; (2) A carrier that has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier; (3) A person affiliated with a carrier that has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier; and (4) At least two persons acting together (one of which is a carrier or affiliated with a carrier) which has the affect of putting those persons, and carriers and persons affiliated with any

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of them, or with any of those affiliated carriers, taken together, in control of another carrier, are transactions that require the approval and authority of the Commission under 49 U.S.C. 11343–11347. To seek Commission approval, an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1978) (Consolidation Procedures). By this proceeding Hillsdale and its principal operating officers seek to be exempted from 49 U.S.C. 11343–11347 so that they will not have to file an application under the Consolidation Procedures.

We can exempt a matter *related* to a rail carrier under 49 U.S.C. 10505 if it is (1) of limited scope; (2) is not necessary to carry out the transportation policy of 49 U.S.C. 10101; (3) would be an unreasonable burden; and (4) would serve little or no useful purpose.

This is the type of transaction which Congress intended the Commission to consider exempting when it adopted 49 U.S.C. 10505. Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the proposed exemption of the transaction is that opportunity. All comments filed in response to this notice, along with information filed by Hillsdale, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

This is not a major action significantly affecting either energy consumption or the quality of the human environment.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Dated: May 16, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15677 Filed 5-22-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 375 (Sub-1)]

Increased Freight Rates and Charges—1980—Nationwide—Phase II; Authority To File Master Tariff

Decided: May 19, 1980.

By petition and verified statements filed May 12, 1980, United States railroads seek authority to increase, selectively, freight rates and charges at levels from 1.0 to 20.9 percent. The railroads seek to recover operating costs of $1.57 billion experienced since the last general increase in Ex Parte No. 375. The bulk of these costs are labor expenses and materials, but excluding fuel. Petitioners estimate that if the selective increases are granted in their entirety, and applied fully on all traffic, including intrastate traffic, without exceptions, flagouts, or holddowns, they will realize revenues of $1.68 billion. However, based on historic recoveries, when flagouts and holddowns are taken into effect, the carriers expect to realize $1.50 billion. On average, the increases that would apply are 7.6 percent in and between the Eastern and Western Territories, and 3.8 percent in, from, and to the Southern Territory.

The rate increases sought vary from commmodity to commodity as well as by region and is the second phase of the railroads' 1980 revenue need program. A copy of the petition and verified statements may be obtained from the Committee of Counsel for Eastern, Western, and Southern Railroads, Room 527, American Railroads Building, 1920 L Street, N.W., Washington, D.C. 20036.

The railroads seek permission to make the proposed increases effective, upon not less than 10 days' notice, on July 1, 1980 in and between the West and South and on September 1, 1980 in the East and between the East and the other territories. These increases are subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners state that the increases are to be applied to the Ex Parte No. 368–A rate level and will be published in a tariff that will include the 5.1 percent increase that became effective April 1, 1980.

Petitioners also seek entry of a decision modifying all outstanding Commission decisions to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. We are also requested to allow the entry of appropriate decisions under former sections 4 and 6 of the Interstate Commerce Act. (49 U.S.C. § 10726 and 10761–65.)

Petitioners seek authority to use the same connecting-link supplements and items issued under Ex Parte No. 375 to also connect the rate tariffs to the proposed master tariff. Petitioners also seek to amend the master tariff without specific authority.

The Petitioners have filed and served verified statements constituting their evidential case pursuant to the requirements set forth in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, 49 CFR 1102, effective January 1, 1978. Petitioners have also submitted data of the type called for in Ex Parte No. 290 (Sub-No. 1), *Procedures-Rail Car. General Increase Proceedings*, 349 I.C.C. 22 (1974), namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied and the annual total increase in revenue realized by application of the last authorized general increase.

The petitioners have given notice of the petition and have furnished data to the public in compliance with Ex Parte No. 286, *Notice of Increases in Frt. Rates and Pass. Fares*, 349 I.C.C. 741 (1975), and with former section 5b of the Interstate Commerce Act (49 U.S.C. 10706).

The petitioners have also submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), *Revised Guidelines for the Implemetnation of the National Environmental Policy Act of 1969*, 352 I.C.C. 451 and 49 CFR 1108, namely a supplemental evaluation of environmental considerations with regard to the petitioners' increased rate proposal. The petitioners contend that the requested increases will have no signficant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any person or persons believing that the requested increases, if authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this decision. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be considered by this Commission in any subsequent action on the merits of the requested general increases.

It is not clear whether the proopsed increases violate President Carter's voluntary wage and price guidelines. We regard this as an important issue in this proceeding. Parties are invited to comment upon this matter in their verified statements, and we will consider it in our subsequent decision on the merits of the requested increases.

The petitioner's request to file the master tariff upon 10 days' notice is denied. It is essential that the master tariff be on file sufficiently long enough before the due date for protests in order to give interested parties an opportunity to lodge timely filed protests against the tariff. Notice of 50 days is justified. This will allow sufficient time after our decision for shippers to adjust their

pricing systems to the Commission's action, should the increase be approved.

We will not authorize use of the connecting-link supplements and items filed under Ex Parte No. 375 to connect the rate tariffs to the proposed master tariff. To do so would create confusion since the proposed tariff is not a reissue of the Ex Parte No. 375–A master tariff.

We also will not authorize the amendment of the master tariff without specific authority.

The amendments of master increase tariffs are important enough for this Commission to consider each amendment on a case-by-case basis. This will continue our present practice.

We will authorize the reissuance of the master tariff upon not less than 5 days' notice to reflect new fuel-related surcharges that are in effect when the reissue is filed. However, this reissue authority will not be granted with respect to the 1.2 percent shortfall recovery fuel surcharge, effective April 11, 1980, from, to, and within the West.

We find that the railroads have justified an authorization to file their tariff upon not less than 50 days' notice and an expedited procedural schedule for considering the proposed increase.

The petitioners have requested that certain of the evidence submitted by them be treated as confidential by the Commission and not be released to the general public. We deny this request. The railroads have filed a petition in Ex Parte No. 290 which requests similar confidential treatment of evidence. We will deal with the issue of confidentiality in our decision on that petition.

In Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, decision served September 28, 1977, we added recyclables to the list of commodities for which specified data must be submitted when general rate increases are requested. This monitoring is intended to prevent future general rate increases from disrupting the rate structures for recyclables.

We ask protestants to submit evidence from which we may determine whether the proposed selective increases will disturb the freight rate fabric for recyclable commodities. We will examine this situation and deal with it in our decision regarding the proposed increase.

It is Ordered: 1. All common carriers by railroad are made respondents to this proceeding.

2. Under the special permission authority granted in conjunction with this decision, the tariff schedules shall be published and filed upon not less than 50 days' notice effective no earlier than July 10, 1980, *subject to protest and possible suspension*. The tariff to be filed must incorporate the prior increases of 5.1 percent presently effective in the X–375–A master tariff. These schedules are to contain an appropriate refund provision. The master tariff may be reissued upon not less than 5 days' notice to incorporate fuel related increases that are in effect when the reissue is filed. However, this reissue authority will not apply to the 1.2 percent shortfall recovery surcharge which became effective April 11, 1980.

3. Any person opposing or wishing to comment on the proposed increase in rates and charges shall file and serve verified statements, as provided below, on or before June 13, 1980.[1]

(a) The verified statements shall contain all relevant evidence which the parties desire to have considered by the Commission as a basis for a decision on the merits. Any submissions on asserted environmental and energy impacts shall be segregated under an appropriate subheading.

(b) Verified statements may include arguments in support of an affiant's position, but arguments shall be segregated in a separate section of the document containing the verified statement or contained in a separate document simultaneously filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 48 and Form No. 6 of the Commission's Rules of Practice (See 49 CFR 1100.48 and Appendix B, Form No. 6, to 49 CFR 1000). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows: The original and 24 copies of each document for the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed upon a showing of good cause. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 375 (Sub-1). One copy shall be served upon the Committee of Counsel for the Railroads, Room 527, American Railroads Building, 1920 L Street, NW, Washington, DC 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties.

(f) Verified statements and arguments by persons opposed to the proposed increase in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

4. On or after June 19, 1980, the respondents shall file with the Commission and serve upon opposing parties their replies to protests or other pleadings and rebuttal evidence. Rebuttal evidence shall be filed in accordance with the regulations published in 49 CFR 1102, governing opening statements, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be furnished to interested parties upon request.

5. The Commission will endeavor to issue its decision by June 30, 1980, so that the shipping public will have adequate time to adjust its pricing system to the Commission's action.

6. The request for fourth-section relief will be considered following the filing of verified statements and replies.

By Special Permission Order No. 80–2880 served in conjunction with this decision, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 50 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 375 (Sub-No. 1).

The petition is denied in all respects not specifically granted.

Special Permission No. 80–2880

It is ordered:

1. All Railroads of the United States, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents are authorized to depart from the Commission's tariff publishing rules in Part 1300 ot title 49 of the Code of Federal Regulations when publishing

[1] Section 10707(c) of the Interstate Commerce Act specifically requires the filing of *verified complaints* seeking suspension of proposed rate changes.

and filing tariffs and tariff amendments to become effective no earlier than July 10, 1980, upon not less than 50 days' notice to the Commission and to the public providing for increased rates and charges as set forth in the petition.

(a) By publishing and filing a master tariff of increased rates and charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

> In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with percent interest.[2]
>
> In the event any increase resulting from the application of the tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase colledted with percent interest.[3]
>
> The master tariff shall be conditioned to expire with July 9, 1982, and all relief granted in this decision expires with that date, which may not be extended or cancelled except upon specific authorization of this Commission. Respondents are placed on notice that they must comply with the regulations in 49 CFR 1300.32 governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions necessary to permit application of every aspect of this proposal. Subsequently, provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs). The connecting link supplements issued under Ex Parte No. 375 may not be used to connect tariffs to the proposed master tariff.

(c) The master tariff and connecting link supplements issued and filed under this decision shall not provide for non-application on interstate traffic comptetitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements or other amendments to the tariffs.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariff and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

2. The master tariff may be reissued upon not less than 5 days' notice to incorporate fuel related increases that are in effect when the reissue is filed. No other changes may be made in the reissue. This reissue authority does not apply to the 1.2-percent shortfall recovery surcharge which became effective April 11, 1980.

3. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized here shall bear the notation:

Form of publication authorized, I.C.C. permission No. 80–2880.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges shall provide a notation reading:

Publication made in accordance with I.C.C. permission No. 80–2880.

4. Connecting-link supplements authorized here shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

5. The master tariff filed under this decision shall not be amended, except to correct errors and to comply with findings and orders of the Commission, without specific authorization. The terms of 40 CFR 1300.9(e) are not waived as to supplements to the master tariff.

6. Tariff publishing agents must furnish a copy of the master tariff to subscribers of all tariffs which are governed by the master tariff. This must be done not later than the date that copies are sent to the Commission. When there is more than one tariff of a subscriber governed by the master tariff, only one copy of the master tariff need be furnished to the subscriber unless additional copies are requested.

7. Outstanding decisions of the Commission are modified only to the extent necessary to permit the filing of tariff publications containing the proposed increase, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 I.C.C. 125, 188.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex Parte No. 368 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register for publication in the **Federal Register**.

8. This Special Permission will expire on July 9, 1982.

9. Volume coal rates which already include a factor for future labor wage increases shall not be subject to this increase. The proposed tariff will be amended to exempt all such tariffs if they have not already been excluded from this increase.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15875 Filed 5-22-80; 8:45 am]

BILLING CODE 7035-01-M

[2] The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 10707(d) of the Interstate Commerce Act.

[3] See footnote 2.

Transportation of Government Traffic; Special Certificate Letter Notices

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of general commodities, (except classes A and B explosives, radioactive materials, etiologic agents, shipments of secret materials, and weapons and ammunition which are designated sensitive by the United States Government), between points in the United States (including Alaska and Hawaii), restricted to the transportation of traffic handled for the United States Government or on behalf of the United States Government where the government contractor (consignee or consignor), is directly reimbursed by the government for the transportation costs, under the Commission's regulations (49 CFR 1062.4), pursuant to a general finding made in Ex Parte No. MC–107, *Government Traffic*, 131 M.C.C. 845 (1979).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before June 12, 1980. A copy must also be served upon applicant or its representative.

If applicant is not otherwise informed by the Commission, operations may commence on or before June 23, 1980, subject to its tariff publication's effective date, or the filing of an effective tender pursuant to 49 U.S.C. 10721.

GT–312–80 (Special Certificate—Goverment Traffic), filed April 21, 1980. Republished this issue to reflect Government to be served. Applicant: FORBES TRANSFER COMPANY, INC., 1819 S. Goldsboro Street, Wilson, NC 27893. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Government Agency involved: Agencies listed in the U.S. Government Manual (1979–80 edition).

GT–333–80 (Special Certificate—Government Traffic), filed April 21, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., P.O. Box 1375, Joplin, MO 64801. Representative: Don D. Lacy (Address same as applicant). Government Agency involved: General Services Administration, U.S. Postal Service, U.S. Government Printing Office, National Aeronautics and Space Administration, Departments of Defense, Transportation, Energy, Agriculture, Interior and Health, Education and Welfare, Tennessee Valley Authority and Federal Prison Facilities.

GT–334–80 (Special Certificate—Goverment Traffic), filed April 28, 1980. Applicant: J & L REFRIGERATED TRUCKING CO., INC., 905 East Langsford Road, Lee's Summit, MO 64063. Representative: Jim R. Elgin, President (Address same as applicant). Government Agency involved: General Services Administration.

GT–335–80 (Special Certificate—Government Traffic), filed April 25, 1980. Applicant: APPROVED TRANSPORTATION, 7261 Ethel Avenue, North Hollywood, CA 91605. Representative: David Earl Tinker, Esq., 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. Government Agency involved: Department of Defense.

GT–336–80 (Special Certificate—Government Traffic), filed April 25, 1980. Applicant: DEATON, INC., 317 Ave. W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Government Agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–337–80 (Special Certificate—Government Traffic), filed April 25, 1980. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: S. Harrison Kahn, Attorney, Suite 733, Investment Bldg., Washington, D.C. 20005. Government Agency involved: Department of Defense.

GT–338–80 (Special Certificate—Government Traffic), filed April 25, 1980. Applicant: BIGGE DRAYAGE CO., P.O. Box 1657, San Leandro, CA 94577. Representative: R. A. Doty, Director of Commerce and Traffic (Address same as applicant). Government Agency involved: Departments of Agriculture, Commerce, Defense, Energy, Interior, Transportation and Treasury; National Aeronautics and Space Administration, Nuclear Regulatory Commission.

GT–339–80 (Special Certificate—Government Traffic), filed April 25, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 219 Whitsett Ave., Nashville, TN 37210. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Government Agency involved: Agencies listed U.S. Government Manual (1979–80 edition).

GT–340–80 (Special Certificate—Government Traffic), filed April 25, 1980. Applicant: TENNESSEE CARTAGE CO., INC., 1238 Antioch Pike, Nashville, TN 37202. Representative: Henry E. Seaton, Suite 929—Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Government Agency involved: Department of Defense and General Services Administration.

GT–341–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Golden Worldwide Van Service, Inc., 433 Airport Blvd.—Suite 201, Burlingame, CA 94010. Representative: John Paul Fischer, Esq., Silver, Rosen, Fischer & Stecher, P.C., 256 Montgomery St., 5th Floor, San Francisco, CA 94104. Government Agency involved: Departments of Defense, Agriculture, Interior, and Commerce; Nuclear Energy Regulatory Commission, Commodity Futures Trading Commission, General Services Administration, National Aeronautics and Space Administration, Department of Transportation, Federal Aviation Administration.

GT–342–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Continental Van Lines, Inc., P.O. Box 2169, Monterey, CA 93940. Representative: Michael J. Stecher, Esq., Silver, Rosen, Fischer & Stecher, P.C., 256 Montgomery St., 5th Fl., San Francisco, CA 94104. Government Agency involved: Department of Defense.

GT–343–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Safe Transportation Co., 6834 Washington Ave. South Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government Agency involved: Departments of Defense and Agriculture, General Services Administration.

GT–344–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Equity Transportation Company, Inc., 3653 Lake Eastbrook Blvd. S.E., Grand Rapids, MI 49506. Representative: Edward Malinzak, Warner, Norcross & Judd, 900 Old Kent Bldg., Grand Rapids, MI 49503. Government Agency involved: Internal Revenue Service, Government Printing Office, Departments of Treasury and Defense, General Services Administration and Veterans Administration.

GT–345–80 (Special Certificate—Government Traffic), filed April 21, 1980. Applicant: Eugene Lavelle and Eugene Lavelle, Jr., d.b.a. Lavelle's Express, 270 North Sherman Street Wilkes-Barre, PA 18702. Representative: John W. Frame, ICC Practitioner, P.O. Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Government Agency involved: Departments of Defense and Agriculture and General Services Administration.

GT–346–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Maislin Transport Ltd., 7401 Newman Blvd., La Salle, Quebec H8N 1X4 Canada. Representative: Edward L. Nehez, P.O. Box 1409, Fairfield, NJ 07006. Government Agency involved: Departments of Defense, Transportation, Agriculture, Energy, and Health Education and Welfare; General Services Administration, National Aeronautics and Space Administration, Veterans Administration, Internal Revenue Service, Government Printing Office.

GT–347–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Gateway Transportation Co., Inc., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Government Agency involved: Departments of Defense, Transportation, Agriculture, Energy, and Health Education, and Welfare; General

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Services Administration, National Aeronautics and Space Administration, Veterans Administration, Internal Revenue Service, Government Printing Office.

GT–348–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Freedom Freightways, Inc., P.O. Box 5850, St. Louis, MO 63134. Representative: Raymond Ellsworth (same address as applicant). Government Agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–349–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: Still Transfer Company, Inc., 632 Boone Street, Kingsport, Tenn. 37660. Representative: Melba S. Gilliam (Address same as applicant). Government Agency involved: Department of Defense.

GT–350–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: BAYOU STATE TRUCKING, INC., 639 South Rendon St., New Orleans, LA 70119. Representative: Brian S. Stern, Stern & Jones, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Government Agency involved: Department of Defense, General Services Administration.

GT–351–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: NEW ENGLAND TRANSPORT, INC., LTD., P.O. Box 27, Chester Depot, VT 05144. Representative: Brian S. Stern, Stern & Jones, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Government Agency involved: Departments of Defense, Transportation, Internal Revenue Service, and General Services Administration.

GT–352–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: C & T TRUCKING, INC., 1050 Brookside Drive, Richmond, CA 94806. Representative: Brian S. Stern, Stern & Jones, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Government Agency involved: Department of Defense and General Services Administration.

GT–353–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: OSBORNE TRUCK LINES, INC., 516, 31st St. North, Birmingham, AL 35202. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Government Agency involved: Department of Defense and General Services Administration.

GT–354–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Rd. P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (address same as applicant). Government Agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–355–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: HEAVY HAULING, INC., 1100 West Grand P.O. Box 937, Salina, KS 67401. Representative: Clyde N. Christey, 1010 Tyler St.—Suite 110–L, Topeka, KS 66612. Government Agency involved: Department of Defense.

GT–356–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine St., P.O. Box 332, Barre, VT 05641. Representative: William L. Rossi (address same as applicant). Government Agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–357–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: AAA TRANSPORTATION INC., 2957 South East St., Indianapolis, IA 46206. Representative: David A. Turano, Esq., Baker & Hostetler, Suite 1800, 100 E. Broad St., Columbus, OH 43215. Government Agency involved: Department of Defense and General Services Administration.

GT–358–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: HAGEN, Inc., P.O. Box 98, Leeds Sta., Sioux City, IA 51108. Representative: Joseph B. Davis (address same as applicant). Government Agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–359–80 (Special Certificate—Government Traffic), filed April 29, 1980. Applicant: THE JAMES GIBBONS CO., P.O. Box 253, Annapolis Junction, MD 20701. Representative: William F. King, Esq., P.O. Box 11278, Alexandra, VA 22312. Government Agency involved: Agencies listed in U.S. Government Manual (1979–80 edition)

GT–360–80 (Special Certificate—Government Traffic), filed April 29, 1980. Applicant: NATIONWIDE TRUCK LINES, INC., P.O. Box 609, Ennis, TX 75119. Representative: William J. Lippman, Suite 330 Steele Park, 50 S. Steele St., Denver CO 80209. Government Agency Involved: Department of Defense.

GT–361–80 (Special Certificate—Government Traffic), filed April 29, 1980. Applicant: E. E. HENRY, INC., 1128 S. Military Highway, Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St. N.W., Washington, D.C. 20001. Government Agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior; National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office.

GT–362–80 (Special Certificate—Government Traffic), filed April 29, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 So. Oldham St., Baltimore, MD. 21224. Representative: William F. Lamperelli (address same as applicant). Government Agency involved: Department of Defense.

GT–363–80 (Special Certificate—Government Traffic), filed April 30, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., P.O. Box 44, Hanover, MA 02339. Representative: A. S. Cotta, President (address same as above). Government Agency involved: Internal Revenue Service, Departments of Agriculture, Treasury, Federal Prison Industries, General Services Administration, U.S. Government Printing Office, U.S. Postal Service and Veterans Administration.

GT–364–80 (Special Certificate—Government Traffic), filed April 28, 1980. Applicant: HASKINS & SON, INC., 815 Max Ave., Lansing, MI 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Government Agency involved: Department of Defense and General Services Administration.

GT–365–80 (Special Certificate—Government Traffic), filed April 29, 1980. Applicant: A & D MOVING & STORAGE CO., INC., 250 Globe St., Radcliff, KY 40160. Representative: Clarence Duggins (address same as applicant). Government Agency involved: Departments of Defense and Transportation, General Services Administration.

GT–366–80 (Special Certificate—Government Traffic), filed March 28, 1980. Applicant: DONNA MURRY, d.b.a. Dame Transportation, P.O. Box 707, Bandon, OR 97111. Representative: Donna Murry, 605 Matmor Rd., Woodland, CA 95695. Government Agency involved: Department of Defense, General Services Administration.

GT–367–80 (Special Certificate—Government Traffic), filed April 29, 1980. Applicant: CARTHAGE FREIGHT LINES, INC., P.O. Box 315, Carthage, TN 37030. Representative: Henry E. Seaton, Suite 929 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. N.W., Washington, D.C. 20004. Government Agency involved: Department of Defense, General Services Administration.

GT–368–80 (Special Certificate—Government Traffic), filed April 30, 1980. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. N.W., Washington, D.C. 20005. Government Agency involved: Departments of Defense, Agriculture, Energy, Interior, General Services Administration, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–369–80 (Special Certificate—Government Traffic), filed April 30, 1980. Applicant: K. G. MOORE, INC., 9 Park Avenue, Hudson, NH 03051. Representative: Robert G. Parks, 20 Walnut St.—Suite 101, Wellesley Hills, MA 02181. Government Agency involved: General Services Administration.

GT–370–80 (Special Certificate—Government Traffic), filed April 30, 1980. Applicant: DIC SIMON TRUCKING, INC., P.O. Box 26724, Salt Lake City, UT 84117. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, D.C. 20005. Government Agency involved: Departments of Defense, Agriculture, Energy, and Interior, General Services Administration, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–371–80 (Special Certificate—Government Traffic), filed April 30, 1980. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, ME 04572. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005. Government Agency involved: Department of Defense, Agriculture, Energy, and Interior, General Services Administration, Tenness Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office.

GT–372–80 (Special Certificate—Government Traffic), filed April 30, 1980. Applicant: PAN AMERICAN VAN LINES, INC., 18420 So. Santa Fe Ave., P.O. Box 923, Long Beach, Calif. 90801. Representative: W. C. Fogle, Vice President (address same as applicant). Government Agency involved: Agencies listed in U.S. Government Manual (1970–80 edition).

GT–373–80 (Special Certificate—Government Traffic), filed May 1, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, 2130 South Ohio Ave., Salina, KS 67401. Representative: Bruce A. Bullock, Vice President (address same as applicant). Government Agency involved: Departments of Defense, Agriculture, and Treasury; U.S. Post Office, Dept. of Facilities, and General Services Administration.

GT–374–80 (Special Certificate—Government Traffic), filed May 1, 1980. Applicant: WINSTON CARRIERS INC., P.O. Box 347, Double Springs, AL 35553. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666, 11th St. N.W., Washington, D.C. 20001. Government Agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior; National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Office.

GT–375–80 (Special Certificate—Government Traffic), filed May 1, 1980. Applicant: C.O.D.E., INC., 4800 Colorado Blvd., Denver, CO 80216. Representative: Carol S. Raznick, Feuer, Flossic and Rich, 820 Clermont St.—Suite 100, Denver, CO 80220. Government Agency involved: Departments of Defense, Treasury, and Agriculture; Bureau of Indian Affairs, General Services Administration, Post Office Department, U.S. Government Printing Office, and Veterans Administration.

GT–376–80 (Special Certificate—Government Traffic), filed May 1, 1980. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Government Agency involved: Department of Defense.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–15874 Filed 5–22–80; 8:45 am]
BILLING CODE 7035–01–M

[Order No. 68; Under Service Order No. 1344]

Rerouting of Traffic

To: Illinois Central Gulf Railroad Company.

In the opinion of Joel E. Burns, Agent, Illinois Central Gulf Railroad Company, is unable to transport promptly all traffic offered for movement at Natchez, Mississippi, because of track conditions.

It is ordered,

(a) *Rerouting traffic.* Illinois Central Gulf Railroad Company, being unable to transport promptly all traffic offered for movement at Natchez, Mississippi, because of track conditions, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., May 13, 1980.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 22, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall

be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 13, 1980.
Interstate Commerce Commission.
Joel E. Burns,
Agent.

[FR Doc. 80-15872 Filed 5-22-80; 8:45 am]
BILLING CODE 7035-01-M

[Amendment No. 2 to ICC Order No. 55 Under Service Order No. 1344]

Rerouting Traffic

To: All Railroads.

Upon further consideration of ICC Order No. 55, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 55 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 15, 1980, unless otherwise modified, amended or vacated.

Effective date. This amendment shall become effective at 11:59 p.m., May 15, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 15, 1980.
Interstate Commerce Commission.
Joel E. Burns,
Agent.

[FR Doc. 80-15873 Filed 5-22-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Announcement of Amendments to a Previously Announced Solicitation for Grant Applications by the National Institute for Juvenile Justice and Delinquency Prevention

On April 25, 1980, the Law Enforcement Assistance Administration published in the **Federal Register** an Announcement of a Solicitation for Grant Applications for the National Institute for Juvenile Justice and Delinquency Prevention's Minority Research Initiative (see Volume 45, Number 82, April 25, 1980, page 28005). This notice hereby amends that announcement as follows:

(1) A maximum of $925,000 is expected to be made available for fiscal years 1980 and 1981 for this initiative.

(2) Up to four separate grants will be made for 12–24 month budget periods.

These changes increased the number of projects, the length of budget periods and the amount of funds allocated under this program. This structure more accurately reflects the scope of the program and the expected continuity of effort.

(3) Deadlines for receipt of applications are extended to June 25, 1980, for Part I applications, and to July 3, 1980, for Part II applications.

This extension is intended to allow applicants additional time to respond to the solicitation.

Ira M. Schwartz,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 80-15862 Filed 5-22-80; 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-69-C]

Cannelton Industries, Inc.; Modification of Application of Mandatory Safety Standard

Cannelton Industries, Inc., P.O. Box 1226, 1250 One Valley Square, Charleston, West Virginia 25324, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Nos. 3 and 4 mine located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. In the 4B section of the mine, petitioner has established duel, independent intake ventilation air courses to the face area.

2. Both the left and right splits from the 4B section are coursed into the gob and are unsafe for travel. Neither of the returns is designated as an escapeway.

3. As an alternative method, petitioner proposes to establish a check station at the last open crosscut on the section and at the number one overcast. Petitioner will monitor and establish the direction of the air flow on a daily basis in compliance with the standard.

4. Petitioner states that the proposed alternative method will at all times guarantee no less than the same measure of protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 12, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15410 Filed 5-22-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-63-C]

Consolidation Coal Co.; Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.321 (stoppage of fans, plans) to its Bishop No. 34 Mine located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The mine is currently ventilated by four fans which are adequately ventilating the existing five sections of the mine.

2. The Daniel Mains, a projected section, is not provided with a bleeder system; therefore, a borehole was drilled and an additional fan was installed in lieu of the bleeder system.

3. Should this fan stop, petitioner states that positive ventilation will be maintained in this section of the mine and will take the following actions in the Daniel Mine areas:

a. Withdraw all persons from the Daniel Mains working sections;

b. Cut off the power in the areas in a timely manner;

c. Provide for restoration of power and resumption of work if ventilation is restored within a reasonable period after reexamination of the working places and other active workings where the methane is likely to accumulate;

d. Withdraw the miners back to the mouth of Pine Ridge and maintain constant communication between the dispatcher, mine foreman and section boss after the miners have been withdrawn; and

e. Provide for withdrawal of all persons from the areas if ventilation cannot be restored within a reasonable time.

4. Petitioner states that this proposed procedure will provide the same protection to the miners affected as that of the standard and requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at the address.

Dated: May 12, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 15409 Filed 5-22-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-65-C]

Milburn Colliery Co.; Modification of Application of Mandatory Safety Standard

Milburn Colliery Company, Burnwell, West Virginia 25034 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 4 Mine located in Fayette County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The mining height in petitioner's mine ranges from 40 to 50 inches with undulating top and bottom conditions.

2. The roof in this mine is comprised of sandy shale and solid sandstone.

3. The fire clay bottom develops severe ruts in the wet areas of the mine.

4. Petitioner states that installation and use of cabs or canopies on continuous miners, scoops, roof bolters, and shuttle cars used in this mine would result in a diminution of safety to the miners affected because:

a. The cab or canopy will reduce the size of the already small operator compartment, causing operator fatigue and forcing parts of the operator's body to protrude from the cab or canopy, exposing the operator to other moving equipment or objects;

b. Canopies installed will come in contact with the roof, destroying the roof control support system or suspended electrical cables; and

c. The canopy may hamper the rapid escape of the equipment operator in the event of an emergency.

5. As an alternative method which will guarantee the safety of the miners affected, petitioner proposes to:

a. Fix a minimum mining height for each type of machine, which defines minimum mining height as the minimum height from the floor of the mine to the bottom of the necessary roof support in which a certain type of equipment can safely operate with a canopy;

b. Apply the minimum mining height for each machine uniformly throughout the mine;

c. Install canopies on the mine's equipment wherever conditions in the mine permit its safe usage.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 12, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15408 Filed 5-22-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-38-M]

Union Carbide Corp.; Modification of Application of Mandatory Safety Standard

Union Carbide Corporation, 270 Park Avenue, New York, New York 10017 has filed a petition to modify the application of 30 CFR 557.12–82 (insulation of powerlines) to its Pine Creek Mine located in Inyo County, California. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the separation or insulation of power lines from water lines, telephone lines and air lines.

2. In an "Interpretation of Mandatory Standard" of February 12, 1975, issued by the Assistant Administrator of Metal/Nonmetal Mine Health and Safety, it was stated that; "Jacketing as provided on a power line by the manufacturer is not adequate for the insulating purposes of Federal Mandatory Standards 55, 56, 57.12–82. Additional insulation or separation must be provided. If power lines contact air lines, water lines, and telephone lines, additional insulation must be provided at the point(s) of contact. If the power line is separated but supported from air lines and water lines it must be supported with an insulated hanger or additional insulation must be provided at the point of suspension. Additional insulation means that installation in addition to the jacketing shall have a dielectric strength at least equal to the maximum applied voltage on the conductor."

3. As an alternative method of complying with the standard, petitioner states that the method outlined below provides the same or greater protection as that provided by the standard.

a. High voltage current is transmitted throughout the mine in "Anixter Interlocked Armor" or similar cable. This type cable has extensive insulation and armor layers which provide security from impact and abrasion basically similar to the protection provided by conduit, as verified by MSHA electrical investigators at the mine on January 8, 1980.

b. Thousands of feet of the cable exist in drifts, ramps and shafts of the mine and in many places the cable is secured to or touches steel sets, messenger cables, metal bolts, etc., which in turn contact air or water lines, the multiple insulation and armor layers on this cable provide protection far greater than necessary to provide necessary safety from any anticipated hazards where it is installed. The construction of the cable therefore provides the degree of additional insulation that was required in the "Interpretation" although the multiple layers of insulation and armor are combined in the integral cable package.

c. All low voltage cable is "Anixter Type SO" or similar type where each individual wire is separately insulated with 600V covering, and the multi conductors (3 or 4 wires) are further separated by fiber and then an outer insulation wrapper covers the entire package. This cable provides two layers of insulation, each capable of dielectric strength sufficient to protect in excess of the maximum voltage applied.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

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Dated: May 12, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15407 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-48-M]

AMAX Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

AMAX Chemical Corporation, Post Office Box 279, Carlsbad, New Mexico 88220, has filed a petition to modify the application of 30 CFR 57.12-13 (splices in power cables) to its AMAX mine and mill located in Eddy County, New Mexico. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition is directed toward splices which are in high voltage (4,160V) cables transmitting power to transformers (4,160V-440V) through the potash mine.

2. Conditions throughout the mine are extremely dry and all such cables are suspended from either the back or rib.

3. Coverings on individual conductor splices are dielectrically equal to or better than the original insulation. Grounded shielding is replaced on individual conductors.

4. Petitioner is currently initiating a practice of rubber-taping outer jacket cut-off points to form a tapered jacket that will help prevent possible damage to conductors from bending at those points. All surplus cable is stored in cable boats designed for that purpose. When cables are relocated, the splices are taken apart and remade when cables are installed at the new location.

5. Petitioner believes that rebuilding of an outer jacket over this particular type of splice could cause an unsafe condition by preventing periodic visual inspections of conductors and wires. This would make more difficult the detection with test equipment of any temperature rise from poorly made or loosened phase connections. The physical separation of the phase wires also decreases the possibility of tracking and arcing between phases.

6. Because the petitioner feels that an outer jacket will provide less safety in many cases, the petitioner requests a modification of the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 13, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15898 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-43-M]

Independent Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

Independent Salt Company, Post Office Box 36, Kanopolis, Kansas 67454 has filed a petition to modify the application of 30 CFR 57.19-124 (hoist ropes) to its mine located in Ellsworth County, Kansas. The petition is filed under section 101 (c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. As an alternative to cutting the hoist rope at least six feet above the highest connection to the conveyance at least once per year, petitioner states the following facts in support of the alternate method proposed which will provide the same measure of protection as that provided by the standard:

a. The suspension system is designed to prevent any additional rope stress in that area. All lateral movement is absorbed by the thimble and pin assemblies. Corrosion is prevented by careful maintenance and adequate usage of a good corrosion protection material.

b. No rope failure has occurred at the mine. As ropes have been repaired, petitioner has carefully examined the suspension system and has always found the rope in that section to be in better condition than the length that comes in contact with the sheaves.

c. In the past, as part of the regular maintenance and inspection programs, a contractor has performed a non-destructive rope test at least once per year. The contractor will now provide this service twice per year. A new cable is kept on hand and replaced as these tests indicate a need.

2. The required cut will cause the petitioner to lose a minimum of 18 feet per year and thereby shorten the rope life because of length.

3. The drum and feed slots are not designed to carry enough extra cable to sustain operable length for the rope's normal life span without overlapping.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 13, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15899 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-66-C]

National Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

National Mines Corporation, 101 East Vine Street, P.O. Box 12022, Lexington, Kentucky 40511 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its National Pocahontas Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The return entries for a distance of 4300 feet immediately adjacent to the return air shaft contain numerous roof falls which have rendered the return air courses virtually impassable and extremely hazardous to travel and examine.

2. These falls have not affected the quantity of air passing through the return airways are not designated as return escapeways.

3. As an alternative method which will provide the same measure of protection to the miners as that of the standard, petitioner proposes to:

a. Establish four monitoring stations at specified locations and maintain these stations in a safe condition at all times;

b. Record in a book kept on the surface the results of examinations of air quality, quantity and direction at each station;

c. Not allow harmful gases to accumulate in excess of legal limits. Significant increases in the methane level or a reduction in the air quantity will result in an immediate investigation;

d. Examine the mine fan daily and take weekly air readings and samples at that location.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at the address.

Dated: May 13, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15900 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-67-C]

National Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

National Mines Corporation, 101 East Vine Street, P.O. Box 12022, Lexington, Kentucky 40511 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its National Pocahontas Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The use of cabs and canopies on the mine's underground face equipment has been successful where the mining heights have exceeded 55 inches.

2. Present mining heights now range from 46 to 55 inches.

3. The use of cabs or canopies in the present mining height will result in a diminution of safety because:

a. The canopy strikes the mine roof, which destroys the roof support system;

b. A suspended cable struck by the canopy would result in fire or electric shock hazards;

c. The equipment operators' vision is severly impaired by the canopy and close confinement in the cab causes the operators' head, arms and legs to extend from beneath the canopy, which exposes the operators to the danger of being crushed between the equipment and the coal rib;

d. The confines of the canopy would hamper the rapid escape from the equipment in the case of an emergency.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 15, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15901 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-73-C]

Slab Fork Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Slab Fork Coal Company, Slab Fork, West Virginia 25920 has filed a petition to modify the application of 30 CFR 75.305 (Weekly examinations for hazardous conditions) to its No. 8 Mine located near Tams, Raleigh County, West Virginia, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petitioner plans to use intake air from the No. 8 Portal to ventilate mining areas near the Portal. Air would be drawn through the mine with an exhaust fan located at the Bailey Branch Portal. This ventilation arrangement would continue until retreat mining for pillar recovery in the area is complete. The proposed mining will require about 6 months, after which the No. 8 Portal and the belt leading to the No. 2 Tipple will no longer be used.

2. The return airways from the main entries near No. 8 Portal to the Bailey Branch fan are considered not safe for physical examination under 30 CFR 75.305. As these airways have minor accumulations of water in them and the ribs are sloughing, maintenance of these return airways would expose miners unnecessarily to rib and roof fall hazards.

3. As an alternative to application of 30 CFR 75.305, the petitioner would course return air from working areas near the No. 8 Portal to the Bailey Branch fan without having to examine the return airways through which such air is coursed, but it would take daily air measurements at the Bailey Branch fan and in the active areas of the mine being worked from the No. 8 Portal; also, daily methane measurements will be made in these active areas. In addition, two separate escapeways would be maintained from the active workings to the surface to permit the miners to exit the mine in less than 10 minutes.

4. The petitioner states that examination of the return airways in their entirety would result in a diminution of safety to the miners required to perform the examinations.

5. The petitioner alleges that the alternative method will at all times guarantee no less than the same measure of protection afforded the miners by weekly examination of the return airways in the entirety from the main entries near the No. 8 Portal to the Bailey Branch fan.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 23, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 15, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-15902 Filed 5-22-80 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application Nos. L-1669 through L-1672; Prohibited Transaction Exemption 80-33]

Exemption From the Prohibitions for Certain Transactions Involving the Commingled Pension Trust Fund—Common Stock, et al. Located in New York City, N.Y.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the acts of Morgan Guaranty Trust Company of New York (Morgan) in effectuating interaccount transfers of publicly traded common stock among the Commingled Pension Trust Fund—Common Stock, the Commingled Pension Trust Fund—Special Situation Investment, the Commingled Pension Trust Fund—Intermediate Capitalization Equities, and the Commingled Pension Trust Fund—Supplemental Opportunity (the Plans) which are managed by Morgan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

(202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 7, 1980, notice was published in the **Federal Register** (45 FR 14974) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for effectuating by Morgan of certain interaccount transfers of publicly traded common stock among the Plans managed by Morgan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. One public comment was received by the Department which favored granting the exemption in the form in which it was proposed. In addition, Morgan submitted the following comment: "In paragraph 13 of the notice of pendency, it is stated in part that the inter-fund transfers of stocks to be effected by Morgan will be performed on a selected day within a 120-day period following the date Morgan receives its last applicable regulatory approval or exemption from the Department. Morgan believes that it may not be administratively feasible to make all of the transfers on a single day. Although Morgan will be able to select in advance a specific day for the transfer of a particular issue of common stock, Morgan requests that the final exemption provide that every issue need not be transferred on the same day." No requests for a hearing were received by the Department.

Upon consideration of the comments received, the Department has determined to grant the exemption as proposed with the exception that every issue of common stock need not be transferred on the same day.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(a), 406 (b)(1) and (b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act, the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(b)(2) of the Act shall not apply to the acts of Morgan in effectuating inter-account transfers of common stocks as described in the notice of pendency and incorporating the change described herein.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 19th day of May, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–15893 Filed 5–22–80; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1623]

Proposed Exemption for Certain Transactions Involving the Rodey, Dickason, Sloan, Atkin & Robb, P.A. Profit Sharing Plan and Trust, of Albuquerque, N. Mex.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan from the Rodey, Dickason, Sloan, Akin & Robb, P.A. Profit Sharing Plan and Trust (the Plan) to Rodey, Dickason, Sloan, Akin & Robb, P.A. (the Employer). The proposed exemption, if granted, would affect the Plan, the Employer and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 8, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1623. The application for exemption and the comments received will be available for public inspection in the public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Stephen Elkins, of the Department of Labor, telephone (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by

section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a law firm, members of which are engaged in the general practice of law in Albuquerque, New Mexico. As of October 9, 1979, there were 103 employees of the Employer, 96 of whom were salaried, seven of whom were hourly.

2. The Plan is non-contributory, and covers all salaried employees of the Employer. As of the date of the application, there were 100 present and former employees who were participants in the Plan. Independent trustee of the Plan is The First National Bank in Albuquerque (the Bank). If the proposed exemption is granted, the independent trustee would have full discretion with respect to management, retention, or disposition of the Plan investment to which the exemption would be applicable.

3. As of August 31, 1979, the Plan had assets of $1,466,827.60. The average yield on Plan assets has been 4.4 percent, from the inception of the Plan.

The Employer traditionally has made an annual contribution to the Plan equal to 15 percent of the gross compensation of each Plan participant, subject to a cash option feature of the Plan which allows each participant to take in cash up to half of the contribution which otherwise would be made to the Plan on his behalf. The Employer intends to continue its practice of making 15 percent of gross compensation available as a contribution to the Plan.

4. The transaction for which an exemption is requested is a loan of $650,000.00 from the Plan to the Employer. Proceeds of the loan would be used by the Employer for purchase of furniture, fixtures, equipment and leasehold improvements needed for expansion of the Employer's office space, including purchase of an in-house computer for the Employer's use.

The proposed loan would be for a term of seven years, with interest alone payable through December, 1980, and with principal amortized in equal monthly installments over the remaining term. Deferred amortization of principal is desired for the purpose of orderly cash flow planning, inasmuch as another loan now outstanding to the Employer from an unrelated party will be fully amortized in December 1980.

Interest on the loan would be at 1.5 percent above the prime rate in New York, adjusted monthly. At no time during the term of the loan would the interest rate be less than 12.5 percent.

The loan would be secured in part by a first security interest in the improved leasehold which the Employer presently occupies, and which as expanded and further improved, it will continue to occupy after the loan is made. An appraisal by Joe F. Fritz Management, Inc., of Albuquerque places a value of approximately $500,000.00 on such leasehold as further improved by loan proceeds. Also securing the loan would be a first security interest in the furniture, fixtures, equipment, and library presently in place. Appraisals by New Mexico Office Furniture, of Albuquerque, Lanier Business Products, Inc., of Atlanta, Georgia, International Business Machines Corporation, of Albuquerque, and Ferguson Library Services, of Albuquerque place a value of approximately $350,000.00 on such existing furniture, fixtures, equipment, and library. Additional security for the loan would be provided through a first security interest in furniture, fixtures, equipment, and library acquired through loan proceeds or otherwise.

5. The applicant represents that the Employer would not encounter difficulties in meeting the principal and interest payments on the loan as due. Moreover, the 27 principals of the Employer have agreed to execute prorata guarantees per capita, assuring repayment of principal, plus interest on the loan. A senior officer of the Bank has stated that based on his familiarity with the principals of the Employer, if it should become necessary, collection from the principals in full according to terms of the guarantees would be possible, owing to the net worths of those principals.

6. The Bank, through a senior loan officer has made a commitment to the Employer to make a loan to the Employer on the same terms as the proposed loan from the Plan. However, if the Bank were to make the loan, the interest rate charged the Employer would be one-half a percentage point less than the interest to be charged the Employer by the Plan.

The Chief Administrative Officer of the Albuquerque National Bank (ABN) has stated that he is familiar with the terms of the proposed loan from the Plan to the Employer, and that he is aware that the Bank has made a commitment to make a loan to the Employer on the terms discussed immediately above. He further states that ABN does no business with the Employer or the Plan, and is not represented by the Employer. Without making a loan commitment as such, the Officer of ABN states that it is his opinion that ABN would make the loan to the Employer on the same terms as proposed by the Bank.

7. Based on the value of Plan assets determined as of August 31, 1979, the percentage of Plan assets initially invested in the loan would be approximately 36 percent, immediately after contribution to the Plan for the year 1979. Immediately after the contribution for the year 1980, the percentage of Plan assets invested in the loan would be approximately 28 percent.

8. The income earned by the Plan on the proposed loan would be allocated among the accounts of all participants in the Plan in exactly the same manner as any other income of the Plan.

9. The trustee has determined that the transaction is appropriate for the Plan, and is in the best interests of the participants and beneficiaries of the Plan.

The applicants represent that the transaction would meet the criteria of section 408(a) of the Act because (a) the loan would provide an investment opportunity more attractive than others currently available to the Plan, (b) the loan would be secured by collateral having a fair market value substantially in excess of the amount of the loan, (c) the principals of the Employer would guarantee repayment of the loan, (d) an independent fiduciary would have authority over the assets of the Plan invested in the loan, and (e) and unrelated party is of the opinion that it would make an identical loan to the Employer, but at a lesser rate of interest.

Notice to Interested Persons

Within two weeks of notice of the proposed exemption appearing in the **Federal Register**, notice of the proposed exemption will be provided to all present employees, whether or not then participants in the Plan and all former employees and beneficiaries who have any undistributed account balances in

the Plan. Such notice will include a copy of the Notice of Pendency and also will inform each person to whom notice is given of his right to comment on the application and to request that a hearing be held with respect to the proposed exemption. Notice to present employees will be given by posting on the employee bulletin board, and by circulation through inter-office memo to each employee. Notice will be given to each former employee or beneficiary by mailing such notice to his last known address.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require that a fiduciary discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the making of a loan of $650,000.00 from the Plan to the Employer, the proceeds of which are to be used for the purchase of furniture, fixtures, equipment and leasehold improvements, according to the terms and conditions as specified hereinabove, provided that the terms of the loan are not less favorable to the Plan than those obtainable from an unrelated party at arm's length at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of May, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-15894 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1539]

Proposed Exemption for Certain Transactions Involving Southwest Chemical Services Incorporated Profit Sharing Plan Located in Houston, Tex.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale for cash of an account receivable by the Southwest Chemical Services Incorporated Profit Sharing Plan (the Plan) to Southwest Chemical Services Incorporated (the Employer), a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 30, 1980.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective September 6, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1539. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas, of the Department of Labor, telephone (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Effective April 14, 1978, the Employer became a wholly owned subsidiary of Thiokol Corporation (Thiokol). Pursuant to terms of the merger agreement, each shareholder of the Employer was to receive cash from Thiokol in exchange for surrendering stock of the Employer. An exchange and escrow agreement was executed between Thiokol and the Employer which provided that after the effective date of the merger, Texas Commerce Bank National Association (the Bank) would act as agent for Thiokol and the former shareholders of the Employer for the disbursement of the proceeds in exchange for the stock of the Employer.

2. On April 17, 1978, the effective date of the merger, the sum of $22.25 per share was paid to the Bank by Thiokol for each share of stock of the Employer. Subsequently, the Bank paid each former holder of Employer stock an amount equal to $17.80 per share. The remaining $4.45 per share was held by the Bank pursuant to the terms of the escrow agreement to indemnify Thiokol against possible losses or liabilities as a result of the breach of certain warranties and representations made by the Employer. The escrow agreement provided that on May 22, 1978, if there were no misrepresentations, former shareholders of the Employer could expect to receive from the Bank an amount equal to $2.23 per share of common stock previously owned, then $1.71 per share on December 18, 1978 and $.51 per share on or about April 18, 1981. The amounts due on May 22, 1978 and December 18, 1978 were paid. The only amount remaining unpaid to date is the $.51 per share payable on or about April 18, 1981.

3. The Plan owned 6,666 shares of common stock of the Employer and was therefore due to receive the $.51 per share distribution in April 1981. The Plan, however, was terminated effective April 1, 1979. In order to facilitate the cash distribution of all the Plan's assets which took place on or about October 4, 1979, the Employer purchased the account receivable due the Plan on its former Employer stockholdings. The purchase of the account receivable took place on September 6, 1979, for $4,335.18 in cash.

4. The applicant represents that the Employer, by purchasing the account receivable, removed any risk of loss to the Plan. The sales price of $4,335.18 represents the final escrow payment of $.51 per share due on April 18, 1981, plus an interest earnings factor based on the rate the Bank was earning for the escrow account. No discount to a present value was made from the estimated gross future value in deriving the sales price of the account receivable. If the Plan had been required to distribute the account receivable in undivided interests, the administrative costs would have been excessive.

5. On August 24, 1979, the Internal Revenue Service issued a favorable determination letter with respect to the termination of the Plan.

6. In summary, the applicant represents that the transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (1) it is a one time transaction for cash; (2) the Plan realized a profit on the sale and no discount was taken; (3) any risk of loss in holding the account receivable, pursuant to the escrow agreement, was removed; (4) the Plan did not incur administrative costs which would have transpired in distributing the account receivable in undivided interests to the Plan participants; and (5) the trustee has determined that the transaction was appropriate for the Plan and was in the best interest of the Plan's participants and beneficiaries.

Notice to Interested Persons

Within ten days of the publication of the notice of pendency in the **Federal Register**, notice of this request will be posted at the locations normally used by the Employer for posting notices to employees. Terminated participants and beneficiaries who have the right to receive benefits from the Plan will be notified by mail. The notice will include a copy of the notice of pendency alone with a statement advising interested persons of their right to comment and request a hearing within the time period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under Section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is

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considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of an account receivable by the Plan to the Employer on September 6, 1979, provided that the sales price was not less than the fair market value of the account receivable at the time of consummation of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the proposed exemption.

Signed at Washington, D.C., this 20th day of May, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-15895 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-26]

Class Exemption for Certain Interest Free Loans to Employee Benefit Plans

AGENCY: Department of Labor.

ACTION: Grant of class exemption; correction.

SUMMARY: In FR Doc. 80–12872 appearing at page 28545 in the **Federal Register** of April 29, 1980, the title is corrected to include the words "[Prohibited Transaction Exemption 80–26]" on a separate line proceding the words "Class Exemption for Certain Interest Free Loans to Employee Benefit Plans."

Signed at Washington, D.C., this 14th day of May 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-15488 Filed 5-22-80; 8:45 am]

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Office of the Secretary

[TA-W-6547]

Chrysler Corp., Trenton Engine Plant; Trenton, Mich; Negative Determination Regarding Application for Reconsideration

By an application dated March 7, 1980, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Trenton Engine Plant of Chrysler Corporation, Trenton, Michigan. The determination was published in the **Federal Register** on February 12, 1980, (45 FR 9400).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

In denying the workers of the Trenton Engine Plant of Chrysler Corporaton eligibility to apply for adjustment assistance, the Department concluded that increases of imports of articles like or directly competitive with the automobile engines produced at the Trenton Engine Plant did not contribute importantly to the separation of workers and to the decline in production at that facility. The union, in its application for reconsideration, challenges this conclusion and argues that the Department failed to consider adequately several major factors in its analysis of the employment and production declines. The union argues: (1) that the progression of the Chrysler Corporation toward production of smaller and more fuel-efficient automobiles, and the production and employment dislocations inherent in such progression, resulted in large part from the competitive pressures of small car imports; (2) that the Trenton Engine Plant's share of total Chrysler Corporation engine production steadily declined from MY 1977 through MY 1979 though the share of foreign-produced engines increased during the same period; (3) contrary to the Department's statements, employment at the Trenton Engine Plant did not stabilize during 1979 and significant employment declines have occurred in the first quarter of 1980; and (4) that because the Department has issued certifications to workers of several Chrysler Corporation auxiliary production facilites similar to the Trenton Engine Plant, consistent application of the Act requires that the Department also issue a certification to the workers of the Trenton Engine Plant.

In the course of its investigation, the Department did consider the effects of small car imports on production and employmnent at the Trenton Engine Plant. However, it was determined that the dominant cause of the layoffs at the plant was the discontinuation of a major Trenton Engine Plant product line, the 400 and 440 CID V–8 engines. Consumer and governmental pressure on the fuel-economy standards of the U.S. automobile industry over the past several years has resulted in specified minimums for fuel economy which are to be determined on the basis of corporate average. In attempting to meet these new standards, Chrysler discontinued production (September 1978) of their two largest engines. The Trenton Engine Plant was the only Chrysler facility which produced the 400 and 440 CID V–8 engines and none was imported.

In place of the large V–8 engines, Chrysler Corporation has emphasized the production of the 225 CID 6-cylinder and the 1.76 liter 4-cylinder engines. Production of the 6-cylinder engine at the Trenton Engine Plant has been increased as a result of Chrysler Corporation's decision to use the 6-cylinder engine rather then the 8-cylinder engine as standard equipment in its standard-size car lines for MY 1980 and of the consolidation of Chrysler Corporation's 6-cylinder engine production from the facilities in Canada and Mexico to the Trenton Engine Plant. Thus, production of 6-cylinder engines at the Trenton Engine Plant increased in MY 1979 compared with MY 1978 and in the August–December period of 1979 relative to the same period in 1978. Similarly, the number of 4-cylinder engines finished at the Trenton Engine Plant from imported semi-finished engines increased in MY 1979 compared with MY 1978 and during the August-December period of 1979 relative to the same period in 1978. In addition, Chrysler Corporation is currently retooling the Trenton Engine Plant for full-scale production of a Chrysler-designed 2.2 liter 4-cylinder engine.

The union's argument that foreign production facilities have gained a greater share of Chrysler Corporation engine production while the Trenton Engine Plant was losing its share is not relevant to a determination in this case. The union claims that increases in imports by Chrysler Corporation of the 360 CID V–8 and semi-finished 4-cylinder engines contributed importantly to the discontinuation of production of 400 and 440 CID V–8 engines. However, as noted above, the Deparment found on investigation that the dominant cause of the production and employment declines at the Trenton Engine Plant has been Chrysler Corporation's engine production reorganization as part of its effort to meet fuel-economy standards. In addition, the union's claim here is based on the premise that an automobile engine is like or directly competitive with any other automobile engine which, the union submits, is merely an extension of the Department's policy of considering automobiles of various sizes like or directly competitive with one another. The Department, to the contrary, has held consistently that automobiles of different sizes and characteristics only compete with one another within definite limits, i.e., that a given automobile is not like or directly competitive with every other automobile. This contention of the union notwithstanding, it should be noted that imports of the semi-finished 4-cylinder engines represent an addition to production at the Trenton Engine Plant since completed 4-cylinder engines have not been produced there in the past.

Employment at the Trenton Engine Plant became relatively stable in the January–November period of 1978 following the series of major layoffs due to the discontinuation of 400 and 440 CID V–8 engine production. Employment levels, measured on a monthly basis, were variable during this period though no more variable than should be expected from such factors as inventory adjustment and summer vacation replacements. Declines in employment after November 1979 occurred subsequent to the Department's investigation and, therefore, are not relevant to this determination.

Finally, the fact that the Department has issued certifications to workers at other Chrysler Corporation facilities does not require that the Department also certify the workers of the Trenton Engine Plant. The Department conducted a specific investigation for every identifiable worker group, i.e., the workers of the Trenton Engine Plant were considered as a group distinct from, for example, the Detroit Universal Plant. Such a targeted investigation is both consistent with the Act and desirable since it allows the identification of factors causing production and employment declines at each facility and the discernment of whether these factors are import-related.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 15th day of May 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-15829 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 12–16th, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7359; Alma Foundations, Inc., Oswego, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at the Oswego, New York plant of Alma Foundations, Incorporated. Workers at the Oswego, New York plant produced corsets and briefs.

The investigation revealed that criterion (3) has not been met.

A Departmental survey of customers of Alma Foundations revealed that those customers who decreased purchases from Alma in 1979 compared to 1978 did not purchase imported corsets and briefs. Also, the survey revealed that the responding customers increased markedly their demand for domestically produced corsets and briefs in 1979 compared to 1978.

In this case, therefore, the certification officer has determined that all workers of the Oswego, New York plant of Alma Foundations, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7204; Al Weiss Lincoln-Mercury d.b.a. Joe Jordan Lincoln-Mercury, St. Louis, Mo.

The investigation was initiated on February 25, 1980, in response to a worker petition which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers at Al Weiss Lincoln-Mercury d.b.a. Joe Jordan Lincoln-Mercury, St. Louis, Missouri. The workers at Joe Jordan Lincoln-Mercury are engaged in providing the service of automobile sales and service.

The investigation revealed that workers of Joe Jordan Lincoln-Mercury do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Joe Jordan Lincoln-Mercury by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Joe Jordan Lincoln-Mercury and its suppliers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company which produces an article.

All workers engaged in automobile sales and service at Joe Jordan Lincoln-Mercury are employed by that firm. All personnel actions and payroll transactions are controlled by Joe Jordan Lincoln-Mercury. All employee benefits are provided and maintained by Joe Jordan Lincoln-Mercury. Workers are not, at any time, under employment or supervision by suppliers of Joe Jordan Lincoln-Mercury. Thus, Joe Jordan

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Lincoln-Mercury and not any of its suppliers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Al Weiss Lincoln-Mercury d.b.a. Joe Jordan Lincoln-Mercury, St. Louis, Missouri are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7425; Bluestone Coal Corp., Keystone Strip Mine, Keystone, W. Va.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Bluestone Coal Corporation, Keystone Strip Mine, Keystone, West Virginia. The workers produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

The petition was filed on behalf of workers engaged in employment related to the mining of metallurgical coal. In accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2 a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal should be considered in determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal decreased absolutely and relative to demestic production in 1979 compared to 1978. U.S. imports of coal are negligible in the domestic market. U.S. imports of coke decresed absolutely and relative to domestic production in 1979 compared to 1978 and in January-February 1980 compared to January-February 1979.

Bluestone's sales of metallurgical coal increased during non-strike periods in 1979 compared to the same periods in 1978 and increased in the first quarter of 1980 compared to the first quarter of 1979.

In this case, therefore, the certifying officer has determined that all workers of Bluestone Coal Corporation, Keystone Strip Mine, Keystone, West Virginia be denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7383; Capri Coat Corp., New York, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Capri Coat Corporation, New York, New York. Workers at Capri Coat Corporation produce women's coats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely from 1978 to 1979.

A Department survey of customers of Capri Coat Corporation revealed that most customers which reduced purchases of coats from Capri did not increase purchases of coats from foreign sources. As a percentage of total demand for coats by the responding customers, imports decreased from 1978 to 1979.

In this case, therefore, the certifying officer has determined that all workers of Capri Coat Corporation, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7342; Cannelton Industries, Inc.; Pocahontas Division; Superior, W. Va.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Cannelton Industries, Incorporated, Pocahontas Division, Superior, West Virginia. The workers mine metallurgical coal.

The investigation revealed that criterion (3) has not been met.

U.S. imports of metallurgical coal decreased in 1979 compared to 1978.

Cannelton Industries, Incorporated is a wholly owned subsidiary of Algoma Steel Corporation, Limited, a Canadian firm. All of the coal produced at the Pocahontas Division of Cannelton Industries is exported to Algoma facilities, none of which are in the United States.

In this case, therefore, the certifying officer has determined that all workers of Cannelton Industries, Incroporated, Pocahontas Division, Superior, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7534; Christopher Dyeing & Finishing Co., Inc.; Paterson, N.J.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the Teamsters Union, Local 84 on behalf of workers at Christopher Dyeing and Finishing Company, Incorporated, Paterson, New Jersey. The workers dye and finish textiles.

U.S. imports of finished fabric increased absolutely and relative to domestic production in 1978 compared to 1977.

The Department of Commerce survey revealed that customers representing a significant proportion of Christopher Dyeing and Finishing Company, Incorporated's sales declines have decreased purchases from the subject firm and increased purchases of imported finished fabric in 1979 compared to 1978.

The Department of Commerce certified Christopher Dyeing and Finishing Company, Incorporated eligible for firm adjustment assistance on February 8, 1980 (project number F-NJ-0887).

In this case, therefore, the certifying officer has determined that:

"All workers of Christopher Dyeing and Finishing Company, Incorporated, Paterson, New Jersey who became totally or partially separated from employment on or after March 24, 1979 and before November 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974. All workers who became totally or partially separated from employment on or after November 1, 1979 are denied eligibility to apply for adjustment assistance."

TA-W-7316; Collins & Catlin, Inc., Port Huron, Mich.

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at Collins and Catlin, Inc., Port Huron, Michigan. The workers at Collins and Catlin, Inc. are engaged in construction work.

The investigation revealed that workers of Collins and Catlin, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Collins and Catlin, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Collins and Catlin, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in construction work at Collins and Catlin, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Collins and Catlin, Inc. All employee benefits are provided and maintained by Collins and Catlin, Inc. Workers are not, at any time, under employment or supervision by customers of Collins and Catlin, Inc. Thus, Collins and Catlin, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Collins and Catlin, Inc., Port Huron, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-6257; Crane Co., Indian Orchard, Mass.

The investigation was initiated on December 26, 1979 in response to a petition which was filed on behalf of workers at Crane Company, Indian Orchard, Massachusetts. The workers produced steel castings and valves.

The investigation revealed that criteria (3) has not been met.

On the basis of additional information on the production process at the Indian Orchard, Massachusetts facilities, the Director, on his own motion, reopened investigation TA-W-6257.

The preponderance of all steel castings produced at the Indian Orchard foundry are used at the Indian Orchard Machine Shop in the production of valves.

Thus, the foundry and the machine shop form an integrated production unit, and therefore imports of both steel castings and valves must be considered in determining import injury to workers producing castings and valves at Indian Orchard.

U.S. imports of steel castings decreased relative to domestic shipments from 1977 to 1978. Although imports of castings increased absolutely and relative to domestic shipments in 1979 compared to 1978, the ratio of imports to domestic shipments was less than three percent. The ratio of valve impots to domestic shipments has not exceeded six percent during the period 1974 through 1979.

A Departmental survey of the customers of Crane Company, Indian Orchard revealed that the customers which decreased valve purchases from Crane, while increasing purchases of imported valves, represented an insignificant proportion of Crane Company's decline in valve sales.

In this case, therefore, the certifying officer has determined that all workers of Crane Company, Indian Orchard, Massachusetts are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-6857; Deansgate, Inc., New Orleans, La.

The investigation was initiated on January 28, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Deansgate, Incorporated, New Orleans, Louisiana. Workers at the New Orleans plant produce men's suits and sportcoats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of men's and boy's tailored dress coats and sportcoats and of men's and boys' tailored suits declined absolutely in 1979 compared with 1978.

The Department surveyed some of Deansgate's customers. Most customers either purchased no imported suits and sportcoats or increased their purchases from other domestic sources. Those customers that reduced purchases from Deansgate and increased imports accounted for an insignificant proportion of company sales.

In this case, therefore, the certifying officer has determined that all workers of the Deansgate, Incorporated, New Orleans, Louisiana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7261; Evans Products Co., Forest-Fiber Products Group, Missoula Division, Missoula, Mont.

The investigation was initiated on March 3, 1980 in response to a petition which was filed by the United Paperworker's International Union on behalf of workers at the Evans Products Company, Forest-Fiber Products Group, Missoula Division, Missoula, Montana. Workers at the Missoula plant produce and plywood lumber.

The investigation revealed that criterion (3) has not been met.

U.S. imports of softwood plywood increased absolutely in 1978 compared with 1977 and then decreased absolutely in 1979 compared with 1978. The ratio of imports to domestic production of softwood plywood was less than one percent during each year from 1975 through 1979.

Most of the surveyed customers of the Missoula Division indicated that they purchased no imported plywood in 1978, 1979 or the first three months of 1980. No respondents to the survey indicated that they increased purchases of imported plywood while decreasing purchases from the Missoula Division in 1979 compared with 1978 or in the first three months of 1980 compared with the same period of 1979.

The petitioners allege that imports of veneer, and earlier stage of production in the manufacture of plywood, at the Missoula Division caused layoffs at that facility. However, the investigation revealed that the Missoula Division was unable to obtain a sufficient supply of logs suitable for the plywood production process and veneer was imported to supplement, not replace, production at the Missoula Division. All veneer (both imported and that produced in-house) underwent further processing at the Missoula plant.

The petitioners also state that Evans has recently opened a new veneer-producing facility in a foreign country and allege that production is being transferred from the Missoula Division to foreign facilities. Currently, there is no evidence that company imports of plywood or veneer have increased as the result of a transfer of production to foreign facilities. However, the opening of the new foreign facility may create a situation in the future that may warrant coverage under the provisions of the Trade Act of 1974 if the transfer results in increased imports into the United States. The petitioners are encouraged to file a request to reopen the investigation when imports from the foreign operation have begun.

U.S. imports of softwood lumber increased absolutely and relative to domestic production in 1978 compared with 1977 and then decreased absolutely in 1979 compared with 1978. The ratio of imports to domestic production of softwood lumber remained at the same level in 1978 and 1979.

Surveyed customers of the Missoula Division indicated that they did not increase purchases of imported lumber and decrease purchases from the Missoula Division in 1979 compared with 1978 or in the first three months of 1980 compared with the same period of 1979. Respondents which reported increased purchases of imported lumber also reported increased purchases from the Missoula Division and other domestic sources.

In this case, therefore, the certifying officer has determined that all workers of the Evans Products Company, Forest-Fiber Products Group, Missoula Division, Missoula, Montana, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7234; Federal Mogul Corp.; Sealing Products Group; Frankfort, Ind.

The investigation was initiated on March 3, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at the Federal Mogul Corporation, Sealing Products Group, Frankfort, Indiana. The workers produce oil seals.

The investigation revealed that criterion (3) has not been met.

Petitioners allege that imports of automobiles and automotive equipment have adversely affected employment and production of oil seals at the

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Federal Mogul Corporation, Sealing Products Group, Frankfort, Indiana. Imported automobiles and automotive equipment cannot be considered to be like or directly competitive with oil seals. Only imports of oil seals may be used in determining the eligibility to workers at the subject plant.

Imports of oil seals into the United States were negligible during the period 1975 through 1979.

In this case, therefore, the certifying officer has determined that all workers of the Frankfort, Indiana plant of Federal Mogul Corporation, Sealing Products Group, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7349; Fedders Corp., Air Conditioning Division, Edison, N.J.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Fedders Corporation, Air Conditioning Division, Edison, New Jersey. The workers produce air conditioners.

The investigation revealed that criterion (3) has not been met.

U.S. imports of air conditioners declined both absolutely and relative to U.S. production in 1979 compared to 1978. U.S. imports as a percentage of domestic production never exceeded 1.7 percent in the period 1977 to 1979.

The investigation further revealed that consumption of air conditioners is heavily dependent on new construction. The downturn in construction activities in 1979 served to weaken the demand for air conditioners.

In this case, therefore, the certifying officer has determined that all workers of Fedders Corporation, Air Conditioning Division, Edison, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7006, 7020, 7025, 7034, 7054, 7060, and 7069; General Motors Corp., Detroit, Mich.

The investigation was initiated on February 11, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.) on behalf of workers at the following plants of General Motors Corporation:

Chevrolet Motor Division (TA–W–7006): Muncie, IN.
Fisher Body Division, Grand Rapids #1 (TA–W–7020): Grand Rapids, MI
Fisher Body Division, (TA–W–7025): Lordstown, OH.
Fisher Body Division, General Offices (TA–W–7034): Warren, MI.
New Departure, Hyatt Division (TA–W–7054): Bristol, CT.
Hydra-matic Division (TA–W–7060): Ypsilanti, MI.
Central Foundry Division (TA–W–7069): Massena, NY.

Evidence developed during the course of the investigation revealed that criterion (2) has not been met at the Muncie, Indiana, Grand Rapids, Michigan, Lordstown, Ohio, Warren, Michigan, Bristol, Connecticut, Ypsilanti, Michigan and Massena, New York plants of the General Motors Corporation.

At each of these facilities, plant production increased in model year 1979 compared to model year 1978 and increased in first four months of model year 1980 compared to the same period in model year 1979.

Evidence developed during the course of the investigation revealed that criterion (3) has not been met at the General Offices, Warren, Michigan.

Employment at the General Offices increased from model year 1978 to model year 1979. Employment declunes which occurred during the fourth quarter of model year 1979 compared to the same quarter of model year 1978 and in the first five months of model year 1980 compared to the same period of model year 1979 were an insignificant proportion of total employment and of short duration. Labor turnover data revealed that recalls exceeded layoffs in the last quarter of model year 1979 and in the first five months of model year 1980.

In this case, therefore, the certifying officer has determined that all workers of the Muncie, Indiana plant of the Chevrolet Motor Division, Muncie, Indiana (TA–W–7006); the Grand Rapids #1, Michigan Plant, Grand Rapids, Michigan (TA–W–7020); Lordstown, Ohio plant of the Fisher Body Division, (TA–W–7025); the General Offices of the Fisher Body Division, Warren, Michigan (TA–W–7034); the Bristol, Connecticut plant of the New Departure-Hyatt Division (TA–W–7054) the Ypsilanti, Michigan plant of the Hydra-matic Division (TA–W–7060); and the Massena, New York Plant of the Central Foundry Division (TA–W–7069) of the General Motor Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7318; General Safety Corp., St. Clair Shores, Mich.

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at General Safety Corporation, St. Clair Shores. The workers at the St. Clair Shores plant produce seat belts and seat latches for automobiles.

The investigation revealed that criterion (3) has not been met.

Seat Belts

Customers of General Safety Corporation increased purchases of domestically produced seat belts in the first nine months of 1979 compared with the first nine months of 1978.

Seat Latches

U.S. imports of seat latches are negligible.

After careful review, I determine that all workers of General Safety Corporation, St. Clair Shores, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7306; Gloucester Ice & Cold Storage Co., Gloucester

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at Gloucester Ice and Cold Storage Company, Gloucester, Massachusetts. The workers at Gloucester Ice and Cold Storage Company are engaged in providing the service of packing and freezing fresh fish.

The investigation revealed that workers of Gloucester Ice and Cold Storage Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Gloucester Ice and Cold Storage Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Gloucester Ice and Cold Storage Company and its customers have no controlling interest in one another. The subject firm shares common ownership with a company which produces ice. However, the subject firm is not affiliated with any company for whom it provides services.

All workers engaged in packing and freezing fresh fish at Gloucester Ice and Cold Storage Company are employed by that firm. All personnel actions and payroll transactions are controlled by Gloucester Ice and Cold Storage Company. All employee benefits are provided and maintained by Gloucester Ice and Cold Storage Company. Workers are not, at any time, under employment or supervision by customers of Gloucester Ice and Cold Storage Company. Thus, Gloucester Ice and Cold Storage Company and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Gloucester Ice and Cold Storage Company, Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–1315; Industrial Timer Corp., Parsippany, N.J.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers at Industrial Timer Corporation, Parsippany, New Jersey. The workers produced electrical relays and timers.

The investigation revealed that criterion (3) has not been met.

The Department conducted a survey of customers which purchased relays and timers produced by Industrial Timer Corporation. The survey indicated that most of these customers did not purchase imported relays or timers in 1979 or the first two months of 1980. The survey further revealed that of the customers who decreased purchases of relays and timers from domestic sources in 1979 compared to 1978, one purchased imported relays and timers. This customer represented an insignificant amount of the total purchases of relays and timers reported by the customers surveyed. None of the surveyed customers which decreased purchases of domestically produced relays and timers in the first two months of 1980 compared to the first two months of 1979 purchased imported relays or timers.

In this case, therefore, the certifying officer has determined that all workers of Industrial Timer Corporation, Parsippany, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–6846; International Silver Corp., Los Angeles, Calif.

The investigation was initiated on January 24, 1980 in response to a petition which was filed on behalf of workers employed at the Los Angeles, California warehouse of the International Silver Company. The workers are engaged in shipping, distribution and sales.

The investigation revealed that cirterion (3) has not been met.

The Department surveyed the customers of International Silver for their purchases of sterling silver flatware and holloware, silver plated flatware and holloware, stainless steel flatware and pewter holloware. Customers revealed that they did not decrease purchases of flatware and holloware products from International Silver and increase purchases of imports of these products during the period under investigation.

In this case, therefore, the certifying officer has determined that all workers of the Los Angeles, California warehouse and sales offices of International Silver Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7350; International Silver Corp. De Puerto Rico, San German, P.R.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at International Silver De Puerto Rico, San German, Puerto Rico. The workers produce sterling silver flatware.

The investigation revealed that criterion (3) has not been met.

Surveyed customers of International Silver Corporation did not increase their purchases of imported sterling silver flatware while decreasing purchases from International Silver in the first quarter of 1980 compared to the same period in 1979. These customers indicated that they did not anticipate increasing their reliance on imported sterling silver flatware in 1980.

In this case, therefore, the certifying officer has determined that all workers of International Silver Corporation De Puerto Rico, San German, Puerto Rico are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7339; Leonard Sunshine, Inc., New York, N.Y.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Leonard Sunshine, Incorporated, New York, New York. The workers formerly produced ladies' dresses, suits, skirts, slacks, blouses and blazers.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's dresses; suits, slacks and shorts; blouses and shirts; and coats and jackets decreased absolutely from 1978 to 1979. The import-to-domestic production ratio for women's and misses' dresses, which accounted for the majority of Leonard Sunshine's sales, was 5.2 percent or lower in each year of the 1975–1978 time period.

The workforce at Leonard Sunshine was made up primarily of designers, sample makers, shippers and administrative personnel, who worked on both foreign and domestically-produced garments. All sewing operations were done by domestic and foreign contractors, to whom Leonard Sunshine sent garment designs and samples.

Leonard Sunshine has contracted work overseas since 1973 until it closed in June 1979. Company imports increased as a percent of total company sales from 1977 to 1978. The work done by foreign contractors represented the majority of the products sold by Leonard Sunshine in both 1977 and 1978.

Since the employees of Leonard Sunshine did not perform sewing functions and since they worked on both foreign and domestically made garments, the substantial and increasing proportion of garments assembled overseas did not adversely affect employment at Leonard Sunshine. Increases in the company's reliance on foreign sources could not have contributed importantly to declines in employment at Leonard Sunshine.

In this case, therefore, the certifying officer has determined that all workers of Leonard Sunshine, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7307; Leslie Fay, Inc.; Linco Knits Division; Lincolnton, N.C.

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at the Linco Knits Division, Lincolnton, North Carolina, of Leslie Fay, Incorporated. The workers produce finished knit fabric.

The investigation revealed that criterion (3) has not been met.

U.S. imports of finished fabric decreased absolutely in 1979 compared with 1978. The ratio of imported fabric to domestic consumption of fabric has not exceeded 2.1 percent since 1975.

The Linco Knits Division sold fabric to dress manufacturing divisions of Leslie Fay, Incorporated and to customers outside the Leslie Fay corporation.

Sales of fabric to customers outside Leslie Fay, Incorporated increased in fiscal year 1979 compared with fiscal year 1978, and increased during the first five months of fiscal year 1980 compared with the same period in fiscal year 1979. By mid-November 1979, a corporate decision was in effect to curtail fabric sales to outside customers. Thereafter, sales of fabric to outside customers decreased.

Sales declines at the Linco Knits Division resulted primarily from decreased fabric sales to the dress

manufacturing divisions of Leslie Fay, Incorporated in fiscal year 1979 compared with fiscal year 1978, and during the period May to January fiscal year 1980 compared with the like period in fiscal year 1979. Leslie Fay, Incorporated did not purchase imported fabric during the period January 1977 through March 1980. Currently, there are no plans to purchase imported fabric.

In this case, therefore, the certifying officer has determine that all workers of the Linco Knits Division, Lincolnton, North Carolina, of Leslie Fay, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7217, 7217A, 7218 and 7219; Libbey-Owens-Ford Co., East Toledo, Ohio; Rossford, Ohio; Ottawa, Ill.; Lathrop, Calif.

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the Stone, Glass and Clay Coordinating Committee on behalf of workers at the East Toledo, Ohio, Ottawa, Illinois and Lathrop, California plants of the Libbey-Owens-Ford Company. The investigation was expanded to include workers at the Rossford, Ohio plant. Workers at these plants produce laminated safety glass automobile windshields, tempered safety glass automobile side and back windows, and float glass.

The investigation revealed that criterion (3) has not been met.

The petition alleges that increased imports of automobiles have contributed importantly to the decline in sales or production and to the separation of workers at the plants. Imported automobiles can not be considered like or directly competitive with automotive glass products. Imports of automobile side windows, back windows, windshields, and float glass must be considered in determining the import injury to workers producing these articles at the Libbey-Owens-Ford Company plants.

U.S. imports of automobile windshields, windows and rear back lights, and plate and float glass declined both absolutely and relative to domestic production in 1979 compared to 1978.

A Department of Labor survey revealed no customers with decreased purchases from the Libbey-Owens-Ford Company and increased purchases of imported automobile side windows, back windows, and windshields in 1979 compared to 1978, or in the first 2 months of 1980 compared to the same period in 1979. The survey revealed no customers with decreased purchases from the subject firm and increased purchases of imported float glass in 1979 compared to 1978. The survey did reveal some customers with decreased purchases from the Libbey-Owens-Ford Company and increased purchases of imported float glass in the first 2 months of 1980 compared to the same period in 1979; however, these customers represented an insigificant portion of the subject firm's 1980 sales decline.

In this case, therefore, the certifying officer has determined that all workers at the East Toledo, Ohio, Rossford, Ohio, Ottawa, Illinois, and Lathrop, California plants of the Libbey-Owens-Ford Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7409; Marcy Sportswear, Inc., Newark, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Marcy Sportswear, Incorporated, Newark, New Jersey. The workers produce ladies' outerwear coats and jackets.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in 1979 compared to 1978.

Marcy Sportswear, Incorporated is a contractor producing ladies' coats and jackets. The Department of Labor conducted a survey of the manufacturers from whom Marcy Sportswear received contract work. These manufacturers did not utilize foreign contractors nor did they import ladies' coats and jackets in 1978 or 1979. The survey revealed that the manufacturers received increased orders from their customers in 1979 compared to 1978, and that they filled these orders by increasing their use of in-house production facilities. The manufacturers' contracts with domestic sources other than Marcy remained constant from 1978 to 1979.

In this case, therefore, the certifying officer has determined that all workers of Marcy Sportswear, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7388; Masontown Manufacturing Co; Masontown, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Masontown Manufacturing Company, Masontown, Pennsylvania. The workers produced ladies' blouses.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's blouses and shirts decreased absolutely in 1979 compared to 1978.

A Departmental survey was conducted with manufacturers from whom Masontown received contract work in the 1977-1979 time period. Results indicated that the manufacturers did not employ foreign contractors nor did they import ladies' blouses in 1978 or 1979. The manufacturers increased their contracts with domestic contractors other than Masontown from 1978 to 1979. Total company sales by the manufacturers declined from 1978 to 1979 and a survey was conducted among the retail customers of the manufacturers. This survey revealed that retail customers who decreased purchases from the manufacturers and who increased their purchases of imported blouses, from 1978 to 1979, were a small portion of the manufacturers' business.

In this case, therefore, the certifying officer has determined that all workers of Masontown Manufacturing Company, Masontown, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7392; Meadowdale Coal Corp.; Meadowdale Strip Mine; Greenbrier County, W. Va.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at the Meadowdale Strip Mine, Meadowdale Coal Corporation, Greenbrier County, West Virginia. Workers mine metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

Imports into the United States of metallurgical coal and coke each respectively decreased both absolutely and relative to domestic production in 1979 as compared to 1978. Imports of coke decreased both absolutely and relative to domestic productions during the period January through February 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Meadowdale Strip Mine, Meadowdale Coal Corporation, Greenbrier County, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7321; Morris Levine & Sons, Inc., New York, N.Y.

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at Morris Levine and Sons, Incorporated, New York, New York. The workers produced primarily women's leather coats.

The investigation revealed that criterion (3) has not been met.

A Departmental survey was conducted with customers for whom Morris Levine and Sons, Incorporated manufactured women's leather coats. The survey revealed that most of Morris Levine and Son's customers did not purchase imported women's leather coats during 1978 or 1979. Those customers who imported women's leather coats either decreased their purchases of imports from 1978 to 1979 or purchased the same level of imports in 1979 as in 1978.

In this case, therefore, the certifying officer has determined that all workers of Morris Levine and Sons, Incorporated, New York, New York are denied eligibilty to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7360; New Haven Foundry, New Haven, Mich.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at New Haven Foundry, New Haven, Michigan. Workers at the plant produce automobile component parts.

The investigation revealed that criterion (3) has not been met.

The petition alleges that increased imports of automobiles have caused reduced demand for automobile component parts.

Imported automobiles cannot be considered like or directly competitive with automobile component parts. Imports of automobile component parts must be considered in determining import injury to workers producing automobile component parts at the New Haven Foundry.

U.S. imports of passenger car and light truck brake drums decreased relative to domestic consumption in 1979 compared with 1978.

A Departmental survey revealed that customers of the New Haven Foundry do not purchase imported automobile component parts like or directly competitive with those purchased from the New Haven Foundry. Customers attributed the decline in purchases to the decline in the production of automobiles.

In this case, therefore, the certifying officer has determined that all workers of New Haven Foundry, New Haven, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7420; New Jersey Ladies' Coats, Newark, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at New Jersey Ladies' Coats, Newark, New Jersey. The workers at the plant produce ladies' jackets.

The investigation revealed that criterion (2) has not been met.

Total contract work by New Jersey Ladies' Coats increased in 1979 compared to 1978 and continued to increase during the first four months of 1980 compared to the same period of 1979.

In this case, therefore, the certifying officer has determined that all workers of the New Jersey Ladies' Coats, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7378; Pat Barrie, Ltd., New York, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Pat Barrie, Limited, New York, New York. The workers produce ladies' coats and suits.

The investigation revealed that criterion (3) has not been met.

The Office of Trade Adjustment Assistance conducted a survey of customers of Pat Barrie, Limited. None of the customers surveyed reduced purchases of ladies' coats and suits from Pat Barrie, Limited and increased purchases of imported ladies' coats and suits in 1979 compared to 1978 or in the first quarter of 1980 compared to the first quarter of 1979.

U.S. imports of women's, misses' and children's coats and jackets as well as imports of women's, misses' and children's suits decreased absolutely in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that all workers of Pat Barrie, Limited, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7326; Perception Direction Division of Bobbie Brooks, Inc., Hialeah, Fla.

The investigation was initiated on March 10, 1980 in reponse to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Perception Direction Division of Bobbie Brooks, Incorporated, Hialeah, Florida. The workers produce ladies' sportswear (blouses, slacks, skirts and blazers).

The investigation revealed that criterion (3) has not been meet.

U.S. imports of the following categories of women's, misses', and children's apparel declined in 1979 compared to 1978: blouses and shirts, slacks and shorts, and coats and jackets.

The Department conducted a survey of customers of Perception Direction. The survey results revealed that most customers responding to the survey did not purchase imported ladies' sportswear (blouses, slacks, skirts or blazers) either directly from foreign sources or indirectly through domestic sources in 1978, 1979 or the first quarter of 1980. The customers who reduced purchases from Perception Direction and increased purchases of imports, in 1979 compared to 1978 or in the first quarter of 1980 compared to the first quarter of 1979, represented an insignificant portion of the surveyed customers, both in terms of the actual number of respondents and as a percentage of sales of Perception Direction. In general, the sample revealed that imports were a small proportion of customers' sportswear demand.

In this case, therefore, the certifying officer has determined that all workers of Perception Direction Division of Bobbie Brooks, Incorporated, Hialeah, Florida are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-6918; Press Products Co., Troy, Mich.

The investigation was initiated on February 5, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at Press Products Company, Troy, Michigan. Workers at the plant produce door and hood hinges for cars and trucks.

The investigation revealed that criterion (3) has not been met.

Petitioners allege that imports of automobiles contributed importantly to separations of workers and declines in

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sales or production of door and hood hinges at Press Products Company, Troy, Michigan. Imported automobiles cannot be considered to be like or directly competitive with door and hood hinges. Only imports of door and hood hinges may be used in determining the eligibility of workers producing door and hood hinges at the firm.

U.S. imports of hinges for hoods and doors and hinge assembly parts such as rods and clutch plates are negligible.

In this case, therefore, the certifying officer has determined that all workers of Press Products Company, Troy, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7152; Production Finishing Corp., Wyandotte, Mich.

The investigation was initiated on February 19, 1980, in response to a worker petition which was filed by the United Auto Workers on behalf of workers at Production Finishing Corporation, Wyandotte, Michigan. The workers at Production Finishing Corporation are engaged in providing the service of finishing sheet steel.

The investigation revealed that workers of Production Finishing Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Production Finishing Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Production Finishing Corporation and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company which produces an article.

All workers engaged in finishing sheet steel at Production Finishing Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by Production Finishing Corporation. All employee benefits are provided and maintained by Production Finishing Corporation. Workers are not, at any time, under employment or supervision by customers of Production Finishing Corporation. Thus, Production Finishing Corporation, and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Production Finishing Corporation, Wyandotte, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7557; RCA Corp., Solid State Division, Sommerville, N.J.

The investigation was initiated on April 7, 1980 in response to a petition which was filed on behalf of workers at RCA Corporation, Solid State Division, Sommerville, New Jersey. The Workers are engaged in employment related to the sales, research, development, and pilot production of solid state devices.

The investigation revealed that criterion (3) has not been met.

Workers at the Sommerville plant are employed in sales, research, development, and pilot production activities. The Sommerville plant does not engage in volume production, but engineers and designs new products for the Solid State Division of RCA. When these new products are successfully developed at Sommerville, full scale production is commenced at other RCA domestic plants.

Layoffs of workers during the first quarter of 1980 resulted from the transfer of model shop production along with research and development engineering personnel to the Solid State Division's domestic manufacturing plants. The transfer was an effort to minimize costs and to provide research and development at each manufacturing facility.

In this case, therefore, the certifying officer has determined that all workers of RCA Corporation, Solid State Division, Sommerville, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7346; Richard Sportswear Co., Inc., Allentown, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Richard Sportswear Company, Incorporated, Allentown, Pennsylvania. Workers at the plant produce men's raincoats and outercoats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of men's and boys' water repellant rainwear decreased absolutely in 1979 compared with 1978.

U.S. imports of men's and boys' outer jackets decreased absolutely in 1979 compared with 1978.

A Department survey of manufacturers for which Richard Sportswear did contract work revealed that none of the manufacturers used foreign contractors nor purchased imported men's raincoats and outercoats. A survey of these manufacturers' customers revealed that most of the responding firms' purchases of imported men's raincoats and outercoats decreased from 1978 to 1979.

In this case, therefore, the certifying officer has determined that all workers of Richard Sportswear Company, Incorporated, Allentown, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7368; Seaway Pattern Manufacturing, Inc., Toledo, Ohio

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the Pattern, Mold and Model Makers Association on behalf of workers at Seaway Pattern Manufacturing, Inc., Toledo, Ohio. Workers at the Seaway Pattern Manufacturing plant produce patterns and molds.

The investigation revealed that criterion (3) has not been met.

It is alleged on the petition that increased imports of automobiles have caused a cutback in future programs and a subsequent lack of work for pattern makers. Imported automobiles cannot be considered like or directly competitive with patterns and molds. Imports of patterns and molds must be considered in determining import injury to workers producing patterns and molds at Seaway Pattern Manufacturing.

A Department survey of Seaway's major customers found that they purchased no imported patterns or molds in 1978, 1979 or 1980.

In this case, therefore, the certifying officer has determined that all workers of Seaway Pattern Manufacturing, Inc., Toledo, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–6852; Standard Products Co., Cee Bee Division, Brooklyn, N.Y.

The investigation was initiated on January 25, 1980 in response to a petition which was filed on bahalf of workers at the Cee Bee Division, Brooklyn, New York of Standard Products Company. The workers produce interior and exterior platic automotive trim.

The investigation revealed that criterion (3) has not been met.

The Cee Bee Division primarily produces automotive interior soft trim.

With regard to interior trim, the ratio of imports of automotive interior soft trim to domestic production was less than two percent in 1978 and 1979.

Industry sources also indicate that imports of various piping and tubing automotive components are negligible.

A Labor Department survey concerning automotive interior soft trim revealed that the major customers that decreased purchases from the subject firm in 1979 compared to 1978 either decreased their reliance on foreign purchases from other domestic sources and maintained a negligible amount of foreign purchases in 1979 compared to 1978.

With regard to exterior trim, workers at the Cee Bee Division are not separately identifiable by product line. Any import influence in this product line could not have contributed importantly to overall employment declines at the plant because production accounted for a relatively small percentage of total production.

Petitioners allege that increased imports of automobiles have caused decreases in production and employment at the Cee Bee Division, Brooklyn, New York of Standard Products Company. Although imported automobiles incorporate automotive trim of the same origin, imports of the whole product are not "like or directly competitive" with their component parts. Imports of autòmotive trim must be considered in determining import injury to workers producing automotive trim at the Cee Bee Division, Brooklyn, New York of Standard Products Company.

In this case, therefore, the certifying officer has determined that all workers of the Cee Bee Division, Brooklyn, New York of Standard Products Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7578; The Majestic Silver Co., New Haven, Conn.

The investigation was intiated on April 14, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at the Majestic Silver Company, New Haven, Connecticut. The workers at New Haven plant are engaged in employment related to the shipping of imported stainless steel flatware.

The Majestic Silver Company manufactured stainless steel flatware until December 1977, at which time the company discontinued all domestic manufacturing operations. Since December 1977, Majestic has been engaged only in the importation of stainless steel flatware. All workers of The Majestic Silver Company are engaged in employment related to the shipping of imported flatware.

Majestic has not produced an article as that term is used in Section 222 of the Trade Act of 1974 since December 1977 and consequently Majestic's employees have not been engaged in the production of an article for at least nine consecutive quarters.

In this case, therefore, the certifying officer has determined that all workers of the Majestic Silver Company, New Haven, Connecticut are denied eligibility to apply for adjustemnt assistance under Section 223 of the Trade Act of 1974.

TA–W–7433; United States Steel Corp., Desert Mound Mine, Cedar City, Utah

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the Desert Mound Mine, Cedar City, Utah of the U.S. Steel Corporation. Workers at the Desert Mound Mine are engaged in employment related to the mining of iron ore.

The investigation revealed that criterion (3) has not been met.

All iron ore mined at the Desert Mound Mine is shipped to the Geneva Works of the U.S. Steel Corporation, where it is used in the production of steel. The Geneva Works does not import iron ore. The Geneva Works was the subject of a recent adjustment assistance investigation, in which it was determined that none of the products had been adversely impacted by imports.

In this case, therefore, the certifying officer has determined that all workers of Desert Mound Mine, Cedar City, Utah of the U.S. Steel Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7493; U.S. Truck Co., Inc., Flint, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the General Drivers and Helpers, Local 332 on behalf of workers at U.S. Truck Company, Inc., Flint Michigan. The workers at U.S. Truck Company, Inc. are engaged in transporting general commodities.

The investigation revealed that workers of U.S. Truck Company, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to U.S. Truck Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

U.S. Truck Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing a product.

All workers engaged in transporting general commodities at U.S. Truck Company, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by U.S. Truck Company, Inc. All employee benefits are provided and maintained by U.S. Truck Company, Inc. Workers are not, at any time, under employment or supervision by customers of U.S. Truck Company, Inc. Thus, U.S. Truck Company, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of U.S. Truck Company, Inc., Flint, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7411; Utah International, Inc., Iron Springs Mine, Cedar City, Utah

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Utah International, Inc., Iron Springs Mine, Cedar City, Utah. Workers at the Iron Springs mine produce iron ore.

The investigation revealed that criterion (3) has not been met.

The petition alleges that increased imports of steel contributed importantly to the layoffs at Utah International's Iron Springs Mine. Imported steel cannot be considered like or directly competitive with iron ore. Imports of iron ore must be considered in determining import injury to workers producing iron ore at the Iron Springs Mine.

Virtually all of the iron ore mined at the Iron Springs Mine is sold to a single customer. This customer purchased no imported iron ore in 1978, 1979 or the first three months of 1980.

In this case, therefore, the certifying officer has determined that all workers of the Utah International, Inc., Iron Springs Mine, Cedar City, Utah are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

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TA-W-7120; U.S. Truck Co., Inc., Detroit, Mich.

The investigation was initiated on February 13, 1980 in response to a petition which was filed on behalf of workers at U.S. Truck Company, Inc., Detroit, Michigan. The workers at U.S. Truck Company, Inc. are engaged in transporting general commodities.

The investigation revealed that workers of U.S. Truck Company, Inc. do not produce an article within the meaning of Section 222 (3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to U.S. Truck Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

U.S. Truck Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing a product.

All workers engaged in transporting general commodities at U.S. Truck Company, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by U.S. Truck Company, Inc. All employee benefits are provided and maintained by U.S. Truck Company, Inc. Workers are not, at any time, under employment or supervision by customers of U.S. Truck Company, Inc. Thus, U.S. Truck Company, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of U.S. Truck Company, Inc., Detroit, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7483; White Motor Corp., Autocar Trucks Division, Exton, Pa.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the UAW on behalf of workers at the Exton, Pennsylvania plant of Autocar Trucks, a division of White Motor Corporation. Workers at the Exton, Pennsylvania plant produced heavy-duty trucks (Class 8 trucks).

The investigation revealed that criterion (3) has not been met.

The ratio of U.S. imports of Class 8 trucks to domestic production of Class 8 trucks, in quantity, amounted to less than 4 percent in 1978 and 1979.

Domestic production of Class 8 trucks increased in quantity each year from 1975 through 1979. U.S. exports of Class 8 trucks significantly exceeded U.S. imports each year during the 1975–1979 period.

The Exton, Pennsylvania plant of Autocar Trucks Division was closed as a result of a decision by White Motor Corporation to transfer production to another domestic truck assembly facility.

Petitioners in this case allege that the Autocar Trucks Division of White Motor Corporation is engaged in assembling trucks in Venezuela, South America. The investigation revealed that although Autocar Trucks does ship some parts for trucks to Venezuelan customers, the company does not assemble trucks in Venezuela, nor does it export trucks to the United States.

In this case, therefore, the certifying officer has determined that all workers of the Exton, Pennsylvania plant of Autocar Trucks, a division of White Motor Corporation, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 12–16th, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-15906 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period May 12–16, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA-W-7139; Canron Corp., Star Iron & Steel Division, Tacoma, Wash.

The investigation was initiated on February 19, 1980 in response to a petition which was filed by the International Association of Bridge, Structural and Ornamental Ironworkers on behalf of workers at Canron Corp., Star Iron and Steel Division, Tacoma, Washington. The workers produce fabricated structural steel.

Imports of fabricated structural steel increased in 1979 compared to 1978.

The investigation revealed that the Star Iron and Steel Division was the lowest domestic bidder on several contracts that were awarded to foreign fabricators in 1978 and 1979.

In this case, therefore, the certifying officer has determined that:

"All workers of Canron Corp., Star Iron and Steel Division, Tacoma, Washington who became totally or partially separated from employment on or after February 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA-W-7516; Evette Leather Fashions, Inc., New York, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers Union, New York Joint Board on behalf of workers at Evette Leather Fashions, Incorporated, New York, New York. The workers produce leather wearing apparel.

U.S. imports of leather apparel, in absolute terms, were greater in 1979 compared to the average level of imports during the preceding four years. The ratio of imports to domestic production has exceeded 85 percent for the last four years.

A customer survey conducted by the Department revealed that a customer who represented most of Evette's production dramatically increased purchases of imports in 1979 compared to 1978 while decreasing purchases from Evette Leather Fashions over the same period.

In this case, therefore, the certifying officer has determined that:

"All workers of Evette Leather Fashions, Incorporated, New York, New York who became totally or partially separated from employment on or after August 31, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA-W-7001–7704, 7004A, 7007–7008, 7010–7014, 7018–7019, 7021–7024, 7026, 7027–7033, 7035–7041, 7044–7046, 7048–7050, 7052, 7053, 7055–7057, 7065–7068, 7070, 7305; General Motors Corp., Detroit, Mich.

Investigations were initiated on February 11, and March 10, 1980 in response to petitions which were filed by the United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.) on behalf of workers at the component parts plants of

General Motors Corporation listed in the appendix.

In order to determine if increased imports contributed importantly to production and employment declines at General Motors Corporation component parts plants, the Department sought to determine the degree to which each of these facilities was integrated into the production of General Motors cars, trucks, vans, and general utility vehicles which have been subject to import injury. Where substantial integration was established the department considered imports of "like or directly competitive" cars, trucks, vans and general utility vehicles in determining import injury to workers producing component parts at the various plants.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 18 of General Motors Corporation's car and truck assembly plants (TA-W-6783, 6917, 6999–7000, 7009, 7015–16, 7059, 7071, 7073–76, 7078–82). Workers at these plants are engaged in production of one or more of the following car or truck lines: mid-size, standard and luxury/specialty cars, pick-up trucks, vans, and general utility vehicles.

During the course of the investigation, it was established that each of the component parts plants listed in the appendix produced a significant proportion of its output for use in one or more of the GM car and truck lines which have been subject to import injury.

In this case, therefore, the certifying officer has determined that:

"All workers of components parts plants of General Motors Corporation listed in the appendix who became totally or partially separated from employment on or after the impact date listed in the appendix are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 12–16, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

TA-W-	Plant and Location	Impact Date
	Chevrolet Motor Division	
7001	Bay City, MI	July 1, 1979.
7002	Buffalo, NY	Aug. 1, 1979.
7003	Livonia, MI	Aug. 1, 1979.
7004	Flint Manufacturing, Flint, MI	Aug. 1, 1979.
7004A	Adrian, MI	Aug. 1, 1979.
7005	Indianapolis, IN	June 1, 1979.
7007	Saginaw Plants, Saginaw, MI	July 1, 1979.
7008	Tonawanda, NY	June 1, 1979.
7010	Detroit Plants, Detroit, MI	July 1, 1979.
7011	Parma, OH	June 1, 1979.
7012	Flint Engine & Metal Fabricating, Flint, MI.	Aug. 1, 1979.
7013	Toledo, OH	July 1, 1979.
7014	Warren, MI	Jan. 1, 1980.
	Fisher Body Division	
7018	Fleetwood, Detroit, MI	July 1, 1979.
7019	Cleveland, OH	Mar. 1, 1979.
7021	Grand Rapids Trim Plant, Grand Rapids, MI.	May 1, 1979.
7022	Flint Number 1, Flint, MI	Dec. 1, 1979.
7023	Grand Blanc, MI	July 1, 1979.
7024	Tecumseh, MI	July 1, 1979.
7026	Columbus, OH	Mar. 1, 1979.
7027	Detroit-Fort Street, Detroit, MI	May 1, 1979.
7028	Trenton, NJ	July 1, 1979.
7029	Flint-Coldwater Road, Flint, MI	Jan. 28, 1979.
7030	Syracuse, NY	May 1, 1979.
7031	Elyria, OH	May 1, 1979.
7032	Lansing, MI	Oct. 1, 1979.
7033	Pontiac, MI	Sept. 1, 1979.
7035	Hamilton, OH	Oct. 1, 1979.
7036	Euclid, OH	Sept. 1, 1979.
7037	Pittsburgh Plant, McKeesport, PA	July 1, 1979.
7038	Detroit Central Plants, Detroit, MI	Mar. 1, 1979.
7039	Chicago, IL	Nov. 1, 1979.
7040	Livonia, MI	June 1, 1979.
7041	Marion, IN	Apr. 1, 1979.
7305	Kalamazoo, MI	July 1, 1979.
	AC Spark Plug Division	
7044	Flint, MI	July 1, 1979.
	Delco-Remy Division	
7045	Anderson, IN	July 1, 1979.
7046	Muncie, IN	Jan. 1, 1980.
	Guide Division	
7048	Anderson, IN	Aug. 1, 1979.
7049	Monroe, LA	Sept. 1, 1979.
	Harrison Radiator Division	
7050	Lockport, NY	June 1, 1979.
	Delco Moraine Division	
7052	Dayton, OH	July 1, 1979.
7053	Fredericksburg, VA	Dec. 1, 1979.
	New Departure-Hyatt Division	
7055	Sandusky, OH	Sept. 1, 1979.
7056	Clark, NJ	July 1, 1979.
	Saginaw Steering Gear Division	
7057	Saginaw, MI	Aug. 1, 1979.
	Central Foundry Division	
7065	Danville, IL	July 1, 1979.
7066	Saginaw, MI	June 1, 1979.
7067	Defiance, OH	Apr. 1, 1979.
7068	Bedford, IN	June 1, 1979.
	Delco Electronics Division	
7070	Shreveport, LA	Sept. 1, 1979.

[FR Doc. 80-15903 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7193 and 7194]

D & K Service, D & K Switching, Inc., Center Line, Mich.; Negative Determination Regarding Application for Reconsideration

By letter of April 10, 1980, a company official requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of D & K Service and D & K Switching, Inc., Center Line, Michigan. The determination was published in the Federal Register on April 4, 1980. (45 FR 23093).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The company, in its application for reconsideration, claims that the workers' firm is not D & K Service and D & K Switching, Inc., Center Line, Michigan, but one of its customers, namely, Chrysler Corporation which controls their movements and has control over their workers who work at the Chrysler Warren Truck Assembly plant.

The review of the investigative file indicated that employees of D & K Service and D & K Switching, Inc., do not produce an article within the meaning of Section 222(3) of the Trade Act of 1974. The review also showed that D & K Service and D & K Switching, Inc., and not any of its customers must be considered the "workers' firm."

The Department does not agree with the company's claim that workers of the subject firm are under the control of one of its customers by virtue of the fact that one of the customers controls the workers' movements or that the subject firms' workers spend their entire eight-hour shift at one of their customer's assembly plants. Since workers at D & K Service and D & K Switching, Inc., do not produce an article, they may be certified only if Chrysler Corporation, which provides virtually all of the business of the companies, is the "workers' firm" within the meaning of Section 222 of the Act. Chrysler may be determined to be the "workers' firm" if Chrysler and the D & K companies are related by ownership or by a substantial degree of proprietary control, of if the workers are *de facto* employees of Chrysler. Chrysler is not the "workers' firm" under either test. There is no element of ownership or control between the firms. The workers are not *de facto* employees of Chrysler since all payroll transactions, personnel actions and emloyee benefits are under the control of D & K. The mere fact that Chrysler might exercise some degree of supervisory control or might provide the destination of particular shipments of goods is not sufficient in itself to support

a determination that Chrysler is the "workers' firm."

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.
Signed at Washington, D.C., this 9th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-15411 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6861]

Firestone Tire & Rubber Co., Memphis, Tenn.; Negative Determination Regarding Application for Reconsideration

By letter of April 17, 1980, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Firestone Tire and Rubber Company's plant at Memphis, Tennessee. The determination was published in the **Federal Register** on March 28, 1980, (45 FR 20582).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the Department placed excessive reliance on the customer survey without taking into consideration other factors such as (1) increased U.S. imports in 1979 of passenger car tires and truck tires. (2) Firestone's adjustments to market requirements, (3) the certification of other tire plants including the Firestone plant at Salinas, California, and that these certifications provide evidence of the adverse impact that imports have had on the domestic tire industry, and (4) the amount of imports controlled by domestic tire companies.

The Department's review indicates that the workers at Firestone's Memphis, Tennessee, plant did not meet the "contributed importantly" test of the Trade Act. The major share, by far, of the passenger car tires and truck tires produced at Memphis, Tennessee, were for the replacement market. The Department surveyed major customers and a random sample of smaller customers of Firestone who buy passenger car tires and truck tires in the replacement market. The survey revealed that most customers either did not import or decreased their imports of passenger car tires and truck tires in 1979 compared to 1978. The few customers who increased their reliance on imports of passenger car and truck tires accounted for an insignificant portion of Firestone's total sales.

The Department does not agree with the union's claim that the Department placed excessive reliance on the customer survey without considering other factors. It should be noted that in order for a worker group to become certified eligible by the Department, it must meet all three statutory criteria for group eligibility under Section 222 of the Trade Act including the "contributed importantly" test. Merely meeting the employment, production or sales, and increased import criteria without meeting the "contributed importantly" test are not enough for the Department to grant a worker group certification. Firestone's adjustments to market requirements, the Department's certification of other worker groups in the industry and the amount of imports controlled by domestic tire companies do not provide a basis for certification of the Memphis plant.

With respect to the Department's notice of determinations for workers at Firestone's Salinas, California, plant, a substantial share of that facility's passenger car tire production went to the original equipment market where it was found that a major customer increased its reliance on imported passenger car tires. Company imports of passenger car tires were increasing during the relevant time period covered by the investigation of the Salinas, California, plant; however, during the investigation of the Memphis, Tennessee, plant in February, 1980, the trend in company imports of passenger car tires over the past six months was decreasing, not increasing.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 9th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-15412 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6489, 6692]

The General Tire & Rubber Co., Logansport, Ind., Peru, Ind.; Negative Determination Regarding Application for Reconsideration

By an application dated April 25, 1980, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing bushings, window channeling and beltstrip at the General Tire and Rubber Company's Logansport, Indiana, plant. The determination was published in the **Federal Register** on April 18, 1980, (45 FR 26496).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims in its application for reconsideration that the worker group at the Logansport, Indiana, plant of the General Tire and Rubber Company should be considered separate from the worker group at the General Tire and Rubber Company's Peru, Indiana, plant. The union also claimed that no consideration was given to workers who produce window channeling and beltstrip at the Logansport, Indiana, plant.

The Department's review showed that workers at the Logansport, Indiana, plant did not meet the "contributed importantly" test of the Trade Act of 1974. Surveyed customers of the General Tire and Rubber Company, which represented the major portion of Logansport, Indiana, total sales, indicated that they either purchased no imports of bushings or decreased their purchases of imported bushings from 1978 to 1979. U.S. imports of bushings decreased both absolutely and relative to domestic consumption from 1977 to 1978 and from 1978 to 1979. The review of the investigative file showed that workers at the Logansport, Indiana, plant primarily produced silentbloc bushings whereas the workers at the Peru, Indiana, plant produced component parts for the silentbloc bushings.

The Department did consider the worker group at the Logansport, Indiana, plant separately from the Peru, Indiana, worker group in determining whether they each met the criteria of Section 222 of the Trade Act.

The Department does not agree with the union's claim that workers involved in some of the production (window channeling and beltstrip) were overlooked in the initial investigation. The Department determined that the decrease in the production of bushings at the Logansport, Indiana, plant constituted the major part of the production decline at the plant while the decrease in production of window channeling and beltstrip was not enough, by itself, to have been an important contributory cause to the decline in the production and sales or to the total or partial separations of workers at the plant within the meaning of the Act. Further, the Department's survey of the industry indicated that imports of window channeling were negligible.

Conclusion

After review of the application and investigative file, I conclude that there has been no error or misinterpretation of fact or mininterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 9th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-15413 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7095]

Leach-Heckel Leather Corp., Salem, Mass.; Negative Determination Regarding Application for Reconsideration

By application dated April 29, 1980, the petitioner, the Leather Workers International Union, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing tanned leather at the Leach-Heckel Leather Corporation, Salem, Massachusetts. The determination was published in the **Federal Register** on April 25, 1980, (45 FR 28013).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the customer survey was inadequate and that leather shoes and garments caused workers producing tanned leather at Leach-Heckel Leather Corporation to be laid off.

The Department's review indicated that workers at Leach-Heckel did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of customers of the manufacturer which represented over 75 percent of Leach-Heckel sales in 1979 indicated that customers of that manufacturer who increased purchases of imports represented an insignificant proportion of that firm's sales.

The Department does not agree with the petitioner in its claim that imports of leather shoes and garments can be used in determining import injury for workers producing tanned leather, even though they may have had a secondary impact on supplies of component parts to domestic shoe and garment makers. The Department has already determined that imports of a finished article cannot be considered like or directly competitive with components of that article. Imports of such components must be considered by themselves in determining import injury to workers. The courts have concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America AFL–CIO* v. *Bedell*, 506 F. 2d 174 (1974). In that case, the court held that imported women's shoes were not like or directly competitive with shoe counters, a component of footwear.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 9th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-15414 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6494]

Motor Wheel Corp., Newark, Del.; Revised Determination on Reconsideration

On March 26, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Motor Wheel Corp., Newark, Delaware. This determination was published in the **Federal Register** on April 4, 1980, (45 FR 23099).

Counsel for the petitioner principally claims that imported mini-spares are like or directly competitive with the auto wheels produced by the Motor Wheel Corp., Newark, Delaware.

The Department's review indicated that workers of Motor Wheel at Newark, Delaware, were denied because they did not meet the "contributed importantly" test of the Trade Act of 1974. The denial was based on a customer survey.

The Department found in its reconsideration investigation that workers at Motor Wheel Corp., in Newark, Delaware, produced mini-spare wheels as well as the regular road wheel. The Department further found through a more complete customer survey that auto manufacturers which are customers of the Newark, Delaware, plant increased their imports of auto wheels.

Sales and production of auto wheels from the Newark, Delaware, plant declined in quantity and value in 1979 compared to 1978 and in the last quarter of 1979 compared to the same quarter in 1978.

Substantial layoffs at the Newark, Delaware, plant occurred in August, 1979 and continued in each month throughout the remainder of the year.

U.S. imports of motor wheels increased both absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first nine months of 1979 compared to the same period in 1978.

V 45 M Y 23 80 UMI

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of motor wheels contributed importantly to the total or partial separation of workers and former workers at Motor Wheel Corp., Newark, Delaware. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

"All workers at the Motor Wheel Corp., Newark, Delaware, who became totally or partially separated from employment on or after August 1, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 8th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-15415 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting:

Name: Nuclear Safety Oversight Committee.
Place: Millikan Board Room, Millikan Library, California Institute of Technology Campus, Pasadena, California.
Time: Wednesday, May 28, 1980 at 9:00 a.m.–4:00 p.m.

The purpose of the meeting is to enable the Committee to set its agenda for the next several meetings. Available seats will be assigned on a first-come basis. A portion of this meeting will be closed because it will involve discussion of personal qualifications of prospective staff members, public disclosure of which information would clearly constitute unwarranted invasion of privacy. The remainder of the meeting will be open to the public. The meeting is being convened with less than fifteen days notice because of the urgency in commencing the Committee's task.

The Committee was established by Executive Order 12202, on March 18, 1980, to advise on the progress of Federal and State authorities and the nuclear power industry in improving the safety of nuclear power and in implementing the approved recommendations of the President's Commission on the Accident at Three Mile Island.

Inquiries should be addressed to Mr. Andrew Federhar (602/255-4331).

Dennis G. Condie,

Acting Administrative Officer.

May 21, 1980.

[FR Doc. 80-16009 Filed 5-22-80; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

May 13, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given for a meeting of Panel 8 (Quality of American Life), of the President's Commission for a National Agenda for the Eighties, scheduled Friday, May 30, 1980, at 1:00 p.m. at Kahl Kadosh Beth Elohim Synagogue, 86 Hassell Street, Charleston, South Carolina.

The purpose of the meeting is for a public hearing on government funding and private sector support for the arts and the role of the arts in an agenda for the Eighties.

The meeting will be open to the public.

Available seats will be assigned on a first-come basis.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-15799 Filed 5-22-80; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovermental Science, Engineering, and Technology Advisory Panel (ISETAP); Energy Task Force.
Date: Sunday, June 8, 1980, 12:30 p.m.–4:00 p.m.
Place: Exhibition Hall, Seattle Center, Seattle, Washington.
Type of Meeting: Open.

Contact Person: Mr. Peter Hickey, Staff Director ISETAP, Energy Task Force, U.S. Department of Energy, 202/252-9249.

Minutes of the meeting: Executive minutes of the meeting will be available from the office of Mr. Hickey.

Agenda

Recommendations, resolutions or other appropriate actions will be taken following a discussion of:

- OMB/OSTP Research and Development Budget Policy for DOE
- Local Government Energy Policy Advisory Committee of DOE
- Energy Extension Service, Technical Assistance, and other Model Programs
- Energy Legislative Issues
- Resource Recovery/Conference of Mayors Project

William J. Montgomery,

Executive Officer, Office of Science and Technology Policy.

[FR Doc. 80-15929 Filed 5-22-80; 8:45 am]

BILLING CODE 3170-01-M

THE PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women.

Date, time and place: June 19, 1980.
Open business session: 9:00 a.m. to 4:00 p.m., Room N-5437, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.
Purpose: General Business Meeting.
Date, time and place: June 20, 1980.
Closed business session: 9:00 a.m. to 2:30 p.m., Room N-5437, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.
Purpose: To discuss possible contractors and personnel issues.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. During its closed session, the Administration Subcommittee will discuss personnel and possible contractors.

Dated: May 15, 1980

Warlene Gary,

Deputy Director.

[FR Doc. 80-15867 Filed 5-22-80; 8:45 am]

BILLING CODE 4510-23-M

RADIATION POLICY COUNCIL

[FRL 1500-2]

Public Meeting

SUMMARY: Members of the Radiation Policy Council will be available to meet with the public beginning at 10:00 a.m. on Wednesday June 11, 1980. The meeting will be held in Room 3104 of the New Executive Office Building, 726 Jackson Place N.W. (located on 17th Street between Pennsylvania Avenue and H Street N.W.) Washigton, D.C.

PURPOSE OF MEETING: The Radiation Policy Council was created by Executive Order 12194 of February 21, 1980. (45 FR, pages 12209-10, February 25, 1980) The principle purpose of the Council is to coordinate the formulation and implementation of Federal radiation protection policies. The first meeting of the Council was held on May 14, 1980. At that meeting, the Council established a policy of seeking systematic involvement by the public in Council activities. The meeting scheduled for June 11, 1980 is a first step in carrying-out this policy.

The public is invited to suggest specific tasks to be undertaken by the Council and the priority to be attached to each task. The Council also seeks public comment on structuring its long-term agenda.

In addition, the Council invites the public to comment on four specific issues for which the Council at its first meeting established task forces to begin work immediately. They are:

—Federal Occupational Radiation Exposure Regulations.
—Control of Naturally Occurring Radioactivity—Radon.
—Federal Policy on Low-Level Radioactive Wastes from Medical and Research Institutions.
—Directory of Federal Radiation Activities and Responsibilities.

Any member of the public wishing to make a statement at the meeting should notify the Radiation Policy Council by June 6 at the address or phone number listed below. Late requests will be honored if possible. The Council invites the public to submit written statements to the Council before, during, or after the meeting. It will be most helpful if written statements are received by June 30. Additional background materials are available upon request by contacting the Radiation Policy Council at the address or phone number listed below. Depending upon the number of requests to appear at the meeting, the Council may have to place limits on oral presentations.

FOR FURTHER INFORMATION CONTACT: U.S. Radiation Policy Council, c/o OSTP/Executive Office of the President, Washington, D.C. 20500. Telephone: 202-395-4931.

Carl R. Gerber,

Director, U.S. Radiation Policy Council.

[FR Doc. 80-15910 Filed 5-22-80; 8:45 am]

BILLING CODE 6560-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21581/70-6170]

Lowell Gas Co. and Cape Cod Gas Co.; Post-Effective Amendment Relating to Short-Term Financing

May 19, 1980.

In the matter of Lowell Gas Company, 95 East Merrimack Street, Lowell, Massachusetts 01853, Cape Cod Gas Company, P.O. Box 1360, Hyannis, Massachusetts 02601.

Notice is hereby given that Lowell Gas Company ("Lowell") and Cape Cod Gas Company ("Cape Cod"), public utility subsidiaries of Colonial Gas Energy System ("Colonial"), a registered holding company, have filed with this Commission a post-effective amendment to the joint declaration in this proceeding pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the amended declaration for a complete statement of the proposed transaction.

On October 7, 1977, Colonial filed an application for exemption under Section 3(a)(1) of the Act (File No. 31-763). Its application is pending. Pursuant to a Stipulation in that proceeding dated January 26, 1978, entered into by Colonial and the Division of Corporate Regulation pending the development of a plan of financial simplification or recapitalization by Colonial appropriate to the requirements for exemption under Section 3(a)(1), Colonial has registered as a public utility holding company under Section 5(a) for the limited purpose of complying with the provisions of Sections 6, 7 and 12(b) of the Act.

Lowell and Cape Cod each have revolving lines of credit pursuant to separate credit agreements (collectively, the "Credit Agreements") dated January 1, 1976, as amended, with Chase Manhattan Bank (N.A.), Union National Bank, Shawmut Bank of Boston, N.A., State Street Bank and Trust Company, and BayBank Middlesex, N.A. By order in this proceeding dated June 30, 1978 (HCAR No. 20185), Lowell and Cape Cod were authorized to extend the term of the Credit Agreements to June 30, 1980, and to borrow up to $11,800,000 for Lowell and $7,000,000 for Cape Cod.

The Credit Agreements were subsequently amended and now provide for borrowings up to the indicated amounts from the following banks:

Bank	Lowell	Cape Cod
The Chase Manhattan Bank (National Association)	$5,540,000	$2,112,000
Union National Bank	1,050,000	1,158,000
Shawmut Bank of Boston, N.A.	2,412,500	1,158,000
State Street Bank & Trust Co.	2,312,500	744,000
BayBank Middlesex, N.A.	1,275,000	828,000
	12,500,000	6,000,000

Lowell and Cape Cod have outstanding loans of $7,250,000 and $6,000,000, respectively, evidenced by notes maturing June 30, 1980.

Lowell and Cape Cod are seeking authorization to extend their respective Credit Agreements for one year. The extended Credit Agreements will terminate June 30, 1981.

Lowell and Cape Cod's cost of borrowings under the Credit Agreements is: (a) ½ of a percent per annum of the unborrowed funds plus (b) ¾ percent above the Chase Manhattan Bank's prime rate from time to time. Lowell and Cape Cod, have informally agreed with the banks to either (1) maintain compensating balances of 10% of the banks' total commitment and additional compensating balances of 10% of the amount of any loans outstanding or (2) pay a fee equal to the prime rate plus ¾ of a percent times the amount by which the average bank balances are less that 10% of the banks' total commitment plus 10% of the amount of any loans outstanding. If the full amount were borrowed from the banks and the required compensating balances were not maintained, the effective interest cost would be 17.1%, based on a prime commercial rate of 14.5%.

It is stated that no state commission and no federal commission, other than this Commission has jurisdication over the proposed transaction. The fees and expenses incurred or to be incurred in connection with the proposed transaction will be filed by amendment.

Notice is further given that any interested person may, not later than June 12, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any

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such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will received any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-15863 Filed 5-22-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16807 SR-NASD-79-16]

National Association of Securities Dealers, Inc.; Filing of Amendments to Proposed Rule Changes and Order Approving Proposed Rule Changes

May 15, 1980.

In the matter of the National Association of Securities Dealers, Inc., 1735 K Street, Washington, D.C. 20006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on May 9, 1980, the National Association of Securities Dealers, Inc. ("NASD") filed with the Commission copies of amendments to proposed rule changes which the NASD previously had filed in response to certain recommendations of the Commission's Special Study of the Options Markets.[1] As amended, the NASD's proposals are substantially identical to rule proposals filed by the Chicago Board Options Exchange, American Stock Exchange, Midwest Stock Exchange, Pacific Stock Exchange, Philadelphia Stock Exchange, and New York Stock Exchange which were approved by the Commission in Securities Exchange Act Release No. 16696 (March 26, 1980).[2]

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-79-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered securities association and in particular, the requirements of Section 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the subject rule proposals prior to the thirtieth day after the date of publication of the final amendments thereto since the rule proposals, as amended, are substantially identical to rule proposals filed by the exchanges noted above which were previously approved by the Commission. In addition, the Commission believes that accelerated approval of the subject proposals is necessary and appropriate in order to achieve a consistent and equal regulatory scheme for standardized options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-15865 Filed 5-22-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16813/SR-NASD-80-7]

National Association of Securities Dealers, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

May 16, 1980.

In the matter of National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). 15 U.S.C. 78s(b)(1), notice is hereby given that on May 12, 1980, the National Association of Securities Dealers, Inc. ("NASD") filed with the Commission copies of a proposed rule change. The following is the full text of the proposed amendments to Appendix E under Article III, Section 33 of the NASD's Rules of Fair practice. Deleted language is indicated by brackets.

Article III, Section 33, Appendix E[1]

Sec. 17

Opening of Accounts

(b) Diligence in Opening of Accounts.

[(3) Before approving an account of a trust, pension fund, profit sharing plan or other fiduciary for options trading, a member shall obtain written evidence that the instruments under which the fiduciary is acting permit options trading.

(4) Before approving an account with respect to which trading authorization has been granted to a third person who is not an employee of the member for options trading, the member shall obtain written evidence of the agent's authority to act and that such authority specifically includes options trading.

(5) Before approving an account of an investment partnership or an investment club for options trading, the member shall obtain written evidence of the authority of the person signing the agreement required by this Section to sign such agreement on behalf of such partnership or club, as the case may be, and that such authority specifically includes options trading. Information shall also be obtained with respect to any current long or short option positions of the respective partners or members of the partnership or investment club.]

Sec. 18

Discretionary Accounts

[(c) Prohibited Transactions—No transaction shall be executed in a discretionary account which would result in an uncovered short position in option contracts or in the uncovering of any existing short position in option contracts unless the person for whom the account is maintained has specifically authorized, in writing, transactions of this nature and such transactions are effected with due regard to the provisions of Section 19 of this Appendix E.]

* * * * *

Interested persons are invited to submit written data, views and arguments concerning the submission on or before June 13, 1980. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-80-7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered securities association and in particular, the requirements of Section 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission approved identical proposals by the Philadelphia Stock Exchange and the American Stock Exchange which were published for comment for the requisit period of time.[2] Accordingly, the Commission believes that accelerated approval of the NASD proposal is necessary and appropriate in order to achieve a consistent and equal regulatory scheme for standardized options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, an it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-15864 Filed 5-22-80; 8:45 am]

BILLING CODE 8010-01-M

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[1] Notice of the original filing was published in Securities Exchange Act Release No. 16460 (December 31, 1979), 45 FR 1954; the first amendment thereto was published in Securities Exchange Act Release No. 16660 (March 17, 1980), 45 FR 18537. All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

[2] Unlike these exchanges, the NASD has not yet filed with the Commission proposed rule changes in response to the Options Study's recommendations with respect to options sales communications and retention of jurisdiction over terminated members and their associated persons. By letter dated May 9, 1980, from Frank J. Wilson, Senior Vice President, NASD, to Douglas S. Scarff, Director, Division of Market Regulation, the NASD, however, has undertaken to submit for membership vote proposed rule changes in response to these recommendations and thereafter, if membership approval is obtained, to file these rule changes with the Commission.

[1] This filing reflects changes to the NASD's existing rules. Additional amendments to Appendix E are contained in a separate rule change proposal which is currently on file with the SEC (SR-NASD-79-16). Approval of that filing will result in a renumbering of certain rule provisions covered in this submission.

[2] See Securities Exchange Act Release Nos. 16697 and 16698 (March 26, 1980).

TENNESSEE VALLEY AUTHORITY

Transmission Line Location in the 100-Year Floodplain; Class Review and Request for Public Comment

AGENCY: Tennessee Valley Authority.

ACTION: Notice of class review evaluating potential impacts associated with locating transmission lines in the 100-year floodplain.

SUMMARY: Notice is hereby given that, in accordance with TVA's Floodplain Management and Protection of Wetlands procedures, 44 FR 45,513, 45,516 (1979), TVA has evaluated, as a class, the potential impacts on and alternatives to siting transmission lines in the 100-year floodplain. TVA has determined that normally there is no practicable alternative to siting transmission line support structures in the floodplain and any associated impact on beneficial floodplain values would be minimal.

FOR FURTHER INFORMATION CONTACT: Frank W. Smith, Director, Transmission Planning and Engineering, Tennessee Valley Authority, 701 Chattanooga Bank Building, Chattanooga, Tennessee 37402, or call TVA's Citizen Action Office toll free: 1-800-362-9250 (in Tennessee) or 1-800-251-9242 (in Alabama, Georgia, Kentucky, Mississippi, North Carolina, Virginia, Missouri, and Arkansas).

SUPPLEMENTARY INFORMATION: TVA's Floodplain Management and Protection of Wetlands procedures, 44 FR 45,513-24 (1979), implementing Executive Order Nos. 11988 and 11990, require TVA to evaluate potential impacts on and alternatives to siting new structures in the 100-year floodplain or constructing new facilities in wetlands. Paragraph 12 of those procedures permits TVA to evaluate, as a class, routine or recurring actions when the considerations of whether to locate in a floodplain or wetland are substantially similar.

TVA has conducted such a class evaluation of transmission line locations in the 100-year floodplain. In order to maintain an adequate transmission system and to connect new loads or generating facilities into the TVA power system, new lines of varying voltages and lengths are constructed on a relatively frequent basis. In addition, TVA occasionally relocates transmission lines to accommodate other uses in an area.

Due to the presence of two major river basins and numerous other streams in TVA's power supply area, there is normally no practicable alternative to constructing or relocating transmission lines in the 100-year floodplain. TVA ensures that, in the construction or relocation of lines, floodplains are not irreparably damaged by construction activities, altered significantly in volume and rate of flow, or significantly reduced in flood storage capacity. Transmission line support structures are relatively small and for each foot of flood elevation, less than one cubic foot of flood capacity per structure would be displaced. TVA has therefore determined that all practicable measures to minimize harm to the floodplain will be taken and the potential impact on natural and beneficial floodplain values would be minimal.

Copies of TVA's detailed evaluation may be obtained by contacting Frank Smith, identified earlier in this notice, or by calling TVA's toll free Citizen Action lines. Any comments on TVA's determination must be submitted on or before June 23, 1980.

Dated: May 14, 1980.

Mohamed T. El-Ashry,

Director of Environmental Quality, Tennessee Valley Authority.

[FR Doc. 80-15798 Filed 5-22-80; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-137]

Imported Lightweight Cab Chassis; Change of Practice Regarding Tariff Classification

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of practice.

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SUMMARY: This document announces that Customs has found the current uniform and established practice of classifying imported lightweight cab chassis under the provision for bodies (including cabs) and chassis under the provision for bodies (including cabs) and chassis, in item 692.20, Tariff Schedules of the United States (TSUS), dutiable at the rate of 4 percent ad valorem, to be clearly wrong. That practice is being changed because it conflicts with principles announced in the decision of the U.S. Court of Customs and Patent Appeals in *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979).

Effective 90 days after publication of this notice in the **Federal Register**, it will be Customs practice to classify imported lightweight cab chassis under the provision for automobile trucks valued at $1,000 or more in item 692.02, TSUS, dutiable at the rate of 25 percent ad valorem under item 945.69 TSUS.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Ave., NW, Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

In a notice published in the **Federal Register** on September 2, 1975 (40 FR 40190), and modified on October 10, 1975 (40 FR 47806), Customs announced that it was reviewing its practice concerning the tariff classification of cab chassis (consisting of frames, suspension systems, wheels, engines, steering mechanisms and cabs) without bodies, having very limited cargo carrying capacity in their condition as imported. This action was taken after the contention was advanced that cab chassis should be classified under the provision for automobile trucks valued at $1,000 or more, in item 692.02, TSUS, (19 U.S.C. 1202), dutiable at the rate of 25 percent ad valorem under item 945.69, TSUS, rather than under the provision for chassis, bodies (including cabs) and parts, in item 692.20, TSUS.

After a review of the comments submitted in response to the notice, Customs concluded that the existing practice of classifying cab chassis was correct and should not be changed.

Following Customs decision in this matter, the General Accounting Office (G.A.O.), at the request of the Committee on Ways and Means, U.S. House of Representatives, examined Customs classification practice regarding imported cab chassis. The report subsequently issued by the G.A.O. noted that while it was difficult to conclude that the current classification practice was clearly wrong, the G.A.O. was of the opinion that the practice was questionable (Report by the Comptroller General of the United States, GGD 79–19, December 13, 1978). After reviewing the G.A.O. report, in January, 1979 the Treasury Department reaffirmed the correctness of the existing practice of classifying imported cab chassis as parts. The International Trade Commission (I.T.C.) subsequently released a report commenting on the G.A.O. study (Assessment of the December 13, 1978, Report of the Comptroller General of the United States, May 18, 1979). The I.T.C. report concluded that the present cab chassis classification practice was "clearly wrong".

The Customs practice of classifying cab chassis as chassis was based in large part on the determination that an "essential" part of a truck was missing, following the opinion of the U.S. Court of Customs and Patent Appeals in *Authentic Furniture Products, Inc.* v. *United States*, 61 CCPA 5, C.A.D. 1109 (1973). However, in June of 1979, that Court issued a decision which expressly overruled the majority rationale in *Authentic Furniture, (Daisy-Heddon, Div. Victor Comptometer* v. *United States*, C.A.D. 1228 (1979)).

In *Daisy-Heddon*, the Court stated:

> * * * The result in *Authentic Furniture Products* does not merely depend on the "essential" nature, be it functional or commercial, of the omitted side rails. It is abundantly clear from the opinion of the Customs Court, which was approved by this court, that the basis of the decision in that case was that "it is the determination of this court that the importations do not constitute a substantially complete article." 68 Cust. Ct. at 215, 343 F. Supp. at 1380. Such a determination does not depend merely on the presence or absence of an "essential" part.
>
> There are several factors which may come into play in the determination of whether an article is substantially complete. In a case, such as this, where the article is incomplete due to the omission of one or more parts, as opposed to where an article is incomplete because the material which comprises the article is in need of further processing, the following factors can be relevant: (1) Comparison of the number of omitted parts with the number of included parts; (2) comparison of the time and effort required to complete the article with the time and effort required to place it in its imported condition; (3) comparison of the cost of the included parts with that of the omitted parts; (4) the significance of the omitted parts to the overall functioning of the completed article; and, (5) trade customs, i.e., does the trade recognize the importation of as unfinished article or as merely a part of that article. This list of factors is not exhaustive; it must be recognized that fewer than all of the above factors, or additional factors, may come into play depending on the particular importation. The outcome of each case will always depend on the particular merchandise involved. It would be over-simplification of an essentially difficult juridicial problem, often involving a determination of congressional intent, for us to attempt to provide anything more than guidelines for the trier of fact to follow in assessing a given case. * * *

On October 17, 1979, a general notice was published in the **Federal Register** (44 FR 59984) advising that, in view of the decision in *Daisy-Heddon*, Customs was reconsidering its practice of classifying imported cab chassis under the provision for bodies (including cabs) and chassis in item 692.20, TSUS.

As part of this review, Customs requested comments concerning the application of Daisy-Heddon to the tariff classification of cab chassis. The comments were to be directed primarily to the following issues:

(1) Are the five factors cited by the Court in *Daisy-Heddon* applicable to the tariff classification of cab chassis or should other factors or expressions of legislative intent govern?

(2) If the five factors are applicable, what manner should they be applied? (Factual information regarding the number and relative value of parts involved may be relevant to this question.)

(3) Does the opinion of the Court in *Daisy-Heddon* require a finding that cab chassis should be classified under the superior heading "Motor vehicles (except motorcycles) for the transport of persons or articles"?

(4) If so, should they be classified under the inferior heading "Automobile trucks valued at $1,000 or more, and motor buses: Automobile trucks" (692.02, TSUS) or as "Other" (692.10, TSUS):

Comments were to have been received on or before December 17, 1979. However, in response to a request for an extension, the time for submission of comments was extended to January 31, 1980, by notice published in the **Federal Register** on December 14, 1979 (44 FR 72699).

Comments

In response to the notice, comments were received from 34 domestic and foreign manufacturers, foreign governments, trade associations, labor unions, law firms, and members of the public and Congress. In general, domestic producers and the United Auto Workers Union argued for reclassification of cab chassis as unfinished trucks, whereas importers argued that the present classification was correct.

Change of Practice

After careful consideration of all comments received Customs has concluded that the present practice of classifying cab chassis as "chassis" under item 692.00, TSUS, is clearly wrong with respect to lightweight cab chassis. These imports will be reclassified as unfinished automobile trucks, pursuant to General Interpretative Rule 10(h) of the TSUS and the Court of Customs and Patent Appeals decision in *Daisy-Heddon, supra*. The reasons for this decision are set forth below.

Cab chassis or "chassis cabs" have been defined as "an incomplete vehicle, with a completed occupant compartment, that requires only the addition of cargo-carrying, work-performing or load-bearing components to perform its intended functions". 40 FR 45847 (Oct. 3, 1975). Chassis, in contrast, are "the basic operating motor vehicle including engine, frame, and other essential structural and mechanical parts but exclusive of body and all appurtenances for the accommodation of driver, property, or passengers, appliances, or equipment related to other than control". Society of Automotive Engineers, Nomenclature Standard SAE J687c. However, "If a cab or cowl is included, the designation shall be motor vehicle chassis with cab or cowl". *Id.*

Imported cab chassis vary from lightweight cab chassis that can be driven "as is" as a passenger vehicle, or converted in a few minutes for a small percentage of total manufacturing cost into a pickup truck, to heavy-duty "cab over engine" cab chassis that may require the installation of thousands of dollars of additional equipment before they can be used.

We believe it appropriate to apply the five decisional factors set forth by the Court of Customs and Patent Appeals in the *Daisy-Heddon* opinion to determine the classification of cab chassis imports.

The Court in *Daisy-Heddon* was of the view that in cases where the article is incomplete due to the omission of one or more parts, as opposed to where an article is incomplete because the material which comprises the article is in need of further processing, the five decisional factors listed above are relevant. As is discussed below, we have found no reason to deviate from that approach in this case.

In past decisions maintaining the present practice, some weight has been given to two indications of Congressional intent to classify cab chassis as parts. These are (1) Headnote 1(b) of Schedule 6, Subpart B of the TSUS, which provides that truck tractors, which are similar to cab chassis but with a fifth wheel added for coupling, are to be classified as parts when imported separately from truck trailers, and (2) the absence from the TSUS of the explanatory note to Chapter 87 of the Brussels Tariff Nomenclature, which provides for the classification of cab chassis as motor vehicles. We do not believe these to be sufficiently strong evidence of Congressional intent to outweigh the other factors present. Moreover, these factors appear to be more relevant to the classification of medium and heavyweight (as opposed to lightweight) cab chassis.

Some commentors argue that the *Daisy-Heddon* opinion, which decided whether imports were classifiable as parts of a particular article, or as that article itself, is not relevant to the classification of cab chassis as "chassis" or "trucks" because these are *eo nomine* tariff provisions.

We disagree with this assertion. The cab chassis at issue here are not clearly within the *eo nomine* provision. Under that circumstance, we deem the factors announced in *Daisy-Heddon* to be a reasonable way of distinguishing between an unfinished truck and and any lesser assemblage of parts.

Many of the commentors argue that trade policy considerations should govern the classification decision herein. In our view, Customs classification decisions must be limited to interpretation of Congressional intent as expressed in the Tariff Schedule and legislative history, and judicial and administrative decisions interpreting the Schedules. In other words, trade policy considerations cannot decide the legal, interpretative question: what is the proper tariff classification for a particular class of imported merchandise? This is not to say that we are unmindful of the economic consequences of classification decisions. However, it is the responsibility of other agencies of government—specifically the Congress, and the United States Trade Representative—to address the results of classification decisions that are believed to be undesirable from the standpoint of trade policy.

Customs believes that the application of the *Daisy-Heddon* guidelines quoted above to the classification of lightweight cab chassis imports requires a finding that the present practice of classifying these imports as "chassis" or parts is clearly wrong, and that they should be reclassified under item 692.02, TSUS, as automobile trucks valued at $1,000 or more.

In comparing the number of parts omitted with those included, it was shown that there are approximately 4,500 parts in a cab chassis, but only 120 in a cargo box. It was demonstrated that the cargo box can be assembled with minimal effort, and that its value in the case of one of the shortbed pickups was estimated to be $375 as compared with $5,100 total selling price (7 percent). While cargo boxes are significant to the functioning of the completed vehicle, most lightweight cab chassis can be used to move passengers and, to some extent, cargo without being completed. Furthermore, it was demonstrated that, according to trade custom, cab chassis are recognized as unfinished trucks. Therefore, in the future, Customs will classify lightweight imported cab chassis under the provision for automobile trucks valued at $1,000 or more in item 692.02, TSUS, presently dutiable at the rate of 25 percent ad valorem under item 945.69, TSUS.

With respect to other than lightweight cab chassis, the comments received lead us to conclude that the application of the *Daisy-Heddon* factors to mediumweight and heavyweight vehicles does not require a conclusion that Customs present practice is clearly wrong. The comments indicate that the number of parts added to the chasssis varies depending on the changes made to the chassis after importation. Changes usually are beyond the control of the importer, who is unconcerned with alterations made to the imported cab chassis by the customer.

Following importation, chassis frequently are made into garbage trucks, beer trucks, etc., by parties other than the importer. They also indicate that the time and effort required to perform these changes can be significant and may take several days, or up to 40 or 50 man-hours. Regarding costs of parts, the customer's body work can equal more than 50 percent of the total vehicle cost. The missing parts are significant because as imported, cab chassis have no functional use other than for resale to manufacturers. Finally, it was shown that trade custom treats these imported vehicles as chassis. In view of the above evidence, Customs is prepared to review petitions, should any be received regarding the classification of mediumweight and heavyweight cab chassis on a case-by-case basis to determine whether a change in classification is warranted.

The change in practice regarding lightweight cab chassis shall be effective as to merchandise entered for consumption or withdrawn from

warehouse for consumption on or after August 21, 1980.

R. E. Chasen,

Commissioner of Customs.

Approved: May 19, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-15878 Filed 5-22-80; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on June 9 and 10, 1980, in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, N.W., Washington, D.C. The meeting will begin at 10:00 a.m. on June 9 and 9:00 a.m. on June 10. The agenda will include the following topics:

Monday, June 9: Administration of Preparer Penalties; Tax Forms Simplification Study; Taxpayer Ombudsman Program; and Update.

Tuesday, June 10: 2032A, Valuation of Certain Forms, etc., Real Property and Functioning of the Advisory Group.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements from nonmembers. If you want to make a statement at the meeting, or if you would like the Committee to consider a written statement, please call or write to D. James Lantonio, Assistant to the Deputy Commissioner, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 F.R. 52120).

FOR FURTHER INFORMATION CONTACT:

D. James Lantonio, Assistant to the Deputy Commissioner, 202-566-4143 (not toll free).

William E. Williams,

Acting Commissioner.

[FR Doc. 80-15914 Filed 5-22-80; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Administrator's Education and Rehabilitation Advisory Committee; Availability of Annual Report

Pursuant to the provisions of Section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual report of the Veterans Administration Administrator's Education and Rehabilitation Advisory Committee for calendar year 1979 has been issued.

The report summarizes activities of the Committee on matters related to the administration of the education and training programs for veterans and servicemen, dependents of veterans, and for service-connected disabled veterans. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Division, Room 1026, Thomas Jefferson Building, Washington, D.C. 20540; and

Veterans Administration, Executive Secretary, Administrator's Education and Rehabilitation Advisory Committee, Room 444-B, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 19, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-15840 Filed 5-22-80; 8:45 am]

BILLING CODE 8320-01-M

Central Office Education and Training Review Panel; Availability of Annual Report

Pursuant to the provisions of Section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Central Office Education and Training Review Panel for calendar year 1979 has been issued.

The report summarizes activities of the Panel on matters related to reviews of decisions of Committees on Education Allowances. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Division, Room 1026, Thomas Jefferson Building, Washington, D.C. 20540; and

Veterans Administration, Chief, Field Operations Staff, Room 436, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 19, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-15841 Filed 5-22-80; 8:45 am]

BILLING CODE 8320-01-M

Facility Upgrading; Entrance Drive and Development for Burial Culpeper National Cemetery, Culpeper, Va.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the development for burial of approximately 4 acres at Culpeper National Cemetery, Culpeper, Virginia, along with railroad grade crossing improvement, replacement of a water line and modernization of two public restrooms.

Development of the project would have impacts on the natural and human environments as it affects surface runoff, erosion, landscaping and local traffic. Additionally, construction noise, fumes, dust and visual impacts will exist during construction. The completed project will be impacted by noise from the nearly rail line.

Mitigating actions include: Avoidance of the floodplain, landscaping, control of erosion, dust and fumes, implementation of noise control measures, planning of cemetery operating procedure, and coordination with Culpeper Village officials.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (004A), Room 1027A, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: May 16, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-15842 Filed 5-22-80; 8:45 am]

BILLING CODE 8320-01-M

Modernization Replacement, Veterans Administration Medical Center, Minneapolis, Minn.; Finding of No Significant Impact

The Veterans Administration (VA), in order to adequately fulfull its mission, is proposing to modernize and/or replace the existing VA Medical Center (VAMC) Minneapolis, Minnesota.

The site consists of 111 acres located on the southern edge of Minneapolis just north of the Minneapolis-St. Paul International Airport. The site is bounded by 54th Street on the north, Crosstown Highway (County Road 62) on the south, 46th Avenue on the west, and the Mississippi River Valley on the east. The existing formal entrance to the VAMC is on the north from 54th Street, but most traffic enters off of Minnehaha Avenue. The existing main campus plan west of Minnehaha Avenue includes 25 buildings which are connected by single level corridors. East of Minnehaha are another 14 structures. The older section of hospital was activated in 1927 which was augmented in 1953 by the construction of an 8-story general medical building (Building 43).

Alternatives considered in this report for implementation are as follows: No Action, the VAMC cannot adequately meet current or projected increased workload and space requirements; a combination of new construction and modernization of existing facilities to meet future requirements; and a total replacement VAMC to meet future requirements.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (004A), Room 1027A, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Asssessment may be addressed to the above office.

Dated: May 15, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-15843 Filed 5-22-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 102
Friday, May 23, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1, 2
Equal Employment Opportunity Commission	3
Federal Home Loan Bank Board	4
Federal Mine Safety and Health Review Commission	5
Federal Reserve System	6
International Trade Commission	7
National Transportation Safety Board	8

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, May 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Leverage Transactions
The Commission will consider recommendations by the Office of General Counsel regarding the regulation of gold and silver leverage transactions as contracts for future delivery
New York Futures Exchange, Inc. Contract Designations
The Commission will consider the application of the New York Futures Exchange, Inc. for designation as contract market in British Pounds, Canadian Dollars, Deutsche Marks, Japanese Yen and Swiss Francs.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1023-80 Filed 5-21-80; 11:23 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., Wednesday, May 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter/Proposed administrative proceeding.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1024-80 Filed 5-21-80; 11:23 am]

BILLING CODE 6351-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, May 27, 1980.

PLACE: Commission Conference Room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 80-2-FOIA-122, concerning a request for the names of certain specific respondents.
2. Proposed contracts for services needed in connection with court cases.
3. Proposed extension of comment period on the Pilot Program for Federal Sector Complaints.
4. Proposed Interim Regulations for Accepting and Processing Mixed-Case Petitions.
5. Proposed EEOC Compliance Manual § 110, Equal Pay Act Intake and Respondent Notification Procedures.
6. State and Local Program—Staff Policy Recommendations for EEOC's Program for State and Local Fair Employment Practice Agencies.
7. Report on Commission Operations by the Executive Director Closed to the public:

Litigation Authorization: General Counsel Recommendaitons.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued May 20, 1980.

[S-1022-80 Filed 5-21-80; 11:07 am]

BILLING CODE 6570-06-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 32830, May 19, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 22, 1980.

PLACE: 1700 G Street NW., amphitheater second floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Holding Company Acquisition and Merger by—MCA, Inc. City, California *to acquire* The Mutual Savings and Loan Association, Grand Junction, Colorado *and subsequent merger of said association into* Columbia Savings and Loan Association, Englewood, Colorado.
Application for Merger—Evanston Federal Savings and Loan Association, Evanston, Illinois, into First Federal Savings and Loan Association of Chicago, Chicago, Illinois.

Announcement is being made at the earliest practicable time.

No. 351, May 21, 1980.

[S-1028-80 Filed 5-21-80; 3:38 pm]

BILLING CODE 6720-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 19, 1980.

TIME AND DATE: 10 a.m., May 28, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following case: 1. Maben Energy Corporation, Docket No. WEVA 79-123-R. Issues include whether Maben Energy Corp. was responsible for a violation of 30 CFR § 77.216-3(a).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1021-80 Filed 5-21-80; 10:25 am]

BILLING CODE 6820-12-M

6

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10:00 a.m., Wednesday, May 28, 1980.

PLACE: 20th Street and Constitutional Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda:

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed restatement of the System policy on equal Employment Opportunity and the use of affirmative action programs.

Discussion Agenda:

1. Proposed statement to be presented to the Senate Committe on Banking, Housing, and Urban Affairs regarding margin requirements for commodities futures.*
2. Proposed statement to be presented to the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs regarding "Meeting the Credit Needs of Inner-City Minority Communities".
3. Requests for modification to the Consumer Credit Restraint Program.
4. Any agenda items carried forward from a previously announced meeting.

Note.—Anyone planning to attend specifically for Discussion Agenda Item 1 should contact the office below on Tuesday, May 27, 1980 to assure that it has not been postponed due to a change in the date of the testimony.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 4522-3204.

Dated: May 21, 1980.

Griffith E. Garwood,

Deputy Secretary of the Board.

[S-1025-80 Filed 5-12-80; 12:06 pm]

BILLING CODE 8210-01-M

7

[USITC SE-80-31]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, June 3, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Rifle scopes (Docket No. 652).
b. Slide fasteners (Docket No. 653).
5. Butter cookies from Denmark (Inv. 701-TA-51)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1027-80 Filed 5-21-80; 3:09 pm]

BILLING CODE 7020-02-M

8

[NM-80-21]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUCEMENT: 45 FR 32475, May 16, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:00 a.m., Friday, May 23, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Study.*—Commuter Airline Safety Study.
2. *Fiscal year 1980 Safety Objective.*—Increased Surveillance of Part 135 Operators.
3. *Discussion* of Board policy on safety-related budget cuts of other agencies.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

May 21, 1980.

[S-1026-80 Filed 5-21-80; 2:11 pm]

BILLING CODE 4910-58-M

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federal register

Friday
May 23, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Georgia:	
GA79–1148	Nov. 16, 1979
GA79–1149	Nov. 23, 1979
New Jersey:	
NJ79–3029	Jan. 4, 1980
NJ80–3024	May 2, 1980
New Mexico—NM79–4103	Nov. 2, 1979
Oregon—OR80–5106	Feb. 9, 1980
Pennsylvania:	
PA78–3054	Aug. 11, 1978
PA79–3005	Mar. 16, 1979
PA79–3009	May 4, 1979
Virginia—VA78–3075	Nov. 3, 1978
Washington—WA80–5107	Mar. 7, 1980

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

California—CA78–5123 (CA80–5117)	Aug. 18, 1978
Indiana:	
IN79–2002 (IN80–2016)	Jan. 26, 1979
IN79–2003 (IN80–2021)	Jan. 26, 1979
Louisiana—LA79–4070 (LA80–4039)	Aug. 17, 1979
Minnesota:	
MN79–2022 (MN80–2031)	May 4, 1979
MN79–2023 (MN80–2032)	May 4, 1979
Pennsylvania—PA78–3070 (PA80–3038)	Sept. 29, 1978
Wisconsin:	
WI78–2121 (WI80–2037)	Oct. 20, 1978
WI78–2116 (WI80–2039)	Oct. 20, 1978

Cancellation of General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determinations:

IN77–2070—Grant County, Indiana dated May 13, 1977 in 42 FR 24555—Residential Construction.
IN77–2025—Miami County, Indiana dated February 18, 1977 in 42 FR 10198—Residential Construction.
IN77–2093—Bartholomew County, Indiana dated May 27, 1977 in 42 FR 27551—Residential Construction.
IN77–2012—Jackson County, Indiana dated February 11, 1977 in 42 FR 8913—Residential Construction.
IN77–2014—Johnson County, Indiana dated February 11, 1977 in 42 FR 8914—Residential Construction.
IN77–2096—Lawrence County, Indiana dated May 27, 1977 in 42 FR 27552—Residential Construction.
TX79–4014—Dimmit, Jim Hogg, LaSalle, Maverick, Webb, Zapata and Zavala Counties, Texas dated January 5, 1979 in 44 FR 1686—Building and Residential Construction.
TX80–4007—Tom Green County, Texas dated January 18, 1980 in 45 FR 3868—Building Construction.

Signed at Washington, D.C. this 16th day of May 1980.

Dorothy P. Come,

Assistance Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

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MODIFICATION PAGE 1

DECISION #GA79-1148 - Mod. #2 (44 FR 66135 - November 16, 1979) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Asbestos workers	$11.19	.55	1.10		.04
Sprinkler fitters	12.80	.85	1.20		.08

DECISION #GA79-1149 - Mod. #1 (44 FR 67307 - November 23, 1979) Richmond County, Georgia					
CHANGE:					
Electricians:					
Wiremen	$11.35	.60	3% + .30		½ of 1%
Cable splicers	11.60	.60	3% + .30		½ of 1%
Line Construction:					
Linemen & Heavy equipment operators (cranes, draglines & 5th wheel tractors);	11.35	.60	3% + .30		½ of 1%
Cable splicers;	11.60	.60	3% + .30		½ of 1%
Equipment Operators (hole digging equipment, tractor with winch & derrick, anchor machine, backhoe, & ground rod drivers	9.31	.60	3% + .30		½ of 1%
Truck operators	7.04	.60	3% + .30		½ of 1%
Groundmen	6.36	.60	3% + .30		½ of 1%
Sheet metal workers	10.25				.04
Sprinkler fitters	12.80	.85	1.20		.08

MODIFICATION PAGE 2

DECISION #NJ79-3029 - Mod. #3 (44 FR 1350 - January 4, 1980) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
Plumbers:					
Zone 2	$14.555	1.40	1.42		.25

DECISION #NJ80-3024 - Mod. #1 (45 FR 29515 - May 2, 1980) Bergen, Essex, Hudson, and Passaic Counties, New Jersey					
Change:					
Plumbers:					
Hudson (East Newark, Harrison, and Kearney only) and Essex Counties	$14.555	1.40	1.42		.25

DECISION #NM79-4103-Mod. #4 44-FR-63443-November 2, 1979 Statewide, New Mexico					
CHANGE:					
SHEET METAL WORKERS:					
Zone 1	$12.77	.53	1.31		.19
Zone 2	15.02	.53	1.31		.19
Zone 3	13.77	.53	1.31		.19
Zone 4	15.62	.53	1.31		.19

MODIFICATION PAGE 3

DECISION NO. OR80-5106 - Mod. #1 (45 FR 8856-February 6, 1980) Statewide, Oregon	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
Ironworkers:					
Structural, Reinforcing, Ornamental, Riggers, Fence Erectors, Signal Men	$13.66	.93	$1.70		.10
Plasterers:					
Benton, Coos, Crook, Curry, Douglas, Deschutes, Harney, and Jefferson, Northern 1/3 of Klamath, Lane, Southern half of Lincoln, Linn, Wasco, and Wheeler Counties	13.76	1.00	1.00		.01
Plumbers:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler and Northern half of Yamhill and Tillamook Counties	17.77	1.50	1.85		.13
Roofers:					
Benton, Lincoln, Linn, Marion, Polk, and Yamhill Counties	12.44	.45	.15		
Sheet Metal Workers:					
Morrow, Umatilla, Union and Wallowa Counties	15.13	3%+.68	1.14		.14

MODIFICATION PAGE 4

DECISION NO. OR80-5106 (Cont'd)

Line Construction:

Group No.	Base Zone	Zone 1	Zone 2	Zone 3	Zone 4
1	$16.15	$17.40	$18.15	$18.40	$20.15
2	14.59	15.84	16.59	17.34	18.59
3	13.17	14.42	15.71	15.92	17.17
4	12.57	13.82	14.57	15.32	16.57
5	10.99	12.24	12.99	13.74	14.99
6	10.32	11.57	12.32	13.07	14.30

Fringe Benefits Payments:	Groups 1 to 3	Groups 4 to 6
Health and Welfare	$.45	$.45
Pension	3%+1.70	3%+1.10
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

DECISION NO. PA78-3054 MOD. NO. 8 (43 FR 35868 - August 11, 1978) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Laborers:					
Group 1	$10.05	.95	.85		
Group 2	9.85	.95	.85		
Group 3	9.75	.95	.85		
Group 4	9.90	.95	.85		
Group 5	9.65	.95	.85		
Group 6	10.30	.95	.85		
Group 7	10.15	.95	.85		
Group 8	10.00	.95	.85		
Line Construction					
Journeyman Lineman	15.10	.45	3%		1%
Winch truck operator	10.37	.45	3%		1%
Groundman	9.06	.45	3%		1%

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MODIFICATION PAGE 5

DECISION NO. PA79-3005 - Mod. #5 (44 FR 16320 - March 16, 1979) Lycoming County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ASBESTOS WORKERS	$11.875	.80	.60		.01
BOILERMAKERS	14.64	1.175	1.00		.02
ELEVATOR CONSTRUCTORS	11.23	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS					
HELPERS	70%JR	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS					
HELPERS (PROB.)	50%JR				
LABORERS:					
Unskilled laborers, scaffold builders, wrecking, window cleaners & Demolition	7.95	.65	.55		
Masons tenders, operators of jackhammers, paving breakers vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12"), non-mentallic pipe layers, plasterer tenders mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings	8.10	.65	.55		
MILLWRIGHTS	13.52	.60	.70		.05
PAINTERS					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10

MODIFICATION PAGE 6

DECISION NO. PA79-3005 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%
ROOFERS & KETTLEMEN	11.15	.90	.85		
SHEET METAL WORKERS	11.95	.75	.81		.02
SPRINKLER FITTERS	13.55	.75	1.05		.08

MODIFICATION PAGE 7

DECISION NO. PA79-3009 MOD. NO. 6 (44 FR 26518 - May 4, 1979) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers					
Zone 1	$12.91	1.00	1.35		.08
Electricians					
Commercial					
Zone 7	12.45	.70	3%+.80		.02
Ironworkers:					
All other work					
Zone 3					
Reinforcing	12.42	1.24	1.86		.01
Laborers:					
All other work					
Class 1	9.80	.90	.85		
Class 2	9.90	.90	.85		
Class 3	9.95	.90	.85		
Class 4	10.10	.90	.85		
Class 5	10.20	.90	.85		
Class 6	9.74	.90	.85		
Sprinkler fitters					
Zone 2	13.62	.75	1.05		.10
OMIT:					
Truck Drivers Originally Issued					
ADD:					
Truck Drivers Schedules Below					

MODIFICATION PAGE 8

DECISION NO. PA79-3009
MOD. NO. 6

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	$8.845	.9175	.975	a+b	
CLASS II	8.945	.9175	.975	a+b	
CLASS III	9.145	.9175	.975	a+b	

CLASSIFICATIONS DEFINITIONS

CLASS I - Warehouseman, checker, fork lift driver, stake body truck (single axle), 1½ ton and under vehicles

CLASS II - Truck driver over 1½ tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III - Euclid type, off-highway equipment - back or belly dump trucks and double - hitched equipment straddle (Ross) carrier, lowbed trailers

FOOTNOTES:

a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day; Veterans Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

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MODIFICATION PAGE 9

DECISION NO. PA79-3009,
MOD. NO. 0

SITE PREPARATION, PAVING, AND UTILITIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	$8.695	.9175	.975	a+b	
CLASS 2	8.795	.9175	.975	a+b	
CLASS 3	8.995	.9175	.975	a+b	

FOOTNOTES:

a. Employee will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days per calendar year. During each two (2) consecutive months period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitile to all days of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and Veterans Day and five (5) personal holidays provided such employee work the scheduled work days before and after said holiday; nad employee gives employer one (1) week's notice requesting a personal holiday. The eligibility for personal holidays will be as follows: Employee will earn one (1) personal holiday every two (2) months up to a maximum of five (5) personal holidays per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all person holidays.

CLASSIFICATIONS

SITE PREPARATION, PAVING, AND UTILITIES

CLASS 1: Helpers, Stake Body Truck (single axle, Dumpster)

CLASS 2: Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor When used for Transportation, Stake Body Truck (Tandem)

CLASS 3: Euclid Type, Off-Highway Equipment or Belly Dump Trucks and Double Hitched Equipment, Straddle (Rear) Carrier, Low-bed Trailers

MODIFICATION PAGE 10

Decision NO. VA78-3075-Mod#6 (43 FR 51590-November 3,1978 York County and the Cities of Hampton and Newport News (including Langley AFB, Fort Eustis and Fort Monroe) Virginia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Electricians:					
Zone 1-within a 16 air mile radius of 7812 Warwick Blvd Newport News:					
Wireman	$11.05	.60	8%		1%
Cable Splicer	11.30	.60	8%		1%
Zone 2-beyond a 16 air mile radius of 7812 Warwick Blvd Newport News:					
Wireman	12.05	.60	8%		1%
Cable Splicer	12.30	.60	8%		1%

MODIFICATION PAGE 11

DECISION NO. WA80-5107 - Mod. #1
(45 FR 15037 - March 7, 1980)
Statewide, Washington

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Clallam, Jefferson, King and Kitsap Cos.:					
Electricians	$16.65	.98	3%+1.30		.07
Cable Splicers	18.32	.98	3%+1.30		.07
Plumbers:					
Chelan, Clallam, King, Kitsap (North of 47° 15' N. Lat.), Douglas (West of 119° 30' W. Long.), Jefferson and Okanogan (except area lying east of 119°30' W. Long., North to 48°30' N. Lat.)	15.71	.94	1.65	1.61	.12
Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line	17.77	1.50	1.85		.13
Roofers:					
Island, San Juan, Skagit, and Whatcom Counties:					
Roofers and Waterproofers	11.45	.85	.50		.01
Slate and Tile Roofmrs	11.95	.85	.50		.01
Terrazzo Workers; Tile Setters:					
San Juan, Skagit (including the Cities of Burlington, Sedro-Wooley, Concrete, and north thereof) and Whatcom Counties	13.84	.80	1.25		.06

MODIFICATION PAGE 12

DECISION NO. WA80-5107 (Cont'd)

Line Construction:

Group No.	Base Zone	Zone 1	Zone 2	Zone 3	Zone 4
1	$16.15	$17.40	$18.15	$18.40	$20.15
2	14.59	15.84	16.59	17.34	18.59
3	13.17	14.42	15.71	15.92	17.17
4	12.57	13.82	14.57	15.32	16.57
5	10.99	12.24	12.99	13.74	14.99
6	10.32	11.57	12.32	13.07	14.30

Fringe Benefits Payments:	Groups 1 to 3	Groups 4 to 6
Health and Welfare	$.45	$.45
Pension	3%+1.70	3%+1.10
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura

DECISION NUMBER: CA80-5117

DATE: Date of Publication

Supersedes Decision No. CA78-5123 dated August 18, 1978, in 43 FR 36839

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$16.20	$1.30	$1.37		.07
BOILERMAKERS	15.21	1.275	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	14.09	1.13	1.34		.12
Area 2	14.49	1.05	2.11		.10
Area 3	13.35	1.30	1.75		.05
Area 4					
Area 5	13.85	1.20	2.35		.07
Area 6	14.37	1.15	1.50		.05
BRICK TENDERS	9.48	1.25	2.55	.95	.12
CARPENTERS:					
Carpenters	11.57	1.62	2.16	1.00	.09
Saw Filers	11.65	1.63	2.16	1.00	.09
Table Power Saw Operators	11.67	1.63	2.16	1.00	.09
Shinglers; Piledrivermen, Bridge or Dock Carpenters; Derrick Bargemen; Rock Slinger	11.70	1.63	2.16	1.00	.09
Hardwood Floor Layers	11.77	1.63	2.16	1.00	.09
Pneumatic Nailer	11.82	1.63	2.16	1.00	.09
Millwrights	12.07	1.63	2.16	1.00	.09
CEMENT MASONS:					
Cement Masons	9.41	1.10	1.75	1.00	.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08
DRYWALL Installers	12.53	1.63	2.16	1.00	.09
ELECTRICIANS:*					
Area 1:					
Electricians	15.98	.75	3%+1.71		.09
Cable Splicers	16.28	.75	3%+1.71		.09
Area 2:					
Electricians; Technicians	16.00	1.10	3%+1.95		.15
Cable Splicers	17.60	1.10	3%+1.95		.15
Area 3:					
Electricians	13.12	1.15	3%+1.95		.12
Cable Splicers	13.42	1.15	3%+1.95		.12
Traffic Signal and Street Lighting:					
Electrician	13.12	1.15	3%+1.95		.12
Utility Technician No.1	9.84	1.15	3%+1.95		.12
Utility Technician No.2	9.18	1.15	3%+1.95		.12

*SEE AREA DESCRIPTIONS - Page 3

DECISION NO. CA80-5117 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 3: (Cont'd)					
Tunnel:					
Electricians	$13.52	$1.05	1%+1.70		.02
Cable Splicers	13.82	1.05	1%+1.70		.02
Sound Technicians:					
Sound Technicians (on new building construction)	12.67	.75	3%		
Sound Technicians (on modification of existing buildings)	10.74	.75	3%		
Area 4:					
Electricians	16.39	.81	3%+1.45		.02
Cable Splicers	17.14	.81	3%+1.45		.02
Area 5:					
Electricians	15.56	.85	3%+2.00		.04
Cable Splicers	16.06	.85	3%+2.00		.04
Area 6:					
Electricians	14.90	1.21	3%+2.90		.04
Cable Splicers	15.40	1.21	3%+2.90		.04
Tunnel:					
Electricians	16.39	1.21	3%+2.90		.04
Cable Splicers	16.69	1.21	3%+2.90		.04
Area 7:					
Electricians	16.18	1.23	3%+1.50		.03
Cable Splicers	17.79	1.23	3%+1.50		.03
Area 8:					
Electricians	16.10	1.10	3%+1.50		.03
Cable Splicers	17.10	1.10	3%+1.50		.03
Area 9:					
Electricians	16.71	1.20	3%+1.95		.02
Cable Splicers	18.38	1.20	3%+1.95		.02
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Elevator Constructors	15.41	1.045	.82	a	.035
Area 2:					
Elevator Constructors	16.37	.895	.82	a	.035

*SEE AREA DESCRIPTIONS - following page

DECISION NO. CA80-5117 Page 3

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
- Area 1: Imperial County
- Area 2: Inyo, Kern and Mono Counties
- Area 3: Los Angeles and Orange Counties
- Area 4: Riverside and San Bernardino Counties
- Area 5: Santa Barbara and San Luis Obispo Counties
- Area 6: Ventura County

ELECTRICIANS:
- Area 1: Imperial County
- Area 2: Kern County
- Area 3: Los Angeles County
- Area 4: Orange County
- Area 5: Riverside County
- Area 6: Inyo, Mono and San Bernardino Counties
- Area 7: San Luis Obispo County
- Area 8: Santa Barbara County
- Area 9: Ventura County

ELEVATOR CONSTRUCTORS:
- Area 1: Imperial, Inyo, Kern (south of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties
- Area 2: Kern County (north of Tehachapi Range)

DECISION NO. CA80-5117 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:*					
Area 1	$10.90	.67	.90		
Area 2	11.19	.67	1.45		.04
IRONWORKERS:					
Fence Erectors	11.11	1.29	2.47	1.65	.07
Reinforcing	12.00	1.29	2.47	1.65	.07
Ornamental; Structural	12.00	1.29	2.47	1.65	.07
IRRIGATION and LAWN SPRINKLERS:*					
Area 1	10.45	10%	16%	13%	1%
LATHERS:					
Area 1	9.13	.60	1.30	.70	.05
Area 2	12.50	.70	.90		.03
Area 3	11.98	1.05	1.13	1.50	.02
Area 4	7.72	.87		3.20	
Area 5	11.67	.82	1.25	1.50	
Area 6	12.50	.85	1.00	.50	.03
LINE CONSTRUCTION:*					
Area 1:					
Groundmen	11.44	.75	3%+1.45		
Linemen	14.30	.75	3%+1.45		
Cable Splicers	14.58	.75	3%+1.45		
Area 2:					
Groundmen	9.94	.90	3%+1.60		.15
Linemen	13.25	.90	3%+1.60		.15
Cable Splicers	14.58	.90	3%+1.60		.15
Area 3:					
Groundman, 1st year	11.43	.81	3%+1.45		.02
Groundman, after 1st year	12.12	.81	3%+1.45		.02
Lineman, Heavy Equipment Operators	14.04	.81	3%+1.45		.02
Cable Splicers	14.69	.81	3%+1.45		.02
Area 4:					
Groundmen	9.86	1.25	3%+1.95		
Linemen	13.14	1.25	3%+1.95		
Cable Splicers	13.44	1.25	3%+1.95		
Area 5:					
Groundmen	9.41	1.11	3%+2.00		.04
Linemen	12.72	1.11	3%+2.00		.04
Cable Splicers	13.44	1.11	3%+2.00		.04

*See AREA DESCRIPTIONS - Page 6

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LINE CONSTRUCTION:* (Cont'd)					
Area 6:					
Groundmen	$ 9.65	.85	3%+1.65		.04
Linemen; Line Equipment Operators	13.08	.85	3%+1.65		.04
Cable Splicers	13.38	.85	3%+1.65		.04
Area 7:					
Groundmen	9.66	1.00	1%+1.35		.03
Linemen; Line Equipment Operators	12.26	1.00	1%+1.35		.03
Cable Splicers	13.48	1.00	1%+1.35		.03
Area 8:					
Groundmen	12.93	1.00	3%+1.05		.02
Linemen	14.21	1.00	3%+1.05		.02
Cable Splicers	15.63	1.00	3%+1.05		.02
Area 9:					
Groundmen	9.64	1.10	3%+1.50		.03
Linemen	13.25	1.10	3%+1.50		.03
Cable Splicers	14.25	1.10	3%+1.50		.03
MARBLE SETTERS:					
Area 1	12.42	1.50	1.62	1.18	
Area 2	12.69	.81	1.17		.08
MARBLE, TERRAZZO & TILE FINISHERS:					
Area 1	9.44	.81	1.17		.08
PAINTERS:*					
Area 1:					
Brush; Paint Burners	13.21	1.23	1.43	.75	.07
Paperhangers	13.71	1.23	1.43	.75	.07
Iron, steeland bridge (swing stage)	13.96	1.23	1.43	.75	.07
Sheet Rock Tapers	13.26	1.23	1.43	.75	.07
Brush (Swing Stage); Spray	13.46	1.23	1.43	.75	.07
Steeplejack	14.80	1.23	1.43	.75	.07

*SEE AREA DESCRIPTIONS - following page

AREA DESCRIPTIONS

GLAZIERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties

LATHERS:
Area 1: Inyo, Kern and MOno Counties
Area 2: Los Angeles County(except City of Lancaster)
Area 3: Ventura County
Area 4: San Luis Obispo County
Area 5: Santa Barbara County
Area 6: Orange County

LINE CONSTRUCTION:
Area 1: Imperial County
Area 2: Kern County
Area 3: Orange County
Area 4: Los Angeles County
Area 5: Inyo, Mono and San Bernardino Counties
Area 6: Riverisde County
Area 7: San Luis Obispo County
Area 8: Ventura County
Area 9: Santa Barbara County

MARBLE SETTERS:
Area 1: Inyo and Mono Counties
Area 2: Imperial County

MARBLE, TERRAZZO and TILE FINISHERS:
Area 1: Imperial County

PAINTERS:
Area 1: Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding western portion)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2:					
Brush	$12.73	.86	.80	.60	.02
Structural steel and bridge; Paint Burner	12.85	.86	.80	.60	.02
Tapers	14.06	.86	.80	.60	.02
Brush Swing Stage (13 stories or less); Paperhangers; Sandblasters; Spray Painters	13.13	.86	.80	.60	.02
Brush Swing Stage (over 13 stories)	13.10	.86	.80	.60	.02
Structural steel and bridge, Swing Stage (13 stories or less)	13.13	.86	.80	.60	.02
Structural steel and bridge, Swing Stage (excess of 13 stories)	13.25	.86	.80	.60	.02
Spray Painter; Sandblaster, Swing Stage (excess of 13 stories)	13.35	.86	.80	.60	.02
Spray Painters; Sandblaster, Swing Stage (13 stories or less); Past Machine; Special coating Spray	12.91	.71	.80	.60	.02
Steeplejack	13.65	.71	.80	.60	.02
Area 3:					
Brush	10.23	.80	.90		.03
Brush or Roller (swing stage); Paperhangers; Taping Joint Sheet Rock	10.48	.80	.90		.03
Spray; Sandblasters	10.73	.80	.90		.03
Steeplejack	11.73	.80	.90		.03
Area 4:					
Brush; Pot Tender Paperhangers; Paste Machine Operators; Iron and Steel	13.41	1.25	1.40		.03
Spray; Taper; Sandblasters	13.66	1.25	1.40		.03
Steeplejack	13.91	1.25	1.40		.03
	14.41	1.25	1.40		.03

*SEE AREA DESCRIPTIONS -

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS:* (Cont'd)					
Parking Lot Striping Work and/or Highway Markers:					
Area 1:					
Striper	$11.82	.55	.40	b	
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface; Sandblaster	10.72	.85	.50	b	
Slurry Seal Operation:					
Mixer	10.72	.85	.50	b	
Squeegee Man	9.14	.85	.50	b	
Applicator Operator	9.14	.85	.50	b	
Shuttleman	9.14	.85	.50	b	
Top Man	7.60	.85	.50	b	
Area 2:					
Traffic Delineating Device Applicator	10.72	.85	.50	b	
Wheel Stop Installer; Surface Sandblaster	10.72	.85	.50	b	
Striper	10.33	.85	.50	b	
Slurry Seal Operation:					
Mixer Operator	10.33	.85	.50	b	
Squeegee Man	9.14	.85	.50	b	
Applicator Operator	8.54	.85	.50	b	
Shuttleman	9.14	.85	.50	b	
Top Man	7.60	.85	.50	b	
PLASTERERS:					
Area 1	11.03				
Area 2	12.335	.93	1.85		.12
Area 3	15.95				.01
Area 4	12.00				
Area 5	8.69	.70	1.05		.01
Area 6	14.51	1.30	3.00		.02
PLASTERERS TENDERS:					
Area 1	11.77	1.25	2.55		
Area 2	10.92	1.25	2.55	.95	
Area 3	11.775	1.25	2.55	1.10	
Area 4	10.08	1.25	2.55	1.15	
Area 5	12.43	1.25	2.55	.95	
Area 6	13.58	1.25	2.60	1.10	

*SEE AREA DESCRIPTIONS - Following Page

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AREA DEFINITIONS

PAINTERS: (Cont'd)
Area 2: Inyo, Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, south including the Wrightwood Area)
Area 3: Kern County
Area 4: San Luis Obispo, Santa Barbara and Ventura Counties

Parking Lot Striping Work and/or Highway Markers; and Slurry Seal Operation:
Area 1: Inyo and Mono Counties
Area 2: Remaining Counties

PLASTERERS:
Area 1: Imperial County
Area 2: Los Angeles and Orange Counties
Area 3: Riverside and San Bernardino Counties
Area 4: San Luis Obispo County
Area 5: Santa Barbara County
Area 6: Ventura County

PLASTERERS TENDERS:
Area 1: Imperial, Inyo, Mono, Riverside and San Bernardino Counties
Area 2: Kern County
Area 3: Los Angeles and Orange Counties
Area 4: San Luis Obispo County
Area 5: Santa Barbara County
Area 6: Ventura County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PLUMBERS; Steamfitters:*					
Area 1	$13.83	10%	16%	13%	2%
Area 2	13.88	1.05	2.25	1.45	.17
REFRIGERATION and AIR CONDITIONING:*					
Area 1	10.70	.96	.85	1.00	.05
Area 2	13.82	2.00	2.00	1.52	.30
ROOFERS:*					
Area 1	12.79	.80	1.05	1.00	
Area 2	12.05	.80	.60		.02
Area 3	12.65	.80	1.00	1.25	
Area 4	13.31	.97	2.05		.065
Area 5	14.17	.85	1.00		.05
SHEET METAL WORKERS:*					
Area 1	14.96	1.04	2.24		.01
Area 2	14.51	1.14	1.80		.02
Area 3	15.16	1.14	2.52		.10
Area 4	14.16	1.14	2.64		.09
Area 5	13.90	1.14	1.91		.16
Area 6	14.93	1.14	2.52		
SOFT FLOOR LAYERS:*					
Area 1	11.52	.81	1.45		.10
Area 2	12.72	.75	1.20	.75	.08
Area 3	12.29	.75	.75	1.18	.07
SPRINKLER FITTERS:*					
Area 1	15.52	.75	1.05		.08
Area 2	16.83	.83	1.05		.09
TERRAZZO WORKERS:*					
Area 1	12.69	.81	1.17		.08
TILE SETTERS:*					
Area 1	12.69	.81	1.17		.08
Area 2	13.81	1.06	1.40		.10
Area 3	10.50	1.20	1.85		.07
Area 4	12.95	1.03	1.35		
TILE FINISHERS:*					
Area 1	9.96	1.39	1.30		.13

*See AREA DESCRIPTIONS - Following Page

AREA DESCRIPTIONS

PLUMBERS; Steamfitters:
Area 1: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties
Area 2: Inyo, Kern, and Mono Counties

REFRIGERATION and AIR CONDITIONING:
Area 1: Riverside and San Bernardino Counties
Area 2: Los Angeles and Orange Counties

ROOFERS:
Area 1: Imperial County
Area 2: Inyo, Kern and Mono Counties
Area 3: Riverside and San Bernardino Counties
Area 4: Los Angeles, Orange and Ventura Counties
Area 5: San Luis Obispo and Santa Barbara Counties

SHEET METAL WORKERS:
Area 1: Imperial County
Area 2: Kern County and all of Inyo and Mono Counties, Los Angeles County (that portion north of a straight line drawn between Gorman and Big Pines)
Area 3: Los Angeles County (remaining portion)
Area 4: Orange County
Area 5: Riverside and San Bernardino Counties
Area 6: San Luis Obispo, Santa Barbara and Ventura Counties

SOFT FLOOR LAYERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino and Ventura Counties
Area 3: Kern County, including that portion lying east of the Los Angeles Aqueduct and that portion of Inyo County included within the Inyo-Kern Naval Reservation

SPRINKLER FITTERS:
Area 1: Imperial, Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario, San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)
Area 2: Los Angeles (Los Angeles City and Area within 25 miles and Pomona), Orange (Santa Ana); San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)

TERRAZZO WORKERS:
Area 1: Imperial County

AREA DESCRIPTIONS

TILE SETTERS:
Area 1: Imperial County
Area 2: Los Anglees, Orange and Ventura Counties
Area 3: San Luis Obispo and Santa Barbara Counties
Area 4: Riverside and San Bernardino Counties
Area 5: Inyo, Kern and Mono Counties

TILE FINISHERS:
Area 1: Los Angeles, Orange, and Ventura Counties

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

*FOOTNOTES:
a. Employer contirbutes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F

b. Employer contributes $2.3 per hour to Holiday Fund plus $.14 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.34 per hour to Vacation Fund, 5 years but less than 10 years $.44 per hour to Vacation Fund, over 10 years $.54 per hour to Vacation Fund

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DECISION NO. CA80-5117 Page 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$ 9.98	$1.05	$2.55	.95	.12
Group 2	9.13	1.05	2.55	.95	.12
Group 3	9.33	1.05	2.55	.95	.12
Group 4	9.48	1.05	2.55	.95	.12
Group 5	9.63	1.05	2.55	.95	.12
(GUNNITE)					
Group 1	10.72	1.25	2.55	.95	
Group 2	10.22	1.25	2.55	.95	
Group 3	9.26	1.25	2.55	.95	
(TUNNEL)					
Group 1	10.98	1.25	2.55	.95	
Group 2	11.01	1.25	2.55	.95	
Group 3	11.17	1.25	2.55	.95	
Group 4	11.45	1.25	2.55	.95	

DECISION NO. CA80-5117 Page 14

LABORERS

Group 1: Cleaning and Handling of Panels Forms; Concrete Screeding for rough strike-off; Concrete, water curing; Demolition Laborer, the cleaning of brick and lumber; Dry Packing of concrete, plugging, filling of Shee-bolt Holes; Fire Watcher, Limber, Brush Loaders, Pilers and Debris Handlers; Flagman; Gas, Oil and/or Water Pipeline Laborer; Laborer, general or construction; Laborer, general cleanup; Laborer, landscaping; Laborer, jetting, temporary water and air lines; Mateiral Hoiseman (walls, slabs, floors and decks); Rigging and Signaling; Scaler; Slip Form Raisers; Slurry Seal Crews (Mixer Operator, Applicator Operator, Squeegee Man, Shuttle Man, Top Man); Striper, concrete or other paved surfaces; Tarman and Mortar Man; Tool Crib or Tool House Laborer; Traffic Delineating Device Applicator; Window Cleaner; Wire Mesh, pulling all concrete pouring operations

Group 2: Asphalt Shoveler; Cement Dumper (on 1 yard or larger Mixer and handling bulk cement); Cesspool Digger and Installer, Chucktender; Chute Man, pouring concrete, the handling of the Chute from Ready Mix Trucks, such as walls, slabs, decks, floors, foundations, footings, curb, gutters and sideqlaks; Concrete Curer, Impervious Membrane and Form Oiler; CuttingTorch Operator (demolition); Fine Grader, highways and strmet paving, airport, runways, and similar type heavy construction; Gas, Oil and/or Water Pipeline Wrapper, Pot Tender and Form Man; Guineau Chaser; Headerboard Man, asphalt; Laborer, packing rod steel and pans; Power Broom Sweepers (small); Riprap Stonepaver, placing stone or wet sacked concrete; Roto Scraper and Tiller; Sandblaster (Pot Tender); Septic Tank\Digger and Installer (Leadman); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders; Underground Laborer, including Caisson Bellower

Group 3: Asphalt Raker, Luteman, Ironer and Asphalt Spreader Boxes (all types); Buggymobile Man; Concrete Core Cutter, Grinder or Sander; Concrete Cutting Torch; Concrete Saw Man, cutting, scouring old or new concrete; Driller, Jackhammer, 2½ ft. drill steel or longer; Dri Pak-it Machine; Gas, Oil and/or Water Pipeline Wrapper, 6" pipe and over, by any method, inside and out; Hydro Seeder and similar type; Impact Wrench, Mutli-plate; Kettlemen, Potmen and Men applying asphakt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operators of pneumatic, gas, electric tools, Vibrating Machines, Pavement Breakers, Air Balsting, Come-alongs, and similar mechanical tools not seperately classified herein; Pipelayer's Backup Man, coating, grouting, making of joints, sealing, caulking, diapering and including Rubber Gasket Joints, pointing and any and all other services; Rovk Slinger; Rotary Scarificer or Multiple Head Concrete Chipping Scafifier; Steel Headerboard Man and Guideline Setter; Tampers, Barko, Wacker and similar type; Trenching Machine, ahnd propelled

DECISION NO. CA80-5117 Page 15

LABORERS (Cont'd)

Group 4: Cribber, Shorer, Lagging, Sheeting and Trench Bracing, Hand-guided Lagging Hammer; Head Rock Slinger; Laser Beam; Oversize Concrete Vibrator Operator, 70 lbs. and over; Pipelayer, including water, sewage, solid, gas or air; Prefabricated Manhole Installer; Sandblaster (Nozzleman), water blasting; Welding in connection with Laborers' work

Group 5: Blasters Powderman, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding Jackhammer, whether Core, Diamond, Wagon, Track, Multiple Unit, and any and all types of mechanical drills

(GUNNITE)

Group 1: Nozzlemen and Rodmen

Group 2: Gunmen

Group 3: Reboundmen

(TUNNEL)

Group 1: Batch Plant Laborers; Bull Gang Mucker, Trackman; Concrete Crew, including Rodders and Spreaders; Changehouseman; Dumpman; Dumpman (outside); Swamper (Brakeman and Switchman on tunnel work); Tunnel materials handling man; Tool Man

Group 2: Cable Tender; Chuck Tender; Nipper; Steel Form Raiser and Setter's Helper; Vibratorman, Jackhammer, pneumatic tools (except Driller); Loading and unloading Agitator Cars; Pot Tender, using mastic or other materials

Group 3: Balster, Driller, Powderman; Chemical Grout Jetman; Cherry Pickerman; Grout Gunman; Grout Mixerman; Grout Pumpman; Jackleg Miner; Jumbo Man; Kemper and other pneumatic concrete placer Operator; Miner, tunnel (hand or machine); Powderman (Primer House); Primer Man; Shotcrete Man; Steel Form Raiser and Setter; Timberman; Retimber (wood or steel); Tunnel Concrete Finisher; Nozzleman; Operating Troweling and/or Grouting Machine; Sandblaster

Group 4: Shaft, Raise Miner; Diamond Driller

DECISION NO. CA80-5117 Page 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: DREDGING (Hydraulic Suction Dredges)					
LEVERMAN	$11.60	.95	$2.00	.50	.04
WATCH ENGINEER; Welder	11.02	.95	2.00	.50	.04
DECKMATE	10.54	.95	2.00	.50	.04
WINCHMAN (Stern Winch or Dredge)	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	9.93	.95	2.00	.50	.04
(Clamshell Dredges)					
LEVERMAN	11.60	.95	2.00	.50	.04
WATCH ENGINEER	11.02	.95	2.00	.50	.04
DECKMATE	10.54	.95	2.00	.50	.04
BARGE MATE	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler	9.93	.95	2.00	.50	.04
POWER EQUIPMENT OPERATORS:					
Group 1	11.80	1.10	2.00	.85	.14
Group 2	11.88	1.10	2.00	.85	.14
Group 3	12.17	1.10	2.00	.85	.14
Group 4	12.31	1.10	2.00	.85	.14
Group 5	12.53	1.10	2.00	.85	.14
Group 6	12.64	1.10	2.00	.85	.14
Group 7	12.76	1.10	2.00	.85	.14
Group 8	12.93	1.10	2.00	.85	.14
Group 9	13.06	1.10	2.00	.85	.14

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POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman; Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type, Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader, wheel type up to 3/4 yard without attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Raidoman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (aspahlt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and inlcidung 10 tons); Equipment Greaser (Greaser Truck); Helicopter Hoist; Highline Cableway Singlaman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yard); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oilfield type); Drilling Machine Operator (including water wells); Forklift (under 5 ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanic Berm, Curb or Gutter (aspahlt or concrete); Mechanical Finisher (concrete-Clary, Johnson, Bidwell, or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Skiploader (Crawler and wheel type, over 3/4 yard and up to and including 1½ yards); Stinger Crane (Austin-Western or similar type); Tractor, Bulldozer, Tamper Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist, 1 drum; Tunnel Locomotive (over 10 tna up to and including 30 tons); Welder-general

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (Gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity) (Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtborg and similar types); Loader (Athey-Euclid, Sierra and similar type); Mateiral Hoist; Mucking Machine (1/4 yard rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired Earth Moving Equipment (single engine, Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments, over 25 yards struck); Rubber-tired Scraper (self-loading paddle wheel type, John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type, over 1½ yards, up to and including 6½ yards); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar); Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boot attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yards m.r.c.) (Long boom pay applicable); Self-propelled Curb and Gutter Machine

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (Long boom pay applicable); Derrick Barge (Long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman, welder combination; Hoist, Sitff-legs, Guy Derrick or similar type, up to and including 100 tons (Long Boom pay applicable); Monorail Locomotive (diesel gas or electric); Motor Patrol-blade Operator (single engine); Mu-Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yards struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar)(over 25 yards and up to 5 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r.c.) (Long Boom pay applicable); Tower Crane Repairman; Tractor Loader (Crawler and wheel type, over 6½ yards); Welder, certified; Woods Mixer and similar Pugmill Equipment

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (Long boom pay applicable); Hoist, Stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more)(Long boom applicable); Mass Excavator, less than 750 cu. yards; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar type, over 50 cu. yards struck); Rubber-tired Self-loading Scraper (paddle wheel, auger type self-loading, 2 or more units); Rubber-tired Scraper, pushing one another without Push Cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment ($1.00 per hour additional to bmse rmte); Wheel Excavator (over 750 cu. yard)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.52	$1.25	.75	$1.10	.10
Group 2	9.60	1.25	.75	1.10	.10
Group 3	9.66	1.25	.75	1.10	.10
Group 4	9.75	1.25	.75	1.10	.10
Group 5	9.78	1.25	.75	1.10	.10
Group 6	9.80	1.25	.75	1.10	.10
Group 7	9.84	1.25	.75	1.10	.10
Group 8	9.85	1.25	.75	1.10	.10
Group 9	9.90	1.25	.75	1.10	.10
Group 10	9.93	1.25	.75	1.10	.10
Group 11	9.98	1.25	.75	1.10	.10
Group 12	10.00	1.25	.75	1.10	.10
Group 13	10.05	1.25	.75	1.10	.10
Group 14	10.30	1.25	.75	1.10	.10
Group 15	10.55	1.25	.75	1.10	.10
Group 16	10.65	1.25	.75	1.10	.10
Group 17	10.75	1.25	.75	1.10	.10
Group 18	11.05	1.25	.75	1.10	.10
Group 19	11.55	1.25	.75	1.10	.10

DECISION NO. CA80-5117 Page 21

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver of vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck including Winch, but limited to truck applicable to Pipeline and Untility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50¢ per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame of Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All Off-highway Equipment within Teamsters' jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

Group 17: Low Bed Driver, 9 axle or over

Group 18: Water Pull, single engine with attachments

Group 19: Water Pull, twin engine with attachments

SUPERSEDEAS DECISION

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NUMBER: IN80-2016 DATE: Date of Publication
Supersedes Decision No. IN79-2002 dated January 26, 1979, in 44 FR 5606
DESCRIPTION OF WORK: Building Construction (Does not include Single Family Homes and Apartments up to and Including 4 Stories).

*Adams, Allen, Bartholomew, Benton, Blackford, Boone, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Adams, Allen, Blackford, Clinton, DeKalb, Grant, Huntington, Jay, Miami, Noble, Steuben, Wabash, & Wells Cos.	$13.80	.55	1.25		
Cass, Fulton, & White Cos.	13.44	.70	.90		
Remaining Cos.	13.65	.50	1.20		
BOILERMAKERS	14.25	1.275	1.00		.03
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	12.21	.57	.50		.02
Bartholomew & Monroe Cos.	11.05	.50	.30		.01
Benton, Clinton, Fountain, Tippecanoe, Warren, & White Cos.	11.99	.48	.60		.02
Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos.	11.85	.50	.75		.01
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, Morgan & Shelby Cos.	13.04	.60	.55		.08
Cass & Fulton Cos.	11.10	1.00	.40		
Grant & Wabash Cos.	11.33	.85	.60		
Howard & Maimi Cos.	11.08	.95	1.00		.05
CARPENTERS: Millwrights; Piledrivermen & Soft Floor Layers:					
Adams, Cass, Fulton, Grant, Howard, Huntington, Miami, Tipton, Wabash, & Wells Cos.:					
Carpenters; Soft Floor Layers	12.23	.80	.60		.05
Millwrights	12.73	.80	.60		.05
Piledrivermen	12.43	.80	.60		.05

Page 2

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Allen, DeKalb, Noble, Steuben, & Whiley Cos.:					
Carpenters; Soft Floor Layers	11.29	.70	6%		.02
Millwrights; Piledrivermen	11.69	.70	6%		.02
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (excl. Edinburgh), Marion, Montgomery, Morgan (Excl. Twps. of Washington & Baker), Shelby (Camp Atterbury Area, Moral, & Van Buren Twps.), & Warren Cos.:					
Carpenters; Millwrights	13.15	.75	.85		.08
Bartholomew (Rem. of Co.) Johnson (Edinburgh), & Shelby (Rem. of Co.) Cos.:					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Burners; & Welders	10.74	.55	.65		.03
Benton, Clintron, Tippecanoe, & White Cos.:					
Carpenters; Soft Floor Layers	11.91	.60	.75		.02
Millwrights; Piledrivermen	12.20	.60	.75		.02
Blackford, Delaware, Jay, & Madison Cos.:					
Carpenters; Soft Floor Layers	11.63	.65	.50		.10
Millwrights	11.93	.65	.50		.10
Piledrivermen	11.83	.65	.50		.10
Monroe, Morgan (Twps. of Washington & Baker) Cos.:					
Carpenters; Soft Floor Layers	12.10	.72	.60		.01
Piledrivermen	12.35	.72	.60		.01
Millwrights	12.85	.77	.64		.01

Page 3

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Adams, Allen, DeKalb, Noble, Steuben, & Whitley Cos.	10.05	.70	.00		.02
Bartholomew & Shelby Cos.	11.00				
Benton, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Warren, & White Cos.	10.70	.00	.75		
Blackford, Delaware, Grant, Huntington, Jay, Wabash, & Wells Cos.	10.75	.60	.80		
Boone, Hamilton (S. ½ of Cos., N. to New Rte. Indiana Hwy. #32 incl. Noblesville), Hancock (Southern & Western part of Co. N. to but not incl. Town of Wilkinson, & E. to, but not incl. Town of Fortville), Hendricks, Johnson, Marion, Morgan, (N½), & Shelby (ending at Pleasant View) Cos.	11.16	.75	.75		.04
Fulton County	11.23	.85	.80		.04
Hamilton (N½), Hancock (E½), Madison, & Tiptom Cos.	11.06	.65	.50		.00
ELECTRICIANS:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	13.05	.55	3%+.50		.00
Bartholomew, Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Montgomery, Morgan, & Shelby Cos.	13.70	4%	7%		1%
Benton, Cass, Fulton, Tippecanoe, & White Cos.	12.80	.55	3%+.50		1%
Blackford, Delaware, & Jay Cos.	12.00	.55	3%+.30		.2%
Clinton, Grant, Howard, Miami, Tipton, & Wabash Cos.	12.60	.55	3%+.50		.2%
Fountain & Warren Cos.	13.17	.50	3%+.50		.25%
Monroe Co.	12.85	.55	3%+.70		.01

UMI 0 8 3 2 M Y 5 4 V

Page 4

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
Adams, Allen, Blackford, DeKalb, Grant, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Cos.	12.33	.745	.56	a+b	.035
Cass & Fulton Cos.	12.37	.745	.56	a+b	.035
Remaining Counties	12.79	.745	.56	a+b	.035
GLAZIERS:					
Adams, Allen, Blackford, Cass, DeKalb, Grant, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells, & Whitley Cos.	11.39		.25	.40+c	.04
Benton (E. of Rte. #41, S. to Gravel Hill), & White (NW of Rte. #39) Cos.	12.40	.70	.50		
Remaining Counties	14.19				
IRONWORKERS:					
Adams, Allen, Blackford, DeKalb, Delaware (Northeastern 1/3 of Co.), Grant (Excluding Southwestern portion), Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Cos.	12.35	1.00	1.70		.02
Bartholomew, Boone (excl. NW ¼), Clinton (E½), Delaware (S 2/3 of Co.), Grant (SW portion), Hamilton, Hancock, Hendricks, Howard, Johnson, Madison, Monroe, Morgan, Shelby, & Tipton (excl. NW ¼) Cos.	12.25	1.00	1.95		.05
Benton, Boone (NW ¼), Cass, Clinton (Rem. of Co.), Fountain, Miami, Montgomery, Tippecanoe, Tipton, (NW ¼) Warren & White Cos.	12.24	1.00	1.65		.02
Fulton County	11.95	1.00	1.98		.03
Marion county	12.10	1.00	1.95		.05
LATHERS:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley (except W. of #5) Cos.	10.94		.50		.01

Page 5

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bartholomew, Boone (SE ¼), Hamilton, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, & Shelby Cos.	11.04	.61	.45		.04
Benton, Cass, Clinton, Howard, Montgomery, Tippecanoe, Warren, & White Cos.	11.29	.55	.35		.01
Blackford, Delaware, Grant, Hancock, & Jay Cos.	10.50		.55		.01
Fountain County	11.99	.45	.50		.01
MARBLE SETTERS; Terrazzo Workers; & Tile Setters:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.:					
Marble Setters	12.21	.57	.50		.02
Terrazzo Workers & Tile Setters	10.80				
Bartholomew & Monroe Cos.	12.05	.50	.30		.02
Benton, Clinton, Fountain, Tippecanoe, Warren, & White Cos.	11.99	.48	.60		.02
Blackford, Delaware, Hamilton, Jay, Madison & Tipton Cos.:					
Tile Setters	11.60	.50	.75		.01
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, & Morgan Cos.:					
Marble Setters; Tile Setters	12.61	.50	.55		.04
Terrazzo Workers	12.35	.50	.55		.03
Cass & Fulton Cos.	10.49	1.00	.90	d	.02
Grant & Wabash Cos.	11.33	.85	.60		
Howard & Miami Cos.	11.08	.95	1.00		.05
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Adams, Bartholomew, Blackford, Boone, Clinton, Delaware, Fountain, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson,					

Page 6

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Madison, Marion, Monroe, Montgomery, Morgan, Tippecanoe, Tipton, Wabash, & Wells Cos.:					
Marble Setters' Finishers & Tile Setters Finishers	10.65				
Terrazzo Workers' Finishers	10.95				
PAINTERS:					
Adams, Allen, DeKalb, Grant, Huntington, Noble, Steuben, Wabash, Wells (N ½ to & Incl. Bluffton), & Whitley Cos.:					
Brush; Roller; Paperhangers; & Tapers	9.90	.60	.85		.12
Spray; Sandblasters; Steamcleaning & Pressure Water Blasting	10.90	.60	.85		.12
Bartholomew County:					
Brush; Drywall Taping & Finishing; & Rollers	9.45		.50		
Sandblasting; Spray; Swing Stage	10.45		.50		
Benton, Clinton, Fountain, Montgomery, Tippecanoe & Warren Cos.:					
Brush; Drywall Tapers & Finishers; Roller; Wall Covering Applicators	11.25	.70			
Structural Steel	11.50	.70			
Sandblasting	12.25	.70			
Spray	14.52	.70			
Blackford, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, & Wells (to the So. City Limits of Bluffton) Cos.:					
Brush; Taping	10.80		.80		
Pressure Cleaning Equipment; Sandblasting; Spray	11.80		.80		

Page 7

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boone, Hamilton, Hancock Hendricks, Johnson, Marion, Morgan (N ½), & Shelby Cos.:					
Brush; Rollers; Drywall Tapers & Finishers	11.24	.78	.48		
Sandblasters; Spray	12.24	.78	.48		
Monroe, Morgan (To The Northern limits of Martinsville) Cos.:					
Brush; Drywall; Vinyl; Paperhanging; & Roller	8.90			.30	
Structural Steel; Stage & Hazardous Work; Scaffold	9.65		.30		
Sandblasting; Spray & Epoxy Brush	9.90			.30	
Spray Epoxy	10.90			.30	
White Co.:					
Brush	11.60	.79	.60		.05
Sandblasting; Spray	12.35	.79	.60		.05
Drywall Taping	12.65	.79	.60		.05
Vinyl Paperhanging	11.85	.79	.60		.05
PLASTERERS:					
Adams, Allen, DeKalb, Noble, Steuben, & Whitley Cos.	11.23	.60	.80		
Bartholomew & Shelby Cos.	11.00				
Benton (Eastern 2/3 West to & incl. (Eastern 2/3 West to & incl. Boswell, Earl Parke, & Raub), Cass, Clinton, Fountain (W. to & Incl. Attica, in the North & West to, but not incl. Veedersburg in the South), Howard, Miami, Montgomery, Tippecanoe, Warren (E ½ West to but not Incl. Judyville, So. to & Incl. Kramer), & White Cos.	11.35	.70			.02
Blackford, Delaware, Grant, Huntington, Jay, Wabash, & Wells Cos.	11.45	.75			.01

Page 8

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Boone, Hamilton (So. ¼ No. to New Indiana Rte. #32), Hancock (S. & Western part No. to State Rd. #234 & E. to Co. Rd. #300 - W), Hendricks, Johnson, Marion, Morgan (N½), & Shelby Cos.	11.83	.80		.01	
Monroe County	12.05	.50	.30		.02
Hamilton (No. ½), Hancock (No. part), Madison, & Tipton Cos.	10.78	.85	.50		.01
PLUMBERS; Steamfitters:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	13.75	.55	.90		.07
Bartholomew (exclu. Camp Atterbury) Co.	13.76	.60	.60		.05
Bartholomew (Camp Atterbury), Boone, Hamilton, Hancock, Hendricks, Howard, Johnson, Marion, Miami, (So. of Rte #218), Morgan, Shelby, & Tipton Cos.	13.50	.60	1.10		.04
Benton, Clinton, Fountain, Montgomery, Tippecanoe Warren, & White Cos.	13.85	.60	1.00		.10
Blackford, Grant, & Wabash Cos.	13.50	.60	.95		.15
Cass, Fulton, Miami (No. of Hwy. #218), Cos.	13.58	.75	.95		.10
Delaware, Jay, Madison Cos.	13.60	.60	.95	e	.15
Monroe County	13.60	.60	1.00		.15
ROOFERS:					
Adams, Allen, DeKalb, Noble, Steuben, Wells, & Whitley Cos.	10.90		.10		
Bartholomew, Boone, Hancock, Hendricks, Johnson, Marion, Monroe, Morgan, & Shelby Cos.:					
Composition & Waterproof	12.50	.65	.50		
Slate, Tile, Asbestos & Precast Slab	12.75	.65	.50		

Page 9

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Benton, Cass, Clinton, Fountain, Montgomery, Tippecanoe, Warren & White Cos.:					
Composition, Damp & Waterproof	12.20	.60	.38		
Slate, Tile, & Asbestos	12.45	.60	.38		
Blackford, Delaware, Grant, Hamilton, Howard, Huntington, Jay, Madison, Madison, Miami, Tipton, & Wabash Cos.:					
Slate, Tile, & Asbestos; Composition Damp & Wasterproof	11.25	.55	.30		
Coal Tar Pitch	12.00	.55	.30		
Fulton County:					
Composition, Damp & Waterproof	11.75	.55	.50		.03
Slate, Tile & Asbestos	12.25	.55	.50		.03
SHEET METAL WORKERS:					
Adams, Allen, Blackford, Cass, DeKalb, Grant, Howard, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells & Whitley Cos.	13.06	.50+f	.60		.12
Bartholomew, Boone, Delaware, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, Shelby, & Tipton Cos.	12.93	.65+f	.80		.12
Benton, Clinton, Fountain, Montgomery, Tippecanoe, Warren, & White Cos.	12.58	.70+f	.55		.07
Fulton County	12.88	.75	.615		.07
SPRINKLER FITTERS	13.33	.75	1.05		.08

Page 10

DECISION NO. IN80-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Benton, Cass, Clinton Fountain, Howard, Miami, Montgomery, Tippecanoe, Tipton, Wabash, Warren, & White Cos.:					
Pickups when Hauling Equipment, Etc.	11.23	20.00g	34.00g	h+i	
Tenders; Greaser; Tiremen	11.33	20.00g	34.00g	h+i	
Single Axle-Straight Trucks	11.38	20.00g	34.00g	h+i	
Tandem Axle Dogleg Straight Trucks	8.38	20.00g	34.00g	h+i	
Bituminous Distributors	8.53	20.00g	34.00g	h+i	
Tri-Axles; Semis; Mechanics	11.68	20.00g	34.00g	h+i	

Page 11

DECISION NO. IN80-2016

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Indpendence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 7 Paid Holidays: A through F, & Day after Thanksgiving Day
b. Employer Contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 6% for employee who has worked in business less than 5 years.
c. 6 Paid Holidays: A through F, provided such employees work the last scheduled day prior to and the next scheduled work day after the holiday unless permission for not working on such days is granted by the employer.
d. 6 Paid Holidays: A through F
e. 2 Paid Holidays: C & D
f. 3% of gross earnings to SASMI
g. Per week per employee
h. One week's paid vacation after one year's employment; two weeks' paid vacation after three years' employment; three weeks' paid vacation after ten years' employment
i. 6 Paid Holidays: A through F

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DECISION NO. IN80-2016

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Benton, Boone, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Tipton, & White Cos.:					
GROUP I	9.15	.85	.75		.09
GROUP II	9.35	.85	.75		.09
GROUP III	9.45	.85	.75		.09
GROUP IV	10.15	.85	.75		.09
Bartholomew, Fountain, Hendricks, Johnson, Monroe, Morgan, & Warren Cos.:					
GROUP I	9.30	.85	.75		.09
GROUP II	9.50	.85	.75		.09
GROUP III	9.60	.85	.75		.09
GROUP IV	10.30	.85	.75		.09
Blackford, Delaware, Grant, Hamilton, Hancock, Jay, & Madison Cos.:					
GROUP I	8.90	.85	.75		.09
GROUP II	9.10	.85	.75		.09
GROUP III	9.20	.85	.75		.09
GROUP IV	9.90	.85	.75		.09
Marion & Shelby Cos.:					
GROUP I	9.50	.85	.75		.09
GROUP II	9.70	.85	.75		.09
GROUP III	9.80	.85	.75		.09
GROUP IV	10.50	.85	.75		.09

DECISION NO. IN80-2016

GROUP I - Building & Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Civil Engineer Tenders & Surveyor Tenders; Rodmen & Chainmen; Window Washers & Cleaners; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Carpenter Tenders; Tenders of all other Crafts not Listed; Mason Tenders for Areas I, IA, IB; All Portable Water Pumps with discharge up to 3 inches.

GROUP II - Waterproofing; Handling of Creosote Lumber or Like Treated Material (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen, Air Tool Operators, Vibrator, Chipping Hammer Operators and All Pneumatic Tool Operators; Earth Compactors; Jackmen & Sheetmen Working Ditches Deeper than 6 ft. in Depth; Laborers Working Ditches 6 ft. in depth or deeper; Assembly of Unicrete Pump; Chain Saw Operators; Tile Layers (sewer or field) & Sewer Pipe Layers (metallic or non-metallic); Motor Driven Wheelbarrows & Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Conveyor Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Operators; Water Main & Cable Ducking (metallic & non-metallic)

GROUP III - Plasterers' Tenders; Mason Tenders, Except for Areas I, IA, IB; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when Working for Plasterers; Scaffold Builders when Working for Masons (except in Areas, I, IA, IB)

GROUP IV - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

DECISION NO. IN80-2018

LABORERS Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley, Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	8.95	.70	.70		.09
GROUP II	8.75	.70	.70		.09
GROUP III	8.85	.70	.70		.09
GROUP IV	9.55	.70	.70		.09

GROUP I - Building & Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Civil Engineer Tenders & Surveyor Tenders; Rodmen & Chainmen; Window Washers & Cleaners; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Carpenter Tenders; Tenders of All other Crafts not Listed; Mason Tenders; All Portable Water Pumps With Discharge Up to 3 Inches

GROUP II - Waterproofing; Handling of Creosote Lumber or Like Treated Material (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators; Vibrators; Chipping Hammer Operators and All Pneaumatic Tool Operators; Earth Compactors; Jackmen & Sheetmen Working Ditches Deeper than 6 ft. in Depth; Laborers Working Ditches 6 ft. in Depth or Deeper; Assembly of Unicrete Pump; Chain Saw & Demolition Saw Operators; Tile Layers (sewer or field) & Sewer Pipe Layers (metallic or non-metallic); Motor Driven Wheelbarrows & Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Conveyor Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Operators; Water Main & Cable Ducking (metallic non-metallic); Screed Man or Screw Op. on Asphalt Paver

GROUP III - Plasterers' Tenders; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when Working for Plasterers

GROUP IV - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

DECISION NO. IN80-2016

POWER EQUIPMENT OPERATORS: Adams, Allen, Benton, Blackford, Cass, Clinton, DeKalb, Delaware, Grant, Hamilton, Hancock, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Wells, White, & Whitley Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.50	.75	.65		.10
GROUP 2	11.55	.75	.65		.10
GROUP 3	9.45	.75	.65		.10
GROUP 4	8.35	.75	.65		.10

CLASSIFICATIONS

GROUP 1 - Air Compressor (pressurizing shafts, tunnels and divers); Air Tugger; Auto Patrol; Backfiller; Backhoe; Boom Cat; Boring Machine; Bulldozer; Caisson Drilling Machine; Cherry Picker; Compactor (w/dozer blade) Concrete Plant; Concrete Pump; Crane w/all attachments; Crane-Electric Overhead; Derrick; Ditching Machine (18" and over); Dredge; Elevator (when hoisting material or tool); Forklift (machinery); Formless Paver; Generator (power for welders or compressors); Gradall; Helicopter; Helicopter Winch Operator; Highlift-Front End Loader; Hoist; Locomotive; Machine (C.M.I. or similar tower crane); Mechanic on Job Site; Mucking Machine; Panel Board, Concrete Plant; Piledriver; Push Cat; Scoop and Tractor; Scraper-rubber-tired; Spreader-Tractor Mounted; Straddle Carrier-Ross Type; Sub Base Finish; Tractor w/Backhoe (over ½ yd.); Welder

GROUP 2 - A- Frame Truck; Batcher Plant (automatic dry batch); Bending Machine-Power Driven; Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Boatman; Bullfloat; Compactor or Tamper-Self-propelled; Concrete Mixer (21 cu. ft. or over); Concrete Spreader-Power Driven; Dinkey Engine; Ditching Machine (less than 18"); Drilling Machine Finish Machine and Bullfloat; Finishing Machine; Piledriving and Boilers; Forklift-Masonry and Material; Gunnite Machine; Head Greaser; Mesh Depresser-Mesh Placer; P.C.C.-Concrete Belt Placer; Roller-Asphalt Stone and Sub-Base; Sheepstone Roller Self-Propelled; Spreader or Base Paver-Self-Propelled; Subgrader; Throttle Valve w/air Compressor or Boiler; Tractor w/Backhoe (½ yard and under); Tractor-High Lift-Farm-Type; Tractor-Industrial Type; Tractor w/Winch; Well Points; Winch Truck

UMI 0 8 3 2 Y M 5 4 V

DECISION NO. IN80-2016

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Air Compressor (210 cu. ft. and over); Bituminous Distributor; Chair Cart; Concrete Curing Machine; Concrete Saw; Dope Pot-Power Agitated; Flexplane; Form Grader; Hydrohammer; Jacks-Hydraulic-Power Driven; Minor Equipment Operator; Paving Joint Machine; Post Hole Digger; Roller-Earth; Throttle Valve; Track Jack-Power Driven; Tractor-Farm Type; Truck Crane Driver.

GROUP 4 - Air Compressor (less than 210 cu. ft.); Concrete Mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical Heater; Oiler; Power Broom Pump; Tenders; & Welding Machines

DECISION NO. IN80-2016

POWER EQUIPMENT OPERATORS: Boone, Fountain, Henricks, Monroe, Montgomery, Morgan, & Warren Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr
GROUP I	13.15	.55	.75		.08
GROUP II	13.05	.55	.75		.08
GROUP III	12.85	.55	.75		.08
GROUP IV	8.00	.55	.75		.08

CLASSIFICATIONS

GROUP I - Master Mechanics

GROUP II - Utility Operator

GROUP III - Power Cranes; Draglines; Derricks; Electric Overhead Cranes; Shovels: Gradall; Mechanics; Repair and Maintenance of all Equipment Tractor Highlift; Fork Lifts; Tournadozer; Mixer over 14S Capacity: Tournamixer; Two Drum Machine or Two Cage Hoists; Cableways; Tower Machines; Motor Patrol; Boom Tractor; Boom or Winch Truck; Truck Crane; Tournapull; Tractor Operating Scoops; Bulldozer; Push Tractor; Finishing Machine on Asphalt; Large Rollers & Rollers on Asphalt; Gravel; Macadam and Brick Surface; Ross Carrier or Similar Machine; Gravel Processing Machine; Asphalt Plant Engineer or Pug Mill; Two Air Compressors; Hetherington Paver Operator; Farm Tractor with Half Yard Bucket and/or Back Hoe Attachment; Trench Machines Cutting 24"; Dredging Equipment; Central Mix Plant Engineer; CMI or Similar Type Machine; Concrete Spreader; Cherry Picker; Standard or Dinkey Locomotives; Scoopmobiles; Euclid Loader; Soil Cement Machines; Back Filler; Elevating Machine; Power Blade; Asphalt Plant Engineer; Well Drilling Machines; Paint Machine; Pipe Cleaning Machines; Pipe Wrapping Machine; Pipe Bending Machine; Apsco Paver; Boring Machine; Tractor Without; Head Equipment Greasers; Barber Green Loaders; Formless Paver; Well Point System Hydra Ax; Resco Concrete Saw; Marine Scoopes; Brush Mulcher; Brush Burner; Mesh Placer; Tree Mover; Helicopter Crew (3); Pile Driver Skid or Crawler; Stump Remover; Root Rake; Tug Boat Operator; Refrigerating Machine Freezing Operator Chair Cart-Self Propelled; Hydra Seeder; Straw Blower; Concrete Mixers with Skip; all one Drum Hoists with Tower or Boom; Dredge Engineer; Dredge Operator; Rock Spreader; truck or Skid Mounted Tower Crane; Engine or Rock Crusher Plant; Boiler Operator; Concrete Plant Engineer; Loaders; Hydra Crane Caissons; Shaft or any Similar Type Drilling Machine; Concrete Curb Machine - Self Propelled Winch or Hydraulic Boom Truck

DECISION NO. IN80-2016

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP IV - Mixers 14S Capacity or less; Trench Machine Cutting 24" and Under; Farm Tractor with less than Half Yard Bucket and other Attachments Except Back Hoe; Truck Crane Oiler; Power Subgrader; Bull Float; Form Grader; Finishing Machine; Pavement Breaker; Rock Crushers; One Drum Machine; One Air Compressor; Concrete Pump; Gunite Machine; Air Tuggers; Truck Crane Drivers; House Elevators when used for Hoisting Material; Two to Four Generators or Welding Machine; Mechanized Heaters Irrespective of Motor Power when Used for, Temporary Heat; Small Rollers on Earth; Engine Tenders; Firemen; Wagon Drill; Flexplane; Conveyor Two to Four Water Pumps; Siphon and Pulsometer; Distributor Operator on Trucks; Tampers; Power Broom; Post Hole Digger; Self-propelled Concrete Saw; Striping Machine (Motor Driven); Form Tamper; Seaman Tiller; Bulk Cement Plant Equipment Greaser; Track Jack; Mud Jack; Concrete Buggies Motor Driven Oilers; Barrel Type Mixer; One Welding Machine or One Water Pump; Air Valves or Steam Valves from Plant; Concrete Mixers without Skip; Curing Machine; Concrete & Blacktop Curb Machine; Deck Hands

Cranes with Booms from 149 ft. to 199 ft. Including Jib Receive Additional $.75 Per Hour
Cranes with Boom over 199 ft. Including Jib Receive Additional $1.25 Per Hour

DECISION NO. IN80-2016

TRUCK DRIVERS

Bartholomew, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison, & Monroe Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.65	35.05a	23.00a	b&c	
GROUP 2	9.70	35.50a	23.00a	b&c	
GROUP 3	9.75	35.50a	23.00a	b&c	
GROUP 4	9.80	35.50a	23.00a	b&c	
GROUP 5	9.85	35.50a	23.00a	b&c	
GROUP 6	9.90	35.50a	23.00a	b&c	
GROUP 7	10.00	35.50a	23.00a	b&c	
GROUP 8	10.05	35.50a	23.00a	b&c	
GROUP 9	10.10	35.50a	23.00a	b&c	
GROUP 10	10.15	35.50a	23.00a	b&c	
GROUP 11	10.30	35.50a	23.00a	b&c	

GROUP 1 - Air Compressors and Welding Machines, Incl. those Pulled by Cars, Pickup Trucks, Tractors, & Fork Lifts; Dumpsters; & Lowboy Tenders
GROUP 2 - Mixers 2 yds.
GROUP 3 - Mechanic Tenders and Greasers
GROUP 4 - Batch Trucks Wet or Dry 3 Batches or Under
GROUP 5 - Mixers 3 yds.; Oil Distributors; Tandem Axles, Incl. Dog Legs; & Winch Trucks
GROUP 6 - Batch Truck Wet or Dry or Dry Over 3 Batches; Pavement Breakers; & Single Axle Semi Trucks
GROUP 7 - Mechanics; Mixers 4 yds.; Tandem-Axle Semi- Trucks; & Tack-o-Trucks, Euclids, Tournapull when Pulling Other than Self-Loading Equipment Up to and Incl. 10 yds.
GROUP 8 - Tri-Axles
GROUP 9 - Low Boys; Tandem - Tandem Axle Semi-Trucks
GROUP 10 - Mixers Above 4 Yds.; & Trac-o-Trucks, Euclids, Tournapulls When Pulling Other than Self-Loading Equipment 11 yds. to and Incl. 16 yds.
GROUP 11 - Helicopter Pilot; Trac-o-Trucks, Euclids, Tournapulls when Pulling Other Shan self-Loading Equipment over 16 yds.

DECISION NO. IN80-2016

FOOTNOTES:

a. Per week per employee

b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.

c. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NUMBER: IN80-2021 DATE: Date of Publication
Supersedes Decision No. IN79-2003 dated January 26, 1979 in 44 FR 5614
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

BROWN, CLARK, CRAWFORD, DEARBORN, DECATUR, FAYETTE, FLOYD, FRANKLIN, HARRISON, HENRY, JACKSON, JEFFERSON, JENNINGS, LAWRENCE, OHIO, ORANGE, RANDOLPH, RIPLEY, RUSH, SCOTT, SWITZERLAND, UNION, WASHINGTON, & WAYNE, COS.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS:					
Brown, Decatur, Henry, & Rush Cos.	$13.65	.50	1.20		
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, & Union Cos.	14.01	.75	1.25		.02
Randolph and Wayne Cos.	12.87	.55	1.50		.02
Remaining Cos.	12.85	.60	1.00		
BOILERMAKERS:					
Brown, Crawford, Decatur, Fayette, Franklin, Henry, Jackson, Jennings, Lawrence, Ohio, Orange, Randolph, Ripley, Rush, Union, Washington, & Wayne Cos.	14.25	1.275	1.00		.03
Remaining Cos.	11.70	1.275	1.20	1.50	.04
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons:					
Brown, Jackson, & Jennings	12.05	.50	.30		.02
Clark, Floyd, & Harrison Cos.	11.44	.50	.40		.01
Crawford Co.	11.78	1.00	.75		
Dearborn, Decatur & Ripley Cos.	11.00		.30		
Fayette, Franklin, Rush, Union & Wayne Cos.	11.76	.80	.55		
Henry & Randolph Cos.	11.85	.50	.75		.01
Jefferson, Ohio, Scott & Switzerland Cos.	10.75				
Lawrence, Orange & Washington Cos.	12.79				
CARPENTERS; Millwrights; Piledrivermen & Soft Floor Layers:					
Brown (Twp. of Hamblin), Jackson, Jefferson, Jennings, Rush (except Carthage Twp.) & Scott Cos.					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Welders; Burners	10.74	.55	.65		.03

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Brown (excl. Hamblin Twp.) Co.:					
Carpenters; Soft Floor Layers	12.10	.72	.60		.01
Millwrights	12.85	.77	.64		.01
Piledrivermen	12.35	.72	.60		.01
Clark, Floyd, Harrison, & Washington Cos.:					
Carpenters; Soft Floor Layers	10.75	.55	.55		.05
Piledrivermen	11.00	.55	.55		.05
Millwrights	12.75	.55	.85		.05
Crawford Co.:					
Carpenters	12.27	.70	1.00		
Piledrivermen; Welders & Burners	12.52	.70	1.00		
Millwrights	12.29	.60	.90		
Dearborn, Decatur, Franklin, Ohio, Ripley, & Switzerland Cos.:					
Carpenters; Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Welders; Burners	10.79	.55	.65		.03
Fayette, Henry, Randolph, Rush (Carthage), Union, & Wayne Cos.:					
Carpenters; Soft Floor Layers	11.63	.65	.50		.10
Millwrights	11.93	.65	.50		.10
Piledrivermen	11.83	.65	.50		.10
Lawrence & Orange Cos.:					
Carpenters; Soft Floor Layers	11.50	.70	.77		.02
Millwrights	12.10	.70	.77		.02
Piledrivermen	11.90	.70	.77		.02
CEMENT MASONS; Plasterers:					
Brown, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott & Washington Cos.	11.00				

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Clark, Floyd & Harrison Cos.:					
Cement Masons	9.88	1.00	.70		.04
Plasterers	11.85				.02
Crawford Co.:					
Cement Masons	12.30	.85	.65		
Decatur, Fayette, Franklin (Northern part to and inclu. Brookville), Rush, Union, & Wayne Cos.:					
Cement Masons	10.35		1.80		
Plasterers	11.55	.80	.50		.03
Henry Co.:					
Cement Masons	11.66	.65	.50		.08
Plasterers	10.78	.85	.50		.01
Randolph Co.:					
Cement Masons	10.75	.60	.80		
Plasterers	11.45	.75			.01
ELECTRICIANS:					
Brown Co.	12.85	.55	3%+.70		.01
Clark, Floyd, Harrison, Jackson, Jefferson Scott & Washington Cos.	14.20	.60	3%+.80		1%
Crawford, Lawrence, & Orange Cos.	13.85	.50	3%		1%
Dearborn, Ohio & Switzerland Cos.:					
Up to & incl. 18. mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	13.70	.60	3%+.80		1%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	14.00	.70	3%+.80		1%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	14.10	.70	3%+.80		1%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	14.25	.70	3%+.80		1%
Decatur, Jennings, Ripley & Rush Cos.	13.70	4%	7%		1%
Fayette, Franklin, Henry, Randolph, Union & Wayne Cos.	12.80	.55	3%+.30		.2%

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Brown, Dematur, Henry, & Rush Cos.	12.79	.745	.56	a+b	.035
Clark, Crawford, Floyd, Harrison, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	12.57	.745	.56	a+b	.035
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, & Wayne Cos.	13.02	.745	.56	a+b	.035
Randolph Co.	12.33	.745	.56	a+b	.035
GLAZIERS:					
Brown, Decatur (NW of a line from the NE Co. corner thru Mechanicsburg to the S. Co. line); Fayette (N. of 44 to 121 and W. of 121), Franklin (N. of a line from Buena Vista to Cornersville), Henry, Jackson (N. of a line from a point on the E. Co. line 8 mi. S. of the N. co. line to Brownstown and from there N. of 50), Jennings (NW of a line from a point on the N. Co. line 4 mi. E. of the E. Co. line to N. Vernon and from N. Vernon N. of 50 to the W. Co. line), Lawrence (N. of 50 to Bedford and N. of Bedford to Springville to the W. Co. line), Randolph (W. of a straight line drawn from N. to S. thru Harrisville), Rush, Union (N. of 44 and W. of Kitchell), & Wayne (W. of a straight line N. to S. thru Chester) Cos.	14.19				

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Crawford (Rem. of Co.), & Orange (SW corner) Cos.	10.905	.48	.50	.25	
Dearborn, Decatur (Rem. of Co.), Fayette (Rem. of Co.), Franklin (Rem. of Co.), Jefferson (E⅔), Jennings (Rem. of Co.), Ohio, Randolph (Rem. of Co.), Ripley, Switzerland, Union (Rem. of Co.), & Wayne (Rem.of Co.) Cos.	14.10		.60		.01
IRONWORKERS:					
Brown, Decatur (W⅓), Fayette (W⅓), Franklin (NW Tip), Henry, Jackson (N part inclu. Freetown), Jennings (NW Corner), Lawrence (N part exclu. Oolitic), Randolph (SW Tip), & Rush Cos.	12.25	1.00	1.95		.01
Clark, Crawford, Floyd, Harrison, Jackson (Rem. of Co.), Jefferson (W 2/3), Jennings (S 2/3), Lawrence (S 2/3), Orange, Scott, Switzerland (SW Tip), & Washington Cos.	12.00	1.40	1.45		.06
Dearborn, Decatur (Rem. of Co.), Fayette (SE 2/3), Franklin (Rem. of Co.), Jefferson (NE Tip), Jennings (NE 1/3), Ohio, Ripley, Switzerland (Rem. of Co.), & Union (S 1/3) Cos.:					
Ornamental; Structural	13.08	1.00	1.45		.03
Reinforcing	12.18	1.00	2.25		.02
Fayette (Rem. of Co.), Randolph (S.part including Union city but exclu. Winchester), Union (N 2/3) & Wayne Cos.:					
Within 15 mi. Radius of Dayton, Ohio	12.36	1.00	1.45		.06
Beyond 15 mi. radius of Dayton, Ohio	12.51	.90	1.45		.06

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Randolph (N part of Co. excluding Union City but includ. Winchester] Co.)	12.35	1.00	1.70		.03
LATHERS:					
Brown, Dearborn (N½), Decatur, Fayette (S 2/3), Franklin, Jackson (N. part includ. Freetown), Jennings (N. part exclu. N. Vernon & Vernon), Lawrence (N 2/3), Ripley (N½), Rush, Union (except NW Tip) Cos.	11.04	.61	.45		.04
Clark, Crawford, Dearborn (S½), Floyd, Harrison, Henry (SW portion), Jackson (S. part exclu. Freetown), Jefferson, Jennings (S. part inclu. N. Vernon & Vernon), Lawrence (S 1/3), Ohio, Orange, Ripley (S½), Scott, Switzerland, Washington Cos.	11.70		.20		.01
Fayette (N 1/3), Henry (Rem.of Co.), Randolph, Union (NW Tip), & Wayne Cos.	10.50		.55		.01
MARBLE SETTERS: TERRAZZO WORKERS; & Tile Setters:					
Brown, Jackson, Jennings Cos.	12.05	.50	.30		.02
Clark, Floyd, & Harrison Crawford Co.	11.10	.50	.40		
	11.10	.75	.75		
Fayette, Franklin, Rush, Union, & Wayne Cos.: Tile Setters	11.76	.80	.55		
Henry & Randolph Cos.: Tile Setters	11.60	.50	.75		.01

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Brown, Fayette, Franklin, Henry, Jackson, Jennings, Randolph, Rush, Union & Wayne Cos.:					
Marble Setters Finishers & Tile Setters Finishers	10.65				
Terrazzo Workers Finishers	10.95				
Clark, Crawford, Floyd, & Harrison Cos.	9.65				
PAINTERS:					
Clark, Crawford, Floyd, Harrison, Jefferson, Scott & Washington Cos.:					
Within 35 mi Radius of Jefferson Co., Kentucky Court House:					
Brush; Drywall Tapers & Finishers; Paperhangers; & Rollers	9.83	.35	.20		.03
Special	10.18	.35	.20		.03
Spray	10.28	.35	.20		.03
Beyond 35 mi radius of Jefferson Co., Kentucky Court House:					
Brush; Drywall Tapers & Finishers; Paperhangers; & Rollers	10.18	.35	.20		.03
Special	10.53	.35	.20		.03
Spray	10.63	.35	.20		.03
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; Roller; Wall-Washing; Drywall Taping & Finishing; Wallpaper & Vinyl Hanging; Floor Sanding; Seamless Flooring & Hopper Tending; & Steamcleaning	11.50				
Spray; Epoxy	12.00				

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decatur, Jackson & Jennings Cos.:					
Brush; Drywall Taping & Finishing; & Roller	9.45		.50		
Sandblast & Spray	10.45		.50		
Fayette,Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	9.35				
Sandblasting & Spray Scaffold over 30 ft., Structural Steel;	10.35				
Stage & Spray Tenders	9.60				
Lawrence & Orange Cos.:					
Brush; Drywall; Roller; & Structural Steel	9.00				
Sandblasting; Spray	10.00				
PLUMBERS & STEAMFITTERS:					
Brown (except Camp Atterbury), Jackson, Lawrence, Orange & Washington Cos.	13.60	.60	1.00		.15
Brown (Camp Atterbury) Cos.	13.50	.60	1.10		.04
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Switzerland Cos.	14.75	.50	1.10	c	.05
Dearborn, Ohio & Ripley Cos.:					
Plumbers; Gas Fitters	13.82	1.05	1.20		.07
Steamfitters; Pipefitters	13.78	1.045	1.60		.08
Decatur & Jennings Cos.	13.76	.60	.60		.05
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.	13.60	.60	.95	d	.15
ROOFERS:					
Brown, Decatur, Fayette, Franklin, Jackson, Jennings, Lawrence, Rush, Union & Wayne Cos.:					
Composition & Waterproof	12.50	.65	.50		
Slate, Tile, Asbestos & Precast Slab	12.75	.65	.50		

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clark, Floyd, Harrison, Jefferson, Scott, Switzerland & Washington Cos.:					
Roofers	8.80	.65	.45		
Slate, Tile, & Precast Concrete Slabs	9.20	.65	.45		
Crawford & Orange Cos.:					
Composition & Waterproofers	12.[illegible]	.75	.70		
Gypsum Plant; Slate; Tile; & Concrete Slab	12.[illegible]	.7[illegible]	.70		
Dearborn, Ohio & Ripley Cos.:					
Roofers	14.32		.[illegible]5		.01
Pitch	15.32		.[illegible]5		.01
Henry & Randolph Cos.:					
Composition; Damp & Waterproof; Slate, Tile and Asbestos	11.25	.55	.30		
Coal Tar Pitch	12.00	.55	.30		
SHEET METAL WORKERS:					
Clark, Floyd, & Harrison Cos.	12.88	1.10	1.47		.16
Crawford, Jefferson, Scott & Switzerland Cos.	14.13	1.10	1.47		.16
Dearborn & Ohio Counties	13.83[illegible]	1.06	.85		.06
Randolph & Wayne Cos.	12.28	.95+e	1.15		
Remaining Cos.	12.93	.65+e	.80		.12
SPRINKLER FITTERS	13.33	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Seven paid holidays: A thru F and Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 yrs.; Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. One Paid Holiday: Christmas Eve Day
d. Two Paid Holidays: C&D
e. 3% of Gross Earnings to SASMI

DECISION NO. IN80-2021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fayette, Henry, Randolph, Rush, Union & Wayne Cos.:					
GROUP I	8.90	.85	.75		.09
GROUP II	9.10	.85	.75		.09
GROUP III	9.20	.85	.75		.09
GROUP IV	9.90	.85	.75		.09
Remaining Cos.:					
GROUP I	9.30	.85	.75		.09
GROUP II	9.50	.85	.75		.09
GROUP III	9.60	.85	.75		.09
GROUP IV	10.30	.85	.75		.09

GROUP I: - Building & Construction Laborers; Scaffold Builders (Other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Civil Engineer Tenders & Surveyor Tenders; Rodmen & Chainmen; Window Washers & Cleaners; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Tenders of all other Crafts not listed; All Portable Water Pumps With Discharge Up to 3 inches
GROUP II - Waterproofing; Handling of Creosote Lumber or Like Treated Treated Material (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators, Vibrators, Chipping Hammer Operators and All Pneumatic Tool Operators; Earth Compactors; Jackmen & Sheetmen Working Hitches Deeper than 6 ft. in Depth; Laborers Working Ditches 6 ft. in Depth or Deeper; Assembly of Unicrete Pump; Chain Saw Operators; Tile Layers (sewer or field) & Sewer Pipe Layers (metallic or non-metallic); Motor Driven Wheelbarrows & Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Conveyor Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Operators; Water Main & Cable Ducking (metallic & non-metallic)
GROUP III - Plasterers' Tenders; Mason Tenders; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when Working for Plasterers; Scaffold Builders when Working for Masons
GROUP IV - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

DECISION NO. IN80-2021

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette, Henry, Randolph, Rush, Union, & Wayne Cos.					
GROUP 1	12.50	.75	.65		.10
GROUP 2	11.55	.75	.65		.10
GROUP 3	9.45	.75	.65		.10
GROUP 4	8.35	.75	.65		.10

GROUP 1 - Air Compressor (pressurizing shafts, tunnels and drivers); Air Tugger; Auto Patrol; Backfiller; Backhoe; Boom Cat; Boring Machine; Bulldozer; Caisson Drilling Machine; Cherry Picker; Compactor (w/dozer blade); Concrete Plant; Concrete Pump; Crane w/all Attachments; Crane-Electric Overhead; Derrick; Ditching Machine (18" and over); Dredge; Elevator (when hoisting material or tool); Forklift (marchinery); Formless Paver; Generator (power for welders or compressors); Gradall; Helicopter; Helicopter Winch Operator; Highlift-Front End Loader; Hoist; Locomotive; Mucking Machine; Panel Board; Concrete Plant; Piledriver; Push Cat; Scoop and Tractor; Scraper-Rubber-Tired; Spreader-Tractor Mounted; Straddle Carrier-Ross Type; Sub-Base Finish; Machine (C.M.I. or similar tower crane); Tractor w/backhoe (over ½ yd.); Welder

GROUP 2 - A-Frame Truck; Batcher Plant (automatic dry batch); Bending Machine-Power Driven; Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Boatman; Bullfloat; Compactor or Tamper-Self-Propelled; Concrete Mixer (21 cu. ft. or over); Concrete Spreader-Power Driven; Dinkey Engine; Ditching Machine (less than 18"); Drilling Machine; Finish Machine and Bullfloat; Finishing Machine; Piledriving and Boilers; Forklift-Masonry and Material; Gunnite Machine; Head Greaser; Mesh Depresser-Mesh Placer; P.C.C.-Concrete Belt Placer; Roller-Asphalt Stone and Sub-Base; Sheepstone Roller Self Propelled; Spreader or Base Paver-Self-Propelled; Subgrader; Throttle Valve w/Air Compressor or Boiler; Tractor w/Backhoe (½ yard and under); Tractor-High Lift-Farm Type; Tractor-Industrial Type; Tractor w/Winch; Well Points; Winch Truck

GROUP 3 - Air Compressor (210 cu. ft. and over); Bituminous Distributor; Chair Cart; Concrete Curing Machine; Concrete Saw; Dope Pot-Power Agitated; Flexplane; Form Grader; Hydrohammer; Jacks-Hydraulic-Power Driven; Minor Equipment Operator; Paving Joint Machine; Post Hole Digger; Roller-Earth; Throttle Valve; Track Jack-Power Driven; Tractor-Farm Type; Truck Crane Driver

GROUP 4 - Air Compressor (less than 210 cu. ft.); Concrete Mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical Heater; Oiler; Power Broom Pump; Welding Machine; Tenders

UMI 0 8 0 3 2 M Y 5 4 V

Page 12

DECISION NO. IN80-2021

TRUCK DRIVERS All Counties, except Crawford	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.65	35.50a	23.00a	b&c	
GROUP 2	9.70	35.50a	23.00a	b&c	
GROUP 3	9.75	35.50a	23.00a	b&c	
GROUP 4	9.80	35.50a	23.00a	b&c	
GROUP 5	9.85	35.50a	23.00a	b&c	
GROUP 6	9.90	35.50a	23.00a	b&c	
GROUP 7	10.00	35.50a	23.00a	b&c	
GROUP 8	10.05	35.50a	23.00a	b&c	
GROUP 9	10.10	35.50a	23.00a	b&c	
GROUP 10	10.15	35.50a	23.00a	b&c	
GROUP 11	10.30	35.00a	23.00a	b&c	

GROUP 1 - Air Compressors and Welding Machines, incl. those Pulled by Cars, Pickup Trucks, Tractors, & Fork Lifts; Dumpsters; & Lowboy Tenders
GROUP 2 - Mixer 2 Yds.
GROUP 3 - Mechanic Tenders and Greasers
GROUP 4 - Batch Trucks Wet or Dry 3 Batches or Under
GROUP 5 - Mixers 3 Yds.; Oil Distributors Tandem Axles, incl. Dog-Legs; & Winch Trucks
GROUP 6 - Batch Trucks Wet or Dry or Dry Over 3 Batches; Pavement Breakers; & Single Axle Semi-Trucks
GROUP 7 - Mechanics; Mixers 4 Yds.; Tandem Axle Semi-Trucks; & Trac-o-Trucks, Euclids, Tournapull when pulling other than Self-Loading Equipment up to and incl. 10 yds.
GROUP 8 - Tri-Axles
GROUP 9 - Low-Boys; Tandem Axle Semi-Trucks
GROUP 10 - Mixers Above 4 Yds.; & Trac-o-Trucks, Euclids, Tournapulls when Pulling other than Self-Loading Equipment 11 yds. to and incl. 16 yds.
GROUP 11 - Helicopter Pilot; Trac-o-Trucks, Euclids, Tournapulls when pulling other than Self-Loading Equipment over 16 yds.

Unlisted classifications needed for work not included within the scope of the classificaions listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana PARISHES: Bossier, Caddo & Calcasieu
DECISION NO. LA80-4039 DATE: Date of Publication
Supersedes Decision No. LA79-4070, dated August 17, 1979, in 44 FR 48564
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$11.86	.70	1.00		.03
Calcasieu Parish	12.32	.525	.90		.04
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	10.95	.55	.65		
Calcasieu Parish	12.25	.53	.67		.05
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	10.70	.55	.45		.04
Millwrights	11.45	.55	.45		.04
Piledrivermen	10.95	.55	.45		.04
Calcasieu Parish:					
Carpenters and Pile-drivermen	11.18	.60	.33		.07
Millwrights	12.88				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	10.20	.40			
Calcasieu Parish	9.45				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	13.25	1.75	3%		1%
Cable Splicers	13.75	1.75	3%		1%
Calcasieu Parish:					
Electricians	14.75	.55	3%+.40		1/10%
Cable Splicers	15.00	.55	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	10.64	.895	.69	a+b	.035
Helpers	70%JR	.895	.69	a+b	.035
Calcasieu Parish:					
Mechanics	10.575	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
GLAZIERS:					
Bossier & Caddo Parishes	9.88		.30		.04
Calcasieu Parish	11.65				.02
IRONWORKERS:					
Bossier & Caddo Parishes	12.10	.45	.90		.06
Calcasieu Parish	11.78	.45	.65		.05

DECISION NO: LA80-4039 Page 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1					
Laborers	$ 7.38	.35	.27		.05
GROUP 2					
Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	7.38	.25	.27		.35
GROUP 3					
Mortar mixers	7.33	.25	.27		.05
GROUP 4					
Air jacks, vibrators; sewer pipe layers and wipers	7.48	.25	.27		.05
Calcasieu Parish:					
GROUP 1					
Building & general laborers; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	8.63	.25	.27		.05
GROUP 2					
Air tool op.(except jackhammer); interior of closed tanks & vessels power equipment	8.73	.25	.27		.05
GROUP 3					
Mortar mixers	8.78	.35	.27		.35
GROUP 4					
Jackhammer operators	8.88	.25	.27		.05
GROUP 5					
Blasterers	9.59	.25	.27		.05
GROUP 6					
Blaster tenders; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	9.15	.25	.27		.05
GROUP 7					
Wipe joints, laying pipe & tile from pumpcrete	8.99	.25	.27		.05
GROUP 8					
Interior or closed tanks & vessels manually	8.68	.25	.27		.05

DECISION NO.: LA80-4039 Page 3

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Bossier & Caddo Parishes	$12.40				
Calcasieu Parish	13.485	.55			.01
MARBLE SETTERS:					
Bossier & Caddo Parishes	9.80	.55			
Calcasieu Parish	12.25	.53	.67		.05
PAINTERS:					
Bossier & Caddo Parishes:					
Painters, tape & float, vinyl & paperhangers	10.25	.40	.30		.05
Calcasieu Parish:					
GROUP 1					
Brush, roller, buffer	11.715		.30		
GROUP 2					
Paperhangers, taping and floating	11.915		.30		
GROUP 3					
Spray, Sandblasting	12.06		.30		
PLASTERERS:					
Bossier & Caddo Parishes	9.75			1.00	
Calcasieu Parish	10.07				
PLUMBERS & PIPEFITTERS:					
Bossier & Caddo Parishes	11.87	.70	1.10	1.00	.09
Calcasieu Parish	12.48	.67	.72		.08
ROOFERS:					
Bossier & Caddo Parishes:					
Roofers	9.60		.20		.04
Kettlemen	6.65		.20		.04
Calcasieu Parish:					
Roofers	11.13		.20		
SHEET METAL WORKERS:					
Bossier & Caddo Parishes	7.16	3%+.67			.15
Calcasieu Parish	12.25	.52	.55		.14
SOFT FLOOR LAYERS:					
Bossier & Caddo Parishes	10.70	.55	.45		.04
Calcasieu Parish	11.18	.60	.33		.07
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS:					
Bossier & Caddo Parishes	9.80	.55			
Calcasieu Parish	12.25	.53	.67		.05

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DECISION NO. LA80-4039 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Bossier & Caddo Parishes	$ 9.80	.55			
Calcasieu Parish	9.05	.48	.67		.02
TRUCK DRIVERS:					
Bossier & Caddo Parishes:					
GROUP 1					
Pick-ups, spotters and dumpers	7.97				
GROUP 2					
Stake bodies; flat beds (all sizes)	8.05				
GROUP 3					
Single axle dumps & water trucks; transit mix up to & including 3 yds.	8.30				
GROUP 4					
Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer	8.45				
GROUP 5					
Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels	8.60				
GROUP 6					
Euclids, lowboys, Dempsey dumpsters, Koehring dumps, 5 axle trucks, transit mix over 3 yds.	8.80				
Calcasieu Parish:					
GROUP 1					
Pick-ups	9.31				
GROUP 2					
Stake bodies (all sizes)	9.79				
GROUP 3					
Trucks trailer & dump over 8 yds.; mixers on trucks over 3 yds.; Mississippi wagon & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds.)	10.02				

DECISION NO.: LA80-4039 Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS CONT'D:					
Calcasieu Parish Contd:					
GROUP 4					
Mixers on trucks up to & including 3 yds.	9.01				
GROUP 5					
Winch trucks	9.01				
GROUP 6					
Dump trucks	9.03				
GROUP 7					
Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.	10.25				
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate
b - Paid Holidays - A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO: LA80-4039 Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Calcasieu Parish:					
GROUP 1	$ 8.56	.65	1.00		.05
GROUP 2	8.24	.65	1.00		.05
GROUP 3	8.03	.65	1.00		.05
GROUP 4	8.84	.65	1.00		.05
GROUP 5	11.23	.65	1.00		.05
GROUP 6	9.25	.65	1.00		.05
GROUP 7	9.93	.65	1.00		.05

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS

GROUP 1 - Scale Operators; oiler-driver on motor crane; batch plant operator
GROUP 2 - Pumps under 3 inch suction
GROUP 3 - Oiler
GROUP 4 - Firemen
GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozer; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type) outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drum or over); locomotive (all types); mechanic; mixer plant operator-central mix; motor patrols; pile-drivers; pull cat; pump crete-6" and over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit operator; welder, journeyman; well point system; whirleys; winch cats (cat D-4 & over); winch truck with A-Frame (5 ton & over); work boats-requiring licensed operator
GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass cutters, etc.); hoist-1 drum (under 4 stories on buildings); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum Buff Machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps
GROUP 7 - Asphalt plant operator; boom trucks; bull floats; concrete spreader; farm type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); work boats-not requiring licensed operator

SUPERSEDEAS DECISION

STATE: Minnesota COUNTIES: Blue Earth, Fairbault, Freeborn & Mower
DESCRIPTION NUMBER: MN80-2031 DATE: Date of Publication
Supersedes Decision No.: MN79-2022, dated May 4, 1979 in 44 FR 26468
DESCRIPTION OF WORK: Building Construction (Including Residential), Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.81	.60	1.00		.14
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Blue Earth County Bricklayers, Stonemasons & Blocklayers	11.855	.65	.51	.61	
Mower County & that part of Freeborn Co., East of a Line running North & South from Geneva to Gordon & the City of Blooming Prairie: Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	12.525	.70	.25		
Fairbault & Remainder of Freeborn County Bricklayers, Stonemasons, Tuck-Pointers & Blocklayers	11.95	.70	.50		
CARPENTERS:					
Building:					
Blue Earth County N.W. Portion of Co.	11.50				
Remainder of County	12.40	.42			
Freeborn & Fairbault Cos. Carpenters, Millwrights & Piledrivermen	11.02	.60	.60		
Mower County	12.22				
Site Preparation, Excavating & Incidental Paving:					
Carpenters & Piledrivermen Blue Earth County	7.32	.30			
Fairbault, Freeborn & Mower Cos.	8.48				

UMI 0 8 3 2 M Y 5 4 V

Page 2

DECISION NO. MN80-2031

CEMENT MASONS & PLASTERERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
Building:					
Blue Earth County					
Cement Masons and Plasterers	12.05				
Mower Co. & that part of Freeborn Co., East of a line running North & South from Geneva to Gordon:					
Cement Masons and Plasterers	9.35	.50	.25		
Fairbault Co., & Remainder of Freeborn Co.:					
Cement Masons & Plasterers	11.00	.70	.50		
Site Preparation, Excavation & Incidental Paving:					
Blue Earth County	10.10				
Fairbault Co.;					
Freeborn Co.; (West of a line running North & South from Geneva to Gordonsville)	9.43	.42	.25		
Mower Co. & Remainder of Freeborn County	9.50	.35	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	10.40	7%	6%	10⅓%	3/4of1%
Jobs within a 5 mile radius of Mankato $50,000 & over	12.15	7%	6%	10⅓%	3/4of1%
Freeborn & Mower Cos. $75,000 or more	11.39	.66	3%	6%	.25%
$75,000 or less & Residential	9.11	.66	3%	6%	.25%

Page 3

DECISION NO. MN80-2031

ELEVATOR CONSTRUCTORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
Blue Earth County	11.31	.745	.35	a	.02
GLAZIERS:					
Blue Earth County	11.51			.30	
Remainder of Counties	10.00				
IRONWORKERS	12.95	.85	.90		.04
LABORERS:					
General Laborers & Carp. Tender	10.00	.35	.15		
Mason Tenders & Vibrator Oprs.	10.10	.35	.15		
Mortar Mixers	10.15	.35	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	12.355	.655	.53		
Terrazzo Workers	12.82	.64	.25		
Tile Setters	12.30	.62	.50		
Marble Setters' Finishers	9.35	.37	.50		
Tile Setters Finishers	11.45	.62	.50		
PAINTERS:					
Mower County					
Brush & Roller	11.45	.37	.45		.08
Spray	11.95	.37	.45		.08
Remainder of Counties					
Brush & Tapers	11.10	.70	.25		.11
Spray	11.60	.70	.25		.11
Structural Steel	12.10	.70	.25		.11
PLUMBERS & STEAMFITTERS:					
Blue Earth County	13.27	.53			.05
Remainder of Counties	13.26	.50	.20		.02
ROOFERS:					
Mower County	10.02		.20		
Remainder of Counties	11.10	.65			
SHEET METAL WORKERS	12.69	.60	.77		.07
SPRINKLER FITTERS	14.10	.75	1.05		.08
TRUCK DRIVERS	10.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a. Employer contributes 8% BHR for over 5 years service & 6% BHR for under 5 years service as vacation pay. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day & Day after Thanksgiving

Page 4

DECISION NO. MN80-2031 MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	10.05	.35	.15		
CLASS 2	10.15	.35	.15		
CLASS 3	10.20	.35	.15		
CLASS 4	10.30	.35	.15		
CLASS 5	10.45	.35	.15		
CLASS 6	10.50	.35	.15		
CLASS 7	10.55	.35	.15		

CLASS 1 - Unskilled Laborers; Bricklayers & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod; Sod Layer & Nurseryman, Stonemason Tender
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch trucks); Cement Handler (Bulk or Bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (Wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Muster; Power Buggy Tunnel Laborer (Atmospheric Pressure)
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson work; Cofferdam
CLASS 5 - Nozzleman (Gunite)
CLASS 6 - Pipelayer (Sewer, Water & Gas) Laser Beam
CLASS 7 - Powderman - Tunnel Miner

Page 5

DECISION NO. MN80-2031 MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	15.70	.70	.55		.05
CLASS 2	14.05	.70	.55		.05
CLASS 3	13.80	.70	.55		.05
CLASS 4	13.20	.70	.55		.05
CLASS 5	12.85	.70	.55		.05
CLASS 6	12.75	.70	.55		.05
CLASS 7	12.50	.70	.55		.05
CLASS 8	12.38	.70	.55		.05
CLASS 9	12.30	.70	.55		.05
CLASS 10	12.03	.70	.55		.05
CLASS 11	11.15	.70	.55		.05
CLASS 12	10.70	.70	.55		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including Jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including Jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom including Jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including Jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes Stationary Tractor Operator with Boom; All Terrian Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoists Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-Type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for Caisson Drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.

DECISION NO. MN80-2031
POWER EQUIPMENT OPERATORS: Building Construction (Cont'd)

CLASS 11 - Air Compressor Opr., 375 CFM Or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat, Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pump, Conveyors, Welding Mach.)
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN80-2031 MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	15.65	.70	.55		.05
GROUP 2	12.36	.70	.55		.05
GROUP 3	11.95	.70	.55		.05
GROUP 4	11.83	.70	.55		.05
GROUP 5	11.73	.70	.55		.05
CLASS 6	10.75	.70	.55		.05
GROUP 7	10.15	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding Jib, Dragline and/or other similar Equipment w/Shovel Type Controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., Concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar Equipment with Shovel Type Control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, Dredge Oper. (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing Earthwork & Bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole, Op., incl. Power Supply, Mucking Mach., incl. Mucking Operations Conway or similar type, Refrigeration Plant Engineer, Tandem, Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op., 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled Traveling Soil Stabilizer
GROUP 5 - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Straddle Carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welders, Multiple machines, such as Air Compressor, Welding Machines, Generators, Pumps or Crane Crane Oilers, Paving Breaker or Tamping Machine Op., (power-driven-mighty might or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper Capacity, Pipeline Wrapping, Cleaning or Bending Actuated Horizontal Boring Mach., over 6" Op., Pugmill Op., Roller, 8 Tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tire Tamper & Ballast Mach. Op., Tractor Op., over D2, TD6 or similar HP with power take-off, Tractor Op., over 50HP without Power Take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) Well Point Installation, Dismatling or Repair Mechanic

DECISION NO. MN80-2031

POWER EQUIPMENT OPERATOR: (CONT'D)

GROUP 6 - Air Compressor Op. 375 CFR or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist. & Spreader Oper., Finishing Machine Longitudinal Float Op., Joint Mach. Op., Spray, Concrete Mixer Op. 14S and under, Concrete Op. (Mult. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader Op. (up to & incl. 1 cu. yd.), Grader Op. (motar Patrol, Gunite Op. Gunall, Lead Greaser on Truck or Rack, Loader Op., Power Actuated Augars and Boring Mach. Op. Power Actuated Jacks Op., Pump Op., Roller Op., Self-Propelled Chip Spreader, Shouldering Mach. Op., Stump Chipper Op., Tractor Op. (D2, TD 6 or similar HP with power take-off)
GROUP 7 - Brakeman, Switchman, Conveyor Op., Deckhand, Fireman, Tank Car Heater Op., Gravel Screening Plant Op., Greaser Leverman, Mech. Helper, Mech. Space Heater, Oiler, Self Prop. Vib. Packmr Op., Sheep Foot Roller, Tractor Op. 50 HP or less w/o Power Take-Off, Truck Crane Oiler

DECISION NO. MN80-2031 MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Fairbault County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.72	.65	.65		
GROUP 2	9.27	.65	.65		
GROUP 3	9.17	.65	.65		
GROUP 4	8.97	.65	.65		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand and power operated winches); Truck Train Mechanic, Welder; Tractor-Trailer Off-Road Truck

GROUP 2 - Tri-Axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete, Slurry Driver

GROUP 3 - Bituminous Distributor; Bitminous Distributor (1-Man Operation); Tandem Axle

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & Truck Servicemeh; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman, Tractor Operator (wheel type used for any purpose) Pilot Car Driver, Self-Propelled Packer; Slurry Operator; Single Axle Trucks

Page 10

DECISION NO. MN80-2031 MINN-7-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATING & INCIDENTAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	10.32	.65	.65		
GROUP 2	9.87	.65	.65		
GROUP 3	9.77	.65	.65	—	
GROUP 4	9.57	.65	.65	—	

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck Train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-Axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver

GROUP 3 - Bituminous Distributor; (1-Man Operation); Tandem Axle

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & Truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman, Tractor Operator (Wheel type used for any purpose) Pilot Car Driver, Self- Propelled Packer; Slurry Operator; Single Axle Trucks

Page 11

DECISION NO. MN80-2031 MINN-55-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	10.85	.65	.65	—	
GROUP 2	10.40	.65	.65	--	
GROUP 3	10.30	.65	.65		
GROUP 4	10.10	.65	.65		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck Train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-Axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operator); Tandem Axle

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & Truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman, Tractor Operator (Wheel type used for any purpose) Pilot Car Driver, Self-Propelled Packer; Slurry Operator; Single Axle Trucks

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Minnesota COUNTY: Olmsted
DECISION NUMBER: MN80-2032 DATE: Date of Publication
Supersedes Decision NO. MN79-2023, dated May 4, 1979 in 44 FR 26473
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

Page 2

DECISION No. MN80-2032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$12.81	.60	1.00		.14
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS: Bricklayers; Stonemasons; Cement Blocklayers; Pointers; Caulkers & Cleaners	12.525	.70	.25		
CARPENTERS: Building	11.40	.60	.60		
Site Preparation. Excavation & Incidential Paving Carpenters & Piledrivermen	7.88	.50	.20		
CEMENT MASONS: Building	12.45				
Site Preparation, Excavation & Incidential Paving	10.35				
ELECTRICIANS: $75,000 or more	11.39	.66	3%	6%	.25%
Under $75,000 & Residential	9.11	.66	3%	6%	.25%
ELAMIERS	10.06		.30		
IRONWORKERS	12.95	.85	.90		.04
LABORERS: BUILDING CONSTRUCTION General Laborer; Carpenter Tender; Flagman; Power Buggy Operator Mason Tender; Drill Runner; Vibrator Operator	10.00	.35	.15		
Rebar Laborer	10.10	.35	.15		
Mortar Mixer; Air Acutated Tool	10.15	.35	.15		
Plasterer Tender	10.25	.35	.15		
Nozzleman	10.40	.35	.15		
LATHERS	10.50				
MARBLE SETTERS	12.355	.655	.53		
PAINTERS: Brush & Roller	11.45	.37	.45		.08
Spray	11.95	.37	.45		.08
Structural Steel	11.70	.37	.45		.08
PLASTERERS	$11.85				
PLUMBERS & STEAMFITTERS	13.26	.50	.20		.02
ROOFERS	9.40	.42	.33		
SHEET METAL WORKERS	12.69	.60	.77		.07
SPRINKLER FITTERS	14.10	.75	1.05		.08
TILE SETTERS	13.50				
TRUCK DRIVERS	10.00				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

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PAGE 3

DECISION NO. MN80-2032 MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$10.05	.35	.15		
CLASS 2	10.15	.35	.15		
CLASS 3	10.20	.35	.15		
CLASS 4	10.30	.35	.15		
CLASS 5	10.45	.35	.15		
CLASS 6	10.50	.35	.15		
CLASS 7	10.55	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (Wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam
CLASS 5 - Nozzleman (Gunite)
CLASS 6 - Pipelayer (Sewer, Water & Gas) Lamer Beam
CLASS 7 - Powderman - Tunnel Miner

PAGE 4

DECISION NO. MN80-2032 MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$15.70	.75	.60		.05
CLASS 2	14.05	.75	.60		.05
CLASS 3	13.80	.75	.60		.05
CLASS 4	13.20	.75	.60		.05
CLASS 5	12.85	.75	.60		.05
CLASS 6	12.75	.75	.60		.05
CLASS 7	12.50	.75	.60		.05
CLASS 8	12.38	.75	.60		.05
CLASS 9	12.30	.75	.60		.05
CLASS 10	12.03	.75	.60		.05
CLASS 11	11.15	.75	.60		.05
CLASS 12	10.70	.75	.60		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Firemen, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Staddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporaty Heat); Oiler or Greaser; Elevator Operator.

Page 5

DECISION No. MN80-2032

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.65	.70	.55		.05
GROUP 2	12.36	.70	.55		.05
GROUP 3	11.95	.70	.55		.05
GROUP 4	11.83	.70	.55		.05
GROUP 5	11.73	.70	.55		.05
GROUP 6	10.75	.70	.55		.05
GROUP 7	10.15	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over mfg. rates capacity
GROUP 3 - Cableway Op., Concrete Mixer, Stationary Plant over 34E,Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. mfg. rates capacity, Dredge Operator or Engineer, Dredge Op., (power) & Yds. & over, Grader or Motor Patrol Finishing Earth & Bituminous, Locomotive Crane Op., Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole Op., incl. power supply, Mucking Mach., incl, mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op., (Boom Type) Truck Crane Op., Tugboat Op., 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op.,Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over. Self-Propelled Traveling Soil Stabilizer
GROUP 5 - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yd., Hoist Engineer, Hydraulic Tree Planter Launcherman, Locomotive all type, Mechanic or Welder, Multiple machines, such as Air Compressors, Welding Machines, Generators, Pump or Crane Oilers, Paving Breaker or Tamping Machines Op., (Power-Driven - Mighty Might or similar type), Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring\Machine, Over 6" Op., Pugmill Op., Roller, 8 tons & over, Rubber Tired Farm Tractor, Backhoe, Att., Sheep Foot Op., Tie Tamper & Hallast Mach. Op., Tractor Op., over D2, TD6 or similar HP with Power Take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) Well Point Installation, Dismantling or Repair Mechanic

Page 6

DECISION No. MN80-2032

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air Compresor Op. 375 CFR or over, Bituminous Spreader and Bituminous Finishing Machine Op., Concrete Dist, & Spreader Op., Finishing Machine Longitudinal Flowt Op., Joint Mach, Op., Spray., Concrete Mixer Op. 14S and under, Concrete Op., (Mult. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader Op., (up to & inc. 1 cu. yd.), Grader Op. (mortar patrol), Gunite Op. Gunall, Lead Greaser on Truck or Rack, Loader Op., Power Actuated Augers and Boring Mach. Op. Power Actuated Jacks Op., Pump Op., Roller Op., Self-Propelled Chip Spreader, Shouldering Mach Op., Stump Chipper Op., Tractor Op., (D2, TD6 or similar HP with power take - off).

GROUP 7 - Brakeman, Switchman, Conveyor Op., Deckhand, Fireman, Tank Car Heater Op., Gravel Screening Plant Op., Greaser Leverman, Mech. Helper,Mech.Space Heater; Oiler, Self-Prop. Vib. Packer Op., Sheep Foot Roller, Tractor, Op., 50 HP or less w/o power take-off, Truck Crane Oiler.

PAGE 7

DECISION NO. MN80-2032

MINN-55-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$10.85	.65	.65		
GROUP 2	10.40	.65	.65		
GROUP 3	10.30	.65	.65		
GROUP 4	10.10	.65	.65		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lancaster
DECISION NO.: PA80-3038 DATE: Date of Publication
Supersedes Decision No. PA78-3070 dated September 29, 1978, in 43 FR 45162.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	11.61	1.12	.90		.01
BOILERMAKERS	14.64	1.175	1.00		.02
BRICKLAYERS	10.50	.65	.45		
CARPENTERS	10.92	.55	.65		.05
CEMENT MASONS	9.94	.35	.25		.01
ELECTRICIANS:					
W. Calico, E. Calico, Brecknock, E. Carl, & Caernarvon Twps.	12.49	.7[illegible]	3%+.30		.03
That portion northwest of a line extending from the Susquehanna River to the intersection of State Highways 441 and 241 along 241 to the Borough of Elizabethtown around the limits of Elizabethtown on the west and north side, but including the Masonic Homes in Elizabethtown continuing along State Highway 241 to Lebanon County and that portion north of the Pennsylvania Turnpike, but including all building on the turnpike, from Lebanon County line West Cocalico township	11.36	.65	3%+.67		½ of 1%
Remainder of County	10.95	.60	3%		1/8of1%
ELEVATOR CONSTRUCTORS	11.23	.745	.56	a+b	.025
ELECATOR CONSTRUCTORS' HELPERS	70%ofJR	.745	.56	a+b	.025
ELEVATOR CONSTRUCTOR[illegible]' HELPER (PROB.)	50%ofJR				
GLAZIERS	9.19	.40	.30		.01
IRONWORKERS	12.505	1.24	1.36		.03
LABORERS:					
General Laborers	7.55	.50	.67		
Operators of Jackhammer	7.75	.50	.67		
Wagon Drill	7.85	.50	.67		
Handling of all materials	7.70	.50	.67		
Laborers assisting tile	7.60	.50	.67		
Handling & using dynamite	7.88	.50	.67		

Page 2

DECISION NO. PA80-3038

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Caisson Work (Top Men)	7.80	.50	.67		
Caisson Work (Bottom Men)	8.00	.50	.67		
Mixer Man	7.95	.50	.67		
LATHERS	10.71	.40	.25		.01
LINE BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	12.05	.45	3%		3/8 of1%
Cable Splicers	12.05	.45	3%		3/8 of1%
Groundman	7.23	.45	3%		3/8 of1%
Winch truck operators	8.43	.45	3%		3/8 of1%
MARBLE SETTERS	9.50	.45	3%		3/8 of1%
MILLWRIGHTS	13.52	.60	.70		.05
PAINTERS:					
Elizabeth Dowetal Township					
Brush	9.62	.35	.37		.02
Steel	10.07	.35	.37		.02
Spray	10.37	.35	.37		.02
Remainder of County:					
Brush	9.75	.75	.80		
Steel	10.80	.75	.80		
Spray	10.80	.75	.80		
Roller	9.75	.75	.80		
PILEDRIVERMEN	11.52	2.48	1.40	d	.13
PLASTERERS	8.60	.35	.25		.01
PLUMBERS	11.80	1.00	1.00		.12
ROOFERS:					
Composition, damp & waterproofing	14.17	1.40	.95	e	
ROOFERS, ASSISTANT	7.00	1.40	.95	e	
SHEET METAL WORKERS	11.06	1.42	1.18		.14
SPRINKLER FITTERS	13.55	.75	1.05		.08
SOFT FLOOR LAYERS	9.60	.55	.65		.05
STEAMFITTERS	11.80	1.00	1.00		.12
STONEMASONS	10.50	.65	.45		
TERRAZZO WORKERS	9.50	.45	.45		
TILE SETTERS	9.50	.45	.45		

Page 3

DECISION NO. PA[illegible]-303[illegible]

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F. Plus the Friday after Thanksgiving Day.

c. Nine paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceeding and following the holidays.

d. Paid Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

e. Paid Holidays: Election Day.

PAGE 4

DECISION NO. PA80-3038

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishingmachines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel Boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Columbia, Dane Iowa & Sauk

DECISION NUMBER: WI80-2037

DATE: Date of Publication

Supersedes Decison No. WI78-2121 dated October 20, 1978 in 43 FR 49230.

DESCRIPTION OF WORK: Building Construction (excluding Single family homes and apartments up to and including 4 stories); Dane County only (includes single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.55	.95	1.00	1.25	.04
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS	10.29	.75	1.00	.50	.01
BRICKLAYERS: (Columbia & Sauk COunties)	11.09	.75	.70		.01
CARPENTERS	10.92	.60	.70		.05
Residential	6.72	.60	.40		.05
CEMENT MASONS (Columbia & Sauk Counties)	11.25	.75	.40		
CEMENT MASONS (Dane & Iowa Cos.)	10.55	.75	1.00		
ELECTRICIANS	11.89	.84	3%	4%	3/4%
Residential	6.73	.84	3%	4%	3/4%
ELEVATOR CONSTRUCTION:					
Constructors	12.04	1.045	.82	a+b	
Helpers	8.43	1.045	.82	a+b	
Helpers (Prob.)	50% JR				
GLAZIERS	11.93	.70			.03
IRONWORKERS: Structural, ornamental & reinforcing	12.04	.75	.75		.07
LINE CONSTRUCTION:					
Linemen	11.82	.62	7%		
Heavy Equipment Operator	10.64	.62	7%		
Light Equipment Operator	9.46	.62	7%		
Heavy Groundman - Truck Drivers	8.27	.62	7%		
Light Groundman - Truck Drivers	7.68	.62	7%		
Groundman	6.50	.62	7%		
MILLWRIGHTS & PILEDRIVERMEN	11.32	.60	.70		.05
PAINTERS					
Brush	10.46	.80	.30	.40	
Spray	11.21	.80	.30	.40	
Structural Steel (brush)	10.46	.80	.30	.40	
Swing Stage	10.46	.80	.30	.40	
Sandblaster	10.71	.80	.30	.40	
PLASTERERS (Columbia & Sauk Cos.)	11.25	.75	.40		
PLASTERERS	10.65	.75	1.00		
PLUMBERS	13.14	.60	1.00		1%

Page 2

Decision No. WI80-2037

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS	10.92	.60	.70		.05
SPRINKLER FITTERS	13.33	.60	1.05		.08
SHEET METAL WORKERS	12.62	1.00	.72		.07
TERRAZZO WORKERS	11.05	.75	.40		
TILE SETTERS	10.80	.75	.40		
TRUCK DRIVERS - Single or Tandem Axle	8.45	d	e		

Welders receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 8 % of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.
c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.
d. $93.61 per month H&W fund.
e. $21.00 per week Pension fund.

Page 3

Decision No. WI80-2037

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING, SEWER, WATER, EXCAVATING AND INCIDENTAL PAVING					
Laborers, Building; Pneumatic tool op., air hammer, jackhammer, concrete buster, sheeting driver, air spade	9.78	.55	.45		.02
Vibrator, air tamper & mortar mixer	10.03	.55	.45		.02
General laborer, concrete work, form strippers, mason tenders, building wreckers	9.93	.55	.45		.02
	9.64	.55	.45		.02

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Page 4

DECISION NO. WI80-2037

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	12.02	1.05	.90		.05
GROUP II	11.77	1.05	.90		.05
GROUP III	11.47	1.05	.90		.05
GROUP IV	11.37	1.05	.90		.05
GROUP V	10.96	1.05	.90		.05
GROUP VI	10.62	1.05	.90		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain tyep having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Calumet, Fond Du Lac, Manitowoc, Outagamie & Sheboygan

DECISION NUMBER: WI80-2039

DATE: Date of Publication

Supersedes Decision No. WI78-2116 dated October 20, 1978 in 43 FR 49228

DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.36	.95	.50	.85	.05
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS	10.55	.75	.70		.05
CARMENTERS:					
All Counties but Sheboygan	10.72	.60	.70		.05
Sheboygan County Only	10.80	.75	.70		
Millwrights & Piledrivermen:					
All Counties but Sheybogan	11.12	.60	.70		.05
Sheboygan County Only	11.84	.75	.70		
CEMENT MASONS	10.05	.75	.70		.05
ELECTRICIANS:					
Calumet & Outagamim Cos.	12.73	.70	3%		
Manitowoc Co.	12.60	.60	3%		I/[illegible]
Fond Du Lac & Sheboygan Cos.	11.35	1.10	3%+.45		1%
ELEVATOR CONSTRUCTORS:					
Outagamie Co:					
Constructors	12.13	1.045	.69	a+b	.03
Helpers	8.49	1.045	.69	a+b	.03
Helpers (Prob.)	50%of JR				
Remainder of Counties:					
Constructors	13.24	1.045	.69	a+b	.03
Helpers	9.27	1.045	.69	a+b	.03
Helpers (Prob.)	50%of JR				
GLAZIERS	10.54	.92	.80	.50	
IRONWORKERS:					
Western Part of Fond Du Lac and Outgamie Cos.	12.04	.75	.75		.07
Remainder of the Area	11.36	1.30	1.00	1.21	.15
LABORERS:					
General Laborer; Building Wrecker; Form Stripper	8.90	.55	.45		.03
Plaster Tender Mod Carrier, Mason Tender, Vibrator Operator	9.00	.55	.45		.03
Jackhammer Operators, Driller, Gunnite Men, Mortar & Plaster Mixer, Fork Lift Operator	9.15	.55	.45		.03

WI80-2039(Cont'd)

Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Northern Manitowoc & Outagamie Counties	$10.44	.75	.75	.17	
Remainder of Counties	9.82	.75	1.40		.03
PAINTERS:					
Fond Du Lac, Outagamie & Northwest Corner of Calumet Counties:					
Brush, Paperhangers and Structural Steel	10.25	.85	.25		.03
Spray & Sandblasting	10.75	.85	.25		.03
Manitotoc and the remainder of Calumet Counties:					
Brush	9.60				
Spray and Roller	10.10				
Sheboygan County:					
Brush	8.55	.45	.30	.30	
Drywall Finishing	8.55	.45	.30	.30	
Spray	9.05	.45	.30	.30	
PLASTERERS	10.55	.75	.70		.05
PLUMBERS & STEAMFITTERS:					
Outagamie Co. and the Northwestern corner of Calumet County	12.70	1.00	1.00		.04
Manitowoc Co. and the Northeastern part of Calumet County	12.77	.85	1.00		.05
Fond Du Lac, Sheboygan & the remainder of Calumet County	11.33	.80	1.25	1.00	.03
ROOFERS:					
Calumet & Manitowoc Cos.	11.60	.25	.05		
Fond Du Lac Co.	10.15	1.00	.50		
Outagamie Co.	9.18	.75	.60	.40	
Sheboygan Co.	8.25	.85	.05		
SHEET METAL WORKERS:					
Outagamie Co.	11.31	.80	.60	1.45	.04
Remainder of Counties	11.18	.85	.90	1.30	.04
TERRAZZO WORKERS & TILE SETTERS	10.55	.75	.70		.05
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI80-2039

Page 3

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six paid holidays, A thru F

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.02	1.05	.90		.05
GROUP II	11.77	1.05	.90		.05
GROUP III	11.47	1.05	.90		.05
GROUP IV	11.37	1.05	.90		.05
GROUP V	10.96	1.05	.90		.05
GROUP VI	10.62	1.05	.90		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer, Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer, Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well Points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

DECISION NO. WI80-2039

POWER EQUIPMENT OPERATORS (Cont'd)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (Large), Boats, Safety Work, Barges and Launch

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator, Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

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federal register

Friday
May 23, 1980

Part III

Department of the Interior

Bureau of Land Management

Simultaneous Oil and Gas Leasing System

V 45 MY 23 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[Circular No. 2465]

Simultaneous Oil and Gas Leasing System

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking sets forth changes in the simultaneous oil and gas leasing system, some of which apply to all onshore oil and gas leasing. These changes are intended to resolve problems with the present system by reducing speculation, requiring participants to have greater control of, and responsibility for, their involvement in the leasing system, and promoting development and exploration of oil and gas resources on the public lands.

EFFECTIVE DATE: June 16, 1980.

ADDRESS: Any inquiries or suggestions should be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles E. Weller (202) 343-7753.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published in the **Federal Register** on September 28, 1979 (44 FR 56176). Comments were invited for 60 days. Comments were received from 435 Sources, with 393 coming from private sources, 15 from attorneys who did not identify their clients, 15 from business sources, including 5 from filing services, 7 from Federal agencies, 3 from associations and 2 from State and local agencies. Several of the comments requested an extension of the comment period. Even though the comment period was not extended, all comments received were considered.

General Comments

The largest number of comments were opposed to any change in the simultaneous oil and gas leasing system and suggested that the proposed rulemaking be withdrawn. Several of these general comments raised objections to the change in the timing of the drawings, the increase in the size of the lease areas, the requirement that each entry form be personally signed and the refusal to accept personal checks as remittances. There were some comments that supported the changes and recommended adoption of the proposed rulemaking in final form. All of the comments supported the simultaneous oil and gas leasing system and wanted it retained in one form or another. A recent comment was concerned that the final rulemaking would improperly incorporate changes that are needed to counter abuses discovered as a result of the recent investigation of the simultaneous oil and gas leasing system. The final rulemaking will consider only those changes that were part of the proposed rulemaking. Changes needed in the simultaneous leasing regulations to counter abuses discovered as a result of the current investigation of the simultaneous oil and gas leasing system were the subject of a recent rulemaking and are not part of this rulemaking. This comment also wanted to be sure that there had been no *ex parte* communications in connection with this rulemaking. Every effort has been made to assure that no *ex parte* communications have occurred concerning this rulemaking and that all of the procedures of the Administrative Procedures Act have been properly followed during the promulgation of the rulemaking. The Department of the Interior is satisfied that this effort has been successful.

Specific Comments

In addition to the general comments, a large number of comments were directed at specific sections of the proposed rulemaking. These specific comments will be dealt with on a section-by-section basis, with only those sections that received comments or have been extensively amended being discussed.

Definitions—A few comments suggested that the "rule of approximation" be retained as a term in the definition section. Two of the comments recommended that the rule be retained primarily for its utility in competitive leasing situations. The rule has never been applicable to competitive leasing.

The rule is unnecessary for future noncompetitive leasing the rulemaking provides a substantial increase in the maximum lease size. The definition has been deleted from the final rulemaking.

The definition of the term "sole party in interest" has been changed editorially, but not substantively, to be consistent with this rulemaking.

A definition of the term "person or entity in the business of providing assistance to participants in a Federal oil and gas leasing program" has been added to the final rulemaking in response to questions concerning the use of this phrase in the proposed rulemaking.

Acreage Limitations—Section 3101.1–5 has been changed editorially, but not substantively, to be consistent with this final rulemaking.

Availability of Lands—Sections 3101.1–1 and 3101.2–1 have been changed to eliminate references to the size of leases. This information is set forth in those specific sections which describe the individual leasing programs, thus eliminating redundancy.

Section 3101.2–1 has been further amended to describe the availability of acquired lands in a manner parallel to section 3101.1–1 regarding public domain lands. Other nonsubstantive changes have been made in both sections for clarity.

Who May Hold Interest—Paragraph (a)(2) of section 3102.1 received two comments which were concerned with the deletion of the last sentence of the existing regulation. This sentence required the denial of an application to any corporation which has any "appreciable percentage" of its stock held by aliens who are disqualified by law from holding interests in leases. Some of the comments were concerned that the deletion could be interpreted to disqualify a corporation from holding leases if any percentage of its stock is owned by nonqualified aliens. The interpretation the comments wish to avoid is a correct one. There is not now, nor has there been under the existing regulation, any *de minimus* exception for unqualified alien ownership. The deletion eliminates the basis for the mistaken belief that such an exception exists. The Bureau of Land Management does, however, normally require corporations to disclose the citizenship of only those stockholders owning more than 10 percent of the corporation's stock (see 3102.2–5).

Paragraph (b), relating to bona fide purchasers, received several comments which pointed out that the proposed rulemaking went further than the applicable statute (30 U.S.C. 184) by placing the burden of proof of establishing bona fides on the purchaser claiming such protection. The language of the proposed rulemaking has been modified to more closely reflect the statute which places the burden of establishing a prima facie case that the assignee of a challenged lease is not a bona fide purchaser on the United States in order for a hearing to be held. Neither the statute nor the regulations prohibit administrative inquiry into the bona fides of any lessee.

Some comments on this section also objected to language that places all purchasers on notice as to the contents of the lease case file. Other comments approved this requirement as a means of tightening title security and because the assignee should be informed of all rights, responsibilities and restrictions on the lease. The position of the

Department of the Interior, confirmed by the U.S. Court of Appeals for the Tenth Circuit, is that a purchaser is on notice as to all publicly available records pertaining to the lease and the lands covered by the lease. The language of the rulemaking has been expanded to reflect that the purchaser is on notice as to all such records.

The bona fide purchaser provisions have been moved to section 3108.3(c) through (e) of the final rulemaking.

Statements of Qualifications—General Requirements—Some comments suggested that the requirement in the proposed rulemaking that qualification statements, applications and offers be "manually signed" did not exclude the use of rubber stamped signatures. In order to make it clear that only personal, handwritten signatures will be permissible, language has been added to the final rulemaking requiring "holographically (manually) signed" statements, applications and offers.

As one comment pointed out, this change will overturn the rule established by the Interior Board of Land Appeals (IBLA) in *Mary I. Arata*, 4 IBLA 201 (1971). The IBLA held that existing regulations were drafted in such broad terms as to allow mechanically affixed signatures. The outgrowth of this decision has been that other Bureau of Land Management regulations have been interpreted to allow other than holographic signatures. In interpreting one such regulation, IBLA recognized that by following its decision in *Arata* it exposed the Department of the Interior "to another method by which the reasonable efforts of the Department to ensure fair play and compliance with the law can be made more difficult." However, under the language of then existing regulations, IBLA felt constrained to follow its earlier decision while deploring "the proclivity of some leasing services to exploit every conceivable loophole in the letter of the regulation without any discernable regard for their spirit and intent". *W. H. Gilmore*, 41 IBLA 25 (1979). The final rulemaking is intended to overturn the *Arata* rule.

Personal signatures help to eliminate fraud against the United States and those who participate in the leasing system through agents. In may cases, those who participate through agents have limited exposure to materials issued by the Department of the Interior concerning the leasing program. In view of these factors, and in order to impress on the applicant the seriousness of the leasing procedures and the statements the applicant is required to certify, it is appropriate to require a holographic signature.

One comment suggested that the Department of the Interior's only interest in requiring a handwritten signature is to ensure that the applicant receives the lease and that this requirement can be met by a personal signature on the lease form and that, therefore, signatures on other forms are redundant. As pointed out above, this is but one of the Department's interests in requiring holographic signatures and no change has been made in the requirement.

Language has also been added to the section cross-referencing the provisions of section 1821.3, which describes the significance of making the statements required by subpart 3100.

Section 3102.2–7 of the proposed rulemaking has been renumbered as section 3102.2–1 in the final rulemaking and rewritten to state more clearly the liberalization of the policy of allowing qualification statements to be placed on file and thereafter to be referred to by serial number without resubmittal. Additional language describing the significance of the use of a serial number has been added in order to avoid future confusion. All the comments on these aspects of the section were favorable.

Some comments suggested that the requirement of the proposed rulemaking that all statements of qualifications be kept current was too great a burden to place on an applicant. The provision has not been changed in the final rulemaking. No application or offer will be accepted unless the statements of qualifications are fully up to date in order to assure compliance with existing law and regulations.

The requirement in the proposed rulemaking that grants of authority be of a specific duration drew mixed comments. Some of the comments felt that an open ended grant of authority should be allowed, while other comments expressed a preference for some fixed time period for a grant of authority. The final rulemaking adopts a two year limit on the duration for grants of authority to an agent. Two years was selected in order to reduce the burden on those who employ agents while allowing the Bureau of Land Management to clear its files of outdated material.

All Applicants and Offerors—Section 3102.2–2, titled "Individuals" in the proposed rulemaking, has been renumbered and redrafted in the final rulemaking for clarity. Some comments mistakenly believed that the language of the proposed rulemaking required a statement separate from the certification on the lease application. The language of the final rulemaking specifically dispels this concept.

Trusts and Guardians—Many comments were received on section 3102.2–2 of the proposed rulemaking, renumbered 3102.2–3 in the final rulemaking, which argued that revocable trusts should be permitted to be lessees and should be allowed to continue to acquire and hold Federal leases. As a result of the persuasive arguments presented in the comments, the ban on revocable trusts has been eliminated from the final rulemaking. In order to highlight a potentially improper filing arrangement, however, language has been added to section 3112.6–1(c)(4) of the final rulemaking to specifically warn against the filing of applications by both the grantor or those with powers of revocation and the trust for the same parcel.

Associations Including Partnerships—A few of the comments on section 3102.2–4 of the proposed rulemaking suggested that it was excessively burdensome to require that a complete list of the partners of a partnership, particularly a limited partnership, be furnished. In response to these comments, the final rulemaking has been amended to require a list of all general partners. This amendment eases the burden imposed on limited partnerships and provides the Bureau of Land Management with information it needs to identify prohibited filings. The amendment is consistent with the requirement that corporations submit a list of corporate officers.

Another change in this section, made in response to comments, gives those owning more than 10 percent of an association an additional 15 days during which to submit statements of their qualifications.

Corporations—Many comments objected to the requirement in the proposed rulemaking that the percentage of stock owned by aliens be revealed. Some of the comments suggested that the requirement is too severe, while other comments suggested that it did not require enough disclosure of stock ownership by aliens. This requirement, which has been retained in the final rulemaking, is the same as that now in existing regulations. A discussion of the question of alien ownership is covered earlier in this preamble.

One comment recommended that the term "corporate officers" be broadened to specifically include corporate directors. This comment has not been adopted because the rulemaking is designed to cover only those normally considered as corporate officers.

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Another comment suggested that stockholders owning more than 10 percent of the corporate stock should be required to reveal the percentage of the stock that they hold. The Department of the Interior needs this information for proper acreage attribution and the final rulemaking incorporates the suggested change.

A change has been made in this section similar to the change in the association section, allowing an additional 15 days for the submission of statements of their qualification by those owning more than 10 percent of the stock of a corporation.

Agents—Some comments were received that suggested that agency statements be submitted at the time a lease application or offer is filed rather than within 15 days following such filing. These comments have been partially adopted. The final rulemaking eliminates the provision allowing a 15-day period for the filing of individual statements while retaining the 15-day period for the filing of uniform agreements.

Several comments recommended that the attorney-in-fact provisions be eliminated because other changes in the proposed rulemaking rendered them unnecessary. After careful consideration of the comments, the recommendation has been adopted and the provisions eliminated from this section of the final rulemaking.

This section has also been rewritten in the final rulemaking to properly shift the responsibility for providing the necessary information concerning the agency relationship to the applicant.

Sole party in interest—A few of the comments misconstrued the proposed rulemaking as requiring a separate statement listing other parties in interest to accompany each application or offer. There was no intention to alter the procedure in existing regulations that allows other parties in interest to be listed directly on the lease application or offer. The rule does require, however, that any application bearing the names of multiple parties must be accompanied or followed by a separate statement setting forth the nature of the agreement between them. The final rulemaking has been rewritten to clarify this point and, hopefully, remove any misinterpretation.

Other showings of qualifications—One comment on section 3102.3 of the proposed rulemaking pointed out that this section permits the Bureau of Land Management total license to request from any applicant additional information that could be used to show compliance with the regulations on this subject. Specifically, the comment was concerned that the Bureau would abuse this broad discretion. The comment went on to suggest language to limit the information which could be requested. While it is possible that some Bureau offices might have been overzealous on occasion in the use of this authority, wide discretion is needed in order to insure compliance with the regulations and the statute. Even though there has been no change made in this section in the final rulemaking, the Bureau's operating policy instructions will make it clear that only that data needed to insure compliance will be requested.

Relinquishment, Termination, Cancellation—This subpart has been rewritten to bring the provisions of the existing regulations into conformance with the language of this final rulemaking. A new section on cancellation, section 3108.2–2, has been included in the final rulemaking. This section is a restatement of existing procedures. Also included in the section are the bona fide purchaser provisions which were part of section 3102.1(b) of the proposed rulemaking and have been discussed earlier in the preamble.

Acreage Limitations—Many comments were received on section 3110.1–3 of the proposed rulemaking and its proposal to increase the maximum lease size from 2,560 acres to 10,240 acres. Several of the comments were concerned that the Bureau of Land Management would withhold smaller parcels from leasing in order to create parcels of the maximum size, thereby delaying leasing. Other comments were concerned that the proposed change would exclude participation by independent oil developers who might not be able to afford the larger rental payments required to hold the larger parcels. Along this same line, another group of comments expressed the concern that the higher cost of the larger parcels would exclude individual participants from participating in the simultaneous leasing system. A few comments pointed out that the entire acreage of a larger lease could be extended beyond the primary term by a single well. Some comments suggested that splintered ownership patterns encourage development while others suggested that the change would be helpful to developers by eliminating difficult consolidation steps. One comment observed that the change would be particularly beneficial in high risk, remote areas, which had not previously attracted industry interest. After careful consideration of the comments and a restudy of the proposed rulemaking and the Department of the Interior study that lead to the proposal, the provision on increase of lease size has not been changed in the final rulemaking.

The consolidation of leases into larger parcels has as its purpose the encouragement of prompt exploration for, and development of the resource. As this is the reason for the provision, it will be the policy that leasing will not be delayed to create larger parcels if such delay means that exploration and development plans will be thwarted. A delay of even a single extra leasing cycle would not be justified if the delay would have such adverse impacts.

Those concerned that participants will be excluded from participation in the simultaneous leasing system, either as developers or speculators, are overly concerned about the impact of the acreage change. The present average lease size on Federal lands is 850 acres. This average lease size is not expected to increase significantly as a result of the increased maximum lease size provided in this rulemaking. Future leasing will not, on the whole, require a significantly greater expenditure than past leasing. Because of the scattered nature of Federal land ownership in most areas, parcels of maximum size will not be assembled very often. The Secretary of the Interior retains the discretion to issue leases for less than the maximum acreage. Parcels will be combined where reasonable unless there are significant geologic or geographic reasons for not doing so.

Several comments suggested that the six mile square rule, as opposed to the four mile square rule set forth in the proposed rulemaking, be retained. The comments suggested that a four mile rule was unnecessarily restrictive, particularly with the increase in maximum lease acreage.

After a careful analysis of the comments, the four mile square rule has been abandoned in the final rulemaking in favor of the six mile square rule. Additional flexibility has been added through an amendment of the final rulemaking for leasing of certain acquired lands outside a six mile square.

Availability of Lands—Section 3112.1–1 has been amended to make clear that the simultaneous oil and gas leasing system may be used for the leasing of lands other than those specifically covered by the existing language of the section.

Posting of Notice—Most of the comments on section 3112.1–2 opposed the proposed change in the proposed rulemaking changing the drawings from monthly to quarterly citing potential delays in the leasing of lands and the adverse effect on public participation in the leasing process. The reasons for proposing quarterly drawings were to

allow for the consolidation of parcels and to allow for an extension of the filing period from 5 to 15 working days in order to overcome the difficulties some participants experienced in meeting the 5 day requirement. The final rulemaking is a compromise. The simultaneous leasing system will be on a bi-monthly basis rather than on a quarterly basis. At the same time, the 15 day rule that was soundly applauded by the comments is retained. This will permit filings to be accepted from the start of business on the first working day of January, March, May, July, September and November, until the close of business on the 15th working day of the month.

How to File an Application—One of the changes made in this section, section 3112.2–1, is the changing of the name "drawing entry card" to "simultaneous oil and gas lease application." This change is consonant with the plans to automate the program, including the selection process, thereby eliminating manual drawings. All references to "drawings" on forms will be eliminated.

Paragraph (a) of section 3112.2–1 has been expanded to include a general description of the leasing procedure. Applications will be accepted and subjected to a random selection process in order to determine the first applicant. That applicant, if qualified, will be entitled to submit a lease offer on a form approved by the Director, Bureau of Land Management, subject to the stipulations specified in the posted list and those later determined to be necessary.

Some of the comments on this section suggested that the requirement that applications be "manually signed in ink" did not exclude the use of a rubber stamp for signatures. In order to make it clear that only personally handwritten signatures will be accepted, the final rulemaking has been changed to require "holographically (manually) signed" applications.

A few comments suggested that the requirement for a handwritten signature is an unnecessary burden for applicants. As set out earlier in the preamble, the Department of the Interior has valid reasons for keeping this requirement as part of the final rulemaking.

A few comments recommended that provision be made in the final rulemaking for those applicants who are physically unable to write their own name so that they can participate in the leasing system. No change has been made in this section because persons who are physically incapacitated may use an agent.

In response to suggestions in the comments, the requirement that the lease application be signed and fully completed by a single individual has been deleted from the final rulemaking.

Most of the comments were in favor of the requirement in the proposed rulemaking that the lease application bear the address of the applicant and not the address of a filing service or other agent.

One comment suggested that the requirement that the application bear the address of the applicant was insensitive to the needs of those who participate in the leasing system through filing services. On the contrary, the change will protect clients of filing services from being defrauded by unscrupulous filing services. Moreover, the change is sensitive to the needs of the oil industry which often has difficulty contacting a lessee because only the address of the filing service appears on the application. Balanced against the potential for fraud and the often-voiced concerns of segments of the oil industry, the inconvenience to a few participants is acceptable. The requirement that a lease application bear the address of the applicant has been retained in the final rulemaking.

Filing Fees—Most of the comments on this section opposed the requirement of the proposed rulemaking that fees be paid by guaranteed remittance on the basis that it was an additional burden on the public. As stated in the preamble to the proposed rulemaking, this requirement is necessitated by the large amount of uncollectable payments which the Bureau of Land Management receives each month. The final rulemaking contains the requirement that fees be paid in the form of guaranteed remittances.

A few comments on this section suggested an increase in the filing fee. The increase is not warranted at this time and the final rulemaking does not adopt the suggestion.

Selection Procedures—One comment on section 3112.3–1 of the proposed rulemaking suggested that the Bureau of Land Management be required to notify successful applicants within 30 days of their receipt of priority. Normally, notification is received in a shorter time than 30 days. Therefore, this change is not warranted and has not been included in the final rulemaking.

Another comment recommended language requiring a refund of rental if the lands offered for lease are determined to be within a known geological structure of a producing oil or gas field prior to lease issuance. This change is not necessary since refunds of this kind are now made under existing regulations and will continue in the future.

Another change made in this section of the final rulemaking is that whenever the word "drawings" was used in the proposed rulemaking, it has been changed to the word "selections" in order to encompass those selections determined by computer rather than by drawing.

Reselection Procedures—The recently issued redrawing regulation has been editorially changed, without substantive effect, in this final rulemaking to make it consistent with the changes made by this final rulemaking.

The Lease Offer and Payment of First Year's Rental—Section 3112.4–2 of the proposed rulemaking, renumbered section 3112.4–1 in the final rulemaking, required that the lease offer be signed and the first year's rental be submitted by the lease applicant in order to increase an applicant's involvement and reduce the influence of agents in the process. Many of the comments approved this change. Some, however, found the change to be an undue burden upon applicants. In order to provide greater flexibility for the leasing system, the final rulemaking has been changed to allow an attorney-in-fact to sign the offer and submit the first year's rental if the requirements of the section are followed.

Acceptance of Lease Offer—Several of the comments on section 3112.4–3 of the proposed rulemaking, renumbered section 3112.4–2 in the final rulemaking, recommended that the final rulemaking require the issuance of a lease within 30 to 60 days of receipt of a lease offer. Unfortunately, proper management of the public lands and their resources sometimes requires a longer delay. Therefore, this recommendation has not been adopted as part of the final rulemaking.

Restriction on transfer—Several of the comments on section 3112.4–4 of the proposed rulemaking, renumbered section 3112.4–3 in the final rulemaking, expressed the view that the prohibition on agreements to assign a lease until lease issuance or 60 days after the establishment of priority, whichever is sooner, was unenforceable. The provision was not intended to impose an additional enforcement burden on the Federal Government. The prohibition was designed to protect the lease applicant and the industry by establishing a cooling-off period during which all interested parties will have an equal opportunity to negotiate for the lease. Other comments were concerned that exploration would be delayed because operators will be temporarily prohibited from putting together a lease play.

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The provision was designed to be self-enforcing by providing a lessee with an incentive to void the agreement when it is discovered to be to his/her advantage. As one comment pointed out, the incentive for a lessee to void an agreement would be destroyed by the penalty provision in the proposed rulemaking that would result in the cancellation of the lease if the agreement for the transfer of the lease did not meet the time requirements set by the regulations. For this reason, this section of the final rulemaking has been amended to provide for disapproval of an assignment that was the subject of an agreement that does not comply with the provisions of this section.

One comment wanted to know the meaning of the term "option" as it is used in this section. The term "option" as it is used in section 3112.4–3 of the final rulemaking has the same meaning as the term has in 30 U.S.C. 184(d).

Rejection of an Application, Rejection of an Offer, Cancellation of Leases—The comments on these sections, sections 3112.6–1 and 3112.6–2 of the proposed rulemaking, included one which objected to the penalizing of an applicant for the activities of the applicant's filing service. This comment was rejected because an application that is illegally filed should be rejected, whether filed by an applicant or by an applicant's agent. An applicant is responsible for the actions of the agent (filing service) he/she chooses to employee. Otherwise, the section would be unenforceable.

The provisions covering rejection of applications, rejection of lease offers and cancellation of leases have been separated into three sections in the final rulemaking, rather than two as in the proposed rulemaking, to avoid confusion. Further, the language of the sections has been modified for clarity and to provide a better statement of the scope of prohibited activities.

Availability of Lands Not Leased Through Drawing—A few comments suggested that the liberalized technique for removing unleased lands from simultaneous oil and gas leasing contained in section 3112.7 of the proposed rulemaking should not operate automatically. In response to these comments, the language of the section has been changed to specifically allow for an exercise of discretion by the State Director of the appropriate Bureau of Land Management office.

The new simultaneous oil and gas lease application form is subject to clearance by the Office of Management and Budget, in addition to approval by the Director as provided in this final rulemaking.

This rulemaking will be effective less than 30 days after publication in the **Federal Register** for good cause as described below. In Order No. 3051 (45 FR 30553), the Secretary of the Interior ordered the resumption of leasing when certain modifications specified in his April 7, 1980, decision were completed and revoked suspension of onshore oil and gas leasing effective June 16, 1980. Under the Secretary's decision of April 7, 1980, this rulemaking must be effective in order to resume the simultaneous leasing system. This rulemaking does contain provisions increasing the maximum offer and lease size from 2,560 acres to 10,240 acres as well as new qualification procedures that also affect over-the-counter leasing, even though the regulation need not be effective in order to resume the over-the-counter leasing system.

If over-the-counter offers are accepted for filing on June 16, 1980, but these regulations are not effective for several days, considerable confusion is likely to occur, causing delays in the issuance of leases. If resumption of the over-the-counter leasing system is delayed until 30 days from publication, similar confusion is likely to occur.

Making these regulations effective June 16, 1980, will result only in benefit to participants in the over-the-counter leasing system by allowing them to file offers under the increased maximum acreage rule contained in this final rulemaking. This early effective date does not affect the simultaneous leasing system in any way, since under the rulemaking, no parcels may be posted for simultaneous applications until July 1, 1980, which is more than 30 days from the publication date.

The national interest requires the resumption of onshore oil and gas leasing in an orderly and responsible manner. By Order No. 3051, the Secretary of the Interior has clarified the impact of the leasing suspension and established June 16, 1980, as the target date for resumption of leasing. The benefits of maintaining this target date, as described above, far outweigh any benefit gained by allowing the full 30 days before this rulemaking becomes effective. The public interest is best served under these circumstances by making this rulemaking effective on June 16, 1980.

Editorial and language changes needed to clarify the rulemaking have been made.

The principal authority of this rulemaking is Charles E. Weller, Division of Onshore Energy Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and the staff of the Office of the Solicitor, Department of the Interior.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), and related laws, Part 3100, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

James W. Curlin,

Acting Assistant Secretary of the Interior.

May 20, 1980.

PART 3100—OIL AND GAS LEASING

1. Section 3100.0–5 is amended by revising paragraphs (b) and (d) to read as follows:

§ 3100.0–5 Definitions.

* * * * *

(b) "Sole party in interest" means a party who is and will be vested with all legal and equitable rights under the lease. No one is, or shall be deemed to be, a sole party in interest with respect to an application, offer or lease in which any other party has any of the interests described in this section. The requirements of disclosure in any application or offer of an applicant's or other parties' interest in a lease, if issued, reflect the policy that all applicants and other parties having an interest in simultaneously filed lease applications or offers to lease shall have an equal opportunity for success in the drawings to determine priorities. Additionally, such disclosures provide the means of maintaining adequate records of acreage holdings. An "interest" in the least includes, but is not limited to, record title interests, overriding royalty interests, working interests, operating rights or options or any agreements covering such "interests." Any claim or any prospective or future claim to an advantage or benefit from a lease, and any participation or any defined or undefined share in any increments, issues or profits which may be derived from or which may accrue in any manner from the lease based upon or pursuant to any agreement or understanding existing at the time when the application or offer is filed, is deemed to constitute an "interest" in such lease.

* * * * *

(d) "Person or entity in the business of providing assistance to participants in a Federal oil and gas leasing program" means those offering services for consideration in connection with the acquisition of Federal oil and gas leases. Included in this definition are those enterprises, commonly known as filing services, which sign, formulate, prepare, offer advice on formulation or preparation, mail, deliver, receive mail or otherwise complete or file lease applications or offers for consideration. Excluded from the definition are those services which only tangentially relate to Federal oil and gas lease acquisition, such as general secretarial assistance, or general geologic advice which is not specifically related to Federal lease parcels or leasing.

2. Section 3100.5–3 is amended to read as follows:

§ 3100.5–3 Period of option.

Except as provided in § 3112.4–3 of this title, an option taken on a lease application or offer may be for a period of time until issuance of the lease and 3 years thereafter. Where options are sought for longer periods, an application shall be filed with the authorized officer of the Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application.

3. Section 3101.1–1 is amended to read as follows:

§ 3101.1–1 Availability of lands.

(a) All public domain lands subject to disposition under the Act may be leased by the Secretary of the Interior. Lands within a known geologic structure of a producing oil or gas field shall be leased only by competitive bidding to the highest responsible qualified bidder. Other public domain lands shall be leased only noncompetitively to the first qualified applicant.

(b) Public domain lands not subject to leasing:

(1) National parks and monuments.

(2) Indian reservations.

(3) Incorporated cities, towns, and villages.

(4) Naval petroleum and oil shale reserves and national petroleum reserves.

(5) Lands within 1 mile of naval or national petroleum or helium reserves shall not be leased unless the land is being drained of its oil or gas deposits or helium content by wells on privately owned land or unless it is determined by the authorized officer, after consultation with agency exercising jurisdiction over the reserve, that operations under such a lease will not adversely affect the reserve through drainage from known productive horizons.

(c) The availability of acquired lands for oil and gas leasing is set out in § 3101.2–1 of this title.

4. Section 3101.1–5 is amended by revising paragraph (c)(3)(iii) to read as follows:

§ 3101.1–5 Acreage limitations.

* * * * *

(c) * * *

(3) * * *

(iii) If any party files an application for inclusion in the selection process under Subpart 3112, he/she shall be charged with the acreage thereof only if the application is successfully selected. If that application causes his/her to exceed the acreage limitation, the application shall be rejected.

* * * * *

5. Section 3101.2–1 is amended to read as follows:

§ 3101.2–1 Availability of lands.

(a) All acquired lands subject to disposition under the Act may be leased by the Secretary of the Interior. Lands within a known geological structure of a producing oil or gas field shall be leased only by competitive bidding to the highest responsible bidder. Other acquired lands shall be leased only non-competitively to the first qualified applicant.

(b) Acquired lands not subject to leasing include lands:

(1) Acquired for the development of their mineral deposits;

(2) Acquired by foreclosure or otherwise for resale;

(3) Reported as surplus under the Surplus Property Act of October 3, 1944 (50 U.S.C. 1611 et seq.);

(4) In incorporated cities, towns and villages;

(5) In national parks and monuments;

(6) Within naval petroleum and oil shale reserves and within the national petroleum reserves; or

(7) Which are tide lands, submerged coastal lands, within the continental shelf adjacent or littoral to any part of lands within the jurisdiction of the United States.

(c) The availability of public domain lands for oil and gas leasing is set forth in § 3101.1–1 of this title.

6. Section 3102.1 is revised to read as follows:

§ 3102.1 Who may hold interests.

(a) *General.* Leases may be acquired and held only by citizens of the United States; associations (including partnerships) of such citizens, corporations organized under the laws of the United States or of any State or territory, thereof, or municipalities.

(b) *Aliens.* Leases or interests therein may be acquired and held by aliens only through stock ownership, stock holding and stock control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States.

(c) *Minors.* Leases shall not be acquired or held by one considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf.

7. Section 3102.2 and § 3102.2–1—3102.2–7 are revised to read as follows:

§ 3102.2 Statements of qualifications.

§ 3102.2–1 General requirements.

(a) *Signatures.* All statements required by the regulations in this subpart shall be holographically (manually) signed in ink. Rubber stamped or mechanically affixed signatures are not acceptable.

(b) *Certifications.* All statements required by the regulations in this subpart are subject to the provisions of § 1821.3 of this title.

(c) *Filing statements for reference.* A statement of the qualifications of a trust or guardianship (§ 3102.2–3), association (§ 3102.2–4), corporation (§ 3102.2–5), agent, if the duration of the authority to act is less than 2 years and is specifically set out (§ 3102.2–6) or municipality (§ 3102.2–9) may be placed on file with a Bureau of Land Management office described in § 1821.2–1 of this title. The office receiving the statement shall indicate its acceptance of the qualifications by assigning a serial number to the statement. Reference to this serial number may be made to any Bureau of Land Management office in lieu of resubmitting the statement. Such a reference shall constitute certification that the statement complies with paragraph (b) of this section. Amendments to a statement of qualifications shall be filed promptly and the serial number shall not be used if the statement on file is not current.

§ 3102.2–2 All applicants and offerors.

The applicant, offeror, or agent as provided in § 3102.2–6 of this title, shall certify as to age, citizenship and compliance with the acreage limitations set forth in § 3101.1–5 and 3101.2–4 of this title on the lease offer, or on the lease application if leasing is in accordance with subpart 3112 of this title.

§ 3102.2–3 Trustees and guardians.

If the offeror or applicant is a guardian or trustee filing on behalf of a ward or beneficiary, the offer, or application if leasing is pursuant to subpart 3112 of this title, shall be accompanied by a certified copy of the court order, or other document, establishing the relationship and authorizing the guardian or trustee to fulfill all obligations of the lease or arising thereunder. A statement as to the age, citizenship and as to compliance with the acreage limitations set forth in §§ 3101.1–5 and 3101.2–4 of this title by the guardian or trustee and by each ward or beneficiary shall be signed by the guardian or trustee and shall accompany each offer or application if leasing is pursuant to subpart 3112 of this title. The trustee of a revocable trust shall also submit a statement identifying the grantor of the trust and persons with the power of revocation.

§ 3102.2–4 Associations including partnerships.

(a) An association which seeks to lease shall submit with its offer, or application if leasing is in accordance with subpart 3112 of this title: (1) a certified copy of its articles of association or partnership; (2) a statement that it is authorized to hold oil and gas leases; and (3) a complete list of all general partners or members together with a statement as to their citizenship and identifying those authorized to act on behalf of the association or partnership in matters relating to Federal oil and gas leasing.

(b) A separate statement from each person owning or controlling more than 10 percent of the association, setting forth citizenship and compliance with the acreage limitations of §§ 3101.1–5 and 3101.2–4 of this title, shall be filed with the proper Bureau of Land Management office not later than 15 days after the filing of the offer, or application if leasing is in accordance with subpart 3112 of this title.

§ 3102.2–5 Corporations.

(a) A corporation which seeks to lease shall submit with its offer, or application if leasing is in accordance with subpart 3112 of this title, a statement showing: (1) The State in which it is incorporated; (2) that it is authorized to hold oil and gas leases; (3) a complete list of corporate officers, identifying those authorized to act on behalf of the corporation in matters relating to Federal oil and gas leasing; (4) the percentage of voting stock and of all the stock owned by aliens; and (5) the names and addresses of the stockholders holding more than 10 percent of the stock of the corporation. (b) A separate statement from each stockholder owning or controlling more than 10 percent of the stock of the corporation setting forth the stockholder's citizenship, percentage of corporate stock owned or controlled and compliance with the acreage limitations of §§ 3101.1–5 and 3101.2–4 of this title shall also be filed with the proper Bureau of Land Management office not later than 15 days after the filing of an offer, or application if leasing is in accordance with subpart 3112 of this title.

§ 3102.2–6 Agents.

(a) Any applicant receiving the assistance of any other person or entity which is in the business of providing assistance to participants in a Federal oil and gas leasing program shall submit with the lease offer, or the lease application if leasing is in accordance with subpart 3112 of this title, a personally signed statement as to any understanding, or a personally signed copy of any written agreement or contract under which any service related to Federal oil and gas leasing or leases is authorized to be performed on behalf of such applicant. Such agreement or understanding might include, but is not limited to: a power of attorney; a service agreement setting forth duties and obligations; or a brokerage agreement. (b) Where a uniform agreement is entered into between several offerors or applicants and an agent, a single copy of the agreement and the statement of understanding may be filed with the proper office in lieu of the showing required in paragraph (a) of this section. A list setting forth the name and address of each such offeror or applicant participating under the agreement shall be filed with the proper Bureau of Land Management office not later than 15 days from each filing of offers, or applications if leasing is in accordance with subpart 3112 of this title.

§ 3102.2–7 Sole party in interest.

(a) The applicant shall set forth on the lease offer, or lease application if leasing is in accordance with subpart 3112 of this title, or on a separate accompanying sheet, the names of all other parties who own or hold any interest in the application, offer or lease, if issued.

(b) A statement, signed by both the offeror or applicant and the other parties in interest, setting forth the nature of any oral understanding between them, and a copy of any written agreement shall be filed with the proper Bureau of Land Management office not later than 15 days after the filing of the offer, or application if leasing is in accordance with subpart 3112 of this title. Such statement or agreement shall be accompanied by statements, signed by the other parties in interest, setting forth their citizenship and their compliance with the acreage limitations of §§ 3101.1–5 and 3101.2–4 of this title.

§ 3102.8 [Amended]

8. Section 3102.8 is amended by changing the section number to § 3102.2–8 and inserting the words "or applicant" after the word "offeror" wherever it occurs and by deleting from paragraph (a)(2) the words "under §§ 3102.1 and 3102.2–1," and amending paragraph (b)(2) by replacing the words "under §§ 3102.1 and 3102.2–1" with the words "of an offeror or applicant."

§ 3102.9 [Amended]

9. Section 3102.9 is amended by deleting the second sentence thereof and by changing the section number to §§ 3102.2–9.

10. Section 3102.3 is amended to read as follows:

§ 3102.3 Other showings of qualifications.

The applicant, offeror or agent may be required to submit additional information to the Bureau of Land Management to show compliance with the regulations of this part and the Act.

§ 3102.4–3102.7 [Removed]

11. Sections 3102.4 through 3102.7, inclusive, are deleted in their entirety.

12. Section 3103.1–1 is amended to read as follows:

§ 3103.1–1 Form of remittance.

All remittances shall be by cash, money order, check, certified check, bank draft or bank cashier's check, except as provided in § 3112.2–2 of this title.

13. Section 3103.2–1(a) is amended to read as follows:

§ 3103.2–1 General statement.

(a) *Offers and applications.* Each lease offer under subpart 3111 of this title and each filing for a parcel under subpart 3112 of this title shall be accompanied by a filing fee of $10. Such fee shall be retained as a service charge even though the application or offer should be rejected or withdrawn in whole or in part.

* * * * *

14. Subpart 3108 is retitled as follows:

Subpart 3108—Relinquishment, Termination, Cancellation

15. Section 3108.2–2 is deleted in its entirety.

16. Section 3108.2–3 is deleted in its entirety.

17. Section 3108.3 is revised to read as follows:

§ 3108.3 Cancellation; bona fide purchasers.

(a) Whenever the lessee fails otherwise to comply with any of the provisions of the Act, of the regulations issued thereunder or of the lease, such lease may be canceled by the Secretary of the Interior if not known to contain valuable deposits of oil or gas after notice to the lessee in accordance with section 31 of the Act, if default continues for the period prescribed in that section after service of notice thereof. Any lessee of a lease which issued prior to July 29, 1954, may at any time prior to the anniversary date of such lease and the accrual of rental elect to subject the lease to the automatic termination provisions of this section by notifying, in writing, the authorized officer of the proper office to that effect.

(b) A lease known to contain valuable deposits of oil or gas may be canceled only by judicial proceedings in the manner provided in sections 27 and 31 of the Act.

(c) A lease or interest therein shall not be canceled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers are on notice as to all pertinent regulations and all Bureau of Land Management records pertaining to the lease and the lands covered by the lease.

(d) Prompt action shall be taken to dismiss as a party to any proceedings with respect to a violation of any provisions of the Act, these regulations or the lease terms any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented to indicate a possible violation on the part of the alleged bona fide purchaser.

(e) If during any such proceeding a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her interest thereto, or if such rights are suspended by order of the Secretary of the Interior pending a decision, payment of rentals and the running of time against the term of the lease or leases involved shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

18. Section 3110.1–3 is amended to read as follows:

§ 3110.1–3 Acreage limitation.

(a) *Public domain.* An offer may not include more than 10,240 acres. The lands in the offer shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan has been approved as to form by the Director of the Geological Survey or where the land is surrounded by lands not available for leasing under the Act.

(b) *Acquired lands.* An offer may not include more than 10,240 acres. An offer shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. An offer may exceed the 6 mile square limit if:

(1) the lands are not surveyed under the rectangular survey system of public land surveys and are not within the area of the public land surveys; and

(2) the tract desired is described by the acquisition tract number assigned by the acquiring agency and less than 50 percent of the tract lies outside the 6 mile square area.

19. Section 3110.1–4 is amended by revising paragraph (b) to read as follows:

§ 3110.1–4 Withdrawal of offer or application.

* * * * *

(b) *Simultaneous filings.* An applicant may withdraw his/her simultaneous oil and gas lease application prior to selection, except as provided in § 3112.3–2 of this title. A simultaneous oil and gas lease offer may be withdrawn in the same manner as a regular offer, as described in paragraph (a) of this section.

20. Section 3110.1–6 is amended by revising paragraph (b) to read as follows:

§ 3110.1–6 Determination of priorities.

* * * * *

(b) *Simultaneous filings.* If more than one lease application is filed for a parcel under the provisions of subpart 3112 of this title, their priority shall be determined by a random selection.

§ 3111.1–1 [Amended]

21. Section 3111.1–1(e)(2) is deleted. Paragraphs (e)(3)–(5) are renumbered (e)(2)–(e)(4).

22. Subpart 3112 is revised to read as follows:

Subpart 3112—Simultaneous Filings

Sec.

3112.1 Parcels.
3112.1–1 Availability of lands.
3112.1–2 Posting of notice.
3112.2 How to file an application.
3112.2–1 Simultaneous oil and gas lease application.
3112.2–2 Filing fees.
3112.2–3 Qualifications.
3112.3 The first qualified applicant.
3112.3–1 Selection procedures.
3112.3–2 Reselection procedures.
3112.4 Lease issuance.
3112.4–1 The lease offer and payment of the first year's rental.
3112.4–2 Acceptance of lease offer.
3112.4–3 Restriction on transfer.
3112.5 Unacceptable filings.
3112.6 Adjudication.
3112.6–1 Rejection of an application.
3112.6–2 Rejection of an offer.
3112.6–3 Cancellation of leases.
3112.7 Availability of unleased lands.

§ 3112.1 Parcels.

§ 3112.1–1 Availability of lands.

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for non-payment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with this subpart. Other lands which are not within a known geological structure of a producing oil or gas field may be leased in accordance with this subpart.

§ 3112.1–2 Posting of notice.

At the start of business on the first working day of January, March, May, July, September and November, a list of the lands for which applications shall be received shall be posted in the proper Bureau of Land Management State Office. The list shall include a notice stating that such lands are subject to the filing of lease applications from the time of such posting, until the close of business on the fifteenth working day thereafter. The available lands shall be described in leasing units identified by parcel numbers. The lands shall also be described by subdivision, section, township and range if the lands are surveyed or officially protracted; or if unsurveyed, by metes and bounds. The

V 45 M Y 23 80 UMI

V 4 5 M Y 2 3 8 0 UMI

list shall include a statement as to, and a copy of, any standard or special stipulation applicable to each parcel. Copies of the posted notice may be purchased by mail or over the counter from the proper office.

§ 3112.2 How to file an application.

§ 3112.2–1 Simultaneous oil and gas lease applications.

(a) An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart. The first applicant for a lease, as determined under the regulations in this subpart, who is qualified to hold a lease under the Act and the regulations in this title shall be entitled to submit an offer for the lease as described in § 3112.4–1 of this title.

(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used.

(c) The name of only one citizen, association, corporation or municipality may appear as applicant on any application. The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period.

(d) The application shall include the applicant's personal or business address. All communications relating to leasing shall be sent to that address and it shall constitute the applicant's address of record for the purpose provided in § 3112.4–1 of this title. The applicant shall not use the address of any other person or entity which is in the business of providing assistance to those participating in the simultaneous oil and gas leasing system.

(e) The parcel applied for shall be identified by the proper parcel number, including the State prefix, as shown on the posted notice.

(f) No person or entity shall hold, own or control any interest in more than one application for a particular parcel.

(g) The properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management.

§ 3112.2–2 Filing fees.

(a) Each filing shall be accompanied by a $10 filing fee. The filing fee shall be paid in U.S. currency. Post Office or bank money order, bank cashier's check or bank certified check, made payable to the Bureau of Land Management. Checks drawn on foreign banks shall not be accepted.

(b) A single remittance is acceptable for a group of filings. Failure to submit sufficient fees to cover all filings shall render unacceptable the entire group of filings submitted with that remittance. Such filings shall be returned to the applicant in accordance with § 3112.5 of this title.

(c) An uncollectible remittance covering the filing fee(s) shall result in disqualification of all filings covered by it. In such a case, the amount of the remittance shall be a debt due to the United States which shall be paid before the applicant is permitted to participate in any future selection.

§ 3112.2–3 Qualifications.

Evidence of qualifications to hold Federal oil and gas leases shall be filed in accordance with subpart 3102 of this title.

§ 3112.3 The first qualified applicant.

§ 3112.3–1 Selection procedures.

(a) Three applications shall be randomly selected for each numbered parcel. The order in which they are selected shall fix the order in which the successful applicant shall be determined. Where only 2 applications are filed for a particular parcel, their priority shall be established through the selection process. A single filing shall automatically be considered the successful application.

(b) The results of the selection process shall be posted in the proper Bureau of Land Management office where the selection was held.

(c) All unsuccessful applicants shall be notified in writing or by return of their applications.

(d) Successful applicants shall be notified in accordance with § 3112.4–1 of this title.

(e) When the lease is issued to the first qualified applicant, unsuccessful applicants selected with lower priority for the lease shall be notified in writing or by return of their application.

§ 3112.3–2 Reselection procedures.

If a properly filed application is omitted from the selection process, a new selection shall be held. An omitted application may not be withdrawn by the applicant. The new selection shall consist of the omitted application(s) and the number of blank applications equal to the number of applications which were included in the first selection. Such selection shall be conducted in the same manner as the original selection. If the omitted application is not selected first, second or third priority in the new selection, the priority established in the original selection shall stand. However, if an omitted application is slected in the first, second or third priority, it shall displace the application selected with the same and lower priorities in the original selection. No applications chosen in the first selection shall be eliminated from priority as a result of the selection of an omitted application in the reselection. The number of priorities shall be increased as necessary.

§ 3112.4 Lease issuance.

§ 3112.4–1 The lease offer and payment of first year's rental.

(a) The lease agreement, consisting of a lease form approved by the Director, Bureau of Land Management, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the first qualified applicant for signing, together with a request for payment of the first year's rental. Only the personal hand-written signature of the prospective lessee, or his/her attorney-in-fact as described in paragraph (b) of this section, in ink shall be accepted. The first year's rental shall be paid only by the applicant, or his/her attorney-in-fact as described in paragraph (b) of this section. The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice. Timely receipt of the properly signed lease and rental constitutes the applicant's offer to lease.

(b) An attorney-in-fact may sign the lease offer and pay the first year's rental only if the power of attorney prohibits the attorney-in-fact from filing offers on behalf of any other participant; if the power of attorney specifically authorizes the attorney-in-fact to execute on behalf of the participant all offers, statements of interest and of holdings and other statements required, or which may be required, by the Act or the regulations; and if the power of attorney binds the participant to representations made on its behalf by the attorney-in-fact and waives any and all defenses which may be available to the participant to contest, negate or disaffirm the actions of the attorney-in-fact under the power of attorney. Any attorney-in-fact signing a lease offer or paying the first year's rental on behalf of

the prospective lessee shall file, together with the offer and/or rental, a copy of his/her power of attorney or reference to the serial number under which such authorization is filed over the personal handwritten signature of the prospective lessee in ink. Evidence of the applicant's physical handicap which precludes an ability to sign may be submitted in lieu of the applicant's signature on the power of attorney.

§ 3112.4–2 Acceptance of lease offer.

The signature of the authorized officer on the lease shall constitute the acceptance of the lease offer and the issuance of the lease by the United States.

§ 3112.4–3 Restriction on transfer.

No application, offer, lease or interest therein may be transferred or assigned prior to issuance of the lease as evidenced by the signing of the lease by the authorized officer on behalf of the United States as provided in § 3112.4–2 of this title. No agreement or option to transfer or assign such application, offer, lease or interest therein shall be made or given prior to the effective date of the lease or 60 days from the applicant's receipt of priority, whichever comes first. The existence of such an agreement or option shall result in disapproval of the subsequent assignment.

§ 3112.5 Unacceptable filings.

(a) Applications shall be examined prior to selection and the application or written notice, together with the filing fee, shall be returned to the applicant for any filing which is:

(1) Received prior to the beginning of the simultaneous filing period;

(2) Received after the closing of the filing period;

(3) Accompanied by an unacceptable remittance or insufficient filing fees;

(4) Filed in the wrong office;

(5) Filed without a parcel number or with a parcel number which is not on the current posted notice; or

(6) Filed for a parcel which is withdrawn by the Bureau of Land Management.

(b) Failure to identify a filing as unacceptable prior to selection does not bar rejection after selection for the reasons listed in this section or for any reason set forth in § 3112.6 of this title.

§ 3112.6 Adjudication.

§ 3112.6–1 Rejection of an application.

Rejection is an adjudicatory process which follows selection. Filing fees for rejected filings are the property of the United States and shall not be returned.

(a) *Improper filing.* Any application which is not filed in accordance with § 3112.2 of this title or any application which is unacceptable, as set forth in § 3112.5 of this title, shall be rejected. Misplacement of name or address or incomplete address on the face of form 3112–1 shall not be a basis for rejection until 30 days from posting the list of priority or return of the documents described in § 3112.4–1 of this title as undeliverable, whichever is later.

(b) *Unqualified applicants.* The application of any applicant who is unqualified or has not filed or caused to be filed all evidence of qualification required by Subpart 3102 of this title shall be rejected.

(c) *Prohibited agreements, schemes, plans or arrangements.* Any agreement, scheme, plan or arrangement entered into prior to selection, which gives any party or parties more than a single opportunity of successfully obtaining a lease or interest therein is prohibited and any application made in accordance with such agreement, scheme, plan or arrangement shall be rejected. Specifically:

(1) Any agreement, scheme, plan or arrangement which obligates the applicant to transfer any interest in the lease, if issued, to a third party; or which gives the third party a right of first refusal for the lease, if issued; or which obligates the applicant to use the services of the third party when assigning or transferring any interest in the lease, if issued; is prohibited is such an agreement, scheme, plan or arrangement exists between the third party and 2 or more applicants for the same parcel or if the third party files for the same parcel as the applicant;

(2) Any agreement, plan or scheme between any person or entity in the business of providing assistance to participants in a Federal oil and gas leasing program and any potential assignee whereby such person or entity will seek to induce an assignment of any lease is prohibited;

(3) Filings by members of an association (including a partnership) or officers of a corporation, under any arrangement, agreement, scheme, or plan whereby the association or corporation has an interest in more than a single filing for a single parcel are prohibited; or

(4) Separate filings by a trustee or guardian in its own behalf and on behalf of one or more beneficiaries on the same parcel or, separate filings by a trustee or guardian on behalf of two or more beneficiaries on the same parcel or, separate filings by the grantor or person with the power of revocation of a revocable trust and the trust, are prohibited.

(d) *Failure to file an offer.* The application of the first qualified applicant shall be rejected if an offer is not filed in accordance with § 3112.4–1 of this title.

(e) *Illegal interests.* The authorized officer shall reject all filings which are made in accordance with any illegal agreement, plan, scheme or arrangement and shall take other appropriate actions including investigations for prosecution under 18 U.S.C. 1001.

§ 3112.6–2 Rejection of an offer.

(a) An offer shall be rejected if the application upon which it is based could have been properly rejected under § 3112.6–1 of this title.

(b) If, prior to the time a lease is issued, all or part of the lands in the offer are determined to be within a known geological structure of a producing oil or gas field, the offer shall be rejected in whole or in part as may be appropriate and the lease, if issued, shall include only those lands not within the known geological structure of a producing oil or gas field.

§ 3112.6–3 Cancellation of leases.

In the event a lease has been issued on the basis of an application or offer which properly should have been rejected or, if any interest in any lease is owned or controlled directly or indirectly in violation of any of the provisions of the Act or regulations in this title, action shall be taken to cancel the interest or lease unless the rights of a bona fide purchaser, as provided for in § 3108.3(c) of this title, intervene. The Government may take action to cancel regardless of whether information showing the application or offer was rejectable is obtained or was available before or after the lease was issued.

§ 3112.7 Availability of unleased lands.

(a) Where, during the filing period, 10 or fewer applications are received for any parcel and no lease issues as a result of such filings, the lands in such parcels shall be subject to leasing only in accordance with subpart 3111 of this title.

(b) Where more than 10 applications are received for a particular parcel and all successful applicants for that parcel are rejected for any reason, the lands in such parcel shall be subject to leasing only in accordance with this subpart.

(c) If a parcel is made available 3 times on the posted list and no lease issues as a result of such posting, the lands in such parcels shall, in the discretion of the State Director of the appropriate Bureau of Land

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Management office, be subject to leasing in accordance with subpart 3111 of this title.

(d) If lands are available in accordance with subpart 3111 of this title pursuant to paragraphs (a) and (c) of this section, they shall be opened for the filing of lease offers by notice on the next list of lands posted by the proper Bureau of Land Management office under § 3112.1–2 of this title.

23. Section 3120.1–4 is amended by changing the reference to "§ 3102.4–1" to "§ 3102.2–5."

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Friday
May 23, 1980

Part IV

Department of Agriculture

Agricultural Marketing Service

Milk in the Alabama-West Florida Marketing Area; Hearing on Proposed Marketing Agreement and Order

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1093

[Docket No. AO-386]

Milk in the Alabama-West Florida Marketing Area; Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposed milk order that would regulate the handling of milk in an area designated as the Alabama-West Florida marketing area. Associated Milk Producers, Inc., Montgomery, Alabama, requested the proposed order. The marketing area of the proposed order would include the State of Alabama and four counties in western Florida. Proponent contends that a milk order is needed to establish and maintain orderly marketing conditions and an effective pricing regulation for the marketing of milk in the area. The texts of the proposals to be considered are set forth in this document.

DATE: Hearing will convene June 23, 1980.

ADDRESS: Hearing will be held at the Holiday Inn East, Eastern Bypass & I–85, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5443.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn East, Eastern Bypass & I–85, Montgomery, Alabama, 36109 beginning at 1:30 p.m., local time, on June 23, 1980, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Alabama-West Florida marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The hearing is for the purpose of:

(a) Receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof;

(b) Determining whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is need for a marketing agreement or order regulating the handling of milk in the area; and

(d) Determining whether the proposed marketing agreement and order or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Associated Milk Producers, Inc., Montgomery, Alabama: Proposal No. 1 [1]

General Provisions

Sec. .1 General provisions.

The terms, definitions, and provisions, in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.[2]

Definitions

Sec. .2 Alabama-West Florida marketing area.

The "Alabama-West Florida marketing area" hereinafter called the "Marketing area" means all territory within the boundaries of Alabama and the Florida counties of Escambia, Santa Rosa, Okaloosa and Walton, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties.

(a) Northern Zone: Lauderdale, Limestone, Madison, Jackson, Colbert, Lawrence, Franklin, Morgan, Marshall, De Kalb, Cherokee—all in Alabama.

(b) Central Zone (North): Marion, Lamar, Pickens, Winston, Walker, Fayette, Tuscaloosa, Cullman, Jefferson, Bibb, Chilton, Blount, St. Clair, Shelby, Etowah, Talladega, Coosa, Calhoun, Cleburne, Clay, Tallapoosa, Randolph, Chambers—all in Alabama.

(c) Central Zone (South): Sumter, Choctaw, Washington, Greene, Hale, Marengo, Clarke, Perry, Dallas, Wilcox, Monroe, Autauga, Lowndes, Butler, Conecuh, Elmore, Montgomery, Pike, Crenshaw, Macon, Bullock, Lee, Russell, Barbour—all in Alabama.

(d) Southern Zone: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Henry, Houston, all in Alabama, and the Florida counties of Escambia, Santa Rosa, Okaloosa and Walton.

Sec. .3 Route disposition.

"Route disposition" means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

Sec. .4 Plant.

"Plant" means the land, building, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities without stationary storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

Sec. .5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted regulatory agency for fluid consumption or filled milk is processd or packaged and which has route disposition in the marketing area during the month.

Sec. .6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption or filled milk is shipped during the month to a pool plant.

Sec. .7 Pool plant.

Except as provided in paragraph (c) of this section, "Pool plant" means:

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted regulatory agency for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to sec. .13 and that has route dispositions, except filled milk, in the marketing area during the month of at least the lesser of a daily average of 1500 pounds or 10 percent of

[1] The proposed order has been assigned to 7 CFR Part No. 1093. If an order later is recommended for adoption, the recommended order provisions will include the part no. designation for all sections of the order.

[2] The provisions of part 1000 (7 CFR Part 1000) are set forth immediately following Proposal No. 1.

receipts from dairy farmers, (including producer milk diverted from the plant but excluding milk received as diverted milk), handlers described in sec. .9(c) and other plants.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to sec. 13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted regulatory agency or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt distributing plant; and

(3) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

Sec. .8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

Sec. .9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to sec. .13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler of such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

Sec. .10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Received no Class I milk from sources other than his own farm production and pool plants;

(c) Disposes of no other source milk as Class I milk;

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from pool plants) and the operation of the processing and packaging business are his personal enterprise and risk.

Sec. .11 [Reserved].

Sec. .12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption, which milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in .9(c); or

(3) Diverted from a pool plant in accordance with Sec. .13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act or the operator of an exempt distributing plant;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to sec. .44 (a) (8) (iii) and the corresponding step of sec. .44 (b);

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

Sec. .13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in sec. .9 (c); or

(c) Diverted by the operator of a pool plant or a cooperative association from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of March through July, not less than two days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of August through February, not less than six days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) In any month of August through February, the total quantity of milk so diverted during the month by a cooperative association shall not exceed

one-third of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) In any month of August through February, the operator of a pool plant that is not a cooperative association may divert any milk that is not under control of a cooperative association that diverts milk during the month pursuant to paragraph (c) (3) of this section. The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such plant during the month that is eligible to be diverted by the plant operator;

(5) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(6) The cooperative association shall designate the dairy farm deliveries that are not producer milk pursuant to paragraph (c) (5) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk.

(7) The operator of a pool plant shall designate the dairy farm deliveries that are not producer milk pursuant to paragraph (c) (4) of this section. If the operator of the pool plant fails to make such designation, no producer milk diverted by it to a nonpool plant shall be producer milk; and

(8) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

Sec. .14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in sec. .40 (b) (1) from any source other than producers, handlers described in sec. .9 (c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in sec. .40(b)(1);

(c) Products (other than fluid milk products, products specified in sec. .40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in sec. .40(b)(1)) for which the handler fails to establish a disposition.

Sec. .15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Sec. .16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

Sec. .17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

Sec. .18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of, or marketing milk or milk products for, its members.

Sec. .19 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload point shall not be considered a plant except that a reload operation on the premises of a plant shall be considered a part of the plant operation.

Handler Reports

Sec. .30 Reports of receipts and utilization.

On or before the 5th day after the end of each month (if postmarked), or not later than the 7th day if the report is delivered in person to the office of the market administrator, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in sec. .9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in sec. .40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in sec. .9 (b) and (c) shall report;

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and

milk products in such manner as the market administrator may prescribe.

Sec. .31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in sec. .9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to sec. .76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

Sec. .32 Other reports.

(a) Each handler described in sec. .9 (a), (b), and (c) shall report to the market administrator on or before the 7th day after the end of each month of March through July the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through July the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and sec. .30 and .31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

Sec. .40 Classes of utilization.

Except as provided in sec. .42, all skim milk and butterfat required to be reported by a handler pursuant to sec. .30 shall be classified as follows:

(a) *Class I Milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II Milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no dispostion of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III Milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid from that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to sec. .15; and

(6) In shrinkage assigned pursuant to sec. .41(a) to the receipts specified in sec. .41(a)(2) and in shrinkage specified in sec. .41 (b) and (c).

Sec. .41 Shrinkage.

For the purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to sec. .30, the market administrator shall determine the following:

(a) The prorata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat;

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in sec. .9(c) except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this sub-paragraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid

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milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to sec. .9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

Sec. .42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to sec. .44(a)(12) and the corresponding step of sec. .44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to sec. .44(a)(7) or the corresponding step of sec. .44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to sec. .44(a) (11) or (12) or the corresponding steps of sec. .44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section;

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to the class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to another order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of sec. .40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to .30 for the month within such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence;

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plants; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in .9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in .9(c) to another handler's pool plant shall be classified pursuant to Sec. .44 pro rata with producer milk received at the transferee-handler's plant.

Sec. .43 General classification rules.

In determining the classification of producer milk pursuant to Sec. .44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to Sec. .30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to Sec. .9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with Secs. .40, .41, and .42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in Sec. .9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solid; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to Sec. .9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

Sec. .44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in Sec. .9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in Sec. .9(c), by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in Sec. .41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligated under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in Sec. .40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in sec. .40 (b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in sec. .40 (b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products

specified in sec. .40 (b) (1) that was not subtracted pursuant to paragraph (a) (4), (5) and (6) of this section.

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant.

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v) and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii), (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and the Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts of all pool plants of the handler or producer milk, milk from a handler described in sec. .9 (c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in. . . . Sec. .40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section subtract from the pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v) and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant to the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be prorata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk;

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to Sec. .45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from

transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to Sec. .42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in Sec. .9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in Sec. .9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

Sec. .45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to Sec. .44 (a) (12) and the corresponding step of Sec. .44 (b) estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to .44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was allocated in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

Sec. .50 Class Prices.

Subject to the provisions of Sec. .52, the class prices for the month per hundredweight of milk shall be as follows:

(a) Class I price. The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) Class II price. The Class II price shall be the basic formula price for the month plus 10 cents.

(c) Class III price. The Class III price shall be the basic formula price for the month.

Sec. .51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat differential (rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

Sec. .52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in .9 (c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in Sec. .50 (a) shall be adjusted by the amount stated in paragraph (a) (1) through (6) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in Sec. .2, the adjustment shall be as follows:

	Adjustment per hundredweight
Northern zone	Minus 20 cents.
Central zone (North)	No adjustment
Central zone (South)	Plus 15 cents.
Southern zone	Plus 37 cents.

Provided that any plant located in Alabama and within 110 miles of Montgomery, Alabama, and south of the central zone (south), shall receive a location differential of plus 20 cents.

(2) For a plant located in the State of Mississippi and Louisiana, the adjustment shall be the adjustment applicable at Mobile, York, Tuscaloosa, and Florence, Alabama, whichever city is nearest;

(3) For a plant that is outside the marketing area and north of a line extending through the northern boundaries of Georgia, Alabama and Mississippi and more than 100 miles (by the shortest hard surfaced highway distance as determined by the market administrator) from the nearer of the City Hall in Florence or Huntsville, Alabama, shall be reduced by 15 cents from the Northern Zone price and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard surfaced highway distance as determined by the market administrator) that such plant is from the nearer of the City Hall in Florence or Huntsville, Alabama.

(4) For a plant located in the State of Georgia, the adjustment shall be the adjustment applicable at Dothan, Opelika, Gadsden, and Huntsville, Alabama, whichever city is nearest;

(5) For a plant located in the State of Florida, outside of the Southern Zone, the adjustment shall be plus 55 cents;

(6) For a plant whose location is not covered by the provisions listed in paragraphs (a) (2), (3), (4), and (5) of this section and south of a line extending through the northern boundaries of Georgia, Alabama and Mississipi, the adjustment applicable for the nearest city designated in paragraph (2) and (4) of this section.

(b) For fluid milk products transferred in bulk from a pool plant to a distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to Sec. .44 (a)(12) an amount equal to:

(i) The pounds of skim milk in receipts of milk at the tranferee-plant from produces and handlers described in Sec. .9 (c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants:

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts:

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to Sec. .42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Locations adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph 9a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

Sec. .53 Announcement of class prices

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

Sec. .54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

Sec. .60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in Sec. .9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in sec. .9(c) that were classified in each class pursuant to secs. .43(a) and .44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to sec. .44(a)(14) and the corresponding step of sec. .44(b) by the respective class prices as adjusted by the butterfat differential specified in sec. .74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to sec. .44(a)(9) and the corresponding step of sec. .44 (b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to sec. .44(a)(7) (i) through (iv) and (vii) and the corresponding step of sec. .44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to sec. .44(a)(7) (v) and (vi) and the corresponding step of sec. .44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to sec. .44(a)(11) and the corresponding step of sec. .44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

Sec. .61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to sec. .60 for all handlers who filed the reports prescribed in sec. .30 for the month and who made the payments pursuant to sec. .71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add or subtract an amount equal to the total net value of the location adjustments computed pursuant to sec. .75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to sec. .60 (f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of August through February.

(b) For each month of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a) (1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Miltiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Mulitply the remaining hundredweight quantity of excess milk by the Class I price; and

(vi) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) (2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

Sec. .62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the applicable uniform price(s) pursuant to sec. .61 for such month.

Payments for Milk

Sec. .70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to secs. .71, .76, and .77, and out of which he shall make all payments pursuant to secs. .72 and .77, *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

Sec. .71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to sec. .60.

(2) The sum of:

(i) The value at the uniform prices, as adjusted pursuant to sec. .75, of such handler's receipts of producer milk and milk received from handlers pursuant to sec. .9(c); and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to sec. .60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

Sec. .72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to sec. .71(a)(2) exceeds the amount computed pursuant to sec. .71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market

administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

Sec. .73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher, per hundredweight of milk received during the first 15 days of the month less proper deductions authorized in writing by such producer;

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to secs. .74 and .75 multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made pursuant to paragraph (a)(1) of this section;

(ii) Less proper deductions authorized in writing by such producer;

(iii) Less deductions for marketing services made pursuant to sec. .86;

(iv) Plus or minus adjustments for errors made in previous payments made to such producers; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to sec. .72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the day prior to the date on which payments are due individual producers shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members, shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

Sec. .74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

Sec. .75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk was physically received at the rates set forth in Sec. .52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in Sec. .52(a) applicable at the location of the nonpool plant from which the milk was received, except that the weighted average price shall not be less than the Class III price.

Sec. .76 Payments for handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant up Sec. .30(b) and .31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section;

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order;

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price pursuant to Sec. .61(a), both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to Sec. .60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corrpesonding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to Sec. .60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstitued skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to Sec. .60 for such handler shall include, in lieu of the value of other source milk specified in Sec. .60(f) less the value of such other milk source milk specified in Sec. .71(a)(2)(ii), a value of milk determined pursuant to Sec. .60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of Sec. .7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to Sec. .30(b) and .31(b) similar reports for each such nonpool supply plant:

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to Sec. .60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in Sec. .74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated.

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in Sec. .74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

Sec. .77 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in moneys due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

Sec. .78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to Sec. .71, .77, .85, and .86 shall be increased one and one-half percent for each month or portion thereof that such obligation is overdue.

Administrative Assessment and Marketing Service Deduction

Sec. .85 Assessment for order administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in Sec. .9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in Sec. .9(c);

(c) Other source milk allocated to Class I pursuant to Sec. .44 (a)(7) and (11) and the corresponding steps of Sec. .44(b), except such other source milk that is excluded from the computations pursuant to Sec. .60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to Sec. .76(a)(2).

Sec. .86 Deduction for marketing service.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Determination of Base

Sec. .90 Base milk.

"Base milk" means the producer milk of a producer in each month of March through July that is not in excess of the producer's base multiplied by the number of days in the month.

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Sec. .91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through July in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

Sec. .92 Computation of base for each producer.

(a) Subject to Sec. .93, the base for each producer shall be an amount obtained by dividing the total pounds of his producer milk during the immediately preceding months of September through December by the number of days production represented by such producer milk or by 90, whichever is more.

(b) The base for a producer whose milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant for the entire base forming period. A base thus assigned shall not be transferable.

Sec. .93 Base rules.

(a) Except as provided in Sec. .92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less that 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) A producer who transferred base on or before February 1 may not receive by transfer additional base that would be applicable during March through July of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of his base to be applicable during March through July of the same year, but may transfer his entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) The base assigned a person who was a producer during any of the immediately preceding months of September through December may be increased to 90 percent of his average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (d) (1), (2) or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on his farm was substantially reduced because of conditions beyond his control, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on his farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in his milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents him from supplying milk from his farm to a plant.

Sec. .94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through December and shall notify each producer and the handler receiving milk from him of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

PART 1000—GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS[3]

§ 1000.1 Cope and purpose of part 1.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order except as specifically defined otherwise, or modified, or otherwise provided, in an individual order.

§ 1000.2 Definitions.

The following terms shall have the following meanings as used in the order:

(a) *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

(b) *Order.* "Order" means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to section 8c of the Act as a Federal milk marketing order (as amended).

(c) *Department.* "Department" means the U.S. Department of Agriculture.

(d) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(e) *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Market administrator.

(a) *Designation.* The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to each order under his administration:

(1) Administer the order in accordance with its terms and provisions;

(2) Make rules and regulations to effectuate the terms and provisions of the order;

(3) Receive, investigate, and report complaints of violations to the Secretary; and

(4) Recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under this administration, including, but not limited to, the following:

(1) Execute and deliver to the Secretary a bond covering himself and a bond covering any person designated by the Secretary to act in this stead. The respective bond shall be:

(i) Delivered within 45 days after he (or the acting market administrator) enters upon his duties;

(ii) Effective as of the date he (or the acting market administrator) enters upon his duties;

(iii) Conditioned upon the faithful performance of the market administrator's duties; and

(iv) In an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of persons necessary to enable him to exercise his powers and perform his duties;

[3] These provisions are included solely for information of interested parties. They may not be changed on the basis of this proceeding.

(3) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of his office and in the performance of his duties, including his own bond and compensation and the necessary bonds of his employees;

(4) Keep records which will clearly reflect the transactions provided for in the order, and upon request, by the Secretary, surrender the records to his successor or such other person as the Secretary may designate;

(5) Furnish information and reports requested by the Secretary and submit his records to examination by the Secretary;

(6) Announce publicly at his discretion, unless otherwise directed by the Secretary, by such means as he deems appropriate, the name of any handler who, after the date upon which he is required to perform such act, has not:

(i) Made reports required by the order;

(ii) Made payments required by the order; or

(iii) Made available records and facilities as required pursuant to § 1000.5;

(7) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities; and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect.

(8) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(9) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal condfidential information.

§ 1000.4 Continuity and separability of provisions.

(a) *Effective time.* The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of the order whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) *Continuing obligations.* If upon the suspension or termination of any or all of the provisions of the order, there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) *Liquidation.* (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) *Separability of provisions.* If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

§ 1000.5 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of his operations and make such records and his facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall not be considered accounted for or established as used in a class other than the highest priced class.

(a) *Records to be maintained.* (1) Each handler shall maintain records of his operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) *Availability of records and facilities.* Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary for such market administrator to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his duties.

(c) *Retention of records.* All records required under the order to be made available to the market administrator shall be retained by the handler for a

period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money:

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market-administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association (except an obligation to be prorated to producers under an individual handler pool), the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such records pertaining to such obligation are made available to the market administrator;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud of willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and;

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 et seq.) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims to be due him under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

Proposed by Dairymen, Inc:

Proposal No. 2

Renumber paragraph (c) of proposed Section .7 Pool Plant to (d) and add a new paragraph (c) to read as follows:

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least sixty (60) percent of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of Section .9(c)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under section .9(c).

Proposed by Timmothy V. Presley, Joe F. Dyess, Donald Howard, and Jimmy Mathis:

Proposal No. 3

Require an independent producer or a producer that is a member of a cooperative to ship milk for a minimum of not less than 60 days during the base building period in order to obtain base in any given year.

Proposal No. 4

Payment from handlers to producers for milk delivered shall be as follows:

(a) An advance should be made on the 20th of each month that milk is delivered.

(b) Full payment should be made on the 10th of the following month that the milk is delivered.

Proposed by the following handlers:

Baker & Sons Dairy; Barber Pure Milk Co., Dairy Fresh Corporation; Hall Brothers Dairy; and Meadow Gold Dairies.

Proposal No. 5

Where a regulated handler operates a manufacturing plant separate and apart from its Class I fluid milk plant, it is proposed that the manufacturing plant not be regulated.

Proposal No. 6

In the introductory text of proposed Section .30, Reports of Receipts and Utilization, the dates specified should be the "7th day" and "9th day", rather than the "5th day" and the "7th day", respectively.

Proposal No. 7

In paragraph (a) of proposed Section .32, Other reports, insert the word ("postmarked") immediately following "7th day" and "20 day".

Proposal No. 8

If an order is adopted, the pricing and pooling provisions of the order should not be made fully effective until after a two-month "dry run" period during which only the reporting requirements are in effect.

Proposal No. 9

In proposed Section .50, Class prices, paragraph (b) is proposed to read as follows:

(b) Class II price. The Class II price shall be the basic formula price for the second preceding month plus 10 cents.

Proposal No. 10

Add the following language at the end of paragraph (a)(1) of proposed Section 73, Payments to producers and to cooperative associations.: ". . ., except for milk received in March, April, May, June, July from a producer for whom no daily average base can be computed pursuant to Section .92. In such case, the applicable rate for making payment pursuant to this paragraph shall be the Class III price per hundredweight for the preceding month."

Proposal No. 11

Add the following sentence at the end of proposed Section .78, Charges on overdue accounts:

If a due date falls on a Saturday, Sunday or national holiday, the due date of the payment should be the next day that the market administrator's office is open for business, for the purpose of applying a late payment charge; and, any payment received after the due date in an envelope that is postmarked not later than the second day prior to the due date shall be considered to have been received by the due date.

Proposal No. 12

In an emergency when no fluid milk is available to a handler that the market administrator on verification of this fact may waive the provision that gives preference in the allocation and pricing provisions to milk from regulated sources.

Proposal No. 13

Allow the operator of a pool plant to divert producer milk from such plant to other pool plants directly from the farms of producers.

Copies of this notice may be procured from the Hearing Clerk, Room 1070, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.

Office of the Administrator, Agricultural Marketing Service.

Office of the General Counsel.

Dairy Division, Agricultural Marketing Service (Washington office only).

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: May 20, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-15921 Filed 5-22-80; 8:45 am]

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federal register

Friday
May 23, 1980

Part V

Office of Management and Budget

Rescission and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a proposal to rescind $12.4 million in budget authority previously provided by the Congress. In addition, I am reporting six revisions to previously transmitted deferrals increasing the amount deferred by $130.6 million.

The recission proposal involves law enforcement assistance in the Department of Justice. The revisions to existing deferrals involve programs in the Departments of Defense, Energy and Justice, and the Environmental Protection Agency.

The details of the recission proposal and each deferral are contained in the attached reports.

Jimmy Carter

The White House
May 20, 1980.

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CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission#	Item	Budget Authority
	Department of Justice:	
	Office of Justice Assistance, Research and Statistics	
R80-59	Law enforcement assistance	12,439
Deferral #		
	Department of Defense - Military:	
D80-50A	Various accounts	914,600
	Department of Energy:	
	Atomic Energy Defense Activities	
D80-51A	Atomic energy defense activities-operating expenses	1,000 1/
	Energy Programs	
D80-52A	Energy supply, research and development, operating expenses	2,500 1/
	Departmental Administration	
D80-53A	Departmental administration	1,000 1/
	Department of Justice:	
	Office of Justice Assistance, Research and Statistics	
D80-70A	Law enforcement assistance	19,396
	Environmental Protection Agency:	
D80-65A	Construction grants	3,647,948
	Subtotal, deferrals	4,586,444
	TOTAL, rescission proposal and deferrals	4,598,883

1/ Deferral of outlays only.

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Ninth special message:		
New items	12,439	---
Change to amounts previously submitted	---	130,594
Effect of ninth special message	12,439	130,594
Previous special messages	1,605,622	10,189,514
Total amount proposed in special messages	1,618,061	10,320,108 1/

1/ This amount represents budget authority except for $21,085 thousand involving the deferral of outlays only (D80-23A, D80-51A, D80-52A, and D80-53A).

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Rescission Proposal No: R80-59

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Justice	New budget authority (P.L. 96-68) $ 442,695,000
Bureau Office of Justice Assistance, Research and Statistics	Other budgetary resources 86,038,541
Appropriation title & symbol: Law enforcement assistance 1/ 15X0400	Total budgetary resources 528,733,541
	Amount proposed for rescission $ 12,439,446
OMB identification code: 15-0400-0-1-754	Legal authority (In addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Law enforcement education program and the Summer internship program were scheduled to be transferred to the Department of Education pursuant to Public Law 96-88. In conjunction with the President's effort to reduce Federal spending, the Administration is planning to phase out these two lower priority programs. Unobligated balances currently available for these programs are proposed for rescission.

Estimated Effects: This rescission would eliminate any further awards under the Law enforcement education program and the Summer internship program.

Outlay Effects: (in millions and tenths)

	Outlay Savings			
	1980	1981	1982	1983
Law enforcement assistance.....	---	---	---	---
Department of Education.....	---	$12.4	---	---

The outlay savings from this rescission proposal is reflected in the Department of Education since the funds were originally scheduled for transfer to that Department.

1/ This account is the subject of a deferral in FY 1980 (D80-70A).

R80-59

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research and Statistics

Law Enforcement Assistance

Of the funds appropriated under this head in P.L. 96-68, making appropriations for the Department of Justice for fiscal year 1980, and other appropriations acts in previous years, $12,439,446 are rescinded.

V 45 M Y 23 80 UMI

D80-50.1A thru 50.34A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D80-50.1 thru 50.34 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96-299.

This revision to a deferral of Department of Defense-Military funds increases the amount previously reported as deferred from $801,700,000 to $914,600,000. This increase of $112,900,000 is deferred for part of the year in the Aircraft Procurement, Air Force, 1980/1982 account.

The deferral of funds is related to the proposed transfer of $112.9 million in 1980 appropriations currently pending before the Congress. Previously, the transfer would have terminated procurement of A-7K aircraft. Another version of the A-7, the A-7D, will now be procured; other programs within the same account have now been substituted as a funding source. This deferral action is taken to preserve the funds pending congressional action on the transfer request.

Deferral No: D80-50.1A thru 50.34

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Military	New budget authority (P.L. 96-154): $37,102,390,000
Bureau:	Other budgetary resources: 10,773,971,127
Appropriation title & symbol: See Coverage Section below	Total budgetary resources: 47,876,361,127
	Amount to be deferred: Part of year: $661,200,000
	Entire year: 253,400,000
OMB identification code: See Coverage Section below	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual; ☒ Multiple-year Sept. 30, 1980/1981/1982/1984 (expiration date); ☐ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other

Coverage

Appropriation Title	Symbol	OMB Identification Code	Amount to be Deferred: Part of Year	Entire Year
.1) Operation and Maintenance, Navy Reserve	1701806	17-1806-0-1-051	$30,000,000	
.2) Aircraft Procurement, Army	218/02031	21-2031-0-1-051	849,000	
.3) Aircraft Procurement, Army	219/12031	21-2031-0-1-051	497,000	
.4) Missile Procurement, Army	218/02032	21-2032-0-1-051	357,000	-
.5) Missile Procurement, Army	219/12032	21-2032-0-1-051	91,000	
.6) Missile Procurement, Army	210/22032	21-2032-0-1-051	20,000,000	$4,700,000
.7) Procurement of Weapons and Tracked Combat Vehicles, Army	218/02033	21-2033-0-1-051	1,161,000	
.8) Procurement of Weapons and Tracked Combat Vehicles, Army	219/12033	21-2033-0-1-051	655,000	
.9) Procurement of Weapons and Tracked Combat Vehicles, Army	210/22033	21-2033-0-1-051	16,400,000	
.10) Procurement of Ammunition, Army	218/02034	21-2034-0-1-051	15,104,000	
.11) Procurement of Ammunition, Army	219/12034	21-2034-0-1-051	1,954,000	
.12) Other Procurement, Army	218/02035	21-2035-0-1-051	10,048,000	
.13) Aircraft Procurement, Navy	178/01506	17-1506-0-1-051	8,000,000	
.14) Aircraft Procurement, Navy	179/11506	17-1506-0-1-051	12,000,000	
.15) Aircraft Procurement, Navy	170/21506	17-1506-0-1-051	40,000,000	13,700,000
.16) Weapons Procurement, Navy	178/01507	17-1507-0-1-051	35,000,000	
.17) Weapons Procurement, Navy	179/11507	17-1507-0-1-051	19,000,000	

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Appropriation Title	Symbol	OMB Identification Code	Amount to be Deferred: Part of Year	Amount to be Deferred: Entire Year
.18) Shipbuilding and Conversion, Navy**	170/41611	17-1611-0-1-051	95,800,000	86,400,000
.19) Other Procurement, Navy	178/01810	17-1810-0-1-051	5,900,000	
.20) Other Procurement, Navy	179/11810	17-1810-0-1-051	5,200,000	
.21) Other Procurement, Navy	170/21810	17-1810-0-1-051		21,500,000
.22) Procurement, Marine Corps	170/21109	17-1109-0-1-051		8,700,000
.23) Aircraft Procurement, Air Force	578/03010	57-3010-0-1-051	122,600,000	
.24) Aircraft Procurement, Air Force	579/13010	57-3010-0-1-051	6,700,000	
.25) Aircraft Procurement, Air Force	570/23010	57-3010-0-1-051	120,017,000*	71,900,000
.26) Missile Procurement, Air Force	578/03020	57-3020-0-1-051	11,600,000	
.27) Missile Procurement, Air Force	579/13020	57-3020-0-1-051	14,600,000	
.28) Missile Procurement, Air Force	570/23020	57-3020-0-1-051	2,600,000	
.29) Other Procurement, Air Force	578/03080	57-3080-0-1-051	34,900,000	
.30) Other Procurement, Air Force	579/13080	57-3080-0-1-051	20,000,000	
.31) Research, Development, Test, and Evaluation, Army	219/02040	21-2040-0-1-051	2,000,000	
.32) Research, Development, Test, and Evaluation, Navy	179/01319	17-1319-0-1-051	8,167,000	
.33) Research, Development, Test, and Evaluation, Navy	170/11319	17-1319-0-1-051		6,900,000
.34) Research, Development, Test, and Evaluation, Air Force	570/13600	57-3600-0-1-051		39,600,000
			$661,200,000*	$253,400,000

Justification:*

The Department of Defense has identified these amounts to partially offset the requirement for additional funds because of increased operations in the Persian Gulf/Indian Ocean area, higher fuel and transportation costs, and inflation. Amendments to the pending 1980 supplemental and 1981 budget requests have been proposed to meet these additional requirements. The requests include language transfers of $914.6 million: $661.2 million in 1980 and $253.4 million in 1981. All amounts proposed for transfer are being deferred pending Congressional action on the 1980 supplemental and 1981 amended requests.

Estimated Effects:

This action would preserve these funds so that transfers can be effected upon completion of Congressional action.

Outlay Effects:

Pending completion of Congressional action on the transfer proposals, no outlay effects are recognized.

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* Revised from previous report.
** This account is the subject of another deferral -- D80-41.

D80-51A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-51 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96-299.

This revision to a deferral for Atomic Energy Defense Activities-operating expenses in the Department of Energy reflects a technical adjustment to the previous report. The deferred funds have been obligated. Therefore, the deferral involves a delay of expenditures rather than a delay of obligations, as previously reported.

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Deferral No: D80-52A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 96-69): $ 2,371,147,000
Bureau: Atomic Energy Defense Activities	Other budgetary resources: 432,245,235
Appropriation title & symbol: Atomic Energy Defense Activities Operating expenses (Defense Nuclear Waste Management) 89X0220 1/	Total budgetary resources: 2,803,392,235
	Amount to be deferred: Part of year: $ ____
	Entire year: $ 1,000,000* 2/
OMB identification code: 89-0220-0-1-053	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This deferral of $1,000,000 would allow for the consistent transition from FY 1980 to the amended FY 1981 program as currently proposed. This deferral applies to the Interim Waste Operations program, and is part of the Administration's effort to combat inflation by reducing--where feasible--lower priority programs in 1980 and is complementary to the effort to balance the 1981 Budget.

Estimated Effects: Efforts to transfer high level waste from old waste tanks to new tanks at the Savannah River nuclear waste disposal site will be reduced and isolation and stabilization of old single-shelled tanks at the Hanford site in Washington State will be rescheduled. The overall safe handling and storage of DOE radioactive wastes will continue unaffected by this action.

Outlay Effects: This deferral will shift an estimated $1.0 million in outlays from FY 1980 into FY 1981.

1/ This account is the subject of a similar rescission proposal in FY 1980 (R80-12).

2/ Deferral of outlays only.

* Revised from previous report.

D80-52A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-52 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96-299.

This revision to a deferral for Energy Supply, Research and Development-operating expenses in the Department of Energy reflects a technical adjustment to the previous report. The deferred funds have been obligated. Therefore, the deferral involves a delay of expenditures rather than a delay of obligations, as previously reported.

V 45 M Y 23 80 UMI

Deferral No: D80-52A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 96-69) $ 2,220,923,000
Bureau Energy Programs	Other budgetary resources 467,382,100
Appropriation title & symbol Energy Supply Research and Development Operating expenses 1/ 89X0224	Total budgetary resources 2,688,305,100
	Amount to be deferred: Part of year $ --- Entire year 2,500,000* 2/
OMB identification code: 89-0224-0-1-271	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ___
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification:

Commercial Waste (remedial action). Delays in preparing and submitting required legislation to Congress to authorize DOE to undertake decontamination and decommissioning remedial action at selected (formerly utilized) government facility sites (i.e., the Manhattan Engineering District/Atomic Energy Commission) have resulted in reduced funding requirements in FY 1980 for this program.

Advanced Nuclear Systems. The space power systems program conducts broad and detailed assessments of conventional, advanced, and specialized nuclear system options and applications which support planning for future space programs.

These deferrals are part of the Administration's effort to reduce the inflationary impact of federal spending on the general economy by reducing, where feasible, lower-priority Federal spending in 1980.

Estimated Effects:

Commercial Waste (remedial action). Because of the delay in obtaining the required authorizing legislation, remedial actions will not begin as early in FY 1980 as originally expected. On sites where DOE has clear authority to proceed, work will continue as scheduled.

Advanced Nuclear Systems. This action will preclude the Savannah River Plant from instituting a planned four-shift schedule. It will cause a four month delay in Plutonium-238 production and cause the International Solar Polar mission final design schedule to be delayed from July 1980 to late in FY 1980. The revised program schedule will allow the progam to continue within acceptable risks.

D80-52A

Outlay Effects:

Commercial Waste (remedial action). This deferral action will shift an estimated $2.0 million in outlays from FY 1980 into FY 1981.

Advanced Nuclear Systems. This deferral action will shift an estimated $0.5 million in outlays from FY 1980 into FY 1981.

1/ This account is the subject of a rescission proposal in FY 1980 (R80-13).
2/ Deferral of outlays only.
* Revised from previous report.

V 45 M 23 80 UMI

D80-53A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-53 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96-299.

This revision to a deferral for Departmental Administration in the Department of Energy reflects a technical adjustment to the previous report. The deferred funds have been obligated. Therefore, the deferral involves a delay of expenditures rather than a delay of obligations, as previously reported.

Deferral No: D80-53A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 96-69): $228,279,000
Bureau: Departmental Administration	Other budgetary resources: 168,094,955
Appropriation title & symbol: Departmental administration 89X0228 1/	Total budgetary resources: 396,373,955
	Amount to be deferred: Part of year: $ ___
	Entire year: 1,000,000 2/*
OMB identification code: 89-0228-0-1-999	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ___
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification: This deferral affects the In-house energy management program which funds energy conservation surveys of existing facilities to determine conservation investment opportunities and central plant fuel conversion studies to develop fuel conversion requirements. This program also funds energy conservation retrofit projects selected in order to achieve the 20% reduction in DOE energy consumption by 1985 mandated by Executive Order No. 12003, and fuel conversion projects to eliminate the use of scarce oil or natural gas and substitute coal and renewable energy resources. While it is recognized that these projects provide desirable benefits, this deferral can be made without affecting critical needs. This action is part of the Administration's effort to combat the high rate of inflation existing today.

Estimated Effects: This deferral will delay the accomplishment of certain retrofit projects. While a delay will be experienced, project cancellation is not anticipated and annual savings and increases in energy efficiency will merely occur at a later date.

Outlay Effect: This deferral action will shift an estimated $1.0 million in outlays from FY 1980 into 1981.

1/ This account is the subject of a rescission proposal in FY 1980 (R80-19).
2/ Deferral of outlays only.
* Revised from previous report.

V 45 MY 23 80 UMI

D80-70A

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-70 transmitted to the Congress on May 13, 1980.

This revision to a deferral for law enforcement assistance in the Department of Justice increases the amount previously reported as deferred from $13,396,000 to $19,396,000. This increase of $6,000,000 is necessary to preserve funds associated with a transfer request recently transmitted to the Congress.

Deferral No: D80-70A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Justice	New budget authority (P.L. 96-68) $ 442,695,000
Bureau Office of Justice Assistance, Research and Statistics	Other budgetary resources 86,038,541*
Appropriation title & symbol	Total budgetary resources 528,733,541*
Law enforcement assistance a/ 15X0400	Amount to be deferred: Part of year $ ____
	Entire year 19,396,000*
OMB identification code: 15-0400-0-1-754	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:* Funds totalling $19,396,000 provided for law enforcement assistance are deferred pending congressional approval and enactment of a transfer of these funds to help offset supplemental funding requirements for other Department of Justice activities. Supplemental requests currently pending before the Congress propose the transfer of these funds to the salaries and expenses accounts of the Federal Bureau of Investigation ($7,648,000), the Drug Enforcement Administration ($3,424,000), the Immigration and Naturalization Service ($4,492,000), the Federal Prison System ($846,000), U.S. Attorneys and Marshals ($2,008,000), and General Legal Activities ($978,000).

This deferral action and the associated transfer requests, which are intended to offset a requirement for $19.4 million of additional funds, are a part of the Administration's effort to reduce Federal spending.

Estimated Effects:* This deferral--in conjunction with the transfer requests--would reduce planned FY 1980 obligations for: (1) categorical grant programs for law enforcement assistance by approximately 6 percent, and (2) awards under the Law enforcement education program by approximately 24 percent.

Outlay Effects:* (in millions and tenths)

	1980	1981	1982
Department of Education	$-4.4	$-1.6	---
Law enforcement assistance	-2.7	-6.7	$-4.0
Department of Justice activities receiving transferred funds	+17.8 b/	+1.6	---
Total	+10.7	-6.7	-4.0

* Revised from previous report.
a/ This account is the subject of a rescission proposal in FY 1980 (R80-59).
b/ While outlays for these activities will increase, this spending substitutes for amounts that would otherwise have been required under additional appropriations.

V 45 M Y 23 80 UMI

D80-65A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-65 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96-299.

This revision to a deferral for the Environmental Protection Agency for construction grants increases the previously reported deferral from $3,636,254,355 to $3,647,948,144. This increase of $11,693,759 results from the availability of additional recoveries of prior year obligations that need to be deferred to meet the Administration's outlay target for this program. Only recovered funds that are not subject to reallotment in FY 1980 have been deferred.

Deferral No: D80-65A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Environmental Protection Agency	New budget authority (P.L. 96-103): $3,400,000,000
Bureau:	Other budgetary resources: 4,175,959,137*
Appropriation title & symbol: Construction Grants 68X0103	Total budgetary resources: 7,575,959,137*
	Amount to be deferred: Part of year (until 9/80): $400,000,000
	Entire year: 3,247,948,114*
OMB identification code: 68-0103-0-1-304	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:*

This deferral is part of the President's program to balance the budget in FY 1981. Coupled with restrictions on the level of obligations in the first three quarters of FY 1981, this deferral will help reduce Construction Grant outlays by $95 million in FY 1981.

This deferral applies to the remaining FY 1980 new obligational authority for Section 201 grants in the amount of $3,203,888,100 and $164,062,219 of recoveries of prior year obligations that are not subject to reallotment in FY 1980. This does not include the $70,234,034 in FY 1980 new obligational authority available for State program management under Section 205(g) of the Clean Water Act. The deferral also applies to all remaining funds appropriated in P.L. 94-447 in the amount of $279,997,795. All funds under this deferral will remain deferred for the entire year, with the exception of $400,000,000 in FY 1980 funds which are to be made available in September 1980.

Estimated Effect: *

The estimated effect of this deferral is to reduce obligations of FY 1980 budget authority in FY 1980 by approximately $450 million, from $1,000 million to $550 million. Of the obligations to be made this year from FY 1980 funds, $400 million will be delayed until September 1980. States will not be affected until they exhaust their FY 1979 allotment, at which time construction commitments for new wastewater treatment facilities dependent on deferred funds will be postponed. New projects in up to thirty-five States will be impacted to some extent. Seven States have virtually exhausted their FY 1979 allotment as of this time. Appropriations in the amount of $3,731,899,123 for FY 1979 and prior years remain available for obligation in FY 1980.

* Revised from previous report.

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A less restrictive deferral of funds will also be necessary in FY 1981 in order to meet the outlay reduction target. The Administration is submitting a related proposal to extend the reallotment periods by one year.

It is the intent of the Environmental Protection Agency to make available, subject to the requirements of Title II of the Clean Water Act, the funds apportioned in September 1980 in the following priority: (1) projects as to which a consent decree has been signed by the parties or court order entered on or before March 31, 1980, as a result of a Title III enforcement action or other action under Federal law, or projects which were before a Federal court on or before March 31, 1980, where court action has resulted in a court order or settlement on the issue of grant award or amount; and (2) projects as to which a consent decree has been signed by the parties or court order entered after March 31, 1980, as a result of a Title III enforcement action. Any remaining funds will be made available to the States based on the FY 1980 allotment formula and subject to the FY 1980 allotment totals for each State and taking into consideration the availability of prior year funding for individual States.

Outlay Effect:

The effect of this deferral is to lower FY 1980 outlays by $6 million and in conjunction with obligation controls in FY 1981 to reduce FY 1981 outlays by $95 million.

[FR Doc. 80-15907 Filed 5-22-80; 8:45 am]
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V 45 M Y 23 80 UMI

federal register

Friday
May 23, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 516

[Docket No. ERA-R-79-6-A]

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting; Amendments to the Final Rule

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: On February 15, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy gave notice by publication in the Federal Register (45 FR 10746) of its proposal to amend the Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (10 CFR Part 516, 44 FR 27606, May 10, 1979). The Final Rule implements Title IV, Section 402 of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). By this action, ERA is adopting the proposed amendments with minor modifications, effective upon publication, to amend both the definition of "natural gas lighting fixture" in Subpart A and selected exemption guidelines in Subpart D of the Final Rule. The Final Rule prohibits local natural gas distribution companies from supplying natural gas for residential, municipal, or commercial use for outdoor lighting and prohibits direct industrial users from using natural gas for such lighting unless an appropriate exemption has been granted. Local distribution companies and direct industrial users are also prohibited from installing new outdoor lighting fixtures that will use natural gas.

Section 402(e) of FUA permits ERA to delegate its responsibility and authority with regard to outdoor lighting under that section to the appropriate State regulatory authorities if such delegation would be consistent with the purposes of the Act. Pursuant to § 402(e) of FUA, ERA delegated its full responsibility to implement, administer and enforce the prohibitions on natural gas outdoor lighting to the appropriate regulatory authorities of the States (10 CFR Part 516, Subpart C). The delegation was intended to permit those authorities to establish and carry out, at the State and local levels, regulatory programs that are consistent with the purposes of Section 402, while recognizing specific State and local needs and requirements. Along with the delegation of authority, ERA provided guidelines on criteria that could be used by appropriate State regulatory authorities in evaluating requests for FUA exemptions. The guidelines (10 CFR Part 516, Subpart D) are offered for use until the time each regulatory body establishes its own exemption criteria. The State regulatory authorities are now at various stages in the process of creating and implementing their individual programs.

DATES: Effective date: May 23, 1980.

FOR FURTHER INFORMATION CONTACT:

Earl Bragdon, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202–653–3920.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, 202–653–4055.

Marya Rowan, Office of the General Counsel, Department of Energy, Rm. 6C–087, 1000 Independence Avenue SW., Washington, D.C., 20585, 202–252–2967.

SUPPLEMENTARY INFORMATION:

I. Background

A Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (10 CFR Part 516, 44 FR 27606, May 10, 1979) was issued by the Economic Regulatory Administration (ERA) of the Department of Energy on May 3, 1979 to implement § 402 of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). The rule prohibited local natural gas distribution companies from supplying natural gas for residential, municipal, or commercial use, and direct industrial users from using natural gas for outdoor lighting unless an appropriate exemption has been granted as of the effective dates specified in 10 CFR §§ 516.21 and 516.22. Local distribution companies and direct industrial users are also prohibited from installing new outdoor lighting fixtures that will use natural gas (10 CFR § 516.20).

Pursuant to the provisions of § 402(e) of FUA, ERA, by means of 10 CFR Part 516, Subpart C, delegated full responsibility with respect to the implementation, administration, and enforcement of the prohibitions on natural gas outdoor lighting to the "appropriate State regulatory authorities". This delegation was intended to permit such authorities to establish and administer regulatory programs at the State and local levels consistent with the purposes of § 402 of the Act, while taking into account specific State and local needs. The delegation authorized: the issuance of orders exempting certain natural gas outdoor lighting fixtures from the prohibitions of 10 CFR, Part 516, Subpart B, the establishment of procedures and criteria for use in processing exemption petitions and reaching determinations on such petitions, the establishment of enforcement mechanisms, the enforcement of the prohibitions and the assessment of civil penalties, as necessary. The State regulatory authorities, to which the delegation of authority has been made, are to administer the programs in their jurisdictions using the definition of "natural gas outdoor lighting fixture" contained in 10 CFR Part 516, Subpart A. Also, until these authorities establish their own exemption criteria, it is anticipated that they will use the guidance on exemptions provided in 10 CFR Part 516, Subpart D.

Comments continued to be directed to ERA, particularly regarding the definition of "natural gas outdoor lighting fixture" and certain of the guidelines on exemptions. As a result, ERA decided that certain amendments in these areas might be warranted to better facilitate the implementation of the FUA outdoor lighting program. Accordingly, on February 15, 1980, ERA published in the Federal Register proposed amendments to the Final Rule and solicited comments on them (45 FR 10746). A hearing on the proposed revisions was held in Washington, D.C. on March 12, 1980 and written comments received by ERA on or before April 15, 1980 were accepted into the public record for consideration. The major comments are discussed below.

II. Discussion of Comments and ERA Response

A. Section 516.11—Definitions

In the February 15, 1980 notice, ERA proposed to revise the "natural gas outdoor lighting fixture" definition in § 516.11(d) (10 CFR 516.11(d)) to mean the entire, indivisible lighting fixture, rather than the unit or any parts of the unit. The comments on this proposal were favorable. However, two related issues were raised in the commenters' discussions.

First, one commenter expressed disagreement with ERA's indication in the preamble that the redefinition would permit only the replacement of parts of a lighting fixture, as distinguished from the replacement of the entire lighting fixture. The commenter asserted that it is neither practical nor reasonable to permit the part-by-part repair of an existing fixture, including the replacement of all the old parts of an existing fixture with all new parts while prohibiting replacement of such a fixture. In the commenter's view, the term, "install" contained in § 402(a) of the Act clearly refers to a new installation and does not refer to replacement of existing fixtures. The title of § 402(a) and the Conference Report both indicate that the prohibition applies to the installation of a new outdoor lighting fixture while the text of § 402(a) prohibits the installation of any outdoor natural gas lighting fixture. ERA has determined that replacement of existing units should be permitted. The language to the contrary in the earlier preamble has been deleted. The Final Rule permits such replacement.

Second, the commenter asked ERA to indicate the specific impact that the proposed redefinition will have upon the replacement and repair of natural gas lighting fixtures prior to January 1, 1982 and thereafter. As discussed above, ERA has determined that replacement fixtures are not covered by the installation prohibition in § 402(a) of the Act. The issue is, therefore, moot. Since the prohibition of selling gas for use in such fixtures will be in effect after January 1, 1982 ERA presumes that only those municipal or residential fixtures for which an exemption has been granted by an appropriate authority will be replaced (or repaired). The prohibitions applicable to the sale of gas for use in commercial and industrial lighting fixtures for which natural gas was being supplied on November 9, 1978, went into effect on November 5, 1979. ERA presumes that such fixtures will not be replaced (or repaired) unless an appropriate exemption permitting the continuation of such service has been granted.

After consideration of the comments received, ERA has decided to adopt the revised "natural gas lighting fixture" definition as proposed.

B. Section 516.43—Commercial Lighting of a Traditional Nature

ERA proposed to revise § 516.43 of the Final Rule to change the title of the exemption and to delete paragraphs (1) and (2) of subsection (b). These proposed changes would omit any references to and criteria based on "historical significance" and permit a gas light to be considered for an exemption on the basis of its traditional nature and conformance with the cultural or architectural style of the area in which it is located.

The comments generally approved of ERA's proposed revisions. One commenter expressed concern, however, about the inclusion of the modifier "long-standing" in connection with the cultural and architectural style criteria contained in subsection (b). The commenter opposed the use of this term as it is included in neither FUA nor the legislative history of FUA. ERA included the "long-standing" concept in conjunction with the criteria applicable to the fixture's location to reinforce the concept of "traditional". ERA did not intend for the inclusion of the phrase "long-standing" to add any element not already implicit in the statutory criteria of § 402(c)(4) of FUA. Neither did ERA foresee future difficulties arising in the evaluation of a request for this exemption when the lighting fixture, while "traditional", is lacking in formal "historical significance". On reconsidering the criteria in light of the comments received, however, ERA believes that the requirement that the fixture be both of (a) traditional nature and (b) conform with the cultural or architectural style of the area of location, is sufficiently definitive to assure that FUA's purposes are achieved with respect to commercial gas lights. Since the regulatory phrase "long-standing" can be viewed as redundant given the statutory term of "traditional" and appears to make a minimal contribution to the criteria, ERA has decided to delete the term from subsection (b).

A similar comment was made regarding ERA's inclusion in the exemption criteria (§ 516.43(b)) of the phrase "the replacement lighting fixture will enhance the area . . ." The commenter noted a lack of support for this "requirement" in FUA. ERA does not regard this phrase as imposing an additional requirement for this exemption. However, the phrase appears to add little to subsection (b). Accordingly, the phrase has been deleted.

One commenter requested that subsection (c), Stays, included in the Final Rule but apparently deleted by the proposed revision, be re-instated. ERA did not intend that this subsection be deleted. ERA has simply modified the language of subsection (c) to correspond with the revised criteria for the commercial lighting exemption.

ERA is adopting the proposed revisions to the Final Rule with the changes discussed above.

C. Section 516.44—Safety of Persons and Property

ERA proposed in its notice to revise § 516.44 of the Final Rule to delete subsection (b)(2). This deletion would eliminate the required demonstration that compliance with the FUA gas lighting prohibitions would impose a substantial hardship upon the petitioner or would not be justified by the savings likely to accrue over the useful life of a substitute lighting fixture. The proposed changes would have permitted, rather than required the submission of any relevant evidence in connection with a safety exemption request, including not only evidence of financial hardship and lack of savings factors, but also evidence of other factors such as reliability of substitute lighting.

The commenters agreed that ERA's proposed deletion of § 516.44(b)(2) as a mandatory criterion would be appropriate in order for § 516.44 to conform to § 402(c)(3)(A) of the Act, which does not condition the granting of the safety exemption upon the petitioner's qualification for a substantial expense exemption.

The usefulness of proposed subsection 516.44(c), which would have permitted a petitioner to meet an optional criterion, was questioned. A commenter noted that where a petitioner had already qualified for the safety exemption under the criteria in the subsection (b) he would not be likely to elect to meet the optional criterion as well. Therefore, the proposed subsection (c) would amount to a nullity. ERA agrees with this assessment, and has decided not to adopt proposed subsection (c).

By far the greatest number of comments on the safety exemption focused upon ERA's inclusion of the word "significant" in the subsection (b)(1) and (2) criteria. One commenter felt that confusion would result from the use of "significant" since the term is not clearly defined in either FUA or the Final Rule. Furthermore, the commenter indicated that it may be difficult for petitioners to acquire the type of evidence necessary to meet the "significant" increase criteria, or for them to interpret the data, if it were obtained. In addition to these perceived difficulties that may arise to defeat petitioners' efforts, or to make such efforts more difficult, the commenter foresaw petitions involving statistical surveys, descriptions, and the like, as suggested in ERA's preamble, becoming an undue burden on the State regulatory authorities which would need to sort out relevant crime statistics from irrelevant ones and weigh descriptions of unsafe conditions.

In view of these comments, it appears that the commenters perceived that more sophisticated petitions were required under subsection (b) (1) and (2) than ERA intended. Since it is ERA's intention to give the State regulatory authorities as free a hand as possible in interpreting this section, so long as their interpretations and actions are consistent with the purposes of FUA,

ERA has, deleted the work "significant" from the criteria in § 516.44(b) (1) and (2) in order to facilitate the exemption process at State and local levels.

ERA also considered a comment involving the findings of a study on consumer attitudes and opinions, performed for the Amercian Gas Association in 1979. The study indicated that the use of natural gas lights had declined voluntarily due to price sensitivity associated with rising energy costs. Generally, customers who felt the need for a gas light were found to have continued with their use despite the increased cost of fuel because the benefits of continued use were seen by the gas light owners as outweighing both the cost of operation and the conversion of the gas light to another energy source. Those customers who terminated the use of their gas lights apparently judged that their use of such lights was not essential. Thus, the commenters urged that, where a gas light owner determines that the light is necessary for his safety and security, the appropriate State regulatory authority should be encouraged to grant an exemption on that basis alone. ERA is unwilling to so advise the State regulatory authorities. However, under the Part 516, Subpart C delegation of authority, ERA intended that such authorities have maximum discretion to deal expeditiously with exemption requests, taking into account State, local or regional needs, so long as their actions are consistent with § 402 of FUA.

In view of the foregoing discussion, ERA has decided to adopt its proposed revision of § 516.44 with the modifications indicated above.

D. Section 516.46—Compliance Which Entails Substantial Expense and Would Not Be Cost Justified.

Section 516.46 of the Final Rule was originally designed by ERA to apply to local distribution companies and direct industrial users, while consideration of substantial hardships and costs to individuals was limited to § 516.44, the safety exemption. In its proposed revision of § 516.46, ERA acknowledged that individuals should also be able to petition under this section for an exemption, citing as grounds that compliance would entail substantial expense and would not be cost justified, Under the proposed revision all petitioners would address the same basic criteria for an exemption, using evidence to demonstrate the cost impact of compliance on their particular circumstances.

However, the proposed revision of § 516.46(a) would permit petitions to be filed for this exemption only "if natural gas was being supplied to the petitioner for outdoor lighting purposes on November 9, 1978." One commenter noted that local distribution companies, as suppliers, rather than as recipients of natural gas for outdoor lighting purposes, would be foreclosed by this language from petitioning for the exemption. The commenter did not believe that ERA intended this result. ERA agrees that this result was not intended and revised subsection (a) has been modified to avoid this problem.

The commenters otherwise basically approved of ERA's proposed revisions. However, they did suggest that § 516.46(b)(2) be revised to indicate expressly that proposed Btu consumption is an integral part of any determination of whether there are any benefits to be derived from compliance with the prohibitions. ERA believes that, if a petitioner makes the demonstrations required under § 516.46(b) (1) and (2), showing negative benefits to result from compliance by conversion to a less efficient, alternate lighting system as related to its particular financial circumstances, only then would the granting of this exemption be appropriate. As proposed Btu consumption is thus implicitly included in subsection (b), ERA does not see a need to make further revisions in the language of that subsection.

A commenter suggested that, ERA should "find" that replacement of gas lights is not cost justified where the payback period exceeds three years or where trenching must be done in paved areas. Again, ERA does not wish to prescribe the type or nature of evidence that will be necessary to satisfy any particular exemption criterion. However, ERA acknowledges that the State regulatory authorities administering the outdoor lighting programs may certainly make such findings as the one suggested by the comment and may accept such evidence as they deem adequate to meet any pertinent exemption criteria, where they believe their action is warranted and is consistent with the purposes of FUA.

ERA is, therefore, adopting the proposed revisions to the § 516.46 exemption with the modification discussed above. It should also be noted, that since the optional criteria proposed for subsection (c) of the safety exemption (§ 516.44) were not adopted, all petitioners seeking exemptions on the basis of expense related factors of compliance with the FUA prohibitions will now be limited to application only under § 516.46.

III. Comments Beyond the Scope of the Notice

A number of comments were received that were beyond the scope of the Notice and often beyond ERA's authority under section 402 of FUA. Consequently, such comments will not be addressed in this rulemaking proceeding.

[Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act (42 U.S.C. 8301 *et seq.*)]

Issued in Washington, D.C. May 16, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, Part 516, is amended as follows:

1. Paragraph (d) of § 516.11 is revised to read as follows:

§ 516.11 Definitions.

* * * * *

(d) The term "natural gas outdoor lighting fixture" means a complete stationary natural gas outdoor lighting unit.

* * * * *

2. Section 516.43 is revised to read as follows:

§ 516.43 Commercial lighting of a traditional nature.

(a) *Scope.* A person using natural gas for outdoor lighting which is used for commercial purposes and which is of a traditional nature and conforms with the cultural or architectural style of the area in which it is located, may petition for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule. In the case of a petition for an exemption from the general prohibition on installation of natural gas outdoor lighting fixtures (§ 516.20), an exemption shall be granted only to replace a natural gas outdoor lighting fixture(s) which had been installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an existing natural gas light; or

(2) Replacement of a natural gas light which does not presently exist but which existed at some previous time upon the specified property.

(b) *Criteria.* The criteria for an exemption on the basis of commercial lighting of a traditional nature shall be satisfied upon certification by the petitioner that the specifically identified natural gas outdoor lighting fixture(s), which is used for commercial purposes and which is of a traditional nature and conforms with the cultural or architectural style of the area in which such light is located, presently exists or will be used to replace a natural gas lighting fixture of a traditional nature.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in Subpart B of this rule if the petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) used for commercial purposes:

(1) is of a traditional nature and conforms with the cultural or architectural style of the area in which such light(s) is located, and

(2) presently exists or will be used to replace a natural gas lighting fixture of a traditional nature.

3. Paragraph (b) of § 516.44 is revised as follows:

§ 516.44 Safety of persons and property.

* * * * *

(b) *Criteria.* The criteria for an exemption on the basis of necessity to protect the safety of persons and property shall be satisfied upon a demonstration that an exemption for the natural gas fixture(s) is essential—

(1) To prevent an increase in the likelihood of bodily injury or damage to property;

(2) To prevent an increase in the likelihood of the occurrence of crime in the location served by the light; or

(3) Because other existing lighting in the location does not provide lighting adequate to insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1, "The American National Standard Practice for Roadway Lighting."

* * * * *

4. Section 516.46 is revised as follows:

§ 516.46 Compliance which entails substantial expense and would not be cost justified.

(a) *Scope.* A local distribution company, a direct industrial customer, an individual user or an interested person may petition for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis that compliance with the prohibitions entails substantial expense and would not be cost justified, if the natural gas use at issue was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of substantial expense shall be satisfied upon a showing by the petitioner that compliance with the prohibitions in § 516.21 or § 516.22 of this rule would:

(1) Entail substantial expense; and

(2) That such expense would outweigh the benefits to be derived from compliance.

[FR Doc. 80-15922 Filed 5-22-80; 8:45 am]

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May 23, 1980

Part VII

Department of Labor

Occupational Safety and Health Administration

Access to Employee Exposure and Medical Records

Final Rules and Proposed Rulemaking

V 45 M Y 23 80 UMI

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records

AGENCY: The Occupational Safety and Health Administration of the United States Department of Labor (OSHA).

ACTION: Final rule.

SUMMARY: This final occupational safety and health standard, promulgated today as a revised 29 CFR 1910.20, provides for employee, designated representative, and OSHA access to employer-maintained exposure and medical records relevant to employees exposed to toxic substances and harmful physical agents. Access is also assured to employer analyses using exposure and medical records. The final standard requires long term preservation of these records, contains provisions concerning informing employees of their rights under the standard, and includes provisions protective of trade secret information.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA, Office of Public Affairs, Third Street and Constitution Avenue, N.W., Room N-3641, Washington, D.C. 20210 (202-523-8151). Copies of this document may be obtained at any time by request to the OSHA Office of Public Affairs at the address or telephone number listed above, or by contacting any OSHA regional or area office.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. The format of this statement of reasons (the preamble)

The statement of reasons accompanying this final standard (the preamble) is divided into eight parts, numbered I through VIII. The following is a table of contents for the preamble:

I. INTRODUCTION 35212
A. The format of this statement of reasons (the preamble) 35212
B. History of proceedings 35212
II. SUMMARY 35213
A. Overview of the Purposes of the Standard 35213
B. Summary of the Standard 35214
C. Major Factual/Policy/Legal Issues 35217
III. PURPOSES AND NEED FOR THE STANDARD 35219
A. Introduction 35219
B. Worker Participation in Personal Health Management 35219
C. Worker Discovery of, and Efforts to Control, Occupational Health Hazards 35220
D. Improved Ability to Diagnose and Treat Occupational Disease 35221
E. Employee Awareness and Improved Work Practices 35222
F. Occupational Health Research 35222
G. Importance of Access to Explicit Statutory Rights 35222
H. Lack of Worker Access to Existing Medical and Exposure Records 35223
I. Designated Representative Access to Records 35225
J. OSHA Access to Exposure and Medical Records 35226
IV. CENTRAL FACTUAL AND POLICY ISSUES CONCERNING ACCESS TO RECORDS 35227
A. Introduction 35227
B. Arguments of Potential Harm to the Employee Due to Direct, Unrestricted Access to Personal Medical Records 35228
C. Potential Misinterpretation of Medical and Exposure Records 35232
D. Designated Representative Access to Medical Records and Potential Harm to Employee Confidentiality Expectations 35234
E. Potential Harm to Occupational Medical Programs 35236
F. Trade Secrets and Records Subject to this Standard 35237
G. OSHA Access to Medical Records and the Right of Privacy 35240
H. Non-medical Corporate Access to Employee Medical Records 35242
V. LEGAL AUTHORITY ISSUES 35243
A. Statutory Authority for Access to Records 35243
B. Access to Records and the Law of Trade Secrets 35248
C. OSHA Access to Employee Medical Records and the Right of Privacy 35251
D.OSHA Access to Employee Medical Records and the Common Law Duty of Confidentiality 35252
VI. FEASIBILITY CONSIDERATIONS 35253
VII. SUMMARY AND EXPLANATION OF THE STANDARD 35256
A. Paragraph (a)—Purpose 35256
B. Paragraph (b)—Scope and application 35257
C. Paragraph (c)—Definitions 35260
1. Access 35260
2. Analysis using exposure or medical records. 35260
3. Designated representative 35260
4. Employee 35261
5. Employee exposure record 35261
6. Employee medical record 35263
7. Employer 35265
8. Exposure or exposed 35265
9. Record 35265
10. Specific written consent 35265
11. Toxic substance or harmful physical agent. 35267
D. Paragraph (d)—Preservation of records 35268
E. Paragraph (e)—Access to records 35271
F. Paragraph (f)—Trade secrets 35274
G. Paragraph (g)—Employee information 35275
H. Paragraph (h)—Transfer of records 35275
I. Paragraph (i)—Appendices 35276
J. Paragraph (j)—Effective date 35276
K. Conforming Amendments 35276
VIII. AUTHORITY, SIGNATURE, AND THE STANDARD 35277

Part VII is a provision-by-provision discussion of the standard in lettered paragraphs corresponding to the lettered paragraphs of the standard. It provides a brief summary of each provision and the evidence and rationale supporting it. Part VIII follows with a reference to the authority for the standard, the signature of the Assistant Secretary, and then the standard itself. References to the rulemaking record in the text of the preamble are in parentheses, and the following abbreviations have been used:

1. Ex. : Exhibit number to Docket H-112.

2. Tr. : Transcript page number.

This occupational safety and health standard is issued pursuant to sections 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 ("The Act") (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order 8-76 (41 FR 25059) and Title 29 of the Code of Federal Regulations (CFR), Part 1911. It amends Part 1910 of 29 CFR by revising 1910.20, to be entitled "Access to employee exposure and medical records," and by making conforming amendments to existing occupational safety and health standards in sections 1910.440, 1910.1001-.1046, and 1990.151-.152. The standard applies to employment in all industries covered by the Act except agriculture.

The agency has reviewed the provisions of this action pursuant to the National Environmental Policy Act of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500), and has determined that no significant environmental impact will result from the implementation of this standard.

B. History of proceedings

1. *The interim final rule.* On July 19, 1978, OSHA published in the **Federal Register** an interim final rule entitled "Preservation of Records" (29 CFR 1910.20; 43 FR 31019) which required employers to preserve all employee exposure and medical records, and to make them available, upon request, to OSHA and the National Institute for Occupational Safety and Health (NIOSH). OSHA indicated that the interim final rule would be superseded by a final rule promulgated after informal rulemaking. The final standard published today, when it goes into effect, will supersede the interim final rule.

2. *The proposal.* On July 21, 1978, a proposed rule entitled "Access to Employee Exposure and Medical Records" was published by OSHA in the **Federal Register** (43 FR 31371). The proposal provided for employees and their designated representatives to have access, upon request, to all relevant exposure records and all medical records of which the requesting employee was the subject or for which written consent had been obtained from the subject of the records. The proposal further provided OSHA and NIOSH with access upon request to employee exposure and medical records. In addition, it included a retention period for employee exposure and medical records of at least the duration of employment with the employer plus five (5) years. There was also a requirement for employers to instruct employees annually of their rights of access under the proposed rule.

The proposal included within its scope all "employee exposure records" and "employee medical records," regardless of whether they were subject to specific occupational safety and health standards. It did not mandate, however, the creation of new records or reports, nor impose any new obligations on employers to monitor or measure employee exposures, or provide medical surveillance or examinations. Neither did it establish mandatory requirements on the format or content of employee exposure records or medical records. The proposal reflected a recognition that exposure monitoring and medical surveillance are conducted by many employers at their own initiative and expense, and that employers keep records of the results of such monitoring and surveillance.

The purpose of the proposal was to make the data contained in these records available to employees, their representatives, NIOSH, and OSHA in order to promote the recognition of workplace hazards and the subsequent reduction of occupational disease. As stated in the July 21 notice (at 31371):

> The goals of occupational safety and health are not adequately served if employers do not fully share the available information on toxic materials and harmful physical agents with employees. Until now, lack of this information has too often meant that occupational diseases and methods for reducing exposure have been ignored and employees have been unable to protect themselves or obtain adequate information from their employers. By giving employees and their designated representatives the right to see relevant exposure and medical information, this proposal will make it easier for employees to identify worksite hazards, particularly workplace exposures which impair their health or functional capacity. Increased awareness of workplace hazards will also make it more likely that prescribed work and personal hygiene practices will be followed.

The July 21 proposal gave interested persons until September 22, 1978 to submit comments, views, and arguments on any issue raised by the proposal. Comments were specifically invited on: (a) whether any types of information in the medical records should be excluded either partially or totally from the disclosure requirements of the final rule, and (b) whether the proposed retention period for records was too long or too short. Docket H-112 was established to receive all evidence concerning the proposal, and a total of 211 initial comments were received.

3. *The hearings.* Based on the widespread interest expressed in the proposal, OSHA announced in the **Federal Register** on October 6, 1978 (43 FR 46322) a schedule of informal public hearings. Public hearings were conducted under OSHA's procedural regulations for rulemaking (29 CFR Part 1911). They were presided over by Administrative Law Judge J. F. Greene, and all participants were afforded the opportunity to present oral testimony and to question other witnesses. The hearings were held from December 5-8, 1978, and January 3-5, 1979, in Washington, D.C.; from December 12-13, 1978, and January 9-10, 1979, in Chicago, Illinois; and on December 15, 1978, in San Francisco, California. A total of 88 interested individuals and organizations testified at these hearings. Hearing participants were given until February 9, 1979, to submit additional evidence and factual material, and until March 1, 1979, to submit post-hearing comments or arguments. This final deadline was later extended to March 30, 1979 by notice given in the **Federal Register** on February 27, 1979 (44 FR 11096).

4. *The administrative regulations.* In conjunction with this rulemaking a separate docket, Docket No. H-112A (Ex. 167 to Docket H-112), was created for materials and comments relating to OSHA's proposed administrative regulations concerning its own access to and handling of employee medical records. These regulations were initially developed as proposed administrative guidelines, and were entered into the public record prior to the public hearings on the records access proposal. These regulations have been revised and published today in the **Federal Register** as a companion document to this standard.

5. *The record.* The public record to the proposed rule was certified by Judge Greene on May 1, 1979. The record consists of all material submitted to the OSHA Docket Office, Docket No. H-112, by either OSHA or the public, including: (a) comments on the July 21 proposal, (b) background materials collected by OSHA, (c) notices of intent to appear at the public hearings, (d) pre-hearing submissions of testimony and evidence, (e) verbatim transcripts of the public hearings, (f) hearing exhibits, and (g) post-hearing comments. The views of a wide range of employees, businesses, trade and medical associations, international and local labor unions, physicians and other health professionals, legal experts, and public interest groups are represented in the public record. Additional information referenced in this preamble has been added to the record. Copies of the official list of items in the total record, as well as the items themselves, are available from the OSHA Docket Office, Docket Nos. H-112 and H-112A, Room S-6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210; telephone (202) 523-7895.

II. Summary

A. Overview of the Purposes of the Standard

The fundamental reasons for this standard are the agency's judgments, based on experience, expertise, and the rulemaking record, that employee exposure and medical records are critically important to the detection, treatment, and prevention of occupational disease, and workers and their representatives need direct access to this information as well as to analyses of these records. Representatives of OSHA also need access to this information to fulfill responsibilities under the Occupational Safety and Health Act. The terms "employee exposure record" and "employee medical record" are defined and discussed at length in the Summary and Explanation portion of the preamble, but the core concepts of these terms are simple. Employee exposure records reveal the identity of, and extent of exposure to, toxic substances or harmful physical agents. Employee medical records contain individual health status information which may indicate whether or not an employee's health is being or has been impaired by exposure to toxic chemicals or harmful physical agents. If workers and their representatives are to play a meaningful role in detecting, treating, and preventing occupational disease, they must have the right and opportunity to learn: (1) what they are or were exposed to on the job, (2) what are or were the levels of exposure, and (3) what are or were the health consequences of these exposures. This standard simply establishes rights of access to this basic information by employees, designated representatives, and OSHA representatives, while at the same time affording appropriate privacy and confidentiality protection against uninvolved third parties.

The most immediate purpose behind this standard is to enable workers to play a meaningful role in their own health management. The individual worker has the greatest self-interest in maintaining his or her life and well-being. Sound public policy dictates that workers be afforded a central role in the detection and solution of health problems, as there are no assurances that anyone else will protect their health with equal vigor or determination.

Access to exposure and medical information will enable workers and their representatives to become directly involved in the discovery and control of occupational health hazards. Access will enable workers to uncover patterns of health impairment and disease.

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Workers will be able to link specific adverse health effects with exposures to specific toxic substances, and investigate the possible causes of known patterns of disease. Once an occupational health problem is discovered, access to records can assist workers in their efforts to hasten control of the problem. This worker involvement to implement controls can take many forms, such as discussions with employers, collective bargaining remedies such as grievances or new contract provisions, or complaints to agencies such as OSHA and NIOSH.

Direct access to exposure and medical data will also enable an employee's personal physician to diagnose, treat, and possibly prevent permanent health impairment. Exposure and medical information can substantially assist a physician's evaluation, such as where previously recorded baseline medical information can be compared to current health status to ascertain whether and how health has declined over time.

Where the dangers of exposure to a toxic substance or harmful physical agent are known, worker access to information will also serve to decrease the incidence of occupational health problems. An individual worker's personal actions can greatly affect the extent of exposure to a toxic substance. Efforts are often made to control worker exposure to toxic agents through the use of respirators, protective work clothing, and careful personal hygiene (showers, washing hands and face before eating, etc.). Work practices which strive to minimize dispersal of toxic substances (e.g., immediately storing dust laden scrap material in closed containers) are also important. All of these control techniques depend on worker cooperation—cooperation which will best be assured when a worker knows the identity of hazardous substances he or she faces on the job, the magnitude of exposure, and the potential health consequences of this exposure.

Access to exposure and medical records, and long term preservation of these records, will also facilitate formal occupational health research. Groups of employees and unions can use the access rights of this standard to make medical and exposure information available to university and private organization researchers.

In addition, it is important to observe that worker access to exposure and medical information is important to the effectiveness of six explicit employee rights established by the Occupational Safety and Health Act. It is the agency's judgment that substantial occupational health benefits will result from improving the ability of workers to make beneficial use of these statutory rights. Access to information is first of all crucial to the effectiveness of the section 8(f)(1) right of employees and their representatives (29 U.S.C. 657(f)(1)) to complain to OSHA about perceived safety and health problems and obtain a prompt inspection of the worksite. Access gives meaning to the section 8(c) right of employees and their representatives to accompany OSHA during plant inspections (29 U.S.C. 657(e)) in order to identify where and how various toxic substances are used, which plant operations generate the greatest exposures, and otherwise help OSHA conduct a thorough inspection. Access will enable workers to better exercise their twin rights under section 10(c) to contest the reasonableness of abatement periods proposed by OSHA, and to participate as parties in Occupational Safety and Health Review Commission adjudicatory proceedings (29 U.S.C. 659(c)). A fifth statutory right enhanced by worker access to record is the section 20(a)(6) right of workers to request a workplace Health Hazard Evaluation (HHE) by NIOSH (29 U.S.C. 669(a)(6)). Lastly, the knowledge learned by workers due to access to medical and exposure records will also heighten the impact of the employee training and education programs currently being funded by OSHA pursuant to section 21(c) of the Act (29 U.S.C. 670(c)).

Having highlighted the benefits of direct worker access to medical and exposure records, it is appropriate to consider the kinds of records that employers generate, and the current practices concerning employee access to these records. Medical records relevant to potential occupational disease are generated in a variety of contexts. Occupational medicine is practiced in a wide variety of settings and encompasses a wide range of medical services. The range of experience includes company-owned hospitals capable of performing most primary care, sophisticated in-house medical departments with epidemiological, toxicological, and medical expertise, medical programs consisting only of an on-site occupational health nurse, and contractual arrangements with industrial health clinics or outside physicians (either on a retainer or fee-for-service basis). There is a high degree of variation in the medical services provided by employers, and as a result, employee medical records can contain a variety of items relevant to occupational disease issues.

With respect to environmental monitoring records, approximately 22% of all industrial employees are employed in plants where monitoring is regularly performed, with the percentage being approximately 40% for all manufacturing employees. There is a wide fluctuation in the extent of regular monitoring depending on employer size and SIC code. It is to be expected that far greater percentages of employees are covered by infrequent, if not by regular, exposure monitoring. For example, 52% of manufacturing industry employees work in plants which receive industrial hygiene services. Irrespective of the exact percentages involved, it is clear that a substantial portion of American workers work on jobs for which exposure monitoring is being conducted.

Industrial recordkeeping practices also appear to vary widely as to the extent to which employees are provided direct access to medical and exposure records. OSHA concluded on the basis of the record and its own experience that denial of direct, unrestricted employee access to exposure and medical information is commonplace, if not the universal practice of industry. This standard is necessary in those many situations where access is routinely denied.

The final standard also reaffirms OSHA's right of access to employee exposure and medical records. OSHA is a public health agency with regulatory responsibility "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions. . ." (Section 2(b) of the Act, 29 U.S.C. 651). Access to employee exposure and medical records will at times be necessary for the agency to accomplish numerous statutory responsibilities, and all comprehensive occupational health standards promulgated under the Act to date have included provisions guaranteeing OSHA access to exposure and medical records.

B. Summary of the Standard

The "Purpose" paragraph of the final standard creates no substantive requirements, but expresses the agency's intentions in promulgating the standard. The final rule assures access by employees and their representatives, and codifies OSHA access to relevant employee medical and exposure records. The goal behind access is to yield both direct and indirect improvements in the detection, treatment and prevention of occupational disease. This is articulated as a guide to application and interpretation of the entire standard, and reflects the many ways in which employees, their representatives, and OSHA are likely to use access rights.

The final standard applies to employers having employees exposed to toxic substances or harmful physical

agents. Since the rule seeks to yield benefits in the detection, treatment and prevention of occupational disease, coverage is appropriately limited to records relevant to employees currently or previously exposed to toxic substances or harmful physical agents.

The final standard applies to all relevant exposure, medical, and analysis records whether or not they are related to specific occupational safety and health standards. In so providing, the agency rejected suggestions that there be an exclusion for exposure and medical records created prior to the effective date of the standard.

The standard applies to records generated or maintained by contractors of the employer as well as by in-house employees. The final standard also applies to each employer who "makes, maintains, contracts for, or has access to" exposure or medical records, and it is the agency's intention that the standard be given a broad application in this respect.

The final standard applies to each "general industry, maritime, and construction employer" of employees exposed to toxic substances or harmful physical agents. Having considered the evidence provided, the agency concluded that there was no rational basis for categorically excluding any broad class of employers from coverage by the final standard, such as small businesses or employers with multiple or transient worksites or transient workforces. The final standard does not apply to agricultural employment, but OSHA is proposing in a separate **Federal Register** notice to extend the scope of the final standard to these workplaces.

The definitions paragraph of the final standard defines eleven key terms. "Access" means the right and opportunity to examine and copy. The term "analysis using exposure or medical records" is defined as "any compilation of data, or any research, statistical or other study based at least in part on information collected from individual employee exposure or medical records, or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis."

In order to enable each worker to utilize his or her rights of access to records, the final standard permits an employee to designate representatives to exercise access rights. Enabling an employee to designate anybody he or she desires to entrust with access rights will most effectively achieve the purposes of the Act and this standard. The employee should ultimately be the judge of who can make a positive contribution to his or her well-being by access to records. As a result, no limitation is placed on who the employee may choose to act as a "designated representative." Recognized or certified collective bargaining agents, who have the statutory authority to represent the interests of employees within the bargaining unit on health and safety matters, are automatically considered to be "designated representatives" by virtue of their special bargaining status. Under the standard, this gives them the right of access without individual employee consent to employee exposure records and analyses using exposure or medical records, but requires that they obtain specific written consent before gaining access to medical records.

The final standard defines "employee" as a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. The term "employer" means a current employer, a former employer, or a successor employer.

"Employee exposure record" is defined as encompassing four kinds of records. First are environmental (workplace) monitoring or measurement records along with associated collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained. Second are those biological monitoring results which directly access the absorption of a substance or agent by body systems. Third are material safety data sheets. Fourth, in the absence of the above, is any other record which reveals the identity of a toxic substance or harmful physical agent.

The term "employee medical record" means the entire contents of a record concerning the health status of an employee which is made or maintained by health care personnel or a technician. Information generated by medical personnel is covered irrespective of how and where the information is presently maintained. The use of "made" is intended to assure access in situations where medical information is held by non-medical management departments or personnel. The use of "maintained by" medical personnel is intended to assure access to the entire contents of medical files, not just to information created by medical personnel. Once information from any source gains enough importance to be included in the medical file, that information becomes subject to the retention and access provisions of this rule. The use of "technician" is meant to cover situations where, for example, occupational health questionnaires or biological monitoring tests such as pulmonary function or audiometric testing are conducted by persons who, strictly speaking, may not be considered as health care personnel.

In defining "employee medical record," the agency decided that no meaningful distinction could be made between "occupational" and "non-occupational" information. The symptoms of occupational disease often closely mimic those of non-occupational diseases. The human body is limited in the number of ways it can react to chemical insults, and many of these responses parallel symptoms associated with a variety of other insults and disorders. This, plus our limited knowledge of occupational disease, makes it impossible to classify in advance what pieces of information may or may not be of "occupational" significance.

The final rule does, however, specifically exclude three kinds of information from the definition of "employee medical record": Certain physical specimens, certain records concerning health insurance claims, and certain records concerning voluntary employee assistance programs.

The phrase "exposure to toxic substances or harmful physical agents" is defined in two parts. "Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure. Exposure does not, however, include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

The term "toxic substance or harmful physical agent" is defined as any chemical substance, biological agent or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure, etc.) for which there is evidence of harmful health effects. Four general criteria are established for determining whether evidence of harmful health effects exist. First, the standard applies to any chemical substance, biological agent, or physical stress which is regulated by any Federal law or rule due to a hazard

to health. Second, the standard applies to any chemical, biological agent, or physical stress which is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), an annual compilation of all known toxic substances by chemical name and common synonym, along with the concentrations at which toxicity is known to occur. Third, the standard applies to any chemical, biological agent, or physical stress which "has yielded positive evidence of an acute or chronic health hazard in human, animal or other biological testing conducted by, or known to, the employer." Finally, the standard applies to any chemical, biological agent, or physical stress which has a material safety data sheet indicating that the material may pose a hazard to human health. This document generally accompanies the purchase of a chemical used in industrial processes, and serves to warn users of toxic properties of the product.

In addition to the preceding terms, "record" is defined to encompass any item of information regardless of the form or process by which it is maintained. Finally, since the standard enables designated representatives to obtain access to an employee's medical records only upon the specific written consent of the employee, the term "specific written consent" is carefully defined. This definition minimizes the possibility of invasion of an employee's privacy by precluding blanket and perpetual authorizations. To give specific written consent, an employee will have to indicate in writing who is being authorized to disclose record information, who may have access to it, and the general nature of the information to be disclosed. If the employee wishes, he or she may specify information which is not authorized to be disclosed and may place conditions on its use or redisclosure. In this way, it will be the employee who controls the amount and kinds of information available to the designated representative, and what the representative can do with it. A sample authorization letter is included as an Appendix to the standard.

The "Preservation of records" paragraph of the final standard provides that employee exposure records and analyses based on exposure or medical records must generally be preserved and maintained for at least thirty years, while employee medical records must be retained for at least the duration of employment plus thirty years. A minimal overall retention period of thirty years was adopted due to the very long latency periods characteristic of chronic occupational diseases. Not all records subject to the rule, however, must be retained for the thirty year period. Health insurance claims records which are maintained separately from the employer's medical program and its records need not be retained for any period of time. In addition, certain background information to employee exposure records must be maintained for only one year. Also, with the exception of x-rays, employers are provided maximum flexibility to microfiche, microfilm, computerize, or otherwise retain records in whatever fashion is most desirable to the employer.

The "Access to records" paragraph of the final standard governs the mechanics and nature of access to records. Employee and designated representative access must be provided in a reasonable time, place, and manner, but in no event later than fifteen (15) days after the request for access is made.

This permits employers to establish orderly procedures for providing access so that work schedules are not unduly disrupted and workers not unduly inconvenienced. Employers are also provided flexibility in responding to requests for copies of records. On the first occasion that an employee or designated representative requests a copy of a record, the employer has three choices. The employer can assure the (1) a copy is provided without cost, (2) the necessary mechanical copying facilities (e.g., photocopying) are made available without cost so that the employee or representative can make an exact copy, or (3) the record is loaned for a reasonable time to enable an exact copy to be made. Administrative costs can generally be charged for subsequent requests for a copy of a record.

As to the nature of access rights, employees and their designated representative (including collective bargaining agents) are provided access to "relevant" employee exposure records. An employee first is assured access to records of the employee's past or present exposure to toxic substances or harmful physical agents. Second, an employee is assured access to "records of other exposed employees with past or present job duties or working conditions related to or similar to those of the employee." Access to records of other employees is provided in recognition of the fact that most environmental monitoring using personal samples is conducted on a representative sample basis. The third kind of "relevant" employee exposure records are records containing exposure information concerning the employee's workplace or working conditions. These records would include area, grab, or wipe samples which would not specifically characterize the exact exposure of any one employee. The fourth kind of "relevant" records are records pertaining to workplaces or working conditions to which the employee is being assigned or transferred.

With respect to employee medical records, employees are afforded direct access to their own medical records, subject to one limited exception applicable to potentially harmful information involving terminal illnesses or psychiatric conditions. Access of an employee is provided only to medical records of which the employee is the subject; in all other cases specific written consent must be obtained. A designated representative of an employee may gain access to an employee's medical records only through the specific written consent of the employee. This restriction applies to all designated representatives including collective bargaining agents.

The final standard encourages physicians on behalf of employers to make recommendations to employees and designated representatives in connection with the exercise of access rights. The physician may recommend a consultation for the purposes of reviewing and discussing requested records, or may urge that a summary of material facts and opinions be accepted in lieu of the records requested. Other possible recommendations would include the physician urging that requested records be provided only to a physician or other designated representative.

The final standard also gives physicians limited discretion to deny direct employee access to portions of medical records. In the narrow situation where a specific diagnosis of a terminal illness or psychiatric condition is involved, there may be some cases where direct employee/patient access to this information could possibly prove harmful to the employee's health. In recognition of this possibility, the final rule adopts the recommendation made by the Privacy Commission. If a physician representing the employer believes the direct access to this information could be detrimental to the employee's health, the employer may deny the employee's request for direct access to this information. The employer must, however, inform the employee that access will be provided to a designated representative having specific written consent.

In additon, the final standard authorizes the deletion from requested medical records of the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

Employees and designated representatives are also provided access to analyses using exposure or medical records. As to an analysis using employee medical records, however, access without specific written consent is provided only to the extent that the analysis does not report the contents of employee medical records in a personally identifiable form. The employer must, where feasible, delete personally identifiable information from the analysis before providing access. Once aggregate medical information (as well as exposure information) is reported in a non-identifiable form such as in most research studies, there are no substantial privacy interests to be served by preventing direct access by those most interested in the analyses. Accordingly, the final standard provides for access to analyses without any prior showing of written consent by each employee whose records are part of the analyses.

The final standard also reaffirms OSHA's access to employee exposure records, medical records, and analyses of these records. OSHA access to records must be provided immediately upon request, and this access is not conditioned upon employee consent. Due to the strong personal privacy interests associated with employee medical records, however, the agency is simultaneously promulgating strict rules of practice and procedure governing OSHA access to employee medical records (and any analyses using employee medical records which report the contents of medical records in a personally identifiable form). These administrative regulations specify the mechanisms by which the agency will seek access to medical records, and how the records will be protected once in the agency's possession.

The "Trade secrets" paragraph of the final standard addresses industry concerns about worker and designated representative access to records containing trade secrets. On the basis of the total record, the agency concluded that workers have a fundamental need to know the identity of and extent of exposure to toxic substances and harmful physical agents, and any resulting health effects, regardless of whether or not the information is a trade secret. The final standard is founded in part on the judgment that employers must not as a matter of public health policy be permitted to deny worker access to this information which is needed for the purposes of detecting, treating, and preventing occupational disease. Under the final standard, access is afforded to chemical and physical agent identity, level of exposure, and health status information regardless of employer trade secret claims. The final standard, however, has been structured to accommodate trade secret concerns where protection of this information does not conflict with the overriding purposes of the standard. Although identities, levels of exposure, and health status data may not be withheld, the employer may delete any other trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, as long as the employee or designated representative is notified of the deletion. In addition, the provisions of the final standard minimize possible abuse by permitting employers to condition access to trade secrets upon written agreements not to misuse this information.

Other paragraphs of the final standard contain requirements for employers to: (1) inform employees of their rights under the standard, (2) transfer records to successor employers when employers cease business operations, and (3) notify NIOSH of the impending destruction of records covered by the standard.

C. Major Factual/Policy/Legal Issues

In promulgating this final standard, OSHA not only determined that broad worker and designated representative access to records would serve important occupational health purposes, but also carefully evaluated the various arguments which were raised for and against OSHA's proposed means for achieving these objectives. Most employer participants, for example, opposed the standard's access principles on a variety of grounds. Concerns were voiced about potential harm to employees and the occupational physician-patient relationship should direct employee and designated representative access be provided to medical records. Arguments were made that direct access could prove to be genuinely harmful in certain cases; thus the employer's physician should retain discretion as to what information is released, and to whom. On the basis of the record and its own judgments, OSHA concluded that reliance on physician discretion to disclose information to an employee, or reliance solely on physician-to-physician transfers of medical records, were inadequate responses to the needs for direct worker access.

Unrestricted patient access to medical records has been a major public policy issue during the past decade, and the trend throughout the nation both on the State and Federal level has been to provide direct patient access to medical records. The final standard's access principles draw support from the recommendations of such bodies as the 1976 Privacy Protection Study Commission, the National Commission on the Confidentiality of Health Records, and the American Medical Records Association. It is OSHA's judgment that there is no basis for anticipating harm to an employee from direct access to medical information as provided in the final standard. The rare occasion where direct access may possibly be harmful can adequately be dealt with by the standard's provisions concerning physician consultations and access through a designated representative.

Employee and designated representative access to both medical and exposure records were also opposed on the grounds that these records would often be misinterpreted and misunderstood. Statements were made that most employees are incapable of understanding the highly technical language, abbreviated shorthand and illegible writing that is often found in medical records. The likelihood of misinterpretation leading to unnecessary anxiety or inappropriate action was therefore considered great. OSHA agrees that professional evaluation and interpretation will often be important, but does not agree that the possibility of occasional misunderstanding should enable employers to deny access to either medical or exposure records. The solution reflected in the final rule is to provide full worker access to the records, while at the same time encouraging the employer to offer whatever professional interpretation the employer feels is necessary. The worker, however, retains the right to personally evaluate the record, and have independent analysis conducted by professionals and non-professionals alike. If a worker is incapable of understanding something in a medical or exposure record, OSHA expects that the worker will naturally seek the assistance of someone more knowledgeable whom he or she trusts.

Arguments were also made that provisions allowing designated representative access to medical records would seriously interfere with the physician-patient relationship due to the

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open-ended nature of the proposal's written consent process. Objections to the proposal focused on potential invasions of an employees's privacy expectations from unrestrained third party access to identifiable medical records. To preclude unrestrained third party access, the final standard conditions the access of designated representatives to employee medical records upon the specific written consent of the employee. The elements of specific written consent are a reflection of recommendations in the record, including those of the Privacy Commission and the American Medical Records Association.

As to who can be a designated representative, the final standard embodies the view that once specific written consent is obtained, no additional restrictions are needed, such as limiting access to physicians or industrial hygienists. Since it is the employee's right to have access to the complete record, the employee should, by the consent procedure, control the conditions of disclosure and redisclosure.

Arguments were also made that broadened access to medical records would inevitably impair the creation, expansion and effectiveness of occupational medical programs. It is OSHA's judgment that these predictions are exaggerated, since no concrete evidence was presented which indicated that the standard would have a negative impact on corporate efforts to provide occupational health programs. Corporate witnesses stated that, in fact, there would likely be no reduction in their occupational medical efforts. In addition, the record supports the view that direct patient access to medical records actually promotes the therapeutic relationship between physician and patient.

The most significant issue posed by OSHA access to employee records concerns a potential clash with the right of privacy vis-a-vis employee medical records. Employee medical records subject to this standard may sometimes contain intimate details concerning a person's life; e.g., disease experience, psychiatric disorders, venereal disease, abortion, alcohol or drug abuse, sexual preferences, family medical problems, etc. OSHA access to complete medical records was felt by numerous participants to raise the threat of misuse since harmful medical information could be disseminated in a way that would adversely affect the employee. It was also argued that governmental access to personal medical information threatens to destroy expectations of confidentiality and severely impair medical programs.

There was universal agreement that if OSHA obtained access to employee medical records, this access should be accompanied by stringent internal agency procedures to preclude abuse of personally identifiable medical information. Provided these procedures were established, many participants, including all union and employee participants, endorsed unconsented OSHA access to employee medical records for occupational safety and health purposes.

Having considered the record, and analyzed the legal issues involved, the agency decided to include a requirement in the final standard providing for unconsented OSHA access to employee medical records. As recognized by numerous participants, acquiring consent is not always a realistic possibility. Large numbers of people may be involved, emergency situations may not permit delay, the residences of terminated employees may be unknown, or an absence of consent may decrease the statistical validity of a study. In so providing for unconsented agency access, OSHA also agrees with the views of several participants that strong public health considerations must weigh heavily when balanced against the privacy interest in precluding unconsented access.

Even though OSHA has legal authority to seek unconsented access to identifiable medical records, the agency concluded that this authority should, as a matter of sound public policy, be exercised with great care. To protect the employee's privacy interests, OSHA recognizes the need for stringent internal procedures to: (1) limit the circumstances in which identifiable medical records are examined or obtained by OSHA personnel, and (2) control use of identifiable medical information once in the agency's possession. In order to effectuate these decisions, the agency is simultaneously promulgating detailed procedural regulations governing all aspects of OSHA examination and use of personally identifiable medical records.

In promulgating the final standard, OSHA also carefully considered the relevant legal authority issues. The Occupational Safety and Health Act provides ample legal authority for employee, designated representative, and OSHA access to medical and exposure records. The Act created OSHA as an expert administrative agency with broad regulatory powers to fashion protective regulations concerning occupational injury and disease. This final standard substantially advances the central purpose of the Act articulated in Section 2(b)—"to assure so far as possible every working man and woman in the Nation safe and healthful working conditions" (29 U.S.C. 651). The standard furthermore flows directly from, and is fully consistent with, the Act's express language.

By this rule, OSHA has adopted a generic approach to remedying the problems of access to exposure and medical records. Sections 6(b), 3(8), 2(b)(3) and (9), 8(c)(1), and 8(g)(2) of the Act provide for the promulgation of such occupational safety and health standards. Employee, designated representative, and OSHA access to records directly builds upon several express provisions of sections 6(b) and 8(c). The Secretary believes that a generic approach to rulemaking in this situation is a necessary and reasonable approach. The problems of access to information are common to a wide array of toxic substance exposures and industrial settings. The agency therefore rejects contentions that have been made by some in industry that the Act limits the Secretary to substance-by-substance rulemakings as to access issues.

The standard's resolution of the trade secret issue as it pertains to employee and designated representative access to records has also been made with appreciation for the role of trade secrets in American law. Based on careful analysis of the legal issues involved, the agency concluded that its authority to promulgate this standard can serve to pre-empt state law trade secret interests if necessary or appropriate to promote occupational safety and health. However, rather than totally pre-empt state law trade secret interests, the agency chose to seek means to accommodate the competing interests. But, where the competing interests irreconcilably clash, the interest in employee safety and health prevails.

The agency also analyzed the legal right of privacy issues posed by OSHA access to employee medical records. Having considered the relevant case law, OSHA is confident that agency access to personally identifable employee medical records is constitutionally and statutorily permissible when accompanied by strict protective measures such as the administrative regulations OSHA is promulgating simultaneously with this standard. It is also appropriate to point out that the physician's traditional duty of confidentiality owed to medical information, deriving from the patient's right of privacy in the information, is never absolute and may be overridden by a supervening public interest such as the one asserted in this standard.

Numerous employers complained of the perceived economic burdens of the standard, but economic concerns were not a major issue in the rulemaking. No participant argued that the administrative costs involved rendered the standard economically infeasible, nor is there any evidence in the rulemaking record which could support such a suggestion. The final standard has been carefully drafted to provide employers substantial flexibility as to how they preserve records subject to the standard, and how these records are made available to employees and their designated representatives. The final rule neither mandates the creation of new records or reports, nor imposes independent obligations on employers to monitor or measure employee exposures. The standard does not require employers to provide medical surveillance or examinations, nor does it establish other mandatory requirements as to the format or content of exposure and medical records. Therefore, while administrative costs will be incurred in preserving records and in providing access to them over and above current practices, there is no basis for concluding that the standard will pose substantial economic burdens on industry.

III. Purposes and Need for the Standard

A. Introduction

The fundamental reasons for this standard are the agency's judgments, based on experience, expertise, and the rulemaking record, that employee exposure and medical records are critically important to the detection, treatment, and prevention of occupational disease, and workers and their representatives need direct access to this information and to analyses of these records. Representatives of OSHA also need access to this information to fulfill responsibilities under the Occupational Safety and Health Act. The terms "employee exposure record" and "employee medical record" are defined and discussed at length in the Summary and Explanation portion of the preamble (VII.C, *infra*), but the core concepts of these terms are simple. Employee exposure records reveal the identity of, and extent of exposure to, toxic substances or harmful physical agents. Employee medical records contain individual health status information which may indicate whether or not an employee's health is being or has been impaired by exposure to toxic chemicals or harmful physical agents. If workers and their representatives are to play a meaningful role in detecting, treating, and preventing occupational disease, they must have the right and opportunity to learn: (1) what they are or were exposed to on the job, (2) what are or were the levels of exposure, and (3) what are or were the health consequences of these exposures. This standard simply establishes rights of access to this basic information by employees, designated representatives, and OSHA representatives, while at the same time affording appropriate privacy and confidentiality protection against uninvolved third parties.

Due to the importance of this standard and the controversy that has been generated, it is appropriate to discuss at the outset the occupational safety and health purposes and need for this rule.

B. Worker Participation in Personal Health Management

The most immediate purpose behind this standard is to enable workers to play a meaningful role in their own health management. It is the individual worker who has the greatest self-interest in maintaining his or her life and well-being. The problems presented by occupational disease are enormous and are complicated by such factors as our limited medical knowledge, the typically long latency periods between exposure and the onset of disease, the finite resources available to correct even recognized problems, and the institutional and societal forces which impede and delay changes in traditional industrial practices (*See*, Weiner, Ex. 9A, pp. 1–2, 5–6). As a result, many workers continue to be exposed to toxic substances and harmful physical agents to an extent which may severely impair their health.

Sound public policy dictates that workers be afforded a central role in the detection and solution of health problems, as there are no assurances that anyone else will protect their health with equal vigor or determination. Employers have a legal and moral obligation to protect the health of their employees, but the problems which led to passage of the Occupational Safety and Health Act, and the high rates of occupational disease and death among groups such as former asbestos workers, are reflections of the fact that, by itself, industry on the whole does not adequately protect worker health. Governmental agencies such as OSHA and NIOSH were created to improve occupational safety and health, but due to limited resources and other institutional constraints, these agencies have just begun to have a significant impact on the massive problem of occupational disease. Workers thus have a vital interest in becoming directly and actively involved in occupational health matters. This standard serves to assure that workers who seek to become involved will at least be able to learn basic exposure and medical information.

Several participants in the rulemaking proceeding highlighted the fundamental interest of workers in access to exposure and medical information. As voiced by one employee from an electronics plant:

> It is the workers who are interested in monitoring the workplace. We are the ones who have a stake in what happens to us. the board of directors doesn't work with those chemicals. And I can't see why you would want to keep that kind of information out of the hands of the people who have got a lifelong interest in keeping their workplace safe. And with that I want to say that I know that—and our committee we receive a lot of requests from workers saying they want to understand and investigate their workplaces: they don't want to be in the dark; they want to find out what these symptoms are caused by. And they are more than serious and they are pretty up front, right?—and they want to live. They are working to live, not die. They are working to support families that are healthy, not children that are born with any kind of problems related to what their parents worked with. And this kind of ruling could really make a difference for workers. (Lamborn (Electronics Safety and Health Project), Tr. 1603–4)

Dr. David Wegman of the Harvard School of Public Health and University of Massachusetts Medical School observed:

> The access of the worker to his or her medical records is especially important. This is true because the worker ultimately is responsible for his or her own health. They need the information that is contained in medical records to fulfill this responsibility to themselves. This is consistent with the preamble to the constitution of the World Health Organization which defines health as a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity. For any individual to try to promote his or her own health requires sufficient information that he or she can act to build toward improved growth and health, not simply act in the presence of illness. The individual's right to control his or her own destiny is really the foundation upon which the principles of preventive medicine are based. (Dr. Wegman, Ex. 10, p. 8)
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> In the absence of having a full understanding of the condition of health and disease in an individual, I think the individual plays a very little, small role in promoting their own health. And I think that the medical record provides a [route] to this knowledge that just isn't available in any other way. (Dr. Wegman, Tr. 203)

Peter Weiner, Chief Counsel of the California Department of Industrial Relations, also stressed this fundamental worker need to know:

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Whatever we in government are able to accomplish, experience in the workplace will be the touchstone of occupational health action for some time to come. In giving workers the right to accompany OSHA inspectors on walkarounds, Congress recognized that workers often have the most practical knowledge of the hazards they face. Yet in the uncertain world of predicting occupational health hazards, the worker has all too often been kept in the dark. . . . Miners of yesteryear at least had canaries to warn them of dangers in the mine. Today, all too often, workers are themselves the canaries. . . . *It is time we recognized generally that workers have a right to know the hazards they face on the job.* They have a right to all information that may be relevant to protecting themselves, their fellow workers, and their families. As a DBCP worker told us, "the competitors ain't our worry. Our lives is what we're worried about." Workers have an absolute need to know this information in order to bargain collectively to reduce exposures, and to assure compliance with stringent safety and health rules in the workplace. (Ex. 9A, pp. 2–4) (emphasis in original; footnote omitted)

This standard will enable workers to play a major role in their personal health management.

C. Worker Discovery of, and Efforts to Control, Occupational Health Hazards

Access to exposure and medical information will also enable workers and their representatives to become directly involved in the discovery and control of occupational health hazards. Access to exposure and medical records will better enable workers to uncover unknown patterns of health impairment and disease. Workers will be able to link specific adverse health effects with exposures to specific toxic substances, and investigate the possible causes of known patterns of disease. Once an occupational health problem is discovered, access to records can assist workers in their efforts to hasten control of the problem. This worker involvement to implement controls can take many forms, such as discussions with employers, collective bargaining remedies such as grievances, new contract provisions, or complaints to agencies such as OSHA and NIOSH.

Experience has shown that direct worker involvement has often played a major role in discovering occupational health problems. Three very concrete examples concern the discovery of the occupational health hazards posed by bischloromethyl ether (BCME), dibromochloropropane (DBCP), and NIAX catalyst ESN.

I think it is rather interesting in the extreme case where Robert Pontius, who worked at Rohm and Haas, was aware of 13 fellow workers who had died of lung cancer following coughing up blood, brought this to the attention of a physician who was investigating the 14 cases, including Robert Pontius, [and] made the first determination that bischloromethyl ether was a human carcinogen in the circumstances of exposure. Now Pontius had to rely on rather finite and endstage results; that is, the death from cancer, in order to make these associations. There are much earlier stages where these associations could be made if workers are in detail aware of their own work history and can share that knowledge with other workers as they see fit. (Dr. Wegman, Tr. 203–4)

* * * * *

With DBCP, we were able to trace the cause of worker sterility only after workers became aware of the common pattern among them. It is possible that some of the tragic and irreversible sterility among DBCP workers could have been avoided had this pattern been evident earlier. (Weiner, Ex. 9A, pp. 3–4, 24)

In DBCP indeed the problem was perceived by the workers, and had it not been for their perceptions and discussions the problem would still be undiscovered. (Dr. Whorton, Tr. 273–274)

* * * * *

Another problem we [OSHA] are particularly concerned about is the tendency to introduce new chemicals without sufficient toxicological pretesting for acute and chronic effects. A dramatic example of a chemical without such testing happened just recently with the Union Carbide product NIAX catalyst ESN. I must say that while Union Carbide did not have toxicological data beyond the customary acute data, they did act responsibly by undertaking additional toxicological studies. Unfortunately, this occurred after the fact of workers becoming ill due to exposure in two different sites, one in Marblehead, Massachusetts and the other in Jessup, Maryland . . . Soon after the catalyst was introduced in a Massachusetts plastics plant a number of workers complained of bladder problems, weakness and tingling in their legs and impotency. When these workers went to their private physicians, their symptoms were diagnosed as prostate problems, bladder infections, or other diseases. By talking to one another at the plant, some of the workers became convinced that their health problems were work related. Finally, eleven employees went together to the Salem Hospital emergency room, to demand treatment and recognition of the problem as an occupational exposure. The hospital called Dr. David Wegman, an occupational health physician at the Harvard School of Public Health, who began investigating the problem.

At just about the same time, similar symptoms began appearing at a Baltimore plant using the same catalyst.

A Baltimore physician who began seeing patients from the plant, knew of the toxic effects of one chemical used there—TDI—and called Dr. Wegman, an authority on that chemical, and so, by chance, it was discovered that the two groups of workers were both exhibiting the same problems . . . NIOSH and OSHA were called in and it was determined that ESN was the causative agent—and a few weeks ago we [OSHA & NIOSH] issued a joint hazard alert. Union Carbide voluntarily stopped production of the catalyst and recalled existing stocks. (Statement of Assistant Secretary Bingham before the American Chemical Society, Ex. 170, p. 5–6; *See*, Dr. Wegman, Tr. 220–22)

(*See also*, Dr. Wegman, Ex. 10, pp. 9–10).

Access to records will not only facilitate the discovery of previously unrecognized patterns of occupational disease, but will enable workers to investigate potential occupational causes of clear patterns of disease.

Psychological problems resulting from the neurological effects of chemicals may be the common link uncovering a job-related hazard. In one benzene plant in Baltimore three workers in one department were diagnosed as having severe psychological disorders. Without the ability to obtain full medical records, workers would be hampered in their ability to follow up the possibility that a work exposure caused these symptoms. (Eller (ICWU), Tr. 732)

Access to exposure and medical records will enable workers to hasten the control of health problems as well as discover that problems exist.

In the presence of the adequate collection of environmental and personal exposure data and medical testing associated with such exposures, workers' access to the information would provide reasonably early the knowledge of the development of abnormalities and provide the workers the information to act on independent of any other person's action. (Dr. Wegman, Ex. 10, p. 6)

Dr. Wegman also gave this testimony:

It is my experience in my work, both with the Division of Occupational Hygiene [of the State of Massachusetts] and my research and teaching capacities at the Harvard School of Public Health, that when people know about the exposures that they have and know the risks associated with those exposures, they take much greater care in trying to control those exposures to the extent that their individual actions have some role . . . than they do if the material is presented to them as being not of significant health impact or if the material is not even described to them. An example of this was the case where I worked with [asbestos]. A local union working with the manufacturing of brake linings were not aware that asbestos was in the brake lining, and once it was brought to their attention the union leadership informed the membership. The membership recognizing the possible health effects became quite concerned about appropriate ventilation control, made it a major issue in discussions with management and as a result of this led to control of the asbestos exposures that were existing in that workplace which previously had been left uncorrected. (Dr. Wegman, Tr. 201)

(*See also*, Dr. Wegman, Ex. 10, pp.7–8). Testimony in this proceding shows the numerous ways in which workers will use access rights under this standard to hasten the correction of occupational health hazards. Indeed, the active participation and testimony of the many workers and local and international union officials who appeared at the public hearings is in itself strong evidence of worker desire and ability to obtain information and put it to good use. Several passages of the hearing transcript reflect the nature of worker testimony:

After just being on the union committee itself, we saw in an area that is called the drying room that men were having problems and had to get out of the area. And the company had told us there was no problems in the area. So from that point on it seemed like we had to check it out for ourselves because the company said there wasn't no problems. . . . I got a list of people, how long they were on the job, and then I started to interview to see what problems they were having. The people were having bleeding noses, holes in their noses, eye irritations and other problems. And at that point the company still hadn't done nothing. So from them I had to get more information to find out what was causing the problem. So I asked our international to help us and other technical people. At that point they told me we had problems with fluorides . . . If I would have had access to the information sooner as far as the materials being used and the medical records of some of the people affected in the area, we probably could have gotten action a lot sooner . . . (Herbst (ICWU), Tr. 721–22, 725; *See also* Tr. 722–25)

* * * * *

For instance, in International Harvester's Melrose Park plant workers in high noise areas in the plant are given annual hearing tests. Analysis by the union of this audiometric data could provide important insights concerning hearing loss in our plant. This would allow us, the union safety committee, working hopefully in cooperation with management to reduce noise levels or expedite temporary administrative controls in these departments where major hearing loss problems are occurring. We don't have that information and the company will not let us review the hearing test information. (Gaffney (UAW), Tr. 1323)

* * * * *

Well, upon receiving the sampling information, it would give me an idea of what spots are most hazardous and what to concentrate on first, and be able to inform the people, educate them, which I have taken steps already to do so by calling in the international safety department to educate people on what these types of exposures can lead to, and then if it be their will to go ahead with a grievance procedure and take steps to get this corrected. And if the grievance procedure, you know, if we failed there, then we [inaudible] OSHA. (Bergs (USWA), Tr. 1119–20)

* * * * *

Exposure records must not be permitted to become mere historical artifacts, sitting unattended in dusty archives while the hazards they document go uncontrolled. They have usefulness as tools and as with any tool they will be put to the best use by those who want to get the job done. It is employees, with their first hand experience with workplace conditions and their personal stake in the identification of danger, who are the driving force behind safety and health programs. It has become a truism to point out that the workers on the shop floor are often the ones with the most accurate sense of where the potential hazards exist . . . To deny workers the data necessary to distinguish between mere suspicion and accurate hazard recognition is a serious error. It has been our experience as a union with a particularly active health and safety program that employees who have gained access to exposure data have used it productively and aggressively to identify and control hazards. (Dr. Silverstein (UAW), Ex. 63, p. 12)

* * * * *

With regard to the need for ready access by individual workers or union representatives to exposure data, suffice it to say that such access will inevitably serve to motivate workers and their representatives to investigate and eliminate workplace hazards. OSHA will never have sufficient inspectors, nor the ability to immediately set standards, to protect workers from all hazards. The provision of exposure records will allow workers themselves, however, to protect themselves more completely than ever before. (ACTWU, Ex. 2(201), p. 5)

Based on the extensive worker testimony, the Steelworkers stated that: "In summary, the employees who testified do not pretend to be industrial hygienists or physicians, but they have demonstrated the ability to deal with technical material and seek help when needed;" and that "most unions have safety and health departments and consultants to provide advice in these areas" (Ex. 160, pp. 8–9) (*See also*, USWA, Ex. 160, pp. 2–4; Spatz (Cement, Lime and Gypsum Workers), Tr. 1200–01; Annas, Ex. 56, p. 7; Dr. Wegman, Ex. 10B (article on project to train industrial workers in health hazards surveillance); AFL–CIO, Ex. 152, p. 51). OSHA is convinced that workers and their representatives can and will obtain medical and exposure records and use this information to detect and help control occupational health hazards.

D. Improved Ability to Diagnose and Treat Occupational Disease

Direct access to exposure and medical data will also better enable an employee's personal physician to diagnose, treat, and possibly prevent permanent health impairment. Private physicians are extremely important to the proper diagnosis and treatment of occupational disease since there are currently very few trained and experienced occupational physicians (*See*, Dr. Wegman, Tr. 215–18). Dr. Teitelbaum discussed the importance of medical and exposure records in this context:

Day-to-day problems are raised for me as a practicing occupational toxicologist by the present situation in which employee medical records are not available for my study, are incomplete, or are submitted in a format which is obscure. My practice includes consultation in occupational health and toxicology. . . .

Some patients are self-referred and some are referred to me through their own primary physicians. These patients often consult their family practitioners, who are puzzled by the disease syndrome which they see but do not recognize. The practitioner carries out a traditional medical work up and detects abnormalities but does not have the knowledge required to arrive at a definitive diagnosis [which] links the disease to the individual's occupational activity, although he may strongly suspect an occupational connection . . . .

Typically, the information available to me is a classical medical record obtained from some other medical practitioner at the patient's request, a history which is obtained from the patient, and a small amount of information on the materials with which the patient has worked, which may be given graciously or grudgingly by the employer. Some employers collect and maintain important medical information regarding individual employees from preemployment examinations and regular medical monitoring. . . .

Some companies, even large employers, may have relatively little information on many of the chemicals which come into their plant, although they may have substantial information about the processes with which they work. Often, however, these companies are reluctant or resistant to provide copies of this information to the patient because of the medical-legal implications from a worker's compensation point of view. When such information is not provided to a consultant, diagnostic difficulties often occur. Patients usually do not know the health effects, the level of their exposure, or the chemistry of the material itself. They are usually unable to provide to me enough information for development of a definitive diagnostic and treatment program. (Dr. Teitelbaum, Tr. 114–116)

Dr. Wegman also stated the importance of exposure data to an examining physician faced with a patient experiencing a disease of unknown etiology (Ex. 10, pp. 7–8; Tr. 224; *See*, Dr. Parkinson, Ex. 43, p. 5; Samuels (AFL–CIO IUD), Tr. 972–73).

Physician access to medical and exposure data will help facilitate a prompt and accurate diagnosis, thus enabling appropriate treatment. Because the human body can react to various insults in only a limited number of ways, it is often difficult to distinguish between occupationally and non-occupationally related problems (*See*, VII.C.6, *infra*). Exposure and medical information can substantially assist a physician's evaluation, such as where previously recorded baseline medical information can be compared to current health status to ascertain whether and

how health has declined over time (*See,* Dr. Swartz, Tr. 2363, 2369–70). Access, by increasing the likelihood of discovering a connection between occupational exposure and a disease, will also enable a physician, where appropriate, to recommend a temporary or permanent end to exposure to the agent in question. Timely removal from exposure in some cases will serve to prevent the early manifestation of a disease process from progressing to permanent and irreversible health impairment. Timely removal from exposure in other cases will prevent further aggravation of whatever permanent impairment has already occurred. At the same time, a prompt diagnosis of an occupational disease can also serve to alert an employer of the need to reduce the exposures of other workers.

E. Employee Awareness and Improved Work Practices

Where the dangers of exposure to a toxic substance or harmful physical agent are known, worker access to information will also serve to decrease the incidence of occupational health problems. An individual worker's personal actions can greatly affect the extent of exposure to a toxic substance. These personal actions will be shaped by a worker's knowledge and appreciation of the health hazards he or she faces. Grover Wrenn, OSHA's official spokesperson at the public hearings, discussed this factor in his opening statement:

> Increased awareness of workplace hazards on the part of employees will also make it more likely that prescribed safety and health practices will be followed. During OSHA's hearings for the dibromochloropropane standard, one worker testified to the following, and I quote:
>
> We had no warning that DBCP exposure might cause sterility, testicular atrophy, and perhaps cancer. If we had known that these fumes could possibly cause the damage that we have found out it probably does cause, we would have worn equipment to protect ourselves. As it was, we didn't have enough knowledge to give us the proper respect for DBCP. Had we been warned of these dangers, some may not have accepted employment in the first place, and others, myself included, would certainly have handled this material more carefully.
>
> That is the end of that worker's quotation, but it is representative of comments delivered not only in that rulemaking hearing but others that OSHA has conducted on a number of toxic substances . . . . (Wrenn, Tr. 9–10)

Efforts are often made to control worker exposure to toxic agents through the use of respirators, protective work clothing, and careful personal hygiene (showers, washing hands and face before eating, etc.). Work practices which strive to minimize dispersal of toxic substances (e.g., immediately storing dust laden scrap material in closed containers) are also important. All of these control techniques depend on worker cooperation—cooperation which will best be assured when a worker knows the identity of hazardous substances he or she faces on the job, the magnitude of exposure, and the potential health consequences of this exposure (*See,* Dr. Wegman, Ex. 10, p. 7; Dawson (Electronics Safety and Health Project), Tr. 1600; Zebel, Ex. 2(91), p. 1).

F. Occupational Health Research

Access to exposure and medical records and analyses based on these records, as well as long term preservation of these records, will also facilitate formal occupational health research. Groups of employees and unions can use the access rights of this standard to make medical and exposure information available to university and private organization researchers (*See,* Dr. Enterline, Ex. 2(60)). Prof. Joel Swartz of the University of Illinois School of Public Health, Department of Occupational and Environmental Medicine, explained the importance of medical and exposure records to occupational health researchers:

> I think that the availability of medical records is important to detecting occupational disease and in being able to correct the situation which causes the disease. I want to bring out three main points. One, in the past, standards have been set too high for many substances, and the data from careful occupational and epidemiological study have been used to develop lower standards. In the same way, data from medical records and from monitoring could be used to provide information that standards for many other substances, the approximately 500 other regulated chemicals and many other unregulated chemicals, may be too high, and that therefore, the standard should be set lower.
>
> Second, the data from medical records is needed as a baseline to establish the presence of occupational disease because of individual variations in the population. In other words, many biological parameters vary from individual to individual, and a person may have substantial occupational disease, but this may be masked because of the normal variation in the population. And especially in the case of the working population, we generally find that the working population is healthier than the general population and that superficially it may look like there are no occupational diseases in the population, but if we have records that can show progressive changes we may be able to find such occupational disease.
>
> A third point—it has been argued by industry that workers in their organizations and in some cases, NIOSH and OSHA, are not competent to interpret medical data. I'd like to argue exactly the opposite, that in many cases when data was left in the hands of industry, it has been systematically distorted and manipulated to mask the presence of occupational disease. And only when this data has gotten into the hands of representatives of unions or of NIOSH and OSHA has it been correctly interpreted and have we been able to find instances of occupational disease. (Tr. 2362–63).

Prof. Swartz gave a number of examples to illustrate these points (Tr. 2363–73). NIOSH also indicated that:

> Exposure, demographic and medical data provide valuable information in determining the effects of occupational exposures on workers, developing standards and establishing preventive measures. As has been shown in recent years, reliance on animal studies alone does not always provide the necessary information for evaluating or improving work or environmental conditions. . . . Since it would not be ethical to purposely expose humans to substances for research purposes, researchers must study those individuals who, as part of their everyday lives, may have been exposed to toxic substances. Specifically, information is needed to conduct various types of epidemiologic investigations, such as cross-sectional medical and reproductive studies, retrospective cohort mortality and morbidity studies and case control studies. The data needed for these studies include exposure data, medical information, work history information, and demographic data collected by employers. (Ex. 16, p. 2).

(*See also,* Weiner, Tr. 181–82; Dr. Wegman, Ex. 10A; NCCHR, Ex. 58, pp. 33–40, 46; Spatz (Cement, Lime and Gypsum Workers), Tr. 1205–06).

Although NIOSH and other federal agencies are likely to conduct a large portion of the non-employer-sponsored occupational health research in this country, there is a definite role for individuals such as union-sponsored researchers, university scientists, and doctoral candidates in occupational health or biostatistics. The designated representative provisions of the final standard will facilitate this kind of research.

G. Importance of Access To Explicit Statutory Rights

In addition, it is important to observe that worker access to exposure and medical information is important to the effectiveness of at least six explicit employee rights established by the Occupational Safety and Health Act. These statutory rights are discussed in greater detail in the Legal Authority portion of the preamble (V.A, *infra*). They are mentioned here because it is the agency's judgment that substantial occupational health benefits will result from improving the ability of workers to make beneficial use of these statutory rights.

Access to information is first of all crucial to the effectiveness of the section 8(f)(1) right of employees and their representatives (29 U.S.C. 657(f)(1)) to complain to OSHA concerning perceived safety and health problems and obtain a prompt inspection of the worksite at issue. Access gives meaning to the section 8(e) right of employees and their representatives to accompany OSHA during plant inspections (29 U.S.C. 657(e)) in order to identify where and how various toxic substances are used, which plant operations generate the greatest exposures, and otherwise help OSHA conduct a thorough inspection. Access will enable workers to better exercise their twin rights under section 10(c) to contest the reasonableness of abatement periods proposed by OSHA, and to participate as parties in Occupational Safety and Health Review Commission adjudicatory proceedings (29 U.S.C. 659(c)). A fifth statutory right enhanced by worker access to records is the section 20(a)(6) right of workers to request a workplace Health Hazard Evaluation (HHE) by NIOSH (29 U.S.C. 669(a)(6)). Lastly, the knowledge learned by workers due to access to medical and exposure records will also heighten the impact of the employee training and education programs currently being funded by OSHA pursuant to section 21(c) of the Act (29 U.S.C. 670(c)).

By promoting the effective use of the foregoing employee rights, the final standard will substantially advance the statutory scheme created by Congress for the solution of occupational health problems.

H. Lack of Worker Access to Existing Medical and Exposure Records

Having discussed the benefits of direct worker access to medical and exposure records, it is appropriate to consider the kinds of records that employers generate, and the current practices concerning employee access to these records. As will be seen, the presence of records and the existing general lack of direct access establish the necessity for this standard.

Medical records relevant to potential occupational disease are generated in a variety of contexts. Occupational medicine is practiced in a wide variety of settings and encompasses a wide range of medical services. The range of experience includes company-owned hospitals capable of performing most primary care (Skiba (Magma Copper), Tr. 1446–8), sophisticated in-house medical departments with epidemiological, toxicological, and medical expertise (DuPont, Ex. 12, pp. 2–3), medical programs consisting only of an on-site occupational health nurse (Garry (Cal. Occ. Health Nurses), Tr. 1727), and contractual arrangements with industrial health clinics or outside physicians (either on a retainer or fee-for-service basis) (Dr. Jacknow (Chamber of Commerce), Tr. 981). Contractual arrangements with outside physicians or clinics constitute the major organizational form of occupational medicine practiced in this country (Dr. Wegman, Tr. 216–17; Dr. Jacknow (Chamber of Commerce). Tr. 981; Garry (Cal. Occ. Health Nurses), Tr. 1727; Dr. Hockwald (AOMA), Tr. 1531). There are approximately 10–15,000 physicians who are engaged in the practice of occupational medicine and many of these physicians practice only on a part-time basis. Approximately 500 of these physicians are board certified in occupational medicine (Dr. McLean (AOMA), Tr. 1536–7).

NIOSH, in its National Occupational Hazards (NOH) Survey found that only four percent of all industrial plants have a formally established health unit, only half of which were headed by a physician. The larger plants (500 or more employees) tend to have in-house medical facilities, accounting for 80% of the employees in plants which have a formal unit. The survey also found that whether a plant had and established health unit varied significantly according to industry type (Ex. 107; *See also,* Cal. Health Action Coalition, Ex. 95).

The NIOSH NOH Survey found a high degree of variation in the medical services provided by employers. Survey results indicated that 48% of all employees are given pre-placement physical examinations and 78% of all employees work in plants which regularly record some health information about new employees (Ex. 107; *See also,* Samuels (AFL–CIO IUD), Tr. 949). Some form of periodic medical examinations are provided to 34% of all industrial workers (Ex. 171, Table 11). Medical services provided by employers may include first aid, periodic comprehensive examinations, on-site treatment of injuries and illnesses, medical screening for occupational illnesses, medical examinations for workers' compensation and group health insurance purposes, and medical surveillance to comply with mandated OSHA requirements (NCCHR, Ex. 58, p. 30). As a result, and employee medical record can contain information concerning a variety of items: (a) a pre-employment questionnaire and/or medical history, with or without a physical examination; (b) laboratory tests; (c) chronology or episodic visits; (d) scheduled periodic examinations; (e) notes or letters from the employee's treating physician; (f) summaries of hospital records, other outside treatment records or consultations; (g) substance abuse problems; (h) psychiatric problems; (i) non-occupational medical problems; and (j) family records. (Dr. Whorton, Tr. 257).

The NIOSH NOH Survey also determined the extent to which employers regularly monitor the environmental conditions in their plants and receive some form of industrial hygiene services. In general, less than 5% of employers with fewer than 250 employees regularly perform monitoring (Ex. 171, Table 27). Approximately 16% of medium size manufacturing employers (250–500 employees), and 51% of large manufacturing employers (over 500 employees) regularly conduct monitoring *(Id.).* Overall, approximately 22% of all industrial employees are employed in plants where monitoring is regularly performed, with the percentage being approximately 40% for all manufacturing employees *(Id.).* The NIOSH NOH Survey shows a wide fluctuation in the extent of regular monitoring, depending on employer size and SIC code. In addition, it is to be expected that far greater percentages of employees are covered by infrequent monitoring than by regular exposure monitoring. For example, 52% of manufacturing industry employees work in plants which receive industrial hygiene services (Ex. 171, Table 2). Irrespective of the exact percentages involved, it is clear that a substantial portion of American workers work on jobs for which exposure monitoring is being conducted.

Industrial recordkeeping practices appear to vary widely as to the extent to which employees are provided direct access to medical and exposure records. Many occupational physicians subscribe to the "Code of Ethical Conduct for Physicians Providing Occupational Medical Services" adopted in 1976 by the American Occupational Medical Association (AOMA) (Tr. 1538; Ex. 2(59)). While members of the AOMA may be penalized for violations of the AOMA Code, including censure, suspension, or expulsion from the organization (Dr. McLean (AOMA), Tr. 1541), to date, no member physician has been disciplined for violating any part of the Code (Dr. McLean (AOMA), Tr. 1543). Moreover, one personnel manager, not himself a physician but nevertheless responsible for a large medical program, testified that he had

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never heard of the AOMA or its code of conduct (Skiba (Magma Copper), Tr. 1501). In addition to the AOMA, the American Academy of Occupational Medicine (AAOM) (Ex. 2(101)), the American Medical Association (AMA) (Ex. 105), and the American Association of Occupational Health Nurses (Ex. 123) have similar codes of ethical conduct, and have similar sanctioning powers (Dr. Steen (AMA), Tr. 2398). License revocation by the state is also a potential penalty for ethical misconduct (Dr. Steen (AMA), Tr. 2398–99; API, Ex. 158, p. 19).

As part of its ethical code, the AOMA prescribes conduct with respect to informing workers about their health. It obligates occupational physicians to "communicate information about health hazards in timely and effective fashion to individuals or groups potentially affected" and to "communicate understandably to those they serve any significant observations about their health, recommending further study, counsel or treatment when indicated" (Ex. 2(59), Standards 8 and 9; *See also,* Council on Occupational Health, American Medical Association, *Scope, Objectives, and Functions of Occupational Health Programs* (1971), Ex. 93C, p. 8).

By its terms, this policy does not grant employees rights of full access to medical records. The rulemaking record indicates that in practice the AOMA policy has been subject to divergent interpretations, ranging from routinely giving employees copies of all documents generated in medical examinations (Dr. Dietz (Goodrich), Tr. 1221) to providing only an oral consultation if information is requested (Dr. Johnson (Goodyear), Tr. 1219–20). In general, occupational physicians familiar with industry practice depicted a broad middle ground in which "the occupational physician has an obligation to discuss in detail the results of his physical examination, laboratory studies and exposure data with the employee-patient" and "to provide factual information" (API, Ex. 68, p. 1). At the same time, they indicate that the occupational physician often retains broad discretion "as to how to release the information, and is required to divulge only information which is in the patient's best interest" (API, Ex. 158, p. 26 (footnotes omitted)). According to the AOMA,

> [U]sual occupational medical practice is to disclose an employee's records to him or her upon request. The physician, however, should be granted the right to withhold information contained in the record which may be harmful if divulged to the employee. An employee's designated physician should have the right, however, to review all medical information contained in the record. (Dr. McLean, Tr. 1530.)

In contrast, employees and their union representatives universally testified that lack of worker access to medical and exposure information was the rule rather than the exception. Numerous specific examples of employer refusals of information were given by employees, union officials, and independent physicians (Dr. Teitelbaum, Tr. 116, 118; Dr. Wegman, Tr. 231–34; Dr. Parkinson (USWA), Ex. 43, p. 5, Tr. 1145; Dr. Silverstein (UAW), Ex. 63, pp. 3, 4, 12–13, Dr. Ziem, Ex. 2(69), p. 2; AFL–CIO, Ex. 152, pp. 2–7, 9–11, 30, Ex. 39, p. 1, Tr. 640–42; Laden (USWA), Tr. 666–68; Wilson (USWA), Tr. 674–78, 683–84, 687; Wright (USWA), Tr. 871–72, 874–75; Becker (USWA), Tr. 2380–86; USWA Panels, Tr. 1116–24, 1150–52, 1157–61; Wodka (OCAW), Ex. 2(124), pp. 1–2, Attach., Ex. 26, Ex. 26a, Tr. 694–98; Eller (ICWU), Tr. 727–32, 745–46; Meyer (OCAW), Tr. 787–90; Clanigan (PHILAPOSH), Tr. 791–95; Walker (PHILAPOSH), Tr. 799–802; Frumin (ACTWU), Tr. 826–28; Keel (ACTWU), Tr. 843–48; Simonski (UAW), Tr. 1294; Klein (UAW), Tr. 1291–93; Mattillion (UAW), Tr. 1313–17; McDougall (IBT), Tr. 922–23; Howe (CACOSH), Tr. 1096, 1104–05; Spatz (Cement, Lime and Gypsum Workers), Tr. 1204–05; Electronics Safety and Health Project Panel, Tr. 1584–1605; LOHP Panel, Tr. 1679–83, 1685–90; HRG, Ex. 161, pp. 3–4; Ex. 161d, pp. 4–8; *See also,* Weiner, Ex. 9A, pp. 3–4, 13–14, Tr. 175–76; Castleman, Ex. 104; ACTWU, Ex. 2(201), pp. 1–3). The following passages are typical of the extensive worker testimony on this issue:

> The classic case that we are developing now concerns asbestos. It concerns bricklayers. Bricklayers in the steel mill, not the classic type of bricklayers that you are familiar with, but they reline furnaces and part of the substances that they use in relining furnaces are silicones and asbestos. When they tear them out, they are subject to heavy doses of very fine particles of asbestos. So asbestos has been recognized as a problem substance for a long time—not necessarily always connected with cancer but sometimes with asbestosis.
>
> So in 1952, the company agreed to examine the workers exposed to asbestos on a yearly or an every 18-month basis, and so from 1952 until today they have been doing that. But all that time—I have to give you a little background on the company dispensary. It is a very well-equipped dispensary. They have 16 medical doctors on staff, so they know what they are doing.
>
> Now, all the time from 1952 to date, they have not [found] a case of occupational illness among the bricklayers. Just six months ago we took a list of the bricklayers that were off sick and out of the 15 that were off sick, seven of them had over 30 years seniority, which is significant because of the latency period of asbestos in relation to problems. Out of the seven, four of them had a lung removed or a part of a lung removed. Two of them had congestive lung disease, and all of them had been examined by the company dispensary not less than seven months prior to the last time that they worked. All of them had been told by the company that you have no problem, with the exception of one, who was told by the company that 'Your pulmonary function tests have been getting worse for the last five years, and we think it is time that you saw a doctor.' None of them have been told by the company that 'We think you ought to get out of the area. Your pulmonary function tests are showing up worse. For your own benefit, get out of the area, stop getting exposed to the silicones and the asbestos.'
>
> Now you ask yourself why that would be the case and the answer is kind of obvious to the workers, anyway, that if the companies examine an employee for exposure to a specific agent that is harmful to his health, and then they admit that his health has been damaged and move him to another area, they are immediately subjected to a Workman's Compensation Claim, which is an expense item. That is because employers—specifically now, we are talking about Bethlehem Steel—refuse, blatantly refuse, to give employees any information in spite of the fact, in the case of the bricklayers, . . ., we have a document signed by the employee designating his personal physician, signed by a witness, requesting his records to be sent to his own doctor. The company has refused to supply those records to the doctors. (Wilson (USWA), Tr. 676–78)
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> The union has also had difficulty receiving medical data. In these cases, despite a medical testing program which yields critical information the union is prevented from receiving the data. Workers at one ICWU local in New Jersey have been requesting but not receiving relevant work-related exposure records in a plant with an extremely high incidence of lung and bladder abnormalities. Another local demanded that sputum cytology results be forwarded to a doctor of the worker's choice. Workers were forced to picket and work without a contract for several months over this issue. In Waukegan, Illinois the ICWU was unable to obtain the results of [X-ray tests] and had to request that OSHA obtain these records. (Eller (ICWU), Tr. 731–32)
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> I personally wrote a letter to the head of the Employees Relations Department of our plant site and one to the doctor requesting my complete medical file. I had a problem a few years back with acute bronchitis. I was working in an area called the aflare area. . . .
>
> What it is for are these pearl cosmetics, some of the eye shadow that the ladies wear, but it is made with a really super fine mica. I worked in that area for almost nine years and I had continuous bronchitis all the time. It was acute. I finally got out of the area, and two years later my bronchitis started to clear up, but I wanted my medical records to see for what reason I had this acute bronchitis all the time.
>
> I got a letter back from the Employees Relations Department that said that medical records were confidential, the personal property of the company, and I was not allowed to have them. I could come down to the Employees Relations Department with my immediate supervisor and look over my medical records. I didn't get any of the medical records at all. The only way I ever got medical records through the DuPont Company is through an arbitration case and the medical records had to be subpoenaed. (Walker (PHILAPOSH), Tr. 798–800)
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> * * * * *
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> For example, in the welding areas we have periodically in the past requested tests be performed in the area where heavy concentrations of welding operations are performed. Specifically, . . . for exposure to such things as ozone or iron oxide. After the tests were made, after approximately three months for a team of hygienists to come from Detroit, we were told that all areas checked were in compliance. Exact results of the tests, however, were never disclosed to me. Nor were they disclosed to the particular employees who were tested. By simply stating that the test showed the corporation in compliance, in my opinion, does not mean the operation is healthful or particularly safe. Their results, for example, could have been on the high end of permissible exposure limits, making them far more harmful than had they been on the low end. Without this precise data our local safety committee is at a loss as to what to demand in the way of personal protective equipment or proper ventilation or whatever the case may be. Results of pulmonary function tests performed on these individuals and administered to many other employees have not as yet been disclosed to me or the employees despite repeated requests.
>
> Another example is in the area of noise. We have known for a long time that many areas of the plant were out of compliance inasmuch as noise was concerned. As a result of an OSHA inspection and subsequent citation, the corporation instituted a large-scale noise survey in the plant. This survey was started approximately one and a half years ago and was completed in April of this year. Again, when we asked for exact results of the survey, we were told that most areas were in compliance but there were some definite problem areas. However, it was becoming [clear] to us that a serious problem was developing in certain areas of the shop with regard to possible noise-induced hearing loss. When the employees in these high noise areas requested copies of their audiograms that were being administered to them and were denied these copies, they became concerned because the simple fact was that they were having trouble hearing. This prompted the local union to set up at the union hall an audiologist to give preliminary hearing tests to anyone who wanted them.
>
> As a result of this preliminary hearing testing and subsequent testing, approximately 500 employees were found to have noise-induced hearing loss of one degree or another. Five hundred cases, the severity of some which may have been lessened had the employees had access to their records and took necessary measures sooner. (Mattillion (UAW), Tr. 1313–14)
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> * * * * *
>
> On the other hand, workers are often forced to turn to the grievance procedure, including arbitration and strike action, to obtain vital medical or exposure data. I personally have been involved in numerous occasions where we have or I have assisted through our union or myself directly in such endeavors . . . [G]oing back four years ago in Borg Warner Mechanics Division in Rockford, where we had a worker who had already been diagnosed as overexposed to maganese, the consequences of which I am sure the medical professional can articulate much better than I, but certainly it can destroy the central nervous system and do great damage to the individual if the amounts are excessive enough. He had already been diagnosed. We had to go to grievance procedure, we had to go to arbitration on contract language, and we had to take the initial steps of strike action to finally get the medical information and data that was in those records all the time. And it took us over two years of maneuvering and delay and frustration on the part of this individual to achieve that. And the only thing that is uncommon about that is the length of time. It is more common than not to have to resort to these kind of tactics and pressures to obtain medical information and data on these individuals. (Klein (UAW), Tr. 1291–92)

Employee and union testimony also indicated that when some form of access to exposure or medical information is provided by management, this is often given orally with only a general indication that the employer is or is not in compliance with prescribed standards, or the employee does or does not have a problem. Precise quantitative results are not released to either the employee or the union. In the light of its experience the AFL–CIO concluded,

> To date, gaining access to exposure and medical information has been an uphill battle. While some unions have negotiated and gained the right to exposure information, most have had to resort to grievances, arbitration, unfair labor practices [claims], and in some cases strikes to secure information necessary to represent and protect their membership. These procedures are long and costly but the record shows only when required by law or ordered by an arbitrator or the NLRB will many employers turn over the requested information. (Ex. 152, p. 9; citations omitted)

OSHA's considerable experience from other rulemaking and enforcement proceedings corroborates the testimony from workers and their unions that they are often denied access to basic data in exposure and medical records. The statements of facts in several recent judges' decisions in NLRB cases involving access to exposure and medical records also provide corroborating evidence that access to such information is not routinely given. *Colgate-Palmolive Co.,* Case No. 17–CA–8331, —— NLRB —— (March 27, 1979); *Minnesota Mining and Manufacturing Co.,* Case Nos., 18–CA–5710–11, —— NLRB —— (March 13, 1979); *Borden Chemical, A Divison of Borden, Inc.,* Case No. 32–CA–551, —— NLRB —— (April 25, 1979). Moreover, industry witnesses, while maintaining that in their view employees are provided adequate exposure and medical information, emphasized that broad discretion is exercised by management or the corporate physician over the manner and extent of disclosure.

OSHA concludes on the basis of the record and its own experience that denial of direct, unrestricted access to exposure and medical information is commonplace, if not the universal practice of industry. In those plants where direct access is freely granted, this standard will not significantly alter current practice. This standard is, however, necessary in those many situations where access is routinely denied. By making vital exposure and medical information available to workers and their representatives as a matter of a legally enforceable right, this standard will directly and indirectly contribute substantially to the detection, treatment, and prevention of occupational disease.

I. Designated Representative Access to Records

In order to enable each worker to utilize his or her rights of access to records, the final standard permits an employee to designate representatives to exercise access rights. OSHA believes that enabling an employee to designate anybody he or she desires to entrust with access rights will most effectively achieve the purposes of the Act and this standard. The employee should ultimately be the judge of who can make a positive contribution to his or her well-being by access to records. As a result, no limitation is placed on who the employee may choose to act as a designated representative (*See,* Weiner, Ex. 9A, pp. 36–40; Dr. Silverstein (UAW), Ex. 63, pp. 7, 10; Dr. Parkinson, Ex. 43, p. 4; Annas, Ex. 56, Tr. 1748–49, 1751–52; AFL–CIO, Ex. 152, pp. 51–3, 55–6; USWA, Ex. 160, pp. 10, 30; Wodka (OCAW), Tr. 701–02).

Provisions in the final standard concerning designated representative access serve to facilitate the manner in which employees will often exercise access rights in practice. Workers in various situations will inevitably desire that their records be reviewed by private physicians, union officials and technical staff, family members,

attorneys, or others. Designated representative access simply enables workers to avoid having to personally obtain information which they will then provide to a third party; rather, the desired third party can get direct access with worker consent. Many labor unions, in particular, have become increasingly active in occupational safety and health matters (Ex. 172), and have either employed or developed professional relationships with physicians, industrial hygienists, epidemiologists, and toxicologists. OSHA is accelerating this trend through its "New Directions Grants Program" (Ex. 173). Designated representative access will facilitate union access for health and safety purposes, as well as access by professionals serving the occupational health needs of non-union workers. (*See,* Electronics Safety and Health Project, Tr. 1585).

Experience under the National Labor Relations Act is also relevant to the role of unions as designated representatives of employees. That Act gives collective bargaining representatives statutory rights to information relevant or necessary to the collective bargaining process or to their responsibilities under a collective bargaining agreement. This may include access to exposure and medical records. In *Detroit Edison Co.* v. *NLRB,* 440 U.S. 301 (1979), the Supreme Court recently stated that the interests of the employer in the manner and extent of disclosure must be balanced against the interest of the union. The Court held that the employer in that case had not breached its duty to bargain in good faith when it refused to release personally identifiable scores of psychological tests without the employees' consent. With employee consent, however, the union would have been entitled to that data.

In other contexts, the courts have generally rejected claims of confidentiality as a basis for withholding relevant information from the union. See *General Electric Co.* v. *NLRB,* 466 F.2d 1177 (6th Cir. 1972) (wage data); *NLRB* v. *Frontier Homes Corp.,* 371 F.2d 974 (8th Cir. 1967) (selling price lists); *Curtiss-Wright Corp.* v. *NLRB,* 347 F.2d 61 (3rd Cir. 1965) (job evaluation and wage data); *NLRB* v. *Item Co.,* 220 F.2d 956 (5th Cir. 1955), cert. denied, 350 U.S. 836 (1955), 352 U.S. 917 (1956) (wage data); cf. *United Aircraft Corp.,* 192 N.L.R.B. 382, 390 (1971) (company physician's records not discloseable without employee's permission unless needed for a particular grievance), modified on other issues sub nom. *Lodges 743 and 1746* v. *United Aircraft Corp.,* 534 F.2d 422 (2nd Cir. 1975), cert. denied, 429 U.S. 825 (1976); *Shell Oil Co.* v. *NLRB,* 457 F.2d 615, 619 (9th Cir. 1975) (refusal to furnish employees' names without consent was proper when it was "establish(ed) beyond cavil that there was a clear and present danger of harassment and violence"). Cf. *Detroit Edison Co.* v. *NLRB,* 440 U.S. 301 (1979) (dissent). A number of arbitration decisions have also been reported resulting in access to exposure or medical information by grieving employees or their representatives (e.g. Ex. 2 (124); Ex. 122).

J. OSHA Access to Exposure and Medical Records

The final standard reaffirms OSHA's right of access to employee exposure and medical records. OSHA is a public health agency with regulatory responsibility "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions . . ." (Section 2(b) of the Act, 29 U.S.C. 651). Access to employee exposure and medical records is necessary to accomplish numerous statutory responsibilities, and all comprehensive occupational health standards promulgated under the Act to date have included provisions requiring OSHA access to exposure and medical records (*See,* 29 CFR 1910.1001-.1046).

Employee exposure records are crucial to the performance of many of the agency's investigatory, enforcement, and other regulatory functions. Compliance personnel routinely review employer-generated exposure records. Air monitoring data can pinpoint the problem areas within a plant and enable OSHA industrial hygienists to focus their investigatory energies on these problems. All OSHA health standards are structured in a fashion such that many employer obligations are tied to the results of initial exposure monitoring. For example, under OSHA's inorganic lead standard, an employer need only provide complete medical surveillance to employees "who are or may be exposed above the action level (30 micrograms of lead per cubic meter of air) for more than 30 days per year" (29 CFR 1910.1025(j)(1)(i)). Exposure records are thus scrutinized to verify that an employer has properly complied with its responsibilities. Exposure records are also routinely used in rulemaking proceedings for such purposes as defining the universe of employees at risk and analyzing the extent to which current technology has achieved a desired level of protection (Wrenn, Tr. 51–52).

Employee medical records are less frequently used by OSHA than employee exposure records, but are equally important to the agency's performance of its statutory functions. Prior to this rulemaking, the agency had no written instructions to its personnel on the use of employee medical records. Medical records have been only sporadically sought and used depending on the circumstances of particular compliance cases, and the expertise of the agency personnel involved. In recent years the national office has acquired full time staff physicians, and some OSHA field offices have established relationships with private physicians who are available when needed in specific cases. The agency's use of employee medical records will likely increase in the future with expanding medical resources and expertise, and with the development of additional comprehensive health standards. It is appropriate to outline some of the specific situations in which employee medical records have been or could be relevant to OSHA statutory functions:

1. All comprehensive OSHA health standards contain medical surveillance programs and associated recordkeeping requirements. Access to required employee medical records is necessary to verify employer compliance (AFL-CIO, Ex. 152, pp. 58–59). Field personnel might, for example, check a sample of records to verify that required biological monitoring tests were performed and results recorded, and that written medical opinions are preserved. In these situations, no substantive review is made of the medical content of required records.

2. OSHA enforces Section 11(c) of the Act (29 U.S.C. 660(c)) which prohibits employment discrimination against any employee for the exercise of rights afforded by the Act; e.g., the right to complain of unsafe working conditions. There have been cases where an employer has altered a worker's job status for purported medical reasons, and the worker then complained to OSHA that this action resulted from a retaliatory or other discriminatory intent. To investigate these situations it is necessary to obtain all relevant employee medical records to ascertain the legitimacy of the employer's actions. A summary of three recent cases of this nature has been added to the record (Ex. 174).

3. The substantive content of employee medical records may at times be relevant to the type of enforcement action OSHA initiates against an employer, or to proof of the appropriateness of an enforcement action. Serious violations under Section 17(k) of the Act (29 U.S.C. 666(j)) require an element of actual or constructive

employer knowledge. Section 17(k) provides:

> For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

This "knowledge" element may be satisfied by a variety of forms of proof (*See,* Rothstein, Safety and Health Law, ss76–79(1978)). The content of employee medical records could document a pattern of disease sufficient to give an employer actual knowledge of the hazard involved (Wrenn, Tr. 61; Frumin (ACTWU), Tr. 851–2; USWA, Ex. 160, pp. 24–25).

4. The question of whether or not an employer willfully violated an OSHA standard may also be influenced by the content of employee medical records. Willful violations under Section 17(a) of the Act (29 U.S.C. 666(a)) carry up to a $10,000 penalty as opposed to potential $1,000 penalties for serious or non-serious violations (sections 17 (b) & (c), 29 U.S.C. 666 (b) & (c)). Willful violations may involve evidence of an employer's knowledge of both the requirements of an OSHA regulation and the factual circumstances underlying the hazardous working condition. This latter element may be satisfied by a pattern of disease related to occupational exposure to a toxic substance which is documented by employee medical records (USWA, Ex. 160, pp. 24–25).

5. In narrow situations, employee medical records could similarly influence whether or not a "general duty clause" violation occurred. Section 5(a)(1) of the Act (29 U.S.C. 654(a)(1)) provides that each employer:

> [S]hall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

In addition to the knowledge element being traced either to industry or common sense recognition of a hazard, the "recognized hazard" element of this general duty clause can be proved by actual employer knowledge of a hazard (*Brennan v. OSHRC (Vy Lactos Laboratories, Inc.),* 494 F.2d 460 (8th Cir. 1974); *See,* Rothstein, Health and Safety Law, s124(1978)). Again, employee medical records could document a pattern of disease constituting actual knowledge of a hazardous working condition (AFL–CIO, Ex. 152, pp. 58–9; USWA, Ex. 160, pp. 24–25).

6. In some situations a medical practice itself constitutes a violation of an OSHA standard. OSHA's lead standard prohibits prophylactic chelation, a medical procedure involving periodic use of a drug having serious side effects to extract lead from a worker's blood stream (29 CFR 1910.1025(j)(4), *See* 43 FR 53001–004 (Nov. 14, 1978)). Employee medical records could help document instances where this unlawful medical procedure was used (Wrenn, Ex. 7, p. 20).

7. Employee medical records are also relevant to the rulemaking process whereby OSHA health standards are established (Wrenn, Tr. 58). Human epidemiological studies are often at the heart of rulemaking medical controversies, and employers often present studies concerning the disease experience of their employees. Although the agency has not generally attempted to analyze independently the raw data for these studies, such analyses may well be performed in the future to better assess the significance of employer-generated studies (*See,* NCCHR, Ex. 58, p. 35). Also, OSHA intends to assess periodically the adequacy of its health standards. This could involve analysis of medical records of employees consistently exposed at or below the permissible exposure limit (*See,* Schwartz, Tr. 2362–63).

8. Employer medical records could be highly relevant to imminent danger situations. Medical records could demonstrate that a particular worker (or group of workers), in light of the worker's current health status, faces an imminent danger of disease or death from present working conditions. For example, presence of a toxic chemical in the worker's body may be close to a threshold for disease, and current workplace exposures are such that the threshold will soon be exceeded. Section 13(a) of the Act (29 U.S.C. 662(a)) and agency procedures provide for formal imminent danger proceedings (29 CFR 1910.13; Ex. 113, Field Operations Manual, Chpt. IX), and the content of employee medical records could precipitate initiation of these procedures.

9. Employee medical records can be relevant in situations where concern arises over the etiology of a newly discovered pattern of disease (AFL–CIO, Ex. 152, pp. 58–9). In these potential emergency situations a team of OSHA experts (sometimes in concert with NIOSH) can often act in close cooperation with an employer to investigate all possible causes of the disease. Immediate corrective action would then be taken if necessary to protect currently exposed employees. Medical records can be crucial sources of information in these situations. The result of these emergency investigations can be a variety of regulatory and non-regulatory responses. Examples include voluntary employer action which ends the need for governmental action, a formal OSHA/NIOSH Health Hazard Alert to all employers using a toxic chemical, or the initiation of Emergency Temporary Standard proceedings pursuant to Section 6(c) of the Act (29 U.S.C. 655(c)).

10. Employee medical records can be relevant to compliance investigations of the efficacy of controls on worker exposure to toxic chemicals. For example, the efficacy of a respirator program can be assessed by its success in preventing undesirable changes in employee biochemical status such as blood lead level elevations. Medical record proof could buttress citations based on the inadequacies of a respiratory program.

11. Access to employee medical records is also necessary in very limited situations where an employer conducts medical surveillance, but fails to either evaluate the medical data, take corrective action vis-a-vis employees when disease arises, or even inform employees of diagnoses of disease. In these cases, agency physicians could independently evaluate the substantive content of the medical records in order to direct these problems.

The preceding paragraphs discuss some of the many situations where employee exposure and medical records can be extremely relevant, and sometimes crucial, to the performance of OSHA's statutory functions. Section IV.G of the preamble, *infra,* discusses the most significant policy issue involved with OSHA access to these records, i.e., OSHA access to employee medical records and the common law and Constitutional right of privacy.

IV. Central Factual and Policy Issues Concerning Access to Records

A. Introduction

In promulgating this final standard, OSHA not only determined that broad worker and designated representative access to records would serve important occupational health purposes, but also carefully evaluated the various arguments which were raised for and against OSHA's proposed means for achieving these objectives. Workers, union representatives, and several physicians and experts endorsed the concepts of direct, unrestricted employee access to medical and

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exposure records plus an employee's additional right to designate representatives to gain access to these records. Most employer participants, however, opposed these access principles on a variety of grounds. Concerns were voiced about potential harm to employees and the occupational physician-patient relationship should direct employee and designated representative access be provided to medical records. Similar concerns were raised as to OSHA access to employee medical records. Arguments were raised that this rule would impair the ability of employers to attract occupational physicians and otherwise conduct effective occupational medical programs. Employee and designated representative access to both medical and exposure records was opposed on the grounds that these records would often be misinterpreted and misunderstood. Unqualified access to exposure records was opposed due to the possibility of trade secret information being revealed to competitors.

OSHA carefully considered these arguments in light of the record, the agency's expertise and experience, and the legal and practical context in which this standard will operate. The proposed rule has been modified in a number of respects to assure that: (1) the direct release of medical records to an employee is accomplished in a professional manner which minimizes any potential for harm or misinterpretation; (2) access to medical records by a designated representative is the result of specific written employee consent rather than a blanket release; and (3) the potential for competitive harm resulting from an unauthorized release of trade secret information is minimized. Administrative regulations are also being issued simultaneously with this standard in order to govern OSHA's access to employee medical records. These modifications to the proposed rule partially meet concerns expressed during the rulemaking proceeding. In other respects, however, the agency has concluded that employer fears concerning the standard's consequences are ill-founded, and that the central access provisions of the final standard represent sound public policies which are fully supported by the record. The discussion which follows explores in detail the agency's decisions on these matters.

B. Arguments of Potential Harm to the Employee Due to Direct, Unrestricted Access to Personal Medical Records

The concept of direct and unrestricted employee/patient access to his or her medical record generated considerable controversy during the rulemaking proceeding. Arguments were made that direct access could prove to be genuinely harmful in certain cases; thus the employer's physician should retain discretion as to what information is released, and to whom. Statements were made that medical records may contain sensitive information, such as subjective notes or a listing of possible diagnoses which the physician should consider but about which he or she has no firm opinion (i.e., differential diagnoses), or diagnoses of psychiatric disorders or terminal illnesses. Some physicians expressed the fear that revelation of sensitive information to a possibly unstable employee may provoke severe anxiety or a worsening of the employee/patient's physical condition (Dr. Dixon (SOCMA), Tr. 525; Dr. McLean (AOMA), Tr. 1557–58; Jensen (EEI), Tr. 1781–82; Dr. Spraul (Monsanto), Tr. 1909–10; Dr. Joyner, (Shell), Tr. 2226–27, Ex. 2(61), pp. 1–2).

This statement by Dr. Dinman of ALCOA is representative:

> Where medical record entries represent written notes of physicians which are needed to adequately manage the health needs to a patient, prudent exercise of non-disclosure is occasionally in the best interest of the patient and the therapeutic relationship. For example, tentative suspicions of fatal conditions or emotional aberrations; tentative propositions that such might be the case are necessary for the record of the physician seeing many patients and who will see this patient some time in the future.
>
> In the future, these considerations, these differential diagnostic possibilities may prove either unproven or still open to consideration and not established at some future juncture. Disclosure of such working diagnoses is rarely in the patient's interest and can, indeed, create physical and emotional problems which are wholly unnecessary. (Ex. 15, p. 5)

Another example of information which some physicians testified they would hestiate to disclose to patients/employees is information provided confidentially by a third party, whose identity may be indicated in the record (e.g., spouse, fellow employee). In their opinion, disclosure of this information, which is often sensitive in nature (e.g., substance abuse or behavioral problems), would violate the informant's expectation of confidentiality and may possibly even provoke violence (United Technologies Corp., Ex. 2(6); NAM, Ex. 2(135), p. 10; AISI, Ex. 2(142), p. 16; DuPont, Ex. 2(148), pp. 29–30; Dr. Hockwald (AOMA), Tr. 1529–30, 1554, 1556; Dr. Reilly (EEI), Tr. 1769, 1772–3; Dr. Joyner (Shell), Tr. 2227; cf., Dr. Teitelbaum, Tr. 137–140).

While instances where direct access to medical information may cause harm are generally acknowledged by physicians expressing these concerns to be rare, they nevertheless consider them to be sufficient reason to deny providing patients/employees with absolute rights of access (Dr. Hockwald (AOMA), Tr. 1554; API, Ex. 158, p. 28).

These arguments concerning recorded information on tentative or differential disgnoses, terminal illnesses, psychological disorders, and information supplied by informants have been presented as reasons for retaining broad physician discretion over the disclosure of medical records. Those witnesses advocating reliance on professional judgment and discretion in the disclosure of medical information usually recommended that release be only to the employee's designated physician on the grounds that, unlike others, a physician has an ethical duty of confidentiality and is uniquely qualified to interpret medical data (New Jersey Dept., of Labor, Ex. 2(58), Attach. (Hercules Corp.); Sherwin-Williams Co., Ex. 2(76); Batchelor (MCA), Tr. 396–7, 403; Dr. Hine (ASARCO), Tr. 1619; Dr. Bernacki (NAM), Tr. 2189–90, Ex. 2(135), pp. 5–6, 9). Physician-to-physician transfer of medical records with the consent of the patient is recognized as an ethical obligation by the medical profession (AMA, *Principles of Medical Ethics* (Rule 5.61), Ex. 105, p. 27).

Based on the record and its own policy judgments, OSHA concluded that reliance on physician discretion to disclose information to an employee, or solely on physician-to-physician transfers of medical records, are inadequate responses to the needs for direct worker access. Unrestricted patient access to medical records has been a major public policy issue during the past decade, and the evolving trend throughout the nation has been to provide direct patient access to medical records. Professor George Annas, Associate Professor of Law and Medicine at Boston University School of Medicine, and a member of the Massachusetts Board of Registration and Discipline in Medicine (Ex. 56 at 1), testified at the hearings as to this trend:

> Access to hospital and private physician records has traditionally been governed by state law, and until the 1970's, few states provided for direct patient access, the vast majority requiring commencement of a legal proceeding before records could be made legally available. Currently, however, a significant number of states, including California, Colorado, Florida, Hawaii, Illinois, Indiana, Massachusetts, Minnesota, Nevada, New Jersey, Oklahoma, Oregon, and Virginia have statutes that provided direct patient access to physician or hospital medical records. In addition, access is guaranteed by case law in other states, such as Illinois, Nebraska, New York and Texas. The general theory of the case law is that "the fiducial qualities of the physician-patient relationship require the disclosure of medical data to a patient or his agent on request . . . ;" and that patients have a right to access to their own records based on a "common law right of inspection."
>
> State medical licensing boards are also beginning to take cognizance of the importance of patient access to medical records. New York in 1977 and Massachusetts in 1978 have required their licensees to make such records available to patients upon request. On the federal level, the Privacy Act of 1974 requires direct access under most circumstances, and the Privacy Protection Study Commission, set up under that act, has recommended that:
>
> Upon request, an individual who is the subject of a medical record maintained by a medical-care provider, or another responsible person designated by the individual, be allowed access to that medical record including an opportunity to see and copy it (at p. 298 of their report).
>
> This recommendation reinforces one made more than five years ago by HEW's Malpractice Commission which recommended that "states enact legislation enabling patients to obtain access to the information contained in their medical records through their legal representatives, public or private, without having to file a suit." (Ex. 56, pp. 2–3) (cases omitted)

In addition, California, Oregon, Maine, and Michigan have statutes giving employees access to personnel records, including medical records, used to make employment decisions (NCCHR, Ex. 125, p. 5).

The 1976 Privacy Protection Study Commission ("Privacy Commission") devoted a chapter of its final report to the many issues presented by recordkeeping practices in the medical-care setting (Ex. 101, Chpt. 7). The Commission fully reviewed the ramifications of direct patient access to medical records and recommended:

> Upon request, an individual who is the subject of a medical record maintained by a medical-care provider, or another responsible person designated by the individual, be allowed access to that medical record including the opportunity to see and copy it. (Ex. 101, p. 98)

This basic right of patient/employee access to one's own medical records was also generally endorsed in the rulemaking proceeding by the National Commission on the Confidentiality of Health Records (NCCHR), a coalition of 23 health care organizations (Tr. 1867), and the American Medical Records Association (AMRA), a professional organization representing 22,000 members involved in medical records administration (Tr. 2456).

A variety of public policies support patient access to medical records, but the Privacy Commission based its recommendation on the fundamental personal privacy principle that an individual should have a "right of access to records about himself for the purposes of reviewing, copying, and correcting or amending them as necessary plus some control over the collection and disclosure of information about him" (Ex. 101, pp. 17–18). This fairness principle was explicitly extended by the Commission to medical records in general (Ex. 101, pp. 300–03), and to employer-maintained medical records in particular (Ex. 101, pp. 258–9). Moreover, in the Commission's opinion, the need for patient/employee access to medical records was inextricably tied to the patient/employee's need to authorize disclosure of his/her medical record in a variety of situations.

> Indeed, in the final analysis, the most persuasive line of reasoning favoring access turned on the concept of authorization. So long as it is thought acceptable, or even necessary, for an individual's past or present medical condition to be taken into account in making non-medical decisions about him, he will be asked to allow others to have access to his medical records or at least some of the information in them. As a practical matter, however, his authorization allowing such access to a third party will be meaningless so long as he does not know, and cannot find out, what is in the records. Both theoretically and practically, authorization is a meaningless procedure unless the individual knows what he is authorizing to be disclosed. (Ex. 101, p. 289)

Although numerous organizations and individuals favor direct patient/employee access and oppose relying on physician discretion as to the release of medical records, there is recognition that disclosure to an intermediary, not necessarily a physician, may sometimes be appropriate. The Privacy Commission recommended that some provision should be made for indirect access to a designated person, provided it was clear that there would be no restriction on the ability of that person to disclose all the information to the patient (Ex. 101, pp. 259, 297–8).

> * * * [N]o solution would be acceptable in the long run so long as it risks leaving the ultimate discretion to release or not to release in the hands of the patient's physician. In situations where the keeper of the medical record believes that allowing the patient to see and copy it may be injurious to the patient, the Commission concluded that it would be reasonable for the record to be given to a responsible person designated by the patient, with that person being the ultimate judge of whether the patient should have full access to it. In no case, however, should the physician or other keeper of the record be able to refuse to disclose the record to the designated responsible person, even where it is known in advance that the designated person will give the patient full access to it. (Ex. 101, pp. 297–98)

Several participants expressed general support for this approach, at least when highly sensitive information concerning psychiatric or terminal illness diagnoses were involved (Weiner, Ex. 9A, p. 35; Belair (NCCHR), Tr. 1867–71). Other participants, however, discounted the possibility that the direct release of even psychiatric or terminal illness information could prove harmful:

> There is also, I think it worth noting, no evidence at all in the literature * * *, nor has there been any evidence brought forth in any hearings on this subject to indicate any negative impact at all of access to medical records on the part of individual patients.
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> We have heard that assertion made, and it is made commonly, that should patients get access or employees get access to their records this will have a detrimental effect on their medical condition, that they will become anxious, they will become upset, and they will become worse off. This is another way of arguing that this is opposed to the traditional doctor-patient relationship.
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> The fact of the matter is of course that—well not necessarily of course—but the fact of the matter is that there is no evidence to support this, and indeed all the evidence is on the other side, that since no one has ever been able to come up with any example where this has happened, one has to assume the opposite, that this hasn't happened and that in fact the studies on the other side which show that medical records in fact improve and not hinder the doctor-patient relationship, should be given more credence.
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> The Privacy Commission, for example, took testimony from all the Federal agencies about their experience under the Privacy Act since 1974 and not one agency could point to one case in which access to medical records had been detrimental to a patient. (Prof. Annas, Tr. 1745–46)
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> * * * * * *
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> There is of course always the issue raised that there is a danger of misinterpretation and adverse emotional impact of the patient's reading his or her own medical record. Although I cannot promise that this would not happen, to my mind, the idea of frightening an individual by frankly informing them is absurd. An individual who does not wish to know that he has a terminal disease will choose not to know it. In fact, I would suggest the medical profession has more experience with individuals denying terminal disease even when informed about it than with having people adversely affected by chance discovery of terminal disease. In any event the individual should have the right to make that decision, not have some other third party make that decision for him or her. (Dr. Wegman, Ex. 10, p. 10)
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> Although there are numerous abbreviations, shortcuts, and jargon utilized in medical records, and, although physicians

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frequently include early diagnostic opinions which are not substantiated by objective information, records are still readily capable of interpretation by a competent, intelligent physician to a concerned patient. Certainly failure to use the English language should not disqualify the patient from information about himself. (Dr. Teitelbaum, Ex. 8, p. 7)

* * * * *

OSHA regulations should certainly not exempt terminal illness from disclosure since there is evidence that diagnoses of occupational cancer have been completely withheld in the past and workers do not necessarily have their own physicians who would seek this information. (Laden (USWA), Tr. 668)

* * * * *

My personal custom has always been, while the patient's waiting, to give the patient their record. It keeps them busy when I fall behind, and it allows them to ask me questions about the things I've written there. And my instruction to my house staff and the attendants there at Cook County Hospital is that the patient should be given his record.

There's a very small marginal group of patients, so small as to not be important for our discussion, who cannot handle or might misunderstand serious diagnoses or phraseology. This is a bug bear as far as I'm concerned. It's not a serious issue. . . . But for the issue before us, working people, and a knowledge of what's going on in the world around them, I don't think [the problem of psychiatric diagnoses] has any relevance at all. (Dr. Young (CACOSH), Tr. 1107, 1109)

In addition, experience under the access provisions of the Privacy Act (5 U.S.C. 552a) is relevant. The Privacy Act governs access to medical records kept by the Federal government, and authorizes Federal agencies to develop special procedures which permit indirect access via a designated person when direct access would be considered harmful to the subject of the medical record (552a(f)(3)). Agency implementing procedures vary from providing indirect access through any responsible person designated by the patient (45 CFR 56.6) (HEW) to limiting access to a physician of the patient's choice (32 CFR 286a.7) (Defense). The Department of Labor took the more restrictive designated physician approach (29 CFR 70a.6(d)). In practice, however, most access under the Privacy Act throughout the government has been directly to the patient, and no harm from direct access has apparently ever occurred (Ex. 101, pp. 296–97). In the words of the Privacy Commission:

> The Commission's hearings failed to produce evidence that one procedure was more effective than another in protecting patients from any adverse consequences that might result from obtaining their medical records. Not one witness was able to identify an instance where access to records has had an untoward effect on a patient's medical condition. While the Department of Defense special procedure is clearly the most restrictive, DOD representatives estimated that the Department had released a record to a physician, rather than to the individual directly, in less than one percent of the cases where access had been requested. (Ex. 101, p. 297)

The agency reached several conclusions from the preceding considerations. First, OSHA concluded that direct worker access to medical records was sound public policy as a general matter even without regard to the occupational health benefits to be gained by access. Second, due to the divergence of views as to whether access should always be available directly to the patient/employee, or whether in certain situations access should be through the employee's physician or non-medical representative, OSHA decided to structure the final standard so as to provide the physician representing the employer with a limited opportunity to release an employee's medical record to a third party rather than directly to the employee.

Under the final standard, the employee may request direct access to his or her records, or give the specific written consent for a designated representative to get access. The standard, however, explicitly encourages the physician maintaining the records to explain the records to the employee when the direct access is sought, and to suggest alternative forms of disclosure if that is felt necessary.

In addition, the final rule adopts the Privacy Commission's designated representative approach in cases of specific diagnoses of terminal illness or psychiatric conditions. Direct employee access to this narrow category of information may be denied if a physician representing the employer has evaluated the circumstances of the request and formed a good faith belief that direct access to this information could prove detrimental to the employee's health. Direct access may only be denied, however, to information directly related to the specific diagnosis that the employee actually has a terminal illness or psychiatric condition. It is OSHA's judgment that there is no basis for anticipating harm to an employee from direct access to other kinds of information, such as tentative differential diagnostic possibilities, or biological monitoring data unrelated to a specific finding of a terminal illness. A concerned physican can fully explain the significance of this information to a worker.

The rare occasion where direct access may possibly be harmful can adequately be dealt with by these provisions concerning physician consultations and access through a designated representative. Where the physician and the patient/employee have previously established a traditional medical relationship of trust and confidence, the employee will undoubtedly seriously consider and probably accede to recommendations of the physician as to what information should be disclosed, and how. Where trust and confidence does not exist or the employee persists in seeking access, then the desire of the employee should normally prevail.

As part of the foregoing decisionmaking, the agency considered and rejected suggestions that the employer or its physician be given discretion to disclose a medical record only to an employee's designated physician. In rejecting so restrictive a suggestion, the agency agreed with the approach of the Privacy Commission. The Privacy Commission was careful to indicate that, even where indirect access was considered appropriate, this intermediary function could be fulfilled by any "responsible person," including family members or friends (Ex. 101, p. 298). OSHA also attaches significance to the likelihood that limiting access to only employee physicians would undoubtedly pose a substantial practical barrier to worker access (*See*, Wrenn, Tr. 40–42; Weiner, Tr. 176–77). Dr. Whorton noted that approximately 20 percent of individuals do not have a primary physician to whom records could easily be transferred (Ex. 11, p. 11). Having a personal physician review medical records could prove costly to an employee. An employee would also have to make arrangements for a personal physician to review the records without any advance knowledge as to whether the record contained anything worth reviewing. These impediments are substantial, and would minimize the use of medical records in the discovery and control of occupational health hazards. Under the final standard, the employee can easily, and likely often will, transfer his or her medical records to a personal physician. Direct access coupled with a broad designated representative provision, however, provides the worker with a better opportunity to judge whether this is in his or her best interests and worth the effort and expense involved.

The one situation where the final standard permits information to be withheld altogether from an employee concerns confidential informants. As noted at the outset of this section, several participants argued that information provided by confidential informants should not be disclosed to an

employee due to confidentiality expectations and the possibility of violence. Confidential informants could include family members and friends of the employee, fellow workers, and management or medical personnel. Dr. Young expressed strong doubts that company physicians often receive confidential information from a worker's family (Tr. 1109), and it is probably also rare that friends of an employee engage in these communications. Where such communications do occur, Dr. Teitelbaum described in some detail how he as a responsible physician would disclose to the patient the identity of the informant and the content of his or her communication (Tr. 137–140). This is a sensitive area, however, in which OSHA recognizes that competing privacy interests are at stake.

In this exception situation, OSHA decided that the identities of fellow employees, personal friends, and family members who may have provided confidential information may be deleted prior to disclosure. This is the one area where OSHA believes that legitimate expections of confidentiality have been created which override whatever marginal occupational safety and health purpose would be served if disclosure of the informants' identities were provided. This provision, however, is limited to the identities of "fellow employees, personal friends, and family members" in the belief that those who stand outside this personal relationship, such as the employer (i.e., supervisory and managerial employees) or another physician or medical person, are not justified in any expectation of confidentiality and should not be protected from disclosure. Moreover, the information provided by the family member, friend, or fellow employee must be disclosed to the extent that this would not clearly identify the informat. Observations of a worker's behavior or health status could be highly relevant concerning occupational disease, particularly since toxic exposures can be the cause of an otherwise unrecognized central nervous system disorder which mimics non-specific behavioral disorders or alcoholism (*See*, VII.C.6, *infra*).

Finally, it is appropriate to stress that this standard is consistent with and builds upon existing principles of occupational medical ethics and developments in the law. Under the common law, the legal obligations of employer-selected physicians depend largely on whether a physician-patient relationship exists as a matter of law. The most important factor in determining whether such a relationship exists is the mutual expectations of the parties, i.e., what kind of understanding exists between the physician and the patient. Other factors which courts have considered include: (1) who is paying for the service; (2) who benefits from the service; (3) the degree of the physician's independence from the payor (if not the patient); and (4) the volitional quality of the patient's decision to consult with the doctor. Each situation thus turns on its particular set of facts (NCCHR, Ex. 125).

The physician-patient relationship imposes on the doctor three basic legal duties: (1) to treat the patient in a manner consistent with acceptable professional standards of care; (2) to disclose to the patient facts and diagnoses pertinent to the patient's medical condition; and (3) to protect the confidentiality of information obtained in the course of the relationship, subject to certain recognized exceptions (61 Am Jur 2d, Physicians, Surgeons, and other Healers, § 100). The duty of disclosure of pertinent facts and diagnoses is particularly relevant to the issue of employee access to medical records.

Traditionally, the courts have indicated that there is no physician-patient relationship between an employer-provided physician and the prospective or actual employee, or at least that there is not the usual physician-patient relationship (Ex. 145; NCCHR, Ex. 125). As a consequence, the case law varies significantly as to what duty of care, if any, the physician owes to the employee (*Lotspeich v. Chance Vought Aircraft*, (1963, Tex. Civ. App.) 369 SW 2d 705; *Riste v. General Elec. Co.*, (1955, Wash.) 289 P. 2d 338; *Beadling v. Sirotta*, (1964, N.J.) 197 A.2d 857; *Hoover v. Williamson*, (1964, Md.) 203 A. 2d 861; *Rogers v. Horvath* (1975, Mich. App.) 237 NW 2d 595; *See also*, Weiner, Ex. 9A, p. 16n.28). In general, the cases which do not acknowledge a physician-patient relationship in the occupational setting involve pre-employment or periodic examinations required by the employer. In all likelihood, a physician-patient relationship is established when an employee voluntarily goes to the company physician with a medical problem and the physician treats the condition (Annas, Ex. 56A, p. 539).

In recent years, the traditional rule of there being no physician-patient relationship, and thus no broad legal duty of disclosure to the employee/patient, has been scrutinized and found to be unacceptable as a matter of professional ethics. The American Occupational Medical Association (AOMA) in its Code of Ethical Conduct for Physicians Providing Occupational Medical Services (Ex. 2(59)), together with various medical and legal commentors on the subject, have taken the position that an occupational physician's primary obligation is to the employee, and the physician should generally be bound by traditional professional obligations (Weiner, Ex. 9A, p. 17 n. 30 (articles cited); Annas, Ex. 56A; NCCHR, Ex. 125). The American Association of Occupational Health Nurses has adopted an identical position (California Occupational Health Nurses, Ex. 123).

This view is also finding acceptance as a matter of law. The judicial trend appears to be in favor of finding a physician-patient relationship in the occupational setting. For example, in *Vella v. Wise*, (1976 Cal.) Contra Costa County Superior Ct., No. 116083, an asbestors worker recovered $350,000 because the physician failed to disclose that an x-ray examination showed the worker had asbestosis. The counsel for the National Commission on Confidentiality of Health Records (NCCHR) has observed that this finding of a fully developed physician-patient relationship is likely to be reflected in future decisions (NCCHR, Ex. 125, p. 11).

A board and virtually discretionless obligation to disclose information to the patient/employee accompanies this growing recognition of the physician-patient relationship in the occupational setting. The physician-patient relationship imposes on the doctor the duty of disclosing to the patient significant information concerning the patient's medical condition, including diagnoses and the hazards of proposed treatments (Ex. 149, § 4 (cases cited)). In the past, some courts recognized a "therapeutic privilege" to withhold information when such non-disclosure is determined by the physician to be in the best interests of the patient. The various factors considered included the mental and emotional makeup of the patient, the prognosis of his/her condition, and the definite or tentative nature of the diagnosis (Ex. 149, § 5 (cases cited)). The duty to disclose has traditionally been judged by the standard of the reasonable medical practitioner in the same or similar locality and under the same conditions (*id.*).

The "modern" trend, however, appears to be a shift towards to patient's right of access to medical information regardless of the doctor's concerns or the local standards of the medical profession. This view is expressed by the commentator to the *American Law Reports (ALR)* 1973 annotation on this issue (Ex. 149, p. 505):

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It is submitted that the basic common-law principle that every man is the master of his own body, entitled to do with it as he will, is brought into question in those cases in which a physician who intentionally withholds an unfavorable diagnosis from his patient is judged by the standard of what the reasonable medical practitioner would disclose in the circumstances. Under such circumstances, the patient is denied important information of great potential usefulness in, at the minimum, winding up his affairs. It is suggested that, at least to some extent, the question of whether the patient should know of his condition is not a medical one, although some medical factors are present, but rather, it involves a philosophical issue: who should determine whether the patient is to be informed? Should the medical profession arrogate to itself this determination or should it be left to the patient or his family, or both? It would seem that, absent special circumstances [such as strong possibility of suicide], the determination should be made by the patient. . . . (Footnote omitted)

This modern trend is expressed in the state statutes and case law discussed by Professor Annas (Ex. 56), as well as the Federal Privacy Act (5 U.S.C. 552a(f)(3), as interpreted by OMB Privacy Act Guidelines, issued as a supplement to Circular A–10B, 40 FR 28957) and the deliberations of the Privacy Protection Study Commission (*See also,* Annas, Ex. 56A; Weiner, Ex. 9A, p. 30; HRG, Ex. 122E; NCCHR, Ex. 125, p. 5; PPSC, Ex. 101, p. 297; *Cobbs v. Grant,* 8 Cal. 3d 229, 242 (1972); *Canterbury v. Spence,* 464 F. 2d 772 (D.C. Cir. 1972)).

In addition to ethical and common law obligations to disclose information to employees, direct patient access to medical records has also been identified as basic to emerging notions of the constitutionally recognized right of privacy (Weiner, Ex. 9A, p. 6). The Supreme Court has indicated that the right of privacy involves at least two different kinds of interests: "one is the individual interest in avoiding disclosure of personal matters, and another is the interest of independence in making certain kinds of important decisions." *Whalen v. Roe,* 429 U.S. 589, 599–600 (1977). The first interest, the right to control disclosure of information to others, argues for patient access to information for which the patient is asked to authorize disclosure. As the Privacy Commission stated, ". . . authorization is a meaningless procedure unless the individual knows what he is authorizing to be disclosed" (Ex. 101, p. 289).

The second privacy interest in being able to maintain control over the making of certain highly personal decisions is also directly pertinent to the issue of access to medical records. As has been argued:

> The right to know is thus an integral part of the right of people in a free society to have information in order to be able to determine for themselves what their actions will be. It is a personal right, and one with special relevance to the workplace. No right is more basic than the right to protect oneself from life-threatening harm. And it is only when one is armed with a basic knowledge of workplace hazards and how one's own medical record reflects one's reaction to that environment, that one can evaluate risks and act responsibly to protect oneself from those hazards. (Weiner, Ex. 9A, p. 11)

In addition to the physician's independent disclosure duties, the employer's legal responsibilities to employees must also be considered. Case law has traditionally recognized that an employer may be liable for the failure to inform an employee of a disease or phsyical condition disclosed in a medical examination where it is shown that the employer had knowledge, but the employee was unaware, of that disease or condition (Ex. 144). In addition, under the doctrine of *respondeat superior,* an employer may be held liable for a physician's malpractice where the employer was personally negligent in employing or retaining the services of an incompetent physician or surgeon (Ex. 146, s4(c)), or where the furnishing of such free medical attendance was for the employer's own benefit or purposes (Ex. 146, s4(d)). On the other hand, it has generally been held that where an employer gratuitously supplies medical treatment for his sick or injured employees, the *respondeat superior* doctrine is inapplicable and the employer is not liable for the malpractice of the physician or surgeon employed by him provided he exercised ordinary care to select a reasonably competent person to serve in that capacity (Ex. 146, ss3(a), 4(a)). This distinction found in early cases may be outdated, however, since "there should be little difficulty in convincing modern courts that regularly established medical service plans represent the assumption of a contractual obligation on the employer's part, bringing into play the rule that *respondeat superior* applies where such an undertaking is shown, especially where business benefits result" (Ex. 146, p. 564 (footnote omitted)).

Product liability law is also relevant. The manufacturer, in addition to his duty to test, inspect, and keep abreast of the latest developments in the field, also has a duty to effectively warn subsequent users of hazards associated with use of the product (*Borel* v. *Fibreboard Paper Prods. Corp.* 493 F. 2d 1076, 1089–1090 (5th Cir. 1973)). The *Borel* case, the leading products liability case involving occupational disease, upheld a claim brought by an asbestos insulation worker for failure to warn of the hazards of asbestos exposure. The Court held that "an insulation worker no less than any other product user, has a right to decide whether to expose himself to the risk" and must be fully apprised of the extent and gravity of the hazard faced, *id.* at 1089 (Weiner, Ex. 9A, p. 14 n. 24 (cases cited)). While workers' compensation statutes would normally bar such lawsuits against one's actual employer, some courts have allowed independent personal injury suits for breaches of this duty to disclose (Weiner, Ex. 9A, p. 12 n. 20 (cases cited); NCCHR, Ex. 125, p. 1; Ex. 148, s6 (cases cited)); BNA OSH Reporter, May 10, 1979, p. 1738).

The foregoing analysis of the relevant law and medical principles provides a solid foundation for OSHA's conclusions that direct worker access to medical records coupled with a broad designated representative provision is sound public policy. The promulation of this final standard to guarantee employees a quick and effective means of gaining access for occupational health purposes can thus be viewed as a logical outgrowth of a variety of legal and policy arguments which oppose maintaining employer and physician discretion and favor direct worker/patient access to medical records.

C. Potential Misinterpretation of Medical and Exposure Records

Employee and designated representative access to both medical and exposure records was also opposed on the grounds that these records would often be misinterpreted and misunderstood. Statements were made that most employees are incapable of understanding the highly technical language, abbreviated short-hand and illegible writing that is often found in medical records. The likelihood of misinterpretation leading to unnecessary anxiety or inappropriate action was therefore considered great.

> We believe that the patient should have limited access, and the reason I say 'limited' is that there are many things in medical records that can be bewildering and misunderstood by patients, and I think the patient should have access to their medical record, but I think someone should be available at the time they review the medical record to be able to interpret any segment of the record that may not be clear to the patient or to explain to that patient some of the acronyms and abbreviations used which they might otherwise interpret as derogations. (Dr. Steen (AMA), Tr. 2403–4)
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> If OSHA truly believes that employee access will increase the employee's recognition of hazards in the workplace, then OSHA must also believe that employees are capable of interpreting scientific test results and/or conducting epidemiological studies. And I think as physicians in industry we have tough enough problems with that ourselves. (Dr. Bernacki (NAM), Tr. 2190)
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> The correct interpretation of data pertaining to environmental hygiene, x-rays, functional capacity and laboratory tests is difficult even for the trained professional. Nothing would be accomplished by releasing this information to the employee, or to his nonprofessional "designated representative." (Dr. Hine (ASARCO), Tr. 1618–19)
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> The contents of the medical record are probably not understood by many of the people who would opt for practically unlimited access to such a record. . . . Many items in the record are written in the physician's jargon or in abbreviations or acronyms that can be misleading or cause unnecessary anxiety for the patient or others. To expose the patient to these written mental gymnastics of the physician is not in the best interest of the patient. (Dr. Spraul (Monsanto), Tr. 1909, 1910–11)

(*See also,* Kentucky Dept. of Labor, Ex. 2(5); Miles Laboratories, Inc., Ex. 2(146), pp. 1–2).

There was also testimony that exposure records can be as technical as medical records and are equally subject to misinterpretation. Thus, according to the API, which presented Tenneco's manager of industrial hygiene on this issue:

> . . . [S]uch data will rarely provide reliable or useful information concerning an individual worker's exposure. . . . [T]he release of raw industrial hygiene data to workers who lack the training and experience necessary for proper interpretation would add little, if anything, to their knowledge of workplace hazards, and in some cases be unnecessarily alarming. Consequently, professional interpretation and review is an essential part of any program for releasing industrial hygiene data to workers. (Ex. 69, pp. 2,4; Ex. 158, pp. 31–2).

OSHA agrees that professional evaluation and interpretation will often be important, but does not agree that the possibility of occasional misunderstanding should enable employers to deny access to either medical or exposure records. The solution reflected in the final rule is to provide full worker access to the records, while at the same time encouraging the employer to offer whatever professional interpretation the employer feels is necessary. The worker, however, retains the right to personally evaluate the record, and have independent analysis conducted by professionals and non-professionals alike. If a worker is incapable of understanding something in a medical or exposure record, the worker will most likely seek the assistance of someone more knowledgeable whom he or she trusts (*See,* USWA, Ex. 160, pp. 8–9; Dr. Wegman, Ex. 10B (article on project to train industrial workers in health hazards surveillance); AFL–CIO, Ex. 152, p. 51; Dr. Ziem, Ex. 2(69), p. 2).

In considering the ability of workers to understand the contents of medical and exposure records, or to direct pertinent questions to those who do, it is important not to underestimate the intelligence and abilities of American workers. American workers, after all, have built and now operate and maintain the most technologically advanced and complex industrial society in the history of man. There is no basis for suggesting that exposure and medical records are somehow so inherently mysterious or complex that an informed adult cannot make beneficial use of them. Exposure records concern the identity of the chemical or physical agent measured, the quantity measured, and the circumstances under which the measurement was made. Workers can understand these matters, or be instructed as to their significance in specific situations. The same can be said with regard to medical records, particularly since the lay public is aware of many medical terms and medical conditions. Workers may also have received training and education as to disease processes known to be associated with the toxic substances to which they are exposed. Finally, a worker should understand much of the contents of his or her medical records before examining them if the physician who prepared the records fulfilled his or her ethical obligation to inform the worker of pertinent medical diagnoses and information.

Additional evidence in the record further convinced the agency that this issue of possible misinterpretation should not stand as an impediment to worker access to medical and exposure records. The comments of Dr. Teitelbaum, Professor Annas, and Mr. Spatz of the Cement, Lime and Gypsum Workers, were particularly on point:

> If physicians cannot maintain records intelligible to a patient with appropriate assistance, then I suspect that they are incapable of maintaining medical records intelligible to themselves. Although there are numerous abbreviations, shortcuts and jargon utilized in medical records, and although physicians frequently include early diagnostic opinions which are not substantiated by objective information, records are still readily capable of interpretation by a competent, intelligent physician to a concerned patient.
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> Certainly our own failure to use the English language adequately should not disqualify the patient from information about himself. We cannot solve the problem of access by hiding behind a screen of confusion. A decision that the patient should not have access to his records or not be able to transmit them because he won't understand them is no decision at all. It merely immortalizes our own failure of communication.
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> Records should be intelligible to any individual who has competence in scientific disciplines. This person can then explain the record to the patient. (Dr. Teitelbaum, Tr. 121–122)
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> The patient should also have the right to have records submitted to others whom he feels will make a positive contribution to his health and safety. The former traditional requirement that the medical records be released only to other medical personnel must be viewed with a jaundiced eye. I have occasionally met physicians who were less capable of understanding industrial medical records which were generated about their patients than the patient himself was, because the physician had a weak education in chemistry, pharmacology or toxicology or lacked familiarity with plant working conditions. (Dr. Teitelbaum, Tr. 123)
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> It is my view that there should be no exceptions to direct patient access, and that none of the arguments that are set forth in support of limited access are persuasive. The primary one, that patients won't understand the information, can be answered in two ways. First, it is the legal and ethical duty of the physician to inform the patient about his condition and its implications, and this may further indicate a shortcoming of this particular relationship. Second, any patient who does not understand his records is likely [to] seek the aid of someone who does, and this will solve the problem. Finally, once access is general, physicians are more likely to write records that are understandable by their patients. (Annas, Ex. 56, p. 7a)
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> The issue of confidentiality which has been raised in opposition to this rule must be addressed. First, in our opinion, all information in an employee's medical file should be disclosable directly to that employee with absolutely no censorship. The members of our union are intelligent adults who have the ability to read, analyze and understand. If information in the medical records require medical interpretation, that employee has a chance to ask his personal physician for such an interpretation. To deny information on the basis that the company or the company doctor can determine best what an employee should know is demeaning paternalism.

(Spatz (Cement, Lime, Gypsum Workers), Tr. 1201–02). Comparable comments were made by other participants (Dr. Wegman, Tr. 204–05; Samuels (AFL–CIO IUD), Tr. 956–57; Dr.

Swartz, Tr. 2363, 2370–73; AFL–CIO, Ex. 152, p. 25–27; USWA, Ex. 160, p. 7–8).

Finally, it is relevant to consider how workers will likely exercise their access rights. Many workers will transfer their records directly to professionals such as personal physicians, or union physicians and industrial hygienists, and let them analyze the records. In other cases, workers will probably seek access out of interest and curiosity, and will ask their employer for an explanation of confusing information. Once this is forthcoming, that will be the end of the matter. In other cases, workers will have lingering questions and will consider their employer's responses to be unsatisfactory. These workers can be expected to question their personal physicians, union, friends, family, and agencies such as OSHA and NIOSH (*See*, Electronics Safety and Health Project, Tr. 1609–10). As a result, worker access to records will often lead to independent informed analysis of the record, even when the worker does not completely know what the record means.

In light of the foregoing considerations, OSHA concluded that arguments about the possibility of misinterpretation of records lacked merit, and should not affect promulgation of the final standard.

D. Designated Representative Access to Medical Records and Potential Harm to Employee Confidentiality Expectations

The final standard provides for the transfer of an employee's medical records to a designated representative upon the specific written consent of the employee. The Summary and Explanation portion of the preamble (VII.C.10, *infra*) discusses in detail all aspects of this specific written consent process. The standard closely follows the recommendations of the Privacy Commission and the AMRA, and seeks to minimize the possibility of blanket, perpetual, and ill-considered access of third parties to confidential medical records. The proposed standard provided for access by third parties upon the bare written consent of the employee, without the elements of this written consent being defined. This lack of a more formal consent process was criticized by numerous participants. Arguments were made that the proposal's designated representative access provisions would seriously interfere with the physician-patient relationship, and the proposed rule was significantly changed to avoid this potential problem.

Objections to the proposal focused on potential invasions of an employee's privacy expectations from unrestrained third party access to identifiable medical records. The medical directors who testified at the hearings on behalf of their companies or trade associations stated that confidentiality is an essential ingredient of effective medicine. Without assurances of confidentiality, they said it would be difficult for them to obtain the full cooperation of the worker in providing complete medical information or in following the medical advice given (Dr. Karrh (DuPont), Tr. 309; Dr. Dinman (ALCOA), Tr. 430; Dr. Hockwald (AOMA), Tr. 1527; Dr. Tetrick (National Steel Corp.), Tr. 1980–81; Dr. Duncan (NAM), Tr. 2180; Dr. Steen (AMA), Tr. 2392; Dr. Hilker (Ill. Med. Society), Tr. 2525–6; API, Ex. 66B, p. 2, Ex. 66D, p. 3; AMOCO, Ex. 76, p. 2). It was therefore said that the occupational physician-patient relationship is based on mutual trust and that information gathered in the course of this relationship is kept confidential. Accordingly, this information is protected from unconsented disclosure to management or anyone outside the medical department. While the existence of a few "bad actors" was acknowledged by industry (Dr. McLean (AOMA), Tr. 1524–5, 1529; Dr. Wolkonsky (AMOCO), Tr. 2246; API, Ex. 158, p. 24), it was stated that a duty of confidentiality is the ethical standard by which the occupational physician measures professional conduct. Standard No. 7 of the AOMA's Code of Ethical Conduct requires the occupational physician to:

> Treat as confidential whatever is learned about individuals served, releasing information only when required by law or by overriding public health considerations or to other physicians at the request of the individual according to traditional medical ethical practice, and recognize that employers are entitled to counsel about the medical fitness of an individual in relation to work but are not entitled to diagnoses or details of a specific nature. (Dr. Hockwald (AOMA), Tr. 1529; Ex. 2(59)).

The medical directors indicated that the AOMA code was the policy required of their medical staff.

Maintaining that the occupational physician-employee relationship is based on mutual trust and confidentiality, industry argued that the designated representative provision of the access rule would be harmful to that confidential relationship, and make it difficult, if not impossible, for physicians to adhere to their ethical duty of confidentiality. API's position is representative:

> Even in circumstances when third party access is lawful, OSHA's proposal to permit third party access merely upon obtaining a bare "written consent" would prove inadequate. OSHA's "written consent" procedure would not require a third party to particularize his purpose for access or specify the information he seeks. Nor would this "consent" have any expiration date. Thus, the proposal would permit a third party to obtain sensitive, personal information which he never needed to see, including information placed in the record long after a worker's "consent" was given. This is hardly the sort of procedure which will protect the confidentiality of doctor-patient exchanges. (Ex. 158, p. 33)

Industry witnesses said that if unconsented third party access to employee records was permitted, employees would be less candid during medical consultations, or perhaps even refuse to participate in voluntary medical programs altogether (Dr. Dixon (SOCMA), Tr. 520; Dr. Spraul (Monsanto), Tr. 1911; Dr. Tetrick (National Steel Corp.), Tr. 1979; Dr. Duncan (NAM), Tr. 2180; ALCOA, Ex. 15, pp. 2, 6; DuPont, Ex. 2(148), pp. 8–15). Several industry witnesses also maintained that unconsented third party access would cause physicians to engage in "defensive" recordkeeping practices, either by recording more information than is necessary or by not recording sensitive information which they would not want the employees themselves or third parties to see (Washington Legal Foundation, Ex. 2(96); AAOM, Ex. 2(101); Mayo Clinic, Ex. 2A(16), p. 2; Skiba (Magma Copper), Tr. 1455; Dr. Spraul (Monsanto), Tr. 1911–12; Dr. Joyner (Shell), Tr. 2228–9; MVMA, Ex. 153, pp. 6–7).

API suggested that the Privacy Commission's recommended model consent requirement should be developed as "a positive first step" toward informed consent (Ex. 158, p. 33; cf., Ex. 101, p. 315) (Privacy Commission). OSHA followed this suggestion, and further refined the specific written consent procedure in light of other evidence in the record (*See*, VII. C.10, *infra*). To give specific written consent, an employee will specifically have to indicate in writing who is being authorized to disclose record information, who may have access to it, the general nature of the information to be disclosed, and a general description of the purpose for the disclosure. If the employee wishes, he or she may specify information which is not authorized to be disclosed and may place conditions on its use or redisclosure. The authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, and does not operate for more than one year from the date of signature. The authorization

may be revoked prospectively at any time. These procedures will assure that the employee controls the amount and kinds of information available to the designated representative, and what the representative can do with it. OSHA is confident that these improvements to the standard will prevent any harm to an employee's legitimate expectations of confidentiality.

It is important to stress that in considering the issues of confidentiality and designated representative access to medical records, the only significant issues concern who can be a representative (with consent) and the nature and necessary elements for consent. The law has firmly established that there is no breach of the traditional duty of confidentiality when disclosure is made to a third party on the basis of the consent of the patient (Ex. 147; 70 C.J.S. Physicians and Surgeons, s36; Annas, Ex. 56B, pp. 148–9). The suggestion that designated representatives access to personally identifiable medical records should be conditioned on the specific written consent of the individual employee was endorsed by union and worker testimony (McDougall (IBT), Tr. 916; UAW, Ex. 63, pp. 4, 9–10; AFL–CIO, Ex. 152, pp. 52–53, 60, Appendix I; USWA, Ex. 160, pp. 17, 19). Virtually no one suggested that access to personally identifiable medical records should be provided to unions or other representatives without the consent of the individual employee (*But see*, ICWU, Ex. 106, p. 1).

As to who can be a designated representative, the final standard embodies the view that once specific written consent is obtained, no additional restrictions, such as limiting access to physicians or industrial hygienists, are needed. Since it is the employee's right to have access to the complete record, the employee should, by the consent procedure, control the conditions of disclosure and redisclosure. Access to an employee's own records should be as broad as the patient/employee desires (Dr. Wegman, Tr. 206–7; Annas, Tr. 1751–52; AFL–CIO, Ex. 152, p. 52).

There are some who would restrict access, even with consent, to another health professional. However, such a restriction flies in the face of the principle of independence in making basic life decisions, as discussed previously. Just as the individual should have access to his or her own record, or should be able to designate any other agent to receive that record, the individual should be able to consent to access by any other person whom the individual designates. It is up to the individual to decide whether such consent is in his or her own best interest. Rigid rules limiting this freedom of choice would not redound to the benefit of the worker. (Weiner, Ex. 9A, pp. 39–40).

In addition, independent of the specific written consent procedure of the final standard, potential harm to an employee's expectations of confidentiality must be viewed in light of the nature of the employee's expectations. If there is little expectation of true confidentiality, then there is little risk of harm, if any, by providing the employee broad discretion to give medical records to whomever the employee chooses. Although OSHA, employees, unions, employers, and occupational physicians alike all agree that the ethical principles of confidentiality should apply to the workplace, there is considerable evidence in the record that employees as a rule neither have, nor could be expected to have, reasonable expectations of confidentiality vis-a-vis their medical records.

The assertion that occupational medicine as currently practiced is normally marked by a confidential and trusting relationship between physician and patient was widely refuted by numerous participants (Morgan (PHILAPOSH), Tr. 821; Wilson (LOHP), Tr. 1707; Becker (USWA), Tr. 2379–82). Testimony from both labor and management indicated the existence of standard practices which tend to undermine the ability of the physician-patient relationship in industry to be based on mutual trust or the maintenance of confidentiality. Several witnesses testified that: (1) workers are often required to submit to pre-employment physicals and other examinations as a condition of employment with no choice of the physician who conducts these exams (Dr. Dinman (ALCOA), Tr. 441; Dr. Dixon (SOCMA), Tr. 537–8; Payne (ACTWU), Tr. 835; Samuels (AFL–CIO IUD), Tr. 948–9; Dr. Gresch (Allis-Chalmers), Tr. 2280; UAW, Ex. 63, p. 5); (2) company physicians commonly testify without the consent of the employee (and often favorably to the employer's interests) in arbitration and workers' compensation cases (Laden (USWA), Tr. 668; Mroczkowski (USWA), Tr. 1175; Electronics Safety and Health Project, Tr. 1614–15; Dr. Herrmann (Johnson & Johnson), Tr. 1843); (3) workers have often been required to sign releases for the blanket disclosure of medical information to employers in order to qualify for various benefits (Dr. Dinman (ALOCA), Tr. 443; Sheppard (PHILAPOSH), Tr. 809; Sheratt (Data General), Tr. 1997; USWA, Ex. 122A; Chamber of Commerce, Ex. 134, p. 4); and (4) to receive payment, employees typically must authorize the release of all information to the insurance company, who in turn may release the records to the employer's accounting or benefits department (Dr. Karrh (DuPont), Tr. 357; Dr. Jenkins (ICWU), Tr. 738; Becker (USWA), Tr. 2387; NCCHR, Ex. 58, pp. 32–3; Privacy Commission, Ex. 101, p. 268). These practices, while not common to every company, are sufficiently widespread to be considered inherent features of the industrial system.

The rulemaking record supports a further conclusion that breaches of confidentiality and denials of information which are contrary to established corporate policy occur at the local plant level to a greater extent than corporate management or the medical director perhaps realizes (USWA, Ex. 160, p. 5). This is consistent with the finding of the Privacy Commission that "among organizations that have adopted policies or practices to regulate the handling of records about employees, few have any way of checking to see if they are being carried out uniformly," and that "action taken at the corporate level is not always communicated to field offices" (Ex. 101, p. 234).

Moreover, the majority of companies do not have a full-time occupational physician in charge of their medical recordkeeping practices. The Privacy Commission has noted that personnel departments over the years have expanded to include, in many cases, the handling of occupational medicine and safety records, as well as insurance records and counseling records (Ex. 101, p. 225–6). This trend has placed more and more employee medical records in the hands of non-medically trained personnel. As a result, there is likely to be less sensitivity to confidentiality than when the medical records are under the exclusive control of a physician. For instance, two personnel managers who testified at the hearings, both responsible for the medical programs within large companies, indicated that they retained the authority to examine employee medical records even though they were not themselves physicians (Skiba (Magma Copper), Tr. 1459–60; Sheratt (Data General), Tr. 1996). One had never heard of the AOMA or its Code of Ethical Conduct (Skiba (Magma Copper), Tr. 1501).

This statement of facts from the National Labor Relations Board case of *Colgate-Palmolive Co.*, Case No. 17—CA—8331, —— NLRB —— (——) is also revealing:

> Respondent (the Company) regards these medical files as highly confidential, and permits only limited access by authorized individuals, namely [the employee relations

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manager], the company doctor and nurse, the plant manager, and certain employees within the personnel department (p. 8, al. op.).

Similarly, in the CBS "60 Minutes" show on "Brown Lung," televised February 4, 1979, Dan Rather reported that, after being told of several workers who had contracted byssinosis ('brown lung disease') without having been told by the company that their respiratory problems were occupationally related, the president of West Point Pepperell "one hour later . . . had pulled the medical files of three workers . . ." (Ex. 117, p. 8).

In addition to the involvement of personnel departments and other non-medical company officials in medical records management, occupational medicine is often conducted primarily by either an on-site nurse, industrial health clinic, or a private practitioner. While occupational health nurses have their own code of ethics which is protective of patient confidentiality (Ex. 123), testimony indicated that nurses as a group are clearly more vulnerable than physicians to employer pressure for unauthorized disclosures of medical information (Dr. McLean (AOMA), Tr. 1562; Garry (Cal. Occupational Health Nurses), Tr. 1727, 1729).

The relationship between the employer and a contract physician may similarly result in medical information being supplied to the employer which constitutes a breach of confidentiality. Typically, the information is released to the employer based on a standard release form signed by the employee, but in some cases diagnostic information required by state law is disclosed without a release. In most cases the companies are small, and the information is received by the personnel or industrial relations manager (Dr. Jacknow (Chamber of Commerce), Tr. 1007–13; Malter (Health Evaluation Programs), Tr. 2315). Based on his experience and observations, Dr. Marvin Amdur, director of the Buffalo Industrial Medical Center and an independent witness with 40 years of experience in the private practice of occupational medicine, stated:

> I would regard the problem of so-called confidentiality to be almost a non-existent device used to deny accessibility of records.
>
> Every day such confidentiality is breached in a multitude of situations. We do not examine any applicant for employment or reinstatement who has not already indicated to his employer that pertinent records may be returned to that employer . . . I want you to remember also that in the industrial setting, the employee is not a patient of that physician. That contact is usually an arm's length one, certainly not comparable with the relationships that may exist between the same employee and his family physician. (Tr. 575–6)

Accordingly, industry's basic assumption concerning the physician-patient relationship and the protection of confidentiality was widely disputed. Given that there is little genuine employee expectation of true confidentiality as to employment medical records, whatever expectations exist cannot possibly be harmed by authorizing an employee to disclose medical records to third parties of the employee's choosing through a process of specific written consent (For further discussion on the issue of employer abuse of employee medical records, *See*, IV.H, *infra*).

E. Potential Harm to Occupational Medical Programs

Arguments were also made that broadened access to medical records would inevitably impair the creation, expansion and effectiveness of occupational medical programs. While no participant would identify itself or any particular company as a likely candidate for cutting back its medical program (Dr. Karrh (Dupont), Tr. 366, Ex. 2(148), pp. 8–15; Batchelor (Diamond Shamrock), Tr. 425; Dr. Dinman (ALCOA), Tr. 448; Kwon (ORC), TR. 1853; Blaiser (NAM), Tr. 2196–97), it was nevertheless stated that, due to the burdens of compliance, some companies may decide to do so (Dr. Dixon (SOCMA), Tr. 518–22; Ryan (RMA), Tr. 1212; Dr. Duncan (NAM), Tr. 2179; Drake (Maytag), Tr. 2475). Because of the requirement for providing access to studies based on exposure or medical records and the difficulty in getting employees to volunteer, it was said that there may be a detrimental effect on company-sponsored health research or epidemiology studies (Dr. Hine (ASARCO), Tr. 1619–20; Dr. Wolkonsky (AMOCO), Tr. 2251; MVMA, Ex. 153, p. 5; *See also*, Dr. Johson (Goodrich), Tr. 426; Dr. Dixon (SOCMA) Tr. 520; Dr. Duncan (NAM), Tr. 2180). The observation was also made that the standard could make it more difficult to attract private physicians to occupational medicine (Dr. Dixon (SOCMA), Tr. 521; NVMA, Ex. 153, pp. 6–7). Further suggestions were made that access to medical records might result in defensive medical practices where physicians either decline to place important information in medical records, or enter an overabundance of information (Skiba (Magma Copper), Tr. 1455; Dr. Joyner (Shell), Tr. 2228).

It is OSHA's judgment that these predictions are exaggerated, since no concrete evidence was presented which indicated the standard would have a negative impact on corporate efforts to provide occupational health programs. As previously noted, corporate witnesses stated that, in fact, there would likely be no reduction in their occupational medical efforts. This prompted the AFL–CIO to conclude that "the evidence in the record does not support the claims of a far reaching negative impact on occupational health programs" (Ex. 152, p. 25). In addition, Dr. Wegman remarked that, based on his experiences with the Division of Occupational Hygiene in Massachusetts:

> Some have stated that the employees' access to medical records will discourage medical surveillance programs, particularly because it punishes those most progressive employers who choose to institute programs beyond those required by the standards. . . . It is my opinion that employers who are committed to maximum protection of worker's health will find this proposed regulation consistent with their commitment. (Ex. 10, pp. 4, 6)

Dr. Wegman further argued that the broadest possible access to exposure records serves to improve employer-employee communication on health issues, rather than reduce data collection efforts (Dr. Wegman, Tr. 198–200). In addition, Dr. Silverstein saw no possible impairment to the operations of fee-for-service medical clinics due to the operation of the rule (Tr. 2022).

OSHA concedes that there may be some situations where employers reduce occupational health programs rather than permit employees to know the results of exposure monitoring and medical tests. Access will increase employee efforts for more healthful working conditions, and may well expand efforts to obtain workers' compensation, product liability and other legal remedies for harms inflicted. Some employers may conclude that it is wiser to have little or no occupational health program if employees are given the right to know what the employer knows about hazards in the workplace (*See*, Ritchie, Ex. 2(2); Fairfield Mfg. Co., Ex. 2(25); New Jersey Dept. of Labor, Ex. 2(58), Attach. (Hercules Corp.); Olin Corp., Ex. 2(71); Milwaukee Constr. Safety Council, Ex. 167(9–7), p. 1). OSHA is hopeful, however, that few employers respond in this fashion to the final rule, since the standard should be viewed as consistent with employers' commitment to occupational health. The compliance burdens of this standard are minimal, requiring only access to and retention of records the employer either voluntarily creates or must as a matter of law create. No good faith argument can thus be made that compliance burdens will hinder the creation or expansion of occupational health programs.

OSHA also sees no genuine possibility that access to the results of health and safety studies by workers, their designated representatives, and their unions could impair voluntary participation of employees. Workers voluntarily participate in studies precisely because they want the studies to determine if problems exist so that the problems can be corrected. It is difficult in this context to understand how employees would be content for their employer to fully know the results of the study, but would not want their union, their designated representatives, or themselves to know the results of the study.

Similarly, OSHA sees no possibilty that this standard will deter physicians from entering the field of occupational medicine. As George Taylor of the AFL–CIO pointed out (Tr. 638–39), physicians presumably choose the field of occupational health because they recognize a challenging opportunity to serve the medical needs of employees. This motivation should not be affected by employee access to medical records—an obligation physicians are increasingly facing in private practice as governed by state law.

OSHA also sees no evidence that the standard will result in defensive or improper recordkeeping practices. The assertion that the access requirements would result in many physicians failing to put adequate reports in the medical records was disputed by statements that such action may constitute unethical behavior (Dr. Parkinson, Tr. 1098). In addition, the AMA spokesperson reported that there is no evidence that the existence of broad access rights by law in a number of states has resulted in overly conservative or defensive medical recordkeeping practices or a lowering of medical standards (Dr. Steen (AMA), Tr. 2406). Dr. Young, Director of the Department of Medicine (including a large occupational medicine section) at the Cook County (Ill.) Hospital further stated:

> I've come across testimony and I think it was enumerated in the initial remarks, that the impact of such regulations would result in occupational medicine doctors or company doctors' failure to put adequate reports in the patient's records, or perhaps even implying they would modify exposure records.
>
> I can't believe that's true. If it is true, it's unconscionable, and speaking for the doctors in training in my institution, the doctors who are teaching them, I will represent to you, Judge, that there will be no lowering of ethical standards should these regulations become part of the law of the land, and I really rather resent the implication coming from occupational medicine resources that their colleagues would ever be guilty of such chicanery. (Tr. 1098)

Dr. Parkinson also noted that access should not affect the content of the record since medical records are created for the ultimate benefit of the worker's health (Tr. 1141).

As a final matter, it is appropriate to state that the record supports a finding that patient access to medical records will actually serve to improve the effectiveness of occupational medical programs. Access will likely serve to "open up and further develop the relationship between doctors and patients so that maybe there would be a greater willingness on the part of patients to place some confidence in the doctor they were seeing" (Dr. Silverstein (UAW), Tr. 2022–24). As Prof. Annas indicated, "patients who ask to see their own medical records are not 'less anxious' when refused than they are if access is provided" (Annas, Ex. 56, p. 5). Prof. Annas also referred to a number of studies which indicated that:

> [I]ncreased access to patient records promotes a doctor-patient relationship and promotes patient education, permits patients to be less anxious and permits [them] to then be more ready to carry out doctor's recommendations and permits patients to be more active participants in their health care in general. (Tr. 1745; Ex. 56, pp. 5–6)

This also reflects the opinions and personal experiences of Dr. Whorton of the Labor Occupational Health Program (U. of California, Berkeley) (Ex. 11, pp. 10–11), Dr. Parkinson, Professor of Occupational Medicine at the University of Pittsburgh and a medical consultant to the United Steelworkers Union (Tr. 1142, 1148), and Vicki Laden, a health consultant to Steelworkers locals in Baltimore (Tr. 682). Finally, Dr. Young described the practice at the Cook County Hospital as follows:

> If the patient asks for the record, they of course get it.
>
> I'm encouraging them [staff physicians] to have the patients read their charts while they're being taken to x-ray and so on. It enhances patients' understanding of their condition. It improves the patient's ability to ask the right questions about their illness. And I think it's something that should become more widespread.
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> MR. SPILLER: You say in your experience greater access improves relationships with the patients and physicians?
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> DR. YOUNG: Absolutely. It can only improve because the patient sees there's a correspondence between what you're telling him and what you're writing down. It allows him in a deliberate way to ask questions about a particular test or works you're using. It only enhances. (Tr. 1108)

It was also suggested that "once access is general, physicians are more likely to write records that are understandable to their patients" (Annas, Ex. 56, p. 7a; cf., Dr. Teitelbaum, Ex. 8, pp. 6–7). Moreover, the spokespersons for the AOMA were unable to cite any studies which would indicate that greater access will erode the physician-patient relationship (Dr. McLean and Dr. Hockwald, Tr. 1561). Therefore, the record supports the view that direct patient access to medical records actually promotes the therapeutic relationship between physician and patient.

F. Trade Secrets and Records Subject to this Standard

The next major access issue concerns employer fears that the exercise of access rights could serve to impair or destroy the competitive value of trade secrets. These fears were not directed toward OSHA access to records, but rather toward worker and designated representative access. The proposed rule contained no provisions specifically addressed to trade secrets, and several employers and employer organizations, who commented on the proposal prior to the hearings, criticized this lack of protection. At the outset of the hearings on the proposal, OSHA acknowledged this issue, and solicited comments on how employer concerns over proprietary information could be accommodated with the need for workers to know the nature, extent, and consequences of exposure to toxic substances (Wrenn, Ex. 7, p. 13; Tr. 29–31). While recognizing the legitimacy of trade secret concerns, the agency indicated its preliminary intention that access rights would prevail over employer desires to maintain complete secrecy (Wrenn, Tr. 29–31, 65–67).

Considerable additional argument and testimony were received on this issue. On the basis of the total record, the agency concluded that workers have a fundamental need to know the identity of, and extent of exposure to, toxic substances and harmful physical agents, and any resulting health effects, regardless of whether or not the information is a trade secret. The final standard is founded in part on the judgment that, as a matter of public health policy, employers must not be permitted to deny worker access to this information which is needed for the purposes of detecting, treating, and preventing occupational disease. Access is afforded to chemical and physical agent identity, level of exposure, and health status information regardless of employer trade secret claims. The final standard, however, has been structured to accommodate trade secret concerns where protection of trade secret information does not conflict with the

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overriding purposes of the standard. The provisions of the final standard minimize possible misuse of this information, and the agency is confident that a reasonable balance has been struck between the potentially conflicting goals. The legal analysis supporting the agency's decisionmaking is discussed at V.B., *infra*, and the standard's provisions concerning trade secrets are discussed further in the Summary and Explanation portion of the preamble (VII.F, *infra*).

Industry comments and testimony expressed a wide variety of potential trade secret problems with the language of the proposal. Several comments raised general concern over a lack of protection for trade secrets, without specifying what kinds of trade secrets would likely be contained in records subject to this rule (Chamber of Commerce, Ex. 2(162), p. 9; Mobay Chemical Co., Ex. 2(97), p. 5; Allied Chemical Co., Ex. 2(107), p. 3; Union Carbide Corp., Ex. 2(104), p. 2). Other participants were more definite as to the types of trade secret information which might be contained in requested records. The greatest concern was expressed over secret manufacturing processes and technology (Blaiser (NAM), Tr. 2192–95, 2173–75; Sheratt (Data General Corp.), Tr. 1999–2003, 1991–94; SOCMA, Ex. 2(163), p. 4, Tr. 524; National Constructors' Association, Ex. 2(98), pp. 3–4; MCA, Ex. 2(125), pp. 7–9; Minnesota Mining and Manufacturing Co., Ex. 2(129), pp. 6–7; Ex. 98, pp. 2–3; Dow Corning Co., Ex. 2(176), pp. 1–2; General Electric Co., Ex. 2(178), pp. 2–3). Concern was expressed that the precise percentages of chemicals in a mixture, which can be a trade secret, could be disclosed (SOCMA, Ex. 2(163), p. 4, Tr. 524; MCA, Ex. 2(125), p. 8). It was argued that the mere identity of a chemical could be a trade secret, particularly with respect to secret catalysts and intermediates which could not be discovered by chemical analysis of the end product (Bernacki (NAM), Tr. 2193–95; Batchelor (MCA), Tr. 407–13, Ex. 2(125), pp. 7–9; Dixon (SOCMA), Tr. 531–32, Ex. 156, pp. 27–29; Dupont, Ex. 150, pp. 12–16; General Foods Corp., Ex. 2(99), pp. 3–4; Sangamo Capacitor Div., Ex. 2(100), pp. 1–3; Polaroid Corp., Ex. 2(187), p. 2). A recent OSHA enforcement case indicated that even in situations where the identity of a chemical was not a trade secret, levels of exposure to the chemical could possibly be a trade secret (*Secretary of Labor* v. *Olin Corp. & OCAW*, OSHRC Docket No. 77–4369, Ex. 26C). Finally, although the content of employee exposure records was the focus of employer trade secret concerns, several participants indicated that employee medical records could also contain trade secret information (Dixon (SOCMA), Tr. 524; Mobay Chemical Co., Ex. 2(97), p. 5; Union Carbide Corp., Ex. 2(104), p. 2; Chamber of Commerce, Ex. 2(162), p. 9; Dow Corning Co., Ex. 2(176), p. 2; Polaroid Corp., Ex. 2(187), p. 2).

In contrast to these expressions of concern, several participants generally rejected the possibility that access to records would lead to competitive harm to employers. First, there was skepticism that exposure records would reveal process or percentage mixture information beyond what could be gathered from analysis of the end product (AFL–CIO, Ex. 39, p. 4; ICWU, Ex. 28, p. 7). For instance, arguments were made that competitors using sophisticated chemical analytical techniques could already determine the identities of end product constituents (Weiner, Ex. 9A, p. 25; AFL–CIO, Ex. 152, p. 28; ICWU, Ex. 28, p. 7). Secondly, arguments were made that exposure records would often not disclose information about secret processes beyond what workers already see or know (AFL–CIO, Ex. 152, p. 28).

Further arguments were made that even where access to records might reveal to workers previously unknown trade secrets, there was no reason to expect that the information would be abused.

> Many management employees—chemical engineers, supervisors, etc.—are privy to complete confidential information about trade secret products. Thus, given the scope of information available to management employees and the existing potential for abuse by these individuals, there can be little merit given to claims that worker access to much more limited information will threaten trade secret confidentiality. Taylor (AFL–CIO), Ex. 39, p. 4)
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> * * * * *
>
> Claims that disgruntled employees will reveal this information to competitors have no basis in fact or in logic. Workers have access to trade secret information in the absence of this regulation and as a matter of routine practice are required to sign pledges of confidentiality (Tr. 410). No evidence has been introduced into the record of this rulemaking showing isolated incidences or a history of abuse of that information. Moreover, workers want to keep their jobs, not lose them to a competing firm. Unions represent workers and their interests, not the interests of industry competitors. (AFC–CIO, Ex. 152, p. 28)
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> * * * * *
>
> Additionally I would just like to say that trade secrets are a spurious argument, particularly in relationship to labor unions because I don't think you can document any situation where the trade secrets are more likely to be released by the employees in the bargaining unit than they are in any other portion of management. The other thing is that it works to the advantage, particularly of an organized worker, to have his plant expand because of trade secrets; and I think that to suggest that an employee is going to give away that information which might ultimately cost him or her their jobs is clearly a spurious argument in this situation. (Eller (ICWU), Tr. 754)

In addition, no employer participant in this proceeding either gave concrete examples of past abuse of trade secrets by workers or representatives such as unions, or even suggested that there had been any pattern of past worker or worker representative abuse of trade secrets.

In view of the conflicting comments and testimony, the agency concluded that the final standard should clearly address how trade secret information would be handled. While it is likely that employers sometimes err on the side of caution and assert unwarranted trade secret claims, such as where reverse engineering could easily determine the chemical components of a product, or where professionals in an industry are fully familiar with "secret" process information that workers do not know, the agency believes on the basis of the record that raw exposure and medical records may at times reveal secret manufacturing processes and technology or secret percentages of a chemical in a mixture. This could occur not so much because the trade secret information is integrally tied to the identity and level of exposure to a chemical, but rather because process or mixture information was added to the total exposure file without an expectation that workers would gain access to the total file.

The agency believes also that the mere identity of a toxic chemical (which clearly would be revealed by an exposure record) might at times be a bona fide trade secret which workers do not already know. The NIOSH NOH Survey found that manufacturers asserted trade secret claims as to the chemical composition of approximately one third of the trade name products surveyed which contained OSHA regulated substances (NIOSH, Ex. 19, Chpt. III). It is likely that sophisticated chemical analytical techniques can often determine the identity of end product constituents, thereby ending trade secret protections, but this may not always be so (e.g., catalysts and intermediates). It is also conceivable that in rare situations the level of exposure to a toxic chemical, not its identity, could be a trade secret.

Having concluded that exposure and medical records may at times contain various forms of trade secret information, the agency considered a variety of regulatory approaches. At the extremes, two options existed: (1) attempt to override all potential trade secret claims as in conflict with the purposes of this standard; and (2) give employers complete discretion to deny worker access to whatever information they perceive to be trade secrets. The agency rejected both of these approaches. As a legal matter (*See,* V.B, *infra*), and as a matter of sound public policy, the agency decided to accommodate legitimate employer trade secret claims, but only where the claims would not undermine the purposes of this rule. Workers have a fundamental need to know the identity, extent, and health consequences of exposure to toxic substances and harmful physical agents, regardless of whether or not the information is a trade secret. The final rule is therefore founded in part on the judgment that, as a matter of public health policy, employers must not be permitted to deny worker access to this information which is needed for the purposes of detecting, treating, and preventing occupational disease. As a result, the agency declined suggestions that the standard provide employers with unchecked discretion to deny access to asserted trade secrets. This could in practice render this rule virtually useless, since recalcitrant employers could easily use trade secret claims as a pretext for denying access to records. Access to records would then result only after protracted and complex administrative litigation demonstrated that a particular trade secret claim was not legitimate.

In striking a balance between preserving trade secrets and guaranteeing worker access to information, the agency considered the various employer suggestions that did not give employers unilateral discretion to deny access to trade secrets. Suggestions were made to: (1) inform the worker's doctor of the trade secret, but not the worker (Batchelor (NAM), Tr. 408–09; MCA, Ex. 156, pp. 28–29); (2) permit employers to delete trade secrets and substitute common names (SOCMA, Ex. 2(163), p. 4; MCA, Ex. 2(125), pp. 8–9); (3) permit employers to delete proprietary information "which is not relevant to either the exposure of or the medical impact of the exposure on the individual" (Dow Corning Co., Ex. 2(176), p. 2); (4) inform employees of the hazards of a chemical but not its identity (SOCMA, Ex. 156, p. 28); (5) permit employers to summarize monitoring results so as to avoid disclosure of proprietary processes or chemical formulations (Minnesota Mining and Manufacturing Co., Ex. 2(129), p. 7); and, (6) expressly permit employers to condition access on the formation of binding pledges of confidentiality (Polaroid Corp., Ex. 2(187), p. 4).

The final standard adopted several of these suggestions. First, employers are explicitly given the option to delete "any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture." It is OSHA's judgment that worker access to this process or mixture information is not crucial to the effectuation of this standard's limited goals. Union representatives also expressed acceptance of the deletion of this kind of trade secret information (Wodka (OCAW), Tr. 709–10; Eller (ICWU), Tr. 754).

OSHA decided to provide employers an opportunity to delete this legitimate trade secret information even where the deletion could substantially impair evaluation of where and when exposure to a toxic substance or harmful physical agent occurred. The location from which samples were collected might, for instance, be identified on a record in terms of proximity to the technical name for a secret machine. In these situations, however, the employer must provide alternative information which the employee can meaningfully use to identify where and when exposure occurred. This alternative information must be in a form employees can understand in light of their knowledge of the way their workplaces are laid out and what steps are followed in manufacturing processes. In this fashion, exposure and medical records will have true meaning to workers while employers are given flexibility to minimize disclosure of trade secrets previously unknown to workers.

While the final standard attempts to avoid unnecessary disclosure of trade secrets, the agency has decided that access must be provided to information concerning "chemical or physical agent identities including chemical names, levels of exposure, and employee health status data." In the agency's judgment, the need for worker access and the benefits of direct worker access to these basic data are compelling. Workers must, in all cases, at least have a right to know exactly what they are exposed to on the job, what is the magnitude of this exposure, and what are the resulting adverse health effects. Upon careful consideration the agency has declined to accept suggestions that employers be permitted to filter, summarize, substitute for, or interpret this fundamental information, or limit access to a narrow class such as physicians. Further, in assuring access to the identities of toxic substances and harmful physical agents, the standard covers the chemical name as well as any trade names or common names used for a chemical substance or agent. Medical and toxicological literature is generally indexed only by the chemical name of a chemical; thus employers may not obscure the known identity of a chemical by substituting a 'common' or 'trade' name.

Although the final standard compels access to data which may at times be trade secrets, the agency has not neglected the potential consequences of this access. To prevent misuse of this information, the standard provides that "whenever trade secret information is provided to an employee or designated representative, the employer may require, as a condition of access, that the employee or designated representative agree in writing not to use the trade secret information for the purpose of commercial gain and not to permit misuse of the trade secret information by a competitor or potential competitor of the employer." Polaroid Corporation endorsed the value of such agreements:

> Trade secret status and the right to judicial protection of it may be lost by an employer's failure to limit disclosure to employees with a need to know and to require a pledge of confidentiality as a condition of disclosure. See 2 Callman, *Unfair Competition* s53.3(d). Polaroid believes that the Proposed Rule should be amended to take this rule of law into account. In those cases where employees do have a need to know trade secret information contained in medical and exposure records, employers should be expressly permitted to require any employee to enter into a confidentiality agreement as a condition of obtaining access to it. (Ex. 2(187), p. 4)

Although a Manufacturing Chemists Association (MCA) representative questioned the value of these agreements (Schall, Tr. 410–11), it is clear that these agreements are widely used in industry (Schall (MCA), Tr. 410–11; Duncan (NAM), Tr. 2194; AFL–CIO, Ex. 152, p. 28). It is also clear that they can serve to establish judicially enforceable rights (Cavitch, Business Organizations s23.4.02(5)(1975)).

The agency is confident that simple pledges of confidentiality in the specific context of this standard can serve to prevent abuse of whatever limited trade secrets are made accessible. These simple written agreements are provided for in the standard because in this situation they are appropriate. Their inclusion, however, does not represent an agency determination that trade secrets should only be disclosed upon

V 4 5 M Y 2 3 8 0 UMI

the formation of such agreements; and there may be other regulatory contexts in which these kinds of agreements are neither practical nor appropriate.

There is no evidence in this record that workers or unions have previously abused trade secrets of which they were aware, and employers have not even suggested that abuses occur by these kinds of individuals. Written agreements will focus attention on the serious consequences that could result from abusing trade secrets. There is, of course, some chance that specific agreements will be violated by a few individuals, but this possibility appears no greater than the current potential for abuse of trade secrets already known by workers or management personnel. Written agreements, by manifesting expectations of continued secrecy, will also maximize the ability of a harmed employer to get meaningful injunctive and compensatory judicial relief against a competitor who unfairly attempts to utilize trade secrets.

As a final matter, it is appropriate to note that the main, if not sole, concern of some employers was with potential abuse of trade secrets by designated representatives, not by employees (Dupont Corp., Ex. 150, p. 12–13; Capitol Associated Industries, Inc., Ex. 2(123), pp. 1–5, 17–21; General Electric Co., Ex. 2(178), p. 2; Sheratt (Data General Corp.), Tr. 1991–94, 2001–03). Concern was expressed that an employee would name a competitor as a designated representative, thereby guaranteeing abuse. The final standard treats designated representatives in the same manner as employees; that is, they both may be subject to written pledges of confidentiality. Designated representatives as a class essentially stand in the shoes of employees. They are provided access in order to avoid the burdens of forcing employees to personally collect records that they intend to have reviewed by representatives of their choosing. There is no more likelihood that an employee will designate a competitor as a designated representative than that the employee will copy records and then deliver them to a competitor. It is OSHA's expectation that in the vast majority of situations an employee will designate a physician, union official, lawyer, family member, or independent professional to be a designated representative. In these cases there is no genuine likelihood of competitive abuse. Whatever abuse possibly arises can be protected against by means of written agreements not to abuse trade secrets.

G. OSHA Access to Medical Records and the Right of Privacy

The most significant issue posed by OSHA access to employee records concerns a potential clash with the right of privacy vis-a-vis employee medical records. As discussed in the Legal Authority section of the preamble (V.C, D, *infra*), employee medical records are protected against unjustified governmental intrusions by the United States Constitution. Employee medical records subject to this rule will sometimes contain the most intimate details concerning a person's life, e.g., disease experience, psychiatric disorders, venereal disease, abortion, alcohol or drug abuse, sexual preferences, family medical problems, etc. OSHA access to complete medical records was felt by numerous participants to raise two major problems. First, it was argued that indiscriminate examination and use of employee medical records poses the threat of misuse. Harmful medical information could be disseminated in a way that would adversely affect the employee, e.g., loss of employment or insurance opportunities, impairment of personal reputation, damage to family relationships, etc. Second, it was argued that governmental access to personal medical information threatens to destroy expectations of confidentiality and severely impair medical programs.

The following comment by Shell Oil Co. illustrates these concerns:

> OSHA states that it believes the benefits derived from employees and public access to these medical records outweighs the disadvantages and therefore proposes to overturn the confidential physician/patient relationship that has always existed. We believe OSHA's attempt to make suddenly public an historically confidential relationship is revolutionary and will harm the relationships that currently exist between physicians and patient-employees. Future interactions between physicians and patients will be damaged because it will become more difficult for physicians to obtain complete and correct medical histories and even more difficult to persuade employees to take medical examinations. The resulting difficulties will affect society and will likely lead to poorer medical care in the private as well as the public and industrial sectors. (Ex. 2(105), p. 7)

(*See also*, AOMA, Ex. 2(59); General Foods Corp., Ex. 2(99)).

As a result of these two potential problems, several participants opposed any form of OSHA access to employee medical records (Phipps Construction, Inc., Ex. 2(7); Gypsum Assn., Ex. 2(94); Terrence Reed, Ex. 167(9–1); Harold Ritchie, Ex. 167(9–2); Milwaukee Constr. Ind. Safety Council, Ex. 167(9–7), p. 1–2; General Telephone Co. of Indiana, Inc., Ex. 167(9–13); Union Electric Co., Ex. 167(9–19)). Numerous other participants argued that OSHA access to an employee's medical record should only occur through informed consent of the employee or pursuant to a court order (United Technologies Corp., Ex. 2(6); Olin Corp., Ex. 2(71); The Sherwin-Williams Co., Ex. 2(76); Mobay Chemical Corp., Ex. 2(97); Sangamo Capacitor Div., Ex. 2(100); AMA, Ex. 2(200), p. 3; Frances Mahon Deaconess Hospital, Ex. 167(9–4); Continental Oil Co., Ex. 167(9–10); Columbus Hospital, Ex. 167(9–11); Montana Hospital Assn., Ex. 167(9–16); Indianapolis Rubber Co., Ex. 167(9–20); Phillips Petroleum Co., Ex. 167(9–24); Hillenbrand Industries, Inc., Ex. 167(9–24)). Several participants focused their concern on OSHA access to personally identifiable medical information, as opposed to medical information *per se*. These participants argued that OSHA access should be conditioned on informed consent in cases where personally identifiable medical records were involved (Grumman Corp., Ex. 2(55); AMRA, Ex. 82, pp. 3–4; Dr. Hockwald (AOMA), Tr. 1530; Dr. Herrmann (Johnson & Johnson), Tr. 1831; Dr. Wolkonsky (AMOCO), Tr. 2253, 2259; Dr. Steen (AMA), Tr. 2395; Borg Warner Chemicals, Ex. 167(9–22), p. 2).

In contrast to the preceding comments, numerous other participants were supportive of unconsented OSHA access to employee medical records, provided that misuse of personally identifiable information was prevented. Recognition was given to the fact that the right of privacy is not absolute, but must often be balanced against competing interests (Weiner, Ex. 9A, pp. 8–9). As noted by the American Medical Association:

> The privileged nature of patient-physician communications is not absolute, however. Often the disclosure of such confidential information is at the patient's request or is otherwise in his or the public's best interests. There is a constant tension between confidentiality and accessibility. Legislators and regulators should be cognizant of this tension and provide for an appropriate balance between protection and disclosure. The AMA recognizes the need to retain and to provide appropriate access to pertinent data relating to the exposure and potential exposure of employees to toxic or other hazardous materials in the work place so that on-the-job risks may be assessed. However, the employee has a right to expect that information which has been collected, stored, and managed by others on his behalf will remain confidential except under limited and controlled circumstances. (Ex. 2(200), p. 2)

Chapter 7 of the Privacy Protection Study Commission's report focuses on the many competing societal interests which intrude on the medical-care

relationship, and recommends how to best accommodate valid interests at minimal risk to personal privacy (Ex. 101). The Commission explicitly struck the balance in favor of unconsented access to medical records for health research purposes (Ex. 101, pp. 305–10; *See also*, Belair (NCCHR), Tr. 1859, 1872–74)).

Other participants recognized the need for unconsented access for legitimate occupational safety and health purposes. As discussed earlier in the preamble (III.J, *supra*), the consent of employee medical records can be highly relevant to, and sometimes crucial to, OSHA efforts to further the goals of the Act. The life and death interest of workers in governmental efforts to guarantee safe and healthful working conditions is a substantial interest, and to the extent necessary should supersede individual privacy concerns (Dr. Wegman, Tr. 234–35; Dr. Whorton, Ex. 11, pp. 17–18, Tr. 289; Fanning (HEW), Ex. 126, pp. 16–17).

There was universal agreement that OSHA access should be accompanied by stringent internal agency procedures to preclude abuse of personally identifiable medical information. Provided these procedures were established, many participants, including all union and employee participants, endorsed unconsented OSHA access to employee medical records for occupational safety and health purposes (Dr. Wegman, Ex. 10, p. 13, Tr. 208; Dr. Young, Tr. 1111; Dr. Parkinson, Tr. 1142–44; Dr. Silverstein (UAW), Ex. 63, p. 9; Annas, Tr. 1752–56; Weiner, Ex. 9A, pp. 4–6, 40–46; AFL–CIO, Ex. 152, pp. 56–61, Ex. 39, p. Tr. 644–45; Samuels (AFL–CIO IUD), Ex. 36, pp. 2–3; USWA, Ex. 160, p. 10; Wilson (USWA), Tr. 684–85; Becker (USWA), Tr. 2390; OCAW, Ex. 2(124), Tr. 698; ICWU, Ex. 28, pp. 10–12, Ex. 106, p. 1; Spatz (Cement, Lime and Gypsum Workers), Tr. 1206–07; Howe (CACOSH), Tr. 1094–95; HRG, Ex. 2(161), p. 3; NIOSH, Ex. 16, p. 3). The attitude of those participants in favor of OSHA access was expressed by Dr. Silverstein of the UAW:

> The third piece, access by government agencies, has justifiably raised the most concern and controversy. At first glance, the issue is simple. The protection of the public welfare may legitimately supersede the normally protected individual right to privacy. There is so much legal and public health precedent for this that the rights of OSHA and NIOSH in this area might almost go without question. However, a more careful look reveals that this issue is actually quite complex and must be approached with the care of an appraiser viewing a precious diamond: Unless each facet is studied and evaluated we cannot be sure we are being sold an attractive replica of little ultimate value. (Ex. 63, p. 4)
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> It is sometimes necessary and appropriate that sizeable amounts of information from medical files, with personal identifying information, be made available to enable epidemiologic investigation which may be of enormous benefit to large numbers of people. It is not always practical or possible to get individual permission for the release of this information. It is our belief that allowance should be made to permit such release to agencies which are charged with the responsibility to protect the public health. For this reason we support section (d)(3) of the rule which allows OSHA and NIOSH these records. We are not insensitive, however, to the fact that there has been an alarming and largely unregulated growth of data banks in recent years by government and various private agencies (notably insurance companies and credit agencies). The potential for abuse is high and we are not so naive to place blind trust in NIOSH and OSHA to use the medical reports wisely in all instances. The proposed rule is incomplete as long as it permits broad disclosure to NIOSH and OSHA without an accompanying regulatory framework which defines and limits the use of this information. (Ex. 63, p. 9)

Having considered the record, and analyzed the legal issues involved (V.A, C, D, *infra*), the agency decided to include a requirement in the final standard providing for unconsented OSHA access to employee medical records. As recognized by numerous participants, acquiring consent is not always a realistic possibility. Large numbers of people may be involved, emergency situations may not permit delay, the residence of terminated employees may be unknown, or an absence of consent may decrease the statistical validity of a study (Privacy Commission, Ex. 101, p. 309; Belair (NCCHR), Tr. 1859, Ex. 58, p. 46; Fanning (HEW) Ex. 126; Weiner, Ex. 9A, pp. 43–44; NIOSH, Ex. 16, p. 3; AFL–CIO, Ex. 152, p. 58; HRG, Ex. 2(161), Attach.). The time and expense involved in soliciting and waiting for consent by numerous employees is also a formidable impediment for a public health agency like OSHA with limited resources.

Even though OSHA has legal authority to seek unconsented access to identifiable medical records, the agency concluded that this authority should, as a matter of law and sound public policy, be exercised with great care. To protect the employees' privacy interests, OSHA recognizes the need for stringent internal procedures to: (1) limit the circumstances in which identifiable medical records are examined or obtained by OSHA personnel, and (2) control use of identifiable medical information once in the agency's possession. In order to effectuate these decisions, the agency is today simultaneously promulgating detailed procedural regulations governing all aspects of OSHA examination and use of personally identifiable medical records (29 CFR 1913.10). As suggested by numerous participants, these internal administrative requirements are being promulgated as a rule rather than as internal guidelines in order to give them the permanence and status accorded to published regulations (*See*, 44 FR 3995 (Jan. 19, 1979); Dr. Hockwald (AOMA), Tr. 1532; Swanson (API), Tr. 2063; Shell Oil Co., Ex. 167(9–28), p. 4; Phillips Petroleum Co., Ex. 167(9–23), p. 2; Rubber Mfgrs. Assn., Ex. 164, p. 2; Dr. Herrmann (Johnson & Johnson), Tr. 1833; UAW, Ex. 63. p. 10; AFL–CIO, Ex. 152, p. 61).

Several key considerations influenced OSHA's decision to provide for unconsented agency access to identifiable medical records. The agency foresees a need to seek access on occasion to personally identifiable medical records. The administrative regulations are structured around the principle that personally identifiable information is not to be collected unless there is a clear need to do so. Many purposes for OSHA access can be satisfied without any access to personal identifers, but this will not always be so. Some purposes for OSHA access involve limited on-site review of medical records such as biological monitoring results to detect instances of occupational health problems. Once specific instances of problems are discovered, OSHA would investigate conditions in the workplace to discover causes of the problems, and then ensure that protective measures are provided to the employees involved. These kinds of inquiries necessarily involve personally identifiable information, as would Section 11(c) discrimination investigations and other inquiries directed to the problems of specific employees. OSHA anticipates that access to employee medical records will generally involve limited on-site review, with minimal personally identifiable information being recorded and taken off-site. Access can be accomplished at minimal burden to all concerned by access to the relevant portions of identifiable records. Due to the variety of reasons for OSHA access, and the practicalities involved, OSHA concluded that the final standard could not reasonably require OSHA to obtain employee consent in order to gain access to personally identifiable medical information.

The final standard provides for such OSHA access to personally identifiable medical records without requiring

V 45 M Y 23 80 UMI

individual employee consent. In so doing, OSHA agrees with the personal comments of John Fanning of HEW's Office of Health Policy, Research, and Statistics, to the effect that strong public health considerations must weigh heavily when balanced against the privacy interest in precluding unconsented access:

> My basic principle would be that the health of people and the prevention of suffering caused by ill health are very important values, that they are more important than the privacy interests normally involved in records needed for health research. I don't think I have to outline here the contributions of epidemiological research, to the preservation of health and the relief of suffering. Through the use of records, science has come to important conclusions about the causation of illness and the effects of various therapies. Through this knowledge, we've been able to in many instances interrupt this causation by quarantine measures, by the prevention of the use of toxic substances, by warnings in education programs. In other instances, helpful therapies have been confirmed in their use and harmful therapies have been stopped or limited. Much of this research requires the use of records that are identifiable to the individual and that are compiled for other purposes. And it is typically needed, without the consent of the individual. In most instances, consent is impracticable and will spoil the research. (Ex. 126, pp. 16–17)

> When the rather minor intrusion involved in the use of records in epidemiological research is balanced against the possibility of reducing disease and suffering for future generations, it seems difficult to justify a policy that will prohibit or seriously restrict the use of the record. The individuals whose records are used can be seen as having an obligation to the wider society to contribute to the elucidation of the causes, course and treatment of illness. . . .
>
> The possibility of learning something significant about illness is of such importance to the wellbeing of future generations and even in some instances the individuals involved in present generations, is of such importance that it surely justifies access by researchers when this is done in a way that does not interfere with the present wellbeing of the subjects. Unnecessary constraints on research in the name of privacy represent a balancing which gives privacy an obstructive position in human affairs, rather than a liberating position, which it ought to have. Illnesses are dehumanizing to its victims and the insignificant invasions of privacy attendant to research uses of records truly do not reach the level of dehumanizing those individuals that illness does for its victims. (Ex 126, pp. 17–18)

The preceding comments, though directed to epidemiological research, apply equally to other OSHA needs for access, where information contained in employee medical records is being directly utilized to ensure safe and healthful working conditions for employees.

The final standard and its accompanying procedural regulations are of necessity flexible as to when the agency will seek unconsented access to personally identifiable medical information. A very firm regulatory structure is established, however, to preclude abuse of any personal information obtained. Access is narrowly focused to only that information needed to accomplish the reason for access, and approval must be obtained from top OSHA officials. Notice of access by means of posting and in some cases by individual notice is afforded to employees. Direct personal identifiers may not be obtained unless needed, and are to be removed and maintained separately from the medical record once in the agency's possession. Use, security, and inter-agency and public disclosure of medical records are strictly controlled. This combination of procedures established by OSHA tracks many of the recommendations made by participants in the rulemaking and by organizations who have studied medical record privacy issues.

OSHA is confident that the protections established will avoid impermissible interference with the right of privacy, while at the same time enable medical record information to play a constructive role in preventing occupational injury and disease. All aspects of the procedural regulations are discussed in a separate **Federal Register** notice issued today. No evidence was entered into the record of past OSHA abuses of employee medical records (*See,* Wodka (OCAW), Tr. 698; Samuels (AFL–CIO IUD), Ex. 36, pp. 2–3), nor did any participant in this proceeding even suggest that there had been instances of abuse by OSHA. The procedural regulations adopted will build on this foundation. In addition, several participants firmly rejected suggestions that well-controlled OSHA access to medical records would undermine corporate medical programs.

Virtually every corporate witness who testified claimed that access by government agencies without consent would interfere with the heretofore confidential doctor/patient relationship and destroy the basis of trust in that relationship. While expressed corporate concern over patient's welfare was great, not one worker or worker representative voiced the opinion that government access would undermine the workers' relationship with the company physician. On the contrary, the testimony of every worker and worker representative clearly and strongly supported OSHA and NIOSH access to individual records without consent.AFL–CIO, Ex. 152.

(*See also,* Wilson (USWA), Tr. 684–5; Bergs (USWA), Tr. 1127–8; Tutrow (USWA), Tr. 1130; Gaffney (UAW), Tr. 1324–5; LOHP Panel, Tr. 1706–09).

H. Non-medical Corporate Access to Employee Medical Records

As discussed in the preamble (IV.D, *supra*), workers have little genuine expectation of true confidentiality as to employment medical records. A variety of standard practices tend to undermine the ability of the physcian-patient relationship in industry to be based on mutual trust or the maintenance of confidentiality. Workers are often required to submit to pre-employment physicals and other examinations as a condition of employment with no choice as to the physician who conducts these exams. Company physicians commonly testify without the consent of the employee (and often favorably to the employer's interests) in arbitration and workers' compensation cases. Workers have often been required to sign releases for the blanket disclosure of medical information to employers in order to qualify for various benefits. And typically, employees must authorize the release of all medical information to an insurance company to assure the payment of claims, with the insurance company in turn releasing the records to the employer's accounting or benefits department.

In addition, the rulemaking record contains substantial evidence that non-medical management personnel often have access to employee medical records beyond what is considered ethically permissible by the occupational medical profession. Although the AOMA Code of Ethical Conduct provides that ". . . employers are entitled to counsel about the medical fitness of an individual in relation to work but are not entitled to diagnoses or details of a specific nature" (Ex. 2(59)), the record indicates that management access to the contents of employee medical records is often much more extensive (Weiner, Ex. 9A, pp. 34–35, Tr. 177–78, 180; Dr. Whorton, Ex. 11, pp. 6–8, Tr. 271–3; Taylor (AFL–CIO IUD), Ex. 39, pp. 5–6, Tr. 640–3; Samuels (AFL–CIO), Ex. 35 (Attach.), Tr. 949–53, 961–2, 964–5, Ex. 93A, Ex. 93H, pp. 14–16; ICWU, Ex. 28, pp. 1, 10–12, App.; Eller (ICWU), Tr. 727–9, 738–40, 747–8, 759–61; Dr. Silverstein (UAW), Ex. 63, pp. 3–6, 7, Tr. 2020–22, Ex. 165, pp. 2–3; NCCHR, Ex. 58, pp. 30, 32–3; HRG, Ex. 161d, p. 7; AFL–CIO, Ex. 152, pp. 7–8, 19–22; USWA, Ex. 160, pp. 4–7; Wilson (USWA), Tr. 678–9, 687–8; Wodka (OCAW), Tr. 703–05; McDougall (IBT), Tr. 915; Howe (CACOSH), Tr. 1093–4, 1096, 1102–04; Dr. Young (CACOSH), Tr. 1098–9; Becker

(USWA), Tr. 2381–2, 2384, 2387; Toland (PHILAPOSH), Tr. 884–5; Mattillion (UAW), Tr. 1319; Fenn (OCAW), Tr. 1362). The following testimony is representative:

> I will say for the record that there is absolutely no privacy in our workplace on medical records. Anyone can get, any member of management can get access to the records any day of the week, any hour of the day. It's as easy as picking up any phone and calling the medical department or the doctor and asking any question you want and getting the information. (Howe (CACOSH), Tr. 1096)
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> But as far as the lack of confidentiality of records, yes, I can attest to that. I have been in medical, you know investigating an incident or whatever, trying to talk to the company doctor. A member of labor relations would come down and just, you know, hi, doc, and then go through the records, the medical records, and pull a particular individual's medical record and without even consulting the doctor first or a nurse or anybody as far as that goes, just directly [go] to the cabinet and pull an individual's rcord. I know it happens with personnel and I know it happens with different individuals in management during the course of a grievance procedure, you know, in regard to promotion or something, to see if a man has any kind of physical handicap. They will just go directly down and pull the file themselves. So there is no confidentiality. (Mattillion (UAW), Tr. 1319)
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> But when we talk about the small companies, the small chemical company with 40 or 50 employees or 25 or 30 employees, they normally employ either a doctor locally or a clinic in the nearby area that works for half a dozen or 25, maybe as many as 200 companies. And there the right of privacy, which we continue to hear companies talk about, protecting the physician-patient relationship, evidently has a real tendency to go astray, because the man is sent there for a physical, the physical comes back, the company secretary or receptionist who opens the mail, she scans it first. Then the office manager scans it. Then from the office manager it usually goes to the general foreman and it may [go] further away from him [or] it may stay confidential; it may go just to the company benefit person or it is mailed downtown to Toledo or Philadelphia, wherever their main headquarters and they are sent there for the benefit people. So a lot of people have access to his medical records except him. So I think that the part of the saying that it is just a matter of relationship between the patient or the employee and the doctor is so sacred in this case I wonder how all those other people got into the sacred act. (Fenn (OCAW), Tr. 1362)
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> The examples are great in number, and I will just give you one from my own experience that is an illustration, I think, that is representative. I had the opportunity to tour a plant where we represent members a number of months ago because of some health problems that our members were experiencing and during the course of this investigation, I spoke with the company physician at that plant and I asked at that time about the measures taken in the plant to protect the privacy of the individual employees and to preserve the medical records and the physician told me that the records were kept in a locked file cabinet and that they were available only to that physician alone and to nobody else and that the physician was assured that, because of the way the records were maintained, that there were no current abuses.
>
> However, the physician described to me what had happened when he initially took employment with that company and said that during the first weeks of his employment there he was approached on a number of occasions by industrial relations personnel, by foremen, by supervisors and a variety of others, asking to see medical files and he said to these people, no, I can't show you those. These are private medical records and I keep them confidential. And he was told, look, you don't understand. We've had these records available to us for years. You just don't understand. You've been hired by the company; you're part of the team now, and this is the way we handle this kind of information.
>
> Well, it required an apparently sizable struggle on the part of the physician to gain control of those records and to protect them from abuse, but these abuses did exist in that plant for a number of years and I am convinced that they continue to exist, uncontrolled, in a large number of institutions. (Dr. Silverstein (UAW), Tr. 2021–22)

On the basis of the record, the agency is convinced that significant abuses of employee medical records occur. Several participants urged that the final rule contain provisions to limit corporate access to employee medical records. The UAW recommended that:

> (1) All employee medical records as defined in this rule should be required to be kept in locked files under the direct control of medical professional personnel.
>
> (2) A written log should be maintained which would document all movement of material into and out of these files. This would include signed accounts of all releases and subsequent circulation of material from the files. (Ex. 165, pp. 2–3)

The AFL–CIO similarly recommended a provision requiring that "Medical records shall be maintained in a secure fashion, separate from other non-confidential records so as to prevent access by non-authorized individuals" (Ex. 152, pp. 7–8, 19–22, 45–47, 53–54, A2). The USWA recommended more detailed provisions including the following elements: (1) retention of employee medical records under the exclusive control of a physician; (2) unrestricted employer access to opinions and recommendations of the physician, but employer access to specific diagnoses or details only with the written consent of the employee; (3) access by non-governmental researchers to medical records for epidemiological purposes only with the consent of the union; and (4) retention of a log for each medical record detailing the circumstances of releases of medical information (Ex. 160, pp. 4–7, 10–15).

Although the preceding recommendations are straightforward methods of minimizing corporate abuse of employee medical records, the final standard does not address this issue. The proposed rule was silent on the question of corporate access to employee medical records, and OSHA's opening statement to the rulemaking hearings stated that:

> [T]he proposal does not limit to whom the employer may discretionarily disclose exposure and medical records. In particular, it is silent on the extent to which non-medical management employees or officers can rightfully gain access to, use, or disclose to third parties (such as insurers, health researches, or other employers) information that has been collected by the company's medical department.
>
> . . . [O]ur silence on these broad questions of corporate medical and recordkeeping practices and privacy policies should not be construed as OSHA assent. Rather, it serves only to underscore the relative modesty of the current proposal. These broader issues not being issues in the current proceeding except insofar as they are relevant to issues which are raised, we leave them to future legislation or regulation, as appropriate. (Wrenn, Ex. 7, pp. 17–19)

In addition, since the issuance of the proposal, the Department of Labor has conducted extensive hearings on the whole question of employee privacy rights within the corporation, including the privacy of medical information (44 FR 57537 (Oct. 5, 1979)). In view of OSHA's initial expressed intention not to regulate corporate access to employee medical records as part of this rulemaking, and the overall Departmental initiative to address these questions, the agency has declined to promulgate final requirements at this time. The record has, however, convinced the agency that a serious problem exists, and consideration will be given to appropriate agency responses. The lack of provisions in the final rule concerning this topic should not be viewed either as implicit criticism of the specific recommendations made by various participants, or as an agency concession that the problem does not merit a response.

V. Legal Authority Issues

A. Statutory Authority for Access to Records

The Occupational Safety and Health Act provides ample legal authority for employee, designated representative

V 4 5 M Y 2 3 8 0 UMI

and OSHA access to medical and exposure records. The Act created an expert administrative agency with broad regulatory powers to fashion protective regulations concerning occupational injury and disease and to tailor administrative procedures in informal rulemakings to the needs of efficient regulatory actions. This final rule substantially advances the central purpose of the Act articulated in Section 2(b)—"to assure so far as possible every working man and woman in the Nation safe and healthful working conditions" (29 U.S.C. 651). This standard furthermore flows directly from, and is fully consistent with, the Act's express language.

By this rule, OSHA has adopted a generic approach to remedying the problems of access to exposure and medical records. Sections 6(b), 3(8), 2(b)(3) and (9), 8(c)(1), and 8(g)(2) provide for the promulgation of such occupational safety and health standards which the Secretary deems necessary to carry out his responsibilities. The Secretary believes that the generic approach to rulemaking is a necessary and reasonable approach to regulating occupational health problems which are universal to a wide array of toxic substance exposures and industrial settings in view of the large number of such substances and settings and the weaknesses of the substance-by-substance approach. OSHA therefore explicitly rejects contentions that have been made by some in industry that the Act limits the Secretary to substance-by-substance rulemaking.

Access to records will yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease (III, *supra*), thereby advancing the remedial purposes of the Act. Access to vital exposure and medical information is an innovative method of promoting occupational health consistent with the Congressional directive in Section 2(b)(5) that healthful working conditions be provided "by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems" (29 U.S.C. 651(5)). Access to exposure and medical information will advance the Congressional goal in Section 2(b)(1) of:

> [E]ncouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions. (29 U.S.C. 651(1))

Access also furthers the section 2(b)(6) goals of "exploring ways to discover latent diseases, (and) establishing causal connections between diseases and work in environmental conditions . . ." (29 U.S.C. 651(6)). As such, this rule squarely falls within the definition of 'occupational safety and health standard,' which is defined by Section 3(8) as:

> [A] standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. (29 U.S.C. 652(8))

Because this rule comes within the terms of Section 3(8), Section 6(b) (29 U.S.C. 654(b)) authorizes the Secretary to issue it in accordance with the procedures prescribed in that section.

This application of 6(b) is a means of strengthening and broadening the participation of employees and their representatives in occupational health matters. The Senate Committee on Labor and Public Welfare, in recommending passage of the Senate version of the Act, placed great importance on this participation:

> It has been made clear to the committee that the most successful plant safety programs are those which emphasize employee participation in their formation and administration; every effort should therefore be made to maximize such participation throughout industry (Sen. Comm. on Labor and Public Welfare, *Legislative History of the Occupational Safety and Health Act of 1970* ("Legislative History"), 92d Cong., 1st Sess. 150 (Comm. Print 1971))

The House Committee on Education and Labor, in its report recommending passage of the House bill, attached comparable importance to employee awareness of hazards:

> Basically, the worker needs to have adequate advance knowledge of hazards in order to protect himself from damaging exposures. . . . Since inadvertent exposure to unknown products or processes often causes severe and immediate reactions, the exposed worker must know what type of exposure he has suffered in order to use proper treatment. The worker especially needs this information in cases of toxic substances which have delayed or latent ill effects. (Legislative History at 859)

This final occupational safety and health standard gives meaning to these Congessional findings.

Employee and designated representative access to records directly builds upon several express provisions of sections 6(b) and 8(c). Section 6(b)(5) (29 U.S.C. 655(b)(5)) provides that "the Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard, which most adequately assures, to the extent feasible, on the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life." This standard is viewed as necessary and appropriate to protecting employees from material impairment as a result of exposure to toxic substances and harmful physical agents, including with respect to those substances and agents which have not otherwise been the subjects of specific occupational safety and health standards. This standard therefore will contribute significantly to achieving the statutory goal stated in section 6(b)(5), as well as aid employees in the fulfillment of other rights under the Act.

In addition, Section 8(c)(3) (29 U.S.C. 657(c)(3)) provides that when a toxic substance is being regulated comprehensively pursuant to section 6(b), exposure monitoring where appropriate shall be conducted by the employer, and employees and their representatives shall be afforded access to the resulting records. Section 6(b)(7) further provides in this context that employees shall be apprised of all hazards to which they are exposed, and that medical examinations where appropriate shall be afforded to employees. Access to the results of these medical examinations must be provided to an employee's physician upon request. These provisions contemplate basic requirements to be included in each standard regulating a toxic substance, and, contrary to the narrow interpretation offered by several industry participants, should not be viewed as imposing substantive limitations on OSHA's authority to issue general rules effectuating all the purposes of the Act.

As has been stated, it is the agency's judgment, based on a decade's experience, that a substance-by-substance implementation of sections 6(b)(5), 6(b)(7) and 8(c)(3) is impractical due to the large number of unregulated toxic substances and the long periods necessary to conduct thorough rulemaking proceedings on each substance (*See*, 45 FR 5011–15 (Jan. 22, 1980)). Section 6(b), however, is flexible, and authorizes broad OSHA discretion in the format and content of each occupational safety and health standard. The many benefits of worker and designated representative access to exposure and medical information can be achieved even before all toxic substances and harmful physical agents are fully regulated. Congress intended

that OSHA have broad flexibility in mandating protective measures and setting regulatory priorities. OSHA's judgment that all workers at risk should have access to available information now as opposed to in the indefinite and possibly distant future is well within the scope of the flexibility Congress afforded.

The Occupational Safety and Health Act also contains ample legal authority for providing OSHA with its own access to employee exposure and medical records. Section III.J of the preamble, *supra*, discusses the variety of agency investigatory, rulemaking, and other functions which can depend on access to employee exposure and medical records. The statutory provision which principally authorizes OSHA access to these records is Section 8(c)(1) of the Act (29 U.S.C. 657(c)(1)), which states:

> Each employer shall make, keep and preserve, and make available to the Secretary * * * such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses.

By its terms, Section 8(c)(1) applies to employer activities "relating to this Act" and not just to records required pursuant to Section 6 of the Act, as is provided by section 8(c)(3). The phrase "relating to this Act" must be liberally interpreted in light of the broad remedial purposes of the Act to extend to all employer records which are determined to be "necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and diseases."

The employee exposure and medical records addressed by the final rule clearly come within this scope of section 8(c)(1). As stated by the House Committee on Eudcation and Labor in discussing recordkeeping and agency investigatory powers of the House bill:

> Adequate information is the precondition for responsive administration of practically all sections of this bill. (Legislative History at 860)
>
> Since the Federal Government is moving for the first time into an area of broad national responsibility, corresponding authority must be delegated to the Secretary in order that he may carry out this responsibility. (Legislative History at 852)

The amended Senate bill adopted the broad "relating to * * *" phrase found in the Act even though earlier versions of various bills applied the recordkeeping requirements only to records "concerning the requirements of the Act" (Legislative History at 13, 93, 736). Congress, therefore, opted for the broadest possible application of section 8(c)(1). *Marshall* v. *American Olean Tile Co.*, —— F. Supp. —— (E.D. Pa., No. 79–597) (p. 4 n. 3, sl. op.; Feb. 29, 1980).

Legal authority for OSHA access to exposure and medical records also arises from section 8(a)(2) (29 U.S.C. 657(a)(2)), which authorizes inspections and investigations of, among other things, employer "materials"; from Section 8(b) (29 U.S.C. 657(b)), authorizing the agency to require "the production of evidence under oath" (which both the House and Senate committees stated to include books and records (Legislative History at 152, 171, 852)); and from section 8(g)(1) (29 U.S.C. 657(g)(1)), which authorizes the compilation, analysis, and publishing of information obtained under Section 8.

The final standard is also authorized by section 8(g)(2) of the Act (29 U.S.C. 657(g)(2)). Section 8(g)(2) empowers the Secretary to "prescribe such rules and regulations as he may deem necessary to carry out (his) responsibilities under this Act." In light of the remedial and ambitious nature of the Act, this general rulemaking section necessarily applies to all statutory responsiblities, and supplements specific grants of authority found elsewhere in the statute. In discerning the scope of its statutory responsibilities, OSHA looks to the entire Act, and not just to ss6 and 8. A more narrow application of s8(g)(2) would mean that its function was purely ornamental. Since there is nothing in the legislative history indicating that its inclusion in the enacted bill was meant to be more limiting than the overall statutory purposes, s8(g)(2)'s applicability must be commensurate with the agency's overriding responsibility of assuring healthful working conditions for every working man and woman(s2(b) of the Act).

Thus section 8(g)(2) also establishes legal authority for this rule, particularly because at least six important statutory provisions are substantially advanced by employee and designated representative access to medical and exposure records. These six provisions relate to employee rights under the Act—rights which OSHA has a responsibility to effectuate and preserve, especially since, as the Supreme Court has recently recognized, "OSHA inspectors cannot be present around the clock in every workplace." *Whirlpool Corp.* v. *Marshall*, —— U.S. ——, 100 S. Ct. 883 (1980), *at* p. 891.

Access to information is first of all crucial to the effectiveness of the section 8(f)(1) right of employees and their representatives (29 U.S.C. 657(f)(1)) to complain to OSHA concerning perceived safety and health problems and obtain a prompt inspection of the worksite at issue. The importance of this complaint procedure can be seen by the fact that, of 57,937 total FY 1979 (Oct. 1, 1978–Sept. 30, 1979) OSHA inspections throughout the country, approximately 22 percent were initiated by complaints from employees or their representatives (Ex. 175). Approximately 34 percent of these worker complaints concerned health issues (Ex. 175). Responding to worker complaints thus consumes a large portion of OSHA's inspection resources. Agency experience has demonstrated that the complaint mechanism is one of the most important means by which occupational health problems are brought to OSHA's attention for investigation and enforcement solutions. Worker access to records will significantly increase the impact of complaint inspections, since workers will be able to be more specific about the nature of their exposures, the job locations of greatest exposure, and any resulting health problems. Knowing this information in advance of an investigation will enable OSHA to respond immediately to severe problems, to better prepare itself for inspections, and to assure that the correct personnel and equipment are sent to investigate the problems complained of.

The second vital employee statutory right affected by this rule is the section 8(e) right of employees and their representatives to accompany OSHA during plant inspections (29 U.S.C. 657(e)). This walkaround right helps OSHA identify where and how various toxic substances are used, which plant operations generate the greatest exposures, and in other ways helps OSHA conduct a thorough and effective inspection. The Senate Committee on Labor and Public Welfare, in reporting the Senate version of the Act, attached great importance to this right:

> During the field hearings held by the Subcommittee on Labor, the complaint was repeatedly voiced that under existing safety and health legislation, employees are generally not advised of the content and results of a Federal or State inspection. Indeed, they are often not even aware of the inspector's presence and are thereby deprived of an opportunity to inform him of alleged hazards. Much potential benefit of an inspection is therefore never realized, and workers tend to be cynical regarding the thoroughness and efficacy of such inspections. Consequently, in order to aid in the inspection and provide an appropriate degree of involvement of employees themselves in the physical inspections of their own places of employment, the

V 4 5 M Y 2 3 8 0 UMI

committee has concluded that an authorized representative of employees should be given an opportunity to accompany the person who is making the physical inspection of a place of employment * * * (Legislative History at 151)

Agency experience has demonstrated that, to the extent workers are aware of the hazards they face, they share this information with OSHA, and are valuable aides in the agency's efforts to maximize the effectiveness of our compliance resources. Worker access to medical and exposure records will make more meaningful the exercise of an important statutory right, and will also directly improve the quality of OSHA plant inspections.

Two other important statutory rights of employees are their section 10(c) rights to contest the reasonableness of abatement periods proposed by OSHA, and to participate as parties in Occupational Safety and Health Review Commission adjudicatory proceedings (29 U.S.C. 659(c)). Congress thus created a clear statutory framework by which workers could contribute to the just resolution of disputes over OSHA enforcement cases. Workers and their representatives have in recent years increasingly invoked these participatory rights. Our experience in Review Commission proceedings has been that worker participation often substantially affects the outcome of adjudications and can assist the Secretary in the exercise of his enforcement responsibilities. (*See, Kaiser Aluminum & Chemical Corp.*, 1978 CCH OSHD Para. 23,200; *Brown & Root*, 1978 CCH OSHD Para. 23,731; *United Parcel Services*, 1979 CCH OSHD Para. 23,837). As with other rights under the Act, however, the effectiveness with which workers invoke section 10(c) rights depends largely on the extent of their knowledge of the health hazards addressed by enforcement proceedings. Access to medical and exposure records will enable workers to decide more rationally whether to use section 10(c) rights. And, once workers have decided to participate, access to records will improve the quality of their participation.

A fifth statutory right enhanced by worker access to records is the section 20(a)(6) right of workers to request a workplace Health Hazard Evaluation (HHE) by NIOSH (29 U.S.C. 669(a)(6)). HHE's are performed by NIOSH to identify the nature and magnitude of existing workplace health hazards (Bierbaum (NIOSH), Tr. 480–83, 487; Ex. 20). NIOSH perceives its HHE program as a crucial means of discovering occupational disease—so much so that NIOSH is refocusing its resources in an attempt to triple the number of HHE's it conducts in 1980 over the number performed in 1979 (Testimony by NIOSH Director Anthony Robbins on September 20, 1979, before the National Advisory Committee on Occupational Safety and Health, Ex. 175, p. 9). Philip Bierbaum of NIOSH testified that approximately 60 to 70 percent of requests for HHE's come from workers or their representatives (Tr. 481). Worker access to medical and exposure records will thus increase the value of HHE's in two ways. First, access will enable workers to better detect health problems and seek the benefits of NIOSH's help. And second, access will enable employees to provide NIOSH with information on the potential magnitude of the health problems involved, so NIOSH can set priorities for its limited HHE resources.

Lastly, worker access to medical and exposure records will maximize the impact of employee training and education provided by OSHA pursuant to section 21(c) of the Act (29 U.S.C. 670(c)). OSHA realizes that it alone cannot solve occupational safety and health problems. Occupational disease is a societal problem and effective solutions require the combined efforts of employees, employers, government, the educational community and the technical community. Knowledge concerning the causes, nature, and prevention of disease is required, as well as the technical resources to effect solutions in practice. The House Committee on Education and Labor, in its favorable report of the House bill, emphasized these realities:

> American industry cannot be made safe and healthful solely by enacting a Federal law which emphasized punishment. (Legislative History at 856)
>
> The Committee judges that one of the key contributions Government can make to the occupational safety movement is through education by the dissemination of safety information and by the training of employers and employees * * *
>
> The Committee recognizes that a substantial increase in manpower with professional competence is needed to bring about a successful program. To remedy this situation, certain provisions in the bill are designed to expand significantly the number of properly trained personnel to work in the field of occupational safety and health * * *
>
> Special emphasis is to be placed on technical assistance to both labor and management for the adoption of sound safety and health practices. (Legislative History at 861)

The Committee Report of the Senate Committee on Labor and Public Welfare attached equal significance to education and training (Legislative History at 161).

To implement section 21(c) of the Act, OSHA has established a major program, its "New Directions Grant Program," which provides funds to labor unions, nonprofit trade associations, educational institutions, and other groups for the purposes of training, education, and acquisition of technical resources (Ex. 173). The New Directions Grant program is substantially improving worker knowledge of the causes and prevention of occupational disease, and is broadening the availability of technical resources to both union and non-union employees. Worker access to exposure and medical records is crucial so that workers can take full advantage of the knowledge and technical resources being made available by the New Directions Grant program.

The statutory authority for employee and designated representative access to medical and exposure records therefore arises from numerous provisions of the Act. The remedial purposes of the Act dictate that this statutory language be broadly applied. Recent court decisions have emphasized that the Act is a remedial statute, which requires a liberal construction and broad deference to the Secretary's definition of statutory authority. In *Whirlpool Corp.* v. *Marshall*, —— U.S. ——, 100 S. Ct. 883 (1980), the Supreme Court unanimously held (pp. 890–91):

> The (OSH) Act, in its preamble declares that its purpose and policy is "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to *preserve* our human resource . . ." 29 U.S.C. 7651(b) (Court's emphasis).
>
> To accomplish this basic purpose, the legislation's remedial orientation is prophylactic in nature. See *Atlas Roofing Co.* v. *Occupational Safety Commission*, 430 U.S. 442, 444–445. The Act does not wait for an employee to die or become injured. It authorizes the promulgation of health and safety standards and the issuance of citations in the hope that these will act to prevent deaths or injuries from ever occurring . . . . In the absence of some contrary indication in the legal history, the Secretary's regulation must, therefore, be upheld, particularly when it is remembered that safety legislation is to be liberally construed to effectuate the congressional purpose. *United States* v. *Bacto-Unidisk*, 394 U.S. 784, 798; *Lilly* v. *Grand Truck R. Co.*, 317 U.S. 481, 486.

Finding the requisite authority in ss8(g)(2) and 5(a)(1) (the "general duty clause"), the Court upheld OSHA's regulation protecting workers against discriminatory action if they refuse to work in the face of a perceived imminent danger.

Decisions upholding OSHA's authority to require "upstream" labeling of toxic substances, *American Petroleum Institute* v. *OSHA*, 581 F.2d 493 (5th Cir. 1978), *cert. granted* with respect to a different issue, 440 U.S. 906 (1979), and walkaround pay for employees during inspections, *Chamber of Commerce* v. *OSHA*, No. 77–1842 (D.C.D.C. 1978), *appeal pending* C.A.D.C., have also expressly noted that the remedial nature of the Act warrants a liberal interpretation of the authority granted to carry out its purposes. In upholding the labeling requirement, the *American Petroleum Institute* Court approvingly quoted a prior Ninth Circuit statement that "Congress clearly intended to require employers to eliminate all foreseeable and preventable hazards" (581 F.2d *at* 509). Section 6(b) was also construed liberally in the United States Circuit Court of Appeals for the District of Columbia decision in *AFL–CIO* v. *Marshall*, —— F.2d —— (1979), 1979 CCH OSHD Para. 23,963, *petition for cert. filed* (No. 79–1429). This decision upheld most of OSHA's cotton dust standard, including the innovative medical transfer and wage retention provisions (1979 CCH OSHD Para. 23,963 at pp. 29,086–29,087).

Together, these cases support the concept that OSHA's rulemaking authority is as broad as the general purposes of the Act. The agency may thus fashion suitable remedies to meet particular problems standing in the way of a safe and healthful workplace provided the need for action can be demonstrated and the proposed remedy is feasible. Only explicit statutory prohibitions backed up by clear legislative history can overcome this presumption of authority. Notwithstanding the various rigid interpretations of ss6(b), 6(b)(7), 8(c)(3), 8(g) and 8(d) that have been suggested by several participants as barriers to this rule, none of the statutory sections contains such explicit prohibitions, and there is no legislative history to indicate the contrary. The Supreme Court has provided the appropriate canon of interpretation when faced with statutory provisions such as those relied on here. In *Mourning* v. *Family Publications Services*, 411 U.S. 356 (1973), the Court interpreted language in the Truth in Lending Act strikingly similar to s8(g)(2):

> Where the empowering provision of a statute states simply that the agency may "make . . . such rules and regulations as may be necessary to carry out the provisions of the Act," we have held that the validity of a regulation promulgated thereunder will be sustained so long as it is "reasonably related to the purposes of the enabling legislation." *Thorpe* v. *Housing Authority of City of Dupont*, 393 U.S. 268, 280–281 (1969) (quoting Housing Act of 1937, s81). (411 U.S. at 369)

Moreover, a broad delegation of rulemaking authority in the context of remedial legislation provides for reasonable over-inclusion. If over-inclusion is necessary to remedy the conduct the legislation was intended to deter or control, it will be upheld, for "(n)othing less will meet the demands of our complex economic system," *Mourning*, 411 U.S. at 374, citing *Village of Euclid* v. *Ambler Realty Co.*, 272 U.S. 365 (1926) (Accord *State of Fla.* v. *Mathews*, 526 F.2d 319 (5th Cir. 1976); *Environmental Defense Fund* v. *Costle*, 578 F.2d 337 (D.C. Cir. 1978); *American Frozen Food Inst.* v. *Mathews*, 413 F. Supp. 548 (D.C.D.C. 1976)). See also *United States* v. *Bacto-Unidisk*, 394 U.S. 784, 786n.2, 791–92 (1969) ("(I)t is enough for us that the expert agency (FDA) charged with the enforcement of remedial legislation has determined that such regulation is desirable for the public health. . . ."); *FERC* v. *Pennzoil Producing Co.*, No. 77–648 (Jan. 16, 1979), slip op. 8; *FCC* v. *National Citizens Committee for Broadcasting*, 436 U.S. 775, 796–97 (1978); *FPC* v. *Texaco Inc.*, 417 U.S. 380, 394 (1974); *Permian Basin Area Rate Cases*, 390 U.S. 747, 776n.40 (1968); *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 201–3 (1956); *American Trucking Associations* v. *United States*, 344 U.S. 298 (1953); *SEC* v. *Chenery Corp.*, 332 U.S. 194, 207 (1947); *Bowles* v. *Willingham*, 321 U.S. 503, 519 (1944).

The *Mourning* Court also addressed the question of whether specific, affirmative mandates in other sections of a statute carry with them an implied limitation on an agency's general rulemaking authority with respect to additional or alternative remedies the agency deems appropriate to effect. The Court first cited approvingly this statement from *Gemso, Inc.* v. *Walling*, 364 U.S. 244, 255 (1945):

> When command is so explicit and, moreover, is reinforced by necessity in order to make it operative, nothing short of express limitation or abuse of discretion in finding that the necessity exists should undermine the action taken to execute it. (411 U.S. at 370)

The Court went on to say (411 U.S. at 372–3):

> Respondent argues that, in requiring disclosure as to some transactions, Congress intended to preclude the Board from imposing similar requirements as to any other transactions.
>
> To accept respondent's argument would undermine the flexibility sought in vesting broad rulemaking authority in an administrative agency. In *American Trucking Assn. v. United States*, (344 U.S. 298 (1953)) we noted that it was not:
>
> 'a reasonable canon of interpretation that the draftsmen of acts delegating agency powers, as a practical and realistic matter, can or do include specific consideration of every evil sought to be corrected . . . [N]o great acquaintance with practical affairs is required to know that such prescience, either in fact or in the minds of Congress, does not exist. Its very absence, moreover, is precisely one of the reasons why regulatory agencies such as the Commission are created, for it is the fond hope of their authors that they bring to their work the expert's familiarity with industry conditions which members of the delegating legislatures cannot be expected to possess.' 344 U.S. at 309–310, 73 S. Ct. at 314 (citations omitted).

This judicial canon of interpretation should be of particular relevance in considerations of the OSH Act, which the Sixth Circuit in *Marshall v. Whirlpool Corp.*, 593 F. 2d 715 (1979), aff'd —— U.S. ——, 100 S. Ct. 883 (1980), emphasized was the subject of legislative focus on only four major issues: (1) which agency was to set safety and health standards, (2) whether an independent adjudicatory body should be established to administratively review violations, (3) whether employers should be subject to a general requirement to provide a safe and healthful work environment, and (4) whether the Secretary of Labor should have authority to order administrative shutdowns in cases of imminent danger (*Marshall v. Whirlpool Corp.*, 593 F. 2d at 728 n. 26). On other legal questions, such as the ones presented in this rulemaking, the presumption should be in favor of "the flexibility sought in vesting broad rulemaking authority in an administrative agency" *(Mourning, supra)*. In enumerating certain rights given to employees and employee representatives to various sections of the Act, it should not be supposed that Congress intended to deprive OSHA of the authority to establish other rights considered necessary to fulfill the statutory purposes. Rather, the requirements of ss8(c)(3), 6(b)(7), 8(d) and the like are properly to be construed as guideposts and not as ceilings on agency action.

OSHA also does not accept arguments based on s4(b)(1) of the Act (29 U.S.C. 653(b)(1)) that OSHA must yield jurisdiction to the National Labor Relations Board (NLRB) on all matters relating to employee or designated representative access to information pertinent to occupational safety and health. First, the Act and rules issued under it apply equally to employees who are represented by unions with collective bargaining status as well as employees who are not. The latter constitute approximately 80 percent of the workforce (Ex. 177). Second, s4(b)(1)

preemption arguments are clearly overbroad, since any safety or health problem which OSHA could address would also be an appropriate subject for collective bargaining. The failure to bargain in good faith on any health or safety problem would then be the subject of NLRB's adjudicatory and sanctioning powers. It may also be an appropriate matter for arbitration under a collective bargaining agreement. But when Congress added the OSH Act to Federal labor policy, OSHA was given rulemaking authority intended not only to fill gaps in existing labor-management relations and the collective bargaining process, but to place a solid foundation under that process. Worker safety and health was thought by Congress to be too important to be resolved solely by the interplay of private economic forces and the rules established for economic warfare. OSHA, therefore, may appropriately set standards and provide remedies which are independent from, and in addition to, any rights afforded by the National Labor Relations Act. Thus, as an NLRB Administrative Law Judge recently stated in *Colgate-Palmolive Co.*, Case No. 17–CA–8331 (March 27, 1979):

> Accommodation between the (NLRA) and OSHA is to be undertaken in a careful manner so as to preserve the objectives of each. See *Southern Steamship Company v. N.L.R.B.*, 316 U.S. 31, 47 (1942); *Western Addition Community Organization v. N.L.R.B.*, 485 F. 2d 917, 927–28 (C.A.D.C. 1973); *Alleluia Cushion Co.*, 221 N.L.R.B. 999; *Memorandum of Understanding Between Department of Labor, Occupational Safety and Health Administration and National Labor Relations Board*, 40 F.R. 26033 (June, 1975). (*Sl. op.*, p. 13, n. 9.)

OSHA agrees. *Cf. Brennen* v. *Western U. Tel. Co.*, 561 F. 2d 477 (3rd Cir. 1977).

Third, under the terms of s4(b)(1), OSHA's authority for this standard is not preempted because the NLRB has not exercised statutory authority "to prescribe or enforce standards or regulations affecting occupational safety or health" with respect to employees' working conditions. To the extent the NLRB has acted in this area, it has proceeded solely through adjudication, not through standard-setting or rulemaking of general applicability. The object of its adjudications has only been to assure a fair bargaining process, and not to assure safe and healthful working conditions for the workers affected. The triggering requirements of s4(b)(1) have therefore not been satisfied (*See* Rothstein, *Safety and Health Law*, ss18–21(1978)).

Accordingly, OSHA believes that it has ample authority under the Act to promulgate this rule.

B. Access to Records and the Law of Trade Secrets

Section IV.F of the preamble, *supra*, discusses the issue of employee and designated representative access to potential trade secret information. The final standard has been structured to eliminate access to unnecessary trade secret information, and maximize protection of trade secrets where access is provided. Access is provided, however, to chemical and physical agent identity, level of exposure, and health status information regardless of employer trade secret claims. The resolution of the trade secret issue as it pertains to employee and designated representative access to this information has been made with appreciation for the role of trade secrets in American law. Some of the relevant considerations are discussed below.

The law of trade secrets was introduced into American common law in the middle of the last century. *Peabody* v. *Norfolk*, 98 Mass. 452 (1862). It remains principally a matter of state decisional and statutory law. While state trade secret law varies, the description of a trade secret provided by the Restatement of Torts, s757, comment (b) (1939), is commonly accepted:

> A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do no know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers.

A slightly different definition was provided in *U.S. ex rel Norwegian Products Co.* v. *U.S. Tariff Commission*, 6 F.2d 491, 495 (D.C. Cir. 1925), rev'd other grounds 274 U.S. 106 (1927), and applied in some Federal cases. To be a trade secret, the subject matter must be at least substantially secret, minimally novel, and commercially valuable. The factor of cost in the development of a trade secret has also been identified as an element underlying judicial findings of trade secrets, Cavitch, *Business Organizations*, s232.01 (1975). Of these, the element of secrecy is probably the most significant.

But absolute secrecy beyond the knowledge of the holder is not required for information to constitute a trade secret. The corporate holder will necessarily have to divulge information to some employees and others in order to utilize the secret commercially. It may also license its use. Whether a disclosure destroys the element of secrecy depends on the extent, manner, and purpose of the disclosure. *Kewanee Oil Co.* v. *Bicron*, 416 U.S. 470, 477 (1974); Cavitch, *supra.*, s232.01(1). The broadly stated policies behind trade secret law are the maintenance of standards of commercial ethics and the encouragement of invention. *Kewanee Oil* v. *Bicron, supra*, at 481. Provided employees with a "need to know" are under an obligation not to use or disclose information revealed to them in confidence, and the holder of the information has taken measures to restrict access to the information, trade secret law affords the holder of the trade secret with judicial remedies for a breach of confidence or dispossession of the trade secret through improper or unethical means (industrial theft, spying, bribery, etc.). OSHA's treatment of trade secret information in this rule is not meant to deprive employers of these private law protections.

Although the protection of trade secrets is primarily a state-created right, it is necessary to note the existence of certain Federal policies which recognizes the legitimacy of this interest. Perhaps the most important of these, a Federal criminal statute, popularly known as the Trade Secret Act, makes it a criminal offense for a Federal officer to disclose a trade secret "to any extent not authorized by law" (18 U.S.C. 1905). The National Stolen Property Act, 18 U.S.C. 2311, 2314, has also been applied to theft of intangibles. Exemption (b)(4) of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4), exempts trade secrets from mandatory disclosure by Federal agencies. Other "anti-disclosure" provisions have been written into various statutes, e.g., Sec. 15 of the OSHA Act (15 U.S.C. 651) and Sec. 14 of the Toxic Substances Control Act (15 U.S.C. 2601). Even in cases covered by the Federal statutes, however, the question of whether something is a trade secret must still be answered by the application of common law principles since, unlike patents and copyrights, there is no Federal statute establishing the law of trade secrets.

There is also relevant Supreme Court law evidencing favorable treatment of the trade secrets interest. In *Kewanee v. Bicron, supra*, the Court held that Ohio's trade secret law is not pre-empted by the Federal patent laws, since the Federal policy of encouraging invention is not disturbed by the existence of another form of incentive to invention such as trade secret protection. More recently, in *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979), the Court examined the interrelationship between 18 U.S.C. 1905 and exemption (b)(4) of the FOIA, holding that while the FOIA does not

prohibit disclosure of trade secrets or confidential business information by an agency, 18 U.S.C. 1905 does prohibit such disclosure if there is no other statute or validly promulgated regulation authorizing the particular disclosure. Therefore, release of trade secret information by an agency may be an actionable abuse of discretion under the Administrative Procedure Act. And in *Detroit Edison Co. v. NLRB*, 411 U.S. 301 (1979), the Court held that the NLRB exceeded its remedial discretion when it ordered the company to turn over to the union psychological aptitude tests and answer sheets, the continued secrecy of which was essential to the integrity of the testing process, rather than accept the company's suggestion that this information be provided only to a psychologist designated by the union. Essentially, the Court balanced the company's interest in test secrecy against the union's interest in access and found that the company's interest in this case was predominant.

These expressions of Federal policy, while suggestive, do not answer the precise question of the extent to which OSHA's policies on worker access to records, which are designed to advance the statutory purposes of promoting occupational safety and health so far as possible, must or should yield, or accommodate themselves, to employers' interests in maintaining the secrecy of trade secrets. This question requires closer examination of Federal pre-emption doctrine, the OSHA statutory scheme, and judicial treatment of trade secrets in analogous situations.

Under the Supremacy Clause of the Constitution (Art. VI, cl. 2), Federal law takes precedence over state law whenever they clash or conflict. The test which the Supreme Court has consistently followed in Federal pre-emption cases is two-fold: (1) whether the Federal and state regulatory schemes inescapably conflict, and (2) whether the Congressional intent was to oust the state from a particular field. Even absent an overt manifestation of such congressional intent, the Supremacy Clause requires the invalidation of any state law that burdens or conflicts in any manner with any Federal law. *Jones v. Rath Packing Co.*, 430 U.S. 519 (1977); *DeCanas v. Bica*, 424 U.S. 351 (1976); *Sears, Roebuck & Co. v. Stiffel*, 376 U.S. 225 (1964); *Florida Lime & Avocado Growers v. Paul*, 373 U.S. 132 (1963); *Sola Electric Co. v. Jefferson Electric Co.*, 317 U.S. 173 (1942); *Hines v. Davidowitz*, 312 U.S. 52 (1941); *Savage v. Jones*, 225 U.S. 501 (1911).

This statement from *Savage v. Jones, supra.*, remains valid (225 U.S. at 533):

> For when the question is whether a Federal act overrides a state law, the entire scheme of the statute must of course be considered and that which needs must be implied is of no less force than that which is expressed. If the purpose of the act cannot otherwise be accomplished—if its operation within its chosen field also must be frustrated and its provisions be refused their natural effect—the state law must yield to the regulation of Congress within the sphere of its delegated power.

Consider also *Florida Lime & Avocado Growers, supra.*, (373 U.S. at 142):

> A holding of Federal exclusion of state law is inescapable and requires no inquiry into congressional design when compliance with both Federal and state regulations is a physical impossibility . . .

In promulgating this access rule, OSHA is implementing its mandate to afford employees safe and healthful working conditions by enabling them, among other things, to know what chemicals they are exposed to and what the hazards are to the extent such information is available in exposure and medical records which employers already maintain. Based on industry testimony, there may be an undetermined number of exposure records containing information involving the identities and exposure levels of chemicals which could be considered bona fide trade secrets (i.e., after taking into account the possibility of reverse engineering and other readily available analytical techniques). Yet, if employees are to be afforded safe and healthful working conditions, they must be fully informed of what chemicals they are exposed to, whether or not they are trade secrets. Knowledge of the chemical names of trade products is essential if one is to learn of the inherent hazards, particularly since indexes to the scientific literature are generally maintained only by chemical name. Accordingly, if OSHA were to exempt trade secrets altogether from the access provisions of this rule, its "operation . . . must be frustrated and its provisions . . . refused their natural effect."

Given the appearance of an inescapable conflict between this rule's health purposes and trade secret claims based on state law protection, a finding of express Congressional intent to override trade secrets is not necessary, since each of the two tests for pre-emption operates independently. Nevertheless, OSHA's statutory scheme as well as Congressional intent should be carefully considered if only to make sure that Congress did not express a contrary intent.

The only section of the OSHA Act concerned directly with trade secrets is section 15 (29 U.S.C. 664). It states:

> All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this act or when relevant in any proceeding under the Act. In any such proceeding the Secretary, the Commission, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

Section 15 plainly contemplates that OSHA should have access to trade secrets as necessary. This section adds nothing to the obligation already imposed upon federal employees by an existing criminal statute (18 U.S.C. 1905), except to indicate that such information may be disclosed to other officers or employees concerned with carrying out the Act or when relevant in any proceeding. In the latter situation, it provides for the possibility of appropriate protective orders. In interpreting this section, the Occupational Safety and Health Review Commission has said: "Hence, section 15 is in the nature of an exemption from 18 U.S.C. 1905 rather than a prohibition and clearly does not limit access to trade secrets only to federal employees." (Footnote omitted). *Secretary of Labor v. Owens-Illinois, Inc.*, 1978 CCH OSHD Para. 23,218, at pp. 28,072 (access to outside expert consultant in enforcement case). Cf. *Chrysler Corp. v. Brown, supra.*

As such, section 15 contemplates that OSHA might undertake proceedings or promulgate recordkeeping requirements resulting in the disclosure of trade secrets. In such cases, a general obligation is imposed on OSHA to keep confidential all information which the agency obtains via reports or otherwise and which contains or which might reveal a trade secret, although disclosure may be made "when relevant." To carry out its obligations, OSHA has already issued regulations and administrative directives addressing the special treatment of trade secrets (29 CFR 1903.9; Ex. 113; cf. *Sec. of Labor v. Owens-Illinois, Inc., supra*). These are in addition to the criminal penalties of 18 U.S.C. 1905 for unauthorized disclosure of trade secrets.

Section 15 reflects an apparent Congressional interest in balancing

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competing interests based on providing protection to trade secrets to the extent consistent with carrying out the overall statutory purposes. The section does not define "trade secrets" or provide precise guidance beyond the "relevance" standard on how the necessary balance is to be struck; and the legislative history, which consists of different versions of the same provision contained in the different bills, does little to illuminate the section further. The section, however, is consistent with how Congress had addressed trade secrets in other statutes (e.g., 15 U.S.C. 1401(e) (the National Traffic and Motor Vehicle Act of 1966)).

More recently, however, Congress has expressed its intent in this area in the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 et seq.), a public health statute which in purpose and effect is in many respects analogous to OSHA's. Its section 14 (15 U.S.C. 2613) substantively parallels OSHA's section 15 except that it explicitly provides for public disclosure of trade secrets "if the Administrator of the Environmental Protection Agency determines it necessary to protect health or the environment against an unreasonable risk of injury to health or the environment" and also for the disclosure of "health and safety studies" other than "data which disclose processes . . . or, in the case of a mixture, . . . data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture." See also, the 1978 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h). The Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.*, is silent on the issue of trade secrets.

In addition, the House Committee on Government Operations has twice urged OSHA to exercise its rulemaking authority to insure that employers and workers alike are apprised of the kinds of toxic dangers present in workplaces notwithstanding the prevalence of trade name products (House Report No. 94–1688 (Sept. 1976); House Report No. 95–710 (Oct. 1977)).

Whatever the precise meaning of "trade secrets" intended in section 15, the section, by its terms, does not operate as a limitation on OSHA's rulemaking authority; that is, it does not address OSHA's ability to issue occupational safety and health standards or other rules which may incidentally affect trade secret interests by requiring information transfers from employers to employees or their representatives. Indeed, s6(b)(7) affirmatively requires any standard to "prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed," and s8(c)(3) requires that "such regulations shall also make appropriate provision for each employee or former employer to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents." These sections reflect the Congressional determination that certain information must be given to employees, without regard to any possible trade secret interests of employers. The regulations issued today are consistent with this Congressional intent. The only express limitation on OSHA's rulemaking, other than a requirement that they be based on substantial evidence, is that rules be feasible (section 6(b)(5) of the Act; 29 U.S.C. 655(b)). Since the harm of trade secret disclosure is an economic one, it is possible to conclude that trade secrets should be considered as one element of the economic feasibility inquiry, and not as something which stands as an independent obstacle to the access rule regardless of its feasibility. But access to exposure records surely presents no problems of technical feasibility, and nothing in the record would support a finding that lack of special treatment for trade secret information would render the rule economically infeasible.

Based on the foregoing analysis, the agency concluded that its authority to promulgate this rule can serve to pre-empt state law trade secret interests if necessary or appropriate to promote occupational safety and health. However, rather than totally pre-empting state law trade secret interests, the agency chose to seek means to accommodate the competing interests to the extent possible. But, where the competing interests irreconcilably clash, the interest in employee safety and health prevails. This approach is consistent with the balancing approach expressed in section 15 and other Federal policies. It is also consistent with Federal pre-emption doctrine itself:

> [C]onflicting law, absent repealing or exclusivity provisions, should be pre-empted * * * "only to the extent necessary to protect the achievement of the aims of" the federal law since the proper approach is to reconcile "the operation of both statutory schemes with one another rather than holding [the state scheme] completely ousted."

DeCanas v. Bica, supra., 424 U.S. at 357 n.5, quoting *Merrill, Lynch v. Ware*, 414 U.S. 117, 127 (1973) quoting *Silver v. New York Stock Exchange*, 373 U.S. 341, 361, and 357 (1963).

The priority attached to safety and health concerns by this rule is also consistent with the law of trade secrets in analogous contexts. It is necessary to remember that the interest in trade secrets in never absolute. For instance, the law ordinarily protects a holder of a trade secret from a breach of confidence or dispossession of the trade secret by improper or unethical means, but not against independent discovery, *Kewanee v. Bicron, supra.* More significantly, the trade secrets interest is not considered to be an absolute right in the face of a strong countervailing public interest in the information. Thus, in the beginning of the century, the Federal courts considered a number of cases involving economic due process challenges to the state's authority to require disclosure of ingredient information in the regulation of foods and drugs to promote safety and health and to prevent fraud and deception of purchasers. In one such case, *Arbuckle v. Blackburn*, 113 Fed. Rep. 616 (6th Cir. 1902), *aff'd* 191 U.S. 405 (1903), the Court stated (at p. 627):

> The enactment of laws for the protection of health and safety and to prevent imposition in the sale of food products is within this [state police] power, and the fact that the process by which it is made is protected by a patent, while it may prevent others from using it during the life of the patent, does not deprive the state of the power of regulation for the general good.

Savage v. Jones, supra, involved an Indiana statute which, among other things, required ingredient labeling to prevent fraud in the sale of animal feed. The Supreme Count declined to consider the trade secrets issue, since the statute did not demand the disclosure of formulas or manner of combination but rather only a statement of the ingredients, "* * * a requirement of obvious propriety in connection with substances purveyed as feeding stuff" (225 U.S. at 524).

Moreover, in more recent times, judicial and administrative courts have similarly taken the position that, if the information is indispensable for ascertaining the facts, the evidentiary "privilege" for trade secrets must give way even when the possessor of the secret is a bystander who may be unfairly injured by broad dissemination of the information. This is particularly true when the public interest in disclosure stems from a safety or health rationale. *Uribe v. Howie*, App., 96 Cal. Rpt. 493 (1977) (pest control reports); *Carter Products, Inc. v. Eversharp, Inc.*, 360 F.2d 868 (7th Cir. 1966) (patent infringement); *Wilson v. Superior Ct.*, 225 P. 881 (1924) (chemical composition of explosive); *Secretary of Labor v. Owens-Illinois, supra.; U.S. v. 48 Jars More or Less*, 23 F.R.D. 192 (D.D.C. 1958) (FDA suit for seizure and condemnation of misbranded article); Cf. *Jacobson v. Massachusetts*, 197 U.S. 11 (1904) (compulsory vaccinations). Significantly, this has also been the approach of the NLRB when faced with union requests for access to trade secret information. *Ingalls Shipbuilding Corp.*, 143 NLRB 712, 717 (1963); *Minnesota Mining & Manufacturing, Co., supra.; Borden Chemical, supra.*

Consequently, the law of trade secrets fully supports OSHA's treatment of trade secrets in this final rule, which reflects these two principles: (1) if there is a valid trade secret claim, means should be sought if possible to reconcile the trade secrets interest with the statutorily mandated interest in occupational safety and health, but where the two interests irreconcilably conflict, the safety and health interest must predominate; and (2) to the extent OSHA's regulatory policy favoring employee and employee representative access to exposure records results in the disclosure of trade secrets for safety and health purposes, this should not derogate from the employer's private law rights and remedies to protect the trade secret status of the information from redisclosure for non-safety and health purposes.

C. OSHA Access to Employee Medical Records and the Right of Privacy

The right of privacy, and the corresponding duty of confidentiality, have been recognized in both common law and Constitutional law. This section will discuss the constitutional considerations raised by OSHA access to medical records, while the section which follows will discuss the common law aspects of the duty of confidentiality.

Section IV.H of the preamble, *supra*, discusses the agency's decision to structure the final standard to provide for unconsented agency access to identifiable employee medical records. Because Federal action is involved, OSHA access to personally, identifiable medical records raises the legal question of whether the public interest in OSHA access overrides, or can be accommodated to, the employees' privacy interests. The right of privacy has been recognized as a constitutionally protected value. *Roe v. Wade*, 410 U.S. 113 (1973); *Griswold v. Connecticut*, 381 U.S. 479 (1965). In *Roe v. Wade*, the Court located the privacy interest in the Fourteenth Amendment's concept of personal liberty. 410 U.S. at 152–153; *Whalen v. Roe*, 429 U.S. 589n. 23 (1977). (Presumably, it is applicable to the Federal government via the Fifth Amendment). When recognized, the right of privacy has generally been invoked to protect against unreasonable governmental intrusions into certain zones of personal intimacy (e.g., contraception, abortion). As has already been stated, at least two separate interests have been identified as aspects of the concept of privacy: the individual interest in avoiding disclosure of personal matters, and the interest of independence in making certain kinds of important decisions, *Whalen v. Roe, supra.*, 429 U.S. at 599–600.

It is primarily the first interest—avoiding disclosure of personal matters—which is at stake when a public agency like OSHA seeks access to identifiable medical records without consent. To the extent such access deters employees from seeking treatment or confiding in company physicians, the second interest would also be implicated. *Whalen v. Roe* is the leading constitutional case with respect to the privacy of medical information. In that case, the Court denied a constitutional challenge alleging invasion of the patient's right to privacy by a New York statute requiring that a copy of prescriptions (including names of recipients) of certain dangerous but legitimate drugs be sent to the state health department and put on computer. The Court held that "the New York program does not, on its face, pose a sufficiently grievous threat to either interest to establish a constitutional violation." *Id.* at 600. It stated (at p. 602):

> Unquestionably, some individuals' concern for their own privacy may lead them to avoid or to postpone needed medical attention. Nevertheless, disclosures of private medical information to doctors, to hospital personnel, to insurance companies, and to public health agencies are often an essential part of modern medical practice even where the disclosure may reflect unfavorably on the character of the patient. Requiring such disclosures to representatives of the State having responsibility for the health of the community, does not automatically amount to an impermissible invasion of privacy. (Footnote omitted.)

This holding is consistent with the common law principle that the public interest, such as that asserted by a public health agency to prevent illness, overrides the duty of confidentiality which otherwise would pertain (*See*, V.E, *infra.*). Also noteworthy was the *Whalen* Court's complete rejection of the physicians' claim that such data collection was an unconstitutional interference with a physician's right to practice medicine free of unwarranted state interference: "the doctors' claim is derivative from, and therefore no stronger than, the patients'." (at p. 604).

Of particular significance in the determination of the case was the fact that the state was taking reasonable steps to insure the confidentiality of the information reported to it, since "the right to collect and use such data for public purposes is typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures." (at p. 655). OSHA likewise recognizes such a duty and has taken steps comparable to those found constitutionally adequate by the Supreme Court in *Whalen v. Roe*. These steps can be found in the procedural regulations governing OSHA access to medical records, published today as s1913.10 of 29 CFR.

District court decisions upholding NIOSH's and OSHA's right to seek access to personally identifiable medical records are also highly relevant. In *DuPont v. Finklea*, 442 F. Supp. 821 (S.D. W. Va., 1977), *Whalen v. Roe* was explicitly applied to a NIOSH health hazard evaluation. The Court found that it was within NIOSH's statutory authority to request access to identifiable medical records for the purpose of conducting a cancer study, even though, in this case, the employees themselves had affirmatively withheld consent. Notwithstanding the fact that the information sought was determined to be within a constitutionally protected zone of privacy, the court held that this privacy right would not be abridged by NIOSH's access to the records. The fact that no evidence had been adduced which would show or even tend to show that the information sought to be gathered would be used improperly was of particular significance. The Court's detailed order was designed to assure that NIOSH would keep the information confidential, but employee consent was *not* made a condition of NIOSH's access.

NIOSH's right of access to personally identifiable medical records without consent has also been recently upheld in *United States v. Westinghouse Electric Corp.*, C.A. 79–774 (W.D. Pa., Jan. 31, 1980). Presented with essentially identical facts as in *DuPont*, the Court held:

> In our case, Westinghouse is the employer of a number of persons, and it seeks, as it asserts, to protect the privilege of its employees and prevent divulging of medical information taken by its doctors as of the time when they were employed. It is not for [this court] to determine what the respondent's interest is here. What matters is that the United States through Congress has expressed a serious concern for these same employees who might have been patients of the respondent's doctors. As such, it accordingly assumes a superior position and responsibility for protecting these same

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employees than does the employer. This is a constitutional right in the Congress to do so for the purpose of preserving the health and welfare of the public, wherever such circumstances may exist. (p. 12, sl. op.)

* * * * *

NIOSH must have the entire medical records in personally identifiable form of the employees under study in order to properly conduct its Health Hazard Evaluation, to facilitate adequate record-keeping of the information and to prepare an adequate study of the matter. The function which the petitioner is exercising here is not only appropriate but is legally and authoritatively mandated. It is not within the power of the courts to thwart such statutory and constitutional functions, but to the contrary, the courts must lend their judicial authority to aid the petitioner to so function. (p. 14, sl. op.)

By so holding, *Westinghouse* all but rejects *General Motors v. Finklea,* 459 F. Supp. 235 (S.D. Ohio, 1978). The *GM* Court had held that while NIOSH has statutory authority to seek access to medical records, the individually identifying data could be withheld from the agency absent a showing of compelling need, and even then, every employee might be entitled to a due process hearing to determine whether or not identifiable records could be examined without the employee's consent. As *Westinghouse* properly points out, the *GM* decision was based upon Ohio's physician-patient privilege law and not upon general principles protecting the right of privacy itself; and in any event, the existence of such a state privilege is irrelevant since "no physician-patient privilege exists as a matter of Federal common law." (p. 9, sl. op.). To the extent that *GM,* which is being appealed by the Government, deviates from *Whalen v. Roe* in its analysis of legal principles, it cannot be considered controlling law.

Most recently, OSHA's own right to subpoena employer-generated exposure and medical records has been upheld in *Marshall v. American Olean Tile Co.,* No. 79–597 (E.D. Pa., Feb. 29, 1980). The court stated:

* * * the Secretary [of Labor] performs legislative as well as enforcement functions. He needs information to develop standards as well as to enforce compliance with these standards. Although he may obtain that information through recordkeeping requirements or investigations by the National Institute for Occupational Safety and Health (NIOSH), inspections and evidence subpoenaed may also provide useful data. Because the remedial purposes of the Act may be furthered by inspections and subpoenas designed to explore the causes and prevention of occupational illnesses, we decline to find that the authorization of inspections "to carry out the purposes of this chapter" extends only to enforcement. If the information requested is relevant to any of the Secretary's functions and its production is not unduly burdensome, the subpoena should be enforced.[2]

Having considered the relevant case law, therefore, OSHA is confident that OSHA access to personally identifiable employee medical records is constitutionally permissible when accompanied by strict protective measures such as the administrative regulations OSHA is promulgating today.

Finally, the separate constitutional right of employers to be free of unreasonable searches and seizures must also be taken into account. *Marshall* v. *Barlow's, Inc.,* 436 U.S. 307 (1978) held that the Fourth Amendment requires OSHA to get a warrant from a neutral magistrate before conducting an inspection of a workplace if an employer objects to entry. Footnote 22 of that decision states (at p. 324):

Delineating the scope of a search with some care is particularly important where documents are involved.

. . . It is the Secretary's position, which we reject, that an inspection of documents of this scope may be effected without a warrant.

Therefore, while OSHA anticipates voluntary employer acceptance of OSHA access to medical records in most cases, we recognize that the OSHA access requirement of this rule may not be self-enforcing. In the aftermath of *Barlow's,* this is a rapidly evolving area of the law, and the exact means OSHA will choose to gain access to records if an employer refuses to provide access voluntarily will depend on the particular circumstances of the case and future developments in the law.

D. OSHA Access to Employee Medical Records and the Common Law Duty of Confidentiality

The physician's traditional duty of confidentiality owed to medical information, which derives from the patient's right of privacy in that information, is never absolute and may be overridden by a supervening public interest such as the one asserted here by OSHA. The duty of the physician to maintain the confidentiality of information acquired in the course of a physician-patient relationship has always been recognized as an ethical requirement imposed by the profession. The Hippocratic Oath obliges physicians to keep secret whatever is learned in connection with their professional practice. In addition, the Principles of Medical Ethics of the American Medical Association prohibit a physician from revealing confidences learned in the course of medical attendance, *unless required to do so by law or if it becomes necessary to protect the welfare of the community or the individual* (Ex. 105). A physician may be disciplined by the local medical society for failure to abide by these ethical rules (Dr. Steen (AMA), Tr. 2398).

In common law, the physician-patient privilege was not traditionally recognized. This meant that, whatever the ethical obligations, the physician had no legal obligation to protect patient communications from disclosure to a third party (Ex. 147, p. 1117; *Horne* v. *Patton,* (1973, S. Ct. Ala.) 287 So. 2d 824, at 833 (J. McCall, dissent)). In the absence of testimonial privilege statutes, several courts have found that there was no liability for disclosure to third parties where the common law rule was applicable. *Collins* v. *Howard,* (1957, D. Ct. Ga.), 156 F. Supp. 322 (disclosure to plaintiff's employer); *Quarles* v. *Sutherland,* (1965 Tenn.), 389 SW 2d 249 (disclosure to store's attorney).

The modern rule, by contrast, appears to be that, in general, the duty of confidentiality is legally recognized and enforceable regardless of whether the state has enacted a physician-patient testimonial privilege. Most states have in fact created testimonial privileges which generally prohibit physicians from revealing confidential information in judicial proceedings unless the privilege is waived by the patient or by application of one of the recognized exceptions to the rule (HRG, Ex. 122E). Even in states without a testimonial privilege, or where the third party disclosure is outside a court proceeding and thus not directly covered by the privilege, courts tend to find grounds upon which a patient can hold a physician liable for unauthorized disclosure of confidential information.

Most frequently the courts have upheld the right of a patient to recover damages from a physician for unauthorized disclosure concerning the patient on the grounds that such disclosure constitutes an actionable tort under the state's common law or statutory privacy rights (Ex. 147, s3 (cases cited)). Recovery has also been granted on the grounds that: (1) disclosure by the physician constitutes a breach of a legally recognized confidential or privileged relationship between the patient and physician (Ex. 147, s4(a) (cases cited)); (2) violation of statutory requirements concerning the licensing or conduct of a physician gives rise to a tort action by the patient (Ex. 147, s5 (cases cited)); and (3)

[2] * * * Since the Secretary of Labor has ultimate responsibility for rulemaking under the Act, his authority under s657 should be at least commensurate with NIOSH's authority under that same section. * * * (pp. 3–4, sl. op.)

unauthorized disclosure consitutes a breach of an implied contractual obligation not to divulge confidences. *Horne* v. *Patton, supra,* 287 So. 2d at 831–2; *Hammonds* v. *Aetna Casualty and Surety Co.,* (1965, N.D. Ohio), 243 F. Supp. 793, at 801. Accord *Clark* v. *Geraci* (1960), 208 NYS 2d 564.

The duty of confidentiality, however, is not absolute. In the occupational setting, to the extent that the physician-patient relationship does not exist, the legal duty of confidentiality may not exist either or is at least attenuated. Thus, the *Beadling v. Sirotta* (disclosure to personnel department of applicant's condition) and *Quarles v. Sutherland* (disclosure to store's attorney of customer's condition) cases, *supra.,* both upheld unauthorized intra-corporate disclosures on the basis of there being no doctor-patient relationship. Also relevant is *Pitcher v. Iberia Parrish School Bd.* (1973, La. App.), 280 So. 2d 603, *cert den'd,* 416 U.S. 904 (1974), which held that a school board had the right to obtain the results of annual physical examinations required of teachers, without distinguishing whether the examinations were performed by the teachers' personal physicians or by the school board's physician. However, such disclosure of medical records to management or to others outside the company without the employee's consent would clearly be viewed today as a breach of professional ethics. Moreover, under existing law, unauthorized disclosure outside the company is of questionable legality and could be attacked on the grounds stated above: violation of a state privacy act (applicable in about three-quarters of the states), defamation, malicious misrepresentation, and possibly even breach of an implied contract of confidentiality (NCCHR, Ex. 125, pp. 7–8).

There are nevertheless numerous exceptions to the duty of confidentiality even when a physician-patient relationship clearly exists. The most obvious exception occurs when the patient consents to the disclosure of his medical records. Often, however, the patient may not realize the extent to which consent results in wide distribution of the medical records within the health care facility and to third party payers (Annas, Ex. 56B, pp. 148–149).

Even in the absence of consent, disclosure of confidential information is legally permitted in a number of situations. As provided in this standard, disclosure may be made for certain overriding competing interests to which the law affords greater protection than to the interest of the patient in keeping the information undisclosed, as where the public interest demands, for health reasons, the disclosure of such information (Ex. 147, s6(a) (cases cited)). A physician cannot be held liable if he or she was required by law to make such disclosure (Ex. 147, s7 (cases cite)). Almost all states have a wide variety of conditions and diseases (e.g., vital statistics, contagious and dangerous diseases, child neglect and abuse, drug abuse, and criminally inflicted injuries) which must be reported to the public authorities when discovered by the physician. These take precedence over privilege statutes and the physician's ethical obligation to maintain a patient's confidence (Annas, Ex. 56B, p. 148; *Whalen v. Roe, supra.; General Motors v. Finklea,* S.D. Ohio, C.A., C–3–77–339 (1978)).

Other exceptions exist as well. When an individual makes his or her own physicial condition an issue in a lawsuit (e.g., personal injury claim), most courts will permit examination of the physician under oath either before or during the trial. Even in states with privilege statutes, there are exceptions which permit bringing personal medical information into court without consent. For example, medical information is often available in criminal cases, and almost always in malpractice cases (Annas, Ex. 56B, p. 150).

The general rule is that courts will afford physicians wide latitude in making disclosures they believe are in the best interests of their patients, such as when disclosures are made to a spouse or near relative without the patient's consent (Annas, Ex. 56B, p. 149; Ex. 147, s6(b) (cases cited)). Moreover, in a number of jurisdictions liability against a physician will be denied unless it can be shown that the disclosure was made maliciously (Ex. 147, s8 (cases cited)). There have been no reported appellate decisions in the United States where any physician or hospital has ever had to pay money damages to any patient for the unauthorized disclosure of medical records (Annas, Ex. 56B, p. 148).

From the foregoing, OSHA concludes that its access to employee medical records, as provided for in this standard and as limited by the administrative regulations, is legally permissible and does not constitute an unwarranted interference with employee privacy.

VI. Feasibility Considerations

In promulgating an occupational safety and health standard pursuant to section 6(b) of the Act, the agency considers the question of feasibility. Feasibility analysis involves two inquiries: whether the rule is technologically feasibility, and whether the rule is economically feasible (*See,* 43 FR 54473–54476 (Nov. 21, 1978)). In this case, since the final standard simply requires the preservation and availability of records which employers for one or more reasons have already chosen to create, there can be no doubt that the standard is technologically feasible. No participant in the rulemaking proceeding argued otherwise.

Numerous industry participants objected to the perceived economic burdens that would allegedly result from the standard. No participant, however, argued that the administrative costs involved rendered the standard economically infeasible, nor is there any evidence in the rulemaking record which could support such a suggestion, regardless of the definition of "economic feasibility" applied. The final standard has been carefully drafted to provide employers substantial flexibility as to how they preserve records subject to the standard, and how these records are made available to employees and their designated representatives. It is OSHA's conclusion that the final standard does not pose substantial economic burdens on employers, and is a feasible standard.

OSHA rulemakings not only consider questions of economic feasibility, but, depending on the nature of the rule, analyze the broader issue of the overall impact of a rule on industry and the economy. Executive Order 12044 ("Improving Government Regulation," 43 FR 12660 (March 24, 1978)) provides for a "Regulatory Analysis" where a rule has major economic consequences for the general economy, individual industries, geographical regions or levels of government. When OSHA issued the proposed access rule, it determined that preparation of a formal Regulatory Analysis document in accordance with E.O. 12044 would not be necessary. OSHA based this determination on the fact that the final rule would neither mandate the creation of new records or reports, nor impose independent obligations on employers to monitor or measure employee exposures. The rule would not require employers to provide medical surveillance or examinations, nor would it establish other mandatory requirements as to the format or content of exposure and medical records. Therefore, while administrative costs would be incurred in preserving records and in providing access to them over and above current practices, there was no reason to believe that either of the two economic thresholds established in

E.O. 12044 (an annual effect on the economy of $100 million or a major increase in costs or prices for individual industries, levels of government or geographical regions) would be exceeded. (The Secretary of Labor's final guidelines for implementing E.O. 12044 were not issued until January 26, 1979 (44 FR 5570)).

In its notice of hearings (43 FR 46322, October 6, 1978), OSHA specifically invited comment on the economic impact of the proposal. OSHA's preliminary determinations on economic impact and its invitation for further comment on this issue were restated in its opening statement at the public hearings (Ex. 7, p. 28).

Both the decision not to do a Regulatory Analysis, and OSHA's underlying rationale that the economic impact of the rule would not be great or particularly burdensome, were criticized by industry groups. Participants who argued that a Regulatory Analysis should have been made included the National Association of Manufacturers (Ex. 2(135), p. 8), the Chamber of Commerce (Ex. 37, pp. 3–4), the American Petroleum Institute (Ex. 158, pp. 43–44), the Organization Resources Counselors (Ex. 159, p. 2), and the Edison Electric Institute (Ex. 162, p. 18). There was also considerable industry testimony that the proposal would place an undue administrative and economic burden on employers (Magma Copper, Tr. 1451; EEI, Tr. 1774; API, Tr. 2067; NAM, Tr. 2176–78; Refractories Inst., Tr. 2215–16). In particular, employers argued that the burdens of compliance would be particularly great for small business (Amdur, Tr. 572; Chamber of Commerce, Tr. 979; Crowley Maritime, Tr. 1578; NAM, Tr. 2177–78; Refractories Inst., Tr. 2216), companies with multiple work sites (Southern Cal. Edison, Tr. 1515), companies with mobile work sites (Steel Plate Fabricators, Tr. 2522), and companies with transient work forces (Fertilizer Inst., Tr. 2160–61).

Although numerous employers complained of the alleged "burdens of compliance," they presented no quantitative or specific information on how this standard would present anything other than incidental administrative expenses. The API was the only participant who introduced any quantitative information on costs. These were drawn from the estimates on total recordkeeping costs that had been made in several OSHA economic impact statements regarding the regulation of specific substances (Ex. 132a–f). While not intended to show the actual costs of this rule, API presented this data for the purpose of indicating that the likely costs would exceed $100 million, and therefore a Regulatory Analysis would be required (Tr. 2123). However, the cost estimates contained in these prior economic analyses pertained exclusively to the costs of creating and storing records which, in the absence of the regulation, would not be created or kept at all; and therefore the entire cost of recordkeeping was attributable to the proposed regulations (Tr. 2119–20). None of the costs pertained to the limited costs of providing access (Tr. 224). Consequently, these analyses are irrelevant to consideration of the economic impact of the current standard.

The economic burdens presented by the final standard are largely a function of three factors: (1) the extent to which records are actually created by employers, (2) the extent to which the preservation periods and access provisions of this rule go beyond current practices, and (3) the likelihood that employees will exercise their rights of access. Examination of these three factors supports the agency's conclusion that this standard will not present major compliance burdens to industry.

The impact of the final standard first of all depends on the extent to which exposure and medical records are actually created in industry. The NIOSH National Occupational Hazards (NOH) Survey examined several factors which bear on this issue. The NIOSH survey examined the extent to which businesses receive industrial hygiene services (Ex. 171, Table 2), regularly monitor environmental conditions (Ex. 171, Table 27), have formally established health units (Ex. 171, Table 4), regularly record health information about new employees (Ex. 171, Table 9), require preplacement physical examinations of employees (Ex. 171, Table 10), provide periodic medical examinations of some type to employees (Ex. 171, Table 11), and both receive industrial hygiene services and have a formally established health unit (Ex. 171, Table 38). Examination of the data in these tables yields several conclusions. Many employers generate neither exposure nor medical records, and thus will experience little or no impact from this rule. To the extent records exist (other than pertaining to pre-employment medical information), they are generated primarily by large employers (over 500 employees), who would be expected to have existing administrative staffs that could absorb the administrative burdens of this rule. Smaller employers (less than 250 employees) are likely to generate very few records, and thus will experience little impact (*See also*, Fertilizer Inst., Tr. 2163–65). When they do keep exposure records, it is likely because there is a potential hazard concerning the exposure being monitored (Duncan (NAM), Tr. 2200). And finally, records are generated primarily by basic manufacturing employers, including chemical and allied products employers, and rarely by contract construction employers who would be expected to have transient workforces and workplaces. The burdens of the final standard will thus fall most heavily on large employers in industry sectors with substantial use of toxic substances and harmful physical agents (*See*, NAM, Tr. 2200). Two tables which consolidate selected data from the NIOSH NOH Survey (Ex. 171, Tables 2, 4, 9, 10, 11, 27, 38, *supra*) are as follows:

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TABLE 1 - FACTORS RELEVANT TO THE EXISTENCE OF EXPOSURE AND MEDICAL RECORDS-- BY SIZE OF PLANT

	FACTORS RELEVANT TO THE EXISTENCE OF EXPOSURE AND MEDICAL RECORDS	PERCENTAGES OF PLANTS-ALL INDUSTRIES				TOTAL PERCENTAGES OF EMPLOYEES COVERED
		SMALL (8-250)	MEDIUM (250-500)	LARGE (OVER 500)	TOTAL	
1.	INDUSTRIAL HYGIENE SERVICES ARE USED	1.5	15.3	42.3	3.1	24.2
2.	ENVIRONMENTAL CONDITIONS ARE REGULARLY MONITORED	1.4	9.0	43.0	2.5	21.7
3.	A FORMALLY ESTABLISHED HEALTH UNIT EXISTS	2.3	13.6	70.0	4.0	31.5
4.	HEALTH INFORMATION ON NEW EMPLOYEES IS REGULARLY RECORDED	50.9	79.6	96.3	53.7	78.4
5.	PRE-PLACEMENT PHYSICAL EXAMINATIONS ARE REQUIRED	15.0	44.3	75.0	18.1	47.7
6.	PERIODIC MEDICAL EXAMINATIONS OF SOME TYPE ARE PROVIDED	8.9	26.2	54.9	10.8	33.7
7.	BOTH INDUSTRIAL HYGIENE SERVICES ARE USED AND A FORMALLY ESTABLISHED HEALTH UNIT EXISTS	0.1	4.2	34.2	0.8	17.9

TABLE 2 - FACTORS RELEVANT TO THE EXISTENCE OF EXPOSURE AND MEDICAL RECORDS-- BY TYPE OF INDUSTRY

	FACTORS RELEVANT TO THE EXISTENCE OF EXPOSURE AND MEDICAL RECORDS	PERCENTAGES OF PLANTS							
		ALL INDUSTRIES		MANUFACTURING		CHEMICALS AND ALLIED PRODUCTS		CONTRACT CONSTRUCTION	
		TOTAL	LARGE	TOTAL	LARGE	TOTAL	LARGE	TOTAL	LARGE
1.	INDUSTRIAL HYGIENE SERVICES ARE USED	3.1	42.3	12.4	70.0	29.0	89.1	1.4	43.6
2.	ENVIRONMENTAL CONDITIONS ARE REGULARLY MONITORED	2.5	43.0	6.1	51.1	21.3	71.9	1.5	0.0
3.	A FORMALLY ESTABLISHED HEALTH UNIT EXISTS	4.0	70.0	8.5	80.4	14.4	79.4	0.5	22.3
4.	HEALTH INFORMATION ON NEW EMPLOYEES IS REGULARLY RECORDED	53.7	96.3	61.5	99.0	80.2	100.0	29.2	64.9
5.	PRE-PLACEMENT PHYSICAL EXAMINATIONS ARE REQUIRED	18.1	75.0	25.9	87.3	49.4	89.1	5.6	0.0
6.	PERIODIC MEDICAL EXAMINATIONS OF SOME TYPE ARE PROVIDED	10.8	54.9	14.9	59.1	28.6	58.9	1.9	8.5
7.	BOTH INDUSTRIAL HYGIENE SERVICES ARE USED AND A FORMALLY ESTABLISHED HEALTH UNIT EXISTS	0.8	34.2	3.9	58.2	10.9	79.4	0.1	0.0

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The economic impact of this standard also depends on the extent to which the preservation and access provisions of the final rule go beyond current industrial practices. As discussed in Part VII.D, *infra*, medical records are currently generally maintained for extremely long periods of time. The record is less clear as to general retention practices regarding exposure records, but NIOSH indicated its experience that employers were increasingly maintaining exposure records for thirty or more years (Ex. 16, p. 7). The ongoing development of sophisticated information retrieval systems by corporations and hospitals will also serve to minimize the impact of the rule (*See,* AMRA, Tr. 2465; Illinois Bell, Tr. 2532; AMOCO, Ex. 133, p. 2; API, Ex. 158, p. 47n.99). Finally, numerous employers emphasized that they currently afford worker access to occupational exposure and medical information (Union Carbide Co., Ex. 2(104), p. 1; Shell Oil Co., Ex. 2(105), p. 2; API, Ex. 158, p. 18; Polaroid Corp., Ex. 2(187), pp. 1–2; Sheratt (Data Gen. Corp.), Tr. 2002–3; EEI, Tr. 1783–4; NAM, Tr. 2195).

The third major factor affecting the economic impact of this standard is the likelihood that employees and designated representatives will frequently invoke their access rights. While the record indicates that many employees and unions do intend to invoke their rights under this standard, there is no reason to expect a flood of either initial or periodic requests for access (*See,* Chamber of Commerce, Tr. 997; EEI, Tr. 1784; Privacy Commission, Ex. 101, pp. 288–9; Ex. 103; Annas, Tr. 1759–60; Weiner, Ex. 163).

In addition, the standard contains a number of provisions which should result in minimizing the final standard's burdens on industry. These include:

(1) Limiting the scope of the standard to records relevant to employees exposed to toxic substances or harmful physical agents;

(2) Defining "analyses using exposure and medical records" in a way which avoids requiring access to purely preliminary drafts;

(3) Excluding certain physical specimens, health insurance records, and employee assistance programs records from coverage by the standard;

(4) Reducing the required retention periods as to certain exposure records;

(5) Providing employers complete flexibility in the manner in which records are maintained (except for x-ray films);

(6) Specifying that access must be provided in a "reasonable time, place, and manner;"

(7) Providing employers a reasonable period of time to provide access;

(8) Authorizing the assessment of reasonable administrative costs for repeat requests for copies of records;

(9) Permitting alternatives to full or direct access to medical records if the employee is agreeable;

(10) Assuring protection for certain trade secret information; and

(11) Permitting employers to choose the most desirable means of informing employees of their rights under this rule.

Finally, in considering the economic burdens presented by this rule, it is important not to lose sight of the burdens posed by occupational disease. Occupational disease is extremely costly to our society, both in terms of human impact (premature death, pain and suffering, family anguish, etc.) and purely economic consequences (extended health care costs, increased workers' compensation expenses, lost productivity, absenteeism, larger welfare costs, etc.). The goal of this standard is to enable employees, their representatives, and OSHA to better detect, treat, and prevent occupational disease through access to employee exposure and medical records. By serving to reduce the human and economic impact of occupational disease, this rule will yield substantial benefits which fully justify promulgation of this rule notwithstanding the administrative costs that will be imposed on employers.

VII. Summary and Explanation of the Standard

The final standard is similar in structure and content to the proposed rule, but contains numerous refinements in light of the rulemaking record and the agency's evaluation of it. Significant refinements include: (1) a purpose paragraph to guide application of the standard; (2) more detailed definitions of key terms including the elements of "specific written consent"; (3) an extension of the retention period for basic exposure and medical records along with a reduction in the retention period for certain exposure data; (4) provisions governing the mechanics of access to records including authorizing the employer to charge reasonable fees for multiple requests for copies of records; (5) conditioning the access of all designated representatives to an employee's medical records upon the specific written consent of the employee; (6) permitting an employer's physician to release certain medical data only to a designated representative and not directly to the employee; (7) permitting the deletion of the identity of confidential sources from requested medical records; (8) combining OSHA access to employee medical records with strict administrative regulations; and (9) provisions governing the treatment of trade secret information.

The final standard also differs from the proposal in that NIOSH is not covered by the final rule. NIOSH has independent statutory authority under section 20 of the Act (29 U.S.C. 669) to seek access to records, and furthermore testified that it did not intend to rely upon this final rule to assure its access to necessary records (Tr. 460, 472). OSHA's access to employee medical records is tied to detailed administrative regulations (29 CFR 1913.10) which have been specifically tailored to OSHA's needs and methods of operations. These administrative regulations may in some respects be ill-suited to NIOSH operations. Accordingly, after consultation with NIOSH, the agency decided to exclude NIOSH from the final standard's access provisions.

A. Paragraph (a)—*Purpose*

The "Purpose" paragraph of the final standard creates no substantive requirements, but rather expresses the agency's intentions in promulgating the standard. The proposed rule contained no similar express language. The final rule assures access by employees and their representatives, and codifies OSHA access to relevant employee medical and exposure records. The goal behind access is to yield both direct and indirect improvements in the detection, treatment and prevention of occupational disease. This is articulated as a guide to application and interpretation of the entire standard, and reflects the many ways in which employees, their representatives, and OSHA are likely to use access rights. The Purposes and Need for the Regulation portion of the preamble, III, *supra*, discusses in great detail numerous means by which access to medical and exposure records will yield occupational health benefits. Additional benefits will likely arise from other uses of these records that we have not contemplated.

The "Purpose" paragraph contains several other statements in order to preclude possible misinterpretations of the standard. As with all OSHA regulations, employers are responsible for assuring compliance with the rule. Non-medical management personnel, however, generally have no right to unconsented access to the contents of employee medical records. Concern has been expressed that employers might construe the rule as giving them the right to unconsented access, which medical ethics now denies them (USWA, Ex. 43, pp. 3–4; Ex. 160, p. 16). To preclude this interpretation, the rule states that "The activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records." It is the agency's expectation that where medical personnel maintain the medical records, they will handle the mechanics of providing access on behalf of the employer. The standard embodies this expectation without attempting to regulate the manner in which employers maintain employee medical records (*See,* Wrenn, Tr. 99–100).

This standard is promulgated against a background of existing legal and ethical obligations concerning the medical-care relationship, especially the maintenance and confidentiality of employee medical information and the duty to disclose information to patients/employees. Legal obligations also exist with respect to trade secret information. These subjects are discussed at length elsewhere in the preamble. To foreclose arguments that OSHA has attempted to preempt existing obligations, the final rule states that "except as expressly provided, nothing in this section is intended to affect" these matters. For example, this standard is in no way intended to diminish the obligation of a physician to inform an employee of a diagnosis of disease immediately. This standard similarly does not override state legal remedies for the abuse of trade secret information.

B. Paragraph (b)—*Scope and application*

The language of this paragraph generally follows that of the proposed rule (43 FR 31374), but has been expanded to better express the intended coverage of the standard. As originally proposed, the final standard applies to general industry, maritime, and construction employers having employees exposed to toxic substances or harmful physical agents. Since the rule seeks to yield benefits in the detection, treatment and prevention of occupational disease, coverage is appropriately limited to records relevant to employees currently or previously exposed to toxic substances or harmful physical agents. The definitions paragraph of the rule (subparagraphs (c)(8) and (c)(11)) defines the phrases "exposure or exposed" and "toxic substance or harmful physical agent." The terms "employee exposure record," "employee medical record," and "analysis using employee exposure or medical records" are also defined in subparagraphs (c)(5), (c)(6), and (c)(2), respectively.

Subparagraph (b)(2) expresses the final standard's application to all relevant exposure, medical, and analysis records whether or not they are related to specific occupational safety and health standards. In so providing, the agency rejected suggestions that there be an exclusion for exposure and medical records created prior to the effective date of the regulation. The agency also rejected arguments that employee medical records could or should be separated into "occupational" and "non-occupational" components, with the standard applying solely to the "occupational" component. Lastly, subparagraph (b)(3) and the phrase "contracts for" in (b)(1) were added to express clearly the agency's intention that the standard apply to records generated or maintained by contractors of the employer as well as by in-house employees.

Before explaining in detail the agency's decisionmaking on these matters in light of the record, it is important to stress that this standard is limited both in its scope and the resulting burdens placed on employers. The standard does not mandate the creation of new records or reports. It does not impose any independent obligation on employers to monitor or measure employee exposures or to provide medical surveillance or examinations. Also, the standard does not establish mandatory requirements as to the format of exposure or medical records. The standard does, however, provide that once employee exposure and medical records are created for any reason, they must be preserved. In addition, persons vitally interested in the contents of these records—employees, their representatives and OSHA—must be provided, upon request, with access to them. This standard is written to assure that access will be consistent with appropriate personal privacy and data confidentiality protections.

The final standard applies to "each general industry, maritime, and construction employer" of employees exposed to toxic substances or harmful physical agents. During the rulemaking proceeding, several participants urged that certain classes of employers, most notably small businesses, and employers with multiple or transient work sites or transient workforces, be entirely excluded from the rule's coverage because of the anticipated excessive administrative and economic burdens of the final rule (Gen. Foods Corp., Ex. 2(99); Lavino Shipping Co., Ex. 2(144), p. 2; Dr. Amdur, Tr. 572; Chamber of Commerce, Tr. 979; So. Cal. Edison Co., Tr. 1575; Crowley Maritime Co., Tr. 1578; Fertilizer Inst., Tr. 2160–61; NAM, Tr. 2177–78; Refractories Inst., Tr. 2216; Steal Plate Fabricators, Tr. 2522). In addition, several participants argued that the rule should not apply to employers who only have safety, as opposed to health, hazards (Steel Plate Fabricators, Tr. 2449; Edison Electric Inst., Ex. 162, pp. 11–12).

Having considered the evidence provided, the agency concluded that there is no rational basis for categorically excluding any broad class of employers from coverage by the final standard. First, as discussed in the feasibility portion of the preamble, VI, *supra*, the agency is confident that the final standard does not impose burdensome or unreasonable administrative and economic costs on any class of employers. Second, the NIOSH National Occupational Hazards Survey (NOHS) documented the fact that exposures to toxic substances occur throughout industry among all types and sizes of employers (Ex. 178; *See also,* testimony of Edison Electric Institute concerning health hazards in the utility industry, Tr. 1917, 1825).

Third, there is no justification for excluding from this rule employees exposed to toxic substances for only a matter of weeks or months as opposed to years. The duration of exposure to a toxic substance may affect the rate of disease incidence, and perhaps the latency period for particular diseases, but the intensity of exposure is equally important. Even short term exposures to toxic substances may be associated with increased risks of chronic disease (as well as the various acute reactions to over-exposure). Research has demonstrated occupationally-related disease in asbestos workers exposed for a matter of months (Ex. 179), and similar results have been obtained for beryllium workers (Ex. 180), for pesticides workers (Ex. 181), for arsenic workers (Ex. 182; *See also,* 43 FR 19587), and for vinyl chloride workers (Ex. 183). It is OSHA's expert judgment that there is no safe level of exposure to a carcinogen; thus any exposure poses some incremental risk of disease (*See,* 29 CFR Part 1990, 45 FR 5002, 5023 (Jan. 22, 1980)). Animal research has, for example, demonstrated chemically-induced neoplasms long after administration of a single dose of vinyl chloride (Ex. 184) or asbestos (Ex. 185).

Although no exclusion from coverage is provided to specific classes of employers due to size, type of business, or nature of workforce, the final standard does exclude employers who have no employees exposed at any time

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to toxic substances or harmful physical agents. Furthermore, the final standard only applies to records pertaining to exposed employees, and only to the extent that medical or exposure records exist with respect to these employees. As a result, records of employees who are exposed solely to typical safety hazards (e.g., trips, falls, traumatic injury, etc.) are not covered by this rule.

Subparagraph (b)(2) provides that the final standard applies to records "of employees exposed to toxic substances or harmful physical agents, whether or not the records are related to specific occupational safety and health standards." Numerous participants argued that this scope was too broad, and that the final standard should be limited to records mandated by specific OSHA standards (AAOM, Ex. 2(101), p. 2; Atlantic Richfield Co., Ex. 2(109), p. 1; Machinery and Allied Products Inst., Ex. 2(119), p. 3; RMA, Ex. 2(123), p. 2; Grumman Corp., Ex. 2(55); Shell Oil Co., Ex. 2(105)). However, limiting the scope of the standard only to those records which are created pursuant to the provisions of specific OSHA standards would clearly deny employees access to important job-related health information, and limit the discovery of previously unknown health hazards (Dr. Wegman, Tr. 220–2; Cal. Medical Ass'n, Tr. 1715–16; Ill. State Medical Society, Tr. 2529).

OSHA's limited resources and the time-consuming nature of the standard-setting process allow for the comprehensive regulation in the foreseeable future of only a very small percentage of the toxic chemicals found in the workplace. Since 1971, OSHA has to date promulgated 24 comprehensive toxic substances regulations, all of which contain records access provisions (29 CFR 1910.1001–.1045). Approximately 400 toxic substances are regulated by 29 CFR 1910.1000, which lacks specific access provisions. NIOSH has issued criteria documents recommending further regulation of some 90 substances or categories of substances (Ex. 169, pp. 1340–41). The 1978 NIOSH Registry of Toxic Effects of Chemicals covers some 33,929 distinct toxic substances (Ex. 169, p. xiii), although many of these substances may not currently be widely used. Approximately 1500 new toxic substances are added to the Registry each quarter (Ex. 169, p. 1362). This final standard has been promulgated to improve the ability of employees and their representatives to detect, treat, and prevent occupational diseases, and especially those associated with non-regulated or under-regulated substances. The greatest benefits of this standard may result from access to information contained in otherwise non-mandated records.

Neither paragraph (b) nor the (c)(6) definition of "employee medical record" makes any distinction between "occupational" and "non-occupational" medical information. The preamble to the proposal explicitly recognized that some information in a medical record might be irrelevant to occupational health concerns, and invited "comments on whether any types of information in the medical records should be excluded from the disclosure requirements of the final rule" (43 FR 31372). Several participants urged that "non-occupational" medical information be excluded from coverage by the final rule (AMRA, Tr. 2454; AAOM, Ex. 2(101), p. 2; VII.C.6, *infra*). As explained further in the discussion of the (c)(6) definition of "employee medical record," OSHA decided that any attempted segregation of "occupational" and "non-occupational" records would be both impractical and unwise. The rulemaking record indicates that physicians do not keep two sets of records and that there exist no reliable criteria by which one type of record could be distinguished in advance from the other. Because the symptoms of occupationally related diseases may be identical to diseases that are non-occupational in origin, it is necessary that the entire records of an exposed employee be available for examination and analysis with appropriate safeguards.

Just as the final standard makes no distinction between "occupational" and "non-occupational" records, no exclusion is provided for "historical records". Several employers argued that the standard should not apply to records created before the effective date of this standard, and certainly not to records created before the OSH Act itself went into effect (Shell Oil Co., Ex. 2(105), p. 3; Mobay Chemical Corp., Ex. 2(97); Nat. Agr. Chemicals Assn., Ex. 2(127), p. 1; NAM, Ex. 2(135), pp. 7–8). Some employers maintained that since these records were generated without the knowledge that they would become disclosable under this rule, they should not now be made disclosable (AISI, Ex. 2(142), pp. 8–9; Borg-Warner Corp., Ex. 2(177), p. 3). This argument complements the view held by some participants that since these records have been generated voluntarily by employers, it is unfair to subject the conscientious employer to the disclosure obligations of this standard, especially since employers who have not undertaken exposure surveillance programs are not so obligated.

This standard, however, is not meant to penalize conscientious employers, but is predicated on the judgment that invaluable exposure and medical records must be shared so as to minimize occupational disease. Employer arguments of unfairness must fail when balanced against the fact that continued secrecy will substantially impair the ability of workers, their representatives, and OSHA to detect, treat and prevent occupational disease. Due to the typically long latency periods associated with occupational disease (*See,* VII.D, Preservation of records, *infra*), even very old medical and exposure records can be vitally important to the interpretation of diseases which occur today. For example, thirty year old exposure records can suggest or refute a particular etiology for a disease, thereby dictating appropriate medical treatment. Similarly, a medical record that old may contain irreplaceable baseline health data on an individual to which current health status can be compared. The value of historical records for research purposes is self-evident. Indeed, our ability to interpret disease patterns today is often frustrated by the lack of prior exposure data and such medical data as prior medical histories, smoking habits, and baseline physiological data. The exclusion of "historical" records from coverage by this rule could delay for another 20 or 30 years the positive impact of this standard on the detection of occupational disease. Since medical and exposure records are invaluable regardless of when created, the final standard contains no exclusion for "historical" records.

The American Petroleum Institute (API) in part opposed employee access to historical exposure records on the grounds that these records are usually not meaningful to employees and may often be misunderstood (Ex. 158, pp. 30–31). OSHA disagrees with these statements. Section III of the preamble discusses in detail the numerous ways in which employees and their representatives are expected to make good use of this data, and section IV.E responds to arguments of potential misinterpretation. In making exposure data available to employees, employers are not prevented by this rule from explaining historical data to their employees. That is the appropriate response to potential misinterpretation. API further testified that data not collected with research in mind rarely provides useful information concerning an individual's exposure (Ex. 158, pp. 30–31). Dr. Joel Swartz testified in rebuttal that historical records are

indeed useful in assisting researchers in reconstructing the exposure history of an employee. Even partial or incomplete data "could still be very useful in showing that people were exposed as compared to not being exposed at all" (Tr. 2376). Similarly, Dr. Wegman stated that "all past data should be available; that is, not only data which is specifically prescribed by OSHA, but any health data which could conceivably lead to developing appropriate research conclusions from appropriately designed research data" (Tr. 207). If nothing else, historical records will reveal the identity of chemicals to which employees were exposed.

Lastly, OSHA agrees with the observation of Peter Weiner as to arguments for excluding records predating the OSH Act that "the term 'pre-Act' is misleading; these are presently maintained records, even though they contain records of past exposure" (Ex. 9A, p. 21). In addition, many of these "historical" records may have been created by employers prior to 1970 in order to monitor compliance with mandatory Federal occupational safety and health laws such as the Walsh-Healy Public Contracts Act (41 U.S.C. 35–45; *See,* 41 CFR 50–204.1–205.10; s4(b)(2) of the Act, 29 U.S.C. 653(b)(2)). Irrespective of this possibility, the data base of occupational health information which already exists should be made available immediately to those most directly concerned with the relationship between work and disease. To require waiting twenty or thirty years to partially recreate this data base would be unconscionable. The public health value of this information overrides all arguments that the continued secrecy of "historical" records is appropriate.

The final standard applies to each employer who "makes, maintains, contracts for, or has access to" exposure or medical records. The preamble to the proposed rule best expresses the agency's intention that the final rule be given a broad application in this respect:

> To come within the scope of this . . . rule, the records do not have to be within the employer's physical control as long as the employer has access to them. The concept of employer access encompasses situations in which any of the employer's officers, employees, agents, or contractors (including the corporate medical department) has physical control or access to records, even though they are not generally available to all officers, employees, agents, and contractors. (43 FR 31372)

Subparagraph (b)(3) and the phrase "contracts for" in (b)(1) were added to clearly express the agency's intent that the final standard apply to records generated or maintained by contractors, including records generated on a fee-for-service basis. Although the preamble to the proposal (41 FR 31372 (July 21, 1978)) and OSHA official Grover Wrenn's testimony at the outset of the hearings (Tr. 24–25) explicitly stated this intent, subparagraph (b)(3) and the phrase "contract for" in (b)(1) were added to the final standard to avoid any possible ambiguity (*See,* International Chemical Workers' Union, Ex. 28, p. 6; Weiner, Ex. 9A, p. 28). Coverage of contractor generated or maintained records is crucial since the hearing record indicates that many industrial medical services are performed through contractual arrangements, rather than done in-house by persons employed exclusively by the employer (Southern Gas Assn., Ex. 2(67); Cyanamid Co., Ex. 2(102), pp. 1–2; Dr. Wegman, Tr. 216–17; Chamber of Commerce, Tr. 981; AOMA, Tr. 1531; California Occupational Health Nurses, Tr. 1721; USWA, Ex. 160, p. 16; California Department of Industrial Relations, Ex. 2(132), p. 2; Mechanical Contractors Ass'n., Ex. 2(157)). To exempt contractor generated or maintained records from the final standard would deprive substantial numbers of workers of the benefits of this rule, and would also create a simple vehicle by which employers could in the future evade their obligations.

Subparagraph (b)(3) also provides that "Each employer shall assure that the preservation and access requirements of this section are complied with regardless of the manner in which records are made or maintained." This provision is intended to explicitly put employers on notice that, where necessary, relationships must be modified or created anew in order to assure that this rule is complied with. OSHA thus intends to provide employers maximum flexibility while at the same time emphasizing employer responsibility to assure compliance with the rule (*See,* Weiner, Ex. 9A, pp. 28–29).

A significant remaining matter is the final standard's exclusion of agricultural employers. The preamble to the proposed rule stated that it would apply to each employer in general industry, maritime, and construction who makes, maintains, or has access to employee exposure or medical records (43 FR 31372). Agricultural employers were implicitly excluded. The Migrant Legal Action Program, Inc., (MLAP) (Ex. 154) and the Health Research Group (HRG) (TR. 2032–4; Ex. 161) argued that agricultural workers should be included within the scope of the final rule, since there is no rational basis for not doing so. MLAP stated that "the burden on the agricultural employer would be no greater than it would be for any other employer," while "the value of the regulation for farmworkers would be great." (Ex. 154, p. 2). The AFL–CIO also supported this position (Ex. 152, p. 32).

Both MLAP and HRG observed that agricultural employment is one of the most hazardous occupations:

> Nationwide, in 1977, there were an estimated 1800 accidental work-related deaths in agriculture. Fourteen percent (14%) of all work-related deaths occur in agriculture, and the annual death rate in agriculture is 53 per 100,000 workers. In 1977 one of 20 farmworkers suffered a disabling injury. This makes agriculture the third most hazardous industry in the United States, surpassed only by construction and mining/quarrying. (MLAP, Ex. 154, p. 1)

HRG noted that farmworkers are often exposed to extremely toxic substances such as the many pesticides in current usage (Tr. 2033). HRG also stated:

> Rarely if ever do farmworkers know the nature or extent of these exposures. And if a farmworker were to ask a labor contractor or grower for records which shed light on those exposures, the records would likely be destroyed and the farmworkers fired.
>
> Without rules requiring agricultural employers to retain and disclose exposure and medical records, farmworkers will surely be denied the right to know about health hazards in their workplaces. (HRG, Tr. 2033)

MLAP further stated that the need for farmworker access to exposure and medical information is reinforced by the limited resources of OSHA to inspect agricultural worksites (Ex. 154, p. 2, 3).

OSHA finds MLAP's and HRG's comments to be persuasive. However, since the proposed rule implicitly excluded agricultural employers from coverage, and these employers did not participate in the proceedings, OSHA believes that a further comment period is appropriate before extending the scope of this standard. Accordingly, this final rule is being simultaneouly published as a proposed rule with regard to agricultural employers. The evidence provided during the comment period, in addition to the evidence gathered in this proceeding will be evaluated in determining whether to extend the scope of this standard to agriculture operations.

As a final matter, the agency would like to stress that the limited nature of this standard is not intended to detract from the potential occupational health importance of other information created or maintained by employers. This rule is limited in scope to available medical and exposure records, but other exisiting information may have

V 4 5 M Y 2 3 8 0 UMI

significance and the prevention of disease will at times require the creation of new records. Accordingly, OSHA compliance efforts, and public health activities of other agencies such as NIOSH, will at times necessitate access to records other than those covered by this standard. This rule is not intended to limit OSHA's or any other agency's authority to seek access to such employer information in particular circumstances.

C. Paragraph (c)— *Definitions*

1. *"Access."* The proposed rule used the term "access" in the sense of a right and opportunity to examine and copy records (43 FR 31373–74). The final standard makes this explicit in subparagraph (c)(1). Paragraph (e), Access to Records, governs the specifics of how access rights may be exercised.

2. *"Analysis using exposure or medical records."* The proposed rule defined "employee exposure record" and "employee medical record" as including "general research or statistical studies based on information collected from" either of these forms of individual records (43 FR 31372, 31374). The final standard removes studies from the definition of individual records, and creates a separate definition—"analysis using exposure or medical records." This change was made for four reasons. First, based on the manner in which exposure and medical records are created and maintained, it strains normal meaning to speak of an individual record as encompassing an aggregation of data from numerous records. Second, the phrase "general research or statistical studies" was correctly viewed as overly vague (AFL–CIO, Ex. 152, p. 39); thus there was a need to express the agency's intentions better. Third, subparagraph (e)(2)(iii) provides that analyses without personally identifiable information must be made available, upon request, to workers, collective bargaining representatives, and other designated representatives without requiring them to obtain the specific written consent of the individual subjects whose records underlie the analyses. Since these analyses should not be viewed as traditional medical records, the final rule created a separate definition (*See*, Deere & Co., Ex. 2(84), p. 2). Fourth, the final standard exempts purely preliminary work on analyses of records from the access requirements, and this was most easily accomplished by specifically defining what is meant by analyses based on individual records.

The term "analysis using exposure or medical records" is defined as "any compilation of data, or any research, statistical or other study based at least in part on information collected from individual employee exposure or medical records, or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis." This definition refines the proposal in several respects. The phrase "any compilation of data, or any research, statistical or other study" more clearly expresses the intention to cover all situations where an employer evaluates or compiles exposure and/or medical data. Charts, graphs, tables, industrial hygiene surveys, evaluations of disease experience, and other summaries and evaluations are covered by this definition (*See*, AFL–CIO, Ex. 39, p. 5, Ex. 152, p. 39; ICWU, Ex. 28, p. 13, Tr. 758–59; OCAW, Tr. 702; UAW, Ex. 35, pp. 11–12). Analyses "based at least in part on . . . information collected from health insurance claims records" were included since studies of the utilization of medical services covered by health insurance may reveal patterns of occupational disease. These analyses based on insurance claims records are covered by the final standard even though the individual records upon which the analyses were based may be held by an insurance company or otherwise not treated as employee medical records (and thus not subject to the access or preservation requirements of this rule).

The phrase, "provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis," has been added in response to employer concerns that premature access to studies could be misleading and hinder research. OSHA recognizes that researchers may go through several early revisions and drafts in the review and analysis of data and that this process deserves some insulation from close scrutiny. However, once the analysis has been sufficiently completed as to be reported to the employer—i.e., to someone in management beyond those individuals immediately involved in preparing the analysis—then the analysis should be accessible to workers, to their representatives, and to OSHA. Similarily, the analysis should be accessible if the persons preparing it have stopped working on the analysis even though no detailed report has been made to management. The wording of the definition also responds to concerns that providing access only to "final" studies could invite evasion through the devices of labeling analyses as "draft" or by purging earlier drafts of unfavorable findings. The language adopted should minimize these results while precluding premature access to ongoing studies and analyses.

3. *"Designated Representative."* The preamble to the proposed rule discussed the term "designated representative" as follows:

> This proposal does not provide a limiting definition of "designated representative." Rather, a designated representative could be anyone to whom an employee has given written permission to act on his or her behalf to obtain direct access to his or her records. For instance, a collective bargaining agent, physician, attorney, family member, fellow employee, or anyone else, could be a designated representative, provided the necessary consent were obtained. Access to employee exposure records and medical records by designated representatives is necessary so they can assist the employees they represent in making effective use of their records and in securing their rights under the OSHA Act. (43 FR 31373)

The final standard on subparagraph (c)(3) makes this explicit. Designated representatives include "any individual or organization to whom an employee gives written authorization to exercise a right of access." The final rule contains no rigid criteria as to what this written authorization must say. Any written statement which is signed and indicates that the designated representative is authorized to exercise the employee's right of access will suffice. The rule also singles out "a recognized or certified collective bargaining agent" as included within this (c)(3) definition for the purposes of access to employee exposure records and analyses using exposure or medical records. A "recognized or certified collective bargaining agent" is a labor union which has legal status under the National Labor Relations Act (29 U.S.C. 151 *et seq.*) as the exclusive agent for a particular collective bargaining unit.

OSHA believes that enabling an employee to designate anybody he or she desires to entrust with the access rights of this rule will most effectively achieve the purposes of the Act and this standard. At the same time, recognized or certified collective bargaining agents, who have the statutory authority to represent the enterests of employees within the bargaining unit on health and safety matters, are automatically considered to be "designated representatives" by virtue of their special bargaining status. Under the rule, this gives them the right of access to employee exposure records and analyses using exposure or medical records without individual employee consent. However, like any other designated representatives, collective bargaining agents must have the specific written consent of an employee to get access to an employee's medical record.

4. *"Employee."* The term "employee" has a statutory definition (s3(6) of the Act, 29 U.S.C. 652(3)(6)) which governs this rule, but the final standard contains language to clarify the intended coverage. The proposed rule guaranteed access rights to former employees (43 FR 31374). The final rule makes this explicit in the definition of "employee" so as to avoid repetitive use of the phrase "and former employees" each time the standard created a right of access. Former employees have needs of access to records relevant to their current or future health status as compelling as the needs of current employees; thus the final rule makes no distinction between former and current employees.

The proposed rule also covered "exposure records of past and potential exposures" (*Id.*). The phrase "potential exposures" was the source of some concern, since it appeared to expand the class of employees who would be given access rights without clearly delimiting who they were (MCA, Ex. 2(125), p. 11; Rubber Mfgr. Assn., Ex. 2(128), p. 3; Dresser Industries, Inc., Ex. 2(130), p. 7; Beckman Instruments, Inc., Ex. 2A(6), p. 2; EEI, Ex. 2A(36), pp. 24–25). The final standard better expresses OSHA's intent by defining "employee" as including "an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents." Mere job applicants and employees with only hypothetical future exposure are thus not entitled to any rights under this rule, but employees who are being offered or assigned to new jobs involving exposure to toxic substances or harmful physical agents are covered by the standard (*See*, Dr. Wegman, Tr. 202).

At the suggestion of the Xerox Corp., the final rule also contains language assuring that the legal representative of a deceased or legally encapacitated employee may exercise rights under this rule (Xerox Corp., Ex. 2(136), p. 2). OSHA believes that the goals of the Act are well served by facilitating attempts by such legal representatives to ascertain whether the deceased or legallly incapacitated employee was a victim of occupational disease, and to assist health research in discovering the causes of occupational disease. The records of deceased and incapacitated workers are obviously relevant to occupational health research. Therefore, the rule explicitly applies to records relevant to deceased and legally incapacitated employees.

5. *"Employee exposure record."* The proposed rule defined this term as meaning "a record of monitoring or measuring which contains qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents" (43 FR 31373). The preamble to the proposal explained as follows:

> These records would include determinations of airborne concentrations of chemicals to which an employee is exposed, or would be exposed if not wearing a respirator. They would also include determinations of physical agents within the workplace environment which might impair an employee's health or functional capacity, for example, records of heat, noise, radiation, vibration, or hypo- or hyperbaric (i.e. nonatmospheric) pressure. Records of area sampling of workplace contaminant levels and representative or random employee sampling are covered by this definition. If a record contains information which is useful to determine employee exposure, the record would be covered by this rule even though the record was not created for occupational health purposes. (43 FR 31372)

This generalized definition, particularly the phrase "qualitative or quantitative information" gave rise to considerable discussion and debate during the rulemaking proceeding. In light of the record, the agency decided to specify more precisely the information covered by the final standard (*See*, Electronic Industries Assn., Ex. 2(93); Union Carbide Corp., Ex. 2(104), p. 1; Fla. Agricultural Research Inst., Ex. 2A(19), pp. 1–2). The language adopted focuses on the major issues raised during the proceeding, particularly sampling methodologies, calculations, background data, biological monitoring tests, and the types of other "qualitative and quantitative" information of greatest importance.

Subparagraph (c)(5)(i) covers "environmental (workplace) monitoring or measuring, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained." There was little disagreement that classical industrial hygiene monitoring or measurement results should be covered by the rule. The phrase "including personal, area, grab, wipe, or other form of sampling" was added to ensure that all forms of industrial hygiene sampling were embraced (Ex. 186). As expressed by OSHA official Grover Wrenn, the intention is to encompass data which "in any way characterizes the environment in which workers are working" (Tr. 89).

The issue of collection and analytical methodologies, calculations, and other background data was a matter subject to considerable difference of opinion. Some industry witnesses argued that complete background data and calculations should not be covered by this standard due to their possible misinterpretation by the employee (API, Ex. 158, p. 30–2). Since this kind of information can be voluminous, it was also stated that its inclusion within the definition of "employee exposure record" would be particularly burdensome (SOCMA, Tr. 523; DuPont, Ex. 12, p. 10). In contrast, there was testimony from the unions and others that such data would be useful over and above the basic results of monitoring and measuring and should be included within the "employee exposure record" definition.

While it is true that some data contained in underlying calculations and laboratory notebooks might not be of great interest to workers (i.e. the carrier gas or temperature reading of a gas chromatograph), some information would be of direct interest and use. For example, the time over which a sample was taken, the date and the number of readings constitute information readily understood by workers and important to the interpretation of exposure readings. While a worker on the shop floor may not know (or care to know) the difference between a midget impinger or an activated charcoal absorbant, he or she can determine if measurements were taken during down time or reflect true exposure. Moreover, representatives of workers trained in industrial hygiene are fully capable of interpreting and utilizing technical documentation of exposure measurements (Tr. 891, 1165, 1167, 1194 (USWA)). (AFL–CIO, Ex. 152, p. 41)

* * * * *

A minicourse in medical science or industrial hygiene is not required for the ordinary worker, who is concerned principally with his or her own exposure readings. On the other hand, an industrial hygienist employed by a union would find the underlying data and calculations essential for the purpose of verifying the results obtained by the employer. (Weiner, Ex. 9A, p. 22).

In light of the record and the agency's expertise in industrial hygiene matters, OSHA concluded that the final standard should apply to collection and analytical methodologies, calculations and background data. The approach chosen by the final rule is to assure access to both the sampling results and information relevant to interpretation of the results. Sampling results often will be less meaningful unless one knows precisely where the sampling was done, at what time of day, for what period of time, and under what working conditions. The collection plan or methodology will provide this data. Analytical methodologies and mathematical calculation methods may

V 4 5 M Y 2 3 8 0 UMI

be of considerable importance to verify the statistical significance and accuracy of the results obtained. As Mr. Weiner and the AFL–CIO noted, some of these matters will be easily appreciated by workers; others will at times require evaluation by industrial hygienists. Subparagraph (d)(1)(ii) provides reduced retention requirements for some of this information, but subparagraph (c)(5)(i) appropriately includes it within the definition of "employee exposure record." In addition, the definition does not cover all sampling methodology, calculation and other background data, but only that information "relevant to interpretation of the results obtained." A rule of reason is intended to apply as dictated by sound industrial hygiene practice.

The next major issue concerns biological monitoring tests. Numerous participants urged that the final standard define "exposure records" as including biological minitoring results, but little comment was directed towards specifying which tests should be covered (Lovejoy, Ex. 2(90); Dr. Johnson (MCA), Tr. 417; Weiner, Ex. 9A, p. 24, Tr. 166–67, 195; Taylor (AFL–CIO), Tr. 636; AFL–CIO, Ex. 152, pp. 41–42; Eller (ICWU), Tr. 751; USWA, Ex. 160, pp. 21–22, Tr. 900; Dr. Parkinson, Tr. 1146–47). Biological monitoring tests involve the evaluation of a body system (e.g., pulmonary function) or a body fluid or tissue (e.g., blood, urine, breath, sputum, hair, fingernails). These tests generally measure either the fact or level of absorption of a substance (e.g., blood lead level), or the physiological or biochemical status of some body system (e.g., the efficiency with which the kidney is filtering the blood as reflected in the urinalysis or in the serum creatinine or blood urea nitrogen).

The final standard treats certain biological monitoring results as exposure records, but only those tests which "directly assess the absorption of a substance or agent by a body system." This limited coverage is consistent with comments made by Dr. Silverstein of the UAW:

> We believe, in general, that in the absence of written consent an employee should not have access to the medical records of fellow employees, even if those with related or comparable exposures. Reasonable exceptions to this guideline are necessary, however, for the unique and relatively infrequent situations that a piece of information has as much the characteristic of an industrial hygiene test result as a private medical test result. For example, the results of a biological monitoring test, like a blood lead analysis, often tell as much about the plant environment as the health of the individual. The availability of blood-lead tests results may be crucially important data to the fellow worker, the union representative or the industrial hygienist, who is trying to judge the extent of hazard and to design control mechanisms. (Ex. 63, pp. 10–11).

Several biological tests are currently used to assess directly whether and to what extent a worker has absorbed a toxic substance. Tests such as blood lead level, urine mercury, urine phenols, urine monoacetylbenzidine, exhaled carbon monoxide (USWA, Ex. 160, pp. 21–22), and hair or fingernail assays for arsenic are illustrative. These tests may be a valuable complement to traditional industrial hygiene personal sampling, since the actual absorption is measured rather than mere breathing zone exposure. Since these tests predominantly measure absorption as opposed to the biological effect of the absorption, the worker's unique health status is not directly assessed. The worker's unique physiology or metabolism may influence the level of absorption, but generally this cannot be assessed by examination of the biological monitoring result by itself. Furthermore, these kinds of biological monitoring tests have not traditionally been afforded the privacy protections given to medical records (Wrenn, Tr. 53–55; USWA, Ex. 160, pp. 21–22).

From the foregoing considerations, the agency, in defining "exposure record," included biological monitoring tests of absorption, but explicitly excluded tests which assess "the biological effect of a substance or agent." These latter tests, such as lung function, sputum cytology, male fertility tests (sperm number, motility, and morphology), kidney function tests (e.g., blood urea nitrogen, and serum creatinine), and hemoglobin levels, merit the privacy protection afforded to other medical information. These tests more directly measure some aspect of an individual's unique health status, and may reveal health problems caused by non-occupational factors. Accordingly, the final rule treats these biological monitoring results as medical records rather than exposure records.

The remaining issue concerns what if any additional kinds of quantitative or qualitative information should be included within the definition of "employee exposure record." The final standard includes two kinds of information. First, "Material safety data sheets" are included within the definition of "employee exposure record." Typically, these sheets contain information on the identity of the chemical, its physical characteristics, its known toxic properties, some of its possible health effects, and proper handling procedures. Several participants urged that access to these records be assured (United Paperworkers International Union, Tr. 940–41; AFL–CIO Industrial Union Department, Tr. 947–48, 962–63; AFL–CIO, Ex. 152, p. 40). As noted by the Paperworkers Union, access to these data sheets "would at least give some idea of what, if not how much, workers are being exposed to" (Tr. 940).

Finally, the definition of "employee exposure record" includes "any other record which reveals the identity (chemical, common, or trade name) of a toxic substance or harmful physical agent". Coverage of this last kind of record, however, only arises in situations where no other type of exposure record exists for the particular toxic substance or harmful physical agent (i.e., environmental monitoring, biological monitoring, or material safety data sheets). An example of this kind of exposure record would be a detailed manual concerning toxic substances which some employers develop for the benefit of their employees (Panhandle Eastern Pipeline Co., Ex. 51; Truckline Gas Co., Ex. 2(153), p. 1). Dr. Teitelbaum also pointed out that in the absence of other kinds of exposure records, a simple purchase record might reveal the nature of an employee's exposure (Tr. 134). These kinds of records are covered to the limited extent that the identity of the substance or agent is revealed—i.e., either its chemical, common, or trade name. Subparagraph (d)(1)(ii) provides that these fall-back 'qualitative' exposure records need not be retained for any period of time so long as some record is maintained of the identity (chemical name if known) of the substance or agent used, where it was used, and when it was used. The final standard, however, is founded on the judgment that access to these records is appropriate where no alternative means exists to identify what toxic substances or harmful physical agents employees are exposed to (*See,* NJCOSH, Ex. 2(58), Attach., p. 1).

It is appropriate to stress that OSHA defined "employee exposure record" so as to make the most important information available to employees and their representatives at a minimal burden to employers. Several participants argued that other forms of information should be included in the standard; e.g., system design information, engineering tests, and mechanical ventilation measurements (Weiner, Ex. 9A, pp. 20–21), and personnel records (NIOSH, Ex. 16, p. 5). These and other forms of information may well have occupational health importance and this rule is not meant to imply otherwise. Further rulemakings may cover other kinds of data. For the time being, however, OSHA has declined to expand the scope of this final rule to encompass all types of employer-held information of possible relevance to occupational safety and health matters.

6. *"Employee medical record."* The definition contained in the final standard is similar to that of the proposal (43 FR 31374), but has been refined in light of the record. First, the final rule applies to information concerning an employee's health status which "is made or maintained by" medical personnel. Information generated by medical personnel should be accessible irrespective of how and where the information is presently maintained. The use of "made" is intended to assure access in situations where medical information is held by non-medical management departments or personnel. The use of "maintained by" medical personnel is intended to assure access to the entire contents of medical files, not just to information created by medical personnel. Once information from any source gains enough importance to be included in the medical file, that information becomes subject to the retention and access provisions of this rule.

The final standard also applies to health status information made or maintained by a "technician." This is meant to cover the results of situations where, for example, occupational health questionnaires or biological monitoring tests such as pulmonary function or audiometric testing are conducted by persons who, stricyly speaking, may not be considered as health care personnel. Records from these tests might not be made a part of the formal medical program; thus the final rule includes "technician" in the definition of "employee medical record" to assure that these health status records are covered.

An important effect of the phrase "is made or maintained by" is to exempt certain information from this rule. Miscellaneous personnel file and other information peripherally related to an employee's health status, but never included in the employee's medical file nor created by health care personnel or a technician, are excluded. Another example of information exempted would be minor injury statistics not made a part of the employee's medical file. (All employees are already entitled to access to illness and injury statistics required to be kept by 29 CFR Part 1904).

The final standard lists five categories of information explicitly treated as part of an employee medical record, all of which were mentioned in the preamble to the proposed standard (43 FR 31372). These five categories are not meant to be all-inclusive, but represent the types of information most likely to be found in a medical record and most relevant to occupational health issues. All health status information must be made accessible, however, limited only by the "made or maintained by" medical personnel or technician qualification. The wide variety of information that could be contained in employee medical records was discussed by numerous participants (*See,* Dr. Robinson, Ex. 2(95), pp. 1–3; Dr. Teitelbaum Tr. 143; Dr. Whorton, Ex. 11, pp. 4–5; Weiner, Ex. 9A, pp. 27–28; Samuels (AFL–CIO IUD), Tr. 973).

As just noted, the final standard broadly defines "employee medical record." During the rulemaking proceeding, discussion on the definition of "employee medical record" centered on whether a meaningful distinction could be made between 'occupational' and 'non-occupational' information. The preamble to the proposed rule noted that some medical information could be irrelevant to occupational health issues, and solicited information on what, if anything, should be excluded from coverage by the rule (43 FR 31372).

Several participants, who endorsed explicit exclusion of 'non-occupational' information, stated that medical records compiled by occupational physicians may contain data unrelated to workplace exposures, such as family problems, abortions, venereal disease, emotional and mental illness problems, and drug or alcohol abuse (Nat. Steel Co., Tr. 1978; DuPont Co., Ex. 12, p. 4; API, Ex. 66B, p. 3). It was even estimated that perhaps "only about 10 percent of employee consultations concern medical problems clearly defined as industrial injuries or illnesses" (API, Ex. 66B, p. 3). Other comments included:

> We recognized and agree that employees should have access to information about their occupational exposures and the condition of their health. We also recognize the need for OSHA and NIOSH to require certain exposure and medical records be kept and be available to OSHA and NIOSH. But it is unreasonable for OSHA to request *all* information contained in employee medical records be available to employees, their representatives, and Federal agencies. A medical record contains a variable amount of information because it is a record of an individual. Often there is very sensitive and personal information and sometimes employees don't know or don't remember just what is in the record. Much information in the record is not of valid interest to OSHA, NIOSH, or employee representatives. (AAOM, Ex. 2(101), p. 2)
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>
> We believe that only information related to conditions or hazards of the workplace constitute legitimate, pertinent information under these regulations, and that all other information relating to the employee's medical condition or communication with his physician should not be released from the employee medical record. (AMRA, Tr. 2454)

OSHA agrees that in particular situations some medical information may have no relevance to occupationally-related health problems. No general exclusion has been created, however, because the record indicates that such an exclusion would be impossible to define properly. The record indicates that the symptoms of occupational disease often closely mimic those of non-occupational diseases. The human body is limited in the number of ways it can react to chemical insults, and many of these responses parallel symptoms associated with a variety of other insults and disorders. The record makes it clear that occupational exposure to toxic substances can result in practically every form of apparent "non-occupational" health problem, including personality change, psychiatric disorder, minor cuts, falls, or bruises, dizziness, headache, reproductive disorders, common cold, flu or stomach-ache. This, plus our limited knowledge of occupational disease, makes it impossible to classify in advance what pieces of information may or may not be of "occupational" significance. Furthermore, even information concerning genuine non-occupational health problems may have later significance in assessing occupational health issues. For example, full understanding of an employee's pre-employment medical problems could possibly avoid unnecessary suspicion and investigation of a chemical where prior health problems recur. Numerous participants discussed these factors at length (Illinois Bell Co., Ex. 2(56); ACGIH, Ex. 2A(25), p. 3; Dr. Karrh (DuPont), Tr. 354–5; Dr. Johnson (MCA), Tr. 427; Dr. Teitelbaum, Tr. 120, 145–148; Dr. Wegman, Tr. 207–08, 211–14; Dr. Whorton, Tr. 304–05; Dr. Silverstein (UAW), Tr. 2025–26; Weiner, Tr. 171–73; AFL–CIO, Ex. 152, pp. 36–39).

On the basis of the foregoing, OSHA concluded that there is no sound way to exclude on an *a priori* basis any form of "non-occupational" information from this standard. In addition, permitting any form of "non-occupational" information exclusion could easily prove to be counterproductive. This rule's access provisions are designed to facilitate the detection of previously unrecognized occupational health problems; thus the broadest possible access with appropriate safeguards must

V 4 5 M Y 2 3 8 0 UMI

be provided or important information could be lost. As Dr. Wegman stated:

> . . . [I]f the associations are there it is our job to find them, and we must use any available medical records to find them. We cannot simply use records which are prescribed ahead of time as being associated with certain work exposures. Mostly the occupational diseases which exist are undescribed, and it is very difficult for us to predict what material in the medical record is going to be useful in determining new occupational diseases. (Tr. 207–08)
>
> I think the issue we in the research end of this profession need to address is what are the variety of symptoms associated with the variety of occupational exposures. Every single one of them can be, and if we don't maintain an open mind about that, we are going to close off certain series of occupationally related diseases. (Tr. 214)

Dr. Wegman further described in detail how easily even a broad pattern of occupationally related urinary dysfunction could go unrecognized (Tr. 220–22). The final rule contains no exclusion for "non-occupational" medical information in order to maximize the possibility that currently unrecognized occupational disease will be detected.

The record indicates that providing access to an employee's entire medical file will not prove to be burdensome, since existing recordkeeping practice has generally been to maintain both personal and job-related information in a single medical file (Dr. Whorton, Tr. 304; Dr. Spraul (Monsanto), Tr. 1909; Dr. Bernacki (NAM), Tr. 2186). Thus, Dr. Robert Hilker, past president of the AOMA, testified:

> [The AOMA] believe(s) that records should not be segregated. We believe that to practice good medicine, it is necessary to have a contemporary running record in order to evolve the thought process to decide what is happening to this patient. And when you separate them you deprive yourself of a lot of information that you need to arrive at a diagnosis and a possible cause, a possible occupational exposure, if you will. (Tr. 2529)

Dr. Givens of the California Medical Association provided similar testimony on recordkeeping practices:

> Using the DBCP sterility case as an example, it would seem that such a dual system might at times allow for the erroneous separation of medical data, leading possibly to unforeseen tragic consequences. (Tr. 1716)

Although no exemption is provided for "non-occupational" information, the final rule does specifically exclude three kinds of information from the definition of "employee medical record": certain physical specimens, certain records concerning health insurance claims, and certain records concerning voluntary employee assistance programs. First, OSHA does not desire to alter in any way existing medical practices as to the retention of physical specimens (e.g., blood or urine samples). In general, physical specimens are discarded after having been analyzed. There are exceptions to this, however, such as peripheral blood smears and permanent sputum cytology slides required under specific occupational safety and health standards (*See*, 29 CFR 1910.1029(j)(2)(vii) (coke oven emissions); 29 CFR 1910.1028(i)(2)(i)(*b*) (benzene), *vacated, API v. Marshall*, 581 F.2d 493 (5th Cir. 1978, *cert. granted*, 440 U.S. 906 (1979). Since there was some confusion as to the standard's application to physical specimens, the agency decided the best solution was to explicitly exclude physical specimens from the rule (*See*, Wrenn, Tr. 36–37). The final rule excludes from the definition of "employee medical record" physical specimens "which are routinely discarded as a part of normal medical practice, and are not required to be maintained by other legal requirements." Of course, the written results obtained from examining specimens are covered by the definition of "employee medical record."

Next, "records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.)" are excluded from the final standard's definition of "employee medical record." Health insurance records are routinely generated in industry. These are often medical records created by a Health Maintenance Organization (HMO) or by the employee's private physician, although the employer may have access to the information in aggregate or individual form due to an "interest in claims administration." In "Dilemma: A Report of the National Conference on Health Records," published and submitted into the record by NCCHR, it was noted that:

> This structure of group insurance plans varies considerably from one employer to another. In some plans, the insurance company handles claims administration, and the employer receives only utilization data (sometimes in individually identifiable form), in others the employer virtually insures itself, and the insurance company plays little if any part in administering the plan. (Ex. 58, p. 33)

This report also indicated that group insurance claims in the industrial setting are normally handled by personnel departments rather than the medical department, and that such submitted claims may be screened by management on the way to the insurer (NCCHR, Ex. 58, p. 32). George Becker, of the United Steelworkers Union, further stated:

> . . . I[n] many small plants, the monitoring of group insurance is a clerical rather than a medical function. The clerk in charge as a matter of course checks with the employee's supervisor on any questions on a group claim.
>
> Often the employee's immediate supervisor is the one who determines the entitlement to sick and accident benefits and the duration of the sick and accident benefit. (Tr. 2387)

Recommendations were made by several employers to exclude insurance claims records from the definition of "employee medical record" (Steel Plate Fabricators, Tr. 2501; Dresser Ind., Ex. 2(130), p. 7; Biscuit and Cracker Mfgrs., Ex. 2(140), p. 3; Motorola Corp., Ex. 2A(26)). The final standard in part follows these recommendations. If the health insurance claims records are kept separate from medical program records and "not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.)," then they are not treated as employee medical records. If, however, employee health insurance records are either integrated into medical program records or can otherwise be retrieved by the employer by direct personal identifier, then they are treated as employee medical records for the purpose of the access provisions of the rule (VII.E, *infra*), but not for the purpose of the preservation provisions of the rule (VII.D, *infra*). Access to identifiable insurance claims records containing health status information is appropriate for the same reasons applicable to employer-generated medical records—the employee health status information may be highly relevant to the detection, treatment, and prevention of occupational disease. OSHA does not believe, however, that it is appropriate to require long term preservation of all health insurance records maintained outside the context of an employer's medical program. The final rule thus establishes no preservation requirements as to these records. However, as discussed earlier, analyses based on insurance claims records are subject to both the access and preservation requirements of this standard.

The final exclusion from the definition of "employee medical record" concerns "records of voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs), if maintained separately from the employer's medical program and its records." Representatives of the Edison Electric Institute (EEI) took the lead in arguing that records of employee assistance programs should be exempt from the scope of this rule (Ex. 2A(36), pp. 12–13). In its words:

> The Edison Electric Institute, almost exclusively among the participants at the hearings, raised substantial objections to the mandatory disclosure of records generated by employee assistance programs. These programs are operated on a voluntary basis by employers to assist their employees with personal problems such as alcoholism, drug abuse, psychological, marital and legal difficulties. OSHA's regulation, as proposed, would subject records generated in such programs to the same disclosure requirements contemplated for other employee records. The record evidence before OSHA demonstrates that even the possibility of such disclosures would chill employees' participation in such programs, create risks for third parties who provide confidential information about employees involved, and perhaps destroy the effectiveness of these programs which are so worthwhile. (Ex. 162, p. 13)

In addition to the testimony on the need for confidentiality (Tr. 1778–9) and the strict confidentiality policies that have been adopted as part of these programs (Tr. 1779, 1787, 1791–2), the EEI representatives indicated that these programs are often administered completely outside the medical program by clinical psychologists or counselors, and even when they are part of a medical program, the records are kept strictly separate from the medical records (Tr. 1785–6). Even the contract physician must have the consent of the employee to get access to them (Tr. 1786–7). (*See also*, Taylor (AFL–CIO), Tr. 648–55; Dr. Teitelbaum, Tr. 140–142).

On the basis of the foregoing, OSHA decided that records pertaining to voluntary employee assistance programs are apt to have limited significance to occupational health matters when these programs are structured and operated outside of the context of the employer's medical program. Application of this standard to these voluntary assistance programs would likely yield little benefits though imposing unnecessary burdens on employers. Accordingly, the final rule exempts the records of these programs from the definition of "employee medical record," but only to the extent that the records of these programs are maintained apart from the employer's medical program and its records. Where, however, these assistance programs are part of the employer's overall medical program and its records, they should be subject to this standard (*See*, Dr. Teitelbaum, Tr. 140–42). Similarly, information on substance abuse and behavioral disorders recorded as part of a medical history or medical examination is covered by this rule.

7. "*Employer.*" The word employer is defined by statute (s3(5) of the Act, 29 U.S.C. 652(3)(5)) and that definition will control. In addition to covering current and former employers, the final standard makes clear that successor employers must assume the obligations to retain and make available records of employers that they succeed. The agency chose to mention successor employers explicitly due to the extended periods medical and exposure records must be maintained under this rule.

8. *"Exposure" or "exposed."* The proposed rule was directed toward employees "exposed or potentially exposed to toxic materials or harmful physical agents." This phrase was not explicitly defined, although OSHA intended that it be construed in a traditional industrial hygiene sense (Wrenn, Tr. 102–03). The term "harmful physical agent" was described to include such well recognized exposures as heat, noise, radiation, vibration, and hypo- and hyperbaric pressure (43 FR 31372; Wrenn, Tr. 92–93). The overall phrase, however, due to its generality and breadth, was the subject of some comment and confusion during the rulemaking proceeding (Ball Corp., Ex. 2(122), p. 2; Motorola, Inc., Ex. 2A(26), p. 4; EEI, Ex. 2A(36), p. 24; API, Ex. 158, p. 2n.2). Words like "toxic" and "exposure" are subject to numerous interpretations; thus the final standard clarifies what is intended by the phrase "exposed to toxic substances or harmful physical agents." Subparagraph (c)(8) defines "exposure" or "exposed" while subparagraph (c)(11) defines "toxic substance or harmful physical agent." The goal of this expanded definition is to avoid confusion on the part of employers as to whether their employee medical and exposure records are covered by this standard.

Subparagraph (c)(8) defines "exposure" or "exposed" as meaning "that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations." The final standard thus does not apply to every situation where any chemical or hazard is present in the workplace. While the final rule presumptively applies to all occupational exposures to toxic substances and harmful physical agents, the agency does not intend to cover situations where the employer can demonstrate that an employee is solely exposed to general environmental pollution, or to casual use of consumer products. For example, basic chemical manufacturing processes and abnormal exposures to heat, noise, and vibration are covered by the rule, but typical office working conditions are not. The applicability of the standard does not, however, depend on any showing that the level of actual exposure to a toxic substance or harmful physical agent is particularly excessive, but rather on the unique fact of occupational exposure.

The final rule applies when an employee has "potential (e.g., accidental or possible) exposure" to a toxic substance or harmful physical agent. This phrase was included to indicate that the standard covers situations where exposure could reasonably have occurred and not only situations where exposure has definitely occurred or been measured. An example would be workers handling electrical transformers containing poly-chlorinated biphenyls (PCBs). Exposure is not a certainty since the toxic chemical should be maintained within a closed system. However, seals sometimes leak and accidents occur which disperse the chemical; the final rule is therefore intended to apply to these types of potential exposure situations.

9. *"Record."* The preamble to the proposed rule stated that "the term 'record' as used in this proposed rule, is intended to cover any recorded information regardless of its physical form or character" (43 FR 31372). Questions were raised as to the intended scope of "record" (Wrenn, Tr. 39–37); thus the agency decided to define "record" explicitly in the final standard. The definition provided, "any item, collection or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche, microfilm, or automated data processing)" is meant to be all-encompassing. This is consistent with the flexibility provided to employers by paragraph (d), Preservation of Records, to maintain medical and exposure records in whatever form the employer chooses (with the exception of X-ray films).

10. *Specific written consent."* As discussed in Chapter IV.D, *supra*, the proposed rule was criticized in that employee medical records were to be released upon the mere "written consent" of the employee, but the proposal did not define what was meant by "written consent." There was

widespread agreement that medical records should only be disclosed to non-governmental third parties through a process of carefully designed written consent so as to minimize the possibility of invasion of an employee's legitimate privacy expectations. Invasion of privacy could have significant adverse consequences to the employee (loss of job, friends, insurance, etc.) and impair the physician-patient relationship. OSHA recognizes these potential problems, and thus has incorporated a thorough "specific written consent" definition in the final standard. The components of "specific written consent" are a reflection of the record comments on this issue (*See*, Privacy Commission, Ex. 101, pp. 314–15; AMRA, Ex. 83, p. 12; Dr. Teitelbaum, Tr. 124–26, 157; Dr. Whorton, Ex. 11, pp. 19–20; Dr. Wegman, Tr. 206–07; NIOSH, Ex. 18, pp. 7–8; Dr. Parkinson, Ex. 43 p. 4; Weiner, Ex. 9A, pp. 36–40, Tr. 180–81; Taylor (AFL–CIO), Ex. 39, p. 5; AFL–CIO, Ex. 152, pp. 52–53; USWA, Ex. 160, p. 19; Wodka (OCAW), Tr. 708–09; Health Research Group, Tr. 2045–46).

The essence of "specific written consent" is assuring that the employee knows what is being disclosed, to whom, and for what purpose. Consent which is "blanket" (i.e., a general release of all records to whoever requests them) or "perpetual" (i.e., lacking a time limit or the possibility of revocation) would clearly be unacceptable (AMRA, Ex. 83, p. 7) and arguably legally unenforceable (Annas, Ex. 56B, p. 149). The Privacy Commission recommended an authorization procedure along the lines prescribed in the HEW regulations on the "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2 (Ex. 129). This working model of consent is contained in Recommendation (13) of the Commission's chapter on medical records:

> That whenever an individual's authorization is required before a medical-care provider may disclose information it collects or maintains about him, the medical-care provider should not accept as valid any authorization which is not:
>
> (a) in writing;
>
> (b) signed by the individual on a date specified or by some one authorized in fact to act in his behalf;
>
> (c) clear as to the fact that the medical-care provider is among those either specifically named or generally designated by the individual as being authorized to disclose information about him;
>
> (d) specific as to the nature of the information the individual is authorizing to be disclosed;
>
> (e) specific as to the institutions or other persons to whom the individual is authorizing information to be disclosed;
>
> (f) specific as to the purpose(s) for which the information may be used by any of the parties named in (e) both at the time of the disclosure and at any time in the future;
>
> (g) specific as to its expiration date, which should be for a reasonable period of time not to exceed one year, except where an authorization is presented in connection with a life or non-cancellable or guaranteed renewable health insurance policy, in which case the expiration date should not exceed two years from the date the authorization was signed. (Ex. 101, p. 315)

The American Medical Records Association recommended a similar model authorization procedure (AMRA, Ex. 83, p. 12).

The final standard's definition of "specific written consent" adopts the substance of these elements. To give consent, an employee will specifically have to indicate in writing who is being authorized to disclose record information, who may have access to it, and the general nature of the information to be disclosed. If the employee wishes, he or she may specify information which is not authorized to be disclosed and may place conditions on its use or redisclosure. In this way, it will be the employee who controls the amount and kinds of information available to the designated representative, and what the representative can do with it.

In addition, the final standard provides for limited prospective authorization by the employee. The AMRA recommendations do not accept prospective authorization for the release of information not yet in existence (AMRA, Ex. 83, pp. 7, 12 (*at* 3.8(h))), while the Privacy Commission's recommendations permit prospective authorizations. The policy argument raised against prospective authorization is that "consent to the release of information prior to treatment" precludes "intelligent decisionmaking on the part of the patient" (AMRA, Ex. 83, p. 7). In general this is a good policy, but there are notable exceptions applicable to the occupational setting. For example, periodic biological monitoring of exposed employees, perhaps on a monthly basis, would generate predictable kinds of medical information outside of a treatment context. If an employee desired for his personal physician, or a union industrial hygienist or physician, to receive biological monitoring results regularly, it is reasonable to permit authorization for the release of future results, as long as the authorization is subject to revocation. Requiring the employee to re-execute a "specific written consent" each month would be burdensome and serve no useful function. Accordingly, the final standard states that "A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, . . ." and for no more than one year even when expressly authorized. The presumption, therefore, is against "prospective consent," but the employee may expressly override this presumption for up to one year. Furthermore, the employee may revoke the consent at any time.

The remaining components of the definition of "specific written consent" are straightforward and need no further elaboration. The definition, however, stops short of some recommendations presented in the rulemaking proceeding. Several employers felt the recommendations of the Privacy Commission were inadequate because an employee may give consent without being fully cognizant of the potential consequences of disclosure, or may be coerced or feel pressured into signing a consent form (Dr. Spraul (Monsanto), Tr. 1915; API, Ex. 158, p. 34). The API proposed these additional safeguards:

> No third party should have an access privilege unless he has a program which provides for (i) a clear and specific statement of an occupational health purpose for access to medical records; (ii) the exclusion of information—particularly personal identifiers—which is unnecessary to the stated purpose; and (iii) security and administrative precautions to prevent access by unauthorized persons. (Ex. 158, p. 35)

OSHA recognizes that it is possible for third parties to abuse specific written consent, but does not believe this merits numerous further provisions in the final standard. The Privacy Commission recognized that its recommendation "provides assurance that an individual will understand what he is allowing to be disclosed, and why, but does not require that the voluntariness of his action be verifiable, nor does it assume that he can recognize every possible consequence of signing it" (Privacy Commission, Ex. 101, p. 315). In the Privacy Commission's view, that is all that one can reasonably expect from a consent requirement, even where an element of coercion is clearly involved in demands for medical records by medical facilities, employers, insurance carriers, or social service organizations (Ex. 101, p. 314). Employers and groups such as the API are apparently concerned about possible coercion by labor unions to gain access, but the record contains no evidence to support this concern or to refute the observation of Peter Weiner that:

> An often silent but present theme is the danger that a labor organization might coerce its members to give such consent. It is time to recognize that this undercurrent is built on bias without foundation, and that this type of pressure for disclosure is the least of our worries where third parties are concerned. (Ex. 9A, p. 40)

OSHA recognizes, however, that there may be situations where an employee desires to specify additional conditions or restrictions on the use or re-disclosure of medical information released to a designated representative. An opportunity to do this is provided in Appendix A to the standard, which is a model authorization letter meeting the definition of "specific written consent."

11. *Toxic substance or harmful physical agent.* Subparagraph (c)(11) provides that the final rule applies whenever there is exposure to any "chemical substance, biological agent (bacteria, virus, fungus, etc.) or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure, etc.)" for which there is evidence of harmful health effects. This definition excludes traumatic safety hazards such as trips, fall, cuts, etc., but includes repetitive motion (ergonomic) stresses due to their subtle and chronic nature (Ex. 187).

Although no comprehensive list of substances or hazards is possible since our knowledge and appreciation of occupational health problems are constantly expanding, OSHA felt it was important to limit the rule to those chemicals, biological agents, and physical stresses for which there is some evidence of toxicity or harmfulness. To do this, the final rule establishes four general criteria for determining when to apply this rule. First, the standard applies to any chemical substance, biological agent, or physical stress which "is regulated by any Federal law or rule due to a hazard to health." The term "chemical substance" is used in the broadest possible sense (e.g., dust, mist, fume, liquid, solid, mineral, etc.). Health regulations of a hazard by any Federal agency, such as OSHA, EPA, FDA, CPSC, NRC, etc., should clearly be sufficient for coverage of exposure and medical records of employees exposed to that hazard. Employers should already be well aware of the hazards associated with these substances and agents.

Second, the standard applies to any chemical, biological agent, or physical stress which "is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS)." NIOSH is mandated under section 20(a)(6) of the Act (29 U.S.C. 669(a)(6)) to publish on at least an annual basis "a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur." Excerpts from the RTECS 1978 edition Foreword and Introduction demonstrate that this document is an appropriate source for defining chemicals covered by this rule:

> The annual publication of a list of known toxic substances is a NIOSH mandate under the Occupational Safety and Health Act of 1970. It is intended to provide basic information on the known toxic and biological effects of chemical substances for the use of employers, employees, physicians, industrial hygienists, toxicologists, researchers, and, in general, anyone concerned with the proper and safe handling of chemicals. In turn, this information may contribute to a better understanding of potential occupational hazards by everyone involved and ultimately may help to bring about a more healthful workplace environment. (Ex. 169, p. iii)
>
> This Registry contains 124,247 listings of chemical substances: 33,929 are names of different chemicals with their associated toxicity data and 90,318 are synonyms. This edition includes approximately 7,500 new chemical compounds that did not appear in the 1977 Registry. (Ex. 169, p. xiii)
>
> The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternate processes which may be less hazardous. (Ex. 169, p. xiii)
>
> In this edition of the Registry, the editors intend to identify "all known toxic substances" which may exist in the environment and to provide pertinent data on the toxic effects from known doses entering an organism by any route described. Data may be used for the evaluation of chemical hazards in the environment, whether they be in the workplace, recreation area, or living quarters. (Ex. 169, p. xiii)
>
> It must be reemphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences. (Ex. 169, p. xiv)

In addition to an annual printed edition, the RTECS is continuously updated on a quarterly basis (Ex. 169, p. 1362). The RTECS 1978 printed edition may be purchased for $13.00 (GPO Stock No. 017–033–00346–7) from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 (202–783–3238). The 1979 printed edition is anticipated to be issued in the summer of 1980. An annual subscription to the quarterly microfiche which revises the RTECS may also be purchased from the GPO for $14.00 (Order the "Microfiche Edition, Registry of Toxic Effects of Chemical Substances"). Appendix B to the standard contains additional information on where RTECS may be examined or purchased.

Third, the standard applies to any chemical, biological agent, or physical stress which "has yielded positive evidence of an acute or chronic health hazard in human, animal or other biological testing conducted by, or known to, the employer." This criterion is intended to cover the situation where the employer is aware that a particular chemical, etc., poses a hazard, even though the chemical may not yet have been identified in RTECS or regulated by any of the health regulatory agencies. OSHA believes that it would be inappropriate to expect that each employer be familiar with the entire body of evolving scientific knowledge concerning the toxicity of chemicals used in its workplaces. Many employers do, however, subscribe to the quarterly microfiche edition of RTECS, review the published literature, receive knowledge of unpublished studies or pre-publication copies of studies, or conduct biological evaluations on their own initiative. Some health hazards, such as extremes of heat and cold, are obvious. Where an employer is aware of evidence suggesting that health risks are posed by the use of a chemical, biological agent, or physical stress, then this rule applies to whatever employee medical and exposure records exist with respect to exposed workers. This provision is crucial as to new chemicals, and will be increasingly important as employers implement the testing requirements of the Toxic Substances Control Act of 1976 (15 U.S.C. 2601 *et seq.*).

Finally, the standard applies to any chemical, biological agent, or physical stress which "has a material safety data sheet indicating that the material may pose a hazard to human health." This document generally accompanies the

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purchase of a chemical used in industrial processes, and serves to warn users of toxic properties of the product. Employers of employees exposed to such a chemical are properly covered by this standard, even where the employer may have no knowledge of the precise ingredients, or chemical name, of trade name products.

The foregoing overall definition of "toxic substance or harmful physical agent" is flexible enough to incorporate advances in scientific knowledge, while definite enough to place employers on notice of what their obligations are under this rule. This definition will minimize compliance and enforcement difficulties, and will avoid both unnecessary record retention requirements and the inadvertant destruction of important occupational health information.

D. Paragraph (d)—*Preservation of records*

The proposed regulation provided that:

> Each employer who makes, maintains, or has access to employee exposure records or employee medical records shall preserve and retain them for at least the duration of the affected employee's employment with the employer plus five (5) years, except where a specific occupational safety and health standard provides a different retention period. (43 FR 31374)

This proposal of a "duration of employment plus five years" retention period was explained as follows:

> There may be situations where this retention period may be longer than absolutely necessary, and others where it is too short to ensure the preservation of the record throughout the latency period of an occupational illness arising from an earlier exposure to toxic materials. OSHA believes that the general retention period of this proposed rule strikes a reasonable balance between these two situations.
>
> Nevertheless, because it recognizes that the longer the retention period, the greater the risk of infringement upon employees' privacy interest and the greater the administrative burden on employers, OSHA invites comments on whether a lesser or longer period should be adopted in the final rule for some or all kinds of records covered by the regulation. (43 FR 31373)

Numerous initial comments argued that this retention period was either too long or too short, while others indicated it was just about the correct length of time. On the basis of these comments, OSHA explained at the outset of the public hearings on the proposal that the evidence appeared to dictate a retention period of at least thirty years (Wrenn, Ex. 7, p. 27). Considerable additional testimony and post-hearing comments were submitted on this issue. On the basis of the total record, the agency decided to extend the retention period as to basic exposure and medical information and shorten it as to some background exposure information, while assuring employers maximum flexibility as to the manner in which records are retained.

The final standard provides that employee exposure records and analyses based on exposure or medical records must generally be preserved and maintained for at least thirty years, while employee medical records must be retained for at least the duration of employment plus thirty years. A minimal overall retention period of thirty years was adopted due to the very long latency periods characteristic of chronic occupational diseases. This period is consistent with the recordkeeping requirements of existing OSHA health standards, and with the thirty year retention period for records of significant adverse employee health reactions established by section 8(c) of the Toxic Substances Control Act, 15 U.S.C. 2607(c).

The "duration of employment plus thirty years" retention period for employee medical records takes into account three factors in addition to the long latency periods of occupational disease. First, existing medical record retention practices are such that a running medical record would in any event be maintained for at least the duration of employment. Second, an employee's first exposure to a toxic substance or harmful physical agent could occcur at any point during the course of employment. Third, the entire medical record is of importance even where first exposure to a toxic substance occurs near the end of an employee's employment. This results from the likelihood that important baseline medical information was recorded at the outset of an employee's employment and not recorded thereafter. For ease of administration and certainty the agency chose the duration of employment plus thirty years retention period instead of some more complicated formula. Once an employee becomes exposed to toxic substances or harmful physical agents, his or her entire medical record becomes subject to the standard, including medical information collected prior to initial exposure.

The agency's choice of a minimal retention period of thirty years for exposure and medical records, and analyses thereof, took into consideration the wide variety of suggestions made during the rulemaking proceeding. Recommendations ranged from retention periods of 25 to 40 years: (25 Years.) Dr. Swartz, Tr. 2362; (20–25 yrs.) Dr. Young, Tr. 1099; (30 yrs.) Wodka (OCAW), Tr. 702; (40 yrs.) Dr. Thorpe (API), Tr. 2074; (40 yrs.) AFL–CIO, Ex. 152, p. A2; (40 yrs.) Dr. Wegman, Tr. 208; (up to permanent retention) Dr. Teitelbaum, Tr. 126–27; Dr. Whorton, Ex. 11, p. 21). A variety of intermediate suggestions were made tied to other factors such as the duration of the employee's employment (duration plus 25 yrs.) CACOSH, Tr. 1095; (duration plus 30 yrs.) Laden (USWA), Tr. 668–69; (duration plus 35 yrs.) Dr. Parkinson, Tr. 1142; (duration plus 40 yrs.) HRG, Tr. 2034–36; (duration plus 40 yrs.) ICWU, Tr. 735–36; (30 yrs. or duration plus 10 yrs., whichever is longer) Cement, Lime, and Gypsum Workers, Tr. 1203–04; (40 yrs. or duration plus 20 yrs., whichever is longer) USWA, Ex. 160, p. 22; (40 yrs. from onset of exposure) Dr. Wegman, Ex. 10, pp. 14–15; (30 yrs. from cessation of exposure) NIOSH, Ex. 16, pp. 5–7). More recent OSHA health standards generally provide for retention periods of 40 years or the duration of employment plus 20 years, whichever is longer. This wide variety of possible provisions indicates that no one perfect choice exists. The thirty year retention periods chosen, however, are reasonable in light of the suggestions made and existing evidence concerning the latency period of occupational disease.

There was wide agreement among participants that the long latency periods associated with occupational diseases, especially cancer, dictate the retention of records for decades (Dr. Teitelbaum, Tr. 126–27; Dr. Wegman, Tr. 208; Dr. Swartz, Tr. 2362; HRG, Tr. 2034–36, 2046–49, Ex. 161, pp. 1–3; CACOSH, Tr. 1095; Dr. Parkinson, Tr. 1142; Laden (USWA), Tr. 668–69; ICWU, Tr. 735–36, Ex. 28, p.. 8; USWA, Ex. 160, p. 22; Cement, Lime, Gypsum Workers, Tr. 1203–04; AFL–CIO, Ex. 152, pp. 42–43, Ex. 39, pp. 2–3; Dr. Silverstein (UAW), Ex. 63, pp. 13–14; NIOSH, Ex. 16, pp. 5–7; Dr. Whorton, Ex. 11, p. 21). The following passage and tables from the well-respected text-book, *Chemical Carcinogenesis and Cancers (1964)* by Drs. W. C. Hueper and W. D. Conway of the National Cancer Institute, demonstrate the necessity for long term retention of records:

> The onset of a carcinogenic exposure may antedate by many years or even decades, the appearance of the first symptoms of a cancer causally related to it. The establishment of direct associations between such events is not infrequently obscured by the fact that the critical exposure to a carcinogen may have ceased months-to-decades before the cancer becomes manifest, i.e., an exposure-free and symptom-free lag period may intervene (Hueper; Williams; Henry; Browning). During this period all traces of the causative carcinogenic agent have often disappeared from the exposed organism. The definite demonstration of causal relations to specific chemical factors encounters for these reasons, considerable difficulties in many cases of environmental carcinogenesis. In assessing the role which chemical carcinogens play in the production of human cancers, due consideration must be given to the fact that, as a rule, some ten years will elapse after the introduction of a new carcinogen into the human environment before its carcinogenic effects upon an exposed and well circumscribed population become epidemiologically demonstrable, that some additional twenty to thirty years may go by before the peak of such a development is reached, and that again a period of similar length will pass before the last carcinogenic manifestations attributable to an environmental carcinogen will disappear after a particular carcinogen has been removed from the human environment. (Ex. 161a)

Table 8.—*Latent Periods of Occupational Cancers*

Organ and agent	Average latent period (years)	Range of latent period (years)
Skin:		
Arsenic:		
Medicinal	18	3–40
Occupational	25	4–46
Tar	20–24	1–50
Creosote oil	25	15–40
Mineral oil	50–54	4–75
Crude paraffin oil	15–18	3–35
Solar radiaton	20–30	15–40
X-radiation	7	1–12
Lung:		
Asbestos	18	15–21
Chromates	15	5–47
Nickel	22	6–30
Tar fumes	16	9–23
Ionizing radiation	25–35	7–50
Bladder:		
Aromatic amines	11–15	2–40

(Source: Ex. 161a)

Table 9.—*Ranges of Latent Periods Following Exposure to Different Aromatic Amines (M. W. Goldblatt)*

Chemical	Maximum period		Minimum period	
	Years	Months	Years	Months
Beta-naphthylamine	16		1	8
Benzidine	33		6	10
Toluidine	32		10	
Aniline	36		7	
m-Phenylendiamine				
Dimethylaniline	19–20			

(Source: Ex. 161a)

Very long latency periods are not only associated with occupational cancer, but with occupational disease in general. As Dr. Wegman stated, "we are talking about diseases which are predominantly chronic in nature. * * *" (Tr. 208). Concrete examples include the two non-carcinogens for which OSHA has to date issued comprehensive health standards—cotton dust and inorganic lead. Exposure measurements and medical surveillance records generated under the cotton dust standard must be maintained for at least twenty years (29 CFR 1910.1043(k)(1)(iii) and (k)(2)(iii); 43 FR 27398 (June 23, (1978)). The reason for this period was explained in the preamble to the final rule:

> * * * OSHA feels that this retention period is necessary in order to develop sufficient longitudinal dose-response data and to determine the effectiveness of the selected permissible exposure limits in reducing the prevalence of respiratory diseases, particularly irreversible chronic obstructive pulmonary diseases, in each of the covered industries. 43 FR 27393 (June 23, 1978)

Exposure measurements and medical surveillance records generated under the inorganic lead standard must be maintained for at least forty years, or for the duration of employment plus twenty years, whichever is longer (29 CFR 1910.1025 (n)(1)(iii) and (n)(2)(iv), 43 FR 53013 (Nov. 14, 1978)). The preamble to the final standard explained:

> Lead is known to have both acute and chronic effects, depending on the level and duration of exposure. The onset of clinical symptoms may occur many years after exposure. OSHA requires these records be maintained to document the medical and exposure history of the worker in order to assist the physician in determining whether lead was an etiologic agent in a disease progression. For example, renal and neurological disease do not necessarily have early warning indicators which physicians might use for evaluation. The records will serve to aid the physician in determining the dose to the worker over his work tenure.
>
> OSHA is also concerned that the physician be able to follow asymptomatic workers who have been exposed to low lead levels over long periods of time, in order to ascertain the long term effects of low level exposure. In this regard, another important function the combined records serve is to provide a data base for much needed scientific and epidemiological research into the effects of chronic low level lead exposure. (43 FR 53006, Nov. 14, 1978)

Dr. Silverstein of the UAW highlighted the need for preservation of records for all potential forms of occupational disease:

> Cancer is not our only concern. We have only begun to look at the relationship between workplace exposures and other chronic disease. Medical and exposure records are likely to prove valuable in uncovering the presently hidden links between the workplace and cardiovascular, renal, endocrine, and musculosketetal disease.
>
> There are many current examples of workers who are now exposed to chemicals whose long term effect is unknown but potentially serious. Examples include workers exposed to mixtures of solvent vapors, diesel exhaust, or welding fumes. In other instances workers sustained exposure to substances which are now controlled or removed from the workplace because of suspected but largely unknown long term consequences. Examples include Tris and PCB exposure. Workers in these situations, and unfortunately the National Occupational Hazard Survey would suggest that this applies to an overwhelming number, certainly have the right to expect a diligent effort to determine whether health effects are becoming apparent over the years. Giving sanction to the wholesale destruction of records at five years may prove to be one of the most disastrous public health mistakes we could make. (Ex. 63, pp. 13–14)

The preceding comment by Dr. Silverstein properly emphasizes the limited scope of our knowledge concerning occupational disease in general. Few of the thousands of chemicals in the workplace have been thoroughly tested in animals for chronic toxicity, and systematic human epidemiological investigations of exposed workers have only sporadically been conducted. The history of governmental responses to occupational disease has largely been one of responding to demonstrated disease rather than establishing protective mechanisms before known disease arises. One purpose of this standard is to preserve and make accessible the existing data base of medical and exposure information concerning employee exposure to toxic substances and harmful physical agents so that workers, their representatives and the government can better detect and respond to previously unrecognized associations between exposure and disease. The state of our limited knowledge dictates that records be preserved for long periods of time so these unforeseen associations can be made (Dr. Teitelbaum, Tr. 208). Dr. Young also endorsed this reason for long term retention of records:

> We cannot tell now, just as we could not tell 20 years ago, what new dread diseases would become manifest after lengthy latent periods, and I think we would all view with chagrin if not horror a decade or two down the line if important records that would uncover new patterns of risk were not available simply because of an all-too-short five-year retention period. It seems to me the burden on any company is trivial. A few file cases well protected is all we're talking about. (Dr. Young, Tr. 1099)

The preservation requirements of the final standard will enable records to be used in the many fashions envisioned by Section III of the preamble, Purposes and Need for the Standard (*supra*). Both exposure and medical records must be preserved for at least thirty years since they will be critical to understanding and responding to occupational health

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problems. For example, prior exposure records can suggest the cause of current disease experience; prior medical records can supply vital baseline health status information to which a patient's current health status can be compared.

The thirty year retention period is reasonable in light of the latency periods associated with occupational diseases, but OSHA recognizes that specific toxic substances may merit longer or shorter retention periods. The final standard explicitly addresses this in two provisions. First, if a specific occupational safety and health standard sets a retention period for exposure and medical records different from that of this rule, the specific standard's provision controls. This is appropriate since the provisions of specific health standards are based on rulemaking evidence of the consequences of employee exposure to the toxic substances being controlled. Second, the standard envisions situations where records may have occupational health value beyond the retention periods of this rule. To deal with this, the stardard provides that whenever an employer intends to dispose of records required to be kept at least thirty years, the employer shall notify the Director of NIOSH of this intention. The required three months advance notice will enable NIOSH to assess the value of the records and take steps, if appropriate, to prevent destruction of the records. NIOSH and OSHA will communicate with each other so that notice to NIOSH will also notify OSHA of the impending destruction of covered records.

The final standard has been structured so that only certain records subject to the rule must be retained for the thirty year period. Analyses using exposure and medical records must be maintained for at least thirty years since these records will likely be most useful in analyzing patterns of disease. Similarly, employee medical records must be preserved for at least the duration of employment plus thirty years since there is no rational way to determine in advance which portions of a medical record may or may not become important in the future. Health insurance claims records which are maintained separately from the employer's medical program and its records, however, need not be retained for any period of time.

In addition, not all employee exposure records must be maintained for at least thirty years. Exposure records describe the identity of, and possibly the level of exposure to, a toxic substance or harmful physical agent. These two elements—identity and level of exposure—are the critical data which must be preserved for at least thirty years.

The definitions paragraph of the rule defines "employee exposure record" as encompassing four kinds of records. The first kind, environmental (workplace) monitoring or measuring, can contain a wide variety of information which is critical to the evaluation of occupational exposures. Industrial hygiene surveys will often involve detailed laboratory reports, worksheets containing mathematical calculations and other background information, documentation of collection (sampling) methodology (where, when, how, and under what working conditions samples were collected), and other assorted documents. Not all of this information is of lasting importance, and several participants offered varied opinions as to how long the background data should be retained (USWA, Ex. 160, pp. 22; AFL–CIO, Ex. 152, p. 45). The final rule provides that "the sampling results, the collection methodology (sampling plan), a description of the analytical and mathematical methods used, and a summary of other background data relevant to interpretation of the results obtained" must be retained for at least thirty years. Permitting analytical and mathematical methods to be described, and other relevant background data to be summarized, will enable bulky records such as laboratory reports and worksheets to be discarded. This background information, however, must be maintained for at least one year to allow workers, their representatives, and OSHA a reasonable opportunity to evaluate the exposure calculations and thoroughly examine the employer's methodologies.

The second type of "employee exposure record," certain biological monitoring results, must under the final standard be maintained for at least thirty years (and employment plus thirty years if made part of an employee's medical record) for the same reasons applicable to environmental monitoring.

However, the third and fourth types of employee exposure records, material safety data sheets and other records which reveal the identity of a toxic substance or harmful physical agent, need not be retained for any specific period of time. The final rule provides that these records "need not be retained for any specified period so long as some record is retained of the identity (chemical name if known) of the substance or agent, where it was used, and when it was used." This provision will assure retention of the basic exposure information for at least thirty years while enabling employers to avoid burdensome record retention obligations.

The agency believes that the retention requirements of the final standard are necessary and appropriate, and sufficiently flexible to avoid burdening employers with unjustified obligations. We recognize that several employers urged that shorter retention periods be established than the one proposed (North Car. Nat. Gas Corp., Ex. 2(134); Wash. Legal Foundation, Ex. 2(96); Magma Copper, Tr. 1451; Fertilizer Inst., Tr. 2160; Steel Plate Fabricators, Tr. 2520), but the long latency periods associated with occupational disease and the limited extent of our knowledge dictate the periods chosen.

The agency recognizes the possibility that in specific narrow factual settings requirements other than those established by this standard may provide equivalent protection. Employers or their trade associations are free to file applications for variances under section 6(d) of the Act (29 U.S.C. 665(d); *See*, 29 CFR Part 1905) in situations where equally effective or better means exist to achieve the goals of this rule. As with other standards, variance proceedings will enable case-by-case consideration of specialized factual circumstances, and will add flexibility to the application of the standard. In addition, this standard itself may, of course, be subject to modification in the future, either in response to a petition to modify or to other developments.

Although the final standard establishes long retention requirements for some records, the agency is confident that the burdens imposed will not prove to be significant. First, the final rule states that "Nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record, as long as the information contained in the record is preserved and retrievable, except that x-ray films shall be preserved in their original state." As a result, with the exception of x-rays, employers are provided maximum flexibility to microfiche, microfilm, computerize, or otherwise retain records in whatever fashion is most desirable to the employer (*See*, Truckline Gas Co., Ex. 2(153), p. 2; Beckman Instruments, Inc., Ex. 2A(6), p. 1; Motorola, Inc., Ex. 2A(26), p. 10). The agency has previously studied the issue of microfilming x-ray films and has reached the conclusion that in view of currently available technology, this practice should not be permitted (Ex. 188). The analysis of x-ray films is highly dependent upon the quality of the film, and appreciable detail is clearly lost when an original film is microfilmed or otherwise copied. As a result, the final rule provides that "x-ray films shall be preserved in their original state."

Second, the record suggest that many employers and medical establishments already maintain medical and exposure records for lengthy periods of time.

> We, Illinois Bell Telephone Company now have now adopted a policy of microfilming [medical records] and keeping them for an indeterminate period of time. (Dr. Hilker, Illinois and Chicago Medical Societies, Tr. 2532)
>
> * * * * *
>
> Most hospitals retain the medical record or the most pertinent parts of that record in some reproducible form such as microfilm or microfiche for literally ever, indefinitely. (ARMA, Tr. 2466)
>
> * * * * *
>
> NIOSH believes the employer burden for keeping records of terminated employees is probably not that great since it just involves space and minimal maintenance and logistics. In fact, through the use of techniques such as microfilming, space is no longer a problem.
>
> It is NIOSH's opinion that by far the largest burden upon the employer is creating the records initially rather than maintaining them after they are created. Also, it should be noted that NIOSH experiences during the conduct of field studies is that industry is recognizing the importance of maintaining records for longer periods of time (i.e., 30–40 years) and a retention requirement in the OSHA regulation will not be as if industry is starting from point zero. (Bierbaum (NIOSH), Ex. 16, p. 7)
>
> * * * * *
>
> If exposure and medical records are to be useful in advancing our knowledge of [occupational] diseases (an avowed purpose of the proposed rule), records must be kept for longer than five years, and perhaps for fifty years or more. It is common practice in the medical world to retain medical records almost permanently or at least for some years after the death of the individual concerned. (Dr. Goldwater, Chief of Occ. Med., Duke U. Med. Center, Ex. 2(87))
>
> * * * * *
>
> Mr. Spiller: Okay, would you say that medical training generally encourages doctors to keep their medical records almost indefinitely or at least for the lifetime of the patient or certainly for very long periods of time?
>
> Dr. Thorpe: Yes, I believe so. I have always had the feeling—I know that there are statutes of limitations, but most physicians and I think most hospitals don't abide by that. They may reduce or prune or convert medical records into manageable storage space, but most physicians have a horror of destroying medical records. (Dr. Thorpe, (Exxon Corp.), Tr. 2122)

(*See also*, Deere & Co., Ex. 2(84), p. 2 (at least the lifetime of the employee); Eller (ICWU), Tr. 735–36 (employment plus 10 yrs. in Dow Chemical Co.); RCA, Ex. 2(75) (employment plus 10 yrs.); DuPont, Ex. 114A, p. 1 (employment plus 40 yrs.); Dr. Thorpe (Exxon Corp.), Tr. 2121–22 (at least 40 yrs.)). Also, the importance of medical and exposure records to potential legal proceedings such as workers' compensation and medical malpractice suits is a strong inducement for long term retention of records. As noted by Dr. Hanks, Medical Director of the Personnel Department of the City of Los Angeles:

> With respect to retention of records, at least some States have laws extending statute-of-limitations for filing of workers' compensation claims to within a year following the employee's awareness of an occupational illness. This makes for indefinite retention of records on large classes of employees, since decades may pass between alleged exposures and illnesses related or alleged to be related to such exposure. In other words, employer self-interest and potential liability call for indefinite retention, even to the post-mortem period in which claims are apt to be filed by survivors. Thus a federal regulation would be superfluous in such States and possibly superfluous in any case, since self-interest would indicate retention well-beyond a five-year post-termination date in view of evolving laws in employees' favor. (Ex. 2A(35))

This is further supported by a recent article in *Malpractice Digest*, a bi-monthly newsletter to medical malpractice insurance policyholders, which is published by the St. Paul Fire & Marine Insurance Co., the leading carrier of medical malpractice insurance:

> The need for accurate medical records goes beyond the efficient day-to-day practice of medicine. Medical records have become legal documents which play a major role in many matters, including medical malpractice. The responsibility of the physician to properly document the care provided to patients also turns up in personal injury suits, workers compensation disputes, pension eligibility investigations and contests of wills.
>
> The best defense in any action involving the practice of medicine is accurate, legible and complete records. (Ex. 189 p. 1).

As a result of the foregoing, it is clear that the preservation requirements of the final standard are promulgated against a backdrop of existing widespread long term retention of records, and thus pose little additional burden.

E. Paragraph (e)—*Access to records*

Paragraph (e) of the final standard significantly refines the language previously contained in the proposal's paragraph (d), Availability of records. Subparagraph (e)(1), *General*, specifies the mechanics of access to avoid possible confusion and abuse of the rule's access rights. Subparagraph (e)(2), *Employee and designated representative access*, is little different from the proposal as to exposure records and analyses using exposure or medical records. As to medical records, however, subparagraph (e)(2) is changed from the proposal in two respects. Designated representatives obtain access only through a process of specific written consent, and physicians are provided limited discretion to release certain medical information to designated representatives rather than to the employee directly. Subparagraph (e)(3), *OSHA access*, varies from the proposal in that administrative regulations established at section 1913.10 of 29 CFR are incorporated by reference as to employee medical records, and NIOSH access is no longer directly addressed by this rule.

Subparagraph (e)(1) of the final standard addresses the mechanics of access to records. First, the rule in (e)(1), as well as elsewhere in paragraph (e), provides that "the employer shall assure that" various obligations are met. The use of "assure" was chosen instead of providing that the employer directly perform various obligations since the mechanics of access often will be performed by medical personnel not directly supervised by the employer. Several participants urged that the final rule not be worded in a manner which implicitly expands employer access to confidential employee medical records (AFL–CIO, Ex. 152, p. 54; USWA, Ex. 160, p. 16; Dr. Parkinson, Tr. 1138–39). The use of "assure" avoids this result.

Subparagraph (e)(1) next states that employee and designated representative access must "be provided in a reasonable time, place, and manner, but in no event later than fifteen (15) days after the request for access is made." This language permits employers to establish orderly procedures for providing access so that work schedules are not unduly disrupted and workers not unduly inconvenienced (NAM; Tr. 2180–81, 2197; Ohio Bldg. Chpt., Ex. 2(29); Bofors Lakeway, Inc., Ex. 2(156), p. 3; Motorola, Inc., Ex. 2A(26), p. 10). An employer, for example, need not pay an employee during the time a requested record is being reviewed, if the record is made available before or after the worker's normal working hours. It also recognizes that records may be stored in several locations or in centralized storage, and thus not immediately accessible at the place of employment (Southern Cal. Edison, Tr. 1515, 1518). The use of "reasonable time" and "in no event later than fifteen days after the request for access is made" also

responds to recommendations that definite time limits be established to preclude inordinate delay by employers (OCAW, Ex. 2(124), p. 3; ACTWU, Ex. 2(201), p. 5; AFL–CIO, Ex. 152, p. 56; USWA, Ex. 160, p. 23, Tr. 669; ICWU, Ex. 28, p. 9; NIOSH, Ex. 16, p. 8; Right to Know Coalition, Ex. 2(103), p. 1). What is a "reasonable" time will vary from situation to situation.

Immediate access will be required where records are readily available, whereas the maximum fifteen calendar days provided may be necessary where records must be photocopied and mailed across the country. The use of the phrase "reasonable time, place, and manner" is also intended to preclude unjustified barriers to access, such as limiting access to clearly inconvenient times or places (e.g., requiring workers to sacrifice worktime in order to exercise access rights).

Subparagraph (e)(1) also contains language specifying what happens when an employee or designated representative desires an exact copy of a requested record. The proposed rule was unclear on this issue (*See,* Wrenn, Tr. 37) although it was intended that employers, as with other compliance obligations, would have to bear the costs of making requested records available. Several participants urged that employers explicitly be required to bear the expense of providing copies of requested records (Right to Know Coalition, Ex. 2(103), p. 1; USWA, Ex. 160, p. 23, Tr. 669; ICWU, Ex. 28, p. 9). Other participants complained that the proposal was open-ended and provided no disincentive for employees and designated representatives who might abuse access rights through the submission of large numbers of superfluous requests, the costs of which would presumably be borne by employers (Shell Oil Co., Ex. 2(105), p. 8; Xerox Corp., Ex. 2(136), pp. 1–2; Am. Trucking Assn., Ex. 2A(1), pp. 6–7; NAM, Tr. 2180–83; API, Ex. 158, pp. 46–47). The language adopted in the final standard is responsive to all of these concerns.

It is OSHA's intention that should an employee or designated representative simply desire to examine and possibly hand copy a record, then the employer must bear all administrative costs associated with this opportunity. Abuse of this opportunity is unlikely since access will normally be on an employee's own time. Should the employee or representative desire an exact copy of a record, the standard enables the copying to occur at minimal cost to the employee, while also providing the employer the flexibility to minimize costs and prevent abuse. On the first occasion that an employee or designated representative requests a copy of the record, the employer has three choices. The employer can assure that (1) a copy is provided without cost, (2) the necessary mechanical copying facilities (e.g., photocopying) are made available without cost so that the employee or representative can make an exact copy at the employer's site, or (3) the record is loaned for a reasonable time to enable an exact copy to be made. An employer can avoid abuse through use of the latter two alternatives, and minimize costs by copying records once and loaning out the copy when requested. The most an employee or representative would ever have to pay would be what it costs to have records copied at one's own initiative.

In addition, the standard provides that "Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the employee or designated representative for additional copies of the record." "Administrative" costs are not meant to encompass overhead or capital costs. Two other limiting phrases are added. First, "An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided." Second, "An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records." Collective bargaining agents are given special status as designated representatives under this rule, and their ability to obtain a copy of records to use on behalf of all employees should not be encumbered by the fact that a copy of a record was previously provided to a specific employee. However, once a copy of a record has been provided to a collective bargaining agent, the employer may charge for subsequent requests by an employee, by the union, or by another designated representative. As a result, once a copy of an exposure record or an analysis of records has been provided to the union, the opportunity of the employer to charge for subsequent requests will prevent any possibility of abuse of the rule's access rights.

Subparagraph (e)(1) contains one more provision which was suggested during the rulemaking (USWA, Ex. 160, p. 21). The standard provides that "Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section." This language makes it clear that the final rule establishes only minimal obligations under the Act, and that collective bargaining agents may have or may bargain for additional access rights. Unions may, for example, desire to bargain for automatic provision of records to employees, for summaries and analyses of records to be prepared and made available to workers and the union, or for major epidemiological studies to be conducted using employee records. The agency's approach is in no way intended to impede innovative programs by employers, employees, and their unions.

Subparagraph (e)(2) of the final standard governs employee and designated representative access to records. Subparagraph (e)(2)(i) concerns employee exposure records. Employees are provided access to "relevant" employee exposure records, which consist of four kinds of employee exposure records. An employee first is assured access to "records of the employee's past or present exposure to toxic substances or harmful physical agents." The relevance of these records is obvious.

Second, an employee is assured access to "exposure records of other employees with past or present job duties or working conditions related to or similar to those of the employee." Access to records of other employees is provided in recognition of the fact that most environmental monitoring using personal samples is conducted on a representative sample basis. Therefore, to discover his or her own exposure, an employee may have to rely on measurements taken concerning other employees. Also, access to exposure records of other employees will enable analysis of the role of work practices and personal hygiene in minimizing exposure (Dr. Wegman, Ex. 10, p. 8). The Health Research Group was concerned over the privacy implications of an employee's knowing another employee's exact exposure and expressed the fear that disclosure of this information could lead to an employee's being discriminated against when seeking future employment or other benefits (HRG, Tr. 2043–45). The agency, however, agrees with other participants that the privacy interests involved in exposure records are minimal, and any risk of harm is clearly outweighed by the need for access (Weiner, Tr. 195; AFL–CIO, Ex. 152, pp. 55–56; Samuels (AFL–CIO IUD), Ex. 36, pp. 3–4). It is OSHA's judgment that a potential employer, insurance company, or other person inclined to discriminate against an employee on the basis of prior exposure to toxic substances or harmful physical agents could easily discriminate simply by knowing what job an employee did and where; the employee's exact extent of exposure would not be needed.

The third kind of "relevant" employee exposure records covered by the final standard are "records containing exposure information concerning the employee's workplace or working conditions." These records would include area, grab, or wipe samples which would not specifically characterize the exact exposure of any one employee. Also included would be material safety data sheets and other records which simply reveal the identity of a toxic substance or harmful physical agent.

The fourth kind of "relevant" records are "exposure records pertaining to workplaces or working conditions to which the employee is being assigned or transferred." This substitutes for the phrase "potential exposure" in paragraph (d)(2) of the proposed rule (43 FR 31374), and will permit workers "to better understand the risks they might assume by bidding on a job, the specifics of which they are not well-acquainted with until they actually enter the job category" (Dr. Wegman, Ex. 10, p. 8). The use of "pertaining to" is meant to cover those exposure records the employee would have access to if actually working in the new job.

Subparagraph (e)(2)(i) provides designated representatives of an employee with access to employee exposure records equal to that of the employee. Given the definition of "designated representative," this will normally require some written authorization from the employee. The final standard contains no rigid criteria as to what this written authorization must say. Any written statement which is signed and indicates that the designated representative is authorized to exercise the employee's right of access will suffice. "Designated representative," however, is defined to automatically include recognized or certified collective bargaining agents for the purpose of exposure records and analyses of exposure or medical records. Collective bargaining agents thus do not have to obtain a written authorization to gain access to these records. Occupational safety and health matters are a well established subject for collective bargaining and union officials will undoubtedly frequently act on behalf of bargaining unit employees in exercising rights of access under this standard. Collective bargaining agents also have rights under several provisions of the Act to act on behalf of their members (*See, e.g.,* §§ 8(e), 8(f)(1), 8(f)(2), 10(c), 13(d) 20(a)(6) of the Act, 29 U.S.C. 657(e), 657(f)(1), 657(f)(2), 659(c), 662(d), 669(a)(6)). Requiring separate written authorization from each employee in the bargaining unit before a union could seek access to all relevant exposure records concerning the bargaining unit would pose unreasonable burdens and would be contrary to the status that is afforded to the union by law.

Subparagraph (e)(2)(ii) governs employee and designated representative access to employee medical records. The contents of this subparagraph have largely been discussed previously in Section IV of the preamble, Central Factual and Policy Issues Concerning Access to Records. First, employees are afforded direct access to their own medical records, subject to one limited exception applicable to potentially harmful information involving terminal illness, or psychiatric conditions. Access of an employee is provided only to medical records of which the employee is the subject; in all other cases specific written consent must be obtained. Second, a designated representative of an employee may gain access to an employee's medical records only through the specific written consent of the employee. This restriction applies to all designated representatives, including collective bargaining agents. Paragraph (c) defines "specific written consent" in detail, and Appendix A has been added as a sample form reflecting this definition. Appendix A satisfies the requirements of the standard but is offered as a sample form, not as a mandatory requirement.

Third, the final rule explicitly authorizes physicians on behalf of employers to make recommendations to employees and designated representatives in connection with the exercise of access rights under this section. The physician may recommend a consultation for the purposes of reviewing and discussing requested records, or may urge that a summary of material facts and opinions be accepted in lieu of the records requested. Other possible recommendations would include the physician urging that requested records be provided only to a physician or other designated representative. These provisions were added to the final standard to make it clear that physicians (not non-medical management personnel) could in their professional judgment recommend alternative or additional means of informing workers of the contents of their medical records other than by direct access to the records. The physician, however, may only make recommendations to the employee or designated representative; full access under the standard must be provided where the employee or designated representative chooses not to follow the recommendations, with the one exception noted below.

Fourth, the final standard does give physicians limited discretion to deny direct employee access to portions of medical records in certain circumstances. In the narrow situation where a specific diagnosis of a terminal illness or psychiatric condition is involved, there may be some cases where direct employee/patient access to this information could possibly prove harmful to the employee's health. In recognition of this possibility, the final rule adopts the recommendation made by the Privacy Commission. If a physician representing the employer believes that direct access to this information could be detrimental to the employee's health, the employer may deny the employee's request for direct access to this information. The employer must, however, inform the employee that access will be provided to a designated representative having specific written consent. Where the employee designates a representative to receive the medical information, the employer must assure that access is provided to the designated representative, even where it is known in advance that the designated representative will give the employee full access to the requested information. The designated representative will then be the ultimate judge of whether and in what manner the employee/patient should have full acess to the information.

Lastly, the final standard authorizes the deletion from requested medical records of the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status. As noted in Chapter IV, Central Factual and Policy Issues Concerning Access to Records, several participants argued that information contained in medical records provided by confidential informants should not be disclosed to an employee due to confidentiality expectations and the possibility even of violence. Confidential informants could include

V 45 M Y 2 3 8 0 UMI

family members, personal friends, and fellow workers. Dr. Young expressed strong doubts that company physicians often receive confidential information from a worker's family (Tr. 1109), and it is probably also rare that friends of an employee engage in these communications. Where such communications do occur, Dr. Teitelbaum described in some detail how he as a physician would disclose to the patient the identity of the informant and the content of his or her communication (Tr. 137–140). This is a very sensitive area, however, and in this narrow situation, OSHA decided that the identities of personal friends, fellow employees, and family members who may have provided confidential information may be deleted prior to disclosure of the medical record. This is the one area where OSHA believes that legitimate expectations of confidentiality have been created which override whatever marginal occupational safety and health purpose would be served if disclosure of the informant's identity was provided. This provision, however, is limited to the identities of fellow employees, personal friends, and family members, on the basis that those who stand outside this personal relationship, such as the employer (i. e., supervisory and managerial employees) or another physician or medical person, are not justified in any expectation of confidentiality and should not be so insulated from disclosure. Moreover, the substance of the information provided by the family member, friend, or fellow employee must be disclosed to the extent that this would not clearly identify the informant. Observations of a worker's strange behavior or apparent poor health status could be highly relevant to occupational disease; for example, where unusual behavior is the consequence of an unrecognized central nervous system disorder.

Subparagraph (e)(2)(iii) governs employee and designated representative access to analyses using exposure of medical records. Access to these records was provided in the proposed rule (43 FR 31374), and several participants endorsed worker and designated representative access to these records (AFL–CIO, Ex. 152, pp. 54–55, Ex. 39, p. 5; USWA, Ex. 160, p.15; United Technologies Corp., Ex. 2(6), p. 1; Deere and Co. Ex. 2(84), p. 2; Union Carbide, Ex. 2(104), p. 4). These records will often be most valuable for efforts to detect, treat, and control occupational health problems. As a result, an employee or designated representative is assured direct access to analyses concerning the employee's working conditions or workplace. As to analyses using employee medical records, however, access without specific written consent is provided only where the analysis does not report the contents of employee medical records in a personally identifiable form. OSHA anticipates that in practice most analyses would not identify specific employees, but this will not necessarily always be the case. A listing of lung function results, for example, may list the employee names with the laboratory results. The final standard provides that the employer shall assure that personal identifiers are removed before access is provided. Personal identifiers are defined as either a "direct identifier (name, address, social security number, payroll number, etc.)" or "information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.)." A reasonableness qualification was added since the number of employees involved and the manner in which the data is presented will affect whether or not factors such as age or job title can be used to identify specific employees. The final rule also provides that "If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided."

Once aggregate medical information is reported in a non-identifiable form such as in most research studies, there are no substantial privacy interests to be served by preventing direct access by those most interested in the analysis. Accordingly, the final rule provides for access to analyses without any prior showing of written consent by each employee whose records are part of the analyses.

Subparagraph (e)(3) of the final standard governs OSHA access to records. As was the case with the proposed rule, the final standard requires that employers assure OSHA access to all records subject to this section. This access is to be "immediate." As explained earlier in the preamble, this access is also not conditioned on employee consent. Due to the strong personal privacy interests associated with employee medical records, however, the agency is simultaneously promulgating strict rules of practice and procedure governing OSHA access to employee medical records (and any analyses using employee medical records which report the contents of employee medical records in personally identifiable form). These administrative regulations specify the mechanism by which the agency will seek access to medical records, and how the records will be handled once in the agency's possession.

One route by which the agency will seek access to personally identifiable employee medical information is by presenting to the employer a written access order approved by the Assistant Secretary. In order to inform employees of the contents of this order, the final standard provides that "the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days."

Finally, subparagraph (e)(3) unlike the proposal does not address NIOSH access to records. Due to the differences between NIOSH and OSHA's functions, responsibilities, and personnel, it was felt that no one set of administrative or substantive regulations was fully adequate for both agencies. NIOSH has independent legal authority to seek access to employee exposure and medical records; thus their exclusion from this rule will not affect NIOSH's operations.

F. Paragraph (f)—*Trade secrets*

Section IV.F of the preamble, *supra*, explains in detail the agency's decisionmaking as to trade secret issues. Section V.B, *supra*, explains the legal analysis which underlies and supports OSHA's policy determinations. The final standard accommodates trade secret concerns so far as possible, but where irreconcilable conflicts arise, the public health interest in access prevails. For example, employers may not delete from requested records "chemical or physical agent identities including chemical names, levels of exposure, or employee health status data." The use of "identities" is meant to preclude the withholding of chemical names as well as trade names. The use of "health status data" is meant to encompass any kind of medical information concerning an employee.

Although identities, levels of exposure, and health status data may not be withheld, the employer may delete "any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, as long as the employee or designated representative is notified that information has been deleted." In addition, the final rule provides that an employer may require as a condition of access to trade secrets "that the employee or designated representative agree in writing not to use the trade secret information for the purpose of commercial gain and not to permit misuse of the trade secret information by a competitor or potential competitor of the employer." This provision will assure that an employer's statutory or common law remedies are effectively brought to the recipient's attention. This will preserve an employer's rights even in the event that an employee or designated representative attempts to misuse protected trade secret information. This provision is intended to enable employers to establish a basic contractual obligation not to misuse trade secret information, but may not be used as a pretext for more onerous requirements such as the posting of penalty bonds, liquidated or punitive damages clauses, or other preconditions. The employer may, however, prominently label released documents as containing trade secret information so that anyone who misuses the documents does so with actual notice of its protected status.

The final standard contains one other provision addressed to situations where an employer may properly delete information from a record. OSHA can envision situations, for example, where exposure records contain specifications of where and when samples were collected such that the "where and when" possibly constitute or reveal trade secrets. The "where" might be five feet above a piece of confidential process equipment described by its technical name; the "when" might be ten minutes after a secret chemical reaction becomes evident by a specified temperature change. These kinds of trade secret information may be withheld, but doing so might eliminate any possibility of adequately interpreting the results obtained. Accordingly, the rule provides that "whenever deletion of trade secret information substantially impairs evaluation of the place where or the time when exposure to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information which is sufficient to permit the employee to identify where and when exposure occurred." The alternative information must be in a form employees will understand, such as "five feet above pump No. 7" or "the pump closest to the office." Employees already know the way that their workplaces are set up or designed and the steps followed in manufacturing processes. In some cases alternative information could itself be a trade secret, but it must nonetheless be provided since it is needed and employees already know it. This information, as with all other trade secret information provided, can be made the subject of a written agreement not to misuse the information.

G. Paragraph (g)—*Employee information*

Paragraph (g) of the final standard contains basic employee information requirements similar to those of the proposed rule (43 FR 31374). The final standard provides that employers must inform employees of "(i) the existence, location, and availability of any records covered by this section, (ii) the person responsible for maintaining and providing access to records, and (iii) each employee's rights of access to these records." Employers must complete this instruction within sixty (60) days of the standard's effective date for current employees, and annually thereafter. As recommended by Dr. Teitelbaum (Tr. 126), equivalent information must also be provided to new employees upon their first entering employment. These information requirements are intended to maximize employee awareness of their rights under this standard so that access will be utilized to help detect, treat, and prevent occupational disease. Several participants endorsed the importance of these basic requirements (Dr. Parkinson, Ex. 43, pp. 5–6; Dr. Wegman, Tr. 209; Spatz (Cement, Lime and Gypsum Workers), Tr. 1204).

Several industry participants argued that the employee instruction provisions of the proposal were too burdensome (Skiba (Magma Copper), Tr. 1455; Xerox Corp., Ex. 2(136), p. 1). Specifically, the obligation to inform "each" employee was challenged since it was thought to connote a duty to advise employees individually. It was suggested that alternative means exist to inform employees (bulletin board notice, etc.) which would both satisfy the intent of the provision to apprise employees of this regulation and place a minimal burden on the employer. The Xerox Corp. further suggested that the employee rights of access could be expressed on the annual Summary of Occupational Injuries and Illnesses which employers are currently required to post (Ex. 2(136), p. 1). Counter to these arguments were the comments of the Right to Know Coalition (Ex. 2(103), p. 2). The Coalition argued that to apprise employees adequately of their rights under this rule, the employer should provide written notice to each employee individually and assure that the records are legible and in a language understood by the employees.

The agency believes that employee information is crucial, but the final standard, in order to minimize unnecessary burdens on employers, is deliberately flexible. Employers may use any method which will effectively apprise employees of their rights, including posting, group discussions, or individual notification. The agency believes that a requirement of written notification to each employee is unnecessary in this case. Several other minor provisions have been added, however, to improve the ability of workers to exercise rights under this rule.

The final standard, as is the case with other OSHA health standards, provides that employers "shall make readily available to employees a copy of this standard and its appendices." Ready access to the standard itself will better enable employees to exercise their rights. In addition, the final rule provides that the employer "shall distribute to employees any informational materials concerning this standard which are made available to the employer" by OSHA. OSHA intends to develop specific training and educational materials concerning this standard for distribution and presentation to employees. The standard's provision will assure effective distribution of these materials when they are completed.

H. Paragraph (h)—*Transfer of records*

A remaining issue concerns the possible transfer of records when an employer goes out of business, or when the preservation periods of the standard expire. The preamble to the proposed rule invited comments on this issue (42 FR 31373). Several participants urged that successor employers assume the obligations of prior employers (HRG, Tr. 2035–36; AFL–CIO, Ex. 152; p. 47; ICWU, Ex. 28, p. 12), and the final rule so provides. The final standard also requires an employer who is going out of business in situations where there will be no successor employer to notify his employees of their access rights at least three months in advance of ceasing to do business. This notification requirement is considered appropriate to assure that employees in this situation are given the opportunity to exercise their rights before, as a practical matter, they may be lost to them forever.

Several other suggestions were made as to what to do when there is no successor employer. Direct transfer to NIOSH was recommended (AFL–CIO, Ex. 152, p. 47; ICWU, Ex. 28, p. 12) as was direct transfer to employees (Cement, Lime and Gypsum Workers, Tr. 1203). Recent OSHA health standards specify direct transfer to NIOSH ((inorganic lead) 29 CFR 1910.1025(n)(5)(ii), 43 FR 53014 (Nov. 14,

V 45 M Y 23 80 UMI

1978); (cotton dust) 29 CFR 1910.1043(k)(4)(ii), 43 FR 27398 (June 23, 1978)), as does the model standard contained in OSHA's recent cancer policy standard (29 CFR 1990.151(q)(4), 45 FR 5292 (Jan. 22, 1980). The final standard provides that, if a specific standard requires the transfer of records to NIOSH, its transfer requirement must be followed. NIOSH endorsed this mandatory transfer approach (NIOSH, Ex. 16, p. 11). Mandatory transfer will enable NIOSH to eventually assess the adequacy of the specific standard's protective provisions.

Where no specific health and safety standard applies to the records being disposed of, OSHA does not believe it is appropriate to mandate automatic transfer of the records to either NIOSH or OSHA. The records may or may not be valuable for future epidemiological investigations. Rather than mandate automatic transfer, the final rule provides a three months notification to NIOSH requirement. This notification will given NIOSH and OSHA an opportunity to initiate appropriate action based on the circumstances of each situation.

The final standard also recognizes that the thirty (30) year preservation requirements may continuously be expiring as to various records, such that records are disposed of quite frequently. Rather than require notice to NIOSH each time a record is discarded, the rule provides:

> Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least three (3) months notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

I. Paragraph (i)—*Appendices*

The appendices included with the standard are intended to provide information and are not intended to create any additional obligations not otherwise imposed. This applies both to Appendix A and B and any other appendix that may subsequently be issued.

J. Paragraph (j)—*Effective date*

The effective date of this standard is ninety (90) days after the rule is published in the **Federal Register**. This three month period is intended to provide sufficient time for employers and employees to become informed of the existence of the standard and its requirements. With the exception of initial employee information requirements, all obligations of the rule commence on its effective date. An extra sixty (60) days are given for employers to provide the information required in subparagraph (g)(1) to employees employed on the effective date.

Any petitions for administrative relief from this final standard, including an administrative stay pending judicial review, must be filed with the Assistant Secretary of Labor for Occupational Safety and Health within 45 days of the publication of this standard in the **Federal Register**. Any petitions filed after this date will be considered untimely. This requirement is considered essential to permit the agency to give full consideration to each petition and respond in advance of the effective date of the standard.

K. Conforming amendments

The access proposal indicated OSHA's intention to make necessary conforming amendments to current OSHA standards such as those in subparts T and Z of Part 1910 so that their access provisions would be consistent with the final access standard (43 FR 31372). The terms of current OSHA records access requirements, such as those in the vinyl chloride standard (29 CFR 1910.1017(m)(4)—(m)(6)) and the cotton dust standard (29 CFR 1910.1043(k)(3)(ii)—(k)(3)(iv)), are less detailed than and in some respects inconsistent with the provisions of the new access standard. Also, existing provisions are in some cases not as effective as the provisions of the new rule in providing for employee and designated representative access to personal monitoring and medical data.

Furthermore, while specific standards all provide for OSHA access to mandated records, 29 CFR 1910.20, as set forth below, also affects OSHA's access to these records. As a companion document to 29 CFR 1910.20, OSHA has promulgated administrative regulations at 29 CFR 1913.10 entitled "Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records". By its terms, 29 CFR 1913.10 applies to OSHA access to personally identifiable employee medical information which is required to be kept by specific OSHA standards. Since 29 CFR 1910.20(e)(3) references 29 CFR 1913.10 as governing OSHA access to employee medical records, the conforming amendments serve to make section 1913.10 applicable to the many standards in Part 1910 which currently contain specific provisions for OSHA access to mandated medical records. On the other hand, since some specific standards provide for certain records such as equipment inspection records (commercial diving) and authorized personnel rosters (vinyl chloride) which are not covered by section 1910.20, general provisions which provide for OSHA and NIOSH access to all records under particular standards have been left unchanged by the conforming amendments.

The necessary conforming amendments which are being made to existing records access provisions of Part 1910 clarify that 29 CFR 1910.20 governs employee, designated representative, and OSHA access to exposure and medical records created pursuant to specific occupational safety and health standards. To avoid confusion, the definitions contained in paragraph (c) of section 1910.20 shall control in the amended provisions. For instance, the term "employee" in the amended provisions includes current employees, former employees, and employees being assigned or transferred to work where there will be exposure to a toxic substance or harmful physical agent (*See*, 29 CFR 1910.20(c)(4)). The term "designated representative" as defined in 29 CFR 1910.20(c)(3) includes individuals or organizations to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent is treated automatically as a designated representative without regard to written employee authorization.

Paragraph (f) of 29 CFR 1910.20 concerning trade secrets is not applied by the conforming amendments to these existing standards since records mandated by specific standards have not contained trade secrets and there has been no need to structure special protections for trade secrets in the context of these specific standards. The current provisions for NIOSH access to records also remain unchanged by these conforming amendments. Furthermore, the records preservation requirements of the specific standards are not affected by these conforming amendments. For example, medical records required by the vinyl chloride standard must still be maintained for the duration of the employment of each employee plus 20 years, or 30 years, whichever is longer (*See*, 29 CFR 1910.1017(m)(2)(iii)).

The following paragraphs are being amended to include the foregoing conforming amendments:

Section 1910.440 (b)(2)
Section 1910.1001 (i)(2), (j)(6)(ii)
Section 1910.1003 (g)(2)(ii)
Section 1910.1004 (g)(2)(ii)
Section 1910.1006 (g)(2)(ii)
Section 1910.1007 (g)(2)(ii)
Section 1910.1008 (g)(2)(ii)
Section 1910.1009 (g)(2)(ii)
Section 1910.1010 (g)(2)(ii)
Section 1910.1011 (g)(2)(ii)
Section 1910.1012 (g)(2)(ii)
Section 1910.1013(g)(2)(ii)
Section 1910.1014(g)(2)(ii)
Section 1910.1015(g)(2)(ii)
Section 1910.1016(g)(2)(ii)
Section 1910.1017(m)(2)–(m)(6)
Section 1910.1018(q)(3)(ii)–(q)(3)(iii);
Appendix A (Section VIII)
Section 1910.1025(n)(4)(ii)–(iii)
Section 1910.1028(l)(3)(ii)–(l)(3)(iv);
Appendix A (Section VII)
Section 1910.1029(m)(3)(ii)–(m)(3)(iv)
Section 1910.1043(k)(3)(ii)–(k)(3)(iv)
Section 1910.1044(p)(3)(ii)–(p)(3)(iv)
Section 1910.1045(q)(4)(ii)–(q)(4)(iii):
Appendix A (Section VII.D.)
Section 1910.1046(h)(2)(ii)
Section 1990.151(q)(3)(ii)–(q)(3)(iii)
Section 1990.152(q)(3)(i)–(q)(3)(iii)

Finally, these conforming amendments do not amend existing "transfer of records" provisions in specific standards; i.e., those provisions in existing standards which require employers to transfer certain mandated records to NIOSH either upon going out of business or upon the expiration of the standard's records preservation period. However, paragraph 1910.20(h), which is being incorporated into the specific standards by these conforming amendments, does contain some additional requirements, particularly involving notification of employees when an employer is going out of business. These requirements in paragraph 1910.20(h) are meant to apply to employers covered by the specific standards. Accordingly, the following sections of specific standards are being amended or added to best clarify this intent:

Section 1910.440(b)(4)
Section 1910.1017(m)(3)
Section 1910.1018(q)(4)(iv)
Section 1910.1025(n)(5)(iv)
Section 1910.1028(l)(4)(iv)
Section 1910.1029(m)(4)(iv)
Section 1910.1043(k)(4)(iv)
Section 1910.1044(p)(4)(iv)
Section 1910.1045(q)(5)(iv)
Section 1910.1046(h)(3)(iv)
Section 1990.151(q)(4)(iv)

All the above-referenced conforming amendments will go into effect when 29 CFR 1910.20 becomes legally effective.

VIII. Authority, Signature, and the Standard

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The **Federal Register** has been requested to officially file this document at 1 p.m. E.D.T. on May 21, 1980, which shall be the time of issuance of this document as provided by 29 CFR 1911.18. The time of issuance is the earliest moment that petitions for judicial review may be filed.

Accordingly, pursuant to sections 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 1600; 29 U.S.C. 655, 657), the Secretary of Labor's Order 8–76 (41 FR 25059) and 29 CFR Part 1911, Chapter XVII of Title 29, the Code of Federal Regulations is hereby amended by revising section 1910.20 and by adding Appendices A and B, and by making conforming amendments to existing occupational safety and health standards in Part 1910.

Signed at Washington, D.C., this 14th day of May 1980.

Eula Bingham,

Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations (CFR) is amended as follows:

Subpart C—General Safety and Health Provisions

1. Section 1910.20 is revised to read as follows, including the addition of Appendices A and B:

§ 1910.20 Access to employee exposure and medical records.

(a) *Purpose.* The purpose of this section is to provide employees and their designated representatives a right of access to relevant exposure and medical records; and to provide representatives of the Assistant Secretary a right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act. Access by employees, their representatives, and the Assistant Secretary is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

(b) *Scope and application.* (1) This section applies to each general industry, maritime, and construction employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

(2) This section applies to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents, whether or not the records are related to specific occupational safety and health standards.

(3) This section applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, including on an in-house or contractual (e.g., fee-for-service) basis. Each employer shall assure that the preservation and access requirements of this section are complied with regardless of the manner in which records are made or maintained.

(c) *Definitions.* (1) "Access" means the right and opportunity to examine and copy.

(2) "Analysis using exposure or medical records" means any compilation of data, or any research, statistical or other study based at least in part on information collected from individual employee exposure or medical records or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.

(3) "Designated representative" means any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(4) "Employee" means a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section.

(5) "Employee exposure record" means a record containing any of the following kinds of information

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concerning employee exposure to toxic substances or harmful physical agents:

(i) environmental (workplace) monitoring or measuring, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

(ii) biological monitoring results which directly assess the absorption of a substance or agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent;

(iii) material safety data sheets; or

(iv) in the absence of the above, any other record which reveals the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

(6)(i) "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including:

(A) medical and employment questionnaires or histories (including job description and occupational exposures),

(B) the results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including X-ray examinations and all biological monitoring),

(C) medical opinions, diagnoses, progress notes, and recommendations,

(D) descriptions of treatments and prescriptions, and

(E) employee medical complaints.

(ii) "Employee medical record" does not include the following:

(A) physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice, and are not required to be maintained by other legal requirements,

(B) records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.), or

(C) records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

(7) "Employer" means a current employer, a former employer, or a successor employer.

(8) "Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

(9) "Record" means any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche, microfilm, X-ray film, or automated data processing).

(10) "Specific written consent" (i) means a written authorization containing the following:

(A) the name and signature of the employee authorizing the release of medical information,

(B) the date of the written authorization,

(C) the name of the individual or organization that is authorized to release the medical information,

(D) the name of the designated representative (individual or organization) that is authorized to receive the released information,

(E) a general description of the medical information that is authorized to be released,

(F) a general description of the purpose for the release of the medical information, and

(G) a date or condition upon which the written authorization will expire (if less than one year).

(ii) A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, and does not operate for more than one year from the date of written authorization.

(iii) A written authorization may be revoked in writing prospectively at any time.

(11) "Toxic substance or harmful physical agent" means any chemical substance, biological agent (bacteria, virus, fungus, etc.), or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure, etc.) which:

(i) is regulated by any Federal law or rule due to a hazard to health,

(ii) is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) (*See* Appendix B),

(iii) has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to, the employer, or

(iv) has a material safety data sheet available to the employer indicating that the material may pose a hazard to human health.

(d) *Preservation of records.* (1) Unless a specific occupational safety and health standard provides a different period of time, each employer shall assure the preservation and retention of records as follows:

(i) *Employee medical records.* Each employee medical record shall be preserved and maintained for at least the duration of employment plus thirty (30) years, except that health insurance claims records maintained separately from the employer's medical program and its records need not be retained for any specified period;

(ii) *Employee exposure records.* Each employee exposure record shall be preserved and maintained for at least thirty (30) years, except that:

(A) Background data to environmental (workplace) monitoring or measuring, such as laboratory reports and worksheets, need only be retained for one (1) year so long as the sampling results, the collection methodology (sampling plan), a description of the analytical and mathmematical methods used, and a summary of other background data relevant to interpretation of the results obtained, are retained for at least thirty (30) years; and

(B) Material safety data sheets and paragraph (c)(5)(iv) records concerning the identity of a substance or agent need not be retained for any specified period as long as some record of the identity (chemical name if known) of the substance or agent, where it was used, and when it was used is retained for at least thirty (30) years; and

(iii) *Analyses using exposure or medical records.* Each analysis using exposure or medical records shall be preserved and maintained for at least thirty (30) years.

(2) Nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record so long as the information contained in the record is preserved and retrievable, except that X-ray films shall be preserved in their original state.

(e) *Access to records.* (1) *General.* (i) Whenever an employee or designated representative requests access to a record, the employer shall assure that access is provided in a reasonable time,

place, and manner, but in no event later than fifteen (15) days after the request for access is made.

(ii) Whenever an employee or designated representative requests a copy of a record, the employer shall, within the period of time previously specified, assure that either:

(A) a copy of the record is provided without cost to the employee or representative,

(B) the necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record, or

(C) the record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

(iii) Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the employee or designated representative for additional copies of the record, except that

(A) An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided; and

(B) An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

(iv) Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section.

(2) *Employee and designated representative access.* (i) *Employee exposure records.* Each employer shall, upon request, assure the access of each employee and designated representative to employee exposure records relevant to the employee. For the purpose of this section, exposure records relevant to the employee consist of:

(A) records of the employee's past or present exposure to toxic substances or harmful physical agents,

(B) exposure records of other employees with past or present job duties or working conditions related to or similar to those of the employee,

(C) records containing exposure information concerning the employee's workplace or working conditions, and

(D) exposure records pertaining to workplaces or working conditions to which the employee is being assigned or transferred.

(ii) *Employee medical records.* (A) Each employer shall, upon request, assure the access of each employee to employee medical records of which the employee is the subject, except as provided in paragraph (e)(2)(ii)(D) below.

(B) Each employer shall, upon request, assure the access of each designated representative to the employee medical records of any employee who has given the designated representative specific written consent. Appendix A to this section contains a sample form which may be used to establish specific written consent for access to employee medical records.

(C) Whenever access to employee medical records is requested, a physician representing the employer may recommend that the employee or designated representative:

(*1*) consult with the physician for the purposes of reviewing and discussing the records requested,

(*2*) accept a summary of material facts and opinions in lieu of the records requested, or

(*3*) accept release of the requested records only to a physician or other designated representative.

(D) Whenever an employee requests access to his or her employee medical records, and a physician representing the employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition could be detrimental to the employee's health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent, and deny the employee's request for direct access to this information only. Where a designated representative with specific written consent requests access to information so withheld, the employer shall assure the access of the designated representative to this information, even when it is known that the designated representative will give the information to the employee.

(E) Nothing in this section precludes a physician, nurse, or other responsible health care personnel maintaining employee medical records from deleting from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

(iii) *Analyses using exposure or medical records.*

(A) Each employer shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(B) Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), the employer shall assure that personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

(3) *OSHA access.* (i) Each employer shall, upon request, assure the immediate access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or medical records. Rules of agency practice and procedure governing OSHA access to employee medical records are contained in 29 CFR 1913.10.

(ii) Whenever OSHA seeks access to personally identifiable employee medical information by presenting to the employer a written access order pursuant to 29 CFR 1913.10(d), the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days.

(f) *Trade secrets.* (1) Except as provided in paragraph (f)(2) of this section, nothing in this section precludes an employer from deleting from records requested by an employee or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, as long as the employee or designated representative is notified that information has been deleted. Whenever deletion of trade secret information substantially impairs evaluation of the place where or the time when exposure to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information which is sufficient to permit the employee to identify where and when exposure occurred.

(2) Notwithstanding any trade secret claims, whenever access to records is requested, the employer shall provide

V 4 5 M Y 2 3 8 0 UMI

access to chemical or physical agent identities including chemical names, levels of exposure, and employee health status data contained in the requested records.

(3) Whenever trade secret information is provided to an employee or designated representative, the employer may require, as a condition of access, that the employee or designated representative agree in writing not to use the trade secret information for the purpose of commercial gain and not to permit misuse of the trade secret information by a competitor or potential competitor of the employer.

(g) *Employee information.* (1) Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform employees exposed to toxic substances or harmful physical agents of the following:

(i) the existence, location, and availability of any records covered by this section;

(ii) the person responsible for maintaining and providing access to records; and

(iii) each employee's rights of access to these records.

(2) Each employer shall make readily available to employees a copy of this standard and its appendices, and shall distribute to employees any informational materials concerning this standard which are made available to the employer by the Assistant Secretary of Labor for Occupational Safety and Health.

(h) *Transfer of records.* (1) Whenever an employer is ceasing to do business, the employer shall transfer all records subject to this section to the successor employer. The successor employer shall receive and maintain these records.

(2) Whenever an employer is ceasing to do business and there is no successor employer to receive and maintain the records subject to this standard, the employer shall notify affected employees of their rights of access to records at least three (3) months prior to the cessation of the employer's business.

(3) Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer shall:

(i) transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard: or

(ii) notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of the records.

(4) Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least (3) months notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

(i) *Appendices.* The information contained in the appendices to this section is not intended, by itself, to create any additional obligations not otherwise imposed by this section nor detract from any existing obligation.

(j) *Effective date.* This section shall become effective on August 21, 1980. All obligations of this section commence on the effective date except that the employer shall provide the information required under paragraph (g)(1) of this section to all current employees within sixty (60) days after the effective date.

Appendix A to § 1910.20—Sample Authorization Letter for the Release of Employee Medical Record Information to a Designated Representative

I, ————, (full name of worker/patient) hereby authorize ———— (individual or organization holding the medical records) to release to ———— (individual or organization authorized to receive the medical information), the following medical information from my personal medical records:

_____

_____

(Describe generally the information desired to be released).

I give my permission for this medical information to be used for the following purpose: ————, but I do not give permission for any other use or re-disclosure of this information.

(Note.—Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year); (2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

_____

_____

_____

_____

_____

_____

Full name of Employee or Legal Representative

Signature of Employee or Legal Representative

Date of Signature

Appendix B to § 1910.20—Availability of NIOSH Registry of Toxic Effects of Chemical Substances (RTECS) [1]

The final standard, 29 CFR 1910.20, applies to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents (paragraph (b)(2)). The term "toxic substance or harmful physical agent" is defined by paragraph (c)(11) to encompass chemical substances, biological agents, and physical stresses for which there is evidence of harmful health effects. The standard uses the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) as one of the chief sources of information as to whether evidence of harmful health effects exists. If a substance is listed in the latest printed RTECS, the standard applies to exposure and medical records (and analyses of these records) relevant to employees exposed to the substance.

It is appropriate to note that the final standard does not require that employers purchase a copy of RTECS, and many employers need not consult RTECS to ascertain whether their employee exposure or medical records are subject to the standard. Employers who do not currently have the latest printed edition of the NIOSH RTECS, however, may desire to obtain a copy. The RTECS is issued in an annual printed edition as mandated by section 20(a)(6) of the Occupational Safety and Health Act [29 U.S.C. 669(a)(6)]. The 1978 edition is the most recent printed edition as of May 1, 1980. Its Foreward and Introduction describes the RTECS as follows:

"The annual publication of a list of known toxic substances is a NIOSH mandate under the Occupational Safety and Health Act of 1970. It is intended to provide basic information on the known toxic and biological effects of chemical substances for the use of employers, employees, physicians, industrial hygienists, toxicologists, researchers, and, in general, anyone concerned with the proper and safe handling of chemicals. In turn, this information may contribute to a better understanding of potential occupational hazards by everyone involved and ultimately may help to bring about a more healthful workplace environment. (p. iii)

"This Registry contains 124,247 listings of chemical substances: 33,929 are names of different chemicals with their associated toxicity data and 90,318 are synonyms. This edition includes approximately 7,500 new chemical compounds that did not appear in the 1977 Registry. (p. xiii)

"The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard

[1] On April 24, 1980, the Director of the Federal Register approved for incorporation by reference into 29 CFR 1910, the 1978 edition of the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances (the Registry). (See 29 CFR 1910.20 (c)(11)(ii)).

evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternate processes which may be less hazardous. (p. xiii)

"In this edition of the Registry, the editors intend to identify "all known toxic substances" which may exist in the environment and to provide pertinent data on the toxic effects from known doses entering an organism by any route described. Data may be used for the evaluation of chemical hazards in the environment, whether they be in the workplace, recreation area, or living quarters. (p. xiii)

"It must be reemphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences. (p. xiv)"

The RTECS 1978 printed edition may be purchased for $13.00 from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 (202–783–3238) (Order GPO Stock No. 017–033–00346–7). The 1979 printed edition is anticipated to be issued in the summer of 1980. Some employers may also desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may be purchased from the GPO for $14.00 (Order the "Microfiche Edition, Registry of Toxic Effects of Chemical Substances"). Both the printed edition and the microfiche edition of RTECS are available for review at many university and public libraries throughout the country. The latest RTECS editions may also be examined at the OSHA Technical Data Center, Room N2439-Rear, United States Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202–523–9700), or at any OSHA Regional or Area Office (*See*, major city telephone directories under United States Government-Labor Department).

Subpart T—Commercial Diving Operations

2. Section 1910.440 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§1910.440 Recordkeeping requirements.

* * * * *

(b) * * *

(2) Records and documents required by this standard shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). Safe practices manuals (§1910.420), depth-time profiles (§1910.422), recordings of dives (§1910.423), decompression procedure assessment evaluations (§1910.423), and records of hospitalizations (§1910.440) shall be provided in the same manner as employee exposure records or analyses using exposure or medical records. Equipment inspections and testing records which pertain to employees (§1910.430) shall also be provided upon request to employees and their designated representatives.

* * * * *

(4) After the expiration of the retention period of any record required to be kept for five (5) years, the employer shall forward such records to the National Institute for Occupational Safety and Health, Department of Health and Human Services. The employer shall also comply with any additional requirements set forth at 29 CFR 1910.20(h).

* * * * *

Subpart Z—Toxic and Hazardous Substances

3. Section 1910.1001 is amended by revising paragraphs (i)(2) and (j)(6)(ii) to read as follows:

§1910.1001 Asbestos.

* * * * *

(i) * * *

(2) *Access.* Employee exposure records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i).

* * * * *

(j) * * *

(6) * * *

(ii) *Access.* Records of the medical examinations required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall be provided upon the request to the Director of NIOSH. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer of the examined employee all the information specifically required by this paragraph, and any other medical information related to occupational exposure to asbestos fibers.

4. Section 1910.1003 is amended by revising paragraph (g)(2)(ii) to read as follows:

§1910.1003 4-Nitrobiphenyl.

* * * * *

(g) * * *

(2) * * *

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

5. Section 1910.1004 is amended by revising paragraph (g)(2)(ii) to read as follows:

§1910.1004 alpha-Naphthylamine.

* * * * *

(g) * * *

(2) * * *

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

6. Section 1910.1006 is amended by revising paragraph (g)(2)(ii) to read as follows:

§1910.1006 Methyl chloromethyl ether.

* * * * *

(g) * * *

(2) * * *

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

7. Section 1910.1007 is amended by revising paragraph (g)(2)(ii) to read as follows:

§1910.1007 3-3'-Dichlorobenzidine (and its salts).

* * * * *

(g) * * *

(2) * * *

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

8. Section 1910.1008 is amended by revising paragraph (g)(2)(ii) to read as follows:

s1910.1008 bis-Chloromethyl ether.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

9. Section 1910.1009 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1009 beta-Naphthylamine.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

10. Section 1910.1010 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1010 Benzidene.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

11. Section 1910.1011 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1011 4-Aminodiphenyl.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

12. Section 1910.1012 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1012 Ethyleneimine.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

13. Section 1910.1013 is amended by revising paragraph (g)(2)(ii) tc read as follows:

s 1910.1013 beta-Propiolactone.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

14. Section 1910.1014 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1014 2-Acetylaminofluorene.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

15. Section 1910.1015 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1015 4-Dimethylaminoazobenzene.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

16. Section 1910.1016 is amended by revising paragraph (g)(2)(ii) to read as follows:

s 1910.1016 N-Nitrosodimethylamine.

* * * * *

(g) * * *
(2) * * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall also be provided upon request to the Director.

* * * * *

17. Section 1910.1017 is amended by revising the introductory text of paragraph (m)(2) and paragraph (m)(3) and removing paragraphs (m)(4), (m)(5) and (m)(6) to read as follows:

§ 1910.1017 Vinyl chloride.

* * * * *

(m) * * *
(2) Records of required monitoring and measuring and medical records shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i). These records shall be provided upon request to the Director. Authorized personnel rosters shall also be provided upon request to the Assistant Secretary and the Director.
(i) * * *
(ii) * * *
(iii) * * *
(3) In the event that the employer ceases to do business and there is no successor to receive and retain his records for the prescribed period, these records shall be transmitted by registered mail to the Director, and each employee individually notified in writing of this transfer. The employer shall also comply with any additional requirements set forth in 29 CFR 1910.20(h).

18. Section 1910.1018 is amended by revising paragraphs (q)(3)(ii) and Appendix A Section VIII, by removing paragraph (q)(3)(iii) and by adding paragraph (q)(4)(iv) to read as follows:

s1910.1018 Inorganic arsenic.

* * * * *

(q) * * *
(3)* * *
(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i).
(4)* * *

(iv) The employer shall also comply with any additional requirements involving the transfer of records set in 29 CFR 1910.20(h).

* * * * *

Appendix A—Inorganic Arsenic Substance Information Sheet

* * * * *

VIII. Access to Records
You or your representative are entitled to records of your exposure to inorganic arsenic and your medical examination records if you request your employer to provide them.

* * * * *

19. Section 1910.1025 is amended by revising paragraphs (n)(4)(ii), removing paragraph (n)(4)(iii) and by adding paragraph (n)(5)(iv) to read as follows:

s1910.1025 Lead.

* * * * *

(n)* * *
(4)* * *
(ii) Environmental monitoring, medical removal, and medical records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (2)–(i). Medical removal records shall be provided in the same manner as environmental monitoring records.
(5)* * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

20. Section 1910.1028 is amended by revising paragraphs (l)(3)(ii) and Appendix A Section VII, by removing paragraphs (l)(3)(iii) and (l)(3)(iv) and by adding paragraph (l)(4)(iv) to read as follows:

s1910.1028 Benzene.

* * * * *

(1)* * *
(3)* * *
(ii) Employee exposure measurement records and employee medical records required by this section shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20(a)–(e) and (g)–(i).
(4) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

Appendix A—Substance Safety Data Sheet, Benzene

* * * * *

VII. Access to Records.
You or your representative are entitled to see the records of your exposure to benzene and your medical examination records if you request your employer to provide them.

* * * * *

21. Section 1910.1029 is amended by revising paragraphs (m)(3)(ii), removing paragraphs (m)(3)(iii) and (m)(3)(iv), and by adding paragraph (m)(4)(iv) to read as follows:

s1910.1029 Coke oven emissions.

* * * * *

(m) * * *
(3) * * *
(ii) Employee exposure measurement records and employee medical records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20(a)–(e) and (g)–(i).
(4) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

22. Section 1910.1043 is amened by revising paragraphs (k)(3)(ii) by removing paragraphs (k)(3)(iii) and (k)(3)(iv) and by adding paragraph (k)(4)(iv) to read as follows:

s1910.1043 Cotton dust.

* * * * *

(k) * * *
(3) * * *
(ii) Employee exposure measurement records and employee medical records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i).
(4) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

23. Section 1910.1044 is amended by revising paragraphs (p)(3)(ii) by removing paragraphs (p)(3)(iii) and (p)(3)(iv) and by adding paragraph (p)(4)(iv) to read as follows:

s1910.1044 1,2-Dibromo-3-chloropropane.

* * * * *

(p) * * *
(3) * * *
(ii) Employee exposure monitoring records and employee medical records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20(a)–(e) and (g)–(i).
(4) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

24. Section 1910.1045 is amended by revising paragraphs (q)(4)(ii) and Appendix A section VI, D by removing paragraph (q)(4)(iii) and by adding paragraph (q)(5)(iv) to read as follows:

s1910.1045 Acrylonitrile.

* * * * *

(q) * * *
(4) * * *
(ii) Records required by paragraphs (q)(1)–(q)(3) of this section shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (q)–(i). Records required by paragraph (q)(1) shall be provided in the same manner as exposure monitoring records.
(5) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

Appendix A—Substance Safety Data Sheet for Acrylonitrile

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VI. Access to Information

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D. Your employer is required to release your exposure and medical records to you or your representative upon your request.

* * * * *

25. Section 1910.1046 is amended by revising paragraph (h)(2)(ii) and by adding paragraph (h)(3)(iv) to read as follows:

s1910.1046 Exposure to cotton dust in cotton gins.

* * * * *

(h) * * *
(2) * * *
(ii) Employee medical records shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20(a)–(e) and (g)–(i).
(3) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).

* * * * *

26. Section 1990.151 is amended by revising paragraphs (q)(3)(ii) by removing paragraph (q)(3)(iii) and by adding paragraph (q)(4)(iv) to read as follows:

s1910.151 Model Standard pursuant to section 6(b) of the Act.

* * * * *

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(q) * * *
(3) * * *
(ii) Employee exposure measurement records and employee medical records required by this section shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20(a)–(e) and (g)–(i).
(4) * * *
(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in 29 CFR 1910.20(h).
* * * * *

27. Section 1990.152 is amended by revising paragraphs (q)(3)(i) and (q)(3)(ii) and removing (q)(3)(iii) to read as follows:

§1990.152 Model Emergency Temporary Standard pursuant to section 6(c).

* * * * *
(q) * * *
(3) * * *
(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.
(ii) Employee exposure measurement records and employee medical records required by this section shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1990.20(a)–(e) and (g)–(i).
* * * * *

(Secs. 6(b), 8(c) and 8(g) (84 Stat. 1593, 1599, 1600; 29 U.S.C. 655, 657), the Secretary of Labor's Order 8–76 (41 FR 25059) and 29 CFR Part 1911, Chapter XVII of Title 29)

[FR Doc. 80–15389 Filed 5–21–80; 8:45 am]
BILLING CODE 4510–26–M

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29 CFR Part 1913

Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records

AGENCY: The Occupational Safety and Health Administration of the United States Department of Labor (OSHA).

ACTION: Final rule.

SUMMARY: These rules of agency practice and procedure, promulgated today as a new 29 CFR 1913.10, govern OSHA access to personally identifiable employee medical information contained in medical records. The rules are structured to protect the substantial personal privacy interests inherent in identifiable medical records, while also permit OSHA to make beneficial use of these records for proper occupational safety and health purposes. The rules regulate the manner in which OSHA will seek access to employee medical records, and how the medical information will be protected once in the agency's possession.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA, Office of Public Affairs, Third Street and Constitution Avenue, NW., Room N–3641, Washington, DC 20210 (202–523–8151). Copies of this document may be obtained at any time by request to the OSHA Office of Public Affairs at the address or telephone number listed above, or by contacting any OSHA regional or area office.

SUPPLEMENTARY INFORMATION:

I. Introduction

The statement of reasons accompanying these regulations (the preamble) is divided into four parts, numbered I through IV. The following is a table of contents for this preamble:

I. Introduction
II. Pertinent Legal Authority
III. Summary and Explanation of the Regulations
A. Paragraph (a)—*General policy.*
B. Paragraph (b)—*Scope and application.*
C. Paragraph (c)—*Responsible persons.*
D. Paragraph (d)—*Written access orders.*
E. Paragraph (e)—*Presentation of written access order and notice to employees.*
F. Paragraph (f)—*Objections concerning a written access order.*
G. Paragraph (g)—*Removal of direct personal identifiers.*
H. Paragraph (h)—*Internal agency use of personally identifiable medical information.*
I. Paragraph (i)—*Security procedures.*
J. Paragraph (j)—*Retention and destruction of records.*
K. Paragraph (k)—*Results of an agency analysis using personally identifiable employee medical information.*
L. Paragraph (l)—*Annual report.*
M. Paragraph (m)—*Inter-agency transfer and public disclosure.*
N. Paragraph (n)—*Effective date.*
IV. Authority, Signature, and the Regulations

Part III is a provision-by-provision discussion of the regulations in lettered paragraphs corresponding to the lettered paragraphs of the regulations. It provides a brief summary of each provision and the evidence and rationale supporting it. References to the rulemaking record in the text of the preamble are in parentheses, and the following abbreviations have been used:

1. Ex. : Exhibit number to Docket H–112
2. Tr. : Transcript page number

These rules of agency practice and procedure are issued pursuant to sections 8(c)(1) and 8(g) of the Occupational Safety and Health Act of 1970 ("the Act") (84 Stat. 1599, 29 U.S.C. 657), section (e) of the Privacy Act (5 U.S.C. 552a(e)), and the government's general housekeeping statute (5 U.S.C. 301).

A. Background

The Occupational Safety and Health Administration (OSHA) has today published a final standard, 29 CFR 1910.20, governing access to employee exposure and medical records. Subparagraph (e)(3) of section 1910.20 provides for unconsented OSHA access to personally identifiable employee medical records. The need for OSHA access to employee medical records, and the decisionmaking involved in providing for unconsented OSHA access, are explained in the preamble accompanying 29 CFR 1910.20. The final regulations set forth below as § 1913.10 of 29 CFR establish agency procedures governing OSHA access to these records. These rules of agency practice and procedure serve to (1) control the circumstances under which OSHA seeks access to personally identifiable medical records, and (2) protect personally identifiable medical information once it has been obtained by the agency. These procedures are intended to preclude possible misuse of employee medical records, while at the same time enable medical record information to play a constructive role in agency efforts directed to the prevention of occupational injury and disease.

B. History of the regulations

These final regulations, 29 CFR 1913.10, have been developed in concert with the promulgation of 29 CFR 1910.20. 29 CFR 1910.20 was first published on July 19, 1978 (43 FR 31019) as an interim final rule. This rule required the indefinite retention of employee exposure and medical records, and required that these records be made available upon request to OSHA and to NIOSH (the National Institute for Occupational Safety and Health). This interim final rule was followed by a proposed rule published on July 21, 1978 (43 FR 31371) which proposed to expand 29 CFR 1910.20 to include employee and employee representative access to employee exposure and medical records, whether or not these records were subject to specific occupational safety and health standards. The proposed rule also set a definite minimal time period for the retention of these records. OSHA gave interested persons until September 22, 1978 to present written comments, views or arguments on any issue raised by the proposal. A total of 211 initial comments were received. Based on the

widespread interest evidenced by these comments, OSHA announced on October 6, 1978 (43 FR 46322) a schedule for public hearings on this proposal.

Hearings were held in Washington, DC from December 5–8, 1978 and from January 3–5, 1979; in Chicago, Illinois from December 12–13, 1978 and from January 9–10, 1979; and in San Francisco, California on December 15, 1978. A total of 85 individuals and organizations gave oral presentations, and the hearing transcript numbers 2542 pages.

OSHA has in the past exercised its authority to seek access to employee exposure and medical records as part of its regulatory and enforcement powers. For example, specific occupational safety and health standards have always provided for OSHA access to the records required by these standards. Nevertheless, inclusion of a general OSHA access provision in both the interim final rule and the proposed rule raised for public comment the question of the agency's policies and procedures governing access to, and use of, employee medical records. Numerous participants noted OSHA's lack of written procedures and policies concerning access to, and handling of, often highly sensitive medical information, and indicated that appropriate mechanisms protecting the confidentiality of accessed records should be developed (Cal. Dept. of Industrial Relations, Ex. 2(132), p. 3; National Commission on the Confidentiality of Health Records (NCCHR), Ex. 2(151), p. 2; Outboard Marine Corp., Ex. 2(183), pp. 6–8).

OSHA agreed with these concerns, and accordingly developed and made available for public comment draft administrative guidelines governing OSHA access to employee medical records. A copy of these draft guidelines was placed in the public rulemaking record (Docket No. H–112) of the proposed rule on November 24, 1978. OSHA official Grover Wrenn, in his opening statement at the December 5, 1978 hearings, announced the public availability of the guidelines (Tr. 15–16). On January 19, 1979, an additional public notice of the availability of the draft guidelines was published in the **Federal Register** (44 FR 3994). In that notice, OSHA gave the public until March 1, 1979, to comment on the draft guidelines. In addition, OSHA announced its intention to issue the final guidelines as regulations and to limit their scope to confidential medical information, and not apply them to trade secret information. On February 27, 1979 (44 FR 11096) the comment period was extended to March 30, 1979. A total of 43 comments were received into a separate docket created to receive these comments (Docket No. H–112A). The regulations below are based on the total record in Dockets No. H–112 and H–112A and on the agency's experience and expertise.

II. Pertinent Legal Authority

The legal authority for these procedural regulations is found in sections 8(c)(1) and 8(g)(2) of the Occupational Safety and Health Act ("The Act"), 29 U.S.C. 657; in section (e) of the Privacy Act, 5 U.S.C. 552a(e); and in 5 U.S.C. 301.

Section 8(c)(1) of the Act provides that:

> [E]ach employer shall make, keep, preserve, and make available to the Secretary [of Labor] or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses.

Employee medical records are included within the type of records addressed by this provision.

Section 8(g)(2) is the general rulemaking authority of the Act and states that:

> [T]he Secretary and the Secretary of Health, Education, and Welfare, shall each prescribe such rules and regulations as he may deem necessary to carry out their responsibilities under the Act, including rules and regulations dealing with the inspection of an employee's establishment.

These procedural regulations are deemed necessary to enable beneficial use of employee medical records consistent with the employee's right of privacy.

The Privacy Act, 5 U.S.C. 552a, imposes specific obligations on agencies to protect personally identifiable records within their possession. In particular, paragraphs (9) and (10) of section (e) of the Privacy Act require each agency that maintains a system of covered records to:

> (9) establish rules of conduct for persons involved in the design, development, operation and maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance; (and)
> (10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, invonvenience, or unfairness to any individual on whom information is maintained . . .

Part 70a of 29 CFR constitutes the Department of Labor's implementation of the Privacy Act. The regulations set forth below provide additional procedures with respect to personally identifiable employee medical information which OSHA seeks to examine or obtain.

Section 301 of 5 U.S.C. is the government's general "housekeeping" statute, and authorizes the promulgation of regulations of this nature. It provides:

> The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

In addition, the agency has reviewed the provisions of the regulations pursuant to the National Environmental Policy Act of 1969 and Council on Environmental Quality Regulations (40 CFR Part 1500). The agency has determined that no significant environmental impact will result from the implementation of these rules.

III. Summary and Explanation of the Regulations

The administrative rules of practice and procedure set forth below maintain the same structure and approach as the draft guidelines, but have been significantly refined in light of the record and the agency's evaluation of it. The provisions have been tailored to the way in which OSHA is structured, managed, and staffed, and would not necessarily be pertinent to any other Federal agency. In forming these procedures, the agency considered both the importance of protecting the right to personal privacy and the equally important interest in facilitating the beneficial use of medical record information. The resulting regulations represent, in OSHA's view, an appropriate balance between the two interests. It is appropriate to stress that OSHA has historically made only limited use of employee medical records, and this policy will not be changed by these regulations. These procedural regulations will govern those situations, primarily concerning employee exposure to toxic substances, where medical record information is highly relevant to, and sometimes crucial to, the agency's performance of

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its statutory functions. As a result, these regulations will improve the agency's protection of personally identifiable information, but will not by themselves serve to expand agency attempts to seek use of this information.

A. Paragraph (a)—*General policy*

The final rule expands the "General Policy" section of the draft guidelines into two paragraphs, "General policy" and "Scope and application." Paragraph (a), General policy, notes the importance of both personal privacy and the value of medical records to OSHA's performance of statutory functions. The central constraints on OSHA access to personally identifiable medical information which are created by the regulations are then highlighted. These policies are implemented by the specific provisions which follow.

The final rule omits a waiver provision. The waiver clause of the draft guidelines was criticized by numerous participants as unjustified and as demonstrating a half-hearted agency commitment to personal privacy (USWA, Ex. 160, p.18; Belair (NCCHR), Tr. 1874; SOCMA, Ex. 167(9–36); ORC, Ex. 159, p. 2; National Steel Co., Ex. 157, p. 2; Borg-Warner Chemicals, Ex.167(9–22)). The agency orginally included a waiver clause due to a concern that unforeseen emergency situations could arise where the literal application of the guidelines would frustrate accomplishment of statutory responsibilities. Having reconsidered the issue in view of these comments the agency deleted the provision. The agency is convinced that the final regulations can accommodate all access situations, even emergency situations where the quickest possible action is essential.

B. Paragraph (b)—*Scope and application*

Paragraph (b) defines the circumstances under which the procedural regulations will apply. Except as provided in paragraphs (b)(3)–(b)(6), the regulations apply to "all requests by OSHA personnel to obtain access to records in order to examine or copy personally identifiable employee medical information, whether or not pursuant to the access provisions of 29 CFR 1910.20(e)." The regulations thus establish the framework under which all agency efforts to examine records containing employee medical information are to be conducted.

The applicability of the regulations turns on the definition of what constitutes personally identifiable information. Subparagraph (b)(2) states as follows:

> For the purposes of this section, "personally identifiable employee medical information" shall mean employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number, etc.) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (e. g., exact age, height, weight, race, sex, date of initial employment, job title, etc.).

This definition follows the recommendation of the American Medical Records Association (AMRA) (Ex. 82, pp. 1–2; *See also,* Birdbord (NIOSH), Ex. 22, p. 5), and eplicitly acknowledges the fact that a wide variety of data can in certain situations be used indirectly to identify specific employees (Bierbaum (NIOSH), Tr. 506). These regulations establish procedures to limit access to only that data necessary to accomplish a statutory purpose. OSHA will on occasion need to consider the factors of age, sex, race, height, weight, duration of employment, place of birth, etc., to properly evaluate specific medical tests (Dr. Whorton, Ex. 11, p. 21, Tr. 299). Where this kind of information is reported in a fashion which could reasonably be used under the circumstances to identify specific employees, the information is treated no differently than when direct identifiers are attached. Conversely, where information cannot reasonably be used under the circumstances to identify specific employees, these regulations do not apply.

Subparagraph (b)(3), for the sake of clarity, excludes from the scope of the rule several forms of information which do not constitute "personally identifiable employee medical information." First, aggregate employee medical information and medical records on individual employees which are not in a personally identifiable form are excluded. Protection of the personal privacy of employees requires only that *personally identifiable* medical information be protected. Many employers periodically analyze the contents of employee medical records as a part of their occupational medical programs, and this practice is a sound one. Research studies, statistical analyses of raw medical data, and listings of biological monitoring results (stripped of identifiers) can be valuable tools in detecting, controlling, and preventing occupational disease. These devices do not impinge on the personal privacy expectations of any specific employee, and could not be used adversely against specific employees. They should be readily available upon request to public health agencies like OSHA.

Subparagraph (b)(3) also excludes the OSHA injury and illness log (29 CFR Part 1904), death certificates, and employee exposure records from coverage by these regulations. Biological monitoring test results treated by 29 CFR 1910.20(c)(5) or by specific occupational safety and health standards as exposure records are also excluded. These kinds of personal records may on occasion be of such significance that they should be treated with discretion and care (*See,* HRG, Tr. 2039–40, Ex. 2(161), p. 3, Ex. 167(9–40), pp. 1–2), and several participants recommended that at least exposure records should be covered by the administrative regulations (*Id.;* Phillips Petroelum Co., Ex. 167(9–23), p. 2; SOHIO, Ex. 167(9–29), p. 2). The agency, however, has not done so because (1) these documents may be already widely known within the workplace; (2) the privacy interests involved in these records are not of comparable magnitude to those involved in identifiable medical records; (3) these records are of such occupational health and safety importance and they will be so frequently used by various agency personnel that rigid approval and security procedures are both impractical and inappropriate; and (4) agency discretion and care can adequately protect whatever privacy interests apply to these records without having to impose these regulations.

By excluding employee exposure records, the language of subparagraph (b)(3) also serves to exclude trade secret information from coverage by these regulations. Although several participants urged that these administrative regulations apply to trade secrets (MCA, Ex. 167(9–38); DuPont, Ex. 167(41), p. 3), and the draft guidelines so provided (Ex. 167(2)), the agency believes that existing regulations and agency procedures are sufficient to protect trade secret information (*See,* 18 U.S.C. 1905; Section 15 of the Act, 29 U.S.C. 664; 29 CFR 1903.9; OSHA Field Operations Manual, Ex. 113). Attention has not been drawn by any participant to deficiencies of current agency procedures concerning trade secrets, and the agency sees no need to expand the scope of these administrative regulations beyond the privacy interests involved in personally identifiable medical records (*See,* HRG, Ex. 167(9–10), pp. 1–2; AFL–CIO, Ex. 152, pp. 60–61; USWA, Ex. 160, p. 17).

Subparagraphs (b)(4)–(b)(6) exclude three situations where agency access to personally identifiable employee medical information need not be regulated by all requirements of these regulations. Subparagraph (b)(4) excludes situations where OSHA compliance personnel seeks to examine medical records for the sole purpose of verifying employer compliance with mandated recordkeeping requirements. All comprehensive OSHA health standards contain detailed medical surveillance programs with associated recordkeeping provisions (*See,* 29 CFR 1910.1001–1046). Access to medical records is necessary and appropriate to verify compliance with these requirements, as well as the requirements of 29 CFR 1910.20. No analysis is made of the medical content of the file; rather, the compliance officer checks to see that required data is present in the file. Since no personally identifiable medical information is either substantively reviewed or obtained, and no special qualifications are necessary to carry out this task, it is inappropriate to require the prior approval of the Assistant Secretary and the OSHA Medical Records Officer for these routine inquiries. The final regulations provide that these inquiries "shall be conducted on-site and, if requested, under the observation of the recordholder, and the OSHA compliance personnel shall not record and take off-site any information from medical records other than documentation of the fact of compliance or non-compliance."

Subparagraph (b)(5) excludes "agency access to, or the use of, personally identifiable employee medical information obtained in the course of litigation." These litigation situations, including post-citation discovery requests, will generally be controlled by attorneys in the Office of the Solicitor of Labor or the Department of Justice, and not by the Assistant Secretary. Traditional protective orders and other devices may in specific cases be needed to protect personal privacy, but this is a matter which is best handled through the rules of civil and criminal procedure, and may be the subject of further directives from the Solicitor of Labor.

Subparagraph (b)(6) excludes from these procedural regulations situations "where a written directive by the Assistant Secretary authorizes appropriately qualified personnel to conduct limited reviews of specific medical information mandated by an occupational safety and health standard, or of specific biological monitoring test results." OSHA envisions situations where appropriately trained field personnel should be authorized in general to conduct limited reviews of specific kinds of medical information. Some of this medical information could be part of a medical surveillance program mandated by a specific occupational safety and health standard. Examples include hemoglobin and kidney function tests required under the OSHA lead standard (*See,* 29 CFR 1910.1025(j)(3)(ii)), as well as written medical opinions which under the lead standard can serve to initiate special health protection for employees (*See,* 29 CFR 1910.1025 (j)(3)(v), (k)(1)(ii)). In other cases, agency access to specific biological monitoring tests may be extremely important to adequately investigate potential occupational health problems even though the biological monitoring tests were not mandated by existing standards. Possible examples include cholinesterase activity in the blood of pesticides workers, or pulmonary function testing of workers exposed to silica. OSHA may provide its professional personnel with the necessary training either to substantively evaluate these limited test results, or to initially screen them to identify possible problem areas for physicians or other more qualified personnel to review. The agency desires to maintain the flexibility generally to authorize these kinds of limited reviews of medical information, and this is best regulated by written directive by the Assistant Secretary. Where no written directive has been issued, however, these regulations apply.

Finally, subparagraph (b)(7) notes that, "Even if not covered by the terms of this section, all medically related information reported in a personally identifiable form shall be handled with appropriate discretion and care befitting all information concerning specific employees." Due to the personal privacy interests involved, attention is drawn to Freedom of Information Act and Privacy Act regulations (29 CFR 70.26 and 70a.3) which could enable the agency to preclude further disclosure of this information to the public once in the agency's possession. This language in subparagraph (b)(7) will build upon the care which OSHA has historically given to information from and concerning specific employees. Agency personnel protect this information not only due to the inherent privacy interests involved, but also due to other adverse consequences such as possible employment discrimination which could result from an employer's learning the identity of employee sources of information.

C. Paragraph (c)—*Responsible persons*

Paragraph (c), Responsible persons, highlights the special responsibilities of key OSHA personnel to the effectuation of these administrative regulations.

Paragraph (c) is largely a summary of duties established by other paragraphs, but is included to focus attention on the accountability of specific personnel. In this regard, the final regulations have been significantly modified from the draft guidelines. All references to the Director of Field Operations Coordination and a Document Control Officer have been deleted due to the judgment that these provisions added nothing meaningful to current internal agency management structures and responsibilities. OSHA expects that internal agency directives will be issued to add greater specificity to, and implementing mechanisms for, the requirements of these regulations. There is no need to include discussion of this in the body of the regulations, since internal directives already govern the manner in which the agency implements new policy (*See,* Ex. 190). Detailed provisions in the 'authorized employee' portion of the draft guidelines concerning who may have access to records, security of records, and agency contractors have also been deleted from the "Responsible persons" paragraph, and relocated elsewhere in the regulations.

Paragraph (c) of the final regulations emphasizes the responsibilities of the Assistant Secretary and the OSHA Medical Records Officer. Paragraph (a) indicates that these procedural regulations are based on two central principles. First, there should be a thorough review of all efforts to examine or copy personally identifiable employee medical information before the information is obtained; and second, personally identifiable information must be carefully protected once obtained. The Assistant Secretary is responsible for the overall administration and implementation of these principles. Several participants urged that the Assistant Secretary be personally involved in decisions to seek access to personally identifiable medical information (Weiner, Ex. 9A, p. 44; Stulberg (HRG), Tr. 2040; Seminario (AFL–CIO), Tr. 644; Nat. Steel Corp., Ex. 157, pp. 2–3; USWA, Ex. 160, p. 18; Continental Oil Co., Ex. 167(9–10), p. 2). Since the agency agrees that this involvement would be beneficial, the final regulations provide that the Assistant Secretary is the ultimate decisionmaker concerning requests for OSHA access to employee medical information subject to this section. As provided in the draft guidelines, the Assistant Secretary also makes final OSHA determinations concerning requests for inter-agency transfers or public disclosures of personally

identifiable employee medical information subject to this section.

The OSHA Medical Records Officer (MRO) has been given several key responsibilities in the final regulations. This official is to be designated by the Assistant Secretary and is to report directly to the Assistant Secretary on records access matters. The MRO must make recommendations to the Assistant Secretary on whether to approve or deny written access orders, and will serve as the central reviewer of the sufficiency of these documents and their supporting justifications (paragraph (d)). The MRO is also made responsible for responding to employee, collective bargaining agent, and employer objections to written access orders (paragraph (f)), regulating the use of direct personal identifiers (paragraph (g)), regulating the internal use and security of personally identifiable medical information (paragraphs (h)–(k)), assuring that the results of investigations are communicated to employees (paragraph (k)), preparing an annual report of OSHA's experience under this section (paragraph (1)), and assuring that advance notice is given of intended inter-agency transfers or public disclosures (paragraph (m)).

Similar to the draft guidelines, the final regulations state that the MRO shall be an "OSHA employee with experience or training in the evaluation, use, and privacy protection of medical records." Several participants urged that the position of MRO be limited to physicians, or that the necessary qualifications of the MRO be better defined (UAW, Ex. 165, p. 2; AMA, Ex. 167(9–12), pp. 2–3; Phillips Petroleum Co., Ex. 167(9–23), pp. 2–3; Shell Oil Co., Ex. 167(9–28), p. 3; Dow Chemical Co., Ex. 167(9–41), p. 5). The agency agrees that a senior official with a specialized background should occupy this sensitive position. The agency is not convinced, however, that only physicians could perform the duties of a MRO; thus the regulations are deliberately flexible.

The other person with key responsibilities in each instance of OSHA access to personally identifiable medical information is the person to be designated as the 'Principal OSHA Investigator'. The draft guidelines discussed the duties of an 'authorized employee,' but various participants pointed out that uncertainty existed as to who and how many individuals were responsible for using medical records and preserving their security (ORC, Ex. 159, p. 2; SOHIO, Ex. 167(9–29), p. 2; NIOSH, Ex. 167(9–37), p. 2; HRG, Ex. 167(9–40), pp. 2–3; Dow Corning Co., Ex. 167(9–41), p. 4). To clarify OSHA's intent, the final regulations fix primary responsibility on the person designated as the Principal OSHA Investigator to assure that the examination and use of personally identifiable medical information is performed in the manner prescribed by these procedural regulations. Other paragraphs establish who else can have access to this medical information, and how the information is to be protected. No significance is attached by the final regulations on who initiated a request to review records. The Principal OSHA Investigator, however, must be professionally trained in medicine, public health or allied fields (epidemiology, toxicology, industrial hygiene, biostatistics, environmental health, etc.) when access is pursuant to a written access order. Several participants urged that this person's qualifications be better defined (Shell Oil Co., Ex. 167(9–28), p. 3; Mid-Atlantic Legal Foundation, Ex. 167(9–32), p. 2). Rather than attempt this in advance, the final regulations opt for a case-by-case assessment of each Principal OSHA Investigator's qualifications as part of the approval criteria for a written access order (*infra*).

D. Paragraph (d)—*Written access orders*

Paragraph (d), Written access orders, establishes the most formal administrative procedure by which OSHA will seek access to personally identifiable employee medical information. With the exception of two circumstances discussed at the end of the paragraph, "each request by an OSHA representative to examine or copy personally identifiable employee medical information contained in a record held by an employer or other recordholder shall be made pursuant to a written access order. * * *" Subparagraph (d)(2) sets criteria to guide the exercise of the agency's discretion to seek access to identifiable medical information, and subparagraph (d)(3) sets forth the content of the written access order. To be valid, a written access order must be approved by the Assistant Secretary upon the recommendation of the OSHA Medical Records Officer. The approval process for a written access order is meant to assure management control over the exercise of OSHA's discretion, and has been structured in a fashion comparable to the approval process for an administrative subpoena. In practice, a written access order may constitute, or be accompanied by, an administrative subpoena.

Subparagraph (d)(2) establishes the substantive criteria which are to guide the Assistant Secretary's discretion in approving written access orders. First, the Assistant Secretary and the MRO must consider whether the medical information to be examined or copied is "relevant to a statutory purpose and there is a need to gain access to this personally identifiable information." This is at face value less strict than the 'substantial need' requirement of the draft guidelines, and the recommendations of several participants that something more than mere relevance or need should be required (NCCHR, Ex. 2(151), p. 4, Belair (NCCHR), Tr. 1861, 1883; HRG, Ex. 2(161), p. 4; Shell Oil Co., Ex. 167(9–28), p. 4; SOHIO, Ex. 167(3–29), p. 1; SOCMA, Ex. 167(9–36), p. 8; MCA, Ex. 167(9–38), p. 30; Weiner, Ex. 9A, p. 44). Rather than establish rigid or more specific criteria, the final regulations permit case-by-case determinations by the Assistant Secretary and the MRO to assure that access is sought only where there is a genuine need to do so. OSHA believes that a finding of relevance and need by the agency's highest official is a sufficient safeguard against excessive use of the agency's authority to obtain access to personally identifiable employee medical information (*See*, NCCHR, Ex. 2(151), pp. 6–7; Dr. Wegman, Tr. 235; Dr. Whorton, Ex. 11, p. 18; Annas, Tr. 1752–54, 1757–58; Stulberg (HRG), Tr. 2040; USWA, Ex. 160, p. 18; SOCMA, Ex. 167(9–36), p. 8).

Subparagraph (d)(2) next states that consideration must be given to whether the personally identifiable medical information subject to the access order is "limited to only that information needed to accomplish the purpose for access." This will preclude governmental access to the kind of extraneous medical information which the agency can identify in advance as unnecessary to the purpose for access. This requirement follows suggestions that the agency define what medical information is sought, and limit the information sought to just that needed to accomplish the purpose for access (Privacy Commission, Ex. 101, p. 313 (Recommendation No. 11); AMA, Ex. 167(9–12), pp. 2–3; NCCHR, Ex. 2(151), pp. 4–6).

Subparagraph (d)(2) lastly states that the approval process will consider who will substantively review requested records and what their professional qualifications are. The agency's policy is that the personnel authorized to review and analyze the personally identifiable medical information will be "limited to those who have a need for access and have appropriate professional qualifications." As provided by subparagraph (d)(3), the written access order must list those persons who are expected, at the time the order is written, to review substantively the requested medical information. Other persons, however, may be authorized to review the records at a later time if the need exists (*See infra*). The draft guidelines limited access to physicians or persons under the direct supervision of a physician and trained to evaluate information in medical records (Ex. 167(2), pp. 4, 5). Several participants endorsed these or similar limitations (Ass. Gen. Contractors of Iowa, Ex. 2(3); Cyanamid Co., Ex. 2(102); Dr. Whorton, Ex. 11, p. 18; Samuels (AFL–CIO IUD), Tr. 965–67; Biscuit & Cracker Mfgr. Assn., Ex. 167(9–17), p. 2; Borg-Warner Corp., Ex. 167(9–22), p. 2). Having carefully considered the matter, the agency relaxed the language in the final regulations to permit a case-by-case evaluation of the qualifications of authorized reviewers. Without question, access should be limited on a need-to-know basis, and the regulations so provide (*See*, Weiner, Ex. 9A, pp. 45–6). But, the agency does not believe that every conceivable situation of OSHA access requires the direct personal supervision of a physician. Limited medical information like some biological monitoring tests can be easily reviewed and evaluated by a wide range of trained professionals such as epidemiologists, toxicologists, and industrial hygienists (Dr. Wegman, Tr. 245–48). It is to be anticipated that agency review of medical information will often be performed in consultation with agency staff or contract physicians; however, direct personal supervision by the physician will often be unnecessary. As a result, the final regulations permit a case-by-case determination of the qualifications of authorized reviewers.

Paragraph (d)(3) specifies the content of a written access order. The written access order will be presented to the employer and any collective bargaining agent when access is sought, and made available to employees by posting. The written access order is the prime vehicle for informing the employer and employees of the agency's actions and decisionmaking. As a result, the regulations require that the written access order state with reasonable particularity what is being requested and why (*See*, AMA, Ex. 167(9–12), p. 3); whether examination of this information will be conducted on-site and what will be removed off-site; who is authorized to review and analyze the information obtained; who is the OSHA Medical Records Officer; and how long will personally identifiable information likely be retained by the agency. These matters need only be addressed with reasonable particularity, since absolute precision will often be impossible.

Paragraph (d)(4) establishes two special situations where a written access order need not be obtained for OSHA personnel to gain access to personally identifiable medical information. The first situation where a written access order is unnecessary concerns cases where the specific written consent of an employee is given for OSHA access to his or her medical record. This will occur in such situations as Section 11(c) investigations where the complainant's medical records must be reviewed, or where employees in the couse of a complaint inspection desire to have an OSHA official review their medical records. Section 1910.20(e)(2)(ii) of 29 CFR provides the mechanism whereby an employee can release medical records to a designated representative through a specific written consent authorization. If the agency or an OSHA official is listed as a designated representative, then a written access order need not be obtained. Where personally identifiable medical information is received and taken off-site, however, a person must be promptly named to serve as a Principal OSHA Investigator to assure protection of the information, and the MRO notified of this person's identity. Thereafter, the personally identifiable medical information is subject to the use and security requirements of the remainder of the procedural regulations.

The second situation where a written access order need not be obtained concerns physician consultations. As OSHA has acquired staff and contract physicians, situations have arisen where an agency physician was sent to review and discuss a potential problem with an employer's plant physician or corporate medical director. This may be done at the request of the employer. These informal contacts will likely expand in the future. As part of such a professional interaction, employee medical records may be reviewed and discussed with a view towards determining whether a problem actually exists, and if so, what should be done about it. These informal physician contacts can avoid unnecessary full-fledged investigations and focus employer energies on early corrective action where problems are discovered. Until medical information is reviewed and discussed, neither OSHA nor the employer may be aware of the nature or extent of an occupational health problem. OSHA believes that these physician-to-physician contacts should be encouraged, and thus has exempted them from the requirement for a written access order. The final regulations provide that "No employee medical records, however, shall be taken off-site in the absence of a written access order, and no notes of personally identifiable employee medical information made by the OSHA physician shall leave his or her control without the permission of the OSHA Medical Records Officer."

E. Paragraph (e)—*Presentation of written access order and notice to employees*

Paragraph (e) governs the mechanics of presenting a written access order to the employer and notifying employees of its existence. In practice, the written access order may constitute, or may be accompanied by, an administrative subpoena. As suggested, the final regulations provide that a copy of the written access order shall be provided to the employer (SOCMA, Ex. 167(9–36), p. 9; DuPont, Ex. 150, p. 18). An accompanying cover letter must also be provided which summarizes the requirements of this section and indicates that questions or objections concerning the written access order may be directed to the Principal OSHA Investigator or to the OSHA Medical Records Officer. Two copies of these documents must be provided so that one copy of each may be prominently posted as required by 29 CFR 1910.20(e)(3)(ii). The copy to be posted shall not identify specific employees by direct personal identifier (name, etc.). Posting at the workplace will serve to notify employees of what OSHA is doing with their medical records and why, and will let them know that they can lodge objections if they so desire. In addition, the regulations provide that a copy of these two documents shall be promptly provided "to each collective bargaining agent representing employees whose medical records are subject to the written access order." Union officials can be expected to communicate the nature of OSHA's actions to their members, and lodge objections or inquiries if any arise.

The draft guidelines provided for individual notice to employees by certified mail on each occasion that access was sought (Ex. 167(2), pp. 5–6). The final regulations delete this requirement due to the agency's judgment that individual notice would often be unnecessary and overly burdensome. As pointed out by several participants, the administrative and technical costs involved in individual notice are similar to those involved in seeking employee consent (HRG, Ex. 167(9–40), p. 4; NIOSH, Ex. 167(9–37), p. 2). Also, in most cases, posting and

V 45 M Y 23 80 UMI

notice to both the employer and union representatives will be fully adequate to inform all employees of OSHA's actions. One significant purpose for notifying employees is to assure that governmental actions are conducted openly to enable interested employees to scrutinize OSHA's actions and complain if they feel the agency is acting improperly. Individual notice to each and every employee will often not be necessary to accomplish this objective. The regulations do, however, contemplate that individual notice may be appropriate in some circumstances. To address this possibility, the regulations provide:

> The Principal OSHA Investigator shall discuss with any collective bargaining agent and with the employer the appropriateness of individual notice to employees affected by the written access order. Where it is agreed that individual notice is appropriate, the Principal OSHA Investigator shall promptly provide to the employer an adequate number of copies of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to enable the employer either to individually notify each employee or to place a copy in each employee's medical file.

Employers have ready means available to distribute the written access order, such as with the next employee paycheck or at the beginning or end of a work shift. The regulations opt to use these vehicles to notify employees individually where there is mutual agreement of a need to do so.

F. Paragraph (f)—*Objections concerning a written access order*

Although OSHA does not believe that agency access to employee medical information should depend upon employee consent, OSHA recognizes that it is important that employee objections concerning OSHA access be carefully considered. Paragraph (f) provides that all written employee, collective bargaining agent, and employer objections shall be transmitted to the OSHA Medical Records Officer. Paragraph (l) provides that these objections be discussed in the MRO's annual report. The making of an objection by an employee, collective bargaining agent, or employer does not operate to postpone operation of the written access order. Unless the agency decides otherwise, access to the records shall proceed without delay notwithstanding the objection. Paragraph (f) mandates, however, that the MRO respond in writing to each employee's and collective bargaining agent's written objection concerning OSHA access. Because of an employer's different legal status and relationship to the medical information, a written response to an employer objection is discretionary. A formal written response to the objection will enable a complete reconsideration of the written access order. OSHA recognizes that there may be situations where the agency made a mistake or proceeded on the basis of incomplete information such that the written access order should be revoked. The MRO is the appropriate person to make this decision. The final regulations therefore provide:

> Where appropriate, the OSHA Medical Records Officer may revoke a written access order and direct that any medical information obtained by it be returned or destroyed. The Principal OSHA Investigator shall assure that the instructions of the OSHA Medical Records Officer are promptly implemented.

The draft guidelines also include (1) a waiting period after an access order was presented before OSHA would seek to examine requested records, (2) an automatic reconsideration procedure if an employer or employee objected to OSHA access, and (3) a commitment to treat employer refusals of access as a denial of the right of entry under *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978) (Ex. 167(2), p. 6). With the exception of the required review by the OSHA Medical Records Officer of written objections by employees and collective bargaining agents, the final regulations do not mandate that these steps be followed in each case. The presumption of the regulations is that the agency will proceed without delay notwithstanding an objection, although OSHA retains the discretion not to proceed immediately. In the absence of a significant initial union, employee or employer objection, there would be little justification for a substantial waiting period. On the other hand, significant initial objections could cause OSHA to redefine, reaffirm, or withdraw its request for access before records are examined. The possible situations are so numerous and varied that OSHA does not believe it is advisable to limit in advance what the agency responses could be, or to create an explicit or implied obligation on the agency's part to automatically delay execution of a written access order. In light of *Marshall v. Barlow's, Inc., supra*, OSHA also recognizes that its right of access to records may often not be directly enforceable absent a warrant or administrative supoena. This is a rapidly evolving area of the law; thus it is not possible to state in advance precisely what legal recourse OSHA will seek if faced with a refusal to permit access.

G. Paragraph (g)—*Removal of direct personal identifiers*

Subparagraph (h)(5) of the regulations, *infra*, will serve to prevent the agency from unnecessarily obtaining and taking off-site medical information having direct personal identifiers. Where it is necessary to take direct personal identifiers off-site, there will likely be situations where the direct personal identifiers are not continuously needed to permit use of the medical information. For example, direct identifiers may only be needed to permit follow-up at the conclusion of evaluation of medical information. The draft guidelines gave no special protection to direct personal identifiers, but several participants recommended a system of stripping direct personal identifiers, coding the medical information and the direct personal identifiers with a unique code, and maintaining the list of coded personal identifiers apart from the coded medical information (AMRA, Ex. 82, pp. 4, 7, Tr. 2466–67; NCCHR, Ex. 2(151), p. 4, Tr. 1864, 1875–78; Dr. Givens (Cal. Med. Assn.), Tr. 1713–18; Sterling Drug Co., Ex. 167(9–18), p. 2). OSHA believes this to be a sound mechanism to maximize the protection of employee privacy and to minimize possible misuse of personally identifiable medical information. Paragraph (g) of the final regulations incorporates this approach.

Except as authorized by the MRO, direct personal identifiers (name, address, social security number, payroll number, etc.) must be promptly separated from medical information whenever direct identifiers are obtained and taken off-site pursuant to a written access order. The Principal OSHA Investigator is directed to code the medical information and the list of direct personal identifiers with a unique identifying number for each employee, and then hand deliver or mail the list of coded identifiers to the MRO. The MRO thereafter controls use and distribution of the list of coded identifiers to those with a need to know its contents. In addition, the numerically coded medical information is to be used and kept secured as though still in a directly identifiable form.

H. Paragraph (h)—*Internal agency use of personally identifiable employee medical information*

Paragraph (h) establishes who can have access to personally identifiable employee medical information once it is brought into the agency. Numerous participants favored limiting internal access to the smallest number of individuals possible (*See*, UAW, Ex. 165, p. 2; SOCMA, Ex. 167(9–36), p. 10; ORC, Ex. 159, p. 2; Dow Chemical Co., Ex. 167(9–41), p. 4; Continental Oil Co., Ex. 167(9–10), p. 2; USWA, Ex. 160, pp. 18–19), although there was recognition that such personnel as supervised abstracters and clericals may have a need for access (NIOSH, Ex. 167(9–37), pp. 1–2; Weiner, Ex. 9A, p. 45; Dr. Whorton, Ex. 11, p. 19, Tr. 305; USWA, Ex. 160, pp. 18–19). The final regulations limit access to those with a need to know and appropriate qualifications, and fix responsibility on key officials to regulate all internal access.

Subparagraph (h)(1) provides that "The Principal OSHA Investigator shall in each instance of access be primarily responsible for assuring that personally identifiable employee medical information is used and kept secured in accordance with this section." Clear accountability is thus primarily fixed on one person in each instance of access for assuring that, in practice, medical information is properly used and kept secured (*See*, Ex. 167(2), p. 4).

Subparagraph (h)(2) regulates who has the authority to permit the examination and use of personally identifiable employee medical information. The Principal OSHA Investigator, the OSHA Medical Records Officer, the Assistant Secretary, and any other authorized person listed on a written access order are the only individuals who can permit the examination of the information. They are responsible for assuring that, in addition to those listed on the written access order, no one is permitted to examine or use this information other than agency employees and contractors who have a need for access and appropriate qualifications for the purpose for which they are using the information. No OSHA employee or contractor is authorized to examine or otherwise use this information unless so permitted. This need-to-know criterion is necessarily flexible so that supervised clerical and other similar uses are not categorically forbidden, but at the same time the criteria is meant to preclude unauthorized and unsupervised access. The draft guidelines contained a similar need-to-know requirement (Ex. 167(2), p. 7).

As was the case with the draft guidelines (Ex 167(2), p. 4), the final regulations permit access by attorneys in the Office of the Solicitor of Labor and by independent agency contractors on a need-to-know basis. In most instances, the only contractors having a need for access to personally identifiable medical information would be contract physicians, who already would be under legal and ethical obligations to protect confidential medical information. Where other contractors are permitted to use this information, they must contractually agree to abide by the requirements of this section and any implementing agency directives and instructions (*See*, Dr. Wegman, Tr. 236–37; Bridbord (NIOSH), Ex. 22, p. 6; NIOSH, Ex. 107D).

Subparagraph (h)(4) provides that "OSHA employees and contractors are only authorized to use personally identifiable employee medical information for the purposes for which it was obtained, unless the specific written consent of an employee is obtained as to a secondary purpose, or the procedures of paragraphs (d)–(g) of this section are repeated with respect to the secondary purpose." This provision serves to preclude secondary agency uses of personally identifiable employee medical information (*See*, NCCHR, Ex. 58, p. 46; Ex. 167(2), p. 7), unless a new written access order is obtained, or employees consent to a new use.

Finally, subparagraph (h)(5) provides that "Whenever practicable, the examination of personally identifiable employee medical information shall be performed on-site with a minimum of personally identifiable medical information to be taken off-site." No similar requirement was in the draft guidelines, but the agency felt it was beneficial to add this provision. Unlike the case with NIOSH or other research agencies, OSHA anticipates that it will not normally be necessary for OSHA to microfilm or otherwise copy entire medical records and then later abstract relevant information. The requirement that a minimum of personally identifiable medical information be taken off-site also recognizes that OSHA access to identifiable records may sometimes be for the sole purpose of stripping identifiers so that all medical information obtained is not in a directly identifiable form. Where this can reasonably be performed on-site, OSHA will do so.

I. Paragraph (i)—*Security procedures*

Paragraph (i) of the final regulations establishes security procedures to govern internal agency use of personally identifiable employee medical information. As was the case with the draft guidelines (Ex. 167(2), p. 7), the final regulations provide for segregation of agency files containing this information, and require that these agency files be kept secured in a locked cabinet or vault when not in active use (*See*, Dow Chemical Co., Ex. 167(9–14), p. 6). The OSHA Medical Records Officer and the Principal OSHA Investigator are each required to maintain a log of uses and transfers of this medical information and lists of coded direct personal identifiers, except as to necessary uses by staff under their direct personal supervision (*See*, Ex. 167(2), p. 7; Dow Chemical Co., Ex. 167(9–41), p. 6; NIOSH, Ex. 167(9–37), p. 3). As was the case with the draft guidelines (Ex. 167(2), p. 8), the final regulations permit photocopying of covered records, but all forms of duplication "shall be kept to the minimum necessary to accomplish the purposes for which the information was obtained." The final regulations also recognize that agency personnel may create worksheets or other similar documents which contain personally identifiable employee medical information. In light of this, subparagraph (i)(4) provides that all protective measures established by this section apply to these worksheets, as well as duplicate copies or other agency documents containing personally identifiable employee medical information.

Finally, subparagraph (i)(5), as was the case in the draft guidelines, stipulates that intra-agency transfers of personally identifiable employee medical information must be by hand delivery, United States mail, or equally protective means, and not by inter-office mailing channels (Ex. 167(2), p. 7).

The final regulations omit provisions concerning computerized records or supplemental security procedures (Ex. 167(2), p. 8) since (1) OSHA does not currently contemplate situations where OSHA would computerize personally identifiable medical information, and (2) supplemental security procedures do not depend on any authorizing language in these regulations. Additional directives on the security of personally identifiable employee medical information will be issued as needed.

J. Paragraph (j)—*Retention and destruction of records*

The draft guidelines provided for early destruction of personally identifiable information when the original purposes for access had been accomplished (Ex. 167(2), p. 8). Several participants urged that this information not be retained any longer than necessary (Mobay Chemical Corp., Ex. 2(97), p. 5; HRG, Ex. 2(161), p. 4; Stulberg (HRG), Tr. 2041; DuPont, Ex. 150, pp. 19–20; Dow Chemical Co., Ex. 167(9–41), p. 6). OSHA agrees that personally identifiable information (including lists of coded direct personal identifiers) should be destroyed or returned to the original recordholder when no longer needed for the purposes for which it was obtained. The final regulations so

V 45 M Y 23 80 UMI

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provide in subparagraph (k)(1), subject to applicable agency records disposition programs. OSHA, as are other Federal agencies, is subject to several statutes and implementing regulations governing the disposal of records received in connection with the transaction of public business (*See,* 44 U.S.C. 2901–3324; 41 CFR 101–11.4). The agency has a formal records disposition program which may need to be modified to facilitate early destruction of personally identifiable medical information, and the agency intends to pursue this during the implementation of the procedural regulations.

OSHA can contemplate situations where personally identifiable medical information, after its initial utility, need not be used again until some time in the future. For example, medical information upon which a citation is based may be used during the hearing stage of an enforcement case. The medical information may not be utilized while the case is on appeal, but there may be a need for the information if the case is remanded for further proceedings. Similarly, an investigation of an apparently new health hazard may produce uncertain results. Before completely closing out this investigation, it may be appropriate to await the outcome of an ongoing research study or parallel investigation elsewhere in the country. In these cases, the regulations provide that the medical information is to be transferred to the OSHA Medical Records Officer. And, as suggested by one participant (Nat. Steel Corp., Ex. 165, p. 3), the MRO is directed to "conduct an annual review of all centrally-held information for the purpose of determining which information is no longer needed for the purposes for which it was obtained."

K. Paragraph (k)—*Results of an agency analysis using personally identifiable employee medical information*

The draft guidelines were silent on the issue of individual notification to employees of the results of OSHA analyses using personally identifiable employee medical information. Several participants urged that individual notice to each employee should be incorporated in the procedural regulations (DuPont Co., Ex. 150, p. 22; Dr. Whorton, Ex. 11, pp. 18–19; NIOSH, Ex. 167 (9–37), p. 2). In many cases, employees will learn the results of an OSHA investigation through a closing conference or informal post-inspection conference with union representatives, through the posting of a citation, or by calling the relevant OSHA Area Office. In other kinds of investigations similar to a NIOSH Health Hazard Evaluation or Field Study where disease is diagnosed in specific employees, individual notification might be essential (*See,* 41 CFR 85.11, 85a.8; Ex. 20, 21). OSHA believes that it is best to permit a case-by-case consideration of the need for individual notification. Accordingly, the final regulations provide that "The OSHA Medical Records Officer shall, as appropriate, assure that the results of an agency analysis using personally identifiable employee medical information are communicated to the employees whose personal medical information was used as part of the analysis."

L. Paragraph (1)—*Annual report*

The draft guidelines provided for a semi-annual report by the OSHA Medical Records Officer to the Assistant Secretary concerning OSHA's medical records access experience (Ex. 167 (2), p. 3). The final regulations continue this requirement in paragraph (1), but changes it to an annual report. The report must be made available to the public, and must discuss the number of written access orders and their purposes, the nature and disposition of employee, collective bargaining agent, and employer written objections, and the nature and disposition of requests for inter-agency transfer or public disclosure of personally identifiable employee medical information. This annual report will serve to focus the attention of the Assistant Secretary and interested members of the public on OSHA's use of personally identifiable employee medical information.

M. Paragraph (m)—*Inter-agency transfer and public disclosure*

The draft guidelines contained limitations on inter-agency sharing and public disclosure of employee medical records (Ex. 167 (2), pp. 8–11). Several participants argued that personally identifiable employee medical information should practically never be shared or disclosed without employee consent, even for public health purposes (HRG, Ex. 2 (161), p. 4, Tr. 2041, Ex. 167 (9–40), pp. 3–4; NCCHR, Ex. 2 (151), p. 8; Continental Oil Co. Ex. 167 (9–10), p. 2; Caterpillar Tractor Co., Ex. 167 (9–21), p. 3; SOHIO, Ex. 167 (9–29), p. 2). Other participants could accept strictly controlled inter-agency sharing for public health purposes (Weiner, Ex. 9A, p. 45; USWA, Ex. 160, p. 18; AMA, Ex. 167 (9–12), pp. 4–5). All participants, however, were concerned that personally identifiable medical information not be shared or disclosed in a manner which could adversely affect subject employees (Becker (USWA), Tr. 2390; Belair (NCCHR), Tr. 1862–63, NCCHR, Ex. 2 (151), pp. 2, 8).

OSHA agrees that inter-agency transfer and public disclosure of medical information should be carefully controlled, and paragraph (m) governs these issues. Inter-agency transfer and public disclosure are not categorically forbidden by the final regulations, however, because (1) the agency may not legally make such a commitment, and (2) situations may arise where transfer or disclosure is appropriate. Situations could conceivably arise where OSHA as a matter of law was compelled to transfer information to another agency or disclose it to a non-governmental individual. An example might be a General Accounting Office investigation, or where there is a compelling public interest in disclosure of medical information to which no significant privacy expectation attaches (e.g., cause of death). The final regulations establish strict criteria as to when inter-agency transfer or public disclosure of personally identifiable employee medical information may occur. Except when required by law, all inter-agency transfer or public disclosure of this information must be approved by the Assistant Secretary in accordance with these criteria. OSHA employees may, however, transfer or disclose aggregate employee medical information or medical information on individual employees which is not in a personally identifiable form.

Subparagraph (m)(2) governs the approval of an inter-agency transfer of personally identifiable employee medical information which has not been consented to by affected employees. First, transfer will only be permitted to a public health agency (such as EPA, CPSC, FDA, etc.) for a substantial public health purpose. Second, the recipient agency must have a demonstrable need for the medical information in a personally identifiable form. Third, the recipient agency may not use the requested information to make individual determinations concerning affected employees which could be to their detriment. Fourth, the recipient agency must have regulations or established written procedures which provide protection to privacy interests substantially equivalent to that of OSHA's procedures. And fifth, the requested transfer must satisfy an exemption to the Privacy Act to the extent that the Privacy Act applies to the requested information.

These five limitations on inter-agency transfer follow several of the suggestions of rulemaking participants. Since OSHA collects medical

information only for a public health purpose, it is appropriate to restrict all subsequent discretionary agency transfers to those with an equally clear public health purpose. The recipient agency's privacy protections must be as protective as OSHA's, but are not required to be identical since agencies vary significantly in their management structures and modes of operation. Unlike the draft guidelines, the final regulations attach no special status to an agency memorandum of understandings (USWA, Ex. 160, pp. 18–19; SOCMA, Ex. 167(9–36), p. 2; HRG, Ex. 167(9–40), pp. 4–5). This form of formal agreement may in specific cases satisfy several of the five criteria for approval of inter-agency sharing, but OSHA believes it to be important to consider each request for inter-agency transfer individually rather than as part of some comprehensive agreement.

The fifth and last limitation on inter-agency transfer concerns the Privacy Act, which would protect personally identifiable medical information which is part of a "system of records" as defined in paragraph (a)(5) of that Act (5 U.S.C. 552a(a)(5); 29 CFR 70a.2). The Privacy Act prohibits inter-agency transfers of covered records unless one of several exemptions is met (5 U.S.C. 552a(b), 29 CFR 70a.3). The two exemptions which could most likely pertain to employee medical information held by OSHA would be exemption (7) governing civil and criminal law enforcement, and exemption (8) governing compelling circumstances affecting the health or safety of an individual (5 U.S.C. 552a(b)(7), (8); 29 CFR 70a.3(e)(vii), (xi)). Thus, unless one of these two narrow exemptions is met, the Privacy Act where applicable serves to further prevent the discretionary inter-agency transfer of personnally identifiable employee medical information. To the extent that the Privacy Act does not apply to a particular record covered by these regulations, the Assistant Secretary could share that information with another Federal agency without regard to the Privacy Act exceptions. The four preceding limitations would apply to the transfer, however.

Subparagraph (m)(3) contains two exceptions to the requirements of subparagraph (m)(2). First, upon the approval of the Assistant Secretary, personally identifiable employee medical information may be shared with NIOSH. NIOSH is a sister public health agency to OSHA and its research activities complement OSHA's regulatory responsibilities. The two agencies are increasingly attempting to coordinate their activities and maintain close prefessional staff contacts. OSHA's ability to analyze employee medical information will often be improved by gaining NIOSH's assistance, and medical information collected by OSHA for one purpose may have major research value to NIOSH. Subparagraph (m)(3) is meant to permit sharing medical information with NIOSH in these circumstances. In the judgment of OSHA, NIOSH has, due to its frequent use of medical records, developed and demonstrated appropriate sensitivity to the privacy interests involved with employee medical records. As a result, identifiable medical information may be transferred to NIOSH upon the approval of the Assistant Secretary, without further inquiry into the sufficiency of their programs for protecting medical records.

Subparagraph (m)(3) also permits, upon the approval of the Assistant Secretary, the inter-agency transfer of personally identifiable employee medical information to the Department of Justice when necessary with respect to a specific action under the Occupational Safety and Health Act. For example, the Justice Department prosecutes criminal violations of the Act (*See,* s17(e)–(h), 29 U.S.C. 666) as well as civil penalty collection actions (*See,* Section 17(1), 29 U.S.C. 666(k)). The Justice Department also represents OSHA in Freedom of Information Act (FOIA) suits. Personally identifiable employee medical information may, on occasion, be relevant to these proceedings, and OSHA must necessarily share this information in these circumstances. While medical information obtained in the course of litigation is already exempt from these regulations, this additional language makes it clear that medical information collected for other purposes, but which becomes necessary for litigation in which the Department of Justice is involved, may be transferred to the Department.

Subparagraphs (m)(4) and (5) govern public disclosure of personally identifiable employee medical information which has not been consented to by affected employees. Exemption (6) of the Freedom of Information Act (FOIA) authorizes OSHA to withhold personally identifiable information where its disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)((6)). The Department of Labor's implementing regulations broadly construes this exemption and treats medical records as presumptively non-disclosable (29 CFR 70.26). It is OSHA's judgment that where identifiable medical records are concerned, disclosure will necessarily impede OSHA's functions. OSHA's access to necessary medical information depends on protecting personal privacy, and OSHA's overall success as a public agency depends on employee and public confidence in the agency's discharge of its functions in a manner sensitive to individual rights. These considerations dictate that identifiable medical information not be disclosed absent compelling circumstances, even though the Department of Labor's FOIA regulations otherwise encourage the release of exempt information where disclosure will not impede the discharge of agency functions (29 CFR 70.11(b)).

Accordingly, subparagraph (m)(4) provides that "The Assistant Secretary shall not approve a request for public disclosure of employee medical information containing direct personal identifiers unless there are compelling circumstances affecting the health or safety of an individual." The "compelling circumstances" exception is meant to be extremely limited in nature, and parallels exemption (8) of the Privacy Act (5 U.S.C. 552a(b)(8); 29 CFR 70a.3(e)(xi)). In addition, subparagraph (m)(5) concerns employee medical information which contains information which could reasonably be used indirectly to identify specific employees, and provides that this shall not be disclosed to the public if to do so would constitute a clearly unwarranted invasion of personal privacy. Together, these subparagraphs express OSHA's intent to deny requests for public disclosure of personally identifiable employee medical information, unless there are compelling countervailing circumstances relating to health and safety.

Subparagraph (m)(6) governs the issue of notice when OSHA intends to transfer personally identifiable employee medical information to another agency or disclose it to a member of the public other than to an affected employee. The draft guidelines provided for written notice to the employer and to affected employees (Ex. 167(2), pp. 9, 10). Several participants stressed the importance of notice (Sterling Drug Co., Ex. 167(9–18), p. 1; Phillips Petroleum Co., Ex. 167(9–23), p. 2; Shell Oil Co., Ex. 167(9–28), p. 4; SOHIO, Ex. 167(9–29), p. 2; MCA, Ex. 167(9–38); p. 31; Dow Chemical Co., Ex. 167(9–41), p. 7. The final regulations delete the rigid time requirements of the draft guidelines, but provide that the OSHA Medical Records Officer shall assure that advance notice is provided

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to any collective bargaining agent representing affected employees and to the employer, except with respect to transfers to NIOSH or to the Department of Justice. Where the intended inter-agency transfer or public disclosure contains direct personal identifiers, the OSHA Medical Records Officer must also, when feasible, take reasonable steps to assure that affected employees are notified. In the case of release of information pursuant to exemption (8) of the Privacy Act, the Act itself requires notification of individuals upon the disclosure.

As a final matter, several participants urged that the final regulations explicitly discuss penalties to be assessed against OSHA employees who violate these regulations (AMRA, Ex. 82, pp. 4–5; API, Ex. 158, p. 42; Ohio Bldg. Chpt., Ex. 167(9–3), p. 1; SOCMA, Ex. 167(9–36), p. 5; HRG, Ex. 167(9–40), p. 5; Dow Chemical Co., Ex. 167(9–41), p. 4.) The draft guidelines contained no provisions on this topic, and having considered the matter, the agency declined to explicitly address this topic in the final regulations.

OSHA agrees that agency employees must be made aware of these regulations, and that public confidence in OSHA will depend on strict enforcement of these regulations. It is not necessary, however, that penalty procedures be discussed in the regulations. All Department of Labor employees are given an "Employee Handbook" (Ex. 191). Chapter 23 of this handbook, "Standards of Conduct," briefly discusses the Department's longstanding regulations governing employee conduct (Ex. 191, P. 55). These ethics and conduct regulations are given to new employees, and each current employee is reminded of them on an annual basis (29 CFR 0.735–2(b); Ex. 191, p. 81). These regulations provide:

> Failure of an employee to comply with any of the standards of conduct set forth in this part shall be a basis for such disciplinary or other remedial action as may be appropriate to the particular case. (29 CFR 0.735–3(a); Ex. 191, p. 81)
>
> Employees may not, except with specific permission * * * directly or indirectly use or allow the use of official information for private purposes or to further a private interest when such information is not available to the general public; nor may employees disclose official information in violation of any applicable law, Executive order, or regulation. (29 CFR 0.735–8; Ex. 191, p. 83)
>
> The effectiveness of the Department of Labor in serving the public interest depends upon the extent to which the Department and its employees hold the public confidence. Employees are therefore required not only to observe the requirements of Federal laws, policies, orders, and regulations governing official conduct, they must also avoid any apparent conflict with these requirements. (29 CFR 0.735–4(a); Ex. 191, pp. 81–82)

These existing provisions, in conjunction with Office of Personnel Management and Department of Labor procedures for disciplinary actions, are adequate to deal with misuse of employee medical records by OSHA employees. Other forms of punishment, such as criminal penalties beyond the existing criminal provisions of the Privacy Act, are matters for Congress to address (*See,* HRG, Ex. 2(161), pp. 4–5).

IV. Authority, Signature, and the Regulations

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

The **Federal Register** has been requested to officially file this document at 1 p.m. E.D.T. on May 21, 1980, which shall be the time of issuance of this document as provided by 29 CFR 1911.18. The time of issuance is the earliest moment that petitions for judicial review may be filed.

Accordingly, pursuant to sections 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1599, 1600; 29 US.C. 657), Section (e) of the Privacy Act (5 U.S.C. 552a(e)), and the government's general housekeeping statute (5 U.S.C. 301), Chapter XVII of Title 29, the Code of Federal Regulations, is hereby amended by adding a new Part 1913.

Signed at Washington, D.C., this 14th day of May, 1980.

Eula Bingham,

Assistant Secretary of Labor.

A new Part 1913 is added to Title 29 of the Code of Federal Regulations (CFR), consisting of §1913.10, reading as follows:

PART 1913—RULES OF AGENCY PRACTICE AND PROCEDURE CONCERNING OSHA ACCESS TO EMPLOYEE MEDICAL RECORDS

Sec.

1913.10 Rules of agency practice and procedure concerning OSHA access to employee medical records.

Authority: Secs. 8(c) and 8(g) (84 Stat. 1599, 1600; 29 U.S.C. 657), section (e) of the Privacy Act (88 Stat. 1899, 1900; 5 U.S.C. 552a(e)), and 5 U.S.C. 301 (80 Stat. 379).

§ 1913.10 Rules of agency practice and procedure concerning OSHA access to employee medical records.

(a) *General policy.* OSHA access to employee medical records will in certain circumstances be important to the agency's performance of its statutory functions. Medical records, however, contain personal details concerning the lives of employees. Due to the substantial personal privacy interests involved, OSHA authority to gain access to personally identifiable employee medical information will be exercised only after the agency has made a careful determination of its need for this information, and only with appropriate safeguards to protect individual privacy. Once this information is obtained, OSHA examination and use of it will be limited to only that information needed to accomplish the purpose for access. Personally identifiable employee medical information will be retained by OSHA only for so long as needed to accomplish the purpose for access, will be kept secure while being used, and will not be disclosed to other agencies or members of the public except in narrowly defined circumstances. This section establishes procedures to implement these policies.

(b) *Scope and application.* (1) Except as provided in paragraphs (b)(3)–(b)(6) below, this section applies to all requests by OSHA personnel to obtain access to records in order to examine or copy personally identifiable employee medical information, whether or not pursuant to the access provisions of 29 CFR 1910.20(e).

(2) For the purposes of this section, "personally identifiable employee medical information" means employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number, etc.) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (e.g., exact age, height, weight, race, sex, date of initial employment, job title, etc.).

(3) This section does not apply to OSHA access to, or the use of, aggregate employee medical information or medical records on individual employees which is not in a personally identifiable form. This section does not apply to records required by 29 CFR Part 1904, to death certificates, or to employee exposure records, including biological monitoring records treated by 29 CFR 1910.20(c)(5) or by specific occupational safety and health standards as exposure records.

(4) This section does not apply where OSHA compliance personnel conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance recordkeeping requirements of an occupational safety and health standard, or with 29 CFR 1910.20. An examination of this nature shall be conducted on-site and, if requested, shall be conducted under the observation of the recordholder. The OSHA compliance personnel shall not record and take off-site any information from medical records other than documentation of the fact of compliance or non-compliance.

(5) This section does not apply to agency access to, or the use of, personally identifiable employee medical information obtained in the course of litigation.

(6) This section does not apply where a written directive by the Assistant Secretary authorizes appropriately qualified personnel to conduct limited reviews of specific medical information mandated by an occupational safety and health standard, or of specific biological monitoring test results.

(7) Even if not covered by the terms of this section, all medically related information reported in a personally identifiable form shall be handled with appropriate discretion and care befitting all information concerning specific employees. There may, for example, be personal privacy interests involved which militate against disclosure of this kind of information to the public (*See,* 29 CFR 70.26 & 70a.3).

(c) *Responsible persons.* (1) *Assistant Secretary.* The Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) shall be responsible for the overall administration and implementation of the procedures contained in this section, including making final OSHA determinations concerning:

(i) Access to personally identifiable employee medical information (paragraph (d)), and

(ii) Inter-agency transfer or public disclosure of personally identifiable employee medical information (paragraph (m)).

(2) *OSHA Medical Records Officer.* The Assistant Secretary shall designate an OSHA official with experience or training in the evaluation, use, and privacy protection of medical records to be the OSHA Medical Records Officer. The OSHA Medical Records Officer shall report directly to the Assistant Secretary on matters concerning this section and shall be responsible for:

(i) Making recommendations to the Assistant Secretary as to the approval or denial of written access orders (paragraph (d)),

(ii) Assuring that written access orders meet the requirements of paragraphs (d)(2) and (d)(3) of this section,

(iii) Responding to employee, collective bargaining agent, and employer objections concerning written access orders (paragraph (f)),

(iv) Regulating the use of direct personal identifiers (paragraph (g)),

(v) Regulating internal agency use and security of personally identifiable employee medical information (paragraphs (h)–(j)),

(vi) Assuring that the results of agency analyses of personally identifiable medical information are, where appropriate, communicated to employees (paragraph (k)),

(vii) Preparing an annual report of OSHA's experience under this section (paragraph (l)), and

(viii) Assuring that advance notice is given of intended inter-agency transfers or public disclosures (paragraph (m)).

(3) *Principal OSHA Investigator.* The Principal OSHA Investigator shall be the OSHA employee in each instance of access to personally identifiable employee medical information who is made primarily responsible for assuring that the examination and use of this information is performed in the manner prescribed by a written access order and the requirements of this section (paragraphs (d)-(m). When access is pursuant to a written access order, the Principal OSHA Investigator shall be professionally trained in medicine, public health, or allied fields (epidemiology, toxicology, industrial hygiene, biostatistics, environmental health, etc.).

(d) *Written access orders.* (1) *Requirement for written access order.* Except as provided in paragraph (d)(4) below, each request by an OSHA representative to examine or copy personally identifiable employee medical information contained in a record held by an employer or other recordholder shall be made pursuant to a written access order which has been approved by the Assistant Secretary upon the recommendation of the OSHA Medical Records Officer. If deemed appropriate, a written access order may constitute, or be accompanied by, an administrative subpoena.

(2) *Approval criteria for written access order.* Before approving a written access order, the Assistant Secretary and the OSHA Medical Records Officer shall determine that:

(i) The medical information to be examined or copied is relevant to a statutory purpose and there is a need to gain access to this personally identifiable information,

(ii) The personally identifiable medical information to be examined or copied is limited to only that information needed to accomplish the purpose for access, and

(iii) The personnel authorized to review and analyze the personally identifiable medical information are limited to those who have a need for access and have appropriate professional qualifications.

(3) *Content of written access order.* Each written access order shall state with reasonable particularity:

(i) The statutory purposes for which access is sought,

(ii) A general description of the kind of employee medical information that will be examined and why there is a need to examine personally identifiable information,

(iii) Whether medical information will be examined on-site, and what type of information will be copied and removed off-site,

(iv) The name, address, and phone number of the Principal OSHA Investigator and the names of any other authorized persons who are expected to review and analyze the medical information.

(v) The name, address, and phone number of the OSHA Medical Records Officer, and

(vi) The anticipated period of time during which OSHA expects to retain the employee medical information in a personally identifiable form.

(4) *Special situations.* Written access orders need not be obtained to examine or copy personally identifiable employee medical information under the following circumstances:

(i) *Specific written consent.* If the specific written consent of an employee is obtained pursuant to 29 CFR 1910.20(e)(2)(ii), and the agency or an agency employee is listed on the authorization as the designated representative to receive the medical information, then a written access order need not be obtained. Whenever personally identifiable employee medical information is obtained through specific written consent and taken off-site, a Principal OSHA Investigator shall be promptly named to assure protection of the information, and the OSHA Medical Records Officer shall be notified of this person's identity. The personally identifiable medical information obtained shall thereafter be subject to the use and security requirements of paragraphs (h)–(m) of this section.

(ii) *Physician consultations.* A written access order need not be obtained where an OSHA staff or contract physician consults with an employer's physician concerning an occupational safety or health issue. In a situation of this nature, the OSHA physician may conduct on-site evaluation of employee medical records in consultation with the

employer's physician, and may make necessary personal notes of his or her findings. No employee medical records, however, shall be taken off-site in the absence of a written access order or the specific written consent of an employee, and no notes of personally identifiable employee medical information made by the OSHA physician shall leave his or her control without the permission of the OSHA Medical Records Officer.

(e) *Presentation of written access order and notice to employees.* (1) The Principal OSHA Investigator, or someone under his or her supervision, shall present at least two (2) copies each of the written access order and an accompanying cover letter to the employer prior to examining or obtaining medical information subject to a written access order. At least one copy of the written access order shall not identify specific employees by direct personal identifier. The accompanying cover letter shall summarize the requirements of this section and indicate that questions or objections concerning the written access order may be directed to the Principal OSHA Investigator or to the OSHA Medical Records Officer.

(2) The Principal OSHA Investigator shall promptly present a copy of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to each collective bargaining agent representing employees whose medical records are subject to the written access order.

(3) The Principal OSHA Investigator shall indicate that the employer must promptly post a copy of the written access order which does not identify specific employees by direct personal identifier, as well as post its accompanying cover letter (*See,* 29 CFR 1910.20(e)(3)(ii)).

(4) The Principal OSHA Investigator shall discuss with any collective bargaining agent and with the employer the appropriateness of individual notice to employees affected by the written access order. Where it is agreed that individual notice is appropriate, the Principal OSHA Investigator shall promptly provide to the employer an adequate number of copies of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to enable the employer either to individually notify each employee or to place a copy in each employee's medical file.

(f) *Objections concerning a written access order.* All employee, collective bargaining agent, and employer written objections concerning access to records pursuant to a written access order shall be transmitted to the OSHA Medical Records Officer. Unless the agency decides otherwise, access to the records shall proceed without delay notwithstanding the lodging of an objection. The OSHA Medical Records Officer shall respond in writing to each employee's and collective bargaining agent's written objection to OSHA access. Where appropriate, the OSHA Medical Records Officer may revoke a written access order and direct that any medical information obtained by it be returned to the original recordholder or destroyed. The Principal OSHA Investigator shall assure that such instructions by the OSHA Medical Records Officer are promptly implemented.

(g) *Removal of direct personal identifiers.* Whenever employee medical information obtained pursuant to a written access order is taken off-site with direct personal identifiers included, the Principal OSHA Investigator shall, unless otherwise authorized by the OSHA Medical Records Officer, promptly separate all direct personal identifiers from the medical information, and code the medical information and the list of direct identifiers with a unique identifying number for each employee. The medical information with its numerical code shall thereafter be used and kept secured as though still in a directly identifiable form. The Principal OSHA Investigator shall also hand deliver or mail the list of direct personal identifiers with their corresponding numerical codes to the OSHA Medical Records Officer. The OSHA Medical Records Officer shall thereafter limit the use and distribution of the list of coded identifiers to those with a need to know its contents.

(h) *Internal agency use of personally identifiable employee medical information.* (1) The Principal OSHA Investigator shall in each instance of access be primarily responsible for assuring that personally identifiable employee medical information is used and kept secured in accordance with this section.

(2) The Principal OSHA Investigator, the OSHA Medical Records Officer, the Assistant Secretary, and any other authorized person listed on a written access order may permit the examination or use of personally identifiable employee medical information by agency employees and contractors who have a need for access, and appropriate qualifications for the purpose for which they are using the information. No OSHA employee or contractor is authorized to examine or otherwise use personally identifiable employee medical information unless so permitted.

(3) Where a need exists, access to personally identifiable employee medical information may be provided to attorneys in the Office of the Solicitor of Labor, and to agency contractors who are physicians or who have contractually agreed to abide by the requirements of this section and implementing agency directives and instructions.

(4) OSHA employees and contractors are only authorized to use personally identifiable employee medical information for the purposes for which it was obtained, unless the specific written consent of an employee is obtained as to a secondary purpose, or the procedures of paragraphs (d)–(g) of this section are repeated with respect to the secondary purpose.

(5) Whenever practicable, the examination of personally identifiable employee medical information shall be performed on-site with a minimum of medical information taken off-site in a personally identifiable form.

(i) *Security procedures.* (1) Agency files containing personally identifiable employee medical information shall be segregated from other agency files. When not in active use, files containing this information shall be kept secured in a locked cabinet or vault.

(2) The OSHA Medical Records Officer and the Principal OSHA Investigator shall each maintain a log of uses and transfers of personally identifiable employee medical information and lists of coded direct personal identifiers, except as to necessary uses by staff under their direct personal supervision.

(3) The photocopying or other duplication of personally identifiable employee medical information shall be kept to the minimum necessary to accomplish the purposes for which the information was obtained.

(4) The protective measures established by this section apply to all worksheets, duplicate copies, or other agency documents containing personally identifiable employee medical information.

(5) Intra-agency transfers of personally identifiable employee medical information shall be by hand delivery, United States mail, or equally protective means. Inter-office mailing channels shall not be used.

(j) *Retention and destruction of records.* (1) Consistent with OSHA records disposition programs, personally identifiable employee medical information and lists of coded direct personal identifiers shall be destroyed or returned to the original recordholder when no longer needed for the purposes for which they were obtained.

(2) Personally identifiable employee medical information which is currently not being used actively but may be needed for future use shall be transferred to the OSHA Medical Records Officer. The OSHA Medical Records Officer shall conduct an annual review of all centrally-held information to determine which information is no longer needed for the purposes for which it was obtained.

(k) *Results of an agency analysis using personally identifiable employee medical information.* The OSHA Medical Records Officer shall, as appropriate, assure that the results of an agency analysis using personally identifiable employee medical information are communicated to the employees whose personal medical information was used as a part of the analysis.

(l) *Annual report.* The OSHA Medical Records Officer shall on an annual basis review OSHA's experience under this section during the previous year, and prepare a report to the Assistant Secretary which shall be made available to the public. This report shall discuss:

(1) the number of written access orders approved and a summary of the purposes for access.

(2) the nature and disposition of employee, collective bargaining agent, and employer written objections concerning OSHA access to personally identifiable employee medical information, and

(3) the nature and disposition of requests for inter-agency transfer or public disclosure of personally identifiable employee medical information.

(m) *Inter-agency transfer and public disclosure.* (1) Personally identifiable employee medical information shall not be transferred to another agency or office outside of OSHA (other than to the Office of the Solicitor of Labor) or disclosed to the public (other than to the affected employee or the original recordholder) except when required by law or when approved by the Assistant Secretary.

(2) Except as provided in paragraph (m)(3) below, the Assistant Secretary shall not approve a request for an inter-agency transfer of personally identifiable employee medical information, which has not been consented to by the affected employees, unless the request is by a public health agency which:

(i) needs the requested information in a personally identifiable form for a substantial public health purpose,

(ii) will not use the requested information to make individual determinations concerning affected employees which could be to their detriment,

(iii) has regulations or established written procedures providing protection for personally identifiable medical information substantially equivalent to that of this section, and

(iv) satisfies an exemption to the Privacy Act to the extent that the Privacy Act applies to the requested information (*See,* 5 U.S.C. 552a(b); 29 CFR 70a.3).

(3) Upon the approval of the Assistant Secretary, personally identifiable employee medical information may be transferred to:

(i) the National Institute for Occupational Safety and Health (NIOSH) and

(ii) the Department of Justice when necessary with respect to a specific action under the Occupational Safety and Health Act.

(4) The Assistant Secretary shall not approve a request for public disclosure of employee medical information containing direct personal identifiers unless there are compelling circumstances affecting the health or safety of an individual.

(5) The Assistant Secretary shall not approve a request for public disclosure of employee medical information which contains information which could reasonably be used indirectly to identify specific employees when the disclosure would constitute a clearly unwarranted invasion of personal privacy (*See,* 5 U.S.C. 552(b)(6); 29 CFR 70.26).

(6) Except as to inter-agency transfers to NIOSH or the Department of Justice, the OSHA Medical Records Officer shall assure that advance notice is provided to any collective bargaining agent representing affected employees and to the employer on each occasion that OSHA intends to either transfer personally identifiable employee medical information to another agency or disclose it to a member of the public other than to an affected employee. When feasible, the OSHA Medical Records Officer shall take reasonable steps to assure that advance notice is provided to affected employees when the employee medical information to be transferred or disclosed contains direct personal identifiers.

(n) *Effective date.* This section shall become effective on August 21, 1980.

[FR Doc. 80-15390 Filed 5-21-80; 1:00 pm]
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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1928

[Docket H-112B]

Access to Employee Exposure and Medical Records in Agricultural Employments

AGENCY: The Occupational Safety and Health Administration of the United States Department of Labor (OSHA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal extends the provisions of 29 CFR 1910.20, "Access to Employee Exposure and Medical Records" (published elsewhere in this part of the **Federal Register**), to agricultural employments. This proposal would therefore provide agricultural employees and their designated representatives with the right of access to relevant employer created or maintained medical and exposure records. Evidence presented at the rulemaking hearings on § 1910.20 indicated that access to records could be of significant occupational health benefit to agricultural employees. A thorough discussion of the justification for, and the issues raised by, this proposal may be found in the preamble to the final records access standard.

DATES: Comments must be submitted by August 21, 1980. Requests for a hearing must be submitted by June 23, 1980.

ADDRESS: Comments should be sent to: Docket Officer, Docket No. H-112B, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202-523-7894).

For additional copies of this notice contact the Publications Office, OSHA, Room S-1212C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, 202-523-8677.

FOR FURTHER INFORMATION CONTACT: Dr. Flo H. Ryer, Office of Special Standards Programs, Room N-3663, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202-523-7174)

SUPPLEMENTARY INFORMATION: OSHA has today promulgated a revised 29 CFR 1910.20 as a final standard entitled "Access to employee exposure and medical records." The standard was initially proposed on July 21, 1978 (43 FR 31371). Interested persons were given until September 22, 1978 to submit initial comments, and public hearings were held on the proposal in December, 1978 and January, 1979.

The standard generally provides that employees, their designated representatives, and OSHA shall have the right of access to relevant employee exposure and medical records made or maintained by employers. The standard does not require any employer to measure employee exposure to toxic substances or conduct medical surveillance of employees. However, if the employer undertakes these activities and makes records of the results, he is required under the standard to provide access for employees, designated representatives, and OSHA. The standard further provides that employee exposure records and analyses based on exposure and medical records must be kept for at least thirty years, and that medical records be kept for the duration of employment plus thirty years, although certain background data to the exposure records need only be kept for one year. (*See*, text of standard.)

As issued today, the final records access standard is applicable to employers in general industry, maritime and construction. It does not currently apply to agricultural employments. The purpose of this notice, therefore, is to propose the issuance of § 1910.20 as an agricultural standard, to be included as § 1928.20 of 29 CFR, so that agricultural employees have the same rights of access as other employees. If the agency decides after evaluating the comments received that § 1910.20 should be extended in its entirety to agricultural employers, this may be accomplished by simply modifying the "Scope and application" paragraph of 29 CFR 1910.20 to include agricultural employers, and also modifying Section 1928.21 to express the application of 29 CFR 1910.20 to agricultural employers. Necessary conforming amendments will also be made to existing agricultural standards such as the cotton ginning standard (29 CFR 1928.113).

Legal authority for this proposal derives from sections 6 and 8 of the Occupational Safety and Health Act (29 U.S.C. 655; 657). Section 6(b) of the Act authorizes the Secretary of Labor to promulgate, modify, or revoke by rule, any occupational safety and health standard. Section 6(b)(5) directs "the Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, (to) set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity * * *" Sections 6(b)(7) and 8(c)(3) provide for employee or designated representative access to medical records and exposure monitoring records required by occupational safety and health standards. Section 8(c)(1) provides for OSHA access to records relevant to the Act. Section 8(g)(2) authorizes the Secretary to prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this Act.

During the rulemaking proceeding on the records access standard, several participants commented on the implied exclusion of agriculture. The Migrant Legal Action Program, Inc., (MLAP) (Docket H-112, Ex. 154) and the Health Research Group (HRG) (Docket H-112, Tr. 2032-4; Ex. 161) argued that agricultural workers should be included within the scope of a records access standard, since there is no rational basis for not doing so. MLAP stated that "the burden on the agricultural employer would be no greater than it would be for any other employer," while "the value of the regulation for farmworkers would be great." (Docket H-112, Ex. 154, p. 2). The AFL-CIO also supported this position (Docket H-112, Ex. 152, p. 32).

Both MLAP and HRG osbserved that agricultural employment is one of the most hazardous occupations:

> Nationwide, in 1977, there were an estimated 1800 accidental work-related deaths in agriculture. Fourteen percent (14%) of all work-related deaths occur in agriculture, and the annual death rate in agriculture is 53 per 100,000 workers. In 1977 one of 20 farmworkers suffered a disabling injury. This makes agriculture the third most hazardous industry in the United States, surpassed only by construction and mining/quarrying. (MLAP, Docket H-112, Ex. 154, p. 1)

HRG noted that farmworkers are often exposed to pesticides and other toxic substances during the course of their employment (Docket H-112, Tr. 2033). HRG also stated:

> Rarely if ever do farmworkers know the nature or extent of these exposures. And if a farmworker were to ask a labor contractor or grower for records which shed light on these exposures, the records would likely be destroyed and the farmworker fired.
>
> Without rules requiring agricultural employers to retain and disclose exposure and medical records, farmworkers will surely be denied the right to know about health hazards in their workplaces. (HRG, Docket H-112, Tr. 2033)

MLAP further stated that the need for farmworker access to exposure and medical information is reinforced by the limited resources of OSHA to inspect agricultural worksites (Docket H-112, Ex. 154, p. 2, 3).

OSHA finds MLAP's and HRG's comments to be persuasive. However, since the proposed rule implicitly excluded agricultural employers from coverage, and these employers did not participate in the rulemaking proceeding, OSHA believes that a further opportunity for public input is appropriate before extending the scope of the records access standard to agricultural operations.

OSHA invites comments, objections, requests for hearings, or other recommendations from interested and affected parties on all issues raised by this proposal, including its economic impact. In particular, the agency invites responses to the following questions:

(1) To what extent do agricultural employers provide initial, periodic, or other medical examinations or biological monitoring to their employees, and under what circumstances are these tests performed?

(2) To what extent do agricultural employers use industrial hygiene services to assess the nature and extent of worker exposures to toxic substances and harmful physical agents?

(3) What kinds of records do agricultural employers create and maintain concerning the use of pesticides, fertilizers, or other toxic materials?

(4) What current mechanisms are used by agricultural employers to inform their employees of exposures to toxic substances and harmful physical agents?

(5) What if any alternatives to this proposal exist that could serve to inform agricultural employees of their exposures to toxic substances and harmful physical agents, as well as the resulting health consequences of these exposures?

(6) Are there any unique aspects to agricultural employment which merit changes to the provisions of the proposals?

Pursuant to 29 CFR 1911.11(b) and (c), interested persons may, in addition to filing written comments as provided above, file objections to the proposal and request an informal hearing in accordance with the following conditions:

1. The objections must include the name and address of the objector;
2. The objections and request for a hearing must be postmarked on or before June 23, 1980;
3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken, and must state the grounds therefor;
4. Each objection must be separately stated and numbered; and
5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

Other comments must be submitted by August 21, 1980, to the Docket Officer, Docket No. H-112B, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The evidence provided during the comment period, in addition to the evidence gathered during the rulemaking proceeding on 29 CFR 1910.20, will be evaluated to determine whether to extend these records access provisions to agriculture operations. The preamble to the final standard constitutes the rationale for this proposal, and the record developed on § 1910.20 will be part of the record of this proceeding.

Pursuant to Executive Order 12044 ("Improving Government Regulation", 43 FR 12660 (March 24, 1978)), and Department of Labor implementing guidelines (44 FR 5570; Jan. 26, 1979), OSHA rulemakings consider the issue of the overall impact of a rule on industry and the economy. A formal "Regulatory Analysis" is required where a rule has major economic consequences for the general economy, individual industries, geographical regions or levels of government. When OSHA issued the proposed access rule in July 1978, it determined that preparation of a formal Regulatory Analysis document in accordance with E.O. 12044 would not be necessary. OSHA based this determination on the fact that the final standard would neither mandate the creation of new records or reports, nor impose independent obligations on employers to monitor or measure employee exposures. The standard would not require employers to provide medical surveillance or examinations, nor would it establish other mandatory requirements as to the format or content of exposure and medical records. Therefore, while administrative costs would be incurred in preserving records and in providing access to them over and above current practices, there was no reason to believe that either of the two economic thresholds established in E.O. 12044 (an annual effect on the economy of $100 million or a major increase in costs or prices for individual industries, levels of government or geographical regions) would be exceeded.

The subsequent rulemaking proceeding supported OSHA's initial determination that the access rule was not a major rule. On the basis of that rulemaking, OSHA does not believe that extending the access standard to agricultural employers will pose substantial economic or other burdens on these employers. OSHA also anticipates no significant environmental impact by virtue of this proposal. As a result, the agency does not intend to prepare either a regulatory analysis or an Environmental Impact Statement for this proposed extension of 29 CFR 1910.20.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Room S-2315, 200 Constitution Avenue, NW, Washington, DC 20210 (202-523-9261). Accordingly, pursuant to sections 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 1600, 29 U.S.C. 655, 657) and Secretary of Labor's Order No. 8-76 (41 FR 25059), it is proposed to amend 29 CFR Part 1928 by adding a new § 1928.20 and Appendices A and B to read as follows:

§ 1928.20 Access to employee exposure and medical records.

(a) *Purpose.* The purpose of this section is to provide employees and their designated representatives a right of access to relevant exposure and medical records; and to provide representatives of the Assistant Secretary a right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act. Access by employees, their representatives, and the Assistant Secretary is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

(b) *Scope and application.* (1) This section applies to each agricultural employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

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(2) This section applies to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents, whether or not the records are related to specific occupational safety and health standards.

(3) This section applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, both on an in-house or contractual (including fee-for-service) basis. Each employer shall assure that the preservation and access requirements of this section are complied with regardless of the manner in which records are made or maintained.

(c) *Definitions.* (1) "Access" means the right and opportunity to examine and copy.

(2) "Analysis using exposure or medical records" means any compilation of data, or any research, statistical or other study based at least in part on information collected from individual employee exposure or medical records or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.

(3) "Designated representative" means any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(4) "Employee" means a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section.

(5) "Employee exposure record" means a record containing any of the following kinds of information concernng employee exposure to toxic substances or harmful physical agents:

(i) Environmental (workplace) monitoring or measuring, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

(ii) Biological monitoring results which directly assess the absorption of a substance or agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent;

(iii) Material safety data sheets; or

(iv) In the absence of the above, any other record which reveals the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

(6)(i) "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including:

(A) Medical and employment questionnaires or histories (including job description and occupational exposures),

(B) The results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including X-ray examinations and all biological monitoring),

(C) Medical opinions, diagnoses, progress notes, and recommendations,

(D) Descriptions of treatments and prescriptions, and

(E) Employee medical complaints.

(ii) "Employee medical record" does not include the following:

(A) Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice, and are not required to be maintained by other legal requirements,

(B) Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.), or

(C) Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

(7) "Employer" means a current employer, a former employer, or a successor employer.

(8) "Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

(9) "Record" means any item, collection, or grouping of information regardless of the form of process by which it is maintained (e.g., paper document, microfiche, microfilm, X-ray film, or automated data processing).

(10) "Specific written consent" (i) means a written authorization containing the following:

(A) The name and signature of the employee authorizing the release of medical information,

(B) The date of the written authorization,

(C) The name of the individual or organization that is authorized to release the medical information,

(D) The name of the designated representative (individual or organization) that is authorized to receive the released information,

(E) A general description of the medical information that is authorized to be released,

(F) A general description of the purpose for the release of the medical information, and

(G) A date or condition upon which the written authorization will expire (if less than one year).

(ii) A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, and does not operate for more than one year from the date of written authorization.

(iii) A written authorization may be revoked in writing prospectively at any time.

(11) "Toxic substance or harmful physical agent" means any chemical substance, biological agent (bacteria, virus, fungus, etc.), or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo-or hyperbaric pressure, etc.) which:

(i) Is regulated by any Federal law or rule due to a hazard to health,

(ii) Is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) (see Appendix B),

(iii) Has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to, the employer, or

(iv) Has a material safety data sheet available to the employer indicating that

the material may pose a hazard to human health.

(d) *Preservation of records.* (1) Unless a specific occupational safety and health standard provides a different period of time, each employer shall assure the preservation and retention of records as follows:

(i) *Employee medical records.* Each employee medical record shall be preserved and maintained for at least the duration of employment plus thirty (30) years, except that health insurance claims records maintained separately from the employer's medical program and its records need not be retained for any specified period;

(ii) *Employee exposure records.* Each employee exposure record shall be preserved and maintained for at least thirty (30) years, except that:

(A) Background data to environmental (workplace) monitoring or measuring, such as laboratory reports and worksheets, need only be retained for one (1) year so long as the sampling results, the collection methodology (sampling plan), a description of the analytical and mathematical methods used, and a summary of other background data relevant to interpretation of the results obtained, are retained for at least thirty (30) year; and

(B) Material safety data sheets and paragraph (c)(5)(iv) records concerning the identity of a substance or agent need not be retained for any specified period as long as some record of the identity (chemical name if known) of the substance or agent, where it was used, and when it was used is retained for at least thirty (30) years; and

(iii) *Analyses using exposure or medical records.* Each anaylsis using exposure or medical records shall be preserved and maintained for at least thirty (30) years.

(2) Nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record so long as the information contained in the record is preserved and retrievable, except that X-ray films shall be preserved in their original state.

(e) *Access to records.* (1) *General.* (i) Whenever an employee or designated representative requests access to a record, the employer shall assure that access is provided in a reasonable time, place, and manner, but in no event later than fifteen (15) days after the request for access is made.

(ii) Whenever an employee or designated representative requests a copy of a record, the employer shall, within the period of time previously specified, assure that either:

(A) A copy of the record is provided without cost to the employee or representative,

(B) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record, or

(C) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

(iii) Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the employee or designated representative for additional copies of the record, except that

(A) An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided; and

(B) An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

(iv) Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section.

(2) *Employee and designated representative access.* (i) *Employee exposure records.* Each employer shall, upon request, assure the access of each employee and designated representative to employee exposure records relevant to the employee. For the purpose of this section, exposure records relevant to the employee consist of:

(A) Records of the employee's past or present exposure to toxic substances or harmful physical agents,

(B) Exposure records of other employees with past or present job duties or working conditions related to or similar to those of the employee,

(C) Records containing exposure information concerning the employee's workplace or working conditions, and

(D) Exposure records pertaining to workplaces or working conditions to which the employee is being assigned or transferred.

(ii) *Employee medical records.* (A) Each employer shall, upon request, assure the access of each employee to employee medical records of which the employee is the subject, except as provided in paragraph (e)(2)(ii)(D) below.

(B) Each employer shall, upon request, assure the access of each designated representative to the employee medical records of any employee who has given the designated representative specific written consent. Appendix A to this section contains a sample form which may be used to establish specific written consent for access to employee medical records.

(C) Whenever access to employee medical records is requested, a physician representing the employer may recommend that the employee or designated representative:

(*1*) Consult with the physician for the purposes of reviewing and discussing the records requested,

(*2*) Accept a summary of material facts and opinions in lieu of the records requested, or

(*3*) Accept release of the requested records only to a physician or other designated representative.

(D) Whenever an employee requests access to his or her employee medical records, and a physician representing the employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition could be detrimental to the employee's health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent, and deny the employee's request for direct access to this information only. Where a designated representative with specific written consent requests access to information so withheld, the employer shall assure the access of the designated representative to this information, even when it is known that the designated representative will give the information to the employee.

(E) Nothing in this section precludes a physician, nurse, or other responsible health care personnel maintaining employee medical records from deleting from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

(iii) *Analyses using exposure or medical records.* (A) Each employer shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(B) Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social

security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), the employer shall assure that personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

(3) *OSHA access.* (i) Each employer shall, upon request, assure the immediate access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or medical records. Rules of agency practice and procedure governing OSHA access to employee medical records are contained in 29 CFR 1913.10.

(ii) Whenever OSHA seeks access to personally identifiable employee medical information by presenting to the employer a written access order pursuant to 29 CFR 1913.10(d), the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days.

(f) *Trade secrets.* (1) Except as provided in paragraph (f)(2) of this section, nothing in this section precludes an employer from deleting from records requested by an employee or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, as long as the employee or designated representative is notified that information has been deleted. Whenever deletion of trade secret information substantially impairs evaluation of the place where or the time when exposure to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information which is sufficient to permit the employee to identify where and when exposure occurred.

(2) Notwithstanding any trade secret claims, whenever access to records is requested, the employer shall provide access to chemical or physical agent identities including chemical names, levels of exposure, and employee health status data contained in the requested records.

(3) Whenever trade secret information is provided to an employee or designated representative, the employer may require, as a condition of access, that the employee or designated representative agree in writing not to use the trade secret information for the purpose of commercial gain and not to permit misuse of the trade secret information by a competitor or potential competitor of the employer.

(g) *Employee information.* (1) Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform employees exposed to toxic substances or harmful physical agents of the following:

(i) The existence, location, and availability of any records covered by this section;

(ii) The person responsible for maintaining and providing access to records; and

(iii) Each employee's rights of access of these records.

(2) Each employer shall make readily available to employees a copy of this standard and its appendices, and shall distribute to employees any informational materials concerning this standard which are made available to the employer by the Assistant Secretary of Labor for Occupational Safety and Health.

(h) *Transfer of records.* (1) Whenever an employer is ceasing to do business, the employer shall transfer all records subject to this section to the successor employer. The successor employer shall receive and maintain these records.

(2) Whenever an employer is ceasing to do business and there is no successor employer to receive and maintain the records subject to this standard, the employer shall notify affected employees of their rights of access to records at least three (3) months prior to the cessation of the employer's business.

(3) Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer shall:

(i) Transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard; or

(ii) Notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of the records.

(4) Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least (3) months notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

(i) *Appendices.* The information contained in the appendices to this section is not intended, by itself, to create any additional obligations not otherwise imposed by this section nor detract from any existing obligation.

(j) *Effective date.* This section shall become effective on ————————. All obligations of this section commence on the effective date except that the employer shall provide the information required under paragraph (g)(1) of this section to all current employees within sixty (60) days after the effective date.

Appendix A to § 1928.20 Sample Authorization Letter for the Release of Employee Medical Record Information to a Designated Representative

I, (full name of worker/patient)

_____

hereby authorize (individual or organization holding the medical records)

_____

to release to

_____

(individual or organization authorized to receive the medical information) the following medical information from my personal medical records:

_____

_____

(Describe generally the information desired to be released)

I give my permission for this medical information to be used for the following purpose:

_____

_____

but I do not give permission for any other use or re-disclosure of this information.

(Note.—Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year); (2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

_____

_____

_____

Full name of Employee or Legal Representative

_____

Signature of Employee or Legal Representative

_____

Date of Signature

_____

Appendix B to § 1928.20—Availability of NIOSH Registry of Toxic Effects of Chemical Substances (RTECS) [1]

The final standard, 29 CFR 1910.20, applies to all employee exposure and medical

[1] On April 24, 1980, the Director of the **Federal Register** approved for incorporation by reference into 29 CFR Part 1910, the 1978 edition of the National Institute for Occupational Safety and

Footnotes continued on next page

records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents (paragraph (b)(2)). The term "toxic substance or harmful physical agent" is defined by paragraph (c)(11) to encompass chemical substances, biological agents, and physical stresses for which there is evidence of harmful health effects. The standard uses the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) as one of the chief sources of information as to whether evidence of harmful health effects exists. If a substance is listed in the latest printed RTECS, the standard applies to exposure and medical records (and analyses of these records) relevant to employees exposed to the substance.

It is appropriate to note that the final standard does not require that employers purchase a copy of RTECS, and many employers need not consult RTECS to ascertain whether their employee exposure or medical records are subject to the standard. Employers who do not currently have the latest printed edition of the NIOSH RTECS, however, may desire to obtain a copy. The RTECS is issued in an annual printed edition as mandated by section 20(a)(6) of the Occupational Safety and Health Act (29 U.S.C. 669(a)(6)). The 1978 edition is the most recent printed edition as of May 1, 1980. Its Foreward and Introduction describes the RTECS as follows:

The annual publication of a list of known toxic substances is a NIOSH mandate under the Occupational Safety and Health Act of 1970. It is intended to provide basic information on the known toxic and biological effects of chemical substances for the use of employers, employees, physicians, industrial hygienists, toxicologists, researchers, and, in general, anyone concerned with the proper and safe handling of chemicals. In turn, this information may contribute to a better understanding of potential occupational hazards by everyone involved and ultimately may help to bring about a more healthful workplace environment. (p. iii)

This Registry contains 124,247 listings of chemical substances: 33,929 are names of different chemicals with their associated toxicity data and 90,318 are synonyms. This edition includes approximately 7,500 new chemical compounds that did not appear in the 1977 Registry. (p. xiii)

The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternate processes which may be less hazardous. (p. xiii)

In this edition of the Registry, the editors intend to identify "all known toxic substances" which may exist in the environment and to provide pertinent data on the toxic effects from known doses entering an organism by any route described. Data may be used for the evaluation of chemical hazards in the environment, whether they be in the workplace, recreation area, or living quarters. (p. xiii)

It must be reemphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences. (p. xiv)

The RTECS 1978 printed edition may be purchased for $13.00 from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 (202–783–3238) (Order GPO Stock No. 017–033–00346–7). The 1979 printed edition is anticipated to be issued in the summer of 1980. Some employers may also desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may be purchased from the GPO for $14.00 (Order the "Microfiche Edition, Registry of Toxic Effects of Chemical Substances"). Both the printed edition and the microfiche edition of RTECS are available for review at many university and public libraries throughout the country. The latest RTECS editions may also be examined at the OSHA Technical Data Center, Room N2439–Rear, United States Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 (202–523–9700), or at any OSHA Regional or Area Office (*See*, major city telephone directories under United States Government-Labor Department).

(Secs. 6(b), 8(c) and 8(g) (84 Stat. 1593, 1599, 1600; 29 U.S.C. 655, 657), the Secretary of Labor's Order 8–76 (41 FR 25059) and 29 CFR Part 1911, Chapter XVII of Title 29)

Signed at Washington, D.C., this 14th day of May, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–15391 Filed 5–22–80; 8:45 am]

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Footnotes continued from last page

Health Registry of Toxic Effects of Chemical Substances (the Registry). (See 29 CFR 1910.20 (c)(11)(ii)).

V 4 5 M Y 2 3 8 0 UMI

V
4
5
M
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2
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Reader Aids

Federal Register

Vol. 45, No. 102

Friday, May 23, 1980

INFORMATION AND ASSISTANCE

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523-5237	Corrections
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523-3419	
523-3517	
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Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

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523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
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523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MAY

29001-29262.....1
29263-29554.....2
29555-29780.....5
29781-30058.....6
30059-30414.....7
30415-30610.....8
30611-31044.....9
31045-31290.....12
31291-31694.....13
31695-31926.....14
31927-32286.....15
32287-32654.....16
32655-33588.....19
33589-33944.....20
33945-34256.....21
34257-34860.....22
34861-35304.....23

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-16 of Apr. 14, 1980 (Amended by Presidential Determination No. 80-18 of May 2, 1980).....20787
No. 80-17 of May 2, 1980.....20785
No. 80-18 of May 1, 1980.....20787

Executive Orders:

12169 (Amended by EO 12213).....29781
12212.....29557
12213.....29781
12214.....29783

Proclamations:

4754.....29555
4755.....30059
4756.....30415
4757.....31695
4758.....31927
4759.....32655
4760.....33945
4761.....33947

4 CFR

418.....31929

5 CFR

300.....29530
351.....29263
891.....30611
1201.....34861

Proposed Rules:

351.....31379, 33640
412.....29300
511.....34895
532.....31382
550.....31379

6 CFR

706.....31935
707.....31935

Proposed Rules:

Ch. VII.....30445

7 CFR

2.....30417, 31697, 33589
6.....33589
25.....30417
210.....32502
230.....33589
319.....31572
418.....29001
419.....29001
421.....29001
600.....30061
729.....34861
799.....32312
907.....29002, 30418, 31698, 31953, 34257
908.....29002, 30418, 31953, 34257
910.....29265, 30612, 32308, 34863
916.....32308
917.....32309, 33596
918.....29003
928.....29559
953.....31045
1124.....29559, 34863
1280.....32572
1421.....31699
1425.....31699
1430.....30419
1435.....33597
1464.....32311
1701.....32312
1945.....29265
1980.....29265
2880.....31692

Proposed Rules:

Subtitle A.....32192
Ch. I.....32192
Ch. II.....32192
Ch. III.....32192
Ch. IV.....29056, 32192
Ch. V.....32192
Ch VI.....32192
Ch. VII.....32192
Ch. IX.....32192
Ch. X.....32192
Ch. XI.....32192
Ch. XII.....32192
Ch. XIV.....29302, 32192
Ch. XV.....32192
Ch. XVI.....32192
Ch. XVII.....32192
Ch. XVIII.....32192
Ch. XXI.....32192
Ch. XXIV.....32192
Ch. XXV.....32192
Ch. XXVI.....32192
Ch. XXVII.....32192
Ch. XXVIII.....32192
Ch. XXIX.....32192
6.....33640, 33642
29.....30080
401.....29056
427.....30445
437.....29056
760.....31393
800.....32284
810.....30446
908.....29063
911.....31726
913.....30638
915.....29843, 33643
944.....29843, 31726, 33643
953.....29846

971.....32319
991.....30447
1002.....32321
1004.....34898
1036.....30638
1071.....30447
1073.....30447
1093.....35168
1097.....30447
1102.....30447
1104.....30447
1106.....30447
1108.....30447
1120.....30447
1126.....30447
1132.....30447
1138.....30447
1207.....31118
1701.....29847, 34898
1804.....30364
1930.....30364
1944.....30364
2859.....30980

8 CFR

101.....32657
103.....32657, 33949
204.....32657
211.....32657
223.....32657
223a.....32657
231.....32657
239.....29243
245.....32657
246.....32657
247.....32657
249.....32657
261.....32657
264.....32657
299.....32657

Proposed Rules:

211.....29848, 30062
214.....29848
242.....30063

9 CFR

50.....32287
78.....29267
82.....30612
92.....29268
94.....29270

Proposed Rules:

Ch. I.....32192
Ch. II.....32192
Ch. III.....32192
Ch. IV.....32192
92.....29302
308.....30980
381.....30980

10 CFR

35.....31701
50.....30614
205.....33950
211.....29546
212.....29546
456.....33643
516.....35206
798.....31604
1024.....29764

Proposed Rules:

Ch. II.....30448
Ch. III.....30448
Ch. X.....30448
2.....34279
20.....31118
50.....34279
60.....31393
205.....32322
210.....34846
211.....29770, 31682, 32003, 34008, 34846
212.....29553, 32003, 34846
461.....31408
474.....34008
477.....34015
486.....32560

11 CFR

4.....31291
5.....31292
100.....34865
110.....34865

Proposed Rules:

140.....32003
141.....32003
142.....32003
143.....32003
144.....32003
145.....32003
146.....32003
9001.....32003
9002.....32003
9003.....32003
9004.....32003
9005.....32003
9006.....32003
9007.....32003
9009.....32003

12 CFR

VII.....32290
205.....31705
226.....33599
265.....34868
303.....30616
309.....31294
524.....31045
528.....31954
545.....31046, 32288
561.....31050
701.....29270, 34869, 34870
1201.....31706
1202.....32288
1203.....31707
1204.....31710

Proposed Rules:

Ch. V.....31119
211.....30081–30082
225.....30082
226.....29702, 33644
523.....31727
545.....31727
556.....31121
563.....31408
590.....13122
1204.....32323

13 CFR

Proposed Rules:

Ch. I.....30338
108.....31410
121.....33645
304.....30320
305.....30320
306.....30320
307.....30320
308.....30320
315.....30320

14 CFR

39.....29004, 29005, 29007, 29008, 29560–29562, 30421, 31052, 32659, 34258–34261
71.....29009, 29563, 29564, 30422, 31053, 31971, 32661, 34261–34263
73.....30424, 31974
97.....29565, 31974
121.....30424, 31057
152.....34782
183.....32668
231.....31059
249.....31059
250.....30063
302.....34264
380.....32669
385.....30065

Proposed Rules:

Ch. I.....31125, 32700
39.....30448, 32011
47.....34286
49.....34286
71.....29063, 30449, 31128, 32702, 34289, 34290
75.....30452
121.....29064
127.....29064
135.....29064
152.....30398
199.....30398
221.....31411, 34291
250.....30086, 31413
385.....31411

15 CFR

30.....29567
369.....29010
385.....29568, 30617, 33955
399.....29568, 30617
502.....29271
503.....29272
2006.....34870

Proposed Rules:

936.....33645, 33649
937.....33645

16 CFR

13.....29010, 31712, 31979
1025.....29206

Proposed Rules:

13.....30650, 31416, 34291, 34293, 34296
1512.....32705

17 CFR

1.....34873
15.....30426, 31713
230.....29275
240.....33957
276.....34876

Proposed Rules:

21.....31731
229.....31733
230.....29847
240.....29853, 30454, 31418, 31733
249.....33650
270.....29067

18 CFR

1.....31059
35.....31294
141.....30066, 33600
154.....29011
250.....33600
260.....30066, 33600
270.....29569
271.....29569
273.....30068
282.....29573, 31300, 31622, 31980, 33601
284.....34264
292.....33603, 33958

Proposed Rules:

Ch.I.....31743
2.....31744
271.....31744
273.....31418
284.....34299, 34302

19 CFR

6.....29247
200.....31988
353.....30618
355.....30619, 33964

20 CFR

655.....29854
675.....33846
676.....33846
677.....33846
678.....33846
679.....33846
680.....33846

Proposed Rules:

676.....33923
677.....33923
678.....33923
679.....33923

21 CFR

5.....32550
101.....29275
201.....32550
207.....32393
250.....31303
520.....31304, 32294, 33604
522.....29275, 29789
540.....29276, 32294
561.....32295
610.....32396
660.....32296

Proposed Rules:

70.....32324
109.....30984
110.....30984
182.....29304, 32324
184.....29304, 32324
225.....30984
226.....30984
330.....31422
349.....30002
355.....33650
500.....30984
509.....30984
680.....29305
1030.....29307

22 CFR

143.....31713, 34877
51.....30619

Proposed Rules:

51.....34302

23 CFR

663.....29015

Proposed Rules:

420.....30398

450.....30398
625.....34302
630.....30398
1204.....30398

24 CFR

111.....31880
203.....29277, 29573, 30602, 31716, 33964, 34878
204.....30602, 31716, 33964, 34878
213.....29277, 30602, 33964, 34878
220.....30602, 33964, 34878
221.....29277, 30602, 31894
227.....29277
234.....29277, 30602
235.....29277, 30602, 33964, 34878
240.....33964, 34878
275.....29279
841.....29279, 34265
865.....30346
868.....30349
885.....31990
3280.....29539

Proposed Rules:

203.....29855
215.....31132
234.....29855
241.....30352
570.....30328, 31262, 33651
571.....30455
600.....30330
865.....33651

25 CFR

11.....29790

Proposed Rules:

55b.....30302
172.....29070

26 CFR

1.....33969, 33971, 34879
7.....34879
301.....33973

Proposed Rules:

1.....29308, 34016, 34303
48.....29309
51.....34899

27 CFR

Proposed Rules:

19.....33976
178.....33651
179.....33978
181.....33651
194.....33978
197.....33978
245.....33978
250.....33978
251.....33978
252.....33978

28 CFR

0.....31061, 34268, 34269
2.....33604
16.....32670
45.....29574, 31717
50.....29530
544.....33938
546.....33938
545.....33938
552.....33938
572.....33938

Proposed Rules:

42.....32710, 33652

Proposed Rules:

42.....33652
524.....33942

29 CFR

40.....34879
56.....29280
1601.....33605
1910.....35212
1913.....35284
2702.....33606
1607.....29530

Proposed Rules:

Ch. XII.....29590
4.....34899
1903.....33652
1928.....35298
2613.....34899

30 CFR

57.....32300
250.....29280
725.....34879
731.....33926
732.....33926

Proposed Rules:

Ch. VII.....29072, 29309–29311, 29855, 32328, 34907
19.....32554
70.....31426
71.....31426
90.....31426
211.....32715
250.....29309
715.....32331
716.....30651, 32331
816.....32331
817.....32331
826.....32331
886.....30382

31 CFR

13.....30619
342.....32301
51.....29530
515.....32671
535.....29287

32 CFR

Ch. I.....30623
369.....34880
370.....34880
371.....34881
372.....34882
555.....32302
706.....31116, 32671
811a.....32301
880.....31113

Proposed Rules:

286b.....29590
1900.....29855

32A CFR

134.....34884

Proposed Rules:

651.....34304
663.....34304

33 CFR

Ch. II.....32302
100.....30430, 31991
110.....30431, 32672, 34269
117.....29020
165.....29020, 30436
207.....31061

Proposed Rules:

110.....29593
117.....29593, 29594, 31132, 34305
140.....29072
141.....29072
142.....29072
143.....29072
144.....29072
145.....29072
146.....29072
147.....29072
157.....29087, 34306

34 CFR

Subtitle A.....30802
Ch. I.....30802
Ch. II.....30802
Ch. III.....30802
Ch. IV.....30802
Ch. V.....30802
Ch. VI.....30802
Ch. VII.....30802
Ch. VIII.....30802

36 CFR

7.....32228, 32234
61.....30623
67.....34885
216.....29289
920.....34752
1201.....30623, 34886
1208.....34886

Proposed Rules:

Ch. I.....30414
Ch. II.....32192
Ch. IX.....34017
7.....31752, 34759
50.....29856
223.....30652
1204.....34909
1207.....30378
1208.....34910

38 CFR

3.....31717, 34886
21.....31062
36.....29292, 31063, 34270

Proposed Rules:

17.....30392
36.....30370

39 CFR

111.....32305, 34271

Proposed Rules:

Ch. III.....34309
267.....30069

40 CFR

51.....31304
52.....29293, 29790, 30069, 30626, 31304, 32674, 33607, 33981, 34271
81.....30070
85.....34802, 34829
86.....31719, 34718
122.....29589, 33290, 33516
123.....33290, 33516
124.....33290, 33516
125.....29589
180.....29802–29803, 31312, 32305, 33994
205.....30630
260.....33066
261.....33084
262.....33140
263.....33150
264.....33154, 34055
265.....33154, 34055
408.....32675
415.....31992
775.....32676

Proposed Rules:

35.....30374
51.....30088, 34762
52.....29312, 29313, 29595, 29596, 29864, 30089, 30456, 30654, 32333, 32743, 33656, 34018, 34271, 34917–34921
61.....34315
81.....30091, 34020
112.....33814
167.....29597
169.....29597
180.....29597, 32338, 32743
258.....30095
261.....33136
264.....33260
265.....33260, 33280
761.....30989

41 CFR

Ch. 101.....29294, 31313
1.....30633
3–1.....31721, 32306
3–4.....33995
3–7.....32306
5–1.....29574, 29575
5A.....30633
5A–1.....29574
5B–1.....29576
5B–2.....29576
5B–7.....29576
5B–16.....29576
14R–9.....31066
18.....30633
60–3.....29530
101–26.....31315, 31992
105–61.....29577

Proposed Rules:

Ch. 4.....32192
101–11.....32012

42 CFR

54a.....31094
57.....29803
110.....31721

Proposed Rules:

405.....29535
420.....30634
440.....20535
447.....30634
456.....29535
462.....30634
482.....29535

Proposed Rules:

405.....30655

43 CFR

34.....31095
35.....30140
2610.....34230
2650.....31110
2880.....34887
3100.....30056, 35156
9260.....31276

V 45 M Y 2 3 8 0 UMI

Public Land Orders:
5309 (Amended by PLO 5724)....31993
5716 (corrected by PLO 5725)....31722
5719....29021
5720....31315
5721....29295
5722....31316
5723....31722
5724....31993
5725....31722

Proposed Rules:
9....31284
2650....30606
2920....31284
3809....31284

44 CFR
64....31316
65....29021, 31318, 32000
67....29577, 31993
70....29807–29830, 30071, 30076
76....32687

Proposed Rules:
67....29090, 29313–29323, 29598, 31133, 31427, 31754, 32339, 34923

45 CFR
74....34272
104....30635
162....34210
162a....34210
162b....34210
162c....34210
163c....29588
185....32588
186....34152
186a....34152
186b....34152
186c....34152
186d....34152
186e....34152
186f....34152
186g....34152
186h....34152
186i....34152
186j....34152
186k....34152
186l....34152
187....34152
188....34152
205....29831
235....29831
801....33628
1061....32690, 33788

Proposed Rules:
Ch. X....30457
100a....30386
100b....30386
1069....31133
1385....31006
1386....31006
1387....31006

46 CFR
33....29588
35....29588
71....29588
75....29588
78....29588
91....29588
94....29588
97....29588
148....31110
160....29588
189....29588
192....29588
196....29588
252....30439
530....31722
547....33996

Proposed Rules:
261....30410
276....29610
536....29323, 31139
538....29323, 31139

47 CFR
0....29835, 31722
2....33629
64....31319, 32001
73....34888
76....31723
90....30637
22....29023
73....29835–29840
90....29297

Proposed Rules:
Ch. I....30052, 33657, 33662
2....29323, 32013
21....29323, 29335, 29350
22....32013
61....29865
67....34315
73....29865–29872, 30094, 30656, 31139, 32028, 32744, 34931–34938
74....29323, 29350
87....31764
94....29323, 29350

48 CFR

Proposed Rules:
4....29612

49 CFR
107....32690
171....32692, 34560
172....34560
173....32692, 34560
174....32692, 34560
175....32690
176....34560
177....32692, 34560
220....30443
510....29032, 32001
571....29045
635....30444
1021....31374
1022....31374
1033....29048–29054, 29840–29841, 31111, 31375, 31724, 34002, 34274, 34276
1131....31374
1131a....31374
1201A....31110
1243....34276
1249....34276

Proposed Rules:
173....32030, 34316
177....32030, 34316
258....30398
260....30398
266....30398
571....29102
1033....32745
1045....31139
1048....34316
1056....31766
1057....34020
1102....29102
1254....31767
1262....30659
1270....29104
1271....29104
1272....29104
1273....29104
1274....29104
1275....29104
1276....29104
1277....29104
1278....29104
1279....29104
1320....31766
1321....31766
1322....31766
1323....31766
1324....31766

50 CFR
12....31725
17....33768
26....30077
32....34891
33....29841, 34891
227....29054
301....34889
611....31377, 32001, 34003
651....32699
652....33637
655....32001
656....32002
661....29250
671....31112
674....30444

Proposed Rules:
17....29370, 29371, 29373, 31446, 32348
23....32353, 33842, 34025, 34317
216....29375
674....34020
810....34025

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
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DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

25808 4–16–80 / FM broadcast assignment to Cape May Court House, N.J.; proceeding terminated

25806 4–16–80 / FM broadcast assignment to St. Simons Island and Waycross, Ga.; proceeding terminated

26707 4–21–80 / Radio Broadcast Services; FM broadcast assignment to Carthage and Whitehouse, Tex.

25400 4–15–80 / Radio Broadcast Services; FM broadcast assignment to Nederland, Tex.

25401 4–15–80 / Radio Broadcast Services; FM assignment to Vandalia, Mo.

INTERIOR DEPARTMENT

Fish and Wildlife Service—

27710 4–23–80 / Determination that the bonytail chub (gila elegans)

Rules Going Into Effect May 25, 1980

TREASURY DEPARTMENT

Internal Revenue Service—

27932 4–25–80 / Provision for compensation paid to appraisers of property seized as subject to forfeiture

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing May 21, 1980

V 45 M Y 23 80 UMI

V
4
5
M
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2
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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.
WHO: The Office of the Federal Register.
WHAT: Free public briefings (approximately 2½ hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: June 27; July 11 and 25; at 9 a.m. (identical sessions).
WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.
Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

CHICAGO, ILL.

WHEN: May 28 and 29; at 9 a.m. (identical sessions.)
WHERE: Room 204A, Dirksen Federal Bldg., Chicago, Ill.
RESERVATIONS: Call Ardean Merrifield, 312–353–0339.

PITTSBURGH, PA.

WHEN: June 4 at 1:30 p.m. and June 5 at 9 a.m. (identical sessions.)
WHERE: Rooms 2212 and 2214 (both days), Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa.
RESERVATIONS: Call Mary Silipo, Pittsburgh Federal Information Center, 412–644–3456.

ST. LOUIS, MO.

WHEN: June 24 and 25; at 9:00 a.m. (identical sessions.)
WHERE: Room 3720, Federal Office Bldg. 1520 Market Street, St. Louis, Mo.
RESERVATIONS: Call Evelyn Wiebusch, Federal Information Center, 314–425–4106.

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V
4
5
M
Y
2
3
8
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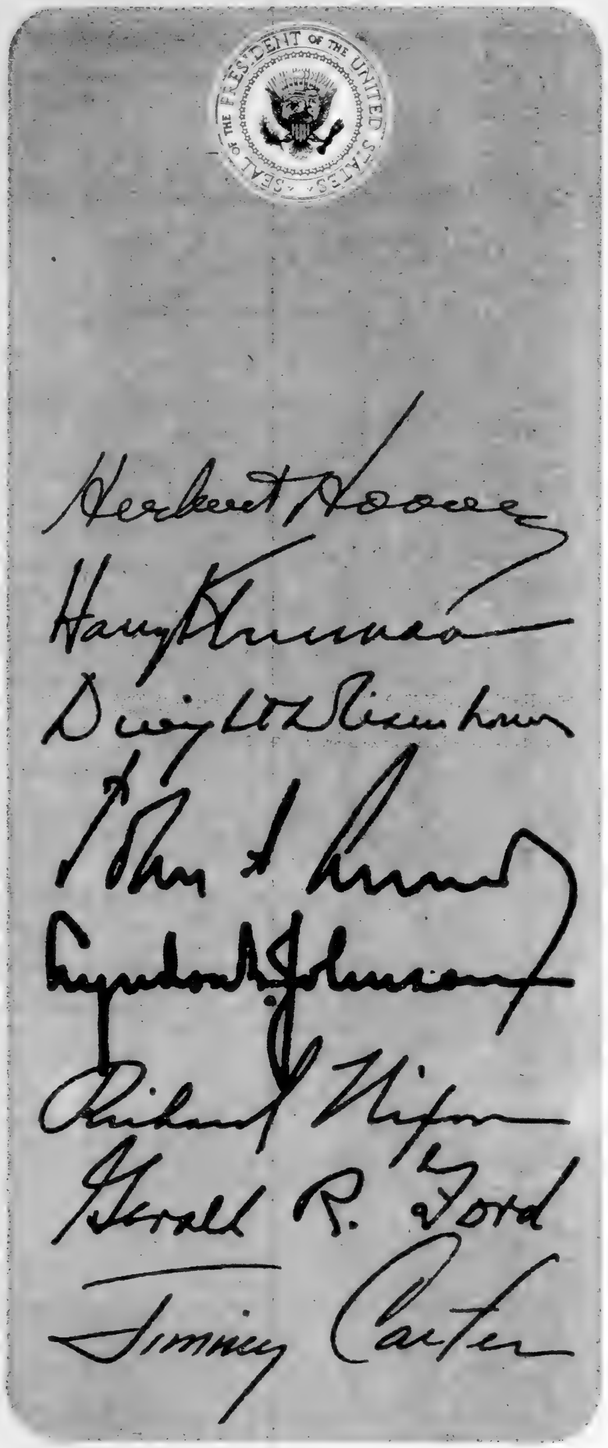

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5-27-80
Vol. 45 No. 103
Pages 35305-35800

federal register

Tuesday
May 27, 1980

Highlights

35335 **Food Stamps** USDA/FNS proposes changes in State reporting of issuance and participation data; comments by 7–28–80

35782 **Loan Programs—Agriculture** USDA/FmHA amends regulation on insured Economic Emergency loans; effective 6–2–80; comments by 6–26–80 (Part VI of this issue)

35328 **Grant Programs—Health** HHS amends grants administration regulation to implement recent revision of audit standards; effective 5–27–80

35327 **Grant Programs—Health** HHS/PHS amends rules governing scientific peer review of research grant applications and research and development contract projects to include the Division of Nursing; effective 5–27–80

35794 **Child Welfare** HHS/HDSO proposes regulation to clarify, simplify, and revise rules governing Child Abuse and Neglect Prevention and Treatment Program; comments by 7–11–80 (Part VIII of this issue)

35788 **Energy Conservation** DOE/Sec'y proposes amendments to regulations restricting thermostat settings in nonresidential buildings; comments by 6–26–80; hearing on 6–12–80; requests to speak at hearing by 6–5–80 (Part VII of this issue)

CONTINUED INSIDE

Contents

Federal Register

V 45 M Y 27 80 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

35363 **Federal Aid Programs** CSA proposes revised policy statement regarding State Agency Assistance; comments by 7–28–80

35323 **Farm Labor Contract or Registration** Labor/ESA expands list of documents acceptable as evidence of bona fide inquiry of employability status of prospective employee; effective 5–27–80

35776 **Public Housing** HUD/FHC proposes rule to establish new procedure for calculation of allowable utilities consumption level used in Performance Funding Systems; comments by 7–11–80 (Part V of this issue)

35680 **Community Development** HUD publishes final Rehabilitation Guidelines intended for voluntary adoption by States and used in conjunction with existing building codes (Part III of this issue)

35359 **Refugees** HHS/Sec'y proposes plan requirements States must meet as preconditions to receiving assistance for refugees; comments by 6–26–80

35366 **Community Action** CSA proposes amendment to provide for grantee public meetings and hearings for providing information to the community; comments by 7–28–80

35346 **Banks and Banking** NCUA requests comments on giving of premiums or gifts to members by Federal Credit Unions; comments by 6–23–80

35457 **Small Businesses** Labor/OSHA publishes memoranda of agreement on resolution of small business problems in complying with OSHA regulations

Privacy Act Documents

35764 DOE (Part IV)

35426, 35427 HUD

35475 **Sunshine Act Meetings**

Separate Parts of This Issue

35576 **Part II, HHS/FDA**
35680 **Part III, HUD**
35764 **Part IV, DOE**
35776 **Part V, HUD/FHC**
35782 **Part VI, USDA/FmHA**
35788 **Part VII, DOE/Sec'y**
35794 **Part VIII, HHS/HDSO**

Contents

Federal Register
Vol. 45, No. 103
Tuesday, May 27, 1980

Aging, Federal Council
NOTICES
35424 Meetings (2 documents)

Agricultural Marketing Service
RULES
35305 Oranges, grapefruit, tangerines and tangelos grown in Fla.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Food and Nutrition Service; Food Safety and Quality Service; Forest Service; Soil Conservation Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
35423 June

Animal and Plant Health Inspection Service
RULES
Plant quarantine, foreign:
35305 Nursery stock, plants, roots, bulbs, seeds, etc.; prohibitions and restrictions; correction

Arts and Humanities, National Foundation
NOTICES
Meetings:
35455 Media Arts Panel

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
35413 Indiana
35413 South Dakota

Coast Guard
RULES
Drawbridge operations:
35326 New York
PROPOSED RULES
Cargo and tank vessels:
35366 Lifeboats and liferafts, stowage
Drawbridge operations:
35349–35351 New Jersey (3 documents)
NOTICES
Authority delegations:
35457 Commanding Officers, 7th District; Cuban refugee exodus and unsafe voyages determinations
Navigation safety:
35458 LORAN-C overprint chart requirements

Commerce Department
See International Trade Administration.

Commodity Futures Trading Commission
NOTICES
35475 Meetings; Sunshine Act

Community Services Administration
PROPOSED RULES
Grantee public affairs:
35366 Meetings and hearings; fiscal accountability and public access
35363 State Economic Opportunity Office role; proposed CFR Part removal, and new criteria for choosing State agency to apply for CSA funds

Consumer Product Safety Commission
PROPOSED RULES
35348 Bicycle safety requirements; retroreflective rims; correction
NOTICES
Meetings:
35414 Asbestos substitutes; workshop

Customs Service
NOTICES
Customhouse broker license cancellation, suspension, etc.:
35472 Bartolomei, John A.
35472 Gallagher & Ascher Co. et al.
35472 Trilling, Mark M.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
35450 Miller, Gilbert, M.D.

Economic Regulatory Administration
NOTICES
Motor gasoline; multiple allocation fractions; applications, etc.:
35415 Delta Petroleum Corp.
Remedial orders:
35416 Rodbern Service Station et al.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
PROPOSED RULES
35788 Building temperature restrictions, emergency; alternate plans by owners or operators, etc.; proposed program revisions and hearings
35764 Privacy Act; implementation
NOTICES
Environmental statements; availability, etc.:
35414 Shippingport Atomic Power Station, Pa.; decommissioning

Environmental Protection Agency
RULES
Air quality planning purposes; designation of areas:
35327 Nevada

NOTICES
Air quality implementation plans; approval and promulgation:
35417 Prevention of significant air quality deterioration (PSD); Permit approvals
Meetings:
35414 Asbestos substitutes; workshop
Toxic and hazardous substances control:
35416 Premanufacture exemption applications

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
35425 Rio Rancho Estates, Sandoval County, N. Mex., et al.

Farmers Home Administration
RULES
35782 Economic emergency loans

Federal Aviation Administration
RULES
Airports, Metropolitan Washington:
35314 National and Dulles International airports; solicitation and leafletting procedures
Airworthiness directives:
35307 Boeing
35313 Cessna
35307 Cessna; correction
35309 General Dynamics
35310 McDonnell Douglas
35308–35310 Piper (3 documents)
Procedural rules:
35306 Rulemaking or exemption petitions; mailing addresses, revised, etc.
PROPOSED RULES
35348 Transition areas

Federal Communications Commission
RULES
Common carrier services:
35329 Public mobile radio services; availability of land mobile channels in 13 urbanized areas; frequency application filing procedures; extension of time
PROPOSED RULES
Radio and television broadcasting:
35370 Financial reporting requirements
NOTICES
Radio services, special:
35418 Mobile Services World Administrative Radio Conference; international radio regulations changes; inquiry

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
35322 Jurisdictional agency determinations; alternative filing requirements; Colorado
PROPOSED RULES
Natural Gas Policy Act of 1978:
35348 Advance payment; definition and interest rate; correction
NOTICES
35475 Meetings; Sunshine Act

Federal Home Loan Bank Board
PROPOSED RULES
Mortgage loans, federally-related:
35347 State usury laws, preemption; mobile home consumer protection; correction
NOTICES
35476 Meetings; Sunshine Act

Federal Home Loan Mortgage Corporation
NOTICES
35476 Meetings; Sunshine Act

Federal Maritime Commission
PROPOSED RULES
Agreements filed by common carriers in foreign commerce of U.S.:
35368 Terminal facilities located in foreign countries; exemption for leases or arrangements
35368 Nonexclusive container and/or equipment interchange agreements; exemption from approval requirements
Tariffs filed by common carriers in foreign commerce of U.S.:
35369 Cargo movement between foreign countries via U.S. ports or land; exemption
NOTICES
35418, 35419 Agreements filed, etc. (2 documents)
Financial reports; applications for permission to submit alternative data:
35419 Hawaiian Marine Lines, Inc.

Federal Mediation and Conciliation Service
NOTICES
Meetings:
35419 Arbitration Services Advisory Committee

Federal Mine Safety and Health Review Commission
NOTICES
35476 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
35419 American Heritage Corp.
35419 Antioch Bancshares, Inc.
35420 Bank of New York Co., Inc.
35421 Capital Bancshares, Inc.
35421 Carbondale Bancshares, Inc.
35421 Kit Carson Insurance Agency, Inc.
35420 Philadelphia National Corp. et al.
35420 Stockton Bancshares, Inc.
35421 Verdigre Agency
35422 Wyoming Bancorporation

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
35410 Razorback sucker; proposal withdrawn

Food and Drug Administration
PROPOSED RULES
Human drugs:
35576 Anorectal products (OTC); monograph establishment
35349 Antacid products (OTC); in vitro test modification request procedures

NOTICES
Laser variance approvals, etc.:
35424 Cerberonics, Inc.

Food and Nutrition Service
PROPOSED RULES
Food stamp program:
35335 Issuance and participation reporting system

Food Safety and Quality Service
PROPOSED RULES
35345 Eggs; voluntary grading of shell eggs; advance notice
NOTICES
35411 Food Quality Assurance Division; Statement of Mission

Forest Service
NOTICES
Environmental statements; availability, etc.:
35412 Chugach National Forest, Upper Trail Lake Hatchery Project, Moose Pass, Alaska

General Accounting Office
NOTICES
35422 Regulatory Reports review; proposals, approvals, violations, etc. (CPSC)

General Services Administration
See also National Archives and Records Service.
NOTICES
Authority delegations:
35423 Defense Department Secretary (2 documents)
Procurement:
35422 Videotape producers list, qualified; availability

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Human Development Services Office; Public Health Service.
RULES
Grants, administration:
35328 Audits, grantee and subgrantee
PROPOSED RULES
35359 Refugee resettlement program; plan and reporting requirements for States

Hearings and Appeals Office, Interior Department
PROPOSED RULES
35351 Hearings and appeals procedures

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
35430 Arizona et al.

Historic Preservation Advisory Council
NOTICES
35411 Meeting

Housing and Urban Development Department
See also Environmental Quality Office, Housing and Urban Development Department.
PROPOSED RULES
Low income housing:
35776 Annual contributions for operating subsidy; performance funding system
NOTICES
35426, 35427 Privacy Act; systems of records (3 documents)
35780 Rehabilitation guidelines, final

Human Development Services Office
PROPOSED RULES
35794 Child abuse and neglect prevention and treatment program

Interior Department
See Fish and Wildlife Service; Hearings and Appeals Office, Interior Department; Heritage Conservation and Recreation Service; Land Management Bureau.

International Trade Administration
NOTICES
Meetings:
35413 Numerically Controlled Machine Tool Technical Advisory Committee

Interstate Commerce Commission
NOTICES
35432 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways, and pack and crate
35431 Railroad car service rules, mandatory; exemptions
Rerouting of traffic:
35431 Illinois Central Gulf Railroad Co.

Justice Department
See also Drug Enforcement Administration.
NOTICES
35450 Federal Employees Part-time Career Employment Act of 1978; personnel instruction

Labor Department
See also Occupational Safety and Health Administration.
RULES
35323 Farm labor contractor registration; documents acceptable as evidence of a *bona fide* inquiry of employability status

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
35428 Afognak Native Corp.; correction
35428 Koniag, Inc.; correction
35428 Nik'aghun, Ltd.
Withdrawal and reservation of lands, proposed etc.:
35430 Utah; correction

Management and Budget Office
NOTICES
35455 Agency forms under review

National Aeronautics and Space Administration
RULES
Contract appeals:
35321 Adjudication procedures; correction

V 45 MY 27 80 UMI

National Archives and Records Service
NOTICES
Meetings:
35423 Preservation Advisory Committee

National Credit Union Administration
PROPOSED RULES
Federal credit unions:
35346 Premiums, finders fees and payment of dividends in merchandise; advance notice
NOTICES
35476 Meetings; Sunshine Act

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
35333 Tires, new pneumatic, for passenger cars
PROPOSED RULES
Consumer information:
35408 Tire quality grading, uniform; metric tire testing and traction test procedures
Fuel economy standards, average:
35403 Trucks, light; 1983–85 model years; extension of time
Motor vehicle safety standards:
35405 Lamps, reflective devices and associated equipment; noticeability of large commercial vehicles; advance notice
NOTICES
Meetings:
35458 National Highway Safety Advisory Committee

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
35345 Petitions for leave to intervene; late filing by newly arrived persons or corporations and new organizations; petition denied
NOTICES
35476 Meetings; Sunshine Act

Occupational Safety and Health Administration
NOTICES
Meetings:
35454 Occupational Safety and Health National Advisory Committee
35453 Small business problems resolution and rulemaking flexibility; memoranda of agreement with SBA

Personnel Management Office
RULES
Excepted service:
35305 Health, Education, and Welfare Department

Postal Service
NOTICES
35477 Meetings; Sunshine Act

Public Health Service
RULES
Grants:
35327 Scientific peer review of research grant applications and research and development contract projects; expanded coverage

Railroad Retirement Board
NOTICES
35457 Supplemental annuity program; determination of quarterly rate of excise tax

Research and Special Programs Administration, Transportation Department
RULES
Hazardous materials:
35329 Shipment by aircraft; government-owned aircraft exemption, aircraft leased to foreign nationals, etc.

Securities and Exchange Commission
NOTICES
35477 Meetings; Sunshine Act

Small Business Administration
NOTICES
35457 Small business problems resolution and rulemaking flexibility; memoranda of agreement with OSHA; cross reference

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
35412 Driftway Public Water-Based Recreation and Fish and Wildlife Development RC&D Measure, Mass.

Trade Representative, Office of United States
NOTICES
General Agreement on Tariffs and Trade; concessions, etc.:
35457 Lead from Mexico; hearings on possible suspension

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.
NOTICES
35458 National security information program; implementation

Treasury Department
See also Customs Service.
NOTICES
Bonds, Treasury:
35472 1985 series

Veterans Administration
RULES
Adjudication; pensions, compensation, dependency, etc.:
35326 Reduction of service pension because of hospitalization
NOTICES
35474 Senior Executive Service Performance Review Boards; membership

MEETINGS ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
35413 Indiana Advisory Committee, 6–19 and 6–20–80
35413 South Dakota Advisory Committee, 6–8, 6–9, and 6–10–80

COMMERCE DEPARTMENT
International Trade Administration—
35413 Numerically Controlled Machine Tool Technical Advisory Committee, 6–10–80

ENVIRONMENTAL PROTECTION AGENCY
Consumer Product Safety Commission
35414 Workshop on Substitutes for Asbetos, 7–14 through 7–16–80

FEDERAL MEDIATION AND CONCILIATION SERVICE
35419 Arbitration Services Advisory Committee, 6–14–80

GENERAL SERVICES ADMINISTRATION
National Archives and Records Service—
35423 Preservation Advisory Committee 6–19 and 6–20–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration
35423 Minority Advisory Committee and Rape Prevention and Control Advisory Committee, June
35424 Federal Council on the Aging, 6–16 and 6–17–80
35424 Federal Council on the Aging, Long Term Care Committee, 6–24–80

LABOR DEPARTMENT
Occupational Safety and Health Administration—
35454 Occupational Safety and Health National Advisory Committee, 6–12 and 6–13–80

NATIONAL ENDOWMENT FOR THE ARTS
35455 National Council on the Arts, Media Arts Panel, 6–16 and 6–17–80

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration—
35458 National Highway Safety Advisory Committee, 6–17, 6–18, and 6–19–80

RESCHEDULED MEETING

ADVISORY COUNCIL ON HISTORIC PRESERVATION
35411 Hickory Hill Public Housing project, changed from 5–13–80 to 6–9–80

HEARINGS

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
35457 Trade Policy Staff Committee, possible suspension of concessions on lead with regard to Mexico, 6–12–80, submit request to present evidence by 6–6–80

V 45 M Y 27 80 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
213 35305

7 CFR
319 35305
905 35305
1945 35782
Proposed Rules:
274 35335
2856 35345

10 CFR
Proposed Rules:
2 35345
490 35788
1008 35764

12 CFR
Proposed Rules:
Ch. VII 35346
590 35347

14 CFR
11 35306
13 35306
39 (8 documents) 35307–35310, 35313
159 35314
1241 35321
Proposed Rules:
71 35348

16 CFR
Proposed Rules:
1512 35348

18 CFR
274 35322
Proposed Rules:
270 35348

21 CFR
Proposed Rules:
331 35349
346 35576

24 CFR
Proposed Rules:
890 35776

29 CFR
40 35323

33 CFR
117 35326
Proposed Rules:
117 (3 documents) 35349–35351

38 CFR
3 35326

40 CFR
81 35327

42 CFR
52h 35327

43 CFR
Proposed Rules:
4 35351

45 CFR
74 35328
Proposed Rules:
400 35359
1061 35363
1068 35363
1070 35366
1075 35363
1340 35794

46 CFR
Proposed Rules:
33 35366
94 35366
522 35368
524 35368
536 35369

47 CFR
22 35329
Proposed Rules:
73 35370

49 CFR
171 35329
175 35329
571 35333
Proposed Rules:
533 35403
571 35405
575 35408

50 CFR
Proposed Rules:
17 35410

Rules and Regulations

Federal Register
Vol. 45, No. 103
Tuesday, May 27, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service: Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions on an emergency staff in the Office of the Secretary (HEW) to assist in the resettlement of the current wave of Cuban refugees are excepted under Schedule A because it is impracticable to hold an examination for them.

EFFECTIVE DATE: May 21, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000. On position content: William Hanks, Department of Health, Education, and Welfare, 202–472–3776.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3116(k) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(k) Office of the Secretary

(1) Not to exceed 500 staff positions, GS–15 and below, for an emergency staff to assist in the resettlement of the current wave of Cuban refugees. Employment under this authority may not exceed September 30, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80-16186 Filed 5-23-80; 10:06 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products; Prohibitions and Restrictions

Correction

In FR Doc. 80–14492, published at page 31572, on Tuesday, May 13, 1980 make the following corrections:

1. On page 31572;

a. Under **SUMMARY**, in the first column, in the fifth line, "classes of nursery stocks, and certain" should be corrected to read "classes of nursery stock, and certain";

b. In the second column, in the last paragraph, "(a) Is is imported into the United" should be corrected to read "(a) It is imported into the United";

c. In the third column, in the last paragraph, in the fifth line "Ploynesia" should be corrected to read "Polynesia";

2. On page 31573:

a. In the first column, in the first full paragraph, in the eleventh line "that" should be corrected to read "at";

b. In the first column, in the last paragraph, in the fourteenth line "distructive" should be corrected to read "destructive";

3. On page 31577, in the third column, in the first complete paragraph, in the thirteenth line "cutting" should be corrected to read "cuttings";

4. On page 31578, in the third column, in the thirteenth line ". . . final fule" should be corrected to read ". . . final rule";

5. On page 31581, in the first column, in the first complete paragraph, in the ninth line "*Ligustrium*" should be corrected to read "*Ligustrum*";

6. On page 31583, in the third colum, first complete paragraph in the sixth line, "PBQ" should be corrected to read "PPQ";

7. On page 31584, in the second column, in the first complete paragraph, in the third line "i.e., and inspection . . ." should be corrected to read "i.e., an inspection . . .";

8. On page 31585, in the third column, in the twelfth line "imporatation" should be corrected to read "importation";

9. In § 319.37–2(a), in the table on page 31587, the Prohibited Article "*Andonidia* spp" should be corrected to read "*Adonidia* spp";

10. In § 319.37–2(a), in the table on page 31588, in the Prohibited Article "*Morus* spp (mulberry)", in the third column "Mulberry mosiac virus" should be corrected to read "Mulberry mosaic virus";

11. On page 31591, in the third column:

a. In paragraph (d), in the first line "articles" should be corrected to read "article";

b. In paragraph (e), in the eleventh line "accurtate" should be corrected to read "accurate";

12. On page 31592, in § 319.37–6(c), in the list in the second column, the third entry "*Annoa*" should be corrected to read "*Annona*";

13. In § 319.37–7(a), in the table on page 31593:

a. In the first column, under the Restricted Article "*Bromeliaceae* (bromeliads)" "distined" should be corrected to read "destined";

b. In the second column, under the Restricted Article "*Mahoberberis* ssp", in the fifth line "(plants of all specise and" should be corrected to read "(plants of all species and";

c. In the second column, under the Restricted Article "Nut and fruit articles" the words "All except Canada" should be deleted.

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 3, Amdt. 11]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Grapefruit Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum grade and size requirements for domestic and export shipments of seedless grapefruit for the period May 21–August 24, 1980. The grade requirements are lowered to U.S. No. 2 Russet, from Improved No. 2, for all such grapefruit, while the size requirement is lowered to 3 5/16 inches in diameter, from 3 9/16 inches, for domestic shipments of grapefruit other than pink. The minimum size requirement for domestic shipments

of pink seedless grapefruit, and export shipments of all seedless grapefruit is currently 3⅝₆ inches. The change in minimum grade and size is necessary because of current and prospective supply and demand for the fruit and to maintain orderly marketing conditions in the interest of producers and consumers.

EFFECTIVE DATE: May 21, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha 202–447–5975.

SUPPLEMENTARY INFORMATION: Findings. (1) This regulation is issued under the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee established under the order, and upon other available information. It is found that the regulation of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for grapefruit. It is designed to assure an ample supply of acceptable quality grapefruit to consumers consistent with the quality of the crop.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida grapefruit. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

Accordingly, it is found that the provisions of § 905.303 (Orange Grapefruit, Tangerine, and Tangelo Regulation 3) (44 FR 59195; 65962; 66779; 69917; 72025; 74794; 45 FR 6591; 7999; 12773; 24440; and 27739), relating to grapefruit, are amended by revising Table I, paragraph (a) applicable to domestic shipments, and Table II, paragraph (b) applicable to export shipments, to read as follows:

§ 905.303 Orange, grapefruit, tangerine, and tangelo regulation 3.

(a) * * *

Table I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit: Seedless, except Pink	May 21 through Aug. 24, 1980	U.S. No. 2 Russet	3⅝₆
	Aug. 25 through Oct. 12, 1980	Improved No. 2	3⅝₆
Grapefruit: Seedless, Pink	May 21 through Aug. 24, 1980	U.S. No. 2 Russet	3⅝₆
	Aug. 25 through Oct. 12, 1980	Improved No. 2	3⅝₆

(b) * * *

Table II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit: Seedless, except Pink	May 21 through Aug. 24, 1980	U.S. No. 2 Russet	3⅝₆
	Aug. 25 through Oct. 12, 1980	Improved No. 2	3⅝₆
Grapefruit: Seedless, Pink	May 21 through Aug. 24, 1980	U.S. No. 2 Russet	3⅝₆
	Aug 25 through Oct. 12, 1980	Improved No. 2	3⅝₆

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 21, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–16018 Filed 5–23–80; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11 and 13

[Docket No. 20359; Amdt. Nos. 11–17 and 13–16]

Revised Mailing Addresses

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments specify the office to which certain petitions for rulemaking or exemption must be submitted and update the reference numbers of the Enforcement Docket. Consistent with Executive Order 12044, these amendments simplify the process by which petitions are submitted. In addition, these amendments reflect a redesignation of certain offices within FAA Headquarters.

DATES: Effective May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward P. Faberman, Regulations and Enforcement Division (AGC–200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION: Part 11 of the Federal Aviation Regulations (FAR) states that any interested person may petition the Administrator for rulemaking or exemption. A specific office is not designated where these petitions must be submitted. As a result of this, petitions are submitted to various offices within the agency. Therefore, certain petitions have been misdirected resulting in increased processing time. In order to maintain a current public docket of petitions received and to eliminate processing delays, this amendment requires that certain petitions for rulemaking or exemption be submitted to the Rules Docket (AGC–204), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591. The amendment also clarifies where certain other petitions must be submitted. This amendment does not change the procedures relating to (1) airspace assignment and use (which must pursuant to 14 CFR 11.63(a) be filed with the appropriate Regional Director); (2) Petitions for exemption under Part 139 (which must pursuant to 14 CFR 11.25(b)(2)(i) be filed with the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport); and, (3) Airworthiness Directives (which must pursuant to 14 CFR 11.83 be filed with the Director responsible for the product involved).

In connection with petitions filed under the provisions of § 11.25, among other things they must set forth the text or substance of the rule or amendment proposed, the interests of the petitioner in the action requested; in the case of a petition for exemption, the nature and extent of the relief sought, the reasons why it would be in the public interest, and if appropriate in the case of an exemption, the reason why the exemption would not adversely affect safety.

Certain portions of the Office of the Chief Counsel have been assigned different office routing symbols. As a result of this, it is necessary to delete the symbols currently contained in the regulations and to replace them with the newly assigned ones. FAR Part 13 lists two of these reference numbers in mailing addresses and, therefore, needs to be updated.

Since these amendments are editorial in nature and impose no additional burden on any person, notice and public procedure are unnecessary and good cause exists for making them effective in less than 30 days.

The Amendments

Accordingly, Parts 11 and 13 of the Federal Aviation Regulations (14 CFR Parts 11 and 13) are amended, effective May 27, 1980, as follows:

PART 11—GENERAL RULE-MAKING PROCEDURES

1. By amending § 11.25 by revising paragraph (b)(2)(ii) and adding new subdivisions (iii) and (iv) to read as follows:

§ 11.25 Petitions for rulemaking or exemptions.

* * * * *

(b) * * *

(2) * * *

(ii) To the Director having Airworthiness Directive responsibility for the product involved in the case of petitions filed in accordance with Subpart D of this Part.

(iii) To the Federal Air Surgeon (AAM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, in the case of a petition for exemption filed under Part 67 of this chapter; and

(iv) To the Rules Docket (AGC–204), Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591, in all other cases.

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

§ 13.5 [Amended]

2. By amending § 13.5, paragraphs (b)(2) and (k) by deleting the words (AGC–27) and substituting for them the words (AGC–209).

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, 1502; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation that is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since these documents are editorial in nature and impose no additional burden on any person, the Federal Aviation Administration has determined that there will be no economic impact and thus no evaluation is required.

Issued in Washington, D.C., on May 16, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80–15908 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–CE–17–AD; Amdt. 39–3768]

Airworthiness Directive; Cessna Models 500, 501, 550, and 551 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule issued on April 24, 1980, and appearing in FR Doc. 80–13469 on pages 29560 and 29561 in the issue of Monday, May 5, 1980 (80–CE–17–AD). A Model 500 airplane serial number was incorrectly cited in the applicability statement of the Airworthiness Directive (AD) which necessitates this correction.

EFFECTIVE DATE: May 16, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Klapprott, Aerospace Engineer, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas; telephone (316) 942–4281.

SUPPLEMENTARY INFORMATION: The FAA issued a Final Rule AD with an effective date of May 12, 1980. In the applicability statement of the AD, Cessna Model 500 airplane Serial Number 500–0370 was erroneously cited as Serial Number 500–0376. Action is taken herein to make this correction. Since the change is editorial in nature, notice and public procedure thereon are not considered necessary.

In FR Doc. 80–13469 appearing on page 29561 in the **Federal Register** of May 5, 1980, make the following correction: (1) In the applicability statement under Model 500, Serial No. "500–0376" should be corrected to read "500–0370."

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Issued in Kansas City, Missouri, on May 16, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80–15830 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–EA–14, Amdt. 39–3778]

Airworthiness Directives; Boeing Vertol Model 107–II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Boeing Vertol 107–II type rotorcraft, which requires a removal of the forward spring of the cyclic stick boots, P/N 107S2226–9, –13, –17. This results from the determination that the spring was restricting cyclic stick travel.

EFFECTIVE DATE: May 28, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Boeing Vertol Service Bulletins may be acquired from the manufacturer at P.O. Box 16858, Philadelphia, Pa. 19142.

FOR FURTHER INFORMATION CONTACT: H. Lund, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: There had been a report that the cyclic stick boot had been binding the stick during the operation of the helicopter. It was concluded that the forward support spring of the boot was binding on the stick's retaining bolt. An analysis concluded that the forward spring was not that essential, and the boot could be supported by the aft spring. Thus, this amendment requires the removal of the forward spring. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Boeing Vertol (Vertol): Applies to Vertol Model 107–II helicopters with pilot or copilot cyclic stick boots, P/Ns 107S2226–9, –13 or –17, certificated in all categories.

To prevent possible restriction of cyclic stick travel accomplish the following within the next 25 hours in service after the effective date of this AD, unless already accomplished.

a. Loosen the velcro tape and camloc fasteners securing the pilot and copilot cyclic stick boots, P/N 107S2226–9, –13 or –17, and remove the boots.

b. Remove the two rivets which attach the forward spring, P/N 107S2226–12, to the forward end of the boot base and discard the forward spring.

c. Install washers and new rivets to plug the resulting two empty holes in the boot base.

d. Reinstall the pilot and copilot stick boots.

e. Upon request with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

Effective Date. This amendment is effective May 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on May 14, 1980.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 80–15831 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–EA–8, Amdt. 39–3779]

Airworthiness Directives; Piper Model PA 38–112

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Piper PA 38–112 type airplanes, which requires a replacement of the main landing gear attach bolts. This is required to eliminate loose, bent and cracked bolts due to improper length of bolts, improper shimming and torque. The defective bolts could result in gear failure.

EFFECTIVE DATE: May 29, 1980. Compliance is required within 50 hours in service.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT: C. Kallis, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: There have been reports of loose, bent and cracked main landing gear attach bolts on Piper Model PA 38–112 airplanes. This condition is the result of the use of improper bolt lengths, shims and bolt torque and can result in gear failure. Since this condition is likely to exist on other airplanes of the same type design, this amendment requires replacement of the main landing gear attach bolts, use of proper shims and proper bolt torque on Piper Model PA 38–112 airplanes. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Piper: Applies to Piper Model PA–38–112 Serial Nos. 38–78A0001 thru 38–78A0823, 38–79A0001 thru 38–79A1179, 38–80A0001 thru 38–80A0036 certificated in all categories.

To prevent possible loosening of the main landing gear attachment bolts accomplish the following:

a. Within the next 50 hours in service after the effective date of this AD, unless already accomplished, replace the main landing gear AN5–13A attachment bolts and AN960–15 washers in accordance with the *Instructions* section of Piper Service Bulletin 673 dated January 16, 1980, or an equivalent that must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

b. Upon submission of substantiating data through an FAA Maintenance Inspector, the compliance time specified in the AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective Date. This amendment is effective May 29, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a)), 1421, and 1423; sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on May 15, 1980.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 80–15832 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 80–WE–22–AD, Amdt. 39–3775]

Airworthiness Directives; General Dynamics Model 340 and 440 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and eventual rework of horizontal stabilizer attach fittings on General Dynamics Model 340/440 airplanes. The AD is prompted by reports of horizontal stabilzer attach fittings fatigue cracking which could result in horizontal stabilizer failure.

DATES: Effective: May 29, 1980.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: General Dynamics, P.O. Box 80877, San Diego, California 92138, Attention: Mr. Larry Hayes, Manager, Product Support, Convair Division.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591,

or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: There have been several reports of horizontal stabilizer attach fitting cracking, attributable to fatigue, on General Dynamics Model 340/440 airplanes which could result in failure to retain the horizontal stabilizer. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires inspection of horizontal stabilizer attach fittings and rework of these fittings at a future date on General Dynamics Model 340/440 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

General Dynamics: Applies to Model 340, 440 Military Models C–131D and C–131E and other military models eligible or to be made eligible for civil use under type certificate 6A6, and all such model airplanes converted to turbopropeller power, certificated in all categories.

Compliance required as indicated.

To prevent potential loss of the horizontal stabilizer, accomplish the following:

(a) Within 250 hours' additional time in service from the effective date of this AD, unless previously accomplished within the last 950 hours' time in service, conduct ultrasonic inspection of horizontal stabilizer attach fittings per paragraph D of General Dynamics Convair Service Bulletin 640 (340D) 55–3A dated November 12, 1979, (hereinafter referred to as SB 640 (340D) 55–3A). If any cracks are discovered, replace with like serviceable part prior to return to service.

(b) Within 1200 hours' additional time in service from the inspection required in paragraph (a) of this AD and thereafter at intervals not to exceed 1200 hours' time in service since the last such inspection, repeat the inspection required by paragraph (a) of this AD.

(c) Within 10,000 hours' additional time in service from the effective date of this AD install bushings in the horizontal stabilizer fitting attachment holes per paragraph D of SB 640 (340D) 55–3A and continue to inspect at 1200 hours intervals per paragraph (a) of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective May 29, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policy and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on May 13, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80–15833 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 79–EA–72; Amdt. 39–3776]

Airworthiness Directives; Piper Model PA–31T and PA–31T1;

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Piper PA–31T and PA–31T1 type airplanes, which requires an inspection and correction where necessary of the data plate. This results from the manufacturer inadvertently causing approximately fifty-four PA–31T1 airplanes to be stamped with a PA–31T data plate. Failure to make the correction could result in some air safety applications to PA–31T1 airplanes not being accomplished on the same type airplane while identified as PA–31T.

EFFECTIVE DATE: May 28, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT: C. Kallis, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: The FAA has determined that certain Piper Model PA–31T1 airplanes have data plates which are stamped PA–31T. This could result in some air safety applications to PA–31T1 airplanes not being accomplished on the same type airplane while it is identified as a PA–31T. This amendment requires an inspection and correction where necessary, of the data plate of certain Piper Model PA–31T1 and PA–31T airplanes. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Piper: Applies to Piper PA–31T1 and PA–31T Model airplanes, Serial Nos. 31T–7804001 thru 31T–7904053, 31T–7904056, and 31T–7904057 certificated in all categories. To correct an error on the data plate, within the next 100 hours in service unless already accomplished, accomplish the following:

a. Locate the aircraft data plate (Part No. 79644–4), on the left side of the fuselage belly, just below the forward part of the cabin door.

b. Using an acceptable method of permanent marking (metal stamp, engraver, electric pencil, etc.), inscribe the numeral "1" behind "PA–31T" in the gold block in which "Model" is designated. Before Modification: "MODEL PA–31T"; After Modification: "MODEL PA–31T1".

Effective Date. This amendment is effective May 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c); and 14 CFR 11.89.)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on May 14, 1980.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 80–15834 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 80–EA–4; Amdt. 39–3777]

Airworthiness Directives; Piper Model PA 38–112

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends AD 79–03–02, applicable to Piper PA 38–112 type airplanes, which required the incorporation of a kit for positive retention of the bottom rudder hinge bearing. This amendment will extend the applicability of AD 79–03–02 to all PA 38–112 up to those in which the manufacturer will incorporate the kit. This results from the discovery of additional bearings, which had been machine swaged, coming loose.

EFFECTIVE DATE: May 28, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT:

C. Kallis, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION:

Amendment 39–3402, (44 FR 5061, January 25, 1979), AD 79–03–02 had been issued to correct a deficiency whereby bottom rudder hinge bearings which had been hand swaged had come loose. It now appears that machine-swaged bearings may also come loose. Thus, this amendment will cover all machine-swaged bearings for which the retention kit has not been incorporated in the airplanes. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–3402, (44 FR 5061, January 25, 1979), AD 79–03–02, as follows:

In the applicability paragraph insert Serial Nos. 38–78A0001 thru 38–80A0063, in lieu of Serial Nos. 38–78A0001 thru 38–78A0348.

Effective Date. This amendment is effective May 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on May 14, 1980.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 80–15835 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 79–WE–10–AD, Amdt. 39–3780]

McDonnell Douglas DC–10 Series Airplane; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive applicable to McDonnell Douglas DC–10 series airplanes by requiring certain design changes to wing-mounted pylons and revising the wing-pylon inspection programs. This AD is necessary to reduce the possibility of inflicting internal structural damage during maintenance operations, to ensure integrity of wing-pylon structure and to eliminate inspections shown to be redundant.

DATES: Effective May 27, 1980.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl–750 (54–60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591.

or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring certain design changes and a revised wing-pylon inspection program on McDonnell Douglas DC–10 Series airplanes to supersede Amendment 39–3505 as amended by Amendment 39–3557 was published in the **Federal Register** at 45 FR 5741. Interested persons have been afforded an opportunity to participate in the making of the amendment.

Comments from nine persons were received, some of which indicated a lack

of familiarity with the January 1980 "DC–10 Decision Basis Summary Report" and other detailed technical material which had been included in the docket for review by all interested persons as stated in the notice.

Several comments recommended increased flexibility in the periodic inspection intervals. Comments on this subject ranged from concern that the revised inspection intervals were unduly conservative to the view that the revised inspection intervals were unduly liberal. The FAA recognizes the need for flexiblity in maintenance scheduling and accordingly has provided an option of "3600 hours' time in service or 12 calendar months, whichever occurs later," which is consistent with the rationale presented in the NPRM and supporting public documents.

Other comments were received on the general subject of the inspection program with specific regard to the absence of sampling provisions in the proposed rule. One commenter felt that the possibility of sampling would introduce safety problems. Another commenter felt that deletion of sampling was discriminatory and recommended that the inspection program revert to the original requirements of the Maintenance Review Board document on the DC–10.

The FAA did not capriciously delete sampling as an inspection technique on the DC–10 pylon. The original MRB document permitted sampling in the area of the pylon upper spar web, but good cause now exists for requiring a 100% inspection of this area, based upon service experience (See "DC–10 Decision Basic Summary Report"). It is not the intent of the FAA to rule out sampling as an acceptable inspection technique for the entire DC–10 pylon. Rather, the FAA requires 100% inspection in the certain specified pylon areas. FAA will evaluate future recommendations for modifications to the inspection program (including sampling) based upon results of these inspections and proposals submitted by the affected operators.

With regard to future maintenance schedules, paragraph (g) of the proposal provided for specific submittal to FAA of revised pylon maintenance programs, as an amendment to the operations specifications, by each carrier. Taken in conjunction with paragraph (m) of the proposal, which provides for approval of alternative inspections that will yield an equivalent level of safety, the proposal has provided for tailoring of an individual carrier's maintenance program to its service experience, routes, and other relevant factors.

Other comments offered opinions relative to FAA approval of the installation and removal of the engine and pylon as a unit. The comments generally recommended caution in granting such approval and, in one case, that such approvals should not be granted. The FAA will evaluate proposals for combined engine/pylon removal and installation and, if the necessary controls are found to exist, the practice will be approved for that particular operator at a specific facility, utilizing specific equipment, and satisfying specified personnel training requirements.

Comments were received relative to the desirability of redundancy of the load path through the aft bulkhead forward flange and redundancy of the retention of the bushing through the aft wing mounted clevis and pylon bulkhead. These matters were thoroughly discussed in the "DC–10 Decision Basis Summary Report, January 1980," Attachment 6, pages 2 through 6. The conclusion reached by the FAA is that the DC–10 satisfies the regulatory safety requirements in its present configuration in these areas. Millions of hours of service experience and exhaustive analysis have demonstrated no need to revise the regulatory requirement and have substantiated the application of the regulations to this feature of the DC–10.

One commenter stated his concern that numerous paragraphs (other than paragraph (m)), in the proposed AD, which included reference to methods to be "approved by the Chief, Aircraft Engineering Division, FAA Western Region," would represent problems of completeness and clarity to foreign operators and their civil aviation authorities. The FAA recognizes this concern and has used this language only when specific approved data and/or procedures were not yet developed. Since the issuance of the NPRM, certain data have been developed and are listed in the AD in lieu of the alternative which was the cause of concern. The FAA has eliminated the phrase wherever possible.

One commenter recommended against requiring flush-head bolt installation and incorporation of a mechanical device (intended to minimize the possibility of bulkhead lug to clevis assembly contact) because accepted aircraft design practice does not include a requirement for the tolerance of abusive maintenance and inadequate inspection practices. This is generally true, however, prudent application of lessons learned from this experience weighs heavily toward incorporation of these features. The added measure of safety referred to in the NPRM by these changes is, in the judgment of the FAA, the minimum level of safety appropriate in light of service experience.

In the interim period since the issuance of the NPRM, some data have been developed and/or updated by the manufacturer. Consequently, some additional prescriptions for acceptable methods of accomplishment have been included as clarifying changes, where appropriate. These changes are not substantive.

Other comments were received which were previously discussed in the "DC–10 Decision Basis Summary Report, January 1980," which the commenter apparently had not reviewed prior to submitting comments.

Comments were received on typographical errors and recommendations were received for clarifying editorial changes, which have been incorporated. No substantive comments were received addressing the economic impact of the proposal.

Copies of all comments received on this proposal have been placed in public dockets, available for inspection at both the FAA's Western Region Headquarters, 15000 Aviation Boulevard, Room 6W14, Hawthorne, California, and FAA Headquarters, 800 Independence Avenue, SW., Room 916, Washington, D.C. Copies of the following materials, which form a substantive part of the decision basis for this rulemaking action, are also available for review in the docket:

(1) DC–10 Wing Pylon Damage Tolerance Study (2 volumes, Report Nos. MDC–J–8543 and MDC–J–8545);

(2) Final Report of the DC–10 Pylon Damage Tolerance Team;

(3) Comments by Science Advisory Group on Proposed Amendments to Airworthiness Directives for DC–10 Aircraft and Related Supporting Documents, by Raymond L. Bisplinghoff, et al.;

(4) DC–10 Wing Pylon Upper Spar Web Damage Analysis;

(5) Summary Report, DC–10 Decision Basis, January 1980.

After careful review of all available data, including the data and comments noted above, the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the rule with the changes noted above.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC–10–10, –10F, –30, –30F, and –40 series airplanes, certificated in all categories. Compliance required as indicated.

To ensure integrity of the wing engine pylon structure and attachment, accomplish the following on both the right and left wing:

(a) At each pylon removal and installation after the effective date of this AD, remove and install the engine and pylon separately unless removal or installation, or both, as an assembly is in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(b) At the next pylon reinstallation after the effective date of this amendment, unless already accomplished, install two flush-head bolts in place of the two raised head bolts adjacent to the pylon aft bulkhead upper flange centerline, in accordance with McDonnell Douglas DC–10 Service Bulletin 54–78 dated April 2, 1980.

(c) At each pylon reinstallation after June 30, 1980, protect the pylon aft bulkhead lug from contact with the clevis to wing attach bolt heads in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Before further flight following any pylon reinstallation after the effective date of this AD, (1) inspect the aft pylon bulkhead in accordance with McDonnell Douglas DC–10 Nondestructive Testing Manual, Chapter 54–10–11, pages 634 and 634A, dated December 1, 1979; (2) inspect the pylon aft spherical bearing and attaching hardware to verify security of nut and bolt; and (3) inspect torque stripe for alignment. For pylons installed prior to June 30, 1980 on which paragraph (c) of this AD was not accomplished, repeat the inspection within the next 300 hours' time in service after the reinstallation inspection, and again within the next 600 hours' time in service following the second inspection.

(e) At next pylon reinstallation after the effective date of this AD or before the accumulation of 48,000 hours' total time in service, whichever comes sooner, unless already accomplished, install steel thrust links in place of titanium thrust links on all DC–10–10, –30, and –40 series aircraft in accordance with Part 2 of McDonnell Douglas Service Bulletin (SB) 54–47, dated August 18, 1975 (DC–10–30 and DC–10–40 Series), or McDonnell Douglas Service Bulletin 54–82, dated May 15, 1980 (DC–10–10 Series).

(f) Before the accumulation of 3,600 hours' total time in service, or within the next 3,600 hours' time in service or twelve calendar months, whichever comes later, since the last such inspection on airplanes with more than 3,600 hours' total in service as of the effective date of this AD, and thereafter at intervals not to exceed 3,600 hours' times in service or twelve calendar months since the last inspection, inspect as follows:

1. Inspect wing and pylon attach fitting lugs in accordance with Part 2, paragraph C(1), of McDonnell Douglas Service Bulletin SB 54–74, dated December 21, 1979 (hereinafter referred to as SB 54–74).

2. Visually inspect the upper surface of pylon upper spar in accordance with Part 2, paragraph G, of SB 54–74.

3. Visually inspect lower surface of upper spar and spar cap angles in accordance with Part 2, paragraph M, of SB 54–74.

4. Inspect pylon in accordance with DC–10 Maintenance Manual, Chapter 5–51–08, dated April 1, 1980. In addition, inspect the pylon aft spherical bearing and attaching hardware to verify security of nut and bolt; inspect torque stripe for alignment.

5. Perform an in situ X-ray or other nondestructive inspection of titanium thrust links to ensure integrity, in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(g) Within the next 30 days following the effective date of this AD, submit a pylon maintenance program as an amendment to the operations specification, to the assigned FAA Maintenance Inspector for approval, specifying that before the accumulation of 20,000 hours' time in service or within the next 20,000 hours' time in service since the last inspection, whichever occurs sooner, and thereafter at intervals not to exceed 20,000 hours' time in service since the last inspection, the operator will, at a minimum—

1. Inspect pylon aft bulkhead visually in accordance with Part 2, paragraphs E and F of SB 54–74, and by eddy current in accordance with DC–10 Nondestructive Testing Manual, pages 634 and 634A, dated December 1, 1979.

2. Visually inspect front spar bulkhead in accordance with Part 2, paragraph H of SB 54–74.

3. Inspect wing front spar attach fitting (foot stool) in accordance with Part 2, paragraph L of SB 54–74.

4. Inspect lower forward spherical bearing in accordance with Part 2, paragraph I of SB 54–74.

5. Inspect upper forward spherical bearing plug assembly in accordance with methods specified in Part 2, paragraph J of SB 54–74 for both steel and titanium plugs.

6. Inspect thrust link installations in accordance with Part 2, paragraph C(2) of SB 54–74.

7. Inspect the aft spherical bearing as follows:

i. Remove aft spherical bearing through bolt. Magnaflux bolt and visually inspect inner bore of bushing in situ. Visually inspect forward and aft surfaces of spherical bearing for cracks using 10X (power) glass (or equivalent). Reinstall through bolt.

ii. Verify that torque of through bolt is 1200 to 1300 inchpounds.

iii. Inspect aft spherical bearing forward face/clevis clearance.

iv. Torque stripe nut to bolt.

8. Ultrasonically inspect the bulkhead lug and wing clevis to wing attachment including bolts in accordance with DC–10 Nondestructive Testing Manual, Chapter 54–10–11, pages 635, 636, 637, 638, 638A, 638B, 651, 652, 654 and 655, as applicable dated December 1, 1979.

9. Perform an X-ray or other in situ inspection of steel thrust links to ensure integrity, in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(h) After a pylon has been subjected to vertical or horizontal misalignment, or both (e.g. during maintenance), before further flight, inspect in accordance with DC–10 Nondestructive Testing Manual, Chapter 54–10–11 pages 634 and 634A dated December 1, 1979.

(i) After each installation of a pylon with a titanium upper forward spherical bearing plug, after 200 hours' time in service from time of installation and not later than 400 hours' time in service after installation, ultrasonically inspect titanium plug in place in accordance with McDonnell Douglas Nondestructive Testing Manual 54–10–11, pages 628, 628A, 628B and 628C dated December 1, 1979.

(j) Inspect pylon for structural integrity in accordance with McDonnell Douglas DC–10 Maintenance Manual, Chapter 5–51–08 dated April 1, 1980 prior to further flight after events producing high pylon loads including, but not limited to:

1. Hard or overweight landings,
2. Severe turbulence encounters,
3. Engine vibration which requires engine removal or critical engine failure, or both,
4. Ground damage (workstands, etc.),
5. Compressor stalls requiring engine removal,
6. Excursions from the runway of a nature that might have imposed loadings more severe than those normally encountered on the runway.

(k) Whenever fasteners are replaced as a result of the inspections specified in SB 54–74, Part 2, paragraph G, prior to installing new fasteners, inspect the holes and the area around adjacent fasteners (without removing fasteners) for cracks using eddy current or equivalent NDT methods.

(l) All discrepancies found as a result of inspections required by this AD which exceed limitations specified in FAA approved data must be corrected prior to further flight.

(m) Alernative inspections, modifications or other actions which provide equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(n) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(o) Report results of all inspections to the assigned FAA Maintenance Inspector within 24 hours of accomplishment in the following format:

"N" Number, hour's time in service at inspection, pylon number, results of inspection by specific paragraph and subparagraph of this AD. In reporting be as specific as possible to identify location and size of crack, or specific location of discrepant fastener, etc. List part numbers.

Note.—The Federal Aviation Administration has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

This supersedes Amendment 39–3513 (44 FR 45375), AD 79–15–03, as amended by 39–3557 (44 FR 53735).

Issued in Los Angeles, Calif., on May 16, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80–15983 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

[Docket No. 80–CE–18–AD, Amdt. 39–3782]

39 CFR Part 39

Cessna Model 150F, 150G, 150H, 150J, 150K, 150L, 150M, A150K, A150L, A150M, F150F, F150G, F150H, F150J, F150K, F150L, F150M, FA150K, FA150L, FRA150K, FRA150L, FRA150M, 152, A152, F152, and FA152 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), to supersede AD 78–07–10, which requires repetitive inspection of NAS 1068A4 nutplates on certain Cessna Model 150F, 150G, 150H, 150J, 150K, 150L, 150M, A150K, A150L, A150M, F150F, F150H, F150J, F150K, F150L, F150M, FA150K, FA150L, FRA150K, FRA150L, FRA150M, 152, A152, F152, and FA152 airplanes until replaced with suitable nuts. The AD is needed to prevent a possible looseness and/or separation of the vertical or vertical and horizontal tail assemblies from the airplane, which would have an adverse effect on aircraft controllability and safety of flight.

EFFECTIVE DATE: June 2, 1980.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Cessna Single Engine Service Information Letter SE79–49, Revision #1, dated April 28, 1980, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. Copies of the service letter are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2999, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4219.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39–3174, AD 78–07–10 (43 FR 14958, 14959), applicable to certain Cessna 150, A150, 152, A152, F150, FRA150, FA150, F152 and FA152 airplanes, which currently requires a one-time inspection of NAS 1068A4 nutplates. Four of these nutplates are used in the attachment of the vertical stabilizer to the horizontal stabilizer and four more are used in the attachment of the horizontal and vertical stabilizer assembly to the fuselage. The one-time inspection was required as the result of cracked NAS 1068A4 nutplates. Subsequent to the issuance of AD 78–07–10, review of Malfunction or Defect (M or D) Reports revealed that the aforementioned AD was not accomplishing its intended purpose. There was a wide scatter factor relative to the time-in-service that nutplates were cracking. Cracked nutplates were found on repetitive inspections not required by AD 78–07–10 and, also, on airplanes outside the serial range listed in the AD. The manufacturer recognized this problem by issuance of Service Information Letters SE79–49, September 24, 1979, and SE 79–49, Revision #1, dated April 28, 1980. These letters recommend a 100-hour time-in-service repetitive inspection and increases applicability to include all models from 1966 through the current production model year. Service Letter SE78–1 dated January 30, 1978 (the basis for AD 78–07–10) was applicable only to the 1974 through 1978 model years.

Since this condition is likely to exist or develop repetitively on airplanes to which AD 78–07–10 applies, and other airplanes of the same type design, the FAA is issuing an AD superseding AD 78–07–10 and requiring repetitive inspection and/or replacement of the NAS 1068A4 nutplates on certain serial numbers of Cessna 150, A150, 152, A152, F150, FA150, FRA150, F152 and FA152 airplanes. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes and to provide affected owners/operators early notification of the opportunity to have the optional nuts installed at the first repetitive inspection.

Since a situation exists that requires the immediate adoption of this regulation, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than (30) days after the date of publication in the **Federal Register**.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Cessna: Applies to the following models and serial number airplanes certificated in all categories:

Models and serial Nos.

150F, 15061533 through 15064532
150G, 15064533 through 15067198
150H, 15067199 through 15069308
150J, 15069309 through 15071128
150K, 15071129 through 15072003
150L, 15072004 through 15075781
150M, 15075782 through 15079405
A150K, A1500001 through A1500226
A150L, A1500227 through A1500523
A150M, A1500524 through A1500734
152, 15279406 through 15284541
A152, A1520735 through A1520943
F150F, F150–0001 through F150–0067
F150G, F150–0068 through F150–0219
F150H, F150–0220 through F150–0389
F150J, F150–0390 through F150–0529
F150K, F15000530 through F15000658
F150L, F15000659 through F15001143
F150M, F15001144 through F15001428
FA150K, FA1500001 through FA1500081
FA150L, FA1500082 through FA1500120
FRA150L, FRA1500121 through FRA1500261
FRA150M, FRA1500262 through FRA1500336
F152, F15201429 through F15201803
FA152, FA1520337 through FA1520372

Compliance: Required as indicated unless already accomplished.

To detect cracked NAS 1068A4 nutplates which, if allowed to go undetected, could result in separation of the vertical or vertical and horizontal tail assembly from the airplane, within 100 hours-time-in-service after the effective date of this AD, and every 100 hours time-in-service thereafter, accomplish the following:

(A) Using a suitable light and mirror visually inspect the eight NAS 1068A4 nutplates installed on the Part Number 0432004–9 vertical fin aft attach bracket for cracks in the threaded part (nut body) and/or base of the nutplate and replace any cracked nutplates prior to further flight.

(B) Compliance with this AD is no longer required if the NAS 10684A nutplates are replaced with AN365–428, M520365–428, MS21042L4 or MS21044N4 nuts.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209.

Note.—Cessna Single Engine Service Information Letter SE79–49, Revision No. 1, dated April 28, 1980, pertains to the subject.

The AD supersedes AD 78–07–10, Amendment 39–3174 (43 FR 14958, 14959). This amendment becomes effective June 2, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as

implemented by Department of

by religious and nonprofit organizations (as

any other public thoroughfare where

implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to John L. Fitzgerald, Jr., Attorney, Office of the Regional Counsel, Room 1558, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374–5446.

Issued in Kansas City, Missouri, on May 16, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80–15982 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 159

[Docket No. 20200; Amdt. 159–18]

Solicitation and Leafletting Procedures at National and Dulles International Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment regulates solicitation of funds and distribution of literature by non-profit organizations at National and Dulles airports. The amendment promotes the efficient use of these facilities and the security of patrons using the terminals without infringing upon the rights of individuals who choose to use the airport for constitutionally protected activity. Title V of Public Law 96–193 enacted February 18, 1980 directed F.A.A. to promulgate regulations to control solicitation activity at Washington National and Dulles Airports.

EFFECTIVE DATE: July 28, 1980.

FOR FURTHER INFORMATION CONTACT: Edward S. Faggen, Legal Counsel, AMA–7, Washington National Airport, Hangar 9, Washington, D.C. 20001, telephone: (703) 557–8123.

SUPPLEMENTARY INFORMATION:

Discussion of the Final Rule

A. Background

By a recent legislative enactment, Congress has directed FAA to promulgate regulations to control solicitation activity at Washington National and Dulles Airports. Title V of Pub. L. 96–193 enacted February 18, 1980 provides:

> Section 501(a) The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall, within 90 days after the date of enactment of this Act, promulgate regulations for airports operated by the Administration to regulate the access to public areas by individuals or by religious and nonprofit organizations (as defined in section 501(c)(3) of the Internal Revenue Code of 1954) for the purpose of soliciting funds or distributing materials.
>
> (b) In promulgating regulations under this section the Administrator shall consider requiring any individual or organization described in subsection (a) to submit an application for a permit to engage in the soliciting of funds or the distribution of materials. In considering such an application the Administrator may require that—
>
> (1) a responsible individual representative of the applicant shall be designated to represent the organization;
>
> (2) each individual participating in any solicitation or distribution will display a proper identification approved by the Administrator;
>
> (3) the number of individuals engaged in any solicitation or distribution at any one time shall not exceed a reasonable number, in keeping with the need for free movement in and operation of the airports as provided for by the permit;
>
> (4) the solicitation or distribution be confined to limited areas and times; and
>
> (5) no individual or organization which holds a permit under this section shall be permitted to—
>
> (A) use sound amplification or display signs (other than signs approved by the Administrator);
>
> (B) intentionally interfere with users of the airport;
>
> (C) engage in the use of indecent or obscene remarks or conduct; or
>
> (D) engage in the use of loud, threatening, or abusive language intended to coerce, intimidate or disturb the peace.
>
> (c)(1) The Administrator shall consider requiring that a copy of a permit (if such is required) be conspicuously posted in the area in which any solicitation or distribution is permitted.
>
> (2) The Administrator shall consider whether revocation of approval for any permit if required and approved under this section should occur for any violation of any rule or regulation promulgated hereunder.
>
> (d) Regulations intended to be promulgated under this section shall be submitted to Congress within 30 days after the date of enactment of this Act.

In recent years it has become a common practice for various religious and non-profit organizations to use commercial airports as a forum for the distribution of literature, the solicitation of funds, the proselytizing of new members, and other similar activities. Washington National and Dulles International Airports are no exception to this trend. The airports are owned by the United States Government and large portions of the airport buildings were designed for and are open to the general public. Last year more than 18 million passengers passed through the terminal buildings on their way to and from air transportation. There is a considerable amount of social and commercial interchange in the terminals and, in many respects, the terminals are like any other public thoroughfare where there is no question that the Constitutional guarantees of freedom of speech, the exercise of religion and the right to peaceable assembly apply. These activities enjoy the protection of the First Amendment, and they may not be regulated by airport authorities in the same manner as commercial activity.

However, the absence of regulation has led to situations where those soliciting money or leafletting have caused or contributed to congestion in the terminals and obstruction of travelers. At National Airport, and at Dulles Airport during the peak hours of operation, the airport terminals, sidewalks and passageways are extremely congested. At National the design capacity of the terminal is greatly exceeded on a daily basis. When congestion occurs at or near points where the free flow of traffic is essential to the airport's operation, the congestion causes inconvenience to the traveling public and an interference with efficient airport operation.

Currently, there is no regulation that even limits the number of solicitors or leaflettors at the ticket counters, baggage claim areas and other areas where travelers must attend to the business which brought them to the airport. Nor is there any prohibition on the places where soliciting or leafletting activity could occur, such as near the top of staircases or escalators, at restroom entrances, doorways and other areas where such activity causes unsafe conditions as well as inefficient airport operation. Furthermore, there is no regulation which prohibits solicitation or leafletting from travelers who are in line or otherwise conducting their business at the airport. Finally, there is no requirement that solicitors identify themselves to the airport officials and to the public or that he or she indicate that he/she has the authority to represent the cause for which money is sought.

Another disturbing aspect of soliciting funds in the terminals has become apparent to FAA. Numerous written complaints have been received by the FAA concerning incidents in which airport patrons or tenants have allegedly been subjected to fraud, harassment, verbal abuse, intimidation and embarrassment. People standing in line or otherwise waiting to conduct their business at the airport find this activity to be particularly objectionable because they cannot avoid the solicitor by choosing to forego their purpose for being at the airport. Therefore, they may constitute a captive audience to behavior they find objectionable. On the other hand, there have been complaints

to FAA by representatives of groups peaceably soliciting funds. They claim to have been harassed by employees or others using the airport. There have been several instances of assault or alleged assault and there have been complaints against alleged deceptive practices of solicitors who intentionally conceal their organization's identity or fail to make change to a contributor promptly or accurately.

As proprietor of the Airport, FAA has the authority to prescribe rules of conduct to protect airport patrons and efficient operations of the airport. The FAA's authority to operate National and Dulles Airports is broad. Congress has charged FAA with "the control over and the responsibility for, the care, operation, maintenance, improvement and protection of the airport," together with the powers to make and amend rules and regulations as are necessary to the proper exercise of this control and responsibility (54 Stat. 688; 64 Stat. 771). The FAA has, by regulation, exercised control over all commercial activity that occurs at the Metropolitan Washington Airports. No business is conducted, including advertising, or space leased except upon the terms and conditions prescribed by the Director of Metropolitan Washington Airports (14 CFR 159.91(a)). Usually, these terms and conditions are set forth in a contractual form that specifically describes the business to be allowed, its location and duration. The number of such concessions or other businesses and the nature of the business are controlled by the FAA, Director of Metropolitan Washington Airports, to meet the needs of the airports and the traveling public.

The FAA also has the statutory authority to police the airports to protect life and property (61 Stat. 94; 64 Stat. 772) Under this authority, FAA has enacted regulatory "rules of conduct" (14 CFR 159.71 to 159.111) and has deployed a police force and fire department. Its police powers are no less than that of a municipality if such municipality were the airport proprietor. While on the airport, the public looks only to the Federal Government, acting through the FAA, for protection of its health and welfare interests.

Although the FAA has possessed the authority, its regulations of "conduct" on the airport have not been addressed in any detail to the solicitation of funds or the distribution of literature on the airport by individuals or organizations acting in a noncommercial capacity. The number of solicitors on the airport, the locations within the terminals, and the manner in which they solicit money from the traveling public have not been regulated by the FAA. The existing regulation, 14 CFR 159.91(b) merely proscribes the "solicitation of alms" without the permission of the Airport Manager. This is deemed inadequate to meet the standards of the First Amendment.

In view of the congestion and other operational problems, the repeated incidents in the terminals, the legislative expression of concern and the mandate to FAA to regulate the access to public areas by individuals or organizations for the purpose of soliciting funds or distributing literature, FAA has decided to establish this regulation. Under the regulation a reasonable limitation is placed on the time, place and manner of soliciting and leafletting in the National and Dulles Airport Terminals.

FAA recognizes that the soliciting of funds for religious purposes and the distribution of literature are protected under the First Amendment of the Constitution. In the area of First Amendment freedoms, including the constitutionally protected forms of solicitation, the touchstone of regulation must be precision. Regulations will not offend the Constitution if they regulate only the time, place and manner of expression, are narrowly drawn to protect only a compelling governmental interest, and are not subject to discretionary administration by officials. Any procedure which allows the airport officials wide, unbounded discretion in granting or denying permits is constitutionally questionable, because it would permit the airport to base its determination on the content of the ideas sought to be expressed.

FAA has no interest in regulating the ideas disseminated at the airport, and has no intention of regulating based on the content of the message or the cause that a solicitor supports. Also FAA has no intention of regulating in such a way as to relegate solicitors to a corner or to areas or to times of day that would deny them access to the great majority of airport users.

FAA is concerned, first, that the number of solicitors or distributors of literature not exceed a number which would aggravate existing congestion, and that such activity not be conducted at points in the terminal that are critical to airport efficiency and safety or within areas leased for the quiet enjoyment of an airport tenant. Second, FAA is concerned that those who solicit money or distribute literature in the terminal not do so for commercial purposes. It is essential to proper airport administration and operation that business activities be conducted on the airports only with the permission of the airport managers. Third, FAA expects those who solicit money from the public for non-commercial purposes to identify themselves and their cause, not for approval by the FAA but rather to provide the public this minimal assurance that it will know who is soliciting and why. Fourth, as the entity responsible for public health and welfare on the airports, FAA expects solicitors not to engage in particularly offensive, deceptive, or otherwise egregious activity. These are the legitimate, compelling proprietary and governmental interests that FAA seeks to protect by regulation. The FAA intends to impose only the least restrictive regulations on constitutionally protected activities that is necessary to protect these interests.

With this as its objective, FAA has identified those points on the airport that are critical to efficient and safe operation. These are the ticket counters, baggage claim areas, departure check in counters, departure gate lounge, anti-hijack security screening points, restroom facilities, staircases, escalators, elevators, doorways or entrance ways, and points where motor vehicles load or unload occupants and baggage. This regulation prohibits solicitation and distribution of literature within ten feet of these precisely identifiable points and from the people waiting in line to conduct business at these points. Ten feet is a readily identifiable standard, and provides the maximum freedom of movement to leaflettors and solicitors consistent with the rights of others using the airports. This regulation also prohibits leafletting and solicitation in premises leased for the exclusive use of a concessionaire.

This leaves large portions of the public lobbies and lounges, through which virtually all users of the airport pass, available to solicitors and leaflettors. FAA commissioned a study of the pedestrian traffic flow in the terminals to identify those areas that are susceptible to congestion if soliciting and leafletting occur or occur in too great a magnitude. On the basis of this study FAA identified the areas in which a certain level of soliciting and leafletting will not cause unacceptable congestion or an unsafe condition, and the maximum number of persons conducting these activities that should be allowed in each of the identified areas. Establishment of area restrictions is well within the airport proprietor's rights if there is a demonstrable and substantial relationship between the restriction and the valid interest of promoting efficient and safe use of the facilities.

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The study, which was conducted by an independent consultant, used as data the layout of the terminals and several traffic counts conducted in early March 1980, a period when air traffic was well below peak levels. The analysis of the data was accomplished in two stages. First, standard air terminal planning factors were applied to figures representing the size of terminal facilities (e.g., linear feet of ticket counter) and the mean traffic flow past each facility.The result is a distance in feet from each such facility required for minimally adequate public access to that facility. From these figures, a diagram of each major terminal area was developed, indicating areas in which solicitation could be conducted with the least disruption of public business and travel. Second, the effect of introducing various numbers of solicitors into these open areas was calculated. This analysis identified the number of solicitors who could be accommodated in each area without an unacceptable level of obstruction to the flow of terminal traffic.

The study referred to *Pedestrian Planning and Design*, by John J. Fruin, a standard reference for public walkway planning. Fruin divides pedestrian flow into six categories or levels of service, A through F. Using this scale during peak hours the level of service at National is C (15–25 square feet per person), and at Dulles is D (10–15 square feet per person). This means that there is a high probability of conflict in moving requiring frequent adjustment of speed and direction to avoid contact (C level of Service). The D level severely restricts movement and there is multiple conflicting movements. FAA will allow the highest number of solicitors without lowering the level of service to D and E.

The consultant's recommendations concerning the areas in which soliciting and leafletting should be permitted, and the number of permits to be issued for those activities, are incorporated in the proposed regulation, with one exception. The study results indicated that no solicitation should be permitted in the National Airport main terminal concourse. This is a heavily trafficked area and the area most frequently used by solicitors. In the interest of permitting some level of solicitation in this area, FAA has designated a maximum of two solicitors to be allowed in a certain portion of the area. The FAA will monitor this activity and should it present an unacceptable obstacle to traffic matters, FAA will propose to modify the regulation.

At Dulles Airport a limited number of permits (7) will be issued only between 4:00 p.m. and 8:00 p.m. each day, in view of the marked peaking characteristics of traffic at that terminal. Area and numerical restrictions are inapplicable at all other times, although the permit requirements described below will apply at all times.

Each person conducting leafletting and soliciting activity will be required to obtain and display a permit. The standards for issuing such permits shall be simple and objective. Airport officials will not have the discretion to deny a permit to those who are soliciting for non-commercial purposes or distributing literature of any non-commercial nature, except in precisely defined situations.

Permit systems that protect a legitimate governmental interest, and which are administered in accordance with narrowly drawn, precise and objective standards, are clearly allowable. The Supreme Court has stated that without doubt government "may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause he purports to represent. The State is likewise free to regulate the time and manner of solicitation generally, the interest of public safety, peace, comfort or convenience." (*Cantwell v. Connecticut*, 310 U.S. 296, 306, 1940).

Under the proposal a permit will be issued by Airport Management immediately upon completion of the application provided that all available permits have not been distributed to other applicants. Permits will be issued on a first come/first serve basis. Permits will be good for two days to assure an adequate turnover in the permits while not limiting the holder to what may be an unduly brief authorization. Daily permits are administratively burdensome to the Airport personnel. Conversely, issuing permits with overly long duration may result in perpetuating certain groups or solicitors and unreasonably excluding others.

An application for a permit to distribute written or printed matter without charge or without otherwise soliciting funds, will require only the applicant's oral request for a leafletting permit.

An application for a permit to solicit contributions will require the applicant's identity, a statement that the applicant's activity is being conducted for non-commercial purposes, and certain other information intended to provide minimal public protection from fraudulent solicitation without infringing on protected activities. First, the application will require the identification of the organization which the applicant represents, and a letter or other evidence that the applicant is authorized to represent that organization. An individual need not be a member of an organization to solicit on its behalf. Second, the application will require the name and title of the person in that organization who will bear the responsibility for the applicant's activity at the airport.

Finally, the solicitor will be required to submit a statement of the organization's status as a religious, political, or charitable or public interest organization. If the applicant claims that the organization is either religious or political in nature, a statement to that effect, and nothing more, will be required. Applicants to solicit on behalf of charitable, scientific, educational or other public interest organizations will be required to submit a statement that the Internal Revenue Service has determined the organization to be eligible for tax-exempt status under 26 U.S.C.A. Sections 501(c)(3), (c)(4) or (c)(5). Applicants for organizations which have an application for such status pending may, alternatively, submit a statement to that effect. Section 501(c)(3) addresses the tax-exempt status of religious, educational, charitable, scientific, testing for public safety, fostering of certain amateur sports competition, and prevention of cruelty to children or animals organizations. Section 501(c)(4) pertains to civic leagues, social welfare organizations, and local associations of employees. Section 501(c)(5) covers labor, agricultural, and horticultural organizations.

Regulation of charitable solicitation at the airports for the protection of the public is well within FAA's regulatory and police powers. The IRS determination of tax-exempt status is used only because it constitutes an objective determination of whether an organization is commercial or non-commercial, i.e. whether or not the organization primarily benefits a charitable or public interest which is different from that of the organization's owners and management. The determination is easy to obtain if the organization has not already done so, and is minimally restrictive. (More than 200,000 organizations qualified for Section 501(c)(3) status alone as of October 1978.) Additionally, the determination provides an objective criterion for issuance of a solicitation permit by airport officials on a ministerial, non-discretionary basis. Similar documentation is not required of religious or political organizations in

consideration of the special constitutional deference to such activities, particularly religious solicitation, and the absence of appropriate documentation for political organizations.

Alternatively, an applicant representing a charitable organization may submit a statement that the organization is registered with the Virginia Administrator of Consumer Affairs in accordance with Section 57–49, Virginia Annotated Code (1978 Cumulative Supplement), "Registration of Charitable Organizations".

B. Comments Received

FAA received 15 comments on the NPRM (45 FR 20424). The proposal was favored by the individual air carriers who commented and by the Air Transport Association. While expressing support for the proposal, these commenters favored additional or more stringent requirements on solicitors and leaflettors. It was suggested that non-commercial activity be prohibited within 15 feet, not 10 feet as proposed, from critical points at the airport and lines at these points, that the regulations clarify the rights of tenants to regulate access to those areas under their exclusive control, and that solicitors pay a space rental and clean up fees the same as any business on the airports. Individuals, presumably travelers who use the airports, commented in favor of the proposal expressing the views that solicitors are "a nuisance and an aggravation to travelers."

Comments were received from organizations who regularly solicit for money at airports and from organizations concerned about the preservation of civil liberties. Many of these comments focused on significant constitutional issues raised by the FAA's proposal. While their comments were critical of various aspects of the proposal, several commenters acknowledged that FAA drafted the NPRM with careful attention to the First Amendment rights of individuals. The comments received have been helpful and the legal issues raised by the comments have prompted further revisions to the proposal, as discussed below.

In the final rule the FAA has endeavored to be attentive to the First Amendment rights of individuals who use the airports as a forum for the expression of ideas and solicitation of funds as well as responsive to its duties as the airport proprietor.

C. Specific Comments

Noncommercial Activity. The definition of non-commercial activity was criticized as vague and unprecise so as to cause individuals wishing to engage in such activity at the airports to guess whether their activity was lawful. The NPRM stated "commercial activity" means activity undertaken for profit including the sale, provision, advertisement or display of goods or services (Proposed Sec. 159.91(b)). FAA regulations have always provided that no commercial activity may take place on the airport without the approval of, and under terms and conditions prescribed by the airport manager. This is continued under the adopted rule.

As proposed in the NPRM § 159.93(b)(1) requires each person conducting "non-commercial activity" to hold a permit issued by the Airport Manager. Non-commercial activity was defined as "the following activity:

1. The distribution of printed matter to the general public, and
2. The solicitation of funds from the general public,

undertaken not for profit but for *philanthropic, religious, charitable, benevolent, humane, public interest* or similar purposes."

No definition was provided for the *underscored* phrases. One commenter believes these phrases to be vague. FAA did not intend these phrases to be a limitation on who can conduct non-commercial activity on the airport. These phrases were used to better convey the difference between the commercial and non-commercial activity. For regulatory purposes the clearest definition of non-commercial activity, in view of the definition of commercial activity, is simply activity undertaken not for profit. This definition is adopted and the *underscored* phrases are not in the final regulation.

Another aspect of the proposed non-commercial activity definition that was criticized as constitutionally infirm is the provisions in § 159.93(a)(1):

provided, that if written or printed matter is for sale on the airport by a commercial vendor, its sale by any person will be treated as a "commercial activity".

This proposal was designed to protect vendors who pay for the privileges of selling printed matter at the airport from the competition by those who would sell the same printed matter, but have no overhead costs to the airport. Several commenters objected to protection of commercial facilities by imposing a restriction on the sale of religious non-commercial printed matter. Furthermore, the regulation creates a situation by which airport concessionaires could legally prevent non-commercial distribution of printed matter merely by placing that same literature for sale in their concessions. Because of these concerns, on balance, there is not at present a sufficiently compelling interest to warrant the promulgation of this aspect of the regulation. Therefore the portion of § 159.93(a)(1) quoted above will not be adopted in the final regulation.

The portion of § 159.93(a)(1) that makes the distribution of items or material other than printed matter a commercial activity will be adopted as proposed. This is not adopted to protect concessionaires but to provide airport management with control over the sale of trinkets, candies, and other such items in the terminal. Such items have no inherent message value and their sale or distribution does present airport management with litter and space utilization problems. FAA believes that it has a legitimate and compelling proprietary interest in determining where and what kind of trafficking of goods occurs on the airport.

Permit System

One commenter expressed as a general rule that no license or permits should be required at all for leafletting or solicitation of funds, and the mere fact that such activities may contribute to congestion of public areas is not a sufficient reason to justify such a requirement.

FAA respectfully disagrees. It has a statutory duty to maintain and operate the airports. Furthermore, FAA has the right to impose reasonable time, place and manner restrictions on the exercise of leafletting and soliciting activity in the airports if this would further a compelling governmental interest. The interests in this case, as stated in the NPRM, include a concern that the number of solicitors or distributors not exceed a number which would aggravate the already existing serious congestion at the airport. The purpose for which the terminal was built and maintained is to process and serve air travelers efficiently. FAA has studied the flow of traffic through the airport terminals. We employed traditional airport terminal planning factors, i.e., factors used to judge the efficiency of how terminal space serves the number of users. These planning factors have been used consistently for National and Dulles Airports and were not newly created for this study of passenger flow. The resulting study shows a clear need to limit the number of solicitors and leaflettors to achieve minimally acceptable passenger traffic flow. FAA

knows of no better or less restrictive way to limit the number of leaflettors and solicitors than by issuing permits. Additionally, the regulation was not intended for the comfort an convenience of travelers, but rather, it was needed to protect travelers against unacceptable obstruction and congestion.

Several significant concerns were raised about the process of applying for a permit. First, it was vigorously asserted that those who are distributing literature have a right to anonymity that would be violated by the application process. Indeed, the Supreme Court has recognized that right to anonymity in *Talley* v. *California*, 362 U.S. 60 (1960). The Court stated

> "[I]dentification and fees of reprisal might deter perfectly peaceful discussions of public matters of importance particularly where door to door solicitation seeks discussions of sensitive and controversial ideas 367 U.S. at 625.

FAA believes that where no money is sought from the public, interests are served by merely requiring a permit so that the number of distributors and places of distribution may be regulated. There is, however, no compelling need for the leaflettor to identify himself/herself. The permit will be marked as one for distribution, not sale, of non-commercial printed matter.

One commenter expressed concern that some applicants might freeze out other applicants for an entire week by applying for a permit to exclude others. Because the FAA was concerned about the burden on applicants to apply for a daily permit, the NPRM proposed the permit last for seven days. To prevent undue monopoly of the permits, the FAA accordingly changes the duration of the permit to two days. Because of the shorter duration, assuring a greater turnover rate, there will be protection against monopolizing permits. Furthermore, the twenty four hour waiting period to reapply is deleted, as it is no longer needed because of the greater turnover rate.

One commenter expressed disagreement with the "first come, first serve" procedure for issuing permits. The commenter stated that this procedure is too competitive. The FAA believes the "first come, first serve" rule is the fairest approach in issuing a permit. This procedure excludes any discretion on the part of FAA to pick and chose which groups or individuals will be issued a permit first.

In one important respect several commentors misunderstood the powers and remedies available to the FAA under the regulation to deny or revoke permits. A permit will be issued upon completion of the application form. In deference to the rights protected by the constitution, there is no provision in the regulation for denial of a permit on the basis of suspected, false statements in the application. Nor is there any provision for revocation of a permit already issued, for any reason. For example, § 159.94(b), which makes it illegal to solicit under a permit issued in response to an intentionally false application, has no effect on the permit issuance process other than deterrence of false representations. In the event of a suspected violation of this provision, or of any other provision of § 159.94, the actions available to the FAA are, first, the prosecution of the individual for violation of airport regulations, violation of which is a misdemeanor or second, the seeking of a District Court injunction against further solicitations by the individual at the airports. Either alternative requires judicial review of the case initiated by the FAA, clearly assuring due process to the individual concerned.

Solicitors

Two commentors contend that FAA should not even require a solicitor who solicits on behalf of an organization to provide documentation to that effect. They believe that it would be less restrictive for the person simply to state the name of the group he or she claims to represent. We do not agree. FAA believes that organizations sending a representative to solicit on their behalf will willingly, and can reasonably be required to, document this representation with a simple letter. Such a minimal requirement is hardly burdensome. It would seem to be more, not less objectionable if FAA were to "investigate" and make its own determination of whether an individual represents an organization as claimed. FAA does not believe it is appropriate that it engage in this type of extended investigative activity.

The proposed regulation requires the name of the applicant's supervisor responsible for the applicant's activity at the airports. This is attacked as vague. FAA disagrees. The requirement simply and clearly calls for the name of someone in charge of the solicitor at the airport. However, in recognition that in some instances there may not be a supervisor, the regulation as proposed is amended to specify "if applicable". An applicant for a permit will not be denied a permit on the basis of the failure to provide this name.

Charitable Causes

Several commenters called attention to the recent Supreme Court decision in *Village of Schaumberg* v. *Citizens for a Better Environment*, 48 LW 4162 (Feb. 20, 1980), in which the Supreme Court clearly recognizes that charitable solicitation is so closely intertwined with speech interests that it is within the protection of the First Amendment. This settles a question which FAA viewed as heretofore open. The statement in the preamble of the NPRM that "the solicitation of funds by individuals not associated with the free exercise of religion is not constitutionally protected" is no longer correct.

Given that charitable solicitation is afforded at least some degree of constitutional protection, FAA is presented with the question of how it may inquire into the legitimacy or non-commerciality, of an espoused charity, and whether it may require documentation that the organization is a charity before the individual is allowed to solicit funds on the airport.

In *Schaumberg*, the Supreme Court struck down a prohibition against soliciting for a charitable organization if more than 25% of the receipts of that organization are used on fund raising salaries and overhead. The Court found this standard unconstitutionally overbroad, in that it grouped legitimate charitable organizations engaged primarily in research, advocacy, or public education with those that are in fact using the charitable label as a cloak for profitmaking. The Court, however, did not foreclose any inquiry into whether an organization is a charity, and indeed noted the failure of the Village to employ more precise measures to separate one group from the other. The Court further implied that an organization's eligibility for tax exempt status under federal law could be determinative of its eligibility for preferred constitutional status in its fund raising efforts. Attainment of such tax exempt status is at least verifiable. This verification is what FAA sought to obtain in proposed 159.93(e)(E)(iii) which required a copy of an official Internal Revenue Service ruling or letter stating that the applicant's organization or its parent organization qualifies for tax exempt status under 26 U.S.C. 501(c)(3), (c)(4) or (c)(5).

FAA believes that if there is a reasonable means of verifying the representations made by a solicitor those means should be used. Two commenters state that while a tax exempt status might be useful in determining who is a charitable group, this is a different question from whether applicants should be required to provide evidence of that status to airport officials. In view of this concern that the documentation is burdensome on the applicant, FAA has reconsidered the requirement. In lieu of documentation FAA will require only that the applicant state if his or her organization has received an IRS determination for exempt status under Section 501(c)(3), (c)(4), or (c)(5), or has an application for such status pending. No further evidence will be required. FAA may, if it chooses, make further inquiry with IRS as to the currency or accuracy of the applicant's statement.

FAA is also revising the final regulation to take into account recent legislation on the registration of charitable organizations in the State of Virginia, in which both airports are located. The State of Virginia requires that every charitable organization, except as exempted, which intends to solicit contributions within the Commonwealth, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the Administrator of Consumer Affairs, VA. Code 57–49. Evidence that an organization is currently registered as a charity in Virginia will suffice as a means of verifying to FAA that the organization is a charity, for purposes of solicitation at the airports. Applicants may use either the Virginia registration or the IRS tax-exempt status at their choosing.

Political Organizations

Two commenters believe that the definition of a political organization in 159.93(c)(2)(E)(ii) is too restrictive, and would not include groups that advocate positions on matters of public concern but work for political causes unrelated to elections or legislation. FAA does not intend to be restrictive in this definition. Advocacy groups such as those protected by the *Village of Schaumberg* have been added to the definition in the final rule.

Traffic Flow Study

Several comments were critical of the traffic flow study done for the FAA by a planning consultant firm. Two commenters attacked as unconstitutional an assumption that solicitation would not be allowed in the public waiting areas or seating lounges based on a captive audience theory. FAA believes that the assumption is reasonable. Persons in the lounges of course can get up and move away to avoid a solicitor. However, FAA does not believe that there is any justification for disrupting the seating lounge by creating a situation where the air traveler has to move away from unwanted solicitation. The solicitors have access to these persons as they enter or leave the seating lounges.

Furthermore, these seating areas are not areas where pedestrian traffic flows and therefore they are properly excluded from any calculation of the impact of non-commercial activity on such flow. Thus, even if solicitation were permitted in the seating area, that area would not have been added into the calculation of the total number of solicitors. That number was based on *a level of service* in the traffic flow area. Level of service is another way of describing the traffic flow in the terminal. The study applied the standard level of service descriptions used for planning public facilities, transportation facilities, shopping malls, etc. The levels of service were not arbitrarily applied to the airports as one commenter asserted. At both airports the level of service is restricted. For example, at National Airport, the study notes, the freedom to select individual walking speed and freely pass other pedestrians is restricted. Where pedestrian cross movements and reverse flows exist, there is a high probability of conflict requiring frequent adjustment. At Dulles Airport during the peak hours of the afternoon the majority of persons would have their normal walking speeds restricted and reduced due to difficulties in bypassing slower moving pedestrians and avoiding conflicts.

Analysis was then performed to determine if the addition of a number of solicitors or leaflettors would further reduce these existing levels. FAA will permit the highest number of solicitors that would not result in a reduction in the present service level. The FAA does not believe that either of the present service levels at National or Dulles should be lowered to the next lowest level by increasing the number of solicitors beyond the number in the Final Rule. Such an action would not be consistent with the proper exercise of the FAA's statutory responsibilities at the Airport.

Prohibitions and Penalties

Several commenters expressed concern that the prohibition against behavior which "embarrasses" or "ridicules" airport patrons is vague and overly broad. The FAA agrees, and therefore, has omitted the words "embarrass" and "ridicule" from the NPRM section on prohibited acts. (159.94,f)

The proposed penalty provision, § 159.191(c), which provided that any person wilfully violating the solicitation regulation shall be prohibited from engaging in non-commercial activity at the airport for not more than six months, was criticized as being an unlawful prior restraint on protected First Amendment rights. This amendment merely intended to notify violators that such restriction may be imposed. It was not intended to arrogate this authority to the FAA or airport management. Violators of any airport regulations are guilty of a misdemeanor which is punishable by up to six months in prison. In lieu of a jail sentence, the courts already possess the authority to require a convicted person to not conduct such activity on the airports. The penalty, like others, can only be imposed by a court of law after due process to the accused. Because FAA recognizes that the court already has this authority, the final rule has been modified by deleting § 159.191(c).

Comments Supporting Broader Regulation of Solicitors and Leaflettors

One commenting airline company supported the proposed rule, but contended that the main terminal concourse was not large enough to accomodate even two solicitors or leaflettors as proposed. The terminal traffic study used by FAA in development of the regulation also indicated that any solicitors in the main terminal would cause unacceptable interference with traffic flow. However, FAA will continue to allow two solicitors in this area in the interest of accomodating First Amendment activities to the maximum extent consistent with the terminal's function. The FAA will monitor this activity and should it present an unacceptable obstacle to traffic patterns, FAA is prepared to modify the regulation.

Another commenting airline company recommended that only one solicitor be permitted in each terminal complex. FAA has, however, followed the recommendations of its passenger study on this point, and permitted more solicitors where indicated. The commenter further recommended that soliciting organizations be required to lease space, as a business would be required to do, and to publish income and expenditure statements. While FAA can appreciate the concern of airport businesses that solicitors can use the airports without cost for fund-raising purposes, FAA recognizes that it is the solicitor's right to do so. On the second point, any benefits which would be realized by a financial disclosure requirement are already obtained, to the extent necessary, by reference to the IRS determination and Virginia Consumer Affairs registration. Therefore no such disclosure requirement has been included in the final rule.

The Air Transport Association of America (ATA), of which 16 incumbent

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carriers at the airports are members, generally supported the proposed regulations as directly related to the promotion of safety and the reduction of burdens for air travelers. ATA recommended several amendments to the proposed rule including, first, an increase in the minimum distance specified in Section 159.94(d) from 10 feet to 15 feet. However, maintaining a 10 foot distance from the critical points on the airport and persons in line at these points is sufficient to prevent the interference with the operation of these areas. The 10 foot distance is also not unduly restrictive on the solicitors and is retained in the final rule. ATA also recommended that applicants for leafletting permits be required to provide the same information as for solicitation permits. For reasons discussed above, however, FAA has deleted all information requirements for leaflettors.

ATA further requested that § 159.94(d)(6) be amended to add "or other building tenants" to the prohibition on solicitation within 10 feet of "Premises leased for the exclusive use of a concessionaire". FAA is sensitive to the possible interference with normal airport business caused by solicitation. However, other restrictions set forth in the same section would appear to address this concern adequately, particularly the limitations on solicitation near ticket counters, baggage claims areas, departure gate check-in counters and lounges, and doorways. ATA expressed a related concern which FAA believes legitimate: the possibility that the regulations, which delineate rights to as well as limitations on solicitations, might be construed to affect the rights of existing airport lessees. FAA has therefore included in the final rule a provision which preserves the present rights of such lessees in areas under their exclusive control.

Two final ATA recommendations were not incorporated in the final rule. First, ATA proposed that permits for Dulles be limited continuously as at National, rather than at specific hours. FAA believes the lack of congestion at Dulles during off-peak hours precludes the necessity for limiting the number of solicitors at all times. Second, ATA recommends that FAA retain the authority to impose a total ban on solicitation during heavy traffic or emergency periods, such as Thanksgiving and Christmas holidays, or heavy snow condition. FAA does not believe that this action is necessary in light of the general constitutional protection of peak-hour solicitation, when access to the public is most effective. In genuine emergency situations FAA is confident that its existing police powers are sufficient to take all actions reasonably necessary.

The Final Rule

The Federal Aviation Administration hereby amends Subpart D, "Rules of Conduct," of Part 159 of the Federal Aviation Regulations (14 CFR Part 159) as follows:

1. By amending § 159.91, "Business and Commercial Activity," by deleting the heading and the entire section consisting of paragraphs (a), (b) and (c) and substituting for them the following:

§ 159.91 Commercial activity.

(a) No person may engage in any commercial activity on the Airport without the approval of, and under terms and conditions prescribed by, the Airport Manager.

(b) For the purpose of this section "commercial activity" means any activity undertaken for profit including the sale, provision, advertisement or display of goods or services."

2. By adding a new § 159.93 to read as follows:

§ 159.93 Certain non-commercial activities.

(a) This section applies to the following activities undertaken not for profit but for non-commercial purpose (hereinafter referred to as "non-commercial" activities):

(1) The distribution of any written or printed matter to the general public including distribution for the conduct of surveys and petitions. The distribution of items or material other than printed material will be treated as a "commercial activity" under this Part.

(2) The solicitation of funds from the general public whether or not in connection with the distribution of written or printed matter.

(3) The sale of written or printed matter by persons who have identified themselves as religious solicitors pursuant to paragraph (c)(2)(e)(i) of this section. All other sales of any material, items, or services will be treated as a "commercial activity" under this Part.

(b) Each person conducting any non-commercial activity must hold a valid permit issued by the Airport Manager and conduct the activity in conformity with applicable laws, regulations and the terms of the permit. Each permit shall describe the activity authorized and the area in which it may be conducted.

(c) *Procedure:* Unless by prior application all available permits have been granted, applications will be processed as follows:

(1) Each person who seeks to distribute written or printed matter without soliciting funds shall immediately be given a single permit for leafletting for non-commercial purposes upon his request.

(2) Each person who seeks to solicit contributions or sell or distribute printed matter, either in connection with religious expression or as representative of a non-commercial organization, shall immediately be given a single permit upon his submission of an application, signed by the applicant, containing the following:

(i) The applicant's name, address and telephone number;

(ii) If the applicant purports to represent an organization, the name, address and telephone number of the organization, and a letter or other documentation that the applicant has authority to represent that organization.

(iii) The name and title of the person in the organization who will have supervision of and responsibility for the activity at the airport, if applicable;

(iv) A statement that the sale of printed matter and/or the solicitation of funds is for non-commercial purposes; and

(v) One of the following:

(A) A Statement signed by the applicant that the applicant represents and will be soliciting funds for the sole benefit of a religion or religious group;

(B) A statement signed by the applicant that the applicant represents and will be soliciting funds for the sole benefit of a political organization the primary function of which is to influence the nomination, election, or appointment of one or more individuals to Federal, state or local public office; to influence Federal, state or local legislation; or to advocate issues or causes to the public.

(C) A statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. Section 501(c)(3), (c)(4), or (c)(5).

(D) A statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), or (c)(5), and that the IRS has not yet issued a final administrative ruling or determination on such status; or

(E) A statement signed by the applicant that the applicant's organization has on file with the Virginia Administrator of Consumer Affairs a current registration statement in accordance with the Virginia Annotated Code, Section 57–49 (1978 Cumulative Supplement), "Registration of Charitable Organizations".

(d) Failure to submit the information required by subsection (c) shall result in denial of a solicitation permit. Upon request, for a leafletting permit, or upon submission of a completed signed application, for a solicitation permit, a permit shall be issued unless all available permits have been issued to prior applicants.

(e) Applications for permits must be submitted to the Operations Office of the airport concerned. Permits will be granted on a "first come, first served" basis. The area will be granted on a "first come, first choice" basis. The permits are not transferable except among individuals who have completed and submitted applications for the same permit.

(f) *Duration.* Each permit shall authorize the holder to conduct non-commercial activities for a period of 48 hours. Permits shall not be extended or renewed. After the expiration of the permit a new leafletting or solicitation permit may be issued to the former permit holder upon request or submission of a new application respectively. In such a case, applicants may be permitted to incorporate by reference any required documentation filed with a previous application.

(g) *Areas.* Each permit shall specify the area in which the non-commercial activity may be conducted by the permit holder. Permits shall be issued for the following areas up to the maximum number indicated:

(1) Washington National Airport:

(i) The Northwest/Trans World Airlines lobby (2),

(ii) The American Airlines lobby (1),

(iii) The main concourse and balcony (2),

(iv) The north terminal (2),

(v) The sidewalk in front of the Piedmont Aviation Terminal (1).

(2) Dulles International Airport between 4 p.m. and 8 p.m.

(i) upper level main concourse south of ticketing area (4),

(ii) lower level south concourse (1),

(iii) lower level east (1),

(iv) lower level west (1).

The areas are on display on a floor plan at the Operations Office of each Airport.

(h) Nothing in this Part shall be construed as impairing or expanding any right which an airport lessee may otherwise have, by virtue of its leasehold interest in airport premises, to regulate access to those areas under its exclusive control.

3. By adding new § 159.94 to read as follows:

§ 159.94 Prohibited conduct relating to non-commercial Activity.

No person may conduct non-commercial activity:

(a) Without a permit or with a permit that has expired.

(b) With a permit issued in response to an intentionally false application.

(c) With a permit outside the area designated on the permit.

(d) Within 10 feet of the following: (1) A ticket counter, (2) A baggage claim facility, (3) A departure gate check-in counter, (4) A departure gate lounge, (5) An anti-hijack security screening point, (6) Premises leased for the exclusive use of a concessionaire, (7) Restroom facilities, (8) A stair, escalator or elevator, (9) A doorway or entrance way, (10) A motor vehicle with embarking or disembarking passengers, (11) A public service information counter, (12) Persons waiting in line at any of the above listed areas.

(e) If that person is selling written or printed matter or soliciting funds, without wearing or displaying, in a conspicuous manner, the name of the organization that the person represents.

(f) By use of threatening gestures, or by language directed at another person in a manner intended to harass that other person.

(g) By intentionally touching or making physical contact with another person unless that other person has consented to such physical contact.

(h) By repeatedly attempting to distribute written or printed matter to, or to solicit funds from, another person when that other person has indicated to the solicitor that he or she does not wish to accept any matter or to make a donation.

(i) By use of a loudspeaker, sound or voice amplifying apparatus without the permission of the Airport Manager.

(j) By setting up a table, counter or stand without the permission of the Airport Manager.

(Secs. 2 and 4 of the Act for the Administration of Washington National Airport, 54 Stat. 686 as amended by 61 Stat. 94; Secs. 4 and 10 of the Second Washington Airport Act, 64 Stat. 770; sec. 313 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); sec. 6, Department of Transportation Act (29 U.S.C. 1655); Sec. 501 of Pub. L. 96–193, February 18, 1980)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is judged to be minimal and a detailed evaluation is not required.

Issued in Washington, D.C., on May 20, 1980.

Quentin S. Taylor,

Deputy Administrator.

[FR Doc. 80–15968 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1241

Contract Appeals; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule with comments requested; correction.

SUMMARY: In 45 FR 23406–23413, April 7, 1980, NASA amended the rules of procedure for the adjudication of contract appeals before the NASA Board of Contract Appeals by adding a new subpart 1241.2 to implement the practices and procedures required by the Contracts Dispute Act of 1978, Pub. L. 95–563, effective March 1, 1979. This amendment makes editorial changes to renumber the following sections: § 1241.20 to § 1241.196; § 1241.21 to § 1241.197; § 1241.22 to § 1241.198; § 1241.23 to § 1241.199; and § 1241.24 to § 1241.200.

DATE: April 7, 1980.

ADDRESS: Frederick J. Lees, Chairperson, Board of Contract Appeals, Code NC–9, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Frederick J. Lees, 202–755–3481.

In the final rule (FR Doc. 80–10298) published on April 7, 1980 (45 FR 23406) the following corrections should be made:

PART 1241—[AMENDED]

1. On page 23407, the section headings in the second and third columns should be renumbered as follows: § 1241.20 to § 1241.196; § 1241.21 to § 1241.197; § 1241.22 to § 1241.198; § 1241.23 to § 1241.199; and § 1241.24 to § 1241.200.

2. The table of contents on page 23407, the first column, should be corrected accordingly.

Margaret M. Herring,

Federal Register Liaison Officer.

May 20, 1980.

[FR Doc. 80–16032 Filed 5–23–80; 8:45 am]

BILLING CODE 7510–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 274

[Docket No. RM79-3]

Determinations by Jurisdictional Agencies; Colorado Application for Alternative Filing Requirements

Issued: May 20, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: This rule adds § 274.208(a) to the Federal Energy Regulatory Commission Regulations implementing the Natural Gas Policy Act of 1978. The new section provides alternative filing requirements for certain well determination applications to the Colorado Department of Natural Resources' Oil and Gas Conservation Commission.

EFFECTIVE DATE: May 20, 1980.

FOR FURTHER INFORMATION CONTACT: Victor Zabel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8559.

SUPPLEMENTARY INFORMATION: On January 14, 1980, the Colorado Department of Natural Resources, Oil and Gas Conservation Commission (Colorado) filed an application with the Commission for approval of alternative filing requirements pursuant to § 274.207 of the Commission's regulations. The proposed alternative filing requirements would enable operators to apply for eligibility determinations under section 103 of the Natural Gas Policy Act of 1978 (NGPA) for additional wells in existing proration units in the Sussex and Shannon reservoir in the Spindle Field, and in the Sessex reservoir in the Hambert Field, in Adams and Weld Counties, Colorado, without repeated submissions of geological and engineering data to show that the additional well is necessary to effectively and efficiently drain a portion of the reservoir covered by a proration unit that cannot be effectively and efficiently drained by any existing well within the proration unit.

Section 103 of the NGPA establishes the maximum lawful price for natural gas produced from new, onshore production wells. Under § 271.305(b) of the Commission's regulations, an additional well drilled on or after February 19, 1977, in an existing proration unit may qualify for the section 103 price if the jurisdictional agency finds that the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit.

An applicant seeking a determination of eligibility under § 271.305(b) to collect the section 103 price is required to file with the appropriate jurisdictional agency the information specified in § 274.204 of the Commission's regulations. Under § 274.204(f), an applicant must submit, on a well-by-well basis, geological evidence and engineering data showing that an additional well within the existing proration unit is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit, which cannot be effectively and efficiently drained by any existing well in the proration unit.

Under § 274.207, however, a jurisdictional agency is authorized to apply for Commission approval of alternative filing requirements. Colorado's application for approval of alternative filing requirements is based on those portions of Colorado's Order Nos. 304–5, 250–12, 250–14, 250–16, 250–17, 250–19, 250–20, 250–21, and 250–23 that authorize the drilling of additional wells into existing proration units in the Shannon and Sussex reservoirs in the Spindle Field, and in the Sussex reservoir in the Hambert Field, in Adams and Weld Counties, Colorado. In lieu of the filing requirements presently found in § 274.204(f), Colorado would simply require that the applicant file a statement specifying that the applicant is seeking a determination with respect to an additional well drilled into an existing proration unit and specifying the applicable order (from the orders mentioned above) which permitted the drilling of the additional well.

Colorado has concluded that the proposed alternative filing requirements provide substantial evidence on which to base a determination, since the pertinent geological and engineering data showing the necessity for second wells in existing proration units has already been accumulated during hearings under oath, based upon which the relevant orders were adopted. Colorado has furnished the pertinent geological and engineering data and other material which were offered into the record at the hearings concerning the above-mentioned orders in its application for approval of alternative filing requirements. Colorado asserts that this evidence is sufficient for all determinations involving wells drilled under the authority of these orders.

The Commission has review the geological and engineering data submitted by Colorado. The Commission finds that the proposed alternative filing requirements will provide sufficient information and substantial evidence upon which determinations under section 103 can be based. Accordingly, the Commission is amending Part 274, Subpart B, in § 274.208 to adopt the alternative filing requirements proposed by Colorado for applications for new, onshore production well determinations for second wells drilled into existing proration units pursuant to the above-mentioned orders.

The Commission's regulations in § 271.305(c) require jurisdictional agencies to notify the Commission when findings are made under § 271.305 that an additional well in an existing proration unit is necessary for effective and efficient drainage. Since Colorado's orders, listed above, find that infill drilling of additional wells in established proration units is necessary on a field-wide basis for the effective and efficient drainage of portions of the reservoirs covered by proration units which cannot be effectively and efficiently drained by an existing well within those units, the Commission finds that there is no need for Colorado to notify the Commission on an individual well basis that it has made the effective and efficient drainage finding for and individual well. Accordingly, for second wells drilled into existing proration units pursuant to the orders listed above, the Commission deems satisfied the requirements of § 271.305(b) and (c) with respect to determinations made by Colorado.

Further, § 274.204(d)(4) requires the filing of an oath statement that the applicant's conclusion that the natural gas for which he seeks a determination is produced from a new, onshore production well is based on documents submitted in the application. The oath statement must be modified for wells covered by the alternative filing requirements inasmuch as the applications will not contain all the documents relied on by the applicant in making the conclusion. Therefore, the phrase "documents submitted in the application" will be deleted from the oath statement, as applicable to persons seeking section 103 eligibility determinations for second wells drilled into existing proration units pursuant to the subject orders.

Public Procedures and Effective Date

A notice regarding Colorado's application was issued on February 21, 1980. (45 FR 13519, February 29, 1980). The comment period expired on March 7, 1980. No comments were received.

In view of the above discussion, the Commission approves the alternative filing requirements submitted by Colorado and deems satisfied the provisions of § 271.305 (b) and (c) and § 274.204(d)(4) as noted above. The Commission believes that good cause exists to make the alternative filing requirements effective immediately for all determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. § 717–717w; Department of Energy Organization Act, 42 U.S.C. § 7107–7352 Exec. Order No. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301–3432)

In consideration of the foregoing, Part 274 of Subchapter H, Chapter I, Title 18 Code of Federal Regulations is amended as set forth below, effective immediately for all determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

Section 274.208 of Part 274 is amended by inserting a new paragraph (c) to read as follows:

§ 274.208. Alternative filing and notice requirements accepted by the Commission.

* * * * *

(c) *Certain Infill Wells in the Sussex and Shannon reservoirs in the Spindle field and in the Sussex reservoir in the Hambert Field in Adams and Weld Counties, Colorado.*

(1) A person seeking a determination for purposes of Subpart C of Part 271 that a second well drilled in accordance with the Colorado Department of Natural Resources' Oil and Gas Conservation Commission's Order Nos. 304–5, 250–12, 250–14, 250–16, 250–17, 250–19, 250–20, 250–21, and 250–23 in the Sussex and Shannon reservoirs in the Spindle field and in the Sussex reservoir in the Hambert Field in Adams and Weld Counties, Colorado is a new, onshore production well, shall file with the Colorado jurisdictional agency an application which contains, in lieu of the information specified in § 274.204, the following items:

(i) FERC Form No. 121;

(ii) The well completion report;

(iii) A location plat which locates and identifies the State law proration unit (as defined in § 271.305(a)(2)) and the well for which a determination is sought and all other wells within the State Law proration unit in which the well for which a determination is sought is located;

(iv) A statement by the applicant, under oath:

(A) That the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(B) That the well satisfies any applicable Federal or State well spacing requirements;

(C) That the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well; and

(D) That the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

(v) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files; and

(vi) A statement referencing Colorado's Oil and Gas Conservation Commission's Order Nos. 304–5, 250–12, 250–14, 250–16, 250–17, 250–19, 250–21, or 250–23, as appropriate.

(2) With respect to wells to which this paragraph applies, receipt by the Commission of a notice of determination pursuant to § 274.104 shall be deemed to satisfy:

(i) The requirement of notice to the Commission under § 271.305(c); and

(ii) The requirement of § 271.305(b)(1) that appropriate geological and engineering data be included in the notice of determination.

[FR Doc. 80-15992 Filed 5-23-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 40

Farm Labor Contractor Registration; Documents Acceptable as Evidence of a Bona Fide Inquiry of Employability Status

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This rule expands the current list of documents which will be accepted by the Department of Labor as constituting proof that a farm labor contractor has made a *bona fide* inquiry into the status as a United States citizen or as a person lawfully authorized to work in the United States of each prospective employee. This will permit farm labor contractors to accept additional types of material as evidence that a person is a citizen of the United States or is a person lawfully authorized to work in the United States.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Office of Child and Farm Labor, Wage and Hour Division, Room S–3504, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone 202–523–7531.

SUPPLEMENTARY INFORMATION:

Background

The Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2041(a), *et seq.*), provides sanctions against any farm labor contractor who knowingly engages in recruiting, employing, or utilizing the services of any person who is an alien not lawfully admitted for permanent residence nor authorized by the Attorney General to accept employment. Under the provisions of 29 CFR 40.51(p) (which became effective in 1976) a contractor must show that he or she has made a *bona fide* inquiry into the status of each prospective employee. The same section lists certain documents upon which reliance will be accepted by the Department of Labor as constituting such a *bona fide* inquiry. It has been our experience that the limited nature of the present list has resulted in the denial of employment to United States citizens and legally admitted aliens who do not have a birth certificate or other listed document.

On March 4, 1980, a document was published in the **Federal Register** (45 FR 14070) proposing to amend 29 CFR 40.51(p) by adding certain additional documents to the list of those which will be accepted as evidence of a *bona fide* inquiry by a farm labor contractor into the employability status of a prospective employee.

The Department, in its administration of the Act and of the regulations, 29 CFR Part 40, had found those documents, in the absence of evidence to the contrary, to constitute a *bona fide* inquiry into the status of a prospective worker under Sections 5(b)(6) and 6(f) of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2044(b)(6) and 2045(f)).

Changes Made to Proposed Rule

As a result of comments received, the following changes in the proposed rule are made:

1. United States Armed Forces Discharge Papers will be included in the list.

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2. The words "employment in agriculture" in § 40.51(p)(4) are changed to "such employment" inasmuch as the INS grants employment authorization without restricting the type of employment allowed, and the Department of Labor does not wish to deprive alien workers of employment in agriculture merely because agriculture is not specified.

3. Several commenters remarked upon the "looseness" of the proposed self-declaration of citizenship. These commenters have overlooked the fact that the "Self-declaration" contains additional safeguards. It must be executed in the presence of an appropriate official of the United States Employment Service or any of its affiliated offices and any false statement is punishable by a fine or imprisonment, or both. The self-declaration must also list the names of three adult citizens who can verify on request the representations made by the declarant. In order to further tighten the procedure surrounding the declaration, the rule has been changed to require that the signature of the Employment Service official be affixed in the presence of the applicant.

4. In response to a comment, the proposal has been modified to permit the Department of Labor, Bureau of Employment Security, Commonwealth of Puerto Rico, to attest by the issuance of a certificate, based upon the examination of any of the documents prescribed by § 40.51(p)(1)(i) through (xi), that the individual named and identified by picture on the certificate was born within the United States or territory or possession thereof at the place and on the date specified thereon and which sets forth such individual's home address and social security number. The use of this certificate is based upon the Secretary's determination that it satisfies the essential requirements of Section 5(b)(6) of the Act. The Secretary has also determined that any other State (as that term is defined in Section 3(f) of the Act) which adopts a similar certificate may apply for similar status.

5. It was suggested that the Social Security number be omitted from the declaration in § 40.51(p)(1)(xi) inasmuch as it does not help in determining citizenship.

Although not a means of identification, the Social Security number provides a simple method for systematizing the records of these documents. A change has been made, however, to make it clear that the inclusion of the Social Security number is voluntary.

Recommendations Not Adopted

Certain other recommendations have been carefully considered but not adopted. The following suggestions were not adopted for the reasons stated:

1. *Comment:* It was suggested that detasseling crews be exempted from the *"bona fide* inquiry" requirement.

Response: In 1978, Congress amended the Farm Labor Contractor Registration Act by adding Section 3(b)(10), exempting a contractor whose only farm labor contracting activity involves supplying persons (whose principal occupation is not farmwork) for detasseling, roguing, and other incidental farmwork for not more than four weeks in any calendar year, provided those workers are not required by the work to be away from their homes overnight and provided further that no persons under eighteen years of age are engaged by the contractor to provide transportation. A contractor who meets all the requirements of that exemption is not subject to any provision of the Act. Specifically, such a contractor would not be subject to the *"bona fide* inquiry" requirement. There are, however, contractors who do not satisfy the requirements of that exemption, and it would be inappropriate to exempt them by administrative action from the *"bona fide* inquiry" provision of 29 CFR 40.51(p).

2. *Comment:* It was suggested that items (vii), baptismal certificate; (viii), other religious record; (ix), tribal enrollment card; and (xi), self-declaration of citizenship, be stricken, as they are highly susceptible to forgery.

Response: While such documents may be forged, few documents cannot be. However, the Department will deem good-faith reliance on them, even if in error, to constitute a *bona fide* inquiry into crew members' employability. Of course, a farm labor contractor who knows or who has reason to believe that a document is false or forged would not be deemed to have relied in good faith upon such a document.

3. *Comment:* It was suggested by several commentators that item (xi), the self-declaration of citizenship, be stricken.

Response: The primary objection raised was that the Employment Services lack the expertise to determine an individual's citizenship status. This rule does not require that an Employment Service representative attest to the accuracy of the declaration but only to the signature thereon. However, as previously indicated, the so-called "self-declaration" contains additional safeguards. These safeguards include the requirements that the declaration must be executed in the presence of an appropriate official of the U.S. Employment Service or any of its affiljated offices and any false statement is punishable by a fine or imprisonment, or both. The self-declaration must also list the names of three adult citizens who can verify on request the representations made by the declarant. The purpose of this amendment is to preclude a citizen who has no other documentation from being denied employment.

4. 3Comment: The recommendation that an agreement be sought among the nations of North America and the Caribbean under which migrant workers might move freely among those nations was not adopted.

Response: This rule is not an appropriate place to pursue such an agreement; the suggested change is one involving the immigration policies of the United States and not within the scope of the Secretary's responsibility.

5. *Comment:* Numerous other documents were suggested as acceptable evidence of citizenship or employability; none were adopted.

Response: These documents are:

a. Hospital or physician's office record of birth. It was felt these documents would be too difficult to verify.

b. Federal census record. The Federal census record does not establish citizenship or resident alien status.

c. School record. This, too, would generally not establish an individual's citizenship or resident alien status.

d. Social security card or application. These documents have no relationship—positive of negative—to employability.

e. Selective Service System registration card. Since there are currently no registration requirements it is not reasonable to specify such a document.

f. Family Bible record. The Department of Labor does not consider this to be the type of consistently reliable record necessary for this purpose.

g. Voter Registration card. This document may in some States be obtained upon application made by mail without establishing citizenship.

6. *Comment:* It was suggested that the Department abandon the creation of "a new bureaucracy to administer the new declaration of citizenship form," "adding to the burden of an already existing bureaucracy," or "narrow administrative empire-building."

Response: The self-declaration of citizenship will be, simply, a statement made by a farm worker in writing, witnessed (not investigated nor attested by a representative of the United States Employment Service (USES) system, and filed with a local office of the USES system. Good-faith reliance upon such a declaration—or upon any other document listed in § 40.51(p)—will protect a farm labor contractor from charges of violating Sections 5(b)(6) and 6(f) of the Farm Labor Contractor Registration Act even if the worker should be, in fact, an unemployable alien. There will be no additional staff to administer this declaration.

7. *Comment:* Suggestions were made to change the requirements of the self-declaration of citizenship, as follows:

a. Strike the requirement that the names and addresses of three adult citizens of the United States be included.

Response: These names and addresses provide a means of confirming the statement's accuracy and represent an additional safeguard against falsification.

b. Add wording to specify that the form does not satisfy INS requirements nor those of many States which have statutory provisions prohibiting the employment of illegal aliens.

Response: The Department believes this is unnecessary inasmuch as the declaration is not for INS or State purposes and need not be on any particular form, so long as it includes all the required information.

8. *Comment:* It has been suggested that the self-declaration of citizenship be reduced to wallet size and that this reduction include a photograph.

Response: While this suggestion has merit, to implement it would be prohibitively costly, and it is therefore not adopted by the Department. Of course, the holder of the declaration is free to have the declaration reduced to wallet size if desired.

9. *Comment:* Recommendations concerning the approach to be taken by Employment Service representatives toward the self-declaration ranged from taking the initiative when it is found that a worker has no other documentation to acting only when a request for self-declaration is made as a result of specific job openings announced through the Employment Service system.

Response: The Department feels that it is not appropriate in this rule to set detailed guidelines for Employment Service (ES) personnel in dealing with this matter. In general, all Employment Service offices are expected to accept all such declarations from registered job applicants and retain them in their filing systems.

10. *Comment:* Finally, it was urged that the Department of Labor and the Immigration and Naturalization Service join in preparing a single document acceptable to both for determining employability.

Response: This recommendation was not adopted since the INS requires different and more comprehensive information pursuant to a different statute having a different purpose.

Effective Date

This rule relaxes an existing restriction and allows additional documentation to be accepted by a farm labor contractor as evidence that a prospective employee is a citizen of the United States or is a person lawfully authorized to work in the United States. Accordingly, the Department, pursuant to 5 U.S.C. 553(d)(1), has determined that this final rule shall become effective upon May 27, 1980 rather than thirty days thereafter.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator for Fair Labor Standards, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210 Telephone 202–523–8353.

The Department of Labor has determined that this is not a major regulation that requires the preparation of a regulatory analysis, within the meaning of Executive Order 12044 and the Department's guidelines published at 44 FR 5570.

Accordingly, § 40.51(p) of Part 40 of Title 29 of the Code of Federal Regulations is amended by adding new paragraphs (p)(1)(vii) through (p)(xii), (p)(4), and (p)(5) to read as set forth below.

Signed at Washington, D.C., on this 22 day of May, 1980.

Donald Elisburg,

Assistant Secretary for Employment Standards.

Ernest G. Green,

Assistant Secretary for Employment and Training.

§ 40.51 Obligations of a farm labor contractor.

* * * * * *

(p) * * *

(1) * * *

(vii) Baptismal certificate under seal of a church or other religious body which practices infant baptism showing the individual's date and place of birth within the United States, its territories or possessions.

(viii) A document under seal of a religious body which does not practice infant baptism showing the individual's date and place of birth within the United States, its territories or possessions.

(ix) Tribal enrollment card in an American Indian tribe recognized by the Bureau of Indian Affairs.

(x) Other written advice from The Immigration and Naturalization Service attesting that such person is a citizen of the United States.

(xi) A copy of a declaration, signed by the applicant, under penalty of prosecution for violation of Title 18 U.S.C. § 1001, and witnessed by the signature of the appropriate official of the Employment Service, affixed in the presence of the applicant, filed with the United States Employment Service or any of its affiliated offices attesting that such person is a citizen of the United States, was born at the place stated and on the date set forth thereon, and reciting the following additional information:

(A) Social Security number such (voluntary) and

(B) Names and addresses of three adult citizens of the United States who can be contacted to verify declarant's citizenship.

(xii) A certificate issued by the Department of Labor, Bureau of Employment Security, Commonwealth of Puerto Rico which attests that, based upon examination of any of the documents prescribed by paragraphs (i) through (xi) above, the individual named and identified by the picture on that certificate was born within the United States (including its territories and possessions) at the place and on the date specified thereon and which sets forth such individual's home address (street and number, city, State, zip code) and Social Security number.

* * * * *

(4) Any other written advice from the Immigration and Naturalization Service (INS) that such person is an alien authorized by INS to accept such employment in agriculture in the United States.

(5) United States Armed Forces Discharge Papers.

* * * * * *

(Sec. 17, 88 Stat. 1659, (7 U.S.C. 2053); Secretary's Order No., 16–75, 40 FR 55913; and Employment Standards Order 2–75, 40 FR 56743.)

[FR Doc. 80–16181 Filed 5–23–80; 8:45 am]

BILLING CODE 4510–27–M

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78-170]

Drawbridge Operation Regulations; Jamaica Bay, NY

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: At the request of the New York City Department of Transportation and the New York Transit Authority, the Coast Guard will permit the draws of the highway and railroad bridges across Jamaica Bay, North Channel (Grassy Bay), to remain closed to navigation. This change is being made because of infrequent openings of these draws. This action will relieve the bridge owners of the responsibility of supplying draw tenders and of the expense of maintaining the operating machinery.

EFFECTIVE DATE: This amendment is effective on July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-NBR/TP14), Room 1414, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20593 (202-426-0942).

SUPPLEMENTARY INFORMATION: On March 1, 1979, the Coast Guard published a proposed rule (44 FR 11566) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as a Public Notice dated March 28, 1979. Interested persons were given until April 2, 1979 and April 27, 1979, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Navigation, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Eleven comments were received. Six supported the proposal or had no objection. Five opposed the change on the grounds that: (1) The ability of airport and New York City fire-fighting equipment might be impaired in gaining access to and fighting fires at the Kennedy Airport fuel tank farm. The fire-fighting capacity of airport and New York City marine fire equipment was investigated. The Port Authority of New York and New Jersey maintains an extensive fire-fighting service which is able to control a fire at the Kennedy Airport tank farm. In addition, New York City's fireboats would respond to a fire at the airport fuel facility by way of the Jamaica Bay South Channel. Two of New York City's six fireboats have a height of 25 feet and could pass under the railroad bridge across Jamaica Bay, mile 10.6, so as to reach the area between the two bridges.

(2) Access to the eastern portion of Jamaica bay by high-level vessels might be jeopardized. The New York Towboat and Harbor Carriers Association was contacted and stated that at present no commercial vessels over 55 feet, the height of the fixed bridge across the South Channel of Jamaica Bay, mile 6.0, operate in Jamaica Bay. Bridge logs also show that since 1975 no such vessels have requested bridge openings. Facilities on Jamaica Bay are adequately serviced by vessels whose heights are such that they can utilize the South Channel.

(3) Access between the bridges would be restricted. The closing of these two bridges would restrict the area between the bridges. The greatest vertical clearance offered would be 26 feet above mean high water at the railroad bridge, Jamaica Bay, mile 10.6. Marinas exist between the bridges but none of the vessels at these moorings require bridge openings. In addition, the Corps of Engineers does not maintain a dredged channel through these bridges; Corps vessels operating in Jamaica Bay use the South Channel. Also, should it be necessary for a crane barge to be used between the bridges, access could be gained from the land side. Coast Guard vessels stationed at the Group Rockaway Station, Jamaica Bay, pass under these bridges. There is a sewer treatment plant which uses barges for sludge removal located east of the subject bridges. Sludge barges reach this facility by way of the South Channel and would not be affected by the proposed permanent bridge closures.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. Revising paragraph (c) of § 117.175 to read as set forth below and by deleting the note after § 117.175(d) because the drawbridge to which it refers is no longer a part of § 117.175.

§ 117.175 Jamaica Bay and connecting waterways, New York.

* * * * *

(c) New York City Department of Transportation highway bridge at Jamaica Bay Boulevard and New York City Transit Authority railroad bridge, both across Jamaica Bay, North Channel (Grassy Bay). The draws of these bridges need not open for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: May 19, 1980.

Peter J. Rots,
Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 80-16027 Filed 5-23-80; 8:45 am]
BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Reduction of Pension Because of Hospitalization

AGENCY: Veterans Administration.
ACTION: Final regulation.

SUMMARY: The Veterans Administration has amended its regulation governing reduction of pension because of hospitalization to include service pension. This action corrects an error that was made when subject regulation was last amended.

EFFECTIVE DATE: This amendment is effective January 1, 1979.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: Section 3.551 of title 38, Code of Federal Regulations provides authority and rules for reducing the amount of pension payable to a veteran without dependents who is hospitalized at Veterans Administration expense. Certain changes were made in these rules, effective January 1, 1979, as a result of enactment of Pub. L. 95-588 (92 Stat. 2497) (See 44 FR 45930-44 (1979).)

In amending 38 CFR 3.551 to implement Pub. L. 95-588, however, we unintentionally excluded service pension from its provisions. (Service pension is payable only to Spanish American War veterans.) Consequently, our exclusion of service pension from the provisions of § 3.551 was in error. We have now corrected this error by amending § 3.551 to include service pension. This amendment is being made retroactive to January 1, 1979, since that is the effective date of the prior amendment to § 3.551 that erroneously omitted mention of service pension.

We are not providing for public participation because there has been no statutory or policy change in regard to reduction of service pension because of Veterans Administration hospitalization. This action merely corrects an unintentional error.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no compliance burdens or costs are imposed.

Approved: May 13, 1980.
By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

Section 3.551 is amended by revising (1) the first sentence of paragraph (a), (2) the heading and the first sentence of paragraph (b), and (3) by changing the heading of paragraph (c) as set forth below:

§ 3.551 Reduction because of hospitalization.

(a) *General.* Pension is subject to reduction when a veteran who has neither spouse, child nor dependent parent is hospitalized, unless the veteran is hospitalized for Hansen's disease. * * *

* * * * *

(b) *Old law pension, and service pension based on entitlement prior to July 1, 1960.* Old law pension, and service pension based on entitlement prior to July 1, 1960, in excess of $30 monthly for a veteran who has neither spouse, child nor dependent parent shall continue at the full monthly rate until the end of the sixth calendar month following the month of admission for hospitalization. * * *

(c) *Section 306 pension, improved pension, and service pension based on entitlement after June 30, 1960.* * * *

[FR Doc. 80-15975 Filed 5-23-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1487-5]

Redesignation of Attainment Status: Gabbs Valley, Nevada

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rulemaking.

SUMMARY: This notice revises the National Ambient Air Quality Standards attainment status designation of the Gabbs Valley area in Nevada from nonattainment to unclassified for total suspended particulates (TSP). Data used to support the initial March 3, 1978 designation were invalid since the monitoring site was unduly influenced by reentrained road dust.

EFFECTIVE DATE: June 26, 1980.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief, Technical Analysis Section, Air Technical Branch, Air & Hazardous Materials Division, 215 Fremont Street, San Francisco, California 90415 (415) 556-2002.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977, Pub. L. 95-95, added Section 107(d) to the Clean Air Act (CAA), which directed each State to submit to the Administrator of the EPA a list of the National Ambient Air Quality Standards (NAAQS) attainment status of all areas within the State. The Administrator was required under Section 107(d)(2) to promulgate the State lists, with any necessary modifications.

For each NAAQS, areas are classified as (1) not attaining the standard or, for certain pollutants, projected not to maintain the standard (nonattainment areas), (2) meeting the standard (attainment areas), or (3) lacking sufficient data or information to be classified (unclassified areas). The EPA published these lists on March 3, 1978 (43 FR 8962). At that time Gabbs Valley was classified nonattainment for TSP.

Under Section 107 of the CAA, either the EPA or the State may initiate changes to the existing designations.

In the February 20, 1980 **Federal Register** (45 FR 11140), EPA proposed to redesignate the Gabbs Valley area from nonattainment to unclassified for TSP. As discussed in that notice, the data used for the initial March 3, 1978 designation were invalid since the monitoring site was unduly influenced by reentrained road dust.

The February 20, 1978 notice provided a 30 day public comment period. On February 26, 1980, the State of Nevada submitted a letter supporting this redesignation. No other comments were received. Therefore, EPA is redesignating the Gabbs Valley area from nonattainment to unclassified for TSP.

As a result of this redesignation, the State of Nevada is no longer subject to the requirements of Title I, Part D (Plan Requirements for Nonattainment Areas) of the CAA, as amended, for the Gabbs Valley area.

The EPA has determined that this document is not a "significant" regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Secs. 107, 301(a), Clean Air Act as amended (42 U.S.C. 7407(d) and 7601(a))

Dated: May 15, 1980.

Douglas M. Costle,
Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.329 [Amended]

1. In § 81.329—Nevada, the attainment status designation table for TSP is amended as follows:

Nevada—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *				
Gabbs Valley			x	
* * * * *				

[FR Doc. 80-15956 Filed 5-23-80; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 52h

Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects

AGENCY: Public Health Service, HHS.
ACTION: Final rule.

SUMMARY: Final regulations are issued to incorporate the amendment mandated by Pub. L. 95-622, Section 264, enacted on November 9, 1978. The amendment simply expands the scope of the current regulations to include the Division of Nursing of the Health Resources Administration. The HHS Notice of Decision to Amend Regulations, which appeared in the **Federal Register** of January 23, 1980 (45 FR 5351), stated the Department's intent to promulgate final regulations (without further public participation) because of the technical nature of the change.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Malone, Deputy Director, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-2121.

Accordingly, Title 42 of the Code of Federal Regulations is amended to read as follows:

Dated: April 11, 1980.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: May 20, 1980.

Patricia Roberts Harris,

Secretary.

(Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 475, 88 Stat. 360, 89 Stat. 351, 92 Stat. 3436 (42 U.S.C. 289/–4))

1. Section 52h.1 is revised to read as follows:

§ 52h.1 Applicability.

The regulations in this part apply to:

(a) Applications for grants for biomedical and behavioral research, under the Act to the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; or any of their components; or the Division of Nursing, Health Resources Adminstration. These regulations do not apply to applications for:

(1) Continuation funding for budget periods within an approved project period;

(2) Supplemental funding to meet increased administrative costs within a project period; or

(3) Construction grants.

(b) Biomedical and behavioral research and development contract projects administered by the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; or any of their components; or the Division of Nursing, Health Resources Administration.

2. Section 52h.3(b) is revised to read as follows:

§ 52h.3 Establishment and operation of peer review groups.

* * * * *

(b) Subject to § 52h.5 and paragraph (a) of this section, the Director of the National Institutes of Health; the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration; and the Administrator, Health Resources Administration will adopt procedures for the conduct of reviews and the formulation of recommendations under §§ 52h.7, 52h.9 and 52h.10 within their respective agencies.

3. Paragraph (c) of § 52h.5 is revised to read as follows:

§ 52h.5 Conflict of interest.

* * * * *

(c) Where permissible under the statutes, standards, and order cited in paragraph (a) of this section, the Director of the National Institutes of Health; the Administrator of the Alcohol, Drug Abuse and Mental Health Administration; the Administrator of the Health Resources Administration; or their designees may waive the requirements in paragraph (b) of this section if he or she determines that there is no other practical means for securing appropriate expert advice on a particular grant application, contract project, or contract proposal.

* * * * *

4. Paragraph (c) of § 52h.10 is revised to read as follows:

§ 52h.10 Contract projects involving solicited contract proposals; matters to be reviewed.

* * * * *

(c) The Director of the National Institutes of Health; the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration; the Administrator of the Health Resources Administration; or their designees may identify individual contracts or classes of contracts which may not be awarded unless all pertinent contract proposals have been reviewed by a peer review group in accordance with the provisions of this part and that group has made recommendations concerning the scientific merit of the proposals.

[FR Doc. 80–16024 Filed 5–23–80; 8:45 am]

BILLING CODE 4110–08–M

45 CFR Part 74

Administration of Grants; Grantee and Subgrantee Audits

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This amends HHS's Department-wide grants administration regulation to implement a recent revision by the Office of Management and Budget (OMB) of the audit standards for governmental recipients of Federal grants and subgrants—Attachment P to OMB Circular No. A–102.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Matthias Lasker, Department of Health and Human Services, Room 513D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, 202–245–7565.

SUPPLEMENTARY INFORMATION: On October 22, 1979, OMB revised its audit standards for States, local governments, and Indian tribal governments under Federal grants and subgrants. The standards formerly appeared in Attachment G, paragraph 2h of OMB Circular No. A–102; they are now located in a new Attachment P, published at 44 FR 60958, 10/22/77.

OMB had previously circulated the proposed revision to interest groups representing governments, to Federal agencies, and to professional associations. OMB also published the proposed revision in the **Federal Register** (44 FR 40624–5, 7/11/79).

The most significant changes in the audit standards are:

1. OMB has clarified its intent that audits be conducted on an organization-wide basis rather than a grant-by-grant basis.

2. As part of the organization-wide audit concept, the new standards prohibit any Federal program from imposing program specific audit guidelines unless they are approved by OMB.

3. To insure that audits are acceptable to all Federal granting agencies, the new standards establish a cognizant agency system for Federal review of audits.

4. The new standards set forth, in more detail, the prescribed coverage of audits and questions to be answered.

Until now HHS has implemented the audit standards of OMB Circular No. A–102 (governing grants and subgrants to governments) and the audit standards of OMB Circular No. A–110 (governing grants and subgrants to institutions of higher education, hospitals, and private nonprofit organizations) by paraphrasing and combining the text of the two standards. Now, because of the differences between the standards, these amendments simply reference and require compliance with the particular requirements of each OMB circular.

OTHER INFORMATION: These amendments merely require HHS components and HHS grantees and subgrantees to comply with already existing Government-wide policies. For this reason, notice of proposed rulemaking and delay in effective date are considered unnecessary. These amendments are therefore effective on May 27, 1980.

Note.—The Department of Health and Human Services has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

Dated: May 20, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Subpart H of 45 CFR Part 74 is amended as follows:

Subpart H—Standards for Grantee and Subgrantee Financial Management Systems and Audits

1. The name of Subpart H is changed to "Standards for Grantee and Subgrantee Financial Management Systems and Audits."

2. Section 74.60 is revised to read as follows:

§ 74.60 Scope of subpart.

(a) This subpart contains standards for financial management systems and non-Federal audits of recipients.

(b) Awarding parties may not impose on recipients additional financial management standards or requirements concerning non-Federal audits. They may, however, provide recipients with suggestions and assistance on these subjects.

3. Section 74.61 is amended by changing the section heading and by revising paragraph (h), as follows:

§ 74.61 Financial management standards.

* * * * *

(h) *Audit resolution.* Each recipient shall follow a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

4. A new § 74.62 is added to Subpart H, as follows:

§ 74.62 Non-Federal audits.

(a) *Governmental recipients.* Recipients that are governments shall comply with the reqirements concerning non-Federal audits in OMB Circular No. A–102, including any amendments to those requirements published in the **Federal Register** by OMB.[1]

(b) *All other recipients.* Recipients that are not governments shall comply with the requirements concerning non-Federal audits in OMB Circular No. A–110, including any amendments to those requirements published in the **Federal Register** by OMB.[1]

[FR Doc. 80–16020 Filed 5–23–80; 8:45 am]

BILLING CODE 4110–12–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

Reflecting the Availability of Land Mobile Channels in the 450–512 MHz Band in 13 Urbanized Areas of the United States; Order Setting Date for Filing Formal Agreements

AGENCY: Federal Communications Commission.

ACTION: Requests for time extension for filing formal agreements declared moot.

SUMMARY: The Federal Communications Commission (Commission) has previously amended its regulations to reflect the availability of land mobile channels in the 450–512 MHz band. Applicants who have requested use of these channels must coordinate and/or submit to the Commission formal agreements indicating the technical method by which their systems will operate. The Commission, in Memorandum Opinion and Order (FCC 80–152) released April 23, 1980, established a "coordination period" of 60 days for all parties to submit copies of formal agreements. This order notifies all parties that pending requests for extension of time to file agreements are moot.

DATES: Agreements must be finalized and filed by August 1, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John J. Silva, Mobile Services Division, Common Carrier Bureau, Washington, DC 20554, (202) 632–6450.

Order

Adopted May 14, 1980.

Released May 16, 1980.

In the matter of Amendment of Part 21 (now Part 22) of the rules to reflect the availability of land mobile channels in the 450–512 MHz band in 13 urbanized areas of the United States, CC Docket No. 21039.

1. Before the Chief, Mobile Services Division, are motions for extension of time filed by applicants who have requested use of channels in the 450–512 MHz band. The extensions of time are required to allow parties to coordinate and submit to the Commission formal agreements indicating the technical method by which their systems will operate.

2. In paragraph 47 of the Commission Memorandum Opinion and Order (FCC 80–152) released April 23, 1980 (45 FR 29023, 29028, May 1, 1980), the Commission established a "coordination period" which imposed a 60 day deadline for all parties to submit whatever agreements they may have reached.[1]

3. The deadline now established for parties to reach an agreement is August 1, 1980.[2] Because the Commission has already extended the time to file agreements, all individual requests for extension of time are moot.

4. Accordingly, copies of formal agreements must be filed with this Commission, as an amendment to the application, on or before August 1, 1980. A copy of the agreement should be submitted for each application on file and must be signed by all parties who have agreed to the particular method of operation.

Sheldon M. Guttmann,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 80–16015 Filed 5–23–80; 8:45 am]

BILLING CODE 6712–01–M

[1] This coordination period applies only to those parties who filed during the initial 60-day filing period.

[2] The 60-day coordination period will commence on the effective date of MO&O FCC 80–152 (June 2, 1980).

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 175

[Docket No. HM–168; Amdt. Nos. 171–55; 175–15]

Hazardous Materials Aboard Aircraft

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule amends certain regulations pertaining to the transportation of hazardous materials aboard aircraft. Specific changes are (1) a restatement of § 175.5 pertaining to the applicability of Part 175 by removing the reference to "civil" aircraft and adding an exception for government-owned aircraft and, with certain limitations, aircraft operated on behalf of a government; (2) a revision to the exception in § 175.5, for aircraft of United States registry under lease to and operated by foreign nationals outside the United States; (3) the adoption of a new § 175.31 to require the reporting of certain discrepancies in hazardous materials shipments detected following the acceptance of shipments for transportation aboard aircraft; and (4) a revision of § 175.85 to provide clarification of the term "accessible" and to exclude certain classes of materials from the accessibility requirements of the section.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION: On December 11, 1978, the MTB published a notice of proposed rulemaking (Docket HM–168, Notice 78–13; 43 FR 57928) which addressed four issues involving the transportation of hazardous materials aboard aircraft. The MTB's

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actions and significant public comments concerning the proposals contained in the Notice are discussed in the following paragraphs.

Applicability of Part 175. There has been much confusion concerning the applicability of the Hazardous Materials Regulations (HMR) to nongovernment-owned aircraft which are "used exclusively" by a government. In order to lessen the possibility of noncompliance due to any misunderstanding, the MTB has determined that it is necessary to clarify the applicability of the HMR in this area. This amendment prescribes the requirements which define exclusive direction and control (by a government) of nongovernment-owned aircraft to provide a clear distinction between the applicability and inapplicability of regulations issued under the Hazardous Materials Transportation Act, (HMTA) (49 U.S.C. 1801 *et seq.*).

The proposal contained in Notice 78–13 has been adopted with certain revisions. The changes include a shortening of the prescribed minimum lease period from 180 days to 90 days and an editorial revision of § 175.5 for the purpose of clarity.

The proposal to delete the word "civil" from Appendix B of Part 107 was handled in the final rule to Docket HM–166B (45 FR 13087: February 28, 1980).

Four comments submitted by certain Federal agencies criticized the proposal to require that aircraft be chartered or leased for a minimum of 180 days as a condition of exclusive use. Two of the commenters requested periods of 30 days or 60 days on the premise that the shorter periods are more in keeping with their current utilization of leased aircraft. Upon review of submitted data concerning aircraft utilization, the MTB has reduced the minimum lease period to 90 days. It is believed that this change will cover the majority of these government leasing arrangements, thus easing the burden of compliance on the agencies involved. It is the MTB's opinion that a stipulated leased period of less than 90 days would be inconsistent with the intent of this rulemaking action.

Two of the critical commenters suggested that any minimum lease period is unacceptable. One suggested that any shipment accompanied by a government courier or custodian should be excepted from the HMR. The MTB disagrees with this suggestion. The accompaniment of a shipment by a government representative is, of itself, irrelevant with regard to determining the applicability of the HMR to the shipment. The other commenter contended that the operations of a government agency are not in commerce and hence not subject to the HMR. The MTB disagrees with this contention. For transportation by aircraft, a government's hazardous materials shipments are subject to the HMR (1) when the government uses aircraft (civil or private) for commercial purposes (as in the case of certain foreign airlines which operate within the United States and are owned by foreign governments); and (2) when a government uses a nongovernment-owned aircraft which is not established as being under its exclusive direction and control.

One commenter suggested that provision be made to except government-owned, contractor-operated aircraft from compliance with the HMR. The MTB does not believe it necessary to incorporate the suggested provision. If government-owned aircraft are operated exclusively within the government's own sphere of activities for non-commercial purposes, regulations issued under the HMTA do not apply to such operations. Non-commercial operations are conducted by certain Federal, state and local government agencies and by government subdivisions such as state universities.

Aircraft Leased to Foreign Nationals. This action is taken in recognition of an obligation of the United States under the Chicago Convention. Chapter 3.5, Annex 6, Part 1 of the Convention provides that explosives and other dangerous articles, except where necessary for operation, navigation or safety of an aircraft, may only be carried if their carriage is approved by the aircraft's state (nation) of registry and they are in conformance with the regulations of that state.

Prior to this amendment, Part 175 did not apply to aircraft of United States registry which were under lease to and operated by foreign nationals outside the United States. Historically, the exception was included in the regulations in recognition of the difficulty the U.S. Federal Aviation Administration has had in obtaining compliance with Part 175, and other parts of the HMR which are incorporated by reference in Part 175, in those operations. Unfortunately, the language of the exception did not include a requirement that an equivalent body of regulations must be complied with in lieu of Part 175 to insure that United States obligations under Annex 6 of the Chicago Convention would be met. Determinations of equivalency pose significant problems due to differing requirements. Moreover, there could be many instances where insufficient time would be available in a leasing transaction to compare the HMR with the requirements and prohibitions of another state.

To remedy the situation, the exception in § 175.5 has been revised to stipulate that the HMR do not apply to United States registered aircraft under lease to and operated by foreign nationals outside the United States if (1) hazardous materials are carried in accordance with the pertinent regulations of the state of the foreign operator, and (2) the materials are not forbidden aboard aircraft by § 172.101. The amendment on this subject represents a substantial revision of the proposal contained in Notice 78–13 which would have required full compliance with the HMR by foreign operators. The revision is based on the merits of several comments to the docket which addressed the inability of foreign operators to comply with requirements of the HMR. Commenters contended that, in many instances, compliance with the HMR would place them in conflict with national or international regulations applicable to the operations of foreign operators. Further, they contended that it would be difficult, if not impossible, to obtain compliance with the HMR by foreign shippers offering hazardous materials for shipment totally outside the United States. The MTB believes these comments have merit and the revision which has been adopted alleviates these difficulties while satisfying United States obligations under the Chicago Convention.

While the MTB has no assurance that the regulations of the nation of a foreign operator will always achieve a level of safety equivalent to that provided by the HMR, it believes the amendment to be the best and most practical solution to the problem. Several comments addressed the difficulty of enforcing any requirement which would apply to foreign operators. Enforcement could, admittedly, be difficult in some instances. However, the requirement is considered necessary and there are means available to the FAA for legal recourse against U.S. lessors, foreign operators, and their agents. Since many of the materials prohibited for air transportation by the HMR are also banned by other governments, it is not anticipated that there will be significant problems involving non-compliance with the prohibitions. It is also anticipated that U.S. lessors may desire to stipulate compliance with the new provision as part of their leasing agreements.

It should be noted that the International Civil Aviation Organization is presently drafting a new Annex entitled "Safe Transport of Dangerous Goods by Air" and that this Annex will be considered by the MTB when it is issued. It is anticipated that § 175.5 will require further amendment at that time.

Reports of Discrepancies. This requirement is based on a petition from the Air Line Pilots Association (ALPA), and a similar proposal contained in National Transportation Safety Board (NTSB) Safety Recommendation A–74–26, to require that an aircraft operator report each instance a package offered to the operator for transport by air is discovered not in compliance with the HMR. The proposal contained in Notice 78–13 has been adopted with certain revisions.

The NTSB, in its comments on Docket HM–168, contended "* * * that none of the MTB's actions to date have corrected the deficiency in the existing system which permits a shipper to seek acceptance of a shipment by other carriers once it has been refused by a carrier because of noncompliance with Federal standards." The NTSB further stated "The Safety Board urges the MTB to take action to insure that carriers are required to hold a shipment and its papers until the FAA is notified and the shipment is corrected." Although the MTB agrees with the spirit of this recommendation, the HMTA does not grant the MTB authority to confer upon private individuals (aircraft operators and carriers) the authority to confiscate (in effect) the property of another individual based on presumed, though not proven, noncompliance with the HMR.

In addition to what the MTB considers to be legal impediments to this recommendation, there are practical impediments as well. It would be extremely difficult for FAA enforcement personnel to deal with discrepancy notifications involving potential shipments prior to their acceptance by aircraft operators. A shipment containing a hazardous material must be offered to the carrier in accordance with the regulations. An offering occurs when (1) the package is presented, (2) the shipping paper is presented, (3) the certification is executed, and (4) the transfer of the package and shipping paper is completed with no further exchange (written or verbal) between the shipper and aircraft operator, as usually evidenced by the departure of the shipper. At this point, it is clear that the operator has accepted the shipment and the shipper has removed himself from a final opportunity to take corrective action that would preclude a violation of the HMR relative to transportation of hazardous materials aboard aircraft. Absent a clear showing that the package was offered for transportation as illustrated above, the MTB doubts that an effective enforcement action could be taken against persons who appear at airline cargo terminals seeking to ship packages of hazardous materials.

Based on impediments to implementation of a more comprehensive reporting requirement, the requirement which has been adopted limits required reporting to shipment discrepancies which are discovered subsequent to acceptance of the shipment for transportation and limits "reportable" discrepancies to those discrepancies which are not detectable as a result of proper examination by a person accepting the shipment under the acceptance criteria of § 175.30.

This notification requirement will facilitate the timely investigation by FAA personnel of shipment discrepancies involving situations where inside containers do not meet prescribed packaging or quantity limitation requirements and where packages or baggage are found to contain hazardous materials after having been offered and accepted as other than hazardous materials.

Accessibility. The purpose of this change is to define the term "accessible" as used in § 175.85(b) and to except certain materials from accessibility requirements. The definition is considered necessary because there has been confusion in the past over the meaning of the term "accessible." Certain materials have been excepted from accessibility requirements because they pose no significant risks to the structural integrity of an aircraft and may be safer to carry in inaccessible locations that are not in proximity to crewmembers.

The proposal contained in Notice 78–13 has been adopted with revisions. It should be noted that radioactive materials were excepted from accessibility requirements prior to this amendment in Docket HM–168, Amendment 175–11 (45 FR 6946) published on January 31, 1980. The reasons for this action are explained in the preamble to Amendment 175–11.

The types of materials which are excepted from accessibility requirements have been expanded to include not only radioactive, poison B and irritating materials but also etiologic agents. The change is based on the merits of comments by ALPA to the effect that infectious, disease producing agents should be carried as far away from the flight crew as possible. The MTB has revised the proposed exception to permit packages suitable for passenger-carrying aircraft to be transported inaccessibly on cargo-only aircraft in quantities exceeding the quantity limitation (50 lb. net weight per inaccessible cargo compartment or freight container) imposed by § 175.75(a)(2). Without this provision packages containing quantities permitted on passenger-carrying aircraft would be subject to more restrictive location requirements on cargo-only aircraft than packages of identical materials containing larger, cargo-only aircraft, quantities.

The exception from accessibility requirements provided for small, single pilot, cargo-only aircraft being used where other means of transportation are impracticable or not available has been retained in this amendment but has been relocated from paragraph (b) to paragraph (c) in § 175.85.

Based on the merits of comments by an aircraft operator in Alaska, an additional exception from the accessibility requirements of § 175.85(b) has been provided. This exception applies to cargo-only aircraft being operated where other means of transportation are impracticable or not available and will permit operators of such aircraft to deviate from accessibility requirements to the extent that they may use alternate cargo stowage procedures where such procedures are reviewed prior to implementation and approved in writing by an appropriate FAA field office. The exception addresses those situations in which large packages are carried in quantities necessitating the stowage of some of the packages in locations on the aircraft where they cannot be readily handled and separated from other cargo during flight, such as when aircraft loads of 55 gallon drums of hazardous materials are carried.

The above-mentioned changes have necessitated a format revision of § 175.85. Paragraph (b) now contains only the requirement that cargo be carried accessibly. Former paragraph (c) has been redesignated paragraph (f) and a new paragraph (c) has been added which contains certain exceptions to the requirements of §§ 175.85(b) and 175.75(a).

Comments to the docket indicated some misunderstanding of the accessibility requirements. First, this final rule is a clarification, rather than a significant revision, of accessibility requirements. The MTB has never considered it acceptable to load materials acceptable only for cargo-only aircraft in inaccessible locations on aircraft such as inaccessible cargo compartments, inaccessible freight containers or, for packages located in

accessible cargo compartments, in locations making them inaccessible. Second, this final rule does not preclude the use of either pallets or freight containers. Pallets may be used, within the context of § 175.85(b), if at least one side or end of each palletized package containing hazardous materials is visible and it is possible to handle and separate packages during flight, if necessary.

In order to render palletized packages visible and separable, it may not be feasible to load pallets to full capacity. However, lost pallet capacity may be minimized by leaving open areas in the middle of pallets so that interior packages are rendered visible, or by using packages of other than hazardous materials as interior packages on pallets.

With regard to freight containers, such containers may be used within the context of § 175.85(b), if the containers are loaded in a manner that permits inspection of their contents during flight, and if each package of hazardous materials contained therein is loaded accessibly, that is, it can be seen, handled and separated from other cargo during flight. By the same token, nonstructural containers and insulating or padding materials are not precluded from use as long as covered packages can be readily inspected, handled and separated from other cargo during flight.

One commenter has suggested that a definition of "accessible" proposed in the ICAO Annex 18 entitled "Safe Transport in Dangerous Goods by Air" be made part of the HMR. The MTB will give consideration to Annex 18 in its entirety at a future date. Because of this, and because of differences between the ICAO proposed definition and the definition proposed in Notice 78–13, a verbatim adoption of the ICAO definition would not be appropriate at this time.

In consideration of the foregoing, Parts 171 and 175 of Title 49 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.8 [Amended]

1. Section 171.8 is amended by deleting the definitions for "Civil aircraft" and "Public aircraft."

PART 175—CARRIAGE BY AIRCRAFT

2. Section 175.1 is revised to read as follows:

§ 175.1 Purpose and scope.

This part prescribes requirements, in addition to those contained in Parts 171, 172 and 173 of this subchapter, applicable to aircraft operators transporting hazardous materials aboard (including attached to or suspended from) aircraft.

3. Section 175.5 is revised to read as follows:

§ 175.5 Applicability.

(a) This part applies to the acceptance for transportation, loading and transportation of hazardous materials in any aircraft in the United States and in aircraft of United States registry anywhere in air commerce. This part does not apply to—

(1) Aircraft owned and operated by a government when not engaged in carrying persons or property for commercial purposes;

(2) Aircraft which are not owned by a government nor engaged in carrying persons or property for commercial purposes but which are under the exclusive direction and control of a government for a period of not less than 90 days as specified in a written contract or lease. An aircraft is under the exclusive direction and control of a government when the government exercises responsibility for—

(i) Approving crew members and determining that they are qualified to operate the aircraft;

(ii) Determining the airworthiness and directing maintenance of the aircraft; and

(iii) Dispatching the aircraft, including the times of departure, airports to be used, and type and amount of cargo to be carried;

(3) Aircraft of United States registry under lease to and operated by foreign nationals outside the United States if—

(i) Hazardous materials forbidden aboard aircraft by § 172.101 of this subchapter are not carried on the aircraft; and

(ii) Other hazardous materials are carried in accordance with the regulations of the State (nation) of the aircraft operator.

4. Section 175.31 is added to read as follows:

§ 175.31 Reports of discrepancies.

(a) Each person who discovers a discrepancy, as defined in paragraph (b) of this section, relative to the shipment of a hazardous material following its acceptance for transportation aboard an aircraft shall, as soon as practicable, notify the nearest FAA Air Transportation Security Field Office by telephone and shall provide the following information:

(1) Name and telephone number of the person reporting the discrepancy.

(2) Name of the aircraft operator.

(3) Specific location of the shipment concerned.

(4) Name of the shipper.

(5) Nature of discrepancy.

(b) Discrepancies which must be reported under paragraph (a) of this section are those involving hazardous materials which are improperly described, certified, labeled, marked, or packaged, in a manner not ascertainable when accepted under the provisions of § 175.30(a) of this subchapter, including—

(1) Package which are found to contain hazardous materials—

(i) Other than as described or certified on shipping papers;

(ii) in quantities exceeding authorized limits;

(iii) In inside containers which are not authorized or have improper closures;

(iv) In inside containers not oriented as shown by package markings;

(v) With insufficient or improper absorption materials, when required; or

(2) Packages or baggage which are found to contain hazardous materials subsequent to their being offered and accepted as other than hazardous materials.

5. In § 175.85, paragraph (b) is revised, paragraph (c) is redesignated as paragraph (f), and a new paragraph (c) is added as follows:

§ 175.85 Cargo locations.

* * * * *

(b) Each person carrying a package containing a hazardous material acceptable only for cargo-only aircraft shall carry the package in a location accessible to a crewmember during flight. To be considered accessible, the package must be loaded in such a manner that it can be seen, handled, and separated from other cargo during flight.

(c) Notwithstanding the provisions of paragraph (b) of this section—

(1) When packages of the following hazardous materials are carried on cargo-only aircraft, they may be carried in a location which is inaccessible to a crewmember during flight and are not subject to the weight limitation specified in paragraph (a)(2) of § 175.75 of this subchapter.

(i) Radioactive materials,

(ii) Poison B, liquids or solids (except those labeled FLAMMABLE),

(iii) Irritating materials, and

(iv) Etiologic agents.

(2) When packages of hazardous materials acceptable for cargo-only or passenger-carrying aircraft are carried on cargo-only aircraft where other means of transportation are impracticable or not available, packages may be carried in accordance with procedures approved in writing by the FAA Air Transportation Security Field Office responsible for the operator's overall aviation security program or the FAA Air Transportation Security Division in the region where the operator is located.

(3) When packages of hazardous materials acceptable for cargo-only or passenger-carrying aircraft are carried on small, single pilot, cargo-only aircraft being used where other means of transportation are impracticable or not available, they may be carried without quantity limitation as specified in § 175.75 in a location that is not accessible to the pilot if—

(i) No person other than the pilot, an FAA inspector, the shipper or consignee of the material or a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material is carried on the aircraft;

(ii) The pilot is provided with written instructions on characteristics and proper handling of the materials; and

(iii) Whenever a change of pilots occurs while the material is on board, the new pilot is briefed under a hand-to-hand signature service provided by the operator of the aircraft.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on May 15, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-15990 Filed 5-23-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80–01; Notice 2]

New Pneumatic Tires for Passenger Cars; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Rubber Manufacturers Association (RMA) and the European Tyre and Rim Technical Organization (ETRTO), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding certain tire size designations to Appendix A of that Standard. This notice also corrects a typographical error made by RMA concerning the test rim width for a tire size. This amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: June 26, 1980, if objections are not received before that date.

ADDRESS: Comments should refer to Docket No. 80–01 and be submitted to Docket Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT:

John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION:

According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendment. Guidelines for this procedure were published at 33 FR 14964; October 5, 1968, and amended at 36 FR 8298; May 4, 1971, 36 FR 13601; July 22, 1971, and 39 FR 28990; August 13, 1974. These guidelines provide that these final rules become effective 30 days after their date of publication in the **Federal Register** if no comments objecting to them are received by NHTSA during this 30 day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards are initiated.

On February 19, 1980, ETRTO petitioned for the addition of two new tire sizes to an existing table within Table I of Appendix A of Standard No. 109. On March 11, 1980, RMA petitioned for the addition of a new tire size to an existing table. Additionally, on February 20, 1980, RMA filed a petition stating that there was a typographical error in data they have previously submitted to this agency, and asked that the error be corrected.

The basis for accepting or denying requests to add new tire size designations are set forth in the introductory guidelines to Appendix A. Briefly, the tests are the appropriateness of the information submitted for inclusion in the tire tables of the requested tire sizes. The three new tire size designations requested to be added to Standard No. 109 appear to meet these criteria. Accordingly, the RMA and ETRTO petitions are granted, and three new tire sizes are added to Table I of Appendix A of the Standard pursuant to the abbreviated rulemaking procedures. Additionally, the RMA request to correct a typographical error by that organization in its prior submission is granted, and the correction is made.

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below, subject to the 30-day comment period outlined below.

§ 571.109 New pneumatic tires—passenger cars [appendix amended]

1. Tables I–DD and I–LL are amended by adding the following new tire size designations and corresponding values:

Table I–DD.—*Tire Load Ratings, Test Rims, Minimum Size Factors, and Section Widths for "55 Series" Radial Ply*

Tire size[1] designation	Maximum tire loads (pounds) at various cold inflation pressures (pounds per square inch)													Test rim width (inches)	Minimum size factor (inches)	Section width[2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
195/55R15	685	730	775	815	855	895	935	970	1,005	1,040	1,075	1,110	1,140	5	30.85	7.91
275/55R15	1,260	1,350	1,430	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	8	37.19	10.98

[1] The letter "H", "S" or "V" may be included in any specified tire size designation adjacent to the "R."

[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

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Table I–LL.—*Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for T/80 Series 60 lb/in² Tires*

Tire size[1] designation	Maximum tire loads (pounds at 60 lb/in² cold inflation pressure)									Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	—	—	—	—	—	—	—	—	—			
T105/80D13	60 lb/in². / 1,036 lbs.									4	23.78	4.57

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in §4.2.2.2.

2. Table I–KK is amended, with the following values substituted for the P195/60R14 tire size:

Table I–KK.—*Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for P/60 Series ISO Type Tires*

Tire size[1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section[2] width (mm)
	120	140	160	180			240	260	280			
P195/60R14	385	395	420	445	470	495	515	540	560	5½	773	196

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in § 4.2.2.2.

Interested persons are invited to submit comments on these additions. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary comments in a concise fashion. Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The agency has reviewed the impacts of this rule, and determined that permitting the introduction of these tire sizes will benefit those manufacturers desiring to produce the sizes and will have no effect on those manufacturers who do not. The public will be minimally affected by this rule. Accordingly, NHTSA has determined that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney responsible for the development of this rule are John Diehl and Stephen Kratzke, respectively.

(Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 19, 1980.

Carl Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 80–15826 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 45, No. 103
Tuesday, May 27, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 274

[Amdt. No. 171]

Food Stamp Program—Food Stamp Issuance and Participation Reporting System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking changes the State reporting of food stamp issuance and participation data to improve control over the obligation of food stamp appropriations. The changes also reduce the Federal reporting burden on States. The proposal introduces a new Form FNS–388, State Coupon Issuance and Participation Estimates, and revises and reduces the reporting requirements for the Form FNS–256, Project Area Participation and Coupon Issuance. The Department anticipates that the changes will improve the current reporting systems and provide for more effective fiscal controls through more timely State reports.

DATE: Comments must be received on or before July 28, 1980, in order to be assured of consideration. After reviewing all comments, we will publish final regulations.

ADDRESS: Comments should be submitted to: Alberta C. Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at Room 678, 500 12th Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Susan McAndrew, Chief, Program Standards Branch, Program Development Division, Food and Nutrition Service, Washington, D.C. 20250. Phone (202) 447–6535. The Draft Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

Introduction

The Department is proposing to revise its present systems for reporting food stamp issuance and program participation data by States. These changes are being made to improve the timeliness and accuracy of issuance and participation data used in: (1) Measuring the use and availability of food stamp bonus funds; (2) making decisions regarding benefit reductions which may be required to avoid incurring obligations in excess of appropriations; and (3) reporting nationwide program obligations and participation to Congress and the general public.

The Secretary's decision as to whether or not program benefits must be reduced to keep program spending within the amounts appropriated is based on reported actual coupon issuance plus projected issuance for the remainder of the fiscal year. Section 18 of the Food Stamp Act of 1977 (as amended, P.L. 96–58, 93 Stat. 389, Aug. 14, 1979), requires the Department to submit to the House and Senate Agriculture committees by the 15th of each month a report of the best estimates of the second preceding month's expenditures and whether there is reason to believe that reductions in future allotments will be necessary. The timeliness and accuracy of the data available to the Secretary when submitting this report will have a direct effect upon this decision.

In fiscal year 1979, the real possibility of a benefit reduction existed until supplemental funding was provided. The Department faces a larger potential funding shortage this fiscal year. The proposed system of reporting will provide the Department with a documented, timely and consistent basis for recording and reporting food stamp obligations and an improved process for projecting future obligations. The new reporting processes are essential to support actions to avoid overobligation of available appropriations while at the same time permitting any reduction to be tailored as closely as possible within funds available.

Task Force Involvement

Prior to preparing this regulatory proposal, the Department established a task force consisting of Federal and State personnel.

The task force analysis, recommendations and pilot test results have served as the foundation for the proposed regulations. Ten State agencies, all FNS Regional Offices, the FNS National Office and the Department's Office of Budget, Planning and Evaluation were represented on the task force. The States selected for participation were chosen because of their diverse size, the variety of coupon issuance systems which they represent and the variety of organizational approaches to program administration they use. The task force further solicited comments from other State agencies and members of the American Public Welfare Association.

As a result of a thorough review of present reporting systems, the task force concluded that current reports do not provide the data needed on a sufficiently timely basis. The FNS–250, Food Stamp Accountability Report and the FNS–256, Project Area Participation and Coupon Issuance report provide actual value of coupons issued and participation. These reports are due to FNS 45 days after the report month, and experience has demonstrated that many States need 45 days to provide the reports. Also, since approximately 9,000 reporting points submit these reports, collection and processing of all reports requires additional time in the Food and Nutrition Service. The existing reporting systems do not provide financial and participation data on a sufficiently timely basis to meet Office of Management and Budget and Congressional reporting requirements.

Proposed FNS–388

In order to obtain the more timely data necessary to meet the requirements of the Food Stamp Act Amendments of 1979 (Pub. L. 96–58), the Department proposes a new monthly Form FNS–388, State Coupon Issuance and Participation Estimates. The FNS–388 would provide State level coupon issuance and

participation estimates for the current month and revised estimates for the

• States with automated ATP card production systems should use ATP

or issuance records. States might

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participation estimates for the current month and revised estimates for the preceding month. (A copy of this report is attached for comment).

The proposed FNS–388 reporting process would provide FNS with timely issuance and participation data in order to estimate fiscal year-to-date issuance and participation to be used in making the decision on benefit reductions. State agencies would telephone the FNS–388 Report data to the Regional Office no later than the close of business on the 19th of each month. The Regional Office would in turn, telecopy or telephone the data to the National Office no later than close of business on the 20th. The State agency would follow-up the telephone call with a hard copy of the report. Regional Offices would also follow-up the telecopied or telephoned data with a hard copy report reconciled to the State hard copy reports.

This process provides FNS with an estimate of the issuance and participation from every State by the 20th of the month for that month. FNS will use these estimates and the actual issuance and participation data from the FNS–250 and FNS–256 Reports, respectively, to arrive at nationwide, fiscal year-to-date issuance and participation estimates by approximately the 25th of the month. Finally, FNS would use these nationwide, fiscal year-to-date estimates of issuance and participation in the process of deciding whether a benefit reduction is required.

Estimation Procedures

States will be permitted to individually choose their best source of data and develop their own estimation procedures based upon their coupon issuance system and unique organizational structure within the State.

The methodology developed by the States would be reviewed by FNS to assure that the methodology will provide the necessary data within established accuracy standards and required time frames.

The purpose for establishing accuracy standards is to provide States with a bench mark against which they can measure their own performance based on established tolerance levels. The accuracy standards will alert States to the need for refining their methodologies when the tolerance levels are exceeded.

The following guidelines were recommended by the task force as sources and methods of obtaining the data required in the FNS–388 Report.

1. *Current Month's Estimated Coupon Issuance (Dollars).*—

• States with automated ATP card production systems should use ATP production lists as of a certain date, e.g., the 15th of the current month, to obtain a statewide estimate of the total dollar value of all cards to be issued during that month. The predicted card issuance estimate should be adjusted for significant factors (e.g., non-participation and manual issuance) to arrive at estimated statewide coupon issuance. For State supervised programs with decentralized ADP systems, the dollar value of the statewide ATP card issuance estimate may be based on ATP production data from a sampled number of project areas.

• States with automated mail issuance systems should use mail issuance lists of total coupon issuance as of a certain date and adjust the statewide estimate for significant factors (e.g., returned coupons) to obtain a projected total coupon issuance amount for the current month. For State supervised programs, the statewide coupon issuance estimate may be based on data from a sample number of project areas.

• States with manual HIR, ATP card production, or mail issuance system should project current month's coupon issuance based on coupon issuance data from sampled project areas.

• States that have more than one type of issuance system should choose the method(s) described above which provides the most accurate estimate.

2. *Previous Month's Estimated Coupon Issuance (Dollars).*—Recommended sources and methods of obtaining the dollar estimate of previous month's coupon issuance are:

• States with automated ATP card production systems should use actual coupons issued based on coupon inventory or issuance records States might selectively sample reporting points to obtain a sample estimate of issuance which would then be projected to the total state.

• States with automated ATP card production systems could also use the latest ATP production lists to obtain a statewide estimate of the total dollar issuance value of all cards issued last month. This estimate should be adjusted for significant factors (e.g., non-participation) to determine statewide coupon issuance. For State supervised programs with decentralized ADP systems, States might selectively sample project areas to project the dollar value of statewide ATP card issuance data.

• States with automated or manual mail issuance systems, manual ATP card production systems, or manual HIR systems should use actual coupons issued data based on coupon inventory or issuance records. States might selectively sample reporting points to obtain a sample estimate of the dollar value of issuance which would then be projected to the total State.

• States that have more than one type of issuance system should use the method(s) decribed above that provide the most accurate estimate.

3. *Current Month's Estimated Number of Participating People.*—If the State agency can estimate the number of households and can also estimate the average number of people per houshold based on historical data, it can then calculate number of people by multiplying these two numbers. If the State agency can estimate the average dollar issuance per person based on historical data, then it can calculate number of people by dividing total dollar issuance by average dollar issuance per person.

4. *Previous Month's Estimated Number of Participating People.*—The number of people who participated last month can be calculated in the same way that the current month's estimate of number of people is calculated.

5. *Current Month's Estimated Number of Participating Households.*—For States that use ATP card production lists in estimating coupon issuance, the number of households can be estimated based on the number of ATP cards issued. For States that use mail issuance production lists to estimate coupon issuance, the number of households might be estimated based on the number of households in the list. For States that use historical data to estimate dollar issuance, historical data might be used to estimate number of households.

6. *Previous Month's Estimated Number of Participating Households.*—For States that use ATP card production lists to estimate dollar issuance, the number of ATP cards issued can be used for estimating number of households. For States that use coupon inventory or issuance records, historical participation data can be used for estimating the number of households.

Since State systems vary, the regulations do not mandate a particular methodology. A State's estimation methodology should be based on the ability of the methodology chosen by the State to produce timely and accurate data on a consistent basis. States which have participated in the pilot testing of the FNS–388 report, as well as FNS national and regional representatives, will be available to assist other States in developing an effective estimation methodology.

Accuracy Standards

FNS proposes the following accuracy standards (deviations of the estimates from actuals) for the estimated issuance and participation data on the FNS–388 Report for States' use:

(1) *Standard for "Current Month" issuance and participation data.*—The current month statewide estimates for the coupon issuance amount (in dollars) and the participation figures (number of households and number of people) shall be within ± 4% of the actual amounts.

(2) *Standard for "Last Month" issuance and participation data.*—The last month statewide estimates for coupon issuance and participation shall be within ± 2% of the actual amounts.

On a monthly basis, FNS will measure the accuracy for coupon issuance by comparing the FNS–388 to the cumulative sum of line 19 from the FNS–250 reports from all issuance agents in the State. To measure the accuracy of the participation data, FNS will rely on the data available from the FNS–256 report.

Therefore, it will remain essential even after the introduction of the FNS–388 for timely and accurate reporting on the FNS–250 and FNS–256 reports. Late or inaccurate reports could cause a State to be out of tolerance with that month's accuracy standard for the FNS–388. Experience with the pilot States indicates that these accuracy standards can be met within one or two months of operating experience. However, FNS would like comment on the reasonableness of these standards. In developing comments, keep in mind the use to which the data will be put. Suggestions as to alternative data sources against which to measure the accuracy of the FNS–388 would also be of use.

Recommendations for State Automated Issuance Systems

FNS recognizes that the degree of automation and design of issuance systems varies from State to State. When the pilot States were developing their FNS–388 estimation procedures, FNS encouraged them to develop procedures that were most satisfactory for their particular issuance systems. For States that are currently modifying or developing new automated systems, FNS would like to present a design recommendation for State agency consideration. FNS believes that the State's implementation of this recommendation would enhance the State's capabilities to provide more accurate and timely FNS–388 estimates. Implementation of this recommendation might also assist the States to better manage and report on their food stamp program. FNS recommends that States include in their automated systems the capability to capture, sum and report by month on the amount of (1) issuance dollars, (2) participating people, and (3) participating households. To facilitate FNS–388 reporting, the automated system should be capable of capturing, summing, and reporting these data elements at the time the ATP cards or mail issuance authorizations are printed as well as after the full month's issuance transactions have occurred. If the States' automated system cannot capture and report on all three items, then it should report issuance dollars and either participating people or participating households, preferably participating people.

It is not expected that all automated systems be designed to include the totality of issuance authorizations during the month. Many States may supplement their automated systems with manually-produced ATP cards or other issuance authorizations at the local level. Such activity typically involves actions on new applications, returns, replacements, and changes, etc. The recommendation is not to design a system to preclude these types of supplementary activity which are outside the system.

Rather, the design recommendation is to simply have the capability to sum and report on the activity within the system. These totals will then have to be adjusted manually, to account for estimations of the volume of activity occurring outside the system, to arrive at the FNS–388 estimate of the current month totals. It at least provides a factual base for current month adjustments for this manual activity, rather than having to make that adjustment to an estimated base number.

States which are readily producing FNS–388 estimates that are within established accuracy standards may not need to implement this recommendation. Those states having difficulty meeting the accuracy standards may wish to consider implementing the recommendation, or requesting FNS assistance.

Form FNS–256 Reporting Requirement

Because the Department will be receiving monthly estimates of State participation, it will no longer need actual participation data for each project each month. The estimates on the FNS–388 will be sufficiently accurate for reports to Congress and the public. However, the Department does need occasional actual participation data by project areas for use in various trend projections, other studies, and to monitor periodically the accuracy of the FNS–388.

The Department, therefore, proposes that State agencies submit an FNS–256 report on a quarterly, rather than a monthly, basis. Starting in FY 1981, FNS–256 reports by project area would be due for the months of October, January, April, and July. However, FNS is not prepared to eliminate monthly participation data until assured of the accuracy of the estimates provided on the new FNS–388 report.

Therefore, a State agency must continue to submit actual monthly project level participation on the FNS–256 for the balance of FY 1980. FNS will compare these reports with the FNS–388 for the corresponding month. If the FNS–388 reports meets all accuracy standards set by FNS consistently for the months of June, July, and August the FNS Regional Office will approve future project area FNS–256 reporting on a quarterly basis starting no earlier than October 1980. Failure to meet the accuracy standards for the FNS–388 will necessitate continuance of the monthly project area FNS–256 report until the accuracy standards are met for three consecutive months. It is essential for this determination that States submit FNS–256 and FNS–250 reports on a timely basis. Late or incomplete reports may cause a State to fail the accuracy standards and delay Regional Office approval for the reduced FNS–256 reporting system. States may, if they choose, continue to receive participation data from their project areas on a monthly basis for their internal use. (A copy of a revised FNS–256 report is attached for comment).

Implementation

FNS proposes that all States will submit the Form FNS–388 for the month following the effective date of the final regulations. State estimation procedures would have to be submitted to the Regional Office prior to submitting the first report. State agencies already participating as pilot States need not resubmit their procedures.

Therefore, it is proposed that 7 CFR Part 274 by amended by revising § 274.8(a)(6) to read as follows:

PART 274—ISSUANCE AND USE OF COUPONS

§ 274.8 State agency reporting and destruction of unusable coupons.

(a) *State agency reporting.* * * *

(6) The State agency shall report on coupon issuance and participation on the Food Stamp Program as follows:

(i) The State agency shall mail the FNS–388, State Coupon Issuance and Participation Estimates to the FNS Regional Office by no later than the 19th of each month. The FNS–388 shall contain statewide estimates of the dollar value of coupons issued, and estimates of the number of households and persons who have participated based on State estimating procedures evaluated by FNS as required in paragraph (a)(6)(ii) of this section. The FNS–388 shall contain estimates for the current month and revised estimates for the preceding month and shall be signed by a designated State agency official. The State agency shall telephone the FNS–388 data to the appropriate Regional Office on the 19th of each month, prior to mailing the report to that office. When the 19th falls on a weekend or holiday the FNS–388 data shall be reported by telephone and mailed on the first working day after the 19th.

(ii) The State agency shall submit the estimation procedures to be used in producing the FNS–388 to the FNS Regional Office for review and comment. The estimation procedures shall be documented by the State agency in a manner prescribed by FNS. FNS shall monitor on a monthly basis the accuracy of the estimated dollar value of coupons issued as reported on the FNS–388 against the total dollar value of coupons issued as reported by the State agency for all issuance agents on the Forms FNS–250 for the corresponding month. FNS shall monitor periodically the accuracy of the estimated numbers of households and persons participating as reported on the FNS–388 against the actual total participation for all project areas as reported on the FNS–256 for the corresponding month. Current month's Estimates shall be within ± 4% and previous month's estimates shall be with ± 2% of actual amounts. If the degree of accuracy falls outside of these tolerances. FNS shall notify the State agency and assist the State agency in revising its estimation procedures to improve the degree of accuracy in no event shall the failure to meet these tolerance result in an administrative or fiscal sanction against the State agency FNS may require resumption of monthly project area reporting on the FNS–256 by withdrawing its approval in paragraph (a)(6)(iii) of this section if the State agency refuses to improve its estimating procedures or fails to meet the tolerances for bonus dollars for 3 consecutive months.

(iii) The State agency shall mail to the FNS Regional Office the Form FNS–256, Project Area Participation and Coupon Issuance, for each project area by the 45th day following the end of the report month. The FNS–256 shall contain each project's area's actual participation by the number of households and persons and the dollar value of coupons actually issued. The State agency shall submit an FNS–256 monthly for each project area until September 1980 or until approved by the FNS Regional Office to discontinue monthly reporting, whichever is later. If the State agency achieves the degree of accuracy on the FNS–388 specified in paragraph (a)(6)(ii) of this section for at least three consecutive months for "current" and "previous" months and for all three categories of bonus dollars, persons, and households, the FNS Regional Office shall notify the State agency that it may, starting in October 1980, discontinue the FNS–256 as a monthly report. Thereafter, the State agency shall submit the FNS–256 for the months of October, January, April, and July.

* * * * *

Note.—Form FNS–256 is being revised to incorporate the requirements of this amendment and will be forwarded to the Office of Management and Budget for approval in accordance with Federal Reports Act of 1942. In addition, Form FNS–388 is proposed and will be forwarded to the Office of Management and Budget for approval.

The forms are shown for information purposes and will not appear in the Code of Federal Regulations.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs No. 10.551 Food Stamps)

Dated: May 19, 1980.

Carol Tucker Foreman,

Assistant Secretary.

BILLING CODE 3410–30–M

OMB NO. _____

FORM FNS-256, PROJECT AREA PARTICIPATION
AND COUPON ISSUANCE
(FOOD STAMP PROGRAM)

(1) STATE: _____
(2) NAME OF PROJECT AREA: _____
(3) PROJECT CODE: _____
(4) REPORT MONTH AND YEAR: _____
(5) ☐ ORIGINAL SUBMISSION OR
_____ REVISION
(No.)

Due Date: Mail the original and one copy to the FNS Regional Office as soon as possible after the last day of the report month, but no later than 45 days following the last day.

INSTRUCTIONS ON COMPLETION OF THIS FORM ARE FOUND ON THE BACK OF THE LAST COPY.

(6) VALUE OF COUPONS ISSUED:
(In ATP States, include
all transacted ATP cards) $_____

(7) TOTAL PARTICIPATION:

a. Number of households: _____

b. Number of persons: _____

REMARKS:

(8) I CERTIFY THAT THIS REPORT IS CORRECT ACCORDING TO THE RECORDS OF THIS OFFICE.

DATE: _____

NAME OF AUTHORIZING OFFICIAL: _____

TITLE OF AUTHORIZING OFFICIAL: _____

Original - National Office
Copy 1 - Regional Office
Copy 2 - State Agency
Copy 3 - Project Area

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FORM FNS-256
PROJECT AREA PARTICIPATION AND COUPON ISSUANCE
(FOOD STAMP PROGRAM)

Form FNS-256 shows participation and coupon issuance in the Food Stamp Program on a project area level for a one month period of time. State agencies submit the report quarterly for each project area in their State. The FNS-256 shall be submitted for the months of January, April, July, and October.

General Instructions

Data to be used in preparing this report must come from ATP cards transacted by households in the reporting project area, HIR cards used by the project area to provide issuance during the month, or mail issuance data if direct mail issuance is employed. In States using ATP issuance systems, the following procedures shall be used to determine how transacted ATPs shall be counted:

1. Altered, counterfeit, duplicate, expired and stolen ATPs shall be included.

2. Duplicate ATPs shall count as one transaction; however, the value of all coupons issued as a result if these cards' transaction shall be included in item 6.

3. Transacted, out-of-State ATP cards shall be counted as participation in the State agency and the value of coupons issued included in item 6.

4. ATPs issued after the 25th of the month shall be counted in the month transacted.

5. Out-of-project ATP cards shall be counted.

6. Disaster issuances shall be counted.

Item 1: Enter the name of the State.

Item 2: Enter the name of the project area.

Item 3: Enter the project code.

Item 4: Enter the report month and year, i.e., the month for which the data is collected. (January, April, July, October)

Item 5: Check if the report is an original submission or enter the number if it is a revision.

Item 6: Enter the total dollar value of coupons issued that month.

Item 7a: Enter the total number of households that participated in the Food Stamp Program in the project area during the report month.

Item 7b: Enter the total number of persons that participated in the project area during that month.

Item 8: Enter the date on which the report is submitted and the signature and title of the authorizing official.

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FORM FNS - 388
STATE COUPON ISSUANCE
AND PARTICIPATION ESTIMATES

DATE: _____ (A)

STATE: _____ (B)

Instructions for completing this form are contained on the reverse of "Copy 1 - State Agency Copy".

	CURRENT MONTH	PREVIOUS MONTH
	Column A	Column B
1. Month/Year	(C)	(D)
2. Estimated Coupon Issuance (Dollars)	(E)	(F)
3. Estimated Number of Participating People	(G)	(H)
4. Estimated Number of Participating Households	(I)	(J)

5. Remarks: (Optional) (K)

Due Dates: States telephone and mail this report to the regions no later than close of business on the nineteenth of the month.

SIGNED: _____ (L)

TITLE: _____ (M)

Original - Regional Office Copy.
Copy 1 - State Agency Copy

FORM FNS-388
STATE COUPON ISSUANCE AND PARTICIPATION ESTIMATES
(FOOD STAMP PROGRAM)

Instructions

General: Form FNS-388 is a report of coupon issuance and participation in the Food Stamp Program. Each State agency completes and submits the report once a month. The report shows an estimate of statewide totals for the current month, and a revised estimate for the preceeding month.

All dollar and participation numbers should be provided to the nearest hundred.

Due Date: By the 19th of each month, phone data to the appropriate FNS Regional Office Financial Manager, and mail the original to the FNS Regional Office.

Entering Data: Each block of the Form FNS-388 should be completed in accordance with the following instructions:

Item (A): Show the date the form is completed.

Item (B): Show the State (name) for which the report is completed.

Item (C): Show the month and year of the current month (e.g., 1/80).

Item (D): Show the month and year of the preceeding month (e.g., 12/79).

Item (E): Show the dollar estimate of total coupon issuance for your State for the current month, developed in accordance with prescribed State estimating procedures provided to FNS.

Item (F): Show the revised dollar estimate of total coupon issuance for the preceeding month, using prescribed State procedures.

Item (G): Show the estimate of people participating in the current month.

Item (H): Show the revised estimate of the number of people that participated in the preceeding month.

Item (I): Show the estimated number of households participating in the current month.

Item (J): Show the revised estimate of the number of households that participated in the preceeding month.

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Item (K): At State agency option, provide an explanation of any unusual circumstances that have caused issuance and/or participation data to change significantly since the last FNS-388 report.

Item (L): The FNS-388 should be signed by the person responsible for completing the report.

Item (M): Show the title of the person completing the report.

[FR Doc. 80-16033 Filed 5-23-80; 8:45 am]
BILLING CODE 3410-30-C

Food Safety and Quality Service

7 CFR Part 2856

Voluntary Grading of Shell Eggs; Advance Notice of Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Food Safety and Quality Service announces the completion and availability from the Department of Agriculture, upon request, of a document, "Advance Notice of Proposed Rulemaking," setting forth possible changes in its Regulations Governing the Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 2856). Prior to making a final proposal, the Agency is seeking public comments on the material contained in the "Advanced Notice of Proposed Rulemaking."

DATE: Comments must be received on or before August 25, 1980.

ADDRESS: Request for copies of the document, "Advance Notice of Proposed Rulemaking," to: Ashley R. Gulich, Chief, Poultry Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. (Copies provided without charge.)

Written comments on the "Advance Notice of Proposed Rulemaking" to: Executive Secretariat, ATTN: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, DC 20250. (For additional information on comments, see supplementary information.)

FOR FURTHER INFORMATION CONTACT: Ashely R. Gulich, Chief, Poultry Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3506.

SUPPLEMENTARY INFORMATION:

Comments

Interested parties are invited to submit comments and information regarding the "Advance Notice of Proposed Rulemaking." Written comments must be sent in duplicate to the Executive Secretariat. Comments should bear reference to the date and page number of this issue of the **Federal Register**. All comments submitted will be made available for public inspection in the office of the Executive Secretariat during regular business hours. (7 CFR 1.27(b))

The Department needs all available information on the proposed changes, favorable or otherwise, including potential economic impact. To be of maximum value to the Department, the comments should be as specific as possible and contain supporting data. For example, being for or opposed to a change is of little value unless the reasons are given and the impact is indicated.

Background

The proposed changes are prompted by an evaluation by the Food Safety and Quality Service of the effectiveness of its shell egg standards in today's marketplace. "Checks" are an unavoidable problem in the marketing of eggs because eggs cannot be assembled, graded, packed, transported, and merchandized without some breakage. The "checked" eggs resulting from these operations and the percentage of such eggs permitted pose a problem in meeting the present standards. The Agency believes that changes could be made which would reflect present-day technology in the production, processing, and marketing of eggs; simplify the grading system by reducing the number of grades; and enhance the uniform application of grade standards.

The purpose of this "Notice of Availability" is to inform interested parties of the availability of the "Advance Notice of Proposed Rulemaking" and to invite comment. Briefly, the changes under consideration would:

1. Increase the tolerance for Checks in U.S. Consumer Grade A eggs at destination.
2. Increase the percentage of A quality or better eggs required in U.S. Consumer Grade A at origin and destination.
3. Eliminate the C quality classification.
4. Eliminate U.S. Grade AA and Fresh Fancy Quality, the U.S. Procurement Grades, and the three lower U.S. Wholesale Grades. (The proposed change to eliminate U.S. Grade AA is not associated with the Department's current study to determine consumer perceptions of USDA grades and the food grading program.)

Other minor changes, some primarily of a housekeeping nature, are also under consideration.

Distribution of the "Advance Notice of Proposed Rulemaking" is being made to State Departments of Agriculture, shell egg plants using USDA's voluntary grading service, poultry trade associations, other interested parties who are listed to receive changes in the shell egg regulations, and consumer organizations.

Done at Washington, D.C., on May 20, 1980.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 80-16017 Filed 5-23-80; 8:45 am]
BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[Docket No. PRM-2-7]

Wells Eddleman; Notice of Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is hereby denying a petition for rulemaking (PRM-2-7) submitted by Mr. Wells Eddleman. The petitioner had requested the Commission to amend its regulations to provide that a person or corporation newly arrived in the vicinity of a nuclear power plant, or an organization formed after the deadline for intervention, be deemed to have shown good cause for the late filing of a petition for leave to intervene.

FOR FURTHER INFORMATION CONTACT: Bruce A. Berson, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7678.

SUPPLEMENTARY INFORMATION: The petition for rulemaking (PRM-2-7) submitted by Mr. Wells Eddleman, Rt. 1, Box 183, Durham, North Carolina requested the Nuclear Regulatory Commission to amend its regulations, "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2, 2.714(a)(1)(i) relating to what constitutes good cause for a late filed petition to intervene. The suggested amendment would, in petitioner's view, explicitly recognize and permit a person or corporation newly arrived in the vicinity of a nuclear power plant or an organization formed after the deadline for intervention to petition with good cause for the late filing to intervene. While petitioner asserts that it is his belief that "good cause" already includes the fact of recent arrival or formation of an organization, the amendment is offered to make this explicit and to possibly gain for this petitioner standing in a proceeding in which his late filed petition to intervene

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was denied for failure to show good cause.

Specifically, the petitioner requests that the Commission amend § 2.714 of 10 CFR 2 as follows, replacing section (a)(1)(i) with this wording: (i) Good cause if any, for failure to file on time. Good cause shall include acquiring an interest in the proceeding, particularly by exercising Constitutional rights (e.g., free movement), after the deadline for filing, provided such acquisition of interest was not primarily intended to give cause for leave to intervene. Further, any organization formed after the deadline for intervention but without the express intent to circumvent the filing deadline by so organizing, and any corporate person moving into the vicinity of a nuclear power plant a significant office, factory or moveable property shall also be considered as having good cause for nontimely filing.

A notice of filing of the petition requesting comments by April 9, 1979 was published in the **Federal Register** on February 8, 1979 (44 FR 8043–44). Twenty-one comments were received. Six comments, of which five were from private citizens including the petitioner himself and one from an environmental group, were in support of the petition. Fifteen comments, of which nine were from private citizens, three from utilities, two from law firms, and one from an officer of an academic institution, opposed the proposed rule change. Those in favor of the proposed rule change generally believed that their rights as citizens were abridged by not being permitted to participate in a nuclear licensing proceeding—no matter how late their entry. Those opposed to the proposed rule change argued that it was unnecessary (that the existing rules already permit late intervention upon a proper balancing of factors), potentially disruptive to licensing proceedings, likely to delay or obstruct licensing without corresponding benefit to public, and contrary to proper adjudicatory process. The petition and comments are available for public inspection at the NRC Public Document Room at 1717 H Street NW., Washington, D.C.

Since its inception, the Commission has recognized the need for and desirability of effective public participation in the nuclear power plant licensing process. At the same time, the Commission is concerned with and responsible for efficiency in the Commission's adjudicatory process. In that connection, the Commission believes that unnecessary or inappropriate delays should be avoided whenever possible in the conduct of public hearings.

The Licensing Boards and Appeal Boards are well aware of their duty to maintain the integrity of the Commission's regulations as to the efficient conduct of its proceedings while carrying out the Commission's expressed interest and objective of affording public participation in the licensing process. The Commission continues to believe that the initial decision whether to grant or deny late intervention is most properly made by the presiding officer or licensing board designated to rule on the petition and that the existing factors set forth in 10 CFR § 2.714 are sufficient guidance in arriving at that decision. When a Board rules on a late petition for intervention and applies these factors, it is making a determination which is heavily dependent on the facts and circumstances of the particular case. The following factors are to be balanced in reaching a decision whether a late filed petition to intervene should be granted: (1) good cause, if any, for failure to file on time; (2) the availability of other means whereby the petitioner's interest will be protected; (3) the extent to which petitioner's participation may reasonably be expected to assist in developing a sound record; (4) the extent to which petitioner's interest will be represented by existing parties; and (5) the extent to which the petitioner's participation will broaden the issues or delay the proceeding. In addition, the following factors are also to be considered: (1) the nature of petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest.

It is well established that the adjudicatory process, whether before the courts or administrative tribunals, must be conducted in a manner to assure the integrity and orderly dispatch of the proceeding, to avoid undue delay or prejudice to the rights of existing parties and to permit finality in the process. The consequences of the proposed rule change—which would permit late intervention in an NRC proceeding to a person or corporation simply on the basis of recent arrival in the vicinity of a nuclear power plant site, or to an organization on the basis of its recent formation—would be decisions whose certainty and finality would be open to question and an adjudicatory process which could not be conducted in an orderly and expeditious manner.

The Commission has therefore concluded that the "good cause" requirement of 10 CFR § 2.714(a)(1)(i) should not be amended to explicitly encompass the situation of a newly arrived resident or newly formed organization in the vicinity of a nuclear power plant. This, by itself, does not, in the Commission's view, automatically establish good cause to permit late intervention. Late intervention by a newly arrived person or newly formed organization may be granted, however, upon full consideration of the factors set forth in 10 CFR § 2.714.

In his petition, petitioner also states that: "I personally have an interest in this proceeding because I unwittingly moved close to a nuclear plant site in 1977 (12 August), and wish to be afforded the same opportunity to petition to intervene as anyone who was living in the area when the plant was proposed or its initial hearings held. I do not ask any suspension of any proceedings. I do request that should this proposed rule be adopted in whole or in part it be applied to my case retroactively to this date or to the date of filing of any petitions to intervene which makes a point of late intervention by exercise of Constitutional rights etc. as specified in my proposed rule, including the right to a rehearing based on this proposed rule if and when it is made part of 10 CFR 2."

The proceeding to which petitioner refers is *Carolina Power and Light Co.*, Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4, Dkt. Nos. 50–400, 401, 402, and 403. Our determination on the proposed rule renders moot petitioner's request for retroactivity.

In view of the foregoing, the Commission has denied the petition for rule making filed by Wells Eddleman on January 4, 1979. A copy of the Commission's letter of denial is available for public inspection at the NRC Public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Washington, D.C., this 20th day of May, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-15950 Filed 5-23-80; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Premiums, Finders Fees and the Payment of Dividends in Merchandise

AGENCY: National Credit Union Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Depository Institutions Deregulation Commttee ("Committee") has proposed to adopt a rule concerning the offering of premiums or gifts by banks and savings and loan associations. The National Credit Union Administration is requesting comments on whether, and to what extent, the Committee's proposal should be made applicable to Federal credit unions. Under the Committee's proposed rule, if made applicable to Federal credit unions, the giving to a member of a premium or gift (whether in the form of cash or merchandise) by a Federal credit union associated directly with the purchase of shares would be prohibited. In addition, finders fees paid to third parties would be regarded as the payment of dividends to the member and would be required to be paid only in cash. The NCUA Board also is considering adoption of a proposed rule that would require that all dividends paid on shares be paid only in the form of cash or a credit to a share or share certificate account. This rule would also codify present NCUA policy of prohibiting the prepayment of dividends in the form of merchandise.

DATES: Comments must be received by June 23, 1980.

ADDRESS: Interested parties are invited to submit written data, views or comments regarding the proposed rules to Robert S. Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel or Todd A. Okun, Senior Attorney (both at 202–357–1030), Office of General Counsel, National Credit Union Administration.

SUPPLEMENTARY INFORMATION: Under the current policies of this Administration (and the other Federal financial regulatory agencies), a premium given to a member upon the opening of a new account or an addition to an existing account is not regarded as the payment of a dividend if the cost of the premium (excluding shipping and packaging costs) does not exceed $5 for share purchases of less than $5,000 and $10 for share purchases of $5,000 or more, and the premium is not given on a recurring basis to the same individual. (Administrator's Letter, July, 1978)

The following is the Committee's description of the pertinent issues about which comments are solicited concerning their applicability to Federal credit unions:

"In recent months, the attention of the Federal financial institutions regulatory agencies has been directed to possible circumvention of interest rate limitation through the use of premiums to induce deposits and finders fees paid to a person who introduces a depositor to an institution. Such programs require a substantial amount of examiner time investigating complaints and reviewing compliance. The current premium rule was adopted by the agencies in 1970 in order to establish what constituted a *de minimis* gift that would not be regarded as the payment of interest. It was intended that the rule would clarify this matter and reduce time spent by the agencies in reviewing individual programs. However, in practice the rule is difficult to enforce because it can be circumvented by attributing an inflated portion of the total cost of the premium to shipping and packaging, rather than to the direct wholesale cost of the premium. In addition, some institutions may have been billed at an average cost for a group of different items, thus enabling the institutions to provide premium that would otherwise exceed the limitations. Consequently, the existing rule does not appear to have served its original purpose.

"Finders fees, whether in the form of cash or merchandise, are fees paid to a person who introduces a depositor to an institution. The finders fee is typically related to the size of the deposit received by the institution. Under the current rules of the FHLBB, the cost of any premiums given to a depositor and finders fees given to a third party are regarded as the payment of interest if in excess of $5 for deposits of less than $5,000 and $10 for deposits of $5,000 or more. The rules of the FDIC and Federal Reserve do not restrict the use of finders fees paid to third parties. However, if any portion of the fee is passed on to the depositor or a member of the depositor's household, it is regarded as additional interest on the deposit.

"Recently, banks have increased use of finders fees to attract deposits. There are indications that finders fees are being employed to avoid current premium limitations and that some or all of such fees may go to the depositor. To the extent that such a practice occurs, it results in a circumvention of interest rate ceilings.

"In view of these considerations, the Committee is considering adoption of a rule that would prohibit the giving to a depositor of a premium or gift (whether in the form of cash or merchandise) upon the opening of a new account or an addition to an existing account. The Committee also is considering adoption of a rule that would require that all finders fees be paid only in cash and that would regard such fees as the payment of interest to the depositor for the purpose of deposit rate ceilings. With reference to finders fees, comment specifically is requested on the extent to which such fees are passed on to or shared with depositors and procedures utilized to ensure that such fees are not passed on to depositors.

"Comment also is requested on alternatives to prohibiting the use of premium.

"The Committee also is considering adoption of a rule that would require that all interest paid on a deposit be paid only in the form of cash or a credit to a deposit account. The Committee believes that this rule would benefit consumers by making the amount of interest paid on a deposit explicit, thus facilitating comparisions by depositors and reducing potential customer confusion as to the actual return earned on a deposit. This rule would have the effect of eliminating programs, currently authorized under FDIC and Federal Reserve rules, in which interest is prepaid in the form of merchandise. Comment also is requested on whether the prepayment of interest in cash should be prohibited."

All comments and information on these proposals should be submitted to Robert S. Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456, to be received by June 23, 1980. Material submitted will be made available for inspection and copying upon request except as provided in section 720 of NCUA Rules and Regulations (12 CFR § 720).

Rosemary Brady,

Secretary to the Board.

May 20, 1980.

[FR Doc. 80-15931 Filed 5-23-80; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 590

[No. 80-287]

Mobile Home Loan Consumer Protection Provisions

Correction

In FR Doc. 80–14577, appearing at page 31122 in the issue for Monday, May 12, 1980, on page 31123, in the third column, in § 590.4, between paragraph (a) and paragraph (i) insert the following:

(1) *Prepayment.* A "prepayment" occurs upon—

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-WE-6]

Proposed Alteration of Transition Area, Reno. Nev.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter a portion of the transition area at Reno, Nevada, so as to provide controlled airspace for the increased volume of air traffic using routes east and southeast of South Lake Tahoe.

DATE: Comments must be received on or before June 26, 1980.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. Telephone (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, Telephone: (213) 536-6182.

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. All communications received on or before June 26, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California, 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Drafting Information

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

The Proposal

The FAA is considering an amendment to Subpart G or Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter the Reno, Nevada transition area. This action will provide controlled airspace protection for IFR operations east and southeast of South Lake Tahoe.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

§ 71.181 Reno, Nevada [Amended]

Following "* * * longitude 119°00'00" W.," * * * " add "that airspace extending upward from 12,300 feet MSL within 10 miles east of the Reno, Nevada VORTAC 173° radial and westerly to the east edge of V-165 extending from the 45 mile radius of the Reno VORTAC to the north edge of V-244; * * *."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Los Angeles, California on May 14, 1980.

W. R. Frehse,

Acting Director, Western Region.

[FR Doc. 80-15987 Filed 5-23-80 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1512

Proposed Amendments to Bicycle Safety Requirements: Retroreflective Rims

Correction

In FR Doc. 80-15195, published at page 32705, on Monday, May 19, 1980, on page 32706, in the first column, under **Dates,** the second sentence should be corrected to remove the date and read as follows: "The amendments are proposed to become effective 30 days after their publication in final form in the **Federal Register.**"

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 270

[Docket No. RM80-52]

Advance Payments Under the Natural Gas Policy Act of 1978; Correction

May 20, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Erratum notice.

SUMMARY: This notice contains a correction of the Notice of Proposed Rulemaking issued in Docket No. RM80-52 on April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fink, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8111, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-9460.

SUPPLEMENTARY INFORMATION: In the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking issued on April 23, 1980, entitled Advance Payments Under the Natural Gas Policy Act of 1978 (45 FR 28345, April 29, 1980) the section number

of the proposed rule should be corrected to read "§ 270.208."

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-15973 Filed 5-23-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 331

[Docket No. 79N-0433]

Antacid Drug Products for Over-The-Counter Human Use; Proposed Amendment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the administrative procedures by which persons might request and be granted a modification of the in vitro test for over-the-counter (OTC) antacid drug products. This action is taken to make these procedures conform to the agency's current administrative regulations and to clarify the procedure for submitting such a request.

DATES: Comments by July 28, 1980.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD—510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 4, 1974 (39 FR 19862), FDA issued the final order for OTC antacid drug products generally recognized as safe and effective and not misbranded (21 CFR Part 331). This order was issued under § 330.10 of the OTC drug review procedures (21 CFR 330.10) promulgated in the **Federal Register** of May 11, 1972 (37 FR 9464) and was based on the conclusions and recommendations of the Advisory Review Panel on OTC Antacid Drug Products.

Section 331.29 (21 CFR 331.29) of the antacid monograph contains provisions for seeking a modification of the in vitro testing procedures set forth in Subpart C of Part 331 (21 CFR Part 331). The regulation currently requires that any proposed modifications and the data to support them be submitted to the Assistant Director for Implementation, OTC Drug Products Evaluation Staff, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, for approval before use. Because of a reorganization within the Bureau of Drugs since this final order was published, there is no such position at the present time. Also, the current regulation does not explain how requests for test modifications will be processed by the agency.

It is the purpose of this proposed amendment to indicate that the request for, and data in support of, proposed modifications of the in vitro testing procedures should be submitted to the office of the Hearing Clerk in the form of a citizen petition under the procedures established in the agency's general administrative regulations § 10.30 (21 CFR 10.30). Consistent with the procedures under § 10.30, the agency will notify the petitioner in writing whether the petition is granted or denied. It is the intention of FDA that the authority to grant or deny petitions seeking modification of the vitro testing procedures in 21 CFR Part 331 be redelegated from the Commissioner of Food and Drugs to the Director or Deputy Director of the Division of Over-The-Counter Drug Evaluation. Therefore, final regulations issued under this proposal will include a redelegation of authority under Subpart B of Part 5 (21 CFR Part 5).

The proposed procedure in which any request for a test modification is to be submitted as a petition to the office of the Hearing Clerk is in keeping with the public nature of the OTC drug review. Similarly, any decisions regarding such a petition will be placed on public display.

The Food and Drug Administration has determined that under 21 CFR 25.24(b)(12) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposed action is of a type that does not have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1)), it is proposed that Part 331 be amended by revising § 331.29, to read as follows:

§ 331.29 Test modifications.

The formulation or mode of administration of certain products may require modification of this in vitro test. Any proposed modification and the data to support it shall be submitted as a petition under the rules established in § 10.30 of this chapter. All information submitted will be subject to the disclosure rules in Part 20 of this chapter.

Interested persons may, on or before July 28, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-15979 Filed 5-23-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-059]

Drawbridge Operation Regulations; Barnegat Bay, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard will consider changing the regulations governing the operation of the Route 37 drawbridge across Barnegat Bay, mile 14.1 of the Intracoastal Waterway of New Jersey, at Island Heights, New Jersey to allow the draw to remain closed to marine traffic from 11 p.m. to 7 a.m. during the months of December, January, February

and March. The New Jersey Department of Transportation has made this request due to infrequent openings during the aforementioned period. If the Department's request is granted, it will be relieved of the expense of providing full-time drawtenders during these hours while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before July 1, 1980.

ADDRESS: Comments should be submitted to and are available for examination during normal business hours at the office of the Commander(oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, N.Y. 10004 (212–668–7165).

FOR FURTHER INFORMATION CONTACT:
William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg., 135A, Governors Island, N.Y. 10004 (212–668–7165).

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rulemaking by submitting views, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed envelope or postcard. The Commander, Third Coast Guard District, will evaluate all communications and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager, and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of the Proposed Regulations

The Route 37 drawbridge provides access for vehicular traffic over Barnegat Bay between Seaside Heights and Island Heights. An investigation conducted by the Commander(oan-br), Third Coast Guard District revealed that there were only two openings of the draw between the hours of 11 p.m. and 7 a.m. during the months of December, January, February and March of 1977, 1978 and 1979. Present regulations require that the draw shall open on signal except from 10 a.m. to 2 p.m. on Saturdays, Sundays, and holidays from memorial Day through Labor Day, when it need open only on the hour and half hour.

In consideration of the foregoing, it is porposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.220(p) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(p) Route 37 Bridge across Barnegat Bay. The draw shall open on signal except:

(1) From 11 p.m. to 7 a.m. during the months of December, January, February and March the draw need not open to navigation; and

(2) From 10 a.m. to 2 p.m. Saturdays, Sundays, and holidays, from Memorial Day through Labor Day the draw need only open on the hour and half hour, except that it shall open at any time for the passage of vessels with tows during such periods.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80–16029 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 80–060]

Drawbridge Operation Regulations; Cheesequake Creek, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard will consider changing the regulations governing the operation of the Route 35 drawbridge across Cheesequake Creek, mile 0.0, at Morgan, New Jersey, to allow the draw to remain closed to marine traffic from 11 p.m. to 7 a.m. daily during the months of December, January, February, and March. The New Jersey Department of Transportation has made this request because of infrequent openings during the aforementioned period. If the Department's request is granted, it will be relieved of the expense of providing full-time drawtenders during these periods while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before July 1, 1980.

ADDRESSES: Comments should be submitted to and are available for examination during normal business hours at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, N.Y. 10004 (212–668–7165).

FOR FURTHER INFORMATION CONTACT:
William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg. 135A, Governors Island, N.Y. 10004 (212–668–7165).

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rulemaking by submitting views, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed envelope or postcard. The Commander, Third Coast Guard District, will evaluate all communications and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager, and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of the Proposed Regulations

The Route 35 drawbridge provides access for vehicular traffic over Cheesequake Creek between Lawrence Harbor and South Amboy. An investigation conducted by the Commander(oan-br), Third Coast Guard District, revealed that there were no openings of the draw between the hours of 11 p.m. and 7 a.m. during the months of December, January, February, and March of 1977, 1978, and 1979. Present regulations require that the draw need only open on the hour from May 15 to October 15 between 7 a.m. and 7 p.m.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulation be amended by revising § 117.215(j)(4) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

* * * * *

(j) The general regulations contained in paragraphs (a) to (g) inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in this paragraph.

* * * * *

(4) Route 35 drawbridge across Cheesequake Creek at Morgan, South Amboy, N.J. The draw shall open on signal except:

(i) From 11 p.m. to 7 a.m. daily during the months of December, January, February, and March where the draw need not open to navigation; and

(ii) From 7 a.m. to 7 p.m. from May 15 through October 15 the draw need only open on the hour.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

R. I. Price,

Vice Admiral, U. S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 80–16030 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 80–058]

Drawbridge Operation Regulations; Manasquan River, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard will consider changing the regulations governing the operation of the Route 70 drawbridge across the Manasquan River, mile 3.4 at Brielle, Monmouth County, New Jersey to allow the draw to remain closed to marine traffic daily from 11 p.m. to 7 a.m. The New Jersey Department of Transportation has made this request due to infrequent openings during these hours. If the Department's request is granted, it will be relieved of the expense of providing full-time drawtenders during these hours while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before July 1, 1980.

ADDRESS: Comments should be submitted to and are available for examination during normal business hours at the office of the Commander(oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, New York, N.Y. 10004 (212–668–7165).

FOR FURTHER INFORMATION CONTACT:
William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg. 135A, Governors Island, N.Y. 10004 (212–668–7165).

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rulemaking by submitting views, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed postcard or envelope. The Commander, Third Coast Guard District will evaluate all communications and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager, and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of the Proposed Regulations

The Route 70 drawbridge provides access from Point Pleasant north to Brielle, New Jersey for vehicular traffic. The number of openings during the hours of 11 p.m. to 7 a.m. decreased from twelve in 1977 to four in 1979. Present regulations require the draw to open on signal if at least 12 hours advance notice is given from December 1 to March 31.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.225(f)(6) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

* * * * *

(6) Route 70 Bridge across the Manasquan River at Brielle, Monmouth County, New Jersey. From 11 p.m. to 7 a.m. daily the draw need not open to navigation. At all other times the draw shall open on signal.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80–16028 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: This Office proposes changes to its procedural regulations to comply with Exec. Order No. 12044 "Improving Government Regulations" (43 FR 12661 (March 24, 1978)). The purpose of the proposed revisions is to update, reduce, and simplify language and to delete those provisions which are no longer needed.

DATE: Comments must be received on or before July 28, 1980.

ADDRESS: Send comments to: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT:
Sara Russell, Attorney Advisor, Hearings Division, Office of Hearings and Appeals, (703) 557–9200.

SUPPLEMENTARY INFORMATION: Exec. Order No. 12044 directs each executive agency to adopt procedures to improve existing and future regulations. Among other things, agencies are charged with reviewing and revising existing regulations to make them as simple and clear as possible and to eliminate those that are no longer necessary. To comply with the directive, this Office established a Rules Committee to review and revise in toto its procedural regulations. Although the work of the committee is ongoing, at this time we propose changes to the following subparts of 43 CFR Part 4: Subpart A: Language is to be updated, reduced, and simplified. No substantive changes are proposed.

Subpart B: The general rules now existing is Subpart B (there are very few) are being included, where needed, in the several subparts of 43 CFR Part 4 so that each subpart can stand alone. When this is done Subpart B will be deleted.

Subpart H: These rules will be deleted to comply with Exec. Order No. 12086, which transfers all functions under Exec. Order No. 11246, *as amended* by Exec. Order No. 11375, to the Department of Labor.

Subpart I: Language is to be updated. No substantive changes are proposed.

Subpart K: These rules will be deleted because the deadline for disenrollment

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contest review (October 1, 1978) has passed (*see* 25 CFR 43h.15(h)).

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendments.

The principal author of the proposed revisions is Ms. Sara Russell, Attorney-Adviser, Hearings Division, Office of Hearings and Appeals, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Exec. Order No. 12044 and 43 CFR Part 14.

Dated: May 21, 1980.

Ruth R. Banks,

Director, Office of Hearings and Appeals.

1. It is proposed to revise Subpart A of Part 4 of Title 43 of the *Code of Federal Regulations* as follows:

Subpart A—General; Office of Hearings and Appeals

Sec.

4.1 Scope of authority.
4.2 Rules governing hearings and appeals procedures.
4.3 Membership of Appeals Board; decisions, functions of chief judges.
4.4 Representation before the Office of Hearings and Appeals.
4.5 Power of the Secretary and Director.
4.6 Public records; locations of field offices.

Subpart A—General; Office of Hearings and Appeals

§ 4.1 Scope of authority.

The Office of Hearings and Appeals, headed by a Director, is an authorized representative of the Secretary for the purpose of hearing, considering, and determining, as fully and finally as might the Secretary, matters within the jurisdiction of the Department involving hearings, appeals, and other review functions of the Secretary (the organization of the Office of Hearings and Appeals and the authority delegated by the Secretary to the Director and other principal officials of the Office are set forth in Part 211, Chapter 13, of the Departmental Manual). Principal components of the Office include:

(a) A Hearings Division comprised of Administrative Law Judges who are authorized to conduct: (1) Hearings in cases required by law to be conducted pursuant to 5 U.S.C. 554 (1976); (2) hearings in Indian probate matters; and (3) hearings in other cases arising under statutes and regulations of the Department, including rulemaking hearings.

(b) Several Appeals Boards, described below, with administrative review jurisdiction.

(1) *Board of Contract Appeals.* The Board is authorized to exercise the authority granted to agency Boards of Contract Appeals by the Contract Disputes Act of 1978, Pub. L. 95–563, in deciding appeals from findings of fact, decisions, or failure to issue timely decisions by contracting officers of any bureau or office of the Department, wherever situated, or any field installation thereof, and order and conduct hearings as necessary with respect to cases under the Contract Disputes Act of 1978. The Board, as previously authorized by DM Release #2122 dated October 20, 1978, may continue to exercise the authority previously delegated to it with respect to those contract cases which are not subject to the provisions of the Contract Disputes Act of 1978. Special regulations applicable to proceedings before the Board are contained in Subpart C of this part.

(2) *Board of Indian Appeals.* The Board decides finally for the Department appeals to the head of the Department pertaining to: (i) Administrative actions of officials of the Bureau of Indian Affairs in cases involving determinations, findings, and orders protested as a violation of a right or privilege of the appellant, except enrollment and except the leasing of Indian land for oil and gas exploration and production under regulations in 25 CFR Part 2; and (ii) orders and decisions of Administrative Law Judges in Indian probate matters other than those involving estates of the Five Civilized Tribes of Indians and Osage Indian wills. The Board also decides other matters pertaining to Indians referred to it by the Director of the Office of Hearings and Appeals for exercise of the review authority of the Secretary. Special regulations applicable to proceedings before the Board are contained in Subpart D of this part.

(3) *Board of Land Appeals.* The Board decides finally for the Department appeals to the head of the Department from decisions by Departmental officials relating to the use and disposition of public lands and their resources and the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf. Special procedures for hearings, appeals, and contests in public lands cases are contained in Subpart E of this part.

(4) *Board of Surface Mining and Reclamation Appeals.* The Board performs finally for the Department the appellate and other review functions of the Secretary under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201–1328 (Supp. I 1977).

(5) *Alaska Native Claims Appeal Board.* The Board considers and decides finally for the Department appeals to the head of the Department from findings of fact or decisions by Departmental officials in matters relating to land selection arising under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601–1628 (1976), *as amended,* and any other statute dealing with Alaska Native claims except the Alaska Native Allotment Act, Act of May 17, 1906, 34 Stat. 197, *as amended.* The Board shall not consider: (i) Appeals relating to enrollment of Alaska Natives; (ii) appeals on rights granted and protected by section 14(c) of the Alaska Native Claims Settlement Act; (iii) appeals on easements brought by parties to agreements with the Department which set forth alternative procedures for easement appeals; and (iv) appeals relating to locations and entries under the mining and public land laws. With respect to appeals from Departmental decisions on village eligibility under section 11(b) of the Alaska Native Claims Settlement Act, decisions of the Board shall be submitted to the Secretary for approval before becoming final. Special regulations applicable to proceedings before the Board are contained in Subpart J of this part.

(6) *Ad Hoc Appeals Board.* Appeals to the head of the Department which do not lie within the appellate review jurisdiction of an established Appeals Board and which are not specifically excepted in the general delegation of authority to the Director, may be considered and ruled upon by the Director or by an Ad Hoc Appeals Board appointed by the Director to consider a particular appeal and to decide finally for the Department all questions of fact and law necessary for the complete adjudication of the issues. Special regulations applicable to proceedings in such cases are contained in Subpart G of this part.

§ 4.2 Rules governing hearings and appeals procedures.

Rules governing procedures before the various components of the Office of Hearings and Appeals are found in the relevant subparts of this part, in the substantive regulations and policies of the Department relating to the proceeding, and in the governing laws. Part 1 of this subtitle regulates practice before the Department of the Interior.

§ 4.3 Membership of appeals boards; decisions, functions of chief judges.

(a) The Appeals Boards consist of Administrative Judges and a Chief Administrative Judge. Except as provided by statute, the Director may serve as an ex officio member on any of the Boards, and alternate members may serve, when necessary, in place of or in addition to regular members. The Chief Administrative Judge of an Appeals Board may direct that an appeal be decided by a panel of any two Administrative Judges of the Board; but if they are unable to agree upon a decision, the Chief Administrative Judge may assign one or more additional Administrative Judges of the Board to consider the appeal. The concurrence of a majority of the Board Administrative Judges who consider an appeal shall be sufficient for a decision.

(b) Decisions of the Board must be in writing and signed by not less than a majority of the Administrative Judges who considered the appeal. The Director, being an ex officio member, may participate in the consideration of any appeal and sign the resulting decision.

(c) The Chief Administrative Judge of an Appeals Board shall be responsible for the internal management and administration of the Board, and is authorized to act on behalf of the Board in conducting correspondence and in carrying out such other duties as may be necessary in conducting the routine business of the Board.

§ 4.4 Representation before the Office of Hearings and Appeals.

(a) *Appearances generally.* Representation of parties in proceedings before the Office of Hearings and Appeals is governed by Part 1 of this subtitle, which regulates practice before the Department of the Interior.

(b) *Representation of the Government.* Department counsel designated by the Solicitor of the Department to represent agencies, bureaus, and offices of the Department of the Interior in proceedings before the Office of Hearings and Appeals, and Government counsel for other agencies, bureaus, or offices of the Federal Government involved in any proceeding before the Office of Hearings and Appeals, shall represent the Government agency in the same manner as a private advocate represents a client.

§ 4.5 Power of the Secretary and Director.

(a) *Secretary.* Nothing in this part shall be construed to deprive the Secretary of any power conferred upon him/her by law. The authority reserved to the Secretary includes, but is not limited to:

(1) The authority to take jurisdiction at any stage of any case before any employee or employees of the Department, including any Administrative Law Judge or Board of the Office, and to render the final decision in the matter after holding such hearing as may be required by law; and

(2) The authority to review any decision of any employee or employees of the Department, including any Administrative Law Judge or Board of the Office, or to direct any such employee or employees to reconsider a decision.

(b) *The Director.* Pursuant to delegated authority from the Secretary, the Director may assume jurisdiction of or review any case before any Board of the Office or direct reconsideration of any decision by any Board of the Office.

§ 4.6 Public records; locations of field offices.

Part 2 of this subtitle prescribes the rules governing availability of the public records of the Office of Hearings and Appeals. It includes a list of the field offices of the Office of Hearings and Appeals and their locations.

Subpart H—[Deleted]

2. It is proposed to delete Subpart H of Part 4 of Title 43 of the *Code of Federal Regulations* to comply with Exec. Order No. 12086, which transfers all functions under Exec. Order No. 11246, *as amended* by Exec. Order No. 11375, from the Department of the Interior to the Department of Labor.

3. It is proposed to revise Subpart I of Part 4 of Title 43 of the *Code of Federal Regulations* as follows:

Subpart I—Special Procedural Rules Applicable to Practice and Procedure for Hearings, Decisions, and Administrative Review Under Part 17 of This Title—Nondiscrimination in Federally Assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964

General

Sec.

4.800 Scope and construction of rules.
4.801 Suspension of rules.
4.802 Definitions.
4.803 Computation of time.
4.804 Extensions of time.
4.805 Reduction of time to file documents.

Designation and Responsibilities of Administrative Law Judge

4.806 Designation.
4.807 Authority and responsibilities.

Appearance and Practice

4.808 Participation by a party.
4.809 Determination of parties.
4.810 Complainants not parties.
4.811 Determination and participation of amici.

Form and Filing of Documents

4.812 Form.
4.813 Filing and service.
4.814 Certificate of service.

Procedures

4.815 How a proceeding is commenced.
4.816 Notice of hearing and response thereto.
4.817 Notice of opportunity to request a hearing and response thereto.
4.818 Answer.
4.819 Amendment of notice or answer.
4.820 Consolidated or joint hearings.
4.821 Motions.
4.822 Disposition of motions.
4.823 Interlocutory appeals.
4.824 Exhibits.
4.825 Admissions as to facts and documents.
4.826 Discovery.
4.827 Dispositions.
4.828 Use of dispositions at hearing.
4.829 Interrogatories to parties.
4.830 Production of documents and things and entry upon land for inspection and other purposes.
4.831 Sanctions.
4.832 Ex parte communications.

Prehearing

4.833 Prehearing conferences.

Hearing

4.834 Purpose.
4.835 Evidence.
4.836 Official notice.
4.837 Testimony.
4.838 Objections.
4.839 Exceptions.
4.840 Offer of proof.
4.841 Official transcript.

Posthearing Procedures

4.842 Proposed findings of fact and conclusions of law.
4.843 Record for decision.
4.844 Notification of right to file exceptions.
4.845 Final review by Secretary.

Authority: 43 CFR 17.8 and 17.9 and 5 U.S.C. 301 (1976).

Subpart I—Special Procedural Rules Applicable to Practice and Procedure for Hearings, Decisions, and Administrative Review Under Part 17 of This Title—Nondiscrimination in Federally Assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964.

Authority: 43 CFR 17.8 and 17.9 and 5 U.S.C. § 301 (1976).

Cross Reference: *See* 43 CFR 17.8 and 17.9 for additional rules applicable to hearings, decisions, and administrative review procedures under Part 17 of this title. *See also* Subpart A of this title for the organization, authority, and jurisdiction of the Office of Hearings and Appeals.

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General

§ 4.800 Scope and construction of rules.

(a) The rules of procedures in this subpart supplement Part 17 of this title and are applicable to the practice and procedure for hearings, decisions, and administrative review conducted by the Department of the Interior, pursuant to Title VI of the Civil Rights Act of 1964 (section 602, 42 U.S.C. 2000d–1 (1976)) and Part 17 of this title concerning nondiscrimination in Federally-assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by the Department of the Interior.

(b) These regulations shall be liberally construed to secure the just, prompt, and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved and full protection of the rights of all interested parties including the Government.

§ 4.801 Suspension of rules.

Upon notice to all parties, the responsible Department official or the Administrative Law Judge, with respect to matters pending before him/her, may modify or waive any rule in this part upon the determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 4.802 Definitions.

(a) The definitions set forth in § 17.12 of this title apply also to this subpart.

(b) "Director" means the Director, Office for Equal Opportunity, Department of the Interior.

(c) "Administrative Law Judge" means an Administrative Law Judge designated by the Office of Hearings and Appeals, Office of the Secretary, in accordance with 5 U.S.C. 3105 and 3344 (1976).

(d) "Notice" means a notice of hearing in a proceeding instituted under Part 17 of this title and these regulations.

(e) "Party" means a recipient or applicant, the Director, and any person or organization participating in a proceeding pursuant to § 4.808.

§ 4.803 Computation of time.

Except as otherwise provided by law, in computing any period of time under these rules or in any order issued hereunder, the time begins with the day following the act or event, and includes the last day of the period, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event it includes the next following day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days shall be excluded in the computation.

§ 4.804 Extensions of time.

A request for extension of time should be made to the designated Administrative Law Judge or other appropriate Departmental official with respect to matters pending before him/her. Such request shall set forth the reasons for the request and shall be served on all parties. Extensions may be granted upon a showing of good cause by the applicant. Answers to such requests are permitted if made promptly.

§ 4.805. Reduction of time to file documents.

For good cause, the responsible Departmental official or the Administrative Law Judge, with respect to matters pending before him/her, may reduce any time limit prescribed by the rules in this part, except as provided by law or in Part 17 of this title.

Designation and Responsibilities of Administrative Law Judge

§ 4.806 Designation.

Hearings shall be held before an Administrative Law Judge designated by the Office of Hearings and Appeals in accordance with 5 U.S.C. 3105 and 3344 (1976).

§ 4.807. Authority and responsibilities.

The Administrative Law Judge shall have all powers necessary to preside over the parties and the proceeding, to conduct the hearing, and to make a decision in accordance with 5 U.S.C. 554–557 (1976). These powers shall include, but are not limited to, the power to:

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(b) Require parties to state their position with respect to the various issues in the proceeding.

(c) Establish rules for media coverage of the proceeding.

(d) Rule on motions and other procedural items in matters before him/her.

(e) Regulate the course of the hearing, the conduct of counsel, parties, witnesses, and other participants.

(f) Administer oaths, call witnesses on his/her own motion, examine witnesses, and direct witnesses to testify.

(g) Receive, rule on, exclude, or limit evidence.

(h) Fix time limits for submission of written documents in matters before him/her.

(i) Take any action authorized by these regulations, by 5 U.S.C. 556 (1976), or by other pertinent law.

Appearance and Practice

§ 4.808 Participation by a party.

Subject to the provisions contained in Part 1 of this subtitle, a party may appear in person, by representative, or by counsel, and may participate fully in any proceeding held pursuant to Part 17 of this title and these regulations. A state agency or any instrumentality thereof, a political subdivision of the state or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf.

§ 4.809 Determination of parties.

(a) The affected applicant or recipient to whom a notice of hearing or a notice of an opportunity for hearing has been mailed in accordance with Part 17 of this title and § 4.815, and the Director, are the initial parties to the proceeding.

(b) Other persons or organizations shall have the right to participate as parties if the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceeding.

(c) A person or organization wishing to participate as a party under this section shall submit a petition to the Administrative Law Judge within 15 days after the notice has been served. The petition should be filed with the Administrative Law Judge and served on the affected applicant or recipient, on the Director, and on any other person or organization who has been made a party at the time of filing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) The Administrative Law Judge shall promptly ascertain whether there are objections to the petition. The Administrative Law Judge shall then determine whether petitioners have the requisite interest to be a party in the proceeding, as defined in paragraphs (a) and (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the Administrative Law Judge may request all the petitioners to designate a single representative, or may recognize one or more of the petitioners to represent all the petitioners. The Administrative Law Judge shall give each petitioner written notice of the decision on a petition. If a petition is denied, the Administrative Law Judge shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party of each petition granted.

(e) Persons or organizations whose petition for party participation is denied may appeal the decision to the Director, Office of Hearings and Appeals, within 7 days of receipt of denial. The Director, Office of Hearings and Appeals, will make the final decision for the Department to grant or deny the petition.

§ 4.810 Complainants not parties.

A person submitting a complaint pursuant to § 17.6 of this title is not a party to the proceeding governed by Part 17 of this title and these regulations, but may petition, after the proceeding is initiated, to become an amicus curiae. In any event, a complainant shall be advised of the time and place of the hearing.

§ 4.811 Determination and participation of amici.

(a) Any interested person or organization wishing to participate as amicus curiae in the proceeding shall file a petition before the commencement of the hearing. The petition shall concisely state petitioner's interest in the hearing and who will represent petitioner.

(b) The Administrative Law Judge will grant the petition if it is found that petitioner has an interest in the proceeding and may contribute materially to the disposition of the proceeding. The Administrative Law Judge shall give petitioner written notice of the decision on the petition.

(c) An amicus curiae is not a party and may not introduce evidence at a hearing but may only participate as provided in paragraph (d) of this section.

(d) An amicus curiae may submit a written statement of position to the Administrative Law Judge at any time prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may also file a brief or written statement on each occasion a decision is to be made or a prior decision is subject to review. The brief or written statement shall be filed and served on each party within the time limits applicable to the party whose position the amicus curiae supports; or if the amicus curiae does not support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceeding.

(e) When all parties have completed their initial examination of a witness, any amicus curiae may request the Administrative Law Judge to propound specific questions to the witness. The Administrative Law Judge, in his/her discretion, may grant any such request if he/she believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

Form and Filing of Documents

§ 4.812 Form.

Documents filed in a proceeding shall show the docket description and title of the proceeding, the party or amicus submitting the document, the dates signed, and the title, if any, and address of the signatory. The original will be signed in ink by the person representing the party or amicus. Copies need not be signed, but the name of the person signing the original shall be reproduced.

§ 4.813 Filing and service.

(a) All documents submitted in a proceeding shall be served on all parties. The original and two copies of each document shall be submitted for filing. Filings shall be made with the Administrative Law Judge or other appropriate Departmental official before whom the proceeding is pending. With respect to exhibits and transcripts of testimony, only originals need be filed.

(b) Service upon a party or amicus shall be made by delivering one copy of each document requiring service in person or by certified mail, return receipt requested, properly addressed with postage prepaid, to the party or amicus, or attorney or designated representative. Filing will be made in person or by certified mail, return receipt requested, to the Administrative Law Judge or other appropriate Departmental official before whom the proceeding is pending.

(c) The date of filing or of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person.

§ 4.814 Certificate of service.

The original of every document filed and required to be served upon parties shall be endorsed with a certificate of service signed by the party or amicus curiae making service or by the attorney or representative, stating that such service has been made, the date of service, and the manner of service.

Procedures

§ 4.815 How a proceeding is commenced.

A proceeding is commenced by the Director by mailing to an applicant or recipient a notice of alleged noncompliance with the Act and the regulations thereunder. The notice shall include either a notice of hearing fixing a date therefor or a notice of an opportunity for a hearing as provided in § 17.8 of this title. The notice shall advise the applicant or recipient of the action proposed to be taken, the specific provisions of Part 17 of this title under which the proposed action is to be taken, and the matters of fact or law asserted as the basis of the action.

§ 4.816 Notice of hearing and response thereto.

A notice of hearing shall fix a date not less than 30 days from the date of service of the notice of hearing on matters alleged in the notice. If the applicant or recipient does not desire a hearing it should be so stated in writing, in which case the applicant or recipient shall have the right to further participate in the proceeding. Failure to appear at the time set for a hearing, without good cause, shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations thereunder and consent to the making of a decision on such information as is available which may be presented for the record.

§ 4.817 Notice of opportunity to request a hearing and response thereto.

A notice of opportunity to request a hearing shall set a date not less than 20 days from service of the notice within which the applicant or recipient may file a request for a hearing, or may waive a hearing and submit written information and argument for the record, in which case the applicant or recipient shall have the right to further participate in the proceeding. When the applicant or recipient elects to file a request for a hearing, a time shall be set for the hearing at a date not less than 20 days from the date applicant or recipient is notified of the date set for the hearing. Failure of the applicant or recipient to request a hearing or to appear at the date set shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations thereunder and consent to the making of a decision on such information as is available which may be presented for the record.

§ 4.818 Answer.

In any case covered by § 4.816 or § 4.817 the applicant or recipient shall file an answer. The answer shall admit or deny each allegation of the notice unless the applicant or recipient is

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without knowledge, in which case the answer shall so state and the statement will be considered a denial. Failure to file an answer shall be deemed an admission of all allegations of fact in the notice. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged in the answer as affirmative defenses shall be separately stated and numbered. The answer under § 4.816 shall be filed within 20 days from the date of service of the notice of hearing. The answer under § 4.817 shall be filed within 20 days of service of the notice of opportunity to request a hearing.

§ 4.819 Amendment of notice or answer.

The Director may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer is filed, and each respondent may amend the answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of the original answer. Other amendments of the notice or of the answer to the notice shall be made only by leave of the Administrative Law Judge. An amended notice shall be answered within 10 days of its service, or within the time for filing an answer to the original notice, whichever period is longer.

§ 4.820 Consolidated or joint hearings.

As provided in § 17.8(e) of this title, the Secretary may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies by agreement with such other departments or agencies. All parties to any proceedings consolidated subsequent to service of the notice of hearing shall be promptly served with notice of such consolidation.

§ 4.821 Motions.

Motions and petitions shall state the relief sought, the basis for relief, and the authority relied upon. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing they may be stated orally, but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties. Within 8 days after a written motion or petition is served, any party may file a response to a motion or petition. An immediate oral response may be made to an oral motion. Oral argument on motions will be at the discretion of the Administrative Law Judge.

§ 4.822 Disposition of motions.

The Administrative Law Judge may not grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately.

§ 4.823 Interlocutory appeals.

Except as provided in § 4.809(e), a ruling of the Administrative Law Judge may not be appealed to the Director, Office of Hearings and Appeals, prior to consideration of the entire proceeding by the Administrative Law Judge, unless permission is first obtained from the Director, Office of Hearings and Appeals, and the Administrative Law Judge has certified the interlocutory ruling on the record or abused his/her discretion in refusing a request to so certify.

Permission will not be granted except upon a showing that the ruleing complained of involves a controlling question of law and that an immediate appeal therefrom may materially advance the final decision. An interlocutory appeal shall not operate to suspend the hearing unless otherwise ordered by the Director, Office of Hearings and Appeals. If an appeal is allowed, any party may file a brief within such period as the Director, Office of Hearings and Appeals, directs. Upon affirmance, reversal, or modification of the Administrative Law Judge's Interlocutory ruling or order by the Director, Office of Hearings and Appeals, the case will be remanded promptly to the Administrative Law Judge for further proceedings.

§ 4.824 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the Administrative Law Judge so directs. Proposed exhibits not so exchanged in accordance with the Administrative Law Judge's order may be denied admission as evidence. The authenticity of all exhibits submitted prior to the hearing, under direction of the administrative Law Judge, will be deemed admitted unless written objection thereto is filed and served on all parties, or unless good cause is shown for failure to file such written objection.

§ 4.825 Admissions as to facts and documents.

Not later than 15 days prior to the date of the hearing any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period of 10 days the party to whom the request is directed serves upon the requesting party a statement either (a) denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why the matters cannot be either truthfully admitted or denied.

§ 4.826 Discovery.

(a) *Methods.* Parties may obtain discovery as provided in these rules by depositions, written interrogatories, production of documents, or other items; or by permission to enter property for inspection and other purposes.

(b) *Scope.* Parties may obtain discovery regarding any matter not privileged which is relevant to the subject matter involved in the hearing.

(c) *Protective orders.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the Administrative Law Judge may make any order which justice requires to limit or condition discovery in order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) *Sequence and timing.* Methods of discovery may be used in any sequence. The fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(e) *Time limit.* Discovery by all parties will be completed within such time as the Administrative Law Judge directs from the date the notice of hearing is served on the applicant or recipient.

§ 4.827 Depositions.

(a) A party may take the testimony of any person, including a party, by deposition upon oral examination. This may be done by stipulation or by notice, as set forth in paragraph (b) of this section. On motion of any party or other person upon whom the notice is served, the Administrative Law Judge may, for cause shown, enlarge or shorten the time for the deposition, limit the scope of the deposition, or quash the notice. Depositions of persons other than parties or their representatives shall be upon consent of the deponent.

(b)(1) The party will give reasonable notice in writing to every other party of the time and place for taking depositions, the name and address of each person to be examined, if known, or a general description sufficient to identifying him/her or the particular class or group to which he/she belongs.

(2) The notice to a deponent may be accompanied by a request for the production of documents and tangible things at the taking of the deposition.

(3) A party may name as the deponent a corporation, partnership, association, or governmental agency and may designate a particular person within the organization whose testimony is desired and the matter on which examination is requested. If no particular person is named, the organization shall designate one or more agents to testify on its behalf, and may set forth the matters on which each will testify. The persons so designated shall testify as to matters known or reasonably available to the organization.

(c) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The witness shall be placed under oath by a disinterested person qualified to administer oaths by the laws of the United States or of the place where the examination is held, and the testimony taken by such person shall be recorded verbatim.

(d) During the taking of a deposition a party or deponent may request suspension of the deposition on the grounds of bad faith in the conduct of the examination, annoyance, embarrassment, oppression of a deponent or party, or improper questions propounded. The deposition will then be adjourned. However, the objecting party of deponent must immediately move the Administrative Law Judge for a ruling on the objections to the deposition conduct or proceeding. The Administrative Law Judge may then limit the scope or manner of the taking of the deposition.

(e) The officer shall certify the deposition and promptly file it with the Administrative Law Judge. Documents or true copies of documents and other items produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition.

(f) The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 4.828 Use of depositions at hearing.

(a) Any part or all of a deposition so far as admissible under § 4.835 applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof as follows:

(1) Any deposition may be used for contradiction or impeachment of the deponent as a witness.

(2) The deposition of a party, or of an agent designated to testify on behalf of a party, may be used by an adverse party for any purpose.

(3) The deposition of any witness may be used for any purpose if the party offering the deposition has been unable to procure the attendance of the witness because he/she is dead; or if the witness is at a greater distance than 100 miles from the place of hearing or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or if the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or upon application and notice that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(b) If only part of a deposition is offered in evidence, the remainder becomes subject to introduction by any party.

(c) Objection may be made at the hearing to receiving in evidence any depostion or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

§ 4.829 Interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories after the notice of hearing has been filed. If the party served is a corporation, partnership, association, or governmental agency, an agent shall furnish such information as is available to the party.

(b) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to in which event the objection shall be stated in place of an answer. The answers are to be signed by the persons making them, and the objections signed by the attorney or other representative making them. Answers and objections shall be made within 30 days after the service of the interrogatories. The party submitting the interrogatories may move for an order under § 4.831 with respect to any objection to or other failure to answer an interrogatory.

(c) Interrogatories shall relate to any matter not privileged which is relevant to the subject matter of the hearing.

§ 4.830 Production of documents and things and entry upon land for inspection and other purposes.

(a) After the notice of hearing has been filed, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his/her behalf, to inspect and copy any designated documents, phonorecords, and other data compilations from which information can be obtained and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After the notice of hearing has been filed, any party may serve on any other party a request to permit entry upon designated property in the posssession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 15 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections in which case the reasons for each objection shall be stated. The party submitting the request may move for an order under § 4.831 with respect to any objection to or other failure to respond.

§ 4.831 Sanctions.

(a) A party, upon reasonable notice to other parties and all persons affected thereby, may move for an order as follows:

(1) If a deponent fails to answer a question propounded or submitted under § 4.827(c), or a corporation or other entity fails to make a designation under § 4.827(b)(3), or a party fails to answer an interrogatory submitted under § 4.829, or a party under § 4.830 fails to respond that inspection will be permitted or fails to permit inspection, the discovering party may move for an order compelling an answer, a designation, or inspection.

(2) An evasive or incomplete answer is to be treated as a failure to answer.

(b) If a party or an agent designated to testify fails to obey an order to permit discovery, the Administrative Law Judge may make such orders as are just, including:

(1) That the matters regarding which the order was made or any other designated facts shall be established in accordance with the claim of the party obtaining the order.

(2) Refusing to allow the disobedient party to supoort or oppose designated claims or defenses, or prohibiting him/her from introducing designated matters in evidence.

(c) If a party or an agent designated to testify fails after proper service (1) to appear for the deposition, (2) to serve answers or objections to interrogatories submitted under § 4.829, or (3) to serve a written response to a request for inpection submitted under § 4.830, the Administrative Law Judge on motion may make such orders as are just, including those aughorized under subparagraphs (1) and (2) of paragraph (b) of this section.

§ 4.832 Ex parte communications.

(a) Written or oral communications involving any substantive or procedural issue in a matter subject to these proceedings directed to the Administrative Law judge, the Director, or the Director, Office of Hearings and Appeals, shall be deemed ex parte communications and are not to be considered part of any record or the basis for any official decision, unless the communication is made by motion pursuant to these rules.

(b) The Administrative Law Judge shall not consult any person or party on any fact in issue or on the merits of the matter before him/her unless upon notice and opportunity for all parties to participate.

(c) No employee or agent of the Federal Government engaged in the investigation and prosecution of a proceeding governed by these rules shall participate or advise in the rendering of any recommended or final decision, except as witness or counsel in the proceeding.

Prehearing

§ 4.833 Prehearing conferences.

(a) Within 15 days after the answer has been filed, the Administrative Law Judge will establish a prehearing conference date for all parties including persons or organizations whose petition requesting party status has not been ruled upon. Written notice of the prehearing conference shall be sent by the Administrative Law Judge.

(b) At the prehearing conference the following matters, among others, shall be considered: (1) Simplification and delineation of the issues to be heard; (2) stipulations; (3) limitation of number of witnesses and exchange of witness lists; (4) procedure applicable to the proceeding; (5) offers of settlement; and (6) scheduling of the dates for exchange of exhibits. Additional prehearing conferences may be scheduled at the discretion of the Administrative Law Judge, upon his/her own motion or the motion of a party.

Hearing

§ 4.834 Purpose

(a) The purpose of a hearing is primarily to receive factual evidence and expert opinion testimony related to the issues in the proceeding. A hearing will be held only in cases where issues of fact must be resolved in order to determine whether the applicant or recipient has failed to comply with one or more applicable requirements of Title VI of the Civil Rights Act of 1964 and Part 17 of this title. However, this shall not prevent the parties from entering into a stipulation of the facts.

(b) If all facts are stipulated, the proceeding shall go to conclusion in accordance with Part 17 of this title and the rules in this subpart.

(c) In any case where it appears from the answer of the applicant or recipient to the notice of hearing or notice of opportunity to request a hearing, from the failure to timely answer, or from the admissions or stipulations in the record that there are no matters of material fact in dispute, the Administrative Law Judge may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for the submission of evidence by the Government for the record. Thereafter, the proceeding shall go to conclusion in accordance with Part 17 of this title and the rules in this subpart. An appeal from such order may be allowed in accordance with the rules for interlocutory appeal in § 4.823.

§ 4.835 Evidence.

Formal rules of evidence will not apply to the proceeding. Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded from the record of a hearing. Hearsay evidence shall not be inadmissible as such.

§ 4.836 Official notice.

Whenever a party offers a public document, or part thereof, in evidence, and such document, or part thereof, has been shown by the offeror to be reasonably available to the public, the document need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof. Official notice may also be taken of other matters at the discretion of the Administrative Law Judge.

§ 4.837 Testimony.

Testimony shall be given under oath by witnesses at the hearing. A witness shall be available for cross-examination, and, at the discretion of the Administrative Law Judge, may be cross-examined without regard to the scope of direct examination as to any matter which is material to the proceeding.

§ 4.838 Objections.

Objections to evidence shall be timely and the party making them shall briefly state the ground relied upon.

§ 4.839 Exceptions.

Exceptions to rulings of the Administrative Law Judge are unnecessary. It is sufficient that a party, at the time the ruling of the Administrative Law Judge is sought, makes known the action which he/she desires the Administrative Law Judge to take, or his/her objection to an action taken and the ground therefor.

§ 4.840 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the Administrative Law Judge excluding proffered oral testimony, shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony. If the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 4.841 Official transcript.

An official reporter will be designated for all hearings. The official transcripts of testimony and argument taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the Administrative Law Judge. Transcripts may be obtained by the parties and the public from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter. Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to accurately reflect the testimony.

Posthearing Procedures

§ 4.842 Proposed findings of fact and conclusions of law.

Within 30 days after the close of the hearing each party may file, or the Administrative Law Judge may request, proposed findings of fact and conclusions of law together with supporting briefs. Such proposals and briefs shall be served on all parties and amici. Reply briefs may be submitted within 15 days after receipt of the initial proposals and briefs. Reply briefs should be filed and served on all parties and amici.

§ 4.843 Record for decision.

The Administrative Law Judge will make a decision upon the basis of the record before him/her. The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceeding shall constitute the record for decision and may be inspected and copied.

§ 4.844 Notification of right to file exceptions.

The provisions of § 17.9 of this title govern the making of decisions by Administrative Law Judges, the Director, Office of Hearings and Appeals, and the Secretary. An Administrative Law Judge shall, in any initial decision made by him/her, specifically inform the applicant or recipient of the right under § 17.9 of this title to file exceptions with the Director, Office of Hearings and Appeals. In instances in which the record is certified to the Director, Office of Hearings and Appeals, or in which the Director, Office of Hearings and Appeals, reviews the decision of an Administrative Law Judge, he/she shall give the applicant or recipient a notice of certification or notice of review which specifically informs the applicant or recipient that, within a stated period which shall not be less than 30 days after service of the notice, the applicant or recipient may file briefs or other written statements of the contentions.

§ 4.845 Final review by Secretary.

Paragraph (f) of § 17.9 of this title requires that any final decision of an Administrative Law Judge or of the Director, Office of Hearings and Appeals, which provides for the suspension or termination of or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under Part 17 of this title or the Act, shall be transmitted to the Secretary. The applicant or recipient shall have 20 days following service upon him/her of such notice to submit to the Secretary exceptions to the decision and supporting briefs or memoranda suggesting remission or mitigation of the sanctions proposed. The Director shall have 10 days after the filing of the exceptions and briefs in which to reply.

Subpart K—[Deleted]

4. It is proposed to delete Subpart K of Title 43 of the *Code of Federal Regulations* because the deadline for disenrollment contest review (October 1, 1978) has passed (*see* 25 CFR 43 h. 15 (h)).

[FR Doc. 80-16019 Filed 5-23-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 400

Refugee Resettlement Program; Plan and Reporting Requirements for States

AGENCY: Office of the Secretary (OS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth the plan requirements a State must meet as a condition for receiving assistance for refugees under title IV of the Immigration and Nationality Act. It also includes requirements for the establishment of advisory councils to participate in the implementation of the plan, requirements for the content of the State annual report on the use of refugee resettlement program funds, and requirements for maintenance of records. This proposed regulation implements section 412(a)(6) of the Immigration and Nationality Act (added by section 311(a)(2) of the Refugee Act of 1980), that requires a State, as a condition for receiving assistance for refugees, to submit to the Director of the Office of Refugee Resettlement (ORR) (1) a plan that provides details of the State's program for delivering assistance and services funded by ORR, and (2) an annual report, after the end of each fiscal year, on the use of State-administered Federal funds provided under the program. State plans must be submitted by October 1, 1980, the first annual report is due December 1, 1980; advisory councils must be established by January 1, 1981.

DATE: To assure consideration, comments should be received by June 26, 1980.

ADDRESS: Address comments to:

Director, Office of Refugee Resettlement, Department of Health and Human Services, Room 1229 Switzer Building, 300 C Street, SW., Washington, D.C. 20201.

Agencies and organizations are requested to submit comments in duplicate. Comments will be available approximately two weeks after publication in Room 1229, 330 C Street, SW. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dennis Gallagher, Office of Refugee Resettlement, 1229 Switzer Building, 330 C Street, SW., Washington, D.C. 20201, (202) 426-6510.

SUPPLEMENTARY INFORMATION:

Background

The Migration and Refugee Assistance Act of 1962 centralized the authority to conduct and fund U.S. programs of assistance to refugees. This Act is the legal basis for most of the U.S. migration and refugee assistance programs. The legislation provided an open-ended authorization for assistance to Cuban refugees in the United States.) The 1965 amendments to the Immigration and Nationality Act established the first permanent statutory basis for the admission of refugees.

The Migration and Refugee Assistance Act of 1962 was authorized for Western Hemisphere refugees only. With the influx of Indochinese refugees in 1975, the Indochina Migration and Refugee Assistance Act of 1975 was passed to authorize assistance to Indochinese refugees. The 1975 act was amended four times to include Laotian refugees and to extend the authorization period for domestic assistance. Assistance was provided through the Indochinese Refugee Assistance Program (IRAP) within the Department of Health, Education, and Welfare (now HHS).

Under IRAP, States entered into agreements with HHS wherein they agreed to provide cash and medical assistance and support services to Indochinese refugees in accordance with program instructions, policies, and procedures issued by HHS' Social Security Administration. They also agreed to maintain records, make reports, and account for all Federal funds received under the program. Program guidelines were issued to States by administrative instructions because the program authority was to be temporary. Because of the continued growth of the program and the expectation of continued refugee admittance, a more formal and uniform base for program operations and management was needed.

On March 17, 1980, the President signed the Refugee Act of 1980 (Pub. L. 96-212) which, among other things, amended the Immigration and Nationality Act to revise procedures for the admission of refugees, and the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to

refugees. Section 311 of Pub. L. 96–212 amended title IV of the Immigration and Nationality Act to establish the Office of Refugee Resettlement (ORR) in HHS. The function of ORR and its Director is to fund and administer domestic refugee resettlement programs of the Federal government. Pub. L. 96–212 also requires (1) detailed monitoring and evaluation of the resettlement program; (2) detailed reports to the Congress on the operation of the program and the activities of ORR; and (3) States to submit a plan to the Director, by October 1, 1980 and (4) annual State reports on the uses of Federal funds in the preceding fiscal year.

Statutory Authority

This proposed regulation would implement section 412(a)(6) of the Immigration and Nationality Act. That section, added by section 311(a)(2) of the Refugee Act of 1980, requires States, as a condition for receiving refugee assistance, to—

(1) Submit a plan to the Director of ORR;

(2) Meet standards, goals, and priorities, developed by the Director of ORR, which assure the effective resettlement of refugees and which promote their economic self-sufficiency expeditiously and the efficient provision of services; and

(3) Submit to the Director, after the end of the fiscal year, a report on the uses of resettlement funds administered by the State.

Under section 313(d) of the Refugee Act of 1980, the requirements for a plan apply to assistance furnished after October 1, 1980. Section 412(a)(9) of the Immigration and Nationality Act authorizes the Secretary of HHS to issue regulations needed to carry out the program.

We intend to develop regulations over the next year governing the refugee resettlement program after consultation with States, private voluntary resettlement organizations, refugee groups, and others. After a thorough examination of the legislation and current program policy, as well as these various consultations, we will issue program regulations on those aspects of the legislation that are deemed most appropriate to implement the law effectively and achieve its purpose of establishing a more uniform basis for the provision of assistance to refugees.

However, the legislation requires that States, to receive funds for refugee resettlement, submit a plan to the Director of ORR by October 1, 1980. In order to meet that deadline we are publishing this proposed regulation with an expedited public comment period of 30 days. We believe it is important for States to receive guidance before they submit their plans required by the statute. This propoed regulation sets forth plan requirements contained in the statute, a requirement for establishing an advisory council, and minimal reporting requirements. The expedited comment period will ensure that States have as much advance notice and guidance as possible given the limited time frame between passage of the statute and the due date of plans.

Agreements between HHS and States remain in effect until September 30, 1980. By October 1, 1980, a State must have submitted a plan meeting the requirements to the Director of ORR in order to continue to receive assistance. States may continue to rely on program instructions and action transmittals issued under IRAP for guidance, to the extent that they do not conflict with the current statute, until the program regulations to be developed over the next year are published.

Section 301 of the Refugee Act of 1980 amends section 101(a) of the Immigration and Nationality Act by adding a new definition of the term "refugee". Inasmuch as the Department of Justice is charged with determining refugee status and creating appropriate requirements to document this status, the following proposed regulation is tied to these initial determinations and requirements. The Department of Justice is presently developing interim regulations covering these matters. Until those regulations are implemented, the current practices and procedures utilized by the Department of Justice in establishing refugee status should be referred to by States in formulating plans under the accompanying proposed regulation.

Description of the Regulation

The proposal sets forth (1) the plan requirements contained in the statute; (2) the requirement for establishing a State advisory council to participate in the development and review of plan amendments submitted to ORR; (3) the required content of the annual State report on the uses of Federal funds provided for refugee assistance; and (4) the requirement for maintenance of records.

All requirements proposed in these regulations are statutorily imposed with the following exceptions:

(1) The establishment of the provision of English language training and employment services as a priority in accomplishing the purpose of the program (§ 400.1(c));

(2) The designation of a single State agency responsible for the development and administration of the plan (§ 400.4(a));

(3) The establishment of, and consultation with the State advisory council (§ 400.4(g) and § 400.8);

(4) The submittal of plans for the Governor's review § 400.6);

(5) The maintenance of records and the content of the annual report (§ 400.9); and

(6) The confidentiality of records (§ 400.10).

We welcome comments on any of these provisions in the proposed regulations. We are legally bound to implement statutorily imposed requirements.

Plan Requirements

Section 412(a)(6)(A) of the Immigration and Nationality Act requires a State, in order to receive Federal funds under the refugee resettlement program, to submit a plan. This proposal sets forth the basic elements that must be included in each plan, including the designation of a single state agency to develop and administer the plan. The proposal requires a plan to describe how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible, through the provision of cash and medical assistance and other support services. We believe that a concerted effort must be made to provide vital services to refugees as soon as possible after their arrival and to begin immediately to enhance their economic and social self-sufficiency and reduce future dependence on public welfare. Support services, as well as cash and medical assistance, are among these vital types of aid.

The proposal would require a plan to describe the State program that would ensure that language training and employment services are available for refugees. In addition, States would be required to describe efforts to actively encourage refugee registration for employment services. Section 412(e)(2)(A) of the Act requires that, as a pre-condition to receiving cash assistance, refugees must register with an appropriate agency providing employment services described in section 412(c)(1) of the Act or, if there is no such agency available, with an appropriate State or local employment service. This precondition does not apply during the first 60 days after the date of the refugee's entry to this country.

Congress, as well as HHS, has placed strong emphasis on the provision of

language training and employment-related services as a means of achieving our goal of assisting refugees in becoming self-sufficient in their new environment. Program policy in the past has enabled States to emphasize those services most urgently needed by refugees for self-sufficiency and adaptation. Therefore, Congress included in the legislation the requirement that a plan describe how the State will ensure that such training and services are made available to refugees receiving cash assistance.

Section 412(a)(6)(B) of the Act gives the Director the authority to establish priorities that assure the effective resettlement of refugees and promote their economic self-sufficiency as quickly as possible. The Director has exercised that authority in establishing the provision of English language training and employment services as a priority in accomplishing the purpose of the program.

The proposed regulation requires a plan to provide for the care and supervision of, and legal responsibility for, unaccompanied refugee children in the State. Congress expressed concern for unaccompanied refugee children who have not been admitted to this country because of problems of custody, guardianship, and responsibility for providing services to these children. The legislation clarifies legal custody and financial responsibility issues and requires States to provide for the care and supervision of unaccompanied refugee minors. This clarification should encourage State governments and voluntary resettlement agencies to expand their efforts to assist these children.

The proposal requires the plan to provide for the designation of an individual to be called the Coordinator, who is employed by the State and will have the responsibility to develop necessary services and ensure coordination of public and private resources in refugee resettlement. The designated individual would prevent duplication of effort and services through coordination of available resources for refugees.

Under the proposed regulation, a State is required to provide in its plan for the identification of refugees who, at the time of resettlement in the State, are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation, and monitoring of any necessary treatment or observation. As more refugees have entered the country, there has been increased community concern that health standards might be threatened. HHS has tightened health screening procedures in Southeast Asia and at ports-of-entry to the United States. However, we believe that early identification of refugees who have medical conditions requiring treatment or observation will avoid any threat to our health standards and help meet refugees' immediate health needs.

Although States must establish a State advisory council responsible for assisting in the development and review of any plan amendments after January 1, 1981, the proposal includes a requirement that the plan specify the composition of the State advisory council and describe how the State will ensure that the council will be organized and operating by January 1, 1981.

The statute requires that assistance and services funded under the plan be provided without regard to race, religion, nationality, sex or political opinion. The proposed regulation requires the plan to include such an assurance. Finally, the plan would be required to provide that the State will comply with the provisions of title IV of the Immigration and Nationality Act and Federal policy issued by the Director, and will amend the plan as needed to comply with standards, goals, and priorities established by the Director.

The plan must be submitted to the Governor for review and comment prior to its submittal to the Director, in accordance with Part III of OMB Circular A–95. We want to emphaisize that all States wishing to receive refugee funds for cash or medical assistance or services, regardless of the scope of their program, must submit a plan that complies with the requirements, to the Director of ORR by October 1, 1980, and an annual report by December 1, 1980, of each year. We request that States inform the Director by August 1, 1980 of their intent to file a plan.

State Advisory Councils

The proposal would require States to establish advisory councils, by January 1, 1981, that would be responsible for assisting the State in the development of any plan amendment, and reviewing any plan amendment prior to its submittal to ORR. Reasonable and necessary costs associated with the operation of the State advisory council are reimbursable as State administrative costs. Because of the time involved in establishing such a council, we have not required that the council be in place in time to review the initial plan prior to its submittal. However, States must consult with councils when developing any plan amendment after January 1, 1981, and provide for the council's review of any plan amendment after that date.

The council would have no less than five and no more than 15 members, and would be composed of representatives of refugees eligible to benefit from services under the plan by virtue of being a refugee, local government, voluntary resettlement organizations, and service providers.

Historically, the resettlement of refugees has involved both the public and private sector working in cooperation to meet the particular resettlement needs of various refugee groups. As refugees have gained experience in the United States, they have become an increasingly important resource in the resettlement program. Having undergone the process themselves, being able to communicate with incoming refugees, and being able to understand the problems and needs of this group, well-adapted refugees can contribute significantly to the successful adjustment of those who will arrive in the future. The voluntary agencies are clearly in a position of great responsibility in the resettlement program, being involved deeply in the sponsorship, transit, and placement of refugees in the United States. The role local governments and service providers play in easing refugees' resettlement in this country is equally valuable to the process. These sources' combined knowledge, and commitment to, and concerns for, refugees' quick economic and social adjustment make their involvement in the process of developing the plan amendments invaluable to the program effectiveness we hope to achieve. Therefore, the proposal would require their involvement in the process through State consultation with an advisory council of representatives from each group.

Maintenance of Records and Annual Reports on Uses of Funds

Section 412(2)(6)(C) of the Immigration and Nationality Act requires that, as a condition for receiving funds under the refugee resettlement program, a State must submit, within a reasonable period of time after the end of each fiscal year, a report to the Director on the uses of State-administered Federal funds. This proposal sets forth requirements for minimal data to be included in State reports due by December 1 of each year covering the activities of the preceding fiscal year, and basic requirements for the maintenance of records necessary for reporting and accountability required by the Congress.

The annual reports would include a narrative statement on the progress, problems, and proposed actions to resolve problems encountered by the State. In addition, reports would include

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data on State cash and medical assistance and support services caseloads; the numbers of refugees receiving language and employment-related services; the status and progress of each unaccompanied refugee child; and expenditures for cash and medical assistance (by type of service), support services (by type of service), and administrative costs. We also propose minimal requirements for basic maintenance of State records and confidentiality of those records.

Both HHS and the Congress have expressed the need for increased coordination, closer minitoring, and greater accountability in the uses of Federal refugee resettlement funds. Congress expressed concern that the refugee resettlement program established by the Refugee Act of 1980 be carefully monitored and evaluated. The legislation places reporting requirements on the States, the Director of ORR, and the Secretary of HHS. These requirements include detailed monitoring and evaluation of the resettlement program, reports to the Congress on program operation and ORR activities, and annual State reports to ORR on the use of Federal funds received in the preceding fiscal year.

In order for us to meet Congressional expectations on the accountability of this program, States must provide us with information on their programs. We do not believe these proposed reporting and data requirements to be burdensome. They are necessary because of the formalization of the program and our responsibility to Congress concerning Federal expenditures for the effective and efficient resettlement of refugees.

45 CFR Chapter IV is amended by adding a new Part 400 to read as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

Subpart A—Introduction

Sec.
400.1 Basis and purpose of the program.
400.2 Definitions.

Subpart B—General Requirements

400.3 Purpose of the plan.
400.4 Content of the plan.
400.5 Plan amendments.
400.6 Submittal of plans for Governor's review.
400.7 Federal financed participation.
400.8 State advisory council.
400.9 Maintenance of records and annual report.
400.10 Confidentiality of records.

Authority: Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

Subpart A—Introduction

§ 400.1 Basis and purpose of the program.

(a) This part prescribes requirements concerning grants to States under title IV of the Immigration and Nationality Act.

(b) It is the purpose of this program to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible.

(c) Under the authority in sec. 412(a)(6)(B), the Director has established the provision of English language training and employment services as a priority in accomplishing the purpose of this program.

§ 400.2 Definitions.

The following definitions are applicable for purposes of this part:

"Act" means the Immigration and Nationality Act;

"Cash assistance" means financial assistance provided to refugees for which the State expects to seek funding from appropriations under title IV of the Immigration and Nationality Act;

"Coordinator" means the individual designated in the plan to be responsible for, and authorized to, ensure coordination of public and private resources in refugee resettlement;

"Director" means the Director, Office of Refugee Resettlement;

"HHS" means the Department of Health and Human Services;

"Medical assistance" means medical services provided to refugees for which the State expects to seek funding from appropriations under title IV of the Immigration and Nationality Act;

"ORR" means the Office of Refugee Resettlement;

"Plan" means a written commitment by a State, submitted under section 412(a)(6)(A) of the Act, to administer or supervise the administration of a refugee resettlement program in accordance with Federal requirements.

"Secretary" means the Secretary of the Department of Health and Human Services;

"Support services" means services provided by, or purchased by, a State, designed to meet resettlement needs of refugees, for which the State expects to seek funding from appropriations under title IV of the Immigration and Nationality Act; and

"State" means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa and the Trust Territories of the Pacific.

"State agency" means the State agency designated by the Governor as responsible for developing and administering the plan under title IV of the Immigration and Nationality Act.

Subpart B—General Requirements

§ 400.3 Purpose of the plan.

(a) In order for a State to receive refugee resettlement assistance from the allotments of funds under sec. 414 of the Act, it must submit to the Director of ORR by October 1, 1980, a plan that the Director determines to meet the plan requirements in § 400.4.

(b) The plan is a statement submitted by the State describing the nature and scope of its program and giving assurances that the program will be administered in conformity with specific requirements stipulated in title IV of the Immigration and Nationality Act and official issuances by the Director. The plan contains information necessary for the Director to determine whether the plan meets the plan requirements under § 400.4 as a basis for Federal funding of the State program.

§ 400.4 Content of the plan.

The plan must:

(a) Provide for the designation of a single State agency responsible for the development and administration of the plan;

(b) Describe how the State will encourge refugee resettlement and promote economic self-sufficiency as quickly as possible, by providing cash assistance, medical assistance and support services;

(c) Describe how the State will ensure that language training and employment services are made available to refugees receiving cash assistance, and to other refugees, including State efforts to actively encourage refugee registration for employment services;

(d) Designate an individual with the title of Coordinator, who is employed by the State, and will have the responsibility and authority to ensure coordination of public and private resources in refugee resettlement;

(e) Provide for the care and supervision of, and legal responsibility for, unaccompanied refugee children in the State;

(f) Provide for and describe the procedures established to ensure the identification of refugees who, at the time of resettlement in the State, are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation, and the monitoring of any necessary treatment or observation;

(g) Specify the composition of the State advisory council established in accordance with the requirements of § 400.8 and describe how the State will ensure that the council is organized and operating by January 1, 1981;

(h) Provide that assistance and services funded under the plan will be provided without regard to race, religion, nationality, sex or political opinion; and

(i) Provide that the State will comply with the provisions of title IV of the Act and Federal policy issued by the Director, and will amend the plan as needed to comply with standards, goals, and priorities established by the Director.

§ 400.5 Plan amendments.

A State's administration of the program under this part must conform with the plan submitted to the Director, and determined by the Director to meet the plan requirements in § 400.4. Before the State agency implements any material changes in the content or administration of the plan, it must submit an amendment to the plan to the Director.

§ 400.6 Submittal of plans for Governor's review.

A plan or plan amendment under title IV of the Act must be submitted to the State Governor for review and comment before the plan is submitted to the Director, unless the Governor delegates the authority to review and comment on the plan and plan amendment to the designated single State agency or Coordinator.

§ 400.7 Federal financed participation.

Federal financial participation will be made available under the plan to States for cash and medical assistance, refugee support services, and reasonable and necessary administrative costs of such assistance and services, provided to eligible refugees beginning October 1, 1980. The Director will establish quarterly allocations which will be communicated to States each quarter.

§ 400.8 State advisory council.

(a) A State must establish an advisory council responsible for assisting in the development and reviewing of any plan amendments after January 1, 1981.

(b) The State advisory council must be comprised of no less than five and no more than 15 members who are representatives from refugees eligible to benefit from services under the plan by virtue of being a refugee, local government, voluntary resettlement organizations, and service providers.

(c) The State must consult with the advisory council during the development of any plan amendment, and provide for the advisory council's review of the contents of a plan amendment prior to its submittal to the Director of ORR.

§ 400.9 Maintenance of records and annual report.

(a) A State must provide for the maintenance of such fiscal and operational records as are necessary for Federal monitoring. This recordkeeping must include, but not be limited to:

(1) Documentation of services and assistance provided, including identification of individuals receiving those services;

(2) Records on the progress and status of unaccompanied minor refugee children, including the last known address of parents;

(3) Documentation that necessary medical follow up services and monitoring have been provided;

(4) Fiscal records in a format specified by the Director; and

(5) Annual and other reports referred by the Director.

(b) In order for a State to receive refugee resettlement assistance from the allotment of funds under sec. 414 of the Act, it must submit an annual report to the Director of ORR, by December 1 of each year, on the uses of funds received and administered by the State in the previous fiscal year.

(c) The annual report must include—

(1) A narrative statement of the program status, including progress achieved, problems encountered, and proposed actions to resolve problems;

(2) State cash assistance, medical assistance and support services caseloads;

(3) The number of refugees receiving English language training services and a description of the services provided;

(4) The number of refugees receiving employment-related services and a description of the services provided;

(5) A report on the status and progress of each unaccompanied refugee child admitted to the State;

(6) Expenditures for cash assistance, medical assistance (by type of service), and support services (by type of service), and administrative costs; and

(7) Additional statistical, fiscal, and other information required by the Director to ensure proper accountability of all program funds.

§ 400.10 Confidentiality of records.

The State must ensure that no information about, or obtained from, an individual and in possession of any agency providing assistance or services to such individual under the plan, will be disclosed in a form identifiable with the individual without the individual's consent.

(Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9))

Approved: May 19, 1980.

Patricia Roberts Harris,
Secretary of Health and Human Services.

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BILLING CODE 4110-12-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Parts 1061, 1068, 1075

State Agency Assistance Funded Under Section 231 of the Economic Opportunity Act

AGENCY: Community Services Administration.

ACTION: Proposed amendment of a rule.

SUMMARY: The Community Services Administration is proposing to revise its policy statement implementing Section 231 (State Agency Assistance) of the Economic Opportunity Act of 1964 as amended. This rule is currently published at 45 CFR Part 1075 as Subpart 1075.1, State Economic Opportunity Offices. The proposed rule implements changes in legislation which were included in the Economic Opportunity Amendments of 1978 in addition to changes in administrative requirements.

DATE: CSA welcomes and encourages comments on the rule. Comments received prior to July 28, 1980, will be considered in writing the final rule.

ADDRESS: Please send all comments to: Ms. Jacqueline G. Lemire, Policy Development and Review Division, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline G. Lemire, Telephone: 202–254–5047; Teletypewriter: 202–254–6218

SUPPLEMENTARY INFORMATION:

Significance of Regulation

CSA has determined that under its published criteria implementing Executive Order 12044 this is a significant change to a rule.

CSA is proposing to revise its existing policy implementing the provisions of Section 231 of the Economic Opportunity Act of 1964, as amended (45 CFR 1075.1). This proposed revision implements legislative changes mandated by the Economic Opportunity Amendments of 1978. In addition the policy is being revised to reflect the changing role of the States in anti-poverty activities in the ten year period since CSA published its present policy, e.g. they now have a

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role in the administration of many major grant-in-aid programs, resources for anti-poverty programming at the State level have increased steadily, etc.

Given the need for flexibility in administering Federal programs at the State level, the amended rule would provide that the Governor of each state select the State agency which he or she wishes to receive funding under Section 231 of the EOA. This agency would have to be an agency within the State structure which meets criteria published in the rule. (See § 1061.90–4(a).) The agency selected also would be the agency to which CSA would provide prior notification of financial assistance under Section 222 of the Economic Opportunity Act.

Funds allocated by CSA for use by a State will be granted only to an agency selected by the Governor. If the Governor chooses not to select an agency, no other agency or organization within the State will receive funds under Section 231.

There would be a mandated set of goals which all designated agencies would be required to address along with acceptable activities. In addition these agencies could propose to address other prescribed goals if Section 231 funds were available above and beyond those required to carry out the mandated work program.

Grants made under this Section of the EOA would no longer carry a non-Federal share requirement.

Legislative changes are proposed to be implemented as follows: Goal #1 includes activities which implement the legislative amendment to Section 231 providing the Director of CSA with the authority to fund State agencies which, in turn, will assist programs funded under Sections 221 and 222 of the EOA in coordinating and utilizing services available through other State agencies. Goal #3 (§ 1061.90–5(a)(3)) and the Goal described in 90–(b)(2) implement the legislative change which includes advising the Director of CSA and the Governor on the problems of poverty.

The proposed rule governs only the goals and activities to be undertaken with funds awarded under Section 231. It does not address, nor does it intend to circumscribe, the activities of the State agency selected by the Governor or any other State agency which is provided financial assistance by CSA under other Sections of the Economic Opportunity Act.

The provisions of this rule would have to be fully implemented by July 1, 1981.

(Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).)

Robert S. Landmann,

Acting Director.

45 CFR Chapter X is proposed to be amended as follows:

PART 1075—STATE ECONOMIC OPPORTUNITY OFFICES [DELETED]

1. Part heading 1075 is deleted.

§§ 1075.1–1—1075.1–11 (Subpart 1075.1) [Deleted]

2. Subpart 1075.1, Role of State Economic Opportunity Offices (CSA Instruction 7501–1) is deleted in its entirety.

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart 1068.20—Non-Federal-Share Requirements for Title II, Sections 221 and 222(a)

§§ 1068.20–2 and 1068.20–3 [Amended]

3. Subpart (1068.20)—Non-Federal-Share Requirements for Title II, Sections 221, 222(a) and 231, is amended by revising the title to read "Non-Federal-Share Requirements for Title II, Sections 221 and 222(a)"; by deleting paragraph "(b) Administrative requirement (231)" of § 1068.20–2 in its entirety; and by deleting paragraph (a)(4) SEOOs (Section 231.) of § 1068.20–3 in its entirety.

PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

4. Part 1061 is amended by adding Subpart 1061.90 to read as follows:

Subpart 1061.90—State Agency Assistance Funded Under Section 231 of the Economic Opportunity Act

Sec.

1061.90–1 Applicability.
1061.90–2 Purpose.
1061.90–3 Timeframe for implementation of rule.
1061.90–4 Procedures for designating a State agency to receive assistance under Section 231 of the EOA.
1061.90–5 Goals and eligible activities.
1061.90–6 Application process.
1061.90–7 Post-funding requirements.

Authority: Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).

Subpart 1061.90—State Agency Assistance Funded Under Section 231 of the Economic Opportunity Act

1061.90–1 Applicability.

This subpart is applicable to grants, contracts, and cooperative agreements funded under Section 231 of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

1061.90–2 Purpose.

The purpose of this subpart is to provide to State Governors criteria by which they may choose a State agency as the agency eligible to apply to the Community Services Administration for funds under Section 231 of the Economic Opportunity Act of 1964, as amended (EOA). This subpart also details the goals which are to be addressed with funds provided under Section 231; pre-funding requirements; the application process; and post-funding requirements.

1061.90–3 Timeframe for implementation of rule.

The provisions of this rule may be applied beginning (30 days after publication of the final rule in the **Federal Register**) but must be fully implemented by July 1, 1981 by any Governor who elects to apply for funding under Section 231.

1061.90–4 Procedures for selecting a State agency to receive assistance under Section 231 of the EOA.

(a) *How a State agency is selected.* The Governor of a State may select a State agency within his or her State as the agency will carry out those anti-poverty efforts described in this rule. The agency which the Governor selects also will be the agency to whom prior notification of financial assistance under Section 222 will be provided. The agency selected must be one (1) whose Director has direct line authority and responsibility for implementing the goals of a CSA-approved work program; (2) has direct organizational access to the Governor for the purposes of carrying out the Goals of the CSA-approved work program; (3) which has the demonstrated ability to mobilize State and Federal resources in support of the anti-poverty efforts of Community Action Agencies and other local anti-poverty groups; and (4) which has proven experience in planning, coordinating, administering or operating programs for the poor.

(b) *Determination of eligibility.* Sixty days prior to submission of an application for funding the agency selected by the Governor will be responsible for providing the appropriate CSA Regional Office with documents and other data and information by which the CSA Regional Director can verify eligibility of the agency. These supporting documents must address each of the elements described in paragraph (a)(1) through (4) of this section.

1061.90–5 Goals and eligible activities.

(a) *Mandated goals for all work programs.* CSA recognizes that States differ in their constitutional, statutory and organizational patterns. States also differ in terms of resources available, the causes of poverty, and the resulting programs. However, regardless of these differences CSA believes that the following are valid anti-poverty goals for all States. Therefore, Goals 1 through 3 listed below, along with their selected activities, must be addressed in *all* work programs:

(1) Goal #1: To increase the amounts and kinds of Federal, State and private resources available for anti-proverty activities within a State.

Acceptable activities in achieving this goal include but are not limited to:

(i) Seeking out, developing or assisting in the development of every State, local, Federal and non-Federal resource that can be marshalled effectively and/or coordinated to assist poor persons, Community Action Agencies, State community action associations, and other anti-proverty efforts within the state.

(ii) Developing and carrying out strategies for obtaining additional resources for new and existing anti-poverty activities of the State.

(iii) Initiating or stimulating the development and implementation of anti-proverty programs which are needed and not being provided adequately in the State.

(iv) Promoting the utilization of all available State resources by making necessary information and support available to poor persons.

(2) Goal #2: To strengthen State capabilities for planning and coordinating in order to insure that available assistance related to the elimination of poverty can be more responsive to the needs and conditions of the poor within a State.

Acceptable activities in achieving this goal include but are not limited to:

(i) Promoting the maximum feasible participation of poor people in the planning, conduct and evaluation of other State agency operations and programs which affect the poor.

(ii) Developing interagency mechanisms at the State and local program level to insure good communications between State and local agencies, particulary Community Action Agencies and State community action associations, and other agencies and offices whose activities affect the poor.

(iii) Developing a formal mechanism by which to advise departments of State government of the capabilities of Community Action Agencies and other CSA-funded anti-poverty groups to assist State agencies in their antipoverty efforts.

(iv) Working for representation of poor persons on State committees and other entities which develop policy, provide advice or operate programs affecting the poor.

(3) Goal #3: To assure that the Governor has current and expert advice and information on poverty problems and anti-poverty efforts within the State. Acceptable activities in achieving this goal include but are not limited to:

(i) Providing the Governor with information and advice with respect to the policies and programs of the Community Services Administration and other anti-proverty resources.

(ii) Providing the Governor, the State legislature, and other state agencies with information on the causes and conditions of poverty in the State.

(iii) Advising the Governor on the status and impact of State and Federal programs and services affecting poor individuals in the State.

(iv) Assisting the Governor in carrying out the provisions of Section 242 of the EOA.

(v) Drafting an Annual Report on Poverty in the State for delivery by the Governor to the State legislature and to the citizens of the State.

(b) *Supplementary goals and activities.* In those instances where a selected State agency has *funds available* under Section 231 *above and beyond those required to carry out its mandated work program* as described in paragraph (a) of this section, the agency may address one or more of the following in its proposed work program:

(1) Goal: To assure that Community Action Agencies and other CSA grantees have available to them the technical expertise and information and other assistance which will enable them to carry out effectively and efficiently their anti-proverty efforts.

(i) Acceptable activities in achieving this goal include:

(A) In consultation with CSA, assisting grantees in implementing corrective actions recommended by CSA as a result of evaluations, pre-reviews, monitoring and/or audit reports.

(B) In consultation with CSA, CSA grantees, and other anti-poverty groups, sponsoring or participating in training programs and workshops for staff and board members, utilizing state resources and personnel to the extent possible.

(C) Providing information and assistance to CAAs, other CSA grantees, and other anti-poverty groups, in planning, developing and operating programs including volunteer programs.

(2) Goal: To assure that the Director of CSA has current and expert information on the impediments to coordinating anti-poverty programs at the State level and how these impediments may be eliminated.

(i) Acceptable activities in achieving this goal include:

(A) Advising and assisting CSA in identifying problems posed by Federal and State statutory or administrative requirements that impede state-level coordination of CSA-related programs, and in developing methods or recommendations for overcoming these problems.

(B) Advising CSA on procedures and programs which will promote State agency participation in carrying out the aims and objectives of the Economic Opportunity Act.

(C) Developing an Annual Report to the Director of CSA on the status and impact of Federal and State programs and services affecting low-income individuals within the State.

(c) *Measurable goals and activities in the Work Progam.* Goals and activities appearing in the applicant's work program must be stated in terms which are clearly measurable and must include the quantity as well as the quality and character of the improvements to be achieved.

§ 1061.90–6 Application process.

(a) *Funding offices.* The responsibility for application review, grant approval, and monitoring of grants funded under Section 231 lies with the appropriate CSA Regional Office.

(b) *Application requirements.* (1) Sixty days prior to the submission of an application for funds to CSA, an applicant selected by the Governor must:

(i) Submit eligibility documents to CSA as required in § 1061.90–4(b); and

(ii) Notify the state clearinghouse and the area clearinghouses (if appropriate) of its intent to apply for funds. (See § 1067.10 of this chapter for detailed instructions.)

(2) Ninety days before the expected funding date or, for refundings, ninety days before the end of the grantee's program year, the applicant/grantee must submit to the appropriate CSA Regional Office a formal grant application.

(3) The following documents must be submitted as part of the formal funding request:

(i) SF–424, Federal Assistance (including all comments received from clearinghouses)

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(ii) CSA Form 419, Summary of Work Programs and Budget

(iii) CSA Form 515, Grantee Budget Information (pages 1 and 2) (See OMB Circular A-102.)

(4) If delegating programs the following additional documents must be submitted as part of the formal funding request:

(i) CSA Form 85, Administering Agency Funding Estimate

(ii) CSA Form 87, Delegate Agency Basic Information

(iii) CAP Form 11, Assurance of Compliance with Civil Rights Act.

§ 1061.90-7 Post-funding requirements.

Grantees receiving funds under Section 231 must comply with all CSA rules applicable to 231 grants. See § 1067.50 of this chapter for a listing of all such rules.

[FR Doc. 80-15978 Filed 5-23-80; 8:45 am]

BILLING CODE 6315-01-M

45 CFR Part 1070

Grantee Public Meetings and Hearings

AGENCY: Community Services Administration.

ACTION: Proposed Amendment to a rule.

SUMMARY: CSA is filing an amendment to its rule governing grantee public meetings and hearings. This amendment requires governing boards of nongovernmental Community Action Agencies to annually set aside one of their regularly scheduled meetings for the sole purposes of providing information to the community on the agency's salary schedule, the funds under its control and to adopt a budget for these funds. This amendment is one step in assuring compliance with the legislative requirements for grantee fiscal accountability and public access to information, records and books.

DATES: CSA welcomes comments on this rule. Comments received prior to July 28, 1980, will be considered in drafting the final amending language. Please address all comments to: Ms. Jacqueline G. Lemire, Community Services Administration, 1200 19th Street, N.W., Washington, D.C. 20206, Telephone (202) 254-5047, Teletypewriter (202) 254-6218.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline G. Lemire, Community Services Administration 1200 19th Street, N.W., Washington, D.C. 20506, Telephone (202) 254-5047, Teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION:

Significance of Regulations

CSA has determined that under its criteria implementing Executive Order 12044 this is a significant change to a rule.

Through its legislatively mandated powers under Section 211(e) of the Economic Opportunity Act as amended, the governing board of a CAA is ultimately responsible for determining fiscal policies and approving overall program plans and priorities for the community action program in toto—that is whether projects are funded under Title II of the EOA or financial assistance is provided by other sources both private and public.

In carrying out it's responsibilities under the EOA to insure grantee fiscal responsibility and accountability, CSA has had reason to be concerned about whether CAA governing boards are carrying out their responsibilities for fiscal control of *all* community action program funds.

CSA also is concerned that the right of the community to information on the budget and activities of the entire community action program (not only that portion funded by CSA) is not always guaranteed. Section 213(a) speaks to this right to information. It requires that each CAA provide reasonable public access to information and to books and records of the CAA or other agencies engaged in program activities or operations involving the use of funds for which it is responsible. CSA has concluded that providing "reasonable public access" should not be defined as a merely passive act but that affirmative steps should be taken by CAA's to assure that the public has that information. In order to insure that there is control by the governing board of all CAA funds and that the total budget be open to public scrutiny, CSA is amending its policy on grantee public meetings to require that annually the board hold a public meeting whose sole purposes are (1) to provide the community the salary schedule of the agency and a comprehensive financial statement covering all assets, liabilities and summaries of revenue for all funds under control of the CAA, and (2) to adopt a detailed budget for such funds where appropriate.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

Robert S. Landmann

Acting Director.

45 CFR 1070.2-3(a) is proposed to be amended by adding the following new subparagraph (3):

§ 1070.2-3 [Amended]

(a) * * *

(3) Annually, each nongovernmental CAA will set aside one of its regularly scheduled public meetings for the sole purposes of providing to the community the salary schedule of the CAA and how comparability was established, a comprehensive financial statement covering all assets, liabilities and summaries of revenue for all funds (regardless of source) under control of the CAA, providing information to the community on the uses to which these revenues have been consigned, and/or adopting a detailed budget for such funds.

* * * * *

[FR Doc. 80-18037 Filed 5-23-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33 and 94

[CGD 79-072]

Stowage of Lifeboats and Liferafts

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposed to amend its regulations pertaining to the storage of lifeboats and liferafts for all inspected vessels having widely separated accommodation or working spaces. This document gives notice of additions to the proposal that have been made since the notice of proposed rulemaking was published and extends the comment period. The additions are based upon comments received in response to the original notice. The main additions are the inclusion of manned seagoing barges and Great Lakes vessels into the proposal.

DATES: Comments must be received on or before July 11, 1980.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/TP24), U.S. Coast Guard Headquarters, Washington, D.C. 20593. Comments will be available for inspection or copying from 7:00 a.m. to 5:00 p.m., Monday through Thursday, at the Marine Safety Council (G-CMC/TP24), Room 2418, 2100 2nd St., SW., Washington, D.C. 202-426-1477.

The proposal has been evaluated in accordance with DOT "Regulatory Policies and Procedures," 44 FR 11033 (February 26, 1979). A draft regulation evaluation and the environmental impact assessment will be available for examination at the Marine Safety Council (G-CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, D.C. 20593, 202-426-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Daniel J. Zedan (G-MVI-2/TP24), Room 2612, U.S. Coast Guard Headquarters, Washington, D.C., 202-426-2190.

SUPPLEMENTARY INFORMATION: Four comments have been received on the notice of proposed rulemaking of December 3, 1979 (44 FR 69312). These comments are available for examination at the Coast Guard, Marine Safety Council located at the above address. The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the name and address, identify this notice (CGD 79-072) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. If an acknowledgment is desired, a stamped, addressed postcard should be enclosed. The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by anyone raising a genuine issue.

Draft Information

The principal persons involved in drafting this supplemental notice of proposed rulemaking are: Lieutenant Daniel J. Zedan, Project Manager, Office of Merchant Marine Safety, and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Issues Raised by the Notice of Proposed Rulemaking

Among the issues and concerns raised in comments to the notice of proposed rulemaking are the following:

1. A clarification of the capacity each raft must accommodate.
2. A clarification of the term "widely separated accommodation or working spaces."
3. Whether manned seagoing barges should be included in the proposed amendments.
4. Whether present Great Lakes regulations should be reworded to read the same as the other proposed amendments.

Discussion of Comments and Additional Proposed Rules

One of the comments requested a clarification of the aggregate capacity requirement for the liferafts. The question was whether the regulation referred to at least one-half of the total number of persons aboard the vessel or of just the normal number of persons working or living in the area. The intent of the regulation is to require sufficient capacity to accommodate 50% of the total number of people aboard the vessel, not just the area, to ensure sufficient lifesaving equipment in the event the vessel breaks in two as in the case of the M/V Chester A. Poling. Therefore, the proposal remains unchanged.

Two Comments requested a clarification of the term "widely separated accommodation or working spaces" with one of them recommending that a definition be placed in the regulation. Because this is not a new term and has been used for years, no specific definition in this proposal is necessary. As far as clarifying its meaning, due to the design differences in each vessel, no set distance for determining what is or is not widely separated has ever been made. This has always been left to the discretion of the local OCMI. Accommodation spaces are those spaces where crewmembers eat, sleep, spend their recreation time, etc. and usually include, but are not limited to, crew quarters, recreation rooms, library, mess hall, etc. Working spaces are those spaces where crewmembers usually stand their watches. Examples usually include, but are not limited to, engine rooms, machinery shops, wheelhouse or bridge, radio room, etc. Areas such as storerooms and lockers in the forecastle head normally do not qualify as working spaces; however, as with the determination of accommodation spaces, the designation of what is a working space is left to the discretion of the local OCMI.

Two errors were noted in the notice of proposed rulemaking which should be corrected. In paragraph 94.10-10 and 192.10-10, the word "spaced" is used instead of "separated". To insure uniformity, all proposed changes should read "widely separated accommodation or working spaces."

The additions proposed by the remaining two comments, and included in this supplemental notice of proposed rulemaking, include the following:

1. An amendment has been added to table 46 CFR 94.10-40 concerning Great Lakes vessels by changing the wording of footnote number three to read the same as that used in the other proposed amendments.
2. An amendment has been added to 46 CFR 33.05-20(c) concerning Great Lakes tankers by changing the wording of the paragraph to read the same as that used in the other proposed amendments.
3. An amendment has been added to 46 CFR 94.10-15 concerning seagoing barges by adding a new paragraph (c) to read the same as the wording used in the other proposed amendments.

The first two proposals are designed to eliminate the inconsistency which presently exists between what is required for deep sea vessels and that which is required for Great Lakes vessels. As written now, Great Lakes vessels over 300 gross tons having widely separated accommodation or working spaces need only have two inflatable liferafts for the entire vessel with stowage location being left to the satisfaction of the OCMI. This requirement varies greatly with the present requirement for vessels on ocean and coastwise voyages and there appears to be no justification for the difference.

The third proposal is designed to require all manned seagoing barges, having widely separated accommodation or working spaces, to have the same degree of lifesaving protection as presently required for vessels in ocean and coastwide service. The Coast Guard is certificating many construction barges, i.e. derrick, pipe lay, and offshore oil industry, many of which carry as many as 500 persons. Under existing regulations, these vessels present a unique problem due to their configuration, and in many instances a majority of the lifesaving equipment has been placed in areas where it will not interfere with the vessels operation, but away from living or working areas. This could result in a large portion of the emergency equipment being lost in the event of an accident, i.e., helicopter crash or major fire. The proposed amendment would correct this problem.

In accordance with the foregoing, the following additions to the notice of proposed rulemaking of December 3, 1979 are proposed:

PART 33—LIFESAVING EQUIPMENT

1. By amending § 33.05-20(c) by deleting the last two sentences and replacing them with the following sentence:

§ 33.05-20 [Amended]

* * * Those tankships that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

PART 94—LIFESAVING EQUIPMENT

2. By adding a new paragraph (c) to § 94 10-15 to read as follows:

§ 94.10-15 Requirements for seagoing barges in ocean or coastwise service.

* * * * *

(c) All manned seagoing barges of 100 gross tons and over in ocean or coastwide service, having widely separated accommodation or working spaces, must have at least one liferaft, of

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sufficient aggregate capacity to accommodate at least 50 percent of the persons on board, in each such location.

§ 94.10-40 [Amended]

3. In § 94.10–40, footnote three to Table 94.10–40(a) is revised to read as follows:

[3] Every vessel of 300 gross tons and over, having widely separated accommodation or working spaces, must have at least one liferaft, of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board, in each such location.

(46 U.S.C. 391a, 481; 49 U.S.C. 1655(b); 49 CFR 1.46(b) and (n)(4))

Dated: May 20, 1980.

W. D. Markle, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 80-16031 Filed 5-23-80; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL MARITIME COMMISSION

46 CFR Part 522

[General Order 24; Docket No. 80–32]

Exemption of Leases or Arrangements Solely Involving Terminal Facilities Located in Foreign Countries

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: Exemption from the filing requirements of section 15 of the Shipping Act, 1916, for leases or arrangements solely involving terminal facilities located in foreign countries.

DATE: Comments due on or before July 28, 1980.

ADDRESS: Comments (Original and 15 copies) and Inquiries to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573 (202) 523–5725.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Maritime Commission is considering a rule to exempt leases or arrangements solely involving terminal facilities located in foreign countries from the filing requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

In Docket 79–18, *Exemption from the Provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933,* public comments and suggestions were requesting concerning possible activities that could be exempted from present regulatory requirements imposed by the Shipping Act, 1916, and the Commission's Rules. From the comments submitted, it appears that leases or arrangements solely involving terminal facilities in foreign countries could be exempted without impairing the Commission's regulatory effectiveness or creating conditions which were unjustly discriminatory or detrimental to the commerce of the United States. Comments received in Docket 79–18 will be made a part of this proceeding and will not need to be refiled. Commentators are requested to address whether in their view the proposed exemption will substantially impair effective regulation by the Federal Maritime Commission or significantly affect the overall design of regulation contemplated by the Shipping Act, 1916.

Therefore, pursuant to sections 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 833a, and 841a) and section 4 of the Administrative Procedure Act (5 U.S.C. 533), the Commission proposes to revise, 46 CFR Part 522 by the addition of a new § 522.9 as follows:

§ 522.9 Exemption of leases or arrangements solely involving foreign terminal facilities.

(a) *Exemption.* To the extent that the Commission has jurisdiction over this authority, leases or arrangements solely involving foreign terminal facilities are exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916.

(b) *Optional Section 15 Compliance.* Notwithstanding paragraph (a) of this section, persons which desire Commission approval of a foreign terminal agreement solely involving foreign terminal facilities may file the agreement with the Commission for section 15 determination and approval in accordance with ordinary procedures.

(Secs. 4, 15, 35, 43; (5 U.S.C. 533, 46 U.S.C. 814, 833a, 841a))

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-15995 Filed 5-23-80; 8:45 am]

BILLING CODE 6730-01-M

46 CFR Part 524

[General Order 23; Docket No. 80–34]

Exemption of Nonexclusive Transshipment Agreements From Section 15 Approval Requirements

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: Nonexclusive container and/or equipment interchange agreements would be exempted from the apporval requirements of section 15 of the Shipping Act, 1916.

DATE: Comments (original and fifteen copies) due on or before July 28, 1980.

ADDRESS: Address comments and inquiries to: Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, D.C. 20573, (202) 523–5705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Maritime Commission is considering the adoption of a rule to exempt agreements between ocean carriers involving the nonexclusive interchange of empty containers, chassis, barges and related equipment from the prior approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

The Commission recently requested public comments and suggestions relating to areas of activity under Commission regulation that could be exempted from the approval requirements of section 15.* These comments indicated that equipment interchage agreements was one Shipping Act activity which could reasonably be exempted from regulation under the standards articulated in section 35 of the Shipping Act, 1916 (46 CFR 833a). Comments received in Docket 79–18 will be made a part of this proceeding and need not be refiled. Commentators are requested to address whether in their view the proposed exemption will substantially impair effective regulation by the Federal Maritime Commission or significantly affect the overall design of regulation contemplated by the Shipping Act, 1916.

Nonexclusive equipment interchange agreements generally comprise three categories, *i.e.,* (1) container, chassis and related equipment interchange agreements; (2) agreements involving the management of the equipment as well as the exchange of containers, chassis and related equipment; and (3) agreements covering only the repair and maintenance of containers, chassis and related equipment.

While LASH and SEABEE barges are not ordinarily included in these categories, these barges function in a manner similar to containers and it is proposed that agreements involving the nonexclusive interchange of such barges also be included in the exemption. Therefore, a fourth category specifically relating to agreements involving the nonexclusive interchange of LASH and SEABEE barges has been added to the above categories.

This exemption should not substantially impair effective Commission regulation of common carrier practices, result in unjust discrimination or be detrimental to commerce, provided that such agreements are filed for information purposes in the manner proscribed below.

Therefore, pursuant to sections 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 833a, and 841a), and section 4 of the Administration Procedure Act (5 U.S.C. 553), the Commission proposes to revise 46 CFR Part 524 by changing its title, renumbering and recaptioning existing §§ 524.2 through 524.6 as § 524.2, making nonsubstantive revisions in present §§ 524.5 and 6 to conform with proposed §§ 524.3 (d) and (e), and adopting a new § 524.3. The new material would read as follows:

* Docket No. 79–18, *Exemption from the Provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.*

PART 524: EXEMPTION OF CERTAIN AGREEMENTS FROM THE APPROVAL REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916

§ 524.3 Nonexclusive equipment interchange agreements.

(a) *Definition.* A Nonexclusive Equipment Interchange Agreement for the purpose of this Part is an agreement between two or more carriers for the mutual exchange of containers, chassis, SEABEE and LASH barges, and other related equipment; which agreement does not prohibit either carrier from entering into similar agreements with other carriers.

(b) *Conditions to be met.* Nonexclusive Equipment Interchange Agreements are hereby exempted from the filing requirements of section 15 provided they conform with the language and format set forth in 524.3(c) and provided that two copies are filed with the Commission 30 days prior to implementation for information, but not for approval.

(c) *Format.* Nonexclusive Equipment Interchange Agreements shall adhere to the following form:

Nonexclusive Equipment Interchange Agreement No. ———
Participating Carriers: ———

The parties to this agreement agree to nonexclusive:

(1) interchange empty containers, chassis, empty barges, and related equipment; to transport the equipment of the other as the circumstances and conditions of these trades may require and permit; said interchange or transport to be subject to mutually acceptable Agent to record movement of and to dispatch their containers, barges and/or related equipment only; [1]

(2) provisions covering payment for use of the equipment, if any;

(3) provisions relating to the management of equipment use and position of empty equipment;

(4) provisions covering damage to equipment and liability arising out of the use of the equipment;

(5) provisions covering the arbitration of any disputes;

(6) provisions covering the termination of the agreement.[2]

Date at ——— this ———
day of ———, 19—.
By: ———
By: ———

(d) *Optional section 15 approval.* Notwithstanding the provisions of this section, persons which desire approval of equipment interchange agreements may continue to submit such agreements with the Commission for section 15 determination in accordance with ordinary filing procedures.

(e) *Termination of section 15 approval.* Interchange agreements which have received section 15 approval may be converted to exempt status agreements upon submission of a petition for termination and exemption which demonstrates that the agreement in questions meets the requirements of this section.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-15993 Filed 5-23-80; 8:45 am]

BILLING CODE 6730-01-M

[1] Language of paragraph 1 is mandatory.

[2] Language of paragraphs 2 thru 6 may vary with each agreement.

46 CFR Part 536

[General Order 13 Revised; Docket No. 80–33]

Exemption of Tariff Matter Covering the Movement of Cargo Between Foreign Countries Either Transshipped From One Water Carrier to Another at U.S. Ports or Transported Overland Through the United States

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This rule is proposed to exempt from the filing requirements of section 18(b) of the Shipping Act, 1916, tariff matter covering the movement of cargo between foreign countries, either transshipped from one water carrier to another at U.S. ports or transported overland through the United States.

DATE: Comments due on or before July 28, 1980.

ADDRESS: Comments (original and 15 copies) to: Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Maritime Commission is considering the adoption of a rule as set forth below to exempt tariff matter covering the movement of cargo between foreign countries either transshipped from one water carrier to another at U.S. ports or transported overland through the United States from the filing requirements of section 18(b) of the Shipping Act, 1916.

The Commission in Docket 79–18, *Exemption from the Provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933,* requested public comments and suggestions relating to the areas of activity under Commission regulation that could be given exemption from the filing requirements of the Shipping Act, 1916, without impairing the Commission's regulatory effectiveness. From the comments submitted, it has been determined that tariff matter covering the movement of cargo between foreign countries either transshipped from one water carrier to another or transported overland through the United States could be exempted without impairing the Commission's regulatory effectiveness. Additionally, there has been no showing that this exemption would be unjustly discriminatory or detrimental to the commerce of the United States. Comments received in Docket 79–18 will be made a part of this proceeding and need not be refiled. Commentators are requested to address whether in their view the proposed exemption will substantially impair effective regulation by the Federal Maritime Commission or significantly affect the overall design of regulation contemplated by the Shipping Act, 1916.

Therefore, pursuant to sections 18(b) and 35 of the Shipping Act, 1916 (46 U.S.C. 817 and 833a), and section 4 of the Administrative Procedure Act (5 U.S.C. 553), the Commission proposes to revise Part 536 by the addition of § 536.1(a)(7) as follows:

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

§ 536.1 Exemptions and exclusions.

(a) The following services are exempt from the tariff filing requirements of the Act and the rules of this part:

(7) Transportation movements of cargo between foreign countries either transshipped from one water carrier to another at United States ports or transported overland through the United States via any mode or routing.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-15996 Filed 5-23-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-190; RM-3630; FCC 80-261]

Amending FCC Form 324 Annual Financial Report of Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein institutes a rulemaking proceeding which seeks to revise the broadcast financial reporting requirements. It also asks for comment on a petition by the National Association of Broadcasters which seeks to delete such requirements. The proposed new reporting requirements would improve the quality of the data and omit certain kinds of data that are no longer necessary or can be obtained from other reports filed by licensees.

DATES: Comments must be received on or before September 15, 1980, and reply comments must be received on or before November 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alan Stillwell, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Form 324 Annual Financial Report of Broadcast Stations.

Adopted: April 24, 1980.

Released: May 14, 1980.

By the Commission: Commissioner Lee absent; Commissioner Quello concurring in the result.

Notice is hereby given of the institution of a rule making proceeding looking toward the revision of FCC Form 324, the Annual Financial Report of Networks and Licensees of Broadcast Stations.[1] In recent years the Commission has been evaluating the current reporting requirements in light of our current need for financial data. It has been 18 years since the Commission last completed an overall review of its reporting requirements.[2] This *Notice* results from the Commission's consideration of this matter and our desire to revisit the question of financial reporting requirements after almost two decades.

2. The Commission also has before it a petition for rule making from the National Association of Broadcasters seeking to delete Section 73.3611 of the Commission's Rules and Regulations (47 CFR § 73.3611) which requires all commercially operated broadcast stations to file an Annual Financial Report. The NAB petition also suggests, as an alternative, that the Commission reevaluate the necessity for the requirement that financial reports be filed each year. This petition has been accepted and assigned a rule making number (RM-3630). However, since it closely relates to the issues raised herein, we will incorporate the matter into this proceeding. While parties may comment on any aspect of the petition, we have indicated herein our strong preference to continue the collection of financial information for policy making proceedings. Further, we have specifically raised the question herein at paragraph 36 concerning the necessity to continue collecting Form 324 data on an annual or at some less frequent interval.

3. This proceeding will focus on the specific reporting requirements necessary to meet our needs for financial data and on the potential costs to broadcast licensees of providing that data.

Background Information

4. Over the years the Commission has required that financial information be filed by applicants or licensees in two contexts. First, at the time a major application is filed (e.g., television license renewal application, application for construction permit for a new radio or television station, etc.,) the applicant must submit a showing of financial qualifications.[3] Such showings usually include a statement of the applicant's assets and liabilities and, in the case of construction permit applications, sources of funds, annual income, and expected costs of construction and operation.

5. Secondly, since 1938, the Commission has required each licensee to submit an annual financial report. The early forms were quite extensive and required very detailed financial data to be reported. Through the years, it is recognized that the Commission neither needed nor used such detailed information and accordingly the reports have been reduced to a relatively simple statement of the revenue and expense related to broadcasting, the number of persons employed by the station, and a statement of the cost of tangible property devoted to broadcasting.

6. This rule making focuses only upon the annual financial report that is now embodied in FCC Form 324 and its instruction. It does not address the question of what is required to establish that applicants are financially qualified.

7. Eighteen years have elapsed since the Commission last completed an overall review of its annual financial reporting requirements. Since that time, questions have been raised with increasing frequency about the adequacy of the data provided by the Form 324 to meet the Commission's increasing need for economic analysis of the broadcast industry and the potential economic effects of its regulations. For example, data from different stations are often not comparable because the current form and instructions allow considerable latitude for licensee judgment in allocating revenue and expense accounts to the various line items. Also, some have argued that the limited income statement structure of the report may not provide the right kind of data for some of the economic questions that arise in broadcast regulation.

8. As a result of the increasing concern for the usefulness of the data, the Commission, in 1977, issued a contract to T&E, Inc. (T&E), an independent research firm, to study the Commission's need for financial information and the industry's methods of accounting, and to recommend revisons to Form 324 in light of their findings.[4] Since all reporting requirements impose a burden on those who must respond, the Commission also asked that the contractor make every effort to assure that their recommended changes meet our information needs without imposing undue costs on licensees.

9. T&E recommended more comprehensive definitions and reporting

[1] § 73.3611 of the FCC rules and regulations requires the annual submission of FCC Form 324 by the licensee of each commercially-operated broadcast station.

[2] *Memorandum Opinion and Order* in Docket 13842, FCC 62-1328, 24 RR 1631 (1962).

[3] Such filings are not required for radio station renewals.

[4] The T&E, Inc. report is available in the Commission's library, Room 639, 1919 M St., N.W., Washington, D.C. Copies of the study can also be obtained from the Downtown Copying Center, 1730 K St., N.W., Washington, D.C. 20006. The study is too voluminous to release as part of this document but will be placed in the docket of this proceeding upon release of this Notice.

instructions for all line items, and expansion of the Form 324 to include a more detailed breakdown of expenses, and a balance sheet. These recommendations have been thoroughly reviewed by the staff and will be discussed in detail below. However, before we can review the recommended reporting requirements, we must address the need for financial data.

The Need for Financial Data

10. Over the past 42 years, the financial information collected annually from broadcast licensees has been used for a number of purposes. It has provided data for policy research in support of major rulemakings or legislation;[5] it has provided information to estimate the potential economic harm of grants of specific applications, as in UHF impact cases;[6] it has provided support for statements of financial qualifications in transfer and assignment of license cases; when summarized by markets and industry segments, it has provided a valuable picture of the structure and economic status of the industry over time;[7] and it has provided information in other matters where the financial condition of stations is of interest. we are also aware that the broadcast industry uses the information from the published reports, compiled from the current form for planning and evaluation purposes. In a similar context, the published data might also provide information needed by prospective entrants to the industry to guage the viability of opportunities for new stations.

11. All of these uses are important, but not all constitute justification for the Commission's collecting the data on an industry-wide basis. When financial information is needed for a specific case, for example, it could be gathered as part of the fact-finding process of that case. By collecting such data on a case-by-case basis, the Commission could specify its request to obtain that information which is most pertinent to each particular case. Also, while we support and encourage the use of the data by the industry for planning and investment decision making, we do not believe those uses provide sufficient justification to warrant our collection of data. A more appropriate approach to serve these purposes might be to let the industry itself specify and develop the information it needs.

12. Our need for the regular collection of financial data on an industry-wide basis stems from our need to make informed policy decisions. The major portion of the broadcast industry is composed of stations whose ability to provide service to the public and, indeed, viability depend on their success as a business venture. Many of our decisions affect the costs and revenues of the business either directly or indirectly. The greater our understanding of the economic structure of the industry and the greater our understanding of the economic effects of our decisions and the incentives they are likely to affect, the better we will be able to arrive at judgments that achieve the desired effect on service from the industry. Such understanding of the general economic trends and relationships within the commercial broadcasting industry must rely substantially upon analysis of economic data gathered from the industry.

13. In this respect, the data from the current form have been highly useful for some policy purposes and less useful for others. For example, the broadcast financial data have proved valuable for reassessing existing policies intended to foster the development of new stations, such as the special UHF-aural exception to the one-to-a-market rules.[8] They have also provided support in development of new policies to accomplish this same purpose that take advantage of changes in the state of the industry, such as the recent revision of our policy towards the financial qualifications of applicants for new television stations.[9] Additionally, the data have been useful in evaluating policies where there are questions concerning their economic impact on existing stations. Examples of proceedings that have addressed such questions are the Cable Economic Inquiry (Docket 21284) and the Canadian Pre-Release proceeding (Docket 20649).

14. When the focus of research has shifted to studies concerning the behavior of individual broadcast stations and markets, however, the financial data have not been as useful. This was demonstrated in a study of the viability of UHF stations in the top 100 markets prepared by R. E. Park under contract to the Commission.[10] This study found that the financial data were not very useful for predicting the economic performance of individual UHF stations, because of the variability in stations' reported data. Part of this variability may be due to the reports themselves, for example, the lack of detailed definitions.

15. We turn our attention now to the kind of data we should collect in order to meet our needs. One approach to this task would be to identify a number of different policy matters and then determine the data needed to support research on these matters. We recognize, however, that it is not possible to anticipate all of the forthcoming issues and policy matters that will require economic or financial analysis. In addition, the needs of a specific analysis or study often become well defined only after substantial initial investigation has been completed. Because of these limitations, we have chosen instead to focus our specification of need on the more general kinds of requirements that can be derived from the planned direction of our broadcast regulatory program for the foreseeable future.

16. We have, in recent years, begun to determine the extent to which our policy goals and objectives can be served by a system of regulation that relies on market forces rather than direct regulation of behavior.[11] Policy objectives under such a system would be effected through careful attention to market structure and competitive forces. The advantage of this approach is that there would be less need for government involvement in the day-to-day affairs of individual stations, thereby facilitating the removal of much of the burden of performance regulation from the industry. We desire to encourage the maximum number of economically viable broadcast entities and have initiated a number of rulemaking proceedings that look in this direction (e.g., 9 kHz channels for AM stations—BC Docket 79-164; changes in the rules governing assignment of FM channels—BC Docket 80-90) and are planning others (e.g., examining common ownership of AM and FM stations in the same market; reviewing rules relating to subscription television stations).

[5] Recently, for example, staff analysts of Congressional committees, in drafting legislation affecting the broadcast industry, have used the Form 324 data in drafting proposals. (See FCC 79-589, Mimeo No. 14735, September 28, 1979.) The data are also being used in a current rule making proceeding concerning the special exception to the one-to-a-market rules which provides for UHF-aural applications to be handled on a case-by-case basis (see BC Docket 79-233, FCC 79-537) and in research to support a rule making that will be initiated in the near future concerning common ownership of AM and FM stations located in the same market.

[6] See, for example, *Memorandum Opinion and Order*, BC Dockets 79-254 and 79-255, released October 16, 1979, which relied in part on financial reports in determining the need for a hearing.

[7] See the summarized financial data reports "TV Broadcast Financial Data—1978" (Mimeo No. 19540, July 30, 1979) and "AM and FM Broadcast Financial

[8] See footnote 6.

[9] See FCC 79-299, May 11, 1979.

[10] Park, R. E., "Projecting the Growth of Television Broadcasting: Implications for Spectrum Use," The Rand Corporation (Santa Mónica, California, February, 1976).

[11] See, e.g., Notice of Inquiry and Proposed Rulemaking: Deregulation of Radio, BC Docket No. 79-219, 44 FR 57645.

17. The structural approach to regulation will require substantial information about the various economic relationships that operate at the station, market, and industry levels. For example, at the station level, an understanding of the factors affecting viability and ability to provide service is necessary to develop policies to encourage new entry and better service. At the market level, knowledge of competitive forces and their relative strengths is necessary to establish policies to foster competition. Industry level information is needed to understand trends in broadcasting and to gauge the effects of emerging alternatives to broadcast services on the industry. It is our intention through this proceeding to develop the means to obtain financial data relating to each of these levels of analysis.

The Framework for Development of Financial Reporting Policy

18. There are several important considerations underlying the development of financial reporting requirements. First, any information collected must be suited to our needs—in this case policy analysis and planning. The data should also provide reliable measures of the various economic factors associated with broadcast stations. And, finally, the data should be sufficiently comparable across individual stations and over time to permit its use in forming generalizations and determining trends.

19. Our experience with the current form suggests that it does not provide data that are commensurate with our needs in view of these considerations. For example, the current financial data are generally neither reliable in terms of what economic characteristic is measured by specific line items, nor are they consistent across different stations in the sense that the financial data are not allocated to the various line items in the same manner by different stations. We believe that these problems are principally due to inadequacies of the design of the form itself and are not the fault of stations that file the reports.

20. We are also concerned about the costs that financial reporting requirements impose upon individual stations. Any policy requiring stations to submit information to the Commission naturally carries with it certain costs that station licensees must bear. We continue to believe that the costs of data collection must be justified by need and that such costs should be limited to the minimum necessary to accomplish policy objectives.

21. Our first step in developing proposals for revising Form 324 was to consider the kind of financial data that would meet our needs. The two basic sources of financial data that are generally relied upon to characterize the financial performance and condition of a business enterprise are the earnings (income) statement and the statement of financial position (balance sheet). The earnings statement summarizes the revenue and expense transactions which occur during a specified period of time, usually one year, to show income or loss. The statement of financial position on the other hand, describes the company's assets, liabilities, and owner's equity as of a given date.[12] The two reports individually and together provide the basis for various measures of the progress and financial condition of the firm.

22. For policy research purposes, earnings data are essential in tracking the development and condition of both individual stations and the industry as a whole and in assessing licensees' reactions to our policy decisions or changes in market forces. The areas of policy research for which earnings statement data are most essential are those involving questions of station viability, and the ability of stations to provide service and the potential of markets to support additional broadcast entities.

23. Questions concerning these areas cannot be wholly answered through earnings data as the ultimate effect of any change in the economic and/or regulatory environment depends in large part on the reaction of investors to such a change. The decisions of investors are generally based on the expected rate of return on their capital and the level of risk associated with its obligation.[13] These two factors are frequently assessed by examining various measures of profitability and financial health that require balance sheet data. For example, one measure of profitability is the ratio of net income (after interest payments) to owner's equity.

24. There is, however, reason to question the reliability of measures constructed from balance sheet data as indicators of the investment potential of firms in general and broadcast stations in particular. A balance sheet lists items according to their book value rather than their market value, which is the more appropriate measure to consider in the context of investment analysis. In general, the two alternative systems of valuation yield equivalent figures only under unusual circumstances, such as at the actual time of the sale of a firm or particular assets.

25. Another problem that affects the balance sheets of broadcast stations is that when stations are sold, the selling price is typically much higher than the market value of the physical assets, program rights, and other factors that support the operation of the station. The difference is an amount to compensate the seller for the transfer of certain intangibles, in this case the station's license and established position in its market, which may allow the owner to earn income above that necessary to keep its assets employed in the operation of the station. Since a station license is an intangible, its current value generally would not be expected to appear on a station's balance sheet except when a station is sold. Over time, the value of broadcast licenses has grown steadily and continues to grow, reflecting the long term growth in demand for stations. Because license values change constantly and stations are sold at different times, the book value of two licenses which are actually worth the same can be vastly different.[14]

26. Another major concern related to our need for data is whether to treat radio and television stations differently. We recognize that radio stations are generally much smaller and less complex operations than television stations. Because of this, separations between functional activities such as engineering, programming, and sales, might not be so well defined for radio stations as they are for television stations. For example, the owner/operator of a small radio station may serve as chief engineer in addition to his or her responsibilities as station manager. Disk jockeys may sell time when not on the air. Under these circumstances, detailed financial data, especially for expenses, could only be obtained by arbitrarily allocating expenses to the various line items. For this reason, such reports would be less comparable across different stations and, therefore, less useful for policy analysis. In addition, the burden of providing financial data may be relatively greater on radio stations because of their size.

[12] Owner's equity is that portion of the value of the firm which belongs to its owners free and clear of debt.

[13] The rate of return on capital is the amount of income earned per dollar invested.

[14] Consider a hypothetical case in which two similar VHF television stations operate in the same market. Suppose that both stations came on the air at the same time, many years ago, and that the original value of each of their licenses was $100,000. Suppose, now, that one of the stations was recently sold and the price of its license was established at $1,000,000 while the other station has never been sold and its license has never been reappraised. The difference between the recorded license values would therefore be $900,000 or a factor of 10.

27. On the other hand, the Commission is currently pursuing a number of policy directions with respect to radio which may increase the need for radio financial data, at least in the near term future. In particular, we will likely need radio data to support and track the effects of decisions on matters such as radio deregulation and to develop and evaluate policies and rules intended to increase opportunities for new stations.

28. Our tentative preference is to require radio and television stations to report the same amount of data. If we do not collect adequate radio data, we may not be able to answer many of the questions which will arise relating to decisions on radio deregulation. We encourage comment on all aspects of this matter. In particular, we would like information concerning the reasonableness of separating radio station expenses by functional category as described in paragraphs 47–50 below and the relative costs of providing this detailed data as opposed to a single figure for total expense.

Proposed Revisions to the Financial Reporting Requirements

29. Using the preceding analysis and the recommendations of the T&E, Inc. report, we have established a set of proposed revisions to the Form 324 report. The proposed revisions provide for data which are generally similar in kind and quantity to those which are obtained through the current Form 324. There are, however a number of important changes designed to improve the quality of the data and to omit certain kinds of data that we do not consider necessary or that can be obtained from other reports licensees are required to submit. The most significant proposed revisions are to delete requirements for employment and tangible asset data and to restructure the income statement and clarify the definitions of its line items so as to conform with generally accepted accounting principles and accounting practices commonly employed in the industry. The complete proposed new Form 324 is attached as Appendix A; for comparison purposes the current form is attached as Appendix B.

30. We propose to eliminate collection of employment data, reported on Schedule 4 of the current form, because similar information is available from the Annual Employment Report (FCC Form 395) that all stations are required to file. We also considered an option suggested in the T&E report to expand the amount of employment data by adding separate categories for the technical, program, sales, and general and administrative functions. The employment schedule and associated instructions recommended by T&E, Inc. are shown in Appendix C. It is our opinion that this information would not be used on a regular basis for policy analysis, and, therefore, should not be collected.

31. With respect to balance sheet data, we considered three options: (1) to continue collection of tangible assets accounts as specified on the current form, (2) to require submission of standardized balance sheets as recommended in the T&E study, and (3) to eliminate collection of any balance sheet data. A copy of the balance sheet suggested by T&E is shown in Appendix D. We tentatively reject the first two choices on the basis that any balance sheet data we might collect would be of limited use in our policy research activities. The book value data carried on balance sheet accounts would not, in general, seem to be satisfactory for development of reliable measures of profitability. Moreover, a requirement for standardized balance sheets would likely impose significant new costs on licensees that do not appear to be justified by need and would be difficult to implement fairly since different sized stations are likely to use different types of accounting systems, no one of which is "correct." Also, some data on entry costs and the assets necessary to operate stations would still be available at the Commission as such information is required on applications for construction permits for new stations. Comparing income statement data to actual cost data may provide the best information on viability of broadcast stations.

32. We recognize that without well-defined balance sheet data that correspond to the same accounting period as the earnings data, our ability to perform important economic analyses may be somewhat diminished. Comments are therefore requested on the tentatively rejected proposals mentioned above as to their value as a basis for measures of profitability as well as on our preferred option of eliminating collection of balance sheet data. Other proposals that might provide alternative ways of obtaining such information are also invited. In particular, we are interested in information on factors which affect the flow of resources into and/or out of the industry. Comments are also requested on an approach which would obtain balance sheet data from all stations or a sample of stations at intervals less frequent than every year.

33. A number of new items have been proposed as additions to the income statement schedules. Most of the new items provide for more specific information under each of the major categories of expense and revenue on the current form and for adjustments to income. We are also proposing new or clarified definitions for many of the existing line items. The intent of these changes is to improve the quality of the data and, by providing clarification, to make the reporting task of the licensees easier. In this sense, we are attempting to structure the reporting format to more closely approximate an income statement according to the standards of generally accepted accounting practices and the practices of stations regarding the treatment of accounts as indicated by stations surveyed by T&E. This restructuring is expected to substantially improve the characteristics of the data for use in policy research studies.

34. There is one significant enlargement of the income summary schedule which is not related to data quality. For FM stations filing a combined report with a commonly owned AM station in the same market, we are proposing to revise the separate statement showing revenues attributable to the FM station. This statement would show somewhat more detail than the current separate FM statement and would enable us to better understand the position of FM in the industry. We believe such information to be important and appropriate to collect in light of the dramatic improvement in recent years in the competitive position of stations in the FM service.

35. Another alternative we wish to consider at this time concerns the separation of program expenses into local and non-local categories. While not included as part of the proposed form, this approach was recommended by T&E, and we wish to determine whether such data are available and whether it would be useful for policy analysis purposes. The specifications for reporting separate expenses for local and non-local programming as suggested by T&E are presented in Appendix D. We recognize that these data may be difficult to collect and may be of uncertain usefulness in policy analyses. Therefore, we are not presently including such data requests in the current form. However, comment is requested as to whether program expense data can be gathered according to these two categories and, if so, would it provide meaningful information for the analysis of the effects of changes in regulation or industry structure on local services.

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36. We do not propose to change the frequency of filing of Form 324 from the current annual requirement. We believe it is desirable to continue to collect the data each year rather than shift to a plan which would interpose one or more time periods between reporting cycles. Under the latter approach, the most recent data would be two or more years old towards the end of the reporting cycle. The broadcast industry operates in an economic environment which is highly dynamic and, in light of developing technology, is likely to remain so in the future. Under these circumstances, data that are older will be considerably less useful for describing the current state of the industry and the various economic relationships within. Also, if only a sample is taken each year, then annual comparisons can be less readily made due to differences in the samples' composition. The preferred approach would provide the continuity of data flow that is required in studies that rely on time series data or data from the most recent prior business period. We invite discussion on this proposal and also request comments suggesting other alternative approaches that would require less frequent filings of financial data, for example every other year or once every five years. Suggested alternatives should also include discussion of any impact on the ability of the data so collected to serve the needs of policy analysis and evaluation.

37. We believe the needs of our policy studies make it advisable to require a survey of all stations. This would facilitate the construction of market and industry level data and would obviate many of the problems which are likely to arise with a more limited data base.

38. The proposed reporting period remains the calendar year. T&E found in its survey that about one-half of the respondents used the calendar year as their fiscal year. Further, T&E received very few comments opposing the use of the calendar year as the reporting year, even by those licensees who operate on a different fiscal year basis. We believe that the benefits to be gained from a uniform industry-wide reporting period outweigh the detriments. We encourage comments, pro and con, on this point.

39. While these proposals do indicate our preferred policy, comment is invited on all of the alternatives set forth above. Parties should feel free to propose and discuss alternative reporting requirements not set forth in this Notice. Parties are especially encouraged to submit information that will help the Commission to evaluate the cost of the proposals to its licenses and to submit any additional evidence that will help the Commission evaluate the merits of the proposals.

Detailed Instructions and Definitions

40. As we discussed above, many of the problems encountered in analyzing the data collected through FCC Form 324 are attributed to unclear and insufficient instructions and to imprecise line item definitions. T&E documented, for example, a wide variation in reporting practices used in completing the form. It is not surprising, therefore, that some of the data reported by some stations are not comparable with that reported by others. By no means do we intend to suggest that broadcasters purposely are misleading the Commission by using different accounting or reporting practices. Indeed, we recognize that the problem generally centers on the form itself. In the absence of sufficiently precise Commission guidance in defining how revenues and expenses should be reported, we cannot expect stations to follow a standard reporting approach.

41. Instructions, explanations and definitions for each line item are included with the proposed form in Appendix A. We seek comments on the appropriateness of these instructions in relation to the accounting procedures and definitions used by licensees in managing their stations' finances. We request comments on the clarity of the instructions and definitions, as presented, and on how well the proposed form is suited to provide data for the kinds of economic analysis that we have discussed above.

42. Several specific definitions and instructions have been significantly altered.[15] For ease of exposition, we will include discussion of these alterations in the following discussions of changes to the individual schedules.

Schedule of Revenues (Schedule 1)

43. The T&E analysis noted a number of deficiencies in the current FCC Form 324 schedule of revenues (Schedule 1). In particular, the present instructions for this schedule call for distinguishing the sale of time to national/regional advertisers as opposed to local advertisers, on the basis of the "type" of advertiser. That is, "national/regional time sales" denotes sales from the advertiser whose market is typically national or regional in scope; "local time sales" denotes sales from the advertiser whose market is typically local. For analytical purposes, this is desirable since the advertising decisions of companies engaged in nationwide business may be influenced by a different set of market conditions than those encountered by companies who market on a local scale. Since some stations are more dependent on local time sales than others, the effects of changes in national and local market conditions likely will have different effects across the industry. A definition based on type of advertiser would generate data useful in analyzing these effects. However, changes in the character of businesses engaged in broadcast advertising (e.g. growth of national retail chains and the regionalization of many service businesses such as banks and restaurants) are making this distinction less useful and the form much harder for licensees to complete. In this regard we note that T&E found, in their survey of accounting practices, that most (although not all) stations report national/regional and local time sales on the basis of the nature of the "agent" who sold the advertising time. Thus, for those stations, advertisements obtained for the station by its national or regional representative were counted in the national/regional time sales category, while advertisements obtained by the station's own sales persons were counted as local time sales.

44. Since the distinction between national/regional and local sales on the basis of type of advertiser no longer seems to fit business reality very well, and since industry accounting practice appears to support a distinction based on type of agent placing the advertising, we are proposing to amend our instructions and definitions to require the reporting of national/regional and local time sales on the basis of type of sales agent. We ask interested parties to comment on this proposal, especially in terms of its usefulness for industry analysts. We are interested in comments relating to the effect such a definitional change might have on the usefulness of the series of data reported in the past, and on the effects, if any, that the change might have for those in the industry who may rely on the separate time sales figures.

45. We are proposing another change in the revenue schedule that should improve reporting procedure. "Commissions to agencies and representatives" now is included in the revenue schedule as a deduction from revenue. T&E found in their survey that the industry treats advertising agency commissions in this way, but treats commissions to station representatives as a selling expense. Our proposal, following the recommendation of T&E, is to treat all commissions, including advertising agency commissions, as a part of selling expense. This appears appropriate from an analytical point of view. Furthermore, since licensees already report commissions, we are not asking for new data but only a shift of the data to another location in the form.[16] However, since the proposed change does appear to depart from industry practice somewhat, we ask for comments on this reporting change.

46. Another proposal would change the definition of "Broadcast Revenues Other Than From Sale of Station Time." Currently, the form requires this general item to be subdivided into components based on sale of station services and facilities to national and local advertisers. T&E found that broadcasters generally do not account for their non-time revenues in this way. We believe, therefore, that the current distinction is inappropriate. There are, however, sources of revenue for many broadcast stations that derive from station operation but not directly from the sale of time, for example, from the sale of programs or talent or the production of commercials. We propose to include these revenues in Schedule 1 under the same general heading, but with a different sub-division.[17] The new categories we propose are: "Revenue From the Provision of Materials, Facilities, Services, etc.," "Revenue From Subscription Television Operations," and "All Other Broadcast Revenue." The first category is essentially the combination of the current national and local categories. We are proposing to include subscription TV revenues in the second category as an interim step until this relatively new segment of the industry becomes more fully developed. The third category is added for completeness and would include, when appropriate, such revenue as donations.

47. We request comments on the reasonableness of this categorization of other revenues especially in terms of its reflection of actual business practice. We are particularly interested in discussions of whether or not the revenues and expenses of ancillary business operations should be included with the revenues and expenses of the broadcast operation. For example, should the revenues and expenses generated by the production of commercial advertisements be included on the FCC Form 324 when that production uses the staff, equipment and studio of the broadcast operation? Should the revenues and expenses of commercial advertisement production activity be reported if that activity is treated as a profit center separate from the station itself? We encourage discussion of similar questions for other business activities (program production, talent agency activity, etc.) as well.

48. Another proposed change in the revenue schedule relates to AM–FM stations that operate jointly and do not file separate reports. We are proposing that the FM portion of broadcast revenues be reported by source. The current form does not provide this kind of detail which, in our opinion, hampers analysis of the contribution of FM broadcasting to the advertising revenues of the industry. We seek comments on the ability of licensees to provide this kind of detail for jointly operated AM–FM stations.

49. It should be emphasized that the proposed form would allow the continued reporting of AM–FM joint operations in one report, but only if the two operations are so intertwined that the *operating expenses* cannot be effectively allocated to each station. This represents a change from the current practice of requiring a joint form unless all or virtually all of the FM time is sold separately. We ask for comments on the desirability of this modification in light of the growing self-sufficiency of the FM segment of the industry and in view of the need for better data about the economics of FM broadcasting. We encourage suggestions on how best to determine at what point AM–FM operations should report as separate entities, and on appropriate methods of allocating joint costs to each operation.

Schedule of Expenses (Schedule 2)

50. Regulatory activity can have significant direct effects on broadcasters' costs of doing business and, through these costs, on service to the public. Further, these regulatory effects may be reflected differently in different functions of station operation. Therefore, to form a base for analyses of regulatory effects, we consider it important to have an accurate picture of the relationship of the cost of each function to the total operating cost of the station. The present FCC Form 324 defines four functional categories: Technical, Programming, Selling and General and Administrative. We propose to retain those categories, but as indicated above we encourage comment on the option to separate program expenses into separate local and nonlocal categories. Further, we believe that the current Form 324 does not fully reflect all costs associated with the four functional categories, since many common costs are reported in the general and administrative category rather than being allocated to the individual functions.

51. Following our intention to improve the consistency of the data, we are proposing to change the expense schedule to require the allocation of many common categories of expense to each function. The current FCC Form 324 requires some allocation (basically salaries). The proposed form would require, in addition, the allocation of payroll taxes and fringe benefits, depreciation and amortization, travel and entertainment, communication expense, professional fees, parts and supplies, and facilities costs (rent, heat, light and power) to each function. These types of costs are often common to all functions but may be a greater or lesser part of each function.

52. We believe that requiring stations to allocate common costs among functional categories would lead to a higher degree of comparability between stations and to a more precise view of the contribution of each function to total cost. Evaluation and comparison of components of total expense may provide very useful explanations of variations in total expense that would otherwise be unexplained. However, we recognize that the allocation of such common costs may be quite arbitrary. We suggest (instructions, proposed Schedule 2) that time spent, space occupied or relative use are appropriate determinants of the amounts to be allocated to each function. We request comments on the appropriateness of such allocation for analytical use and on the validity of the suggested allocation methods.

53. We recognize, as discussed above, that many, if not most, small stations do not operate on a departmental basis and that allocation of operating costs to functional categories could be burdensome as well as, perhaps, arbitrary. For these reasons, we are proposing that stations with gross annual revenues less than $100,000, or $2,000 per week for stations operating less than a full year, report costs without allocation to function. We encourage comment on this proposal, especially as to the reasonableness of the $100,000 threshold.

54. We also propose some new line items in the expense schedule. We suggest that fringe benefits as well as facilities costs (rental, heat, light and power), communications expense, travel

[15] Many of the definitions and instructions that are being "changed" are not explicit in the current Form 324, but consist of various informal interpretations made by staff members in answer to questions raised by licensees over the years.

[16] We will discuss, as a separate issue below in paragraph 55, the proposal to separate the "commission" expense item into local and national/regional categories.

[17] Non-operating revenues, such as interest income or sale of assets, are proposed for inclusion in schedule 3 and will be discussed below.

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and entertainment, professional fees, parts supplies and materials, and promotional expenses all be reported as separate line items. These items generally have been reflected in the "Other Expense" line on the current form, the major element in the "Other General and Administrative Expense" category. As a result, these "Other" categories make up a significant portion of total expense and provide no useful content for analytical comparisons between stations or segments of the industry. For example, a recently purchased station may have high professional fees (legal and engineering) that, unless specifically identified, would diminish its comparability with other like stations. Since these are apparently items for which separate accounts are generally kept by the licensee, we do not perceive a significant reporting burden. However, we encourage comment on that point and on the potential usefulness to the Commission of the more detailed data.

55. Our proposed revisions contain several other changes in the expense schedule. The data reported for the line item "Talent Payroll," have been combined with the data reported as "All Other Programming Payroll." In addition, "Commissions" are reported as commissions to national/regional agents, representatives, and brokers and as commissions to local salespersons or agents. This distinction will be a useful reflection of the relative expense of making a sale through national/regional representatives versus the station's own salesforce. Also, we are proposing that the current line item "Allocated Costs of Management from Home Office or Affiliates" be divided into two line items: "Allocated Corporate Management Expenses" and "Allocated Corporate Overhead Expenses." This subdivision would allow analysts to take these two different allocations into account individually when, for example, examining the relative differences between group owned stations and non-group owned. The T&E survey found that these two types of allocations would not present a significant burden to those licensees who currently allocate common corporate costs.

Revenue/Expense Summary (Schedule 3)

56. We are proposing to add line items to the Revenue/Expense Summary schedule to reflect non-operating revenue and expense such as income from rent of land or facilities associated with the broadcast operation, interest income, gain or loss on sale of assets, etc. This information is crucial to the full picture of a station's financial situation in any one year and for comparison from year to year and station to station. The current instructions specify that some of these items, such as rental of broadcast related facilities for non-broadcast use, are to be reported on Schedule 1 as "Other Broadcast Revenue." Other items such as interest income, are not mentioned in the instructions but are nonetheless often reported as "Other Broadcast Revenue" because there is no other line available. Inclusion of either of these two kinds of data in total operating revenue can lead to misinformation when an analysis is made of a station's operating income or when comparisons are made between stations.

57. Our proposed Schedule 3 will also reflect the amount of federal, state and local income tax recorded for the reporting year. Inclusion of this important element of business "expense" is critical, we believe, to the accurate reflection of profit levels. We seek comments on the reasonableness of including these elements and ask for other suggested elements that may be needed for a full expense statement.

58. We are also proposing to redefine the principals to be included in the "Payments to Principals" item. The new definition embraces only expenditures resulting in payments to owners/stockholders and members of their immediate family and excludes payments to affiliated or parent companies that are reported as specific line items in Schedule 2. The "Payments to Principals" item is not intended to reflect the distribution of profit to the owners (e.g. dividends, owner's drawing account). The intent is to reflect those elements of expense (salaries, interest, rents, service fees) that are paid directly to the owners or close relatives. We believe that this information is necessary for thorough and accurate analysis of station economics.

Accounting Methods

59. In addition to the changes in content addressed above, we are also proposing that the financial data be reported on the basis of generally accepted accounting procedures. These are procedures that the accounting profession believes represent good accounting practice and that form the basis for financial accounting audits. We are persuaded that this requirement is appropriate for licensees' Annual Financial Reports. We need accurate data with reporting variability as limited as possible, without instituting a uniform system of accounts. Specific comment is requested as to any problems licensees may anticipate in adhering to generally accepted accounting procedures.

60. The generally accepted accounting procedures include provisions for disclosure statements as to how certain allocations of expenses are made and how depreciation and amortization are treated. The Commission is considering whether to require submission of such statements with the financial reports. The preferred option is to require licensees to retain such information and make it available to the Commission upon specific request. The items that appear to be most appropriate for reporting are the method of depreciation, the method of amortization, the method of allocation of corporate management and overhead costs, the method of allocation of expenses to functional categories, and the details of payments to principals. Comment is requested as to whether statements disclosing allocation practices are needed and, if so, the specific expense elements to be included. Information is needed regarding the cost to licensees of preparing disclosure statements, the analytic capabilities that might be gained through them, and how this information could be used to improve the comparability of data from different reporting entities.

Control and Verification

61. The current procedure used by the Commission staff to verify the data filed on Form 324 is limited to reviewing for internal consistency. Arithmetic checks are made on each form to make certain that the reported details sum to the reported totals. Large changes in revenues or expenses from one year to the next are confirmed with the licensee to make certain that a typographical error has not occurred. The Commission does not, however, audit the forms, nor does it require the licensee to submit an audited form certified by a Certified Public Accountant. We do not propose to change that policy. Our need for the data is basically analytical. And while that need requires consistency and reliability, it does not require, in our opinion, the burden of a CPA audit on the part of the licensee [18] or the burden on the Commission of hiring additional staff for auditing purposes.

62. We do propose, however, to expand our verification efforts by using the additional financial details collected through the new form and by expanding the number of financial items for which

[18] We are concerned here only with an audit of our report relative to the accounts of the licensee. We would not wish to discourage the valuable practice of audit of the licensee's own accounts.

we make year-to-year comparisons. We would expect to have an expanded program of follow-up with licensees to develop explanatory notes covering unusual items (such as unusually low salaries or unusually high G & A expenses) or unusual changes from year to year. In this regard, we call attention to the proposed requirement discussed above that licensees retain, and make available to the Commission upon request, the method and calculations used in allocating expenses to the various functional categories in Schedule 2.

63. The intent of such procedures is to increase the information content of the report not to question licensees' accounting practices. We believe that these expanded editing procedures, the detailed instructions accompanying the form, and the licensee's certification of the correctness of the information submitted, will provide adequate assurance that we will receive consistent and reliable data. We encourage comments upon our proposals for verification, especially in regard to their adequacy.

Supplemental Information

64. As indicated in our earlier discussion, it is our intention to collect on a regular basis only that data that are likely to be used on a regular basis or that are necessary to insure the reliability of the reports for interstation comparisons. On this basis, it is likely that special problems will arise from time to time that call for data that we do not have on hand. The Commission may, therefore, find it necessary to develop special surveys of licensees, asking for financial data not regularly reported on FCC Form 324, as revised. Such surveys may be industry-wide (as the 1972 special survey of "Other G & A Expenses") or directed to a smaller sample. In any case, we expect such surveys to be infrequent.

65. There are, however, some anticipated needs for recurring data not included on the proposed FCC Form 324, nor addressed in this proceeding. Subscription television stations have special revenue sources not available to conventional television stations. We are proposing that stations with STV operations include subscription revenue as a special line item under "Other Broadcast Revenue," at least for the time being. We plan a further proceeding, at a time when the STV segment of the industry is more fully developed, to determine a more appropriate delineation of financial data for STV operations.

66. Networks are another segment of the industry not addressed in this proceeding. The major program networks (ABC, CBS, MBS, NBC) now file a special financial report form (Form 324–A) with us. We propose no change in that form in this proceeding but plan to re-examine the validity and usefulness of that form in the near future. We note that Form 324 has for many years been titled "Annual Financial Report of Networks and Licensees of Broadcast Stations." We are proposing to change the title to "Annual Financial Report of Broadcast Stations" to better reflect the content.

Procedural Matters

67. Authority for the rule making and inquiry herein is contained in Sections 4(i), 303, and 308 of the Communications Act of 1934, as amended.

68. All interested persons are invited to file written comments on or before September 15, 1980, and reply comments on or before November 14, 1980. All relevant and timely comments and reply comments will be considered by the Commission. The Commission may take into account any other relevant information before it in addition to the comments invited by this Notice.

69. In addition, we plan to pretest the new form by asking a sample of stations to report their 1979 data on the new form and to respond to a questionnaire. The purpose of this pretest is two-fold: first to learn from those stations more about the actual problems encountered in providing the data, and second, to test the comparability and variability in reported data by using it in some ongoing economic studies. We anticipate that a report on the results of the pre-test will be made part of the record of this proceeding and would be available for interested parties to comment upon.[19]

70. In accordance with the provisions of Sections 1.419 of the Commission's Rules, an original and 5 copies of all comments, replies, pleadings, briefs or other documents filed in this proceeding shall be furnished to the Commission. Members of the public wishing to participate informally in this proceeding may submit a single copy of their comments, specifying the above-captioned docket number in the heading. Copies of all responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 "M" Street, N.W.)

71. For further information concerning this proceeding contact Alan Stillwell, (202) 632–6302. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, ex parte contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this matter, he or she should follow the Commission's procedures governing ex parte contacts in informal rulemakings. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202) 632–7000.

[19] Individual station financial data would not be revealed in this report.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A: Proposed Form 324, Annual Financial Report of Broadcast Stations

General Instructions—FCC Form 324

Filing

—All licensees of commercial broadcast stations and all permittees whose commercial stations were operated during the year covered by this report must file Form 324. The licensee must file a separate report for each station except that: (1) An AM and FM station operated by the licensee in the same area may file one combined report if and only if the operations of the two stations are so interrelated as to make it impractical to report expenses separately for each station; (2) TV satellite stations that have no time sales of their own should combine their reports with that of the parent station.

—Stations operating non-commercially do not file.

—Licensees with broadcast revenue (Schedule 1, line 12) under $100,000 (or less than an average of $2,000 weekly) need not complete Schedule 2. The remainder of the report must be filed.

—Allocation of various expenses in Schedule 2 is required of all stations with revenues greater than $100,000.

—If the respondent's station was operated for part of the year under other ownership, the present and former licensees must file reports covering their respective periods of operation. Licensees are expected to file reports covering the period of the

year for which they actually operated. (Note: It is the responsibility of the present licensee to ensure that the former licensee has filed a report for his period of operation.)

Due Date

—One copy of the report must be completed for the calendar year and sent to the Federal Communications Commission, Policy Analysis Branch, Broadcast Bureau, Washington, D.C. 20554 by April 1 of the following year.
—Supplemental information, such as specification of Payments to Principals, shall be a size and durability comparable to, and securely fastened to, the report. Please place the respondent's call letters on the upper right-hand corner of each page and make reference to the pertinent schedule.
—Use only whole dollars; show no cents.
—If the licensee has *any* questions regarding Form 324 which these instructions do not answer, please contact the Policy Analysis Branch (phone (202) 632–6302).

BILLING CODE 6712-01-M

FCC Form 324

19___

ANNUAL FINANCIAL REPORT OF
BROADCAST STATIONS

BEFORE COMPLETING THIS REPORT, READ INSTRUCTIONS CAREFULLY

Mail one copy to: Federal Communications Commission
Policy Analysis Branch
Broadcast Bureau
Washington, D.C. 20554

1. Name of licensee: _____

2. Address: _____

_____

_____

3. Station Call Letters: _____

3a. (Previous call letters during reporting year, if any: _____)

4. Station Location: a) City _____
b) County _____
c) State _____

5. This report represents: *(Check one)*

- ☐ TV station
- ☐ TV Satellite
- ☐ Combined TV and Satellite
- ☐ AM station
- ☐ Combined AM and FM stations
- ☐ FM unaffiliated with AM in same area
- ☐ FM affiliated with AM in same area but reporting separately
- ☐ International station

6. If this report is for a TV station or satellite, check appropriate box:

☐ UHF ☐ VHF

7. Period covered (if other than full calendar year):

__/__/__ to __/__/__

8. Network Affiliations:

- ☐ (a) Not affiliated
- ☐ (b) Primary affiliation (ABC, CBS, NBC, or MBS, only): _____
- ☐ (c) Other affiliations: _____

_____

_____

BILLING CODE 6712-01-C

V 45 MY 27 80 UMI

Instructions Applicable to Face Sheet

Line 1. Name of licensee as shown on FCC license.

Line 2. Mailing address of licensee, including street, box, or suite; city; state; and zip code.

Line 3. Licensed call letters.

Line 3a. Any other call letters, for this station *only*, which were previously in use during this reporting year.

Line 4. Location of reporting station.

Line 5. Check only one station type.

Line 6. Check only one appropriate box. For television only.

Line 7. Note beginning and end dates of which report covers if report covers other than full calendar year.

Line 8. Record all affiliations or check (a) Not affiliated if unaffiliated. List (b) Primary affiliation (only if ABC, CBS, NBC, or MBS) first and record all other affiliations in (c) Other affiliations.

BILLING CODE 6712-01-M

Schedule 1: Broadcast Revenue

Line			
1	A. SALE OF STATION TIME:		
2	(1) Networks - Major	$_____	
3	(2) Networks - Other	_____	
4	(3) Non-Network: National	_____	
5	(4) Non-Network: Local	_____	
6	TOTAL SALE OF STATION TIME		$_____
7	B. OTHER OPERATING REVENUE;		
8	(1) Material, Facilities, Services, etc.	$_____	
9	(2) Revenue from Subscription Television Operations	_____	
10	(3) All other operating revenue	_____	
11	TOTAL - OTHER OPERATING REVENUE		$_____
12	TOTAL OPERATING REVENUE		_____
13	Less: Cash Discounts		(_____)
14	BROADCAST REVENUE		$_____
15	Total Value of Barter and Trade Out Transactions		$_____

Schedule 1. Supplement - FM Revenue

Line	TYPE OF REVENUE
16	
17	Time Sales - Major Networks
18	Time Sales - Other Networks
19	Non-Network: National
20	Non-Network: Local
21	Other Operating Revenue (Total)
22	TOTAL

BILLING CODE 6712-01-C

V 45 MY 27 80 UMI

Proposed Instructions—Schedule 1

General. Barter and trade-out transactions should be reported as part of the total for all appropriate revenue categories. The contra expense (or asset) should be reported in the relevant expense or asset category. The FCC definition of barter/trade-out is included in the instructions for Schedule 1, Lines 15–21, Column (a).

Line 2.—Networks—Major. The gross amounts of revenue, before line or service charges, earned from major networks (ABC, NBC, CBS MBS only) as compensation for the time used by such networks for broadcasting network commercial programs on this station.

Amounts paid by the networks for circuit costs, royalties, and similar items of expenses which the networks furnish under contract are includable in the expense statement of the *network.* If the stations pay for these items, either directly or through networks as an offset against amount receivable, then such payments are includable in the expense statement of the station.

Note.—This line should *not* include revenue earned from the sale of network cooperative programs to non-network sponsors. The revenues earned in such a manner should be reported in Line 4 or Line 5.

Line 3.—Networks—Other. The same instructions are followed as in Line 2, but apply to revenue earned from networks other than those considered major. This line should *not* include revenue received from so-called "selling networks" (organizations which sell the station's time but do not provide it with any programs). Revenues earned in such a manner should be reported in Line 4 or Line 5.

Line 4.—Non-network: National. Revenue earned from time sales placed by agencies, representatives, and brokers who are of a national or regional status.

Note.—This revenue figure is after trade and/or special discounts but before cash discounts to advertisers and sponsors and before commissions of any kind.

Line 5.—Non-network: Local. Revenue earned from time sales through local agencies, representatives, brokers, and licensee's salespersons.

Note.—This revenue figure is after trade and special discounts but *before* cash discounts to advertisers and sponsors and before commissions of any kind.

Line 6.—Total sale of station time. The total of Lines 2 through 5.

Line 8.—Other operating revenues: Materials, facilities, services, etc. Include all broadcast operating revenues other than from time sales. Examples are revenues received from the supply of materials, facilities, services, and the use of talent on the station's payroll.

Note.—Do not include on lines 8, 9, or 10 revenue from non-operational transactions, such as interest income, gain (loss) on sale of assets, insurance claims, rental income of facilities owned by licensee but not part of the station operation.

Line 9.—Other operating revenue: Subscription television. Include the total revenue received from customers of subscription television service provided by this station.

Line 10.—Other operating revenue: All other. Include other operating revenue not shown in lines above (*e.g.* contributions).

Line 11.—Total—other operating revenue. Total, lines 8, 9, and 10.

Line 12.—Total operating revenue. Total, lines 6 and 11.

Line 13.—Cash discounts. Cash discounts taken by advertisers and others purchasing time, materials, facilities, or services, etc. from the licensee.

Line 14.—Broadcast revenue. Line 12 less line 13.

Barter Revenues

Line 15.—Total value of barter and trade out transactions. The total value of all barter and trade out transactions. This value must also be included as sales in the appropriate lines above.

The definition of barter used by the FCC (see release FCC–139) is:

"These [barter exchanges] are exchanges of a station's broadcast time for goods, programs, other media, or other services (in lieu of money).

These transactions may be made directly with the advertiser or with "third party agencies" acting in behalf of an advertiser . . .

Trade outs or barter transactions have value and should be reported in the Annual Financial Report (FCC Form 324). Spots exchanged for *program material* should be estimated at a fair value consistent with purchases of other program material of similar quality and quantity. Spots exchanged for *fixed assets* (such as furniture, automobiles, studio equipment, etc.), to which the station takes title or ownership for use in conducting business, should be estimated as the amount of cash which would have been paid for the asset, if the trade out were not available.

Spots exchanged *for merchandise* (such as radio sets, television sets, sporting equipment, theatre tickets, novelty items, items to be used as prizes, gifts, or give-aways), *for advertisements in other media* (such as newspapers, radio, television, transit ads, billboard, etc.), *for services* (such as hotels, travel, auto rentals, restaurants, etc.) are more difficult to value, but must be estimated for purposes of the financial report. Again, the amount of cash the station would have paid for the merchandise or service provides a reasonable basis for estimating the value.

In the Annual Financial Report, the value of traded time should be included as time sales when the spots are broadcast. The corresponding cost (estimated value) of the goods or services received should be treated in the report in the same manner as similar purchases for cash, *i.e.,* depreciated or expensed out."

Joint AM/FM Stations

Lines 17–22.—*FM revenues.* AM/FM operations filing jointly are to report total revenues for both AM and FM stations in Schedule 1, lines 1–14. Revenue figures applicable to the FM station alone are to be reported in lines 17–22 and correspond to the combined revenue lines as follows:

Line 17	Line 2
Line 18	Line 3
Line 19	Line 4
Line 20	Line 5
Line 21	Line 11
Line 22	Line 12

BILLING CODE 6712-01-M

Schedule 2. Broadcast Expenses

Functional Category

Line	Expense (a)	Tech (b)	Progr. (c)	Selling (d)	Gen'l & Admin. (e)	Total (f)
1	Salaries & Wages					
2	Payroll Taxes & Fringe Ben.					
3	Travel & Ent.					
4	Communication Exp.					
5	Facility Exp.					
6	Parts & Supplies					
7	Professional Fees					
8	Depreciation					
9	Amortization					
10	PROGRAM-LOCAL & OTHER:	////	////	////	////	////
11	Rental & Amort of Film/Tapes	////		////	////	
12	Outside News Serv.	////		////	////	
13	Music License Fees	////		////	////	
14	Other Perf. & Prog. Rights	////		////	////	
15	SELLING:	////	////	////	////	////
16	Commissions - Local	////	////		////	
17	Commissions - National	////	////		////	
18	Promo & Adv. Exp.	////	////		////	
19	GEN'L & ADMIN.	////	////	////	////	////
20	Allocated Corp.Mgt.Exp.	////	////	////		
21	Allocated Corp.O.H.Exp.	////	////	////		
22	Other Expenses					
23	TOTAL					

BILLING CODE 6712-01-C

Proposed Instructions—Schedule 2

General Definitions

Functional Categories

1. *Column (b) Technical:* Technical Expenses.

This column includes, in the appropriate line item, all expenses related to the transmission of the station's signal, expenses incurred in maintaining the transmitter and the site, and expenses incurred in the studio and related areas which are considered to be of a technical nature. Salaries and fringe benefits paid to studio technicians, repair of broadcast equipment, etc., would be examples of such expenses.

2. *Column (c) Programming:* Program Expenses.

This column includes, in the appropriate line item, all expenditures related to programming. For example, charges for talent, directors, camera crews, program rights, and non-technical materials come under this category. Expenditures for studio equipment which is of a technical nature such as cameras, film chains, tape machines, ENC equipment, and control consoles are not included under this category but instead are to be placed under technical expenses.

3. *Column (d) Selling:* Selling Expenses.

All expenses related to selling, advertising, or promotion of the station. Examples would be commission to agencies or representatives and expenses related to salespersons' activities (phone, auto, etc.).

4. Column (e) General and Administrative: General and Administrative Expenses.

All expenses related to the management and administration of the station including overhead costs not allocated to other functions.

Note.—The allocation of expenses, where appropriate, should be based on a generally accepted cost accounting method. Time, space, and utilization are the major determinants of allocation.

Note.—For each line item, the total column is the sum of the preceeding line entires (b+c+d+e=f).

Line 1.—Salaries and wages. For each functional category, enter salary and wages, including overtime, vacation, termination pay, sick leave, and bonuses. These salaries should be allocated among functional categories and employee time spent in each category. Estimates are acceptable.

Line 2.—Payroll taxes and fringe benefits. All city, state and federal related payroll taxes as well as fringe benefits such as insurance, pension, etc. should be included here. The allocation among funtional categories should be performed in the same manner as Line 1.

Line 3.—Travel and entertainment. This should include travel, entertainment, and automobile related costs. Lease or rental of automobiles is to included. This is to be allocated by functional category on the basis of use, either actual or estimated.

Line 4.—Communication expenses. This includes telephone and telegraph, postage, membership dues and subscriptions, and courier services. Again, this is to be allocated by usage, either actual or estimated.

Line 5.—Facility expenses. Includes rent or lease expenses, utilities (heat, light, power), property related taxes (no other taxes), and maintenance and repair.

Line 6.—Parts and supplies. Expenses to be included vary by functional category. The bulk will be under Technical, such as tape, equipment parts, and supplies (excluding tubes), or under GE, such as general office supplies.

Line 7.—Professional fees. Fees paid to persons not on the station payroll for the provision of professional services.

Technical (Column b)—Technical consulting and engineering fees.

Local Programming (Column c)—talent fees; fees paid to other than staff for work such as announcers, consultants, actors, technicians, directors, etc. utilized in local programming.

Selling (Column d)—consultant expenses, etc.

G&A (Column e)—legal, auditing, consulting.

Line 8.—Depreciation. Varies by functional categories.

Technical: Include depreciation of studio, transmitter, and other technical equipment. For example, this would include cameras, mobile production facilities, tape machines, transmitters, towers, etc.

Programming: Include depreciation of non-technical non-electronic plant and equipment utilized in the programming functions. Examples are studio facilities, non-electronic equipment, etc.

Selling: Depreciation of assets utilized by sales and promotion department.

G&A: Depreciation of all assets which cannot be allocated to any of the above four functional categories.

Line 9.—Amortization. Varies by functional categories.

Technical: Amortization of leasehold and land improvements considered to be utilized for technical (transmitter, tower, etc.) purposes.

Programming: Amortization of those assets or portion thereof utilized in programming *EXCEPT* the value of programs held as assets. Includes studio.

Selling: Amortization of any assets utilized in selling.

G&A: All remaining of any assets utilized in selling. All remaining amortization costs *not* included in any of the four above *nor* to be included in Line 13, Rental and Amortization of Film and Tape *or* Line 18, Other Performance or Program Rights. An example is amortization of intangibles, such as good will.

Program (Local and Other)

Line 11.—Rental and amortization of film & tape. Include the rental cost of and the value of feature film and syndicated programming amortized during the report year. Do not include other film expenses such as raw stock, processing costs, shipping, audio tape, etc.

Line 12.—Outside news service. The cost of outside news services such as A.P. and U.P.I. Also include cost of news stringers.

Line 13.—Music license fees. Amounts paid to ASCAP, SESAC, BMI, and others.

Line 14.—Other performance and program rights. Cost and/or amortization of rights to broadcast programs not included in lines 13, 14 and 15. For example this line would include the amortization of rights to sports and special events.

Selling Expenses

Line 16.—Commissions—local. All commissions to agencies, reps, and brokers who are considered local. Include commissions paid to licensee's sales force.

Line 17.—Commissions—national. All commissions to agencies, reps, and brokers who are considered national and/or regional.

Line 18.—Promotion and advertising expenses. Include all trade and audience promotion and advertising expenses.

General and Administrative

Line 20.—Allocated corporate management expenses. Management expenses allocated by the home office or affiliate. Included would be the allocated cost of time spent by legal and accounting professionals for services rendered to the licensee, if not billed directly. Do not include interest expense.

Line 21.—Allocated corporate overhead expenses. Common overhead expenses allocated by home office to licensee. Include those expenses *not* in Line 22, Allocated Corporate Management Expense. For example, charges from the home office for use of a central computer or billing service and allocated costs of maintaining the home office. Do not include allocated interest expense, which will be included in Schedule 3, Line 10.

Line 22.—Other expense. The accounts which go into each "other expense" line vary by functional (Technical, Local Program, Other Program, Selling, and G&A) category.

Technical: Include any expense appropriate to the technical function which has not yet been recorded.

Local programming: Include film expenses such as raw stock, processing and shipping, studio sets and props, program materials and facilities, records and transcriptions, audio tape, film expenses, line charges, co-op fees, outside origination costs, and other program expenses not elsewhere included in Schedule 2.

Selling: Include cost of rating services, audience research, and any other selling expense not elsewhere included in Schedule 2.

G&A: Include such costs as non-allocable insurance, charitable contributions, FCC license fees, corporate fees, miscellaneous state and local taxes (other than income) bad debt accounts, and other operating expenses which are neither allocable nor included in other line items. Be sure *not to include* non-operating expenses as mentioned in Schedule 3.

Schedule 3. Income

Line		
1	BROADCAST REVENUE	$_____
	OPERATING EXPENSE:	
2	Technical Expense	$_____
3	Program Expense	_____
4	Selling Expense	_____
5	G&A	_____
6	TOTAL OPERATING EXPENSE	$_____
7	OPERATING INCOME	$_____
	Other Income and Expense	
8	Non-Operating Revenue	$_____
9	Interest Expense	(_____)
10	All Other Non-Operating Expense	(_____)
11	NET NON-OPERATING INCOME	$_____
12	INCOME BEFORE TAXES	_____
13	Federal, State and Local Income Tax	(_____)
14	NET INCOME	$_____
15	PAYMENTS TO PRINCIPALS Total Salaries, Interest, and Other Payments to Principals:	$_____

Proposed Instructions—Schedule 3

Line 1.—*Broadcast revenue.* Enter the total from Schedule 1, Line 14.

Line 2.—*Technical expense.* Schedule 2, Line 23(b).

Line 3.—*Program expense.* Schedule 2, Line 23(c).

Line 4.—*Selling expense.* Schedule 2, Line 23(d).

Line 5.—*General and administrative expense.* Schedule 2, Line 23(e).

Line 6.—*Total operating expense.* Schedule 2, Line 23(f). This should also equal the total of Lines 2 through 5 above.

Line 7.—*Operating income.* Line 1 less Line 6.

Line 8.—*Non-operating revenue.* Include all revenues accruing to the station which were not part of its broadcast operation. Examples are interest received, rent, and gain on investments or sale of assets.

Line 9.—*Interest expense.* All interest, either accrued by the station or allocated from the home office.

Line 10.—*All other non-operating expense.* Include all other expenses accruing to the station which were not part of its broadcast operation. For example, loss on investments or sale of assets.

Line 11.—*Net non-operating income.* Line 8 less Lines 9 and 10.

Line 12.—*Income before taxes.* Line 7 plus Line 11.

Line 13.—*Federal and State income tax.* The amount of income tax expense recorded for report year.

Line 14.—*Net income.* Line 12 less Line 13.

Line 15.—*Payments to principals.* Total salaries, interest and payments (exclusive of dividends or profit distributions) to principals or on behalf of principals that total more than $250 annually and are reported as part of expenses in Schedule 2. An example would be auto lease paid to principal of $50/month or $600/year. Include in an attachment a summary of the specific payments from which this figure is derived. State the number of principals receiving salary.

Person(s) in charge of correspondence regarding this report:

Name _____
Official Title _____
Address _____
Phone _____

Certification

(This report must be certified by licensee, or permittee, if an individual; by partner of licensee or permittee, if a partnership; by an officer of licensee or permittee, if a corporation or association; or by attorney of licensee or permittee in case of physical disability of licensee or permittee or his absence from the Continental United States.)

I certify that to the best of my knowledge, information, and belief, all statements contained in this report are true and correct and in accordance with generally accepted accounting principles where possible (or as note).* I also certify that the data regarding allocation methods and procedures are on file and available upon request.

Signed (licensee) _____
Title _____
Date _____

* Any person who willfully makes false statements on this form can be punished by fine or imprisonment. U.S. Code, Title 18, section 1001.

BILLING CODE 6712-01-M

Appendix B: Current (1979) Form 324, Annual Financial Report of Networks and Licensees of Broadcast Stations

Appendix B: Current (1979) Form 324, Annual Financial Report of Networks and Licensees of Broadcast Stations

NOT ROUTINELY AVAILABLE FOR PUBLIC INSPECTION

FORM APPROVED
GAO NO. B-180227 (R0001)

1979

ANNUAL FINANCIAL REPORT OF NETWORKS AND LICENSEES OF BROADCAST STATIONS

Mail one copy to the Federal Communications Commission, Policy Analysis Branch, Broadcast Bureau
Washington, D. C. 20554

BEFORE FILLING OUT THIS REPORT, SEE INSTRUCTIONS

NAME OF RESPONDENT

STREET ADDRESS OR P.O. BOX NUMBER) (CITY) (STATE) (ZIP CODE)

1. Indicate the station(s) for which this report is submitted

Current Call Letters _____ (OTHER CALL LETTERS OF STATION DURING REPORTING YEAR, IF ANY_____)

Location: _____ (CITY)

_____ (COUNTY)

_____ (STATE)

DO NOT REMOVE THE MAILING LABEL AFFIXED BELOW

RETURN COPY WITH MAILING LABEL TO THE FCC. RETAIN THIS COPY FOR YOUR FILES.

4. **Type of station reporting:** (CHECK ONE)

- TV ☐ TV
- TV ☐ TV Satellite
- TV ☐ Combined TV and Satellite
- AM ☐ AM
- AF ☐ Combined AM and FM
- FA ☐ FM affiliated with AM in same area
- FM ☐ FM unaffiliated with AM in same area
- ☐ International

5. If this report does not cover the full **calendar** year, indicate the period covered: From: _____ To: _____

6. **Network affiliation(s) of station:** (PRIMARY FIRST) _____
(ABC, CBS, NBC, or MBS, only) (Network - Initials only)
OR CHECK IF NOT AFFILIATED ☐ (IND) _____

7. Licensee also owns the following stations for which separate reports are filed:

Call Letters	Type of Station*	Call Letters	Type of Station*

*Indicate the type of station (See item 4 above)

Do not write below this line:

1. F P N C	2. A B	3.	4. O D S P R G
5.	6.	7.	8.

(All previous editions of this form are canceled.)

FCC Form 324
September 1979

1979 CALL LETTERS _____

SCHEDULE 1. BROADCAST REVENUES

LINE NO.	CLASS OF BROADCAST REVENUES (a)	MAKE ENTRIES IN THIS COLUMN FIRST (omit cents) (b)	USE THIS COLUMN FOR YOUR TOTALING ONLY (omit cents) (c)
1	A. REVENUES FROM THE SALE OF STATION TIME:	$	$
2	(1) Network		
3	Sale of station time to networks:		
4	Sale of station time to major networks, ABC, CBS, MBS, NBC (before line or service charges)		
5	Sale of station time to other networks (before line or service charges)		
6	Total (lines 4 + 5)		
7	(2) Non-network (after trade and special discounts but before cash discounts to advertisers and sponsors, and before commissions to agencies, representatives and brokers):		
8	Sale of station time to national and regional advertisers or sponsors		
9	Sale of station time to local advertisers or sponsors		
10	Total (lines 8 + 9)		
11	Total sale of station time (lines 6 + 10)		
12	B. BROADCAST REVENUES OTHER THAN FROM SALE OF STATION TIME (after deduction for trade discounts but before cash discounts and before commissions): (1) Revenues from separate charges made for programs, materials, facilities, and services supplied to advertisers or sponsors in connection with sale of station time:		
13	(a) to national and regional advertisers or sponsors		
14	(b) to local advertisers or sponsors		
15	(2) Other broadcast revenues		
16	Total broadcast revenues, other than from time sales (lines 13 + 14 + 15)		
17	C. TOTAL BROADCAST REVENUES (lines 11 + 16)		
18	(1) Less commissions to agencies, representatives, and brokers (but not to staff salesmen or employees) and less cash discounts		
19	D. NET BROADCAST REVENUES (lines 17 minus line 18)		
20	Report here the total value of trade outs and barter transactions. This value must also be included as sales in the appropriate lines above		
21	If this is a report for a Joint AM-FM operation, indicate in lines 22, 23, 24 below the amounts, if any, of total broadcast revenues shown in the totals in line 19 above, which are applicable to the FM station ALONE.		
22	FM revenues from sale of station time (after discounts, commissions, etc.)		
23	FM revenues from providing functional music or other special services		
24	Other FM revenues		
25	Total (lines 22 + 23 + 24)		

FCC Form 324 (Page 2)
September 1979

1979 CALL LETTERS .....

SCHEDULE 2. BROADCAST EXPENSES

LINE NO.	CLASS OF BROADCAST EXPENSES (a)	MAKE ENTRIES IN THIS COLUMN FIRST (omit cents) (b)	USE THIS COLUMN FOR YOUR TOTALING ONLY (omit cents) (c)
1	TECHNICAL EXPENSES:	$	$
2	Technical payroll*		
3	All other technical expenses		
4	Total technical expenses		
5	PROGRAM EXPENSES:		
6	Payroll* for employees considered "talent"		
7	Payroll* for all other program employees		
8	Rental and amortization of film and tape		
9	Records and transcriptions		
10	Cost of outside news services		
11	Payments to talent other than reported in line (6)		
12	Music license fees		
13	Other performance and program rights		
14	All other program expenses		
15	Total program expenses		
16	SELLING EXPENSES:		
17	Selling payroll*		
18	All other selling expenses		
19	Total selling expenses		
20	GENERAL AND ADMINISTRATIVE EXPENSES:		
21	General and administrative payroll*		
22	Depreciation and amortization		
22a	Interest		
22b	Allocated costs of management from home office or affiliate(s)		
23	Other general and administrative expenses		
24	Total general and administrative expenses		
25	TOTAL BROADCAST EXPENSES (lines 4 + 15 + 19 + 24)		

Payroll includes salaries, wages, bonuses and commissions.

SCHEDULE 3. BROADCAST INCOME

LINE NO.		AMOUNT (omit cents)
		$
1	Broadcast revenues (from Schedule 1, line 19)	
2	Broadcast expenses (from Schedule 2, line 25)	
3	Broadcast operating income or (loss) (line 1 minus line 2)	
4	Show here the total of any amounts included in line 2 above which represent payments (salaries, commissions, management fees, rents, etc.) for services or materials supplied by the owners or stockholders, or any close relative of such persons or any affiliated company under common control (see page 3 of instructions).	
5	NOTE: If no such payments were made, check here ☐	

1979 CALL LETTERS .....

SCHEDULE 4. EMPLOYMENT

LINE NO.	
1	Indicate the number of employees in the workweek in which December 31 falls:
2	Full-Time _____ (17-24) Part-Time _____ (25-32) Total _____
	(Do not count as "part-time" those employees who worked a full week but whose duties were divided between two or more stations of the license. Allocate those employees between the stations in accordance with instructions for Schedule 4 (pg. 4)).

SCHEDULE 5. TANGIBLE PROPERTY OWNED AND DEVOTED EXCLUSIVELY TO BROADCAST SERVICE BY THE RESPONDENT

LINE NO.	ITEM (a)	As of December 31		
		Total Cost (omit cents) (b)	Balance in accrued depreciation account (omit cents) (c)	Cost after depreciation (Col. (b) minus (c)) (omit cents) (d)
1	Land and land improvements and buildings			
2	Tower and antenna system			
3	Transmitter equipment			
4	All other property			
5	Total, all property (lines 1-4)	(41-48)	(49-56)	(57-64)

Person in charge of correspondence regarding this report:

NAME _____ OFFICIAL TITLE _____

ADDRESS (Include ZIP Code) _____

TELEPHONE NUMBER (Include Area Code) _____

CERTIFICATION

(This report must be certified by licensee or permittee, if an individual; by partner of licensee or permittee, if a partnership; by an officer of licensee or permittee, if a corporation or association; or by attorney of licensee or permittee in case of physical disability of licensee or permittee or his absence from the Continental United States.)

I certify that to the best of my knowledge, information, and belief, all statements* contained in this report are true and correct.*

Signed _____ Date _____

Title _____

* *Any person who willfully makes false statements on this form can be punished by fine or imprisonment. U. S. Code, Title 18, Section 1001.*

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INSTRUCTIONS FOR COMPLETION OF FCC FORM 324

SEPTEMBER 1979 EDITION

ANNUAL FINANCIAL REPORT OF NETWORKS AND LICENSEES OF BROADCAST STATIONS

GENERAL INSTRUCTIONS FOR BROADCAST STATIONS

1. Who must file reports? All licensees of commercial broadcast stations and all permittees whose commercial stations were operated during the year covered by this report. Stations operating on channels reserved for non-commercial use and non-commercial educational stations operating on commercial channels do not file.

2. What reports must be filed?

(a) One report shall be filed for each station of the licensee (whether AM, FM, TV, or other type of broadcast station) subject to the exceptions in (b) and (c) below.

(b) If the licensee operates an AM and an FM station in the same area, one combined report should be filed for these stations, except where all or virtually all of each station's time is separately priced and offered.

(c) If a TV station licensee also operates a TV satellite station (or stations), a separate report shall be filed for each satellite, except where the satellite station has no time sales of its own (in which case a combined report should be filed).

(d) Only one copy of report for each station need be filed.

3. What is the time period covered by the report? The report must cover the full calendar year to which it refers. If respondent's station was operated for part of the year under other ownership, the present and former licensees must file reports covering their respective periods of operation. Licensees are expected to file reports covering the period of the year for which they actually operated. It is the responsibility of the present licensee to make sure that the former licensee has filed a report for his period of operation.

4. When is report to be filed? On or before April 1.

5. Where is report to be filed? Federal Communications Commission, Policy Analysis Branch, Broadcast Bureau, Washington, D.C. 20554.

6. What special provision is made for licensees with revenue under $25,000? A respondent operating a commercial broadcast station and deriving total revenue of less than $25,000 for the year under report, or less than an average of $500 weekly if in operation for less than the year, is required to complete only Schedules 3, 4 and 5.

7. How shall network affiliation be reported in Item 6 of page 1 of the form? If the station is affiliated with two or more networks, all should be recorded. In the case of stations affiliated with more than one network, the network of primary affiliation should be recorded first. If the station changed from independent status to network affiliation, or the reverse, classify the station according to which status involved the most time during the year.

8. If the space provided for any schedule is insufficient or if it is necessary to insert additional statements, the insert pages shall be securely fastened in the report and shall be of durable paper conforming to this form in size and width of margin. Each insert shall bear the number and title of the schedule to which it pertains and the call letters.

9. If the licensee has two or more stations which share in certain income and/or expenses, he should allocate these joint items to the stations on a reasonable basis. For example, salaries should be allocated on the basis of the time worked for each station.

10. Use dollar figures only. Cents should not be shown.

INSTRUCTIONS FOR SCHEDULE 1 - BROADCAST REVENUES

Lines 4 and 5 of the schedule are designed to include the gross amounts of revenue earned from networks as compensation for the time of the respondent which was used by such networks for broadcasting network commercial programs. These lines should include revenue only from networks providing programs to a station. Revenue received from so-called "selling networks" (organizations which sell the station's time but do not provide it with any programs) should be reported on lines 8 or 9, according to the type of advertiser to whom time is sold. "Sale of station time to networks" means the amount received or receivable by the station from networks. Amounts paid by the networks for circuit costs, royalties, and similar items of expense which they furnish under contract are includible in the expense statement of the network. If, on the other hand, the stations pay for these items, either directly or through networks, as an offset against amounts receivable, then such payments are includible in the expense statement of the station. These lines should not include revenue earned from the sale of network cooperative programs to non-network sponsors; the revenues retained by the stations after payments to the networks for such cooperative programs should be reported on lines 8 or 9.

Line 8 is designed to include the gross amount of revenue earned from advertising placed by or on behalf of advertisers generally recognized as national or regional in character. Usually this is the type of business commissionable to national representatives, but may be solicited directly by the respondent or through advertising agencies, brokers, or networks. Line 9 of the revenue statement is designed to include all gross revenue earned from time sales to local advertisers or sponsors. The distinction between line 8 and line 9 is based on the type of advertiser to whom the time is sold rather than how or by whom it is sold. In general, time purchased in behalf of retail or service establishments in the market should be considered local and reported on line 9. This is true even though the establishments are a part of a national or regional chain. The purchase of time by manufacturers or wholesalers are to be classified in lines 8 or 9 depending on whether the distribution area for the product extends to only the market under consideration (line 9) or to a larger region (line 8). Amounts reported on lines 8 and 9 are not to be reduced by cash discounts or amounts paid as commissions to advertising agencies, national representatives, and brokers, or to staff salesmen or employees.

Barter Transactions and Trade Outs: Include in lines 8 and 9 the value of trade outs or barter transactions. Report the total value of trade outs and barter transactions on line 20. Spots exchanged for program material should be estimated at a fair value consistent with purchases of other program material of similar quality and quantity. Spots exchanged for fixed assets (such as furniture, automobiles, studio equipment, etc.) should be estimated as the amount of cash which would have been required to purchase the asset.

Spots exchanged for merchandise (such as radio sets, television sets, sporting equipment, theatre tickets, novelty items, items to be used as prizes, gifts or give-aways), for advertisements in other media (such as newspapers, radio, television, transit ads, billboard, etc.), for services (such as hotels, travel, auto rentals, restaurants, etc.) are more difficult to value, but must be estimated for purposes of the financial report. Again, the amount of cash the station would have paid for the merchandise provides a reasonable basis for estimating the value.

NOTE: The value of traded merchandise or services should also be treated as any other cost items and expensed out or amortized (in Schedule 2) just as would cash purchases of similar merchandise or services.

Lines 13 and 14 include all amounts charged advertisers or sponsors (in connection with sales of time to them) for programs, materials, facilities or services; these lines exclude time charges reported in section A of Schedule 1.

Line 15 includes all broadcast revenue other than from time sales (line 11) and other than revenue reported in lines 13 and 14. Line 15 revenue derives from the supply of materials, facilities, or services which is not associated with the station's time sales. Examples are the rental of studio facilities for meetings, and fees received from others for the use of talent on the station's payroll.

INSTRUCTIONS FOR SCHEDULE 2 - BROADCAST EXPENSES

Line 3 includes such items as expenses for maintenance and repairs (other than payroll); parts or other expendable items which are not capitalized, such as tubes; power costs; and rental charges for transmitter lines.

Line 21 includes such items as direct costs incurred in delivering programs to the local studio.

Line 18 includes expenses (other than payroll) incurred in connection with sales of time, advertising, promotion, and publicity.

General and Administrative expenses are those which cannot be classified in the technical, program, or selling categories.

Line 22 includes depreciation of tangible property and amortization of prepaid general and administrative expenses.

Line 22b is the amount paid for management services, including accounting, computer services and management fees, to either the home office or an affiliated branch or company under common control. This amount should also be included in reporting Line 4 of Schedule 3.

Line 23 includes such items as payments for legal and accounting services; insurance; and taxes (other than Federal income tax).

INSTRUCTIONS FOR SCHEDULE 3 - BROADCAST INCOME

This schedule is designed to show the profit or loss of the respondent from broadcast activities.

Line 4 should include amounts shown in line 22b, Schedule 2. Include also in line 4 amounts paid to or on behalf of (1) proprietors, partners or stockholders who own of record or beneficially 5% or more of the respondent, (2) any close relatives of such persons, (3) any organizations of which such persons or their close relatives are partners or the owners, directly or indirectly, of 5% of the equity securities, or (4) any trusts or other estates for the benefit of such persons or their close relatives. Close relative (as used here) means husband, wife, son, daughter, son-in-law, daughter-in-law, mother, father.

Payments of dividends or other payments from surplus are excluded from Line 4. If the respondent has more than one station, compensation paid to affiliated companies under common control, proprietors, partners, stockholders, or close relatives should be allocated on a reasonable basis among the stations.

INSTRUCTIONS FOR SCHEDULE 4 - EMPLOYMENT

Count all employees as "full-time" when they are employed for your normal basic work week. If the duties of certain full-time employees relate to two or more stations of the licensee, distribute these full-time employees among the stations in accordance with your best estimate of the proportion of their time devoted to the various stations.

INSTRUCTIONS FOR SCHEDULE 5 - TANGIBLE PROPERTY

Column (b) is the cost to the licensee of all tangible property in broadcast service. If the broadcast property is acquired as part of a going business (i.e., as a result of a station transfer), total cost should be the portion of the total price paid by the licensee which is properly assignable to tangible property.

Column (c) should reflect the balance in the accrued depreciation account resulting from accruals since acquisition of the property by the licensee, less net charges for property retired.

Line 4 should include such items as studio technical and production facilities, mobile equipment, office furniture, equipment and fixtures, automobiles and trucks.

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Appendix C: Alternate Schedule 4—Employment

Schedule 4. Employment

	Full-Time Employees	Individual Part-Time	Full-Time Equivalent TOTAL
Technical			
Local Programming			
Other Programming			
Selling			
G&A			
TOTAL			

Proposed Instructions - Schedule 4

Allocate staff time among the five categories. Estimates of time allocations are acceptable. Use the last payroll of the calendar year. Record only those personnel whose salary and/or wages were included in Schedule 2, Line 1 plus salespersons employed who are on commission only.

Record each employee as either full or part-time. Estimate in the "Total" column the number of equivalent full-time employees. For example, two part-time employees who work half time could be the equivalent of one full-time employee. In the "Total: Full-Time Equivalent" column, these two employees would be considered as one.

An employee who is involved in two or more functions should be allocated according to the time spent on each function. He (she) should be listed under Full-Time. Note that the total of Full-Time Employees must be a whole number.

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Appendix D: Alternative Schedule 5— Balance Sheet

Instructions - Schedule 5

Appendix D: Alternative Schedule 5— Balance Sheet

Schedule 5 - Balance Sheet
December 31, 19__
(To be completed by the Licensees)

FCC Form 324

	Assets	Amount (omit cents)
	Current Assets	
1.	Cash	$
2.	Accounts Receivable	
3.	Inventories	
4.	Broadcasting Rights - current	
5.	Other Current Assets	
6.	Total Current Assets	
	Fixed Assets	
7.	Land and Buildings (depreciation to date $_____)	$
8.	Tower and Antenna Systems (depreciation to date $_____)	
9.	Transmitter Equipment (depreciation to date $_____)	
10.	All Other Fixed Assets (depreciation to date $_____)	
11.	Less: Total Accumulated Depreciation	
12.	Total Fixed Assets	$
	Other Assets	
13.	Broadcasting Rights - Noncurrent	$
14.	Intangibles	
15.	Other	
16.	Less: Accumulated Amortization	
17.	Total Other Assets	$
18.	TOTAL ASSETS	$
	Liabilities and Owner's Equity	
	Current Liabilities	
19.	Loans Payable	$
20.	Accounts Payable and Accrued Expenses	
21.	Other Current Liabilities	
22.	Total Current Liabilities	$
	Non-Current Liabilities	
23.	Long-term Debt	$
24.	Deferred Items	
25.	Other Non-Current Liabilities	
26.	Total Non-Current Liabilities	$
	Owner's Equity	
27.	Retained Earnings	$
28.	Other Owner's Equity	
29.	Total Owner's Equity	$
30.	TOTAL LIABILITIES AND OWNER's EQUITY	$

Instructions - Schedule 5

Assets

Current Assets: Those assets which are expected to be converted into cash or consumed in business operations within a short period of time. (Normally one year or less).

Line 1	Cash	This classification includes cash on hand and on deposit in banks, including certificates of deposit.
Line 2	Accounts Receivable	Amounts due from advertisers and other trade accounts, and amounts due from officers, employees, and other non-trade parties should be included in this line item.
Line 3	Inventories	Include all inventories of tubes and supplies not yet used in programming and operations.
Line 4	Broadcasting Rights	The apportioned cost of feature films, other films, syndicated programs, and broadcasting rights to other programs expected to be used within the current year. The amount should be based upon estimated usage.
Line 5	Other Current Assets	All current assets not included in lines 1-3 should be contained in this line item, referring to short-term investments, prepaid expenses, and advances to parent or affiliates.
Line 6	Total Current Assets	The total of lines 1 through 5.

Fixed Assets: Capital assets used for operation which have a life expectancy of more than one year.

Line 7	Land and Buildings	The cost of land and buildings plus capitalized improvements should be entered on this line. The amount of accumulated depreciation applicable to these assets should be entered in the space immediately following the account title.

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Line 8	Tower and Antenna System	The cost of the tower and antenna system should be entered on this line. The amount of accumulated depreciation applicable to this asset should be entered in the space immediately following the account title.
Line 9	Transmitter Equipment	The cost of technical equipment located at transmitter sites should be entered on this line. The amount of accumulated depreciation applicable to this asset should be entered in the space immediately following the account title.
Line 10	All Other Fixed Assets	The cost of studio and technical equipment, furniture, fixtures, mobile equipment, automobiles, construction in progress, and all other tangible fixed assets related to the broadcasting operation. The amount of accumulated depreciation applicable to these assets should be entered in the space immediately following the account title.
Line 11	Less: Total Accumulated Depreciation	The amount of depreciation expense charged to operation in all prior years should be included in this line item. This amount should equal the sum of the depreciation to date entered on lines 7 through 10.
Line 12	Total Fixed Assets	The sum of lines 7 through 10 less line 11.
Line 13	Broadcasting Rights - Non-current	The unamortized cost of feature films, other films, syndicated programs, and broadcast rights to other programs which are not expected to be broadcast within the current year.
Line 14	Intangibles	Include in this caption intangible assets such as goodwill, license costs, permit costs, and value of network affiliation.

Line 15	Other	All other non-current assets should be included in this caption, such as cash surrender value of life insurance, and advances to parent or affiliates.
Line 16	Accumulated Amortization	The amount of amortization expense charged to operations in all prior years should be included in this line item.
Line 17	Total Other Assets	The total of Lines 13, 14 and 15 less Line 16.
Line 18	Total Assets	The total of Lines 6, 12, and 17.

Current Liabilities: Those obligations to be liquidated by the use of existing current assets within one year.

Line 19	Loans Payable	This classification includes the current portion of long term debt and demand loans to be repaid within twelve months.
Line 20	Accounts Payable and Accrued Expenses	Include the amounts payable to suppliers and expenses accrued but not paid, such as interest and real estate and income taxes.
Line 21	Other Current Liabilities	All other current liabilities should be in this line item, including advances from parent or affiliates.
Line 22	Total Current Liabilities	The total of Lines 19 through 21.
Line 23	Long-Term Debt	Include in this caption total debt to be paid after twelve months.
Line 24	Deferred Items	Revenues that are deferred into a future operating period. This arises upon the receipt of an asset preceding the period in which the asset is considered to be earned, such as an investment credit or a tax liability.

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Line 25	Other	All other non-current liabilities including advances from parent or affiliates.
Line 26	Total Non-Current Liabilities	Total of Lines 23, 24 and 25.
Line 27	Retained Earnings	This classification should contain the accumulated earnings of prior periods, net of dividends declared. This does not apply to proprietorships or partnerships.
Line 28	Other Owner's Equity	Include in this caption the equity interests of partnerships and proprietorships (net of withdrawals) and other equity accounts such as paid in capital and donated capital.
Line 29	Total Owner's Equity	Total of Lines 27 and 28.
Line 30	Total Liabilities and Owner's Equity	Total of Lines 22, 26, and 29.

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Appendix E: Alternate Schedules 2 and 3—Summary of Expenses and Income Summary With Separation of Local and Nonlocal Programming Expense

Schedule 2. Broadcast Expenses

Functional Category

Line	Expense (a)	Tech (b)	Local Progr. (c)	Other Progr. (d)	Selling (e)	Gen'l & Admin. (f)	Total (g)
1	Salaries & Wages						
2	Payroll Taxes & Fringe Ben.						
3	Travel & Ent.						
4	Communication Exp.						
5	Facility Exp.						
6	Parts & Supplies						
7	Professional Fees						
8	Depreciation						
9	Amortization						
10	PROGRAM-LOCAL & OTHER:	////	////	////	////	////	////
11	Rental & Amort of Film/Tapes	////			////	////	
12	Outside News Serv.	////			////	////	
13	Music License Fees	////			////	////	
14	Other Perf. & Prog. Rights	////			////	////	
15	SELLING:	////	////	////	////	////	////
16	Commissions - Local	////	////	////		////	
17	Commissions - National	////	////	////		////	
18	Promo & Adv. Exp.	////	////	////		////	
19	GEN'L & ADMIN.	////	////	////	////	////	////
20	Allocated Corp.Mgt.Exp.	////	////	////	////		
21	Allocated Corp.O.H.Exp.	////	////	////	////		
22	Other Expenses						
23	TOTAL						

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Alternate Instructions—Schedule 2

should be included here. The allocation

Technical: Amortization of [illegible]

Alternate Instructions—Schedule 2

General Definitions

Functional Categories

1. *Column (b) Technical:* Technical Expenses.

This column includes, in the appropriate line item, all expenses related to the transmission of the station's signal, expenses incurred in maintaining the transmitter and the site, and expenses incurred in the studio and related areas which are considered to be of a technical nature. Salaries and fringe benefits paid to studio technicians, repair of broadcast equipment, etc., would be examples of such expenses.

2. *Column (c) Local Programming:* Local Program Expenses.

This column includes, in the appropriate line item, all expenses related to the production of programs originated or produced by the station. The expenses should include, but are not limited to, those involved in local news and public affairs.

3. *Column (d) Other Programming:* Other Program Expenses.

This column includes, in the appropriate line item, all program expenses which are not related to locally produced programs as defined in 2. above.

4. *Column (e) Selling:* Selling Expenses.

All expenses related to selling, advertising, or promotion of the station. Examples would be commissions to agencies or representatives and expenses related to salespersons' activities (phone, auto, etc.).

5. *Column (f) General and Administrative:* General and Administrative Expenses.

All expenses related to the management and administration of the station including overhead costs not allocated to other functions.

Note.—The allocation of expenses, where appropriate, should be based on a generally accepted cost accounting method. Time, space, and utilization are the major determinants of allocation.

Note.—For each line item, the total column is the sum of the preceding line entries (b+c+d+e+f=g).

Line 1.—Salaries and wages. For each functional category, enter salary and wages, including overtime, vacation, termination pay, sick leave, and bonuses. These salaries should be allocated among functional categories and employee time spent in each category. Estimates are acceptable.

Line 2.—Payroll taxes and fringe benefits. All city, state and Federal related payroll taxes as well as fringe benefits such as insurance, pension, etc. should be included here. The allocation among functional categories should be performed in the same manner as Line 1.

Line 3.—Travel and entertainment. This should include travel, entertainment, and automobile related costs. Lease or rental of automobiles is to be included. This is to be allocated by functional category on the basis of use, either actual or estimated.

Line 4.—Communication expenses. This includes telephone and telegraph, postage, membership dues and subscriptions, and courier services. Again, this is to be allocated by usage, either actual or estimated.

Line 5.—Facility expenses. Includes rent or lease expenses, utilities (heat, light, power), property related taxes (no other taxes), and maintenance and repair.

Line 6.—Parts and supplies. Expenses to be included vary by functional category. The bulk will be under Technical, such as tape, equipment parts, and supplies (excluding tubes), or under G&E, such as general office supplies.

Line 7.—Professional fees. Fees paid to persons not on the station payroll for the provision or professional services.

Technical (Column b)—Technical consulting and engineering fees.

Local Programming (Column c)—talent fees; fees paid to other than staff for work such as announcers, consultants, actors, technicians, directors, etc.

Other Programming (Column d)—Same items as Column c, but not related to locally produced programming.

Selling (Column e)—consultant expenses, etc.

G&A (Column f)—legal, auditing, consulting.

Line 8.—Depreciation. Varies by functional categories.

Technical: Include depreciation of studio, transmitter, and other technical equipment. For example, this would include cameras, mobile production facilities, tape machines, transmitters, towers, etc.

Local programming: Include depreciation of non-technical (non-electronic) plant and equipment utilized for local programming.

Non-local programming: Include depreciation of non-technical (non-electronic) plant and equipment utilized for programming other than local produced.

Selling: Depreciation of assets utilized by sales and promotion department.

G&A: Depreciation of all assets which cannot be allocated to any of the above four functional categories.

Line 9.—Amortization. Varies by functional categories.

Technical: Amortization of leasehold and land improvements considered to be utilized for technical (transmitter, tower, etc.) purposes.

Local programming: Amortization of those assets or portion thereof utilized in local programming *EXCEPT* the value of programs held as assets. Includes studio.

Other programming: Amortization of those assets or portion thereof utilized in programming other than locally produced *EXCEPT* the value of programs held as assets. Includes studio.

Selling: Amortization of any assets utilized in selling.

G&A: All remaining amortization costs *not* included in any of the four above *nor* to be included in Line 13, Rental and Amortization of Film and Tape *or* Line 18, Other Performance or Program Rights. An example is amortization of intangibles, such as good will.

Program (Local and Other)

Line 11.—Rental and amortization of films and tape. Include the rental cost of and the value of feature film and syndicated program expense amortized during the report year. Do not include other film expenses such as raw stock, processing costs, shipping, audio tape, etc.

Line 12.—Outside news service. The cost of outside news service such as A.P. and U.P.I. Also include cost of news stringers.

Line 13.—Music license fees. Amounts paid to ASCAP, SESAC, BMI, and others.

Line 14.—Other performance and program rights. Cost and/or amortization of rights to broadcast programs not included in lines 11, 12 and 13. For example, this line would include the amortization of rights to sports and special events.

Selling Expenses

Line 16.—Commissions—local. All commissions to agencies, reps, and brokers who are considered local. Include commissions paid to licensee's sales force.

Line 17.—Commissions—national. All commissions to agencies, reps, and brokers who are considered national and/or regional.

Line 18.—Promotion and advertising expenses. Include all trade and audience promotion and advertising expenses.

General and Administrative

Line 20.—Allocated corporate management expenses. Management expenses allocated by the home office or affiliate. Included would be the allocated cost of time spent by legal and accounting professionals for services

rendered to the licensee, if not billed directly. Do not include interest expense.

Line 21.—Allocated corporate overhead expenses. Common overhead expenses allocated by home office to licensee. Include those expenses *not* in Line 22, Allocated Corporate Management Expense. For example, charges from the home office for use of a central computer or billing service and allocated costs of maintaining the home office. Do not include allocated interest expense, which will be included in Schedule 3, Line 10.

Line 22.—Other expense. The accounts which go into each "other expense" line vary by functional (Technical, Local Program, Other Program, Selling, and G&A) category.

Technical: Include any expense appropriate to the technical function which has not yet been recorded.

Local programming: Include film expenses such as raw stock, processing and shipping, studio sets and props, program materials and facilities, records and transcriptions, audio tape, and other expenses related to local programming not elsewhere included in Schedule 2.

Other programming: Include film expenses, line charges, co-op fees, outside origination costs, and other program expenses not elsewhere included in Schedule 2.

Selling: Include cost of rating services, audience research, and any other selling expense not elsewhere included in Schedule 2.

G&A: Include such costs as non-allocable insurance, charitable contributions, FCC license fees, corporate fees, miscellaneous state and local taxes (other than income), bad debt accounts, and other operating expenses which are neither allocable not included in other line items. Be sure *not to include* non-operating expenses as mentioned in Schedule 3.

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Alternate Schedule 3. Income

Line			
1	BROADCAST REVENUE		$_____
	OPERATING EXPENSE:		
2	Technical Expense	$_____	
3	Local Program Expense	_____	
4	Other Program Expense	_____	
5	Selling Expense	_____	
6	G&A	_____	
7	TOTAL OPERATING EXPENSE		$_____
8	OPERATING INCOME		$_____
	Other Income and Expense		
9	Non-Operating Revenue	$_____	
10	Interest Expense	(_____)	
11	All Other Non-Operating Expense	(_____)	
12	NET NON-OPERATING INCOME		$_____
13	INCOME BEFORE TAXES		_____
14	Federal and State Income Tax		(_____)
15	NET INCOME		$_____
16	PAYMENTS TO PRINCIPALS Total Salaries, Interest, and Other Payments to Principals:		$_____

BILLING CODE 6712-01-C

Alternate Instructions—Schedule 3

Line 1.—Broadcast revenue. Enter the total from Schedule 1, Line 14.

Line 2.—Technical expense. Schedule 2, Line 25(b).

Line 3.—Local program expense. Schedule 2, Line 25(c).

Line 4.—Other program expense. Schedule 2, Line 25(d).

Line 5.—Selling expense. Schedule 2, Line 25(e).

Line 6.—General and administrative expense. Schedule 2, Line 25(f).

Line 7.—Total operating expense. Schedule 2, Line 25(g). This should also equal the total of Lines 2 through 6 above.

Line 8.—Operating income. Line 1 less Line 7.

Line 9.—Non-operating revenue. Include all revenues accruing to the station which were not part of its broadcast operation. Examples are interest received, rent, and gain on investments or sale of assets.

Line 10.—Interest expense. All interest, either accrued by the station or allocated from the home office.

Line 11.—All other non-operating expense. Include all other expenses accruing to the station which were not part of its broadcast operation. For example, loss on investments or sale of assets.

Line 12.—Net non-operating income. Line 9 less Lines 10 and 11.

Line 13.—Income before taxes. Line 8 plus Line 12.

Line 14.—Federal and State income tax. The amount of income tax expense recorded for report year.

Line 15.—Net income. Line 13 less Line 14.

Line 16.—Payments to principals. Total salaries, interest and payments (excluding dividends and profit distributions) to principals or on behalf of principals which total more than $250 annually and are reported as part of expenses in Schedule 2. An example would be auto lease paid to principal of $50/month or $600/year. Include in an attachment a summary of the specific payments from which this figure is derived. State the number of principals receiving salary.

Principals are defined as owners/stockholders or the owner's immediate family—parents, wife, husband, children, in-laws, and siblings.

[FR Doc. 80-15951 Filed 5-23-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. FE 78-01; Notice 3]

Light Truck Average Fuel Economy Standards; Limited Extension of Deadline for Public Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Limited extension of deadline for submission of public comments.

SUMMARY: This notice extends the deadline for submitting written comments on NHTSA's proposed light truck average fuel economy standards for model years 1983–85. This extension is limited to comments on two recent submissions from the Regulatory Analysis Review Group (RARG) and the Department of Energy (DOE). This action is being taken to provide the public an opportunity to comment on alternative proposals for light truck fuel economy standards developed by other Federal agencies involved in this rulemaking proceeding.

DATE: Comments on these two submissions must be received by NHTSA no later than June 26, 1980

ADDRESSES: Comments must be submitted (preferably in 10 copies) to the Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590. Submissions containing information for which confidential treatment is requested should be submitted (preferably in three copies) to the Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW, Washington, D.C. 20590, and seven additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

FOR FURTHER INFORMATION CONTACT: Mr. Philip W. Davis, Office of Automotive Fuel Economy Standards, Room 4102, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590 (202–472–6902).

SUPPLEMENTARY INFORMATION: On December 31, 1979, in 44 FR 77199, NHTSA proposed the issuance of average fuel economy standards for light trucks manufactured in model years 1982–85. A 30-day period was established for the submission of comments on the 1982 standard, due to a statutory deadline for issuance of that standard and the complex marketing and other issues involved in setting standards for the later model years. A 90-day comment period (ending March 31, 1980) was established for the 1983–85 standards. On the latter date, in 45 FR 20871, the 1982 standards were published.

Among the comments received on the 1983–85 standards were two from Federal agencies involved in fuel economy and regulatory matters, RARG and DOE. Because of the significance of these comments and the important role which each of these agencies plays in this rulemaking proceeding, NHTSA has decided to publish this special request for comments on the submissions of those two agencies.

RARG was established by Presidential directive to assist the various Federal agencies in assuring that their regulations meet statutory goals with minimum cost and burden to the regulated companies. See Memorandum From the President, October 31, 1978, Volume 14, Weekly Compilation of Presidential Doucments at 1905–6. It is chaired by the Council of Economic Advisers, and has as members the principal economic and regulatory agencies of the Executive Branch. Staff support is provided by the Council on Wage and Price Stability. RARG selects for review particular regulations which have a large economic impact or are otherwise controversial, and submits comments on the regulation to the agency which proposed it, as part of the normal public comment process. The 1983–85 light truck fuel economy standards were selected by RARG as one of the regulations to be reviewed.

RARG submitted three general comments on the proposed light truck standards. First, RARG argued that NHTSA should consider using a cost-benefit procedure in assessing various levels of standards. This analysis would be based upon the most accurate data available and would attempt to take into account certain nonquantifiable costs and benefits of higher fuel economy, such as reductions in truck utility and national security benefits. The interrelationship between passenger car and light truck capital requirements would also be considered. Under the RARG proposal, this analysis would not be determinative of the level at which standards would be set, but would be used as an aid in determining the level of standards which are in the national interest.

RARG's submission also indicated that it supports NHTSA's legislative proposals for providing increased flexibility for the manufacturers in

complying with fuel economy standards.

drive light trucks in the base year, its

participate in fuel economy standard

for the agency to proceed rapidly to

interested persons continue to examine

capacity of large commercial

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complying with fuel economy standards. These proposals include an extension from one year to three years of the period for carrying forward or back monetary credits earned for exceeding fuel economy standards (to be applied to penalties for noncompliance in earlier or later years). Also included in these proposals was a recommendation that noncompliance with fuel economy standards not be deemed "unlawful conduct" when offsetting credits can be applied from earlier or later years in which standards are exceeded. RARG argues for a third statutory amendment which would also provide the manufacturers additional flexibility in complying with standards. This amendment would permit credits to be transferred between cars and trucks and between classes of light trucks. Currently, the law permits credits earned for exceeding passenger automobile standards to be applied only to penalties assessed against passenger automobiles. Similarly, credits earned for one class of light trucks (e.g., 2-wheel drive trucks) can only be used to offset penalties assessed against that same class.

RARG's third proposal involves the establishment of separate "composite" fuel economy standards for each manufacturer. Establishing such a standard would involve setting fuel economy targets for different classes of light trucks and combining those numbers into a sales-weighted average fuel economy level which would be the composite standard. For example, the composite standard could be a sales-weighted average of the maximum feasible fuel economy levels currently determined on an industrywide basis for 2-wheel drive light trucks and for 4-wheel drive light trucks. The sales weighting for a particular manufacturer would be based upon the relative proportion of these two classes of light trucks in that manufacturer's fleet in some base year. Thus, the level of the composite standards would vary from manufacturer to manufacturer.

An example of how a 2-wheel drive/4-wheel drive composite standard would work if it applied in 1982 is as follows.

The maximum feasible average fuel economy levels for 1982 2- and 4-wheel drive light trucks were determined by the agency to be 18 and 16 mpg, respectively. If company A sold 75 percent 2-wheel drive light trucks and 25 percent 4-wheel drive light trucks in the base year, its 1982 composite standard would be the sales weighted, harmonic average of 18 and 16 mpg, or 17.5 mpg. If company B sold 60 percent 2-wheel drive light trucks and 40 percent 4-wheel drive light trucks in the base year, its 1982 composite standard would be 17.1 mpg. Thus, company B would be subject to a less stringent fuel economy standard for 1982 regardless of the mix of trucks actually sold in that year.

The composite standard is intended to provide manufacturers additional means of complying with fuel economy standards, such as by increasing the sales of the more fuel efficient class (2-wheel drive in the above example) of light trucks and decreasing the sales of the less efficient (4-wheel drive). Also, manufacturers would be given greater flexibility to make fuel economy improvements which only affect one class of light trucks. For example, were a manufacturer to make a major investment to redesign its vans, that investment would be of no assistance in meeting NHTSA's fuel economy standard for 4-wheel drive light trucks, since all vans are currently 2-wheel drive. Thus, manufacturers might opt for making lesser fuel economy improvements to all its light trucks. This approach might not provide any more fuel savings than would making major improvement to a portion of the fleet and might even cost more. Ford Motor Company has advocated a variation of this proposal, in which the composite standard would apply at the option of the manufacturer.

Because of the significance of the RARG proposals, the agency is inviting comment on those proposals. In particular, the agency invites comment on the following issues with respect to the composite standard proposal:

1. Is the establishment of composite standards, in which different numerical requirements would apply to different companies depending on a base year fleet mix, authorized under the Motor Vehicle Information and Cost Savings Act?

2. Is the composite standard approach desirable from the point of view of national policy? What would be the competitive and other effects of such a standard?

3. If composite standards were adopted, what base year fleet mix should be used?

Although the RARG proposal on transferring monetary credits between passenger automobiles and light trucks and between classes of light trucks would require legislative action and is therefore beyond the scope of this proceeding, the agency also invites comment on the desirability of that proposal.

Sections 502(h) and (i) of the Motor Vehicle Information and Cost Savings Act provide specifically for the Secretary of Energy to comment on and participate in fuel economy standard-setting. With respect to this proceeding, DOE has provided a comprehensive re-analysis of the 1985 2-wheel drive fuel economy standard and suggested that the 1985 standards be set at levels of 24 mph for 2-wheel drive light trucks and 20 mpg for 4-wheel drive light trucks. These levels are above the upper end of the ranges of fuel economy standards which NHTSA proposed for that year.

The major differences between the DOE and NHTSA analyses for 1985 are as follows:

1. DOE used 1980 fuel economy test data and 1979 sales information (modified to reflect the elimination of certain engines for 1980) in developing a baseline for projecting future model year fuel economy. NHTSA's baseline, on the other hand, was the 1981 standards (with certain minor modifications), which in turn were based on 1979 sales and fuel economy data.

2. Using 1980 fuel economy data, DOE developed new exponents for the regression equation NHTSA used for determining the effect on fuel economy of changes in vehicle weight, engine displacement, and rear axle ratio. The DOE exponents yield larger improvements in fuel economy from a given reduction in weight, engine displacement or axle ratio than those used by NHTSA. DOE also developed a more complex model for projecting the fuel economy improvement resulting from changes in the previously mentioned vehicle attributes. That model, which was used by DOE in its analysis, also yields higher results than the NHTSA equation.

3. DOE made slightly higher estimates of the fuel economy benefits resulting from various types of technology.

4. DOE included the benefits of diesel engines in its analysis.

5. DOE projects that future compact truck models could have higher fuel economy than did NHTSA. For example, DOE argues that domestic small trucks need be no larger than current imports and could use exclusively 4-cylinder engines, as the imports do. NHTSA in the rulemaking support paper for the proposed 1982–85 standards assumed that future domestic compact trucks would be no larger than intermediate in size between current imported trucks and the large domestic models, and would use a mix of 4 and 6 cylinder engines.

The agency invites comments on the DOE analysis and in particular the major assumptions underlying that analysis.

A 30-day comment period is being provided due to the relatively limited scope of the issues raised, and the need for the agency to proceed rapidly to establish final fuel economy standards for 1983–85. Copies of the RARG and DOE submissions are available from NHTSA's Docket Section, Room 5108 of the Nassif Building in Washington, D.C.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

It is requested but not required that 10 copies of all comments be submitted to the address specified at the beginning of this notice. If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be whitheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Sec. 9, Pub. L 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 8, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR DOC. 80–15828 Filed 5–23–80; 8:45 am]

BILLING CODE 4910–59–M

49 CFR Part 571

[Docket No. 80–9; Notice 1]

Lamps, Reflective Devices and Associated Equipment; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice announces that NHTSA is considering the proposal of an amendment to Safety Standard No. 108 to improve the noticeability of large commercial vehicles. The primary purpose of the proposal would be to improve the probability of motorists seeing larger vehicles on the road in order to reduce the likelihood of running into them. The performance criteria that might be proposed could revise existing location and photometric (e.g., luminous brilliance, luminous flux, light distribution, color, etc.) requirements for truck and trailer lighting, signalling and marking systems.

DATES: Comment closing date: August 25, 1980.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 9202–426–2715).

SUPPLEMENTARY INFORMATION: NHTSA is considering the issuance of a proposal to amend Motor Vehicle Safety Standard No. 108 to require improved conspicuity of large commercial vehicles. Conspicuity is the property of an object that determines its likelihood of being seen. The purpose of the amendment would be to prevent accidents in which these vehicles are struck by other vehicles in the rear or side. This improved conspicuity could be accomplished by better lighting and signalling systems and/or increased use of reflectorized and fluroescent materials.

The potential safety value of improved conspicuity is indicated by the English experience with this measure. Since November 1, 1971, vehicles over three tons unladen weight in England have been required to display distinctive rear markings. The markings incorporate yellow reflective material (to improve nighttime conspicuity) and red fluorescent material (to improve daytime conspicuity). The markings consist of two patterns: (1) Diagonal (chevron) stripes for vehicles of less than 13 meters (42.5 feet) overall length; and, for longer vehicles (2) a sign with the reflective and fluorescent coating as a backgroung. The results indicate a reduction in the number of accidents across all lighting conditions after the introduction of the markings, and a significant reduction for parked vehicles at night on unlit rural roads. However, England does not have any requirements like those in Standard No. 108 for large commercial vehicles to be equipped with identification and clearance lamps. Hence, reflectorized materials are considered more effective and essential to truck and trailer conspicuity in England than in this country.

It is obvious that avoidance of a collision is far more beneficial than mitigating the injuries associated with it. However, the agency recognizes the fact that even with better detectability, some collisions will occur. It is expected that improved conspicuity will assist in preventing collisions during times of reduced light, but not necessarily during daylight.

The agency is currently developing rulemaking jointly with the Bureau of Motor Carrier Safety (BMCS) of the Federal Highway Administration, specifically to upgrade the existing BMCS regulation 49 CFR 393.86—*Rear End Protection.* This regulation currently covers vehicles in interstate commerce only. Proposed regulations will consist of a Federal motor vehicle safety standard and an amendment to the existing BMCS regulation. The NHTSA proposed standard would specify performance requirements for rear underride protection devices and would apply to all new trucks and trailers

which weigh more than 10,000 pounds (GVWR). The amended BMCS regulation would contain the same performance requirements as the NHTSA standard and would apply to all trucks in use in interstate commerce.

The proposed rear end protection rule is intended to provide improved safety for occupants of passenger cars which do not avoid a rear end collision with a heavy vehicle. The effort will focus on geometric and strength properties for rear underride devices to achieve improved safety. The combination of improved conspicuity and rear end protection should significantly reduce the risk of personal injury and property damage.

The Safety Problem

Accidents involving vehicles running into trucks or trailers are severe events. An analysis of 1978 accident data from NHTSA's Fatal Accident Reporting System (FARS), indicates that there were 936 accidents causing 1,018 fatalities in which vehicles ran into the side or rear of trucks or trailers. Of the 936 striking vehicles, 640 were passenger cars accounting for 698 fatalities. Similar accidents involving injuries are estimated to number about 20,000.

A large number of the fatalities potentially preventable by improved conspicuity appear to be those which occurred after dark, or during periods of reduced light such as dusk and dawn. Of the 640 accidents in which cars struck heavy trucks or trailers, 436 (68 percent) occurred in the dark or in reduced light conditions. Of the 936 fatal accidents, 500 (53.4 percent) occurred in the dark or under reduced light conditions, and at least 96 of the 494 (10 percent of 936) were collisions with stopped trucks.

In October 1977, Minahan and O'Day (HSRI) published a report entitled "Car-Truck Fatal Accidents in Michigan and Texas" which that 57 percent of the collisions in which the passenger compartment of a smaller vehicle contacts the rear or side of a larger vehicle involved running into the rear of a truck, and that 70 percent of the trucks in these collisions were tractor-trailer combinations. Further, according to these data a fatal collision is more likely if the smaller vehicle strikes the rear of the truck rather than the side. Also, Minahan and O'Day, in an analysis of the 1977 FARS data, found that a disproportionate number of the vehicles struck in the rear at night are large trucks leading the researchers to conclude that improved conspicuity might be an appropriate countermeasure.

The agency has reason to believe that a causal factor in these accidents is the inability of the driver of the striking vehicle to recognize the imminence of a hazard. For example, from 1967 through 1975, the Office of Research of the Federal Highway Administration (FHWA) conducted an in depth special study of commercial vehicle accidents involving vehicles parked or stopped on highway shoulders (DOT-FH-11-8835, 1975). This study covered 400,000 accidents which accounted for 20,000 fatalities, 250,000 injuries, and 1 billion dollars in property damage. The findings of the study indicate that about 20 percent of the accidents might have been prevented or reduced in severity by improving vehicle conspicuity, specifically about 14 percent in which the rear of the truck was impacted and an additional 6 percent in which side impacts were involved.

The Minahan and O'Day study of fatal car-into-truck underride collisions in Texas and Michigan concluded that two-thirds of all underride accidents occur at night. This fact along with the finding that impact speeds were high, emphasize that underride accidents are surprise events in which the drivers of the striking vehicles apparently do not see the other vehicles in time to stop. This suggests that increasing the conspicuity of trucks, and especially truck-trailers, at night may prevent some of these accidents from occurring.

Although the agency has some accident data, more are needed to better understand the factors involved, especially the causal factors. Questions for which the agency seeks specific information from commenters include:

1. How many non-fatal accidents occur annually involving smaller vehicles running into the rear or sides of larger commercial vehicles?

2. Are there other studies suggesting that the driver of the striking vehicle could not see the struck vehicle?

3. Are there fleets that have taken steps to improve the conspicuity of their trucks and trailers for which rear and side impact accident data may exist or could be collected?

4. Are accident data available or collectable that would make possible a comparison of the rear and side impact accident involvement rate of trailers with low-mounted clearance and identification lamps (e.g., flat bed trailers) and van trailers with high mounted clearance and identification lamps?

5. Are there other studies or data available or collectable that permit the accident experience of vehicles with differing conspicuity to be compared?

The Problem of Conspicuity

The data discussed above implies that drivers run into other vehicles because they don't see or notice them, and that improved conspicuity will result in a reduction in accidents. The primary physical parameters affecting the visibility of objects are size, luminance, and contrast.

Presently, large vehicles are required by Standard No. 108, to have headlamps, identification lamps, clearance lamps, stop lamps, side marker lamps, turn signals, and red and amber reflectors. Even though heavy-duty vehicles are large and contrast with their environment and have all the above mentioned lamps and reflectors, rear and side collisions still occur. It is a known fact from various research that the amber and red lights can be seen from distances greater than 2500 feet, and that the reflectors can be detected at distances of 2000 feet. (The Detection and Recognition of Disabled Vehicles, Driving Research Laboratory DRL-RR-67-1; Night Demonstration on Conspicuity of Trucks and Trailers, 3M Company, St. Paul, Minnesota, November 9, 10, 1978; and Reid, J.A., "Recognition Distances of Vehicles Rear Markings at Night," Transport and Road Research Laboratory, Crawthorne, England, Supplementary Report 321, 1977). This illumination and reflectorization should be adequate for the motorist to see and perform evasive action when necessary. This leads the agency to conclude that it does not have sufficient information to understand why this illumination and reflectorization on large vehicles is not sufficiently conspicuous (attention-getting) to prevent rear and side accidents on what changes should be made to improve their conspicuity. Questions about vehicle conspicuity for which the agency seeks specific information from commenters include:

1. Why do rear and side impact accidents seem to involve a failure to see the struck vehicle when that vehicle has an apparently sufficient amount of lamps and reflectors to be capable of being seen under all conditions of daylight, nighttime, and inclement weather?

2. Are there any data indicating that deterioration of light output or reflectorization due to dirt or poor vehicles maintenance contributes to these accidents?

3. Should steady burning or flashing special signals or lamps be added to vehicles to indicate a decelerating or slow-moving or parked heavy vehicle?

4. Current research indicates that rear-end collisions involving passenger cars can be significantly reduced by installing an additional, high mounted, centrally located brake lamp. Would additional lamps or reflectorized materials on commercial vehicles interfere with this type of signal, the present brake lamp, or turn signal, or in some other manner confuse the driving public?

5. Does the present configuration of truck lighting (i.e. number, type and location of lamps and reflectors) tend to confuse drivers and if so, in what manner?

The Problem of Reflectorization

Better or additional methods of gaining the attention of motorists may be needed. Available human factors data suggest that safety could be improved by making changes to the present lighting scheme. For example, lamps could be bigger and brighter, and have more contrast than existing systems. Or the use of fluorescent materials could improve daytime conspicuity, and additional reflective materials might enhance it at night. Changes in the lighting and reflectorization patterns may also improve conspicuity.

The reflectorization quality of material depends upon the various factors such as the squareness in the cut of the prism sides, and the smoothness of the surfaces. These characteristics can be controlled when the reflectors are manufactured.

The color of the reflective material should be given consideration when discussing increased conspicuity during the dusk and nightime hours. Red, for instance, will reflect light only one-fourth (¼) the amount that white will.

Although some fleets presently use reflectorized tapes for ease of identification, the NHTSA wishes additional information on the desirability of reflectorization such as using reflectorized barrier designs on the sides and rear of new trucks and trailers.

Questions about reflectorization for which the agency seeks specific information from commenters include:

1. What is the experience of manufacturers and users with reflectorized tape materials with respect to installation cost, durability, maintenance costs, lifetime, effectiveness when dirty, and ease of application, maintenance and repair?

2. Would a conspicuity-enhancing requirement that could be met by use of reflectorized material as an advertisement, applied as the manufacturer wishes, be more acceptable to the industry than one which requires that such material be installed in a certain manner specified by the standard?

3. Would adding large amounts of reflectorization lead to more instances of vehicles running into trucks parked on the side of the roadway by diverting the driver's attention from the road?

4. Should the color of reflectorized material on the rear of trucks be changed from red to some other color that reflects light in a more efficient manner?

5. Should specifications be adopted for squareness in the cut of prism sides and smoothness of surfaces?

6. Would a change in the present lighting and reflectorization patterns enhance safety?

The Problem of Maintenance

The side and rear lamps required by Standard No. 108 are sometimes positioned so that they are subject to splash and spray during inclement weather, reducing light output. In addition, the voltage drop (mainly due to the distance from the electric power source and to the size of the conductor) can cause a reduction in brightness. Because of these factors the conspicuity of the truck may be seriously impaired. Questions about maintenance for which the agency seeks specific information from commenters include:

1. How can operators insure that the exterior lamps and reflective materials are adequately maintained?

2. Would changing the positions of certain lamps, such as lowering the clearance and identification lamps, encourage improved maintenance?

3. What is the magnitude of voltage drop?

The Department's Bureau of Motor Carrier Safety of the Federal Highway Administration is monitoring this rulemaking action and related research activity.

This notice has been evaluated under the criteria of E.O. 12044, "Improving Government Regulation," and under departmental guidelines implementing that order. Due to the agency's lack of certain data and to the uncertainty about the type and level of the requirements and test conditions that might be proposed, the agency cannot at this point reach specific conclusions concerning the effects of the potential proposal. Therefore, the agency cannot yet detemine whether the potential regulation will be significant. Nevertheless, the agency is confident that this approach would bring forth substantial safety benefits. Further, the costs involved are relatively modest and the technology required is already available. A brief and preliminary regulatory evaluation has been prepared and is available from the NHTSA docket section by writing to the address given at the beginning of this notice. After the agency reviews the comments on this notice and conducts further analyses and before it issues any notice of proposed rulemaking, the agency will again examine the effects of the regulation. The agency will determine whether the regulation is significant and prepare the appropriate document discussing those effects. That document will be made available for public comment.

The engineer and lawyer primarily responsible for the development of this notice are Kevin Cavey and Taylor Vinson respectively.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for

examination in the docket at the above

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examination in the docket at the above address both before and after that date. to the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on May 8, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-15823 Filed 5-23-80; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 575

[Docket No. 25; Notice 40]

Consumer Information Regulations, Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice modifies a previous proposal to amend the traction and temperature resistance test procedures of the Uniform Tire Quality Grading (UTQG) Standards to make provision for the testing of tires with inflation pressures measured in kilopascals. This notice also extends the proposal to include testing of "metric" tires for treadwear. The notice is intended to facilitate the testing of "metric" tires for Uniform Tire Quality Grading by providing test procedures directly applicable to such tires. The notice also proposes modification of previously proposed changes in traction test procedures to further encourage efficient use of test facilities.

DATES: Comments must be received on or before June 26, 1980. Proposed effective date: Date of publication of the final rule in the **Federal Register.**

ADDRESSES: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: On October 1, 1979, the National Highway Traffic Safety Administration (NHTSA) published a notice (44 FR 56389) proposing to modify the traction and temperature resistance test procedures of the UTQG Standards (49 CFR 575.104) to provide for testing of "metric" tires, (i.e., tires with inflation pressures measured in kilopascals) and to revise the traction test procedures to permit more efficient use of test facilities. With regard to traction testing, NHTSA proposed that candidate tire test runs be permitted either before or after the standard tire test sequence to which the candidate tire results are compared for adjustment for environmental and other factors. The present regulation requires the completion of the standard tire test sequence prior to the commencement of candidate tire test runs. The proposed amendment would have required all candidate and standard tire tests, the results of which are compared, to be completed within a single, two-hour period.

In its October 1 notice, the agency also proposed that paragraphs (f)(2)(i)(B) and (D) and (f)(2)(viii) of the traction test procedures (49 CFR 575.104(f)(2)) be amended to provide for inflation and loading of metric tires at 180 kilopascals, rather than 24 pounds per square inch, as is now required for all tires. It was proposed that loading of metric tires for the temperature resistance test be determined at the inflation pressure which is 40 kPa less than the tires' maximum permissible inflation pressure. The standard now specifies 8 psi less than maximum permissible inflation pressure.

In commenting on NHTSA's proposal, the Goodyear Tire and Rubber Company and the BFGoodrich Company suggested that additional provisions of the UTQG test procedures also be amended to accommodate testing of metric tires. Specifically, these commenters suggested that paragraphs (e)(2)(ii) of the treadwear test procedures (49 CFR 575.104(e)(2)) and (g)(1), (3), and (8) of the temperature resistance test procedures (49 CFR 575.104(g)) be amended. Since these paragraphs specify test conditions in terms of pounds per square inch, rather than kilopascals, NHTSA believes that these sections should also be amended to facilitate metric tire testing.

Goodyear and Goodrich pointed out that the proposed specifications of tire test inflation pressures at a particular number of units (e.g., 60 kPa below maximum permissible inflation pressure) does not take into account the special situation of tires with a maximum inflation pressure of 300 kPa. Under Standard No. 109, New Pneumatic Tires (49 CFR 571.109), these tires are tested at an inflation pressure well below maximum permissible inflation pressure. Both Goodyear and Goodrich suggested that use of a table, such as Table III of Standard No. 109, stating test inflation pressures for various maximum permissible inflation pressures, would be the clearest way of identifying inflation pressures for UTQG testing. While Goodyear specifically discussed use of a table for treadwear and temperature resistance testing only, Goodrich suggested that a table would be appropriate for traction testing as well. Goodrich also suggested that such a table would provide greater flexibility in accommodating future tire designs which may have different characteristics from tires now in use.

NHTSA tentatively agrees that a table would be the most effective means of stating UTQG test inflation pressures and modifies its proposal to specify reference to a new Table I of the UTQG regulation for test inflation pressures, and for determination of tire loads, for treadwear, traction, and temperature resistance tests. An additional 30-day period is provided for comment on the proposal as modified.

Interested parties should note that the traction test procedures, which the agency arrived at prior to the advent of high inflation pressure tires, now provide that all tires are to be inflated to 24 psi for testing (49 CFR 575.104 (f)(i)(B) and (D), and loaded to 85 percent of the load specified at 24 psi for the tires' size designation in Appendix A of Standard No. 109 (49 CFR 575.104(f)(2)(viii)). In the case of a tire with maximum permissible inflation pressure greater than 32 psi, this requirement could result in the tire being underinflated during testing and loaded at a weight below that typically encountered under normal conditions of use.

NHTSA believes that if test loads were determined using a table of inflation pressures such as Table III of Standard No. 109, correct inflation would be assured and test loads more closely approximating normal driving conditions achieved. For this reason, the proposal has been modified to specify a scale of inflation pressures dependent

on maximum permissible inflation pressure in place of the single required pressure of 24 psi.

A comment received from the John Deere Product Engineering Center pointed out that under the proposed procedure, the inflation pressures used for testing of metric tires would not be precisely equivalent to the pressures used for tires with inflation pressures measured in pounds per square inch (e.g., 24 psi=180 kPa). This is also true of the modified proposal outlined in this notice. However, the test procedures are intended to provide for testing of tires under conditions of normal use, rather than to assure that each tire tested is run at the identical inflation pressure regardless of design. Therefore, the agency believes that the inflation pressures stated in Table III of Standard No. 109 provide a valid basis for comparative tire testing.

Finally, in commenting on NHTSA's proposal to modify the traction test procedures to permit adjustment of candidate tire results with standard tire results obtained either before or after the candidate tire data, Goodyear stated that while it supports the principle involved, it considers the proposed two-hour time limitation to be unnecessary. Goodyear interprets NHTSA's proposal to require a candidate tire set sequence to occur either directly before or after the standard tire sequence to which it is compared.

In proposing modification of the traction test procedures, NHTSA had intended to permit more than one candidate tire test sequence to be run before and after the corresponding standard tire sequence, so long as the standard tire sequence is completed within the same specified time period as each candidate tire sequence to which it is compared. For example, a tester could take 10 measurements on Candidate A, 10 meaurements on Candidate B and then 20 standard tire measurements, using the standard tire test sequence to adjust the results of both Candidate A and Candidate B, so long as the first test run of Candidate A and the last standard tire test run occur within the specified time limit. Tests conducted by NHTSA's Office of Vehicle Safety Compliance since the issuance of the proposal, however, suggest that even under optimal conditions the test series described above cannot be completed within a two-hour period.

In view of this finding, NHTSA conducted additional testing to determine whether a three-hour period could be permitted without affecting the accuracy of the test results. The agency tested six different tire lines on asphalt and concrete, completing comparative standard tire and candidate time sequences within a period slightly in excess of three hours. The results obtained in these tests did not differ significantly from results obtained for the same tires in tests completed within a two-hour period.

NHTSA believes that, given the expanded scope of the testing permitted by the proposal, a time limitation is necessary to minimize the effect of possible changes in test conditions, such as the temperature of the test surface. Nonetheless, it appears that a three-hour test period limitation is sufficient to control the effect of such changes. NHTSA has modified the proposal to increase the permissible time limit for related standard and candidate tire test sequences to three hours, and seeks further comment on this and any other issues relevant to the proposal.

NHTSA has evaluated the proposed changes in the UTQG regulation, as modified by this notice, and has determined that these changes are not significant within the meaning of Executive Order 12044 and the Department of Transportation policies and procedures for internal review of proposals. The scope of the changes involved and the economic savings to be derived from increased testing efficiency are not sufficient to warrant preparation of a regulatory analysis.

In consideration of the foregoing, it is proposed that 49 CFR 575.104, Uniform Tire Quality Grading, be amended as follows:

§ 575.104 [Amended]

1. Section 575.104(e)(2)(ii) would be amended by substitution of the words "the applicable pressure specified in Table II of this section." in place of the words "an inflation pressure 8 pounds per square inch less than its maximum permissible inflation pressure."

2. Section 575.104(f)(2)(i)(B) and (D) would be amended by substitution of the words "the applicable pressure specified in Table I of this section." in place of the words "24 psi." in each paragraph.

3. Section 575.104(f)(2)(vii) would be amended by addition of the following sentence, at the end thereof: "The standard tire traction coefficients so determined may be used in the computation of adjusted traction coefficients for more than one candidate tire."

4. Section 575.104(f)(2)(viii) would be amended by deletion of the words "at 24 psi" and addition of the following words after the parenthetical phrase "(§ 571.109 of this chapter)": "at the applicable inflation pressure specified in Table I of this section. Candidate tire measurements may be taken either before or after the standard tire measurements used to compute the standard tire traction coefficients. Take all standard tire and candidate tire measurements used in computation of a candidate tire's adjusted traction coefficient within a single three hour period."

5. Section 575.104(g)(1) would be amended by substitution of the words "the applicable pressure specified in Table I of this section." in place of the words "2 pounds per square inch less than its maximum permissible inflation pressure."

6. Section 575.104(g)(3) would be amended by substitution of the words "the applicable pressure specified in Table I of this section." in place of the words "2 pounds per square inch less than the maximum permissible inflation pressure."

7. Section 575.104(g)(6) would be amended by substitution of the words "applicable inflation pressure specified in Table I of this section." in place of the words "inflation pressure that is 8 pounds per square inch less than the tire's maximum permissible inflation pressure."

8. Section 575.104(g)(8) would be amended by substitution of the words "the applicable pressure specified in Table I of this section." in place of the words "2 pounds per square inch less than the tire's maximum permissible inflation pressure.

9. Section 575.104 would be amended by addition of the following table at the conclusion of the text of that section:

Table I. —*Test Inflation Pressures*

Maximum permissible inflation pressure	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa
Pressure to be used in tests for treadwear and traction, and in determination of tire load for temperature resistance testing	24	28	32	180	220	180
Pressure to be used for all aspects of temperature resistance testing other than testing other than determination of tire road	30	34	38	220	260	220

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

Those persons desiring to be notified upon receipt of their comments in the rulemaking docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available to the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In view of the present need to test metric tires under the procedures of the UTQG Standards, and the similarity of the issues involved in this notice to those addressed in the previous notice of proposed rulemaking on this subject (Docket No. 25, Notice 34), the comment period for this notice is limited to 30 days.

The principal authors of this proposal are Dr. F. Cecil Brenner of the Office of Automotive Ratings and Richard J. Hipolit of the Office of Chief Counsel.

(Sec. 103, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: May 19, 1980.

Carl Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 80-15827 Filed 5-23-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Withdrawal of an Expired Proposal for Listing of the Razorback Sucker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of an expired proposed rule.

SUMMARY: As amended November 10, 1978, the Endangered Species Act mandates withdrawal of proposed rules to list species which have not been finalized within two years of the proposal. The amended Act also authorized a one-year suspension of all withdrawals, until November 10, 1979. The time limit has expired for the razorback sucker (*Xyrauchen texanus*) which was originally proposed for listing as Threatened without Critical Habitat on April 24, 1978 (43 FR 17375-77). The bonytail chub (*Gila elegans*) which was proposed as Endangered without Critical Habitat in the same proposal was finalized on April 23, 1980 (45 FR 27710-13). This notice constitutes the withdrawal of the razorback sucker listing proposal.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Engandered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, States that:

A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the **Federal Register** not later than two years after the date of publication of notice of the regulation proposing listing under paragrapn (B)(i)(1). If a final regulation is not adopted with such two year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the **Federal Register** not later than 30 days after end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

The two-year time limit on proposals and one-year period on suspension of withdrawals which were established in this subsection have expired for the razorback sucker which was proposed April 24, 1978 (43 FR 17375-77). The razorback sucker was known to occur in the rivers of the Colorado River basin.

In accord with section 4(f)(5), the razorback sucker was withdrawn on April 24, 1980. This action gives notice of the withdrawal of this species which was known from the states of Arizona, California, Colorado, Nevada, Utah and Wyoming.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.: 87 Stat. 884, 92 Stat. 3751).

The primary author of this notice is Dr. James D. Williams, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Dated: May 16, 1980.

Galen Buterbaugh,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-15974 Filed 5-23-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 103
Tuesday, May 27, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given that the public information meeting scheduled by the Advisory Council on Historic Preservation for May 13, 1980, in Petersburg, Virginia, to discuss the proposed Hickory Hill Public Housing project and the affects to the Petersburg National Battlefield, a property included in the National Register of Historic Places, has been rescheduled to allow a minimum of 15 days notice of the public. Original notice of the meeting appeared in the **Federal Register** on Monday, May 5, 1980, (Vol. 45, No. 88, P. 29613).

Pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), the meeting is rescheduled for June 9, 1980, at 7 p.m., at the Petersburg Redevelopment and Housing Authority, Sycamore Towers, 128 South Sycamore Street, Petersburg, Virginia.

The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public an private organizations, and interested citizens to receive information and express their views concerning the proposed Hickory Hill Road Public Housing project, an undertaking of the Department of Housing and Urban Development (HUD), that will adversely affect the Petersburg National Battlefield, Petersburg, Virginia, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on the National Register or eligible properties and alternate courses of action that would avoid, mitigate, or minimize any adverse effects on the Historic such properties.

The following is a summary of the agenda of the meeting.

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by HUD.

III. A statement by the Virginia State Historic Preservation Officer.

IV. Statements from local officials, private organizations and the public on the effects of the undertaking on property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005; 202-254-3495 (Attention: Charlene Dwin).

Dated: May 20, 1980.

John D. McDermott,

Acting Executive Director.

[FR Doc. 80-15934 Filed 5-23-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

Statement of Mission; Food Quality Assurance Division

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of statement of mission.

SUMMARY: This notice announces the mission of the Food Quality Assurance Division of the Food Safety and Quality Service. The effect of this document is to notify other Federal agencies, the food industry and interested parties of the mission of the Food Quality Assurance Division.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Wyatt, Director, Food Quality Assurance Division, Commodity Services Program, Food Safety and Quality Service, Department of Agriculture, Washington, D.C. 20250, (202) 447-8582.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1977, the Administrator for Federal Procurement Policy in the Office of Management and Budget approved an Executive Branch Plan for the Government-wide Food Quality Assurance Program for food procured by Federal agencies. The need for this program had been identified by the Commission on Government Procurement in 1972 because of the complexity of Federal food specifications, their tendency to limit competition and increase processing and distribution costs, and the fragmentation that existed because responsibility for administering inspection requirements was located in several agencies. The Secretary of Agriculture accepted responsibility for implementing the plan and subsequently assigned responsibility for the Government-wide Food Quality Assurance Program to the Food Safety and Quality Service. The Administrator, Food Safety and Quality Service, in turn, has assigned these responsibilities to the Food Quality Assurance Division.

Statement of Mission

1. Mission

The mission of the Food Quality Assurance Division is to manage and approve Federal standardization documents in Federal Supply Group 89-Food, and to establish quality assurance policies and procedures applicable to the procurement of food by Federal agencies using appropriated funds. Federal standardization documents refer to any documents used to describe the technical characteristics of food items which are applicable in the procurement of food by Federal agencies and include Federal standards and specifications, commercial item descriptions as well as all waivers, deviations and amendments to these documents.

2. Authorities

The authorities for the Food Quality Assurance Division to carry out its Government-wide responsibilities are contained in the following documents:

(a) Memorandum of July 29, 1977: Quality Assurance in the Procurement of Food by Federal Agencies; from the Administrator for Federal Procurement Policy, Office of Management and Budget, to Federal agency heads.

(b) **Federal Register** Notice:

The District Ranger (RMA) is directed

of 1969; the Council on Environmental

(b) **Federal Register** Notice: Delegation of Authority to the Secretary of Agriculture; 44 FR 56401, October 1, 1979.

(c) Memorandum of July 18, 1979: Government-wide Food Quality Assurance; from the Secretary of Agriculture to heads of Department agencies.

(d) Memorandum of September 28, 1979: Government-wide Food Quality Assurance; from the Administrator of the Food Safety and Quality Service, U.S. Department of Agriculture, to Agency directors.

3. Policies and Procedures

The policies and procedures related to the Government-wide management responsibilities of the Food Quality Assurance Division are being developed and will be promulgated in the near future. In the interim, all requests for food specification development, revision and approval, as well as questions concerning food quality assurance policies and procedures, should be addressed to Mr. John M. Wyatt, Director, Food Quality Assurance Division, Commodity Services Program, Food Safety and Quality Service, U.S.Department of Agriculture, Washington, D.C. 20250, (202) 447–8582.

Done at Washington, D.C., on May 21, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80–16152 Filed 5–23–80; 8:45 am]

BILLING CODE 3410–DM–M

Forest Service

Chugach National Forest, Upper Trail Lake Hatchery Project, Moose Pass, Alaska; Finding of No Signficant Impact

An environmental assessment that discusses proposed hatchery development on land adjacent to Upper Trail Lake is available for public review in the Forest Service offices in Anchorage and Seward, Alaska.

Based on the analysis and evaluation described in the environmental assessment, it is my decision to adopt Alternative 1. This alternative calls for issuance of a Special Use Permit for construction and operation of hatchery and rearing facilities at Upper Trail Lake. The site selected for this alternative is the result of feasibility studies of six different potential sites. The other alternative considered was no action. The assessement identifies the site-specific design and construction necessary to implement the project.

The District Ranger (RMA) is directed to monitor the construction and operation of the project to insure compliance with the Special Use Permit. A series of five design concepts were developed to evaluate the best means of minimizing adverse environmental effects.

The project design described in Alternative 1 provides the best combination of physical, biological, social, and economic benefits and is considered to be the environmentally preferable alternative.

I have determined that this is not a major Federal action that would significantly affect the quality of the human environment: Therefore an environmental impact statement is not needed. This determination was made considering the following factors:

(a) The majority of the project is on land approved by the Forest Service for State selection;

(b) Only the well sites may be located on National Forest land;

(c) Construction of the well sites has only slight effect on the ecosystem;

(d) There are no irreversible resource commitments;

(e) There are no apparent adverse cumulative or secondary effects.

(f) The physical and biological effects are limited to the area of planned development and use;

(g) No known threatened or endangered plants or animals are within the affected area.

Project implementation will take place upon issuance of the Special Use Permit.

This decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: April 24, 1980.

Clay G. Beal,

Forest Supervisor.

[FR Doc. 80–15937 Filed 5–23–80; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Driftway Public Water-Based Recreation and Fish and Wildlife Development R.C. & D. Measure, Mass.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Sherman L. Lewis, State Conservationist, Soil Conservation Service, 29 Cottage Street, Amherst, Massachusetts 01002, telephone 413–549–0650.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Driftway Public Water-Based Recreation and Fish and Wildlife Development R.C. & D. Measure, Plymouth County, Massachusetts.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Sherman L. Lewis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for development of public water-based recreation and fish and wildlife facilities. The planned works of improvement include installation of a parking lot, comfort station, picnic shelter, random picnic tables, and associated facilities; removal of the abandoned sand and gravel screening tower and a dilapidated barge pier; installation of an observation tower; construction of a fishing pier; placement of rock riprap to reinforce the existing vertical board cribbing; upgrading 5,200 feet of existing trail for pedestrian use; abandonment and seeding of 1,800 feet of former vehicular trails; improvement of about 3,600 feet of trail by suppressing poison ivy, light grading, installation of erosion control features, and surfacing with wood chips or gravel; installation of a 1-acre playing field and a roadside barrier; installation of a gravel ramp and walkway to facilitate launching nonpower boats; placement of topsoil and grass planting on about 3 acres; and planting of salt tolérant grasses on about one-fourth acre subject to tidal flooding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Sherman L. Lewis, State Conservationist, Soil Conservation Service, 29 Cottage Street, Amherst, Massachusetts 01002, telephone 413–549–0650. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: May 13, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects, Soil Conservation Service.

[FR Doc. 80–15938 Filed 5–23–80; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a factfinding meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and end at 5:30 p.m., on June 19, 1980; also will convene at 9:00 a.m. and end at 3:00 p.m. on June 20, 1980, at City-County Building, Third Floor Council Chambers, Indianapolis, Indiana 46204.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is factfinding on unemployment and underemployment of minorities and women in Consolidated Uni Gov.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 21, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–16006 Filed 5–23–80; 8:45 am]

BILLING CODE 6335–01–M

South Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the South Dakota Advisory Committee (SAC) to the Commission will convene at 4:00 p.m. on June 8 and will end at 4:30 p.m. on June 10, 1980, at Sylvan Lake Resort, P.O. Box 752, Custer State Park, South Dakota 57730.

Persons wishing to attend this conference should contact the Committee Chairperson or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this conference is civil rights issues in the 1980's.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 21, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–16007 Filed 5–23–80; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Tuesday, June 10, 1980, at 10:00 a.m. in Room 5611, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Numerially Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production of technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tools, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda as five parts:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) New business.

(4) Continuation of discussion pertaining to robots and robots controls. These discussions will be supported by presentations and involvement of industry and government experts in robotics who have been invited to participate.

Executive Session

(5) Discussion of matters properly classified under Executive Order 11652, or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any Subcommittees thereof, was published in the **Federal Register** on October 25, 1978 (43 FR 49828).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: May 21, 1980.

Kent N. Knowles,

Director, Office of Export Administration, U.S. Department of Commerce.

[FR Doc. 80-16008 Filed 5-23-80; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1500-7; OPTS-61005B]

Workshop on Substitutes for Asbestos; Meeting

AGENCIES: Consumer Product Safety Commission and Environmental Protection Agency.

ACTION: Notice of A Workshop on Substitutes for Asbestos.

SUMMARY: The Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC) will sponsor a Workshop on Substitutes for Asbestos from July 14–16, 1980. The workshop will be held at the Sheraton National Hotel, 900 S. Orme Street, Arlington, Virginia. There is no charge for admission to this workshop.

FOR REGISTRATION INFORMATION CONTACT:

John B. Ritch, Jr., Industry Assistance Office (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Toll-free: 800-424-9065, In Washington, D.C.: 544-1404.

FOR TECHNICAL INFORMATION CONTACT:

Hope Pillsbury, Workshop Coordinator (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-755-8023.

SUPPLEMENTARY INFORMATION: The purpose of the workshop is to help EPA and CPSC gather information on the current technical and economic issues and potential health hazards relating to substitutes for asbestos and asbestos-containing products. The workshop will be structured so that participants may choose to attend the entire workshop, the technical/economic portion, the health portion, or individual sessions. Participants from industry, academia, government, organized labor, and public interest groups, as well as other interested parties are invited to attend.

At the outset of the workshop, overview talks on technical, economic and regulatory aspects of asbestos substitutes will be presented. These talks will include subjects such as factors affecting speed of technological innovation, problems of market definition, and the regulatory status of asbestos.

The main body of the technical/economic portion of the workshop will consist of talks on substitutes for the approximately ten asbestos product categories, followed by discussion sessions. There also will be opportunities to discuss broader issues such as the ability of substitute products to meet new or currently existing performance standards.

The second portion of the workshop will focus on health effects of both fibrous and nonfibrous types of substitutes. An overview talk on routes of exposure will be given, followed by talks on epidemiologic and experimental studies that have been made on the various substances that can be used as substitutes for asbestos. Discussion sessions will be included on the agenda.

A session is planned in which manufacturers and other experts on substitutes can inform the two Agencies about the characteristics of products that they make or have studied.

Persons who register by early June 1980 will receive a background information packet prior to the workshop to help them prepare for it.

Dated: May 14, 1980.

Steven D. Jellinek,

Assistant Administrator Office of Pesticides and Toxic Substances, Environmental Protection Agency.

Dated: May 19, 1980.

Dr. Peter W. Preuss,

Deputy Associate Executive Director, Health Sciences, Consumer Product Safety Commission.

[FR Doc. 80-15954 Filed 5-23-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Intent To Prepare Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for the decommissioning of the government-owned portion of the Shippingport Atomic Power Station in Beaver County, Pennsylvania.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS to assess the environmental implications of a proposed DOE action to decommission the government-owned portion of the Shippingport Atomic Power Station in Beaver County, Pennsylvania.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so. DOE will consider the need for a public scoping meeting based on the written comments received in response to this notice. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time comments will be solicited.

ADDRESSES: Written comments may be submitted to: R. W. Ramsey Jr., Remedial Actions Program Staff Office, Mail Station B-107, GTN, U.S. Department of Energy, Washington, D.C. 20545 (301) 353-5272.

For general information on the NEPA process, contact: NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Attention: Richard Smith, Room 4G-064, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-4600.

DATES: Written comments are due on or before June 26, 1980.

BACKGROUND INFORMATION: The Shippingport Atomic Power Station is a pressurized water reactor (PWR) electrical generating station located in a rural area about 30 miles northwest of Pittsburgh, Pennsylvania. The facilities at the Shippingport Atomic Power Station include the nuclear reactor systems, steam systems, electrical power generation equipment and miscellaneous support buildings and systems.

The site is owned by Duquesne Light Company (DLC) and leased to DOE. The reactor plant is owned by DOE and DLC owns the turbine generator portion of the station. Since initial operation in 1957, the station has supplied power to the DLC system in addition to providing technology which has served as a basis for the development of pressurized water reactors in the United States.

Since 1977, the Shippingport Atomic Power Station has been operating with a Light Water Breeder Reactor (LWBR) Core to provide the technical feasibility of the breeder concept in a light water reactor system and thereby make the LWBR technology available. The LWBR Program Environmental Statement (ERDA-1541, June 1976) covered all environmental aspects of operation in, and removal of, the LWBR Core from the Shippingport Atomic Power Station. There are no plans for further operation following removal of the LWBR Core.

The proposed action is to decommission the Shippingport Atomic Power Station reactor by one of several possible alternatives. The principal purpose of decommissioning any nuclear facility is to effectively remove or to isolate the radioactivity associated with the facility from the environment of man. The decommissioning alternatives include no new action, prompt dismantlement, safe storage followed by dismantlement and entombment. No new action means to maintain the reactor in a shutdown and defueled condition with ongoing surveillance and maintenance. Prompt dismantlement means to disassemble, remove and dispose of all radioactive equipment, structures and materials as soon as possible after the reactor core has been removed, leaving all remaining structures and the site available for unrestricted use. Safe storage followed by dismantlement means to secure the reactor against intrusion and radiation leakage for several decades and to dismantle it after a substantial portion of the short-lived radiation has decayed. The safe storage period would require surveillance, radiation monitoring, and maintenance. Entombment means to encase the reactor and its radioactivity by means of massive concrete and steel barriers for an indefinite period of time. Entombment would require remote surveillance, remote radiation monitoring, and periodic maintenance of the entombed structure. Based on currently available information, the preferred alternative is prompt dismantling.

Impacts to be assessed for each decommissioning alternative include commitment of resources, occupational and public radiation exposure due to decommissioning activities, and radioactive waste transportation and disposal. Persons receiving routine or accidental occupational radiation exposures include surveillance and maintenance staff, if any, in addition to the actual personnel taking the decommissioning action. The impacts of contaminated liquids, vapors, gases or dust that could be released to the public during normal decommissioning operations and potential accidental incidents will be assessed. The impacts of transporting decommissioning wastes which could involve exposure of the public to additional radiation, including possible accidental radiation doses also will be assessed. Long-term and short-term non-occupational radiological effects from waste disposal involved in each alternative will be examined. Primary resources associated with the decommissioning project such as alternate land uses, aesthetic impacts, and effects on the job market and the local economy in general will be addressed. Also considered will be the effects of energy utilized during the decommissioning operations.

A draft EIS will be prepared and made available for review and comment by agencies and the public. The completion of the draft statement is tentatively scheduled for December 1980. Comments on the draft EIS will be considered in preparing the final EIS.

DOE invites agencies and individuals with special expertise or interest, and persons who may be affected by the proposed action, to participate in scoping the draft EIS. Scoping consists of identifying issues, including decommissioning alternatives and environmental impacts to be assessed in the EIS. Written comments, suggestions, and information are welcome. Comments are also solicited regarding the need for a public scoping meeting.

If it is deemed necessary to hold a public scoping meeting, a place, date, and time will be selected and advance notice provided. At such a meeting, interested persons or agencies will be invited to submit written or oral comments.

Comments and requests for information on the proposed project should be submitted to R. W. Ramsey, Jr. at the above address, and those seeking further information on the NEPA process should inquire with the NEPA Affairs Division at the above address. Those not desiring to submit comments or suggestions at this time, but who would like to receive a copy of the draft EIS for review and comment when it is issued, should also contact Mr. Ramsey. Copies of ERDA-1541 and reports used in the preliminary assessment of environmental effects of the proposed project and a bibliography of the other documents currently planned to be used in the preparation of the draft EIS are available for public inspection at the following locations.

B. F. Jones Memorial Library, 663 Franklin Place, Aliquippa, Pennsylvania 15001
Carnegie Library of Pittsburgh, 440 Forbes Avenue, Pittsburgh, Pennsylvania 15213
Department of Energy, Public Reading Room, Room 6A-152, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of all comment letters received in response to this notice will be available for public inspection at the above locations.

In addition, the bibliography will be available for public inspection at:

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee
Richland Operations Office, Federal Building, Richland, Washington
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

All suggestions, comments and questions submitted to R. W. Ramsey, Jr. prior to the close of the comment period will be fully considered in the preparation of the draft EIS.

Dated at Washington, D.C., this 15th day of May, 1980.

For the United States Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-16005 Filed 5-23-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Delta Petroleum Corp.; Petition for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of petition and request for comments.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that, on March 14, 1980, Delta Petroleum Corporation (Delta), in accordance with the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b), filed a petition for permission to use multiple allocation fractions. The relief, if granted, would permit Delta to use one allocation fraction for the sale of motor gasoline to its customers in Okeechobee, Florida, and a separate allocation fraction for customers in Dade, Broward, and Palm Beach counties.

A copy of Delta's application, with proprietary material deleted, may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, Room 6222-C, 2000 M Street, N.W., Washington, D.C.

DATE: Comments on or before June 6, 1980.

ADDRESS: Send comments to: Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street, NW., Washington, D.C. 20461. Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222-C, 2000 M

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Street, NW., Washington, D.C. 20461, Telephone: (202) 653–3431.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 19th day of May 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–16003 Filed 5–23–80; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of the Mandatory Petroleum Price Regulations.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653–3569. On or before June 11, 1980. Any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR § 205.193.

Issued in Washington, D.C., on the 19th day of May 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Northeast District: PRO's

Firm name and address	Audit date	Violation amount	Highest cents per gallon violation
Rodbern Service Station, 665 Peninsula Boulevard, Hempstead, NY 11550	2/28/80	$3,314	.023
Twin Parks Service Station, 2103 Webster Avenue, Bronx, NY 10457	2/29/80	3,345	.062

Southwest District: PRO's

Firm name and address	Audit date	Violation amount	Highest cents per gallon violation
Bert's Phillips 66, 325 South Second, Stilwell, OK 74960	4/17/80	$4,515.05	11.8

Western District: PRO's

Firm name and address	Audit date	Violation amount	Highest cents per gallon violation
Shamuel Lazar, Lazar Super Shell, 377 6th Street, San Francisco, CA 94103	1/11/80	$5,616.31	.051
Mike Keegan, Mike's Shell Service, 1201 Harrison Street, San Francisco, CA 94103	1/11/80	1,610.78	.060
Allen Person, 10th Street Chevron, 7000 Monterey, Gilroy, CA 95020	1/29/80	10,596.56	.081
Ed Gularte Chevron, 131 N. Main, Salinas, CA 93901	1/30/80	9,309.70	.097
Bob Hutchinson, Inc., 2200 Telegraph Avenue, Oakland, CA 94612	1/3/80	2,439.59	.063
Khosroin Hifai, Ray's Civic Center Mobil, 1271 No First Street, San Jose, CA 95112	1/4/80	5,041.68	.119
Chuck's Auto Service, 2101 N. 1st Street, San Jose, CA 95131	1/4/80	2,421.70	.079
Larry Septon, Alameda Chevron, 955 Alameda, San Jose, CA 95126	1/4/80	1,869.31	.068
Walt Jost, Walt Shell Service, 16601 Alamanden, San Jose, CA 95120	1/3/80	7,121.60	.082
Jim Lutz, Petaluma Standard Service, 1440 E. Washington, Petaluma, CA 94952	8/20/79	3,987.27	.029
Milton Paige, Westlake Union, 101 South Mayfair, Daly City, CA 94015	8/20/79	1,618.29	.053
Conn Ward, Millbrae Shell, 500 Broadway Street, Millbrae, CA 94030	1/30/80	3,906.47	.061
Dhority's Union 76, 1600 Mission Street, San Francisco, CA 94103	8/15/79	2,919.46	.059
Bob Waitsch, Miraloma Shell, 701 Portola Avenue, San Francisco, CA 94127	8/15/79	4,159.71	.060
Gallagher's Shell, 111 El Camino Real, San Bruno, CA 94066	1/30/80	1,837.15	.060
Ken's Chevron, 375 Cabrillo Highway, Half Moon Bay, CA 94019	1/30/80	14,398.84	.097
Weber's Chevron Service, 7719 Soquel Drive, Aptos CA 95003	1/4/80	11,776.96	.097
Steve Horner, dba Steve Horner Chevron, 3500 Lakeshore Avenue, Oakland, CA 94610	1/3/80	5,161.54	.072
Peter Marenco Phillips, 1700 Sonoma Blvd., Vallejo, CA	2/28/80	4,387.42	.107
Valle Vista Chevron (Frank Terrasas), 3288 Sonoma Blvd., Vallejo, CA 94590	1/30/80	4,929.50	.061
Bill Pendergast & Sons Chevron, 4375 Sonoma Blvd., Vallejo, CA 94590	1/30/80	8,834	.089
B & M Texaco & Towing, Lathrop Road and Highway 99, Manteca, CA 95336	4/09/80	2,966.68	.074
Larry Septon, Berryessa Chevron, 1715 Berryessa Road, San Jose, CA 95133	1/4/80	3,864.00	.071
George Cravines, Circle Service, 2901 Sneath Lane, San Bruno, CA 94066	1/3/80	2,505.60	.054
Benjamin Marshall, Ben's Exxon Service, 925 Cutting Boulevard, Richmond, CA 94804	1/10/80	4,533.73	.088
Jack Jung, Cutting Shell Service, 1000 Cutting Blvd., Richmond, CA 94804	1/10/80	7,135.62	.067
Ted's Arco, Ted Lampros, 2095 19th Avenue, San Francisco, CA 94116	12/3/79	2,168.16	.070
Bill Dobko Chevron, 3139 Jefferson Avenue, Redwood City, CA 94062	8/31/79	299.13	.034

Western District: PRO's—Continued

Firm name and address	Audit date	Violation amount	Highest cents per gallon violation
Gray Goodnough, Gateway Texaco, 1036 N. Rengstoft, Mountain View, CA 94043	9/13/79	1,266.45	.057
Bill Wren's Shell, 1200 19th Avenue, San Francisco, CA 94107	12/03/79	6,518.63	.053
Wallace Arco, 5898 Mission Street, San Francisco, CA 94112	12/10/79	1,778.14	.051
Regalia's Chevron Service, Kenneth Regalia, 1201 Tara Hills Drive, Pinole, CA 94564	1/11/80	8,865.26	.073
Joe Berube Services, 13052 San Pablo Avenue, San Pablo, CA 94806	1/11/80	8,282.94	.084
Ronald W. Mosmiak, Ron's Shell, 140 Produce, So San Francisco, CA 94080	9/13/79	1,541.03	.064
Redman Service, Inc., 9732 Santa Monica Blvd., Beverly Hills, CA 90210	4/07/80	2,558.04	.032

[FR Doc. 80–16004 Filed 5–23–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1500–6; OPTS—59023]

Proctor Chemical Co., Inc.; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the **Federal Register**. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by June 15, 1980. Persons should submit written comments on the application no later than June 11, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202–426–2601).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substance compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Inital Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's fur substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before June 11, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–59023]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: May 19, 1980.

John P. Dekany,

Deputy Assistant Administrator for Chemical Control.

TM 80–23.

Close of Review Period. June 15, 1980.

Manufacturer's Identity. Proctor Chemical Co., Inc., P.O. Box 399, Salisbury, NC 28144.

Specific Chemical Identity. Carbamic acid, bis(methoxy methyl)- isopropyl ester.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption.

Use. None given by the manufacturer.

Production Estimates. No more than 200 pounds will be manufactured for test marketing purposes.

Physical/Chemical Properties. Physical/Chemical properties are not known by the manufacturer.

Toxicity Data. No data are known by the submitter regarding health and environmental effects of the chemical.

Worker Exposure.

Activity	Max No. workers exposed	Max duration of exposure
Testing marketing	50	2 hrs.

Manufacturing exposure will be limited to filtering the mixture during packaging and test marketing evaluation will involve exposure to aqueous solutions of the new chemical mixture.

The substance will be supplied in an aqueous solution and will be transferred from the shipping container to a vessel for dilution. Exposure at this point would be limited to one person. Typical industry practice for the operation of this mixing area is the wearing of gloves, apron, and safety glasses. At this point of application one or two people might come in contact with the new chemical but that should occur only if equipment fails.

[FR Doc. 80–15983 Filed 5–23–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1500–4]

Approval of PSD Permit to M & T Chemical, Inc.

Notice is hereby given that on March 7, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration permit PSD–KY–127 to M & T Chemical, Inc., for approval to modify their existing plant in Carrollton, Kentucky.

This federal permit to construct has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21), subject to certain conditions, General Conditions No. 1 through 12.

Special Condition: Production of $SnCl_4$ shall be limited to not more than 1000 lb/hr (3168 TPY) from Reactor No. 1 and 1500 lb/hr (5634 TPY) from reactor No. 2.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act as a locally-applicable final action, if a petition for review is filed on or before July 28, 1980.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region IV, Air Facilities Branch, Room 402, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Department for Natural Resources and Environmental Protection, Division of

V 45 M Y 27 80 UMI

Air Pollution Control, West Frankfort Office Complex, 1050 U.S. 127 Bypass South, Frankfort, Kentucky 40601.

Dated: May 12, 1980.

Rebecca W. Hanmer,

Regional Administrator, Region IV.

[FR Doc. 80-15952 Filed 5-23-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 15712; Gen. Docket No. 80-184]

Inquiry Begun on Changes to International Radio Regulations for Mobile Services WARC

April 29, 1980.

The Commission has issued a Notice of Inquiry to solicit public comments on changes to the International Radio Regulations dealing with the Mobile Services which might be considered at a World Administrative Radio Conference (WARC).

It said it expected that the International Telecommunication Union (ITU) would hold a WARC for the Mobile Services in the next few years to review the International Radio Regulations pertaining to Distress and Safety Communications, the Aeronautical Mobile, Maritime Mobile and Maritime Mobile-Satellite, and Land Mobile Services, as well as other provisions as they applied to the Mobile Services.

Such a conference, the Commission added, also would have to prescribe, for example, the use of frequency allocations to the Mobile Services resulting from the 1979 WARC.

Therefore, the FCC said it wanted to solicit comments which the public believed should be considered by the Commission in developing its proposals for the mobile WARC.

It pointed out, however, that this proceeding was limited to the development of U.S. proposals and negotiating strategies for the conference and did not involve changes in or additions to Commission rules and regulations.

Pointing out that Appendix 4 of the Notice of Inquiry listed a number of questions that might be addressed by the United States in preparation for the Mobile Services WARC, the Commission asked that the public give its initial view on these questions and any other pertinent matters in the Articles listed which should be incorporated into the International Radio Regulations for the Mobile Services.

Comments are due June 9, 1980, replies June 30, 1980.

Action by the Commission April 24, 1980, by Notice of Inquiry (FCC 80-232). Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

This is an unofficial announcement of the Commission's action. Release of the full text of the Commission's order constitutes official action. See MCI v. FCC, 515 F. 2d 385 (D.C. Cir. 1975).

For additional information contact Lawrence Palmer, (202) 632-7093.

The text of the FCC's Notice of Inquiry has been released publicly May 15, 1980. Because of the cost of printing so voluminous a text, it will not be published in the **Federal Register.** However, the FCC has prepared a limited number of copies that are available upon request (Notice of Inquiry, FCC 80-232, Gen. Docket No. 80-184, adopted April 24, 1980, "Inquiry relating to preparation for an International Telecommunication Union World Administrative Radio Conference for the Mobile Services") at its Information Office, Room 202, 1919 M Street NW., Washington, D.C. 20554. The Notice of Inquiry is also available for inspection at the Commission's Docket Reference Room, or can be acquired through a copier service.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-15941 Filed 5-23-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 16, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should alos be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos. 2744-44, 10390 and 10391.

Filing Party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler, Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: Agreements Nos. 2744-44, 10390, and 10391 will, respectively, (1) eliminate ports and points in Ecuador from the scope of the United States Atlantic and Gulf/West Coast of South America Conference; (2) establish a new conference in the trade from U.S. Atlantic and Gulf Coast ports other than those in Florida to ports and points in Ecuador; and (3) establish a new conference from ports in Florida to ports and points in Ecuador.

Agreement No. 9522-43.

Filing Party: John R. Attanasio, Attorney for the Med-Gulf Conference, 2033 K Street, N.W.—Suite 300, Washington, D.C. 20006.

Subject: Agreement No. 9522-43 would amend the Med-Gulf Conference Agreement to provide that members may agree upon the establishment of charges and other tariff conditions relating to the movement, handling and storage of empty containers and other intermodal equipment in the United states or in Continental Europe.

Agreement No. 10392.

Filing Party: Ronald C. Rasmus, President, American Atlantic Lines, One World Trade Center, Suite 1067, New York, New York 10048.

Summary: Agreement No. 10392 is a talking agreement betwen Frota Amazonica S.A. and American Atlantic Shipping, Inc. The purpose of the agreement is to examine the possibility of initiating negotiations between the parties regarding the establishment of an agreement for cargo distribution and traffic rationalization in the trade between the Brazilian Amazon Basin and the U.S. East Coast.

By Order of the Federal Maritime Commission.

Dated: May 21, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16010 Filed 5-23-80; 8:45 am]

BILLING CODE 6730-01-M

United States Atlantic and Gulf/Venezuela and Netherlands Antilles Conference (Oil Agreement); Cancellation

Agreement No. 6870.

Filing Party: Seymour H. Kligler, Brauner Baron Rosenzweig Kligler, Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: The Commission has received notification of the cancellation of Agreement No. 6870. The cancellation is effective April 10, 1980.

By Order of the Federal Maritime Commission.

Dated: May 21, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16011 Filed 5-23-80; 8:45 am]

BILLING CODE 6730-01-M

Hawaiian Marine Lines, Inc.; Application for Permission to Submit Alternative Data

The Federal Maritime Commission hereby gives notice that Hawaiian Marine Lines, Inc. (HML) has filed an application with the Commission for permission to submit alternative data pursuant to 46 CFR 512.2(d).

HML proposes to use revenue tons rather than cargo cube as the basis for allocations in submissions required by the Commission's General Order 11. HML proposes to submit its annual filing for 1979, as well as an anticipated application for a general rate increase, on this basis. Interested parties may inspect the data submitted in support of the application at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. Interested parties may submit comments on the application to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before June 16, 1980. A copy of any comments should also be forwarded to HML at Post Office Box 2287, Seattle, Washington 98111, and the statements should indicate that this has been done.

Dated: May 21, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-15977 Filed 5-23-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitration Services Advisory Committee; Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with Section 10 of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), will meet on Saturday, June 14, 1980 at 9:00 a.m. at the Century Plaza Hotel, Los Angeles, California.

The Agenda is as follows:

I. Review of FY 1979 Caseload

II. Current FY 1980 Caseload

III. Roster of Arbitrators: Additions, Removals, Pending Actions

IV. Violations of Code of Federal Regulations: Violations of Code of Professsional Responsibility

V. Office of Arbitration Services: Staffing, Procedrues, Budget FY 1981, Classifications Audit

VI. Audit of Office of Arbitration Services by Government Accounting Office

VII. Proposed study by Ben Fischer

VIII. Report on *Special Handling* Situations: Expedited Procedures, Standing Single Issue Procedure, Strike Settlement

IX. Arbitrator Symposia and Seminars

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to: Ms. Jewell Myers, Administrator, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this nineteenth day of May 1980.

Wayne L. Horvitz,

Director.

[FR Doc. 80-15970 Filed 5-23-80; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

American Heritage Corp.; Proposed Retention of Insurance Activities

American Heritage Corporation, Colorado Springs, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulations Y (12 CFR 225.4(b)(2)), for permission to continue to act as agent for the sale of credit-related insurance.

Applicant states that is would engage in the activities of acting as agent for the sale of credit life and disability insurance to customers of American Heritage Bank and Trust Co. These activities would be performed from offices of Applicant in Colorado Springs, Colorado, and the geographic areas to be served are the city of Colorado Springs and the Southwestern portion of El Paso County, Colorado. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair conpetition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 18, 1980.

Board of Governors of the Federal Reserve System, May 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16023 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Antioch Bancshares, Inc.; Formation of Bank Holding Company

Antioch Bancshares, Inc., Antioch, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent or more of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Antioch, Antioch, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 20, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing.

identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16022 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Stockton Bancshares, Inc.; Formation of Bank Holding Company

Stockton Bancshares, Inc., Stockton, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 99.5 percent of the voting shares of the Stockton National Bank, Stockton, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16021 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 18, 1980.

A. *Federal Reserve Bank of Philadelphia* (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Philadelphia National Corporation, Philadelphia, Pennsylvania (commerical finance activities; United States and Puerto Rico): To engage directly in the making of loans secured by accounts receivable, inventory, equipment and other collateral and the purchase of participations in commerical finance transactions effected by approved subsidiaries of Philadelphia National Corporation. These activities would be conducted from the Corporation's principal office in Philadelphia, Pennsylvania, serving the United States and Puerto Rico.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Wells Fargo & Company, San Francisco, California (mortgage banking and insurance activities; Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming): To engage, through it subsidiary, Wells Fargo Mortgage Company, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages; and in acting as insurance agent or broker in the sale of credit life, credit accident and health, mortgage redemption life, and group mortgage disability insurance. These activities would be conducted from an office in Bend, Oregon, serving the ten states listed in the caption above. Comments on this application must be received by June 13, 1980.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board,

[FR Doc. 80-15966 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-10-M

The Bank of New York Co., Inc.; Proposed Acquisition of ARCS Mortgage Corp., Inc. and ARCS Mortgage, Inc.

The Bank of New York Company, Inc., New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of ARCS Mortgage Corporation, Inc., North Miami Beach, Florida, and ARCS Mortgage, Inc., Encino, California.

Applicant states that the proposed subsidiaries would engage in mortgage banking activities. These activities would be performed from offices of ARCS Mortgage, Inc., in Cerritos, Covina, Encino, Clovis, Oxnard, Paso Robles, Sacramento, San Diego, San Jose, Stockton, Van Nuys, Hayward, and Pleasant Hill, California; and from offices of ARCS Mortgage Corporation, Inc. in West Palm Beach, Lighthouse Point, and North Miami Beach. The geographic areas to be served are the counties of Fresno, Ventura, San Luis Obispo, Sacramento, San Diego, Santa Clara, San Joaquin, Alameda, and Contra Costa, California; East San Fernando Valley, Eagle Rock, Highland Park, Simi Valley, and Los Angeles and the surrounding area, California; and Dade, Broward, and Palm Beach Counties, Florida. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 19, 1980.

Board of Governors of the Federal Reserve System, May 19, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15965 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Capital Bancshares, Inc.; Formation of Bank Holding Company

Capital Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Capital Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 19, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15962 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Carbondale Bancshares, Inc.; Formation of Bank Holding Company

Carbondale Bancshares, Inc., Carbondale, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Mid-America Bank and Trust Company of Carbondale, Carbondale, Illinois. The factors that are considered in acting on the application are set forth section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15963 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Kit Carson Insurance Agency, Inc.; Proposed Retention of General Insurance Agency

Kit Carson Insurance Agency, Inc., Kit Carson, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its general insurance agency in Kit Carson, Colorado.

Applicant states that the proposed subsidiary would engage in general insurance agency activities. These activities would be performed from offices of Applicant's subsidiary in Kit Carson, Colorado, and the geographic area to be served is the Kit Carson, Colorado community. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 19, 1980.

Board of Governors of the Federal Reserve System, May 19, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15959 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Verdigre Agency; Proposed Continuation of General Insurance Activities

The Verdigre Agency, Verdigre, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities.

These activities would be performed from offices of Applicant in Verdigre, Nebraska, and the geographic area to be served is Western Knox County, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increase competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 19, 1980.

Board of Governors of the Federal Reserve System, May 19, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15964 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

Wyoming Bancorporation; Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent, less directors' qualifying shares, of the voting shares of First Wyoming Bank-Worland, Worland, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 16, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 16, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-15960 Filed 5-23-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 19, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice inlcudes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 16, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Consumer Product Safety Commission

The CPSC requests clearance of new regulations, Part 1019—Procedures for Export of Noncomplying Products, requiring exporters to notify the Commission at least 30 days prior to the exportation of any product which does not comply with an applicable ban, standard or regulation issued under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 et seq.), the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261, et seq.), or the Flammable Fabrics Act (15 U.S.C. 1191, et seq.). The regulations implement the Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95-631). That act requires exporters to notify the Commission at least 30 days prior to exportation of any product which does not comply with an applicable ban, standard, or regulation under the CPSA, FHSA, or FFA. The Authorization Act of 1978 requires that the Commission must promptly transmit the information contained in the exporter's notification to the government of the country of intended destination so that the foreign government may make an informed decision about whether to admit the goods into its territory. The regulations approved by the Commission specify the types of goods which are subject to and exempt from the requirements for notification; prescribe the information to be furnished in the notification; and set forth the procedures for filing the notification. The requirements for notification set forth in the regulations will continue as long as the export provisions of the Authorization Act of 1978 remain in effect. The requirements for notification contained in the regulations are applicable only to those firms that intend to export noncomplying products. The Commission estimates that the number of firms exporting noncomplying goods will not exceed 50 per year. The information required to be furnished by the regulations is information which the exporter would have available in order to complete the export transaction CPSC states. Therefore, the Commission estimates that no more than two hours will be needed to make the notification required by the regulations. After GAO clearance the regulations will become effective within 30 days after CPSC publishes the regulations in the Federal Register.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-15956 Filed 5-23-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 44]

Federal Procurement

May 12, 1980.

To: Heads of Federal agencies

Subject: New Qualified Videotape Producers List

1. *Purpose.* This bulletin announces the availability of the new Qualified Videotape Producers List (QVPL).

2. *Expiration date.* This bulletin will remain in effect until canceled or superseded.

3. *General.* Federal Procurement Regulations (FPR) Temporary Regulation 53, March 31, 1980, implements the Office of Federal Procurement Policy (OFPP) Letter No. 79-4, November 28, 1979. The policy letter establishes a Government-wide system for contracting for motion picture and videotape productions. The new Qualified Videotape Producers List was issued by the Executive Agent (designated by OFPP) on March 21, 1980. Revisions to the list will be issued on a quarterly basis. GSA Bulletin FPR 43, April 16, 1980, announced the availability of the revised Qualified Film Producers List.

4. *List of qualified concerns.* Copies of the new QVPL (attachment A) are available to all Federal agencies without charge. Requests should be submitted in writing to:

Executive Agent, Government-wide Contracting System For Audiovisual Productions, DoD Directorate For Audiovisual Activities, 1117 North 19th Street, Room 601, Arlington, VA 22209.

Note.—Attachment A, which is referenced in paragraph 4, is filed with the original document and does not appear in this volume.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-15986 Filed 5-23-80; 8:45 am]

BILLING CODE 6820-61-M

[F-80-6]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Utah Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Utah Public Service Commission involving the application of the Mountain States Telephone and Telegraph Company for increases in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-15989 Filed 5-23-80; 8:45 am]

BILLING CODE 6820-25-M

[F-80-7]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in the proceedings before the Ohio Public Utilities Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Ohio Public Utilities Commission involving the application of the Ohio Bell Telephone Company for increases in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-15987 Filed 5-23-80; 8:45 am]

BILLING CODE 6820-25-M

National Archives and Records Service

National Archives and Records Service Advisory Committee on Preservation; Meeting

Notice is hereby given that the National Archives and Records Service Advisory Committee on Preservation will meet on June 19, 1980, from 9:00 a.m. to 5:00 p.m. and June 20, 1980, from 9:00 a.m. to 12:00 noon, in Room 105, National Archives and Records Service, 8th and Pennsylvania Avenue, NW., Washington, DC 20408. The meeting will be devoted to a review of the state of current preservation technology and research; preservation problems arising from the use of past technologies; potential preservation problems that may arise when records on new media are accessioned; and related matters of concern to the continued preservation of the records of the National Archives of the United States.

The meeting will be open to the public.

Dated: May 15, 1980.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 80-15985 Filed 5-23-80; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of June 1980.

Minority Advisory Committee, ADAMHA

June 18-20; 9:00 a.m.—Open Meeting, room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Marta Sotomayor, Ph.D., Room 13C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3838.

Purpose: The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health and Human Services, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions on an advisory capacity to the Administrator, ADAMHA, on those matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: On June 18, agenda items include discussion of administrative matters, Committee reports, and special reports from Committee members. Other agenda items include status reports on: Responses to Recommendations of the First and Second National Conferences on Minority Group Alcohol, Drug Abuse, and Mental Health Issues and Phase II of the Racial Minority Manpower Development and Training Report, Hispanic Initiatives, Indochinese and Asian/Pacific Initiatives, and the Black College Initiatives. The remainder of the meeting will include meetings with the Administrator and Institute Directors and informational items.

Agenda items are subject to change as priorities dictate.

Rape Prevention and Control Advisory Committee

June 19–20: 9:00 a.m—Open meeting, Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Mary Lystad, Ph.D., Room 11A–44, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1910.

Purpose: the Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuses, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. The two day meeting of the Advisory Committee will be devoted to information gathering on incidence, including presentations by several Agencies around their statistics and activities in this area. Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact persons listed above. Summaries of the meeting and rosters of committee members for the Minority Advisory Committee, ADAMHA will be furnished by Mr. James C. Helsing, Deputy Director, Office of Public Affairs, Room 6C–15, Parklawn Building, 5600 Fishers Lane, Rockvill, Maryland 20857, telephone: (301) 443–3783. For the rape Prevention and Control Advisory Committee meeting, summaries and rosters will be furnished by the Committee Management Officer, Office of the Associate Director for Extramural Programs, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4333.

Dated: May 20, 1980.

Elizabeth A. Connolly,

Committee Managment Officer, Alcohol, Drug, Abuse, and Mental Health Administration.

[FR Doc. 80-15936 Filed 5-23-80; 8:45 am]

BILLING CODE 4110-88-M

Federal Council on the Aging; Meeting

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting June 16–17, 1980 from 9:30 a.m. to 5:00 p.m. and from 9:00 a.m. to 12:30 p.m. respectively in Rooms 425A–403A, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The main focus of the agenda will be the discussion on the relationship between the Council's Congressionally mandated study and the Older Americans Act as originally conceived and presently structured. Strategies for soliciting public input as part of the Council's final report to Congress will be discussed at length.

Highlights of the agenda will be the presentation of the final report on the Older Workers Study and continuation of Council deliberation on issues relating to social security.

Other issues pertinent to the needs and concerns of the aged will also be discussed.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: May 19, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-15948 Filed 5-23-80; 8:45 am]

BILLING CODE 4110-92-M

Long Term Care Committee; Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commission on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Tuesday, June 24, 1980 at 9:30 a.m. to 12:30 p.m. in Room 337–339A, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion with Federal officials on two aspects of the committee's 1980 workplan: demographic assumptions for projections of need and costs.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: May 20, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-15949 Filed 5-23-80; 8:45 am]

BILLING CODE 4110-92-M

Food and Drug Administration

[Docket No. 80P-0076]

Cerberonics, Inc.; Approval of Variance for Small Arms Laser Training and Evaluation Device

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for the Small Arms Laser Training and Evaluation Device. The product is a laser modification for small arms, primarily handguns, that is used to simulate firing practice for training purposes by projecting an invisible infrared (aproximately 900 nanometers in wavelength) beam of laser radiation onto a detection target.

DATES: The variance became effective May 2, 1980, and ends May 2, 1985.

ADDRESS: The application and all correspondence on the application have been placed on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under the provisions of § 1010.4 (21 CFR 1010.4), Cerberonics, Inc., 5600 Columbia Pike, Falls Church, VA 22041, has been granted a variance from § 1040.10(h)(1)(iv) (21 CFR 1040(h)(1)(iv)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the laser product known as the Small Arms Laser Training and Evaluation Device without the required listing of all controls, adjustments and procedures for operation and maintenance, and without a warning statement provided with the product as user information. Suitable means of radiation protection will be provided by constraints on the physical and optical design. The product is a Class I laser product and there are no controls, adjustments and procedures for operation and maintenance that will result in accessible laser radiation above the limits of Class I. The product shall bear the Variance Number 80P–0076.

By letter of May 2, 1980, the Director of the Bureau of Radiological Health approved the requested variance which terminates on May 2, 1985.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: May 20, 1980

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-15947 Filed 5-23-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-17]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Rio Rancho Estates Subdivision, Sandoval County, New Mexico; and Rosemeade Subdivision, Carrollton, Denton County, Texas. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., May 19, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix—EIS on Rio Rancho Estates, Sandoval County, N. Mex.

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement for a proposed subdivision to be known as Rio Rancho Estates located in Sandoval County, New Mexico. The purpose of this Notice is to solicit comments and recommendations from all interested persons and local, state and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description. The Real Estate Company of America, The Presley Company of New Mexico and the AMREP Corporation have individually filed applications with the Albuquerque Service Office for the Department to accept the three subdivisions for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. The AMREP Corporation has control of 3,152 additional acres of land yet to be developed. Sandoval County has planning and platting jurisdiction over the entire acreage. The Village of Corrales shares jurisdiction with the county for the areas which are situated within three miles of its incorporated boundaries. The total proposed development has approximately 5,000 single family residential units, 672 multifamily units and 74 acres of commercial property. When fully developed the area will provide housing for an estimated population of 16,185 persons. Each of the three developers has requested early start approval of 54 lots, 117 lots and 199 lots of their respective subdivisions.

Need. The Dallas Area has determined that three requests are related geographically and parts of a composite action, and may be best evaluated with a single Environmental Impact Statement.

Alternatives. The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Contact. Comments should be sent on or before June 13, 1980, to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214–767–8347 and the FTS number is 729–8347.

Appendix—EIS on Rosemeade Subdivision, Carrollton, Denton County, Tex.

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement for a proposed subdivision to be known as Rosemeade, located in that portion of the City of Carrollton which is in Denton County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons and local, state and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description. The Tex-Can Development Venture No. One, 830 Republic Bank Building, Dallas, Texas, proposes to develop a tract comprised of approximately 900 acres with 520 acres devoted to single family residential use. The Rosemeade subdivision will have Frankford Road as the south boundary, Standridge Drive and Josey Lane as its east boundary, Hebron Parkway as the north boundary and Old Denton Road and Indian Creek as the west boundary. When fully developed, the subdivision will have approximately 2221 residences which will accommodate a population of approximately 8,450 persons.

The developer has requested that the Department accept the subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. The developer has requested an early-start on 199 lots of the proposed subdivision.

Need. Due to the size and scope of the total proposed project the Dallas Area Office has determined that an Environmental Impact Statement will be prepared pursuant to Public Law 91–190, the National Environmental Policy Act of 1969.

Alternatives. The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the environmental impact statement. Any

responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Contact. Comments should be sent on or before June 13, 1980, to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214–767–8347 and the FTS number is 729–8347.

[FR Doc. 80–15980 Filed 5–23–80; 8:45 am]

BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. N–80–1004]

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the system location of the Section 8 Program Research Data Files (HUD/PD&R–7) system of records.

EFFECTIVE DATE: The amendment shall become effective on June 26, 1980, unless comments are received on or before that date which will result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–557–0605.

SUPPLEMENTARY INFORMATION: The Section 8 Program Research Data Files (HUD/PD&R–7) system of records supports a two phased effort to evaluate the Section 8 Program and the housing improvements experienced by participants in that program. The first phase emphasized urban participants. The second phase will emphasize rural participants and will be conducted by a HUD contractor located in Boone, North Carolina. For this reason the system location is being amended by adding Boone, North Carolina as an additional system location. The Section 8 Program Research Data Files System (HUD/PD&R–7) was published at 44 FR 72306 (December 13, 1979).

The System Location section is being amended to read as follows:

HUD/PD&R–7

SYSTEM NAME:

Section 8 Program Research Data Files.

SYSTEM LOCATION:

Cambridge, Massachusetts; Boone, North Carolina.

* * * * *

Authority: 5 U.S.C. 552(a), 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C.; May 19, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80–16036 Filed 5–23–80; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–80–1005]

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the routine use of a system of records.

EFFECTIVE DATE: The amendment shall become effective without further notice on June 26, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–557–0605.

SUPPLEMENTARY INFORMATION: The amendment is adding a routine use to the system titled Pay and Leave Records of Employees (HUD/DEPT–34.) The routine use is to enable the Department to use contractor support in scanning and keying time and attendance data, and in producing input media and error listings. Although there is some question as to the requirement that this use be published, the Department determined publication is desirable to conform to the intent of the Privacy Act. The words "time and attendance data—to contractor for scanning, keying, producing error lists, and producing input media" have been added to the routine uses section of the notice. This addition does not require the submission of a report on a new system since it is compatible with the purpose for which the system is maintained. Additionally, the system manager has been identified as the Director, Personnel Systems and Payroll Division, Office of Personnel. The notice is published below in its entirety, as amended. Previously, the system was published at 44 FR 72296 (December 13, 1979). The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 44 FR 72288 (December 13, 1979) and amended at 45 FR 26825 (April 21, 1980). Appendix A, which lists the addresses of HUD's field offices was published at 44 FR 72307 (December 13, 1979), and supplemented at 45 FR 6479 (January 18, 1980).

HUD/DEPT–34

SYSTEM NAME:

Pay and Leave Records of Employees.

SYSTEM LOCATION:

All Department offices. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number and employee number, grade, step, and salary; organization, retirement or FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deduction; allotments by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Actions."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W–2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security Numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management concerning pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; to GAO—for audit; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data—to contractor for scanning, keying, producing error lists, and producing input media.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual, machine-readable and magnetic media.

RETRIEVABILITY:

Name of employee; Social Security Number.

SAFEGUARDS:

Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., May 15, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80–16035 Filed 5–23–80; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–80–1006]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: The system shall become effective without further notice on June 26, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–557–0605.

SUPPLEMENTARY INFORMATION: The system is Congregate Housing Services Program Data Files which will contain information about Congregate Housing Services Program (CHSP) applicants residing in Public Housing and Section 202 (Elderly or Handicapped) projects. The purpose for collecting the information is to: (1) describe the characteristics of groups of participants in annual reports to Congress; (2) compare participant socio-economic and physical functioning profile with characteristics of tenants in other Public Housing and Section 202 projects for use in the program evaluation; and (3) track participants over time to measure effect of CHSP on institutionalization. All of the information reported will be representative and will not identify specific individuals. A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on April 1, 1980. Appendix A, which lists the addresses of HUD's field offices was published at 44 FR 72307 (December 13, 1979) and supplemented at 45 FR 6479 (January 28, 1980).

HUD/DEPT–64

SYSTEM NAME:

Congregate Housing Services Program Data Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Congregate Housing Services Program (CHSP) applicants residing in grantee Public Housing and Sec. 202 (Elderly or Handicapped) projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files will contain the following data on program applicants: name, CHSP code (file) number, race, sex, date of birth, living arrangement, marital status, number of minors, yearly gross income, contract rent, total housing expense, size of unit, sources of income.

handicap type, disability type, date of admission to project, yearly gross income at admission, income sources at admission, current and previous services received by program type, dates of service received, date of admission to CHSP, type and quantity (e.g. hours per week) of services received in CHSP, date left CHSP, status at termination, post-program status, score on Activities of Daily Living (ADL) tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Congregate Housing Services Act of 1978, 42 U.S.C. 8001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses: HUD contractor—for CHSP program evaluation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, CHSP code (file) number, race, sex, date of birth, living arrangement, marital status, number of minors, yearly gross income, contract rent, total housing expense, size of unit, sources of income, handicap type, disability type, date of admission to project, yearly gross income at admission, income sources at admission, current and previous services received by program type, dates of service received, date of admission to CHSP, type of services received in CHSP, date left CHSP, status at termination, post-program status, score on Activities of Daily Living (ADL) tests.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel

RETENTION AND DISPOSAL:

System will be retained through completion of evaluations or duration of the program whichever is longer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Consumer Affairs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, Professional Assessment Committee, Project Managers.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., May 20, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-16034 Filed 5-23-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8102-26 and AA-8102-28]

Alaska Native Claims Selections

Correction

In FR Doc. 80-14254, appearing at page 30544, in the issue of Thursday, May 8, 1980, please make the following corrections:

1. On page 30545, in the second column, under the paragraph numbered 2., in the fifth line, the date "July 7, 1978" should be corrected to read "July 7, 1958".

2. On the same page, in the third column, the second full paragraph, in the fourth line, the date "April 26," should be corrected to read "April 23,".

BILLING CODE 1505-01-M

[AA-6645-B]

Alaska Native Claims Selection

Correction

In FR Doc. 80-4256, appearing at page 30543, in the issue of Thursday, May 8, 1980, please make the following correction:

On page 30543, in the third column, in the seventh paragraph under the line **"Seward Meridian Alaska (Unsurveyed)"** the following line should appear: "T 37 S., R 49 W".

BILLING CODE 1505-01-M

[F-14913-A and F-14913-B]

Alaska Native Claims Selection

On September 5, 1974, Nik'aghun, Limited, for the Native village of Nulato, filed selection application F-14913-A and on December 3, 1974, filed selection application F-14913-B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Nulato.

The applications excluded several water bodies as being navigable. Because these water bodies have been determined to be nonavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water bodies which were improperly excluded in the applications of Nik'aghun, Limited are considered selected.

On April 6, 1978, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by Public Law 94-204, Sec. 30 (89 Stat. 1148), the Native villages of Galena (Notaaghleedin, Limited), Kaltag (Takathlee-tondin, Incorporated), Nulato (Nik'aghun, Limited) and Koyukuk (Mineelghaadza', Limited) formed a new corporation which consolidated individual village interests into one single consituent corporation, Gana-a'Yoo, Limited.

As to lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 106,471 acres, is considered proper for acquisition by Gana-a'Yoo, Limited and is approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Kateel River Meridian, Alaska (Unsurveyed)

T. 7 S., R. 2 E.
Secs. 22 to 27, inclusive, all;
Secs. 34, 35 and 36, all.
Containing approximately 5,760 acres.
T. 8 S., R. 2 E.
Secs. 1 and 2, all;
Secs. 11 to 14, inclusive, all.
Containing approximately 3,840 acres.
T. 9 S., R. 2 E.
Sec. 1, all;
Secs. 12 to 15, inclusive, all;
Secs. 20 to 24, inclusive, all;
Secs. 27 to 32, inclusive, all.
Containing approximately 10,164 acres.
T. 10 S., R. 2 E.
Secs. 10 to 34, inclusive, all;
Sec. 35, excluding Native allotment F-03508;
Sec. 36, all.
Containing approximately 17,141 acres.
T. 7 S., R. 3 E.
Secs. 19 to 31, inclusive, all;
Sec. 32, excluding Native allotment F-15474 Parcel C;
Secs. 33 and 34, excluding Native allotment F-13465;
Secs. 35 and 36, all.
Containing approximately 11,300 acres.
T. 8 S., R. 3 E.
Secs. 1 to 4, inclusive, all;
Sec. 5, excluding Native allotments F-15474 Parcel C and F-18916 Parcel B;
Secs. 6 to 12, inclusive, all;
Sec. 13, excluding Native allotment F-17642;
Sec. 14, excluding Native allotments F-17164, F-13456 and F-17642;
Sec. 15, excluding Native allotment F-13456;
Sec. 22, all;
Sec. 23, excluding Native allotments F-13456, F-13468 and F-17164;
Sec. 24, all;
Sec. 25, excluding Native allotment F-13468;
Sec. 26, excluding Native allotments F-13468 and F-13529;
Secs. 27 and 34, all;
Sec. 35, excluding Native allotments F-13529, F-15550 and F-17110;
Sec. 36, all.
Containing approximately 14,215 acres.
T. 9 S., R. 3 E.
Sec. 1, excluding Native allotment F-15542;
Sec. 2, excluding Native allotments F-13466 and F-15550;
Sec. 3, excluding Native allotment F-19459;
Sec. 4, excluding Native allotments F-15556, F-16628 and F-19459;
Sec. 5, excluding Native allotment F-16628;
Secs. 6, 7 and 8, all;
Sec. 9, excluding Native allotments F-15548 Parcel A, F-15558, F-17173 and F-19459;
Sec. 10, excluding Native allotments F-15547, F-15548 Parcel A and F-19459;
Sec. 11, excluding Native allotments F-13464, F-14032 and F-15551;
Sec. 12, excluding Native allotments F-13457, F-13563, F-15494, F-15533, F-15542 and F-15551;
Sec. 13, excluding Native allotments F-13563, F-13564, F-15533, and F-15552;
Sec. 14, excluding Native allotment F-13564;
Sec. 15, all;
Sec. 16, excluding Native allotment F-15548 Parcel B;
Sec. 17 to 23, inclusive, all;
Sec. 24, excluding Native allotments F-032036, F-15535 and F-15552 and the Yukon River;
Sec. 26 and 27, excluding Native allotment F-13458 Parcel B and the Yukon River;
Sec. 28, 29 and 30, all;
Sec. 33, excluding Native allotment F-13525;
Sec. 34, excluding Native allotment F-13458 Parcel B and the Yukon River.
Containing approximately 15,744 acres.

T. 10 S., R. 3 E.

Sec. 4, excluding Native allotments F-13525, F-13426 and F-13534 and the Yukon River;
Sec. 17, excluding Native allotments F-13527, and F-13545 and the Yukon River;
Sec. 18, excluding Native allotment F-13545;
Sec. 19, excluding Native allotment F-13530;
Containing approximately 1,615 acres.

T. 8 S., R. 4 E.

Sec. 4 to 9, inclusive, all;
Sec. 16 to 21, inclusive, all;
Sec. 28 to 29, all;
Sec. 30, excluding Native allotments F-13455 and F-13460;
Sec. 31, excluding Native allotment F-13460;
Sec. 32 and 33, all.
Containing approximately 11,164 acres.

T. 9 S., R. 4 E.

Sec. 1, excluding Patsy Slough;
Sec. 2, excluding Native allotments F-13567 and F-15544, the Yukon River and Patsy Slough;
Sec. 3, excluding Native allotment F-13580 and the Yukon River;
Sec. 4, excluding U.S. Survey 4370, Native allotments F-14029 and F-14034 and the Yukon River;
Sec. 5, excluding U.S. Survey 4370;
Sec. 6, all;
Sec. 7, excluding Native allotments F-13576 F-15494 and F-15533;
Sec. 8, excluding U.S. Survey 724, U.S. Survey 4370, Native allotments F-027525 and Mukluk Slough;
Sec. 9, excluding U.S. Survey 4370, Native allotments F-14029, F-14034, F-16432 and F-027525, the Yukon River and Mukluk Slough;
Sec. 10, excluding the Yukon River;
Sec. 11, excluding Native allotments F-15544 and the Yukon River;
Sec. 12, 13 and 14, all;
Sec. 15, excluding Native allotments F-13581 and F-14044 and the Yukon River;
Sec. 16, excluding Native allotments F-13581, the Yukon River and Mukluk Slough;
Sec. 17, excluding U.S. Survey 724, the Yukon River and Mukluk Slough;
Sec. 18, excluding Native allotments F-13425 Parcel B, F-13576, F-15533 and F-15552 and the Yukon River;
Sec. 19, excluding Native allotments F-032036 and F-15552 and the Yukon River;
Sec. 20, excluding the Yukon River and Mukluk Slough;
Sec. 21, excluding Native allotment F-15511 and the Yukon River;
Sec. 22, excluding Native allotment F-13581;
Secs. 23 to 28, inclusive, all;
Secs. 29, 30 and 31, excluding the Yukon River;
Secs. 32 to 36, inclusive, all.
Containing approximately 15,528 acres.
Aggregating approximately 106,471 acres

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14913-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 6 C5) An easement for a proposed access trail, twenty-five (25)

feet in width, from the left bank of the Yukon River in Sec. 21, T. 10 S., R. 3 E., Kateel River Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 9 C3, C5) An easement for a proposed access trail, twenty-five (25) feet in width, from the right bank of the Yukon River in Sec. 4, T. 10 S., R. 3 E., Kateel River Meridian, westerly to public lands in Sec. 36, T. 9 S., R. 2 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 14 C6) A one (1) acre site easement, upland of the ordinary high-water mark, in Sec. 20, T. 9 S., R. 4 E., Kateel River Meridian, on Nulato Island in the Yukon River. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 15 C3, C5) An easement for a proposed access trail, fifty (50) feet in width, from Tract C of U.S. Survey 4370 in Sec. 5, T. 9 S., R. 4 E., Kateel River Meridian, westerly to public lands in T. 8 S., R. 1 E., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2))(ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. A right-of-way, F–18826, traversing protracted N½ Sec. 9, T. 9 S., R. 4 E., Kateel River Meridian, for a Federal Aid Highway, Act of August 27, 1958 (72 Stat. 885; 23 U.S.C. 317).

Gana-a'Yoo, Limited, for the village of Nulato, is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a)(1) of ANSCA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 106,471 acres. The remaining entitlement of approximately 8,729 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANSCA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited when the surface estate is conveyed to Gana-a'Yoo, Limited and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

The Yukon River and its interconnecting sloughs.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have need expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 25, 1980, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Gana-a'Yoo, Limited, Box 38, Galena, Alaska 99741.

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Ricky M. Elliott,

Chief, Branch of Adjudication.

[FR Doc. 80–15984 Filed 5–23–80; 8:45 am]

BILLING CODE 4310–84–M

[U–45897]

Utah; Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 80–13780, appearing on page 29644, in the issue of Monday, May 5, 1980 make the following corrections.

On page 29644, second column, the tenth line from the bottom reading: "SW¼SE¼SW¼;" should have read: "SW¼, SE¼SW¼;".

In the third column, the fifth and sixth lines should have been set forth on three lines as follows:

"Secs. 30 and 31."
"T. 13 S., R. 18 W.,"
"Sec. 6."

BILLING CODE 1505–5–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 16, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 11, 1980.

Carol Shull,

Acting Keeper of the National Register.

ARIZONA

Maricopa County

Gilbert, *Gilbert Elementary School,* Elliot and Gilbert Rds.
Tempe, *Long, Samuel C., House,* 27 E. 6th St.

CALIFORNIA

Los Angeles County

Pasadena, **Bolton, Dr. W. T., House, 370 W. Del Mar Blvd.**

Marin County

Sausalito, *Barrett, William G., House (Casa Madrona Hotel)* 156 Bulkley Ave.

Monterey County

Salinas, *Bontadelli, Peter J., House,* 119 Cayuga St.

Sacramento County

Walnut Grove, *Walnut Grove Gakuen Hall,* Pine and C Sts.

San Bernardino County

Silver Lake vicinity, *Archeological Site CA–SBR–3186*

San Joaquin County

Lodi, *Lodi Arch,* Pine St.

Santa Cruz County

Watsonville, *Judge Lee House,* 128 E. Beach St.

Sonoma County

Sebastopol, *Strout, George A., House, 253 Florence Ave.*

GEORGIA

Cobb County

Smyrna vicinity, *Carmichael, J. H., Farm, and General Store,* SE of Smyrna at 501 Log Cabin Rd.

Fulton County

Atlanta, *Underground Atlanta Historic District,* Roughly bounded by Martin Luther King, Jr., Dr., Central Ave., Wall and Peachtree Sts.

Stewart County

Richland, *Smith-Alston House,* 405 Ponder St.

Sumter County

Americus vicinity, *Liberty Hall,* SE of Americus on S. Lee Street Rd.

KENTUCKY

Hopkins County

White Plains vicinity, *Archeological Site 15 Hk 46 and 47*

MAINE

Androscoggin County

Auburn, *Cushman, Charles L., House,* 8 Cushman Pl.
Poland, *Poland Railroad Station,* Harris Hill and Plains Rd.

Aroostook County

Houlton., *Market Square Historic District,* Market Sq., Main, Water and Court Sts.

Cumberland County

Portland, *Brown, Harrison B., House,* 400 Danforth St.
Portland, *Williston-West Church and Parish House,* 32 Thomas St.

Kennebec County

Augusta, *South Parish Congregational Church and Parish House,* Church St.

Oxford County

Buckfield, *Union Church,* Off ME 140

Somerset County

Fairfield, *Gerald, Amos, House,* 107 Main St.
Solon vicinity, *South Solon Meetinghouse,* 5 mi. SE of Solon

York County

Buxton, *First Congregational Church of Buxton,* ME 112
Limington, *Limington Academy,* ME 117
Sanford, *Emergy Homestead,* 1 and 3 Lebanon St.

MARYLAND

Montgomery County

Glen Echo, *Chautauqua Tower,* Glen Echo Park

MASSACHUSETTS

Middlesex County

Cambridge, *Colburn, Sarah Foster, House,* 7 Dana St.

Suffolk County

Boston, *All Saints' Church,* 211 Ashmont St.
Boston, *Charles Playhouse,* 74-78 Warrenton St.
Boston, *Stearns, R. H. B., Building,* 140 Tremont St.

Worchester County

Grafton, *Grafton Inn,* 25 Central Sq.

MINNESOTA

Cass County

Pine River vicinity, *Sherwood Forest Lodge Complex,* SE of Pine River on SR 77

Crow Wing County'

Nisswa, *Minnewawa Lodge,* Off MN 13

MONTANA

Lake County

Polson, *Polson Feed Mill,* 501 Main St.

UTAH

Sevier County

Elsinore vicinity, *Elsinore Sugar Factory,* E of Elsinore

VERMONT

Orange County

Brookfield Center *Newton, Marvin, House,* Ridge Rd.

WEST VIRGINIA

Mason County

Leon vicinity, *McCausland, Gen. John, House,* S of Leon

[FR Doc. 80–15787 Filed 5–23–80; 8:45 am]

BILLING CODE 4310–03–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241; Rule 19; Second Revised Exemption No. 149]

Detroit Terminal Railroad Co. and Detroit and Toledo Shore Line Railroad Co.; Exemption Under Mandatory Car Service Rules

Because of the inability of these railroads to furnish an adequate number of gondola cars, The Detroit Terminal Railroad Company and The Detroit and Toledo Shore Line Railroad Company are not supplying shippers gondola cars of suitable ownership to maintain operations, thereby threatening to close factories and create substantial economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Detroit Terminal Railroad Company and The Detroit and Toledo Shore Line Railroad Company are authorized to accept from shippers general service plain gondola cars bearing mechanical designations "GA," "GB," "GD," "GH," "GS," and "GT," as listed in the Official Railway Equipment Register, ICC–RER No. 6410–D issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rule 2.

It is further ordered, That:

This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective May 31, 1980.

Expires August 31, 1980.

Issued at Washington, D.C., May 14, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80–15999 Filed 5–23–80; 8:45 am]

BILLING CODE 7035–01–M

[ICC Order No. 68–A Under Service Order No. 1344]

Illinois Central Gulf Railroad Co.; Rerouting Traffic

Upon further consideration of I.C.C. Order No. 68, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 68 is vacated.

This order shall become effective May 15, 1980, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 15, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80–15998 Filed 5–23–80; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 14]

[Volume No. 14]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 84687 (Sub-2MIF), Notice of filing of Petition to Modify Commodity Description), filed April 3, 1980. Petitioner: VETERANS TRUCK LINE, INC., P.O. Box 218, Bristol, WI 53104. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Petitioner holds motor common carrier authority in Certificate No. MC 84687 Sub 2, issued December 6, 1977, authorizing transportation, over irregular routes, of (1) *fresh and frozen meats, meat products, meat by-products, poultry and dairy products, frozen fish, fresh packed pickles and salad dressing,* from Chicago, IL, to points in Kenosha, Racine, Milwaukee, and Waukesha Counties, WI, and (2) *fresh and frozen meats, meat products and meat by-products,* from New Berling, Ft. Atkinson, and Milwaukee, WI, to Chicago, IL. RESTRICTION: The authority granted herein is restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. By the instant petition, partitioner seeks to modify the commodity description so as to read: "foodstuffs".

MC 87909 (Sub-24MIF), filed February 26, 1980. Notice of Petition to Delete a Restriction. Petitioner: Kroblin Transportation Systems, Inc., 4616 E. 67th Street, P.O. Box 21222, Tulsa, OK 74121. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Petitioner holds Motor Common Carrier Certificate MC 87909 (Sub 24) issued February 11, 1977 which authorizes transportation over regular routes of: *General commodities,* except money and jewelry, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, Between Leon, Iowa, and St. Joseph, MO, serving the intermediate points of Bethany, MO, and those between Bethany, MO, and Leon, IA, and the off-route points of Ridgeway, MO, without restriction; and intermediate points between Bethany and St. Joseph, MO, restricted to Southbound traffic only: From Leon over U.S. Highway 69 to junction U.S. Highway 36, thence over U.S. Highway 36 to St. Joseph, and return over the same route. Between Leon, IA, and Des Moines, IA, serving all intermediate points, and the off-route points of Van Wert and Weldon, IA; also serving all intermediate and off-route points within 12 miles of the central post office at Des Moines (except Altoona, Ankeny, Carlisle, Des Moines, and Norwalk, IA): From Leon over U.S. Highway 69 to Des Moines, and return over the same route. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Eagleville, MO, and Kansas City, KS, serving the intermediate points of Bethany, Pattonsburg, and Kansas City, MO, and the off-route points of Ridgeway, New Hampton, and Civil Bend, MO, without restriction; and intermediate and off-route points within 10 miles of Bethany (except Ridgeway, MO), restricted to pickup of livestock: From Eagleville over U.S. Highway 69 to Kansas City, KS, and return over the same route. Between Eagleville, MO, and St. Joseph, MO, serving the intermediate points of Bethany, Pattonsburg, and Winston, MO, and the off-route points of Ridgeway and New Hampton, MO: From Eagleville over U.S. Highway 69 to Cameron, MO, thence over U.S. Highway 36 to junction MO Highway 6, thence over MO Highway 6 to St. Joseph, and return over the same route. Restrictions: The above authority is restricted against (a) its use in connection with traffic originating at Kansas City and St. Joseph, MO, and points in their respective commercial zones and the intermediate and off-route points in MO on the regular routes described above and points in their respective commercial zones, and destined to points in that portion of IA lying on, east and south of a line beginning at the IA-MO State line and extending along U.S. Highway 169 to its junction with U.S. Highway 30 to Cedar Rapids, thence over U.S. Highway 151 to its junction with IA Highway 64, thence over IA Highway 64 to the IA-IL State line, including Cedar Rapids, IA and points in its commercial zone and points in IL within the Davenport, IA and Rock Island and Moline, IL, commercial zones as defined by the Commission, but not including Ames and Marshalltown, IA and points in their respective commercial zones; (b) its use in connection with traffic originating at points in that protion of IA described in (a) above, including Cedar Rapids and points in its commercial zone and points in IL within the Davenport, IA and Rock Island and Moline, IL, commercial zones as defined by the Commission, but not

including Ames and Marshalltown and points in their respective commercial zones and destined to Kansas City and St. Joseph, MO, and points in their respective commercial zones and the intermediate and off-route points in MO on the regular routes described above, and points in their respective commercial zones; (c) its use in connection with traffic originating at St. Joseph and Kansas City, MO, and points in their respective commercial zones and destined to Chicago, Aurora, Chicago Heights, Clearing, Hegewisch, Morris, Villa Park, and West Pullman, IL, and points in their respective commercial zones, and points in IL on the regular route authority of Takin Bros. Freight Line, Inc. between Chicago, IL and Mason City, IA beginning at Chicago and extending over IL Highway 38 to Dixon and thence over IL Highway 2 to its junction with U.S. Highway 30 (all formerly Alternate U.S. Highway 30), thence U.S. Highway 30 to Cedar Rapids, IA, and thence over described highways to Mason City; (d) its use in connection with traffic originating at Chicago, Aurora, Chicago Heights, Clearing, Hegewisch, Morris, Villa Park, and West Pullman, IL, and points in their respective commercial zones and points in IL on the described regular route authority of Takin Bros. Freight Line, Inc., and destined to Kansas City and St. Joseph, MO, and points in their respective commercial zones; and (e) the transportation of hides, skins, and chromes and pieces therefrom, from Kansas City and St. Joseph, MO, and points in their respective commercial zones. By instant Petitioner seeks to modify the authority as follows: Deletion of the entire restriction now attached to MC-87909 (Sub No. 24).

MC 109821 (M2F) and (Subs. 40, 53, and 66) (MIF), Notice of Filing of Petition to Modify Certificates, filed March 20, 1980. Petitioner: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificates in MC 109821 and Subs. 40, 53, and 66, issued June 7, 1977, September 23, 1976, December 11, 1976, and December 19, 1979, respectively. MC 109821 authorizes transportation, over regular routes and irregular routes, of (A) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment),
Between Niagara Falls, NY, and Batavia, NY, serving all intermediate and off-route points in Niagara and Genesee Counties: From Niagara Falls over NY Hwy 31 to Lockport, NY, thence over NY Hwy 77 to junction NY Hwy 5, thence over NY Hwy 5 to Batavia, and return over the same route.
Between Warsaw, NY, and Niagara Falls, NY, serving all intermediate points and off-route points in Wyoming, Genesee, and Niagara Counties, NY: From Warsaw over US Hwy 20–A to junction NY Hwy 77, thence over NY Hwy 77 to junction NY Hwy 31 to Lockport, NY, thence over NY Hwy 31 to Niagara Falls, and return over the same route.
Between Warsaw, NY, and Rochester, NY, serving all intermediate points and off-route points in Monroe, Genesee, and Wyoming Counties, NY: From Warsaw over US Hwy 20–A to junction NY Hwy 98, thence over NY Hwy 98 to junction NY Hwy 33 at Batavia, thence over NY Hwy 33 to Rochester, and return over the same route.
Between Warsaw, NY and Batavia, NY, serving all intermediate and off-route points in Wyoming and Genesee Counties, NY: From Warsaw over US Hwy 20–A to junction NY Hwy 246 at Perry Center, NY, thence over NY Hwy 246 to junction NY Hwy 63, and thence over NY Hwy 63 to Batavia, and return over the same route.
Between Perry Center, NY, and Buffalo, NY, serving all intermediate and off-route points in Erie and Wyoming Counties, NY: From Perry Center over U.S. Hwy 20–A to junction NY Hwy 16, thence over NY Hwy 16 to Buffalo (also over U.S. Hwy 20–A to junction NY Hwy 400, thence over NY Hwy 400 to Buffalo), and return over the same route.
Between Batavia, N.Y., and Buffalo, N.Y., serving all intermediate and off-route points in Erie and Genesee Counties, N.Y.: From Batavia over New York Highway 98 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction New York Highway 33, thence over New York Highway 33 to Buffalo, and return over the same route. Between Warsaw, N.Y., and Pulaski, N.Y., serving all intermediate points and off-route points in Wyoming, Cayuga, Oswego, Genesee, and Onondaga Counties, N.Y.: From Warsaw over New York Highway 19 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction Interstate Highway 81, thence over Interstate Highway 81 to Pulaski, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga and Oswego Counties, N.Y., except those points in Cayuga County within 20 miles of Ithaca, N.Y. Between Warsaw, N.Y., to Genoa, N.Y., serving all intermediate points and off-route points in Wyoming, Cayuga, Genesee, and Livingston Counties, N.Y.: From Warsaw over New York Highway 19 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 34, thence over New York Highway 34 to Genoa, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Livingston and Cayuga Counties, N.Y., except those points in Cayuga County within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. Between Warsaw, N.Y. to Ridgeway, N.Y., serving all intermediate and off-route points in Wyoming and Genesee Counties, N.Y.: From Warsaw over U.S. Highway 20–A to junction New York Highway 98 at Varysburg, N.Y., thence over New York Highway 98 to junction U.S. Highway 104 at Childs, N.Y., thence over U.S. Highway 104 to Ridgeway, and return over the same route. Restriction: No transportation service in the route description next-above authorized from points in Orleans County, N.Y. Between Warsaw, N.Y., and Binghamton, N.Y., serving all intermediate points and off-route points in Wyoming, Chemung, Livingston, and Broome Counties, N.Y.: From Warsaw over U.S. Highway 20–A to junction U.S. Highway 15, thence over U.S. Highway 15 to junction New York Highway 17, thence over New York Highway 17 to Binghamton, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Chemung, Broome and Livingston Counties, N.Y. except as specified in other regular routes herein. From Pine Woods, N.Y. to Batavia, N.Y., serving all intermediate and off-route points in Madison, Genesee, Onondaga, Cayuga, and Livingston Counties, N.Y.: From Pine Woods over U.S. Highway 20 to junction New York Highway 63, thence over New York Highway 63 to Batavia, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Cayuga and Livingston Counties, N.Y., except points in Cayuga County N.Y. within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. Between Buffalo, N.Y. to Ridgeway, N.Y., serving all intermediate and off-route points in Erie, Genesee and Orleans Counties, N.Y.: From Buffalo over New York Highway 5 to junction New York Highway 98 at Batavia, N.Y., thence over New York Highway 98 to junction U.S. Highway 104, thence over U.S.

Highway 104 to Ridgeway, and return over the same route.

Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, N.Y. Between Buffalo, N.Y., to Albion, N.Y. serving all intermediate and off-route points in Erie, Genesee, and Orleans Counties, N.Y.: From Buffalo over New York Highway 5 to junction New York Highway 77, thence over New York Highway 77 to junction New York Highway 63, thence over New York Highway 63 to junction New York Highway 31, and thence over New York Highway 31 to Albion, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, N.Y., From Buffalo, N.Y. and Wayland, N.Y., serving all intermediate and off-route points in Erie, Livingston, and Genesee Counties, N.Y.: From Buffalo over New York Highway 130 to junction U.S. Highway 20, thence over U.S. Highway 20 to New York Highway 15, thence over New York Highway 15 to Wayland, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Livingston County, N.Y., From Buffalo, N.Y. to Wellsville, N.Y., serving all intermediate and off-route points in Erie, Wyoming, and Allegany Counties, N.Y.: From Buffalo over New York Highway 16 to junction New York Highway 39, thence over New York Highway 39 to junction New York Highway 98, thence over New York Highway 98 to junction New York Highway 243, thence over New York Highway 243 to junction New York Highway 19, thence over New York Highway 19 to Wellsville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Allegany County, N.Y., Between Warsaw, N.Y., and Utica, N.Y. serving all intermediate and off-route points in Wyoming, Genesee, Monroe, Cayuga, Onondaga, Madison, and Oneida Counties, N.Y.: From Warsaw over New York Highway 19 to junction Interstate Highway 90, thence over Interstate Highway 90 to Utica, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, and to points in Madison County, N.Y., except those points in Cayuga County within 20 miles of Ithaca, N.Y. except as specified in other routes herein. Between Utica, N.Y. and Buffalo, N.Y., serving all intermediate and off-route points in Oneida, Madison, Onondaga, Cayuga, Monroe, Genesee, and Erie Counties, N.Y.: From Utica over Interstate Highway 90 to junction Exit 51 of Interstate Highway 90, thence over Exit 51 of Interstate Highway 90 to junction New York Highway 33, thence over New York Highway 33 (also over New York Highway 5 or over New York Highway 12 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 130, thence over New York Highway 130), to Buffalo, N.Y. and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County and to points in Madison County, N.Y., except those points in Cayuga County, N.Y. within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. Between Syracuse, N.Y. and Warsaw, N.Y., serving all intermediate and off-points in Onondaga, Cayuga, Monroe, Genesee, and Wyoming Counties, N.Y.: From Syracuse over New York Highway 690 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction New York Highway 19, thence over New York Highway 19 to Warsaw, and return over the same route.

Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County except those points in Cayuga County within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. Between Syracuse N.Y., and Buffalo, N.Y. serving all intermediate and off-route points in Onondaga, Cayuga, Monroe, Genesee, and Erie Counties, N.Y.: From Syracuse over Interstate Highway 690 to junction Interstate Highway 90, (also over New York Highway 5 to junction New York Highway 96 at Waterloo, thence over New York Highway 96 to junction Interstate Highway 90), thence over Interstate Highway 90 to junction Exit 51 of Interstate Highway 90, thence over Exit 51 of Interstate Highway 90 to junction New York Highway 33, thence over New York Highway 33 to Buffalo, and return the same route.

Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, except those points within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. Between Philadelphia, Pa. and Delaware Water Gap, Pa., serving no intermediate points, serving Delaware Water Gap for the purpose of joinder only: From Philadelphia over U.S. Highway 1 to junction New Jersey Highway 31, thence over New Jersey Highway 31 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction Interstate Highway 80, thence over Interstate Highway 80 (also U.S. Highway 611) to Delaware Water Gap, and return over the same route. Restriction: The authority granted in the route description next-above is restricted against transportation to, from or through New York, N.Y., and Hudson, Essex, Bergen, Sussex, Morris, Middlesex, Monmouth, Passaic, Somerset, Mercer and Union Counties, N.J. Between Philadelphia, Pa., and Townada, Pa., serving no intermediate points: From Philadelphia over Pennsylvania Highway 309 to junction Interstate Highway 276, thence over Interstate Highway 276 to junction northeast extension of Pennsylvania Turnpike, thence over northeast extension of Pennsylvania Turnpike to junction U.S. Highway 6 (also over Pennsylvania Highway 309 to junction U.S. Highway 6), thence over U.S. Highway 6 to Towanda, and return over the same route. Between Claymont, Del. and Townada, Pa., serving no intermediate points: From Claymont over U.S. Highway 13 to junction U.S. Highway 202, thence over U.S. Highway 202 to junction Pennsylvania Highway 100, thence over Pennsylvania Highway 100 to junction Pennsylvania Highway 309 thence over Pennsylvania Highway 309 to junction U.S. Highway 6, thence over U.S. Highway 6 to Townada, Pa., and return over the same route. Between Hornell, N.Y. and Mansfield, Pa., serving all intermediate points, and those off-route points within 20 miles of Wellsboro, Pa. From Hornell over New York Highway 36 to junction Pennsylvania Highway 249 at the New York-Pennsylvania State line, thence over Pennsylvania Highway 249 to junction Pennsylvania Highway 287, thence over Pennsylvania Highway 287 to junction U.S. Highway 6, thence over U.S. Highway 6 to Mansfield, and return over the same route. Between Westfield, Pa., and New York, N.Y., serving the intermediate points between Westfield, and Townada, Pa., and, for the purpose of joinder only, the intermediate points of Scranton and Delaware Water Gap, Pa., and serving intermediate and off-route points in New Jersey and New York within 20 miles of New York, N.Y. except that no transportation service is authorized to points in New York within 20 miles of New York, N.Y. except New York, N.Y., and off-route points in Potter County, Pa.:

From Westfield over PA Hwy 49 to junction PA Hwy 249, thence over PA Hwy 249 to junction PA Hwy 287, thence over PA Hwy 287 to junction US Hwy 6 at Wellsboro, thence over US Hwy 6 to junction Interstate Hwy 81, thence over

Interstate Hwy 81 to junction Interstate Hwy 380, thence over Interstate Hwy 380 to junction Interstate Hwy 80 (also from junction US Hwy 6 and US Hwy 15 at Mansfield, thence over US Hwy 15 to junction Interstate Hwy 80), thence over Interstate Hwy 80 to junction Interstate Hwy 95, thence over Interstate Hwy 95 via the George Washington Bridge to New York, and return over the same route. From Westfield, PA, to Delaware Water Gap, PA, as stated immediately above, thence over Interstate Hwy 80 to junction NJ Hwy 23, thence over NJ Hwy 23 to junction US Hwy 46, thence over US Hwy 46 to junction NJ Hwy 3, thence over NJ Hwy 3 to junction Interstate Hwy 495, thence over Interstate Hwy 495 via the Lincoln Tunnel to New York, and return over the same route. From Westfield, PA, to Delaware Water Gap, PA as stated above, thence over Interstate Hwy 80 to junction Interstate Hwy 280, thence over Interstate Hwy 280 to junction NJ Hwy 508, thence over NJ Hwy 508 to junction NJ Hwy 7, thence over NJ Hwy 7 to junction US Hwys 1 and 9, thence over US Hwys 1 and 9 to junction entrance ramp to Holland Tunnel and thence over said ramp to Holland Tunnel, thence through Holland Tunnel to New York, and return over the same route. From Westfield, PA, to Delaware Water Gap, PA, as stated above, thence over Interstate Hwy 80 to junction US Hwy 46 at Columbia, NJ, thence over US Hwy 46 to junction NJ Hwy 31, thence over NJ Hwy 31 to junction Interstate Hwy 78, thence over Interstate Hwy 78 to junction Interstate Hwy 287, thence over Interstate Hwy 287 to junction Interstate Hwy 95, thence over Interstate Hwy 95 to junction Interstate Hwy 278, thence over Interstate Hwy 278 to New York via the Goethals Bridge and return over the same route. From Westfield, PA, to Delaware Water Gap, PA, as stated above, thence over Interstate Hwy 80 to junction US Hwy 46 at Columbia, NJ, thence over US Hwy 46 to junction NJ Hwy 31, thence over NJ Hwy 31 to junction Interstate Hwy 78, thence over Interstate Hwy 78 to junction Interstate Hwy 287, thence over Interstate Hwy 287 to junction Interstate Hwy 95, thence over Interstate Hwy 95 to junction NJ Hwy 440, thence over NJ Hwy 440 via the Outerbridge Crossing to New York and return over the same route. (B) Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Wellsboro, PA, and Geneva, NY, serving all intermediate points and those off-route points within 20 miles of Wellsboro, PA, and 40 miles of Ithaca, NY, provided, however, that no transportation service is authorized from off-route points beyond 20 miles of Ithaca, NY, except as specified in other regular-route or off-route points herein: From Wellsboro over PA Hwy 287 to junction US Hwy 15 at Tioga, thence over US Hwy 15 to junction PA Hwy 328, thence over PA Hwy 328 to the Pennsylvania-New York State line, thence over NY Hwy 328 to junction NY Hwy 14, thence over NY Hwy 14 to Geneva, and return over the same route. From Wellsboro over US Hwy 6 to junction US Hwy 220, thence over US Hwy 220 to junction NY Hwy 17, thence over NY Hwy 17 to junction NY Hwy 14, thence over NY Hwy 14 to Geneva, and return over the same route. From Wellsboro as stated above to junction NY Hwys 14 and 14A, thence over NY Hwy 14A to Geneva, and return over the same route.

Between Waterloo, N.Y. and Oswego, N.Y., serving all intermediate points, and those off-route points within 40 miles of Ithaca, N.Y., provided, however, that no transportation service is authorized from off-route points beyond 20 miles of Ithaca, N.Y., except as specified in other regular routes or off-route points herein: From Waterloo over New York Highway 96 to junction New York Highway 96B at Ithaca, thence over New York Highway 96B to junction New York Highway 96 at Candor, thence over New York Highway 96 to Oswego, and return over the same route. From Waterloo to Ithaca as stated immediately above, thence over New York Highway 79 to junction U.S. Highway 11 or Interstate Highway 81 thence over U.S. Highway 11 or Interstate Highway 81 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 96, thence over New York Highway 96 (also New York Highway 17 to junction New York Highway 17C, thence over New York Highway 17C) to Oswego, and return over the same route. Between Mansfield, Pa. and Cortland, N.Y., serving all intermediate points, and those off-route points within 40 miles of Ithaca, N.Y.: From Mansfield over U.S. Highway 6 to junction Pennsylvania Highway 549, thence over Pennsylvania Highway 549 to junction Pennsylvania Highway 328, thence over Pennsylvania Highway 328 to the New York-Pennsylvania State line, thence over New York Highway 328 to junction New York Highway 13 at Elmira, thence over New York Highway 13 to Cortland, and return over the same route.

Restriction: No transportation service in the route description next-above is authorized from off-route points beyond 20 miles of Ithaca, N.Y. except as specified in other regular routes or off-route points herein. Between Buffalo, N.Y. and Binghamton, N.Y., serving all intermediate and off-route points in Erie, Genesee, Monroe, Cayuga, Onondaga, and Broome Counties, N.Y.: From Buffalo over New York Highway 130 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction exit ramp 36 of Interstate Highway 90, thence over exit ramp 36 of Interstate Highway 90 to junction Interstate Highway 81, thence over Interstate Highway 81 (also from junction of U.S. Highway 11, Interstate Highway 81 and New York Highway 281 at Tully, thence over New York Highway 281 to junction U.S. Highway 11 and Interstate Highway 81 at Cortland, and as stated above) to Binghamton, N.Y., and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, N.Y. except those points in Cayuga County N.Y. within 20 miles of Ithaca, N.Y. except as specified in other regular routes of off-route points herein. Between Bath, N.Y. and Dresden, N.Y., serving all intermediate points, and those off-route points within 40 miles of Ithaca, N.Y.: From Bath over New York Highway 54 to junction New York Highway 54A, thence over New York Highway 54A to junction New York Highway 54 (also over New York Highway 54) to Dresden, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from off-route points in within 20 miles of Ithaca, N.Y., except as specified in other regular routes or off-route points herein. Between Binghamton, N.Y. and Utica, N.Y., serving all intermediate and off-route points in Broome, Onondaga, Madison, and Oneida Counties, N.Y.: From Binghamton over U.S. Highway 11 (also Interstate Highway 81) to junction Interstate Highway 90 (also over Interstate Highway 90 to junction New York Highway 365, thence over New York Highway 365 to junction New York Highway 26, thence over New York Highway 26 to junction New York Highway 49, thence over New York Highway 49) (and also from Binghamton over New York Highway 12) to Utica, and return over the same route.

Restriction: No transportation service in the route description next-above is authorized from points in Broome County, N.Y. or to points Madison County, N.Y., except as specified in other regular-routes or off-route points

herein. Between Niagara Falls, N.Y. and

herein. Between Niagara Falls, N.Y., and New York, N.Y., serving the intermediate points of Scranton and Delaware Water Gap, Pa., for the purpose of joinder only and serving all intermediate and off-route points in Hudson, Essex, Bergen, Sussex, Morris and Middlesex Counties, N.J., and those in Niagara, Erie, Genesee, Wyoming, Livingston, Chemung, and Broome Counties, N.Y., provided, however, that no transportation service is authorized form points in Livingston Counties, N.Y.: From Niagara Falls, N.Y. over New York Highway 384 (also Interstate Highway 190 or U.S. Highway 62) to junction New York Highway 130 at Buffalo, N.Y., thence over New York Highway 130 to junction U.S. Highway 20 at Depew, N.Y., thence over U.S. Highway 20 to junction New York Highway 238 at Darien, N.Y., thence over New York Highway 238 to junction New York Highway 98 at Attica, N.Y., thence over New York Highway 98 to junction U.S. Highway 20 at Alexander, N.Y., thence over U.S. Highway 20 to junction U.S. Highway 15 at East Avon, N.Y., (also from Depew over U.S. Highway 20 to junction New York Highway 63, thence over New York Highway 63 to junction U.S. Highway 15 at Wayland), thence over U.S. Highway 15 to junction New York Highway 17, thence over New York Highway 17 to junction Interstate Highway 81 at Binghamton, N.Y., thence over Interstate Highway 81 to junction Interstate Highway 380, thence over Highway 380 to junction Interstate Highway 80, thence over Interstate highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 via the George Washington Bridge to New York, and return over the same route. From Niagara Falls, N.Y., to Binghamton, N.Y., as stated immediately above, thence over New York Highway 17 to junction New Jersey Highway 17 at the New York-New Jersey State line, thence over new Jersey Highway 17 to junction New Jersey Highway 4, thence over New Jersey Highway 4 to junction Interstate Highway 95, thence over Interstate Highway 95, via the George Washington Bridge to New York, N.Y., and return over the same route. From Niagara Falls, N.Y. to Binghamton, N.Y., as stated above, thence over New York Highway 17 to junction New Jersey Highway 17 at the New York-New Jersey State line, thence over New Jersey Highway 17 to junction New Jersey Highway 7, thence over New Jersey Highway 7 to junction U.S. Highways 1 and 9, thence over U.S. Highways 1 and 98 to junction entrance ramp to Holland Tunnel, thence over said entrance ramp to Holland Tunnel, thence through Holland Tunnel to New York, and return over the same route. From Niagara Falls, N.Y., to Binghamton, N.Y., as stated above, thence over New York Highway 17 to junction Interstate Highway 87 (New York Thruway), thence over Interstate Highway 87 to New York, N.Y., and return over the same route. From Niagara Falls, N.Y. to Binghamton, N.Y., as stated above, thence over New York Highway 17 at the New York-New Jersey State line, thence over New Jersey Highway 17 to New Jersey Highway 3, thence over New Jersey Highway 3 to junction Interstate Highway 495, thence over Interstate Highway 495 via the Lincoln Tunnel to New York, N.Y., and return over the same route. Between Waverly, N.Y., and Auburn, N.Y., serving all intermediate points and those off-route points within 40 miles of Ithaca, N.Y., provided, however, that no transportation service is authorized from off-route points beyond 20 miles of Ithaca, N.Y., except as specified in other regular-routes or off-route points herein: From Waverly over New York Highway 17 to junction New York Highway 35, thence over New York Highway 34 to Auburn, and return over the same route. From Waverly over New York Highway 17 to junction New York Highway 13 at Elmira, N.Y., thence over New York Highway 13 to junction New York Highway 34 at Ithaca, N.Y., thence as before to Auburn, and return over the same route.

From Waverly over New York Highway 17 to junction New York Highway 17C, thence over New York Highway 17C (also New York Highway 17 to junction New York Highway 96) to junction New York Highway 38 at Owego, N.Y., thence over New York Highway 38 to junction New York Highway 13 at Dreyden, N.Y., thence over New York Highway 13 to junction New York Highway 34 at Ithaca, N.Y., thence as stated above to Auburn, and return over the same route. From Waverly over New York Highway 17 (also New York Highway 17 to junction New York Highway 17C, thence over New York Highway 17C) to junction New York Highway 96, thence over New York Highway 96 to junction New York Highway 96B, thence over New York Highway 96B (also over New York Highway 96) to junction New York Highway 34 at Ithaca, thence as before to Auburn, and return over the same route. From Waverly as stated above to junction New York Highway 38, thence over New York Highway 38 to junction New York Highway 79 at Richford, thence over New York Highway 79 to junction New York Highway 34 at Ithaca, thence as before to Auburn, and return over the same route. From Waverly as stated above to junction New York Highway 34 and New York Highway 34B, thence over New York Highway 34B to junction New York Highway 34, thence as stated above to Auburn, and return over the same route. From Waverly over New York Highway 17 to junction New York Highway 14, thence over New York Highway 14 to junction New York Highway 224, thence over New York Highway 224 to junction New York Highway 13, thence over New York Highway 13 to junction New York Highway 34, thence as stated above (also from junction New York Highways 14 and 224, thence over New York Highway 14 to junction New York Highway 414, thence over New York Highway 414 or 14 to junction U.S. Highway 20, thence over U.S. Highway 20) to Auburn, and return over the same route. From Waverly to Ithaca as stated above, thence over New York Highway 13 to junction New York Highway 366, thence over New York Highway 366 to junction New York Highway 38, thence over New York Highway 38 to Auburn, and return over the same route. Service over routes in (B) above is authorized at the additional off-route points of Chenango Bridge, Chenango Forks, Akron, Amherst, Blasdell, Clarence Center, Depew, E. Aurora, Hamburg, Jewettville, Kenmore, Lackawanna, Orchard Park, Sloan, Snyder, Williamsville, Breesport, Erin, Pine City, Southport, Van Etten, Webbsmills, Wellsburg, Burdett, Cayuta, Odessa, Addison, Arkport, Campbell, Canisteo, Erwins, Greenwood, Hornell, Jaspen, N. Hornell, Presho, Rheims, Woodhull, McGraw, Preble, Candor, Spencer, Groton, Ludlowville, Myers, North Lansing, South Lansing, Trumansburg, Howard, Aurora, Cayuga, Kandaia, Lodi, MacDougall, Sampson, Union, Springs, and Willard, N.Y. (C) Regular Routes: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Auburn, N.Y., and Syracuse, N.Y., serving all intermediate and off-route points in Onondaga, and Cayuga Counties, N.Y.: From Auburn over New York Highway 5 (also over U.S. Highway 20 to junction unnumbered highway at Skaneateles, thence over unnumbered highway to junction New York Highway 175, thence over New York Highway 175) to Syracuse, and return over the same route. Restriction: no transportation service in (C) above is authorized from points in Cayuga County, N.Y., except from points in

Cayuga County, N.Y. within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein.

Between Brockport, PA, and Williamsport, PA, serving all intermediate points, and those off-route points in Elk, Cameron, and Potter Counties, PA, except points in Elk and Cameron County, PA, on the one hand, and, on the other, Williamsport, PA, and points within a 5 mile radius of Williamsport: From Brockport over U.S. Highway 219 to junction PA Hwy 120 at Ridgeway, PA, thence over PA Hwy 120 to junction U.S. Highway 220 at Lock Haven, thence over U.S. Highway 220 to Williamsport, and return over the same route. Between Brockport, PA, and Bradford, PA, serving all intermediate points, and those off-route points within 30 miles of Bradford, PA: From Brockport over U.S. Highway 219 to Bradford, and return over the same route. Between Brockport, PA, and Wellsboro, PA, serving all intermediate points and those off-route points in Elk, Cameron, Potter, and Tioga Counties, PA, and points within 20 miles of Wellsboro: From Brockport over U.S. Highway 219 to junction PA Hwy 120 at Ridgeway, PA, thence over PA Hwy 120 to junction PA Hwy 155, thence over PA Hwy 155 to junction U.S. Highway 6, thence over U.S. Highway 6 to Wellsboro, and return over the same route. Between Bradford, PA, and Wellsboro, PA, serving all intermediate and off-route points within 30 miles of Bradford, PA, and 20 miles of Wellsboro, PA, those points in Allegany and Chemung Counties, NY, and Tioga County, PA, and the points of Greenwood, Jasper, Woodhull, Addison, Erwins, and Presho, NY: From Bradford over U.S. Highway 219 to junction NY Hwy 17, thence over NY Hwy 17 to junction NY Hwy 417, thence over NY Hwys 17 or 417 to junction U.S. Highway 15, thence over U.S. Highway 15 to junction PA Hwy 287, thence over PA Hwy 287 to Wellsboro, and return over the same route. From Bradford to junction U.S. Highway 15 as stated above and PA Hwy 287, thence over U.S. Highway 15 to junction U.S. Highway 6, thence over U.S. Highway 6 to Wellsboro, and return over the same route. From Brandford over PA Hwy 346 to junction PA Hwy 646, thence over PA Hwy 646 to the PA–NY State line, thence over NY Hwy 16 to junction NY Hwy 417 or NY Hwy 17, thence as stated above to Wellsboro, and return over the same route. From Bradford to NY Hwy 17 or NY Hwy 417 as stated above, thence over NY Hwy 17 or NY Hwy 417 to junction NY Hwy 19, thence over NY Hwy 19 to junction PA Hwy 449 at the NY–PA State line, thence over PA Hwy 449 to junction U.S. Highway 6, thence over U.S. Highway 6 to Wellsboro, and return over the same route. Between Bradford, PA, and Williamsport, PA, serving all intermediate points and off-route points within 30 miles of Bradford, 20 miles of Wellsboro and those points in Elk, Potter, Cameron, and Tioga Counties, PA, except points in Elk and Cameron Counties, PA, on the one hand, and, on the other, Williamsport, PA, and points within a 5 mile radius Williamsport: From Bradford over U.S. Highway 219 to junction PA Hwy 46, thence over PA Hwy 46 to junction U.S. Highway 120, thence over U.S. Highway 120 to junction U.S. Highway 220 at Lock Haven, thence over U.S. Highway 220 (also over PA Hwy 46 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 15, thence over U.S. Highway 15) to Williamsport, and return over the same route. Between Bradford, PA, and Williamsport, PA, serving intermediate and off-route points within 30 miles of Bradford, those points in Allegany and Chemung Counties, NY, and Tioga County, PA, and the points of Greenwood, Jasper, Woodhul, Addison, Erwins, and Presho, NY, all intermediate and off-route points within 20 miles of Wellsoboro, PA, and 5 miles of Williamsport:

From Bradford over U.S. Highway 219 to junction New York Highway 17, thence over New York Highway 17 to junction U.S. Highway 15, (also from the junction of U.S. Highway 219 and New York Highway 17 over New York Highway 17 to junction New York Highway 14, thence over New York Highway 14 to junction Pennsylvania Highway 14 to junction U.S. Highway 15), thence over U.S. Highway 15 to Williamsport, and return over the same route. Between Claymont, Del. and Williamsport, Pa., serving intermediate and off-route points within 5 miles of Williamsport, Pa.: From Claymont over U.S. Highway 13 to junction U.S. Highway 202, thence over U.S. Highway 202 to junction Pennsylvania Highway 100 thence over Pennsylvania Highway 100 to junction U.S. Highway 422, thence over U.S. Highway 422 to junction Pennsylvania Highway 61, thence over Pennsylvania Highway 61 to junction U.S. Highway 15, thence over U.S. Highway 15 to Williamsport, and return over the same route. Between Philadelphia, Pa., and Williamsport, Pa., serving the intermediate and off-route points within 5 miles of Williamsport, Pa.: From Philadelphia over U.S. Highway 422 to junction Interstate Highway 61, thence over Pennsylvania Highway 61 to junction U.S. Highway 15, thence over U.S. Highway 15 to Williamsport, and return over the same route. From Philadelphia over Pennsylvania Highway 309 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Pennsylvania Highway 93, thence over Pennsylvania Highway 93 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 15, thence over U.S. Highway 15 to Williamsport and return over the same route. Between Wellsboro, Pa., and Williamsport, Pa., serving intermediate points and off-route points within 20 miles of Wellsboro, Pa., and 5 miles of Williamsport, Pa.: From Wellsboro over U.S. Highway 6 to junction U.S. Highway 15, thence over U.S. Highway 15 to Williamsport, and return over the same route. From Wellsboro over U.S. Highway 6 to junction Pennsylvania Highwy 660, thence over Pennsylvania Highway 660 to junction U.S. Highway 6, thence as stated above to Williamsport, and return over the same route. From Wellsboro over Pennsylvania Highway 287 to junction U.S. Highway 220, thence over U.S. Highway 220 to Williamsport, and return over the same route. From Wellsboro over Pennsylvania Highway 287 to junction Pennsylvania Highway 414, thence over Pennsylvania Highway 414 to junction U.S. Highway 15, thence as stated above to Williamsport, and return over the same route. Between Jamestown, N.Y., and junction U.S. Highway 219, and New York Highway 17, serving all intermediate and those off-route points within 30 miles of Bradford, Pa.: From Jamestown over New York Highway 17 to junction U.S. Highway 219, and return over the same route. Between Jamestown, N.Y. and Wellsboro, Pa., serving all intermediate points and those off-route points within 30 miles of Bradford, Pa., and within 20 miles of Wellsboro, Pa.: From Jamestown over New York Highway 60 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction U.S. Highway 6 at Warren, Pa., thence over U.S. Highway 6 to Wellsboro, Pa., and return over the same route.

Between Warren, Pa., and Portville, N.Y., serving all intermediate points, and those off-route points within 30 miles of Bradford, Pa.: From Warren over Pennsylvania Highway 59 to junction U.S. Highway 6 at Smethport, thence over U.S. Highway 6 to junction Pennsylvania Highway 446, thence over Pennsylvania Highway 446 to the New York-Pennsylvania State line, thence over New York Highway 305 to junction New York Highway 417, thence over New York Highway 417 to Portville, and return over the same route. Between

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Coudersport, Pa., and Lawrenceville, Pa., serving all intermediate points and off-route points in Potter County, Pa., points within 20 miles of Wellsboro, Pa.: From Coudersport over Pennsylvania Highway 44 to junction Pennsylvania Highway 49, thence over Pennsylvania Highway 49 to Lawrenceville, and return over the same route. Between Ceres, N.Y., and Coudersport, Pa., serving all intermediate points and off-route points in Potter County, Pa., and those points within 30 miles of Bradford, Pa.: from Ceres at the New York-Pennsylvania State line over Pennsylvania Highway 44 to Coudersport, Pa., and return over the same route. From Buffalo, N.Y., to Brockport, Pa., serving intermediate and off-route points in Erie and Allegany Counties, N.Y., and those in Elk Potter and Cameron Counties, Pa.: From Buffalo over New York Highway 400 to junction New York Highway 16 (also over New York Highway 16), thence over New York Highway 16 to junction New York Highway 417, thence over New York Highway 417 to junction New York Highway 305, thence over New York Highway 305 to the New York-Pennsylvania State line, thence over Pennsylvania Highway 446 to junction Pennsylvania Highway 346, thence over Pennsylvania Highway 346 to junction U.S. Highway 219, thence over U.S. Highway 219 (also over U.S. Highway 219 from Buffalo) to Brockport, and return over the same route. Between Rochester, N.Y., and Niagara Fall, N.Y., serving intermediate and off-route points in Monroe, Orleans, and Niagara Counties, N.Y.: From Rochester over New York Highway 104 to Niagara Falls, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, N.Y. Between Rochester, N.Y. and Buffalo, N.Y., serving intermediate and off-route points in Monroe, Genesee, and Erie Counties, N.Y.: From Rochester over Interstate Highway 490 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction New York Highway 33, thence over New York Highway 33 to Buffalo, and return over the same route. Between Rochester, N.Y., and Syracuse, N.Y., serving intermediate and off-route points in Monroe, Cayuga, and Onondaga Counties, N.Y.: From Rochester, N.Y. over Interstate Highway 490 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction exits 35 through 38 of Interstate Highway 90, thence over appropriate exits to Syracuse, N.Y., and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, N.Y. execpt those points within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. From Rochester, N.Y., to Medina, N.Y., serving intermediate and off-route points in Orleans and Monroe Counties, N.Y.: From Rochester over New York Highway 104 to junction New York Highway 63 at Ridgeway, thence over new York Highway 63 to Medina, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, N.Y.

Between Rochester, N.Y. and Binghamton, N.Y., serving all intermediate and off-route points in Broome, Chemung, Livingston, and Monroe Counties, N.Y.: From Rochester over U.S. Highway, 15 to junction New York Highway 17, thence over New York Highway 17 (also New York Highway 17C) to, Binghamton, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Broome, Chemung, and Livingston Counties, N.Y., except as specified in other regular-route herein. Between Rochester, N.Y. and Utica, N.Y., serving intermediate and off-route points in Cayuga, Madison, Monroe, Oneida, and Onondaga Counties, N.Y.: From Rochester, over Interstate Highway 490 to junction Interstate Highway 90, thence over Interstate Highway 90 to Utica, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y. and from points in Cayuga County, N.Y., except those points in Cayuga County within 20 miles of Ithaca, N.Y. except as specified in other regular routes herein. From Rochester, N.Y. to Oswego, N.Y., serving intermediate and off-route points in Monroe, Cayuga, and Oswego Counties, N.Y.: From Rochester, over U.S. Highway 104 to Oswego, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga and Oswego Counties, N.Y., except those points within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. From Rochester, N.Y. to Wellsville N.Y. serving intermediate points and off-route points in Monroe, Livingston, and Allegany Counties, N.Y.: From Rochester over U.S. Highway, 15 (also U.S. Highway 15A) to junction New York Highway 21, thence over New York Highway 21 to junction New York Highway 417 at Andover, thence over New York Highway 417 to Wellsville, and return over the same route. Restriction: No transportation in the next-above route description is authorized from points in Livingston and Allegany Counties, N.Y. From Batavia, N.Y. to Dansville, N.Y., serving intermediate and off-route points in Genesee, Wyoming, and Livingston Counties, N.Y.: From Batavia over New York Highway 63 to Dansville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Livingston County, N.Y. From Batavia, N.Y. to Wellsville, N.Y., serving intermediate and off-route points in Genesee, Wyoming, and Allegany Counties, N.Y.: From Batavia over New York Highway 63 to junction New York Highway 19, thence over New York Highway 19 to Wellsville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Allegany County, N.Y. From Utica, N.Y. to Dansville, N.Y. serving intermediate and off-route points in Oneida, Madison, Onondaga, Cayuga, and Livingston Counties, N.Y.: From Utica over Interstate Highway 90 to junction U.S. Highway 15, thence over U.S. Highway 15, to junction Interstate Highway 390, thence over Interstate Highway 390 to Junction New York Highway 436, thence over New York Highway 436 to Dansville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County or from points in Cayuga and Livingston Counties, N.Y., except those points in Cayuga County, N.Y. within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. From Utica, N.Y., to Wellsville, N.Y., serving intermediate and off-route points in Oneida, Madison, Onondaga, Cayuga, Chemung, and Allegany counties, N.Y.:

From Utica over Interstate Highway 90 to junction New York Highway 14, thence over New York Highway 14 to junction New York Highway 414, thence over New York Highway 414 to junction New York Highway 17, thence over New York Highway 17 to junction U.S. Highway 15, thence over U. S. Highway 15 to junction New York Highway 417, thence over New York Highway 417 to Wellsville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y. or from points in Cayuga, Chemung, and Allegany Counties, N.Y. except those points in Cayuga and Chemung Counties, N.Y.

within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. From Syracuse, N.Y., to Dansville, N.Y., serving intermediate and off-route points in Onondaga, Cayuga, and Livingston Counties, N.Y.: From Syracuse over Interstate Highway 81 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction New York Highway 21, thence over New York Highway 21 to junction New York Highway 63, thence over New York Highway 63 to Dansville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Cayuga and Livingston Counties, N.Y. except points in Cayuga County, N.Y. within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. From Syracuse, N.Y., to Wellsville, N.Y., serving intermediate and off-route points in Onondaga, Chemung, and Allegany Counties, N.Y.: From Syracuse over Interstate Highway 81 (also U.S. Highway 11) to junction New York Highway 13, thence over New York Highway 13 to junction New York Highway 17, thence over New York Highway 17 to junction U.S. Highway 15, thence over U.S. Highway 15 to junction New York Highway 417, thence over New York Highway 417 to Wellsville, and return over the same route.

Restriction: No transportation service in the route description next-above is authorized from points in Chemung and Allegany Counties, N.Y. except points in Chemung County, N.Y. within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. From Warsaw, N.Y., to Dansville, N.Y., serving intermediate and off-route points in Wyoming and Livingston Counties, N.Y.: From Warsaw over U.S. Highway 20A to junction New York Highway 36, thence over New York Highway 36 to junction New York Highway 436, thence over New York Highway 436 to Dansville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Livingston County, N.Y. From Warsaw, N.Y. to Wellsville, N.Y., serving intermediate and off-route points in Wyoming and Allegany Counties, N.Y.: From Warsaw over New York Highway 19 (also New York Highway 19A) to Wellsville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Allegany County, N.Y. From Hamilton, N.Y., to Dansville, N.Y., serving intermediate and off-route points in Madison, Onondaga, Cayuga, and Livingston Counties, N.Y.: From Hamilton over New York Highway 12B to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 21, thence over New York Highway 21 to junction New York Highway 63, thence over New York Highway 63 to Dansville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized from points in Madison County, N.Y., or from points in Cayuga and Livingston Counties, N.Y., except those points in Cayuga County N.Y. within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein.

From Hamilton, N.Y., to Wellsville, N.Y., serving intermediate and off-route points in Madison, Broome, Chemung, and Allegany Counties N.Y.: From Hamilton over New York Highway 12B to junction New York Highway 12, thence over New York Highway 12 to junction New York Highway 17, thence over New York Highway 17 to junction U.S. Highway 15, thence over U.S. Highway 15 to junction New York Highway 417, thence over New York Highway 417 to Wellsville, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y., or from points in Broome, Chemung, and Allegany Counties, N.Y., except those points in Broome and Chemung Counties, N.Y. within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. Between Hamilton, N.Y., and Warsaw, N.Y., serving intermediate and off-route points in Madison, Onondaga, Cayuga, Livingston, and Wyoming Counties, N.Y.: From Hamilton over New York Highway 12B to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 20A, thence over U.S. Highway 20A to Warsaw, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y. or from points in Cayuga and Livingston Counties, N.Y. except those points in Cayuga County, N.Y. within 20 miles of Ithaca, N.Y. except as specified in other regular-routes herein. Between Hamilton, N.Y. and Niagara Falls, N.Y., serving intermediate and off-route points in Madison, Onondaga, Cayuga, Monroe, Genesee, Erie, and Niagara Counties, N.Y.: From Hamilton over New York Highway 12B to junction U.S. Highway 20, and thence over U.S. Highway 20 to junction New York Highway 318, thence over New York Highway 318 to junction New York Highway 414, thence over New York Highway 414 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction Interstate Highway 290, thence over Interstate Highway 290 to junction Interstate Highwy 190, thence over Interstate Highway 190 (also New York Highways 265 and 384) to Niagara Falls, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y., or from points in Cayuga County, N.Y., except those points in Cayuga County, N.Y. within 20 miles of Ithaca, N.Y., except as specified in other regular-routes herein. From Hamilton, N.Y., to Rome, N.Y., serving the intermediate and off-route points in Madison and Oneida Counties, N.Y.: From Hamilton over New York Highway 12B to junction New York Highway 46, thence over New York Highway 46 to junction U.S. Highway 5, thence over U.S. Highway 5 to junction New York Highway 365, thence over New York Highway 365 to junction New York Highway 26, thence over New York Highway 26 to Rome, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y. From Hamilton, N.Y., to Medina, N.Y., serving intermediate and off-route points in Madison, Onondaga, Cayuga, Monroe, and Orleans Counties, N.Y.: From Hamilton over New York Highway 12B to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 318, thence over New York Highway 318 to junction New York Highway 414, thence over New York Highway 414 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction Interstate Highway 490, thence over Interstate Highway 490 to junction New York Highway 47, thence over New York Highway 47 to junction New York Highway 31, thence over New York Highway 31 (also New York Highway 31A) to Medina, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y. or from points in Cayuga and Orleans Counties, N.Y. except those points in Cayuga County, N.Y. within 20 miles of Ithaca, N.Y. From Hamilton, N.Y., to Oswego, N.Y., serving intermediate and off-route points in Madison, Onondaga, and Oswego Counties, N.Y.

From Hamilton over New York Highway 12B to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Interstate Highway 81 (also U.S. Highway 11), thence over Interstate

Highway 81 to junction New York Highway 481, thence over New York Highway 481 to junction New York Highway 57, thence over New York Highway 57 to Oswego, and return over the same route. Restriction: No transportation service in the route description next-above is authorized to points in Madison County, N.Y. or from points in Oswego County, N.Y. Between New York, N.Y., and Buffalo, N.Y., serving the intermediate points between Utica and Buffalo, N.Y.: From New York over Interstate Highway 87 to junction Interstate Highway 90, thence over Interstate Highway 90 to Buffalo, and return over the same route. Alternate Routes for Operating Convenience Only: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Rochester, N.Y., and Akron, N.Y., in connection with carrier's regular route operations, serving no intermediate points: From Rochester, N.Y. over Interstate Highway 490 to junction New York Highway 19, thence over New York Highway 19 to LeRoy, N.Y., and thence over New York Highway 5 to junction with New York Highway 93, and thence over New York Highway 93 to Arkon, N.Y., and return over the same route. Between Binghamton, N.Y., and Scranton Pa., serving no intermediate points: From Binghamton over Interstate Highway 81 to Scranton, Pa., and return over the same route. Between Delaware Water Gap, Pa., and Somerville, N.J., serving no intermediate points: From Delaware Water Gap over Interstate Highway 80 to junction U.S. Highway 46 at Columbia, N.J., thence over U.S. Highway 46 to junction New Jersey Highway 31, thence over New Jersey Highway 31 to junction Interstate Highway 78, thence over Interstate Highway 78 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction New Jersey Highway 28, thence over New Jersey Highway 28 (also from junction U.S. Highway 22 and U.S. Highway 206 or local streets) to Somerville, and return over the same route. Between Brockport, Pa., and Delaware Water Gap, Pa., serving no intermediate points: From Brockport over U.S. Highway 219 to junction Interstate Highway 80, thence over Interstate Highway 80 to Delaware Water Gap, and return over the same route. Between Williamsport, Pa., and Delaware Water Gap, Pa., serving no intermediate points: From Williamsport over U.S. Highway 15 to junction Interstate Highway 80, thence over Interstate Highway 80 to Delaware Water Gap, and return over the same route. Restriction: The alternate routes above between Carroll, Pa., and DuBois, Pa., over Interstate Highway 80 and the regular route between Lock Haven, Pa. and Ridgeway, Pa. over Pennsylvania Highway 120 is restricted against the transportation of traffic moving to, from, or through Pittsburgh, Pa. and points in the Pittsburgh Commercial Zone.

Irregular Routes: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between points in Wyoming County, N.Y. Between points in Erie County, N.Y. The irregular-route authority granted above is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein.

Restriction: The above described regular and irregular routes in (A), (B) and (C) above shall not be severable by sale or otherwise from the regular and irregular route general commodity authority set forth in (D) and (E) below. (D) Regular Routes: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Ithaca, N.Y., and Syracuse, N.Y., serving all intermediate points: From Ithaca over New York Highway 13 to Cortland, N.Y., thence over U.S. Highway 11 to Syracuse, and return over the same route. From Ithaca over New York Highway 13 to South Cortland, N.Y., thence over New York Highway 281 to junction U.S. Highway 11 near Tully, N.Y., thence over U.S. Highway 11 to Syracuse, and return over the same route. (2) Between Auburn, N.Y., and Syracuse, N.Y., serving all intermediate points: From Auburn over New York Highway 5 to Syracuse, and return over the same route. From Auburn over U.S. Highway 20 to Skaneateles, N.Y., thence over unnumbered highway to Macellus, N.Y., thence over New York Highway 175 (also over New York Highway 20N) to Syracuse, and return over the same routes. (3) Between Ithaca, N.Y., and Waverly, N.Y., serving all intermediate points, and the off-route points of Cayuga, Millport, Pine Valley, and Wellsburg, N.Y.: From Ithaca over New York Highway 79 to Richford, N.Y., thence over New York Highway 38 to Oswego, N.Y., thence over New York Highway 17 to Waverly, and return over the same route. From Ithaca over New York Highway 96B to Candor, N.Y., thence over New York Highway 96 to Oswego, thence over New York Highway 17 to Waverly, and return over the same route. From Ithaca over New York Highway 13 to Elmira, N.Y., thence over New York Highway 17 to Waverly, and return over the same route. From Ithaca over New York Highway 13 to junction New York Highway 34, thence over New York Highway 34 to Waverly, and return over the same route. Restriction: The operations authorized under (3) above are restricted to service between the authorized points on said routes, on the one hand, and, on the other, points on routes (1) and (2) above. (4) Between Ithaca, N.Y., and Auburn, N.Y., serving all intermediate points: From Ithaca over New York Highway 96 to Waterloo Junction, N.Y., thence over U.S. Highway 20 (also over New York Highway 5) to Auburn, and return over the same routes. Service on the route described immediately-above is authorized at the off-route points of Lodi, Willard, Kandaia, Sampson, and MacDougall, N.Y. From Ithaca over New York Highway 34 to Auburn, and return over the same route. From Ithaca over New York Highway 34 to junction New York Highway 34B, thence over New York Highway 34B to junction New York Highway 34 at Fleming, N.Y., thence over New York Highway 34 to Auburn, and return over the same route. Service over the two route descriptions next-above is authorized at the off-route points of Aurora, Union Springs, and Cayuga, N.Y. From Ithaca over New York Highway 13 to junction New York Highway 366, thence over New York Highway 366 to junction New York Highway 38, thence over New York Highway 38 to Auburn, and return over the same route.

Restriction: The operations authorized under (4) above are restricted to service between the authorized points on said routes, on the one hand, and, on the other, points on routes (1) and (2) above. (5) Between Ithaca, N.Y., and Watkins Glen, N.Y., serving all intermediate points; From Ithaca over New York Highway 13 to junction New York Highway 224, thence over New York Highway 224 to Watkins Glen, and return over the same route. Restriction: The operations authorized on the route next above is restricted to service between the authorized points on said routes, on the one hand, and, on the other, points on routes (1) and (2) above. *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission,

commodities in bulk, and commodities requiring special equipment), Between Niagara Falls, N.Y., and Binghamton, N.Y. serving all intermediate points, except the intermediate points between Buffalo and Wayland, N.Y.: From Niagara Falls over New York Highway 384 to Buffalo, N.Y., thence over New York Highway 130 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 63; thence over New York Highway 63 to Wayland, N.Y., thence over U.S. Highway 15 to Painted Post, N.Y., and thence over New York Highway 17 to Binghamton (also from Big Flats, N.Y. and Elmira, N.Y. over New York Highway 352 (formerly New York Highway 17E) to junction New York Highway 17) (also from Oswego, N.Y., over New York Highway 17C to Binghamton), and return over the same routes. Between Corning, N.Y., and Binghamton, N.Y., serving all intermediate points: From Corning over New York Highway 17 to Horseheads, N.Y., thence over New York Highway 13 to Cortland, N.Y., and thence over U.S. Highway 11 to Binghamton, and return over the same route. Between Bath, N.Y., and Elmira, N.Y., serving all intermediate points: From Bath over New York Highway 54 (also over New York Highway 54A to junction New York Highway 54) to Dresden, N.Y., thence over New York Highway 14 (also from Penn Yan, N.Y., over New York Highway 14A to junction New York Highway 14) to Horseheads, N.Y., thence over New York Highway 13 (also from Horseheads over New York Highway 17) to Elmira, and return over the same routes. Between Buffalo, N.Y., and Homer, N.Y., serving no intermediate points: From Buffalo over New York Highway 130 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 11, thence over U.S. Highway 11 to Homer, and return over the same route. Service over the 4 specified routes next-above is authorized at the off-route points of Chenango Bridge, Chenango Forks, Akron, Amherst, Blasdell, Clarence Center, Depew, E. Aurora, Hamburg, Jewettville, Kenmore, Lackawanna, Orchard Park, Sloan, Snyder, Williamsville, Breesport, Erin, Pine City, Southport, Van Etten, Webbsmills, Wellsburg, Burdett, Cayuga, Odessa, Addison, Arkport, Campbell, Canisteo, Erwins, Greenwood, Hornell, Howard, Jasper, N. Hornell, Presho, Rheims, Woodhull, McGraw, Preble, Candor, Spencer, Groton Ludlowville, Myers, North Lansing, South Lansing, and Trumansburg, N.Y.; Between Williamsport, Pa., and Bradford, Pa., serving all intermediate points, and points within 5 miles of Williamsport and all points in Tioga County, Pa., as off-route points: From Williamsport over U.S. Highway 15 to junction U.S. Highway 6 at Mansfield, Pa., thence over U.S. Highway 6 to junction Pennsylvania Highway 46 in Smethport, Pa., thence over Pennsylvania Highway 46 to junction Pennsylvania Highway 346 and thence over Pennsylvania Highway 346 to Bradford, and return over the same route. Restriction: No local shipments in the route description next-above shall be transported between Blossburg and Mansfield, Pa., and points intermediate thereto on U.S. Highway 15.

General commodities (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and articles of excessive dimensions), Between Ithaca, NY, and Syracuse, NY, serving all intermediate points, and the off-route point of Preble, NY: From Ithaca over NY Hwy 13 to Cortland, NY, thence over U.S. Hwy 11 to Syracuse, and return over the same route. Irregular Routes: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Bradford, PA, and points within 30 miles of Bradford, on the one hand, and, on the other, points in Elk, Potter, and Cameron Counties, PA. Restriction: The service authorized in the route description next-above is subject to the following conditions: The authority granted in the route description next-above is restricted against service between points in Elk and Cameron Counties, PA, on the one hand, and, on the other, Williamsport, PA, and points within a 5 mile radius of Williamsport. The authority granted in the route description next-above is restricted against the transportation of bricks, clay products and refactory products from the plant site of the Hanley Company at Lewis Run, PA, to points in Ohio and New York. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk), Between Wellsboro, PA, on the one hand, and, on the other, Troy and Townada, PA, and points with 20 miles of Wellsboro. Between Westfield, PA, on the one hand, and, on the other, New York, NY, and points in New Jersey within 20 miles of New York, NY, Philadelphia, PA, and Claymont, Del. From New York, NY, and points in that part of New York and New Jersey within 20 miles of New York, NY, to Wellsboro, PA. From Ithaca, NY, and points within 20 miles of Ithaca, to New York, NY, and points in Hudson, Essex, Bergen, Sussex, Morris and Middlesex Counties, NJ. From New York, NY, and points in Hudson, Essex, Bergen, Sussex, Morris, and Middlesex Counties, NJ, to Ithaca, NY, and points within 40 miles of Ithaca. Between points in Wyoming County, NY. Between points in Erie County, NY. From points in Wyoming County, NY, to points in Broome, Cayuga, Chemung, Erie, Genesee, Monroe, Niagara, Oneida, Orleans, and Oswego Counties, NY. From points in Erie, Genesee, Monroe and Onondaga Counties, NY, to points in Wyoming County, NY. From points in Erie County, NY, to points in Allegany, Genesee, Livingston, Onondaga, and Orleans Counties, NY. From points in Genesee, Oneida, and Onondaga Counties, NY, to points in Erie County, NY. From points in Madison and Niagara Counties, NY, to points in Genesee County, NY.

Glass bottles, From Port Allegany, Pa., to Baltimore, Md. *Uncrated machinery,* From Waterville, New Berlin, and New York, N.Y., to Middlebury Center, Pa.; and *Dairy products,* From Middlebury Center, Pa., to Waterville, New Berlin, and New York, N.Y. *Manufactured glass products,* or *articles used in the manufacture, sale or distribution thereof,* Between Wellsboro, Pa., and Corning, N.Y., on the one hand, and, on the other, Central Falls, R.I., Lynn, Newburyport, Newton, Salem and Waltham, Mass., Schenectady, N.Y., Charleroi, Lancaster, Lansdale, and Port Allegany, Pa., Cleveland, Warren and Youngstown, Ohio, and Fairmont and Parkersburg, W. Va. Between Corning, N.Y., on the one hand, and, on the other Weatherly and Boyertown, Pa. Between Wellsboro, Pa., and Corning, N.Y. *Manufactured glass products* (except glass tubing and unfinished light and radio bulbs), From Wellsboro, Pa., and Corning, N.Y., to New York, N.Y., and points in that part of New York and New Jersey within 20 miles of New York, N.Y. *Unfinished light and radio bulbs,* and *glass tubing,* From Wellsboro, Pa., and Corning, N.Y., to points in New York and that part of New Jersey on and north of U.S. Highway 40; and *Packing materials and cases,* From points in the next-above specified New York and New Jersey territory to Wellsboro, Pa., and Corning, N.Y. *Petroleum products,* in containers, From Sewaren, N.J., to Wellsboro, Pa.; and *Empty containers for petroleum products,* From Wellsboro, Pa., to Sewaren, N.J. (E) Irregular

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Routes: *General commodities* (Except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), From points in Erie, Genesee, and Onondaga Counties, N.Y., to points in Broome, Cayuga, Chemung, Oneida and Oswego Counties, N.Y. From points in Erie and Genesee Counties, N.Y., to points in Niagara County, N.Y. From points in Genesee and Onondaga Counties, N.Y., to points in Orleans County, N.Y. From points in Oneida and Onondaga Counties, N.Y., to points in Genesee County, N.Y. Between points in Genesee, and Monroe Counties, N.Y., From points in Genesee, Oneida and Onondaga Counties, N.Y., to points in Onondaga County, N.Y. From points in Oneida County, N.Y., to points in Wyoming County, N.Y. From points in Wyoming County, N.Y., to points in Onondaga County, N.Y. From points in Niagara County, N.Y., to points in Erie and Wyoming Counties, N.Y. From points in Onondaga County, N.Y., to points in Niagara County, N.Y. From points in Oneida County, N.Y., to points in Broome, Cayuga, Chemung, Monroe, Niagara, Oneida, Orleans, and Oswego Counties, N.Y. From points in Niagara County, N.Y., to points in Broome, Cayuga, Chemung, Niagara, Oneida, Orleans, and Oswego Counties, N.Y. From points in Niagara County, N.Y., to points in Onondaga County, N.Y. Between points in Monroe County, N.Y., on the one hand, and, on the other, points in Niagara, Erie and Onondaga Counties, N.Y. From points in Monroe County, N.Y., to points in Broome, Cayuga, Chemung, Oneida, Orleans, and Oswego Counties, N.Y. From points in Genesee, Oneida, Onondaga, and Wyoming Counties, N.Y., to points in Livingston and Allegany Counties, N.Y. From points in Madison and Niagara Counties, N.Y., to points in Livingston and Allegany Counties, N.Y. From points in Monroe County, N.Y., to points in Livingston and Allegany Counties, N.Y. From points in Madison County, N.Y., to points in Erie County, N.Y. From points in Madison County, N.Y., to points in Onondaga and Wyoming Counties, N.Y. From points in Madison County, N.Y., to points in Broome, Cayuga, Chemung, Monroe, Niagara, Oneida, Orleans, and Oswego Counties, N.Y. The authority granted in (E) above is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. Restriction: Carrier shall not, pursuant to the irregular-route authority granted in (D) and (E) authorized to be served by it in the operations authorized in (A), (B) and (C) above. Any repetition in the statement of the authority granted herein shall not be construed as conferring more than one operating right. MC–109821 Sub 40 authorizes transportation, over irregular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Bradford, Pa., and points within 30 miles thereof, on the one hand, and, on the other, Philadelphia and Pittsburgh, Pa. *Commodities,* classified as "meats, meat products, and meat by-products" in Section A of the Appendix to the report in Ex Parte 38, *Modification of Permits of Motor Contract Carriers of Packing House Products,* 46 M.C.C. 23, butter, and cheese, From Punxsutawney and Du Bois, PA., to Kane and Phillipsburg, PA., and points in Cameron, Clarion, Clearfield, Elk, Forest and Jefferson Counties, PA. *General commodities,* except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, Between Big Run, Jefferson County, PA., and points within 25 miles of Big Run, on the one hand, and, on the other, Pittsburgh and Philadelphia, PA. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. MC–109821 Sub 53 authorizes transportation, over regular routes, of *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Big Run, Jefferson County, PA, and Philadelphia, PA., serving points within 25 miles of Big Run as intermediate and/or off-route points, and points in Elk, Potter, Tioga, and Cameron Counties, PA, as off-route points: (A) From Big Run over US Highway 119 to junction US Highway 322, then over US Highway 322 to junction PA Highway 3, then over PA Highway 3 to Philadelphia, and return over the same route. (B) From Big Run over US Highway 119 to junction US Highway 422, then over US Highway 422 to junction US Highway 22, then over US Highway 22 to junction Interstate Highway 83, then over Interstate Highway 83 to junction PA Highway 283, then over PA Highway 283 to junction US Highway 30, then over US Highway 30 to Philadelphia, and return over the same route. (II) Between Big Run, Jefferson County, PA, and Pittsburgh, PA, serving points within 25 miles of Big Run, PA, as intermediate and/or off-route points, and points in Elk, Potter, Tioga, and Cameron Counties, PA, as off-route points and serving the intermediate point of Indiana, PA, and Kittanning, PA. (A) From Big Run over US Highway 119 to junction US Highway 22, then over US Highway 22 to Pittsburgh, and return over the same route. (B) From Big Run over US Highway 119 to junction Pennsylvania Highway 210, then over Pennsylvania Highway 210 to junction Pennsylvania Highway 85, then over Pennsylvania Highway 85 to junction Pennsylvania Highway 28, then over Pennsylvania Highway 28 to Pittsburgh, and return over the same route. (C) From Big Run over US Highway 119 to junction US Highway 422, then over US Highway 422 to junction Pennsylvania Highway 8, then over Pennsylvania Highway 8 to Pittsburgh, and return over the same route. (III) Between Bradford, PA, and Pittsburgh, PA, serving points in Elk, Potter, Tioga, and Cameron Counties, PA, and those within 30 miles of Bradford, PA, as intermediate and/or off-route points, and serving intermediate points located at and between Rolfe and Elbon, PA, and serving the intermediate point of Kittanning, PA. (A) From Bradford over US Highway 219 to junction US Highway 22, then over US Highway 22 to Pittsburgh, and return over the same route. (B) From Bradford over US Highway 219 to junction US Highway 6, then over US Highway 6 to junction PA Highway 66, then over PA Highway 66 to junction US Highway 322, then over US Highway 322 to junction PA Highway 68, then over PA Highway 68 to junction PA Highway 8, then over PA Highway 8 to Pittsburgh, and return over the same route. (C) From Bradford over US Highway 219 to junction PA Highway 28, then over PA Highway 28 to Pittsburgh, and return over the same route.

(D) From Bradford over US Highway 219 to junction PA Highway 770, then over PA Highway 770 to junction PA Highway 59, then over PA Highway 59 to junction US Highway 6, then over US Highway 6 to junction US Highway 62, then over US Highway 62 to junction PA Highway 8, then over PA Highway 8 to Pittsburgh, and return over the same route. (IV) Between Bradford, PA, and Philadelphia, PA, serving those intermediate points between Bradford and Clearfield, PA, and points in Elk, Potter, Tioga, and Cameron Counties, PA, and points within 25 miles of Big Run, PA, as off-route points: (A) From Bradford over US Highway 219 to junction PA Highway 255, then over PA Highway 255 to junction PA Highway 153, then over PA Highway 153 to junction US Highway 322, then over US Highway 322 to junction US Highway 422, then over US Highway 422 to Philadelphia, and return over the same route. (B) From Bradford over US Highway 219 to junction PA Highway 255, then over PA Highway 255 to junction Interstate Highway 80, then over Interstate Highway 80 to junction PA Highway 309, then over PA Highway 309 to Philadelphia, and return over the same route. (C) From Bradford to junction Interstate Highway 80 as in IV. (A), above, then over Interstate Highway 80 to junction PA Highway 9, then over PA Highway 9 to junction US Highway 422, then over US Highway 422 to Philadelphia, and return over the same route. Restrictions: The authority granted herein is subject to the following conditions: As to Parts II. A and II. C. above, service at Indiana, PA, is restricted to traffic originating at or destined to, points in New York State, except New York, NY, and those in Nassau, Rockland, Suffolk, and Westchester Counties, NY. Carrier shall not, pursuant to the irregular-route authority granted in MC-109821 (Sub-No. 40), transport shipments moving between any points authorized to be served by it in the operations authorized by this certificate. Any repetition in the statement of the authority granted herein with any other authority held by Taynton Freight System, Inc., shall not be construed as conferring more than one operating right, and shall not be severable by sale or otherwise.

MC-109821 Sub 66 authorizes transportation, over regular routes, of *general commodities* (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those of unusual value), between Norristown, PA, and Washington, DC, serving all intermediate points, and off-route points within 10 miles of Norristown, from Norristown over U.S. 202 to junction U.S. Hwy 30, at or near Paoli, PA, thence over U.S Hwy 30 to Coatesville, PA, thence over Pennsylvania Hwy 82 to junction unnumbered hwy (formerly Pennsylvania Hwy 182), thence over unnumbered hwy to junction Pennsylvania Hwy 10 at or near Coachranville, PA, thence over Pennsylvania Hwy 10 to Oxford, PA., thence over U.S. Hwy 1 to junction unnumbered highway (formerly U.S. Hwy 1), thence over unnumbered highway to the Pennsylvania-Maryland State line, thence continue over unnumbered highway to junction Maryland Hwy 273, thence over Maryland Hwy 273 to junction U.S. Hwy 1, thence over U.S. Hwy 1 to Washington, DC, and return over the same route, restricted against local service on U.S. Hwy 1 between Baltimore, MD and Washington, DC., including the named points. By the instant petition, petitioner seeks to consolidate the above authorities to read as follows: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in DE, NY, PA, and DC, and those points in MD, VA and WV on and north of U.S. Hwy 50, serving all intermediate and off-route points over the following specified routes: (1) between Parkersburg, WV, and Ocean City, MD, over U.S. Hwy 50, and return over the same route, (2) between Wheeling, WV, and Manor Park, DE, over U.S. Hwy 40, and return over the same route, (3) between Chester, WV, and Frazer PA, over U.S. Hwy 30 and return over the same route, (4) betwen Weirton, WV, and Easton, PA, over U.S. Hwy 22, and return over the same route, (5) between West Springfield, PA, and Bridgewater, NY, Over U.S. Hwy 20, and return over the same route, (6) between Westfield, NY, and Suffern, NY, Over NY Hwy 17, and return over the same route, (7) between Pennline, PA, and Matamoras, PA, over U.S. Highway 6, and return over the same route, (8) between Toll Gate Number 1 and Toll Gate Number 29 of the Pennsylvania Turnpike, over the Pennsylvania Turnpike, and return over the same route, (9) between Parkersburg, WV, and Chester, WV, over WV Hwy 2, and return over the same route, (10) between Jamestown, PA and Chester, PA, over U.S. Hwy 322, and return over the same route, (between Frederick, MD, and Washington, DC, over Interstate Hwy 270, and return over the same route, (12) between Alexandria, VA, and Chester, PA, over Interstate Hwy 95, and return over the same route, (13) between West Middlesex, PA., and Delaware Water Gap, PA, over Interstate Hwy 80, and return over the same route, (14) between Washington, PA, and Baltimore, MD, over Interstate Hwy 70, and return over the same route, (15) between Salisbury, MD, and Bristol, PA, over U.S. Hwy 13, and return over the same route, (16) between Gilberts Corners, VA, and Painted Post, NY, over U.S. Hwy 15, and return over the same route, (17) between Clarksburg, WV, and Erie, PA, over U.S. Hwy 19, and return over the same route, (18) between Bridgeport, WV, and Erie, PA, over Interstate Hwy 79, and return over the same route, (19) between Kernstown, Va, and Pulaski, NY, over Interstate Hwy 81 (also U.S. Hwy 11), and return over the same route, (2) between Baltimore, MD, and Harrisburg, PA, over Interstate Hwy 83, and return over the same route, (21) between Grafton, WV, and Sandy, PA, over U.S. Hwy 119, and return over the same route, (22) between Redhouse, MD, and North Boston, NY, over U.S. Hwy 219, and return over the same route, (23) between New Creek, VA, and South Waverly, PA, over U.S. Hwy 220, and return over the same route, and (24) between Morgantown, WV, and Cumberland, MD, over U.S. Hwy 48, and return over the same route.

Republications of Grants of Operating Rights; Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 19311 (Sub-59F) (Republication), filed March 30, 1979, previously noticed in the **Federal Register** issue of August 28, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue, 755 West Big Beaver Rd., Suite 1200, Troy, MI 48084. An Initial Decision by the Commission, Administrative Law Judge, decided April 18, 1980, and served April 30, 1980, finds that the public convenience and necessity require

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operation by applicant, in interstate or foreign commerce, to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *voting machines*, from Jamestown, NY, to points in IL, IN, MI, OH and WI, and (2) *new furniture, new household office and store fixtures, and furnishings*, (a) from points in IL, IN, OH, and WI, to points in CT, ME, MD, MA, NH, NJ, NY, PA, RI, and VT, and (b) from points in MA, NH, NJ, NY, PA, and NH, to points in IL, IN, OH, and WI. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 99, Subtitle IV, US Code, and the Commission's regulations. The purpose of this republication is to add the destination states of MI and WI in part (1) above.

MC 115331 (Sub-489F) (Republication), filed March 16, 1979, previously noticed in the **Federal Register** issue of July 18, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. A Decision by the Commission, Review Board Number 1, decided April 2, 1980, and served April 8, 1980, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cement* from the facilities of The Marquette Company, at Cape Girardeau, MO, to points in AR, IL, IN, KY, MS, OK, and TN and (2) *materials and supplies used in the production of cement*, in the reverse direction. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is that Kentucky was omitted in the territorial description.

MC 129291 (Sub-10F) (republication), filed November 8, 1978, previously noticed in the FR issue of February 23, 1979. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Road, Lexington, KY 40505. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. By the Commission, Review Board Number 2, decided March 13, 1980, and served April 15, 1980, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Paris and Carlisle, KY, from Paris over U.S. Hwy 68 to the southernmost junction of U.S. Hwy 68 and KY Hwy 32, then over KY Hwy 32 to Carlisle, and return over the same route, serving all intermediate points, restricted against the transportation of traffic originating at, or destined to the facilities of W. R. Stamler Corp., at or near Millersburg, KY. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to show the actual authority granted.

MC 148151F, filed August 17, 1979, previously noticed in the **Federal Register** of February 26, 1980. Applicant: RAY BALLEW & SONS, INC., 7810 Almeda-Genoa Road, Houston, TX 77075. Representative: John W. Carlisle, 6746 De Moss, Suite 194, Houston, TX 77074. Transporting *general commodities*, (except classes A & B explosives) between points in the Commercial Zones of Houston, Galveston, Texas City, Baytown, Beaumont, Port Arthur, Orange, La Porte, Port Lavaca, Corpus Christi, Bay City, Port O'Connor, Brownsville, and Port of Brownsville, TX, and New Orleans Baton Rouge and Lake Charles, LA, restricted to the transportation of traffic having a prior or subsequent movement by water. This application was inadvertently published with those applications governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 1100.247). The application was filed under Ex Parte MC 105 and should have appeared in the **Federal Register** with those applications governed by (49 CFR 1062.3). The purpose of this republication is to publish this application under the proper rules. NOTE: No action will be taken on petitions filed pursuant to the February 26 publication. (Hearing site: Houston, TX.)

Permanent Authority Decisions Volume; Decision-Notice

Decided: May 9, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 26, 1980. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the

requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlton, Joyce, and Jones.

MC 12169 (Sub-1F), filed April 14, 1980. Applicant: S & C CORP., d.b.a. PIEDMONT TOURS, 6 River Street, Piedmont, SC 29673. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, DC 20005. To engage in operations in interstate or foreign commerce, as a *broker* at Piedmont, SC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S. (including AK and HI). (Hearing site: Greenville, SC.)

MC 130159 (Sub-1F), filed March 13, 1980. Applicant: LOUISVILLE AUTOMOBILE CLUB, a corporation, 435 East Broadway, Louisville, KY, 40202. Representative: William Kiel, 1205 Kentucky Home Life Building, Louisville, KY 40202. To engage in operations, in interstate or foreign commerce, as a *broker* at Louisville, Bowling Green, Elizabethtown, Owensboro, Paducah, and Frankfort, KY, in arranging for the transportation by motor vehicles of *passengers and their baggage*, in special and charter operations, between points in the U.S. (including AK and HI). (Hearing site: Louisville or Frankfort, KY.)

MC 130799F, filed March 4, 1980. Applicant: TRAVEL ASSOCIATES, INC. OF STATESVILLE, P.O. Box 1697, Signal Hill Mall, Statesville, NC 28677. Representative: Dorothy J. Pendleton (Same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Statesville, NC, in arranging for the transportation by motor vehible, of *passengers and their baggage*, in special and charter operations, between Statesville, NC, on the one hand, and, on the other, points in the U.S. (including AK and HI). (Hearing site: Statesville or Winston-Salem, NC.)

MC 130804F, filed March 4, 1980. Applicant's name and address are ADVANCED TRANSPORTATION SERVICES COMPANY, INC., (a.k.a. ATSCO), 3022 Number Hesperian, Santa Ana, CA 92706. The name under which operations will be performed is ATSCO. Applicant is represented by Robert J. Gallagher, in this proceeding, whose address is suite 1200, 1000 Connecticut Avenue, N.W., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: A. E. Huntington, President, Director, and shareholder, Robert E. Scott, Executive Vice President, Director, and shareholder, Thomas A. Paxton, Vice President of Operations, Director, and shareholder, and June C. Huntington, Secretary, Treasurer, Director, and shareholder, (same address as applicant). The daily operations will be managed by Robert E. Scott, whose business address is 3022 No. Hesperian, Santa Ana, CA 92706. Applicant is affiliated with the following shipper or warehouse: None.

MC 130805F, filed March 6, 1980. Applicant's name and address are COLLINS MOVING SYSTEMS, INC., 904 West Morgan Street, Kokomo, IN 46901. The name under which operations will be performed is COLLINS MOVING SYSTEMS, INC. Applicant is represented by Robert J. Gallagher, in this proceeding, whose address is suite 1200, 1000 Connecticut Avenue, NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers an directors, parners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Harold A. Collin, President and Director/Shareholder, and Dathel L. Collins, Secretary & Director/Shareholder whose addresses are the same as the applicant. The daily operations will be managed by Harold A. Collins, whose address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130806F, filed March 13, 1980. Applicant: UNIQUE TOURS, 98 Lewis Avenue, Meriden, CT 06450. Representative: Pino Parisi (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Meriden, CT, in arranging for the transportation of *passengers and their baggage*, between Meriden, CT, on the one hand, and, on the other, points in the U.S. (including AK and HI) (hearing site: New Haven, CT.)

MC 130816F, filed February 28, 1980. Applicant's name and address are NORTH CENTRAL DISPATCH, INC., 1515 Oak Road, Eagan, MN 55121. The name under which operations will be performed is NORTH CENTRAL DISPATCH, INC. Applicant is represented by Robert L. Cope in this proceeding, whose address is suite 501, 1730 M Street, N.W., Washington, DC 20036. Following are the names and business address for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Donald B. Taylor, President, Treasurer and shareholder, Suzanne Taylor, Vice President and shareholder, both addresses same as applicant, and Harry Strong, Secretary, 201 Security Bldg. St. Paul, MN 55114. The daily operations will be managed by Donald B. Taylor whose business address is 1515 Lone Oak Rd., Eagan, MN 55121. Applicant is affiliated with the following shipper or warehouse: None.

MC 130817F, filed March 14, 1980. Applicant's name and address are P. H. PETRY CO., 53 Park Place, New York, NY 10007. The name under which operations will be performed is P. H. PETRY CO. Applicant is represented by H. Klestadt in this proceeding, whose address is 53 Park Place, New York, NY 10007. Following are the names and business address for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Harry A. Stern, President, Director, and shareholder, Lothar Klestadt, Vice President, Director, and shareholder, and Helmut Klestadt, Secretary, Director, and shareholder, all addreses same as applicant. The daily operations will be managed by Lothar Klestadt, whose business address is 53 Park Place, New York, NY 10007. Applicant is affiliated with the following shipper or warehouse: None.

MC 130821F, filed March 26, 1980. Applicant: AAA WORLD TRAVEL OF CORNHUSKER MOTOR CLUB, INC., 5011 Capitol Avenue, Omaha, NE 68103. Representative: Lawrence E. Lindeman, suite 1032, 425 13th Street, N.W., Washington, DC 20004. To engage in operations, in interstate or foreign commerce, as a *broker* at Omaha, Lincoln, Grand Island, Norfolk, North Platte, and Scottsbluff, NE, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in special and charter operations, between points in the United States (including AK but excluding HI). (Hearing site: Omaha, NE.)

MC 130826F, filed February 28, 1980. Applicant's name and address are BAILEY FOREIGN FREIGHT FORWARDING, INC., 1932 Lebanon St., Hyattsville, MD 20783. The name under which operations will be performed is BAILEY FOREIGN FREIGHT FORWARDING, INC. Applicant is represented by Charles L. Clow in this proceeding, whose address is 815 Bowen Bldg., Suite 525A, Washington, DC 20005. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Frank R. Bailey, president and shareholder, and Sue Bailey, vice president and shareholder, both addresses same as applicant. The daily operations will be managed by Frank R. Bailey whose business address is 1932 Lebanon St., Hyattsville, MD 20783. Applicant is affiliated with the following shipper or warehouse: None.

MC 130828F, filed March 27, 1980. Applicant's name and address are James A. Andrulis, W221 S1140 Cherokee Dr., Waukesha, WI 53186. The name under which operations will be performed is ANDRULIS & ASSOCIATES. Applicant is represented by itself in this proceeding whose address is same as above. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: James A. Andrulis, Sole Proprietor, W221 S1140 Cherokee Dr., Waukesha, WI 53186. The daily operations will be managed by James A. Andrulis whose address is same as applicant's. Applicant is affiliated with the following shipper or warehouse: None.

MC 130839F, filed April 1, 1980. Applicant AMERICAN ADVENTURE TRAVEL, INC., 413 South President Street, Jackson, MS 39201. Representative: Suzanne H. Pugh (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Jackson, MS, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in Hinds County, MS, on the one hand, and, on the other, points in the US (including AK and HI). (Hearing site: Jackson, MS.)

MC 130846F, filed April 3, 1980. Applicant's name and address are S & M TRANSFER & STORAGE COMPANY, a California corporation, 1916 Border Ave., Torrance, CA 90501. The name under which operations will be performed is S & M TRANSFER & STORAGE COMPANY. Applicant is represented by John C. Russell, in this proceeding whose address is 1545 Wilshire Blvd., Los Angeles, CA 90017. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: G. W. Stadler, President, Director, Shareholder, G. P. Stadler, Vice President, Director, and Shareholder, and C. V. Stadler, Secretary, Director, and Shareholder, whose addresses are the same as applicant's. The daily operations will be managed by G. P. Stadler, whose business address is 1916 Border Ave., Torrance, CA 90501. Applicant is affiliated with the following shipper or warehouse: None.

MC 130852F, filed April 9, 1980. Applicant: CHALET TRAVEL SERVICE, INC., 2824 Country Club Drive, West, Oklahoma City, OK 73116. Representative: Fred A. Hahn (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Oklahoma City, OK, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Oklahoma City or Tulsa, OK.)

MC 130873, filed April 3, 1980. Applicant's name and address are MITCHELL INTERNATIONAL ENTERPRISES, 18800 Southcenter Parkway, Seattle, WA 98188. The name under which operations will be performed is MITCHELL INTERNATIONAL ENTERPRISES, INC. Applicant is represented by itself at the above address. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and principle shareholders (there are only two shareholders), and their addresses: Hugh B. Mitchell, President and Chairman of the Board, Mitchell International Enterprises (same address as applicant). Mr. Mitchell is a principle shareholder. Walter Griffin, Member, Board of Directors, 5156 48th NE, Seattle, WA 98105. George O. Lane, Board of Directors, 7 Highland Dr, Seattle, WA, 98109. Bruce C. Mitchell, Vice-President, Mitchell International Enterprises (same address as applicant). Ted Griebling, Shareholder, 12025 Standring Court SW, Seattle, WA, 98146. John Wheeler, Secretary and General Manager, Mitchell International Enterprises (same address as applicant). The daily operations will be managed by John Wheeler, whose business address is (same as applicant). Applicant is affiliated with the following shipper or warehouse: None.

Permanent Ex-Water Authority Decision-Notices

Decided: May 9, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the **Federal Register** publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlton, Joyce, and Jones.

MC 150373F, filed March 19, 1980. Applicant: GUY H. DONALD, JR., d.b.a. CONTAINER TRANSPORT CO., 3410 Edgewood Ave., Jacksonville, FL 32205. Representative Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of Jacksonville, FL, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Jacksonville, FL.)

Permanent Authority Notces Substitution Applications: Single-line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below, However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

MC 42828 (Sub-20F), filed February 26, 1980. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, VT 05641. Representative: William L. Rossi, P.O. Box 332, Barre, VT 05641. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *stone*, from Barre, Northfield, South Ryegate, Morrisville, and Groton, VT, to those points in the United States in an east of WI, IL, MO, OK, and TX. (Hearing site: Barre, VT.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

Permanent Authority Decisions; Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: May 8, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period

immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposal service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In thos proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell.

MC 35334 (Sub-85F), filed January 22, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Rockford, IL, and Milwaukee, WI, on the one hand, and, on the other, points in WI. (Hearing site: New York, NY, or Washington, DC.)

Note.—Applicant intends to tack the authority sought with its existing authority. The sole purpose of this application is to substitute single-line for joint-line operations.

MC 60430 (Sub-30F), filed November 16, 1979. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Wilkes-Barre, PA 18703. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Allentown, Bloomsburg, Easton, Reading and Scranton, PA, on the one hand, and, on the other, Camp Hill, Mechanicsburg, and Gettysburg, PA, and points in PA on and east of US Hwy 15. (Hearing site: Washington, DC.)

Note.—The purpose of this application is to substitute single-line for joint-line operations. Applicant intends to tack with its existing authority.

MC 69281 (Sub-51F), filed April 10, 1979. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, 698 Fairmount, Avenue Towson, MD 21204. Respresentative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. Authority sought to transport as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by Commission, commodities in bulk, and those requiring special equipment), (1) between Harrisbury, PA, and Indianapolis, IN, from Harrisburg over Interstate Hwy 76 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Indianapolis, and return over the same route, (2) between Jersey City, NJ, and Harrisburg, PA, from Jersey City over U.S. Hwy 1 to junction Interstate Hwy 78, then over Interstate Hwy 78 to Harrisburg, PA, and return over the same route, (3) between Jersey City, NJ, and Chicago, IL, from Jersey City over U.S. Hwy 1 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Chicago, and return over the same route, (4) between Baltimore, MD, and Indianapolis, IN, over Interstate Hwy 70, (5) between Baltimore, MD, and Chicago, IL, from Baltimore over Interstate Hwy 70 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Chicago, and return over the same route, (6) between Indianapolis, IN, and junction Interstate Hwys 65 and 90 at or near Gary, IN, over Interstate Hwy 65, (7) between Indianapolis, IN, and St. Louis, MO, from Indianapolis over Interstate Hwy 70 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving points in IA, IL, IN, KS, KY, MI, MN, MO, OH, OK, TX, and WI, as intermediate and off-route points.(Hearing site: Washington, DC.)

Note.—Applicant intends to tack with existing authority at Baltimore, MD, Jersey City, NJ, and Harrisburg, PA. The purpose of this application is to substitute single-line for joint-line operations.

MC 115092 (Sub-104F), filed January 10, 1980. Applicant: THOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Respresentative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Cettificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), and *canned goods* from Boulder, Brighton, Denver, Englewood, Fort Morgan, Loveland and Sterling, CO to points in AZ and CA. The sole purpose of this application is to substitute single line for joint-line operations. (Hearing site: Salt Lake City, UT.)

MC 138322 (Sub-21F), filed February 5, 1980. Applicant: BHY TRUCKING, INC., 9231 Whitmore Street, El Monte, CA 91733. Representative: Robert Fuller, 13215 East Penn Street, Suite 310, Whittier, CA 90602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, automobiles, liquors, cigarettes, cotton, lumber, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring refrigeration or tank truck equipment, and commodities dealt in by grocery and department stores), between Los Angeles and El Monte, CA, on the one hand, and, on the other, points in AZ, CA and TX. (Hearing site: Los Angeles, CA.)

Note.—The sole purpose of this application is to substitute singleline for joint-line operations. Applicant intends to tack the authority sought with its existing authority.

Irregular-Route Motor Common Carriers of Property; Elimination of Gateway Applications

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)) and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before *30 days from publication*. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530). A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

MC 113666 (Sub-97G), filed December 31, 1979, and previously noticed in the **Federal Register** issue of April 15, 1980. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: William H. Shawn, 1730 M Street NW., suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foriegn commerce, over irregular routes, transporting *refractory products* (except in bulk), (1) from points in PA, to points in NY, MI, IL, IN, OH, MD, NJ, and WV, (2) from points in OH, to points in IN, IL, OH, NY, NJ, MI, PA, and MD, (3) from points in KY, to points in PA, IL, IN, OH, MD, WV, NJ, MI, and NY, (4) from points in MO, to points in MI, WV, OH, IL, and IN, and (5) from points in WV, to points in NY, MI, NJ, IL, IN, OH, MD, and PA, restricted against the transportation (1) of refractory products from Clearfield, PA, and points within 25 miles thereof, and from Clymer, Mt. Union, and Womelsdorf, PA; (2) of materials and supplies used in the installation of refractory products when transported in mixed shipments with refractory products from Clearfield, PA, and points within 25 miles thereof, and from Mt. Union and Womelsdorf, PA; and (3) of brick, structural tile, and crude clay (in bulk), from Clearfield, PA, and points within 25 miles thereof. The purpose of this filing is to eliminate the gateways of Detroit, MI and Buffalo, NY. (Hearing site: Washington, DC.)

Note.—This republication is to include the above restriction which was previously omitted and to correct the territorial description in part (3) of this proceeding.

Irregular-Route Motor Common Carriers of Property; Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 6, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 124211 (Sub-F102), filed August 22, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) from points in NE on, south and east of a line beginning at the IA–NE State line, thence over US Hwy 30 to junction NE Hwy 15, thence over NE Hwy 15 to the KS–NE State line (except from points in Douglas and Washington Counties, NE), to points in Clay and Union Counties, SD (Points in Saunders County, NE*), (b) from points in NE on and south of US Hwy 6, to points in SD on, east and north of a line beginning at the MN–SD State line, thence over US Hwy 16 to junction US Hwy 81, thence over US Hwy 81 to junction US Hwy 14, thence over US Hwy 14 to junction US Hwy 281, thence over US Hwy 281 to the ND–SD State line (points in Saunders County, NE*), (c) from points in NE on and south of US Hwy 30, to points in SD on and east of US Hwy 77 and on and north of US Hwy 18 (points in Saunders County, NE*). (Gateway eliminated: asterisked.)

No. MC–22254 (Sub-E2) (correction) filed May 14, 1974, published in the **Federal Register** August 29, 1979, corrected November 27, 1979, and republished this issue. Applicant: TRANS-AMERICAN VAN SERVICE, INC., P.O. Box 12608, Fort Worth, TX 76116. Representative: Elliott Bunce, suite 618, Perpetual Building, Washington, DC 20004. Two

typographical errors were reflected in the November 27, 1979, publication. Page 67798, third column, line 43, UT–NV should read UT–WY. Page 67799, column 3, line 45, Oswego should read Owego.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15697 Filed 5-23-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 80-3]

Gilbert Miller, M.D., Roslyn, N.Y.; Hearing

Notice is hereby given that on January 18, 1980, the Drug Enforcement Administration, Department of Justice issued to Gilbert Miller, M.D., Roslyn, New York, an Order To Show Cause as to why the Drug Enforcement Administration should not deny the application executed by Respondent on January 22, 1979 to possess, dispense, and distribute Schedule IIN, III, IIIN and IV controlled substances under Section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, June 3, 1980, in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C.

Dated: May 20, 1980.

William G. Fink,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-15698 Filed 5-23-80; 8:45 am]

BILLING CODE 4410-09-M

Personnel Instruction to Implement the Federal Employees Part-time Career Employment Act of 1978

AGENCY: Department of Justice.

ACTION: Proposed Departmental order.

SUMMARY: The Attorney General proposes to issue a Departmental Order to implement the Federal Employees Part-Time Career Employment Act of 1978 (the Act). This Order, which is required by the Act, would establish a continuing program to expand part-time career employment opportunities within all components of the Department of Justice except the Federal Bureau of Investigation.

DATE: Comments must be received on or before July 28, 1980.

ADDRESS: Comments to Warren Oser, Director, Personnel and Training Staff, Office of the Assistant Attorney General for Administration, Department of Justice, Room 1619, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Mary S. Moore, Staffing Group, Personnel and Training Staff, Department of Justice, Room 1629, 10th and Pennsylvania Avenue NW, Washington, D.C. 20530. Phone: 202–633–3351.

SUPPLEMENTARY INFORMATION: Section 3(a) of the Federal Employees Part-time Career Employment Act of 1978 (the Act), 5 U.S.C. 3402, as amended, requires the head of each agency to "establish and maintain a program for part-time career employment" within his or her agency. Before such procedures are prescribed, they must be published in the **Federal Register**, and interested parties must be given the opportunity to comment. (See 5 U.S.C. 3406). These proposed procedures are being published for comment as required, and comments of all interested parties are invited. When final procedures are adopted, they will be promulgated as a Departmental Order in the Department of Justice Administrative Directive System. They will be internal personnel procedures and will not be codified in the Code of Regulations.

These proposed procedures comply with the requirements of 5 CFR Parts 340 and 890 and any final procedures must also comply with those requirements.

Dated: May 13, 1980.

Warren Oser,

Director, Personnel and Training Staff.

Accordingly, the Attorney General proposes, by the authority vested in him by 5 U.S.C. 301, 510, and 3402(a), to adopt the following Departmental Order to implement the Federal Employees Part-time Employment Act of 1978:

Table of Contents

Chapter 1. General Provisions.
1. Policy.
2. Authority.
3. Definitions.
4. Exceptions.
Chapter 2. Program Implementation.
5. Responsibilities.
6. Part-time Employment Goals and Timetables.
7. Reporting Requirements
Chapter 3. Part-Time Employment Practices.
8. Vacancy Position Review.
9. Establishment and Conversion of Part-time Career Positions.
10. Notifying the Public of Part-time Vacancies.
11. Program Review and Evaluation.
Appendix 1. Effects of Converting To Regularly Scheduled Part-Time Work.

Foreward

1. *Purpose.* This Order implements the Federal Employees Part-time Career Employment Act of 1978, 5 U.S.C. 3401 et. seq., by establishing a continuing program in the Department of Justice to provide career part-time employment opportunities.

2. *Scope.* The provisions of this Order apply to all organizational elements of the Department except the Federal Bureau of Investigation.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Chapter 1—General Provisions

1. *Policy.* It is the policy of the Department of Justice to provide career part-time employment opportunities in positions through GS–15 or equivalent subject to agency resources and mission requirements. This policy recognizes the desirability of making maximum use of available human resources, including those qualified individuals who are available for part-time employment, and represents an opportunity to acquire talented workers who might otherwise not be available to the Department. Selections of part-time employees shall be made without regard to religion, race, color, national origin, marital status, sex, age, nondisqualifying physical handicap, political or labor organization affiliation, or personal favoritism.

2. *Authority.* The Federal Employees Part-Time Career Employment Act of 1978, as incorporated into Title 5, Code of Federal Regulations, Parts 340 and 890 as amended, narrows the definition of part-time career employment in the Federal Government from schedules of work less than 40 hours per week to regularly scheduled work of from 16 to 32 hours per week performed by individuals who are serving under competitive or excepted appointments in tenure groups I or II and who became employed on such a part-time basis on or after April 8, 1979. See Office of Personnel Management regulation 340.210 for a definition of these tenure groups.

The provisions of this Order should be used with the following: Pub. L. 95–437; 5 CFR Parts 340 and 890; FPM Bulletin 340–1; FPM Letter 890–22.

3. *Definitions.* As used in this Order, the following definitions will apply:

a. *Full-Time Employment.* Employment with work of 8 hours a day and 40 hours a week within an administrative work week.

b. *Part-time Employment.* Regularly scheduled work of from 16 to 32 hours per week performed by individuals serving under competitive or excepted appointments in tenure groups I and II.

c. *Bureau.* For the purpose of this Order, the term "Bureau" refers to the Bureau of Prisons, the Immigration and Naturalization Service, the Drug Enforcement Administration, the United States Marshals Service, the law Enforcement Assistance Administration, the Executive Office for U.S. Attorneys, and collectively to the Offices, Boards, and Divisions, including the Community Relations Service, U.S. Parole Commission, and the Administrative Office for U.S. Trustees.

4. *Exceptions.* a. Employees with permanent appointments who were appointed on a part-time basis on or after April 8, 1979, are limited to work schedules not exceeding 32 hours per week. This prohibition does not apply to career part-time employees who were working on a permanent part-time basis on the effective date of the Act (April 8, 1979) so long as they continue to work on a part-time basis, do not have a break in service of more than three days, or leave their part-time schedule on other than a temporary basis.

b. In addition, the following positions are excluded from this Order by law:

(1) Positions located in the Federal Bureau of Investigation,

(2) Positions classified above GS–15 or equivalent,

(3) Positions where a collective bargaining agreement establishes the number of hours of employment per week,

(4) Positions which are temporary or intermittent, and

(5) Positions which are filled with career-seasonal employees who work under "mixed" tours of duty (i.e., varying periods of full-time, part-time, and intermittent service).

c. In order to carry out the mission of the Department, the following positions are also excluded from this Order:

(1) Law enforcement officers as defined in 5 USC 8331 (20), and

(2) Other positions in the Department which meet the criteria for administratively uncontrollable overtime, as set forth in DOJ Order 1551.4A.

d. The Attorney General, or designee, may authorize such additional exceptions as may be necessary for the Department to carry out its mission. However, in no cases will exceptions be authorized to permit regular tours of duty of 33 to 39 hours per week for part-time employees. (This in no way restricts the increase of a permanent part-time employee's actual hours of work above 32 hours per week for limited periods to meet heavy workloads, or provide for employee training, etc.)

e. Employment of part-time staff for less than 16 hours per week may be permitted when absolutely necessary to carry out the Department's mission.

Chapter 2.—Program Implementation

5. *Responsibilities.* a. *Assistant Attorney General for Administration.* The Assistant Attorney General for Administration provides overall program direction and leadership, establishes Department-wide policies and requirements, and designates a Part-time Career Employment Program Coordinator to give guidance and assistance to Department components in developing part-time career employment programs, and to maintain liaison with the Office of Personnel Management.

b. *Heads of Bureaus.* Heads of Bureaus are responsible for the proper administration of a part-time employment program within their respective organizations. In this regard, each shall ensure that:

(1) A systematic annual review is conducted at the end of each fiscal year with the purpose of establishing annual goals for part-time employment, and a timetable setting forth interim and final deadlines for achieving such goals.

(2) Implementing instructions are established governing the procedures and criteria to be used in connection with establishing or converting positions for part-time employment.

(3) A continuing review and evaluation of their part-time employment program is established under such instructions to monitor progress in expanding career part-time employment opportunities.

(4) Managers, supervisors, and employees under their jurisdiction are adequately informed of their rights and responsibilities under such instructions.

(5) Part-time employment activities are supportive of other special emphasis programs.

c. *Departmental Coordinator.* The Director, Personnel and Training Staff, Justice Management Division, is hereby designated as the Departmental Part-time Employment Coordinator. The Departmental Coordinator or his/her designee shall ensure that:

(1) Departmental regulations are issued and effectively implemented.

(2) Bureau level instructions implementing the basic provisions of this Order are in conformance with current laws, applicable Office of Personnel Management regulations, and the requirements of this Order.

(3) Goals and timetables developed by the bureaus within the Department are reviewed and monitored to assure progress in expanding part-time employment opportunities within the Department.

(4) Regular input from the Departmental Equal Employment Opportunity Staff is obtained in order to assure that specific needs for providing employment opportunities for minorities and women are addressed, and to assess the effect of the Departmental Part-time Employment Program on employment patterns and occupational concentration of minorities and women.

(5) Liaison is maintained with groups interested in promoting part-time employment opportunities, e.g., EEO, Fededral Women's Program officials, the Handicapped Program Coordinator, representatives of employee organizations, etc.

(6) Consolidated Departmental reports on part-time employment are prepared for transmittal to the Office of Personnel Management.

(7) Bureau requests for advice and assistance on part-time employment have a proper response.

d. *Bureau Coordinators.* Personnel Officers within each bureau are hereby designated as Part-time Employment Coordinators with the responsibility for representing the heads of their respective organizations in the administration of the part-time employment program. The Bureau Coordinators' or their designees' responsibilities include the following:

(1) Overseeing development and implementation of part-time employment goals and timetables, coordinating with budget and ceiling control staffs, if necessary.

(2) Obtaining regular input from bureau officials of the Equal Employment Opportunity, Federal Women's and Hispanic Employment Programs to assure that goals and timetables address specific needs for providing employment opportunities for minorities and women, and to assess the effect of the bureau Part-time Employment Program on employment patterns and occupational concentration of minorities and women.

(3) Consulting on the bureau Part-time Employment Program with interested parties in special interest areas (e.g. employment of the handicapped, employment of veterans, and upward mobility) and with representatives of employee organizations, etc.

(4) Responding to requests for advice and assistance on part-time employment

for transmittal to the Departmental Coordinator.

(5) Maintaining bureau liaison with groups promoting part-time employment opportunities.

(6) Preparing reports on part-time employment for transmittal to the Departmental Coordinator.

(7) Monitoring progress in expanding part-time employment opportunities.

(8) Insuring that bureau managers, supervisors, and employees are kept informed on all aspects of the Part-time Employment Program which affect them.

6. Part-time Employment Goals and Timetables. a. Each bureau shall set annual nationwide goals for both establishing and converting positions for part-time career employment including a timetable with interim and final deadlines for achieving such goals. Goals for each fiscal year (beginning with fiscal year 1980) must be established and reported to the Departmental Coordinator by the end of the preceding fiscal year. Separate goals shall be established for newly established part-time career positions and conversion of full-time career positions to part-time career positions.

b. In establishing goals and timetables, bureaus are required to consider such criteria as:

(1) Agency mission and occupational mix;

(2) Workload fluctuations;

(3) Size of workforce, turnover rate, or employment trends;

(4) Affirmative action;

(5) Past experience with part-time employment (to include analysis of current part-time employment utilization);

(6) Patterns of overtime utilization;

(7) Potential for improving service to the public; and

(8) Personnel ceiling allowances and fiscal constraints.

7. *Reporting Requirements.* a. *Office of Personnel Management Reporting Requirements.* The Department is required to report twice each year to the Office of Personnel Management on progress in meeting part-time career employment goals, together with an explanation of impediments experienced in meeting such goals and measures taken to overcome them. These reports will be based on data as of March 31 and September 30 of each year, and they must be sent to the Office of Personnel Management by May 15 and November 15 respectively. The report to the Office of Personnel Management will be made by the Assistant Attorney General for Administration or his/her designee, and will be based on information provided by the bureaus.

b. *Department of Justice Reporting Requirements.* Bureau officials will send to the Director, Personnel and Training Staff, by May 1 and November 1 of each year, a statistical and narrative report showing for their respective organizations the following:

(1) Goals and timetables that were established.

(2) Progress toward meeting the goals.

(3) To the extent practicable, information concerning part-time career employment offers made during the period covered by the report to older individuals, handicapped individuals, or others who required a reduced workweek, persons with family responsibilities, or students.

(4) An explanation of any impediments in meeting goals or in otherwise carrying out the provisions of this instruction, together with a statement of the measures taken to overcome such impediments.

c. A Part-time Career Employment Report will be prepared by the Systems Operations Staff, Justice Management Division, on a quarterly basis for use in monitoring progress.

Chapter 3—Part-Time Employment Practices

8. *Vacancy Position Review.* Bureaus are required to establish procedures providing for all vacant positions covered by the Program to be reviewed for the feasibility of being filled on a part-time career employment basis. This review shall include consideration of criteria such as those used to establish goals and timetables.

9. *Establishment and Conversion of Part-Time Career Positions.* a. Bureaus are required to establish a sufficient number of new or converted part-time career positions to meet their established goals.

b. Bureaus which have not already done so shall develop procedures to permit employees to request and receive consideration to change from full-time to part-time schedules. Opportunities to voluntarily change from full-time to part-time employment shall be given to employees whenever feasible. However, no full-time employee shall be required to accept part-time employment as a condition of continued employment.

c. Bureaus shall not abolish any full-time position occupied by an employee for the sole purpose of making the duties of the position available to be performed on a part-time career employment basis.

10. *Notifying the Public of Part-Time Vacanices.* Bureaus shall develop procedures for notifying the public of vacant part-time positions. Generally, this will be done through vacancy announcements. As appropriate, vacancy listings, recruiting bulletins, or Federal job information announcements may also be used. In some cases, it will be desirable to publicize part-time opportunities by contacting schools and colleges, through professional journals or associations, or by contacting organizations having members who may want to work on a part-time basis.

11. *Program Review and Evaluation.* Review and evaluation of the Part-time Career Employment Program will be included in the periodic personnel management evaluation conducted by the Office of the Director, Personnel and Training. Evaluation will be based on evidence of such factors as:

a. Review of positions to identify functions suitable for part-time career work;

b. Issuance of internal policy statements and publications in support of part-time career employment.

c. Recruitment efforts made to employ part-time workers;

d. Increase in part-time career employment through conversions from full-time to part-time;

e. Increase in part-time career employment through new hires; and

f. Degree of achievement of affirmative action goals through part-time career employment.

Appendix 1.—Effects of Converting to Regularly Scheduled Part-Time Work

1. *Tenure.* There is no effect on protection against removal during or after the probationary or trial period. Probationary periods, trial periods and service requirements for career tenure (if the employee is in the competitive service) are computed on the basis of calendar time, the same as full-time employment. The Service Computation Date (SED) is undisturbed by part-time work. Since part-time employment constitutes a separate competitive level from full-time employment, part-time employees compete only with other part-time employees during a Reduction in Force (RIF).

2. *Earnings.* The rate of pay is dictated by the time schedule to work. Waiting periods for within-grade increases or eligibility for promotion are not affected; they are based on CALENDAR weeks of creditable service.

3. *Crediting Experience for Promotion Weights and Factors.* Part-time experience is credited on a pro-rata basis according to the relation it bears to a full workweek.

4. *Overtime.* Under the Fair Labor Standards Act, overtime begins after having completed 40 hours of work within a given workweek (excluding holidays and paid leave), regardless of how many hours an employee works within a given workday.

5. *Leave.* Annual leave is earned on a pro-rata basis at the rate determined by years of service. Maximum carryover at the end of a leave year remains the same. Sick leave is earned at the rate of one hour for every 20 hours in pay status. No leave (annual or sick) is earned for hours worked in excess of 80 in a pay period. Part-time employees are NOT eligible for military leave.

Other leave categories (e.g., Absence Without Leave, Leave Without Pay. Court Leave, Funeral, Excused Absences) are not affected. For all categories of leave to which part-time employees are eligible, leave is charged only for absences during those hours the employee is scheduled to work.

6. *Holidays.* Holiday pay is received only if an employee is regularly scheduled to work on that day, and only for those hours an employee is regularly scheduled to work.

7. *Life Insurance Coverage.* The amount of insurance carried will automatically decrease whenever an employee's annual pay rate is decreased by an amount sufficient to lower pay to a difference $1,000 bracket (except that it cannot be lower than a $10,000 minimum insurance amount).

8. *Health Insurance Coverage.* Any employee whose employee status is changed, without a break in service, from full-time to part-time of 16 to 32 hours a week, and who is enrolled in a plan under the Federal Employees Health Benefits Program, may change his/her enrollment from one plan or option to another within 31 days from the effective date of the change in employment status. This change will affect the amount the government ordinarily contributes to the cost of health insurance coverage. These employees will receive a prorated contribution in an amount which is in direct proportion to the percentage of full-time service they regularly perform.

9. *Retirement Date Eligibility.* There is no effect on retirement date eligibility. Service is credited by calendar days.

10. *Retirement Annuity.* The computation is based on the highest average annual basic pay for any three consecutive years. Therefore, if years of part-time service are among the high three, annuity will be affected to the extent earnings were limited in those years.

[FR Doc. 80-16000 Filed 5-23-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Memoranda of Agreement Between the Occupational Safety and Health Administration and the Small Business Administration

AGENCY: Occupational Safety & Health administration and Small Business Administration.

ACTION: Memoranda of Agreement: (1) Regarding Resolution of Small Business Problems; (2) Regarding Flexibility in Rulemaking.

SUMMARY: The memorandum of agreement on resolution of small business problems in complying with OSHA regulations provides for cooperation between the two agencies towards solutions of these problems, with the SBA Chief Counsel for advocacy and the OSHA Special Assistant for Small Business responsible for coordinating these activities.

The memorandum of agreement on flexibility in rulemaking provides for interagency cooperation in promoting greater and more meaningful small business participation in the OSHA rulemaking process wherever possible in order to assure that any new rules and regulations issued by OSHA will be applied whenever possible in a flexible manner, taking into account the size and nature of the regulated businesses while fulfilling missions of the OSH Act of 1970 and the Small Business Act of 1958.

FOR FURTHER INFORMATION CONTACT: S. Kay Klatt, Special Assistant for Small Business, Occupational Safety & Health administration, U.S. Department of Labor, Rm. N3635, 200 Constitution Avenue NW., Washington D.C. 20210.

SUPPLEMENTARY INFORMATION: Smaller businesses have since OSHA's inception found it more difficult to comply with safety and health regulations than have their larger counterparts. It is OSHA's purpose to protect worker safety and health, not to create heavy burdens for the small business sector. Some of the burdens of compliance can be lessened or eliminated by flexibility in applying regulations and special attention to the unique problems of small businesses withouty compromising the mission of the OSH Act. The memoranda of agreement are set forth below.

Signed at Washington, D.C. this 16th day of May 1980.

Eula Bingham,

Assistant Secretary of Labor for Occupational Safety & Health.

Memorandum of Agreement Regarding Resolution of Small Business Problems Between the Occupational Safety and Health Administration and the Small Business Administration

Background

SBA makes available to small businesses financial, management, and technical assistance. The Office of the Chief Counsel for Advocacy is the focal point in the Small Business Administration (SBA) for aiding and counseling small businesses regarding policies and activities of Federal agencies as they affect small business.

The Occupational Safety and Health Administration (OSHA) is charged with the mission of providing a safe work place for employees and employers.

OSHA regulations affect many small employers. Small businesses' difficulties in complying with OSHA regulations are of interest to OSHA, the SBA and its Chief Counsel for Advocacy of small business.

Purpose

Purpose of this Memorandum of Agreement is the creation of procedures by which OSHA and the Small Business Administration (SBA) can cooperatively respond to problems experienced by small businesses in matters relating to both agencies.

Interagency Cooperation

The Special Assistant for Small Business on OSHA, and the Chief Counsel for Advocacy in SBA will be responsible for the coordination of activities under this Agreement at the national level.

Reponsibilites

SBA The SBA Administrator agrees to direct the SBA field and national office staffs to refer to the Chief Counsel for Advocacy all problems coming to their attention that involve small business relations with OSHA and SBA.

The Chief Counsel for Advocacy will provide staff resources to address these problems and to facilitate their speedy resolutions where possible.

OSHA The Assistant Secretary of the Department of Labor for Occupational Safety and Health agrees to direct the OSHA field and national office staffs to refer to the Special Assistant for Small Business all problems coming to their attention that involve both OSHA and SBA.

The Assistant Secretary agrees to provide resources within OSHA to address these problems and to facilitate their speedy resolution wherever possible.

Executed this 10th day of April 1980.

Eula Bingham,

Assistant Secretary of the Department of Labor for Occupational Safety and Health.

A. Vernon Weaver,

Administrator of the Small Business Administration.

Memorandum of Agreement Regarding Flexibility in Rulemaking Between the Occupational Safety and Health Administration and the Small Business Administration

1. *Purpose*

The purposes of this Memorandum of Agreement, agreed to by the Occupational Safety and Health Administration (OSHA) and the U.S. Small Business Administration (SBA) are:

(a) To assure that any new rules and regulations issued by OSHA will be applied whenever possible in a flexible manner, taking into account the size and nature of the regulated businesses while fulfilling missions of the Occupational Safety and Health Act of 1970 and the Small Business Act of 1958.

(b) To establish a program by means of which OSHA and SBA can work cooperatively to carry out the provisions of paragraph (a), thus providing the positive means of conveying to OSHA in connection with its standards-setting responsibilities, the special concerns and unique circumstances of small business.

2. *Interagency Coordination*

The Special Assistant for Small Business in OHSA and the Chief Counsel for Advocacy in SBA will be responsible for the coordination and implementation of activities under this Agreement.

3. *Implementation*

OSHA and the SBA, through its Chief Counsel for Advocacy, intend to promote flexibility in OSHA rule making by:

(a) Gathering and disseminating data and information during the rulemaking process as early as possible.

(b) Identifying small businesses by type of industry and industrial classification that may potentially be affected by the rule.

(c) Providing potentially affected small businesses opportunities, including public hearings and conferences, to present information, data, or their concerns to OSHA as early as possible during the rule-making process.

(d) Providing the Office of Advocacy and small businesses identified as potentially affected an opportunity to present suggested alternatives to minimize the financial and technical burdens of the proposed rule on small businesses.

(e) Providing information on special characteristics of affected small businesses in order to facilitiate the designing of educational, training, consultative programs to assist small businesses in meeting objectives of the rules.

4. *Cooperative Program*

(a) As early as possible in the rule-making process for which a regulatory analysis is being performed under the requirements of Executive Order 12044, or under the President's memorandum of November 16, 1979, OSHA will give notice to the Small Business Administration, through the Chief Counsel for Advocacy, of its intent to propose rules and guidelines and notice of data needed to implement flexible rule-making for small businesses.

(b) Upon such notice, the Chief Counsel for Advocacy will gather the requisite data from the small business community and transmit it to OSHA.

(c) The Chief Counsel for Advocacy will prepare analyses and recommendations on proposed rules. The Special Assistant for Small Business will consult with the Chief Counsel for Advocacy and small businesses on proposed rules and make appropriate recommendations to the Assistant Secretary.

(d) The Special Assistant for Small Business will also arrange for OSHA to furnish to any small business groups desiring to participate in OSHA rulemaking information of a technical nature that is necessary to a clear understanding of a rule, the rulemaking process or compliance with a rule.

Eula Bingham,

Assistant Secreary of the Department Labor for Occupational Safety and Health.

A. Vernon Weaver,

Administrator for the Small Business Administration.

Executed this 10th day of April 1980.

[FR Doc. 80-15945 Filed 5-23-80; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Full Committee Meeting and Subgroup Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet in Washington, D.C. on June 12 and 13, 1980. On Thursday, June 12, the meeting will begin at 9:00 a.m. in Room N-5437 of the Frances Perkins Department of Labor Building (formerly the New Department of Labor Building), Third Street and Constitution Avenue N.W., Washington, D.C. On Friday, June 13, 1980 the Committee will meet at 9:00 a.m. in Room 800 of the Hubert H. Humphrey Building of the Department of Health and Human Services, Third Street and Independence Avenue, S.W., Washington, D.C. The public is invited to attend these meetings.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health, Education and Welfare of matters relating to the administration of the Act.

The meeting agenda will include reports on NIOSH research efforts and initiatives and OISHA legal development and other activities.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request shoud include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210. Telephone 202-523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 20th day of May 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-15946 Filed 5-23-80; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (Media Art Centers); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Media Air Centers) to the National Council on the Arts will be held June 16, 1980 from 9:00 a.m.-5:30 p.m., and June 17, 1980 from 9:00 a.m.-5:30 p.m., in Room 1422 (June 16) and the 12th Floor Screening Room (June 17), Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

May 20, 1980.

[FR Doc. 80-15971 Filed 5-23-80; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

May 21, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Economics, Statistics, and Cooperatives Service
Performance of cooperatives and selected proprietary firms
Other (see SF-83)
Selected cooperatives and proprietary firms, 440 responses; 550 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
1980 IRS taxpayer resident questions
Single time
Tax filers, 94,896,000 responses; 1,581,600 hours
William T. Adams, 395-4814

Bureau of the Census
1980 census education project evaluation survey
S530, S531
Single time
Principals and teachers, 2,000 responses; 166 hours
William T. Adams, 395-4814

Industry and Trade Administration
Rubber tire building machinery
ITA-9030
Single time
Manufacturers of rubber tire building machinery, 45 responses; 45 hours
William T. Adams, 395-4814

Revisions

National Oceanic and Atmospheric Administration
Stone crab (amendment to commercial fisheries logbook family of forms)
NOAA 88-176 & 153
Monthly

Captains of fishing craft, 223,370 responses; 8,577 hours
William T. Adams, 395–4814

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633–9770

New Forms

RECS-housing unit record sheet and household questionnaire
EIA–457A, B
Annually
Households in United States, 11,000 responses; 11,183 hours
Jefferson B. Hill, 395–7340

RECS–quarterly survey of Fuel Oil Households
EIA–457D
Quarterly
Households in the United States, 7,200 responses; 1,800 hours
Jefferson B. Hill, 395–7340

RECS–Rental agent questionnaire
EIA–457C
Other (see SF–83)
Rental agents, 920 responses; 230 hours
Jefferson B. Hill, 395–7340

RECS–electric and gas utility, and fuel oil and LPG
Supplier forms
EIA–457E–H
Annually
Electric and gas utility fuel oil and LPG dealers, 1,200 responses; 10,270 hours
Jefferson B. HIll, 395–7340

Request for priority rating for energy programs
PR–437
On occasion
Anyone needing materials to complete energy projects, 100 responses; 200 hours
Jefferson B. Hill, 395–7340

Revisions

Report of underground natural gas storage
EIA–191
Other (see SF–83)
Intrastate natural gas storage companies, 672 responses; 2,688 hours
Jefferson B. Hill, 395–7340

Survey of fuel oil and motor gasoline dealers-retail, wholesale, and bulk stations
B–1156–1161 1161
Monthly
Fuel oil and motor gasoline dealers, 32,604 responses; 13,140 hours
Jefferson B. Hill, 395–7340

Request for assignment of a supplier and/or base period
ERA–99
On occasion
Wholesale purchasers bulk end-users of petroluem products, 40,000 responses; 320,000 hours
Jefferson B. Hill, 395–7340

Reinstatements

Epidemiology survey on magnetic effects on human health (questionnaire)
XBG–504–510
Single time
Individuals exposed to magnetic fields and control group, 2,200 responses; 540 hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency clearance officer—Joseph J. Strnad—245–7488

New Forms

National Institutes of Health
Health message testing service
Single time
Adult, male/female population, 8,840 responses; 2,210 hours
Richard Eisinger, 395–6880

National Institutes of Health
Audiovisual evaluation form
Other (see SF–83)
U.S. health professionals who borrow audiovisuals from NMAC, 18,000 responses; 900 hours
Richard Eisinger, 395–6880

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

Reinstatements

Bureau of Land Management
Desert land entry assignment claim
2520–2
On occasion
Desert land entry applicants, 500 responses; 250 hours
Charles A. Ellett, 395–7340

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

New Forms

Employment and Training Administration
Extended benefit trigger rates without EB claims
ETA–RC32
Single time
State employment security agencies, 53 responses; 106 hours
Arnold Strasser, 395–6880

Revisions

Bureau of Labor Statistics
CPI rents
BLS 2921 B, C, D
Semi-annually
Households, 4,200 responses; 7,000 hours
Office of Federal Statistical Policy and Standard, 673–7974

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—566–1164

New Forms

Building service contractor work report
GSA 3430
Weekly
Description not furnished by agency, 28,080 responses; 14,040 hours
Kenneth B. Allen, 395–3785

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—357–7811

New Forms

Survey of chief officers—instruments industry
Single time
SCI instruments manufacturers, 1,443 responses; 1,082 hours
Office of Federal Statistical Policy and Standard, 673–7974

International scientific activity questionnaire
Single time
Participants in INT programs, 11,430 responses; 8,572 hours
Marsha D. Traynham, 395–7340

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—854–2596

Extensions

Prevailing wage for TVA construction work—data from local unions
3523
Annually
350 local unions, 50 contractors or contractor associations, 400 responses; 200 hours
Charles A. Ellett, 395–7340

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2146

Revisions

Notice of default
26–6850
On occasion
Lenders or holders, 90,000 responses; 15,000 hours
Laverne V. Collins, 395–6880

Extensions

Request for information from witness to accident of claimant veteran
FL21–806
On occasion
Witnesses, 13,200 responses; 4,400 hours
Laverne V. Collins, 395–6880

Reinstatements

Claim for payment of suspense of other credits due estate of deceased
veteran—National Service Life Insurance
29–4338
on occasion
Administrators or executors of estates, 1,000 responses; 167 hours
Laverne V. Collins, 395–6880

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–16001 Filed 5–23–80; 8:45 am]
BILLING CODE 3110–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Hearings on Possible Suspension of Concessions on Lead With Regard to Mexico

On October 31, 1979, pursuant to section 101(a)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2111(a)(1)), the United States entered into a trade agreement with the United Mexican States. The agreement, which contemplated Mexican accession to the General Agreement on Tariffs and trade (GATT), granted concessions on the following:

Litharge: Provided for in item 473.52 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202)
Red Lead: Provided for in TSUS item 473.56, and
Unwrought Lead: Provided for in TSUS items 624.02 and 624.03.

The United States implemented the concessions in Presidential Proclamation 4707 of December 11, 1979. On March 18, 1980, the President of the United Mexican States announced that Mexico would not accede to the GATT, contrary to the expectations on which the October 31, 1979 trade agreement was based. Negotiations between the United States and Mexico may be conducted on the question of compensation.

Section 125(d) of the Trade Act (19 U.S.C. 2135(d)) would authorize the withdrawal, suspension or modification of the application of trade agreement obligations, such as those granted on the above listed items, which benefit a foreign country which withdraws, suspends, or modifies the application of a trade agreement obligation of benefit to the United States without granting adequate compensation. The section allows an increase in duties, as appropriate, to effect adequate compensation.

The Trade Policy Staff Committee (TPSC) is considering recommending to the President that the concessions on the above listed products be suspended with respect to Mexico, on or about June 20, 1980. In accordance with the requirements of section 125(f) of the Trade Act (19 U.S.C. 2135(f)), the TPSC will conduct a public hearing giving interested persons an opportunity to produce evidence and to comment on the proposed suspension of concessions. The hearing will be held at 10:00 a.m. on June 12, 1980, at the Office of the United States Trade Representative, 1800 G Street, NW., Room 730, Washington, D.C.

Parties wishing to present evidence or to make comments at the hearing should submit their request for inclusion on the agenda along with 20 copies of their statement to Carolyn Frank, Secretary of the Trade Policy Staff Committee, Room 735, 1800 G Street, NW., Washington, D.C. 20506, no later than June 6, 1980. Parties wishing to submit written comments should send 20 copies of their comments to the Secretary at the above address no later than June 13, 1980.

For further information, call Jon Rosenbaum (202) 395–6971.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80–15981 Filed 5–23–80; 8:45 am]
BILLING CODE 3190–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1980, shall be at the rate of twelve and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1980, 20.3 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 79.7 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Acccount.

Dated: May 15, 1980.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80–15940 Filed 5–23–80; 8:45 am]
BILLING CODE 7905–01–M

SMALL BUSINESS ADMINISTRATION

Memoranda of Agreement Between the Occupational Safety and Health Administration and the Small Business Administration

Cross Reference: For a document stating the Memoranda of Agreement regarding the resolution of small business problems and the flexibility in rulemaking, see FR Doc. 80–15945 appearing in the Notices Section of this issue under the Occupational Safety and Health Administration, Department of Labor.

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80–061]

Delegation of Authority To Determine Unsafe Voyages

ACTION: Notice of Redelegation.

EFFECTIVE DATE: May 20, 1980.

This notice announces that the Commander, 7th Coast Guard District has been authorized to redelegate authority contained in 33 CFR 1.05–1(d) to Commanding Officers of Coast Guard units under his operational command, in connection with voyages relating to the Cuban refugee exodus.

The redelegation has become imperative due to the unsafe conditions observed recently as a large flotilla of vessels of various types, in widely differing degrees of seaworthiness, have been engaged in transporting refugees from Cuba to the United States.

This allows those Commanding Officers to whom the Commander 7th Coast Guard District has redelegated this authority to take necessary action on the scene to prevent manifestly unsafe voyages.

Dated: May 21, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80–16043 Filed 5–23–80; 8:45 am]
BILLING CODE 4910–14–M

[CGD 80-034]

Notification of LORAN-C Overprint Chart Requirement

SUMMARY: This notice is published to ensure that operators of vessels of 10,000 gross tons or more that apt to use LORAN-C receivers in accordance with 33 CFR 164.41 are aware of the related requirement under 33 CFR 164.33 to carry the most current charts with LORAN-C overprints.

FOR FURTHER INFORMATION CONTACT: Mr. Laurence E. Stephey, Office of Marine Environment and Systems (G-WWM-2), Room 1608, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593, (202) 426-4958.

DISCUSSION: On June 1, 1980, pursuant to 33 CFR 164.41 all vessels of 10,000 gross tons or more calling at ports in the continental U.S., including Alaska south of Cape Prince of Wales, must carry an electronic position fixing device. Tank vessels of 10,000 gross tons or more have been required to carry these devices since June 1, 1979. LORAN-C receivers are among the devices that may be used to comply with the requirement.

Some LORAN-C receivers however, have a coordinate conversion capability that displays the vessel's position in terms of latitude and longitude. These receivers convert incoming LORAN-C signals into geographic coordinates based on theoretical over water radio propagation. The retardation of LORAN-C signals caused by the overland path of radio waves is not reflected by these receivers. Failure to account for these retarded signals will produce errors in position fixing. These same errors will occur by using the Defense Mapping Agency's LORAN-C tables as they similarly do not compensate for over-land signal retardation.

LORAN-C lines on the most current charts (with LORAN-C overprints) are adjusted to provide for over-land radio wave retardation with the necessary degree of accuracy for those vessels operating within the U.S. coastal confluence zone. For this reason, 33 CFR 164.41 requires vessels to have LORAN-C receivers that read out in Time Differences and 33 CFR 164.33 requires vessels to carry charts that are the most recently published and available for the area and currently corrected. Therefore, those vessels that utilize a LORAN-C receiver to comply with § 164.41 must also carry the most current charts with LORAN-C overprints.

Dated: May 15, 1980.

K. G. Wiman,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 80-16028 Filed 5-23-80; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held on June 17, 18, and 19, 1980.

The meetings will start at 9:00 a.m., on all three days. The full committee will be in session on the first day to review and vote on several major reports. They are: 55 mph national speed limit; future vehicle mix problems and countermeasures; driver, highway, vehicle compatibility issues; and emergency medical services, feasibility of "third service" concept.

The second day will be devoted to individual Task Force meetings (to finish up this session's business). On June 19, the full Committee will present the reports that have been approved to Secretary Goldschmidt.

All meetings will be held in the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C. in room 2230. Attendance is open to the interested public, but limited to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on May 19, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80-15824 Filed 5-23-80; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Information Security Policy; Directives Concerning the Classification, Declassification and Control of National Security Information

AGENCY: Department of Transportation.

ACTION: Notice of directives concerning information security policy.

SUMMARY: The Department of Transportation is required by Section 5-402 of Executive Order 12065 of June 28, 1978, to publish in the **Federal Register** unclassified regulations that establish agency security policy and unclassified guidelines for systematic declassification review. Department of Transportation (DOT) Orders 1640.3C and 1640.4B constitute these regulations and guidelines. This notice publishes the directives, except for those portions that do not significantly affect the public. The directives are unclassified and are available for inspection in their entirety at the address below.

FOR FURTHER INFORMATION CONTACT: David A. Grand, Acting Director of Security, Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, Room 10401. The telephone number for this office is (202) 426-4677. The office is open from Monday thru Friday, 9:00 a.m. to 5:30 p.m., e.t.

Issued in Washington, D.C., on May 9, 1980.

Neil Goldschmidt,

Secretary of Transportation.

[DOT 1640.3C]

National Security Information

November 21, 1979.

1. *Purpose.* This Order provides for implementing Executive Order 12065, National Security Information.

2. *Cancellation.* DOT 1640.3B, National Security Information, of 8-22-79.

3. *Background.*

a. On June 28, 1978, the President issued Executive Order (E.O.) 12065 and revoked E.O. 11652, as amended, Classification and Declassification of National Security Information and Material.

b. The objective of the new Order is to increase openness in government by limiting classification and accelerating declassification. At the same time, it provides for the protection of legitimate national security secrets.

c. The National Security Council provides overall policy direction for the national security information program. An Information Security Oversight Office was established with responsibility to oversee agency actions to ensure compliance with the Order and to promulgate with the approval of the National Security Council, directives for the implementation of the Order.

4. *Authority for Original Classification of Information*

a. E.O. 12065 confers upon the Secretary of Transportation the authority to originally classify information as Secret and Confidential with further authorization to delegate this authority. (No official of the Department of Transportation (DOT) has authority to originally classify information as Top Secret.)

b. The following delegations of authority, which may not be redelegated, are hereby made:

(1) *Office of the Secretary (OST).* The Director of Investigations and Security.

(2) *U.S. Coast Guard (USCG).* The Commandant; Chief, Office of Operations.

(3) *Federal Aviation Administration (FAA).* The Administrator, Director of Investigations and Security.

c. At such time as Defense Readiness Condition Number Two or higher emergency condition may be declared, authority to originally classify information as Secret and Confidential is automatically delegated to the officials named below. This authority, which may not be redelegated, is automatically cancelled when Defense Readiness Condition Number Three or lower emergency level is declared.

(1) *OST.* Deputy Secretary; Assistant Secretary for Policy and International Affairs; Assistant Secretary for Administration.

(2) USCG. Vice Commandant; Chief of Staff; Commander, Atlantic Area; Commander, Pacific Area; Commanders, Coast Guard Districts; Commander, Coast Guard Activities Europe; Chief, Intelligence and Security Division.

(3) *FAA.* Deputy Administrator; Directors, FAA Regions and Centers.

d. Although the delegations of authority are expressed above in terms of positions, the authority is personal and is vested only in the individual occupying the position. The authority may not be exercised "by direction of" a designated official. The formal appointment or assignment of an individual to one of the identified positions or a designation in writing to act in the absence of one of these officials, however, conveys the authority to originally classify information.

5. DOT Security Review Committee.

a. In accordance with the provisions of E.O. 12065, a DOT Security Review Committee is established and shall have authority to:

(1) act on all suggestions and complaints not otherwise resolved with respect to the Department's administration of E.O. 12065 and implementing directives, including those regarding overclassification, failure to declassify, or delay in declassifying, and

(2) act on appeals of requests for classification reviews, and appeals of requests for records under Section 552 of Title 5, U.S.C. (Freedom of Information Act) and E.O. 12065 when the initial denial was based on continued classification of the record.

b. The DOT Security Review Committee shall be composed of the Assistant Secretary for Administration who shall serve as Chairman, the General Counsel, and the Director of Investigations and Security. When matters affecting a particular operating element are at issue, the Associate Administrator for Administration of that operating element or the Chief of Staff for the U.S. Coast Guard shall participate as an ad hoc member, together with the Chief Counsel for the particular element.

6. *Action.* The Assistant Secretary for Administration shall ensure effective compliance with and implementation of E.O. 12065. In this regard, he shall conduct an active oversight program. Within the framework of E.O. 12065, he shall issue DOT-wide policy and procedural instructions.

Neil Goldschmidt,

Secretary of Transportation.

[Order 1640.4B]

Classification, Declassification, and Control of National Security Information

February 11, 1980.

1. *Purpose.* This Order implements Executive Order 12065, National Security Information, Executive Order 10865, Safeguarding Classified Information Within Industry, and Department of Transportation Order 1640.3C, National Security Information.

2. *Cancellation.* a. DOT order 1640.4A, CLASSIFICATION, DECLASSIFICATION, AND CONTROL OF NATIONAL SECURITY INFORMATION, of 8-24-79 and 1-16-80.

3. *Reference.* DOT 1640.3C, National Security Information, authorizes the Assistant Secretary for Administration to issue DOT policy and procedural instructions to implement E.O. 12065 and to ensure effective compliance with the provisions of the Executive Order. DOT 1640.3C designated those Departmental officials who have authority to originally classify information.

4. *Assignments.*

a. In addition to other actions directed by this Order, the Director of Investigations and Security, Office of the Secretary, shall evaluate the overall application of and adherence to security policies and requirements prescribed herein and report his findings and recommendations to the Assistant Secretary for Administration and, as appropriate, to the heads of operating administrations and the Secretary. The Director shall be the Departmental point of contact with the Information Security Oversight Office, established by E.O. 12065, and shall furnish such information as that office may require. The Director shall develop changes to Departmental directives which may be needed to comply with amendments to E.O. 12065, supplementing instructions from the National Security Council, or resulting from changed conditions.

b. Secretarial Officers and Heads of Operating Administrations shall assure: (1) The effective administration of the provisions prescribed; (2) That adequate personnel and funding are provided for this purpose, and; (3) That corrective actions which may be warranted are taken promptly.

5. *Approval.* The provisions of this Order have been approved by the Information Security Oversight Office (ISOO) pursuant to the provisions of E.O. 12065.

For the Secretary of Transportation.

Edward W. Scott, Jr.,

Assistant Secretary for Administration.

Paragraph

Dot Order 1640.4A
1. Purpose.
2. Cancellation.
3. Reference.
4. Assignments.
5. Approval.
Chapter I.—General
1-1. Discussion.
1-2. Security Principles.
1-3. Security Planning.
1-4. Order Format and Use.
1-5. Notification by Field Activities of Classified Material Held.
Chapter II.—Security Classification
2-1. General.
2-2. Classification Designations.
2-3. Prohibition of Use of Other Terms.
2-4. Classification Criteria.
2-5. Prohibitions on Classification Information.
2-6. Classification Process.
2-7. Distinction Between Originial and Derivation Classification.
2-8. Authority to Make Original Classification Determinations.
2-9. Duration of Original Classification.
2-10. Classification Guides.
2-11. Identification and Marking for Originally Classified Material.
2-12. Derivative Classification.
2-13. Identification and Marking for Derivately Classified Material.
2-14. Challenges to Classification.
2-15. Compilations.
2-16. Notification of Changes in Classification.
2-17. Classification Review of DOT Produced Material.
2-18. Accountability of Classifiers.
2-19. Classified Material Transferred to DOT.
2-20. Classified Material Transferred to Record Centers.
Chapter III.—Declassification and Downgrading
3-1. Discussion.
3-2. Definitions

3–3. Authority to Downgrade or Declassify.
3–4. Marking New Material for Declassification or Downgrading.
3–5. Systematic Review for Declassification.
3–6. Notification of Holders.
3–7. Automatic Downgrading of Declassification.
3–8. Effect of Open Publication.
3–9. Declassification of President Papers.
3–10. Mandatory Review for Declassification.
3–11. Procedures for Submitting and Handling Requests for Mandatory Review.
3–12. Procedures for Handling Requests under the Freedom of Information Act involving Classified Records.
3–13. Public Availability of Declassified Information.
Chapter IV.—Marking Classified Material
4–1. Discussion.
4–2. Marking Originally Classified Documents.
4–3. Marking Derivately Classified Documents.
4–4. Other Markings Applicable to all Classified Documents.
4–5. Applying Derivative Declassification Dates.
4–6. Transmittal Documents.
4–7. Marking Electrically Transmitted Messages.
4–8. Files.
4–9. Translations.
4–10. Charts, Maps, and Drawings.
4–11. Photographs.
4–12. Transparencies and Slides.
4–13. Motion Picture Films.
4–14. Recordings.
4–15. Electrical Machine and Automatic Data Processing (ADP) Tapes.
4–16. Pages of ADP Listings.
4–17. Hardware and Other Materials.
4–18. Decks of Accounting Cards.
4–19. Remarking.
4–20. Marking Unclassified Material:
Figure 1.
Figure 2.
Figure 3.
Chapter V.—Accounting for Classified Material
5–1. Discussion.
5–2. Security Control Point.
5–3. Records.
5–4. Working Papers.
5–5. Additional Top Secret Controls.
5–6. Material which is Handcarried to or from an Activity.
5–7. Audits.
5–8. Document Control Station.
5–9. Exceptions for Unique Material.
Chapter VI.—Transmission of Classified Material
6–1. Discussion.
6–2. Preparation and Packaging Requirements (Mailable Material).
6–3. Preparation and Packaging Requirements (Non-mailable bulk items).
6–4. Methods of Transmission.
6–5. Advanced Notice and Bills of Lading.
6–6. Use of Telecommunications.
Chapter VII.—Storage of Classified Material
7–1. Discussion.
7–2. Use of Storage Containers.
7–3. Types of Container Authorized.
7–4. Other Factors.
7–5. Replacement of Obsolete Containers.
7–6. Supervision of Storage Containers.
7–7. Identity of Storage Facilities.
7–8. Control of Combinations.
7–9. Special Precautions.
7–10. Lock-out.
Chapter VIII.—Custody and Area Controls
8–1. Discussion.
8–2. Basic Provisions.
8–3. Care During Emergencies.
8–4. Area Controls.
Chapter IX.—Reproduction of Classified Documents
9–1. Discussion.
9–2. Authorization.
9–3. Accountability for Reproduced Copies.
9–4. Markings.
9–5. Controls over Reproduction Equipment and Areas.
Chapter X.—Disposal and Destruction of Classified Material
10–1. Discussion.
10–2. Authorized Disposal.
10–3. Procedures Leading to Destruction.
10–4. Methods of Destruction.
10–5. Destruction Officials.
10–6. Records.
Chapter XI.—Dissemination of Classified Information
11–1. Discussion.
11–2. Basic Provisions.
11–3. Dissemination Within the Executive Branch.
11–4. Dissemination Outside the Executive Branch.
11–5. To the Congress.
11–6. To Representatives of the General Account Office (GAO).
11–7. To the Government Printing Office (GPO).
11–8. To the Judiciary.
11–9. To Foreign Governments, Foreign Nationals, and International Organizations.
11–10. To Historical Researchers.
11–11. To Former Presidential Appointees.
11–12. To Contractors.
11–13. To National Defense Executive Reservists (NDERs).
11–14. To Reserve Military Personnel for Training and to Retired and Inactive Status Military Personnel.
11–15. To Others.
11–16. Dissemination Through Meetings.
Chapter XII.—Visit Control
12–1. Discussion.
12–2. Definition of Visitor.
12–3. Incoming Visits.
12–4. Visitor Categories.
12–5. Identification.
12–6. Visitor Logs.
12–7. Restrictions of Movement.
12–8. Visitor Badges.
12–9. Recordings and Photographs.
12–10. Report of Unusual Visitor Interest.
12–11. Outgoing Visits.
12–12. Additional Requirements in Connection with Visiting.
Chapter XIII.—Compromises and Security Violations
13–1. Discussion.
13–2. Violations of Security Directives.
13–3. Initial Reporting and Responsibilities.
13–4. Administrative Inquiries.
13–5. Additional Notification and Investigations.
13–6. Actions Subsequent to Investigation.
13–7. Classification of Reports.
13–8. Information of a Foreign Government.
13–9. Cryptographic Information.
Chapter XIV.—Foreign Government and International Information
14–1. Discussion.
14–2. Definition.
14–3. Classifying Foreign Government Information.
14–4. Duration of Classification.
14–5. Marketing Foreign Government Information.
14–6. NATO and CENTO Classified Material.
14–7. Declassification of Foreign Government Information.
Chapter XV.—Industrial Security
15–1. Classification in Industry.
15–2. Contract Security Classification Specification (DD Form 254).
Chapter XVI.—Security Education
16–1. Discussion.
16–2. Responsibility.
16–3. Program Design.
16–4. Indoctrination.
16–5. Refresher Briefing.
16–6. Foreign Travel Briefing.
16–7. Debriefings.
Chapter XVII.—Administrative Sanctions
17–1. Responsibility.
17–2. Violations Subject to Sanctions.
17–3. Corrective Action.
Chapter XVIII.—Control of Special Categories of Information
18–1. Discussion.
18–2. Special Access Programs.
18–3. Reporting Special Access Programs.
18–4. Communications Security (COMSEC).
18–5. Intelligence Information.
18–6. NATO and CENTO Material.
18–7. Restricted Data.
Chapter XIX.—Reports to Information Security Oversight Office
Appendix I.—Equivalent Foreign Security Classifications
Appendix II.—Definitions

Chapter I.—General

1–1. Discussion

a. The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the Executive Branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

b. This Departmental order is intended to achieve a coordinated and uniform policy throughout DOT in maintaining the security of classified information. It is applicable to all classified information in the custody of DOT regardless of whether the information or material was produced within DOT or originated outside DOT and released to it.

1–2. Security Principles

a. Official information which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") is designated classified information. Classification of information shall be solely on the basis of national security considerations. Information no longer having significance to national security shall be declassified.

b. Knowledge or possession of classified information shall be permitted only to persons whose official duties or contractual obligations require such access, and only if they have been determined to be trustworthy. Unless both standards are met, i.e., need-to-know and trustworthiness, the individual obtaining access is an unauthorized person and his gaining access constitutes an unauthorized disclosure.

c. The policies, standards, and requirements estalished by this order are designed to assure proper classification/declassification of information and to prevent unauthorized persons from gaining knowledge of information designated as classified. These principles shall be kept foremost in mind when local procedures are developed to implement the provisions of this order.

1–3. *Security Planning.* Security is not an end to itself. Rather, it is an integral part of operations and of program administration. Accordingly, managers of programs or projects which may involve classified information shall consult with the appropriate security element to assure that security planning, to include classification and declassification planning, is provided at the outset and as the project develops.

1–4. *Order Format and Use.* This order is designed to be both a statement of Departmental policies and requirements and an employee operating manual. Headquarters, facility and office implementing procedures should be filed in the appropriate Chapter. In this way the reader may find easily and quickly the answers and guidance he is seeking. Requests for any modification or deviation from this Order, including supporting justification shall be submitted to the OST Director of Investigations and Security, M–50, through appropriate channels.

1–5. *Notification by Field Activities of Classified Material Held.* Field activities shall advise the security element of the appropriate region, district or national headquarters when any of the following occur:

a. An activity which does not have custody of classified material receives such material. The notification shall include a statement as to the highest classification category of the material received.

b. The highest classification category of material held changes. For example, an activity which holds CONFIDENTIAL material receives SECRET material, or an activity having had both SECRET and CONFIDENTIAL material destroys or otherwise gives up custody of the SECRET material.

c. An activity which had custody of classified material no longer possesses such material.

Chapter II—Security Classification

2–1. General

a. Information may be classified initially and be retained in a classified status only if:

(1) It meets one or more of the classification criteria specified in paragraph 2–4 below, and

(2) Its unauthorized disclosure reasonably could be expected to cause identifiable damage to the national security.

b. It is emphasized that *only information is classified.* Classifed information requires protection regardless of the medium by which it is revealed or expressed. It may be expressed orally, in writing or printed form, or embodied in equipment. Terms such as "classified document", "classified material", "classified letter", etc. are simply easy reference terms to describe items that contain or reveal classified information.

c. Once information is classified, the entire spectrum of security controls are brought into play to protect it. Information which does not require protection (unwarranted initial or continuing classification) or which does not require the degree of protection to which it is assigned (overclassification) can derogate the protection afforded information which is truly significant, generate unnecessary security costs, and impede the flow of information to the public to which it is entitled. Accordingly, judicuous and timely classification, downgrading and declassification actions are required.

2–2. *Classification Designations.* Official information which requires protection against unauthorized disclosure in the interest of national security shall be classified in one of three designations, namely TOP SECRET, SECRET, or CONFIDENTIAL, depending upon the degree of significance to the national security. If there is reasonable doubt as to which classification designation is appropriate or whether the information should be classified at all, the least restrictive designation should be used—or the information should be classified. The classification designations are defined as follows:

a. *Top Secret.* Shall be applied only to information which, through unauthorized disclosure, could reasonably be expected to cause exceptionally grave damage to the national security.

b. *Secret.* Shall be applied only to information which, through unauthorized disclosure, could reasonably be expected to cause serious damage to the national security.

c. *Confidential.* Shall be applied to information which, through unauthorized dislosure, could reasonably be expected to cause identifiable damage to the national security.

2–3 Prohibition of Use of Other Terms

a. No other designations shall be used to identify classified information, except as expressly provided by statute.

b. No other terms, such as "Sensitive", "Conference", "Agency", "Administratively", etc., shall be used in DOT in conjunction with formal classification designation terms defined in paragraph 2–2 above.

c. The terms "For Official Use Only" and "Limited Official Use" do not designate classified information. They are used to identify unclassified information which requires protection against uncontrolled release. (See DOT Order 1640.1.)

2–4. *Classification Criteria.* Information may not be considered for classification unless it concerns:

a. Military plans, weapons, or operations;

b. Foreign government information;

c. Intelligence activities, sources, or methods;

d. Foreign relations or foreign activities of the United States;

e. Scientific, technological, or economic matters relating to the national security;

f. U.S. Government programs for safeguarding nuclear materials or facilities; or

g. Other categories of information which are related to national security and which require protection against

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unauthorized disclosure as determined by the President, officials with TOP SECRET classification authority, or by the Secretary of Transportation with respect to DOT developed information. Recommendations concerning need for any such additional category of information which may be considered for original classification shall be forwarded through the appropriate headquarters security element to the OST Office of Investigations and Security for a decision by the Secretary. If the Secretary determines that such additional category is warranted, the OST Director of Investigations and Security shall so advise the Director of the Information Security Oversight Office (ISOO).

Note.—Unauthorized disclosure of foreign government classified information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

2–5. Prohibitions on Classifying Information

a. Classification may not be used to conceal violations of law, inefficiency or administrative error; to prevent embarrassment to a person, organization or agency; or to restrain competition.

b. Basic scientific research information not clearly related to the national security may not be classified.

c. A product of non-Government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified until and unless the Government acquires a proprietary interest in the product. This prohibition does not affect the provisions of the Patent Secrecy Act of 1952 (35 U.S.C. 181–188).

d. References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

e. Classification may not be used to limit dissemination of information that is not classifiable under the provisions of this Order or to prevent or delay the public release of such information.

f. No document originated on or after December 1, 1978, may be classified after receipt of a request for the document under the Freedom of Information Act or the Mandatory Review provisions (paragraph 3–10) unless such classification is consistent with this Order and is authorized by the Secretary. Documents originated before December 1, 1978, and subject to such a request may not be classified unless such classification is consistent with this Order and is authorized by the Secretary or the Director of Investigations and Security.

g. Classification may not be restored to documents already declassified and released to the public.

2–6. Classification Process

a. Classification should be the result of a balanced judgment. There must be a positive basis for classification. If there is reasonable doubt, after due consideration, whether the information warrants classification or not, the information should *not* be classified.

b. An evaluation of information forms the basis for classification. A document or other material is classified either because of the information it contains, which may be ascertained by study, analysis, observation or use of it, or because of the information it may reveal when associated with other information, including that which the classifier knows has been officially released to the public.

c. Classification determinations must be preceded by an exact identification of each item of information which may require security protection. This process involves identification of that specific information which comprises the basis for the particular national advantage which would or could be damaged, minimized or lost if the information were compromised, thereby adversely affecting the national security.

d. A determination to classify shall be made initially by an original classification authority and only when (1) the information meets one or more of the criteria set forth in paragraph 2–4 above, and (2) the unauthorized disclosure of the information reasonably could be expected to cause at least identifiable damage to the national security. The determination involved in the first step is separate and distinct from that of the second step. The fact that the information falls under one or more of the classification criteria shall not be presumed to mean that the information *automatically* meets the damage criteria.

2–7. Distinction Between Original and Derivative Classifications

a. There are two types of classification actions—original and derivative. Both require that judgments be made, and the provisions of the Classification Designation, Classification Criteria, Prohibitions on classifying and Classification Process set forth above apply equally to both.

b. Original classification, however, is the more important of the two. It results in the initial production of classified material and is the basis for all derivative classification actions. Because of this, only specifically designated officials are authorized to make original classification determinations.

c. Original classification is an initial determination that information requires protection against unauthorized disclosure in the interest of national security and a designation of the level of classification. The reasons why unauthorized disclosure of the information could adversely affect the national security is the critical judgment factor in an original classification determination.

d. Once an original classification decision is made, many new documents which relate directly to the subject matter or substance of the original decision may be produced by many different offices. The classification of the new documents is derived from the initial classification determination, and classifying these documents does not constitute an original classification action.

e. The classification of most classified documents produced within DOT is derived from an original classification determination made by an official outside DOT. Although the DOT documents will contain information which is new and is developed by DOT, this information would not require protection in the interests of national security based solely on carrying out DOT functions. Rather, the reasons why the information requires protection are established by an original classification authority in the Department of Defense (DOD), State Department, etc. For example, certain DOT-produced documents pertaining to marine or maritime operations or to the control of air traffic are classified because they relate to support provided to DOD programs and reveal information which an appropriate DOD official has determined requires protection. Therefore, a derivative classification is assigned to the DOT produced material.

f. In some instances, DOT develops information which is not related to or does not pertain to a classification determination made at another agency. In these instances, the reasons why the information requires protection in the interests of national security are unique to DOT. Therefore, an original classification determination needs to be made. The provisions of paragraphs 2–8, 2–9, and 2–11 below apply to information originally classified by DOT. The provisions of paragraphs 2–12 and 2–13 below apply to information derivatively classified by DOT.

2–8. Authority to Make Original Classification Determinations

a. E.O. 12065 confers upon the Secretary of Transportation the authority to originally classify information as SECRET and CONFIDENTIAL with further authorization to delegate this authority.

b. The Secretary has delegated authority, which may not be redelegated, to:

(1) OST—the Director of Investigations and Security.

(2) USCG—the Commandant; Chief of Operations.

(3) FAA—The Administrator, Director of Investigations and Security.

c. At such time as Defense Readiness Condition Number Two or higher emergency condition may be declared, authority to originally classify information as SECRET or CONFIDENTIAL is automatically delegated to the officials named below. This authority, which may not be redelegated, is automatically cancelled when Defense Readiness Condition Number Three or lower emergency level is declared.

(1) OST—Deputy Secretary; Assistant Secretary for Policy and International Affairs; Assistant Secretary for Administration.

(2) USCG—Vice Commandant; Chief of Staff; Commander, Atlantic Area; Commander, Pacific Area; Commanders, Coast Guard Districts; Commander, Coast Guard Activities Europe; Chief, Intelligence and Security Division.

(3) FAA—Deputy Administrator; Directors, FAA Regions and Centers.

d. Although the delegations of authority are expressed above in terms of positions, the authority is personal and is vested only in the individual occupying the position. The authority may not be exercised "by direction of" a designated official. The formal appointment or assignment of an individual to one of the identified positions or a designation in writing to act in the absence of one of these officials, however, conveys the authority to originally classify the information.

2–9. Duration of Original Classification

a. At the time of original classification, eact DOT original classification authority shall set a date or event for automatic declassification. This date or event shall be no later than six (6) years after the original classification.

b. Within the DOT, only the Secretary of Transportation may classify information for more than the six-year period. In such cases a declassification date or event, or a date for review, shall be set. This date or event shall be as early as national security permits and shall be no more than twenty (20) years after the original classification. If a DOT classification authority, other than the Secretary, originally classifies information and believes the classification period needs to be extended beyond six years, a written justification should be forwarded through the OST Director of Investigations and Security for a decision by the Secretary.

2–10. *Classification Guides.* A classification guide shall be prepared for all original classification determinations made by a DOT official whenever it is anticipated that other elements of the department may produce documents which derive their classification from the original determination or whenever the portion markings are not considered specific enough to clearly identify the classified information. All classification guides shall be coordinated with the appropriate headquarters security element prior to issuance. For purposes of this paragraph, DD Forms 254, "Contract Security Classification Specification", are not considered classification guides. See Chapter XV for information on the DD 254.

The classification guide may be in any format which serves the purpose and shall be unclassified if at all possible. As a minimum, each classification guide will include the following:

a. Identify the information to be protected, using terms necessary to insure that the information to be protected can be readily and uniformly identified.

b. State which of the classification designations (SECRET or CONFIDENTIAL) apply to the identified information. No one in the DOT may classify information at the TOP SECRET level.

c. State the duration of classification for each item of information in terms of a period of time or a future event. If the duration of time is to exceed six years, see paragraph 2–9.

d. Each classification guide shall be approved personally and in writing by an official with original classification authority and the identity of the official shall be shown on the guide.

e. The classification guide shall be issued to any office expected to have a need for it with a copy provided to the OST Director of Investigations and Security.

2–11. Identification and Marking for Originally Classified Material

a. At the time of original classification, each document or other material containing classified information shall be marked to indicate that a classification determination has been made. By this means, persons who receive the material will know that the material requires protection, the degree of protection, and for how long the protection is needed. Each original classification shall be marked to show the following:

(1) A "Classified by" line to show the identity of the original classification authority unless this official is also the signer or approver of the document.

(2) The date or origin.

(3) The office of origin.

(4) The overall classification of the document.

(5) The declassification date or event or the date for review for declassification.

(6) Documents classified for more than six years shall also be marked with the identity of the classification authority who authorized the extension of classification and the reason for the extension.

(7) If applicable, the date of any downgrading action to be taken.

(8) The level of classification of each classified portion (chapter, section, page, paragraph, subparagraphs, subject or title, appendices, annexes, enclosures, etc.) and those portions which are unclassified.

b. Chapter IV should be consulted for detailed marking instructions and samples.

2–12. Derivative Classification

a. Derivative classification means a determination that information is in substance the same as other information that is currently classified, and a designation of the level of classification.

b. Derivative classification is a responsibility of those who incorporate, paraphrase, restate or generate in new form information that is already classified. Derivative classification also flows from complying with classification decisions set forth in a classification guide or as otherwise instructed by an authorized classifier.

c. Typically, derivative classification arises when a new document is produced in response to or as a reaction to another classified document. For example, a classified operations or contingency plan produced by another agency may require actions to be taken by DOT in support of the operation. A DOT-produced document implementing the basic plan would be created. This, in turn, could generate the production of additional documents at both headquarters and field elements. Although the DOT documents would contain information which would be new and in addition to that in the basic

plan, the classification of this information, if appropriate and warranted, would be based upon and derived from the basic plan. Similarly, the future declassification of the DOT documents would be determined by the declassification decision made by the original classification authority who classified the basic plan or source document.

d. As noted in paragraph 2–7, derivative classification also requires that classification judgments be made. In this instance, the judgment is whether the newly produced document actually contains information which the original classification authority of the source material considers to be classified. Paragraph marking of the source material aids significantly in making derivative determinations.

e. It is essential that officials preparing material related to classified source documents respect and comply with the classification decisions reflected in source material or classification guides. In some instances, however, it is possible to produce a document related to a classified source which is responsive and effective but which does not contain information warranting classification. A conscientious effort should be made meet this objective or, alternatively, to produce a document which can be classified at a lower designation than the overall classification of the source material.

2–13. Identification and Marking for Derivatively Classified Material

a. Officials who produce material which is subject to derivative classification shall assure that the information is properly classified, that the material is appropriately marked, and that the required security review, paragraph 2–17 has been accomplished.

b. Derivatively classified documents shall be marked to show the classification of each classified portion (chapter, section, page, paragraph, subparagraph, subject or title, appendixes, annexes, enclosure, etc.) and those portions which are unclassified.

c. Derivatively classified material shall show the date for declassification or review which appears on the source material. This same date shall be shown on each succeeding generation of derivatively classified documents. If the classification is derived from more than one source, the date for declassification or review applicable to the new material shall be the date which will retain the classification the longest.

d. Any additional markings which appear on the source material, such as Restricted Data or Formerly Restricted Data, or limitations on dissemination shall be shown on derivatively classified material.

e. Chapter IV should be consulted for detailed marking instructions and samples.

2–14. Challenges to Classification. If holders of classified information have substantial reason to believe that the information is classified improperly or unnecessarily or that an overly restrictive period for continued classification has been assigned, they are encouraged to contact the appropriate security element or the classifier of the information in an effort to bring about corrections if appropriate. The challenger's anonymity will be preserved if so requested. Challenges made under the provisions of this paragraph and paragraph 3–10, Mandatory Review, must include sufficient description of the information or document being challenged to permit identification with reasonable effort and must include the reason for the challenge. Challenges received must be acted on within thirty days and the challenger notified of any changes made or the reason no change was made.

2–15. Compilations. Where the use of classification higher than that which applies to any of its components is required to protect a compilation of information in a document, or where the individual parts of a compilation are unclassified but their total contents or their association is classified, mark the overall classification at the top and bottom of the front and back covers and the first page. The reason for classifying the compilation shall be included on the document or in its text. Normally a compilation of unclassified items shall not be classified. In rare instances, however, classification may be required if the compilation provides an added factor which in itself warrants classification. Classification on this basis shall be used sparingly.

2–16. Notification of Changes in Classification

a. Whenever a change in classification or duration of classification is determined by appropriate authority, other than changes predetermined to occur automatically, the authority making the determination shall promptly cause all known addressees to whom the information was disseminated to be notified of the change, any unusual action to be taken, the authority for the change, and the effective date. When so notified, holders of the affected material shall, in turn, notify all known addressees to whom they may have disseminated the information.

b. All affected material shall be promptly remarked to indicate the change, the authority for the action, date of the action, and identity of the person taking the action. Accountability records will be amended if appropriate.

c. In addition, material which was initially assigned a classification based upon information thus changed shall be reviewed immediately to determine if that material is affected by the changes in the source material. If so, actions prescribed in a. and b. above shall be taken.

2–17. Classification Review of DOT Produced Material

a. All classified material produced by DOT, whether original classification or derivative classification is involved, is subject to a classification review by appropriate security personnel. The material shall be reviewed to determine whether or not it contains classified information and if classified information is contained in the material, the review shall insure that:

(1) The appropriate classification designation is assigned,

(2) The downgrading/declassification markings are appropriate,

(3) The proper markings are affixed to the overall document, to titles and subjects, and to individual pages and paragraphs,

(4) The classifier, on original classification actions, is authorized to make the determination.

b. All classified documents, excluding messages, produced within DOT shall be reviewed by security personnel concerned prior to its release from the originating activity or when such material produced by a subordinate element is received into the activity.

c. Exception to the pre-release security review is authorized for field activities which produce only a minimal number of classified documents and which do not have resident security personnel at the location; provided that the annual security inspection of the activity shall include appropriate review of all classified documents produced since the last prior inspection.

2–18. Accountability of Classifiers

DOT officials who originally classify information or officials who make derivative classification determinations shall be held accountable for the propriety of their determinations. They shall maintain records which adequately support their determinations or by which the chain of classification can be traced to an original authority should an occasion demand such action. These records shall be maintained for the lifetime of the produced material. In each instance of original classification, a complete copy of the document shall be forwarded immediately to the OST Director of Investigations and Security.

a. Original classification determinations shall include, with the record copy, a justification for the classification of the information. When other elements may produce documents which require classification because of the original classification determination, and a classification guide would facilitate applying the classification, the classifying official concerned shall arrange for development of a classification guide to be appropriately disseminated.

b. Derivative classification determinations shall include, with the record copy, a notation to show the document upon which the classification is based, or shall cite specific applicable provisions of a published classification guide. When more than one source document is involved, a listing of all sources shall be maintained with the record copy and a copy of this listing shall be furnished to the security control point.

2–19. Classified Material Transferred to DOT

a. Classified material officially transferred to DOT pursuant to statute of Executive Order in conjunction with a transfer of function, and not merely for storage purposes, shall be considered to have been originated by DOT for the purpose of downgrading and declassification.

b. Classified material in the custody of DOT originated by a department or agency which has ceased to exist and whose functions and records were not officially transferred to another department shall be downgraded and declassified by DOT holders of the material in accordance with the provisions of this Order. If it appears that another department or agency may have an interest in the subject matter of the material from a classification standpoint, that department shall be advised of the nature of the material and the intention to downgrade or declassify. The notified department shall be allowed thirty days in which to express an objection, if it so desires, before action is taken. Difference of opinion which cannot be resolved locally shall be referred to the Departmental Security Review Committee which will consult with its counterpart committee for the respective department.

2–20. Classified Material Transferred to Record Centers

At the time classified records are being prepared for transfer to a records center or to the National Archives for storage or retirement, action shall be taken to assure that each document has been remarked to reflect the current classification status. Whenever practicable, documents shall be reviewed to determine whether they can be downgraded or declassified. If no changes are warranted, a notation that a classification review was conducted shall be shown on the document or on the Record Transmittal and Receipt Form SF–135. If the review results in changes, the provisions of 2–16 shall be followed.

Chapter III—Declassification and Downgrading

3–1. Discussion

a. Information which is properly classified at the time it is developed does not necessarily require protection indefinitely. Most classified information has diminishing significance to the national security as time passes and as technological or other developments occur.

b. The lack of attention to downgrading and declassification in the past has resulted in the accumulation and protection of large volumes of material which actually no longer require protection, or which require a lesser degree of protection than afforded. Although attempts to correct this condition have been made, emphasis is still needed in this area.

c. The salient downgrading/declassification features of E. O. 12065 are:

(1) Declassification of classified information shall be given emphasis comparable to that accorded classification. Classified information shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event,

(2) Classified material, with limited exceptions, shall be automatically declassified after six years,

(3) Classified material still classified 20 years after origination is declassified, except for foreign government information, and

(4) A Systematic Review for declassification is required.

3–2. Definitions

a. *Downgrade.* To determine that classified information requires a lesser degree of protection against unauthorized disclosure in the interest of national security than that currently assigned; e.g. Top Secret is downgraded to Secret; Secret is downgraded to Confidential. Material will be re-marked to reflect this determination.

b. *Declassify.* To determine that information no longer requires protection against unauthorized disclosure in the interest of national security. Material will be re-marked to reflect this determination, e.g., Top Secret, Secret or Confidential material is re-marked as Unclassified.

3–3. Authority to Downgrade or Declassify

a. *Originally Classified Material.* Original classification authorities, a successor in capacity or a supervisory official of either, a higher authority, and the Departmental Security Review Committee, are authorized to downgrade or declassify information originally classified by DOT. In addition, the following headquarters security elements are authorized to downgrade or declassify information originally classified by an official within their respective organizational element and to resolve classification conflicts or doubts as to the appropriate classification of that information:

OST and DOT Administrations other than USCG and FAA–OST Office of Investigations and Security.
FAA—Office of Investigations and Security.
USCG—Intelligence and Security Division.

b. *Derivatively Classified Material.* Declassification authority designated above and the appropriate District or Regional security elements within the USCG and FAA are authorized to declassify or downgrade derivatively classified material when such action does not conflict with classification decisions evidenced by the source material or instructions from an original classification authority.

3–4. Marking New Material For Declassification or Downgrading

a. New material which derives its classification from information classified on or after December 1, 1978, shall be marked with the declassification date or event, or the date for review, assigned to the source document.

b. New material that derives its classification from information classified prior to December 1, 1978, shall be treated as follows:

(1) If the source material bears a declassification date or event 20 years or less from the date of origin, that date or event shall be carried forward on the new material.

(2) If the source material bears a

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(2) If the source material bears a declassification date or event beyond 20 years, or bears no declassification date or event, the new material shall be marked with a date for review for declassification at 20 years from the date of original classification of the source material. The date of the source document may be used to compute this date if the date of original classification is not known.

(3) If the source material bears a downgrading date or event, that date or event shall be carried forward on the new material.

3–5. Systematic Review for Declassification

a. Classified information constituting permanently valuable records of the Government, as defined by U.S.C. 2103, and information in the possession and control of the Archivist of the United States, shall be systematically reviewed for declassification by the Archivist as it becomes 20 years old. In this review, the Archivist will separate and keep protected only such DOT produced material as is specifically identified by the Secretary as requiring protection. A determination that continued classification is warranted may be made only by the Secretary. When classification is extended beyond 20 years, a date no more than 10 years later shall be set for declassification or for the next review. Subsequent reviews for declassification shall be set at no more than 10 year intervals. The documents shall be marked to reflect the date for declassification or review. The OST Director of Investigations and Security is designated as the liaison officer for the Department with the Archivist for this purpose.

b. The OST Director of Investigations and Security shall assure that guidelines for the systematic review of 20-year-old classified information under DOT jurisdiction are issued and maintained. Guidelines shall be prepared in consultation with the Archivist of the United States and shall be reviewed by the Information Security Oversight Office (ISOO). These guidelines shall state specific, limited categories of information which, because of its national security sensitivity, should not be declassified automatically but should be reviewed item-by-item to determine whether continued protection beyond 20 years is needed. All information not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established, shall be automatically declassified at the end of 20 years from the date of original classification. These guidelines shall be reviewed at least every two years and revised as necessary unless earlier review is requested by the Archivist of the United States.

3–6. Notification to Holders

a. Whenever information is declassified by appropriate authority, other than changes pre-determined to occur automatically, the authority making the determination shall notify all known holders of the change.

b. This notification shall include the authority for the change (name and title) and the effective date of the change. Notification may be by general notice rather than personal notice so long as the general notice is designed to achieve the intended result.

3–7. *Automatic Downgrading or Declassification.* Material which is marked for automatic downgrading or declassification requires no further authority from the originator by any holder to re-mark the material. The marking itself conveys this authority.

3–8. *Effect of Open Publication.* The fact that information currently classified has been disseminated by a public medium of communication does not automatically mean that it has been declassified. Classification shall continue to be respected until advised to the contrary by the originating agency or higher authority. Questions as to the propriety of continued classification in these cases should be promptly borught to the attention of the originator. If the originator cannot be readily identifed, the matter should be referred to the OST Director of Investigations and Security.

3–9. *Declassification of Presidential Papers.* The Archivist of the United States has the authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with: (i) The terms of the donor's deed or gift, (ii) consultations with the Departments having a primary subject-matter interest, and (iii) the provisions of this chapter with respect to material of concern to DOT.

3–10. Mandatory Review for Declassification

a. E. O. 12065 requires that procedures be established to handle requests by a member of the public, by a government employee, or by an agency, to declassify and release information. In order to be acted upon, a requests needs to describe the information with sufficient particularity to permit the record to be identified and located. Requests for declassification under this Mandatory Review provision shall be acted upon within 60 days. aFter review, the record or any reasonably segregable portion thereof that no longer is in the interest of national security shall be declassified and released unless withholding is otherwise warranted under applicable law.

b. Requests for classified records made under the Freedom of Information Act, (FOIA), as amended, are processed differently than requests made under the Mandatory Review provision. See 3–12.

c. an agency in possession of a classified document may not, in response to a request for the document made under the Freedom of Information Act or the Mandatory Review provision of E. O. 12065, refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself by classified.

3–11. Procedures for Submitting and Handling Requests for Mandatory Review

a. The Director of Investigations and Security, M–50, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, is hereby designated as the official to whom a member of the public or another department or agency will submit a request for mandatory review of classified material produced by or under the primary cognizance of the Department of Transportation. Elements of the Department which may receive a request directly shall immediately notify the Director.

b. If the request involves material produced by or under the cognizance of the U.S. Coast Guard or the Federal Aviation Administration, the Director will forward the request to the headquarters security staff of the element for action. If the request involves material produced by other Departmental elements, the Director shall serve as the action officer.

c. Action offices shall:

(1) Immediately acknowledge receipt of the request and provide a copy of the correspondence to the Director. If a fee for search of records is involved, pursuant to the Department of Transportation regulations, 49 CFR Part 7, in implementation of the Freedom of Information Act, the requester shall be so notified,

(2) Conduct a security review which shall include consultation with the office which produced the material and with source authorities when the classification, or exemption of material from automatic declassification. was based upon determinations by an original classifying authority; and

(3) Assure that the requester is notified of the determination within 60 days (or given an explanation as to why further time is necessary) and provide a copy of the notification to the OST Director of Investigations and security.

d. Whenever a request does not reasonably describe the records sought, the requester shall be notified that no further action can be taken without more specificity as to the records in question.

e. If the determination reached is that continued classification is required, the determination shall include a statement as to why the requested material cannot be declassified. The determination shall also advise the requester of the right to appeal. A requester who may wish to appeal a classification review decision, or who has not been notified of a decision after 60 days, should submit the appeal to the Chairman, Security Review Committee, M–1, Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

f. If the determination reached is that continued classification is not required, the information shall be declassified and the material remarked. The action office will then refer the request to the Director of the Office of Public and Consumer Affairs or to the head of the operating element, as the case may be, responsible for the material, to determine if it is otherwise available for public release under Title 5, U.S.C. Section 552 (The Freedom of Information Act) and implementing regulations.

(1) If the material is releasable, the requester shall be advised that the material has been declassified and is available. If the request involves the furnishing of copies and a fee is to be included, the requester shall be so advised pursuant to 49 CFR 7.91 through 7.95.

(2) If the material is not releasable, the requester shall be advised that the material has been declassified but that the record is exempt from disclosure, pursuant to the Freedom of Information Act, and that the provisions of 49 CFR 7.81, which pertains to appeals, is applicable.

g. Upon receipt of an appeal from a classification review determination based upon continued classification, the Departmental Security Review Committee shall immediately acknowledge receipt and act on the matter within 30 days. With respect to information originally classified by or under the primary cognizance of DOT, the Committee, acting for the Secretary, has authority to over-rule previous determinations in whole or in part when, in its judgment, continued protection in the interest of national security is no longer required. When the classification of the DOT-produced material was based upon a classification determination made by another department or agency, the Security Review Committee (SRC) will immediately consult with its counterpart committee for that department.

(1) If it is determined that the DOT material requires continued classification, the requester will be so notified.

(2) If it is determined that the material no longer requires classification, it shall be declassified and remarked. The Committee shall refer the request to the Director of the Office of Public and Consumer Affairs, or the head of the operating element concerned, as the case may be, to determine if the material is otherwise available for public release under Title 5, U.S.C. Section 552, and implementing directives, and the provisions set forth in subparagraphs (1) and (2), paragraph f, above shall be followed. A copy of the response shall be provided to the Committee.

3–12. Procedures for Handling Requests Under the Freedom of Informotion Act Involving Classified Records

a. Amendments to the Freedom of Information Act, Title 5, U.S.C.. Section 552, authorize withholding of records from public availability which are "(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order."

b. Persons who request records from an agency under the provisions of the Act, and whose requests are denied, may petition the courts to enjoin the agency from withholding the record and, in this event, the burden is on the agency to sustain its actions.

c. The Amendments also impose time limits for determinations on FOIA requests. A determination on an initial request must be made within 10 working days after receipt of the request. In case of an appeal to an initial denial, a determination must be made within 20 working days after receipt of the appeal. Except for unusual circumstances, failure to make a determination within the stated time limits means that a requester has exhausted the administrative remedies and may bring suit immediately.

d. To assure that FOIA requests involving classified records are subjected to a thorough classification review and response is made within the specified time limits, the procedures in paragraphs e. and f. shall apply.

e. Initial requests involving classified records.

(1) The office having responsibility to act upon a FOIA request shall consult immediately with the appropriate security element which shall conduct a classification review.

(2) If the record is declassified, the action officer shall be so advised and a determination of releasability shall be made without further reference to security considerations. A copy of the declassification decision shall be forwarded t the OST Director of Investigations and Security.

(3) If the record warrants continued classification, the action officer shall be advised prior to the expiration of the time limit. The action officer shall advise the requester of the denial following the provisions of 49 CFR 7.21, "Initial Determination".

(4) If the classification review cannot be completed within the statutory time limit, due to unusual circumstances, the security element will so advise the action officer. The action officer will arrange for an extension of time in accordance with the Act (5 U.S.C. 552 (a)(6)(B)) and 49 CFR 7.25, "Extension" and implementing Departmental regulations.

(5) A copy of the determination to deny based on classification of the record shall be forwarded immediately to:

(a) the OST Director of the Office of Public Affairs, the General Counsel, or to the head of an operating element, as the case may be; and

(b) the OST Director of Investigations and Security, through the appropriate headquarters security staff.

f. Receipt of an appeal for reconsideration of release of a classified record.

(1) The Departmental official receiving the appeal shall immediately refer the matter to the Departmental Security Review Committee which shall conduct a classification review. With respect to information originally classified by or under the primary cognizance of the Department, the Committee, acting for the Secretary, has authority to overrule previous determinations in whole or in part when, in its judgment, continued protection in the interest of national security is no longer required. When the classification of the record produced in the Department is based upon a classification determination made by another department or agency, the Security Review committee shall consult immediately with its counterpart

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committee for that department. Before reaching a decision the Committee may consult with additional departments or committees as may be appropriate.

(2) If the Committee determines that the record is in fact properly classified pursuant to an Executive Order, the Committee shall so inform the head of the operating element concerned and the OST General Counsel. The head of the operating element concerned, or the General Counsel, as the case may be, shall issue a final denial to the requester.

(3) If the Committee determines that the record no longer requires classification, the head of the operating element concerned or the General Counsel, as the case may be, will be so informed. The head of the operating element or the General Counsel, as the case may be, shall determine if the material is otherwise available for public release and notify the requester.

(4) In its deliberations and notification to the head of the operating element or the General Counsel, as the case may be, the Committee shall determine, to the maximum extent possible, what portions of a requested record contains information properly classified and what unclassified portions may be reasonably segregated for the purpose of public availability.

(5) Actions upon appeal for reconsideration of requested records shall be completed within the prescribed time limits.

g. The OST Director of Investigations and Security is designated as the officer to whom another department or agency should submit a request for a classification review of classified material produced by or under the primary cognizance of the Department. If the reason for the review is based upon a request received by the other department or agency under the Freedom of Information Act, the director shall immediately inform the Chairman of the Security Review Committee who shall assure that action which is appropriate to the circumstances is taken. If the reason for the request for review is not based on the Freedom of Information Act, the director shall refer the matter to the operating element concerned or shall act directly on the matter. In either event, he shall assure that a proper and timely response is made.

3–13. *Public Availability of Declassified Information.* It is a fundamental policy of DOT to make information available to the public to the maximum extent permitted by law. Information which is declassified, for any reason, loses its protective status in the interest of national security. Accordingly, declassified information shall be handled in every respect on the same basis as all other unclassified information. Declassified information is subject to the Department of Transportation regulations (49 CFR Part 7) in implementation of the Freedom of Information Act and public information policies and procedures.

Chapter XI—Dissemination of Classified Information

11–1. *Discussion.* Information has no real value unless it is made available to those who can use it. This principle applies also to classified information. However, the dissemination of classified information is limited to those whose official duties require knowledge or possession thereof and further to those who will respect this limitation.

11–2. *Basic Provisions.*

a. Classified information may be released only to persons who have an official need for the information and only after they have been determined by designated authorities to be trustworthy for the classification level of information to be disclosed. For example, persons who are cleared at the SECRET level may not be given access to information at the TOP SECRET level. However, clearance for one level, i.e., TOP SECRET conveys authority for release of information classified at lower levels, i.e., SECRET or CONFIDENTIAL when a need for release exists. The mere fact that an individuals is employed by DOT or another department or agency of the government or is a member of the armed forces does not mean that he has been cleared for access to classified information.

b. A security clearance shall be administratively rescinded when an individual no longer requires access to classified information in the performance of official duties. Likewise, when an individual no longer needs access to a particular security classification category, the security clearance will be adjusted to the classification category still requied for the performance of his duties. In both instances, such action shall be taken without prejudice to the person's eligibility for security clearance should the need arise again. DOT Order 1630.2, PERSONNEL SECURITY PROGRAM, sets forth policies, standards, procedures and designated authorities for issuing and withdrawal of security clearances for DOT personnel.

c. Access to certain types of information may require additional authorization and controls.

d. Supervisors are responsible for controlling the dissemination of classified information received or generated in their offices to persons under their jurisdiction.

e. The responsibility for determining whether an individual has a need for specific items of classified information rests with the person or activity which has possession or control of the information and not with the prospective recipient.

f. Classified material originated by another department or agency and furnished to DOT shall not be further distributed outside DOT without the prior consent of the originating department or agency. This restriction does not apply to additional distribution within the DOT or to distribution to contractors who require the information in performance of DOT contracts.

g. Classified material shall not be released to an employee or other person for his private use (personal, commercial, or as background material) even though the individual may have been partly or solely responsible for producing the material.

h. Before approving a release of classified information to a person who serves in more than one capacity, e.g., a contractor employee who also acts as a private consultant, the releasing official shall determine in which capacity the intended recipient is acting and will follow the release and clearance procedures established for the appropriate category.

i. Personnel shall refuse access to classified information for which they lack either the required authorization or need-to-know.

j. Officials who disclose classified information verbally will advise the recipients of the classification of the information divulged.

k. Additional provisions for dissemination in connection with visiting are set forth in Chapter XII.

11–3. *Dissemination Within the Executive Branch.* Classified information originated by DOT activities may be disseminated to other departments and agencies of the Executive Branch as necessary for the conduct of official business.

11–4. *Dissemination Outside the Executive Branch.* Classified information shall not be disseminated outside the Executive Branch without the specific authorization of designated officials as indicated below. Classified material which is to be physically released to U.S. entities outside the Executive Branch shall be marked as prescribed by Chapter IV.

11–5. *To the Congress*

a. Provided other Departmental policies and procedures regarding

legislative affairs are met, classified information may be disseminated to the Congress when necessary in the interests of the national security and as authorized by the Secretary or the head of an operating administration. As used herein, the Congress includes members, committees, subcommittees, and staffs of members and committees.

b. DOT personnel who are to appear as witness before a Congressional Committee or who will meet with staff representatives shall obtain prior approval from an authority designated above for the disclosure of classified information which he anticipates will be requested.

c. A DOT witness who is requested to disclose classified information which he has not been authorized to release shall respectfully state that he does not have authority to testify on the matter but that he will endeavor to obtain authority or have the information furnished.

d. Witnesses shall request that classified testimony be given in Executive session only, that any record of such testimony be identified as classified and not appear in any document subject to public inspection or availability, and shall obtain the assurance of a committee representative that everyone present has a security clearance commensurate to the classification of the information to be released.

e. Offices which release classified documents are responsible to assure that they will be provided adequate physical safeguards.

f. Personal communications to Congress shall not include classified information. Classified information shall not be furnished for further release to a constituent.

g. Classified information to be disclosed shall be reviewed specifically to assure that the assigned classification is still valid.

11–6. *To Representatives of the General Accounting Office (GAO).* Properly cleared and identified representatives of the GAO may be granted access to DOT classified information at DOT activities when such information is relevant to the performance of their statutory responsibilities and duties in accordance with the following:

a. The GAO will give advance notice to the heads of DOT activities to be visited. Each announcement of a planned visit will include the purpose of the visit, names of the representatives, and if access to classified information is anticipated a certification as to the level of clearance of each representative.

b. The following GAO officials are authorized to certify security clearances: the Comptroller General, his Deputy, and Assistants; the General Counsel and Deputy General Counsel; the Director and Deputy Director, Office of Policy; the Directors, Deputy Directors, Associate Directors, and Assistant Directors of the following Divisions: General Government Resources and Economic Development, Resources and Economic Development, Manpower and Welfare, International, Transportation and Claims, Procurement and Systems Acquisition, Federal Personnel and Compensation, Logistics and Communications, Financial and General Management Studies; and Regional Managers.

c. GAO personnel can be identified by special credential cards issued by the Comptroller General. Each card is serially numbered and bears the photograph and signature of the authorized holder.

d. Requests for the following types of information shall be forwarded to the OST Director of Audits, who shall consult with the OST Director of Investigations and Security, for determination of whether or not the information is relevant to the performance of the GAO's statutory responsibilities and for authorization for release or access:

(1) TOP SECRET information;

(2) Other sensitive classified information falling in the general areas of tactical operations, intelligence and communications security;

(3) Classified information originated by another department or agency of the Executive Branch, including FBI reports.

e. When classified documents are furnished to GAO representatives, they shall be informed of the classified nature of the information and of the need for safeguarding it properly. In this connection, the Comptroller General has agreed to establish a security system at least equal to that prescribed by the Executive Branch.

11–7. *To the Government Printing Office (GPO).* Classified material, except TOP SECRET and similarly unique material, may be released to GPO plants, Washington and field, for reproduction when necessary as determined by DOT officials responsible for meeting printing and reproduction needs. The Public Printer has established policies and standards commensurate with those of the Executive Branch for the clearance of GPO personnel and for the safeguarding of classified information.

11–8. *To the Judiciary.* Every effort shall be taken to prevent the disclosure of classified information in proceedings before civil courts or a general courts-martial. If classified information becomes, or it appears that it might become, involved the matter will be referred immediately to the OST General Counsel. The General Counsel in consultation with the OST Director of Investigations and Security will furnish advice and guidance as appropriate to the circumstances of the given situation.

11–9. *To Foreign Governments, Foreign Nationals, and International Organizations.*

a. The release of classified information to foreign nationals (orally, visually or in documentary form) requires special attention and controls. This paragraph deals only with the protection and controlled release of classified information. Other Departmental directives in the area of international relations should be consulted also. The term FOREIGN NATIONAL includes a U.S. citizen acting as a representative of a foreign government or firm and is defined in Appendix 2—Item 23.

b. In rare instances, a DOT activity may wish to hire a foreign national as an employee or consultant in his capacity as a private individual. In this regard, the provisions of applicable directives and the Federal Personnel Manual will be followed. In addition, if access to classified information is involved, the activity or office shall submit a request to the security staff, headquarters of the respective operating administration or the OST Director of Investigations and Security, for authorization together with necessary personnel security forms. The following requirements shall be fulfilled:

(1) The request shall identify precisely the classified information intended for release. The security staff shall determine RELEASABILITY of the information in the manner described below as though the informmation were to be released to the government of the country of which the individual is national. Activities shall permit access only to that classified information for which authorization has been obtained. Procedural controls shall be established to effectively screen all information furnished to the foreign national employee.

(2) A full field investigation shall be completed and evaluated before access is granted. Interim authorizations are not permitted. Since investigation overseas will be involved, delays in completing the investigation should be anticipated. If it is not possible to obtain full investigation coverage, authorization shall be denied. Upon completion and evaluation a clearance, as defined by Appendix 2, Item 13, will not be issued. Rather, authorization will

be granted for access only to specifically

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be granted for access only to specifically identified information.

c. Except for the above, classified information as a matter of principle and policy is not made available to a foreign national as an individual but is disclosed to his government. The foreign national receives the information in his capacity as an official or representative of his government. By this means, the parent government accepts responsibility for the clearance of the individual and for the protection of the information.

(1) Policies governing the disclosure of classified military information to foreign governments are formulated by the National Military Information Disclosure Policy Committee (NDPC). Releases of certain other classified information, including Restricted Data, intelligence, and communications security information, are made pursuant to policies established by the agency or interagency entity having cognizance of the information proposed for release. Often the determination of cognizance is difficult and involved and, in many cases, more than one department or agency may need to be consulted for approval.

(2) As a prerequisite for release the department or agency proposing such release must make a clear determination that the benefits to the U.S. outweigh the disadvantages of disclosure. The cognizant department or agency must concur in this determination.

(3) The foreign government proposed as a recipient of U.S. classified information must officially assure this government that the information will be used only for official purposes, will be afforded protection at least equal to our requirements, will not be released to any other person or nation without our express permission, and corporate or proprietary rights (if any) in the information will be respected.

d. No release of classified information to a foreign national or foreign government may be made by a DOT activity without the express consent of the chief of the security staff of the headquarters of the appropriate operating administration or the OST Director of Investigations and Security.

e. Application for visits of foreign nationals to DOT activities wherein access to classified information may be involved, shall be made to the appropriate chief, security staff or OST Director of Investigations and Security, at least thirty days in advance of the proposed visit. In the case of a civilian or military representative of a foreign government application may be made by a civilian or military attaché of the mission of the country concerned. For all other foreign nationals (including U.S. citizen representing foreign interests), application shall be made by the Chief of Mission (ambassador, minister, etc.) of the country concerned. Applications shall contain the following information concerning the proposed visitor:

(1) Name in full, rank, title and position;

(2) Nationality, date and place of birth (in case of a civilian, furnish passport number);

(3) Employer or sponsor (if other than government making application);

(4) Name and address of installation(s) to be visited;

(5) Date, time and duration of proposed visit;

(6) Purpose of visit in detail, including estimated degree of access required;

(7) Secuirty clearance status of visitor with his own government;

(8) Where known and appropriate, names of individuals to be visited; and

(9) A certification that the visitor has been subjected to a military and political screening and does not constitute a security risk to the United States, that the visit and visitor are officially sponsored by his government which has officially cleared him to receive information on the stated purpose, that responsibility for the security of the information obtained is officially accepted by his government, that all information obtained will be used for official purposes only and will not be released to any other person or nation without the express consent of the U.S. Government, and that corporate or proprietary rights involved, patented, or not, will be respected and protected.

f. Requests for documentary release of classified information shall be processed generally in accordance with the procedures prescribed in 11-9c above. Documents contining classified information approved for release shall be delivered to the chief, security staff or OST Director of Investigations and Security, for onward transmission by means appropriate to the circumstances.

g. It is emphasized that these provisions apply to all situations wherein a foreign national may gain access to classified information in the custody of DOT. They apply to visits of DOT personnel to foreign countries, participants in exchange missions, conferences, meetings, symposia, etc. To avoid embarrassment, personnel should be careful to avoid firm invitations or commitments to foreign nationals which may involve access to classified information until the express consent for access is obtained. Other department or agency approval or sponsorship of a foreign national visit, sometimes referred to as a clearance, does not authorize access to classified information in the custody of DOT. Any proposed release of, or access to, classified information involving a foreign national, which is not covered in these provisions shall be submitted to the appropriate chief, security staff or OST Director of Investigations and security, for handling on a case-by-case basis.

11-10. To Historical Researchers.

a. Persons outside the Executive Branch who are engaged in historical research projects may have access to classified information provided that: (1) Access to the information will be clearly consistent with the interests of national security, and (2) the person to be granted access is trustworthy.

b. The provisions of this paragraph apply only to persons who are conducting historical research as private individuals or under private sponsorship and do not apply to research conducted under government contract or sponsorship. Further, the provisionss are applicable only to situations where the classified information concerned, or any part of it, was originated by DOT or by DOT contractors or where the information, if originated elsewhere, is in the sole custody of DOT. If any person requests access to material originated in another agency or to information under the exclusive jurisdiction of the National Archives and Records Service, General Services Administration, he should be referred to the other agency or to the National Archives and Records Service.

c. When a request for access to classified information for historical research is received, it will be referred to the appropriate local security office. The security office shall obtain from the applicant completed Standard Form 86 in triplicate, Investigation Data for Sensitive Position, and Standard Form 87, Fingerprint Chart; a statement in detail to justify access, including identification of the kind of information desired and the organization or organizations, if any, sponsoring the research; and a written statement (signed, dated, and witnessed) with respect to the following:

(1) That he will abide by regulations issued by DOT:

(a) To safeguard classified information; and

(b) To protect information which has been determined to be proprietary or privileged and is not eligible thereby for public dissemination.

(2) That he understands that any classified information which he receives affects the security of the U.S.

(3) That he acknowledges an obligation to safeguard classified information or privileged information of which he gains possession or knowledge as a result of his access to files of the Department.

(4) That he agrees not to reveal to any person or agency any classified information or privileged information obtained as a result of his access except as specifically authorized in writing by the DOT and further agrees that he shall not use the information for purposes other than that set forth in his application.

(5) That he agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(6) That he understands that failure to abide by conditions of this statement will constitute sufficient cause for canceling his access to classified information and for denying him any future access, and may subject him to criminal provisions of Federal law as referred to in this statement.

(7) That he is aware and fully understands that the provisions of Title 18, U.S. Code, Crimes and Criminal Procedures, and of the Internal Security Act of 1950, as amended. Title 50, U.S. Code, prescribe, under certain circumstances, criminal penalties for the unauthorized disclosure of information respecting the national security and for loss, destruction or compromise of such information.

(8) That this statement is made to the U.S. Government to enable it to exercise its responsibilities for the protection of information affecting the national security. That he understands that any material false statement which he makes knowingly and willfully will subject him to the penalties of Title 18, U.S. Code, Section 1001.

d. The security office shall process the forms in the same manner as specified for a preappointment NAC for a critical-sensitive position. Upon receipt of the completed NAC, the security office, if warranted, may determine that access by the applicant to the information will be clearly consistent with the interests of national security and the person to be granted access is trustworthy. If deemed necessary, before making its determination, the office may conduct or request further investigation. Before access is denied in any case, the matter will be referred through channels to the OST Director of Investigations and Security, for review and submission to the Secretary for final denial.

e. If access to TOP SECRET, intelligence or communications security information is involved a full field investigation is required. However, this investigation shall not be requested until the matter has been referred through channels to the OST Director of Investigations and Security for determination as to adequacy of the justification and the consent of other agencies as required.

f. When it is indicated that an applicant's research may extend to material originating in the records of another agency, approval must be obtained from the other agency prior to the grant of access.

g. Approvals for access shall be valid for the duration of the current research project but not longer than two years from the date of issuance, unless renewed. If a subsequent request for similar access is made by the individual within one year from the date of completion of the current project, access may again be granted without obtaining a new NAC. If more than one year has elapsed, a new NAC must be obtained. The local security office shall promptly advise its security staff, headquarters, of all approvals of access granted under these provisions.

h. An applicant should be given access only to that classified information which is directly pertinent to his approved project. He may review files or records containing classified information only in offices under the control of DOT. Procedures should be established to identify classified material to which he is given access. He should be briefed on local procedures established to prevent unauthorized access to the classified material while in the custody, for the return of the material for secure storage at the end of the daily working period, and for the control of his notes until they have been reviewed. In addition to the security review of the applicant's manuscript, the manuscript should be reviewed by appropriate offices to assure that it is technically accurate insofar as material obtained from the Department is concerned and is consistent with the Department's public release policies.

11-11. To Former Presidential Appointees. Persons who previously occupied policy-making positions to which they were appointed by the President may be granted access to classified information or material which they originated, reviewed, signed, or received while in public office, provided that:

a. It is determined that such access is clearly consistent with the interests of national security; and

b. The person agrees to safeguard the information, to authorize a review of his notes to assure that classified information is not contained therein, and that the classified information will not be further disseminated or published.

11-12. To Contractors. Classified information may be disclosed to DOT contractors, subcontractors, bidders, and grantees, and to contractors of other Government agencies, provided access to the information is necessary to the performance of the contract and required security clearances have been issued (see Chapter XII).

11-13. To National Defense Executive Reservists (NDER's). For the purposes of dissemination, members of the DOT NDER program are considered to be in the same category as employees. Classified information may be disclosed to DOT NDER's for which they have a need provided clearances have been issued pursuant to the provisions of DOT Order 1630.2, PERSONNEL SECURITY PROGRAM. However, classified material shall not be physically released to the custody of NDER's except upon request to the Director of Emergency Transportation, RSPA, and in accordance with procedures established by the latter after consultation with the OST Director of Investigations and Security.

11-14. To Reserve Military Personnel for Training and to Retired and Inactive Status Military Personnel. The Commandant, U.S. Coast Guard, shall establish policies and procedures for the dissemination of classified information to reserve, retired, and inactive status personnel. Releases to retired and inactive status personnel shall be on a selective basis, limited to those persons and to that information deemed warranted in the furtherance of the USCG or overall Departmental mission. Dissemination shall be orally or visually as distinguished from the physical release of documentary material. Classified information to be used in training courses for reserve personnel shall be screened and justified.

11-15. To Others. Proposed releases of classified information to persons not categorized above shall be referred to the security staff, headquarters of the respective operating administration or OST Director of Investigations and Security for approval and determination of limitations on release, if any, and measures necessary to assure the trustworthiness of the proposed recipient. The security element shall be consulted before any commitment to or understanding with the individual or entity has been made.

11-16. Dissemination Through Meetings.

a. DOT activities which host or convene a classified conference, symposium, seminar, exhibit, or

scientific and technical gathering (hereinafter referred to as a meeting) shall assure that security measures, appropriate to the circumstances, are taken. Requirements include, but are not limited to, the following:

(1) All persons attending the meeting shall be properly authorized and have a need for the information. In this regard, all attendees may not have a need for all of the information to be presented, particularly at a meeting covering a wide range of topics. In such instances, the agenda should be drawn and the meeting conducted in a manner to provide for selective attendance.

(2) Attendees shall be positively identified before being admitted to the meeting room.

(3) Persons who present classified information shall be advised of any limitations on their presentations which may be necessary because of the level of clearance or need-to-know of certain members of the audience. The speaker is responsible also for seeking such guidance and for keeping his disclosures within the prescribed limits.

(4) Notes, minutes, summaries, recordings, proceedings, reports, etc., on the classified portions of the meeting shall be safeguarded and controlled throughout the duration of the meeting. Such material, as appropriate, shall be forwarded to attendees by secure means at the conclusion of the meeting rather than being handcarried by them from the meeting site (except for local attendees).

(5) Physical and technical security controls shall be established as appropriate to the classification and sensitivity of the information to be discussed. Because of the security hazards inherent in the use of any normally public meeting place for the presentation or discussion of classified information, classified meetings or classified sessions of a meeting shall, whenever possible, be held only on a U.S. Government installation or a cleared contractor facility: Exception to this provision may be approved by the appropriate security element.

[FR Doc. 80-15825 Filed 5-23-80; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-136]

Customhouse Broker License; Cancellation Without Prejudice of Customhouse Broker License 3027

Notice is hereby given that the Commissioner of Customs, on May 16, 1980 pursuant to section 641, Tariff Act of 1930, as amended (19 CFR 111.51(a)), upon the specific request of Edward Limperis, Assignee for the Benefit of the Creditors of Gallagher & Ascher Company, and Margaret A. Gillespie, President, Gallagher & Ascher Company, cancelled without prejudice corporate customhouse broker's license No. 3027 issued to it on May 10, 1957, for the Customs District of Chicago, Illinois. The Commissioner's decision is effective as of May 16, 1980.

William T. Archey,
Acting Commissioner of Customs.
May 16, 1980.

[FR Doc. 80-16012 Filed 5-23-80; 8:45 am]
BILLING CODE 4810-22-M

[T. D. 80-135]

Customhouse Broker License; Cancellation Without Prejudice of Customhouse Broker License 3281

Notice is hereby given that the Commissioner of Customs, on May 16, 1980, pursuant to section 641, Tariff Act of 1930, as amended (19 CFR 111.51(a)), upon the specific request of Mark M. Trilling, Elmwood Park, Illinois, cancelled without prejudice individual customhouse broker's license No. 3281 issued to him on November 16, 1960, for the Customs District of Chicago, Illinois. The Commissioner's decision is effective as of May 16, 1980.

William T. Archey,
Acting Commissioner of Customs.
May 16, 1980.

[FR Doc. 80-16013 Filed 5-23-80; 8:45 am]
BILLING CODE 4810-22-M

[T.D. 80-134]

Customhouse Broker License—Cancellation Without Prejudice of Customhouse Broker License 3761

Notice is hereby given that the Commissioner of Customs, on May 16, 1980, pursuant to section 641, Tariff Act of 1930, as amended (19 CFR 111.51(a)), upon the specific request of John A. Bartolomei, Chicago, Illinois, cancelled without prejudice individual customhouse broker's license No. 3761 issued to him on February 15, 1966, for the Customs District of Chicago, Illinois. The Commissioner's decision is effective as of May 16, 1980.

William T. Archey,
Acting Commissioner of Customs.
May 16, 1980.

[FR Doc. 80-16014 Filed 5-23-80; 8:45 am]
BILLING CODE 4810-22-M

Office of the Secretary

[Department Circular; Public Debt Series—No. 18-80]

Treasury Notes of August 15, 1985; Series E-1985

May 22, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,000,000,000 of United States securities, designated Treasury Notes of August 15, 1985, Series E-1985 (CUSIP No. 912827 KT 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated June 3, 1980, and will bear interest from that date, payable on a semiannual basis on February 15, 1981, and each subsequent 6 months on August 15 and February 15, until the principal becomes payable. They will mature August 15, 1985, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 28, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 27, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Tuesday, June 3, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securites; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, May 30, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names

and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make attotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-16129 Filed 5-23-80; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Performance Review Board

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of 5 U.S.C. 4314(c)(4), notice is hereby given of the names of the members of the Performance Review Boards in the Veterans Administration. This notice revises the entire list of members published in the **Federal Register**, vol. 44, p. 75259, dated December 19, 1979.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: K. Joyce Edwards, Office of Personnel (05A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202-389-3423).

THE MEMBERS OF THE VA'S PERFORMANCE REVIEW BOARDS ARE:

VA Performance Review Board

Charles E. Clark, Assistant Administrator for Personnel
Maury S. Crallé, Associate Deputy Administrator
Robert D. Vaughn, Assistant Deputy Administrator
Donald L. Custis, M.D., Chief Medical Director
Dorothy L. Starbuck, Chief Benefits Director
Carl T. Noll, Chief Memorial Affairs Director
Guy H. McMichael III, General Counsel
William R. Martin, Assistant Administrator for Data Management and Telecommunications
Sydney J. Shuman, Chairman, Board of Veterans Appeals
Conrad Hoffman, Controller
Frank R. Hood, Assistant Administrator for Information Services
Raymond S. Blunt, Assistant Administrator for Planning and Program Evaluation
H. David Burge, Director, Office of Manpower Programs

Department of Medicine and Surgery, Performance Review Board

William R. Merchant, M.D., Associate Deputy Chief Medical Director
Mansell G. Piper, Executive Assistant to Chief Medical Director
Donald B. Thompson, Executive Assistant to Deputy Chief Medical Director
Paul E. Wisenbaugh, M.D., Deputy Associate Deputy Chief Medical Director for Operations
Charles V Yarbrough, Director, Management Support Staff
Carlton M. Smith, Director, Northeastern Region
Charles R. Paulk, Director, Mid-Atlantic Region
Dan G. Kadrovach, Director, Southeastern Region
James H. Caldwell, Jr., Director, Great Lakes Region
Thomas P. Mullon, Director, Mid-Western Region
John J. Peters, Jr., Director, Western Region

Department of Veterans Benefits Performance Review Board

John W. Hagan, Jr., Deputy Chief Benefits Director
John P. Travers, Field Director, Western Region
Jerome C. Peckarsky, Director, Compensation and Pension Service
James J. Cox, Director, Veterans Assistance Service
Albert W. Glass, Director, Loan Guaranty Service

Dated: May 20, 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-15957 Filed 5-23-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 103
Tuesday, May 27, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item/No.
Commodity Futures Trading Commission	1
Federal Energy Regulatory Commission	2
Federal Home Loan Bank Board	3
Federal Home Loan Mortgage Corp.	4
Federal Mine Safety and Health Review Commission	5
National Credit Union Administration	6
Nuclear Regulatory Commission	7
Postal Service (Board of Governors)	8
Securities and Exchange Commission	9

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, No. 97, Friday, May 16, 1980, p. 32475.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 22, 1980.

CHANGES IN THE MEETING: The meeting has been postponed until May 23, 1980, at 11:30 a.m.

[S-1032-80 Filed 5-22-80; 11:42 am]

BILLING CODE 6351-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

May 21, 1980.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., May 28, 1980.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Power Agenda—451st Meeting, May 28, 1980, Regular Meeting 10:00 a.m.

CAP-1. Project No. 2830, Town of Madison Electric Works Department; Project No. 2915, Madison Paper Industries.
CAP-2. Project No. 2817, Vigilante Electric Cooperative, Inc., Project No. 2853, Montana Department of Natural Resources and Conservation.
CAP-3. Docket Nos. ER80-168, ER80-183, ER80-195, ER80-201, ER80-223, and ER80-239, American Electric Power Service Corp., et. al.
CAP-4. Docket No. ER80-326, New England Power Co.
CAP-5. Docket No. ER80-206, Florida Power Corp.
CAP-6. Docket No. ER80-57, Gulf States Utilities Co.
CAP-7. Docket No. ER80-112, Upper Peninsula Power Co.

Miscellaneous Agenda—451st Meeting, May 28, 1980, Regular Meeting

CAM-1. Docket No. RA80-15, Dwyer Motors, Inc.

Gas Agenda—451st Meeting, May 28, 1980, Regular Meeting

CAG-1. Docket No. RP80-102, Southern Natural Gas Co.
CAG-2. Docket No. RP80-101, Texas Gas Transmission Corp.
CAG-3. Docket No. RP80-95, National Fuel Gas Supply Corp.
CAG-4. Docket No. RP80-98, Valley Gas Transmision, Inc.
CAG-5. Docket No. RP80-97, Tennessee Gas Pipeline Co., A division of Tenneco.
CAG-6. Docket Nos. RP80-91 and RP80-93, Arkansas Louisiana Gas Co.
CAG-7. Docket No. RP80-94, Peoples Natural Gas Co.
CAG-8. Docket No. RP80-100, Michigan Wisconsin Pipe Line Co.
CAG-9. Docket No. TA80-2-22 (PGA80-3), Consolidated Gas Supply Corp.
CAG-10. Docket No. TA80-2-58 (PGA80-3 and IPR80-2), Texas Gas Pipe Line Corp.
CAG-11. Docket No. CP77-240, Transcontinental Gas Pipe line Corp.
CAG-12. Docket No. RP71-125, Natural Gas Pipeline Co. of America.
CAG-13. Docket Nos. AR61-2, AR69-1, et al., RP67-23, RP71-6 et al., G-11980, et al., and RP73-114, Tennessee Gas Pipeline Co.
CAG-14. Docket No. RP80-85, National Fuel Gas Supply corp.
CAG-15. Docket No. RP80-1, Hampshire Gas Co.
CAG-16. Docket No. RP80-3, Michigan Wisconsin Pipe Line Co.
CAG-17. Docket Nos. RP75-62 and SA79-30, Cities Service Gas co.
CAG-18. Docket No. CI78-1128 et al., Arkla Exploration Co. et al.; Docket No. CI80-206, Tenneco Oil Co; Docket No. C-4880 et al., Diamond Shamrock Corp.; Docket No. CI80-178, Mobil Oil Exploration and Producing Southeast Inc.; Docket No. CI78-944, Amoco Production Co.; Docket No. CI80-15, Amerada Hess Corp.; Docket No. CI79-206, Northwest Exploration Co.
CAG-19. Docket No. CI79-514, The Louisiana Land and Exploration Co.
CAG-20. Docket No. G-5716, Northern Natural Gas Producing Co.; Docket No. G-7842, Mobil Oil Corp.; Docket No. CI79-592, John R. Lebosquet; Docket No. CI80-232, Mapco Production Co.
CAG-21. FERC gas rate schedule No. 67, Marathon Oil Co.
CAG-22. Docket No. Docket No. CP78-535, Natural Gas Pipeline Co. of America, Sea Robin Pipeline Co. and United Gas Pipeline Co., Complainants v. Texaco, Inc., Tenneco Oil Co. a Division of Tenneco, Inc., and Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Defendants.
CAG-23. Docket No. CP80-172, Great Lakes Gas Transmission co.
CAG-24. Docket No. CP80-272, Cities Service Gas Co.
CAG-25. Docket No. CP80-207, Northern Natural Gas Co., Southern Natural Gas Co. and United Gas Pipe Line Co.
CAG-26. Docket No. CP80-39, Natural Gas Pipeline Co. of America.
CAG-27. Docket No. CP78-123 et al., Northwest Alaskan Pipeline Co.; Docket No. CP79-56, Northwest Pipeline Corp.; Docket No. CP79-57, El Paso Natural Gas Co.; Docket No. CP79-58, Pacific Interstate Transmission Co.; Docket No. CP79-59, Northwest Alaskan Pipeline Co.; Docket No. CP79-60, Pacific Gas Transmission Co.; Docket No. CP79-170, Northwest Alaskan Pipeline Co.; Docket No. CP78-124, Northern Border Pipeline Co.

Power Agenda—451st Meeting, May 28, 1980, Regular Meeting

I. Licensed Project Matters

P-1. Project No. 2926, South Columbia Basin Irrigation District.

II. Electric Rate Matters

ER-1. Docket No. ER80-225, Delmarva Power & Light Co.
ER-2. Docket No. ER80-337, Southwestern Electric Power Co.
ER-3. Docket Nos. ER80-379 and ER80-380, Utah Power & Light Co.
ER-4. Docket Nos. ER78-229, et al., Indiana & Michigan Electric co. et al.
ER-5. Docket Nos. ER78-378, ER78-381, ER78-382, and ER78-383, Indiana & Michigan Electric Co.
ER-6. Docket No. ER76-530, Arizona Public Service Co.
ER-7. Docket No. ER77-277 (Phase 1), Pennsylvania Power Co.

Miscellaneous Agenda—451st Meeting, May 28, 1980, Regular Meeting

M-1. Reserved.

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M-2. Reserved.
M-3. (A) Docket No. RM80-6, Pricing of pipeline and affiliate production under the Natural Gas Act; (B) Docket No. RM80-7, final rule governing the maximum lawful price for pipeline, distributor or affiliate production.
M-4. Docket No. RM80-11, Distributor access to outer Continental Shelf Gas.
M-5. Docket No. RM79-40, determination of alternative fuels for essential agricultural users.
M-6. (A) Docket No. RM80-47, final subpart K of part 271 regulations under the Natural Gas Policy Act of 1978; (B) Docket No. CI77-412, Phillips Petroleum Co.; (C) RM80-21, regulations under section 110 of the Natural Gas Policy Act of 1978.
M-7. Docket No. RM80-38, rule to provide incentive pricing for high-cost natural gas produced from wells drilled in deep waters.
M-8. Docket No. RM80-50, High cost gas production enhancement.
M-9. Docket No. RO79-9, Mobil Oil Corp.

Gas Agenda—451st Meeting, May 21, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. Docket No. RP79-23, Distrigas of Massachusetts Corp., Docket No. RP79-24, Distrigas Corp.
RP-2. Docket No. RP79-12 (extension), El Paso Natural Gas Co.

II. Producer Matters

CI-1. Docket No. RI79-21, Shell Oil Co

III. Pipeline Certificate Matters

CP-1. Docket No. CP80-283, Texas Eastern Transmission Corp.
CP-2. Docket No. CP75-81 and CP75-104, High Island Offshore System.
CP-3. Docket No. CP79-240, Seagull Pipeline Corp.
CP-4. Docket No. G-20584, Kansas-Nebraska Gas Co.
CP-5. Docket No. VP79-234, Algonquin Gas Transmission Co.; Docket No. CP79-338, Texas Eastern Transmission Corp.; Docket No. CP79-339, Texas Eastern Transmission Corp.; Docket No. CP79-368, Transcontinental Gas Pipe Line Corp.; Docket No. CP79-369, Transcontinental Gas Pipe Line Corp.; Docket No. CP78-256, Algonquin Gas Transmission Co.

Kenneth F. Plumb,
Secretary.

[S-1030-80 Filed 5-22-80; 11:00 am]
BILLING CODE 6450-85-M

3

FEDERAL HOME LOAN BANK BOARD.
TIME AND DATE: 9:30 a.m., May 29, 1980.
PLACE: 1700 G Street NW., amphitheater, second floor, Washington, D.C.
STATUS: Open meeting.
CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).
MATTERS TO BE CONSIDERED:
Application for Bank Membership—Home Savings Bank, Boston, Mass.
Application for Bank Membership—City Savings Bank of Meriden, Meriden, Conn.
Application for Bank Membership—Andover Savings Bank, Andover, Mass.
Application for Bank Membership—Amherst Savings Bank, Amherst, Mass.
Application for Branch Office—First Federal Savings & Loan Association of Warren, Warren, Ohio.
Application for Branch Office—Rossville Federal Savings & Loan Association, Rossville, Ga.
Final Approval of Exact Location of Limited Facility—Biscayne Federal Savings & Loan Association, Miami, Fla.
Application for Satellite Office—Biscayne Federal Savings & Loan Association, Miami, Fla.
Preliminary Application to Convert to a Federal charter—Penn Savings & Loan Association, Newark, N.J.
Merger—Fillmore Savings & Loan Association, Buffalo, N.Y. into Buffalo Savings Bank, Buffalo, N.Y.
Pledge and Escrow Agreement.
Suspension and Prohibition from Participation in Association Affairs—First Federal Savings & Loan Association of Fall River, Fall River, Mass.

[S-1033-80 Filed 5-22-80; 2:57 pm]
BILLING CODE 6720-01-M

4

FEDERAL HOME LOAN MORTGAGE CORPORATION
TIME AND DATE: 1 p.m., May 29, 1980.
PLACE: 1700 G Street NW., amphitheather, Second floor, Washington, D.C.
STATUS: Open meeting.
CONTACT PERSON FOR MORE INFORMATION: Mr. Henry Judy (202-789-4734).
MATTERS TO BE CONSIDERED: Federal Home Loan Mortgage Corporation Pension Plan.
No. 350, May 22, 1980.

[S-1038-80 Filed 5-22-80; 3:56 pm]
BILLING CODE 6720-02-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.
May 20, 1980.
TIME AND DATE: 10 a.m., May 28, 1980.
PLACE: Room 600, 1730 K Street NW., Washington, D.C.
STATUS: Open.
MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following: 2. McCracken v. Valley Camp Coal Co., Docket No. WEVA 79-116-D. (Petition for Discretionary Review)
CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1036-80 Filed 5-22-80; 2:57 p.m.]
BILLING CODE 6820-12-M

6

NATIONAL CREDIT UNION ADMINISTRATION.
TIME AND DATE: 9:30 a.m., Wednesday, May 28, 1980.
PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.
STATUS: Open.
MATTERS TO BE CONSIDERED:
1. Review of Central Liquidity Facility lending rate.
2. The collection and processing of semi-annual financial and statistical data from all federally-insured credit unions.
3. Report on actions taken under delegations of authority.
4. Applications for charters, amendments to charaters, bylaw amendments, mergers as may be pending at that time.
RECESS: 10:30 a.m.
TIME AND DATE: 10:45 a.m., Wednesday, May 28, 1980.
PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.
STATUS: Closed.
MATTERS TO BE CONSIDERED:
1. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A).
2. Administrative actions under Sections 120 and 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A) and (10).
3. Administrative action under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (7), (8), (9)(A) and (9)(B).
4. Insurance application of State chartered credit union. Closed pursuant to exemption (9)(A).
5. Mergers. Closed pursuant to exemptions (8) and (9)(A).
6. Field of membership conversion. Closed pursuant to exemptions (8) and (10).
7. NCUSIF recommended guidelines for internal practices. Closed pursuant to exemption (9)(B).
8. Personnel Action. Closed pursuant to exemption (6).
FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1029-80 Filed 5-22-80; 11:00 am]
BILLING CODE 7535-01-M

7

NUCLEAR REGULATORY COMMISSION.
TIME AND DATE: Wednesday, May 28, 1980.
PLACE: Room 550, 4350 East West Highway, Bethesda, Md.
STATUS: Open/closed.
MATTERS TO BE CONSIDERED:
10 a.m.
1. Discussion of Action Plan (approximately 2 hours, public meeting).

2 p.m.
1. Continuation of Discussion of Action Plan (approximately 2 hours, public meeting).
2. Discussion of OGC Document on Motion to Quash Subpoenas Issued by I&E (approximately ½ hour, closed—Exemption 10).
CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.
AUTOMATIC TELEPHONE ANSWERING SERVICE: (202) 634-1498.
Those planning to attend a meeting should reverify the status on the day of the meeting.

May 21, 1980.
Roger M. Tweed,
Office of the Secretary.

[S-1035-80 Filed 5-22-80; 2:57 pm]
BILLING CODE 7590-01-M

8

POSTAL SERVICE.
(Board of Governors)
Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Tuesday, June 3, 1980, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. Except as indicated in the following paragraphs, the meeting is open to the public. The Board expects to discuss the matters stated on the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

On May 6, 1980, the Board of Governors of the United States Postal Service voted to close to public observation portions of its meeting scheduled for June 3, 1980. Each of the members of the Board voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

A portion of the meeting to be closed involves a discussion of certain individual personnel actions which may involve adjustments in the compensation of certain officers of the Postal Service.

The other portion of the meeting to be closed will consist of a continuation of the discussion by the Governors of the Opinion and Recommended Decision Upon Reconsideration of the Postal Rate Commission re Electronic Mail Classification Proposal, 1978 (Commission Docket No. MC78-3), dated April 8, 1980.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Report of the Chief Postal Inspector. (Chief Postal Inspector Fletcher will report on the Postal Inspection Service.)
4. Review of Public Affairs and Communications Program. (Mr. Duka, Assistant Postmaster General, Public and Employee Communications Department, will report on developments in the communications area.)
5. Discussion of Personnel Actions. (The Board will discuss certain individual personnel actions. As stated above in the Notice of Meeting, this portion of the meeting will be closed to the public.)
6. Recommended Decision upon Reconsideration of the Electronic Mail Classification Proposal, 1978 (Commission Docket No. MC78-3). (The Governors will consider the above Recommended Decision of the Postal Rate Commission. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

Louis A. Cox,
Secretary.

[S-1034-80 Filed 5-22-80; 2:57 pm]
BILLING CODE 7710-12-M

9

SECURITIES AND EXCHANGE COMMISSION.
"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: To be published.
STATUS: Closed meeting.
PLACE: Room 825, 500 North Capitol Street, Washington, D.C.
DATES PREVIOUSLY ANNOUNCED: Wednesday May 21, 1980.
CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, May 22, 1980, immediately following the 10 a.m. open meeting:

Formal order of investigation.
Institution of injunctive action.

Commissioners Loomis, Evans, Pollack, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2091.

May 21, 1980.

[S-1031-80 Filed 5-22-80; 11:42 am]
BILLING CODE 8010-01-M

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federal register

Tuesday
May 27, 1980

Part II

Department of Health and Human Services

Food and Drug Administration

Anorectal Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 346

[Docket No. 80N-0050]

Anorectal Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) anorectal drug products for the relief of symptoms associated with hemorrhoids and other anorectal disorders are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Hemorrhoidal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by August 25, 1980 and reply comments by September 24, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on January 24, 1978, a report of the Advisory Review Panel on OTC Hemorrhoidal Drug Products. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the agency issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC anorectal drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditons excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of the FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document as a formal proposal to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members but does not necessarily reflect the agency's position on any particular matter contained in it. After reviewing all comments submitted in response to this proposal, FDA will issue a tentative final regulation in the **Federal Register** to establish a monograph for OTC anorectal drug products.

The agency recognizes that extensive changes will result in the marketing practices of anorectal drug products if the Panel's recommendations are fully implemented. For example, the Panel found that few clinical studies have been conducted in the anorectal area and recommended that studies be conducted in this area to reclassify Category III conditions to Category I. The Panel has also proposed final formulation testing for anorectal combination products.

The agency notes that the Panel's decision to place pramoxine hydrochloride in Category I was based primarily on data submitted by one manufacturer. Because the Panel based its conclusions on these data, and because it was concerned about the bioavailablity of final formulations of anorectal preparations, the Panel concluded that only pramoxine hydrochloride in these specific formulations can be generally recognized as safe and effective for OTC external use in anorectal drug products. The Panel's Category I recommendation was conditioned upon the disclosure of the exact formulation of each pramoxine hydrochloride-containing product. Subsequently, after adoption of the Panel's report, FDA contacted the manufacturer for permission to include the exact formulation in the proposed monograph. The manufacturer agreed by letter to permit the formulations to be disclosed in the monographs, but did not agree to disclosing the quantities of each ingredient. This letter has been included in OTC volume 120084. (See part I. paragraph D. below—Referenced OTC Volumes.) Accordingly, the monograph specifies only the quantity of pramoxine hydrochloride but not the quantities of the other ingredients in the formulations. The agency recognizes that the Panel's recommendation for pramoxine hydrochloride is unusual in that it has placed only two specific formulations in Category I. The agency invites comment on this approach and whether these formulations or any other formulation for pramoxine hydrochloride should be included in the final monograph.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2)), the Panel and FDA have held as confidential all information concerning OTC anorectal drug products submitted for consideration by the Advisory Review Panel. All the submitted information will be put on public display at the office of the Hearing Clerk, Food and Drug Administration, after June 19, 1980, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and are not misbranded (Category I), be effective 30 days after the date of publication of the final monograph in the **Federal Register**.

2. That the conditions excluded from the monograph because they would cause the drug to be not generally recognized as safe and effective or to be misbranded (Category II), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the **Federal Register**, regardless of whether further testing is undertaken to justify their future use.

3. That the status of Category III conditions after publication of a final order is the subject of the recent court decision in the case of *Cutler* v. *Kennedy*, 475 F Supp. 838 (D.D.C. 1979). In that case, the court held that "FDA may not lawfully maintain Category III in any form in which drugs with Category III conditions* * * are exempted from enforcement action" (*Cutler, supra* at 856). The Court issued an order that declared the OTC drug regulations (21 CFR 330.10) unlawful to the extent that they authorize the

marketing of Category III drugs after a final monograph, and enjoined the FDA from implementing any portion of the regulations that authorizes such marketing. In the **Federal Register** of May 13, 1980 (45 FR 31422), FDA issued a proposal to revise the procedural regulations governing the review and classification of OTC drug products to delete the provision that authorizes the marketing of a Category III condition in an OTC drug product after a final monograph. The term Category III, however, may continue to be used prior to publication of a final monograph.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC anorectal drug products was issued in the **Federal Register** of April 26, 1973 (38 FR 10307).

The Commissioner appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of those products: Claude Emerson Welch, M.D., Chairman, Leon Banov, Jr., M.D., Eugene A. Castiglia, M.D., Winston H. Gaskin, R.Ph., Jean Dace Golden, M.D., Thaddeus S. Grosicki, Ph.D., Judith Karen Jones, M.D., Ph.D.

The Panel was first convened on July 9, 1973 in an organizational meeting. Working meetings were held on September 6 and 7, October 7 and 8, December 8 and 9, 1973; February 3 and 4, March 9 and 10, May 12 and 13, August 3 and 4, September 21 and 22, November 1 and 2, December 13 and 14, 1974; January 31 and February 1, March 9 and 10, May 1, 2, and 3, June 30 and July 1, September 8 and 9, November 16 and 17, 1975; January 3 and 4, March 14 and 15, May 1 and 2, July 9 and 10, August 20 and 21, November 21, 22 and 23, December 20 and 21, 1976; January 22 and 23, February 20 and 21, April 29 and 30, August 25, 26, and 27, 1977; and January 22, 23, and 24, 1978. The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address above).

Two nonvoting liaison representatives served on the Panel. Allen J. Seeber, nominated by the Consumer Federation of America, served as the consumer liaison and Garrett Swenson, R.Ph., Esq., nominated by the Proprietary Association, served as the industry liaison until he resigned from the Panel in October 1974, and was followed by Hugh Miller, M.D., who was also nominated by the Proprietary Association. The following FDA employees also served: Samuel Jacques Sunnenblick, M.D., served as Executive Secretary until February 1974, and was followed by Clyde G. Oberlander, R.Ph.; Thomas DeCillis, R.Ph., served as Panel Administrator; Melvin Lessing, R.Ph., M.S., served as Drug Information Analyst until October 1973, and was followed by Lloyd Scott, R.Ph., who served until April 1974, and was followed by Gary P. Trosclair, R.Ph.

In addition to the Panel members and liaison representatives, the following individuals were given an opportunity to appear before the Panel to express their views either at their own or at the Panel's request: John Adriani, M.D., M. F. Bartlett, Ph.D., John Behrman, M.D., Robert G. Blank, Ph.D., Eric G. Comstock, M.D., I. Kelman Cohen, M.D., W. R. Darrow, M.D., R. M. Diener, D.V.M., Frank Engley, Ph.D., Arthur D. Flanagan, M.D., Jock L. Graeme, M.D., Richard A. Hopping, M.D., Thomas K. Hunt, M.D., Joseph L. Kanig, Ph.D., Ben Marr Lanman, M.D., Louis Lasagna, M.D., Myron Lover, Ph.D., James D. MacLowery, M.D., Howard I. Maibach, M.D., Juha Niinikoski, M.D., Ronald Okun, M.D., Alan Parks, M.D., Hans J. Rosenbach, R.Ph., Jay P. Sanford, M.D., T. Werner Schwarz, Ph.D., Garrett W. Swenson, Esq., Mark E. Thoman, M.D., Donald D. Trunkey, M.D., Jouni Uitto, M.D., Ph.D., Le Roy Van Dam, M.D., Alexander G. Vongries, M.D., James C. White, M.D., Bengt Zederfeldt, M.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent data and information submitted through January 24, 1978, in arriving at its conclusions and recommendations.

The charge to the Panel required the review of OTC hemorrhoidal ingredients. However, the Panel concluded early in its deliberations that the term "hemorrhoidal" was too restrictive because it narrowed the review to relief of symptoms due to only one type of anorectal disorder. Therefore, the Panel interpreted the charge to encompass not only relief of symptoms due to hemorrhoidal disease, but also relief of symptoms of disease in the perianal, anal canal, and/or the lower rectal area. The Panel recommends that the ingredients

reviewed in this document be referred to as "anorectal" ingredients as a more accurate designation of the area in which symptoms are being relieved. (See part I. paragraph C. below—Classification of Ingredients and part II. paragraph A.1. below—Introduction.)

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel's findings with respect to OTC anorectal drug products are set out in three categories:

Category I. Conditions under which OTC anorectal drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC anorectal drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

I. Submission of Data and Information

Pursuant to the notice published in the **Federal Register** of April 26, 1973 (38 FR 10307) requesting the submission of data and information on hemorrhoidal drugs, the following firms made submissions relating to the indicated products:

A. Submissions by Firms

Firm	Marketed products
Abbott Laboratories, North Chicago, IL 60064	Tronothane Hydrochlonde 1% Topical Local Anesthetic Cream, Tronothane Hydrochlonde 1% Topical Local Anesthetic Jelly
Astra Pharmaceutical Products, Inc., Worcester, MA 01606	Xylocaine Topical Anesthetic Ointment 2.5%.
Astro-Solar Laboratories, Wheatfield, IN 46392	Tengum.
Bellwood Pharmaceutical Co., Philadelphia, PA 19151	Hemozone.
Bristol-Myers Co., New York, NY 10022	Pazo Hemorrhoid Ointment, Pazo Hemorrhoid Suppositories, Aerosol Medicated Anal Wipe Foam.
Chesebrough-Pond's, Inc., Trumbull, CT 06611	Vaseline Pure Petroleum Jelly
Ciba-Geigy Corp., Summit, NJ 07901	Nupercainal Anesthetic Ointment, Nupercainal Suppositories.
Combe, Inc., White Plains, NY 10601	Lanacane Creme
Dr Kade Pharmazeutsche, Fabrik GmbH, Berlin, Germany	Posterisan Suppositories, Posterisan Ointment, Posterisan Combi-Package.
Fuller Laboratories, Inc., Eden Prairie, MN 55343	Tucks Cream, Tucks Medicated Pads, Tucks Ointment, Tucks Take-Alongs.
Merrell-National Laboratories, Cincinnati, OH 45215	Diothane Ointment.
Phenex Laboratories, Chicago, IL 60641	Phenex Rectal Suppositories.
Philips Roxane Labs., Inc., Columbus, OH 43216	Gentz Wipes.
Pitman-Moore, Indianapolis, IN 46268	Dyclonine Hydrochloride.
Quist Chemical Co., Niagara Falls, NY 14304	Quist Ointment.
Reed & Carnrick Pharmaceutcals, Kenilworth, N.J. 07033	Non-Steroid Proctofoam.
Resinol Chemical Co., Baltimore, MD 21201	Resinol Greaseless Cream, Resinol Ointment.
The Upjohn Co., Kalamazoo, MI 49001	Epinephricaine Rectal Ointment, Tanicaine Rectal Ointment, Tanicaine Rectal Suppositories.
Warner-Chilcott Laboratories, Morris Plains, NJ 07950	Anusol Hemorrhoidal Suppositories, Anusol Ointment.
Whitehall Laboratories, Inc., New York, NY 10017	Preparation H Hemorrhoidal Ointment, Preparation H Hemorrhoidal Suppositories.
Winthrop Laboratories, New York, NY 10018	PNS Rectal Suppositories, Pontocaine Cream, Pontocaine Ointment.
Wyeth Laboratories, Inc., Philadelphia, PA 19101	Protogel, Wyanoid Hemorrhoidal Ointment, Wyanoids Hemorrhoidal Suppositories.

In addition, the following firms or individuals made related submissions:

Firm	Marketed products
American Home Products Corp., New York, NY 10017	Supplemental Submissions on Skin Respiratory Factor (SRF).
Angle, Carol R., M.D., University of Nebraska Medical Center, Omaha, NE 68105	Toxicity of Camphor.
Arnar-Stone Laboratories, Inc., Mount Prospect, IL 60056	Benzocaine.
Astra Pharmaceutical Products, Inc., Worcester, MA 01606	Supplement to Xylocaine Ointment.
Bristol-Myers Co., New York, NY 10022	Remarks on Combination Policy.
Chesebrough-Pond's Inc., Trumbull, CN 06611	Clinical Studies on Vaseline Petroleum Jelly.
Ciba-Geigy Corp., Summit, NJ 07901	Dibucaine, Acetone Sodium Bisulfite, Presence of Sensory Receptors Within Rectal Mucosa.
Combe, Inc., White Plains, NY 10604	Resorcinol, Irritabon Studies on Lanocaine.
Dow Chemical Co., Indianapolis, IN 46268	Supplemental Submission on Dyclone Creme 1%.
Fuller Laboratories, Inc., Eden Prairie, MN 55343	Hamamelis Water.
Humphreys Pharmacal, Inc., Rutherford, NJ 07070	Hamamelis Water.
Merrell-National Laboratories, Cincinnati, OH 45215	Oxyquinoline Benzoate and Diperodon.
Meyer Laboratories, Inc., Fort Lauderdale, FL 33316	Protocol for a Study Comparing Corticaine Cream with Appropnate Controls in the Relief of Symptoms and Inflammation Associated with Acute Hemorrhoids.
Pfizer Pharmaceutcals, New York, NY 10017	Benzyl Alcohol.
Phenex Antiseptic Laboratories, Inc., Chicago, IL 60614	In Vivo and in Vitro Studies of Sodium Salicylic Acid as a Bacterial and Fungal Antiseptic.
The Proprietary Association, Washington, DC 20006	Statement Concerning the Criteria for Placing Category III Ingredients Into Category I, Statement on Principles Applicable to Combination Products, Statement on Final Product Testing, Comment on Testing Guidelines.
Schuylkill Chemical Co., Philadelphia, PA 19132	Additional Information on Alcloxa and Allantoin.
Sterling Drug, Inc., New York, NY 10016	Phenylephrine Hydrochloride, Tyloxapol, Tetracaine Hydrochloride.
Trunkey, M.D., San Francisco, CA 94122	Donor Site Wound Protocol.
Whitehall Laboratories, New York, NY 10017	Live Yeast Cell Derivative, The Safety and Effectiveness of SRF as a Wound Healing Agent, Comment on Labeling Claim of "Temporanly Shrinks".

B. Labeled Ingredients Contained in Marketed Products Submitted to the Panel

Acetone sodium bisulfite, alcloxa, amaranth, aromatic oils, atropine, beeswax, benzalkonium chloride, benzocaine, benzyl alcohol, benzyl benzoate, bismuth oxyiodide, bismuth resorcin compound [1], bismuth subcarbonate, bismuth subgallate, bismuth subnitrate, boric acid, boric acid glycerite, cocao butter, calamine, camphor, carbowaxes, cetylpyridinium chloride, chlorobutanol, chlorothymol, cocoa butter, dibucaine, diperodon, dyclonine hydrochloride, *E. coli* vaccines, ephedrine sulfate, epinephrine, eucalyptus oil, extract belladonna, extract of collinsonia (stone root), extract of lappa (burdock root), extract of leptandra (culver's root), gel of alumina, glycerine, goldenseal, hamamelis water (witch hazel water), kaolin, lanolin, lidocaine base, live yeast cell derivative, menthol, methylparaben, mineral oil, mullein, myrrh, oil of cade, oil of mace, oil of turpentine, peruvian balsam, petrolatum, petroleum base, phenacaine hydrochloride, phenol, phenylephrine hydrochloride, phenylmercuric nitrate, paramoxine hydrochloride, prepared calamine, propylene glycol, resorcin, resorcinol, secondary-amyltricresols, shark liver oil, skin respiratory factor, sodium bisulfite, sodium salicylic acid phenolate [2], sulphur, tannic acid, tetracaine, tetracaine hydrochloride, tyloxapol, white wax, white petrolatum, zinc oxide.

[1] This ingredient appears on the label of a product submitted for review; however, it is not an identifiable chemical compound, nor is it officially recognized in the standard compendia. It is a mixture of 50 percent bismuth oxide and 50 percent resorcinol. For the purposes of this report, discussions will be written on bismuth oxide and resorcinol.

[2] This ingredient appears on the label of a product submitted for review; however, it is not an identifiable chemical compound, nor is it officially recognized in the standard compendia. For the purposes of this report, discussion will be focused under sodium salicylic acid phenolate.

Ingredients reviewed by the Panel in addition to the labeled ingredients contained in marketed products submitted to the Panel: Bismuth oxide, coconut oil (palm kernel oil), cod liver oil, dibucaine hydrochloride, epinephrine hydrochloride, epinephrine undecylenate, polyethylene glycol ointment, starch, vitamin A, vitamin D, wool alcohols.

C. Classification of Ingredients

1. *Anorectal active ingredients.* The Panel considered the ingredients with regard to their effect on symptoms related to the perianal, anal, and/or lower rectal areas. As discussed elsewhere in this document, the Panel chose the designation "anorectal ingredients" as more accurately describing the use of these ingredients rather than "hemorrhoidal ingredients." The Panel, therefore, will use the term "anorectal" in referring to these ingredients. (See part II. paragraph A.1. below— Introduction.)

The Panel has classified the following anorectal ingredients submitted to the Panel into groups identified below:

Local Anesthetics

Benzocaine in polyethylene glycol ointment (benzocaine), benzyl alcohol, dibucaine, dibucaine hydrochloride, diperodon, dyclonine hydrochloride, lidocaine (lidocaine base), phenacaine hydrochloride, pramoxine hydrochloride in a cream formulation (pramoxine hydrochloride), pramoxine hydrochloride in a jelly formulation (pramoxine hydrochloride), tetracaine, tetracaine hydrochloride.

Vasoconstrictors

Ephedrine sulfate in aqueous solution (ephedrine sulfate), epinephrine, epinephrine hydrochloride in aqueous solution (epinephrine hydrochloride), epinephrine undecylenate, phenylephrine hydrochloride in aqueous solution (phenylephrine hydrochloride suppositories (phenylephrine hydrochloride).

Protectants

D. Referenced OTC Volumes

The Panel is aware that there has

variety of anorectal disorders (Ref. 2)

and/or obtain help for their anorectal

Protectants

Aluminum hydroxide gel (gel of alumina), bismuth oxide, bismuth subcarbonate, bismuth subgallate, bismuth subnitrate, calamine (prepared calamine), cocoa butter (cacao butter), cod liver oil, glycerin in aqueous solution (glycerine), kaolin, lanolin, mineral oil, shark liver oil, starch, white petrolatum (petrolatum, petroleum base), wool alcohols, zinc oxide.

Counterirritants

Camphor, hydrastis (golden seal), juniper tar (oil of cade), menthol, menthol in aqueous solution, turpentine oil, rectified (oil of turpentine).

Astringents

Calamine (prepared calamine), tannic acid, witch hazel water (hamamelis water), zinc oxide.

Wound-Healing Agents

Cod liver oil, live yeast cell derivative (skin respiratory factor), peruvian balsam, shark liver oil, vitamin A, vitamin D preparations (ergocalciferol and cholecolciferol).

Antiseptics

Boric acid, boroglycerin (boric acid glycerite), hydrastis (golden seal), phenol, resorcinol (resorcin), sodium salicyclic acid phenolate.

Keratolytics

Alcloxa, resorcinol (resorcin), precipitated sulfur (sulphur), sublimed sulfur (sulfur).

Anticholinergics

Atropine, belladonna extract (extract belladonna).

2. Miscellaneous labeled anorectal active ingredients

Collinsonia extract (extract of collinsonia, stone root), *E. coli* vaccines, lappa extract (extract of lappa, burdock root), leptandra extract (extract of leptandra, culver's root), mullein.

3. Ingredients submitted to the Panel and classified as inactive and/or pharmaceutical necessity ingredients

Acetone sodium bisulfite, amaranth, aromatic oils, beeswax, benzolkonium chloride, benzyl benzoate, bismuth oxyiodide, carbowaxes, cetylpyridinium chloride, chlorobutanol, chlorothymol, coconut oil (palm kernel oil), eucalyptus oil, mace oil (oil of mace), methylparaben, myrrh, phenylmercuric nitrate, polyethylene glycol ointment, propylene glycol, secondary amyltricresols (secondary-amyltricresols), sodium bisulfite, tyloxapol, white wax.

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call for data notice published in the **Federal Register** of April 26, 1973, (38 FR 10307). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after June 26, 1980, in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Statements and Recommendations

A. General Comment

1. *Introduction.* The Advisory Review Panel on OTC Hemorrhoidal Products was charged with the review and evaluation of the safety and effectiveness of single ingredients as well as combinations of such ingredients when used in OTC products for the relief of symptoms associated with hemorrhoids. The Panel interpreted that request as a charge to evaluate products used for the relief of symptoms of disease in the perianal, anal canal, and/or the lower rectal areas. The Panel concludes that when a consumer complains of "piles, hemorrhoids, or rectal problems," the implication is a difficulty in the perianal area, anal canal, and/or the lower rectum.

The Panel finds the term "hemorrhoidal" too restrictive when OTC preparations for "hemorrhoidal disease" are considered. Therefore, instead of the term "hemorrhoidal disease," the terms "anorectal disorders" and/or "anorectal disease" were chosen by the Panel as a more accurate designation, which is defined as those conditions in the lower part of the intestinal tract that interfere with its normal function and/or sensation. The Panel recommends to industry, the medical community, and consumers the use of the term "anorectal" so that in the future a uniform concept is communicated by all.

Anorectal disorders are characterized by the symptoms and signs of bleeding, pain, burning, itching, discomfort, seepage, swelling, protrusion, irritation, inflammation, and changes in bowel pattern or any combination thereof, and may be due to various causes that will be discussed later in this document. (See part II. paragraph E. Below—Therapeutic Claims and Their Rationale.) Not all of these symptoms and signs are amenable to self-diagnosis or self-treatment.

The Panel is aware that there has been no concerted effort to study anorectal disorders and, consequently, our generation has inherited the age-old and difficult problem of treating anorectal diseases empirically. Banov (Ref. 1) has stated that the U.S. Government has spent over 50 billion dollars to study the backside of the moon but not one red cent to study the backsides of its citizens. Unless a concerted effort is undertaken to stimulate research in the anorectal area, the problem will just be passed to the next generation. The Panel on OTC Hemorrhoidal Products is pleased to serve in the review process, knowing that this Panel's work represents the first expenditure of Federal funds related to the study of anorectal disorders.

Anorectal disease, though rare in other animals, is extremely common in humans. No human is immune. The vast majority of adults suffer from one or more anorectal symptoms at some time in their life (Ref. 2). Anorectal disease has caused an unaccountable number of man-hours to be lost annually in industry, commerce, agriculture, and in the military. As with the common cold, millions of Americans have suffered or will suffer from anorectal diseases because of the absence of study programs to increase the knowledge of how to prevent and to treat the diseases of the anorectum (Ref. 2).

Factors thought to contribute to the current high incidence of these disorders are the upright position of man, an increased use of refined foods (lack of roughage), increased sedentary life (lack of physical activity), decreased daily liquid intake, and present day "over concern" with bowel function, leading to the indiscriminate use of laxatives and enemas as indicated in the findings of the Advisory Review Panel on OTC Laxatives, Antidiarrheal, Emetic and Antiemetic Drug Products published in the **Federal Register** of March 21, 1975 (40 FR 12902).

The first task for the Panel was to accumulate and verify available information, identify misinformation, and establish basic definitions and concepts. Next, a review of the history of anorectal diseases and the assessment of the status of present-day knowledge, of lay and professional people alike, concerning these conditions was developed. In searching for the earliest records, one turns to the medical writings of ancient Egypt where specialists, who treated anorectal diseases, amassed a remarkable amount of practical knowledge. The Egyptians employed suppositories frequently in a variety of anorectal disorders (Ref. 3). They used fatty and oleaginous compounds which this Panel calls emollients.

The Chester Beatty Medical Papyrus, the earliest known treatise, completely devoted to anorectal diseases, presents practical remedies to treat anorectal and other disorders, even though treatment was based entirely on symptoms rather than on specific diseases (Ref. 3).

In 1835, in London, St. Mark's Hospital for Fistula and Other Diseases of the Rectum was founded. This hospital continues to be the mecca where those interested in rectal and colonic diseases come to study. One American, Dr. Charles Boyd Kelsey, was so impressed with St. Mark's Hospital that in 1879, in New York, he started St. Paul's Infirmary (founded on the same general plan as St. Mark's), which has not survived to the present time. Another American, Dr. Joseph Mathews, after studying at St. Mark's, returned to this country and started the American Proctologic Society which later became the present day American Society of Colon and Rectal Surgeons.

In the treatment of anorectal diseases, drugs were employed on an empirical basis. Many of the drugs used throughout history are still in OTC products today. However, modern anorectal therapy emphasizes good anal hygiene as a primary measure and then is followed generally by the application of ingredients which are intended to relieve anorectal symptoms. In many cases, however, treatment may require surgical measures.

Current societal attitudes regarding anorectal diseases encourage secrecy, reticence, shyness, and embarrassment. The average person, as well as some physicians, feels that it is not proper or interesting to talk about anorectal function or diseases. This social and medical shyness regarding the anorectum has contributed to the lack of research relative to diseases of the anorectum.

In early years, child is encouraged to use such euphemisms as "bottom," "fanny," and "behind." Also, the child is taught by the family to use a code name for defecation (bowel movement). The child learns the various terms to avoid saying "toilet" by such evasions as "rest room," "tinkle room," or "potty."

Because ideas relating to the anorectum have not changed significantly over the years by full and open discussion or education, the anorectum has become downgraded and subject to humor. This makes it difficult for consumers with anorectal diseases or conditions to seek out information and/or obtain help for their anorectal problems.

The Panel believes medical schools neglect the teaching of anorectal diseases. This neglect is reflected in the decreased interest of practicing physicians and has produced a relatively high degree of ignorance of anorectal hygiene and diseases which adds to the problem of the affected consumer's desire to obtain relief. There is great confusion and difference of opinion concerning anatomical and physiological terms and definitions. It is not surprising that the consumer does not realize that continued self-treatment of the symptoms associated with "hemorrhoids" may be masking more serious medical problems such as anal fissures, fistulae, abscesses, verrucae acuminatae (anal warts), pruritis ani (anorectal itching), or fecal impactions. The need for direct and early surgical or medical intervention is indicated in treating such diseases as cancer or inflammatory bowel disease. However, it is unusual for serious diseases to respond to treatment with the ingredients in OTC anorectal products within the 7-day limit discussed elsewhere in this document. (See part II. paragraph E. below—Therapeutic Claims and Their Rationale.) This time limit was chosen for protection of the consumer and is intended to alert the consumer to consult a physician for serious problems.

References

(1) Banov, Jr., L., "Backsides," *Archives of Surgery*, 109:844, 1974.

(2) Kramer, B., "Some New Cures Help Hemorrhoid Sufferers Whose Number is Legion. Painful Surgery is Avoided; Among Methods: Freezing; Debunking Some Myths. Napoleon and Paul Fisher," *The Wall Street Journal*, 182:1 and 19, 1973.

(3) Banov, Jr., L., "The Chester Beatty Medical Papyrus: The Earliest Known Treatise Completely Devoted to Anorectal Diseases," *Surgery*, 58:1037–1043, 1965.

2. *Recommendations.* The Panel has made the following recommendations, based on the preceding discussion: a. Promote a study program on the history and management of anorectal diseases to study these diseases on a more scientific basis.

b. Reevaluate, on a scientific basis, drugs that have been discarded but might be of value when examined in light of our increased knowledge, facilities, and techniques.

c. Form a committee with representatives from the American Society of Colon and Rectal Surgeons, and Anatomists Association, the American College of Surgeons, the American Medical Association, and the pharmaceutical industry and profession

to come to grips with the problem of confusion in terminology, and to develop and define terms acceptable to all. This would provide a common working ground from which further studies of anorectal diseases could be instituted.

d. Form research groups to carry out long-range projects on anorectal disease with Federal funding. This implies the development of formalized research methods. For example, there is a need for a camera with fixed focus to be used in anorectal research so that all the pictures would be standardized. With everyone using the same terminology, methods, and the same documentation by photographs, there would be a better chance to advance the knowledge of the management of anorectal diseases. The results could then be given to many groups and would develop a broader basis for discussion, which would lead to a better chance for the meeting of the minds and hopefully lead to improved treatment and possible prevention of anorectal diseases.

e. Establish a greater emphasis on the teaching of diseases of the anorectum and their treatment in medical schools and in resident training programs.

B. Anatomy of the Anorectal Area

The diseases considered in this document are located in the skin of the perianal area, the anal canal, and the lower portion of the rectum. The perianal area is approximately 7 centimeters (cm) in diameter, and surrounds the anus. This area is covered by skin that normally is somewhat more likely to be moist than exposed skin in other areas of the body. The perianal area contains very sensitive pain fibers.

The external opening of the bowel is the anus. Extending upward from the anus is the anal canal which is roughly 2.5 cm in length and also is lined with skin. At the upper margin of the anal canal is the anorectal line which marks the transition of the mucous membrane lining the rectum.

The mucous membrane of the rectum is highly vascular. It contains no indentifiable pain fibers, but there are receptors for the reflex of defecation that are not limited to the rectal mucosa but occur in the muscular wall as well. These sensations allow the differentiation of gas from feces. Such receptors are also present in the anal canal. The nerves, within the muscular wall of the rectum, are known as contraction receptors or pressure receptors; they allow the patient to perceive the pain of distension. Anal continence is maintained by two sphincters. The internal sphincter functions without any conscious control (involuntary), while the external sphincter is a voluntary muscle. The sphincters extend downward beneath the lining of the anal canal. Beneath the mucous membrane in this area is a network of arteries and veins.

There are three main arteries and concomitant viens in this area. They are known as hemorrhoidal arteries and veins and are denoted as internal when they lie above the anorectal line and external when they lie below this line. Blood from these vessels returns either to the general circulation via the inferior and middle hemorrhoidal veins or through the portal system via the superior hemorrhoidal vein.

These vessels that lie just above and below the anorectal line are remarkable in that there is the suggestion of an arteriovenous shunt. Proof of these arteriovenous shunts has been shown by the demonstration of a high oxygen content in these vessels (Ref. 1). To some observers these tissues are similar to the erectile tissues of the corpus cavernosum of the genital tract (Ref. 2).

The following anatomical terms are used within this document and are defined below:

1. *Anal canal.* The anal canal is the channel that connects the end of the gastrointestinal tract (rectum) with the outside of the body. It averages about 2.5 cm in length.

2. *Anal sphincters.* The anal sphincters are those muscles, encircling the anal canal, that provide muscular control and enable an individual to be continent (not spill or leak fecal material). There are two anal sphincters: (1) the external sphincter—a voluntary muscle which functions under the conscious control of the person, and (2) the internal sphincter—an involuntary muscle that functions without the conscious control by the person.

3. *Anal verge (rima).* The anal verge is the lower limit of the anal canal which also represents the junction of the anal canal and the perianal skin.

4. *Anorectal line (dentate line, pectinate line).* The anorectal line marks the division between the upper end of the anal canal and the rectum. It is slightly above the junction of stratified squamous epithelium that lines that anal canal and the columnar epithelium that lines the rectum. It is at the internal side of this line that the anal crypts or glands are found.

5. *Anal crypts.* Anal crypts are pocketlike formations of the mucosa at the anorectal line. Because they face upward, they can retain small amounts of fecal materials which may cause irritation. This irritation is believed by many to be the cause of subsequent infections and the development of some forms of hemorrhoidal disease.

6. *Anus.* The anus is that external opening of the anal canal which connects the rectum with the outside of the body.

7. *External application.* The application of ingredients to the skin of the perianal area and/or the anal canal. This application excludes the use of pile (rectal) pipes, applicators, or suppositories.

8. *Hemorrhoidal blood vessels.* Directly under the mucous membrane is the plexus of hemorrhoidal vessels. There are two types of hemorrhoidal blood vessels: (a) external hemorrhoidal blood vessels—those vessels that are located below the anorectal line, and (b) internal hemorrhoidal blood vessels—those vessels located directly under the mucous membrane of the lowermost part of the rectum, just above the anorectal line.

9. *Hemorrhoidal tissue (anorectal tissue).* The hemorrhoidal tissue is the soft skin, mucosa, fibrous, and fatty tissue that surrounds the hemorrhoidal blood vessels.

10. *Intrarectal (internal) application.* The delivery of anorectal ingredients through the anal canal and into the lower rectum above the anorectal line by some means, such as a rectal pipe or suppository.

11. *Levator ani.* A large group of muscles that form a support for the pelvic organs, including the rectum.

12. *Perianal area.* The perianal area is that portion of the skin and buttocks immediately surrounding the anus.

13. *Rectum.* The rectum is the lower end of the gastrointestinal tract which extends from the anorectal line up to the sigmoid colon. It is approximately 12 to 15 cm in length and is lined with mucous membrane.

References

(1) Thulesius, O. and J. E. Gjores, "Arterio-Venous Anastomoses in the Anal Region with Reference to the Pathogenesis and Treatment of Haemorrhoids." *Acta Chirurgica Scandinavica*, 139:476–478, 1973.

(2) Stelzner, F., "Die Anatomie des Kontinenzorgans," *in* "Die Anorectalen Fisteln," 2d Ed., Springer-Verlag, New York, p. 20, 1976.

C. Anorectal Physiology in a Healthy State

The anus and the anal canal are surrounded by the two circular muscles which together form the anal sphincters. In the normal state, the anal canal and anus are closed, and the individual does not leak fecal material and/or mucus discharge from the rectal mucosa. The muscle can be made to close more tightly under voluntary control.

The anal canal itself is covered with skin and has sensory nerve fibers. This

area shares with the genital organs the characteristic of having increased sensory nerve fibers which, in the presence of disease, can lead to great discomfort. Healthy skin acts as a protective barrier which significantly limits absorption of substances into the body. Therefore, treatment in the area of the anal canal will essentially produce a local effect. In disease, the integrity of the skin barrier is altered and absorption can increase. Loss of protective oils from the cells of the skin itself can lead to damage and/or death of the cells.

The upper end of the anal canal is demarcated by the anorectal line which divides the anal canal from the rectum. The anal crypts are located at this line. They are pockets that in the erect position face upward; they can fill with small amounts of liquid and feces and subsequently are unable to empty themselves. This can lead to irritation and inflammation, which may lead to anorectal disease.

The rectum is lined with a mucous membrane. It does not contain pain sensory nerve fibers. The rectum shares with the rest of the colon only a sense of discomfort when significantly distended. Healthy mucous membrane permits a high degree of absorption of substances, especially water, through the rectal wall. Directly under the mucous membrane is the plexus of hemorrhoidal vessels. There are three divisions of the hemorrhoidal veins by which blood is returned to the heart—the superior, middle, and inferior hemorrhoidal veins. Blood from the superior hemorrhoidal veins drains into the portal system which passes through the liver on the first circulation of blood throughout the body. Blood draining from the inferior and middle hemorrhoidal veins passes into the caval system which by-passes the liver in the first circulation of the blood through the body. Thus, substances which are absorbed through the mucous membrane of the wall of the rectum do not always circulate through the liver to be metabolized. Medication applied into this area may exert a systemic effect due to rectal absorption and immediate transfer into the caval circulation. This can be potentially dangerous with some drugs and will be discussed later in this document. (See part II. paragraph G. below—Bioavailability of Anorectal Dosage Forms and part II. pargraph H. below-Rectal Absorption.)

The anus and anal canal function as an exit through which the body eliminates part of its waste products. It is important to remember that the anorectal area is regularly being covered with feces, which contain digested and undigested food and a multitude of organisms. Healthy skin of the anus and anal canal and healthy rectal mucosa act as a barrier to protect the body from invasion by the bacteria in the feces and from injury due to unabsorbed roughage.

The rectum itself my be empty, except for small amounts of mucous, or may contain feces. When feces are moving down from the colon, they fill and distend the rectum, thereby activating the rectal reflexes which leads to defecation or the passing of the feces out through the anal canal.

The rectal pH varies from nearly netural to highly alkaline (Ref. 1). This pH will influence the absorption or activity of ingredients placed within the rectum. (See part II. paragraph G. 2. c. below—Physiologic factors.)

Reference

(1) Granet, E., "Manual of Proctology," The Yearbook Publishers, Inc., Chicago, IL, pp. 259–260, 1954.

D. The Anorectum in a Diseased State

The anorectal area is subject to a variety of diseases. The most important to the consumer is that of hemorrhoids that are abnormally large or symptomatic conglomerates of blood vessels, supporting tissue, and overlying mucous membrane or skin. When this condition occurs, the consumer will attempt self-treatment first to relieve the symptoms of burning, pain, itching, swelling, and complaints of inflammation or irritation. Other common lesions of the anorectal area include fissures; perianal abscesses; fistulas; warts; and various tumors such as cancer or polyps which can cause persistent symptoms, including bleeding, that are not amenable to self-treatment.

Although many theories are to be found in the literature, the precise causative factor or factors of anorectal disease are not agreed upon. Hence, there are no known means to prevent anorectal disease.

Historically, the chief cause for the development of hemorrhoids has been accepted to be an inadequate venous return and resultant pooling of venous blood. Venous return is made difficult by such considerations as an erect posture and straining during defecation. Because of man's erect position and because there are no valves in the veins of the portal system, there is a network of blood vessels extending from the liver to the anus that will produce continued pressure in the anorectum. A further block of the portal veins by infection or by severe cirrhosis of the liver will increase this pressure and may be followed by the production of hemorrhoids. Pregnancy is associated with increased pelvic pressure and is frequently complicated by hemorrhoids. Heredity may play a role in the tendency to develop anorectal disease.

Another plausible concept to explain the development of anorectal disorders is that, initially, an infection develops in the anal crypts. The infection may exist without the individual even being aware of it. At some unpredictable time the inflammation spreads. It veins are near the inflamed crypt, an inflammation about the veins (periphlebitis) may develop which would involve the vein wall (phlebitis), then the vein lining (endophlebitis), and end up with clot formation (thrombophlebitis), which is known clinically as a thrombosed hemorrhoid. Sometimes the vein wall ruptures and blood infiltrates the tissues outside the vein, producing a hematoma. This is also known as a thrombosed hemorrhoid. Also, the inflammation of the crypt may be the cause of a fissure, abscess, or fistula.

Increased inflammation followed by pain that causes the individual to become aware of the anorectal region. The greater the inflammation, the greater the pain. Sometimes the anorectal inflammation may subside spontaneously. Some OTC anorectoal products claim to contribute to reduction of inflammation. On the other hand, the inflammation may progress and require treatment by a physician.

Stelzner (Ref. 1) has advanced the novel and plausible concept that hemorrhoids resemble the corpus cavarnosum penis. He observed the resemblance of the connective tissue architecture of hemorrhoids with that of corpus cavernosum penis and further noted that the large vascular cavities were filled directly by arteries or arteriovenous anastomoses. The blood in the vessels was present only as a filling material. There were no capillaries present in the corpus. Morevoer, the bleeding in and around the anal canal was predominately arterial. The corpus cavernosum has been demonstrated by arteriography. This concept is consistent with the findings of Thulesius and Gjores (Ref. 2) who showed by gas analysis that the blood in the hemorrhoids was arterial blood. This new concept may provide insight into other possible methods of treatment.

References

(1) Stelzner, F., "Die Anatomie des Kontinenzorgans," *in* "Die Anorectalen Fisteln, 2d Ed., Springer-Verlag, New York, p. 20, 1976.

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(2) Thulesius, O. and J. E. Gjores, "Arterio-Venous Anastomoses in the Anal Region with Reference to the Pathogenesis and Treatment of Haemorrhoids," *Acta Chirurgica Scandinavica*, 139:476–478, 1973.

The Panel has developed the following definitions for important diseases affecting the anorectal area:

1. *Hemorrhoids.* Hemorrhoids are abnormally large or symptomatic conglomerates of blood vessels, supporting tissues, and overlying mucous membrane or skin of the anorectal area.

2. *Internal hemorrhoid.* An abnormal conglomerate mass of blood vessels and swollen tissues that arises above the anorectal line.

3. *External hemorrhoid.* An abnormal conglomerate mass of blood vessels and swollen tissues that arises below the anorectal line. The designation "hemorrhoids" is used interchangeably with "piles" and is understood by the consumer to be a swelling. It constitutes a very large part of anorectal conditions for which the consumer seeks relief. Adults between 20 and 50 years of age show the highest rate of incidence and most frequently have more than one anorectal symptom.

4. *Skin tags.* Remnants of hemorrhoids which have recovered from swelling but did not fully return to their original condition.

5. *Thrombosed external hemorrhoid.* A clot that develops in a hemorrhoidal vein in the anal or adjacent to the anus, or a rupture of a hemorrhoidal vessel and an accumulation of blood beneath the skin.

6. *Prolapsed hemorrhoid.* A protrusion of enlarged internal hemorrhoids into the anal canal or extending through the anus.

7. *Rectal prolapse.* A protrusion of a portion of the rectal wall through the anal canal. It may or may not involve the whole circumference of the rectal tissue but usually includes hemorrhoids. It is a serious condition requiring the attention of a physician.

8. *Perianal, perianorectal, or perirectal abscess (collection of pus).* An infection caused by the penetration of bacteria into subcutaneous or submucosal tissues resulting in a localized collection of pus.

9. *Anal fistula (fistula-in-ano).* An inflamed channel or tract connecting the anorectum and the perianal skin which develops due to increased pressure from bacterial infection in the submucosal and subcutaneous anorectal tissues, and which may discharge feces and/or pus intermittently.

10. *Anal fissure (fissure-in-ano).* A painful crack or ulcer in the skin of the anal canal.

11. *Pruritus ani (anal itch).* The medical term denoting persistent itch in the perianal area and/or anal canal.

12. *Anorectal cancer.* A malignant tumor usually manifested by bleeding, change in bowel habit, and/or a constant desire to defecate unrelieved by the passage of a stool.

13. *Polyp.* A benign tumor consisting of mucous membrane and submucosal tissues arising in the rectum.

E. Therapeutic Claims and Their Rationale

The Panel emphasizes that the main objective in the treatment of anorectal disease by OTC preparations is the relief of symptoms associated with anorectal disorders and disease. Consequently, it is necessary to identify the important symptoms that occur with anorectal disease and then to discuss the pharmacologic groups of agents that are intended to relieve these specific symptoms. This is summarized in a chart elsewhere within this document. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.)

Any discomfort of the anorectal area is, at the outset, usually regarded as resulting from irritation of inflammation. Most people tend to consider symptoms of bleeding, pain, itching, burning, seepage, swelling, or protrusion to be caused by or associated with hemorrhoids and buy "hemorrhoidal" preparations to relieve these symptoms. However, these symptoms can be caused by a variety of disease conditions. (See part II. paragraph D. above—The Anorectum in a Diseased State.) Accordingly, the Panel emphasizes that OTC anorectal preparations can relieve certain symptoms but do not necessarily cure diseases. Symptoms should be significantly relieved, if not completely cleared, in reasonable period of time, i.e., in 7 days, and the Panel, therefore, concludes that if symptoms persist for more than 7 days, the consumer should consult a physician.

1. *Itching.* It is produced by a mild stimulus of the sensory nerve fibers which leads to scatching. This symptom is also called pruritus and occurs with many anorectal disorders. When itching persists in the anal and perianal area, despite good hygiene and the use of the usual anorectal products, it is termed pruritus ani. The Panel is aware that the most common symptom of all anorectal disorders is "itching" and that all anorectal active ingredients directly or indirectly deal with this symptom to some degree. The words "itching" and "anal itching" are assumed, in the rest of this document, to refer to the anal and/or the perianal areas.

Itching has affected mankind throughout the ages. Ancient Egyptian medical records list many remedies to treat anal itching; some of them are still employed today.

The causes of anal itching can be classified into several different groups. In general, itching can be secondary to swelling on moisture in this area. It may be due to local sensitivity of the skin to irritants in clothes, in detergents, or in fecal contents. Fungal infections that may be associated with diabetes mellitus or parasites, e.g., anorectal pathologic lesions and pinworms, can also cause itching. In some instances, the precise cause cannot be determined and in others it appears to be due to some psychological cause. However, the individual with intense anal itch is more concerned about relief than the cause.

The Panel has defined antipruritic agent as one that relieves itching and has concluded that local anesthetics, vasoconstrictors, protectants, counterirritants, astringents, wound-healing agents, antiseptic, and keratolytics act as antipruritics. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.) Products containing any Category I ingredient in these groups will be allowed to claim "relief of itching" as designated within the appropriate Category I labeling sections within this document.

An important factor that most often leads to symptomatic relief of itching from anorectal disorders is improved anal hygiene. In connection with good health practices involving the lower part of the torso, vaginal hygiene has been stressed, but little has been said about anal hygiene. Washing the anorectal area with soap with water and carefully removing the soap on a daily basis and after each bowel movement greatly aids in the relief of symptoms and may prevent recurrence of perianal itching. Of importance in anal hygiene is patting or blotting rather than rubbing the skin of the irritated perianal area to avoid further irritation. Patients with anorectal symptoms should be encouraged to sit in warm water as an additional simple means of therapy, two to three times daily, for 15 to 29 minutes; this is called a sitz bath.

The labeling of anorectal products must state that if itching persists for more than 7 days, consult a physician because it is much easier to relieve the symptoms of an acute case of itching than it is to treat a chronic case. (See part II. paragrpah Q. below—Labeling.)

2. *Burning.* Burning is considered, in relationship to itching, to be the next

higher degree or irritation of sensory nerves in the anorectal area. Such sensations vary from a mild itch to be a sensation of pain described as intense heat, such as occurs after picking up hot objects without protection. The relief of burning can be obtained by use of some anorectal ingredients such as local anesthetics, protectants, counterirritants, astringents, wound-healing agents and antiseptics. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.) Any Category I ingredient in these groups will be allowed to claim "relief of burning" as designated within the appropriate Category I labeling sections within this document.

3. *Pain.* Pain can occur as an intensely uncomfortable stimulation of the sensory nerve fibers in the anorectal area. Minor degrees of pain may be caused by either irritation or inflammation. The Advisory Review Panel on OTC Internal Analgesic, Antipyretic, and Antirheumatic Drug Products included some cogent observations as published in the **Federal Register** of July 8, 1977 (42 FR 35346) on the nature of pain and why pain defies definition despite the fact that everyone has experienced it. That Panel recognizes, as does this Panel, that minor pain can be distinguised by the consumer and provides a reasonable goal for OTC anorectal drug products. Severe pain in the anoretal area signals conditions that should cause the consumer to consult a physician.

The relief of pain can be obtained by use of local anesthetics, vasoconstrictors, counterirritants, astringents, wound-healing agents, and antiseptics. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.) Any Category I ingredient in these groups will be allowed to claim "relief of pain" as designated within the appropriate Category I labeling sections within this document.

4. *Inflammation.* Inflammation refers to a condition in which the affected tissues have reacted to produce pain, heat, redness, and swelling. It usually is due to infection with a microorganism, allergy, or to undue trauma.

The cause is sometimes difficult for a physician to establish so that specific treatment can be initiated. It is unreasonable for the consumer to be expected to establish the cause of inflammation because specialized knowledge is required and there is the additional obstacle of directly viewing the anorectal area. The consumer can reasonably recognize the symptoms of pain, burning, itching, and swelling, which may result from inflammation or irritation and choose anorectal ingredients that are effective in the temporary relief of these symptoms. The relief of inflammation can be obtained by use of protectants, wound-healing agents, and antiseptics. (See part II. paragrpah F. below—Pharmacologic Groups and Relief of Symptoms.) Any Category I ingredient in these groups will be allowed to claim "relief of inflammation" as designated within the appropriate Category I labeling sections within this document.

5. *Irritation.* Irritation in the anorectal area is a condition resulting from stimulation of nerve endings by various causes. This condition is recognized by the consumer to the exent that it causes pain, burning, itching, or swelling. The relief of irritation can be obtained by use of local anesthetics, protectants, counterirritants, astringents, wound-healing agents, and antiseptics. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.) Any Category I ingredient in these groups will be allowed to claim "relief of irritation" as designated within the appropriate Category I labeling sections within this document.

6. *Swelling.* Swelling represents the temporary enlargement of cells and/or tissue due to excess fluid associated with hemorrhoids or hemorrhoidal tissue. The relief of swelling can be obtained by use of vasoconstrictors, wound-healing agent, and antiseptics. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.) Any Category I ingredient in these groups will be allowed to claim "relief of swelling" as designated within the appropriate Category I labeling sections within this document.

7. *Protrusion.* Protrusion is defined as the appearance of hemorrhoidal or rectal tissue outside the anal canal. It can follow swelling of hemorrhoidal tissue and/or loss of muscular support. This symptom is not treatable by OTC preparations and a physician should be consulted.

8. *Seepage.* Seepage is the leaking of either fecal material and/or mucus from a partly open (incontinent) anal sphincter. It may include the discharge of pus from a fistula or feces through a fistula that connects the rectum to the anal canal. In either case, a physician should be consulted because OTC products are not available for relief of this condition.

9. *Bleeding.* Bleeding is a common symptom of anorectal disease and may indicate malignant disease of the colon and/or rectum. This symptom should never be regarded lightly. The Panel concludes that this symptom must not be treated by OTC preparations. A physician should be consulted so that a complete examination of the individual may be made.

10. *Discomfort.* Discomfort is defined in part by Webster's Third International Dictionary as a "mental or physical uneasiness, less intense and less localized than pain." Discomfort in the anorectal area may refer to any or all of the following symptoms: burning, irritation, itching, pain, or swelling. The relief of discomfort can be obtained by use of local anesthetics, vasoconstrictors, protectants, counterirritants, astringents, wound-healing agents, and antiseptics. (See part II. paragraph F. below—Pharmacologic Groups and Relief of Symptoms.) Any Category I ingredient in these groups will be allowed to claim "relief of discomfort" as designated within the appropriate Category I labeling sections within this document.

F. Pharmacologic Groups and Relief of Symptoms

The Panel wishes to emphasize certain elementary principles. It recommends as a primary approach to relief of symptoms that all OTC anorectal products carry the instructions "When practical, wash the anorectal area with mild soap and warm water and rinse off all soap before application of this product." (See part II. paragraph Q. below-Labeling.) Furthermore, OTC products that are used to relieve the symptoms discussed within this document should be applied or inserted after bowel movements rather than before because in the latter case the effect would be lost.

OTC anorectal ingedients can be classified into several groups on the basis of their pharmacologic action. The anorectal ingredients discussed within this document were classified on the basis of their pharmacologic activity—local anesthetics, vasoconstrictors, protectants, counterirritants, astringents, wound-healing agents, antiseptics, keratolytics, and anticholinergics. As an aid in evaluating the effectiveness of individual OTC anorectal ingredients to relieve the symptoms associated with anorectal disorders, the Panel constructed the following chart in which each pharmacologic group was classified with respect to its effectiveness, generally, in relieving each of the symptoms associated with anorectal disorders, i.e., itching, discomfort, irritation, burning, swelling, pain, inflammation, protrusion, seepage, and bleeding: .

Common Symptoms for Which Anorectal Ingredients Are Used and Their Effectiveness

	Local anesthetics	Vasoconstrictors	Protectants	Counterirritants	Astringents	Wound-healing agents,[1]	Antiseptics	Keratolytics	Anticholinergics[2]
Itching	+	+	+	+	+	±	±	+	(–)
Discomfort	+	±	+	+	+	±	±	(–)	(–)
Irritation	+	(–)	+	±	+	±	±	(–)	(–)
Burning	+	(–)	+	±	±	±	±	(–)	(–)
Swelling	(–)	+	(–)	(–)	–	±	±	(–)	(–)
Pain	+	±	(–)	+	+	±	±	(–)	(–)
Inflamation	(–)	(–)	±	(–)	(–)	±	±	(–)	(–)

Protrusion: Labeling not appropriate for OTC products. (See part II. paragraph E.7 above—Protrusion.)
Seepage: Labeling not appropriate for OTC products. (See part II. paragraph E.8 above—Seepage.)
Bleeding: Labeling not appropriate for OTC products. (See part II. paragraph E.9 above—Bleeding.)

[1] All ingredients are Category III.
[2] All ingredients are Category II.
(+) Indicates that symptoms will be relieved (Category I).
(–) Expected not to relieve (Category II).
(±) May relieve (Category III).

The following definitions were developed by the Panel as they apply to the specific pharmacologic groups discussed within this document:

1. *Absorbent.* An agent that takes up within itself fluids or other substances on, or secreted by, the skin or muccous membranes.

2. *Adsorbent.* An agent that because of its fine state of subdivision, is capable of attaching other substances onto its extensive surface area.

3. *Anticholinergic.* An agent that inhibits or prevents the action of acetylcholine, the transmitter of cholinergic nerve impulses.

4. *Antiseptic.* An agent that will inhibit the growth and development of microorganisms but will not necessarily destroy them.

5. *Antipruritic.* An agent that reduces or abolishes the sensation of itching.

6. *Astringent.* An agent that is applied to the skin or mucous membranes for a local, limited, usually reversible, protein-coagulant effect.

7. *Bacteriostat.* An agent that arrests or hinders the growth of bacteria.

8. *Counterirritant.* An agent that produces a local sensation that distracts from the perception of pain, burning, or itching. The perception of these symptoms are distracted and commonly replaced by warmth, cooling, or tingling sensations.

9. *Demulcent.* An agent that forms colloidal solutions and because of its cohesiveness has the capacity to protect skin surfaces in a manner similar to that of mucus.

10. *Emollient.* An agent used to soften or protect internal or external body surfaces.

11. *Emulsifier.* An agent that promotes the uniform distribution of one substance into another.

12. *Germicide.* An agent that kills pathogenic microorganisms and that is intended for use on inanimate objects and surfaces.

13. *Kedratolytic.* An agent that produces desquamation (loosening) and debridement (sloughing) of surface tissue cells of the epidermis.

14. *Local-Anesthetic.* An agent that produces temporary local disappearance of pain, burning, itching, discomfort, and/or irritation by reversibly blocking nerve condition when applied to nerve tissue in appropriate concentrations. The term "topical anesthetic" is included by the Panel in this definition.

15. *Lubricant.* An agent that reduces surface tension and friction between two surfaces.

16. *Protectants (includes absorbents, adsorbents, demulcents, and emollients).* Agents that, when applied to the skin or mucous membranes, provide a physical barrier that forms a protective coating over tissues.

17. *Vasoconstrictor.* An agent that causes temporary constriction of the blood vessels.

18. *Vehicle.* A usually inert agent or combination of agents used to confer desirable consistency or form or to serve as a suitable carrier for the active ingredients.

19. *Wound-healing agent.* An agent that increases the rate of healing of a wound compared with the rate of healing of a wound that is untreated or treated only with protectants.

G. *Bioavailability of Anorectal Dosage Forms*

1. *General comment.* The Panel requires final formulation testing based on the following discussion. The Panel concurs with the definition of bioavailability as published in the **Federal Register** of January 7, 1977 (43 FR 1624), which is the rate and extent to which the active drug ingredient or therapeutic moiety is absorbed from the drug product and becomes available to the site of drug action. Bioavailability is usually determined by measurement of the concentration of the active drug ingredient or therapeutic moiety, or its metabolites in biologic fluids, or in urine as a function of time, or by an appropriate acute pharmacologic effect.

For most drugs, bioavailability is determined by measuring the active drug in the systemic circulation. Bioavailability of a drug is not related to what occurs after the drug enters the systemic circulation, such as distribution, binding, metabolism, or excretion. These processes influence the concentration of a drug throughout the organism, but they have no bearing on its bioavailability.

The bioavailability of the active ingredient in an OTC anorectal drug product is a function of the physiocochemical properties of the active ingredients but is by no means determined solely by them. The clinical application of the bioavailability concept is not primarily limited to the pharmacologically active ingredients but more so to certain characteristics of the drug products available for therapeutic use under the circumstances of such use. This concept applies to the fact that active ingredients may not be available because of the presence of certain inactive ingredients, and there may be individual variations in anatomy and physiology that will modify bioavailability. Thus, the bioavailability of OTC anorectal drugs is dependent upon the interaction of such characteristics as the physiocochemical properties, the formulation, the manufacturing process of the drug, and physiological factors, as well as upon drug dosage, dosage form, and the site of application (externally or intrarectally). In the case of anorectal absorption, the bioavailability of a drug is determined by its release from its vehicle, its solubility in the rectal fluids, diffusion to the absorbing membrane, and transfer into the body via the vascular bed perfusing the tissue (Ref. 1).

2. *Factors influencing bioavailability*—a. *Physicochemical properties of drugs.* The lipid-water solubility of a drug (lipid-water partition coefficient) must be considered in choosing a base for drugs administered anorectally. A drug which is highly soluble in a fatty base and present in low concentration is slowly released from its base and has only a slight tendency to diffuse into the small amount of aqueous rectal fluid. A drug which is slightly soluble in the fatty base and present in a concentration close to its saturation will diffuse more readily into the aqueous rectal fluid (Refs. 2 through 5). Thus, water-soluble, oil-insoluble salts, e.g., ephedrine sulfate, are preferred for rapid absorption from a fat-type base, e.g., cocoa butter. For a water-soluble or water-miscible type base, e.g., polyethylene glycol, a water-soluble salt is preferred for more rapid drug absorption. The rate-limiting step in absorption for drugs incorporated in a fatty base seems to be the transfer of the drug from the base to the rectal fluid. In the case of water-soluble or water miscible-bases, the rate-limiting step in absorption seems to be drug transfer through the rectal mucosa (Ref. 3).

The rate of drug release from its base may be increased by increasing the concentration of the active ingredients. However, it appears that after a certain limit is reached any further increase in concentration has little effect on absorption. Absorption of drugs through the anorectal barrier is considered to be a matter of simple diffusion across a permeable membrane. In contrast, diffusion of a drug from its base is a function of the drug's concentration as well as such properties as its solubility in the anorectal fluids, the ionization or dissociation constant of the drug, the dissolution rate of the drug from the dosage form, the pH of the base, the particle size of the drug, and the presence of other ingredients that may interact with the active drug (Refs. 2 and 6).

All of the above factors may greatly affect the actual safety and effectiveness of an anorectal product, and this is the basis on which the Panel requires final formulation testing.

b. *Formulation and manufacture of the drug product.* OTC anorectal drug products are compounded and manufactured by a variety of techniques. Thus, the formulation and manufacturing process can greatly influence the bioavailability of the active ingredient in an anorectal drug product.

In the formulation of suppositories, for example, viscosity-increasing agents or other additives may be necessary to stabilize the physical properties of the suppository, i.e., prevent softening of the base which makes administration difficult or prevent rapid settling of suspended drug particles in melted base, during the molding process (Refs. 3 and 4). The inclusion of surface-active agents is usually necessary in the formulation of anorectal dosage forms, e.g., ointments, creams, and suppositories. Their presence may increase or decrease absorption rate. The surfactant may reduce the surface tension of the mucous blanket that covers the rectal membrane, creating an environment favoring drug absorption. It may also act as a solubilizing agent for the active ingredient, and the solubilized form may be absorbed more readily. By contrast, the surfactant may decrease absorption rate through the formation of a drug-surfactant complex (Refs. 7, 8, and 9). The data available on the relationship of surfactants to drug release and absorption is limited, making predictions difficult.

Drug release and absorption may also be influenced by the manufacturing process. For example, the temperature used for melting cocoa butter, which exhibits marked polymorphism (the property of existing in different crystalline forms), must be carefully controlled. Each polymorphous form of cocoa butter has different melting points as well as different release rates. The formation of the various polymorphous forms of cocoa butter depends upon the degree of heating, on the cooling process, and on various other factors during this process (Refs. 3, 4, and 5).

These variable factors likewise affect overall safety and effectiveness of an individual ingredient and thus further justify the need for final formulation testing.

c. *Physiological factors.* Anorectal physiology may also be a factor affecting anorectal drug absorption. In the absence of fecal matter, the rectum contains a small amount of aqueous fluid with a pH of approximately 7.2, but of very low buffering capacity. Thus, the pH of this rectal fluid may be affected by the drug(s) dissolved in it. The rectal epithelium is lipoidal in nature; hence, it is preferentially permeable to nonionized drugs. The degree to which penetration occurs is a function of the pH and the ionization constant of the drug. Ordinarily, a mucous blanket covers the rectal mucosa of the rectum, and it may impede the diffusion of drugs into the surrounding tissues (Refs. 3 through 6).

The nature of the blood supply to the anorectal region, involving the hepatic and systemic circulation, may also affect overall drug bioavailability. A drug administered rectally may by-pass the liver to enter the systemic circulation, or it may enter the hepatic system where it may undergo modification in activity. The amount of drug absorbed directly into the general circulation depends upon where the drug is released in the rectum. For example, if a suppository remains in the lower part of the rectum, more of the drug will enter the general circulation, circumventing an initial pass through the liver, than will enter if the suppository moves to the upper regions of the rectum where the upper hemorrhoidal veins, which lead to the liver, predominate. Thus, drug bioavailability may be sharply reduced with drugs that undergo significant hepatic degradation (Refs. 3, 4, and 5).

Additional physiological factors that may influence anorectal drug absorption include fecal impaction, colonic obstruction, body dehydration, and diarrhea. Even muscle tone, which influences movement of anorectal fluids and aids in the disperson of dissolved drugs, may be a factor.

In summary, it appears that the rate-limiting factor in rectal absorption is the diffusion or release of the drug from the base (vehicle). Dissolution of the drug is apparently limited by the small amount of rectal fluid available for interaction with the rectal dosage form. The base may be absorbed at varying rates and carry the drug along with it, or the base may coat the mucous membrane to delay or minimize absorption (Ref. 10). Additionally, the physiochemical characteristics of the drug and vehicle and anorectal physiology must also be considered in evaluating the bioavailability of drugs from OTC anorectal drug products (Ref. 11). The Panel recognizes that the effectiveness of topical application of anorectal drug products is affected by the bioavailability of the active ingredient. However, in addition to absorption through the skin, some products are delivered intrarectally. Bioavailability of the active ingredient of such products becomes a concern for reasons of safety due to absorption through the rectal or colonic mucosa with varying degrees of subsequent systemic effects. Therefore, the Panel concludes the final formulation must be tested for safety and effectiveness of individual ingredients cannot predict either safety or effectiveness of an anorectal drug product.

The Panel emphasizes that bioavailability was an important concern in the review and evaluation of each ingredient categorized in this document. The Panel recognizes that there is, at present, a lack of bioavailability data for many of the drugs discussed in this document. However, when available, the existing data were considered in the evaluation of these ingredients. The Panel also recognizes that as more bioavailability data become available some of the recommendations made in this document may need to be altered to conform to the scientific literature and that the appropriate division within FDA

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should review the data and institute appropriate changes.

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H. Rectal Absorption

The phenomenon of rectal absorption of drugs has been studied and discussed (Refs. 1 through 4). Despite the complicated nature of the topic, several statements may be made. Generally, in vitro models, though useful, have little relationship to in vivo drug release until correlated to effectiveness (Refs. 1 and 4). Use of in vivo models (rats and dogs) raises the question of relevancy to human rectal absorption.

The degree and rapidity of absorption has been shown to be a function of many factors such as properties of the vehicle (Ref. 4) and concentration of the active ingredients (see part III. below—Local Anesthetics), formulation (Ref. 4), drug properties (Refs. 1 and 4), drug vehicle interaction (Ref. 5), contents of the rectum (Ref. 2), and the mode of transport through the rectal mucosa (Refs. 4 and 6). It also is probably dependent on relative venous pressure in systemic and portal systems, state of rectal mucosa regarding inflammation, pH and body positioning (upright versus supine).

Medication administered intrarectally can be absorbed into the systemic and/or portal circulation within minutes or much more slowly depending on the above mentioned factors (Ref. 1). The absorption may be greater (Refs. 2 and 7), equal to (Ref. 2), or less than (Refs. 2 and 4) oral administration, and is less consistently predictable than by other routes (Ref. 2). Because of the anatomical relationship in this area, drugs absorbed through the rectal mucosa will be absorbed initially into the caval (systemic) or hepatic (portal) circulation or both, whereas oral drugs pass initially into the portal circulation (Refs. 1 and 4).

Therefore, the Panel concludes that the final formulation must be tested for safety and effectiveness because testing of individual ingredients cannot predict either safety or effectiveness of an anorectal drug product.

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I. Anorectal Dosage Forms

1. *General comment.* Anorectal products may be applied in several ways and are manufactured in corresponding forms. For external application, ointments, creams, pastes, gels, liquids, pads, and foam have been used. For intrarectal use, suppositories, introduction of ointment, creams, and gels by pile pipes or by one's finger, and foam via applicators are the common methods. Ointments, gels, suppositories, and foams will be described in more detail below and are also discussed elsewhere in this document. (See part II. paragraph G. above—Bioavailability of anorectal Dosage Forms and part II. paragraph H. above—rectal Absorption.)

A question was raised concerning the use of dusting powders as a dosage form because some of the ingredients, i.e., zinc oxide, have at various times and for various purposes been used in this manner. However, no submissions were received by the Panel to consider this dosage form. It is not discussed any further in this document.

2. *Ointments, creams, gels, jellies, and pastes.* Ointments are semisolid prepartions for external or intrarectal application and are of such consistency that they may be readily applied to the skin by inunction or inserted into the rectum by means of rectal applicators. They should be of such composition that they soften but do not necessarily melt when applied to the body. They serve as vehicles for the topical application of medicinal substances and also function as protectants and emollients for the skin by forming a continuous layer on the surface. Depending on the site of application, the physiochemical properties of the base, and the ingredients incorporated therein, an ointment may simultaneously act as a protectant, emollient, and vehicle (Ref. 1).

For many years, ointments were limited by definition to mixtures of fatty substances. Today, in addition to such oleaginous mixtures, there are preparations of greater efficiency possessing the same general consistency but with an entirely different appearance, such as water-in-oil and oil-in-water emulsions that are also called creams or pastes (Ref. 1). Jellies and gels are usually water-washable or water-soluble. However, because the definition of creams, pastes, gels, jellies, and ointments overlap on certain characteristics, this designation is less meaningful than the ability of a product to be water-washable or water-resistant as discussed elsewhere in this

document. (See part V. below—Protectants.)

Creams and ointments containing large amounts of insoluble powders are referred to as pastes. Pastes are usually stiffer and more absorptive than creams and ointments (Ref. 1).

Ideally, an ointment base should be nonirritating, nondehydrating, nongreasy, compatible with common ingredients, stable, easily removable with water, absorptive (able to absorb water, and/or other liquids), and able to release incorporated ingredients efficiently. No ointment base possesses all of these characteristics (Ref. 1).

Ointments, including creams and pastes, vary in effect and can have a psychological as well as a soothing effect and protectant action on those patients with anorectal disorders. Ointments can be applied externally or intrarectally unless the active ingredients contained in the product limit usage in some way. Because there are no clear differences between ointments, creams, gels, jellies, and pastes, any of these terms are implied whenever the term "ointment" is used in the following discussions.

a. *External application.* Ointments are applied to the perianal area and the anal canal as a thin covering. Amounts can vary but should cover the entire irritated area. Application of large amounts may be wasteful and could cause excessive hydration and softening of the skin (maceration of the tissues).

b. *Intrarectal application.* In addition to suppositories, pile pipes and other mechanical devices have been developed for intrarectal delivery of anorectal preparations. The main advantage of intrarectal application is patient acceptance. The main disadvantage is the possibility of injury. Some patients prefer applying medication by using their fingers. With a properly functioning anal sphincter (which does not allow seepage of rectal contents) the ointment applied by pile pipe has only a brief contact with the skin of the anus and anal canal. Most of the contact is on the rectal mucosa where the highest degree of absorption occurs. Intrarectal administration of anorectal preparations can be accomplished by suppositories or by tubes that pass through the anal sphincter. These pile pipes are of differing designs but their function is to allow the introduction of a preparation above the anal sphincter so that it may remain in contact with the rectal mucosa where attempted insertion of an ointment by the finger is not apt to be successful.

In the presence of a properly functioning anal sphincter it should be expected that, in the rectum, dispersal of the contents of the container of drug will be dependent upon the force exerted by the delivery system (usually a tube and pile pipe) and the location of the holes in the tip of the pile pipe. The pipe must be long enough to pass through the anal sphincter. Lateral openings near the end of the pipe should allow direct contact with internal hemorrhoids and the lowest portion of the rectal mucosa. A hole only in the end combined with strong pressure could result in wide dispersal as high as the upper portion of the rectum leaving relatively little in the hemorrhoidal area, especially if the consumer lies down immediately after application. If the consumer remains in an upright position, the drug product may be expected to remain in contact with the lower rectum due to the force of gravity.

Pile Pipes can be stiff or flexible. Because there is some danger that the mucosa can be perforated if they are not inserted correctly, tips should be well lubricated and preferably flexible to avoid injury. All applicators should be cleaned before and after use. The label of products to be administered by pile pipes should be accompanied by the following warning, "Do not use this product if the introduction into the rectum causes additional pain. Consult a physician promptly." (See part II. paragraph Q.5. below—Warnings.)

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3. *Suppositories.* Suppositories were known to the Assyrians about 2600 B.C. and were later used by the Egyptians, Greeks, and Romans (Ref. 1). Early Egyptian medical records show a variety of anal conditions and multiple remedies for the treatment of local conditions. Suppositories used in Europe today are employed primarily as a delivery mechanism for drugs that act systemically, whereas the use of suppositories in America is both for a local effect and less frequently for systemic effects.

Throughout the centuries, suppositories have been inserted into the rectum for the principal purpose of promoting defecation. During the Middle Ages, fat tallow, candle wax, and soap were employed as suppositories. By 1766, cocoa oil was used in the manufacture of suppositories. In 1888, Dr. Ismar Boas recommended that glycerol suppositories be used for constipation. The rationale was to encourage easier, more comfortable bowel movements. An easier bowel movement is what the person with an anorectal disorder has always welcomed.

For those consumers with anorectal disorders, the suppository has a great psychological effect. It makes the person feel as if something is really being done to cure the disorder when in fact only a temporary relief of symptoms has been achieved. A suppository, with its lubricating properties, in some cases, may ease the passage of feces and may decrease other anorectal symptoms. However, the use of the suppository may delay the person from seeking needed medical or surgical care unless limitations of use are carefully read and followed by the consumer.

With a properly functioning anal sphincter, i.e., one that does not allow seepage of rectal contents, the inserted suppository has only a brief contact with the skin of the anal canal. Most of the contact is on the rectal mucosa where the highest degree of absorption occurs. The commonly manufactured "bullet shaped" suppository, after insertion, leaves the site of pain and moves into the rectum and sigmoid. Only when the suppository melts do the active ingredients become available. Instructions to maintain the upright position may give gravity a better chance for the suppository's active ingredients to alleviate symptoms.

The suggestion has been advanced that the suppository should be shaped preferably like an "hour glass" or "collar button" so that it remains in the anal canal. This concept merits further study.

The Panel is aware of many cases of rectal or colonic cancer (Refs. 2, 3, and 4). The Panel is concerned that reliance upon prolonged suppository use to self-treat symptoms may cause delay in seeking definitive medical care.

Increased education in regard to proper usage of suppositories in anorectal disorders should be promoted.

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4. *Foams.* A specially designed applicator which is claimed to deposit

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medication externally (in the anal canal) and in the lower rectum was submitted to the Panel (Ref. 1). The applicator is designed for use with a foam that incorporates the active ingredient. The design of the applicator is intended to overcome the inadequacies of suppositories. As indicated in the above discussion on suppositories, the medication applied to the anal canal is minute as the suppository passes into the rectum. The suppository will travel to the upper rectum if the consumer is prone; is the consumer is erect it will remain the the lower rectum. The ability of foam to remain in the anal canal and the lower rectum will be affected by formulation, which in turn will control the duration of effectiveness of the active ingredient. Therefore, in the opinion of the Panel, it is necessary for each foam product to be tested for effectiveness in final formulation against foam without active ingredient.

It is not reasonable to extrapolate the results of one foam product to another because the mixture of propellant and formulation will effect the size of the bubbles (Refs. 2 and 3). Thus, large bubbles will cause the foam to have a lower concentration of ingredient and smaller bubbles will cause a higher concentration per unit volume. It is important with foams to relate the concentration to a unit volume (ideally, 2 milliliters (mL) which is the volume of approximately 2 grams (g) of water) instead of relating the concentration to a unit of weight as is done with other dosage forms, i.e., suppositories or ointments (ideally, 2 g). The most extreme example of this point would be a single bubble formed by a shell of emulsion that weighs 2 g, with a specific gravity of 1 (for convenience in calculations), which had a useful thickness of 0.65 millimeter (mm). (See part II. paragraph K.3. below—Concept of a 2 g dosage unit and part V. paragraph A. below—General Discussion.) The bubble would have a diameter of approximately 30 mm and a volume of more than 14 mL (slightly larger than a ping pong ball). This calculation makes it clear that foams must relate concentration to volume of the final product because the maximum concentration is achieved when all the bubbles are gone. To substantiate superiority of foam over ointment or any other dosage form, studies that are not currently available must be done.

The proposed ban for the nonessential use of chlorofluorocarbons in products subject to FDA control as published in the **Federal Register** of March 17, 1978 (43 FR 11301) did not exempt anorectal products; therefore, the propellant in such foam-producing products shall have to be other than halogenated hydrocarbons. The sponsor of one product proposed to replace the halogenated hydrocarbon propellant with isobutane. Other propellants may also be available at a later date, but these ingredients are considered pharmaceutical aids and as such are to be considered later in depth by FDA.

The need to produce a foam for delivering the active ingredient is not clear to the Panel. A properly designed ointment applicator should serve the same purpose, but the Panel does not intend to restrict ingenuity in product design provided the product accomplishes the claimed effect. It has been noted that foam cannot contain as much active ingredient per unit volume as can an ointment because of the mixture with the propellant. This may severely restrict the ability of such a dosage form to meet minimum concentration requirements, e.g., if a foam product claims to be a protectant, which must be present as 50 percent of the dose, and only 30 percent can be incorporated in the metered dose. Such a product cannot make protectant claims and would necessitate reformulation and/or relabeling.

Therefore, foam products must meet the same requirements of safety and effectiveness as any other dosage form, and if any advantage is claimed, studies and data must be provided because related studies and data currently available are not sufficient to establish effectiveness (Ref. 2).

The quantity of drug product most likely to produce results and constitute a reasonably useful amount is discussed elsewhere in this document. (See part II. paragraph K.3. below—Concept of a 2-g dosage unit.)

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J. Allergy and Sensitization of the Anorectal Area

Adverse reactions to topical ingredients usually consist of one or more of the following: Photosensitization, sensitization to irritants, allergic reactions, and systemic toxicity (Refs. 1 through 7). Because of present societal attitudes, photosensitization of the anal area is not of importance, and systemic toxicity will be discussed in reference to specific pharmacologic groups, when appropriate, elsewhere in this document.

Allergic, sensitization, or irritative reactions were considered in the process of evaluating the safety and effectiveness of OTC anorectal products. The perianal skin is usually occluded by clothing, and often moisture and increased warmth persist which, in the presence of the many ingredients found in OTC and prescription anorectal products, cause a greater number of adverse reactions than the same products when applied to skin that is dry and not occluded.

Exact incidence of primary irritant or allergenic reactions has not been established and is influenced by various factors (Ref. 3). Many investigators as well as the International Contact Dermatitis Research Group (ICDRG), an outgrowth of the North American and European Contact Dermatitis Research Group (NACDRG and ECDRG), have been executing studies in patch testing and, simultaneously, are attempting to standardize methods of testing and reporting (Refs. 1 and 3 through 6). Stolley (Ref. 2) has stated that approximately 5 percent of all hospital admissions are for varying degrees of adverse reaction to drugs and approximately 15 percent of the patients seeking medical services are admitted for the treatment of adverse reactions (Ref. 2). It is more difficult to establish definite figures for outpatients. Often the symptoms of an adverse reaction to a medication applied to the diseased anorectal area are similar to the symptoms of the disease, so a patient only presumes the medicine is not helping. Studies performed in dermatology clinics are beginning to give more definite estimates of incidence of outpatient reactions (Refs. 1, 3, 4, and 5).

Many OTC anorectal products contain ingredients that may have an allergic or sensitizing potential. In North American and European studies, reactions to balsam of Peru, an ingredient used in some OTC anorectal products, ranged from an incidence of 0.4 to 28 percent (Ref. 6). Cross reaction to other perfumes was also noted because many different types of perfumes are used on OTC anorectal products (Ref. 3). In North America, the widespread availability of topical medications containing local anesthetics is believed to account for the reaction rate of 8.4 percent. Criteria and studies for evaluating allergenic or sensitizing compounds are well-defined (Refs. 1, 3, and 7). Some additional aspects of sensitization and allergy are discussed elsewhere in this document. (See part V. paragraph B.1.g. below—Lanolin (external and intrarectal use).)

The Panel concludes that, although a certain portion of the population will experience allergic or sensitization reactions from the use of OTC anorectal preparations, in general, these preparations can be used safely without allergic reaction by most individuals at the recommended dosages. In those instances where allergenicity or sensitization from specific ingredients are important considerations for labeling, the Panel has specified an appropriate warning to be included in that ingredient's labeling.

References

(1) Marzulli, F. N. and H. I. Maibach, "The Use of Graded Concentrations in Studying Skin Sensitizers: Experimental Contact Sensitization in Man," *Food and Cosmetic Toxicology*, 12:219–227, 1974.

(2) Stolley, P. D., "Assuring the Safety and Efficacy of Therapies," *International Journal Health Services*, 4:131–145, 1974.

(3) Fregert, S. et al., "Epidemiology of Contact Dermatitis," *The Transactions St. John's Hospital Dermatological Society*, 55:17–35, 1969.

(4) Summary Minutes of the OTC Panel on Hemorrhoidal Drug Products, 23d Meeting, November 21, 22, and 23, 1976.

(5) Anon., "Epidemiology of Contact Dermatitis in North America: 1972," *Archives of Dermatology*, 108:537–540, 1973.

(6) Marzulli, F. N. and H. I. Maibach, "Contact Allergy: Predictive Testing in Man," *Contact Dermatitis*, 2:1–17, 1976.

(7) Epstein, E., W. J. Rees and H. I. Maibach, "Recent Experience With Routine Patch Test Screening," *Archives of Dermatology*, 98:18–22, 1968.

K. Principles Applicable to Combination Products

1. *General combination policy.* Most anorectal products currently on the market contain ingredients reviewed by the Panel and are promoted or sold to relieve a number of different symptoms. For example, OTC products commonly used for the treatment of the symptoms associated with "hemorrhoids" include ingredients intended to provide relief of one or more concurrent symptoms such as burning, itching, swelling, and pain. These products may contain more than one active ingredient to relieve a spectrum of symptoms.

To clarify the place of combinations in the marketplace, the Panel applied the OTC drug review regulation requirement contained in 21 CFR 330.10(a)(4)(iv) which states that:

> An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel concurs with the regulation and concludes that each active ingredient in a combination product must contribute to the claimed effects and that each active ingredient must be a necessary component for rational therapy of concurrent symptoms.

The Panel has established specific criteria for the treatment of symptoms with combination products. Each Category I combination is currently limited to one active ingredient from any one pharmacologic group, except for protectants as specified elsewhere in this document. (See part II. paragraph K.6. below—The combination of active ingredients from the same pharmacologic group.)

The Panel has placed combinations of two active ingredients from the same pharmacologic group in Category III, except for protectants. Each active ingredient must be generally recognized as safe and effective when used alone for the claimed effects and must make a contribution to the claimed effects when in combination. Therefore, the Panel has recommended only specific combinations be provided and limited to one active ingredient from any one pharmacologic group except for protectants. The Panel recognizes that in the case of the pharmacologic group of wound-healing agents, it may be rational to include more than one such ingredient in a product because of their different mechanisms of action. However, until proven that each wound-healing ingredient makes a significant contribution to the wound-healing effect of the product, the Panel's statement placing such combination products in Category III applies.

The Panel concludes that combinations of ingredients are safe and effective if they provide rational concurrent therapy for a significant existing target population that can benefit from their use. The Panel emphasizes that these combinations must contain adequate directions for use and include warnings against unsafe use. These combinations of active ingredients must clearly specify in their labeling the anorectal symptoms for which they are indicated.

2. *Requirement that ingredients from different pharmacologic groups contribute to the claimed effects.* The Panel has placed certain ingredients in Category I as safe and effective, based on a review of the literature, data submitted, and clinical expertise. However, if a Category III ingredient is to be raised to Category I, it must be shown that it makes a statistically significant therapeutic contribution to the claimed effects.

The Panel considers the following criteria as providing a rational basis for determining the contribution of each active ingredient in an anorectal preparation: (a) Each active ingredient in a combination has been found to be safe and effective (Category I) and its inclusion clearly contributes to the claimed effects as shown by clinical data, and (b) the dosage of each active ingredient must be within the specified dosage range for its claimed therapeutic effects specified in the ingredient statements elsewhere in this document.

3. *Concept of a 2-g dosage unit.* The identification of an average dosage unit was necessary to establish a basic and acceptable minimum quantity for use that provides a therapeutic effect. In considering anorectal products, the Panel concludes that a 2-g dosage unit is reasonable, but this does not imply that other dosage sizes are not acceptable because size could be related to other factors. An official pharmaceutic compendium states that the average suppository weighs 2 g (Ref. 1). It has been previously shown in studies of anorectal products that patients use an average of 2 g per application of ointment (Ref. 2). The Panel recognizes that exceptions as to dosage unit size do occur, but that the 2-g dosage unit permits the relationship of a safe use concentration to a suitable dosage unit size.

Further justification for the use of an average dosage unit of 2 g is provided by the calculation that such a quantity of ointment with a specific gravity of 1.0 would cover an area 10 cm^2 at a thickness of 2.0 mm. A substance such as petrolatum, with a specific gravity of 0.81 to 0.88, would cover a larger area or provide a thicker layer. This quantity is more than sufficient to provide protectant effect as discussed elsewhere in this document. (See part V. below—Protectants.) Such a quantity would have a total volume of 2 mL, which is also used as a basis for the calculations discussed above for the use of foams. (See part II. paragraph I.4. above—Foams.)

References

(1) "The United States Pharmacopeia," 19th Rev., United States Pharmacopial Convention, Inc., Rockville, MD, p. 704, 1975.

(2) OTC Volume 120022.

4. *Limitation of ingredients in combination products.* The Panel, while recognizing the need for multiple

V 45 M Y 27 80 UMI

ingredients in OTC anorectal preparations, concludes that rational therapy dictates that OTC anorectal preparations available to the consumer should contain as few active ingredients as possible at the minimum dosage level recommended by the Panel as safe and effective.

The Panel recognizes that the presence of concurrent anorectal symptoms may justify the use of more than one active ingredient. Thus, there may be several therapeutic goals such as a need to relieve burning, pain, itching, swelling, or to protect the affected area which may be achieved by combining different ingredients in an effective combination. Additionally, the Panel recognizes the need for several types of ingredients for adequate formulation of such combination products. The pharmacologic groups and the ingredients in these groups that will be permitted in a combination will be dependent upon criteria defined elsewhere in this document. Despite the theoretical rationale of a combination of ingredients that relieves several symptoms simultaneously, the Panel concludes that combining ingredients from more than three pharmacologic groups with or without one or more protectants, increases the risks of interactions and of altering effectiveness of the drug product.

The Panel is also aware of the inclusion of inactive, i.e., nontherapeutic, ingredients in anorectal preparations. These inactive ingredients are used in product formulations for various purposes, e.g., preservatives and perfumes. However, the Panel recommends that the safety of inactive ingredients and the advisability of including them in drug products be reviewed by an appropriate body. The Panel briefly discusses inactive ingredients elsewhere in this document. (See part II. paragraph G. above—Bioavailability of Anorectal Dosage Forms and part II. paragraph P. below—Inactive Ingredients.)

In summary, the Panel recommends that OTC anorectal marketed products contain only those active and inactive ingredients that are essential to the product to accomplish its claimed therapeutic effects.

5. *The combination of active ingredients from different pharmacologic groups.* The panel believes that combinations of Category I active ingredients from different pharmacologic groups offer a reasonable means for relieving concurrent symptoms. The Panel can find little scientific justification for including ingredients from more than three pharmacologic groups in the same product.

The Panel concludes that combining more than three Category I active ingredients, each from a different pharmacologic group, with the exception of protectants, would place the combination in Category III. Before such combinations may be classified as Category I, a significant target population requiring such a combination for the treatment of concurrent symptoms must be identified.

The Panel also concludes that, in addition to three Category I active ingredients, each from a different pharmacologic group, a combination may contain not more than four Category I protectants as specified elsewhere in this document. (See part II. paragraph K.6.a. below—Protectants.) This exception for protectants is not inconsistent with the philosophy of exposing the consumer to the least number of drugs because the effectiveness of protectants is primilarily due to passive physical properties, providing a wide margin of safety. Chemically active protectants will be identified when special problems are known to exist or are suspected.

6. *The combination of active ingredients from the same pharmacologic group*—a. *Protectants.* The protectants have been excluded from the general rule that no more than one ingredient from each pharmacologic group be used in a Category I combination. In the past, protectants have been regarded primarily as pharmaceutical necessities, e.g., vehicles and stiffening agents. However, the Panel has recognized that the physical properties of these ingredients are often of therapeutic value in the symptomatic treatment of anorectal symptoms. (See part V. below—Protectants.) The Panel concluded that this concept is reasonable because protectants are, in general, safe for OTC use and require few limitations on dosage. Also the physical manipulation of varying quantities of these ingredients is useful in formulating products of a desired consistency, e.g., ointment or suppository.

Some protectant active ingredients also have other pharmacological activities and consequently have been reviewed by the Panel for more than one claimed effect.

The Panel further concludes that to exert a protective effect and to justify a claim for this drug effect when only one protectant is present, it must be present in a combination in a concentration of at least 50 percent of a dosage unit. For those protectant ingredients limited to concentrations of less than 50 percent, the data indicate such ingredients are usually present in combination with other protectant ingredients. In a combination containing two, but not more than four, protectants, the total concentration of all the protectants in the combination must be at least 50 percent of a dosage unit. This concept was based on the Panel's determination of the minimum concentration of a protectant ingredient in a combination that wold provide a protectant effect (i.e., at least 50 percent of a dosage unit) and still permit the addition of other active ingredients (e.g., 20 percent benzocaine) and still allow for inactive ingredients.

It is reasonable to expect that no more than four different Category I protectants will be needed in any one product. Only four products submitted to the Panel had four or more protectant ingredients.

b. *Topical anesthetics, vasoconstrictors, conterirritants, astringents, wound-healing agents, antiseptics, keratolytics, and anticholinergics.* The Panel is concerned with the marketing of combination products containing more than one active ingredient from these pharmacologic groups. Each Category I combination is currently limited to one Category I active ingredient from any one pharmacologic group except for protectants. The Panel can find little scientific justification for combining more than one active ingredient from the same pharmacologic group in the same combination product.

The Panel believes that to provide for combinations containing ingredients from the same pharmacologic group would contribute to the likelihood of undersirable additive or synergistic effects. Further, to include in a combination product more than one ingredient from the same pharmacologic group is unreasonable because the use of more than one safe and effective active ingredient serves no added benefit nor decreases the risk of toxic effects. It is accepted medical practice to administer only those drugs necessary for the safe and effective treatment of the patient. The Panel believes that this concept should also apply to self-medication using OTC drugs for relief of symptoms without the advice of a physician.

In conclusion, to allow for the possibility, however unlikely, that there may be advantages to combining two ingredients from the same pharmacologic group, each at less than the recommended Category I dosage, the Panel has determined that such combinations be classified as Category III. Additional studies are needed for Category III combinations to determine their safety and effectiveness. (See part II. paragraph K.10. below—Criteria for Category III combination products for external and/or intrarectal use.) The Panel has futher determined that any combination product containing more than two active ingredients from the same pharmacologic group, e.g., three vasoconstrictors, is irrational and is therefore classified as a Category II combination. There is no reason to expect a possible benefit from the combintion, and exposure to greater numbers of ingredients may increase the risk of adverse reactions, may decrease safety, and/or may produce unpredictable changes in effectiveness.

7. *Labeling of active ingredients.* As discussed above, the Panel has determined that each active ingredient in a combination product must make a contribution to the claimed effects. (See part II. paragraph K.1. above—General combination policy.) If a single ingredient has more than one pharmacologic activity related to use in anorectal disease, these should all be identified in the labeling and be consistent with the pharmacologic activities produced at the recommended dosage for the combination product.

The Panel recommends that the labeling of a combination product containing active ingredients for treatment of concurrent symptoms emphasize the use of the product only when all such symptoms are present. The consumer should be adequately informed by means of the labeling as to the therapeutic capabilities of the product.

8. *Criteria for Category I combination products for external and/or intraectal use.* Based upon an evaluation of the ingredients and the data submitted to the Panel for review, the following criteria have been established:

a. Each active ingredient in a combination must meet the Category I conditions established within this document.

b. Any Category I combination containing only protectants and claiming a protectant activity may contain no more than four protectants, provided the total concentration of protectants are present in at least 50 percent of the dosage unit. Final testing is not required.

c. Any Category I combination claiming a protectant activity may contain no more than four protectants in addition to the specific combinations of Category I ingredients as set forth below, provided the protectants are present in a total concentration of at least 50 percent of a dosage unit, or, when only one protectant is present in a combination claiming a protectant activity, it must be present in a concentration of at least 50 percent of a dosage unit. (See part II. paragraph K.10. below—Criteria for Category III combination products for external and/or intrarectal use.)

d. Products that do not claim protectant activity and contain one Category I active ingredient from each pharmacologic group in the combinations identified below are classified as Category I combination products, provided that (1) the active ingredients and their labeling are generally recognized as safe and effective, (2) such ingredients are present in amounts within the effective dosage range, and (3) the final formulation has been shown to be safe and effective. (See part II. paragraph K.10. below—Criteria for Category III combination products for external and/or intrarectal use.)

9. *Criteria for Category II combination products for external and/or intrarectal use.* a. A combination is Category II if a Category II ingredient or Category II labeling is present in the combination product.

b. If a combination contains an active ingredient or has labeling that has not been reviewed by this Panel, such ingredient or labeling is classified as Category II.

c. A combination product is classified as Category II if it includes more than two active ingredients from the same pharmacologic group, except protectants.

d. If a combination contains five or more active ingredients, excluding protectants, such a combination is classified as Categry II. It is irrational and presents an increased, unacceptable risk of adverse reactions.

e. Specific combinations of certain pharmacologic groups have been determined by the Panel to be unsafe or irrational and classified as Category II.

(1) Any combination containing both a local anesthetic and a counterirritant. The Panel concludes that the simultaneous use of a counterirritant and a local anesthetic comprises a specific combination that is irrational and is therefore not allowed. The mechanism of action of a counterirritant is dependent upon intact nerve function that is specifically blocked by an effective local anesthetic. Although the onset of action of the local anesthetic may be briefly preceded by the action of the counterirritant, this does not constitute a significant justification for the combination.

10. *Criteria for Category III combination products for external and/or intrarectal use.* Based upon an evaluation of the data submitted to the Panel for review, the following criteria and testing procedures are recommended:

a. If a combination product contains not more than three Category I ingredients each from a different pharmacologic group, excluding protectants, and the final formulation has not been tested for safety and effectiveness, the combination is classified as Category III. The following specific combinations of pharmacologic groups, are in Category III.

(1) Combinations containing any single Category I active ingredient and one or more protectants.

(2) Combinations of any two Category I active ingredients, each from a different pharmacologic group listed below, may be combined with or without one, but not more than four, protectants. (See part II. paragraph K.6.a. above—Protectants.)

(i) Combinations containing a local anesthetic and a vasoconstrictor.

(ii) Combinations containing a local anesthetic and an astringent.

(iii) Combinations containing a local anesthetic and a keratolytic.

(iv) Combinations containing a vasoconstrictor and an astringent.

(v) Combinations containing a counterirritant and an astringent.

(vi) Combinations containing a counterirritant and a keratolytic.

(vii) Combinations containing an astringent and a keratolytic.

(3) Combinations of any of the following three Category I active ingredients, each from a different pharmacologic classification, may be combined with or without one, but not more than four, protectants. (See part II. paragraph K.6.a. above—Protectants.)

(i) Combinations containing a local anesthetic, a vasoconstrictor, and an astringent.

(ii) Combinations containing a local anesthetic, astringent, and keratolytic.

(iii) Combinations containing a vasoconstrictor, counterirritant, and astringent.

(iv) Combinations containing a counterirritant, astringent, and keratolytic.

(4) Category III testing: The above Category III combinations must be subjected to testing before they will be allowed on the OTC market. (See part II. paragraph L. below—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

a. If a Category III ingredient or labeling is present in a combination product containing no Category II

ingredient or labeling, the combination

V 45 M Y 27 80 UMI

ingredient or labeling, the combination is classified as Category III.

b. A combination product is classified as Category III if it contains four Category I active ingredients, each from a different pharmacologic group, except protectants.

Combinations with ingredients representing four pharmacologic groups are more likely to be less safe and effective than three ingredients. It is not reasonable to assume that a target population exists that requires relief of anorectal symptoms by four different mechanisms. In any case the benefit-to-risk ratio decreases to a questionable level.

Category III testing: If, when tested alone, the Category III ingredient can be shown to be safe and effective in accordance with the standards for evaluation in the recommended protocol, the ingredient then qualifies for Category I status. (See part II. paragraph L. below—Criteria and Testing Guidelines for Placing Category III Ingedients, Combinations, and Labeling in Category I.) The combination will then contain only Category I ingredients, but further testing is required to show that the combination in final formulation is safe and effective.

d. A combination product is classified as Category III even if it contains Category I ingredients from different pharmacologic groups when any ingredient or ingredients used to relieve the same symptom are present at less than the minimum effective dose established by the Panel.

Category III testing: For a Category III combination, testing must be carried out to demonstrate (a) safety no less than that of the individual ingredients and (b) a contribution by each ingredient to the effectiveness of the product.

Testing for effectiveness of all anorectal ingredients and combinations in final formulations should demonstrate in clinical trials that there is statistically significant difference in effectiveness of the combination for relief of a symptom as compared to the combination without each of the active ingredients, excluding protectants; e.g., a product composed of active ingredients A, B, C, and D in a vehicle (final formulation) must be compared to control (vehicle plus protectants when present) and the following combinations: (A, B, C), (A, B, D), (B, C, D), and (C, D, A). The combination of other anorectal active ingredients with protectants resulting in unpredictable changes in safety and effectiveness is demonstrated by many investigators (Refs. 1 and 2). For this reason, the formulation of protectants used in testing must be consistently used in each permutation and identified by name and concentration in the monograph. Any change in formulation of protectants used requires retesting.

The exclusion of protectants from testing for relief of irritation, discomfort, burning, itching, or swelling (i.e., Category I claims) does not preclude the need for testing protectants for other claims (Category III), such as zinc oxide when labeled as an astringent.

References

(1) Ritschel, W. A., "Biopharmaceutical Development and Evaluation of Rectal Dosage Forms," *in* "Applied Biopharmaceutics II," College of Pharmacy, University of Cincinnati, Cincinnati, OH, pp. 1153–1207, 1973.

(2) OTC Volume 120072, pp. 5–18.

e. Combinations containing Category III and Category I active ingredients for which the available effectiveness data are insufficient for Panel to make a final determination are classified as Category III and are listed below. Such combinations include Category I and Category III active ingredients on the basis that a theoretical rationale exists for these combinations but safety and effectiveness remains to be established.

(1) Wound-healing agent and local anesthetic.

(2) Wound-healing agent and vasoconstrictor.

(3) Wound-healing agent and astringent.

(4) Wound-healing agent and antiseptic.

(5) Wound-healing agent, local anesthetic, and vasoconstrictor.

(6) Wound-healing agent, local anesthetic, and antiseptic.

(7) Wound-healing agent, vasoconstrictor, and antiseptic.

(8) Wound-healing agent, local anesthetic, and astringent.

(9) Wound-healing agent, vasoconstrictor, and astringent.

(10) Wound-healing agent, astringent, and antiseptic.

(11) Local anesthetic and astringent.

Category III testing: An acceptable testing procedure will be one in which the combination, as well as each individual ingredient of the dose in the combination, and a control (vehicle and protectants when present) are evaluated against the relevant symptoms either in the same study or in separate studies using comparable test protocols. (See part II. paragraph L. below—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.) In this way, comparisons of effectiveness can be made between the combination, the individual active ingredients, and the placebo by external or intrarectal administration. When tested alone by external or intrarectal administration, each individual ingredient should demonstrate a statistically significant effect against the relevant symptom when compared to control (vehicle plus protectants when present).

For the combination of Category I ingredients from different pharmacologic groups to be a Category I combination, the combination must also exert a statistically significant effect against each of the relevant symptoms when compared with the control.

L. *Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I*

1. *General considerations.* The Panel has placed ingredients, combinations, and labeling in Category III because there was insufficient evidence to establish safety and/or effectiveness of the ingredient or combinations when used externally and/or intrarectally for the relief of symptoms associated with anorectal disease. In addition, the Panel concludes that final formulation testing of all ingredients and combinations cannot be avoided.

The Panel has recognized that the testing of a Category III ingredient or combination currently marketed for use in anorectal disorders would necessarily be less rigorous than testing of a new ingredient or combination. This is true, in most cases, because there has been long-term use of the combination products in Category III without any recognized hazard, and it is often necessary to test only one aspect of safety and/or effectiveness for each ingredient or combination. Therefore, rigorous safety testing has been modified to take into account years of human use and experience. Required testing guidelines for all Category III ingredients and combinations are discussed here in general. Specific requirements for each ingredient are identified below and in each individual ingredient section when applicable. A general scheme for evaluation of new anorectal drugs is discussed elsewhere in this document because testing standards adequate to change the classification of Category III ingredients to Category I would not suffice for a new drug entity. The following guidelines pertain to Category III ingredients and combinations of Category I and III ingredients only:

a. *The need for studies in the anorectum.* In all effectiveness studies, the site of study should be the human rectum and anorectal area because of the unique anatomy and physiology of the anorectal area and because the area is frequently traumatized by bowel

movements, ambulation, or pressure while sitting. In addition, the anorectal area is warm and moist because it is usually covered by clothing. These factors make the anorectal area subject to irritation. Other anatomical sites demonstrating the effectiveness of agents for relief of symptoms or for promoting healing are not satisfactory. The Panel has reviewed a variety of clinical studies designed to test the effectiveness of products when used in the human anorectal area (Refs. 1 through 21). These studies confirm both the feasibility of such studies and the availability of patients for such studies. Testing for sensitization and irritation may be done on other skin areas, such as the back or the forearm according to standard tests. (See part II. paragraph L.2.b. below—Safety testing for external use.) Carefully designed trials in humans can simultaneously study allergenicity, local and systemic toxicity, and effectiveness. In most cases safety testing can be conducted on the human anorectal area, but where there is clear concern for systemic toxicity, preliminary animal testing may be necessary.

References

(1) OTC Volume 120003.
(2) OTC Volume 120004.
(3) OTC Volume 120007.
(4) OTC Volume 120008.
(5) OTC Volume 120010.
(6) OTC Volume 120014.
(7) OTC Volume 120015.
(8) OTC Volume 120020.
(9) OTC Volume 120022.
(10) OTC Volume 120023.
(11) OTC Volume 120024.
(12) OTC Volume 120028.
(13) OTC Volume 120030.
(14) OTC Volume 120031.
(15) OTC Volume 120035.
(16) OTC Volume 120037.
(17) OTC Volume 120059.
(18) OTC Volume 120063.
(19) OTC Volume 120065.
(20) OTC Volume 120075.
(21) OTC Volume 120067.

b. *The vehicle as a control.* The ingredient or ingredients should be tested in the vehicle in which they are to be commercially formulated. This requirement is of prime importance because of the complex effects the vehicle may have on ingredient activity and absorption, as discussed elsewhere in this document. (See part II. paragraph G. above—Bioavailability of Anorectal Dosage Forms.) An important example of the effects of vehicle on ingredients is discussed by the Advisory Review Panel on OTC Antimicrobial Drug Products in their evaluation of iodine as an antimicrobial agent as published in the **Federal Register** of September 13, 1974 (39 FR 33103 at page 33129) in which the Panel concludes that the amount of free elemental iodine is an inverse function of complexation with the vehicle which decreases toxicity and effectiveness.

c. *Double-blind studies.* The effectiveness of the ingredient must be tested in human subjects with anorectal disease using a controlled double-blind study. Double-blind trials are necessary because of the extreme variability of the pathology, the course and symptomatology of anorectal disease, and also because of the difficulty in establishing adequte objective methods of assessment. A double-blind trial is best suited for this type of situation because these variables are controlled.

Double-blind trials permit a reasonable basis for assessment of symptomatic relief, which is the primary purpose for using OTC anorectal ingredients. Assessment of symptomatic relief shall be done by questionnaires. Pathology may be evaluated by use of photography and/or biopsy and/or physician evaluation. Biopsy may only be appropriate in certain circumstances. Ideally, clinical trials should include the following groups: (1) A final formulation, including protectants when present, with any ancillary measures specified in the protocol; (2) the vehicle, including protectants when present, without other active ingredients but with any ancillary measures specified in the protocol; (3) ancillary measures only; and (4) no treatment.

Because of the usual progression in the healing of benign anorectal ailments, a crossover design study would not be satisfactory. Therefore, only the first two groups above ((1) and (2)) could be studied in double-blind fashion. Data on the remaining two groups above ((3) and (4)) are very useful, but once established provide a valuable baseline for proof of effectiveness.

Demonstration of statistically significant relief of the symptoms of burning, pain, or itch, and/or resolution of anorectal swelling of hemorrhoids or anorectal tissue as shown by photography and/or biopsy and/or physician evaluation in such trials would provide adequate proof of effectiveness.

The feasibility of double-blind studies of anorectal products in the human has been previously demonstrated in several studies presented to the Panel. Further, a recent, detailed double-blind protocol for thorough testing of anorectal products using some of these anorectal ingredients and other ingredients has also been submitted to FDA (Ref. 1).

Reference.

(1) OTC Volume 120071.

d. *Dose and frequency.* When testing for effectiveness in humans, the ingredient should be applied in doses and in a dosage frequency that is reasonable comparable to actual OTC use. For safety testing, the ingredient should be applied in doses and at frequencies that are twice those used OTC because the Panel recognizes the occasional tendency to overuse anorectal products. It has been shown in studies of intrarectal creams and ointments that an average of 2 g of cream or ointment is used per application (Ref. 1) and that the average suppository weighs 2 g (Ref. 2). The usual number of daily applications is three to four. Therefore, human testing should be carried out for a minimum of 7 days using 2 g four and eight times daily and 4 g four and eight times daily. This regimen will, therefore, test usages of twice and four times the recommended amount. When the ingredient is to be applied intrarectally, the ingredient and the control vehicle must be applied in a quantitative manner by use of a pile pipe or suppository. When applied externally, the ingredient must also be applied in a specified and measured quantity.

References

(1) OTC Volume 120022.

(2) "The United States Pharmacopeia," 19th Rev., The United States Pharmacopeial Convention, Inc., Rockville, MD, p. 704, 1975.

e. *Assessment of subjective and pharmacologic effects.* Testing shall be carried out in patients receiving a final formulation versus control to prove symptomatic relief. For subjective assessment, the use of a questionnaire shall be adequate to demonstrate statistically significant symptomatic improvement, and would be acceptable for proof of claims of symptomatic relief.

The exact format of a questionnaire, in the opinion of the Panel, does not need to be included here, nor does it seem appropriate to do so. A number of studies submitted included variations that could serve as possible models for such a questionnaire (Ref. 1). A standard form should be developed by FDA with the help of interested individuals which will provide a uniform basis for evaluation of improvement in the symptoms of burning, pain, itch, swelling (as in hemorrhoids and/or hemorrhoidal tissue) and discomfort due to these symptoms.

Although the Panel has approved many ingredients on the basis of specific pharmacological activities (anesthesia, counterirritation, or vasoconstriction) demonstrated at other sites in the body, studies demonstrating these specific activities must be performed in the

anorectal area and at the same

It is important to note that agents

accomplished by sitting in the

anorectal area and at the same concentration and formulation to prove each claim relating to these activities. The effects of such anorectal ingredients are being measured in terms of specific pharmacologic action and/or the general anorectal symptoms.

Reference

(1) OTC Volume 120071.

f. *Statistically significant results*—(1) *General safety considerations.* Because of the considerable differences in the two general areas of application of an anorectal product, i.e., inside and outside the rectum, the safety of these products has been considered on both sites. (See part II. paragraph L.2. below—Safety testing.) Thus, the safety of a product applied intrarectally will relate to its effects on, and absorption across, the mucous membrane lining the rectum. The safety of an externally applied product will relate to its application to normal and inflamed epithelium of the anal canal and perianal area.

All tests for safety shall be carried out using an adequate number of trials in animals or humans to allow adequate statistical analysis, and the results must be statistically significant to be acceptable.

(2) *General effectiveness considerations.* The spectrum of anorectal pathology is broad, but these conditions usually cause a narrow range of complaints due to irritation of sensory nerve endings in the area. This results in, depending on the degree of irritation, burning or pain with or without defecation, tenesmus, or the repeated sensation of the need to defecate, and pruritus or itching of the anal canal and perianal area. Swelling of hemorrhoidal vessels and tissues, which occur for various reasons, are frequently part of the anorectal pathology.

Effectiveness of anorectal products shall be evaluated on the basis of their ability to provide relief of symptoms and/or to produce objective improvement in anorectal pathology within the recommended dosage and frequency.

(i) *Relief of symptoms.* Agents acting to alleviate symptoms act by one of several mechanisms: (*a*) Blockade of sensory nerve sensation, as with local anesthetics; (*b*) production of sensation of a different character, e.g., cooling, which distracts from the original sensation, e.g., pain, as with counterirritants; or (*c*) decreased swelling of affected areas such as hemorrhoids and hemorrhoidal tissues, as theoretically occurs with vasoconstrictors.

It is important to note that agents providing relief by the first two mechanisms, local anesthesia and counterirritation, can only act in external areas (perianal) supplied by sensory nerves, below the anorectal line. However, it has been argued that effects of these agents on the automatic nerves above the anorectal line may provide relief of symptoms as reported in studies with some anorectal ingredients (Ref. 1). Therefore, demonstration of statistically significant relief of symptoms after one or more intrarectal applications, and the duration of effect in two double-blind studies of the ingredient as finally formulated would constitute proof of its effectiveness when performed by separate investigators. Other specific aspects of effectiveness are discussed elsewhere in this document. (See part II. paragraph L.3. below—Testing for effectiveness.)

Essentially no clinical data exist to demonstrate the actual validity of these mechanisms in relieving anorectal symptoms. The Panel has concluded that studies for effectiveness of anorectal ingredients which are performed on other body sites cannot be extrapolated as effective in relieving anorectal symptoms because there is a valid impediment. For example, the lack of pain receptors in the rectum in evaluating local anesthetics and the unique anatomy of swollen hemorrhoidal tissue require specific studies.

The Panel has defined prompt or immediate relief of symptoms as those effects that occur within 20 minutes after application of an anorectal product and have a duration of effect as established by appropriate studies.

(ii) *Other aspects of relief of symptoms.* The Panel concludes that some ingredients and ancillary measures, such as frequent warm water baths (sitz baths), regular cleansing of the anorectal area, although not particularly effective in providing more immediate symptomatic relief, will provide relief within 7 days or less by providing better conditions for healing of the anorectal area, or possibly, actually promoting more rapid healing of the area, and thus secondarily relieving symptoms over a period of time. This effect may occur through several mechanisms.

(*a*) *Maintenance of relative cleanliness or decreased bacterial contamination of the anorectal area.* The Panel concludes that although complete antisepsis in this area cannot be maintained, it is generally recognized that healing is more likely to occur in a relatively clean area. This is accomplished by sitting in sitz baths and/or by washing with soap and water, and careful rinsing of soap. Antiseptics may reduce microbial flora in the anorectal area, but further studies are necessary to show that antiseptics are more effective than soap and water.

(*b*) *Debridement of the affected area.* Certain agents such as keratolytics, as well as soap and water, will remove the necrotic or irritated dead skin cells and thus provide better conditions for regrowth of normal tissue. Such an action is generally believed to allow normal healing and, consequently, relief of one or more anorectal symptoms. Keratolytics are discussed in more detail elsewhere in this document. (See part X. below—Keratolytics.)

(*c*) *Promotion of healing.* It is proposed by several investigators that certain agents may actually stimulate healing in a wounded or inflamed area so that repair is more rapid than normal (Ref. 2). This matter is discussed elsewhere in this document. (See part VIII. paragraph A. below—General Discussion.)

Claims for relief may include the specific pharmacologic group by which an agent provides relief, e.g., local anesthesia, or they may be less specific by claiming that they provide relief of burning, pain, itch, or swelling, except that to be able to make specific claims, such as promoting antisepsis of the anorectal area or healing, evidence of such effects must be produced in addition to general demonstration of relief. If no such claim is desired, demonstration of relief by methods described elsewhere in this document will provide for elevating an ingredient to Category I for relief of symptoms only. (See part II. paragraph L.1. above—Assessment of subjective and pharmacoligic effects.)

References

(1) OTC Volumes 120010 and 120011.

(2) OTC Volumes 120007, 120008, 120009, 120021, 120032, 120060, 120061, 120062, 120069, and 120082.

2. *Safety testing.* A general protocol for testing the safety of anorectal products must be divided into local effects on the skin and mucous membranes, systemic effects of the agency when absorbed from specific dosage forms and formulations, effects to be evaluated on the intact surface as opposed to the inflamed or excoriated surface, the allergy-producing potential through local or systemic routes, and acute and chronic toxicity testing on skin, mucous membranes, and/or specific organs when the ingredient is determined to have systemic effects. A scheme outlining a general protocol for testing the safety of anorectal products is presented below.

Ingredients in Category III need not be tested at the recommended dosage level for local and systemic safety in animals, in view of their years of use, except when special problems have been identified in the discussion of specific ingredients in this document.

If prior toxicity studies at ten times the concentration recommended for the proposed use of the ingredient have demonstrated a hazard in two species of animals, safety testing must be conducted at the amount and concentration recommended for the proposed use as well as at twice the amount in the same concentration, to allow an estimation of the safety margin in humans. Because of long-standing OTC use without reported toxicity, vigorous animal testing of the ingredient will not usually be necessary except when specified. If significant toxicity is encountered with the higher amount, the ingredient will not be allowed for use at the proposed concentration, and further testing of the ingredient for the specific margin of safety and effectiveness at a lower concentration must be conducted.

Proof of safety is to be determined in humans according to site of use, i.e., intrarectal or external. Testing should include acute and chronic toxicity studies only where the ingredient has been placed in Category III for reasons of safety.

a. *Safety testing for intrarectal use*—(1) *Systemic toxicity.* Some compounds used in OTC anorectal products have been shown to be absorbed when applied intrarectally (Refs. 1 and 2). Compounds for intrarectal use placed in Category III for reasons of safety must be tested for potential systemic absorption from the rectum. Assessment of the absorption shall be made by blood level determinations, or if this is not feasible, by urinalysis and/or physiological measurements. Any ingredient that is shown to be absorbed and that has known direct pharmacologic effects, such as a potential change in vital signs, must have these effects measured simultaneously with blood level measurements. These studies must also include measurements of liver, renal, and hematologic function following exposure to the drug.

When systemic absorption occurs from the rectal mucosa, additional animal studies will be required and reviewed before elevation to Category I. These additional animal studies include (i) carcinogenicity studies where the ingredient resembles known carcinogens or co-carcinogens, (ii) mutagenicity and teratogenicity studies that are of primary importance owing to the frequent use of hemorrhoidal agents in pregnant women, and (iii) pharmacokinetic studies in which the minimal requirement is the demonstration of the half-life of the ingredient and of any major metabolites to demonstrate lack of accumulation in the body.

(2) *Local toxicity.* Testing of the ingredients for rectal irritation shall be done on normal human volunteers and normal rectal mucosa. Assessment may be done by either anoscopic or proctosigmoidoscopic examination and the use of photography and/or a clinical grading system. Assessment can also be carried out by rectal biopsy. If there is significant concern regarding irritancy, these studies may be preceded by conventional patch testing at other body sites in humans or by testing in the rectal area of animals (Ref. 3). However, final proof of lack of irritancy must be made in the human rectum. This is feasible as a part of other clinical studies of the product using a 0 to 3 grading system for patch testing in which 0 is no reaction, 1 is mild erythema, 2 is moderate erythema without exudation, and 3 is severe erythema, exudation, and blistering. If irritation occurs in more than 5 percent of the subjects with an average of less than 2, a warning would be required in the labeling of the product to alert the consumer to the possibility of irritation, as, for example, occurs with resorcinol, but this would not prevent its elevation to Category I. The presence of moderate irritation, e.g., an average of 2 or greater in more than 5 percent of the subjects, would automatically move the ingredient at that dose or concentration to Category II.

The Panel will not require testing for the occurrence of rectal sensitization because allergic reactions on mucous membranes do not appear to be a problem.

b. *Safety testing for external use*—(1) *Systemic toxicity.* The Panel recognizes that there is some potential systemic absorption of ingredients through inflamed perianal and anal canal skin. However, the Panel does not believe this is of sufficient significance to require systemic toxicity testing.

(2) *Local tocicity*—(i) *Irritation.* Some ingredients used in OTC anorectal products may produce significant local irritation with either acute or repeated use. Because these products have long-standing human use with few reports of irritation, studies may be limited to human subjects. Irritation in human subjects may be assessed on the abraded skin, or by patch testing in the anorectal area or on the back. If any irritation occurs on the back (1 or greater) in more than 5 percent of the subjects, studies must then be conducted in the anal canal and perianal area to show lack of similar irritation to move a Category III ingredient to Category I. If less than moderate (average of less than 2) irritation is demonstrated in the anorectal area, this would require a warning in the labeling of the product. If moderate (an average of 2 or greater) irritation occurs in more than 5 percent of subjects, the ingredient will automatically become Category II.

(ii) *Sensitization.* Several ingredients in Category III have known allergenic properties. For these ingredients, where concern about allergenicity is part of the concern about safety, testing should be carried out by standard techniques as described by Draize (Ref. 4) or other standard sensitization tests (Ref. 3).

In clinical trials, no fewer than 200 individuals should be used for estimation of allergenicity. The Panel concludes that an incidence of greater than 3 percent of allergic reactions in a random population, or 10 percent in a dermatologic clinic population in such trials, would place the ingredient in Category II.

References

(1) OTC Volumes 120010 and 120011.

(2) OTC Volume 120027.

(3) Marzulli, F. N. and H. I. Maibach, "Contact Allergy: Predictive Testing in Man," *Contact Dermatitis*, 2:1–17, 1976.

(4) Draize, J. H., G. Woodard and H. O. Calvery, "Methods for the Study of Irritation and Toxicity of Substances Applied Topically to the Skin and Mucous Membranes," *Journal of Pharmacology and Experimental Therapeutics*, 82:377–390, 1944.

3. *Testing for effectiveness.* To elevate an ingredient from Category III to Category I, one of two following effects must be shown:

(1) *Immediate relief of symptoms.* Certain ingredients, such as the local anesthetics and counterirritants, can produce relief of burning, pain, or itching shortly (within 20 minutes) after application. This effect can only be assessed by carefully controlled, double-blind tests of subjective effects in humans with anorectal symptoms. Demonstration of statistically significant relief of discomfort due to burning, pain, itch, or swelling within 20 minutes is sufficient to establish effectiveness. Claims for immediate relief are permitted when testing has been done to prove such relief.

(2) *Relief of burning, pain, itching, or swelling with repeated application.* The Panel recognizes that certain agents, such as protectants, astringents, keratolytics, and wound-healing agents

may provide relief when used after

support a claim for effectiveness in the

feasible), a claim for keratolysis could

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may provide relief when used after repeated applications over a period of days. The Panel will only consider effects occurring within 7 days, because use beyond this time indicates the need for a physician's evaluation. Clinical studies to prove effectiveness of this type of ingredient must provide statistically significant relief of symptoms greater than control within 7 days.

Claims that specify the time required for the onset and the duration of the relief of symptoms and/or specify the mechanism of action must be substantiated by appropriate testing.

Proof of effectiveness is to be determined in double-blind studies on humans according to site of use, i.e., intrarectal or external, and the duration of treatment. The human subjects must have anorectal disease and associated symptoms.

(i) *Effectiveness testing for intrarectal use.* To provide evidence for relief of symptoms, double-blind tests should be carried out in patients using active ingredients in final formulation versus control (vehicle, with protectants when present). The final formulation must be administered intrarectally only by use of a suppository, pile pipe, or other method that allows quantitative measure. The assessment of relief must be based on subjective and/or objective responses from the consumer by use of a properly designed questionnaire. In addition, a screening technique as proposed by Adriani and Zepernick (Ref. 1) and Riegelman (Ref. 2) may be developed into an objective protocol capable of completion in a short period of time. The technique utilizes blockage of a minute electrical stimulation to skin after application of ingredients to be tested.

Criteria for effectiveness after repeated applications include both symptomatic relief and, optionally, reversal of pathological changes within 7 days.

Relief may occur after repeated applications in the intrarectal area. This theoretically will occur only when pathological changes are reversed. Therefore, relief must be demonstrated by either subjective assessment by questionnaire and/or optionally by objective proof that pathological changes have been reversed.

The definitive proof for reversal of pathological change must be carried out in the human anorectal area by demonstrating clinically accelerated healing of a defined anorectal lesion by biopsy, photography, or clinical assessment in double-blind trials comparing the final formulation with control. Demonstrating this property at other anatomical sites is not adequate to support a claim for effectiveness in the unique anatomical area of the anorectum. A claim specifying wound healing as the mechanism of action of an ingredient can only be made on the basis of appropriate studies, but a claim without reference to the mechanism of action could be made for relief of anorectal symptoms after repeated applications if anorectal studies have demonstrated this.

(ii) *Effectiveness testing for external use.* To provide evidence for relief of symptoms, testing should be carried out as described in paragraph (i) above. Because the endpoint of testing is subjective relief, the only difference in testing design is a dosage form for external use and the site of application.

Criteria for effectiveness include both symptomatic relief after repeated application and the reversal of pathologic changes, such as decrease in inflammation. The relief of symptoms must be demonstrated whether the objective reversal of pathological changes occur or not.

Relief after repeated external application may occur as a result of one or more mechanisms, such as local anesthetics, wound healing, astringency, keratolysis and antisepsis. Evidence of symptomatic relief may be assessed by an appropriately designed questionnaire that does not require that a physician evaluate symptomatic relief.

References

(1) Adriani, J. and R. Zepernick, "Clinical Effectiveness of Drugs Used for Topical Anesthesia," *Journal of the American Medical Association*, 188:711–716, 1964.

(2) Riegelman, R. H., "An Objective Method for the Evaluation of Topical Anesthesia in the Anorectal Area," *American Journal of Proctology*, 17:402–404, 1966.

4. *Testing for specific claims.* To prove specific claims for wound healing, keratolysis, astringency, and antisepsis, testing must be carried out. However, statistical proof of clinical subjective relief after repeated application must be demonstrated in all cases; this requirement exists to preclude the use of single doses to establish effectiveness.

a. *Wound healing.* (See part VIII. paragraph C. below—Data required for evaluation.)

b. *Keratolysis.* Proof of keratolytic activity by an ingredient in the anorectal area would be difficult to demonstrate except by use of biopsy of the affected skin before and after use of the ingredient. Therefore, such testing may be performed on other body sites. If testing done on other body sites demonstrated clear desquamation of epithelium and necrotic tissue by histological examination (which is feasible), a claim for keratolysis could be made for the ingredient, but the ingredient must be shown to provide symptomatic relief in human double-blind testing.

c. *Antisepsis.* (See part IX. paragraph C. below—Data Required for Evaluation.)

d. *Astringency.* The property of astringency is a variably defined one for which no specific testing methods for effectiveness have been developed. If a claim for such an effect is desired, the method for proof of the effect will be evaluated by FDA at the time of submission.

M. The Pharmacist as a Direct Contributor to Medical Care

The Panel is aware of the current policy as established by the Commissioner in the **Federal Register** of June 4, 1974 (39 FR 19880) which does not presently permit the use of the term "pharmacist" on OTC drug labeling. However, the pharmacist is an integral part of consumer education and deserves to be recognized as a readily available source of drug information.

N. The Use of Anorectal Drugs During Pregnancy and by Nursing Mothers

The incidence of hemorrhoids is relatively high during pregnancy partly due to the compression of the major vessels in the anorectal area during this condition. No studies on the use of the anorectal drugs in pregnant women were found. However, the Panel considered several basic factors for formulating a recommendation for the use of anorectal drugs in pregnant women: (1) Because of the extreme complexity of the subject of teratogenesis (Refs. 1 and 2), drug effects on the fetus (Refs. 3 and 4), and the difficulty in demonstrating these effects, coupled with the emerging information that a number of drugs, i.e., thalidomide, certain anticonvulsants, and tetracycline do appear to have these effects, it has been generally accepted that only essential drugs be used in the pregnant woman or the nursing mother.

(2) The major concern regarding the use of anorectal drugs in this group relates to the potential for systemic absorption and thus fetal exposure or exposure of the newborn with its immature protective systems. Although data are lacking, the Panel has concluded that systemic absorption of drugs is usually of significant concern only when agents are applied intrarectally. Therefore, concern relates only to those agents available for intrarectal use.

(3) The only drugs used intrarectally of concern are those which have a potential for being absorbed through mucous membranes. Anorectal agents designated as Category I protectants that have no other pharmacologic activity are, as a class (e.g., petrolatum), generally not absorbed significantly, and thus would be acceptable.

On the basis of these considerations, the Panel makes the following recommendations regarding the use of anorectal products in pregnant and nursing women:

(1) Any ingredient that is in Category I for external anorectal use may be used by pregnant and nursing women.

(2) Any ingredient that is a Category I protectant that has no additional pharmacologic effect may be used intrarectally by pregnant and nursing women.

(3) All intrarectal ingredients, except those Category I protectants that have no additional pharmacologic effect, must carry a warning: "The safety of this product has not been established for use by pregnant women or by nursing mothers," (See part II. paragraph Q.5. below—Warnings.)

References

(1) Meester, W. D., "The Effects on the Fetus of Drugs Given During Pregnancy," *Marquette Medical Review*, 30:147–154, 1964.

(2) Tuchmann–Duplessis, H., "Embryonic Clinical Pharmacology," *in* "Drug Treatment. Principles of Practice of Clinical Pharmacology and Therapeutics," Edited by Avery, G. S., Publishing Sciences Group, Inc., Actin, MA, pp. 44–56, 1976.

(3) Singh, S. and B. L. Mirkin, "Fetal Clinical Pharmacology," *in* "Drug Treatment. Principles of Practice of Clinical Pharmacology and Therapeutics," Edited by Avery, G. S., Publishing Sciences Group, Inc., Actin, MA, pp. 57–70, 1976.

(4) Boreus, L. O., "Fetal Pharmacology," Raven Press, New York, 1973.

O. Pediatric Dosage

The Panel concludes that the safety of protectants and astringents would not preclude their use in the pediatric age group between 2 and 12 years at the same dose level as approved for adults. However, the Panel has concluded that studies of all other anorectal drugs, in the pediatric age group are negligible or non-existent. Therefore, anorectal drugs other than protectants and astringents should not be used in children under 12 years of age, except on advice of a physician, until studies are done to show safety and effectiveness at specific dose levels for children according to measurable parameters such as body weight.

The Panel is also aware that pediatric patients do not comprise a substantial proportion of the patients who receive these OTC products. Chronic constipation, fecal impaction, and straining on elimination of the stool do not lead to hemorrhoids in children nearly as frequently as they do in adults (Ref. 1). Although anal fissures and rectal prolapse are not uncommon, hemorrhoids are, on the other hand, less common in infants and children (Ref. 1).

Frequently, children are diagnosed by their parents and perhaps by physicians to have hemorrhoids when in fact the symptoms may be due to conditions such as rectal prolapse, parasitic conditions, and a variety of congenital disorders such as cystic fibrosis and megacolon (Refs. 2 and 3). Hemorrhoids, when seen in children, may be due to some underlying and often serious cause such as vena caval or mesenteric obstruction, cirrhosis, portal hypertension associated with liver disease, or other causes resulting in venous obstruction (Refs. 1 and 2). Hemorrhoids in children usually subside without surgery when the primary condition is corrected (Ref. 1). However, OTC anorectal preparations have been used on occasion for symptomatic relief (Refs. 1, 2, and 3).

The use of anorectal ingredients other than protectants and astringents in children 2 to 12 years is not appropriate in view of the multiplicity of such severe signs and symptoms, except under a doctor's supervision with treatment directed at the primary cause (Ref. 2).

In summary, the Panel concludes that most anorectal disorders in children are brought to a physician for evaluation and treatment. Thus, there is no target population in children for OTC anorectal products that contain other than protectants and/or astringents. (See part II. paragraph Q.5 below—Warnings.)

References

(1) Letter to DeCillis, T. D. from J. M. Arena is included in OTC Volume 120051.

(2) Letter to DeCillis, T. D. from H.F. Eichenwald is included in OTC Volume 120051.

(3) Letter to DeCillis, T. D. from C. R. Angle is included in OTC Volume 120051.

P. Inactive Ingredients

A variety of inactive ingredients (pharmaceutic necessities) are used in the manufacture and formulation of anorectal products. These inactive ingredients are intended for a variety of purposes such as aromatics, vehicles, or colorants.

For various reasons, individuals may wish or need to avoid using certain inactive ingredients found in OTC drug products. These reasons may include allergic reactions, idiosyncratic responses, fear of safety (whether valid or not), or personal dislike. It is impossible to make a free choice in this regard unless the full contents of drug products are listed in the labeling. The Panel is aware that the Federal Food, Drug, and Cosmetic Act does not require the labeling of inactive ingredients if none of the inactive ingredients are identified in the general conditions for use and labeling of inactive ingredients as published in the **Federal Register** of April 12, 1977 (42 FR 19156). This notice also indicates that if one inactive ingredient is identified, all such ingredients must be identified in type size one-half of that used for active ingredients. However, for the reasons noted above, this Panel strongly recommends full ingredient labeling of inactive as well as active ingredients for all drug products. (See part II. paragraph Q. below—Labeling.) In support of this position the Panel notes that labeling and composition regulations for food and food products, as published in the **Federal Register** of October 19, 1976 (41 FR 46156), and cosmetics labeling in accordance with Part 701 (21 CFR Part 701) are already requiring such labeling. Because the purpose of an OTC drug is to alleviate symptoms, it would seem much more compelling to have inactive ingredient information on all OTC drugs. The Panel reaffirms the FDA proposal on inactive ingredients, as published in the **Federal Register** of April 12, 1977 (42 FR 19156), that marketed products should contain only those ingredients essential to the product. Therefore, the Panel concludes that the consumer should be exposed to the least number of ingredients possible.

The Panel recognizes that several inactive ingredients may be required for the formulation of products and that certain of these inactive ingredients may affect the safety and effectiveness of an active ingredient. (See part II. paragraph G. above—Bioavailability of Anorectal Dosage Forms.) In addition, certain ingredients may serve both functions, i.e., as an active and as an inactive ingredient; petrolatum, for example, can act as a protectant or as a vehicle for active ingredients. Perfumes are known sensitizing agents and the risk of adverse reactions increases with each perfume present.

The Panel concludes that pharmaceutical necessities should be included in the labeling. When perfumes are included in anorectal products, the following warning is required: "If redness, burning, itching, swelling, pain, or other symptoms develop or increase, discontinue use and consult a physician." (See Part II. paragraph Q.2.d. below—Warning for anorectal products containing perfume.)

The Panel has reviewed the available

Labeling shall be clear and truthful in all

of symptoms, such as pain, burning, itch-

The Panel has reviewed the available literature and submitted data regarding the safety of many of the inactive ingredients contained in anorectal preparations. It is the view of the Panel, however, that the final decisions concerning and the safety and advisability of including these inactive ingredients in drug products be reviewed by an appropriate body. Because many of these ingredients are used in the formulation of many drug products, it is not appropriate that they be dealt with specifically and solely in relation to anorectal products.

The Panel has reviewed the inactive ingredients present in the data submitted to the Panel and complete statements on certain inactive ingredients were prepared which have been appended to the Panel's minutes and are available from the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

The Panel wishes to alert those interested individuals of the Panel's concerns regarding the safety of the following inactive ingredients: Eucalyptus oil, sodium lauryl sulfate, tyloxapol, benzyl benzoate, and perfumes. There are data to suggest that the safety of these ingredients especially merit further study by an appropriate review panel.

Q. Labeling

1. *General comment.* The panel has established three distinct types of labeling for anorectal ingredients, i.e., general labeling, labeling for each pharmacologic group, and individual active ingredient labeling. The labeling discussed in this section is of a general nature and is applicable to the anorectal active ingredients in all pharmacologic groups discussed within this document. The Panel has also recommended specific labeling for each pharmacologic group of ingredients, and that labeling is applicable to each ingredient within that pharmacologic group. Furthermore, in some cases, the Panel has recommended specific labeling for an individual active ingredient and such labeling is applicable only to that ingredient.

Terms such as "greaseless," "stainless," and "vanishing" are intended to provide useful information to the consumer. However, the Panel concludes that such terms are descriptive and not indications for use. These terms must clearly be separated from drug claims made in labeling.

The Panel has accepted the OTC drug review labeling standard as set forth in 21 CFR 330.10(a)(4)(v) which requires that:

> Labeling shall be clear and truthful in all respects and may not be false or misleading in any particular. It shall state the intended uses and results of the product; adequate directions for proper use; and warnings against unsafe use, side effects, and adverse reactions in such terms as to render them likely to be read and understood by the ordinary individual, including individuals of low comprehension, under customary conditions of purchase and use.

The Panel concurs with the above labeling requirement as well as the following statement of identity as set forth in 21 CFR 201.61(b):

> Such statement of identity shall be in terms of the established name of the drug, if any there be, followed by an accurate statement of the general pharmacological category(ies) of the drug or the principal intended action(s) of the drug. In the case of an over-the-counter drug that is a mixture and that has no established name, this requirement shall be deemed to be satisfied by a prominent and conspicuous statement of the general pharmacological action(s) of the mixture or of its principal intended action(s) in terms that are meaningful to the layman. * * *

In most cases, the pharmacologic activity of the ingredients reviewed in this document has been demonstrated in body sites other than the anorectal area. However, OTC anorectal ingredients may share a common action in that they relieve the symptoms of pain, itching, burning, and/or swelling, but the pharmacologic activity of many of these active ingredients has not been proved in the anorectal area. It is the opinion of the Panel that consumers will be unable to understand labeling that identifies an anorectal product only by its pharmacologic activity, e.g., local anesthesia. However, they could readily understand an anorectal product that is labeled for its intended use and will provide symptomatic relief. For example, the consumer can understand labeling that says an anorectal product will relieve pain, burning, and itching better than labeling that would identify the anorectal product as a local anesthetic.

For this reason, the Panel has concluded that anorectal ingredients and combinations shall be labeled in terms of the intended use of the product, that is, for the relief of anorectal symptoms such as pain, burning, and itching. Further, the Panel concludes that all ingredients and combinations of such ingredients considered within this document shall be designated as "anorectal agents" or "anorectal products" to reflect the intended use of the ingredient or combination of such ingredients so that consumers will know exactly the intended use of the product. Anorectal agents may include any Category I active ingredient for the relief of symptoms, such as pain, burning, itch, or swelling, which are identified in this document by their usual, respective pharmacologic classifications, e.g., local anesthetics, vasoconstrictors, protectants, counterirritants, keratolytics, and astringents. The Panel has used the traditional pharmacologic classifications only to establish a logical grouping of the ingredients for discussion in this document but has placed the use of specific pharmacologic classifications as labeling claims in Category III until such pharmacologic activity can be proven in the anorectal area. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.) If such pharmacologic activity can be proven in the anorectal area, the product can also be identified by its specific pharmacological activity, but this does not exclude the requirement for product designation as an anorectal agent or anorectal product.

2. *General principles and recommendation.* In addition to the specific labeling recommendations listed in the individual ingredient statements contained within this document, the Panel concludes that the following general principles and recommendations also apply for truthful and accurate labeling:

a. *Labeling of anorectal products.* The labeling of every marketed anorectal product shall be clearly designated as an "anorectal" product to reflect the product's intended use, in addition to a statement of indication such as, "For the temporary relief of discomfort associated with hemorrhoids and other anorectal disorders." (See part II. paragraph Q.4. below—Indications.)

When the product is intended for use on concurrent symptoms, the symptoms must be specified.

b. *Quantitative active and inactive ingredient listing.* The Panel is aware that current regulation only requires the listing of active ingredients and does not require quantitative or inactive ingredient labeling. However, the Panel recommends the following: (1) A quantitative listing of each active ingredient in an anorectal product should be indicated in the labeling. The concentration of each active ingredient should be given per suppository, applicatorful, or other unit of dose.

(2) All inactive ingredients in an anorectal product should be listed in the labeling by their established names and adhere to the proposed inactive ingredient regulation as published in the **Federal Register** of April 12, 1977 (42 FR 19156).

c. *Directions for use for all anorectal products.* The labeling of all anorectal products must contain the following information as indicated under the heading "Directions for use": Recommended or usual dosage, frequency of administration (e.g., every 4 hours, three times daily), and site of administration (i.e., external or intrarectal application).

Panel members have continually emphasized the importance of anal hygiene. This is essential in achieving symptomatic improvement of anorectal disorders; therefore, the Panel recommends the inclusion of the following directions for use on the labeling of all anorectal products, "When practical, wash the anorectal area with mild soap and warm water and rinse off all soap before application of this product."

d. *Warning for anorectal products containing perfume.* When perfume is included in anorectal products, the following warning is required: "If redness, burning, itching, swelling, pain, or other symptoms develop or increase, discontinue use and consult a physician." (See part II. paragraph P. above—Inactive Ingredients.)

3. *Directions for use for specific anorectal dosage forms.* The Panel also recommends the following specific labeling for the various anorectal dosage forms, as indicated for specific anorectal products under the heading "Directions for Use."

a. *External Use*—(1) *For products that are ointments, pastes, creams, jellies, foams, or gels.* "Apply externally to the anorectal area."

(2) *For products that are pads containing anorectal ingredients.* "Gently apply by patting and then discard."

(3) *For products that are ointments, pastes, creams, jellies, foams, pads, or gels for external use only.* "For external use only."

b. *Intrarectal use*—(1) *For products that are wrapped suppositories for insertion into the rectum.* "Remove wrapper before inserting into the rectum."

(2) *For all products to be inserted into the rectum.* "For use by insertion into the rectum."

(3) *For products that are to be used with special applicators such as pile pipes or other mechanical devices.* "Gently insert applicator into the rectum."

c. *External and intrarectal use.* Many anorectal products may be used externally as well as intrarectally. Whenever a manufacturer markets a product for both external and intrarectal use, the following labeling must appear on the product and clearly separate each set of directions under the headings, "For external use" and "For intrarectal use":

(1) *For external use—For products that are ointments, pastes, creams, jellies, foams, or gels.* "Apply externally to the anorectal area."

(2) *"For intrarectal use*—(i) *For products that are to be used with special applicators such as pile pipes or other mechanical devices.* "Gently insert applicator into the rectum."

(ii) *For all products to be inserted into the rectum.* "For use by inertion into the rectum."

4. *Indications.* The Panel accepts the following indications as general labeling for anorectal products in addition to specific labeling appropriate for specific ingredients, as discussed later in this document.

a. "For the temporary relief of the discomfort associated with hemorrhoids and other anorectal disorders."

b. "For the temporary relief of itching associated with hemorrhoids and other anorectal disorders."

c. "For the temporary relief of anorectal itching."

d. "For the temporary relief of local itching associated with inflamed hemorrhoidal tissues."

e. "For the temporary relief from the itching and discomfort associated with hemorrhoids and other anorectal disorders."

f. "For the temporary relief of the discomforts associated with piles (hemorrhoids) and other anorectal disorders."

g. "For the temporary relief of symptoms of anorectal disorders."

h. "Gives temporary relief of anorectal itching."

i. "Temporary relief of itching discomfort associated with hemorrhoids and other anorectal disorders."

j. "For the temporary relief of symptoms associated with hemorrhoids and other anorectal disorders."

k. "To temporarily soothe local discomfort associated with hemorrhoids and other anorectal disorders."

l. "To help relieve the discomfort associated with hemorrhoids and other anorectal disorders."

m. "For the temporary relief of itching."

n. "For the temporary relief of symptoms of inflammation associated with hemorrhoidal tissues."

o. "Gives temporary relief due to external hemorrhoids and other anorectal disorders."

p. "For the temporary relief of pruritus ani."

5. *Warnings.* The Panel is aware that some of the recommendations discussed in this section are not required under the current OTC regulations. However, the Panel wishes to make the following statement: Warning statements may be combined to eliminate the duplication of words or phrases, but the combined warning statement must be clear and understandable with no decrease in meaning and emphasis. Warning statements must be included on the container and the package in a "box border"; they should be printed in black ink or in the color of the most prominent type appearing on either the container or the package, that is, in such a fashion that the prominence and meaning of the warning is not obscured. Appropriate use of printing techniques, styles, colors and illustration should be utilized to aid the consumer in encountering and understanding the important meaning of the labeling. Warning or caution statements should be typeset in no less than eight-point type, or one-third the point size of the largest type face appearing on both the container and labeling, whichever is larger.

The Panel concludes that it is irrational and unsafe to recommend that any anorectal preparation be used "as needed" or "by continual application" or "for prolonged use" because this philosophy would promote unrestricted use beyond safe limits for OTC anorectal products. Because these ingredients are to be used on a short-term basis only, i.e., for not more than 7 days without improvement, the Panel considers these directions inappropriate and contrary to the concept of safe and effective ingredients for temporary relief of anorectal symptoms. If symptoms continue to occur or increase, the consumer should consult a physician to avoid any delay in establishing an accurate diagnosis and to begin necessary treatment of any serious disease condition. Furthermore, the continued use of certain ingredients may be harmful by producing an allergic reaction or skin irritation. (See part II. paragraph J. above—Allergy and Sensitization of the Anorectal Area.) Repeated use of anorectal products, while temporarily relieving symptoms, may mask more serious signs and symptoms.

In light of the above discussion regarding continued use, the Panel concludes that the use of anorectal products for more than 7 days is not recommended except under medical supervision and that the following warnings must appear in all labeling of anoretcal products under the heading "Warnings": (1) "If symptons do not improve, do not use this product for more than 7 days and consult a

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physician." (2) "Do not exceed the recommended daily dosage except under the advice and supervision of a physician." (3) "If itching persists for more than 7 days, consult a physician." (See part II. paragraph E.1. above—Itching.)

The Panel emphasizes that OTC products are not appropriate for alleviating bleeding that may occur in the anorectal area and strongly recommends the following warning: "In case of bleeding, consult a physician promptly."

The Panel also recommends the following specific labeling be applied to the various anorectal dosage forms when indicated as external and/or intrarectal products under the heading "Warnings":

a. *External use*—(1) *For products that are ointments, creams, jellies, foams, pads, or gels for external use only.* "Do not put this product into the rectum by using fingers or any mechanical device or applicator." (See part II. paragraph B. above—Anatomy of the Anorectal Area.)

b. *Intrarectal use*—(1) *For all anorectal products for intrarectal use by insertion into the rectum, except protectants.* "The safety of this product has not been established for use by pregnant women or by nursing mothers." (See part II. paragraph N. above—The Use of Anorectal Drugs During Pregnancy and by Nursing Mothers.)

(2) *For products that are to be used with special applicators such as pile pipes or other mechanical devices.* "Do not use this product if the introduction into the rectum causes additional pain. Consult a physician promptly." (See part II. paragraph I.2. above—Ointment, creams, gels, jellies, and pastes.)

c. *For all (see outlines) anorectal products that contain at least one Category I anorectal ingredient other than a Category I protectant or astringent active ingredient.* "Do not use this product in children under 12 years of age except under the advice and supervision of a physician." (See part II. paragraph O. above—Pediatric Dosage.).

6. *Drug interaction precautions.* The Panel concludes that it is important for consumers to be aware that certain types of products should not be used concurrently. In such cases, the labeling of anorectal products must contain an appropriate drug interaction precaution under the heading "Drug Interaction Precaution." This warning is not applicable to all anorectal products and is discussed and applied later in this document. (See part III. below—Local Anesthetics and part IV. below—Vasoconstrictors.)

7. *Category II labeling.* The Panel has reviewed the labeling of products and ingredients submitted to the Panel and has concluded that some words and phrases are inappropriate for the OTC marketplace and recommends the withdrawal of these words and phrases from OTC labeling. Of particular concern are labeling claims containing the words "palliative treatment," "for treatment of hemorrhoids," "eliminates," or "treatment." The use of these words only serve to confuse and mislead the consumer because the implication is a curative or definitive action. OTC products are primarily for the relief of symptoms and not the treatment of disease.

Many labeling claims contain words that are too general, unclear, or redundant, and may be misleading when used alone, such as "simple anorectal irritation," "anorectal disorders," "simple inflammatory rectal conditions," "removes common causes of local irritation," "simple," "common," "uncomplicated," "minor," "superficial," "for hemorrhoids," "relieves painful distress," "alleviates irritation of mucous membrances," "use as a hygienic aide to remove the common causes of local irritation," "relieves," "soothes," "cools," "cooling," "minor rectal inflammation and irritation," "simple inflammatory rectal conditions," "in most cases," "concealed hemorrhoidal tissue," and "uncomplicated hemorrhoids."

The Panel is also concerned with the use of words or phrases describing anorectal conditions that are not easily disgnosed by the consumer and therefore are not appropriate for the OTC market, such as "anal eczema" and "psoriasis." Furthermore, the Panel is aware of current labeling that instructs the consumer to use the product "before or after hemorrhoidectomy," "for anorectal surgical wounds," "episiotomies," or ". . . sclerosing therapy." The Panel concludes that such labeling is not appropriate for consumers because these conditions are best treated under the advice and supervision of an attending physician.

The Panel has concluded that the use of certain protectant ingredients can provide lubrication in the anorectal area in the sense of making the area less dry and more pliable. (See part V. below—Protectants.) However, the Panel is aware of current labeling that is misleading because of reference to lubrication in the sense of laxation. The amount of lubricant used in anorectal preparations is not sufficient for laxation. The Panel, therefore, concludes that any wording or phrase that implies laxation, such as "provides lubrication and thus facilitates bowel movements," is clearly inappropriate.

Several products currently on the OTC market make claims of healing. The Panel concludes that such labeling as "natural healing is encouraged" implies a definitive therapeutic action not appropriate for OTC use as well as an implication that other products are synthetic or unnatural.

There are additional labeling claims currently used that state inaccurate or unproven facts. Because there are no sensory pain nerve fibers present in the rectal mucosa, words and phrases such as "temporarily relieves rectal itching" and "temporarily relieves rectal irritation" are clearly inappropriate as there is no feeling of pain or itch in the rectum.

Some labeling may cause the consumer to believe that certain products are superior to other available products for any of a number of reasons, for example: "contains no narcotic, anesthetic or habit forming ingredients," "nonnarcotic," "without the use of narcotics," or "contains no stinging, smarting astringents." These claims clearly imply a stronger or more effective product and also imply greater safety. Furthermore, the labeling implies that other products are narcotics, anesthetics, or astringents and are harmful without any evidence that this is so.

Labeling such as "medicinal," "recommended by physicians," "recommended by doctors," or "doctor tested" is misleading because these terms suggest that other products are not medicine or that other products are of no value because physicians do not recommend the other products or that all physicians recommend these products. If a product has been studied by scientifically approved methods, such information is acceptable as a basis for claims in labeling.

Claims as to length of effectiveness have not been proven and such claims as "sustained," "prolonged," or "effective over a long period of time" are not appropriate.

Claims such as "helps prevent scratching," "quiets the urge to scratch," and "checks scratching" are unproven and, furthermore, it is highly unlikely that prevention of scratching is possible. The desire to scratch occurs in some consumers whether or not itching is present. None of the data submitted refer to scratching as a symptom.

A claim such as "avoids embarrassment" is esthetic rather than a rational drug claim and is not appropriate for the OTC market.

Claims such as "torment" or "relieves the torment of . . ." are strong implications of extreme discomfort and the use of such claims is both excessive and misleading.

Claims such as "deeply penetrates mucous membranes," "penetrates denuded skin surfaces," and "reduces swelling of the mucosa and skin thus permitting a deep penetration of other ingredients" are not accurate. These statements have not yet been proven in the data submitted and are misleading because they imply a deep-seated source of discomfort.

8. *Category III labeling.* The Panel concludes that many labeling claims currently being made for OTC anorectal products have not been fully substantiated by the data presented to the Panel. However, the Panel is of the opinion that further testing is necessary to prove the appropriateness of these claims for Category I status.

The Panel classifies the following claims as Category III:

(1) "Holds the active ingredients in close contact with the irritated skin, thereby prolonging the beneficial action."

(2) "Prompt," "promptly," "fast," "quick," "quickly," "in minutes," and "rapidly" are Category III claims that can move to Category I if an ingredient can be shown to act within 20 minutes after application.

(3) "Prompt relief obtained for (specific number of hours) from pain and itching" and "promptly relieves pain and itching for (specific number of hours)," can be Category I claims if an ingredient can be shown to act within 20 minutes after application and the relief lasts as long as specified.

R. Pharmacologic Classifications of Anorectal Ingredients

Not all anorectal ingredients and products are used for the same indication; therefore, the requirements for effectiveness should not be the same. In an attempt to classify anorectal active ingredients used in the products submitted, it was necessary to distinguish between the pharmacologic activities and the resulting effectiveness for the claims of these products.

The Panel reviewed all anorectal active ingredients submitted to the Panel. The following pharmacologic classification of anorectal ingredients was developed by the Panel in an attempt to simplify categorization of ingredients and thereby eliminate labeling confusion: Local anesthetics, vasoconstrictors, protectants, counterirritants, astringents, wound-healing agents, antiseptics, keratolytics, anticholingerics, miscellaneous anorectal ingredients.

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S. Summary Tables of Ingredient Classifications.

1. Category I (E--External Use and I--Intrarectal Use).

Local Anesthetics	Vasoconstrictors	Protectants	Counterirritants	Astringents	Keratolytics
Benzocaine in polyethylene glycol ointment (E).	Ephedrine sulfate in aqueous solution (E, I).	Aluminum hydroxide gel (E, I)	Menthol in aqueous solution (E).	Calamine (E,I)	Alcloxa (E)
					Resorcinol (E)
Pramoxine hydrochloride in a cream formulation (E).	Epinephrine hydrochloride in aqueous solution (E).	Calamine (E, I)		Witch hazel water (E)	
		Cocoa butter (E, I)		Zinc oxide (E,I)	
Pramoxine hydrochloride in a jelly formlation (E).	Phenylephrine hydrochloride in aqueous solution (E, I).	Cod liver oil (E,I)			
		Glycerin in aqueous solution (E).			
		Kaolin (E, I)			
		Lanolin (E, I)			
		Mineral oil (E, I)			
		Shark liver oil (E, I)			
		Starch (E, I)			
		White petrolatum (E, I)			
		Wool alcohols (E, I)			
		Zinc oxide (E, I)			

2. Category II (E--External Use and I--Intrarectal Use).

Local Anesthetics	Vasoconstrictors	Protectants	Counterirritants	Astringents	Antiseptics	Keratolytics	Anticholinergic	Miscellaneous
Diperodon (E)	Epinephrine hydrochloride (I).	Bismuth subnitrate (E,I).	Camphor (E,I)	Tannic acid (E,I).	Boric acid (E,I).	Precipitated sulfur (I).	Atropine (E,I).	Collinsonia extract (E, I).
Phenacaine hydrochloride (E,I).	Epinephrine undecylenate (I).		Hydrastis (E,I).		Boroglycerin (E,I).	Resorcinol (I).	Belladonna extract (E,I).	E. coli vaccines (E,I).
			Menthol (I)		Hydrastis (E,I).	Sublimed sulfur (l).		
			Turpentine oil, rectified (E,I).		Phenol (E,I).			Lappa extract (E,I)
					Resorcinol (I)			Leptandra extract (E,I).
					Sodium salicylic acid phenolate (E,I).			Mullein (E,I).

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3. Category III (E--External Use and I--Intrarectal Use).

Local Anesthetics	Vasoconstrictors	Protectants	Antiseptics	Keratolytics	Counter-irritants	Wound-healing agents
Benzocaine in polyethylene glycol ointment (I).	Epinephrine (E,I)	Bismuth oxide (E,I).	Resorcinol (E)	Precipitated sulfur (E).	Juniper tar (E,I).	Cod liver oil (E,I)
	Epinephrine undecylenate (E).	Bismuth subcarbonate (E,I).		Sublimed sulfur (E).		Live yeast cell derivative (E,I).
Benzyl alcohol (E,I).	Phenylephrine hydrochloride suppositories (I).	Bismuth subgallate (E,I).				Peruvian balsam (E,I).
Dibucaine (E,I).						Shark liver oil (E,I)
Dibucaine hydrochloride (E,I).						Vitamin A (E,I).
Diperodon (I).						Vitamin D (E,I).
Dyclonine hydrochloride (E,I).						
Lidocaine (E,I).						
Pramoxine hydrochloride in a cream formulation (I).						
Pramoxine hydrochloride in a jelly formulation (I).						
Tetracaine (E,I).						
Tetracaine hydrochloride (E,I).						

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III. Local Anesthetics

A. *General Discussion*

The Panel defines local anesthetics as agents that produce local disappearance of pain, burning, itching, irritation, and/or discomfort by reversibly blocking nerve conduction when applied to nerve tissue in appropriate concentrations. Any ingredient claimed to be a local anesthetic must act by this mechanism. Theoretically, these effects could be manifested either on perianal skin or mucous membrane.

Local anesthetics, sometimes called topical anesthetics, share several general characteristics: (1) They are capable of acting on all conductive cellular membranes, including nerve tissue, cardiac, smooth, and skeletal muscle to alter conduction of electrical impulses and thus alter function of these tissues; (2) their structure is almost invariably composed of a lipid or fat-soluble portion connected by an intermediate molecular chain of specific lengths to a water-soluble component, usually a secondary or tertiary amine that can exist as a salt or base; (3) they can produce allergic reactions (Refs. 1, 2, and 3).

As anorectal ingredients, local anesthetics are applied both to rectal mucous membranes overlying large veins and to intact and/or abraded skin. The drugs have very different effects on these sites, and these effects are discussed below. Therefore, the Panel has classified ingredients for use at both sites.

1. *Intrarectal use.* The Panel concludes that there is insufficient evidence to prove safety or effectiveness of the local anesthetics used intrarectally (internally) in OTC anorectal products. Local anesthetics can easily diffuse through mucous membranes and, when applied intrarectally, can be absorbed directly into the systemic central and portal blood circulations (Refs. 4 and 5). Under certain conditions this absorption will be almost as rapid as intravenous administration (Refs. 6 and 7). Demonstration of the systemic absorption of an intrarectally administered local anesthetic in an anorectal preparation was presented to the Panel (Ref. 8). Both local and systemic absorption are concommitantly affected by conditions such as pH and formulation (Refs. 9 and 10). (See part II. paragraph G. above—Bioavailability of Anorectal Dosage Forms.) The achievement of a local effect tends to correlate with local absorption if sensory nerves are present; systemic effects also correlate with absorption (Ref. 11). Therefore, those local anesthetics that are the most effective are also the most toxic. Some local anesthetics are potentially toxic when applied to mucous membranes; they are absorbed systemically and in rare cases have caused death (Refs. 4 and 12).

The intrarectal effectiveness of all local anesthetics remains unsubstantiated and requires further testing. The Panel has carefully reviewed all available literature pertaining to this matter and has requested the opinion of several consultants (Refs. 13, 14, and 15). Although a wide variety of products are currently used intrarectally, several factors raise questions as to the therapeutic rationale for this route of administration (Refs. 16 and 17). There are no known sensory pain fibers above the anorectal (dentate) line (i.e., in the rectum). Clinically, one can demonstrate this by the fact that rectal mucosa can be damaged by electric cautery, biopsied, or incised with no pain. However, the sensation of pain in the rectum can be produced by bowel distention due to gas of feces. It has been argued that the mechanoreceptors associated with autonomic afferent fibers mediating this pain may be affected by intrarectal local anesthetics (Refs. 18, and 19 through 26). The use of a local anesthetic would be inappropriate because the signal indicating the need for evacuation would be lost if the local anesthetic were effective. Thus, the use of local anesthetics intrarectally raises a question because, theoretically, constipation might result from anesthesia of distention receptors in the rectal area and could also contribute to the increase of symptoms in the presence of anorectal disease (Refs. 19 through 26).

Another argument for effectiveness of intrarectal local anesthetics is that there is a deposit of local anesthetic along the external anorectal area in the course of introducing the product into the rectum (Ref. 27). This may occur, but the Panel concludes that the primary purpose of intrarectal local anesthetics is the relief of intrarectal symptoms.

A final argument is that medication placed in the rectum will seep out to affect the area below the anorectal line. Although seepage sometimes occurs in anorectal disease, the Panel concludes that this is a symptom that requires the attention of a physician and is not justification for using local anesthetics.

Two studies have been presented to the Panel which have examined the question of clinical pain relief with intrarectal use of two different local anesthetics. One well-designed, double-blind crossover study failed to demonstrate a significant difference between a placebo and a marketed ointment containing a local anesthetic (Ref. 28). Another study demonstrated no significant difference between control and local anesthetic products (Ref. 29). Therefore, the Panel concludes that the safety and the rationale for use, and thus the effectiveness of antrarectal local anesthetics in OTC anorectal products, remains to be established.

2. *External use.* Many local anesthetics have little effect on intact skin because of insignificant absorption. However, certain drugs that are alkaline in nature, poorly ionized, and lipophilic can penetrate the intact skin (Ref. 9). In addition, when the protective keratin layer of the skin is absent due to trauma or inflammation, local anesthetics in proper concentrations are effective on direct contact. Although local anesthetics can be absorbed to some extent, systemic absorption is not as rapid or as great from abraded skin as it is from mucous membranes. Therefore, the potential absorption from perianal skin does not constitute a significant hazard. Because the majority of anorectal disorders are associated with inflamed or denuded skin, the Panel concludes that, under the conditions set forth later in this document relating to concentration, pH, and formulation, certain OTC products containing local anesthetics are effective to relieve pain, itching and burning, irritation, and/or discomfort in this area. Ingredients approved for external use only should not be inserted into the rectum (intrarectally) by any device or in any dosage form.

Due to similarities in chemical structure, all of the local anesthetics are potentially capable of producing significant allergic reactions, both locally and systemically (Refs. 30, 31, and 32). A major consideration is that symptoms of allergy in the anorectal area such as itching and burning are indistinguishable from the same symptoms due to the anorectal disease. Accordingly, the Panel concludes that the labeling of anorectal products containing local anesthetics should bear the following warning about potential allergenicity, *"Caution:* Certain persons can develop allergic reactions to ingredients in this product. If the sympton being treated does not subside or redness, irritation, swelling, pain, or other symptoms develop or increase, discontinue use and consult a physician." (See part III. paragraph B.1. below—Category I Labeling.)

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represented conflicting opinions

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3. *Minority report concerning the intrarectal use of local anesthetics.* The majority of the members of the Panel have concluded that local anesthetics used intrarectally are not proven effective at this time. It is believed that the majority based their conclusion on the fact that there are no anatomically identifiable sensory nerve endings or nerve fibers in the rectal mucosa or submucosa. Sensory nerve endings such as Ruffinian corpuscles, end bulbs of Krause, or Pacinian bodies are not reportedly identifiable in these outer layers of the rectum, above the anorectal line. However, there are known and identifiable nerve fibers and plexuses between the muscular layers that are associated with peristaltic muscular contraction of the rectum. These nerves are part of the autonomic nervous system and most are related to the pudendal plexus. Although the autonomic nervous system is primarily associated with motor function, the minority concludes that these nerve fibers, which are known to innervate the smooth musculature of the rectum, have synapses with cells in the myenteric and submucosal plexuses. In addition, the fibers have or are in adjacent association with sensory conducting nerve fibers, which transmit impulses to the central nervous system. Visceral afferent fibers from the rectum traverse the pelvic plexus and pass into visceral branches of the second, third, and fourth sacral nerves (Ref. 1).

The Panel heard statements and received reports from consultants regarding rectal innervation. The opinions varied and statements have been unspecific and, at times, have represented conflicting opinions regarding the alleged absence of sensation of the rectum.

The Panel recognizes that local anesthetics can be absorbed across the rectal mucosa and penetrate deep enough to enter the systemic circulation. It is acknowledged that the effects of mucous membrane absorption have been documented in statements by the majority regarding the ingredients reviewed. For example, Krantz and Carr (Ref. 2) state, "as a rule, the rectal dose of most drugs is about double the oral dose."

It is the minority opinion that there is definite sensation present in the rectum. It is true that certain superficial mucosal trauma such as rectal biopsy, fulguration, snaring, coagulation, etc., can occur without any associated sensation of discomfort due to pain. However, during instances when biopsy forceps is used which is not sufficiently sharp to effect a quick, clean cut, a pulling of tissue might occur which can be sensed as a significant discomfort. It is also known that there are definite sensory effects when the peritoneal or outer covering layer of an intestinal viscus is stimulated. Dilatation or distention of a hollow viscus such as the rectum produces significant clinical discomfort believed related to constriction of the involved blood vessels, which results in decreased tissue oxygenation (Ref. 3). Anorectal muscular spasm, involving skeletal and/or smooth muscle, can produce discomfort that might be associated with distention of the distal rectum.

The anatomic area above the anorectal line is a highly sensitive area. Any sensitive area requires the presence of physiologically functioning nerve receptors and fibers. This premise is documented by noting that when the rectum is filled with feces or gas, which raises the intraluminal pressure between 20 to 25 cm of mercury, the desire to empty the rectum is experienced. The receptors within the wall of the rectum are not only able to detect increases in pressure (pressoreceptors) but they can also differentiate whether the increase in pressure is due to feces, liquids, or gas (Ref. 4). The discriminating ability of these sensors is relied upon by individuals who risk flatulating in a public place.

The minority concludes that virtually any foreign body within the lumen of the rectum is definitely sensed by an individual who has an intact and nonpathologic nervous system. The mere introduction and insertion of a finger during a rectal examination commonly produces discomfort not only at the anal opening but also within the luminal wall of the distal rectum. There is no question that such an examination probably also stimulates sensory nerve endings in the perianal skin. However, the distal portion of an inserted intraluminal object can also be sensed when it is in contact with the rectal mucosa. This, probably, is a result of distention pressure on surrounding tissue or deeper tissue layers that contain nerve fiber endings.

Many gastroenterologists, proctologists, and surgeons who perform sigmoidoscopic or colonoscopic examinations are well aware of the pain experienced during this examination in which there is direct contact between the sigmoidoscope and the rectal mucosa. Patients receiving this examination readily attest to the associated, significant rectal discomfort. This pain is sensed above the anorectal line and is associated with the movement of the distal end or tip of the instrument.

The minority concludes that degrees of anesthesia for significant relief of pain can be achieved with the intrarectal use of local anesthetics when anorectal conditions are associated with significant swelling and concomitant or resultant pressure acts to stimulate the sensory nerve fibers. Nerve plexuses in this area are associated with innumerable branching fibers. These nerves are in the ischiorectal area and probably have some branches to the rectum and other branches traversing inferiorly and supplying the perianal tissues below the anorectal line. Therefore, local anesthetics that may block the impulses of the nerve above the branching junction will afford relief of pain and discomfort to areas of the body inferior to the rectum and in the perianal area.

It is unfortunate that this Panel has been required to make conclusions regarding many of the ingredients associated with OTC hemorrhoidal drugs without appropriate clinical studies in the anorectal area. The minority concludes that the majority of the Panel's conclusions are based on the relatively small amount of poorly controlled published studies.

The marketing records or use experience of the various anorectal products containing local anesthetics for intrarectal use are significant. Advertising might be influential regarding the decision for the initial purchase of a product; however, the minority concludes that repeated sales of a product relate to clinical effectiveness. Consumers would not repurchase a product unless relief of symptoms had been achieved and, therefore, in most instances, ineffective products would not remain on the market.

In addition, the minority conclusion has been based greatly upon personal clinical experience with many patients who have attested to obtaining relief of discomfort associated with anorectal disorders with intrarectal use of local anesthetics.

In summary, the minority concludes that the intrarectal use of local anesthetics in OTC anorectal preparations is safe and effective in the dosages recommended in the ingredient statements within this document. This conclusion does not advocate or endorse the use of any specific product or ingredient.

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B. Categorization of Data

1. *Category I conditions under which local anesthetic ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

Category I Active Ingredients

The Panel has classified the following local anesthetic active ingredients as generally recognized as safe and effective and not misbranded:

Benzocaine in polyethylene glycol ointment (external use)

Pramoxine hydrochloride in a cream formulation (external use)

Pramoxine hydrochloride in a jelly formulation (external use)

a. *Benzocaine in polyethylene glycol ointment (external use).* The Panel concludes that 5 to 20 percent benzocaine per dosage unit in polyethlyene glycol ointment is safe and effective for external use as a local anesthetic in OTC anorectal preparations up to six times daily and not to exceed 2.4 g per 24 hours. Products approved for external use only should not be inserted into the rectum by any device or in any dosage form. Only benzocaine base is discussed below; the salt form has been shown to be ineffective on intact skin and sunburned (abraded) skin (Ref. 1).

(1) *Description.* The local anesthetic benzocaine (ethyl aminobenzoate) is the ethyl ester of para-aminobenzoic acid. Due to its low solubility the base is poorly absorbed through intact skin; absorption through intact mucous membrane is minimal at recommended dosages (Refs. 1, 2, and 3).

(2) *Safety.* If benzocaine is absorbed systemically, reactions may include methemoglobinemia (Refs. 4 through 9). Three cases have been reported in the literature of systemic absorption in patients who developed methemoglobinemia within 3 hours of ingesting 162.5 to 325 milligrams (mg) benzocaine (Refs. 5 through 9). Nine cases of methemoglobinemia with blood levels in concentrations as high as 52 percent methemoglobin in infants treated with lotions, suppositories, or ointments containing benzocaine have also been reported (Refs. 8 and 9). However, Adriani and Campbell (Ref. 2) have used 20 percent benzocaine as a lubricant for intratracheal catheters nearly 10,000 times without untoward effects.

Furthermore, Adriani and Zepernick (Ref. 3) have reported only one case of methemoglobinemia developing in a patient 30 minutes after use of 20 percent benzocaine ointment on mucous surfaces for endoscopic examination in an estimated 144,000 cases seen over a 12-year period. The Panel, therefore, concludes that absorption leading to systemic effects is rare when applied topically and is not a significant consideration for external use.

The majority of unfavorable local reactions reported are of contact dermatitis or allergic sensitization (Refs. 10 through 15). These reactions are related to topical application of benzocaine. Abscesses and necrosis of skin with subsequent ulceration following treatment of pruritus ani with a 10 percent benzocaine product have been reported, but such reports are not applicable to the 7-day maximum use limit recommended in this document for all OTC anorectal products.

In summary, the Panel concludes that benzocaine is safe for external use in the doses described below, although it may cause adverse reactions in some cases, which will be indicated as labeling warnings.

(3) *Effectiveness.* Studies in guinea pigs, canines, and humans reveal that benzocaine is effective only in the base form. As a salt form, it is ineffective in an acid medium (pH 4 to 6) (Ref. 4). In a study of benzocaine base and salt along with 30 other local anesthetic-containing preparations, experimentally induced

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itching, burning, and pain in suburned (abraded) skin were relieved by a 20 percent concentration of benzocaine base. The salt form and lower concentrations (below 5 percent) of the base were ineffective. In the same study, 10 to 15 minutes after application of the 20 percent benzocaine in polyethylene glycol ointment on normal skin, electrical stimulation produced no response (Ref. 1). Adriani and Zepernick (Ref. 3) have shown 20 percent benzocaine ointment to have a short onset (less than 30 seconds). Because duration of effect is directly related to duration of contact, effectiveness may be enhanced by slowing the rate of absorption when used in ointments (Refs. 17 and 18). Adriani and Zepernick (Ref. 3) have reported using benzocaine ointment (20 pecent benzocaine in polyethylene glycol ointment) for lubricating endotracheal catheters, oral and pharyngeal airways, and in laryngoscopic and bronchoscopic examinations in an estimated 144,000 cases with negligible side effects (except for one death which is considered to be an idiosyncratic reaction), and successful transient local anesthesia. The effectiveness of 20 percent benzocaine in polythylene glycol ointment applied externally in the anorectal area has been demonstrated in a study of 39 patients with painful hemorrhoids by Schmitz, Smith and Carberry (Ref. 19). The 20 percent preparation in polyethylene glycol ointment demonstrated relief in all patients compared to 15.4 percent and 38.4 percent failures for 1.0 and 0.5 percent benzocaine ointment, respectively (Ref. 19). Of those studies reporting effective use of benzocaine in anorectal disorders, the majority are anecdotal (Refs. 20, 21, and 22), but there are sufficient valid studies to establish effectiveness.

There is no significant difference in effectiveness between bonzocaine in polyethylene glycol ointment U.S.P. and benzocaine in polyethylene glycol ointment used in the above studies (Refs. 1 and 23). The Panel concludes, based on studies in the anorectal area and elsewhere, that 20 percent benzocaine in polyethylene glycol ointment is effective, but it is clear that certain other vehicles are not all equally effective in releasing benzocaine from the final formulation (Refs. 19, 23, and 24).

(4) *Dosage.* Adult external dosage is 5 to 20 percent benzocaine per dosage unit in polyethylene glycol ointment up to six times daily and not to exceed 2.4 g per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. below—Category I Labeling.)

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(24) OTC Volume 120081.

(b.) *Pramoxine hydrochloride in a cream formulation and pramoxine hydrochloride in a jelly formulation (external use).* The Panel concludes that 1 percent pramoxine hydrochloride per dosage unit in a cream or jelly formulation is safe and effective for external use as a local anesthetic in OTC anorectal preparations up to five times daily and not to exceed 100 mg per 24 hours. The pramoxine hydrochloride cream and pramoxine hydrochloride jelly referred to here are described in detail in a submission to the Panel (Ref. 1). Products approved for external use only should not be inserted into the rectum by any device or in any dosage form.

(1) *Description.* Pramoxine hydrochloride is chemically unrelated to the benzoate esters. It is an alkoxyaryl alkamine ether, with a change in the chemical configuration of the secondary amines (Ref. 2).

(2) *Safety.* Vairous animal studies have revealed few toxic effects except in large doses including 38 milliliters per kilogram (mL/kg) intravenously in the rabbit, and 460 mL/kg intraperitoneally in the mouse (Ref. 3). No toxic effects were noted in its clinical use as an aerosol foam (Ref. 4) or in suppositories and certain vehicles (Ref. 5) or in proctological procedures (Refs. 4 and 6). Two studies for potential irritation in humans failed to show evidence of reaction following continuous topical application of 1 percent pramoxine hydrochloride (Ref. 3). Although 1 percent of the patients did report transient burning sensation at the site of application in other clincial studies, 1 percent pramoxine hydrochloride used as a local anesthetic on mucous membranes of the tongue, urethral membrane, and the anorectal area was reported to cause no significant irritation (Ref. 4).

One report of toxicological studies of pramoxine hydrochloride in 10 guiena pigs revealed no sensitization; human sensitization testing using the Draize test revealed that the pramoxine hydrochloride was one-fifth as sensitizing as a comparable local anesthetic of unknown type (Ref. 3). Therefore, it can be concluded that pramoxine hydrochloride is capable of producing sensitization but is less likely to produce a reaction than other common local anesthetics because of its different chemical structure (Ref. 7).

In summary the Panel concludes that 1 percent pramoxine hydrochloride in a cream or jelly formulation is safe for external use (Ref. 1).

(3) *Effectiveness.* Anesthesia of mucous membranes of the palate, lip, and tongue has been demonstrated utilizing a 1 to 2 percent aqueous solution of pramoxine hydrochloride (Refs. 8 and 9), but such a formulation is not considered useful in anorectal products because the ingredient will not remain at site of action. Several clinical studies in the anorectal area using a pramoxine hydrochloride formulation indicate its effectiveness in producing local anesthesia as well as relieving symptoms (Refs. 4, 5, 6, and 10). In one uncontrolled study of posthemorrhoidectomy patients, 93 percent claimed good to excellent results (Ref. 4). In another uncontrolled study, all of 67 patients reported improvement. Of 27 patients with uncomplicated hemoorhoids, 18 were found to symptomatically improve sufficiently so as not to require surgery after use of a 1 percent concentration pramoxine hydrochloride formulation for 2 weeks. The remaining 9 of 27 also reported some symptomatic improvement. The remaining 40 patients with anorectal pain were also reported to consistently show symptomatic improvement (Ref. 6). In the same study six patients had a fissure or fistula; five of them could not undergo proctoscopy because of pain, but were able to receive proctoscopy after 1 week of treatment. The improved patients all experienced decreased pain (Ref. 6).

The Panel concludes that pramoxine hydrochloride in a cream or jelly formulation is effective as a local anesthetic in OTC anorectal preparations (Ref. 1).

(4) *Dosage.* Adult external dosage is 1 percent pramoxine hydrochloride per dosage unit in a cream or jelly formulation up to five times daily and not to exceed 100 mg per 24 hours.

(i) *For cream formulation.* Pramoxine hydrochloride 1 percent in a cream base containing methylparaben USP, propylparaben USP, cetyl alcohol NF, synthetic spermaceti NF, sodium lauryl sulfate USP, glycerin USP, and purified water USP.

(ii) *For jelly formulation.* Pramoxine hydrochloride 1 percent in a jelly base containing propylene glycol USP, hydroxypropyl methylcellulose USP (4000 centipoises), and purified water USP.

(5) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. below—Category I Labeling.)

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Category I Labeling

The Panel recommends the following Category I labeling for local anesthetic active ingredients to be generally recognized as safe and effective and not misbranded.

a. *Indications.* (1) "For the temporary relief of pain."

(2) "For the temporary relief of itching."

(3) "For the temporary relief of burning."

(4) "For the temporary relief of the discomforts of hemorrhoids (piles) or other anorectal disorders."

(5) "For the temporary relief of itching, burning and soreness of hemorrhoids or other anorectal disorders."

(6) "For the temporary relief of pain and itching of hemorrhoidal tissue or other anorectal disorders."

(7) "For the temporary relief of itching, burning and pain associated with hemorrhoids or other anorectal disorders."

(8) "For the temporary symptomatic relief of pain, itch, burning and soreness of some types of hemorrhoids or other anorectal disorders."

(9) "For the temporary relief of pain and itching due to painful hemorrhoids or other anorectal disorders."

(10) "For the temporary relief of pain and itching of hemorrhoids and other anorectal disorders."

(11) "Temporarily helps numb pain associated with hemorrhoids."

b. *Warnings.* (1) *"Caution:* Certain persons can develop allergic reactions to ingredients in this product. If the symptom being treated does not subside or redness, irritation, swelling, pain or other symptoms develop or increase, discontinue use and consult a physician."

(2) *"Caution:* This product is for external use only. Do not apply inside the rectum in any way."

2. *Category II conditions under which local anesthetic ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal products effective 6 months after the date of publication of the final monograph in the **Federal Register**.

Category II Active Ingredients

The Panel has classified the following local anesthetic active ingredients as not generally recognized as safe and effective or as misbranded:

Diperodon (external use)

Phenacaine hydrochloride (external and intrarectal use)

a. *Diperodon (external use).* The Panel concludes that diperodon is safe at the concentration used in OTC drug products but is not effective for external use as a local anesthetic.

(1) *Description.* Diperodon is a local anesthetic which is structurally different from many other common local anesthetics (Ref. 1). "Assuming that nupercaine is 20 times as active as cocaine, it is then about 8 times as active as diothane, although it is at least 20 times as toxic" (Ref. 2).

(2) *Safety.* There are little data on the

anorectal use in concentrations of 0.5 to

carbon tetrachloride, but not other. It is

(2) *Safety.* There are little data on the safety of diperodon but its safety relates in part to the site of application and use in the marketplace with an approved new drug application since 1939 without significant hazard (Ref. 3).

There are not studies directly relating to the safe external use of diperodon. Although it may be absorbed through abraded skin, the Panel has considered this to be insignificant with regard to systemic toxicity due to the limited area involved.

Local irritation and allergic reaction are possible; however, in the limited reports available, local reactions have not been reported (Refs. 2, 4, and 5). It is likely, based on a longer duration of action, but not demonstrated, that diperodon can cause allergic reactions. Therefore, a general warning should be noted on the label. Diperodon-containing products were involved in only three incidents of accidental poisoning in 1973 and no reports in 1974, but no reactions were reported with them (Refs. 6 and 7).

(3) *Effectiveness.* Diperodon and oxyquinoline benzoate topical ointment was reviewed by the National Academy of Sciences, National Research Council (NAS/NRC) Drug Efficacy Study Group and was classified as possibly effective for the temporary relief of anorectal pain and itching and providing anesthetic and mild antiseptic action as published in the **Federal Register** of June 18, 1971 (36 FR 11756). The marketed product reviewed by the NAS/NRC group was the same product submitted to this Panel.

Diperodon has been used in a 0.5 to 1.0 percent concentration in clinical and experimental circumstances (Refs. 1, 8, and 9). In an effectiveness study, it was compared with benzocaine and lidocaine in eye abrasions and three types of burns on guinea pig skin (Ref. 1).

This study demonstrated variable effectiveness of all three agents depending on site of application and injury, although diperodon did appear to be effective (Ref. 1). An unpublished study showed significantly greater relief of moderate and severe but not mild post-hemorrhoidectomy pain with diperodon than the placebo at 40 and 60 minute intervals (Ref. 10). Other studies showed no statistically significant difference between diperodon and the placebo for pain, pruritus, or burning (Refs. 5 and 11 through 14). A double-blind controlled study showed a trend in favor of diperodon over the placebo but no significant differences (Ref. 15). The Panel concludes that, because of the studies cited above, the effectiveness of diperodon when used externally for anorectal use in concentrations of 0.5 to 1.0 percent has not been established.

(4) *Evaluation.* The studies cited utilize double-blind, controlled techniques in the anorectal area, and the predominant results show no statistical difference between diperodon and placebo. Therefore, it is the conclusion of the Panel that diperodon in anorectal OTC preparations is not effective for external use.

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b. *Phenacaine hydrochloride (external and intrarectal use).* The Panel concludes that phenacaine hydrochloride is not safe because it is readily absorbed and is toxic at the concentrations used in OTC anorectal products. The Panel further concludes that there is insufficient evidence to prove it is effective in anorectal products.

(1) *Description.* Phenacaine hydrochloride is a derivative of phenitidin and was one of the first local anesthetics to be used. Its development was based on the known antineuralgic effects of phenitidin (Ref. 1). It is relatively soluble in water, ethanol, and carbon tetrachloride, but not ether. It is not an ester and differs greatly in chemical structure from the majority of local anesthetics.

(2) *Safety.* Phenacaine hydrochloride is well-absorbed across the mucous membrane and is systemically toxic at specific concentrations (Ref. 2). Therefore, this agent cannot be considered as a safe local anesthetic for OTC use because the dose required to be effective would produce toxic systemic effects. Phenacaine hydrochloride is a more potent and more toxic local anesthetic than cocaine which has well-established toxicity and is effective when used in medical procedures (Ref. 3). No specific data exist related to the safety of phenacaine hydrochloride in anorectal preparations or in other uses requiring application to the mucous membranes. In the eye it has been used in a 1 percent concentration, but absorption is minimal or very small through the sclera, the cornea, and the conjunctiva. Therefore, in 1 percent concentration in the eye no toxic reaction has been recorded (Ref. 2).

Like other local anesthetics, toxicity is related to the effect on the central nervous system and in the heart muscle, including restlessness, tremor, clonic convulsions, and finally, respiratory depression. Phenacaine hydrochloride can also act on heart muscle to cause changes in excitability and conductivity (Ref. 1). In one commercial preparation (Ref. 4), a 20-mg dose per suppository is equal to 40 percent of the maximum allowable dose cited by Dreisbach (Ref. 5). A lower concentration of this agent might render it less hazardous, but because phenacaine hydrochloride has a very short duration of action, even in saturated solutions (Ref. 3), any advantage is reduced by virtue of the frequent applications that are then necessary and that might promote more frequent use, leading to a higher daily dose. At any site at which it is effective, it is also well-absorbed systemically and thus potentially toxic. Phenacaine hydrochloride cannot be considered safe for use in OTC anorectal preparations.

(3) *Effectiveness.* Although there are no available data regarding phenacaine hydrochloride as an anorectal agent, it is a moderately effective local anesthetic with a very short period of action (Ref. 3). One human study of phenacaine hydrochloride's effectiveness shows that 1 percent solutions were capable of eliminating a tingling sensation of the tip of the tongue for 3 minutes and saturated solutions of phenacaine hydrochloride eliminated the tingling sensation for 7.5 minutes (Ref. 3). The Panel concludes that

although phenacaine hydrochloride may be effective, it is unsafe for OTC use.

(4) *Evaluation.* Phenacaine hydrochloride is one of the more toxic of the local anesthetics at effective concentrations and has one of the shortest periods of effectiveness. Phenacaine hydrochloride has been almost completely replaced in the medical armamentarium by many other less toxic, longer acting, and safer local anesthetics. Therefore, it is the conclusion of this Panel that this ingredient cannot be considered safe and effective for OTC anorectal preparations.

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Category II Labeling

The Panel concludes certain labeling claims related to the safety and/or effectiveness of phenacaine hydrochloride are unsupported by scientific data and in some instances by sound theoretical reasoning: (See part II. paragraph Q.7. above—Category II Labeling.)

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredients

The Panel concludes that the available data are insufficient to permit final classification of the local anesthetic active ingredients listed below. The Panel believes it is reasonable to provide 2 years for the development and review of such data. Marketing need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained within 2 years, however, the ingredients listed in this category should no longer be marketed in OTC products:

Benzocaine in polyethylene glycol ointment (intrarectal use)
Benzyl alcohol (external and intrarectal use)
Dibucaine (external and intrarectal use)
Dibucaine hydrochloride (external and intrarectal use)
Diperodon (intrarectal use)
Dyclonine hydrochloride (external and intrarectal use)
Lidocaine (external and intrarectal use)
Pramoxine hydrochloride in a cream formulation (intrarectal use)
Pramoxine hydrochloride in a jelly formulation (intrarectal use)
Tetracaine (external and intrarectal use)
Tetracaine hydrochloride (external and intrarectal use)

a. *Benzocaine in polyethylene glycol ointment (intrarectal use).* The Panel concludes that 5 to 20 percent benzocaine per dosage unit in polyethylene glycol ointment is safe for intrarectal use as a local anesthetic in OTC anorectal preparations but that there is insufficient evidence to prove effectiveness.

(1) *Description.* (See part III. paragraph B.1.a.(1) above—Description.)

(2) *Safety.* (See part III. paragraph B.1.a.(2) above—Safety.)

(3) *Effectiveness.* It is known that the anesthetic effect of benzocaine is related to its contact with a surface and that it is poorly soluble. Adriani et al. (Ref. 1) have reported using 20 percent benzocaine in polyethylene glycol ointment on mucous membranes for lubrication of endotracheal catheters, oral and pharyngeal airways, laryngoscopy and bronchoscopy in an estimated 144,000 cases with negligible side effects and successful transient local anesthesia. The use of benzocaine in these patients was to eliminate gag, cough, or laryngospasm reflexes and not primarily to relieve pain. Because there are no sensory pain nerve fiber endings in the mucosa of the gastrointestinal tract (Refs. 2 and 3), effectiveness is not altered by the fact that suppositories and ointment, once inserted, do not stay in the lower rectum but may drift up the rectum from 4 to 12 cm above the anal sphincter (Ref. 4). Relief of pain with benzocaine used intrarectally has not been established (Ref. 5). Thus, the Panel concludes that there are insufficient data to prove that benzocaine 5 to 20 percent concentration in polyethylene glycol ointment used intrarectally is effective in OTC anorectal products as a local anesthetic. (See part III. paragraph B.1.a.(3) above—Effectiveness.)

(4) *Proposed dosage.* Adult intrarectal dosage is 5 to 20 percent benzocaine per dosage unit in polyethylene glycol ointment up to six times daily and not to exceed 2.4 g per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* The Panel has placed 5 to 20 percent benzocaine in polyethylene glycol ointment for intrarectal use in Category III because effectiveness of its use in seriously questioned by anatomical and physiological knowledge indicating no rationale for effective relief of symptoms. However, the possibility exists that benzocaine and other local anesthetics may be effective in the anorectal area. Satisfactory proof of effectiveness would require controlled clinical studies utilizing benzocaine in polyethylene glycol ointment and placebo intrarectally as described elsewhere within this document. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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b. *Benzyl alchol (external and intrarectal use).* The Panel concludes that 1 to 4 percent benzyl alcohol per dosage unit is safe for external and intrarectal use as a local anesthetic in OTC anorectal preparations but that there is insufficient evidence to prove effectiveness.

(1) *Description* This is a simple organic compound found naturally in jasmine, hyacinth, and balsams of Peru and tolu. The synthetic form derived by hydrolysis of benzyl chloride from benzylaldehyde (Ref. 2). This drug is converted by the body to hippuric acid and excreted in the urine (Refs. 1, 3, 4, and 5).

(2) *Safety.* When injected, subcutaneously or intravenously, it can cause irritation and local neurolysis (Refs. 4 and 6). Injection into the blood stream can cause vasodilation; in concentrated solutions, it can cause central nervous system irritation with convulsions and subsequent paralysis of respiratory centers (Refs. 3 and 4). Excessive and repeated contact with the

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skin can lead to dermatitis by dehydration and removal of the skin's protective layer of lipids (Ref. 6).

Used in concentrations of 1 to 4 percent, this compound is considered to be of low or slight toxicity. As this compound is used in solutions of 1 to 4 percent and in ointments up to 10 percent, its toxicity at this concentration is slight and/or low because it is not absorbed through the skin or mucous membranes (Refs. 1 and 7). Direct absorption into the blood stream is possible but unlikely, which may be an important factor when used on mucous membranes (Ref. 5).

In summary, the Panel concludes that benzyl alcohol is safe for external and intrarectal use because of poor absorption through skin in the doses described below, although it may cause adverse reactions in some cases which will be indicated as labeling warnings.

(3) *Effectiveness (external use).* Used as a local anesthetic on intact skin it is of little potency. One clinical study claims onset of action in 5 to 7 minutes and duration up to 4.6 hours (Ref. 8). Yet other partially controlled and uncontrolled studies indicate maximum effect for a brief time (Refs. 1 and 3). Claims of long duration of effect are not supported, but relief of itching for short periods of time is suggested by the literature (Refs. 1 and 3). One study showed no penetration through intact skin by 4 percent concentration even when combined with 2 percent benzocaine (Ref. 9).

The Panel concludes that there are insufficient data to conclude that benzyl alcohol used externally is effective in treating the symptoms of anorectal disorders. The compound is only weakly active, and its duration of activity is too short to offer substantial relief.

(4) *Effectiveness (intrarectal use).* Benzyl alcohol is relatively low in potency as compared with other local anesthetics (Ref. 10). On mucous membranes, it is slightly more effective than on intact skin (Refs. 4 and 11). But, even on mucous membranes, duration of effect in controlled studies is one-half hour (Refs. 1 and 3). In addition, benzyl alcohol acts to relieve itching (Refs. 1, 2, and 3). Because rectal mucosa does not itch and, in fact, does not have cutaneous nerve endings (Ref. 12), the validity of using this substance for intrarectal use is questionable. Thus, the Panel concludes that there is insufficient evidence to prove that benzyl alcohol used intrarectally as a local anesthetic is effective in OTC anorectal preparations.

(5) *Proposed dosage.* Adult external and intrarectal dosage is 1 to 4 percent benzyl alcohol per dosage unit up to six times daily and not to exceed 480 mg per 24 hours.

(6) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(7) *Evaluation.* The Panel raises a question concerning the intrarectal effectiveness of benzyl alcohol on an area that does not have sensory nerve fiber endings. At best, this is a short acting, low potency local anesthetic. To prove that benzyl alcohol is effective externally and intrarectally, double-blind, controlled, clinical studies must show statistically significant improvement with benzyl alcohol in final formulation, specifying vehicle, as tested against control, by use of questionnaires. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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c. *Dibucaine and dibucaine hydrochloride (external and intrarectal use).* The Panel concludes that there are insufficient data to prove that 2.5 to 20 mg dibucaine or dibucaine hydrochloride per dosage unit are safe and effective for external or intrarectal use as a local anesthetic in OTC anorectal preparations.

(1) *Description.* Dibucaine is the amide of *N*-diethylethylene-diamine and 2-butoxy cinchoninic acid. The aromatic residue and the terminal diethylamino group are thus joined via an amide linkage, rather than an ester, as is procaine. As a base, dibucaine is slightly water soluble and moderately lipid soluble, but its commonly used salt, the hydrochloride, is soluble in both water and organic solvents (Ref. 1). For the purpose of this discussion, dibucaine and dibucaine hydrochloride are pharmacologically equivalent and will be discussed as dibucaine. These compounds have had wide use as both a spinal and topical anesthetic for many years. Dibucaine and dibucaine hydrochloride are the most potent, toxic, and longest acting of the injectable local anesthetics (Ref. 2).

(2) *Safety (external).* When used externally, dibucaine is likely to be absorbed when applied to abraded or broken skin because of its chemical and physical characteristics, but the extent to which this occurs has not been studied. However, the Panel has concluded that dibucaine used externally in the recommended doses below will not constitute a significant systemic absorption hazard because of the limited area of abraded perianal skin.

The primary safety concern with external use relates to allergic reactions. The anorectal area is covered with clothing and often macerated; it should theoretically be more prone to sensitization. These allergic symptoms can easily be confused with the same anorectal disease symptoms (Ref. 3). Several reports of clinical dermatitis due to dibucaine, some severe, are in the literature (Refs. 3 through 7), and the sensitizing ability of this compound is well-documented (Refs. 8 through 11).

In seven clinical studies reported in a submission to the Panel, approximately 489 patients used a product containing dibucaine for 2 to 28 days under some medical supervision (Ref. 12). There were reports by individuals of more discomfort, vaginal irritation, pruritus, and dizziness after use of a whole 15 g tube (150 mg dibucaine) as one application. Reactions were experienced by 6 of 489 patients for dibucaine as compared with 10 of 279 for control. This study indicates a low rate of adverse

reactions. However, in a recent survey of doctors on the use of a product containing dibucaine, 7.9 percent (435) of the physicians responding reported awareness of adverse reactions to dibucaine, including one report of anaphylaxis and 264 reports of local allergic reactions (4.8 percent) as well as reports of burning (31 reports), pruritis (30 reports), irritation (33 reports), and rash (40 reports) (Ref. 13). The group carrying out the study considered it to be a poorly designed survey. The Panel notes, however, that despite its anecdotal character, the survey would indicate that adverse reactions do occur with the commercial preparation, and published reports do not reflect these occurrences.

Finally, the manufacturer of one preparation has reported 57 cases of local reactions, 20 cases of local irritation, although this represents a very small percentage of reported reactions in comparison to units sold (Ref. 12).

In conclusion, the Panel recognizes the potential for dibucaine to cause local irritation and allergic reactions and the need to indicate this on labeling. However, the Panel also concludes that dibucaine is sufficiently safe for external use in the anorectal area at the recommended dosage.

(3) *Safety (intrarectal use).* The primary concern for safety with intrarectal use of dibucaine relates to the potential for systemic absorption because dibucaine has been shown, along with tetracaine, to have unique cytotoxic effects not seen at any dose with other local anesthetics (Ref. 14). The significance of this potential in the anorectal area has not been established. Local irritation may also need consideration.

Dibucaine appears to have a greater margin of safety than cocaine, which has well-known toxicity. One study compared corneal anesthetic potency to convulsive concentration and found that the ratio for dibucaine was 1:1,500,000 as opposed to 1:33,000 for cocaine (Ref. 15). Thus, dibucaine could be useful at low doses where it might be less toxic.

In comparative studies, dibucaine has been shown to be 15 to 20 times more potent than procaine (Refs. 2 and 15), and an aqueous solution is readily absorbed from mucous membranes and skin (Ref. 16) so that systemic toxicity is possible with the use of anorectal preparations (Ref. 16). The absolute toxic dose in man is not known, although a maximum safe dose of 25 mg has been cited, and recently confirmed by Dreisbach (Refs. 17 and 18). A reasonable estimate of the toxic dose could be made by comparative studies of several local anesthetics administered intravenously in both rabbits (Ref. 19) and humans (Ref. 20), and by recent studies in dogs, monkeys, and humans (Ref. 21).

In both rabbits and humans, the relative toxicity of procaine to tetracaine was found to be approximately 1:8, suggesting comparable models (Refs. 19 and 20). In the rabbit study, the toxicity ratio of tetracaine to dibucaine was 1:0.35. Thus, it could be estimated that each 0.044 mg of dibucaine is equivalent in toxicity to 1 mg procaine when given intravenously in rabbits. In the human study of intravenous tetracaine, approximately 2.5 mg/kg (0.125 mg/minute for 20 minutes) produced central nervous system and cardiac symptoms and/or seizures (Ref. 20). Although no data on intravenous dibucaine use in man were found, the similarity of toxicity ratios of tetracaine and procaine in rabbits and man (Refs. 19 and 20) suggest that toxicity ratios of dibucaine to tetracaine, as established in rabbits, could at least be approximately extrapolated to man. Therefore, a comparable toxic intravenous dose of dibucaine would be approximately 0.8 mg/kg or 56 mg total for a 70 kg person. In the rabbit study (Ref. 19), the lethal dose of tetracaine was 7.4 mg/kg, and for dibucaine 2.9 mg/kg. Further intravenous toxicity estimates are given in another study in which ataxia, muscle tremors, or death were noted in dogs at 3 mg/kg and in monkeys at 0.5 to 1 mg/kg after intravenous doses of dibucaine (Ref. 21). This would tend to corroborate the above estimates.

Finally, data was presented to the Panel relating to the intrarectal absorption of dibucaine (Ref. 21). These studies were carried out on very small numbers of dogs, monkeys, and normal human subjects and measured blood levels of dibucaine after intrarectal administration of a commercial product to all subjects and after intravenous administration in dogs and monkeys. These studies provided relatively consistent estimates of blood levels obtained after administration of the commercially formulated drug. However, the study designs were deficient. Doses were not always comparable between subjects. Position and bowel function of subjects were not controlled. No physiological monitoring of vital signs and electrocardiograms were carried out. The small number of subjects did not allow statistical analysis.

The studies revealed several noteworthy findings: (i) An aqueous solution of dibucaine given intravenously is clearly lethal at levels of 3 mg/kg in dogs and 1 mg/kg in monkeys; (ii) Commercial preparations of dibucaine given intrarectally under the conditions of the study provided measurable blood levels, although these levels were less than 20 percent and usually less than 10 percent of the measured lethal or toxic intravenous doses; (iii) A relatively steady state blood level of dibucaine appears to be obtained within 24 to 48 hours of continuous rectal dosing of approximately three times daily, and there are measurable levels for 48 hours after the last dose.

The investigators concluded that the results suggest that intrarectal absorption of the commercial preparations of dibucaine does not give levels comparable to those seen after intravenous administration and that, because toxic effects were only seen after the higher blood levels were obtained with intravenous use, intrarectal use in man is safe (Ref. 21).

Although it is clear that under the conditions of the study rectal absorption of commercially formulated dibucaine did not give levels conparable to intravenous administration, the Panel has several objections to the study conclusion that intrarectal use of the commercial product is safe in man:(i) Absorption of the intrarectal dibucaine preparation was studied in normal subjects, and blood levels obtained varied two to sixfold in single and multiple doses. The blood levels at the maximum recommended dose of 300 mg daily were not studied (Ref. 22). Furthermore, the maximum safe dose was not established in these studies. In the presence of rectal pathology where the mucosal surface is inflamed or otherwise interrupted, absorption might well be greater and certainly more variable, and expected blood levels can not be estimated on the basis of the study presented (Ref. 21).

(ii) The safety of systemically administered dibucaine has not been studied in man or animals. A study has clearly shown that rectally administered dibucaine is absorbed systemically and has the potential of acting at other sites such as the heart and the central nervous system (Ref. 21). The potential for allergic reaction occurring is increased by the slow rate of elimination of dibucaine. No measures of cardiac or central nervous system function were made in this study, although they obviously would be required.

Reported toxicity causing four deaths in children after ingestion of dibucaine and in one infant after rectal application of an unknown amount of dibucaine, are

significant (Ref. 12); however, these

petrolatum in a 1 percent concentration

Ed., Edited by Goodman, L. S. and A. Gilman,

Across the Human Placenta."

significant (Ref. 12); however, these appear to have been accidental overdoses. Nevertheless, these cases indicate potential toxicity from OTC dibucaine products.

No reports of fetal cardiac depression during pregnancy have been found due to dibucaine, but the ease with which this occurs with other local anesthetics (Refs. 23 through 27) would suggest that this is possible with dibucaine as well if it is systemically absorbed after intrarectal use. Limited absorption has been demonstrated and, therefore, suggests a potential safety problem during pregnancy (Ref. 21). The Panel concludes that the use of dibucaine in pregnancy is contraindicated and has recommended an appropriate warning.

Finally, the Panel concludes, on the basis of considerable data studied, that the safety of intrarectal dibucaine remains to be established because of its demonstrated systemic absorption.

(4) *Effectiveness (external use).* Effectiveness of dibucaine is altered by the vehicle and whether the dibucaine is present as the base or the hydrochloride. There were little data on external use. Dibucaine hydrochloride has been shown to be an effective anesthetic lasting 46 minutes after application of 2 to 4 mL of a 0.5 percent aqueous solution (10 to 20 mg) when applied to the tip of the tongue (mucous membrane) (Refs. 28 and 29), but it was not effective when applied to intact or sunburned skin (Ref. 30). Dibucaine base, combined with lanolin, petrolatum, and sodium bisulfite in a commercial preparation, was barely effective on sunburned skin (Ref. 30). In petrolatum, a 1 percent concentration of the base was effective on mucous membranes but not on the intact skin (Ref. 31). Although it is probable that both the base and hydrochloride are effective at low concentrations on mucous membranes and abraded skin, studies of other local anesthetics (Ref. 32) have shown that they are effective when the stratum corneum is interrupted (abraded skin). The conclusions on effectiveness are drawn from studies performed on final formulation (Ref. 30).

A significant proportion of anorectal conditions are characterized by abraded or macerated skin, but there are no studies using dibucaine in the perianal area. Therefore, the Panel has concluded that there are insufficient data to show that dibucaine is effective when used for these conditions.

(5) *Effectiveness (intrarectal use).* Dibucaine as the hydrochloride has been shown to be an effective anesthetic lasting up to 46 minutes after application of 2 to 4 mL of a 0.5 percent aqueous solution (10 to 20 mg) when applied to the tip of the tongue (Refs. 28 and 29). In petrolatum in a 1 percent concentration it was effective on all mucous membranes that are sensitive to pain, but not on intact skin (Ref. 31).

Although the base has been demonstrated to be more effective on skin than the salt, Adriani (Refs. 28, 29, and 33) postulates that this lack of effectiveness may relate to the formulation. It is probable that the hydrochloride is effective at low concentrations on mucous membranes. Thus, dibucaine is probably effective on the abraded or macerated skin of the anorectal area below the anorectal line. Its effectiveness with intrarectal use is less clear. Several clinical studies involving more than 600 patients have not clearly shown the effectiveness of this product for anorectal use (Ref. 34). Two other studies demonstrate that control preparations without dibucaine are quite as effective as the commercial dibucaine preparation (Refs. 35 and 36).

The Panel has considered at length the effectiveness of local anesthetics above the anorectal line (on muccous membrane) and has concluded that, because of the absence of pain sensation in this area, intrarectal local anesthetics are unproven. The results of the study of a dibucaine rectal preparation (Refs. 35 and 36) would tend to support the conclusion of the Panel.

(6) *Proposed dosage.* Adult external and intrarectal dosage is 2.5 to 20 mg per dosage unit up to three to four times daily and not to exceed 80 mg per 24 hours.

(7) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.) The following warning is recommended for dibucaine and dibucaine hydrochloride when labeled for intrarectal use: "Not for use in pregnant women because it may cause depression of fetal heart function."

(8) *Evaluation.* The Panel concludes that there is insufficient evidence at this time to recommend dibucaine or dibucaine hydrochloride as safe and effective for external or intrarectal use in OTC anorectal preparations and must be tested. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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d. *Diperodon (intrarectal use).* The Panel concludes that there are insufficient data to provide that 0.5 to 1.0 percent diperodon per dosage unit is safe and effective for intrarectal use as a local anesthetic in OTC anorectal preparations.

(1) *Description.* (See part III, paragraph B.2.a. (1) above—Description.)

(2) *Safety (intrarectal use).* The safety of diperodon for intrarectal use has not been established. As with most local anesthetics, it is likely to pass readily across mucous membranes and thus can be absorbed intrarectally. Toxic levels have not been established, although Dreisbach (Ref. 1) has defined 100 mg or 10 mL of a 1 percent solution of diperodon hydrocholoride as a safe does for topical use. Because it is reported to have a long duration of action, the potential for accumulation may be greater than other local anesthetics (Ref. 2). Diperodon has been shown to cause tissue damage when use for infiltration anesthesia after operations on the anus and rectum (Ref. 3). However, those clinical studies of its use in OTC anorectal drug products have not reported specific adverse effects (Refs. 4, 5, and 6).

(3) *Effectiveness (intrarectal use).* No published studies of the intrarectal use of diperodon have been found.

In an unpublished study with 54 patients with internal and external hemorrhoids, there was no statistically significant difference in effectiveness between drug and placebo for relief of pruritis, burning, or pain (Ref. 4). However, no distinction was made in the results between patients having internal and external hemorrhoids.

In an unpublished study of 50 patients, including patients with internal hemorrhoids, the results indicated only a trend in favor of the active ingredient (Ref. 5). Responses by patients having internal hemorrhoids and those patients using the drug intrarectally for other conditions were not analyzed separately. Therefore, no conclusion relative to intrarectal effectiveness can be reached on these data.

One additional unpublished study with 94 patients receiving an application of ointment on the morning of the first postoperative day resulted in no differences between the drug and the placebo (Ref. 6). The findings do not distinguish between intrarectal and external applications or effectiveness.

(4) *Proposed dosage.* Adult intrarectal dosage is 0.5 to 1.0 percent per dosage unit up to five times daily and not to exceed 100 mg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* The Panel concludes that there is insufficient evidence at this time to recommend diperodon as effective for intrarectal use in OTC anorectal preparations.

Double-blind, well-controlled clinical studies showing statistically significant improvement over control must be performed to prove that diperodon is effective intrarectaly. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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e. *Dyclonine hydrochloride (external and intrarectal use).* The Panel concludes that 0.5 to 1.0 percent dyclonine hydrochloride per dosage unit is safe for intrarectal use as a local anesthetic in OTC anorectal preparations but that there is insufficient evidence to prove effectiveness.

(1) *Description.* A propiophenone derivative, dyclonine is a local anesthetic base that forms salts with hydrochloric acid.

(2) *Safety (external use).* Clinical reports indicate a low incidence of reactions (Refs. 1, 2, and 3). For example, dyclonine in a 1 percent concentration in cream base was applied to 3,656 patients for topical anesthesia; only two cases of proven sensitivity were reported (Ref. 4). Further, 1 percent dyclonine has been used without reported toxic reactions prior to office cystoscopy in more than 1,500 patients (Ref. 1). There are isolated reports of both allergic reactions and cardiovascular collapse (Ref. 4).

In summary, the Panel concludes that dyclonine is safe for external use in the doses described below.

(3) *Safety (intrarectal use).* Toxic levels in humans from anorectal use have not been determined. In a study dealing with the safety of dyclonine hydrochloride following oral administration, 35 patients were given from 300 to 600 mg daily for periods of time varying from 1 to 12 weeks. No undesirable side effects occurred (Ref. 5). Convulsions and cardiovascular effects have been reported in animals by other workers with use of dyclonine (Ref. 4).

Dyclonine has been used effectively in a 1 percent concentration without toxic reactions prior to office cystoscopy in more than 1,500 patients (Ref. 1).

Although the intrarectal safety of dyclonine is unknown, the Panel concludes it to be safe at the recommended dosage in light of its apparent low toxicity at other sites.

(4) *Effectiveness (external use).* In an uncontrolled study, 1 percent dyclonine cream was used on 222 patients, 28 of whom had anogenital pruritus (Ref. 6). Seventeen of the 28 were reported to have "excellent" results in relieving their symptoms. In another uncontrolled study in 26 patients with pruritus ani,

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good relief of symptoms was claimed in 19, while 7 of the 26 were considered treatment failures (Ref. 7).

However, in a double-blind study of 1 percent dyclonine cream in patients with various dermatoses, 48 of 58 patients were unable to differentiate between the active preparation and the placebo (Ref. 8).

Dyclonine in a 0.01 percent aqueous solution is effective on the rabbit cornea (Ref. 9) and when applied to the tip of the tongue in humans (Ref. 10).

In summary, dyclonine appears to be a local anesthetic that is active in aqueous solutions on the cornea. However, there are not sufficient clinical studies to substantiate its effectiveness in an anorectal preparation, so its effectiveness as an anorectal agent for external use remains to be established.

(5) *Effectiveness (intrarectal use).* No studies are available that relate to the intrarectal effectiveness of dyclonine. Dyclonine hydrochloride in concentrations of 0.5 to 1.0 percent has a rapid onset of action and a duration of effect comparable to that of procaine when used for topical anesthesia in otolaryngology (Ref. 11). It is absorbed through the skin and mucous membranes (Ref. 11). Although in aqueous solution it is known to be an effective topical anesthetic on mucous membranes (Refs. 8, 9, and 10), its effectiveness in the cream preparation is not well-established (Ref. 4). Further, in view of the absence of pain sensors in the rectum, the Panel has judged that the intrarectal effectiveness of dyclonine remains to be established.

(6) *Proposed dosage.* Adult external and intrarectal dosage is 0.5 to 1.0 percent per dosage unit up to five times daily and not to exceed 100 mg per 24 hours.

(7) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(8) *Evaluation.* The Panel does not have sufficient data at this time to recognize dyclonine hydrochloride as an effective local anesthetic for external or intrarectal use in the treatment of anorectal disorders. The Panel recommends further studies so that dyclonine hydrochloride could move from Category III to Category I. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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f. *Lidocaine (external and intrarectal use).* The Panel concludes that 2 to 5 percent lidocaine per dosage unit is safe for external use, but there is insufficient evidence to prove effectiveness as a local anesthetic in OTC anorectal preparations. Furthermore, there is insufficient evidence to prove safety and effectiveness for intrarectal use in OTC anorectal preparations.

(1) *Description.* Lidocaine is an aminoacylamide. It is a white to slightly yellow crystalline powder that is practically insoluble in water, but very soluble in alcohol and chloroform, freely soluble in ether, and dissolves in various oils and fatty type ointment bases (Refs. 1 and 2).

(2) *Safety (external use).* The Panel concludes that lidocaine is safe for external use in concentrations of 2 to 5 percent. Although lidocaine may be absorbed through abraded skin (Ref. 3), the Panel concludes this to be of insufficient concern due to the limited area involved, as well as the low systemic toxicity of lidocaine.

The local toxicity and allergenicity of lidocaine is lower than that of many local anesthetics, although the potential for allergic reaction does exist (Refs. 4, 5, and 6).

(3) *Safety (intrarectal use).* No information relating to the safety of intrarectal use of lidocaine was found in the literature. Lidocaine enjoys wide use for topical and injection anesthesia as well as intravenously for control of cardiac arrhythmias. When injected, it is considered more potent than procaine (Ref. 7). Chronic administration in controlled experiments in animals in doses far exceeding those in OTC drug products produced no adverse effects (Ref. 8).

The degree of rectal absorption of lidocaine remains unknown, although due to the ease of absorption of local anesthetics across mucous membranes, complete absorption must be presumed (Refs. 9, 10, and 11). However, because lidocaine is used intravenously on a routine basis and the kinetics are well-established (Refs. 12 and 13), the Panel concludes that the dosages proposed for anorectal products would not be a major safety problem.

(4) *Effectiveness (external use).* In concentrations of 2 to 5 pecent, lidocaine in a water-soluble vehicle has been considered effective when applied to mucous membranes and the broken skin (Refs. 1 and 14). Current evidence indicates that lidocaine is ineffective in concentrations of less than 6 percent on unbroken skin (Refs. 3 and 15). Because most anorectal disorders are characterized by abraded (broken) skin, lidocaine is expected to be effective in concentrations of 2 to 5 percent.

Double-blind studies evaluating the effectiveness of a lidocaine ointment versus a placebo in providing temporary relief of pain associated with acute anal fissure seem to indicate lidocaine ointment is effective (Ref. 8). The overall results, however, were inconclusive because both the 5 percent lidocaine ointment and the placebo demonstrated effectiveness, although that of the placebo ointment occurred at a lower level of probability. Further investigation using a larger number of cases of anal fissure than the number reported in the studies is indicated.

Recent data demonstrated the effectiveness of a 2.5 percent lidocaine ointment applied to the back or on the upper arm where the skin was abraded by a strip-tape method or by light curettage (Ref. 16). While the Panel recognizes the effectiveness of lidocaine on other skin sites, the Panel concludes that because of the uniqueness of the anorectal area, effectiveness must be demonstrated in the perianal area.

(5) *Effectiveness (intrarectal use).* The Panel questions the use of a local anesthetic in an area above the anorectal line, i.e., in the rectum where there are no sensory pain nerve fibers, and concludes that there is insufficient evidence at this time to recommend

lidocaine as effective for intrarectal use in OTC anorectal preparations.

(6) *Proposed dosage.* Adult external and intrarectal dosage is 40 to 100 mg per dosage unit up to five times daily and not to exceed 500 mg per 24 hours.

(7) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(8) *Evaluation.* Demonstration of effectiveness may be shown by observations of patients with excoriated skin in the perianal area, or the posthemorrhoidectomy, or postepisiotomy patient, or observations that depend upon artifically induced local abrasions. Demonstrating effectiveness by any one of these methods would satisfy the Panel's requirements regarding the effectiveness of lidocaine for external or intrarectal use in OTC anorectal preparations. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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(16) OTC Volume 120055.

g. *Pramoxine hydrochloride in a cream formulation and pramoxine hydrochloride in a jelly formulation (intrarectal use).* The Panel concludes that 1 percent pramoxine hydrochloride per dosage unit in a cream or jelly formulation is safe for intrarectal use as a local anesthetic in OTC anorectal preparations but there is insufficient evidence to prove effectiveness. The pramoxine hydrochloride cream and pramoxine hydrochloride jelly formulations referred to here are described in detail in a submission to the Panel (Ref. 1).

(1) *Description.* (See part III. paragraph B.1.b.(1) above—Description.)

(2) *Safety.* (See part III. paragraph B.1.b.(2) above—Safety.)

(3) *Effectiveness.* The Panel concludes that 1 percent pramoxine hydrochloride in a cream or jelly formulation (Ref. 1) when used intrarectally has not been shown to be effective as a local anesthetic in OTC anorectal preparations. The data reviewed by the Panel do not provide sufficient evidence of effectiveness (Refs. 2, 3, and 4).

(4) *Proposed dosage.* Adult intrarectal dosage is 1 percent pramoxine hydrochloride per dosage unit in a cream or jelly formulation up to five times daily and not to exceed 100 mg per 24 hours.

(i) *For cream formulation.* Pramoxine hydrochloride 1 percent in a cream base containing methylparaben USP, propylparaben USP, cetyl alcohol NF, synthetic spermaceti NF, sodium lauryl sulfate USP, glycerin USP, and purified water USP.

(ii) *For jelly formulation.* Pramoxine hydrochloride 1 percent in a jelly base containing propylene glycol USP, hydroxypropyl methylcellulose USP (4000 centipoises), and purified water USP.

(5) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* The Panel concludes that there is insufficient evidence at this time to recommend pramoxine hydrochloride in a cream or jelly formulation as effective for intrarectal use in OTC anorectal preparations (Refs. 1 through 4).

To prove that pramozine hydrochloride in a cream or jelly formulation is effective intrarectally, further testing is required. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III ingredients, Combinations, and Labeling in Category I.)

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(1) OTC Volume 120084.

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h. *Tetracaine and tetracaine hydrochloride (external and intrarectal use).* The Panel concludes that 10 to 20 mg tetracaine or tetracaine hydrochloride per dosage unit are probably safe as a local anesthetic in OTC anorectal preparations, but there are insufficient data to prove effectiveness for external or intrarectal use.

(1) *Description.* Tetracaine is a derivative of *p*-aminobenzoic acid in which a butyl group has been substituted for one of the hydrogens of the *p*-amino group (Ref. 1).

(2) *Safety (external use).* Tetracaine is a highly active and toxic local anesthetic (Ref. 2). Although tetracaine potentially can be absorbed through abraded skin, the Panel concludes that sytemic toxicity is not a major concern provided no more than a daily maximum of 100 mg tetracaine is used.

Adriani (Ref. 3) states that allergic reactions are usually the result of repeated exposures or cross-sensitization to drugs of the same or similar classification. Skin sensitivity to tetracaine has been confirmed by patch tests in 24 patients treated topically from 1957 to 1966 (Refs. 4 and 5). Eczema was often severe and cross sensitiity was noted on several occasions (Refs. 4 and 5). Many patients are sensitive to tetracaine (Ref. 6), and while sensitivity develops in some patients within 1 or 2 weeks, sensitivity did not occur in others for over a year (Ref. 6). Thus, prolonged use of tetracaine in any of its forms should be undertaken with caution (Refs. 7 through 10). In summary, the Panel concludes that tetracaine is safe for external use in the doses decribed below.

(3) *Safety (intrarectal use).* Absorption from mucous membranes is rapid and may simulate slow intravenous injection (Refs. 2, 3, and 11). Tetracaine has been investigated and it has been found that the LD_{50} (lethal dose for one-half of test animals exposed to a substance) of equally effective concentrations of tetracaine in dogs was

similar to that of intratracheal

use in OTC anorectal preparations

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similar to that of intratracheal instillation. Tetracaine is a highly active, highly toxic local anesthetic, about 10 times more toxic than procaine but more active, and can be employed in high dilutions (Ref. 2). Its ability to penetrate mucous membranes far exceeds procaine and approaches that of cocaine (Ref. 12). Tetracaine frequently shows cross-sensitivity reactions (Ref. 13).

Adriani and Campbell (Ref. 2) and Adriani (Ref. 3) have repeatedly emphasized the clinical hazards of cocaine and tetracaine to tracheal tissues. There are no known data on the use of tetracaine in the rectum. Based on absorption through other mucous membranes (Refs. 2, 3, and 11), it is probably absorbed from the rectal mucosa and thus into the systemic circulation. Therefore, the safety of tetracaine when used intrarectally remains to be established.

(4) *Effectiveness (external use).* Tetracaine hydrochloride is used to produce local anesthesia of the sclera, conjunctiva and mucous membranes (Ref. 3). Commercial products containing 0.5 to 2.0 percent tetracaine in ointment are used topically on minor burns and scalds, skin ulcers, and sunburn to relieve itching (Ref. 13) but have not been studied in the anorectal area. Clinicians have relied largely on subjective studies and clinical impressions rather than controlled studies in assessing the effectiveness of topical anesthetics. Using the Adriani technique (Refs. 14 and 15) of electrical stimulation to elicit cutaneous itch and pain without apparent injury to the skin, it was demonstrated that saturated solutions of tetracaine in water, 40 percent alcohol and 10 percent glycerin were effective on sunburned skin. None of the manufactured preparations tested completely blocked the sensation of itch and burning on intact skin stimulated electrically, with the exception of 20 percent benzocaine in polethylene glycol ointment (Refs. 14 and 15).

A 1 percent solution of tetracaine topically is as effective as a 10 percent solution of procaine when applied directly to a nerve trunk (Ref. 2). Stronger solutions have been used but no proof exits to show increased strength produces increased effects. Increased strength will produce increased toxicity. Therefore, the Panel concludes effectiveness has yet to be proven.

(5) *Effectiveness (intrarectal use).* No studies were found that relate to the intrarectal effectiveness of tetracaine. The effectiveness of tetracaine in this area, where no pain sensation is experienced, must be proven.

(6) *Proposed dosage.* Adult external and intrarectal dosage is 10 to 20 mg per dosage unit up to five times daily and not to exceed 100 mg per 24 hours.

(7) *Labeling.* The Panel recommends the Category I labeling for local anesthetic active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(8) *Evaluation.* The Panel questions the use of a local anesthetic in an area above the anorectal line (in the rectum) where there are no pain sensory nerve fibers, and concludes that there is insufficient evidence at this time to recommend tetracaine as effective for intrarectal use in OTC anorectal preparations.

To prove that tetracaine is effective externally or intrarectally for use in OTC anorectal products, testing must be performed. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

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Category III Labeling

The Panel concludes that the available data are insufficient to permit final classification of the following claims.

Claims such as "prompt" and "quick acting" imply an activity that takes effect within 20 minutes; however, the data presented to the Panel are insufficient to substantiate a so-called "prompt" or "quick" action. Therefore, the Panel concludes that these claims as well as unspecified time claims such as "for hours" are indeterminate and not allowed until clinical study can correlate a specific time in minutes or hours for said claims. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

IV. Vasoconstrictors

A. General Discussion

The Panel defines a vasoconstrictor as an agent that causes temporary constriction of blood vessels. Although many substances constrict blood vessels, only those sympathetic vasoconstrictors used in OTC anorectal products were considered by the Panel. Sympathomimetic vasoconstrictors, hereafter referred to as vasoconstrictors, are chemical agents that are structurally related to the naturally occurring catecholamines, epinephrine, and norepinephrine (Ref. 1). These agents act as neural transmitters by carrying stimuli or messages from nerves to receptors in various parts of the body so that specific parts of the body will respond in some specific way (Ref. 2).

Vasoconstrictors attach to alpha and/or beta adrenergic receptors (Refs. 3 and 4). Alpha receptors are found in vascular beds, especially in arterioles (small arteries) and capillaries, where stimulation causes constriction. Beta receptors are found primarily in cardiac muscle where stimulation may cause increased force and rate of contraction of the heart (Refs. 1, 3 and 4). Beta receptors are also found in pulmonary muscles where stimulation causes relaxation of bronchial spasm (Refs. 1, 3 and 4). It is important to remember that a concomitant effect occurs on beta receptors in the heart and lungs when vasoconstrictors are applied to alpha receptors in the anorectal area.

The Panel has reviewed the available data and has included only three

vasoconstrictors within this document based on products submitted for review. Epinephrine stimulates both alpha and beta receptors. Ephedrine stimulates both alpha and beta receptors and, in addition, initiates the release of body stores of norepinephrine and indirectly produces an additional alpha receptor response. Phenylephrine has only alpha stimulating properties (Refs. 1 and 4). The response of blood vessels to epinephrine, ephedrine, and phenylephrine varies throughout the body, but the blood vessels to skin and mucous membranes are constricted by these drugs that act on their alpha receptors (Ref. 1). This vasoconstrictive effect on dilated skin vessels has been used in OTC products to treat congestion of nasal mucous membranes and has also been used to aid in control of minor bleeding (Refs. 1 and 5). However, the Panel concludes that claims for control of minor bleeding are not appropriate for OTC anorectal use and if bleeding occurs, a physician should be consulted.

Anorectal disorders include many ailments but hemorrhoids are now of the most common. Historically, hemorrhoids are believed to be an abnormal cluster of dilated veins, and the cause of hemorrhoids is believed to be venous stasis or blockage (Refs. 5 through 9). Recent studies indicate hemorrhoidal vessels may be arterio-venous anastomoses which are described as wide-bore connecting channels between the larger vessels (Refs. 9 and 10). Some investigators believe hemorrhoids resemble, anatomically, the corpus cavernosum of the penis and call the hemorrhoids corpus cavernosum recti (Refs. 8 and 11). Both corpuses can fill rapidly with blood and empty, but not with equal speed. Anatomical and radiological studies of injected specimens show similar structures called "bodies" (corpus) in normal patients as well as in those patients having hemorrhoids (Refs. 9 and 11). A new explanation for the cause of hemorrhoids is a downward slide of the anal canal lining which includes these "bodies" or arterio-venous anastomoses (Refs. 8 and 9). Oxygen content of blood from hemorrhoidal veins was studied by Thulesius and Gjores (Ref. 10) and was found to equal the oxygen content of central arteries and to far exceed the oxygen content of central and peripheral veins. The presence of this level of oxygen may explain the bright red or arterial type of bleeding described by patients and seen by surgeons. In this same study, blood flow measurements with a thermocouple in the anal canal demonstrated prompt response of mucosal perfusion by the topical application of vasoconstrictors which would be expected only if arterioles are present; venules do not respond to vasoconstrictors (Ref. 10).

Vasoconstrictors are reported to give relief of local itching by a minimal anesthetic effect (Ref. 12). This may be due to the same phenomenon; i.e., vasoconstriction of blood vessels of the skin, or it could be due to the chemical structure of vasoconstrictors which resembles that of local anesthetics (Refs. 1 and 4). The exact mechanism of this anesthetic effect is unknown, but the Panel recognizes the relief of itching by vasoconstrictors.

Because rectal absorption of an ingredient varies with the vehicle and pH of the rectum (Ref. 13), excessive or repeated dosing greater than 7 days may permit absorption of significant amounts of these agents into the bloodstream via the hemorrhoidal vessels, which can produce systemic effects.

Due to potential serious side effects of these agents and because useful effects are achieved with minimum quantities, the Panel has chosen to limit safe OTC dosages to safe intravenous dosages.

When used in recommended safe dosage for local effect, undesirable systemic effects can be avoided. These undesirable side effects can include elevation of blood pressure, cardiac arrhythmia or irregular heart rate, central nervous system disturbance or nervousness, tremor, sleeplessness, and aggravation of symptoms of hyperthyroidism (Refs. 1 and 4). Prolonged use of excessive dosage can lead to anxiety or paranoia (Ref. 4). More commonly, prolonged use of the correct dosage will lead to rebound vasodilatation and congestion, which is discussed in the findings of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drug Products as published in the **Federal Register** of September 9, 1976 (41 FR 38396). This adverse effect on nasal mucous membranes is well-established, but there are no similar studies related to rectal mucous membrane, only the theoretical implications. Contact dermatitis following topical use of some vasoconstrictors has been reported (Ref. 14). Vasoconstrictors, if absorbed, can interact with monoamine oxidase inhibitors, which are used for mental depression (Refs. 1 and 4). The hypertensive effects of the vasoconstrictors may be potentiated by these psychotherapeutic agents and combined use can lead to serious, even lethal effects, such as a cerebral hemorrhage or a stroke (Refs. 1, 4, 15, and 16). Therefore, the Panel concludes that a caution as provided under labeling for products containing Category I vasoconstrictors is appropriate. (See part IV. paragraph B.1. below—Category I Labeling.)

The Panel concludes that sympathomimetic vasoconstrictors do cause constriction of the vascular bed in skin and mucous membrane in other parts of the body and can give a subsequent decongestive effect. The Panel recognizes partial relief of local itching is achieved by topical application of vasoconstrictors. The Panel recognizes that vasoconstrictors can be used for other reasons and that there are more effective agents for relief of local itching.

The Panel does not recognize or approve the use of vasoconstrictors for the control of minor bleeding. As bleeding may be a sign of conditions ranging from abrasions to cancer, the Panel concludes that conditions evidenced by bleeding should not be self-medicated and that the advice and supervision of a physician should be obtained. Therefore, the warning is warranted: "In case of bleeding, consult a physician promptly." (See part II. paragraph Q.5 above—Warnings.)

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B. Categorization of Data

1. *Category I conditions under which vasoconstrictor ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

Category I Active Ingredients

The Panel has classified the following vasoconstrictor active ingredients as generally recognized as safe and effective and not misbranded:

Ephedrine sulfate in aqueous solution (external and intrarectal use) Epinephrine hydrochloride in aqueous solution (external use)

Phenylephrine hydrochloride in aqueous solution (external and intrarectal use)

a. *Ephedrine sulfate in aqueous solution (external and intrarectal use).* The Panel concluded that 2 to 25 mg ephedrine sulfate in aqueous solution per dosage unit is safe and effective for external and intrarectal use as a vasoconstrictor in OTC anorectal preparations up to four times daily and not to exceed 100 mg 24 hours.

(1) *Description.* Ephedrine sulfate, a fine white odorless crystal or power, is freely soluble in water and soluble in oil (Refs. 1 and 2). The aqueous solution is stable but is decomposed by exposure to light or heat. Solutions of 1 to 3 percent and 1 percent jelly are used as a nasal decongestant. Solutions of 3 to 5 percent have been used in the eye for mydriasis since 1895 (Ref. 3).

(2) *Safety.* Ephedrine sulfate is readily absorbed from the mucous membrane of the intestinal tract, including the rectum (Refs. 2, 3, and 4). In humans, this drug is excreted unchanged by the kidneys. Within 12 hours, 60 to 75 percent of the administered dose is excreted and approximately 100 percent is excreted in 24 hours (Ref. 3).

Drugs used in the anorectal area are in contact with normal and/or inflamed skin and rectal mucosa. Absorption depends on many factors. It varies from the same rate as intravenous injections to slower than oral absorption rates (Refs. 1 and 5) which require a larger quantity of drug to produce the desired effect. The Panel has chosen to equate safe OTC doses with safe intravenous doses because useful effects are obtained with a minimum quantity of drug. This approach provides a more desirable margin of safety if the consumer inadvertently or deliberately uses this ingredient in excess of the recommended dosage (Refs. 6, 7, and 8).

Published data on animals and humans relating to clinical reports of toxic reactions to ephedrine sulfate are discussed in the findings of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drug Products as published in the **Federal Register** of September 9, 1976 (41 FR 38397). This data involves intravenous, intramuscular, and oral administration of ephedrine sulfate. There are significant undesirable effects with oral doses of ephedrine above 50 mg which include nervousness, insomnia, tremulousness, vertigo, headache, tachycardia, palpitation, and diaphoresis (Ref. 2). Otherwise safe doses of 15 to 50 mg may be dangerous if totally absorbed by patients who have hyperthyroidism, hypertension, or angina pectoris, or by patients taking digitalis for heart conditions (Refs. 2 and 9). Ephedrine has a more prolonged effect than epinephrine and both alpha and beta adrenergic effects. Chronic use of ephedrine may lead to anxiety and/or a paranoid state in adults (Ref. 6).

The hypertensive effects of ephedrine are potentiated by monoamine oxidase (MAO) inhibitors, as well as tricyclic antidepressants. Combined use can lead to serious, even lethal effects (Refs. 1 and 2). MAO inhibitors prolong sympathomimetic effect by delaying inactivation of the catecholamine norepinephrine. As a result, increased pressure develops in the blood vessels and cerebral (subarachnoid) hemorrhages or strokes have been reported with the use of MAO inhibitors and ephedrine sulfate at various dosage levels (Refs. 1 and 2). Contact dermatitis following topical use of ephedrine sulfate has been reported (Ref. 10). Also of importance is the fact that ephedrine sulfate antagonzies the tranquilizing effects of phenothiazines (Ref. 2). A warning about these agents is needed to alert persons against using this product without consulting a physician if they have heart trouble, thyroid disease, are taking digitalis or heart medicine, or are taking antidepressants or other psychotherapeutic drugs. With the above exceptions, available experimental data on the effect of ephedrine sulfate in animals and in humans indicate that it is safe for external use whether skin is abraded or intact when used in recommended dosages (Ref. 2). In persons free of the above diseases and not taking the above medications, ephedrine sulfate is considered a safe vasoconstrictor for internal and external anorectal application provided the dosage is limited to 2 to 3 sprays or drops of 0.5 to 1.0 percent, not more often that every 4 hours. Rebound congestion can occur with higher dosages (Refs. 2 and 7). This dosage is discussed in the September 9, 1976 document at page 38397.

(3) *Effectiveness.* With topical application of aqueous solution on nasal mucosa, the onset of action of ephedrine sulfate is from a few seconds to 1 minute, and the duration of its effectiveness may persist up to 2 to 3 hours as discussed in the September 9, 1976 document at page 38397. Vasoconstriction of capillaries and arterioles follows topical application of ephedrine sulfate to abraded skin as well as mucosa (Ref. 2 and 3). As a result, there is a decongestant effect and some reduction in swelling. Local relief of itching or minimal anesthetic properties are also reported (Refs. 4 and 11). Ephedrine has been used as an oral sympathomimetic and a topical nasal decongestant of low toxicity (Refs. 1, 2, 3, and 12). The therapeutic value of ephedrine sulfate is based on its ability to constrict arterioles, which is the mechanism by which it produces a decongestant effect. There has been no evidence to support vasoconstrictor effect on veins (Ref. 13). Ephedrine sulfate has been shown to be effective in the control of arteriolar bleeding (Ref. 2). Thulesius and Gjores (Ref. 14) have shown hemorrhoids to be a mixture of arterioles and venules (arterio-venous anastomoses) with blood oxygen content similar to central and peripheral arteries. Thus, this drug can constrict vessels and, therefore, decrease blood flow in the arterioles or capillaries and reduce the volume of blood delivered to the veins, although this effect has not been demonstrated on hemorrhoidal

vessels. Use of vasoconstrictors in the anorectal area has been found by thermocouple measurements to reduce blood flow (Ref. 14). If applied repetitively, ephedrine may lead to rebound congestion (Ref. 2). The Panel concludes that ephedrine is effective for the temporary relief of swelling in the anorectal area.

It appears reasonable that ephedrine sulfate in an ointment would provide better surface contact and greater effectiveness, but formulation sharply affects the ability of the active ingredient to be released to the skin or mucosa (Refs. 15 and 16). Neither a literature survey nor review of the submitted data provided effectiveness studies on a final formulation of ephedrine sulfate in an ointment.

The pharmcology of ephedrine is similar to epinephrine (Ref. 3). Topical application of epinephrine on intact skin to produce blanching will prevent pruritus due to histamine (Ref. 11). The chemical structure of vasoconstrictors is related to local anesthetics. Vasoconstrictors have been shown to exert some local anesthetic effect (Refs. 1, 2, and 11). Therefore, the Panel concludes that ephedrine sulfate in aqueous solution is effective as an antipruritic.

The effective dosage of ephedrine sulfate as a mucosal decongestant ranges from 0.5 to 1.0 percent (5 to 10 mg/mL in aqueous solution) or a maximum of 3 mg per dosage unit every 4 hours as also discussed in the September 9, 1976 document at page 38397.

(4) *Dosage.* Adult external and intrarectal dosage is 2 to 25 mg ephedrine sulfate in aqueous solution per dosage unit up to four times daily and not to exceed 100 mg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for vasoconstrictor active ingredients. (See part IV. paragraph B.1. below—Category I Labeling.)

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b. *Epinephrine hydrochloride in aqueous solution (external use).* The Panel concludes that 100 to 200 micrograms (μg) epinephrine hydrochloride in aqueous solution per dosage unit is safe and effective for use up to four times daily and not to exceed 800 μg per 24 hours.

(1) *Description.* Epinephrine is a short acting sympathomimetic agent. It is obtained either from the adrenal glands of animals or by chemical synthesis. It is a white powder, very slightly soluble in water and alcohol. It is insoluble in chloroform and ether. The levorotatory drug occurs naturally and is 15 times more active than the destrorotatory form. The racemic mixture has less activity, depending an the ration of levorotatory-to-dextrorotatory ephinephrine present. Epinephrine is assayed in terms of its content of the levorotatory form.

In solution epinephrine is readily oxidized and becomes inactive. Stability is enhanced in acid, but epinephrine deteriorates rapidly in alkaline solution (Refs. 1 and 2).

(2) *Safety.* In adults an increase in blood pressure follows the intramuscular injection of 1 to 5 μg (Ref. 3). The minimum lethal dose of epinephrine hydrochloride administered subcutaneously is presumed by Grollman and Grollman (Ref. 3) to be about 10,000 micrograms/kilogram (μg/kg) of body weight. The intravenous injection of as little as 300 μg has produced alarming symptoms in humans (Ref. 3). The chief hazards of intravenous injection above 500 μg are increased risk of stroke because of increased blood pressure, purmonary edema, and cardiac arrhythmias (Ref. 4). However, for acute asthma unresponsive to other drugs, large doses are tolerated, e.g., intravenous injection of 150 μg every 15 to 60 seconds has been used (Ref. 1). Because of similar chemical structure, undesirable effects of epinephrine hydrochloride described above are the same as for ephedrine sulfate. (See part IV. paragraph B.1.a. above—Ephedrine sulfate in aqueous solution (external and intrarectal use).)

Forsyth et al. (Ref. 5) have demonstrated with C–14 systemic absorption through mucous membrane of 23.8 to 91.5 percent (238 μg to 915 μg) of racemic epinephrine-C-14 hydrochloride in aqueous solution applied to fresh gingival lacerations in anesthetized Rhesüs monkeys by means of gingival retraction strings. Concomitant elevation of systolic and diastolic pressures and of pulse rates from 4 to 18 percent were observed in their experiments. OTC preparations contain only a fraction (100 μg/g of ointment) of the epinephrine used in the Forsyth et al. study (Ref. 5), but these preparations do contain an amount similar to that used for the treatment of asthma.

When used externally in anorectal preparations such as an ointment, it would be highly unlikely that venous absorption would reach a toxic level, and any effect would be of short duration (Ref. 6). When epinephrine hydrochloride in aqueous solution is applied locally to intact skin, it usually produces such intense vasoconstriction that systemic absorption in prevented (Ref. 3). However, when a suppository or ointment is placed within the rectum that may be inflamed or have lesions on the mucosal lining, conceivably absorption of epinephrine could be rapid (Ref. 5) and if used alone could approach blood levels similar to those obtained with intravenous injections. Although there is some evidence that in

the presence of a bland vehicle absorption will be slowed, until proved otherwise, 100 percent absorption is assumed to provide an adequate safety margin in OTC products. (See part II. paragraph G. above—Bioavailability of Anorectal Dosage Forms.)

Because of these safety considerations, the Panel has set the upper limit of epinephrine hydrochloride in aqueous solution in OTC anorectal preparations for external and internal use at 200 μg per dosage unit.

(3) *Effectiveness.* The known therapeutic uses of epinephrine hydrochloride are to constrict arterial blood vessels of the skin, stimulate the heart, relax bronchioles, and induce glycogenolysis (Ref. 3). For anorectal disease, only vasoconstriction is of importance because of the resultant reduction of swelling that theoretically will follow a reduction in blood flow to the anorectal area (Ref. 7). Other effects can be to reduce pruritus and reduce swelling. When combined with local anesthetics for use by injections (Refs. 1 and 3), epinephrine hydrochloride in a concentration of 0.0005 percent (5 μg/mL) (Ref. 1) is generally sufficient to limit the absorption of local anesthetics, and this effect prolongs the effect of the anesthetics. Although a solution equivalent to 2 percent epinephrine base in a dosage form designed to deliver 1,000 μg/drop is used in the conjunctiva for glaucoma (Refs. 4 and 8), the concentration is rapidly reduced by lacrimal fluid and tearing. In the treatment of anorectal symptoms, epinephrine constricts arterioles, and the Panel concludes that this will decrease swelling of tissues; however, degradation of epinephrine due to the alkaline pH of the rectum is considered sufficient to reduce its effectiveness. The Ph of the rectum is 8 to 10 in some cases of pruritus and is rarely below 6 (Ref. 9). Epinephrine is extremely unstable and requires a buffered solution of pH 4.2 to remain stable (Ref. 10). It is possible that salts of epinephrine such as epinephrine undecylenate (Ref. 11) are effective, but there are no data to establish safety or effectiveness.

The Panel concludes that in the dosage recommended epinephrine hydrochloride in aqueous solution is safe for external and intrarectal use. It is effective for the temporary relief of itching and swelling when applied externally. Because it is inactivated by the alkaline secretions of the rectum, the Panel concludes that epinephrine hydrochloride is not active intrarectally. For the reduction of congestion and swelling, it has been used locally on the conjunctiva and to reduce nasal congestion (Ref. 1). However, in the latter case because of its secondary vasodilation effect, swelling may not respond or may even be greater than that initially observed (Ref. 1). Though it has been used in a 0.1 percent (1,000 μg/mL) solution for topical application and in suppositories (Ref. 1), the Panel did not receive any controlled studies indicating its value in OTC anorectal preparations and the recommendations are based on aqueous solutions used in the data.

Melton and Shelley (Ref. 12) found that the topical application of epinephrine hydrochloride in aqueous solution to the intact skin in sufficient quantity produced blanching and that it was impossible to produce pruritus in such an area by the subcutaneous injection of histamine. Histamine injected locally in normal skin routinely produced pruritus. These observations suggest that it is effective in the treatment of pruritus due to histamine release. Clinical studies have shown that it is effective to relieve certain itching dermatoses of the skin (Ref. 11). Epinephrine undecylenate ointment used in these studies was claimed effective to relieve itching only when the epidermis was abraded (Ref. 11). The safety and effectiveness of this form of epinephrine are discussed below. (See part IV. paragraph B.3.b. below—Epinephrine undecylenate (external use).)

The Panel concludes that epinephrine hydrochloride in aqueous solution having a concentration of 0.1 percent (1,000 μg/mL) is safe and effecive for temporary relief of itching and swelling of hemorrhoidal tissues.

Though local application is effective in providing vasoconstriction and cessation of bleeding that may result from irritation or excoriation, the Panel has concluded that no claims for control of bleeding can be made by OTC products.

(4) *Dosage.* Adult external dosage is 100 to 200 μg epinephrine hydrochloride in aqueous solution per dosage unit up to four times daily and not to exceed 800 μg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for vasoconstrictor active ingredients. (See part IV. paragraph B.1. below—Category I Labeling.)

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(12) Melton, F. M. and W. B. Shelley, "The Effect of Topical Antipruritic Therapy on Experimentally Induced Pruritus in Man," *The Journal of Investigative Dermatology*, 15:325–332, 1950.

c. *Phenylephrine hydrochloride in aqueous solution (external and intrarectal use).* The Panel concludes that 0.5 mg phenylephrine hydrochloride in aqueous solution per dosage unit is safe and effective for use as a vasoconstrictor in OTC anorectal preparations for external and intrarectal use up to four times daily and not to exceed 2 mg per 24 hours.

(1) *Description.* Phenylephrine hydrochloride is structurally related to norepinephrine. it is a potent alpha adrenergic stimulant with little effect on the central nervous system. Phenylephrine, in contrast to epinephrine and ephedrine, reflexly slows the heart rate and increases the stroke output, but does not disturb cardiac rhythm. Its primary action is to produce vasoconstriction by a direct effect on receptors rather than by norepinephrine displacement. It is used parenterally, orally, and topically to produce generalized or nasal vasoconstriction (Refs. 1 and 2) and by injection to prolong the effects of local anesthetics (Ref. 3).

(2) *Safety.* The safety of phenylephrine hydrochloride decreases as the dose is increased, due to its ability to cause general arterial constriction and hypertension (Refs. 1 and 2). It is reportedly less likely to produce local irritation than other vasoconstrictors (Ref. 4). Systemic effects often increase in persons with

hyperthyroidism, hypertension, or cardiovascular disease, and in those persons who take certain antidepressant drugs such as monamine oxidase inhibitors and tricyclic antidepressants (Refs. 5 and 6). (See part IV. paragraph A. above—General discussion.) The amount of this drug absorbed from the rectal area is unknown, but the potential for complete systemic absorption through the hemorrhoidal veins would require that no more than the intravenous dose (0.5 mg) producing systemic effects (Ref. 2) be allowed for intrarectal application, despite the uncertainty of incomplete bioavailability from various vehicles. Accordingly, no more than 0.5 mg phenylephrine hydorchloride per application four times daily should be used (Ref. 2). As with any of the sympathomimetics described in this document, it should not be used in persons with the above described diseases or who are taking the above noted drugs.

(3) *Effectiveness.* Phenylephrine hydrochloride is a very efficient arteriolar constrictor (Refs. 1 and 2) and a nasal decongestant at 0.25 to 0.5 percent in aqueous solution, as described in the findings of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drug Products as published in the **Federal Register** of September 9, 1976 (41 FR 38399). Studies of its effects on venous beds found the effects to be minimal (Refs. 1, 2, and 7), but no studies of its effects on the hemorrhoidal area were found. although some sources state that there is no evidence demonstrating the effectiveness of vasoconstrictors on hemorrhoidal veins (Refs. 7 and 8), the Panel concludes that phenylephrine hydrochloride has a beneficial effect on swollen hemorrhoidal tissue by virtue of reduction of capillary and arterio-venous congestion in the anorectal area (Refs. 9 and 10).

Phenylephrine hydorchloride is pharmacologically very similar to epinephrine. Temporary relief of itching produced by histamine has been secured after topical administration of epinephrine (Ref. 11). The Panel concludes that although no data are available, a similar effect may be claimed for phenylephrine.

In view of the unpredictable effects of final formulation on the ingredient, the effectiveness of phenylephrine hydrochloride in any final formulation other than an aqueous solution, such as suppositories, is discussed elsewhere in this document. (See part IV. paragraph B.3.c. below—Phenylephrine hydorchloride suppositories (intrarectal use) and part II. paragraph G. above—bioavailability of Anorectal dosage Forms.)

A 0.5 mg dose of phenylephrine hydrochloride in a 2 mL dosage unit is equal to the amount of phenylephrine used safely and effectively in producing nasal decongestion, as discussed in the September 9, 1976 document at page 38399. No other effective dose is known at this time; therefore, there is no basis for considering a dose other than 0.5 mg to be effective.

In summary, phenylephrine hydrochloride, in the recommended dosage, is safe and effective for external or intrarectal use for the temporary relief of swelling or itching in the anorectal area.

(4) *Dosage.* Adult external and intrarectal dosage is 0.5 mg phenylephrine hydrochloride in aqueous solution per dosage unit up to four times daily and not to exceed 2 mg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for vasoconstrictor active ingredients. (See part IV. paragraph B.1. below—Category I Labeling.)

References

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(10) OTC Volumes 120013 and 120014.

(11) Melton, F. M. and W. B. Shelley, "The Effect of Topical Antipruritic Therapy on Experimentally Induced Pruritis in Man," *The Journal of Investigative Dermatology*, 15:325–332, 1950.

Category I Labeling

The Panel recommends the following Category I labeling for vasoconstrictor active ingredients to be generally recognized as safe and effective and not misbranded.

a. *Indications.* (1) "Temporarily reduces the swelling associated with irritated hemorrhoidal tissue and other anorectal disorders."

(2) "Temporarily reduces the swelling associated with irritation in hemorrhoids and other anorectal disorders."

(3) "Temporarily shrinks hemorrhoidal tissue."

(4) "May temporarily relieve itching."

b. *Warning.* "Do not use this product if you have heart disease, high blood pressure, hyperthyriodism, diabetes, difficulty in urination, or are taking tranquilizers or nerve pills."

2. *Category II conditions under which vasoconstrictor ingredients or not generally recognized as safe and effective or are misbranded.* The Panel recommends that Category II conditions be eliminated from OTC anorectal products effective 6 months after the date of publication of the final monograph in the **Federal Register.**

Category II Active Ingredients

The Panel has classified the following vasoconstrictor active ingredients as not generally recognized as safe and effective or as misbranded:

Epinephrine hydrochloride (intrarectal use)
Epinephrine undecylenate (intrarectal use)
Epinephrine hydrochloride and epinephrine undecylenate (intrarectal use).

The Panel concludes that epinephrine hydrochloride and epinephrine undecylenate are safe but not effective intrarectally for use as a vasoconstrictor in OTC anorectal preparations.

(1) *Description.* (See part IV. paragraph B.1.b.(1) above—Description.)

(2) *Safety.* (See part IV. paragraph B.1.b.(2) above—Safety.)

(3) *Effectiveness.* The Panel concludes that intrarectal use of epinephrine hydrochloride and epinephrine undecylenate are not effective. Epinephrine is rapidly decomposed in alkaline solutions (Refs. 1 and 2). The pH of the rectum is normall greater than six (Ref. 3). Therefore, upon release of epinephrine from any final formulation, based on the data reviewed by the Panel, these ingredients are immediately rendered ineffective.

(4) *Evaluation.* The Panel concludes that the intrarectal use of epinephrine hydrochloride and epinephrine undecylenate are not effective at any

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does submitted to the Panel, although they are safe at the dosage recommended for OTC anorectal products.

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Category II Labeling.

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of vasoconstrictor drug products are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel considers the following claims to be misleading and unsupported by scientific data.

The claim that certain combinations of ingredients may be used to "shrink hemorrhoids" or to "shrink Hemorrhoidal tissue" has been made. The applicability of such a claim must rest primarily on a definition of the word "shrink."

According to Webster's dictionary, the word several meanings. There is general agreement that it refers to a reduction in size. However, opinions differ as to whether this signifies a temporary phenomenon or implies a permanent change.

The public is likely to consider that a permanent change is to be expected. However, data presented on vasoconstrictors indicate a temporary reduction in swelling but in the long run rebound swelling may occur. Therefore, to "shrink hemorrhoids" or "shrink hemorrhoidal tissue" is not achievable with OTC anorectal products and is misleading. The Panel concurs that vasoconstrictors can "temporarily reduce swelling" or "temporarily shrinks" and finds these words sufficiently strong to convey the usefulness of this class of ingredients in the short term treatment of anorectal symptoms. (See part IV. paragraph B.1. above—Category I Labeling.) Consumers with any persistent symptom should seek the advice of a physician.

The claim "control of minor bleeding" implies the ability on the part of the consumer to decide whether or not to seek medical attention based on knowing how to distinguish between blood originating from abrasions or irritations resulting from such activities as scratching or excessive rubbing with coarse toilet paper and blood originating from more serious lesions such as fissures and carcinoma. The quantity of bleeding cannot serve as an indicator of the seriousness of the condition, especially in the early stages of disease. Early detection of carcinoma is still the best available means of control, and this is best encouraged, in the opinion of the Panel, by directing the user of anorectal drug products to consult the physician if bleeding occurs for any reason. (See part II paragraph Q.5. above—Warnings.)

"Provides prompt and prolonged decongestion and vasoconstriction" implies complete and final relief and is considered misleading.

3. *Category III conditions for which the avaialable data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredients

The Panel concludes that the available data are insufficient to permit final classification of the vasoconstrictor active ingredients listed below. The Panel believes that it is reasonable to provide 2 years for the development and review of such data. Marketing need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained with 2 years, however, the ingredients listed in this category should no longer be marketed in OTC products:

Epinephrine (external and intrarectal use)
Epinephrine undecylenate (external use)
Phenylephrine hydrochloride suppositories (intrarectal use)

a. *Epinephrine (external and intrarectal use).* The Panel concludes that there are insufficient data to establish the safety or effectiveness of epinephrine for external or intrarectal use as a vasoconstrictor in OTC anorectal preparations.

(1) *Description.* (See part IV. paragraph B.1.b. (1) above—Description.)

(2) *Safety.* The safe use of the epinephrine moiety is discussed in depth earlier in this document. (See part IV. paragraph B.1.b.(2) above—Safety.)

(3) *Effectiveness.* The effectiveness of epinephrine hydrochloride in aqueous solution has been established. (See part IV. paragraph B.1.b.(3) above—Effectivness.) Epinephrine in the base form is not soluble in water, and therefore, the Panel concludes that the effectiveness of epinephrine base has not been established.

(4) *Proposed dosage.* Adult external dosage is 100 to 200 μg per dosage unit up to four times daily and not to exceed 800 μg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for vasoconstrictor active ingredients. (See part IV. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* Data to demonstrate safety and effectiveness as an anorectal ingredient will be required in accordance with the guidelines set forth earlier in this document. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

b. *Epinephrine undecylenate (external use).* The Panel concludes that there are insufficient data to establish the safety or effectiveness of epinephrine undecylenate.

(1) *Description.* Epinephrine undecylenate is presumed to be a short acting sympathomimetic agent, chemically, an ester of epinephrine base (Ref. 1).

(2) *safety.* The safe use of the epinephrine moiety is discussed in depth earlier in this document. (See part IV. paragraph B.1.b.(2) above—Safety.) The safe use of epinephrine undecylenate remains to be established, although experimental evidence implies a degree of safe use (Ref. 1).

(3) *Effectiveness.* The effectiveness of the epinephrine moiety in a final formulation has been discussed in depth earlier in this document. (See part IV. paragraph B.1.b.(3) above—Effectiveness.) The Panel does not have sufficient data to establish effectiveness of epinephrine undecylenate, nor is there sufficient evidence that this ingredient in final formulation becomes available and effective at the site of action (Ref. 1). (See part II. paragraph G. above—Bioavailability of Anorectal Dosage Forms.)

(4) *Proposed dosage.* Adult external dosage is 100 to 200 μg per dosage unit up to four times daily and not to exceed 800 μg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for vasoconstrictor active ingredients. (See part IV. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* Data to demonstrate safety and effectiveness as an anorectal ingredient will be required in accordance with the guidelines set forth earlier in this document. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

Reference

(1) OTC Volume 120002, p. 47.

c. *Phenylephrine hydrochloride suppositories (intrarectal use).* The Panel concludes that phenylephrine hydrochloride is safe at the recommended dosage but there are insufficient data to establish effectiveness in the final formulation.

(1) *Description.* Phenylephrine hydrochloride is a potent alpha adrenergic stimulant. (See part IV. paragraph B.1.c.(1) above—Description.)

(2) Safety. (See part IV. paragraph B.1.c.(2) above—Safety.)

(3) *Effectiveness.* The effectiveness of phenylephrine hydrochloride as a vasoconstrictor in aqueous solution cannot be extrapolated to include effectiveness in final formulation as a suppository (Ref. 1) because there are insufficient data. (See part IV. paragraph B.1.c.(3) above—Effectiveness.)

(4) *Proposed dosage.* Adult intrarectal dosage is 0.5 mg per suppository up to four times daily, not to exceed 2 mg per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for vasoconstrictor active ingredients. (See part IV. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* The Panel concludes that pheynlephrine hydrochloride in a suppository dosage final formulation as submitted to the Panel is safe at the recommended dosage but must be evaluated for effectiveness in accordance with the guidelines set forth above for testing anorectal ingredients. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

Reference

(1) OTC Volume 120013 and 120014.

Category III Labeling

None.

V. Protectants

General Discussion

The Panel has defined protectants as agents that provide a physical barrier, forming a protective coating over skin or mucous membranes. Varying quantities of these agents are useful as pharmaceutical necessities, e.g., vehicles and stiffening agents, in the formulation of anorectal dosage forms, e.g., ointments, lotions, creams, suppositories, and dusting powders.

Protectants include absorbents, adsorbents, demulcents, and emollients.

Absorbents are agents that take up within themselves fluids or other substances on or secreted by the skin or mucous membranes. This definition could apply to materials such as cotton or toilet paper which absorb body tissue fluid and mucus, however, for purposes of this review, the definition applies only to ingredients submitted to the Panel for review.

Absorbents are agents that because of a fine state of subdivision, are capable of attaching to substances that are secreted by the skin or mucous membranes.

Demulcents are defined as agents that combine with water to form a physical relationship between molecules that are called colloidal solution; the cohesiveness of these solutions containing demulcents have the capacity to protect skin surfaces in a manner similar to that of mucus.

Emollients are defined as agents used to soften or protect internal or external body surfaces. They are substances derived from animal or vegetable fats or petroleum products. Some of the substances are water soluble and others are oil soluble (Ref. 1). By virtue of their physical nature, which allows homogeneous spreading over tissue surfaces, they can form a protective coat over affected areas, aid in softening dehydrated or injured areas by preventing tissue water loss (Refs. 2 and 3), and tend to counteract symptoms and signs of drying skin (Refs. 2 and 4). This group also includes some substances such as glycerin which bind water tightly, but also fit the definition of emollients (Ref. 1). In the therapy of anorectal problems, emollients should be avoided because they can produce blockage of hair follicles and gland ducts (Refs. 5, 6, and 7). Many agents with emollient effects are also used as vehicles, bases, or carriers for pharmacologically active agents, and the Panel recognizes the dual purpose of their use (Refs. 1 and 8).

As a general rule, protectants are not absorbed through intact or broken skin or mucous membranes. The majority of ingredients considered in this section are relatively inert and are safe regardless of the amount that is applied to the anorectal area. Absorption can occur with the bismuth compounds, so these ingredients may be unsafe and will be discussed later within this section. Allergic reactions may occur with certain ingredients such as wool alcohols, and these are also identified and discussed later.

In determining the effectiveness of these agents, the Panel has concluded that protectants, alone or in combination, are of therapeutic value by providing a physical barrier that prevents irritation of anorectal tissue. A second action of protectants is to prevent water loss from the stratum corneum of the skin.

The Panel believes that the concept of protectants providing a physical barrier over anorectal tissue and preventing further insult is reasonable and useful. The barrier effect of protectants is supported by data indicating that infant perianal skin is afforded significant protection against diaper wetness by application of a continuous film of petrolatum applied to the skin in the diaper area (Ref. 6).

The effectiveness of protectants in providing an occlusive film that prevents transepidermal water loss has been reported (Refs. 10 and 11). For example, data have been presented to the Panel (Ref. 12) indicating that the occlusive thickness needed to reduce water loss to zero ranged from a low of 0.26 mm for light mineral oil to a high of 0.96 mm for a cream consisting of only 24 percent protectants (or 33 percent total emollients and humectants). Thus, assuming an average dose of 2 g, when petrolatum (which has a specific gravity of 0.8) is applied topically over an area of 36 cm^2, which is approximately equal to the perianal skin surface, it would result in a film thickness of 0.65 mm. However, such a film will not stay in place if a protective ingredient is a liquid of very low viscosity or is a powder (Ref. 12). Furthermore, when applied to the anorectal area, a protectant is subject to removal by clothing, as well as during and after bowel movement. The importance of water in the outer layer (stratum corneum) of the skin has been well established (Ref. 7). Drying of the stratum corneum may be a cause of itching, pain, and/or burning (Ref. 1). It is the Panel's opinion that irritants, whether incurred by the use of toilet tissue or inadequate cleansing of fecal material, will also aggravate these symptoms.

The Panel further concludes that to justify a claim for protective effect, either of the following criteria must be met: (1) At least one protectant must be present in at least 50 percent (1 g) of a 2-g dosage unit, or (2) a combination of two but not more than four protectants must be present for a combined concentration of at least 50 percent (1 g) of a 2-g dosage unit. For those protectant ingredients limited to concentrations of less than 50 percent, they may be used only in combination with other protectants.

This conclusion was based on the Panel's determination of an adequate quantity of an ingredient that would serve as a protectant. Berube and Berdick (Ref. 11) have defined "use thickness" as a practical measure of protectant effect against transepidermal

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water loss, as opposed to an earlier work (Ref. 10) that provided a basis for the occlusive thickness of an ingredient necessary to provide zero transepidermal water loss. A minimum of 50 percent (1 g) of a 2 g dosage unit would still permit the addition of other active ingredients as well as any inactive ingredients that may be necessary to formulate a pharmaceutically acceptable preparation. This quantity of petrolatum, for example, when spread uniformly on an area 36 cm^2 (an area 2⅓ inches by 2⅓ inches) provides a layer that is approximately 0.3 mm in thickness. This thickness is approximately twice the "use thickness" which Berube and Berdick (Ref. 11) had demonstrated would be necessary to reduce transepidermal water loss by 50 percent. It has been chosen also because of the tendency of protectants to be removed from the anorectal area and because an adequate "use thickness" relative to tissue moisture loss can be effective only as long as it is a contiguous layer (Ref. 11). One g is adequate to shield the area from further insult. Frequent applications, up to six daily, would compensate for the difficulty of the consumer in achieving uniform application as well as maintaining an occlusive layer of the protectant.

This approach provides a reasonable basis for establishing the minimum quantity of an ingredient that must be present for a product to qualify as a protectant. If it can be shown by the same method (Ref. 10) that an ingredient can achieve the same effect at a lower concentration and is also able to relieve anorectal symptoms as discussed under Testing Guidelines, an exception to the 50 percent requirement should be considered. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I). This qualification does not eliminate the possibility of combining as many as four protectants to fulfill the 50 percent requirement.

Itching is a symptom that may arise from many causes. (See part II. paragraph E.1. above—Itching.) It is commonly associated with abraded or irritated epithelium resulting from an underlying disease or from scratching. Normal skin is unlikely to be associated with itching; consequently, itching can be relieved if abraded or irritated skin can be returned to normal. Protection of the perianal area from air, feces, or other irritants will lead to a diminution of irritation and itching. The Panel concludes that Category I protectants can make claims for relief of itching.

The Panel is unaware of any clinical studies showing the relief of burning, pain, and/or itching in the anorectal area by protectants. However, clinical use of protectants for centuries testifies to their effectiveness. Thus, protectants are generally recognized as effective when they provide an occlusive barrier that protects the anorectal area from further insult. The prevention of water loss may be an important factor even though studies in the anorectal area have not been done.

The limitation of four protectant ingredients provides reasonable latitude in the formulation of combinations. The inclusion of more than four active ingredients from the protectant group would only serve to confuse the consumer by the inference that "more" is "better." The Panel concludes that in view of the generally, chemically inert nature of protectants, interaction is unlikely. There is no evidence that combinations of two, three, or four protectants are any better than one. However, protectant active ingredients may also serve as pharmaceutical aids. In recognition of this dual function, the Panel concludes that the maximum number of protectant active ingredients in a product would be limited to four, based on the data submitted to the Panel that four was the maximum number of protectants currently used in OTC anorectal products (Ref. 13).

References

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(2) Blank, I. H., "Factors Which Influence the Water Content of the Stratum Corneum," *Journal of Investigative Dermatology*, 18:433–440, 1952.

(3) Fisher, L. B. and H. I. Maibach, "The Effect of Occlusive and Semipermeable Dressings on the Cell Kinetics of Normal and Wounded Human Epidermis," *in* "Epidermal Wound Healing," Edited by Maibach, H. I. and D. T. Rovee, Year Book Medical Publishers, Inc., Chicago, IL, p. 113, 1972.

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(7) Grollman, A. and E. F. Grollman, "Pharmacology and Therapeutics," 7th Ed., Lea and Febiger, Philadelphia, PA, p. 701, 1970.

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(9) OTC Volume 120052.

(10) Berube, G. R., M. Messinger and M. Berdick, "Measurement in Vivo of Transepidermal Moisture Loss," *Journal of the Society of Cosmetic Chemists*, 22:361–368, 1971.

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(12) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 27th meeting, April 29 and 30, 1977.

(13) OTC Volumes 120001 through 120084.

B. Categorization of Data

1. *Category I conditions under which protectant ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the **Federal Register**.

Category I Active Ingredients

The Panel has classified the following protectant active ingredients as generally recognized as safe and effective and not misbranded:

Aluminum hydroxide gel (external and intrarectal use)
Calamine (external and intrarectal use)
Cocoa butter (external and intrarectal use)
Cod liver oil (external and intrarectal use)
Glycerin in aqueous solution (external use)
Kaolin (external and intrarectal use)
Lanolin (external and intrarectal use)
Mineral oil (external and intrarectal use)
Shark liver oil (external and intrarectal use)
Starch (external and intrarectal use)
White petrolatum (external and intrarectal use)
Wool alcohols (external and intrarectal use)
Zinc oxide (external and intrarectal use)

a. *Aluminum hydroxide gel (external and intrarectal use).* The Panel concludes that aluminum hydroxide gel is safe and effective as a protectant (adsorbent) in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit when present as a single protectant and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description* This is a suspension of aluminum hydroxide and hydrated oxide containing the equivalent of 3.6 to 4.4 percent of aluminum oxide. The substance may be prepared by a number of methods by which gels with different

physical properties are made (Refs. 1 and 2).

(2) *Safety.* The safety of aluminum hydroxide when used as an oral antacid preparation has been established in the final order for antacid and antiflatulent products generally recognized as safe and effective and not misbranded, as published in the **Federal Register** of June 4, 1974 (39 FR 19874), and therefore, can be assumed to be safe for external or intrarectal use in anorectal products. No reports of toxicity in animals has been reported after oral administration, as discussed in the proposal establishing a monograph for OTC antacid products published in the **Federal Register** of April 5, 1973 (38 FR 8717). In humans, the only adverse effects after oral administration consist of the rare occurrence of intestinal obstruction from masses of the unabsorbed gel, sequestration of phosphate, and interference with absorption of tetracycline and possibly other drugs. Evidence concerning interference with absorption of such drugs as tetracycline and anticholinergics is conflicting as discussed in the April 5, 1973, proposal, and is if little importance insofar as anorectal products are concerned. The drug is poorly absorbed from the gastrointestinal tract when taken by mouth, and doses of 5 to 30 mL up to 12 times daily have been used in humans (Ref. 1). It may be assumed, therefore, that absorption through the anorectal area is of no consequence. Insofar as use in anorectal products is concerned, the Panel has found no evidence of toxicity in animals or humans. Aluminum hydroxide has been used for the treatment of peptic ulcer (Ref. 3). This fact, in conjunction with the established safety as an orally administered drug, leads to the conclusion that it is safe for external or intrarectal use in anorectal products.

(3) *Effectiveness.* Local application of aluminum hydroxide gel has been used for the relief of many skin disease, e.g., weeping eczematous lesions, impetigo, epidermophytosis, and tinea (Ref. 4). In general, response is best with moist lesions associated with itching or inflammation, in which the gel acts as an absorbent (Ref. 1). Aluminum hydroxide gel thickened by the addition of kaolin was found effective in providing relief in moist pruritus ani in 93 of 98 patients (Ref. 5); absorption and inactivation of proteolytic enzymes or other irritants in the anal discharge are postulated by the author as the reasons for improvement. Pruritus ani associated with dry skin was not helped by the gel and, therefore, labeling must specify its use in the anorectal area for moist conditions which produce burning, pain, or itch (Ref. 5). Aluminum hydroxide gel has also been used successfully for relief of itching, burning, and pain due to excoriated skin secondary to ileostomies and colostomies (Refs. 6 and 7). In these studies the gel was thickened with kaolin to produce a combination with better adhesion to the affected area. The affected area should be free of petrolatum or greasy ointments prior to application because these substances will interfere with proper adhesion. After oral administration of a kaolin-aluminum hydroxide gel mixture, the author of another study concluded that the mixture adsorbed fecal bacteria completely (Refs. 7 and 8). The Panel finds that aluminum hydroxide is effective for use either intrarectally or externally in anorectal preparations at the recommended dosages.

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the following specific labeling:

(i) *Indications.* (*a*) "For the temporary relief of itching associated with moist anorectal conditions."

(*b*) "Temporarily protects irritated areas from irritating materials."

(ii) *Warning:* "Remove petrolatum or greasy ointment before using this product because they interfere with the ability of this product to adhere properly to the skin area."

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(1) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, pp. 50–51, 1973.

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(4) OTC Volume 120006, p. 138.

(5) Friedman, M. H. F., B. F. Haskell and W. J. Snape, "Treatment of Pruritus Ani by Local Applications of Aluminum Hydroxide Gel," *The American Journal of Digestive Diseases*, 15:57–60, 1948.

(6) Friedman, M. H. F., "Aluminum Hydroxide Gel for Erosions in Patients with Bowel Fistulas," *Journal of the American Medical Association*, 131:520–522, 1946.

(7) Spiesman, M. G., "Colloidal-Kaolin and Aluminum-Hydroxide Gel (Kalum) in the Management of Lower-Bowel Conditions," *The Review of Gastroenterology*, 10:191–200, 1943.

(8) OTC Volume 120006, p. 162.

b. *Calamine (external and intrarectal use).* The Panel concludes that 5 to 25 percent calamine per dosage unit (based on the zinc oxide content of calamine) when used as a single protectant is safe and effective for external and intrarectal use as a protectant in OTC anorectal preparations and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Calamine is a pink mixture containing not less than 98 percent zinc oxide, which is white, and 0.5 percent ferrous oxide which is red (Ref. 1). Calamine is an odorless, fine powder that is insoluble in water and nearly completely soluble in mineral acids (Refs. 2, 3, and 4).

(2) *Safety.* The pharmacology of this substance is essentially the same as that of zinc oxide and the substance is, therefore, safe for anorectal use. (See part V. paragraph B.1.m.(2) below—Safety.) The ferrous oxide is a pigment that contributes color but is not an active drug.

(3) *Effectiveness.* Calamine is an effective protectant by virtue of its physical qualities, and its effectiveness is the same as that of zinc oxide (Refs. 1, 2, and 3). (See part V. paragraph B.1.M.(3) below—Effectiveness.) Because of this similarity, the Panel concludes that when zinc oxide and/or calamine are present in an anorectal drug product only one of the two substances shall be identified as an active ingredient. Calculations for protectant content must also reflect the total amount of zinc oxide, but use of both forms of zinc oxide constitutes only one protectant ingredient with respect to the combination policy. (See part II. paragraph K. above—Principles Applicable to Combination Products.)

(4) *Dosage.* Adult external and intrarectal dosage is 5 to 25 percent per dosage unit (based on the zinc oxide content of calamine and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

References

(1) Gosselin, R. E., et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 4th ED., The Williams and Wilkins Co., Baltimore, MD, p. 98, 1969.

(2) "The Merck Index," 8th Ed., Merck and Co., Inc., Rahway, NJ, p. 189, 1968.

(3) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, pp. 208–209, 1973.

(4) "The United States Pharmacopeia," 19th Rev., The United States Pharmacopoeial Convention, Inc., Rockville, MD, p.60, 1975.

c. *Cocoa butter (external and intrarectal use).* The Panel concludes

that cocoa butter is safe and effective as a protectant in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Cocoa butter is the fat obtained from the roasted seed of *Theobroma cocao.* Chemically it is a mixture of sterin, palmitin, olein, laurin, linolein, and traces of other glycerides. It is a yellowish-white solid with faint, agreeable odor and a bland chocolate-like taste. It is brittle below 25 degrees C. Cocoa butter possesses the remarkable property of maintaining its firmness within a few degrees of body temperature at which it readily melts without passing through an appreciable softening stage (Refs. 1 and 2).

(2) *Safety.* While no reports regarding the safety of cocoa butter in anorectal preparations have been found, the Panel recognizes that its safety has been established by its wide and continuous use in pharmacy and cosmetics (Refs. 1, 2, and 3).

(3) *Effectiveness.* Due to its bland, nonirritating properties, cocoa butter is considered to be an excellent protectant (emollient) for application to abraded or irritated anorectal tissue. In addition, it also acts as a protectant by providing a physical barrier against further contact by possible irritants (Ref. 4).

These properties, combined with the fact that it is considered to be a good vehicle for active drugs, are the reasons for its extensive use in suppositories (Ref. 5).

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

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(1) "The United States dispensatory," Edited by Osal, A. and R. Pratt, 27th Ed., J. B. Lippincott Co., Philadelphia, PA, p. 1179, 1973.

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d. *Cod liver oil (external and intrarectal use).* The Panel concludes that cod liver oil is safe and effective as a protectant (emollient) in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement and not to exceed a maximum daily dose of 10,000 International Units (IU) vitamin A and 400 IU vitamin D.

Description. Cod liver oil is the fixed oil, partially destarinated, obtained from fresh livers of *Gadus morrhua Linne* and other species of the Family *Gadidae.* Each gram contains not less than 255 μg (850 IU) of vitamin A and not less than 2.12 μg (85 IU) of vitamin D, the latter principally being activated 7-dehydrocholesterol or vitamin D_3. The glyceride components of the oil are principally of unsaturated acids, including arachidonic, clupanodonic, linoleic, linolenic, oleic, zoomaric, and other acids. The oil also contains cholesterol. Cod liver oil is subject to rancidity, and the vitamin A is easily oxidized (Refs. 1 and 2).

(2) *Safety.* While reliable and adequate scientific data regarding the safety of cod liver oil when applied to the anorectal area are not available, an extensive review of the literature on cod liver oil reveals no adverse affects when applied topically as a protectant (emolient) (Refs. 3 through 10). Because cod liver oil is assayed in terms of its vitamin A and vitamin D content, the Panel considered the applicability of the safety data of these ingredients as discussed elsewhere in this document and noted safe limits of vitamins A and D are not exceeded by the recommended dosage of cod liver oil. (See part VIII. paragraph B.3.e. (2) below—Safety and part VIII. paragraph B.3.f. (2) below—Safety.) The Panel concludes that cod liver oil is safe at the recommended dosage for application as a protectant to the anorectal area.

(3) *Effectiveness.* The Panel concludes that the effectiveness of cod liver oil as a protectant (emollient) is due to its bland and soothing effect associated with its oily nature.

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement and not to exceed 10,000 IU vitamin A and 400 IU vitamin D per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1 below—Category I Labeling.).

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(1) "The National Formulary," 13th Ed., American Pharmaceutical Association, Washinton, DC, p. 183, 1970.

(2) "The United States Dispensatory," 27th Ed. Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, p. 332, 1973.

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e. *Glycerin in aqueous solution (external use).* The Panel concludes that 20 to 45 percent glycerin in aqueous solution is safe and effective as a protectant in OTC anorectal preparations when used in concentrations of at least 50 percent per dosage unit (200 to 450 mg in water to make 1 g) and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Glycerin is a clear, colorless, syrupy liquid, having a sweet taste. It is miscible with water and alcohol but insoluble in chloroform, ether, and in fixed and volatile oils (Ref. 1).

(2) *Safety.* The Panel concludes that glycerin is safe in OTC anorectal preparations. A review of the literature reveals no reports of adverse reactions or irritation to glycerin when used in anorectal preparations.

Glycerin has been administered orally and intravenously with relative safety (Ref. 2). The LD_{50} after oral administration is about 25 g/kg of body weight (Ref. 3), and 5 or 6 g/kg following intravenous administration (Ref. 4). The exact oral toxic dose of glycerin in humans has not been established. In humans, 100 to 300 g of pure glycerin have caused severe symptoms such as

destruction of red blood cells, reddish discoloration of the urine, and kidney failure, but these symptoms can be prevented and are a function of concentration and route of administration. Humans have been given about 100 g daily for 50 days with no ill effects (Ref. 5). Deichmann (Ref. 5) has concluded from a review of animal studies that toxic doses were the largest by the oral route and that the quantity necessary to produce toxicity varied with the mode of administration. The dose needed with the intraperitoneal route was the lowest, and the dose needed with the subcutaneous route was intermediate in toxicity.

The effects of local application of glycerin have been studies using a variety of methods. The immersion of rat's tails in undiluted glycerin produced no changes in the skin (Ref. 4). Application of undiluted glycerin to the conjunctiva of rabbits, cats, and dogs caused no visible changes (Ref. 4). No visible changes were noted following administration of glycerin to the oral mucous membranes of rats, rabbits, and dogs or of the mucous membranes of the stomach in rabbits and dogs (Ref. 4). However, when applied in the rectum of rats and guinea pigs, glycerin caused an accelerated emptying of the intestinal contents (Ref. 4). Studies regarding the skin irritating properties of natural or synthetic glycerin following application to the shaven rabbit dorsal area, (approximately 30 percent of the body surface) indicated that neither skin irritation nor any other abnormalities resulted from topical application of either synthetic or natural glycerin (Ref. 4). These studies (Ref. 4) suggest that glycerin was not absorbed in sufficient quantities to produce a pharmacologic effect.

According to Deichmann (Ref. 6) and Deichmann and Gerarde (Ref. 7), repeated and extensive applications of gylcerin, alone or in 50 percent aqueous solutions, upon the skin of rabbits and rats caused a mild irritation but did not induce definite or fatal intoxication. It has been reported that undiluted gylcerin absorbs water and is somewhat dehydrating and irritating to mucous membranes and particularly to inflamed or sunburned skin (Ref. 8). Therefore, a lower concentration is necessary for safe use in OTC anorectal preparations. There are no reports of reactions with 45 percent concentrations. Hine et al. (Ref. 3) reported that neither natural nor synthetic gylcerin gave evidence of toxic effects. Therefore, the Panel concludes that aqueous solutions of gylcerin in a 20 to 45 percent concentration are safe.

(3) *Effectiveness.* The dehydrating and osmotic actions and gylcerin have been utilized in preparations for local application to furuncles and other inflammatory processes (Refs. 9 through 12). However, this dehydrating effect is most pronounced when glycerin is used undiluted (Ref. 13). Keratin, as represented by a piece of callus, did not show any decrease in brittleness even when 0.1 mL water was added to 4 mL glycerin after 48 hours of exposure. Water alone reduced brittleness by 25 percent in 1 hour (Ref. 13). At best, the application of glycerin has been shown not to affect the ability of keratin to absorb water (Ref. 14). The significance of these findings related to anorectal use is that undiluted glycerin is not effective as a protectant, whereas a dilution of 20 to 45 percent glycerin in water, applied when the relative humidity of air is 30 percent or less as is often the case in winter, will lose water (Ref. 15) to epidermal tissue, and therefore, acts to soften the skin.

While no evidence of its protectant effect when applied to the anorectal area was found on the basis of its physical properties and frequent use as a protectant on the skin (Refs. 9, 10, 11, 16, 17, and 18), it is the Panel's conclusion that glycerin is effective as a protectant in the anorectal area.

(4) *Dosage.* Adult external dosage is 20 to 45 percent glycerin in aqueous solution when used in concentrations of at least 50 percent per dosage unit (200 to 450 mg in water to make 1 g) and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraphs B.1. below—Category I Labeling.)

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f. *Kaolin (external and intrarectal use).* The Panel concludes that kaolin is safe and effective as a protectant (adsorbent) in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Kaolin is a hydrated aluminum silicate, powdered and freed from gritty particles. It is a clay and occurs as a soft, white, or yellowish white powder (Ref. 1).

(2) *Safety.* There are no specific data regarding the safety of kaolin in the treatment of anorectal disorders; however, it is generally considered safe as a protectant (adsorbent) due to the inert nature of aluminum silicate, which is the primary chemical basis of kaolin (Refs. 2, 3, and 4).

(3) *Effectiveness.* Adequately controlled clinical studies demonstrating the effectiveness alone are not available, but the Panel recognizes the value of kaolin as a topical adsorbent based on its extensive use with aluminum hydroxide (Refs. 5, 6, and 7).

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Studies confirm its ability to adsorb some drugs (Refs. 8, 9, and 10). It is also considered that kaoline adsorbs some toxins, bacteria, and viruses and is said to provide a protective coating for the intestinal mucosa (Ref. 2). In addition to adsorbing bacteria and various toxins, it has been suggested kaolin may act to increase the resistance to flow by solidifying the colonic contents (Ref. 3), but this has not been demonstrated, as discussed in the proposal to establish monographs for OTC Laxative, Antidiarrheal, Emetic, and Antiemetic products published in the **Federal Register** of March 21, 1975 (40 FR 12928).

As a protectant in combination with aluminum hydroxide, it has been successfully used in such highly irritated wounds as dermatitis, where there is an associated seepage of moist material (Refs. 5 and 6). These studies also indicate the need for specific labeling identified below. Kaolin may also be used as a pharmaceutical necessity to modify the consistency of anorectal preparations (Refs. 2, 3, and 11).

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the following specific labeling:

(i) *Indications.* (a) "For the temporary relief of itching associated with moist anorectal conditions."

(b) "Temporarily protects irritated areas from irritating materials."

(ii) *Warning.* (a) "Remove petrolatum or greasy ointment before using this product because they interfere with the ability of this product to adhere properly to the skin area."

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g. *Lanolin (external and intrarectal use).* The Panel concludes that lanolin is safe and effective as a protectant (emollient) in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Lanolin is a mixture of components from sheep sebum (Ref. 1) which include wool fat, waxes, and alcohols, as well as constituent esters, fatty acids, and aliphatic alcohols (Ref. 2). The relative amounts of these constituents vary with species of sheep and environment (Ref. 1) as well as with methods of processing. Concentrated lanolin is customarily mixed with 25 to 30 percent water to produce hydrous wool fat (Ref. 3). This material is widely used in medicine and cosmetics as an emollient base or emulsifier for topically applied products (Ref. 4).

(2) *Safety.* Although the toxicity of lanolin in anorectal products has not been determined, the major safety consideration relates to the allergenicity of this heterogeneous mixture when applied to any skin site (Refs. 5 through 13). Although the primary allergic manifestations to topical lanolin is localized dermatitis, systemic manifestation have also been reported (Ref. 9). The incidence of allergic manifestations to topical lanolin in dermatology clinics has been reported to be 1.04 to 1.7 percent (Refs. 5, 7, 8, and 10), but the incidence in the general population is thought to be lower (Ref. 10). Studies have shown that the wool alcohol fraction is the most allergenic (Refs. 1, 2, and 7) and that acetylation or alkylation of the alcohol fraction eliminates this property (Refs. 2 and 8). While there is at least 1 report of allergy to hydrogenated lanolin, more recent data indicate that allergenicity is not a significant problem (Refs. 14 and 15).

In data presented to the Panel citing studies of the International Contact Dermatitis Research Group, the incidence of lanolin allergy was reported to be extremely low (Ref. 15). Further, the patients who were sensitized to lanolin usually had chronic eczema or leg ulcers. Females were found to be more sensitive to lanolin than males. Six physicians reported no allergic reactions to lanolin when it was applied to the anorectal area. The allergenicity of lanolin appeared to be dose related.

The Panel, therefore, concludes that although lanolin will cause allergic reactions or sensitize same patients, it can be used safely by the major portion of the OTC target population and that a warning for safe use is not necessary.

Systemic toxicity due to absorption of lanolin at the anorectal site has not been determined. When applied topically to rat skin, only a small amount of lanolin is absorbed (Ref. 13); the Panel therefore concludes that there is probably no significant systemic toxicity from lanolin use in anorectal products. With regard to direct skin safety, one report of the absence of histological changes after repeated lanolin applications has been made (Ref. 16). However, because there is a tendency for emollients to cause folliculitis in hairy skin areas or in areas subject to friction or sweating (as in the anorectal area), there is a possibility that lanolin could also produce this effect in some persons. Lanolin has been shown to alter the percutaneous (unbroken skin) absorption of certain compounds (Refs. 17 and 18) so that it can potentially increase or decrease the absorption of active ingredients in anorectal products. The Panel does not deem this effect to diminish the safety of anorectal products with lanolin.

(3) *Effectiveness.* No studies can be found substantiating the use of lanolin in the treatment of anorectal lesions. One study, involving the surface of the forearm, demonstrated the ability of petrolatum to reduce moisture loss (Ref. 19). The Panel concludes that lanolin exhibits much the same properties as petrolatum and, therefore, would have the same type of reduction in moisture loss. However, the Panel concludes that, based on the multitude of dermatologic preparations containing lanolin and the widespread use of lanolin over the centuries, lanolin is effective as a protectant (emollient) (Ref. 20).

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

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h. *Mineral oil (external and intrarectal use).* The Panel concludes that mineral oil is safe and effective as a protectant in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Mineral oil is a nonvolatile mixture of hydrocarbons (Ref. 1) which is derived from crude petroleum and contains a suitable stabilizer. It is an odorless, colorless, transparent, oily liquid, insoluble in water and alcohol, but soluble in most volatile oils (Ref. 2). Chemically, it is relatively inert. It does not undergo deterioration and cannot become rancid or irritating (Ref. 3). It is widely used externally as an emollient or vehicular aid in creams and suppositories (Ref. 4).

(2) *Safety.* No reports relating to the toxicity or safety of mineral oil in anorectal preparations were found.

In the crude state the precursors of mineral oil and related petroleum derivative medicinals potentially contain a number of polycyclic aromatic hydrocarbons, some of which are carcinogenic. Any statement as to safety is predicated on the assumption that all manufacturers use adequately refined and tested petroleum derivatives that meet established standards of identity and purity (Refs. 5 and 6).

Mineral hydrocarbons, although physically resembling other organic liquids, are not subject to metabolism and can thus remain on the skin indefinitely unless physically removed. They are not absorbed through the skin but may penetrate into hair follicles and glands (Ref. 3); more specifically, liquids, more rapidly than solid fat, can be demonstrated microscpically in lymph channels (Ref. 3). True fats are oxidized, but mineral fats remain and can produce chronic irritation fibrosis and foliculitis. This phenomenon has been amply demonstrated in the many reports of paraffinomas after injection or installation of mineral oil or paraffin into tissues (Refs. 7, 8, and 9). A more relevant report of this occurrence after use of mineral oil as a lubricant for dilation and curettage is available (Ref. 9), which suggests that repeated application of mineral oil hydrocarbons to fissured anal areas or to raw mucosa could result in a similar problem. However, the Panel concludes that, when used as recommended, mineral oil is safe for use in anorectal products.

(3) *Effectiveness.* No studies were found relative to the topical effectiveness of this agent in anorectal disease. However, by extrapolation from use on other parts of the body and by virtue of its physical properties, the Panel concludes that mineral oil is effective as a protectant. A layer of mineral oil is less effective than petrolatum in reducing moisture loss from the outer layer of the skin of the forearm, but it is significantly greater than other materials tested (Ref. 10). This property is also interpreted by the Panel to provide occlusion of the area from external exposure to air, liquids, or other substances within reasonable limits.

Because it is not absorbed, its effect may be prolonged for hours until it is physically removed. The effectiveness of mineral oil and analogous petroleum-derived agents such as lubricants, protective agents, and stable vehicles must be weighed against potential accumulation and persistence until physically removed.

Experimental evidence exists that suggests that mineral oil and related hydrocarbons may definitely influence the absorption of agents with which they are mixed, usually by preventing absorption, but in some cases promoting it (Refs. 11, 12, and 13). Mineral oil is thus capable of rendering an effective combination of agents relatively ineffective.

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

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i. *Shark liver oil (external and intrarectal use).* The Panel concludes that shark liver oil is safe and effective as a protectant (emollient) in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement and not to exceed a maximum daily dose of 10,000 IU vitamin A and 400 IU vitamin D.

(1) *Description.* Shark liver oil is an amber to brown oily liquid that contains a mixture of glyceryl esters of fatty acids and other substances, including vitamins A and D. Its content of vitamin A and D may vary but is usually measured in terms of International Units (IU). In the past the oil was assayed biologically and required to have potency of not less than 16,500 IU/g of vitamin A and not less than 40 IU/g of vitamin D (Refs. 1, 2, and 3). Currently, there is no official standard for shark liver oil.

(2) *Safety.* A search of the literature reveals no reports of adverse or toxic reactions to shark liver oil or any controlled clinical studies regarding its safety, but there is ample literature in regard to vitamins A and D. There are no data to confirm that vitamins A and D in shark liver oil are not absorbed. Until such data are available, the Panel concludes that a reasonable maximum allowable concentration for safe OTC topical use is 10,000 IU of vitamin A and 400 IU of vitamin D. Because shark liver oil has been used externally without any known reported local or systemic adverse reaction, the Panel concludes that it is safe, when used as directed, as a protectant for anorectal use.

(3) *Effectiveness.* While no studies relative to the effectiveness of shark liver oil as an individaul ingredient in the treatment of anorectal disease were found, fish liver oils can be considered as having generally similar properties (Ref. 4). Therefore, studies and reports on cod liver oil (Ref. 5) provide a basis and support for extrapolation to the effectiveness of shark liver oil. The Panel concludes that shark liver oil is effective as protectant by coating the area to which it is applied. When used as recommended, it relieves mild irritation of the anorectal area due to its soothing and protective effect associated with its oily nature.

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement and not to exceed 10,000 IU vitamin A and 400 IU vitamin D per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

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j. *Starch (external and intrarectal use).* The Panel concludes that starch is safe and effective as a protectant (absorbent) in OTC anorectal products in concentrations of at least 50 percent per dosage unit and not be exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Starch is a crystalline polymeric compound involving linear and branch chain structures of amylose and amylopectin which may be derived from corn or rice (Refs. 1 and 2).

(2) *Safety.* Starch is an insoluble substance and chemically inert. In one study the toxic effects of starch following oral intake have been described. Of the various foodstuffs investigated, starch is by far the least toxic (Ref. 3). Starch in the peritoneal cavity following surgery has produced granulomas, but no toxicity has been reported from topical use on the skin or in the anorectal area. Considering the wide-spread use of starch as a food, the Panel considers these adverse reports as not applicable to OTC anorectal products.

(3) *Effectiveness.* Starch acts by preventing friction and/or by absorbing moisture (Refs. 4 and 5). Talcum is often used in baby formulations (Ref. 5). The Panel concludes that the physical properties of starch are sufficiently similar to talcum so that starch could replace talcum in some baby formulations. The Panel concludes that starch is effective as a protectant to cover the anorectal area and may relieve symptoms of burning, pain, or itch associated with mild irritation (Ref. 6). Because moistened starch can support bacterial growth, it should be washed off before reapplication.

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

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k. *White petrolatum (external and intrarectal use).* The Panel concludes that white petrolatum is safe and effective as a protectant (emollient) in OTC anorectal preparations in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Petrolatum (white petrolatum) is a purified mixture of semisolid hydrocarbons obtained from petroleum. A suitable stabilizer may be present. It is a yellowish to light amber unctuous mass. When petrolatum is

treated to remove color, the product is white or faintly yellowish and is officially recognized as white petrolatum (Ref. 1). The uses of white petrolatum are similar to those of petrolatum, but the former is usually preferred over the latter when an ointment of light color is desired.

(2) *Safety.* The safety of petrolatum has been established by its continuous use for almost a century in pharmacy and cosmetics. Also, petrolatum has been prescribed for many decades as a base for anorectal medications.

Some questions have been raised regarding the safety of prolonged and repeated contact of petrolatum with the skin. These questions involve allergenic and carcinogenic potential. The Panel has reviewed the data and concludes that, when petrolatum did not meet the standards as set forth in the official compendia, impurities were the cause of these safety problems (Refs. 2, 3, and 4). When purified grades were investigated by feeding studies on rats and implantation studies on mice, petrolatum was found to be nontoxic, noncarcinogenic, and innocuous in character (Refs. 2, 3, and 4). An unpublished study involving a total of 54 human subjects utilizing a repeated insult patch test procedure indicated that there was essentially no irritation or reaction (Ref. 5). On the basis of the evidence available, the Panel concludes that petrolatum of the purity and quality as set forth in the official compendia (Ref. 1) is safe for application to the anorectal region when used in the recommended dosage. The ability of petrolatum to provide an optimal occlusive surface serves as a model against which other ingredients can be measured as shown by Berube, Messinger, and Berdick (Ref. 6).

(3) *Effectiveness.* Petrolatum applied topically is widely recognized and accepted as a protectant (emollient). Its desirable physical properties and innocuous nature are factors promoting its use as a physical barrier. In the judgment of the Panel, petrolatum serves to reduce further effects of irritants on the affected anorectal area and may relieve burning, pain, or itch produced by these irritants.

The technique of evaluating protectants has been demonstrated utilizing the ability of specific dyes to penetrate a film of ointment which confirms that irritants can be prevented from reaching the epidermis (Ref. 7). Measurement of the actual protection of normal skin surface against contact with water by various ointments showed that white petrolatum was the most effective protectant in 25 of 32 tests (Ref. 8).

(4) *Dosage.* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below-Category I Labeling.

References

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(2) OTC Volume 120012 pp. 7–13.
(3) OTC Volume 120012 pp. 19–20.
(4) OTC Volume 120012 pp. 44–51.
(5) OTC Volume 120012 pp. 87–97.
(6) Berube, G. R., M. Messinger and M. Berdic, "Measurement In Vivo of Transepidermal Moisture Loss," *Journal of the Society of Cosmetic Chemists*, 22:361–368, 1971.
(7) OTC Volume 120063.
(8) Steigleder, G. K. and W. P. Raab, "Skin Protection Afforded by Ointments," *Journal of Investigative Dermatology*, 38:129–131, 1962.

1. *Wool alcohols (external and intrarectal use).* The Panel concludes that 4 to 7 percent wool alcohols per dosage unit not to exceed six applications per 24 hours or after each bowel movement effective as protectants (emollients) in OTC anorectal preparations are safe.

(1) *Description.* Wool alcohols are constituents of lanolin, which is obtained from sheep sebum (Refs. 1 and 2), and consist of a mixture of aliphatic alcohols (Ref. 2). Wool alcohols can be used as protectants (emollients) or as a pharmaceutical necessity for various pharmaceutical formulations.

(2) *Safety.* The systemic toxicity of wool alcohols administered by any route is not known but is presumed to be low. (See part V. paragraph B.1.g.(2) above—Safety.) Wool alcohols do cause allergic reactions and are believed to be the cause in most cases of lanolin allergy (Refs. 1 and 3). The percentages of wool alcohols that are safe and effective shall not exceed the 4 to 7 percent occurring naturally in lanolin (Res. 4, 5, and 6). The incidence of such allergy to lanolin is questionable (Refs. 3, 7, 8, and 9), but more recent data indicate that allergencity is not a problem among the general population (Ref. 10) using topical preparations according to the recommended dosage. Reportedly, acetylation of wool alcohols decreases allergencity (Refs. 3 and 9), and such treatment should be considered if wool alcohols are separated from lanolin before they are incorporated into OTC drug products.

(3) *Effectiveness.* Wool alcohols are similar in pharmacologic effect to lanolin. The Panel concludes that wool alcohols are effective as protectants (emollients) (Ref. 11) at the 4 to 7 percent concentration naturally occurring in lanolin. (See part V. paragraph B.1.g.(3) above—Effectiveness.) No studies of effectiveness with regard to anorectal use have been found.

(4) *Dosage.* Adult external and intrarectal dosage is 4 to 7 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I labeling.) In addition, the Panel recommends the following specific warning when the wool alcohols have been added to the final formulation as separate ingredients: "*Caution:* Certain persons can develop allegic reactions to ingredients in this product. If redness, irritation, swelling, pain or other symptoms develop or increase, discontinue use and consult a physician."

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(4) Warth, A. H., "The Chemistry and Technology of Waxes," Reinhold Publishing Inc., New York, 1956.
(5) Truter, E. V., "Wool Wax, Chemistry and Technology," Interscience Publishers, Inc., New York, 1956.
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(8) Sulzberger, M. B., T. Warshaw and F. Herrmann, "Studies of Skin—Hypersensitivity to Lanolin," *Journal of Investigative Dermatology*, 20:33–43, 1953.
(9) Warshaw, T. G., "On the Incidence of Allergic Skin Reaction to Lanolin to Its Components, and Certain Lanolin Modifications," *Journal of the Society of Cosmetic Chemists, 4:290–296, 1953.*
(10) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 23d meeting, November 21, 22, and 23, 1976.
(11) Butcher, E. O., "The Penetration of Fat and Fatty Acid into the Skin of the Rat," *Journal of Investigative Dermatology*, 21:43–48, 1953.

m. *Zinc oxide (external and intrarectal use).* The Panel concludes that 5 to 25 percent zinc oxide per

dosage unit is safe and effective as a protectant for use in OTC anorectal preparations and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Zinc oxide is one of a class of bertholide compounds in which the ratio of zinc to oxygen is not exactly 1:1; a property which results in some chemical instabilities (Ref. 1). It is water insoluble, but it is soluble in weak acids and in the presence of fats and tends to form other zinc compounds (Refs. 1, 2, and 3). It will absorb only very small amounts of water (Ref. 4). It is widely employed in a number of dermatologic conditions as an astringent and protective and is often employed as an ingredient of a basic ointment for incorporation of other drugs (Refs. 1 through 5).

(2) *Safety.* Zinc oxide has long been regarded as a relatively nontoxic substance when used both topically and orally (Refs. 5 and 6). Although the oxide is supposed to be inert and not absorbed, it is not completely chemically stable so that free zinc or zinc ions may be available (Ref. 1). However, no specific data are available. It is probable that even if moderate amounts are absorbed systemically they will not exert deleterious effects because zinc is an essential trace metal with 10 to 15 mg daily a part of a normal diet (Refs. 7, 8, and 9) and there are sufficient metabolic mechanisms to cope with increased zinc on at least a short term basis (Ref. 9).

Acute systemic zinc toxicity is manifested by nausea, vomiting, lethargy, and severe pain (Refs. 6 and 10). Chronic toxicity is manifested by anemia and porotic bone changes (Ref. 11). Zinc toxicity relates primarily to amounts greater than 1 g zinc sulfate (Ref. 12) and does not appear to relate to topical applications of zinc or zinc compounds except possibly, although unlikely, from very long-term use. Further, no reports of a direct irritant effect or allergenic effects of zinc oxide were found. Therefore, the Panel concludes it is safe for use in the anorectal area when used as recommended.

(3) *Effectiveness.* Zinc oxide is widely used by dermatologists as a paste to absorb excess moisture and secretions on acute lesions where there is a tendency for vesiculation, oozing, or crusting (Refs. 13 and 14). The Panel concludes that zinc oxide powder forms a protective coating on inflamed areas, and can be an effective protectant (absorbant) in anorectal therapeutics. A study by Steigleder and Raab (Ref. 15) substantiates a protective effect of skin surface against contact with water afforded by 20 percent zinc oxide in 13 of 20 tests. The Panel concludes that in combination a concentration of 5 to 25 percent zinc oxide per dosage unit is necessary to exert a protectant effect.

(4) *Dosage.* Adult external and intrarectal dosage is 5 to 25 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. below—Category I Labeling.)

References

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(4) Goodman, L. S. and A. Gilman, "Pharmacologic Basis of Therapeutics," 4th Ed., The Macmillan Co., New York, p. 989, 1970.

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(13) Swinyard, E. A. and S. C. Harvey, "Topical Drugs," *in* "Remington's Pharmaceutical Sciences", 13th Ed., Edited by Martin, E. W., Mack Publishing Co., Easton, PA, p. 851, 1965.

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(15) Steigleder, G. K. and W. P. Raab, "Skin Protection Afforded by Ointments," *Journal of Investigative Dermatology,* 38:129–131, 1962.

Category I Labeling

The Panel recommends the following Category I labeling for protectant active ingredients to be generally recognized as safe and effective and not misbranded.

a. *Indications.* (1) "Forms a protective coating over inflamed tissues which can relieve itching."

(2) "Aids in the relief of itching or anorectal discomfort."

(3) "Temporarily forms a protective coating over inflamed tissues which helps prevent drying of tissues."

(4) "Temporarily protects irritated areas from irritating materials."

(5) "Temporarily relieves anorectal itching."

(6) "temporarily relieves burning."

(7) "Provides temporary relief from skin irritations."

(8) "For the temporary relief of itching associated with hemorrhoids, inflamed hemorrhoidal tissue or other anorectal disorders."

(9) "For the temporary relief of local itching associated with hemorrhoids, inflamed hemorrhoidal tissues, or other anorectal disorders."

(10) "For the temporary relief from itching and discomfort due to hemorrhoids or other anorectal disorders."

(11) "Temporarily provides a bland, soothing coating for relief of anorectal discomforts."

(12) "Temporarily provides lubrication in the anorectal area."

(13) "Temporarily lubricates and protects the inflamed irritated anorectal surface to help make bowel movements less painful."

(14) "Temporarily protects from irritation and abrasion during bowel movement."

(15) "Temporarily helps soften and lubricate dry inflamed perianal skin."

(16) "Temporarily relieves the symptoms of perianal skin irritation, and itching."

(17) "Provides lubrication and may help make bowel movements more comfortable."

2. *Category II conditions under which protectant ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register**.

Category II Active Ingredient

The Panel has classified the following protectant active ingredient as not generally recognized as safe and effective or as misbranded:

Bismuth subnitrate (external and intrarectal use). The Panel concludes that bismuth subnitrate is not safe for

use in OTC anorectal products as a protectant.

(1) *Description.* Bismuth subnitrate, also called bismuth oxynitrate, Spanish white, and bismuth paint, is a white, odorless, slightly hygroscopic, almost tasteless powder (Refs. 1 and 2).

(2) *Safety.* There is little information regarding the safety of bismuth subnitrate in the treatment of anorectal disease but significant data regarding poisoning by its local application and/or ingestion. The absorption of bismuth salts through application to open surfaces has been shown in animal and human studies to cause severe ulceration of oral and pharyngeal mucous membranes as well as necrotic, purplish lesions throughout the intestinal tract (Ref. 3). Subcutaneous injections in dogs have produced the same results. Experiments with certain other salts of bismuth have produced the same changes. Thus the repeated symptoms and lesions found in humans and experimentally produced in animals show these toxic effects are due to metallic bismuth (Ref. 3). The signs and symptoms of bismuth intoxication are stomatitis, ulceration, gingival diphtheritic type lesions, dysphagia, nephritis, nausea, and diarrhea (Refs. 1 and 3).

Though most inorganic nitrates are poorly absorbed from the gastrointestinal tract, nitrites, are well-absorbed (Ref. 1). Bismuth subnitrate is converted to nitrite in the presence of bacteria normally found in the bowel such as *E. coli* (Refs. 1 and 4). Because of this change, the action of nitrates and nitrites, especially on smooth muscles, are frequently indistinguishable and the term "nitrite" historically refers to nitrites and nitrates (Ref. 1). The basic action and most common effect of nitrite is its ability to cause dilatation by relaxing smooth nfuscles, especially those in the arterioles and capillaries. Its ability to relax blood vessels and other organs is independent of nerve supply (Ref. 1). This results in increased rate of capillary blood flow being more effective in the postarterial lower vascular bed. There is a subsequent fall in blood pressure, and thus nitrites, in doses of 65 mg three times daily, were an early treatment for hypertension. The signs and symptoms of nitrite intoxication are vomiting, convulsions, dizziness, sleepiness, methemoglobinemia, and cardiovascular collapse (Refs. 1, 2, and 3). Methemoglobinemia is a condition in which the oxygen is fixed to the hemoglobin in the red blood cell by oxidizing substances such as nitrites, and therefore, cannot be released in the tissues. Unless treated, it can lead to death due to oxygen starvation of the body tissues.

The use of bismuth subnitrate in current times is rare. Due to its spasmolytic (relaxing) effect on blood vessels, bismuth subnitrate has been used for treatment of angina (chest pain due to decreased oxygen to heart) and for high blood pressure. It has also been used as a protectant (adsorbent) in the treatment of diarrheas, intestinal inflammation, and ulcerations (Ref. 1). Through the conversion of bismuth nitrate to nitrite by the presence of *E. coli* in the intestinal tract, the danger arises of absorption of excess amounts of nitrites leading to toxic effects. In children, this is even more dangerous because *E. coli* organisms are commonly found in the upper as well as the lower gastrointestinal tract. Bismuth subnitrate intoxication presents a classic case of methemoglobinemia (Ref. 3), and its frequency of occurrence in children has led physicians not to prescribe this compound for patients under the age of 15 (Ref. 5). This toxic reaction is less common in adults, but since 1935 at least six cases have been reported (Refs. 1 and 3). Three cases, reported out of emergency rooms, would suggest that this type of intoxication is more common than believed and that the less severe reactions probably go unreported by patients and physicians (Refs. 1 and 3). In these three cases, intoxication followed the use of bismuth subnitrate in the treatment of jejunitis, hypochlorhydric gastritis, and inflammation of the bowel, with a 20 g dose in one case administered over 24 hours (Ref. 5). By instillation of bismuth subnitrate directly into the colon, nitrite methemoglobin is produced quickly. A significant number of cases have been reported of methemoglobinemia, including death, in children following ingestion of drinking water (Ref. 6) and local application of dusting powders (Ref. 1). Methemoglobinemia, headaches, and cardiovascular collapse have been reported in adults. Therefore, this compound cannot be considered safe and its toxic effects should prohibit the use of this compound for OTC drug preparations.

(3) *Effectiveness.* Bismuth salts have been used as a protectant (Refs. 1 through 4). There is no evidence that bismuth subnitrate is more effective than other protectant ingredients which are not associated with a safety problem.

(4) *Evaluation.* The Panel concludes that bismuth toxicity can be caused by bismuth subnitrate. Of greater concern than bismuth toxicity is the possibility of nitrite toxicity due to the conversion of nitrate to nitrite in the presence of bacteria normally found in the colon and rectum. The Panel concludes, due to the rapid absorption of nitrites across mucous membranes, that bismuth subnitrate is not safe for use in OTC anorectal products.

References

(1) Goodman, L. S. and A. Gilman, "The Pharmacological Basis of Therapeutics," 2d Ed., The Macmillian Co., New York, pp. 730–743, 1955.

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Category II Labeling

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of protectant drug products are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel considers the following claims to be misleading and unsupported by scientific data:

a. "Promotes wound healing." There is no evidence that wound healing is promoted, i.e., proceeds at more than the normal rate.

b. "For temporary relief of inflammation." Inflammation can occur as a result of perirectal abscess, which would not be relieved by such products. This claim is too broad.

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredients

The Panel concludes that the available data are insufficient to permit final classification of the following protectant active ingredients listed below. The Panel believes it reasonable to provide 2 years for the development and review of such data. Marketing

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need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained within 2 years, however, the ingredients listed in this category should no longer be marketed in OTC products:

Bismuth oxide (external and intrarectal use)
Bismuth subcarbonate (external and intrarectal use)
Bismuth subgallate (external and intrarectal use)

a. *Bismuth oxide (external and intrarectal use).* The Panel concludes that bismuth oxide is safe for use as a protectant in OTC anorectal preparations, but there is insufficient evidence to prove effectiveness.

(1) *Description.* Bismuth oxide occurs in nature as the mineral bismite. It is a yellow, ordorless powder that is insoluble in water (Ref. 1).

(2) *Safety.* No untoward effects of bismuth oxide have been reported in the available literature. However, the effects are theoretically similar to those of bismuth subcarbonate because they are nearly equally insoluble in water (Ref. 2). Bismuth subcarbonate is used orally in humans to coat the intestinal mucosa at a minimum dosage of 1 g four times daily. (See part V. paragraph B.3.b.(2) below—Safety.) This dosage is used to establish the upper limit of bismuth permitted anorectal preparations. Though absorption of bismuth subcarbonate has been proven in rabbits, the Panel has concluded that it is safe for short term use in human anorectal products at doses of bismuth salts equivalent to 1 g or less bismuth oxide daily. This upper limit may prevent any bismuth salt from meeting the requirement for a protectant in an anorectal drug product (i.e., at least 50 percent per dosage unit) but the Panel permits as many as three additional protectants to be combined so that any final formulation could easily meet the requirement for protectant if such a claim is made.

The lower limit, 17.5 mg bismuth oxide per dosage unit, is based on the lowest quantity present in any of the data submitted for review and does not, in the opinion of the Panel, present a hazard when used according to recommended dosage.

(3) *Effectiveness.* The local action of bismuth oxide probably is due to a mechanical effect of fine insoluble powder (Ref. 3). The properties theoretically are similar to those of bismuth subcarbonate for which the Panel has not found adequate data to support therapeutic claims (See part V. paragraph B.3.b.(3) below—Effectiveness.)

(4) *Proposed dosage.* Adult external and intrarectal dosage is 17.5 to 166 mg per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* Data to demonstrate effectiveness as a protectant will be required in accordance with the guidelines set forth below for testing protectant ingredients. (See part V. paragraph C. below—Data Required for Evaluation.)

References

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b. *Bismuth subcarbonate (external and intrarectal use).* The Panel concludes that there is insufficient evidence to prove effectiveness of bismuth subcarbonate for use as a protectant in OTC anorectal preparations, but it is safe for use at the recommended dosage.

(1) *Description.* Bismuth subcarbonate is a white to yellow, odorless, tasteless powder which is stable in air but is slowly affected by light with the production of carbon dioxide and bismuth oxide. It is relatively insoluble in water and alcohol (Ref. 1).

(2) *Safety.* When absorbed in various amounts, bismuth can produce lesions of the kidney, liver, gastrointestinal tract and gums, and clinically can result in renal failure and death (Refs. 2, 3, and 4). Most reported cases of bismuth toxicity have been due to the water soluble bismuth salts such as bismuth ammonium citrate, bismuth tartrate, or bismuth subnitrate, administered either parenterally, orally, or topically (Refs. 4 through 9). However, leasions of the kidney have been noted in many patients who received the less soluble bismuth salts for antisyphilitic therapy (Refs. 10 and 11). Oral daily administration of 107 mg/kg of body weight bismuth subcarbonate in beagle dogs for 2 weeks resulted in bismuth deposits of 6 to 14 parts per million (ppm) in the kidneys, as compared to 35 to 115 ppm after the same dose of bismuth as a soluble salt, although no physiological abnormalities were noted. Therefore, it is probable that some bismuth may be absorbed from this relatively insoluble salt. The LD_{50} of bismuth for rabbits is approximately 200 to 400 mg/kg, although the nephrotoxic dose is 85 mg/kg or less (Ref. 12). Because bismuth tends to accumulate in certain tissues, especially kidney, and is only slowly eliminated (Refs. 11 and 13), exposure should be limited. The Panel concludes that bismuth subcarbonate is safe for short term use in OTC anorectal products at doses equal to bismuth oxide. (See part V. paragraph B.3.a.(2) above—Safety.)

(3) *Effectiveness.* The bismuth salts have been promoted as protectants, but no specific reports support this claim. Bismuth subcarbonate is stated to have protective, absorbent, and antacid properties, but experience suggests that none of these is of any great therapeutic importance (Ref. 14). Similar doubts are expressed elsewhere (Ref. 15). Further, one source suggests the therapeutic effectiveness of bismuth salts is dependent upon its solubility (Ref. 16). If this is true, then effectiveness may be correlated with increased toxicity. The purported healing effect of bismuth subcarbonate on inflamed mucous surfaces and wounds by drying the secretion and forming a protective covering or scab has not been clinically established. The local effect is probably due to the physical properties of a fine insoluble powder (Refs. 17 through 20). Bismuth subcarbonate is listed as a topical protectant in an official compendium (Ref. 1). The basis for claims as a protectant can only be reached by bismuth salts when combined with other protectants. (See part V. paragraph B.3.a.(3) above—Effectiveness.) The Panel concludes that there are insufficient data to support the suggestion that bismuth subcarbonate has any effectiveness as a protectant (absorbent) in anorectal products.

(4) *Proposed dosage.* Adult external and intrarectal dosage is 17.5 to 166 mg per dosage unit and not to exceed the equivalent of 1 g bismuth oxide in 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* Data to demonstrate effectiveness as a protectant will be required in accordance with the guidelines set forth below for testing protectant ingredients. (See part V. paragraph C. below—Data Required for Evaluation.)

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c. *Bismuth subgallate (external and intrarectal use).* The Panel concludes that there is insufficient evidence to prove effectiveness of bismuth subgallate as an ingredient for use in OTC anorectal preparations, but it is safe for use at the recommended dosage.

(1) *Description.* Bismuth subgallate is an alkaline salt composed of 46 to 52 percent elemental bismuth. It is practically insoluble in water, alcohol, and ether, and is stable in air, but slightly affected by light (Ref. 1). It has been promoted as an astringent, protectant, and absorbent, as well as an antibacterial agent, although proof of these properties is not found in the literature. It is also used as a bulk and stiffening agent in many suppository preparations.

(2) *Safety.* There are no known studies of the toxicity in animals or humans of bismuth subgallate as a single ingredient. Although the insoluble bismuth salts are reported to be relatively nontoxic (Ref. 2), the degree of toxicity of bismuth compounds varies with the salt used (Refs. 3 and 4), and no studies of this compound have been reported. Intramuscular injections of 200 mg of the moderately insoluble bismuth subsalicylate has produced proteinuria (Refs. 3 and 5), renal tubular damage, hepatic damage, stomatitis, and even death has been reported with high doses of various bismuth salts (Ref. 6). The LD_{50} for various bismuth compounds and metallic bismuth injected intramuscularly in rabbits is 200 to 400 mg/kg (Ref. 3), and a nephrotoxic dose in rabbits is 85 mg/kg. The maximum concentration at which no renal damage is seen has not been established for any of the bismuth salts. Although the topical application to granulating surfaces of the more soluble bismuth compounds has resulted in a number of cases of bismuth intoxication with some deaths (Ref. 7), the specific tolerance limits for mucous membrane and percutaneous absorption of bismuth subgallate has not been studied. Bismuth, reportedly, can be absorbed from topical sites by phagocytosis (Ref. 7) and may be absorbed as a more soluble salt formed either from reaction at the application site or with other constituents in the preparation (Ref. 8). Because bismuth is retained in the body for extended periods of time (Refs. 4 and 9), in a manner similar to lead, repeated use with any degree of absorption of any solubilized salt may result in accumulation. Therefore, the possibility, that chronic use of topical bismuth subgallate in the anorectal area may result in toxicity, forms the basis for dosage restrictions based on its safety. The Panel sets the upper limit at 166 mg per dosage unit, not to exceed 1 g per 24 hours.

(3) *Effectiveness.* Bismuth subgallate has not been shown to be effective as a therapeutic agent. Although numerous reports attest to the clinical effectiveness of suppositories containing bismuth subgallate (Refs. 10 through 14), these reports are primarily anecdotal and no controlled studies have been reported. Therefore, there is no evidence to confirm that this agent alone is responsible for alleviation of anorectal symptoms or that it has protectant (absorbent) effects. Bismuth subgallate is no longer listed in the standard compendia, and several sources share doubt as to its purported effectiveness (Refs. 11, 15, and 16). However, studies were not found to support either positive or negative proof of its effectiveness, although these studies could be carried out quite easily. The basis for claims as a protectant can only be reached by bismuth salts when combined with other protectants. (See part V. paragraph B.3.a. (3) above—Effectiveness.)

(4) *Proposed dosage.* Adult external and intrarectal dosage is 17.5 to 166 mg per dosage unit and not to exceed 1 g per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for protectant active ingredients. (See part V. paragraph B.1. above—Category I Labeling.)

(6) *Evaluation.* Data to demonstrate effectiveness as a protectant will be required in accordance with the guidelines set forth below for testing protectant ingredients. (See part V. paragraph C. below—Data Required for Evaluation.)

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Category III Labeling

The Panel concludes that the available data are insufficient to permit final classification of the following claims. Additional data are required to support the following protectant claims:

a. "Forms a protective coating which may allow healing to occur."

b. "May allow healing to occur by its protective action."

The evaluaiton of these claims must be aimed at "healing effects" if the ingredient for which the claim is made is a Category I protectant. "Healing" is not part of the evaluation of protectant ingredients. (See part VIII. paragraph C. below—Data Required for Evaluation.)

C. Data Required for Evaluation

The Panel has agreed that the protocols recommended in this document for the studies required to substantiate Category I are in keeping with the present state of the art and do not preclude the use of any advances or improved methodology in the future.

1. *Principles in the design of an experimental protocol for testing protectant drugs*—a. *General principles.* (1) Establish prevention of transepidermal water loss, or (2) establish ability of the product, through its application, to prevent substances (e.g. dyes and/or water) from contacting the anorectal tissues.

b. *Selection of patients.* (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

c. *Methods of study.* The details of the methods of study would be in accordance with those used in studies establishing the principles stated above, i.e.:

(1) Transepidermal water loss as studied by Berube, Messinger, and Berdick (Ref. 1). (See part V. paragraph B.1.k. above—White petrolatum (external and intrarectal use.)

(2) Prevention of penetration of dyes (Ref. 2).

(3) Prevention of penetration of water (Ref. 2).

(4) (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

d. *Interpretation of data.* A sufficient number of trials must be performed to provide statistically significant results within 7 days.

e. *Evaluation of study.* The testing described above is intended to establish effectiveness. The safety of protectants at dosage limits specified within this document do not require further testing unless new data indicate the need for reevaluation.

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VI. Counterirritants

A. General Discussion

A counterirritant is an agent that produces a local sensation that distracts from the perception of pain, burning, or itching. The perception of these symptoms is distracted and commonly replaced by the perception of warmth, cooling, or tingling sensations. Counterirritants have been used empirically for many centuries (Ref. 1).

Counterirritants in low concentrations are therapeutic. Counterirritants in high concentrations can produce severe irritation and tissue damage. The Panel concludes that the concentrations of Category I counterirritants used in external OTC anorectal preparations are safe and effective and will be discussed in greater detail in the individual ingredient statements.

The Panel concludes that there is no therapeutic rationale for using counterirritants intrarectally because there are no identifiable nerve fibers carrying the sensation of pain in rectal mucosa.

The primary mechanism of counterirritation is due to stimulation of nerve impulses. The skin response may be associated with a feeling of comfort, warmth, cooling, or tingling sensations (Refs. 1, 2, and 3). The afferent nerve impulses from the skin are relayed in the cerebrospinal axis to efferent vasomotor fibers supplying internal organs. Thus, the increased circulation to the skin has its counterpart in deeper integumental structures and in viscera innervated from the same segmental level of the central nervous system. Furthermore, when pain arises from an internal organ, sensory impulses simultaneously coming from the skin as a result of the action of an irritant either alter the character of the visceral sensations or, more probably, occupy the final common pathway to the partial or complete exclusion of the impulses arising from the viscera (Refs. 2 and 3). For example, a sore tooth may cause pain and swelling in the cheek by stimulation of the fifth cranial nerve (Ref. 2). The counterirritant is applied to the skin where pain is experienced, and this simple measure will often bring temporary relief (Ref. 2). The perception of other sensations from application of the counterirritant crowds out perception of the pain (Ref. 2).

It is the opinion of the Panel that the number and variety of subjective factors involving the perception of pain require the establishment of methodology for determining effectiveness of this group of drugs. This will require a subjective double-blinded method. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling, in Category I.)

Drugs are the least useful means available for producing counterirritation. Physical measures are employed much more frequently than are chemical agents. Heat is often an important measure, whether as a hot water bottle, heating pad, moist hot pack, or heat lamp (Ref. 3). The Panel concurs on the importance of heat in the relief of anorectal symptoms and recognizes the usefulness of sitz baths (soaking in warm water) as an ancillary measure.

Although no studies of this counterirritation phenomenon in the anorectal area were found, the Panel concludes that one ingredient, menthol in aqueous solution, used in anorectal drug products does have this property to a sufficient extent to be useful externally for the temporary relief of pain, burning, and itching when used at the recommended dosages. (See part VI. paragraph B.1. below—Menthol in aqueous solution (external use).)

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B. Categorization of Data

1. *Category I conditions under which counterirritant ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

Category I Active Ingredient

The Panel has classified the following counterirritant active ingredient as generally recognized as safe and effective and not misbranded:

Menthol in aqueous solution (external use). The Panel concludes that 0.25 to 1.0 percent menthol per dosage unit in aqueous solution is safe and effective for external use as a counterirritant in OTC anorectal preparations and not to exceed six applications per 24 hours.

(1) *Description.* Menthol is an alcohol obtained from members of the mint family, mainly *Mentha arvensis.* A synthetic form of menthol can be made from thymol and is composed of several stereoisomers varying in physical and toxicological properties. It is slightly soluble in water, very soluble in alcohol, chloroform, ether, glacial acetic acid, and mineral oil (Refs. 1 and 2).

(2) *Safety.* No studies relevant to safety of menthol for anorectal use were found, although absorption and toxicity after topical application of menthol have been reported. Radioactive menthol applied to dogs' chests did appear in the expired air in significant amounts (Ref. 3). Laryngospasm, dyspnea, and cyanosis resulted after fairly extensive topical application of 1 and 2.7 percent menthol ointments to the trunk and faces of two children (Ref. 4). Two deaths have also been reported from intranasal application of menthol ointments, although whether this represented inhalational toxicity or systemic absorption is not clear (Ref. 4).

Menthol is reportedly capable of irritating nasopharyngeal mucous membranes (Ref. 1), but concentrations and mechanisms for this effect are not clear. Menthol is frequently incorporated into cigarettes (1 to 2 mg/cigarette), suggesting a low toxicity. Menthol's ability to increase inflammation while giving symptomatic relief when used intranasally may be relevant to anorectal use (Ref. 1). Menthol is also capable of producing allergic manifestations, although only two reports have been found (Refs. 5 and 6). It is classified as a monocyclic terpene, and terpenes include many sensitizing agents occuring in plants and spices (Ref. 7). In view of the potential as a sensitizing agent and capacity to evoke allergic manifestation, the Panel recommends an appropriate warning. (See part VI. paragraph B.1. below—Category I Labeling.)

Although the relation between systemic absorption through skin or mucous membranes and absorption after oral ingestion is not known, toxicology for oral absorption will be used as a tentative guideline because toxicity by other routes is not quantified. A fatal oral dose of 2 g in human has been reported (Ref. 8). Ingestion of 50 to 500 mg/kg causes severe abdominal pain, nausea, vomiting, vertigo, ataxia, and coma (Ref. 9). Children are more sensitive to smaller doses (Ref. 1), but OTC anorectal ingredients are not recommended for children under 12 years of age. (See part II. paragraph O. above—Pediatric Dosage.)

The toxic level (2 g for adults) is far above the quantity of menthol used in marketed anorectal preparations. Consequently, the Panel concludes that menthol in aqueous solution is safe as a counterirritant for the temporary relief of pain or itching in concentrations of 0.25 percent to 2.0 percent, which is represented by 5 to 40 mg per dosage unit.

(3) *Effectiveness.* Menthol is absorbed through the skin and is widely used as a counterirritant by virtue of its ability to temporarily stimulate nerves for perception of coolness and depress those for pain (Refs. 1 and 10). It is effective locally in concentrations of 0.25 to 1 percent; although the literature reviewed use concentrations as little as 0.1 percent and as high as 3.5 percent, the data on safety and effectivenes support a more narrow range of 0.25 to 2 percent (Refs. 11 and 12). Because the same nerves carry the sensations of pain and itching, the relief of itching, noted in many clinical reports has been explained (Refs. 1, 10, 13, and 14). Pruritus due to histamine is not relieved either by menthol or any other commonly used antipruritic (Ref. 15). There is no proof, however, that histamine sensitivity is involved in the anorectal area; thus, it is reasonable that menthol is useful in the relief of itching.

The Panel has found no studies on menthol used alone in the anorectal area but concludes from effects and wide use on other areas of the body that menthol is effective externally as a counterirritant for the temporary relief of itching in the anorectal area.

(4) *Dosage.* Adult external dosage is 0.25 to 1.0 percent menthol per dosage unit in aqueous solution and not to exceed six applications per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for counterirritant active ingredients. (See part VI. paragraph B.1. below—Category I Labeling.) In addition, the Panel recommends the following specific labeling:

(i) "May provide a cooling sensation."

(ii) "Temporarily relieves itching and soothes burning."

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Category I Labeling

The Panel recommends the following Category I labeling for counterirritant active ingredients to be generally recognized as safe and effective and not misbranded.

a. *Indications.* (1) "For the temporary relief of itching or pain in the perianal area."

(2) "Can help distract from pain or itch."

(3) "Temporary relief of itch or pain in the perianal area."

b. *Warning: "Caution:* Certain persons can develop allergic reactions to ingredients in this product. If redness, irritation, swelling, pain or other symptoms develop or increase, discontinue use and consult a physician."

2. *Category II conditions under which counterirritant ingredients are not generally recognized as safe and and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register.**

Category II Active Ingredients

The Panel has classified the following counterirritant active ingredients as not generally recognized as safe and effective or as misbranded:

Camphor (external and intrarectal use)
Hydrastis (external and intrarectal use)
Methol (intrarectal use)
Turpentine oil, rectified (external and intrarectal use)

a. *Camphor (external and intrarectal use).* The Panel concludes that camphor is not safe and effective for external and intrarectal use as a counterirritant in OTC anorectal preparations.

(1) *Description.* Camphor is available as colorless crystals or crystalline mass obtained synthetically or naturally from *Cinnamonum camphora.* It volatilizes slowly, but has a pungent, aromatic taste and penetrating odor. Locally, it acts as a counterirritant producing a mild analgesic effect and a rubefacient effect. Systemically, it stimulates the central nervous system.

(2) *Safety.* Absorption of camphor through mucous membranes occurs rapidly and toxic levels may be reached in several minutes (Ref. 1). A major portion is quickly removed from the blood stream and conjugated by the liver into glucuronic acid after being oxidized to campherol or deposited in lipids where it is highly soluble (Ref. 2). Camphor poisoning, due to accidental ingestion, continues to cause morbidity and mortality, especially in children (Refs. 3, 4, and 5). Symptoms are caused by central nervous system stimulation, and death is due usually to subsequent respiratory failure. The probable lethal dose in humans is 50 to 500 mg/kg (Ref. 6).

Toxicity, when ingested, is well-supported by the literature (Refs. 1 through 11). Although there are no data to support toxicity associated with correct use, i.e., in concentrations of 1.6 to 7.0 percent in OTC preparations for anorectal disease, accidental ingestion continues to be a hazard. As noted recently by a physician, "One must ask whether products with tastes attractive to some children, used to soothe a baby's rash, decongest a nose, or treat a fever blister, should contain convulsive or a possibly fatal dose of a toxic compound in teaspoon quantities" (Refs. 5 and 8).

A recent report on two cases of camphor toxicity included a search of the literature in which 500 cases of camphor poisoning were reported in 1973 (Refs. 5 and 8). One submission to the Panel consisted of a letter that strongly recommended the elimination of camphor from the OTC market. This letter included reports of toxicity (Ref. 7).

Because camphor is absorbed so rapidly across mucous membranes, it is or can be highly toxic (Ref. 2); and, in view of its high lipid solubility and potential for storage in fatty tissues, the Panel concludes that it is not safe for use in OTC anorectal preparations.

(3) *Effectiveness.* Because camphor is effective as a counterirritant to relieve itch on other parts of the body, camphor has been used in medicine for centuries, first in China and subsequently in the western world (Refs. 2 and 3). The inclusion of camphor in OTC anorectal products is based on common usage over the centuries. Applied locally, camphor gives a sense of coolness when rubbed lightly and a sense of warmth with vigorous application. As a counterirritant, it relieves itch because of its effect on skin sensory nerves (Ref. 2). There are no controlled data available to support the effectiveness of camphor in anorectal disorders.

(4) *Evaluation.* When used correctly according to directions and in concentrations of 1.6 to 7.0 percent, there is no recorded evidence of significant morbidity and mortality. Yet the lethal dose is small; 50 to 500 (mg/kg) would probably cause death in a 150-pound man (Ref. 6). The effects of cumulative smaller quantities such as 7 percent of a 2-g dose applied six times daily would provide 840 mg of camphor daily. In view of the lipid solubility and consequent tendency to be deposited in adipose tissue, camphor presents an unacceptable hazard. There are not sufficient data to support the effectiveness of the use of camphor in anorectal disorders. Therefore, the Panel concludes that camphor can not be considered generally safe and effective for OTC anorectal products.

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b. *Hydrastis (external and intrarectal use).* The Panel concludes that hydrastis is not safe or effective for external or intrarectal use as a counterirritant in OTC anorectal preparations.

(1) *Description.* Hydrastis is also known as golden seal, yellow root, orange root, Indian Turmeric, eye root and eye balm (Refs. 1 and 2). It consists of the dried rhizome and root of *Hydrastis canadensis,* which contains varying amounts of hydrastine alkaloids, berberine, and smaller amounts of canadine (Refs. 1 through 4).

(2) *Safety.* The pharmacological action of hydrastis is mainly due to hydrstine and to a lesser extent from berberine. One mL of a 5 percent solution produces strychnine-like convulsions on the intact frog (Ref. 4). The fluidextract administered parenterally to animals produced little or no effect, unless it was given intravenously when hypotension resulted (Ref. 4). Some doubt remains regarding its uterine action, but all reported results indicate that it produces depression of intestinal smooth muscle (Refs. 3 and 4).

Like hydrastis, the alkaloid hydrastine produces stimulation of the central nervous system when given in toxic doses (Ref. 4). Toxic doses causes exaggerated reflexes and strychnine-like convulsions, followed by paralysis and death from respiratory failure (Refs. 4 and 5). Evidence, though somewhat contradictory, suggests that its predominant action on the heart is that of a depressant. Like hydrastine probably produces depression of intestineal smooth muscle (Refs. 3 and 4). The Panel concludes that a 2-g dose of ointment currently containing this ingredient (Ref. 6) provides an unidentified quantity of hydrastis which makes it unsafe for OTC use.

Berberine, unlike hydrastine, has a depressant action on the central nervoud system, as manifested by respiratory depression (Ref. 7). Toxic doses depress the heart, relax blood vessels, depress respiration, and stimulate smooth muscle in the intestine, bronchi, and possibly the uterus (Ref. 3). It is also capable of producting local anesthesia with untoward side reactions (Ref. 8). Gleason et al. (Ref. 3) reports that there is a difference in opinion as to the toxicity of berberine and gives it a toxicity rating ranging from 2 (5 to 15 g/kg) to 5 (5 to 50 mg/kg). The Panel concludes that a 2-g dose of ointment currently containing this ingredient (Ref. 6) provides an unidentified quantity of berberine which makes it unsafe for OTC use.

No data regarding the safety of hydrastis after application to the anorectal area is available. Due to the possibility of absorption of some of the active constituents of hydrastis when applied to the anorectal area, the Panel concludes that hydrastis is not safe for use in OTC anorectal preparations.

(3) *Effectiveness.* Hydrastis was used by the Cherokee Indians both as a pigment and a medicine (Ref. 5). In medicine, the clinical use of hydrastis is based largely on empirical observations. It has few, if any, rational indications for use. The drug has been used as a bitter and stomachic, to check internal hemorrhage, and locally in catarrhal conditions, especially of the genitourinary tract. A survey of the early clinical literature reveals about 50 clinical conditions that were purportedly cured or benefited by hydrastis, hydrastine, or berberine (Ref. 4). Unfortunately, none of these are supported by definitive clinical data.

In his review of the literature published in 1950 pertaining to the pharmacology and therapeutics of hydrastis, Shideman (Ref. 4) noted:

(a) Hydrastis appears to have little effect on the central nervous system except in toxic doses, when it produces convulsive effects analogous to those of strychnine. (b) Parenteral administration of the fluidextract has little or no effect unless given intravenously, when hypotension results, probably because of a direct myocardial depressant effect of the drug. (c) Based on the data available, no conclusions may be drawn regarding its uterine activity, but all reports seem to indicate that it produces depression of intestinal smooth muscle.

A more recent review and a search of the current literature reveals no additional data or information supporting the clinical effectiveness of this drug in the treatment of anorectal disorders (Ref. 5).

The Panel concludes that hydrastis is not effective for use in OTC anorectal preparations because no clinical data supporting such use is available.

(4) *Evaluation.* On the basis of available evidence, the Panel concludes that hydrastis when used in anorectal preparations may be absorbed in sufficient amounts to produce toxicity. In medicine, the clinical use of hydrastis is based largely on empirical observations (Ref. 9). No clinical data supporting its use in anorectal preparations are available. The Panel regards claims as to its effectiveness as a counterirritant as irrational. Therefore, the Panel concludes that hydrastis is not safe or effective for OTC use in anorectal preparations as a counterirritant.

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c. *Menthol (intrarectal use).* The Panel concludes that menthol is safe but not effective for intrarectal use as a counterirritant in OTC anorectal preparations.

(1) *Description.* (See part VI. paragraph B.1. (1) above—Description.)

(2) *Safety.* If the intrarectal dose is considered to be equivalent to the oral dose, the fatal amount of natural menthol in man is approximately 1 g/kg (Ref. 1). This large amount greatly exceeds the amount delivered in preparations recommended for external use in which the Panel recommends a concentration of 0.25 to 1 percent menthol per dosage unit in aqueous solution. The Panel concludes that the concentration allowed for external use, therefore, would be safe for intrarectal use. (See part VI. paragraph B.1. (2) above—Safety.)

(3) *Effectiveness.* (See part VI. paragraph B.1. (3) above—Effectiveness.) There are no data to suggest effectiveness of menthol intrarectally. The action of counterirritants is dependent upon the presence of afferent nerves carrying pain sensations in the area to which the agent is applied. Because there are no such nerves in the rectum (rectal mucosa), counterirritants are ineffective in this area.

(4) *Evaluation.* The Panel concludes that menthol in concentrations of 0.25 to 1 percent per dosage unit in aqueous solution is safe but not effective for intrarectal use as a counterirritant because there are no pain sensory nerve fibers in rectal mucosa.

Reference

(1) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, pp. 697–698, 1973.

d. *Turpentine oil, rectified (external and intrarectal use).* The Panel concludes that turpentine oil, rectified, is not safe or effective as a

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counterirritant in OTC anorectal preparations for external or intrarectal use.

(1) *Description.* Oil of turpentine is a volatile oil and is distilled from gum turpentine from species of *Pinus.* It is a thin, colorless liquid having a characteristic odor and taste, both of which intensify and become unpleasant with aging or exposure to air (Ref. 1). Soluble in oils and alcohol, it is insoluble in water (Ref. 1). It has been used as an expectorant and a stimulant; topically, it has been used as a counterirritant.

(2) *Safety.* Inhaled, it causes headache, confusion, respiratory and gastrointestinal distress (Ref. 2). After subcutaneous injection sterile abscesses result (Refs. 1 and 2). Contact with skin in sensitive individuals will cause erythema and itching (Ref. 2). Aspiration will cause chemical pneumonitis (Refs. 1 and 2). Intoxication is associated with pain, colic, nausea, vomiting, diarrhea, delirium, ataxia, and coma (Ref. 1). Painful urination and the abnormal presence of albumin and red blood cells in the urine are found with absorption of toxic doses (Refs. 1 and 2). Injury to the kidneys and to the gastrointestinal tract result from accidential ingestion (Ref. 2). It is readily absorbed from skin, lungs, and the gastrointestinal tract (Ref. 1). Ingestion of 15 mL in children and 150 mL in adults has caused fatal poisoning (Refs. 1 and 2). From information gathered, toxicity is high in accidental ingestion, use of increased amounts or concentration, and in aspiration and inhalation of vapor (Refs. 1 and 2).

3. *Effectiveness.* Turpentine oil, rectified, is used on the skin as a counterirritant. Review of the literature on this compound failed to demonstrate any support for use of this ingredient in the treatment of anorectal disease.

(4) *Evaluation.* The use of turpentine oil, rectified, on inflamed anorectal skin would cause futher destruction of tissue and increased symptoms. Therefore, the Panel concludes that there is no therapeutic rationale for the use of this ingredient in OTC preparations for anorectal disease and that such preparations should be removed from the market.

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(1) Goodman, L. S. and A. Gilman, "The Pharmacological Basis of Therapeutics," 2d Ed., The Macmillian Co., New York, pp. 1071–1072, 1955.

(2) Deichmann, W. B. and H. W. Gerarde, "Toxicology of Drugs and Chemicals," Academic Press, New York, pp. 448 and 613–614, 1969.

Category II Labeling

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of the counterirritant drug products are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel considers the following claim to be misleading and unsupported by scientific data.

"Promotes healing." This claim has no basis in connection with counterirritants.

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredient

The Panel concludes that the available data are insufficient to permit final classification of the below named counterirritant active ingredient. The Panel believes it reasonable to provide 2 years for the development and review of such data. Marketing need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained within 2 years, however, the ingredient listed in this category should no longer be marketed in OTC products:

Juniper tar (external and intrarectal use). The Panel concludes that there is insufficient evidence to prove safety and effectiveness of juniper tar as a counterirritant for use in OTC anorectal preparations.

(1) *Description.* Juniper tar, also called oil of cade, is an oil obtained from the destructive distillation of the wood of *Juniperus oxycedrus.* The oil itself is a dark red, viscid, clear liquid with tar-like odor and warm bitter taste. It is composed of various quantities of the sesquiterpene cadinene, various hydrocarbons, phenol, acetic acid, cresol, and derivatives of pyrotechin, including guaiacol, although information on the relative quantities of these substances was not found. Juniper tar is slightly soluble in water and more soluble in ether (Refs. 1 through 5).

(2) *Safety.* No conclusion as to the actual safety of this heterogeneous mixture of materials could be made by the panel. The toxicity of phenol has been described elsewhere in this document and is pertinent because phenol is considered a representative ingredient of juniper tar. (See part IX. paragraph B.2.d. below—Phenol (external and intrarectal use).) Guaiacol (methylcatechol or methoxyphenol) has been given a toxicity rating of "very toxic" with a lethal does of 50 to 500 mg/kg by Gleason et al. (Ref. 5) and is described as slightly less corrosive and less toxic than phenol, but it is noted that percutaneous absorption is hazardous and skin irritation may result (Refs. 5, 6, and 7). Cresol, another constituent also related to phenol, has a spectrum and level of toxicity similar to phenol and guaiacol with the potential of producing local irritant and systemic effects if absorbed (Refs. 5, 6, and 7). The toxicity of other constituents is not known. Thus, the Panel was unable to judge the safety due to lack of information on the relative concentrations of these constituents as well as a lack of information on the safety of the clinical use of this substance.

(3) *Effectiveness.* The Panel concluded that, although by virtue of the presence of several constituents in juniper tar it could be effective as a counterirritant, lack of information as to the relative amounts of potentially useful constituents as well as any clinical information on effectiveness of the tar prevents any rational conclusion. Anecdotal reports and reviews suggest that it has been popular as an irritant for the treatment of various skin disorders, but no clinical data were found to support this (Refs. 1, 2, 5, and 8). Juniper tar has enjoyed long use as an irritant in the treatment of eczematous skin diseases and pruritus and concentrations from 1 to 5 percent (Ref. 2) and in higher concentrations for scalp treatment. It has also been used in the treatment of a variety of other ailments in ancient and present times in other countries (Ref. 8). Further, the decreasing demand for juniper tar may suggest its declining use. Because it is a mixture of substances, its effectiveness will vary with relative amounts of constituents. Therefore, further data on a standard mixture or isolation of the active components would be recommended for proof of effectiveness.

(4) *Proposed dosage.* Adult external and intrarectal dosage is 20 to 100 mg per dosage unit and not to exceed four applications per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for counterirritant active ingredients. (See part VI. paragraph B.1. above—Category I Labeling).

(6) *Evaluation.* Although widely used for centuries in the treatment of a variety of skin diseases, no reports of definitive clinical evaluation of juniper tar in anorectal diseases have been found.

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Category III Labeling

None.

C. Data Required for Evaluation

The Panel has agreed that the protocols recommended in this document for the studies required to bring a Category III drug into Category I are in keeping with the present state of the art and do not preclude the use of any advances or improved methodology in the future. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

VII. Astringents

A. General Discussion

Astringents are drugs that are applied to the skin or mucous membranes for a local and limited protein coagulant effect (Ref. 1). The word astringent is derived from the Latin "ad stringere" meaning "to draw firmly together."

When used in therapeutic doses or concentrations, astringents lessen mucus and other secretions and assist in the return to normal of local anorectal irritation and inflammation (Ref. 1). The limited coagulation (precipitation) of proteins protects the underlying tissue and produces a decrease in the volume of cells which is readily demonstrated by macroscopic or microscopic measurements (Ref. 1). A simple illustration of this effect is using an astringent as a mouthwash and noting the puckering effect upon the mucous membranes lining the cheeks (Ref. 1). However, the Panel concludes that the decrease in cell volume (implying a reduction in swelling) is not sufficient to warrant a labeling claim for reduction of swelling. (See part VII. paragraph B.2. below—Category II Labeling.)

Astringents are classified into two groups: (1) Mineral astringents, including heavy metals that combine with the albumin of the tissues and form insoluble precipitates, and (2) the vegetable astringents, such as tannic acid (Ref. 2).

Certain metallic ions, such as zinc, have the ability to precipitate protein and are primarily astringent; however, the astringent effects are considered in connection with its other pharmacological properties (Refs. 3 and 4). Metallic astringents are applied directly to inflammatory lesions of the skin or accessible mucous surfaces. The water insoluble substance, zinc oxide, has been used in a number of pastes and ointments or mixed with starch and kaolin and applied as a dusting powder or as calamine lotion (Ref. 1).

Astringents have a low cell penetrability; therefore, astringent action is essentially limited to the surface cells and interstitial spaces of skin and mucous membranes and is accompanied by contraction, wrinkling, and blanching of the tissue due to hardening of the capillary endothelium (Ref. 3). Mucus and/or other secretions may also be reduced, making the affected area drier (Ref. 5). These surface tissue changes, in the opinion of the Panel, can lead to a reduction of itching.

Although the relief of inflammation has been described, the Panel has found no convincing evidence that actual reduction of inflammation occurs following the application of astringents (Ref. 5). There is a theoretical possibility that the precipitation of surface proteins by astringents could increase inflammation. The mechanism of action of astringents cannot be accurately designated based on this concept, but the Panel recognizes the relief of the symptoms of burning, itching, discomfort, and irritation by astringents.

Some astringents have been used therapeutically to stop minor bleeding by precipitating proteins and by causing platelets to disintegrate and release thromboplastin, thus initiating the clotting mechanism (Ref. 6). The Panel concludes, however, that the potential seriousness of any type of anorectal bleeding does not warrant a labeling claim for control of bleeding. In fact, the Panel has recommended a warning on all anorectal products that anorectal bleeding be evaluated by a physician. (See part II. paragraph Q.5. above—Warnings.)

When astringents coagulate (precipitate) surface tissue protein, a thin layer is formed which can serve to protect underlying tissue. This precipitation can also aid in the removal of dead surface tissue from a wound area.

In summary, the Panel concludes that astringents used in the anorectal area provide an additional mechanism for the temporary relief of the symptoms of burning, itching, discomfort, and irritation.

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(5) Harvey, S. C., "Topical Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Edited by Osol, A. and J. E. Hoover, Mack Publishing Co., Easton, PA, pp. 716–717, 1975.

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B. Categorization of Data

1. *Category I conditions under which astringent ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

Category I Active Ingredients

The Panel has classified the following astringent active ingredients as generally recognized as safe and effective and not misbranded:

Calamine (external and intrarectal use)

Witch hazel water (external use)

Zinc oxide (external and intrarectal use)

a. *Calamine (external and intrarectal use).* The Panel concludes that 5 to 25 percent calamine per dosage unit (based on the zinc oxide content of calamine) is

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safe and effective as an astringent in OTC anorectal preparations and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Calamine is a mixture containing not less than 98 percent zinc oxide and 0.5 percent ferrous oxide. The ferrous oxide is a pigment that provides color but is not an active drug. It is a pink, odorless, fine powder that is insoluble in water and nearly completely soluble in mineral acids (Refs. 1 through 3).

(2) *Safety.* The safety of calamine is the same as that of zinc oxide. (See part V. paragraph B.1.m. (2) above—Safety.) Therefore, the Panel concludes that calamine is safe as an astringent in OTC anorectal preparations for external and intrarectal use.

(3) *Effectiveness.* The effectiveness of calamine is the same as that of zinc oxide. (See part VII. paragraph B.1.c. (3) below—Effectiveness.) Therefore, the Panel concludes that calamine is effective as an astringent in OTC anorectal preparations for external and intrarectal use for the temporary relief of burning and itching.

(4) *Dosage.* Adult external and intrarectal dosage is 5 to 25 percent calamine per dosage unit (based on the zinc oxide content of calamine) and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for astringent active ingredients. (See part VII. paragraph B.1. below—Category I Labeling.)

References

(1) "The Merck Index," 8th Ed., Merck and Co., Inc., Rahway, NJ. p. 189, 1968.

(2) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott, Co., Philadelphia, PA. pp. 208–209, 1973.

(3) "The Pharmacopeia of the United States of America," 18th Rev., The United States Pharmacopeial Convention, Inc., Rockville, MD. p. 87, 1970.

b. *Witch hazel water (external use).* The Panel concludes that 10 to 50 percent witch hazel water per dosage unit is safe and effective as an astringent for external application in OTC anorectal preparations and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Witch hazel water (hamamelis water) is prepared by macerating a weighed amount of recently cut and partially dried dormant twigs of *Hamamelis virginiana* for about 24 hours in about twice their weight of water; it is then distilled until no more than 850 mL of distillate is obtained from each 100 g. To each 850 mL distillate, 150 mL alcohol is added. Hamamelis water contains 14 to 15 percent alcohol. It is a clear, colorless liquid having a characteristic odor and taste and is neutral or acid to litmus paper (Ref. 1).

Hamamelis water has not been officially recognized in the standard pharmaceutical compendia since 1960 (Ref. 1). For example, hamamelis water may have alcohol added before or after the distillation process using different concentrations of alcohol (45 to 90 percent) (Ref. 2). It contains only a trace of oil (0.01 to 0.02 percent) (Ref. 3). the tannin of hamamelis bark on distillation remains in the residue and is absent from the distilled extract (Refs. 3 through 12).

(2) *Safety.* Aside from the slight stinging sensation, which has been attributed to the alcohol content (Refs. 9 and 13), no other reports of adverse effects to hamamelis water have been found in the available medical literature. However, because hamamelis water contains minute amounts of volatile oil, the possible occurrence of allergic contact dermatitis cannot be discounted (Refs. 3, 12, and 13).

The Panel concludes that hamamelis water can be used safely and that allergic reaction is rare, based on its long and extensive use.

(3) *Effectiveness.* Literature reports have attributed the astringent action of hamamelis water to its tannin content (Refs. 4, 8, 11, 14, and 15). However, it has been documented that no tannin comes over in the distillate (Refs. 10, 13, and 16). It is probable, but not documentd, that the astringent effect is due to the alcohol present in hamamelis water. Assumptions that its effectiveness is due to the small amount (0.01 to 0.02 percent) of volatile oil that has been found in hamamelis water have not been scientifically validated (Ref. 3). One study shows that hamamelis water shortens bleeding time and accelerates blood coagulation in rabbits (Ref. 3), which may be related to the astringency effects of hamamelis water.

The uses of hamamelis water reported in the literature have not been scientifically tested and are based on folklore (Refs. 13 and 17). Its popularity and use by consumers and the medical profession may be attributed to the trace amount of volatile oil which gives it a characteristically pleasant odor (Refs. 16 and 19). According to data submitted by a manufacturer (Ref. 20), hamamelis water is effective in the relief of itching, the discomfort of hemorrhoids, the relief of the symptoms of anorectal and perineal itch, and for postoperative care after hemorrhoidal surgery (Ref. 13). In one subjective study of 105 postpartum patients with episiotomy discomfort, 102 patients experienced a cooling sensation after the use of pads saturated with a solution containing 50 percent hamamelis water (Ref. 13). In the same study of 76 patients who reported itching, 70 of these patients obtained relief. Seventy-five of 81 patients who reporting burning obtained relief. In a similar study, 49 of 50 postpartum patients with episiotomies reported a cooling sensation; 35 of 38 patients reported relief of itching; and 39 of 43 patients reported relief of burning (Ref. 13). Therefore, the Panel concludes that hamamelis water provides temporary relief of itching and burning and is safe and effective for external application. No data have been presented to indicate that hamamelis water is of any value as an astringent for use in intrarectal application.

(4) *Dosage.* Adult external dosage is 10 to 50 percent witch hazel water per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for astringent active ingredients. (See part VII. paragraph B.1. below—Category I Labeling.)

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(16) OTC Volume 120034.

(17) OTC Volume 120033, p. 16.

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(20) OTC Volume 120017.

c. *Zinc oxide (external and intrarectal use).* The Panel concludes that 5 to 25 percent zinc oxide per dosage unit is safe and effective as an astringent in OTC anorectal preparations and not to exceed six applications per 24 hours or after each bowel movement.

(1) *Description.* Zinc oxide is one of a class of bertholide compounds where the ratio of zinc to oxygen is not exactly 1:1; a property that results in some chemical instabilities (Ref. 1). It is water insoluble, but it is soluble in weak acids, and in the presence of fats it tends to form other zinc compounds (Refs. 1, 2, and 3). It does no absorb water (Ref. 4). It is widely employed in a number of dermatologic conditions as an astringent and protectant and has been employed as a major ingredient of a basic ointment for incorporation of other drugs (Ref. 5).

(2) *Safety.* Zinc oxide has long been regarded as a relatively nontoxic substance when used either topically or orally (Refs. 5 and 6). Although the oxide is supposed to be inert and not absorbed (Ref. 4), it is not completely chemically stable so that free zinc or zinc ions may be available. However, no specific data are available.

Zinc is an essential trace metal and part of a normal diet in quantities of 10 to 15 mg daily (Refs. 7, 8, and 9). It is probable that even if moderate amounts are absorbed systemically zinc will not exert deleterious effects because there are suffficient metabolic mechanisms to cope with increased zinc on at least a short term basis (Ref. 9).

In amounts greater than 1 g, systemic zinc toxicity is manifested acutely by nausea, vomiting, lethargy, and severe pain (Ref. 6) and chronically by anemia and porotic bone changes (Ref. 10). Toxicity does not appear to relate to topical applications of zinc or zinc compounds except possibly, though unlikely, from very long-term use (Ref. 11). No reports of direct irritant or allergenic effects of zinc oxide were found.

(3) *Effectiveness.* Zinc oxide is widely used in an official preparation, zinc oxide paste, by dermatologists on acute lesions where there is a tendency to vesiculation, oozing, or crusting because the starch in this formulation absorbs excess moisture and secretions.

Zinc oxide is employed in many dermatologic conditions as an astringent. Its astringent properties are attributed to the ability of the salt to coagulate or precipitate proteins temporarily in the injured or inflamed area (Ref. 12). This provides a protective film, but also may promote healing by other mechanisms. This film cannot be formed on intact skin because free proteins are not present on the horny layer (Ref. 12), but the Panel recognizes that anorectal symptoms of burning and itch usually arise from injured or inflamed skin.

A study by Melton and Shelley (Ref. 13) compares the ability of 54 preparations to relieve itch produced on the forearm by the subcutaneous injection of histamine. The preparations containing zinc oxide did not relieve the itch nor did any of the other ingredients tested. However, the authors conclude that the data do not shed any light on the value of these agents in pruritus arising in skin showing abnormal permeability. Topical epinephrine by iontophroesis and in a penetrant ointment blocked the histamine-induced itching.

Zinc oxide is not generally used as a powder for direct application since it would not remain in contact with the affected area or skin. The usual concentration is 5 to 25 percent (Refs. 14 and 15) in some suitable vehicle to achieve adhesion to the site. The Panel concludes that based on the data reviewed, zinc oxide in a concentration of 5 to 25 percent is safe and effective as an astringent in anorectal preparations.

(4) *Dosage.* Adult external and intratectal dosage is 5 to 25 percent zinc oxide per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(5) *Labeling.* The Panel recommends the Category I labeling for astringent active ingredients. (See part VII. paragraph B.1. below—Category I Labeling.)

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Category I Labeling

The Panel recommends the following category I labeling for astringent active ingredients to be generally recognized as safe and effective and not misbranded.

a. *Indications.* (1) "Aids in protecting irritated anorectal areas."

(2) "Temporary relief of irritation."

(3) "Temporary relief of itching."

(4) "Temporary relief of burning."

(5) "Temporarily relieves itching and soothes burning."

(6) "Temporarilyy relieves discomfort."

b. *Warnings.* None.

2. *Category II eonditions under which astringent ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register.**

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Category II Active Ingredient

The Panel has classified the following astringent active ingredient as not generally recognized as safe and effective or as misbranded:

Tannic acid (external and intrarectal use). The Panel concludes that tannic acid is not safe or effective as an astringent in OTC anoretcal preparations.

(1) *Description.* Tannic acid is an amorphous powder with a glistening or spongy mass, soluble in water and alcohol, and almost insoluble in chloroform and ether. Natural tannic acid is usually obtained from nut galls that are formed by gall flies and that grow in oak trees.

(2) *Safety.* In 1942, Wells, Humphrey, and Coll (Ref. 1) were the first to report the relationship between absorption of tannic acid in appreciable amounts from large burned areas of the body and subsequent severe central lobular hepatic necrosis (destruction of central areas of liver segments). In 1963, McAlister et al. (Ref. 2) reported three fatalities in children from hepatic necrosis believed to be due to the use of tannic acid in barium enema examinations. In November of the same year five deaths were reported from acute liver failure following administration of barium enemas containing tannic acid (Ref. 3). The age range of these patients was 4 months to 79 years of age. The important pathologic findings were those manifesting severe parenchymal liver damage (Ref. 3).

Proponents for the use of tannic acid in the treatment of diarrhea and burns or continued use in barium enema examinations relied on the investigative studies that indicated insignificant levels of tannic acid in plasma after its use. It was only in the late 1960's that it was shown that the inability to detect significant levels of tannic acid in the plasma after its use was due to its rapid hydrolysis into gallic acid (Ref. 4).

Numerous animal studies have shown that tannic acid is toxic to liver (Refs. 5 through 8). Additional studies revealed injury to the kidney (Ref. 9). The route and duration of administration varied from subcutaneous to rectal, from 1 hour to 215 days (Refs. 5 and 6). A study by Korpassy and Kovacs (Ref. 6) confirmed cancer causing activity of tannic acid with subcutaneous administration but was unable to demonstrate liver changes with skin ulcers that were treated with tannic acid.

Several reports of allergic reaction in patients who became sensitized to tannic acid are found (Ref. 10), although this does not appear of as great a concern as the potential for liver and kidney damage.

therapeutically, tannic acid has been used from a 0.25 percent to 20 percent concentration. It is suggested that liver necrosis may be related to repeated topical applications of tannic acid by extrapolating from reports of liver necrosis in burn patients treated with tannic acid (Ref. 1). It is readily absorbed both through injured skin and mucous membranes and is not safe in the treatment of burns.

Unanimous agreement has not been reached concerning the use of tannic acid in barium enemas and in prebarium enema preparation (Refs. 2, 3, and 11 through 14). Tannic acid has been used as a precleansing enema and with barium sulfate as the ingredient of choice for diagnostic radiological study (Refs. 11 and 12). Tannic acid is believed to decrease mucous secretions by its astringent effect, to give greater mucosal detail by adhering to the bowel wall, to give better pre-X-ray cleansing and post-X-ray evacuation by its irritative effect on the bowel (Ref. 3). Equally effective ingredients for replacement of tannic acid have not been found (Refs. 3 and 15) but because of toxicity, most radiologists have stopped using tannic acid cleansing enemas and many have stopped using tannic acid with barium sulfate for diagnostic radiological study. Those who have continued to use it emphasize careful measurement and preparation to keep the concentration at 1.5 percent or less (Refs. 16 and 17).

(3) *Effectiveness.* Pharmacologically, tannic acid precipitates protein and forms insoluble complexes with many heavy metal ions, alkalies, and glycosides. It has little action on intact skin, but when applied to abraded tissue, it precipitates protein (tannate film) which serves as a mechanical protection (Ref. 18). On application to the mucosa of the gastrointestinal tract, it is said to exert the same protein precipitating effect, decreasing the transudate of fluids (Refs. 11, 12, 18, and 19) and secretions from the wall of the gastrointestinal tract (Ref. 18).

The astringent action of tannic acid on abraded or denuded skin and on mucous membranes has been well-documented (Refs. 11 and 12). Because of this characteristic, it has been used for the symptomatic treatment of diarrhea for years, especially in children (Refs. 18 and 20). Tannic acid was used extensively in the treatment of burns from 1925 to 1943 and was felt to be a protective mechanical barrier, preventing or decreasing the loss of fluids from the burned surface and protecting the burned area from infection (Ref. 18) until it became implicated in liver toxicity. Tannic acid in barium enemas is considered to be superior in dilineating early, significant mucosal changes (Ref. 11).

Tannic acid has been used in treating diarrhea and burns, and also in precleansing preparations; mixed with barium sulfate it is used in diagnostic X-ray studies (Ref. 9). It has been recommended for the treatment of acute anal and perianal inflammation, both as an irrigating fluid to clear out irritating substances and as an agent to slow down the continual drainage of the same irritated perianal skin. It has been used as a local application for protein precipitation to protect the irritated skin, providing a mechanical barrier (Refs. 18, 19, and 21).

This panel is concerned only with the review of the safety and effectiveness of tannic acid in OTC anorectal products. There are no data available to suggest or establish the value of tannic acid in the relief of anorectal symptoms. Therefore, the Panel finds that tannic acid is not effective.

(4) *Evaluation.* With the knowledge of its rapid absorption through inflamed skin and rectal mucosa as well as the knowledge of its hepatic and renal toxicity and its suspected carcinogenic properties, the Panel concludes that tannic acid is not safe or effective for use in OTC anorectal products.

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Category II Labeling

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of astringent drugs are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel considers the following claim to be misleading and unsupported by scientific data.

"Reduction of swelling."

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* None.

VIII. Wound-Healing Agents

A. General Discussion

Several ingredients contained in OTC anorectal preparations are purported to have as their only apparent mode of action the acceleration of tissue repair or wound healing. In the following discussion, wound healing is used synonymously with tissue repair.

The primary lesions occurring in the anorectal area which potentially would be affected include hemorrhoids, fissures, and disruption of the protective epithelial surface. These disruptions may involve the epithelium, dermis, and other subcutaneous tissues. In the following discussion, inflamed hemorrhoids and hemorrhoidal tissue are considered as wounds, although the epithelium usually remains intact. The swelling that characterizes hemorrhoids and hemorrhoidal tissue is, in some instances, the result of the same inflammatory response involved in the wound-healing process that takes place anywhere in the body. Various factors will affect the rate of healing (Refs. 1 through 8) such as circulation of blood to the affected area, body position (i.e., erect vs. prone), the presence of disease and drugs. Schilling (Ref. 8) observed that it is more important to avoid complications and retardation of wound healing than to accelerate the normal rate of repair.

A claim for healing is currently associated with some anorectal OTC drug products. The Panel has studied the data submitted that are intended to support the claim for relief of anorectal symptoms as a result of wound-healing mechanisms and has concluded that these may account for the claimed therapeutic activity of the ingredients. However, insufficient work has been done to allow the Panel to conclude that ingredients in anorectal products classified as wound-healing (i.e., tissue repair) agents are generally recognized as safe and effective.

Wound healing is the process of returning an injured area to the condition where it is structurally sound and the surface is intact.

The process of wound healing can be divided into three general stages: (1) Cellular infiltration and inflammation; (2) a fibroblastic stage characterized by proliferation of collagen fibers (collagen synthesis) to form a matrix support for the wounds; (3) a maturation phase in which the collagen matrix is mechanically strengthened by formation of collagen cross-linkages (Refs. 1 and 2). Agents affecting wound healing act at one or more of these stages. Most agents promoting experimental wound healing, such as oxygen, ascorbic acid, and vitamin A appear to act primarily to promote collagen synthesis (Ref. 1).

Corticosteroids are used as antiinflammatory agents in various prescription drug products for anorectal disorders such as ulcerative proctitis to promote healing. The mechanism of action of steroids in ulcerative proctitis is complex and not completely understood. But conversely, steroids are known to retard surgical wound healing by inhibition of collagen synthesis in the second stage (Refs. 1 and 4). This inhibition can, in some cases, be reversed by administration of oral doses of vitamin A, which promotes collagen synthesis (Refs. 1, 4, and 8).

However, the effectiveness of OTC anorectal ingredients in clinical symptomatic relief and/or wound healing in anorectal disease has not been proved. No studies have yet conclusively correlated the use of wound-healing agents with anorectal symptom relief, although the Panel concludes that there is theorectical basis for such a relationship.

The pharmacologic category of wound healers is not one which is generally recognized as effective in the OTC market. The Panel is aware that work is currently in progress to study the effectiveness of wound-healing agents. But these agents have not found an established niche in any OTC drug preparations, nor have any such agents even been specifically recognized as useful in OTC treatment of anorectal disorders. When tested in accordance with part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I, wound-healing agents may be found effective and properly labeled for relieving anorectal symptoms. It is theoretically possible that such agents may prove to be effective for wound-healing when tested in accordance with part VIII. paragraph C. below—Data Required for Evaluation.

A claim for promoting healing of anorectal disorders or hemorrhoids has not previously been associated with ingredients in anorectal products that have been studied as wound-healing agents, e.g., live yeast cell derivative, vitamin A, vitamin D, shark liver oil, cod liver oil, peruvian balsam. One submission to the Panel did contain the label claim "promotes healing," but none of the ingredients have ever been classified as wound-healing agents and there are inadequate data to substantiate this claim.

The Panel recognizes that these wound-healing agents have no primary effect on pain, itching, burning, or swelling, but that relief of these

symptoms may follow as a secondary result of wound-healing, although there are insufficient data to establish the claim for relief of pain, burning, itching, or swelling (e.g., hemorrhoids).

However, the Panel further recognizes that, whatever their mechanism, these ingredients may provide symptomatic relief of discomfort of hemorrhoids. If wound-healing agent ingredients can be shown to be effective, by the subjective testing procedure outlined in an earlier section of this document, then they could make the Category I claim that they do relieve symptons of pain, itching, burning, or swelling. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

The Panel has adopted this dual approach because it recognizes that symptomatic relief is the therapeutic goal in OTC treatment of anorectal disorders, and that products that can prove subjective relief of symptons should be generally recognized as effective, even when the mechanism of action has not yet been conclusively elaborated.

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B. Categorization of Data

1. *Category I conditions under which wound-healing agent ingredients are generally recognized as safe and effective and are not misbranded.* None.

2. *Category II conditions under which wound-healing agent ingredients are not generally recognized as safe and effective or are misbranded.* None.

Category II Labeling

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of wound-healing agent drug products are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel considers the following claims to be misleading and unsupported by scientific data.

a. "Helps shrink swelling of hemorrhoidal tissues caused by inflammation or infection."

b. "Starts right in to gently help reduce the swelling of hemorrhoidal tissues."

c. "Helps shrink swelling of hemorrhoidal tissues caused by inflammation and gives prompt temporary relief in many cases from pain and itching in tissues."

d. "Promptly relieves pain and itching for hours and actually helps shrink swollen inflamed tissues."

e. "Actually helps shrink the swelling of hemorrhoidal tissues caused by inflammation or infection."

f. "Lets skin heal itself."

g. "Actually helps shrink swollen inflamed tissues."

There is no generally recognized class of substances known as wound healing agents in the OTC market. Therefore, any claim that an ingredient is a wound-healing agent must be demonstrated by appropriate testing. (See part VIII. paragraph C. below—Data Required for Evaluation.)

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredients

The Panel concludes that the available data are insufficient to permit final classification of the following wound-healing agent active ingredients listed below. The Panel believes it is reasonable to provide 2 years for the development and review of such data. Marketing need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained within 2 years, however, the ingredients listed in this category should no longer be marketed in OTC products.

The Panel has taken into account the fact that these products have been available for a number of years without claims for wound healing and without reports of serious health hazards. However because wound-healing agents are not ingredients generally recognized as existing in the OTC marketplace, the Panel has determined that testing must be quite stringent to prove effectiveness.

Cod liver oil (external and intrarectal use)

Live yeast cell derivative (external and intrarectal use)

Peruvian balsam (external and intrarectal use)

Shark liver oil (external and intrarectal use)

Vitamin A (external and intrarectal use)

Vitamin D (external and intrarectal use)

a. *Cod liver oil (external and intrarectal use).* The Panel concludes that there is insufficient evidence to prove safety and effectiveness of cod liver oil as a wound-healing agent for use in OTC anorectal preparations.

(1) *Description.* (See part V. paragraph B.l.d.(1) above—Description.)

(2) *Safety.* A review of the literature reveals no definitive data regarding the safety of cod liver oil as a wound healing agent in the treatment of anorectal disorders. (See part V. paragraph B.l.d.(2) above—Safety.)

(3) *Effectiveness.* The Panel concludes that claims regarding effectiveness of cod liver oil as a wound-healing agent in the treatment of anorectal disorders remain to be established. Several reports indicate that as a tissue stimulant cod liver oil does alter wound healing favorably (Refs. 1 through 9). Its successful clinical applicability as reported by numerous authors (Ref. 7) indicates that cod liver oil is a factor in promoting tissue repair, clinically and experimentally, but it is unclear whether this is due to its protectant or to its wound-healing effects.

Historically, cod liver oil was widely used clinically during the 1930's. Numerous clinical studies (Refs. 5, 7, and 9) were done, but generally were not double-blind controlled studies. Most of these studies were done prior to the era of antibiotic therapy, and the claimed salutary effects of cod liver oil need to be measured against the antibiotic treatment of wounds (Ref. 7).

In treating injuries of the anorectal area, the effects were not reduced in the presence of viable bacteria or other irritants (Ref. 7). Wounds of the mucous membrane reacted equally well. It is believed and reported by some investigators that increased transudation of leukocytes and fluid following application of cod liver oil medication indicates the presence of irritants that enlarge the vascular bed. Thus, excess fluid is released and there is lysis of necrotic tissue as well as decongestion. Moreover, although cod liver oil dressings or ointments have been advocated to accelerate healing and reduce infection in burns, ulcers, and superficial wounds (Refs. 9 through 20), controlled observations have failed to substantiate claims of their superiority over other oily preparations used as protectants.

The Panel has concluded that a reasonable daily dosage for OTC anorectal products should not exceed the daily allowance of 10,000 IU vitamin A or 400 IU vitamin D.

(4) *Proposed dosage.* Adult external and intrarectal dosage is 200 mg per dosage unit and not to exceed 4.706 g per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for wound-healing agent active ingredients, pending testing for effectiveness. (See part VIII. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* Data to demonstrate effectiveness as a wound-healing agent will be required in accordance with the guidelines set forth below for testing would-healing agent ingredients. (See part VIII. paragraph C. below—Data Required for Evaluation.) In addition, data are required in accordance with the guidelines set forth in part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I in order to be classified as an anorectal active ingredient.

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b. *Live yeast cell derivative (external and intrarectal use).* The Panel concludes that there is insufficient evidence to prove safety and effectiveness of live yeast cell derivative as a wound-healing agent for use in OTC anorectal preparations.

(1) *Description.* Live yeast cell derivative (LYCD) is a very heterogeneous material of varying composition obtained by a series of extractions of the yeast *Saccharomyces cerevisiae.* Analysis of one batch of LYCD containing 3.6 million units/pound revealed the presence of pantothenic acid (2.5 mg/mL), pentose nucleic acid (7 mg/mL), nonglucose sugars and glutamic aspartic acid, alanine, and lysine (94, 11, 36, and 23 mg/mL, respectively) (Ref. 1). LYCD has a molecular weight of less than 5000 (Ref. 1). The origin of this analyzed batch is not clear, but according to literature supplied in one submission, this factor can be derived from yeast as well as other animal tissues (Refs. 2 through 6). The processes involve filtration of particulate cellular material from alcohol-treated, LYCD-containing filtrate. This filtrate may contain two separate activities, one stimulating respiration and another cell growth (Ref. 7), but it also stimulates the enzymes catalase and peroxidase (Ref. 8). LYCD in most instances will stimulate oxygen uptake in a variety of tissues (Refs. 9 and 10), but this effect is variable and not attributable to the pantothenic acid (Ref. 9). A unit of LYCD has been defined as the amount of LYCD as a dry solid which stimulates the oxygen uptake of 1 mg dry weight of rat abdominal skin by 1 percent (Ref. 11). The correlation between oxygen uptake and wound-healing potency has not been established.

(2) *Safety.* No studies of safety of LYCD have been specifically carried out, although no toxicity has been noted when the compound was used in experimental animals (Ref. 10) and no reports of clinical toxicity have been made or noted in the various clinical studies of the commercial product containing LYCD (Ref. 11). The Panel therefore assumes that the compound is safe for limited use (1 week or less), but does not have evidence for safety of long-term use beyond 7 days.

(3) *Effectiveness.* The effectiveness of LYCD in anorectal drug products in final formulation as submitted to the Panel has not been demonstrated in controlled or uncontrolled clinical trials. Of 4 studies (Ref. 11) reviewed by the Panel involving 416 patients, 2 studies (218 patients) were uncontrolled and single-blinded and the other two studies (198 patients) were double-blinded and uncontrolled but tested against a competitive product of unestablished effectiveness. In the latter studies there was no statistically significant difference between the ointments used. The competitive product also contains a wound-healing agent for which effectiveness has not been established. In addition, a minimum of 7 days was required before responses were to be evaluated by the investigators; this condition places the studies beyond the scope of OTC anorectal drug products. Suppositories containing LYCD showed a statistically significant difference over the competitive products but the same conditions prevailed as for the ointments tested in these studies. However, recent studies presented to the Panel suggest that this agent can promote the synthesis of collagen in vitro, as well as the healing of experimental rabbit ear wounds (Ref. 10). Further, because the rabbit ear wounds were contaminated and the wound healing was still greater than control, the Panel has concluded that these data suggest that LYCD could promote healing in the contaminated anorectal area. In various inflammatory

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conditions of the anorectal area, the relevance of collagen synthesis is not established but may be involved in some aspects of recovery of the swollen tissue. Appropriate testing to confirm this relationship, when developed, will permit in vitro verification of effectiveness of any ingredient classified as a wound-healing agent.

The effectiveness of LYCD in a very small study (18 patients) utilizing donor wound sites in patients with burns suggests a method for testing and a potential wound-healing effect (Ref. 12). There is not sufficient evidence to show that LYCD temporarily shrinks swollen hemorrhoidal tissue. The Panel is aware through submitted data that 133.2 units LYCD per dosage unit is the concentration currently used in marketed products and recommends that this concentration be considered as the Panel's proposed dosage for LYCD.

(4) *Proposed dosage.* Adult external and intrarectal dosage is 133.2 units per dosage unit and not to exceed six applications per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for wound-healing agent active ingredients, pending testing for effectiveness. (See part VIII. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* LYCD in the concentration reviewed and proposed in this document does not require further safety testing. Effectiveness of LYCD in relieving anorectal symptoms such as burning, pain, itch, or swelling must be demonstrated. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations and Labeling in Category I.) Further, data to demonstrate effectiveness as a wound-healing agent are also required before claims as a wound-healing agent active ingredient can be made. (See part VIII. paragraph C. below—Data Required for Evaluation.)

(7) *Minority opinion proposing that LYCD be considered safe and effective as a wound-healing age.* The majority of the Panel have stated that live yeast cell derivative (LYCD) should be placed in Category III as a wound-healing agent. The minority opinion is reached that protectants and wound-healing agents should be grouped together under the pharmacologic category of wound-healing agents and that LYCD is safe and effective for OTC use.

The majority of the Panel have decided that LYCD is safe but should be in Category III because double-blind studies have not been made in the human anorectal area to prove that it is effective. The minority argues that the evidence produced in many experiments is far more important than any attempt at proof by double-blind studies.

Double-blind trials have been considered by the Panel as one method by which Category III ingredients can be elevated to Category I. However, there are several practical problems that make such a method very difficult and suggest that some other method should be available. These difficulties include the following considerations:

(i) What is the target population on whom the studies are to be done? Should it be composed of the patients who report to surgeons? Obviously such patients have the most severe diseases, many of which could not be expected to be helped by OTC preparations. Should the target population be from a hospital clinic? Here again the patients are likely to have relatively severe diseases because the costs of clinic care are high. The best target population should be composed of those individuals who come to a pharmacist or to an environment in which OTC drugs are sold because this group will include many individuals with anorectal symptoms that can be expected to respond most satisfactorily to OTC preparations.

The difficulties that accompany such a study are immediately apparent—placebo versus tested drug, a migrant population, lack of adequate follow-up, and possibly some medicolegal considerations make such studies difficult or even valueless, despite great effort.

(ii) The spectrum of anorectal diseases treated is so wide that any controlled clinical study will need an exceptionally large number of entries to prevent skewing of the results. For example, if the study group should happen to include a preponderance of patients with pruritus, the tested group should show unusually good results with essentially any application because most ingredients will relieve this symptom. On the other hand, if a large population of patients should have severe anal fissures, the results could be poor because many of these patients eventually will require surgical relief.

(iii) The normal rate of healing is difficult to define. Theoretically, it should be the time required for the relief of symptoms when no therapy other than cleanliness and warm baths are used. Yet it is hard to find an individual who will refuse to apply in addition a soothing ointment in the presence of troubling symptoms.

(iv) Vehicles used in testing in comparison with any active drug usually are protectants and by themselves will allay symptoms. Thus lanolin, petrolatum, zinc oxide, or cocoa butter can be expected to produce relief in a high percentage of patients from symptoms of pruritus and irritation. The effect of the addition of another active ingredient may be extremely difficult to determine in patients in double-blind studies that rely on symptomatic relief; meanwhile, clear proof of the effectiveness of such an active agent could be obtained by other methods.

(v) Adequate models that furnish closely comparable lesions in different patients are essential if double-blind studies are to be done. To procure them is more difficult. Postoperative hemorrhoidectomy patients or patients with episiotomies could serve but it should be noted that their wounds are deeper and more serious than most wounds that are treated by OTC preparations. Comparable lesions of which the only symptoms are subjective can be judged only by subjective responses. It would be far more scientific to use data that can be obtained by observation by independent investigators and that can be quantitated.

(vi) Patients vary widely in their responses to treatment, depending upon individual differences and also upon the health of the individual at the time that the test is made. It therefore is best to test ingredients with and without vehicles in the same patient at the same time. Such tests in the perianal area at the same time are impossible because one combination placed on one side of the anus necessarily will be mixed rather freely with another placed on the opposite side. Hence, double-blind studies that may appear to be feasible may actually introduce many practical difficulties. It therefore seems reasonable to include a second method by which effectiveness can be judged.

This second method can be described as follows. If an ingredient is proved safe and can be proved to be effective in ex vivo tests, in tests on animals, and in areas of the human body other than the anorectum, it can be accepted as an effective agent. Tests of safety of ingredients rely heavily on such data from animals or other methods of administration of drugs, and it seems only logical that effectiveness should be judged in the same way.

It is proposed that, on this basis, LYCD together with protectants can be classed as wound-healing agents.

Effectiveness can be determined in general either by the relief of symptoms or by healing of the underlying disease. Relief of symptoms may be obtained without healing (e.g. as after application of a local anesthetic to abraded skin) but healing of any underlying disease necessarily will be accompanied by

relief of symptoms. An all-inclusive name to describe the diseases of the rectum that have been listed above may be "lesions" or the popular term "wounds."

Thus, healing of anorectal wounds could be measured by sustained symptomatic relief, in contrast to, for example, temporary relief afforded by local anesthetics or counterirritants. Wound healing, however, is much more complex and can be investigated in many ways that are far more scientific.

Normal healing should be defined as that which occurs under natural circumstances without the application of any type of protection or medication. Experience with wounds in all parts of the body has led to the clinical observation that protective materials hasten healing. The application of a plastic covering or the application of ointments that contain protectants and prevent water loss from the skin have proved effective because they permit healing to occur more rapidly than occurs when a wound is untreated (Ref. 13). Skin grafts from the same individual, from cadavers, or from pigs are used widely in the treatment of wounds due to burns (Ref. 14).

Obviously, there must be a quantitative variation in the speed in which these various agents act. Goodson et al. (Ref. 15) have shown that in the rabbit's ear open wounds heal more rapidly after application of LYCD than after application of petrolatum. That some agents are considered to be more powerful than others have been considered by the Panel, and the pharmacologic group of wound-healing agents was suggested; this designation signified a contribution to wound healing that is much more rapid than occurs with a bland protectant such as petrolatum.

Anorectal tissues in diseased states usually manifest either irritation or varying degrees of inflammation. Irritated skin either has lost its superficial layers of keratin or demonstrates cracks that extend through the corium which consists of dense, vascular connective tissue. These changes are dependent upon water loss, which in turn depends chiefly on a thin layer of epithelial cells near the base of the stratum corneum (Ref. 16). Mild degrees of dryness of the skin lead to scaling, and severe dryness to fissures, inflammation, and dilation of subcutaneous vessels (Ref. 16).

Increased water loss from skin therefore can lead to irritation and inflammation and reduced loss to healing. The water loss from normal skin of the human forearm has been compared with that of skin to which various protectants have been added. Thus, the application of petrolatum led to an average reduction of moisture loss of 48 percent, lanolin to a reduced loss of 32 percent, and mineral oil to a reduced loss of 28 percent (Ref. 17).

The difference in the rate of healing of wounds by the application of various agents has not been studied sufficiently to justify a sharp distinction of protectants and wound-healing agents. In the opinion of the miniority group of the Panel they should be placed together in the pharmacologic group of wound-healing agents.

Despite the observations that wound-healing agents such as protectants have been effective, laboratory studies or quantitative comparisons of various agents until recently have been essentially undeveloped. However, it is now possible to accept evidence from much more conclusive studies that have been done in animals, human skin, and excised anorectal tissues that prove the effectiveness of LYCD, rather than simply to rely on the old clinical dictum of relief of symptoms of itching, burning, pain, or irritation, for which all wound-healing agents could qualify.

These recently developed methods have included the following: (a) Evidence that oxygen uptake of tissues is increased by LYCD. Oxygen supply increases healing due to increased differentiation of fibroblasts and increases collagen synthesis. LYCD has been shown to stimulate oxygen consumption of rat skin, human skin, human fibroblasts, rabbit fibroblasts, and human leukocytes (Ref. 18).

The product tested contains 1 percent LYCD, 3 percent shark liver oil, an ointment base of petrolatum, and phenylmercuric nitrate as a preservative. The oxygen uptake of shaved rat skin when incubated with the product with and without LYCD has been determined (Ref. 19). Increased oxygen uptake occurred with the LYCD.

(b) Collagen synthesis is increased by LYCD. In vivo studies of human skin showed an increased rate of conversion of proline to hydroxyproline in the presence of LYCD (Ref. 18). It is known that one of the major components of the healing process of any wound is accumulation of collagen (Ref. 20), and that the formation of hydroxyproline is a measure of collagen synthesis (Ref. 18).

(c) Using wound chambers that were placed in rabbit skin, LYCD increased the accumulation of tissue within these chambers compared with the tissue in the chambers of the controls. This is accepted as another measure of wound healing (Ref. 18).

(d) Specimen of perianal tissue were excised and tested in vitro to determine the rate of conversion of proline to hydroxyproline, or in other words, the rapidity of the formation of collagen. In three experiments comprising anoderm and perianal tissues and rectal mucosa and submucosa, LYCD increased the collagen synthesis by 82.5 percent (Ref. 21).

(e) Evidence that healing of wounds made on rabbit's ears is more rapid after application of LYCD than after application of petrolatum (Ref. 15).

(f) Evidence in preliminary experiments in a few patients indicated that application of LYCD to one of two paired skin donor sites in humans led to more rapid healing than when the vehicle alone was applied (Ref. 22).

Use of paired donor sites that are to be used when skin grafts are taken furnishes an excellent method that can be carefully controlled because two wounds of uniform depth and size in the same patient can be studied simultaneously. Such a method is capable of wide use in determination of the effectiveness of many ingredients.

(vii) The minority opinion concludes that these sophisticated experiments are much more definitive than attempts to carry out double-blind studies on patients with perianal compliants. Such important observations should not be discarded simply because they have not been done in the perianal area. They are much more conclusive than the alternative method which would require essentially subjective responses to the complaints of itching, irritation, and pain.

It would seem appropriate to include protectants as wound-healing agents. For this pharacologic group, temporary relief of the symptoms of itching, irritation, or pain can be accepted as Category I claims. It is the conclusion of the minority of the Panel that LYCD should be placed together with the Category I protectants in the pharmacologic group of wound-healing agents as safe and effective.

However, if a claim is to be made that certain ingredients are far superior to others and a claim for more rapid healing is made, this will require testing in comparison with all other ingredients in the pharmacologic group of protectants before such claims could be established; the methods cited above within this discussion could be used as models.

(viii) *Labeling—(a) Category I labeling.* "For the temporary relief of itching, pain, burning, or irritation in the perianal area."

(b) Category II labeling. (*1*) "Shrinks hemorrhoids."

(*2*) "Promotes more rapid healing than other products."

References

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(8) OTC Volume 120021.
(9) OTC Volume 120007, pp. 163–185.
(10) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 14th meeting, May 1, 2, and 3, 1975.
(11) OTC Volumes 120007, 120008 and 120009.
(12) OTC Volume 120061.
(13) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 23d meeting, November 21, 22, and 23, 1976.
(14) Burke, J. F. et al., "Immunosuppression and Temporary Skin Transplantation in the Treatment of Massive Third Degree Burns," *Annals of Surgery*, 182:183–197, 1975.
(15) Goodson, W. et al., "Augmentation of Some Aspects of Wound Healing by a 'Skin Respiratory Factor'," *Journal of Surgical Research*, 21:125–129, 1976.
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(17) Powers, D. H. and C. Fox, "Study of the Effect of Cosmetic Ingredients, Creams and Lotions on the Rate of Moisture Loss from the Skin," *Proceedings of the Scientific Section of the Toilet Goods Association*, 28:21–28, 1957.
(18) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 25th meeting, January 21 and 22, 1977.
(19) OTC Volume 120032.
(20) Gross, J., "Collagen Biology: Structure, Degradation and Disease," *The Harvey Lectures*, 68:351–432, 1974.
(21) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 22d meeting, August 20 and 21, 1976.
(22) OTC Volume 120069.

c. *Peruvian balsam (external and intrarectal use).* The Panel concludes that Peruvian balsam is safe for use as a wound-healing agent, but there is insufficient evidence to prove effectiveness for use in OTC anorectal preparations.

(1) *Description.* Peruvian balsam, also called Indian balsam, China oil, and Honduras or Surinam balsam, is a complex mixture consisting of approximately 25 to 50 percent of an oleoresin and from 50 to 65 percent of a volatile oil that is composed of the esters of benzoic and cinnamic acids, as well as vanillin, benzyl banzoate, benzyl cinnamate, nerolidol, farnesol, small amounts of coumarin, and benzyl alcohol (Refs. 1 and 2). It is obtained from the tree *Myroxylon pereirae*, a member of the *P. leguminosae* family that is native to Central America (Refs. 3 and 4).

(2) *Safety.* The Panel concludes, based on quantities used in submitted data, that Peruvian balsam is safe in concentrations of from 1 to 3 percent (Ref. 5) but notes that it can produce significant skin irritation in higher doses and can also produce allergic skin reactions. This agent has been defined as moderately toxic (toxic dose equals 0.5 to 5 g/kg), but it has been ingested and even injected intravenously without acute ill effects (Ref. 6). Taken orally, up to 50 g of benzoic acid, one of its major constituents, will result in only gastric distress (Ref. 7). In humans, cinnamic acid is largely excreted in the urine as benzoic and hippuric acids (Ref. 6).

Volatile oils are irritating to most tissues (Ref. 7). One study of dermatologic preparations on rabbit skin showed 15 percent Peruvian balsam gave irritation, but 10 percent and 5 percent did not; however, all three showed erythema when combined with X-radiation (Ref. 8).

In contrast, there are several reports attesting to the allergenicity of Peruvian balsam, the incidence ranging from 10 to 20 percent in tested patients (Refs. 9 through 12), with a relatively higher incidence in children (Ref. 9). The fractions or the components of the mixture which have caused the allergenicity have not been identified.

(3) *Effectiveness.* The effectiveness of Peruvian balsam as a wound-healing agent has not been established. When incorporated in an ointment base, it has been used to treat indolent ulcers by theoretically stimulating cell proliferation (Ref. 13). The dosage usually employed is 10 percent in an ointment and approximately 3 percent or less in suppositories (Refs. 13, 14, and 15). There are no available studies proving its effectiveness as a wound-healing agent in anorectal disorders. Although the study by Bloom and Lorincz (Ref. 13), which reported healing of chronic lesions after addition of Peruvian balsam and demonstrated an in vitro antibiotic effect, was suggestive, it falls short of any clear interpretation as to the effectiveness of the agent. Other analogous studies were not found, with the exception of one that also reported beneficial effects on skin lesions, but other potential active ingredients were used together with Peruvian balsam (Ref. 16). Because Peruvian balsam varies in its content (Ref. 1), it is conceivable that any demonstrable effectiveness may vary. Effectiveness would seem to be best determined by identification and examination of the individual components.

(4) *Proposed dosage.* Adult external and intrarectal dosage is 20 to 60 mg per dosage unit and not to exceed 360 mg per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for wound-healing agent active ingredients pending testing for effectiveness. (See part VIII. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* Peruvian balsam in the concentration reviewed and proposed in this document does not require further safety testing. Effectiveness of Peruvian balsam in relieving anorectal symptoms such as burning, pain, itch, or swelling must be demonstrated. (See part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.) Further, data to demonstrate effectiveness as a wound-healing agent are required before this ingredient is labeled as a wound-healing agent in anorectal products. (See part VIII. paragraph C. below—Data Required for Evaluation.)

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(1) Bandmann, H., "Dermatitis from Applied Medicaments," *Archives of Dermatology*, 106:335–337, 1972.
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d. *Shark liver oil (external and intrarectal use).* The Panel concludes that there is insufficient evidence to prove effectiveness of shark liver oil as a wound-healing agent for use in OTC anorectal preparations when used at the recommended dosage.

(1) *Description.* (See part V, paragraph B.1.j.(1) above—Description.)

(2) *Safety.* Corroborative data establishing the safety of shark liver oil as a wound-healing agent in anorectal preparations is not available. Vitamin A, a normal constituent of shark liver oil, in excess would be harmful, producing a connective tissue resorption syndrome (Ref. 1). However, the Panel found in the data submitted for review that the quantity of vitamin A present (Ref. 2), is sufficiently low (1,710 International Units/gram of product) when the shark liver oil is limited to 3 percent and does not present a hazard to the consumer when used according to the recommended dosage. (See part VIII. paragraph B.3.e.(2) below—Safety.) The safety of vitamin D found in shark liver oil in the concentration used in the data submitted lacks verification when used in the external treatment of anorectal disorders. The Panel finds in the data reviewed that the quantity of vitamin D present in the product containing 3 pecent, by weight of shark liver oil, (Ref. 2) is 2.25 IU/g of product and does not present a hazard to the consumer when used according to the recommended dosage. (See part VIII. paragraph B.3.f.(2) below—Safety.)

(3) *Effectiveness.* The effectiveness of shark liver oil as a wound-healing agent in anorectal preparations has not been confirmed by definitive clinical data (Ref. 1). While some wound healing might be attrubuted to the vitamin A content of shark liver oil, there are not definitive data to support this claim (Ref. 3). Likewise, the effect of vitamin D on soft tissued wounds has not been described but is said to be important in states of rickets, vitamin D deficiency, and abnormal calcium balances (See part VIII. pargraph B.3.e.(3) below—Effectiveness and part VIII. paragraph B.3.f.(3) below—Effectiveness.)

(4) *Proposed dosage.* Adult external and intrarectal dosage is 60 mg per dosage unit and not to exceed 240 mg per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for wound-healing agent active ingredients, pending testing for effectiveness. (See part VIII. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* Data demonstrating the safety and effectiveness of shark liver oil as a wound-healing agent will be required. (See part VIII. paragraph C. below—Data Required for Evaluation.)

References

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(2) OTC Volume 120007.
(3) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 14th meeting, May 1, 2, and 3, 1975.

e. *Vitamin A (external and intrarectal use).* The Panel concludes that there is insufficient evidence to prove effectiveness of vitamin A as a wound-healing agent for use in OTC anorectal preparations at the recommended dosage.

(1) *Description.* Vitamin A is a suitable form of retinol or vitamin A alcohol. It may consist of retinol or esters of retinol formed from edible fatty acids, principally acetic and palmitic acids. Retinol is a light yellow to red, oily liquid and is unstable in air and light. Pure vitamin A alocohol occurs as yellow prisms or as yellow crystalline esters of acetic and palmitic acids. All naturally occurring forms are water insoluble. Another representative of vitamin A occurring in nature is vitamin A–2. It has only about one-third the biologic activity of vitamin A–1. and has no commercial significance. Commercial preparations of vitamin A are for the most part synthetic retinol esters and have largely replaced natural vitamin A from fish liver oils. Preparations available range from solutions of pure synthetic vitamin A in oil to numerous fish liver oils and concentrates that contain both vitamin A and vitamin D in various proportions. One IU vitamin A is the specific biologic activity of 0.3 μg of the all-trans isomer of retinol (Refs. 1 through 4). The Panel knows of no studies regarding the degree and extent of absorption of vitamin A through the skin or mucous membranes, factors which would influence both it safety and effectiveness.

(2) *Safety.* The acute toxic dose of vitamin A in the adult is in the range of 2,000,000 to 5,000,000 IU. In the infant, the ingestion of doses as low as 75,000 to 300,000 IU can precipitate acute toxic signs (Ref. 5). Hypervitaminosis occurs both in young children and adults receiving more than 100,000 IU vitamin A daily over several months Ref. 6). There is no evidence to indicate that the oral administration of 10,000 IU vitamin A daily is toxic for any age group.

The Panel knows of no clinical evidence to indicate that external application of vitamin A to the skin or mucous membranes is safe. Absorption of vitamin A through the skin when applied in the form of cod liver oil in infants and in rats has been reported (Ref. 7). Similar absorption from the anorectal area may be presumed to occur, and clinical data regarding degree and extent of absorption are needed to evalutate its safety if an OTC anorectal drug product contains more than 1,710 IU/g, which is the level of currently marketed anorectal drug products. When used at the recommended dosage, this level does not present a hazard to the consumer.

(3) *Effectiveness.* The Panel concludes that vitamin A has an effect on wound-healing as demonstrated by in vitro tests and studies in animals. The Panel makes this conclusion on the basis that the effectiveness of vitamin A in promoting experimental wound-healing is apparently due to its ability to promote collagen synthesis (Refs. 8 and 9). This phenomenon has been demonstrated in a number of well-controlled animal experiments (Refs. 10 through 19). However, the Panel wishes to point out that the clinical effectiveness in the anorectal area remains to be demonstrated in clinical trials of vitamin A as a wound-healing agent in various applications of concentration and dosage interval not to exceed the maximum dose of 10,000 IU (3.44 mg) per 24 hours.

The label for a vitamin A preparation must give the form, source (synthetic or natural), and amount of vitamin A per dosage unit, and the recommended daily dosage.

(4) *Proposed dosage.* Adult external and intrarectal dosage is 1,710 IU (0.5 mg) per dosage unit and not to exceed 10,000 IU (3.44 mg) per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for wound-healing agent active ingredients, pending testing for

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effectiveness. (See part VIII. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* When present at the recommended dosage, vitamin A is safe for use in anorectal OTC products. The effectiveness of vitamin A as a wound-healing agent for use in OTC anorectal preparations has not been established. While its wound-healing ability has been demonstrated in animal experiments, no data confirming its effectiveness in the human anorectal area is available. The Panel recommends double-blind clinically significant studies to establish the effectiveness of vitamin A as a wound-healing agent in OTC anorectal preparations. (See part VIII. paragraph C. below—Data Required for Evaluation.)

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f. *Vitamin D preparations (ergocalciferol and cholecalciferol) (external and intrarectal use).* The Panel concludes that Vitamin D preparations are safe for use at the recommended dosage but that there is insufficient evidence to prove effectiveness of vitamin D preparations as wound-healing agents for use in OTC anorectal preparations.

(1) *Description.* Two forms of vitamin D are recognized officially—ergocalciferol (vitamin D–2) and cholecalciferol (vitamin D–3). Ergocalciferol and cholecalciferol occur as white, odorless crystals that are soluble in fats and in fat solvents such as ether, alcohol, or chloroform, but insoluble in water. Both forms are stable over long periods of time in oil solution but are quite unstable in the presence of mineral salts. The activity of the two substances is commonly assumed to be equivalent. One mg of each of these vitamins represents 40,000 IU. Because they are assumed to be equivalent, the collective term, vitamin D, will be used in the following discussion (Refs. 1, 2, and 3).

(2) *Safety.* A search of the literature reveals no definitive data regarding the safety of vitamin D as a wound-healing agent in the treatment of anorectal conditions. The Panel wishes to point out that vitamin D has a serious toxic potential. In large doses of 1,000 to 3,000 IU/kg daily of body weight, vitamin D may produce tetany, acute pancreatitis, convulsions, and pitressin resistant diabetes insipidus; death has resulted both in experimental animals and in man due to renal insufficiency (refs. 4 and 5). A high calcium diet potentiates the toxic effect of vitamin D (Refs. 4 and 5). In infants as little as 1,800 IU daily may lead to possible growth inhibition (Ref. 6). Some persons who are apparently hypersensitive to vitamin D may suffer harmful effects even from low doses. Excessive intake of vitamin D during pregnancy may produce in infants a nonfamilial, congenital, supravalvular aortic stenosis, often in association with other signs of hypercalcemia (Ref. 5). Unfortunately, while there is substantial evidence regarding the toxicity of vitamin D when administered orally in large doses (Ref. 7), there are no similar data regarding its external use in the treatment of anorectal disorders. The studies reported in the literature have dealt with vitamin D as one component of a mixture (Ref. 8). While definitive data regarding the topical absorption of vitamin D are not available, such a possibility cannot be discounted. Thus, it is possible that the amount of vitamin D absorbed following topical application when added to that normally provided by diet (e.g., fortified food or beverages) (Ref. 9) or other sources (e.g., oral vitamin D medication) may be sufficient to result in manifestations of vitamin D toxicity. Furthermore, since the body stores vitamin D, the cumulative effects must also be considered. However, the Panel concludes that vitamin D when used in anorectal drug products at the recommended dosage is safe.

(3) *Effectiveness.* The Panel concludes that the effectiveness of vitamin D as a wound-healing agent in treating anorectal disorders has not been corroborated by controlled clinical trials. Liteature reports deal with vitamin D as a component of a mixture. These studies fail to prove conclusively that positive results, particularly in wound healing, can be attributed to the vitamin D content in the preparations used. Its effectiveness in wound healing has been challenged on the grounds that it is ineffective unless bone is involved or there is a vitamin D deficiency. Preparations like shark liver oil and cod liver oil which contain vitamins A and D have a protectant effect that is attributed to their oily nature (Refs. 10 through 15). No definitive clinical data supporting wound-healing effect in these oils as being due to their vitamins A and D content are available. According to data presented to the Panel, no one has ever shown that vitamin D has any effect on soft tissue wounds. There is no satisfactory evidence to indicate benefits from inclusion of vitamin D in preparations for topical use (Ref. 17).

(4) *Proposed dosage.* Adult external and intrarectal dosage is 4.5 IU (0.00011 mg) per dosage unit and not to exceed 27 IU (0.00066 mg) per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for wound-healing agent active ingredients. (See part VIII. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* There are insufficient definitive clinical data establishing the effectiveness of vitamin D at the recommended dosage as a wound-healing agent in the anorectal area and further testing is to be carried out. (See part VIII. paragraph C. below—Data Required for Evaluation.)

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Category III Labeling

The Panel concludes that the available data are insufficient to permit final classification of the claims listed below.

Additional data are required to support the following wound-healing agent claims:

a. "May promote healing of injured or irritated skin or mucous membrane."

b. "May help promote tissue repair in the anorectal area."

c. "For the relief of minor irritations in the anorectal area."

d. "Temporarily shrinks swelling of hemorrhoidal tissue caused by inflammation."

C. Data Required for Evaluation

The Panel has agreed that the protocols recommended in the document for the studies required to bring Category III wound-healing agents into Category I are in keeping with the present state of the art and do not preclude the use of any advances or improvements in methodology in the future.

It should be noted that all OTC anorectal products are primarily used for the relief of symptoms associated with anorectal disorders. Therefore, any ingredient must be shown, in clinical double-blind studies, to be able to relieve one or more of the common symptoms of itch, burning, pain, discomfort, or swelling to a statistically significant degree over control. This requirement is true whether the mechanism is known or not because the mechanism of providing relief is often much more difficult to determine; a study to determine mechanism may not always directly relate to clinical symptomatic relief. In some cases, experiments may demonstrate both symptomatic relief and a mechanism such as healing.

To make a claim as a wound-healing agent, it not only must be demonstrated that such an agent provides symptomatic relief of anorectal symptoms but also that it has the capacity to promote wound healing as shown in clinical testing in the anorectal area as described within this section. (See also part II. paragraph L. above—Criteria and Testing Guidelines for Placing Category III Ingredients, Combinations, and Labeling in Category I.)

1. *Principles in the design of an experimental protocol for testing wound-healing agents*—a. *General principles.* Because of the unique nature of the contaminated and traumatized (by bowel movement, toilet tissue, and sometimes clothing) anorectal area, anorectal agents for which the claim of wound healing is desired should ideally be tested in the anorectal area in humans. Ancillary information suggesting a wound-healing action of other sites is helpful, e.g., collagen synthesis, but would only constitute evidence of activity in the anorectal area if it otherwise corresponds to the demonstrated clinical relief of symptoms. For example, if wound healing requires 14 days and symptomatic relief is obtained in one application, another mechanism must be assumed to be operating and any claim for wound healing is not appropriate.

Two kinds of studies can be developed to demonstrate wound healing. Those done in the anorectal area are called anorectal wound-healing studies, and those done elsewhere on the body are referred to as other clinical wound-healing studies. Those studies carried out in the anorectal area can be designed to test symptomatic relief also, although this might require special precautions to prevent bias.

All studies must be carried out with a 7-day end point to make these studies relevant to OTC use. It is conceivable that some agents may be effective over longer periods or require a longer period of time to demonstrate effectiveness, i.e., more than 7 days, but because OTC use primarily involves symptomatic problems, all prolonged effectiveness claims must be approved through the new drug application process and marketed as prescription drugs.

b. *Selection of patients*—(1) *Anorectol wound healing.* Patients with anorectal disease of a nature that allows quantitation by biopsy, photography, or other studies.

(2) *Other clinical wound-healing studies.* Other studies of wound healing may be done in normal human volunteers or in patients with other relatively defined standard wounds such as skin graft, punch biopsies, or the like. These must be, likewise, quantifiable by measurement, photography, or other quantitative methods, and/or clinical grading system.

c. *Methods of study.* The minumum number of visits should be the initial visit and a followup in not more than 7 days.

(1) *Anorectal wound healing.* Because of the extreme variability and difficulty with study in this area, double-blind studies are needed despite the difficulties involved. Studies should be directed specifically to either external or intrarectal use. Patients will be selected at random manner with sequential

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statistical analysis to minimize the number of patients needed. The major criterion for selection of patients is the presence of a lesion that has a potential of healing and that is amenable to consistent quantification. More than one method of quantification may be used but must be consistently used in all comparative studies. Certain methods can be suggested and other methods may be acceptable and can be developed in conjunction with the Food and Drug Administration (FDA). For example, use of a fixed focus camera with standardized lighting can allow clinical grading and measurement of lesion. A clinical grading system is also acceptable in a double-blinded study. In some cases biopsy of skin areas may be feasible, although this is less acceptable due to hazards involved and, more importantly, due to the extreme variability possible because of pathological variations of a given wound site. Certain other measurements of epithelization and wound healing, such as use of dyes or degree of blood flow, may be also shown to be useful. These studies can be correlated with clinical symptomatic improvement by patient questionnaires. However, to prevent bias, methods of data collection that prevent communication of results between patient and doctor should be considered. Such communication has certain undesirable features. If the physician is receiving a fee for service from the patient, the patient will not appreciate any barrier in the way of service for which he is paying. Thus, it may be preferable to do parallel studies of symptoms and pathology in which the treating physician is a person other than the person recording the questionnaire. The recorder may be the patient or another neutral person.

(2) *Other clinical wound-healing studies.* Other studies to test the effects of agents on wound healing must be be designed with the use site in mind, i.e., where there is compression (due to sitting), stretching of surface and subcutaneous tissue on a sporadic basis (due to walking, bowel movement), increased moisture, chafing (due to clothing and opposed body surfaces), and lastly, gross contamination by aerobic and/or anaerobic bacteria and yeast. This is opposed to many body wounds that can be maintained at a relative degree of cleanliness, immobilized, and covered consistently or exposed to air. Although the wound-healing process may be similar in both areas, the natural impediments are not and any experimental design germaine to the anorectal area must consider these impediments. Nonetheless, an agent that causes a significant increase in the healing of wounds at other sites, and also relieves anorectal clinical symptoms over a similar time period can be considered an anorectal wound-healing agent.

Several studies potentially can be carried out using measured skin sites such as a punch biopsy in an easily accessible area on relatively normal skin. Skin graft donor sites, as demonstrated in a submission to the Panel (Ref. 1) may also be used as testing sites. These sites are photographable, and more nearly uniform than other test models. Factors that may be specifically assessed, include swelling, size of site, color, discharge, and epithelialization.

d. *Interpretation of data.* Any effect of the wound-healing rate must be of statistical significance within 7 days. Beyond 7 days, effectiveness is questionable for OTC drug products. If the condition does not improve within 7 days or becomes worse, the consumer is instructed to consult a physician.

(1) *Anorectal studies.* A significantly greater degree of healing in an anorectal area, when p is less than 0.05, allows a Category III agent to be classified Category I if it also produced significant symptomatic improvement in the same or other studies.

(2) *Other clinical wound-healing studies.* Interpretation of other studies must be made with care due to marked differences of sites as noted above. The primary criteria include demonstration of statistically significant healing and correlation of time course of healing with that of clinical improvement, i.e., statistically significant evidence of both types of response with the 7-day limit.

Evidence of effectiveness is required from a minimum of two positive studies based on the results of two different investigators or laboratories. All data submitted must include negative and positive results.

Reference

(1) OTC Volume 120061.

IX. Antiseptics

A. General Discussion

The Panel defines antiseptics as substances that will inhibit the growth and development of microorganisms without necessarily destroying them. The Panel further concludes that this does not imply that only complete inhibition (sterility) is necessary but rather that partial inhibition is satisfactory. Antiseptics usually include a wide variety of agents such an antimicrobials, bacteriostatics, bactericidals, fungistatics, and fungicidals.

The Panel recognizes that many ingredients including soap and water reduce the number of microorganisms (flora) on the skin. The normal skin flora has traditionally been divided into transient and resident flora (Ref. 1). Transient flora are organisms that are not part of the established normal flora and are picked up from the surrounding environment. Transient organisms are removed with relative ease by washing with soap and water (Ref. 1). In contrast, the resident flora is considered to constitute the established population of skin organisms and is more difficult to remove.

Most OTC anorectal drug products contain more than one ingredient and, therefore, may have more than one effect. Some of these products contain substances intended to prevent or counteract infections and are referred to as antiseptics.

The term antimicrobial (antiseptic) refers to activity against microorganisms regardless of their nature, that is, whether they are bacteria, fungi, mycoplasma, rickettsiae, viruses, or animal parasites. The broadest classification of antimicrobial agents is by the nature of their action. "Cidal" agents kill microorganisms, and "static" agents stop microorganisms from multiplying but do not kill them. Thus, the microorganisms may begin to multiply when the static agent is removed from their environment. The nature of microorganisms varies tremendously so there is no one antimicrobial agent that will kill and/or remove all microorganisms. The antimicrobial agents are commonly designated by their most important area of use or intended purpose. Thus, bactericidal agents destroy vegetative bacterial cells but not necessarily bacterial spores. Fungicidal agents are those intended primarily to destroy fungi. Sporicidal agents are those capable of destroying bacterial and fungal spores. Bacteriostatic and fungistatic agents are those capable of inhibiting the growth of bacteria and fungi, respectively. Not only does the nature of the antimicrobial agent determine whether its action is "cidal" or "static," but the concentration of the agent is important. A substance may have a "static" action in high dilution and a "cidal" action in a more concentrated solution (Ref. 2).

Antimicrobial (antiseptic) activity of a drug is usually determined by in vitro testing and is often compared to a standard known as the phenol coefficient, which is the ratio of the killing efficiency of an antimicrobial agent compared to phenol tested under identical conditions. To document effectiveness, the antiseptic ability of a drug to prevent or counteract infection in the anorectal area must be demonstrated by in vivo testing.

A number of ingredients submitted to the Panel claim antiseptic properties. After a review of the literature and extensive deliberations, the Panel concluded that the maintenance of relative antisepsis in the anorectal area would be ideal for promoting healing by preventing or counteracting infection. However, the likelihood of achieving anorectal antisepsis greater than that obtained by cleansing with soap and water is small due to the frequent anorectal contamination from large numbers of microorganisms present in feces (Ref. 5).

The Panel concludes that the intrarectal application of antiseptic ingredients is scientifically unsound because of the high percent of anaerobic organisms present in the feces. Studies of the importance of anaerobic bacteria in anorectal disease are very few (Refs. 3 and 4). The Panel believes that if in clincial studies claims for antiseptics are made, attention must be paid to these organisms (anaerobes) as well as to the anaerobes that usually have been used in such studies (Refs. 3 and 4).

For anorectal drug products limited to external application, aerobic organisms are more important because anaerobes will not proliferate in the presence of oxygen.

According to the findings of the Advisory Review Panel on OTC Topical Antimicrobial Drug Products as published in the **Federal Register** of September 13, 1974 (39 FR 33107), there has been widespread use of antimicrobials in soap, surgical scrubs, and preoperative preparations based on the view that the reduction of normal flora to as low a level as possible will have a positive effect on the prophylaxis of disease. However, the Panel further concluded that the interrelationship of the concentration, time of action or contact time, the microbial spectrum, and the possible deleterious effects of drastic changes in the normal flora have been largely ignored in the past or have been superficially investigated. The Advisory Review Panel on OTC Hemorrhoidal Drug Products concurs with the above conclusion and further concludes that the prevention or counteracting of infection in the anorectal area has not been established by the data submitted for ingredients with antiseptic claims.

The Panel recognizes the potential usefulness of antiseptic ingredients on other areas of the body, but due to the unique nature of the anorectal area, effectiveness of these agents cannot be extrapolated because only a partial antisepsis could be achieved at best. The practice of good anal hygiene (cleansing with soap and water) is effective in reducing the number of microorganisms in the anorectal area, and therefore can also aid in the healing process. Thus, although useful in concept, the Panel concludes that proof of any significant clinical benefit of claimed antiseptic ingredients must be demonstrated in clinical trials. (See part IX, paragraph C, below—Data Required for Evaluation.)

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B. Categorization of Data

1. *Category I conditions under which antiseptic ingredients are generally recognized as safe and effective and are not misbranded.*

None.

2. *Category II conditions under which antiseptic ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register.**

Category II Active Ingredients

The Panel has classified the following antiseptic active ingredients as not generally recognized as safe and effective or as misbranded:

Boric acid (external and intrarectal use)
Boroglycerin (external and intrarectal use)
Hydrastis (external and intrarectal use)
Phenol (external and intrarectal use)
Resorcinol (intrarectal use)
Sodium salicylic acid phenolate (external and intrarectal use)

a. *Boric acid (external and intrarectal use).* The Panel concludes that boric acid is not safe and effective as an antiseptic in OTC anorectal preparations.

(1) *Description.* Boric acid occurs as colorless, odorless scales, crystals, or as a white powder. It is stable in air and freely soluble in boiling water, in boiling alcohol, and in glycerin (Ref. 1). Variable amounts of boric acid are used in anorectal preparations (e.g., 50 percent by weight of total active ingredients per suppository, and up to 18 percent in ointments) (Ref. 2).

(2) *Safety.* There are no specific data regarding the safety of boric acid in the treatment of anorectal disorders. However, there is a great deal of information and supportive data regarding its toxicity after local application to skin ulcers or abrasions, and/or ingestion. Boric acid is readily absorbed from the gastrointestinal tract, serous cavities, and abraded skin (Refs. 3, 4, and 5). When ingested orally, boric acid is slowly but completely absorbed and eliminated through the kidney (Ref. 6). The fatal adult oral dose is estimated to be 15 to 20 g but may be much smaller; for infants less than 5 g may be fatal (Refs. 3 through 8). Toxic symptoms and fatal poisoning, especially in infants, following external application on abraded skin of boric acid solutions, ointments, and powders have occurred (Refs. 3, 4, 5, and 7 through 25). A review of the literature on boric acid poisoning by Valdes-Dapena and Arey (Ref. 5) revealed that about one-third of the patients, 53 of 172, had been treated externally. "In 30 of the reported cases, poisoning was due to the application of pure boric acid to the denuded diaper area; 23 of these were fatal and 7 nonfatal" (Ref. 5). According to Ducey and Williams (Ref. 9), a concentration of 5 mg/100 mL blood is a near lethal concentration in an infant, which they calculate can be attained within a few days using 5 percent borated talc dusting powder during diaper changes when dusting is restricted to 100 cm^2 of skin and only 1 percent of the available boric acid is absorbed. However, Johnstone, Basila, and Glaser (Ref. 21) contend that no case of boric acid poisoning has been proven to be the result of any commercially available baby powder containing 5 percent boric acid and conclude from a review of the literature that all of the reported cases of infant mortality attributed to boric acid poisoning have resulted from the injudicious use of boric acid, either from its inadvertent oral administration, intravenous or subcutaneous injection, or from the application of boric acid powder or some homemade preparation containing a high concentration of boric acid to an area of denuded or injured skin.

Anorectal diseases may include inflamed mucosal membranes or abraded skin, which would have a greater ability to absorb boric acid than normal skin (Refs. 3, 5, 7, 8, 16, and 26). The toxic nature of boric acid, as documented by the occurrence of fatal poisonings, particularly in children, has convinced the Panel that it is not safe for use in OTC anorectal preparations.

(3) *Effectiveness.* A review of the literature reveals no clinical data supporting the effectiveness of boric acid in OTC anorectal preparations. While boric acid is claimed to possess weak bacteriostatic and fungistatic activity, it is considered to be of little value as a bactericide (Refs. 6, 7, 8, 10, and 26 through 29). a literature review reveals few controlled studies to support the variety of claims regarding its effectiveness and no definitive data regarding its effectiveness in OTC anorectal preparations. Its therapeutic value is not established, and it has fallen into disrepute because of the occurrence of fatal poisonings, particularly in infants (Refs. 10, 15, 18, 23, 29, 30, and 31).

(4) *Evaluation.* The toxicity of boric acid when applied externally is well documented in the literature. Since anorectal symptoms may be due to inflamed skin and/or mucous membranes that would absorb more boric acid than normal skin, the Panel concludes that boric acid is not safe for anorectal use in OTC anorectal preparations as an antiseptic. Furthermore, there is no evidence in the literature which confirms the effectiveness of boric acid in anorectal products.

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(31) Ginsberg, F., "Boric Acid Mystery: Why Does Anyone Still Use It?" *Modern Hospital*, 117:140, 1971.

b. *Boroglycerin (external and intrarectal use).* The Panel concludes that boroglycerin is not safe and effective as an antiseptic in OTC anorectal preparations.

(1) *Description.* Boroglycerin (boric acid glycerite) is a viscous, yellowish liquid prepared by the splitting out of three molecules of water from the reaction of equimolar amounts of glycerin and boric acid at 140° to 150° C and contains approximately 50 percent boroglycerin. The boroglycerite form is a compound of indefinite composition (Ref. 1). Its formula is assumed to be $C_3H_5BO_3$. It is soluble in water and its solution is acidic in nature (Ref. 2). Boroglycerin is essentially a soluble preparation of boric acid which, when dissolved in water, hydrolyzes into boric acid and glycerin (Ref. 3).

(2) *Safety.* A search of the literature reveals no information regarding the safety of boroglycerin in OTC anorectal preparations. According to Gleason et al. (Ref. 4), boric acid glycerite is moderately toxic with a probably lethal dose of 0.5 to 5 grams/kilogram (g/kg) in a 70 kilogram (kg) man. Aqueous solutions may also be quite irritating (Ref. 5), especially when applied to injured tissue. Because boric acid glycerite hydrolyzes to boric acid when dissolved in water (Ref. 3), the comments made in evaluating the safety of boric acid are applicable. (See part IX. paragraph B.2.a.(2) above—Safety.) The Panel concludes that the 31 percent weight in weight (w/w) content of boric acid (Ref. 6) in this preparation makes it an equally hazardous preparation and not safe for use in OTC anorectal preparations.

(3) *Effectiveness.* Local application, after dilution with water, is reported to have a dehydrating and antiseptic effect, but there is no evidence to support these claims (Ref. 1). It has been used as a suppository base in the preparation of boroglycerin suppositories (Refs. 1 and 2). Because boric acid glycerite hydrolyzes to boric acid when dissolved in water (Ref. 3), the comments made in evaluating the effectiveness of boric acid are applicable. (See part IX. paragraph B.2.a.(3) above—Effectiveness.) Therefore, the Panel concludes that the effectiveness of boroglycerin in OTC anorectal preparations is not supported by definitive clinical data.

(4) *Evaluation.* The Panel concludes that due to the content of boric acid in boroglycerin, it is not safe and effective for use in OTC anorectal preparations as an antiseptic. (See part IX. paragraph B.2.a. above—Boric acid (external and intrarectal use).)

References

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(5) "The Dispensatory of the United States of America," 25th Ed., Edited by Osol, A. and G. E. Farrar, Jr., J. B. Lippincott Co., Philadelphia, PA, p. 193, 1955.

(6) "The National Formulary," 10th Ed., American Pharmaceutical Association, Washington, DC, p. 95, 1955.

c. *Hydrastis (external and intrarectal use).* The Panel concludes that hydrastis is not safe or effective for external or intrarectal use as an antiseptic in OTC anorectal preparations.

(1) *Description.* (See part VI. paragraph B.2.b.(1) above—Description.)

(2) *Safety.* (See part VI. paragraph B.2.b.(2) above—Safety.)

(3) *Effectiveness.* The Panel has found no evidence that hydrastis is effective as an antiseptic. (See part VI. paragraph B.2.b.(3) above—Effectiveness.)

(4) *Evaluation.* The Panel concludes that hydrastis is not effective for use in OTC anorectal preparations because no clinical data supporting such use as an antiseptic are available.

d. *Phenol (external and intrarectal use).* The Panel concludes that phenol is not safe as an antiseptic in concentrations of 1.5 percent or greater and is ineffective at this concentration for use in OTC anorectal preparations.

(1) *Description.* Phenol is a colorless, crystalline compound having a characteristic odor. It is soluble to the extent of approximately 6 g/100 g water. It is miscible with alcohol or glycerin. A mixture of liquified phenol and an equal volume of glycerin is miscible with water (Refs. 1, 2, and 3).

(2) *Safety.* The Panel concludes that phenol in concentrations greater than 1.5 percent in aqueous or alcoholic vehicles is not safe. The data supporting this decision may be found in various standard reference tests that document the toxicity of phenol when applied topically to skin or mucous membranes (Refs. 1 through 5).

Deichmann and Keplinger (Ref. 3) demonstrated the ability of the descending rabbit colon to absorb phenol faster than the stomach or ileum. Although 1 g may be fatal to humans and exceptional patients have survived 65 g, 50 percent of all cases reported through 1929 terminated fatally (Ref. 3). One to 5 percent phenol applied as a dressing or compress has caused gangrene (Ref. 3). Five percent in oil when injected to relieve hemorrhoids has caused serious problems including gangrene and liver enlargement (Ref. 6). Phenol also penetrates the sensory nerve endings and exerts a local anesthetic action (Ref. 7). High percentage oily solutions (e.g., 50 percent) are used to destroy keratin down to the corium for cosmetic repair (Ref. 5). Phenol is less soluble in water than in alcohol and penetrates deeply into the skin producing severe burns, and is absorbed in higher concentrations producing systemic effects (Ref. 4).

Systemically, phenol can cause central nervous system depression. It decreases blood pressure partly as a result of central vasomotor depression, but mainly due to a direct toxic action on the myocardium and the smaller coronary blood vessels. Because it is lipid soluble, phenol can be absorbed into the circulation even from intact skin (Ref. 1).

(3) *Effectiveness.* Phenol acts both systemically and locally. Phenol disassociates from combination with protein and has great penetrability into tissues. When applied directly to skin, a white pellicle (layer) of preicipitated protein is formed. If phenol remains in contact with skin for a prolonged period of time, phenol penetrates deeply and may cause extensive necrosis (Refs. 1, 3, and 4).

(4) *Evaluation.* Phenol is rarely used as an antiseptic. It was widely used and accepted as an antiseptic when little else was available. Now it is obvious that the level of phenol required in an antiseptic formulation to be effective (i.e., 2 percent or greater) is higher than the level that can be safely used on skin or mucous membranes. Phenol is toxic in concentrations greater than 1.5 percent (Ref. 5).

Refereneces

(1) Esplin, D. W., "Antiseptics and Disinfectants; Fungicides: Ectoparasiticides," *in* "The Pharmacological Basis of Therapeutics," 4th Ed., Edited by Goodman, L. S. and A. Gilman, The Macmillan Co., New York, pp. 1032–1066, 1970.

(2) "AMA Drug Evaluations—1973," 2d Ed., American Medical Association, Action, MA, pp. 653–654 and 665, 1973.

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(4) Deichmann, W. B., "Local and Systemic Effects Following Skin Contact with Phenol. A Review of the Literature," *Journal of Industrial Hygiene and Toxicology*, 31:146–154, 1949.

(5) Brown, A. M., L. M. Kaplan and M. E. Brown, "Phenol-induced Histological Skin Changes: Hazards, Techniques, and Uses," *British Journal of Plastic Surgery*, 3:158–169, 1960.

(6) Wright, A. D., "Complications of Rectal Injection," *Proceedings of the Royal Society of Medicine*, 43:263–266, 1950.

(7) Jacoby, J. J. and H. M. Livingstone, "Topical Anesthesia of the Intact Skin," *The Military Surgeon*, 107:282–284, 1950.

e. *Resorcinol (intrarectal use).* The Panel concludes that resorcinol is not safe or effective for intrarectal use as an antiseptic in OTC anorectal preparations.

(1) *Description.* (See part X. paragraph B.1.b. (1) below—Description.)

(2) *Safety.* (See part X. paragraph B.1.b. (2) below—Safety.) Absorption of resorcinol may occur through the skin, through open wounds, or from the gastrointestinal tract (Refs. 1, 2, and 3). Resorcinol resembles phenol in its physiologic properties so that the effects are very similar (Ref. 1). Phenol absorption from the bowel takes place rapidly and in a few instances has led to severe and fatal poisoning after such superficial exposure that hypersensitivity or idiosyncracy is suggested (Ref. 2).

Resorcinol has been employed in the past in various preparations taken by mouth but is no longer available because of potential for toxicity. At present it is used in some intrarectal applications. However, rapid absorption occurs from mucous membranes (Refs. 2 and 4). A 3 percent concentration in 1 ounce (oz) (28.5 g) of ointment would provide 840 mg of resorcinol; this is a toxic dose if it were inserted in the rectum and absorbed rapidly (Ref. 2). The Panel agrees with a standard pharmaceutical reference that states that resorcinol has no legitimate internal use (Ref. 5).

(3) *Effectiveness.* Resorcinol resembles phenol in its physiologic properties, though it is less active (Refs. 3, 4, and 6). Klarmann, Gatyas, and Shternov (Ref. 7) found that the phenol coefficient against *Typhoid bacillus* or *Staphylococcus aureus* was 0.4. Therefore, the effective concentration of resorcinol would be two and one-half times that of phenol. Insofar as aqueous

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solutions of phenol are concerned, they are bacteriostatic in vitro in a 0.2 to 1.0 percent concentration, and bactericidal but unsafe at higher concentrations (Ref. 1). Though its actions will vary depending on organisms present and temperature, it would seem reasonable to concude that 0.5 to 2.5 percent resorcinol on intact skin would be bacteriostatic, although its potency as a bactericide would be marginal. However, there is no evidence to document intrarectal effectiveness on mucous membranes.

(4) *Evaluation.* Because of the constant contamination in the rectum, the Panel concludes that intrarectal use is of no value and use of resorcinol in that location as an antiseptic is not warranted.

References

(1) "Martindale. The Extra Pharmacopoeia," 28th Ed., Edited by Blacow N. W., The Pharmaceutical Press, London, England, p. 201, 1972.

(2) Gleason, M. N. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 3d Ed., The Williams and Wilkins Co., Baltimore, MD, pp. 124 and 189–192, 1969.

(3) DiPalma, J. R., "Drill's Pharamcology in Medicine," 4th Ed., McGraw-Hill Book Co., New York, p. 1640, 1971.

(4) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, pp. 1017–1018, 1973.

(5) "Remington's Pharmaceutical Sciences," 14th Ed., Edited by Osol, A. et al., Mack Publishing Co., Easton, PA, pp. 1187–1188, 1970.

(6) Reddish, G. F., "Antiseptics, Disinfectants, Fungicides, and Chemical and Physical Sterilization," 2d Ed., Lea and Febiger, Philadelphia, PA, pp. 537–543, 1957

(7) Klarmann, E., L. W. Gatyas and V. A. Shternov, "Bactericidal Properties of Monoethers of Dihydric Phenols. I. The Monoethers of Resorcinol," *Journal of the American Chemical Society*, 53:3397–3407, 1931.

f. *Sodium salicylic acid phenolate (external and intrarectal use).* The Panel concludes that sodium salicylic acid phenolate is not safe as an antispetic and that there is insufficient evidence to prove effectiveness for use in OTC anorectal preparations.

(1) *Description.* Sodium salicylic acid phenolate is not a known or recognized chemical entity found in the published literature. In the submission to the Panel, from the listed ingredients used to prepare sodium salicylic acid phenolate, it is difficult to determine what chemical reactions actually may occur (Ref. 1). The Panel will evaluate sodium salicylic acid phenolate based on its phenol and salicylic acid components.

(2) *Safety.* No published references were found regarding the safety of this compound; however, it is expected that the effects would be similar to the combination of phenol and salicylic acid. According to information submitted by a manufacturer who utilizes this compound, an analysis reveals that the compound contains nearly all of its phenol as free phenol (Ref. 2). The amount of phenol is reported to be 3.35 percent (Ref. 2). As discussed elsewhere in this document, phenol is not considered safe in concentrations greater than 1.5 percent (Ref. 3). (See part IX. paragraph B.2.d.(2) above—Safety.) Phenol is rarely used as an atiseptic because it has relatively feeble activity, and it possesses undesirable tissue toxicity when used in an effective antiseptic concentration (Refs. 4, 5, and 6).

Salicylic acid is irritating to skin and mucosa, destroying epithelial cells (Ref. 3). It is a keratolytic agent, causing tissue cells to swell, soften, and desquamate (Ref. 3).

(3) *Effectiveness.* No published studies affirming the effectiveness of sodium salicylic acid phenolate have been found.

Salicylic acid is not a recognized antiseptic agent.

Phenol is no longer commonly used as an antiseptic. It is obvious that the level of phenol required in a formulation to be effective as an antiseptic (i.e., 2 percent or greater) is sufficiently high so that it cannot be used safely on the skin or mucous membranes; concentrations greater than 1.5 percent are not generally recognized as safe.

(4) *Evaluation.* The Panel concludes that sodium salicylic acid phenolate is not safe or effective for use as an antiseptic or anorectal ingredient.

References

(1) OTC Volume 120017.

(2) OTC Volume 120043.

(3) Goodman, L. S. and A. Gilman, "The Parmocological Basis of Therapeutics," 5th Ed., The Macmillan Co., New York, pp. 335 and 991, 1966.

(4) Deichmann, W. B., "Local and Systemic Effects Following Skin Contact with Phenol. A Review of the Literature," *Journal of Industrial Hygiene and Toxicology*, 31:146–154, 1949.

(5) "Remington's Practice of Pharmacy," 13th Ed., Edited by Martin, E. W. and E. F. Cook, Mack Publishing Co., Easton, PA, pp. 1440–1441, 1965.

(6) Wright, A. D., "Complications of Rectal Infection," *Proceedings of the Royal Society of Medicine*, 43:283–286, 1950.

Category II Labeling

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of anorectal drug products are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel concludes the following claims to be misleading and unsupported by scientic data.

a. The term "antiseptic" and/or "antisepsis" is not acceptable. The Panel concludes that this term has many varied meanings ranging from partial (static) to total (cidal) effects and has no usefulness in anorectal OTC products because of the large number of organisms that normally exist in the anorectal area.

b. The term "kills" implies a total antisepsis that is useless in the anorectal area even if achieved because of the large number of organisms that normally exist in this area.

c. "Reduces inflammation, kills bacteria, deadens pain and rapidly removes annoying irritation." This claim cannot be justified when associated only with the term antiseptic.

d. "Not only an antiseptic action . . ." This claim is misleading because it implies too wide an effect that cannot be proved and is not useful in anorectal products.

e. "Controls infection" is unacceptable for conditions amenable to OTC treatment; infections require supervision by a physician.

f. The following are claims that are unproven and, due to contamination of the anorectal area following bowel movements, are only an unsubstantiated relative antibacterial activity at best:

(i) "Forms a protective antibacterial film over raw inflamed tissue."

(ii) "Possesses a highly bactericidal and fungicidal effect on the germs, fungi, yeasts, molds, and pathogens present in the infected area."

(iii) "Prevents overt skin infection."

(iv) "Degerming in the anorectal area."

(v) "Bacteriostatic in the anorectal area."

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredient

The Panel concludes that the available data are insufficient to permit final classification of the following antiseptic active ingredient named below. The Panel believes it is reasonable to provide 2 years for the development and review of such data. Marketing need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained within 2 years,

however, the ingredient listed in this category should no longer be marketed in OTC products.

Resorcinol (external use). The Panel concludes that resorcinol is safe for external use as an antiseptic but that there is insufficient evidence to prove effectiveness for use in OTC anorectal preparations.

(1) *Description.* (See part X. paragraph B.1.b. (1) below—Description.)

(2) *Safety.* (See part X. paragraph B.1.b. (2) below—Safety.)

(3) *Effectiveness.* Resorcinol resembles phenol in its physiologic properties, although it is less active (Refs. 1, 2, and 3). Klarmann, Gatyas, and Shternov (Ref. 4), found that the phenol coefficient against *Typhoid bacillus* or *Staphylococcus aureus* was 0.4. Therefore, the effective concentation of resorcinol would be two and one-half times that of phenol. Insofar as aqueous solutions of phenol are concerned, they are bacteriostatic in vitro in a 0.2 to 1.0 percent concentation, and bactericidal at higher concentrations (Ref. 5).The Panel has received letters from recognized dermatologic experts who state that resorcinol is a mild antiseptic in concentrations of 1 to 5 percent (Refs. 6, 7, and 8). Though its actions will vary, depending on organisms present and temperature, it would seem reasonable to conclude that resorcinol in a 0.5 to 2.5 percent concentration would be bacteriostatic, but its potency as a bactericide would be marginal (Refs. 2 and 4). However, in the anorectal area frequent contamination makes resorcinol less effective as an antiseptic. No data were found to indicate the effectiveness of resorcinol less effective as an antiseptic. No data were found to indicate the effectiveness of resorcinol in this area as an antiseptic. If further bacteriologic studies indicate a reduction in the number of bacteria in the perianal area after application of resorcinol, claims for temporary reduction in the number of bacteria, bacteriostatic, degerming, or reduction in the risk of infection could be made. (see part IX. paragraph C. below—Data Required for Evaluation.)

(4) *Proposed Dosage.* Adult external dosage is 0.5 to 2.5 percent per dosage unit not to exceed 50 mg per dosage unit and not to exceed six applications per 24 hours.

(5) *Proposed labeling.* The Panel recommends the Category III labeling for antiseptic active ingredients, pending testing for effectiveness. (See part IX. paragraph B.3. below—Category III Labeling.)

(6) *Evaluation.* The value of any antiseptic in the perianal area is open to question. Heavy contamination and recontamination are the rule so that any claim as an antiseptic needs careful substantiation. The Panel was unable to find any pertinent evidence concerning the bactericidal effect of resorcinol in perianal disease. Because there is a possibility that such evidence could be found, resorcinol is being placed in Category III for external use. Tests to elevate resorcinol to Category I for external use as an antiseptic must include bacteriologic studies to prove bacteriostatic or bactericidal effects for a suitable period of time for gram-negative bacteria, and prove that replacement of these bacteria by other pathogenic organisms or fungi does not occur. These tests are described in detail later in this document. (See part IX. paragraph C. below—Data Required for Evaluation.)

References

(1) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, pp. 1017–1018, 1973.

(2) Reddish, G. F., "Antiseptics, Disinfectants, Fungicides and Chemical and Physical Sterilization," 2d Ed., Lea and Febiger, Philadelphia, PA, pp. 537–543, 1957.

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(4) Klarmann, E., L. W. Gatyas and V. A. Shternov," Bactericidal Properties of Monoethers of Dihydric Phenols. I. The Monoethers of Resorcinol," *Journal of the American Chemical Society*, 53:3397–3407, 1931.

(5) Harvey, S. C., "Antiseptics and Disinfectants, Fungicides, Ectoparasiticides," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S. and A. Gilman, The Macmillan Co., New York, pp. 990–993, 1975.

(6) Letter to DeCillis, T. D. from A. A. Fisher dated March 9, 1977 is included in OTC Volume 120051.

(7) Letter to Decillis, T. D. from E. F. Traub dated March 9, 1977 is included in OTC Volume 120051.

(8) Letter to DeCillis, T. D. from R. B. Rees dated March 14, 1977 is included in OTC Volume 120051.

Category III Labeling

The Panel concludes that the available data are insufficient to permit final classification of the claims listed below. Additional data are required to support the following antiseptic claims:

a. "Temporarily reduces the number of organisms in the perianal area."

b. "Reduces the risk of infection."

C. Data Required for Evaluation

The Panel has agreed that the protocols recommended in this document for the studies required to substantiate Category I are in keeping with the present state of the art and do not preclude the use of any advances or improved methodoldgy in the future.

Relative antisepsis. Demonstration of this effect must be carried out in human subjects because of the unique environment of the anorectal area. Proof of relief after repeated applications will be required in addition to noting changes in bacterial counts after one application; the primary purpose is for testing of claims for antisepsis. Therefore, bacteriological colony counts per cm on a sterile 1 cm square pledgett applied to the skin at the anal verge immediately, 30 minutes, 2 hours, and 6 hours after use of the ingredient on the area compared with use of water only or no treatment and exclusion of recent defecation will provide a reasonable measure of this property. If significant differences in bacterial count were found in a statistically significant number of trials, this claim is permitted. However, the claim would have to reflect the actual duration of not less than 30 mimutes of the antiseptic effect found in the studies to the extent that it was statistically superior to soap and water. Consideration of aerobic and anaerobic organisms must also be evaluated.

b. An alternate technique was suggested by Engley (Ref. 1) utilizing a neutralizing medium. A special medium is important to determine the effectiveness of the active ingredient as opposed to the effect of preservatives in the final product.

Five organisms, *Staphylococcus aureus, Staphylococcus epidermidis, Escherichia col, Proteus vulgaris,* and *Pseudomonas aeruginosa,* which are most frequently associated with skin or the perianal area, are streaked with a swab on a blood-agar plate. A 12.5 mm disc, previously coated with a layer of a final formulation product, is placed face down in the center of the streak. The plate is then incubated for 18 hours at 98.6° F (37° C). The zone of inhibition around the disc will give an approximate degree of antimicrobial activity.

Formulations showing inhibition would then be tested for effectivenes in the perianal in the following manner: A cotton swab is used to obtain a sample of the microbial flora of the skin in the test area. The product is applied to the skin for a predetermined length of time (e.g., 20 minutes) and then removed. A second sample is taken immediately after 1, 2, and 4 hours have elapsed. The swab is used to streak a 12 mm zone on a blood-agar plate and then placed on the agar after cutting the stick off the swab. Incubation is done at 98.6° F (37° C) for 18 hours.

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Positive results will have to be verified against a special neutralizing media to eliminate the effect of preservatives from the effect of active ingredients. The duration of antisepsis, if achieved, can be evaluated by this technique.

It has not yet been established how long antimicrobial activity must be exhibited and the minimum zone of inhibition required to permit antisepsis claims in the anorectal area. In view of the lack of established procedures for investigating this area, the Panel recommends that FDA work with interested parties to develop the details necessary to illustrate the principles in both techniques discussed here, i.e., (1) the presence of organisms and types after using an anorectal antiseptic and (2) the zone of inhibition on standard organisms.

Reference

(1) Engley, F. B., Presentation to the Panel, July 9, 1976, is included in OTC Volume 120051.

X. Keratolytics

A. General Discussion

The Panel has defined keratolytics as agents that cause desquamation (loosening) and debridement or sloughing of the surface cells of the epidermis. The epidermis consists of stratified squamous cells that contain keratin (Ref. 1). Certain substances, especially the phenols and sulfhydryl compounds, loosen keratin, resulting in debridement and desquamation of epithelial tissue (Ref. 1). Adriani (Ref. 2) was able to demonstrate that resorcinol, which belongs to the class of dihydric phenols, in concentrations of 1 to 3 percent may have some ability to reduce itching as does phenol, although resorcinol is slightly less toxic. Keratolytics are claimed to be useful in many conditions where the keratin layer has proliferated to a great extent, such as warts, corns, psoriasis, eczema, and acne (Refs. 1, 3, and 4) and are being reviewed by other OTC review panels. Because they help remove keratin-containing cells, it is theorized that keratolytics help expose underlying tissue to therapeutic agents; the combination of two or more active ingredients is discussed elsewhere in this document. (See part II. paragraph K above—Principles Applicable to Combination Products.)

In a presentation to the Panel, Maibach stated that many chemicals are not considered to be keratolytics in the concentrations usually employed and at present there are apparently no good quantitative methods to study the mechanism of action of keratolytics in treating itching (Ref. 5). Maibach could not explain the therapeutic value of using keratolytics on perianal skin, which is usually moist and sometimes macerated, but Maibach thought that keratolytics were of some value in ichthyosis in which the skin is characterized by dryness, roughness, and scaliness due to excessive thickness (hypertrophy) of the horny layer (Ref. 5). The Panel concludes that keratolytics at the concentrations specified in the following ingredient discussions, for external use, are useful in reducing itching, but a claim for keratolysis requires additional study.

Keratolytics have been used intrarectally in OTC anorectal products. The Panel believes it is highly irrational therapy, however, because there is no keratin layer on mucous membranes. Keratolytics are used externally in certain cases of anal hyperkeratinization for example in psoriasis, acne, seborrheic dermatitis, and eczema. However, many anorectal diseases are associated with excoriation or mild inflammation in which dekeratinization has occurred. The Panel also recognizes that there may be conditions in which too high a concentration of keratolytics might produce irritation that would be detrimental to healing. For this reason, safe and effective concentrations of keratolytics to relieve itching or to achieve keratolysis must be carefully established.

References

(1) Harvey, S. C., "Topical Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Edited by Osol, A. and J. E. Hoover, Mack Publishing Co., Easton, PA, p. 724, 1975.

(2) Adriani, J., "The Chemistry and Physics of Anesthesia," 2d Ed., C. C. Thomas, Springfield, IL, p. 402, 1962.

(3) Swinyard, E. A., "Surface-Acting Drugs," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S. and A. Gilman, The Macmillan Co., New York, p. 953, 1975.

(4) Swinyard, E. A. and S. C. Harvey, "Topical Drugs," *in* "Remington's Pharmaceutical Sciences," 13th Ed., Edited by Martin, E. W., Mack Publishing Co., Easton, PA, p. 861, 1965.

(5) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 23d meeting, November 21, 22, and 23, 1976.

B. Categorization of Data

1. *Category I conditions under which keratolytic ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the Federal Register.

Category I Active Ingredients

The Panel has classified the following keratolytic active ingredients as generally recognized as safe and effective and not misbranded:

Alcloxa (external use)

Resorcinol (external use)

a. *Alcloxa (external use).* The Panel concludes that 0.2 to 2.0 percent alcloxa per dosage unit is safe and effective for external use as a keratolytic for the relief of itching in OTC anorectal preparations and not to exceed six applications per 24 hours.

(1) *Description.* Alcloxa (aluminum chlorhydroxy allantoinate) is a clean, white powder that is soluble in water and to a lesser extent in alcohol. It is insoluble in ether and chloroform (Ref. 1). Allantoin (5-ureidohydantoin) is a uric acid derivative and is chemically known as the diureide of glyoxyllic acid. In the racemic form, allantoin appears as monoclonic prisms or plates; it is in the form of colorless crystals (Refs. 2, 3, and 4).

In 1568, the virtues of comfrey root, the natural predecessor of allantoin, as a keratolytic and protectant were described (Ref. 1). During the Civil War it was observed that wounds that were infested with living maggots (maggots excrete allantoin) healed rapidly (Ref. 1).

(2) *Safety.* No reports have been found indicating any significant toxicity of allantoins as keratolytics in topical preparations in a concentration range of 0.2 to 2.0 percent. Patch testing and repeated insult testing on humans showed that allantoin is nontoxic, nonirritating, and nonallergenic and that it was not a primary skin sensitizer (Ref. 4). Testing on rabbits showed that allantoin is nonirritating to the eye (Ref. 4).

Allantoin has been demonstrated as having a keratin and protein dispersal effect (Ref. 4). The dispersal effect is in part due to action on the soluble cement substance (keratin matrix) which is responsible for the adherence of the cornified cells in the stratum corneum to each other (Ref. 5). There have been no reports of the growth of abnormal tissue or tumors with the use of allantoin (Ref. 4).

In animal experiments (Ref. 4), aluminum chlorhydroxy allantoinate was applied to a 4 square inch (in^2) shaved area on the backs of adult male guinea pigs, and the chemical agent proved to be without any primary irritating or sensitizing properties.

(3) *Effectiveness.* The Panel concludes that allantoin can reduce itching, although the mechanism is unclear. A therapeutic quality of the allantoins is said to be a healing effect, which is attributed to cell proliferant action and its effectiveness in removing necrotic tissue (Ref. 2). It is reported to be safe, soothing, and nonirritating even after relatively constant use for extended periods of time (Ref. 4). Aluminum chlorhydroxy allantoinate and other aluminum derivatives of allantoin, in addition to the therapeutic properties of allantoin, are said to exert astringent, buffering, and deodorant effects (Ref. 1). It is reported safe and effective in the forms of powder, solution, suspension, cream, lotion, or ointment (Ref. 3).

The Keratolytic activity of aluminum chlorhydroxy allantoinate is related to the fact that the allantoin is a hydrogen bond breaker. It probably acts by a desolvating action on the mucopolysaccharide, whose presence has been indicated in the intercellular cement of the stratum corneum (Ref. 4).

Allantoin also has a protein denaturing effect on the soluble proteins in the cement matrix by splitting their disulfide linkages, as evidenced by exposure of sulfhydryl groups whose presence can be determined by appropriate chemical means (Refs. 4 and 6).

When allantoin is applied to ulcers, wounds, cuts, and lacerations, it is claimed to have the ability to remove the undesirable necrotic tissue, clean up the area, and then follow through by inducing new tissue growth.

Another reported activity is that it appears to produce a medium distinctly unfavorable to bacterial growth. Allantoin is also said to possess leukocytic stimulating properties, particularly by stimulating healthy neutrophils (Ref. 4). The mechanism by which allantoin relieves itching is not clear, but the property of aiding in the removal of necrotic tissue and/or the possible stimulation of healing could lead to this effect. Data submitted contain studies on a range of concentration used from 0.2 to 2.0 percent (Refs. 4 and 7).

(4) *Dosage.* Adult external dosage is 0.2 to 2.0 percent per dosage unit and not to exceed six applications per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for keratolytic active ingredients. (See part X. paragraph B.1. below—Category I Labeling.)

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(7) Flesch, P., "Chemical Basis of Emollient Function in Horny Layers," *Proceedings of the Scientific Section of the Toilet Goods Association*, 40:12–16, 1963.

b. *Resorcinol (external use).* The Panel concludes that 1 to 3 percent resorcinol per dosage unit is safe and effective for external use as a keratolytic for the relief of itching in OTC anorectal preparations and not to exceed six applications per 24 hours.

(1) *Description.* Resorcinol is *m*-dihydroxybenzene. It occurs as white or pearly white, needle-shaped crystals or powder. One g dissolves in about 1 mL of water or alcohol. It is freely soluble in glycerin and ether and slightly in chloroform (Regs. 1 through 3).

(2) *Safety.* Therapeutic results and toxicity are closely related to the concentration of the agent employed and the site of application. The amount used must be limited because the toxicity of resorcinol is high. Absorption has led to methemoglobinemia, exfoliative dermatitis and death in infants, and to myxedema after repeated application in adults. Resorcinol can be absorbed rapidly from mucous membranes and is more dangerous than application to the intact skin. Severe allergic reactions may occur (Refs. 1, 4, 5, and 6).

In rats the subcutaneous minimal lethal dose is 450 mg/kg. The probable lethal dose of resorcinol in humans is between 50 to 500 mg/kg in a 7-kg man (Ref. 4). Dreisbach (Ref. 7) accepts a lower minimal figure of 2 g in a 70-kg man. The total maximum daily dose, even assuming complete absorption, to which an adult is exposed when resorcinol is used according to the recommended dosage set by the Panel is 360 mg in a 70-kg man (5.14 mg/kg). Therefore, the Panel concludes that resorcinol is safe at the recommended dosage because the total maximum recommended dose of 360 mg is considerably less than the 2-g toxic dose set by Dreisbach (Ref. 7).

Absorption of resorcinol may occur through the skin, through open wounds, or from the gastrointestinal tract. Resorcinol resembles phenol in its physiologic properties so that the effects are very similar (Ref. 1). Phenol absorption from the bowel takes place so rapidly, and in a few instances has led to severe and fatal poisoning after such superficial exposure, that hypersensitivity or idiosyncracy is suggested (Ref. 4). Similarly, after two applications of resorcinol to nearly intact skin, Kyrle (Ref. 5) noted poisoning in a 2-day-old infant.

The symptoms of mild resorcinol poisoning are ringing in the ears, some acceleration of breathing or pulse, and profuse sweating. With large doses, methemoglobinemia, circulatory collapse, unconsciousness, and violent convulsions may occur. Enough resorcinol may be absorbed from the essentially intact skin or from ulcerations to produce toxic effects (Refs. 1, 4, 5, and 6).

In vitro exposure of red blood cells to resorcinol produced a gradual swelling and an increase of the cell volume by 25 percent. This was followed by hemolysis (Ref. 8).

Fatal resorcinol poisoning has been reported in infants, though the Panel has found no report of deaths in adults. Cunningham (Ref. 9) reported a case of an infant who, after application of a compound containing 12.5 percent resorcinol (a total of 1.0 to 1.25g), developed methemoglobinemia and exfoliative dermatitis. Recovery was still incomplete 6 months later. Cunningham (Ref. 9) collected from the literature eight somewhat similar infant cases. Most of the infants had perianal eczema or diaper rash; seven of them died shortly after application. The concentration of resorcinol, known in three instances, was 2 percent, 3 percent, and 5 percent, but the quantity used resulted in toxicities. Castellani's solution which contains 10 percent resorcinol, led to methemoglobinemia with conversion of 41 percent of the hemoglobin when painted twice on a 6-month-old infant (Ref. 10).

Several adults have developed myxedema due to the antithyroid action of the drug following absorption when applied repeatedly to varicose ulcers (Refs. 11, 12, and 13). In rats subcutaneous injections of resorcinol diacetate markedly reduced radioactive iodine uptake in the thyroid, and injections twice daily at a dose of 0.4 millimoles per 100 grams produced thyroid hyperplasia in 12 days (Refs. 14 and 15).

Resorcinol, like phenol (Ref. 4), can produce a severe allergic reaction either immediately or after subsequent application (Ref. 7). Considering the large number of applications of resorcinol in various preparations, the overall sensitizing potential, however, is low (Refs. 1 through 4).

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An unpublished study on 51 patients suggests that clincially significant irritation occurs at concentrations greater than 5 percent resorcinol when applied as an occlusive patch for 48 hours (Ref. 16). This is further evidence that resorcinol is safe in concentrations of 1 to 3 percent recommended by the Panel.

In summary, the Panel concludes that resorcinol used externally in adults in a 1 to 3 percent concentration in anorectal OTC drug products is safe when accompanied by a warning, "Do not use in open wounds near the anus," and notes that numerous clinical trials (Refs. 17, 18, and 19) of preparations containing such concentrations of resorcinol testify to its safety.

(3) *Effectiveness.* A major action of resorcinol is as a keratolytic agent (Refs. 1, 2, and 3). Resorcinol is considered to have an antipruritic action and although the exact mechanism of its ability to relieve itch is not known, the Panel finds that resorcinol is effective for this purpose (Refs. 17 through 22). With pastes that contain as much as 45 percent resorcinol, the entire thickness of skin may be destroyed (Ref. 23). Application of resorcinol, though effective, must be limited to very short periods (e.g., 24 hours or less) because of absorption and toxicity (Refs. 1, 2, and 3).

There is no complete agreement concerning the lowest concentration in which resorcinol is effective as a keratolytic. Several authorities consider the lowest level to be 1 percent. Grollman and Grollman (Ref. 24) accept a 1 to 5 percent concentration for a keratolytic effect; others accept a 2 percent level (Refs. 1 through 3). The Panel received letters from recognized dermatology experts who state that resorcinol is a mild keratolytic in concentrations of 1 to 3 percent (Refs. 17, 18, 20, 21, 22, and 25). Ormsby and Montgomery (Ref. 19) state that it is keratoplastic in solutions of 2 to 4 percent concentration and is keratolytic in a strength of 10 to 50 percent.

Keratolytics in the anorectal area are of value in the treatment of psoriasis or for the removal of the outer layer of the thickened epidermis (Refs. 1 and 26). The Panel is aware that OTC products for the treatment of psoriasis are being reviewed by another OTC advisory review panel and that claims for psoriasis will be more appropriately reviewed by that Panel.

Many cases of anorectal disease are characterized by skin abrasions or infection in which excessive keratolysis theoretically could exert adverse effects that should be under physician supervision. For this reason, the Panel has accepted low concentrations of resorcinol (1 to 3 percent) as of value in anorectal products for external use.

(4) *Dosage.* Adult external dosage is 1 to 3 percent per dosage unit and not to exceed six applications per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for keratolytic active ingredients. (See part X. paragraph B.1. below—Category I Labeling.) In addition, the Panel recommends the following warnings: (i) *"Caution:* Certain persons can develop allergic reactions to ingredients in this product. If redness, irritation, swelling, pain or other symptoms develop or increase, discontinue use and consult a physician."

(ii) "Do not use in open wounds near the anus." The warning is considered necessary to preclude absorption of resorcinol through broken skin.

(6) *Minority report on resorcinol.* The minority concludes that resorcinol has no proven effectiveness as a kerotolytic at 1 to 3 percent concentrations, which are possibly safe for topical use, although the safety for OTC use is also unproven.

(i) *Safety.* Resorcinol, like phenol, is a toxic substance whose adverse effects can result from both exposure to an excessive dose on one occasion or chronic exposure to lower doses (Refs. 1, 4, 5, 6, 11, 12, and 13). Although these hazards can be weighed against therapeutic benefits when physician-supervised dermatologic therapy is undertaken, the minority of the Panel concludes that the safety of 1 to 3 percent resorcinol for external use in the OTC market remains to be established.

(ii) *Effectiveness.* Resorcinol is an effective keratolytic by virtue of its ability to alter keratin and increase the pliability, or plasticity, of the keratin layer of skin (Ref. 5). This effect also secondarily interrupts the keratin epithelial barrier of the skin to allow increased absorption of itself and any other substances present. The ability to soften keratin is a useful property in the treatment of disorders characterized by hyperkeratinization, such as psoriasis or simple callouses.

The anorectal area is characteristically moist due to anatomical factors and occlusion by clothing. This fact helps contribute to the pliability of the skin surface in this area. The anorectal area is only rarely plagued by disorders of hyperkeratinization such as psoriasis or venereal disease, which are usually treated by a physician. The former is more likely treated with steroids rather than keratolytics. If the latter (venereal disease) is treated with a keratolytic, it is applied in concentration only to the lesion for a specific time period and removed to avoid toxicity. The more common lesions of the anorectum such as anal fissures, enlarged hemorrhoidal veins, and perianal skin irritation of a moist type are not pathologically characterized by hyperkeratinization. Therefore, the minority are unable to conclude a keratolytic has any rationale for OTC anorectal use.

A further problem arises when the amount used for purported keratolytic effects is considered. There is controversy in the secondary resource literature regarding the lowest effective keratolytic concentration, which ranges from an estimate of 1 to 10 percent (Refs. 1, 2, 3, 5, and 25). Much of the confusion arises due to the lack of any careful studies to establish this fact. The majority opinion of the Panel is that resorcinol is safe at concentrations less than 3 percent and effective as a keratolytic in concentrations of 1 to 3 percent. There are no studies found which establish this property at this concentration on any body site or in the anorectal area.

Therefore, it is the opinion of three Panel members that proof of effectiveness of resorcinol as a keratolytic for use in the anorectal area needs to be established with regard to both therapeutic usefulness and rationale for the OTC market and, if established, the effectiveness of the proposed safe dose in the anorectal area.

(iii) *Studies needed for proof of safety and effectiveness—(a) Safety.* The primary safety concerns relate to absorption of resorcinol systemically. If any absorption from abraded skin areas can demonstrate quantities of resorcinol in blood level or urinary excretion, then that quantity of resorcinal should be studied to determine whether toxic effects will occur. Methods to determine the effects could include red cell function, and liver and renal function tests. Since resorcinal has been reported to induce goiten and tinnitus, thyroid function test and auditory function test could also be used. If absorption is not demonstrated, it must be established, by use of animal models if needed, that the lower limit of sensitivity of assay method would measure blood or urine levels expected with administration of known toxic levels. For example, in rats, the minimal lethal dose is 450 mg/kg. By administration of lower amounts and measurements of kinetics, estimates of volume of distribution and correlation of blood level with total dose can be made, and a toxic blood concentration can be estimated and correlated with dose. If the method is adequately sensitive and no absorption is demonstrated, this would be acceptable evidence of relative safety.

(*b*) *Effectiveness.* (*1*) Statistically significant clinical improvement in symptoms of anorectal disease with resorcinol in final formulation compared to final formulation alone, in double-blind clinical trials as well as demonstration that this improvement is due to keratolysis, would be necessary to substantiate a claim for improvement in symtoms due to keratolysis, although only the former is needed to claim symptomatic improvement.

(*2*) The effectiveness of 1 to 3 percent resorcinol in formulation giving symptomatic improvement and achieving keratolysis must be demonstrated if a claim is made for effectiveness by virtue of keratolysis.

(*3*) The property of keratolysis may be demonstrated histologically and possibly by a test of tensile strength or compressibility and could be done on skin from other body sites.

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(1) "The United States Dispensatory," 27th Ed., Edited by Osol, A. and R. Pratt, J. B. Lippincott Co., Philadelphia, PA, pp. 1017–1018, 1973.

(2) "The United States Pharmacopeia," 19th Rev., The United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 440–441, 1975.

(3) "The Merck Index," 9th Ed., Merck and Co., Inc., Rahway, NJ, p. 1058, 1976.

(4) Gosselin, R. E. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 4th Ed., The Williams and Wilkins Co., Baltimore, MD, p. 128, 1976.

(5) Kyrle, J., "Beitrag zur Kenntnis der Resorzinvergiftung bei ausserer Applikation des Mittels," *Dermatologische Zeitschrift*, 22:505–510, 1915.

(6) Wuthrich, B., S. Zabrodsky and H. Storck, "Perkutane Vergiftungen durch Resorcin, Salicylsaure und weisse Pracipitatsalbe," *Pharmaceutica Acta Helvetiae*, 45:453–460, 1970.

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(8) Latta, H., "Anomalous Swelling of Erythrocytes Exposed to Resorcinol," (Abstract), *Biological Abstracts*, 46:480, 1965.

(9) Cunningham, A. A., "Resorcin Poisoning," *Archives of Disease in Childhood*, 31:173–176, 1956.

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(14) Doniach, I. and R. Fraser, "Effect of Resorcinol on the Thyroid Uptake of I^{131} in Rats," *Lancet*, 1:855–856, 1950.

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(17) Letter to DeCillis, T. D. from E. F. Traub, dated February 27, 1976 is included in OTC Volume 120051.

(18) Letter to DeCillis, T. D. from A. A. Fisher, dated February 20, 1976 is included in OTC Volume 120051.

(19) Ormsby, O. S. and H. Montgomery, "Diseases of the Skin," 8th Ed., Lea and Febiger, Philadelphia, PA, p. 145, 1954.

(20) Letter to DeCillis, T. D. from R. B. Rees, dated March 14, 1977 is included in OTC Volume 120051.

(21) Letter to DeCillis, T. D. from E. F. Traub, dated March 9, 1977 is included in OTC Volume 120051.

(22) Letter to DeCillis, T. D. from A. A. Fisher, dated March 9, 1977 is contained in OTC Volume 120051.

(23) "American Hospital Formulary Service," American Society of Hospital Pharmacists, Washington, DC, 84:28, 1976.

(24) Grollman, A. and E. F. Grollman, "Pharmacology and Therapeutics," 7th Ed., Lea and Febiger, Philadelphia, PA, pp. 669 and 961, 1970.

(25) Letter to DeCillis, T. D. from R. B. Rees, dated February 20, 1976 is included in OTC Volume 120051.

(26) Swinyard, E. A. and S. C. Harvey, "Antimicrobial Drugs," *in* "Remington's Pharmaceutical Sciences," 14th Ed., Edited by Osol, A. et al., Mack Publishing Co., Easton, PA, pp. 1187–1188, 1970.

Category I Labeling

The Panel recommends the following Category I Labeling for keratolytic active ingredients to be generally recognized as safe and effective and not misbranded.

Indication. "For the temporary relief of itching."

2. *Category II conditions under which keratolytic ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register.**

Category II Active Ingredients

The Panel has classified the following keratolytic active ingredients as not generally recognized as safe and effective or as misbranded:

Precipitated sulfur (intrarectal use)
Sublimed sulfur (intrarectal use)
Resorcinol (intrarectal use)

a. *Precipitated sulfur and sublimed sulfur (intrarectal use).* The Panel concludes that Precipitated sulfur and sublimed sulfur are not effective for intrarectal use as keratolytics in OTC anorectal preparations.

(1) *Description.* The element sulfur exists in a variety of physical forms and is used in fine powders (sublimed or precipitated sulfur), in colloidal form with aqueous solutions, and in ointments (Ref. 1). It is insoluble in water an most organic solvents and may contain small amounts of hydrocarbons and occasionally selenium or arsenic (Ref. 2). It has been used an an antimicrobial agent and more recently as a keratolytic agent for cutaneous disorders (Ref. 1).

(2) *Safety.* No information applicable to safety in anorectal use has been found, although effets when used elsewhere are or relevance to both intrarectal and external use. When given orally, sulfur is reported to have a cathartic effect, probable secondary to formaton of sulfides or sulfates by intestinal bacteria (Refs. 3 and 4), but no maximal toxic dose has been established. It is possible that intrarectal sulfur breaks down in the presence of bacterial flora, which could cause the rare and relatively benign sulfhemoglobinemia (Refs. 1 and 5), although this is unusual in humans (Ref. 6).

When used on human skin, it has been found that elemental sulfur can cause perpetuation and production of acne and follicular obstruction at concentrations greater than 0.5 percent (Ref. 7). Accordingly, concentrations must be kept below this level. A keratolytic agent is judged by the Panel to be deleterious on rectal mucosa.

(3) *Effectiveness.* Clinical studies related to the use of sulphur on rectal mucosa could not be found in the literature. This, plus the lack of any apparent function as judged by the Panel, formed the basis for the Panel's decision that sulfur has no apparent usefulness when used intrarectally.

(4) *Evaluation.* It is irrational to use keratolytics intrarectally. The Panel finds no data to support the safety or effectiveness of the intrarectal use of sulfur.

References

(1) Esplin, D. W., "Antiseptics and Disinfectants; Fungicides; Ectoparasiticides," *in* "The Pharmacological Basis of Therapeutics," 4th Ed., Edited by Goodman, L. S. and A. Gilman, The Macmillan Co., New York, pp. 1032–1066, 1970.

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(7) Mills, O. H. and A. M. Kligman, "Is Sulphur Helpful or Harmful in Acne Vulgaris?," *British Journal of Dermatology*, 86:620–627, 1972.

b. *Resorcinol (intrarectal use).* The Panel concludes that resorcinol is not safe or effective for intrarectal use as a keratolytic in OTC anorectal preparations.

(1) *Description.* (See part IX. paragraph B.2.e.(1) above—Description.)

(2) *Safety.* (See part IX. paragraph B.2.e.(2) above—Safety.) Resorcinol has been employed in the past in various preparations taken by mouth. At present it is used in some intrarectal applications. Rapid absorption occurs from mucous membranes (Ref. 1). A 3 percent concentration in 1 oz (28.5 g) of ointment would provide 840 mg of resorcinol, a toxic dose if it were absorbed rapidly from the rectal mucosa. The Panel agrees with a standard pharmaceutical text that states that resorcinol has no legitimate internal use (Ref. 2).

Resorcinol can produce a severe allergic reaction either immediately or after subsequent application. Considering the large number of applications of resorcinol in various preparations, the overall sensitizing potential, however, is low (Refs. 1 through 4).

(3) *Effectiveness.* The intrarectal application of a keratolytic can serve no useful purpose, and almost certainly will aggravate any existing disease because it will act as an irritant. Keratolytics exert a beneficial effect only when applied externally.

The Panel, therefore, concludes that resorcinol has no rational scientific basis for being included in OTC anorectal preparations for intrarectal use.

(4) *Evaluation.* Keratolytics have no reason to be used in intrarectal applications. There are no data to establish safety or effectiveness of resorcinol for intrarectal use and it is, therefore, placed in Category II.

References

(1) "Martindale. The Extra Pharmacopoeia," 26th Ed., Edited by Blacow, N. W., The Pharmaceutical Press, London, England, pp. 571–572, 1972.

(2) Swinyard, E. A. and S. C. Harvey, "Antimicrobial Drugs," *in* "Remington's Pharmaceutical Sciences," 14th Ed., Edited by Osol, A. et al., Mack Publishing Co., Easton, PA, pp. 1187–1188, 1970.

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(4) "The United States Pharmacopoeia," 19th Rev., The United States Pharmacopoeial Convention, Inc., Rockville, MD, pp. 440–441, 1975.

Category II Labeling

None.

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the movement of Category III conditions to Category I.

Category III Active Ingredients

The Panel concludes that the available data are insufficient to permit final classification of the keratolytic active ingredients listed below. The Panel believes it is reasonable to provide 2 years for the development and review of such data. Marketing need not cease during this time if adequate testing is undertaken. If adequate effectiveness and/or safety data are not obtained within 2 years, however, the ingredients listed in this category should no longer be marketed in OTC products:

Precipitated sulfur and sublimed sulfur (external use). The Panel concludes that precipitated sulfur and sublimed sulfur are safe for external use as a keratolytic at the proposed dosage, but there are insufficient data to prove effectiveness for use in OTC anorectal preparations.

(1) *Description.* (See part X. paragraph B.2.a(1) above—Description.)

(2) *Safety.* (See part X. paragraph B.2.a.(2) above—Safety.)

(3) *Effectiveness.* Sulfur has been used as a keratolytic agent in the treatment of acne but has not been shown to be effective in the treatment of anorectal disease (Ref. 1). Although no studies pertaining to the usefulness of sulfur in anorectal products were found, the Panel concludes that keratolytics demonstrated at other skin sites may apply here, although demonstration of this effect in safe doses is needed. Concentrations of sulfur at less than 0.1 percent in any vehicle are unlikely to be effective (Ref. 1).

(4) *Proposed dosage.* Adult external dosage is 2 to 10 mg per dosage unit and not to exceed six applications per 24 hours.

(5) *Labeling.* The Panel recommends the Category I labeling for keratolytic active ingredients. (See part X. paragraph B.1. above Category I Labeling.)

Reference

(1) Esplin, E. W., "Antiseptics and Disinfectants; Fungicides; Ectoparasiticides," *in* "The Pharmacological Basis of Therapeutics," 4th Ed., Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, pp. 1032–1066, 1970.

Category III Labeling

The Panel concludes that the available data are insufficient to permit final classification of the following claims. Additional data are required to support the following keratolytic claims:

a. "* * * but is keratolytic, softening the outer skin layers for more effective results."

b. "* * * for more effective results."

C. Data Required for Evaluation

The Panel has agreed that the protocols recommended in this document for the studies required to substantiate Category I are in keeping with the present state of the art and do not preclude the use of any advances or improved methodology in the future.

Principles in the design of an experimental protocol for testing keratolytic drug—a. *General principles.* Proof of keratolytic activity by an ingredient in the anorectal area would be difficult to demonstrate except by use of biopsy of the affected skin before and after use of the ingredient. Therefore, such testing may be performed on other body sites.

b. *Selection of patients.* Normal human volunteers or persons with hyperkeratotic conditions may be used to establish effectiveness of active ingredients.

c. *Methods of study.* The minimum number of visits should be the initial visit and a follow-up not more than 7 days. Double-blind studies on randomly selected patients should include the use of a fixed focus camera and a grading system.

d. *Interpretation of data.* Desquamation of tissue and necrosis of epithelial cells must be demonstrated within 7 days. Histological examination must give clear evidence of keratolysis.

XI. Anticholinergics

A. General Discussion

An anticholinergic is defined as a substance that inhibits or prevents the action of acetylcholine, the transmitter of cholinergic nerve impulses.

Anticholinergics produce their action systemically at ganglionic synapses, the endings of postganglionic parasympathetic nerves, the neuromuscular junction, and the central nervous system. There is no hypothetical or demonstrated evidence that anticholinergic agents have any role in the relief of anorectal symptoms. Drugs are preferred that limit their therapeutic effect to the particular site involved in the disorder under treatment; other actions constitute side effects. Anticholinergics have no proven controlled local or limited site of action without associated systemic effects.

The Panel finds that no claims were submitted for consideration that were attributed specifically to atropine (belladonna alkaloids). Further, the Panel concludes that anticholinergics as ingredients in OTC anorectal products are not generally recognized as safe and effective because of possible systemic toxicity resulting from unpredictable absorption, e.g., urinary retention, blurred vision, and dry mouth. No reports have been found to indicate that anticholinergics have any specific therapeutic local effects useful in treating anorectal symptoms.

The Panel concludes that any labeling, which is attributed to atropine (belladonna alkaloids and belladonna extract), is misleading and contains unacceptable claims for preparations used for the treatment of anorectal disorders.

B. Categorization of Data

1. *Category I conditions under which anticholinergic ingredients are generally recognized as safe and effective and are not misbranded.* None.

2. *Category II conditions under which anticholinergic ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register**.

Category II Active Ingredient

The Panel has classified the following anticholinergic active ingredient as not generally recognized as safe and effective or as misbranded:

Atropine and belladonna extract (external and intrarectal use). The Panel concludes that atropine and belladonna extract are not safe or effective for use as anticholinergics in OTC anorectal preparations.

(1) *Description.* Atropine occurs as white crystals, usually needle-like, or as a white crystalline powder. Belladonna extract is obtained by extraction of belladonna leaf and contains in each 100 g not more than 1.5 g and not less than 1.35 g of the alkaloids of belladonna leaf (Ref. 1).

(2) *Safety.* No information regarding the toxicity of atropine (belladonna extract) following application to the anorectal area is available. Therefore, conclusions related to the ingredient must be extrapolated from related human use data. Systemic atropine poisoning may result from absorption of the alkaloid from broken or irritated skin (Refs. 2, 3, and 4). Poisoning due to belladonna plasters has been reported (Ref. 5). While there exists some difference of opinion regarding atropine's margin of safety, it is generally considered a potent and toxic drug (Refs. 6 and 7). The point has also been made that intoxication depends primarily on dose and individual susceptibility (Ref. 8).

Because atropine is a drug that requires individual adjustment of oral dosage levels by a physician, and systemic atropine poisoning may result due to the absorption of atropine when applied to the anorectal area, its use in OTC anorectal preparations is not safe.

(3) *Effectiveness.* The Panel has reviewed the literature extensively and can find no definitive clinical data to establish atropine and belladonna extract (belladonna alkaloids) as effective for use in the treatment of anorectal disorders. Nor were any data submitted to the Panel to support any claim for the use of atropine in anorectal disorders. It has no local effect on intact skin and its systemic effect, as described above for the class of anticholinergic ingredients, occurs only after absorption (Refs. 2, 3, and 4) from irritated or broken skin or mucous membranes when applied internally.

(4) *Evaluation.* The Panel concludes that atropine, because of its potent and toxic nature, the variability in response due to individual susceptibility, and no definitive clinical data supporting its effectiveness when applied externally or intrarectally, is not safe or effective for use in OTC anorectal preparations as an anticholinergic.

References

(1) "The National Formulary," 14th Ed., American Pharmaceutical Association, Washington, DC, pp. 56 and 58, 1975.

(2) Avidado, D. M., "Krantz and Carr's Pharmacologic Principles of Medical Practice," 8th Ed., The Williams and Wilkins Co., Baltimore, MD, p. 363, 1972.

(3) "AMA Drug Evaluations—1971," 1st Ed., American Medical Association, Chicago, IL, p. 586, 1971.

(4) Thienes, C. H. and T. J. Haley, "Clinical Toxicology," 5th Ed., Lea and Febiger, Philadelphia, PA, pp. 14–15, 1972.

(5) Sims, S. R., "Poisoning Due to Belladonna Plasters," *British Medical Journal*, 2:1531, 1954.

(6) Goodman, L. S. and A. Gilman, "The Pharmacological Basis of Therapeutics," 4th Ed., The Macmillan Co., New York, p. 530, 1970.

(7) Gleason, M. N. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," The Williams and Wilkins Co., Baltimore, MD, pp. 34–36, 1969.

(8) Deichmann, W. D. and H. W. Gerarde, "Toxicology of Drugs and Chemicals," Academic Press, New York, p. 116, 1969.

Category II Labeling

None.

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* None.

XII. Miscellaneous Anorectal Ingredients

A. General Discussion

The actions of several ingredients reviewed by the Panel do not fall within the usual pharmacologic groups of local anesthetics, keratolytics, antiseptics, anticholinergics, vasoconstrictors, protectants, conterirritants, astringents, and wound-healing agents. However, these miscellaneous ingredients are found in OTC anorectal products and are discussed individually below.

B. Categorization of Data

1. *Category I conditions under which miscellaneous anorectal ingredients are generally recognized as safe and effective and are not misbranded.* None.

2. *Category II conditions under which miscellaneous anorectal ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC anorectal drug products effective 6 months after the date of publication of the final monograph in the **Federal Register**.

Category II Active Ingredients

The Panel has classified the following miscellaneous anorectal active ingredients as not generally recognized as safe and effective or as misbranded:

Collinsonia extract (external and intrarectal use)

E. coli vaccines (external and intrarectal use)

Lappa extract (external and intrarectal use)

Leptandra extract (external and intrarectal use)

Mullein (external and intrarectal use)

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a. Collinsonia extract (external and intrarectal use). The Panel concludes that there are no data to establish either the safety or effectiveness of collinsonia extract in OTC anorectal preparations.

(1) *Description.* Collinsonia consists of the dried root of *Collinsonia canadensi.* On analysis, collinsonia contains a resin, saponin, tannin, and mucilage (Refs. 1 and 2). No pharmacologic studies have been reported during the period 1960 to 1975 (Ref. 3).

(2) *Safety.* No data on either the safety or effectiveness of collinsonia have been found in any of the modern texts of pharmacology or in the literature for the past 15 years.

It has been used externally for wounds or as a gargle in the strength of 1 part of fluidextract to 3 parts of water. Used internally, 0.12 to 0.25 g was the accepted dose (Ref. 1). However, because no references were found referring to adverse effects, safety limits are impossible to determine. The presence of tannins introduces a potential danger. There are no reports available on anorectal use.

(3) *Effectiveness.* Collinsonia has been listed as an antispasmodic, diuretic, astringent, anticatarrhal, and diaphoretic used for dropsy, gravel, leukorrhea, cystitis, and inflammatory conditions of the genitourinary organs (Ref. 2). Older herbal medical books describe its use for lochial colic; snake bites; rheumatism; dumb ague; as a vulnerary for dropsy; as a poultice for bruises, sores, blows, falls, wounds, sprains, contusions; taken like tea for headaches, colics, cramps, dropsy, indigestion, bladder pains, ascites, and dropsy of the ovaries; as a powerful tonic in putrid and malignant fevers and in leukorrhea; and for chronic diseases of the respiratory tract, as an agent to relieve pulmonary irritation and a stimulant expectorant for irritation of the pneumogastric nerve (Ref. 4). It has been recommended as a cure for hemorrhoids when taken in oral doses of 1 to 2 drops of the tincture in water three or four times daily (Ref. 4).

The only evidence that would indicate that it is effective for use in anorectal disease consists of a few testimonials submitted in which it was used in combination with other ingredients (Ref. 4).

The disappearance of this ingredient from all modern texts and the fact that no new evidence has been presented concerning its effectiveness in the last 15 years are evidence that this is an outmoded form of treatment.

(4) *Evaluation.* The Panel concludes that there are no data to establish either the limits of safe application or any evidence of the effectiveness of collinsonia for use in anorectal preparations. It is therefore placed in Category II.

References

(1) "The Merck Index," 8th Ed., Merck and Co., Inc., Rahway, NJ, p. 279, 1968.

(2) "The Merck Index," 9th Ed., Merck and Co., Inc., Rahway, NJ, p. 319, 1976.

(3) OTC Volume 120057.

(4) OTC Volume 120053.

b. *E. coli vaccines (external and intrarectal use).* The Panel concludes that *E. coli* vaccines are not safe and effective for use in OTC anorectal preparations.

(1) *Description.* A milliliter of *E. coli* vaccine contains approximately 2,000,000,000 killed *E. coli* (Ref. 1). The method by which the bacteria are killed is not specified. The breakdown products are not specified except as metabolic and corpuscular elements, nor are the strains of *E. coli* employed in the preparation listed.

Preservation is secured by the addition of 2 percent liquefied phenol. However, the data concerning *E. coli* vaccines that have been presented to the Panel specify diluted vaccine so that only 0.4 percent of liquefied phenol is present (Ref. 1).

(2) *Safety.* Animal and human safety data that are available are sparse. Fifty rats were treated with *E. coli* vaccines placed into the wounds, and the tensile strength of these wounds were tested later; complication rates were identical with controls (Ref. 1).

Only two trials in humans have been reported; 40 patients in one trial and 54 patients in the other showed no evidence of local irritation (Ref. 1). Marketing data submitted by the company state that in 50 years the company producing this vaccine has never received nor heard of any reports of side effects (Ref. 1).

The Panel finds that these observations suggest that the product is safe, but are not extensive enough to warrant a firm conclusion.

(3) *Effectiveness.* To obtain a broader base for evaluating this ingredient, the Panel called in a consultant who was also a member of an Advisory Panel to the FDA, Bureau of Biologics (Ref. 2). This discussion incorporates his insight into the data as well as that of the Panel.

It is postulated by the manufacturer that the bacterial culture suspension breakdown products that are incorporated in the preparation act as local vaccines and induce immunologically mediated local resistance (i.e., stimulate the body's natural defenses in the anorectal area) against secondary infections that occur in anorectal disease. The Panel recognizes the need for the consumer to self-treat the limited symptoms of anorectal disorders such as burning, itching, pain, and swelling. If these symptoms persist beyond 7 days, a physician should be seen. It is the experience of the Panel that if secondary infection occurs, there is an important causative factor and may be of a serious nature that requires close supervision by the physician. Normal body defenses operate to prevent secondary infections in the presence of hemorrhoids or swollen tissue so that effectiveness studies would need to show a decrease in the number of infections occuring when compared to normal body defense mechanisms.

In the reports available, the effectiveness of *E. coli* vaccines cannot be separated from other components in the combination that apparently has been used in all experiments.

Evidence of effectiveness presented by the manufacturer includes the following animal experiments. In the first, rabbits were hypo-immunized against *E. coli* by subcutaneous injection of vaccine. After later subjecting the animals to a challenge by painting *E. coli* on the skin, serum titers became higher in the animals who had the injections (Ref. 1). The interpretation was that a measure of immunity could be obtained by painting lyophilized vaccine on intact skin. In another experiment, oral administration of lyophilized vaccine of inactivated *Salmonella typhi murium* protected mice against later oral administration of virulent *S. typhi murium* (Ref. 1). No evidence has been presented that *E. coli* vaccines applied intrarectally will increase the antiboyd titer to *E. coli*.

E. coli includes a large number of organisms that are classified in three large groups. Ewing (Ref. 3) states that 149 O antigens, 91 K antigens, and 51 H antigens are now known. Specific antigens for a number of these groups can be prepared. Oral administration of two strains of live *E. coli* have been reported to increase antibodies to these strains and also to *H. influenza* in adult volunteers (Ref. 4). However, the extent of cross reactivity to other strains of *E. coli* is not clear. furthermore, Sanford has presented data to the Panel (Ref. 2) that American investigators have not been able to effect immunization against *Salmonella* organisms.

No evidence is supplied to indicate that any immunity, if secured for *E. coli*, would be exerted preferentially in the anorectal area. Furthermore, even if *E. coli* could be removed from the fecal stream, even more serious

microorganisms might colonize the gut and affect the anorectal area.

Two clinical trials were reported with a compound containing *E. coli* vaccines (Ref. 1). In the first, 24 patients were treated with an ointment and 28 with a placebo that consisted only of the vehicle (Ref. 1). This report of a trial carried out in Japan noted that the best results were secured with patients with "hemorrodial knots" or "tears in anus." These entities probably should be interpreted as thrombosed hemorrhoids or anal fissures. A second trial was carried out in 40 patients (Ref. 1). In both reports a slight advantage was shown in overall improvement from the use of the vaccines compared with the vehicle itself. However, whether or not the control vehicle contained all substances except *E. coli* breakdown products is not clear.

There are other questions about the effectiveness of *E. coli* vaccines used in these investigations. There is no description of the method by which the organisms are killed; this undoubtedly would affect antigenicity. The preservatives in the combination used may not only influence antibacterial activity but also antigenicity. Metabolic and corpuscular elements, the breakdown products of *E. coli*, in the vaccines are not specified. The strains of *E. coli* are not specified, nor is there any indication as to whether or not the vaccine contains a K antigen. it is stated that the product has not been changed since 1922; this may mean a stock culture has been used, but this is not clear in the data (Ref. 1).

In conclusion, there are no studies available to show the relationship of infection to hemorrhodial symptoms that are amenable to treatment with ingredients approved by this Panel. Nor are there any studies to show that *E. coli* vacine can reduce irritation or pruritis by virtue of its purported immunologic effect. There is some evidence that ingestion or local application of *E. coli* vaccines can induce serum antibodies to *E. coli*, though it is not certain that this applies to other gram-negative bacteria such as *Salmonella*. There is no proof that this increase could be of any substantial quantitative effect insofar as destruction of *E. coli* in the body is concerned. Furthermore, there is the possibility that vaccines, if effective, might indeed be harmful because of other bacteria that would colonize the feces and affect the anorectal area. The data submitted from clinical trials are not adequate to establish general recognition of its effectiveness.

The Panel recognizes some of the claims associated with this ingredient as being effects that are useful in the treatment of anorectal symptoms for relief of irritation and/or pruritus, but believes that immunotherapy, the mechanism by which the claim for relief of infection is inferred, is such a complex process that any preparation claiming effectiveness on such a basis requires further testing before being included in OTC drug products.

A preparation presented to the Panel listed the active ingredients contained in a 1 g suppository as follows: Sterilized conserved metabolites and the corpuscular components of approximately 300 million coli-bacterials of different types (Ref. 1). The following were listed but are considered by the Panel as pharmaceutical aids: Liquefied phenol, neutral oil, adeps solidus, and cialit. Cialit is the sodium salt of 2-(ethylmercurithio)-5-benzoxazol-carboxylic acid. One g of ointment contains sterilized, conserved metabolites and the corpuscular components of approximately 330,000,000 coli-bacterials. The following were listed but are considered by the Panel as pharmaceutical aids: Petrolatum, hydrated lanolin, and amphocerin E (dehydag). No data concerning the safety or effectiveness of cialit or amphocerin E have been submitted. It is impossible from the material presented to separate the effectiveness of *E. coli* vaccines from other components in the combination. While it is considered that these agents act as preservatives or as vehicles and as such are outside the charge of the Panel, the Panel recommends that further information to be reviewed by another Panel is necessary concerning their composition and action.

(4) *Evaluation.* The Panel concludes that the safety and effectiveness of *E. coli* vaccines to relieve irritation, prevent infection, or relieve pruritus in the anorectal area are unproven. In view of the hazards that could result from unbalancing the bacterial flora of the anorectal area, *E. coli* vaccines are not safe and effective for use in anorectal preparations.

References

(1) OTC Volume 120030.

(2) Minutes of the OTC Panel on Hemorrhoidal Drug Products, 16th meeting, September 8 and 9, 1975.

(3) Ewing, W. H., "Enterobacteriaceae Infections," *in* "Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections," 5th Ed., Edited by Bodily, H. and E. Updike, American Public Health Association, Inc., New York, pp. 227–280, 1970.

(4) Schneerson, R. and J. B. Robbins, "Induction of Serum Haemophilus Influenzae Type B Capsular Antibodies in Adult Volunteers Fed Cross-Reacting Escherichia Coli 075:K100:H5," *New England Journal of Medicine,* 292:1083–1096, 1975.

c. Lappa extract (external and intrarectal use). The Panel concludes that there are no data to establish either the safety or effectiveness of lappa extract in OTC anorectal preparations.

(1) *Description.* Lappa consists of the dried root of *Arctium lappa.* It contains a volatile oil, a bitter principle, inulin, and tannin (Refs. 1 and 2).

The roots of *Arctium lappa* or of *A. minus* were recognized in several editions of standard pharmaceutical references (Refs. 1 and 2). The fluidextract was the preparation of choice. A proprietary product, burdock root oil, was a perfumed mixture of an alcoholic extract of the root with castor oil. These preparations and a poultice prepared from the fresh leaves were used in the treatment of various skin disorders such as psoriasis, prurigo (persistent itching eruptions of papules), and acne. The fluidextract, prepared from the dried root, was prescribed for internal administration in the management of gouty and rheumatic conditions (Ref. 3).

Considerable phytochemical work has been done on the root. Arctium is a reputed narcotic glycoside, but the chemical character of this compound has not been described (Ref. 4). Suchy et al. (Ref. 5) described arctiopicrin, a sesquiterpene lactone, but pharmacological properties have not been described. A substance, arctigenin, is a compound chemically resembling picropodophyllin, but its pharmacological resemblance has not been noted. Arctic acid is a new sulfur-containing acetylenic compound but is without proven pharmacological activity (Ref. 6).

(2) *Safety.* A search of the medical literature of the past 20 years produced no studies on either the safety or effectiveness of lappa. It is essentially a relic of old herbal medicine. One reference states that it was formerly used in the form of a decoction (1 in 20) and as a diuretic and diaphoretic with up to 500 mL being administered daily. The internal dose was given as 1 to 6 g (Ref. 1). Lappa was formerly used for dermatoses (Ref. 2). Claims made for the product published in 1930 were as an aperaitif, diuretic, diaphoretic, and ulcerative (Ref. 7). Externally it was also used for swelling, hemorrhoids, burns, and a hair grower, as an antisyphilitic, antirheumatic, and in large doses as a purgative (Ref. 7). As a purgative, 1 to 6 g of the root has been given with an average dose of 2 g (Ref. 7).

From these reports it would appear that because the oral administration of

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lappa has been used in the past, external or intrarectal application would be safe within the limits of practical application, but there are no data to support either the lower or upper limits for this purpose. No reports on the safe application to anorectal disease were found.

(3) *Effectiveness.* From the composition of the root it would suggest that tannins are one of the active ingredients and that these ingredients could act as a mild astringent. An extract of the root has been found to lower blood sugar in rats, but this action has not been verified in other species and it was not quantified in the studies in rats (Ref. 8). Anorectal use of lappa is not currently mentioned in any of the standard pharmacology texts. With the exception of a few testimonials from patients who had used lappa in a combination, no data to support its effectiveness in anorectal disease could be found (Ref. 3).

(4) *Evaluation.* The Panel concludes there are no data to establish a minimum or maximum dose for lappa when contained in anorectal preparations. Safety has not been established, and there is no evidence that could be found to prove its effectiveness in anorectal preparations. This ingredient is therefore placed in Category II.

References

(1) "Martindale. The Extra Pharmacopoeia," 26th Ed., Edited by Blacow, N.W., The Pharmaceutical Press, London, England, p. 2021, 1972.

(2) "The Merck Index," 8th Ed., Merck and Co., Inc., Rahway, NJ, p. 609, 1968.

(3) OTC Volume 120053.

(4) Onaki, T., "Constituents of the Seeds of the Burdock (*Arctium lappa* L.). IV. Racemization of Arctigenin and Its Derivatives," *Journal of the Pharmaceutical Society of Japan*, 57:269–274, 1937.

(5) Suchy, M. et al., "Terpenes. LXXXIV. The Structure of Arctiopicrin, a Sesquiterpene Lactone from *Arctuim minus* Bernh," *Croatica Chemica Acta, 29:247–254, 1957.*

(6) Obata, S., M. Yoshikura and R. Washino, "Components of *Arctium lappa*," *Nippon Nogei Kagaku Kaishi*, 44:437–446, 1970.

(7) "The Merck Index," 4th Ed., Merck and Co., Inc., Rahway, NJ, p. 293, 1930.

(8) Lapynina, L. A. and T. F. Sysoeva, "Research on Some Plants to Determine Their Sugar-Lowering Properties," *Farmatsevtichnii Zhurnal (Kiev)*, 19:52–58, 1964.

d. Leptandra extract (external and intrarectal use). The Panel concludes that leptandra extract is probably safe but there is no proof of its effectiveness in anorectal preparations.

(1) *Description.* Leptandra is formed from the dried rhizome and roots of *L. virginica*, a North American plant. It contains on analysis a starch, esters of cinnamic acid, methaquinones, fatty acids, resins, saponins, tannin, and sugars (Ref. 1). It formerly was recognized in a standard pharmaceutical compendia (Ref. 2).

(2) *Safety.* It probably would be safe in an anorectal preparation because the oral dose of 1 to 4 g of the powder was employed in the past (Ref. 3). However, no safety data for external or intrarectal use have been found.

(3) *Effectiveness.* Leptandra in the form of the powdered dry drug, extract, or freshly gathered drug, was employed in the past as a cathartic in a dosage of 1 to 4 g (Ref. 3). It was believed to also aid as a cholagogue. This action was proved in dogs; an infusion increased total bile output and total cholate production in dogs (Ref. 4). The literature of 1960 to 1975 does not provide other pharmacologic data (Ref. 2).

The use of this ingredient has disappeared from the pharmacologic and pharmaceutic literature. Older texts regard it as a purgative, emetic, cholagogue, alterative, and tonic used for constipation, liver diseases, diarrhea, dysentery, and torpid liver (Ref. 5).

No data are available to indicate that it is effective in anorectal preparations.

(4) *Evaluation.* The Panel concludes that, although leptandra probably is safe for use in anorectal preparations, there is no evidence that it is effective. It is therefore placed in Category II.

References

(1) "The Merck Index," 7th Ed., Merck and Co., Inc., Rahway, NJ, p. 606, 1960.

(2) OTC Voume 120057.

(3) "The Dispensatory of the United States of America," 25th Ed., Edited by Osol, A. and G. E. Farrar, Jr., J. B. Lippincott Co., Philadelphia, PA, pp. 1735–1736, 1955.

(4) Petrovskii, G. A. et al, "The Cholagogic Effect of *Bupleurum exaltatum, Agrimonia asiatica, Leontopodium ochroleucum,* and *Veronica virginica*," *Farmacologiia i Toksikologiia*, 20:75–77, 1957.

(5) "The Merck Index," 4th Ed., Merck and Co., Inc., Rahway, NJ, 1930.

e. *Mullein (external and intrarectal use).* The Panel concludes that mullein is not safe or effective for use in OTC anorectal preparations.

(1) *Description.* Mullein (verbascum, great mullein, mullein dock) is a common weed native to Europe and to the United States. This drug is a carryover from folklore (Ref. 1).

Mullein is considered a demulcent, a soothing, bland substance. Because the Panel has not recognized any beneficial pharmacologic or therapeutic classification of demulcents for use in anorectal disorders, mullein is being considered independently.

(2) *Safety.* No acceptable or satisfactory scientifc data relevant to the safety of mullein for anorectal use was found. Fat droplets from *Verbascum orientale* were shown to contain an appreciable amount of carotenoids. Severe irritation to tissues where applied is known to occur (Ref. 2).

(3) *Effectiveness.* No evidence that mullein possesses any effectiveness in the treatment of anorectal disorders has been found. Mullein was formerly used in various pectoral complaints and locally applied to inflammation of mucous membranes without rational basis (Ref. 3). Mullein leaves are mucilaginous and are known to contain several saponins but probably in too small quantities to be physiologically important. It is theoretically possible that some therapeutic properties from tannins, flavonoids, or carotenoids (Ref. 4) exist but there are no clinical studies to support any such claim. It is improbable that mullein possesses any significant therapeutic virtues other than that of a demulcent (Ref. 5). Early Californians used mullein externally in pulmonary diseases and sprains. Spanish New Mexicans say that besides being pleasurable, inhaled smoke from cigarettes containing dried mullein leaves is good for asthma, and mullein leaves soaked in "mula blanca" (local corn whiskey) make a beverage that is also beneficial in counteracting the same complaint (Ref. 6).

(4) *Evaluation.* The Panel concludes that there are no data to establish a minimum or maximum dose for mullein applied to anorectal preparations. Nor is there evidence to prove the safety and effectiveness of this ingredient in OTC anorectal products. Therefore, mullein is placed in Category II.

References

(1) "The Dispensatory of the United States of America," 25th Ed., Edited by Osol, A. and G. E. Farrar, Jr., J. B. Lippincott, Co., Philadelphia, PA, pp. 1927–1928, 1955.

(2) Groger, D. and P. Simchen, "Zur Kenntnes Iridoider Pflanzenstoffe," *Die Pharmazie*, 22:315–321, 1967.

(3) Parker, K. D., "Rapid Gas Chromatographic Method for Screening of Toxicological Extracts from Alkaloids," *Annals of Chemistry*, 53:356, 1963.

(4) Pastowowy, A., *Acta Polon Pharmacology*, 2:287, 1938.

(5) Archiv Pharmacy, Verlog Chemie, W. Germany, 275, p. 145, 1937.

(6) Curtain, L. S. M., "Herbs of the Upper Rio Grande," Southwest Museum, Los Angeles, CA, p. 166, 1976.

Category II Labeling

The Panel concludes that the use of certain labeling claims related to the safety and/or effectiveness of anorectal drug products are unsupported by scientific data and in some instances by sound theoretical reasoning.

The Panel considers the following claims to be misleading and unsupported by scientific data.

a. "Promotes healing."

b. "Astringent."

c. "Reduces swelling."

d. "An astringent to help reduce swollen tissues."

e. "For a mild local astringent, cooling, soothing and hygienic effect."

f. "Relief without the use of narcotics or astringents of any kind."

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.*

None.

The agency has carefully considered the potential environmental impacts of this proposal and has concluded that the action will not have a significant effect on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979, 44 FR 71742) may be seen in the Office of the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended. 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 346, to read as follows:

PART 346—ANORECTAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
346.1 Scope.
346.3 Definitions.

Subpart B—Active Ingredients

346.10 Local anesthetic active ingredients.
346.12 Vasconstrictor active ingredients.
346.14 Protectant active ingredients.
346.16 Counterirritant active ingredients.
346.18 Astringent active ingredients.
346.20 Keratolytic active ingredients.
346.22 Permitted combinations of active ingredients.

Subpart C—[Reserved]

Subpart D—Labeling

346.50 General labeling of anorectal drug products.
346.52 Labeling of local anesthetic drug products.
346.54 Labeling of vasoconstrictor drug products.
346.56 Labeling of protectant drug products.
346.58 Labeling of counterirritant drug products.
346.60 Labeling of astringent drug products.
346.62 Labeling of keratolytic drug products.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 346.1 Scope.

An over-the-counter anorectal drug product in a form suitable for external (topical) or intrarectal (rectal) administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this Part 346 in addition to each of the general conditions established in § 330.1 of this chapter.

§ 346.3 Definitions.

(a) *Anorectal drug.* An agent that is used to relieve symptoms caused by anorectal disorders in the anal canal, perianal area, and/or the lower rectal areas.

(b) *Local anesthetic drug.* An agent that produces local disappearance of pain, buring, itching, irritation, and/or discomfort by reversibly blocking nerve conduction when applied to nerve tissue in appropriate concentrations.

(c) *Vasoconstrictor drug.* An agent that causes temporary constriction of blood vessels.

(d) *Protectant drug.* An agent that provides a physical barrier, forming a protective coating over skin or mucous membranes.

(e) *Counterirritant drug.* An agent that produces a local sensation that distracts from the perception of pain, buring, or itching.

(f) *Astringent drug.* An agent that is applied to the skin or mucous membranes for a local and limited protein coagulant effect.

(g) *Keratolytic drug.* An agent that causes desquamation (loosening) and debridement or sloughing of the surface cells of the epidermis.

(h) *External use.* Topical application of an anorectal product to the skin of the perianal area and/or the skin of the anal canal.

(i) *Intrarectal use.* Topical application of an anorectal product to the mucous membrane of the rectum.

Subpart B—Active Ingredients

§ 346.10 Local anesthetic active ingredients.

The active ingredients of the product consist of the following when used within the dosage limits established for each ingredient:

(a) Benzocaine 5 to 20 percent in polyethylene glycol ointment.

(b) Pramoxine hydrochloride 1 percent in a cream or jelly formulation.

(1) *For cream formulation.* Pramoxine hydrochloride 1 percent in a cream base containing methylparaben USP, propylparaben USP, cetyl alcohol NF, synthetic spermaceti NF, sodium lauryl sulfate USP, glycerin USP, and purified water USP.

(2) *For jelly formulation.* Pramoxine hydrochloride 1 percent in a jelly base containing propylene glycol USP, hydroxypropyl methylcellulose USP (4000 centipoises), and purified water USP.

§ 346.12 Vasoconstrictor active ingredients.

The active ingredients of the product consist of the following when used within the dosage limits established for each ingredient:

(a) Ephedrine sulfate 2 to 25 milligrams in aqueous solution per dosage unit.

(b) Epinephrine hydrochloride 100 to 200 micrograms in aqueous solution per dosage unit.

(c) Phenylephrine hydrochloride 0.5 milligram in aqueous solution per dosage unit.

§ 346.14 Protectant active ingredients.

The Active ingredients of the product consist of the following when used within the dosage limits established for each ingredient:

(a) Aluminum hydroxide gel 50 percent or greater per dosage unit.

(b) Calamine 5 to 25 percent (based on the zinc oxide content of calamine per dosage unit.

(c) Cocoa butter 50 percent or greater per dosage unit.

(d) Cod liver oil 50 percent or greater per dosage unit.

(e) Gylcerin 50 percent or greater of a 20 to 45 percent solution of glycerin in water per dosage unit.

(f) Kaolin 50 percent or greater per dosage unit.

(g) Lanolin 50 percent or greater per dosage unit.

(h) Mineral oil USP 50 percent or greater per dosage unit.

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(i) Shark liver oil 50 percent or greater per dosage unit.

(j) Starch 50 percent or greater per dosage unit.

(k) White petrolatum USP 50 percent or greater per dosage unit.

(l) Wool alcohols 4 to 7 percent per dosage unit.

(m) Zinc oxide 5 to 25 percent per dosage unit.

§ 346.16 Counterirritant active ingredients.

The active ingredient of the product consists of the following when used within the dosage limits established for each ingredient:

(a) Menthol 0.25 to 1.0 percent in aqueous solution.

§ 346.18 Astringent active ingredients.

The active ingredients of the product consist of the following when used within the dosage limit established for each ingredient:

(a) Calamine 5 to 25 percent (based on the zinc oxide content of calamine percent dosage unit.

(b) Witch hazel water 10 to 50 percent per dosage unit.

(c) Zinc oxide 5 to 25 percent per dosage unit.

§ 346.20 Keratolytic active ingredients.

The active ingredients of the product consist of the following when used within the dosage limit established for each ingredient:

(a) Alcloxa 0.2 to 2.0 percent per dosage unit.

(b) Resorcinol 1 to 3 per dosage unit.

§ 346.22 Permitted combinations of active ingredients.

Two but not more than four protectant ingredients identified in § 346.14 may be combined.

Subpart C—[Reserved]

Subpart D—Labeling

§ 346.50 General labeling of anorectal drug products.

The following labeling is applicable as general labeling for anorectal products as well as labeling for specific anorectal ingredients identified in §§ 346.52, 346.54, 346.56, 346.58, 346.60, and 346.62:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or "anorectal product."

(b) *Indications.* The general labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "For the temporary relief of discomfort of (when the product is intended for use on concurrent symptoms, the symptoms must be specified) associated with hemorrhoids and other anorectal disorders."

(2) "For the temporary relief of the discomfort associated with hemorrhoids and other anorectal disorders."

(3) "For the temporary relief of itching associated with hemorrhoids and other anorectal disorders."

(4) "For the temporary relief of anorectal itching."

(5) "For the temporary relief of local itching associated with inflamed hemorrhoidal tissues."

(6) "For the temporary relief from the itching and discomfort associated with hemorrhoids and other anorectal disorders."

(7) "For the temporary relief of the discomforts associated with piles (hormorrhoids) and other anorectal disorders."

(8) "For the temporary relief of symptoms of anorectal disorders."

(9) "Gives temporary relief of anorectal itching."

(10) "Temporary relief of itching discomfort associated with hemorrhoids and other anorectal disorders."

(11) "For the temporary relief of symptoms associated with hemorrhoids and other anorectal disorders."

(12) "To temporarily soothe local discomfort associated with hemorrhoids and other anorectal disorders."

(13) "To help relieve the discomfort associated with hemorrhoids and other anorectal disorders."

(14) "For the temporary relief of itching."

(15) "For the temporary relief of symptoms of inflammation associated with hemorrhoidal tissues."

(16) "Gives temporary relief of discomfort due to external hemorrhoids and other anorectal disorders."

(17) "For the temporary relief of pruritus ani."

(c) *Warnings.* Warning statements may be combined to eliminate the duplication of words or phrases, but the combined warning statement must be clear and understandable with no decrease in meaning and emphasis. Warning statements must be included on the immediate product container and the package in a 'box border'; they should be printed in black ink or in the color of the most prominent type appearing on either the container or the package, that is, in such a fashion that the prominence and meaning of the warning is not obscured. Appropriate use of printing techniques, styles, colors, and illustration should be utilized to aid the consumer in encountering and understanding the important meaning of the labeling. Warning or caution statements should be typeset in no less than eight-point type, or one-third the point size of the largest type face appearing on both the container and labeling, whichever is larger. The general labeling of the product contains the following general warnings under the heading "Warnings":

(1) "If symptoms do not improve, do not use this product for more than 7 days and consult a physician."

(2) "Do not exceed the recommended daily dosage except under the advice and supervision of a physician."

(3) "If itching persists for more than 7 days, consult a physician."

(4) "In case of bleeding, consult a physician promptly."

(5) *For anorectal products containing perfume.* "If redness, burning, itching, swelling, pain, or other symptoms develop or increase, discontinue use and consult a physician."

(6) *For products for external use—For products that are ointments, creams, jellies, foams, pads, or gels for external use only.* "Do not put this product into the rectum by using fingers or any mechanical device or applicator."

(7) *For products for intrarectal use—*

(i) *For all anorectal products for intrarectal use by insertion into the rectum, except ingredients identified in § 346.14.* "The safety of this product has not been established for use by pregnant women or by nursing mothers."

(ii) *For products that are to be used with special applicators such as pile pipes or other mechanical device.* "Do not use this product if the introduction into the rectum causes additional pain. Consult a physician promptly."

(iii) *For anorectal products that contain at least one anorectal ingredient identified in §§ 346.10, 346.12, 346.16, or 346.20 other than a protectant or astringent anorectal ingredient identified in §§ 346.14 and 346.18.* "Do not use this product in children under 12 years of age except under the advice and supervision of a physician."

(d) *Directions.* Many anorectal products may be used externally as well as intrarectally. Whenever a product is for both external and intrarectal use, the labeling of the product contains a clear separation of each set of directions under the headings, "For external use" and "For intrarectal use." The general labeling of the product contains the following statements or information under the required heading "Directions," followed by "or as directed by a physician."

(1) *For all products.* Recommended or usual dosage, frequency of

administration (e.g., every 4 hours, three times daily), and site of administration (i.e., external or intrarectal application).

(2) *For all products.* "When practical, wash the anorectal area with mild soap and warm water and rinse off all soap before application of this product."

(3) *For products for external use which are ointments, pastes, creams, jellies, foams, or gels.* "Apply externally to the anorectal area."

(4) *For products for external use which are pads containing anorectal ingredients.* "Gently apply by patting and then discard."

(5) *For products for external use which are ointments, pastes, creams, jellies, foams, pads, or gels for external use only.* "For external use only."

(6) *For products for intrarectal use which are wrapped suppositories for insertion into the rectum.* "Remove wrapper before inserting into the rectum."

(7) *For all products for intrarectal use to be inserted into the rectum.* "For use by insertion into the rectum."

(8) *For products for intrarectal use which are to be used with special applicators such as pile pipes or other mechanical devices.* "Gently insert applicator into the rectum."

§ 346.52 Labeling of local anesthetic drug products.

The labeling of the product contains the following information as well as any applicable general labeling identified in § 346.50:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or as an "anorectal product."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases for any ingredient identified in § 346.10:

(1) "For the temporary relief of pain."

(2) "For the temporary relief of itching."

(3) "For the temporary relief of burning."

(4) "For the temporary relief of the discomforts of hemorrhoids (piles) or other anorectal disorders."

(5) "For the temporary relief of itching, burning, and soreness of hemorrhoids or other anorectal disorders."

(6) "For the temporary relief of pain and itching of hemorrhoidal tissue or other anorectal disorders."

(7) "For the temporary relief of itching, burning, and pain associated with hemorrhoids or other anorectal disorders."

(8) "For the temporary symptomatic relief of pain, itch, burning, and soreness of some types of hemorrhoids or other anorectal disorders."

(9) "For the temporary relief of pain and itching due to painful hemorrhoids or other anorectal disorders."

(10) "For the temporary relief of pain and itching of hemorrhoids and other anorectal disorders."

(11) "Temporarily helps numb pain associated with hemorrhoids."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings": *For products containing any ingredient identified in § 346.10.* (1) *"Caution:* Certain persons can develop allergic reactions to ingredients in this product. If the symptom being treated does not subside or redness, irritation, swelling, pain, or other symptoms develop or increase, discontinue use and consult a physician."

(2) *"Caution:* This product is for external use only. Do not apply inside the rectum in any way."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician."

(1) *For products containing benzocaine identified in § 346.10(a).* Adult external dosage is 5 to 20 percent benzocaine per dosage unit in polyethylene glycol ointment up to six times daily and not to exceed 2.4 grams per 24 hours.

(2) *For products containing pramoxine hydrochloride identified in § 346.10(b).* Adult external dosage is 1 percent pramoxine hydrochloride in a cream or jelly formulation up to five times daily and not to exceed 100 milligrams per 24 hours.

§ 346.54 Labeling of vasoconstrictor drug products.

The labeling of the product contains the following information as well as any applicable general labeling identified in § 346.50:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or as an "anorectal product."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases for any ingredient identified in § 346.12:

(1) "Temporarily reduces the swelling associated with irritated hemorrhoidal tissue and other anorectal disorders."

(2) "Temporarily reduces the swelling associated with irritation in hemorrhoids and other anorectal disorders."

(3) "Temporarily shrinks hemorrhoidal tissue."

(c) *Warnings.* The labeling of the product contains the following warning under the heading "Warning": *For products containing any ingredient identified in § 346.12.* "Do not use this product if you have heart disease, high blood pressure, hyperthyroidism, diabetes, difficulty in urination, or are taking tranquilizers or nerve pills."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician."

(1) *For products containing ephedrine sulfate identified in § 346.12(a).* Adult external and intrarectal dosage is 2 to 25 milligrams ephedrine sulfate in aqueous solution per dosage unit up to four times daily and not to exceed 100 milligrams per 24 hours.

(2) *For products containing epinephrine hydrochloride identified in § 346.12(b).* Adult external dosage is 100 to 200 micrograms epinephrine hydrochloride in aqueous solution per dosage unit up to four times daily and not to exceed 800 micrograms per 24 hours.

(3) *For products containing phenylephrine hydrochloride identified in § 346.12(c).* Adult external and intrarectal dosage is 0.5 milligram phenylephrine hydrochloride in aqueous solution per dosage unit up to four times daily and not to exceed 2 milligrams per 24 hours.

§ 346.56 Labeling of protectant drug products.

The labeling of the product contains the following information as well as any applicable general labeling identified in § 346.50:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or as an "anorectal product."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases for ingredients identified in § 346.14 (b through e) and (g through m):

(1) "Forms a protective coating over inflamed tissues which can relieve itching."

(2) "Aids in the relief of itching or anorectal discomfort."

(3) "Temporarily forms a protective coating over inflamed tissues which helps prevent drying of tissues."

(4) "Temporarily protects irritated areas from irritating materials."

(5) "Temporarily relieves anorectal itching."

(6) "Temporarily relieves burning."

(7) "Provides temporary relief from skin irritations."

(8) "For the temporary relief of itching associated with hemorrhoids, inflamed hemorrhoidal tissue or other anorectal disorders."

(9) "For the temporary relief of local itching associated with hemorrhoids, inflamed hemorrhoidal tissues, or other anorectal disorders."

(10) "For the temporary relief from the itching and discomfort due to hemorrhoids or other anorectal disorders."

(11) "Temporarily provides a bland, soothing coating for relief of anorectal discomforts."

(12) "Temporarily provides lubrication in the anorectal area."

(13) "Temporarily lubricates and protects the inflamed irritated anorectal surface to help make bowel movements less painful."

(14) "Temporarily protects from irritation and abrasion during bowel movement."

(15) "Temporarily helps soften and lubricate dry inflamed perianal skin."

(16) "Temporarily relieves the symptoms of perianal skin irritation, and itching."

(17) "Provides lubrication and may help make bowel movements more comfortable."

(18) *For products containing alumina gel identified in § 346.14(a) and for products containing kaolin identified in § 346.14(f).* (i) "For the temporary relief of itching associated with moist anorectal conditions."

(ii) "Temporarily protects irritated areas from irritating materials."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing alumina gel identified in § 346.14(a) and for products containing kaolin identified in § 346.14(f).* "Remove petrolatum or greasy ointment before using this product because they interfere with the ability of this product to adhere properly to the skin area."

(2) *For products containing wool alcohols identified in § 346.14(l) when wool alcohols have been added to the final formulation as separate ingredient.* *"Caution:* Certain persons can develop allergic reactions to ingredients in this product. If redness, irritation, swelling, pain or other symptoms develop or increase, discontinue use and consult a physician."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician."

(1) *For products containing alumina gel identified in § 346.14(a).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(2) *For products containing calamine identified in § 346.14(b).* Adult external and intrarectal dosage is 5 to 25 percent per dosage unit (based on the zinc oxide content of calamine) and not to exceed six applications per 24 hours or after each bowel movement.

(3) *For products containing cocoa butter identified in § 346.14(c).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(4) *For products containing cod liver oil identified in § 346.14(d).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement and not to exceed 10,000 International Units vitamin A and 400 International Units vitamin D per 24 hours.

(5) *For products containing glycerin identified in § 346.14(e).* Adult external dosage is 20 to 45 percent glycerin in aqueous solution when used in concentrations of at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(6) *For products containing kaolin identified in § 346.14(f).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(7) *For products containing lanolin identified in § 346.14(g).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(8) *For products containing mineral oil identified in § 346.14(h).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(9) *For products containing shark liver oil identified in § 346.14(i).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement and not to exceed 10,000 International Units vitamin A and 400 International Units vitamin D per 24 hours.

(10) *For products containing starch identified in § 346.14(j).* Adult external and intrarectal dosage at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(11) *For products containing white petrolatum identified in § 346.14(k).* Adult external and intrarectal dosage is at least 50 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(12) *For products containing wool alcohols identified in § 346.14(l).* Adult external and intrarectal dosage is 4 to 7 percent per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(13) *For products containing zinc oxide identified in § 346.14(m).* Adult external and intrarectal dosage is 5 to 25 percent dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

§ 346.58 Labeling of counterirritant drug products.

The labeling of the product contains the following information as well as any applicable general labeling identified in § 346.50:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or as an "anorectal product."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases for any ingredient identified in § 346.16:

(1) *For all products.* (i) "For the temporary relief of itching or pain in the perianal area."

(ii) "Can help distract from pain or itch."

(iii) "Temporary relief of itch or pain in the perianal area."

(2) *For products containing menthol identified in § 346.16.* (i) "May provide a cooling sensation."

(ii) "Temporarily relieves itching and soothes burning."

(c) *Warning.* The labeling of the products contains the following warning under the heading "Warning": *For products containing menthol identified in § 346.16. "Caution*: Certain persons can develop allergic reactions to ingredients in this product. If redness, irritation, swelling, pain or other symptoms develop or increase, discontinue use and consult a physician."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician." *For products containing menthol identified in § 346.16.* Adult external dosage is 0.25 to 2.0 percent per dosage unit in aqueous solution and not to exceed six applications per 24 hours.

§ 346.60 Labeling of astringent drug products.

The labeling of the product contains the following information as well as any applicable general labeling identified in § 346.50:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or as an "anorectal product."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases for any ingredient identified in § 346.18:

(1) "Aids in protecting irritated anorectal areas."

(2) "Temporary relief of irritation."

(3) "Temporary relief of itching."

(4) "Temporary relief of burning."

(5) "Temporarily relieves itching and soothes burning."

(6) "Temporarily relieves discomfort."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings": General warnings under § 346.50(c) apply.

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician."

(1) *For products containing calamine identified in § 346.18(a).* Adult external and intrarectal dosage in 5 to 25 percent calamine per dosage unit (based on the zinc oxide content of calamine) and not to exceed 6 applications per 24 hours or after each bowel movement.

(2) *For products containing witch hazel water identified in § 346.18(b).* Adult external dosage in 10 to 50 percent witch hazel water per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

(3) *For product containing zinc oxide identified in § 346.18(c).* Adult external and intrarectal dosage is 5 to 25 percent zinc oxide per dosage unit and not to exceed six applications per 24 hours or after each bowel movement.

§ 346.62 Labeling of keratolytic drug products.

The labeling of the product contains the following information as well as any applicable general labeling identified in § 346.50:

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anorectal agent" or as an "anorectal product."

(b) *Indications.* The labeling of the product contains the following statement of the indications under the heading "Indications" that is limited to the following phrase for any ingredient identified in § 346.20: "For the temporary relief of itching."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing resorcinol identified in § 346.20(b).*

(i) *"Caution:* Certain persons can develop allergic reactions to ingredients in this product. If redness, irritation, swelling, pain, or other symptoms develop or increase, discontinue use and consult a physician."

(ii) "Do not use in open wounds near the anus."

(2) [Reserved]

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician."

(1) *For products containing alcloxa identified in § 346.20(a).* Adult external dosage is 0.2 to 2.0 percent per dosage unit and not to exceed six applications per 24 hours.

(2) *For products containing resorcinol identified in § 346.20(b).* Adult external dosage is 1 to 3 percent per dosage unit and not to exceed six applications per 24 hours.

Interested persons are invited to submit their comments in writing (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before August 18, 1980. Such comments should be addressed to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a memorandum or brief. Comments replying to comments may also be submitted on or before September 24, 1980. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-15334 Filed 5-23-80; 8:45 am]

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Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Policy Development and Research

Final Rehabilitation Guidelines

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No N-80-1003]

Final Rehabilitation Guidelines

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of final rehabilitation guidelines.

SUMMARY: HUD is hereby promulgating the final Rehabilitation Guidelines developed in accordance with Section 903 of Pub. L. 95-557, "Housing and Community Development Amendments of 1978." These Guidelines are intended for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

FOR FURTHER INFORMATION CONTACT: Robert J. Kapsch, Program Manager, Division of Energy, Building Technology and Standards, Room 8164, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-8154. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HUD published the draft Rehabilitation Guidelines in the **Federal Register** for public comment on November 5, 1979 (44 FR 63760). Thirty four communications, containing 188 comments, were received. After careful consideration of the comments received, the draft Rehabilitation Guidelines were revised, in part. A summary of the major changes made to the Guidelines is published herein.

The draft Rehabilitation Guidelines published in the **Federal Register** on November 5, 1979 contained eight specific guidelines:

- Guideline for Setting and Adopting Standards for Building Rehabilitation
- Guideline for Municipal Approval of Building Rehabilitation
- Statutory Guideline for Building Rehabilitation
- Guideline for Managing Official Liability Associated With Building Rehabilitation
- Egress Guideline for Residential Rehabilitation
- Electrical Guideline for Residential Rehabilitation
- Plumbing Drain-Waste-Vent Guideline for Residential Rehabilitation
- Guideline for Fire Ratings of Archaic Materials and Assemblies
- Public comment was both general and specific in nature.

1. General Comments

Two comments were received that the guidelines were difficult to read and one comment was received that indicated that the guidelines would be difficult to use in the field. The format of the final guidelines has been reorganized to make the guidelines less complex and to improve their overall readability. As published, the guidelines will be in a format suitable for field use.

A number of commenters cited the need for supplemental information about issues not directly addressed in the guidelines. These included the following code-related rehabilitation problems: training of inspectors; structural and seismic safety; the need for more specific code equivalencies; accessibility for the handicapped; the liability of design professionals; energy conservation; state preemption of local codes; inclusion of additional technical and regulatory detail; and building department budgets. Most of these issues were previously considered by HUD for inclusion in the guidelines, but were not addressed either due to time and monetary constraints, or for state-of-the-art limitations or for other practical reasons. All of the issues mentioned will be considered by HUD for development as future guidelines.

Several comments were addressed to issues not related to the rehabilitation guidelines, such as the need for housing for the elderly, mobile home research, problems of lead based paint standards, and the general need for building codes and standards. Where possible, these comments were referred to those offices in HUD active in these areas.

Two commenters requested that the guidelines be tabled or delayed, citing the twelve month limitation imposed by Congress for the development of the guidelines as inadequate. Since the time schedule for promulgating these guidelines have been legislatively determined, HUD did not delay or table the promulgation of the final Rehabilitation Guidelines.

Two comments were received indicating the belief that the guidelines were a building code. Five other comments expressed concern that the guidelines either might be interpreted as a code or, at some time in the future, might be imposed as a code. Although the guidelines were clearly identified as such and were not published in code language, emphasis has been added to the final guidelines clarifying their function under Section 903 of the Act.

Two comments were received indicating that the guidelines did not contain a statement that their purpose was to promote rehabilitation. The final guidelines remedy this.

Two comments were received regarding recommended actions to be taken by HUD following the promulgation of the final guidelines. These included a recommendation to provide assistance in their use and to institute a mechanism to expand, revise and update the contents of the guidelines. Both comments will be considered by HUD in the development of future activities associated with these guidelines.

2. Specific Comments

Because of the technical nature of many of the comments received, HUD used the services of the National Institute of Building Sciences and selected nationally recognized experts to aid in evaluating each of the technical comments received and to provide their recommendations to HUD. The following is a description of the substantive modifications or revisions made to each of the eight individual guidelines.

a. Guideline for Setting and Adopting Standards for Building Rehabilitation: Fourteen commenters provided numerous comments directed at this guideline. In response to these comments, the following changes were made:

- The narrative on historic preservation was clarified in Part II, and a recommendation added in Part III dealing with the inclusion of historic preservation waiver clauses.
- A discussion of the approach to residential rehabilitation taken by the State of California was added to both the guideline and as Appendix 6;
- The description of San Francisco's approach to rehabilitation was amended in both the guideline and in Appendix 3.
- The description of Denver's approach to rehabilitation was amplified according to additional information received;
- A caveat to localities governed by statewide mandatory codes was added to the guideline;
- The discussion and diagrams related to the varying levels of performance discussed in Part I were clarified;
- A discussion of the scope of rehabilitation covered was added;
- Three of the four examples of retroactive provisions were deleted from the appendix as one example was considered sufficient;
- A modification was made to Appendix 10 adding a discussion on the use of live load placards;
- An additional appendix was added citing an article from the Southern Building Magazine, February/March 1980, entitled, "Rehabilitation of Existing Building: An Achievable Goal"

Three comments were received to delete or limit the discussion of the 25/50 percent rule because of the deficiencies of this rule. HUD did not delete or limit the discussion of this rule as it is a major factor in most code jurisdictions and is being used to encourage rehabilitation in many of those jurisdictions.

Several comments were made criticizing the guideline's discussion of the changing levels of safety within and among building, housing, maintenance and hazard abatement codes; however, this discussion was considered essential to the guidelines and has been retained in essence.

The revised guideline together with Appendix 3, and the new Appendices 6 and 11 together with a bibliography are being reproduced in this notice.

b. Guideline for Approval of Building Rehabilitation: Two comments were received. The first brought Seattle's rehabilitation program to HUD's attention and the second stated that many building departments already follow these or similar procedures suggested in the guideline. Although there is no doubt that many building departments follow these or similar procedures, it is also known that many do not. HUD therefore is promulgating this guideline. However, for purposes of clarification, the guideline's format was reorganized to stress parallels between submittal, review and approval procedures for rehabilitation and those required for new construction. References were added to the guideline regarding Seattle's rehabilitation program and its field inspection procedure, and to Portland's Outreach program. The term "Municipal" was deleted from the title of the final guideline.

The full revised guideline is being reproduced in this notice.

c. Statutory Guideline for Building Rehabilitation: Two comments were received directed at this guideline. The first recommended that a definition of rehabilitation be added to the guideline. Although it is difficult to define rehabilitation, because many communities use the term in many different ways, a discussion of the scope of rehabilitation has been added to the *Guideline for Setting and Adopting Standards for Building Rehabilitation.* The second comment suggested an improved appeals procedure. A review of the subject indicated that there was little substantive difference between the suggested procedure and that described in the guideline. This guideline, therefore, has not been modified and will be adopted as published in the draft.

d. Guideline for Managing Official Liability Associated With Building Rehabilitation: Two comments were received. The first suggested that liability may not be a significant issue in building rehabilitation. The problem identification study undertaken as a part of the guidelines preparation indicated that official liability was viewed as a serious concern in rehabilitation projects by building officials throughout the country. No change, therefore, was made. The second suggested that the liability of designers of rehabilitation projects also be covered. HUD is reviewing this suggestion as part of its efforts in developing future guidelines. This guideline therefore has not been modified and is being adopted as published in draft.

e. Egress Guideline for Residential Rehabilitation. Eight commentors provided a number of comments directed toward this guideline. Based on the comments received and a thorough technical review resulting from these comments, the following changes were made:

- The assumptions upon which the guideline is based were restated and clarified, including:
  - the guideline is intended for use only by persons knowledgeable in fire protection and the principals of building construction;
  - the guideline stresses the retention of as many of the existing components of the egress system as possible, provided that they assure approximately equivalent levels of fire safety performance to that intended by existing codes;
  - the guideline is meant to apply whenever current code requirements are triggered;
  - the problem/solution statements shown in the guideline are meant to be representative and not exhaustive.
- A number of revisions were made to the text of each egress category, including:
  - a number of code intent statements were modified;
  - one problem/solution statement was eliminated since it was largely redundant;
  - one problem/solution statement was added, dealing with the adequacy of horizontal exits;
  - wherever the guideline recommends deviating from existing code requirements, the installation of single station smoke detectors has been made a part of the solution statement;
  - a number of references to the Uniform Building Code and its Appendix Chapter 12 were revised and corrected;
  - The guideline's format was substantially reorganized to accommodate the above revisions.

A recommendation to delete the problem/solution statement that conditionally allows the use of a single exit in a three story building was not adopted since an approximately equivalent level of fire safety to that required by existing codes was provided by the solution stated. A comment criticizing the guideline on reliance on automatic fire suppression systems and the use of domestic water supplies for sprinkler systems was considered, but the emphasis on these solutions was not changed since both can be used to provide approximately equivalent levels of fire safety to that required by existing codes.

The full revised guidelines is being republished in this notice.

f. Electrical Guidelines for Residential Rehabilitation: Seven commenters provided detailed comments directed to this guideline. Based on the comments received and a thorough technical review resulting from these comments, the following changes were made:

- The assumptions upon which the guideline is based were restated and clarified, including:
  - the guideline is intended for use only by persons knowledgeable in electrical installations;
  - the guideline stresses retention of as many of the existing components of the electrical system as possible, provided that they assure approximately equivalent levels of electrical safety performance to that intended by existing codes;
  - the guideline is meant to apply whenever current code requirements are triggered or may be used in determining alternate electrical rehabilitation standards.
- The inspection portion of the guideline was made more precise;
- The example in the problem/solution statement regarding the spacing of electrical outlets was deleted and replaced by examples from the BOCA and the City of Detroit codes;
- The apparent emphasis on the use of non-metalic cable was corrected to place equal emphasis on the use of metallic cable and conduit;
- Chapter 10 of the Detroit Electrical Code was added as an appendix to this guideline.

A recommendation that load tests be performed was not adopted because there currently are no reliable standard testing methods available. A

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recommendation to disallow second service entrances was not adopted since the alternative of unprotected service wiring was considered more hazardous. A third comment, a recommendation to require wired-in smoke detectors was not adopted since current codes do not require it.

The full revised guideline is being republished in this notice.

g. Plumbing Drain-Waste-Vent (DWV) Guideline for Resdential Rehabilitation Five commenters provided comments directed toward this guideline.

Based on the comments received and a thorough technical review resulting from these comments, the following changes were made:

- The basis for the guideline was restated and clarified, inlcuding:
  - its intended use only by qualified building professionals;
  - its stress on retaining as many of the existing components of the plumbing DWV system as possible, provided that they assure approximately equivalent levels of health performance to that intended by existing codes;
  - its applicability whenever current code requirements are triggered;
- The guideline was rearranged into three parts: (1) determination of existing conditions, (2) problems/solutions, and (3) appendices;
- The use of tests to determine functional performance was amplified;
- References to test data were clarified and expanded;
- Tabular information on the capacity of single stack systems was revised;
- References to several acceptable solutions described in Chapter 16 of Standard Building Code were added;
- Many of the illustrations in the guideline's appendix were clarified and revised;
- Performance criteria mentioned in one of the problem/solution statements were placed in an appendix to the guideline.
- The full revised guideline, with its appendix, is being republished in this notice.

h. Guideline on Fire Ratings of Archaic Materials and Assemblies: Six commenters provided comments directed toward this guideline. Based on the comments received, the following major changes were made:

- Several technical references or descriptions in the introductory text were modified, clarified, or expanded;
- Additional information was added in the introduction regarding Harmathy's second rule;
- The section on "Doors and Door Materials" in the introduction was revised to outline a procedure for technical evaluation, and a case study describing door modifications was added;
- Several minor corrections were made to the fire rating data listed in the appendix.

The use of British terminology, taken from British sources, in the fire rating data was critized. The British sources, however, were not deleted from the fire rating data since most fire experts regard this information as very reliable and not generally available elsewhere.

The guideline's revised introduction, including the section on "Doors and Door Materials," and the added case study on door modification, is being republished in this notice.

Accordingly, the draft Rehabilitation Guidelines published for comment on November 5, 1979 are adopted with the following changes:

Guidelines as Published 44 FR 63760

Page	Column	Line	Changes
●Guideline for setting adopting standards.			Guideline published in this notice replaces draft guideline.
63764	1	First	
●Appendix 1 to above guideline			Deleted.
63802	1	First	
Appendix 2 to above guideline			Deleted.
63809	1	First	
Appendix 3 to above guideline			Deleted.
63812	1	First	
Appendix 7 to above guideline			Modified, renumbered to Appendix 3 and republished in this notice.
63848	1	First	
(Not included in draft guideline.)			Appendix 8 added and published in this notice, "State of California Rehabilitation and Repair of Existing Buildings."
(Not included in draft guideline)			Appendix 11 added and published in this notice, "Rehabilitation of Existing Buildings: An Achievable Goal, reprint from Southern Building Magazine.
●Guideline for municipal approval of building rehabilitation.			Guideline published in this notice replaces draft guideline. "Municipal" deleted from title.
63790	1	First	
●Statutory guideline for building rehabilitation.			Guideline has not been modified and will be adopted as published in the draft.
63793		First	
●Guideline for managing official liability associated with building rehabilitation.			Guideline has not been modified and will be adopted as published in the draft.
63797	1	First	
●Egress guideline for residential rehabilitation.			Guideline published in this notice replaces draft guideline.
63886	2	First	
●Electrical guideline for residential rehabilitation.			Guideline published in this notice replaces draft guideline.

Guidelines as Published 44 FR 63760—Continued

Page	Column	Line	Changes
63902	2	First	
●Plumbing DWV guideline for residential rehabilitation.			Guideline published in this notice replaces draft guideline.
63908	1	First	
(Not included in draft guideline.)			Appendix added containing Plumbing DWV performance criteria.
●Guideline of fire ratings of archaic materials and assemblies.			Guideline published in this notice replaces draft guideline.
63921	2	First	
Appendix to above guideline			Appendix has not been modified and will be adopted as published in the draft.
63944	1	First	

Findings of inapplicability have been found with respect to the environment and regulatory analysis. Copies of these findings are on file in the Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

(Sec. 511 of the Housing and Urban Development Act of 1970)

Issued at Washingon, D.C., May 14, 1980.

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GUIDELINE FOR SETTING AND ADOPTING STANDARDS FOR BUILDING REHABILITATION

Table of Contents

Part I. Introduction and Background.
Purpose of the Guideline and Intended Users.
Introduction to the Regulation of Building Rehabilitation: State-of-the-Art.
A. Building Regulations.
B. Implication of Current Regulations for Building Rehabilitation.
C. Historic Preservation.
D. Some Current Regulatory Innovations Related to Building Rehabilitation.
Part II. Identifying Existing Conditions in a Community.
A. Define Existing Regulatory System.
B. Define Pertinent Characteristics of Building Rehabilitation in the Community.
C. Identify Potential Problems.
Part III. Recommendations for Amending or Modifying the Regulatory System to Encourage Rehabilitation.
1. No Modification in Current Regulatory System (25–50% Rule and Change of Occupancy Regulation) Needed.
2. Flexible Application of the 25–50% Rule.
3. Existing Regulatory System, in Its Relation to Building Rehabilitation, Is in Need of Modification.
4. A Definition of Imminent Hazards Is Needed in the Regulatory System.
Appendices.
Bibliography.

PART I

INTRODUCTION AND BACKGROUND

Purpose of the Guidelines and Intended Users

Purpose

This guideline is intended to serve the following purposes:

(1) To present a method for describing and analyzing the existing regulatory system affecting all buildings (existing and new) in a community. This method includes identification of all pertinent codes and regulations, as well as all departments involved in their enforcement.

(2) To present a method for assessing the impact of standards set by the existing regulatory system on building rehabilitation in the community, and for identifying problems and constraints for rehabilitation.

(3) To recommend methods for amending or modifying the existing regulatory system so as to establish and enforce standards which encourage rehabilitation.

Intended Users

The following groups or individuals may use this guideline:

(1) Citizen groups (voluntary or appointed) who wish to assess the impact of the building regulatory system on rehabilitation in their community.

(2) Policymakers in city government (mayor, council, city manager, community development director, etc.) who wish to assess the impact of the existing building regulatory system on rehabilitation, and/or to amend or modify it in order to encourage rehabilitation.

(3) Code enforcement department heads (building officials) who wish to assess the need for amendment or modification of the existing building regulatory system in order to encourage rehabilitation.

Definitions

This guideline does not start off with a precise definition of "rehabilitation" and other related terms. This is intentional, because the nature of building rehabilitation which may encounter regulatory problems and constraints, and the nature of the problems themselves, are a local phenomenon. Thus, a community using this guideline may evolve its own definition of "rehabilitation", which could include any specific set of activities related to the general view of existing buildings as a resource to be conserved, rehabilitated or reused in the community's ongoing development process. What is important for the users of this guideline to realize is that there are many different kinds of rehabilitation projects and many different kinds of code-related problems, and that this and the accompanying guidelines could be useful in dealing with most of them.

INTRODUCTION TO THE REGULATION OF BUILDING REHABILITATION: STATE-OF-THE-ART

A. Building Regulations

In order to adapt or modify a jurisdiction's existing building regulatory system so as to promote rehabilitation, particularly residential rehabilitation, or in order to minimize the constraints which that system may impose on rehabilitation projects, it is first necessary to understand the building regulatory system in general terms and how that system regulates existing buildings.

A.1 How the Building Construction and Maintenance Regulatory System Regulates Existing Buildings

Communities or other jurisdictions (e.g., states) currently regulate new and existing buildings by one or more of the following five types of regulations:

- Construction codes.
- Building maintenance codes (property maintenance/housing/health/fire prevention).
- Hazard abatement codes.
- Past construction codes.
- Retroactive laws and regulations.

(1) *Construction codes.* Construction codes are generally referred to as "building codes". Actually they include a building code (regulation structural, fire, accident and health safety aspects of building), an electrical code, a plumbing code, a mechanical code and a variety of specialty codes controlling such elements as boilers, elevators, etc.

The objectives of these codes is to provide certain levels of safety, health, welfare and property protection for building occupants and for the general public. To accomplish this they regulate design, construction, repairs, use, maintenance, moving, and demolition of buildings, or portions thereof.

Building codes often provide two approaches to compliance: prescriptive and performance. The relevance of this distinction to rehabilitation will be discussed later. Codes prescribe acceptable materials, sizes and methods of construction. However, most modern building codes also provide a performance approach by providing for the acceptance of alternate materials and methods of construction. The following sections of the Uniform Building Code (UBC), Standard Building Code (SBC), Basic Building Code (BBC) and National Building Code (NBC) define this approach:

Uniform Building Code—1979 Edition

"Alternate Materials and Methods of Construction. Sec. 105. The provisions of this code are not intended to prevent the use of any material or method of construction not specifically prescribed by this code, provided any alternate has been approved and its use authorized by the building official.

"The building official may approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of this code and that the material, method or work offered is, for the purpose intended, at least equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

"The building official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency."

Standard Building Code—1979 Edition

"103.6 Alternate Materials and Alternate Methods of Construction. The provisions of this code are not intended to prevent the use of any material, or method of construction not specifically prescribed by this code, provided any such alternate has been approved and its use authorized by the Building Official. The Building Official shall approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of Chapter XII, and that the material, method, or work offered is, for the purpose intended at least the equivalent of that prescribed in the code in quality, strength, effectiveness, fire resistance, durability, and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its use. If, in the opinion of the Building Official, the evidence and proof are not sufficient to justify approval, the applicant may refer the entire matter to the Board of Adjustments and Appeals as stipulated in Section 111."

The BOCA Basic Building Code—1978

"109.4 Alternate Materials and Equipment. The provisions of this code are not intended to prevent the use of any material or method of construction

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not specifically prescribed by this code, provided any such alternate has been approved. The building official may approve any such alternate provided he finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety."

National Building Code—1976

"100.7 Materials and Methods of Construction. Nothing in this Code shall be construed to prevent the use of any material or method of construction whether or not specifically provided for in this Code if, upon presentation of plans, methods of analysis, test data or other necessary information, to the building official by the interested person or persons, the building official is satisfied that the proposed material or method of construction complies with specific provisions of or conforms to the intent of this Code."

Such provisions provide local officials with a significant potential for flexibility, which can be used to encourage building conservation, rehabilitation and reuse, or to reduce constraints thereto, when existing buildings cannot easily comply with the prescriptive requirements of the codes. Traditionally, however, the "alternate materials and methods" approach has been used for approval of new products where the basis for acceptance is reasonably clear. It has been used to a much lesser degree for the acceptance of alternate design methods for meeting the intent of the code which is often the problem in building rehabilitation. There are two reasons for this: First, there is no general agreement on what is covered by the terms "materials and methods of construction." For example, some interpret these to include dimensions specified in the code (e.g., stair widths), while others consider such specifications as "design specifications" to be excluded from "materials and methods." Second, while the model codes all contain a general statement of purpose at their outset, they lack clear statements of "code intent" for the several building attributes regulated (e.g., structural safety, fire safety, accident safety, health and hygiene), and for most specific code provisions.

Building codes often give the enforcement official authority to modify code provisions in individual instances, when practical difficulties in full compliance are involved. While this modification authority provides the official with opportunity to exercise judgment, it is not adequate for use as a general vehicle for the encouragement of building conservation, rehabilitation and reuse.

Construction codes may be adopted at the state or the local level, depending on state law. The various specialty codes (building, electrical, plumbing, etc.) may be enforced by one agency or by various agencies of government. These options may have significant impact on building regulation in general, and on building conservation, rehabilitation and reuse in particular.

The enforcement of provisions of construction codes is usually triggered by an application for a permit (building, electrical, plumbing) to construct.

Construction codes are periodically updated. The model codes, which are adopted by many jurisdictions, are updated and republished every three years, with amendments published periodically between each new edition. The updating of codes involves five types of code modification:

- Elimination of references to materials and methods of construction no longer used in modern construction (i. e., "archaic" materials and methods).
- Addition of reference to new materials and methods of construction.
- Addition of new requirements.
- Modification of administrative provisions.
- Change in required levels of performance.

It is believed that, in general, the updating of codes represents a constant increase in the specified levels of safety, health, welfare, and property protection. While this statement is in need of proof, and while notable instances of reduction in codes change periodically in response to changing technology, new materials and products, and the changing needs of building occupants and the community at large. A building constructed to a past building code is not likely to meet all provisions of the current code.

Building codes regulate building rehabilitation and reuse in several ways, which are discussed in Section B. of this part.

(2) *Building Maintenance Codes (Property Maintenance/Housing/ Health/Fire Prevention).*

The basis for adopting property maintenance codes is contained in the building codes. The three model building codes, and nearly all other modern building codes, contain sections which require that all building, built under current or previous codes be maintained in a safe and sanitary condition.

It is apparent that building codes requiring maintenance and repair allow repairs to be made in a manner consistent with the original construction system. Where materials are no longer available (wood lath for example) a modern-day counterpart can be used.

Maintenance essentially means that the structural, fire, and health and safety features of a building be maintained at levels comparable to those existing at the time the building was constructed.

Communities may regulate existing buildings by means of property maintenance codes. Most widely used of these are housing (or health) codes. Housing codes have traditionally been used for establishing minimum levels of health in existing residential occupancies (one and two family dwellings, apartments and hotels). Property maintenance codes contain the requirements of the housing code plus requirements applicable to other occupancies. Housing codes contain many specific requirements, while property maintenance codes tend to be more performance based (containing general statements of objectives).

Fire preventiuon codes are also a form of property maintenance code. They are intended to control the fire hazards in buildings by proper operation and maintenance procedures.

Housing codes and fire prevention codes are adopted either by the state or local government. They are often enforced by a different agency from that charged with enforcing the building code. The enforcement of these codes is usually triggered by complaints and by routine periodic inspections (the latter often concentrating on selected occupancies or selected neighborhoods). In some communities, the enforcement of these codes may also be triggered by periodic license or permit requirements (e.g., business license, fire marshal's permit, etc.). It is likely that in many communities there is a significant number of buildings which do not comply with the housing and/or fire prevention codes, due to the limitations on resources available for routine inspection of all buildings. Often, housing code enforcement is done by persons with special sensitivity to the needs of residents—a feature which may be of potential benefit for the encouragement of building conservation, rehabilitation and reuse.

General property maintenance codes are usually adopted by local government, since they are applicable to any occupancy. However, their adoption is not widespread.

Housing codes and property maintenance codes cover many of the same attributes of buildings regulated in new construction codes. For these same attributes, however, they usually

establish levels of health, safety and welfare which are lower than the respective levels established by the new construction codes. The actual levels established by the maintenance codes are not usually stated as explicitly, as in construction codes.

The enforcement of housing and property maintenance codes often becomes the basis for mandatory repairs (see Section B below) in existing buildings. However, by providing a baseline level of health and safety for existing residential and/or other buildings, these codes may be employed to encourage building conservation, rehabilitation and reuse.

(3) *Hazard Abatement Codes.* Codes for the Abatement of Dangerous Buildings, or similarly titled documents, provide a basis for measuring or evaluating the condition of an existing building. These codes very carefully provide for due process to ensure that the enforcing body acts legally when it deems a building to be dangerous and requires its repair, evacuation, or demolition.

Both the International Conference of Building Officials (ICBO) and the Southern Building Code Congress International (SBCCI) publish a code for the Abatement of Dangerous Buildings. The Building Officials and Code Administrators International (BOCA) includes similar provisions within the Basic Building Code.

These codes include fairly easily implemented provisions for structural analysis, and give specific limits for material stresses. The requirements for fire safety, accident and health generally refer back to the code under which the building was built, and address how the required building safety elements are currently operating and are maintained. These requirements are stated in general performance language.

Hazard abatement codes have traditionally been used as the means to secure demolition of buildings. Their enforcement is usually triggered by complaints, inspections or any other actions which bring the potential hazard to the attention of the authorities.

These codes establish levels of safety and health which are lower than those established in building codes for new construction. It may be implied that these levels are also lower than those of property maintenance codes.

Implied in all building regulations, and in hazard abatement codes, is the concept of "imminent hazard". This is the absolute lowest level a building can reach. The discovery of an "imminent hazard" in a building will justify drastic enforcement without permitting any delay in correction. While not specifically defined in the codes, a guideline for determining "imminent hazard" is included in Part III of this Guideline.

(4) *Past Construction Codes.* As discussed earlier, the implication contained in most building codes and property maintenance codes is that the minimum requirement for an existing building is that the building, and any required safety equipment and devices, be maintained to the level required by the code under which the building had been constructed. As discussed earlier, these past codes establish levels of health, safety, welfare and property protection which are different from, and are usually lower than, those of current new construction codes.

(5) *Retroactive Laws/Regulations.* In some cases States or local governments have declared certain building features unsafe, or otherwise undesirable, and have required that all buildings of a certain occupancy or class be altered to remove the unsafe or undesirable condition, or to install some specific feature making the building appropriately safe or desirable.

Examples of such retroactive regulations are:

- High-Rise Requirements Adopted by the California State Fire Marshal.
- City of Los Angeles Stairway Enclosure Requirements for Hotels, Apartments and Similar Residential Buildings Exceeding Two Stories in Height.
- City of Los Angeles Preliminary Draft of "Earthquake Hazard Reduction in Existing Buildings," currently being considered for adoption. This draft deals potentially with all building occupancies, reclassifying them into four hazard classifications.
- Appendix Chapter 12 of the 1979 Uniform Building Code, "Existing Buildings". This chapter is applicable to existing nonconforming Group R, Division 1 occupancies (hotels, apartment houses, convents and monasteries) more than two stories in height. (See Appendix 1 of this guideline.)

In all cases, existing buildings covered by the retroactive regulations are required to be modified to conform to the new minimum provisions. The levels of health, safety, welfare and/or property protection required by such retroactive regulations may be the same as, or lower than, the respective levels required by codes for new construction.

The enforcement of a retroactive regulation is triggered by inspections called for by the regulation itself. Often the enforcement is constrained by the commmunity's available resources, in which case the community may establish a schedule for enforcement based on neighborhood location, type of building or other factors.

A.2 Continued Use and Occupancy—Building Codes and Existing Buildings

Building codes traditionally permit the continued use and occupancy of buildings in existence at the time of the adoption of the code. This is often referred to as the "non-conforming rights" of existing buildings. Section 104(c) of the 1979 edition of the Uniform Building Code is a case in point:

"Existing Occupancy. Buildings in existence at the time of the adoption of this code may have their existing use or occupancy continued, if such use or occupancy was legal at the time of the adoption of this code, provided such continued use is not dangerous to life."

Section 105.1 of the 1978 edition of the Basic Building Code reads as follows:

"Continuation of existing use: The legal use and occupancy of any structure existing on ——— [date of adoption of this code) or for which it has been heretofore approved, may be continued without change, except as may be specifically covered in this code and the housing code or as may be deemed necessary by the building official for the general safety and welfare of the occupants and the public."

Similar code sections occur in other modern building codes used throughout the United States. Accordingly, in order to mandate that an existing building be repaired or brought up to some minimum condition of safety, one of three possibilities exists:

- establish that a building is dangerous in accordance with a hazard abatement code or similar regulation;
- enforce a property maintenance code; or
- enforce a retroactive law or provision.

A.3 Levels of Health, Safety, Welfare and Property Protection

The preceding discussion has alluded to the various levels of health, safety, welfare and property protection implied by the various codes and regulations being discussed—with new construction codes defining the highest, and hazard abatement codes defining the lowest. It may be useful for communities considering setting or adopting standards for building rehabilitation to formalize this concept of levels of performance required by the various codes and regulations.

For each major objective of codes—health, safety, welfare, and property protection—one can conceive of a scale of performance. New construction code

requirements may be thought of as generally defining the upper limits of such a scale; hazard abatement codes may be thought of as defining the lower limits of such a scale (with "imminent hazards" being specific points below or at the lower limit). Property maintenance codes and past building codes may be viewed as occupying given points between those limits. This concept is shown in diagram 1.

An existing (legal) building may be thought of as embodying levels of health, safety, welfare and property protection anywhere between these limits or above the upper limit. Retroactive laws and regulations may mandate the upgrading of such a building to some specified level (with regard to a specific code objective or attribute). However, when such a building is rehabilitated, the existing set of regulations, as discussed earlier, will explicitly or implicitly require that building to reach a specified new level. The following section of this Part (Section B) discusses how this new level of performance is currently specified by building regulations.

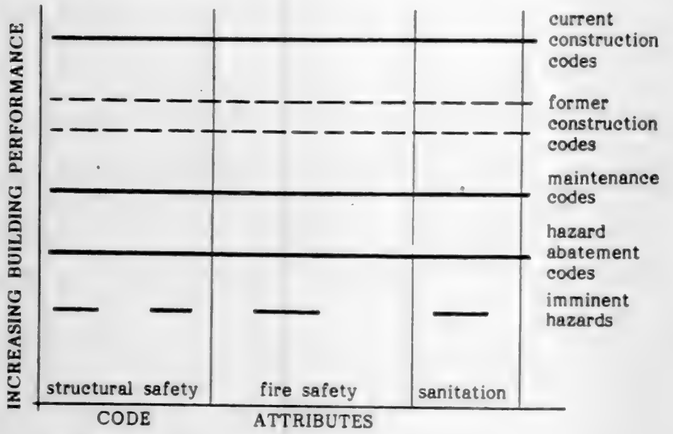

Diagram 1.
Conceptual Diagram of Various Levels of Building Performance Implied by Various Types of Building Regulations

While this concept of "levels" may be useful in considering building rehabilitation, it should be kept in mind that it may not be possible to actually quantify or measure a given level, or the difference between levels (e.g., egress potential of current codes and older codes).

Finally, for every level which is specified by a set of code requirements, the "alternative materials and methods" provision of modern building codes (as discussed earlier) recognizes that a given level can be achieved by alternatives to compliance with the code requirements. Such alternatives achieve equivalent performance. It is essential to make a clear distinction between equivalent performance (achieved by alternative means) and reduced performance.

B. Implication of Current Regulations for Building Rehabilitation

B.1 Current Regulations and Building Rehabilitation

In general, building codes address building rehabilitation in two categories:

- Maintenance, alteration and repair of existing buildings not involving a change of use or a change of occupancy.
- Change of use or occupancy in existing buildings.

(1) *No Change of Use or Occupancy (25–50%).* Rehabilitation work involving no change of use or occupancy can be further qualified into two distinct categories:

- Voluntary maintenance, alterations or repairs (modernization, upgrading, etc.).
- Mandatory maintenance, alterations or repairs.

Voluntary repairs or maintenance of a building and its facilities involves work which is to conform to the code under which the building was initially constructed. The idea and action are voluntary. Rehabilitation work in this category is in general included in the building's non-conforming rights under the building code, although it may trigger the correction of a host of violations considered hazardous which are unrelated to the voluntary work. It may also trigger degrees of compliance with new construction codes through the 25–50% Rule to be discussed below. Whatever requirements are imposed, their enforcement is triggered, in this case, by an application for a construction permit (building, electrical, plumbing, etc.).

Mandatory repair or maintenance results in a building and its facilities being required to comform to a level of safety as defined by law (codes for the abatement of dangerous buildings, property maintenance codes, housing codes, and/or specific retroactive provisions). The applicant may be given a period of time to comply. The idea and action are mandatory. Rehabilitation work in this category may trigger degrees of compliance with new construction codes through the 25–50% Rule.

Commonly, building codes control rehabilitation with no change of use by means of the 25–50% Rule.

According to research done by the National Conference of States on Building Codes and Standards (NCSBCS), the 25–50% Rule first appeared in building codes as part of provisions dealing with fire districts and was applied to buildings which were non-conforming within the fire district. As population and usage density increased in urban areas and several fire disasters occurred, communities became increasingly aware of the danger of fire literally consuming whole areas of a city where many buildings were of wood frame construction. The criterion of 50% of value was used to require demolition, or replacement of frame exterior walls with conforming construction. In other words, according to this research, the original purpose of the rule was to *prevent* rehabilitation of certain classes of buildings.

The actual wording of the 25–50% Rule in the four model codes is contained in the following sections:

- Basic Building Code, Section 106.0
- Standard Building Code, Section 101.4
- Uniform Building Code, Section 104
- National Building Code, Section 104.3

In the 1979 edition of UBC, Section 104 has been revised to drop all references to cost of rehabilitation. For the purposes of the following discussion, reference to the UBC version will be to the 1976 edition, since many jurisdictions are still using this edition. There are certain similarities and differences among the four versions which should be noted.

a. Over 50%. The BOCA Basic Building Code (BBC), the SBCCI Standard Building Code (SBC), and the 1976 edition of the ICBO Uniform Building Code (UBC) all contain the basic 25–50% Rule. The American Insurance Association (AInsA) National Building Code (NBC) contains reference only to restoration if cost exceeds 50%. All four of the codes are consistent in requiring that the entire building be brought into compliance with current code requirements if the cost of the work exceeds 50% of the value of the building. The NBC apparently does not administratively address the issue if restoration costs are below 50% of value. Hence, the balance of this discussion is primarily directed to the three remaining model codes.

Both the BBC asnd SBC state that the physical value of the building will be determined by the building offical. The BBC also states the value will be based on replacement cost.

All three models indicate that the rule applies only if the alteration or repairs are made within a 12-month period.

BBC and SBC differentiate between alterations exceeding 50% and repair of damages exceeding 50%. The 12-month period does not apply to the repair of a building damaged in excess of 50% in value.

b. Between 25–50%. Where the cost of the alteration is between 25 and 50% of value of the building, both BBC and SBC specify that the extent to which the portion of the building altered or repaired be made to conform to new construction requirements is left to the discretion of the building official. The UBC (1976 edition) states that the addition, alteration or repair be made in conformance with the current code, provided that the entire building not exceed areas and heights specified by the code.

c. Under 25%. Where the cost of the alteration if under 25%, BBC and SBC essentially allow restoration with like materials with caveats that the public safety is not endangered or a non-conforming or hazardous use is not extended.

In the under 25% category, the UBC

- With the caveats noted regarding

need of repairs or alterations required

"Application to Existing Buildings

been made in a building or structure, the

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In the under 25% category, the UBC (1976 edition) distinguishes between structural and non-structural alterations. For structural alterations, the changes must conform to new code requirements, unless they are minor, in which case the building official may approve replacement with like materials, provided that the entire building not exceed areas and heights specified by the code. Non-structural alterations and repairs can be made with like materials provided they do not affect any member or part of the structure having required fire resistance.

Jurisdictions that use the 25–50% Rule at times vary the terms from those in the model codes. Two examples are Los Angeles and Phoenix.

Los Angeles may be said to have a 10-50% rule, related to location with respect to fire districts. The Building Code of the City of Los Angeles, 1976 edition states:

"Sec. 91.0103—Application to Existing Building

* * * * *

(d) Alterations. Any alterations may be made to any building in any location provided the building as altered conforms to the requirements of the Los Angeles Municipal Code for new buildings in the same location.

Exceptions: 1. Alterations or repairs to any existing non-conforming building outside of every Fire District may be of the same type of construction as the existing building, provided the aggregate value of such alterations or repairs in any two-year period does not exceed 50 per cent of the replacement value of the building.

2. Alterations or repairs may be made to any building in any location provided the new construction conforms to that required for a new building of like area, height and occupancy in the same location."

"Sec. 91.1603—General Requirements

* * * * *

(b) Nonconforming Buildings. Alterations and repairs to a nonconforming building in a Fire District may be of the same type of construction as the existing building if the aggregate value of such repairs, in any one year, does not exceed 10% of the replacement cost of the building.

Alterations or repairs in excess of 10% of the replacement cost of the building or structure may be made provided all of the repairs and the new construction conform to the materials and type of construction required for a new building of like area, height and occupancy in the same location.

Whenever a nonconforming building or structure has been damaged, or is in need of repairs or alterations required by the Los Angeles Municipal Code in an amount exceeding 50% of the replacement cost, the entire building or structure shall be made to conform to the Code or shall be demolished."

The City of Phoenix, Arizona, briefly reported the following information:

If Cost of Repair is:
0–10%—Replace with like material
10–50%—New work must meet code
Over 50%—Entire building must meet code

In summary, the 25–50% Rule requires the upgrading of existing buildings to the performance levels required for new construction if work exceeds 50%, and allows various lower levels to continue to exist in buildings when lesser work is involved. It should be noted that the "alternate materials and methods" provisions of building codes, while generally applicable to *all* provisions of the codes, is not explicitly referenced in relation to compliance with the 25–50% Rule.

The 25–50% Rule has been the target of much criticism with regard to its effects on building conservation, rehabilitation and reuse. This criticism is underlined by the fact that originally the Rule was not intended to deal with rehabilitation. The drawback of the 25–50% Rule is that it is arbitrary, and it may unintentionally or by default force a rehabilitated building into complete new construction code compliance, when the 50% is exceeded. Furthermore, the 25–50% Rule has an adverse effect on the rehabilitation of buildings of a low value, and may discriminate between similar buildings located in different real estate markets.

In terms of the conceptual diagram of performance levels discussed in A.3 above, the 25–50% Rule requires rehabilitated buildings to be upgraded to three potentially different levels of performance.

While the 25–50% Rule may be eliminated from all the model codes in the foreseeable future, it is currently found in many local codes. It should be noted that when used in close conjunction with the "alternate materials and methods" provision, and when applied to the lower range of values, the Rule is often seen as a flexible tool for the encouragement of rehabilitation, by explicitly extending the building's non-conforming rights. As such, it will be discussed later in this guideline.

As stated previously, ICBO has eliminated the 25–50% Rule from the 1979 edition of the UBC and substituted the following wording:

"Application to Existing Buildings and Structures. Sec. 104. (a) General.—Buildings and structures to which additions, alterations or repairs are made shall comply with the requirements of this code for new facilities except as specifically provided in this section. See Section 1210 for provisions requiring installation of smoke detectors in existing Group R, Division 3 Occupancies.

(b) Additions, Alterations or Repairs.—Additions, alterations or repairs may be made to any building or structure without requiring the existing building or structure to comply with all the requirements of this code provided the addition, alteration or repair conforms to that required for a new building or structure. Additions, alterations or repairs shall not cause an existing building or structure to become unsafe or overloaded. Any building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories or area permitted for new buildings. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings.

Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect any structural member or any part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed.

Exception: The installation or replacement of glass shall be as required for new installations."

In essence, the 1979 UBC Section 104(b) now requires that for additions, alterations, or repairs:

- new work must conform to the code,
- work shall not cause existing buildings to become unsafe or overloaded,
- altered buildings involving change in use or occupancy, and buildings undergoing addition, shall not exceed height and area required for new buildings, and
- non-structural work not adversely affecting a structural member or any part having required fire resistance may be done with same materials.

As compared to the former Sections 104(b) through 104(e) (25–50% Rule) the new section appears to accomplish the following:

- Any amount of non-structural work can now be done with like materials, as compared to work amounting to 25% or less under the prior rule;
- Any new structural work must be in conformance with current code (which constitutes no change from the prior rule in the 0–50% bracket),

- With the caveats noted regarding overloading and height and area restrictions, the existing structure can remain without being brought up to new code requirements.

This UBC substitution for the 25–50% Rule requires the upgrading of rehabilitated buildings to a performance level somewhat lower than that required for new construction, while requiring new construction performance for specifically defined aspects.

A similar substitution to the 25–50% Rule was recommended by the BOCA Code Change Committee in January, 1980, and will be voted on by the BOCA membership in June, 1980.

(2) Change of Use or Occupancy. Building codes address change of use or occupancy in existing buildings by considering that such a change may introduce new or greater hazards and by requiring a careful reexamination to determine that the building will be safe for the new occupancy.

The three model building codes require, generally, that where a change in occupancy occurs, the building must be made to comply with the requirements of the current building code for the new occupancy. The model codes state this in various ways.

The 1978 BOCA Basic Building Code addresses change of use in three sections:

"105.2 Change in use: It shall be unlawful to make any change in the use or occupancy of any structure which would subject it to any special provision of this code without approval of the building official, and his certification that such structure meets the intent of the provisions of low governing building construction with a proposed new use and occupancy, and that such change does not result in any greater hazard to public safety or welfare."

"119.2 Buildings hereafter altered: A building or structure hereafter enlarged, extended or altered to change from one use group to another or to a different use within the same use group, in whole or in part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work of alteration, shall be discontinued within thirty days after the completion of the alteration unless the required certificate is secured from the building official."

"119.4 Changes in use and occupancy: After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one prohibited use, for which a permit has been granted, to another prohibited use shall be deemed a violation of this code."

Section 101.4(e) of the 1979 Standard Building Code states:

"If the occupancy of an existing building is entirely changed the building shall be made to conform to the requirments of this code for the new occupancy. If the occupancy of only a portion of an existing building is changed and that portion is separated from the remainder as stipulated in Section 403, then only such portion need be made to conform."

Section 502 of the 1979 Uniform Building Code states in part:

"No change shall be made in the character of occupancies or use of any building which would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancy.

Exception: The character of the occupancy of existing buildings may be changed subject to the approval of the building official, and the building may be occupied for purposes in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is less hazardous, based upon life and fire risk than the existing use."

The SBC unambiguously requires compliance with current code provisions. The UBC is similar, but includes the *Exception* which waives compliance with *all* current code provisions (i.e., requires compliance with *some* only). The *Exception* is in performance language, and the enforcment official must determine whether the proposed use is less hazardous based on life and fire risk than the existing use. The UBC does not define "life and fire risk". A decision must be made whether it was intended to apply to property damage as well as to life safety of the occupants.

The BBC appears to give the enforcement official the greatest leeway (of the three model codes) in determining the extent to which compliance with current code provisions would be required.

In summary, the model codes vary in their requirements for rehabilitation involving a change in use or occupancy. At one extreme they require upgrading to the performance levels of new construction. At the other, they require selective upgrading, based on undefined hazard and risk analyses. Here also, as in the case of the 25–50% Rule, explicit reference to the "alternate materials and methods" provision in cases of change or use or occupancy is not made.

B.2 "Code Enforcement Guidelines for Residential Rehabilitation", Published by BOCA

The document, entitled "Code Enforcement Guidelines for Residential Rehabilitation", the first edition of which was published in 1975, was developed by BOCA, ICBO, SBCCI and AInsA on the basis of research sponsored by the U.S. Department of Housing and Urban Development.

The document is currently published as Appendix B to the 1978 BOCA Basic Property Maintenance Code.

The extent and nature of the application of this document to residential rehabilitation in local communities is not known at this time.

B.3 Possibility of Conflicting Goals of Regulations and Rehabilitation

Building regulations, as discussed earlier, are intended to implement goals of private and public health, safety, welfare and property protection in the occupancy and use of buildings. These goals are usually not explicitly stated by a community. Their achievement through the enforcement of building regulations imposes certain costs on building owners and on society.

Programs of building conservation, rehabilitation and reuse are also initiated by communities in the furtherance of certain goals. These goals may relate to avoiding the reduction of the existing housing stock, or to preventing the deterioration of downtowns or of industrial areas.

It is useful for a community to realize, whether explicitly or implicitly, that the goals of its rehabilitation and community development program may conflict with the goals underlying its current building regulation program. In such a case, the enforcement of building regulation will not support the community's rehabilitation goals. Specifically, current building regulation may force the upgrading of rehabilitated buildings to the levels required for new construction (as discussed above), which may impose an unacceptable cost on rehabilitation and may prevent rehabilitation from taking place.

If a community finds that its regulation and rehabilitation goals are potentially in conflict, it may determine that in the interest of furthering

rehabilitation, some reduction in the levels of performance (safety, health, welfare and/or property protection) required of rehabilitated buildings may be acceptable. A community which develops a rehabilitation policy on the basis of such a determination will find the concept of the various levels of performance introduced in A.3 above useful in implementing such a policy. The concept may help the community to set specific standards and requirements for rehabilitation that are different from the regulation currently in effect.

Such standards and requirements may imply lower levels of performance than required for new construction, while reflecting acceptable levels of safety for the community.

The following diagram illustrates the levels of performance of a specific existing building, in relation to the performance level required by various regulations in effect. It suggests the potential benefits of establishing specific requirements for building rehabilitation, because in their absence the current 25–50% Rule and change of occupancy provisions often force the building up to the performance levels of the new construction codes.

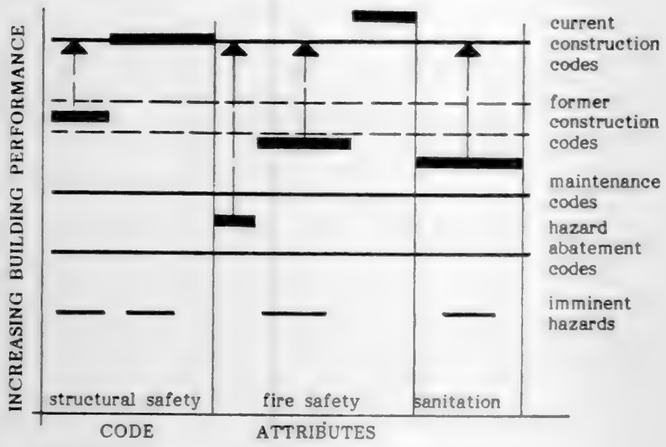

Diagram 2.
Conceptual Diagram of the Extent of Rehabilitation Work (Indicated by Arrows) Imposed on an Existing Building by Current 25-50% Rule and Change of Occupancy Provisions. (Each bar represents a special building component such as DWV system, stairs, structure, etc.)

C. Historic Preservation

A discussion of the state-of-the-art of regulation of building rehabilitation would not be complete without mentioning historic preservation. Historic preservation is a specific problem, and in addressing it the building regulatory system has accepted the fact that in achieving the policy goals of historic preservation, some compromise with the health and safety goals of the regulatory system may be required. This compromise has been recognized by the model code groups.

The 1978 BOCA Basic Building Code States:

"Section 316.0 Special Historic Buildings and Districts. 316.1 Approval: The provisions of this code relating to the construction, repair, alteration, enlargement, restoration and moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state and/or local government authority as historic buildings, subject to the approval of the board of appeals when such buildings are judged by the building official to be safe and in the public's interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, relocation, and location within the fire limits. All such approvals must be based on the applicant's complete submission of professional architectural and engineering plans and specifications bearing the professional seal of the designer."

Section 104.(f) of the 1979 Uniform Building Code states, similarly:

"(f) Historic Buildings. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to all of the requirements of this code when authorized by the building official provided:

1. The building or structure has been designated by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.
2. Any unsafe conditions as described in this code are corrected.
3. The restored building or structure will be no more hazardous based on life safety, fire safety and sanitation than the existing building."

Briefly, buildings may be exempted from full code compliance either individually, as a landmark, or collectively in an historic district. The designation as a landmark or as an historic district may be made by local public landmarks/historic district commissions, and may rely to varying degrees on state historic preservation offices or on listing in the National Register of Historic Places, maintained by the Heritage Conservation and Recreation Service of the U.S. Department of the Interior.

D. Some Current Regulatory Innovations Related to Building Rehabilitation

Several specific examples of direct approaches to the regulation of building rehabilitation, rather than the building codes' indirect approach through the 25–50% Rule and the change of occupancy regulations are discussed briefly below. Fuller discussions and documentation of each example are included in the Appendices.

All the examples establish a set of requirements applicable to rehabilitation, and each, to varying degrees, reflects a reduction from the total set of requirements applicable to new construction. In other words, each example is a regulatory innovation which addresses the problem of setting standards for rehabilitation, and may be thought of as requiring a level of performance below the upper level implied by codes for new construction (see A.3 above).

Each regulatory innovation is likely to have grown or evolved out of a very specific set of physical and social conditions, and to have been intended to solve specific local problems.

The following examples of regulatory innovation are suggested for consideration; they are not intended to form an exclusive or comprehensive list, and similar regulatory innovations may exist elsewhere:

- Washington, D.C. (Appendix 2)
- San Francisco, California (Appendix 3)
- Denver, Colorado (Appendix 4)
- State of Massachusetts (Appendix 5)
- State of California (Appendix 6)
- City of Los Angeles Rule of General Application on Structural Changes Required by Change of Occupancy (Appendix 7)
- State of California Seismic Safety Commission Draft Legislation Related to Seismic Hazards (Appendix 8)
- Chapter 10 of the Official Electrical Code of the City of Detroit (Appendix 9)

The examples fall into two categories:

- Comprehensive approaches
- Partial approaches

D.1 Comprehensive Approaches

Examples of comprehensive approaches can be found in Washington, D.C.; San Francisco, California; Denver, Colorado; the State of Massachusetts. These approaches are comprehensive because each one of them has developed an innovative regulatory system which addresses all aspects of rehabilitation of buildings in most, or all, occupancies, with the exception of Massachusetts, which does not address electrical, mechanical and plumbing requirements.

(1) *Washington, D.C.* Washington's code includes neither the 25–50% Rule nor the general change in use regulations. In their place, the code contains prescriptive provisions specifically addressing existing buildings, and specific provisions applied when a change in use occurs. In

general, the code requires several levels

specific list of retroactive requirements

frames, x-bracing or shear walls. This

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general, the code requires several levels of performance in increasing order:

(a) Code in effect when building was erected
(b) Retroactive provisions
(c) Provisions concerning alteration or conversion
(d) Provisions for new construction.

The code incorporates a hazard ranking by occupancy type and intensity of use. Conversion is defined as a change to a higher hazard use. Alteration is defined as work which affects egress arrangements or fire resistivity.

The code provisions were developed over a long period of time, and are based on the approach of allowing certain deviations from the requirements for new construction for existing, altered or converted buildings. The text of these provisions is provided in Appendix 2.

Prescriptive requirements for rehabilitation may be effective in an urban jurisdiction such as Washington, D.C. where the building official may be familiar with a large number of older buildings, which pose similar problems for rehabilitation. Additional prescriptive requirements may be needed to cover the range of rehabilitation problems encountered in jurisdictions with a more varied or diverse building stock.

(2) *San Francisco, California.* San Francisco's code, like Washington's, includes neither the 25–50% Rule, nor the general model code change in use provision.

San Francisco handles rehabilitation and change in use be establishing three separate approaches. These are:

- For existing residential building rehabilitation: using the San Francisco Housing Code (SFHC) together with a "Field Inspection Manual" (FIM).
- For any change in use or occupancy: using the San Francisco Building Code (SFBC) which includes a series of criteria which may lessen the specific application of new construction standards.
- For general alterations, additions and extensions, regardless of use or occupancy: setting specific criteria for the amount and type of work that may be done before requiring full compliance with present code provisions.

These separate approaches are discussed at greater length with all code references in Appendix 3.

(a) The underlying principle for the rehabilitation of existing residential buildings is that existing buildings, legally constructed at some time in the past, shall be considered acceptable today unless they do not conform to a specific list of retroactive requirements. (Sections 105 and 309 SFHC and Introduction to FIM.)

These requirments include items related to health and safety such as unenclosed stairways, exits, fire alarms, etc. The provisions in the SFHC are less strict than those required for new construction in the SFBC. For example, acceptance of smoke barriers (non-rated construction) for stairway enclosures which by SFBC would have to be 1 or 2 hour fire resistive construction (Section 807 SFHC).

The Field Inspection Manual (FIM) provides guidance to field personnel in enforcing the SFHC. In the FIM, are interpretations of conditions or configurations that have been commonly found over the years in San Francisco buildings. These interpretations provide assistance to the inspector by directly providing him the expertise of the Superintendent of Building Inspection, during the inspection. The interpretations have the force of law, based upon City Attorney opinions. The FIM has been under continuous reexamination and revision since adoption as a working tool in 1961.

(b) The change of use or occupancy provisions include that from non-residential to residential usage. The applicable requirements are contained in the SFBC. The code intent is to require a level of compliance with SFBC provisions based upon the degree to which the overall hazard to the public is increased due to the proposed change. This relative increase in hazard level is specifically provided for in the form of a matrix of original and proposed occupancies (Table No. 5.1, SFBC). With this matrix the code user can readily determine the probable degree of application of new construction standards to the particular building.

(c) Alterations, additions and extensions are handled in the SFBC based upon the principle that all new work meet present day construction standards and arrangements. Under certain circumstances areas outside of the proposed work areas may be subject to new code requirements as well. In Sections 104.B thru F, SFBC, these specfic instances are cited.

(d) There is a seismic requirement in the SFBC that only applies under certain circumstances. This requires that when the structure is to be upgraded seismically, it need only meet the lateral force levels of the SFBC (Section 104.F, SFBC). This was specifically written to permit retention of unreinforced masonry type buildings (not permitted for new buildings) provided that the seismic force levels can be resisted by structural elements such as rigid steel frames, x-bracing or shear walls. This provides a mechanism for retaining and reusing older buildings while protecting public safety.

While the San Francisco approach appears complex and does involve development of specific code philosophies and auxiliary documents, it has addressed the several problems of existing buildings, their up-grading, change of use and retention without requiring the sacrifice of public safety. It has recognized that existing buildings are a considerable asset. Most importantly, the San Francisco approach clearly separates the rehabilitation of an existing residential building from the requirements that may apply for a change in use or occupancy or those invoked by alteration, addition or extension.

(3) *Denver, Colorado.* Unlike Washington and San Francisco, the Denver building code includes both the 25–50% Rule and the general change of occupancy regulation. However, in apparent recognition of the inadequacy of these regulations to support Denver's rehabilitation needs, the City of Denver has added a special chapter, entitled "Rehabilitation of Older Buildings" to its building code (Chapter 31). This chapter achieves several results:

(a) It exempts buildings of specific occupancies erected before 1950 from code compliance under the 25–50% Rule and the change of occupancy regulation.

(b) It declares that, as a matter of policy, rehabilitation of older buildings is a public necessity.

(c) It establishes an administrative mechanism for developing guidelines to be used by the building official in accepting deviations from code requirements in cases where the rehabilitator requests such deviations.

Thus, Denver's regulatory innovation is to explicitly permit deviations from strict code compliance in the case of rehabilitation. It is unclear whether Denver's guidelines imply reduced levels of performance for rehabilitation when compared to new construction requirements, or whether they merely encourage the acceptance of alternative solutions of equivalent performance. Denver's approach is too recent to provide a response to this question.

The City of Denver reports that Chapter 31 is being utilized for the rehabilitation of Denver landmarks, designated historic places, and recently, for other buildings built before 1950. In all cases, it is reported that approvals consider public safety as paramount.

Chapter 31 is published in Appendix 4.

(4) *State of Massachusetts.* Until June, 1979, the State building code in

Massachusetts included the 25–50% Rule and the general change of occupancy regulation (the BOCA code version). On that date the State enacted Article 22, representing a regulatory innovation replacing the 25–50% Rule and the change of occupancy regulation.

In general, Article 22, contains the following:

(a) Definition of hazardous conditions, related to structural performance, number of exits and capacity of exits. These must be eliminated in all existing buildings.

(b) Classification of all occupancies into one of eight hazard classifications, in increasing order of hazard.

(c) Establishment of three levels of required performance for rehabilitated buildings (above the level of hazard elimination noted in (a) above). These levels are a function of the relative change in hazard classification involved in the rehabilitation, and range from a requirement of not reducing the level of performance of the existing building to full compliance with the requirements for new construction.

(d) Explicit encouragement of acceptance of equivalent alternative solutions whenever compliance with new construction requirements is specified.

In summary, the Massachusetts approach is based on the philosophy that the existing building's actual level of performance establishes the level to be complied with in rehabilitation, except for the elimination of a few specified hazards, and except when changing occupancy to one of substantially greater hazard. In other words, the Massachusetts approach to rehabilitation requires compliance with many different potential levels of performance (potentially the number of levels is the number of existing buildings).

There is not yet enough experience to judge the efficacy of this approach, and speicifically the efficacy of basing levels of compliance on a single number hazard index of occupancies.

Massachusetts Article 22 is published in Appendix 5.

D.2 Partial Approaches

Partial approaches to regulatory innovation related to rehabilitation of existing buildings are those which address a specific problem, be it a single hazard (e.g., sesimic loading), a single building component (e.g., electrical system), a single class of buildings (e.g., residential), or any other problem for rehabilitation.

Four examples of partial approaches to regulatory innovation are discussed below and in the appendices.

(1) *State of California.* The State of California has a statewide mandatory code applicable to residential occupancies. The State Housing Law requires that local jurisdictions adopt regulations which are "substantially the same" as those contained in the Uniform Building Code. Some variance is allowed, based on local conditions.

In 1974, the State Housing Law did away with the 25–50% Rule (which at that time was still included in the Uniform Building Code). It did not address the change of occupancy regulation (which would apply to changing use within the residential occupancies, such as apartment house to hotel, or single family dwelling to apartment house, and to change of other occupancies, not governed by the State Housing Law, into housing). The 1974 Law did so by means of several inter-related regulations (see Appendix 6):

- Explicity defining "substandard building" as defined in the Uniform Housing Code (Chapter 10), but excluding (within limits) room and space dimensions from that definition (Chapter 10, Sec. 1001 (b) 9., Uniform Housing code, 1979 Edition), and somewhat liberalizing the definition of hazardous wiring, plumbing and mechanical equipment (ibid, Sec. 1001 (e), (f), (g)). The latter is achieved by stating that if wiring, plumbing and mechancial equipment has been maintained in good and safe condition and is working properly, "it shall be deemed to have conformed to applicable law in effect at time of installation".
- Adoption of specific regulations related to structural fire safety and fire resistant exists (California Administrative Code, Title 25, Chapter 1, Subchapter 1), which are based on an earlier version of Uniform Building Code, Appendix Chapter 12, Existing Buildings, with provision for several exceptions which may be more lenient.
- Specifically stating that state or local regulations governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit replacement, retention and extension of original materials and methods, so long as the building does not become a substandard building as defined by the Law.

The State Housing Law also establishes several other detailed requirements related to specific building elements.

The State of California has also enacted a "State Historical Building Code" (Section 18950), the intent of which is ". . . to provide a means to preserve the historical value of designated buildings and concurrently to provide reasonable safety from fire, seismic forces or other hazards to occupants." (Note omission of the usual phrase "and general public".)

The Department of Housing and Community Development of the State of California is currently preparing two documents entitled "Residential Rehabilitation Guidelines" and "A User's Residential Rehabilitation Guide", which amplify and explain the relevant parts of the State Housing Law and related laws and regulations, and provide guidance in defining electrical, mechanical and plumbing hazards.

(2) *City of Los Angeles Rule of General Application on Structural Changes Required by Change of Occupancy.* This regulatory innovation deals only with seismic loads, and illustrates the conscious reduction in requirements applicable to rehabilitation involving a change in occupancy.

The City of Los Angeles has developed a "Rule of General Application" (RGA) to determine when buildings undergoing a change of occupancy or having an increase in the occupant load must be made to conform to current structural requirements. A copy of the rule is included in Appendix 7. A portion of the rule reads as follows:

"In buildings constructed on or after October 6, 1933, a change in occupancy may be made to establish any occupancy classification provided the building is not substantially altered."

The October 6, 1933 date was selected since all buildings constructed in the City of Los Angeles subsequent to October 6, 1933 were required to be designed for earthquake forces. This provision is based upon buildings located in areas subject to seismic forces of the magnitude anticipated in Seismic Zone 4. It is recognized that the level of seismic design force would not be as required under the current building code. However, the building should perform in such a manner as to minimize life loss in the event of an earthquake.

This RGA contains a list of occupancies arranged in order from the least hazardous to the most hazardous. An occupancy or use is generally considered more hazardous as the occupant load within the building or the length of time the building is occupied are increased.

Note that an occupancy hazard listing based on structural performance may not be applicable for consideration of fire safety of the occupants.

(3) *State of California Seismic Safety*

(3) *State of California Seismic Safety Commission Draft Legislation Related to Seismic Hazards.* In areas subject to earthquakes, it is well known that unreinforced masonry buildings which have not been designed for seismic effects may be subject to severe damage in moderate earthquakes. Based upon this fact, the Seismic Safety Commission of the State of California is developing legislation related to buildings which would be a hazard when subjected to the level of seismic forces which could be encountered in the State of California. A draft of the proposed legislation is contained in Appendix 8.

This example of regulatory innovation is a form of a hazard abatement code, and is intended to eliminate the problem of complying with portions of the new construction code in removing a particular hazard.

In part, the draft states this directly: "This bill would authorize a city, city and county, or county to establish construction standards for reconstruction of existing buildings determined, as specified, to be a hazard to life in the event of an earthquake, which standards are as specified in the bill and would eliminate the problem of complying with the latest building code governing new construction when rehabilitating older buildings."

(4) *Chapter 10 of the Official Electrical Code of the City of Detroit, Adopted November 9, 1977 ("Minimum Standards for Existing Dwelling Units").* This Chapter (see Appendix 9) was developed by the City of Detroit and has been proposed for the National Electrical Code. It reflects that city's need to rehabilitate large numbers of single family houses.

Chapter 10 covers the re-wiring of existing inadequately wired dwelling type occupancies. It describes the evidence of inadequacy of wiring, and defines minimum illumination and power requirements for each room or space of the dwelling.

Chapter 10 represents a regulatory innovation because the National Electrical Code does not specifically address existing buildings, and its requirements establish levels of performance for new construction. Chapter 10 establishes lower levels of performance which would be safe and acceptable for existing buildings.

PART II—IDENTIFYING EXISTING CONDITIONS IN A COMMUNITY

The purpose of this Part of the Guideline is to provide policymakers or other interested groups in a community with a procedure for examining the existing conditions in their community to determine what problems, if any, are posed by the existing regulatory system in setting standards for building rehabilitation and re-use. The procedure makes reference to the general introduction and background discussions in PART I of the Guideline, and consists of three steps:

- Define existing regulatory system.
- Define pertinent characteristics of building rehabilitation in the community.
- Identify potential problems.

With identification of problems, policymakers can proceed to PART III of the Guideline, in which recommendations for amending the regulatory system designed to solve the respective problems are discussed.

A. Define Existing Regulatory System

Buildings in a community may be regulated by means of a variety of regulations, as discussed in *Introduction and Background.* That discussion concentrated on the model codes, but a particular community may use model codes, modified model codes or codes of its own.

It is necessary to define how buildings are regulated in a particular community. In doing so, it will be useful to make use of the conceptual diagrams of required building performance presented in the *Introduction and Background.*

The definition of the existing regulatory system consists of four parts:

- Define those requirements imposed on all existing buildings, and their enforcement.
- Define new construction requirements and their enforcement.
- Define existing provisions addressing building rehabilitation and reuse.
- Compare criteria levels.

A.1 Define Those Requirements Imposed on All Existing Buildings, and Their Enforcement

(1) Hazard Abatement Code

(a) Determine whether a code for the abatement of dangerous buildings, or a similarly titled document, is in effect as a hazard abatement code in the community. Note that similar provisions may be part of the building code.

(b) If such a code or provisions are in effect, determine whether they include explicit criteria for various enforcement options by the authority having jurisdiction. Such criteria may be found in inspection manuals or similar ancillary documents as well as in the regulations themselves. Specifically, determine whether the code contains a workable definition of "imminent hazard", warranting immediate remedial action to be enforced by the authorities. If the criteria are defined by reference to another code (e.g., building code, electrical code, etc.), the explicit criteria should still be identified.

(c) Exhibit the criteria for "imminent hazard" and for other hazards covered by the hazard abatement code, in the categories of structural safety, fire safety, health and hygiene, and any further breakdown of these categories as appropriate.

(d) Determine how the hazard abatement code is enforced, and by what agency. Specify whether its enforcement is a function of geographical location within the community, and if so, specify how. Specify whether the code is enforced differently in different occupancies or types of buildings.

(e) Determine how the hazard abatement code's enforcement is triggered. Specify if it is triggered uniformly for all buildings or classes of buildings, or whether it is triggered by actions other than the mere presence of the hazard, such as application for a building permit.

(2) Building Maintenance Codes (Property Maintenance/Housing/Health/Fire Prevention)

(a) Determine whether a housing code, property maintenance code, fire prevention code, health code, or any other regulation which may similarly cover the maintenance, operation and use of buildings, are in effect in the community. Some of these provisions may be part of building, mechanical, plumbing or electrical codes. For all such codes in effect, determine whether they include explicit criteria for various enforcement options by the authority having jurisdiction. Such criteria may be found in ancillary inspection manuals, or may be specified by reference to the building, mechanical, plumbing or electrical codes.

(b) Exhibit the criteria for various enforcement actions contained in these codes, in the categories of structural safety, fire safety, health and hygiene, and any further breakdown of these categories as appropriate.

(c) Determine how each of these maintenance codes is enforced, and by what agency. Specify whether each code's enforcement is a function of geographic location within the community (e.g., target neighborhoods for housing code enforcement). Specify whether each code's enforcement is varied as a function of occupancy or building type (e.g., active housing code enforcement in nursing homes, active fire prevention code enforcement in public assembly occupancies, etc.).

(d) Determine how the enforcement of each maintenance code is triggered.

Specify how violations of these codes are brought to the attention of the authorities, and whether the codes' enforcement is triggered uniformly for all buildings, classes of buildings, neighborhooods or similar classifications, or whether it is triggered by actions independent of the normal operation, maintenance and use of existing buildings, such as application for a building permit.

(3) Retroactive Regulations

(a) Identify all retroactive regulations currently applicable to existing buildings in the community.

(b) For each retroactive regulation, identify the unsafe or undesirable conditions which the regulation is intended to correct. Specify whether the regulation applies to all buildings, to specific occupancies or building types, or to any other limited category of buildings.

(c) For each regulation, determine the criteria which must be met for compliance. These criteria may be established by reference to the building code or some other code.

(d) Exhibit the criteria for compliance with each retroactive regulation in the categories of structural safety, fire safety, health and hygiene, as applicable.

(e) Determine how each retroactive regulation is enforced, and by what agency. Specify whether the enforcement is a function of geographic location within the community, or of any categorization of buildings (e.g., by occupancy, type, age, condition, etc.).

(f) Determine how the enforcement of each retroactive regulation is triggered. Specify how deficiencies are brought to the attention of the authorities. Determine whether the enforcement is triggered by actions which are independent of the presence of the specific deficiencies, such as application for a building permit.

A.2 Define New Construction Requirements and Their Enforcement

(a) Identify all existing codes currently applicable to new construction in the community. These may include a building code, mechanical code, plumbing code, electrical code, various specialty codes, life safety codes and special regulations. For each code, determine whether it is locally promulgated, or whether it is a statewide code. If it is the latter, determine whether it is mandatory minimum, maximum or both.

(b) Determine the occupancy and use categories into which buildings are classified by the codes. Determine fire districts, or other locational categories into which buildings are classified by the codes.

(c) For each building classification, determine the criteria which must be met for compliance.

(d) Categorize these criteria into the same, or similar categories to those utilized for displaying the criteria for the codes and regulations applicable to existing buildings as specified in the preceding section. Display the criteria in these categories to the extent and level of detail possible.

(e) Describe how the codes covering new construction are enforced, and by what agencies. Include in this description any cross referencing or interagency coordination employed in the enforcement. If code enforcement is carried out by various levels of government (state, county), it should be fully described. Determine the mechanisms for triggering code enforcement activities, such as application for building permits, mechanical permits, electrical permits, etc.

A.3 Define Provisions Covering Building Rehabilitation

(1) 25–50% Rule

(a) Determine whether the community's building code includes the 25–50% Rule or similar rule covering building repair and alteration. Determine whether a similar rule is included in the mechanical, plumbing and electrical codes.

(b) Determine how the building code addresses additions to existing buildings.

(c) If the 25–50% Rule, or similar rule, is in effect, determine the criteria that are required for compliance when rehabilitation work falls into each of the following three, or similar applicable categories:

- under 25%
- 25–50%
- over 50%

(d) Determine whether reference is made to any other codes (e.g., the code under which the building was originally built) in establishing these criteria.

(e) Display the criteria for compliance in the same categories as those utilized in the preceding section.

(f) If the 25–50% Rule, or similar rule, is in effect, determine how it is enforced. Specify how the value of the numerator (value of repair and alteration work) is determined in terms of work items covered and cost estimates. Specify how the value of the denominator (value of the existing building) is determined.

(g) Determine whether the 25–50% Rule is enforced uniformly for all buildings, or whether its enforcement differentiates between classes of buildings on any basis.

(h) Determine whether the 25–50% Rule discriminates against certain building owners or certain neighborhoods in the community, by resulting in the impostion of different criteria for similar rehabilitation of similar buildings.

(2) Change of Occupancy

(a) Determine the current regulation governing code compliance of existing buildings involved in a change of occupancy. Usually this regulation is part of the building code.

(b) Determine whether the change of occupancy regulation requires full compliance with all code requirements for new construction of the occupancy proposed, or whether only partial compliance is required. If partial compliance is included in the regulation, determine whether it is based on a systematic ordering of occupancies in terms of hazard, or on a similar defined analytical procedure.

(c) If partial compliance is included, determine the criteria which are established for each category of occupancy change, and display the criteria in the same categories as those utilized in the preceding section.

(d) Determine how the change of occupancy regulations are enforced, and whether they are enforced uniformly throughout the community.

(3) Other Rehabilitation Provisions

(a) Identify all other provisions which may affect building rehabilitation in the community. These may include landmark and historic district ordinance provisions, historic preservation waivers, regulation of moved buildings, general building rehabilitation provisions, etc. Some of these may be included in the building code, in ancillary inspection manuals or similar documents.

(b) Determine what criteria are specified for compliance with any such special provision, and display them in the same categories as those utilized in the preceding section.

(c) Determine how these special provisions are enforced, including use of advisory boards, review panels, appeals boards, etc.

A.4 Compare Criteria Levels

Compare the displays of the various sets of criteria included in all elements of the existing building regulatory system in the community which were defined and displayed under A.1–A.3 of this Part. This comparison may take the form (graphically or conceptually) of the conceptual diagram included in Part I of

this Guideline. In such an approach, the

for such work by a community's

this Guideline. In such an approach, the criteria for new construction are likely to define an upper limit of performance. The requirements imposed on existing buildings are likely to define a lower limit of performance. The existing regulations governing building rehabilitation will define where different categories of rehabilitation are required to fall between these two limits.

This comparison and display of criteria levels will identify for policymakers the extent of upgrading required for rehabilitated buildings by the existing regulatory system, and will enable them to determine whether this upgrading is consistent with local rehabilitation policies.

B. Define Pertinent Characteristics of Building Rehabilitation in the Community

Building rehabilitation in a community is a function of many factors, such as:

- physical characteristics of the community
- age and condition of the building stock
- economic conditions of development
- socio-economic conditions in the community
- regulatory system and its history
- public policy at the federal, state and local levels of government.

It is necessary to define the following pertinent aspects of building rehabilitation, and their relationship to some of these factors:

- Define occupancies involved or potentially involved in rehabilitation.
- Define building ages and types involved or potentially involved in rehabilitation.
- Determine extent of illegal rehabilitation.
- Define existing rehabilitation policies.

B.1 Define Occupancies Involved or Potentially Involved in Rehabilitation

Determine whether building rehabilitation in the community is principally a matter of upgrading or re-use of existing occupancies (e.g., residential rehabilitation, commercial rehabilitation, etc.), or whether it is a matter of changing occupancies (e.g., commercial to residential, residential to commercial, residential to assembly, etc.). This can be determined both by observing actual current rehabilitation projects, as well as by identifying potential candidates for rehabilitation (which due to existing problems or constraints may not be currently undergoing rehabilitation).

The nature of occupancy changes involved in rehabilitation is often related to the changing nature of neighborhoods and of the community as a whole, and is therefore subject to the economic conditions of development, socio-economic and physical characteristics of the community.

It is important to define the occupancies involved, or potentially involved in rehabilitation, because the building regulatory system is likely to treat rehabilitation involving occupancy change very differently from that in which no change is involved. In general, the former is likely to entail the enforcement of higher levels of performance in the rehabilitated building. For this reason it is also necessary to determine the extent to which the occupancy classifications contained in the community's building code (see A.2(b) of this Part I) correspond to, or fit with, the actual uses of buildings being rehabilitated. If this correspondence, or fit, is not clear, then the regulatory system will involve ambiguities in dealing with change of occupancy rehabilitation.

B.2 Define Building Age and Types Involved or Potentially Involved in Rehabilitation

Determine the age and principal characteristics (structural, architectural, mechanical) of buildings involved, or potentially involved in rehabilitation work in the community. This can be determined by both observing current projects as well as identifying potential candidates for rehabilitation.

While the age and principal characteristics of buildings are mainly a part of the general physical characteristics of the community, it must also be analyzed in relation to the history of the building regulatory system in the community. Such an analysis will determine the extent of the disparity between the characteristics and performance of the existing building stock and the current code requirements for new construction. For example, a community where most of the buildings are 25 years od, and where there have been very few code changes during that period, will have very different problems of regulation of rehabilitation than a community with buildings over 50 years old and with a history of numerous code changes. Washington, D.C. and San Francisco fall into the latter category, which may explain the specific nature of their regulatory approach to rehabilitation (as discussed in Part 1 of this Guideline).

B.3 Determine Extent of Illegal Rehabilitation

Illegal rehabilitation is the practice of carrying out repairs and alterations in buildings without the permits required for such work by a community's regulatory system. It is necessary to determine the extent and nature of such rehabilitation occurring in the community, and to identify the classes of building in which it is occurring, because this characteristic may indicate the effectiveness of the regulatory system in dealing with rehabilitation. The extent and nature of this phenomenon may also help in identifying potential problems of safety, health and hygiene which should be addressed by the regulatory system for rehabilitation.

B.4 Define Existing Rehabilitation Policy

Identify all the current policies related to building and neighborhood rehabilitation which are in effect in the community. These policies may be federal (expressed by the community's acceptance of federal assistance), state, local or neighborhood generated.

Specify the building classes or types which are addressed by the rehabilitation policy.

Attempt to determine the relative real costs which these rehabilitation policies intend for the community to bear. For example, how much, if any, relative safety, convenience and other features should the community be willing to give up in order to achieve the goals of the rehabilitation policies.

C. Identify Potential Problems

If the following conditions are found in the community, it could indicate problems in need of solution:

(1) *Conflict between the goals of rehabilitation and the goals of building regulation.* The health and safety goals of the building regulatory system are usually not made explicit in a community. However, the existence of the conflict between rehabilitation goals and regulation goals may be determined by the community if it finds that current building regulations impose unacceptable cost on rehabilitation and prevent much rehabilitation from taking place. The current regulations may impose these costs either by forcing the upgrading of rehabilitated buildings to levels of performance which are too high for the community, or by accepting only design solutions prescribed for new construction.

The community may also determine that such a conflict exists between rehabilitation and regulation goals when the enforcement of the regulations on existing buildings (hazard abatement codes, property maintenance codes and retroactive regulations) is triggered only by application for building permits. In this case the enforcement system is discriminating against all rehabilitation activities of the community, by enforcing regulations that should apply to all existing buildings.

(2) *Discrimination of current rehabilitation regulations against a class of buildings or owners.* This condition may occur in a community which applies the 25–50% Rule to rehabilitation, as discussed above.

(3) *Violation of existing regulations.* The existence of extensive illegal rehabilitation work in the community, as discussed above, is evidence of this condition.

The above conditions may indicate the existence of one or more of the following four problems, listed in increasing order of the required modification to the regulatory system. Each problem is defined in PART III of this Guideline, where recommendations are made for solutions.

1. No modification in current regulatory system (25–50% rule and change of occupancy regulation) is needed.
2. Flexible application of the 25–50% rule is needed.
3. Existing regulatory system, in its relation to building rehabilitation, is in need of modification.
4. A definition of imminent hazards is needed in the regulatory system.

PART III—RECOMMENDATIONS FOR AMENDING OR MODIFYING THE REGULATORY SYSTEM TO ENCOURAGE REHABILITATION

A discussion of rehabilitation problems is contained in an article by William J. Tangye, P. E., entitled *"Rehabilitation of Existing Buildings An Achievable Goal"*, printed in Southern Building, February/March 1980. The article includes several recommendations, including proposed additions or amendments to the Standard Building Code, and is reprinted with the permission of the Southern Building Code Congress International, Inc., as Appendix 11 of this guideline.

The following recommendations are established for each of the four problems defined in the preceding part of this guideline. In general, a community will find that it is faced with one or more of these problems. All communities, however, should refer to the accompany *Statutory Guideline for Building Rehabilitation, Guideline for Managing Official Liability Associated with Building Rehabilitation,* and the *Guideline for the Approval of Building Rehabilitation* for recommendations which are consistent with all four problems.

Also, all communities should consider enacting historic preservation waiver clauses, if they have not already done so.

A community located in a state which has statewide preemptive codes may be constrained in carrying out some or all of the following recommendations. It should determine the extent of such constraints before attempting to amend or modify its regulatory system.

1. No modification in current regulatory system (25–50% rule and change of occupancy regulation) is needed.

Problem. The community determines that its current building code provisions applicable to rehabilitation, including the triggering of full code compliance by the 25–50% Rule and by the change of occupancy regulation, do not represent conflicts with rehabilitation goals, do not intentionally unduly constrain building rehabilitation and do not discriminate against classes of buildings or owners. Such a community accepts the impposition of new construction standards on much of its rehabilitation. However, the community determines that rehabilitation is unintentionally constrained by the prescriptive nature of many building code requirements.

Recommendations. The community should do the following:

(a) Explicitly justify, as a matter of public policy, each code requirement which is applied by current regulations to rehabilitated buildings, and which is in excess of the current requirements applicable to existing (unrehabilitated) buildings (e.g., hazard abatement code, property maintenance code and retroactive regulations).

(b) Amend the building code, electrical code, plumbing code, etc. to explicitly mention the acceptability of alternate materials, methods of construction and designs when dealing with buildings under the 25–50% Rule and with buildings undergoing a change of use or occupancy.

(c) Implement the following technical guidelines:

- *Egress Guideline for Residential Rehabilitation*
- *Electrical Guideline for Residential Rehabilitation*
- *Plumbing DWV Guideline for Residential Rehabilitation*

In general, each of these guidelines suggests alternative solutions recommended for building rehabilitation, which provide approximately equivalent performance as specified by current codes for new construction.

(d) Implement technical guidelines similar to those of (c) above, which may be developed and published from time to time, or develop and implement similar guidelines of its own.

2. Flexible application of the 25–50% rule is needed.

Problem. The community's current building regulations include the 25–50% Rule. The majority of building rehabilitation in the community does not involve a change in use or in occupancy. The community's goals are to encourage such rehabilitation, and the community is will to accept a level of performance for its rehabilitated buildings which is lower than that required for new construction. However, the 25–50% Rule as currently enforced requires full code compliance in more cases than the community finds appropriate and/or discriminates against classes of buildings or owners in the community.

Recommendations. The Community should consider the following:

(a) *Defining Cost and Value.* In any jurisdiction which has the 25–50% Rule and desires to interpret it so as to promote rehabilitation as much as possible, the objective is to obtain the lowest possible ratio of cost of rehabilitation (numerator) to the value of the building (denomination). The definition of cost, therefore, should be as low as possible. Based upon case studies the following methods of defining cost are either in use or suggested by building officials. Except where noted, these interpretations may be made by the building official without changing regulations.

(i) *Defining Cost of Rehabilitation (the numerator).*

Objective: Obtain Lowest Possible Value.

- Exclude all non-permit items such as painting and decorating, kitchen cabinets, landscaping, architect's fee and the like.
- Exclude all items which require a separate permit and which are normally covered by a separate code not governed by the 25–50% Rule, such as plumbing, electrical and elevator.

(ii) *Defining Value of the Building (the denominator).*

Objective: Obtain Highest Possible Value.

- Define value as current replacement cost before rehabilitation, and update at least annually.
- Define value as current replacement cost *after* rehabilitation. (This may not be feasible under the Standard Building Code since it requires the "then" physical value, presumably before rehabilitation. Also, the Basic Building Code implies replacement value before rehabilitation although this is not specifically stated.)
- Assessed value is reportedly used in some jurisdictions, but in general

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assessed value lags behind true replacement value. In addition, assessing practices often assess various occupancies using different methods which could lead to discrimination.

(b) *Varying the Percentages.* Consider increasing the percentages (e.g., 33–66% instead of 25–50%). This will tend to allow more rehabilitation before encountering new construction code requirements. To implement this change, a code amendment is required.

(c) *Reducing the Time Span.* The model codes and most local codes require that for purposes of the 25–50% Rule cost be defined as work done within one year. Reducing the time span to six months, for example, would tend to allow phased upgrading of buildings. This change, also, requires a code amendment.

(d) Consider the use, or possible modification (to reflect acceptable lower levels of performance), of the technical Guidelines as suggested for the preceding problem.

3. Existing regulatory system, in its relation to building rehabilitation, is in need of modification.

Problem. The community determines that its current building regulations conflict with its rehabilitation goals by requiring upgrading of many or most of its rehabilitated buildings to the performance levels specified for new construction or even to some lower level, leading to unacceptably high costs of rehabilitation which unduly constrain building rehabilitation. Also, the community may determine that the regulatory system discriminates by enforcing existing building regulations in cases of rehabilitation only.

Recommendations. The community should do one of the following:

(a) Consider applying or adapting a current regulatory innovation; or

(b) Develop its own local rehabilitation code, provisions or guidelines.

(a) *Consider applying or adapting a current regulatory innovation.* Part I and the Appendix of this guideline contain discussions of various existing comprehensive or partial regulatory innovations. These include:

- Washington, D.C. (Appendix 2)
- San Francisco, California (Appendix 3)
- Denver, Colorado (Appendix 4)
- State of Massachusetts (Appendix 5)
- State of California (Appendix 6)
- City of Los Angeles Rule of General Application on Structural Changes Required by Change of Occupancy (Appendix 7)
- State of California Draft Legislation Related to Seismic Hazards (Appendix 8)
- Chapter 10, Official Electrical Code of the City of Detroit (Appendix 9)

The community faced with this problem may consider adopting or modifying one or more of these regulatory innovations. Such a community should do the following:

(i) Analyze each innovation in detail, from the materials appended to this guideline, and from additional materials obtained locally as required. This analysis should pay particular attention to the specific community characteristics (physical, social, economic, political, etc.) which led to the development of each regulation. Since each of the regulation examples was developed to respond to local community conditions and needs, a given community considering adopting such a developed regulation must be aware of the similarities and dissimilarities of its own community characteristics in relation to those of the model being analyzed. A level of performance acceptable in one community may not be acceptable in another.

Note that of the complete "solutions", Washington, D.C. and San Francisco use specific, and often prescriptive, provisions applicable to rehabilitation. These may have limited transferability to any but very similar cities. Denver provides a mechanism for dealing with every case individually, rather than establishing comprehensive provisions. Massachusetts uses an approach in which every building defines the level of performance to which it must be rehabilitated.

(ii) Based on the analysis, adopt and/or modify one of the model regulatory innovations.

(iii) Amend current codes appropriately, including deletion of the 25–50% Rule and/or the change of occupancy provisions. It must be realized that such deletions require the substitution of specific provisions. It should also be noted that by deleting the 25–50% Rule, a community may inadvertently have a deleterious effect on rehabilitation below 25%, which currently enjoys the continuation of non-conforming rights.

(iv) Consider the use, or possible modification (to reflect acceptable lower levels of performance), of the technical guidelines as suggested in the preceding problem.

(b) *Develop local rehabilitation code or guidelines.* If the community determines that none of the regulatory innovations are applicable, it should develop its own rehabilitation code, regulation or guidelines. It may proceed as follows:

(i) Determine the levels of performance required for all existing buildings by the current hazard abatement code, property maintenance code and retroactive regulations. As a minimum, all rehabilitated buildings must meet these levels. Note that in the absence of a current definition of "imminent hazard", the recommendations for Problem 4, below, should be followed.

(ii) If the community determines that higher levels of performance than those determined in (i) above are to be required for rehabilitated buildings (involving no occupancy change and/or involving change of occupancy), each such requirement should be individually justified, as a matter of public policy. The justification should cover structural safety, fire safety, health and hygiene.

(iii) Amend current codes appropriately, including deletion of the 25–50% Rule and/or the change of occupancy provisions. It must be realized that such deletions require the substitution of specific provisions. It should also be noted that by deleting the 25–50% Rule, a community may inadvertently have a deleterious effect on rehabilitation below 25%, which currently enjoys the continuation of non-conforming rights.

(iv) Consider the use, or possible modification (to reflect acceptable lower levels of performance), of the technical guidelines as suggested in the preceding problem.

A format and methodology for developing a local rehabilitation code, based on comparative analysis of rehabilitation needs with the code requirements for new construction, is presented in Appendix 10 of this guideline.

4. A definition of imminent hazards is needed in the regulatory system.

Problem. The community may have a need to define "imminent hazard". For a community facing any of the preceding three problems, the problem may be its desire but inability to establish compliance priorities for any level of performance.

For a community facing problem categories 2 or 3 above (i.e., considering acceptance of lower levels of performance for rehabilitated buildings), the problem may be the inability to establish the absolute lowest acceptable level of performance by requiring only the elimination of "imminent hazards" as a requirement attending rehabilitation.

Recommendations. To assist the community in assessing an "imminent

hazard", the following attributes and criteria should be considered:

(a) *Structural Safety.* A building presents an imminent hazard:

(1) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the code for new buildings of similar structure, purpose or location.

(2) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the code for new buildings of a similar structure, purpose or location.

(3) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(4) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place as to be capable of resisting a wind pressure of one-half of that specified in the code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the code for such buildings.

(5) Whenever any portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(6) Whenever the building or structure or any portion thereof because of: a) dilapidation, deterioration or decay; b) faulty construction; c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such buildings; d) the deterioration, decay or inadequacy of its foundation; or e) any other cause, is likely to partially or completely collapse.

(7) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(b) *Number of Exits.* A building presents an imminent hazard whenever less than two approved independent exitways serve every story (except as modified for single exitways by current building codes or by the accompanying *Egress Guideline for Residential Rehabilitation*).

(c) *Capacity of Exits.* A building presents an imminent hazard whenever any required door, aisle, passageway, stairway or other required means of egress is insufficient to comply with the current code section on exit capacity or is so arranged as to preclude safe and adequate means of egress (see *Egress Guideline for Residential Rehabilitation*).

(d) *Other.* A building presents an imminent hazard whenever conditions exist which in the code official's judgment would be cause for an otherwise fully code-complying building to be evacuated or padlocked, or for the site or other adjacent areas to be evacuated, barricaded or otherwise protected.

Appendix 3—San Francisco, California

San Francisco, Calif.

The following concepts are involved in San Francisco's approach to regulating rehabilitation:

(a) *Residential Buildings (SFHC).*

1. Limiting areas of concern. (Section 105 and 309 SPHC)

2. Providing less strict construction standards, than for new construction, for areas of concern.

3. Providing a legal means for developing and implementing regulations "supplemental to this code and not in conflict therewith." this enables the creation of FIM. (Section 104 (f) SFHC and 204.2 SFBC)

4. Developing a manual (FIM) based upon commonly found conditions so as to provide both equity and uniform enforcement of alternatives and interpretations.

(b) *Change in Use or Occupancy (SFBC).*

The SFBC criteria primarily relate to the degree to which the proposed change may generate additional public hazard (Sections 104.E–3, 502.1(e), SFBC). The SFBC requires changes involving large public assemblies, schools and hospitals to virtually fully meet the present standards. It does not require this for most changes involving commercial or residential usage. These more common changes, as well as all others, are subject to one of three levels of possible building code application, indicated in Table No. 5.1, SFBC. This Table was developed based upon an evaluation of the potential increase or decrease in public safety from fire, panic and other hazards that may result from the proposed change.

These three levels are: (See Table No. 5.1 SFBC footnotes)

Level 'P'—This level requires only that the exists, ventilation, sanitation and fire fighting elements meet the SFBC. Seismic upgrading, per Section 104.F SFBC only applies when the occupant or floor load increases (e.g., a warehouse change to office building, or a garage converted to a heavy manufacturing plant), provided however that no seismic upgrading is required per Section 104.E–3 SFBC unless the change involves more than 30% of the building area. This latter provision was added so as to avoid minor changes causing extensive or costly work on the building.

Level 'PS'—This level requires that specific evaluation of the proposed change be made by the Bureaus of Building Inspection and Fire Prevention so as to determine what other SFBC provisions (other than those required for Level 'P') may be required to adequately protect the public.

"Blank" Space—This level requires that the change must fully meet the present SFBC requirements since the hazard level increases warrants such compliance for public safety.

(c) *Alterations, Additions and Extensions (SFBC)*

1. When substantially the entire interior of the building undergoes change ("gut job"), it is anticipated that there will be sufficient funds involved to warrant invoking seismic upgrading requirements for public safety. (Section 104.C–4, SFBC).

2. When virtually all walls are undergoing change (75% or more) all remaining walls on the floor involved have to be also upgraded. This is also based on the substantial financial involvement. (Section 104.C–3, SFBC).

3. When more than 30% of the building is involved in structural changes, the seismic provisions of Section 104.F, SFBC are invoked. (Section 104.B–3, SFBC).

Following are the pertinent sections of the San Francisco Building Code (SFBC) and Housing Code (SFHC).

San Francisco Building Code

Sec. 104A. Application to Existing Buildings, General. Buildings or structures to which additions, alterations, or repairs are made, or in which the occupancy of all or a portion of the building is to change from that for which a permit has been issued, shall comply with all requirements for new buildings or structures except as specifically provided in Sections 104.A through 104.H and as required in the Housing Code.

→The term "portion of the building" shall mean the floor or floors that are affected by the change in use.

Notarized certifications describing the extent of all previous substantial alteration work and/or previous changes of occupancy shall be

submitted by the owner and the designer of a proposed alteration or change of occupancy when required by the Superintendent.←

For construction in Fire Zones, see Article 16.

Sec. 104.B Alteration Work, Structural. In any alteration, repair, installations, or change or reconstruction of any building, the new work and any part of the building which becomes an integral part of, or is directly affected by such work, shall meet the structural requirements of this Code, →for vertical loads.

For the purpose of this section, a floor of a building shall include all the structure supporting a level of the building between the underside of said structure and the underside of the structure supporting the level of the building next above.

The extent of an existing building that is considered as being directly affected by the new work, with regard to structural considerations, shall be determined using the following criteria:

1. When structural alteration work is to be done on a floor or floors of a building or structure, the work on the floor or floors involved shall comply with the structural requirements of this Code. The structure above and below the floor or floors involved shall be improved, if and as required, so that they are not adversely affected by the structural work proposed.

2. When the floor loading is increased on the floor or floors of a building or structure, the floor or floors involved shall meet the structural requirements of this code and all structure below the floor or floors with increased loading shall not be adversely affected.

3. When more than 30%, cumulative since the building was built, of the above grade area of the building or structure are involved in substantial structural alteration work, the entire building or structure shall comply with the structural requirements of Section 104.F.←

Sec. 104.C. Alteration Work, Architectural. In any alteration, repair, installation, or change in or reconstruction of any building, the new work and any part of the building which becomes an integral part of, or is directly affected by the new work, shall meet the requirements of the Code.

The extent of an existing building that is considered as being directly affected by the new architectural alteration work shall be determined, using the following criteria in addition to the provisions of Section 502.1:

1. All new work added to the building that did not previously exist in the building.

2. All portions of the building that are removed and replaced by new construction.

3. When 75% of the existing interior walls or partitions, as measured by the lineal footage of such interior wall and partition, are removed on a floor or when new interior walls or partitions are added which exceed 75% of the total lineal footage of the combined existing and new interior walls and partitions that would then be in place on a floor, all interior walls and partitions on the floor involved shall comply with this Code.

→4. Whenever alteration work involves extensive changes to elements such as walls, partitions, ceilings, etc. in substantially all portions of such structure, the structure as a whole shall comply with Section 104.F.←

→Sec. 104.D. Additions to Buildings. 1. Vertical Extensions. Buildings may be extended vertically subject to the following requirements:

a. Building shall be used for the same occupancy classification as originally built or for less hazardous occupancy classification as determined from Table No. 5–1. The occupancy of the vertical extension shall comply with the requirements of this Code.

b. Way of departure facilities for the entire structure shall be of sufficient width for the total occupancy load of the building, including the vertical extension, and shall be computed on the basis of occupant loads as assigned in the code in effect at time of the original building erection.

c. All new construction work involved in the vertical extension shall conform to the requirements of this code.

d. The structure as a whole shall comply with Section 104.F.

e. All stairways in the building serving 3 or more stories shall be enclosed.

f. For height and area limitations see Article 5.

g. The original building and the vertical extension shall comply with the applicable provisions of Article 38.

2. **Horizontal Extensions**

a. Building may be used for higher life safety exposure, provided the structure as a whole meets the requirements in this code for such occupancy.

b. See Subsection 1(b).

c. See subsecton 1(c).

d. When the cumulative area of additions above grade exceeds 30% of the above grade area of the original building and the additions are structurally interconnected to or inadequately separated from the original building, the entire structure shall comply with Section 104.F.

e. See Subsecton 1 (e).

f. See Subsection 1 (f).

g. See Subsection 1 (g).←

→Sec. 104.E. Change of Occupancy. The exit requirements shall pertain solely to the corridors and vertical enclosures of the floor or floors affected by the change in use, which requirements shall also include the vertical enclosure for the floor next above the affected floor or floors. This exit requirement shall not include the corridors and vertical enclosures for the floors below the affected floor or floors or the corridors above the effected floor or floors, except as otherwise stated herein.

1. Where a change in occupancy classification is proposed, the requirements of Table No. 5–1 shall apply.

2. When the change in use involves an increase in the occupant load of the floor or floors affected or when the change involves Occupancies A, B, C, D and E, the exit requirements shall include the vertical enclosures in accordance with Article 33 from the floor or floors in question to the ground at a street or public space. The exit requirements shall include the corridors of the floor or floors affected by the change in use and shall not include the corridors for the floors above or below the affected floor or floors.

3. Whenever the cumulative areas involved in change of occupancy to a greater life safety exposure from that for which the building was originally designed exceed 30% of the original above grade area of the building, the entire building shall be made to comply with Section 104.F.

Exceptions. When the occupancy change is to a Group A, B Div. 1 or B Div. 2 classification and Group B Div. 3 classification with an occupant load over 300, the entire building shall be made to comply with Section 104.F.

2. When the occupancy change is to a Group C classification the entire building shall be made to comply with the requirements of footnote 1 of Table No. 5.1 as well as the Sec. 104.F.←

BILLING CODE 4210-01-M

TABLE NO. 5

OCCUPANCY CLASSIFICATIONS

Group or Class	Division	Description of Occupancy	Article Reference
A		Any assembly building with a stage and an occupant load of 1000 or more	6
B	1	Any assembly building with a stage and an occupant load of less than 1000	7
	2	Any assembly building without a stage and with occupant load of 1000 or more	
	3	Any assembly building without a stage and with occupant load of less than 1000	
	4	Stadiums, reviewing stands and amusement park structures not included in Group A or Division 3 Occupancies	
C		Any building used for school purposes involving assemblage for instruction, education or recreation	8
D	1	Jails, prisons, reformatories, houses of correction and buildings where personal liberties of inmates are similarly restrained, mental hospitals	9
	2	Nurseries for children under six, kindergartens, orphanages, hospitals, sanitoriums, nursing homes and similar buildings (each accommodating more than 6 persons) with non-ambulatory patients	
	3	Nursing homes (for ambulatory patients), homes for children six years of age or over (each accommodating more than 6 persons not including employees)	
E	1	Manufacture, storage and handling of hazardous and highly flammable or explosive gases, liquids and materials other than flammable liquids	10
	2	Storage and handling of flammable liquids	
	3	Shops and factories where loose combustible fibers or dust is manufactured, processed, or generated. Warehouses where loose combustible material is stored	
	4	Public repair garages. Heliports. Storage and parking garage (for trucks and buses	
F	1	Gasoline filling and service stations, factories and workshops using material not highly flammable or explosive, laundries, paint shops. Furniture warehouses and similar not more hazardous warehouses	11
	2	Wholesale and retail stores, office buildings, printing plants, municipal police and fire stations, public assembly with an occupant load of less than 50, small fairment shops, jail cell stores without bulk handling, day care centers, children	
	3	Public Parking Structures and storage garages Type A—Driveln Type B—Mechanical parking Type C—→Driveln or←Mechanical parking—Type 4 construction	
G		Ice plants, power plants, pumping plants, cold storage and creameries. Factories and workshops using incombustible and non-explosive materials. Storage and salesrooms for incombustible and non-explosive materials	12
H		Hotels, motels, and apartment houses, dormitories for more than six persons in aggregate, convents, monasteries and rectories each containing six or more sleeping rooms	13
I		One and two family dwellings and lodging houses	14
J	1	Private garages. Sheds and minor buildings used as accessories, fences over six feet high, tanks and towers	15
	2	Stables	

TABLE NO. 5.1

OCCUPANCY CHANGES PERMISSIBLE WITHOUT CONFORMING TO ALL PROVISIONS OF PRESENT CODE

To / From	OCCUPANCY GROUP A	B-1	B-2	B-3	C	D-1	D-2	D-3	E-1	E-2	E-3	E-4	F-1	F-2	F-3	G	H	I	J-1
A	P	P	P	P	P		P5	P5						P	P	P5	P5	P	P
B-1	P5	P	P5	P	P		P5	P5						P	P	P5	P5	P	P
B-2	P5	P5	P	P	P		P5	P5						P	P	P5	P5	P	P
B-3				P	P		P5	P5						P	P	P5	P5	P	P
C					P	P5	P5	P5											
D-1					P5	P			P	P	P								
D-2					P5		P		P	P	P								
D-3					P5			P	P	P	P								
E-1									P	P	P	P							
E-2									P5	P	P	P							
E-3									P	P5	P	P							
E-4												P							
F-1					P5		P5						P	P	P				
F-2													P	P	P				
F-3													P5	P5	P	P			
G												P5				P			
H					P5	P5	P5	P5						P	P5		P		
I					P5													P	
J-1																			P

LEGEND for Table No. 5.1

P—Permitted subject to the requirements of Sections 902.1 and 1704.A, except for those listed in Table No. 5-C, 5-D, and 5-E, and Article 33.

P5—Occupancy change permitted subject to requirements as set forth by the Superintendent, and the Bureau of Fire Prevention and Public Safety for those occupancies under their jurisdiction.

Where more than one letter is listed, change in occupancy requires substantial conformance with all those code provisions.

[1] Shall require conformance with Article 33 for seismic provisions. Same as used by State OAC. [2] Not including service stations and gasoline filling stations.

BILLING CODE 4210-01-C

→Sec. 104.F. Lateral Force Design Requirements. The provisions of Sec. 2308 and Sec. 2314.D through .H shall apply to the entire building or structure. It shall be demonstrated that the entire building or structure is capable of resisting these forces and safeguarding the occupants and the public.

Consideraton shall be given to all aspects of construction which may affect safety; including but not necessarily limited to the adequacy of connections between structural members, the adequacy of building separation and the security of unreinforced filler walls as well as parapets and appendages.←

Sec. 204.2 Director may adopt Rules and Regulations. The Director of Public Works may adopt and promulgate rules and regulations supplemental to this Code and not in conflict with the intent therewith. → Such rules and regulations shall be generally accepted or approved methods and practices for the public health and welfare and safety of life, subject to re-examination and change if at any time such rules and regulations are found to be not in conformance with the intent or requirements of the Municipal Code.

The Director may administratively authorize the processing of applications involving Housing Code compliance actions initiated by the Department of Public Works, in a manner other than set forth in this Code, so as to effect said compliance most expeditiously; provided however that due process is assured all applicants. In this regard, the Director may reduce the time periods set forth in Sections 301.C.e, 302.D and 302.D.2 as they apply to a second application required by the Director to effect full compliance with the Housing Code if by so doing compliance with the Housing Code would be more expeditiously accomplished.

Sec. 502.1. Minimum Requirements Applicable for Change of Occupancy. In addition to the requirements of Tables No. 5-D and 5-E, and the specific requirements of the new occupancy as set forth in Articles 6 through 15, where the change of occupancy is permissable under Table No. 5.1, the following requirements shall in all cases be met for the new occupancy in compliance with this Code:

(a) Exit requirements per Article 33 to the public way

(b) Ventilation

(c) Sanitation

(d) Fire extinguishing equipment and protection devices per Article 38.

(e) Lateral force provisions of Section 104.F, if the change of occupancy results in an increased occupant load or floor load.

San Francisco Housing Code

Section 104. Scope.

(f) It is further provided that the Director of Public Works may adopt and promulgate rules and regulations supplemental to this Code and not in conflict therewith, provided they are the most generally accepted or approved methods and practices for public welfare and safety of life and property. Such rules and regulations shall be subject to reexamination and change if at any time such rules and regulations are found by any enforcement agency not to be in conformance with the intent or requirements of the Municipal Code

Sec. 105. Existing Buildings. All buildings erected after July 26, 1958 shall comply either with the codes in effect at the time of construction or the present Building, Electrical, and Plumbing Codes at the discretion of the owner.

All buildings erected prior to July 26, 1958 shall comply with the requirements as set forth in the codes in effect at the time of construction except as otherwise provided herein. The retroactive provisions in Article 3 shall take precedence over any Code provision in effect at the time of construction.

All buildings altered or converted prior to July 26, 1958 which do not conform to the codes in effect at the time of the alteration or conversion and the provisions of this Code shall be reconverted back to the original approved state and brought into compliance with the retroactive requirements applicable to the original structure, or conform to all the applicable requirements outlined in the present codes.

Sec. 801. Ways of Departure. See Articles 1, 13 and 14 of the Building Code.

Way of departure facilities for buildings constructed, altered or converted after July 26, 1958 shall comply with the codes in effect at the time of construction, alteration or conversion, or the provisions of Section 3302.A.1, 3320 and 3320.1 of the Building Code, whichever is the less restrictive, as is applicable to that occupancy.

Way of departure facilities for buildings constructed, altered, or converted prior to July 26, 1958 shall meet the following minimum requirements or the provisions of Sections 3302.A.1, 3320 and 3320.1 of the Building Code, whichever is the less restrictive.

Each of the following buildings, now in existence shall be provided with access for each dwelling unit or guest room to two means of egress which shall be accessible either directly or through a public hallway and shall be so located that if access to one be denied, the other shall be available:

(1) In apartment houses, hotels (and two-family dwellings per Section 3320.1 of the Building Code.).

Where exits are arranged so that one way of departure must be passed to get to the other, intervening doorways between any exit doorway on a dead end corridor more than 20 feet in depth and the main exit corridor shall be provided with a ¾-hour opening protector or a sprinkler head located on the room side of the doorways as well as in the dead end corridor.

(2) Every single family dwelling having more than two floors of occupancy in which there are rental units, shall have not less than two ways of departure from the uppermost stories to a floor of occupancy below which has two ways of departure to the exterior of the building.

Sec. 807. Smoke Barriers. In buildings in which an existing Group H occupancy is located on three or more stories and which does not have a way of departure directly accessible from within each apartment or guest room without entering an exit corridor, every interior public stairway shall be enclosed as set forth in Section 806 of this Code or shall be provided with a smoke barrier and smoke stop door, as hereinafter described, to prevent fire and smoke from spreading, thereby cutting off the way of departure.

An automatic sprinkler system installed in an exit corridor and stairwell and exitway to exterior of building, in accordance with the provisions of Article 38 of the Building Code, will be acceptable in lieu of a smoke barrier.

When a hotel room or apartment opens directly upon the stairway so that the smoke barrier does not afford said room or apartment protection, said hotel room or apartment shall have a one and three-eighths inch solid core wood door, an incombustible surfaced door or other similar approved self-closing device.

The smoke barrier and smoke stop door shall be located where directed by the Superintendent and shall be constructed as follows:

(1) In Type 3 and 5 buildings, the smoke barrier may consist of partitions containing wire glass with solid core wood smoke stop doors. The doors shall be not less than one and three-eighths inch thick, three feet wide, and six feet eight inches high equipped with an approved self-closing device. The smoke barrier may be of any approved similar construction except that wood panels and similar combustible materials shall not be permitted.

(2) In other than Type 3 and 5 buildings, the smoke barrier partitions shall be entirely of incombustible construction except for the smoke stop door and the trim and except that wire glass lights in the partition shall be permitted. The smoke stop door may be an unrated, solid-core wood door not less than one and three-eighths inch thick, three feet in width and six feet eight inches in height equipped with an approved self-closing device and may have wire glass lights therein.

Smoke barrier doors may be held in an open position to allow for the necessary corridor ventilation, provided the means of holding the doors open include a smoke detection device and a

SAN FRANCISCO FIELD INSPECTION MANUAL FOR EXISTING RESIDENTIAL BUILDINGS

Introduction

This manual is to be used as a guide for inspection of residential buildings built prior to July 26, 1958 in determining whether the building is substandard as defined in Article 4 of the 1975 San Francisco Housing Code. This manual does not pertain to non-residential buildings or occupancies except in the case of a mixed occupancy building, then only as violations affect the residential occupancy.

The retroactive provisions of the Housing Code are to be applied to all buildings whenever built, altered, or inspected. See Section 309 of the Housing Code for the list of retroactive sections.

If a requirement other than those retroactive is neglected on permit work done within the last twenty years, it should be provided only when a most serious hazard would result from its absence. The following shall be used as examples of a most serious hazard, but is not intended to be all inclusive: unsafe or obstructed egress; an excess floor of occupancy exists; substantial structural inadequacy exists caused by sagging or deteriorated structural members, or the absence of lateral supports; lack of light and ventilation, the absence of toilet or bath facilities within the dwelling unit, substantial overloading of electrical service or exposed wiring; lack of sprinkler system where required.

If a building was built or converted before twenty years ago under a permit, but some code requirements were neglected, they must be provided if their absence constitutes a *hazard*, including those listed above.

If a building was built or altered without a permit, it must meet the Code standards of the day of its construction or alteration as modified herein, and as provided in the retroactive section of the Housing Code.

Appendix 6—State of California

Revision Record for Register 78, No. 26 (July 1, 1978)

TITLE 25. HOUSING AND COMMUNITY DEVELOPMENT

Part I. Housing and Community Development

Chapter 1. State Housing Law Regulations and Earthquake Protection Law Regulations

Subchapter 1. State Housing Law Regulations

Article 6. Rehabilitation and Repair of Existing Buildings

70. Rehabilitation. Any portion of an existing structure which is subject to the provisions of this subchapter may be altered, repaired or rehabilitated, regardless of the value of the work or the duration of construction period, without the entire structure being made to comply with the requirements of this subchapter for new construction.

72. Plumbing. (a) Any plumbing system may have its existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and no hazard to the public health, safety or welfare has been created by such system. (17922(c) Health and Safety Code, effective date January 1, 1975)

(b) Alterations. In existing buildings or premises in which plumbing installations are to be altered, repaired or renovated, the enforcement agency has discretionary powers to permit deviation from the provisions of this subchapter, provided that such a proposal to deviate is first submitted to the enforcement agency for proper determination in order that health and safety requirements as they pertain to plumbing shall be observed. (17922(c) Health and Safety Code, effective date January 1, 1975)

(c) Building Sewers. Existing building sewers and building drains may be used in connection with plumbing alterations or repairs if such sewers or drains have been properly maintained and were installed in accordance with the applicable laws in effect at the time of installation. (17922(c) Health and Safety code, effective date January 1, 1975)

(d) Existing Plumbing Systems. Any plumbing system shall be deemed to have conformed to applicable law in effect at the time of installation and to have been maintained in good condition if currently in good and safe condition and working properly. (17922(c) Health and Safety Code, effective date January 1, 1975)

74. Mechanical Equipment. Existing mechanical equipment may be used in connection with alterations or repairs if such mechanical equipment has been properly maintained and was installed in accordance with the applicable laws in effect at the time of installation. Any mechanical equipment in existence shall be deemed to have conformed to applicable law in effect at the time of installation and to have been maintained in good condition if currently in good and safe condition and working properly. (17922(c) Health and Safety Code, effective date January 1, 1975)

Except as otherwise noted in Section 17922(c) Health and Safety Code, all alterations, repairs, or additions of mechanical equipment shall conform to Section 48 of this subchapter.

76. Electrical Equipment. Existing electrical systems may be used in connection with alterations or repairs if such electrical systems have been properly maintained and were installed in accordance with the applicable laws in effect at the time of installation. Any electrical system in existence shall be deemed to have conformed to applicable law in effect at the time of installation and to have been maintained in good condition if currently in good and safe condition and working properly.

Alterations, repairs, or additions of electrical equipment shall conform to Section 50 of this subchapter.

78. Regulations for Existing and Relocated Buildings. Regulations governing the alteration and repair of existing and relocated buildings shall be as set forth in Sections 17958.8 and 17958.9 of the Health and Safety Code which reads as follows:

17958.8. HSC. Local ordinances or regulations governing alterations and repair of existing buildings shall, after July 1, 1975, permit the replacement, retention and extension of original materials and the use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house or dwelling, or portions thereof, or building and structure accessory thereto, complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7 and does not become or continue to be a substandard building. (Added Stats. 1974, c. 1268)

17958.9. Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1978, permit the retention of existing materials and methods of construction so long as the apartment

house or dwelling complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7, complies with the standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

Article 7. Structural Fire Safety in Existing Buildings

80. (a) Authority. This article is adopted pursuant to the provisions of Section 17920.7 of the Health and Safety Code.

(b) Purpose. The purpose of these regulations is to provide a reasonable degree of safety to the occupants and the general public in existing multiple-story structures let for human habitation.

82. Application and Scope. Except as otherwise provided in Section 17920.7 of the Health and Safety Code and this subchapter, the provisions of this article shall apply to all existing multiple-story structures let for human habitation including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

84. High Rise Structures. The provisions of this article shall not apply to any existing apartment house, hotel or motel having floors (as measured from the top of the floor surface) used for human occupancy located more than 75 feet above the lowest floor level having building access which is subject to the provisions of Sections B1733 through B1747, Part 2, Title 24, California Administrative Code relating to existing high rise buildings. (T25–84)

86. Inspection of Existing Buildings. The enforcement agency shall inspect every building reported to be in violation of this article, and in addition shall inspect buildings when deemed appropriate to obtain compliance with the regulations. A building which does not comply with the provisions of this article shall be declared to be a substandard building. The enforcement agency shall institute abatement proceedings to correct or abate a substandard building in accordance with the provisions of Section 114 to 144 inclusive of this subchapter.

88. Number of Exits. Every apartment and every other sleeping room shall have access to not less than two exits. A fire escape may be used as one means of egress, if the pitch does not exceed 60 degrees, the width is not less than eighteen inches (18″), the treads are not less than four inches (4″) wide and they extend to the ground or are provided with counterbalanced stairs reaching to the ground. Access shall be by an opening having a minimum dimension of twenty-nine inches (29″) with open. The sill shall not be more than thirty inches (30″) above the floor and landing. (T25–88)

90. Stair Construction. All stairs shall have a minimum run of nine inches (9″) and a maximum rise of eight inches (8″) and a minimum width exclusive of handrails of thirty inches (30″). Every stairway shall have at least one handrail. A landing having a minimum horizontal dimension of thirty inches (30″) shall be provided at each point of access to the stairway. (T25–90).

92. Interior Stairways. Except as provided herein, every interior stairway shall be enclosed with walls of not less than one-hour fire-resistive construction.

Where existing partitions form part of a stairwell enclosure, wood lath and plaster in good condition will be acceptable in lieu of one-hour fire-resistive construction. Doors to such enclosures shall be protected by a self-closing door equivalent to a solid wood door not less than one and three-fourths inches (1¾″) thick. Enclosures shall include landings between flights and any corridors, passageways, or public rooms necessary for continuous exit to the exterior of the building.

The stairway need not be enclosed in a continuous shaft if cut off at each story by the fire-resistive construction required by this Subsection for stairway enclosures.

Enclosures shall not be required if an automatic fire-extinguishing system is provided for all portions of the building except bedrooms, apartments, and rooms accessory thereto.

Interior stairs and vertical openings need not be enclosed in two-story buildings. (T25–92)

94. Exterior Stairway. Existing exterior stairs of noncombustible materials or of wood not less than two-inch (2″) nominal thickness with solid treads and risers may be continued in use provided they are properly maintained. (T25–94)

96. Existing Circular Stairways. Existing circular stairways may be used as an exit when adequately maintained and providing the minimum width of run is not less than 10 inches, and the smaller radius is not less than twice the width of the stairway. The width of treads and height of risers within any flight shall have identical dimension with a ¼ inch tolerance. (T25–96)

98. Existing Winding Stairways. Existing private winding stairways may be used when adequately maintained, provided the required width of run is provided at a point not more than 12 inches from the side of the stairway where the treads are the narrower, but in no case shall any width of run be less than 6 inches at any point. (T25–98)

100. Doors and Openings. Exit doors shall swing in the direction of exit travel, shall be self-closing, and shall be openable from the inside without the use of key or any special knowledge or effort. Doors shall not reduce the required width of stairway more than six inches (6″) when open. Transoms, and openings other than doors, from corridors to rooms shall be fixed closed and shall be covered with a minimum of three-fourths inch (¾″) plywood or ½ inch gypsum wallboard or equivalent material. (T25–100)

102. Swing. Exit doors shall swing in the direction of exit travel when serving any hazardous area or when serving an occupant load of 50 or more. Double acting doors shall not be used as exists serving a tributary occupant load of more than 100; nor shall they be used as a part of a fire assembly, nor equipped with panic hardware. A double acting door shall be provided with a view panel of not less than 200 square inches. (T25–102)

104. Exit Signs. Every exit doorway or change of direction of a corridor shall be marked with a well-lighted exit sign having letters at least 5 inches high. This section shall apply only when the occupant load is in excess of 50 (T25–104)

106. Enclosure of Vertical Openings. Elevators, shafts, ducts, and other vertical openings shall be enclosed as required for stairways in Section 96, or by wired glass set in metal frames. Doors shall be noncombustible, or as regulated in Section 96. (T25–106)

108. Separation of Occupancies. (a) Occupancy separations shall be provided as specified in this subchapter. Lobbies, and public dining rooms not including cocktail lounges, shall not require a separation if the kitchen is so separated from the dining room. Boiler rooms or heater rooms containing a central heating plant using solid or liquid fuel shall be separated from the rest of the building by a One-Hour Fire-Resistive Occupancy Separation.

(b) **Equivalent Protection.** In lieu of separation of occupancies required by Subsection (a), equivalent protection may be permitted when approved by the enforcement agency. (T25–108)

110. Portable Fire Extinguishers. Portable fire extinguishers shall be provided and maintained in every apartment house and hotel in accordance with requirements set forth in this article.

112. Number and Type. The number and type of portable fire extinguishers to be installed shall be determined by the enforcement agency. However, the

minimum requirements shall be as set forth in Title 19, Chapter 1, Subchapter 3, California Administrative Code.

Note. See Section 17920.7, of the Health and Safety Code, which in pertinent part reads: ". . . It is the intention of the Legislature that this section and the rules and regulations adopted by the commission pursuant to this section shall not be more restrictive than the requirements for new construction contained in the Uniform Building Code . . ."

Therefore this article is not applicable to two-story buildings with an occupant load of no more than 10 above ground floor. (See Uniform Building Code, Paragraph 3302(a) 1970 Edition.)

Appendix A. Health and Safety Code Division 13. Part 1.5 State Housing Law

Chapter 1. General Provisions

17912. Rules and regulations promulgated pursuant to the provisions of this part, relating to the erection or construction of buildings or structures, shall not apply to existing buildings or structures or to buildings or structures as to which construction is commenced or approved prior to the effective date of the rules or regulations, except by act of the Legislature, but regulations relating to use, maintenance, and change of occupancy shall apply to all hotels, motels, lodginghouses, apartment houses, and dwellings, or portions thereof and buildings and structures accessory thereto, approved for construction or constructed before or after the effective date of such rules or regulations. (Amended Stats. 1974, c. 1268)

Chapter 2. Rules and Regulations

17920. As used in this part:

(f) "Substandard building" means any building or any portion of a building including, buf not limited to, any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exist any of the conditions listed in Chapter 10 of the Uniform Housing Code, latest edition, including inadequate structural resistance to horizontal forces, to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof.

However, a condition which would require displacement of sound walls or ceilings to meet height, length, or width requirements or ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was contructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration, or conversion.

Any wiring, plumbing, or mechanical equipment, including vents, shall be deemed to have conformed to applicable law in effect at the time of installation and to have been maintained in good condition if currently in good and safe condition and working properly.

17920.6. As used in this part, "housing appeals board" means the board or agency of a city or county which is authorized by the governing body of the city or country to hear appeals regarding the requirements of the city or county relating to the use, maintenance, and change of occupancy of hotels, motels, lodginghouses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, including requirements governing alteration, additions, repair, demolition, and moving of such buildings if also authorized to hear such appeals. In any area in which there is not such a board or agency, "housing appeals board" means the local appeals board having jurisdiction over such area.

17920.7. (a) The commission shall adopt, amend, repeal, and except as otherwise provided in this part, enforce rules and regulations for the provision of structural fire safety and fire-resistant exists in existing multiple-story structures let for human habitation including, and limited to, apartment houses, hotels and motels wherein rooms used for sleeping are let above the ground floor. The rules and regulations shall provide adequate safety to the occupants and the general public, and shall impose the same requirements as are contained in subdivisions (d), (e), (f), (g), (h), (i), (k), and (l) of Section 1313 of Chapter 13 of the appendix of the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

The commission, after consultation with the State Fire Marshal, may adopt reasonable exceptions to subdivisions (e) and (g) of Section 1313 to permit the continued use of existing stairs and to subdivision (l) of Section 1313 to permit equivalent protection in lieu of occupancy separations. However, such exceptions shall not impair occupant safety and shall be consistent with the legislative intent of this section.

Interior stairs and vertical openings need not be enclosed in two story buildings.

(b) Notwithstanding the provisions of subdivision (a), any city, county, or city and county may adopt standards for structural fire safety and fire-resistent exists in structures subject to the provisions of this section, provided that such standards are substantially equivalent in fire safety to the standards adopted by the commission pursuant to subdivision (a). Each city, county, or city and county adoping such alternative standards shall submit a detailed statement, with supporting data, to the Director of Housing and Community Development demonstrating the equivalency of the alternate standards. The Director of Housing and Community Development shall make a finding as to the equivalency of alternate local standards to state standards. It is the intention of the legislature that this section and the rules and regulations adopted by the commission pursuant to this section shall not be more restrictive than the requirement for new construction contained in the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

17921. The commission shall adopt, amend, repeal, and, except as hereinafter provided, the department shall enforce rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public governing the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court, area, sanitation, ventilation and maintenance of all hotels, motels, lodging houses, apartment houses, and dwellings, and buildings and structures accessory thereto. Such rules and regulations may include a schedule of fees to pay the cost of enforcement by the department under Sections 17952 and 17965. (Amended Stats. 1974, c 1268)

17922. (c) Regulations governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodging house, motel, apartment house, or dwelling, or portions thereof or building and structure accessory thereto, complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7 and does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements specified in this part, or in rules and regulations adopted pursuant to this part, for new buildings or structures. However, such

V 45 M Y 27 80 UMI

additions and alterations shall not cause the building to exceed area or height limitations applicable to new construction.

Chapter 4. Application and Scope

17958.8. Local ordinances or regulations governing alterations and repair of existing buildings shall, after July 1, 1975, permit the replacement, retention and extension of original materials and the use of original methods of construction as long as the hotel, lodging house, motel, apartment house or dwelling, or portions thereof, or building and structure accessory thereto, complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7 and does not become or continue to be a substandard building. (Added Stats. 1974, c. 1268)

17958.9. Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1976, permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7, complies with the standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

APPENDIX 11

Southern Building Magazine, February/March 1980; "Rehabilitation of Existing Buildings: An Achievable Goal" by William J. Tangye, P.E.

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Rehabilitation of Existing Buildings: An Achievable Goal

The cover of this issue of the "Southern Building" magazine acknowledges 40 years of service by the Southern Building Code Congress to the building community. During these 40 years the south in particular and the nation in general have undergone a tremendous building boom, the results of which are the existing buildings of today that form one of our most important, yet least recognized, resources.

It seems appropriate, therefore, to reflect upon both the code requirements of the past 40 years and those existing buildings that were designed and constructed to meet those requirements. It is recognized that these existing buildings may not comply with all the requirements of today's codes, yet, at the time of their construction, they complied with the applicable codes and standards and in most cases have stood the test of time by serving their intended use in a safe and satisfactory manner.

The fact that these buildings, for the most part, have performed their intended function is sufficient to justify their rehabilitation and/or reuse. It is imperative—if we are to achieve the goal of rehabilitating our existing building stock—that a concerted effort be made by code enforcement personnel, local governments and others involved in the building community to encourage and find the means to facilitate this activity.

Codes and Enforcement Today

Today's codes and code enforcement techniques are being criticized in the belief that both impede if not discourage the rehabilitation of existing buildings. Much of this criticism is not valid. There are some aspects, however, that ring true and these aspects should be considered by us as a challenge to prove that rehabilitation of existing buildings can be accomplished in a timely and beneficial manner using the present codes enforcement process. The accomplishment of this challenge may require modifications to both codes and enforcement techniques but more important, it will require a change in attitudes about building rehabilitation.

In order to adapt a code enforcement program to include the rehabilitation of existing buildings, we need to briefly review how the present system works.

Applicable Building Regulations

Existing buildings are, in general, regulated by one of the following methods:

1. Standard Building Code—Sections 101.4(a) through (d) covers existing buildings that are to be altered or repaired or that have been damaged, but the occupancy classification of the rehabilitated building will not be changed. The requirements contained in these sections are commonly referred to as the 25–50% rule. Section 101.4(e) covers existing buildings that undergo a change in occupancy classification.

2. Standard Code for the Elimination or Repair of Unsafe Buildings—This code deals with existing buildings that represent an imminent hazard to life as defined in Section 201.3. This code is "building" rather than "occupancy" oriented and mandates that unsafe conditions be abated or that the building be demolished.

3. Standard Housing Code—This code deals only with existing Group R—residential occupancies and focuses primarily on health and safety issues and contains requirements aimed at maintaining the buildings in a habitable condition. It should be noted that the requirements in the housing code may be less than those required in new building construction.

4. Standard Fire Prevention Code—This code deals primarily with the maintenance of the life safety features of a building such as means of egress, fire protection systems, alarm systems and the handling and storage of hazardous or flammable materials. This code applies to all occupancy classification.

The above codes, with the exception of the Standard Building Code, deal with the maintenance of existing buildings in a safe and healthful manner and generally promote the continued use of our existing building stock. The Standard Building Code, on the other hand, is primarily directed toward new construction and even though it contains performance language such as Section 103.6—Alternate Materials and Alternate Methods of Construction, it also contains requirements such as those in Section 101.4 that may not in all cases encourage the rehabilitation of existing buildings.

It is my opinion that relatively few and minor changes would have to be made to the Standard Building Code to facilitate the rehabilitation of existing buildings. Accordingly, the remainder of this article will deal one with the Standard Building Code.

Before discussing modifications to the Standard Building Code, it should be emphasized that rehabilitation of existing buildings falls into two distinct categories. The first category includes existing buildings that are to be altered or repaired but in which no change of occupancy classification is contemplated. The second category contemplates that an existing building will undergo a change in occupancy classification.

These categories also comprise the two major criticisms of today's building codes relative to rehabilitation of existing buildings—the 25–50% rule and the categorical requirement that when the occupancy classification of an existing building is changed, the building must be made to conform to the code requirements for the new occupancy classification.

The 25–50% Rule

Let's consider first the 25–50% rule which is contained in Sections 101.4(a) thru (d) of the Standard Building Code and requires the following:

1. If an existing building is to be repaired or altered and the cost of such work done in any 12 month period exceeds 50% of the value of the building, the entire building must be brought up to current code requirements.

2. If an existing building is to be altered or repaired and the cost of such work done in any 12 month period is more than 25% but less than 50% of the value of the building, the building official must determine to what extent the building must be brought up to current code requirements.

3. If an existing building is to be altered or repaired and the cost of such work done in any 12 month period is less than 25% of the value of the building, the building need not be brought up to current code requirements.

4. If an existing building is damaged and the damage exceeds 50% of the value of the building, the building must be brought up to current code requirements. it is implied though not expressly stated that if the damage is less than 50%, the stipulations of items 2 and 3 above would apply.

The strict application of these requirements may discourage the rehabilitation of existing buildings for the following reasons:

1. There is no clear and concise definition of how to establish or what should be considered when established—the value of a building.

2. The percentages are arbitrary and have no basis in fact, thus making them difficult to enforce, particularly if court action is involved.

3. The value of a building will vary with not only the more traditional considerations of size, type of materials, occupancy, etc. but with the geographical location within a governmental jurisdictions boundaries, thus making the requirements potentially discriminating.

Deleting the Rule

Based on the preceding discussion one might conclude that the deletion of the 25–50% rule is the only answer to achieve the goal of rehabilitation of existing buildings. This is one alternative, but such radical action may not be necessary. If, for instance, the 25–50% rule were deleted in favor of some other wording, those buildings that presently fall in the category of less than 25% of the value of the building and are not required to meet the current code, would then have to comply with the new wording. It has not been shown that the "less than 25%" figure has resulted in unsafe buildings, neither has it been a deterrent to rehabilitation. The criticism has been with the higher percentages and the accompanying requirement for full or partial compliance with current code requirements. Therefore, deleting the rule would penalize a certain percentage of rehabilitation work now being accomplished. Another alternative might be to revise the percentage to say 33–66% to permit more rehabilitation work without having to comply with current code requirements. However, this is nothing more than juggling numbers and the new numbers have no more basis in fact than the old numbers. It might also be appropriate to reduce the time span from 12 months to 6 months, which would permit twice the amount of rehabilitation work before triggering compliance with current code requirements. A final alternative would be to remove the requirement for having to bring the entire building up to current code requirements and give the building official the authority to determine which requirements apply.

If a community chooses to maintain the 25–50%, which can be a viable option, the following are recommendations for modification to the rule that will encourage rehabilitation:

General Recommendations

1. Encourage a flexible interpretation of the rule.

2. Define the cost of rehabilitation to exclude all non-permit items such as painting, decorating, cabinets, land-scaping, kitchen and domestic appliances, architects, engineers or contractors fees and all items that would require a separate permit such as plumbing, mechanical and electrical.

3. Define the building value as the current replacement cost after rehabilitation. Do not use assessed valuation since it is usually out of date and may not reflect accurate replacement costs.

4. Revise time span to 6 months.

Specific Recommendations

1. Add a new definition to Section 201.2 to read as follows: COST OF REPAIR, ALTERATIONS OR REHABILITATION, means the cost of repairs, alterations or rehabilitation as used in Section 101.4 and shall include only those items that are regulated by this code and shall not include non-permit items such as painting, decorating, cabinets, land-scaping, appliances not regulated by this code, architects, engineers or contractors fees, nor shall it include items that require a separate permit such as plumbing, mechanical or electrical work.

2. Delete present definition of valuation or value and substitute the following: BUILDING VALUE, means the current replacement cost of a building after repair, alteration or rehabilitation.

3. Delete Sections 101.4 (a) thru (d) and substitute the following: 101.4—EXISTING BUILDINGS (a) If, within any six(6) month period, alterations, repairs or rehabilitation work costing in excess of fifty (50) percent of the building value is made to an existing building, such alterations, repairs or rehabilitation work and the remaining portions of the building shall be made to conform to the requirements of this code for new construction to such extent as may be determined by the building official. (b) If within any six (6) month period, alterations, repairs or rehabilitation work costing in excess of twenty-five (25) percent but not more than fifty (50) percent of the building value is made to an existing building only the portions that are altered, repaired or rehabilitated shall be made to conform to the requirements of this code for new construction, to such extent as may be determined by the building official. (c) Buildings damaged by fire or other causes, and that are to be repaired or rehabilitated shall comply with the provisions of Section 101.4 (a) and (b). (d) The building value shall be established by the building official.

If a local government felt that the 25–50% rule in either its present state or as modified above was not adequate to encourage rehabilitation of existing buildings, the following wording could be used:

Delete present Sections 101.4 (a) thru (d) and substitute the following: 101.4—EXISTING BUILDINGS (a) Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of this code provided that the alteration, repair or rehabilitation work conforms to the requirements of this code for new construction. The building official shall determine, subject to appeal to the Board of Adjustments and Appeals, the extent if any to which the existing building shall be made to conform to the requirements of this code for new construction. (b) Alterations, repairs or rehabilitation work shall not cause an existing building to become safe as defined in Section 103.4.

This latter type of wording is more broad in scope and will encourage rehabilitation work. However, it would be emphasized that if this course of action is taken, it will require that the owner, his architect or engineer and the code enforcement personnel work closely from project inception to completion to assure that all work will provide the necessary degree of life safety. Under this type of procedure, as well as any other involving the rehabilitation of existing buildings, all parties are encouraged to seek innovative solutions to code related issues. The key is not that the solution comply with the exact code wording but

V 45 M Y 27 80 0 UMI

rather that it achieve a level of safety consistent with that implied by the code.

Change in Occupancy

Consider Section 101.4(e) of the Standard Building Code which deals with changes in occupancy classification of existing buildings. This section requires that any time the occupancy classification of an existing building is changed, the building must be made to conform to the current code requirements for the new occupancy. It is obvious that this type of requirement poses a real roadblock to rehabilitation of existing buildings. Such compliance may not even be attainable considering that specific code language and the cost of attaining compliance, if possible, is often prohibitive. As a result, the rehabilitation work is done illegally or it is not done at all. Consequently, a building may be undesirable or, in the worst case, abandoned.

One of the arguments in favor of this type of specific wording is that if we do not require compliance with the current code when a change of occupancy classification is planned, we are establishing a double standard for existing and new construction. The concern of establishing a double standard is valid but can be resolved to the benefit of all of the local government wants to make the rehabilitation of existing buildings a reality. If we consider that modern building codes reflect the state of the art in building construction, new buildings constructed today should reflect this technology to insure that it is made available to the public. This is not to imply, however, that existing buildings lawfully occupied but not meeting the specific requirements of the current code are less than safe. These existing buildings, as discussed earlier, were built to some code or standard that reflected the state of the art at the time. If they have performed their intended use without exposing the public to any undue hazard, one must conclude that they are safe even though they may not in all respects comply with current codes. This is not consistent to require compliance with current code requirements in order to rehabilitate an existing building even though a change in occupancy classification may be involved. Further, not requiring compliance with current codes is not establishing a double standard but is instead recognizing the life safety required by past codes.

A point that should be made is that an existing building that is lawfully occupied may remain in its present condition and occupancy even though it does not comply with current codes for that occupancy. This is called a "non-conforming right". The occupancy of this building is contingent upon the assumption that there are no imminent hazards in the building. Even if there were hazardous conditions, the code only requires that the hazards be removed but does not require that the building be brought into compliance with the current code.

What the Standard Building Code is trying to accomplish in a change of occupancy classification in an existing building is to provide the equivalent level of health and safety to that prescribed for new construction. To accomplish this task, code enforcement personnel must research the intent of the various code requirements, not just rely on the specific wording. Alternate solutions and innovative methods to meet this intent in existing buildings can then be developed.

Thus, it can be seen that we are not dealing with a double standard, but simply more than one way to achieve the code goal of safety. We do much the same thing on new buildings. If an alternate solution to a specific code requirement is proposed that will achieve an equivalent level of safety to that specified, it can be approved under Section 103.6. If the concept is valid for new buildings, it is equally valid for existing buildings.

The concept of dealing with existing buildings undergoing a change in occupancy classification, and not requiring that the building be brought into compliance with current code requirements, will require that each building be individually evaluated by the code enforcement personnel to determine those areas of the building that need to be modified. It then becomes the responsibility of the owner or his agent to develop methods of accomplishing the modification within the framework of the building and the level of safety required. This process is shown graphically in Figure 1.

In order for this type of system to work, several things must be done other than a change in code wording. Perhaps the most important item is that the local government must be totally committed to the system. The local government should reflect its commitment by adopting a statement that could read as follows:

1. "The (legislative body) finds that the public health, safety and welfare is in part dependent on the conservation, rehabilitation and reuse of the existing building stock, including both residential and other buildings; that the strict application of new construction requirements and standards to the rehabilitation of existing buildings undergoing a change in occupancy may not result in the most timely and beneficial results; that rehabilitation is a major mechanism for increasing the health and safety in existing buildings; and that adequate resources in the form of public and private initiatives exist to increase and expand the incidence of rehabilitation.

"It is therefore the intent of this legislative body, to the maximum extent consistent with minimum standards of human health and safety.

"(1) to promote the rehabilitation of existing buildings by allowing for differences between rehabilitation and new construction in the application of the requirements and standards of this code as long as the equivalent level of safety can be achieved;

"(2) to encourage in rehabilitation the utilization of innovative and economical materials and methods of construction, to provide the level of safety; and,

"(3) to encourage the agencies charged with enforcement of codes, and the officers thereof,

"(i) to apply the provisions of the code to rehabilitated buildings in a manner consistent with the purposes stated herein; and,

"(ii) to exercise discretion and employ resourcefulness in the evaluation of code compliance of rehabilitated structures, in a manner consistent with the purposes stated herein."

In addition to the policy statement, the local governing body needs to be aware of the fact that there are no easy rules to follow in developing or approving innovative solutions to code intent and that disagreement may arise as to the most desirable course of action even when all parties are following the policy statement. Accordingly, it is advisable to establish a rehabilitation advisory board to review the methods and solutions proposed and to determine which course of action should be approved. This responsibility can be assigned to the board of adjustments and appeals which most local jurisdictions already have in existence.

It is imperative also that the local governing body provide protection for the code enforcement personnel from legal action that may arise out of the enforcement of rehabilitation concepts. Since a program, as outlined above, must deal in generalities rather than specifics, as the code does for new construction, this protection is absolutely necessary to free the code enforcement personnel from personal liability.

Recommendation

1. Adopt an ordinance or add to the building code a section to read as follows:

"All officers and employees of (the state, or local jurisdiction, as applicable) charged with enforcement of) state or municipal law generally, or specifically enumerated laws such as building codes) shall be relieved of all personal liability for all damage that may accrue to persons or property and for all costs, including attorney's fees, reasonably necessary to defend against litigation resulting from any act required or permitted in the discharge of official duties and exercised in good faith without malice or intentional wrongdoing. Pursuant to this section, the (jurisdiction) may purchase insurance to indemnify itself, its officers, and its employees from legal liability and defense costs. If insurance is not purchased or available, a suit instituted against an officer or employee for conduct arising out of the lawful discharge of official duties shall be defended by the (legal representative of the jurisdiction, e.g., city attorney) until the final termination of the proceedings, and the (jurisdiction) shall be liable for all costs reasonably necessary to defend such action and for all resulting judgments against the officers and employees based on the good faith discharge of said official duties."

The last item to be accomplished is a modification to Section 101.4(e) that will provide the building official with the authority to approve alternate solutions to code requirements when a change of occupancy classification to an existing building is contemplated.

Recommendation

Delete Section 101.4(e) and substitute the following:

(e) If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of this code for the new occupancy classification as established by the building official.

Once the changes to the code text as outlined for the 25–50% rule and the change in occupancy have been made and the policy statement and legal statement adopted, the basic framework for a workable rehabilitation program is in place.

The actual rehabilitation of an existing building is not a simple task and will require careful study and application of code intent. There are no manuals or books that will provide acceptable alternate solutions or tradeoffs to every code item and, as such, these solutions will have to be developed as they arise on an individual basis by each code enforcement agency.

There is, however, some valuable information contained in the "Draft Rehabilitation Guidelines" published by the Department of HUD, in the Federal Register, Vol. 44, No. 215, Monday, November 5, 1979. This document, which was prepared in part by the model code groups, has been prepared as a voluntary guideline to be used by local governments in rehabilitation programs and certain information in this article was drawn from it. Copies may be obtained by writing the Dept. of HUD, Division of Energy, Building Technology and Standards, Room 8164, Washington, D.C. 20410.

There are also several cities that have implemented rehabilitation programs. These include Los Angeles, California; San Francisco, California; Denver, Colorado; and Washington, D.C. Copies of these programs should be requested from the building departments in each city. Also, the SBCCI is preparing a manual for code enforcement personnel involved in the inspection of existing buildings for rehabilitation. The manual will contain a discussion of general considerations and more specific sections on materials, construction methods, equipment and planning factors and will include possible corrective measures. For more information on the Rehab Inspection Manual, contact Bill Manning, P. E. or Al Moffitt, R. A. at the SBCCI headquarters.

The SBCCI Technical Department will provide plan examination service on existing buildings that are to be rehabilitated. This review service will be provided for active members and each such review must be accompanied by a letter of authorization from the active member, a copy of the plans, a description of all work to be done to the building, its intended occupancy, structural calculations and a copy of the building department's inspection report on the building. For more information on this service, contact W. J. Tangye, P. E. at the SBCCI headquarters.

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Guideline for Approval of Building Rehabilitation

Introduction

Most communities have laws, regulations and codes which govern the construction and use of buildings. This

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regulatory system involves an approval process which consists of three distinct functions:

- Construction permits (prior to construction)
- Construction inspections (during construction)
- Maintenance inspections (throughout a building's life)

This process is used to regulate both new building construction and rehabilitation of existing buildings. In the case of rehabilitation, where parts of an existing building remain, the first two functions (construction permits and construction inspections) often involve delays, additional paper work, cost increases and other adverse effects, because of problems such as the following:

- characteristics of existing materials or equipment (e.g., strength, capacity, etc.) cannot always be determined accurately;
- materials, equipment or methods of construction may be concealed from view and cannot be determined except by partial demolition;
- the size (e.g., height, width, thickness, length or shape) or location of existing building parts which are to remain may preclude design or construction solutions specifically covered by codes or regulations; and
- complete designs or accurate scopes-of-work cannot always be made prior to the start of construction.

The new construction approval process is well known to everyone in the industry, and it functions efficiently. For rehabilitation, however, it is less well known and it functions less efficiently. This guideline is intended to assist communities in improving the rehabilitation approval process.

To fulfill this intent, the following portion of the guideline has been organized according to the functioning of the approval process, in five sequential steps:

Step 1. Outreach Program
Step 2. Preliminary Review
Step 3. Construction Permits
Step 4. Construction Inspections
Step 5. Maintenance Inspections

The discussion of steps 2 through 5 compares rehabilitation to new building construction to emphasize the special considerations for rehabilitation and to facilitate rehabilitation by suggesting improvements in its approval process.

Step 1. Outreach Program

An outreach program which clearly explains a community's approach to rehabilitation helps design professionals, contractors and building owners. It may also help code enforcement personnel, since those whom they serve will be better informed. While outreach is not strictly a part of an approval process, it is an essential part of a comprehensive regulatory program to encourage rehabilitation.

A rehabilitation outreach program should have two basic interrelated features:

- providing building owners, design professionals and contractors with information about rehabilitation and its approval process, and
- making those authorities having jurisdiction over a rehabilitation approval process more accessible to building owners, design professionals and contractors.

A program of information dissemination might use any one or combination of the following opportunities in conjunction with improved access to rehabilitation authorities:

- radio or television "spot" announcements;
- newspaper advertisements;
- adult education and professional continuing education courses, workshops and conferences; and
- free literature at banks, libraries, government offices and "do-it-yourself", lumber and hardware stores.

Portland, Oregon, for example, has used television "spot" announcements effectively.

An outreach rehabilitation program should provide information regarding:

- permits required, and how, when, and where to obtain them;
- technical requirements and regulations governing rehabilitation;
- necessary construction inspections, and when they must occur;
- related regulatory and procedural matters; and
- how, when and where to obtain more information.

Increased accessibility to the authorities having jurisdiction over the rehabilitation approval process is not only a means to help those interested in rehabilitation to secure information more easily, but it is also a means to improve the rehabilitation process itself. A community might use any one or combination of the following opportunities:

- assign one or more regulatory personnel to handle all rehabilitation projects;
- locate all code permit functions in one office space or building when multiple permits are required;
- issue one permit instead of multiple permits;
- use neighborhood offices rather than a central office for the approval process;
- hold open houses at the authorities; offices; and
- extend the hours of the authorities' office operation to evenings and Saturdays so as to be more accessible to homeowners.

Seattle, Washington, for example, has assigned one plan check engineer to handle all rehabilitation; and this, it is felt, provides continuity, familiarity with problems unique to rehabilitation and a reduction in the number of formal appeals. Portland, Oregon, has instituted a regularly scheduled "homeowners' evening" at the building department to improve accessibility.

An effective rehabilitation outreach program facilitates the subsequent steps of the approval process.

Recommendation

Develop a rehabilitation outreach program related to the community's approval process, and specifically designed to meet its needs.

Step 2. Preliminary Review

New Buildings

Preliminary reviews are becoming more widely accepted by communities. They are the real first step in the approval process for new building projects, and consist of an examination with the authorities having jurisdiction of the design, construction and codes issues related to those projects. It may be a formal, official review or an informal, unofficial one. As preparation for the mandatory steps following, this step should be taken at the earliest possible time, and should involve all the authorities in a community concerned with a project. Its aim is to get the project started "on the right foot".

Some authorities having jurisdiction are not the least reluctant to participate on- or off-the-record in the preliminary review of projects. They recognize that in the next steps of the approval process their participation is mandatory. These authorities understand that the purpose of this initial step is to solve potential problems before they become real problems and to expedite the approval process, thereby reducing delays, paperwork and costs.

For new building construction, the preliminary review is usually a meeting (or a series of meetings on larger and more complex projects). Preferably, the meeting will include not just the building department but all the jurisdictional bodies concerned with a project (e.g., planning, zoning, design review, historic preservation, fire health, traffic, etc.).

In Bloomington, Minnesota, for example, the Fire and Life Safety Committee meets on a regular schedule and has members from every concerned jurisdictional body. The committee participates in formal preliminary reviews of all projects.

At the conclusion of the preliminary review, a general and clear understanding about the following is usually established:

- code applicability to a proposed new building's use and occupancy with regard to existing site conditions and proposed building plan layouts, heights, areas, materials, equipment and construction methods;
- mandatory inspections;
- permit fee schedules;
- forms and applications which must be obtained from all the concerned jurisdictional bodies; and
- possible items of non-compliance with the codes for which a modification may need to be sought now or in the construction permit step through the formal appeals process (see *Statutory Guideline for Building Rehabilitation).*

Usually, only very preliminary drawings and outline specifications are necessary for a preliminary review. Even concept drawings, rough sketches and material lists may be enough for simple buildings. For industrialized buildings, producers' literature may provide adequate information.

Rehabilitation

Preliminary review for rehabilitation projects is much the same as that for new construction, but there are important differences in its purpose, and in the way its procedures should be implemented.

In addition to expediting the approval process and solving potential problems before they become real ones, the preliminary review for rehabilitation has three purposes:

- to establish or clarify an owner's intent and proposed scope-of-work (e.g., change of occupancy, change of use, extent of construction, etc.), in order to clarify the code implications of the program;
- to determine the specific applicable code requirements and whether in fact pemits are needed; and
- to establish an acceptable rehabilitation program, including the definition of any alternative or equivalent design or construction solutions to code requirements which may be necessary.

If an owner has enough information about the building to be rehabilitated, a preliminary review may only require a single meeting. In larger, more complex projects or when necessary information is not available at the first meeting, two or more meetings may be required.

In the latter circumstance, necessary information should be obtained by either the first or both of the following investigation procedures:

- a search by jurisdiction personnel of the records of all the jurisdictional bodies concerned with the past and present occupancy of the building to be rehabilitated; and
- an on-site investigation of the existing building by qualified jurisdiction personnel or by private engineers and architects.

An on-site investigation of an existing building may consist of any one or combination of the following:

- an assessment of the physical context of a building to determine the acceptability of some proposed rehabilitation solutions such as those suggested in the *Plumbing DWV Guideline for Residental Rehabilitation* (e.g., single stack DWV solutions are not recommended for use where a sewer system is subject to flooding) or the *Egress Guideline for Residential Rehabilitation* (e.g., certain egress solutions may depend upon accessibility of the building to the fire department);
- a determination by observation of such physical conditions of an existing building as structural integrity, electrical equipment damage, the number of electrical receptacle outlets or the number of stories, suites, rooms or exits;
- a determination by measurement and/or calculation (which may in some cases require selected demolition; see Step 3. Construction Permits of this guideline) of such physical characteristics of an existing building as area, height, plumbing DWV piping sizes, electical conductor sizes, electrical load-carrying capacity, sizes of structural members, composition of fire resistant assemblies and fire resistance ratings, or widths and lengths of exitways;
- a determination by testing of the adequacy of function or performance level of such parts of an existing building as plumbing DWV piping, electrical equipment and devices, or archaic materials and assemblies for fire resistance.

See the *Electrical Guideline for Residential Rehabilitation,* the *Plumbing DWV Guideline for Residential Rehabilitation,* the *Egress Guideline for Residential Rehabilitation* and the *Guideline on Fire Ratings of Archaic Materials and Assemblies* for more detailed discussions of on-site investigation methods.

It is important to note that any imminent hazard found in the investigation should be reported to the authority having jurisdiction for enforcement of applicable regulations.

When the investigation has obtained all the necessary information, a second preliminary review meeting (or series of meetings if required) can take place. The understandings reached and the conclusions made at the end of this step for rehabilitation concern the same subjects as those for new building construction. However, in those jurisdictions which issue construction permits, it may be concluded that unlike new construction, some rehabilitation projects do not require construction premits. This decision by an authority having jurisdiction will take into account such factors as the quantity of rehabilitation work, the safety and health implications of the work, and whether a change of occupancy or use is involved.

Many rehabilitation projects will require essentially the same types of drawings, sketches, specifications or material lists as new building construction. In some instances, one line diagrams or system schematics will be necessary for testing during a field investigation (see the *Plumbing DWV Guideline for Residential Rehabilitation*) 1or for clarifying existing conditions. For simpler or less extensive rehabilitation, a written description of the scope-of-work may be all that is necessary.

Recommendations

- Initiate a Preliminary Review step for rehabilitation, or modify the current Preliminary Review procedure used for new buildings.
- Develop on-site investigation procedures for existing buildings which are based on the nature of the community's building stock.

Step 3. *Construction Permits*

New Buildings

There are three basic types of construction permits for new buildings, used for three distinct circumstances:

- a Full Pemit is used when there is enough information about the total scope of a project's work;
- a Partial Permit is used in some communities when there is enough information about only a part of the total scope of a project's work; and
- a Conditional Permit is used in some communities when there is not enough information to issue a Full or Partial Permit, but construction can begin

safely on a portion of the work and can be completed when the mission information is determined and formally approved.

New building construction may have a series of Partial Permits (e.g., excavation, foundations, superstructure, sewer hook-up, etc.) which together equal a Full Permit when the last Partial Permit is issued. Partial Permits necessitate a series of permit applications, plan reviews, and permit issuances. The total of Partial Permit fees usually exceeds the fee for a Full Permit.

Permit application and issuance is a formal, official step in the approval process which is carred out under the auspices of the authorities having jurisdiction. For the construction permit, it consists of three stages:

- a formal application to the authorities having jurisdiction;
- a formal plan review of the construction permit application, and approvals by other jurisdictional bodies (e.g., zoning board, health department, etc.) if required; and
- the issuance or "filing" of the construction permit(s) upon approval of the application.

In new building construction, the construction documents needed for the application and plan review usually consist of detailed construction drawings (working drawings) and specifications. Approval of these construction documents in the plan review may be withheld if some portion of the proposed work is not in compliance with the applicable code(s), or if the construction documents are inadequate in some way.

In the case of non-compliance, an applicant can either change the proposed work to comply or choose to seek modification of the code(s) through the formal appeals process.

If the construction documents are inadequate, an applicant should make the necessary changes or additions to them.

A properly executed Step 2 (Preliminary Review) should reduce problems in this step to a minimum, and expedite the issuance of the construction permit(s).

With the filing of the construction permit(s), construction may begin.

Rehabilitation

For rehabilitation, the construction permit process is generally the same as that for new construction. There are, however, some aspects of rehabilitation which may be different from new construction, and some aspects of the appoval process which may be improved to better serve rehabilitation:

- *Construction Documents*—In some instances, rehabilitation construction documents may not need to be as extensive or detailed as those required for new construction. It may be possible in some communities for less complex projects to use a written description of materials and equipment as construction documents, and where necessary to supplement this with one-line diagrams, sketches or product literature.
- *Partial Permits*—1In some communities, Partial Permits may not be in common use, or may not be permitted. However, because their use is expecially suited to the rehabilitation of selected parts of an existing building (e.g., electrical system, plumbing system, etc.), the use of Partial Permits should be considered. The higher fee for multiple Partial Permits (as compared to a Full Permit fee) may be a constraint to rehabilitation which communities can modify.
- *Conditional Permits*—In rehabilitation, Conditional Permits are particularly useful to allow that selected demolition necessary for the exploration of concealed construction to determined the condition and adequacy of existing materials, equipment and installation methods as preparation for establishing a rehabilitation scope-of-work (see Step 2. Preliminary Review).
- *Preliminary Review*—The findings from a Preliminary Review may be even more important to rehabilitation than to new building design and construction. These findings should be fully and carefully incorporated into the application for the permit(s) as a means to reduce delays in this step and in the Construction Inspection step following.

Recommendations

- Amend the community's Construction Permit procedures and related fee structures, to utilize Partial Permits and Conditional Permits as needed to accommodate the needs of rehabilitation.
- Establish construction document requirements appropriate to rehabilitation.
- Develop a system which incorporates the conclusions of the Preliminary Review into the Construction Permit processing.

Step 4. *Construction Inspections*

New Buildings

This step in the approval process consists of:

- inspections during construction,
- a final inspection upon the successful completion of construction, and
- in some communities, issuance of a Certificate of Occupancy upon approval of the final inspection.

These are officially carried out by authorities having jurisdiction, which may include not only the building department, but such other departments as fire, health, etc.

With the issuance of a construction permit (Step 3), the authority having jurisdiction usually establishes its inspection schedule. For construction inspections, this may be:

- inspections of specifically identified work items ("call-in" inspections by appointment);
- routine inspections independent of the progress of the work ("drop-in" inspections following the inspector's routine); or
- a combination of the above.

The purpose of construction inspections is to assure the conformance of the work to the approved plans and to specific code requirements. This may simply require the inspector to observe the work in progress. In some instances, measurements are necessary (e.g., spacing of structural members, pipe sizes, etc.), and sometimes tests are required (e.g., strength of concrete, plumbing DWV air and water tightness, etc.).

If any work is found not to comply with the approved plans or the code, it must be corrected to conform.

With an approved final inspection or when a Certificate of Occupancy is issued, the construction documents, permits and inspection reports are made a part of the community's official records.

Rehabilitation

The construction inspection process for rehabilitation projects is the same as that for new building construction. There are some aspects of rehabilitation, however, which require special consideration in this step.

In rehabilitation, unforeseen conditions within existing construction are likely to be encountered. Also, construction documents are likely to be less detailed about existing construction. Both of these aspects of rehabilitation may require more care and effort in construction inspections with regard to:

- determining the conformance of existing construction exposed during the work to applicable code requirements;
- establishing any increases in the scope of new work approved by the construction permit(s) as a result of non-conforming existing construction;
- changing new work required by the condition of existing construction (e.g., obstruction of a new pipe chase by existing, concealed structural members); and
- carrying out an increased number of performance tests to establish final acceptance of the work (e.g., *Plumbing DWV Guideline for Residential Rehabilitation).*

These unique requirements of rehabilitation may be accommodated if a community implements the following:

- giving inspectors more authority to make decisions in the field,
- establishing procedures to support those field decisions, and
- improving the communication between plan reviewers and inspectors with regard to the scope, terms and conditions of new work approved on the construction permit(s).

Seattle, Washington, for example, has established and uses procedures which give inspectors more latitude to approve construction field changes in rehabilitation. Also, in major rehabilitation projects, Seattle plan reviewers visit the rehabilitation sites in order to expedite the start of projects.

Finally, the unique nature of rehabilitation suggests that special care be given to the recording of construction documents, permits and inspection reports in order to facilitate maintenance inspections and future rehabilitation.

Recommendation

- Institute the necessary practices, including training if required, to accommodate the unique inspection requirements of rehabilitation, such as increased inspector authority, improved communications, specific inspection techniques and performance testing.

Step 5. Maintenance Inspections

New Buildings

Once a building has a Certificate of Occupancy, it becomes subject to maintenance inspections throughout its life. These periodic, formal inspections sometimes may be made by a community's building department, but more often they are made by the fire and health departments or other authorities. These inspections are made to enforce property maintenance codes, fire prevention codes and hazard abatement codes.

If one of these inspections finds a building not to be in compliance with the applicable code, a correction notice may be issued and enforced by the courts. If such non-compliance is found to be an imminent hazard, and the condition is not corrected immediately, applicable enforcement procedures must be followed.

Rehabilitation

While the maintenance inspection of rehabilitated buildings is in almost every respect the same as that for new buildings, there may be special circumstances related to the conditions of approval of a rehabilitation project which require extra consideration in inspections, such as:

- posting of limited live loads (see *Guideline for Setting and Adopting Standards for Building Rehabilitation*),
- egress which generally is unacceptable for the elderly or handicapped (see *Egress Guidelines for Residential Rehabilitation*),
- egress which relies on alarms or sprinklers, or
- posting of a second electrical service entrance and disconnect (see *Electrical Guideline for Residential Rehabilitation*).

Recommendation

- Assure that any records used in the maintenance inspections of rehabilitated buildings adequately reflect all conditions of approval (established in Steps 2, 3 or 4 above) which may be subject to periodic inspection.

EGRESS GUIDELINE FOR RESIDENTIAL REHABILITATION

Table of Contents

I Prologue
Introduction
Basic Fire Protection and Egress Principles
General Assumptions
Arrangement of the Guideline
II Guideline
General Requirements
Smoke Detectors
Height and Area Limitations
Occupant Load
Technical Guideline
1. Number of Exits
2. Horizontal Exits
3. Interior Stairs/Enclosures
4. Exterior Exit Stairs
5. Fire Escape Stairs
6. Arrangement of Exits
7. Travel Distance
8. Dead End Travel
9. Corridors and Exterior Exit Balconies
10. Exit Capacity/Widths
11. Construction Details and Specifications

I Prologue

Introduction

Egress requirements create a great number of technical problems and constraints in building rehabilitation. Existing exits which appear to be adequate will often not comply with the highly specific requirements for new building construction. Adding new exits or upgrading existing ones to meet new construction requirements can require the removal or alteration of otherwise sound structural elements such as walls, floors, hallway partitions, and doors.

The *Egress Guideline for Residential Rehabilitation* is not a code. It is to be used in conjunction with existing building codes, by persons knowledgeable in fire protection and building construction, to aid in interpreting the provisions of those codes for the special needs of rehabilitation. It is intended to facilitate the continued use of existing egress elements in the rehabilitation of buildings whenever feasible.

The guideline applies to one- and two-family dwellings and apartment houses less than 75 feet in height. Dormitories, lodging or boarding houses, and residential hotels that meet the conditions set out under *GENERAL ASSUMPTIONS* below could also be within the scope of this guideline. The goal of the guideline is to facilitate rehabilitation in circumstances where, for some reason, building code requirements for new construction are being applied. In general, there are two such circumstances:

- Repair and improvement of existing residential buildings, when compliance with the code requirements for new construction is triggered by a 25–50% Rule, or similar rule, which is in effect in the jurisdiction.
- Change of use or occupancy into a residential occupany (e.g., from one- and two-family dwelling to apartment house, from office building to apartment house, etc.), when compliance with the code requirements for new construction is triggered by the provisions of the building code in effect, or some other provision.

This guideline applies to "change of use or occupancy" rehabilitation when egress elements are already in place, or where other building elements (structural or non-structural) make literal code compliance impractical. By contrast, for example, this guideline does not apply to a warehouse that will be completely gutted during conversion to an apartment house. Such a conversion can, in most instances, be designed to meet new code requirements for egress without hardship.

This guideline is an endeavor to suggest solutions which will establish an approximately equivalent overall level

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of fire safety without attempting to obtain literal code compliance. It is not a criticism of new construction requirements and does not imply that the suggested solutions are equivalent. Where compliance with new construction requirements does not present serious difficulty and is otherwise feasible, this guideline should not be the sole justification for non-compliance.

Communities that would not normally apply a new construction code to a rehabilitation project (e.g., the community has enacted its own building rehabilitation code) may still have use for selected portions of this guideline. There may be instances, though, where the solutions suggested below may be more stringent or restrictive than those already permitted or intended by the community. In such cases, the community must accept the responsibility to devise solutions that respond to unique local needs. The *Guideline for Setting and Adopting Standards for Building Rehabilitation* outlines a procedure to meet this task. Each community must assess its resources and its needs, and then define and set forth the codes, standards or regulations necessary to meet the common good.

Basic Fire Protection and Egress Principles

A safe means of escape from fire is fundamental to fire protection. But total evacuation of a building is not the only way to provide life safety from fire, and it is not always the most efficient: fire officials would need hours to totally evacuate a very tall building. Different building types will often pose different egress problems. Code requirements for egress must be responsive to the qualities and needs of the people to be protected and the hazards that they face.

The differing requirements of the three model building codes (Basic, Standard, Uniform) and the Life Safety Code illustrate that there is no single correct solution. The codes reflect the differences in opinion and philosophy that exist whenever professional judgment must be exercised. The issue is not which approach is most correct, but which is most appropriate once the character of the building and the occupants is known.

Given that a fire ignition has occurred, there are two basic approaches to solving the life safety problem:

- protect the people
- control the fire

The people could either be evacuated from the building or protected in place until the fire is extinguished and the danger passes. The fire can be controlled by suppression (e.g., automatic sprinklers) or compartmentation (e.g., fire resistive construction, protection of horizontal/vertical openings).

Smoke control systems attempt to prevent smoke and other fire gases from spreading throughout a burning building. Exits free of smoke can be used more safely and efficiently; the protection of occupants becomes more feasible because life-threatening combustion products are removed from the building. No specific recommendations have been included in this guideline concerning the use of smoke control systems, but the potential of the rapidly improving technology must be recognized.

In low and mid-rise residential buildings, the simplest and most direct solution is to evacuate the occupants. This may avoid the need to upgrade the fire resistance of major structural elements such as walls, floor/ceiling assemblies, and doors. Such major renovation is counter to the goal of decreasing the cost and complexity of building rehabilitation, particularly when alternatives are usually available.

The evacuation system consists of three interrelated component parts, and the guidelines build upon these relationships. The components are:

- fire detection and alarm;
- a path of escape or means of egress; and
- a safe destination.

In a one-and two-family dwelling "fire detection and alarm" is a smoke detector; the "means of egress" is the front door or escape window; the "safe destination" is the outside or some other protected area of refuge. The concepts are equally applicable to apartment houses, though the problems and requirements are more complex. Fire detection and alarm is more difficult because a single station smoke detector will only warn the occupants in a single unit, not the entire building. Two or more exists, instead of a single exit, are generally required.

The approach taken by the guideline is quite basic: identify the requirements, isolate the deficiencies, and then correct or compensate. To correct the deficiency is to comply with the code; to compensate for the deficiency is to meet its spirit and general intent. Note again the stated goal of this guideline: "an approximately equivalent *overall* level of fire safety."

There is no exact method for determining whether one set of corrective measures exactly equals another. But it is possible, with reason and professional judgment, to define the intent and purpose of code requirements, and then match these needs against the available fire protection techniques and materials. The task is made easier because, as noted above, while there are different approaches to solving life safety problems, these approaches are interrelated. Also, many fire protection measures have more than one impact.

For example, a suppression system can potentially control the fire, provide an emergency alarm to occupants, summon the fire department, and increase the time for safe escape by confining the fire to its compartment of origin and protecting the egress path. Improved lighting or additional handrails might compensate for deficient stairs when the number of occupants is small and the building occupants are physically able. Smoke detectors allow more time for escape while the fire is still in its incipient, least threatening stage and may permit early extinguishment.

The examples cited and the egress guidelines that have been developed are not exhaustive. There is no intent to limit the types of solutions that may be developed or considered effective. The guideline recognizes this, for the problems and solutions which have been included are headed "Selected Problems and Representative Solutions." Each building will present specific problems that will require specific treatment. Once the intent of the code requirement and the impact of the deficiency are understood, it may be possible to fashion an alternative solution. But the most important consideration will always be the character and status of the occupants and the use and arrangement of the building.

General Assumptions

Five assumptions have been made that impact upon the applicability of the Egress Guideline.

The rehabilitated structure must be intended for general residential use and the resident population representative of the population at large, which will likely include some elderly and handicapped persons. However, housing that is *primarily* directed towards elderly or handicapped persons is not within the scope of this guideline. The inability or increased difficulty of these persons to react quickly and properly, without assistance, to an alarm of danger requires an analysis and degree of safety that is beyond the generalized scope of this guideline.

It is assumed, that the occupants are familiar with their surroundings, particularly the location of exits. This assumption makes the guideline inapplicable to hotels/motels or other occupancies with a transient resident population.

The population density is assumed to be small enough such that there would be no problem of queing at the exits. That is, all residents should be able to move continuously towards the exits without having to wait in line. This can be a problem in dormitories, boarding houses, and group residences. Therefore, the number and capacity of exits in these residential buildings must be given special attention.

Building codes contain a number of highly specific provisions controlling the quality of exits such as exit signage, illumination, emergency lighting, handrails, etc. It is assumed that both existing exits and any new exits that may be called for under this guideline will comply fully with these requirements.

Finally, it is assumed that the building is not deficient in too many areas. The concept of compensating for one deficiency by relying upon, or providing, other positive features becomes either too difficult or too tenuous if there are too many problems. For just as a single fire protection feature can provide several positive benefits, a single deficiency can have several negative impacts, and multiple deficiencies simply compound the problem further.

Arrangement of the Guideline

The various sections of the egress guideline have been placed in a sequence that parallels the procedure normally followed by local enforcing officials. They have been arranged as follows:

The occupant load (see discussion below), the physical characteristics of the building (e.g., height, area) and the use (e.g., apartment) determine the *minimum* number of exits that are required. Section 1 NUMBER OF EXITS addresses this area.

Once the required minimum number of exits is known, the number of available exits is counted. The concern is that the exits be of the proper type and that minimum fire resistive enclosure requirements, if any, are met. For example, some codes place limits on the use or number of horizontal exits. Generally, codes requires stairs to be enclosed by fire resistive construction. Guidelines have not been developed for every acceptable egress component, but Sections 2–5: HORIZONTAL EXITS; INTERIOR STAIRS/ENCLOSURES; EXTERIOR EXIT STAIRS; FIRE ESCAPE STAIRS apply here.

The location and layout of the qualifying exits is then examined. See Section 6: ARRANGEMENT OF EXITS. Improper arrangement may require that additonal exits be provided.

Access to these exits must also be evaluated and corrective measures must be taken as needed. Section 7: TRAVEL DISTANCE; Section 8: DEAD-END TRAVEL; and Section 9: CORRIDORS AND EXTERIOR EXIT BALCONIES should be applied at this time. As above, additional exits may be required if conditions are too severe.

Once the number of required exits has been provided and their arrangement and access is satisfactory, the capacity of the exits and minimum width dimensions must be considered. Section 10: EXIT CAPACITY/WIDTHS applies here.

Finally, the specific construction details of the egress components must be evaluated. See Section 11: CONSTRUCTION DETAILS AND SPECIFICATIONS.

There is a 3-part discussion within each of the eleven (11) Sections. First, there is a summary of code requirements and intent, including a discussion of the respective requirements in the Basic, Standard, and Uniform building codes. The Life Safety Code, published by the National Fire Protection Association, is not a building code, but has been included because it deals primarily with egress and has been used in a regulatory context.* Second, there is a discussion of how to identify conditions in the building to determine whether a problem exists. Third, there is a discussion of selected problems, some representative solutions, and a general narrative relating the two.

References to the applicable sections of the model codes have been included throughout the guideline. The references are as follows:

BOCA—Basic Building Code (1978 Edition)
NFPA—NFPA Life Safety Code (1976 Edition)
SBCC—Standard Building Code (1979 Edition)
UBC—Uniform Building Code (1979 Edition)

II Guideline

General Requirements

Smoke Detectors. Though smoke detectors can not control the growth or spread of fire, the early detection and alarm allows greater time for safe escape and possible control or extinguishment while the fire is still developing. This is particularly important in residential occupancies when all the occupants are asleep. Of course, the detector must be properly installed, located, and maintained.

Therefore, the installation of single station smoke detectors for each sleeping area of every dwelling unit is hereby required in this guideline before allowing any significant deviation from the requirements for new construction.

The model codes referenced in the guideline already require the installation of smoke detectors in every dwelling unit.[2] However, not all local communities have adopted one of the model codes, an earlier edition of a code without the smoke detector requirement may still be in effect, or a community may have deleted the smoke detector requirement.

The net effect of some of the solutions suggested below is to meet the new code requirements, so the requirement for smoke detectors noted above would not apply. Smoke detectors must still be installed if otherwise required by the code. But where the community has chosen not to adopt such a general provision, there is no basis for imposing an additional requirement for smoke detectors if a particular deficiency has been corrected to meet the code. The appropriate sections of the guideline have been noted accordingly.

Height and Area Limitations. Building codes usually limit the allowable height and area of a building as a function of its occupancy and type of construction.

In the case of a change of occupancy (into a residential occupancy), the compliance of a rehabilitated building with the height and area limits of the code for new construction is hereby required before applying the solutions recommended in this guideline. Code permitted allowances for increased height and/or area may still be applied.

Occupant Load

The occupant load is the number of people that can be expected to be present in the building. The occupant load is used to calculate the number of required exits and the capacity or required width of these exits.

The occupant load may not be reduced below a minimum specified in the code, regardless of the number of people expected. However, if the actual occupant load will exceed the minimum

* There are literally thousands of different building codes being enforced throughout the United States. The model building codes were selected only because they are nationally known and have been adopted, either in whole or in part, by many communities.

[2] The Life Safety Codes does not require smoke detectors in dormitories and only "on each floor level" of lodging houses. (11–5.3.2.1)

specified in the code, the actual occupant loading is used.

Though each code specifies how the occupant load is to be calculated, the general method is to divide the total gross area by a minimum design density of 200 sq. ft. per person. The only exception is 300 sq. ft. per person in one- and two-family dwellings and 50 sq. ft. per person in dormitories under the Uniform Building Code. The occupant load for each floor is also computed though the method may vary somewhat. (BOCA: 606.0; UBC: 3301(d), Table 33–A; SBCC: 1105.1; NFPA: 5–3.1, 11–1.5).

Given the low population density of most residential use buildings, occupant loading will rarely present a problem. The minimum dimension requirements are more often the source of difficulty. As a general rule, providing the minimum of two (2) exits will be adequate. In residential rehabilitation, it is usually the arrangement and quality of the exits, not the number of building occupants, that will be controlling.

Technical Guideline

1. *Number of Exits*

Summary of Code Requirements and Intent

The codes specify the minimum number of exits that must be provided. The exits must be adequate for each floor as well as for the building as a whole. Other considerations such as travel distance, remoteness, or capacity of existing exits may require additional exits to be provided. These issues are discussed separately and, therefore, are not considered here.

Code Intent. Requirements for a minimum number of exits are established to increase the reliability of the means of egress system. The intent is that for any single fire ignition that prohibits travel to one exit, there will be an alternate exit that can be used. This does not address multiple fire ignitions, as may be likely with fires that are incendiary (intentionally set).

Having a minimum of two means of egress is one of the most fundamental principles of life safety from fire. The codes do allow certain residential configurations to have only a single exit, but every one of these special cases must also comply with the separate, general requirement for operable windows of specified minimum dimensions. These windows allows for escape, provide a source of fresh air if it is necessary to await rescue, and allow for rescue of building occupants by fire service personnel. Therefore, even these buildings could be considered to have two means of escape. All rehabilitated buildings should have escape windows whenever feasible.

Code Analysis

Basic Building Code—1978

Not less than two exitways serving every story, except in one-and two-family dwellings, with the following exceptions where one exitway is accepted (609.2, 609.3):

- on the first story of buildings 2,000 sq. ft. or less with an occupancy load less than 50 on the first story;
- residential multi-family buildings, two stories or less, with four or less dwelling units per floor, maximum exitway access travel of 50 ft., minimum one hour fire resistance rating of exitway enclosure, and minimum one hour opening protection.

The 1980 Supplement added to Section 609.2 the requirement that a minimum of three exits are needed if the occupant load is between 501 and 1,000 persons, and a minimum of four exits must be provided for occupant loads in excess of 1,000.

Uniform Building Code—1979

Every building or usable portion thereof must have at least one exit, except if there are over ten occupants, there must be two exits. Floors above the first story having an occupant load of more than ten shall have not less than two exits, subject to the following two exceptions:

- unless the number of occupants exceeds ten; only one exit shall be required from a second floor area within an individual dwelling unit;
- two or more dwelling units on the second floor may have access to only one common exit when the total occupant load does not exceed ten.

The latter requirement for two exits is applied to individual dwelling units as well: a single apartment unit larger than 2,000 sq. ft. (10 occupants × 200 sq. ft. per occupant) would require two exits from the private unit onto the public exitway; a similar requirement applies to an individual unit of a one- and two-family dwelling larger than 3,000 sq. ft. (10 occupants × 300 sq. ft. per occupant), even if it were a one story building.

Floors above the second story and basements, regardless of the occupant loading, require not less than two exits except when used exclusively for the service of the building; only one exit shall be required from a basement within an individual dwelling unit. As noted above, individual units and basements with an occupant load greater than ten must have two exits as well. Every story or portion thereof having an occupant load of 501 to 1000 shall have not less than three exits; four exits are required when the occupant loads exceeds 1000. (3302(a), Table 33–A, A–1215(b,d)).

Standard Building Code—1979

Not less than two independent exits except for one- and two-family dwellings and other exceptions noted below.

Minimum number of exits:	*Occupant load*
2	50 to 500.
3	501 to 1000.
4	More than 1000.

Residential occupancies having not more than four dwelling units per floor, less than 3500 sq. ft. per floor, and less than three stories in height may be served by one common exit. The travel distance from the entrance door of any living unit to the single exit cannot exceed 30 ft. (1103.2).

NFPA Life Safety Code—1976

Two separate exits are required with the following exceptions:

- one- and two-family dwellings;
- a unit with direct exit to the street at ground level, by an outside stairway, or by a one-hour rate enclosed stair serving only that apartment;
- any height building with four or less units per floor with direct access to a smoke proof tower or outside stair (20 ft. maximum travel distance);
- building three stories or less with one-hour exit and protected openings, corridors with one-hour rating, 20 ft. maximum travel distance (11–3.2.4).

Summary. A minimum of two exits is generally required, although some residential occupancies can have only one if certain requirements are met. The codes are not consistent as to when only one exit will be allowed.

Identifying Existing Conditions

Determine the required number of exits by considering (depending on the particular code in force):

- occupancy (one- and two-family vs. apartment house);
- area (for computation of occupant load);
- number of dwelling units;
- number of stories;
- arrangement of spaces (service rooms, two story dwelling units, etc.).

Determine the number of apparent exits for each floor in the proposed building, by counting the number of separate paths that discharge to a public way or protected area of refuge. The exits, or exit elements, either alone or in combination, are:

- interior stairway;
- exterior stairway;
- horizontal exit;
- smoke proof tower;
- fire escape;
- ramp;
- exit passageway;
- lobby or vestibule;
- exterior exit door.

The number of exits from any story is "apparent" because an element may be determined not to be an acceptable exit element because of violation of some other code provisions addressed later in the guideline.

Particularly in larger buildings, several required stairways and passageways may combine to discharge through a single exit passageway, lobby or vestibule. The codes impose limits upon exits that may combine at a later point, and care must be taken that this limit is not violated.

Selected Problems and Representative Solutions

1.1 *Problem:* Less exits are available than required.

Solution: Consider the use of means of escape, such as fire escapes (see Section 5 below), ladders, fire balconies, etc., which are not normally accepted by codes as exit elements for new construction, in order to provide the required number of exits. At least one exit should be a means of egress in substantial compliance with code requirements. This exit should preferably follow the path normally used by the building occupants. In an emergency situation, it is common for people to exit the same way they entered and to travel the path most familiar.[3]

Discussion: In accepting this solution, an analysis should be made which takes into account the public acceptability (e.g., would tenants share a common balcony or accept unlocked doors to create an area of refuge), the climate (e.g., accumulations of snow or ice), the ability of fire service personnel to effect rescue or gain access to the building to fight the fire, and the degree of mobility or agility necessary for safe escape.

1.2 *Problem:* One exit available in a building with three occupiable floors when two exits are required.

Solution: A single exit could be accepted if each floor arrangement meets the special conditions for a single exit for two story buildings (e.g., number of occupants or dwelling units, distance of exitway access travel), the stairway is well designed (dimensions as required by code, handrails, illumination, etc.), and the requirement for operable windows is met. The exitway must either be enclosed with construction having a minimum one (1) hour fire resistance or the apartments must be separated from the exit with construction having a similar rating. Existing wood lath and plaster in good condition may remain. Doors to the exit enclosure or apartment doors opening directly onto stairs must have a minimum one hour fire resistance. Existing doors, if substantial (e.g., minimum 1¾" bonded solid core door), may remain if provided with self-closing devices. Lesser doors must be protected on both sides by automatic sprinkler protection. These sprinklers may be connected to the domestic water supply and need not be equipped to sound a building alarm.

Discussion: A single exit is allowed by code for the specified arrangements up to two stories because the building is low, an escape window is required, the distance limitation on exit access, the requirement for compartmentation or exit enclosure, and the limited number of occupants. The requirement for smoke detectors and a high quality exit, coupled with escape windows, the limited number of occupants, and compartmentation, is the basis for extending the exception for a single exit to include buildings with three occupiable floors.

1.3 *Problem:* One exit available in a building over three stories.

Solution: A code complying smokeproof tower or exterior stair could be accepted as the single exit. The building must comply with the height and area requirements for new construction. The arrangement of each floor must meet the special conditions for a single exit for two story buildings and the stairway must be well designed and protected against the elements. Access to the exterior stair or smokeproof tower must either be open to the outside or by a protected corridor. Doors opening onto an enclosed corridor must be substantial (e.g., minimum 1¾" bonded solid core door) and provided with self-closing devices. Lesser doors must be protected on both sides by automatic sprinkler protection. These sprinklers may be connected to the domestic water supply and need not be equipped to sound a building alarm. Doors to a smokeproof tower must comply with the code.

Discussion: The Life Safety Code accepts a smokeproof tower or exterior stair as the sole exit for any height building with four or less units per floor with direct access to the exit (20 ft. maximum travel distance). It is also the traditional design method in Europe and much of the world. The added requirements for smoke detectors, compliance with height and area requirements, and an open air exit access or protected corridor increases the reliability of the single exit. The ability of the fire service to effect rescue or gain access to the building to fight the fire must also be considered.

2. *Horizontal Exits*

Summary of Code Requirements and Intent

Code Intent. The code intent is to provide an area of refuge within a building by providing a continuous barrier that will resist the passage of heat, smoke, and other fire gases. A horizontal exit is a passage from one building area to another. The areas must be separated by fire resistant construction with the appropriate opening protection (self-closing or automatic closing fire doors).

A horizontal exit does not have to be limited to one building, and can be a bridge or protected passageway from one building to another.

Code Analysis and Summary. A horizontal exit is a way of passage from a building to a protected area of refuge, on approximately the same level, within the same or another building. The area of refuge must afford safety from fire and smoke.

Walls or partitions forming the separation through which the horizontal exits provide passage must provide two hours fire resistance. Opening protection (e.g., fire doors, fire dampers) must have 1½ hours fire resistance. Fire doors in horizontal exits must be either self-closing or automatically close upon activation of an associated smoke detector, except that only automatic doors are allowed under the Uniform Code.[4] Doors must swing in the direction of exit travel, except that the occupant load must be fifty (50) or more under the Uniform and Standard Codes before this requirement is imposed.

The Standard and Life Safety Codes provide that horizontal exits cannot comprise more than one-half the required exits. The Uniform, Standard and Life Safety Codes require that the area of refuge into which the horizontal exit leads have an enclosed stair, door or other "standard" exit that leads directly to the exterior. The Basic Code requires one interior stairway or smokeproof enclosure on each side of the horizontal exit in multi-story buildings.

The area of refuge must be of sufficient area to be occupied by the

[3] This does not mean that elevators should be accepted as a means of escape. In such a case, it is the exit that most closely follows the normal path of entrance.

[4] A current change to the Basic Code only accepts automatic closing doors.

total occupant load of the connected

total occupant load of the connected areas based upon three sq. ft. per person (net). The codes contain various other prescriptive requirements relating to dimensions, materials and hardware. (BOCA: 614.0, and reported code amendment; UBC: 3307, 3303(b); SBCC: 1119; NFPA: 5–2.4)

Identifying Existing Conditions

Determine the fire resistance of the wall or partition assembly and protection of openings by reference to the code in effect, current or past listings, labels, or the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

Selected Problems and Representative Solutions

2.1 *Problem:* The fire resistance of the wall or partition, as determined above, is below that required by code.

Solution: Upgrade the wall or partition construction to meet code requirements.

Discussion: The fire resistance of the wall or partition should be improved by repairing the existing construction or adding a new layer(s) of fire resistive materials. See the *Guideline on Fire Ratings of Archaic Materials and Assemblies.* If the fire resistance is upgraded to code requirements, single station smoke detectors need not be installed, unless otherwise locally required.

Solution: Accept a wall or partition of one hour fire resistance. Doors must provide one hour fire resistance and close automatically upon activation of a smoke detector. The wall or partition should be carefully inspected to insure all penetrations, particularly ducts or other utility services, are properly protected and the existing materials are intact and structurally sound.[5]

Discussion: The single station smoke detector will provide added time for escape. Also, the expected severity of fires in residential occupancies should be contained by one hour fire resistive construction.

2.2 *Problem:* Fire resistance of the opening protection, as determined above, is below that required by code.

Solution: One hour doors may be accepted if protected on both sides by automatic sprinkler protection. These sprinklers may be connected to the domestic water supply and need not be equipped to sound a building alarm. Otherwise, the door must be upgraded to meet the code requirements or replaced.

[5] The area of refuge to which the horizontal exit leads must have either a complying exit stair or exterior exit door.

Discussion: The water spray from the local sprinkler will compensate for the reduced fire resistance.

2.3 *Problem:* The only exit from an area of refuge is another horizontal exit, in violation of the code.

Solution: Accept such an arrangement (i.e., *one* intermediate compartment) if the fire resistance of all walls or partitions separating the compartments, and the protection of all openings in the walls or partitions, fully comply with the code requirements.

The area of refuge reached after passing through the intermediate compartment must have a complying stair or exterior exit door.

3. Interior Stairs/Enclosures

Summary of Code Requirements and Intent

Enclosed stairs are recognized as an exit by all codes if they are properly designed and constructed. In multi-story buildings they are the most likely type of exit to be encountered. They provide a protected means for evacuation of a building by its occupants. By their nature as vertical shaft through a building, stairs also provide a potential path for the spread of fire from floor to floor.

Code Intent. Requirements for a fire resistive enclosure of stairs are established in order to achieve the following objectives:

- to provide a protected way from any story of a building to a public way or to an area of refuge;
- to limit the spread of fire from floor to floor;
- to provide a protected access for fire service personnel.

Code Analysis

Basic Building Code—1978

Required interior exitway stairs must have an enclosure of 1-hour fire resistance rating in buildings three stories or less, 2-hour fire resistance rating in buildings four stories or more. Stairs within a single dwelling unit are excepted. Also excepted, when automatic sprinkler protection is provided, are stairs between no more than three communicating floors close to street level which serve no more than one-half the required occupant load and which have adequate capacity for all occupants of all the communicating levels.

Stairway doors must be self-closing and have a 1-hour fire resistance rating in 1-hour construction and 1½ hour rating in 2-hour construction. Labeled fire doors shall have a maximum transmitted temperature end point of not more than 450°F above ambient at the end of 30 minutes of standard fire test exposure. Other openings are limited in area and must be protected. (616.6.3, 616.9.2, Table 214)

Uniform Building Code—1979

For new construction, interior stairways are required to be enclosed, with the following exception: stairways in one- and two-family dwellings, and stairs within individual apartments need not be enclosed. Enclosure walls must be a minimum of two-hour fire resistive construction in buildings more than four stories in height and not less than one-hour fire resistive construction elsewhere. All exit doors in an exit enclosure must be protected by a fire assemble having a fire resistance of not less than one hour where one-hour shaft construction is permitted and one and one-half hours where two-hour shaft construction is required. Doors must be maintained self-closing or automatic closing by actuation of a smoke detector. The maximum transmitted temperature end point shall not exceed 450°F above ambient at the end of 30 minutes of fire exposure. (3308(a)–(c), 4306(b))

Appendix Chapter 12 is a retroactive provision that establishes minimum requirements for all existing apartment buildings and hotels more than two stories in height. Because all such buildings would be required to comply with these minimim safety regulations, Section 103 of the Uniform Code provides that a community must specifically adopt the Appendix for its provisions to apply.

Appendix Chapter 12 sets forth the following requirements. Every interior stairway must be enclosed with walls of at least 1-hour fire resistive construction. Wood lath and plaster in good condition is acceptable as 1-hour construction for this purpose. The stairway need not be enclosed in a continuous shaft, but the continuity of the enclosure on each floor is required. Enclosurers are not required if an automatic sprinkler system is provided in all portions of the building except apartments. Stairway doors must be self-closing and equivalent to a solid wood door not less than 1¾ inches thick. (A–1215(f))

Standard Building Code—1979

Required exit stairs must be enclosed in 1-hour fire resistive construction in buildings three or less stories in height; 2-hour fire resistive construction in buildings four or more stories in height. Exceptions are similar to those noted above for the Basic Building Code. (1106)

Stair doors must be 1½ hour fire resistive assemblies for 2-hour walls, and 1-hour fire resistive assemblies for 1-hour walls. The maximum transmitted temperature end point shall not exceed 450°F above ambient after 30 minutes of standard fire test exposure.

NFPA Life Safety Code—1976

Stairways must be protected as follows:

Fire resistance of walls in buildings of one-three stories shall be 1-hour; four or more stories, 2-hours. Fire resistance of doors in buildings of one-three stories shall be ¾ hour; four or more stories shall be 1-½ hours. In buildings provided with total automatic sprinkler protection, the fire resistance of walls in buildings of one-three stories may be reduced to ¾ hours; four or more stories, 1-hour. The fire resistance of doors in sprinklered buildings of any height shall be ¾ hour. (11–3.5.3.1.1, 11–3.8.3.1.1)

Exceptions, including the exception allowing unenclosed stairs as part of communicating floors, are similar to those noted above for the Basic Building Code. (6–1)

Summary. The Basic, Standard, and NFPA Life Safety Code generally have identical provisions (2-hours with 1-½ hour door over three stories; 1-hour enclosure and door below four stories), except that NFPA requires only a ¾ hour door in a 1-hour stair enclosure. The Uniform Code differs in that buildings up to four, rather than three, stories only need a 1-hour enclosure. The Uniform Code Appendix Chapter 12 contains much more lenient requirements for existing residential buildings.

Identifying Existing Conditions

- Determine location of all unenclosed stairs.
- Determine the fire resistance of stair enclosures and doors by reference to the code in effect, current listings, or the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

Selected Problems and Representative Solutions

3.1 *Problem:* The fire resistance of the stair enclosure, as determined above, is below that required by the code in effect.

Solution: The fire resistance of the stair enclosure should be improved by repairing the existing construction or adding a new layer(s) of fire resistant materials. See the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

Discussion: If the fire resistance is upgraded to code requirement, single station smoke detectors need not be installed, unless otherwise locally required.

3.2 *Problem:* A 2-hour enclosure is required and an unenclosed stair does not meet the applicable code exception for communicating floors.

Solution: The stair may be enclosed at each story by construction having 1-hour fire resistance. The walls forming this enclosure may be located on each story wherever convenient, but as close as possible to the stair. Walls should extend through any concealed or void spaces to the underside of the floor above. Any area or section of a floor/ceiling assembly necessary to form a continuous enclosure from story to story must also have 1-hour fire resistance rating.

If necessary, a limited number of apartment doors may open directly onto the stair enclosure. These doors must provide one hour fire resistance, be selfclosing, and meet all other code requirements for stairway doors.

Discussion: The proposed solution provides a protected way of escape from any story while limiting the potential of fire spreading from floor to floor. The population density is low and the fire loading is not excessive. Single station smoke detectors will allow more time for escape.

3.3 *Problem:* A 1-hour enclosure is required, and an unenclosed stair does not meet the applicable code exceptions for communicating floors.

Solution: The stair may be enclosed at each story by construction having a fire resistance of 45 minutes (e.g., ½" type X gypsum wallboard). Up to 25% of the wall area on any given floor may be fire-rated wire glass in a steel frame. Substantial doors (e.g. minimum 1-¾" solid bonded core door) may be used if provided with self-closing devices.

Discussion: Reducing the required fire resistance from one hour to 45 minutes should still allow adequate time for safe escape given the smoke detectors and low occupant loading. The use of wired glass is often least objectionable from architectural and security considerations.

3.4 *Problem:* A 1-hour enclosure is required, and the stairway is enclosed with wood lath and plaster construction.

Solution: Accept the existing enclosure if it is in good condition and all penetrations and openings are either sealed or properly protected. A visual check should be made to insure the quality of the existing construction. There should be no other serious code deficiencies in the building.

Discussion: The presence of smoke detectors, the absence of any other serious code deficiencies, and the limited occupant loading make it reasonable to allow the existing enclosure to remain.

4. Exterior Exit Stairs

Summary of Code Requirements and Intent

Code Intent. The code intent for exterior stairs is the same as for interior stairs. However, because the stairs are outside the building, they do not create a vertical shaft through which the fire could spread. An important consideration, though, is the proximity of an exterior stair to openings in the exterior walls: a fire inside of the building could break out windows or other openings and cause the stair to become impassable.

A visual enclosure is sometimes required for exterior or outside stairs so that acrophobia (fear of heights) will not impede travel or lead to panic.

Code Analysis

Basic Building Code—1978

Exterior stairs may be used: (1) in buildings not exceeding five stories or 65 feet in height; and (2) where at least one door from each tenant opens onto a roofed-over open porch or balcony served by at least two stairways. Only one stairway is required if the code only requires a single exit. In buildings three or more stories in height, openings below and within 10 feet horizontally of the exterior stairs must be protected by automatic doors and windows of ¾ hour fire resistance. Exterior stairs must conform to the requirements for interior stairs in all other respects. (619.0)

Uniform Building Code—1979

For new construction, exterior stairs must meet the requirements for inside stairs except for opening protection. In buildings three or more stories in height, openings below or within 10 feet measured horizontally must be protected by a self-closing fire assembly having ¾ hour fire resistance except that openings may be unprotected when two separated exterior stairways serve an exterior exit balcony.

In existing buildings, (Appendix Chapter 12) the *only* requirements are that exterior stairs must be noncombustible or of wood of not less than 2-inch nominal thickness with solid treads and risers. (3305, 3305(1); Appendix Chapter 12, 1215(g)).

Standard Building Code—1979

Exterior stairs may be used: (1) in buildings not exceeding six stories or 75 feet in height; and (2) where at least one door from each tenant opens onto a roofed-over open porch or balcony

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served by at least two stairways so located as to provide a choice of independent means of egress leading directly to grade. Openings below and within 10 feet horizontally of the exterior stair must be protected with ¾ hour fire resistive automatic opening protectives; opening protection is not required for buildings not more than three stories in height where all parts of the exterior stair are at least 6 feet from the building wall. Exterior stairs must conform to the requirements for interior stairs in all other respects. (1129)

NFPA Life Safety Code—1976

Where interior stairs are required to be enclosed, exterior stairs must be separated from the interior of the building by fire resistive walls as required for interior stair enclosures; fire doors or fixed wire glass windows must protect any openings therein. Such protection is not required in buildings three stories or less in height where there is a remote second exit. Other openings within specified distances must be protected. A "visual" enclosure must be provided for the benefit of persons afraid of heights. Exterior stairs must conform to the requirements of interior stairs in all other respects. (5–2.5)

Summary. The codes differ as to both when an exterior stair may be allowed and the need for protection of openings. The Basic and Standard Codes only permit exterior stairs in pairs. The Uniform Code does not require exterior stairs in pairs, but waives the requirement for opening protection if the second stair is provided. The Uniform Code, Appendix Chapter 12 for existing buildings, does not require protection of openings for a single exterior stair. Only the Life Safety Code requires a "visual" enclosure for the benefit of persons afraid of heights.

Identifying Existing Conditions

- Determine the fire resistance of walls or opening protectives within or adjacent to the exterior stairs by reference to labels, the code in effect, current listings, or the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

4.1 *Problem:* Fire resistance of the opening protection, as determined above, is below that required by the code in effect.

Solution: The openings need not be protected if there are a minimum of two exterior stairs located as to provide remote means of egress from an exterior exit balcony.

Discussion: This solution is recognized by the Uniform Code. It is unlikely that a fire would block the access to or the use of both exterior stairs. The requirement for single stations smoke detectors is added justification.

4.2 *Problem:* Fire resistance of the opening protection, as determined above, is below that required, and there is only a single exterior stair.

Solution: Upgrade the fire resistance of the opening protection by repairing the existing construction or adding a new layer(s) of the fire rated materials. See the *Guideline on Fire Ratings of Archaic Materials and Assemblies.* Windows must be wire glass in steel frames, either fixed or automatically closing, sealed, or otherwise made to comply with the code.

Discussion: If the fire resistance is upgraded to code requirements, single station smoke detectors need not be installed, unless otherwise locally required.

Solution: Install local sprinklers over opening protection. Such sprinklers may be connected to the domestic water supply and need not sound an alarm upon activation. Windows must be protected as above.

Discussion: The water spray on the exposed surface will compensate for the reduced fire resistance. The sprinklers should be located on the inside of the opening.

5. Fire Escape Stairs

Summary of Code Requirements and Intent

Code Intent. The code intent is to regulate the qualify of the required means of escape. Fire escapes are not favored because they are more difficult to traverse and afford less protection to occupants than other types of exists, such as enclosed interior stairs or exit passageways. However, properly designed and protected fire escapes can sometimes provide a practical solution when the existing number of exists or exit capacity is less than required.

Code Analysis

Basic Building Code—1978

Fire escapes are permitted only on existing buildings, and then only when "more adequate exitway facilities cannot be provided". Fire escapes cannot provide more than 50% of the required exit capacity. Doors and windows "along the fire escape" must be protected with 3/4 hour fire resistance rated opening protectives. (621.0).

Uniform Building Code—1979

Fire escapes are not allowed for new construction. Appendix Chapter 12 permits fire escapes to be used as one means of egress in existing buildings. Under specified conditions a "ladder device" may be used "in lieu of a fire escape". There are no requirements for protection of adjacent openings. (Appendix Chapter 12, 1215(h))

Standard Building Code—1979

If "more adequate exit facilities cannot be provided", fire escapes can be used on existing buildings four stories or less in height. Fire escapes cannot provide more than 50% of the required exit capacity. All openings within 10 feet of fire escapes must be protected with approved opening protectives of at least 3/4 hour fire resistance. (1116)

NFPA Life Safety Code—1976

Fire escape stairs may be used only in existing buildings, but shall not constitute more than 50% of the required exit capacity. Openings within specified limits "shall be completely protected by approved fire doors or metal-frame wire glass windows". (5–2.9)

Summary. Fire escapes are not accepted as a means of egress for new construction. The Basic, Standard, and Life Safety Code permit fire escapes in existing buildings, but only up to 50% of the required exit capacity. Appendix Chapter 12 of the Uniform Code, when adopted, allows a fire escape as "one means of egress" in "existing nonconforming . . . (apartments) more than two stories in height". All codes except Appendix Chapter 12 require adjacent openings to be protected, though the provisions are not consistent and there are exceptions. The codes all contain other higherly specific construction specifications.

Identifying Existing Conditions

- Determine that soundness and structural serviceability is as required by code.
- Determine that access to fire escape(s) is as required by code.
- Determine the fire resistance of the protection of openings by reference to labels, the code in effect, current listings, or the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

Selected Problems of and Representative Solutions

5.1 *Problem:* Fire resistance of the opening protection, as determined above, is below that required.

Solution: Upgrade the fire resistance of the opening protection by repairing the existing construction or adding a new layer(s) of the fire rated materials. See the *Guideline on Fire Ratings of Archaic Materials and Assemblies.* Windows must be wire glass in steel

frames, sealed, or otherwise made to comply with the code.

Solution: Install local sprinklers over opening protection. Such sprinklers may be connected to the domestic water supply and need not sound an alarm upon activation. Windows must be protected as above.

Discussion: The water spray on the exposed surface will compensate for the reduced fire resistance rating. The sprinklers should be located on the inside of the opening.

6. Arrangement of Exits

Summary of Code Requirements and Intent

Code Intent. The intent of providing exit remoteness, when two or more exits are required, is to minimize the probability that access to the exits will be blocked by any one fire. The term "remote" is subjective and frequently a matter of interpretation.

Exits which appear to be remote from each other sometimes converge at a distant point. Stairways discharging into a common lobby or passageway are examples. These exits are not truly remote because a blockage at the point of confluence renders both exits useless.

Code Analysis and Summary. Exits must be located so that they are discernible and have unobstructed access. They also must be arranged to lead directly to the street. When more than one exit is requiired, exits muist be as remote from each other as practicable, and must be arranged to allow direct access in separate directions. Exits shall be arranged and constructed as to minimize any possibility that both may be blocked by any one fire or other emergency condition. (BOCA: 602.2, 602.3; SBCC: 1103.1; NFPA: 5–5)

The Uniform Building Code has a prescriptive technique for determining exit remoteness. If two exits are required, they shall be placed a distance apart equal to not less than one half the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between exits. An exception is made for exit enclosures interconnected by an approved corridor. Where three or more exits are required, they must be arranged a reasonable distance apart so that if one becomes blocked the others will be available. (UBC: 3302(c))

Identifying Existing Conditions

The arrangement of the acceptable exit components will be noted on the building plans or may be studied by a visual inspection of the physical structure.

ACCEPTABLE

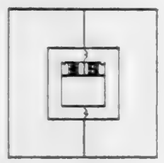

FIGURE 1

NOT ACCEPTABLE

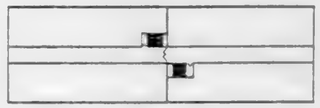

FIGURE 2

The smoke partitions could be constructed of wire glass, gypsum or other suitable materials. Construction similar to the existing corridor walls is also acceptable. The barriers must extend from exterior wall to exterior wall and from the floor to the underside of the floor or roof above, through any concealed or void spaces. Existing walls and partitions can be used to help form this continuous barrier.

The doors need not swing in the direction of exit travel, but double-acting doors are not acceptable. Doors shall close automatically upon the activation of an associated smoke detector. Doors, when closed, must fit tightly and prevent the passage of smoke. Minimum corridor or hallway dimensions should be observed as closely as possible. See Section 7: TRAVEL DISTANCE, if travel distance limitations are exceeded.

Selected Problems and Representative Solutions

6.1 *Problem:* Required exits not remote from one another.

Solution: Separate the non-remote exits by smoke barriers located as to establish distinct and separate smoke zones.

Discussion: With certain building configurations it is possible to isolate non-remote exists from one another. By constructing smoke barrier partitions, the requirement of direct access to the exits in separate directions can be met. Figure 1 illustrates this concept. No matter where the fire may originate, any occupant can safely pass from one zone into another. This approach would not work for the building in Figure 2 because these exists, though now in separate zones, cannot be reached by moving in separate directions: a fire blocking one exit would block the second.

Solution: Provide additional exit(s) (e.g., stair, fire escape, fire balcony).

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Discussion: If separation of the exits as discussed above is not possible, then additional exits must be provided so that all occupants will have remote access to the required number of exits. The quality of the additional exits (e.g., enclosed stair v. ladder) will depend upon the use and occupancy of the building. If a high quality remote exit is provided (e.g., enclosed stair), single station smoke detectors need not be provided, unless otherwise locally required.

7. Travel Distance

Summary of Code Requirements and Intent

The codes specify maximum travel distance to the nearest exit.

Code Intent. The intent of requirements governing the maximum travel distance to an exit is to limit the time an occupant needs to reach an exit. When combined with the requirements for a minimum number of exits and for exit remoteness, the limitation on travel distance is intended to assure that even if one exit is blocked by the fire, any occupant will still be able to reach a location of refuge before the fire has spread in a manner as to prevent it. The actual time for escape implied by the maximum travel distance limitation is not explicitly stated.

Code Analysis

Basic Building Code—1978

Length of "exitway access travel" to "an approved exitway" (defined as "that portion of a means of egress which is separated from all other spaces of a building by construction or equipment as required in this code to provide a protected way of travel to the exitway discharge") is as follows:

Without Fire Suppression System	100 feet
With Fire Suppression System	150 feet

If the travel distance within a living unit is less than 50 feet, or 100 feet if sprinklered, the distance of travel is measured from the "exitway access entrance to the nearest exitway" (i.e., from the apartment door). (607.4)

Uniform Building Code—1979

Maximum distance of travel "from any point to an exterior exit door, horizontal exit, exit passageway or an enclosed stairway" is as follows:

Without Automatic Sprinklers	150 feet
With Automatic Sprinklers	200 feet

These distances may be increased 100 feet when the last 150 feet is within a corridor that meet specific requirements as to width, height, obstructions, dead ends and openings. (3302(d))

Standard Building Code—1979

Maximum travel distance from any point to the "Nearest exit" (defined as "that portion of a means of egress which is separated from the area of the building from which escape is to be made, by walls, floors, doors or other means which provide the protected path . . . to the exterior") is as follows:

Unsprinklered	150 feet
Sprinklered	200 feet

If the travel distance within a living unit is less than 50 feet, the distance of travel to an exit is measured from the corridor entrance. (1103.1)

NFPA Life Safety Code—1976

The following are the requirements for travel distance (11–3.5, 11–3.6, 11–3.7, 11–3.8):

	To the nearest exit from an apartment entrance door (feet)	To a corridor door from any room door (feet)
No sprinklers or detection	100	50
Automatic dectectors	150	75
Partial sprinkler protection	150	50
Total sprinkler protection	150	100

"Exit" is defined similarly to "exitway" in the Basic Code.

Summary. The codes have varying dimensional requirements for travel distance. All allow an increase in exit travel distance if there are automatic sprinklers. Only the Life Safety Code allows an increase with automatic detection. The Uniform Code differs from the other codes by specifying the four egress elements to which the travel distance is to be measured.

Identifying Existing Conditions

Determine the distance from the most remote point on every story of the building or from the most remote apartment entrance door (depending on the local code in effect) to the nearest acceptable exit element. Measure the distance along the most direct natural path of travel.

Selected Problems And Representative Solutions

7.1 *Problem:* Measured travel distance exceeds maximum travel distance specified in applicable code.

Six alternative solutions to this problem are suggested below. Some of these solutions may be combined to get an additional increase in the allowable travel distance. A table showing the suggested cumulative increases for the different combinations follows the individual solutions. The maximum cumulative increase should not exceed 125 feet.

Smoke Barrier

Solution: The allowable travel distance may be increased by up to 75 feet if the path is divided by a smoke barrier with smoke actuated automatic closing door. The separation of non-remote exits (Section C: ARRANGEMENT OF EXITS) is a special application of this approach.

The smoke barrier could be constructed of wire glass, gypsum or other suitable materials. The barrier must extend from exterior wall to exterior wall and from the floor to the underside of the floor or roof above, through any concealed or void spaces. The doors need not swing in the direction of exit travel, but double-acting doors are not acceptable. Doors, when closed, must fit tightly and prevent the passage of smoke. Minimum corridor or hallway dimensions should be observed as closely as possible.

Discussion: The added compartmentation offered by the smoke barrier reduces the chance that the entire travel path would be blocked by smoke after a given period of time, thereby compensating for the added escape time due to a longer travel distance. The single station smoke detectors will also provide added time for escape.

Automatic Alarm/Heat Detector

Solution: The allowable travel distance may be increased by up to 50 feet if the building is equipped with an automatic fire alarm system activated by heat detectors located inside every apartment within 6 feet of the corridor door. The alarm should notify all building occupants. Entrance doors to apartments should be equipped with door closers.

Discussion: While the single station smoke detector will notify the occupants of an apartment, other building residents would not be made aware of the emergency. Interconnection of the individual smoke detectors, which are still required, is not realistic because of the large number of false alarms that may be expected. Heat detectors are less sensitive to the environmental causes of false alarms (e.g., burnt toast), but are still capable of providing an alarm before a fire could develop beyond the apartment of origin.

Manual Alarm

Solution: The allowable travel distance may be increased by up to 50 feet if a manual alarm system, not otherise required by code, capable of notifying all the building occupants, is installed. Entrance doors to apartments should be equipped with door closets.

Discussion: The smoke detector within the apartment will allow the occupant to escape while the fire is still small. The other building residents could then be warned by the sounding of the manual alarm.

Automatic Sprinkler/No Alarm

Solution: The allowable travel distance may be increased by up to 50 feet if an automatic sprinkler system is installed in the corridor and an additional sprinkler head is located to protect the apartment side of corridor doors. Such sprinklers need not sound an alarm upon activation. Doors must be provided with selfclosing devices. Single station smoke detectors are still required.

Discussion: The automatic sprinklers and door closers should contain a fire within the apartment of origin and keep the corridor passable.

Automatic Sprinkler/Automatic Alarm

Solution: If the partial sprinkler system discussed above is equipped to sound an alarm to all building occupants, the allowable travel distance may be increased by up to 100 feet. Door closers are still required.

Discussion: The sprinkler head inside each apartment door will perform a function similar to the heat detector in the automatic alarm solution by notifying other building occupants of a fire. The sprinkler system will help contain the fire within the apartment of origin and keep the corridor passable. Single station smoke detectors are still required to warn the occupants within the apartment of origin.

Provide Additional Exit(s)

Solution: Provide additional exit(s) (e.g., stair, fire escape, fire balcony) located so that travel distance limitations are not exceeded.

Discussion: The quality of the additional exits (e.g., enclosed stair v. escape ladder) will depend upon the use and occupancy of the building. If a high quality exits is provided (e.g., enclosed stair) single station smoke detectors need not be provided, unless otherwise locally required.

Suggested Cumulative Increases

The following chart contains the suggested cumulative increases if more than one solution is implemented.

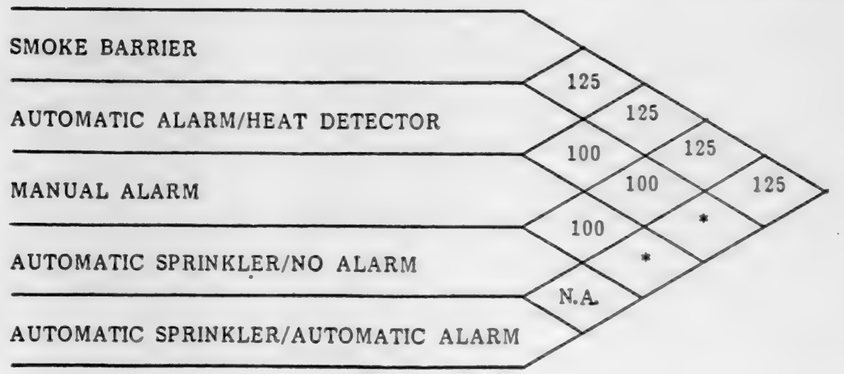

The two combinations noted by an asterick (*) show no additional increase in travel distance because they perform similar life safety functions, e.g., the heat detector and sprinkler head inside the apartment door. However, there is an increase in reliability: there is a second system present should the first device fail to operate. There are also different fire scenarios where one system would be more responsive or appropriate than the other. The increase in travel distance is best left to the informed judgment of the local official, applied to the particulars of a specific structure.

8. Dead-End Travel

Summary of Code Requirements and Intent

Code Intent. Dead-end corridors of any length are undesirable features in buildings for two reasons. People who must use a dead-end corridor as part of the exit access (no choice of travel to exits) could be trapped by a fire or smoke between them and the exits. The other reason is that people moving within the exit access could enter the dead-end, especially under smoky or low light conditions, and become trapped or confused. Some controversy exists as to which concern the codes are intended to address, if not both. The answer is important because the design solutions differ.

All the codes use the term "dead-end" but do not define it. The Life Safety Code also uses the phrase "maximum single path corridor length", which would indicate a concern for the availability of two remote exits. The model codes appear to focus upon the individual who may turn off onto a dead-end corridor or hallway.

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Code Analysis and Summary. The Basic, Uniform and Standard Building Codes impose a 20-foot maximum length for dead-ends (BOCA: 610.2; UBC: 3304(e); SBC: 1104.3). The Life Safety Code imposes a maximum single path corridor length of 30 feet, except that lengths of 35 feet are acceptable in existing or totally sprinklered buildings. (11–3.5, 11–3.6, 11–3.7, 11–3.8, as changed by the Tentative Interim Amendment)

Identifying Existing Conditions

There are two approaches to the identification of paths of dead-end travel. The result may not be the same in both instances.

From the perspective of an occupant in a corridor moving towards a proper exit(s), a dead-end is any path of travel onto which the occupant could mistakenly turn that does not lead to an exit. The length of the dead-end is the maximum distance that the occupant could travel before realizing the mistake, i.e., to the end of the dead-end path.

From the perspective of an occupant moving from an individual dwelling unit into the corridor, a dead-end is any path of travel for which no choice of exits exists, assuming that two or more exits are required. That is, an exit can be reached by traveling in one direction only. The length of the dead-end is the maximum distance that any occupant entering onto the corridor would have to travel until paths to remote exits become available. The dead-end corridor may extend beyond the most remote point of access from a dwelling unit to the corridor, e.g., to a window or janitor's closet. However, it is assumed that the occupants, familiar with their surroundings, would move toward, not away from the nearest exit. Therefore, for this perspective only, the length of the dead-end does not include the length of the path that does not lead to an exit. It would be included under the approach in the previous paragraph.

Representative Problems and Suggested Solutions

8.1 *Problem:* Excessive lengths of dead-end travel.

Solution: Provide an additional exit to eliminate the dead-end.

Discussion: The most direct solution is to construct an exit at or near the end of the dead-end path. A person turning off the main corridor would still have access to an exit; a person leaving an individual dwelling unit would have a choice of two remote exits. This exit must be directly accessible from the corridor or hallway. Higher quality exit components such as enclosed or exterior stairs are preferred. Fire escapes or balconies could be accepted depending upon the nature and characteristics of the occupant loading, fire department capabilities, building height, etc. If high quality exits are provided, single station smoke detectors need not be provided, unless otherwise locally required.

Solution: Construct a physical partition limiting the path of dead-end travel.

Discussion: By constructing a physical partition, a person who mistakenly turns off the proper path onto a dead-end would be alerted to his mistake. The distance from the proper path to the partition must be within the limits for dead-ends specified within the respective codes, but should be less than that allowed whenever practicable. The partition need not have any fire resistance rating. Any doors may be kept in the open position provided they shall close automatically upon the activation of a local smoke detector. The partition shall be clearly marked to indicate the path is NOT AN EXIT.

This solution does not provide two remote exits for those occupants whose dwelling units access onto the dead-end path. While the codes are not clear on this issue, the following analysis has been used. The portion of the building served by an excessive dead-end path is analyzed as though it were the second story of a two story building. Then, the number of exits required for this portion is determined. The conditions for allowing a single exit are noted in Section 1: NUMBER OF EXITS. If only one exit is required, then the building is considered to be in compliance because the dead-end path still provides one path of escape. The Uniform Building Code provides that "every building or USABLE PORTION THEREOF shall have at least one exit". (3302(a)) (emphasis added) Two exits are required only when certain limits are exceeded.

Travel distances for the dwelling units in this portion of the building are computed as follows:

The regular travel distance limitations outlined in Section 7: TRAVEL DISTANCE must still be met. For example, the travel distance from the door of the most remote dwelling unit in that portion of the building to the nearest exit may not exceed 100 feet in a non-sprinklered building constructed under the Basic Building Code.

Some codes impose a special limitation on travel distance to an exit when only one exit is required. The distance from the door of the most remote dwelling unit to the point where two remote exits become available must not exceed this limit. The Uniform Building Code has no such limitation. The allowable distances in the Basic and Standard Building Codes are 50 feet and 30 feet, respectively. Though the Life Safety Code allows dead-ends of 35 feet in existing buildings, the maximum travel distance when a single exit is allowable is only 20 feet.

Should the analysis reveal that the conditions for a single exit are not met by this portion of the building, then an additional exit must be provided.

9. *Corridors and Exterior Exit Balconies (Separation and Fire Resistance)*

Summary of Code Requirements and Intent

Corridors in Group R (Residential) occupancies are the common and public spaces through which occupants travel from their apartments to an exit element. It is the length of corridors that is usually controlled by code provisions governing travel distance.

The codes establish certain requirements for the separation of corridors from other building spaces. See also Section 10: EXIT CAPACITY/WIDTHS for dimensional requirements for corridors.

Code Intent. Fire resistance requirements for corridor enclosures and doors are intended to maintain the integrity of the corridor and prevent flames and smoke from blocking the exit route. This will enable the occupants to safely travel through the corridors to the exits.

Code Analysis

Basic Building Code—1978

A corridor is defined as "a hallway, passageway or other compartmented space providing the occupants with access to the required exitway of the building or floor area". (201.2)

Corridors serving more than 30 occupants (i.e., floor area greater than 6,000 sq. ft.) must have a fire resistance rating of one hour. Corridor walls must extend from the floor to the ceiling (need not extend through space above suspended ceiling). Doors opening onto corridors serving over 30 occupants must be self-closing or automatic closing, with a 20-minute fire protection rating. (610.4)

Open porches or balconies leading to exterior exitway stairs must be separated on their interior side by a fire resistance rating of one hour in buildings of three stories or less, and of two hours in all other buildings. Doors in such separations must be rated ¾ hour and 1½ hours, respectively. Other openings must be protected and are limited in area. (619.1.1)

Uniform Building Code—1979

Corridor is not specifically defined.

Walls of corridors and interior sides of exterior exit balconies serving an occupant load of 30 or more (i.e., floor area 6,000 sq. ft. or more) must be of not less than one-hour fire resistive construction. Ceiling of corridors must be at least that required for a one-hour fire resistive floor/ceiling assembly.

Where corridor walls are required to be of one hour fire-resistive construction, doors must be "tight-fitting smoke and draft control" self-closing or automatic closing assemblies with a 20-minute fire protection rating. Other openings in corridor walls must be fixed and protected by ¼-inch wired glass in steel frames and may not exceed 25% of the wall area separating any room and the corridor. Protection of openings in the interior walls of exterior exit balconies is not required. (3304)

Travel distance in an enclosed corridor may be increased (see Section 7: TRAVEL DISTANCE).

Standard Building Code—1979

Corridor is not specifically defined.

All exit access corridors serving over 30 occupants (i.e., floor area greater than 6,000 sq. ft.) must have a minimum fire resistance rating of one hour. An exterior balcony may serve as a corridor (exit access) if it complies with all the requirements of a corridor. Doors opening onto corridors serving over 30 occupants must be self-closing, tight fitting, smoke and draft assemblies with a 20-minute fire protection rating. (702.3, Table 700 and Notes, 1108)

NFPA Life Safety Code—1976

Corridor is not specifically defined.

Walls enclosing exit access corridors must have a fire resistance of 1 hour. The fire resistance may be reduced to ¾ hour and ½ hour for buildings with automatic detectors and automatic sprinklers, respectively; ½-hour fire resistance is permitted in existing buildings.

Doors opening onto such corridors must have a 20-minute fire protection rating, except that previously approved 1¾ inch rated bonded wood core doors and frames may remain in use. Doors between apartments and corridors must be self-closing. (11–3.2.8, 11–3.5.3.1.3 and Exception No. 2, 11–3.6.3.1.3, 11–3.7.3.1.3, 11–3.8.3.1.2)

Summary. The Basic and Standard codes require a 1-hour enclosure and 20 minutes for doors for corridors serving over 30 occupants; the Uniform Code applies similar requirements when the occupant load is 30 or more. The Life Safety Code requires a similar corridor enclosure, irrespective of occupant loading, but allows reduction of the separation requirement as a function of automatic detection and extinguishment. Only the Life Safety Code accepts lower ratings for existing buildings. All codes require doors to have some form of door closing mechanism.

The three model codes disagree on the treatment of exterior exit balconies. The Uniform and Standard Codes treat them as corridors, while the Uniform Code does not require openings in interior walls of exterior exit balconies to be protected. The Basic Code seems to be stricter, treating them as parts of "exitways" rather than "exitway access".

Identifying Existing Conditions

Determine the occupant load served by the corridor in question. If it is in excess of the code specified criteria of 30 occupants (or 6,000 sq. ft. of area served), proceed with the following:

- Determine the fire resistance rating of the corridor wall assembly by reference to the code in effect, current listings or the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*
- Identify all other openings in corridor walls, such as transoms, and determine their area and the design of their closing devices, if any.
- Determine the presence and operability of door closing devices.

Selected Problems and Representative Solutions

9.1 *Problem:* The fire resistance of the corridor enclosure, as determined above, is below that required by the code in effect.

Solution: If the existing corridor wall consists of wood lath and plaster in good condition, it should be accepted as having adequate fire resistance. If of lesser construction or in need of repair, the fire resistance of the corridor enclosure should be improved by repairing the existing construction or adding a new layer(s) of fire rated materials. See the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

Discussion: If the fire resistance is upgraded to code requirements, single station smoke detectors need not be installed, unless otherwise locally required.

Solution: A corridor enclosure of 30 minutes fire resistance should be accepted. Buildings with more than three occupiable floors must be equipped with an automatic fire alarm system activated by heat detectors located inside every apartment door to the corridor. The alarm should notify all building occupants. Entrance doors to apartments should be equipped with door closers.

Discussion: The door closers, single station smoke detectors, and automatic fire alarm system (when required) will provide earlier detection and alarm and increase the reliability of the compartmentation. The corridor walls should be carefully inspected to insure that they extend from the floor to the underside of the floor above, are properly firestopped, and that any poke-throughs or penetrations are properly protected. There should not be any other serious code deficiencies.

9.2 *Problem:* The fire protection rating of corridor doors is lower than that required by the code in effect.

Solution: Unrated corridor doors should be accepted if they are individually equipped with a local sprinkler which will spray the door in case of a fire on the room side of the corridor door. Such a sprinkler may be connected to the domestic water supply system and need not sound an alarm upon activation. Doors should be provided with self-closing devices.

Discussion: The water spray on the exposed surface will compensate for the reduced fire resistance rating.

Solution: Upgrade the existing corridor doors. See the *Guideline on Fire Ratings of Archaic Materials and Assemblies.*

9.3 *Problem:* The corridor walls have openings other than doors which are inadequately protected as required by the code in effect.

Solution: All transoms should be closed with plasterboard, fixed wire glass, or other like materials. Other openings should be improved by repairing the existing construction or adding a new layer(s) of fire rated materials.

Discussion: See the *Guideline on Fire Ratings of Archaic Materials and Assemblies* for guidance. If the fire resistance is upgraded to code requirements, single station smoke detectors need not be installed, unless otherwise locally required.

Where the sealing of transoms or the use of wire glass would seriously compromise the character of a building, flexibility should be shown. Partial sprinkler systems or alternate materials such as polycarbonate could be considered. Single station smoke detectors would still be required unless the fire performance of these materials or systems is documented as meeting code requirements.

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10. *Exit Capacity/Widths*

Summary of Code Requirements and Intent

The codes regulate the capacity of the means of egress by relating required widths of the various elements of the means of egress to the occupant load they serve, and by establishing minimum widths for each egress element.

Code Intent. It is the intent of the codes to provide an exit capacity large enough to move the total expected occupant load into the exits before the access to exits becomes untenable.

Safe exiting time is implied in the codes only, and cannot yet be validly calculated. It was, however, discussed when the values for exit capacity were established by the NFPA Life Safety Code committee. Doors and other level egress components were considered to have a rated capacity of 60 persons per minute per 22 inch unit of exit width, and stairs were rated at 45 persons per minute per unit of exit width. This is considered a standard 4:3 ratio for pedestrian movement. These values are based on studies by the National Bureau of Standards and the London Transport Board. (National Bureau of Standards, *Design and Construction of Building Exits, Pub. No. M151,* Washington, D.C., NBS, 1935; London Transport Board, *Second Report of the Operational Research Team on the Capacity of Footways Research Report No. 95,* London: London Transport Board, 1958). If stairs are sized to a capacity of 75 people per unit, a time of 100 seconds is implied (75 people/unit divided by 45 people/minute-unit). The results are the same for corridor travel.

The 22 inch unit of exit width, which is used in all but the Uniform Building Code, represents the median width of the human body at shoulder height. Its origin is said to be in experience gained by the military.

The UBC requirements actually imply an exit capacity of 100 people per 24 inches of exit width. Using the 22 inch exit unit system this results in about 92 people per exit unit.

Code Analysis

Basic Building Code—1978

Capacity is based on a unit of egress width of 22 inches with 12 inches or more considered as ½ unit in addition to one or more units (608.1), except that a 40-inch door is considered to have two units of egress width.

Exit capacity (number of occupants) per unit of egress width (608.2):

	Without fire suppression system	With fire suppression system
Stairways	75	113
Doors, ramps, corridors	100	150

Minimum width:
- Corridors, ramps—44 inches (36 inches in 1- and 2-family dwellings)
- Door—32 inches (28 inches in 1- and 2-family dwellings)
- Stairway—44 inches (36 inches for occupancy load 50 or less)
- Fire escape—22 inches
- Passageway—44 inches or ¾ of aggregate widths of all stairways and doorways leading thereto, whichever is greater

Uniform Building Code—1979

The total width of exits (in feet) cannot be less than the total occupant load served divided by 50, divided about equally among the separate exits. The total exit width for any story is based on the occupant load of that story, plus a percentage of the occupant load of other floors which exit through the story under consideration: 50 percent of the first adjacent story above (and below, if applicable), and 25 percent of the story immediately adjacent to the first adjacent story. (3302(b))

Minimum width:
- Corridors, exit balconies, and passageways—44 inches for occupant load of 10 or more (36 inches within dwelling units) (3304(b))
- Doors—32 inches
- Stairways and ramps—44 inches for occupant load over 50; 36 inches for load of 50 or less (30 inches for private stairway) (3305(b))
- Exit courts—44 inches or tributary occupant load
- Fire escape (existing building only)—29 inches—clear access opening; 18 inches—stairs (Appendix Chapter 12, 1215(h))

Standard Building Code–1979

Capacity is based on a unit of egress width of 22 inches with 12 inches or more considered as ½ unit in addition to one or more units (1105.2)

Exit capacity (number of persons) per unit of egress width (1105.3):

Stairs....75
Level travel (doors, ramps, corridors)....100

The minimum width:
- Any means of egress—36 inches (1105.3(e))
- Exitway access, corridors, ramps—44 inches (36 inches in 1- and 2-family dwellings) (1105.3(g))
- Stair—44 inches (36 inches for 50 or less occupants (1115.6(c))
- Courts, passageways—36 inches or aggregate capacity of all tributary means of egress (1112(c)); 44 inches or ¾ of aggregate tributary stair and door width (1128.2)
- Door—32 inches (1117.1(b))
- Fire escape—22 inches—stairs (1116(d))

NFPA Live Safety Code—1976

Capacity is based on a unit of exit width of 22 inches with 12 inches or more considered as ½ unit in addition to one or more units (5–3.2)

Exit capacity (number of persons) per unit of exit width (11–1.6.1):
- Level egress, class A ramps, doors—100 People
- Stairways and other types of exits—75 People (See Table 5–2.9.4 for fire escapes)

Minimum width:
- Any exit access, Doors—28 inches (currently being changed to 32 inches)
- Stairs—44 inches for occupant load of 50 or more; 36 inches for occupant load of less than 50 (5-2.2.1.2)
- Fire Escapes—22 inches (18 inches for 20 or less occupants (5–2.9.4)
- Ramps—44 inches for Class A (5–2.6.1.2) 30 inches for Class B (5–2.6.1.2)
- Exit Passageway—Aggregate of tributary capacities (5–2.7.3)
- Street floor exit—Aggregate capacity of street floor and ¾ of exit units of stairs from other floors discharging through street floor (11–2.2.3.1)

Summary

Three of the codes use the 22-inch exit unit in computing required exit widths. The Uniform Code differs from the other three codes in the method used; however, the resulting widths are close. Only the Basic Code allows an increase in the capacity per unit of egress width if the building is sprinklered.

Minimum widths are generally similar for all the codes, except that the Life Safety Code, as currently revised, accepts a minimum corridor width of 32 inches. The other codes require 44 inches in apartment buildings.

Identifying Existing Conditions

- Determine the number of exit units or feet of exit (depending on the code in effect) for each exit element identified in Section 1: NUMBER OF EXITS above; for each access corridor or hallway leading from any apartment to an exit; and for each grade level egress. Base the computation on the number of occupants served by the element in question, in accordance with the code in effect. When communicating stairs or other openings are present, attention must be given to the potential need for the simultaneous evacuation of multiple floors.
- Determine the required width of each egress element, corridor or hallway.
- Determine or measure the actual width of each egress element, corridor or hallway, and grade level egress identified above, by field measurement or scaling dimensioned plans.

Selected Problems and Representative Solutions

10.1 *Problem:* The width of a particular existing element, or a new element constrained by structural or architectural features of the building, is less than the minimum width specified in the code in effect.

Solution: If the element is wide enough to provide the required exit capacity and is equal to or greater than some minimal dimension, though lower than that specified in the code, it should be accepted. This new minimum should be over 22 inches. Twenty-eight inches should be considered, as formerly specified for some elements by all four codes.

Discussion: In most cases, considerations of functionality (movement of furniture, etc.), appearance, marketability, and accessibility to the handicapped will result in minimum dimensions greater than those suggested above, and may in fact, have been the reason for the higher minimums specified in current codes. For egress only, however, one unit of exit width should be adequate given the lower occupant loading. A higher minimum than 22 inches is suggested, since that dimension represents a median width of the human body at shoulder height.

11. *Construction Details and Specifications*

Summary of Code Requirements and Intent

Code Intent. The codes set out many other requirements for egress components. Typical areas include: allowable materials, handrails, tread and riser design, landings, platforms, guards, door hardware, signage, lighting, alarms, and emergency lighting. The intent of these provisions is to ensure a quality design that will promote safe and easy passability. The individual code requirements have not been set out because they are too numerous and highly specific.

Identifying Existing Conditions

The relevant features should be noted on the building plans or may be studied by a visual inspection of the physical structure.

Selected Problems and Representative Solutions

Because these provisions tend to be highly specific and detailed, existing egress components will often not be in compliance. However, the impact or effect of the deficiency must be realistically appraised in light of the number of occupants that will rely upon the egress component in question and their ability to use the egress component as it presently exists. If the numbers are small and the people generally representative of the population at large, then minor deviations should be tolerated.

For additional guidance to understanding potential problems and solutions related to stairway design, refer to NBS Building Science Series 108, *"Safety on Stairs"*, November 1978, and Building Science Series 120, *"Guidelines for Stair Safety"*, May 1979, National Bureau of Standards, U.S. Department of Commerce.

Of the many potential problems, there are three that appear the most common and raise the greatest concern.

11.1 *Problem:* Existing winding and/or spiral stairs not permitted by the code in effect.

Solution: Allow their continued use if occupants are generally representative of the population at large (mobile, agile, and capable of rapid movement under emergency condition); upgrade stairs in all other respects, particularly handrails and lighting.

Discussion: Winding or spiral stairs are not favored because the uneven tread pattern and changes in direction can make passage difficult. The use of these stairs could be continued if the occupants can be expected to use them safely and the stairs complied in other respects (e.g., not excessively steep or narrow). Lighting should be improved if necessary; emergency lighting, handrails, etc. should be improved or provided.

11.2 *Problem:* Non-conforming tread and riser dimensions.

Solution: Accept stairs which are steeper than those permitted by the code in effect. Handrails should be provided on both sides, and stairs should be upgraded where necessary. See Section 10: EXIT CAPACITY/WIDTHS for stairs less than the required minimum.

Discussion: All codes contain minimum tread and maximum riser dimensions. Some codes use the mathematical formula that the sum of (2 x rise) + run must be between 24–25 inches. Such criteria may arbitrarily eliminate stairs which are otherwise quite passable. Rather than the absolute values of stair dimensions, it is the non-uniformity of tread or riser dimensions within a given flight of stairs which is a major cause of stairway accidents. Non-conforming stairs may be considered for acceptance if they are uniform, and the occupancy is such that those who may need the stairs in an emergency are familiar with the particular characteristics. As in 11.1 above, the stairs should be otherwise of high quality and passable. Lighting should be improved if necessary; emergency lighting, etc., should be improved or provided.

11.3 *Problem:* Ceiling heights for stairs, passageways, etc. are lower than minimum specified by the code in effect.

Solution: Allow the continued use if passable by the occupants, provided the ceiling height is no less than the minimum door height specified by the code in effect.

Discussion: Low ceiling heights make an exit not only physically difficult to traverse, but can create an impression of closeness or of a closed space that may create a sense of apprehension, particularly if the path is also narrow or somewhat lengthy. If the number of occupants is low so that crowding would not be expected and the distance is not excessive, discretion should be exercised. The familiarity of the occupants with this egress component should also be considered. Lighting, particularly emergency lighting, is very important. A regular pattern of markings showing the direction of the ultimate exit to the outside can also be reassuring. Other aspects of the egress component should be improved or provided if missing.

Electrical Guideline for Residential Rehabilitation

Introduction

This guideline addresses only those select problem areas most identified with rehabilitation projects. The guideline is not a code, but like an electrical code, it is intended for use by persons knowledgeable about electrical design and installations. In general, the guideline addreses three subjects:
- setting and adopting electrical rehabilitation standards at the state or local level;
- inspecting existing electrical installations; and
- problems and solutions for hazardous conditions, adequate load-carrying capacity, and additions, alterations and extensions to existing electrical installations.

With regard to problems and solutions, this guideline is intended to be used in all types of residential occupancies except hotels, rooming houses, dormitories and housing for the elderly. Its use is intended to facilitate rehabilitation by the maximal re-use of existing installations in circumstances where, for some reason, code requirements for new construction are being applied to a project undergoing rehabilitation. In general, there are two such circumstances:

- repair and improvement of existing

Electrical Code Committee has

convenience outlets on two (2) such

installations when the authority needs

Therefore, consider detaching fixed

maintenance, fire

- repair and improvement of existing residential buildings when compliance with the code requirements for new construction is triggered by a 25–50% Rule or similar rule which is in effect in the jurisdiction; or
- change of use or occupancy into a residential occupancy (e.g., from one- and two-family dwelling to apartment building, from hotel to apartment building, etc.) when compliance with the code requirements for new construction is triggered by the provisions of the code in effect or some other provision.

In the latter circumstance (change of use or occupancy), this guideline should be used when it is feasible to reuse some portion of an existing electrical installation.

It has been long recognized that electrical codes pose special problems for rehabilitation projects. Some communities have adopted special electrical codes to be used for rehabilitation. For example, the City of Detroit's electrical code for rehabilitation is shown in Appendix 1 to this guideline. Some of the model electrical codes give the code enforcement authority the responsibility for making interpretations of the rules, for granting exceptions to the rules, and for waiving specific requirements of the code. An example of this "flexible" approach is provided by the National Electric Code (NEC):

- "Section 90–2.(c) Special Permission. The authority having jurisdiction for enforcing this Code may grant exception for the installation of conductors and equipment, not under the exclusive control of the electric utilities and used to connect the electric utility supply system to the service entrance conductors of the premises served, provided such installations are outside a building or terminate immediately inside a building wall."
- "Section 90–4. Enforcement. This Code is intended to be suitable for mandatory application by governmental bodies exercising legal jurisdiction over electrical installations and for use by insurance inspectors. The authority having jurisdiction of enforcement of the Code will have the responsibility for making interpretations of the rules, for deciding upon the approval of equipment and materials, and for granting the special permission contemplated in a number of the rules."
- "Section 90–5. Formal Interpretations. To promote uniformity of interpretation and application of the provisions of this Code, the National Electrical Code Committee has established interpretation procedures."

1. Establishing Standards for Electrical Rehabilitation

A community that may wish to use this guideline may also have a need to set standards for rehabilitating electrical installations. A process for doing this is discussed in detail in the *Guideline for Setting and Adopting Standards for Building Rehabilitation.*

In addition to the information in this guideline that a community may use to establish suitable requirements and criteria for rehabilitation, there are a number of other sources of information which may be used as a basis for setting electrical rehabilitation standards. Current electrical codes, such as the NEC, are one such source of rehabilitation standards information. Although these codes principally regulate new construction, and therefore may not adequately address the problems of rehabilitating existing buildings, certain of the provisions of electrical codes for new construction may be applicable. For example, those provisions regulating grounding, feeders and service ratings can be adopted as electrical rehabilitation standards when a community wishes to maintain a level of performance in rehabilitated buildings which is the equivalent to that for new construction.

In addition, the "alternative materials and methods" provision of new construction codes provides a concept by which some solutions to problems of electrical rehabilitation can be developed that are different from those prescribed by the current code.

Property maintenance codes, fire prevention codes, and hazard abatement codes could be another basis for setting electrical rehabilitation standards. As the following excerpts from some of these codes illustrate, they do not contain precise enough information to be useful in setting specific standards. They are useful, however, as a general basis for establishing both minimum levels of performance and levels of performance less than that required by new construction codes.

The BOCA Basic Property Maintenance Code states in Section H–602.0, ELECTRICAL FACILITIES:

"H–602.1 Outlets required: Where there is electric service available to a structure, every habitable room of a dwelling unit, and every guest room, shall contain at least two (2) separate and remote outlets, one (1) of which may be a ceiling or wall-type electric light fixture. In a kitchen three (3) separate and remote wall-type electric convenience outlets or two (2) such convenience outlets and one (1) ceiling or wall-type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one (1) electric light fixture, In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one (1) electric outlet."

"H–602.2 Installation: All electrical equipment, wiring, and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of the approved type."

"H–602.3 Defective system: Where it is found, in the opinion of the building official, that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, he shall require the defects to be corrected to eliminate the hazard."

Similarly, the BOCA Basic Fire Prevention Code states in Section F–105.0, ORDERS TO ELIMINATE DANGEROUS OR HAZARDOUS CONDITIONS, F–105.1 General:

"Whenever th fire official or his designated representative shall find in any structure or upon any premises dangerous or hazardous conditions or materials as follows, he shall order such dangerous conditions or materials to be removed or remedied in accordance with the provisions of this code: . . . 7. hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances;"

Past electrical codes for new construction are an expecially important source of information for setting electrical rehabilitaton standards. The levels of safety required by past electrical codes are different from, and may be lower than, the current electrical codes. Past codes, however, are most useful in determining after an on-site inspection whether an existing building currently meets the code under which it was built.

Finally, laws and regulations affecting electrical installations which apply retroactively to exiting buildings are by definition mandatory standards for electrical rehabilitation.

2. Inspection

In the process of submitting proposed electrical rehabilitation work to an authority having jurisdiction, it will be necessary to inspect existing electrical installations when the authority needs more information about the work to be done (see *Guideline for Approval of Building Rehabilitation).* Inspections are also an essential part of enforcing property maintenance, fire prevention and hazard abatement codes.

This part of the guideline contains a procedure for conducting inspections of existing electrical installations to determine their physical condition, functional condition and load-carrying capacity.

Even if electrical construction drawings and/or specifications of an existing building are available, they are not always be useful for determining the present physical and functional condition of the electrical installation; these conditions can only be determined from an on-site inspection. However, if it is determined that electrical construction drawings accurately and completely represent the present electrical installation in an existing building, they could be used in conjunction with the current electrical code to calculate the installation's load-carrying capacity.

It is recommended that inspections be made by qualified electrical personnel, as determined by each jurisdiction.

2.1 Physical Condition—Step 1

Determine the physical condition of the existing electrical installation including individual dwelling units and common areas of multi-family dwellings. Inspect the physical condition of the parts of the installation which are normally exposed to view.

Next turn off the power of individual dwelling units and common areas of multi-family dwellings, and remove the covers and open the doors of switchboards, panelboards, cabinets and boxes. Inspect the physical condition of the exposed, internal components and wiring, as well as the surrounding building construction.

If the condition of the conductor insulation can't be determined by inspection, perform an insulation resistance test. Similarly, if the condition of receptacles can't be determined by inspection, test them by inserting a standard type flexible cord attachment plug.

Detach fixed utilization equipment such as lighting fixtures, lampholders and appliances (built-in electrical space heaters for example) to inspect the physical condition of their exposed, internal components and wiring, as well as the surrounding building construction. However, in older buildings, detachment may contribute to, or actually cause, defects in equipment, appliances or wiring. Therefore, consider detaching fixed utilization equipment only when:

(1) Such wiring, equipment or appliance is part of a rehabilitation plan;

(2) Problems are evident from the first inspection of parts which are normally exposed to view; or

(3) Problems of function are evident from inspection or records, or are identified by owners or tenants.

2.2 Functional Condition—Step 2

If the physical condition of the installation seems safe, determine the functional condition with the power on in individual dwelling units and in common areas of multi-family dwellings. Inspecting an installation with the power on is essential to determining its condition.

When a building or dwelling unit is without power because it is unoccupied or an imminent hazard exists, determining functional condition may have to be delayed until after rehabilitation has begun, or an exploratory permit may have to be secured by the building owner from an authority having jurisdiction to turn the power on.

Remove the covers and open the doors on equipment to expose circuit breakers, switches, receptacles and other devices, and conductor splices and connections; then:

(1) Operate circuit breakers, switches, other operable devices and fixed utilization equipment;

(2) Observe the function of operable devices; and

(3) Observe the operation, and assess the operating temperatures of fixed utilization equipment.

Make inspections to determine the physical and functional conditions of existing electrical installations in accordance with the current code, such as NEC Section 110–3(a). Whenever possible, as an aid in assessing an installation's condition, secure information from owners, tenants or from records of jurisdictions having authority about past operating problems that cannot be found easily by inspection, such as the frequency of fuses blowing or short circuits.

2.3 Load-Carrying Capacity—Step 3

Determine the load carrying capacity of the existing electrical installation by calculation in accordance with the current code.

3. Problems and Solutions

3.1 Hazardous Conditions

Problem. The existing electrical installation has any one or combination of the following conditions which are contrary to the intent of properly maintenance, fire prevention and hazard abatement codes:

(1) Equipment or wiring is missing, broken, disconnected, loosely connected, unsupported, not securely fastened in place, corroded, burnt, cracked, split, has evidence of overheating, physical damage or misuse;

(2) Equipment is dirty or contains debris;

(3)Wiring is frayed;

(4) Labeled or listed equipment or wiring is not installed in accordance with any labeling or listing instructions;

(5) Circuit breaker, fuse, switch, receptacle, other device, fixed utilization equipment or wiring is not compatible with the phase, voltage, amperage or type characteristics of the electricity in use;

(6) circuit breaker, switch or other operable device has visible evidence of arcing or overheating;

(7) receptacle contact devices are not firmly in contact with the contact devices of a standard type flexible cord attachment plug when the plug is inserted in the receptacle;

(8) bathroom receptacle, garage receptacle or outdoor receptacle with direct grade level access is without ground fault circuit interruptor protection;

(9) neutral is not grounded at the main service entrance equipment location by a properly connected grounding electrode conductor;

(10) polarity is reversed in wiring connections to receptacle outlets;

(11) fixed utilization equipment, such as a lighting fixture, lampholder or appliance, operates intermittently;

(12) building construction adjacent to wiring, equipment or appliance is burnt;

(13) service, feeder or branch circuit conductors have evidence of intermittent operation, impaired operation or cannot otherwise be determined as acceptable when the installation is energized;

(14) flexible cord is used as a permanent wiring method;

(15) branch circuit, feeder, switchboard, panelboard or distribution board service rating is inadequate for the load calculated in accordance with the current code; or

(16) pull-chain switch or brass shell socket in a wet or damp location is within reach.

Solution. Have all such conditions corrected.

Discussion. These conditions are hazards of varying degrees. They are problems associated with defective or improperly used or improperly installed wiring, equipment or appliances. If any one or combination of these conditions is extensive, severe or occurs frequently

in an installation, an authority having jurisdiction may judge that an imminent hazard exists. In that case, the hazard must be corrected immediately or the installation disconnected.

If flexible cord is used as a permanent wiring method (condition 14), this may indicate the need for more receptacle outlets (see 3.8 of this Guideline).

3.2 Incompatible Conductors, Devices or Equipment

Problem. Circuit breaker, fuse, switch, receptacle, other device, fixed utilization equipment, raceway, connector, terminal, splicing device or other fitting is not compatible with the type of conductor used, or the electrical connection doesn't meet the current code, such as NEC Section 110–14.

Solution. Have all such connections of conductors to terminal parts, conductor splices, or conductors joined with splicing devices corrected to meet the current code, such as NEC Section 110–14(a) and 110–14(b); and have all incompatible conductors, devices or equipment corrected to meet the current code, such as NEC Section 110–14, by:

(1) Replacing existing conductors with new conductors which are compatible with the existing devices or equipment; or

(2) Replacing existing devices or equipment with new devices or equipment which are compatible with the existing conductors; or

(3) Installing an insulated conductor "pigtail" compatible with the existing device or equipment.

Discussion. Improper connections and splices, and incompatible conductors, devices and equipment can be hazardous. There are problems associated with defective or improperly installed wiring or equipment. These conditions, depending upon the number and severity of the problems, may be judged an imminent hazard by an authority having jurisdiction. If that is the case, the hazard must be corrected immediately or the installation disconnected.

3.3 Grounding of Fixed Appliance Branch Circuits

Problem. An existing fixed appliance branch circuit doesn't have an equipment grounding means which is required by the current code.

Solution. Permit ungrounded, non-conforming, existing fixed appliance branch circuits to remain, provided:

(1) Alternative grounding is provided for appliances by the connection of an equipment grounding conductor to a grounded, metallic, cold water pipe;

(2) Service equipment, service raceways, service grounded conductors, switchboards and panelboards are grounded in accordance with the current code, such as NEC Article 250, or alternative grounding is provided by the connection of an equipment grounding conductor to a grounded, metallic, cold water pipe;

(3) Branch circuit equipment grounding conductors are in accordance with the current code, such as NEC Article 250; and

(4) Ungrounded, non-conforming, existing, general purpose branch circuits conform to 3.4 of this guideline.

Discussion. This alternative method of grounding existing fixed appliance branch circuits is not the method usually required by code, but it will provide an equivalent level of safety. And, since this alternative method is relatively simple to install, it is an aid to rehabilitation. But, it's important to make sure in such installations that equipment grounding conductors are connected to *cold* water pipes which are *metal* and which are *grounded.*

3.4 Grounding of General Purpose Branch Circuits or Feeders

Problem. An existing general purpose branch circuit or feeder is without an equipment grounding means which is contrary to the current code.

Solution. Allow ungrounded, non-conforming, existing, general purpose branch circuits or feeders to remain, provided that:

(1) no circuit or feeder is overloaded when the load-carrying capacity is calculated as in 2.3 of this guideline;

(2) no general purpose branch circuit serves loads required by the current code to be served by small appliance branch circuits; and

(3) no receptacle outlet or fixture is located where it will be in reach of grounded surfaces.

Discussion. An existing general purpose branch circuit or feeder without an equipment ground which is inspected, found to be still in acceptable physical and functional condition, and is not overloaded, can be considered to have a history of operating safely. Therefore, its safe operation can be expected to continue, and it may be allowed to remain. It is important that such a circuit doesn't serve as an appliance branch circuit; that in calculating loads on it, both existing loads which won't be affected by rehabilitation, and new loads which are a result of rehabilitation be used; and that the receptacle outlets and fixtures on such a circuit are safely located out of reach of grounded surfaces.

3.5 Undersized Service

Problem. The size of the service is inadequate for the load as calculated according to the current code.

Solution. Recalculate the size of the service for the actual connected (installed) load and the loads for circuits calculated according to the current code, provided:

(1) The service disconnecting means has a rating not less than the actual connected load;

(2) Loads established for branch circuits and feeders are determined with the diversities and calculation methods defined in the current code; and

(3) All other aspects of the service meet the current code, such as NEC Tables 310–16 to 19 including the notes to those Tables, Article 210, Article 220, Article 240 and Article 230 except Section 230–79(c) for single-family dwellings and Section 230–79(d) for all other occupancies.

Discussion. In determining the actual connected load, include both existing loads which won't be affected by rehabilitation and new loads which are planned as a part of rehabilitation. The probability of the use of room air conditioners should also be considered. By using energy sources other than electricity, electrical loads can be reduced. Therefore, consider the use of other energy sources for cooking, heating and domestic hot water. Determining existing loads and new loads planned as a part of rehabilitation requires judgment. If there is any indication that loads will increase in the future, this should be taken into consideration. Using the actual installed load is a means of control otherwise unnecessary rehabilitation, while maintaining the standards of safety required by the current code.

3.6 Second Service Entrance and Disconnect

Problem. In one- and two-family dwellings, the existing service rating is to be increased by the addition of a second service entrance and a second service disconnect in order to meet the current code or this guideline, but space is limited or there are other, similar constraints.

Solution. Add the second service entrance and the second service disconnect at a location different from the existing service disconnect, provided:

(1) Both disconnects meet the current code, such as NEC Section 230–44 and 230–72(a) and (c);

(2) Permanent warning signs are erected at each location indicating separate service disconnects; and

(3) The combined rating of the separate service disconnects is not less than that required by the current code or recommended by other sections of this guideline for a single service disconnect.

Discussion. These recommendations are intended to eliminate the potential hazard of installing a single, new, service entrance in an inappropriate location, and are a means to control otherwise unnecessary rehabilitation. Any hazard associated with a "split" service is also eliminated by the suggested provisions of the recommendations, and the restriction of split service to residences of no more than two families. A split service installed as recommended is an alternative to the current code which may provide an equivalent level of safety.

3.7 Extending General Purpose Ungrounded Branch Circuits

Problem. An existing general purpose branch circuit that is to be extended conforms to the current code, but doesn't have an equipment grounding means.

Solution. Permit ungrounded, non-conforming, general purpose branch circuits to be extended to all locations except kitchens, baths, basements, garages and locations within reach of grounded surfaces.

Discussion. Kitchens, baths, basements, garages and locations within reach of grounded surfaces represent a particular hazard as compared to other locations. That hazard is reduced by equipment grounding means installed according to the current code or this guideline.

3.8 Number of Receptacle Outlets

Problem. The number of existing receptacle outlets is less than required by the current code.

Solution. Permit fewer receptable outlets than required by the current code.

Discussion. The number and location of receptacle outlets required for the safe and convenient use (as this bears on safety) of rooms and spaces varies and can best be determined by the judgment of communities and jurisdictions individually. Such factors as number of occupants, floor area, room configuration, and window and door locations all affect determining that number and location of receptacle outlets which meets the intent of the current code. Examples of such reductions in the number of required receptacle outlets are contained in the BOCA Basic Property Maintenance Code, Section H–602.0, ELECTRICAL FACILITIES which is quoted in 1 of this guideline, and in Appendix 1 to this guideline, Chapter 10, Official Electrical Code of the City of Detroit.

3.9 Access to Electric Equipment

Problem. The configuration of access space to, and working space around, electric equipment to permit ready and safe operation and maintenance of the equipment is different from that required by the current code, such as NEC Section 110–16.

Solution. Permit such existing space to remain when the intent of the current code can be met.

Discussion. Equipment accessibility and working space are essential to safety. If the existing space meets the requirements of the past code under which it was constructed, if additional equipment and/or new equipment of a higher service rating is not to be installed, and if the installation has a history of safe operation, maintenance and repair; these considerations may be a basis for permitting the existing space to remain unchanged.

Appendix 1—Detroit Electrical Code, Chapter 10

Chapter 10 of the code is added as follows:

1000–1. Minimum standards for existing dwelling units.

If inspection reveals that the wiring system of an existing dwelling type occupancy is inadequate, or if code certification as a habitable dwelling under this section is requested, the following minimum requirements shall be complied with:

(a) **Entrances and Exits:** Where two (2) or more entrances and/or exits exist, at least two (2) entrances and/or exits shall be illuminated by exterior lights. Lighting outlets shall be controlled by interior wall switches, located for convenient and readily accessible use.

(b) **Living Room:** Living room shall be provided with illumination. Lighting outlet shall be controlled by a wall switch, located for convenient and readily accessible use. One of the receptacle outlets controlled by a wall switch in lieu of ceiling lighting outlet is acceptable. Convenient duplex receptacle outlets shall be provided. Receptacle outlets shall be equally spaced around the room with at least one duplex receptacle outlet on each wall.

(c) **Kitchen:** Kitchen shall be provided with illumination. Lighting outlet shall be controlled by a wall switch located for convenient and readily accessible use.

A separate kitchen appliance circuit shall be provided, supplying a minimum of three (3) grounding type duplex receptacle outlets. Two (2) of these receptacles shall be readily accessible for convenient use of portable appliances. New appliance circuits shall be twenty ampere capacity.

(d) **Bathroom:** Bathrooms shall be illuminated. Lighting outlet shall be controlled by a wall switch. A receptacle outlet separate from the light fixtures, shall be provided and shall be located at least thirty (30) and not more than forty-eight (48) inches above the floor adjacent to the wash basin and not more than four (4) feet from the basin.

(e) **All Other Habitable Rooms:** Illumination for each habitable room shall be provided. Lighting outlet shall be controlled by a wall switch. Wall switches shall be located for convenient and readily accessible use. Convenience duplex receptacle outlets shall be provided with a minimum of two (2) receptacle outlets equally spaced around the room. An additional receptacle outlet controlled by a wall switch is acceptable in lieu of a lighting outlet.

(f) **Basement:** Basement shall be wired for a minimum of one lighting outlet in each 200 square feet or major fraction of area for use as general illumination. All enclosed areas that may be walked into, such as toilet rooms, fruit storage rooms, utility rooms, excavated areas under porches, etc., shall be provided with at least one lighting outlet (except coal bins).

Stairwell and laundry area lighting outlets shall not be counted as part of the required basement lighting outlets.

(g) **Laundry Areas:** Laundry areas shall be provided with illumination. Laundry circuit shall be an individual circuit. A wall-mounted grounding type duplex receptacle outlet shall be provided, located near the laundry equipment.

An existing drop cord receptacle outlet on a separate circuit shall be acceptable providing it is a grounding type receptacle outlet not more than five (5) feet six (6) inches above the floor.

(h) **Space Heating System:** Heating equipment requiring electrical energy for operation and/or control shall be provided with an individual circuit. A disconnect switch shall be provided on or adjacent to the heating equipment (exception: thermo-pile controlled furnaces).

(i) **Stairwells:** Stairwells shall be adequately illuminated. Lighting outlets shall be controlled by wall switches. Wall switches shall be located for convenient and readily accessible use. Switches shall not be located where it is necessary to use darkened stair sections for their operation. All stairwells to finished portions of dwelling shall be

provided with multiple switch control,

provided with multiple switch control, one at the head the other at the foot of the stairwell.

(j) **Service and/or Feeder:** Service to existing dwelling unit shall be a minimum of one hundred ampere, three wire capacity, service equipment shall be dead front having no live parts exposed whereby accidental contact could be made. Type "S" fuses shall be installed when fused equipment is used.

Exception: Existing service of fifty-five ampere three wire capacity, and feeders of thirty ampere or larger two or three wire capacity shall be accepted if adequate for the electrical load being served.

(k) **Existing Wiring and Equipment:** Existing wiring and equipment shall be in good repair. Circuit extensions made with flexible cord wiring in lieu of permanent wiring shall be eliminated.

1000–2. **New Work.** All new work shall conform to this ordinance.

1000–3. **Evidence of inadequacy.** Evidence of inadequacy shall be any of the following:

(a) Use of cords in lieu of permanent wiring.

(b) Oversizing of overcurrent protection for circuits, feeders or service.

(c) Illegal extensions to the wiring system in order to provide light, heat or power.

(d) Electrical overload.

(d) Misuse of electrical equipment.

(f) Lack of lighting fixtures in bathroom, laundry room, furnace room, stairway or basement.

Plumbing DWV Guideline for Residential Rehabilitation

I Prologue

Introduction

The Plumbing DWV Guideline for Residential Rehabilitation is intended to be used in all types of residential occupancies. It is not a code, but like a plumbing code, it is intended for use by persons knowledgeable about building plumbing design and installation. Its use should facilitate rehabilitation in circumstances where, for some reason, code requirements for new construction are being applied to the project undergoing rehabilitation. In general, there are two such circumstances:

- Repair and improvement of existing residential buildings, when compliance with the code requirements for new construction is triggered by a 25–50% Rule, or similar rule, which is in effect in the jurisdiction.
- Change of use or occupancy into a residential occupancy (e.g., from one- and two-family dwelling to apartment building, from office building to apartment building, etc.), when compliance with the code requirements for new construction is triggered by the provisions of the building code in effect, or some other provision.

In the latter circumstance (change of use or occupancy), this guideline should be used when it is feasible to reuse existing drainage, waste and vent (DWV) piping in the building, or when existing structural or architectural elements in the building pose physical constraints to the installation of new DWV piping.

Plumbing DWV requirements for new construction in building and plumbing codes are often viewed as major rehabilitation problems. Requirements to install new DWV systems in existing buildings which fully comply with current code provisions often lead to extensive additional structural and finish work. There are several aspects to this problem:

- Existing vent systems may not comply with prevailing code provisions for pipe sizing, connections, use of wet venting, and vent location, although they may provide adequate health and safety as installed and used.
- The installation of new vents and drainage lines, even for new fixtures, may be constrained by the limitations of available space and/or the installed configuration of the existing piping system.
- The cost-effective use of existing DWV systems in rehabilitation projects requires judgment and flexibility by the municipal building department to a greater extent and in a different manner than is required in new construction.

The plumbing DWV and related provisions in various codes, adopted by states and local jurisdictions, are not necessarily consistent with one another. What is permitted in one code may not necessarily be permitted in another. However, the hydraulic principles underlying the functioning of plumbing systems, and the potential health and sanitation hazards involved in DWV systems, are the same.

Alternative guideline solutions to various DWV installation problems typically encountered in residential rehabilitation are presented herein. The application of these guidelines is intended to provide a level of health and sanitation which is generally equivalent to the level intended by current plumbing code requirements, while reusing existing DWV elements as much as is feasible.

These guidelines are based upon accepted plumbing and hydraulic engineering principles in general practice, and upon the experiences of recognized testing facilities. The synthesis of such practices and experiences provides a sound basis for the necessary judgment and flexibility required for implementation of these guidelines.

Arrangement of the Guideline

Because the guideline recommends greater flexibility in meeting the health and safety intent of current codes, an understanding of basic drainage and hydraulic concepts is essential to its use. A general discussion of these concepts precedes the guideline itself.

The guideline is arranged as follows:

1. Determination of Existing Conditions of the DWV System
   - 1.1 Inspection, System Schematics and Preliminary Evaluation
   - 1.2 Testing the Existing System
     - a. Structural Serviceability
     - b. Hydraulic Integrity
     - c. Functional Performance
   - 1.3 Estimating the Capacity of the Existing DWV System
2. Problems and Solutions (Proposed Modification)
   - 2.1 Correcting Existing DWV System Structural, Hydraulic and Functional Defects, and Surcharged Sewers
   - 2.2 Relocating Fixtures
   - 2.3 Adding New Fixtures, Extending Existing DWV Systems and/or Installing New DWV System in Existing Buildings
   - 2.4 Through-the-Wall Venting

Appendix A: Performance Criteria
Appendix B: Examples of Acceptable Practices.

Basic Drainage and Hydraulic Concepts

Function of the Drainage System

The function of the DWV system is to collect spent water from the vartious building fixtures and drains and to convey this waste water to the public sewer or sewage treatment facilities in a safe and efficient manner.

A "safe manner" means collection and transmission without the emission of sewer gases, foul odors, or suds into the inhabitable area of the building. Traps at the entrances to the DWV system provide water seals which prevent the escape of sewer gases. Most codes limit the pressure fluctuation within drainage systems to plus or minus 1-inch of water pressure under design load conditions. A more practical limitation, and the one used in this guideline, is *to limit the trap seal reduction to 1-inch of water under normal conditions of loading.* Acceptance of this concept permits the planning and carrying out of simple field tests on existing systems to determine their condition, and to provide a basis for approving modified systems in rehabilitated buildings.

An "efficient manner" means the conveyance of waste water and suspended solids without blockage. Efficient transport is a function of both velocity and depth of flow. The generally accepted criteria to ensure efficient performance is to size the horizontal drainage lines such that the velocity of flow is approximately 2 feet per second.

If the depth is not sufficient, solids will settle out. The depth of flow and water velocity are both influenced by the slope or pitch of the drain line. Increasing the slope from ⅛-inch per foot to ¼-inch per foot increases the velocity of the water while it decreases the depth of flow. Knowledge and understanding of these characteristics of flow provides the basis for adjusting the slope of existing building drains, which often determines the capacity of the plumbing drainage system.

Hydraulic Principles

The rate and volume of discharged spent water from plumbing fixtures and drains, as well as the frequency of fixture use, are important variables to the understanding of the functioning of the DWV system. Frequency of fixture use is high in public buildings, such as stadiums and theaters, and low in residential buildings. All fixtures will not operate simultaneously. Estimating fixture use in residential buildings requires only an estimate of the maximum number and combination of fixtures that may discharge simultaneously. In larger buildings, the fixture unit concept is employed. Existing DWV piping systems are not normally loaded to capacity; therefore, they will usually accept a limited number of additional fixtures without seriously decreasing the system's performance. The rate at which water exits from plumbing fixtures changes continuously. For water closets, the discharge typically begins a few seconds after the flush is started and gradually rises to a peak rate of approximately 30 gallons per minute, remaining constant for a few seconds and then gradually falling to zero. The use of water saving closets does not increase drainage problems since their peak discharge rate is similar to conventional fixtures. The discharge time for a typical lavatory is approximately 12 seconds and the peak flow rate is about 10 gallons per minute. This low flow rate and short duration suggest that lavorities have only a small influence on the functioning of the DWV system. Bathtub discharge is influenced significantly by the geometry of the outlet piping, and may have a significant effect due to its long duration. In most outlet arrangements, the rate of discharge rises to approximately 12 gallons per minute almost instantly and thereafter decreases continuously as the tub drains. Water conserving shower heads reduce flow rates, and thereby improve the effects of bathtub discharge characteristics on the DWV system.

Flow in Drains and Stacks

The flow of spent water in horizontal drainage systems may ber described as separated flow since the horizontal drain is generally only partially filled. Water moves through the lower part of the pipe, while air flows through the upper part.

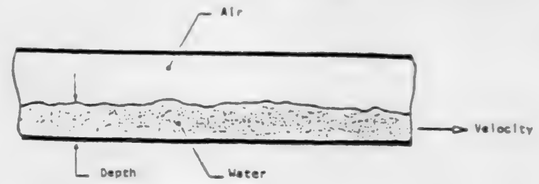

The velocity and depth of the water flow in horizontal drains continually changes. As the volume of water increases, the depth of flow also increases, displacing the air above it. When most of the air space is filled with water, turbulence increases significantly, and even small water pulsations disturb trap seals in the system's plumbing fixtures. Therefore, horizontal drains are designed to flow no more than half full.

The flow in vertical drains or stacks is entirely different. As water enters the stack it attaches itself to the walls of the pipe, forming an annulus. This cylinder of water falls down the pipe, dragging air with it.

The establishment of annular flow is rapid. It occurs within several feet of the point where the water enters the pipe. Increasing the volume of water increases the annulus thickness. When the volume of water occupies approximately ⅓ of the cross-sectional area of the pipe the annular flow breaks down, causing extreme turbulence and pulsations which may result in the loss of trap seals. Small diameter vertical pipes close to fixture outlets are susceptible to breakdown of the annular flow which may result in self siphonage of the fixture. It is for this reason that S traps have been prohibited by codes.

The most critical area in a drainage system is at the base of the stack. In this region the flow must change from the annular flow of the stack to the separated flow of the horizontal drain.

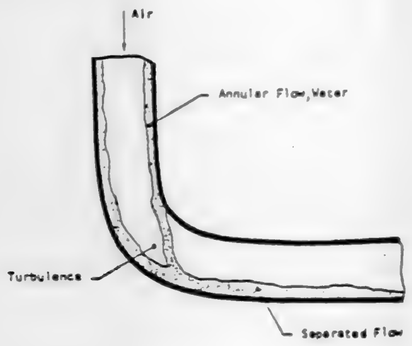

The disturbance at the base of the stack may be large, and significant positive pressures may be generated which, if not relieved, cause blowback—the reversed passage of water through the trap. If the transition is smooth, much of the air is carried away through the horizontal drain.

Horizontal drains are not able to transport spent water at the same velocity as stacks. This results in a phenomenon called hydraulic jump. The change in velocity from approximately 15 feet per second in the stack to 2 feet per second in the horizontal drain forces an increase in the depth of flow. Recently it has been found in laboratory tests that this rise in the water level occurs much further downstream than the generally accepted 10-pipe diameters. What has been observed in the immediate vicinity of the base of the stack is a washing of the sides of the drain which may cause temporary blockage of fixture drains or vents that enter nearby. Fittings rolled up to 45 degrees are effective in avoiding problems in this area.

Modes of Trap Failure

The traps of a drainage system may fail by one or more of the following means:

- *self-siphonage*, or reduction of the trap seal as a result of siphonic action by the discharge of the fixture to which the trap is connected
- *induced siphonage*, or reduction of the trap seal as a result of siphonic action by discharge of fixtures other than the one to which the trap is connected
- *blowback*, or the emission of water, air, sewer gas or suds into the fixture or the inhabited area of the building through the fixture trap
- *cross-flow*, or the movement of waste water from the trap, trap area or branch drain of an operating fixture to the trap, trap area or branch drain of an idle fixture.

The first of these modes of failure, self-siphonage, is a function of fixture and branch piping characteristics. Plumbing fixtures which exhibit a sharp fall off in flow, such as round bottom lavatories, are more sensitive to self-siphonage than those with more gradual changes in flow. Traps serving bathtubs are rarely subject to self-siphonage. Self-venting trap arms and branch drains can be designed to prevent self-siphonage through knowledge of the fixture discharge characteristics and correct pipe sizing and configuration.

Induced siphonage, blowback and cross-flow are prevented through correct venting design and installation. Every drainage system has a basic hydraulic capacity which may be increased by the addition of vents. The function of venting is to maintain close to atmospheric pressure in the drainage system so that trap seals will not be disturbed. A sure way to protect the DWV system is to provide individual fixture vents, an obviously expensive approach. Among the more economical alternatives that have been developed, tested and commonly approved for residential buildings are stack venting and wet venting.

In stack venting, fixture traps are protected by venting provided through the upper portion of the soil or waste stack. Successful installations require that fixtures be connected to the stack independently, in the order of their rate of discharge (those with the highest rate of discharge placed at the lowest point in the module), and at those parts of the stack where the pressure fluctuations are small. Most codes allow stack venting of fixture traps on the top floor of a building.

Wet venting is a technique that uses the drainage pipe itself for venting of selected fixture traps. In practice, wet vents receive only the spent water from fixtures that have a low rate of discharge. These fixtures need not enter the stack independently, and in many installations groups of fixtures connect to a single horizontal branch. A variety of wet vented modules have been developed and accepted by various codes over the years.

Progressive plumbing designes incorporate wet vented and stack vented modules as major DWV

components, supplemented by individually vented fixtures where required by design restraints.

II Guideline

1. Determination of Existing Conditions of the DWV System

In the process of determining the need for and extent of building rehabilitation involving the plumbing DWV system, and of submitting such proposed rehabilitation work to a building department, it will be necessary to determine the existing conditions of the DWV system in the building. This determination is needed by the building owner and designer, as well as by the building official who may need more information about the work to be done (see *Guideline for Approval of Building Rehabilitation).*

This part of the guideline contains discussions of inspection procedures, documentation, testing and methods for estimating system capacity which may be required to determine existing conditions.

1.1 *Inspection, System Schematics and Preliminary Evaluation.* A field inspection of the existing DWV system should be carried out to provide the following general information:

- Overall physical condition of the system.
- Evidence of impaired structural serviceability and hydraulic integrity of parts of the system.
- Configuration and sizing of the system.
- Existence of surcharged sewers.
- Rehabilitation program requirements affecting building structural and architectural elements, as well as the DWV system.

Based upon this inspection, and in conjunction with data from any available plumbing construction drawings and specifications, a schematic diagram of the DWV system should be prepared. Such a diagram will provide information necessary for establishing the following:

- Scope of the system and related building elements.
- The need for modification or amplification of the functional performance test discussed in 1.2 below, and the number of tests to be performed.
- Calculation of the installed capacity and the code-permitted capacity of the installed DWV system, discussed in 1.3 below.

1.2 *Testing the Existing System.* a. *Structural Serviceability.*—In most cases, physical testing to determine structural serviceability of the DWV system is unnecessary. Adequate evidence related to structural serviceability may be obtained by the following:

- Careful attention to those areas where the DWV system is exposed to view.
- Evidence of exposure to freezing temperatures.
- Evidence of fire damage.
- Careful attention to the DWV system's attachments to, and penetrations of, the building structure.

b. *Hydraulic Integrity (Watertightness).*—In addition to the inspection for hydraulic integrity, when all evidence of leaks is to be noted, one or more of the following tests should be performed to determine the watertightness of the DWV system and to locate leaks, if any.

If the DWV system and connected fixtures are intact, perform the *Finished Plumbing Test* described below, keeping in mind that the test method involves a thick pungent smoke, and may be impractical or difficult to perform in a partially occupied building.

If the Finished Plumbing Test cannot be performed on the intact system, perform the *Flow Test* described below.

If the DWV system is not intact, perform the *Rough Plumbing Test* described below.

Each of these tests provides evidence on the watertightness of the DWV system. If the DWV system has been in recent and continuous use and has not developed any leaks, and if the proposed rehabilitation is not extensive, consideration should be given to performing no tests for hydraulic integrity.

Where available, standard test procedures included in the local plumbing code should be followed for each of the tests briefly specified as follows:

Finished Plumbing Test. The test of intact DWV system should be performed by filling all traps with water and then introducing into the system, near the base of the stack, a thick pungent smoke. When the smoke appears at the vent openings, they shall be closed and a pressure equivalent to a 2-inch water column attained. This pressure shall be held for 15 minutes before inspection starts.

Flow Test. The flow test should be performed on all parts of the intact DWV system by filling each fixture within a group to its normal capacity and then discharging the spent water. Where several fixtures are connected to the same branch, the fixtures shall be discharged together.

Rough Plumbing Test. The water or air test conducted on the roughed-in plumbing shall be completed by blocking the lower portion of the system and filling the drainage and vent piping with water. In tall buildings the system should be tested at intervals such that the manufacture's working pressure for the joints is not exceeded, but no section should be tested with less than 10 feet of water except the uppermost 10 feet of the system. The water shall be kept in the system for at least 15 minutes before the inspection starts. The system shall be tight at all points. When using air as a test media, all inlets and outlets must be sealed except where the air pressure apparatus is connected to the system. Air shall be forced in until a uniform gauge pressure of 5 psi is attained. This pressure shall be held for 15 minutes without the introduction of additional air.

c. *Functional Performance.* —DWV systems with proven hydraulic integrity (i.e., proven in accordance with b. above, or repaired in accordance with Section 2.1 of "Problems and Solutions" below) should be subjected to one or more functional performance tests unless they are in compliance with current codes (see 1.3 below). Functional performance tests should be carried out in order to determine the DWV system's resistance to the following modes of failure:

- self-siphonage
- induced siphonage
- blowback
- cross-flow

Test for self-siphonage, and tests for induced siphonage, blowback and cross-flow which may occur on the same floor (i.e., branch pipe testing) should be planned on the basis of analysis of the system schematics discussed in 1.1 above. Tests for resistance to induced siphonage and blowback on different floors (i.e, stack testing) should be carried out for each stack.

The following clear water test is appropriate for back to back bathroom stacks up to ten stories in height. (Increased test loads, introduction of solids and/or suds, and other points of observation should be considered for other types of stacks, based on analysis of the system schematic.):

Functional Performance Test for Bathroom Stacks: (1) Select the required test load from the table below. The test loads are based upon a frequency of the use ratio of 0.01. This frequency of use is consistent with experiences at Davidson Labortory and at the National Bureau of Standard (see Table A5, NBSIR 73–161, "*Field Test of Hydraulic Performance of a Single-Stack Drainage System at the Operation BREAKTHROUGH Prototype Site in Kings County, Washington* "),

and is significantly lower than the test loading requirements of Ch. XVI, Standard Plumbing Code, and British test loading data. For different frequency ratios and related loading requirements, see Table A5 referenced above.

Building Type and Test Load

Single family dwelling—One water closet and one bathtub
Multi-family up to four stories—Two water closets
Multi-family four to ten stories—Two water closets and one bathtub

The fixtures selected for discharge should be those most remote with respect to the building drain in single family homes, and vertically adjacent at the uppermost levels in multi-family dwellings.

(2) Fill all fixture traps. Discharge the selected fixtures simultaneously. Observe and record the trap seal reduction in the idle fixture traps. Reduction of more than one-inch of water is critical and should be recorded. Observe the lower floor water closets for blowback.

Performance tests like the one specified above, carried out in the laboratory on full-scale drainage systems, have shown that trap seal reduction by induced siphonage is greatest in those fixtures located two and three floors below the active fixtures. Blowback, the most common mode of failure, usually is observed in the ground or first floor water closets. Systems near capacity will show trap seal reduction of ¾" to 1" and/or display considerable movement of the water surface in the closets.

Despite extensive experience with laboratory testing, and the inclusion of performance test guidelines in the Standard Plumbing Code (Ch. XVI), standard test instrumentation and procedures have not been developed for performance testing of plumbing systems. If and when such standard methods are developed, the performance testing recommended above should be carried out in accordance with such methods.

1.3 *Estimating the Capacity of the Existing DWV System.* The installed capacity of the existing DWV system should be estimated for two reasons. First, by comparing it to the code-permitted capacity of the installed DWV system, potential code-related problems will become evident. Second, the estimate of the capacity can be used directly in suggesting the system's potential for accepting additional fixtures to be installed as part of the proposed rehabilitation.

The following procedure should be followed:

(1) I identify and count all fixtures connected to each DWV stack. Translate the fixture count into fixture unit values, based on the following table:

Fixture:	*Fixture units*
Automatic clothes washer	3
Bathtub(w/or w/o 0verhead shower)	2
Bathroom group (incl. tank type water close()	6
Bathroom group (incl. flushometer valve water closet)	8
Dishwasher	2
Floor drain	2
Kitchen sink (w/ or w/o food-waste grinder)	2
Lavatory	1
Laundry tray	2
Shower stall	2
Sink, service type with floor outlet	3
Sink, service type with P-trap	2
Water closet (tank type)	4
Water closet with flushometer valve	8

(2) Based on the system schematic (1.1 above) identify the existing size of the stack and size and slope of the drain, as well as code required sizes.

(3) Based on the system schematic (1.1 above) determine the type of venting. For the purpose of simplification, the type of venting falls into three categories: single stack with no secondary vents, vents of "unknown" condition, and code-complaint vents.

Vents of "unknown" condition are vents which may be partially blocked, or are otherwise of lesser venting than code-complaint vents.

(4) Based on (2) and (3) above, estimate the fixture unit capacity of the DWV system from the following table (note that this table applies to back to back vertical stack arrangements only):

Stack size	Building drain size @ ¼" slope [1] per foot	Allowable number of fixture units: Single stack [2]	Vents of "unknown" condition [2]	Code-compliant vents
3"	4"	[4]15	[4]30	[4]72
4"	4"	96	150	216
4"	5"			480
5"	5"			480
5"	6"			840

[1] If slope exceeds ¼" per foot, capacity will increase.
[2] Capacity of single stack as found in an existing building. This capacity may be exceeded with engineered single stack systems subjected to final performance tests. Single stack systems are not recommended in locations where building drains are subject to flooding under normal conditions.
[3] The listed capacities may be exceeded if the system does not fail when subjected to final performance tests.
[4] Not more than 3 stories, nor more than 6 water closets.

2. Problems and Solutions (Proposed Modifications)

2.1 *Correcting existing DWV system structural, hydraulic and functional defects, and surcharged sewers.*

(1) *Problem.* Based on the inspection of the existing DWV system (1.1 above), it is determined that the mechanical strength of existing pipes, fittings and supports is appreciably lower than that required for new construction and/or the DWV system is inadequately attached to the building. These conditions may be evidenced by:

- extensive corrosion, scale and other deterioration of wall thicknesses; pipe movement, misalignment, nonuniform slope;
- joint separation;
- other indications of failure;
- evidence of exposure to freezing temperatures;
- evidence of excessive thermal expansion and contraction;
- evidence of fire damage.

Solution. Removal or repair of the damaged parts.

Discussion. Age alone is not indicative of the condition of a plumbing drainage system. Many systems have been found to be in excellent physical condition after decades of service.

(2) *Problem.* Observed reduction of clearances in sleeves and supports, pipe deflection, or other evidence, indicates that the DWV system has been subjected to excessive live or dead loads, above normal service loads.

Solution. Remove such live or dead loads and repair or replace damaged parts.

(3) *Problem.* When subjected to any of the three tests for hydraulic integrity discussed in 1.1.b. above (Finished Plumbing, Flow, or Rough Plumbing Tests), any part of the DWV system is not watertight.

Solution. Repair or remove parts of the DWV system as needed to bring it to a condition of watertightness under the subject tests.

(4) *Problem.* When subjected to any of the functional performance tests as discussed in 1.2.c. above, trap seal reduction of more than one-inch of water (induced siphonage), and/or blowback, self-siphonage or cross-flow are observed in the DWV system, indicating functional deficiency.

Solution. Modify the DWV system, in accordance with Section 2.3 of this guideline, to a condition where it meets all the functional performance tests (see also the Basic Drainage and Hydraulic Concepts section of the Prologue).

(5) *Problem.* Self-siphonage is observed in an S trap that is subjected to a functional performance test.

Solution. Modify the fixture so that the distance between the trap outlet and the vertical drop is at least two pipe diameters but only if the size of the vertical pipe is one diameter larger than the trap inlet. See also Figure 1 of Appendix B for additional information on acceptable practices.

Discussion. The concern for self-siphonage of S traps has led to their prohibition by codes. Self-siphonage in S traps can be eliminated by the modification described above, which is consistent with National Standard Plumbing Code, 12.8.2.

(6) *Problem.* The inspection reveals that the drainage system of the building is subject to backflow from the public sewer system.

Solution. Approved suitable means such as sewage ejectors, isolation of basement drainage and backwater valves should be employed to prevent backflow from entering the building.

2.2 *Relocating fixtures*

Problem. The proposed rehabilitation, when the existing DWV system is without structural, hydraulic or functional defects (as determined in 1.2 above), and has adequate capacity for its installed fixtures (as determined in 1.3 above), involves the relocation of fixtures without additional load imposed on the system. However, the proposed new fixture location, and the location of existing vertical drain to service that fixture, requires a length of horizontal fixture drain which, if unvented, will exceed that allowed by the local plumbing code.

Solution. For bathroom groups, allow fixture drain lengths at a slope of ¼" per foot, up to the maximum indicated in the following table, provided the connection to the stack is with a sanitary tee or a long turn TY:

Maximum Developed Length of Unvented Fixture Drains

Diameter of drain and length: 1¼ inches—5 feet; 1½ inches—7 feet; 2 inches—10 feet; 3 inches—12 feet; 4 inches—20 feet.

For kitchen (flat bottomed) sinks with or without dishwasher and garbage disposer, allow drain lengths, at a slope of ¼" per foot, up to 12 feet with 2" drain (see illustrations, Appendix B).

Discussion. The concern for self-siphonage in fixtures has led to limitations on lengths of unvented fixture drains. Existing distances as specified in codes may impose a severe restriction on rehabilitation. The smaller diameter fixture outlets of modern installations have reduced flow rates and suggest longer permissible fixture drains.

The data in the table above is based on the following reports: "*Test on Branch Layouts—Investigation of Minimal Tube Diameter*", by O. H. C. Messner, Zurich, Switzerland, April, 1970; and "*An Investigation of the Safety and Durability of the Plumbing Systems in Mobile Homes*", Report SIT-DL-79-9-2079, Stevens Institute of Technology, Hoboken, N. J. (to be published).

Recommended kitchen unit drain lengths are based on "*Plumbing Manual*", BMS-66, U.S. Government Printing Office, 1940.

2.3 *Adding new fixtures to existing DWV systems, extending DWV systems, and/or installing new DWV systems in existing building*

Problem. The proposed rehabilitation, when the existing DWV system is without structural, hydraulic or functional defects (as determined in 1.2 above), involves any combination of the following activities:

- adding new fixtures to the existing DWV system when its capacity exceeds its installed fixtures (as determined in 1.3 above);
- extending the existing DWV system when its capacity exceeds its installed fixtures (as determined in 1.3 above);
- installing new DWV systems in an existing building (whether or not the existing system will continue in use).

However, full compliance with current plumbing codes may lead to extensive sturctural or architectural changes that result in unwarranted additional costs and delays to the rehabilitiation project.

Solution. All additions and alterations to existing plumbing DWV systems should be designed and installed in accordance with Performance Criteria covering the following attributes of the system: (1) Transport of wastes; (2) Durability; (3) Maintainability; (4) Structural serviceability; (5) Hydraulic integrity; (6) Functional performance.

The Performance Criteria are included in Appendix A below.

Alternative acceptable solutions may be found in the following documents, referenced specifically herein:

- Standard Plumbing Code, Chapter XVI, Section 1602—Single Stack Discharge Ventilating Pipe Systems.
- SBCCI and BOCA Research Reports, for automatic anti-siphon trap vent devices.
- NBS BSS-60, "hydraulic Performance of a Full Scale Townhouse System with Reduced-Size Vents", August 1975, for reduced sized venting design.

Appendix B illustrates typical solutions which will comply with the Performance Criteria under most conditions of operation and use, based on engineering analysis and interpretation of test results.

Discussion. Single stack DWV systems, even if complying with the Performance Criteria, are not recommended in locations where building drains are subject to flooding under normal conditions.

2.4 *Through-the-Wall Venting*

Problem. An existing DWV system, an addition to an existing DWV system or a new DWV system in an existing building, may include through-the-wall rather than roof venting. This condition may be determined by inspecting the building or examining existing and/or proposed plans, and is likely to be prohibited by the local code.

Solution. Through-the-Wall venting should be accepted in the following instances:

(a) In historic building where through-roof venting would interfere with the character of the building.

(b) In rehabilitation projects where conventional venting is impractical. In this case, the vents should be at least ten feet horizontally from the lot line and should be turned downward. They should be effectively screened with ¼ inch mesh, to avoid trapping and freezing of any condensation. Through-the-wall vent openings should not be located directly below any door, window or other building opening, nor should any such vent terminal be within ten feet horizontally of such an opening unless it is two feet above the top of such opening.

Appendix A—Performance Criteria

The following Performance Criteria are referenced in Problem 2.3 above.

(1) *Transport of Wastes*

Requirement. Waste water and sewage shall be removed from the building and transported to an acceptable point of disposal without overflowing, accumulating, or backing up into fixtures.

Criteria

(a) Drainage stacks shall carry design loads when flowing less than ⅓ full at terminal velocity.

(b) Horizontal branch drains, and building sewers except horizontal fixture drains, shall flow no more than approximately ⅓ full under design loads. Horizontal fixture drains shall be sized to give an optimum balance between scouring velocity, diameter and carrying capacity.

(c) Maximum lengths of unvented fixture drains, at a slope of ¼" per foot, shall be in accordance with the table in 2.2 above.

(d) Waste lines likely to carry grease (especially kitchen lines of 2" diameter or less) shall not pass through spaces where they may be subjected to temperatures below the ambient temperature of the occupied space, and all waste lines shall not be subjected to freezing temperatures, unless they are adequately protected.

(e) Vents shall not connect to horizontal drains unless the bases of such vent connections are washed by the discharge from one or more small fixtures.

(f) A uniform, continuous grade of the invert of horizontal drain lines shall be provided.

(g) Fittings, devices, connections and methods of installation shall not obstruct or retard the normal flow of fluids in soil, waste or vent lines.

(h) Waste water or waterborne solids from an active drain pipe shall not pass through an idle trap to a fixture.

(i) Suitable means shall be provided for handling drainage below sewer level. Drainage from parts of drainage systems which cannot drain by gravity into the sewer shall be disposed of through a separate drainage and sewage ejector system, and discharged into the building gravity drainage system.

Test. Determination of conformance to criteria by evaluation of calculations, plans and specifications, inspection of built elements, and conformance to good engineering and trade practices.

Discussion. These criteria have been derived from experience and research on plumbing hydraulics at the Davidson Laboratory, Stevens Institute of Technology, or from standard design practice in general acceptance.

(2) *Durability*

Requirement. The plumbing DWV system and its parts shall have a life expectancy as determined by the local jurisdiction.

Criteria

(a) New plumbing DWV equipment and systems shall be made of materials approved for new construction, free from defective workmanship, and designed and installed so as to be durable, without need for frequent repairs or major replacements.

(b) Before proceeding with an installation, the installer should consult with the local Building Department to determine the durability of materials and joints used under local conditions.

(c) The installer should observe the manufacturer's good practice recommendations regarding handling, storage, installation and adjustment of materials and equipment so that the performance of such products will not be impaired by defects or damage.

Test. Determination of conformance to criteria by inspection of installation and materials, and conformance to good trade practices.

(3) *Maintainability*

Requirement. The design and installation of the DWV system shall provide for cleaning, servicing, adjusting or replacing the various elements, and shall minimize conditions that contribute to soiling, deposition, fouling, clogging, or other maintenance problems.

Criteria

(a) Horizontal drains shall be installed in uniform alignment at a slope in the direction of flow of at least ¼ inch per foot for diameters of 4 inches and greater, to obtain self-scouring velocities. Where such slopes are not attainable, lesser slopes may be used if a mean velocity of at least 2 feet per second can be computed for open channel steady flow at an assumed depth equal to ½ of the diameter.

(b) Access to permit convenient removal of obstructions and fouling matter in horizontal drain lines shall be provided as follows:

- not more than 100 feet apart for larger pipes;
- at each change of direction of the building drain in excess of 45°;
- at or near the foot of each vertical soil or waste stack;
- near the junction of the building drain and building sewer.

Test. Determination of conformance to criteria by evaluation of calculations, plans and specification, inspection of built elements, and conformance to good engineering and trade practices.

(4) *Structural Serviceability*

Requirement. The DWV system shall be capable of withstanding the physical forces that may reasonably be expected in the building during the rehabilitation process and in subsequent use.

Criteria

(a) The mechanical strength of new pipe, fittings and supports shall be similar to that of new construction.

(b) The DWV system elements shall be securely attached to the building.

(c) DWV piping shall not be subject to dead or live loads above normal service loads.

Test. Evaluation of installation.

(5) *Hydraulic Integrity*

Requirement. The drainage, waste and vent system shall be air and water tight under conditions of *normal use.*

Criteria

(a) The major elements of the DWV system (building drains, stacks and horizontal branches) shall be leak tight when subjected to a pressure of 5 psi.

(b) The completed DWV system shall be leak tight when subjected to a pressure equivalent to a 2-inch water column.

Test

(a) *Rough Plumbing Test.* See test specified in 1.2.b. above.

(b) *Finished Plumbing Test.* See test specified in 1.2.b. above.

(6) *Functional Performance*

Requirement. The DWV system shall accept and transport spent water and liquid in a safe and efficient manner.

Criteria

(a) The DWV system shall not, under conditions of normal use, display any of the following failures:

- self-siphonage at any fixture trap
- trap seal reduction greater than one inch, indicating induced siphonage
- evidence of blowback at any fixture
- ejection of suds at any fixture
- evidence of cross-flow in any branches of back to back fixtures.

(b) Single stack DWV systems shall be deemed to conform to this performance guideline if designed in accordance with Section 1602, Chapter XVI of the Standard Plumbing Code.

(c) Automatic anti-siphon trap vent devices may be used in the DWV system, as permitted by model code having jurisdiction, and shall be in conformance with the applicable SBCCI and BOCA Research Reports.

(d) Reduced sized venting may be used in the DWV system of buildings under three stories in height, provided that the entire system shall be designed by a qualified professional engineer, in accordance with criteria and guidelines contained in the NBS publication, Building Science Series-60, "Hydraulic Performance of a Full Scale Townhouse System with Reduced-Sized Vents", August 1975.

(e) Code-accepted proprietary, engineered single sack DWV systems shall be designed and installed in accordance with the conditions of their acceptance.

Test

(a) *Functional Performance Tests.* See discussion in 1.2.c above.

(b) Evaluation in accordance with Chapter XVI, Standard Plumbing Code.

(c) Evaluation in accordance with applicable SBCCI or BOCA Research Reports.

(d) Evaluation in accordance with BSS–60.

Discussion. Compliance with this requirement can always be achieved by the addition of supplemental venting in DWV systems failing this test.

Appendix B

Examples of Acceptable DWV Practices for Building Rehabilitation

The following illustrated DWV practices have been determined to be adequate in solving problems of the type discussed in this guideline, based on engineering principles and the experience of recognized testing facilities. They do not represent all possible problems, nor do they reflect

the most extreme solutions in terms of deviation from the specific requirements of plumbing codes.

Symbols

WC, water closet; T, bathtub; L, lavatory; KS, kitchen sink; ———, new sanitary piping; ————————, existing sanitary piping; ———, vents.

BILLING CODE 4210-01-M

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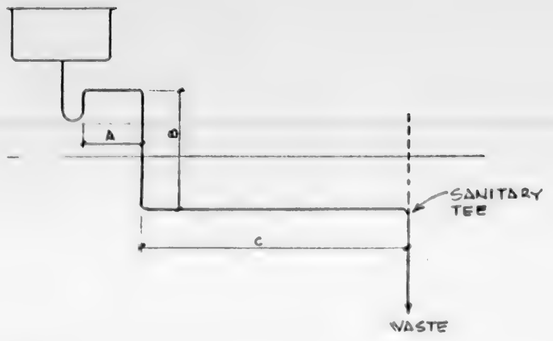

Figure 1

CORRECTION OF "S" TRAP SUBJECT TO SELF-SIPHONAGE IN FLAT BOTTOMED SINKS

Illustration of solution to problem 2.1(5).

A = not more than 10 pipe diameters
B = not more than 24 pipe diameters
C = not more than 72 pipe diameters

- all pipe 2" diameter
- 1½" trap

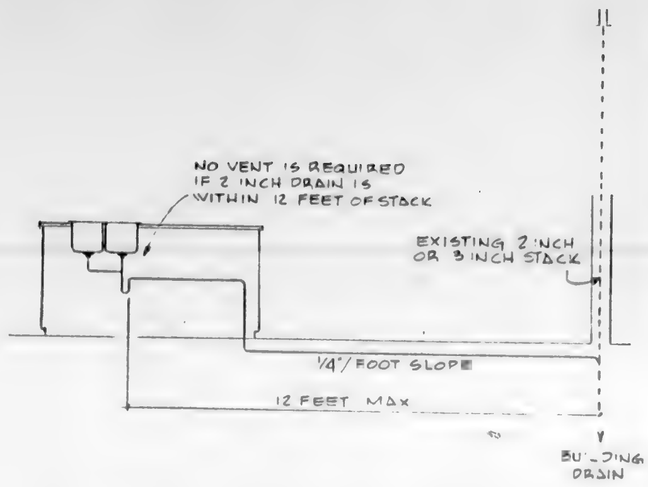

Figure 2

ISLAND SINK

Example of solution to problem 2.2.

- all pipe 2" diameter
- 1½" trap

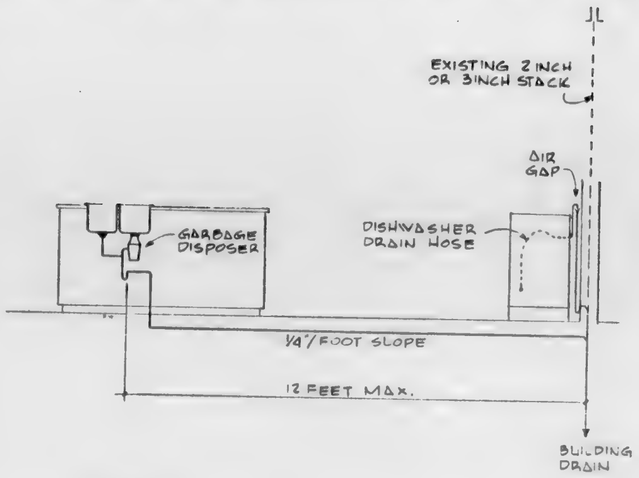

Figure 3

ISLAND SINK WITH DISPOSER AND DISHWASHER AT WALL

Example of solution to problem 2.2.

Note that required location of dishwasher air gap may vary by local code.

- all pipe 2" diameter
- 1½" trap

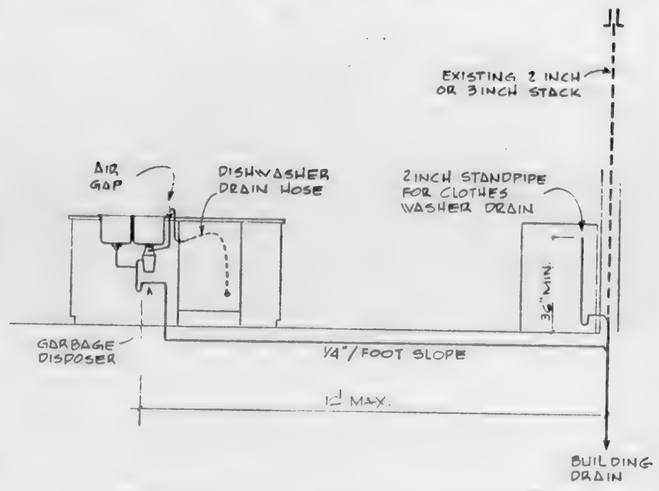

Figure 4

ISLAND SINK WITH DISPOSER, DISHWASHERS, AND CLOTHES WASHER AT WALL

Example of solution to problem 2.2.

Note that required location of dishwasher air gap may vary by local code.

- all pipe 2" diameter
- 1½" trap

UMI 8 0 8 7 2 M Y 5 4 V

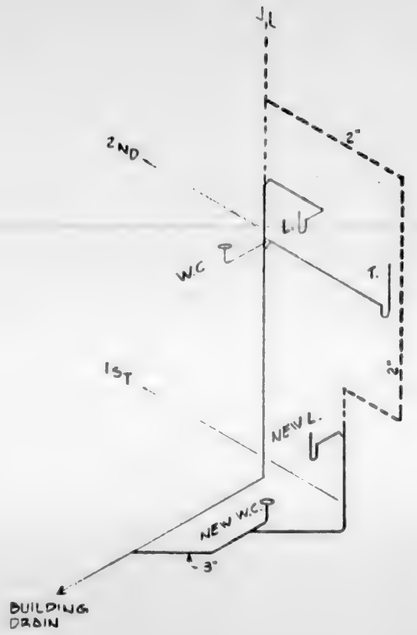

Figure 5

ADDITION OF FIRST FLOOR POWDER ROOM OF SINGLE DWELLING UNIT, SLAB ON GRADE

Illustration of use of wet venting in solving a problem of the type discussed under 2.3. For possible use of single stack solutions, see 1.3(4) and discussion under 2.3.

Note that new branch drain line may enter building drain on stack.

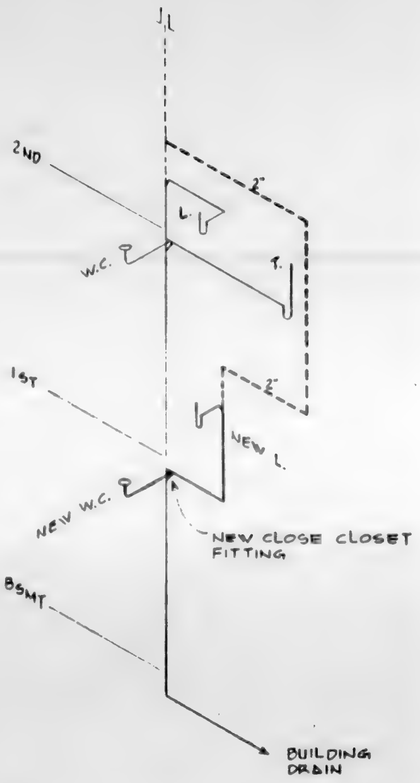

Figure 6

ADDITION OF FIRST FLOOR POWDER ROOM OF SINGLE DWELLING UNIT, WITH BASEMENT

Illustration of use of wet venting in solving a problem of the type discussed under 2.3. For possible use of single stack solutions, see 1.3(4) and discussion under 2.3

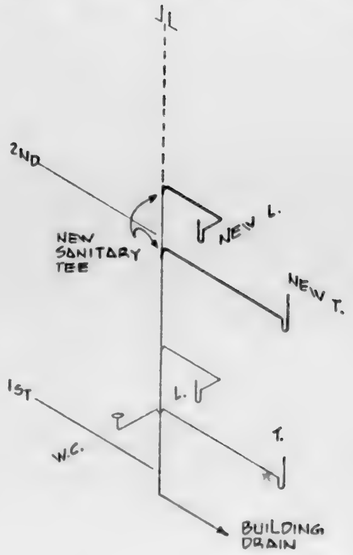

Figure 8

ADDITION OF SECOND FLOOR FIXTURE TO EXISTING STACK

A second kitchen sink, with or without disposer, may be added to an existing 2 inch waste stack. A 1½ inch fixture drain may run 7 feet maximum.

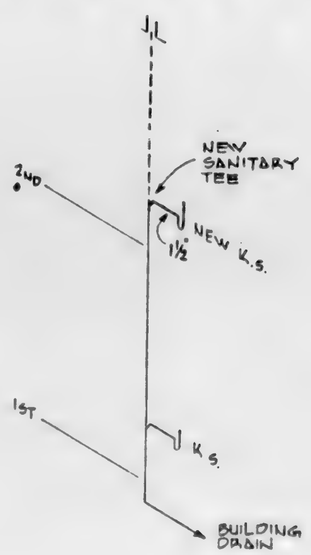

Figure 7

ADDITION OF SECOND FLOOR FIXTURE TO EXISTING STACK

A lavatory and bathtub may be added to the second floor of a stack vented bathroom group. Two inch diameter tub drain may run 10 feet maximum.

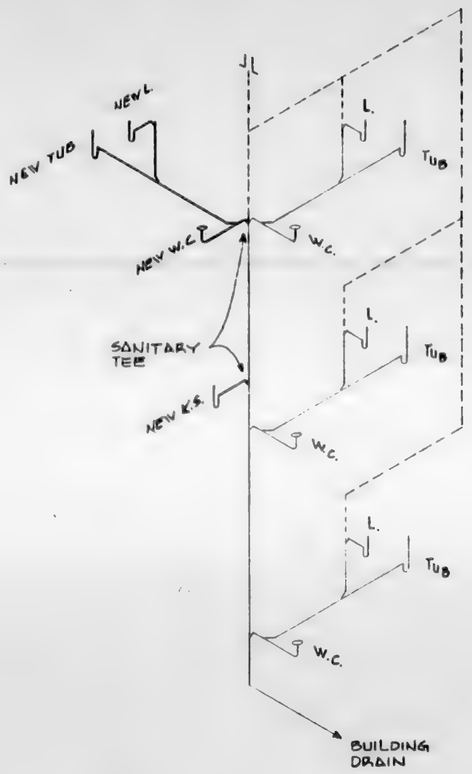

Figure 9

ADDITION OF KITCHEN SINK AND BATHROOM GROUP TO EXISTING 3-STORY STACK

Illustration of use of stack venting in solving a problem of the type discussed under 2.3

Kitchen sinks or bathroom groups may be added to an existing wet vented stack (4" stack required). of not more than three floors in height.

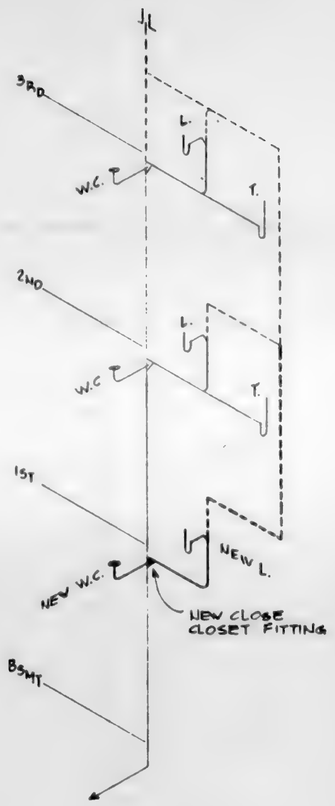

Figure 10

ADDITION OF FIRST FLOOR POWDER ROOM TO EXISTING 3-STORY STACK

Illustration of use of wet venting in solving a problem of the type discussed under 2.3.

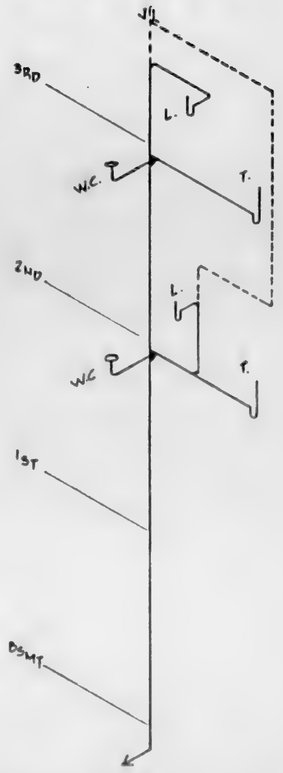

Figure 11

ADDITION OF SECOND OR THIRD FLOOR BATHROOM GROUP TO EXISTING 3-STORY STACK

For possible use of single stack solutions see 1.3(4) and discussion under 2.3.

Note that for addition of new water closet, tub, and lavatory to either second or third floor, second floor may be wet vented and third floor stack vented.

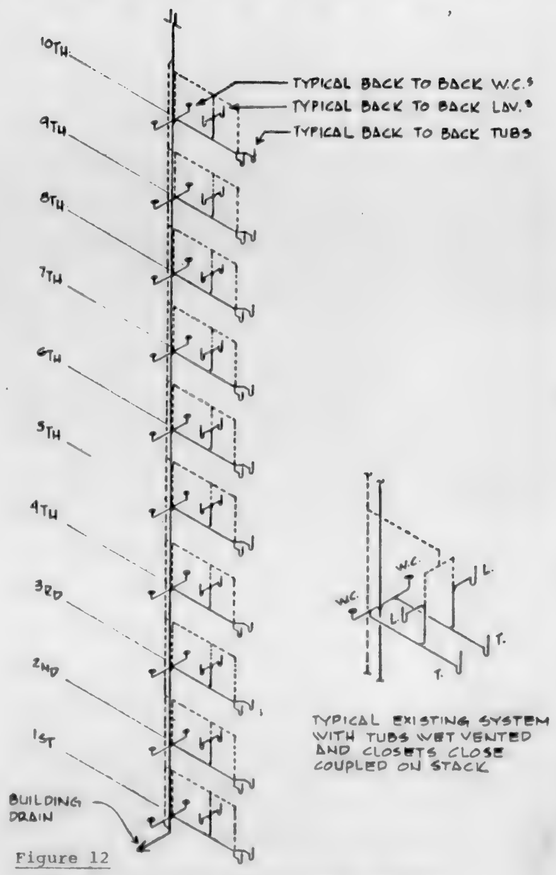

Figure 12

TYPICAL FULLY VENTED BACK-TO-BACK BATHROOM STACK WITH ALTERNATE SOLUTION

Illustration of use of wet venting in solving a problem of the type discussed under 2.3.

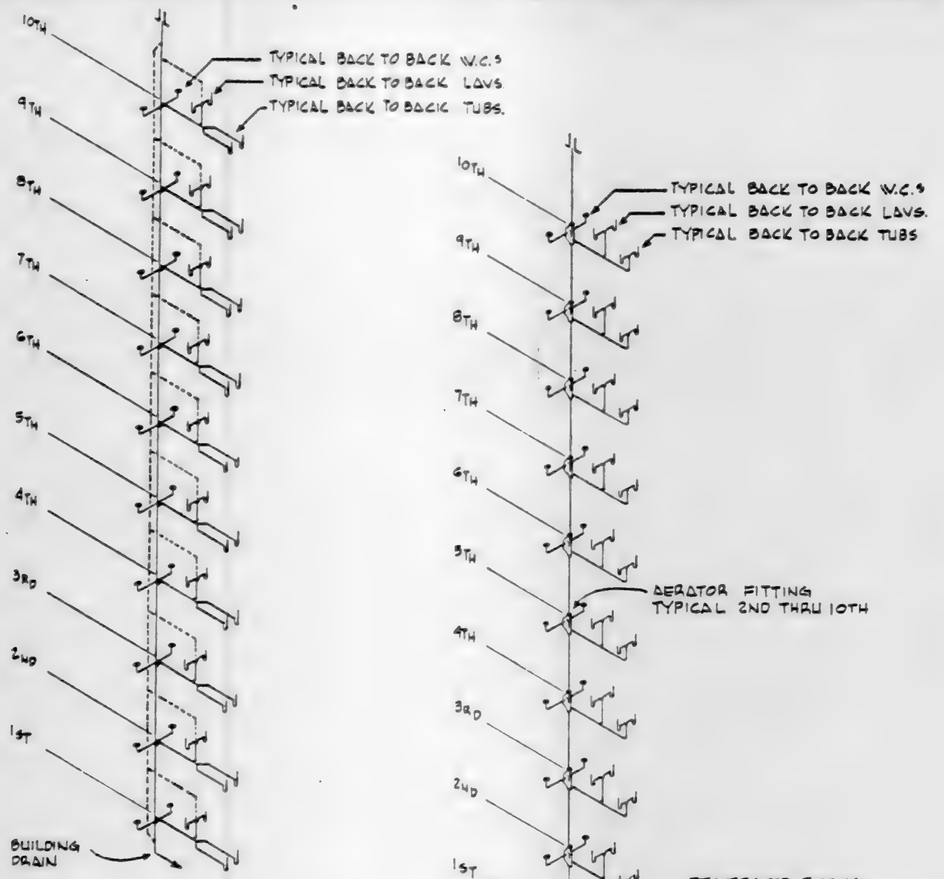

Figure 13

WET VENTING OF TUBS AND WATER CLOSETS

Illustration of possible solution to problem of the type discussed under 2.3.

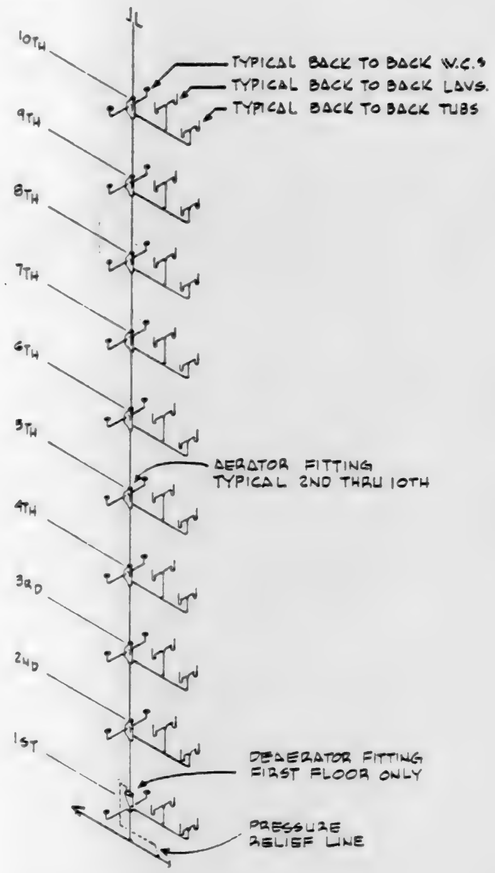

Figure 14

ENGINEERED SINGLE STACK SYSTEM SIZED ACCORDING TO PUBLISHED CRITERIA

Illustration of possible solution to problem of the type discussed under 2.3.

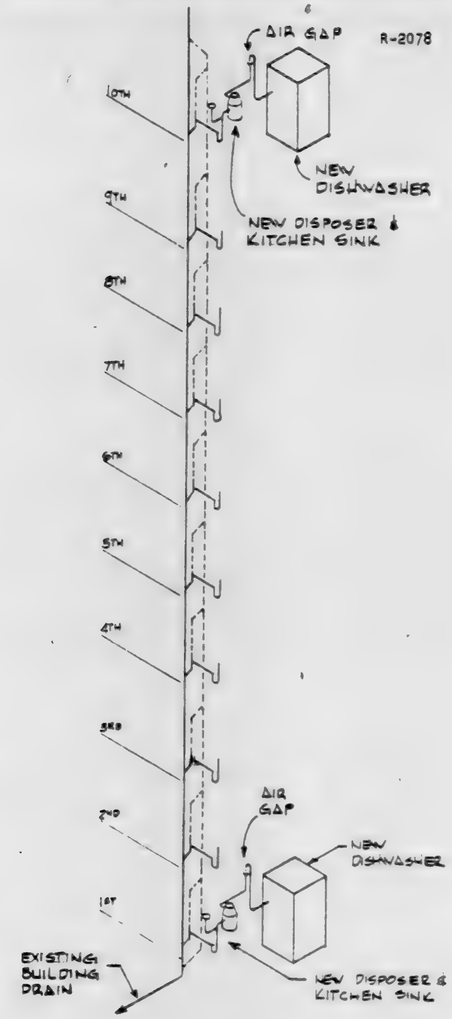

Figure 15

ADDITION OF DISPOSER AND DISHWASHER TO KITCHEN SINK ON EXISTING STACK

Illustration of acceptable addition of disposer and dishwasher to a 2 inch stack on every floor (see problem 2.3).

BILLING CODE 4210-01-C

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Guideline on Fire Ratings of Archaic Materials and Assemblies

Table of Contents

Introduction.
Section I. Fire-Related Performance of Archaic Materials and Construction.
A. Fire Performance Measures.
Flame Spread.
Smoke Production.
Degree of Combustibility.
B. Combustible Construction Types.
Section II. Building Evaluation.
A. Preliminary Evaluation.
B. Fire Resistance of Existing Building Elements.
C. Effects of Penetrations in Fire Resistant Assemblies.
Section III Final Evaluation and Design Solutions.
A. The Experimental Approach.
B. The Theoretical Approach.
Harmathy's Ten Rules.
Example Applications of Harmathy's Rules.
C. "Thickness Design" Strategy.
D. Evaluation of Doors.
Section IV. Summary Guideline.
Appendix.
Introduction.
Section I. Walls.
Section II. Columns.
Section III. Floor Ceiling Assemblies.
Section IV. Beams.
Section V. Doors.
Bibliograph

Introduction

The *Guideline on Fire Ratings of Archaic Materials and Assemblies* focuses upon the fire-related performance of archaic construction. "Archaic" encompasses construction typical of an earlier time, generally prior to 1950. "Fire-related performance" includes fire resistance, flame spread, smoke production and degree of combustibility.

The purpose of this guideline is to update the information which was available at the time of original construction, for use by architects, engineers, and code officials when evaluating the fire safety of a rehabilitation project. The local manufacturing of many archaic materials means that there may never have been any fire test information available about the particular material of a given project. Information relevant to the evaluation of general classes of materials and types of construction is presented for these cases.

It has been assumed that the building materials and their fastening, joining, and incorporation into the building structue are sound mechanically. Therefore, some determination must be made that the original manufacture, the original construction practice, and the rigors of aging and use have not weakened the building. This assessment can often be difficult because process and quality control was not good in many industries, and variations among locally available raw materials and manufacturing techniques often resulted in a product which varied widely in its strength and durability. The properties of iron and steel, for example, varied widely, depending on the mill and the process used.

There is nothing inherently inferior about archaic materials or construction techniques. The pressures that promote fundamental change are most often economic or technological—matters not necessarily related to concerns for safety. The high cost of labor made wood lath and plaster uneconomical. The high cost of land and the congestion of the cities provided the impetus for high-rise construction. Improved technology made it possible. The difficulty with archaic materials is not a question of suitability, but familiarity.

Code requirements for the fire performance of key building elements (e.g., walls, floor/ceiling assemblies, doors, shaft enclosures) are stated in performance terms: hours of fire resistance. It matters not whether these elements were built in 1908 or 1980, only that they provide the required degree of fire resistance. This level of performance will be defined by the local community. The guideline is only a tool to help evaluate the various building elements, regardless of what the level of performance is required to be.

The problem with archaic materials is simply that documentation of their fire performance is not readily available. The application of engineering judgment is more difficult because building officials may not be familiar with the materials or construction method involved. As a result, either a fullscale fire test is required or the archaic construction in question removed and replaced. Both alternative are time consuming and wasteful.

This guideline and the accompanying Appendix are designed to help fill this information void. By providing the necessary documentation, there will be a firm basis for the continued acceptance of archaic materials and assemblies.

Section I Fire-Related Performance of Archaic Materials and Assemblies

A. Fire Performance Measures

This guideline does not specify the level of performance required for the various building components. These requirements are controlled by the building occupancy and use and are set forth in the local building or rehabilitation code.

The fire resistance of a given building element is established by subjecting a sample of the assembly to a "standard" fire test which follows a "standard" time temperature curve. This test method has changed little since the 1920's. The test results tabulated in the Appendix have been adjusted to reflect current test methods.

The current model building codes cite other fire-related properties not always tested for in earlier years: flame spread, smoke production, and degree of combustibility. However, they can generally be assumed to fall within well defined values because the principal combustible component of archaic materials is cellulose. Smoke production is more important today because of the increased use of plastics. However, the early flame spread tests, developed in the early 1940's, also included a test for smoke production.

"Plastics", one of the most important classes of contemporary materials, were not found in the review of archaic materials. If plastics are to be used in a rehabilitated building, they should be evaluated by contemporary standards. Information and documentation of their fire-related properties and performance is widely available.

Flame spread, smoke production and degree of combustibility are discussed in detail below. Test results for eight common species of lumber are noted in the following table:

Tunnel Test Results for Eight Species of Lumber (104)

Species of lumber	Flame spread	Fuel contributed	Smoke developed
Western white pine75 50–60 50			50
Northern white pine	120–215	120–140	60–65
Ponderosa pine	180–215	120–135	100–110
Yellow pine	180–190	130–145	275–305
Red gum	140–155	125–175	40–60
Yellow birch	105–110	100–105	45–65
Douglas fir	65–100	55–80	10–100
Western hemlock	60–75	40–65	40–120

Flame Spread

The flame spread of interior finishes is usually measured by the ASTM E–84 "tunnel test". The most commonly used flame spread classsifications (FSC) are: Class I or A,[1] with a 0–25 FSC; Class II or B, with a 26–75 FSC; and Class III or C, with a 76–200 FSC. The NFPA Life Safety Code also has a Class D (201–500 FSC) and Class E (over 500 FSC) interior finish. These classifications are typically used in modern building codes to restrict the rate of fire spread. Only the first three classifications are normally permitted, though not all classes of

[1] Some codes use Roman numerals, others use letters.

materials can be used in all places throughout a building. For example, the interior finish of building materials used in exits or in corridors leading to exits is more strictly regulated than materials used within private dwelling units.

In general, inorganic archaic materials (e.g., bricks or tile) can be expected to be in Class I. Materials of whole wood are mostly Class II. Whole wood is defined as wood used in the same form as sawn from the tree. This is in contrast to the contemporary reconstituted wood products such as plywood, fiberboard, hardboard or particle board. If the organic archaic material is not whole wood, the flame spread classification could be well over 200 and thus would be particularly unsuited for use in exits and other critical locations in a building. Some plywoods and various wood fiberboards have flame spreads over 200. Although they can be treated with fire retardants to reduce their flame spread, it would be advisable to assume that all such products have a flame spread over 200 unless there is information to the contrary.

Smoke Production

The evaluation of smoke density is part of the ASTM E–84 tunnel test. For the eight species of lumber shown in the table above, the highest levels are 275–305 for Yellow Pine, but the others are less smoky than red oak which has an index of 100. The advent of plastics caused substantial increases in the smoke density values measured by the tunnel test. The ensuing limitation of the smoke production for wall and ceiling materials by the model building codes has been a reaction to the introduction of plastic materials. In general, cellulosic materials fall in the 50–300 range of smoke density which is below the general limitation of 450 adopted by many codes.

Degree of Combustibility

There has been a tendency by the model building codes to define "noncombustibility" on the basis of having passed ASTM E–136 or if the material is totally inorganic. The acceptance of gypsum wallboard as noncombustible is based on limiting paper thickness to not over ⅛" and 0–50 flame spread classification (FSC) by ASTM E–84. At times there were provisions to define a Class I or A material (0–25 FSC) as noncombustible, but this is not currently recognized by most model building codes.

If there is any doubt whether or not an archaic material is noncombustible, it would be appropriate to send out samples for evaluation. If an archaic material is determined to be noncombustible according to ASTM E–136, it can be expected that it will not contribute fuel to the fire.

B. Combustible Construction Types

One of the earliest forms of timber construction utilized exterior load-bearing masonry walls with columns and/or wooden walls supporting wooden beams and floors in the interior of the building. This form of construction, often called "mill" or "heavy timber" construction, has approximately 1-hour fire resistance. The exterior walls will generally contain the fire within the building.

As population pressure increased and more lumber became available, there was a switch from heavy timber to "balloon frame" construction. The balloon frame uses load-bearing exterior wooden walls which have long timbers often extending from foundation to roof. When longer lumber became scarce, another form of construction, "platform" framing, replaced the balloon framing. The difference between the two systems is significant because platform framing is automatically fire-blocked at every floor while balloon framing commonly has concealed spaces that extend unblocked from basement to attic. The architect, engineer, and code official must be alert to the details of construction and the ease with which fire can spread in concealed spaces.

Section II Building Evaluation

A given rehabilitation project will most likely go through several stages. The preliminary evaluation process involves the designer in surveying the prospective building. The fire resistance of existing building materials and construction systems are identified; potential problems are noted for closer study. The final evaluation phase includes: developing design solutions to upgrade the fire resistance of building elements, if necessary; the preparation of working drawings and specifications; and the securing of the necessary code approvals.

A. Preliminary Evaluation

A preliminary evaluation should firstly consist of a building survey to determine the existing materials, the general arrangement of the structure, the use of the occupied space, and the details of construction. The designer needs to know "what is there" before a decision can be reached about what to keep and what to remove in the rehabilitation process. This preliminary evaluation should be as detailed as necessary to make initial plans. The fire-related properties need to be determined from the applicable building code, and the materials and assemblies existing in the building then need to be evaluated for these properties. Two work sheets are introduced below to facilitate the preliminary evaluation.

There are two possible sources of information that are relevant to the preliminary evaluation: original building plans and the building code in effect at the time of construction. Plans may be on file with the local building department or in the offices of the original design professionals (e.g., architect, engineer) or their successors. If plans are available, the investigator should verify that the building was actually constructed as called for in the plans, as well as incorporate any later alterations or changes to the building. Earlier editions of the local building code should be on file with the building official. The code in effect at the time of construction will contain fire performance criteria. While this is no guarantee that the required performance was actually provided, it does give the investigator some guidance as to the level of performance which may be expected. Under some code administration and enforcement systems, the code in effect at the time of construction also defines the level of performance that must be provided at the time of rehabilitation.

Table A is a suggested work sheet for the preliminary field notes. This work sheet lists the materials, thickness, and condition for each of the principal building elements. In addition to Table A, the field investigator should prepare a schematic diagram showing the exit system for the building and to indicate where each element from Table A fits into the structure as a whole. Each floor of the structure should be visited and the information in Table A completed. In practice, there will often be identical materials and construction on each floor, but the exception to this rule may be of vital importance. A drawing should be prepared of each floor showing the layout of exits and hallways. The exact arrangement of interior walls within apartments is of secondary importance from a fire safety point of view and need not be shown on the drawings unless these walls are required by the building code to have a fire resistance rating.

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TABLE A

PRELIMINARY EVALUATION

FIELD NOTES

Building Element		Materials	Dimension	Condition	Notes
Exterior Bearing Walls					
Interior Bearing Walls					
Exterior Non-Bearing Walls					
Interior Non-Bearing Walls or Partitions:	A				
	B				
Structural Frame:	Columns				
	Beams				
	Other				
Floor/Ceiling Structural System Spanning					
Roofs					
Doors (including frame and hardware):					
a) Enclosed vertical exitway					
b) Enclosed horizontal exitway					
c) Other					

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The location of stairways and elevators should be clearly marked on the drawings. All exterior means of escape (e.g., fire escapes) should be identified.[2]

The following notes explain the entries in Table A:

(i) *Exterior Bearing Walls:* Many old buildings utilize heavily constructed walls to support the floor/ceiling assemblies at the exterior of the building. There may be columns and/or interior bearing walls within the structure, but these exterior walls are an important factor in assessing the fire safety of a building.

The field investigator should note how the floor/ceiling assemblies are supported at the exterior of the building. If columns are incorporated in the exterior walls, the walls may be considered non-bearing.

(ii) *Interior Bearing Walls:* It may be difficult to determine whether or not an interior wall is load bearing, but the field investigator should attempt to make this determination. At a later stage of the rehabilitation process, this question will need to be determined exactly. Nevertheless, the field notes should be as accurate as possible.

(iii) *Exterior Non-Bearing Walls:* The fire resistance of the exterior walls is important for two reasons. These walls (both bearing and non-bearing) are depended upon to: a) contain a fire *within* the building; or b) keep an exterior fire *outside* the building. It is therefore important to indicate on the drawings where any openings are located as well as the nature of all doors or shutters. The drawings should indicate the presence of wired glass, its thickness and framing, and identify the materials used for windows and door frames. The protection of openings adjacent to exterior means of escape (e.g., exterior stairs, fire escapes) is particularly important. The ground floor drawing should locate the building on the property and indicate the precise distances to adjacent buildings.

(iv) *Interior Non-Bearing Walls (Partitions):* A partition is a "wall that extends from floor to ceiling and subdivides space within any story of a building." (48) Table A has two categories (A & B) for Interior Non-Bearing Walls (Partitions) which can be used for different walls, such as hallway walls as compared to inter-apartment walls. Under some circumstances there may be only one type of wall construction; in others, three or more types of wall construction may occur.

[2] Problems providing adequate exiting are discussed at length in the *Egress Guideline for Residential Rehabilitation.*

The field investigator should be alert for differences in function as well as in materials and construction details. As with the layout in general, the details within apartments are not as important as the major exit passages and stairwells. The preliminary field investigation should attempt to determine the thickness of all walls. A term introduced below called "thickness design" will depend on an accurate (± ¼") determination. Even though this intial field survey is called "preliminary", the data generated should be as accurate and complete as possible.

The field investigator should note the exact location from which his or her observations are recorded. For instance, if a hole is found through a stairwell wall which allows a cataloguing of the construction details, the field investigation notes should reflect the location of the "find." At the prliminary stage it is not necessary to core every wall; the interior details of construction can usually be determined at some location.

(v) *Structural Frame:* There may or may not be a complete skeletal frame, but usually there are columns, beams, trusses, or other elements. The dimensions and spacing of the structural elements should be measured and indicated on the drawings. For instance, if there are ten inch square columns located on a thirty foot square grid throughout the building, this should be noted. The structural material and cover or protective materials should be identified wherever possible. The thickness of the cover materials should be determined to an accuracy of ± ¼". As discussed above, the preliminary field survey usually relies on accidental openings in the cover materials rather than a systematic coring technique.

(vi) *Floor/Ceiling Structural Systems:* The span between supports should be measured. If possible, a sketch of the cross-section of the system should be made. If there is no location where accidental damage has opened the floor/ceiling construction to visual inspection, it is necessary to make such an opening. An evaluation of the fire resistance of a floor/ceiling assembly requires detailed knowledge of the materials and their arrangement. Special attention should be paid to the cover on structural steel elements and the condition of suspended ceilings and similar membranes.

(vii) *Roofs:* The preliminary field survey of roof systems will generally focus mainly on water-tightness. However, once it is apparent that the roof is sound for ordinary use and can be retained in the rehabilitated building, it becomes necessary to evaluate its fire characteristics. The field investigator must measure the thickness and identify the types of materials which have been used. The investigator should be aware that there may be several layers of roof materials.

(viii) *Doors:* The doors to stairways and hallways represent some of the most important fire elements to be considered within a building.

The various uses are clearly differentiated in Table A. This should aid the field investigator in making careful measurements of the thickness of door panels and in the determination of the type of core material within each type of door. The presence of a self-closure on a door should be noted and the general operation of the doors should be checked. The latch should engage and the door should fit tightly in the frame. The hinges shoud be in good condition. If glass is used in the doors, it should be identified as either plain glass or wired glass mounted in either a wood or steel frame.

(ix) *Materials:* The field investigator should be able to identify ordinary building materials. In situations where an unfamiliar material is found, a sample should be obtained. This sample should measure at least 10 cubic inches so that an ASTM E–136 fire test can be conducted to detemine if it is combustible.

(x) *Thickness:* The thickness of all materials should be measured accurately since, under certain circumstances, the fire resistance rating is very sensitive to the material thickness.

(xi) *Condition:* The method of attaching the various layers and facings to one another or to the supporting structural element should be noted under the appropriate building element in the table. The "secureness" of the attachment and the general condition of the layers and facings should be noted here. The condition of the element and the different layers of materials is important, but at the preliminary stage a subjective judgment is sufficient for this evaluation process.

(xii) *"Notes:* The "Notes" column can be used for many purposes, but it might be a good idea to make specific references to field notes and/or drawings to complement the table.

The next step in the preliminary evaluation is to identify the required fire resistance and flame spread for each of the building elements. These are normally established by the local building code. Then, the fire performance of the existing building elements is determined. A comparison of the required and available ratings

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will highlight any deficiencies. Ways of either upgrading or replacing deficient construction can then be identified. A suggested work sheet for organizing this information is given below as Table B.

B. Fire Resistance of Existing Building Elements

The fire resistance of the existing building elements can be estimated from the tables and histograms contained in the Appendix. The Appendix is organized first by type of building element: walls, columns, floor/ceiling assemblies, beams, and doors. Within each building element, the tables are organized by type of construction (e.g., masonry, metal, wood frame), and then further divided by minimum dimensions or thickness of the building element.

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TABLE B

PRELIMINARY EVALUATION

WORKSHEET

Building Element	Required Fire Resistance	Required Flame Spread	Estimated Fire Resistance	Estimated Flame Spread	Possible Upgrade	Possible Equivalent Protection	Notes
Exterior Bearing Walls							
Interior Bearing Walls							
Exterior Non-Bearing Walls							
Interior Non-Bearing Walls or Partitions	A						
	B						
Structural Frame:							
Columns							
Beams							
Other							
Floor/Ceiling Structural System Spanning							
Roofs							
Doors (including frame and hardware): a) Enclosed vertical exitway							
b) Enclosed horizontal exitway							
c) Others							

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A histogram precedes every table that

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A histogram precedes every table that has 10 or more entries. The X-axis measures fire resistance in hours; the Y-axis shows the number of entries in that table having a given level of fire resistance. The histograms also contain the location of each element within that table for easy cross-referencing.

The histograms, because they are keyed to the tables, can speed the preliminary investigation. For example, Table 1.3.2, "Wood Frame Walls 4" to less than 6" thick", contains 96 entries. Rather than study each table entry, the histogram shows that every wall listed in that table has a fire resistance of less than 2 hours. If the building code required the wall to have a 2-hour rating, the designer, with a minimum of effort, is made aware of a problem that requires closer study.

Suppose the code had only required a wall of 1-hour fire resistance. The histogram shows far fewer complying elements (19) than non-complying ones (77). If the existing element is not one of the 19 complying entries, there is a strong possibility the existing element is deficient. The histograms can also be used in the converse situation. If the existing element is not one of the smaller number of entries with a lower than required fire resistance, there is a strong possibility the existing element will be acceptable.

At some point the existing building component must be actually located within the tables. Otherwise, the fire resistance must be determined through one of the techniques presented in Section III of the guideline. Locating the building component not only guarantees the accuracy of the fire resistance rating, but also provides a source of documentation for the building official.

C. Effects of Penetrations in Fire Resistant Assemblies

There are often many features in existing walls or floor/ceiling assemblies which were not included in the original certification or fire testing. The most common example is pipes and utility wires passed through holes poked through the assembly. During the life of the building, many penetrations are added and by the time a building is ready for rehabilitation, it is not sufficient to just consider the fire resistance of the assembly as originally constructed. It is necessary to consider all penetrations and their impact upon fire performance. For instance, the fire resistance of corridor walls is not as important as the effect of plain glass doors or transoms. In fact, doors are the most important single class of penetrations.

A fully developed fire generates substantial quantities of heat and excess fuel capable of penetrating any holes which might be present in the walls or ceiling of the fire compartment. In general, this leads to a severe degradation of the fire resistance of those elements and to a greater potential for fire spread. This is particularly applicable to penetrations located high in a compartment where the positive pressure of the fire can force the unburned gases through the penetration.

Penetrations in a floor/ceiling assembly will generally completely negate the barrier qualities of the assembly, and will lead to rapid spread of fire to the space above. It will not be a problem, however, if the penetrations are filled with noncombustible materials strongly fastened to the structure. The upper half of walls are similar to the floor/ceiling assembly in that a positive pressure can reasonably be expected in the top of the room, and this will push hot and/or burning gases through the penetration unless it is completely sealed.

Building codes require doors installed in fire resistive walls to resist the passage of fire for a specified period of time. If the door to a fully involved room is not closed, a large plume of fire will typically escape through the doorway, preventing anyone from using the space outside the door while allowing the fire to spread. This is why door closers are so important. Glass in doors and transoms can be expected to rapidly shatter unless constructed of listed or approved wire glass in a steel frame. As with other building components, penetrations or non-rated portions of doors and transoms must be upgraded or otherwise protected.

Table 5.1 in Section V of the Appendix contains 41 entries of doors mounted in sound tightfitting frames. Section III (D) below outlines one procedure for evaluating and possibly upgrading existing doors.

Section III Final Evaluation and Design Solutions

The final evaluation begins after the rehabilitation project has reached the final design stage and the choices made to keep certain archaic materials and assemblies in the rehabilitated building. The specific fire resistance and flame spread requirements are determined for the project. This may involve local building and fire officials reviewing the preliminary evaluation as depicted on Table A, Table B, and the field drawings and notes. The final evaluation process is essentially a more refined and detailed version of the preliminary evaluation. When necessary, provisions must be made to upgrade existing building components to provide the required level of fire resistance.

This section identifies specific approaches to design solutions that can make possible the continued use of archaic materials and assemblies in the rehabilitated structure. The simplest case occurs when the materials and assembly in question are found within the Appendix Tables and the fire performance properties satisfy code requirements. Other approaches must be used, though, if the assembly cannot be found within the Appendix or the fire performance needs to be upgraded. These approaches have been grouped into two classes: experimental and theoretical.

A. The Experimental Approach

If the fire resistance rating of a material and/or assembly found in a building is not given in the Appendix Tables of this report, there are several other ways to evaluate its fire performance. One approach is to conduct the appropriate fire test(s) and thereby determine the fire-related properties directly. There are a number of laboratories in the United States which routinely conduct the various fire tests. A current list can be obtained by writing the Center for Fire Research, National Bureau of Standards, Washington, D.C. 20234.

The contract with any of these testing laboratories should require their observation of specimen preparation as well as the testing of the specimen. A complete description of where and how the specimen was obtained from the building, the transportation of the specimen, and its preparation for testing should be noted in detail so that the building official can be satisfied that the fire test is representative of the actual use of the material in the building.

The test report should describe the fire test procedure and the response of the material or assembly. The laboratory usually submits a cover letter with the report to describe the provisions of the fire test that were satisfied by the material or assembly under investigation. A building official will generally require this cover letter, but will also read the report to confirm that the material or assembly complies with the code requirements. Local code officials should be involved in all phases of the testing process.

The experimental approach can be costly and time consuming because specimens must be taken from the building and transported to the testing laboratory. When a load bearing assembly has continuous reinforcement, the test specimen must be removed from the building, transported, and tested in one piece. However, when the fire performance cannot be determined by other means, there may be no alternative to a full-scale test.

A "non-standard" small-scale test can be used in special cases. Sample sizes need only be 10–25 square feet, while full-scale tests require test samples of either 100 or 180 square feet in size. This small-scale test is best suited for testing non-load bearing assemblies against thermal transmission only.

B. The Theoretical Approach

There will be instances when certain materials and assemblies in a building undergoing rehabilitation cannot be found in the Appendix Tables. Even in those cases where test results are available for more or less similar construction, the proper classification may not be imnmediately apparent. Variations in dimensions, loading conditions, materials, or workmanship may markedly affect the performance of the individual building elements, and the extent of such a possible effect cannot be evaluated from the tables.

Theoretical methods being developed offer an alternative to the full-scale fire tests discussed above. For example, Section 4302(b) of the 1979 Edition of the Uniform Building Code specifically allows an engineering design for fire resistance in lieu of conducting full scale tests. These techniques draw upon computer simulation and mathematical modeling, thermodynamics, heat-flow analysis, and materials science to predict the fire performance of building materials and assemblies.

Another theoretical method known as the "Ten Rules of Fire Endurance Ratings" was published by T. Z. Harmathy in the May, 1965 edition of *Fire Technology*. (35) Using the data from the Appendix as a base, Harmathy's Rules provide a foundation for extending the data to analyze or upgrade current as well as archaic building materials or assemblies.

Harmathy's Ten Rules

Rule 1: The "thermal" [3] fire endurance of a construction consisting of a number of parallel layers is greater than the sum of the "thermal" fire endurances characteristic of the individual layers when exposed separately to fire.

(i) The minimum performance of an untested assembly can be estimated if the fire endurance of the individual components is known. Though the exact rating of the assembly cannot be stated, the endurance of the assembly is greater than the sum of the endurance of the components.

(ii) When a building assembly or component is found to be deficient, the fire endurance can be upgraded by providing a protective membrane. This membrane could be a new layer of brick, plaster, or drywall. The fire endurance of this membrane is called the "finish rating." Tables 1.5.1 and 1.5.2 contain the finish ratings for the most commonly employed materials. (See note (ii) to Rule 2).

(iii) The test criteria for the finish rating is the same as for the thermal fire endurance of the total assembly: average temperature increases of 250° F above ambient or 325° F above ambient at any one place with the membrane being exposed to the fire. The temperature is measured at the interface of the assembly and the protective membrane.

Rule 2: The fire endurance of a construction does not decrease with the addition of further layers.

(i) Harmathy notes that this rule is a consequence of the previous rule. Its validity also follows from the fact that, by the addition of further layers, both the resistance to heat flow and the heat capacity of the construction increase, which, in turn, reduce the rate of temperature rise at the unexposed surface.

(ii) This rule is not just restricted to "thermal" performance but affects the other fire test criteria: direct flame passage, cotton waste ignition, and load bearing performance. This means that certain restrictions must be imposed on the materials to be added and on the loading conditions. One restriction is that new layer, if applied to the exposed surface, must not produce additional thermal stresses in the construction, i.e., its thermal expansion characteristics must be similar to those of the adjacent layer. Each new layer must also be capable of contributing enough additional strength to the assembly to sustain the added dead load. If this requirement is not fulfilled, the allowable live load must be reduced by an amount equal to the weight of the new layer. Because of these limitations, this rule should not be applied without careful consideration of these restrictions.

(iii) Particular care must be taken if the material added is a good thermal insulator. Preperly located, the added insulation could improve the "thermal" performance of the assembly. Improperly located, the insulation could block necessary thermal transmission through the assembly, thereby subjecting the structural elements to greater temperatures for longer periods of time, and could cause premature structural failure of the supporting members.

Rule 3: The fire endurance of constructions containing continuous air gaps or cavities is greater than the fire endurance of similar constructions of the same weight, but contining no air gaps or cavities.

(ii) By providing for voids in a construction, additional resistances are produced in the path of heat flow. Numerical heat flow analyses indicate that a 10 to 15 percent increase in fire endurance can be achieved by creating an air gap at the mid-plane of a brick wall. Since the gross volume is also increased by the presence of voids, the air gaps and cavities have a beneficial effect on stability as well. However, constructions containing combustible materials within an air gap may be regarded as exceptions to this rule because of the possible development of burning in the gap.

(ii) There are numerous examples of this rule in the tables. For instance:

Table 1.1.4; Item W–8–M–82: Cored concrete masonry, nominal 8" thick wall with *one unit* in wall thickness and with 62 percent minimum of solid material in each unit, load bearing (80 PSI). *Fire endurance is 2½ hours.*

Table 1.1.5; Item W–10–M–11: Cored concrete masonry, nominal 10" thick wall with *two units* in wall thickness and a 2" *air space*, load bearing (80 PSI). The units are essentially the same as item W–8–M–82. *Fire endurance is 3½ hours.*

These walls show 1-hour greater fire endurance by the addition of the 2" air space.

Rule 4: The farther an air gap or cavity is located from the exposed surface, the more beneficial is its effect on the fire endurance.

(i) Radiation dominates the heat transfer across an air gap or cavity, and it is markedly higher where the temperature is higher. The air gap or cavity is thus a poor insulator if it is located in a region which attains high temperatures during fire exposure.

(ii) Some of the clay tile designs take advantage of these factors. The double cell design, for instance, insures that there is a cavity near the unexposed face. Some floor/ceiling assemblies have air gaps or cavities near the top surface and these enhance their thermal performance.

Rule 5: The fire endurance of a construction cannot be increased by

[3] The "thermal" fire endurance is the time at which the average temperature on the unexposed side of a construction exceeds its initial value by 250° F when the other side is exposed to the "standard" fire specified by ASTM Test Method E–119.

increasing the thickness of a completely enclosed air layer.

(i) Harmathy notes that there is evidence that if the thickness of the air layer is larger than about ½ inch, the heat transfer through the air layer depends only on the temperature of the bounding surfaces, and is practically independent of the distance between them. This rule is not applicable if the air layer is not completely enclosed, i.e., if there is a possibility of fresh air entering the gap at an appreciable rate.

Rule 6: Layers of materials of low thermal conductivity are better utilized on that side of the construction on which fire is more likely to happen.

(i) As in Rule 4, the reason lies in the heat transfer process, but here the conductivity of the solid is much less dependent on the ambient temperature. The low thermal conductor allows a substantial temperature gradient to be established across its thickness under transient heat flow conditions. This rule may not be applicable to materials undergoing physico-chemical changes accompanied by significant heat absorption or heat evolution.

Rule 7: The fire endurance of asymmetrical constructions depends on the direction of heat flow.

(i) This rule is a consequence of Rules 4 and 6 as well as other factors. This rule is useful in determining the relative protection of corridors and stairwells from the surrounding spaces. In addition, there are often situations where a fire is more likely, or potentially more severe, from one side or the other.

Rule 8: The presence of moisture, if it does not result in explosive spalling, increases the fire endurance.

(i) The flow of heat into an assembly is greatly hindered by the release and evaporation of the moisture found within cementitious materials such as gypsum, portland cement, or magnesium oxychloride. Harmathy has shown that the gain in fire endurance may be as high as 8 percent for each percent (by volume) of moisture in the construction. It is the moisture chemically bound within the construction material at the time of manufacture or processing that leads to increased fire endurance. There is not direct relationship between the relative humidity of the air in the pores of the material and the increase in fire endurance.

(ii) Under certain conditions there may be explosive spalling of low permeability cementitious materials such as dense concrete. In general, one can assume that extremely old concrete has developed enough minor cracking that this factor should not be significant.

Rule 9: Load-supporting elements, such as beams, girders and joists, yield higher fire endurances when subjected to fire endurance tests as parts of floor, roof, or ceiling assemblies than they would when tested separately.

(i) One of the fire endurance test criteria is the ability of a load-supporting element to carry its design load. The element will be deemed to have failed when the load can no longer be supported.

(ii) Failure usually results for two reasons. Some materials, particularly steel and other metals, lose much of their structural strength at elevated temperatures. Physical deflection of the supporting element, due to decreased strength or thermal expansion, causes a redistribution of the load forces and stresses throughout the element. Structural failure often results because the supporting element is not designed to carry the redistributed load.

(iii) Roof, floor, and ceiling assemblies have primary (e.g., beams) and secondary (e.g., floor joists) structural members. Since the primary load-supporting elements span the largest distances, their deflection becomes significant at a stage when the strength of the secondary members (including the roof or floor surface) is hardly affected by the heat. As the secondary members follow the deflection of the primary load-supporting element, an increasingly larger portion of the load is transferred to the secondary members.

When load-supporting elements are tested separately, the imposed load is constant and equal to the design load throughout the test. By definition, no distribution of the load is possible because the element is being tested by itself. Without any other structural members to which the load could be transferred, the individual elements cannot yield a higher fire endurance than they do when tested as parts of a floor, roof or ceiling assembly.

Rule 10: The load-supporting elements (beams, girders, joists, etc.) of a floor, roof, or ceiling assembly can be replaced by such other load-supporting elements which, when tested separately, yielded fire endurances not less than that of the assembly.

(i) This rule depends on Rule 9 for its validity. A beam or girder, if capable of yielding a certain performance when tested separately, will yield an equally good or better performance when it forms a part of a floor, roof or ceiling assembly. It must be emphasized that the supporting element of one assembly must not be replaced by the supporting element of another assembly if the performance of this latter element is not known from a separate (beam) test. Because of the load-reducing effect of the secondary elements that results from a test performed on an assembly, the performance of the supporting element alone cannot be evaluated by simple arithmetic. This rule also indicates the advantage of performing separate fire tests on primary load-supporting elements.

Harmathy (35) provided one schematic figure which illustrated his Rules. This is shown below.* It should be useful as a quick reference to assist in applying his Rules.

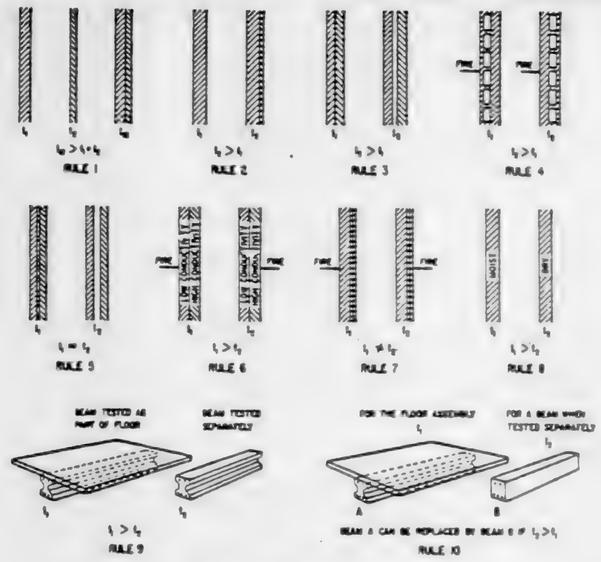

Diagrammatic illustration of ten rules.
t = fire endurance

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Example Applications of Harmathy's Rules

The following examples, based in whole or in part upon those presented in Harmathy's paper (35), show how the Rules can be applied to practical cases.

Example 1

A. *Problem*

(i) A contractor would like to keep a partition which consists of a 3¾ inch thick layer of red clay brick, a 1¼ inch thick layer of plywood and a ⅝ inch thick layer of gypsum wallboard, at a location where 2-hour fire endurance is required. Is this assembly capable of providing a 2-hour protection?

B. *Solution*

(i) This partition does not appear in the Appendix Tables.

(ii) Bricks of this thickness yield fire endurances of approximately 75 minutes (Table 1.1.2, Item W–4–M–2).

(iii) The 1¼ inch thick plywood has a finish rating of 30 minutes. (iv) The ⅝ inch gypsum wallboard has a finish rating of 10 minutes.

(v) Using the recommended values from the Tables and applying Rule 1, the

fire endurance of the assembly is larger than the sum of the layers, or

>75+30+10=115 minutes

C. *Discussion*

(i) This example illustrates how the Appendix Tables can be utilized to determine the fire resistance of assemblies not explicitly listed.

Example 2

A. *Problem*

(i) A number of buildings to be rehabilitated have the same type of roof slab which is supported with different structural elements.

(ii) The designer and contractor would like to determine whether or not this roof slab is capable of yielding a 2-hour fire endurance. According to a rigorous interpretation of ASTM E–119, however, only the roof assembly, including the roof slab as well as the cover and the supporting elements, can be subjected to a fire test. Therefore, a fire endurance classification cannot be issued for the slab separately.

(iii) The designer and contractor believe this slab will yield a 2–hour fire endurance even without the cover, and any beam of at least 2–hour fire endurance may serve as satisfactory support. Is it possible to obtain a classification for the slab separately?

B. *Solution*

(i) The answer to the question is yes.

(ii) According to Rule 10 it is not contrary to common sense to test and classify roofs and supporting elements separately. Furthermore, according to Rule 2, if the roof slabs actually yield a 2–hour fire endurance, the endurance of an assembly, including the slabs, cannot be less than two hours.

(iii) The recommended procedure would be to review the tables to see if the slab appears as part of any tested roof or floor/ceiling assembly. The supporting system can be regarded as separate from the slab specimen, and the fire endurance of the assembly listed in the table is at least the fire endurance of the slab. There would have to be an adjustment for the weight of the roof cover in the allowable load if the test specimen did not contain a cover.

(iv) The supporting structure or element would have to have at least a 2–hour fire endurance when tested separately.

C. *Discussion*

If the tables did not include tests on assemblies which contained the slab, one procedure would be to assemble the roof slabs on any convenient supporting system (not regarded as part of the specimen) and to subject them to a load which, besides the usually required superimposed load, includes some allowances for the weight of the cover.

Example 3

A. *Problem*

(i) A steel-joisted floor and ceiling assembly is known to have yielded a fire endurance of 1 hour and 35 minutes. At a certain location, a 2–hour fire endurance is required. What is the most economical way of increasing the fire endurance by at least 25 minutes?

B. *Solution*

(i) The most effective technique would be to increase the ceiling plaster thickness. Existing coats of paint would have to be removed and the surface properly prepared before the new plaster could be applied. Other materials (e.g., gypsum wallboard) could also be considered.

(ii) There may be another technique based on other principles, but an examination of the drawings would be necessary.

C. *Discussion*

(i) The additional plaster has at least three effects:

a) The layer of plaster is increased and thus there is a gain of fire endurance (Rule 1).

b) There is a gain due to shifting the air gap farther from the exposed surface (Rule 4).

c) There is more moisture in the path of heat flow to the structural elements (Rules 7 and 8).

(ii) The increase in fire endurance would be at least as large as that of the finish rating for the added thickness of plaster. The combined effects in (i) above would further increase this by a factor of 2 or more, depending upon the geometry of the assembly.

Example 4

A. *Problem*

(i) The fire endurance of item W–10–M–1 in Table 1.1.5 is 4-hours.This wall consists of two 3¾ inch thick layers of structural tiles separated by a 2-inch air gap and ¾" Portland cement plaster or stucco on both sides. If the actual wall in the building is identical to item W–120–M–1 except that it has a 4–inch air gap, can the fire endurance be estimated at 5 hour-

B. *Solution*

(i) The answer to the question is no.

(ii) Reason contained in Rule 5.

Example 5

A. *Problem*

(i) In order to increase the insulating value of its precast roof slabs, a company has decided to make the slabs using two layers of different concretes. The lower layer of the slabs, where the strength of the concrete is immaterial (all the tensile load is carried by the steel reinforcement), is now made from a concrete of low strength but good insulating value. For the upper layer, where the concrete is supposed to carry the compressive load, the original high strength, high thermal conductivity concrete has been retained. How will the fire endurance of the slabs be affected by the changes?

B. *Solution*

The effect on the thermal fire endurance is beneficial:

(i) The total resistance to heat flow of the new slabs has been increased due to the replacement of a layer of high thermal conductivity by one of low conductivity.

(ii) The layer of low conductivity is on the side more likely to be exposed to fire, where it is more effectively utilized according to Rule 6. The layer of low thermal conductivity also provides better protection for the steel reinforcement, thereby extending the time before reaching the temperature at which the creep of steel becomes significant.

C. "Thickness Design" Strategy

If a given wall does not appear in the tables, a rehabilitation designer can utilize a "thickness design" strategy for walls which is based on Harmathy's Rules 1 and 2.

This "thickness design" approach is used when the materials have been identified and measured, but the specific wall is not included in the tables. The first step is to survey thinner walls to see if the same materials have been fire tested and if thinner walls have yielded the desired or greater fire endurance. If that is the case, then the thicker walls in the building have more than enough fire resistance. The thickness of the walls thus becomes the principal concern.

This approach can also be used for floor/ceiling assemblies, except that the thickness of the cover [4] and the slab become the central concern. The fire resistance of the untested assembly will be at least the fire resistance of an assembly listed in the table having a similar design but with less cover and/or thinner slabs. For other structural elements (e.g., beams and columns), the element listed in the table must be of a similar design but with less cover thickness.

D. Evaluation of Doors

A separate section on doors has been included because the process for evaluation presented below differs from those suggested previously for other building elements. The impact of

[4] Cover: The protective layer of membrane of material which slows the flow of heat to the structural elements.

unprotected openings or penetrations in fire resistant assemblies has been detailed in Section II (C) above. It is sufficient to note here that openings left unprotected will likely lead to failure of the barrier under actual fire conditions.

For other types of building elements (e.g., beams, columns), the Appendix Tables can be used to establish a minimum level of fire performance. The benefit to rehabilitation is that the need for a full-scale fire test is then eliminated. For doors, however, this cannot be done. The data contained in Appendix Table 5.1, "Resistance of Doors to Fire Exposure", can only provide guidance as to whether a successful fire test is even feasible.

For example, a door required to have 1-hour fire resistance is noted in the tables as providing only 5 minutes. The likelihood of achieving the required 1-hour, even if the door is upgraded, is remote. The ultimate need for replacement of the doors is reasonably clear, and the expense and time needed for testing can be saved. However, if the performance documented in the table is near or in excess of what is being required, then a fire test should be conducted. The test documentation can then be used as evidence of compliance with the required level of performance.

The table entries cannot be used as the sole proof of performance of the door in question because there are too many unknown variables which could measurably affect fire performance. The wood may have dried over the years; coats of flammable varnish could have been added. Minor deviations in the internal construction of a door can result in significant differences in performance. Methods of securing inserts in panel doors can vary. The major non-destructive method of analysis, an x-ray, often cannot provide the necessary detail. It is for these, and similar reasons, that a fire test is still felt to be necessary.

It is often possible to upgrade the fire performance of an existing door. Sometimes "as is" and modified doors are evaluated in a single series of tests when failure of the unmodified door is expected. Because doors upgraded after an initial failure must be tested again, there is a potential savings of time and money.

The most common problems encountered are plain glass, panel inserts of insufficient thickness, and improper fit of a door in its frame. The latter problem can be significant because a fire can develop a substantial positive pressure, and the fire will work its way through otherwise innocent-looking gaps between door and frame.

One approach to solving these problems is as follows. The plain glass is replaced with approved or listed wire glass in a steel frame. The panel inserts can be upgraded by adding an additional layer of material. Gypsum wallboard is often used for this purpose. Intumescent paint applied to the edges of the door and frame will expand when exposed to fire, forming an effective seal around the edges. This seal, coupled with the generally even thermal expansion of a wood door in a wood frame, can prevent the passage of flames and other fire gases. The figure below illustrates these solutions.

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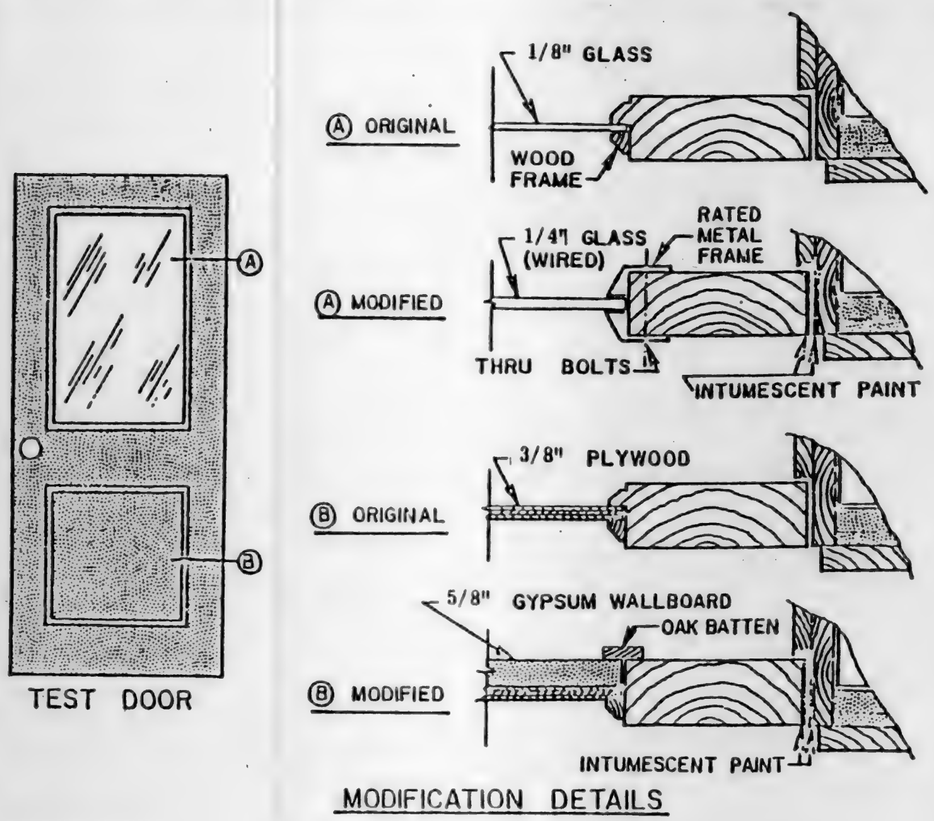

MODIFICATION DETAILS

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Because the interior construction of a door cannot be determined by a visual inspection, there is no absolute guarantee that the remaining doors are identical to the one(s) removed from the building and tested. But the same is true for doors constructed today, and reason and judgment must be applied. Doors that appear identical upon visual inspection can be weighed. If the weights are reasonably close, the doors can be assumed to be identical and therefore provide the same level of fire performance. Another approach is to fire test more than one door or to dismantle doors selected at random to see if they had been constructed in the same manner. Original building plans showing door details or other records showing that doors were purchased at one time or obtained from a single supplier can also be evidence of similar construction.

More often though, it is what is visible to the eye that is most significant. The investigator should carefully check the condition and fit of the door and frame, for frames out of plumb or separating from the wall. Door closers, latches, and hinges must be examined to see that they function properly and are tightly secured. If these are in order and the door and frame have passed a full-scale test, there can be a reasonable basis for allowing the existing doors to remain.

Section IV Summary Guideline

After the preliminary evaluation has been documented and a rehabilitation project is in the final design process, the need arises for specific guidelines for the evaluation of the fire-related performance of existing building elements. This section summarizes the various approaches and design solutions discussed in the preceeding Sections.

The term "structural system" includes: frames, beams, columns, and other structural elements. "Cover" has the meaning defined below: a protective layer(s) of materials or membrane which slows the flow of heat to the structural elements.

The following approaches (i) through (iii) shall be considered equivalent.

(i) The fire resistance of a building element can be established from the Appendix Tables. This is subject to the following limitations:

a. The building element in the rehabilitated building shall be constructed of the same materials with the same nominal dimensions as stated in the tables.

b. All penetrations in the building element or its cover for services such as electricity, plumbing, and HVAC shall be packed with noncombustible cementitious materials and so fixed that the packing material will not fall out when it loses its water of hydration.

c. The effects of age and wear and tear shall be repaired so that the building element is sound and the original thickness of all components, particularly covers and floor slabs, is maintained.

(ii) The fire resistance of a building element which does not explicitly appear in the Appendix Tables can be established if one or more elements of same design but different dimensions have been listed in the tables. For walls, the existing element must be thicker than the one listed. The fire resistance of the thicker wall shall be considered that of the thinner wall which appears in the table. For floor/ceiling assemblies, the assembly listed in the table must have the same or less cover and the same or thinner slab constructed of the same material as the actual floor/ceiling assembly. For other structural elements, the element listed in the table must be of a similar design but with less cover thickness. The fire resistance in all instances shall be the fire resistance rating recommended in the table. This is subject to the following limitations:

a. The actual element in the rehabilitated building shall be constructed of the same materials as listed in the table. Only the following dimensions may vary from those specified: for walls, the overall thickness must exceed that specified in the table; for floor/ceiling assemblies, the thickness of the cover and the slab must be greater than, or equal to, that specified in the table; for other structural elements, the thickness of the cover must be greater than that specified in the table.

b. All penetrations in the building element or its cover for services such as electricity, plumbing, or HVAC shall be packed with noncombustible cementitious materials and so fixed that the packing material will not fall out when it loses its water of hydration.

c. The effects of age and wear and tear shall be repaired so that the building element is sound and the original thickness of all components, particularly covers and floor slabs, is maintained.

(iii) The fire resistance of building elements can be established by applying Harmathy's Ten Rules of Fire Resistance Ratings as set forth in Section III (B). This is subject to the following limitations:

a. The data from the Tables can be utilized with the limitations a. through c. from Guideline (i) above.

(b) Test reports from recognized journals or published papers can be used to support data utilized in applying Harmathy's Rules.

c. Calculations utilizing recognized and well established computational techniques can be used in applying Harmathy's Rules. These include, but are not limited to, analysis of heat flow, mechanical properties, deflections, and load bearing capacity.

Commentary

(i) Guideline (i) essentially follows the approach taken by model building codes. The assembly must appear in a table either published in or accepted by the code for a given fire resistance rating to be recognized and accepted.

(ii) Guideline (ii) is an application of the "thickness design" concept presented in Section III (C). There should be many instances when a thicker building element was utilized than the one listed in the Appendix Tables. This Guideline recognizes the inherent superiority of a thicker design. Note: "thickness design" for floor/ceiling assemblies and structural elements refers to cover and slab thickness rather than total thickness.

(iii) The "thickness design" concept is essentially a special case of Guideline (iii) which takes special cognizance of Harmathy's Rules (specifically Rules 1 and 2). It should be recognized that the only source of data for Guideline (ii) is the Appendix Tables. If other data are used, it must be in connection with Guideline (iii).

(iv) The fire endurance of actual building elements can be greatly reduced or totally negated by removing part of the cover to allow pipes, ducts, or conduits to pass through the element. This must be repaired in the rehabilitation process.

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Tuesday
May 27, 1980

Part IV

Department of Energy

Privacy Act; Records Maintained on Individuals

DEPARTMENT OF ENERGY

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on its own behalf. They do not apply to

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DEPARTMENT OF ENERGY

10 CFR Part 1008

Privacy Act; Records Maintained on Individuals

AGENCY: Department of Energy.

ACTION: Proposed regulations.

SUMMARY: These regulations propose the procedures to be followed and the substantive principles to be applied by the Department of Energy (DOE) in implementing its responsibilities under the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act). The regulations set forth the procedures under which individuals may seek access to their records and request correction of those records. The regulations also set forth employee standards of conduct with regard to personal records within the scope of the Privacy Act. Additionally, there are provisions pertaining to the dissemination of records of parties other than the requesting individual and provisions applicable to the Department's establishment and maintenance of systems of records. These regulations are also applicable to contractors and their employees to the extent required by 5 U.S.C. 552a(m).

COMMENT DATE: June 26, 1980.

ADDRESS: Interested persons are invited to submit written comments with respect to the proposed guidelines to: Kenneth E. Cohen, Acting Assistant General Counsel for Legal Counsel, Room 6H–058, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–8618.

FOR FURTHER INFORMATION CONTACT:

Leslie Borden Greenspan, Office of General Counsel, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–8618.

Milton Jordan, Office of Administrative Services, Room 5B–138, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–5955.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
III. Revocations
IV. Other Procedural Considerations
V. Comment Procedures

I. Background

The DOE was established by the Department of Energy Organization Act (Pub. L. 95–91) (the Act), which became effective on October 1, 1977 pursuant to Executive Order 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977). The Act transfers to and vests in the DOE the functions of the former Federal Energy Administration, the Energy Research and Development Administration, and specified functions of several other agencies, including the Department of Interior. These regulations represent a consolidation, with some procedural adaptation, of the Privacy Act regulations previously followed by the Federal Energy Administration and the Energy Research and Development Administration, two of the major components of the new Department. The regulations apply to all Privacy Act matters pertaining to the Department, except that they do not apply to the Federal Energy Regulatory Commission (FERC), an independent collegial body within DOE.

II. Discussion

These regulations establish a procedure that geographically decentralizes the administration of the DOE's program for implementing the Privacy Act of 1974 to various DOE field locations and appropriate Privacy Act Officers, to be designated by the Director, Office of Administration. Each Privacy Act Officer will be responsible for the following: (i) Advising all DOE personnel of the provisions, including the criminal penalties and civil liabilities of the Privacy Act and of their responsibilities thereunder and (ii) the initial processing of requests, including verifying the identity of individuals making request for access to or correction of records and identifying the System Manager or Managers within the Department that maintain the records which are the subject of such requests.

Each Privacy Act Officer will make decisions pertaining to the validity of requests under these regulations, coordinate the collection of records from the System Manager or Managers, and be responsible for preparing responses granting or denying requests. Indentification, collection and review of records to determine whether to grant access or to correct a record are within the responsibility and authority of the System Manager, and Managers maintaining the records who, after reviewing the material shall transmit a recommended decision to the Privacy Act Officer. Consultation with the concurrence of DOE General Counsel is required.

Appeals of initial decisions, whether from the Headquarters or any field office, will continue to be directed only to the DOE, Office of Hearings and Appeals.

The administrative appeal procedures in section 1008.11 of these regulations are applicable only to denials of requests for records maintained by DOE on its own behalf. They do not apply to the government-wide systems that have been reported by the Office of Personnel Management (OPM), but are in the custody of DOE. Appeals of denials of access and amendment of these records are governed by OPM regulations 5 CFR Part 297 published at (44 FR 65031, November 9, 1979), and are to be directed to the Assistant Director for Agency Compliance and Evaluations, OPM.

The Privacy Act defines certain substantive parameters within which Federal agencies administer their Privacy Act programs. These substantive provisions (pertaining, for example, to the types of records which may be maintained by an agency, the accounting of disclosures, the exemption of certain information from disclosure, and the exemptions permitting disclosure to third parties) are reflected in these regulations, and in most practical respects represent a consolidation of parallel provisions appearing in the regulations of the Department's predecessor agencies. The regulations, however, include additional guidance pertaining to several aspects of the Privacy Act program. First, although the Privacy Act does not specifically require it, the regulations provide for an administrative appeal from initial denials of access to requested records. Second, although there are no time limits in the Privacy Act for the processing of requests or appeals, the regulations set forth time periods in this regard. The processing of initial requests for access shall be accomplished promptly, with every effort being made to respond within ten working days of the date of receipt. Actions on initial requests for correction or amendment and all actions on appeal are to be taken within 20 working days of receipt of the request. These provisions make the time periods for the processing of Privacy Act actions consistent with those required by statute for the processing of requests and appeals under the Freedom of Information Act. Moreover, the regulations also make it clear that the Freedom of Information Act exemptions shall not be invoked to limit an individual's access to records pertaining to him to which he is entitled under the Privacy Act.

Section 1008.12(a)(2) exempts, under subsection (j)(2) of the Privacy Act, the Inspector General's investigative files. Under subsection (j)(2), an agency or agency component whose principal function is "any activity pertaining to the enforcement of criminal laws * * *." may exempt systems of records which include information compiled for

criminal investigation from many provisions of the Privacy Act.

The Inspector General's investigative files may be exempted under subsection (j)(2) exemption because the principal function of the Office of the Inspector General is—

"to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud or abuse in, programs and operations of the Department * * *." (Section 208(b), DOE Organization Act, Pub. L. No. 95–91.)

These records are compiled by the Inspector General in the course of criminal investigations.

The system would be exempted from the following requirements: to provide individual access to and amendment of records and accounting for disclosures; to collect information where possible from the subject individual; to inform the individual of the authority, purpose, and uses to be made of the information and of the disclosure of records under compulsory legal process; and to describe the individual access and amendment procedures. The system would also be exempted from the standards of accuracy and relevance.

III. Revocations

These regulations, when adopted, will supersede the Privacy Act regulations for the Energy Research and Development Administration (10 CFR Part 708) and the Federal Energy Administration (10 CFR Part 206). At the time these regulations become final, the above-cited regulations of the predecessor agencies of the DOE will be revoked.

IV. Other Procedural Considerations

In accordance with Council on Environmental Quality regulations (40 CFR Parts 1500–1508) for implementing the procedural provisions of the National Environmental Policy Act, no Environmental Assessment or Environmental Impact Statement is necessary for the publication of these proposed regulations since these regulations do not affect the quality of the environment.

In accordance with section 501(c)(1) of the Department of Energy Organization Act, DOE has determine that these regulations present no substantial issue of fact or law, and are unlikely to have a substantial impact on the economy or large numbers of individuals or businesses. Accordingly, no public hearing is required.

The DOE has also determined that this document is not a significant regulation requiring preparation of a regulatory analysis under Executive Order 12044, as implemented by DOE Order 2030.1, since the anticipated effects of the proposal, if made final, would be primarily to provide internal guidance for the implementation of the Privacy Act.

Interested persons are invited to submit written comments with respect to the proposed guidelines to: Kenneth E. Cohen, Acting Assistant General Counsel for Legal Counsel, Room 6H–058, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–8618.

Comments should be identified on the outside envelope and on documents submitted to DOE with the designated Privacy Act Regulations. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. Comments should be provided on or before June 26, 1980.

(Department of Energy Organization Act, Pub. L. 95–91, Executive Order 12091, 42 FR 46267, Privacy Act of 1974, Pub. L. 93–579 (5 U.S.C. 552a))

In consideration of the foregoing, it is proposed that the regulations set forth below be adopted.

Issued in Washington, D.C., on May 16, 1980.

Charles W. Duncan, Jr.,
Secretary.

PART 1008—RECORDS MAINTAINED ON INDIVIDUALS (PRIVACY ACT)

Subpart A—General Provisions

Sec.
1008.1 Purpose and scope.
1008.2 Definitions.
1008.3 Employee standards of conduct with regard to privacy.
1008.4 Procedures for identifying the individual making a request for access to or amendment of records.
1008.5 Effects of the Freedom of Information Act.

Subpart B—Requests for Access or Amendment

1008.6 Procedures for requesting information about or for access to or correction or amendment of an individual's own records in a system of records.
1008.7 Processing of requests.
1008.8 Action in response to a request for access: Disclosure of requested information to subject individuals.
1008.9 Action in response to a request for access: Initial denial of access.
1008.10 Action in response to a request for correction or amendment of records.
1008.11 Appeals of denials of requests pursuant to § 1008.6.
1008.12 Exemptions.
1008.13 Fees.
1008.14 Requests under false pretenses.

Subpart C—Disclosure to Third Parties

1008.15 Prohibition against disclosure.
1008.16 Conditions of disclosure.
1008.17 Accounting for disclosures.

Subpart D—Maintenance and Establishment of Systems of Records

1008.18 Content of systems of records.
1008.19 Collection of information by DOE about an individual for a system of records.
1008.20 Use and collection of social security numbers.
1008.21 Public notice of systems of records.

Authority: (Department of Energy Organization Act, Pub. L. 95–91, Executive Order 12091, 42 FR 46267, Privacy Act of 1974, Pub. L. 93–579 (5 U.S.C. 552a)).

Subpart A—General Provisions

§ 1008.1 Purpose and scope.

(a) This part establishes the procedures to implement the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a.) within the Department of Energy.

(b) This part applies to all systems of records, as defined in § 1008.2(m), maintained by DOE.

(c) This part applies to all divisions within the DOE, and to the personnel records of the Federal Energy Regulatory Commission (FERC), which are maintained by DOE on behalf of FERC. These regulations do not apply to other systems of records maintained by FERC. These regulations also apply to DOE contractors and their employees to the extent required by 5 U.S.C. 552a(m).

§ 1008.2 Definitions

(a) "Department" or "Department of Energy (DOE)" means all organizational entities which are a part of the executive department created by Title II of the Department of Energy Organization Act, Pub. L. 95–91, except the Federal Energy Regulatory Commission (FERC).

(b) "Director, Office of Hearings and Appeals" means the Director or his delegate.

(c) "DOE locations" means each of the following DOE components:

(1) Alaska Power Administration, P.O. Box 50, Juneau, AK 88801.

(2) Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115.

Note.—This office has cognizance over the following area offices: Amarillo, Dayton, Kansas City, Los Alamos, Pinellas, Rocky Flats and Sanria.

(3) Bartlesville Energy Technology Center, P.O. Box 1398, Bartlesville, OK 74003.

(4) Bonneville Power Administration, P.O. Box 3621, Portland, OR 97268.
(5) Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439.

Note.—This office has cognizance over the Batvia and Brookhaven area offices and the New Brunswick laboratory.

(6) Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201.
(7) Grand Junction Office, P.O. Box 2567, Grand Junction, CO 81502.
(8) Headquarters, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.
(9) Idaho Operations Office, 550 2nd Street, Idaho Falls, ID 83401
(10) Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, WY 82070.
(11) Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26505.
(12) Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114
(13) Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.
(14) Oak Ridge Technical Information Center, P.O. Box 62, Oak Ridge, TN 37830.
(15) Pittsburgh Energy Technology Center, 4800 Forbes Avenue, Pittsburgh, PA 15213.
(16) Region I: Analex Building, Room 700, 150 Causeway Street, Boston, MA 02114.
(17) Region II: 26 Federal Plaza, Room 3206, New York, NY 10007.
(18) Region III: 1421 Cherry Street, 10th Floor, Philadelphia, PA 19102.
(19) Region IV: 1655 Peachtree Street, NE, 8th Floor, Atlanta, GA 30309.
(20) Region V: 175 West Jackson Boulevard, Room A–333, Chicago, IL 60604.
(21) Region VI: P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235.
(22) Region VII: Twelve Grand Building, 1150 Grand Avenue, Kansas City, MO 64106.
(23) Region VIII: P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, CO 80226.
(24) Region IX: 111 Pine Street, Third Floor, San Francisco, CA 94111.
(25) Region X: 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174.
(26) Richland Operations Office, P.O. Box 550, Richland, WA 99352.
(27) San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Oakland, CA 94612.
(28) Savannah River Operations Office, P.O. Box "A" Aiken, SC 29801.
(29) Southeastern Power Administration, Elberton, GA 30635.
(30) Southwestern Power Administration, P.O. Drawer 619, Tulsa, OK 74101.
(31) Western Area Power Administration, P.O. Box 3402, Golden, CO 80401.

(d) "General Counsel" means the General Counsel provided for in section 202(b) of the Department of Energy Organization Act, or any DOE attorney designated by the General Counsel.

(e) "Headquarters" means all DOE facilities functioning within the Washington, D.C. metropolitan area.

(f) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence, but does not include proprietorships, businesses, or corporations. Where appropriate, the term "individual" also includes a duly authorized representative of an individual.

(g) "Maintain" means maintain, collect, use, or disseminate.

(h) "Privacy Act Officer" means the person designated by the Director, Office of Administration, as responsible for administering the DOE's program for implementing the requirements of the Privacy Act of 1974 at the DOE locations listed at § 1008.2(c).

(i) "Record" means any item, collection, or grouping of information about an individual that is maintained by or for the DOE including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains that individual's name, or other identifying number, symbol, or other identifying particulars assigned to the individual, such as a finger or voice print or photograph.

(j) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(k) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. section 8.

(l) "System Manager" means the DOE official who is responsible for a system of records as designated in the system notice of that system of records published by DOE.

(m) "System of records" means a group of any records under DOE control from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particulars assigned to the individual.

§ 1008.3 Employee standards of conduct with regard to privacy.

(a) The Headquarters DOE Privacy Act Officer shall assure that DOE personnel are advised of the provisions of the Privacy Act, including the criminal penalties and civil liabilities provided therein, and that DOE personnel are made aware of their responsibilities: To protect the security of personal information to assure its accuracy, relevance, timeliness and completeness; to avoid unauthorized disclosure; and to insure that no system of records concerning individuals, no matter how insignificant or specialized, is maintained without public notice.

(b) DOE personnel shall:

(1) Collect or maintain no information of a personal nature about individuals unless relevant and necessary to achieve a purpose or carry out a responsibility of the DOE as required by statute or by executive order.

(2) Collect information, wherever possible, directly from the individual to whom it pertains.

(3) Inform individuals from whom information is collected of the authority for collection, the principal purposes for which the information will be used, the routine uses that will be made of the information, and the effects of not furnishing the information.

(4) Collect, maintain, use or disseminate no information concerning an individual's rights guaranteed by the First Amendment, unless (i) the individual has volunteered such; or (ii) the information is expressly authorized by statute to be collected, maintained, used or disseminated; or (iii) the activities involved are pertinent to and within the scope of an authorized law enforcement activity.

(5) Advise their supervisors of the existence or proposal of any system of records which retrieves information about individuals by the individual's name or other identifying number, symbol, or identifying particulars assigned to the individual.

(6) Maintain an accounting, in the prescribed form, of all disclosures of information other than those to officers or employees who have a need for the record in the performance of their duties and those required under the Freedom of Information Act.

(7) Disclose no records other than to DOE personnel, except when authorized by 5 U.S.C. 552a or pursuant to a routine use published in the **Federal Register**.

(8) Maintain and process information concerning individuals with care to insure that no inadvertent disclosure of the information is made.

(9) Inform the proper DOE authorities of any information maintained in a DOE system of records which is not authorized by the Privacy Act of 1974.

(c) Heads of Headquarters Divisions and Offices and heads of the other DOE locations shall review annually the systems of records subject to their responsibility to insure compliance with the requirements of the Privacy Act of 1974.

§ 1008.4 Procedures for identifying the individual making a request for access to or amendment of records.

(a) When a request for information about or for access to or correction of a record pertaining to an individual and contained in a system of records has been made pursuant to § 1008.6 valid identification of the individual making the request shall be required before information will be given, access be granted or a correction considered, to insure that information is given, corrected, or records disclosed or corrected only at the request of the proper person.

(b) Subject to paragraphs (c) and (d) of this section, an individual making a request may establish his identity by:

(1) Including with his request, if submitted by mail, a photocopy of two identifying documents bearing his name and signature, one of which shall bear his current home or business address and date of birth; or

(2) Appearing at the appropriate DOE location during the regular business hours and presenting either of the following:

(i) One identifying document bearing the individual's photograph and signature, such as a driver's license or passport; or

(ii) Two identifying documents bearing the individual's name and signature, one of which shall bear the individual's current home or business address and date of birth; or

(3) Providing such other proof of identity as the Privacy Act Officer deems satisfactory in the circumstances of a particular request.

(c) If the Privacy Act Officer or the appropriate System Manager determines that the information in a record is so sensitive that unauthorized access could cause harm or embarrassment to the individual whose record is involved, or if the individual making the request is unable to produce satisfactory evidence of identity under paragraph (b) or (d) of this section, the individual making the request may be required to submit a notarized statement attesting to his identity and his understanding of the criminal penalties provided under section 1001 of Title 18 of the United States Code for making false statements to a Government agency and under section 552a(i)(3) of the Act for obtaining records under false pretenses. Copies of these statutory provisions and forms of such notarized statements may be obtained upon request from the Privacy Act Officer, Headquarters, Department of Energy, Washington, D.C.

(d) When an individual acting as the parent of a minor or the legal guardian of the person to whom a record pertains makes a request pursuant to § 1008.6 of this part—

(1) Such an individual shall establish his personal identity in the same manner required in either paragraphs (b) or (c) of this section.

(2) In addition, such an individual shall establish his identity in the representative capacity of parent or legal guardian. In the case of the parent of a minor, the proof of identity shall be a certified or authenticated copy of the minor's birth certificate. In the case of the legal guardian of a person who has been declared incompentent due to physical or mental incapacity or age by a court of competent jurisdiction, the proof of identity shall be a certified or authenticated copy of the order from a court of competent jurisdiction.

(3) A parent or legal guardian may act only for a living individual, not for a decedent.

§ 1008.5 Effect of the Freedom of Information Act (FOIA).

(a) DOE shall not rely on any exemption contained in the Freedom of Information Act (5 U.S.C. 552) to withhold from the individual to whom it pertains, any record which is otherwise accessible to such individual under this part.

(b) DOE shall rely on section (b) of the Privacy Act to withhold information from a person other than the person to whom the record pertains only when the information is also exempt from disclosure under the FOIA.

(c) Where a request for access to records is submitted pursuant to both the FOIA and the Privacy Act, the DOE shall, to the maximum extent possible, process the request under the provisions of this part, including the timing requirements of this part.

Subpart B—Requests for Access or Amendment

§ 1008.6 Procedures for requesting information about or for access to or correction or amendment of an individual's own records in a system of records.

(a) Any individual may request information regarding whether a system of records maintained by the DOE contains any information pertaining to him, and may request access to this information. Any individual may also request the correction or amendment of information pertaining to him that is contained in a system of records. Requests may be made by mail or in person during DOE's regular business hours and shall be directed to the Privacy Act Officer at the appropriate DOE location at the address listed in § 1008.2(c).

(b) Requests submitted pursuant to this section shall comply with the following provisions:

(1) The request, whether by mail or in person, shall be in writing and signed by the individual making the request. It should state that this request is a "Privacy Act Access" or a "Privacy Act Amendment" request and shall include any information required by § 1008.4 to be submitted for identification purposes.

(2) In addition, the request should:

(i) Specify the title and identifying number of the system of records which appears in the notice of systems of records published in the **Federal Register** by the DOE or its predecessor agencies, as appropriate.

(ii) Provide additional identifying information (consistent with the terms of the system notice) which may assist DOE in responding to the request; and

(iii) Describe the information sought and the time, place, or form of access, as appropriate.

(3) A request for correction or amendment of a record may be made by any individual if the requester believes that it is not accurate, relevant, timely, or complete. Amendment requests may include inquiries concerning—

(i) Whether such information is relevant or necessary to accomplish a purpose that DOE is required to accomplish by statute or by executive order of the President; or

(ii) If the information is to be used by DOE in making a determination about the individual, whether the requester believes such information is as accurate, relevant, timely or complete as is reasonably necessary to assure fairness in the determination.

(4) A request for correction or amendment of a record should include the elements listed in subparagraphs (2) (i) and (ii) of this paragraph. The request shall also specify the nature of the amendment sought, including the specific words to be deleted or added and shall present justification for the requested change, including any available supporting documents. The statement of justification for the change should identify the basis for the request (i.e., whether the information in the record is believed to be unnecessary, inaccurate, irrelevant, untimely or incomplete).

(c) Any request not addressed and marked as specified in paragraph (a) of

have substantial interest in the response

§ 1008.8 Action in response to a request for access: Disclosure of requested

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(c) Any request not addressed and marked as specified in paragraph (a) of this section shall be forwarded immediately to the appropriate Privacy Act Officer. An improperly addressed request will not be deemed to have been received for purposes of measuring time periods pursuant to §§ 1008.7 and 1008.10 until actual receipt by the appropriate Privacy Act Officer. The individual making the request shall be notified that the request was improperly addressed and the date when the request was received by the Privacy Act Officer.

(d) Assistance in preparing an access request pursuant to this section may be obtained from any DOE Privacy Act Officer at the locations listed at § 1008.2(e).

(e) An individual shall not be required to state a reason or otherwise justify his request for information, access to, or correction of a record pertaining to him/her that is contained in a system of records.

§ 1008.7 Processing of requests.

(a) Receipt of a request made in accordance with § 1008.6 of this part shall be promptly acknowledged by the Privacy Act Officer.

(b) Each request shall be acted upon promptly. Every effort will be made to respond within ten working days of the date of receipt by the System Manager or designee. If a response cannot be made within ten working days, the appropriate Privacy Act Officer shall send an interim response providing information on the status of the request, including an estimate of the time within which action is expected to be taken on the request and asking for any further information as may be necessary to respond to the request. Action will be completed as soon as possible, but not later than 20 working days after receipt of the original specific inquiry. In unusual circumstances and for good cause, the appropriate Privacy Act Officer may decide that action cannot be completed within the initial 20 working days. In such case, the appropriate Privacy Act Officer will advise the individual of the reason for the delay and the date (not to exceed an additional 20 working days) by which action can be expected to be completed.

(c) The term "unusual circumstances" as used in this section includes situations where a search for requested records from inactive storage is necessary; cases where a voluminous amount of data is involved; instances where information on other individuals must be separated or expunged from the particular record; and cases where consultation with other agencies which have substantial interest in the response to the request is necessary.

(d) Upon receiving a request, the Privacy Act Officer shall ascertain which System Manager or Managers of the DOE have primary responsibility for, custody of, or concern with the system of systems of records subject to the request and shall forward the request to such System Manager or Managers. The System Manager or Managers shall promptly identify and, in consultation with the General Counsel, review the records encompassed by the request.

(e) Where a request files pursuant to § 1008.6 involves records in the files of the DOE that have been obtained from other Federal agencies or that contain information obtained from other Federal agencies, the Privacy Act Officer shall do the following:

(1) Where an entire record originated in another agency, refer the request to the originating agency, and inform the requesting party of the appropriate official with whom to pursue his request.

(2) Where a DOE record contains information received from another agency, coordinate with the responsible official of the other agency. Such coordination will be conducted on an expedited basis, for the purposes of determining whether the other agency official wishes to deny the request and of obtaining the certification, signature, and identity of the other agency's responsible official. The notice of determination to the requesting party, in the event part or all of the record is denied by the other agency, shall cite the other agency's responsible official, as well as the appropriate DOE official if a denial by DOE is also involved.

(f) Where the request is for access to or information about records, after reviewing the material the System Manager or Mangers concerned shall transmit to the Privacy Act Officer the requested material. The transmission to the Privacy Act Officer shall include any recommendation that the request be granted or wholly or partially denied and shall set forth any exemption categories supporting denials. Any denial recommendation must be concurred in by the appropriate General Counsel.

(g) Where the request is for correction or amendment or records, after reviewing the material the System Manager or Managers shall transmit a recommended decision to the Privacy Act Officer. Any recommendation that the request be granted or wholly or partialliy denied shall set forth the policy considerations and any statutory basis supporting denials. Any recommendation of denial must be concurred in by General Counsel.

§ 1008.8 Action in response to a request for access: Disclosure of requested information to subject individuals.

(a) Consistent with the recommendation of the System Manager and the concurrence of the appropriate General Counsel, the Privacy Act Officer shall provide to the requesting individual the information about or access to a record or information pertaining to the individual contained in a system of records, unless the request is being denied in accordance with § 1008.9. The Privacy Act Officer shall notify the individual of such determination and provide the following information:

(1) Whether there is information of a record pertaining to him that is contained in a system of records;

(2) The methods of access as set forth in paragraph (b) of this section;

(3) The place at which the record or information may be inspected;

(4) The earliest date on which the record or information may be inspected and the period of time that the record or information will remain available for inspection. In no event shall the earliest date be later than thirty calendar days from the date of notification.

(5) An indication that copies of the records are enclosed, or the estimated date by which a copy of the record could be mailed and the estimate of fees that would be charged to provide other than the first copy of the record, pursuant to § 1008.13.

(6) The fact that the individual, if he wishes, may be accompanied by another person during the in-person review of the record or information, provided that the individual shall first furnish to the Privacy Act Officer a written statement authorizing disclosure of that individual's record in the accompanying person's presence; and

(7) Any additional requirements that must be satisfied in order to provide information about or to grant access to the requested record or information.

(b) The following methods of access to records or information pertaining to an individual and contained in a system of records may be available to that individual depending on the circumstances of a particular request:

(1) A copy of the record may be enclosed with the initial response in accordance with paragraph (a) of this section;

(2) Inspection in person may be arranged during the regular business hours of the DOE in the office specifed by the Privacy Act Officer;

(3) Transfer of records to a Federal facility more convenient to the individual may be arranged, but only if the Privacy Act Officer determines that a suitable facility is available, that the individual's access can be properly supervised at that facility, and that transmittal of the records or information to that facility will not unduly interfere with operations of the DOE or involve unreasonable costs, in terms of money or manpower; and

(4) The requested number of copies in addition to the initial copy may be mailed at the request of the individual, subject to payment of the fees prescribed in § 1008.13.

(c) If the Privacy Act Officer believes, based upon a recommendation of the System Manager, that disclosure of medical and/or psychological information directly to an individual could have an adverse effect upon that individual, the individual may be asked:

(1) To designate in writing a physician or mental health professional to whom he would like the records to be disclosed; or

(2) To submit a signed statement by his physician or a mental health professional indicating that, in his view, disclosure of the requested records or information directly to the individual will not have an adverse effect upon the individual.

(d) The Privacy Act Officer shall supply such other information and assistance at the time of an individual's review of his record as is necessary to make the record intelligible to the individual.

(e) The DOE reserves the right to limit access to original records by allowing access only to copies and abstracts of original records. This election would be appropriate, for example, when the record is in an automated data medium such as tape or disc, when the record contains information on or about individuals other than the individual to whom the record pertains, or when information is deleted under exemptions provided by the Privacy Act. In no event shall original records of the DOE be made available to the individual except under the immediate supervision of the Privacy Act Officer or his designee.

§ 1008.9 Action in response to a request for access: Initial denial of access.

(a) A request by an individual for information about or access to a record or information pertaining to that individual that is contained in a system of records may be denied only upon a determination by the appropriate System Manager, with the concurrence of the appropriate General Counsel, that:

(1) The record is subject to an exemption under § 1008.12 of this part or to an exemption claimed by another agency;

(2) The record is information compiled in reasonable anticipation of a civil action or proceeding; or

(3) The individual has unreasonably failed to comply with the procedural requirements of this part.

(b) The Privacy Act Officer shall give written notice of the denial of a request of information about or access to records or information pertaining to the individual and contained in a system of records. Such written notice shall be sent by certified or registered mail, return receipt requested and shall include the following information:

(1) The System Manager's name and title;

(2) The reasons for the denial, including citation to the appropriate sections of the Privacy Act and this part; and

(3) Notification of the individual's right to appeal the denial pursuant to § 1008.11 of this part and to administrative and judicial review under 5 U.S.C. 552a(g)(1)(B), as limited by 552a(g)(5).

(c) Where a record containing information about an individual also contains information not pertaining to him, the portion not pertaining to the individual shall not be disclosed, except to the extent that the information is available to any person under the Freedom of Information Act. If the record sought cannot be provided for review and copying in a meaningful form, the Privacy Act Officer may provide to the individual a report of the information pertaining to the individual that is contained in the record, which report shall be complete and accurate in all material aspects.

(d) Nothing in this section shall:

(1) Require the furnishing of information or records that are not retrieved by the name or by some other identifying number, symbol or identifying particular of the individual making the request;

(2) Prevent a System Manager from waiving any exemption authorizing the denial of records, in accordance with § 1008.12.

§ 1008.10 Action in response to a request for correction or amendment of records.

(a) The Privacy Act Officer must respond in writing to the requester for amendment of a record within 10 working days of receipt. This response shall inform the requester of the decision whenever possible.

(b) If the decision cannot be reached within 10 working days, the requester shall be informed of the reason for delay and the date (within 20 working days) it is expected that the decision will be made.

(c) The Privacy Act Officer, consistent with the recommendation of the System Manager or Managers, as concurred in by the appropriate General Counsel, if appropriate, shall do one of the following:

(1) Instruct the System Manager to make the requested correction or amendment; and advise the individual in writing of such action, providing either a copy of the corrected or amended record, or a statement as to the means whereby the correction or amendment was accomplished in cases where a copy cannot be provided (for example, erasure of information from a record maintained only in an electronic data bank); or

(2) Inform the individual in writing that his request is denied in whole or in part. Such denial shall be sent by certified or registered mail, return receipt requested, and shall provide the following information:

(i) The System Manager's name and title;

(ii) The reasons for the denial, including citation to the appropriate sections of the Act and this part; and

(iii) Notification of the individual's right to appeal the denial pursuant to § 1008.11 of this part and to administrative and judicial review under 5 U.S.C. 552a(g)(1)(B), as limited by 5 U.S.C. 552a(g)(5).

(iv) Notification of the right of the individual to submit a statement of disagreement consistent with § 1008.11(g).

(b) Whenever an individual's record is amended pursuant to a request by that individual, the Privacy Act Officer or the System Manager, as appropriate, shall notify all persons and agencies to which the amended portion of the record had been disclosed prior to its amendment, if an accounting of such disclosure was required by the Act. The notification shall request a recipient agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record and to apprise an agency or person to which it had disclosed the record of the substance of the amendment.

(c) The following criteria will be taken into account by the DOE in reviewing a request for amendment:

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information;

(3) The relevance and necessity of the information in relation to the purpose for which it was collected;

(4) If such information is used in making any determination about the

(2) Although a copy of the final
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individual, whether the information is as accurate, relevant, timely, and complete as is reasonably necessary to assure fairness to the individual in such determination;

(5) The degree of possibility that denial of the request could unfairly result in a determination adverse to the individual;

(6) The nature of the record sought to be corrected or amended; and

(7) The propriety and feasibility of complying with the specific means of amendment requested by the individual.

(d) The DOE will not undertake to gather evidence for the individual, but does reserve the right to verify the evidence that the individual submits.

(e) Amendment of a record requested by an individual may be denied upon a determination that:

(1) The individual has failed to establish, by a preponderance of the evidence, the propriety of the amendment in relation to the criteria stated in paragraph (c) of this section;

(2) The record sought to be amended was compiled in a terminated judicial, quasi-judicial or quasi-legislative proceeding to which the individual was a party or participant;

(3) The record sought to be amended is the subject of a pending judicial, quasi-judicial or quasi-legislative proceeding to which the individual is a party or participant;

(4) The amendment would violate a duly enacted statute or promulgated regulation;

(5) The individual has unreasonably failed to comply with the procedural requirements of this part; or

(6) The record has been properly exempted from the provisions of subsection (d) of the Privacy Act.

(f) Nothing in this section shall restrict the DOE from granting in part or denying in part a request for amendment of records.

§ 1008.11. Appeals of denials of requests pursuant to § 1008.6.

(a) Any individual may appeal the denial of a request made by him for information about or for access to or correction or amendment of records. An appeal shall be filed within 30 calendar days after receipt of the denial. When an appeal is filed by mail, the postmark is conclusive as to timeliness. The appeal shall be in writing. The words "PRIVACY ACT APPEAL" should appear in capital letters on the envelope and the letter. The appeal must be signed by the individual and shall be filed, as appropriate, with the Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management (OPM), 1900 E Street, NW., Washington, DC 20415, or the Director, Office of Hearings and Appeals (OHA), Department of Energy, Headquarters, Washington, DC. For records maintained in government-wide systems of records reported by OPM, appeals shall be directed to the Assistant Director for Agency Compliance and Evaluation, OPM.

(b) An appeal not addressed and marked as specified in paragraph (a) of this section shall be forwarded immediately to the Assistant Director for Agency Compliance and Evaluation, OPM, or the Director, OHA. An appeal that is not properly addressed by an individual shall not be deemed to have been received for purposes of measuring the time periods in this section until actual receipt of the appeal by the Assistant Director, OPM, or the Director, OHA. In each instance when an appeal so forwarded is received, the individual filing the appeal shall be notified that the appeal was improperly addressed and the date when the appeal was received by the Assistant Director, OPM, or the Director, OHA.

(c) The appeal shall include the following:

(1) A copy of the original request for access of for amendment;

(2) A copy of the initial denial; and

(3) A statement of the reasons why the initial denial is believed to be in error.

(d) The records or record to which the individual was denied access, of which was requested to be corrected or amended, will be supplied to the appropriate appeal authority by the Privacy Act Officer who issued the initial denial. While such records normally will comprise the entire record on appeal, the appeal authority may seek such additional information as is necessary to assure that the final determination is fair and equitable.

(e) No personal appearance or hearing on appeal will be allowed.

(f) The appropriate appeal authority for DOE records shall act upon the appeal and issue a final determination in writing no later than 20 working days from the date on which the appeal is received. However, the appeal authority may extend the ten-day period upon a determination that a fair and equitable review cannot be made within that period. In such cases the individual shall be advised in writing of the reason for the extension and of the estimated date by which a final determination will be issued. The final determination shall be issued not later than the 30th working day after receipt of the appeal unless unusual circumstance, as defined in § 1008.7, are present, whereupon an additional 30 days may be extended.

(g) If an appeal of a denial of access is granted, a copy of the determination shall be transmitted promptly to the individual, the Privacy Act Officer and the appropriate System Manager. Upon receipt of the determination, the Privacy Act Officer promptly shall take action consistent with § 1008.8.

(h) If an appeal of a denial of correction or amendment is granted, the final determination shall identify the specific corrections or amendments to be made. A copy of the determination shall be transmitted promptly to the individual, the Privacy Act Officer and the appropriate System Manager. Upon receipt of the determination, the Privacy Act Officer promptly shall take steps to insure that the actions set forth in § 1008.10 (a) and (b) are taken.

(i) If the appeal of a denial of access is denied, the final determination shall state the reasons for the denial and shall be transmitted promptly to the individual, the Privacy Act Officer and the appropriate System Manager. The determination shall also include a statement identifying the right of the individual to administrative and judicial review pursuant to 5 U.S.C. 552a(g)(1)(B) as limited by 5 U.S.C. 552a(g)(5).

(j) If the appeal of a denial of correction or amendment is denied, the final determination shall state the reasons for the denial and shall be transmitted promptly to the individual, the Privacy Act Officer and the appropriate System Manager.

(1) The determination also shall include the following:

(i) Notice of the right of the individual to file with the Privacy Act Officer a concise signed statement of reasons for disagreeing with the final determination, receipt of which statement will be acknowledged by the Privacy Act Officer.

(ii) An indication that any disagreement statement filed by the individual will be noted and appended to the disputed record and that a copy of the statement will be provided by the Privacy Act Officer or the System Manager, as appropriate, to persons and agencies to which the record is disclosed subsequent to the date of receipt of such statement;

(iii) An indication that the DOE shall append to any disagreement statement filed by the individual a copy of the final determination or a summary thereof, which determination or summary also will be provided to persons and agencies to which the disagreement statement is disclosed; and,

(iv) A statement of the right of the individual to administrative and judicial review under 5 U.S.C 552a(g)(1)(B), as limited by 5 U.S.C. 552a(g)(5).

(2) Although a copy of the final determination or a summary thereof will be treated as part of the individual's record for purposes of disclosure in instances where the individual has filed a disagreement statement, it will not be subject to correction or amendment by the individual.

(3) Where an individual files a statement of disagreement consistent with subparagraph (1) of this paragraph, the Privacy Act Officer shall take steps to insure that the actions provided in subparagraphs (1) (i), (ii) and (iii) are taken.

§ 1008.12 Exemptions.

(a) *General exemptions*—(1) *Generally.* 5 U.S.C. 552a(j)(2) allows the exemption of any system of records within the DOE from any part of section 552a except subsections (b), (c) (1) and (2), (e)(4) (A) through (F) (e)(6), (7), (9), (10), and (11), and (i) if the system of records is maintained by a DOE component which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(2) *Applicability of general exemptions to DOE systems of records*—(i) *Investigative Files of the Inspector General (DOE–54).* This system of records is being exempted pursuant to subsection (j)(2) of section 552a in order to aid the Office of the Inspector General in the performance of its law enforcement function. The system is exempted from subsections (c) (3) and (4); (d)(1)–(4); (e)(1)–(3); (4)(G), (H), and (I); (5) and (8); and (g). The system is exempt from these provisions for the following reasons: Notifying an individual at the individual's request of the existence of records in an investigative file pertaining to such individual, or granting access to an investigative file could (A) interfere with investigative and enforcement proceedings and with co-defendants' right to a fair trial; (B) disclose the identity of confidential sources and reveal confidential information supplied by these sources; and (C) disclose investigative techniques and procedures.

(b) *Specific exemptions* (1) *Generally.* 5 U.S.C. 552a(k) allows the exemption of any system of records within the DOE from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of section 3 of the Privacy Act, if the system of records consists of:

(i) Records that are specifically authorized under criteria established under statute or an Executive Order to be kept secret in the interest of national defense or foreign policy, and are in fact properly classified pursuant to such statute or Executive Order. Restricted Data and Formerly Restricted Data under the Atomic Energy Act of 1954, as amended, are included in this exemption.

(ii) Investigatory material compiled for law enforcement purposes: *Provided, however,* That if any individual is denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(iii) Records by statute to be maintained and used solely as statistical records.

(iv) Investigatory material compiled solely for the purposes of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(v) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(2) *Applicability of specific exemptions to DOE systems of records.*—(i) *Exempt under 5 U.S.C. 552a(k)(2) (see subparagraph (1)(ii) of this paragraph) and (k)(5) (see subparagraph (1)(iv) of this paragraph).* The following systems of records are exempted from 5 U.S.C. 552a(c)(3) (accounting of disclosures), (d) (access to records), (e)(1) (types of information maintained), (e)(4)(G), (H), and (I), and (f) of section 3 of the Privacy Act:

(A) DOE-1, DOE Personnel and General Employment Records (only personnel investigative records concerning current and former DOE employees and applicants for employment by DOE);

(B) DOE-43, Personnel Security Clearance Files;

(C) DOE-54, Investigative Files of the Inspector General (only investigative records concerning DOE employees, past and present).

(ii) *Exempt under 5 U.S.C. 552a(k)(1) subparagraph (1)(i) of this paragraph), (k)(2) (see subparagraph (1)(ii) of this paragraph) and (k)(5) (see subparagraph (1)(iv) of this paragraph).* The following systems of records are exempted from 5 U.S.C. 552a(c)(3) (accounting of disclosures), (d) (access to records), (e)(1) (type of information maintained):

(A) Alien Visits and Participation (DOE–52).

(B) Clearance Board Cases (DOE–46).

(C) Security Correspondence (DOE–49).

(D) Foreign Travel Records (DOE–27).

(E) Legal Office Claims, Litigations, Criminal Violation, Patents, and other Legal Files (DOE–41).

(F) Personnel Security Clearance Files (DOE–43).

(H) Personnel Security Clearance Index (Automated) (DOE–42).

(I) Special Access Authorization for Categories of Classified Information (DOE–44).

The reasons for asserting the (k)(1) exemption are to prevent serious damage to the national defense or foreign policy that could arise from providing individuals access to classified information. The reasons for asserting exemptions (k)(2) and (k)(5) for these systems are the same as those set

forth in subparagraph (2)(v) of this

(1) No fees shall be charged or

under false pretenses shall be guilty of a

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forth in subparagraph (2)(v) of this paragraph

(iii) *Exempt under 5 U.S.C. a(k)(5) (see subparagraph (1)(iv) of this paragraph and (k)(6) (see subparagraph (1)(v) of this paragraph).* The following systems of records are exempt from 5 U.S.C. 552a(c)(3) (accounting of disclosures), (d) (access to records), and (e)(1) (type of information maintained:

(A) DOE Personnel: Supervisor-Maintained Personnel Records (DOE–2).

(B) Applications for DOE Employment (DOE–4).

(C) DOE Personnel and General Employment Records (DOE–1).

The reason for asserting the (k)(5) exemption is the same as that set forth in subparagraph (2)(i) of this paragraph. The reasons for asserting the (k)(6) exemption are to protect the integtity of the personnel testing and evaluation process and to avoid providing individuals with unfair advantage, by premature or unfair disclosure of testing or rating information.

(c) *Application of exemptions to particular requests.* (1) The Privacy Act Officer, consistent with the recommendation of the System Manager and with concurrence of the appropriate General Counsel, may make available records which the DOE is authorized to withhold under this section.

(2) With respect to records containing material or information that would reveal the identity of a source who was given an assurance of confidentiality, a determination to make records available pursuant to subparagraph (1) of this paragraph shall be made only if the source consents to the release of such information to the individual, or if it is determined that the material or information is not adverse or detrimental to the individual, or for good cause shown. The exercise of discretion with respect to waiver of the exemption shall be final.

(3) Prior to making a determination to deny access to a record in a system of records covered by exemption (k)(1) for classified material (see paragraph (b)(1)(i) and (b)(2)(iii) of this section), the System Manager shall consult with the Director, Division of Classification, to verify the current classification status of the information in the requested record.

§ 1008.13 Fees.

(a) The only fees to be charged to or collected from an individual under the provisions of this part are for copying records at the request of the individual. The fee charged shall be consistent with the fee schedule set forth in paragraph (b) of this section.

(1) No fees shall be charged or collected for the following: Search for and retrieval of records; review of records; copying by the DOE incident to granting access; copying at the initiative of the DOE without a request from the individual; copying when the aggregate of fees for copying is $25 or less; time spent providing copies; transportation of records and personnel; and first class postage.

(2) It is the policy of the DOE to provide an individual with one copy of each record corrected or amended pursuant to request without charge.

(3) As required by the Office of Personnel Management in its published regulations implementing the Act, the DOE will charge no fee for a single copy of a personnel record covered by that Commission's Government-wide published notice of systems of records.

(b) The schedule of fees is as follows:

(1) $.10 per copy of each page.

(2) For other forms of copying and other forms of materials (e.g., cassettes, computer materials), the direct cost of the materials, personnel, and equipment shall be charged, but only with prior specific approval of the person making the request, when such charges would be in excess of $25.

(c) The Privacy Act Officer may, upon application by an individual, furnish any records without charge or at a reduced rate, if he determines that such waiver or reduction of fees is in the public interest.

(d) Payment shall be made by check or money order payable to the United States Department of Energy.

(e) Advance payment of all or part of the fees may be required at the discretion of the Privacy Act Officer. Unless the individual requesting the copies specifically states that he is willing to pay whatever fees are assessed for meeting the request or, alternatively, specifies an amount in excess of $25 that he is willing to pay and which in fact covers the anticipated fees for meeting the request, a request that is expected to involve assessed fees in excess of $25 shall not be deemed to have been received, for purposes of the time periods specified in §§ 1008.7 and 1008.10 until the individual making the request is notified of the anticipated, cost, agrees to bear it, and makes any advance deposit required. Such notification shall be made by the Privacy Act Officer as promptly as possible after receipt of the request.

§ 1008.14 Requests under false pretenses.

Title 5 U.S.C. 552a(i)(3) provides that any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdeameanor and fined not more than $5,000.

Subpart C—Disclosure to Third Parties

§ 1008.15 Prohibition against disclosure.

Except as provided in § 1008.16, the DOE shall not disclose any record which is contained in a system of records, by any means of communication, to any agency or to any person other than the individual who is the subject of the record.

§ 1008.16 Conditions of disclosure.

(a) Notwithstanding the prohibition contained in § 1008.15, the DOE may disclose records covered by this part to the individual to whom the record pertains or to an agency or to a person other than the individual where he has given his prior written consent to the disclosure or has made a written request for such disclosure.

(b) Notwithstanding the prohibition contained in § 1008.15 the DOE may also disclose records covered by this part whenever the disclosure is:

(1) To officers and employees of the DOE who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use as defined in § 1008.2 and described in the **Federal Register** notice for that system of records;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States or a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the DOE specifying the particular portion desired and the

law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or to any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee, to the extent of matter within its jurisdiction;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction.

(c) Notwithstanding the prohibition contained in section § 1008.15, the DOE may also disclose records covered by this part in the following additional circumstances:

(1) 5 U.S.C. 552a(c)(4) requires dissemination of a corrected or amended record or notation of a disagreement statement by the DOE in certain circumstances;

(2) To the Office of Management and Budget in the performance of its duties under section 6 of the Privacy Act, which authorizes continuing oversight and assistance in implementation of the Act, which may necessitate the release of records or information to that Office.

§ 1008.17 Accounting for disclosures.

(a) For each disclosure of information contained in a system of records under his control, except disclosures to authorized officers and employees of DOE and disclosures required by the Freedom of Information Act, the appropriate System Manager shall keep an accurate accounting of:

(1) The date, nature, and purposes of each disclosure of a record made to any person or to another agency; and

(2) The name and address of the person or agency to which the disclosure was made.

(b) The accounting shall be retained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

(c) The accounting described in paragraph (a) of this section shall be made available to the individual named in the record upon written request to the Privacy Act Officer at the appropriate DOE location listed at § 1008.2(e). However, the accounting shall not be revealed with respect to disclosures made under § 1008.16(b)(7) of this part, pertaining to law enforcement activity; or with respect to disclosures involving system of records for which DOE had claimed an exemption from certain requirements of the Act, as provided in § 1008.12; or with respect to which another agency has claimed an exemption.

(d) Whenever an amendment or correction of a record or a notation of dispute concerning the accuracy of records is made by the DOE in accordance with § 1008.10(a)(2)(iv) and § 1008.11(g), DOE shall inform any person or other agency to whom the record was previously disclosed if an accounting of the disclosure was made pursuant to the requirements of paragraph (a) of this section, unless the disclosure was made pursuant to section § 1008.16(b)(7); or the disclosure involved a system or records of which DOE has claimed an exemption from certain requirements of the Act, as provided in § 1008.12; or with respect to which another agency has claimed an exemption.

(e) The System Manager shall make reasonable efforts to serve notice on an individual when any record containing information about such individual in a DOE system of records is disclosed to any person under compulsory legal process when such process becomes a matter of public record.

(f) Prior to disclosing any record about an individual to any person other than an agency, unless the disclosure is pursuant to the Freedom of Information Act, the System Manager shall make reasonable efforts to assure that each record is accurate, complete, timely, and relevant for DOE's purposes.

Subpart D—Maintenance and Establishment of systems of Records

§ 1008.18 Content of systems of records.

(a) The DOE shall maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose DOE is required to accomplish by statute or by Executive Order of the President, unless an exemption to this requirement has been claimed by DOE, as provided in § 1008.12, or by another agency.

(b) The DOE shall maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless it is pertinent to and within the scope of an authorized law enforcement activity.

(c) The DOE shall maintain all records that are used by it to make any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in such determination.

§ 1008.19 Collection of information by DOE about an individual for a system of records.

(a) The DOE shall collect information, to the greatest extent practicable, directly from the subject individual when the use of the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs, unless an exemption from the Act to this requirement has been claimed by DOE as provided in § 1008.12, or by another agency.

(b) Unless an exemption from the Act has been claimed by DOE, as provided in § 1008.12, or by another agency, DOE shall inform each individual whom it asks to supply information, on the form or other means by which it uses to collect the information, or on a separate form that can be retained by the individual, of the following:

(1) The authority (whether granted by statute or by Executive order of the President) that authorizes the solicitation of the information and whether the provision of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses that may be made of the information, as published in the **Federal Register** pursuant to the requirements of the Act; and

(4) The effect on the individual, if any, of not providing all or any part of the requested information.

§ 1008.20 Use and collection of social security numbers.

(a) The System Manager of each system of records which utilizes social security numbers as a method of identification without statutory authorization or authorization by regulation adopted prior to January 1, 1975, shall revise the system to avoid future collection and use of the social security numbers.

(b) Heads of Headquarters Divisions and Offices and heads of the other DOE locations shall insure that employees authorized to collect information from individuals are advised that individuals may not be required to furnish social security numbers without statutory or regulatory authorization, and that individuals who are requested to provide social security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

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§ 1008.21 Public notice of systems of records.

(a) The DOE shall publish in the **Federal Register** at least annually a notice of the existence and character of each of its systems of records, which notice shall include:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of user and the purpose of such use, subject to paragraph (d) of this section;

(5) The policies and practices of the DOE regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the DOE official who is responsible for the system of records;

(7) The DOE procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(8) The DOE procedures whereby an individual can be notified at his request about how he can gain access to any record pertaining to him contained in the system or records, and how he can contest its content; and

(9) The categories of source of records in the systems.

(b) Notwithstanding the requirements of paragraph (a) of this section, the notice of systems of records shall not necessarily include the information in paragraphs (a)(7)–(9) of this section if DOE has claimed a general or specific exemption from the requirements of the Act, as provided in § 1008.12, or if such exemptions have been claimed by another agency.

(c) Copies of the notices as printed in the **Federal Register** shall be available at the DOE locations listed at § 1008.2(c). Requests by mail for copies of such notices should be sent to Privacy Act Officer, Headquarters, U.S. Department of Energy, Washington, D.C. 20585. The first copy will be furnished free of charge. For each additional copy, the costs of printing and handling may be charged.

(d) DOE shall publish in the **Federal Register** notice of any new routine use or intended routine use of a record in the system of records, at least 30 calendar days prior to the implementation of any new routine use of a record in a system of records, or at least 30 calendar days prior to publication of the annual notice of such routine uses, as provided in paragraph (a) of this section, an opportunity for interested persons to submit written comments consisting of data, views, or arguments regarding such use to DOE, shall be provided.

[FR Doc. 80–15924 Filed 5–23–80; 8:45 am]
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federal register

Tuesday
May 27, 1980

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Annual Contributions for Operating Subsidy; Performance Funding System; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-80-814]

Annual Contributions for Operating Subsidy; Performance Funding System

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 24 CFR Part 890 to establish a new procedure for the calculation of the allowable utilities consumption level used in the Performance Funding System (PFS). The new procedure will provide a method of adjusting the PHA's level of utilities consumption based upon a comparison of heating degree days of a Fixed Base Period.

DATE: COMMENTS DUE: July 28, 1980.

ADDRESS: Written comments and suggestions should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Milton Slifkin, Financial Management Procedures Branch, Office of Public Housing, HUD, Washington, D.C. 20410, (202) 426-0744 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department published on September 6, 1977 (42 FR 44550) an Interim Rule dealing with the Utilities Base Consumption Period (Base Period) used to calculate the Utilities Expense Level (UEL) for Public Housing Agency (PHA) fiscal years beginning on or after July 1, 1977. The Interim Rule amended HUD policy which provided that the UEL would be calculated by using the average consumption over a rolling 36-month period ending six months prior to the PHA's requested Budget Year. However, due to the severely cold winter of 1976–1977, HUD determined that it would be improper to include the impact of that winter in the utilities Base Period because of its disproportionate effect on the UEL. Therefore, the Interim Rule, published September 6, 1977, stated that the Base Period for PHA fiscal years beginning July 1, 1977, and thereafter would exclude that winter.

Since publication of the Interim Rule, the Department has determined that a new approach, the 30-Year Heating Degree Day System (30–HDDS), would be more equitable than the Fixed Base System because it (1) produces more reasonable projections because of the greater number of years involved than in the base period used in the Fixed Base System, and (2) recognizes that the base period used in the Fixed Base System was limited to the consumption in winters that on the average were warmer than normal.

HUD stated in the preamble to the Interim Rule that it anticipated the introduction of an additional adjustment, dependent upon fund availability, which would be applied to the Fixed Base Period as defined in the Interim Rule. The additional adjustment factor was to assure that PHAs would be funded at a normal level of utilities consumption.

HUD received five communications in response to the Interim Rule. Each communciation contained numerous comments and recommendations. A discussion of those comments and of the changes in the rule follows.

The principal comments suggested that the Interim Rule which established the Fixed Base Period be rescinded for the following reasons:

1. The Fixed Base Period as currently structured does not include the winter of 1976–1977 or subsequent winters, and therefore defeats the purpose of producing a projection of allowable utility comsumption which is most reflective of PHA consumption experience.

2. To be more equitable, the base period should be extended over a longer period of time.

After lengthy discussion, both within and outside the Department, it has been determined that the adjustment mentioned in the Interim Rule should consider the following:

1. Local conditions.

. The allowable utility level should be based on a longer period of time than the 36 months Fixed Base Period so as to negate unusual effects of any abnormally cold or warm seasonal changes.

3. The period should, to the extent possible, be representative of an average winter.

4. The revised system should not be complex nor administratively difficult to administer.

5. The revised system should alter the current utilities system as little as possible.

In evaluating the above concerns relating to the Interim Rule, it has been determined that the most expeditious way of addressing the concerns expressed in the comments, and of meeting the Department's objectives of devising an allowable utilities consumption system that is both equitable and workable is to revise the Interim Rule and establish a 30-Year Heating Degree Day System (30–HDDS) based upon a comparison of heating degree days over a period of 30 years (1941 through 1970) with heating degree days utilized in the Fixed Base Period. Section 890.107 accordingly would be revised to provide an adjustment to the consumption experienced during the Base Periods prescribed by § 890.107(c)(1) or (2). The purpose of this adjustment is to establish an allowable utilities consumption level based upon a long-term period which reflects more closely a normal level of consumption, and to provide PHAs with a stable projection of utility consumption. This adjustment (Change Factor) is the ratio of the average annual heating degree days (HDD) for the 30-year period from 1941 through 1970 to the HDD of the PHA's Fixed Base Period (30-year average HDD ÷ Fixed Base Period average HDD). The 30-year period is considered to be sufficiently long so as to level out any abnormalities that may have ocurred in a particular year(s).

The key elements of the 30-HDDS are as follows:

a. Since the adjustment (Change Factor) is solely to reflect the relationship of the heating degree days for the two periods (Fixed Base Period vs. 30-year period), only those utilities used for heat shall be adjusted by the Change Factor. Therefore, a PHA will adjust the total average consumption experienced during the Fixed Base Period of any utility used for heating by the Change Factor provided by HUD. No Change Factor less than 1.00 would be used by a PHA.

b. The consumption level for any utility not used for heating would be maintained at the average level which occurred during the prescribed Fixed Base Period, since increases in consumption of these utilities are, in general, extremely minimal (1% or less per year).

c. The consumption levels for heating and non-heating utilities would become the permanent allowable Utilities Consumption Level.

d. The average consumption of all heating and non-heating utilities (adjusted by the Change Factor as appropriate for heating utilities) would then be multiplied by the cost rate of the utilities.

e. There would be adjustments to each of the consumption components at the end of the PHA's fiscal year based upon actual consumption; e.g., projected consumption—1,000 gallons of oil; actual consumption 1,100 gallons. The PHA would receive 50 percent of cost attributable to excess consumption of 100 gallons. If the PHA consumed 900 gallons, HUD would retain 50 percent of the savings accrued due to reduced consumption, and the PHA would retain 50 percent. The same 50/50 adjustment would apply to utilities which are not used for heat; e.g., water, sewer, and in some cases, electricity. Under the current Regulation, the PHA can retain only 25 percent of the savings. Sections 890.110(c)(3) and (4) will be revised to reflect this change in percentages.

f. There would continue to be a 100 percent adjustment for an increase or decrease in utility rates.

g. Where consumption records are not available, the actual utilities expenses incurred during the PHA fiscal years which ended December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976, would be used with no further adjustment. In these cases, the PHA would be allowed to reconstruct consumption data based on the experience of comparable PHAs.

h. The 30–HDDS will be first applicable to PHA fiscal years beginning January 1, 1980, and thereafter. The 50/50 adjustment is first applicable to utility adjustments submitted for PHA fiscal years ending December 31, 1980, March 31, 1981, June 30, 1981 and September 30, 1981, and thereafter.

i. Heating Degree Days are the annual arithmetic sum of the positive differences (those under 65 degrees) of the average of the lowest and highest daily outside temperatures in degree Fahrenheit, subtracted from 65 Degrees Fahrenheit. For example: The Heating Degrees Days for one day would be as follows:

	Degrees
Highest temperature reading	50
Lowest temperature reading	30
Subtotal	80
65 deg. Fahrenheit base	65
Average temperature of the day (50 + 30 ÷ 2)	40
Heating degree days for the one day (65—40)	25

j. A listing of the Change Factors for a representative sample of PHAs is listed below. If a PHA's Change Factor is not listed and the PHA is desirous of knowing its Change Factor, the information may be obtained by calling Milton Slifkin (202) 426-0744. (This is not a toll-free number).

Public housing agency	Change factor
Birmingham, AL	1.043
Fort Payne, AL	1.052
Mobile, AL	1.195
Montgomery, AL	1.037
Russellville, AL	1.056

Public housing agency	Change factor
Tuscaloosa, AL	1.009
Papago, AZ	1.000
Little Rock, AR	1.071
Colexico, CA	1.000
Fresno, CA	1.000
Los Angeles, CA	1.000
Oakland, CA	1.000
Oxnard, CA	1.000
San Francisco, CA	1.000
Yolo County, CA	1.000
Denver, CO	1.000
Trinidad, CO	1.000
Hartford, CT	1.023
Middletown, CT	1.044
New Haven, CT	1.041
Willimantic, CT	1.033
Wilmington, DE	1.083
Washington, DC	1.064
Dade County, FL	1.274
Fort Myers, FL	1.230
Lakeland, FL	1.196
Levy, FL	1.154
Tampa, FL	1.196
Athens, GA	1.032
Atlanta, GA	1.032
Douglas, GA	1.145
Gainsville, GA	1.041
Lyons, GA	1.222
McDonough, GA	1.113
Quitman, GA	1.118
Rome, GA	1.068
Savannah, GA	1.222
Hawaii, HI	1.000
Champaign County, IL	1.026
Chicago, IL	1.026
E St. Louis, IL	1.028
Effingham County, IL	1.048
Franklin County, IL	1.055
Joliet, IL	1.035
Madison, IL	1.027
Marion County, IL	1.042
Peoria, IL	1.044
Saline, IL	1.055
Williamson County, IL	1.032
Winnebago, IL	1.004
Covington, KY	1.057
Louisville, KY	1.095
Middlesborough, KY	1.032
Somerset, KY	1.037
New Iberia, LA	1.195
New Orleans, LA	1.139
Baltimore, MD	1.070
Cumberland, MD	1.046
Boston, MA	1.018
Lowell, MA	1.014
New Bedford, MA	1.021
Worcester, MA	1.000
Big Rapids, MI	1.001
Detroit, MI	1.036
Inkster, MI	1.028
Ypsilanti, MI	1.036
Hibbing, MN	1.000
Minneapolis, MN	1.007
St. Paul, MN	1.018
Hattiesburg, MS	1.090
Columbia, MO	1.045
Kansas City, MO	1.034
St. Louis, MO	1.045
Omaha, NE	1.032
Las Vegas, NV	1.000
Dover, NH	1.020
Manchester, NH	1.109
Camden, NJ	1.076
Irvington, NJ	1.032
Jersey City, NJ	1.032
Newark, NJ	1.032
Passaic, NJ	1.036
Paterson, NJ	1.032
Perth Amboy, NJ	1.073
Trenton, NJ	1.076
Albany, NY	1.025
Binghampton, NY	1.020
Buffalo, NY	1.018
Hempstead, NY	1.074
Kingston, NY	1.015
New York, NY	1.074
Rochester, NY	1.008
Troy, NY	1.022
Burlington, NC	1.042
Greensboro, NC	1.042
Kinston, NC	1.167
Lumberton, NC	1.132
New Bern, NC	1.167
Winston Salem, NC	1.042
Turtle Mountain, ND	1.002
Akron, OH	1.041
Cincinnati, OH	1.020
Columbus, OH	1.051
Dayton, OH	1.020
Lorain, OH	1.026
Youngstown, OH	1.045
Creek Nation, OK	1.078
Tulsa, OK	1.000
Douglas County, OR	1.000
Chester, PA	1.052
Easton, PA	1.009
Fayette County, PA	1.024
Harrisburg, PA	1.024
Lackawanna, PA	1.034
Mercer County, PA	1.027
Mifflin County, PA	1.024
Montour County, PA	1.027
Philadelphia, PA	1.060
Pittsburgh, PA	1.023
Washington, PA	1.022
Pawtucket, RI	1.046
Charleston, SC	1.178
Clinton, TN	1.030
Franklin, TN	1.047
Jackson, TN	1.039
LaFollette, TN	1.032
Maryville, TN	1.034
Memphis, TN	1.019
Nashville, TN	1.046
Belton, TX	1.083
Corsicana, TX	1.083
Dallas, TX	1.094
Fort Worth, TX	1.094
Gonzales, TX	1.132
Harlingen, TX	1.093
Houston, TX	1.118
Laredo, TX	1.154
McAllen, TX	1.000
San Antonio, TX	1.132
Temple, TX	1.083
Waxahachie, TX	1.023
Wichita Falls, TX	1.070
Newport News, VA	1.084
Norfolk, VA	1.084
Richmond, VA	1.099
Roanoke, VA	1.046
Bremerton, WA	1.000
King County, WA	1.000
Tacoma, WA	1.000
Yakima Nation, WA	1.008
Milwaukee, WI	1.023

3. The adoption of the 30–HDDS has necessitated a rewriting and/or a reorganization of § 890.107.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of signficant rules, published pursuant to Executive Order 12044.

In consideration of the foregoing, the Department, therefore, proposes to amend 24 CFR Part 890 as follows:

§ 890.1021 [Amended]

1. Section 890.102 is amended to add the following definitions:

* * * * *

(t) *Fixed Base Period.* The period of time, prescribed in § 890.107(c)(1), used to determine the Utilities Consumption Level used to compute the allowable Utilities Expense Level.

(u) *Change Factor.* The ratio of the average annual heating degree days (HDD) for the 30-year period from 1941 through 1970 to the average annual HDD of the PHA's Fixed Base Period. (30 year average HDD÷Fixed Base Period average HDD).

* * * * *

2. Section 890.107 is revised to read as follows:

§ 890.107 Computations of utilities expense level.

(a) *General.* In recognition of the rapid rises which occur in utilities cost and the wide diversity among PHAs as types of utilities services used, and the methods of payment, and the fact that utilities rates charged by suppliers are beyond the control of the PHA, the PFS treats utilities expenses separately. Utilities expenses are excluded from the PHA's Allowable Expense Level. The PFS computes the amount of operating subsidy based upon a calculated utilities expense of each PHA. The PHA's Utilities Expense Level for the Requested Budget Year shall be computed by multiplying the average Utilities Consumption Level per unit per month for each utility, determined as provided in paragraphs (c) and (d) of this section, by the projected utility rate determined as provided in paragraph (b) of this section.

(b) *Utilities rates.* The current applicable rates in effect at the time Operating Budget is submitted to HUD will be used as the utilities rates for the Requested Budget Year, except that, when the appropriate utility commission has, prior to the date of submission of the Operating Budget to HUD, approved and published rate increased to be applicable during the Requested Budget Year, the future approved rates may be used as the utilities rates for the entire Requested Budget Year.

(c) *Computatiuon of Utilities Consumption Level.* The Utilities Consumption Level used to compute the Utilities Expense Level of a PHA for the Requested Budget Year will be determined based upon the availability of consumption data. For projects where consumption data is available for the entire Fixed Base Period, the computation will be in accordance with paragraph (c)(1) of this section. For projects (other than New Projects) where the computation data is not available for the entire Fixed Base Period, the consumption will be in accordance with paragraph (c)(2) of this section. For New Projects the computation will be in accordance with paragraph (c)(3) of this section. The Utiltities Consumption Level for all of a PHA's projects is the sum of the amounts determined under paragraph (c)(1), (2) and (3) of this section.

(1) Fixed Base Period System. For projects with consumption data for the entire Fixed Base Period the Utilities Consumption Level is the average amount consumed per unit per month during the Fixed Base Period, adjusted in accordance with paragraph (d) of this section. This adjusted amount shall be the Utilities Consumption Level for all PHA fiscal years beginning January 1, 1980, and for all future fiscal years thereafter, until superseded by HUD. For PHA fiscal years beginning July 1, 1977, and thereafter, such Fixed Base Period shall be the respective 36-month periods given below:

PHA fiscal years		Fixed-base period	
Beginning	Ending	Begins	Ends
7/1	6/30	1/1/73	12/31/75
10/1	9/30	4/1/73	3/31/76
1/1	12/31	7/1/73	6/30/76
4/1	3/31	10/1/73	9/30/76

(2) Alternative methods where data is not available for the entire Fixed Base Period.

(i) If the PHA has not maintained or cannot recapture consumption data regarding a particular utility or utilities from its records for the Fixed Base Period mentioned in paragraph (c)(1) of this section, it shall submit consumption data for the last 24 months of its Fixed Base Period to the HUD Field Office for approval. If this is not possible, it shall submit consumption data for the last 12 months of its Fixed Base Period. The PHA also shall submit a written explanation of the reasons data for the Fixed Base Period are unavailable.

(ii) If a PHA has not maintained or cannot recapture consumption data for the specified Fixed Base Period of 36, 24, or 12 months, comparable consumption for the greatest of either 36, 24, or 12 months, as available, shall be used for the utility or utilities for which the data is lacking. The comparable consumption shall be estimated based upon the consumption experienced during the allowable Fixed Base Period of comparable project(s) with comparable utility delivery systems and occupancy.

(iii) If a PHA does not obtain the consumption data for the Fixed Base Period, either for its own project(s) or by using comparable consumption data, the actual PUM utility expenses stated in paragraph (e) of this section shall be used and no Change Factor shall be applied.

(3) Computation of Utilities Consumption Levels for New Projects.

(i) A New Project for the purpose of establishing the Fixed Base Period and the allowable Utilities Expense Level is defined as either: (A) A project which had not been in operation during the entire Fixed Base Period, or a project which enters management after the Fixed Base Period and prior to the end of the Requested Budget Year; or (B) a project which during or after the Fixed Base Period, has experienced conversion from one energy source to another; interruptible service; deprogrammed units; a switch from tenant-supplied to PHA-supplied utilities; or a switch from PHA-supplied to tenant-supplied utilities.

(ii) The actual consumption of New Projects shall be constructed so as not to distort the Fixed Base Period in accordance with a method prescribed by HUD.

(d) *Adjustment to utilities used for heating.* For projects with consumption data for the entire Fixed Base Period, and for New Projects, consumption of utilities used for heating shall be adjusted by a Change Factor as follows:

(1) *Adjustment of the Fixed Base Period data.*—(i) *Use of Change Factors.* A Change Factor has been developed which indicates the relationship of the average annual heating degree days for the 30-year period from 1941 through 1970 to the average annual heating degree days for the PHA Fixed Base Period. This Change Factor is to be used to establish an allowable Utilities Consumption Level based upon a long-term period which reflects closely a representative winter's consumption. The 30-year period is considered to be sufficiently long so as to level out any abnormalities that may have occurred in a particular year(s). The Change Factors have been developed by the National Climatic Center of the Department of Commerce for each established standard weather division of the country, by PHA fiscal year. Change Factors will be supplied by HUD to the PHAs. The larger the Change Factor, the greater the difference between the heating degree days of the Fixed Base Period and the 30-year period. When the Change Factor is greater than 1.00, the average annual heating degree days of the 30-year period are greater than the average annual heating degree days of the Fixed Base Period which means that on the average the weather experienced during the 30-year period was colder than that experienced during the Fixed Base Period. An example of the effect of the Change Factor on the Fixed Base Period consumption is:

Assume:	
30-year period average annual heating degree days	4,000
Fixed base period average annual heating degree days	3,800
Fixed base period average annual consumption for heating purposes	[1]1,000
Results:	
Change factor is (4,000÷3,800)	1.05
Adjusted fixed base penod average annual consumption for heating purposes (1,000×1.05)	[1]1,050

[1] Gallons.

(ii) *PHA fiscal years affected.* The Change Factor shall be used to compute the allowable Utilities Consumption Level submitted with the Operating Budgets for PHA Fiscal Years beginning January 1, 1980, April 1, 1980, July 1, 1980, and October 1, 1980, and thereafter.

(iii) *Application of Change Factor to consumption of the Fixed Base Period.* The Change Factor is to be applied only to the consumption readings of meters of utilities, or gallons of oil, or tons of coal used for the purpose of generating heat for dwelling units and other PHA associated buildings. The Change Factor shall not be applied to the consumption readings of meters of utilities not used for the purpose of generating heat; e.g., water and sewer or electricity used solely for non-heating purposes. The Change Factor shall be applied to the total consumption reading of meters of utilities, or gallons of oil, or tons of coal used for heating even though the same meter or same energy source is used for other purposes; e.g., heating and cooking gas usage metered on the same meter or oil used for space heating and also heating of water. Such consumption for each 12 month period of the Fixed Base Period shall be adjusted by the Change Factor. The adjusted consumption for each year shall be totalled. These totals then will be averaged. The consumption readings of meters of utilities not used for heating (not adjusted by the Change Factor) shall be included in the total consumption.

Example Showing Application of Change Factor

	Base year		
	1st year	2nd year	3rd year
Gas meters used for heatings:			
#1234 (In therms)	15,000	18,000	17,000
#2345	10,000	12,000	11,000
Subtotal	25,000	30,000	28,000
Change factor (HUD supplied)	×1.05	×1.05	×1.05
	26,250	31,500	29,400

Example Showing Application of Change Factor—Continued

	Base year		
	1st year	2nd year	3rd year
Gas meters not used for heating: #3456	2,500	2,600	2,650
Total adjusted allowable gas consumption level	28,750	34,100	32,050

No PHA will be required to use a Change Factor of less than 1.00. All Change Factors of less than 1.00 have been rounded to 1.00 in the HUD publication of Change Factors. A PHA with a Change Factor of 1.00 shall, of course, reflect no change. Change Factors are listed by county. If a PHA manages units in more than one county and those counties have different Change Factors, the above calculation shall be done considering the units in each county and each county's assigned Change Factor. If a PHA manages units in an independent city not within the jurisdiction of a county, it shall: (A) If surrounded by one county, use that county's Change Factor; or (B) if surrounded by more than one county, use the average of the Change Factors of the contiguous counties.

(iv) *Continuous use of adjusted Fixed Base Period.* Once the PHA has determined, and HUD has approved, the allowable Utilities Consumption Level for the Fixed Base Period after application of the Change Factor, the adjusted Fixed Base Period consumption will represent the allowable Utilities Consumption Level, excluding New Projects, for PHA Fiscal Years beginning Janauary 1, 1980, and thereafter. This adjusted Fixed Base Period Utilities Consumption Level shall be used by the PHA until it is notified otherwise by HUD, except for New Projects. If a project subsequently becomes a New Project, a calculation of the allowable Utilities Consumption Level for New Projects shall be submitted by the PHA.

(2) *Adjusted consumption for New Projects.*—(i) *Use of Change Factor.* For New Projects, the PHA shall apply the Change Factor to the HUD approved consumption level used for heating.

(ii) *PHA fiscal years affected.* The Change Factor shall be used to compute the allowable Utilities Consumption Level submitted with the Operating Budgets for PHA Fiscal Years beginning January 1, 1980, and thereafter.

(iii) *Application of Change Factor to consumption of New Projects.* The annual allowable Utilities Consumption Level for New Projects, shall be adjusted by applying the Change Factor to the estimated consumption reading of a meter where the utility is used for heating in part or in total. This consumption shall be from a comparable project during the permissible Fixed Based Period. The consumption of utilities not used for heating shall not be adjusted, but the estimated annual consumption based upon data from a comparable project during the permissible Fixed Base Period shall be added to the adjusted consumption.

(iv) *Continuous use of adjusted consumption.* Once the PHA has determined, and HUD has approved, the allowable Utilities Consumption Level for New Projects, after application of the Change Factor, this level will not change and will represent the allowable level, except for additional New Projects. If there are additional New Projects, a recalculation of the allowable Utilities Consumption Level for New Projects shall be submitted by the PHA. This recalculation shall, however, be consistent with comparable consumption of comparable projects during the permissible Fixed Base Period. The Change Factor shall be applied to the recalculated level.

(e) *Utilities Expense Level where consumption data is unavailable.* If a PHA does not obtain the consumption data for the entire Fixed Based Period, either for its own project(s) or by using comparable consumption data as required in paragraph (c)(2) of this section, it shall request HUD Field Office approval to use actual per unit per month (PUM) utility expenses. These expenses shall exclude Utilities Labor and Other Utilities Expenses. The actual PUM utility expenses shall be taken from the year-end Statement of Operating Receipts and Expenditures, Form HUD–52599, for the PHA Fiscal Year ending on December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976. No Change Factor shall be applied to actual PUM utility expenses, and subsequent adjustments regarding such utility or utilities will not be approved for a budget year for whch consumption is established based upon said actuals.

(f) *Adjustments.* PHAs shall request adjustments of Utilities Expense Levels in accordance with § 890.110(c), which requires an adjustment based upon a comparison of actual experience to the estimated level. If the actual consumption exceeds the estimated level, HUD would pay 50 percent of the excess and the PHA would pay 50 percent. If consumption is less than the estimated level, HUD would recapture 50 percent of the savings and the PHA would keep 50 percent. One hundred

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percent adjustment would be allowed for increases or decreases in utilities cost rates.

3. Section 890.110)c)(3) and (4) are revised to read as follows:

§ 890.110 Requests for adjustment.

* * * * *

(c) * * *

(3) Fifty percent of any decrease in Utilities Expense Level due to decreased consumption will be retained by the PHA; fifty percent will be offset by HUD against subsequent payments of operating subsidy. The 50/50 adjustment is first applicable to utility adjustments submitted for PHA fiscal years ending December 31, 1980, March 31, 1981, June 30, 1981 and September 30, 1981, and thereafter.

(4) An increase in Utilities Expense Level due to increased consumption will be fully funded by residual receipts after provision for reserves, if available; if not available and if the increase would result in a reduction of the operating reserve below the authorized maximum, fifty percent of the amount of the reduction below such maximum will be funded by increased operating subsidy payments, subject to the availability of funds, if such excess utility consumption was due to causes which were beyond the control of the PHA. The 50/50 adjustment is first applicable to utility adjustments submitted for PHA fiscal years ending December 31, 1980, March 31, 1981, June 30, 1981 and September 30, 1981, and thereafter.

* * * * *

(U.S. Housing Act of 1937, 42 U.S.C. 1937 et seq. and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., May 20, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-15988 Filed 5-23-80; 8:45 am]

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federal register

Tuesday
May 27, 1980

Part VI

Department of Agriculture

Farmers Home Administration

Economic Emergency Loans

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1945

Economic Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation on insured Economic Emergency (EE) loans. This action is required to fully implement the provisions of Pub. L. 96–220, and to incorporate certain changes which were published as Proposed Rules on February 27, 1980. This action is also intended to tighten the "test for credit elsewhere" requirements for applicants and to restrict the use of EE loan funds for refinancing secured and unsecured debts to converse EE loan funds in order to provide EE loan assistance to more farmers who are affected by adverse economic conditior

DATES: Effective date: These requirements will become effective June 2, 1980. Comments due date: June 26, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, FmHA, USDA, Room 6346–S, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. William Krause, USDA, FmHA, Room 5344, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Telephone: (202) 447–6257.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified as "significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Mr. Alex P. Mercure, Assistant Secretary for Rural Development, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action in order to fully implement the provisions of Pub. L. 96–220 and provide additional EE loan funds immediately to farmers, ranchers, and agriculture operators who are suffering economic stresses due to the general lack of agricultural credit from private and cooperative agricultural credit sources.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 30 days after publication of this document (June 26, 1980), and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in this rule, FmHA will revise the rule as necessary to comply with the decision of OMB. FmHA will publish a notice in a future issue of the **Federal Register** concerning OMB's decision on these requirements.

Various sections of Subpart C of Part 1945, Chapter XVIII, Title 7, Code of Federal Regulations are amended. On March 30, 1980, the President signed Pub. L. 96–220, amending Title II of Pub. L. 95–334 (Emergency Agricultural credit act of 1978). This law provides for the extension of the EE loan program, tightening the "test for credit elsewhere" requirements, restricting the use of EE insured loan funds for refinancing debts, and shortening the waiting period for graduation reviews. In addition to the changes necessitated by this legislation, FmHA is incorporating certain changes which were published in the **Federal Register** for public comment on February 27, 1980 (45 FR 12827). No comments were received on this proposal.

In addition to these changes, the change to the introductory paragraph of § 1945.112 (b) and the change to § 1945.112 (e) are needed because when they were published as a final rule on December 19, 1979 (44 FR 75104) they contained inadvertent wordings, which, if left unchanged, would contravene the intent of the statutory terms "bona fide farmer" and "character", respectively.

The major changes to Subpart C of Part 1945 are as follows:

1. Section 1945.102 is amended to make certain editorial changes and to replace the term "a local conventional agricultural lender" with "private and cooperative agricultural lenders".

2. Section 1945.104 (a)(4) is amended to expand and clarify the definition of "Aquaculture".

3. Section 1945.105 is amended to tighten the "test for credit elsewhere" requirements for individual and entity type EE loan applicants and to give proper consideration to applicants' "use of nonfarm assets" in determining eligibility for EE loans.

4. Section 1945.112 (b)(1) is amended to allow an individual applicant or the applicant's family members to devote more than 50 percent of their time to agricultural production rather than provide more than 50 percent of the time needed to operate the farm. It is also amended to stipulate the period of time a bona fide farmer must be actually engaged in farming to qualify for an EE loan.

5. Section 1945.112 (c) and (c)(1), (2), (3), and (4) are added to provide for a change in the form of individual and entity type EE loan applicants.

6. Section 1945.112 (e) is amended to merely emphasize repayment ability and reliability when determining an applicant's character.

7. Section 1945.116 (a)(2) is amended to show that only *annual* secured and unsecured family living and farm production debts owed by an applicant to another lender(s) may be considered for partial or full payment. Subparagraphs (i), (ii), and (iii) set forth the limitations that must be taken into consideration before an EE loan can be made to pay such debts.

8. Section 1945.116 (a)(3) is added to permit EE loan funds to be used only to pay, under certain conditions, delinquent installments, plus the next installment owed to another lender(s) and to prohibit the payment of a nondelinquent debt(s) in full or a nondelinquent balloon installment.

9. Section 1945.116 (a)(14) is amended to remove the provision for refinancing unsecured real estate debts.

10. Section 1945.116 (b)(3) is amended to permit, only under certain conditions, the use of EE loan funds for payment of existing delinquent installment(s) plus the next installment owed to another lender(s) on farm real estate or other farm and home debts and to prohibit the use of EE loan funds to pay an applicant's farm real estate or other farm and home debts in full with a nondelinquent installment or to pay a nondelinquent balloon installment in full.

11. Reference to "total refinancing" of debts has been removed from § 1945.116 (b)(3) (iii) and (iv).

12. Section 1945.117 (a)(5) is amended to remove the reference to "total refinancing" of debts and to show that installment(s) owed on farm or home real estate debts *cannot* be paid with EE loan funds involving real estate purchased and title conveyed to the applicant less than one year before the date of the EE loan application.

13. Section 1945.118 (b)(1)(i) is amended to show the conditions that must be met and documented to justify a 20-year repayment period for an EE loan made for operating purposes.

14. Section 1945.118 (b)(2) is amended to normally restrict the terms of EE loans made for real estate purposes to 30 years and to show the conditions that must be met to justify a 40-year repayment period.

15. Section 1945.120 (b)(7)(iii) is amended to remove the provision for using EE loan funds to refinance a purchase contract(s) which contains any objectionable clause(s) that prohibits the applicant from pledging to FmHA a mortgageable interest in the property.

16. Section 1945.136 is amended to show an initial 3-year and every other year thereafter waiting period for reviewing EE loans for graduation and to provide that the applicants will be advised of graduation requirements during loan processing and at loan closing.

Accordingly, Subpart C of Part 1945 is amended as follows:

PART 1945—EMERGENCY

Subpart C—Economic Emergency Loans

1. Section 1945.102 is amended to read as follows:

§ 1945.102 Program objectives.

The objective of EE loans is to make adequate financial assistance available during the period authorized by Title II of Pub. L. 95–334, as amended, (authority expires September 30, 1981) in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit due to economic stress such as a general tightening of agricultural credit *or* an unfavorable relationship between production costs and prices received for agricultural commodities. *It is the policy of FmHA to make insured EE loans only when guaranteed EE loans are not available through private and cooperative agricultural lenders.*

2. Section 1945.104(a)(4) is amended to read as follows:

§ 1945.104 Definitions and abbreviations

(a) *Definitions.* * * *

(4) *Aquaculture.* The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, crustacean (or other invertebrate), amphibian, reptile, or aquatic plant. An aquaculture operation is considered to be a farm only if it is conducted on grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the applicant and the permit must specifically identify the waters available to be used by the applicant only.

* * * * *

3. Section 1945.105 is amended to read as follows:

§ 1945.105 Credit elsewhere.

(a) *Test for credit for individuals and entities.* The applicant must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. If the applicant has been getting credit away from the local community where the farming operation is located, that source of credit must also be considered. The applicant's equity in *all assets*, including but not limited to real estate, chattels, stocks, bonds, and Certificates of Deposit will be considered in determining ability to obtain such credit from other sources. Also, the applicant must offer to pledge *all assets* as security when requesting credit from other lenders. Cooperatives, corporations, and partnerships and the principal members, principal stockholders, and principal partners, both individually and collectively, must be unable to obtain the required funds with their own resources or with credit obtained from other sources. Form FmHA 1940–38, "Request for Lender's Verification of Loan Application," when appropriate, must be filed in the County Office case folders and any additional facts concerning the findings in all cases must be documented and recorded in the running record.

(b) *Test for credit certification requirements.* The applicant shall certify in writing on the application form and the County Supervisor *shall* determine that adequate credit elsewhere is not available to finance the applicant's actual needs.

(1) If the EE loan(s) requested is less than $300,000, the following actions will be taken:

(i) When it appears from a review of the application that it would be unduly burdensome to require the applicant to obtain written declinations of credit from other lenders, the County Supervisor may make an exception to this requirement, provided the County Supervisor knows the other lenders' programs well enough to determine that no possibility exists for the applicant to obtain the credit needed from these lenders. This conclusion and the basis for it will be recorded in the running record and further checks will not be necessary. However, the applicant's normal lender(s) *must be contacted in all cases* and the findings will be recorded in the running record.

(ii) If the County Supervisor questions whether the applicant is unable to obtain the credit needed from other agricultural lenders in the area, such lenders will be contacted. Form FmHA 1940–38 must be completed by all lenders contacted and returned to the county office. In lieu of using Form FmHA 1940–38, the lenders may submit a letter stating whether they will extend the credit needed by the applicant. If one or more of the lending sources contacted will provide the applicant with sufficient credit to finance actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community, the applicant will be advised that it is not eligible for an EE loan. If the applicant cannot qualify for the needed credit from the lenders contacted, but one or more of them have indicated they would provide credit with an FmHA guarantee, the applicant will be advised to file an application with that lender(s) so that a guaranteed EE loan request can be processed by the lender for consideration by FmHA. If the County Supervisor believes it necessary, the action required in paragraph (b)(2) of this section can be taken.

(iii) When the County Supervisor receives letters or other written evidence including Form FmHA 1940–38 from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, this will be included in the loan docket. Such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent

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determination of the applicant's ability to obtain credit elsewhere.

(2) If the EE loan(s) request is $300,000 or more, the following actions will be taken:

(i) The applicant will be required to apply at not less than three conventional lending sources, including the Production Credit Association or Federal Land Bank, as appropriate, in the local community. However, when an applicant has a net worth of $1 million or more but cannot obtain credit in the local community, the applicant will be required to contact at least two other lending sources out of the local area. One or more of the lenders contacted must be the applicant's normal lender(s) even though the lender is not located in the local community.

(ii) Form FmHA 1940–38 must be completed by all lending sources contacted and returned to the County Office. If one or more of the lending sources contacted will provide the applicant with sufficient credit to finance actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community, the applicant will be advised that it is not eligible for an EE loan. If the applicant cannot qualify for the needed credit from the lenders contacted, but one or more of them have indicated they would provide the credit with an FmHA guarantee, the applicant will be advised to file an application with that lender(s) so that a guaranteed EE loan request can be processed by the lender for consideration by FmHA. Only if the applicant is not able to obtain a loan—either with or without an FmHA guarantee—from one or more of the lending sources contacted, will the applicant be considered for an insured EE loan.

(iii) When the County Supervisor receives Forms FmHA 1940–38 indicating that the applicant is unable to obtain satisfactory credit, the forms will be placed in the loan docket. However, such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent determination of the applicant's ability to obtain credit elsewhere.

(c) *Use of nonfarm assets.* The basic objective of EE loans is, through financial assistance, to enable eligible *farmers* to maintain a viable *farming operation* after they have sustained substantial economic losses. Therefore, since the goal of EE loans is maintaining a sound *farm* economy, applicants with large holdings in nonfarm assets not essential to the successful operation of their *farm* will offer those assets as security for loans requested from other lenders.

(1) If other lenders will not provide the needed credit even with these assets offered as security for the loans, an EE loan may be considered provided it is determined that:

(i) The applicant by selling all or a part of the *nonfarm* assets could not meet the total financial needs of the farm *without other credit;* or

(ii) The applicant by selling all or a part of the *nonfarm* assets could not meet the total financial needs of the farm *with credit from other sources.*

(2) When an EE loan will be made, after other lenders have declined to provide credit, the County Supervisor may still require the applicant to sell all or a part of such assets to meet a portion of the applicant's needs in connection with processing an EE loan for the difference between the applicant's actual needs and the amount realized by the sale of the assets. If the applicant cannot sell the assets before the loan is closed, the applicant will mortgage such assets to FmHA and agree in writing, in a manner approved by OGC, to sell them within a one year period and apply the proceeds to reduce the EE debt.

4. Section 1945.112 (c), (d), (e), (f) and (g) are renumbered to (d), (e), (f), (g), and (h) respectively without change.

In § 1945.112, the introductory paragraph of (b), (b)(1) and (e) are revised and a new paragraph (c) is added to read as follows:

§ 1945.112 Eligibility.

* * * * *

(b) *Bona fide farmer.* Be a *bona fide* farmer (owner-operator or tenant-operator), doing business in the United States either as an individual, cooperative, corporation, or partnership, that is recognized in the community as one primarily and directly engaged in agricultural production. *In the case of an individual loan applicant,* the term "primarily and directly engaged in agricultural production" means that the applicant(s) derives more than 50 percent of the gross income from the applicant's own agricultural production *or* either the applicant or family members of the applicant devote more than 50 percent of their time to such agricultural production. *In the case of a cooperative, corporation, or partnership loan applicant,* the term "primarily and directly engaged in agricultural production" means that the cooperative, corporation, or partnership derives more than 50 percent of its gross income from agricultural production *and* the member(s), shareholder(s), or partner(s) owning or controlling a majority interest in such cooperative, corporation or partnership either derive more than 50 percent of their gross income from their own or the cooperative's, corporation's, or partnership's agricultural production, *or* devote more than 50 percent of their time to such agricultural production.

(1) A bona fide farmer must be actually engaged in farming operations to be financed by an EE loan, and must have been engaged in farming during the 12-month period, or one full production and marketing cycle, whichever is the lesser, immediately preceding the date of the application. If the applicant is an individual, the applicant must manage such farming operation. If the applicant is a cooperative, corporation, or partnership, it must be managed by one or more of the members, stockholders, or partners. One who does not devote full time to the farming enterprise may be considered the manager provided the person visits the farm at sufficiently frequent intervals to exercise control over the farming enterprise, gives directions as to how it should be run, and sees that the enterprise is being carried on properly. Any enterprise that involves an outside full-time manager or management service does not qualify regardless of the number of visits made. In addition, as between two applications on file at the same time, FmHA will give preference to an applicant who owns and operates not larger than a family farm as defined in § 1945.104(a)(11). However, for purposes of an EE loan, this does not exclude an applicant who does not own or operate a family farm.

* * * * *

(c) *Change in the form of an applicant.* A change in the form of an applicant from an individual, partnership, cooperative, or corporation to another form of legal entity will not disqualify the new entity if it is conducting the same operation as was conducted during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the date of the application, and is primarily owned by substantially the same people that owned the operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the date of the application.

(1) When one or more *individuals* who were engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application later forms a partnership, cooperative, or corporation, the operation's application may still receive consideration provided such individual(s) owns at least 50 percent of the new partnership assets or cooperative or corporation's voting stock and continues to manage or control the farming operation.

(2) When a *partnership* that was engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application later dissolves and the operation is continued by an individual or a newly formed partnership, cooperative, or corporation, an application from the individual or the new entity will receive consideration provided one or more of the partners who managed the farming operation for the prior partnership will now manage the operation for the applicant, and provided:

(i) The assets of the prior partnership are now owned by an individual applicant who, as a partner in the prior partnership, had owned at least 50 percent of the partnership assets; or

(ii) The assets of the prior partnership are now owned by a new partnership applicant and the partners who had owned at least 50 percent of the assets of the prior partnership are now partners owning at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the prior partnership are now owned by a new cooperative or corporation applicant, and the partners of the prior partnership who owned at least 50 percent of those assets now own at least 50 percent of the voting stock of the new cooperative or corporation applicant.

(3) When a *cooperative* that was engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application dissolves but the farming operation is continued by an individual or a newly formed cooperative, corporation, or partnership, the application from the individual or new entity will receive consideration provided one or more of the members who managed the farming operation for the prior cooperative must now manage the operation for the new applicant, and provided:

(i) The assets of the dissolved cooperative are now owned by an individual who had owned at least 50 percent of the voting stock of the former cooperative, or

(ii) The assets of the former cooperative are now owned by a new partnership applicant and the members who had owned at least 50 percent of that cooperative are now partners owning at least 50 percent of the assets of the new partnership applicant, or

(iii) The assets of the former cooperative are now owned by a new cooperative or corporation applicant and the members or stockholders who had owned at least 50 percent of the voting stock of the former cooperative are now members or stockholders owning at least 50 percent of the voting stock of the new cooperative or corporation applicant.

(4) When a *corporation* that was engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application dissolves but the farming operation is continued by an individual or newly formed cooperative, corporation, or partnership, the application from the individual or new entity will receive consideration provided one or more of the stockholders who managed the farming operation for the prior corporation must now manage the operation for the new applicant, and provided:

(i) The assets of the dissolved corporation are now owned by an individual who had owned at least 50 percent of the voting stock of the former corporation, or

(ii) The assets of the former corporation are now owned by a new partnership applicant and the stockholders who had owned at least 50 percent of that corporation are now partners owning at least 50 percent of the assets of the new partnership applicant, or

(iii) The assets of the former corporation are now owned by a new cooperative or corporation applicant and the members or stockholders who had owned at least 50 percent of the voting stock of the former corporation are now members or stockholders owning at least 50 percent of the voting stock of the new cooperative or corporation applicant.

* * * * *

(e) *Character, industry, training, or experience and ability.* Possess the character (emphasizing repayment ability and reliability), industry, training and/or experience and ability necessary to carry out the proposed operations and honestly endeavor to carry out the undertakings and obligations in connection with the loan.

* * * * *

5. Section 1945.116 (a)(3) through (a)(14) are renumbered to (a)(4) through (a)(15) respectively. § 1945.116 (a)(2); (a)(14) which has been renumbered from (a)(13); and (b)(3) are amended and § 1945.116 (a)(3) is added to read as follows:

§ 1945.116 Loan purposes.

(a) *Operating purposes.* * * *

(2) Payment of secured or unsecured *annual* family living and farm production debts (*not* including FmHA insured and guranteed loans) when it is determined that the lender(s) is demanding payment in full and will not continue with the applicant or carry a portion of the applicant's debt(s).

(i) Preference will be given to paying those debts that will be most helpful to the applicant in carrying on essential farm and home operations.

(ii) Ordinarily, in the case of old unsecured debts or inadequately secured debts, the applicant will be requested to contact the applicant's creditor(s) and attempt to obtain a substantial reduction of such debts before the payment of such debts with EE loan funds.

(iii) When *annual* credit advances were made for family living and/or farm production expenses, but also included funds for capital expenditures such as equipment, foundation livestock, and real estate purchases or improvements, *only* that portion advanced for family living and farm production expenses may be *fully* paid with EE loan funds. However, either one year's interest and an amount not to exceed 20 percent of the appraised market value of the essential farm and home equipment and livestock under prior lien to the creditor(s), *or* 20 percent of the balance owed to the creditor(s) (whichever is the lesser) may be paid with EE loan funds.

(3) Payment of existing delinquent installment(s) plus the next installment owed on farm and home operating debts which were amortized over a period of more than one year (*not* including FmHA insured and guaranteed loans) when it is determined that the lender(s) is demanding payment of the delinquent installment(s) and will not continue with the applicant without receiving payment of such installment(s). When a nondelinquent installment is involved, payment of a nondelinquent installment may be made *only* if the applicant has insufficient cash flow to meet the existing payment terms and the indebtedness will *not* be paid in full with such payment. When the "nondelinquent" installment is a balloon payment, such installment will *not* be paid in full. In such cases, only an amount equal to a regular installment will be paid and the lender will be required to extend the remaining portion of the balloon payment for a reasonable period of time.

* * * * *

(14) Up to $25,000 in a fiscal year for real estate improvements or repairs. The

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following determinations must first be made:

* * * * *

(b) *Real estate purposes.* * * *

(3) Payment of existing delinquent installment(s) plus the next installment owed on farm real estate or other farm and home debts (*not* including FmHA insured and guaranteed loans) when it is determined that the lender(s) is demanding payment of the delinquent installment(s) and will not continue with the applicant without receiving payment of such installment(s). When a nondelinquent installment is involved, the following conditions must be met:

(i) Payment of a nondelinquent installment may be made *only* if the applicant has insufficient cash flow to meet the existing payment terms and the indebtedness will *not* be paid in full with such payment. When the "non-delinquent" installment is a balloon payment, such installment will *not* be paid in full. In such cases, only an amount equal to a regular installment will be paid and the lender will be required to extend the remaining portion of the balloon payment for a reasonable period of time.

(ii) The limitation found in § 1945.117(a)(5) must be complied with.

(iii) Preference will be given to paying those installments that will be most helpful to the applicant in carrying on essential farm and home operations.

(iv) Ordinarily, in the case of old unsecured debts or inadequately secured debts, the applicant will be requested to contact the applicant's creditor(s) and attempt to obtain a substantial reduction of such debts before payment of installments.

* * * * *

6. § 1945.117(a)(5) is amended to read as follows:

§ 1945.117 Loan limitations and special provisions.

(a) *Limitations on use of loan funds.* * * *

(5) Installments owed on farm or home real estate debts will not be paid unless such real estate was purchased and title conveyed to the applicant at least one year before the date of the EE loan application.

* * * * *

7. § 1945.118 (b)(1)(i) and (b)(2) are amended to read as follows:

§ 1945.118 Loan rates and terms.

* * * * *

(b) *Terms of loan repayment.* * * *

(1) * * *

(i) Loans will be for a period not to exceed 7 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 20 years. Generally, real estate will be needed as security when the longer repayment period is authorized. This longer repayment period will only be used when the applicant would be unable to repay the loan in a shorter period taking into consideration rescheduling possibilities. The reasons the longer period is given must be documented in the county office case file.

* * * * *

(2) Loans for real estate and items financed under § 1945.116(b) (*real estate purposes*) will normally be scheduled for repayment in *not more than 30 years.* Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 40 years. The longer repayment period will only be used when the applicant would be unable to repay the loan in a shorter period. The reasons the longer period is given must be documented in the county office case file.

8. § 1945.120(b)(7)(iii) is amended to read as follows:

§ 1945.120 Collateral requirements.

* * * * *

(b) *Additional requirements.* * * *

(7) * * *

* * * * *

(iii) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to enter into the agreement described in paragraph (b)(7)(ii) of this section, the applicant will make every effort to refinance the existing purchase contract.

* * * * *

9. § 1945.136 is amended to read as follows:

§ 1945.136 Graduation.

Borrowers will be required to graduate when FmHA determines they are able to obtain their needed credit from conventional sources. All borrowers will be advised that their loans will be reviewed for graduation by FmHA. Applicants will also be advised during loan processing and again at loan closing that they will be required to refinance at any time if other satisfactory credit is available to them even though their loans have not fully matured. This will be in accordance with the graduation procedure set forth in Part 1865 of this Chapter (FmHA Instruction 451.6). EE loans will be reviewed three years after they are made and every other year thereafter.

* * * * *

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301; Title II of Pub. L. 95-334, as amended by Pub. L. 96-220; delegation of authority by the Secretary of Agriculture 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: May 16, 1980.

Alex P. Mercure,

Assistant Secretary for Rural Development.

[FR Doc. 80-15994 Filed 5-23-80; 8:45 am]

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federal register

Tuesday
May 27, 1980

Part VII

Department of Energy

Office of the Secretary

Emergency Building Temperature Restrictions

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DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 490

[Docket No. CAS-RM-79-110]

Emergency Building Temperature Restrictions; Amendment of Regulations

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: Under the authority of the Energy Policy and Conservation Act (42 U.S.C. 6201) (EPCA), Executive Order 11912 (41 FR 15825, April 13, 1976) and the "Standby Conservation Plan No. 2: Emergency Building Temperature Restrictions" (44 FR 12906, March 8, 1979), the Department of Energy is amending the Emergency Building Temperature Restrictions (EBTR) regulations (44 FR 39354, July 5, 1979) which became effective on July 16, 1979 (44 FR 40629, July 12, 1979 and 44 FR 41205, July 16, 1979) and were extended on April 15, 1980 (45 FR 26019, April 17, 1980).

The regulations place restrictions on the thermostat settings for heating, cooling, and hot water in commercial, industrial, and other nonresidential buildings to reduce energy consumption.

These amendments are intended to improve the operation of the program based on experiences to date. The specific changes and rationale are set forth below in the supplementary information section.

DATES: Written comments must be received by June 26, 1980 at 4:30 p.m., eastern time in order to ensure their consideration. A public hearing will be held in Washington, D.C. (June 12, 1980) at 9:30 a.m. local time. Requests to speak at the public hearing should be received by June 5, 1980. Speakers will be notified of their selection on June 9, 1980. One hundred copies of oral statements are due by June 11, 1980.

ADDRESSES: Comments should be addressed to Dorothy Hamid, Public Hearings Management, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 653–3757.

A public hearing will be held on these amendments at Room 2105, 2000 M Street, N.W., Washington, D.C.

Please direct requests to speak to: Dorothy Hamid, Public Hearings Management, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, Telephone: 202–653–3757.

FOR FURTHER INFORMATION CONTACT:

W. Lorn Harvey or Jan Marfyak, Office of Emergency Conservation Programs, Conservation and Solar Energy, Department of Energy, 1000 Independence Avenue, S.W., Room GE–004A, Washington, D.C. 20585. Telephone (202) 252–4966.

Edward H. Pulliam, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 1E–258, Washington, D.C. 20585. Telephone (202) 252–9507.

Emergency Conservation Service Hotline, (800) 424–9122 from the continental U.S., (800) 424–9088 from Alaska, Hawaii, Puerto Rico, and the Virgin Islands, (202) 252–4950 from metropolitan Washington, D.C.

SUPPLEMENTARY INFORMATION: Standby Federal Conservation Plan No. 2, Emergency Building Temperature Restrictions (the Plan) was submitted to and approved by Congress pursuant to Section 201 of the Energy Policy and Conservation Act (42 U.S.C. 6201) which authorized the President to develop energy conservation contingency plans. Emergency Building Temperature Restrictions (EBTR) final regulations (the Regulations) were published by the Department of Energy (DOE) on July 5, 1979 (44 FR 39354) and became effective by President Proclamation on July 16, 1979 (44 FR 40629, July 12, 1979 and 44 FR 41205, July 16, 1979). The President issued a proclamation on April 15, 1980 (45 FR 26019, April 17, 1980) continuing EBTR in effect until January 16, 1981, unless earlier rescinded.

Throughout the effective period of the Regulations, DOE has continued to receive public input on these temperature restrictions, including over 57,000 telephone calls on the Emergency Conservation Service Hotline, over 400,000 pieces of mail, and comment from trade and professional organizations as well as Federal agencies. The amendments presented in this notice reflect this input and the experience of DOE over the course of the EBTR program. The most significant amendment is a provision allowing building owners and operators to claim exemptions on the basis of comparable energy saving plans.

Alternate Plans by Building Owners or Operators

The Regulations have been amended (§ 490.36) to provide an exemption to building owners and operators implementing an alternate plan designed to conserve as much energy as would be conserved by strict compliance with the temperature restrictions set forth in the Regulations. The exemption is only partial, in that the owner or operator must maintain temperature limits of 68 degrees when heating, and 74 degrees when cooling as compared with the 65/78 degree limits prescribed by the Regulations. In conjunction with these less stringent temperature limits the building owner or operator must institute other energy conservation measures which will conserve as much energy as would be conserved by strict compliance with the temperature restrictions as set forth in Subparts B and C of the Regulations. Alternate means are not restricted to adjustments in heating, ventilating and air-conditioning (HVAC) system operation, but may include changes in the design, construction or operation of a building, such as lighting reduction, insulation, weatherstripping, installation of control systems or changed hours of operation.

Like other exemptions to these Regulations, this exemption is self-certifying. Alternate plans need not be approved by DOE, although the individual claiming the exemption will be required to present proof of equivalent savings if requested by a State or Federal inspector. Such proof must include, but is not limited to, the most current utility/fuel consumption data available at the time of the inspection, and data for the corresponding period for the previous two years.

This exemption shall not be available in jurisdictions which have had plans approved under § 490.35 unless the approved plan allows such an exemption.

This amendment is designed to provide maximum flexibility to building owners/operators, and is modeled on the New Jersey "alternate plan" submitted to and approved by DOE for that State under § 490.35 of the Regulations. The plan also affords an opportunity to retailers, restaurateurs and others who have indicated that conservation strategies other than temperature restrictions are more appropriate to their particular circumstances.

A number of trade associations, such as the Building Owners and Managers Association International (BOMA) and the National Resturant Association, have either submitted or intend to submit to DOE, industrywide alternate plans. DOE encourages the use of such plans as guidelines for building owners/operators, as long as their adoption would meet the requirements of this amendment. DOE cannot approve such plans due to the impossibility of certifying that a generic plan would, in all cases, meet the requirements of the exemption. Additionally, the potential administrative burden and cost of reviewing and approving numerous

alternate plans would be excessive, considering the limited life of the EBTR program.

490.5 Definitions.

The following new definitions or revised definitions have been included as amendments in order to clarify the intent of the Regulations.

The definition of "capability for simultaneous heating and cooling" has been further refined by the addition of the words "at the same time," to specify a single HVAC system which may both heat and cool at the same time.

"Coolant" has been defined to specify "the liquid which is circulated through heat exchangers for the purpose of removing heat from the air." Section 490.12 was originally written visualizing chilled water as the coolant. Questions have arisen as to whether Section 490.12 is applicable when the refrigerant itself is the coolant. This modification makes clear that this Section does apply to such refrigerant systems. In a small number of cases, operation of such systems at a coolant temperature of 55 degrees may create the likelihood of compressor damage. An amendment to section 490.12 permits an exemption where such likelihood exists.

"Hospital and health care facility" has been redefined to clarify DOE's intent to include doctors' and dentists' offices within the scope of the regulations, unless an exemption is claimed by the doctor or dentist in order to protect the health of patients.

"Dry-bulb temperature" has been redefined to include "adjusted dry-bulb temperature" as defined in the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 55–74, *"(Thermal Environmental Conditions for Human Occupancy.* This has been done to reduce the chance that an individual will be required by the Regulations to work under conditions thermally less comfortable than those contemplated by the regulations. For example, on a cold day, an individual located next to a large window or exterior wall may sense temperatures below actual room temperature. Adjusted dry-bulb temperature takes into account the effects of unusual radiant heat gain or loss, and air velocity. Since some building owners may wish to avoid the calculations necessary to determine adjusted dry-bulb temperature, another alternative is offered: to take the temperature reading with a globe thermometer.

The definition of "elementary school" has been expanded to include other areas where children of elementary school age congregate. This modification was made since small children may not always be relied upon to adjust their dress habits to suit prevailing indoor temperatures.

"Energy that would otherwise be wasted" has been defined in order to clarify that term as used in Section 490.18.

A definition has been added for "intermediate season" since it is necessary to describe those times when both heating and cooling are required in a building at different times during the same day (e.g., heating in the morning and cooling in the afternoon). "Intermediate season" also refers to those periods when heating and cooling are required at the same time in different parts of the building. This may be the case, for example, in a large office building which, in winter, may require heating near the perimeter due to radiant heat loss, but cooling in the interior rooms due to core heat buildup.

"Reheat" has been defined to clarify the type of system operation proscribed by the Regulations.

"Solar energy" has been redefined to specify the types of renewable resources intended to be encompassed by the term. These include wind, geothermal, small scale water power or biomass, including wood and any combustible municipal or industrial trash or waste materials.

The definition for "unoccupied period" has been refined to specify that a building must be unoccupied for eight hours or more to be considered "unoccupied" for purposes of these Regulations.

A definition has been added for "work station" as that area within a room where an employee ordinarily performs principal work-related tasks. This new definition was necessitated by changes in allowable temperature measurement techniques. This definition is meant to apply to primary work areas (e.g. typist's desk, factory bench) and not to any area of a room where tasks may be occasionally performed.

§ 490.12 HVAC Systems with capability for simultaneous heating and cooling.

This section has been amended to distinguish between the types of systems referred to in § 490.12(b)(1) (fan coil, induction, baseboard or similarly operated units) and those referred to in § 490.12(d)(1) ("all air" systems). Fan coil, induction, baseboard or similarly operated units are those in which cooling or heating of the air in the room is accomplished by passing room air over a heat exchanger in the room to which water or another fluid has been piped. In an all air system, air which had previously been heated or cooled elsewhere in the system is carried into the room through ducts.

Section 490.12 has also been amended to state definitively that the use of reheat is banned by these regulations unless a licensed Professional Engineer determines that adequate temperature control (temperatures between 65° and 78°) cannot be maintained without reheat. Test modeling of various building types with different HVAC systems at Argonne National Laboratory demonstrated that reheat systems, operating with reheat coils on, are the most inefficient HVAC systems. Such systems may be made relatively efficient by turning off reheat coils, with the result of substantial energy savings.

Wording has also been added to this section which specifies DOE's intent to require raising coolant temperatures only to that level at which the HVAC system can function without damage. DOE has received reports that in a small number of systems, compressor surging could result from raising coolant temperatures to those required by the Regulations. Where any doubt exists that equipment will operate satisfactorily at specified coolant temperatures, DOE recommends consultation with the compressor manufacturer.

Section 490.12 has been further revised to clarify proper HVAC operation during the intermediate season. The effect of this revision is to confirm that in the intermediate season a "deadband" between 65° and 78° exists in which no heating or cooling may be supplied to a room except to the extent that temperatures below 78° can be attained with 55° coolant temperatures or 60° supply air, as stipulated in § 490.12. This is not intended to preclude system operation at any time under exemptions available in Section 490.18, including the use of outside air.

§ 490.13 Requirement for accuracy of space-conditioning control devices.

In order to prevent the relocation of thermostats to thwart the intent of these Regulations, an amendment prohibiting such relocation has been added. With this revision, it would be contrary to the Regulations to move a room thermostat from an interior to an exterior wall, or from an occupied room to a storage area in the same thermostat zone, with the intent of thereby raising or lowering temperatures in the occupied room.

This section has been further revised to require that space-conditioning control devices be maintained in proper repair, if such devices are being used to maintain temperatures required by these Regulations.

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§ 490.14 Regulation of building temperatures during unoccupied periods.

A number of buildings utilizing heat pump systems have experienced increased energy usage or electric utility bills by complying with EBTR night setback requirements due to an inability to bring building temperatures back up to occupied period temperatures without the use of electrical resistance coils. Use of such coils increases energy consumption and adds to the building's electrical peak load. An amendment has therefore been added which exempts such systems from 55° night setbacks and raises the setback level for those systems to 60° if such operation will reduce monthly energy consumption or peak load use.

§ 490.15 Auxiliary heaters.

The Regulations have been amended to make clear that the use of auxiliary heaters is precluded, except where necessary to bring the temperature in a room or a work station (e.g., desk, work bench) up to 65°. No auxiliary heaters may be used to bring the temperature at a work station above 65°, except where permitted by an exemption or exception. Electric foot warmers and similar devices are not specifically proscribed by the Regulations unless their use brings the room temperature above 65 degrees. Care should always be taken to keep flammable materials away from auxiliary heaters or other electrical devices when in use.

§ 490.17 Measurement techniques.

Allowable measurement techniques have been modified to allow temperature measurement at an average of representative work stations (see definitions, § 490.5) in the room. The nature of some HVAC systems, room size, or demands of business may make the temperature at work stations widely disparate from the average room temperature. When rebalancing the system or relocating the work station is not feasible, room temperatures may be measured by averaging the temperatures at representative work areas in the room. This will afford some relief to individuals at those work stations. The building owner/operator may choose the measuring technique to be used.

In addition, temperature measurement techniques have been expanded to specify meaurement at "breathing level." Breathing level can generally be assumed to be between 4 and 6 feet above the floor.

The Regulations have also been amended to require that HVAC systems be properly balanced. System balancing in accordance with good commercial practice for the applicable HVAC system is crucial if the full energy saving potential of EBTR is to be realized.

§ 490.18 Exemptions from heating and cooling restrictions.

This section has been amended to exempt systems utilizing cold well water for cooling, when cold well water is the only source of cooling energy.

§ 490.31 General exemptions.

Aside from the exemption granted to building owners or operators implementing an alternative plan approved by the Secretary, three other exemptions have been added to the Regulations.

Senior citizen centers providing nutritional, recreational and other facilities specifically intended for use by senior citizens have been exempted from compliance with the Regulations during those times and in those areas where senior citizen activity is conducted. This amendment incorporates a class exception from the Regulations previously granted by the DOE Office of Hearings and Appeals to such facilities. The National Institutes of Health has recommended that temperatures be maintained no lower than 70°F. for the elderly in their residences, particularly the infirm.

An amendment has been included exempting school and workplace shower and changing rooms from heating limit requirements where showers are considered a required part of customary work procedure. The purpose of this amendment is to exempt workplace shower and changing areas in cases where exposure of workers to potentially dangerous or irritating substances such as coal or other mining dust, toxic chemicals, excessive grime, etc., would make it impractical or unhealthy for workers to leave the workplace before showering. This amendment is not intended to exempt shower and changing rooms in gymasia, health clubs or similar establishments, where showers on the premises are optional.

An amendment has also been added which exempts individuals from coverage by the Regulations who are required by security, safety or health codes to wear special or protective clothing to perform manufacturing or industrial processes, when temperatures prescribed in the regulations would pose a danger to their health. For example, this exemption would cover areas where individuals are required to wear impermeable coveralls due to possible exposure to fiberglass, radiation, fine dust, spray paints etc. In other instances, high security or safety risks exist that prevent individuals from wearing needed layers of clothing to retain warmth (e.g. U.S. mints, activities where there are high risks of clothing being caught in machinery).

§ 490.34 Scope of exceptions or exemptions.

This section has been amended to require building owners or operators to provide temperature levels consistent with the needs of the exempted or excepted building area, business, system or individual. Such a requirement was found to be necessary to insure that building owners and operators fulfill their obligations to tenants and employees. Such adjustments must be made, to the extent practicable, in a manner consistent with maximum energy savings. For example, it may be more energy efficient to provide one individual granted an exception with a space heater than to adjust an entire HVAC zone to the temperature permitted by the exception.

Nothing in these Regulations is intended to imply that DOE requires temperatures above 78° for heating or below 65° for cooling.

Comment Procedures

A 30-day public comment period on these amendments to the EBTR Regulations begins with publication of this notice. A comment period of only 30 days is hereby chosen in lieu of the normal 60 day comment period required by Executive Order 12044 since it is imperative that these Regulations, should they be published as a final Rulemaking, are in place for the summer cooling season. It is expected that amendment of these regulations will help minimize discomfort during the heating and cooling seasons, and that the earliest possible adoption of these changes will be in the public interest. The public is invited to send written comments to the addresses indicated in the "ADDRESSES" section of this notice. Such comments should be identified on the outside envelope and on documents submitted with the designation "Emergency Building Temperature Restrictions—Amendments." Fifteeen copies, if possible, would be appreciated. All comments received will be available for public inspection in the DOE Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Comments should be received 30 days from publication in the Federal Register, in order to be considered. Any information or data you consider to be confidential must be so identified. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Public Hearing

A public hearing will be held on these amendments on June 12, 1980, beginning at 9:30 a.m. local time at Room 2105, M Street, NW., Washington, D.C. Requests to speak at the public hearing should be received by June 5, 1980. Speakers will be notified of their selection on June 9, 1980. One hundred copies of oral statments are due by June 11, 1980. Please direct requests to speak to: Dorothy Hamid, Public Hearings Management, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Telephone: 202–653–3757.

In consideration of the foregoing, chapter II of title 10 of the Code of Federal Regulations is amended as set forth below. Issued in Washington, D.C., on May 21, 1980.

Worth Bateman,

Acting Secretary, Department of Energy.

Authority: Federal Energy Administration Act of 1974, 15 U.S.C. 761 *et seq.;* Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* E.O. 11790, 39 FR 23185 (June 27, 1974); E.O. 12009, 42 FR 4627 (September 15, 1977); Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions, 44 FR 12906 (March 8, 1979); E.O. 11912, 41 FR 15825 (April 13, 1976); Presidential Proclamation No. 4667, 44 FR 40629 (July 12, 1979); and Presidential Proclamation No. 4750, 45 FR 26019 (April 17, 1980)

PART 490—EMERGENCY BUILDING TEMPERATURE RESTRICTIONS

10 CFR Part 490 is amended as follows:

1. Section 490.5(a) is amended by inserting the words "at the same time" between the words "while" and "supplying."

§ 490.5 Definitions.

2. Section 490.5(g) is revised to read as follows:

(g) "Dry-bulb temperature" means the temperature of air as measured by a dry-bulb, or ordinary thermometer which directly measures air temperature. Where unusual radiant heat gain or loss, or where unusually high air velocity conditions prevail, an adjusted dry-bulb temperature may be calculated in accordance with American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 55–74 *Thermal Environmental Conditions for Human Occupancy.* Alternatively, temperature may be read directly using a Vernon-type globe thermometer.

3. Section 490.5(h) is revised to read as follows:

(h) "Elementary school" means any school which has any grades kindergarten through sixth grade, or any other building or portion thereof which houses schools, clubs, and organizations whose membership is open to and composed exclusively of children in grades six and below only during the time when this facility is being used by children in these grades: Provided, that if the non-elementary grade portions of a building have space-conditioning control devices separate from the elementary portions, the non-elementary grade portions are not included within the definition of elementary school.

4. Section 490.5(n) is amended by adding at the end of the sentence, "but does not include the offices of physicians, dentists and other members of health care professions licensed by the state to provide health related services."

5. Section 490.5(y) is revised to read as follows:

(y) "Solar Energy" means energy derived from the sun directly through the solar heating of air, water and other fluids; indirectly through the use of electricity produced by solar photovoltaic or solar thermal processes; or indirectly through the use of wind, geothermal, small scale water power or biomass, including wood, and any combustible municipal or industrial trash or waste materials.

6. Section 490.5(dd) is amended by inserting the words "eight hours or longer" between "periods" and "of the day or night."

7. Section 490.5 is amended by adding the following subsections:

(ff) "Coolant" means the liquid which is circulated through heat exchangers for the purpose of removing heat from the air. The coolant may be circulating water, refrigerant itself, or another fluid.

(gg) "Energy that would otherwise be wasted" means any heat or energy rejected by any equipment or process, which can be employed directly or indirectly to provide for space heating or cooling or for domestic water heating without increasing the load on the original equipment.

(hh) "Intermediate season" means any time when both heating and cooling are being supplied to the entire building at different times on the same day, or are being supplied at the same time to different spaces in the building.

(ii) "Reheat" means the process of raising the temperature of chilled supply air before introduction into living space.

(jj) "Work station" means the location within a room where an employee ordinarily performs his or her principal work related tasks.

§ 490.12 HVAC systems with capability for simultaneous heating and cooling.

(a) * * *

8. Section 490.12(a) is amended by adding the following new paragraph:

(3) During the intermediate season, at those times or in those areas where heat is being supplied to a room, operators of HVAC systems must comply with the requirements of paragraph (a)(1). During the intermediate season, when cooling, operators must comply with the requirements of paragraph (a)(1), or alternatively with (b)(1)(ii) for operators of fan-coil, induction, baseboard or similarly operated units, or (d)(1)(i) and (ii) for operators of "all-air" systems.

9. Section 490.12(b)(1) is revised to read as follows:

Operators of systems where the cooling or heating of room air takes place in equipment located in the occupied space (fan coil, induction, baseboard or similarly operated units) shall set space-conditioning control devices in accordance with the requirements of paragraph (a), or alternatively in the following manner:

10. Section 490.12(d) (1) is amended by deleting the phrase "by the supply air temperature or volume" and substituting for it the phrase "by varying the temperature or flow volume of air which is introduced into the occupied space".

11. Section 490.12(e) is amended by redesignating paragraphs (3), (4) and (5) as paragraphs (5), (6) and (7), repectively, and by adding two new paragraphs (3) and (4), as follows:

(3) The use of reheat is prohibited, except in those cases where a licensed professional engineer certifies that adequate temperature control cannot be achieved without the use of reheat. When reheat is used, the temperature of the air leaving the cooling coils must be 60 degrees F. or greater, unless the room temperature is 78 degrees F. or greater, in which case a lower supply air temperature is permitted.

(4) When compliance with the requirements of paragraphs (b)(1), (d)(1), or (e)(2) of this section would subject the compressor to the likelihood of damage, the coolant temperature may be lowered to the temperature level necessary to prevent such damage.

12. Section 490.13(a) is amended by adding "and repair" after "accuracy."

§ 490.13 Requirement for accuracy of space-conditioning control devices.

13. Section 490.13(b) is amended by inserting the words "or relocate"

between the words "alter" and "a" and by deleting the words "with the intent of having that device function inaccurately", and adding in its place "to thwart the intent of these regulations, or to bring about room temperatures prohibited elsewhere in these regulations".

14. Section 490.14(a) is amended by adding the following paragraph (5):

§ 490.14 Regulation of building temperatures during unoccupied periods.

(a) * * *

(5) When a building is heated by a heat pump such that the requirements of paragraph (a) (1) and (2) of this section may result in higher monthly peak demand or increased monthly energy consumption, or both, the space-conditioning control device during unoccupied periods may be set at 60 degrees F.

15. Section 490.15 is amended by adding the following sentence at the end thereof:

§ 490.15 Auxiliary heaters.

When a space heater is in use in a particular room or at a particular work station, the temperature in that room or at that work station shall not be brought above 65 degrees F.

16. Section 490.17(c) is amended by adding a new paragraph (7) as follows:

§ 490.17 Measurement techniques.

(c) * * *

(7) Any temperature measurement shall be taken at normal breathing level, or between four and six feet from the floor.

17. Section 490.17 is amended by deleting the word "or" from paragraph (c)(1)(ii), deleting the period at the end of paragraph (c)(1)(iii) and substituting in its place a semicolon and adding after the semicolon the word "or", and adding a paragraph (c)(1)(iv) as follows:

(iv) the average of thermometer readings taken at representative work stations in the room.

18. Section 490.17 is amended by adding paragraph (d) as follows:

(d) Before setting thermostats at the required level, the operator shall insure that the HVAC distribution system is properly balanced in accordance with generally accepted industry practice.

19. Section 490.18(a)(2) is amended by adding "cold well water" between "outdoor air" and "and/or evaporation effect", and by adding a comma after "outdoor air".

§ 490.18 [Amended]

20. Section 490.23(a) is amended by adding "and repair" after "accuracy."

§ 490.23 [Amended]

21. Section 490.31(a)(5) is amended by deleting the word "and" from clause (ii), deleting the period at the end of clause (iii) and substituting in its place a semicolon, and adding clauses (iv) and (v) as follows:

§ 490.31 General exemptions.

(a) * * *

(5) * * *

(iv) To protect the health of individuals required by security, safety or health codes to wear special or protective clothing to perform manufacturing inspections or other industrial functions; or

(v) With respect to restrictions on heating only, to protect the health of persons in workplace or school shower and changing rooms where showers are considered a required part of customary work or school procedure.

22. Section 490.31(a) is amended to add the following new paragraph (7):

(7) Where nutritional, recreational, and other facilities are specifically designated for use by senior citizens, the thermostat may be adjusted to raise the dry-bulb temperature to 70 degrees F. during the heating season; except that this exemption applies only when senior citizens' activity is being conducted and only to those portions of the facilities used for senior citizen activity.

23. Section 490.34 is revised to read as follows:

§ 490.34 Scope of exceptions or exemptions.

When an exemption is claimed or an exception granted, the building owner or operator, or both, shall, upon notification, and without undue delay, take action to change the temperature in the space affected by that exception or exemption to comply with temperature limits specified by the exemption or exception. Such adjustments shall be made in a manner consistent with maximum energy savings.

24. A new section, 490.36, Alternate Plan Exemption, is added as follows:

§ 490.36 Alternate plan exemption.

(a) An owner or operator of a covered building is exempted from the requirements of Subparts B and C of this part if the owner or operator—

(1) is setting space-conditioning control devices so that energy is not consumed to raise the room dry-bulb temperature above 68 degrees F. or to lower the room dry-bulb temperature below 74 degrees F.;

(2) has instituted since the effective date of these regulations or is instituting in the covered building other energy conservation measures, such as lighting reduction, insulation, weatherstripping, changed hours of operation, or installation of energy control systems, which have, in conjunction with the temperature restrictions set forth in paragraph (1) of this section, conserved as much energy as would have been conserved by compliance with the temperature restrictions set forth in Subparts B and C; and

(3) presents proof of the required energy savings upon request by a State or Federal official, which must include, but is not limited to, the most current utility or fuel, or both, consumption data available at the time of inspection and data for the corresponding period for the previous two years.

(b) An owner or operator of a covered building need not apply to DOE for an exemption under this section. An owner or operator who wants to claim this exemption may do so by complying with this section (and § 490.43) and by presenting the appropriate exemption information noting the type of exemption and the supporting information required by paragraph (a)(3) of this section to a State or Federal inspector at the time of an inspection.

(c) This exemption shall not be available in jurisdictions which have had comparable programs approved under § 490.35, unless the approved program allows such exemption and the owner or operator has taken the proper steps under the program to qualify for the exemption.

[FR Doc. 80-16042 Filed 5-23-80; 8:45 am]
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federal register

Tuesday
May 27, 1980

Part VIII

Department of Health and Human Services

Office of Human Development Services

Child Abuse and Neglect Prevention and Treatment Program; Proposed Rulemaking

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1340

Child Abuse and Neglect Prevention and Treatment Program

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation clarifies, simplifies, and revises the rules governing the Child Abuse and Neglect Prevention and Treatment Program and the coordination of Federal activities related to child abuse and neglect. Included are changes made necessary by the 1978 amendments to the Child Abuse Prevention and Treatment Act. None of these changes are major.

DATE: Consideration will be given to written comments received by July 11, 1980

ADDRESSE: Address comment to: Frank Ferro, Associate Chief, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

Comments will be available for inspection in Room 3758 of the Department's Offices at 400 Sixth Street, SW., Washington, D.C., from 9:00 a.m., to 5:30 p.m., EST, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jay D. Olson, Special Assistant to the Director, National Center on Child Abuse and Neglect, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–0590.

SUPPLEMENTARY INFORMATION: The extension of the Child abuse Prevention and Treatment act through September 30, 1981 became law on April 24, 1978. The extension contained several changes in the Act which require minor changes in the regulations. In addition, the Children's Bureau, in the Office of Human Development Services, is taking this opportunity to clarify and simplify the existing regulation in accordance with the Department's "Operation Common Sense" initiative. This proposed regulation incorporates the statutory changes and the Department's requirements for clearer and more useful rules.

Proposed Modification of the Regulation

1. The current regulation includes four subparts organized as follows: Subpart A—General Provisions; Subpart B—Demonstrations, Technical Assistance, and Other Activities; Subpart C—Child Abuse and Neglect Grants to States under the Act and under Title IV of the Social Security Act; and Subpart D—Coordination of Federal Programs and Activities Related to Child Abuse and Neglect. The portions of the regulation included in Subparts A, B and C were developed in 1974 and correspond to the order of Sections in the Child Abuse Prevention and Treatment Act of 1974 ("the Act"). Subpart D was added in 1976 after extensive interagency discussions resulting in the policies contained in that Subpart. (Also, Subpart C at 1340.3–2(a)(2) explains that child abuse and neglect programs, assisted under Parts A and B of Title IV of the Social Security Act, must meet the requirements of Pub. L. 93–247, as amended, and the Social Security Act in accordance with regulations published in 45 CFR Part 220.)

This proposed regulation is also organized in four Subparts (A, B, C and D). Subpart A, as in the current regulation, contains a statement of purpose and scope, a definition section and cross references to applicable Department-wide regulations. Specific requirements for grants to States under section 4(b)(1) and (2) of the Act (42 U.S.C. 5103(b)(1) and (2)) previously included in Subpart C, are now included as proposed Subpart B, Grants to States.

Requirements for the funding of grants and contracts under other provisions of the Act are currently included in Subpart B. That subpart has been redesignated Subpart C, Discretionary Grants and Contracts. Proposed Subpart D contains, as it does in the current regulation, requirements for the coordination of Federal child abuse and neglect activities.

Significant Modifications Contained in the Proposed Regulation

In addition to the reorganization of the existing regulation, other substantive changes are proposed, the most important of which are described below.

1. Subpart A, General Provisions, has been shortened considerably by the elimination of those sections which repeat provisions found in 45 CFR Part 74, Administration of Grants. The Department is in the process of removing provisions from program regulations which duplicate Part 74 and inserting instead cross references to Part 74. This subpart also contains a list of other Department regulations that apply to grants and contracts awarded under the Act.

The current regulation, at § 1340.1–11, states that programs and projects may be approved for not more than five years. This limitation has been deleted. The duration of programs and projects will be stated in program announcements, which will be published in the **Federal Register**.

Subpart A (in § 1340.1–6) also includes a provision related to a possible conflict of interest by employees or individuals participating in a program or project under the Act. That prohibition has been deleted from the regulation but continues in effect and is stated in each award made under the Act.

Definitions originally in the current Subpart A and Subpart D (Coordination of Federal Activities) have been consolidated here. Certain definitions have been shortened or eliminated. The definition of child abuse and neglect has been clarified to include specific sub-definitions of "sexual abuse" and "sexual exploitation" which conform to amendments to the Act. The addition of "sexual exploitation" in the section on definitions (§ 1340.2) expands the definitional requirement for States applying for a State grant under Section 4(b)(1) of the Act. All applicant States must have a definition of child abuse and neglect that is in accordance with all aspects of the definition in § 1340.2, including "sexual exploitation." It will be necessary for some States to revise their State law in order to comply with this new definitional requirement. Therefore, the effective date for a State to comply with the requirement that "sexual exploitation" be included in its definition of child abuse and neglect will be no later than the close of the general legislative session that convenes next after the effective date of this recodified regulation.

A number of States include in the statutory definition of child abuse and neglect "failure to provide medical or health care." States are not required to include this provision in their definition of abuse and neglect in order to satisfy the definitional requirement for eligibility under § 1340.14(a). Congress indicated in the legislative history that "no parent or guardian who in good faith is providing to a child treatment solely by spiritual means—such as prayer—according to the tenants and practices of a recognized church through a duly accredited practitioner shall 'for that reason alone' be considered to have neglected the child." We have therefore noted the legislative history in the proposed regulation, under the definition of "negligent treatment or maltreatment."

The definition of a "child" has also been modified to reflect the amendment to the Act providing that a child is "a person under the age of eighteen or the age specified by the child protection law of the State." In accordance with the amendments to the Act the definition of Advisory Board on Child Abuse and Neglect has been expanded to include at least three public members appointed by the Secretary.

2. Subpart B, Grants to States, governs grants awarded to States under sections 4(b)(1) and (2) of the Act, 42 U.S.C. 5103(b)(1) and (2). This Subpart has been reorganized for the sake of clarity and to simplify the State eligibility process. The formula for allocating funds to States has been revised to change the current base amount from $20,000 to $25,000 per State. The total State allotment consists of the base amount plus an amount bearing the same ratio to the total amount remaining available as the number of the children under the age of eighteen in the State bears to the number of children in all States. The base amount can be varied by the Commissioner to meet changed needs. The additional amount for each State is based on the total number of children, a clearly verifiable figure equal to the total potential population at risk of child abuse and neglect. This formula, with the exception of the increase in the base amount from $20,000 to $25,000, is the same as is contained in the current regulation.

With regard to eligibility requirements the State must meet, the proposed rule continues the policy of the current regulation that States must have in effect a State statute on confidentiality of records which makes improper release of the information a crime. Protection of the information and the related privacy rights of the child and his/her parents or guardians is critical to helping families solve their problems free from the harm caused by unnecessary disclosure. The policies governing the confidentiality of the records are more likely to receive public scrutiny and therefore to provide better protection if States must enact them into law. By placing them in a statute, the policies will also be less susceptible to continued change.

We have also maintained in this proposal the current requirement that States, by statute, require that certain persons must report and insure by statute or administrative procedure that all others may report known and suspected instances of child abuse and neglect. Here again, we have reaffirmed our decision that a statute rather than a mere administrative policy is needed to insure the reporting by certain persons. The proposed rule requires that "specified persons" be required to report. A State may choose to specify all persons in the State or only certain categories of persons, e.g., health, social services, law enforcement, and education professionals.

The proposed rule continues the requirement that reports be received and investigated by a different properly constituted authority when the report of known or suspected child abuse or neglect involves the acts or omissions of the agency to which the report would ordinarily be made. Without this requirement, the alleged offending State agency would be totally in control of investigations of alleged abuse or neglect by its employees. This would not provide outside accountability and protection for children in State institutions or other settings and would increase the potential that agency malfeasance would be undetected.

The proposed rule also continues the current State eligiblity requirement that States must provide immunity to persons reporting known or suspected child abuse and neglect, but only for reports made in good faith. The proposed rule adds the good faith requirement to the regulation.

This means that States need not provide immunity for persons reporting purported child abuse or neglect merely to harass, embarass, or otherwise unjustifiably harm another individual. A number of States already meet this requirement through a general statute of immunity for persons reporting a crime or other offense.

The proposed rule continues the requirement that the State must provide for the appointment of a guardian ad litem in every case involving an abused or neglected child which results in a judicial proceeding. However, it is our belief that in criminal proceedings, the State or county attorney represents the child as well as the other members of the public and that therefore a guardian ad litem is not required in such proceedings. We request specific comments on this point. We have restated the requirement that a person who is not titled "guardian ad litem" meets the requirement so long as that person is assigned and conducts the functions of representing and protecting the rights and best interests of the child.

3. Subpart C, Discretionary Grants and Contracts, condenses and simplifies the regulations by referring to the statutory provisions with regard to the purposes of such awards. Awards under this subpart will continue to be awarded according to the criteria established by the Secretary to provide for equitable distribution among geographic areas and urban and rural areas. This subpart also describes the procedures for announcing and making these awards. The proposed rule for protecting the confidentiality of records related to child abuse and neglect projects supported under this subpart has been made fully consistent with the confidentiality requirement of eligiblity.

4. Subpart D, Coordination of Federal Activities, explains the functions of the Advisory Board on Child abuse and Neglect and the National Center on Child Abuse and Neglect in the Federal coordination process. It also lists reports and materials to be submitted to the Advisory Board to improve coordination. The proposed rule has been revised to include planned activities as well as current program implementation to reflect the change in the Act. It is not, however, the purpose of this subpart to alter the basic responsibility of individual Federal agencies to administer and manage their own programs and activities.

This proposed regulation is issued under the authority of the Child Abuse Prevention and Treatment Act (Pub. L. 93–247), as amended. (42 U.S.C. 5101 et seq.)

The proposed regulation will not alter the costs resulting from the Act significantly. In fact, clarifying requirements for applicants for State grants and other grants or contracts should slightly reduce the administrative burden and the costs for the applicants.

The regulation has been reviewed under Executive Order 12044 criteria. It does not require a regulatory analysis, since it does not meet the threshold of the criteria on economic impact.

(Catalog of Federal Domestic Assistance Progam Number 13.628, Child Abuse and Neglect Prevention and Treatment)

Dated: January 18, 1980.

Manuel Carballo,

Acting Assistant Secretary for Human Development Services.

Approved: May 20, 1980.

Patricia Roberts Harris,

Secretary.

Part 1340 of 45 CFR is amended as follows:

PART 1340—CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

Subpart A—General Provisions

Sec.

1340.1 Purpose and scope.
1340.2 Definitions.
1340.3 Applicability of Department-wide regulations.

Subpart B—Grants to States

1340.10 Purpose of this subpart.
1340.11 Allocation of funds available.
1340.12 Application process.
1340.13 Approval of applications.
1340.14 Eligibility requirements.

Subpart C—Discretionary Grants and Contracts

1340.20 General.
1340.21 Procedures for making awards under this subpart.
1340.22 Confidentiality.

Subpart D—Coordination of Federal Activities

1340.30 Purpose of this subpart.
1340.31 Coordination process.
1340.32 Reports and materials.

Authority: 42 U.S.C. 5101 et seq.

Subpart A—General Provisions

§ 1340.1 Purpose and scope.

(a) This part implements the Child Abuse Prevention and Treatment Act of 1974, as amended (Pub. L. 93–247, 42 U.S.C. 5101, et seq.). Through the activities of the Children's Bureau's National Center on Child Abuse and Neglect and other Federal agencies, this program seeks to assist agencies and organizations at the national, State and community levels in their efforts to improve and expand child abuse and neglect prevention and treatment activities.

(b) The program seeks to meet these goals through:

(1) Conducting activities directly (by the Center);

(2) Making grants to States to improve and expand their child abuse and neglect prevention and treatment programs;

(3) Making grants to and entering into contracts with public or private agencies and organizations for: Research, demonstration and service improvement programs and projects, and training, technical assistance and informational activities; and

(4) Coordinating Federal activities related to child abuse and neglect.

This part establishes the standards and procedures for conducting the grant, contract and coordination activities.

(c) Section 4(b)(3) of the Act applies certain requirements to the activities related to child abuse and neglect assisted under part A or B of Title IV ("titles IV–A and IV–B") of the Social Security Act. This provision is currently implemented by regulation at 45 CFR Part 231.

(d) Federal financial assistance is not available under the Act for the construction of facilities.

§ 1340.2 Definitions

For the purposes of this part:

"A properly constituted authority" is an agency with the legal power and responsibility to perform an investigation and take necessary steps to prevent and treat child abuse and neglect. A properly constituted authority may include a legally mandated, public or private child protective agency, or the police, the juvenile court or any agency thereof.

"Act" means the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101, et seq.

"Advisory Board" means the Advisory Board on Child Abuse and Neglect, established by the Secretary under the Act, and composed of representatives of Federal agencies with responsibility for programs and activities related to child abuse and neglect and at least three public members appointed by the Secretary.

"Center" means the National Center on Child Abuse and Neglect established by the Secretary under the Act to administer this program.

"Child" means a person under the age of eighteen or the age specified by the child protection law of the State.

"Child abuse and neglect" means the physical or mental injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person.

(1) "Sexual abuse" includes rape, incest, and sexual molestation, as those acts are defined by State law, by a person responsible for the child's welfare.

(2) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, as defined by State law, by a person responsible for the child's welfare; and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by State law, by a person responsible for the child's welfare.

(3) "Negligent treatment or maltratment" includes failure to provide adequate food, clothing or shelter.

Note.—The legislative history of the Act states, that a parent or guardian legitimately practicing his religious beliefs who threby does not provide specific medical treatment for a child is for that reason alone not considered to be a negligent parent. No parent or guardian who in good faith is providing treatment to a child solely by spiritual means, such as prayer, according to the tenets and practices of a recognized church through a duly accredited practitioner shall for that reason alone be considered to have neglected the child.

(4) "Threatened harm to a child's health or welfare" means a substantial risk of harm to the child's health or welfare.

(5) "A person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or other person legally responsible under State law for the child's welfare in a residential setting.

"Commissioner" means the Commissioner for Children, Youth and Families of the Department of Health and Human Services.

"Grants" includes grants and cooperative agreements.

"Secretary" means the Secretary of Health and Human Services, or other HHS official or employee to whom the Secretary has delegated the authority specified in this part.

"State" means each of the several States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific.

§ 1340.3 Applicability of Department-wide regulatons.

(a) The following HHS regulations are applicable to all grants made under this part:

45 CFR Part 16—Department grant appeals process
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

(b) The following regulations are applicable to all contracts awarded under this part:

41 CFR Chapter 1—Federal procurement regulations.
41 CFR Chapter 3—Federal procurement regulations—Department of Health and Human Services.

Subpart B—Grants to States

§ 1340.10 Purpose of this subpart.

This subpart sets forth the requirements and procedures States must meet in order to receive discretionary grants to improve or expand State child abuse and neglect prevention and treatment programs under sections 4(b) (1) and (2) of the Act (42 U.S.C. 5103(b) (1) and (2)).

§ 1340.11 Allocation of funds available.

(a) The Commissioner shall allocate the funds available for grants to States for each fiscal year among the States on the basis of the following formula:

(1) An amount of $25,000 or such other amount as the Commissioner may determine; plus

(2) An additional amount bearing the same ratio to the total amount made available for this purpose (reduced by the minimum amounts allocated to the States under paragraph (a)(1) of this section) as the number of children under the age of eighteen in each State bears to the total number of children under eighteen in all the States. Annual estimates of the number of children under the age of eighteen, provided by the Bureau of the Census of the Department of Commerce, are used in making this determination.

(b) If a State has not qualified for assistance under the Act and this subpart prior to a date designated by the Commissioner in each fiscal year, the amount previously allocated to the State shall be allocated among the eligible States or used by the Center for such other purposes under the Act as the Commissioner shall determine.

§ 1340.12 Application process.

(a) The Governor of the State shall designate the State office, agency, or organization which may apply for assistance under this subpart. The State office, agency, or organization need not be limited in its mandate or activities to child abuse and neglect.

(b) Grant applications will be solicited each Federal fiscal year by the publication in the **Federal Register** of a notice of the availability of funds for State grants and program priorities.

(c) Grant applications must include a description of the activities presently conducted by the State and its political subdivisions in preventing and treating child abuse and neglect, the activities to be assisted under the grant, a statement of how the proposed activities are expected to improve or expand child abuse prevention and treatment programs in the State, and other information required by the Commissioner.

(d) States shall provide with the grant application a statement signed by the Governor that the State meets the requirements of the Act and of this subpart. This statement shall be in the form and incude the documentation required by the Commissioner.

§ 1340.13 Approval of applications.

(a) The Commissioner shall approve an application for an award for funds under this subpart if he or she finds that:

(1) The State is qualified under the Act and this subpart and has met all requirements of eligibility under § 1340.14 except for the definitional requirement of § 1340.14(a) with regard to the definition of "sexual exploitation" (see § 1340.2(2))." The State must include "sexual exploitation" in its definition of child abuse and neglect no later than the close of the general legislative session that convenes next after the effective date of this recodified regulation.

(2) The funds are to be used to improve and expand child abuse or neglect prevention or treatment programs, in accordance with the funding available and program priorities established in the **Federal Register** notice; and,

(3) The State is otherwise in compliance with these regulations.

(b) At the time of an award under this subpart, the amount of funds not obligated from an award made eighteen or more months previously shall be subtracted from the amount of funds under the award, unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

§ 1340.14 Eligibility requirements.

In order for a State to qualify for an award under this subpart, the State must satisfy each of the following requirements:

(a) *Definition of Child Abuse and Neglect.* Wherever the rquirements below use the term "Child Abuse and Neglect" the State must define that term in accordance with § 1340.2.

(b) *Reporting.* The State must provide by statute that specified persons must report and by statute or administrative procedure that all other persons are permitted to report known and suspected instances of child abuse and neglect to a child protective agency or other properly constituted authority.

(c) *Immunity.* The State must have in effect a statute which provides all persons reporting known or suspected child abuse and neglect, in good faith with immunity from civil or criminal prosecution arising out of such reporting.

(d) *Investigations.* The State must provide for the prompt initiation of an appropriate investigation by a child protective agency or other properly constituted authority to substantiate the accuracy of all reports of known or suspected child abuse or neglect. This investigation may include the use of reporting hotlines, contact with central registers, field investigations and interviews, home visits, consultation with other agencies, medical examinations, psychological and social evaluations, and reviews by multidisciplinary teams.

(e) *Institutional child abuse and neglect.* The State must have a statute or administrative procedure requiring that when a report of known or suspected child abuse or neglect involves the acts or omissions of the agency, institution, or facility to which the report would ordinarily be made, a different properly constituted authority must receive and investigate the report and take appropriate protective and corrective action.

(f) *Emergency services.* If an investigation of a report reveals that the reported child or any other child under the same care is in need of immediate protection, the State must provide emergency services to protect the child's health and welfare. These services may include emergency caretaker or homemaker services; emergency shelter care or medical services; review by a multidisciplinary team; and, if appropriate, criminal or civil court action to protect the child, to help the parents or guardians in their responsibilities and, if necessary, to remove the child from a dangerous situation.

(g) *Guardian ad litem:* In every case involving an abused or neglected child which results in a judicial proceeding, the State must insure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the rights and best interests of the child. This person may, but need not, be the attorney presenting the evidence aleging the child abuse or neglect so long as his legal responsibility includes representing the rights, interests, welfare, and well-being of the child. This requirement may be satisfied: (1) By a statute mandating the appointments; (2) by a statute permitting the appointments, accompanied by a statement from the Governor that the appointments are made in every case; or (3) in the absence of a specific statute, by a formal opinion of the Attorney General that the appointments are permitted, accompanied by a Governor's statement that the appointments are made in every case.

(h) *Prevention and treatment services:* The State must demonstrate that there are, throughout the State, procedures and services adequate to deal effectively with child abuse and neglect cases. These procedures and services shall include: (1) Administrative, training, and management procedures; (2) institutional and other facilities (public and private); (3) trained personnel; (4) multidisciplinary

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programs and services for the receipt, investigation and verification of reports; (5) the determination of social service and medical needs; (6) the provision of needed social and medical services; and (7) when necessary, resort to criminal or juvenile court.

(i) *Interagency and multidiscipinary cooperations.* The State must provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and all appropriate State agencies providing services related to the prevention, identification and treatment of child abuse and neglect. This cooperation may include joint consultation and services, joint planning, joint case management, joint public education and information services, utilization of each other's facilities, and joint staff and other training at the State and local levels.

(j) *Parental organizations.* The State must insure that to the extent feasible parental organizations combatting child abuse and neglect receive preferential treatment in the planning and implementation of programs. These parental organizations include: Organizations established specifically for these purposes (such as parental self-help or treatment groups); and parental organizations with more general purposes which adopt as one specific objective the prevention and treatment of child abuse and neglect.

(k) *Public education.* The State must disseminate information to the general public about the problem of child abuse and neglect and available prevention and treatment programs and facilities.

(l) *Maintenance of effort.* The State must provide that the aggregate amount of State funds used for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided for Federal fiscal year 1973. The State must also set forth policies and procedures designed to assure that Federal funds made available under the Act for any fiscal year will be used to supplement and to the extent practicable increase the level of State funds which would be available for such programs and projects in the absence of Federal funds.

(m) *Confidentiality.* (1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

(2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines:

(a) The agency (agencies) or organizations (including its designated multidisciplinary case consultation team) legally mandated by any Federal or State law to receive and investigate reports of known and suspected child abuse and neglect;

(b) A court, under terms identified in State statute;

(c) A grand jury;

(d) A properly constituted authority (including its designated multidisciplinary case consultation team) investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of a report;

(e) A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

(f) A person legally authorized to place a child in protective custody when the person has before him or her a child whom he or she reasonably suspects may be abused or neglected and the person requires the information in the report or record in order to determine whether to place the child in protective custody;

(g) An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect;

(h) A person who is responsible for the child's welfare, with protection for the identity of any person reporting known or suspected child abuse or neglect and any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person;

(i) A child named in the report or record alleged to have been abused or neglected or (as his/her representative) his/her guardian or guardian ad litem;

(j) An appropriate State or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his or her official functions; and

(k) A person, agency, or organization engaged in a bonafide research or evaluation project, but without information identifying individuals named in a report or record, unless having that information open for review is essential to the research or evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative as cited in paragraph (i), gives permission to release the information.

(3) Nothing in this section shall be interpreted to prevent the properly constituted authority from summarizing the outcome of an investigation to the person or official who reported the known or suspected instances of child abuse or neglect or to affect a State's laws or procedures concerning the confidentiality of its criminal court or its criminal justice system.

(4) HHS and the Comptroller General of the United States or any of their representatives shall have access to records, as required under 45 CFR 74.24.

Subpart C—Discretionary Grants and Contracts

§ 1340.20 General.

(a) Under the Act, the Commissioner shall carry out the functions and activities listed in section 2(b) of the Act, directly, by grant, or by contract.

(b) The Commissioner is authorized to make grants or contracts to public agencies or nonprofit private organizations for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect. Grants or contracts under this subsection may be for any of the purposes stated in section 4(a)(1) of the Act.

§ 1340.21 Procedures for making awards under this subpart.

(a) The Commissioner will publish in the **Federal Register** program announcements specifying the application procedures, the project goals and the program purposes for which grants under this subpart are available, and the criteria which will be applied in awarding the grants.

(b) Contracts will be awarded in accordance with the requests for proposals announced in the *Commerce Business Daily*.

(c) Research priorities will be proposed and published in the **Federal Register** for a public comment period of sixty days or more before they are established as final priorities.

§ 1340.22 Confidentiality.

All projects and programs supported under the Act must hold all information related to personal facts or circumstances about individuals involved in those projects or programs confidential and shall not disclose any of the information in other than summary, statistical, or other form which does not identify specific individuals, except in accordance with § 1340.14(m).

Subpart D—Coordination of Federal Activities

§ 1340.30 Purpose of this subpart.

The purpose of this subpart is to establish procedures for coordinating the activities among Federal agencies responsible for programs related to child abuse and neglect. These procedures are designed to:

(a) Clarify the respective roles of these Federal agencies in the prevention and treatment of child abuse and neglect;

(b) Compile and centrally maintain information about the activities of the agencies;

(c) Share the results and data generated by programs and activities;

(d) Establish and maintain appropriate program interaction; and

(e) Prevent unnecessary duplication.

§ 1340.31 Coordination process.

(a) The Advisory Board is responsible for assisting the Secretary in coordinating Federal programs and activities related to child abuse and neglect.

(b) The Advisory Board performs its responsibilities by:

(1) Meeting periodically to share information on how best to maximize the effectiveness of Federal efforts;

(2) Arranging to have the regional office representatives of Federal agencies undertake joint planning and coordination of child abuse and neglect activities through means such as inter-agency committees and agreements;

(c) Whenever it finds that any planned activities appear to represent an inappropriate duplication or overlapping of efforts with those of another agency or that more effective coordination can be achieved, the Advisory Board through the Assistant Secretary for Human Development Services will bring the matter and its recommendations to the attention of the agencies involved. In these cases, the Advisory Board will request a report on how the agencies involved propose to coordinate their activities and a timetable for the action proposed. In the event that there is an urgent need, the Advisory Board will set a deadline for the resolution of the problem.

(d) The Advisory Board will report to the Secretary on a regular basis if there are inappropriate duplications or overlap of efforts in planned activities.

§ 1340.32 Reports and materials.

In support of the Advisory Board, the Center will request all member Federal agencies to provide information regarding their child abuse and neglect activities at a time sufficiently prior to final agency action to allow for review and coordination by the Advisory Board. This information shall include:

(a) An annual written report on (1) long range plans and budget projections, (2) contemplated activities and budget projections for the succeeding fiscal year with a specific description of what those activities are to achieve and how they relate to existing activities; and (3) the results and accomplishments of activities conducted during the previous fiscal year and a recapitulation of funds expended;

(b) Information on additional activities planned after the submission of the annual written report;

(c) Copies of statements of work for proposed contracts or program announcements for proposed grants;

(d) Brief statements of the subject matter, methodology, and objectives of solicited or unsolicited activities tentatively approved for funding, prior to the time of award;

(e) Notices of grant and contract awards, at the time of award; and

(f) Draft and final regulations or other requirements, guidelines, and standards.

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Reader Aids

Federal Register

Vol. 45, No. 103

Tuesday, May 27, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
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523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

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523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

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-5282	Statutes at Large, and Index
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523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MAY

29001-29262.....1
29263-29554.....2
29555-29780.....5
29781-30058.....6
30059-30414.....7
30415-30610.....8
30611-31044.....9
31045-31290.....12
31291-31694.....13
31695-31926.....14
31927-32286.....15
32287-32654.....16
32655-33588.....19
33589-33944.....20
33945-34256.....21
34257-34860.....22
34861-35304.....23
35305-35800.....27

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-16 of Apr. 14, 1980 (Amended by Presidential Determination No. 80-18 of May 2, 1980).....20787
No. 80-17 of May 2, 1980.....20785
No. 80-18 of May 1, 1980.....20787

Executive Orders:

12169 (Amended by EO 12213).....29781
12212.....29557
12213.....29781
12214.....29783

Proclamations:

4754.....29555
4755.....30059
4756.....30415
4757.....31695
4758.....31927
4759.....32655
4760.....33945
4761.....33947

4 CFR

418.....31929

5 CFR

213.....35305
300.....29530
351.....29263
891.....30611
1201.....34861

Proposed Rules:

351.....31379, 33640
412.....29300
511.....34895
532.....31382
550.....31379

6 CFR

706.....31935
707.....31935

Proposed Rules:

Ch. VII.....30445

7 CFR

2.....30417, 31697, 33589
6.....33589
25.....30417
210.....32502
230.....33589
319.....31572, 35305
418.....29001
419.....29001
421.....29001
600.....30061
729.....34861
799.....32312
905.....35305
907.....29002, 30418, 31698, 31953, 34257
908.....29002, 30418, 31953, 34257
910.....29265, 30612, 32308, 34863
916.....32308
917.....32309, 33596
918.....29003
928.....29559
953.....31045
1124.....29559, 34863
1280.....32572
1421.....31699
1425.....31699
1430.....30419
1435.....33597
1464.....32311
1701.....32312
1945.....29265, 35782
1980.....29265
2880.....31692

Proposed Rules:

Subtitle A.....32192
Ch. I.....32192
Ch. II.....32192
Ch. III.....32192
Ch. IV.....29056, 32192
Ch. V.....32192
Ch VI.....32192
Ch. VII.....32192
Ch. IX.....32192
Ch. X.....32192
Ch. XI.....32192
Ch. XII.....32192
Ch. XIV.....29302, 32192
Ch. XV.....32192
Ch. XVI.....32192
Ch. XVII.....32192
Ch. XVIII.....32192
Ch. XXI.....32192
Ch. XXIV.....32192
Ch. XXV.....32192
Ch. XXVI.....32192
Ch. XXVII.....32192
Ch. XXVIII.....32192
Ch. XXIX.....32192
6.....33640, 33642
29.....30080
274.....35335
401.....29056
427.....30445
437.....29056
760.....31393
800.....32284
810.....30446
908.....29063
911.....31726
913.....30638

V 45 MY 27 80 UMI

915.....29843, 33643
944.....29843, 31726, 33643
953.....29846
971.....32319
991.....30447
1002.....32321
1004.....34898
1036.....30638
1071.....30447
1073.....30447
1093.....35168
1097.....30447
1102.....30447
1104.....30447
1106.....30447
1108.....30447
1120.....30447
1126.....30447
1132.....30447
1138.....30447
1207.....31118
1701.....29847, 34898
1804.....30364
1930.....30364
1944.....30364
2856.....35345
2859.....30980

8 CFR

101.....32657
103.....32657, 33949
204.....32657
211.....32657
223.....32657
223a.....32657
231.....32657
239.....29243
245.....32657
246.....32657
247.....32657
249.....32657
261.....32657
264.....32657
299.....32657
Proposed Rules:
211.....29848, 30062
214.....29848
242.....30063

9 CFR

50.....32287
78.....29267
82.....30612
92.....29268
94.....29270
Proposed Rules:
Ch. I.....32192
Ch. II.....32192
Ch. III.....32192
Ch. IV.....32192
92.....29302
308.....30980
381.....30980

10 CFR

35.....31701
50.....30614
205.....33950
211.....29546
212.....29546
456.....33643
516.....35206
798.....31604
1024.....29764
Proposed Rules:
Ch. II.....30448
Ch. III.....30448
Ch. X.....30448
2.....34279, 35345
20.....31118
50.....34279
60.....31393
205.....32322
210.....34846
211.....29770, 31682, 32003, 34008, 34846
212.....29553, 32003, 34846
461.....31408
474.....34008
477.....34015
486.....32560
490.....35788
108.....35764

11 CFR

4.....31291
5.....31292
100.....34865
110.....34865
Proposed Rules:
140.....32003
141.....32003
142.....32003
143.....32003
144.....32003
145.....32003
146.....32003
9001.....32003
9002.....32003
9003.....32003
9004.....32003
9005.....32003
9006.....32003
9007.....32003
9009.....32003

12 CFR

VII.....32290
205.....31705
226.....33599
265.....34868
303.....30616
309.....31294
524.....31045
528.....31954
545.....31046, 32288
561.....31050
701.....29270, 34869, 34870
1201.....31706
1202.....32288
1203.....31707
1204.....31710
Proposed Rules:
Ch. V.....31119
Ch. VII.....35346
211.....30081–30082
225.....30082
226.....29702, 33644
523.....31727
545.....31727
556.....31121
563.....31408
590.....13122, 35347
1204.....32323

13 CFR

Proposed Rules:
Ch. I.....30338
108.....31410
121.....33645
304.....30320
305.....30320
306.....30320
307.....30320
308.....30320
315.....30320

14 CFR

11.....35306
13.....35306
39.....29004, 29005, 29007, 29008, 29560–29562, 30421, 31052, 32659, 34258–34261, 35307–35310, 35313
71.....29009, 29563, 29564, 30422, 31053, 31971, 32661, 34261–34263
73.....30424, 31974
97.....29565, 31974
121.....30424, 31057
152.....34782
159.....35314
183.....32668
231.....31059
249.....31059
250.....30063
302.....34264
380.....32669
385.....30065
1241.....35321
Proposed Rules:
Ch. I.....31125, 32700
39.....30448, 32011
47.....34286
49.....34286
71.....29063, 30449, 31128, 32702, 34289, 34290, 35348
75.....30452
121.....29064
127.....29064
135.....29064
152.....30398
199.....30398
221.....31411, 34291
250.....30086, 31413
385.....31411

15 CFR

30.....29567
369.....29010
385.....29568, 30617, 33955
399.....29568, 30617
502.....29271
503.....29272
2006.....34870
Proposed Rules:
936.....33645, 33649
937.....33645

16 CFR

13.....29010, 31712, 31979
1025.....29206
Proposed Rules:
13.....30650, 31416, 34291, 34293, 34296
1512.....32705, 35348

17 CFR

1.....34873
15.....30426, 31713
230.....29275
240.....33957
276.....34876
Proposed Rules:
21.....31731
229.....31733
230.....29847
240.....29853, 30454, 31418, 31733
249.....33650
270.....29067

18 CFR

1.....31059
35.....31294
141.....30066, 33600
154.....29011
250.....33600
260.....30066, 33600
270.....29569
271.....29569
273.....30068
274.....35322
282.....29573, 31300, 31622, 31980, 33601
284.....34264
292.....33603, 33958
Proposed Rules:
Ch.I.....31743
2.....31744
270.....35348
271.....31744
273.....31418
284.....34299, 34302

19 CFR

6.....29247
200.....31988
353.....30618
355.....30619, 33964

20 CFR

655.....29854
675.....33846
676.....33846
677.....33846
678.....33846
679.....33846
680.....33846
Proposed Rules:
676.....33923
677.....33923
678.....33923
679.....33923

21 CFR

5.....32550
101.....29275
201.....32550
207.....32393
250.....31303
520.....31304, 32294, 33604
522.....29275, 29789
540.....29276, 32294
561.....32295
610.....32396
660.....32296
Proposed Rules:
70.....32324
109.....30984
110.....30984
182.....29304, 32324
184.....29304, 32324
225.....30984
226.....30984
330.....31422
331.....35349
346.....35576
349.....30002
355.....33650

500.....30984
509.....30984
680.....29305
1030.....29307

22 CFR

143.....31713, 34877
51.....30619
Proposed Rules:
51.....34302

23 CFR

663.....29015
Proposed Rules:
420.....30398
450.....30398
625.....34302
630.....30398
1204.....30398

24 CFR

111.....31880
203.....29277, 29573, 30602, 31716, 33964, 34878
204.....30602, 31716, 33964, 34878
213.....29277, 30602, 33964, 34878
220.....30602, 33964, 34878
221.....29277, 30602, 31894
227.....29277
234.....29277, 30602
235.....29277, 30602, 33964, 34878
240.....33964, 34878
275.....29279
841.....29279, 34265
865.....30346
868.....30349
885.....31990
3280.....29539
Proposed Rules:
203.....29855
215.....31132
234.....29855
241.....30352
570.....30328, 31262, 33651
571.....30455
600.....30330
865.....33651
890.....35776

25 CFR

11.....29790
Proposed Rules:
55b.....30302
172.....29070

26 CFR

1.....33969, 33971, 34879
7.....34879
301.....33973
Proposed Rules:
1.....29308, 34016, 34303
48.....29309
51.....34899

27 CFR

Proposed Rules:
19.....33976
178.....33651
179.....33978
181.....33651
194.....33978
197.....33978
245.....33978
250.....33978
251.....33978
252.....33978

28 CFR

0.....31061, 34268, 34269
2.....33604
16.....32670
45.....29574, 31717
50.....29530
544.....33938
546.....33938
545.....33938
552.....33938
572.....33938
Proposed Rules:
42.....32710, 33652
Proposed Rules:
42.....33652
524.....33942

29 CFR

40.....34879, 35323
56.....29280
1601.....33605
1910.....35212
1913.....35284
2702.....33606
1607.....29530
Proposed Rules:
Ch. XII.....29590
4.....34899
1903.....33652
1928.....35298
2613.....34899

30 CFR

57.....32300
250.....29280
725.....34879
731.....33926
732.....33926
Proposed Rules:
Ch. VII.....29072, 29309–29311, 29855, 32328, 34907
19.....32554
70.....31426
71.....31426
90.....31426
211.....32715
250.....29309
715.....32331
716.....30651, 32331
816.....32331
817.....32331
826.....32331
886.....30382

31 CFR

13.....30619
342.....32301
51.....29530
515.....32671
535.....29287

32 CFR

Ch. I.....30623
369.....34880
370.....34880
371.....34881
372.....34882
555.....32302
706.....31116, 32671
811a.....32301
880.....31113
Proposed Rules:
286b.....29590
1900.....29855

32A CFR

134.....34884
Proposed Rules:
651.....34304
663.....34304

33 CFR

Ch. II.....32302
100.....30430, 31991
110.....30431, 32672, 34269
117.....29020, 35326
165.....29020, 30436
207.....31061
Proposed Rules:
110.....29593
117.....29593, 29594, 31132, 34305, 35349–35351
140.....29072
141.....29072
142.....29072
143.....29072
144.....29072
145.....29072
146.....29072
147.....29072
157.....29087, 34306

34 CFR

Subtitle A.....30802
Ch. I.....30802
Ch. II.....30802
Ch. III.....30802
Ch. IV.....30802
Ch. V.....30802
Ch. VI.....30802
Ch. VII.....30802
Ch. VIII.....30802

36 CFR

7.....32228, 32234
61.....30623
67.....34885
216.....29289
920.....34752
1201.....30623, 34886
1208.....34886
Proposed Rules:
Ch. I.....30414
Ch. II.....32192
Ch. IX.....34017
7.....31752, 34759
50.....29856
223.....30652
1204.....34909
1207.....30378
1208.....34910

38 CFR

3.....31717, 34886, 35326
21.....31062
36.....29292, 31063, 34270
Proposed Rules:
17.....30392
36.....30370

39 CFR

111.....32305, 34271
Proposed Rules:
Ch. III.....34309
267.....30069

40 CFR

51.....31304
52.....29293, 29790, 30069, 30626 31304, 32674, 33607, 33981, 34271
81.....30070, 35327
85.....34802, 34829
86.....31719, 34718
122.....29589, 33290, 33516
123.....33290, 33516
124.....33290, 33516
125.....29589
180.....29802–29803, 31312, 32305, 33994
205.....30630
260.....33066
261.....33084
262.....33140
263.....33150
264.....33154, 34055
265.....33154, 34055
408.....32675
415.....31992
775.....32676
Proposed Rules:
35.....30374
51.....30088, 34762
52.....29312, 29313, 29595, 29596, 29864, 30089, 30456, 30654, 32333, 32743, 33656, 34018, 34271, 34917–34921
61.....34315
81.....30091, 34020
112.....33814
167.....29597
169.....29597
180.....29597, 32338, 32743
258.....30095
261.....33136
264.....33260
265.....33260, 33280
761.....30989

41 CFR

Ch. 101.....29294, 31313
1.....30633
3–1.....31721, 32306
3–4.....33995
3–7.....32306
5–1.....29574, 29575
5A.....30633
5A–1.....29574
5B–1.....29576
5B–2.....29576
5B–7.....29576
5B–16.....29576
14R–9.....31066
18.....30633
60–3.....29530
101–26.....31315, 31992
105–61.....29577
Proposed Rules:
Ch. 4.....32192
101–11.....32012

42 CFR

52h.....35327
54a.....31094
57.....29803
110.....31721
Proposed Rules:
405.....29535

420 30634
440 20535
447 30634
456 29535
462 30634
482 29535

Proposed Rules:
405 30655

43 CFR

34 31095
35 30140
2610 34230
2650 31110
2880 34887
3100 ..... 30056, 35156
9260 31276

Public Land Orders:
5309 (Amended by PLO 5724) 31993
5716 (corrected by PLO 5725) 31722
5719 29021
5720 31315
5721 29295
5722 31316
5723 31722
5724 31993
5725 31722

Proposed Rules:
4 35351
9 31284
2650 30606
2920 31284
3809 31284

44 CFR

64 31316
65 ..... 29021, 31318, 32000
67 ..... 29577, 31993
70 ..... 29807–29830, 30071, 30076
76 32687

Proposed Rules:
67 ..... 29090, 29313–29323, 29598, 31133, 31427, 31754, 32339, 34923

45 CFR

74 ..... 34272, 35328
104 30635
162 34210
162a 34210
162b 34210
162c 34210
163c 29588
185 32588
186 34152
186a 34152
186b 34152
186c 34152
186d 34152
186e 34152
186f 34152
186g 34152
186h 34152
186i 34152
186j 34152
186k 34152
186l 34152
187 34152
188 34152
205 29831
235 29831
801 33628
1061 ..... 32690, 33788

Proposed Rules:
Ch. X 30457
100a 30386
100b 30386
400 35359
1061 35363
1068 35363
1069 31133
1070 35366
1075 35363
1340 35794
1385 31006
1386 31006
1387 31006

46 CFR

33 29588
35 29588
71 29588
75 29588
78 29588
91 29588
94 29588
97 29588
148 31110
160 29588
189 29588
192 29588
196 29588
252 30439
530 31722
547 33996

Proposed Rules:
33 35366
94 35366
261 30410
276 29610
522 35368
524 35368
536 ..... 29323, 31139, 35369
538 ..... 29323, 31139

47 CFR

0 ..... 29835, 31722
2 33629
22 35329
64 ..... 31319, 32001
73 34888
76 31723
90 30637
22 29023
73 29835–29840
90 29297

Proposed Rules:
Ch. I 30052, 33657, 33662
2 ..... 29323, 32013
21 ..... 29323, 29335, 29350
22 32013
61 29865
67 34315
73 ..... 29865–29872, 30094, 30656, 31139, 32028, 32744, 34931–34938, 35370
74 ..... 29323, 29350
87 31764
94 ..... 29323, 29350

48 CFR

Proposed Rules:
4 29612

49 CFR

107 32690
171 ..... 32692, 34560, 35329
172 34560
173 ..... 32692, 34560
174 ..... 32692, 34560
175 ..... 32690, 35329
176 34560
177 ..... 32692, 34560
220 30443
510 ..... 29032, 32001
571 ..... 29045, 35333
635 30444
1021 31374
1022 31374
1033 ..... 29048–29054, 29840–29841, 31111, 31375, 31724, 34002, 34274, 34276
1131 31374
1131a 31374
1201A 31110
1243 34276
1249 34276

Proposed Rules:
173 ..... 32030, 34316
177 ..... 32030, 34316
258 30398
260 30398
266 30398
533 35403
571 ..... 29102, 35405
575 35408
1033 32745
1045 31139
1048 34316
1056 31766
1057 34020
1102 29102
1254 31767
1262 30659
1270 29104
1271 29104
1272 29104
1273 29104
1274 29104
1275 29104
1276 29104
1277 29104
1278 29104
1279 29104
1320 31766
1321 31766
1322 31766
1323 31766
1324 31766

50 CFR

12 31725
17 33768
26 30077
32 34891
33 ..... 29841, 34891
227 29054
301 34889
611 ..... 31377, 32001, 34003
651 32699
652 33637
655 32001
656 32002
661 29250
671 31112
674 30444

Proposed Rules:
17 ..... 29370, 29371, 29373, 31446, 32348, 35410
23 ..... 32353, 33842, 34025, 34317
216 29375
674 34020
810 34025

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
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DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

List of Public Laws

Last Listing May 21, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 5673 / Pub. L. 96–245 To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes. (May 21, 1980; 94 Stat. 347) Price $1.00.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

27935 4–25–80 / Change in air quality attainment status for certain portion of Delta County, Michigan

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

27927 4–25–80 / Amendments to performance standard for diagnostic X-ray systems and their major components

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

27928 4–25–80 / Change in requirement for notifying HUD of sale of insured mortgages and loans

30349 5–7–80 / Modernization program—PHA-owned projects; comprehensive modernization

29573 5–5–80 / Mutual mortgage insurance and insured home improvement loans; amendments to regulations for mortgage servicing generally

30346 5–7–80 / PHA-owned projects—project management—utilities

PERSONNEL MANAGEMENT OFFICE

27909 4–25–80 / Pay under the general schedule; appointments under the Intergovernmental Personnel Act

27909 4–25–80 / Removal of Shrewsbury Township from the list of communities partially exempt from Hatch Act restrictions

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The Federal Register

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5-28-80
Vol. 45 No. 104
Pages 35801-36042

federal register

Wednesday
May 28, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.; Pittsburgh, Pa.; and St. Louis, Mo.**, see announcement in the **Reader Aids** section at the end of this issue.

35953 **Federal Aid Programs** OMB issues notice of mandatory information requirements for program announcements

35970 **Grant Programs—Communications** Commerce/NTIA announces acceptance of applications for planning and construction of public telecommunications facilities; (Part II of this issue)

35855 **Grant Programs—Education** ED increases available funds for Upward Bound and Special Services programs under National Demonstration Projects for fiscal year 1980

35914 **Grant Programs—Retirement** HHS/Sec'y seeks applications for major policy research study of retirement policy; apply by 8–15–80

36034 **Mineral Resources** Interior/BLM issues rules requiring minimum production or minimum royalty payments in potassium, sodium, sulphur and phosphate leases; effective 6–27–80 (Part III of this issue)

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

35830 **Continential Shelf** DOE proposes rules regarding Outer Continental Shelf oil and gas joint bidding; comments by 7–25–80

35844 **Seafood** Commerce/NOAA requests comments on clarification of labeling requirments to distinguish between products made from fish blocks and fish fillets; comments by 9–30–80

35802 **Credit Unions** NCUA increases maximum insurance coverage on accounts maintained at Federal and State chartered credit unions; effective 3–31–80

35838 **Supplemental Security Income** HHS/SSA proposes rules regarding adjustment or recovery of overpayment; comments by 7–28–80

35846 **Forests and Forest Products** USDA/FS announces Special Salvage Timber Sale Program on all National forests

35853 **Historic Preservation** DOD/Sec'y provides guidance to persons seeking permits to conduct archaeological excavation or exploration of lands administered by DOD

35916 **Flood Plains** Interior/NPS issues floodplain management and wetland protection guidelines

35832 **Improving Government Regulations** Commerce/Sec'y delays publication of Semiannual Agenda of Regulations

36038 **Endangered and Threatened Wildlife** Interior/FWS reproposes critical habitat for Coachella Valley fringe-toed lizard; comments by 7–28–80, comments from Governor of California by 8–28–80, meeting 6–20–80, hearing 7–7–80 (Part IV of this issue)

35809, 35814, 35815 **Government Contracts** GSA issues temporary rules regarding subcontracting, Women's Business Enterprise Program, and contract disputes; effective 6–1–80 (3 documents)

35966 **Sunshine Act Meetings**

Separate Parts of This Issue

35970 **Part II, Commerce/NTIA**
36034 **Part III, Interior/BLM**
36038 **Part IV, Interior/FWS**

Contents

Federal Register
Vol. 45, No. 104
Wednesday, May 28, 1980

Agricultural Marketing Service
PROPOSED RULES
35829 Lemons grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Forest Service.

Civil Aeronautics Board
NOTICES
35847 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
35846 Aerlinte Eireann Teoranta
35966 Meetings; Sunshine Act
35847 Standard foreign fare level establishment, and international zones of reasonableness revisions

Commerce Department
See also Economic Development Administration; National Oceanic and Atmospheric Administration; National Telecommunications and Information Administration.
PROPOSED RULES
Improving Government regulations:
35832 Regulatory agenda; publication delay

Commodity Credit Corporation
RULES
Loan and purchase programs:
35801 Grain

Customs Service
RULES
35803 Antidumping and countervailing duties; transfer of functions to Commerce Department

Defense Department
NOTICES
35853 Archaeological resources protection; excavation or exploration of lands administered by DOD; guidance pending final regulations
Meetings:
35854 DIA Advisory Committee
35854 Wage Committee
35853 Women in Services Advisory Committee

Economic Development Administration
NOTICES
Import determination petitions:
35851 Possum Trot Corp. et al.

Education Department
RULES
35818 Bilingual education program; correction
NOTICES
Education Appeals Board:
35855 Applications
Grant applications and proposals, closing dates:
35855 Upward Bound and special services for disadvantaged students; increased funds
Meetings:
35854 Vocational Education National Advisory Council

Energy Department
See also Federal Energy Regulatory Commission.
PROPOSED RULES
Outer Continental Shelf oil and gas leasing:
35830 Joint bidding requirements of Interior Department

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
35804–35806 California (3 documents)
35804 Massachusetts
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
35841 Arizona
35839 California
35840 Michigan
NOTICES
Air quality implementation plans; approval and promulgation:
35896 Prevention of significant air quality deterioration (PSD); permit approvals
Meetings:
35895 Science Advisory Board; cancelled
Toxic and hazardous substances control:
35896 Chemical substances inventory; chemical production information tape, availability
35895 Premanufacture exemption applications
35897 TSCA Interagency Testing Committee report to EPA; priority list for chemical substances testing; inquiry

Federal Communications Commission
RULES
Radio broadcasting:
35818 Small market ascertainment of community problems; exemption continuation during deregulations proceedings
NOTICES
35910 Canadian standard broadcast stations; notification list; correction
Meetings:
35910 Marine Services Radio Technical Commission

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
35912 Michigan (2 documents)
35910 Part-time career employment for Federal employees; proposed implementation; inquiry

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
35856 Born, John F.
35864 Carolina Power & Light Co.
35865 Central Power & Light Co.
35865 Chittenden Falls Hydro Power, Inc.

V 45 MY 28 80 UMI

35856 Columbia Gas Transmission Corp.
35856 Columbia Gulf Transmission Co. et al.
35865 Commonwealth Edison Co.
35857 Consolidated Gas Supply Corp. et al.
35866 Consumers Power Co.
35866 El Paso Electric Co.
35866 El Paso Natural Gas Co.
35866 George's Chevron Service
35866 Gulf States Utilities Co.
35858 Huggard, Ernest D.
35867 Interstate Power Co.
35867 Iowa Power & Light Co.
35867 Iowa Southern Utilities Co.
35858 Jacobs, Jerrold L.
35868 Kansas Power & Light Co.
35868 Madera Irrigation District (2 documents)
35858 Michigan Wisconsin Pipe Line Co. et al.
35859 Montana-Dakota Utilities Co.
35869 Montana Power Co. (2 documents)
35859 Natural Gas Pipeline Co. of America
35871 Northern States Power Co.
35860 Northern Utilities, Inc.
35870 Nueces Co.
35871 Pacific Gas & Electric Co.
35861 Parent, Brian A.
35871 Pennsylvania Electric Co.
35861 Phillips & Munzel Shell
35861 Producer's Gas Co.
35871 Public Service Co. of New Mexico
35872 Rowe, W. Earl (Estate)
35861 Salomone, Joseph G.
35862 Schwemm, Henry C.
35872 Tennessee Natural Gas Pipeline Co.
35872 Texas Eastern Transmission Corp. et al.
35862 Transcontinental Gas Pipe Line Corp (2 documents)
35872, 35873 Tuscon Electric Power Co. (2 documents)
35863, 35864 United Gas Pipe Line Co. (2 documents)
35863 United Gas Pipe Line Co. et al.
35864 Wisconsin Michigan Power Co.

Natural gas companies:
35870 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend
35873 Small producer certificates, applications

Natural Gas Policy Act of 1978:
35858, 35874 Jurisdictional agency determinations (2 documents)

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
35912 Crtalic, Billie Ione, et al.
35913 David K. Lindemuth Co., Inc., et al.
35966 Meetings; Sunshine Act

Federal Reserve System
RULES
Truth in lending (Regulation Z):
35802 Agricultural credit exemption and closed-end periodic statement disclosure elimination; correction
NOTICES
Applications, etc.:
35914 Marshall & Ilsley Corp. et al.

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
35832 Milton Bradley Co. et al.

Fish and Wildlife Service
RULES
Endangered and threatened species:
35821 Borax Lake chub; emergency rule
Fishing and hunting:
35827 Pocasse National Wildlife Refuge, S. Dak., et al.
Public entry and use:
35823 Back Bay National Wildlife Refuge, Va.
PROPOSED RULES
Endangered and threatened species:
36038 Coachella Valley fringe-toed lizard; reproposal

Forest Service
NOTICES
Timber sale and disposal:
35846 Special salvage timber program; policy

General Services Administration
RULES
Procurement:
35815 Contract disputes; temporary
35809 Subcontracting under Federal contracts; temporary
35814 Women's Business Enterprise Program; temporary

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Social Security Administration.
NOTICES
Grants; availability, etc.:
35914 Retirement policy study

Immigration and Naturalization Service
RULES
35802 Iranian nationals; restriction on reinstatement of voluntary departure in deportation proceedings; correction

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; National Park Service.
NOTICES
35922 Part-time career employment for Federal employees

International Trade Commission
NOTICES
Import investigations:
35947 Apparatus for continuous production of copper rod

Interstate Commerce Commission
NOTICES
35966 Meetings; Sunshine Act
Motor carriers:
35945 Permanent authority applications; correction
35946 Released rates applications
35924 Temporary authority applications
Railroad services abandonment:
35946 Seaboard Coast Line Railroad Co.
35946 Southern Railway Co.

Justice Assistance, Research, and Statistics Office
NOTICES
Meetings:
35947 Juvenile Justice and Delinquency Prevention National Advisory Committee

Justice Department
See Immigration and Naturalization Service; Justice Assistance, Research and Statistics Office.

Land Management Bureau
RULES
Minerals leasing:
36034 Potassium, sodium, sulphur, and phosphate; minimum production or royalty payments requirement
Public land orders:
35818 Colorado; correction
NOTICES
Environmental statements; availability, etc.:
35916 Mountain Valley Planning Area, Utah; rangeland management program
Withdrawal and reservation of lands, proposed, etc.:
35916 Oregon; correction

Legal Services Corporation
NOTICES
35967 Meetings; Sunshine Act

Management and Budget Office
NOTICES
35953 Federal assistance program announcements; mandatory information requirements; republication

Metric Board
NOTICES
35967 Meetings; Sunshine Act
35947 Voluntary metric conversion; public forum

National Aeronautics and Space Administration
NOTICES
Meetings:
35948 Aeronautics Advisory Committee

National Credit Union Administration
RULES
35802 Account insurance coverage; increase

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery products; processed:
35844 Fish blocks and fillets; clarification of labeling requirements; advance notice
NOTICES
Coastal zone management programs:
35852 New Jersey; draft environmental impact statements; hearings
Environmental statement; availability, etc.:
35852 Padilla Bay Estuarine Sanctuary, Wash.
Meetings:
35852 Western Pacific Fishery Management Council

National Park Service
NOTICES
35916 Floodplain management and wetlands protection; final procedures

National Telecommunications and Information Administration
NOTICES
Grants; availability, etc.:
35970 Public telecommunications facilities planning and construction

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
35948 Carolina Power & Light Co.
35948 Consolidated Edison Co. of New York
35949 Consumers Power Co.; amended notice of hearing
35951 Dairyland Power Cooperative
35951 Kerr McGee Chemical Corp.
35952 Nuclear Engineering Co., Inc.
35952 Philadelphia Electric Co. et al.
35952 Southern California Edison Co. et al.
35953 Westinghouse Electric Corp.
35967 Meetings; Sunshine Act

Postal Rate Commission
NOTICES
35953 Rates and fees; hearing

Securities and Exchange Commission
NOTICES
Hearings, etc.:
35953 Contrarion Option Fund, Inc.
35954 Energy Fund Inc. et al.
35957 Hartford Electric Light Co.
35958 Sigma Government Securities Fund, Inc.
35959 Sigma Money Market Fund, Inc.
35960 Varifund, Inc.
35967 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
35960 Chicago Board Options Exchange, Inc.

Small Business Administration
NOTICES
Disaster areas:
35961 Louisiana
35962 Michigan (2 documents)
35962 Missouri
35962 North Carolina
35962 Wisconsin

Social Security Administration
PROPOSED RULES
Supplemental Security Income:
35838 Overpayment adjustment or recovery; clarification

State Department
NOTICES
Meetings:
35962 Law of the Sea Advisory Committee
35963 Shipping Coordinating Committee

Treasury Department
See Customs Service.

Unemployment Compensation, National Commission
NOTICES
35948 Meetings

V 45 M Y 28 80 UMI

United States Railway Association
NOTICES
35968 Meetings: Sunshine Act

Veterans Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
35963 Career Development Committee
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
35963 Biloxi, Miss.; clinical addition to medical center; inquiry

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
35852 Western Pacific Fishery Management Council, 4–8 and 4–9–80

DEFENSE DEPARTMENT
Office of the Secretary—
35853 Defense Advisory Committee on Women in the Services, 6–22 and 6–23–80
35854 Defense Intelligence Agency Advisory Committee, 7–22–80
35854 Department of Defense Wage Committee, 7–1, 7–8, 7–15, 7–22 and 7–29–80

EDUCATION DEPARTMENT
35854 National Advisory Council on Vocational Education, 6–13 and 6–14–80

FEDERAL COMMUNICATIONS COMMISSION
35910 Radio Technical Commission for Marine Services, Special Committee No. 75, 6–12–80, and Executive Committee, 6–19–80

JUSTICE DEPARTMENT
Juvenile Justice and Delinquency Prevention Office—
35947 National Advisory Committee for Juvenile Justice and Delinquency Prevention, 6–11 through 6–14–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
35948 NASA Advisory Council, Aeronautics Advisory Committee, 6–16 and 6–17–80

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION
35948 Meeting, June, July and August 1980

STATE DEPARTMENT
35962 Advisory Committee on the Law of the Sea, 6–30 and 7–1–80
35963 Shipping/Coordinating Committee, Committee on Ocean Dumping, 6–12–80

UNITED STATES METRIC BOARD
35947 Public forum on increased metric usage and voluntary metric conversion, 6–19–80

CANCELLED MEETING

ENVIRONMENTAL PROTECTION AGENCY
35895 Science Advisory Board, Subcommittee on Arsenic as a Hazardous Air Pollutant, 6–3–80

HEARINGS

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
35852 Draft Environmental Impact Statement for Padilla Bay Estuarine Sanctuary, 6–10–80
35852 Draft Environmental Impact Statement on proposed New Jersey Coastal Management Program, 6–11 and 6–12–80

POSTAL RATE COMMISSION
35953 Postal rate and fee changes, 7–8–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1421 35801
Proposed Rules:
910 35829
8 CFR
242 35802
10 CFR
Proposed Rules:
376 35830
12 CFR
226 35802
745 35802
15 CFR
Proposed Rules:
Subtitle A 35832
16 CFR
Proposed Rules:
13 35832
19 CFR
113 35803
153 35803
159 35803
20 CFR
Proposed Rules:
416 35838
40 CFR
52 (4 documents) 35804–35806
Proposed Rules:
52 (3 documents) 35839–35841
41 CFR
Ch. I (3 documents) 35809, 35814, 35815
43 CFR
3500 36034
Public Land Orders:
5724 35818
45 CFR
123 35818
123a 35818
123b 35818
123c 35818
123d 35818
123e 35818
123f 35818
123g 35818
123h 35818
123i 35818
47 CFR
73 35818
50 CFR
17 35821
26 35823
32 35827
33 35827
Proposed Rules:
17 36038
263 35844
264 35844

V 45 M Y 28 80 UMI

V 45 MY 28 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 104
Wednesday, May 28, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Reg. Governing the Grain Reserve Program for 1979 and Subsequent Crops and Alternative Program for 1979 and Prior Crops]

Grain Reserve Program for 1979 and Subsequent Crops and Alternative Program for 1979 and Prior Crops, Amendment 3

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the Grain Reserve Program for 1979 and Subsequent Crops and Alternative Program for 1979 and Prior Crops, 7 CFR 1421.630, *et. seq.*, (45 FR 3023), as amended, to provide that the average price for barley published by the Agricultural Marketing Service for the major market which serves the area where the majority of the reserve barley is stored, and the average mid-month price for feed barley published by the Economics, Statistics and Cooperatives Service for the area where the majority of the reserve barley is stored, will be used by the Commodity Credit Corporation (CCC) to determine the adjusted national average market price for barley for reserve release and call determinations.

DATE: This regulation shall become effective May 27, 1980.

ADDRESS: Director, Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harold L. Jamison, Head, Commodity Loan Section, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013, 202–447–7973. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option will be available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant." The Secretary has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Because of depressed barely prices in several areas, the Secretary is authorizing the immediate entry of 1978, 1979 and 1980-crop barley into the new reserve authorized at 7 CFR 1421.630 *et. seq.* However, this amendment of the regulations is needed to permit such entry since the national average market price determined under present regulations does not accurately reflect the price of barley in the major market which serves the area where it is anticipated the majority of the barely in the reserve will be stored. Further, pursuant to administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures, with respect to this emergency final action, are impracticable and contrary to the public interest. Comments are solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

The market price of barley varies greatly between areas of the Nation. Average prices calculated from all major markets for barley may not reflect the price received by farmers in the major reserve participation area.

On June 26, 1979, the 1976 and 1977-crop barley price support loans in the previous grain reserve program were called and are presently being repaid or forfeited to CCC. The national average market price of barley as determined under the present regulations has remained above the release level since that time. Accordingly, the entry of 1978 and 1979-crop barley into the reserve was not authorized. However, the average market price for barley in the area where the majority of 1976 and 1977 reserve barley was stored has continued to be below the release level. Not being able to place barley in the reserve has caused severe hardship on barley producers. Accordingly, it has been determined that in order to provide fair and equitable treatment for barley producers in the area where the majority of the reserve barley is stored, Section 1421.643 of this regulation is amended to provide that the market prices in the area where most of the reserve barley is stored will be used in the calculation of release and call determinations.

Also, a feed barley price for the area where most of the reserve barley is stored will be published by the Economics, Statistics and Cooperatives Service and will be used in the calculation of all national average adjusted price determinations for barley since, by statute, CCC price support loan rates for barley take into consideration the feed value relationship between barley and corn. CCC loan program determinations do not take into consideration malting barley. Since the Farmer-Owned Grain Reserve Program is an extension of regular CCC price support loan program and such loans are made on the basis of feed barley, feed barley prices will be used for reserve determinations.

Final Rule

Accordingly, the regulations at 7 CFR 1421.643 are amended to read as follows:

§ 1421.643 Release levels, redemption requirements, and early redemption charges.

(a) *General.* Commodities under grain reserve loans shall not be eligible for redemption without the producer incurring liability for liquidated damages unless the national average market price as determined and announced by CCC is at least 150 percent of the then current national average loan rate in the case of wheat and 125 percent of the then current national average loan rate in the case of feed grains (hereinafter called the release level). The national average market price for each commodity, except barley, will be considered by CCC to have reached the release level when the five-day national average price for the respective commodity at major markets

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published by the Agricultural Marketing Service, adjusted downward to reflect prices received by farmers by the difference between (1) the mid-month prices published by the Economics, Statistics and Cooperatives Service for the respective commodity for the previous month, and (2) the average mid-month price for the same month at major markets published by the Agricultural Marketing Service, equals or exceeds the release level for the respective commodity. The national average market price for barley will be considered by CCC to have reached the release level when the five-day average price for barley published by the Agricultural Marketing Service for the major market which serves the area where the majority of the barley in the reserve is stored, adjusted downward to reflect prices received by farmers by the difference between (i) the mid-month price published by the Economics, Statistics and Cooperatives Service for feed barley for the previous month in the area where the majority of the barley in the reserve is stored, and (ii) the average mid-month price for barley published by the Agricultural Marketing Service for the same month at the major market which serves the area where the majority of the barley in the reserve is stored, equals or exceeds the release level for barley. However, if CCC determines that the trend in such wheat or feed grains (including barley) prices is downward, release may not be authorized. Producers will be advised when the market reaches this level for any such commodity and that their loans are eligible for redemption without an early redemption charge. Such determinations shall be made and announced by CCC and shall be applicable until a subsequent announcement is made. When the release level is reached for a commodity, the initial release period shall be for the remainder of the month in which release is announced plus the next month. Subsequent announcements to continue or discontinue release will be made at the end of the initial or subsequent release period. Subsequent announcements to continue release will be for the month following the preceding release period. If a subsequent announcement shows that the market price is below the applicable release level, the terms of the reserve agreement and the regulations which are applicable to the commodity prior to release shall again apply, and the commodity will not be eligible for redemption without an early redemption charge.

* * * * *

Signed at Washington, D.C., on May 21, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 80-16040 Filed 5-27-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

Proceedings To Determine Deportability of Aliens in United States: Apprehension, Custody, Hearing, and Appeal; Restriction on Reinstatement of Voluntary Departure for Nationals of Iran; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule; correction.

SUMMARY: This amendment is intended to correct the amendment published on May 7, 1980, to limit the prohibition against reinstatement of voluntary departure by immigration judges to cases involving Iranian nationals.

EFFECTIVE DATE: May 7, 1980.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633-3048.

For specific information: David Dixon, Special Assistant, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633-2331.

SUPPLEMENTARY INFORMATION: On May 7, 1980, (45 FR 30063) an amendment to 8 CFR 242.22 was published which was intended to preclude reinstatement of voluntary departure by immigration judges in cases involving Iranian nationals. It was made in response to the international crisis created by the unlawful detention of American citizens in the United States Embassy in Iran. The language limiting the prohibition to cases involving Iranian nationals, however, was inadvertently omitted. Consequently, this clarifying amendment is necessary.

Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary and contrary to the public interest.

In FR Doc. 80-13962 appearing at page 30063 in the Federal Register of May 7, 1980, in the second column, the phrase added to § 242.22 is corrected by deleting the comma and inserting the following phrase after the word "departure":

§ 242.22 Reopening or reconsideration.

* * * "in a case involving an Iranian national,"

(Sec. 103, 242, 8 U.S.C. 1103, 1252)

Dated: May 21, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-16171 Filed 5-23-80; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0294]

Truth In Lending; Agricultural Credit and Closed-End Periodic Statements

Correction

In FR Doc. 80-15360 appearing on page 33599 in the issue of Tuesday, May 20, 1980, make the following correction:

In the amendment to § 226.8, change "(p) [Reserved]" to read "(n) [Reserved]"

BILLING CODE 1505-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Clarification and Definition of Account Insurance Coverage

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: These amendments increase the maximum insurance coverage on accounts maintained at Federal credit unions and state chartered credit unions insured by the National Credit Union Administration from $40,000 to $100,000. The increase in insurance coverage is mandated by section 308(c)(1) of the Consumer Checking Account Equity Act of 1980.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Todd A. Okun, Senior Attorney or Frederick S. Lipton, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456. Telephone number (202) 357-1030.

SUPPLEMENTARY INFORMATION: The National Credit Union Administration (NCUA) is an independent Federal Agency that charters and regulates Federal credit unions, insures the member accounts of all Federal credit unions and insures the member accounts of state chartered credit unions that are eligible for and request insurance. These amendments increase the insurance coverage on all member accounts to the same limit currently in effect for IRA, Keogh and certain public unit accounts, i.e., $100,000. Generally, $100,000 is the maximum coverage available to an individual, but, depending on the nature and type of accounts to which a member may be a party, as delineated in Part 745, coverage in excess of $100,000 may be available.

The increase in insurance coverage is mandated by section 308(c)(1) of the Consumer Checking Account Equity Act of 1980 (Title III of Pub. L. 96-221, 94 Stat. 148) (March 31, 1980) which amends section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)).

The National Credit Union Administration Board (the Board) finds that notice and public comment procedure under 5 U.S.C. 553(b) are unnecessary and that the delay such a procedure would entail is contrary to the public interest, because the statutory increase in insurance coverage became effective upon enactment of Title III of Pub. L. 96-221. For the same reason, the Board has decided to make the rule effective immediately, suspending the 30-day notice period specified in 5 U.S.C. 553(d). Similarly, the procedures set forth in the National Credit Union Administration's Final Report on Implementation of Executive Order 12044 were not followed. The official responsible for that determination is James J. Engel, Assistant General Counsel.

Accordingly, the Board hereby amends Part 745 of the NCUA Rules and Regulations (12 CFR Part 745) as set forth below.

(Sec. 308(c), Pub. L. 96-221, 94 Stat. 148, March 31, 1980; Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

Rosemary Brady,

Secretary of the Board.

May 21, 1980.

1. 12 CFR Part 745 is amended by deleting "$40,000" each place it appears therein and inserting in its place "$100,000."

[FR Doc. 80-16039 Filed 5-27-80; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 113, 153, and 159

[T.D. 80-133]

Transfer of Antidumping and Countervailing Duty Functions

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of a previous transfer of functions.

SUMMARY: This document advises the public that (1) the antidumping and countervailing duty functions formerly exercised by the Department of the Treasury have been transferred to the Department of Commerce, (2) new antidumping and countervailing duty regulations have been issued, and will be enforced, by the Department of Commerce, and (3) the Customs Regulations will be amended in a forthcoming **Federal Register** document to reflect the transfer of functions and to make other changes conforming the regulations to the Trade Agreements Act of 1979.

FOR FURTHER INFORMATION CONTACT:

Arthur I. Rettinger, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-6245).

SUPPLEMENTARY INFORMATION:

Transfer of Functions

The Trade Agreements Act of 1979, Pub. L. 96-39, enacted July 26, 1979 (the "Act"), repealed the Antidumping Act, 1921 (19 U.S.C. 160 *et seq.*) and significantly amended section 303, Tariff Act of 1930 (19 U.S.C. 1303), relating to the assesment of countervailing duties.

Title I of the Act, "Countervailing and Antidumping Duties", establishes new law in both of those areas.

Subsequent to the foregoing legislative action, Reorganization Plan No. 3 of 1979 (44 FR 69273; December 3, 1979) transferred responsibility for the administration of the antidumping and countervailing duty laws from the Secretary and General Counsel of the Department of the Treasury, and from the Department itself, to the Secretary of Commerce. The transfer of functions was made effective on January 2, 1980, by Executive Order 12188 (45 FR 989).

New Department of Commerce Regulations

The International Trade Administration, Department of Commerce, published new countervailing and antidumping duty regulations in the **Federal Register** on January 22, 1980, and February 6, 1980, respectively (45 FR 4932, 8182), to implement the statutory changes made by the Act. The antidumping regulations are contained in Part 353 of new Chapter III, Title 19, Code of Federal Regulations (19 CFR Chapter III). Countervailing duty regulations appear as Part 355 of Chapter III.

Anticipated Amendments to Customs Regulations

Because of the statutory changes and transfer of functions described above, Parts 113, 153, and 159 of Chapter I, Title 19, Code of Federal Regulations (19 CFR Chapter I, Parts 113, 153, 159), will by a future document, be amended as follows:

1. Section 113.14(q), "Antidumping Bond, Customs Form 7591," will be deleted;

2. Part 153, "Antidumping," will be deleted;

3. Section 159.41, "Antidumping duties," will be amended to refer to the new Department of Commerce regulations;

4. Section 159.47, "Countervailing duties," will be amended to refer to the new Department of Commerce regulations; and

5. A new § 159.58, pertaining to the suspension of liquidation in antidumping and countervailing duty cases, will be added.

Those amendments are needed to ensure the continued efficient administration of the antidumping and countervailing duty laws.

Final amendments to the Customs Regulations, including the changes noted above, will be made in a separate comprehensive document which will be published shortly in the **Federal Register** and which will conform the Customs Regulations to the provisions of the Act. Until that document is published, the public is advised that the antidumping and countervailing duty regulations promulgated by the Department of Commerce and codified in Chapter III of Title 19, Code of Federal Regulations, are in effect and should be used instead of the antidumping and countervailing duty regulations set forth in Parts 113, 153, and 159 of Chapter I of the Code of Federal Regulations.

Dated: May 19, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-16183 Filed 5-27-80; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1491-5]

Approval and Promulgation of Implementation Plans—Massachusetts; Revision of State Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Massachusetts Implementation Plan which would allow the relaxation of the ozone standard from 0.08 ppm to 0.12 ppm and the adoption of a lead standard of 1.5 ug/m³ averaged over a 3 month period.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara H. Ikalainen, Air Branch, Region I, Room 1903, JFK Federal Building, Boston, MA. 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On February 8, 1980 the Acting Regional Administrator of EPA Region I published a notice of proposed rulemaking in the **Federal Register** (45 FR 8669) proposing approval of revisions to the Massachusetts State Implementation Plan (SIP) which allow a relaxation of the ozone standard from 0.08 ppm to 0.12 ppm to be consistent with the federal ozone standard revision. The notice also proposed approval of the state's adoption of an ambient lead standard of 1.5 ug/m³ averaged over a 3 month period with a sampling frequency of 24 hours once every 6 days. This also is consistent with federal guidance and the federal lead standard. No public comments were received on this notice of proposed rulemaking.

Accordingly, EPA is taking final action to approve these revisions to the Massachusetts SIP. The Agency finds that good cause exists for making this action immediately effective because implementation plan revisions are already in effect under state law based on the 0.12 ppm O_3 standard and because EPA has responsibility under the Act to take final action on that portion of the SIP which addresses Part D requirements as soon as possible.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: May 22, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120, paragraph (c) is amended by adding subparagraph (28) as follows:

§ 52.1120 Identification of Plan

* * * * *

(c) * * *

(28) Revision to the state ozone standard and adoption of an ambient lead standard was submitted by Thomas F. McLoughlin, Acting Commissioner of the Department of Environmental Quality Engineering on August 21, 1979.

[FR Doc. 80-16087 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL-1493-3]

Approval and Promulgation of Implementation Plans; Emergency Episodes; Bay Area Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve the emergency episode regulations of the Bay Area Air Quality Management District (AQMD) and the Ventura County Air Pollution Control District (APCD) submitted by the Governor's designee on February 14, 1980 and February 25, 1980, respectively. The effect of this action is to incorporate these regulations into the California State Implementation Plan (SIP).

EFFECTIVE DATE: June 27, 1980.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief, Technical Analysis Section, Air Technical Branch, Air & Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2002.

SUPPLEMENTARY INFORMATION: On March 14, 1980 (44 FR 16502), the EPA published a Notice of Proposed Rulemaking concerning air pollution emergency episode regulations of the Bay Area AQMD and the Ventura County APCD. That Notice proposed to approve Regulation 4, "Air Pollution Episode Plans," of the Bay Area AQMD and Regulation VIII, "Emergency Actions" of the Ventura County APCD as revisions to the California SIP since they satisfy the requirements of 40 CFR 51.16, Prevention of air pollution emergency episodes. The Notice provided a 30-day public comment period. One public comment was received from the Bay Area AQMD which supported the EPA's proposed action. Therefore, the EPA takes final action to approve both regulations and to incorporate them into the California SIP. The State has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: May 22, 1980.

Douglas M. Costle

Administrator.

Subpart F or Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(53) and (c)(54) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(53) Revisions to air pollution emergency episode plans submitted on February 14, 1980 by the Governor's designee.

(i) Bay Area Air Quality Management District Rules 100, 101, 300, 301, 302, 303, 304, 305, 400, 401, 402, 403, and 404.

(54) Revisions to air pollution emergency episode plans submitted on February 25, 1980 by the Governor's designee.

(i) Ventura County APCD Rules 150, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, and 162.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(5) and (a)(6) as follows:

§ 52.274 California air pollution emergency plan.

(a) * * *

(5) Bay Area Air Quality Management District.

(6) Ventura County Air Pollution Control District.

* * * * *

[FR Doc. 80-16119 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL-1493-4]

Approval and Promulgation of Implementation Plans; Emergency Episodes; San Diego County, Calif.

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve portions of the emergency episode rules of the San Diego County Air Pollution Control District (SDCAPCD), to take no action on part of the rules, and to promulgate additional regulations. As described in the June 21, 1979 Notice of Proposed Rulemaking (44 FR 36206), the effect of this action is to provide air pollution emergency episode rules which meet all the requirements of 40 CFR 51.16.

EFFECTIVE DATE: June 27, 1980.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief (A-4-3), Technical Analysis Section, Air Technical Branch, Air & Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105. Phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: This rulemaking arose out of litigation in *California Lung Association et al.* v. *Costle*, Civil No. 75-1044-WPG, and is required under the Modification of Joint Stipulation of Settlement and Order Modifying Findings of Fact and Conclusions of Law, signed in August 1979 by the counsels for the Administrator and for the California Lung Association, which stated that the EPA would have to review and approve or promulgate regulations for 12 Air Pollution Control Districts. This final rulemaking and its associated documents satisfy in part the Settlement between the EPA and the California Lung Association. (For a more detailed description of the litigation, see 44 FR 30118.)

On June 21, 1979 (44 FR 36206) the EPA published a Notice of Proposed Rulemaking concerning air pollution emergency episode rules in the SDCAPCD. That notice proposed to approve certain portions of the SDCAPCD's Regulation VIII (Rules 126-138 and Appendix A), take no action on other portions, and promulgate additional rules to correct deficiencies in the SDCAPCD's emergency episode rules.

The SDCAPCD rules being acted upon in this notice are as follows: Rules 126 through 138 and Appendix A, submitted to the EPA by the California Air Resources Board (ARB) on October 13, 1977, as revisions to the State Implementation Plan. The ARB has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The June 21, 1979 Notice invited public comments on the proposed rulemaking. No comments were received.

As described in the June 21, 1979 Notice, the SDCAPCD emergency episode rules fulfill in part the requirements of 40 CFR 51.16 and are therefore being approved, except for those portions pertaining to the 12-hour carbon monoxide criteria levels, which portions are not being acted upon.

Also as described in that Notice, additional rules are being promulgated by the EPA so that all rquirements of 40 CFR 51.16 are met, including 4- and 8-hour carbon monoxide criteria levels, episode actions applicable to those levels, 24-hour particulate matter criteria levels, episode actions applicable to those levels (Priority II plan), and inspection of large facilities or operations subject to mandatory traffic abatement measures.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)))

Dated: May 22, 1980.

Douglas M. Costle,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follow:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(41)(ii)(C) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(41) * * *

(ii) * * *

(C) Regulation VIII, Rules 126-138 and Appendix A, except as these rules apply to the 12-hour carbon monoxide episode criteria specified in Rule 127.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(7), (l), (m), and (n) as follows:

§ 52.274 California air pollution emergency plan.

(a) * * *

(7) San Diego County APCD.

* * * * *

(l) The requirements of § 51.16 of this chapter are met in the San Diego County APCD with the following exceptions: there are no 4- and 8-hour carbon monoxide episode criteria levels, or episode actions applicable to those levels; there is no provision to insure the inspection of large facilities or operations which are subject to mandatory traffic abatement measures to insure compliance with applicable emission control action requirements; and there is no Priority II contingency plan for particulate matter episodes.

(m) *Regulations for prevention of carbon monoxide (CO) and oxidant (Ox) air pollution emergency episodes within the San Diego County APCD.*

(1) The requirements of this paragraph are applicable in the San Diego County APCD.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "Regulation VIII" in this paragrah means Regulation VIII, San Diego Air Pollution Emergency Plan, adopted May 25, 1977 and submitted to the Environmental Protection Agency as a revision to the California State Implementation Plan by the California Air Resources Board on October 13, 1977.

(iii) "ppm" means parts per million by volume.

(3) For the purposes of this regulation, the following episode criteria shall apply:

Pollutant	Averaging time (hours)	Parts per million (ppm)		
		Stage 1	Stage 2	Stage 3
Carbon Monoxide (CO)	4	25	45	60
	8	15	30	40

(4) The provisions of the San Diego County APCD's Regulation VIII and Appendix A, as submitted on October 13, 1977, relating to CO episodes averaged over 1 hour shall apply to CO episodes averaged over 4 and 8 hours, except that the Administrator shall provide for declaration, notification, source inspections, and termination of such episodes.

(5) In the event of a second- or third-stage episode for Ox or for CO, the

Administrator shall ensure the inspection of large facilities or operations listed under Rule 132(b) of Regulation VIII which are subject to mandatory traffic abatement measures pursuant to Rule 130 of Regulation VIII during the time curtailment is required in order to insure compliance and to determine the effects of compliance.

(n) *Regulation for the prevention of particulate matter (TSP) air pollution emergency episodes.*

(1) The requirements of this paragraph are applicable in the San Diego County APCD.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "Regulation VIII" in this paragraph means Regulation VIII, San Diego Air Pollution Emergency Plan, adopted May 25, 1977 and submitted to the Environmental Protection Agency as a revision to the California State Implementation Plan by the California Air Resources Board on October 13, 1977.

(iii) "$\mu g/m^3$" means micrograms per cubic meter.

(3) For the purposes of this regulation, the following criteria shall apply:

Pollutant	Averaging time (hours)	Micrograms per cubic meter ($\mu g/m^3$)		
		Stage 1	Stage 2	Stage 3
Particulate matter (TSP)	24	375	625	875

(4) Whenever it is determined that any episode level specified in paragraph (n)(3) of this section is predicted to be attained or has been attained, and is expected to remain at such levels for 12 or more hours, or to increase, the existence of the appropriate episode level and the location of the source and receptor areas shall be declared.

(5) Whenever the available scientific and meterological data indicate that any episode level declared by paragraph (n)(3) of this section is no longer occurring and is not predicted to immediately increase again to episode levels, such episode shall be declared terminated.

(6) The following shall be notified whenever a TSP episode is predicted, attained, or terminated:

(i) Public officials.

(ii) Public health, safety, and emergency agencies.

(iii) News media.

(iv) The general public.

* * * * *

[FR Doc. 80-16115 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL-1493-2]

Approval and Promulgation of Implementation Plans; Emergency Episodes; Santa Barbara County, Calif.

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve portions of the emergency episode rules of the Santa Barbara County Air Pollution Control District (SBCAPCD), to take no action on part of the rules, and to promulgate additional regulations. As described in the June 13, 1979 Notice of Proposed Rulemaking (44 FR 33905), the effect of this action is to provide air pollution emergency episode rules which meet all the requirements of 40 CFR 51.16.

EFFECTIVE DATE: June 27, 1980.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief (A-4-3), Technical Analysis Section, Air Technical Branch, Air & Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: This rulemaking arose out of litigation in *California Lung Association et al.* v. *Costle*, Civil No. 75-1044-WPG, and is required under the Modification of Joint Stipulation of Settlement and Order Modifying Findings of Fact and Conclusions of Law, signed in August 1979 by the counsels for the Administrator and for the California Lung Association, which stated that the EPA would have to review and approve or promulgate regulations for 12 Air Pollution Control Districts. This final rulemaking and its associated documents satisfy in part the Settlement between the EPA and the California Lung Association. (For a more detailed description of the litigation, see 44 FR 30118.)

On June 13, 1979 (44 FR 33905) the EPA published a Notice of Proposed Rulemaking concerning air pollution emergency episode rules in the SBCAPCD. That notice proposed to approve certain portions of the SBCAPCD's Regulation VI (Rule 63) and Regulation VII (Rules 150-152 and 154-164), take no action on other portions, and promulgate additional rules to correct deficiencies in the SBCAPCD's emergency episode rules.

The June 13, 1979 Notice also proposed to act upon certain emergency episode rules of the Ventura County APCD. However, those Ventura County rules have been superseded by a more recent submittal, which is being acted upon in a separate **Federal Register** notice.

The SBCAPCD rules being acted upon in this notice are as follows: 150-152, 154-159, 160A, and 161-164, submitted to the EPA by the California Air Resources Board (ARB) on July 19, 1974; Rule 160B, submitted by the ARB on October 23, 1974; and Rule 63, submitted by the ARB on April 21, 1976, as revisions to the State Implementation Plan. The ARB has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The June 13, 1979 Notice invited public comments on the proposed rulemaking. In response to that Notice, one comment letter was received relating to the Santa Barbara County emergency episode rules. That letter contained several comments, as follows:

1. Comment: On March 19, 1979 (44 FR 16388) the EPA promulgated revisions to 40 CFR 81.305, redesignating the Air Quality Management Area (AQMA) portion of Santa Barbara County as an attainment area for total suspended particulates (TSP). Therefore, since the Santa Barbara AQMA is no longer Priority I for TSP, the proposed regulations for TSP should be deleted.

Response: A redesignation to attainment does not change the priority classification at 40 CFR 52.221. However, an amendment to 40 CFR 51.16 (44 FR 16911) allows the Administrator to exempt attainment or unclassifiable areas from requirements for future emergency episode plan development. But the Santa Barbara AQMA is not exempt from these requirements for TSP, because the Modification of Joint Stipulation of Settlement and Order Modifying Findings of Fact and Conclusions of Law referred to above specifies that the EPA will approve or promulgate a TSP emergency episode plan for the Santa Barbara AQMA.

2. Comment: The EPA should add to the proposed regulations a provision that any plan of action shall not jeopardize the welfare of the public or result in damage to any equipment used for production or distribution.

Response: The EPA agrees with this comment and has revised subparagraphs (k)(5)(ii)(E)(*1*) and (F)(*1*) to reflect this concern.

3. Comment: The owner or operator of any establishment required to submit an abatement plan should be notified of plan approval as well as disapproval.

Response: The EPA intends to notify sources as to the status of their plans after they have been reviewed. Subparagraph (k)(9) has been revised to reflect this intent.

4. Comment: No enforcement proceedings should be brought against a source under section 113 of the Clean Air Act for failure to implement its emergency episode contingency plan until the Administrator has notified the source that such plan has been approved.

Response: As has been the case in the South Coast Air Quality Management District, no action will be taken under section 113 of the Clean Air Act for failure to implement an abatement plan that has not been approved.

As described in the June 3, 1979 Notice, the SBCAPCD emergency episode rules fulfill, in part, the requirements of 40 CFR 51.16 and are therefore being approved, except for those portions pertaining to nitrogen oxides, sulfur dioxide, or 12-hour carbon monxide criteria levels, which portions are not being acted upon.

Also as described in that Notice, additional rules are being promulgated by the EPA so that all requirements of 40 CFR 51.16 are met, including 4- and 8-hour carbon monoxide criteria levels, episode actions applicable to those levels, a 24-hour particulate matter criterion level, episode actions, applicable to that level, mandatory emission control actions for Stage 2 and Stage 3 episodes, a time schedule for submittal and review of abatement plans for major stationary sources, and more specific criteria for content of abatement plans.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Section 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: May 22, 1980.

Douglas M. Costle,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(xi), (c)(25)(vi), and (c)(31)(vii)(C) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(xi) Santa Barbara County Air Pollution Control District.

(A) Rules 150 to 152, 154 to 159, 160A, and 161 to 164, except those portions pertaining to nitrogen oxides, sulfur dioxide and the 12-hour carbon monoxide criteria levels.

* * * * *

(25) * * *

(vi) Santa Barbara County Air Pollution Control District.

(A) Rule 160B, except those portions pertaining to nitrogen oxides, sulfur dioxide and the 12-hour carbon monoxide criteria levels.

* * * * *

(31) * * *

(vii) * * *

(C) Rule 63, except those portions pertaining to sulfur dioxide and the 12-hour carbon monoxide criteria levels.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(4), (j), and (k) as follows:

§ 52.274 California air pollution emergency plan.

(a) * * *

(4) Santa Barbara Air Quality Management Area portion of the Santa Barbara County Air Pollution Control District.

* * * * *

(j) The requirements of § 51.16 of this Chapter are met in the Santa Barbara Air Quality Management Area with the following exceptions: (1) there is no time schedule to initiate the call for the submittal of individual abatement plans; (2) the requirements for the content of the abatement plans are not sufficiently specific to insure that adequate plans are submitted; (3) adequate mandatory emission control actions are not provided for; (4) there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for particulate matter episodes; (5) there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for carbon monoxide episodes based on 4- and 8-hour averaging times for the Santa Barbara Air Quality Management Area.

(k) *Regulation for prevention of air pollution emergency episodes—preplanned abatement strategies, mandatory emission control actions, a particulate matter emergency episode contingency plan, and 4- and 8-hour carbon monoxide criteria levels.*

(1) The requirements of this paragraph are applicable in the Santa Barbara Air Quality Management Area.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ppm" means parts per million by volume.

(iii) "$\mu g/m^3$" means micrograms per cubic meter.

(iv) "Major national holiday" means a holiday such as Christmas or New Year's.

(3) For the purposes of this regulation, the following episode criteria levels shall apply to carbon monoxide episodes:

Pollutant	Averaging time (hours)	Parts per million (ppm)		
		Stage 1	Stage 2	Stage 3
Carbon Monoxide	8	25 15	45 30	60 40

(4) The provisions of the Santa Barbara County Air Pollution Control District's Regulation VII, as submitted on July 19 and October 23, 1974, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(5) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental establishments in the Santa Barbara Air Quality Management Area as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease oprations causing stationary source air contaminants in such activity:

(A) Stationary sources which can be expected to emit 100 tons or more per year of hydrocarbons, nitrogen oxides, carbon monoxide or particulate matter.

(ii) The plans required by subparagraph (5)(i)(A) of this paragraph shall include the following information:

(A) The information requested by the California Air Resources Board's Criteria for Approval of Air Polution Emergency Abatement Plans (Executive Order G-63).

(B) The total number of employees at the facility during each shift on a normal

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weekday and on a major national holiday.

(C) The amount of energy (gas, fuel oil and electricity) used on a normal weekday and on a major national holiday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(*1*) The measures to curtail as much as possible, without damaging any equipment used for production or distribution, equipment operations that emit air pollutants specific to the type of episode and, in the case of oxidant episodes, the equipment operations that emit hydrocarbons and nitrogen oxides.

(*2*) The measures to postpone operations which can be postponed until after the episode.

(*3*) The measures described in subparagraph (5)(ii)(D) of this paragraph.

(F) For third-stage episodes:

(*1*) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardising the public health, welfare, or safety, and without damaging any equipment used for production or distribution, and an estimate of the resultant reductions in hydrocarbons, nitrogen oxides, carbon monoxide, and particulate matter emissions.

(*2*) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the hydrocarbons, nitrogen oxides, carbon monoxide, and particulate matter emissions from such equipment.

(*3*) The measures described in subparagraph (5)(ii)(E) of this paragraph.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Industrial, business, commercial or governmental establishments employing more than 100 persons per shift at one business address.

(iv) The plans required by subparagraph (5)(iii) (A) and (B) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board's Criteria for Approval of Air Pollution Emergency Abatement Plans (Executive Order G–63).

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(*1*) By the company on company business on a normal weekday and on a major national holiday.

(*2*) By employees commuting between home and the place of business on a normal weekday and on a major national holiday.

(*3*) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(6) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(7) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed in subpargraph (5) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(8) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons, carbon monoxide, nitrogen oxides or particulate matter greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons, nitrogen oxides, carbon monoxide or particulate matter greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For sources with emissions of hydrocarbons, nitrogen oxides, carbon monoxide or particulate matter less than 91 metric tons (100 tons) per year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(9) The owner or operator of any industrial, business, governmental or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator within 30 days after the plan has been evaluated as to whether the plan has been approved or disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(10) Any source that violates any requirement of this regulation shall be subject to enforcement action under section 113 of the Act.

(11) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A–4–3), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

(12) For the purposes of this regulation the following episode criteria shall apply to particulate matter episodes:

Pollutant	Averaging time (hours)	Micrograms per cubic meter ($\mu g/m^3$)		
		Stage 1	Stage 2	Stage 3
Particulate matter	24	375	625	875

(13) The provisions of the Santa Barbara County Air Pollution Control District's Regulation VII, as submitted on July 19 and October 23, 1974, relating to episodes for carbon monoxide and photochemical oxidants averaged over 1 hour shall apply to particulate matter episodes averaged over 24 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(14) The Administrator shall insure that the following actions will be taken in the Santa Barbara Air Quality Management Area in the source and receptor areas on the declaration of a Stage 1, Stage 2, or Stage 3 episode for particulate matter, carbon monoxide or photochemical oxidants:

(i) For a Stage 1 or Stage 2 episode:

(A) Persons operating any facility or activity named in subparagraph (5) of this paragraph shall implement the appropriate plans submitted in accordance with subparagraph (5) for the declared Stage 1 or Stage 2 episode for the appropriate air contaminants(s).

(ii) For a Stage 3 episode:

(A) The general public, schools, industrial, business, commercial, and governmental activities throughout the Santa Barbara Air Quality Management Area shall operate as though the day were a major national holiday.

* * * * *

[FR Doc. 80–16113 Filed 5–27–80; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 50, Supplement 2]

Subcontracting Under Federal Contracts

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation prescribes revised contract clauses and procedures that miximize subcontracting opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. The basis for this temporary regulation is the Office of Federal Procurement Policy (OFPP) Policy Letter 80–2, dated April 29, 1980 (45 FR 31028, May 9, 1980). The revised clauses and procedures implement Public Law 95–507, October 24, 1978, and supersede guidance contained in FPR Temporary Regulation 50.

DATES: Effective date: This regulation is effective with respect to solicitations and contracts resulting therefrom issued on or after June 1, 1980, but may be employed earlier.

Expiration date: This regulation expires June 1, 1982 unless earlier revised or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703–557–8957).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter:

May 23, 1980.

Federal Procurement Regulations Temporary Regulation 50; Supplement 2

To: Heads of Federal agencies.

Subject: Subcontracting under Federal contracts.

1. *Purpose.* This temporary regulation implements the Office of Federal Procurement Policy (OFPP) Policy Letter 80–2.

2. *Effective date.* This regulation is effective with respect to solicitations and contracts resulting therefrom issued on or after June 1, 1980, but may be employed earlier.

3. *Expiration date.* This regulation expires June 1, 1982 unless earlier revised or superseded.

4. *Background.* The Office of Federal Procurement Policy issued Policy Letter 80–2, on April 29, 1980 (45 FR 31028, May 9, 1980). which prescribed revised clauses and procedures designed to maximize subcontracting opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. These clauses and procedures supersede those prescribed by OFPP in April 10, and June 15, 1979, notices which were published in the **Federal Register** (44 FR 23610, April 20, 1979 and 44 FR 35068, June 18, 1979) for the purpose of implementing Pub. L. 95–507, October 24, 1978. The OFPP notices and the public law were implemented by FPR Temporary Regulation 50, dated June 20, 1979 (44 FR 38477, July 2, 1979).

5. *Agency action.* Pending the publication of a permanent FPR amendment, agencies shall utilize the revised clauses and procedures in OFPP Policy Letter 80–2. The letter is set forth in attachment A which replaces attachment A to FPR Temporary Regulation 50.

6. *Effect on other directives.* Paragraph 3 of FPR Temporary Regulation 50 and paragraph 3 of Supplement 1 thereto are revised to extend the expiration date to June 1, 1982.

Note.—Attachment A which is referenced in paragraph 5 is filed with original document and does not appear in this volume.

Ray Kline,

Acting Administrator of General Services.

Attachment A

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Subcontracting Under Federal Contracts

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Policy directive.

SUMMARY: This policy directive sets forth amendments to be made to the Federal Procurement Regulations (FPR), the Defense Acquisition Regulations (DAR), and the National Aeronautics and Space Administration Procurement Regulations (NASAPR) in implementation of section 211 of Pub. L. 95–507.

On October 24, 1978, the President signed into law Pub. L. 95–507 amending the Small Business Act and the Small Business Investment Act of 1958. Section 211 of Pub. L. 95–507 relates to subcontracting under federal contracts.

On January 16, 1979, the Office of Federal Procurement Policy published in the **Federal Register** (44 FR 3340) proposed regulatory guidance regarding section 211 (Subcontracting). On April 20, 1979, final regulatory guidance directing changes in the DAR and FPR was published in the **Federal Register** (44 FR 23610).

On October 29, 1979, the Office of Federal Procurement Policy published for comment in the **Federal Register** (44 FR 62093) proposed changes supplementing the guidance published on April 20, 1979. The October 29, 1979 publication also included for comment, in Part II thereof, proposed data collection formats. Comments were received with respect to both the subcontracting regulatory guidance and the proposed data collection formats. The final changes to the subcontracting regulatory guidance summarized below reflect the views in some of those comments. Comments received regarding the data collection formats are still being considered, and final versions of those formats will be published in the near future.

Several significant features to be found in the subcontracting regulatory guidance are as follows:

1. The Small Business and Small Disadvantaged Business Subcontracting solicitation provisions, for both negotiated and formally advertised procurements, have been expanded. Many of the earlier instructions to contracting officers—especially those requiring that officer to impose certain subcontract plan requirements on the offeror (or bidder)—have been incorporated into the solicitation clauses.

2. The regulatory guidance, as well as the solicitation clauses, contains a definition of the term "subcontract."

3. The instructions to the contracting officer sections now cover contracts with options and similar provisions, and letter contracts.

4. With respect to "commercial products" the plan to be submitted by the contractor

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and reviewed and approved by the Government will now cover not only the commercial product being procured under the immediate contract, but the company's or division's production generally. Also, if the contracting officer finds that the product being procured differs only insignificantly from the contractor's commercial product, he may regard the contrast product, for the purposes of the subcontracting plan provision, as a commercial product. Finally, the contracting officer may ask another agency (e.g., an agency with the preponderance of the contracts with the contractor) to review and approve the contractor's plan for commercial products.

DATE: The changes set forth herein will be effective June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Owen Birnbaum, Deputy Associate Administrator for Acquisition Law, (202) 395–3455.

Dated: April 29, 1980.

Karen H. Williams,

Administrator.

Policy Letter 80–2

To the Heads of Executive Departments and Establishments

Subject: Regulatory Guidance on Section 211 of Pub. L. 95–507.

There is a need in Government for uniformity and consistency in the application of procurement policy. This directive provides the uniform policy applicable to Section 211 of Pub. L. 95–507. The clauses and regulatory coverage that follow articulate this uniform policy. The Defense Acquisition Regulations (DAR), the Federal Procurement Regulations (FPR), and the National Aeronautics and Space Administration Procurement Regulations (NASA PR) shall be amended to conform to this policy. This guidance supersedes in its entirety the guidance previously published in the **Federal Register** on April 20, 1979 (44 FR 23610).

A. Utilization of Small Business and Small Disadvantaged Business Concerns (over $10,000)

The following clause shall be included in all contracts over $10,000 except (1) contracts for services which are personal in nature and (2) contracts which will be performed entirely (including all subcontracts) outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico:

Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) whose management and daily business operations are controlled by one or more of such individuals.

The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals. (End of Clause)

B. Definitions

1. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans) are to be considered socially and economically disadvantaged.

2. The phrase "Native Americans" means American Indians, Eskimos, Aleuts and native Hawaiians. The term "Asian-Pacific Americans" means U.S. citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia and Taiwan.

3. Other individuals may qualify as socially and economically disadvantaged under procedures which have been separately established by the Small Business Administration at 13 CFR 124.1–1(3)(iii).

4. The Office of Minority Small Business and Capital Ownership Development in the Small Business Administration has the final authority to determine the eligibility of a concern to be designated as a small disadvantaged business and shall answer inquiries from prime contractors and others regarding such eligibility.

5. The term "subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

C. Small Business and Small Disadvantaged Business Subcontracting (Negotiated)

All solicitations for negotiated contracts or negotiated amendments or modifications (including contracts, amendments, and modifications placed on a sole source basis), except those for procurements and set-asides pursuant to section 8(a) and section 15 of the Small Business Act as amended, which individually are expected to exceed $500,000, or in the case of contracts for the construction of any public facility, $1,000,000, and are required to include the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, shall include a provision which requires the apparent successful offeror, provided the offeror is not a small business concern, to negotiate a detailed subcontracting plan. The provision is as follows:

Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated)

1. This provision does not apply to small business concerns.

2. The term "subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

3. The offeror acknowledges that it is aware of the subcontracting plan requirements in this provision; and if it is the apparent successful offeror, and if the contract offers subcontracting possibilities, agrees to negotiate a plan which includes:

a. Percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; (for the purposes of the subcontracting plan, the contractor may include all purchases which contribute to the performance of the contract, including a proportionate share of products, services, etc., whose costs are normally allocated as indirect or overhead costs.)

As part of its establishment of percentage goals the apparent successful offeror shall also include in its subcontracting plan:

(1) A statement of: (a) total dollars planned to be subcontracted; (b) total dollars planned to be subcontracted to small business, and (c) total dollars planned to be subcontracted to small disadvantaged business.

(2) A description of the principal product and service areas to be subcontracted and an identification of those areas where it is planned to use (i) small business subcontractors, and (ii) small disadvantaged business subcontractors.

(3) A statement of the method used in developing proposed subcontracting goals for (i) small business, (ii) small disadvantaged business concerns (e.g., did the offeror use for subcontract solicitation purposes company source lists, the small business and disadvantaged small business source identification system provided by the Small Business Administration's Procurement

Automated Source System, the National Minority Purchasing Council Vendor Information Service, the Office of Minority Business Data Center in the Department of Commerce, and the facilities of local small business and minority associations?).

(4) If the offeror includes indirect and overhead costs as an element in establishing the goals in the subcontracting plan, the method used in determining the proportionate share of indirect and overhead costs incurred with (i) small business, and (ii) small disadvantaged business subcontractors shall be explained.

b. The name of an individual within the employ of the offeror who will administer the subcontracting program of the offeror and a description of the duties of such individual;

c. A description of the efforts the offeror will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

d. Assurances that the offeror will include the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals in all subcontracts which offer further subcontracting opportunities and to require all subcontractors (except small business concerns) which receive subcontracts in excess of $500,000, or in the case of a contract for the construction of any public facility $1,000,000, to adopt and comply with a plan similar to the plan agreed to by the offeror. Such assurances shall describe the offeror's procedures for the review, approval, and monitoring for compliance with such plans;

e. Assurances that the offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the offeror with subcontracting plan; and

f. A recitation of the types of records the offeror will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns. The records shall include at least the following (these records may be maintained on a plant-wide of company-wide basis unless otherwise indicated):

(1) Small and disadvantaged business source lists, guides and other data identifying small and small disadvantaged business vendors.

(2) Organizations contacted for small and disadvantaged business sources.

(3) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation (a) whether small business was solicited, and if not why not; (b) whether small disadvantaged business was solicited, and if not why not; and (c) reasons for the failure of solicited small business or small disadvantaged business to receive the subcontract award.

(4) Records to support other outreach efforts:

- Contacts with minority and small business trade associations;
- Contacts with business development organizations;
- Attendance at small and minority business procurement conferences and trade fairs.

(5) Records to support internal activities to guide and encourage buyers:

- Workshops, seminars, training programs, etc.
- Monitoring activities to evaluate compliance.

(6) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor.

4. The offeror understands that:

a. No contract will be awarded unless and until an acceptable plan is negotiated with the contracting officer which plan will be incorporated into the contract, as a material part thereof.

b. An acceptable plan must, in the determination of the contracting officer, provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged persons to participate in the performance of the contract.

c. If a subcontracting plan acceptable to the contracting officer is not negotiated within the time limits prescribed by the contracting activity and such failure arises out of causes within the control and with the fault or negligence of the offeror, the offeror shall be ineligible for an award. The contracting officer shall notify the contractor in writing of his reasons for determining a subcontracting plan to be unacceptable. Such notice shall be given early enough in the negotiation process to allow the contractor to modify the plan within the time limits prescribed.

d. Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the contracting officer in determining the responsibility of the offeror for award of the contract.

e. It is the offeror's responsibility to develop a satisfactory subcontracting plan with respect to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the offeror's plan will be judged independent of the other.

f. The offeror will submit, as required by the contracting officer, subcontracting reports in accordance with the instructions thereon, and as further directed by the contracting officer. Subcontractors will also submit these reports to the government's contracting officer or as otherwise directed, with a copy to the prime contractor's designated small and disadvantaged business liaison.

5. The failure of any contractor or subcontractor to comply in good faith with (a) the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals or (b) an approved plan required by this Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated) provision, will be a material breach of such contract or subcontract.

6. Commercial Products. If a commercial product (defined below) is offered the required subcontracting plan may relate to the company's production generally (both for commercial and noncommercial products) rather than solely to the item being procured under the government contract. In such cases, the contractor shall be required to submit one company-wide, annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year, or by another agency satisfactory to the contracting officer. The approved plan will remain in effect for the company's entire fiscal year for all of the company's or division's commercial products.

The term "commercial products" means products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices. A product which, in the opinion of the contracting officer, differs only insignificantly from the contractor's commercial product may be regarded for the purpose of this clause as a commercial product.

(End of Provision)

Instructions to Contracting Officers

The following policy and procedural guidance is provided to contracting officers in making determinations as to the acceptability of a Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated) submitted by an apparent successful offeror, in accordance with the requirements of Pub. L. 95–507. Amendments to the Small Business Act and the Small Business Investment Act of 1958. This guidance is not intended to be all inclusive. Other factors may warrant consideration dependent upon the particular circumstances of the proposed acquisition. Ultimately, there is no substitute for the reasoned and objective judgment of a contracting officer exercised on a case by case basis.

(a) *Contracts with Options or Similar Provisions*—In the case of contracts with options, or similar provisions, requiring a subcontracting plan, the contracting officer shall obtain a satisfactory plan prior to award covering the basic and the option items of the contract. The price of the option items shall be included in determining whether the contract meets the subcontracting threshold, and the plan shall take into account the procurement of the option items. In the event the option or similar provisions is not exercised, the contractor should not be bound by that portion of the plan relating to the option items.

(b) *Letter Contracts*—In the case of letter-type contracts requiring subcontracting plan, the contracting officer shall seek to obtain a satisfactory plan within 90 days after award or before definitization, whichever comes first.

(c) *Acceptability of Proposed Plan*—In making determinations concerning the

acceptability of a proposed subcontracting plan, the contracting officer should take the following actions:

(1) To the extent available, the contracting officer shall obtain the names and locations of principal proposed (i) small business, and (ii) small disadvantaged business subcontractors, including the type of product or service and the dollar value thereof to be awarded to each principal subcontractor. (This information will be used only to assist the contracting officer in making a determination as to the acceptability of the proposed percentage and dollar subcontract goals. The offeror will not be contractually bound to make subcontract awards to the designated subcontractors nor will the names of the subcontractors be included in any subsequent approved plan.)

(2) Obtain and review information from all appropriate sources, including the prospective contractor, contract administration activities, Small and Disadvantaged Business Utilization Specialist, and SBA representatives concerning the apparent successful offeror's historical performance and achievements in placing subcontracts for the same or similar products or services with (i) small business, and (ii) small disadvantaged business subcontractors—if this information is not available for a specific product or service, the offeror's past performance and achievements in the placement of total subcontract awards to (i) small business, and (ii) small disadvantaged business subcontractors shall be examined.

(3) Evaluate the anticipated potential for subcontracting to (i) small business, and (ii) small disadvantaged business considering the make-or-buy policies or programs of the apparent successful offeror, the nature of the products or services to be subcontracted, and the known availability of (i) small business, and (ii) small disadvantaged business concerns in the geographical area where the work will be performed.

(4) Advise the apparent successful offeror of (i) the availability of the sources of information on potential small business and small disadvantaged business subcontractors and (ii) the names of any known potential small business and small disadvantaged business subcontract sources. If the proposed goals are questionable, the contracting officer shall emphasize that one or more of the sources of information should be used and potential small business and small disadvantaged business subcontract sources be considered to ensure development of realistic and acceptable goals.

(5) Obtain advice and recommendations of the Small and Disadvantaged Business Utilization Specialist and the assigned Small Business Administration Procurement Center Representative (if available) concerning the acceptability of the proposed plans.

(6) Negotiate subcontracting goals at a level which represents a good faith, aggressive, and comprehensive effort of the apparent successful offeror to use to the maximum practicable extent small and small disadvantaged subcontractors after appropriate consideration of their price, technical capability, and other pertinent factors. No goals will be negotiated upwards if it is apparent that such higher goals must result in significant increased costs to the Government or will seriously impede acquisition objectives. However, incentive subcontracting clauses should be considered in those cases where it is believed that additional and unique prime contractor effort could significantly increase small business and small disadvantaged business subcontract awards.

(7) The contracting officer shall promptly negotiate appropriate revisions to agreed subcontracting percentage and dollar goals if any subsequent amendments to the contract will have a major impact on the original planned volume or type of subcontracting effort. If agreement cannot be reached, the matter will be resolved under the Disputes Clause of the contract.

(8) In reviewing and negotiating a contractor's proposed small and disadvantaged business subcontracting plan, the contracting officer shall give due consideration to the contractor's "make-or-buy" policy or program. This is necessary to ensure that the respective programs are not in conflict, and the best interests of the Government are obtained. Furthermore, where the contract work involves products or services which are not generally available in the commercial marketplace or are particularly specialized, and the contractor has current capacity to perform the work, the contracting officer may recognize the reduced likelihood of subcontracting opportunities.

(d) *Forwarding to SBA of Plans Involving Commercial Products.*

Contracting officers receiving company-wide plans under paragraph 6 (commercial products) of both solicitation clauses—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (NEGOTIATED) and SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (ADVERTISED)—shall forward copies of such plans and approvals thereof to the Central Office of the Small Business Administration, 1441 "L" Street, N.W., Washington, D.C., Attention: AAPA.

(e) *Failure to Comply in Good Faith with the Subcontracting Requirements.*

The failure of any contractor or subcontractor to comply in good faith with (1) the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, or (2) an approved plan required by the Small Business and Small Disadvantaged Business Subcontracting Plan provision, will be a material breach of such contract or subcontract.

If such a breach has occurred in the prime contract, the contracting officer shall review the available facts to determine what remedy is in the best interests of the Government.

Such remedies may include Termination of the Contract pursuant to the Termination for Default Clause, negotiated reduction in contract price, negotiation of a revised subcontracting plan to correct deficiencies, or other negotiated measures the contracting officer may deem appropriate. In determining the proper remedy, the contracting officer shall consider as a minimum (1) the reasons attributed to the failure to comply in good faith, (2) the Government's need for the contract deliverables, and (3) the impact a proposed remedy may have on exiting small and disadvantaged subcontractors.

If the failure to comply in good faith cannot be settled by agreement, a contracting officer decision pursuant to the contract disputes clause shall be issued.

D. Incentive Subcontracting Program

The following clause may be used in negotiated contracts for which a subcontracting plan is required.

Incentive Subcontracting Program for Small Business and Small Disadvantaged Business (negotiated)

(1) The contractor has established, in its subcontracting plan, the following goals for awards to small business and small disadvantaged business concerns:

(i) ——— [1] percent of the total planned subcontract amount of $——— [1] to small business concerns and

(ii) ——— [2] percent of the total planned subcontract amount of $——— [1] to small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) To the extent that the contractor exceeds such subcontract goals in the performance of this contract, it will receive ——— [3] percent (not to exceed 10 percent) of the dollar amount of such excesses, unless the contracting officer determines that such excess was not due to efforts by the contractor, i.e., subcontractor costs in excess of those contractually agreed upon or where the actual subcontract amount exceeds that estimated in the subcontract plan; or planned subcontracts which were not disclosed in the subcontract plan during contract negotiation.

(3) If the contract is a cost plus fixed fee type, the total of the fixed fee and the incentive payments made pursuant to this clause is subject to the limitations set forth in FPR 1–3.405–5(c)(2) and DAR 3–405.6(c)(2). (End of Clause)

E. Small Business and Small Disadvantaged Business Subcontracting (Advertised)

All solicitations for formally advertised contracts or amendments or modifications thereto which, except those for procurements and set-asides pursuant to section 8(a) and section 15 of the Small Business Act as amended, offer subcontracting opportunities and are expected to exceed $500,000, or in the case of contracts for the construction of any public facility, $1,000,000, and are required to include the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, shall include a provision which requires the bidder selected to be awarded the contract, provided the bidder is not a small business concern, to submit a detailed subcontracting plan.

[1] Identified elsewhere in the contract.
[2] Identified elsewhere in the contract.
[3] Exact percentage to be inserted into the contract document.

The contracting officer shall include the solicitation notice below in all solicitations meeting the monetary threshold unless the contracting officer determines in writing that the proposed contract, amendment or modification, offers no subcontracting possibilities. If the contracting officer is not sure of the presence of subcontracting possibilities, the notice must be included; but the requirement to furnish a plan may be omitted on a showing by the bidder selected for award that subcontracting possibilities do not exist.

The provision is as follows:

Small Business and Small Disadvantaged Business Subcontracting Plan (Advertised)

1. This provision does not apply to small business concerns.

2. The term "subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

3. The bidder acknowledges that it is aware of the subcontracting plan requirement in this provision; and if selected for award, will submit within the time specified by the contracting officer a subcontracting plan that will afford the maximum practicable opportunity to participate in the performance of the contract to small and small disadvantaged concerns, and will include:

a. Percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; (For the purposes of the subcontracting plan, the contractor may include all purchases which contribute to the performance of the contract, including a proportionate share of products, services, etc., whose costs are normally allocated as indirect or overhead costs.)

As part of its establishment of percentage goals the apparent successful bidder shall also include in its subcontracting plan:

(1) A statement of: (a) total dollars planned to be subcontracted; (b) total dollars planned to be subcontracted to small business; and (c) total dollars planned to be subcontracted to small disadvantaged business.

(2) A description of the principal product and service areas to be subcontracted and an identification of those areas where it is planned to use (i) small business subcontractors, and (ii) small disadvantaged business subcontractors.

b. The name of an individual within the employ of the bidder who will administer the bidder's subcontracting program and a description of the duties of such individual;

c. A description of the efforts the bidder will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

d. Assurances that the bidder will include the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals in all subcontracts which offer further subcontracting opportunities and to require all subcontractors (except small business concerns) which receive subcontracts in excess of $500,000, or in the case of a contract for the construction of any public facility, $1,000,000, to adopt and comply with a plan similar to the plan agreed to by the bidder.

e. Assurances that the bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan; and

f. A recitation of the types of records the successful bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns. The records shall include at least the following (these records may be maintained on a plant-wide or company-wide basis unless otherwise indicated):

(1) Small and disadvantaged business source lists, guides and other data identifying small and disadvantaged business vendors.

(2) Organizations contacted for small and disadvantaged business sources.

(3) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation (a) whether small business was solicited, and if not why not; (b) whether small disadvantaged business was solicited, and if not why not; and (c) reasons for the failure of solicited small business or small disadvantaged business to receive the subcontract award.

(4) Records to support other outreach efforts:

- Contacts with minority and small business trade associations.
- Contacts with business development organizations.
- Attendance at small and minority business procurement conferences and trade fairs.

(5) Records to support internal activities to guide and encourage buyers:

- Workshops, seminars, training programs.
- Monitoring activities to evaluate compliance.

(6) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor.

4. The bidder understands that:

(a) It agrees to carry out the government's policy to provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of the contract, consistent with its efficient performance.

(b) If it does not submit a subcontracting plan within the time limits prescribed by the contracting agency, it will be ineligible to be awarded the contract.

(c) Prior compliance of the bidder with other such subcontracting plans under previous contracts will be considered by the contracting officer in determining the responsibility of the offeror for award of the contract.

(d) It is the bidders responsibility to develop a subcontracting plan with respect to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the plan will be judged independently of the other.

5. The failure of any contractor or subcontractor to comply in good faith with (a) the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals or (b) the terms of any subcontracting plan required by this Small Business and Small Disadvantaged Business Subcontracting Plan (Advertised) provision, will be a material breach of the contract or subcontract.

6. Commercial Products. If a commercial product (defined below) is offered the required subcontracting plan may relate to the company's or division's production generally (both for commercial and noncommercial products) rather than solely to the item being procured under the government contract. In such cases, the contractor shall be required to submit one company-wide, annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year, or by another agency satisfactory to the contracting officer. The approved plan will remain in effect for the company's entire fiscal year for all of the company's or division's commercial products.

The term "commercial products" means products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices. A product which, in the opinion of the contracting officer, differs only insignificantly from the contractor's commercial product may be regarded for the purpose of this clause as a commercial product.

(End of Provision)

Instructions to Contracting Officers

(a) Informational Goals. The contracting officer may, in a letter accompanying the solicitation or otherwise, inform the offeror of the goal the Government contemplates for subcontracting to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Any such letter shall state that the goals are informational only and not legally binding.

(b) Notification of Unsatisfactory Plans. If the contracting officer believes that the subcontracting plan submitted pursuant to this section does not reflect the best effort by the bidder to award subcontracts to small and small disadvantaged firms to the fullest extent consistent with the efficient performance of the contract, he shall notify the agency's director of the Office of Small and Disadvantaged Business Utilization who

shall in turn notify the Small Business Administration and request a review of the plan pursuant to Section 8(d) (10) and (11) of the Small Business Act. Such request for an SBA review shall not delay award of the contract. Prior compliance of the bidder with other such subcontracting plans under previous contracts will be considered by the contracting officer in determining the responsibility of the bidder for award of the contract.

(c) Forwarding to SBA of Plans Involving Commercial Products. Contracting officers receiving company-wide plans under paragraph 6 (commercial products) of both solicitation clauses—*Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated)* and *Small Business and Small Disadvantaged Business Subcontracting Plan (Advertised)*—shall forward copies of such plans and approvals thereof to the Central Office of the Small Business Administration, 1441 L Street NW., Washington, D.C., Attention: AAPA.

EFFECTIVE DATE: This Policy Letter is effective June 1, 1980.

CONCURRENCE: This Policy Letter has been concurred in by the Director of OMB.

[FR Doc. 80-16317 Filed 5-27-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Ch. I

[FPR Temp. Reg. 54]

Women's Business Enterprise Program

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation provides for the inclusion in certain prime contracts of two contract clauses regarding the award of subcontracts to women-owned firms. The basis for the regulation is Office of Federal Procurement Policy (OFPP) Policy Letter No. 80–4, April 29, 1980. The intended effect is to increase the participation of women-owned firms in the award of Federal procurement contracts.

DATES: Effective date: This regulation is effective with respect to solicitations and contracts resulting therefrom issued on or after June 1, 1980, but may be employed earlier.

Expiration date: This regulation expires June 1, 1982 unless earlier revised or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8947).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following FPR Temporary Regulation is added to the appendix at the end of the chapter:

May 23, 1980.

Federal Procurement Regulations Temporary Regulation 54

To: Heads of Federal agencies.

Subject: Women's Business Enterprise Program.

1. *Purpose.* This temporary regulation implements the Office of Federal Procurement Policy (OFPP) Policy Letter 80–4.

2. *Effective date.* This regulation is effective with respect to solicitations and contracts resulting therefrom issued on or after June 1, 1980, but may be employed earlier.

3. *Expiration date.* This regulation expires June 1, 1982 unless earlier revised or superseded.

4. *Background.* The Office of Federal Procurement Policy issued Policy Letter No. 80–4 on April 29, 1980 (45 FR 31033, May 9, 1980), regarding a Women's Business Enterprise Program. The letter referenced Executive Order 12138, May 18, 1979, and prescribed two contract clauses for use in Government contracts. The clauses are designed to encourage prime contractors to increase their use of women-owned firms as subcontractors.

5. *Agency action.* Pending the publication of a permanent FPR amendment, agencies shall utilize the clauses and procedures in OFPP Policy Letter No. 80–4. The letter is set forth in attachment A of this temporary regulation.

Note.—Attachment A, which is referenced in paragraph 5, is filed with the original document and does not appear in this volume.

Ray Kline,

Acting Administrator of General Services.

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Subcontracting With Women's Business Enterprises Under Federal Contracts

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Policy directive.

SUMMARY: This policy directive sets forth amendments to be made to the Federal Procurement Regulations (FPR), the Defense Acquisition Regulations (DAR), and the National Aeronautics and Space Administration Procurement Regulations (NASAPR) relating to subcontracting with women's business enterprises under Federal contracts.

On May 18, 1979, the President signed Executive Order 12138 which created a National Women's Business Enterprise Policy, and prescribed arrangements for developing, coordinating and implementing a national program for women's business enterprise. Each department and agency of the Executive Branch was directed, within the constraints of statutory authority and as otherwise permitted by law, to take appropriate action to facilitate, preserve and strengthen Women's Business Enterprises and to ensure full participation by women in the free enterprise system.

To achieve the maximum practicable Federal contracting opportunity for women-owned firms, the Office of Federal Procurement Policy among other things, has directed the uniform revision of government-wide procurement regulations to assure that Federal prime contractors increase their use of women-owned firms as subcontractors.

These revisions include:

(a) Developing clauses for inclusion in prime contract solicitations and in prime contracts that encourage the use of women-owned firms as subcontractors to the maximum degree feasible; and

(b) Studying the feasibility of developing an incentive clause for inclusion in appropriate prime contracts to offer a dollar award to a prime contractor for subcontracting with women-owned firms in excess of an agreed upon goal for such subcontracting.

To implement (b) above, OFPP will in September 1980, evaluate the results of the pilot programs using incentive clauses for small and disadvantaged firms, as authorized in Pub. L. 95–507, and relate the lessons learned to the women business enterprise program.

To implement (a) above, the following Policy Letter sets forth changes to be made in the FPR, DAR and NASAPR. These changes are to be effective June 1, 1980, and are applicable to all solicitations and contracts arising therefrom, issued after June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dorothy Dickerson, Deputy Associate Administrator for Acquisition Law, (202) 395–3455.

Dated: April 29, 1980.

Karen Hastie Williams,

Administrator.

Policy Letter 80–4

To the Heads of Executive Departments and Establishments

Subject: Women's Business Enterprise Program

Background.—Executive Order 12138 noted that Congressional findings and the findings of the Interagency Task Force on Women Business Owners recognize:

1. The significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;

2. The many obstacles facing women entrepreneurs; and

3. The need to aid and stimulate women's business enterprise.

In response to these findings, the Executive Order established a National Women's Business Enterprise Policy and prescribed arrangements for developing, coordinating and implementing a national program for women's business enterprise. Each department and agency was directed to take affirmative action in support of women's business enterprise in appropriate programs

and activities including, but not limited to, procurement.

The President's Memorandum for the Heads of Departments and Agencies dated May 18, 1979, accompanying E.O. 12138, noted that the Interagency Task Force on Women Business Owners found that efforts to encourage full participation of women in Federal procurement activity have been less than adequate. Subsequently, OFPP undertook to establish agency goals for the award of prime contracts to women-owned firms and to develop Government-wide procurement regulations to encourage Federal prime contractors to increase their use of women-owned firms as subcontractors.

Action—There is a need in Government for uniformity and consistency in the application of procurement policy. This directive provides a uniform policy applicable to the Women's Business Enterprise Program. The clauses and regulatory coverage that follow articulate this uniform policy. The Defense Acquisition Regulation (DAR), the Federal Procurement Regulations (FPR), and the National Aeronautics and Space Administration Procurement Regulations (NASA PR) shall be amended to conform to this policy.

Clauses for Women-Owned Business Concerns

1. The following clause shall be included in all contracts expected to exceed $10,000 except (i) contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico and the Trust Territory of the Pacific Islands, and (ii) contracts for services which are personal in nature.

Utilization of Women-Owned Business Concerns (Over $10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

[End of Clause]

2. The following clause shall be included in all contracts, amendments or modifications expected to exceed $500,000 or in the case of contracts for the construction of any public facility, $1,000,000 which require the Utilization Clause in (1) above.

Women-Owned Business Concerns Subcontracting Program (Over $500,000 or $1,000,000 for Construction of Any Public Facility)

(a) The Contractor agrees to establish and conduct a program which will enable women-owned business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the contractor shall:

(1) Designate a liaison officer who will administer the Contractor's "Women-Owned Business Concerns Program."

(2) Provide adequate and timely consideration of the potentialities of known women-owned business concerns in all "make-or-buy" decisions.

(3) Develop a list of qualified bidders that are women-owned businesses and assure that known women-owned business concerns have an equitable opportunity to compete for subcontracts, particularly by making information on forthcoming opportunities available, by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so women-owned business concerns.

(4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of women-owned business concerns; (ii) awards to women-owned-businesses on the source list by minority and non-minority women-owned business concerns; and (iii) specific efforts to identify and award contracts to women-owned business concerns.

(5) Include the "Utilization of Women-Owned Business Concerns" clause in subcontracts which offer substantial subcontracting opportunities.

(6) Cooperate in any studies and surveys of the Contractor's women-owned business concerns procedures and practices that the Contracting Officer may from time-to-time conduct.

(7) Submit periodic reports of subcontracting to women-owned business concerns with respect to the records referred to in subparagraph (4) above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed $500,000 or $1,000,000 in the case of contracts for the construction of any public facility and which offers substantial subcontracting possibilities, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

(c) The contractor further agrees to require written certification by its subcontractors that they are bona fide women-owned and controlled business concerns in accordance with the definition of a women-owned business concern as set forth in the Utilization Clause 1(b) above the time of submission of bids or proposals.

[End of Clause]

EFFECTIVE DATE: This Policy Letter is effective June 1, 1980, and shall be applicable to all solicitations, and contracts arising therefrom, issued after June 1, 1980.

CONCURRENCE: This Policy Letter has been concurred in by the Director of OMB.

[FR Doc. 80-16318 Filed 5-27-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Ch. I

[FPR Temp. Reg. 55]

Contract Disputes

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes revised procedures, requirements, and a contract clause applicable to disputes under Government contracts. The basis for these revisions is the Contract Disputes Act of 1978 and Office of Federal Procurement Policy (OFPP) Policy Letter No. 80–3, April 29, 1980 (45 FR 31035, May 9, 1980), which supersedes OFPP interim final rules of February 26, 1979 (44 FR 12519, March 7, 1979). The intent of the regulation is to provide operating procedures which implement the statute and OFPP policy letter.

DATES: Effective date: This regulation is effective with respect to solicitations and contracts resulting therefrom issued on or after June 1, 1980.

Expiration date: This regulation expires June 1, 1982 unless earlier revised or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8974).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following FPR temporary Regulation is added to the appendix at the end of the chapter:

May 23, 1980.

Federal Procurement Regulations Temporary Regulation 55

To: Heads of Federal agencies.

Subject: Contract disputes.

1. *Purpose.* This temporary regulation implements Office of Federal Procurement Policy (OFPP) Policy Letter 80–3.

2. *Effective Date.* This regulation is effective with respect to solicitations and contracts resulting therefrom issued on or after June 1, 1980.

3. *Expiration date.* This regulation expires June 1, 1982, unless earlier revised or superseded.

4. *Background.* The Office of Federal Procurement Policy issued interim final rules on February 26, 1979 (44 FR 12519, March 7, 1979), to implement the Contract Disputes Act of 1978. The provisions prescribed by OFPP were incorporated in FPR Amendment No. 204 on February 6, 1980 (45 FR 10789, February 19, 1980). On April 29, 1980, OFPP issued Policy Letter 80–3 (45 FR 31035, May 9, 1980) which revised the

procedures, and clause applicable to contract disputes.

5. *Explanation of changes.* The provisions in §§ 1–1.318, 1–1.328, and 1–7.102–12 are rescinded, and the sections are reserved. In Section 1–4.410–5(a)(9), paragraph (c) is deleted.

6. *Agency action.* Pending the publication of a permanent FPR amendment, agencies shall utilize the revised clause and procedures in OFPP Policy Letter 80–3. The letter is set forth in attachment A.

Note.—Attachment A which is referenced in paragraph 6 is filed with the original document and does not appear in this volume.

Ray Kline,

Acting Administrator of General Services.

Attachment A

Final Contract Disputes Regulatory Coverage and Contract Disputes Clause

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Policy directive.

SUMMARY: This policy directive sets forth amendments to be made to the Federal Procurement Regulations (FPR), the Defense Acquisition Regulations (DAR), and the National Aeronautics and Space Administration Procurement Regulations (NASAPR) relating to contract disputes regulatory coverage and the contract dispute clause.

On November 1, 1978, the President signed into law Pub. L. 95–563, the Contract Disputes Act of 1978. That Act, among other things, required certain changes to clauses and procurement regulations of the procuring agencies by March 1, 1979. To assure uniformity of language in the resulting changes, a suggested text of provisions to implement that Act was published at 44 FR 5219, January 25, 1979 for comment. After consideration of comments received and resulting changes to the suggested text, a set of interim final regulations and a Contract Disputes Clause was published at 44 FR 12519, March 7, 1979. This set of interim final regulations and Disputes clause contained language to be used by the affected agencies when amending their regulations. This language was to become final June 1, 1979, unless changed before that time.

The interim final rules were made final by notice published at 44 FR 34228, June 14, 1979, but the Disputes clause remained as interim. In addition, a second proposed Disputes clause was published there for comment.

Comments have been received and evaluated and this document (1) rescinds the regulations and contract Disputes clause issued March 7 and June 14, 1979, and (2) provides final regulatory coverage and a contract Disputes clause for incorporation into the Defense Acquisition Regulation, the Federal Procurement Regulations, and the National Aeronautics and Space Administration Procurement Regulations.

A major change from the regulations and interim Disputes clause, in use since March 1979, concerns the extent of the contractor's obligation to continue performance of work. Prior to the passage of the Contract Disputes Act, a contractor, pursuant to the Disputes clause then in effect, was in the event of a dispute arising under the contract, obligated to continue performance in accordance with the contracting officer's decision pending resolution of the dispute. On the other hand, if the dispute arose out of the contract, or in breach of the contract, there was no obligation to continue work. The interim Disputes clause expanded the contractor's obligation to continue performance to include disputes arising out of, or in breach of, the contract as well as under the contract. The final Disputes clause published here returns the situation to the pre-Contract Disputes Act obligation. Under the Disputes clause and the accompanying regulations, the contractor is obligated to continue performance only if the dispute arises under the contract. It is recognized, however, that in unusual circumstances the performance of some contracts may be vital to the national security or to the public health and welfare so that performance must be guaranteed even in the event of a dispute arising out of, or in breach of, contract. In those unusual cases, procuring agencies may provide for a change to the Disputes clause to assure a continuation of the work. In such cases agencies should also seek to provide appropriate financing to cover the additional work, provided that the Government's interests are properly secured.

The final Disputes clause and regulations also provide technical changes from the interim clause and regulations with regard to payment of interest, procedures for certification of a claim exceeding $50,000, and other areas. These changes are made to better reflect the intent of the Contract Disputes Act.

DATES: This regulatory coverage and contract Disputes clause are to be effective June 1, 1980, and shall apply to all solicitations and resulting contracts issued on or after June 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Ms. Patricia A. Szervo, Associate Administrator for Acquisition Law, (202) 395–3501.

Dated: April 30, 1980.

Karen Hastie Williams,

Administrator.

OFPP Policy Letter 80–3

To the Heads of Executive Departments and Establishments

Subject: Regulatory Guidance on Pub. L. 95–563, the Contract Disputes Act of 1978

There is a need in Government for uniformity and consistency in the application of procurement policy. This directive provides the uniform policy applicable to the Contract Disputes Act of 1978. The clauses and regulatory coverage that follow articulate this uniform policy. The Defense Acquisition Regulation (DAR), the Federal Procurement Regulations (FPR), and the National Aeronautics and Space Administration Procurement Regulations (NASAPR) shall be amended to conform to this policy. This guidance supersedes in its entirety the guidelines previously published in the **Federal Register**, on March 7, 1979 (44 FR 12519), and June 14, 1979 (44 FR 24228).

I. Regulatory Coverage—Resolution of Claims

1. *Contract Disputes Act of 1978:*

(a) General. The Contract Disputes Act of 1978 (Pub. L. 95–563, 41 U.S.C. 601–613) establishes procedures and requirements for asserting and resolving claims by or against contractors relating to a contract subject to the Act. In addition, the Act provides for the payment of interest on contractor claims, for the certification of contract claims in excess of $50,000, and a civil penalty for contractor claims that are fraudulent or based on a misrepresentation of fact.

(b) Definition of Claim:

(i) As used herein "claim" means a written demand by one of the contracting parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or related to the contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim under Section 6(a) of the Act as provided in Section 3, below.

(c) Government Policy on Settlement by Mutual Agreement. It is the Government's policy, consistent with the Act, to try to resolve all claims by mutual agreement at the contracting officer's level, without litigation. Implementation of this policy depends on an open mind with regard to the matter in dispute and the adequacy of the information provided in support of the claim by both the contractor and the Government. In appropriate circumstances, before issuance of a contracting officer's decision on a claim, informal discussions between the parties, to the extent feasible, by individuals who have not participated substantially in the matter in dispute, can aid in the resolution of differences by mutual agreement and should be considered.

(d) Contracting Officer Authority. Except as provided in this subsection (d), the contracting Officer is authorized (within any specific limitation in his warrant) to decide or settle all claims relating to a contract subject to the Act. The authority of this subsection (d) does not extend to (1) a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine, or (2) any claim involving fraud. See Section 2, below.

(e) Contracts Excepted from the Act. A contract with a foreign government or agency thereof, or with an international organization or subsidiary body thereof may be exempted for the Act and DAR Section 1–1.314 and FPR Section.1–318, if the head of the Agency determines that application of the Contract Disputes Act to the contract would not be in the public interest.

(f) Pub. L. 85–804 Requests. Requests for relief under Pub. L. 85–804 are not considered to be claims within the Contract Disputes Act of 1978 or the Disputes clause, and shall continue to be processed under DAR Section XVII or FPR Section 1–17.

2. *Referral of Suspected Fraudulent Claims*—If a contractor is unable to support any part of its claim and there is evidence that such inability is attributable to misrepresentation of fact or fraud on the part of the contractor, the contracting officer shall refer the matter to the designated Agency official responsible for investigating fraud.

3. *Initiation of a Claim*—Except as provided in the Act, (a) contractor claims shall be made in writing and submitted to the contracting officer for a decision and (b) claims by the Government against a contractor shall be the subject of a contracting officer decision.

4. *Contracting Officer's Decision:*

(a) When a claim by or against a contractor cannot be satisfied or settled by agreement and a decision on the claim is necessary, the Contracting Officer shall:

(i) Review the facts pertinent to the claim;

(ii) Secure assistance from legal and other advisors; and

(iii) Coordinate with the contract administration office or Contracting Office, when appropriate.

(b) The Contracting Officer shall furnish a copy of the decision to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt, and shall include in the decision:

(i) A paragraph substantially as follows:

This is the final decision of the Contracting Officer. This decision may be appealed to the Board of Contract Appeals.

If you decide to make such an appeal, you must mail or otherwise furnish written notice thereof to the Board of Contract Appeals within ninety days from the date you receive this decision. A copy thereof shall be furnished to the Contracting Officer from whose decision the appeal is taken. The notice shall indicate that an appeal is intended, shall reference this decision, and identify the contract by number. In lieu of appealing to the cognizant Board of Contract Appeals you may bring an action directly in the U.S. Court of Claims,[4] within twelve months of the date you receive this decision.

(ii) A description of the claim or dispute;

(iii) A reference to pertinent contract provisions;

(iv) A statement of the factual areas of agreement or disagreement;

(v) A statement of the Contracting Officer's decision, with supporting rationale;

(vi) Notification that the small claims procedure of the cognizant Board shall be applicable at the sole election of the contractor in the event that the amount in dispute as a result of the final decision is $10,000 or less; and

(vii) Notification that the accelerated procedure of the cognizant Board shall be applicable, at the sole election of the contractor in the event the amount in dispute as a result of the final decision is $50,000 or less.

[4] Except as provided in Sections 4 (maritime contracts) and 10(a)(2) (Tennessee Valley Authority) of the Act.

(c) The Contracting Officer shall issue the decision within the following statutory time limitation:

(i) For claims not exceeding $50,000: Sixty days after receipt of the claim.

(ii) For claims exceeding $50,000: Sixty days after receipt of claim; provided, however, if a decision is not issued within sixty days the Contracting Officer shall notify the contractor of the time within which he will make the decision. The reasonableness of this time period will depend on the size and complexity of the claims and the adequacy of the contractor's supporting data and any other relevant factors.

(d) The amount determined payable pursuant to the decision, less any portion already paid, should be paid, if otherwise proper, without awaiting contractor action concerning appeal. Such payment shall be without prejudice to the rights of either party.

5. *Payment of Interest on Contractor's Claims*—The Government shall pay interest on a contractor claim on the amount found due and unpaid, from the date the Contracting Officer receives the claim until the date payment is made, at the rates fixed by the Secretary of the Treasury pursuant to the Renegotiation Act, Pub. L. 92–41.

6. *Disputes Clause:*

(a) The Act applies to all disputes with respect to contracting officer decisions on matters arising out of or relating to a contract. Agency Boards of Contract Appeals (BCA) created under the Act have the same jurisdiction as the Court of Claims with respect to a claim that is subject to the Act. Thus, the statutory agency BCAs continue to have all of the authority they possessed before the Act with respect to disputes arising under a contract, as well as authority to decide disputes relating to a contract. The Disputes clause set forth in Part II recognizes the all disputes authority established by the Act, and states certain requirements and limitations of the Act for the guidance of contractors and contracting agencies. It is not intended to affect the rights and obligations of the parties as provided by the Act, nor to constrain the authority of the statutory agency BCAs in the handling and deciding of contractor appeals pursuant to the Act.

(b) Obligation to Continue Performance—Section 6(b) of the Act authorizes contracting agencies to include a provision requiring a contractor to continue performance of the contract in accordance with the contracting officer's decision pending final decision on a claim. In general, prior to passage of the Act, the obligation to continue performance applied only to claims arising under a contract. Subparagraph (i) of the new Disputes clause is intended to require continued performance to the same extent as existed under the standard Disputes clause in effect prior to the Act.

7. *Certification of Contractor Claims Over $50,000:*

(a) Section 6(c)(1) of the Act requires that a contractor claim over $50,000 shall be certified that it is made in good faith; that the supporting data are accurate and complete to the best of the contractor's knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable.

(b) The certification shall be executed by the contractor if an individual. When the contractor is not an individual, the certification shall be executed by a senior company official in charge at the contractor's plant or location involved, or by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

II. Contract Disputes Clause

The following clause shall be included in all contracts subject to the Contract Disputes Act unless (1) exempted by the head of the Agency under 41 U.S.C. 603(c), or (2) modified in accordance with DAR 1–314 or FPR 1–1.318:

Disputes Clause:

(a) This contrat is subject to the Contract Disputes Act of 1978 (Pub. L. 95–563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the contractor shall be made in writing and submitted to the contracting officer for decision. A claim by the Government against the contractor shall be subject to a decision by the Contracting Officer.

(d) For contractor claims of more than $50,000, the contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. The certification shall be executed by the contractor if an individual. When the contractor is not an individual, the certification shall be executed by a senior company official in charge at the contractor's plant or location involved, or by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

(e) For contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For contractor claims in excess of $50,000 the Contracting Officer must decide the claim within 60 days or notify the contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a contractor claim shall be paid from the date

the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the contractor arising under the contract, the contractor shall proceed diligently with the performance of the contract in accordance with the contracting officer's decision.

EFFECTIVE DATE: This Policy Letter is effective June 1, 1980, and shall apply to all solicitations and resulting contracts issued on or after June 1, 1980.

CONCURRENCE: This Policy Letter has been concurred in by the Director of OMB.

[FR Doc. 80-16319 Filed 5-27-80; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5724

[C-014711]

Colorado; Partial Modification of Public Land Order 5309

Correction

In FR Doc. 80-14884 appearing on page 31993 in the issue of Thursday, May 15, 1980, the Public Land Order Number incorrectly appeared in the heading as "45724". It should have read "5724".

BILLING CODE: 1505-01-M

DEPARTMENT OF EDUCATION

45 CFR Parts 123, 123a, 123b, 123c, 123d, 123e, 123f, 123g, 123h, and 123i

Bilingual Education Program, Corrections

AGENCY: Department of Education.

ACTION: Final rule, corrections.

SUMMARY: This document makes corrections in a final rule on bilingual education, FR Doc. 80-9816, published at page 23208 of the April 4, 1980, **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Regina Robbins , Telephone: (202) 245-2600.

The document is corrected as follows:

Page	Column	Section	Incorrect word(s)	Corrections
Part 123:				
23211	3	123.1(d)(2)	dissemination	Dissemination.
23212	2	123.2(b)(3)	elmentary	elementary.
23212	2	123.2(g)	Desegration	Desegregation.
23214	2	123 40(c)(1)	for a penod of from one of five years.	for a penod of from one to five years.
Part 123a:				
23215	1	123a.30	critera	criteria.
23215	2	123a.10(c)(3)	partpcants	participants.
23216	2	123a.30(b)(3)	children	children.
Part 123d:				
23221	3	123d.30(f)(1)	Adequacy	adequacy.
Part 123e:				
23223	2	123e.32(c)	that are	are.
Appendix—Comments and Responses:				
23232	1	123a.30(b)	Industrial approach	Instructional approach.
23233	2	123a.230	to bed	be bed.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: May 21, 1980.

Steven A. Minter,

Acting Secretary of Education.

[FR Doc. 80-16132 Filed 5-27-80; 8:45 am]

BILLING CODE 4110-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 80-277]

Ascertainment of Community Problems by Broadcast Applicants; Small Market Exemption

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Small Market Ascertainment Exemption will continue pending the outcome of our Radio Deregulation proceeding.

(47 CFR 73.3526 note 2). Currently exempt licensees will remain exempt. This action is taken to permit review of small market exemption in the context of radio regulation proceedings.

DATES: Comments must be filed on or before June 25, 1980, and reply comments on or before July 25, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rosa I. Ovaitt, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of ascertainment of Community Problems by Broadcast Applicants: Small Market Exemption.

Order

Adopted: May 5, 1980.

Released: May 9, 1980.

By the Commission: Commissioner Fogarty dissenting and issuing a statement; Commissioner Jones concurring in the result.

1. In 1976, the Commission exempted broadcast licensees located in communities with populations of 10,000 or less persons but not located within a Standard Metropolitan Statistical Area (SMSA)[1] from formal ascertainment procedures and filing requirements.[2] This exemption was established in the context of an overall rulemaking considering the application of unique ascertainment requirements for renewal applicants, and was instituted on a three-year experimental basis.[3] The experimental period has passed and we now consider the future of this exemption.

Background

2. In its Report and Statement of Policy Re: Commission En Banc Programming Inquiry, 25 FR 7291, 20 RR 1901 (1960), the Commission stated that "* * * the principal ingredient of the licensee's obligation to operate his station in the public interest is the diligent, positive and continuing effort * * * to discover and fulfill the tastes, needs and desires of his service area, for broadcast service." In the fulfillment of this obligation broadcasters were advised that they should conduct consultations in two main areas: first, with members of the listening public who will receive the station's signal; and, second, with leaders of community life—public, officials, educators, religious, agriculture, business, labor, professional, eleemosynary organizations, and others who bespeak the interests which make up the community. In 1971, the Commission

[1] SMSA's are designated by the Office of Management and Budget. They are metropolitan areas which are commercially integrated.

[2] Ascertainment of Community Problems by Broadcast Applicants, 57 FCC 2d 418, 435 (1976).

[3] *Ascertainment of Community Problems by Broadcast Applicants*, 53 FCC 2d 3, 26-27 (1975).

issued a Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 36 FR 4092, (hereinafter 1971 Primer), in an effort to clarify the broadcast applicant's obligation in this area.

3. Renewal applicants were initially required to follow the ascertainment guidelines set out in the 1971 Primer which was intended to apply to them until distinct renewal procedures were developed. By Notice of Inquiry, 40 FCC 2d 379 (1973), the Commission initiated a proceeding to consider, among other things, the development of standards for the ascertainment of community problems and needs by commercial renewal applicants. The Commission reasoned that different ascertainment guidelines for renewal applicants vis-a-vis all other broadcast applicants were justified. A distinction was drawn between an existing licensee's obligation to make a continuing effort throughout its license term to discover and fulfill the problems and needs of the public within the station's service area and the obligation of an applicant for a new facility to ascertain during a six-month period prior to the filing of the application. This notion of an existing licensee's obligation to ascertain throughout its license term was the cornerstone of the new continuous ascertainment techniques for renewal applicants, 53 FCC 2d, at 11.

4. In addition, the Commission proposed a test for licensees located in communities with populations of 10,000 or less persons but not located within a Standard Metropolitan Statistical Area. The purpose of the experiment was to test the knowledgeability of licensees in smaller markets to determine whether structured ascertainment requirements were necessary for them. Toward this end, qualifying licensees were exempted from any Commission oversight of their methods of ascertainment. The Commission was firm in its belief that these stations were to continue to ascertain community issues, but during the test period the FCC would avoid any inquiry into the number of persons interviewed, the composition of the interview sample, or any other matter relating to how the licensee discerned which particular problems should be covered. The licensee was also exempted from recordkeeping and reporting requirements concerning the ascertainment process. Exempt licensees were, however, required to complete the annual listings of up to 10 significant community problems and programs broadcast to meet those problems. The obligation to deposit these lists annually in the station file, and to report the three together as an exhibit to the renewal application applied to all licensees, exempt as well as non-exempt.

5. At the time these procedures were being developed, conflicting comments on the necessity of formal ascertainment for stations located in small markets were filed. Comments favoring an exemption from formal requirements stated that broadcasters in smaller communities were likely to know those communities well. The smaller community was said to permit easier communication and contact among citizens and community leaders, especially those in the business community who tend to have daily contact with each other. It was said that in a small community competitive pressures would force the broadcaster to pay attention to the perceived needs of the community if he was to attract and maintain an audience. It was argued that the broadcaster in a small community would be knowledgeable of both majority and minority elements, because of the proximity and interaction of all community leaders.

6. The regulatory burden on the small broadcast operator was also considered. Stations in small towns tend to employ fewer people, with less experience and procedural expertise than do stations in larger cities. Tasks and responsibilities for management level personnel are also more numerous at small town stations because of limited management and support staffing. Reduction in the procedural and filing requirements for these stations was considered desirable by those parties favoring the exemption.

7. Those opposing the exemption argued that the public interest standard was universal, applying to all broadcast stations. Therefore, requirements insuring that this standard be met should also be uniform. Ascertainment was said to provide a standard of evaluation, to be applied to all licensees at renewal time. There was concern that this standard would be lost for small town licensees. Sources of information are often limited in smaller communities. Therefore, the opposition argued that there was a stronger need for the licensees of these communities to know of and program about important community problems. Also, the premise that the small town broadcaster will be inherently more knowledgeable or involved in his community was attacked as fallacious. The commentors argued that there is no guarantee that a broadcaster will be exposed to all significant views and thoughts at all times. They concluded that formal ascertainment requirements were a necessary safeguard assuring that a proper survey was conducted.

8. The Commission determined to test the need for formal ascertainment requirements in small cities. Beginning December 1, 1976, qualifying licensees were excluded from formal ascertainment and ascertainment filing procedures as discussed above for a three year period. Licensees were still required to list significant community problems, and how those problems were addressed in programming. Only the method by which the list was arrived at was left to licensee discretion.

9. The figure of 10,000 and below was not intended to be a conclusive definition of a "small town." Of primary importance was the inclusion of a sufficiently large number of stations in the experiment. A distinction was drawn between SMSA and non-SMSA communities based on the relationship between small towns and larger cities, and their integration into large metropolitan areas. Smaller non-SMSA communities are relatively self-contained, it was reasoned, and therefore more appropriate for testing of the concept under study. Similar small communities within SMSA's could well be "bedroom communities" of larger cities. The problems, needs and interests of these communities may be more difficult to separate from those of the overall area. Furthermore, ascertaining them may not be a natural result of community lifestyle, as it would be in a more self-contained area. These SMSA communities were therefore excluded from the experiment.

10. As noted above, the small market exemption does not exempt qualifying licensees from their obligation to ascertain the needs and interests of their communities. Ascertainment must still be conducted and the results evidenced in these licensees' annual problems-programs lists which are filed with the Commission for review triennially. In this respect, institution of this exemption on a "trial" basis represents a further refinement of a process that has received significant Commission attention in the past and continues to do so. Moreover, there has been one significant difference between the fine tuning done on this process in the past and for the exemption. While we felt strongly that the exemption was a desirable improvement in the ascertainment process, we decided to implement it on a trial basis to get a sense of its validity. No other ascertainment procedure has been implemented in this fashion.

11. We did not implement formal or scientific testing requirements to observe the success of the exemption.

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Nor did we enter the test with the intent of designing a highly structured analytical tool that would result in conclusions that would satisfy rigid statistical tests. While we intended to conduct studies to analyze and evaluate whether this exemption has served the public interest,[4] the considerable costs of such an analysis must be weighed against the potential benefits. In this instance, a rigorous statistical evaluation would entail heavy costs for small benefit. For example, even if we were to survey a random sample of citizens of exempted communities at considerable expense, it is not likely that the opinions of the community would give us unambiguous evidence as to whether or not we need to concern ourselves with how stations in these small communities carry out the ascertainment requirement. We therefore believe that such a costly evaluation process is not warranted. The current petition to deny and informal objection processes, as well as our internal processing of renewal applications with the attached problems-programs lists, allowed us to monitor good faith compliance with our ascertainment requirements and the manner in which licensees discharge their obligations.

12. Our processing staff found that some additional information concerning the problems-programs lists filed with the Commission has to be requested of a number of exempt licensees. This was done and there appeared to be good faith compliance with our staff requests as well as good faith efforts on the part of exempt licensees to comply with the newly-instituted procedures. Moreover, there has been a significant absence of formal protest against these licensees. It would be extremely costly and time consuming, involving research through archival records, to determine the degree to which ascertainment was an issue in petitions filed prior to the experiment, with no assurance that meaningful comparisons could be made to the experimental period. However, it was not a major issue for the exempted stations during the experiment. Over the three year period, which represented one complete renewal cycle for all stations, only four petitions to deny were filed against seven of the 1,900 exempt radio stations, and two petitions were filed against two of the 29 exempt television stations.[5] This represents less than one half of one percent of exempt radio stations and 7% of exempt television stations. By contrast, petitions to deny were filed against 2.3% of all radio stations and 15% of all television stations. Ascertainment issues were raised in only two of the petitions within the experimental group. One of these involved a state-wide filing which also raised ascertainment issues regarding non-exempt stations. The other was part of a mutually exclusive application filing. Both of these matters are still pending. Therefore, no reasons have been presented to alter our initial view that the small market exemption is a desirable refinement of the Commission's ascertainment process.

13. Since the three-year trial period has run, some action or comment on the future of the exemption is in order. However, other events, with farther reaching scope, have overtaken consideration of the small market exemption. In BC Docket No. 79–219, the Commission's radio deregulation proceeding, we invited comment upon the desirability of maintaining ascertainment in its present form. Consideration of the small market exemption (at least for radio) now appears premature in light of the larger question being considered in the deregulation proceeding.[6] We are, therefore, deferring action on the experimental nature of the small market exemption until we have acted in the deregulation proceeding. To assist us in further evaluating the results of the experiment, we invite comments on the experiment. However, we do not intend to permit that consideration to delay our progress on the deregulation proceeding. Comments in that proceeding were due on March 25, 1980, and reply comments on June 25, 1980. We will permit comments limited to the question of the small market exemption to be filed up to June 25, 1980. Replies to the June 25 filings directed solely to the small market ascertainment exemption issue will be due July 25, 1980. Radio and television licensees currently exempt under our small market exemption will, in the interim, continue as such pending our decisions in BC Docket No. 79–219.

14. As noted above, we do not intend our scrutiny of the desirability of maintaining the small market exemption to conform to statistical principles. Instead, we will rely upon the information currently before us and the comments filed in the deregulation proceeding.

15. Accordingly, it is ordered, that comments on the small market exemption are to be filed in BC Docket No. 79–219 on the date specified for reply comments in that docket (June 25, 1980). Such comments should be clearly identified under a separate heading in the overall reply comments or in a separate filing on that date under the heading "Comments on Small Market Ascertainment Exemption." Any reply comments directed solely to the small market ascertainment exemption issue will be accepted by the Commission up to and including July 25, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Dissenting Statement of Commissioner Joseph R. Fogarty

In Re: Ascertainment of Community Problems by Broadcast Applicants: Small Market Exemption.

I dissent from the Commission's conclusion that "the small market exemption is a desirable refinement of the Commission's ascertainment process" because I do not believe that any evidence has been gathered which demonstrates with any reasonable assurance that the experiment has been a success. While the Commission here purports to make this conclusion "tentative" by folding the issue into the pending Radio Deregulation proceeding, it seems clear that this hesitation is a mere formality for the *Order* states that the Commission does "not intend our scrutiny of the desirability of maintaining the small market exemption to conform to statistical priciples." The plain implication of this statement is that the majority is of the view that the record presently before the Commission on the small market exemption experiment is sufficient to support making that experimental exemption permanent. The equally plain fact of the matter is that at this point such a record is non-existent.

When the Commission exempted radio and television licensees in small markets from formal ascertainment procedures and filing requirements, it stated unequivocally:

[4] 57 FCC 2d at 439 n. 14.

[5] The petitions were filed by Jim Cato, Marvin Waters, and Lincoln Hilburn, *et. al.*, against KGBS–AM and KIOQ–FM, Bishop, California, by Mize and Rowland Radio against WDXE and WDXE–FM, Lawrenceburg, Tennessee, by Patsy E. Denny against WLAF, LaFollette, Tennessee, by Lawrence Behr against WTLK, Taylorsville, North Carolina, by Alaskans for Better Media against KTKN, Ketchikan, Alaska, and KIFW AM–TV, Sitka, Alaska, and by the National Organization of Women against KREY–TV, Montrose, Colorado.

[6] We recognize that the small market experiment includes both radio and television stations within its scope while our deregulation proceeding is limited to radio. Nevertheless, we will defer final resolution of this exemption for both television and radio until our action in the radio deregulation proceeding. Any parties desiring to file comments on the television aspect of the exemption may do so under the timetable established herein.

The Commission will conduct studies to analyze and evaluate whether this exemption in fact has served the public interest.[1] No studies have been conducted or will be conducted because the Commission here concludes that such studies would be too costly and time consuming. Instead, a comparison is made between the number of petitions to deny filed against the stations within the experimental group and the number filed against stations overall during the course of the experiment. I do not consider this comparison to be a study of the rigor contemplated by the Commission when it first ordered the experiment,[2] nor do I believe this approach satisfies the judicial requirements of reasoned decisionmaking.

The comparison does not provide the basis for a valid analysis. Generally speaking, more petitions to deny are filed against radio and television stations in more-populated than less-populated communities. Since the experimental group only includes stations in small markets, it would be expected that fewer petitions to deny would be filed against these stations. No comparison is made between the number of petitions filed against the experimental group before the exemption and the number filed during the three years of the experiment. This method would at least have a veneer of credibility. However, comparing numbers of petitions to deny would still be a dubious methodology for deciding whether the experiment has proved its small market hypothesis. I do not believe that the public should be compelled to monitor the airwaves and to carry the burden of showing the Commission whether its own experiment has succeeded or failed.[3]

[1] *Ascertainment of Community Problems*, 57 FCC 2d 418, 439 n. 14 (1975).

[2] From reading the language of the Order in which the Commission authorized this experiment, I believe that more analysis was clearly intended. In this connection, I joined Chairman Ferris and Commissioner Brown in a statement which observed that a waiver should not be granted to include Stations WHMI-AM/FM, Howell, Michigan, in the class of exempt stations because such inclusion "would jeopardize the statistical reliability of the experiment by skewing the control group of non-exempt stations." *Request for Reconsideration of Commission Grant of Waiver of Ascertainment Documentation and Reporting Requirements: Additional Waiver Requests*, 70 FCC 2d 1441 (1979). Dissenting Statement of Chairman Charles D. Ferris and Commissioner Tyrone Brown in which Commissioner Fogarty joins, — FCC 2d —.

[3] As I said when the Commission adopted the *Notice of Inquiry and Proposed Rulemaking In the Matter of Deregulation of Radio*, "If we are not prepared to undertake a marketplace experiment, then the burden is clearly on the Commission—not merely on public complainants—to monitor the results of deregulation systematically and to report to the public on the record thereby developed." Statement of Commissioner Joseph R. Fogarty, Concurring in Part; Dissenting in Part, 73 FCC 2d, 606, 613 (1979).

[4] *Office of Communications of the United Church of Christ* v. *FCC*, 560 F.2d 529, 532 (2d Cir. 1977).

[5] *Id.*

[6] *Greater Boston Television Corp.* v. *FCC*, 444 F.2d 841, 852 (D.C. Cir. 1956) (footnotes omitted), *cert. denied*, 403 U.S. 923 (1971).

[7] 73 FCC 2d at 612–13.

The burden is ours to bear.

Although the Commission has a wide range of discretion in formulating broadcast regulatory policy, the courts have made it clear that "changes in policy must be rationally and explicitly justified."[4] The comparison in the *Order* does not prove that stations in the experimental group are fulfilling their obligation to ascertain the needs of their audiences. Without this necessary record and reasoned analysis, the Commission will be hard pressed to demonstrate that it has "articulated a rational connection between the facts found and the choice made."[5]

Judge Leventhal observed that:

> * * * an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored, and if an agency glosses over or swerves from prior precedents without discussion, it may cross the line from the tolerably terse to the intolerably mute.[6]

Here, I believe the Commission proposes to cross that line with willful abandon. If this *Order* foreshadows the quality of analysis on which the Commission will rely in deciding the pending Radio Deregulation proceeding, then I fear that decision, too, will be "intolerably mute" in its reasoning and credibility. In view of the Commission's haphazard treatment of this limited exercise in broadcast deregulation, the notice I served in my separate statement on the commencement of that larger proceeding bears repeating here:

> What I am not prepared to do at this juncture is simply to declare a deregulatory victory in the name of neoclassical economic theory and walk away from the radio marketplace before the battle begins. A more reliable and secure basis for deregulation is required.[7]

In this torpid decision, the Commission's tentative declaration of victory attempts to camouflage the white flag of analytic surrender. I dissent to the maneuver.

[FR Doc. 80-16211 Filed 5-27-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status and Critical Habitat for the Borax Lake Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Service determines the Borax Lake chub to be an Endangered species and Borax Lake, Harney County, Oregon to be its Critical Habitat. This action is being taken because the distribution of the Borax Lake chub is limited to Borax Lake, its outflow, and Lower Borax Lake in Harney County, Oregon. Geothermal development in and around Borax Lake and human modification of the lake threaten the integrity of the species' habitat and, hence, its survival. This emergency rule would provide protection to this species for 240 days.

DATES: This emergency determination will be effective on May 28, 1980, and remain in effect until January 23, 1981.

ADDRESSES: Interested persons or organizations can obtain information from the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: For further information on this emergency rule contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 or phone (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Borax Lake chub is found only in Borax Lake (a small 10.2-acre, natural, thermal lake), its outflow, and Lower Borax Lake located in the Alvord Basin of south-central Oregon. It inhabits the highly mineralized, thermal lake that is fed by a thermal spring. The fish feeds on a variety of aquatic invertebrates.

Over time, the precipitation of minerals from the spring water maintaining the level of Borax Lake has raised the perimeter of the lake approximately eight meters above the valley floor and isolated the chub from the surrounding watershed. The perched nature of the lake compared to the surrounding land makes it extremely susceptible to human disturbance. Present modification of the perimeter diverts water from the lake and lowers

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its level. The lowering levels adversely affect the chub by decreasing habitat and increasing water temperatures.

A second major threat to the Borax Lake chub is geothermal development. The entire Alvord Basin is a known Geothermal Resource Area (KGRA) within which the Bureau of Land Management has already leased rights for geothermal exploration to private oil and geothermal companies. Such development adjacent to Borax Lake could adversely impact the species' habitat. The problem is that exploratory drilling by various companies under certain circumstances, cause interconnections between aquifers or springs where one of the aquifers might be that which feeds the warm lake in which the chub lives. This kind of interconnection could, in effect, drain the lake which is at a higher elevation than the valley floor where much of the drilling will be occurring. This drilling might hit the hot water aquifer servicing the lake and thus change the aquifer either through pressure or temperature changes and consequently change the lake. This alteration could range from a simple change in the temperature to a complete elimination of the flow.

The Critical Habitat encompasses 3,840 acres, of which 360 are privately owned. The remaining 3,840 acres are Federally owned (Bureau of Land Management).

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) states:

General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the Borax Lake chub, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The Borax Lake chub is endemic to Borax Lake and its outflow. Borax Lake is an extremely fragile aquatic ecosystem which, because of its position above the valley floor, is vulnerable to destruction by human modification for irrigation. Recently a number of channels have been chipped along its perimeter. These channels direct water toward the eastern side of the lake instead of allowing the outflow to follow its natural pathway toward a marsh located on the western side of the lake. If flows through the natural outlet are sufficient, water flows through the marsh and into Lower Borax Lake where it provides additional chub habitat. Because of the artificial diversion, the lower lake is not completely dry during most years. Historically, because of its intermittent nature, the lower lake has probably never provided permanent chub habitat.

In contrast, much of the marsh area retains permanent water and provides suitable chub habitat. Much of this marsh habitat currently is dry because of the unnatural water diversion from the upper lake. If more diversions are constructed in the lake perimeter, the lake level will continue to decline, the marsh will continue to dry, and the continued existence of the chub will be increasingly threatened.

Development of the geothermal resource poses a substantial threat which may adversely affect the Borax Lake chub by modifying or destroying its aquatic habitat. Considerable interest in geothermal exploration has been demonstrated in the Alvord Basin, an area designated by the U.S. Geological Survey as a known Geothermal Resource Area because of its geothermal potential. Some geothermal leases in the basin have already been issued by the Bureau of Land Management. The private land on which Borax Lake is located has been leased to an oil company for geothermal development. Additional leasing of Federal land in the Critical Habitat area is scheduled. The original leases released by BLM were offered in 1975 and there have been a number of offers since. Some of these leases have been reoffered, most recently in April of 1980. Some leases have been issued and three tracts are presently pending. Although BLM has indicated that it will be anywhere from 4–6 months before exploratory drilling actually begins, processing of applications for drilling permits and of BLM stipulations to drilling plans will be taking place in the near future. This listing is necessary if BLM is expected to consider the welfare of this species during its deliberations.

Development of a hot springs resort at Borax Lake for recreational purposes has been considered by the land owner, but because of the lakes remoteness this appears unlikely.

2. *Overutilization for commercial, sporting, scientific or educational purposes.*—None.

3. *Disease or predation.*—None.

4. *The inadequacy of existing regulatory mechanism.*—None.

5. *Other natural or man-made factors affecting its continued existence.*—None.

Critical Habitat

The Act defines "Critical Habitat" to include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and which may require special management considerations or protection and (b) specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat for the Borax Lake chub is as follows: Oregon. Harney County. Borax Lake and outflow from Borax Lake located within Sections 10, 11, 14, 15, 22, 23; T37S R33E.

These areas provide the Borax Lake chub with all the necessary requirements for suitable survival and reproduction such as food, spawning habitat, water temperatures, etc. Additional land is provided as a buffer zone around the aquatic habitat to insure its integrity.

Section 4(b)(4) and 4(f)(4) of the Act require, to the maximum extent practicable, that Critical Habitat determinations be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or those Federal actions which may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities through Section 7 of the Act.

Activities which occur within the proposed Critical Habitat include cattle grazing, nature study, swimming, geothermal exploration, irrigation, and hunting. Of these activities grazing, hunting, nature study, and swimming do not appear to adversely modify the habitat, to any substantial degree.

Geothermal exploration may adversely modify the habitat should it occur within the area adjacent to Borax Lake, its outflows, and Lower Borax Lake or modify the spring flow and/or its water temperature.

Such disturbances from geothermal development would include, but would not be limited to, subsidence problems and/or modifications in the hydrology of the area that may affect the springs supporting Borax Lake. Full scale development of a geothermal plant may have negative effects on the lake due to air pollution, possible ground contamination, subsidence, and other related impacts. If geothermal development occurs in the Alvord Basin (and no plant construction is now known to be scheduled), it will probably entail only small-scale plants.

Construction of such plants on Federal land may be restricted so as not to adversely affect the proposed Critical Habitat. Development on private land could proceed uncencumbered provided no Federal approval or funding is involved.

Effect of the Rule

Endangered Species regulations already published in Title 50 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above which pertain to such species are summarized below.

With respect to the Borax Lake chub, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, will apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the **Federal Register** of September 26, 1975, (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This rule requires Federal agencies not only to insure that activities they authorize, fund, or carry are not likely to jeopardize the continued existence of the Borax Lake chub, but also requires them to insure that their actions are not likely to result in the destruction or adverse modification of the Critical Habitat which has been determined by the Secretary. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Pursuant to Section 4(b) of the Act, the Director will notify the Governor of Oregon with respect to this emergency rule.

The primary authors of this rule are Dr. Kathleen E. Franzreb, U.S. Fish and Wildlife Service, Endangered Species Office, 2800 Cottage Way, Sacramento, California 95825 (FTS 468–4106 or area code 916/484–4106) and Dr. James D. Williams, U.S. Fish and Wildlife Service, Office of Endangered Species, Washington, D.C. 20240 (FTS 235–1975 or 703/235–1975).

Regulations Promulgation

Section § 17.11 is amended by adding in alphabetical order, the following to the list of animals.

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fish:							
Chub, Borax Lake	*Gila* sp	U.S.A. (Oregon)	Entire	E		17.95(e)	NA

§ 17.95 [Amended]

50 CFR 17.95(e), fishes, is amended for 240 days by adding Critical Habitat of the Borax Lake chub after that of the slender chub as follows:

Borax Lake Chub
(*Gila* sp.)

Oregon, Harney County. Borax Lake and outflow from Borax Lake located within Sections 10, 11, 14, 15, 22, 23; T37S R33E.

Dated: May 21, 1980.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 80–16190 Filed 5–27–80; 8:45 am]
BILLING CODE 4310–55–M

50 CFR Part 26

Back Bay National Wildlife Refuge, Virginia; Public Entry and Use

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: This rule establishes special regulations concerning public access, use, and recreation on the Back Bay National Wildlife Refuge and replaces interim rules which were published in the **Federal Register** on December 13, 1979 (44 FR 72161). These regulations limit vehicular access. This action is necessary to protect the ecosystem along the refuge beach.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT: Howard W. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Edward S. Moses, U.S. Fish and Wildlife Service, Newton Corner, Massachusetts 02158, (617–965–5100, extension 222) and Ronald L. Fowler, U.S. Fish and Wildlife Service, Division of Refuge Management, Washington, D.C. 20240, (202–343–4305) are primary authors of this rule. On December 13, 1979, there was published in the **Federal Register** (44 FR 72161) an interim rule with request for comments on Special Regulations on Public Entry and Use on the Back Bay National Wildlife Refuge. Interested persons were given 30 days in which to submit written comments, suggestions, or objections, with respect to the interim rule. On January 16, 1980, (45 FR 3052) the comment period was subsequently extended until January 31, 1980. After consideration of all comments, suggestions and objections, several suggested changes from the interim rules were adopted.

Background

For many years the Back Bay Refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted. In 1961, less than 10,000 persons used the refuge for various purposes. During the late 1960's

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the development of lands south of the refuge for recreational/residential purposes, and the increase in the availability and popularity of off-road recreational vehicles resulted in sharply accelerated use. By 1970, the number of persons using the refuge had increased to 235,000, and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use across the beach portion of the refuge. By 1969, it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes. Following careful analysis it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction. On January 12, 1972, the Fish and Wildlife Service provided notice in the **Federal Register** that the Back Bay National Wildlife Refuge would be closed to use by unauthorized vehicles. This action was necessary to protect the ecosystem along the refuge beach. Environmental Impact Statement 72–33 which was finalized on December 29, 1972, fully assessed the impacts of this restriction. A final rule was published in March 1973, that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape State Park area, permanent full-time residents of the Outer Banks in North Carolina and their visitors, commercial fishermen, emergency service and utility vehicles and school buses. Implementation of the rulemaking was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia. A final decision was handed down by Judge John MacKenzie on February 26, 1975, (Civil Action No. 145–73–N) fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay Refuge. In his opinion and order, Judge MacKenzie stated that "* * * continued and rapidly escalating use of the refuge beach as a traffic corridor * * * is inimicable to the use of the property as a wildlife refuge and is a depredation of the purpose of the property as a wildlife refuge." This order was ultimately upheld by the 4th Circuit Court of Appeals in a decision issued July 7, 1975.

The matter of regulating beach use at Back Bay National Wildlife Refuge continued to be the subject of considerable discussion and consternation by the many persons denied vehicular access to recreational properties in North Carolina. On July 29, 1976, following the preparation of a Final Environmental Assessment on May 4, 1976, a liberalized rulemaking was issued which provided limited access eligibility to all persons who as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, North Carolina, to and including the village of Corolla, North Carolina, and not just permanent residents of the area as the previous rule had provided.

In order to mitigate the increased adverse impact of travel on the beach by these additional permittees, it was necessary to place more restrictions, and limit the number of round trips per day for permanent full-time residents living between the south boundary of the refuge and the village of Corolla, North Carolina. Based on the restricted access imposed on the permanent full-time residents by the 1976 regulations and the permit program management experience gained during 1976 and 1977, the 1978–79 rulemaking continued to provide access to qualified permanent full-time and part-time residents. The 1978–79 special regulations published in the **Federal Register** (43 FR 26314), provided notice that the refuge beach would be closed to vehicular traffic after December 31, 1979, in order to further reduce the adverse impacts of vehicular traffic on the beach ecosystem. In an effort to avoid undue hardship on permanent residents who had established residency prior to December 31, 1976, on the Outer Banks, an interim rule was published on December 13, 1979, which provided for access for those permanent residents only. This interim rule would remain in effect until a final rule was issued.

The policy of the Department of the Interior, whenever practicable, is to afford the public an opportunity to participate in the rulemaking process. Public comments on the interim rulemaking were invited. All comments submitted by January 31, 1980, were given consideration. In summary, of th 247 comments received, 151 supported the adoption of the interim proposed regulations or more restrictive regulations and opposed increased access, and 96 opposed the interim regulations and favored making them more liberal or allowing more access.

Discussion of Major Comments

Access for Designated Visitors of False Cape State Park Employees

Several individuals suggested that visitors of False Cape State Park employees and their immediate families should not be granted vehicular access. No other clas of permittees is authorized visitor access, and such access is not appropriate or justified in this case. The appropriate change in the final rule has been made.

No Access Should be Allowed Through the Refuge; Environmental concerns Far Outweigh All Other Access Interests

Several commentors pointed out that the refuge beach represents a unique parcel of habitat that should be managed to maintain and enhance wildlife values, that environmental concerns in this case far outweigh all other access interests, and that the courts have substantiated that position. We concur with portions of these observations. Access through the Back Bay Refuge by permanent full-time residents who established their residency prior to December 31, 1976, would be limited to 23 households. We believe that such use is compatible with the purposes for which the refuge was established.

The Regulations Are Part of a Government Conspiracy To Lower Outer Banks Land Values

Two commentors expressed this view. We do not consider this issue to be valid since it has been publicly announced since January 12, 1972, that the Back Bay National Wildlife Refuge would be closed to access by authorized vehicles to protect the ecosystem along the refuge beach.

Improved Property Owner Access From the South Causes Unwarranted Waste of Fuel, and a Great Inconvenience

Numerous seasonal improved property owners commented that termination of access from the North through the refuge would result in additional vehicular travel of approximately 200 miles. At a time when the Nation faces serious energy shortages and high inflation, the additional travel distance is causing the consumption of more fuel and incurring greater costs for property owners. The conservation of fuel is an issue of major concern for each person in the United States. In order to achieve full conservation, each one of us will be required to make personal sacrifices and where necessary, give up pleasures and luxuries which we have grown accustomed to enjoying. In the instance of seasonal improved property owners, this may mean making fewer trips to the weekend beach house than have been made in the past.

Reduced Visits to Second Homes Will Result in Increased Vandalism

Numerous improved property owners stated that vandalism would increase as

a result of their reduced visitation to their beach homes. We do agree that this issue may be a valid concern; however, we fail to see how those who are bent on perpetrating acts of vandalism will not perform those acts during the week when beach homeowners are absent. Organized neighborhood watch programs would aid in minimizing vandalism.

The Expense of Administration for 30 Permits Would Not Be Much Less Than For 130 Permits

Several commentors felt that it would cost the refuge almost as much to administer 30 permits issued to permanent full-time residents as it would to administer the 130 or so authorized access under the 1979 regulations. This is not a valid issue since the same degree of police or guard coverage would be required if no permits were issued to protect the refuge beach against illegal vehicular transits. More importantly, the cost of administration is not a relevant concern with respect to the question of whether the permitted access is compatible with the purpose for which the refuge was established.

No Measurable Damage to the Beach Has Been Demonstrated

Three commentors made this observation citing a study entitled "A Statistical Evaluation of the Effects of Vehicular Traffic on Beach Shear Strength and the Migration of Juvenile Ghost Crabs, Back Bay National Wildlife Refuge, and False Cape State Park, Virginia," by Joseph W. Cross and Peter D. Crowley.

A knowledgeable coastal geologist reviewed the study and found that the investigators' basic work appeared to be sound, but the specific data base does not fully support their broad conclusions. In several instances the investigators drew conclusions without considering the entire picture. The investigators failed to address or examine how sand compaction adversely or positively affected ghost crab burrowing.

The investigators did not address the destructive effect of vehicles driving on the toe or the lower slope of the foredunes. This practice, which occurs at high tide ranges of every month, results in a net destructive effect on the foredunes.

The foredunes are the first line of defense against coastal storms that generate high wave energy. Vehicles driving on the toe of the foredunes to avoid high tides cause a sloughing off or tearing down of the dune and accelerate the rate of dune erosion. The study also ignored any impacts of vehicles driving behind the dunes, a practice which also occurs illegally at high tides. The study in summary extrapolates results or postive effects far beyond what the scope of the study entailed and fails to defend adequately the conclusions drawn.

Proposed Interim Regulations are Discriminatory; Either Allow Access for Everyone or No one

Five improved property owners objected to what they termed "discriminatory regulations" which extended an access privilege to permanent residents but not to other improved property owners.

Judge MacKenzie addressed this issue in his 1975 opinion and stated that, "We do not feel such classification to be unreasonable under the circumstances of this case." He affirmed the right of the Secretary of the Interior to make reasonable regulations under 16 U.S.C. 668dd.

No Realistic Proof Has Ever Been Offered That Driving the Beach Is Harmful in Any Way to the Ecology or to Beach Erosion Controls

One commentor raised this issue. The mission of the National Wildlife Refuge System is "* * * to provide, manage, and safeguard a national network of lands and waters sufficient in size, diversity, and location to make available, now and in the future, public benefits that are associated with wildlife over which the Federal Government has responsibility particularly migratory birds and endangered species."

The Secretary of the Interior must insure that activities on refuges are not inconsistent with this mission. Those activities which prove inimical to the use of the property as a wildlife refuge and are not compatible with the purposes for which the refuge was established cannot be permitted.

Mobile Sportfishermen Have Been Denied Recreational Access, and Nonrecreation Access Has Been Granted; Isn't This Contrary to Refuge Recreation Act of 1962?

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to allow recreational use of fish and wildlife conservation areas, when in his judgment, public recreation can be an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the area was established. At Back Bay Refuge, vehicular access for the purpose of recreational surf fishing cannot be shown not to interfere with the purposes for which the refuge was established.

Significant Differences Between the Final Rule and the Interim Rule

Several changes were incorporated into these final rules. The section concerning who can qualify for access was modified to clarify eligibility for access permits. The paragraph on "routes of travel" was modified to state that travel along the refuge beach by motorized vehicle shall be below the high tide line, within the intertidal zone to the maximum extent practicable.

The interim rule concerning access for False Cape State Park employees was modified to delete access for designated visitors of employees who reside in the Park.

Language was added to the paragraph concerning suspension or waiver of rules to give the Refuge Manager authority to grant access to non-permit holders in certain circumstances.

The section concerning parking was modified by the addition of "* * * wildlife/wildlands oriented recreation including surf fishing but not surfing and swimming." This change was necessary to clarify that parking for surf fishing is permitted.

The paragraph on general rules was modified to prohibit bank fishing from the Back Bay shoreline and prohibit launching of trailered boats. It has been determined that for ease of administration the rule shall be effective through December 31, 1982.

A petition for rulemaking was received from the Outer Banks Civic League and Pacific Legal Foundation to allow access through the Back Bay Refuge for part-time residents of the Outer Banks and False Cape State Park. In view of the action taken in this final rulemaking, the petition is hereby denied.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer areas within the National Wildlife Refuge System for public recreation as appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that the Secretary determine (1) that any recreational use permitted will not interfere with the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. Irrespective of the types or purpose of public use involved, the National Wildlife Refuge System Administration Act requires the

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Secretary of the Interior to determine that the permitted use is compatible with the major purposes for which the particular refuge was established. The uses permitted by these regulations are compatible, and will not interfere with the primary purposes for which the Back Bay National Wildlife Refuge was established. This determination is based upon consideration of, among other things, Environmental Impact Statement 72–33 of December 29, 1972, Environmental Impact Assessment of May 4, 1976, and the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. In addition, funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The Fish and Wildlife Service has concluded that "good cause" exists within the meaning of 5 U.S.C. 533(d)(3), of the Administrative Procedure Act to expedite the implementation of this rulemaking; therefore the effective date of this final rule is May 28, 1980.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, the revised special regulations in § 26.34 are set forth below:

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

Virginia—Back Bay National Wildlife Refuge

Access

(a) Who can qualify for access?
(b) Routes of travel.
(c) How many trips are allowed?
(d) Medical emergencies.
(e) Military, fire, or emergency vehicles.
(f) Public utility vehicles.
(g) False Cape State Park employees.
(h) Commercial fishermen and their employees.
(i) Suspension or waiver of rules.
(j) Violation of rules.
(k) Other access rules.

General Rules

(l) Entry on foot, bicycle, or motor vehicle.
(m) Swimming and surfing.
(n) Parking areas.
(o) Fishing and boating.
(p) Fires.
(q) Dogs.
(r) Other general rules.

(National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd; Refuge Recreation Act, (16 U.S.C. 460k))

Access

(a) *Who can qualify for access?* (1) Permanent, full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of continuous and continuing residence, commencing prior to December 31, 1976, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent full-time residents, are authorized beach access. The south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck Lighthouse. Residence is defined as the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. For the purposes of this section, a dwelling shall mean a residential structure occupied on a year round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied. The burden of proof of showing that the prospective permittee meets these criteria shall be on the applicant by presentation of appropriate documentation. Only one permit will be issued per family.

(2) All permits isued to full-time residents will be terminated in the event that alternate access is provided during the permit period.

(b) *Routes of travel.* Access to, and travel along, the refuge beach by motorized vehicles may be allowed between the dune crossing at the field headquarters and the south boundary of the refuge only after a permit has been issued or authorization provided by the Refuge Manager. Travel along the refuge beach by motorized vehicle shall be below the high tide line, within the intertidal zone to the maximum extent practicable.

(c) *How many trips are allowed?* Permitted vehicles of permanent full-time residents shall be limited to a total of two round trips per day. Travel is restricted to the designated route of travel between the hours of 5:00 a.m. and 11:00 p.m.

(d) *Medical emergencies.* Private vehicles used in a medical emergency will be granted access. When evidence of the emergency is not obvious, the vehicle operator will be required to provide the refuge office with a doctor's statement confirming the emergency within 36 hours.

(e) *Military, fire, or emergency vehicles.* Military, fire, emergency, or law enforcement vehicles when used for emergency purposes, and vehicles used by an employee, agent or designated representative of the Federal, State, or local government in the course of official duties will be granted access.

(f) *Public utility vehicles.* Public utility vehicles used on official business will be granted access. A public utility vehicle is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(g) *False Cape State Park employees.* Access will be granted to all employees of False Cape State Park and to members of immediate families of resident employees only.

(h) *Commercial fishermen and their employees.* (1) Commercial fishermen who have verified that their fishing operations on the Outer Banks of Virginia Beach, Virginia, or Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge will be granted permits for access. Travel through the refuge by commercial fishermen from Currituck County, North Carolina, will be permitted only when directly associated with commercial fishing operations. Drivers and passengers on trips through the refuge will be limited to commercial fishing crew members. A commercial fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(2) Each commercial fisherman is allowed a maximum of five designated employees to travel the refuge beach for commercial fishing purposes. These employees may carry only other commercial fishing employees as passengers. Employees of commercial fishermen engaged in travel directly associated with commercial fishing operations or for the purpose of traveling to and from their homes in Virginia to fishing sites in North Carolina will be granted access.

(i) *Suspension or waiver of rules.* (1) In an emergency, the Refuge Manager may suspend any or all of the foregoing restrictions on vehicular travel and announce such suspension by whatever means are available. In the event of adverse weather conditions, the Refuge Manager may close all or any portion of the refuge to vehicular travel for such period as deemed advisable in the interest of public safety. (2) The Refuge Manager may make exceptions to access restrictions for qualified

permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood. (3) The Refuge Manager may grant one-time use authorization for vehicular access through the refuge to individuals, not otherwise qualified above, who have demonstrated to the satisfaction of the Refuge Manager that there is no feasible alternative to the access requested. Authorization for access under this provision will not be based on convenience to the applicant.

(j) *Violation of rules.* Violators of these special regulations or any regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the Refuge Manager of access permits for the duration of the permit period. Individuals whose vehicle access privileges have been suspended may within 30 days file a written appeal of the suspension to the Area Manager, Annapolis, Maryland, in accordance with 50 CFR 25.44(c).

(k) *Other access rules.* (1) No permit will remain in effect beyond December 31 of the year in which it is issued. Permits may be renewed upon the submission of a signed, notarized statement that conditions of the previous permit have not changed. (2) In addition to the permit, a registration sticker will be issued which must be displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle and shall be nontransferable. No more than two vehicles owned by the permit holder may be registered with the Refuge Manager for use in accordance with these regulations. Those vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee. Permit holders shall not tow vehicles and/or trailers owned by non-permit holders through the refuge. Any towed vehicle or trailer must have advance approval from the Refuge Manager prior to being brought through the refuge. (3) The Refuge Manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

General Rules

(l) *Entry on foot, bicycle, or motor vehicle.* Entry on foot, bicycle, or by motor vehicle on designated routes is permitted during daylight hours for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling.

(m) *Swimming and surfing.* (1) Swimming and surfing are permitted on the entire refuge beach unless designated otherwise by signs. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk. (2) Nudity is not permitted on the refuge. Nudity is defined as failure by persons over ten years of age when in a public place to cover with fully opaque covering their own genitals, pubic areas, rectal areas, or female breasts below a point immediately above the top of the areola.

(n) *Parking.* The parking lot at the end of the paved road is available on a first come first served basis for persons engaged in wildlife/wildlands oriented recreation including surf fishing but not surfing and swimming.

(o) *Fishing and boating.* Surf fishing from the beach and freshwater fishing in the bay are permitted in accordance with state laws. Vehicular launching of trailered boats and bank fishing from the refuge bay shoreline are prohibited. Boat launching into the bay at field headquarters is limited to non-trailered canoes and small boats.

(p) *Fires.* Open fires are prohibited. Portable grills with a contained fuel supply are permitted on the beach.

(q) *Dogs.* Dogs on a hand-held leash not exceeding ten feet in length are permitted on refuge public use areas.

(r) *Other general rules.* (1) Pedestrians and vehicular traffic in the sand dunes are prohibited. (2) Registered motor vehicles and motorized bicycles (mopeds) are permitted on the paved refuge access road and on the parking lot at field headquarters. All other motorized vehicular use is prohibited except as specifically authorized pursuant to this rule.

The provisions of this rule are effective through December 31, 1982. They supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50 Code of Federal Regulations. The refuge, comprising approximately 4,600 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke No. 2 Building, Suite 218, Virginia Beach, VA 23462, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Dated: May 22, 1980.

Lynn A. Greenwalt,

Director U.S. Fish and Wildlife Service.

[FR Doc. 80-16179 Filed 5-27-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Parts 32 and 33

Opening of Certain National Wildlife Refuges to Hunting and Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: This rule adds Pocasse National Wildlife Refuge, South Dakota, to the list of refuge areas open for the hunting of upland game, big game, and sport fishing. Lake Nettie National Wildlife Refuge, North Dakota, is also added to the list of refuge areas open to big game. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the areas, would be compatible with principles of sound wildlife management, would otherwise be in the public interest and that such use is compatible with the management objectives established for each refuge. Hunting and sport fishing, subject to annual special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: June 27, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202–343–4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is also the primary author of this final rule. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting or sport fishing until officially opened by regulation. On November 2, 1979, there was published (44 FR 63123) a notice of proposed rulemaking adding Lake Nettie National Wildlife Refuge, North Dakota, to the list of open areas for big game. On December 6, 1979, a second proposed rulemaking was published (44 FR 70210) adding Pocasse National Wildlife Refuge, South Dakota, to the lists of open areas for the hunting of upland game, big game, and sport fishing. In each instance the public was provided a 30-day comment period and was advised that pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment had been prepared on each of these proposals. These assessments are available for public inspection and copying at room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail addressing the Director at the address given above. On the basis of these assessments, the Director has determined that this rulemaking does not constitute a major Federal action

significantly affecting the human environment.

Letters were received from a national conservation organization supporting each of the proposals. No other letters were received regarding these proposed rulemakings.

The Director has determined that the proposed uses are compatible with the major purposes for which the areas were established and that funds are available for the development, operation, and maintenance of the permitted forms of recreation. This action will be in accordance with the provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management and will otherwise be in the public interest.

Note.—The Department of the Interior determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, after consideration of all interests and concerns, § 32.21, § 32.31, and § 33.4 of 50 CFR Parts 32 and 33 are amended by the addition of Pocasse National Wildlife Refuge, and Lake Nettie National Wildlife Refuge as follows:

§ 32.21 List of open areas; upland game.

* * * * *

South Dakota

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Pocasse National Wildlife Refuge

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§ 32.31 List of open areas; big game.

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North Dakota

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Lake Nettie National Wildlife Refuge

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South Dakota

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Pocasse National Wildlife Refuge

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§ 33.4 List of open areas; sport fishing.

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South Dakota

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Pocasse National Wildlife Refuge

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Dated: May 20, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-16180 Filed 5-27-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 104
Wednesday, May 28, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Handling of Lemons Grown in California and Arizona; Proposed Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA

ACTION: Proposed rule.

SUMMARY: The proposed action would amend rules and regulations of the marketing order to establish an exemption to allow a grower to sell lemons which the grower produces directly to consumers without regard to volume and size regulations which may be issued under the order, and would make minor changes in procedures governing exemption from order regulations of lemons handled in certain types of shipments, such as gift fruit.

The proposed amendment of said rules and regulations was unanimously recommended by the Lemon Administrative Committee, established under the order as the agency to administer its terms and conditions.

DATE: Comments must be received not later than June 12, 1980.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100-910.180) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed amendment of said rules and regulations was unanimously recommended by the Lemon Administrative Committee, established under the order as the agency to administer its terms and conditions.

Section 910.180(d) of the rules and regulations established under the order prescribes procedures governing the exemption from order regulations of lemons handled in minimum quantities and certain types of shipments. The principal proposed change would establish an exemption to allow a grower to sell lemons which the grower produces directly to consumers without regard to volume and size regulations that may be issued under the order. Under the proposal, each grower would be required to apply to the committee for exemption from such regulations and furnish necessary information to the committee. The proposal is designed to facilitate the direct marketing of lemons to consumers.

The proposal would also make minor changes in procedures governing the exemption from order regulations of lemons handled in certain types of shipments, such as gift fruit. The proposal is intended to clarify the intent of this provision and recognize in the exemption the newer methods of express package delivery. The proposal would also delete the exemption authority in § 910.180(d)(1). This provision allowed a grower to apply for an exemption from regulations based on circumstances such as being unable to find a handler willing to market the grower's fruit. The committee reports that the proposed exemption to permit growers to sell their fruit directly to consumers should provide a practical alternative.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposal is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant." A draft impact analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The proposal is as follows:

(1) Amend paragraph (d) of § 910.180 *Lemons not subject to regulation* by deleting subparagraph (1), revising subparagraph (2), and redesignating subparagraphs (2) and (3) as subparagraphs (1) and (2), respectively.

(2) Add a new paragraph (e).

Paragraph (d), as amended, and new paragraph (e) would read as follows:

§ 910.180 Lemons not subject to regulation.

* * * * *

(d) *Minimum quantities and types of shipments.* (1) Any person who desires to distribute lemons as gifts, to market or distribute lemons as gift packages, or to ship lemons in containers or in a manner not customarily used by lemon handlers (e.g., parcel post, or express by truck or railroad) directly to consumers, shall file with the committee an application for exemption from regulation for such shipments. Such application shall contain the following information: (i) name and address of the applicant; (ii) the type of shipment or container for which an exemption is requested; (iii) the estimated volume of lemons to be handled in such type of shipments during a marketing season; (iv) the outlets to which such shipments are to be made: and (v) a statement of the applicant's reasons why such shipments should be exempted from regulation. Such application should be referred to the committee's Compliance Department for investigation and upon receipt of the investigation report the committee shall determine if an exemption should be granted to the applicant. The committee shall notify the applicant in writing of its determination.

(2) The handling of lemons to approved livestock feeders and livestock feed suppliers shall be exempt from regulation. All shipments to approved livestock feeders and livestock feed suppliers shall be reported to the committee on LAC Form 5, pursuant to § 910.170(b). Any person who desires to acquire lemons to feed such person's own livestock, to buy, for the purpose of resale, or to handle for a fee, lemons for use as livestock feed, shall, prior thereto, file with the committee an application and agreement

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therefor on LAC Form 104A, which shall contain the following information: (i) name and address of the applicant; (ii) an agreement that the lemons obtained for use as livestock feed shall be used for that purpose only and not be resold, disposed of, or in any way handled so as to enter fresh fruit channels; (iii) an agreement to promptly submit such reports at such times as may be required by the committee; and (iv) if a broker or dealer, that person's federal or state commodity license number. The application shall be signed by the applicant or an authorized employee of the applicant. Upon receipt, the application will be referred to the committee's Compliance Department for investigation. When completed, the report of the investigation shall be given to the committee; and, based thereon and upon other available information, the committee shall approve or disapprove the application and notify the applicant accordingly. If the application is approved, the name of the applicant shall be placed on the list of approved livestock feeders and livestock feed suppliers. Misuse of the provisions as herein provided, or failure to promptly submit reports as may be required under paragraph (d)(2)(iii) of this section shall be cause for the immediate removal of such person's name from the list of approved livestock feeders and livestock feed suppliers.

(e) *Grower exemption.* Any grower, other than a grower whose principal occupation is that of food distribution, who desires to sell lemons which the grower produces direct to consumers without regard to volume and size restrictions, shall file with the committee at the beginning of each marketing season an application for exemption on LAC Form 105C. Such application shall show: (i) the name and address of the grower; (ii) the location at which the grower desires to sell lemons to consumers; (iii) the estimated quantity of lemons which will be sold in this manner during the marketing year; and (iv) evidence that the grower's principal occupation is not that of food distribution. The grower shall be notified in writing of the action taken by the committee on the application. Upon approval of the application, the grower may sell lemons produced by the grower direct to a consumer without regard to the restrictions of volume or size prescribed pursuant to Order No. 910. This exemption shall not apply to sales of lemons made at a packinghouse.

Dated: May 22, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16185 Filed 5-27-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Leasing Policy Development

10 CFR Part 376

Leasing: Proposed Rulemaking Regarding Outer Continental Shelf Oil and Gas Joint Bidding Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: This regulation proposes to revise the joint bidding requirements of the Department of the Interior for Outer Continental Shelf (OCS) oil and gas leases. The proposal would require submission of Statements of Production of crude oil, natural gas equivalents, and liquefied petroleum products only by those persons chargeable with an average daily production in excess of 1.6 million barrels during a 6-month production period. Any such persons would then be prohibited in the following 6-month bidding period from submitting bids jointly with any other person similarly chargeable. This regulation is being issued pursuant to the Department of Energy's rulemaking responsibilities under Section 302(b)(1) of the Department of Energy Organization Act to foster competition for Federal OCS oil and gas leases.

DATE: Written comments are due by July 25, 1980.

ADDRESS: All written comments (identify the outside envelope and the document with the designation OCS Joint Bidding, Docket No. LPD–80–01) should be addressed to: Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. LPD–80–01, 2000 "M" Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regualtory Administration, 2000 "M" Street NW., Washington, D.C. 20461 (202) 254–5201

Edward F. Mulholland (Leasing Policy Development), U.S. Department of Energy, 1200 Pennsylvania Avenue, Room 2313 NW., Washington, D.C. 20461 (202) 633–8136

Michael T. Skinker (Office of General Counsel), U.S. Department of Energy, 1000 Independence Avenue SW., Room 5E–064, Forrestal Building, Washington, D.C. 20585 (202) 252–2900

Fred Appel, Public Information Officer, Resource Applications, U.S. Deaprtment of Energy, 1200 Pennsylvania Avenue NW., Room 3307, Washington, D.C. 20461 (202) 633–9418

SUPPLEMENTARY INFORMATION: Sections 302 and 303 of the Department of Energy Organization Act (DOE Act., Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)) transferred from the Department of the Interior (DOI) to the Department of Energy (DOE) certain authorities previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSLA, Act of August 7, 1953, 67 Stat. 462 (43 U.S.C. 1331)), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA, Pub. L. 95–372, 92 Stat. 629), the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act. As a result, with respect to Federal leases, the Secretary of Energy is authorized to promulgate regulations that (1) foster competition, including explicitly regulations to prohibit bidding for development rights by certain types of joint ventures, (2) implement alternative bidding systems, (3) establish diligence requirements, (4) set rates of production, and (5) specify the procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind. In addition, under section 302(c) of the DOE Act, the Secretary of Energy is vested with authority to establish rates of production for Federal leases, and under section 303(c) the Secretary reviews and may disapprove any term or condition of a Federal lease that relates to DOE's authority under section 302(b) to promulgate regulations.

This regulation is being issued pursuant to DOE's authority under section 302(b)(1) of the DOE Act to regulate joint bidding in order to foster competition for Federal Outer Continental Shelf (OCS) oil and gas leases. As required under section 303(b) of the DOE Act, the Secretary of the Interior was consulted during preparation of this proposed regulation, and DOI's substantive comments have been incorporated into this proposed regulation. As required by section 5 of the OCSLA (section 204 of the OCSLAA), DOE has transmitted a copy of the proposed regulation to the Attorney General for his views on any matters contained herein that may affect competition. No comments have been received from the Department of Justice.

This proposed regulation would revise DOI's regulatory scheme for OCS joint bidding (43 CFR 3316.3, 44 FR 38280 (June 29, 1979)), which currently requires each party intending to bid jointly at any OCS lease sale to have previously submitted a Statement of Production, covering crude oil, natural gas equivalents, and liquefied petroleum products, for the 6-month production period preceding the 6-month bidding period in which the OCS sale is held. The party submitting the Statement of Production simply affirms whether it is chargeable with an average daily production in excess of 1.6 million barrels worldwide during the applicable 6-month production period. Each party filing a Statement of Production under the present regulations is chargeable with its own production, that of subsidiaries and parents, as well as its proportionate share of production by any person in which the filing party holds an ownership or control interest, or which holds such an interest in the filing party, to the extent that any such interest amounts to at least 5 percent ownership or control.

The sole purpose of the requirement to file a Statement of Production is to identify those firms that, by virtue of the amount of daily production which they control, are precluded from bidding together in OCS lease sales. Parties chargeable with an average daily production in excess of 1.6 million barrels are placed on a current "List of Restricted Joint Bidders," and may not bid jointly with any other party on this List. They may, however, bid jointly with parties which have submitted Statements of Production but are not chargeable with more than 1.6 million barrels of average daily production. In the more than four years since DOI promulgated its joint bidding regulations, the same nine or ten companies, out of the hundreds of firms filing Statements of Production, have been consistently placed on the semiannual "List of Restricted Joint Bidders."

Smaller companies are frequently able to participate in OCS lease sales only through formation of joint ventures. Since current DOI regulations prevent any party from bidding jointly for OCS leases without first having filed a Statement of Production, smaller firms, as well as major firms, must prepare this document in order to bid jointly for OCS leases. The joint bidding regulations were originally intended to increase participation in OCS lease sales through selective prohibition on joint ventures by major firms. However, since the current regulations require all parties to file Statements of Production in order to bid jointly, the burdensome nature of this requirement on some smaller firms may have impeded or even precluded some smaller firms from participation in OCS lease sales, contrary to the original intent of the joint bidding regulations to foster competition among bidders.

While it is true that numerous extensions of filing deadlines have mitigated the more serious impacts of this regulation, such as withdrawal or exclusion of a participant, revision of this filing requirement seems a more sensible approach. The requirement for submission of Statements of Production appears to have placed a disproportionate burden on smaller companies, and on DOI, by generating superfluous paperwork as well as necessitating numerous extensions of filing periods to accommodate smaller bidders unfamiliar with OCS regulations. Therefore, the proposed regulation is intended to enhance the competitive nature of the joint bidding process for OCS oil and gas leases by limiting this filing requirement to those companies subject to the prohibition on joint bidding (i.e., placed on the List of Restricted Joint Bidders), and removal of the requirement for all others, in order to encourage their participation in OCS lease sales.

After examination of the current joint bidding regulations (43 CFR 3316.3), pursuant to DOE's regulatory authority to foster competition under section 302(b) of the DOE Act, DOE has decided to defer consideration of more extensive revision to the joint bidding procedures pending further analysis. DOE staff is reviewing the current procedures to determine whether need for such revision exists. The proposed rule has been drawn narrowly in order to change the current regulatory filing practice only to the extent necessary to achieve the above stated purpose. The terms employed in this proposed rule are defined exactly as in DOI's current joint bidding regulations. To be consistent with this proposed regulation, minor adjustments to current DOI regulations may be necessary.

DOE intends these regulations, upon promulgation, to supersede only those requirements of 43 CFR 3316.3 that are inconsistent with this proposed regulation. This relieves small companies from filing Statements of Production without altering the restriction on joint bidding by companies on the List of Restricted Joint Bidders.

Public Comment Procedures

You are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the regulation proposed in this notice. We request comments on any aspect of the proposed regulation. Written comments should be submitted by 4:00 p.m., July 25, 1980, to the address indicated in the "ADDRESSES" section of this preamble, and should be identified on the outside envelope and on the document with the designation: Docket No. LPD–80–01. Ten copies should be submitted.

Any information submitted which you consider confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

Significance Review

DOE has determined that this proposed regulation is significant, but will not have a major impact within the meaning of DOE's procedures to implement Executive Order 12044 on "Improving Government Regulations" (DOE Order 2030.1, 44 FR 1032, January 3, 1979). Therefore, a regulatory analysis is not required for this proposed regulation.

In view of the anticipated absence of adverse impacts associated with promulgation of this proposed rule, DOE believes that no substantial issue of law or fact exists with respect to this proposed regulation, and that it is unlikely to have a substantial impact on the national economy or large numbers of individuals or businesses. Consequently, DOE has determined that a public hearing is not necessary. However, DOE will reconsider this decision in the event that a significant number of commenters request a public hearing.

Environmental Analysis

After reviewing the proposed regulation pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.*)), DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, DOE has determined that no environmental assessment or environmental impact statement is required for the proposed regulations.

(Outer Continental Shelf Lands Act, Act of August 7, 1953, ch. 345, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*), as amended by Pub. L. 95–372, 92 Stat. 629; Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); EO 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Chapter II, Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., May 20, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Part 376 of Title 10, Code of Federal Regulations, is amended by adding a new Subpart D, to read as follows:

PART 376—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

Subpart D—Joint Bidding

Sec

376.301 Purose.

376.302 Definitions.

376.303 Joint bidding requirements.

Authority: Act of August 7, 1953, ch. 345, sec. 8, 67 Stat. 468 (43 U.S.C. 1337), as amended by sec. 205, Pub. L. 95–372, 92 Stat. 640; secs. 302(b)(1), 303(c), Pub. L. 95–91, (1 Stat. 578–579, 579–580 (42 U.S.C. 7152(b)(1), 7153(c)).

Subpart D—Joint Bidding

§ 376.301 Purpose.

The purpose of the regulations in this Subpart D is to encourage participation in OCS oil and gas lease sales by limiting the requirement for filing Statements of Production to certain joint bidders.

§ 376.302 Definitions.

For purposes of this Subpart D, all the terms used shall be defined as in 43 CFR 3316.3.

§ 376.303 Joint bidding requirements.

(a) Any person who submits a joint bid for any OCS oil and gas lease during a six-month bidding period and who was chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas equivalents, and liquefied petroleum products, shall have filed a Statement of Production with the Director, Bureau of Land Management, in accordance with the requirements of 43 CFR 3316.3. The Statement of Production shall state that the person filing the Statement is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas equivalents and liquefied petroleum products.

(b) No person chargeble for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas equivalents, and liquefied petroleum products may submit a joint bid for any OCS oil and gas lease during the applicable six-month bidding period with any other person similarly chargeable. Such bids shall be disqualified and rejected.

(c) No person may submit any bid during the applicable six-month bidding period pursuant to any agreement, the terms of which would result in two or more persons, each chargeable for the prior production period with an aveage daily production in excess of 1.6 million barrels of crude oil, natural gas equivalents, and liquefied petroleum products, acquiring or holding any interest in the tract for which the bid is submitted. Such bids shall be disqualified and rejected.

[FR Doc. 80–16193 Filed 5–27–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Subtitle A

Semiannual Agenda of Regulations

May 21, 1980.

AGENCY: Department of Commerce

ACTION: Delay of Semiannual Agenda of Regulations.

SUMMARY: The Department's Semiannual Agenda of Regulations, required by Executive Order 12044, "Improving Government Regulations," will be published in the **Federal Register** on or before July 1, 1980 instead of May 15, as originally schedule.

FOR FURTHER INFORMATION: Questions relating to the Department's forthcoming Semiannual Agenda of Regulations should be directed to Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy on (202) 377–2482.

Philip M. Klutznick,

Secretary of Commerce.

[FR Doc. 16062 Filed 5–27–80; 8:45 am]

BILLING CODE 3510–BT–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 761 0087]

Milton Bradley Co. and Binney & Smith, Inc.; Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of compeititon, these consent orders, accepted subject to final Commission approval, among other things, would require two manufacturers of art materials, located in Springfield, Mass. and Easton, Pa., respectively, to cease fixing the prices of their products. The firms would be required to establish interest-bearing escrow accounts for the purpose of making restitution to consumers for purchases of certain school art materials. Further, the firms would be required to distribute consumer redress funds to any state institutions which purchased said products; the FTC, with the cooperation of the State Attorneys General, would distribute the respective funds in lump-sum amounts to each of the states which satisfy the application requirements for receiving the money.

DATE: Comments must be received on or before July 28, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul E. Eyre, Acting Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500-Mall Bldg., 118 St. Clair Ave., Cleveland, Ohio. 44114. (216) 522–4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 761 0087]

Milton Bradley Co.; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission initiated an investigation of Milton Bradley Company, a Massachusetts corporation, hereinafter sometimes referred to as proposed respondent. The proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated and to pay an agreed-upon sum as restitution to consumers, which sum is to be paid in full settlement of all potential Commission action arising out of this matter. Following are the terms of the agreement which is being entered into in accordance with the Commission's rules governing consent order procedure.

It is Agreed between Milton Bradley Company, by its duly authorized officer, its attorneys, and counsel for the Federal Trade Commission that:

1. Milton Bradley Company is a Masachusetts corporation, with its principal office located at 1500 Main Street, Springfiled, Massachusetts 01115.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby and related materials pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days, and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of the complaint here attached. Although the proposed respondent contests any liability with respect to the acts and practices alleged in the Commission's complaint, proposed respondent has agreed to transfer funds into the Escrow Account as hereinafter set forth. The payment of $200,000 in compensatory damages into the Escrow Account represents restitution to consumers for the purchases of certain school art materials, and does not constitute a fine or penalty against the proposed respondent. It is the intent of the parties hereto that such payment satisfies in all respects the requirements of Section 461(f) of the Internal Revenue Code of 1954.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. Proposed respondent agrees to establish by the date this agreement is signed an Escrow Account at the Continental Bank, 30 North LaSalle Street, Chicago, Illinois 60693, and designate Continental Bank as the Escrow Agent to receive monies, information and documents, to disburse monies and to carry out such other functions as may be provided for pursuant to the terms of this order, and the written directions of the Federal Trade Commission or its designee. The duties of the Escrow Agent shall be as outlined in the Escrow Instructions here attached as Appendix A and incorporated herein. Further, the parties shall be bound to the terms of said Escrow Instructions whether or not they are signatories thereto.

9. Proposed respondent agrees to deposit in the Escrow Account the sum of two hundred thousand dollars ($200,000) by the date this agreement is signed.

10. All interest earned on the funds deposited in the Escrow Account shall be added to the Escrow Account and disbursed by the Escrow Agent pursuant to the terms of this order, the Escrow Instructions, and the written directions of the Federal Trade Commission or its designee.

11. No part of the funds deposited by proposed respondent in the Escrow Accont established by this agreement shall revert or be returned to proposed respondent unless (a) the Federal Trade Commission fails to accept this agreement pursuant to § 2.34 of the Commission's rules of practice, in which event the entire amount deposited with the Escrow Agent, together with any interest earned thereon, less accrued escrow fees and expenses, shall be returned to proposed respondent, or (b) funds remain in the Escrow Account after three years from the date of service of this order, in which case the remaining funds shall be returned to proposed respondent.

12. Compliance with paragraphs 8 and 9 above and Section III of the order satisfies fully any claim by the Federal Trade Commission against the proposed respondent arising out of the acts and practices which precede the date of this agreement and are alleged in the draft of the complaint here attached, including any claim for consumer redress or equitable relief pursuant to Sections 5, 13(b), and 19(b) of the Federal Trade Commission Act, as amended. By its final acceptance of this agreement, the Commission waives its right to commence an action, including any under Sections 5, 13(b), or 19(b) of the Federal Trade Commission Act, as amended, with respect to the acts and practices which precede the date of this agreement and are alleged in the draft of the complaint here attached.

Order

As used in this order:

(a) "Person" means any individual, partnership, firm, corporation, association, business or other legal entity.

(b) "State Institution" means any state agency, instrumentality, or institution or any political subdivision thereof, including, but not limited to, any county, city, town municipality, or shool district.

(c) "Art materials" means any of the following products: Adhesives (including art and craft glue and white paste), brushes, chalks (including art, chalkboard and industrial chalk), crayons (including drawing, checking, and marking crayons), modeling clays, oil pastels, paints (including finger paint, finger paint powder, tempera, poster paint, watercolors, and transparent,

powder, and textile paints) watercolor markers, stencil brushes, chalkboard cleaner, stencil knives, modeling material, excello squares, ink (including printing ink), linoleum blocks, linoleum, media mixer, acrylics, and paper trimmers.

(d) "Respondent" means the Milton Bradley Company, a Massachusetts corporation, its subsidiaries and divisions, with its principal office located at 1500 Main Street, Springfield, Massachusetts 01115.

I

It is ordered, That respondent, its successors and assigns, and its officers and respondent's agents, representatives, and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, offering for sale, sale or distribution of art materials in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

(1) Entering into, maintaining, or enforcing any agreement, combination, understanding or plan with any competitor to fix, determine, establish, or maintain the prices, discounts or other terms or conditions for the sale of art materials.

(2) Submitting any bid to any customer or prospective customer for the sale of any art materials when any price, term or condition of sale or any element contained in such bid was discussed with, disclosed to, or received from, directly or indirectly, any competitor, actual or potential.

(3) Circulating or sending to, or exchanging with, any other person who manufactures, distributes, markets or sells art materials, any price list, price quotation or pricing factor applicable to art materials—except for price lists, price quotations, or pricing factors provided to or received from any person in the course of, and solely related to, negotiating for, entering into, or carrying out bona fide sales or potential sales by respondent directly to such person—in advance of the printing, publication, effectuation, circulation or communication of such price lists, price quotations, or pricing factors to customers generally.

(4) Communicating or exchanging with any other person who manufactures, distributes, markets, or sells art materials, any actual or proposed price, price change, discount, or other term or condition of sale at or upon which art materials are to be, or have been, sold—except for such information provided to or received from any person in the course of, and solely related to, negotiating for, entering into, or carrying out bona fide sales or potential sales by respondent directly to such person—prior to the communication of such information to customers generally.

(5) Disclosing to, or communicating to, any other person who manufactures, distributes, markets, or sells art materials:

(a) Respondent's intention to submit, or not to submit, a bid to any purchaser;

(b) The fact that a bid has or has not been submitted prior to the communication of such information to the general public; or

(c) The content of any bid prior to the communication of such information to the general public;

except that, in declining to furnish a price quotation to a distributor to be used in connection with a particular bid, respondent may disclose that the reason for such refusal is respondent's intention to bid directly.

Nothing in Section I shall be construed to prevent New England School Supply, a division of Milton Bradley Company, from carrying out its ordinary, lawful course of business, which business is limited to the secondary level of distribution and includes the purchasing of art materials and other educational products from Milton Bradley Company, Milton Bradley's competitors, and others, and the resale and distribution of such materials to the school and commercial markets. However, respondent shall not use New England School Supply, nor any distributor, as an instrument or medium to achieve, accomplish, promote or engage in any of the acts or practices described in the paragraphs (1) through (5) of Section I or in any way to circumvent the prohbitions contained in Section I of this order, all of which probhitions are intended to address conduct between horizontal competitors.

II

It is further ordered, That, for a period of five (5) years from the date of entry of this order, respondent shall preserve all written price computations and other written calculations actually performed by respondent in the preparation and submission of any bid required to be sealed which is submitted to any actual or potential purchaser of art materials. Respondent shall retain such written computations and calculations for a period of at least five (5) years from the date each bid which is based on such computations or calculations is submitted to any purchaser.

Section II of this order shall not apply to New England School Supply, a division of the Milton Bradley Company, in New England School Supply's ordinary, lawful course of business, which business is limited to the secondary level of distribution and includes the purchasing of art materials and other educational products from Milton Bradley Company, Milton Bradley's competitors, and others, and the resale and distribution of such materials to the school and commercial markets.

III

It is further ordered, That respondent shall not issue any instructions or directions respecting the Escrow Account to the Federal Trade Commission or its designee, or to the Escrow Agent, with respect to the performance of their duties. These duties shall be pursuant to this order and to the Escrow Instructions, and shall include, but not be limited to, the investment of the property held by the Escrow Agent, the disbursement of the property held by the Escrow Agent, and compliance with any written directions of the Federal Trade Commission or its designee. Respondent shall not exercise any control over the property in the Escrow Account.

IV

It is further ordered, That:

(1) Respondent shall submit to the Federal Trade Commission, within thirty (30) days after the date this order is served on respondent, a notarized affidavit it executed by a duly authorized officer of respondent listing, to the best of its knowledge, the names of all the states within which any state institutions made purchases of respondent's chalks, crayons, watercolors or tempera paints during any of the years 1972 through 1976, inclusive.

(2) As it has been determined by the Federal Trade Commission that the most readily identifiable and most significantly affected market consists of the school art materials purchasers, the purpose of the Escrow Account established pursuant to agreement paragraphs 8, 9, 10, 11 and Section III of this order is to disburse the consumer redress funds to any state institutions that purchase chalks, crayons, watercolors or tempera paints for schools and are located in a state listed pursuant to Section IV(1) of this order.

(3) The Federal Trade Commission or its designee shall determine the appropriate recipients of funds in the Escrow Account, the sum paid to each recipient, and the most appropriate method to distribute the funds, taking into consideration the amount of funds available, the administrative feasibility and costs of disbursement, and the puposes of the Escrow Account, and shall instruct the Escrow Agent to distribute the funds in accordance with its determination.

(4) Funds to be distributed pursuant to Section IV of this order shall be paid out of the Escrow Account withib three (3) years after the date of service of this order.

V

It is further ordered, That respondent:

(1) Serve within sixty (60) days after the date this order becomes final, a copy of this order upon each of its officers and directors, and upon each of its employees and agents who have any responsibility for establishing prices, discounts or other terms or conditions for the sale of art materials.

(2) Within sixty (60) days after service upon them of this order, file with the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

(3) Notify the Commission at least thirty (30) days prior to any proposed change in the respondent which may affect compliance obligations arising out of this order.

[File No. 761 0087]

Binney & Smith Inc.; Agreement Containing consent Order To Cease and Desist

The Federal Trade Commission initiated an investigation of Binney & Smith Inc., a Delaware corporation, hereinafter sometimes referred to as proposed respondent. The proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the alleged acts and practices being investigated, and to pay an agreed-upon sum as restitution to consumers, which sum is to be paid in full settlement of all potential Commission action arising out of this matter. Following are the terms of the agreement which is being entered into in accordance with the Commission's Rules governing consent order procedure.

It is agreed between Binney & Smith Inc., by its duly authorized officer, its attorneys, and counsel for the Federal Trade Commission that:

1. Binney & Smith Inc. is a Delaware corporation, with its principal office located at 1100 Church Lane, Easton, Pennsylvania 18042.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby and related materials pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days, and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of the complaint here attached. Although the proposed respondent denies the allegations of the commission's complaint, except the jurisdictional facts, and contests any liability with respect to the acts and practices alleged in the Commission's complaint, proposed respondent has agreed to transfer funds into the Escrow Account as hereinafter set forth. The payment of $1,000,000 in compensatory damages into the Escrow Account represents restitution to consumers for purchases of certain school art materials, and does not constitute a fine or penalty against the proposed respondent. It is the intent of the parties hereto that such payment satisfies in all respects the requirements of Section 461(f) of the Internal Revenue Code of 1954.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. No part of the funds deposited by proposed respondent in the Escrow Account established pursuant to Section IV of the order shall revert or be returned to proposed respondent unless funds remain in the Escrow Account after three (3) years from the date of service of the order, in which case the remaining funds shall be returned to proposed respondent.

9. Compliance with Section IV of the order satisfies fully any claim by the Federal Trade Commission against the proposed respondent arising out of the acts and practices alleged in the draft of the complaint here attached, including any claim for consumer redress or equitable relief pursuant to Sections 5, 13(b) and 19(b) of the Federal Trade Commission Act, as amended. By its final acceptance of this agreement, the Commission waives its right to commence an action with respect to the acts and practices which precede the date of this agreement and are alleged in the draft of the complaint, including any claim under Sections 5, 13(b) or 19(b) of the Federal Trade Commission Act, as amended, and including any claim with respect to the acts and practices which precede the date of this agreement and are alleged in the draft of complaint, arising out of any violation or alleged violation of the order of the Commission dated January 31, 1938 *In the Matter of*

V 45 M Y 28 80 0 UMI

American Crayon Co., et al. (Docket No. 2967).

Order

As used in this order:

(a) "Person" means any individual, partnership, firm, corporation, association, or other business or other legal entity.

(b) "State Institution" means any state agency, instrumentality, or institution or any political subdivision thereof, including, but not limited to, any county, city, town, municipality, or school district which purchases school art materials.

(c) "Art materials" means any of the following products: Adhesive (including art and craft glue and white paste), art kits (including combinations of crayons, watercolors, brushes, glue or chalk), brushes, chalks (including art, chalkboard and industrial chalk), craft kits (including fabric crayons and fabric crayon kits), crayons (including drawing, checking, and marking crayons), modeling clays, oil pastels, paints (including finger paint, finger paint powder, tempera, poster paint, watercolors, and transparent, powder, and textile paints), paper (including finger paint paper and stencil paper), water color markers, stencil brushes, chalkboard cleaner, stencil knives, pencils (including drawing and charcoal pencils), modeling material, excello squares, ink (including printing ink), Linoleum blocks, linoleum, acrylics, and media mixer.

(d) "Respondent" means Binney & Smith Inc., a Delaware corporation, its subsidiaries and divisions, with its principal office at 1100 Church Lane, Eastern, Pennsylvania 18042.

It is ordered, That respondent, its successors and assigns and its officers, and respondent's agents, representatives, and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, offering for sale, sale or distribution of art materials in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

(1) Entering into, maintaining, or enforcing any agreement, combination, understanding or plan with any competitor to fix, determine, establish, or maintain the prices, discounts or other terms or conditions for the sale of art materials.

(2) Submitting any bid to any customer or prospective customer for the sale of any art materials when any price, term or condition of sale or any element contained in such bid was discussed with, disclosed to, or received from, directly or indirectly, any competitor, actual or potential.

(3) Circulating or sending to, or exchanging with, any other person who manufactures, distributes, markets or sells art materials, any price list, price quotation or pricing factor applicable to art materials—except for price lists, price quotations, or pricing factors provided to or received from any person in the course of, and solely related to, negotiating for, entering into, or carrying out bona fide sales or potential sales by respondent directly to such person—in advance of the printing, publication, effectuation, circulation or communication of such price lists, price quotations, or pricing factors to customers generally.

(4) Collecting from, circulating to or exchanging with, or reporting or recommending to any competitor who manufactures, distributes, markets or sells art materials, any cost factor or average cost of manufacture or sale of art materials, or any formulas for computing such cost.

(5) Communicating or exchanging with any other person who manufactures, distributes, markets, or sells art materials, any actual or proposed price, price change, discount, or other term or condition of sale at or upon which art materials are to be, or have been, sold—except for much information provided to or received from any person in the course of, and solely related to, negotiating for, entering into, or carrying out bona fide sales or potential sales by respondent directly to such person—prior to the communication of such information to customers generally.

(6) Disclosing to, or communicating to, any other person who manufactures, distributes, markets, or sells art materials:

(a) Respondent's intention to submit, or not to submit, a bid to any purchaser,

(b) The fact that a bid has or has not been submitted prior to the communication of such information to the general public, or

(c) The content of any bid prior to the communication of such information to the general public;

except that, in declining to furnish a price quotation to a distributor to be used in connection with a particular bid, respondent may disclose that the reason for such refusal is respondent's intention to bid directly.

II

It is further ordered, That respondent shall, for a period of five (5) years from the date of entry of this order, furnish simultaneously with each bid or quotation required to be sealed which is submitted by it for the sale of art materials to any purchaser, a written certification by an officer of respondent, that such bid was not in any way the result, directly or indirectly, of any agreement, understanding, or communication with any other producer, seller or distributor.

III

It is further ordered, That, for a period of five (5) years from the date of entry of this order, respondent shall preserve all written price computations and other written calculations actually performed by respondent in the preparation and submission of any bid required to be sealed which is submitted to any actual or potential purchaser of art materials. Respondent shall retain such written computations and calculations for a period of at least five (5) years from the date each bid which is based on such computations or calculations is submitted to any purchaser.

IV

It is further ordered, That:

(1) Respondent establish, within five (5) days after the date this order is served on respondent, an Escrow Account at the Continental Bank, 30 North LaSalle Street, Chicago, Illinois 60693, and designate Continental Bank as the Escrow Agent to receive monies, information and documents, to disburse monies and to carry out such other functions as may be provided for pursuant to the terms of this order, and the written directions of the Federal Trade Commission or its designee. The duties of the Escrow Agent shall be as outlined in the Escrow Instructions here attached as Appendix A and incorporated herein. Further, the parties shall be bound to the terms of said Escrow Instructions whether or not they are signatories thereto.

(2) Respondent shall deposit one million dollars ($1,000,000) in the Escrow Account in the following manner. A first deposit of five hundred thousand dollars ($500,000) shall be made within five (5) days after the order is served on respondent and the second deposit of the remaining five hundred thousand dollars ($500,000) shall be made on or before February 1, 1981. In the event that the order is not served on respondent prior to February 1, 1981, the second deposit of five hundred thousand dollars ($500,000) shall be made within three (3) months after such service occurs.

(3) All interest earned on the funds deposited in the Escrow Account shall be added to the Escrow Account and disbursed by the Escrow Agent pursuant to the terms of this order, the Escrow Instructions, and the written directions of the Federal Trade Commission or its designee.

(4) Respondent shall not issue any instructions or directions respecting the Escrow Account to the Federal Trade Commission or its designee, or to the Escrow Agent with respect to the performance of their duties. These duties shall be pursuant to this order and to the Escrow Instructions, and shall include, but not be limited to, the investment of the property held by the Escrow Agent, the disbursement of the property held by the Escrow Agent, and compliance with any written directions of the Federal Trade Commission or its designee. Respondent shall not exercise any control over the property in the Escrow Account.

V

It is further ordered, That:

(1) Respondent shall submit to the Federal Trade Commission, within thirty (30) days after the date this order is served on respondent, a notarized affidavit executed by a duly authorized officer of respondent listing, to the best of its knowledge, the names of all the states within which any state institutions made purchases of respondent's chalk, crayons, watercolors, or tempera paints during any of the years 1972 through 1979, inclusive.

(2) As it has been determined by the Federal Trade Commission that the most readily identifiable and most significantly affected market consists of the school art materials purchasers, the sole purpose of the Escrow Account established pursuant to Section IV of this order is to disburse the consumer redress funds to any state institutions that purchase chalks, crayons, watercolors, or tempera paints for schools and are located in a state listed pursuant to Section V(1) of this order. Provisions contained herein or to be adopted in the future for the distribution of the funds are and shall be designed to accomplish such purpose in a manner most feasible, efficient and not inconsistent with the other provisions of this order.

(3) The Federal Trade Commission or its designee shall determine the appropriate recipients of funds in the Escrow Account, the sum paid to each recipient, and the most appropriate method to distribute the funds, taking into consideration the amount of funds available, the administrative feasibility and costs of disbursement, and the purpose of the Escrow Account, and shall instruct the Escrow Agent to distribute the funds in accordance with its determination.

(4) Funds to be distributed pursuant to paragraphs (1) through (3) of Section V of this order shall be paid out of the Escrow Account within three (3) years after the date of service of this order. All funds remaining in the Escrow Account after three (3) years from the date of service of this order shall be returned to respondent.

VI

It is further ordered, That respondent:

(1) Serve within sixty (60) days after the entry of this order a copy of this order upon each of its officers and directors, and upon each of its employees and agents who have any responsibility for establishing prices, discounts or other terms or conditions for the sale of art materials.

(2) File with the Federal Trade Commission two (2) separate written reports setting forth in detail the manner and form in which they have complied with this order; the first report to be filed within sixty (60) days after service upon them of this order, and the second report to be filed within thirty (30) days after February 1, 1981.

(3) Notify the Commission at least thirty (30) days prior to any proposed change in the respondent which may affect compliance obligations arising out of this order.

[File No. 761 0087]

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted agreements to proposed orders from the Milton Bradley Company and Binney & Smith Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received, and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The Complaints allege that Milton Bradley, Binney & Smith, and other manufacturers of chalks, crayons watercolors, or tempera paints agreed on the prices they would charge for these products. The Complaints allege that the price fixing of these products came as the result of communications between the manufacturers about the prices that were to be contained in each of the companies' price lists.

The proposed agreement with Milton Bradley has agreed to establish an interest-bearing Escrow Account into which it has deposited two hundred thousand dollars ($200,000). These funds, plus accrued interest, represent restitution to consumers for purchases of certain school art materials, and do not constitute a fine or penalty against Milton Bradley. The administration of the distribution of the funds will be paid out of those funds.

The proposed agreement with Binney & Smith sets forth that Binney & Smith will establish an Escrow Account within five days after the order is served upon them. Binney & Smith is to deposit a total of one million dollars ($1,000,000) in this Escrow Account: $500,000 to be deposited within five days after the order is served, and the remaining $500,000 to be deposited on or before February 1, 1981. If the order has not been served upon them by that date, the second deposit will be made within three months of service of the order.

Both agreements state that the funds will not be returned to the respondents unless any funds remain in the Escrow Account longer than three years after the order has been accepted, in which event the remaining funds would be returned. Milton Bradley's agreement also sets forth that the funds it has already deposited will be returned to it if the Commission does not accept its agreement.

The proposed orders would prohibit Milton Bradley and Binney & Smith from:

- Entering into an agreement with any competitor to fix the prices of art materials.
- Submitting a bid to a customer when the bid was the result of communications or discussions with competitors.
- Giving price lists or prices to other art materials manufacturers before they are given out to customers generally.
- Communicating any prices for which art materials are to be, or have been, sold to anyone before this information is given to customers generally.
- Disclosing to competitors information about or contained in a bid.
- Binney & Smith would be prohibited from communicating cost information to competitors.

Each order provides that the consumer redress funds from the company shall be distributed to any state institutions which purchase chalks, crayons, watercolors, or tempera paints and are located within certain eligible states. The term "state institutions" has a broad interpretation. It includes schools or other purchasers at any level of state or local government. State eligibility exists if any "state

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institution," as defined above, has purchased the company's chalks, crayons, watercolors, or tempera paints at any time during 1972 through 1976 for Milton Bradley and 1972 through 1979 for Binney & Smith. Each company must certify to the names of the eligible states. The Federal Trade Commission is then responsible for the distribution plan and its implementation. Other than the eligibility restriction, only considerations of efficiency and feasibility restrict the exercise of the broad discretion granted to the Commission in developing and implementing a distribution plan.

To aid in the distribution of funds to the states, the Federal Trade Commission will request the cooperation of the State Attorneys General whose experience in class-action distributions particularly qualifies them as the appropriate state liaison persons in this matter. The Commission, with the cooperation of the State Attorneys General, will distribute the respective funds in lump-sum amounts to each of the states which satisfy the application requirements for receiving the money. The amounts will be in proportion to the states' 1979–1980 student population in grades kindergarten through 12.

To qualify for receipt of its portion of each fund, a state must provide the Federal Trade Commission with certain information. The State Attorney General must:

- Verify the state's authority to receive the funds and to use them for a particular purpose;
- Supply the 1979–1980 student population for public school children in grades kindergarten through 12;
- Furnish a detailed plan for distributing the state's portion of each fund to state institutions which purchase chalks, crayons, watercolors, or tempera paints;
- Agree to distribute the money in accordance with the plan.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 80-16182 Filed 5-27-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Recovery of Overpayments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The proposed regulations clarify how we decide whether adjustment or recovery of an overpayment would defeat the purpose of the Supplemental Security Income (SSI) program. The proposed regulations will make it clear that the test is whether an individual's income and resources are needed for ordinary and necessary living expenses. For individuals currently receiving SSI benefits, however, we will consider that they meet the test if their monthly income does not exceed a stated amount, since we know they have limited resources. These revisions clarify what had been intended under the previous regulations.

DATE: Your comments will be considered if we receive them no later than July 28, 1980.

ADDRESS: Send your written comments to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health and Human Services, Room 1169, North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7463.

SUPPLEMENTARY INFORMATION: Section 1631(b) of the Social Security Act provides that, if we make an overpayment, we will adjust future benefits or require repayment. However, if an individual is "without fault" in causing the overpayment, we will waive adjustment or recovery of the overpayment under certain conditions. One of these conditions is where recovery of the overpayment would defeat the purpose of the SSI program.

The present rule (§ 416.553) provides for a finding that the purpose of the SSI program has been defeated if either of two tests is met. The first test is whether the individual's current monthly income does not exceed a stated amount. The amount equals the SSI benefit level (including the State supplement) plus $20 ($85 if income is earned). This amount corresponds generally to the income level of an eligible individual receiving unreduced SSI benefits. The second test is whether adjustment or recovery of the overpayment would deprive the individual of income or resources needed for ordinary and necessary living expenses.

The revisions make clear that these are not true alternative tests, but rather apply to different situations. Under the proposed regulations, the general rule is whether the individual's income and resources are needed for ordinary and necessary living expenses. This standard applies to everybody, whether the individual is currently receiving SSI benefits or not. However, we will consider individuals receiving SSI benefits to meet this standard if their income is below stated levels, since, by definition, an individual who is eligible for SSI has limited resources. This proposal, then, is designed to make clear that there is only one rule, but that it can be met by different criteria for individuals currently receiving SSI benefits. For all other individuals, we will consider both their income and their resources in relation to their ordinary and necessary living expenses.

(Secs. 1102 and 1631 of the Social Security Act, as amended; 49 Stat. 647 as amended, and 86 Stat. 1475; 42 U.S.C. 1302 and 1383)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program for the Aged, Blind, and Disabled)

Dated: April 11, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: May 20, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Section 416.553 is revised to read as follows:

§ 416.553 Waiver of adjustment or recovery—defeat the purpose of the supplemental security income program.

We will waive adjustment or recovery of an overpayment when an individual on whose behalf waiver is being considered is without fault (as defined in § 416.552) and adjustment or recovery of the overpayment would defeat the purpose of the supplemental security income program.

(a) *General rule.* We consider adjustment or recovery of an overpayment to defeat the purpose of the supplemental security income (SSI) program if the individual's income and resources are needed for ordinary and necessary living expenses under the criteria set out in § 404.508(a) of this chapter.

(b) *Alternative criteria for individuals currently receiving SSI benefits.* We consider an individual or couple currently receiving SSI benefits to have met the test in paragraph (a) of this section if the individual's or couple's current monthly income does not exceed—

(1) The applicable Federal monthly benefit rate (see Subpart D of this part); plus

(2) One-third of the quarterly amount of the earned or unearned income exclusion described in § 416.1165 (i.e. $20); plus

(3) One-third of the quarterly amount of the earned income exclusion described in § 416.1167 but no more than $65; plus

(4) The applicable State supplementary payment, if any (see Subpart T of this part).

[FR Doc. 80-16059 Filed 5-27-80; 8:45 am]

BILLING CODE 4110-07-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1501-4]

Approval and Promulgation of Implementation Plans; State of California; Lead State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of these revisions is to provide for the attainment and maintenance of the National Ambient Air quality Standard (Standard) for lead in California. EPA is proposing to approve the revisions with the exceptions discussed below.

EPA is proposing to disapprove the control strategy for Fresno and Los Angeles because it does not provide for attainment of the lead Standard within the time frame specified by the Clean Air Act, as amended. However, EPA is proposing to grant a two-year extension for attainment of the lead Standard in those areas. In addition, the plan is not approved with respect to the requirements for review of new sources of lead emissions. These deficiencies must be corrected in order for California to have a fully approvable lead SIP.

While EPA is proposing to approve the revisions, with the exceptions discussed above, it should be noted that the plan does not completely satisfy all of the requirements of 40 CFR Part 51. EPA will work with the California Air Resources Board to correct these minor deficiencies.

The EPA invites public comments on these revisions, the identified deficiencies and the consistency of the revisions with respect to the requirements of the Clean Air Act.

DATES: Comments may be submitted up to July 28, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Planning Branch, Program Development Section (A–2–1), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and the associated evaluation report are available for public inspection during normal business hours at the following locations: California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812, Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Wayne Blackard, Chief, Program Development Section, Planning Branch (A–2), Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105 (415) 556–2353.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978 EPA promulgated primary and secondary National Ambient Air Quality Standards for lead (43 FR 46246). Section 110 of the Clean Air Act, amended in August 1977, Pub. L. No. 95–95, requires States to adopt and submit to the EPA Administrator, within nine months after promulgation of a National Ambient Air Quality Standard, a plan for attainment and maintenance of the Standard in their area. EPA has set forth the requirements of an approvable lead State Implementation Plan in 40 CFR Part 51 (43 FR 46264). These provisions require the submission of air quality data, emissions data, a control strategy, air quality modeling, and a demonstration that the Standard will be attained within the time frame specified by the Clean Air Act.

Description of Proposed SIP Revision

On November 19, 1979, the Executive Officer of the California Air Resources Board, the Governor's official designee, submitted Chapter 27, "California Lead Control Strategy," as an SIP revision. Chapter 27, hereafter referred to as the plan, provides a summary of measured lead air quality data, a baseyear emission inventory for stationary and mobile sources, a projected emissions inventory for mobile sources, a control strategy for reducing ambient lead emissions, and a summary of projected ambient lead concentrations.

The air quality summary presented indicates that 20 counties in California have experienced exceedances of the Standard since 1974. The control strategy submitted for attaining the Standard in California is a phase-down in the lead content of gasoline. This strategy was adopted as Section 2253, Title 13 of the California Administrative Code and was submitted with the plan.

The plan indicates that implementation of this control strategy will provide for attainment of the Standard in all areas of the State except Fresno and Los Angeles by 1982, the date required by Section 110 of the Clean Air Act for attainment of the Standard. The plan also requests a two-year extension, until 1984, for attainment of the Standard in the South Coast Air Basin and the San Joaquin Valley Air Basin, the air basins in which Los Angeles and Fresno Counties are located. This request will be discussed in a later section of this notice.

EPA's Proposed Actions

EPA has evaluated the California plan by comparing it with the requirements for an approvable lead SIP, as set forth in 40 CFR Part 51. As a result of this evaluation, EPA proposes to approve the plan with the exceptions discussed below.

The requirements of 40 CFR 51.80 provide that the plan must contain a demonstration of attainment for any area which has exceeded the Standard since January 1, 1974, including a demonstration that the measures, rules, and regulations contained in the plan are adequate to attain the Standard within the time frame specified in the Clean Air Act. As discussed above, California will implement the phase-down of the lead content of gasoline to attain the lead Standard. The demonstration of attainment included in the plan indicates that this technique is adequate for all areas of the State except for Fresno and Los Angeles. The plan shows that in both Los Angeles and

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Fresno Counties, mobile sources account for 98% of total lead emissions.

Two basic alternatives for control are reduction of tailpipe lead emissions and reduction of motor vehicle traffic. The plan includes a program to phase down the lead content of gasoline, thereby reducing tailpipe emissions. The plan states that particulate exhaust emissions control systems will not be available for installation on new cars until 1982. The plan also states that no such systems are available to retrofit older cars. As a result, the only other viable control strategy is reductions in motor vehicle traffic, through the implementation of selected transportation control measures. Because only the lead phase-down was presented in the plan, the control strategy is proposed to be disapproved at this time with respect to Fresno and Los Angeles Counties, since additional measures are needed.

The plan requests a two-year extension until 1984 for attainment of the lead Standard in the San Joaquin Valley Air Basin and the South Coast Air Basin. A two-year extension is authorized under Section 110 of the Clean Air Act, and 40 CFR 51.30. EPA is proposing to grant the two-year extension for the South Coast Air Basin and for the Fresno County portion of the San Joaquin Valley Air Basin.

The plan does not contain a regulation for the review of new sources of lead emissions, as required by 40 CFR 51.18. The plan is proposed to be disapproved with respect to this requirement. Any such regulation submitted in the future should provide for the review of all sources whose potential emissions will be 5 tons/year or more.

While EPA is proposing to approve the plan, with the exceptions discussed above, the plan does not completely satisfy all of the requirements of 40 CFR Part 51. Minor deficiencies in the plan are: (1) the modified rollback model was not employed around all monitors which have recorded a violation of the Standard since January 1974, (2) not all ambient air quality data for lead have been submitted to EPA, and (3) a projected emissions inventory for stationary sources was not submitted. EPA will work with the California Air Resources Board to correct these deficiencies.

The plan indicates that there are no significant (greater than 5 tons per year) point sources of the types listed in 40 CFR 51.80(a)(1). Although the plan accounts for stack emissions from secondary lead smelters, it does not account for fugitive emissions from these sources. At this time, however, fugitive emissions from secondary lead smelters have not been adequately quantified and accurate emission factors have not been developed. EPA is funding a study in California to resolve these questions and it is expected that the results may be used to more clearly define the nature of fugitive emissions around secondary lead smelters and to develop an effective control strategy. Therefore, when the study is completed, the State will need to examine fugitive emissions from secondary lead smelters and, if necessary, revise its plan to control these emissions.

Public Comments

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before July 28, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been met.

EPA has determined that this regulation is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7610(a)))

Dated: May 14, 1980.

Paul DeFalco, Jr.,

Regional Administrator.

[FR Doc. 80-16114 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1500-5]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: The purpose of this notice is to announce the withdrawal of the Notice of Proposed Rulemaking which appeared February 13, 1980, at 45 FR 9752. In a letter dated March 12, 1980 the State of Michigan withdrew Final Order No. 01-1979 as a proposed SIP revision under Part D of the Clean Air Act (42 U.S.C. 7501 *et. seq.).*

FURTHER INFORMATION MAY BE OBTAINED FROM: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6029.

SUPPLEMENTARY INFORMATION: On April 25, 1979 the State of Michigan submitted a revision to its State Implementation Plan (SIP). The revision was submitted to meet Part D of the Clean Air Act. (42 U.S.C. 7501 *et. seq.).* Part D requires each State to revise its SIP to provide for attainment of the National Ambient Air Quality Standards (NAAQS) in areas designated as nonattainment under Section 107(d) of the Clean Air Act. The April 25, 1979 submittal indicated that the State's control strategy for the sulfur dioxide nonattainment area of Midland County would be the Commission's Final Order No. 01-1979 issued to the Dow Chemical Company. The Order has been previously submitted to the U.S. Environmental Protection Agency on February 14, 1979, as a site specific SIP revision. USEPA proposed to disapprove the Order as a site specific revision on June 19, 1979, at 44 FR 35263. On February 13, 1980 at 45 FR 9752 USEPA proposed to disapprove the Order on the basis that it failed to meet Part D requirements of the Clean Air Act. (42 U.S.C. 7501 *et. seq.).*

Thereafter on March 12, 1980 the Michigan Department of Natural Resources, Air Quality Division (MDNR) requested the withdrawal of Order No. 01-1979 as the State's Part D sulfur dioxide control strategy on the basis that enforcement of the sulfur dioxide emission limitations in the existing federally approved Michigan State Implementation Plan provides for attainment of the sulfur dioxide national ambient air quality standards in Midland County, Michigan. In its letter of March 12, 1980 the Air Quality Division, MDNR, stated "If EPA approves Dow's site specific SIP revision, then that will modify our existing State Implementation Plan. If EPA disapproves Dow's site specific SIP revision then Dow must comply with the existing particulate and sulfur dioxide emission limitations. We recognize that there may have to be penalties associated with such delayed compliance with the existing SIP, but clearly a new SIP is not required." On March 26, 1980 at 45 FR 19566 USEPA disapproved the Order as a site specific revision under Section 110(a) and (c) of the Clean Air Act.

Dated: May 9, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-15955 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[1501-2]

Approval and Promulgation of Implementation Plans; Maricopa County Urban Planning Area Nonattainment Area Plan for Total Suspended Particulates

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: A Revision to the Arizona State Implementation Plan (SIP) was submitted to the Environmental Protection Agency (EPA) by the Governor's designee on November 13, 1979. This revision consists of the Maricopa County Urban Planning Area Nonattainment Plan for Total Suspended Particulates (TSP). The intended effect of the revision is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for TSP.

The TSP plan has been evaluated for conformance with Part D of the Clean Air Act. this notice provides a description of the TSP plan, summarizes the applicable Clean Air Act requirements, compares the TSP plan to those requirements, and proposes approval, conditional approval, or disapproval for each portion of the TSP plan.

The EPA invites public comments on the TSP plan, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether the overall TSP plan or certain portions of the TSP plan should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted until June 27, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. Copies of the proposed Revision/Nonattainment Area Plan and EPA's associated Evaluation Report are contained in document file NAP-AZ-1 and are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Maricopa Association of Governments, 1820 West Washington Street, Phoenix, AZ 85007.

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007.

Public Information References Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Proposed Actions

The following portions of the TSP plan have been determined to be consistent with Part D and are proposed to be approved and incorporated into the SIP: modeling, reasonable further progress, annual reporting, public and local government involvement, and public hearing requirements.

The following portions of the TSP plan contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP, with the condition that each deficiency be corrected by a specified deadline: emission inventory, emission reduction estimates, attainment provision, legally adopted measures, and resources.

The following portions of the TSP plan are proposed to be disapproved as they constitute major deficiencies with respect to Part D: emissions growth and permit program. As a result of these major deficiencies, the overall TSP plan must be disapproved by EPA with respect to Part D. This overall disapproval of the TSP plan would result in the continuation of the prohibition on construction of certain major new or modified sources in the Maricopa County Urban Planning Area. This prohibition is required by the Clean Air Act and is discussed in detail in the July 2, 1979 **Federal Register** notice (44 FR 38471).

Upon correction of these major deficiencies, EPA would propose in a subsequent **Federal Register** notice approval or conditional approval of the overall plan with respect to Part D. Approval or conditional approval of all portions of the TSP plan would be sufficient to lift the current prohibition on construction.

Background

New provisions of the Clean Air Act, amended in August 1977, Public Law No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS).

On April 4, 1979 (44 FR 20372), EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761, and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

The Maricopa County Urban Planning Area is currently designated as nonattainment for carbon monoxide (CO), ozone (O_3) and total suspended particulates (TSP).

On February 23, 1979, the Governor's designee submitted the Nonattainment Area Plan for Carbon Monoxide and Ozone for the Maricopa County Urban Planning Area to EPA as a revision to the SIP. EPA evaluated the submitted plan with respect to the Clean Air Act requirements and published a notice of proposed rulemaking in the **Federal Register** on June 11, 1979 (44 FR 33433). On July 3, 1979, the Governor's designee submitted an additional revision to the SIP which supplemented and superseded portions of the plan submitted on February 23, 1979 concerning ozone. EPA evaluated the submitted revision with respect to the Clean Air Act requirements and published a notice of proposed rulemaking in the **Federal Register** on October 30, 1979 (44 FR 62296). The above notices provided a description of each revision, summarized the applicable Clean Air Act requirements, compared each revision to those requirements, identified major deficiencies, and suggested corrections.

Description of Proposed SIP Revision

On November 13, 1979 the Governor's designee submitted the Nonattainment Area Plan for Total Suspended Particulates for the Maricopa County Urban Planning Area to EPA as a revision to the Arizona SIP. Preparation of the proposed SIP revision was coordinated by the Maricopa Association of Governments which was designated by the Governor as the air quality planning organization for the

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Maricopa County Nonattainment Area. The nonattainment area plan for the Maricopa area, addressed in this notice, consists of the following major components:

—A basic description of the nonattainment area including topography, air monitoring network, and air quality standards;
—An emission inventory identifying emission source categories and their estimated present and projected emissions;
—A listing of potential control measures and an analysis of each measure's technical and economic impact;
—A discussion of the specific control strategies selected from the listing of potential control measures and incorporated into the plan including their description, implementation, and impact;
—An identification of resources as they apply to the selected control strategies; and
—A discussion of the public participation, intergovernmental consultation, and continuing planning processes.

The selected control strategies described in the plan include:

—Pavement of unpaved roads;
—Limiting speeds on unpaved roads through regulation and enforcement;
—Closing of unnecessary unpaved roads;
—Controlling disturbed soil surfaces through posting and enforcement;
—Construction of curbs, gutters, and sidewalks on paved roads;
—Controlling emissions from construction through improved enforcement of construction regulations and cooperation among local governments;
—Infilling of vacant land inside of the urbanized area;
—Controlling industrial sources through enforcement of existing rules and regulations for new source review and new source performance standards;
—Controlling indirect sources; and
—Conducting a public education campaign designed to inform the public on what they can do to reduce particulate problems.

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans. The citations which follow refer to Part D of the Clean Air Act.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in section 171 of the Act (172(b)(3)).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).
7. An identification of an emissions growth increment (172(b)(5)).
8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).
9. A permit program for major new or modified sources (172(b)(6) and 173).
10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).
11. Evidence of public, local government, and state involvement and consultation (172(b)(9)).
12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing (172(b)(1)).

Discussion

The paragraph numbers below correspond to the Part D nonattainment area plan requirements described in the preceding section, CRITERIA FOR APPROVAL.

As noted in the SUMMARY section, EPA reviewed the TSP plan for conformance with these requirements and, in this section, identifies the portions of the plan that (1) are approvable, (2) are conditionally approvable, or (3) contain a major deficiency, which causes disapproval of that portion of the plan and the overall plan with respect to Part D. Where a plan deficiency is identified, recommendations for revision of the plan are specified.

1. *Emission Inventory*

Two emission inventories were presented in the TSP plan. One inventory represents emissions for the entire county, Table 2.2–1, and the second, a gridded inventory, Table 2.4–2, represents emissions for the nonattainment area only. The nonattainment area, referred to as the Urban Planning Area, contains 98% of the county population and contains only 66% of the county particulate emissions.

A narrative description of the county inventory is presented in the plan. Most emission factors utilized throughout the county inventory were derived from AP–42, "Compilation of Air Pollutant Emission Factors." A second emission factor reference cited in the plan was "An Implementation Plan for Suspended Particulate Matter in the Phoenix Area, Volume II." This document was used for preparation of the plan as the best available source of information.

The county inventory presented in the plan contains some incorrect data. This inventory is equivalent to the original "Maricopa County 1977 Comprehensive, Stationary, Mobile and Area Source Emission Inventory," which was prepared by the county and submitted to EPA in 1978. An errata sheet correcting this original inventory was sent to EPA in January 1979; however these corrections were not reflected in the plan's inventory. The corrections include adjustments to the Farming Operations and Construction and Demolition categories.

The gridded urban inventory is of primary concern since it represents emissions specifically from the nonattainment area. However, no narrative accompanied the gridded inventory. Source categories are not entirely consistent between the two inventories and emissions between the two inventories vary considerably in certain categories, particularly where the county inventory is in error. For example:

a. The emissions on pages 2–23 through 2–28 and page 2–29 do not coincide.

b. There are inconsistencies in the "Projected Emissions Uncontrolled" column of Table 3.4–1 (page 3–13, 3–14) for grids 22, 23, 24, and 26 and in Table 2.4–1.

This portion of the plan is proposed to be approved with the condition that the State submit by December 31, 1980 an accurate TSP emissions inventory for the Urban Planning Area which rectifies the inconsistencies between the gridded and the county inventories, identified above.

2. *Modeling*

The TSP plan utilizes rollback modeling which is an acceptable technique for the 1979 SIP revision. Therefore EPA proposes to approve this portion of the plan.

3. *Emission Reduction Estimates*

The TSP plan contains a general commitment to the study of fugitive dust and other nontraditional control measures (see ATTAINMENT DEMONSTRATION discussion). Therefore, EPA proposes to approve this portion of the plan.

4. *Attainment Provision*

The plan identifies State and locally adopted regulations which reflect an emission limit that requires reasonably

available control technology for existing major source categories. In addition, the plan indicates that fugitive dust emissions comprise a major portion of the TSP inventory, and that reductions in these emissions will be necessary to attain the NAAQS. Due to (1) the unavailability of precise emission factors for the fugitive dust sources and (2) the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reductions.

In such cases, where study and implementation of nontraditional control measures is necessary to attain the standards, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for the attainment of the primary TSP standards by December 31, 1982. If the necessary commitment and schedule were included in the plan, a demonstration of attainment could be approved based on future implementation of the resulting control measures. Therefore, this portion of the plan is proposed to be approved with the condition that the State submit by December 31, 1980 a commitment and a schedule for the development, adoption and implementation of those control measures necessary for attainment of the primary TSP standards by December 31, 1982.

With respect to the secondary TSP standard, the State has not submitted an attainment plan. Due to the fact that attainment of the secondary standard will require emission reductions greater than those that would result from the expeditious application of reasonably available control technology, EPA proposes to extend the submittal deadline from January 1, 1979 to July 1, 1980, pursuant to section 110(b).

5. *Reasonable Further Progress*

The plan provides for regular incremental reductions needed for expeditious attainment, as required by Section 172(b)(3). Therefore, EPA proposes to approve this portion of the plan.

6. *Legally Adopted Measures*

The TSP plan, as noted above, identifies State and locally adopted regulations which reflect an emission limit that is equivalent to reasonably available control technology for major source categories. In addition, the TSP plan contains a general commitment to the study of fugitive dust and other, nontraditional control measures.

As discussed in the ATTAINMENT DEMONSTRATION section of this notice, the TSP plan contains a minor deficiency since it does not contain a commitment and schedule for the development, adoption, and implementation of those control measures necessary for attainment by December 31, 1982. This LEGALLY ADOPTED MEASURES section is deficient for the same reason, and is therefore proposed to be approved under the same condition stated in the ATTAINMENT DEMONSTRATION section.

7. *Emissions Growth*

The TSP plan does not provide either an emissions growth increment or an offset requirement for those emissions resulting from major new stationary source growth as required by Section 172(b)(5). The lack of either provision is a major deficiency. As a result, EPA proposes to disapprove this portion of the plan and the plan overall with respect to Part D. Upon submittal of either provision, EPA would reconsider the disapproval of this portion of the plan. The overall plan with respect to Part D, however, cannot be approved or conditionally approved until both the emissions growth and the permit program (discussed in criterion 9 below) requirements are satisfied.

8. *Annual Reporting*

The plan contains a commitment to submit annual reports of reasonable further progress, including an updated emissions inventory. Therefore, EPA proposes to approve this portion of the plan.

9. *Permit Program*

The plan does not contain an adopted, legally enforceable preconstruction review permit program for new or modified major stationary sources as required by Sections 172(b)(6) and 173. The lack of an adopted permit program is a major deficiency. As a result of this deficiency, EPA proposes to disapprove this portion of the plan and the plan overall with respect to Part D. Upon submittal of the required permit program, EPA would reconsider the disapproval of this portion of the plan. The overall plan with respect to Part D, however, cannot be approved or conditionally approved until both the permit program and the emissions growth (discussed in criterion 7 above) requirements are satisfied.

10. *Resources*

The plan does not specifically identify and commit all financial and manpower resources necessary for plan implementation, nor does the proposed plan provide resource commitments on the part of all implementing agencies. Documentation delineating these essential commitments must be submitted in order to fully meet the provisions of Section 172(b)(7) of the Act. This portion of the plan is proposed to be approved with the conditions that the State submit documentation delineating such commitments by July 1, 1980.

11. *Public and Government Involvement*

The plan provides evidence of public, local government, and State involvement and consultation in the planning process and includes a transcript of the public hearing. In addition, the plan identifies and analyzes air quality, health, welfare, economic, energy, and social effects of the proposed plan provisions. The plan also documents the process used in designating responsible entities for preparing and implementing the revised SIP. Thus, all requirements of Section 172(b)(9) appear to be satisfied and EPA proposes to approve this portion of the plan.

12. *Public Hearing*

Documentation submitted by the State indicates that the plan was adopted by the State after reasonable notice and public hearing as required by Section 172(b)(1). Therefore EPA proposes to approve this portion of the plan submittal.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the SIP revision described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office.

The EPA Region IX office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comment on the specified deadlines for the State to submit the corrections, in the event of conditional approval.

Comments received by June 27, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX office and at the locations listed in the ADDRESSES Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act, and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since January 2, 1980;

(2) EPA's notice published in the January 2, 1980 **Federal Register** (45 FR 52), indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that adddresses the requirements of Part D.

Under Executive Order 12044, EPA, is required to judge whether a regulation is "significant," and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Section 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: April 3, 1980.

Paul De Falco, Jr.,

Regional Administrator.

[FR Doc. 80-16202 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 263 and 264

U.S. Standards for Grades of Fish Fillets; "U.S. Standard for Grades of Frozen Fish Blocks and Products Therefrom"; Clarification of Labeling Requirements To Distinguish Between Products Made From Fish Blocks and Fish Fillets

AGENCY: National Marine Fisheries Service.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The purpose of this Advance Notice of Proposed Rulemaking is to notify all interested persons that the National Marine Fisheries Service (NMFS) is seeking information to determine whether label identity statements for products made from fish fillets and those made from fish portions cut from fish blocks need further clarification. This notice is soliciting comments on the necessity for a further clarification of existing regulations as well as the desirability of holding public meetings to allow all interested persons an opportunity to participate and submit their views on this issue to the NMFS.

DATES: All written comments must be received on or before September 30, 1980.

ADDRESS: Send comments to: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: James R. Brooker, Seafood Research, Inspection and Consumer Services Division, National Marine Fisheries Service, Washington, D.C. 20235 (202) 634-7458.

SUPPLEMENTARY INFORMATION: In recent Civil Action No. 77-592 (*Mrs. Paul's Kitchens, Inc. v. Joseph Califano, Secretary of the Department of Health, Education, and Welfare*) the U.S. District Court for the Eastern District of Pennsylvania found that the labeling of a Mrs. Paul's product composed of more than one piece of fish cut from a fish block as "fish fillets" was neither false nor misleading. Based on this finding, the court has indicated that the terms "fillet" and "portion" may be used interchangeably for the same product (i.e., "portion" for "fillet", or "fillet" for "portion"). Following this ruling, the NMFS finds that inconsistency, confusion, and ambiguity may exist in products labeled in accordance with United States Department of Commerce (USDC) regulations. Under existing Department of Commerce regulations the words "portion" and "fillet" are well defined so that consumers and the trade can maintain uniformity of nomenclature in the marketplace by distinguishing between these two major product forms on the product label. Present USDC descriptions for these terms are as follows:

Raw and Raw Breaded Portions (50 CFR Part 264, Subpart B, E, G)—consist of clean, wholesome, shaped masses of cohering pieces (not ground) of fish flesh. The fish portions are cut from frozen fish blocks.

Fish Fillets, (50 CFR Part 263) * * * consists of clean, whole, wholesome fillets or primarily large pieces of clean, whole, wholesome fillets cut away from either side of (species indicated); the fillets may be either skinless or with skin-on.

GENERAL INFORMATION: The regulations covering U.S. Standards for Grades for raw breaded and fried portions cut from fish blocks were promulgated in September 1963 to provide for the orderly marketing of uniform portioned products in the marketplace. The production of various styles of fish portions and fish fillets as reported by NMFS Fishery Resource Statistics has grown as follows:

[1,000 of pounds]

	1963	1978
Fried breaded fish portions	5,356.0	174,197.0
Raw breaded fish portions	16,466.0	179,988.0
Raw fish portions	1,968.0	32,426.0
Raw fish fillets	165,985.0	183,490.0

In all cases in which Federal/State statistics are collected and reported, "portions" or "fillets" are recorded as two distinct items.

In the institutional market (military, schools, state institutions, hospitals, large restaurants and fast food chains) these product forms have always been traditionally marketed and differentiated as "portions" or "fillets" in whatever other style of presentation (i.e., batter fried cod portions, raw breaded fish portions, raw cod fillets).

From 1960 to present, labels approved by NMFS in connection with its fishery product inspection program are required to have clear identification of the product form ("portions" or " fillets") as described in the promulgated U.S. Grade Standards. Further, this same differentiation between product form is maintained in the International Codex Standards for these products to assure orderly marketing among Nations.

In the event the terms "portions" and "fillets" are used interchangeably in the marketplace for fish products, the likely result will be misunderstanding, confusion, and ambiguity in the marketing and trade of these products. This confusion would impact adversely on the orderly marketing and consumer confidence in the use of these products.

It is the intent of NMFS to seek public comment initially in written form, including requests for public meetings, to gain information from all interested persons concerning their cognizance of and views concerning the terms "portion" and "fillet" in order to develop the necessary information for promulgating regulations to assure clarity and uniformity of nomenclature in the marketplace between these product forms.

In submitting written comments, please focus on the following questions, giving reasons and information source when applicable:

1. Is there a difference between fish portions cut from fish blocks and fish fillets?
2. If so, should that difference be maintained on the product label?
3. If not, should the terms "portion" and "fillet" be used interchangeably?
4. If used interchangeably, how should they be defined?
5. Would a public hearing be a desirable method of gathering information on the issue?
6. If a public hearing is recommended, what is your preference for a convenient location?

Dated: May 15, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16131 Filed 5-27-80; 8:45 am]

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Notices

Federal Register
Vol. 45, No. 104
Wednesday, May 28, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Special Salvage Timber Sale Program (SSTS); Forest Service Policy

AGENCY: Forest Service, USDA.

ACTION: Service-wide Program Implementation.

SUMMARY: This announcement implements the Special Salvage Timber Sale Program (SSTS) on all National Forests effective upon issuance of a revision to Forest Service Manual section 2438.4. Forest Service Interim Directive No. 48, issued February 27, 1979, originally published in the **Federal Register**, Friday, October 20, 1978, with minor modification will be incorporated into the Forest Service directives system. Minor modification involves the length of the sale period originally specified as no more than one year. The change to FSM 2438.4 provides for the sale period to extend through the following operating season when a sale is sold partway through the previous operating season.

FOR FURTHER INFORMATION CONTACT: Jim Beavers or George Leonard, Forest Service, USDA, Timber Management Staff, P.O. Box 2417, Washington, D.C. 20013 (202) 447–4051.

SUPPLEMENTARY INFORMATION: The Special Salvage Timber Sale Program is a joint program administered by the Forest Service and the Small Business Administration (SBA). It provides for preferential award of certain salvage sales, funded under Section 14(h) of the National Forest Management Act of 1976, to loggers and forest products concerns with 25 or fewer employees under size standards promulgated by the Small Business Administration.

A test program was conducted on 11 National Forests in Regions 1, 5, and 6 during 1979, which resulted in 187 individual sales totaling 62,886 MBF. A joint review of the test program by Forest Service and Small Business Administration officials in October 1979 found it to be highly successful with problems of a relatively minor nature. The SSTS Program will be authorized on all National Forests, upon issuance of revised instructions to Forest Service field personnel.

Dated: May 21, 1980.

R. Max Peterson,
Chief, Forest Service.

[FR Doc. 80–16061 Filed 5–27–80; 8:45 am]
BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Docket No. 35381; Order 80–5–129]

Aerlinte Eireann Teoranta; Authority To Operate On-Route Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of May 1980.

Order Rescinding Order and Granting Blanket Statement of Authorization

By Order 79–4–138, dated April 20, 1979, we notified Aerlinte Eireann Teoranta (Aerlinte) that it could not conduct any on-route charter trip unless specific authority in the form of a Statement of Authorization to conduct such trip had been granted by the Board. This action was taken under section 212.4(b) of the Board's Economic Regulations and resulted from an Irish Government policy of giving its national carrier, Aerlinte, a right of first refusal over charter flights proposed by certain U.S. authorized air carriers.[1] See 44 FR 24897.

By a Memorandum of Consultations dated March 29, 1980, Delegations of the United States and Ireland, recognizing the significant role of charter air transportation in the U.S.-Ireland market, agreed to remove the uncertainties affecting charter operations of the airlines of the two countries. The Irish Delegation offered assurances that the "first refusal" policy of its government would be discontinued,[2] and it undertook to eliminate prior approval of U.S. airline charter programs, subject to advance notice requirements and charterworthiness rules.

The U.S. Delegation agreed to rescind the requirement that the Irish designated airline obtain our approval before operating charters, on-route and off-route, between Ireland and U.S. cities.

On April 2, 1980, Aerlinte requested that we rescind Order 79–4–138.

We have received no answers to the request.

We will grant Aerlinte's application and rescind Order 79–4–138. In addition, we will grant *sua sponte* a blanket Statement of Authorization to Aerlinte to permit it to conduct off-route charter trips between the United States and Ireland (Third and Fourth Freedom charters) for a one-year period.[3]

We conclude that these actions are consistent with the public interest and with the spirit of the agreements reached between the Irish and United States Delegations. We find that the reasons which caused us to issue Order 79–4–138, requiring Aerlinte to obtain prior flight approval for its on-route charters, no longer exist and that the Order should be rescinded; that grant of a Statement of Authorization to Aerlinte to conduct without our advance flight approval off-route Third and Fourth Freedom charters is in the public interest and consistent with the criteria for such grant set forth in § 212.6; and that there are special and unusual circumstances warranting waiver of § 212.5 and that such waiver is in the public interest.[4] These actions do not constitute our endorsement that the authorized off-route charter trips are hardships qualifying Aerlinte for additional fuel allocation under any fuel allocation program.

Accordingly,

1. We rescind Order 79–4–138;
2. We grant Aerlinte a blanket Statement of Authorization to conduct Third and Fourth Freedom off-route charters, with the exception of charters to direct air carriers and foreign air carriers under § 212.8(a)(4–a);
3. We waive the provisions of § 212.5 insofar as they require the filing of the charter contract between the carrier and its charterers;
4. Exercise of the authority granted in paragraphs 2 and 3 is otherwise subject to the terms, conditions and limitations in Part 212, Part 129 of the Federal Aviation Regulations, Aerlinte's foreign air carrier permit, and any other applicable provisions of the Act and the Board's Regulations;
5. The authority granted in paragraphs 2 and 3 shall be effective for a one-year period;
6. We may amend, modify or revoke this order at our discretion without hearing; and
7. We will serve copies of this order upon Aerlinte, the Ambassador of Ireland in Washington, D.C., Transamerica Airlines, World Airways, Trans World Airlines, and Pan American World Airways.

This order will be published in the **Federal Register**, and will be transmitted to the President.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[5]
Secretary.

[FR Doc. 80–16134 Filed 5–27–80; 8:45 am]
BILLING CODE 6320–01–M

[1] Under the provisions of Part 212 of our Economic Regulations, Aerlinte's off-route charters already required advance flight approval.

[2] This assurance was tied to our acceptance of group contractor and similar fares.

[3] We also will waive the provisions of section 212.5, insofar as they require the filing of the charter contract executed between the carrier and its charterers.

[4] This authority does not extend to charters for other direct air carriers and foreign air carriers. See Order 79–12–205, December 31, 1979.

[5] All Members concurred.

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended May 16, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
May 12, 1980	38159	Bradley Air Services Limited, c/o John W. Crichton, Carp Airport, Carp, Ontario, Canada KOA ILO. Application of Bradley Air Services Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Regulations requests a Foreign Air Carrier Permit to perform large aircraft charter air services between Canada and the United States pursuant to the non-scheduled air services agreement of May 8, 1974, as amended. Answers may be filed by June 9, 1980.
May 16, 1980	38187	Lone Star Airways, Inc., c/o Harry A. Bowen, 234 Georgetown Building, 2233 Wisconsin Avenue, NW., Washington, D.C. 20007. Application of Lone Star Airways, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests a certificate to engage in scheduled air transportation of passengers, property and mail as follows: Between the terminal point Houston, Texas, the intermediate points New Orleans, Louisiana, St. Louis, Missouri, Chicago, Illinois, Indianapolis, Indiana, Cincinnati and Columbus, Ohio, Birmingham, Alabama, Memphis and Nashville, Tennessee, Louisville, Kentucky, Philadelphia and Pittsburgh, Pennsylvania, New York, New York, Washington, D.C., Richmond, Virginia, Raleigh, Greensboro and Charlotte, North Carolina, Atlanta, Georgia, Jacksonville, Orlando, Tampa, West Palm Beach, Fort Lauderdale, Florida, and the terminal point Miami, Florida. Conforming Applications and Answers are due June 13, 1980.
May 16, 1980	38188	Lone Star Airways, Inc., c/o Harry A. Bowen, 234 Georgetown Building, 2233 Wisconsin Avenue, NW., Washington, D.C. 20007. Application of Lone Star Airways, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests a certificate to engage in scheduled air transportation of passengers, property and mail as follows. Between the coterminal points Houston, Texas, New Orleans, Louisiana, Atlanta, Georgia, New York, New York, Tampa, Orlando, West Palm Beach, Fort Lauderdale and Miami, Florida and the coterminals Bermuda, Freeport and Rock Sound, the Bahamas, Grand Turk, Turks and Caicos, Montego Bay, Jamaica, Port au Prince, Haiti, and Santo Domingo, Dominican Republic. Conforming Applications and Answers are due June 13, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80–16136 Filed 5–27–80; 8:45 am]
BILLING CODE 6320–01–M

[Docket No. 37554; Order 80–5–139]

Establishment of the Standard Foreign Fare Level and Revisions of International Zones of Reasonableness

Adopted by the Civil Aeronatutics Board at its office in Washington, D.C., on the 20th day of May 1980.

Order

The International Air Transportation Competition Act (IATCA), Pub. L. 96–192, was enacted on February 15, 1980. Under section 24(a) of the IATCA, the Board establishes a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base [1] periodically by percentage changes in actual operating costs per available seat-mile (ASM). The SFFL thus computed forms the ceiling of a statutory no-suspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in section 1002(d) of the Federal Aviation Act of 1958 (the Act). Order 80–2–69 established the first interim SFFL reflecting guidelines set forth in the IATCA. On August 12, 1980, the 5 percent upward flexibility zone mandated by the IATCA [2] will become effective.

We have been aware, of course, that the SFFL methodology must necessarily be subject to alterations and refinements as we gain experience with it. The work done thus far represents our best efforts to comply with the Congressional mandate to assure cost pass-throughs on a timely basis. And, even as the first inflation adjustments have been fashioned, we have, in accordance with the Congressional design, been studying the reasonableness of the October 1, 1979, fare levels which, in general provide the SFFL base. Congress provided for a formal proceeding to determine the appropriateness of fares in selected markets. That case, the *Standard Foreign Fare Level Investigation*, Docket 37730, is going forward and will be completed by this August. The Board has always intended consideration, at the conclusion of the case, of additional or expanded zones of fare flexibility

[1] As defined in new section 1002(j)(7) of the Federal Aviation Act of 1958.

[2] See new section 1002(j)(6)(B) of the Act.

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beyond those contemplated in the IATCA.

Pan American now requests fare flexibility prior to the conclusion of Docket 37730 and additional to statutory requirements.[3] The carrier points out that U.S. scheduled carriers operating international services have experienced severe financial problems in the fourth quarter of 1979. During the first quarter of 1980, it expects the situation to deteriorate even further. Pan American suggests that an immediate relief is required and that this relief should take the form of an immediate ten percent upward flexibility, which would be added to the statutory five percent to be permitted in August as established by the IATCA, for a total 15 percent zone of upward flexibility.

This Order contains the new SFFL levels and also constitutes our response to the Pan American petitions. It reflects a substantial and unprecendented increase in Board international fare ceilings. It is important to delineate, therefore, what we are and are not deciding. This action does not reflect a determination that the October 1 base fare levels are too low. The question of the adequacy of the base fare level is, of course, at issue with respect to several key markets in the *Investigation*. Suffice it to say that, at this time, we are not convinced that the poor financial results experienced by most international carriers to date reflect a problem with either the base fare levels or the SFFL updating methodology. Rather, it appears that in many, if not most, markets the carriers are not fully implementing, or not implementing on a timely basis, the SFFL increases permitted.[4] Given the operating margins in the airline industry, this can easily make the difference between substantial profit and loss. There are several reasons for the state of affairs: (a) Inadequate lead time; (b) market pressure; and (c) adverse action or inaction by foreign governments. The causes are at least in part ambiguous, the results clearly unsatisfactory. Aggregate losses for U.S. international carriers during the 4th quarter 1979 more than totaled 82 million. While official reports have not yet been complied for the 1st quarter of 1980, publicly reported data indicates the losses will increase substantially.

Regardless of the cause of the financial results obtained to date, we are committed to seek ways to improve the situation and to provide such immediate releif as is possible, consistent with our statutory obligations. We recognize that the current recessionary environment in which carriers are operating involves a number of concurrent transitional processes, including several arising out of the enormous increases in jet fuel prices over the last year, even as competitive pressures increase as a result of our policies. Fuel inefficient aircraft must be replaced. The run up in fares could have long-term marketing consequences because of demand elasticity. Long time arrangements involving carrier pro-rate dilution are in some flux. Indeed, the entire process of international fare-making is undergoing changes.

What we decide today is that the long term interests of consumers as well as the industry are best served if the carriers have ample flexibility to solve their current problems without serious impairment of their financial condition, and nothwithstanding that some fares could exceed competitive levels. We are, therefore, adopting five innovations which should provide substantial immediate revenue relief: 1. The SFFL for travel commencing June 1, 1980, will be established on an optional basis for a four month period—June through September—to enable the carriers more readily to sell their fares for travel throughout the entire peak summer period. Carriers who utilize the four-month method will need to seek governmental approval for fare changes only three times a year. This step should also minimize the negative effects of the guaranteed air fare rule, which most U.S. flag carriers have adopted, during a time of rapid cost inflation. We will permit tariffs reflecting this SFFL adjustment to be filed immediately for travel after June 1; 2. We now institute the upward five percent zone of flexibility contemplated by the IATCA to all world areas where this zone has not yet been implemented.[5] 3. We are granting an additional ten percent upward zone of flexibility for fares to and from European points. We believe these particular markets to be quite competitive, considering their geographic proximity, the diversity of carriers serving them, the substantial number of European countries with which the U.S. has entered into liberal bilateral regimes, their traffic mix, and the price competition in the London markets, the largest on the continent. Simply put, we are prepared to allow the competition of the marketplace to be the primary regulator of fares, and allocator of the benefits of the substantial increases in productivity recently experienced, in these markets. Given these competitive conditions, we do not assume that prices need inexorably rise. 4. We approve an additional 5 percent upward flexibility in Pacific markets, for a total of 10 percent. The statutorily required SFFL calculations, as summarized below and set out in the appendices, produced negative cost results in that entity. The decreases are partly attributable to the fact that projected fuel costs used in determining the SFFL for April 1 exceeded the actual fuel costs the Pacific carriers experienced. Unfortunately, they are also attributable to changes in one carrier's accounting methods and to currency fluctuations. The additional 5 percent flexibility will serve as a counterweight to the fact that the data is partially distorted and unreliable to an unknown but significant degree. We expect in the near future to begin examining the SFFL updating methodology in a public proceeding. 5. Particularly because U.S. economic conditions may begin to erode traffic levels and the possible concomitant need for deeply discounted fare proposals, we make explicit our general disposition to act favorably on fares below the zone, on a case-by-case basis.

As in the past, fares to/from countries with which the United States has signed liberal bilaterals will not be subject to fare ceilings: the Netherlands, Belgium, Germany, the Bahamas, Bermuda, Taiwan, New Guinea, Finland, Israel, Jordan, Fiji, Jamaica, Costa Rica, Netherland Antilles, Singapore, Thailand, and Korea.

We emphasize that our actions do not in any way prejudge the case in Docket 37730, nor in any way prejudge any future decision regarding fare flexibility. We are taking these steps now to provide the carriers with the relief Pan American requests and which our staff has verified is necessary. Indeed, we will review the entire situation during the late summer and determine whether the new policies should be extended, modified, or withdrawn.

Four-Month SFFL

In establishing the SFFL for the four month period commencing June 1, 1980, we have projected non-fuel costs, based on the quarter ended December 31, 1979, and we have adjusted fuel prices to reflect the experienced monthly rate of fuel cost escalation. Our calculations measure inflation from October 1, 1979 to August 1, 1980, the midpoint of the June–September projection period, for the three rate-making entities: Atlantic, Latin America, and Pacific. The four-month average of December–March fuel cost increases produces the following rates of escalation: 4.71 cents per gallon in the Atlantic; 3.70 cents per gallon in Latin America; and 5.57 cents per gallon in the Pacific. The resulting projections are fuel prices of 124.75 cents in the Atlantic; 109.09 cents in Latin America; and 125.39 cents in the Pacific at August 1, 1980.[6]

Consequently, based on our calculations, we find the projected actual ceiling adjustment factor to be 18.41 percent in the Atlantic, 20.09 percent in Latin America, and 15.47 percent in the Pacific, over the October 1, 1979, level. (See Appendix B.) This results in an increase over the April 1, 1980, ceiling fares of 3.82 percent in the North Atlantic and 4.03 percent in Latin America, and a reduction of 1.48 percent in the Pacific.

Two-Month SFFL

As above, our calculations, based on the quarter ended December 31, 1979, measure inflation from October 1, 1979, to July 1, 1980, the midpoint of the June–July projection period, for the three rate-making entities. The rates of escalation are the same and result in fuel price projections of 120.04 cents in the Atlantic; 105.39 cents in Latin America; and 119.82 cents in the Pacific at July 1, 1980. Based on our calculations, we find the projected ceiling adjustment factors to be 16.57 percent in the Atlantic; 18.12 percent in Latin America; and 13.33 percent in the Pacific, resulting in an increase over the April 1, 1980, ceiling fares of 2.20 percent in the Atlantic and 2.32 percent in Latin America, and a reduction of 3.30 percent in the Pacific.

Carriers should note that we will issue a revised two-month SFFL effective August 1, but those implementing the four-month projection may not take the August 1 revision. Furthermore, we expect carriers, when filing their proposals, to indicate their base fare (normal economy fare) as of October 1, 1979, the proposed fare, and the percentage increase by city pair where direct service is provided.

[3] These requests came in letter-petitions to the Board dated April 16 and 29, 1980.

[4] The updating methodology has produced increases thus far of up to 19 percent over the October 1 fare levels. The carriers have only implemented a fraction, certainly less than 50 percent, of these increases.

[5] We previously granted an upward five percent flexibility on fares between the United States and Europe, in Order 80–2–69, January 29, 1980. Fares to and from Norway, Sweden, and Denmark will continue to be governed by a specific fares agreement negotiated by the respective governments in March.

[6] We have in the past used weekly reports of fuel costs to adjust the monthly averages where the more recent data indicated quickened cost acceleration. Here, the weeklies show the opposite. We must, however, take official notice of the recently announced and retroactive Saudi crude oil price increases. This development counsels us to rely on monthly data. We have also used quarterly data, in this instance, to develop non-fuel cost escalation. See Order 80–4–211, p. 1.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. Effective June 1, 1980, fares may be increased by the following adjustment factors over the October 1, 1979, level:

	4th Month	2d Month
Atlantic	1.1841	1.1657
Latin America	1.2009	1.1812
Pacific	1.1547	1.1333

2. Except as granted herein, we deny the petiton of the Air Transport Association of America in Docket 37670 with respect to foreign transportation;

3. We shall serve a copy of this order upon all U.S. certificated air carriers and all foreign air carriers; and

4. We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[7]

Secretary.

[7] All Members concurred.

Appendix A.—*International Normal Fare Adjustment Factor by Entity for the 2-Month Ratemaking Period June 1–July 31, 1980, Over Oct. 1, 1979, Fare Level*

	International entities [1]		
	Atlantic	Latin America	Pacific
Qtr Ended December 1979:			
Total Oper. Exp.[2] (000)	$619,720	$429,110	$321,445
Less: Property and Mail	82,838	45,018	60,900
Nonscheduled [3]	17,254	9,061	2,055
Transport Related [4]	29,276	6,065	4,103
Plus: Capitalized Lease Adj.[5]	5,620	1,877	3,004
Passenger Operating Expenses	495,972	370,843	257,391
Passenger Fuel Cost [6]	141,362	106,304	84,074
Passenger Nonfuel Cost	354,610	264,539	173,317
Scheduled Service ASM's (000)	8,987,769	6,262,856	5,553,503
Non-fuel Oper. Exp. per ASM	.03945	.04224	.03121
Fuel Expense Per ASM	.01573	[10].01744	.01514
Total Expense per ASM	.05518	.05968	.04635
Qtr Ended December 1978			
Total Oper. Exp.[2] (000)	$488,488	$326,752	$236,174
Less: Property and Mail	67,725	41,065	45,758
Nonscheduled [3]	26,204	9,577	1,306
Transport Related [4]	28,013	6,331	3,703
Plus: Capitalized Lease Adj.[5]	4,512	4,164	3,353
Passenger Operating Expenses	371,058	273,943	138,758
Passenger Fuel Cost [6]	66,683	52,378	39,594
Passenger Nonfuel Cost	304,375	221,565	149,164
Scheduled Service ASM's (000)	7,985,516	5,709,350	4,686,472
Non-fuel Oper. Exp. per ASM	.03812	.03881	.03183
Fuel Expense Per ASM	.00835	[11].00985	.00845
Total Expense per ASM	.04647	.04866	.04028
Percent Change in Non-fuel Oper. Exp. per ASM	3.49	8.84	−1.95
Percent Projected Change in Non-fuel Nov. 15, 1979, to July 1, 1980 [7]	2.17	5.44	−1.22
Estimated Change in Fuel cost Qtr. Ended Dec. 31, 1979, Average to July 1, 1980 [7]	$42.24	$35.99	$50.66
Non-Fuel Operating Exp. per ASM at July 1, 1980 [8] (cents)	.04031	.04454	.03083
Fuel Expense per ASM at July 1, 1980 [8] (cents)	.02237	.02372	.02281
Total Expense per ASM at July 1, 1980 (cents)	.06268	.06826	.05364
Total Expense per ASM at Oct. 1, 1979 (cents)	.05377	.05779	.04733
Ceiling Adjustment Factor [9]	$1657	$18.12	$13.33
Change from Prior SIFL	$2.20	$2.32	$−3.30
Average Fuel Cost Per Gallon: Qtr. Ended Dec. 31, 1979 (cents)	[illegible]	77.50	79.53
Month:			
December 1979 (cents)	86.45	78.99	83.01
January 1980 (cents)	94.11	84.71	91.95
February 1980 (cents)	[illegible]	91.18	96.17
March 1980 (cents)	103.55	92.44	100.32
Average Monthly Change Over Prior Month:			
December 1979 (cents)	1.75	1.36	4.97
January 1980 (cents)	7.66	5.72	8.94
February 1980 (cents)	5.87	6.47	4.22
March 1980 (cents)	3.57	1.26	4.15
Four Month Average (cents)	4.71	3.70	5.57

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Appendix A.—*International Normal Fare Adjustment Factor by Entity for the 2-Month Ratemaking Period June 1–July 31, 1980, Over Oct. 1, 1979, Fare Level—Continued*

	International entities [1]		
	Atlantic	Latin America	Pacific
Projected Fuel Cost:			
March 1980 Price (cents)	103.55	92.44	100.32
Est. Mar. 15–July 1, 1980 (cents)	16.49	12.95	19.50
Total (cents)	120.04	105.39	119.82
Percent Change Qtr. Ended Dec. 31, 1979 to July 1, 1980 (cents)	42.24	35.99	50.66

[1] Includes following carriers: For Atlantic BN/DL/NA/NW/PA/TW, for Latin America AA/BN/CO/DL/EA/PA/WA/NA, for Pacific BN/CO/NW/PA.
[2] Total operating expense for all operations and service.
[3] Total nonscheduled revenues times .95 assuming charter operations would only be conducted at profit.
[4] Total transport-related expense, less any excess of expense over total transport-related revenues
[5] Additional rental expense that would have been incurred had leases not been capitalized, less actual amortization of capitalized lease expense.
[6] Total fuel cost, scheduled service, times complement of rate of property and mail expense to total operating expense.
[7] Estimated average cost per gallon for the carriers at July 1, 1980, divided by the quarter ended December 1979.
[8] Operating expense per ASM for quarter ended December 1979 times projected change.
[9] Projected operating expense per ASM at July 1, 1980, divided by operating expense for October 1, 1979.
[10] Fuel expense for the Latin American entity excluding U.S.-Puerto Rico/Virgin Islands service. Passenger fuel cost for the entity less Puerto Rico/Virgin Islands is $74,417 and $37,435 for the quarters ended December, 1979 and 1978 respectively. Available seat miles less Puerto Rico/Virgin Islands is 4,267,113 and 3,802,424 for the 1979 and 1978 periods respectively.

Appendix B.—*International Normal Fare Adjustment Factor by Entity for the 4-Month Ratemaking Period June 1–Sept. 30, 1980, Over Oct. 1, 1979, Fare Level*

	International entities [1]		
	Atlantic	Latin America	Pacific
Qtr. Ended December 1979:			
Total Oper. Exp.[2] (000)	$619,720	$429,110	$321,445
Less: Property and Mail	82,838	45,018	60,900
Nonscheduled [3]	17,254	9,061	2,055
Transport Related [4]	29,276	6,065	4,103
Plus: Capitalized Lease Adj.[5]	5,620	1,877	3,004
Passenger Operating Expenses	495,972	370,843	257,391
Passenger Fuel Cost [6]	141,362	106,304	84,074
Passenger Nonfuel Cost	354,610	264,539	173,317
Scheduled Service ASM's (000)	8,987,769	6,262,856	5,553,503
Non-fuel Oper. Exp. per ASM	03945	.04224	03121
Fuel Expense per ASM	.01573	[10].01744	.01514
Total Expense per ASM	.5518	.05968	.04635
Qtr. Ended December 1978:			
Total Oper. Exp.[2] (000)	$488,488	$326,752	$236,174
Less: Property and Mail	67,725	41,065	45,758
Nonscheduled [3]	26,204	9,577	1,308
Transport Related [4]	28,013	6,331	3,703
Plus: Capitalized Lease Adj.[5]	4,512	4,164	3,353
Passenger Operating Expenses	371,058	273,943	188,758
Passenger Fuel Cost [6]	66,683	52,378	39,594
Passenger Nonfuel Cost	304,375	221,565	149,164
Scheduled Service ASM's (000)	7,985,516	5,709,350	4,686,472
Non-fuel Oper. Exp. per ASM	03812	03881	.03183
Fuel Expense per ASM	00835	[10]00985	00845
Total Expense per ASM	04647	04866	04028
Percent Change in Nonfuel Oper. Exp. per ASM	3.49	8.84	−1.95
Percent Projected Change in Nonfuel Nov. 15, 1979 to Aug. 1, 1980	2.46	6.18	−1.39
Estimated Change in Fuel Cost Qtr. Ended December 1979 Average to Aug. 1, 1980 [7]	$47.83	$40.76	$57.66

Appendix B.—*International Normal Fare Adjustment Factor by Entity for the 4-Month Ratemaking Period June 1–Sept. 30, 1980, Over Oct. 1, 1979, Fare Level—Continued*

	International entities [1]		
	Atlantic	Latin America	Pacific
Nonfuel Operating Exp. per ASM at Aug. 1, 1980 [8] (cents)	.04042	.04485	.03078
Fuel Expense per ASM at Aug. 1, 1980 [9] (cents)	.02325	.02455	.02387
Total Expense per ASM at Aug. 1, 1980 (cents)	.06367	.06940	.05465
Total Expense per ASM at Oct. 1, 1979 (cents)	.05377	.05779	.04733
Ceiling Adjustment Factor [9]	$18.41	$20.09	$15.47
Change from Prior SIFL	$3.82	$4.03	−$1.48
Average Fuel Cost Per Gallon: Qtr. Ended Dec. 31, 1979 (cents)	84.39	77.50	79.53
Month:			
December 1979 (cents)	86.45	78.99	83.01
January 1980 (cents)	94.11	84.71	91.95
February 1980 (cents)	[redacted]	91.18	96.17
March 1980 (cents)	103.55	92.44	100.32
Average Monthly Change Over Prior Month:			
December 1979 (cents)	1.75	1.36	4.97
January 1980 (cents)	7.66	5.72	8.94
February 1980 (cents)	5.87	6.47	4.22
March 1980 (cents)	3.57	1.26	4.15
Four Month Average	4.71	3.70	5.57
Projected Fuel Cost:			
March 1980 Price (cents)	103.55	92.44	100.32
Est. Mar. 15–Aug. 1, 1980 (cents)	21.20	16.65	25.07
Total (cents)	124.75	109.09	125.39
Percent Change Dec. 31, 1979 to Aug. 1, 1960 cents	47.83	40.76	57.66

[1] Includes following carriers: for Atlantic BN/DL/NA/NW/PA/TW, for Latin America AA/BN/CO/DL/EA/PA/WA/NA, for Pacific BN/CO/NW/PA.
[2] Total operating expense for all operations and service
[3] Total nonscheduled revenues times .95 assuming charter operations would only be conducted at profit.
[4] Total transport-related expense, less any excess of expense over total transport-related revenues.
[5] Additional rental expense that would have been incurred had leases not been capitalized, less actual amortization of capitalized lease expense.
[6] Total fuel cost, scheduled service, times complement of rate of property and mail expense to total operating expense.
[7] Estimated average cost per gallon for the carriers at Aug. 1, 1980, divided by the quarter ended December 1979
[8] Operating expense per ASM for quarter ended December 1979 times projected change.
[9] Projected operating expense per ASM at Aug. 1, 1980, divided by operating expense for October 1, 1979.
[10] Fuel expense for the Latin American entity excluding U.S.-Puerto Rico/Virgin Islands service. Passenger fuel cost for the entity less Puerto Rico/Virgin Islands is $74,417 and $37,435 for the quarters ended December, 1979 and 1978 respectively. Available seat miles less Puerto Rico/Virgin Islands is 4,267,113 and 3,802,424 for the 1979 and 1978 periods respectively.

[FR Doc. 80-16135 Filed 5-27-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Possum Trot Corporation, Box 249, McKee, Kentucky 40447, a producer of stuffed toys and tote bags (accepted May 12, 1980); (2) Caprice Footware, Inc., 299 Wordin Avenue, Brideport, Connecticut 06605, a producer of women's footwear (accepted May 12, 1980); (3) Grays Harbor Shake, Inc., P.O. Box 492, Hoquiam, Washington 98550, a producer of red cedar shakes and shingles (accepted May 12, 1980); (4) Dalton Industries, Inc., 4545 Dalton Boulevard, Willoughby, Ohio 44094, a producer of women's jackets, tops, blouses, sweaters, slacks, skirts and dresses (accepted May 12, 1980); (5) Viking Glass Company, 802 Parkway, New Martinville, West Virginia 26155, a producer of glass giftware (accepted May 12, 1980); (6) Sleepwear, Inc., One West 34th Street, New York, New York 10001, a producer of men's and boys' pajamas and robes (accepted May 14, 1980); (7) A. Leipold, Inc., 36 Saint Paul Street, Rochester, New York 14604, a producer of lamps for medical instruments (accepted May 15, 1980); (8) Lubbock Manufacturing Company, P.O. Drawer 1589, Lubbock, Texas 79408, a producer of tanks for transporting gases and chemicals (accepted May 15, 1980); (9) Messinger, Inc., 15004 Oxnard Street, Van Nuys, California 91411, a producer of gold jewelry (accepted May 16, 1980); (10) M. Goldenberg & Sons, Inc., 317 North Borad Street, Philadelphia, Pennsylvania 19107, a producer of men's shirts (accepted May 19, 1980); (11) California Infanteen Togs Manufacturing Company, 945 E. Pico Boulevard, Los Angeles, California 90021, a producer of crawlers, overalls, pants, playwear and dresses for infants and children (accepted May 19, 1980); (12) Apparel Unlimited, Inc., 67 Roberta Road, Concord, North Carolina 28025, a producer of women's slacks (accepted May 19, 1980); (13) Barry Wine Company, Inc., 7107 Vineyard Road, Cenesus-on-Hemlock Lake, New York 14435, a processor of wine (accepted May 20, 1980); and (14) Royal Park, Inc., 7777 Hines Place, Dallas, Texas 75235, a producer of women's shirts, jackets, shorts, slacks and skirts (accepted May 21, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a

decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-16118 Filed 5-27-80; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

Public Hearings on Draft Environmental Impact Statement on Proposed New Jersey Coastal Management Program

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed New Jersey Coastal Management Program.

Hearings will be held on June 11th and 12th, at the following locations:

Trenton, New Jersey—June 11, 1980—10:00 a.m., State Museum Auditorium, 204 West State Street.

Jersey City, New Jersey—June 11, 1980—7:30 p.m., Five Corners Library, 678 Newark Avenue.

Camden, New Jersey—June 12, 1980—10:00 a.m., Rutgers University Law School—Room 207, 5th & Penn Streets.

Toms River, New Jersey—June 12, 1980—7:30 p.m., Ocean County Courthouse, Courtroom No. 1, Washington Street.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed New Jersey Coastal Management Program are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on July 7, 1980.

As part of the procedures leading toward approval of the New Jersey Coastal Management Program a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: May 22, 1980.

Michael Glazer,

Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-16085 Filed 5-27-80; 8:45 am]

BILLING CODE 3510-08-M

Public Hearings on Draft Environmental Impact Statement Prepared on Proposed Padilla Bay Estuarine Sanctuary

Notice is hereby given that the Office of Coastal Zone Managment (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Padilla Bay Estuarine Sanctuary.

The Hearing will be held on June 10, 1980 at the following location: Anacortes City Hall, City Council Meeting Room, 6th and Q Avenue, Anacortes, Washington.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Padilla Bay Estuarine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on June 23, 1980.

As part of the procedures leading toward approval of the Padilla Bay Estuarine Sanctuary a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: May 22, 1980.

Michael Glazer,

Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-16080 Filed 5-27-80; 8:45 am]

BILLING CODE 3510-08-M

Western Pacific Fishery Management Council; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council conducted a partially closed meeting without prior **Federal Register** notice.

DATES: April 8–9, 1980.

ADDRESS: The meeting on Tuesday, April 8, 1980, took place at the Guam Reef Hotel, Agana, Guam, and the meeting on Wednesday, April 9, 1980, took place at the Saipan Continental Hotel, Saipan, Northern Mariana Islands.

FOR FURTHER INFORMATION OR A COPY OF THE MINUTES OF THE OPEN PORTION OF THE MEETING CONTACT: Western Pacific Fishery Management Council; Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

MEETING AGENDAS FOLLOW:

Open Session—April 8–9, 1980 (9 a.m. to 5 p.m. on April 8; 9 a.m. to 3:30 p.m. on April 9)—discussed: (1) a final draft of the Spiny Lobster Fishery Management Plan (FMP); (2) a draft of the Billfish FMP; (3) status of the Precious Corals FMP; (4) 1980 programmatic work schedule; and (5) planning sessions on a Bottomfish FMP.

Cosed Session—April 8, 1980 (8 a.m. to 9 a.am.)—discussed: the renegotiation/termination of the employment contract with the Council Executive Director which was scheduled to expire on April 9, 1980.

Delayed Publication

The meetings were publicized in advance in local news media by the Council. Due to a breakdown in communications, internal administrative delays, and the late development of an agenda item concerning personal data within the purview of 5 U.S.C. 552b(c)(6), all of which were further complicated by the geographical location and untimely receipt of meeting agenda data from the Council, these meetings were not published in advance in the **Federal Register**. In an effort to rectify this situation, detailed minutes of the open meetings will be available from the Council free of charge. Any item on the open meeting agenda may be rescheduled at a subsequent Council meeting, upon written request to the Council.

The National Marine Fisheries Service regrets that a timely publication was not provided. The Department has instituted measures to prevent a reoccurrence.

Closed Meeting Approval

After reviewing the minutes of the closed meeting, the Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, determined that the agenda item covered in the closed session dealt with a matter that qualified for exemption from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein. Had the Assistant Secretary received a timely request for a determination to hold a closed session, approval would have been granted since the item concerned matters within the purview of 5 U.S.C. 552b(c)(6)a, namely, information of a personal nature disclosure of which would constitute a clearly unwarranted invasion of personal privacy. A copy of the complete determination which is summarized above is available free of charge by writing or calling the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–4217.

Dated: May 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16178 Filed 5-27-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Archaeological Resources Protection Act of 1979

AGENCY: Department of Defense.

ACTION: Notice of permitting procedures pending promulgation of new regulations.

SUMMARY: The purpose of this notice is to provide immediate guidance to those persons seeking permits to conduct archaeological excavation or exploration of lands administered by Department of Defense (DOD) components, pending issuance of final DoD regulations in compliance with the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95). The Secretary of the Army, as Executive Agent for the Department of Defense, shall participate with the Interior Department and other Federal agencies in developing permanent implementing regulations for Pub. L. 96–95.

FOR FURTHER INFORMATION CONTACT: Mr. Garland P. Thompson, HQDA (DAEN–REH–O), Department of the Army, Washington, D.C. 20314 (202) 272–0517.

SUPPLEMENTARY INFORMATION: The Archaeological Resources Protection Act of 1979 (hereafter "the Act") was enacted to provide a comprehensive framework for protecting and regulating the use of archaeological resources on public and Indian lands. Formerly, these resources were protected by the Antiquities Act of 1906 (34 Stat. 225; 16 U.S.C. 431–3) and regulations promulgated thereunder (43 CFR Part 3).

The new Act requires that all excavation and removal of archaeological resources on public land be done under a permit issued by the Federal land manager. Recovered archaeological resources remain the property of the United States with custody and final disposition determined under regulations issued by the Secretary of the Interior. Violations of the Act, of the terms of a permit, or of applicable regulations can result in criminal and/or civil penalties.

The Act requires that uniform rules and regulations be issued by the Secretaries of the Interior, Agriculture, and Defense, and by the Chair of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, and representatives of concerned State agencies, and after public notice and hearing. Each such rule or regulation must also be submitted to the Senate Committee on Energy and Natural Resources, and the House Committee on Interior and Insular Affairs. The rule or regulation does not take effect for 90 days following its submission to these committees.

Permit Applications

It is clear from the purpose and legislative history of the Act that it was not the intention of the Congress to discontinue legitimate archaeological exploration and excavation pending the implementation of new regulations. Maintaining a legitimate archaeological activity is particularly important in light of the need to undertake archaeological surveys and exploration before proceeding with various pending projects. However, Section 10(a) of the Act states that, *"Each* uniform rule or regulation promulgated under the Act" must be submitted for Congressional review and *"no* such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees" (emphasis supplied). The Act makes no explicit provision for exempting interim or emergency regulations from the 90-day legislative review period, yet the Act and its permit requirement took effect immediately upon its enactment. (Pub. L. 96–95, Section 6(4)).

To reconcile these provisions of the statute, and to enable archaeological activity to continue pending the promulgation of new permitting regulations under the Act, the Department of Defense has determined that the most reasonable course for its components is to continue to issue permits during this period under regulations and procedures set forth in 43 CFR Part 3, which is issued under the Antiquities Act, to the extent those regulations are primarily procedural in nature.

Notice

Notice is hereby given that applications to the Military Departments (Department of the Army, Navy, and Air Force) for permits for excavation and removal of archaeological resources, subject to the Archaeological Resources Protection Act of 1979, Pub. L. 96–95, will be processed under regulations promulgated pursuant to Sections 3 and 4 of the Antiquities Act of 1906 (Sections 3 and 4, Stat. 225; 16 U.S.C. 432), and the substantive provisions of the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95), until new regulations have been issued. The existing regulations are published in 43 CFR Part 3. To the extent any provisions of the regulations are inconsistent with the new Act, the policies of the new Act will govern for permits issued under the new Act.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 21, 1980.

[FR Doc. 80-16068 Filed 5-23-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., 22 June 1980 in the Hotel Washington and from 9:30 a.m. to approximately 1:00 p.m., 23 June 1980 in Room 1E801, The Pentagon. Meeting sessions will be open to the public.

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The purpose of the meeting is to review recommendations made at the 1980 Spring Meeting, discuss current issues relevant to women in the Services, and start planning the itinerary/program for the next Semi-Annual Meeting scheduled for 16–20 November 1980 in Phoenix, Arizona.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DAGOWITTS, OASD (Manpower, Reserve Affairs, and Logistics), Rm. 3D322, The Pentagon, Washington, D.C. 20301, telephone 202–697–5655 no later than 13 June 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May. 21, 1980.

[FR Doc. 80–16087 Filed 5–23–80; 8:45 am]

BILLING CODE 3810–70–M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Tuesday, July 22, 1980, Pomonio Plaza, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on foreign collection systems.

M. S. Healy,

OSO Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 20, 1980.

[FR Doc. 80–16085 Filed 5–23–80; 8:45 am]

BILLING CODE 3810–70–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 1, 1980; Tuesday, July 8, 1980; Tuesday, July 15, 1980; Tuesday, July 22, 1980; and Tuesday, July 29, 1980 at 10:00 a.m. in Room 3D–325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing wage rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 21, 1980.

[FR Doc. 80–16086 Filed 5–23–80; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S. Code, Appendix I Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATE: June 13, 14, 1980.

ADDRESS: The National Center for Research in Vocational Education, 1960 Kenny Road, Columbus, OH.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is directed to: (A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of the this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The Agenda of the National Council meeting will include the following:

June 13, 1980: 8:45 A.M.—4:30 P.M.
- Briefing of the National Council by the National Center for Research in Vocational Education. No Council business to be discussed or voted upon.

June 14, 1980: 9:00 A.M.—11:00 A.M.
- Chairperson's Comments.
- Executive Director's Report.
- Committee Reports:
  - Special Populations (Report on Sex Equity Hearings and Bilingual Follow-up).
  - Others, as Necessary.
- Special Reports:
  - National Coordinating Committee on Vocational Education Research.
- Review of Council's FY '80–'81 Meeting Schedule.

June 14, 1980: 11:00 A.M.—Noon.
- Review of Council's FY '80 Expenditures.
- Protocol for August Retreat (Focus: Council Goals and Priorities for FY '81–'82).

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Vocational Education, located at 425—13th Street NW, Suite 412, Washington, DC. For further information, call Virginia Solt (202) 376–8873.

Signed at Washington, D.C., on May 21, 1980.

Raymond C. Parrott,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 80–16041 Filed 5–27–80; 8:45 am]

BILLING CODE 4110–02–M

Education Appeal Board; Applications for Review Accepted for Hearing

AGENCY: Education Department.

ACTION: Notice of applications for review accepted for hearing by the Education Appeal Board.

SUMMARY: This notice lists applications for review of final audit determinations that were accepted for hearing by the Education Appeal Board between January 5, 1980, and May 2, 1980.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue SW, (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: The Education Appeal Board was established in 1979 at the direction of Congress in the Education Amendments of 1978 (20 U.S.C. 1234). The Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board.

This notice lists the three applications for review of final audit determinations that were accepted by the Education Appeal Board for hearing between January 5, 1980, and May 2, 1980:

(1) *Appeal of the State of California,* Docket No. 9–(55)–79, Audit Control No. 09–60002. The State appealed a final audit determination that the San Francisco Unified School District, in fiscal year 1975, failed to provide State and local services to schools receiving funds under Title I of the Elementary and Secondary Education Act of 1965, as amended, that were comparable to State and local services provided to schools that were not receiving funds under Title I. The Department of Education requested a refund from the State in the amount of $2,184,496.00.

(2) *Appeal of the State of California,* Docket No. 2–(57)–80, Audit Control No. 09–00002. The State appealed a final audit determination that between July 1, 1974, and June 30, 1978, 62 local educational agencies used Federal funds provided under Title I of the Elementary and Secondary Education Act of 1965, as amended, to supplant State funds available under the State's Educationally Disadvantaged Youth Act. The Department of Education requested a refund from the State in the amount of $28,682,142.00.

(3) *Appeal of the State of Washington,* Docket No. 3–(58)–80, Audit Control No. 10–00600. The State appealed a final audit determination that in fiscal year 1975, three local educational agencies failed to meet maintenance of effort requirements under Part B of the Vocational Education Act. The Department of Education requested a refund from the State in the amount of $25,460.00.

An interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board. The application must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the intervenor has an interest in and information relevant to the specific issues raised in the appeals. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue SW, (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: May 20, 1980.

David S. Pollen,

Chairman, Education Appeal Board.

[FR Doc. 80–16088 Filed 5–27–80; 8:45 am]

BILLING CODE 4110–02–M

National Demonstration Projects: Upward Bound and Special Services

AGENCY: Department of Education.

ACTION: Amendment to the Notice of Closing Date for the Transmittal of Applications for National Demonstration Projects for Fiscal Year 1980.

The Secretary amends the Notice that extended the closing date for the transmittal of applications for National Demonstration projects as indicated below. The extension Notice was originally published in the **Federal Register** on February 21, 1980 (45 FR 11532).

Because of the substantial demand for funds resulting from the large number of applications received under the regular Upward Bound and Special Services programs, the Secretary will increase the funds available to the regular Upward Bound and Special Services programs.

Applications will not be accepted at this time for National Demonstration Special Services projects. However, applications will continue to be accepted for National Demonstration Upward Bound projects.

The Secretary emphasizes that—

(a) Applicants are no longer encouraged to submit applications specifically for Special Emphasis National Demonstration Upward Bound projects; and

(b) Only a very limited number of National Demonstration Upward Bound projects will be funded.

AVAILABLE FUNDS: Approximately $147.5 million is available for the Special Programs for Students from Disadvantaged Backgrounds in Fiscal Year 1980. Of this amount, $500,000 is estimated to be available for National Demonstration Upward Bound, to fund approximately 3 projects averaging $167,000 each. No money will be available to fund any National Demonstration Special Services projects. However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

FOR FURTHER INFORMATION: For further informaton, contact Ms. Velma Monterio-Williams, Chief, Program Development Branch, Division of Student Services and Veterans Programs, U.S. Department of Education (Room 3514, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245–2511.

(20 U.S.C. 1070d–1)

(Catalog of Federal Domestic Assistance Numbers 13.482, Special Services for Disadvantaged Students, and 13.492, Upward Bound)

Dated: May 21, 1980.

Steven A. Minter,

Acting Secretary of Education.

[FR Doc. 80–16217 Filed 5–27–80; 8:45 am]

BILLING CODE 4110–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

John F. Born; Filing

[Docket No. ID-1839]

May 21, 1980.

Take notice that on May 9, 1980, John F. Born (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President-Electric Operations, Atlantic City Electric Company, Public Utility
Director, Deepwater Operating Company, Public Utility

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.1)). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16088 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-355]

Columbia Gas Transmission Corp.; Application

May 21, 1980.

Take notice that on May 7, 1980, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP80-355 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to attach new reserves in Washington County, Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that independent producers are developing natural gas reserves on approximately 60,000 acres in the eastern portion of Washington County, Ohio, which reserves have been dedicated to Applicant. Applicant further states that approximately 208 wells have been completed in this area having an estimated recoverable reserve of 36,400,000 Mcf. Applicant estimates that approximately 676 wells having an estimated recoverable reserve of 118,300,000 Mcf would ultimately be completed in this area.

In order to transport the new supply to its existing transmission system, Applicant proposes to construct and operate approximately 24.0 miles of 8- and 10-inch pipeline and two compressor stations totaling 2,320 horsepower as follows:

1. A transmission pipeline consisting of 9.5 miles of 8-inch and 14.5 miles of 10-inch pipe in Washington County.
2. A 1,600 horsepower compressor station (Churchtown Compressor Station) in Watertown Township, Washington County. Churchtown Compressor Station would be comprised of two 800 horsepower units.
3. A 720 horsepower compressor station (Lawrence Compressor Station) in Lawrence Township, Washington County. Lawrence Compressor Station would be comprised of two 360 horsepower compressor units.

Applicant estimates the cost of the proposed facilities to be $6,831,200, which cost would be financed from funds generated internally.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretay.

[FR Doc. 80-16089 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP79-269]

Columbia Gulf Transmission Co. and Northern Natural Gas Co.; Petition To Amend

May 21, 1980

Take notice that on May 1, 1980, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-269 a joint petition to amend the order of November 8, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the volumes of natural gas exchanged, the substitution of a new delivery point to Columbia Gulf for four existing points of delivery and the addition of two balancing points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the order issued November 8, 1979, Petitioners were authorized to exchange up to 10,000 Mcf of natural gas per day on a best-efforts basis at delivery points in Texas and Louisiana.

It is asserted that Northern has acquired the right to purchase 50 percent of the reserves in Vermilion Block 372, offshore Louisiana, (V372) which gas would be transported by Michigan Wisconsin Pipe Line Company (Mich Wisc) to Columbia Gulf at an existing interconnection of the pipeline systems of Columbia Gulf and Mich Wisc in Eugene Island Block 250-A (EI250-A). Petitioners propose herein to modify the exchange agreement by substituting the interconnection in EI250-A for the four existing points of delivery to Columbia Gulf. Petitioners further propose to exchange Northern's V372 gas delivered by Mich Wisc to Columbia Gulf at EI250-A with gas which Columbia Gulf makes available to Northern in Irion County, Texas. Petitioners state that since one-half of the V372 production is expected to be 16,500 Mcf per day, this is the new amount Petitioners propose to exchange.

It is further stated that imbalances resulting from the exchange of natural gas at Irion County, Texas, and EI250-A would be corrected within 60 days by Columbia Gulf delivering, or causing to be delivered, volumes of natural gas to Northern or Northern causing delivery of natural gas to Columbia Gulf at the terminus of Columbia Gulf's Blue Water Project at Egan, Acadia Parish, Louisiana, and the interconnection of the pipeline facilities of Columbia Gulf and Transcontinental Gas Pipe Line Corporation at North Terrebonne, Terrebonne Parish, Louisiana.

It is stated that pursuant to the terms of the amendment, Columbia Gulf would transport up to 16,500 Mcf of Northern's gas per day at the Egan balancing point and redeliver equivalent quantities, less 1.65 percent retained for fuel and unaccounted for volumes, for Northern's account at the interconnection of the pipeline facilities of Columbia Gulf and Texas Eastern Transmission Corporation in St. Landry Parish, Louisiana. It is further asserted that Columbia Gulf would be entitled to receive 13.665 cents per Mcf for gas transported from the Egan balancing point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16090 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-346]

Consolidated Gas Supply Corp. and Consolidated Gas Transmission Corp.; Application

May 21, 1980.

Take notice that on May 1, 1980, Consolidated Gas Supply Corporation (Supply) and Consolidated Gas Transmission Corporation (Transmission), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-346 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of facilities and the transportation and sale of natural gas for resale, and for permission and approval to abandon the transportation and sale of natural gas and the facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Supply states that it proposes to transfer, at net cost, to Transmission all of the natural gas production, gathering, transmission, storage, and sales facilities and properties now owned and operated by it, with the exception of those facilities and properties utilized exclusively in the conduct of Supply's West Virginia natural gas distribution business.

Because Transmission proposes to continue all interstate sales and services now rendered by Supply and to continue operation of the jurisdictional facilities to be acquired in accordance with the terms of Supply's existing authorizations, Applicants request authorization for Transmission to succeed to Supply's interest therein and to substitute Transmission as Applicant in proceedings wherein Supply has applications pending or as certificate-holder where authorizations are issued in those proceedings prior to issuance of the requested authorization herein, it is stated. Upon effectuation of the instant proposal, Supply states that it would change its name to Hope Gas, Inc.

It is further stated that Supply has long-term notes payable to Consolidated Natural Gas Company (Consolidated Natural), which debt would be apportioned between Supply and Transmission on the ratio of the net book value of the assets transferred, excluding long-term debt and less liabilities assumed by Transmission over the net book value of Supply's total assets immediately prior to transfer, excluding long-term debt and liabilities.

Transmission states that it would issue and deliver to Supply shares of its capital stock equal in par value to the excess of the book value of the assets transferred to Transmission over the sum of the liabilities (including long-term debt) assumed by Transmission and the retained earnings allocated to Transmission, this representing 100 percent of the issued and outstanding capital stock of Transmission.

Applicants state that the share of Transmission's stock received by Supply would be transferred to Consolidated Natural in exchange for shares of Supply's issued and outstanding capital stock equal in par value to the value of the Transmission capital stock received by Consolidated Natural. Supply states that it would then cancel and retire the shares of its capital stock surrendered to it by Consolidated Natural.

In order that Supply might continue to serve the full natural gas requirements of its present and future West Virginia customers subject to the jurisdiction of the West Virginia Public Service Commission, Transmission states that it would, upon issuance of the authorizations requested herein, enter into a service agreement with Supply under which service would be billed at the rates and charges specified in Supply's Rate Schedule RQ to be adopted by Transmission.

It is stated that approval of the instant proposal would place Supply's West Virginia distribution operations, the Hope Natural Gas Company Division, on a full legal and regulatory parity with the operations conducted by Supply's other affiliated and non-affiliated wholesale distribution customers.

No new facilities, services, or sales other than the proposed sale to Supply by Transmission are proposed herein, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission

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by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16091 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1811]

Ernest D. Huggard; Filing

May 21, 1980.

Take notice that on May 9, 1980, Ernest D. Huggard (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Atlantic City Electric Company, Public Utility.

Director, Vice President, Deepwater Operating Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16092 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1834]

Jerrold L. Jacobs; Filing

May 21, 1980.

Take notice that on May 9, 1980, Jerrold L. Jacobs (Applicant), filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Atlantic City Electric Company, Public.

Director, Deepwater Operating Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory, Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 16093 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-96]

State of Kansas, et al.; Petition To Reopen Final Well Category Determinations

May 21, 1980.

In the matter of State of Kansas, Section 108 NGPA Determinations, Texaco, Inc.; Anderson-Shrier Unit No. 1 Well, State No. K-790600, JD No. 80-04006; Garden City Unit No. 1 Well, State No. K-79-0601, JD No. 80-04002; Landgraf Unit No. 1 Well, State No. K-79-0606, JD No. 80-04005.

Take notice that on March 17, 1980, Texaco Inc. (Texaco), P.O. Box 52332, Houston, Texas 77052, filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen the final well category determinations for the above-listed wells under 18 C.F.R. § 275.205.

Texaco indicates that the Corporation Commission of the State of Kansas made affirmative determinations that these wells qualified as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA), and that on December 10, 1979, such determinations, after the expiration of the forty-five day period for Commission review, became final under 18 C.F.R. § 275.202(a).

After the issuance of a Commission order directing an investigation of two other stripper well applications filed by Texaco,[1] the company instituted a review of all its other stripper well applications to ascertain whether any additional wells failed to qualify for the stripper well maximum lawful price under the Commission's regulations implementing section 108. As a result of this investigation, Texaco discovered that the applications for the above-listed wells did not include, as required under 18 C.F.R. § 271.804(a)(1), volumes of gas produced and used in the field. Upon inclusion of the field use volumes, Texaco found that the production volumes for such wells exceeded the volumes permitted under section 108. Accordingly, Texaco requests that the Commission reopen the final determinations for such wells and allow the withdrawal of the applications upon which the determinations were granted.

Any person desiring to be heard or to make any protest to such petition should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or 1.10). All protest filed with the Commission will be considered but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16102 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-349]

Michigan Wisconsin Pipe Line Co. and United Gas Pipe Line Co.; Application

May 21, 1980.

Take notice that on May 2, 1980, Michigan Wisconsin Pipe Line Company (Mich-Wisc), One Woodward Avenue, Detroit, Michigan 48226, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-349 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of

[1] Public Order Directing Private Investigation, Docket No. IN80-7, issued January 18, 1980.

pipeline and related facilities necessary to connect gas reserves underlying High Island Area Block A-555, South Addition, offshore Texas (Block A-555), to the pipeline facilities of High Island Offshore System (HIOS), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Mich-Wisc and United state that they have acquired the preferential right to purchase 67.5 percent and 32.5 percent, respectively, of the gas reserves underlying Block A-555. Initial production of gas from Block A-555 is projected to commence on or about September 1, 1980, and the average daily deliverability therefrom is estimated to be 35,000 Mcf of natural gas, it is stated, with proven reserves of 20,500,000 Mcf in addition to potential reserves of 10,000,000 Mcf which are now estimated.

To connect the gas reserves underlying Block A-555, Applicants propose herein to construct and operate the lateral pipeline facilities necessary to connect the production platform in such block to an undersea valve in Block A-555 on the west leg of the pipeline facilities of HIOS, which lateral pipeline facilities would, it is stated, comprise 1.6 miles of 10¾-inch line and measurement facilities located on the Block A-555 production platform. In accordance with the terms and conditions set forth in a construction and ownership agreement dated February 19, 1980, between Mich-Wisc and United, the parties state that they have agreed to own from inception undivided interests of 67.5 percent and 32.5 percent, respectively. The lateral pipeline facilities would be operated by Mich-Wisc in accordance with an operating agreement between Mich-Wisc as operator and Mich-Wisc and United as owners, it is asserted.

Petitioners state that the proposed facilities are estimated to cost $4,874,390, the cost to be borne by Mich-Wisc and United in proportion to their respective ownership interests. It is stated that the cost would be financed from funds presently on hand.

The gas reserves proposed to be attached herein would help to offset declining production from other sources which are presently being experienced by Mich-Wisc and United, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16094 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-76]

Montana-Dakota Utilities Co.; Amendment to Application

May 21, 1980.

Take notice that on May 6, 1980, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP80-76 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application in said docket so s to reflect an increase in horsepower at two proposed compressor stations, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its application herein requests authorization, *inter alia*, for the construction and operation of two new compressor stations as follows:

1. A new compressor station consisting of two 600 horsepower reciprocating compressor sets to be located in Dawson County, Montana (Morgan Creek); and,

2. A new compressor station consisting of one 600 horsepower reciprocating compressor set to be located near Williston, Williams County, North Dakota.

Applicant now proposes to substitute 800 horsepower units in lieu of the 600 horsepower units originally proposed because, Applicant states, the 600 horsepower units would not pump the required volumes of gas.

Applicant estimates the revised construction costs at the Morgan Creek Station to be $1,228,300, and the revised construction costs for the Williston Station to be $683,100.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

[FR Doc. 80-16095 Filed 5-27-80; 8:45 am]

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

[Docket No. CP80-347]

Natural Gas Pipeline Co. of America; Petition for Declaratory Order and Application

May 21, 1980.

Take notice that on May 2, 1980, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-347 a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) for a declaratory order to remove uncertainties as to the jurisdictional status of certain landfill gas operations and to permit Petitioner to recover through the Purchased Gas Adjustment Clause of its tariff the cost of the gas to be purchased; and an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of a side tap to enable Petitioner to receive said

gas in its existing interstate system, all as more fully set forth in the petition for declaratory order which is on file with the Commission and open to public inspection.

Petitioner requests the Commission issue an order declaring:

(1) That facilities to be constructed by Getty Synthetic Fuels, Inc. (GSF) for the recovery, processing and sale of landfill gas from the Calumet Industrial District Landfill; the landfill gas recovered through the operation of said facilities; the sale of such gas to Petitioner and the operation of said facilities are not subject to the jurisdiction of the Commission under the Natural Gas Act or the Natural Gas Policy Act of 1978.

(2) That the facilities to be constructed by Petitioner for the transportation of said landfill gas from GSF to a point on Petitioner's existing interstate system located in Cook County, Illinois, and the operation by Petitioner of said facilities are not subject to the jurisdiction of the Commission under the Natural Gas Act.

(3) That Petitioner be permitted to recover the cost of the gas to be purchased from GSF through the purchased gas adjustment clause of Petitioner's tariff.

Petitioner further requests certificate authorization for the construction and operation of a side tap in Cook County, Illinois, to enable Petitioner to receive into its existing interstate facilities the volumes of landfill gas purchased from GSF.

It is stated that GAS plans to construct, install and operate a landfill methane recovery facility at the Calumet Industrial District Landfill in Calumet City, Illinois, which is owned and operated by Waste Management of Illinois, Inc., which gas recovery system is to consist of a series of wells drilled in the landfill and connected by a network of piping to gather the landfill gas and deliver it to the processing facilities. It is asserted that the gas would be composed primarily of methane with an average heating value of approximately 980 Btu per cubic foot.

Petitioner states that it and GSF have entered into an agreement dated January 22, 1980, for the purchase of landfill gas generated on a 103-acre portion of the Calumet Industrial District Landfill, which agreement provides for the delivery of a minimum of 300 Mcf per day of pipeline quality gas and a maximum of 3,500 Mcf per day with deliveries estimated to be approximately 858,000 Mcf per year or approximately 2,600 Mcf per day based on 330 days of operation each year. Petitioner states that it is estimated deliveries would commence in December 1980 and that they would continue until June 20, 1994, and from year to year thereafter.

Petitioner states that it proposes to construct and operate facilities consisting of approximately 1 mile of 6-inch pipeline and a measuring facility to extend from the tailgate of GSF's facilities at the Landfill to a point of interconnection with Petitioner's interstate system at Burnham, Cook County, Illinois, which facilities Petitioner asserts would be non-jurisdictional. It is further stated that the cost of all of Petitioner's facilities would be $640,000, of which $632,000 is for the non-jurisdictional transportation facilities, construction to be financed from funds on hand. petitioenr asserts that at Petitioner's option, GSF is obligated to reimburse Petitioner for the actual cost of facilities up to $650,000 if the agreement is terminated or if deliveries of gas fail to reach specified volumes.

The initial price to be paid for the gas is stated to be $3.67 per Mcf of gas delivered, based upon a heating value of 1,000 But per cubic foot.

Petitioner further requests permission to recover through the purchased gas adjustment clause of its tariff (PGA clause) the cost of the landfill gas purchased from GSF, as escalated from time to time.

Petitioner states that the landfill gas involved is the result of decomposition of organic waste contained in the landfill and that this gas is non-jurisdictional for the same reasons the Commission found gas from animal waste to be non-jurisdictional in *Natural Gas Pipeline Company of America*, Opinion No. 763—FPC—(1976).

Finally, Petitioner asserts that in order to receive the GSF landfill gas into its existing interstate system, it would also be required to construct a side tap at an estimated cost of $8.000 for which Petitioner requests authorization to construct and operate.

Any person desiring to be heard or to make any protest with reference to said petition and application should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on the application for a certificate if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Petitioner to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16096 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-348]

Northern Utilities, Inc.; Application

May 21, 1980.

Take notice that on April 21, 1980, Northern Utilities, Inc. (Applicant), P.O. Box 2800, Casper, Wyoming 82602, filed in Docket No. CP80-348 an application pursuant to Subpart C of Part 284 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for authority to transport natural gas for Montana-Dakota Utilities Company, Inc. (MDU), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport gas on behalf of MDU under Section 311(a)(2) of the NGPA at a rate of 7.5 cents per Mcf, pursuant to an agreement with MDU dated April 11, 1980. The agreement is said to be for a primary term expiring January 7, 1996.

Applicant states that MDU has contractual rights to purchase gas produced in the area of the Powell II Unit in Converse County, Wyoming, and that MDU wants to make excess volumes of this gas available to its general system. It is said that MDU has made arrangements with Applicant and Kansas-Nebraska Natural Gas Company, Inc. (K-N) for the transportation and exchange of such gas through Applicant's Northern Pipeline Divison line for delivery to K-N at an existing interconnection between the systems of Applicant and K-N in Casper, Wyoming, for the account of MDU.

Applicant further states that it proposes to construct an interconnection between its Northern Pipeline Division line and its No. 3 line in Natrona County, Wyoming, to deliver the excess gas to K-N at an existing interconnection between K-N and Applicant at Casper on the No. 3 line. It is asserted that MDU has agreed to reimburse Applicant for the actual cost of this construction, estimated to cost between $20,000 and $25,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16097 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1835]

Brian A. Parent; Filing

May 21, 1980.

Take notice that on May 9, 1980, Brian A. Parent (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Treasurer, Atlantic City Electric Company, Public Utility.
Treasurer and Assistant Secretary, Deepwater Operating Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16098 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-33]

Phillips and Munzel Shell; Filing of Petition for Review

May 21, 1980.

Take notice that Phillips and Munzel Shell on May 2, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before June 4, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave. NW, Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16103 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST80-193]

Producer's Gas Co.; Application for Approval of Rates

May 21, 1980

Take notice that on May 5, 1980, Producer's Gas Company (Applicant), 4925 Greenville Avenue, Dallas, Texas 75206, filed in Docket No. ST80-193 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Michigan Wisconsin Pipe Line Company (Mich Wis), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Mich Wis have entered into an agreement dated April 23, 1980, whereby Applicant is to provide a transportation service for Mich Wis for a two-year period subject to possible extension for an additional two years until Mich Wis constructs its own gathering facilities in Caddo County, Oklahoma. Applicant further states what gas attributable to the interest of Mich Wis would be delivered, along with Applicant's gas, at an existing delivery point in Caddo County, Oklahoma, and Applicant would make available to Mich Wis an equivalent volume of gas from wells in Dewey County, Oklahoma, where both Mich Wis and Applicant have common connection points.

Applicant anticipates that approximately 1.592 billion Btu's per day would be transported. Applicant proposes a base transportation charge of 28.45 cents per Mcf as a fair and equitable charge for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties ot the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16099 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1894]

Joseph G. Salomone; Filing

May 21, 1980.

Take notice that on May 9, 1980, Joseph G. Salomone (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

V 45 M Y 28 80 UMI

Vice President-Control, Atlantic City Electric Company, Public Utility.
Vice President, Deepwater Operating Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16100 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ID-1895]

Henry C. Schwemm; Application

May 21, 1980.

Take notice that on May 9, 1980, Henry C. Schwemm (Applicant), filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President-Production, Atlantic City Electric Company, Public Utility.
Vice President, Deepwater Operating Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16101 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-136]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

May 21, 1980.

Take notice that on May 2, 1980, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP78-136 a petition to amend the order issued August 18, 1978, as amended August 2, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 18, 1978, it was authorized to transport for Amoco Production Company (Amoco), natural gas produced and delivered into Petitioner's existing pipeline facilities in Block 10, South Pelto Area, offshore Louisiana (Pelto 10). Under the transportation agreement with Amoco dated October 7, 1977, Petitioner was authorized to receive from that company in Pelto 10 a maximum daily quantity equal to the greater of 12,000 Mcf of Pelto 10 gas or 40 percent of the capacity of Petitioner's pipeline facilities connecting Pelto 10 to adjoining Pelto 11 (Pelto 10 Facilities), and redeliver a thermally equivalent quantity onshore to Florida Gas Transmission Company (FGT) for the account of Amoco at the point of interconnection between Petitioner's Southeast Louisiana Gathering System and FGT's main line in St. Helena Parish, Louisiana, it is stated.

It is stated that further development of Pelto 10 made substantial additional quantities of gas available to Amoco which it desired Petitioner to transport to the redelivery point, and by order issued August 2, 1979, an increased charge and maximum service quantity were authorized by the Commission.

Petitioner states that it and Amoco now propose to add an additional delivery point where Petitioner can redeliver the subject gas to FGT for the account of Amoco, and that, accordingly, the parties have executed a letter agreement dated January 24, 1980, which amends the October 7, 1977, transportation agreement to provide for such an additional point to be located at the existing interconnection between the facilities of Petitioner and FGT in Vermilion Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16104 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP79-228]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

May 21, 1980.

Take notice that on May 6, 1980, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Consolidated Gas Supply Corporation (Con Gas), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-228 a joint petition to amend the order issued August 13, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas to displace the fuel oil for Consolidated Edison Company of New York, Inc. (Con Ed) for an additional term through May 18, 1981, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued August 13, 1979, they were authorized to transport oil displacement gas for Con Ed for a period ending June 1, 1980, which period was defined as the "fuel shortage emergency period" by the Commission in its order issued May 17, 1979, in Docket No. RM79-34 (18 CFR 284.201(e)). It is further stated that on March 5, 1980, Con Ed filed in Docket No. RM79-34 its motion to provide that the fuel shortage emergency period extend through June 1, 1981.

Petitioners assert that on April 25, 1980, the Economic Regulatory Administration (ERA), in response to Con Ed's application filed in ERA Docket No. 80-CERT-013, transmitted to the Commission ERA's recertification of an eligible use of natural gas to displace fuel oil which recertification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with Part 284 of the Commission's Regulations.

Petitioners, therefore, propose herein to continue the transportation of fuel oil displacement gas for Con Ed through May 18, 1981.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16105 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-356]

United Gas Pipe Line Co.; Application

May 21, 1980.

Take notice that on May 8, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-356 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during an indefinite period commencing September 7, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application which is one file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system and the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system suply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities would not exceed $6,355,000 for the interim period between September 7, 1980, the expiration date of its presently effective budget-type authorization, and January 1, 1981.

Applicant additionally states that the total cost of the proposed facilities would not exceed $20,000,000 per year after January 1, 1981, with no single onshore project to exceed $2,500,000 and no single onshore project to exceed $3,500,000. Such costs, it is stated, would be financed through funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed with the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16106 Filed 5-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP79-252]

United Gas Pipe Line Co., et al.; Petition To Amend

May 21, 1980

Take notice that on May 6, 1980, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35303, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-252 a petition to amend the order issued August 16, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the participation by Transco in the ownership of certain offshore facilities constructed and owned by United and Southern, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued August 16, 1979, in the instant docket, United and Southern were authorized to construct approximately 11.2 miles of 12-inch pipeline and related facilities extending from the producers' platform at a point in West Cameron Area Block 331 to a sub-sea tap installed on the 42-inch pipeline of High Island Offshore Sustem (HIOS) in Block 342, offshore Louisiana, to effectuate deliveries of natural gas purchased by United and Southern from reserves underlying Block 331.

Petitioners propose herein to provide for 5.71 percent ownership in approximately 9.51 miles of the 12-inch pipeline and related facilities by Transco. It is stated that Transco was authorized to construct and operate approximately 2.94 miles of 12-inch pipeline extending from West Cameron Block 330 to a point of interconnection with the subject line of United and Southern in West Cameron Block 332. It is further asserted that the 9.51 mile segment of line in which Transco is seeking ownership extends from Block 332 to the HIOS interconnection in Block 342, and Transco would utilize the pipeline capacity thus acquired to transport gas it has purchased from reserves underlying Block 330.

Any person desiring to be heard or to make any protest with reference to said

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petition to amend should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16107 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-354]

United Gas Pipe Line Co.; Application

May 21, 1980.

Take notice that on May 7, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-354 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an exchange agreement dated February 25, 1980, it has agreed to transport and exchange with Amoco Production Company (Amoco) up to 9,000 Mcf of natural gas per day for a term of 10 years from the date of initial delivery. It is stated that gas would be delivered to applicant for the account of Amoco at a mutually agreeable point of interconnection between the facilities of Applicant and Alabama-Tennessee Natural Gas Company in Lamar County, Mississippi. It is further asserted that Applicant would redeliver to Amoco equivalent volumes at existing points of interconnection between Applicant's and Florida Gas Transmission Company's systems in St. Landry Parish, Louisiana, in St. Helena Parish, Louisiana, or in Perry County, Mississippi.

Applicant further asserts that it would transport and exchange such gas with Amoco at no charge and no new facilities would be required to effectuate the proposed transportation of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant's to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16106 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 1759]

Wisconsin Michigan Power Co.; Land Withdrawal (Additional), Michigan

May 21, 1980.

On December 3, 1976, the Wisconsin Michigan Power Company (Licensee) filed an application to amend the license issued for the Michigamme Project, designated as Project No. 1759, and located on the Michigamme and Menominee Rivers in the States of Michigan and Wisconsin. In the subject application, the Licensee proposed a slight increase in the maximum headwater elevation of the Michigamme Project reservoir. As a part of the amendment application, the Licensee filed Exhibit K-c (FERC No. 1759-104) which depicts U.S. lands not previously included in notices of land withdrawal for Project No. 1759.

Therefore, in accordance with the provisions of Section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described, insofar as title thereto remains in the United States, is from the date of said filing, reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress:

Michigan Meridian, Michigan

Those portions of the following subdivisions lying between the 1,374 and the 1,375 foot contour elevation (mean sea level datum) as depicted on may Exhibit K-c (FERC No. 1759-104):

T. 44 N., 31 W.,
Sec. 23, lots 8 and 11 (approximately 0.70 acre)

Copies of the aforementioned map Exhibit K-c have been transmitted to the U.S. Geological Survey and Bureau of Land Management.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16108 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-396]

Carolina Power & Light Co.; Filing

May 20, 1980.

The filing company submits the following:

Take notice that Carolina Power & Light Company on May 14, 1980, tendered for filing changes in its electric Service Agreement with Lumbee River Electric Membership Corporation. These changes include the establishment of a new point of delivery at 115 KV to be known as Hog Swamp, and the cancellation of South Lumberton 23 KV point of delivery. The load presently served through the South Lumberton point of delivery will be transferred to the new delivery point.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16133 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-397]

Central Power & Light Co.; Filing

May 20, 1980.

The filing company submits the following:

Take notice that on May 12, 1980, Central Power & Light Company submitted a letter agreement which extends the present wholesale electric contract between Central Power & Light Company and Nueces Electric Cooperative, at the present rate, in successive 90-day periods which will automatically renew, subject to cancellation by Nueces Electric Cooperative upon 30-days notice and subject to change as may be approved by the Federal Energy Regulatory Commission at any time while the subject extension is in effect. Central Power & Light Company is presently serving Nueces at the Freer Point of delivery under a rate approved by the Commission in Docket No. ER77-331. The reason for the contract extension is that Nueces Electric Cooperative may desire to cancel service from Central Power & Light Company when service is available to Nueces from its San Miguel Plant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16138 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-23]

Chittenden Falls Hydro Power, Inc.; Declaration of Intention

May 20, 1980.

Take notice that on March 27, 1980, Chittenden Falls Hydro Power, Inc. (Applicant) filed a Declaration of Intention to rehabilitate and operate the hydroelectric facilities to be known as the Chittenden Falls Hydroelectric Project located on Kinderhook Creek at Stockport in Columbia County, New York. The Declaration of Intention was filed under Section 23(b) of the Federal Power Act, 16 U.S.C. Section 817(b), and requests the Federal Energy Regulatory Commission to commence an investigation to determine if an FERC license will be required for the project. Correspondence with the Applicant should be directed to: Ms. Mary A. Eckhoff, Box 806, Melville, Long Island, New York 11747.

The run-of-the-river project would consist of existing project works including: (1) a reinforced concrete dam, 320 feet long and 4 feet high, set on natural rock ledge at the top of waterfalls 27 feet high; (2) a reservoir having negligible storage; (3) a concrete sluice channel 8 feet wide, 8 feet deep, and 69 feet long leading to; (4) a steel penstock 7.5 feet high, 7.75 feet wide, and 55 feet long; (5) a powerhouse containing a 440 HP turbine and a 176 HP turbine; (6) a tailrace channel about 150 feet long; and (7) other appurtenances. New project equipment would include two horizontally mounted generators, one rated at 300 kW and one rated at 125 kW, attached to the 440 HP turbine and 176 HP turbine, respectively.

All lands involved with this project are owned in fee by the Applicant.

Project energy would be sold to Niagara Mohawk Power Corporation, and the annual average generation is estimated at 2,500,000 kWh.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 2, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-16139 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-54]

Commonwealth Edison Co.; Application

May 20, 1980.

Take notice that on May 9, 1980, Commonwealth Edison Company (Applicant) of Chicago, Illinois, filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $700,000,000 of short-term notes to be issued no later than December 31, 1982, and to mature no later than December 31, 1983.

Applicant is incorporated under the laws of the State of Illinois, with its principal business office at Chicago, Illinois, and is principally engaged in the electric utility business in a service area of approximately 11,525 square miles in northern Illinois, including the City of Chicago.

The notes, including primarily commercial paper and bank notes are to have maturities of twelve months or less from the dates of issuance, and in any event are to be payable on or before December 31, 1983. The interest rate for commercial paper is to be the prevailing rate at time of issuance for paper of comparable quality and maturity and for notes issued to commercial banks with which the Applicant has lines of credit and is to be generally the prime rate as from day to day in effect.

The proceeds from the issuance of any notes will be added to working capital primarily for ultimate application toward the cost of gross additions to utility properties and to reimburse the Applicant's treasury for construction expenditures. Applicant's construction program, as now scheduled, calls for plant expenditures of approximately $4,500,000,000 for the five-year period 1980-1984. The extension of two years is necessary to provide flexibility needed to meet financing requirements.

Any person desiring to be heard or to make protest with reference to the application should, or or before June 9, 1980, file with the Federal Energy Regulatory Commission, Washington,

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D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16140 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-399]

Consumers Power Co.; Filing

May 20, 1980.

The filing Company submits the following: Take notice that on May 15, 1980, Consumers Power Company tendered for filing an Amendment to the Data Acquisition System Facilities Agreement between Consumers Power Company and the Northern Michigan Electric Cooperative, Inc. and Wolverine Cooperative, Inc. Consumers Power Company states that the two cooperatives, and others, are members of the Michigan Municipals and Cooperatives Power Pool ("MMCPP").

Consumers Power Company states that the amendment changes Article V of the Data Acquisition System Facilities Agreement such that each party will now declare and pay its own property taxes. Consumers Power states that the amendment does not otherwise affect the rates, charges or other conditions of service relating to the interchange of electric energy between Consumers Power Company and the MMCPP.

Consumers Power requests waiver of the Commission's notice requirements to allow for an effective date of December 31, 1979. Consumers Power states that copies of the filing were served on Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc. and the Michigan Public Service Commission.

Any person desiring to be heard or to protest the Amendment to the Data Acquisition System Facilities Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said amendment are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16141 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-52]

El Paso Electric Co.; Application

May 19, 1980.

Take notice that on May 2, 1980, El Paso Electric Company (Applicant) filed a request with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authority to negotiate for the placement of up to 2,000,000 shares of Common Stock, no par value. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Common Stock will be used to finance Applicant's construction program.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 2, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16142 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP72-6 (Gas Turbines, et al.)]

El Paso Natural Gas Co.

May 20, 1980.

Take notice that the Commission Staff will visit the facilities of Arizona Public Service Co. and Salt River Project Agricultural Improvement and Power District on May 27 and 28, and the facilities of Southern California Edison Co., the Los Angeles Department of Water & Power and the City of Pasadena on May 29 and 30. These site visits are in connection with the hearings in El Paso Natural Gas, Docket No. RP72-6 (Gas Turbines, *et al.*).

Parties seeking information or wishing to accompany the Staff on this visit should contact Julia Weller, (202) 357-8453.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16143 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-31]

George's Chevron Service; Filing of Petition for Review

May 20, 1980.

Take notice that George's Chevron Service on March 17, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before June 3, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16144 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-402]

Gulf States Utilities Co.; Filing

May 20, 1980.

The filing Company submits the following:

Take notice that on May 16, 1980, Gulf States Utilities Company (Gulf States) tendered for filing a letter supplementing the existing agreement between Gulf States and Brazos Electric Power Cooperative, Inc. (Brazos) for the provision of wholesale electric service. Gulf States indicates that the supplement gives notice of the addition of a new Cincinnati Meter Point and the transfer thereto of a portion of the load from the Huntsville No. 2 Meter Point.

According to Gulf States a copy of the filing was served on the Public Utility Commission of Texas, the Louisiana Public Service Commission, and Brazos.

Any person desiring to be heard or protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16145 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-53]

Interstate Power Co.; Application

May 19, 1980.

Take notice that on May 6, 1980, an application was filed with the Federal Energy Regulatory Commission pursuant to Section 204(a) of the Federal Power Act by Interstate Power Company (Applicant) requesting authority to negotiate the placement of up to $10,000,000 of Common Stock, with a par value of $3.50 per share. Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa, and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.19). All such petitions or protests should be filed on or before June 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16146 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-337]

Iowa Power and Light Co.; Rate Schedule Filing

May 20, 1980.

The filing Company submits the following:

Take notice that Iowa Power and Light Company ("Iowa Power"), on May 7, 1980, tendered for filing proposed changes in Iowa Power and Light Company FERC Rate Schedule No. 53, which sets forth rates for wholesale electric service to Montezuma Municipal Light and Power ("City").

Proposed Supplement No. 14 to Rate Schedule No. 53 provides for a change in the floor price for enmergency energy and power as well as a change in billing due dates and interest charges on late payment thereof. This change is needed for compliance with the rates shown in the Mid-Continent Area Power Pool Agreement.

Iowa Power requests that the Commission waive its prior notice requirements and accept Proposed Supplement No. 14 for filing with a retroactive effective date of April 16, 1980. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16147 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-395]

Iowa Southern Utilities Co.; Filing of Amendment to Interconnection and Interchange Agreement

May 20, 1980.

Take notice that Iowa Southern Utilities Company (Iowa Southern) on May 12, 1980, tendered for filing an amendment to an Interconnection and Interchange Agreement between it and Iowa Electric Light and Power Company (Iowa Electric). This Agreement was originally filed by Iowa Southern and was designated F.P.C. Rate Schedule No. 34.

Iowa Southern stated that the amendment will provide for the upgrading of the Jasper-Sutherland 115 KV line to 161 KV with point of connection to be at the Jasper Substation, Jasper County. In addition, Iowa Southern will wheel Iowa Electric ownership power in the Ottumwa Generating Station for a three-year period, May 1, 1981 through April 30, 1984. Iowa Southern asks that the amendment become final thirty days after the filing date.

Copies of the filing were served on the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16150 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-381]

Kansas Power & Light Co.; Filing

May 20, 1980.

The filing Company submits the following:

Take notice that Kansas Power and Light Company (Kansas) on May 12, 1980, tendered for filing an amendment dated March 25, 1980, to the Power Service Agreement with Nemaha-Marshall Electric Cooperative Association, Inc. The agreement, dated September 21, 1973 is designated Rate Schedule FPC No. 159.

Kansas requests waiver of the Commission's notice requirements to allow for an effective date of December 10, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16149 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3134]

Madera Irrigation District; Application for Preliminary Permit

May 20, 1980.

Take notice that Madera Irrigation District (Applicant) filed on April 10, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3134 to be known as Hidden Dam Power Plant located at or near the existing outlet at the downstream toe, of the Corps of Engineer's (Corps) Hidden Dam on the Fresno River in the County of Madera, California. The project would utilize waters released from the Hidden Reservoir for irrigation and other purposes. Correspondence with the Applicant should be directed to: Mr. Robert L. Stanfield, Manager-Chief Engineer, Madera Irrigation District, 12152 Road 28¼, Madera, California 93637.

Project Description—The proposed project would consist of: a powerhouse containing a single generating unit with a rated capacity of 2,000 kW, a 1,000-foot long transmission line connecting the powerhouse to the existing Pacific Gas and Electric Company (PG&E) 12–kV power line downstream of the powerhouse, and appurtenant facilities.

Purpose of Project—Applicant proposes to market project energy through PG&E either by direct sale or for wheeling to meet Applicant's irrigation pumping needs, or for sale to another agency.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of foundation tests, environmental and power market studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, state and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $55,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 18, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 16, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended,* 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 18,1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16154 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3138]

Madera Irrigation District; Application for Preliminary Permit

May 20, 1980.

Take notice that Madera Irrigation District (Applicant) filed on April 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3138 to be known as Buchanan Dam Power Plant Project located at or near the existing outlet at the downstream toe of the Corps of Engineers' (Corps) Buchanan Dam on the Chowchilla River in the County of Madera, California. The project would utilize a Corps of Engineers' dam and waters released for irrigation and other purposes from the Corps' Lake H. V. Eastman (formed by the Buchanan Dam). Correspondence with the Applicant should be directed to: Mr. Robert L. Stanfield, Manager-Chief Engineer, Madera Irrigation District, 12152 Road 28¼, Madera, California 93637.

Project Description—The proposed project would consist of: a powerhouse containing a single generating unit with a rated capacity of 3,000 kW, a 1,000-foot long transmission line connecting the powerhouse to the existing Pacific Gas and Electric Company's (PG&E) 12-kV powerline downstream of the powerhouse, and appurtenant facilities.

Purpose of Project—Applicant proposes to market project energy through PG&E either by direct sale, for wheeling to meet Applicant's irrigation pumping needs, or for sale to another agency.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of foundation tests, environmental and power marketing studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps, and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs, is estimated by the Applicant to be $55,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 18, 1980, either the competing application itself or a notice of intent to file a competent application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 16, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended,* 44 FR 61328, Ocotober 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protests, or petition to intervene must be filed on or before July 18, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16151 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-398]

Montana Power Co.; Agreement for Sale of Nonfirm Energy

May 20, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on May 15, 1980, tendered for filing in accordance with § 35 of the Commission's Regulations, a Letter Agreement dated November 7, 1979, between Montana and Puget Sound Power & Light ("Puget") providing for the sale of nonfirm energy.

Montana states that under the terms of this Letter Agreement, it will make available to Puget nonfirm energy.

Montana indicates that the terms of the Letter Agreement have been agreed to by the parties.

Montana states further that the rate for nonfirm energy sold to Puget under this Letter Agreement shall be the cost per kilowatthour of purchasing such energy plus costs associated with losses, transmission costs, standby charges, loadfactoring and any other miscellaneous costs directly associated with such energy purchase and redelivery plus a service charge of no more than one mill ($0.001) per kilowatthour. This rate is essentially the same as that provided in Montana's FERC Electric Tariff M–1.4(b).

An effective date of October 25, 1979, is proposed and waiver of the Commission's notice requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16155 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-388]

Montana Power Co.; Filing

May 20, 1980.

The filing Company submits the following:

Take notice that Montana Power Company (Montana) on May 12, 1980, tendered for filing original sheet No. 10 to Montana's Tariff M–1, which has been revised to show the addition of Puget Sound Power and Light Company, and the fully executed Service agreement with Puget Sound Power and Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 9, 1980.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16156 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST79-6]

Nueces Co.; Order Establishing Procedures and Designating Hearing Panel

Issued May 16, 1980.

On March 18, 1980, the Public Service Company of Colorado, Western Slope Gas Company, and Cheyenne Light, Fuel and Power Company (Complainants) filed a complaint with the Commission. The Complainants seek the termination of the sale of natural gas by the Nueces Company pursuant to Section 311(b) of the Natural Gas Policy Act of 1978 (NGPA) and 18 CFR § 284.142. Notice of the complaint was published in the Federal Register on April 21, 1980 (45 FR 26756).

NGPA Section 311(b)(6) and 18 CFR § 284.147 provide the opportunity for oral presentation of data, views and arguments, and for written comments.

In response to the Complainants' timely request for an opportunity to make an oral presentation, the Commission shall convene a hearing on Friday, May 23, 1980, at 10:00 a.m. e.d.t. at the Offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross examination of persons presenting statements. Members participating on the panel before whom the presentations are made may ask questions. If time permits, panel members may also ask such relevant questions as are submitted to them by participants. Other procedural rules relating to the hearing will be announced at the time the proceedings commence. A transcript of the hearing will be made, and a copy of that transcript will be placed in the public file for this docket and will be made available at the Commission's Office of Public Information.

Following the hearing, the panel will certify the transcript and timely filed written comments to the Commission, without briefs by the parties or an initial decision by the panel.

The Commission orders:

(A) Charles E. Bullock and Robert C. Platt of the Office of General Counsel and Robert E. Scarbrough of the Office of Pipeline and Producer Regulation are designated to preside at the hearing described above.

(B) The panel may require, in its discretion, additional written submissions.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-16159 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. G-5716]

Northern Natural Gas Producing Co.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

May 19, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
G-5716, B, Nov. 23, 1979	Northern Natural Gas Producing Company, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, To release gas for irrigation fuel		

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-16158 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 108]

Northern States Power Co.; Application for Approval of a Change in Land Rights

May 20, 1980.

Take notice that on March 31, 1980, the Northern States Power Company (Applicant) filed an application [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for authority to grant an easement over lands of the Chippewa Reservoir Hydroelectric Project No. 108 in Sawyer County, Wisconsin. Correspondence with the Applicant should be directed to: Mr. E. M. Theissen, President, Northern States Power Company, 100 North Barstow Street, Eau Claire, Wisconsin 54701.

The easement would be granted to Sawyer County for the purpose of relocating approximately 5,000 feet of Sawyer County Trunk Highway "CC" in parts of Sections 14, 23, and 24 of T. 40 N, R. 7 W, 4th Principal Meridian, Sawyer County, Wisconsin. The existing portion of the highway to be relocated is in need of repairs and considered hazardous. By relocating the highway, traffic flow would be improved and hazards minimized. The right-of-way required would be 66 feet wide and approximately 5,000 feet long. Following relocation, Sawyer County would issue a quit claim deed to Northern States for the rights to the portion of the highway that has been relocated.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a perty, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 30, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16157 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-394]

Pacific Gas and Electric Co.; Filing

May 20, 1980.

The filing Company submits the following:

Take notice that on May 12, 1980, Pacific Gas and Electric Company (PG and E) tendered for filing a contrat with the United States Department of Energy Western Area Power Administration (United States) for inclusion in its FERC Electric Service Tariff, Original Volume No. 4. Under the terms of the contract PG and E is to build 23 miles of 230 KV double circuit transmission line and provide transmission service for the output of United States' New Melones Project for a period of 50 years.

PG and E states that the contract was executed June 7, 1978, and requests waiver of the Commission's notice requirements to allow the filing to become effective June 1, 1979, the date of commencement of the 50 year period.

Copies of the filing were served on the United States Department of Energy and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Cimmission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16160 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-401]

Pennsylvania Electric Co.; Filing

May 20, 1980.

The filing Company submits the following:

Take notice that Pennsylvania Electric Company (Penelec) on May 16, 1980, tendered for filing a contract with American Municipal Power—Ohio, Inc. (AMP-Ohio) for the wheeling of an allotment of power from the Power Authority of the State of New York (PASNY) to AMP-Ohio for the account of the City of Cleveland.

Copies of the filing were served upon AMP-Ohio and the City of Cleveland.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1980. Protests will be considerd by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16161 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-376]

Public Service Co. of New Mexico; Filing

May 20, 1980.

The filing Company submits the following:

Take notice that on May 8, 1980, Public Service Company of New Mexico (PNM) submitted for filing a Firm Surplus Energy Sale Agreement (Agreement) between PNM and the Department of Water and Power of the City of Los Angeles (Los Angeles) for sale of surplus energy from PNM's interest in San Juan Generation Station Unit 3. The date of initial service was to begin on the date of execution of the Agreement, January 17, 1980. The Agreement shall continue thereafter until April 30, 1982 at which time it terminates. To enable the parties to have the assurance that the surplus energy sale is approved and that the resource can be made a part of Los Angeles' resources, the parties have requested waiver of the Commission's 120 day notice provision.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission,

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825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16162 filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-119]

W. Earl Rowe Estate; Application for Adjustment

Issued May 20, 1980.

Take notice that on January 11, 1980, W. Earl Rowe Estate (Applicant), 9th Floor, Milam Building, San Antonio, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for a price adjustment pursuant to § 1.41 of the Commission's rules of practice and procedure (18 CFR 1.41). Applicant seeks an adjustment from § 271.502(a) of the Commission's regulations implementing section 104 of the Natural Gas Policy Act of 1978 (NGPA).

Specifically, Applicant seeks an increase in price from $0.17 per Mcf to $1.50 per Mcf for gas from Cartier Gas Unit, Contract No. 5225-MC, sold to LoVaca Gathering Company. Applicant bases this request for a price increase on the assertion that the well has been operating at a loss for several years.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure and Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before June 12, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16163 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP73-113, RP75-13, RP75-113, RP76-137, RP77-62 (not consolidated)]

Tennessee Natural Gas Pipeline Co.; Informal Settlement Conference

May 20, 1980.

Take notice that on June 5, 1980 and if necessary on June 6, 1980 at 10 o'clock a.m. on each day there will be an informal conference of all interested persons for the purpose of continued settlement discussions in these proceedings. The meeting place for these conferences will be:

On June 5, 1980: SEC, 500 North Capitol Street, N.W., Room 776, Washington, D.C.
On June 6, 1980: FERC, Commission Meeting Room, Ninth Floor, 825 North Capitol Street, N.E., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16164 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI80-275]

Texas Eastern Transmission Corp. v. Paladin Corp.; Complaint and Petition for Declaratory Order

May 19, 1980.

On April 4, 1980 Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas, 77001, filed a complaint and petition for declaratory order. Texas Eastern alleges that on October 31, 1951 it entered into a Gas Purchase Contract with Sun Oil Company (Sun) for the purchase of all gas produced from certain acreage in Bee County, Texas. Texas Eastern alleges that Sun commenced deliveries to Texas Eastern from the subject acreage in August 1953. Texas Eastern further alleges that on September 1, 1975 Sun executed a partial release of oil, gas and mineral leases releasing the subsequently, Paladin Corporation (Paladin) acquired an interest in the acreage and bean selling gas from the acreage in the intrastate market to Lo Vaca Gathering Company in 1975. Texas Eastern further alleges that on October 11, 1966, Sun filed an application for abandonment of service and that permission to abandon service has not been granted. Texas Eastern requests that the Commission issue an order requiring Paladin Corporation to deliver to Texas Eastern volumes equivalent to those unlawfully diverted from the interstate market and to issue a declaratory order resolving any uncertainty with respect to the existence and the extent of Paladin's payback obligation.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16165 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-393]

Tuscon Electric Power Co.; Succession

May 20, 1980.

The filing Company submits the following:

Take notice that Tuscon Electric Power Company (Tuscon) on May 12, 1980, pursuant to § 35.16 of the Commission's Regulations submitted a notice of succession (change in corporate name).

Tuscon indicates that it began to officially use the name Tuscon Electric Power Company on May 10, 1979.

Tuscon's former corporate name was Tuscon Gas and Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16167 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-392]

Tuscon Electric Power Co.; Cancellation

May 20, 1980.

The filing Company submits the following:

Take notice that Tuscon Electric Power Company (Tuscon) on May 12, 1980, tendered for filing a notice of cancellation of the March 1, 1979 Tuscon Rate Schedule FERC No. 27.

Tuscon indicates that the Rate Schedule is identified as the "1979 Power Sale Agreement" between Tuscon and the United States of America.

Tuscon indicates that the termination date set forth in the agreement is March 31, 1979.

Tuscon indicates that this notice of cancellation has been sent to the United States Department of Energy, Western Area Power Administration.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16166 Filed 5-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CS67-95, et al.]

Applications for "Small Producer" Certificates [1]

May 20, 1980.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS67-95 ...	[1] 2/26/79	Estate of Fred Turner, Jr. (Fred Turner, Jr.), Oil & Ranch Properties, Midland, Texas 79701
CS71-273.	[1] 2/27/79	C. Robert Daubert, Independent Executor of the Chas. A Daubert Estate (Chas. A. Daubert), Daubert Oil & Gas Company, Milam Building, San Antonio, Texas 78205.
CS71-303.	[1] 5/25/79	N. H. Wheless, Jr. Individually and as Trustee (N. H. Wheless), 920 Commercial Natl. Bank Bldg., Shreveport, La. 71101.
CS71-428.	[1] 5/30/79	Frost National Bank of San Antonio, Trustee of the Johnnye Jones Peet Trusts, d.b.a. Peet Oil Company (Edwin J. Peet Trustee), 502 North Crown Bldg., San Antonio, Texas 78209.
CS72-315.	[1] 6/1/79	Robert B. Payne, Executor of the Estate of Waymon G. Peavy (Waymon G. Peavy), 515-6335 West W. Northwest Highway, Dallas, Texas 75225.
CS72-1013.	[1] 3/1/79	Victoria Manziel Heath (Victoria Lynn Manziel), Box 6005, Tyler, Texas 75711.
CS73-515.	[1] 2/23/79	Ann K. Smead, Independent Executrix of the Estate of S. H. Killingsworth, Deceased. (S. H. Killingsworth), P.O. Box 351, Longview, Texas 75601
CS74-310.	[1] 5/30/79	Raymond F. Kravis, Trust, Bank of Oklahoma, Trustee (Raymond F. Kravis), 1705 First Natl. Bldg., Tulsa, Okla. 74103.
CS75-462.	[1] 6/28/79	D. A. Kimbell, Independent Executor of the G. T. Kimbell Estate (G. T. Kimbell), 800 Oil & Gas Bldg., Wichita Falls, Texas 76301.
CS76-697.	[1] 2/26/79	Caddo Management, Inc. (Caddo Management Co.), 334 Beck Building, Shreveport, La. 71101.
CS77-375.	[1] 6/1/79	Unit Drilling and Exploration Company (Unit Drilling Co.), 1101 Petroleum Club Bldg., Tulsa, Okla. 74119
CS80-127.	4/25/80	David S. Benson, 7520 E. Sage Drive, Scottsdale, Arizona 85253.
CS80-128.	4/25/80	Wallace Oil & Gas, Inc., 50 Penn Place, Suite 600, Oklahoma City, Okla. 73118.
CS80-129.	4/29/80	AMCANA Oil Corporation, 320 South Boston Bldg., Suite 1900, Tulsa, Oklahoma 74103.
CS80-130.	5/2/80	Waco Oil and Gas Co., Inc., P.O. Box 4, Glenville, W. Va. 26351.
CS80-131.	4/30/80	Frank G. Hildebrand, Route 2, Box 98, Laverne, Okla. 73848.
CS80-132.	4/30/80	Delta Gas Corporation, Suite 620, Scott Hudgens Bldg., 3420 Norman Berry Drive, Atlanta, Georgia 30354
CS80-133.	5/6/80	Workover One, Inc., Rt. 3, Box 603, Covington, La. 70433
CS80-134.	5/6/80	Forney Oil Corporation, 1800 St. James Place, Suite 305, Houston, Texas 77056.
CS80-135.	5/8/80	Alton Skinner d.b.a. Chase Petroleum, P.O. Drawer 369, Glenville, W. Va. 26351.
CS80-136.	5/6/80	Warrior Resources U.S.A., Inc., Warrior Resources LTD., 68 High Street, Marborough Rooms Unit 10, Weybridge, Surrey KT 13 8BL, England
CS80-137.	[2] 5/12/80	Helen G. Bebermeyer, 1415 Bryn Mawr NE, Albuquerque, New Mexico 87106.
CS80-138	[2] 5/12/80	Emmett Jarrett Kelly, 731 Watson, Topeka, Kansas 66606.

[1] NGPA filing reflecting change in designation. Certificate holder has confirmed that certificate should be redesignated accordingly.

[2] Applicant is affiliated with El Paso Natural Gas Company.

[FR Doc. 80-16168 Filed 5-27-80; 8:45 am]

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[No. 205]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued May 20, 1980

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-32232/K-79-1720
2. 15-075-20275-0000-
3. 103 000 000
4. Par Petroleum Inc
5. Monger #1
6. North Bradshaw
7. Hamilton KS
8. 75.0 million cubic feet
9. April 29, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-32233/K-79-1719
2. 15-071-20167-0000-
3. 103 000 000
4. Par Petroleum Inc
5. Anderson #1
6. North Bradshaw
7. Greeley KS
8. 250.0 million cubic feet
9. April 29, 1980
10. Sunflower Electric Coop Inc

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-32234/1-80-34
2. 25-083-21229-0000-
3. 102 000 000
4. Shell Oil Co
5. Schmidt 32-23
6. Mondak West
7. Richland MT
8. 35.0 million cubic feet
9. May 5, 1980
10. Montana Dakota Utilities

1. 80-32235/2-80-67
2. 25-083-21306-0000-
3. 102 000 000
4. Shell Oil Co
5. BN 41-25
6. Mondak West
7. Richland MT
8. 10.0 million cubic feet
9. May 6, 1980
10. Montana Dakota Utilities Co

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-32035
2. 34-031-23636-0014-
3. 103 000 000
4. Cyclops Corp
5. Chester & Onie Pew #4
6.
7. Coshocton OH
8. 30.0 million cubic feet
9. May 7, 1980
10.

1. 80-32036
2. 34-031-23649-0014-
3. 103 000 000
4. Clinton Oil Co
5. G A Darr #2
6.
7. Coshocton OH
8. 20.0 million cubic feet
9. May 7, 1980
10.

1. 80-32037
2. 34-031-23712-0000-
3. 103 000 000
4. W E Shrider Co
5. Brice Neville #2
6.
7. Coshocton OH
8. 3.0 million cubic feet
9. May 7, 1980
10. National Gas & Oil Corp

1. 80-32038
2. 34-031-23807-0014-
3. 103 000 000
4. Seneca Energy Corp
5. Fender #1
6.
7. Coshocton OH
8. 37.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80-32039
2. 34-031-23808-0014-
3. 103 000 000
4. Seneca Energy Corp
5. Fender #2
6.
7. Coshocton OH
8. 37.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80-32040
2. 34-031-23818-0014-
3. 103 000 000
4. Seneca Energy Corp
5. Holmes Limestone #1
6.
7. Coshocton OH
8. 38.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80-32041/03373
2. 34-133-20244-0014-
3. 108 000 000
4. Belden & Blake Oil Production
5. J. & G Harwell #1-379
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32042/03512
2. 34-151-22225-0014-
3. 108 000 000
4. Belden & Blake Oil Production
5. G & E Stingel Comm #1-600
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32043/03513
2. 34-151-22224-0014-
3. 108 000 000
4. Belden & Blake Oil Production
5. B & A Ream Comm #1-599
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32044/03516
2. 34-151-22184-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. F Limbach Comm #1-590
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32045/03517
2. 34-151-22183-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. P & Boughman #1-588
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32046/03518
2. 34-151-22180-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. O Eberhardt #1-585
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32047/03524
2. 34-151-22160-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. J & R Fringeli #1-574
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980

10. East Ohio Gas Co

1. 80-32048/03525
2. 34-151-22157-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. B Indorf #1-572
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32049/03528
2. 34-151-21967-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. W & M Mauger Comm #1-530
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32050/03539
2. 34-151-21029-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. Kurtz Comm #1-336
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32051/03540
2. 34-151-21017-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. Benson Comm #1-323
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32052/03541
2. 34-133-21016-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. R Adams #1-320
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32053/03544
2. 34-151-22254-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. W Wefler #4-624
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32054/03545
2. 34-151-22243-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. W Wefler #3-616
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32055/03546
2. 34-151-22244-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. W Wefler #2-615
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32056/03547
2. 34-151-22238-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. A Walker #1-613
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32057/03581
2. 34-151-22511-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. G Krisko #1-719
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32058/03583
2. 34-157-22141-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. MWCD #2-703
6.
7. Tuscarawas OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32059/03584
2. 34-099-20215-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. D & M Campbell #1-417
6.
7. Mahoning OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32060/03585
2. 34-133-20254-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. J & R Freeman #1-413
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32061/03587
2. 34-133-20351-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. James Spellman #1-407
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32062/03588
2. 34-133-20364-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. S & G Unger Comm #1-406
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32063/03590
2. 34-151-22369-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. F & W Dahler #3-645
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32064/03591
2. 34-151-22339-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. I Brechbuhler #2-644
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32065/03593
2. 34-151-22343-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. G Shahleen Comm #1-638
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32066/03601
2. 34-151-21091-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. L & V Hammer #1-431
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32067/03602
2. 34-151-21094-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. J & A Blum Comm #1-429
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32068/03607
2. 34-133-20293-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. E & V Roundy Comm #1-393
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32069/03638
2. 34-133-20341-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. H & B McCormick Comm #1-402
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80-32070/03639
2. 34-133-20331-0014

3. 108 000 000
4. Belden & Blake Oil Production
5. Lee Harris Comm #1-399
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32071/03810
2. 34-133-20195-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. S Bosko Comm #1-370
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32072/03811
2. 34-133-20308-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. R & O McCoy Comm #1-384
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32073/03812
2. 34-133-20249-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. Gougler-Homesites #1-378
6.
7. Portage OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32074/04983
2. 34-151-20983-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. W & B Wefler #1-276
6.
7. Stark OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32075/05000
2. 34-099-20174-0014
3. 108 000 000
4. Belden & Blake Oil Production
5. H & V Votaw Comm #1-365
6.
7. Mahoning OH
8. .1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32076/05062
2. 34-075-21829-0014
3. 108 000 000 denied
4. William F Hill
5. L Bevington #1
6.
7. Holmes OH
8. 11.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32077/05069
2. 34-075-21818-0014
3. 108 000 000 denied
4. William F Hill
5. E Sorenson #3
6.
7. Holmes OH
8. 4.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32078/05070
2. 34-075-21827-0014
3. 108 000 000 denied
4. William F Hill
5. E Sorenson #4
6.
7. Holmes OH
8. 4.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32079/05071
2. 34-075-21867-0014
3. 108 000 000 denied
4. William F Hill
5. E Sorenson #5
6.
7. Holmes OH
8. 4.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32080/05072
2. 34-075-21944-0014
3. 108 000 000 denied
4. William F Hill
5. Sorenson-Arnold Unit #1
6.
7. Holmes OH
8. 3.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32081/05079
2. 34-075-21633-0014
3. 108 000 000 denied
4. William F Hill
5. Stallman #1
6.
7. Holmes OH
8. 18.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32082/05096
2. 34-075-21868-0014
3. 108 000 000 denied
4. William F Hill
5. J A McDowell #3
6.
7. Holmes OH
8. 5.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32083/05101
2. 34-075-21923-0014
3. 108 000 000 denied
4. William F Hill
5. Hostettler #1
6.
7. Holmes OH
8. 109.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32084/05103
2. 34-075-21862-0014
3. 108 000 000 denied
4. William F Hill
5. Killgrove #1
6.
7. Holmes OH
8. 7.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32085/05109
2. 34-075-21811-0014
3. 108 000 000 denied
4. William F Hill
5. E Sorenson #2
6.
7. Holmes OH
8. 4.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32086/05110
2. 34-075-21798-0014
3. 108 000 000 denied
4. William F Hill
5. E Sorenson #1
6.
7. Holmes OH
8. 4.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32087/05111
2. 34-075-21845-0014
3. 108 000 000 denied
4. William F Hill
5. Rupert #1
6.
7. Holmes OH
8. 3.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp
1. 80-32088
2. 34-155-20896-0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Peterson #2
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc
1. 80-32089
2. 34-155-20931-0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Wolfe #1
6.
7. Trumbull OH
8. 30.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32090
2. 34-155-21160-0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Carrino #2
6.
7. Trumbull OH
8. 15.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32091
2. 34-155-21161-0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Carrino #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32092
2. 34-155-21178-0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Cashman-Brainard Unit #1
6.

7. Trumbull OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32093
2. 34-155-21411-0014
3. 103 000 000
4. Gasearch Inc
5. A S W #1
6.
7. Trumbull OH
8. 100.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32094
2. 34-157-21085-0014
3. 108 000 000
4. H D Collins Trust
5. Wallick Coal #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32095
2. 34-157-21146-0014
3. 108 000 000
4. H D Collins
5. Everett #1
6.
7. Tuscarawas OH
8. 11.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32096
2. 34-157-21153-0014
3. 108 000 000
4. H D Collins Trust
5. Hammersley #1
6.
7. Tuscarawas OH
8. 6.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32097
2. 34-157-21163-0014
3. 108 000 000
4. H D Collins Trust
5. Everett Unit #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32098
2. 34-157-21167-0014
3. 108 000 000
4. H D Collins Trust
5. C E Everett #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32099
2. 34-157-21205-0014
3. 108 000 000
4. H D Collins Trust
5. Stewart-Reichman #1
6.
7. Tuscarawas OH
8. 6.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32100
2. 34-157-21229-0014
3. 108 000 000
4. H D Collins Trust
5. Baker #1
6.
7. Tuscarawas OH
8. 13.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32101
2. 34-157-21268-0014
3. 108 000 000
4. H D Collins Trust
5. Reiser #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32102
2. 34-157-21477-0014
3. 108 000 000
4. H D Collins Trust
5. Galbreath #1
6.
7. Tuscarawas OH
8. 5.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32103
2. 34-157-21483-0014
3. 108 000 000
4. H D Collins Trust
5. Johns #1
6.
7. Tuscarawas OH
8. 5.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32104
2. 34-157-23461-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. Belnap #4
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32105
2. 34-157-23462-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. Belnap #3
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32106
2. 34-157-23463-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. Belnap #2
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32107
2. 34-157-23464-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Leland Cope #1
6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. May 7, 1980
10.
1. 80-32108
2. 34-163-20432-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. B Davis #3
6.
7. Vinton OH
8. 36.5 million cubic feet
9. May 7, 1980
10.
1. 80-32109
2. 34-167-24417-0014
3. 103 000 000
4. L&M Petroleum
5. Cecil Bauerbach #1
6.
7. Washington OH
8. 13.0 million cubic feet
9. May 7, 1980
10. Gas Transport Inc
1. 80-32110
2. 34-167-24443-0014
3. 103 000 000
4. C W Riggs Inc
5. Wheeler-Dearth #1
6. Reno Field
7. Washington OH
8. 7.3 million cubic feet
9. May 7, 1980
10.
1. 80-32111
2. 34-167-24454-0014
3. 103 000 000
4. Coleman Bros Drilling
5. W L Skinner #1
6.
7. Washington OH
8. 6.0 million cubic feet
9. May 7, 1980
10.
1. 80-32112
2. 34-167-25088-0014
3. 103 000 000
4. Hays and Co Inc
5. Dale & Elizabeth Pitsinger #3
6.
7. Washington OH
8. 200.0 million cubic feet
9. May 7, 1980
10.
1. 80-32113
2. 34-169-22028-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 2 Keim Unit
6.
7. Wayne OH
8. 4.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32114
2. 34-169-22029-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 2 Yoder-Miller Unit
6.
7. Wayne OH
8. 10.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co
1. 80-32115

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2. 34–169–22312–0014
3. 103 000 000
4. Buckeye Oil Producing Co
5. Corvin Gerig #1
6.
7. Wayne OH
8. 19.0 million cubic feet
9. May 7, 1980
10. The East Ohio Gas Co

1. 80–32116
2. 34–127–24483–0000
3. 103 000 000
4. L&M Operating Inc
5. Neil Adcock #2
6.
7. Perry OH
8. 18.2 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32117
2. 34–127–24540–0014
3. 103 000 000
4. L&M Operating Inc
5. Yost #2
6.
7. Perry OH
8. 7.3 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission

1. 80–32118
2. 34–133–20391–0014
3. 108 000 000
4. H D Collins
5. Polichena #1
6.
7. Portage OH
8. 6.9 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32119
2. 34–133–20482–0014
3. 108 000 000
4. H D Collins
5. Schlarb #1
6.
7. Portage OH
8. 3.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32120
2. 34–133–20488–0014
3. 103 000 000
4. H D Collins
5. Schlarb #2
6.
7. Portage OH
8. 3.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32121
2. 34–133–21143–0014
3. 103 000 000
4. Consolidated Petroleum Corp
5. Racin #1–A
6.
7. Portage OH
8. 10.0 million cubic feet
9. May 7, 1980
10.

1. 80–32122
2. 34–133–21268–0014
3. 103 000 000
4. Vescorp Industries Inc
5. Thomas #1
6.
7. Portage OH
8. 150.0 million cubic feet
9. May 7, 1980
10. Timken Co

1. 80–32123
2. 34–133–21863–0014
3. 103 000 000
4. Poi Energy Inc
5. Beck-Griffith-Wilson #2
6.
7. Portage OH
8. 100.0 million cubic feet
9. May 7, 1980
10.

1. 80–32124
2. 34–133–21868–0014
3. 103 000 000
4. Poi Energy Inc
5. Brittan #2
6.
7. Portage OH
8. 40.0 million cubic feet
9. May 7, 1980
10.

1. 80–32125
2. 34–133–21869–0014
3. 103 000 000
4. Poi Energy Inc
5. Brittan #1
6.
7. Portage OH
8. 40.0 million cubic feet
9. May 7, 1980
10.

1. 80–32126
2. 34–133–21890–0014
3. 103 000 000
4. Poi Energy Inc
5. Pierce #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. May 7, 1980
10.

1. 80–32127
2. 34–133–22008–0014
3. 103 000 000
4. Clinton Oil Co
5. Streetsboro #7
6.
7. Portage OH
8. 100.0 million cubic feet
9. May 7, 1980
10.

1. 80–32128
2. 34–133–22010–0014
3. 103 000 000
4. Clinton Oil Co
5. Streetsboro #3
6.
7. Portage OH
8. 75.0 million cubic feet
9. May 7, 1980
10.

1. 80–32129
2. 34–133–22012–0014
3. 103 000 000
4. Clinton Oil Co
5. Streetsboro Unit #5
6.
7. Portage OH
8. 25.0 million cubic feet
9. May 7, 1980
10. Timken Co

1. 80–32130
2. 34–133–22013–0014
3. 103 000 000
4. Clinton Oil Co
5. Streetsboro #6
6.
7. Portage OH
8. 100.0 million cubic feet
9. May 7, 1980
10.

1. 80–32131
2. 34–133–22098–0014
3. 103 000 000
4. General Electric Co
5. M Thompson #2
6.
7. Portage OH
8. 28.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32132
2. 34–133–22103–0014
3. 103 000 000
4. Vescorp Industries Inc
5. Reynolds #1
6.
7. Portage OH
8. 25.0 million cubic feet
9. May 7, 1980
10. Timken Co

1. 80–32133
2. 34–133–22104–0014
3. 103 000 000
4. Vescorp Industries Inc
5. S B A #1
6.
7. Portage OH
8. 20.0 million cubic feet
9. May 7, 1980
10. Timken Co

1. 80–32134
2. 34–133–22106–0014
3. 103 000 000
4. Vescorp Industries Inc
5. Roppel #2
6.
7. Portage, OH
8. 25.0 million cubic feet
9. May 7, 1980
10. Timken Co

1. 80–32135
2. 34–133–22183–0014
3. 103 000 000
4. Vescorp Industries Inc
5. Summit Road Baptist Church #1
6.
7. Portage, OH
8. 25.0 million cubic feet
9. May 7, 1980
10.

1. 80–32136
2. 34–151–23053–0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Poland Well No 1
6.
7. Stark, OH
8. 300.0 million cubic feet
9. May 7, 1980
10.

1. 80–32137
2. 34–151–23119–0014
3. 103 000 000
4. Franklin Gas & Oil Co Inc
5. Mary Regula & John Regula #1
6.

7. Stark, OH
8. 25.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32138
2. 34–151–23144–0014
3. 103 000 000
4. Viking Resources Corp
5. Foster-Baier Unit #1
6.
7. Stark, OH
8. 30.0 million cubic feet
9. May 7, 1980
10.

1. 80–32139
2. 34–151–23145–0014
3. 103 000 000
4. Viking Resources Corp
5. Baier Well No 1
6.
7. Stark, OH
8. 30.0 million cubic feet
9. May 7, 1980
10.

1. 80–32140
2. 34–153–20668–0014
3. 103 000 000
4. POI Energy Inc
5. Thomas-Drew #1
6.
7. Summit, OH
8. 30.0 million cubic feet
9. May 7, 1980
10.

1. 80–32141
2. 34–153–20669–0014
3. 103 000 000
4. POI Energy Inc
5. Thomas-Drew #3
6.
7. Summit, OH
8. 25.0 million cubic feet
9. May 7, 1980
10.

1. 80–32142
2. 34–153–20671–0014
3. 103 000 000
4. POI Energy Inc
5. Thomas-Drew #2
6.
7. Summit, OH
8. 25.0 million cubic feet
9. May 7, 1980
10.

1. 80–32143
2. 34–153–20686–0014
3. 103 000 000
4. POI Energy Inc
5. Shaw #1
6.
7. Summit, OH
8. 35.0 million cubic feet
9. May 7, 1980
10.

1. 80–32144
2. 34–153–20750–0014
3. 103 000 000
4. KST Oil Gas Co Inc
5. Morgan Adhesives #2
6.
7. Summit, OH
8. 36.0 million cubic feet
9. May 7, 1980
10.

1. 80–32145
2. 34–155–20839–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. St. John #2
6.
7. Trumbull, OH
8. 15.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32146
2. 34–155–20840–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. St. John #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32147
2. 34–155–20842–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. St. John #3
6.
7. Trumbull, OH
8. 15.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32148
2. 34–155–20846–0014
3. 103 000 000
4. ALSID Oil & Gas Development Co Inc
5. Mahan #1
6.
7. Trumbull, OH
8. 15.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32149
2. 34–155–20889–0014
3. 103 000 000
4. ALSID Oil & Gas Development Co Inc
5. Peterson #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32150
2. 34–155–20878–0014
3. 103 000 000
4. ALSID Oil & Gas Development Co Inc
5. Rhine #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32151
2. 34–019–21201–0014
3. 103 000 000
4. L&M Petroleum Co
5. Sterner #3
6.
7. Carroll, OH
8. 8.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32152
2. 34–019–21208–0014
3. 103 000 000
4. L&M Petroleum Co
5. Sterner Unit #1
6.
7. Carroll, OH
8. 8.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32153
2. 34–019–21209–0014
3. 103 000 000
4. L&M Petroleum Co
5. Sterner #2
6.
7. Carroll, OH
8. 8.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32154
2. 34–019–21232–0014
3. 103 000 000
4. L&M Exploration Inc
5. Lynn Tope #1
6.
7. Carroll, OH
8. 5.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32155
2. 34–019–21233–0014
3. 103 000 000
4. L&M Exploration Inc
5. Lynn Tope #2
6.
7. Carroll, OH
8. 5.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32156
2. 34–019–21234–0014
3. 103 000 000
4. L&M Petroleum Co
5. McCarty #1
6.
7. Carroll, OH
8. 7.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32157
2. 34–019–21248–0014
3. 103 000 000
4. L&M Petroleum Co
5. Arthur Lewis #1
6.
7. Carroll, OH
8. 8.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32158
2. 34–019–21260–0014
3. 103 000 000
4. L&M Petroleum Co
5. Conotton Land Co #3
6.
7. Carroll, OH
8. 1.5 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32159
2. 34–019–21270–0014
3. 103 000 000
4. L&M Exploration Inc
5. Lynn Tope #3
6.
7. Carroll, OH
8. 5.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32160

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2. 34–019–21278–0014
3. 103 000 000
4. L&M Exploration Inc
5. Lynn Tope #4
6.
7. Carroll, OH
8. 5.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32161
2. 34–019–21294–0014
3. 103 000 000
4. L&M Petroleum Co
5. Arthur Lewis #3
6.
7. Carroll, OH
8. 8.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32162
2. 34–019–21300–0014
3. 103 000 000
4. L&M Petroleum Co
5. Arthur Lewis #2
6.
7. Carroll, OH
8. 8.0 million cubic feet
9. May 7, 1980
10. Bonanza Gas Line

1. 80–32163
2. 34–019–21301–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Gartrell #6–A
6.
7. Carroll, OH
8. 18.2 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32164
2. 34–019–21302–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Gartrell #5–A
6.
7. Carroll, OH
8. 27.4 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32165
2. 34–019–21304–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Oneacre #1
6.
7. Carroll, OH
8. 22.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32166
2. 34–019–21307–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Storrie #2
6.
7. Carroll, OH
8. 9.1 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32167
2. 34–019–21308–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Preston #4
6.
7. Carroll, OH
8. 27.4 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32168
2. 34–019–21309–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. West #3
6.
7. Carroll, OH
8. 18.2 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32169
2. 34–019–21310–0014
3. 103 000 000
4. KST Oil & Gas Co Inc
5. Evans #4
6.
7. Carroll, OH
8. 20.0 million cubic feet
9. May 7, 1980
10.

1. 80–32170
2. 34–029–20771–0014
3. 103 000 000
4. R C Ernst
5. F R Burg #1
6. Glasgow Field
7. Columbiana, OH
8. 2.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32171
2. 34–031–22719–0014
3. 103 000 000
4. John C. Mason
5. Clement J. Weil #1
6.
7. Coshocton, OH
8. 12.0 million cubic feet
9. May 7, 1980
10. Cincinnati Gas & Electric Co

1. 80–32172
2. 34–059–21703–0014
3. 103 000 000
4. Tiger Oil Inc
5. Everett G. Glass #1
6.
7. Guernsey, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32173
2. 34–059–22420–0014
3. 103 000 000
4. Consol Resources of Amer Inc
5. William Ward #1
6. Senecaville
7. Guernsey, OH
8. 25.0 million cubic feet
9. May 7, 1980
10. Cincinnati Gas & Electric Co

1. 80–32174
2. 34–059–22552–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Shugert #2
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32175
2. 34–059–22557–0014
3. 103 000 000
4. Consol Resources of Amer Inc
5. Presley-Olshawsky Unit #1
6. Senecaville
7. Guernsey, OH
8. 14.6 million cubic feet
9. May 7, 1980
10. Cincinnati Gas & Electric Co

1. 80–32176
2. 34–059–22558–0014
3. 103 000 000
4. Consol Resources of Amer Inc
5. Blaney Lumber Company #1
6. Senecaville
7. Guernsey, OH
8. 27.0 million cubic feet
9. May 7, 1980
10. Cincinnati Gas & Electric Co

1. 80–32177
2. 34–059–22560–0014
3. 103 000 000
4. Consol Resources of Amer Inc
5. Smith-Banker Unit #1
6. Knox
7. Guernsey, OH
8. 7.3 million cubic feet
9. May 7, 1980
10. Cincinnati Gas & Electric Co

1. 80–32178
2. 34–059–22616–0014
3. 103 000 000
4. Consol Resources of Amer Inc
5. James E Maley #1
6. Knox
7. Guernsey, OH
8. 11.0 million cubic feet
9. May 7, 1980
10. Cincinnati Gas & Electric Co

1. 80–32179
2. 34–059–22630–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Potts #4
6.
7. Guernsey, OH
8. 27.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32180
2. 34–059–22635–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Warne #2
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. May 7, 1980
10. Owens-Illinois Glass Co

1. 80–32181
2. 34–059–22668–0014
3. 103 000 000
4. H & S Operating Co
5. Bradley #1 34–059–2–2668–11**11–14
6. Wheeling
7. Guernsey, OH
8. 15.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32182
2. 34–059–22670–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Sprowl #1
6.
7. Guernsey, OH
8. 29.2 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32183
2. 34–059–22671—0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Mossage #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32184
2. 34–059–22672–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Shugert #3
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32185
2. 34–059–22681–0014
3. 103 000 000
4. Partners Oil Co
5. #2–79C Mewha
6.
7. Guernsey, OH
8. 100.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32186
2. 34–059–22683–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Wagler-Miller #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32187
2. 34–059–22698–0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Wilson #1
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32188
2. 34–067–20339–0000
3. 103 000 000
4. Mitchell Energy Corp
5. Ager-Birney Unit #1–4
6. Clinton
7. Harrison, OH
8. 80.0 million cubic feet
9. May 7, 1980
10.

1. 80–32189
2. 34–073–21678–0014
3. 103 000 000 denied
4. Quaker State Oil Refining Corp
5. Sunday Creek Coal #1
6.
7. Hocking, OH
8. 7.3 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32190
2. 34–073–21983–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Sunday Creek Coal #17
6.
7. Hocking, OH
8. 14.6 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32191
2. 34–073–22177–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Sunday Creek Coal #30
6.
7. Hocking, OH
8. 18.3 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32192
2. 34–073–22182–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Sunday Creek Coal #27
6.
7. Hocking, OH
8. 3.7 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32193
2. 34–073–22202–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Sunday Creek Coal #28–A
6.
7. Hocking, OH
8. 16.4 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32194
2. 34–073–22257–0014
3. 103 000 000
4. Petro Oil Co
5. Schrader Well No. 1
6.
7. Hocking, OH
8. 5.0 million cubic feet
9. May 7, 1980
10.

1. 80–32195
2. 34–075–22386–0000
3. 103 000 000
4. William F. Hill
5. Richard Fendrick No. 1
6.
7. Holmes, OH
8. 7.0 million cubic feet
9. May 7, 1980
10.

1. 80–32196
2. 34–075–22412–0014
3. 103 000 000
4. Morgan-Pennington Inc
5. Gilbert No. 1
6.
7. Holmes, OH
8. 11.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp.

1. 80–32197
2. 34–089–23609–0014
3. 103 000 000
4. Petro Oil Co
5. Evans Well No. 1
6.
7. Licking, OH
8. 4.0 million cubic feet
9. May 7, 1980
10.

1. 80–32198
2. 34–099–20156–0014
3. 108 000 000
4. Odessa Natural Corp
5. Hammond No. 1
6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32199
2. 34–099–20161–0014
3. 108 000 000
4. Odessa Natural Corp
5. Herren No. 1
6.
7. Mahoning, OH
8. 9.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32200
2. 34–099–20168–0014
3. 108 000 000
4. Odessa Natural Corp
5. Hawkins No. 1
6.
7. Mahoning, OH
8. 13.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32201
2. 34–099–21044–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Crawford No. 1
6.
7. Mahoning, OH
8. 15.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32202
2. 34–099–21159–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. E Greenheisen No. 1
6.
7. Mahoning, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32203
2. 34–099–21161–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. W Greenheisen No. 1
6.
7. Mahoning, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32204
2. 34–099–21187–0034
3. 103 000 000
4. Integrated Petroleum Co Inc
5. Dogwood Golf Course No. 2
6.
7. Mahoning, OH
8. 40.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32205

2. 34–099–21188–0014
3. 103 000 000
4. Integrated Petroleum Co Inc
5. Dogwood Golf Course No. 1
6.
7. Mahoning, OH
8. 50.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32206
2. 34–099–21202–0000
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. John Greenheisen No. 1
6.
7. Mahoning, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32207
2. 34–099–21211–0014
3. 103 000 000
4. Viking Resources Corp
5. Hammond-McMath Unit No. 1
6.
7. Mahoning, OH
8. 30.0 million cubic feet
9. May 7, 1980
10.

1. 80–32208
2. 34–099–21220–0014
3. 103 000 000
4. Integrated Petroleum Co Inc
5. Dogwood/Kobylanski No. 1
6.
7. Mahoning, OH
8. 50.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32209
2. 34–103–22147–0014
3. 103 000 000
4. Leslie Oil & Gas Co Inc
5. J Kovac Well No. 1
6.
7. Medina, OH
8. 20.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp.

1. 80–32210
2. 34–103–22174–0014
3. 103 000 000
4. John F Williams
5. Frank Girman No. 1A
6.
7. Medina, OH
8. 70.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp.

1. 80–32211
2. 34–111–21962–0014
3. 103 000 000
4. Oxford Oil Co
5. Walter Christman No. 1
6.
7. Monroe, OH
8. 15.0 million cubic feet
9. May 7, 1980
10.

1. 80–32212
2. 34–115–21870–0014
3. 103 000 000
4. Orion Energy Corp
5. Davis-Leonard No. 1
6.
7. Morgan, OH
8. 12.0 million cubic feet
9. May 7, 1980
10.

1. 80–32213
2. 34–115–21892–0014
3. 103 000 000
4. Orion Energy Corp
5. Springs-Faulkner No. 1
6.
7. Morgan, OH
8. 10.0 million cubic feet
9. May 7, 1980
10.

1. 80–32214
2. 34–119–23897–0014
3. 103 000 000
4. Alsid Oil & Gas Development Co Inc
5. Powellson No. 1
6.
7. Muskingum, OH
8. 15.0 million cubic feet
9. May 7, 1980
10. American Energy Services Inc

1. 80–32215
2. 34–119–24066–0014
3. 103 000 000
4. Clinton Oil Co
5. Dailey No. 2
6.
7. Muskingum, OH
8. 50.0 million cubic feet
9. May 7, 1980
10. Timken Co

1. 80–32216
2. 34–119–24270–0014
3. 103 000 000
4. Oxford Oil Co
5. Robert Chaney No. 3
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. May 7, 1980
10.

1. 80–32217
2. 34–119–24792–0014
3. 103 000 000
4. Clinton Oil Co
5. M Foster No. 3
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. May 7, 1980
10.

1. 80–32218
2. 34–119–24864–0014
3. 103 000 000
4. Clinton Oil Co
5. Pletcher No. 1
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. May 7, 1980
10.

1. 80–32219
2. 34–119–24865–0014
3. 103 000 000
4. Clinton Oil Co
5. Siegrist No. 3
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. May 7, 1980
10.

1. 80–32220
2. 34–119–24880–0014
3. 103 000 000
4. Clinton Oil Co
5. Lounsbury No. 2
6.
7. Muskingum, OH
8. 250.0 million cubic feet
9. May 7, 1980
10.

1. 80–32221
2. 34–119–24949–0014
3. 103 000 000
4. Clinton Oil Co
5. M Schweitzer No. 5
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. May 7, 1980
10.

1. 80–32222
2. 34–119–24950–0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. Clemenson No. 3
6.
7. Muskingum, OH
8. 21.0 million cubic feet
9. May 7, 1980
10.

1. 80–32223
2. 34–119–25032–0014
3. 103 000 000
4. Clinton Oil Co
5. Potts No. 2
6.
7. Muskingum, OH
8. 150.0 million cubic feet
9. May 7, 1980
10.

1. 80–32224
2. 34–119–25055–0014
3. 103,000,000
4. Irvin Producing Co
5. Earl Winn #2
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 7, 1980
10. National Gas & Oil Corp

1. 80–32225
2. 34–119–25056–0014
3. 103,000,000
4. Irvin Producing Co
5. Earl Winn #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 7, 1980
10. National Gas & Oil Corp

1. 80–32226
2. 34–119–25059–0014
3. 103,000,000
4. Oxford Oil Co
5. Walter Derry #1
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 7, 1980
10.

1. 80–32227
2. 34–925–04100–0000
3. 103,000,000
4. William V Cantlin
5. William P Miller #1
6.

7. Muskingum OH
8. 15.0 million cubic feet
9. May 7, 1980
10. National Gas & Oil Corp

1. 80–32228
2. 34–119–25191–0014
3. 103,000,000
4. Oxford Oil Co
5. Clarence Stone #1
6.
7. Muskingum OH
8. .0 million cubic feet
9. May 7, 1980
10.

1. 80–32229
2. 34–121–22172–3001–4
3. 103,000,000
4. Tiger Oil Inc
5. Sadie Brothers #1
6.
7. Noble OH
8. 20.0 million cubic feet
9. May 7, 1980
10. East Ohio Gas Co

1. 80–32230
2. 34–127–24308–0014
3. 103,000,000
4. L&M Operating Inc
5. Charles Sode #2
6. Hemlock
7. Perry OH
8. 8.0 million cubic feet
9. May 7, 1980
10. New Zane Gas Co

1. 80–32231
2. 34–127–24480–0014
3. 103,000,000
4. Carl M Poston
5. C & P Embrey No 3
6. Hemlock
7. Perry OH
8. 34.5 million cubic feet
9. May 7, 1980
10.

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31797
2. 47–067–20460–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Dotson Gas Unit #1
6. Summersville
7. Nicholas WV
8. 302.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31798
2. 47–067–20457–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Anna Mae Rader #1
6. Summersville
7. Nicholas WV
8. 80.3 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31799
2. 47–067–20458–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. A B Koontz #2
6. Grant
7. Nicholas WV
8. 87.5 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31800
2. 47–067–20461–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Lewis Crawford #1
6. Grant
7. Nicholas WV
8. 88.7 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31801
2. 47–067–20462–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Flynn Coal & Lumber #2–5
6. Summersville
7. Nicholas WV
8. 210.8 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31802
2. 47–067–20463–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Rockwell McCutcheon #1
6. Summersville
7. Nicholas WV
8. 85.1 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31803
2. 47–067–20479–0000
3. 103,000,000
4. Appalachian Exploration & Devel Inc
5. Southern Land Company #1
6. Jefferson
7. Nicholas WV
8. 47.4 million cubic feet
9. May 5, 1980
10.

1. 80–31804
2. 47–041–22150–0000
3. 103,000,000
4. Industrial Gas Associates
5. S Aman #1 Lew–2150
6. Court House District
7. Lewis County WV
8. 12.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31805
2. 47–001–01125–0000
3. 103,000,000
4. Union Drilling Inc
5. Orion Hathaway #1 1496
6. Barker District
7. Barbour WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31806
2. 47–001–28810–0000
3. 103,000,000
4. J & J Enterprises Inc
5. 8-119 F–63608 BAR–881
6. Philippi
7. Barbour WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31807
2. 47–041–00000–0000
3. 103,000,000
4. Gulf Oil Corp
5. Fahey #6
6. Vadis
7. Lewis WV
8. 2.9 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31808
2. 47–021–00000–0000
3. 103,000,000
4. Gulf Oil Corp
5. Farnsworth A #2
6. Vadis-Injun
7. Gilmer WV
8. 26.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31809
2. 47–067–20425–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. C Bailes #1
6. Summersville
7. Nicholas WV
8. 236.9 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31810
2. 47–067–20444–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Rockwell & Carden #1
6. Summersville
7. Nicholas WV
8. 210.8 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31811
2. 47–067–20446–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. E Bell #1
6. Summersville
7. Nicholas WV
8. 463.8 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–3112
2. 47–067–20447–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. T R Koon #1
6. Summersville
7. Nicholas WV
8. 51.2 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31813
2. 47–067–20452–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. Flynn Coal & Lumber #1
6. Summersville
7. Nicholas WV

V 45 M Y 28 80 UMI

8. 80.1 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31814
2. 47–017–00602–0000
3. 108.000.000
4. Haymond R Plaugher
5. Clarence Swiger No 1
6. Sycamore Creek McClelland Dist
7. Doddridge WV
8. 3.2 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31815
2. 47–097–01543–0000
3. 108.000.000
4. Chesterfield Corp
5. Finnegan A–1–UPS–1543
6.
7. Upshur County WV
8. 7.0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–3181616
2. 47–015–01502–0000
3. 103 000 000
4. Blue Creek Gas Co
5. Tawney
6. Henry
7. Clay, WV
8. 12.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31817
2. 47–081–20427–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. New River No. 5
6. Town
7. Raleigh, WV
8. 17.3 million cubic feet
9. May 5, 1980
10. Cabot Corp

1. 80–31818
2. 47–081–20446–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. New River No. 5
6. Town
7. Raleigh, WV
8. 2.9 million cubic feet
9. May 5, 1980
10. Cabot Corp

1. 80–31819
2. 47–081–20460–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Wriston Heirs No. 1
6. Town
7. Raleigh, WV
8. 36.5 million cubic feet
9. May 5, 1980
10. Cabot Corp

1. 80–31820
2. 47–091–20309–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. F F Banks #2
6. Fayetteville
7. Fayette, WV
8. 20.1 million cubic feet
9. May 5, 1980
10. Cabot Corp

1. 80–31821
2. 47–067–20464–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Young Gas Unit #1
6. Summersville
7. Nicholas, WV
8. 42.9 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31822
2. 47–017–21702–0000
3. 108 000 000
4. Justin M Henderson
5. Henhouse No #1
6. Southwest No 1
7. Doddridge, WV
8. 19.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31823
2. 47–017–02352–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–812use No #1
6. Southwest District
7. Doddridge, WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31824
2. 47–067–00475–0000
3. 103 000 000
4. Cities Service Co
5. Dickinson B #23
6. Gauley
7. Nicholas, WV
8. 20.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31825
2. 47–001–21083–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–196 Bar–1083
6. Valley
7. Barbour, WV
8. 25.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31826
2. 47–013–16853–0000
3. 108 000 000
4. Francis E Cain
5. Lizzie Reynolds Oil & Gas No. 1
6. Lee
7. Calhoun, WV
8. 2.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31827
2. 47–013–01850–0000
3. 108 000 000
4. Francis E Cain
5. Lizzie Reynolds Oil & Gas No. 1
6. Lee
7. Calhoun, WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31828
2. 47–013–02214–0000
3. 108 000 000
4. Francis E Cain
5. Lizzie Reynolds Oil & Gas No. 1
6. Lee
7. Calhoun, WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31829
2. 47–021–03422–0000
3. 107 000 000
4. Waco Oil & Gas Co
5. Wiant No. 1
6. Ellis
7. Gilmer, WV
8. 50.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31830
2. 47–021–03385–0000
3. 107 000 000
4. Waco Oil & Gas Co
5. Alfred Lowther No. 3
6. Ellis
7. Gilmer, WV
8. 40.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31831
2. 47–067–00472–0000
3. 103 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co No. 23
6. Gauley
7. Nicholas, WV
8. 20.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31832
2. 47–041–02533–0000
3. 103 000 000
4. Braxton Oil & Gas Corp
5. Summers No. 1
6. Skin Creek
7. Lewis, WV
8. 10.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31833
2. 47–019–00399–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Nuttall Heirs No. 3
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31834
2. 47–011–20313–0000
3. 108 000 000
4. Toms Creek Gas Co
5. B S Bias No. 1
6. McComas District
7. Cabel, WV
8. 9.8 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31835
2. 47–011–20331–0000
3. 108 000 000
4. Trace Creek Gas Co
5. Eliza J Lucas No. 1
6. Grant
7. Cabel, WV
8. 2.5 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31836

2. 47–043–20260–0000
3. 108 000 000
4. Trace Creek Gas Co
5. T C Collins No. 1
6. Carroll District
7. Lincoln, WV
8. 1.9 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31837
2. 47–043–20087–0000
3. 108 000 000
4. Hamlin Natural Gas Co
5. Evemont Bragg No. 1
6. Union District
7. Lincoln, WV
8. 5.0 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31838
2. 47–083–00256–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–806
6. Middle Fork
7. Randolph, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31839
2. 47–097–01903–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–800
6. Washington District
7. Upshur, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31840
2. 47–013–01299–0000
3. 108 000 000
4. Francis E Cain
5. Mollie Brannon Gas No. 1
6. Washington
7. Calhoun, WV
8. 4.7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31841
2. 47–017–21748–0000
3. 108 000 000
4. Justin M Henderson
5. Black Squaw No. 1
6. South West
7. Doddridge, WV
8. 1060.8 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31842
2. 47–001–21032–0000
3. 103 000 000
4. Petroleum Development Corp
5. Ezra Sayers Hrs No. 6
6. Clemtown
7. Barbour, WV
8. 12.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31843
2. 47–001–21041–0000
3. 103 000 000
4. Petroleum Development Corp
5. E Sayers No. 2
6. Clemtown
7. Barbour, WV
8. 21.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31844
2. 47–001–21045–0000
3. 103 000 000
4. Petroleum Development Corp
5. E Sayers No. 3
6. Clemtown
7. Barbour, WV
8. 17.6 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31845
2. 47–001–01145–0000
3. 103 000 000
4. Union Drilling Inc
5. C W Paugh No. 1 1489
6. Pleasant District
7. Barbour, WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31846
2. 47–011–20259–0000
3. 108 000 000
4. Tom's Creek Gas Co
5. J A Morrison No 1
6. McComas District
7. Cabell, WV
8. 10.2 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31847
2. 47–097–01493–0000
3. 103 000 000
4. Union Drilling Inc
5. Jarjorie Glenn No 1 1481
6. Union District
7. Upshur, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31848
2. 47–097–01940–0000
3. 103 000 000
4. Union Drilling Inc
5. John Montgomery No 1 1513
6. Union District
7. Upshur, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31849
2. 47–097–01926–0000
3. 103 000 000
4. Union Drilling Inc
5. Cecile West & M B Hymes No 5 1511
6. Washington District
7. Upshur, WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31850
2. 47–001–01143–0000
3. 103 000 000
4. Union Drilling Inc
5. Jesse Sheme No 1 1486
6. Pleasant District
7. Barbour, WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31851
2. 47–083–00270–0000
3. 103 000 000
4. Union Drilling Inc
5. William R Riley No 1 1503
6. Roaring Creek District
7. Randolph, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31852
2. 47–103–00985–0000
3. 108 000 000
4. Pennzoil Co
5. Hoge Fl No 8
6. Greene District
7. Wetzel, WV
8. .8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31853
2. 47–043–20093–0000
3. 108 000 000
4. Hamlin Natural Gas Co
5. Evemont Bragg No 2
6. Union District
7. Lincoln, WV
8. 5.0 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31854
2. 47–043–20099–0000
3. 108 000 000
4. Hamlin Natural Gas Co
5. Golza Bragg No 1
6. Union District
7. Lincoln, WV
8. 3.5 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31855
2. 47–043–20130–0000
3. 108 000 000
4. Hamlin Natural Gas Co
5. Golza Bragg No 2
6. Union District
7. Lincoln, WV
8. 3.5 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31856
2. 47–011–20253–0000
3. 108 000 000
4. Tom's Creek Gas Co
5. C W Bledsoe No 1
6. McComas District
7. Cabell, WV
8. 14.7 million cubic feet
9. May 5, 1980
10. Pennzoil Co

1. 80–31857
2. 47–097–01941–0000
3. 103 000 000
4. Union Drilling Inc
5. John W Montgomery No 2 1527
6. Union District
7. Upshur, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31858
2. 47–017–02332–0000
3. 103 000 000
4. Industrial Gas Associates
5. James No 1 DOD–2332
6. Central District

V 45 MY 28 80 UMI

V 45 M Y 28 80 UMI

7. Doddridge, WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31859
2. 47–017–02347–0000
3. 103 000 000
4. Industrial Gas Associates
5. James No 2 DOD–2347
6. Central District
7. Doddridge, WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31860
2. 47–017–02359–0000
3. 103 000 000
4. Industrial Gas Associates
5. Hammer #1 DOD–2359
6. Central District
7. Doddridge, WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31861
2. 47–017–02361–0000
3. 103 000 000
4. Industrial Gas Associates
5. Hammer #2 DOD–2361
6. Central District
7. Doddridge, WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31862
2. 47–017–02362–0000
3. 103 000 000
4. Industrial Gas Associates
5. James #3 DOD–2362
6. Central District
7. Doddridge, WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31863
2. 47–095–20676–0000
3. 103 000 000
4. Industrial Gas Associates
5. Hattie Bradford #1 (TY–0676)
6. Centerville District
7. Tyler, WV
8. 9.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31864
2. 47–095–20679–0000
3. 103 000 000
4. Industrial Gas Associates
5. Hattie Bradford #2 (TY–0679)
6. Centerville District
7. Tyler, WV
8. 9.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31865
2. 47–041–00472–0000
3. 108 000 000
4. Fred W. Stalnaker
5. J. L. L. Bailey #1 5325 AC
6. Freemans Creek District
7. Lewis, WV
8. 2.6 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31866
2. 47–041–00503–0000
3. 108 000 000
4. Fred W. Stalnaker
5. J. L. J. Bailey #2
6. Freemans Creek District
7. Lewis, WV
8. .3 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31867
2. 47–041–00534–0000
3. 108 000 000
4. Fred W. Stalnaker
5. George W. Dean #1
6. Freemans Creek District
7. Lewis, WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31868
2. 47–041–00559–0000
3. 108 000 000
4. Fred W. Stalnaker
5. Florence Waggoner #2
6. Freemans Creek District
7. Lewis, WV
8. 4.4 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31869
2. 47–041–00568–0000
3. 108 000 000
4. Fred W. Stalnaker
5. Florence Waggoner #3
6. Freemans Creek District
7. Lewis, WV
8. 4.4 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31870
2. 47–041–00665–0000
3. 108 000 000
4. Fred W. Stalnaker
5. J. L. J. Bailey #1 59 AC
6. Freemans Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31871
2. 47–015–21118–0000
3. 108 000 000
4. Dennis D. Blauser
5. Elk River Coal & Lumber #9
6. Buffalo
7. Clay, WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31872
2. 47–015–21518–0000
3. 103 000 000
4. Dennis D. Blauser
5. Elk River Coal & Lumber #22
6. Buffalo
7. Clay, WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31873
2. 47–015–21519–0000
3. 103 000 000
4. Dennis D. Blauser
5. Elk River Coal & Lumber #23
6. Buffalo
7. Clay, WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31874
2. 47–021–23412–0000
3. 103 000 000
4. Dennis D. Blauser
5. Anne L. Lorentz & Elsie Adams #1
6. Center
7. Gilmer, WV
8. 20.0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31875
2. 47–085–02550–0000
3. 108 000 000
4. Leslie W. Taylor
5. Riddle #7
6. Union
7. Ritchie, WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

West Virginia Department of Mines, Oil and Gas Division

1. 80–31876
2. 47–085–02569–0000
3. 108 000 000
4. Leslie W Taylor
5. W B Wright #6
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31877
2. 47–067–00478–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. XYZ Corporation #1
6. Grant
7. Nicholas WV
8. 73.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31878
2. 47–067–00492–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Roy Lee Walker #1
6. Jefferson
7. Nicholas WV
8. 54.0 million cubic feet
9. May 5, 1980
10. Equitable Gas

1. 80–31879
2. 47–017–00809–0000
3. 108 000 000
4. Leslie W Taylor
5. Weofter#1
6. Cove
7. Doddridge WV
8. 1.2 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31880
2. 47–085–02197–0000
3. 108 000 000
4. Leslie W Taylor
5. W B Wright #1A
6. Union
7. Ritchie WV
8. .3 million cubic feet

9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31881
2. 47–085–02239–0000
3. 108 000 000
4. Leslie W Taylor
5. Riddle #1
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31882
2. 47–085–02279–0000
3. 108 000 000
4. Leslie W Taylor
5. Riddle #2
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31883
2. 47–085–02280–0000
3. 108 000 000
4. Leslie W Taylor
5. Riddle #3
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31884
2. 47–085–02338–0000
3. 108 000 000
4. Leslie W Taylor
5. W B Wright #IA
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31885
2. 47–085–02377–0000
3. 108 000 000
4. Leslie W Taylor
5. W B Wright #3
6. Murphy
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31886
2. 47–085–02378–0000
3. 108 000 000
4. Leslie W Taylor
5. W B Wright #4
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31887
2. 47–085–02404–0000
3. 108 000 000
4. Leslie W Taylor
5. Riddle #4
6. Murphy
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31888
2. 47–085–02405–0000
3. 108 000 000
4. Leslie W Taylor
5. Riddle #5
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31889
2. 47–085–02492–0000
3. 108 000 000
4. Leslie W Taylor
5. W B Wright #5
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31890
2. 47–085–02496–0000
3. 108 000 000
4. Leslie W Taylor
5. Stout-Wright #1
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31891
2. 47–085–02517–0000
3. 108 000 000
4. Leslie W Taylor
5. Riddle #6
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31892
2. 47–007–01209–0000
3. 108 000 000
4. Trio Petroleum Corp
5. Humphreys No 3
6. Heaters
7. Braxton WV
8. 20.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31893
2. 47–013–02857–0000
3. 103 000 000
4. Harry C Boggs
5. R F Stalnaker #7
6. Nicut
7. Calhoun WV
8. 18.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31894
2. 47–013–00429–0000
3. 108 000 000
4. Lowell Sampson
5. E C Arnold #2
6. Washington
7. Calhoun WV
8. 5.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31895
2. 47–013–01230–0000
3. 108 000 000
4. Lowell Sampson
5. Dalton Reip #1
6. Washington
7. Calhoun WV
8. 1.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31896
2. 47–013–02269–0000
3. 108 000 000
4. Lowell Sampson
5. George King #1
6. Washington
7. Calhoun WV
8. 5.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31897
2. 47–021–01385–0000
3. 108 000 000
4. Hayward C Spurgeon
5. Violetta Holbert #1 Star No 2
6. Sinking Creek Road Dekalb Dist
7. Gilmer WV
8. 2.3 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31898
2. 47–021–01223–0000
3. 108 000 000
4. Hayward C Spurgeon
5. Harris & Spurgeon No 3
6. Clinton Burton Troy Dist
7. Gilmer WV
8. 1.4 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31899
2. 47–021–01414–0000
3. 108 000 000
4. Hayward C Spurgeon
5. D S Holbert #1 Star No 4
6. Sinking Creek Road Dekalb Dist
7. Gilmer WV
8. 1.3 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31900
2. 47–001–00778–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. C J Mitchell 12149
6. West Virginia Other A–85772
7. Barbour WV
8. 19.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31901
2. 47–013–02538–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L T Cottrill 11978
6. West Virginia Other A–85772
7. Calhoun WV
8. 1.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31902
2. 47–033–00989–0000
3. 108 000 000
4. Consolidted Gas Supply Corp
5. D L Hall 12060
6. West Virginia Other A–85772
7. Harrison WV
8. 12.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31903

2. 47–033–00990–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas Supply 12065
6. West Virginia Other A–85772
7. Harrison WV
8. 16.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31904
2. 47–013–02632–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 12410
6. West Virginia Other A–85772
7. Calhoun WV
8. 60.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31905
2. 47–041–02163–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Chas W Meader 12245
6. West Virginia Other A–85772
7. Lewis WV
8. 25.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31906
2. 47–049–00324–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Edythe Hess 12380
6. West Virginia other A–85772
7. Marion WV
8. 30.0 million cubic feet
9. May 5, 1980
10. General System Purchasers

1. 80–31907
2. 47–035–01501–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Wendell O Casto #4
6. Washington District
7. Jackson WV
8. 18.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31908
2. 47–035–01503–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Wendell O Casto #2
6. Washington District
7. Jackson WV
8. 18.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31909
2. 47–035–01504–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Wendell O Casto #3
6. Washington District
7. Jackson WV
8. 18.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31910
2. 47–001–00253–0000
3. 108 000 000
4. Stydahar Oil & Gas Co
5. Forrest R Stuart #1 (00253)
6. Elk District
7. Barbour WV
8. 9.7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31911
2. 47–001–00339–0000
3. 108 000 000
4. Stydahar Oil & Gas Co
5. W F Beeson #1
6. Elk District
7. Barbour WV
8. 13.7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31912
2. 47–033–00426–0000
3. 108 000 000
4. Stydahar Oil & Gas Co
5. Ward & Stuart #1
6. Elk District
7. Harrison WV
8. 12.7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31913
2. 47–033–00440–0000
3. 108 000 000
4. Stydahar Oil & Gas Co
5. Forrest R Stuart #1 (00440)
6. Elk District
7. Harrison WV
8. 5.6 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31914
2. 47–017–22288–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Gray #3
6. Fallen Timber
7. Doddridge WV
8. 5.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–3191510
2. 47–00701–21399–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. McCauley #2A
6. McCauley Run of Oil Creek
7. Braxton WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31916
2. 47–021–23500–0000
3. 103,000,000
4. Rockwell Petroleum Company
5. Radcliff #1
6. Lick Run
7. Gilmer WV
8. .0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31917
2. 47–007–01383–0000
3. 103,000,000
4. Stonestreet Lands Co
5. C W Chenoweth #1–S–8
6. Elmira
7. Braxton WV
8. 22.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31918
2. 47–007–01401–0000
3. 103,000,000
4. Stonestreet Lands Co
5. J H Barr #1–S–29
6. Elmira
7. Braxton WV
8. 22.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31919
2. 47–085–01971–0000
3. 108,000,000
4. Philip Lemon
5. J G Patton No 3
6. Union
7. Ritchie WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31920
2. 47–085–01925–0000
3. 108,000,000
4. Philip Lemon
5. Dwight Crane No 2
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31921
2. 47–085–02257–0000
3. 108,000,000
4. Philip Lemon
5. Mary Welch No 1
6. Murphy
7. Ritchie WV
8. 1.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31922
2. 47–085–02074–0000
3. 108,000,000
4. Philip Lemon
5. Law & Price No 3
6. Union
7. Ritchie WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31923
2. 47–085–02056–0000
3. 108,000,000
4. Philip Lemon
5. Dave Tyler No 1
6. Union
7. Ritchie WV
8. 1.7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31924
2. 47–015–01501–0000
3. 103,000,000
4. Blue Creek Gas Co
5. Brown McCorkle #10
6. Henry
7. Clay WV
8. 18.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31925
2. 47–015–01466–0000
3. 103,000,000
4. Blue Creek Gas Co
5. Rogers #1
6. Henry

7. Clay WV
8. 25.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31926
2. 47–015–01465–0000
3. 103,000,000
4. Blue Creek Gas Co
5. Brown McCorkle #9
6. Henry
7. Clay WV
8. 20.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31927
2. 47–015–01419–0000
3. 103,000,000
4. Blue Creek Gas Co
5. Brown McCorkle #8
6. Henry
7. Clay WV
8. 25.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31928
2. 47–015–01418–0000
3. 103,000,000
4. Blue Creek Gas Co
5. Brown McCorkle #6—Hanshaw
6. Henry
7. Clay WV
8. 25.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31929
2. 47–085–01758–0000
3. 108,000,000
4. Philip Lemon
5. Tibbs & Newland No 1
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31930
2. 47–085–01735–0000
3. 108,000,000
4. Philip Lemon
5. Reed & Starr #1
6. Union
7. Ritchie WV
8. 1.9 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31931
2. 47–085–01997–0000
3. 108,000,000
4. Philip Lemon
5. Law & Price #2
6. Union
7. Ritchie WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31932
2. 47–085–01800–0000
3. 108,000,000
4. Philip Lemon
5. Howard Fowler No 1
6. Union
7. Ritchie WV
8. .7 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31933
2. 47–085–01888–0000
3. 108,000,000
4. Philip Lemon
5. Law & Price No 1
6. Union
7. Ritchie WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31934
2. 47–085–01501–0000
3. 108,000,000
4. Philip Lemon
5. J G Patton No 2
6. Union
7. Ritchie WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31935
2. 47–081–20464–0000
3. 102,000,000
4. Appalachian Exploration & Devel Inc
5. F F Banks #5
6. Town
7. Raleigh WV
8. 21.2 million cubic feet
9. May 5, 1980
10. Cabot Corp

1. 80–31936
2. 47–017–02364–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Cole #1
6. St Clair
7. Doddridge, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31937
2. 47–017–02360–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Fonce Brown #1A
6. St Clair
7. Doddridge, WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31938
2. 47–021–03396–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Schackleford #1A
6. Right Fork of Big Ellis
7. Gilmer, WV
8. .0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31939
2. 47–021–03431–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Schackleford #1A
6. Right Fork of Big Ellis
7. Gilmer, WV
8. .0 million cubic feet
9. May 5, 1980
10. Carnegie Natural Gas Co

1. 80–31940
2. 47–007–01358–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Rush #1A
6. Broad Run
7. Braxton, WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31941
2. 47–007–01380–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Wine #1A
6. McCaulley Run
7. Braxton, WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31942
2. 47–017–02370–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Droppleman #1–264
6. Cove
7. Doddridge WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31943
2. 47–021–03398–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Harvey-Ellyson #1
6. Troy
7. Gilmer, WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31944
2. 47–021–03425–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Fiddler #2
6. Glenville
7. Gilmer, WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31945
2. 47–067–20465–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. R E Gray Gas Unit #1
6. Grant
7. Nicholas, WV
8. 7.5 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–31946
2. 47–085–02475–0000
3. 108 000 000
4. Philip Lemon
5. Grace Wilson #1
6. Murphy
7. Ritchie, WV
8. 1.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31947
2. 47–085–03016–0000
3. 108 000 000
4. Philip Lemon
5. N M Welch #2
6. Murphy
7. Ritchie, WV
8. 1.3 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31948

V 45 M Y 28 80 UMI

2. 47–085–03111–0000
3. 108 000 000
4. Philip Lemon
5. Reed & Starr #2
6. Union
7. Ritchie, WV
8. 1.9 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31949
2. 47–085–03206–0000
3. 108 000 000
4. Philip Lemon
5. Reed & Starr #3
6. Union
7. Ritchie, WV
8. 1.9 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31950
2. 47–085–03234–0000
3. 108 000 000
4. Philip Lemon
5. Law & Price #4
6. Union
7. Ritchie, WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31951
2. 47–085–03289–0000
3. 108 000 000
4. Philip Lemon
5. Ball & Welch No 4
6. Grant
7. Ritchie, WV
8. 2.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31952
2. 47–085–02389–0000
3. 108 000 000
4. Philip Lemon
5. N M Welch No 1
6. Murphy
7. Ritchie, WV
8. 1.3 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31953
2. 47–085–03314–0000
3. 108 000 000
4. Philip Lemon
5. A D Killingsworth No 2
6. Murphy
7. Ritchie, WV
8. 2.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31954
2. 47–001–21080–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. D C Stuart No 2
6. Philippi
7. Barbour, WV
8. 30.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31955
2. 47–001–21081–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. D E Cleavenger No 2
6. Union
7. Barbour, WV
8. 30.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31956
2. 47–017–22312–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. J C Mason Hrs No 2
6. Vadis
7. Doddridge, WV
8. 30.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31957
2. 47–033–21952–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. W B Maxwell Hrs No 1
6. Union
7. Harrison, WV
8. 30.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31958
2. 47–033–21951–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. Cora J Howell No 1
6. Ten Mile
7. Harrison, WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31959
2. 47–033–21953–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. W B Maxwell Hrs No 2
6. Grant
7. Harrison, WV
8. 30.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31960
2. 47–033–21955–0000
3. 103 000 000
4. Stonewall Gas Co Inc
5. Ame Matthey No 1
6. Union
7. Harrison, WV
8. 30.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31961
2. 47–041–00766–0000
3. 108 000 000
4. Stephen Gas Co
5. John C Mertz #3
6. John C Mertz
7. Lewis, WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31962
2. 47–041–00842–0000
3. 108 000 000
4. Stephen Gas Co
5. Myrtle Ellis #3
6. Myrtle Ellis
7. Lewis, WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31963
2. 47–041–00910–0000
3. 108 000 000
4. Stephen Gas Co
5. A L Ellis #1
6. A L Ellis
7. Lewis, WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31964
2. 47–021–02532–0000
3. 108 000 000
4. Mumma Oil Production Co
5. James A Tierney #6
6. Third Run—Dekalb District
7. Gilmer, WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31965
2. 47–021–02527–0000
3. 108 000 000
4. Mumma Oil Production Co
5. Elizabeth Keller #1
6. Bear Run—Glenville District
7. Gilmer, WV
8. 2.3 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31966
2. 47–021–02528–0000
3. 108 000 000
4. Mumma Oil Production Co
5. Effie Lynch #1
6. Bear Run-Glenville District
7. Gilmer WV
8. 1.5 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31967
2. 47–021–02652–0000
3. 108 000 000
4. Mumma Oil Production Co
5. Hazel Wright #1
6. Lick Run-Glenville District
7. Gilmer WV
8. 7.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31968
2. 47–021–02659–0000
3. 108 000 000
4. Mumma Oil Production Co
5. T L Murphy #3
6. Duck Run-Glenville District
7. Gilmer WV
8. 3.7 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31969
2. 47–021–02661–0000
3. 108 000 000
4. Mumma Oil Production Co
5. T L Murphy #4
6. Duck Run-Glenville District
7. Gilmer WV
8. 7.4 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31970
2. 47–017–02334–0000
3. 103 000 000
4. Industrial Gas Associates
5. Ferguson No 1
6. Central District
7. Doddridge WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31971
2. 47–001–21024–0000
3. 103 000 000
4. Petroleum Development Corp
5. A Corder #2
6. Clemtown
7. Barbour WV
8. 24.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31972
2. 47–033–00472–0000
3. 108 000 000
4. TWM Petroleum Inc
5. C S Trimble #3
6. Simpson Dist
7. Harrison WV
8. 14.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31973
2. 47–033–00469–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Abner C Stout No 1
6. Elk Dist
7. Harrison WV
8. 9.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31974
2. 47–021–02137–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Edwards #1
6. Sheridan
7. Gilmer WV
8. 7.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31975
2. 47–021–02128–0000
3. 108 000 000
4. Grace Petroleum Corp
5. McDaniel #3
6. Sheridan
7. Gilmer WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31976
2. 47–021–02118–0000
3. 108 000 000
4. Grace Petroleum Corporation
5. Morris #3
6. Sheridan
7. Gilmer WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31977
2. 47–021–02117–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Turner #4
6. Sheridan
7. Gilmer WV
8. 7.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31978
2. 47–021–02116–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Turner #3
6. Sheridan
7. Gilmer WV
8. 7.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31979
2. 47–017–0253–0000
3. 103 000 000
4. Industrial Gas Associates
5. Britton No 1
6. Central District
7. Doddridge WV
8. 23.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31980
2. 47–017–01255–0000
3. 108 000 000
4. Isadore Moshein
5. Rex Drilling No 2
6. Centerpoint McClellan Dist
7. Doddridge WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31981
2. 47–017–01203–0000
3. 108 000 000
4. Isadore Moshein
5. B & L Drilling Co No 3
6. Centerpoint McClellan Dist
7. Doddridge WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31982
2. 47–017–01168–0000
3. 108 000 000
4. Isadore Moshein
5. B & L Drilling Co No 2
6. Centerpoint McClellan District
7. Doddridge WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31983
2. 47–017–00584–0000
3. 108 000 000
4. Isadore Moshein
5. B & L Drilling Co No 1
6. Centerpoint McClellan Dist
7. Doddridge WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31984
2. 47–017–01319–0000
3. 108 000 000
4. Isadore Moshein
5. Rex Drilling Co No 1
6. Centerpoint Grant Dist
7. Doddridge WV
8. 2.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31985
2. 47–017–22335–0000
3. 103 000 000
4. Petroleum Development Corp
5. Garland O Ford #1
6. McClellan
7. Doddridge WV
8. 62.0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission

1. 80–31986
2. 47–033–21969–0000
3. 103 000 000
4. Petroleum Development Corp
5. Faris Heirs #10
6. Bridgeport
7. Harrison WV
8. 55.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31987
2. 47–001–21074–0000
3. 103 000 000
4. Petroleum Development Corp
5. Timble-Teter #1
6. Clemtown
7. Barbour WV
8. 18.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31988
2. 47–001–21059–0000
3. 103 000 000
4. Petroleum Development Corp
5. Duckworth-Humphrey #1
6. Clemtown
7. Barbour WV
8. 17.2 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31989
2. 47–001–21025–0000
3. 103 000 000
4. Petroleum Development Corp
5. Ezra Sayers #5
6. Clemtown
7. Barbour WV
8. 49.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31990
2. 47–097–01872–0000
3. 103 000 000
4. Union Drilling Inc
5. Robert E Johnson #1 1466
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31991
2. 47–097–01837–0000
3. 103 000 000
4. Union Drilling Inc
5. John W Montgomery #1 1462
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31992
2. 47–097–01819–0000
3. 103 000 000
4. Union Drilling Inc
5. Hanifan-George #1 1439
6. Washington District
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

V 45 M Y 28 80 UMI

1. 80–31993
2. 47–097–01880–0000
3. 103 000 000
4. Union Drilling Inc
5. Russell & Anna Lane #1 1470
6. Banks District
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31994
2. 47–083–00181–0000
3. 103 000 000
4. Union Drilling Inc
5. John C Cain #3 1395
6. Roaring Creek District
7. Randolph WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31995
2. 47–097–01883–0000
3. 103 000 000
4. Union Drilling Inc
5. Randal D Singleton #1 1471
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31996
2. 47–097–01884–0000
3. 103 000 000
4. Union Drilling Inc
5. S H Winemiller Heirs #1 1468
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–31997
2. 47–085–03224–0000
3. 108 000 000
4. E W McNulty
5. T–1 Well
6. Grant
7. Ritchie WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31998
2. 47–085–03239–0000
3. 108 000 000
4. E W McNulty
5. T–3 Well
6. Grant
7. Ritchie WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–31999
2. 47–085–03241–0000
3. 108 000 000
4. E W McNulty
5. T–5 Well
6. Grant
7. Ritchie WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32000
2. 47–085–23555–0000
3. 108 000 000
4. Dennis D Blauser #2
5. Earl Wilson #2
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32001
2. 47–017–02315–0000
3. 102 000 000
4. United Operating Company
5. F F Randolph #1–A
6. Meathouse Fork
7. Doddridge WV
8. 52.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32002
2. 47–067–00467–0000
3. 103 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #19
6. Gauley
7. Nicholas WV
8. 66.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32003
2. 47–085–02920–0000
3. 108 000 000
4. Aigt Corp
5. Ritchie Mines #56
6. Ritchie Mines Lease
7. Ritchie WV
8. 1.8 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32004
2. 47–085–03716–0000
3. 108 000 000
4. Aigt Corp
5. Ritchie Mines #71
6. Ritchie Mines Lease
7. Ritchie WV
8. 1.1 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32005
2. 47–085–02300–0000
3. 108 000 000
4. Aigt Corp
5. Ritchie Mines #72
6. Ritchie Mines Lease
7. Ritchie WV
8. 1.1 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32006
2. 47–097–01476–0000
3. 108 000 000
4. Chesterfield Corp
5. L & L #2—UPS—1476
6. Union
7. Upshur, WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32007
2. 47–001–00870–0000
3. 108 000 000
4. Chesterfield Corp
5. Matko #2
6.
7. Barbour County WV
8. 11.0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32008
2. 47–091–00181–0000
3. 103 000 000
4. NRM Petroleum Corp
5. Goff-Arnold #1
6. Flemington
7. Taylor, WV
8. .0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32009
2. 47–091–00177–0000
3. 103 000 000
4. NRM Petroleum Corp
5. E Tomblyn #1
6. Flemington
7. Taylor WV
8. .0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32010
2. 47–097–01919–0000
3. 103 000 000
4. NRM Petroleum Corp
5. Perkins-Day #1
6. Tallmansville
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–32011
2. 47–097–01924–0000
3. 103 000 000
4. NRM Petroleum Corp
5. F Reed #1
6. Middle Fork River
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–32012
2. 47–097–01929–0000
3. 103 000 000
4. NRM Petroleum Corp
5. M Tenney #1
6. Tallmansville
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–32013
2. 47–097–01949–0000
3. 103 000 000
4. NRM Petroleum Corp
5. A P Tenney #1
6. Tallmansville
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–32014
2. 47–013–01398–0000
3. 103 000 000
4. L M Ayers
5. Hardmand #1
6. Center District
7. Calhoun WV
8. 27.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32015
2. 47–013–01353–0000
3. 103 000 000
4. L M Ayers
5. Trippett #1

6. Center District
7. Calhoun WV
8. 56.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32016
2. 47–013–01480–0000
3. 108 000 000
4. L M Ayers
5. Arnold #1
6. Center District
7. Calhoun WV
8. 25.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corporation

1. 80–32017
2. 47–085–02376–0000
3. 108 000 000
4. Leslie W Taylor
5. Royden Zinn #3A
6. Union
7. Ritchie WV
8. .1 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32018
2. 47–085–02198–0000
3. 108 000 000
4. Leslie W Taylor
5. Royden Zinn #1A
6. Union
7. Ritchie WV
8. .0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32019
2. 47–085–02497–0000
3. 108 000 000
4. Leslie W Taylor
5. Stout-Wright #2
6. Union
7. Ritchie WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32020
2. 47–085–02515–0000
3. 108 000 000
4. Leslie W Taylor
5. Stout-Wright #3
6. Union
7. Ritchie WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32021
2. 47–085–02516–0000
3. 108 000 000
4. Leslie W Taylor
5. Stout-Wright #4
6. Union
7. Ritchie WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32022
2. 47–085–02591–0000
3. 108 000 000
4. Leslie W Taylor
5. Stout-Wright #5
6. Union
7. Ritchie WV
8. 1.0 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32023
2. 47–097–01918–0000
3. 103 000 000
4. NRM Petroleum Corp
5. D Koon #1
6. Buckhannon River
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–32024
2. 47–001–00849–0000
3. 108 000 000
4. Chesterfield Corp
5. Matko #3
6. Valley
7. Barbour WV
8. 11.0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32025
2. 47–085–23554–0000
3. 108 000 000
4. Dennis D Blauser
5. Earl Wilson #1
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32026
2. 47–097–01893–0000
3. 103 000 000
4. NRM Petroleum Corp
5. S Light #1
6. Middle Fork River
7. Upshur WV
8. .0 million cubic feet
9. May 5, 1980
10. Columbia Gas Transmission Corp

1. 80–32027
2. 47–097–01477–0000
3. 108 000 000
4. Chesterfield Corp
5. L & L #1—UPS–1477
6. Union
7. Upshur WV
8. 8.0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32028
2. 47–083–00179–0000
3. 108 000 000
4. Chesterfield Corp
5. Cornwell #2
6. Roaring Creek
7. Randolph WV
8. 3.0 million cubic feet
9. May 5, 1980
10. Petro-Lewis Corp

1. 80–32029
2. 47–085–02911–0000
3. 108 000 000
4. Aigt Corp
5. J W Marshall #24
6. J W Marshall Lease
7. Ritchie County WV
8. 5.5 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

1. 80–32030
2. 47–085–23560–0000
3. 108 000 000
4. Dennis D Blauser
5. Earl Wilson #4
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32031
2. 47–085–23556–0000
3. 108 000 000
4. Dennis D Blauser
5. Earl Wilson #3
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32032
2. 47–085–23561–0000
3. 108 000 000
4. Dennis D Blauser
5. Earl Wilson #5
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32033
2. 47–021–03504–0000
3. 103 000 000
4. Bruce Foster
5. Summers No 4
6. Glenville South
7. Gilmer WV
8. .0 million cubic feet
9. May 5, 1980
10. Equitable Gas Co

1. 80–32034
2. 47–105–00841–0000
3. 108 000 000
4. N G Busch
5. M S Barnett #1
6. Burning Springs District
7. Wirt WV
8. 1.3 million cubic feet
9. May 5, 1980
10. Consolidated Gas Supply Corp

Wyoming Oil and Gas Conservation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32238/NG–50–80
2. 49–041–20254–0000
3. 102 000 000
4. Cities Service Co
5. Evanston Townsite Unit B #1
6. Yellow Creek
7. Uinta WY
8. 8.0 million cubic feet
9. May 7, 1980
10. Mountain Fuel Supply Co

1. 80–32239/NG–51–80
2. 49–041–20238–0000
3. 102 000 000
4. Cities Service Co
5. Evanston Townsite Unit A #1
6. Yellow Creek
7. Uinta WY

V 45 MY 28 80 UMI

8. 12.0 million cubic feet
9. May 7, 1980
10. Mountain Fuel Supply Co
1. 80–32240/NG–52–80
2. 49–023–20157–0000
3. 102 000 000
4. Amoco Production Co
5. Whiskey Buttes Unit #3
6. Whiskey Buttes Unit
7. Lincoln WY
8. 60.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32241/NG–42–80
2. 49–023–20337–0000
3. 103 000 000
4. Pacific Transmission Supply Co
5. PTS 22–36 State
6. Fontenelle
7. Lincoln WY
8. 190.0 million cubic feet
9. May 7, 1980
10. Pacific Gas Transmission Co
1. 80–32242/NG–44–80
2. 49–007–20449–0000
3. 102 000 000
4. Pacific Transmission Supply Co
5. PTS 3–36A State
6. Standard Draw
7. Carbon WY
8. 200.0 million cubic feet
9. May 7, 1980
10. Pacific Gas & Electric Co
1. 80–32243/NG–45–80
2. 49–035–06092–0000
3. 108 000 000
4. Belco Petroleum Corp
5. B–25 06092
6. Big Piney
7. Sublette WY
8. 21.0 million cubic feet
9. May 7, 1980
10. Northwest Pipeline Corp
1. 80–32244/NG–49–80
2. 49–007–20453–0000
3. 102 000 000
4. Cities Service Co
5. State E #1
6. Wild Rose
7. Carbon WY
8. 12.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32245/NG–53–80
2. 49–041–20273–0000
3. 102 000 000
4. Amoco Production Co
5. Amoco Anschutz WI Unit #1
6. Yellow Creek
7. Uinta WY
8. 250.0 million cubic feet
9. May 7, 1980
10. Mountain Fuel Supply Co
1. 80–32246/NG–54–80
2. 49–007–20446–0000
3. 102 000 000
4. Amoco Production Co
5. Coal Gulch C #1
6. Coal Gulch
7. Carbon WY
8. 900.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32247/NG–55–80
2. 49–037–20801–0000
3. 102 000 000
4. Amoco Production Co
5. Champlin 242 Amoco G #1
6. Echo Springs
7. Sweetwater WY
8. 521.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32248/NG–58–80
2. 49–007–20429–0000
3. 102 000 000
4. Amoco Production Co
5. Champlin 226 Amoco E #1
6. Standard Draw
7. Carbon WY
8. 19.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32249/NG–57–80
2. 49–007–20388–0000
3. 103 000 000
4. Amoco Production Co
5. Champlin 336 Amoco C #1
6. Wildrose
7. Carbon WY
8. 165.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32250/NG–59–80
2. 49–037–21196–0000
3. 103 000 000
4. Amoco Production Co
5. Champlin 263 Amoco B #1
6. Siberia Ridge
7. Sweetwater WY
8. 140.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32251/NG–61–80
2. 49–041–20197–0000
3. 102 000 000
4. Amoco Production Co
5. Champlin 149 Amoco H #1
6. Bruff
7. Uinta WY
8. 600.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co
1. 80–32252/NG–337–79
2. 49–005–25153–0000
3. 102 000 000
4. Cities Service Co
5. Christensen E #2
6. Hartzog Draw
7. Campbell WY
8. 12.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–32253/NG–38–80
2. 49–009–21555–0000
3. 103 000 000
4. Petroleum Inc
5. Cobb #1
6. Mikes Draw/Teapot
7. Converse WY
8. 12.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co
1. 80–32254/NG–39–80
2. 49–041–20204–0000
3. 102 000 000
4. Mountain Fuel Supply Co
5. Yellow Creek #3–36
6. Yellow Creek
7. Uinta WY
8. 1650.0 million cubic feet
9. May 7, 1980
10. Mountain Fuel Supply Co
1. 80–32255/NG–40–80
2. 49–009–21568–0000
3. 102 000 000
4. Mountain Fuel Supply Co
5. Sprearhead Ranch Unit No 17
6. Sprearhead Ranch
7. Converse WY
8. 182.5 million cubic feet
9. May 7, 1980
10. Mountain Fuel Supply Co
1. 80–32256/NG–41–80
2. 49–019–20497–0000
3. 102 000 000
4. Mountain Fuel Supply Co
5. Adamson Eklund No 1–14
6. Bonnidee Area
7. Johnson WY
8. 62.8 million cubic feet
9. May 7, 1980
10.
1. 80–32257/NG–43–80
2. 49–023–20327–0000
3. 103 000 000
4. Pacific Transmission Supply Co
5. Pts 34–28 Eubank Cattle Co
6. Fontenelle
7. Lincoln, WY
8. 100.0 million cubic feet
9. May 7, 1980
10. Pacific Gas Transmission Co
1. 80–32258/NG–46–80
2. 49–035–09375–0000
3. 108 000 000
4. Belco Petroleum Corp
5. C–59 09375
6. Big Piney
7. Sublette, WY
8. 13.0 million cubic feet
9. May 7, 1980
10. Northwest Pipeline Corp
1. 80–32259/NG–58–80
2. 49–037–21311–0000
3. 103 000 000
4. Amoco Production Co
5. Champlin 443 Amoco B No. 1
6. Wild Rose
7. Sweetwater, WY
8. 84.0 million cubic feet
9. May 7, 1980
10. Cities Service Gas Co

United States Geological Survey, Metairie, Louisiana

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annuál volume
9. Date received at FERC
10. Purchaser(s)
1. 80–32236/GO–1291
2. 17–706–40390–0151–0
3. 102 000 000
4. Marathon Oil Co
5. Vermilion block 331 #A–24
6. Vermilion
7. 331
8. 2500.0 million cubic feet

9. May 7, 1980
10. Texas Eastern Transmission Corp
Transcontinental Gas Pipe Line Corp
Northern Natural Gas Co
1. 80–32237/GO–1218
2. 17–705–40324–0000–0
3. 102 000 000
4. Union Oil Co of California
5. OCS–0287 No. 31
6. Vermilion
7. 26
8. 7300.0 million cubic feet
9. May 7, 1980
10. Trunkline Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 12, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16148 Filed 5–27–80; 8:45 am]

BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1502–1]

Cancellation of Announced Open Meeting of the Science Advisory Board Subcommittee on Arsenic as a Hazardous Air Pollutant

Reference is made to the notice in the May 14, 1980 **Federal Register** (45 FR 31773) of a meeting of the Science Advisory Board Subcommittee on Arsenic as a Possible Hazardous Air Pollutant on June 3, 1980 at Research Triangle Park, North Carolina. That meeting is cancelled and will be rescheduled at a later date.

The Office of Research and Development has requested the Science Advisory Board to inform the public through this announcement that the public comment period on the arsenic documents is open through June 30, 1980. Written comments on the documents should be addressed to Dr. Lester Grant, U.S.E.P.A., Environmental Research Laboratory, PM–12, Research Triangle Park, North Carolina 27111. Written comments for consideration by the Science Advisory Board when the Subcommittee meeting is rescheduled should be addressed to Dr. Joel Fisher, U.S.E.P.A., Science Advisory Board, A–101M, Washington, D.C. 20460.

Helene N. Guttman,

Acting Staff Director, Science Advisory Board.

May 20, 1980.

[FR Doc. 80–16069 Filed 5–26–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1501–6; OPTS–59024]

Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the **Federal Register**. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the examination.

DATE: The Agency must either approve or deny this application by June 28, 1980. Persons should submit written comments on the application no later than June 12, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS–59024", and should be submitted in triplicate, if possible, to the:
Document Control Officer (TS–793),
Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Mr. Kirk Maconaughey,
Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202–426–3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before June 12, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–59024]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: May 21, 1980.

John P. De Kany,

Deputy Assistant Administrator for Chemical Control.

TM 80–24

Close of Review Period. June 28, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Alkyl metal ester.

Use. Rearrangement catalyst.

The manufacturer has stated that the manufacture, processing, distribution in commerce, use and disposal for test marketing will not present unreasonable risk of injury to health or the environment because this activity will take place under controlled conditions. Human exposure will be limited to a minimal number of qualified technical personnel.

[FR Doc. 80–16071 Filed 5–27–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1501–3]

Hollingsworth and Vose Co.; Prevention of Significant Deterioration (PSD) Permit

Notice is hereby given that on May 7, 1980 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Hollingsworth and Vose Company to construct a boiler replacement in West Groton, Massachusetts. This permit has been issued under EPA's Prevention of Significant Deterioration of Air Quality regulations (40 CFR Part 52.21) subject to certain conditions, including:

1. The boiler shall not burn fuel oils with a sulfur content higher than 2.2% by weight.

2. The boiler being replaced shall be shut down prior to start-up of the new unit. The two existing boilers shall be used as standby, and not more than 488 gallons of oil shall be burned in any hour.

The PSD permit approval is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before July 28, 1980.

Copies of the PSD permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, MA 02203.

Town Clerk's Office, Town Hall, Groton, MA 01472.

Department of Environmental Quality Engineering, 209 New Boston Road, Woburn, MA 01801.

Dated: May 15, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80–16070 Filed 5–27–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1505–5; OPTS–80010]

TSCA Chemical Substances Inventory; Availability of Chemical Production Information Tape

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of a computer readable magnetic tape containing non-confidential production and plant site information associated with the Toxic Substances Control Act (TSCA) Chemical Substances Initial Inventory. This notice explains how to obtain a copy of the Chemical Production Information Tape which can be used in conjunction with the Chemical Substance Inventory Tape to obtain information about chemicals and the companies that reported them for the Initial Inventory.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS–799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, Toll-free telephone number: 800–424–9065, In Washington: 544–1404.

SUPPLEMENTARY INFORMATION: The inventory reporting regulations (40 CFR Part 710) were promulgated under the authority of section 8(a) of the TSCA (90 Stat. 2003; 15 U.S.C. 2601 et seq.). These regulations were published in the Federal Register of December 23, 1977 (42 FR 64572), and were supplemented on March 6, 1978 (43 FR 9254), and April 17, 1978 (43 FR 16178). These regulations implemented section 8(b) of TSCA which requires EPA to compile, keep current, and publish a list of chemical substances manufactured, imported, or processed in the United States for a commercial purpose. To achieve the widest possible dissemination of the inventory information reported to EPA and to meet the express requests for this information by the public and chemical industry, EPA is making available the chemical production information tape. This tape contains production and plant site information, and consists of two sections. The first section is a file describing the plants that manufacture or import the chemicals in the inventory. The second section is a file describing the production or importation volumes of each chemical at each plant. This tape should be used in conjunction with the chemical substances tape for the Initial Inventory which identifies chemicals on the inventory by Chemical Abstracts Services registry numbers. The chemical substance tape for the Initial Inventory was made available in June, 1979 through the National Technical Information Services (NTIS No. PB–295–108; $125).

The production and plant site information on the chemical information tape covers the submissions processed by EPA as of January, 1979. Only non-confidential information is found on the tape in accordance with the operational disclosure rules discussed in a notice in the May 15, 1979 Federal Register (44 FR 28558), entitled "Availability of the TSCA Initial Inventory".

It should be emphasized that the information contained in the chemical information production tape does not represent the complete inventory. Confidential information, as well as chemical submissions currently under review, are not included in the tape. EPA maintains a master inventory file that does contain the complete inventory.

Because of the high cost of printing and distribution, the chemical production information tape will only be available in its computer readable tape format; there will be no microfiche or hard copies available to be distributed to the public. The public may, however, view a hard copy of the chemical information production tape in the public reading areas at EPA headquarters and in the EPA regional offices. The EPA headquarters public reading area is located at: 401 M Street, SW, Washington, DC 20460, Room 447 East Tower. The chemical production information tape (NTIS No. PB–80–155–153; $125) may be obtained by submitting a written request to:

National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

However, anyone who has a deposit account with NTIS or an American Express card may call the NTIS Sales Desk (703–557–4650) and place the order by phone.

For a complete understanding of the data contained on this tape, it is necessary to be familiar with the introductory material in the Initial Inventory. Persons who do not have copies of the Initial Inventory and its Supplement are referred to the May 15 and November 9, 1979 Federal Register notices or to the Industry Assistance Office.

Dated: May 21, 1980.

Edwin H. Clark II,

Acting Assistant Administrator for Pesticide and Toxic Substances.

[FR Doc. 80–16072 Filed 5–27–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1501–7; OPTS–41002]

Sixth Report of the Interagency Testing Committee to the Administrator, Environmental Protection Agency; Receipt of the Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: This notice requests comments on recent additions to the Interagency Testing Committee's (ITC) priority list of chemical substances recommended for testing under section 4(a) of the Toxic Substances Control Act (TSCA).

SUMMARY: The ITC, established under section 4(e) of TSCA, has transmitted its Sixth Report to the Administrator of EPA. This report revises and updates the Committee's priority list of chemicals. The Report adds one category to the Committee's list of chemicals for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act.

The Sixth Report is included in this Notice. The Agency invites interested persons to submit comments on the Report.

DATE: Comments should be submitted by June 27, 1980.

FOR FURTHER INFORMATION CONTACT: Steven D. Newburg-Rinn, Assessment Division (TS–792), Rm. E–229, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202–426–0503).

SUPPLEMENTARY INFORMATION:

Background

Section 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee to make recommendations of chemical substances to the Administrator of EPA for priority consideration for proposing test rules under section 4(a). The Committee may at any one time designate up to 50 of its recommendations for special priority consideration by EPA. Within 12 months of that designation, EPA must initiate rulemaking to require testing or publish in the Federal Register its reasons for not doing so.

The Committee's initial recommendations to the priority list, of four substances and six categories of substances, were published in the Federal Register of October 12, 1977 (42 FR 55026). EPA's response to the initial recommendations appeared in the Federal Register of October 26, 1978 (43 FR 50134). The ITC's revisions to the initial list appeared in the Committee's Second Report and were published in the Federal Register of April 19, 1978 (43 FR 16684). Those revisions were the addition of four substances and four categories of substances to the priority list. EPA responded to the Second ITC Report on May 14, 1979 (44 FR 28095). In its Third Report, published in the Federal Register of October 30, 1978 (43 FR 50631), the Committee recommended the addition of one chemical substance and two categories of chemical substances to the priority list. In its Fourth Report, the Committee recommended the addition of 11 individual chemicals and one category to its priority list, each designated for priority consideration by EPA. The ITC's Fifth Report was received by the Administrator on November 7, 1979. In its Fifth Report, the Committee recommended the addition of two individual chemicals and three categories of chemicals to its priority list, each designated for priority consideration by EPA. The ITC's Sixth Report was received by the Administrator on April 15, 1980.

Availability

The ITC's Sixth Report follows. Request for Comments: EPA invites interested persons to submit comments on the ITC's new recommendations. The Agency requests comments be submitted no later than June 27, 1980. All comments received by that date will be considered by the Agency in determining whether to propose test rules in response to the Committee's new recommendations.

Comments should bear the identifying notation OTS–41002 and should be submitted to the Document Control Officer, Chemical Information Division, Office of Pesticides and Toxic Substances (TS–793), Room 447, East Tower, EPA, 401 M Street, SW, Washington, DC 20460. All written comments will be available for public inspection in Room 447, East Tower, at the same address, between 8:00 a.m. and 4:00 p.m., weekdays.

Dated: May 21, 1980.

Edwin H. Clark II,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Sixth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency

Toxic Substances Control Act Interagency Testing Committee

Member Agencies—Council on Environmental Quality, Department of Commerce, Environmental Protection Agency, National Cancer Institute, National Institute of Environmental Health Sciences, National Institute for Occupational Safety and Health, National Science Foundation, Occupational Safety and Health Administration.

Liaison Agencies—Consumer Product Safety Commission, Department of Defense, Department of the Interior, Food and Drug Administration.

April 9, 1980.

Honorable Douglas M. Costle,
Administrator,
Environmental Protection Agency,
Washington, D.C. 20460

Dear Mr. Costle: I am pleased to present to you the sixth report of the TSCA Interagency Testing Committee. This report meets the

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statutory requirement under Section 4(e)(1)(B) of TSCA stipulating that the Committee shall make revisions in the Priority List, as it determines to be necessary, at least every six months. In this sixth report, the Committee chooses to add one category of chemicals to the Priority List.

This report marks the first time that the Committee was able to use the TSCA Chemical Inventory since it became available. Because of certain problems in handling confidential data, the Committee chose to access only the public portion of the Inventory. One of the problems associated with the use of confidential data is the restriction against disclosing such data, even though they may be part of the Committee's rationale for a test recommendation. Under certain circumstances, this problem might be solved by allowing the public disclosure of aggregate data. The Committee would be pleased to meet with EPA officials to discuss this matter.

I would like to take advantage of this opportunity to acknowledge and bring to your attention the commitment required on the part of statutory and liaison Committee members. Since its inception, the Committee has met more than one-hundred times in regular sessions and more times in meetings of subcommittees and other Committee-related groups. It is often necessary for the Committee to meet on almost a weekly basis. Thus, between preparing their assignments and attending meetings, members must commit at least 20–25% of their time to Committee-related activities. I am sure that you would agree that this is a significant commitment in support of EPA, especially when viewed collectively as an interagency collaborative effort.

The Committee hopes that this sixth report is helpful to the EPA in its efforts to control toxic substances.

Sincerely yours,

James M. Sontag, Ph.D.

Chairman.

Sixth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, April 1980

Contents

Summary
Committee Membership
Chapter 1. Introduction
1.1 Background
1.2 Committee's Activities during this Reporting Period
1.3 Consideration of Ongoing Studies
1.4 The TSCA Section 4(e) Priority List
References
Chapter 2. Recommendations of the Committee
2.1 Chemicals Designated for action by the EPA
2.2 Rationales for Studies on Phenylenediamines, as Defined

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94–469) provides for the testing of chemicals in commerce which may pose an unreasonable risk to human health or the environment. It also provides for the establishment of a Committee, composed of representatives from eight designated Federal agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes such revisions in the Section 4(e) Priority List as it determines to be necessary and transmits them to the Administrator.

As a result of its deliberations, the Committee is revising the TCSA Section 4(e) Priority List by the addition of one chemical category. The category is designated as phenylenediamines, as defined in the category identification section of the report (see Section 2.2). Studies recommended are carcinogenicity, mutagenicity, teratogenicity, other toxic effects, epidemiology, and environmental effects. The Committee designates this category for action by EPA within twelve months of the date of this sixth report, as stipulated by TSCA.

TSCA Interagency Testing Committee

Statutory Member Agencies and Representatives

Council on Environmental Quality
No Representative
Department of Commerce
Orville E. Paynter, Member
Bernard Greifer, Alternate
Environmental Protection Agency
Joseph Seifter, Member
Amy Rispin, Alternate
National Cancer Institute
James M. Sontag, Member and Chairman
National Institute of Environmental Health Sciences
Warren T. Piver, Alternate
National Institute for Occupational Safety and Health
Vera W. Hudson, Member and Vice Chairman
Michael Blackwell, Alternate
National Science Foundation
Sidney Draggan, Member
Occupational Safety and Health Administration
Victor Alexander, Member
David Logan, Alternate

Liaison Agencies and Representatives

Consumer Product Safety Commission
Joseph McLaughlin
Department of Defense
Bernard P. McNamara
Department of Interior
Charles R. Walker
Food and Drug Administration
Allen H. Heim and Winston deMonsabert
Department of Agriculture
Homer E. Fairchild and Fred W. Clayton

Committee Staff

Walter G. Rosen, Acting Executive Secretary*

The Committee acknowledges and is grateful for the assistance given to it by John Lyon, EPA Office of General Counsel, and Edward Zillioux, EPA Environmental Review Division.

April 1980

Chapter 1. Introduction

1.1 *Background.* The Interagency Testing Committee (Committee) was established under Section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94–469). The specific mandate of the Committee is to identify and recommend to the Administrator of the Environmental Protection Agency (EPA) chemical substances or mixtures in commerce which should be tested to determine their potential hazard to human health and/or the environment. The Act specifies that the Committee's recommendations will be in the form of a Priority List, which is to be published in the **Federal Register**. The Committee is directed to make revisions to the List, as it determines to be necessary, and to transmit such revisions to the EPA Administrator at least every six months after submission of the initial List.

The Committee is comprised of representatives from eight statutory member agencies and from five liaison agencies. The specific representatives are names in the front of this report. The Committee's chemical review procedures and recommendations are described in earlier reports (see References 1–6).

1.2 *Committee's Activities during this Reporting Period.* The Committee has continued to review chemicals from its second round of scoring (see Reference 2 for methodology). Information now available from the TSCA Public Chemical Inventory is being utilized by the Committee in assessing chemicals. Because of the problems associated, at this time, with the handling of confidential information, the Committee has elected not to avail itself of information in the non-public portion of the Inventory. Thus, when production data on chemicals are given, they may be under estimates to the extent that additional production data are reported as confidential.

1.3 *Consideration of Ongoing Studies.* Because questions arise as to the Committee's treatment of ongoing studies on chemcials under consideration or recommended for study, the Committee's position regarding this matter is reiterated below.

"The Committee generally does not regard knowledge that studies are planned or ongoing as a sufficient basis to defer consideration of a substance for designation for the effect under investigation or for any other effect. The Committee's judgment as to whether a substance has been adequately tested for health and environmental effects must rest with the data that are currently available. Such data do not exist for planned studies and may be in various stages of generation for ongoing studies."

The Committee notes that planned and ongoing studies may be a factor in the EPA Administrator's determination as to whether to accept a recommendation.

1.4 *The TSCA Section 4(e) Priority List.* With the addition from this report, 39 entries now appear on the Priority List. The entries and the dates of their designation by the Committee are given in Table 1. It should be noted that the Table varies from the one in the Committee's fifth report in that the dates now represent the time of the Committee's action rather than the date by which action is required by the EPA. The Committee considers each entry to be equal priority.

*Terminated his association with the Committee on February 7, 1980.

References

1. Preliminary List of Chemical Substances for Further Evaluation. Toxic Substances Control Act Interagency Testing Committee, July 1977.

2. Initial Report to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the **Federal Register**, Vo. 42, 197, Wednesday, October 12, 1977, pp. 55026–55080. Corrections published in **Federal Register**, Vol. 42, November 11, 1977, pp. 58777–58778. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/001, January 1978.

3. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, April 1978. Published in the **Federal Register**, Vol. 43, No. 76, Wednesday, April 19, 1978, pp. 16684–16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/002, July 1978.

4. Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1978. Published in the **Federal Register**, Vol. 43, No. 210, Monday, October 30, 1978, pp. 50630–50635.

5. Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, April 1979. Published in the **Federal Register**, Vol. 44, No. 107, Friday, June 1, 1979, pp. 31886–31889.

6. Fifth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, November 1979. Published in the **Federal Register**, Vol. 44, No. 237, Friday, December 7, 1979, pp. 70664–70674.

Table 1.—*The TCSA Section 4(e) Priority List*

Entry	Date of designation
1. Acetonitrile	Apr. 1979
2. Acrylamide	Apr. 1978**
3. Alkyl epoxides	Oct. 1977*
4. Alkyl phthalates	Oct. 1977*
5. Aniline and bromo, chloro and/or nitro Anilines	Apr. 1979
6. Antimony (metal)	Apr. 1979
7. Antimony sulfide	Apr. 1979
8. Antimony trioxide	Apr. 1979
9. Aryl phosphates	Apr. 1978**
10. Benzidine-based dyes	Nov. 1979
11. Chlorinated benzenes, mono- and di-	Oct. 1977*
12. Chlorinated benzenes, tri-, tetra-, and penta-	Oct. 1978
13. Chlorinated naphthalenes	Apr. 1978**
14. Chlorinated paraffins	Oct. 1977*
15. Chloromethane	Oct. 1977*
16. Cresols	Oct. 1977*
17. *o*-Dianisidine-based dyes	Nov. 1979
18. Dichloromethane	Apr. 1978**
19. 1,2-Dichloropropane	Oct. 1978
20. Cyclohexanone	Apr. 1979
21. Glycidol and its derivatives	Oct. 1978
22. Halogenated alkyl epoxides	Apr. 1978**
23. Hexachloro-1,3-butadiene	Oct. 1977*
24. Hexachlorocyclopentadiene	Apr. 1979
25. Hydroquinone	Nov. 1979
26. Isophorone	Apr. 1979
27. Mesityl oxide	Apr. 1979
28. 4,4'-Methylenedianiline	Apr. 1979
29. Methyl ethyl ketone	Apr. 1979
30. Methyl isobutyl ketone	Apr. 1979
31. Nitrobenzene	Oct. 1977*
32. Phenylenediamines	Apr. 1980
33. Polychlorinated terphenyls	Apr. 1978**
34. Pyridine	Apr. 1978**
35. Quinone	Nov. 1979
36. *o*-Toluidine-based dyes	Nov. 1979
37. Toluene	Oct. 1977*
38. 1,1,1-Trichloroethane	Apr. 1978**
39. Xylene	Oct. 1977*

*Responded to by the EPA Administrator in 43 FR 50134–50138

**Responded to by the EPA Administrator in 44 FR 28095–28097

Chapter 2. Recommendations of the Committee

2.1 *Chemicals Designated for Action by the EPA.* As permitted by TSCA Section 4(e)(B), the Committee chooses to make revisions in the Section 4(e) Priority List by the addition of one entry. The designation of this entry was determined after considering the factors identified in Section 4(e)(1)(A) and available relevant information, as well as on the professional judgment of Committee members. The recommended studies for this entry and the rationales to support the recommendations are given in Section 2.2 of this report. As allowed by Section 4(e) of TSCA, the Committee designates this entry for action by the EPA within twelve months of the date of this sixth Committee report.

2.2 *Rationales for Studies on Phenylenediamines, as Defined**

Category Identification

This category is defined as all nitrogen-unsubstituted phenylenediamines with zero to two substituents on the ring selected from the same or different membes of the group of halo, nitro, hydroxy, hydroxy-lower alkoxy, lower-alkyl, and lower-alkoxy. For this purpose, the term "lower" is defined as a group containing between one and four carbons.

Recommended Studies

Carcinogenicity
Mutagenicity
Teratogenicity
Other Toxic Effects
Epidemiology
Environmental Effects

Reasons for Recommendations

Many of the chemicals in the category have demonstrated specific biological activity associated with adverse health effects. Most category members probably have the property to induce methemoglobinemia. Many of the category members have been reported to be genotoxic in one or more assay systems. At least six category members have been reported to be carcinogenic in one or more species. Data on other members raise a high degree of suspicion that they also may be carcinogenic. Other studies have shown that certain category members are readily absorbed through skin. Given the adverse health effects demonstrated by certain category members, the untested and inadequately tested members are regarded as suspect and should be evaluated through the studies recommended herein.

Production and Usage Information

A substructure search was made of the public TSCA Chemical Inventory for chemicals falling within the category definition. A total of 50 chemicals were identified (see Table A), of which 22 had some production information; the 28 remaining chemicals had no production data. When data were available, in many instances they were incomplete in that production amounts were not given for every manufacturer or importer. In such cases, the reported production ranges were still aggregated for the

*See Category Identification.

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purpose of assessing potential total production. Production ranges are given for a number of category members in Table B.

Since no production data are available (i.e., in the public inventory) on the majority of category members and only incomplete data on many of the others, the Committee could not accurately assess the extent of possible human exposure to these chemicals. Still, from the available data a number of category members were considered to be in high production. To the extent that data were unavailable, the Committee's assessment of production and possible exposure are underestimates.

An attempt was not made to determine the usage of each chemical identified in the category. Although such a determination would be helpful for more accurately assessing possible human exposure, the Committee considered the available usage information to be of such a nature as to be sufficient for designating the entire category. Usage information is given for a number of category members in Table B.

The Committee concludes that the lack of production and usage information on the majority of category members is insufficient cause to defer designation of the category. To the contrary, given the known high production of some category members, the demonstrated or suspected health effects associated with certain phenylenediamines, and the general usage of these kinds of chemicals, an adequate assessment of all category members is necessary.

Carcinogenicity

A large number of aromatic amines have been identified to be carcinogens, some of which are known to cause bladder cancer in humans (Clayson and Garner, 1976; Tomatis, 1979). Among the carcinogens are both monocyclic and polycyclic aromatic amines. Thus, *a priori* the category members are suspect as a result of belonging to a chemical class known to have certain properties associated with carcinogenicity. Results of carcinogenicity tests on phenylenediamines as defined in the Category Identification, are given in Table C.

Six category members (i.e., 2,4-Toluenediamine; o-Phenylenediamine; 2,4-Diaminoanisole; 4-Chloro-o-Phenylenediamine; 4-Chloro-m-Phenylenediamine; and 2-Nitro-p-Phenylenediamine) have been reported to be carcinogens (Ito et al., 1969; Weisburger et al., 1978; NCI, 1978a; NCI, 1978b; NCI, 1978c; NCI, 1979a; NCI, 1979b).

Three category members are strongly suspect in that increased incidences of bladder cancer—a relatively rare spontaneously occurring tumor-type (Goodman et al., 1979)—were found in treated rats (NCI, 1978d; NCI, 1979c; NCI, 1979e). Two of the three chemicals (i.e., 2,5-Toluenediamine and p-Phenylenediamine) were reported to be mutagenic (Ames et al., 1975; Nishioka, 1976; Venitt and Searle, 1976; Dybing and Thorgeirsson, 1977); no published short-term test results were found on the third chemical (i.e., 2-Chloro-p-Phenylenediamine).

Three category members (i.e., 4-Nitro-o-Phenylenediamine, m-Phenylenediamine, and 2,6-Toluenediamine) were studied and found not to be carcinogenic under the conditions of test (Weisburger et al., 1978; NCI, 1979d; NCI, 1980). Yet, each of the category members was found to be active in a variety of short-term assays. 4-Nitro-o-Phenylenediamine was mutagenic in *Salmonella typhimurium* (Ames et al., 1975; Searle et al., 1975; Mohn and de Serres, 1976; Venitt and Searle, 1976; Yoshikawa et al., 1976), L5178Y mouse lymphoma cells (Palmer et al., 1977), and *Drosophilia melanogaster* (Blijleven, 1977); caused chromosome damage in Chinese hamster prostate cells (Institute of Cancer Research, 1976; Kirkland and Venitt, 1976), and C3H/10T½ mouse cells (Benedict, 1976), but was inactive in human peripheral blood lymphocytes (Searle et al., 1975), and rat bone marrow (Hossack and Richardson, 1977); and transformed Syrian hamster embryo cells (Pienta and Kawalek, 1979) and C3H/10T½ mouse cells (Benedict, 1976).

m-Phenylenediamine was mutagenic in *Salmonella typhimurium* (Ames et al., 1975; Venitt and Searle, 1976; Yoshikawa et al., 1976; Dybing and Thorgeirsson, 1977) and in L5178Y mouse lymphoma cells (Palmer et al., 1977). 2,6-Toluenediamine was mutagenic in *Salmonella typhimurium* (Dybing anf Thorgeirsson, 1977). One of the chemicals not yet studied for carcinogencity (i.e., 2,5-Diaminoanisole) was mutagenic in *Salmonella typhimurium* (Ames et al., 1975; Mohn and de Serres, 1976) but was inactive in L5178Y mouse lymphoma cells (Palmer et al., 1977).

The increased incidence of bladder tumors and results of short-term tests strongly indicate the need to reassess the carcinogenicity of those category members which were not shown to be carcinogenic under the conditions of test. Such a reassessment should include an evaluation of the most appropriate test species for detecting the possible carcinogenicity of phenylenediamines. The Committee recommends that carcinogenicity studies be conducted on those category members not yet tested or inadequately tested.

Mutagencity

The mutagenicity of many category members is well established (see Table C). A number of category members have shown mutagenicity in both bacterial systems (Ames et al., 1975; Searle et al., 1975; Mohn and de Serres, 1976; Nishioka, 1976; Dybing and Thorgeirsson, 1977) and higher organisms (Blijven, 1977; Palmer et al., 1977). In addition, some have induced chromosome damage (Searle et al., 1975; Benedict, 1976; Institute of Cancer Research, 1976; Kirkland and Venitt, 1976). Based on these findings the Committee recommends that appropriate tests be undertaken to assess the mutagenic potential of those category members not yet tested or inadequately tested.

Teratogenicity

Two studies were identified in which hair dye formulations, of which category members were components, were tested for teratogenicity. No teratogenic effects were reported in one of the studies done in rats and rabbits (Wernick et al., 1975). In the other study, it was reported that a statistically significant incidence in skeletal anomalies occurred in fetuses from rats treated with one of the formulations (Burnett, et al., 1976). Only one report was found in which a category member itself was studied for teratogenicity. In this study, 2,5-Toluenediamine was reported to cause a high incidence of skeletal malformations in fetuses from treated mice (Inouye and Murakami, 1977). Exencephaly and prosoposchisis also were found in some of the treated fetuses.

Teratogenic effects, particularly ones of a functional nature, may occur as a result of oxygen deprivation. In some cases, the blood oxyhemoglobin concentration may fall below the critical oxygen demand level resulting in clinically manifested cyanosis. Birth defects from acute hypoxia oranoxia are well known. Teratogenic effects from less severe but chronic hypoxia are also of concern. One study reported reduced birth weight and weight gain, reduced behavior activity levels, altered catecholamine activity, and reduction in total brain protein in rats prenatally exposed to low concentrations of carbon monoxide (Fechter and Annau, 1977). Maternal levels of carboxyhemoglobin were equivalent to those found in cigarette smokers. Since aromatic amines, and in particular certain category members (Waring and Pheasant, 1976; de Bruin, 1978), may cause reduced oxygen blood levels by the induction of methemoglobinemia, the possible untoward effects of these compounds on the unborn fetus are of concern. The level of concern is raised by reports of systemic absorption of certain category members in both laboratory animals and humans (Kiese et al., 1968; Kiese and Rauscher, 1968).

The report that 2,5-Toluenediamine is teratogenic and the potential for possible adverse effects resulting from reduced oxygen-transporting capacity of blood in individuals exposed to phenylenediamines, causes concern regarding the possible teratogenic effects of category members. Based on this concern and the general lack of knowledge about the teratogenic potential of phenylenediamines, the Committee recommends that appropriate tests be undertaken to assess the teratogenicity of category members.

Other Toxic Effects

Aromatic amino compounds are effective inducers of methemoglobinemia, although the intensity of induction is related to the toxicity of individual chemicals, experimental species, and conditions of test (de Bruin, 1978). Humans are particularly sensitive to compounds that induce methemoglobinemia. 2,4-Diaminotoluene has been reported to induce methemoglobinemia in rats, guinea-pigs, and rabbits (Waring and Pheasant, 1976). Other category members also are suspect methemoglobinemia inducers. p-Phenylenediamine has been reported to provoke contact sensitization of the skin and a variety of allergies (Mayer, 1954). The ability of certain category members to produce methemoglobinemia and phypersensitivity, coupled with the potential for systemic absorption (Kiese and Rauscher, 1968; Kiese et al., 1968), is of concern. The Committee thus recommends that category members be assessed for health effects not already specified herein, with particular emphasis on blood, bone marrow, and nervous system disorders.

Epidemiology

Many aromatic amines are carcinogens, of which some are known to cause cancer in humans (Clayson and Garner, 1976). The phenylenediamines constitute an important family of chemicals within the aromatic amine class. The use of many of these chemicals as dyes (or in dye formulations) for textiles and other consumer products results in the potential for widespread general population exposure to them. Occupational exposure of workers is also of concern, particularly because of the large number of commercial phenylenediamines and the known high production volumes of those used in the manufacture of polyurethanes.

Concern about human exposure is raised as a result of studies showing the absorption of certain category members through skin. Concentrations of p-Phenylenediamine, m-Phenylenediamine, and 2,5-Toluenediamine were detected in the blood and urine of dogs within hours after skin application of the chemicals (Kiese et al., 1968). In a study done in humans, 2,5-Toluenediamine was reported to be absorbed when injected subcutaneously or applied to the hair as part of a dye preparation (Kiese and Rauscher, 1968).

In one epidemiologic study, an excess of bladder cancer deaths was strongly associated with the production of dyes and dye intermediates (Hoover and Fraumeni, 1975). A number of earlier studies have also shown similar associations (Cole and Goldman, 1975). The International Agency for Research on Cancer (IARC) has evaluated and summarized a number of epidemiologic studies on the association between exposure to hair dyes and cancer risk (IARC, 1978). Although no firm conclusions were drawn, IARC states that "The epidemiologic evidence suggests an elevated risk for both users of hair dyes and those with occupational exposure (barbers and hairdressers) to hair preparations." A recently reported case-control study did not find an increased risk of either breast or endometrium cancer in users of hair dyes (Stavraky et al., 1979).

Given the potential for widespread human exposure to chemicals in the category, the known or suspect carcinogenicity and mutagenicity of certain phenylenediamines, and the equivocal nature of the epidemiologic studies, the Committee recommends that epidemiologic studies be undertaken to assess the possible adverse health effects of those category numbers for which there is significant potential human exposure.

Environmental Effects

Although category members are generally thought to biodegrade rapidly, the environmental fate and effects of the phenylenediamines and their breakdown products are unknown. Based on this lack of knowledge, the Committee recommends that appropriate tests be conducted to evaluate the potential environmental effects of the category members. Of particular concern is effects on organisms repeatedly exposed from constant release sources of category members.

Table A—Phenylenediamines, As Defined* In TSCA Initial Chemical Inventory

	CAS No. and Name
1.	95545 o-Diaminobenzene
2.	95705 2,5-Diaminotoluene
3.	95807 1,3-Diamino-4-methylbenzene
4.	95830 o-Phenylenediamine,4-chloro-
5.	99569 o-Phenylenediamine,4-nitro-
6.	106503 p-Diaminobenzene
7.	108452 m-Diaminobenzene
8.	108714 3.5-Diaminotoluene
9.	137097 2,4-Diaminophenol . dihydrochloride
10.	496720 1,2-Diamino-4-methylbenzene
11.	541695 m-Phenylenediammonium dichloride
12.	541708 m-Phenylenediamine, sulfate (1:1)
13.	614948 m-Phenylenediamine,4-methoxy, dihydrochloride
14.	615054 m-Phenylenediamine,4-methoxy
15.	615281 Phenylenediamine, dihydrochloride
16.	615452 1,4-Benzenediamine,2-methyl-,dihydrochloride
17.	615463 p-Phenylenediamine,2-chloro-,dihydrochloride
18.	615509 2,5-Diaminotoluene sulfate
19.	624180 p-Phenylenediamine, dihydrochloride
20.	823405 2,6-Diamino-1-methylbenzene
21.	1197371 o-Phenylenediamine,4-ethoxy-
22.	1477550 a,a'-Diamino-m-xlyene
23.	2687254 1,2-Diamino-3-methylbenzene
24.	3663238 o-Phenylenediamine,4-butyl-
25.	5042557 m-Phenylenediamine,5-nitro-
26.	5131588 m-Phenylenediamine,4-nitro-
27.	5131602 m-Phenylenediamine,4 chloro
28.	5307028 p-Diaminoaniscl
29.	5307142 p-Phenylenediamine,2-nitro
30.	6219678 m-Phenylenediamine,4-methoxy, sulfate
31.	6219712 p-Phenylenediamine,2-chloro-,sulfate
32.	6219778 o-Phenylenediamine,4-nitro-,dihydrochloride
33.	6369591 1,4-Benzenediamine,ethanedioate (1:1)
34.	15872738 4,6-Diamino-o-cresol
35.	16245775 p-Phenylenediamine sulfate
36.	18266529 p-Phenylenediamine,2-nitro ,dihydrochloride
37.	20103097 p-Phenylenediamine,2,5-dichloro-
38.	25376458 Diaminotoluene
39.	39156417 2,4 Diaminoanisole sulfate
40.	42389300 1,2-Benzenediamine, 5-chloro-3-nitro
41.	62654175 1,4-Benzenediamine, ethanedioate (1:1)
42.	65879449 4,6-Diamino-2-methylphenol.hydrochloride
43.	66422955 Ethanol, 2-(2,4-diaminophenoxy)-,dihydrochloride
44.	67801063 1,3-Benzenediamine, 4-ethoxy-,dihydrochloride
45.	68015985 1,3-Benzenediamine, 4-ethoxysulfate (1:1)

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46. 68239805 m-Phenylenediamine,4-chloro-,sulfate
47. 68239827 1,2-Benzenediamine, 4-nitro-,sulfate (1:1)
48. 68239838 1,4-Benzenediamine, 2-nitro-,sulfate (1:1)
49. 68459983 1,2-Benzenediamine, 4-chloro-,sulfate (1:1)
50. 68966847 1,3-Benzenediamine,ar-ethly-ar-methyl

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TABLE 6

SELECTED CHEMICAL PROPERTIES AND CHEMICAL-ECONOMIC INFORMATION OF PHENYLENEDIAMINES

NAME CAS NO.	STRUCTURE	MOLECULAR WEIGHT	LOG OCTANOL WATER PART. COEFFIC.[a]	CONSUMPTION—lbs./yr.[b] U.S. PRODUCTION	IMPORTS	OCCUPATIONAL EXPOSURE[c]	MAJOR USES
2,4-Toluenediamine 95807		122.17	0.50	130-350 million+d	+d		Primary usage is as an intermediate for 2,4-diisocyanate, which is used in the production of polyurethane. Also used as an intermediate in the synthesis of dyes for textiles, fur, leather, biological stains, spirit varnishes and wood stains (IARC, 1978).
Diaminotoluene 25376658	Mixed isomers	122.17		100-200 million+	+	Used in the production of polyurethane foams (The Condensed Chemical Dictionary, 1977) and in dye manufacture (Faith, Keys and Clark's Industrial Chemicals, 1975).	
2,6-Toluenediamine 823405		122.17	0.50	21-110 million+	None Reported[d]		Used in the synthesis of toluene diisocyanate, which is used in the production of flexible polyurethane foams and elastomers (Milliken, 1968 and Lever, 1968); also used as an intermediate in the synthesis of dyes for textiles and furs (Society of Dyers and Colourists, 1971).
2,3-Toluenediamine 2687254		122.17	0.65	2.2-22 million+	None Reported		Used as an intermediate for toluene diisocyanate production (Faith, Keys and Clark's Industrial Chemicals, 1975).
3,4-Toluenediamine 496720		122.17	0.65	0.4-4.4 million+	None Reported		[illegible]
2,5-Toluenediamine 95705		122.17	0.25	0.1-1 million	None Reported		Used as an intermediate in the production of dyes for cotton, wool, silk, leather, and paper; and in pigments, spirit inks; as a biological stain; and as a solvent dye. Also used in hair-dye formulations (IARC, 1978).
m-Phenylenediamine 108452		108.15	0.00	0.1-1.1 million+	10,000-100,000+	12,377	Used in the production of a large variety of dyes for textile fibers and other materials, e.g., leather, paper, polisher, and spirit inks. Also used as a direct dye developer and in hair-dye formulations. Other uses include an epoxy resin curing agent and analytical reagent (IARC, 1978).
p-Phenylenediamine 106503		108.15	- 0.25	+	No 1977 Production Reported	86,972	Used as an intermediate in the production of dyes for furs and inks. Also used in hair-dye formulations, in a variety of antioxidants, in photographic developers, and as an industrial chemical intermediate (IARC, 1978).

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NAME CAS NO.	STRUCTURE	MOLECULAR WEIGHT	LOG OCTANOL WATER PART. COEFFIC.[a]	CONSUMPTION--lbs./yr.[b]		OCCUPATION EXPOSURE[c]	MAJOR USES
				U.S. PRODUCTION	IMPORTS		
o-Phenylenedi-amine 95545		108.15	0.15	+	+		Used as a dye intermediate (The Condensed Chemical Dictionary, 1977).
2,4-Diamino-anisole 615054		138.17		None Reported	+	7,254	The sulfate has been used as a coupler in permanent hair dye formulations (Corbett and Menkart, 1973). It is also used as an oxidative base to dye furs and as an intermediate in the production of textile dyes (Society of Dyer and Colourists, 1971).
4-Chloro-o-phenylenediamine 95830		142.60		1,000-10,000	None Reported		Used as an oxidative base in dyes (Society of Dyers and Colourists, 1956) and as a dye intermediate (Kadhim and Peters, 1974); also used in the synthesis of drugs (Stolyarchuk et al., 1975 and Actor and Pagano, 1975).
4-Chloro-m-phenylemediamine 5131602		142.60	0.90	+	+		Used in the production of dyes (Society of Dyers and Colourists, 1956) and pigments (Mueller, 1975 and Papenfuhs, 1975). Can also be used as a coupler in hair-dye formulations (Corbett, 1973).
2-Chloro-p-phenylenediamine 6219712		142.60		None Reported	No 1977 Production Reported		Used as intermediates in the production of permanent hair dyes (Richardson, 1977).
4-Nitro-o-phenylenediamine 99569		153.15		10,000-100,000+	No 1977 Production Reported	7,254	Used as a dye in semipermanent hair colorants (Corbett and Menkart, 1973) and as an ingredient in permanent hair dye formulations (Burnett et al., 1976). Also used in fur dyeing (Society of Dyers and Colourists, 1956).
2-Nitro-p-phenylenediamine 5307142		153.15		10,000-100,000	1,000+		Used as a dye in semipermanent hair colorants (Corbett and Menkart, 1973) and as an ingredient in permanent hair dye formulations (Burnett et al., 1976). Also used in fur dyeing (Society of Dyers and Colourists, 1956).

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Notes:

a. Leo et al., 1971.

b. TSCA Initial Chemical Inventory.

c. National Occupational Hazards Survey, 1977.

d. "+" indicates that manufacturers and/or importers were listed on the TSCA Initial Chemical Inventory that did not report production and/or import amounts.

e. "None Reported" in the TSCA Initial Chemical Inventory.

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TABLE 6

MUTAGENICITY, CHROMOSOME DAMAGE, CELL TRANSFORMATION, AND CARCINOGENIC POTENTIAL OF PHENYLENEDIAMINES

NAME CAS NO.	MUTAGENICITY				CHROMOSOME DAMAGE				CELL TRANSFORMATION		CARCINOGENICITY	
	BACTERIAL		HIGHER ORGANISMS									
	S. typhimurium	*E. coli*	L5178Y mouse lymphoma cells	Drosophilia melanogaster	Human Peripheral blood lymphocytes	Chinese hamster prostate cells	C3H/10T½ mouse cells	Rat micronucleus test	Syrian hamster embryo cells	C3H/10T½ mouse cells	Rat[a]	Mouse[a]
2,4-Toluenediamine 95807	+ (1) + (5)			+ (10)					+ (14)		+ (15) + (16) + (17)	? (16) + (17) -[b](18)
2,6-Toluenediamine 823405	+ (6)										? (19)	- (19)
2,3-Toluenediamine 2687254												
3,4-Toluenediamine 496720	± (6)											
2,5-Toluenediamine 95705	+ (1)	+ (7)						- (9)			±[c](20) -[b](21)	±[c](20)
m-Phenylenediamine 108452	+ (1) + (6) + (5) + (4) + (30)		+ (8)						? (14)		- (16)	- (16)
p-Phenylenediamine 106503	+ with H_2O_2 (1) + (6) + (4) + (30)	+ (7)		+ (10)				- (9)			± (22)	- (22) -[b](23)

NAME CAS NO.	MUTAGENICITY				CHROMOSOME DAMAGE				CELL TRANSFORMATION		CARCINOGENICITY	
	BACTERIAL		HIGHER ORGANISMS									
	S. typhimurium	*E. coli*	L5178Y mouse lymphoma cells	Drosophilia melanogaster	Human Peripheral blood lymphocytes	Chinese hamster prostate cells	C3H/10T½ mouse cells	Rat micronucleus test	Syrian hamster embryo cells	C3H/10T½ mouse cells	Rat[a]	Mouse[a]
o-Phenylenediamine 95545	+ (1) + (4) + (30)										+ (16)	+ (16)
2,4-Diaminoanisole 615054	+ (6) + (5)	+ (7)	? (II)	+ (10)				- (9)	- (14)		+ (24)	+ (24)
2,5-Diaminoanisole	+ (1) + (3)		- (8)									
4-Chloro-o-phenylenediamine 95830	+ (5)										+ (25)	+ (25)
4-Chloro-m-phenylenediamine 5131602											? (26)	+ (26)
2-Chloro-p-phenylenediamine 6219712											±[d](27)	±[d](27)
4-Nitro-o-phenylenediamine 99569	+ (1) + (2) + (3) + (5) + (4) + (30)		+ (8)	+ (10)	- (2)	+ (12) + (11)	+ (13)	- (9)	+ (14)	+ (13)	- (28)	- (28)

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NAME CAS NO.	MUTAGENICITY: BACTERIAL: Salmonella typhimurium	MUTAGENICITY: HIGHER ORGANISMS: L5178Y mouse lymphoma cells	MUTAGENICITY: HIGHER ORGANISMS: Drosophila melanogaster	CHROMOSOME DAMAGE: Human Peripheral blood lymphocytes	CHROMOSOME DAMAGE: Chinese hamster prostate cells	CHROMOSOME DAMAGE: C3H/10T½ mouse cells	CHROMOSOME DAMAGE: Rat micronucleus test	CELL TRANSFORMATION: Syrian hamster embryo cells	CELL TRANSFORMATION: C3H/10T½ mouse cells	CARCINOGENICITY: Rat[a]	CARCINOGENICITY: Mouse[a]
2-Nitro-p-phenylenediamine 5307142	+ (1) + (2) + (5) + (4) + (30)	+ (8)		+ (2)	+ (12) + (11)	+ (13)	- (9)	+ (14)	+ (13)	- (29)	+ (29)

NOTES: a. Chemicals were administered in the animals' feed, unless indicated otherwise.
b. Chemical was applied to the skin of the animals.
c. Compound tested was the 2,5-toluenediamine sulfate.
d. Compound tested was the 2-chloro-p-phenylenediamine sulfate.

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(7) Nishioka, 1976
(8) Palmer et al., 1977
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(10) Blijleven, 1977
(11) Institute of Cancer Research, 1976
(12) Kirkland and Venitt, 1976
(13) Benedict, 1976
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(15) Ito et al., 1979
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(17) NCI, 1979a
(18) Giles and Chung, 1976
(19) NCI, 1980
(20) NCI, 1978a
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(25) NCI, 1978a
(26) NCI, 1978c
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BILLING CODE 6560-01-C

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[FR Doc. 80-16074 Filed 5-27-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notification List; Canadian Standard Broadcast

Correction

In FR Doc. 80–15395, published at page 33721, on Tuesday, May 20, 1980, make the following corrections in the table:

1. Under the last column "Proposed Date of Commencement of Operation" the first two dates "Apr. 11, 1971" should be corrected to read "Apr. 11, 1981";

2. Under the second column "Location", in the third entry "Oakville, Ontario", in the second line of the entry "(P.O. N 43 26 10 W 43" should be corrected to read "(P.O. N 43 26 10 W 79 43".

BILLING CODE 1505-01-M

Radio Technical Commission for Marine Services

Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 75

"MPS—Automatic Coordinate Conversion Systems", notice of 3d meeting, Thursday, June 12, 1980—9:30 a.m. Maritime Institute of Technology, 5700 Hammonds Ferry Road, Linthicum Heights, Md.

Agenda

1. Call to Order; Chairman's Report.
2. Approval of the Summary Record of previous meeting.
3. Presentations of Technical and Operational issues.
4. Designation of Working Groups.
5. Establishment of future meeting schedule.

Executive Committee Meeting

Notice of June Meeting, Thursday, June 19, 1980—9:30 a.m., Conference Room 8334, Nassif (DOT) Building, 400 Seventh Street S.W. at D Street, Washington, D.C.

Agenda

1. Administrative Mattes.
2. Review of Special Committees' Terms of References.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-16054 Filed 5-23-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Implementation of the Federal Employees Part-time Career Employment Act of 1978

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed implementation of the Federal Employees Part-time Career Employment Act of 1978, 5 U.S.C. 3401 et seq. by establishing a continuing program to provide career part-time employment opportunities within all component organizations of the Federal Emergency Management Agency.

SUMMARY: In accordance with 5 U.S.C. 3106, the Federal Emergency Management Agency is required to publish its instructions in proposed form and to provide an opportuniity for interested parties to comment. After comments have been received and reviewed, the final instructions will be issued as Chapter 3100 of the Agency's Internal Directive System. Copies of Chapter 3100 will be available to the public and can be obtained by writing to the address indicated below. The proposed instructions do not meet the Federal Emergency Management Agency criteria for significant regulations.

DATES: Written comments will be considered if received by the official named below on or before July 28, 1980. Provisions will be made for subsequent oral comment if sufficient need is indicated. The final instruction shall be effective on the date issued.

ADDRESS: Albert G. Maltz, Director of Personnel, Federal Emergency Management Agency, 1725 I Street, N.W., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Earl M. Sneed, Phone: 703–235–2476 (this is not a toll free number).

Part-time Career Employment Program

I. General Provisions.
II. Program Implementation.
III. Part-time Employment Practices.

I. General Provisions

A. Purpose.—These instructions implement the Federal Employees Part-time Career Employment Act of 1978, 5 U.S.C. 3401 et seq. by establishing a continuing program to provide career part-time employment opportunities within the Federal Emergency Management Agency (The Agency).

B. Delegation.—These instructions may be supplemented or amended, as required, from time to time by the Director of Personnel.

C. Policy.—It is the policy of the Agency to provide career part-time employment opportunities to the maximum extent consistent with agency resources and mission requirements for positions in GS–1 through 15, for hourly paid blue collar positions, and any other career positions which do not exceed a GS–15 equivalent. This policy recognizes the desirability of making maximum use of all available human resources, including those qualified individuals who are available for part-time employment. It represents an opportunity to acquire talented workers who might otherwise not be available to the Agency. Selections of part-time employees shall be made without regard to religion, race, color, national origin, marital status, sex, age, nondisqualifying physical handicap, political or labor organization affiliation, or personal favoritism.

D. Definitions.—1. Part-time career employment is regularly scheduled work of from 16 to 32 hours a week in either the permanent competitive or excepted service in Tenure Group I or II. Employment on a temporary or intermittent basis is not included.

2. Tenure Group I includes employees in the competivie service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

3. Tenure Group II includes employees in the competitive service serving probation, career conditional employees, and career employees in obligated positions; it also includes employees in the excepted service serving a trial period, whose tenure is indefinite solely because they occupy obligated positions, or whose tenure is equivalent to career conditional in the competitive service.

E. Scope.—The provisions herein are applicable to all Agency organizations.

F. Exceptions. 1. These instructions do not apply to positions in the Senior Executive Service or positions at GS–16 (or equivalent) and above, or to positions where an existing collective bargaining agreement establishes the number of hours of employment per week; nor do they apply to career part-time employees who were working on a permanent part-time basis on the effective date of the Act (April 8, 1979) so long as they continue to work on a part-time basis, do not have a break in service of more than three days, or leave their part-time service for more than three days, or leave their part-time schedule on other than a temporary basis.

2. The Director or designee, may authorize such additional exceptions as may be necessary for the Agency to carry out its mission. However, in no cases will exceptions be authorized to permit regular tours of duty of 33 to 39 hours per week for part-time employees. (This in no way restricts the increase of a permanent part-time employee's actural hours of work above 32 hours per week for limited periods to meet heavy workloads, etc.)

3. Employment of part-time staff for less than 16 hours per week may be permitted when absolutely necessary to carry out the Agency's mission.

II. Program Implementation

A. Designation of Coordinator. 1. Agency Coordinator.—The Employment Officer (Office of Personnel) is designated as the Part-time Employment Program Coordinator for the Agency. The Program Coordinator is responsible for the following:

a. Reviewing program goals and timetables developed by the organizations within the Agency.

b. Monitoring the Program for Equal Employment Opportunity effectiveness;

c. Serving as the Agency liaison with groups, organizations, and individuals promoting part-time employment;

d. Responding to organizational requests for policy guidance on the Program;

e. Preparing consolidated reports on the Program as required by the Act, the Office of Personnel Management, or other Federal offices;

f. Monitoring overall progress of the program within the Agency; and

g. Acting as focal point for all other aspects of the program.

B. Part-time Employment Goals and Timetables. 1. The agency shall set annual nationwide goals for establishing and converting positions for part-time career employment, and a timetable setting forth interim and final deadlines for achieving such goals. Goals for each fiscal year (beginning with FY 1981) must be established and reported by the Agency Coordinator by the end of the preceding fiscal year. Separate goals shall be established for newly-established part-time career positions and for conversion of full-time career positions to part-time career positions.

2. In establishing goals and timetables, the Agency is required to consider such factors as:

a. Agency mission and occupational mix;

b. Workload fluctuations;

c. Size of workforce, turnover rate, or employment trends;

d. Affirmative action;

e. Past experience with part-time employment (to include analysis of current part-time employment utilization);

f. Patterns of overtime utilization;

g. Potential for improving service to the public; and

h. Personnel ceiling allowances and fiscal constraints.

C. Program Evaluation and Reporting. The Part-time Career Employment Program will be subject to continuing review and evaluation by the Agency Program Coordinator.

III. Part-time Employment Practices

A. Vacancy Position Review. The Agency is required to establish procedures providing for vacant positions covered by the Program to be reviewed for the feasibility of being filled on a part-time career employment basis. This review shall include consideration of criteria such as those used to establish goals and timetables.

B. Establishment and Conversion of Part-time Career Positions. 1. The Agency is required to establish a sufficient number of new or converted part-time career positions to meet their established goals.

2. The Agency shall develop procedures to permit employees to request and receive consideration to change from full-time to part-time schedules. Opportunities to voluntarily change from full-time to part-time employment shall be given to employees whenever feasible. However, no full-time employee shall be required to accept part-time employment as a condition of continued employment.

3. The Agency shall not abolish any full-time position occupied by an employee for the sole purpose of making the duties of the position available to be performed on a part-time career employment basis.

C. Notifying the Public of Part-time Vacancies. The Agency shall notify the public of vacant part-time positions through such methods as Federal Job Information announcements, position vacancy listings, and other means as they may develop for the program.

V 45 M Y 28 80 0 UMI

Dated: May 21, 1980.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 80-16073 Filed 5-27-80; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-621-DR]

Major Disaster and Related Determinations; Michigan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Michigan (FEMA-621-DR), dated May 16, 1980, and related determinations.

DATED: May 16, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, DC 20472 (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of May 16, 1980, the President declared a major disaster as follows:

> I have determined that the damage in certain areas of the State of Michigan resulting from severe storms and tornadoes beginning on or about May 13, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Michigan.

The time period prescribed for the implementation of Section 313(a) Priority to Certain Application for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Leo C. McNamee of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Michigan to have been affected adversely by this declared major disaster. Kalamazoo and Van Buren Counties for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-16046 Filed 5-27-80; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-621-DR]

Amendment to Notice of Major Disaster Declaration; Michigan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Michigan (FEMA-621-DR), dated May 16, 1980, and related determinations.

DATED: May 16, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The Notice of a major disaster for the State of Michigan dated May 16, 1980, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 16, 1980.

The following Counties for Public Assistance in addition to Individual Assistance: Kalamazoo and Van Buren.

Although the above counties are designated for Public Assistance, the limited monies currently available in the President's Disaster Relief Fund preclude any approval of project applications based on this designation until such time as sufficient additional funds become available.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-16047 Filed 5-27-80; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 80-31]

Billie Ione Crtalic, Virgo International Corporation and Mercury International Corp.; Possible Violations of Section 44(a) Billie Ione Crtalic; Independent Ocean Freight Forwarder License Application; Order of Investigation and Hearing

Billie Ione Crtalic filed with the Commission an application, as a sole proprietor, for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of the applicant, it was determined that Billie Ione Crtalic had apparently engaged in unlicensed forwarding activities doing business as Mercury International Corporation (Mercury) and Virgo International Corporation (Virgo). It appears the Mercury International Corporation may not have been incorporated and that Virgo International Corporation may have been suspended from corporate status by the State of California. The investigation revealed that between August 1978 and July 1979, Billie Ione Crtalic appeared to be responsible for performing the ocean freight forwarding services for at least 200 shipments.

Section 44(a) of the Shipping Act, 1916, states that no person shall engage in carrying on the business of forwarding as defined in the Act unless such person holds a license issued by the Federal Maritime Commission.

Section 44(b) requires that applicants be found fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder.

The applicant's possible unlicensed freight forwarding activity would appear to reflect adversely upon the applicant's qualifications to be licensed.

By letter of January 9, 1980, the Commission notified Billie Ione Crtalic of its intent to deny the application unless the applicant requested a hearing on the grounds that such a denial is unwarranted.

In a letter dated January 29, 1980, legal counsel for the applicant requested that Billie Ione Crtalic be given an opportunity to show at a hearing that such a denial is unwarranted.

Now therefore it is ordered, That pursuant to sections 22, 32, and 44 (46 U.S.C. 821, 831 and 841(b)) of the Shipping Act, 1916, and section 510.8 of the Commission's General Order 4 (46 CFR 510.8), a proceeding is hereby instituted to determine:

(1) Whether Billie Ione Crtalic, and/or Virgo International Corporation and/or Mercury International Corporation violated section 44(a) of the Shipping Act, 1916, and section 510.3 of the Commission's General Order 4, by engaging in unlicensed forwarding activities;

(2) Whether civil penalties should be assessed against Billie Ione Crtalic, and/or Virgo International Corporation, and/or Mercury International Corporation pursuant to section 32 and Part 505.3 of the Commission's regulations (46 CFR 505.3) for violations of the Shipping Act, 1916, and section 510.3 of the Commission's General Order 4, and, if so, the amount of any such penalty which should be imposed, taking into consideration factors in possible mitigation of such a penalty; and

(3) Whether in light of the evidence adduced pursuant to the foregoing issues, together with any other evidence adduced, Billie Ione Crtalic possesses the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, and section 510.5 of the Commission's General Order 4 to be licensed as an independent ocean freight forwarder.

It is further ordered, That Billie Ione Crtalic, Virgo International Corporation and Mercury International Corporation be named Respondents in this proceeding.

It is furthered ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the proceeding shall initially be limited to the submission of affidavits of fact and memorandum of law.

It is further ordered, That the following schedule be adhered to:

July 3, 1980—Opening Memorandum of Law, Request for Penalty and Affidavits of Fact from Hearing Counsel;

August 4, 1980—Opening Memorandum of Law and Affidavits of Fact from Respondents;

August 18, 1980—Reply Memorandum of Law and Affidavits of Fact from Hearing Counsel.

It is further ordered, That within two weeks following the Reply Memorandum of Law of Hearing Counsel, the parties will submit to the Administrative Law Judge written statements indentifying the unresolved issues of fact and specifying the type of procedure they feel is best suited to resolve them. After consideration of these recommendations the Administrative Law Judge shall issue an appropriate order establishing a procedure for their resolution. The additional procedure, however, shall include oral testimony and cross-examination at the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on a basis of sworn statements, affidavits, depositions or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That any person other than Respondents and Hearing Counsel having an interest in and desiring to become party to this proceeding and to participate therein, may do so by filing a timely petition to intervene, pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

It is further ordered, That a notice of this Order be published in the **Federal Register** and that a copy thereof be served upon Respondents and Hearing Counsel.

It is further ordered, That except as provided in Rules 159 and in 201(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118) as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16045 Filed 5-27-80; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

David K. Lindemuth Co., Inc., 1571 Grandview Drive, So. San Francisco, CA 94080.

Officer: David K. Lindemuth, President/Sole Stockholder.

Samoa Transfer & Storage (Wilbur J. Reine, d.b.a.), P.O. Box 1026, Faleniu, Tutuila, Pago Pago, American Samoa 96799.

Oscar Import & Export Corp., 1699 East 34th Street, Brooklyn, NY 11234.

Officers: Giorgio Dimartino, President, Catherine Sepe, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: May 21, 1980.

Francis C. Hurney,

Secretary.

[FR. Doc. 80-18044 Filed 5-27-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 19, 1980.

A. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

V 4 5 M Y 2 8 8 0 UMI

Marshall & Ilsley Corporation, Milwaukee, Wisconsin (trust company and investment advisory activities; Arizona): to open a *de novo* branch of its subsidiary, Marshall & Ilsley Trust Company of Arizona, from which it will continue to engage in activities that may be carried on by a trust company, including activities of a fiduciary, agency, or custodian nature and acting as investment or financial advisor. These activities will be conducted from an office in Sun City, Arizona, serving the political limits of Sun City, Arizona.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

Berthoud Bancorp., Inc. Berthoud, Colorado (industrial bank and credit related insurance activities): to engage through its subsidiary, The Berthoud Industrial Bank, in the business of a general industrial bank offering deposit accounts and making consumer loans; also will offer credit life, accident, and health insurance in connection with extensions of credit. These activities would be conducted from the office of the Industrial Bank in Berthoud, Colorado, serving an area within 10 miles of Berthoud.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16184 Filed 5-27-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Retirement Policy Study

Pursuant to Title 45, Part 63 of the Code of Federal Regulations, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from public and private non-profit agencies, organizations, and institutions for grants for a major policy research study of retirement policy, a study which will attempt:

—To increase the nation's knowledge in this critical area, and,

—To develop improved techniques for investigating policy issues and exploring the effects of individual, employer, and government actions in this area.

A. Type of Application Requested

This announcement specifically seeks applications for projects that will concentrate on the development of simulation models of specific aspects of retirement and of the economics of income transfer programs for retirement, as discussed below. Development of such models, whether through refinement and extension of existing models or through creation of new models, is anticipated to require extensive background work and preparation, which may include activities such as:

—Data development, including exploration of available data and ways to deal with its inadequacies, including the possibilities for creatively augmenting survey data with information from other sources. Direct gathering of primary survey data may be included, but it is expected that budgetary limitations will preclude any major effort of this sort during the early phases of the project.

—Empirical research and analysis using these data.

—Theoretical development, as appropriate.

These backgound activities may to some extent stand on their own, as means of increasing knowledge in this area, but it is expected that the choice of activities and the manner in which they are conducted will be largely guided by their usefulness for the develepment of simulation models.

Potential users of these models include employers, pension providers, actuaries, university researchers, and various components of State, local and Federal governments.

This announcement seeks applications for projects that will focus on two areas of particular salience for development of both public and private policy: (1) behavior associated with retirement and (2) the relative advantages of different programs for providing income in retirement.

Area 1. Behavior associated with retirement. This behavior includes not only retirement (which may be understood in a variety of ways), but also labor supply, job changing, saving, portfolio management, pension acquisition, etc., in the years before and during retirement. All of this behavior may be substantially influenced by government regulatory, tax, and transfer policies and by the practices of employers.

Fragmentary evidence exists on some aspects of this subject, but little has been done to draw together the evidence, fill in areas of ignorance, and put it together in a fashion useful for analysis of the effects and interactions of specific actions by government or private actors.

Area 2. Relative advantages of different methods of providing income in retirement. This area includes issues such as the relative roles of public versus private provision of benefits, the relation of means-tested to non-means-tested programs, and the progressivity of benefit provision, all of which are likely to be of increasing importance over the next few years. Scholarly and, to some extent, public attention has thus far centered on the impact on capital formation of social security versus private pensions, but this is only one of several important questions that should be addressed in this area. Other questions include (but are not limited to): the incidence of costs of various retirement programs across different socio-economic and age groups, the adequacy of retirement income, and the impact of large domographic shifts on evaluation of the relative advantages.

These two areas are highly interrelated. The issues in area 2 raise many of the same research questions as do the issues in area 1, in particular that of saving behavior and how it is influenced by retirement programs. Research and model development efforts for many questions will obviously be parallel.

Area 2 also extends to concerns that are largely macroeconomic and very long range in character. Nonetheless, these concerns also have major distributional implications, which are largely unexplored; improving capacity for exploring these implications at a highly disaggregated (e.g., household) level is a matter of high priority. Model development for dealing with these issues is anticipated to involve substantial exploratory work beyond the current state-of-the-art in micro- and macroeconomic modeling and in the linkage between the two.

Applications are requested for multi-year projects (see Section D below). The initial award, however, will be for an exploratory phase of six months duration. This phase should appraise literature, data, and models, and plan further work in detail, though it need not be limited to these activities.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the Code of Federal Regulations on October 1, 1976.

2. "Administration of Grants" (45 CFR Part 74), which was published in the Code of Federal Regulations on August 2, 1978.

C. Effective Date and Duration

1. Grant awards pursuant to this announcement will be made on or about September 15, 1980.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. Applications will be accepted no later than August 15, 1980.

D. Statement of Funds Availability

1. The Assistant Secretary has available about $290,000 for the Fiscal Year ending September 30, 1980, for the award of grants pursuant to this announcement.

2. It is expected that two grants of roughly equal size will be made, although the proposal review committee will retain flexibility on the size and number of grants based on the proposals received. Proposals for amounts between $80,000 and $190,000 will be acceptable.

3. The amount of funds available for grants in future years has not yet been established. Legislative support for continued funding of these projects cannot be guaranteed. Furthermore, continuation of projects will depend on satisfactory progress and on the determination that continuation is in the best interests of the government. The Assistant Secretary tentatively expects to have about $900,000 available in Fiscal Year 1981 and a comparable amount in the following year.

4. Applicants may submit projects for up to seven years duration (a seven year "project period"), but funds will be awarded initially for six months (a six-month "budget period"). Applicants who apply for a multi-year project period, and who subsequently receive a grant, will be eligible for additional funding during the project period on a non-competitive basis. However, future funding is in no way guaranteed.

E. Applications Processing

1. Applications will be reviewed by an intergovernmental review panel, possibly augmented by outside experts. Two (2) copies of each application are required.

2. Applicants will be judged as to eligibility according to the criteria set forth below in item 8. Priority will be given to applicants who, in the judgment of the Assistant Secretary, best meet these criteria.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to insure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

5. The limited amount of funds available for these grants may indicate the desirability of using these funds as partial, core support for the proposed project, and of seeking additional support from other sources. The availability, potential availability, or hope for other funds, and the uses to which they would be put, should be documented in the application.

6. Initially, the grants will concentrate on the two areas as outlined above, but it is expected that these areas may be expanded and related areas may be added as the project evolves. As this is a relatively unexplored area for policy research, it is not possible to foresee and plan for this evolution in detail. Consequently, while applications should focus on the two areas discussed, they should also be broad enough in scope to place these two areas in context and to anticipate possible additional work in related areas.

7. While applications for projects of up to seven years duration are acceptable, applications should be written to focus attention on plans for (and achievements expected within) a period of about three years. This focus is intented to allow comparison of applications over a reasonably long period without attaching undue weight to proposed activities far in the future.

8. *Criteria for evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parenthesis.

a. The potential usefulness of the anticipated results of the proposed project for informing the development of policy relating to the areas discussed in Section A above. (15 points.)

b. Potential usefulness of the proposed project for the advancement of scientific knowledge. (15 points.)

c. Clarity of statement of objectives, methods, and anticipated results. (5 points.)

d. Appropriateness and soundness of methodology, including research design, statistical techniques, modeling strategies, choice of data, and other procedures. (25 points.)

e. Reasonableness of estimated cost in relation to anticipated results. (5 points.)

f. Qualifications and experience of personnel. (35 points.)

9. Nothing in this announcement should be construed as committing the Assistant Secretary fo dividing available funds among all qualified applicants.

F. Applications sent by mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than August 15, 1980, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

G. Hand-delivered applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily during normal business hours (between the hours of 9:00 a.m. and 5:30 p.m., Washington, D.C., time), except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after the close of business on August 15, 1980.

H. Disposition of applications

1. *Approval, disapproval, or deferral.* On the basis of the review of an application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as he/she deems necessary or desirable for the completion of the approved project; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of Disposition.* The Assistant Secretary will notify the applicants in writing of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of an approved project application.

I. Application instructions and forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from, or submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Departmernt of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201.

Dated: May 20, 1980.

John L. Palmer,

Assistant Secretary for Planning and Evaluation.

FR Doc. 80-16173 Filed 5-27-80; 8:45 am]

BILLING CODE 4110-12-M

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 11158]

Oregon; Proposed Withdrawal and Reservation of Lands; Correction and Amendment

The Notice of Proposed Withdrawal and Reservation of Lands appearing as FR Doc. 75–11612 on pages 19501–19502 of the issue for Monday, May 5, 1975, and the Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal appearing as FR Doc. 79–22163 on pages 41968–41969 of the issue for Wednesday, July 18, 1979, are corrected and amended as follows:

1. Correction: Under "North Fork John Day Streamside-Elkhorn Drive Roadside Zones (Combined Area)," the legal description is corrected to read: "A strip of land of variable width located between 500 feet north of the centerline of Elkhorn Drive and 330 feet south of the centerline of the North Fork John Day River through the following subdivisions."

2. Amendment: By letter dated April 17, 1980, the applicant agency requested that the lands included in MS 984–A, located in Sections 22, 23, and 27, T. 8 S., R. 35½ E., Umatilla and Whitman National Forests, be eliminated from its application. The legal description in these sections, as amended, is revised to read as follows:

Willamette Meridian, Umatilla National Forest

T. 8 S., R. 35½ E.,
Sec. 22, lots 1, 3, and 4, MS 808, MS 359, excepting MS 984–A.

Whitman National Forest

T. 8 S., R. 35½ E.,
Sec. 23, lots 2, 3, 4, 5, and 6, MS 359, W½NE¼SW¼, excepting MS 984–A and patented MS 70;
Sec. 27, lot 1, SE¼ of lot 4, W½NE¼, SE¼NE¼NW¼, SE¼NW¼, and SW¼, excepting MS 984–A.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), the lands eliminated from the application will be relieved of the segregative effect of the above-mentioned application at 10 a.m. on June 23, 1980.

Dated: May 16, 1980.

Leland D. Morrison,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–16112 Filed 5–27–80; 8:45 am]

BILLING CODE 4310–84–M

[INT DEIS 80–36]

Rangeland Management Program for Mountain Valley Planning Area, Utah; Availability of Draft Environmental Impact Statement and Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and a 1975 Federal Court Order, the Bureau of Land Management (BLM) has prepared a draft grazing environmental impact statement (EIS) for the Mountain Valley rangeland management program in Sevier, Piute, and Sanpete Counties and small portions of Wayne, Garfield, Millard, and Juab Counties.

The EIS six alternative proposals: (1) optimize non-livestock resources, (2) optimize livestock grazing, (3) rangeland management recommendation, (4) eliminate livestock grazing, (5) continuation of present management, and (6) adjust spring livestock use. The alternatives provide a range of options for the management of 499,972 acres of public land.

Alternatives 3 and 6 are the BLM preferred alternatives. Under these alternatives the proposed initial levels of livestock grazing would be 29,411 and 24,691 animal unit months (AUM's), respectively, and in the long-term increased forage production would make it possible to increase livestock grazing to 36,363 and 46,258 AUM's. Forage allocations for big game would be 16,449 and 17,127 AUM's initially, and 23,104 and 21,726 AUM's in the long-term. Under these alternatives increased forage production would also lead to improved soil erosion conditions on 373,805 and 493,758 public acres, and a general improvement in the quality of big game habitat. Recreation use would increase about 32 percent and 23 percent respectively.

The Director, Bureau of Land Management, invites written comments on the draft statement. Comments should be submitted to District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701. Comments will be accepted until July 21, 1980.

Copies of the draft environmental impact statement are available from the Richfield District BLM Office at the above address. Public reading copies of the draft statement will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street NW, Washington, D.C.
Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah.
Richfield District Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah.
Sevier River Resource Area Office, Bureau of Land Management, 180 North 100 East, Richfield, Utah.

Notice is hereby given that oral and/or written comments will be received at public hearings held at the following locations:

July 8: 7:00 p.m., Piute County Courthouse, Junction, Utah.
July 9: 7:00 p.m., Sanpete County Courthouse, Manti, Utah.
July 10: 7:00 p.m., Sevier County Courthouse, Richfield, Utah.

Requests to testify at the public hearings should be made to Alan Partridge, EIS Team Leader, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, (801) 896–8221.

Written and oral comments concerning adequacy of the draft statement will receive consideration in preparation of the final Grazing Environmental Impact Statement for the Mountain Valley Planning Area.

Dated: May 20, 1980

Ed Hastey,

Associate Director.

[FR Doc. 80–16110 Filed 5–27–80; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Floodplain Management and Wetland Protection Guidelines

AGENCY: National Park Service (NPS), Department of the Interior.

ACTION: Notice of final procedures.

SUMMARY: These are the final procedures of the National Park Service for implementing Executive Orders 11988, "Floodplain Management," and 11990, "Protection of Wetlands."

EFFECTIVE DATE: These procedures are effective on May 28, 1980.

SUPPLEMENTARY INFORMATION: These procedures were published as proposed guidelines in the **Federal Register** on March 14, 1980, for review and comment. Comments were received from the Water Resources Council, one state agency, and one private organization. An internal NPS review provided additional suggestions for improving and streamlining the procedures. All comments have been carefully considered in the preparation of these final procedures. One purpose of the Executive Orders is furtherance of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et. seq.*). The Department of the Interior revised its NEPA procedures effective March 18, 1980, and NPS NEPA guidelines are being revised to be in conformity with them. These revisions of NEPA procedures made it necessary to revise NPS draft procedures for compliance with the Executive Orders. However, the substance of the floodplain management and wetland protection procedures presented here is essentially the same as in the previously proposed guidelines.

FOR FURTHER INFORMATION CONTACT:
Dr. Raymond Herrmann, Air and Water Resources Division, National Park Service, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 523–5152.

Floodplain Management and Wetland Protection

Sections

1. Purpose.
2. Objectives.
3. Management Objectives.
4. Relationships to Other Requirements.
5. Scope.
6. Procedures.
7. Special Considerations.
8. Retention, Removal, or Modification of Existing Structures and Facilities.
9. Responsibilities.

Section 1. Purpose

The purpose of this notice is to set forth procedures for use by the National Park Service (NPS) in implementing Executive Order (E.O.) 11988, "Floodplain Management", and E.O. 11990, "Protection of Wetlands", hereinafter referred to as the Orders.

Section 2. Objectives

The objectives of the Orders and these procedures are to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and wetlands and to avoid direct or indirect support of development in floodplains and wetlands wherever there is a practicable alternative. Where floodplains or wetlands cannot be avoided, these procedures will focus on mitigation of the adverse effects of any action. In the context of the Orders, mitigation means to:

A. Design or modify actions so as to minimize harm to life, property, and natural values;

B. Minimize destruction, loss, or degradation of wetlands;

C. Restore and preserve natural and beneficial floodplain values; and

D. Preserve and enhance natural and beneficial wetland values.

Section 3. Management Objective

The NPS has a legislative mandate to care for the national parklands, to help the public enjoy them, and to do both in ways that ensure the integrity of the parks for continued use beyond our time. In executing this mandate, and particularly in planning and managing floodplains and wetlands within the National Park System, the NPS will:

A. Exhibit leadership in floodplain management and in the protection of wetlands;

B. Avoid, to the extent possible, the long and short term adverse impacts associated with the occupancy and modification of floodplains and the destruction or modification of wetlands;

C. Avoid the direct or indirect support of development and new construction in floodplains and wetlands whenever there is a practicable alternative;

D. Minimize the potential harm to people and property and to natural values when an action must be located in the base floodplain;

E. Identify areas subject to flooding within units of the National Park System;

F. Identify, restore, and preserve the natural and beneficial values of floodplains;

G. Identify, restore, and enhance the natural and beneficial values of wetlands;

H. Require structures and facilities in the floodplain to be consistent with the intent of the Standards and Criteria of the National Flood Insurance Program (44 CFR 60);

I. Involve the public throughout the decisionmaking process for all actions requiring compliance with the Orders;

J. Promote the use of nonstructural flood protection methods to reduce the risk of flood loss;

K. Use the conceptual framework of the Water Resources Council's Unified National Program as a basis for planning when the base floodplain cannot be avoided;

L. Improve and coordinate research, plans, programs, and actions involving floodplains and wetlands within the National Park System in such a manner that the Nation may attain the widest range of benefits from them.

Section 4. Relationships to Other Requirements

These final procedures for complying with the Orders will be made a part of NPS–13 concerning compliance with legislative and executive requirements which relate to NPS planning activities. They do not stand alone. Rather, they supplement and must be used in conjunction with:

A. Department of the Interior procedures and policies for complying with the Orders. These apply to all NPS actions, are contained in Chapter 1 of Part 520 of the Department of the Interior Manual, and became effective June 11, 1979.

B. The U.S. Water Resources Council (WRC) Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030), hereinafter referred to as the WRC Guidelines. They provide basic guidance for interpreting that Order and conducting the floodplain management planning and decisionmaking process.

The NPS:

1. Adopts the substantive requirements of E.O. 11988 as interpreted and explained in the WRC Guidelines;

2. Follows the WRC Guidelines except where they are superseded by the Department of the Interior Manual;

3. Adheres to the methods, standards, and definitions of terms as set forth in the WRC Guidelines for determining risks and hazards of flood loss; minimization of impacts on property, natural values, health, safety and welfare; and evaluation of alternatives.

C. The Unified National Program for Floodplain Management, issued by the WRC in September 1979. This program seeks wise management for the Nation's floodplains to reduce flood loss and sets forth a conceptual framework for floodplain management. The NPS procedures for complying with the Orders and its policy of managing floodplains for protection and enhancement of their natural ecological productivity are consistent with the goals of the program.

D. The Council on Environmental Quality (CEQ) Implementing Regulations for NEPA (40 CFR 1500); the policies and procedures of the Department of the Interior for compliance with NEPA (516 DM 1–6); and the NEPA Compliance Guidelines (NPS–12). NPS actions requiring compliance with the Orders will require either an Environmental Assessment (EA) Or an Environmental Impact Statement (EIS). The requirements of these NPS procedures for compliance with the Orders will be combined with or appended to the environmental documents for each action.

E. The Standards and Criteria of the National Flood Insurance Program (NFIP) (44 CFR 60). Adherence to these Standards and Criteria assures that the Federal government requires no less of itself than it requires of non-Federal entities for the protection of property from flood hazards. The Standards and Criteria of the NFIP are directed towards the protection of structures and facilities from flood hazards and the protection of existing development from the effects of new development. Unless these standards are demonstrably

inappropriate for a given type of structure or facility, they will apply to all NPS planning, assessment, and design activities for actions in the base floodplain.

F. The Fish and Wildlife Coordination Act (FWCA) (50 CFR 410). This Act requires the NPS to give wildlife conservation equal consideration with other factors when proposing to undertake the impoundment, diversion, deepening, or other control or modification of waters of any stream or other body of water. These actions obviously will lie within the base floodplain and may affect wetlands. When the NPS finds no practicable alternative to such actions, compliance with the FWCA will coincide with compliance with the Orders, and compliance with both sets of regulations will be integrated with or appended to the EA or EIS for the action.

G. Other compliance procedures for water-oriented actions of the NPS which may be required and can be integrated with the EA or EIS for compliance with the Orders include: The Coastal Zone Management Act of 1972, which has certain requirements for consistency of NPS planning actions with approved state coastal zone management programs; Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act of 1977, which require Department of the Army permits for construction and disposal of dredged material in waters of the United States, including adjacent wetlands (3 CFR 320–340); and Section 73 of the Water Resources Development Act of 1974 on non-structural alternatives. Procedures for compliance with these requirements are given in NPS Guidelines for Legislative Compliance (NPS–13) and will not be restated here.

Section 5. Scope

A. *Applicability*—1. These procedures apply to all NPS actions which have the potential for adversely impacting floodplains or wetlands or their occupants, or which are subject to potential harm by location in floodplains or wetlands. The basic test of the potential of an action to affect floodplains or wetlands is the probability for adverse effects associated with:

a. The occupancy or modification of floodplains, and the direct and indirect support of floodplain development; or

b. The destruction or modification of wetlands, and the direct and indirect support of wetland development.

2. These procedures apply to all actions proposed after May 28, 1980, and to all actions that were ongoing, in the planning or development stage, or undergoing implementation after the effective date of the Orders (May 24, 1977), but which were incomplete on May 28, 1980. Depending upon their stage of completion, actions in the latter category will enter the compliance procedures at the most appropriate decision-making point for carrying out the objectives of the Orders.

B. *Excepted Actions*—The NPS has identified certain classes of action which require modified approaches to achieve the objectives of the Orders and reduce delay and paperwork.

1. If the action is normally categorically excluded from NEPA compliance requirements, it must be determined whether the action has potential for adverse effects on floodplains or wetlands. If it is determined to have no such potential, it is excepted from compliance with these procedures. Where actions normally categorically excluded from NEPA are determined to hold the potential for adverse effects on floodplains or wetlands, an EA and a Statement of Findings will be prepared on the action. NEPA categorical exclusions include the normal day-to-day administrative and operational activities of the NPS including nondestructive surveys and studies. A listing of NEPA categorical exclusions is contained in the Departmental Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 7).

2. Additional actions which may be excepted from compliance with the Orders are:

a. Scenic overlooks and foot trails.

b. Picnic and camping facilities including appropriate sanitary facilities needed to provide full utilization of recreational developments, provided that floodproofing is a consideration in their design and construction.

c. Entrance, access, and internal roads to or within existing units of the system (not excepted for wetlands).

d. Outdoor play courts in recreation areas (not excepted for wetlands).

e. Landscaping in outdoor recreation areas (not excepted for wetlands).

f. Small parking lots for use of the area (not excepted for wetlands).

3. Certain types of action cannot accomplish their intended purpose unless they are located or carried out in close proximity to water. For these actions which are functionally dependent upon water, non-floodplain sites are never a practicable alternative. However, practicable alternative actions and the no action option are to be evaluated for all water dependent actions.

These procedures do not require a public notice explaining why it is necessary for marinas, docks, piers, water intake facilities, bridges, flood control facilities, water monitoring stations, drainage ditches, debris removal, outdoor water sports facilities, boardwalks to protect wetlands, and similar water dependent actions to be located in the floodplain. These procedures constitute a finding that there is no practicable alternative site outside the floodplain when the NPS proposes to perform any water dependent action.

4. When the NPS performs emergency actions essential to protect property and public health and safety, a modified application of the E.O. is required. Taking into consideration the need for rapid action in emergency situations, all possible steps to mitigate potential adverse impacts of such actions will be taken.

5. E.O. 11990 contains a limited exception not found in E.O. 11988 that applies only to actions affecting wetlands not in a floodplain, and that have no potential to result in harm to or within a floodplain or support floodplain development. Such an action is exempt from these procedures if:

a. It is an NPS, NPS-assisted, or NPS-permitted project under construction before May 24, 1977; or

b. It is a project for which the NPS has a draft or final EIS which adequately analyzes the action and which was filed before October 1, 1977. Actions are not exempt if the EIS:

(i) Only generally covers the proposed action;

(ii) Is devoted largely to related activities; or

(iii) Treats the project area or action without an adequate and specific analysis of the floodplain and wetland implications of the proposed action.

6. For many small projects, the cost of obtaining precise base floodplain boundaries is prohibitive in relation to the action. For these actions, the NPS will either (1) choose to use a worst case analysis by assuming the project is in or will affect the base floodplain, or (2) perform the full analysis as described under 6.C.1.a.

Section 6. Procedures

A. *General*—The procedures to be followed in applying the Orders to agency activities are set forth in Part II of the WRC Guidelines. The Department of the Interior has adopted the WRC Guidelines for use by its bureaus and offices. These NPS procedures supplement and amplify the WRC Guidelines and deviate from them only where superseded by Departmental Manual (520 DM 1) instructions. The following procedures use the same definitions of terms as those found in the WRC Guidelines and in the National Flood Insurance Program (44 CFR 60).

B. *Inventory*—Floodplain, flood hazard and wetland areas subject to or potentially subject to public use and/or development, where the magnitude of hazard and impact of human activities is likely to be greatest, will be inventoried prior to or during the preparation of the General Management Plan or other planning documents. Identification of the base floodplain will be based upon data available from the agencies listed in Part II, 1.B.2 of the WRC Guidelines. Where the required level of information is not available from those agencies, the NPS will obtain an adequate data base for planning and management by using qualified hydrologists, engineers and scientists.

D. *Decision-Making Process*—For the most part, the development of an adequate floodplain and wetland data base will allow compliance with the Orders to be made at the General Management or Development Concept stage of planning. However, when actions are proposed (including externally initiated actions) that are not part of a larger plan, they will have to be addressed on a case-by-case basis for compliance.

1. *Determine if a Proposed Action is in, or Could Affect, a Floodplain or Wetland.*

a. *Determine if the Action is the Base Floodplain.*

Flood Insurance Rate Maps or Flood Hazard Boundary Maps are usually not available for units of the National Park System. For most NPS actions, the search for flood hazard information will begin with the agencies listed by the WRC Guidelines in Part II, Section 1.B.1. When suitably scaled maps are not available from those agencies, and the agencies do not have or know of detailed information and cannot assist the NPS in determining if the proposed action is in the base floodplain, the NPS will either:

(i) Assume that the project is in the base floodplain and begin compliance with the Orders; or

(ii) Obtain the services of a federal or licensed consulting hydrologist or engineer experienced with this type of work. The quality of information required from this professional shall be comparable to that required of flood insurance study contractors to the Federal Insurance Administration. At a minimum the professional will:

(a) Locate the site with respect to the limits of coastal high hazard area, floodway, and 100-year floodplain (500-year, if a critical action is involved);

(b) Determine the 100-year flood elevations or the 500 year elevations for critical actions. In the absence of evidence to the contrary, the NPS will assume that any action involving a structure or facility that has been flooded lies in the 100-year floodplain; and

(c) Provide other information depending upon the site and type of action, such as:

Velocity of floodwater;
Rate of floodwater rise;
Duration of flooding;
Debris loads;
Flash flood potential;
Warning and evacuation time;
Evacuation routes;
Mudslides;
Subsidence and collapse;
Erosion;
Sinkholes and caves;
Ice jams;
Pollutants;
Wave heights;
Tsunamis;
Floodproofing methods; and
Special problems such as ice and snow pack melt from volcanic activity.

b. *Determine if the Action is in a Wetland.*

(i) Initially, the NPS will consult with the responsible field office of the U.S. Fish and Wildlife Service to determine if a National Wetland Inventory Map is available for the vicinity of the proposed action.

(ii) If the U.S. Fish and Wildlife Service does not have adequate information upon which to base the wetland determination, the NPS will consult wetland inventories maintained by the Army Corps of Engineers, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the state, and the NPS unit involved.

(iii) If the information is still inadequate, the NPS will carry out on on-site analysis performed by Service professionals qualified to determine wetland based on the definition in the Wetlands Order.

c. *Determine if a Proposed Action Could Affect a Floodplain or Wetland.*

If the information gathered under 6.B. or (6.C.1.a.) and (6.C.1.b.) shows that the proposed action is not in a floodplain of wetland, the NPS Regional Director must then determine if the project holds the potential for indirect impacts on nearby floodplains and wetlands. An action has indirect impacts on nearby floodplains and wetlands if it:

(i) Supports, encourages, allows, serves, or otherwise facilitates additional floodplain or wetland development; or

(ii) Reinforces existing land uses which have developed without reflecting the concepts of hazard and risk minimization and restoration of natural floodplain and wetland values; or

(iii) Has secondary or dispersed effects which reach into the floodplain or wetland and can cause change to the ecologicial systems functioning there or can increase flood loss potential to existing developements.

2. *Public Review.*

a. All NPS actions subject to compliance with the Orders will be treated in an environmental document (EA or FIS). Conformity with the public involvement requirements of the CEQ regulations (40 CFR 1506.6) will ensure opportunities for public participation in decisions concerning floodplain and wetland use.

b. If there is a reasonable likelihood that a proposed action or its alternatives will impact a floodplain or wetland, and no EIS is anticipated, an appropriate scoping process will be under taken for the EA.

c. Public notice information will be targeted to reach individuals and groups affected by, or with a direct interest in, the proposed action, and public involvement will provide an opportunity to assist in the development of alternatives, to review and indicate a preference among alternatives and to appeal decisions prior to aproval of plans.

d. Environmental Assessments which reveal adverse impacts to floodplains or wetlands from the action proposed, will be made available for public review for not less than 60 days prior to issuing a Finding of No Significant Impact (FONSI) or a Notice of Intent (NOI) to prepare an EIS.

e. NEPA and decision documents on proposals in floodplains or wetlands will be circulated to at least the following:

Environmental Protection Agency;
Federal Emergency Management Agency;
U.S. Fish and Wildlife Service;
U.S. Geological Survey;
Water and Power Resources Service;
U.S. Army Corps of Engineers;
U.S. Soil Conservation Service;
State and Area A–95 Clearinghouses; and
Coastal or River Basin Commissions and State Coastal Zone Management Administrators as appropriate.

f. Following public and agency review of an EA, the Regional Director will evaluate the proposed action and its alternatives and issue with a decision document and FONSI or a NOI to prepare an EIS. If the proposed action involves locating in a floodplain or wetland, the FONSI will be coupled with

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a separately identifiable Statement of Findings which documents the rationale that there is no practicable alternative to locating in or impacting these areas and which certifies that no critical actions are involved. Public notice of a FONSI/Statement of Findings will be published in accordance with 40 CFR 1506.6 and sent to all agencies listed in "e." above.

g. When an EIS is prepared on a proposed action and its alternatives, public participation is focused on the draft EIS (DEIS). The DEIS will contain a full exposition of floodplain and wetland areas used or affected by the proposal and its alternatives, any hazards associated with public use of these areas, the natural values of the floodplains and wetlands.

The DEIS will be made available for public and agency review for a minimum of 60 days from the date it is filed with the EPA. A **Federal Register** notice of this availability and the EIS cover sheet shall indicate that the DEIS is also to serve as a compliance instrument for the Orders. Any detailed compliance documentation will be included as an appendix to the DEIS. The distribution of the DEIS will include the agencies given in "e." above.

3. *Identify and Evaluate Practicable Alternatives to Locating in the Base Floodplain or Wetland.*

a. The EA or DEIS provides documentation of the consequences of practicable alternatives identified during the early stages of planning and will contain:

(i) A discussion of the "no action" alternative; and

(ii) A discussion of any alternatives for carrying out desired actions outside the floodplain or wetland and for avoiding any adverse indirect effects on these areas. The consequences of alternatives involving sites or actions outside the base floodplain will be fully assessed to minimize, mitigate, and, if possible, eliminate any adverse uses or effects upon a floodplain or wetland. If an alternative is judged to have no direct or indirect impact on a floodplain or wetland, this determination will be recorded in the environmental analysis for the alternative.

b. In determining the practicability of an alternative, the NPS will anlayze the following factors:

(i) Natural environment (topography, ecosystem integrity, habitat, hazards, etc.)

(ii) Social concerns (aesthetics, historic and cultural values, land use patterns, etc.)

(iii) Economic aspects (cost of space, construction, services, and relocation).

(iv) Legal contraints.

c. the FONSI or final EIS (FEIS), when the proposed action involves adverse impacts to base floodplain or wetland areas, will be coupled with a separately identfiable Statement of Findings not to exceed three pages documenting the rationale for the determination that there is no practicable alternative locating in or impacting these areas. The Statement of Findings will contain:

(i) A map showing the location of the floodplain or wetland and the site(s) of the proposed action;

(ii) A description of why the proposed action must be located in a floodplain or wetland;

(iii) A statement indicating conformity with local and/or state floodplain protection standards;

(iv) A list of alternatives considered;

(v) A description of how the activity will be designed or modified to minimize harm to or within the floodplain or wetland;

(vi) A statement indicating how the proposed action would affect natural and beneficial floodplain values; and

(vii) The signature of the Regional Director recommending approval of the Statement of Findings and the approval signature of the Director on the combined document.

4. *Identify Impacts.*

The environmental documents prepared for proposed actions and their alternatives located in floodplains or wetlands will identify the full range of potential direct or indirect adverse impacts associated with the occupancy and modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action. Flood hazard-related factors will be analyzed for all actions. These include: public health, safety and welfare; depth, velocity and rate of rise of flood water; duration of flooding; high hazard areas (riverine and coastal); available warning and evacuation time and routes; and effects of special situations, e.g., levees and other protection works, erosion, subsidence, collapse, sink holes, ice jams, flood-source debris load, pollutants, etc. Natural values-related factors will be analyzed for all actions. These include: water resource values (natural moderation of floods, water quality maintenance, and ground water recharge); living resource values (flora and fauna and biological productivity); scientific and recreational values; and agricultural, aquacultural and forestry values, etc.

Factors relevant to a proposed action's effects on the survival and quality of wetlands will be analyzed for all actions. These include: public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; sediment and erosion; maintenance of natural systems, including conservation and long term productivity of existing flora and fauna; species and habitat diversity and stability; hydrologic utility; fish and wildlife; and other uses of wetlands in the public interest including recreational, scientific, and cultural uses, etc.

In a case where the proposed action is associated with an existing facility or management program, the EA or DEIS will address effects the proposed action would have in concert with the existing development. For example, the proposed action could encourage continued use and future development resulting in continued risk of life and property and foreclosure of opportunity to restore floodplain and/or wetland values. Alteration of the physical characteristics of floodplains and wetlands often has subtle and far-reaching effects on the biological systems dependent upon them. In addition to the natural values of these areas, the risk to human safety, health, and financial investment must be assessed before a decision is made on a preferred course of action.

5. *Minimize, Restore, Preserve, and Enhance.*

Where avoidance of floodplains or wetlands cannot be achieved, the NPS will design or modify its actions so as to minimize harm to or within the floodplain, minimize the destruction, loss or degradation of wetlands, restore and preserve natural and beneficial floodplain values, and preserve and enhance natural and beneficial wetland values.

a. *Minimize*—The NPS will minimize potential harm to the investment at risk from the 100-year flood (500-year flood for critical actions) and minimize potential adverse impacts the action may have on life and property and on floodplain and wetland values. Minimization of harm to property will be undertaken in accord with the standards and criteria set out in 44 CFR 60 *et seq.* (formerly 24 CFR § 1909 *et seq.*). New structures will be elevated on open works—walls, columns, piers, piles, etc.—rather than on fill in all cases within coastal high hazard areas and in the 100-year floodplain in all cases where practicable. Minimizing harm to lives will include, but not be limited to, marking historic and 100-year flood levels, providing flood information, and providing warning and evacuation procedures that emphasize adequate warning times, and access and egress routes.

b. *Restore*—Where floodplain and wetland values have been harmed by man's previous actions, NPS Natural Resource Management Plans will include actions to reestablish an environment in which the ecological systems of the floodplain and wetland can function in a natural manner. When an action is proposed in a floodplain or wetland which has been degraded by past actions, restoration actions will be included as a part of the proposal. Where practicable, wetlands and floodplains will be further restored by the removal of non-conforming structures and facilities.

c. *Preserve*—The law establishing the NPS requires it to preserve natural resources within the National Park System. Consequently, NPS natural resources policy and management emphasis is on perpetuation of natural ecosystems including floodplain and wetland ecosystems. Where actions are unavoidably located in floodplain or wetland areas, the NPS will undertake every possible effort to maintain the integrity of the natural ecosystem thereby preserving it and its attendant organisms and physical processes.

d. *Enhance*—Where the opportunity exists, the NPS will not simply preserve, but will enhance the values of wetlands and floodplains by using them for their educational, recreational, scientific, and similar purposes that are not disruptive of natural ecological conditions.

6. *Findings and Public Explanation.*

Where evaluation of an EA results in a finding by the Regional Director that there is no practicable alternative to significantly impacting a base floodplain or wetland, a NOI will be filed and an EIS prepared. In such cases, the Statement of Findings will be combined as a separately identifiable document with the FEIS. If it is determined that impacts are not significant, the Statement of Findings may be combined as a separately identifiable document with a FONSI. Upon approval by the Director, the Statement of Findings will be sent to the appropriate agencies (listed in Section 6.C.2.e.) and A–95 clearing houses.

7. *Implementation.*

For actions to be performed within or affecting floodplains, or wetlands, NPS will ensure that the steps identified in Section C.5. above are adequately applied over all stages in implementation of this action.

Section 7. Special Considerations

A. *Cultural Resources*—As part of its mandate, the National Park Service preserves and interprets cultural resources and objects possessing historical, archeological, architectural, and cultural significance. many of these cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. National Park Service Management Policies, Cultural Resource Guidelines (NPS 28), and specific park management plans give direction for the management of these resources. In addition, NPS action affecting cultural resources included in, or eligible for inclusion in, the National Register are subject to the provisions of Section 106 of the National Historic Preservation Act of 1966, Sections 1(3) and 2(b) of E.O. 11593, *Protection and Enhancement of the Cultural Environment*, and the implementing regulations found in 36 CFR, Part 800, *Protection of Historic Cultural Properties*. In general, cultural resources located in floodplains will be managed to assure their on-site preservation. Floodproofing measures taken to protect the cultural property from the hydraulic and erosive forces of flooding will be designed so as not to adversely affect the historic integrity of the structure or scene. When a cultural site or structure does not have the significance to merit action sufficient to ensure its preservation from flood loss, an appropriate level of study and recordation will be done.

Unless historic objects, furnishings, collections, or documents are required to retain the historic integrity of a site, they will not be kept within a 500-year floodplain. When there is no practicable alternative to keeping such material in the 500-year floodplain, a Statement of Findings will be prepared and the material made either totally safe from flood loss or be under an action plan or contract for rapid removal from the critical floodplain within the limits of available time for warning and evaluation.

B. *Critical Actions.*

1. These are actions for which even a slight chance of flooding is too great. The floodplain of concern for critical actions is the 500-year floodplain. Sites completely outside of the 500-year floodplain will be used for all critical action proposals.

The General Management Plan will identify all critical actions existing within the 500-year floodplain of the park, describe corrective measures to be taken, and present a time schedule for the corrective measures. Possible alternatives are 1) relocate the critical action facility or structure outside the 500-year floodplain, 2) change the use of the facility or structure to a non-critical action, or 3) use floodproofing to protect the critical action from the 500-year flood.

2. Critical actions include, but are not limited to the erection or rehabilitation of structures of facilities:

a. Which contain hazardous material such as highly volatile, flammable, explosive, toxic, infectious, or water reaction materials. These could create an added dimension to the flood disaster. Major fuel storage facilities and 40,000 gpd. or larger sewage treatment facilities will not be placed within the 100-year floodplain, and will occupy the 500-year floodplain only when there is no practicable alternative and they can be completely floodproofed against the erosive and hydraulic force of the 500-year flood.

b. From which rapid evacuation would be difficult. These are structures occupied by persons who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events. Clinics and emergency aid stations will not be located in the 500-year floodplain.

c. Which contain irreplaceable documents or objects. This includes museums, record collections, artifacts, historic furnishing, etc.

C. *High Hazard Areas*—1. Structures for human occupancy will not be placed in coastal high hazard areas, the floodway, or in areas subject to flash flooding. Further, no structures in which humans might seek shelter during storm or flood events will be placed in these areas. Parking, camping, picnicking, or other similar activities causing congregations of people and property will not be permitted in flash flood areas because of the short warning available for such events. The hazardous floodway for a flash flood shall be the area covered by the maximum probable flood or the extreme flow in the basin where the potential depth and velocity of flood could cause loss of life or property.

2. A unit Superintendent has the authority (36 CFR 2.6) to close any area to entry or limit public use of an area when necessary for the protection, safety, and welfare of persons or property. When studies reveal, or it otherwise becomes apparent, that existing structures are subject to flash flood hazard, and thus unsafe for human occupancy or shelter, action shall be taken to vacate the structures. Actions to remove the structures themselves will require environmental assessment and the following of these procedures to avoid relocating in a similarly hazardous area.

Section 8. Removal, or Modification of Existing Structures and Facilities

General Management Plans for Units of the National Park System will

inventory existing structures, facilities, and programs involving the use of floodplains, and wetlands, and will record decisions on their retention, removal or modification. The Regional Safety Manager will evaluate all such structures and facilities to ensure that early warning systems, plans, and means of personnel evacuation are in compliance with safety standards. Upon the Safety Manager's recommendation, the Regional Director may require the closure of structures to human occupancy or require that the use of the structure be changed. The Regional Director also may require the modification or floodproofing of structures and facilities to protect property and Federal interest against loss. The Natural Resources Management Plan and/or the Water Resources Management Plan will specify requirements for monitoring programs and other actions to ensure protection and enhancement of floodplain and wetlands values to the greatest extent possible. These plans will provide an important basis for demonstrating NPS compliance with the Orders. Noncritical actions for which compliance documentation has been prepared, either on an action itself or in the context of a previous enabling plan, will be listed and the nature of the compliance documentation indicated.

Section 9. Responsibilities

A. *The Director* is responsible for ensuring NPS compliance with the Orders in accordance with provisions of Chapter 1 of Part 520 of the Departmental Manual. In performing this duty, the Director will:

1. Approve NPS policies, procedures, guidelines, or directives for complying with the Orders.

2. Approve any reports to the Department, the WRC, or the CEQ concerning compliance with the Orders.

3. Be the responsible official for all Statements of Findings.

B. *The Deputy Director, Associate Directors, and Assistant Directors* are responsible for:

1. General supervision of the Divisions and Offices under their jurisdiction to ensure compliance with the Orders and these procedures; and

2. Reviewing and concurring with floodplain and wetland procedures prepared by or pertaining to their Divisions and Offices prior to forwarding to the Director for approval.

C. *The Chief, Office of Management Policy* is responsible for coordinating, drafting, and preparing revisions to NPS Management Policies to ensure compliance with the Orders.

D. *The Chief, Office of Park Planning and Environmental Compliance* is responsible for these guidelines with NPS guidelines for park planning and NEPA compliance so as to satisfy the substantive and procedural requirements of the Orders.

E. *The Chief, Budget Division* is responsible for ensuring that each request for new authorization or appropriation for a planned action to be located in a floodplain or wetland is accompanied by a statement indicating that the planned action complies with the Orders.

F. *The Chief, Air and Water Resources Division* is responsible for:

1. Developing, in consultation with the Chief, Office of Environmental Compliance, NPS guidelines for implementing the Orders;

2. Concurring with Statement of Findings forwarded to the Washington Office by Regional Directors; and

3. Returning signed Statements of Findings to Regional Directors for sending to appropriate agencies and A–95 clearing houses.

G. *Regional Directors* are responsible for ensuring compliance with the Orders and these procedures. In performing this duty they will:

1. Obtain and analyze hydrologic data necessary to satisfy NPS NEPA compliance procedures for floodplain and wetland areas;

2. Conduct planning studies involving floodplains and wetlands in accordance with these procedures;

3. Determine whether proposed actions under their jurisdictions are located in wetlands or base flood plains;

4. Ensure that floodproofing and other measures of flood protection are applied to construction of new to major rehabilitation of existing structures or facilities in a floodplain where there are no practicable alternatives to a floodplain location;

5. Ensure that the base floodplain in which significant public use occurs is provided with proven warning systems and established evacuation procedures, and that existing and planned structures and facilities in floodplains comply with requirements for public and employee safety.

6. Identify and include floodplain and/or wetlands restrictions in legal conveyance for granting of leases, easements, and rights-of-ways;

7. Ensure that park concessionaires conform in all respects to the Orders;

8. Ensure preparation of appropriate compliance documents when the proposed action would be located in or would affect a floodplain or wetland;

9. Forward to the Washington Office for approval of the Director FONSI's or FEIS's coupled with Statements of Findings when proposed actions would adversely affect a floodplain or wetland;

10. Sign and issue public notices informing the public and the A–95 clearinghouses of the NPS proposed action in or affecting a floodplain or wetland;

11. Ensure that no request for new authorization or appropriation for a planned action in a floodplain (i.e., line item or lump sum construction project) is forwarded to the Washington Office unless it complies with the Orders; and

12. Close or change the use of any structure or gathering place upon the determination that its location is hazardous to human life, safety, or welfare.

H. *Park Superintendents* are responsible for ensuring that within publicly-used floodplains, flood heights are conspicuously delineated on structures and other places where appropriate, showing the 100 and 500 year levels and the flood of record where historic data are available, and for posting warnings in areas subject to flash flood hazard. The area Superintendents also are responsible for the immediate closure of areas or structures they believe to be hazardous for occupancy because of flash flood danger.

Ann F. Hutchison,

Acting Director, National Park Service.

[FR Doc. 80-16016 Filed 5-27-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Part-Time Employment Program

AGENCY: Department of the Interior.

ACTION: Proposed instructions and requirements implementing the Federal Employees Part-Time Career Employment Act of 1978.

SUMMARY: The Department of the Interior (DOI) proposes to issue instructions in the DOI Departmental Manual to govern the operation of a part-time career employment program within the DOI, as required by Pub. L. 95–437, the Federal Employees Part-Time Career Employment Act of 1978 (5 U.S.C. 3401 *et seq.*).

The Act narrows the definition of part-time career employment in the Federal Government from scheduled work of less than 40 hours per week to scheduled work of between 16 and 32 hours per week, requires most Federal agencies to develop and administer a program to expand part-time employment opportunities; and changes the personnel ceiling and fringe benefit provisions governing part-time career Federal employees.

The Law requires that requirements prescribed for this Program shall be published in the **Federal Register**, and that an opportunity for interested parties to comment must be provided before they are implemented.

DATES: To be considered before DOI Part-Time Career Employment Program instructions are issued, comments must be received on or before July 28, 1980.

ADDRESS: Send written comments to: Director of Personnel (PPM), Room 5225, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles E. Moody, Office of Personnel, Department of the Interior, (202) 343–7764.

SUPPLEMENTARY INFORMATION: In this early stage of initial implementation of the Law, the objectives of increased part-time career employment would appear to be served best by the issuance of instructions that are not overly prescriptive. DOI instructions may be supplemented from time to time to provide additional information and guidance. Any substantive changes to the program will be published for comment in the **Federal Register** before implementation.

Instructions and requirements of the DOI Part-Time Employment Program will become effective and be published in the DOI Departmental Manual (DM) in Part 370, Chapter 340, after comments have been considered.

Dated: May 19, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

PART 370 DM 340—PART-TIME EMPLOYMENT

Sec.

1.1 Purpose.
1.2 Definitions.
1.3 Policy.
1.4 Scope.
1.5 Program coordination.
1.6 Part-time career employment practices.

§ 1.1 Purpose.

These instructions implement Pub. L. 95–437, the Federal Employees Part-Time Career Employment Act of 1978, by establishing a continuing program in the Department of the Interior (DOI) to provide career part-time employment opportunities.

§ 1.2 Definitions.

Part-time career employment means regularly scheduled work of from 16 or 32 hours per week performed by employees in competitive or excepted positions in tenure groups I or II, except positions for which basic pay is fixed at a rate equal to or greater than the minimum rate fixed for grade GS–16.

A. Tenure group I encludes employees serving under career appointments in the competitive service who either have completed probation or are not required to serve a probationary period. It also includes permanent employees in the excepted service whose appointments carry no restrictions or conditions such as a trial period.

B. Tenure group II includes employees in the competitive service who are serving probation under career-conditional and career appointments. It also includes employees in the excepted service who are serving trial periods (or whose tenure is like career-conditional tenure in the competitive service.)

§ 1.3 Policy.

Many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek. To provide part-time career employment opportunities for such people, it is the policy of the DOI to provide part-time career employment opportunities in positions through grade GS–15 of the General Schedule (or equivalent) and in hourly paid blue-collar positions, subject to agency resource and mission requirements.

§ 1.4 Scope.

The provisions of these instructions are applicable to all DOI offices at headquarters and in the field; and to all persons newly appointed as part-time permanent employees after April 7, 1979. Part-time employees hired prior to April 8, 1979, are excluded from coverage, unless there is a break in their part-time employment after April 7, 1979.

§ 1.5 Program coordination.

The Director of Personnel, Office of Personnel, is responsible for overall administration of the DOI part-time careeer employment program.

A. The Chief, Division of Employment, Office of Personnel, by delegation from the Director of Personnel, serves the Department coordinator and is responsible for:

(1) Providing Departmentwide coordination of program operations.

(2) Overseeing implementation and operation of program goals and timetables throught the Department.

(3) Preparing required consolidated agency reports on part-time employment.

(4) Responding to bureau requests for advice and assistance on part-time employment.

B. The head of each bureau (and bureau level office) is responsible for:

(1) Establishing a part-time employment program consistent with the intent of Pub. L. 95–437, and DOI requirements.

(2) Ensuring that managers, supervisors, and employees are appropriately informed of the basic ground rules on part-time career employment; and informed of position management and work assignment techniques that can lead to the most productive use of part-time workers.

(3) Designating a bureau coordinator for the program who will, as appropriate:

(a) consult on the bureau's part-time employment program with interested parties in special areas (EEO and Federal Women's Program officials, handicapped program coordinators, etc.) and with employee organizations; maintain with groups interested in promoting part-time employment opportunites.

(b) respond to requests for advice and assistance on part-time employment within the agency.

(c) monitor progress in expanding part-time employment opportunities.

(d) report on part-time employment as required by the Department at the Office of Personnel Management (OPM).

C. The DOI will report twice a year to the Office of Personnel Management on the part-time employment program. The program will be reviewed through internal management evaluations.

§ 1.6 Part-time career employment practices.

Goals and timetables must be established for all bureau programs.

A. On an annual basis, as part of the manpower and budget process, management will set organizational goals for establishing part-time positions or converting full-time positions to part-time, and develop a time-table setting forth interim and final decisions for achieving the goals. Decisions on part-time employment will be based of such factors as mission, occupational mix, workload fluctuations, affirmative action, geographic dispersion, effect on providing services to the public, and employee interest in part-time employment.

B. Positions which became vacant shall be reviewed for feasibility of utilizing part-time career appointments. Part-time positions will be advertised in vacancy announcements. Employees may request and receive consideration to switich from full-time to part-time schedules. Requests should be addressed through supervisors to bureau part-time employment coordinators, and include all reasons for the request. The coordinators, with input from affected management officials, will decide whether or not to grant requests. Employees requesting a change from full-time to part-time employment will be advised by their servicing personnel office of effects on pay and fringe benefits.

C. Effective October 1, 1980, part-time employees will be counted on the basis of the fractional part of the 40-hour week actually worked. For example, two employees each working twenty hours a week will count as one employee.

D. Career part-time employees are entitled to coverage under the Federal Employees Group Life Insurance and Federal Employees Health Benefits Programs. The Government contribution for health insurance of eligible part-time employees will be prorated on the basis of the fraction of a full-time schedule worked, as provided by Office of Personnel Management regulations.

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INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 146890 (Sub-II–7TA), filed May 14, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. E. Zumstein Co., P.O. Box 27, Lewisburg, OH 45338. Representative: Michael Bromley, Suite 805, 666 11th St., Washington, D.C. 20001. *(1) Animal and poultry feed (except commodities in bulk) and (2) material, equipment and supplies used in the manufacture, distribution or sale of commodities in (1) above (except commodities in bulk),* (a) between the facilities utilized by Eastern Minerals, Inc., in Vance County, NC on the one hand, and, on the other, pts. in CT, DE, IN, KY, MA, MD, ME, NH, NJ, NY, OH, PA, VA, and VT, and (b) between the facilities utilized by Southeastern Milles, Inc., in Decatur County, GA, on the one hand and, on the other, pts. in and east of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Eastern Minerals, Inc., P.O. Box 1436 Bainbridge, GA. 31717, and Southeastern Minerals, Inc., P.O. Box 506, Bainbridge, GA. 31717.

MC 21866 (Sub-II–17TA), filed May 12, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Phila., PA 19110. *Paper,* from Rhinelander, WI, to the facilities of Chemtrol Adhesives, Inc. at Aurora, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chemtrol Adhensives, Inc., 180 Lena Drive, Aurora, OH 44202.

MC 119968 (Sub-II–1TA), filed May 14, 1980. Applicant: A. J. WEIGAND, INC., 1046 N. Tuscarawas Ave., Dover, OH 44622. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215. *Liquid chemicals and the materials and supplies utilized in the production of liquid chemicals,* between the facilities of or used by Pacific Resins and Chemicals, Inc. at Newark, OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper: Pacific Resins and Chemicals, Inc., P.O. Box 710, 2100 Cherry Valley Rd., Newark, OH 43055.

MC 144188 (Sub-II–6TA), filed May 14, 1980. Applicant: RETAIL LEASING CORPORATION, d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Washington, DC 20036. Contract; irregular: *Such commodities as are manufactured, processed or dealt in by manufacturers of glass, glass products, plastics, chinaware and metal products;* between the facilities of Anchor Hocking Corp. in OH on the one hand, and on the other pts. in AZ, CA, CO, MN, NM, NV, TX, and UT for 180 days. Supporting shipper: Anchor Hocking Corp., 109 N. Broad St., Lancaster, OH 43130.

MC 136077 (Sub-II–1TA), filed May 13, 1980. Applicant: REBER CORP., 2216 Old Arch Rd., Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Bldg., 100 S. Broad St., Phila., PA 19110. *Limestone,* from the plant of White Pigment Corp. at West Manchester Twp., York County, PA to pts. in DE, MD, OH, NY, NJ, VA and WV. An underlying ETA seeks 90 days authority. Supporting shippers: White Pigment Corp., R. D. Florence, VT 05744.

MC 14252 (Sub-II–2TA), filed May 12, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* to serve Owensboro, KY and its commercial zone as an off route point in connection with our established regular route operation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bearing Headquarters Co., 1234 E. 2nd St., Owensboro, KY 42301. Pinkerton Tobacco Co., 1121 Industrial Dr., Owensboro, KY 42301. Harsh Mfg. Co., P.O. Box 927, Owensboro, KY 42301. Modern Methods, Inc., 1120 Swing Rd., Owensboro, KY 42301.

MC 150813 (Sub-II–1TA), filed May 14, 1980. Applicant: C & R EXPRESS, INC., P.O. Box 38, West Jefferson, OH 43162. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. *Roof and floor joists and beams, and machinery, equipment, materials and supplies used in the manufacture, sale and installation of thereof,* between the plantsite of Trus Joist Corp. at or near Delaware, OH, on the one hand, and, on the other, pts. in the US in and east of WI, IA, MO, AR and LA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trus Joist Corp., 200 Colomet Dr., Box 357, Delaware, OH 43015.

MC 142559 (Sub-II–16TA), filed May 14, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Paper, paper products, wood products, plastics and plastic products and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk)* (a) between the facilities of Crown Zellerbach located in CA, and OR, on the one hand, and, on the other, pts. in and east of MN, IA, MO, KS, OK and TX; (b) between the facilities of Crown Zellerbach located in CA and OR, on the one hand, and, on the other, pts. in CA and OR and (c) between the facilities of Crown Zellerbach located in and east of MN, IA, MO, KS, OK and TX, on the one hand, and, on the other, pts. in and east

of MN, IA, MO, KS, OK and TX for 180 days. Supporting shipper(s): Crown Zellerbach, 1 River St., Glens Falls, NY 12801.

MC 138438 (Sub-II–10TA), filed May 12, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Office and recreational fixtures,* from the facilities of Dixie Narco at or near Hagerstown, MD and Ranson and Martinsburg, WV to all points in and east of WI, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dixie Narco, Subsidiary of Magic Chef, Inc., P.O. Box 460, Ranson, WV 25438.

Note.—Dual operations may be involved.

MC 150794 (Sub-II–1TA), filed May 12, 1980. Applicant: ADVANCE TRANSPORTATION SYSTEMS, INC., 605 N. Wayne Ave., Cincinnati (Lockland), OH 45215. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43121. *Automotive parts, and materials, equipment and supplies used in the manufacture of automotive parts (except in bulk),* between the facilities of Ford Motor Company at or near Batavia or Sharonville, OH, on the one hand, and, on the other, pts. in the US east of the Mississippi River. Restricted to the transportation of shipments originating at or destined to the facilities of Ford Motor Company, at or near Batavia or Sharonville, OH. Supporting shipper(s): Ford Motor Company, Batavia Transmission Plant, P.O. Box 387, Batavia, OH 45103.

MC 150501 (Sub-II–2TA), filed May 15, 1980. Applicant: DULANEY INVESTMENTS, INC., Suite 111, 305 W. Chesapeake Ave., Towson, MD 21204. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: *Bakery mixes, bread mixes, flour and foodstuffs,* (1) From Jersey City, NJ and its commercial zone, to Chicago, IL and its commercial zone; and (2) from points in MN to Jersey City, NJ, and its commercial zone, for the account of Foods, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foods, Inc., 40 Carbon Place, Jersey City, NJ 07305.

MC 135121 (Sub-II–1TA), filed May 16, 1980. Applicant: DODSWORTH, INC., 928 W. 19th St., Erie, PA 16502. Representative: John Guandolo, 1000 16th St. NW., Washington, DC 20036. *General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk,* between Erie, Crawford, Venango, and Warren Counties, PA, Ashtabula County, OH, and Chautauqua, NY, on the one hand, and, on the other, points in the States of NY, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 152 supporting shippers. Their statements may be examined at ICC Regional Office in Philadelphia, PA.

MC 105881 (Sub-II–2TA), filed May 13, 1980. Applicant: MR&R TRUCKING CO., P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St NW., Washington, DC 20036. *Common; regular: General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* serving the facilities of Metalux Lighting at or near Eufaula, AL, as an off-route point in connection with carrier's regular routes for 180 days. Applicant intends to tack the authority sought herein with existing authority held under MC–105881. Applicant intends to interline at all present interchange points. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metalux Lighting, P.O. Box 1207, Americus, GA 31709.

MC 78228 (Sub-II–3TA), filed May 8, 1980. Applicant: J MILLER EXPRESS, INC., 926 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Iron and steel articles,* from the facilities of Jones & Laughlin Steel Corp. at Pittsburgh and Aliquippa, PA and Youngstown, OH, to IN and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., Room 121, 1600 W. Carson St., Pittsburgh, PA 15263.

MC 107012 (Sub-II–30TA), filed May 7, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Such commodities as are dealt in or used by retail drug stores* from the facilities of Superx Drugs, Inc., at or near Melbourne, FL to Cottonwood and Flagstaff, AZ; Belleville, Benton, Effingham, Harrisburg, Olney, Streator and Washington, IL; Brownsburg, Carmel, Kokomo, Richmond and Rochester, IN; Louisville and South Williamson, KY; Monroe and Wilkesboro, NC; Cincinnati, Mansfield, Marion, Springfield and Waverly, OH; McMinnville, TN; Houston and LaPorte, TX for 180 days. An underlying ETA seeks 90 days authority. Shipper: Superx Drugs, Inc., 175 Tri-County Parkway, Cincinnati, OH 45246.

MC 107012 (Sub-II–29TA), filed May 8, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Toys, decorations, ornaments, knapsacks, tote bags, and materials used in the manufacture of toys,* from King County, WA to Wheeling, IL; St. Paul, MN; Bayonne and Cherry Hill, NJ; and Hauppauge, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: R. Dakin & Co., 499 Point San Bruno St., South San Francisco, CA 94080.

Note.—Common control may be involved.

MC 147993 (Sub-II–2TA), filed May 7, 1980. Applicant: C. H. MASLAND & SONS, P.O. Box 40, 50 Spring Rd., Carlisle, PA 17013. Representative: J. Roger Gratz (same as applicant). *Contract; Irregular: Automobile parts, supplies, accessories, and related articles* from St. Louis, MO to Detroit, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ford Motor Co., One Parklane Blvd., Parklane Towers East, Suite 200; Dearborn, MI 48126.

MC 144982 (Sub-II–3TA), filed May 12, 1980. Applicant: OHIO PACIFIC EXPRESS, INC., 683 East Broad St., Columbus, OH 43215. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Candy and confectionery in vehicles equipped with mechanical refrigeration,* from Bryan, OH to Dallas and Houston, TX and points in CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Spangler Candy Co., 400 North Portland St., Bryan, OH 43506.

MC 107012 (Sub-II–37TA), filed May 13, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Books, toys, games, paper products, telescopes, microscopes and microscope slides* 1) from the facilities of Western Publishing Co., Inc., at Fayetteville, NC to points in the U.S. in and east of OH, KY, TN, MS and LA; and 2) from the facilities of Western Publishing Co., Inc. at Coffeyville, KS to points in the U.S. in and west of MI, IN, IL, MO, AR, and TX (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Western Publishing Co., Inc., 1220 Mound Ave., Racine, WI 53404.

Note.—Common control may be involved.

MC 136343 (Sub-II–6TA), filed May 16, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative:

Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Cloth, in rolls or cartons, and material, equipment and supplies used in the manufacture, sale, and distribution of cloth* (except in bulk) (1) From Charlotte, Burlington, and Winston-Salem, NC and Michigan City, IN to Moonachie, NJ; (2) From Moonachie, NJ to points in the U.S. east of MN, IA, MO, KS, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Brunner Bros. Co., 240 Anderson Ave., Moonachie, NJ 07074.

MC 107403 (Sub-II–21TA), filed May 16, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Fish oil residium, in bulk, in tank vehicles,* from Cameron, LA to Nacogdoches, TX, for 180 days. An underlying ETA for 90 days seeks authority. Supporting shipper(s): Zapata Haynie Corp., P.O. Box 4240, Houston, TX 77001.

MC 107012 (Sub-II–32TA), filed May 14, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *Toys, games and accessories for toys and games,* and (2) *materials, parts and supplies used in the manufacture of (1) above,* from Seattle, WA to the facilities of Kenner Products at or near Cincinnati, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kenner Products, Creative Products Group, General Mills, Inc., 1014 Vine St., Cincinnati, OH 45202.

MC 107012 (Sub-II–33TA), filed May 14, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Motorcycle parts,* from the facilities of Harley Davidson Motor Co. at or near Milwaukee, WI to Brea, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Harley Davidson Motor Co., 3700 W. Jeneau, Milwaukee, WI 53201.

Note.—Common control may be involved.

The following applications were filed in Region 4. Send protests to: ICC, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 146753 (Sub-4–3TA), filed April 29, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Mineral wool and insulation materials,* from the facilities of Keene Corporation at Kalamazoo, MI to points in the U.S., and materials, equipment and supplies used in the manufacture and distribution of the items named in (1) above (except in bulk) from points in the U.S. to the facilities of Keene Corporation at Kalamazoo, MI. Supporting shipper(s): Keene Corporation, Kalamazoo, MI.

MC 69833 (Sub-4–4TA), filed April 29, 1980. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Ave. NW., 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same as applicant). *Common regular; General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Rockford, IL to Minneapolis, MN, over Interstate Hwy. 90 to junction with Interstate Hwy. 94, then over Interstate Hwy. 94 to Minneapolis, MN and return over the same route, serving no intermediate points, and serving the Minneapolis-St. Paul Commercial Zone. Supporting shipper(s): There are 19 supporting shippers.

MC 133689 (Sub-4–16TA), filed April 29, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Electrical goods, accessories, and related articles* from Greeneville and Jefferson City, TN to points in WI. Supporting shipper: Gary W. Warden, Traffic Analyst, Magnavox Consumer Electronics, Snapp Ferry Road, Greeneville, TN 37743.

MC 51146 (Sub-4–43TA), filed May 5, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Such commodities as are dealt in, or used by, manufacturers and distributors of appliances* between the facilities of the Magnavox Corporation at Greenville and Jefferson City, TN on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, NH, NJ, NY, OH, PA, RI, VT, WV, WI, and DC. Supporting shipper: Magnavox Corporation, Snap Ferry Road, Greenville, TN 37743.

MC 43963 (Sub-4–1TA), filed May 1, 1980. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, Lake Station, IN 46405. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Metal and metal articles,* between Northbrook, IL, St. Louis, MO, Indianapolis, IN, Middletown, OH, Minneapolis, MN, and Waukesha, WI, on the one hand, and, on the other, points in IN, KY, TN, AL, GA, FL, MS, MO, IL, OH, WI and MN. Supporting shipper: Fullerton Metals Co., 3000 Sherman Rd., North Brook, IL 60062.

MC 110988 (Sub-4–24TA), filed May 1, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Bryne, P.O. Box 2298, Green Bay, WI 54306. *Chemicals, in bulk,* from the facilities of Nalco Chemical Company at Chicago and Bedford Park, IL to points in CT, ME, MD, and VT. Supporting shipper: Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521.

MC 51146 (Sub-4–39TA), filed May 2, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Wood and coal burning stoves, gas stoves, cast iron cookware, and cast iron lawn furniture* from the facilities of The Atlanta Stove Works, Inc. at Atlanta, GA and Birmingham, AL to points in MN, IA, MI, IL, IN, OH, PA, NY, NJ, NH, CT, MA, and ME. Supporting shipper: The Atlanta Stove Works, Inc., P.O. Box 5354, Atlanta, GA 30307.

MC 146559 (Sub-4–1TA), filed April 17, 1980. Applicant: LARAMEE LEASING AND TRUCKING LIMITED, 107 Manitow Drive, Kitchener, Ontario N2C 1L4. Representative: Sullivan and Leavitt, P.C., 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Glass* from the facilities of LOF Glass, Inc. and LOF Co. located at or near Laurinburg, NC and Toledo, OH to the International Boundaries between the United States and Canada. Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 116273 (Sub-4–4TA), filed April 24, 1980. Applicant: D & L TRANSPORT, INC., 3800 South Laramie, 60650 Cicero, IL. Representative: William R. Lavery (same as applicant). Authority sought to operate as a common carrier by motor vehicle over irregular routes, transporting letex in bulk, in tank vehicles, from St. Clair, MI, to Bellwood, IL. Supporting shipper: St. Clair Rubber Company 1765 Michigan Ave., Marysville, MI 49040.

MC 128049 (Sub-4–1TA), filed May 2, 1980. Applicant: HAROLD A. MILLER, P.O. Box 623, Moorhead, MN 56560. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract:* Irregular: *Soda ash* (except in bulk, in tank vehicles), from Westvaco (near Green River), WY, to the facilities of American Crystal Sugar Company at or near Moorhead, Crookston and East Grand Forks, MN, and Drayton and Hillsboro, ND. An underlying ETA seeks 90 days authority.

Supporting shipper: American Crystal Sugar Company, 101 North 3rd Street, Moorhead, MN 56560.

MC 123133 (Sub-4–1TA), filed April 24, 1980. Applicant: DENNY TRANSPORT, INC., 3405 Industrial Parkway, Jeffersonville, IN 47130. Representative: John M. Nadar, 1600 Citizens Plaza, Louisville, KY 40202. *Paint, in bulk, in tank vehicles,* from the facilities of the Inmont Corporation, at or near Cincinnati, OH to Baltimore, MD. An underlying ETA seeks 90 days authority. Supporting shipper: Inmont Corporation, 1754 Dana Avenue, Cincinnati, OH 45207.

MC 108393 (Sub-4–5TA), filed May 2, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Illinois 60521. Representative: Thomas B. Hill, (same as applicant). *Contract irregular: Electrical and Gas appliances, parts of electrical and gas appliances and equipment, materials and supplies used in the manufacture, distribution and repair of electrical and gas appliances.* Between Evansville, IN on the one hand and on the other hand, all points in TX and OK under continuing contract or contracts with Whirlpool Corporation. Supporting shipper: Whirlpool Corporation, 2000 US 33 North Benton Harbor, MI 49022. Hearing site: Chicago, IL or Washington, D.C.

Note.—Common control and dual operations may be involved.

MC 146753 (Sub 4–2TA), filed April 29, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper and paper products,* from the facilities of Roosevelt Paper Company at or near Philadelphia, PA; Cincinnati, OH; Forest Park, IL; Atlanta, GA; and Miami, FL to points in the U.S. (except AK and HI); and *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in the U.S. to the facilities of Roosevelt Paper Company at or near Philadelphia, PA; Cincinnati, OH; Forest Park, IL; Atlanta, GA; and Miami, FL. Supporting shipper: Roosevelt Paper Co. 7601 State Rd, Philadelphia, PA.

MC 108393 (Sub 4–4TA), filed April 23, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Illinois 60532. Representative: T. B. Hill (same as applicant). *Contract irregular general commodities* (except commodities in bulk, in tank vehicles; class A and B explosives; household goods as that term is defined by the Commission and commodities requiring special equipment) between Philadelphia, PA and its commercial zone on the one hand, on the other, Alexandria, VA, under continuing contract or contracts with West Coast Shippers Association, Inc. Supporting shipper: West Coast Shippers Association, Inc., 2000 S. 71st St. Philadelphia, PA 19142.

Note.—Common control and dual operations may be involved.

MC 150603 (Sub 4–1TA), filed April 18, 1980. Applicant: ARNOLD TUNE D/B/A TUNE TRUCKING, R.R. #1, Kasson, Minnesota 55944. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Concrete batchers, mixers, hoppers and bins,* and (2) *materials, supplies and parts used in the manufacture and distribution of the commodities in* (1), from the facilities of McNeilus Truck and Manufacturing, Inc. at Dodge Center, MN, to points in CO, CT, GA, IL, MO, ND, OH, SD, TX, and WI. Supporting shipper: McNeilus Truck and Manufacturing, Inc. Dodge Center, MN 55927.

MC 51146 (Sub 4–41TA), filed May 1, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Such commodities as are dealt in, or used by, manufacturers and distributors of household and electrical appliances* between Kansas City, KS and Albany, Sedalia, Sweet Springs, and Warrensburg, MO on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Rival Manufacturing Company, 36th and Bennington, Kansas City, MO 64129.

MC 51146 (Sub 4–42TA), filed May 1, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Dairy products* from Green Bay, WI to points in OH, MI, NE, and MO. Supporting shipper: Topco Associates, Inc., 7711 Gross Point Road, Skokie, IL 60077.

MC 51146 (Sub 4–40TA), filed May 1, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Mops and mop handles* from Chicago, IL and Sebring, OH to Milwaukee, WI. Supporting shipper: Brielmaier Supply Company, 1303 N. 4th Street, Milwaukee, WI 53212.

MC 150419 (Sub-4–1TA), filed May 2, 1980. Applicant: LEE TRUCKING, INC., 246 E. Washington St., Mooresville, IN 46158. Representative: Michael S. Vollmer, 421 Bray Rd., Mooresville, IN 46158. *Such commodities as are dealt in by wholesale and retail lumber stores and insulation dealer's,* (1) from Mooresville, Ind. to points in KY, IL, PA, W. VA, OH, MICH, IN, MO, ARK, IA, WIS, TENN; and (2) from points in KY, IL, IA, PA, W. VA, OH, MICH, IN, MO, ARK, WIS, and TENN to Mooresville, IN. Supporting shipper: Cellulose Manufacturing, Inc., 1155 Old St. Rd., 67 S., Mooresville, IN 46158.

MC 143739 (Sub-4–1TA), filed April 29, 1980. Applicant: SHURSON TRUCKING CO., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Meat and meat products* from Omaha and Schuyler, NE, and Spencer, IA, to Albert Lea, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Interstate Meat Service, Inc., 2309 Myers Road, Albert Lea, MN 56007.

MC 110923 (Sub-4–1TA), filed April 29, 1980. Applicant: ALBERT LIVEK, d.b.a. AL LIVEK'S TRUCKING SERVICE, 808 Harrison Street, Kewanee, IL 61443. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Liquid fertilizer* from Buffalo, Iowa to the Illinois counties of Fulton, Knox, McDonough, Mercer, Rock Island, Henry, Warren, Stark, and Peoria, from Burlington, Ft. Madison, Dubuque, Clinton, Bellevue, and Washington, Iowa to points in the state of Illinois, and from Davenport, Iowa to Wyoming and Bradford, Illinois; *dry fertilizer* from Washington, Burlington, Ft. Madison, Clinton, Bellevue, and Dubuque, Iowa to points in the state of Illinois, from Muscatine, Iowa to Galva, Lafayette, Ulah, and Kewanee, Illinois, and from Davenport, Iowa to Wyoming and Bradford, Illinois; *anhydrous ammonia* from Washington, Burlington, Ft. Madison, Clinton, Bellevue, and Dubuque, Iowa to points in the state of Illinois. Supporting shippers: There are six supporting shippers.

MC 103993 (Sub-4–12TA), filed April 29, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same as above). *Dimensional lumber and containers* between the plantsite of Wimi Lumber Corporation, at or near Elkins, WV on the one hand, and on the other, Baltimore, MD. Supporting shipper: Wimi Lumber Corporation, Elkins, WV.

MC 150107 (Sub-4–2TA), filed May 5, 1980. Applicant: MARVIN C. VAN KAMPEN, D.B.A. M.C. VAN KAMPEN TRUCKING, 4495 Herman SW., Wyoming, MI 49509. Representative: Donald L. Stern, Stern & Becker, P.C.,

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Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Paper, on rolls,* from Tyrone, PA and Jay, ME, to the facilities of George F. Valassis & Co. at Livonia, MI. Applicant has filed an underlying ETA 90 days of operating authority. Supporting shipper: George F. Valassis & Co., 35955 Schoolcraft Road, Livonia, MI 48150.

MC 146643 (Sub-4–15TA), filed May 7, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Leviene, 39 S. LaSalle St., Chicago, IL 60603. *Contract; irregular; Printed matter and material, equipment and supplies used in the manufacture, sale and distribution of printed matter (except commodities in bulk),* between the facilities utilized by Rand McNally and Company at or near Chicago, Downers Grove, Naperville and Skokie, IL; Hammond and Indianapolis, IN; Muscatine, IA; Versailles and Lexington, KY; Taunton, MA; Ossining, NY and Nashville, TN, on the one hand, and, on the other, points in the U.S. in and East of ND, SD, NE, KS, OK and TX. Supporting shipper: Rand McNally and Company, 8255 N. Central Park Avenue, Skokie, IL 60076.

MC 55709 (Sub-4–2TA); filed April 1, 1980. Applicant: ANDING TRANSIT, INC., P.O Box 112, Arena, Wisconsin 53503. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, Wisconsin 53719. *Foodstuffs* (except commodities in bulk) and *materials, equipment* and *supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between Arena, WI and various points in AL, AZ, CA, DE, FL, GA, LA, ME, MD, MS, MT, NV, NH, NM, NC, OK, OR, RI, SC, TX, VT, VA, WA, WV. Restriction: Restricted to shipments originating at or terminating at the facilities of M & L Cold Storage, Inc., Arena, WI. Supporting shipper; M & L Cold Storage Inc Arena, WI.

MC 150709 (Sub-4–1TA); filed May 1, 1980. Applicant: LePIER OIL CO., INC., 320 East 1st Street, Fosston, MN 56542. Representative: Kip B. H. Erickson, 502 First National Bank Bldg., Fargo, ND 58126. *Petroleum products,* in bulk, in tank vehicles (except liquefied petroleum gas) from points in MN, Superior, WI, and West Fargo and Grand Forks, ND, to points in MN and points in ND on and east of ND Hwy. 1 An underlying ETA seeks 90 days authority. Supporting shippers: Their are 36 supporting shippers.

MC 103993 (Sub-4–7TA); filed March 31, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Indiana 46515. Representative: James B. Buda, Attorney at Law, 28651 U.S. 20 West, Elkhart, Indiana 46515. *Motor vehicles* In truckaway service, from Hemet, CA to Elkhart, IN. Supporting shipper: Skyline Corp., 2520 Bypass Rd. Elkhart IN. 46514.

MC 103993 (Sub-4–13TA); filed May 7, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same as above). *Materials, equipment, and supplies used in the manufacture, sale, and distribution of metal buildings and metal building parts* (except commodities in bulk), from the plantsite of Bethlehem Steel at or near Sparrows Point, MD, to the plantsites of Butler Manufacturfing Company at or near Annville, PA and Birmingham, AL. Supporting shipper: Butler Manufacturing Company, Annville, PA and Birmingham, AL.

MC 133689 (Sub-4–17TA); filed May 6, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O Box 6010, West St. Paul, MN 55118. *Materials, supplies and equipment used in the production of corn starch and dehydrated corn syrup,* from Covington, VA; Marshall, TX; Cattlesburg, KY; Genevieve, MO; St. Louis, MO; Hutchinson, KS; Chicago, IL; Pine Bluff, AR; Middletown, OH; Hoboken NJ; Kirkwood, MO; and Midland, MI to Keoluk, IA. Supporting shipper: Hubinger, 601 Main St., Keokuk, IA 52632.

MC 146969 (Sub-4–3TA); filed April 23, 1980. Applicant: STAN KOCH & SONS TRUCKING, INC., 4901 Excelsior Boulevard, Minneapolis, MN 55416. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Tool boxes* from Jonesboro, AR to points in IA, IN, MI, MN, ND, OH, SD and WI. Supporting shipper: Cosmos Hardware and Supply Co., 4901 Excelsior Boulevard, Minneapolis, MN 55416.

MC 150629 (Sub-4–1TA), filed April 21, 1980. Applicant: C. D. GAMMON COMPANY, 531 Winthrop St., Addison, IL 60101. Representative: William D. Brejcha, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. Contract-irregular—*Such commodities as are manufactured or distributed by manufacturers and fabricators of ferrous and non-ferrous metals* (except in bulk), between points in the Chicago, IL Commercial Zone on the one hand, and, on the other, points in IA, IL, IN, MI and WI, restricted to traffic moving under continuing contracts with Inryco, Inc. and Jones and Brown Company. Supporting Shippers: Inryco, Inc., 4101 West Burnham Street, P.O. Box 393, Milwaukee, WI 53201; Jones & Brown Company, 568 West Winthrop, Addison, IL 60101.

MC 118253 (Sub-4–1TA), filed April 24, 1980. Applicant: S. F. DOUGLAS TRUCK LINES CO., 587 First St. S.W., New Brighton, MN. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Foodstuffs* from Glencoe, MN, to points in MT, ND, SD and the upper peninsula of MI. Supporting shipper: The Pillsbury Company, Le Sueur, MN.

MC 124669 (Sub-4–1TA), filed April 23, 1980. Applicant: TRANSPORT INC OF SOUTH DAKOTA, 100 South Marion Road, Sioux Falls, SD 57107. Representative: Claude Stewart, P.O. Box 480, Sioux Falls, SD 57101. *Liquid fertilizer,* in bulk, in tank truck equipment; From: Madison, S.D. To: Points in IA, MN and ND. Supporting shipper: Terra Chemicals International, Inc., 4th and Jackson St., Sioux City, IA 51101.

MC 146510 (Sub-4–5TA), filed April 21, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. (1) *Electrical switch and outlet boxes and materials and supplies used in the installation of electrical switch and outlet boxes,* From the facilities of Raco, Inc. at South Bend, IN to Clearfield, UT, Syracuse, NY, Carnegie, PA, Boston, MA, Norwich, CT, Carlstadt, NJ, Pensauken, NJ, Baltimore, MD, Greensboro, NC, Norcross, GA, Houston, TX, Miami, FL, New Orleans, LA, San Francisco, CA, Los Angeles, CA, Seattle, WA, Chicago, IL, St. Louis, MO, Louisville, KY, Cleveland, OH, Dayton, OH, Columbus, OH, Detroit, MI, Cincinnati, OH, Milwaukee, WI, Minneapolis, MN, St. Paul, MN, Toledo, OH, Des Moines, IA, Cedar Rapids, IA, Waterloo, IA, NY, NY, and Elkhart, IN. (2) *Materials and equipment used in the manufacture and distribution of the items named in (1) above:* From North Tonawanda, NY, Willow Grove, PA, Palmerton, PA, Maspeth, NY, Boston, MA, Naugatuck, CT, Landisville, PA, Abbington, PA, E. Palestine, OH, Lexington, OH, Cleveland, OH, Kenilworth, NJ, Succasunna, NJ, Derby, CT, Shelton, CT, Pawtucket, RI, Chicago, IL, Rockford, IL, Beaver Dam, WI, Franklin, OH, Twinsburg, OH, and Atlanta, GA to the facilities of Raco, Inc. at South Bend, IN. Restriction: Restricted to service to be performed under a contract with Raco, Inc. Supporting shipper: Raco, Inc., 3902 Sample St., South Bend, IN.

MC 146643 (Sub-4–16TA), filed May 6, 1980. Applicant: INTER-FREIGHT

TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract irregular: Such commodities as are dealt in by wholesale and retail chain grocery and food business houses,* from Chicago and Bridgeview, IL, to points in MI, OH, PA, MO and KS. Supporting shipper: Topco Associates, Inc., 7711 Gross Point Road, Skokie, IL 60077.

MC 150663 (Sub-4–TA), filed May 2, 1980. Applicant: JAMES LUCAS, 4060 E. Leonard Road NE., Grand Rapids, MI 49506. Representative: George A. Pendleton, P.O. Box 51, 5116 Brookgate NW., Comstock Park, MI 49321. *Dry fertilizer, in bags or in bulk,* between Terre Haute, IN, Joliet, IL, Toledo, OH, and Cincinnati, OH, on the one hand, and, on the other, points in MI. An underlying ETA seeks 90 days authority. Supporting shipper: Farm Bureau Services, Inc., P.O. Box 30960, Lansing, MI 48909.

MC 143471 (Sub-4–6TA), filed May 6, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *Contract;* Irregular; *Gypsum, Gypsum Products and Building Materials* From Medicine Lodge, Kansas to points in WY and MT, under contract with Gold Bond Building Products, Division of National Gypsum. Supporting shipper: Gold Bond Building Products, Division National Gypsum Company, 2001 Rexford Rd., Charlotte, NC 28211.

MC 143471 (Sub-4–5TA), filed May 5, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *Contract;* Irregular; *Gypsum, Gypsum Products and Building Materials* From Fort Dodge, IA and Matteson, IL to points in ND, SD, NE, WY AND MT under contract with Gold Bond Building Products, Division of National Gypsum. Supporting shipper: Gold Bond Building Products, Division National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211.

MC 142715 (Sub-4–7), filed May 6, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick, P.O. Box 479, South St. Paul, MN 55075. *Paper, paper products, cellulose products and textile softeners.* From Cedar Rapids and Des Moines, IA and Arden Hills and New Brighton, MN to points in the U.S. in and east of ND, SD, NE, CO, OK and TX. Restricted to traffic originating at the facilities utilized by Procter & Gamble Distributing Company at the named origins and destined to points in the named states. Supporting shipper: Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45301.

MC 125804 (Sub-4–1TA), filed May 6, 1980. Applicant: J & R SCHUGEL TRUCKING, INC., 310 Water Street, New Ulm, MN 56073. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Feed and Feed Ingredients* from Minneapolis, MN to all points in MI. Supporting shipper: Cargill, Inc., P.O. Box 9300, Dept. 2, Minneapolis, MN 55440.

MC 106674 (Sub-4–13TA), filed May 5, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Plumbing fixtures, garbage disposals and water coolers* between the facilities of Elkay Manufacturing Company located at or near Lanark, IL, on the one hand, and, on the other, points in AL, IN, KY, MI, OH, and TN. Supporting shipper: Elkay Manufacturing Company, 2700 S. 17th Avenue, Broadview, IL 61153.

MC 133855 (Sub-4–2TA), filed May 6, 1980. Applicant: GERALD G. WOOD d.b.a. WOOD & SONS, Route 1, Sun Prairie, WI 53590. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Contract irregular: (1) Simulated brick panelling* from the facilities of Innovative Construction Systems, Inc. at Lake Mills, WI to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. (2) *Pressed fiber sheathing board* from Chicago, IL and points in its Commercial Zone, Meridian, MS and St. Louis, MO to the facilities of Innovative Construction Systems, Inc. at Lake Mills, WI; All under a continuing contract with Innovative Construction Systems, Inc. Innovative Construction Systems, P.O. Box 544, Lake Mills, WI 53551.

MC 133855 (Sub-4–1TA), filed May 6, 1980. Applicant: GERALD G. WOOD d.b.a. WOOD & SONS, Route 1, Sun Prairie, WI 53590. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Contract irregular: Scales* from the facilities of Derlein Industries, Inc., at or near Madison, WI, to points in the U.S. (except AK and HI) under a continuing contract with Derlein Industries, Inc. Supporting shipper: Derlein Industries, Inc., 2425–2 South Stoughton Rd, Madison, WI 53716.

MC 126555 (Sub-4–11–TA), filed May 7, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, South Dakota 57709. Representative: Truman Stockton, Stockton and Lewis, 1650 Grant Street Building, Denver, CO 80216. *Solvents, Petrochemicals, Chemicals,* Between Colorado on one hand and TX, KS, OK, CA and IL and WY on the other hand. Supporting shipper: Independent Petrochemical Corporation, 3350 S. Zuni, Englewood, Colorado 80110.

MC 126555 (Sub-4–10TA), filed May 7, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, South Dakota 57709. Representative: Truman Stockton, Stockton and Lewis, 1650 Grant Street Building, Denver, CO 80216. *Steel and Steel Articles,* between Minnesota, North Dakota, Montana, Wyoming, Iowa, Nebraska, Colorado, South Dakota and Utah. Supporting shipper: Egger's Steel, 909 S. Seventh Avenue, Sioux Falls, South Dakota, 57101.

MC 15975 (Sub-4–4) filed May 7, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Alcoholic liquors (except in bulk, in tank vehicles), and materials, equipment and supplies used in the manufacture and distribution of alcholic liquors,* from Bardstown, KY, to points in IL, IN, IA, GA, FL, MO, MI, OH, PA, WV and WI. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Barton Brands, Ltd., 200 S. Michigan Ave., Chicago, IL; and "21" Brands, Inc., New York, New York.

MC 106674 (Sub-4–12TA), filed May 5, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Particle Board, Fiber Board built-up and built-up woods including faced or finished, and materials, equipment & supplies used in the manufacture and distribution of the above named commodities* between Towanda, PA on the one hand, and, on the other, points in and east of MI, IL, KY, TN, and GA. Supporting shipper: Masonite Corporation, P.O. Box 311, Towanda, PA 18848.

MC 8515 (Sub-4–2TA), filed May 7, 1980. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. *Alcoholic liquors (except in bulk) and materials and supplies used in the production thereof (except in bulk);* between points in AR, IL, KY, and LA on the one hand, and, on the other, points in AR, IL, KY, LA, MT, WY, CO, NM, AZ, CA, TX, OK, KS, NE, SD, ND, MN, IA, MO, WI, TN, MS, AL, FL, GA, SC, NC, WV, PA, NY, OH, IN, and MI.

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Supporting shipper: Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61651.

MC 106674 (Sub-4–14TA), filed May 6, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Furniture parts and components and materials, equipment and supplies, used in the manufacture of furniture parts and components* between Social Circle, GA; Atlanta, GA; Cincinnati, OH; Mason, OH; Nicholasville, KY; Winchester, KY; and Nashville, TN; on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, MA, MI, MO, MS, NC, NJ, NY, OH, PA, SC, TN, VA, and WV. Supporting shipper: Leggett and Platt, Inc., P.O. Box 757, Carthage, MO 64836.

MC 20824 (Sub-4–1TA), filed May 6, 1980. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 S. High School Rd., Indianapolis, IN 46241. Representative: Alki R. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Marshall, Paris and Robinson, IL, as off-route points in connection with carrier's authorized regular-route operations. An underlying ETA seeks 90 days authority. Suporting shipper(s): there are 14 supporting shippers.

MC 97251 (Sub-4–2TA); filed May 6, 1980. Applicant: TURNER TRUCKING COMPANY, INC., 1215 W. Main St., Lebanon, IN 46052. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Steel forgings,* from Champaign, IL, to Lafayette, IN. An underlying ETA seeks 90 days authority. Supporting shipper: Fairfield Manufacturing Company, Inc., U.S. Hwy 52 South, Lafayette, IN 47902.

MC 127812 (Sub-4–1), filed May 8, 1980. Applicant: TYSON TRUCK LINES, INC., 185–5th Ave. S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).* Between Minneapolis–St. Paul, MN and points in the Commercial Zone as defined by the Commission on the one hand, and, on the other hand, Fargo, Southwest Fargo, and West Fargo, ND; Arlington, Brandon, Brookings, Cavour, Colman, DeSmet, Ellis, Huron, Iroquois, Lake Preston, Madison, Mitchell, Sioux Falls, Tea, SD; Albertville, Allen, Alma Center, Almena, Alpha, Altoona, Amery, Anson, Arland, Atlas, Augusta, Baldwin, Balsam Lake, Bangor, Barron, Barronett, Bateman, Beldenville, Birchwood, Black River Falls, Blair, Bloomer, Boardman, Boyceville, Boyd, Brackett, Bruce, Burkhardt, Cadott, Cameron, Campia, Canton, Centuria, Chetek, Chippewa Falls, Cristie, Clam Falls, Clayton, Clear Lake, Cleghorn, Cobban, Colfax, Comstock, Connersville, Conrath, Cornell, Crescent, Cumberland, Curtiss, Cushing, Cylon, Dallas, Deer Park, Deronda, Downing, Downsville, Dresser, Eagle Point, Eagleton, E. Farmington, Eau Claire, Edson, Eidsvoild, Eleva, Elk Creek, Elk Mound, Ellsworth, Emerald, Erin, Fairchild, Fall City, Fall Creek, Falun, Forest, Foster, Frederic, Gilman, Glen Flora, Glenwood City, Grantsburg, Greenwood, Hammond, Hannibal, Hatfield, Haugen, Haulton, Hawkins, Hersey, Hillsdale, Hixton, Holcombe, Horse Creek, Hudson, Humbird, Ingram, Island Lake, Jackson County Iron Mine, Jim Falls, Joel, Jump River, Knapp, Ladysmith, Lafayette, Lake Hallie, Lewis, Little Falls, Longwood, Loraine, Loyal, Luck, Lundington, Martell, Menomonie, Menomonie Jct., Merrillan, Milltown, Milston, Mondovi, Neilsville, New Auburn, New Centerville, New Richmond, N. Hudson, N. Menomonie, Nye, Osceola, Osseo, Owen, Poskins, Prairie Farm, Prescott, Presto, Price, Range, Reeve, Rice Lake, Richardson, Ridgeland, River Falls, Roberts, Rush, Russell Corners, St. Croix Falls, Sand Creek, Sarona, Sheldon, Shell Lake, Siren, Somerset, Sparta, Spooner, Stanley, Star Prairie, Sturm, Thorp, Tilden, Tomah, Tony, Trade Lake, Trade River, Trimbelle, Turtle Lake, Ubet, Wanderoos, Warrens, Weyerhauser, Willard, Wilson, Withee, Woodville, Wyeville, WI. Authority sought in this application is intended to be tacked with the applicant's current irregular route authority in MC–127812 and the subs thereto. Applicant also intends to interline with other carriers at interchange points of Minneapolis–St. Paul, MN. There are 24 supporting shippers. An underlying ETA seeks 90 day authority.

MC 147572 (Sub-4–1TA), filed May 8, 1980. Applicant: COUNTRY LEASING, INC., 8206 Park Avenue, Allen Park, MI 48101. Representative: Alex J. Miller, P.O. Box 244, Bloomfield Hills, MI 48013. *Contract irregular cake, donut, frosting and other prepared mixes and the ingredients used therein,* over between Wright City, MO, Battle Creek, Detroit and Monroe, MI, Chicago, Decatur and Batavia, IL, Burlington, IA and their commercial zones. Supporting shipper: Amendt Milling Company, 317 W. Front St., Monroe, MI 48161.

MC 150570 (Sub-4–1), filed May 8, 1980. Applicant: C. U. TRUCKING COMPANY, 1805 Dot, McHenry, IL 60050. Representative: Douglas G. Brown, P.C., The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. *Dry bulk cement* from Milwaukee, WI to Park City and McHenry, IL. Supporting shipper(s): Enterprise Ready Mix Company, Inc., 600 S. Chestnut, Park City, IL 60085. McHenry Ready Mix Company, Inc., 1819 Dot, McHenry, IL 60050.

MC 139440 (Sub-4–1TA), filed May 8, 1980. Applicant: HAMMOND YELLOW & CHECKERED CAB, INC. d.b.a. Airport Limousine, 5850 Calumet Avenue, Hammond, Indiana. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Regular routes: (1) *Passengers,* Beginning at Highland, IN at Ridge Road and Indianapolis Boulevard, thence west on Ridge Road to Hohman Avenue, Munster, IN, thence north on Hohman Avenue to Hammond, IN, thence north to 144th Street and Hohman Avenue, thence east on 144th Street to entrance to the Indiana Toll Road, thence over the Indiana Toll Road to Dan Ryan Expressway, thence over the Dan Ryan Expressway to points in Chicago, IL, and return over the same route. Irregular routes: (2) *Passengers and their baggage,* beginning and ending at points in Cook County, IL and extending to points in WI, MO, IN, MI, and KY; and beginning and ending at points in Lake County, IN and extending to points in WI, MO, MI, KY, and IL.

MC 64932 (Sub-4–4TA), filed May 8, 1980. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. *Liquid Chemicals,* in bulk, in tank vehicles, from the facilities of Jefferson Chemical Co., at Austin, Conroe, and Port Neches, TX, to OH. An underlying ETA seeks 90-day authority. Supporting shipper: Tag Chemicals Co., 1033 South Avenue, Toledo, OH 43609.

MC 149170 (Sub-4–6TA), filed May 8, 1980. Applicant: ACTION CARRIERS, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Such commodities as are dealt in by retail or discount department stores (except commodities in bulk)* between points in MN, SD, ND, IA, WI, IL, IN, OH, MI and TX, restricted to traffic originating at or destined to the facilities of Target Stores, a Division of Dayton-Hudson Corporation. Supporting shipper: Target Stores, a Division of

Dayton-Hudson Corporation, 7120 Highway 65NE, Fridley, MN 55432.

MC 121082 (Sub-4–1) filed May 8, 1980. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. *Drugs, hospital supplies, intravenous solutions, and toilet preparations,* from Detroit, MI, to points in OH on and north of US–36 for Abbott Laboratories, Inc. Supporting shipper: Abbott Laboratories, Inc., Dept. 277, 1400 North Sheridan Road, North Chicago, IL 60064.

MC 146862 (Sub-4–1), filed May 8, 1980. Applicant: MULDER TRUCKING COMPANY, Prinsburg, Minnesota 56281. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Contractors machinery, equipment and supplies, including road construction equipment* between Prinsburg, MN; Laramie, WY; and Glendive, MT. Supporting shippers: Duininck Bros. & Gilchrist, Prinsburg, MN 56281.

MC 126140 (Sub-4–1), filed May 8, 1980. Applicant: TRANS-PETRO, INC., Box 124, Wood River, IL 62905. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. Contract, irregular: *Road oil and asphalt* in tank vehicles in bulk, from Wood River, IL to Troy, MO. Supporting shipper: Louis Marsch, Inc., P.O. Box 183, Morrisonville, IL 62546.

MC 119702 (Sub-4–5TA), filed May 5, 1980. Applicant: STAHLY CARTAGE CO., 119 S. Main St., P.O. Box 486, Edwardsville, IL 62025. Representative: E. Stephen Heisley, Ames, Hill & Ames, P.C., 666 Eleventh St., N.W., Washington, D.C. 20001. *Liquid Fertilizer Solutions,* in bulk, in tank vehicles, from the plant site of Hawkeye Chemical Company at or near Clinton, IA to points in IL, MN and WI. Supporting shipper: FirstMiss, Inc., P.O. Box 328, Ft. Madison, IA 52627.

MC 98952 (Sub-4–1TA), filed May 5, 1980. Applicant: GENERAL TRANSFER COMPANY, 2880 N. Woodford Street, Decatur, Illinois 62526. Representative: Phillip W. Edmiston, (same as applicant). *Foodstuffs, in mechanically refrigerated equipment, except in bulk,* from the facilities of Home Juice Company in Melrose Park, Illinois to Mexico, MO, Scott City, MO, Sikeston, MO, and Wright City, MO, restricted to traffic originating at named origin and destined to named destinations. Supporting shipper: Home Juice Company, 15th & Bloomingdale Avenue, Melrose Park, IL 60160.

MC 107162 (Sub-4–6TA), filed May 5, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 S. Pinckney Street, Madison, WI 53703. *Lumber* from points in the U.S. in and east of ND, SD, NE, KS, OK, and TX to points in the Upper Peninsula of MI and points in WI on and north of Wis. Hwy. 64. An underlying ETA seeks 90 days authority. Supporting shippers: Peter Koruga and Son, Box 5, Wakefield, MI 49968, and Lake Superior Lumber Company, P.O. Box 606, Iron Mountain, MI 49801.

MC 135410 (Sub-4–4TA), filed May 7, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Fresh meats and packinghouse products,* from the facilities of Wilson Foods Corporation located at Albert Lea, MN to points in CT, MA, NJ, NY, PA and RI. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 142062 (Sub-4–2), filed May 7, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., Post Office Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Contract;* irregular: *Such commodities as are dealt in, used or distributed by a distributor of waterbeds,* from points in Orange and Los Angeles Counties, CA; Maricopa, Pima and Pinal Counties; AZ; and Clark, Washoe, Storey, Douglas, Ormsby, and Lyon Counties, NV, and Carson City, NV, to Lexington and Louisville, KY, and Charleston, WV, and points within their respective commercial zones. Restricted to the transportation of shipments handled under a continuing contract or contracts with Waterbed Sales, Inc., d.b.a. California Waterbeds. Supporting shipper: Waterbed Sales, Inc., d.b.a. California Waterbeds, 3900 Dupont Square South, Louisville, KY 40207.

MC 64932 (Sub-4–3TA), filed May 7, 1980. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. *Zinc ammonium chloride,* in bulk, in tank vehicles, from Valparaiso, IN, to Cleveland, OH. An underlying ETA seeks 90-day authority. Supporting shipper: E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898.

MC 150301 (Sub-4–5), filed May 6, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 3653 Lake Eastbrook Blvd. SE, Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract; irregular: Such commodities as are dealt in by retail department stores and materials and supplies used in the operation of such stores* from all points in the United States (except Alaska, Hawaii and Michigan) to points in Michigan, under a continuing contract with Meijer, Inc. Supporting shipper: Meijer, Inc., 2727 Walker Rd., Grand Rapids, MI 49504.

MC 46737 (Sub-4–1), filed May 6, 1980. Applicant: GEO. F. ALGER COMPANY, 26380 Van Born Road, Dearborn Heights, MI 48125. Representative: D. A. Broyles, 26380 Van Born Road, Dearborn Heights, MI 48125. Transporting: *Precast and prestressed concrete slabs, beams, columns, and materials, equipment and supplies used in and incidental to the installation thereof,* for Price Brothers Company, between Livonia, MI, and points in IN, OH, PA, NY, KY and WV, for 180 days. Supporting shipper: Price Brothers Company, P.O. Box 825, Dayton, OH 45401.

MC 145750 (Sub-4–1TA), filed May 5, 1980. Applicant: CHARLES SIZEMORE, d.b.a. C.S. TRUCK SERVICE, 930 Caroline Street, O'Fallon, IL 62269. Representative: Charles Sizemore (same address as applicant). Contract, Irregular. *Citrus juice, in bulk,* in shipper owned trailers, from points in FL, to the facilities of Prairie Farms Dairy, Inc. at Granite City, IL. Supporting shipper: Prairie Farms Dairy, Inc., 1800 Adams St., Granite City, IL 62040.

MC 150341 (Sub-4–3TA), filed May 6, 1980. Applicant: HOOVESTOL, INC., 3110 Mike Collins Dr., St. Paul, MN 55121. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Contract; Irregular; Polyethylene Agricultural Storage Tanks and Stock Tanks,* from St. Bonifacius, MN, to points in the U.S. (except AK and HI), under contract with Norwesco, Inc., St. Bonifacius, MN. An underlying ETA seeks 90 days authority. Supporting shipper: Norwesco, Inc., 4365 Steiner St., St. Bonifacius, MN 55375.

MC 148647 (Sub-4–1), filed May 6, 1980. Applicant: HI-CUBE CONTRACT CARRIER CORP., 7005 South Pulaski Road, Chicago, IL 60629. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Contract; Irregular. (1) *Dental, Hospital, Hygienic, Medical, Dermatological and Surgical Supplies and related products including those materials used in the manufacture thereof,* and (2) *Drugs, Medicines, Toilet Preparations, Shampoo, Disinfectants, Sausage Casings, Pressure Sensitive Tapes, Veterinarian Supplies, Tissue*

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Products, Woven and Non-woven fabrics, Pulp, Diapers, Advertising Matter, and those Materials used in the manufacture thereof, from Middlesex and Somerset Counties, NJ to Sherman, TX under a continuing contract or contracts with Johnson & Johnson Products, Inc. Supporting shipper: Johnson & Johnson Products, Inc., 501 George Street, New Brunswick, NY 08903.

MC 135231 (Sub-4–4TA), filed May 6, 1980. Applicant: NORTH STAR TRANSPORT, Rt. 1, Highway 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such commodities as are manufactured, sold or distributed by persons engaged in the manufacturing, processing or milling of soybeans, soybean products, grain and steel products and materials, supplies and equipment used in the conduct of such businesses (except commodities in bulk)* between the facilities of Cargill, Inc. and its subsidiaries on the one hand, and, points in the United States (except AK and HI) on the other hand. Restricted to traffic originating at or destined to the facilities of Cargill, Inc. or its subsidiaries. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440.

MC 114457 (Sub-4–8TA), filed May 6, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, General Counsel, 2102 University Ave., St. Paul, MN 55114. *Railway lubricating pads,* from Baltimore, MD to Atlanta, GA, Houston, TX, Flat River, MO, and Indianapolis, IN. Supporting shipper: Wm. E. Hooper & Sons, 3502 Parkdale Avenue, Baltimore, MD 21211.

MC 150607 (Sub-4–1TA), filed May 6, 1980. Applicant: B & B TRUCKING, INC., 240 West 13th Street, Williston, ND 58801. Representative: Todd W. Foss, 502 First National Bank Bldg., Fargo, ND 58102. *Dry sacked or dry bulk drilling fluid additives,* from points in ND to points in MT, SD and WY. An underlying ETA seeks 90 days authority. Supporting shippers: MilChem, Inc., P.O. Box 573, Williston, ND 58801; NL Baroid, Route 1, Box 19, Williston, ND 58801; Dresser Industries, Magcobar Division, Williston, ND; Wyo-Ben, Inc., P.O. Box 1453, Williston, ND 58801.

MC 114457 (Sub-4–9TA), filed May 7, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, General Counsel, 2102 University Ave., St. Paul, MN 55114. *Such commodities as are dealt in by wholesale and retail distributors of office products* (except commodities in bulk) from the facilities utilized by Boise Cascade at DuPage and Cook Counties, IL to St. Paul, MN. Supporting shipper: Boise Cascade Corporation, Office Products & Envelopes, P.O. Box 7747, Boise, ID 83707.

MC 123407 (Sub-4–32TA), filed May 6, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Wooden bottle crates* from the facilities of Associated Wood Products, Inc., at Newport, AR, to points in IL, IN, IA, OH, MI, KY, OK, and VA. Supporting shipper: Associated Wood Products, Inc., P.O. Box 40, Newport, AR 72112. An underlying ETA has been filed seeking 90 days.

MC 119767 (Sub-4–2TA), filed May 6, 1980. Applicant: BEAVER TRANSPORT CO., 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: John Sims, 915 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004. *Edible flour and flour compounds* (except in bulk) from East St. Louis, IL and Millstadt, IL to Fairmont, MN. An underlying ETA seeks 90 days authority. Supporting shipper: Golden Dipt Co., 100 E. Washington, Millstadt, IL 62260.

MC 150671 (Sub-4–1), filed May 6, 1980. Applicant: TEIGHLAND BROTHERS, a partnership of Norman and Kenneth Teigland, Route 1, Box 84, Canby, MN 56220. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Irregular* routes, transporting: (1) *Agricultural machinery; (2) tractors and attachments; implements, parts and components for (1)* and (2) from: AR, GA, IA, IL, KS, LA, NC, ND, NE, OH, PA, SC, SD, TN and TX to Yellow Medicine County, MN and from: Yellow Medicine County, MN to ND. An underlying ETA seeks 90 days authority. Supporting shippers: Alton Rolighed, Alton Grain Equipment Company, Box 297, Clarkfield, MN 56223 and James Thorpe, Canby, MN 56220.

MC 135391 (Sub-4–1), filed May 6, 1980. Applicant: WILDERNESS EXPRESS, INC., 525 Lake Ave. So., Duluth, MN 55802. Representative: S. R. Englehart, 525 Lake Ave. So., Duluth, MN 55802. *Contract Carrier* irregular routes, *Frozen Foods* (except commodities in bulk), from the facilities of Jeno's, Inc. located at Doraville, GA to points in AL, AR, DE, FL, IL, IN, IA, KS, KY, LA, MO, MI, MN, MS, NJ, NY, OH, OK, PA, TN, TX and WI. Supporting shipper: Jeno's, Inc., 525 Lake Ave. So., Duluth, MN 55802.

MC 110988 (Sub-4–29), filed May 7, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Burne, P.O. Box 2298, Green Bay, WI 54306. *Calcium chloride* from Germantown, WI to Wapakoneta, OH. Supporting shipper: Dederich Corporation, W194 N11411 McCormick Drive, Germantown, WI 53022.

MC 146886 (Sub-4–2TA), filed May 6, 1980. Applicant: CONLAN TRUCK LINES, INC., 6160 South 116th Street, Hales Corners, WI 53130. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Merchandise as is dealt in by some products distributors* (except commodities in bulk) from the facilities of Stanley Home Products, Inc. at or near Dubuque, IA to points in ND and SD, and those points in MN on and west of U.S. Hwy 71. Applicant has filed a corresponding ETA seeking up to 90 days of operating authority. Supporting shipper: Stanley Home Products, Inc., P.O. box 58, Dubuque, IA 52001.

MC 110988 (Sub-4–28TA), filed May 5, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Charles W. Singer, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Commodities in bulk* (except those in dump vehicles, cement, liquid propane gas, anhydrous ammonia and salt) (1) From points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, TN, VT, VA, WV, to points in IL, IN, IA, KY, MI, MN, MO, OH and WI and those points in PA on and west of U.S. Hwy 219; and (2) From points in KY and OH to points in IL, IN, IA, MI, MN, MO and WI. Supporting shippers: 28 shippers.

MC 118696 (Sub-4–13TA), filed April 30, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Television sets, tape recorder-players, phonographs, video discs and players, and accessorial parts thereto,* from the facilities of the RCA Corporation, in bloomington, IN to points in the States of OH, MI, NJ, PA and NY, for 180 days. Supporting shipper: Jack H. Dick, RCA Corporation, Building 204–2, Cherry Hill, NJ 08358.

MC 51146 (Sub-4–38TA), republication, filed April 26, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Such commodities as are dealt in, or used by, manufacturers and distributors of internal combustion engines* from Detroit, Eaton Rapids, Bridgeman, and Coldwater, MI; Decatur, IL; and E. Longmeadow, MA to New Holstein and Crafton, WI. Supporting shipper: Tecumseh Products Company, 1604 Michigan Avenue, New Holstein, WI 53061.

MC 119366 (Sub-4–1TA), filed April 21, 1980. Applicant: MOTOR CITY CARTAGE COMPANY, 175 12th Street, Detroit, MI 48126. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. *Candy and confectionary* moving in vehicles equipped with mechanical refrigeration units from Detroit, MI to all points in MI on shipments having a prior interstate movement. Supporting shipper: E. J. Brach & Sons, Division of American Home Products, 4656 West Kinzie Street, Chicago, IL 60644.

MC 69116 (Sub-4–6TA), republication, filed April 1, 1980. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Presto Products Inc., at or near Appleton and Little Chute, WI, on the one hand, and, on the other, points in IL, IN, NH, NY, ME, MD, OH, PA, WV, VA and VT: Restricted to traffic originating at or destined to the facilities of Presto Products Inc. at the above locations. Supporting shipper: Presto Products inc., Box 2399, Appleton, WI 54913.

MC 118138 (Sub-4–1TA), filed April 22, 1980. Applicant: BENEFIELD BROTHERS, INC., P.O. Box 2087, Terre Haute, IN 47802. Representative: Gerry M. Blaker, Rural Route 25, Box 234, Terre Haute, IN 47802. *Baking powder* from the facilities of Hulman & Company at Terre Haute, IN to points in Alexandria, LA, Birmingham, AL, Chattanooga, TN, Cleveland, OH, Columbus, OH, Dallas, TX, Detroit, MI, Dothan, AL, El Paso, TX, Greenville, MS, Houston, TX, Jackson, MS, Jacksonville, FL, Joplin, MO, Kansas City, KS, Lexington, KY, Little Rock, AR, Louisville, KY, Lubbock, TX, Memphis, TN, Miami, FL, Mobile, AL, Monroe, LA, Montgomery, AL, Nashville, TN, New Orleans, LA, Oklahoma City, OK, Omaha, NB, St. Louis, MO, San Angelo, TX, San Antonio, TX, Shreveport, LA, Springfield, MO, Tampa, FL, Tulsa, OK, Tyler, TX, and Witchita, KS. An underlying ETA seeks 90 days authority. Supporting shipper: Hulman & Company, 900 Wabash Avenue, Terre Haute, IN 47807.

MC 150716 (Sub-4–1TA), filed May 1, 1980. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Avenue, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* Irregular routes: (1) *Macaroni and cheese, rice and vermicelli, and noodles and cheese mixes,* in shipper-owned trailers and (2) *materials, equipment and supplies used in the manufacture or distribution of the commodities in (1) above,* in shipper-owned trailers, (a) between the facilities of Golden Grain Macaroni Company, at Bridgeview, IL, on the one hand, and on the other, points in AR, CT, FL, GA, LA, MA, MI, MN, MO, NJ, NY, OH, PA, TX, VA, WI, and (b) between the facilities of Golden Grain Macaroni Company at Bridgeview, IL and San Leandro, CA, under continuing contract(s) with Golden Grain Macaroni Company of San Leandro, CA. Any underlying ETA seeks 90 days authority. Supporting shipper(s): Golden Grain Macaroni Company, 7700 West 71st Street, Bridgeview, IL 60455.

MC 120978 (Sub-4–2TA), filed April 28, 1980. Applicant: REINHART MAYER, d.b.a., MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Materials, parts and supplies used in the manufacture of industrial and construction machinery and agricultural implements and machinery* (except commodities in bulk, in tank vehicles), from Chicago, Joliet and Quincy, IL; Gary, Kokomo, Logansport and Muncie, IN; Adel, Armstrong, Des Moines, Fairfield, Iowa City, Laurens, Monticello and Wilton, IA; Kansas City, KS, Ashland and Newport, KY; Bloomington, Minneapolis, St. Paul, Willmar and Winona, MN; St. Louis and Springfield, MO; Omaha and Norfolk, NE; Cleveland, Shelby and Warren, OH; Sioux Falls, SD; and Brillion, Green Bay, La Crosse, Milwaukee, Muscoda, Onalaska, Stevens Point, Two Rivers, Wausau and West Bend, WI, to the facilities of Wil-Rich, Inc., at or near Wahpeton, ND. An underlying ETA seeks 90 days authority. Supporting shipper: Wil-Rich, Inc., P.O. Box 1013, Wahpeton, ND 58075.

MC 126276 (Sub-4–7TA), filed May 5, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Illinois 60513. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Illinois 60601. *Contract carrier,* irregular routes: *Plastic containers and lids and materials and supplies used in the distribution and sale of the named commodities,* from West Chicago, IL to points in NJ, NY, PA, OH, IN, MI, KY, TN, WI, MO and IA, under a continuing contract or contracts with Handi Kup Company. An underlying ETA seeks 90 days authority. Supporting shipper: Handi Kup Company, 1351 Hawthorne, Ave., West Chicago, IL 60185.

MC 35628 (Sub-4–5TA), filed May 1, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 110 Ionia Avenue, N.W., P.O. Box 175, Grand Rapids, Michigan 49501. Representative: Michael P. Zell, Vice President-General Counsel, Interstate Motor Freight System, 110 Ionia Avenue, P.O. Box 175, Grand Rapids, Michigan 49501. Common carrier: *regular routes: General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving the facilities of Honda Motorcycle at or near Marysville, OH as an off-route point in connection with applicant's authorized regular route authority. Supporting shipper: Honda of America Mfg., Inc., Marysville, OH 43040.

MC 110988 (Sub-4–26TA), filed May 1, 1980. Applicant: SCHEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Textile sizing and cotton softeners* from Chester, SC to Muskegon, MI. Supporting shipper: Sun Chemical Corporation, 222 S. Marginal Road, Fort Lee, NJ 07024.

MC 118696 (Sub-4–12TA), filed May 2, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Materials, equipment and supplies* (except in bulk) used in the manufacture and distribution of cabinets, from points in and east of the states of ND, SD, NE, KS, OK, and TX to the facilities of AristOKraft, Division of Beatrice Foods, at or near Jasper, IN; Burnet, TX; Littlestown, PA; and Zumbrota, MN. Supporting shipper: AristOKaft, Division of Beatrice Foods, P.O. Box 420, Jasper, IN 47546.

MC 143576 (Sub-4–1), filed April 28, 1980. Applicant: DONALD ORR AND SONS, Route 37 Box 369, West Frankfort, IL. 62896. Representative: Harold B. Culley Jr., 106 S. Emma, West Frankfort, IL. 62896. *Fertilizer, phosphate, nitrogen, potash, agricultural clays, aqua, anhydrous ammonia, herbicides, insecticides, acid,* and *line* to and from all points between IL, IN, IA, KY, MO, TN, AR, FL, supporting

shipper: Amoco Oil Co., Fertilizer Div., P.O. Box 233, Mt. Carmel, IL 62863.

MC 110988 (Sub-4-25), filed May 1, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Resin and foundry core compounds* from the facilities of Delta Oil Products Corporation at Milwaukee, WI to Braintree, MA. Supporting shipper: Delta Oil Products Corporation, 6263 N. Teutonia Avenue, Milwaukee, WI 53209.

MC 150736 (Sub-4-1TA), filed May 5, 1980. Applicant: CONSOLIDATED SERVICES CO., 9350 Harrison, Romulus, MI 48174. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. (1) *Such commodities as are dealt in and/or sold by retail department stores,* (1) between the Detroit Metropolitan and Willow Run Airports at Romulus and Ypsilanti, MI, on the one hand, and, on the other, facilities of the Dayton Hudson Corporation at or near Fort Wayne and South Bend, IN, Toledo, OH, Ann Arbor, Battle Creek, Flint, Kalamazoo, Kentwood, Lansing and Saginaw, MI, and those within Oakland, Macomb and Wayne Counties, MI; and (2) between points in MI in and south of Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, Tuscola and Huron Counties, on the one hand, and, on the other, facilities of the Dayton Hudson Corporation at or near Toledo, OH, and Fort Wayne and South Bend, IN. (2) *Footwear and footwear accessories* from Romulus, MI, to facilities of the Dayton Hudson Corporation at or near Fort Wayne and South Bend, IN, Toledo, OH, Ann Arbor, Battle Creek, Flint, Kalamazoo, Kentwood, Lansing and Saginaw, MI, and those within Oakland, Macomb, and Wayne Counties, MI. Supporting shipper: Dayton Hudson Corporation, 14225 West Warren, Dearborn, MI 48126.

MC 119626 (Sub-4-1TA), filed May 5, 1980. Applicant: ILL. -PAC. COAST TRANSPORTATION CO., 1601 Market Street, Madison, IL 62060. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Meats, packing house products and commodities used by packing houses,* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Chicago, IL, to Los Angeles, San Francisco, San Diego, Sacramento, and Stockton, CA. An underlying ETA seeks 90 days authority. Supporting shippers: Amelio Bros. Meat Co., 3131 South Canal Street, Chicago, IL, 60616; Carl Buddig, Inc., 11914 South Peoria Avenue, Chicago, IL, 60643; Ur-Way Boning, Inc., 4551 South Racine, Chicago, IL, 60609; Continental Meat Dist., Inc., 3009 E. 44th Street, Vernon, CA, 90058; Central Meat Company, 824 W. 38th Place, Chicago, IL 60609. E.W. Kneip, Inc., 7501 Brown Avenue, Chicago, IL 60130.

MC 110988 (Sub-4-27), filed May 5, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Chemicals, in bulk,* from the facilities of Jacob Stern & Sons, Inc. at Philadelphia, PA to points in IL and OH. Supporting shipper: Jacob Stern & Sons, Inc., Suite 910, Benjamin Fox Pavilion, Jenkintown, PA 19046.

MC 150746 (Sub-4-1TA), filed May 6, 1980. Applicant: DFC TRANSPORTATION COMPANY, 45 East Main Street, Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Windows and doors and parts and accessories therefor,* from Plainview, LI, NY, Ephrata, PA, Troy, MI, and Pittsburg, KS, to Schaumberg, IL. An underlying ETA seeks 90-day authority. Supporting shipper: The Bockman Co., 1093 East Golf Road, Schaumberg, IL 60195.

MC 87966 (Sub-4-2), Filed May 6, 1980. Applicant: ELEVELD CHICAGO FURNITURE SERVICE, INC., 4020 West 24th Street, Chicago, Illinois 60623. Representative: Joseph P. Tuohy, Commerce Attorney, Allied Van Lines, Inc., P.O. Box 4403, Chicago, Illinois, 60680. Motor vehicle, over irregular routes, transporting furniture and furniture parts from the facilities of Simmons Company at Elizabeth, NJ, and Columbus, OH to the facilities of Simmons Company at Munster, IN Columbus, OH and Janesville WI. Supporting shipper: Simmons USA, 6 Executive Park Drive, Atlanta, GA 30348.

MC 142268 (Sub-4-1TA), Filed May 5, 1980. Applicant: GORSKI BULK TRANSPORT, INC., 843 Central Avenue, Walkerville P.O. Box 2487, Windsor, Ontario N8Y 4S2, Canada. Representative: William H. Shawn, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. *Liquid chemicals, petroleum products, and additives:* (1) From ports of entry on the International Boundary line between the United States and Canada at Niagara Falls, N.Y., and Port Huron, MI to points in IL, IN, MI, NJ, NY, PA, WV, and OH. (2) From points in KS, NJ, NY, and PA, to ports of entry on the International Boundary line between the United States and Canada at Niagara Falls, N.Y. and Port Huron, MI. Restricted to the transportation of traffic originating at or destined to the facilities of Imperial Oil Ltd., and Esso Chemical. And further restricted in part (1) against the transportation of propane and butane from ports of entry on the International Boundary line between the United States and Canada at or near Port Huron, MI, and OH and, in part (2) against the transportation of the commodities in packages or containers from points in NY and NJ to ports of entry on the International Boundary line between the United States and Canada at Niagara Falls, N.Y. An underlying ETA seeks 90 days authority. Supporting shippers: Imperial Oil Limited, 111 St. Clair Avenue, W., Toronto, Ontario, Canada, M5W 1K3, and Esso Chemical Division, Imperial Oil Limited, Suite 2643, 2300 Young Street, Toronto, Ontario, Canada M5W 1K3.

MC 147572 (Sub-4-1TA), Filed May 8, 1980. Applicant: COUNTRY LEASING, INC., 8206 Park Avenue, Allen Park, MI 48101. Representative: Alex J. Miller, P.O. Box 244, Bloomfield Hills, MI 48013. *Contract irregular cake, donut, frosting and other prepared mixes and the ingredients used therein,* between Wright City, MO, Battle Creek, Detroit and Monroe, MI, Chicago, Decatur and Batavia, IL, Burlington, IA and their commercial zones. Supporting shipper: Amendt Milling Company, 317 W. Front St., Monroe, MI 48161. The following protests were filed in Region 5. Send protests to: Consumer Assistance Center Interstate Commerce Commission , P.O. Box 17150, Fort Worth, TX 76102.

MC 3062 (Sub-5-3TA), Filed May 13, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 N. Spring Ave., Cape Girardeau, MO 63701. Representative: G.H. Boles, (same address as applicant). Common, Regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* serving Albion, Fairfield, and W. Salem, IL as off-route points in connection with carriers authorized regular route over US Hwy. 460. Supporting shipper: There are six supporting shippers.

MC 5227 (Sub-5-5TA), filed May 12, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, Nebraska 68041. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. *Livestock feeding, handling and confinement equipment,* (1) Between the facilities of Farmaster, Division of Wickes Corporation, at or near Shenandoah, IA; Woodland, CA; Dublin, GA; Corsicana, TX; and Pittsburg and Dodge City, KS; (2) From the facilities of Farmaster, Division of Wickes

Corporation, at or near Woodland, CA to points in AZ, CO, ID, MT, NV, OR, UT, and WA; and (3) From the facilities of Farmaster, Division of Wickes Corporation, at or near Corsicana, TX to points in AR, CO, KS, LA, NM, and OK; and (4) From the facilities of Farmaster, Division of Wickes Corporation, at or near Shenandoah, IA to points in MT, CO, WY and MI. Supporting shipper: Farmaster, Division of Wickes Corporation, P.O. Box 220, Shenandoah, IA 51601.

MC 35320 (Sub-5-21TA), filed May 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common; regular. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* Between (1) Pittsburgh, PA and State Line, PA and their commercial zones. From Pittsburgh, PA over U.S. Hwy 30 to junction Pennsylvania Hwy 16, then over Pennsylvania Hwy 16 to junction U.S. Hwy 11, then over U.S. Hwy 11 to State Line, PA and return over the same routes serving no intermediate points; and Between (2) Pittsburgh, PA and Philadelphia, PA and their commercial zones. From Pittsburgh, PA over U.S. Hwy 30 to Philadelphia, PA and return over the same route serving no intermediate points. Applicant intends to tack with its existing authority and any authority it may obtain in the future, and interline with other carriers. Supporting shipper: None. Alternate route for the elimination of needless miles as well as fuel savings.

Note.—Common control may be involved.

MC 35320 (Sub-5-22), filed May 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common; regular. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* Between Pittsburgh, PA and Cincinnati, OH and their commercial zones. From Pittsburgh, PA over Interstate Hwy 79 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Columbus, OH then over Interstate Hwy 71 to Cincinnati, OH and return over the same routes serving no intermediate points. Applicant intends to tack with its existing authority and any authority it may obtain in the future and interline with other carriers. Supporting shippers: None. Alternate route for the elimination of needless miles as well as fuel savings.

Note.—Common control may be involved.

MC 35320 (Sub-5-23TA), filed May 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common; regular. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* Between Oklahoma City, OK and its commercial zone and Goodland, KS and its commercial zone serving no intermediate points. From (a) Oklahoma City, OK over Interstate Hwy 35 to its junction with Interstate Hwy 135, then over Interstate Hwy 135 to its junction with Interstate Hwy 70, then over Interstate Hwy 70 to Goodland, KS and return over the same route; and From (b) Oklahoma City, OK over U.S. Hwy 270 to its junction with U.S. Hwy 83, then over U.S. Hwy 83 to its junction with Interstate Hwy 70, then over Interstate Hwy 70 to Goodland, KS and return over the same routes. Applicant intends to tack with its existing authority and any authority it may obtain in the future and interline with other carriers. Supporting shippers: None. Alternate route for the elimination of needless miles as well as fuel savings.

Note.—Common control may be involved.

MC 35320 (Sub-5-24TA), filed May 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common; regular. *General commodities, (except those unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* Between Kansas City, MO and its commercial zone and Chicago, IL and its commercial zone. From (a) Kansas City, MO over Interstate Hwy 35 to its junction with U.S. Hwy 36, then over U.S. Hwy 36 to its junction with U.S. Hwy 66 to Chicago and return over the same route serving no intermediate points; and (b) From Kansas City, MO over Interstate Hwy 35 to its junction with U.S. Hwy 36, then over U.S. Hwy 36 to its junction with Interstate Hwy 55, then over Interstate Hwy 55 to Chicago and return over the same routes serving no intermediate points. Applicant intends to tack with its existing authority and any authority it may obtain in the future and interline with other carriers. Supporting shipper: None. Alternate route for the elimination of needless miles as well as fuel savings.

Note.—Common control may be involved.

MC 35320 (Sub-5-25TA), filed May 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common; regular. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* Between Milwaukee, WI and its commercial zone and Denver, CO and its commercial zone. From Milwaukee, WI over Interstate Hwy 94 to its junction with U.S. Hwy 151, then over U.S. Hwy 151 to its junction with Interstate 380, then over Interstate Hwy 380 to its junction with Interstate Hwy 80 to its junction with Interstate Hwy 76, then over Interstate Hwy 76 to Denver and return over the same route. Supporting shippers: None. Alternate route for the elimination of needless miles as well as fuel savings.

Note.—Applicant intends to tack with its existing authority and any authority it may obtain in the future and interline with other carriers. Common control may be involved.

MC 47583 (Sub-5-6TA), filed May 9, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. *Insulation and insulating materials (except in bulk),* from the facilities of the Rigid-Wrap Division of E O Wood Co., located at or near Ft. Worth, TX to points in AL, AR, KS, LA, MO, MS, NE, NM, OK, TN, and WV. Restricted to traffic originating at the above named facilities and destined to points in the named destination states. Supporting shipper: Rigid-Wrap Division of E O Wood Co., P.O. Box 7416, 712 N. Beach, Ft. Worth, TX 76111.

MC 61231 (Sub-5-2TA), filed May 12, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. Ace Lines, Inc., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. (1) *Cleaning machines and cleaning compounds,* (2) *materials and supplies* used in the distribution of the commodities in (1) above, (a) between Britt, IA, Moline, IL, and Kansas City, MO, and (b) between Britt, IA, and Wichita, KS. Supporting shipper: Britt Tech Corporation, Britt, IA 50423.

MC 67234 (Sub-5-4TA), filed May 12, 1980. Applicant: United Van Lines, Inc., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Vending machines* from Pinedale,

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CA on the one hand, to all points in the United States, on the other (excluding AK, HA, MT, ID, UT, AZ, NV, WA & OR). Supporting shipper: The Vendo Company, 10500 Barkley, Overland Park, KS 66212.

MC 80730 (Sub-5–1TA), filed May 14, 1980. Applicant: MAGNOLIA TRANSPORTATION CO., INC., 5121 Oates Road, P.O. Box 24458, Houston, TX 77012. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. (1) *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines including the stringing and picking up thereof,* (2) *machinery, equipment, materials, and supplies use in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, other than pipe lines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the transportation of shipments moving to or from pipe line rights-of-way, and* (3) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a)* the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, *(b)* the completion of holes or wells drilled, *(c)* the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and *(d)* the injection or removal of commodities into or from holes or wells; between points in LA, on and south of I–10, and Zachary, IA, on the one hand, and, on the other, points in MS, AL, FL and GA. There are nine (9) supporting shippers.

MC 96992 (Sub-5–3TA), filed May 14, 1980. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Such commodities as are dealt in or used by manufacturers of photographic products* from Laredo, TX to the facilities of Eastman Kodak Co. at Rochester, NY. Restricted to the use of vehicles equipped with mechanical refrigeration. Intend to interline with other carriers. Supporting shipper: Eastman Kodak Co. Rochester, NY.

MC 100666 (Sub-5–5TA), filed May 14, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Metal articles* from Greene County, MO to points in AL, AR, IA, IL, KS, KY, LA, MN, MO, NE, ND, OK, TN, TX and WI. Supporting shipper: Ozark Building Systems, Inc., P.O. Box 4942–GS, Springfield, MO.

MC 102567 (Sub-5–9–TA), filed May 12, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, Vice President, Traffic, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Chemicals, liquid, in bulk, in tank vehicles,* from ICI Americans plantsite at Baton Rouge, LA, to points in AL, AR, MS, OK, and TX. Supporting shipper: ICI Americans, New Murphy Rd. and Concord Pike, Wilmington, DE 19897.

MC 106398 (Sub-5–27TA), filed May 12, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Lumber and lumber mill products,* from (1) Fredonia, AZ, to points in TX, NM, OK and MO, and from (2) points in CA, to points in AZ, UT, CO, NM, TX, OK, NE, MO, IL, IN, MI, OH, TN and LA. Supporting shipper: Southwestern Sales, Inc., P.O. Box 25783, Albuquerque, NM 87125.

MC 106398 (Sub-5–28TA), filed May 14, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Paper products, plastic products and accessories,* from Norwood and Cincinnati OH, to points in NY, PA, NJ, NC, SC, TN, FL, TX, IN, IL, MA, WI, VA, WV, GA and AL. Supporting shipper: The C. W. Zumbiel Company, 2339 Harris Avenue, Cincinnati, OH 45212.

MC 106398 (Sub-5–29TA), filed May 14, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Steel products and accessories,* from the facilities of Dixie Electric Manufacturing Company at or near Birmingham, AL, to points in TX, IN, OR, GA, TN, MS, AR, MO, IL, KY, NC and SC. Supporting shipper: Dixie Electric Manufacturing Company, P.O. Box 6298, Birmingham, AL 35127.

MC 112713 (Sub-5–5TA), filed May 13, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Overland Park, KS 66207. Representative: Robert E. DeLand (same as Applicant). *Common;* Regular. *General Commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities of unusual value, those requiring special equipment and commodities in bulk,* serving the facilities of Zodiac of North America, as an off-route point in connection with carrier's otherwise authorized. Applicant intends to tack the authority sought with its authority in MC–112713. Supporting shipper: Zodiac of North America, 11 Lee Street, Annapolis, MD 21401.

MC 113908 (Sub-5–8TA), filed May 12, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Soybean Oil, in bulk,* from Lincoln, NE, and Stuttgart & Helena, AR to Carthage, MO. Supporting shipper: Inland Products, Inc., P.O. Box 430, 545 North Main, Carthage, MO 64836.

MC 114725 (Sub-5–3TA), filed May 12, 1980. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, Nebraska 68110. Representative: Donald F. Swerczek, 2222 North 11th Street, Omaha, Nebraska 68110. *Chemicals, in bulk, in tank vehicles,* from all points in the Continental United States to Omaha, NE. Supporting shipper(s): Nashua Corporation, 3838 South 108th Street, Omaha, Nebraska 68144.

MC 119399 (Sub-5–14TA), filed May, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, Missouri 64801. Representative: Thomas P. O'Hara (same address as applicant). *Glassware,* from Sapulpa, OK to points in CO, IL, IN, KS, MO. Supporting shipper(s): Bartlett-Collins Company, P.O. Box 1288, Sapulpa, OK 74066.

MC 119493 (Sub-5–20TA), filed May 12, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manger, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Furniture, furniture parts, and materials and supplies used in the manufacturing and distribution thereof (except commodities in bulk)* between facilities of O'Sullivan Industries, Inc. in MO on the one hand and points in the U.S. (except AK & HI on the other hand. Supporting shipper: Robert Howarth, Controller, O'Sullivan Ind., Inc., 19th & Gulf Streets, Lamar, MO 64759

MC 119700 (Sub-5–4TA), filed May 13, 1980 Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. *Iron and steel articles,* from the facilities of Nucor Steel Divison at or near Norfolk, NE, to Springfield, MO. Supporting shipper: Central States Stamping, 2958 E. Divison, for steel Supply of the Ozarks, 2332 E. Division, Springfield, MO 65802.

MC 119700 (Sub-5–3TA), filed May 13, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 121 Baltimore Avenue, Kansas City, MO 64105. *Iron and steel articles,* from the facilities of Tennessee Forging Steel, Inc., at or near Newport, AR, to points in IA, IL, IN, LA, MI, MO, MS, OH, TX and WI. Supporting shipper: Tennessee Forging Steel, Inc., d.b.a. Newport Steel, Hwy 67 North & Van Dyke Road, Newport, AR 72112.

MC 119988 (Sub-5–10TA), filed May 13, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. box 1384, Lufkin, TX 75901. Representative: E. Larry Wells, P.O. box 45538, Dallas, TX 75245. *Refrigerators and electronic sound equipment* from San Diego, CA to all points in the U.S. (except AK, HI and CA). Supporting shipper: Sanyo E and E Corp., 4000 Ruffin Road, San Diego, CA 92123.

MC 119988 (Sub-5–11TA), filed May 13, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Spent batteries,* from points in the United States (except AK and HI) to the facilities of RSR Corporation at or near Indianapolis, IN; Los Angeles, CA; and Middletown, NY. Supporting shipper: RSR Corporation, 1111W. Mockingbird, Dallas, TX 75247.

MC 120761 (Sub-5–32TA), filed May 12, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Glint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. *Air conditioners, air conditioning equipment, and accessories, materials and supplies used in connection with air conditioners and air conditioning equipment,* from the facilities of General Electric Company, CAC Division, at or near Fort Smith, AR to points in the United States (except AK and HI). Supporting shipper: General Electric Company, CAC Division, 4811 So. Zero St., Fort Smith, AR 72903.

MC 123987 (Sub-5–3TA), filed May 12, 1980. Applicant: JEWETT SCOTT TRUCK LINE, INC., P.O. Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr., P.O. Box 267, Mangum, OK 73554. *Wire products, material, equipment and supplies used in the manufacture of wire products,* between Madill, OK on the one hand, on the other, points in AR, KS, MO, IL, IA, IN, NE, TX, AZ, CO, LA, NM, ND, SD and WY. Supporting shipper: Oklahoma Steel and Wire Company, Inc., P.O. Box 220, Madill, OK.

MC 126118 (Sub-5–17TA), filed May 12, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in by manufacturers and distributors of pet food (except commodities in bulk, in tank vehicles),* from Dodge City, KS and its commercial zone to points in IL, IN, IA, MO, NE, OH and WI. Supporting shipper: Consolidated Pet Foods, Inc., Gene Bedford, Vice President of Administration, 1450 Cottonwood St., Denver, CO 80204.

MC 128273 (Sub-5–9TA), filed May 12, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Diatomaceous earth in bags,* from Maricopa, CA, to points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY. Restricted to traffic which originates at the facilities owned or utilized by Lowe's, Inc. Supporting shipper: Lowe's, Inc., 348 S. Columbia St., South Bend, IN 46601.

MC 129908 (Sub-5–19TA), filed May 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. *Aluminum Foil, with or without paper or plastic or cellulose film backing; wrappers, packets or pouches, laminated construction, NOI; Boxes, fiberboards, O/T corregated, KDF; miscellaneous packaging materials; aluminum sheet* from the facilities of RJR Archer, Inc., Winston-Salem, NC to the states of AZ, AR, CA, CO, IL, IN, KS, KY, LA, MO, OK, OR, TN, TX and WA. Supporting shipper: RJR Archer, Inc., Reynolds Bldg., 4th & Main Streets, Winston-Salem, NC 27102.

MC 134286 (Sub-5–8TA), filed May 12, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). *(1) Household appliances and (2) Materials and supplies used in the manufacture and distribution of (1) above (except commodities in bulk in (1) and (2) above),* from the facilities of Edison Products Corporation at Edison, NJ, to points in FL. Supporting shipper: Edison Products Corporation, Route 27 at Vineyard Road, P.O. Box 337, Edison, NJ 08817.

MC 134286 (Sub-5–9TA), filed May 12, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* from points in Bradford, Columbia, Franklin, Lackawanna, Lehigh, Luzerne, Lycoming, Montour, North Hampton, North Umberland, Schuyl, Tioga, and Wayne Counties, PA, and Broome, Cayuga, Chemung, Chenango, Cortland, Onondaga, Schuyler, Seneca, Steuben, Tioga, Tompkins, and Yates Counties, NY, to points in IL, TX, CA, OR, WA, MO, OH, and MI. Restricted to transportation originating at or destined to the facilities utilized by either the Northeastern Pennsylvania Shipper's Co-Op Association, Inc., or of its members; and restricted to shipments on bills of lading of shipper's associations. Supporting shipper: Northeastern Pennsylvania Shipper's Co-Op Association, Inc., Nelson Building, W. Eighth Street, West Wyoming, PA 18644.

MC 134755 (Sub-5–4TA), filed May 12, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Missouri 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, Missouri 65804. *(1) Crockpots, machinery, small kitchen appliances, iron and steel articles, earthenware, household appliances, electric heaters, pumps, kitchen utensils, glassware, and fans, and (2) equipment, materials, and supplies used in the manufacture and sale of those items in (1) (except commodities in bulk)* between points in Missouri on the one hand, and on the other hand, points in the United States (except AK and HI). Supporting shipper: Rival Manufacturing Company, 3600 Benington Street, Kansas City, Missouri 64129.

MC 135797 (Sub-5–32TA), filed May 12, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Foodstuffs (except in bulk),* from the facilities of M&M/MARS, Snack-master Division at Albany, GA, to AZ, CA, CO, FL, IL, IN, LA, MA, MD, MI, MN, MO, NC, NJ, OH, OR, PA, TN,

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TX, UT and to points therein. Supporting shipper: M&M/MARS, Snack-Master Division, P.O. Box 3289, Albany, GA 31706.

MC 135797 (Sub-5–33TA), filed May 14, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). (1) *Such commodities as are produced by manufacturers of air conditioning units, furnaces, stoves and* (2) *materials, equipment ans supplies used in the manufacture and distribution of the commodities named in (1) above,* between points in and east of MN, IA, NE, CO, OK and TX and points in CA. Restricted to traffic originating at or destined to the facilities of the Carrier Corporation. Supporting shipper: Carrier Corporation, P.O. Box 4800, Syracuse, NY 13221.

MC 136786 (Sub-5–21TA), filed May 12, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, Iowa 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. *Milk food products (except in bulk, and except frozen foods), plastic articles, rubber articles and drugs* from Sturgis, MI and Columbus, OH to points in CA, restricted to shipments involving substitution of trailer on flatcar service for over-the-road motor carrier service for a portion of the through movement. Supporting shipper: Ross Laboratories, Inc., 625 Cleveland Avenue, Columbus, OH 43216.

MC 136786 (Sub-5–22TA), filed May 12, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, Iowa 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. *Canned goods* from the facilities of Skyland Foods Corporation at or near Delta, CO to points in AR, AZ, CA, IA, IL, KS, LA, MO, NE, NV, NM, OK and TX. Supporting shipper: Skyland Foods Corporation, P.O. Box 250, Delta, Colorado 81416.

MC 136786 (Sub-5–23TA), filed May 12, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, Iowa 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. *1) Malt beverages and 2) empty beverage containers and materials and supplies used in and dealt with by breweries* between points of entry on the International Boundary Line between the United States and Canada located at points in MI, NY and VT, on the one hand, and, on the other, points in UT. Supporting shipper: Molson's Brewery (Ontario) Limited, 640 Fleet Street, Toronto, Canada.

MC 139457 (Sub-5–3TA), filed May 13, 1980. Applicant: G. L. SKIDMORE, d.b.a. JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Contract* irregular *Canned Foodstuffs,* from the facilities of the Owatonma Canning Company at or near Owatonna, MN, to points in CO, NM and TX. Supporting shipper: Owatonma Canning Company, Owatonna, MN.

MC 139850 (Sub-5–1TA), filed May 12, 1980. Applicant: FOUR STAR TRANSPORTATION, INC., P.O. Box 77, Underwood, IA 51576. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* from Omaha, NE and Harlan, IA to the facilities of Goehring Meat, Inc., Reno, NV and Lodi, CA. Supporting shipper: Goehring Meat, Inc., P.O. Box 147, Lodi, CA 95240.

MC 141865 (Sub-5–3TA), filed May 14, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Buidling, Fort Worth, TX 76102. *Contract;* Irregular. *Glassware and glass containers and enclosures therefor,* from (1) the warehouse and facilities of Barlett-Collins Company located at or near Sapulpa, OK to points in TX, KS, AR, MO, LA, IN, and CO under a contract or contracts with Barlett-Collins Company; (2) the warehouse and facilities of Ball Corporation located at or near Okmulgee, OK to points in AR, LA, and TX under a contract or contracts with Ball Corporation; (3) the warehouse and facilities of Midland Glass Company, Inc., located at or near Henryetta, OK to points in TX, IN, IL and IA under a contract or contracts with Midland Glass Company, Inc.; and (4) the warehouse and facilities of Kerr Glass Company located at or near Sand Springs, OK to points in KS, LA and TX under a contract or contracts with Kerr Glass Company. Supporting shippers: Barlett-Collins Company, P.O. Box 1288, Sapulpa, OK 74066; Ball Corporation, 345 South High Street, Muncie, IN 47302; Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721; and Kerr Glass Manufacturing Corporation, P.O. Box 97, Sand Springs, OK 74063.

MC 143978 (Sub-5–1TA), filed May 12, 1980. Applicant: EMERSON DELIVERY, INC., P.O. 652, Cedar Rapids, IA 52406. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract* irregular *Machine parts,* between the facilities of FMC Corporation at Bannockburn, IL, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, OK and TX, under continuing contract(s) with FMC Corporation. Supporting shipper: FMC Corporation, 2800 Lake Side Drive, Bannockburn, IL 60015.

MC 144622 (Sub-5–26), filed May 12, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such commodities as are dealt in by wholesale, retail, discount stores (except commodities in bulk and articles requiring specialized equipment)* between Columbus, Maryville and Vermilion, OH on the one hand and on the other hand, points in the United States (except AK and HI). Supporting shipper: O. M. Scott, 333 N. Maple Street, Marysville, OH 43040.

MC 144622 (Sub-5–27TA), filed May 19, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such merchandise as is dealt in by retail, wholesale and discount stores (except commodities in bulk)* between St. Joseph County, MI on the one hand and on the other hand, points in the U.S. (except AK and HI). Supporting shipper: Ross Laboratories, 625 Cleveland Avenue, Columbus, OH 43216.

MC 144622 (Sub-5–28TA), filed May 15, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Containers, container closures, glassware, container components, scrap materials, equipment & supplies used in the manufacture, sale and distribution of the foregoing commodities (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment)* between points in TX, TN, AR, Kansas City, KS; restricted to movement from, to, or between the facilities of Glass Container Corporation. Supporting shipper: Glass Containers Corporation, 1301 South Keystone Avenue, Indianapolis, IN 46203.

MC 144682 (Sub-5–3TA), filed May 12, 1980. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Foodstuffs (except commodities in bulk),* from (1) Fresno County, CA, to points in ID, OR, UT, and WA. (2) From Sherman, TX to

points in AZ. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 226165, Dallas, TX 75266.

MC 145152 (Sub-5–6TA), Filed May 12, 1980. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. (1) *Containers, container ends and closures,* (2) *commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers and* (3) *materials, equipment and supplies used in the manufacture and distribution of containers, container ends, and closures, (except commodities in bulk)* between all points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at or destined to the facilities of Libbey Glass Div. of Owens-Illinois, Inc. Supporting shipper: Libbey Glass Div. of Owens-Illinois, Inc. of Toledo, OH.

MC 146765 (Sub-5–2TA), filed May 13, 1980. Applicant: DAYTON ENTERPRISES, INC., 110 First Avenue, Clarence, IA 52216. Representative: Donald S. Mullins, 1033 Graceland Avenue, DesPlaines, IL 60016. *Furnaces,* from St. Paul, MN, to all points in the United States, except points in AK, HI, and MN. Supporting shipper: Applied Air Systems, 2475 Doswell Ave., St. Paul, MN.

MC 147196 (Sub-5–4TA), filed May 12, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA 70150. *Contract* irregular; *chemicals, cleaning compounds, detergents and drilling mud additives (except commodities in bulk) in barrels, pails, bags, boxes or cartons* from the facility of Cole Chemical and Distributing Co., Houston, TX to all points in the following states: AL, AR, CA, CO, CT, IL, IN, GA, IA, LA, MA, MI, MS, MO, NY, NJ, NC, OK, SC, TN, WY, WV, WA. Supporting shipper: Cole Chemical & Distributing Company, 13301 Old Beaumont Highway, Houston, TX, 77067.

MC 147388 (Sub-5–3TA), filed May 12, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., Rural Route 1, Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, P.O. Box 81849, Lincoln, NE 68501 *Plastic articles (except in bulk),* between Traverse City, MI, on the one hand, and, on the other, Grand Island, NE, and Dallas, TX, and points in their respective commercial zones, restricted to traffic originating at or destined to GIA, Inc., a division of Burwood Industries. Supporting shipper: GIA, Inc., Steven S. Stauffer, Plant Manager, P.O. Box 2095, Grand Island, NE, 68801.

MC 148326 (Sub-5–1TA), filed May 12, 1980. Applicant: THIES TRANSPORTATION, INC., P.O. Box 49, Great Bend, KS 67530. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Contract;* Irregular. *Toilet preparations, household and industrial cleaning products, brooms, brushes, mops, insect repellents, grooming aids, medicated sprays and promotional materials* (except in bulk), from Great Bend, KS to Des Moines, IA; Oklahoma City, OK and Dallas, TX. Supporting shipper: The Fuller Brush Company, P.O. Box 729, Westport Addition, Great Bend, KS 67530.

MC 148594 (Sub-5–1TA), filed May 13, 1980. Applicant: WESTERN CARGO CARRIERS, INC., 2345 Grand Avenue, P.O. Box 23428, Kansas City, MO 64141. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. *Contract,* irregular, *General commodities, except those of unusual value, classes A and B explosives, commodities in bulk, commodities injurious to other lading, and household goods as defined by the Commission,* between the facilities of Hallmark Cards, Inc., at Kansas City, MO, on the one hand, and, on the other, points in CA, under continuing contract with Hallmark Cards, Inc., of Kansas City, MO. Supporting shipper: Hallmark Cards, Inc., Liberty, MO.

MC 148703 (Sub-5–1TA), filed December 18, 1979. Applicant: HUGH MADEWELL & BILLY MADEWELL, INC., P.O. Box 386, Jones, OK 73049. Representative: Ray K. Babb, Jr., 1108 N.W. 16th, Oklahoma City, OK 73106. *Corrosive scrap metal, materials and supplies used in the manufacture of lead ingots and lead ingots,* between the facilities of Refined Metals Corporation in Memphis, TN, Birmingham, AL, St. Louis and Kansas City, MO, Burlington, IA, Dallas, TX, Oklahoma City, OK, Logansport, IN, Lonoke, AR, and Jacksonville, FL. Supporting shipper(s): Refined Metals Corporation, 1108 N.W. 16th, Oklahoma City, OK 73106.

MC 150496 (Sub-5–2TA), filed May 13, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri, Post Office Box 188, Tontitown, AR 72770. *Such commodities as are dealt in or used by wholesale and retail discount and variety stores, (except in bulk).* From points in CT, DE, FL, GA, IN, IA, ME, MD, MA, MI, MN, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, VT, VA, WV and WI to points in AL, AR, IL, KS, KY, LA, MO, MS, OK, TN and TX. Restricted to traffic originating at or destined to the facilities of Wal-Mart Stores, Inc. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 150578 (Sub-5–2TA), filed May 12, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive Mesquite, TX 75150. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Alcoholic beverages and wines in packages,* from NY, NJ, IL, KY, CA, Fairless Hills and Philadelphia, PA, New Orleans, LA, Detroit and Allenpark, MI, Lawrenceburg, IN, Lynchburg & Tallahoma, TN, St. Louis and Weston, MO, Landsdown, MD, and Boston, MA, to TX, Little Rock, AR, Shreveport, Lafayette, and Harahan, LA, and Phoenix and Tucson, AZ. Supporting shipper(s): Glazer's Wholesale Drug Company, Inc., 508 Park Avenue, Dallas, Texas.

MC 150578 (Sub-5–3TA), filed May 13, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive Mesquite, TX 75150. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Merchandise as dealt in by wholesale and retail chain grocery and food business houses,* from WI, CA, FL, and Milan, IN, Austin, IN, Elwood, IN, St. Louis, MO, Minneapolis, MN, Chicago, IL, Dunkirk, NY, and Atlanta, GA, to points in the state of TX, Van Buren, AR, Albuquerque, NM, Shreveport, LA, Monroe, LA, Oklahoma City, OK, Tulsa and Durant, OK, and Concordia, KS. Supporting shipper(s): Federated Foods, Inc., 13750 Omega Road, Farmers Branch, TX 75240.

MC 150578 (Sub-5–4TA), filed May 13, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive Mesquite, TX 75150 Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A & C to Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except commodities in bulk) frozen or unfrozen,* from San Antonio, TX, to CA, Chicago, IL, Williamsburg, VA, Colorado Springs, CO, Landover, MD, Bayonne, NJ, New Orleans, LA, Gulfport, MS, and Laredo, TX, for 180 days. Supporting shippers(s):The Roegelein Company, P.O. Box 1698, San Antonio, TX 78296.

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MC 150604 (Sub-5–1TA), filed May 12, 1980. Applicant: LEAMON DARRELL PITTMAN, 1504 Broadview Drive, Oklahoma City, OK 73127. Representative: (Same as above). *Contract* irregular; *aerial devices, bodies and other equipment manufactured by UEC Manufacturing Company of Oklahoma City, OK, by flatbed trailer and equipment used in the manufacturing process by UEC Manufacturing Company* from Oklahoma City, OK to all UEC Manufacturing Company dealer points across the United States. Supporting shipper: UEC Manufacturing Company, P.O. Box 18879, Oklahoma City, OK 73154.

MC 150802 (Sub-5–1TA), filed May 13, 1980. Applicant: NORTHWEST IOWA EXPRESS, INC., 4311 Tyler, Sioux City, IA 51108. Representative: Mayer Kanter, 232 Davidson Bldg., Sioux City, IA 51101. *Silica sand,* from Garnavillo, IA, and Ottawa, MN, to South Sioux City, NE. Supporting shipper: Sioux City Foundry, 801 Division, Sioux City, IA 51105.

MC 150804 (Sub-5–1TA), filed May 12, 1980. Applicant: M & M CARTAGE, INC., 1621 E. 17th Street, Des Moines, IA 50316. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier* irregular (1) *Hydrants and faucets, and* (2) *parts and packaging materials for the commodities names in* (1) above, between the facilities of Woodford Manufacturing Co. at Des Moines, IA, Denver and Colorado Springs, CO, under continuing contract(s) with Woodford Manufacturing Co. Supporting shipper(s): Woodford Manufacturing Co., 2121 Waynoka Road, Colorado Springs, CO 80932.

MC 150806 (Sub-5–2TA), filed May 12, 1980. Applicant: WECO, INC., 500 Scott Street, P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, Esq., 719 Capitol Federal Bldg., Topeka, KS 66603. *Contract;* Irregular. *Foods Stuffs (viz) Bread Making Compound, Edible Flour, Fatty Acids Esters, and Mono-Di or Triglycerides of fact forming fatty acids,* from the facilities of Patco Products at or near Grandview, MO. to all points and places in the United States except those located in AK, HI and MO. Supporting shipper: C. J. Patterson Co. (Patco Division), 13830 Botts Road, Grandview, MO 64030.

MC 150807 (Sub-5–1TA), filed May 13, 1980. Applicant: DONALD WILKINSON, d.b.a. WILCO BUS SERVICE, 2035 Delaware, Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Common,* regular; transporting *passengers* in commuter service, as follows: From Galena, IL, over US Hwy 20 to Dubuque, IA, serving the intermediate points of East Dubuque, IL. From Dubuque, IA, over US Hwy 52 to junction IA Hwy 386. Thence over IA Hwy 386 to plant site of John Deere Dubuque Works, and return. From Benton, WI, over WI Hwy 11 to junction WI Hwy 35, serving intermediate point of Hazel Green, WI. Thence over WI Hwy 35 to junction IL Hwy 35. Thence over IL Hwy 35 to junction US Hwy 20, serving the intermediate point of East Dubuque, IL. From East Dubuque, IL, over US Hwy 20 to Dubuque, IA. From Dubuque, IA, over US Hwy 52 to junction IA Hwy 386. Thence over IA Hwy 386 to the plant site of John Deere Dubuque Works, and return. Areas to be served in above are East Dubuque, IL (including Mt. Vernon Subdivision and Pioneer Acres along US Hwy 20, near East Dubuque, IL), Galena, IL, Dubuque, IA, John Deere Works near Dubuque, IA, Benton and Hazel Green, WI. Supporting shipper: There are 44 individuals supporting this application at time of submittal.

MC 150808 (Sub-5–1TA), filed May 12, 1980. Applicant: ROBERT MALADY, d.b.a. MALADY TRUCK SERVICE, 2115 Salisbury St., St. Louis, MO 63107. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. (1) *Glass containers,* from the facilities of Midland Glass Company, Inc., at Terre Haute, IN, to St. Louis, MO; and, (2) *Materials and supplies* used in the manufacture and distribution of glass containers (except in bulk), from the St. Louis, Mo.-East St. Louis, IL. Commercial Zone, to Terre Haute, IN. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721.

MC 150809 (Sub-5–1TA), filed May 12, 1980. Applicant: CENTURY CONCRETE CO., Highway 38 North, Monticello, IA 52310. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract* irregular *cement, dry, in bulk,* from Rock Island, IL, and Buffalo, IA, to Galena, Stockton and Warren, IL, and Dubuque and Epworth, IA, under contract with Flynn Ready Mix Inc. Supporting shippers: Flynn Ready Mix Inc., Dubuque, IA 52001 and of Epworth, IA 52045.

MC 150811 (Sub-5–1TA), filed May 14, 1980. Applicant: LEONARD SAMPLE, d.b.a. SUPREME TRANSPORT CO., 3022 Bel Air Drive, Council Bluffs, IA 51501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Meat and packinghouse products.* From Omaha and Schuyler, NE; Oakland, IA and Sioux Falls, SD, to Concord, Manchester and Nashua, NH and Lowell, MA and points in their commercial zones. Supporting shipper: Nashua Beef Co., Inc., 22 East Hollis Street, Nashua, NH 03060.

MC 150812 (Sub-5–1TA), filed May 4, 1980. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Contract* Irregular (1) *Bakery products, materials, supplies and equipment used in the manufacture, sale and distribution of bakery products* between Longview, TX on the one hand, and, on the other hand, Beaverton, OR. (2) *Bakery Products,* from Longview, TX and Beaverton, OR to Buena Park, CA, Milwaukee, OR, Fosteria, OH, Elk Grove Village, IL, Kansas City, MO, Kansas City, KS, San Jose, CA, Orangeburg, SC, Foxboro, MA, Columbus, OH, Sparks, NV, Anaheim, CA, Los Angeles, CA, Waltham, MA, Minneapolis, MN, Denver, CO, Des Plaines, IL, Morrow, GA, Pittsburgh, PA, Mechanicsburg, PA, Milpitas, CA, Santa Cruz, CA, Memphis TN, Atlanta, GA, Louisville, KY and Nashville, TN and their commercial zones. (3) *Such products used in the manufacture of bakery goods* from Vernon, CA, Louisville, KY, Richmond, IN, Burlingame, CA, Fresno, CA, Dallas, TX, New Orleans, LA, Muncy, IN and Atlanta, GA, Fosteria, OH, Harvey, LA, Los Angeles, CA, Supreme, LA, Cedar Rapids, IA, Tucson, AZ and Atlanta, GA to Longview, TX and Beaverton, OR. Supporting shipper(s): Grandma's Foods, Inc., 6220 SW 112th St., Beaverton, OR 97075.

MC 150812 (Sub-5–2TA), filed May 14, 1980. Applicant: FROST TRANSPORTTION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Contract* Irregular *General Commodities (except household goods, commodities in bulk, commodities which because of their size or weight require special equipment and Classes A and B explosives)* (1) Between the facilities of Gould, Inc. at Eau Claire, WI, Lake City, MN, St. Louis, MO, Salem, IN, Valley View, OH, Santa Clara, CA, El Monte, CA, Cleveland, OH, Oxnard, CA, Andover, MA, Rolling Meadows, IL, Victor, NY, Downey, CA, Greensburg, PA, Chalfont, PA, Colmar, PA, Springhouse, PA, Bland, VA, Florence, SC, Fort Washington, PA, Horsham, PA, Philadelphia, PA, West Columbia, SC, Woodruff, SC, Norristown, PA, Atlanta, GA, Dallas, TX, Dayton, Oh, Fallcroft, PA, Manitowoc, WI, Portland, OR, Chicago, IL, East Brunswick, NJ, Los Angeles, CA, Glen Burnie, MD, Tucker, GA, Fort Worth, TX, San Diego, CA, Melville, NY, Farmingdale, NY, Angola, IN, Milan, OH, Napoleon, OH, Bridgeport, OH, Caldwell, OH, McConnellsville, OH, Chandler, AZ, City of Industry, CA, Dunmore, PA, Farmers Branch, TX, Lynchburg, VA, Memphis, TN, Orlando, FL, Salem, OR, Shreveport, LA, St. Paul, MN, Zanesville, OH, Fort Smith, AR, Kankakee, IL, Trenton, NJ, Frisco, TX, Omaha, NE, Vicksburg, MS, Eagan, MN, Bedford, OH, Belle Fontaine, OH, Bellmawr, NJ, Finksburg, MD, Jacobus, PA, Lancaster, PA, Marysville, OH, Plantsville, CT, Plymouth Meeting PA, Spartanburg, SC, Tampa, FL, Urbana, OH, Westminster, MD, Wilmington, NC, Newburyport, MA, LaVergne, TN, Lexington, TN, McMinnville, TN, Watertown, NY, Lincoln, NE; (2) From the above described points to points in the US (except AK and HI) and return. Supporting shipper(s): Gould, Inc., 10 Gould Center, Rolling Meadows, IL 60008.

MC 145955 (Sub-No. 5–1TA), filed April 14, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products (except hides and commodities in bulk).* From the facilities of Spencer Foods, Inc. at Oakland, IA to Chicago, IL. Supporting shipper: Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661.

MC 140717 (Sub-5–10TA), filed April 23, 1980 . Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract;* Irregular. *Meat, meat products and meat by-products and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in IA, and Fairmont, MN, Sedalia, MO, Lincoln, NE, Cincinnati, OH, Oklahoma City, OK and San Antonio, TX, to Greenville, MS, under a continuing contract with Distribuco, Inc., of Denver, CO. Supporting shipper: Distribuco, Inc., P.O. box 280, Greenville, MS 38701.

MC 140717 (Sub-5–10TA), filed April 23, 1980. (republication) Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract;* Irregular. *Meat, meat products and meat by-products and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in IA, and Fairmont, MN, Sedalia, MO, Lincoln, NE, Cincinnati, OH, Oklahoma City, OK and San Antonio, TX, to Greenville, MS, under a continuing contract with Distribuco, Inc., of Denver, CO. Supporting shipper: Distribuco, Inc., P.O. box 280, Greenville, MS 38701.

MC 129032 (Sub-5–3TA), filed April 10, 1980. (republication) Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, OK 74121. Representative: Larry J. Kramer, 5656 South 129th East Avenue, Tulsa, OK 74121. *Sugar,* from Supreme, LA to the facilities of Bunte Candies, Inc. at Oklahoma City, OK. Applicant intends to tack this authority with presently held authority. Supporting shipper: Bunte Candies, Inc., 129 East California, Oklahoma City, OK 73126.

MC 136786 (Sub-5–18TA), filed May 15, 1980. (republication) Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Foodstuffs, except in bulk, in tank vehicles,* from the facilities of Aunt Jane's Foods, Inc., at or near Croswell, MI to points in CT, DC, DE, MD, MA, ME, NH, NJ, NY, PA, RI, and VT. Supporting shipper: Aunt Jane's Foods, Inc., 55 East Sanborn Avenue, Croswell, MI 48422.

MC 112713 (Sub-5–3TA), filed April 14, 1980. (republication) Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: R. E. DeLand, P.O. box 7270, Overland Park, KS 66207. Common; Regular. *General Commodities (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment),* between Beaumont, TX and Baton Rouge, LA serving all intermediate points and their commercial zones and serving the off-route point of Abbeville, LA, and its commercial zone. From Beaumont, TX over U.S. Hwy 90 to Baton Rouge, LA and return over the same route. Supporting shippers: 32 supporting shippers.

MC 3062 (Sub-5–2TA), filed April 10, 1980 (republication). Applicant: INMAN FREIGHT SYSTEM, INC., 321 N. Spring Ave., Cape Girardeau, MO 63701. Representative: C. H. Boles (same address as applicant). Common, Regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between Cairo, IL and Paducah, KY, over U.S. Highway 60, serving all intermediate points. Applicant intends to tack this authority with presently held authority and to interline at Evansville, IN, St. Louis, MO, Memphis, TN, and Decatur and Springfield, IL. Supporting shippers: Central Service, Credence Speakers, and Tele-Service, Kevil, KY 42053.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 149195 (Sub-65–TA), filed May 12, 1980. Applicant: ARCADIAN MOTOR CARRIERS, 1631 Simpson, Kingsburg, CA. 93631 Representative: James F. Hauenstein (same address as applicant). (1) *Labels, plain, gummed, or lithographed, printed or not printed in packages.* (2) *Bottle filling and labeling machines.* (3) *Material and supplies used in the manufacturing or distribution of the commodities in* (1) *and* (2) *above.* (Restricted to traffic originating at or consigned to the facilities of Avery Label), from Azusa, CA to points in the United States in the east of MT, WY, CO, and NM, for 180 days. Supporting shipper: Avery Label, 777 East Foothill Blvd., Azusa, CA.

MC 150292 (Sub-6–1TA), filed May 12, 1980. Applicant: WALTER J. FREDERICKS and EVERT FREDERICKS, d.b.a. AURORA PACIFIC TRUCKING, 12966 Maple Leaf Court, NE, Aurora, OR 97002. Representative: Philip G. Skofstad, 1525 NE Weidler, Portland, OR 97232. *Contract Carrier,* Irregular routes: *Taco shells, corn and flour tortillas, taco sauce and seasoning, tortilla chips and mesa mix,* from McMinnville, OR, to points in ND, SD, MN, CO, OK, IL, and IA, and from Brenda, CA to Rapid City, SD, and Minneapolis, MN, for the account of Diane's Foods, Inc., for 180 days. Supporting shipper: Diane's Foods, Inc., P.O. Box 419, McMinnville, OR 97128.

MC 150608 (R–6–1TA), filed May 12, 1980. Applicant: CHEYENNE ROAD TRANSFER LTD, an Alberta, Canada Corporation, 232 38th Avenue NE, Calgary, Alberta, Canada T2E 2N2. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. (1) *Soda ash, soda ash derivatives and potassuim sulphate;* (2) *Potash and potassium choloride* from: (1) points in

MT, UT and WY to ports of entry on the international boundary line between the U.S. and Canada located in ND and MT. (2) from ports of entry on the international boundary line between the U.S. and Canada located in ND and MT to points in MT, UT and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Prairie Industrial Chemicals, Ltd., 2302 Hanselman Avenue, Saskatoon, Saskachewan, S7L 5Z3 Canada.

MC 136605 (Sub-6–8TA), filed May 12, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Railroad Ties* from the State of Idaho and Polson, MT to the U.S.-Canadian boundary in the State of MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: J & D Lumber Company, Route 1, Box 43, Polson, MT 59860.

MC 136605 (Sub-6–9TA), filed May 12, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Rigid Poly Urethane Insulation Board,* from the facilities of Apache Building Products Company, located at or near Salt Lake City, Utah to points in the States of WA, OR, CA, AZ, NV, KS, ID, MT, WY, CO, NM, TX, OK, SD, ND, NE for 180 days. Supporting shipper: Apache Building Products Company, 20 East Union Avenue, North Salt Lake, UT 84054.

MC 148087 (Sub-6–1TA), filed May 9, 1980. Applicant: BIG K CORPORATION, d.b.a. DIAMOND TRANSPORT, P.O. Box 35, Kanosh, UT 84637. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Drilling fluids used in the development and production of petroleum products, geo-thermal energy and minerals* between UT and AZ, restricted against the transportation of petroleum and petroleum products, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Home Petroleum Corporation, 2600 N. Loop W. Suite 400, Houston, TX 77092.

MC 115827 (Sub-6–9TA), filed May 12, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). *Diamaceous earth in bags* from Maricopa, CA to points in and west of MT, WY, CO, NM, and TX (except AK and HI). Restricted to the transportation of traffic originating at the facilities used by Lowe's, Inc. at or near Maricopa, CA and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lowe's, Inc., 348 South Columbia Street, South Bend, IN 46601.

MC 117823 (Sub-6–1TA), filed May 9, 1980. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC, 1915 South 900 West Street, Salt Lake City, UT 84104. Representative: Jeffrey A. Knoll, 5565 East 52nd Avenue, Commerce City, CO 80022. *Frozen foods,* (except in bulk) from points in CA to points in ID, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are seven (7) supporting shippers. Their statements may be examined at the regional office listed.

MC 149394 (Sub-6–1TA), filed May 12, 1980. Applicant: EAGLE FREIGHTLINES CORPORATION, 1005 N. College, Ft. Collins, CO 80524. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Contract carrier,* Irregular routes: *Meat and meat by-products* from Fort Morgan, CO to New York City and Rochester, NY, Boston and Springfield, MA, Sharron and Philadelphia, PA, Port Elizabeth, NJ, Baltimore, MD, and Washington, DC, for 180 days. Supporting shipper: Sterling Colorado Beef Company, Post Office Box 1728, Sterling, CO 80751.

MC 125996 (Sub-6–1TA), filed May 12, 1980. Applicant: GOLDEN TRANSPORTATION, INC., 2200 South 400 West, Salt Lake City, UT 84115. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Frozen potato products,* from Pasco, Quincy, Connell, Richland, and Moses Lake, WA; Portland and Hermiston, OR; Clearfield, UT; Nampa and American Falls, ID to points in IA, Rock Island, IL and Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Benolken Brokerage and Unifoods, Inc., P.O. Box 1006, Clive, IA 50053.

MC 144130 (Sub-6–2TA), filed May 12, 1980. Applicant: RUSSELL GRILLS d.b.a. GRILLS TRUCKING, 19919 82nd Avenue, Langley, B.C., Canada. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. *Contract carrier,* irregular routes: *flat glass* and *flat glass products* from Lathrop, CA to ports of entry on the US-Canada boundary line in WA, restricted to traffic moving under continuing contract or contracts with Libbey-Owens-Ford Company, Toledo, OH, for 180 days. Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, OH 43695.

MC 98320 (Sub-6–2TA), filed May 12, 1980. Applicant: JACKSON-ROCK SPRINGS STAGES, INC., 514 Lewis Street, Rock Springs, WY 82901. Representative: James P. Zanetti, 514 Lewis Street, Rock Springs, WY 82901. *Passengers and their baggage in charter operations* between points in Sweetwater, Teton, and Sublette counties in WY and points in NV, OR, and MT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 18 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 150787 (Sub-6–1TA), filed May 9, 1980. Applicant: LAKE TAHOE TRANSPORTATION SYSTEMS, INC., 1000 Emerald Bay Rd., P.O. Box 10616, So. Lake Tahoe, CA 95731. Representative: William A. Piper, 310 Columbine Trail, P.O. Box 18 30, So. Lake Tahoe, CA 95706. *Passengers and their baggage,* between points and places in El Dorado, Placer, Alpine and Calaveras Counties, CA, and Douglas County, Washoe County and Carson City, NV for 180 days. Restricted to service to be performed in vehicles having a passenger capacity of not more than 15 persons. Supporting shipper(s): Lake Tahoe KOA, Box 11552, Tahoe Paradise, CA 97508; El Dorado County Lake Tahoe Airport, Box TD, South Lake Tahoe, CA 95731; Sahara Tahoe Hotel, Stateline, NV.

MC 138026 (Sub-6–3TA), filed May 12, 1980. Applicant: LOGISTICS EXPRESS, INC., Etiwanda and Slover Avenues, Fontana, California 92335. Representative: David P. Christianson of Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. *Compressed Gases,* between Los Angeles County, CA, and San Mateo County, CA, on the one hand, and, on the other, AZ, UT, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Air Products & Chemicals, Inc., 2021 East Rosecrans Boulevard, El Segundo, CA 90245.

MC 150793 (Sub-6–1TA), filed May 12, 1980. Applicant: MARINE TRANSPORT SERVICE, INC., P.O. Box 4523, Portland, OR 97208. Representative: Robert R. Hakanson (same as applicant). *Contract carrier:* irregular routes: (1) *General commodities,* except Class A & B explosives, in containers or trailers, having prior or subsequent movement by water, and empty containers, trailers or chassis, between the facilities of Marine Intermodal Cooperative Association in CA, OR and WA on the one hand, and, on the other, points in CA, ID, OR and WA, for 180 days. Supporting shipper: Marine Intermodal Cooperative Association, P.O. Box 3471, Portland, OR.

MC 142686 (Sub-6–7TA), filed May 12, 1980. Applicant: MID-WESTERN

TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular Routes: *Aluminum, Aluminum articles, materials and supplies used in the manufacture and distribution thereof,* Between the facilities of Howmet Aluminum Corporation, located at points in the United States on the one hand, and, on the other, points in the United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Howmet Aluminum Corporation, 475 Steamboat Road, Greenwich, Conn. 06830.

MC 97710 (Sub-6–1TA), filed May 8, 1980. Applicant: PETERS TRUCK LINES, INC., 905 South Main Street (P.O. Box 218), Yreka, CA 96097. Representative: John Paul Fischer, Silver, Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, CA 94104. *Common,* regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk in tank vehicles, and used household goods as defined by the Commission), between Modesto, CA and Tulare, CA, over U.S. Hwy 99 to Tulare, CA and return over the same route, serving all intermediate and off-route points in the CA counties of Merced, Madera, Kings, Fresno and Tulare, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 24 shippers. Their statements may be examined at the Regional office listed.

Note.—Applicant intends to tack and interline.

MC 138875 (Sub-6–11TA), filed May 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: F. L. Sigloh, (same address as applicant). *Chemicals (except commodities in bulk),* between points in ID, OR, UT, WA and WY, for 180 days. Supporting shippers(s): Great Western Chemical Company, 808 S.W. 15th Ave, Portland, OR 97205.

MC 128246 (Sub-6–4TA), filed May 12, 1980. Applicant: SOUTHWEST TRUCK SERVICE, a California corporation, P.O. Box AD, Watsonville, CA 95076. Representative: Albert C. Parolini (same as Applicant). *Glassware,* from Sapulpa, OK to points in IL, MN and WI for 180 days. Supporting shippers: E. L. Graham, Traffic Manager, Bartlett-Collins Co., P.O. Box 1288, Sapulpa, OK 74066.

MC 113271 (Sub-6–2TA), filed May 12, 1980. Applicant: TRANSYSTEMS INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Solar panels and materials, equipment and supplies used or useful in the manufacture, distribution and installation of solar panels,* between Great Falls, MT and points in the U.S. except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sun Wise, Inc., North Park Industrial Park, Great Falls, MT 59401.

MC 147805 (Sub-6–1TA), filed May 12, 1980. Applicant: CLIFFORD PIERCE, WILLIAM PARKS, GORDON KEATS, a partnership, d.b.a. VALLEY FREIGHT, P.O. Box 6303, Modesto, CA 95355.Representative: James H. Gulseth, of Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. *General Commodities* (except classes A & B explosives, household goods, commodities in bulk, and commodities requiring special equipment), between points in Stanislaus and Merced Counties, CA and Oakdale, Stockton, Tracy, Tracy Defense Depot, Sharpe Army Depot, Stockton Airport, Ripon and Lathrop, CA, on the one hand, and, on the other, air freight terminals located in the San Francisco Airport Terminal Zone, for 180 days. Restricted to transportation of traffic having a prior or subsequent movement by air. An underlying ETA seeks 90 days authority. Supporting shippers: There are nine shippers. Their statements may be examined at the Regional office listed.

MC 26396 (Sub-6–23TA), filed May 9, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Pipe, pipe fittings and irrigation equipment,* from York, NE and Garden City, KS to points in and west of MN, IA, MO, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kroy Industries, Inc., Box 309, York, NE 68467.

MC 141804 (Sub-6–39TA), filed May 12, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Chemicals, NOI, ink and waste chemicals, NOI except in bulk,* between Rolling Meadows and Chicago, IL on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: James P. Connelly, Physical Distribution Manager, Philip A. Hunt Chemical Corporation, Palisades Park, NJ 07650.

MC 150779 (Sub-6–1TA), filed May 8, 1980. Applicant: DWIGHT E. BUEL, d.b.a. ADVENTURE UNLIMITED, Box 1063, Soquel, CA 95073. Representative: Dwight E. Buel, 5613 Branciforte Dr., Santa Cruz, CA 95060. *Passengers and their baggage, in escorted tour service,* in 15 passenger vans; Beginning and ending in Santa Cruz, CA between points in CA, OR, WA, ID, WY, SD, NE, CO, UT, and AZ for 180 days. Supporting shippers: There are 18 supporting shippers. Their statements may be examined at the Regional ICC office.

MC 135989 (Sub-6–2TA), filed May 7, 1980. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Avenue, Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Contract carrier,* irregular routes: (1) *Drilling tools, equipment, and parts,* and (2) *corrugated cartons and boxes:* From Irvine, CA to Denver, CO and Dallas, TX under continuing contract(s) with Smith Tool, Division of Smith International, Inc. for 180 days. Supporting shipper: Smith Tool, Division of Smith International, Inc., 17871 Van Karman Ave., Irvine, CA.

MC 113678 (Sub-6–10TA), filed May 7, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Meats, meat products and meat by-products, and articles distributed by meat packinghouses* (except in bulk) from Maricopa County, AZ, to points in UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cudahy Company, Phoenix, Arizona.

MC 109689 (Sub-6–6TA), filed May 8, 1980. Applicant: W. S. HATCH CO., P.O Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway, No. 400, Salt Lake City, UT 84101. *Catalyst,* in bulk, from Salt Lake City, UT to points and places in the United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Filtrol Corp., 5959 West Century Blvd., Los Angeles, CA 90045.

MC 145579 (Sub-6–2TA), filed May 8, 1980. Applicant: D. IRVIN TRANSPORT LTD., Box 8, Station T, Calgary, Alberta, Can. T2H 2G7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Aluminum Beams and Sheets and Steel Scaffolding,* from Ports of Entry on the International Boundary Line between Can. and the U.S. to points in the U.S. except AK and HI, and vice versa, for 180 days. Underlying ETA seeks 90 day authority. Supporting shipper: Aluma Systems, Inc., 4800 Dufferin Street, Suite 200, Downs View, Ontario, Can. M3H 5S9.

MC 133816 (Sub-6–2TA), filed May 8, 1980. Applicant: K & K WHOLESALE CO., P.O. Box 328, Lowell, OR 97452.

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Representative: Howard E. Speer, 835 East Park Street, Eugene, OR 97401. *Sand, bulk or sacked,* from points in Clark County, NV, to points in those 18 Oregon counties located west of the eastern boundary of Multnomah, Clackamas, Marion, Linn, Lane, Douglas and Jackson Counties, OR, for 180 days. Supporting shipper: Valley Iron & Steel Co., Inc., 29579 Awbrey Lane, Eugene, OR 97402.

MC 148874 (Sub-6–1TA), filed May 8, 1980. Applicant: PROFICIENT FOOD CO., 17872 Cartwright Road, Irvine, CA 92705. Representative: Floyd L. Farano, 2555 East Chapman Avenue, Suite 415, Fullerton, CA 92631; Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. *Contract carrier:* irregular route: (1) *Beer in bottles, cans and kegs,* from Phoenix, AZ to points in Los Angeles, Orange, Riverside, San Diego and San Bernardino Counties, CA and return of empty containers. (2) *Empty beer kegs and empty pallets* from Los Angeles, Orange, Riverside, San Diego, and San Bernardino Counties, CA, to Phoenix, AZ, for 180 days. Supporting shipper: Carling National Breweries, Inc., 150 South 12th Street, Phoenix, AZ 85034.

MC 59488 (Sub-6–1TA), filed May 2, 1980. Applicant: SOUTHWESTERN TRANSPORTATION CO., a corporation, P.O. Box 990, Burlingame, CA 94010. Representative: Lloyd M. Roach, P.O. Box 226187, Dallas, TX 75266. *Common carrier,* regular routes: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from and to St. Louis, MO, and from and to points served direct by Transport Motor Express, Inc., in IL, IN, OH, PA, WV, and KY, over the shortest distance between the points described in Item 10480 of ICC MWB 101–B, for 180 days. Applicant intends to tack with existing authority at St. Louis, MO, and to interline with other carriers at major junction points. An underlying ETA seeks 90 days authority. Purpose of this application is to substitute a single-line service for joint-line service over St. Louis, MO, to and from points previously served by Transport Motor Express, Inc. There are no supporting shippers as this application is filed as authorized in MC 109.

MC 26396 (Sub-6–22TA), filed May 9, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 32357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Pipe, pipe fittings and irrigation equipment,* from York, NE and Garden City, KS to points in the U.S. (except AK and HI) for 180 days. Supporting shipper: Kroy Industries, Inc., Box 309, York, Nebraska 68467.

MC 145999 (Sub-6–1TA), filed May 8, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: James C. Waddell, 2001 Broadway, Vallejo, CA 94590. *Gypsum Wallboard and Materials and supplies used in the installation of Gypsum Wallboard,* from Clark County, NV to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: U.W.S. Material and Supply Co., 930 N. Ninth St., San Jose, CA 95112.

MC 141804 (Sub-6–37TA), filed May 9, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *Paper and paper products, plastic articles, candles, toys, ceramics, novelties and furniture stock,* between points in OH, KY, TN, AR, UT and NC. Restricted to traffic originating at or destined to the facilities of American Greetings Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Thos. A. McKernan, Assistant Transportation Manager, American Greetings Corporation, 10500 American Road, Cleveland, OH 44144.

MC 141804 (Sub-6–38TA), filed May 9, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *Electronic appliances* (i.e. televisions, hifi equipment, etc.) from points in WA and OR to all points in the U.S. (except AK and HI), for 180 days. Supporting shipper: Walker J. Schofield, Traffic Coordinator, Hitachi Sales Corporation of America, 401 W. Artesia Blvd., Compton, CA 90220.

MC 297 (Sub-6–1TA), filed May 8, 1980. Applicant: WOODLAND TRUCK LINE, INC., 635 Park Street, P.O. Box 70, Woodland, Washington 98674. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210. *Paper and paper articles,* from the facilities of Longview Fibre Co. at or near Longview, WA to points in ID, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper: Longview Fibre Co., P.O. Box 639, Longview, Washington 98632.

MC 120098 (Sub-6–1TA), filed April 7, 1980. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *General Commodities, Common Carrier,* regular route, between Grant Junction, CO. and Denver, CO., over U.S. Hwys 6 and 24 (I–70) to junction I–70 and U.S. 40; thence over U.S. 40 (I–70) to Denver, CO, serving no intermediate points for 180 days. Applicant seeks to tack and interline at Grand Junction, CO., and to interline at Denver, CO. There are five shippers. Their statements may be examined at the Regional Office listed.

MC 150657 (Sub-6–1TA), filed May 14, 1980. Applicant: B.L.S. LIMOUSINE SERVICE INC., 11242 Playa Court, Culver City, CA 90230. Representative: Fred Altman, 11242 Playa Court, Culver City, CA 90230. *Passengers, Baggage, and Equipment* in Charter Service between Culver City, CA and Las Vegas, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Southern California Golf Service, 10592 Ayers Ave., Rancho Park, CA 90064.

MC 142176 (Sub-6–1TA), filed May 12, 1980. Applicant: AARON TAYLOR and JIMMY COSENTINO, a general partnership, d.b.a. CALIFORNIA FREIGHT TRANSPORT, 4417 North Brawley, Fresno, CA 93711. Representative: Edward L. Fanucchi, Quinlan, Kershaw, Fanucchi & Hoffman, Attorneys at Law, 2409 Merced Street, Suite No. 3, Fresno, CA 93721. *Empty reels for aluminum wire/cable and full reels,* empty reels from Fresno, CA to Longview, WA and full reels from Longview, WA to Fresno, CA, for 180 days. Supporting shipper: Reynolds Metals Co., 3224 North Weber, Fresno, CA 93705.

MC 144621 (Sub-6–4TA), filed May 14, 1980. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. (1) *Candy and confectionery products,* from Los Angeles, Richmond, Baldwin Park, CA; San Antonio, TX; Macon, GA, and their commercial zones to Cambridge and Boston, MA and their commercial zones, for 180 days. Supporting shipper: New England Confectionery Company, 254 Massachusetts Ave., Cambridge, MA 02139.

MC 134599 (Sub-6–18TA), filed May 13, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier; Irregular routes;* transporting *tires and tire assemblies* from the facilities of the Armstrong Rubber Company, at or near Knoxville, TN to Vernon, City of Industry, Commerce, Union City, and San Jose, CA and points in their respective commercial zones under continuing contract(s) with the Armstrong Rubber Company, for 180 days. Applicant seeks underlying ETA for 90 days authority. Supporting shipper: The Armstrong Rubber Co., 500 Sargent Drive, West Haven, CT 06507.

MC 119634 (Sub-6–3TA), filed May 12, 1980. Applicant: DICK IRVIN, INC., 218 12th Ave. North, P.O. Box F, Shelby, MT 59474. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Dry Urea,* From the facilities of Cominco American, Inc. at or near Borger, TX to points in OK, CO, KS, NE, MT and WY, for 180 days. Supporting shipper: Cominco American Inc., Rt. 3, Beatrice, NE 68310.

MC 142487 (Sub-6–1TA), filed May 14, 1980. Applicant: JOHN H. KOOY TRUCKING, INC., 3926 Shelby Road, Lynnwood, WA 98036. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. *Malt beverages,* from Fairfield, CA to the facilities of Crown Distributing Co., Inc. at Everett, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Crown Distributing Co., Inc., 3326 Papne, Everett, WA.

MC 148876 (Sub-6–1TA), filed May 12, 1980. Applicant: MAGNUM FREIGHT LINES, INC., 4841 Eastern Ave., Bell, CA 90201. Representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the commissions, commodities in bulk and those requiring special equipment) moving on bills of lading issued by ABC-Trans National Transport, Inc., a freight forwarder as defined in Section 10102(8) of the Interstate Commerce Act, from points in TX, NM, NE, AZ, WA and OR to points in CA; and, from points in CA to points in OR and WA, for 180 days. Supporting shipper: ABC-Trans National Transport, Inc., 2110 Alhambra, Los Angeles, CA 90031.

MC 127922 (Sub-6–1TA), filed May 14, 1980. Applicant: NELLO PISTORESI & SON, INC., P.O. Box 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Meat and meat products* from Yakima and Toppenish, WA, to points in OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Washington Beef Producers, P.O. Box 9344, Yakima, WA 98909.

MC 52709 (Sub-6–7TA), filed May 14, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *General commodities* (except those of unusual value, commodities in bulk, and those requiring special equipment), from Brooklyn, NY and its commercial zone, to Denver, CO, Kansas City, MO, and Omaha, NE, and points in their respective commercial zones, for 180 days. Restricted to shipments moving on freight forwarder's bills of lading issued by Inter State Express, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Inter State Express, Inc., 120 Apollo St., Brooklyn, NY 11222.

MC 126514 (Sub-6–2TA), filed May 13, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Lewis P. Ames, Esq., Shimmel, Hill, Bishop & Gruender, P.C., 111 West Monroe, 10th Floor, Phoenix, AZ 85003. *Sorter machines and parts thereof,* from Santa Ana, CA to the facilities of Nashua Corporation at Nashua and Merrimack, NH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nashua Corporation, 44 Franklin Street, Nashua, NH 03061.

MC 126514 (Sub-6–3TA), filed May 13, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Lewis P. Ames, Esq., Shimmel, Hill, Bishop & Gruender, P.C., 111 West Monroe, 10th Floor, Phoenix, AZ 85003. *Film, plastic, chemicals, materials, equipment and supplies used or useful in the manufacture and distribution of microfilm and microfiche, (except in bulk)* (1) between Santa Clara County, CA, on the one hand, and, on the other, Holyoke, MA; Pinebrook, NJ; Chicago, Springfield and Elk Grove, IL; Pittsburgh, Mechanicsburg and Philadelphia, PA; New Orleans, LA; Greer and Hartsville, SC; Richmond and Hopewell, VA; Dover, DE; Baltimore, MD; Wooster, OH; and Indianapolis, IN (and points in their respective commercial zones); and (2) from Holyoke, MA to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Xidex Corporation, 305 Soquel Way, Sunnyvale, CA 94083.

MC 126514 (Sub-6–5TA), filed May 13, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Lewis P. Ames, Esq., Shimmel, Hill, Bishop & Gruender, P.C., 111 West Monroe, 10th Floor, Phoenix, AZ 85003. *Such commodities as are dealt in by retail and wholesale drug, variety and grocery stores and materials, supplies and equipment (except commodities in bulk)* used by the manufacturer of such commodities (1) between Andover and Boston, MA, on the one hand, and, on the other, points in TX, CA, and WA; (2) between Los Angeles, CA and IL, for 180 days. Supporting shipper: The Gillette Company, Prudential Tower Building, Boston, MA 02199.

MC 26396 (Sub-6–24TA), filed May 12, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same address as applicant). *Iron and steel articles,* from the facilities of Nucor Corp., at or near Norfolk, NE to points in the U.S. (except AK and HI), for 180 days. Supporting shipper: Nucor Cold Drawn-Vulcraft Division Nucor Corporation, P.O. Box 94, Norfolk, NE 68701.

MC 141871 (Sub-6–2TA), filed May 12, 1980. Applicant: WNI, Inc., 8560 S.W. Salish Lane, Wilsonville, OR 97070. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Canned and bottles beverages* (Non Alcoholic) from Tukwila, WA to points in Or, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Shasta Beverages, Inc., 1227 Andover Park, Tukwila, WA 98188.

MC 124679 (Sub-6–11TA), filed May 14, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same as applicant). *Toodstuffs* from Lewisville, ID to points in CA for 180 days. Supporting shipper: Idaho Fresh Pak, P.O. Box 130, Lewisville, ID 83431.

Note.—Applicant holds motor contract carrier authority in number MC–128813 and sub numbers thereunder, therefore dual operations may be involved.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–15991 Filed 5–27–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision–Notice

Correction

In FR Doc. 80–12516 appearing at page 27840 in the issue of Thursday, April 24, 1980, on page 27846, the second column, first complete paragraph, first line, "MC 14150 (Sub-17F)" should be corrected to read "MC 141450 (Sub-17F)".

The document No. was incorrectly printed 80–12515. It should have read "80–12516".

BILLING CODE 1505–01–M

[Docket No. AB–55 (Sub-No. 38F)]

Seaboard Coast Line Railroad Company Abandonment between Dunnellon and Mincoll, Fla.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided March 7, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that SCL shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from March 7, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Dunnellon Spur, Jacksonville Division, extending from railroad milepost SR–759.80 near Dunnellon, FL, to milepost SR–768.70 at Mincoll, FL, a distance of 8.90 miles in Citrus County, FL. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 14, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16176 Filed 5–27–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–26 (Sub-No. 17F)]

Southern Railway Company Abandonment Between Climax and Ramseur in Guilford and Randolph Counties, N.C.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided April 4, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line Railroad Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Southern Railway Company of its line of railroad between milepost CR–0.0 near Climax, NC, and milepost CR–18.7 at the end of the line near Ramseur, NC, a distance of approximately 19 miles in Guilford and Randolph Counties, NC. A certificate of abandonment will be issued to the Southern Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16175 Filed 5–27–80; 8:45 am]

BILLING CODE 7035–01–M

[Released Rates Application No. MC–1512]

Wycoff Co., Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rates Application No. MC–1512.

SUMMARY: Wycoff Company, Incorporated, seeks authority to amend Released Rates Order No. MC–799 to eliminate the reference to geographic scope in order to publish rates based on released value of $50.00 per shipment or 50 cents per pound, whichever is greater, on shipments weighing 500 pounds or less to all territories which the applicant is authorized to serve.

ADDRESSES: Anyone seeking copies of this application should contact counsel for the applicant: Thompson, Hine & Flory, 900 17th Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Ward, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Tel. (202) 275–7447.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730 and 11707.

Agatha L. Megenovich,

Secretary.

[FR Doc. 80–16174 Filed 5–27–80; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–52; Order No. 1]

Certain Apparatus for the Continuous Production of Copper Rod; Advisory Opinion Proceeding

I. Background

On May 9, 1980, Southwire Company filed with the Commission a motion for extension of time to file written submissions. Southwire requested that the Commission extend the time for its submission to twenty days following the date on which (1) Southwire's metallurgical expert is qualified under the protective order, or (2) Southwire's outside counsel has received all additional information requested, whichever is later.

On May 14, 1980, Krupp filed a response to that motion.

II. Order

Having considered the motion by Southwire Company of May 9, 1980, requesting extension of time for filing written submissions and having considered Krupp's response to that motion, the Commission hereby orders: That the time for all respondents to file written submissions regarding Krupp's request for an advisory opinion is extended to June 2, 1980.

III. Discussion

The Commission is extending the time for filing written submissions until June 2, 1980, twenty days after the Commission and Southwire received substantially all of the information requested by Southwire in its May 6, 1980, letter to a Commission staff attorney. The Commission does not agree that expert examinations or testimony are necessary for an advisory opinion proceeding such as this.

The matters before the Commission for decision are matters of law. To the extent that the Commission needs to conduct collateral inquiry to give answers, the questions are not properly before it in an advisory opinion proceeding. An advisory opinion proceeding must take the facts as stipulated by the petitioner and render its opinion on the basis of the stipulations. Any variation from the stipulated facts when actual importation takes place in the present case will affect the integrity of the advisory opinion.

By order of the Commission.

Issued: May 19, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–16038 Filed 5–27–80; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Deliquency Prevention

National Advisory Committee for Juvenile Justice and Deliquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Deliquency Prevention (NAC) will meet June 11–14, 1980, at The Shoreham Hotel in Washington, D.C. The meeting is open to the public.

Beginning at 9:00 a.m. Wednesday, June 11, 1980, the NAC's Executive Committee will hold a special training and orientation session for new NAC appointees continuing until 5:00 p.m. Both the training and swearing-in ceremony to be held during the meeting period are contingent upon the appointment of the new members.

On Thursday, June 12, the full NAC will convene at 9:00 a.m. for the swearing-in of new NAC members. This will be followed by a welcome address, Executive Committee Report and a report from the Administrator of OJJDP, Mr. Ira M. Schwartz. At 10:45 a.m. the four NAC Subcommittees will convene: The Subcommittee to Advise the Administrator, The Subcommittee on the Concentration of Federal Effort, The Subcommittee on Standards, and The Subcommittee to Advise the National Institute for Juvenile Justice and Deliquency Prevention. The Subcommittees will recess at 12:00 noon for an NAC luncheon with invited guests, and they will resume from 1:30 p.m. until 3:45 p.m. Issues under consideration will include Reauthorization of the Juvenile Justice and Deliquency Prevention Act; implementation of the NAC's *Standards for Juvenile Justice;* current research on the Juvenile Awareness Program and other aversion programs; and the NAC's workplan for FY 81.

After visting local juvenile institutions and alternative programs, the NAC will recess at 6:00 p.m. until 9:00 a.m. Friday, June 13. The Subcommittees will resume following announcements until 2:30 p.m. The NAC will convene and discuss the Third Annual State Advisory Group Conference and their FY 81 Workplan, site visits to the juvenile facilities, and Reauthorization.

Public commentary will be held at 5:00 p.m. Friday, with the NAC recessing at 6:00 p.m.

After resuming at 9:00 a.m. Saturday, June 14, the Subcommittee chairs will deliver their reports and agenda topics for the August and November meetings will be discussed. The meeting will adjourn at 12:30 p.m., at which time an Executive Committee meeting will be held until 1:30 p.m. The purpose of this meeting will be to finalize the agenda for the August 1980 meeting.

For further information contact Mr. James C. Shine, Executive Assistant and Special Counsel, Office of Juvenile Justice and Deliquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531, (202) 724–7751.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Deliquency Prevention.

[FR Doc. 80–16058 Filed 5–27–80; 8:45 am]

BILLING CODE 4410–18–M

METRIC BOARD

Public Forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, June 19, 1980, from 9:00 a.m. to 1:00 p.m. The Forum will be held in conjunction with the Metric Board's regular June meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum will be held at the Mayflower Park Hotel, 4th and Olive, Seattle, Washington 98101, in the Plymouth Room.

The purpose of the Forum will be to allow Board Members to receive comments about increased metric usage and voluntary metric conversion from individuals and from representatives of groups or organizations. The public is invited and encouraged to provide oral or written comments and ask questions of the Board from 11:00 a.m. to 1:00 p.m. Those who wish to participate may also submit comments or questions to Mr. William DeReuter, Office of Public Awareness and Education, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, VA 22209.

Louis F. Polk,

Chairman, United States Metric Board.

[FR Doc. 80–16111 Filed 5–27–80; 8:45 am]

BILLING CODE 6820–84–M

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80-42)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

The NAC Aeronautics Advisory Committee will meet on June 16–17, 1980, in the Activities Center, Langley Research Center, Hampton, VA. The meeting will be open to the public.

The Committee was established to advise NASA senior management through the NAC in the area of aeronautical research and technology. The Chairperson is Dr. Robert G. Loewy. There are currently 80 members on the Committee. Following is the approved agenda for the meeting:

Agenda

June 16, 1980

8:00 a.m.—Registration.
8:30 a.m.—Opening Remarks.
9:00 a.m.—Review of Committee Activities.
10:45 a.m.—Overview of the NASA Aeronautical Research and Technology (R&T) Long Range Plan.
1:00 p.m.—Subcommittees' Consideration of the NASA Aeronautical R&T Long Range Plan Elements and Potential Enhancements.
10:00 p.m.—Adjourn.

June 17, 1980

8:00 a.m.—Continuation of the Subcommittees' Consideration of the NASA Aeronautical R&T Long Range Plan Elements and Potential Enhancement.
1:00 p.m.—Reports by Subcommittee Chairpersons of Recommendations and Comments on NASA Aeronautical R&T Long Range Plan Elements.
4:30 p.m.—Summary Discussion.
5:00 p.m.—Adjourn.

For further information, contact Mr. C. Robert Nysmith, Executive Secretary of the Committee, Code RP–4, NASA Headquarters, Washington, DC 20546, telephone 202/755–3252.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 21, 1980.

[FR Doc. 80-16057 Filed 5-27-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON UMEMPLOYMENT COMPENSATION

Meeting

The National Commission on Unemployment Compensation will hold its twenty-sixth meeting June 16–17, 1980, in the Washington, D.C., area. The exact time, place, and agenda will be published in a future **Federal Register.**

All remaining NCUC meetings will be held in the Washington, D.C., area. The dates are as follows: June 16–17, 1980; June 28–30, 1980; July 25–26, 1980; August 5–6, 1980; and August 26, 1980.

Telephone inquiries and communications concerning any of these meetings should be directed to: Roger Webb, Deputy Executive Director, National Commission on Unemployment Compensation, 1815 N. Lynn Street, Room 440, Rosslyn, Virginia 22209, (703) 235–2782.

Signed at Washington, D.C., this 20th day of May 1980.

Roger Webb,

Deputy Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 80-16153 Filed 5-27-80; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-325]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR–71, issued to Carolina Power & Light Company (the licensee) for operation of the Brunswick Steam Electric Plant, Unit No. 1 (the facility), located in Brunswick County, North Carolina. The amendment is effective as of its date of issuance.

The amendment revised TABLE 4.7.5–1 HYDRAULIC SNUBBER INSPECTION SCHEDULE to provide a one time extension for the inaccessible snubber inspection interval of ten days to May 26, 1980.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated May 9, 1980, (2) Amendment No. 27 to License No. DPR–71, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 16th day of May 1980.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 80-16125 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York; Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has under consideration an application by Consolidated Edison Company of New York (the Licensee) to expand spent fuel storage capacity from 482 to 980 fuel assemblies. This application has been made for the Indian Point Nuclear Generating Plant, Unit No. 2, located in Buchanan, Westchester County, New York, which the licensee operates under Facility Operating License No. DPR–26.

Prior to approval of this application for increased spend fuel storage capacity, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 27, 1980 the licensee may file a request for a hearing with respect to approval of the application for increase in spent fuel storage capacity and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and

Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As requested by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitionr shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or respresentative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga: (petitioner's name and telephone number); date petition was mailed); Indian Point Nuclear Generating Plant, Unit No. 2; and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Joseph D. Block, Esquire, Executive Vice President, Administrative, Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the licensee application for increase in spent fuel storage capacity dated September 7, 1979, and the Final Design Report dated May 6, 1980 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Bethesda, Maryland this 19th day of May, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-16127 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329 OM, 50-330 OM]

Consumers Power Co. (Midland Plant, Units 1 and 2); Amended Hearing on Order for Modification of CP

May 20, 1980.

On March 20, 1980 the Commission published a Notice of Hearing, 45 FR 18214, on certain issues relative to an Order Modifying Construction Permits of the Acting Director of Nuclear Reactor Regulation and the Director of Inspection and Enforcement dated December 6, 1979, which would prohibit Consumers Power Company from performing certain soil-related activities pending approval of amendments to the construction permits Nos. CPPR 81 and CPPR 82 which authorize the construction of two pressurized water reactors in Midland, Michigan. Consumers Power Company requested a hearing on the Order. The Order of December 6, 1979 was not published in the **Federal Register**. This Atomic Safety and Licensing Board, which has jurisdiction of this matter pursuant to the Notice of Hearing (45 FR at 18214), has determined that there should be a publication of the December 6, 1979 Order, which is attached hereto. In addition to the information published previously, notice is given that by June 27, 1980 any person whose interest may be affected by this proceeding may file a petition for leave to intervene. The petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a petition for leave to intervene is filed, this Atomic Safety and Licensing Board will rule on the petition.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affcted by the results of the proceeding. The petition should explain specifically the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's righ under the Atomic Energy Act, as amended, to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, or other time set by the board, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect

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to at least one contention will not be permitted to participate as a party.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above. Such amended petitions may be filed no later than 15 days prior to the first pre-hearing conference or other time set by the board.

Nontimely filings of petitions for leave to intervene, amended petitions, or supplemental petitions will not be entertained absent a determination by the Atomic Safety and Licensing Board that the petitioner has made a substantial showing of good cause for the granting of a late petition. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)-(v) and § 2.714(d).

A petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by June 27, 1980. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael I. Miller, Esq., Isham, Lincoln and Beale, One First National Plaza, Chicago, Illinois 60690, attorney for the Permittee.

Documents pertaining to this proceeding are available for examination in the Commission's Public Document Room, and in the custody of Mrs. Averill Packard, The Grace Dow Memorial Library, 1710 West St. Andrews Rd., Midland, Michigan. These documents include the Appendices A and B of the Order Modifying Construction Permits, reports and correspondence referred to in the order, and the Answer to Notice of Hearing dated April 16, 1980 by Consumers Power Company.

Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Bethesda, Md., May 20, 1980.

For the U.S. Nuclear Regulatory Commission.

Ivan W. Smith,

Chairman, Atomic Safety and Licensing Board.

[Docket Nos. 50-329, 50-330]

Order Modifying Construction Permits

In the Matter of Consumers Power Company (Midland Nuclear Power Plant, Units 1 and 2).

I

The Consumers Power Company (the Licensee) is a holder of Construction Permits No. CPPR-81 and No. CPPR-82 which authorize the construction of two pressurized water reactors in Midland, Michigan. The construction permits expire on October 1, 1981 and October 1, 1982, for Unit 2 and Unit 1 respectively.

II

On August 22, 1978, the Licensee informed the NRC Resident Inspector at the Midland site that unusual settlement of the Diesel Generator Building had occurred. The Licensee reported the matter under 10 CFR 50.55(e) of the Commission's regulations by telephone on September 7, 1978. This notification was followed by a series of interim reports dated September 29, 1978, November 7, 1978, December 21, 1978, January 5, 1979, February 23, 1979, April 3, 1979, June 25, 1979, August 10, 1979, September 5, 1979, and November 2, 1979.

Following the September 1978 notification, inspectors from the Region III, Office of Inspection and Enforcement, conducted an investigation over the period of October 1978 through January 1979. This investigation revealed a breakdown in quality assurance related to soil construction activities under and around safety-related structures and systems in that (1) certain design and construction specifications related to foundation-type material properties and compaction requirements were not followed; (2) there as a lack of clear direction and support between the contractor's engineering office and construction site as well as within the contractor's engineering office; (3) there was a lack of control and supervision of plant fill placement activities which contributed to inadequate compaction of foundation material; (4) corrective action regarding noncomformances related to plant fill was insufficient or inadequate as evidenced by repeated deviations from specification requirements; and (5) the FSAR contains inconsistent, incorrect, and unsupported statements with respect to foundation type, soil properties and settlement values. The details of these findings are described in the inspection reports 50-329/78-12, 50-330/78-12 (November 14, 1978) and 50-329/78-20, 50-330/78-20 (March 19, 1979) which were sent to the Licensee on November 17, 1978 and March 22, 1979 respectively.

The items of noncompliance resulting from the NRC investigation are described in Appendix A to this Order. In addition, as described in Appendix B to this Order, a material false statement was made in the FSAR in that the FSAR falsely stated that "All fill and backfill were placed according to Table 2.5-9." This statement is material in that this portion of the FSAR would have been found unacceptable without further Staff analysis and questions if the Staff had known that Category I structures had been placed in fact on random fill rather than controlled compacted cohesive fill as stated in the FSAR.

As a result of questions raised during the NRC investigation of the Diesel Generator Building settlement, additional information was necessary to evaluate the impact on plant safety caused by soil conditions under and around safety-related structures and systems in and on plant fill, and the Licensee's related quality assurance program. On March 21, 1979, the Director, Office of Nuclear Reactor Regulation, formally requested under 10 CFR 50.54(f) of the Commission's regulations information concerning these matters to determine whether action should be taken to modify, suspend or revoke the construction permit. Additional information was requested by the Staff in letters dated September 11, 1979 and November 19, 1979. The Licensee responded to these letters, under oath, in letters dated April 24, 1979, May 31, 1979, July 9, 1979, August 10, 1979, September 13, 1979, and November 13, 1979. The Licensee has not yet responded to the November 19, 1979 requests.

Several of the Staff's requests were directed to the determination and justification of acceptance criteria to be applied to various remedial measures taken and proposed by the licensee. Such criteria, coupled with the details of the remedial action, are necessary for the Staff to evaluate the technical adequacy and proper implementation of the proposed action. The information provided by the licensee fails to provide such criteria. Therefore, based on a review of the information provided by the Licensee in response to the Staff questions, the Staff cannot conclude at this time that the safety issues associated with remedial action taken or planned to be taken by the Licensee to correct the soil deficiencies will be resolved. Without the resolution of these issues the Staff does not have reasonable assurance that the affected safety-related portions of the Midland facility will be constructed and operated without undue risk to the health and safety of the public.

III

Under the Atomic Energy Act of 1954, as amended, and the Commission's regulations, activities authorized by construction permits or portions thereof may be suspended should the Commission find information which would warrant the Commission to refuse to grant a construction permit on an original application. We have concluded that the quality assurance deficiencies involving the settlement of the Diesel Generator Building and soil activities at the Midland site, the false statement in the FSAR, and the unresolved safety issue concerning the adequacy of the remedial action to correct the deficiencies in the soil construction under and around safety-related structures and systems are adequate bases to refuse to grant a construction permit and that, therefore, suspension of certain activities under Construction Permits No. CPPR-81 and No. CPPR-82 is warranted until the related safety issues are resolved.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that, subject to Part V of this Order, Construction Permits No. CPPR-81 and No. CPPR-82 be modified as follows:

(1) Pending the submission of an amendment to the application seeking approval of the remedial actions associated with the soil activities for safety-related structures and systems founded in and on plant fill material and the issuance of an amendment to Construction Permits No. CPPR-81 and No. CPPR-82 authorizing the remedial action, the following activities are prohibited:

(a) Any placing, compacting, or excavating soil materials under or around safety related structures and systems.

(b) Physical implementation of remedial action for correction of soil-realted problems under and around these structures and systems, including but not limited to:

(i) Dewatering systems,

(ii) Underpinning of service water building,

(iii) Removal and replacement of fill beneath the feedwater isolation valve pit area,

(iv) Placing caissons at the ends of the auxiliary building electrical penetration areas,

(v) Compaction and loading activities.

(c) Construction work in soil materials under or around safety-related structures and systems such as field installation of conduits and piping.

(2) Paragraph (1) above shall not apply to any exploring, sampling, or testing of soil samples associated with determining actual soil properties on site which has the approval of the Director of Region III, Office of Inspection and Enforcement.

V

The licensee or any person whose interest is affected by this Order may within 20 days of the date of this Order request a hearing with respect to all or any part of this Order. In the event a hearing is requested, the issues to be considered will be:

(1) Whether the facts set forth in Part II of this Order are correct; and

(2) Whether this Order should be sustained.

This order will become effective on the expiration of the period which a hearing may be requested, or in the event a hearing is requested, on the date specified in an Order made following the hearing.

Dated at Bethesda, Maryland, this 6th day of December, 1979.

For the Nuclear Regulatory Commission.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulations.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 80-16128 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Coop.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the LaCrosse Boiling Water reactor (LACBWR) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment allows a second extension to the current Cycle 6 operation by changing the fuel depletion limit on the lead fuel from 15,600 WD/MTU for all fuel assemblies to 15,600 MWD/MTU for any non-peripheral fuel assembly.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 1, 1980, (2) Amendment No. 20 to License No. DPR-45 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin 54601. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commision, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of May, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 80-16121 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061]

Source Material License No. STA-583, Kerr McGee Chemical Corp.; Establishment of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has designated the West Chicago Public Library as the official NRC Local Public Document Room for materials relating to the proposed decommissioning of the Kerr McGee Chemical Corporation (Licensee) Rare Earths Facility in West Chicago, Illinois.

All documents related to the licensee's proposed decommissioning and all subsequent documents will be available for inspection and copying at the West Chicago Public Library, 322 East Washington Street, West Chicago, Illinois 60185. The Library's hours of operation are 10:00 am to 9:00 pm Monday through Thursday, and 10:00 am to 5:00 pm Friday and Saturday. Self-service reproduction facilities are available to the public at the cost of 15¢ per printed page.

For further information interested parties in the Chicago area may contact the LPDR directly through Mrs. Kay Sauer, Reference Librarian, telephone number (312) 231-1552. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room at 1717 H Street N.W., Washington, D.C. 20555 telephone number (202) 634-3273. The cost of ordering records from the NRC Public Document Room is 8¢ per page, plus tax and postage.

Questions concerning the availability of documents, NRC's licensing procedures, or other questions concerning the Local Public Document Room Program should be addressed to Mrs. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone number (301) 492-7536.

Dated at Bethesda, Maryland, this 20 day of May, 1980.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80-16122 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 27-39 SC]

Nuclear Engineering Co., Inc., (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site); Order Setting Prehearing Conference

May 19, 1980.

A prehearing conference is hereby scheduled to commence at 9:00 a.m. on June 26, 1980 in the County Board Room (Room 103), Peoria County Courthouse, Main Street, Peoria, Illinois, for the following purposes:

1. Simplification, clarification, and specification of the issues.
2. Amendment to pleadings.
3. Obtaining stipulations and admissions.
4. Determine who the parties to the proceeding are and their standing.
5. Setting a schedule for discovery.
6. Setting a schedule for hearing.
7. Any other matter which may aid in the orderly disposition of this proceeding.

Bethesda, Maryland, May 19, 1980.

Atomic Safety and Licensing Board

Andrew C. Goodhope,

Chairman.

[FR Doc. 80-16124 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 69 and 68 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to (1) correct typographical errors, (2) delete obsolete notes regarding inerting makeup systems, (3) revise the specification regarding inoperable power supply equipment by deleting specific reporting requirements which are inherently specified by Administrative Controls and (4) clarify the NRC staff's requirements for reactor mode switch refuel position interlocks, station fire hose hydrostatic test pressure, and minimum shift crew composition requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 15, 1980, (2) Amendments Nos. 69 and 68 to License Nos. DPR-44 and DPR-56, and (3) the Commission's letter to the licensee dated May 16, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of May, 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 80-16126 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diegeo Gas and Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Appendix B Technical Specifications for operation of the San Onofre Nuclear Generating Station Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment exempts the continuous temperature recording position of the ocean thermal monitoring program in the Appendix B Environmental Technical Specifications (ETS), Section 3.1.1.a(5) from the non-routine reporting requirements in ETS Section 5.6.3.b(3)(a); reduces, for reporting purposes, the data retrieval rate for the temperature recording system from 98 to 80 percent; and requires failures to achieve the 80 percent data retrieval rate to be reported in the Annual Operating Report.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 2, 1979, and (2) Amendment No. 48 to License No. DPR-13, including the Commission's transmittal letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of May, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 80-16120 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-2909]

Westinghouse Electric Corp.; Establishment of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission has designated the Prattville Public Library as the official Local Public Document Room (LPDR) for materials relating to Westinghouse Electric Corporation's (Westinghouse) application for a special nuclear materials license authorizing Westinghouse to acquire, deliver, receive, possess, use and initially transfer special material for its Alabama Nuclear Fuel Fabrication Plant (ANFFP) in Prattville, Alabama.

Westinghouse's initial submissions and all subsequent documents will be available for inspection and copying at the Prattville Public Library located at 220 Doster Road, Prattville, Alabama 36067. The Library's hours of operation are 8:00 a.m. to 5:00 p.m. Monday, Wednesday, and Friday, and 8:00 a.m. to 8:00 p.m. Tuesday and Thursday, with Saturday hours of 10:00 a.m. to 2:00 p.m. Self-service reproduction facilities are available at the cost of 20¢ per printed page.

For further information interested parties in the Prattville area may contact the LPDR directly through Mrs. Shirley Laseter, Director, telephone number (205) 365-3396. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room at 1717 H Street N.W., Washington, D.C. 20555, telephone number (202) 634-3273. The cost of ordering records from the NRC Public Document Room is 8¢ per page, plus tax and postage.

Questions concerning the availability of documents, NRC's licensing procedures, or other questions concerning the Local Public Document Room Program should be addressed to Mrs. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone number (301) 492-7536.

Dated at Bethesda, Maryland, this 20th day of May, 1980.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80-16123 Filed 5-27-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Mandatory Information Requirements for Federal Assistance Program Announcements

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Information Requirements for Program Announcements.

SUMMARY: This notice contains information relating to the requirements for Federal assistance program announcements pursuant to Pub. L. 95-220, The Federal Program Information Act.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Brown, Branch Chief Federal Program Information Branch, Office of Management and Budget, 726 Jackson Place, N.W., Room 6001, Washington, DC 20503, (202) 395-6182 concerning the Catalog of Federal Domestic Assistance (CFDA) and Tom Snyder, Senior Management Analyst, Intergovernmental Affairs, Federal Assistance Information Branch, (202) 395-6911 for OMB Circular No. A-95 coordination.

SUPPLEMENTARY INFORMATION: To enable the Director of the Office of Management and Budget (OMB) to carry out the responsibilities mandated by the Federal Program Information Act and to assist A-95 clearinghouses in the review process, notice is hereby given that all Federal assistance program announcements are required to contain the following information:

(1) The official program number and title as outlines by OMB Circular No. A-89.

(2) A statement as to the applicability of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and projects.

Federal assistance program announcements include, but are not limited to, entries published as Final Regulations and Amendments under the Rules and Regulations section and as notices of any kind pertaining to ongoing programs under the Notices section.

Federal program offices are advised to coordinate the required program number and title with their internal agency representative for the CFDA as prescribed by OMB Circular No. A-89 and, for A-95 applicability, with their agency A-95 representative.

Documents placed on public inspection at the Office of the Federal Register the day before publication will be subject to monitoring by the OMB in coordination with the Office of the Federal Register. If a Federal assistance program announcement does not contain this essential information OMB will request that the document be withdrawn from the publication process until the required information is included.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-15387 Filed 5-27-80; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Docket No. R80-1]

Postal Rate and Fee Changes, 1980

May 21, 1980.

Take notice that pursuant to the Presiding Officer's Order Establishing Procedural Schedule, dated 5/16/80, hearings in the proceeding in Docket No. R80-1 will commence on July 8, 1980, at 9:30 a.m., Hearing Room, Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C. 20268.

Copies of the complete procedural schedule in the above-referenced proceeding are available to all interested parties in the Commission's Docket Room at the above-listed address, or by calling the Docket Room at Area Code 202-254-3800.

David F. Harris,

Secretary.

[FR Doc. 80-16084 Filed 5-23-80; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11174; 811-2883]

Contrarion Option Fund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Applicant Has Ceased To Be an Investment Company

May 19, 1980.

Notice is hereby given that Contrarian Option Fund, Inc., 12955 Biscayne Blvd. No. 406, North Miami, Florida 33181 ("Applicant"), registered under the

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Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 31, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant is incorporated under the laws of the State of Maryland. It registered under the Act on November 30, 1978, and on the same date it filed a registration statement under the Securities Act of 1933 ("1933 Act") covering 50,000 shares of common stock. Such registration statement under the 1933 Act has not become effective nor has any public offering commenced. Thus, Applicant has no assets, outstanding securities or shareholders.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 13, 1980 at 5:30 p.m., submit to the Commission is writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16054 Filed 5–27–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11175; 812–4154]

Energy Fund Inc., Guardian Mutual Fund, Inc., The Partners Fund, Inc., and Neuberger & Berman; Filing of Application Pursuant to Section 17(b) of the Act for an Order Exempting Proposed Transactions From Section 17(a) of the Act, Pursuant to Section 17(d) of the Act and Rule 17d–1 Thereunder for an Order Permitting Joint Transactions and Pursuant to Section 6(c) of the Act for an Order Granting Exemption From Section 18(f)(1) of the Act

May 19, 1980.

Notice is hereby given that Energy Fund Incorporated ("Energy Fund"), Guardian Mutual Fund, Inc. ("Guardian Fund"), and The Partners Fund, Inc. ("Partners Fund") (collectively "Funds"), 522 Fifth Avenue, New York, New York 10036, each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, and Neuberger and Berman ("N&B"), which serves as sub-adviser and principal broker for each of the Funds (the Funds and N&B are hereinafter referred to collectively as "Applicants"), filed an application on July 11, 1977, and amendments thereto on December 22, 1978, June 27, 1979, and November 21, 1979, for an order pursuant to Section 17(b) of the Act, exempting from the provisions of Section 17(a) of the Act proposed portfolio securities loans by the Funds to N&B, for an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, permitting the Funds and N&B to enter into a joint arrangement with respect to certain portfolio securities loans, and for an order pursuant to Section 6(c) of the Act, exempting the Funds' portfolio securities loans from the provisions of Section 18(f) of the Act to the extent that such loans might be deemed to result in the creation of a "senior security." All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that N&B is a broker-dealer partnership registered under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc., as well as member firm of the New York Stock Exchange and other principal exchanges. Applicants further state that N&B and its partners directly or indirectly own all of the stock of Neuberger and Berman Management Incorporated ("Management"), the investment adviser to each of the Funds.

The application states that on January 18, 1977, January 25, 1977 and November 1, 1977, respectively, the stockholders of Energy Fund, Guardian Fund and Partners Fund approved the making of portfolio securities loans by the Funds under the following conditions: (1) at the time of the loan, the Fund will receive from the borrower collateral, consisting of cash or securities issued or guaranteed by the United States Government or its agencies, or any combination thereof, at least equal to 100% of the market value of the securities loaned; (2) the borrower must agree to add to the collateral to cover increases in the market value of loaned securities; (3) the borrower must agree (a) that the Fund is to receive all dividends, interest or other distributions on loaned securities and (b) to pay the Fund a reasonable return on such loan either in the form of a loan fee or premium which gives proper weight to prevailing interest rates or from the retention by the Fund of part or all of the earnings and profits realized by the Fund from the investment of the cash collateral; (4) the Fund will not be required to pay any fees in connection with a loan, except (a) reasonable fees to a custodian, and (b) fees to a loan broker (other than N&B) provided: (i) the broker has disclosed to the Fund that it is possible to loan portfolio securities without incurring such fees, (ii) the Fund's Board of Directors, or either a committee thereof or an investment officer of the Fund, acting within the general guidelines established by the Fund's Board of Directors, has determined that such fee is reasonable and is based solely on the services rendered by such loan broker and (iii) if under the terms of a specific loan transaction there is to be a Collateral Fee (discussed below), such fee will be determined by a formula described below for transactions in which N&B is involved, or the Fund's Board of Directors, or either a committee thereof or an investment officer of the Fund, acting within general guidelines established by the Fund's Board of Directors, shall separately consider (before making such a payment to comply with the terms governing the

transaction) the reasonableness of any such payment and the reasonableness of the return to the Fund after giving effect to such a payment; (5) in the event the management of a Fund has knowledge that a material event will occur affecting an investment on a loan and in respect of which the holder of such investment will be entitled to vote or consent, the Fund will call the loan in time to vote or consent or will otherwise obtain rights to vote or consent; (6) a Fund will not make a portfolio securities loan when, immediately thereafter and as a result of the loan, portfolio securities with a market value of 10% or more of the Fund's total net assets would be subject to such loans; and (7) the Fund will make appropriate disclosure regarding portfolio securities loans in any prospectus it may be required to provide under the Securities Act of 1933, and effect such loan only in accordance with the policies set forth in the proxy statement utilized in connection with the annual meeting of shareholders, unless otherwise authorized by vote of the shareholders.

Applicants represent that in making such portfolio securities loans, the Funds seek to realize additional income by lending a portion of the securities in their portfolios to brokerage firms and financial institutions which may wish to borrow securities to complete transactions for which they have contracted. According to the application, brokerage firms and financial institutions, which from time to time may wish to borrow securities, will normally prefer to borrow securities from other brokerage firms and, therefore, the supply of securities available from institutions generally exceeds the borrowing demand from brokerage firms. The application states that institutions desiring to make portfolio securities loans generally apprise those brokerage firms to which they are willing to make such loans of the securities in their portfolio available for loan and the amount which they are willing to pay a borrower of securities ("Collateral Fees") out of the interest that the institution expects to earn on the cash collateral put up by the borrower for the portfolio securities loan. Applicants state that, as a general rule, it is not possible for institutions to obtain competitive bids from brokerage firms as to the Collateral Fees for their borrowings. Therefore, loans by an institution will normally be on the terms posted by the institution which attempts to set a posted rate which will maximize its income from portfolio securities loans.

The application states that a brokerage firm that wishes to borrow securities will often use the services of another brokerage firm which acts as a finder rather than contact the lender directly, and that the finder may sometimes assume a principal function, borrowing from a lending institution and relending to the borrowing brokerage firm. According to the application, (i) if the finder acts as agent, it will receive compensation from the borrowing broker out of the Collateral Fee received by the borrowing broker, and (ii) if the finder acts as principal in performing its function as a finder, it will receive a markup by paying the borrowing broker a lower Collateral Fee than it receives from the lending institution. Applicants state that whether the finder acts as a principal or as an agent, the net interest income retained by the lender would be unaffected.

Sections 17(a), and 17(d); Rule 17d–1

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such person to borrow money or other property from such registered company, with certain exceptions, not relevant here. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Section 2(a)(3) of the Act provides, in part, that an affiliated person of another person means, if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such investment company is a joint participant, unless an application respecting such joint transaction has been filed and granted by the Commission. Rule 17d–1 provides, in part, that in passing upon such applications, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that because of the relationships between the Funds and N&B, N&B is an affiliated person of each of the Funds and that Applicants therefore have requested an order pursuant to Section 17(b) of the Act exempting the proposed portfolio securities loans to N&B from the provisions of Section 17(a) of the Act. Applicants further state that where N&B acts as finder in connection with a portfolio securities loan by a Fund, it might be considered to be a joint and several participant with the Fund and that such transaction may be prohibited by Section 17(d) of the Act.

Applicants submit that the terms of the proposed portfolio securities loans are consistent with the provisions of Sections 17(b) and 17(d) of the Act and Rule 17d–1. According to the application, the Funds believe they will be disadvantaged in maximizing the potential of their portfolio securities loans if they are not permitted to take advantage of opportunities to lend their portfolio securities to N&B and in loans arranged by N&B as finder. The application states that it is the belief of N&B that among New York Stock Exchange firms, which constitute the principal borrowers of securities, it is the largest such borrower. The application further states that the Funds have noted the competition among an increasing number of institutions to lend their portfolio securities to the relatively limited number of brokerage firms which are substantial borrowers of securities and believe that their relatively small size and concentration in securities which are widely held and easily borrowed may place them at a disadvantage in attempting to establish lending relationships with other major borrowers of securities. Applicants state that the Funds have advised a group of large New York Stock Exchange firms which meet the criteria established by the Funds' Boards of Directors of their willingness to make portfolio securities loans, but that this has resulted in almost no loans actually being made. Applicants further state that N&B, on the other hand, has indicated its willingness to give the Funds "most favored nation" treatment as described below.

Applicants state the Funds' Boards of Directors have considered the possibility of employing one or more persons to pursue increasing the Funds'

portfolio securities loan business but that the Boards have decided, as a business judgment, that such action would not be desirable. Applicants also state that the Funds' Boards of Directors have deemed it unreasonable that N&B should regularly borrow securities from the Funds without any Collateral Fee or act as a finder without any compensation and thereby forego the compensation it could obtain by doing business with other parties. According to the application, the Boards of Directors have concluded that the plan proposed would materially benefit the Funds, that the participation of the Funds in portfolio securities loans with N&B is fair and reasonable and will not involve overreaching on the part of any person, that the consideration which would be received by N&B would represent fair compensation for the services provided, and that such compensation when viewed together with other compensation paid by the Funds to Management and N&B would not result in an unreasonable level of compensation.

The application states that the Funds believe that the ability to engage in portfolio securities loans with N&B would operate to the benefit of the Funds, and therefore the Boards of Directors of the Funds have approved a plan which would permit N&B to borrow portfolio securities from the Funds and act as a finder in arranging portfolio securities loans for the Funds. According to the application the provisions of the proposed plan are as follows:

(1) Management of each of the Funds will continue to maintain a group of brokerage firms other than N&B to which that Fund is willing to make portfolio securities loans, using criteria approved by the Fund's Board of Directors. The continued eligibility of N&B as a borrower would be subject to its continuing to meet such criteria. Firms to which the Funds are willing to make portfolio securities loans will be provided with information on the Funds' portfolio securities available for loan and the Collateral Fees which the Funds are willing to pay such firms (hereinafter referred to as "Posted Rates").

(2) All brokerage firms to which portfolio securities loans are made, including N&B, will be required to execute a loan agreement.

(3) Each day the Funds will establish their Posted Rates in the following manner: at the beginning of each day, N&B will advise the Funds of names of three registered investment companies (other than the Funds) which as of the close of business the preceding day had the largest market value of securities on loan to N&B as well as the Collateral Fees currently being paid by such investment companies on securities loans to N&B. The Funds' Posted Rate for such day would be fixed by averaging such three Collateral Fee rates and rounding to the nearest ⅛ percent. N&B represents that in determining the registered investment companies from which it will borrow securities, the Collateral Fee is only one factor considered and that the Collateral Fees charged on outstanding loans are revised when appropriate to reflect changes in interest rates. The application states that such investment companies will not be selected with a view to influencing the Funds' Posted Rates, and that the formula or method for setting the Posted Rate may be changed to produce a lower Posted Rate, but that under no circumstances will the Funds pay N&B a Collateral Fee greater than their Posted Rate.

(4) When N&B desires to borrow a security which a Fund has indicated a willingness to lend, N&B will offer to borrow such security from the Fund at the Fund's Posted Rate before attempting to borrow the security from any other institution or firm unless such other institution or firm has indicated a willingness to and will in fact lend the security on terms which provide for the payment of a Collateral Fee which is ⅛ of 1 percent or more higher than the Posted Rate of the Fund.

(5) In situations where N&B borrows securities from a Fund in order to relend them to others, or acts as a finder in connection with a securities loan by a Fund, the compensation to N&B will not exceed that which is customary for performing such functions and any excess over the customary compensation will be turned over to the Fund (such compensation presently is at the rate of 1 percent, expressed as a percentage on an annual basis). In addition: (a) N&B will provide the Funds with relevant information as to the prevailing customary rate; (b) if at any time the customary rate declines below 1 percent, N&B would apply such lower rate to transactions with the Funds: and (c) N&B would not increase the applicable rate without the prior approval and concurrence of a majority of the disinterested directors of the Funds.

(6) If, during any month, a Fund is involveed in a securities loan transaction with or through N&B where, because of the shortness of the period during which the loan is outstanding, or similar circumstances, the Fund's expenses exceed its income from the transaction, N&B would reimburse the Fund for such loss.

(7) In all securities loan transactions involving N&B, the collateral posted by N&B will be in the form of cash.

(8) Each of the Funds would maintain a committee of disinterested directors which would meet on approximately a quarterly basis to review information relating to securities loans by their Fund in which N&B has been involved to determine whether there has been compliance by N&B with the above terms and conditions and whether such terms continue to be fair and equitable. The Funds will also have the right to have their auditors examine the records of N&B relating to its stock loan transactions.

Section 18 (f)

Section 18(f)(1) of the Act, generally, makes it unlawful for any registered open-end investment company to issue any class of senior security or to sell any senior security of which it is the issuer, except under certain circumstances not here relevant. Section 18(g) of the Act, in pertinent part, defines the term "senior security" to include any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and states that "senior security representing indebtedness" means any senior security other than stock.

According to the application, the obligation of the Funds to return collateral depostied with them in connection with portfolio securities loans may be deemed to constitute a senior security. Therefore, Applicants request an order of exemption from Section 18(f)(1) of the Act, pursuant to Section 6(c) of the Act, to permit the Funds to make portfolio securities loans in accordance with the terms and conditions set forth in the application. Applicants submit that, because a Fund may not make any profolio securities loan if immediately thereafter and as a result of such loan portfolio securities with a market value of 10% or more of its total net assets would be subject to such loans, there is no danger of excessive leveraging of investments as a result of portfolio securities loans.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or tranactions, from any of the provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that: (i) the requested exemption from Section 18(f) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; (ii) the terms and conditions of the portfolio securities loans transactions between the Funds and N&B are reasonable and fair and do not involve overreaching on the part of any person concerned; and (iii) participation by the Funds in portfolio securities loans to N&B will enable the Funds to maximize the potential of their portfolio securities loan activity and thereby work to the benefit of the Funds' stockholders.

Notice is further given that any interested person may, not later than June 13, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc 80–16053 Filed 5–27–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21583; 70-6462]

Hartford Electric Light Co.; Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

May 20, 1980.

Notice is hereby given that The Hartford Electric Light Company ("HELCO"), Seldon Street, Berlin, Connecticut 06037, an electric and gas subsidiary of Northeast Utilities, a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

HELCO proposes to issue and sell for the best price obtainable, subject to the competitive bidding requirements of Rule 50, 500,000 shares of its Preferred Stock, 1980 Series, with a par value of $50 per share. The dividend rate of the Preferred Stock, 1980 Series (which shall be a multiple of 0.08%) and the price to be paid to HELCO (which shall not be less than $50 nor more than $51.375 per share) will be determined by the competitive bidding. HELCO will publicly invite written proposals for the purchase of the Preferred Stock, 1980 Series, at least six days prior to entering into any contract or agreement for the sale of such stock.

The special terms of the Preferred Stock, 1980 Series, will be established by a resolution of the company's Board of Directors amending HELCO's Certificate of Incorporation to reflect the provisions of such preferred stock. The terms shall include a provision that none of the Preferred Stock, 1980 Series, shall be redeemed prior to July 1, 1985, if such redemption is for the purpose of or in anticipation of refunding such preferred stock through the use, directly or indirectly, of funds borrowed by the company or of the proceeds of the issue by the company of shares of any stock ranking prior to or on a parity with the Preferred Stock, 1980 Series, as to dividends or assets, if such borrowed funds or such shares have an effective interest cost or effective dividend cost to the company, as the case may be, of less than the effective dividend cost to the company of the Preferred Stock, 1980 Series. The Preferred Stock, 1980 Series, will also be entitled to the benefit of a cumulative sinking fund requiring the company, to the extent any funds of the company are legally available therefor, to redeem or purchase on July 1 in each year commencing July 1, 1986, 20,000 shares of such preferred stock. The company has the noncumulative option to purchase or redeem for said sinking fund up to an additional 20,000 shares of the preferred stock in any such year. The Preferred Stock, 1980 Series, will be redeemable for the sinking fund at $50 per share, plus accrued dividends to the date of redemption.

The net proceeds from the sale of the Preferred Stock, 1980 Series, will be used to repay a portion of HELCO's short-term borrowings, estimated to total $44,000,000 at the time of such sale. Such short-term borrowings were applied to finance the company's construction program. As of March 31, 1980, HELCO's 1980–1981 construction program expenditures, including allowance for funds used during construction and nuclear fuel, were expected to total about $152,200,000 ($66,300,000 in 1980 and $85,900,000 in 1981) of which $16,000,000 had been expended as of that date.

The fees and expenses paid or to be incurred in connection with the proposed transaction are to be filed by amendment. It is stated that the Connecticut Division of Public Utility Control has jurisdiction over the issue of the new preferred stock by HELCO. No other state commission and no federal commission, other than this Commission, has juridiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 16, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

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For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16048 Filed 5-27-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11176; 812-4666]

Sigma Government Securities Fund, Inc.; Application Pursuant to Section 6(c) of the Act for Order of Exemption from Rules 2a-4 and 22c-1 Under the Act

May 19, 1980

Notice is hereby given that Sigma Government Securities Fund, Inc., Greenville Center, 3801 Kennett Pike, Wilmington, DE 19807 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on April 21, 1980 for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share for the purposes of sales, redemptions and repurchases of its shares to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC–9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a corporation incorporated under the laws of the State of Delaware on April 9, 1980. Applicant states that its investment objective is to seek as high a level of current income as is consistent with the principle of preservation of capital and maintenance of liquidity. Applicant intends to limit its investments to short-term United States Government securities, including United States Treasury bills, notes and other obligations issued, or guaranteed by the United States Government, its agencies or instrumentalities, or repurchase agreements pertaining to such securities. Applicant will not invest in any security the maturity of which is more than one year from the date of its acquisition by Applicant.

In calculating its total net assets to determine the offering price of its shares each day, Applicant indicates that all securities for which market quotations are readily available will be valued at the most recent bid price or yield equivalent as obtained from one or more market makers for such securities, except that any such securities maturing within sixty days from the date of acquisition, or which subsequently are within sixty days of maturity may be valued at cost, plus or minus any amortized discount or premium. All other securities and assets will be valued at fair value as determined in good faith in accordance with consistently applied procedures established by and under the general supervision of Applicant's Board of Directors.

Rule 22c–1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair market value as determined in good faith by the board of directors of the registered company. In IC–9786 the Commission expressed its view that it is inconsistent with Rule 2a–4 for certain money market funds to "round-off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it wishes to attract individual and institutional investors. Applicant alleges that it understands that many of these investors require a money market fund which maintains a constant net asset value per share and pays dividends which do not fluctuate on account of daily changes in the values of its portfolio securities. Applicant states that computing the net asset value per share to the nearest one cent on a share value of $1.00 will eliminate the periodic fluctuation in Applicant's net asset value per share which may occur and which may well cause Applicant's shareholders at the appropriate time to realize unwanted nominal capital gains and losses upon redemption of their shares. Applicant further states that its Board of Directors have determined in good faith that this method of calculating the net asset value per share under such circumstances is appropriate and will be in the best interests of Applicant's shareholders.

Applicant represents that, to the extent necessary, Applicant's Board of Directors will consider the advisability of temporarily suspending payment of dividends, or making a capital gains or other distribution, to maintain a $1.00 price per share, if the net asset value per share declines to a value below $.996 or rises to a value of above $1.004, respectively. In addition, Applicant states that to maintain the stability of its price per share Applicant will adhere to the following conditions:

1. The Board of Directors of Applicant, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of distribution, redemption and repurchase rounded to the nearest one cent, will not deviate from $1.00;

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objectives of maintaining a stable price per share, and Applicant will not (i) purchase an instrument with a remaining maturity of greater than one year or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

3. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar denominated instruments which the Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

Notice is further given that any interested person may, not later than June 13, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16061 Filed 5-27-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11177, 812-4665]

Sigma Money Market Fund, Inc.; Application Pursuant to Section 6(c) of the Act for Order of Exemption From Rules 2a-4 and 22c-1 Under the Act

May 19, 1980.

Notice is hereby given that Sigma Money Market Fund, Inc., Greenville Center, 3801 Kennett Pike, Wilmington, DE 19807 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on April 21, 1980, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share for the purposes of sales, redemptions and repurchases of its shares to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC–9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a corporation incorporated under the laws of the State of Delaware on April 9, 1980. Applicant states that its investment objective is to seek as high a level of current income as is consistent with the principle of preservation of capital and maintenance of liquidity. Applicant intends to invest exclusively in marketable securities issued or guaranteed by the United States Government or its agencies or instrumentalities, certificates of deposit, banker's acceptances, commercial paper, short-term corporate obligations and repurchase agreements. Applicant indicates that it will not invest in any security the maturity of which is more than one year from the date of its acquisition by Applicant.

In calculating its total net assets to determine the offering price of its shares each day, Applicant indicates that it intends to value all of its portfolio securities for which market quotations are readily available at the most recent bid price or yield equivalent as obtained from one or more market makers for such securities except that any such securities maturing within sixty days from the date of acquisition or which subsequently are within sixty days of maturity, may be valued at cost, plus or minus any amortized discount or premium. All other securities and assets will be valued at fair value as determined in good faith in accordance with consistently applied procedures established by and under the general supervision of Applicant's Board of Directors.

Rule 22c–1 under the Act provides, in part that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair market value as determined in good faith by the board of directors of the registered company. In IC–9786 the Commission expressed its view that it is inconsistent with Rule 2a–4 for certain money market funds to "round-off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it wishes to attract individual and institutional investors. Applicant alleges that it understands that many of these investors require a money market fund which maintains a constant net asset value per share and pays dividends which do not fluctuate on account of daily changes in the values of its portfolio securities. Applicant states that computing the net asset value per share to the nearest one cent on a share value of $1.00 will eliminate the periodic fluctuation in Applicant's net asset value per share which may occur and which may well cause Applicant's shareholders at the appropriate time to realize unwanted nominal capital gins and losses upon redemption of their shares. Applicant further states that its Board of Directors have determined in good faith that this method of calculating the net asset value per share under such circumstances is appropriate and will be in the best interests of Applicant's shareholders.

Applicant represents that, to the extent necessary, Applicant's Board of Directors will consider the Advisability of temporarily suspending payment of dividends, or making a capital gains or other distribution, to maintain a $1.00 price per share, if the net asset value per share declines to a value below $.966 or rises to a value of above $1.004, respectively. In addition, Applicant

states that to maintain the stability of its price per share Applicant will adhere to the following conditions:

1. The Board of Directors of Applicant, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of distribution, redemption and repurchase, rounded to the nearest once cent, will not deviate from $1.00;

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objectives of maintaining a stable price per share, and Applicant will not (i) purchase an instrument with a remaining maturity of greater than one year or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

3. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar denominated instruments which the Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

Notice is further given that any interested person may, not later than June 13, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by Affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16050 Filed 5–27–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11178; 811–2048]

Varifund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Applicant has Ceased To Be an Investment Company

May 19, 1980.

Notice is hereby given that Varifund, Inc., 7911 Herchel Avenue No. 401, La Jolla, California 92037, ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified management investment company, filed an application on January 7, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on March 20, 1970, but did not file a registration statement under the Securities Act of 1933 and has therefore never engaged in a public offering of shares of its common stock.

The application states that Applicant does not have any assets or debts or other liabilities currently outstanding, and that it is not a party to any litigation or administrative proceeding. The application further states that Applicant was dissolved as a corporation under applicable state law in 1978, and that it is not engaged in and does not propose to engage in any business activities other than those necessary for the winding-up of its affairs. Finally, Applicant states that it did not within the last eighteen months transfer any of its assets to a separate trust the beneficiaries of which were or are security holders of Applicant since it never had any assets or operations.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later June 12, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16049 Filed 5–27–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–16818; File No. SR–CBOE–80–6]

Chicago Board Options Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 21, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change

CHAPTER XIII

Net Capital Requirements

Minimum Requirements

Rule 13.1 [Every member organization doing business with the public or which maintains accounts for any other member, broker or dealer shall have the net capital at all times necessary to comply with the following conditions:]

Each member or member organization subject to Rule 15c3–1 promulgated under the Securities Exchange Act of 1934 shall comply with the capital requirements prescribed therein and with the additional requirements of this Chapter 13.

[(a) Its aggregate indebtedness (as hereinafter defined) to all other persons shall not exceed 1,500 per centum of its net capital.]

[(b) If it was registered as a broker or dealer with the Securities and Exchange Commission before August 13, 1971, it shall have and maintain net capital of not less than $15,000 commencing July 31, 1973, and $25,000 commencing July 31, 1974.]

[(c) If it becomes registered as a broker or dealer with the Securities and Exchange Commission on or after August 13, 1971, its aggregate indebtedness to all other persons for 12 months after becoming registered shall not exceed 800 per centum of its net capital, and it shall have and maintain net capital of not less than $25,000.]

[The Exchange may grant a specific temporary exemption to a particular member organization due to unusual circumstances, and the Exchange may at any time or from time to time prescribe greater requirements than the foregoing in the case of a particular member organization.]

[Rule 13.2 The provisions of Rule 13.1 shall not apply to any member organization in good standing and subject to the capital rules of the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange, the New York Stock Exchange, the Pacific Stock Exchange, or the PBW Stock Exchange, so long as such member organization is thereby exempted from the provision of the net capital rule of the Securities and Exchange Commission.]

[Rule 13.3 deleted—a copy of this rule is attached as Exhibit 1]

"Early Warning" Notification Requirements

Rule 13.[4]*2* [Every member organization qualified to do business with the public whether or not such member organization is exempt under Rule 13.2 from the provisions of Rule 13.1, shall promptly notify the Exchange in writing whenever either such member organization's aggregate indebtedness is in excess of 1200 per centum of its net capital or its net capital is less than 120 per centum of the minimum net capital required of it under Rule 13.1 or under the rules of another national securities exchange to whose net capital rules the member organization is subject. Such member organization shall file with the Exchange reports of SEC Form X–17A–11 as required by the rules and regulations of the Securities and Exchange Commission. In addition, every member organization subject to the net capital requirements of another national securities exchange shall notify the Exchange in writing whenever such member organization's aggregate indebtedness exceeds, or its net capital is less than, the "early warning" standards specified by such other exchange, and the member shall thereafter file with the Exchange such reports and financial statements as may be required by an officer of the Exchange.]

Every member or member organization subject to the reporting or notification requirements of Rule 17a–11 promulgated under the Securities Exchange Act of 1934 or the "early warning" reporting, business restriction or business reduction requirements of another national securities exchange, registered securities association or registered securities clearing organization shall promptly notify the Exchange in writing and shall thereafter file with the Exchange such reports and financial statements as may be required by an officer of the Exchange.

Rule 13. [5]*3* [no change].

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to incorporate by reference the net capital requirements of Rule 15c3–1 promulgated under the Securities Exchange Act of 1934. In June of 1975, the Securities and Exchange Commission adopted a number of substantive amendments to its existing net capital rule which, among other changes, removed the exemption from its requirement which had been available to members of the national security exchanges thereby making all brokers and dealers, except for certain exchange specialists and market makers, subject to the provisions of the rule [the "Uniform Net Capital Rule"]. Since the adoption of the Uniform Net Capital Rule, numerous amendments to the rule, both technical and substantive which affect the manner by which a member computes its net capital, have been adopted by the Commission. The CBOE believes that the proposed rule change will ensure that the Net Capital Requirements of the CBOE are constant, and do not conflict, with the Commission's requirements and definitions.

The basis under the Act for the proposed rule change is Section 6(b)(5), in that the rule change would enhance the ability of the Exchange to promote just and equitable principles of trade and to protect investors and the public interest.

No comments on this proposed rule change have been solicited or received from members.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before July 2, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 18, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 20, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16055 Filed 5–27–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1816, Amdt. No. 2]

Louisiana; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 26544) Amendment #1 (see 45 FR

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28031) are amended in accordance with the President's declaration of April 9, 1980, to include Assumption, Jefferson, Lafourche, Orleans, St. Bernard and St. Charles Parishes. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named parishes and adjacent parishes within the State. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on June 13, 1980, and for economic injury until the close of business on January 12, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 30, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16075 Filed 5-27-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1837]

Michigan; Declaration of Disaster Loan Area

Monroe and Wayne Counties and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by flooding, high winds and wave action which occurred on April 14, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 21, 1980, and for economic injury until the close of business on February 23, 1981, at:

Small Business Administration, District Office, 477 Michigan Avenue, McNamara Building, Room 515, Detroit, Michigan 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16076 Filed 5-27-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1840]

Michigan; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the following 2 counties: Kalamazoo and Van Bruen Counties and adjacent counties within the State of Michigan, constitute a disaster area because of damage resulting from severe storms and tornadoes beginning on or about May 13, 1980. Eligible persons, firms and organizations may file application for loans for physical damage until the close of business on July 17, 1980, and for economic injury until close of business on February 16, 1981, at:

Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Michigan 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16077 Filed 5-27-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1839]

Missouri; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Pettis County and adjacent counties within the State of Missouri constitute a disaster area because of damage resulting from severe storms and tornadoes beginning on or about May 12, 1980. Eligible persons, firms and organizations may file application for loans for physical damage until the close of business on July 14, 1980, and for economic injury until close of business on February 16, 1981, at:

Small Business Administration, District Office, 12 Grande Bldg.—5th Floor, 1150 Grande Avenue, Kansas City, Missouri 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16078 Filed 5-27-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1838]

Wisconsin; Declaration of Disaster Loan Area

The area south of Highway 77 in sections 17–19, 20, 21, 27, 28, 29, 32, 33, 34 and 35 of Chicog Township and into sections 2, 3, 4, 5, 8, 9, 10, 11, 13, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 35 and 36 of Casey Township, Washburn County, Wisconsin, constitutes a disaster area because of damage resulting from a fire which occurred on April 22–26, 1980. Eligible persons, firms and organizations may file application for loans for physical damage until the close of business on July 21, 1980, and for economic injury until the close of business on February 23, 1981, at:

Small Business Administration, District Office, 212 East Washington Avenue—Room 213, Madison, Wisconsin 53703.

or other locally announced location.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16079 Filed 5-27-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1835]

North Carolina; Declaration of Disaster Loan Area

The corner of North Main and Cornelius Streets in the Town of Cornelius, Mecklenberg County, North Carolina, constitutes a disaster area as a result of a fire which occurred on April 9, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 14, 1980, and for economic injury on February 13, 1981, at: Small Business Administration, District Office, 230 South Tryon Street, Suite 700, Charlotte, North Carolina 28202, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 13, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16060 Filed 5-27-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-81302]

Advisory Committee on the Law of the Sea; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463] as amended by Pub. L. 94-409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed sessions on Monday, June 30 and in both open and closed sessions on Tuesday, July 1, 1980. The open sessoin of the meeting will convene July 1 at 2:30 p.m. in the Loy Henderson Conference Room, U.S. Department of State, 21st and C. Streets, NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the resumed Ninth Session of the Third United Nations Conference on the Law of the Sea to be held in Geneva beginning July 28, 1980. During these closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issue which the United States will be negotiating at the Conference. The documents are exempt under 5 U.S.C. 552 b (c) (1), and may be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the jurisdictional status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these contents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactor Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not, examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:30 p.m., July 1, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Marsha Bellavance and provide their name and affiliation to facilitate their attendance. Ms. Bellavance's telephone number is (202) 632-0041.

Dated: May 13, 1980.

Alan D. Berlind,

Director, Office of the Law of the Sea Negotiations.

[FR Doc. 80-16117 Filed 5-27-80; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice CM-8/301]

Shipping/Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Thursday, June 12, 1980 in Room 1101 West Tower, Waterside Mall, Environmental Protection Agency, 401 M Street. SW., Washington, D.C.

The purpose of the meeting is to review the proceedings of the April 1980 meeting of the Ad Hoc Scientific Group on Dumping under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. Also under discussion will be significant items agreed to by the Contracting Parties for the agenda of the Fifth Consultative Meeting of Contracting Parties to the Convention, scheduled to be held in London September 22–26, 1980.

Requests for further information should be directed to Ms. Norma Hughes, Executive Secretary, Ocean Dumping Committee (WH-548), Environmental Protection Agency, Washington, D.C. 20460. Ms. Hughes may be reached by telephone on (202) 472-2836.

The Chairman will entertain comments from the public as time permits.

Dated: May 14, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 16119 Filed 5-27-80; 8:45 am]

BILLING CODE 4710-09-M

VETERANS ADMINISTRATION

Career Development Committee; Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92—463) of October 6, 1972, that the Career Development Committee has been renewed by the Administrator of Veterans Affairs for a two-year period beginning May 18, 1980 through May 18, 1982.

Dated: May 21, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-16081 Filed 5-27-80; 8:45 am]

BILLING CODE 8320-01-M

Clinical Addition, Veterans Administration Medical Center, Biloxi, Miss.; Proposed Action

The Veterans Administration proposes the construction of a four (4) story (with possible vertical expansion of one additional floor in the future) clinical addition of approximately 67,000 net square feet. The addition will be a free standing building with enclosed inpatient access from building no. 1 on all four floors.

The VA has determined that this project is a "Critical Action" as defined by E.O. 11988 and as such should avoid being sited within the 500 year floodplain. The Flood Insurance Study (FIS) dated December 1977 for this geographical area, does not delineate the extent of Zone B (500 year) on VA property as a Federal holding and therefor additional data was obtained from the Federal Insurance and Hazard Mitigation Office, Federal Emergency Management Agency, Atlanta, Georgia, and the Corps of Engineers, Mobile District. The 500 year flood *elevation* was estimated to determine the probable flood hazard and the impact of the proposed project on the floodplain. Available data indicates a portion of the proposed site of the clinical addition lies *below* the 500 year flood elevation. However, a determination has been made by the VA that the proposed project will not adversely affect the floodplain. The potential for flooding will be considered in the design of the building by elevating the structure above the base flood level using open works for support.

Accepted floodproofing and other flood protection measures shall be applied for the new construction. Project alternatives have been considered in the planning process, particularly those which site the building outside the 500 year floodplain. Functionally, the clinical addition must be connected to building no. 1, and have direct emergency access as well as an efficient outpatient entrance. Alternative sites adjacent to building no. 1 were unable to satisfy these critical requirements and therefore siting in the floodplain is the only practicable alternative.

This proposed action is considered in compliance with the state and local 100 year floodplain protection standards by virtue of its design with respect to the critical action (500 year) flood elevation.

In view of the proposed design incorporating accepted flood protection measures mentioned above, it is the determination of the VA that there will be no significant increase in the elevation of flood waters due to this project.

V 45 M Y 28 80 UMI

The VA is soliciting comments from state and local levels. The comment period will be open for 30 days following the publication of this notice in the **Federal Register.** This Notice of Proposed Action is in compliance with the announcement requirements of Executive Order 11988, Floodplain Management Guidelines (February 1978). Comments on this action should be addressed to:

Mr. William A. Salmond, Acting Assistant Administrator for Construction (08), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 21, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

BILLING CODE 8320-01-M

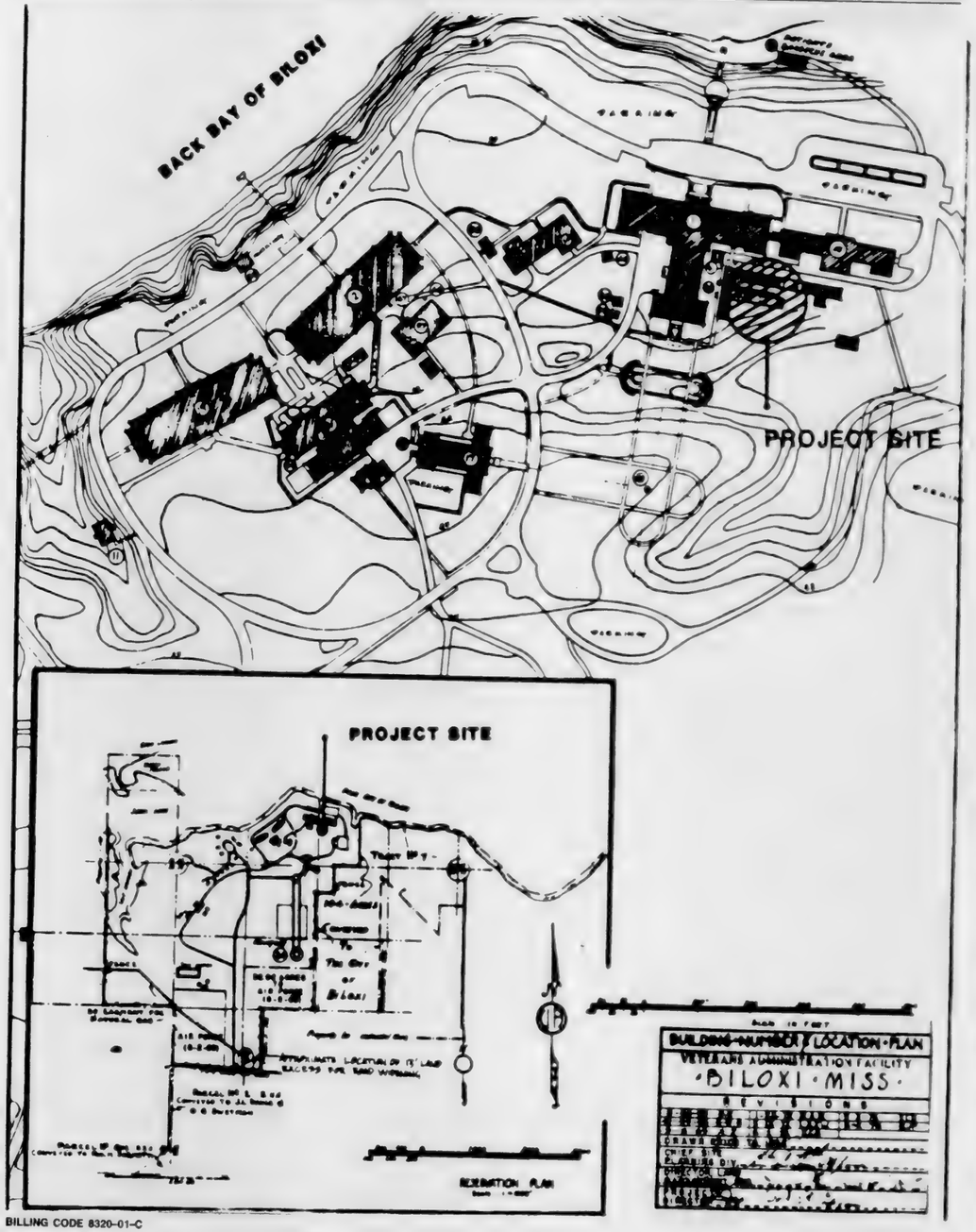

BILLING CODE 8320-01-C

[FR Doc. 80-16082 Filed 5-27-80; 8:45 am]

V 45 M Y 28 80 0 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 104
Wednesday, May 28, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Maritime Commission	2
Interstate Commerce Commission	3
Legal Services Corporation	4
Metric Board	5
Nuclear Regulatory Commission	6
Securities and Exchange Commission	7
United States Railway Association	8

1

[M-281, May 22, 1960]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m. May 29, 1980.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.
2. Docket 33136, North Central-Southern Merger Case, petition of Southern Airways Employee Merger Ass'n for order directing arbitration, under labor protective provisions in Board approval order, of dispute with Republic Airlines over change in fringe benefits (memo No. 8734-E, OGC).
3. Docket 30697, Caribbean Area Service Investigation (OGC).
4. Docket 26973, Application of Aeromar, C. por A. for renewal and amendment of its foreign air carrier permit (OGC, BIA, BCP).
5. Docket 35508, FITNESS INVESTIGATION OF PACIFIC ALASKA AIRLINES, Order on Remand (memo No. 9449-A, OGC).
6. Semiannual agenda of Significant Rules under Development or Review (OGC).
7. Docket 37403, Nonpublic investigation into the activities of Alaska Airlines, Inc., Alaska Northwest Properties, Inc., Ronald F. Cosgrave, Bruce R. Kennedy, and Keith J. Kennedy (memo No. 9461-A, BCP).
8. Docket 37723, Nonpublic investigation into the activities of Western Air Lines, Inc. and Dominic P. Renda relating to the Wild Card Route Case, Docket 35752 (BCP).
9. Notice of Proposed Rulemaking to prohibit tariffs from automatically becoming part of the passenger/airline contract, regardless of passenger knowledge of their terms and to set guidelines for any notice given by a carrier to its passengers of the terms and condition of air service (memo No. 9709, BCP, BDA, OGC).
10. Docket 30452, Application for prior approval of UATP-1976 agreements concerning industry credit card plan (BDA).
11. Dockets 37982 and 33262, Interim Rule on Fare Flexibility between U.S. mainland, Puerto Pico/Virgin Islands Rate Making entity (BDA, OEA, OGC, BCP).
12. Docket 34681, A final 419 subsidy rate for Air North for service for Upstate New York points (memo No. 8486-M, BDA, OGC, OC, OCCR).
13. Docket 38046, Application of Pennsylvania Commuter Airlines, Inc., for Compensation for losses at Clearfield-Philipsburg, Pennsylvania (BDA).
14. Docket 37949, Application of Southwest Airlines Co. for an exemption pursuant to section 418 of the Act, to implement a new program of ticket sales and agent compensation (BDA).
15. Docket 35307, Notice of intent of Ozark Air Lines to suspend service at Clarksville, Tennessee-Ft. Campbell, Hopkinsville, Kentucky (BDA).
16. Docket 36140, Notice of Air Midwest of its intention to suspend service at Enid and Ponca City, Oklahoma (BDA).
17. Docket 37706, Eastern's notice to suspend all service at Lexington-Frankfort, Kentucky (memo No. 9696, BDA, OCCR).
18. Dockets 37973 and 37974 Western's notices to terminate service at Spokane/Milwaukee, Docket 38090, Western's exemption application to terminate at Milwaukee and Spokane (BDA, OCCR).
19. Docket 37498, Nor East's notice to terminate service at New Bedford, MA (BDA, OCCR).
20. Docket 37945, Notice of intent of Frontier Airlines, under section 401(j)(1), to reduce service below essential and implement an alternate service plan at Fort Smith, Arkansas (memo No. 9695, BDA).
21. Docket 34774, Request for Instructions on Carrier Selection at Stillwater and McAlester, Oklahoma and Paris, Texas (BDA).
22. Docket 37911, Coleman Air Transport's petition for decertification (BDA).
23. Docket 27573, Petition of Mexicana Airlines to delay introduction of new IATA air waybills for an additional 30 days (BDA).
24. Docket 37854, Application of Travel-Go-Around Airlines, Inc. for transatlantic supplemental cargo authority (memo No. 9707, BIA, OGC, BALJ)
25. Docket 37442, Additional Northeast/Ohio Valley-Florida Show-Cause Proceeding (BDA).
26. Docket 36485, Air Pacific Limited's application for a renewed and amended foreign air carrier permit for the transportation of persons, property, and mail to continue its operations in the Pacific Islands and to extend operations on one route to Guam and Japan and another to Honolulu, the mainland United States, and Canada (memo No. 9703, BIA, OGC, BALJ).
27. Docket 35190, Air Nauru's application for an amended foreign air carrier permit to operate between Nauru and Hong Kong via Ponape, Truk, Guam, Saipan, Palau, Taipei and Manila (memo No. 9706, BIA, OGC, BALJ).
28. Docket 35028, Pan American's application to add several Middle East points on a permissive basis to its Route 132 (BIA, OGC, BALJ).
29. Recommendation for the Aviation Negotiations with Uruguay BIA).

STATUS: Open (items 1-28), closed (item 29).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1043-80 Filed 5-23-80; 3:27 pm]

BILLING CODE 6320-01-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: June 4, 1980, 2 p.m.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Notice of Proposed Rulemaking Concerning Tariff Filing Regulations Applicable to the Transportation of Used Household Goods and Personal Effects by Common Carriers and Conference of Such Carriers in the Foreign and Domestic Commerce of the United States.
2. Informal Docket No. 684(I): James Betesh Import Company v. Seatrain Pacific Services, S.A.—Review of Settlement Officer's Decision.
3. Informal Docket No. 705(I): 3M v. Torm Line—Review of Settlement Officer's Decision.
4. Informal Docket No. 766(I): Dow Corning Corporation v. Atlantic Container Line—Review of Settlement Officer's Decision.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1045-80 Filed 5-23-80; 3:53 pm]

BILLING CODE 6730-01-M

3

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE:

Session 1: 9 a.m.-12 noon June 2, 1980.
Session 2: 1:30 p.m.-4:30 p.m. June 2, 1980.
Session 3: 9 a.m.-12 noon June 3, 1980.

PLACE: Conference Room B, Departmental Auditorium Between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Railroad cost seminar.

MATTERS TO BE DISCUSSED: Six Papers Evaluating the Uniform Railroad Costing System Will Be Presented and Discussed.

CONTACT PERSON FOR MORE INFORMATION: Jack Ventura, Chief, Rail Cost and Pricing Branch, Office of Policy and Analysis, Telephone: (202) 275-0810.

[S-1044-80 Filed 5-23-80; 3:44 pm]

BILLING CODE 7035-01-M

4

LEGAL SERVICES CORPORATION.

Appropriations and audit Committee Meeting.

TIME AND DATE: 10:00 a.m.—5:00 p.m., Monday, June 9, 1980.

PLACE: Eighth floor conference room, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of minutes of November 12, 1979 meeting.
3. Report on status of fiscal year 1981 budget request and reauthorization.
4. Corporation budget review and budget development process.
5. Report on second quarter fiscal year 1980 budget review and fiscal year 1980 consolidated operating budget.
6. Preliminary discussion of process of setting fiscal year 1982 budget request mark.
7. Allocation of 1979 unexpended funds and unallocated investment income.
8. Report on cost variation study.
9. Selection of corporation auditor for fiscal year 1980 and fiscal year 1981.
10. Status of legal services institute.
11. Quality improvement project demonstration grants.
12. Other business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 272-4040.

Issued: May 23, 1980.

Dan J. Bradley,
President.

[S-1041-80 Filed 5-23-80; 2:58 pm]

BILLING CODE 6820-35-M

5

UNITED STATES METRIC BOARD:

TIME AND DATE: 2 p.m., Thursday, June 19, 1980; 8:30 a.m., Friday, June 20, 1980.

PLACE: The meeting on June 19 and 20 will be held in the Plymouth Room of the Mayflower Park Hotel, 405 Olive Way, Seattle, Washington 98101.

STATUS: Thursday, June 19th is open to the public. Friday, June 20th, this meeting is closed under exemption of 5 U.S.C. 552b(c)(9)(B). The Board will meet to discuss fiscal year 1981 supplementary budget and fiscal year 1982 budget.

MATTERS TO BE CONSIDERED: June 19:

Approval of Agenda.
Review/Approval of Minutes—April 1980 Board Meeting.
Metric Status Study. Results of Metric Status Survey.
Consumer Program. Discussion of proposed Agency Consumer Program.
National Metric Week. Report on National Metric Week activities, May 5-9, 1980.
Fiscal year 1980 Annual Report. Report on theme, concept and internal approval procedures.
Reports. Each committee chairperson and senior staff will give a status report of activities within their jurisdiction.
Agenda items for future Board meetings.

June 20: Closed session.

SUPPLEMENTARY INFORMATION: Notice of a Public Forum to be held by the U.S. Metric Board on June 19, 1980 which will provide individuals and groups the opportunity to comment on metric conversion appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION: Ms. Lu Verne Hall, 703/235-1933.

Louis F. Polk,
Chairman, United States Metric Board.

[S-1037-80 Filed 5-22-80; 3:12 pm]

BILLING CODE 6820-94-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 23, 28 and 29, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Friday, May 23:

3 p.m.

1. Affirmation Session (approximately 10 minutes, public meeting) (rescheduled from May 22).
   a. Review of ALAB-502 (Rochester Gas and Electric).
   b. UCS Petition on Fire Protection and Electrical Connectors.
   c. Role of Staff in Waste Confidence Proceeding.
2. Time Reserved for Discussion and Vote on Affirmation Items (if required) (Approximately 15 minutes, public meeting).

Wednesday, May 28 (revised):

2 p.m.

1. Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed—Exemptions 2 and 6) (Rescheduled from May 22).
2. Affirmation of OGC Document on Motion to Quash Subpoenas Issued by I&E (new title) (Approximately 5 minutes, public meeting).
3. Time Reserved for Discussion and Vote on Affirmation Item (approximately 30 minutes, closed—Exemption 10) (If necessary).

Thursday, May 29:

2 p.m.

1. Oral Presentations in Seabrook Seismic Issue (approximately 2 hours, public meeting) (Rescheduled from May 23).
2. Affirmation Session (approximately 10 minutes, public meeting).
   a. Notice for Comment on Financial Qualifications.
   b. Proposed Rulemaking on Reactor Siting.
   c. Indian Point Order.
3. Time Reserved for Discussion and Vote on affirmation Items (if required) (approximately 15 minutes, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Waltee Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Dated: May 22, 1980.

Roger M. Tweed,
Office of the Secretary.

[S-1042-80 Filed 5-23-80; 3:26 pm]

BILLING CODE 7590-01-M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 27, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 27, 1980, at 9 a.m. and on Wednesday, May 28, 1980, immediately following the open meeting at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)9)(i) and (10).

Commissioners Loomis, Evans, Pollack and Friedman determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 27, 1980, at 9 a.m. will be:

Formal orders of investigation.
Litigation matters.

Institution of administrative proceeding of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Regulatory matters bearing enforcement implications.
Freedom of Information Act appeal.
Proposed order in administrative proceeding of an enforcement nature.

The subject matter of the closed meeting scheduled for Wednesday, May 28, 1980, immediately following the 10 a.m. open meeting, will be:

Institution of administrative proceeding of an enforcement nature.
Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Wednesday, May 28, 1980, will be:

1. Consideration of certain interpretive issues under the accounting provisions of the Foreign Corrupt Practices Act and of the Commission's outstanding rule proposals to require inclusion in Forms 10-K, and in annual reports to security holders furnished pursuant to the proxy rules, statements of management on internal accounting control and to require that such management statements be examined and reported on by independent pubic accountants. For further information, please contact James J. Doyle at (202) 272–2130 or Frederick Wade at (202) 272–2439.

2. Consideration of whether to adopt (1) amendments to Securities Exhange Act Rule 17a–19 and the description of Form X–17A–19 at 17 CFR § 249.635 to eliminate the exemption from filing notice when a change occurs in the status of a broker-dealer's membership in a self-regulatory organization and to modify the provision regarding when the self-regulatory organization files the notice; and (2) an amendment to Securities Exchange Act Rule 17a–5(b), with a conforming amendment to Rule 17a–19, to make a financial filing requirement applicable to all registered national securities associations and their members. For further information, please contact Ellen C. Kerrigan at (202) 272–3113.

3. Consideration of whether to allocate regulatory responsibilities filed under 17 CFR 240.17d–2 between the National Association of Securities Dealers, Inc. and each of the following: Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc. Midwest Stock Exchange, Inc., and Pacific Stock Exchange, Inc. For further information, please contact Elizabeth S. York at (202) 272–2376 or Ellen C. Kerrigan at (202) 272–3113.

4. Consideration of whether to authorize the publication of a release that would solicit comments on the feasibility of establishing certain defined classes of small issuers for puposes of modifying certain reporting and other obligations under the Securities Exchange Act of 1934, and to publish certain statistical data with respect to those companies that are subject to that Act. For further information, please contact Paula Chester at (202) 272–2644, and for information regarding the application of empirical data and analysis, please contact Hugh Haworth at (202) 523–5631.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

May 21, 1980.

[S–1040–80 Filed 5–23–80; 11:35 pm]

BILLING CODE 8010–01–M

8

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., June 5, 1980.

PLACE: 955 L'Enfant Plaza North, S.W., board room, room 2–500, fifth floor, Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public (9 a.m.):

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Litigation report.

Portions open to the public (10:30 a.m.):

4. Election of Officers.
5. Approval of minutes of the May 1, 1980 Board of Directors meeting.
6. Consideration of Conrail third quarter investment commitment request.
7. Consideration of Conrail drawdown requests for June and July.
8. Consideration of 211(h) loan program.
9. Contract Actions (extensions and approvals).
10. Quarterly review of MKT financial information.
11. Report on Conrail monitoring.
12. Legislative report.
13. FRA presentation of 401 Study.

Portions closed to the public:

14. Review of Delaware and Hudson Railway Company proprietary and financial information. (Closed to the Public.)
15. Deferral of interest for Delaware and Hudson Railway Company.

CONTRACT PERSON FOR MORE INFORMATION: Alex Bilanow (202) 426–4250.

[S–1039–M Filed 5–23–80; 11:04 am]

BILLING CODE 8240–01–M

V 45 M Y 28 80 0 UMI

federal register

Wednesday
May 28, 1980

Part II

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Notice of Acceptance of Applications for Filing

I. New Applications and Major Amendments to Deferred Applications

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. Sections 390–94) and in accordance with 15 CFR 2301. All of the applications listed in this section were postmarked on or before midnight January 9, 1980. The "DATE RECEIVED" indicates the date that the application was actually received at NTIA.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility, and for providing the opportunity for public comments on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions either of the Act, or 15 CFR 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Division. Acceptance for filing does not assure an application of being funded; it merely qualifies it to compete for funding with other applications which have also been accepted for filing.

Applicants submitting the following applications are required to publish notice of acceptance of the application pursuant to § 2301.11 of the Public Telecommunications Facilities Program rules.

BILLING CODE 3510-12-M

1

ALASKA

FILE NO. 1095CRB, AURORA COMMUNITY BDCSTG., BOX 1900, ANCHORAGE, AK 99510. SIGNED BY: JOHN SUDDOCK, PRES-BD OF DIRECTORS. GRANT REQUESTED: $111959. TOTAL PROJECT COST: $149412. DATE RECEIVED: 800109. TO IMPROVE PUBLIC RADIO STATION KSKA-FM OPRATING ON 103.1 MHz, ANCHORAGE, ALASKA.

FILE NO. 1141CTN, METLAKATLA INDIAN COMMUNITY, BOX 8, METLAKATLA, AK 99926. SIGNED BY: STANLEY R.PATTERSON, MAYOR. GRANT REQUESTED: $108180. TOTAL PROJECT COST: $144240. DATE RECEIVED: 800109. TO EXTEND THE CABLE SYSTEM OF THE METLAKATLA INDIAN COMMUNITY TO REACH ALL RESIDENTIAL LOCATIONS LEADING TO AND INCLUDING THE COMMUNITY OF ANNETTE, AND ESTABLISH LOCAL PRODUCTION CAPABILITY TO PROGRAM THE PUBLIC ACCESS CHANNELS.

FILE NO. 903CRB, NARROWS BROADCASTING CORP., BOX 149, PETERSBURG, AK 99833. SIGNED BY: LESLIE JO WESTPHAL, PRES AND CHAIR. GRANT REQUESTED: $30231. TOTAL PROJECT COST: $44411. DATE RECEIVED: 800109. TO IMPROVE FM RADIO STATION KFSK OPERATING ON 100.9 MHZ, PETERSBURG, ALASKA.

FILE NO. 1130C08, SAND POINT BRDCSTG INC., BOX 151, SAND POINT, AK 99661. SIGNED BY: GARY FERGUSON, PRES. GRANT REQUESTED: $201693. TOTAL PROJECT COST: $268925. DATE RECEIVED: 800109. TO ACTIVATE AM RADIO STATION OPERATING ON 840 KHZ AT SAND POINT, ALASKA TO SERVE SHUMAGIN ISLANDS, LOWER ALASKA PENINSULA, AND OUTER ALEUTIANS.

2

FILE NO. 987CRB, RAVEN RADIO FDN., BOX 936, SITKA, AK 99835. SIGNED BY: MARIKA PARTRIDGE, PRES. GRANT REQUESTED: $165378. TOTAL PROJECT COST: $220504. DATE RECEIVED: 800109. TO ACTIVATE AN FM PUBLIC RADIO STATION OPERATING ON 104.7 MHZ AT SITKA TO SERVE THE CITY AND BOROUGH OF SITKA INCLUDING MT. EDGECUMBE AND OUTLYING BUSH COMMUNITIES.

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UMI 8802828 MAY 5 4 V

3

ALABAMA

FILE NO. 918CRB, JACKSONVILLE STATE UNIV., BOX 124, JACKSONVILLE, AL 36265. SIGNED BY: ERNEST STONE, BOARD OF TRUSTEES. GRANT REQUESTED: $14800. TOTAL PROJECT COST: $19800. DATE RECEIVED: 790919. TO EXTEND THE SIGNAL OF FM RADIO STATION, WLJS, 91.9 MHZ, LOCATED IN JACKSONVILLE, ALABAMA TO PROVIDE FIRST SERVICE TO CALHOUN COUNTY.

4

ARKANSAS

FILE NO. 975CRB, HENDERSON STA UNIV., H-2961, ARKADELPHIA, AR 71923. SIGNED BY: DR MARTIN GARRISON, PRES. GRANT REQUESTED: $57951. TOTAL PROJECT COST: $77268. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF FM RADIO STATION KSWH OPERATING ON 91.1 MHZ IN ARKADELPHIA, ARKANSAS PROVIDING FIRST SERVICE TO CLARK, HOT SPRING, GARLAND, DALLAS, AND NEVADA COUNTIES.

FILE NO. 919CRB, CAVE CITY PUBLIC SCHOOLS, BOX 125, CAVE CITY, AR 72521. SIGNED BY: JOEL KUGELMASS, SUPT. GRANT REQUESTED: $62281. TOTAL PROJECT COST: $83042. DATE RECEIVED: 790606. TO ACTIVATE AN FM RADIO STATION WITH REQUESTED CALL LETTERS KOCA OPERATING ON 88.9 MHZ AND PROVIDING FIRST SERVICE TO THE CAVE CITY AREA IN NORTHEAST ARKANSAS.

FILE NO. 1231CTB, ARK ETV COMMISSION, 350 S DONAGHEY, CONWAY, AR 73032. SIGNED BY: LEE REAVES, DIR. GRANT REQUESTED: $300000. TOTAL PROJECT COST: $400000. DATE RECEIVED: 800118. TO IMPROVE THE ARKANSAS STATE TV NETWORK OF 5 STATIONS BY EQUIPPING NEW ORIGINATION CENTER IN CONWAY.

FILE NO. 1224PRB, OZARK PUBLIC BROADCASTING, BOX 547, EUREKA SPRINGS, AR 72632. SIGNED BY: ED JEFFORDS, SECY/TREAS,OPB, INC., GRANT REQUESTED: $28114. TOTAL PROJECT COST: $36224. DATE RECEIVED: 800118. TO PLAN FOR THE EXPANSION OF COMMUNITY

5

BASED RADIO STATION KESP-FM IN EUREKA SPRINGS, ARKANSAS TO COVER UNSERVED AREAS OF THE OZARKS IN NW ARKANSAS, SW MISSOURI, AND NE OKLAHOMA, TOTALING 15 COUNTIES.

FILE NO. 892CRB, BD. OF TRUSTEES, UNIV. OF ARKANSAS, 406 ADMINISTRATION BLDG., FAYETTEVILLE, AR 72701. SIGNED BY: CHARLES BISHOP, PRES. GRANT REQUESTED: $90000. TOTAL PROJECT COST: $120000. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF RADIO STATION KUAF-FM, OPERATING ON 88.9 MHZ AND IMPROVE THE LOCAL ORIGINATION CAPABILITY, THEREBY STRENGTHENING THE STATION'S PROGRAM SERVICE TO 4 COUNTIES IN NORTHWEST ARKANSAS, 2 COUNTIES IN EASTERN OKLAHOMA, AND 2 COUNTIES IN SOUTWEST MISSOURI, ALL OF THEM RURAL.

FILE NO. 1064CTN, FAYETTEVILLE OPEN CHANNEL, 309-B W DICKSON ST., FAYETTEVILLE, AR 72701. SIGNED BY: MARTIN YOFFE, COORDINATOR. GRANT REQUESTED: $72,854. TOTAL PROJECT COST: $107,795. DATE RECEIVED: 800109. TO ESTABLISH A TV PRODUCTION CENTER TO PROVIDE COMMUNITY ACCESS AND LOCAL PROGRAMS FOR THE FAYETTEVILLE, ARKANSAS OPEN CABLE CHANNEL AND 26 OTHER CABLE SYSTEMS COVERING A 15 COUNTY AREA.

6

ARIZONA

FILE NO. 874PRB, PAPAGO TRIBE OF ARIZONA, SELLS, AZ 85634. SIGNED BY: MAX NORRIS, CHAIRMAN. GRANT REQUESTED: $36120. TOTAL PROJECT COST: $36120. DATE RECEIVED: 800109. PLAN TO ESTABLISH RADIO STATION AND TELECOMMUNICATIONS CENTER TO PROVIDE FIRST LOCAL PROGRAMMING TO INDIAN RESERVATION, TO PROVIDE NONBROADCAST VIDEO PRODUCTION FACILITIES FOR DISSEMINATION TO REMOTE AREAS.

FILE NO. 1204CTB, KAET-TV, TEMPE, AZ 85281. SIGNED BY: JACK G. PENICK, VICE PRES, BUSINESS AFFAIRS. GRANT REQUESTED: $98962. TOTAL PROJECT COST: $131950. DATE RECEIVED: 800109. REQUEST IS FOR 3 TRANSLATORS TO PROVIDE FIRST SERVICE TO RESIDENTS OF PRESCOTT, COTTONWOOD, SEDONA, AND FLAGSTAFF AREAS OF NORTHERN ARIZONA.

FILE NO. 1227CTN, ARIZONA STA UNIV., TEMPE, AZ 85281. SIGNED BY: JACK G PENICK, VICE PRES, BUSINESS AFFAIRS. GRANT REQUESTED: $226328. TOTAL PROJECT COST: $282910. DATE RECEIVED: 800118. REQUEST IS FOR CONSTRUCTION OF FOUR CHANNEL ITFS SYSTEM TO OPERATE WITHIN MARICOPA COUNTY, ARIZONA. SYSTEM WILL BE OPERATED BY ARIZONA STATE UNIV. AND DELIVER INSTRUCTIONAL PROGRAMS AND COURSES. ALSO SERVICE TO MUNICIPAL PROFESSIONAL GROUPS, AND INDUSTRY. SATELLITE DISH IS REQUESTED FOR RECEIPT OF SATCOM SYSTEM PROGRAMS.

7

FILE NO. 1107CRB, ARIZONA STA UNIV., TEMPE, AZ 85281. SIGNED BY: JACK PENICK, VICE PRES FOR BUSINESS AFFAIRS. GRANT REQUESTED: $197535. TOTAL PROJECT COST: $282335. DATE RECEIVED: 800109. REQUEST TO CONSTRUCT SECOND SERVICE RADIO STATION TO OFFER FINE ARTS SERVICE TO APPROX 1.3 MILLION PEOPLE WITHIN A 55 MILE RADIUS OF PHOENIX AND SCOTTSDALE, AZ.

FILE NO. 1213CTB, UNIVERSITY OF ARIZONA, TUCSON, AZ 85721. SIGNED BY: SHERWOOD CARR, CONTRACTING OFFICER. GRANT REQUESTED: $765324. TOTAL PROJECT COST: $1265324. DATE RECEIVED: 800109. REQUESTS $765,324 FOR THE REPLACEMENT OF OBSOLETE AND UNRELIABLE ORIGINATION EQUIPMENT REQUIRED TO BE MORE RESPONSIVE TO THE NEEDS OF THE COMMUNITY.

FILE NO. 1260PTN, SOUTHWEST ALTERNATIVES INST., BOX 355, TUCSON, AZ 85722. SIGNED BY: FRANK MILAN, PRES. GRANT REQUESTED: $186796. TOTAL PROJECT COST: $186796. DATE RECEIVED: 800109. PLAN TO ESTABLISH A PUBLIC ACCESS SYSTEM CAPABLE OF TELECONFERENCING, DISSEMINATING SKILLS AND TRAINING INTERACTIVE DATA MANAGEMENT PRODUCTION, CERTIFICATION OF EQUIPMENT OPERATORS WITHIN THE COLLEGE AND THE LARGER COMMUNITY AND MULTI-OPTION DISTRIBUTION MODES. SYSTEM WOULD TIE INTO HOMES, INSTITUTIONS AND COMMUNITY CENTERS.

FILE NO. 1240PTB, PIMA COUNTY CMTY COLL DISTRICT, 2202 WEST ANKLAM RD., TUCSON, AZ 85709. SIGNED BY: S. JAMES MANILLA,

8

PRES. GRANT REQUESTED: $24791. TOTAL PROJECT COST: $24791. DATE RECEIVED: 800109. PROPOSAL SEEKS ASSISTANCE IN ORGANIZING AND ESTABLISHING A CONSORTIUM TO PLAN AND COORDINATE THE USE OF EDUCATIONAL TELECOMMUNICATIONS SERVICES IN TUCSON AND PIMA COUNTIES OF ARIZONA. IT IS ANTICIPATED THAT THIS CONSORTIUM WILL INCLUDE REPRESENTATIVES OF THE EDUCATIONAL INSTITUTIONS IN THE AREA AS WELL AS LOCAL MUNICIPAL SERVICES, LIBRARIES AND MEDICAL FACILITIES.

9

CALIFORNIA

FILE NO. 1150CTN, CITY OF BREA, BREA, CA 92621. SIGNED BY: WAYNE D. WEDIN, CITY MGR. GRANT REQUESTED: $695283. TOTAL PROJECT COST: $1770826. DATE RECEIVED: 800109. TO PURCHASE ORIGINATION EQUIPMENT FOR STUDIO AND MOBILE PRODUCTION UNIT TO EXTEND SERVICE TO FULLERTON AND YORBA LINDA VIA CABLE TV.

FILE NO. 1247CTN, CALIFORNIA STA UNIV., CHICO, W FIRST & NORMAL STS., CHICO, CA 95929. SIGNED BY: JOHN MORGAN, VICE PRES., ACADEMIC AFFAIRS. GRANT REQUESTED: $395061. TOTAL PROJECT COST: $526748. DATE RECEIVED: 800109. EXTENSION OF ITFS SYSTEM TO A NEW SECONDARY CENTER BY MID BAND HEAD-END CABLE FEED-UPGRADE. PRIMARY LEARNING CENTERS TO PROVIDE ACCESS ANALOG-DIGITAL DATA TRANSMISSION DEVICES, DEVELOP SLOW SCAN TV FACILITIES AT EACH PRIMARY LEARNING CENTER, DEVELOP PORTABLE MICROWAVE TO LINK MOUNTAIN TOP TRANSMITTERS FROM REMOTE AREAS, AND DEVELOP CAPTIONING CAPABILITY.

FILE NO. 856CRB, ROUND VALLEY INTER-TRIBAL CNCL, BOX 727, COVELO, CA 95428. SIGNED BY: ANNABELLE F WHIPPLE, SECY., BD OF DIRECTORS. GRANT REQUESTED: $232230. TOTAL PROJECT COST: $344107. DATE RECEIVED: 800109. REQUEST IS FOR CONSTRUCTION OF FIRST SERVICE PUBLIC RADIO STATION TO PROVIDE AND MAINTAIN A RELIABLE SOURCE OF ENTERTAINMENT, NEWS AND PUBLIC SERVICES TO THE ROUND VALLEY INDIAN RESERVATION.

10

FILE NO. 908CTB, REDWOOD EMPIRE PUBLIC TV INC., 7246 HUMBOLDT HILL RD., BOX 13, EUREKA, CA 95501. SIGNED BY: MARGE CUSTIS, PRES. GRANT REQUESTED: $36000. TOTAL PROJECT COST: $48000. DATE RECEIVED: 800109. REQUEST IS FOR REPLACEMENT OF A BADLY DAMAGED AND UNSAFE ANTENNA TOWER AND TRANSMISSION LINE.

FILE NO. 1050PTN, COLLEGE OF THE REDWOODS DIST., EUREKA, CA 95501. SIGNED BY: GILBERT D. SAUNDERS, VICE PRES, BUSINESS. GRANT REQUESTED: $41500. TOTAL PROJECT COST: $45443. DATE RECEIVED: 800114. PLAN TO PROVIDE BETTER DELIVERY OF INFORMATION BY EDUCATIONAL INSTITUTIONS, HEALTH CARE FACILITIES AND SOCIAL AGENCIES. UPGRADE PRESENT ORIGINATION CAPACITY TO ACCEPTABLE STANDARDS. PROVIDE MOBILE ORIGINATION FACILITIES TO PROMOTE PUBLIC PARTICIPATION IN PROVISION OF PROGRAMMING FOR NON-ENGLISH SPEAKING MINORITIES.

FILE NO. 934PTBN, INYO CO SUPT. OF SCHOOLS, 131 S JACKSON, PO DRAWER G, INDEPENDENCE, CA 93526. SIGNED BY: JANET WATKINS, SUPT. OF SCHOOLS. GRANT REQUESTED: $15000. TOTAL PROJECT COST: $15000. DATE RECEIVED: 800109. TO INVESTIGATE FEASIBILITY OF ESTABLISHING ETV SYSTEMS IN SCHOOLS TO PROVIDE HIGHER EDUCATION COURSES AND TO EVALUATE EXISTING COMMERCIAL TELECOMMUNICATIONS SERVICES IN RESPECT TO CAPABILITIES OF PROVIDING PUBLIC TELECOMMUNICATIONS AND TO MAKE RECOMMENDATIONS FOR ESTABLISHING NON-COMMERCIAL PUBLIC BROADCASTING FACILITIES FOR THE RESIDENTS OF INYO COUNTY.

11

FILE NO. 1056PTN, UNIVERSITY OF CA, PACIFIC CTR TELEPRODUCTION, IRVINE, CA 92717. SIGNED BY: E L.BRADT, MGR., CONTRACTS AND GRANTS. GRANT REQUESTED: $22375. TOTAL PROJECT COST: $31169. DATE RECEIVED: 800114. PROVIDE SYSTEMATIC PLANNING FOR A CENTRALIZED UNIVERSITY FACILITY AND TO IDENTIFY OTHER LOCAL, REGIONAL, AND STATE ENTITIES WHICH WOULD PARTICIPATE IN A CONSORTIUM AND IN COORDINATION PLANNING.

FILE NO. 1067CRB, LONG BEACH UNIFIED SCHOOL DIST., 701 LOCUST AVE., LONG BEACH, CA 90813. SIGNED BY: GERALD R MENEFEE, DEPUTY SUPT., BUSINESS. GRANT REQUESTED: $11543. TOTAL PROJECT COST: $15390. DATE RECEIVED: 800109. REQUEST IS FOR SCA EQUIPMENT TO SERVE 75 SCHOOL LOCATIONS AND 55000 STUDENTS IN THE LONG BEACH UNIFIED SCHOOL DISTRICT. PROJECT WILL PERMIT RECEPTION IN THE SCHOOLS OF SPECIALIZED INSTRUCTIONS AND EMERGENCY SAFETY PROGRAMS.

FILE NO. 828PTBN, CHILDRENS HOSPITAL OF LOS ANGELES, 4650 SUNSET BLVD., BOX 54700, LOS ANGELES, CA 90027. SIGNED BY: DONALD COOK, CHIEF EXECUTIVE OFFICER. GRANT REQUESTED: $147015. TOTAL PROJECT COST: $147015. DATE RECEIVED: 800107. PROJECT IS TO WRITE AND IMPLEMENT A FIVE YEAR PLAN TO ESTABLISH AND EXTEND A PUBLIC TELECOMMUNICATIONS SYSTEM TO HANDICAPPED PERSONS. IDENTIFY FACILITIES, MANPOWER, MANAGEMENT, PROGRAMMING, AND FUNDING; AND PROJECT THE EXTENSION OF SERVICES FOR AT LEAST THREE DISTRIBUTION METHODS TO SERVICE THE DISABLED.

12

FILE NO. 857PRTBN, COMMUNITY TV OF SO CALIFORNIA, 4401 SUNSET BLVD., LOS ANGELES, CA 90027. SIGNED BY: WILLIAM J. LAMB, SR., VICE PRESIDENT AND CHIEF OP OFF. GRANT REQUESTED: $102510. TOTAL PROJECT COST: $143580. DATE RECEIVED: 800109. PROPOSE TO DEVELOP A COMPREHENSIVE PLAN TO ASSEMBLE ALL PUBLIC TELECOMMUNICATIONS FACILITIES NECESSARY TO SERVE THE GROWING NEEDS OF THE GREATER LOS ANGELES AREA. PLAN WOULD PROVIDE EXTENDED TELECOMMUNICATIONS SERVICES INCLUDING CABLE TELEVISION AND VIDEO DISC.

FILE NO. 852PTN, ASIAN AMERICAN STUDIES CENTRAL, 313 S SAN PEDRO ST., 4TH FLOOR, LOS ANGELES, CA 90013. SIGNED BY: STEVEN J TATSUKAWA, ADMINISTRATIVE DIR. GRANT REQUESTED: $40873. TOTAL PROJECT COST: $49643. DATE RECEIVED: 800109. PLAN TO DEVELOP THE LONG TERM CAPABILITY OF PRODUCING AND DISSEMINATING PROGRAMMING FOR BOTH TV AND CABLE AIMED AT FILLING THE NEEDS OF THE ASIAN AMERICAN ETHNIC GROUPS IN LOS ANGELES, SAN FRANCISCO, SEATTLE, SAN JOSE, AND SACRAMENTO.

FILE NO. 1229CTN, EDUCATIONAL TV CENTER, 324 MIDDLEFIELD RD., MENLO PARK, CA 94025. SIGNED BY: DAVID GREEN. GRANT REQUESTED: $52500. TOTAL PROJECT COST: $105150. DATE RECEIVED: 800116. REQUESTS CONSTRUCTION OF AN ITFS REPEATER ATOP MT DIABLO IN EASTERN CONTRA-COSTA COUNTY, AND THE EASTERN PORTION OF ALAMEDA COUNTY. THE NEW REPEATER WILL PROVIDE A WIDE VARIETY OF EDUCATIONAL AND COMMUNITY SERVICES.

13

FILE NO. 1216CRB, SADDLEBACK COMTY COLLEGE DIST, 28000 MARGUERITE WAY, MISSION VIEJO, CA 92692. SIGNED BY: DR ROBERT A.LOMBARDI, SUPT/PRES. GRANT REQUESTED: $15703. TOTAL PROJECT COST: $20938. DATE RECEIVED: 800109. REQUEST IS FOR A TRANSLATOR TO EXTEND SERVICE TO THE PRESENTLY UNSERVED COASTAL AND LAGUNA BEACH AREAS OF ORANGE COUNTY.

FILE NO. 932CTB, INDIAN WELLS VALLEY TV BOOSTER, BOX 562, RIDGECREST, CA 93555. SIGNED BY: JAMES REIGER, PRES. GRANT REQUESTED: $4600. TOTAL PROJECT COST: $5750. DATE RECEIVED: 800109. CONSTRUCTION PROJECT IS FOR TRANSLATORS TO PROVIDE FIRST SERVICE PUBLIC TELEVISION TO THE INDIAN WELLS VALLEY AREAS OF THE MOJAVE DESERT.

FILE NO. 1002CTB, CENTRAL CA EDUC TV, INC., BOX 6, SACRAMENTO, CA 95801. SIGNED BY: MARILYN SHEARER, DIR OF DEVELOPMENT. GRANT REQUESTED: $43783. TOTAL PROJECT COST: $58378. DATE RECEIVED: 800109. ESTABLISH A MICROWAVE INTERCONNECT BETWEEN THE STATE CAPITOL BUILDING IN SACRAMENTO AND THE STUDIOS OF KVIE, CH 6. CONSTRUCTION OF THE MICROWAVE LINK WOULD ENABLE PTV STATIONS KQED SAN FRANCISCO, KIXE REDDING, AND KEET EUREKA, AND THE NORTHERN CALIFORNIA PTV NETWORK RECIPIENTS TO VIEW STATE GOVERNMENT PROCEEDINGS FROM THE CAPITOL.

14

FILE NO. 894PRBN, ASSOC. OF CA PUBLIC RADIO STATIONS, SENATOR HOTEL, SUITE 12, SACRAMENTO, CA 95814. SIGNED BY: THOMAS R MCMANUS, PRES. GRANT REQUESTED: $49260. TOTAL PROJECT COST: $49260. DATE RECEIVED: 800109. TO ASCERTAIN SPECIFIC NEED FOR SERVICE TO THE VAST UNSERVED AREAS OF THE STATE, AND TO DESIGN STATEWIDE SYSTEM COMPOSED OF RADIO-REPEATERS AND OTHER DISTRIBUTION SYSTEMS.

FILE NO. 1012PTB, CENTRAL CALIF. EDUC. TV, INC., BOX 6, SACRAMENTO, CA 95801. SIGNED BY: MARILYN SHEARER, DIR OF DEV. GRANT REQUESTED: $50000. TOTAL PROJECT COST: $50000. DATE RECEIVED: 800109. PLAN FOR ALTERNATIVE METHODS FOR EXPANDING AN EXISTING DELIVERY SYSTEM TO INCLUDE PRE K-12 INSTRUCTIONAL PROGRAMMING, TELECONFERENCING AND STAFF DEVELOPMENT CAPABILITIES. TO STUDY EXISTING AND ALTERNATIVE DELIVERY SYSTEMS.

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FILE NO. 878PTN, AMERICAN RIVER COLLEGE, SACRAMENTO, CA 95841. SIGNED BY: DR MARC E. HALL, ASSISTANT CHANCELLOR. GRANT REQUESTED: $47600. TOTAL PROJECT COST: $47600. DATE RECEIVED: 800109. PLAN TO DETERMINE THE FEASIBILITY OF ESTABLISHING AN ITFS SYSTEM WITH A RURAL SATELLITE CAMPUS, TO RESEARCH AND ASSESS OTHER COMMUNITIES AND LOCATIONS WITHIN THE DISTRICT, TO DETERMINE NEEDS AND INTERESTS, AND TO EXPLORE EXISTING ITFS SYSTEMS IN CALIF. TO COMPLEMENT AND COORDINATE PROGRAM OFFERINGS.

FILE NO. 1226PRB, OPERATION SECOND CHANCE, INC., SAN BERNARDINO, CA 92401. SIGNED BY: WESLEY B JEFFERSON, CHIEF, OPERATING OFFICE. GRANT REQUESTED: $25000. TOTAL PROJECT COST: $42250. DATE RECEIVED: 800118. PLAN TO STUDY AND ACCESS THE VARIOUS NEEDS OF THE SAN BERNARDINO AREA AND MINORITY COMMUNITIES IN TERMS OF LOCAL ORGANIZATION PROGRAMS THAT INTERFACE WITH VARIOUS GOVERNMENTAL, PRIVATE AND PUBLIC ENTITIES, AND EXPLORE THE PROPER TECHNOLOGY. PROPOSE MULTI-MEDIA STUDIO PROJECT TO PROVIDE TRAINING, UNDERSTANDING AND NURTURE BETTER COMMUNICATION AND AWARENESS BETWEEN GOVERNMENTS, SCHOOLS AND MINORITY COMMUNITIES.

FILE NO. 1123PTB, SAN DIEGO STA UNIV FDN., 5300 CAMPANILE DR., SAN DIEGO, CA 92182. SIGNED BY: LAWRENCE B. FEINBERG, ASSOC. DEAN, GRAD DIV. GRANT REQUESTED: $50000. TOTAL PROJECT COST: $52287. DATE RECEIVED: 800109. TO CONDUCT DETAILED STUDIES THROUGHOUT SAN DIEGO COUNTY TO DETERMINE ACTUAL SIGNAL MEASUREMENTS

AND COVERAGE AREAS. MAKE DETAILED SOLUTION PLANS INCLUDING SITES FOR ESTABLISHING NEW FACILITIES AND REQUIRED EQUIPMENT AND STUDY THE EXTENSION OF SERVICE TO UNSERVED AREAS OF THE COUNTY.

FILE NO. 1160PRB, KQED, 500 EIGHTH ST., SAN FRANCISCO, CA 94103. SIGNED BY: JENNIFER B. ARPS, DIR OF ADM AND CHIEF, FIN OFFICE. GRANT REQUESTED: $50278. TOTAL PROJECT COST: $50278. DATE RECEIVED: 800118. PLAN TO ESTABLISH A NEW PUBLIC TELECOMMUNICATIONS SERVICE TO UNDERSERVED SEGMENTS OF THE POPULATION THROUGH SCA. SERVICES WILL BE PROVIDED TO MEET THE NEEDS OF THE PRINT HANDICAPPED AND LARGE MINORITY POPULATION OF THE KQED-FM COVERAGE AREA.

FILE NO. 1021CTB, ISLAND VIEW COMTY VIDEO, INC., 628 W CANA PERDIDO ST., SANTA BARBARA, CA 93101. SIGNED BY: EDWIN PAUL ALLEN JR., PRES. GRANT REQUESTED: $1000000. TOTAL PROJECT COST: $1115000. DATE RECEIVED: 800109. CONSTRUCT A PRODUCTION FACILITY WITH MOBILE CAPABILITY FOR THE PURPOSE OF ESTABLISHING INTRA-COMMUNITY COMMUNICATIONS IN SANTA BARBARA COUNTY.

FILE NO. 1248PRB, WESTERN BILINGUAL RADIO, INC., 4010 FINLEY AVE., BOX 7159, SANTA ROSA, CA 95401. SIGNED BY: HUGO MORALES, STEERING COMMITTEE REPRESENTATIVE. GRANT REQUESTED: $97040. TOTAL PROJECT COST: $97040. DATE RECEIVED: 800109. REQUEST PLANNING GRANT TO IDENTIFY UNSERVED BILINGUAL AND SPANISH SPEAKING AUDIENCES AND IDENTIFY MOST FEASABLE METHOD OF SERVING EACH

SPECIFIC AUDIENCE, IE; RADIO, SATELLITE REPEATERS, MICROWAVE, ETC.

FILE NO. 1104CTB, HONEY LAKE TV CORP., 320 N MESA ST., SUSANVILLE, CA 96130. SIGNED BY: EDWARD ZANGGER, PRES. GRANT REQUESTED: $24382. TOTAL PROJECT COST: $32509. DATE RECEIVED: 800109. PROJECT WILL PROVIDE FIRST SERVICE ETV TO HONEY LAKE, CA. TRANSLATORS WILL PROVIDE SERVICE TO RURAL SCHOOLS, TO CALIFORNIA CORRECTIONAL FACILITIES WITH 1200 INMATES, AND TO THE SIERRA ARMY DEPOT.

FILE NO. 1007PTN, VISALIA UNIFIED SCHOOL DIST., 1717 N MCAULIFF, VISALIA, CA 93277. SIGNED BY: ROBERT LINE, SUPT. GRANT REQUESTED: $30024. TOTAL PROJECT COST: $30024. DATE RECEIVED: 800109. TO PLAN TO ASSESS, EVALUATE, AND DESIGN A PUBLIC TELECOMMUNICATIONS FACILITY FOR USE BY THE VISALIA SCHOOL DISTRICT. VARIOUS DEPARTMENTS WILL DISSEMINATE INFORMATION TO THE PUBLIC. PROJECT PROPOSES A LIMITED OUTPUT FM RADIO STATION AND CLOSED CIRCUIT CABLE TELEVISION SYSTEM.

COLORADO

FILE NO. 993CRB, ASPEN CENTER FOR PUBLIC RADIO, BOX 361, ASPEN, CO 81611. SIGNED BY: LOUIS K. LOEWENSTEIN, PRESIDENT. GRANT REQUESTED: $80000. TOTAL PROJECT COST: $109905. DATE RECEIVED: 800109. TO ACTIVATE A PUBLIC RADIO STATION OPERATING ON 89.9 MHZ IN ASPEN, CO. SERVING RESIDENTS AND SEASONAL VISITORS TO PITKIN COUNTY.

FILE NO. 1161CTB, GARFIELD CO COMMISSIONERS, BOX 640, GLENWOOD SPRINGS, CO 81601. SIGNED BY: FIAVIN CERISE, CHAIRMAN. GRANT REQUESTED: $40101. TOTAL PROJECT COST: $53468. DATE RECEIVED: 790720. TO ESTABLISH TRANSLATORS IN GLENWOOD SPRINGS, COLORADO TO BRING IN THE PUBLIC TV SIGNAL OF KRMA FROM DENVER.

FILE NO. 1238CTB, MESA COUNTY, BOX 897, GRAND JUNCTION, CO 81502. SIGNED BY: MAXINE ALBERS, CHAIRMAN. GRANT REQUESTED: $48069. TOTAL PROJECT COST: $64092. DATE RECEIVED: 800109. TO CONSTRUCT A TRANSLATOR SYSTEM THAT WILL BRING TO MESA COUNTY IN COLORADO THE PUBLIC SIGNAL OF KRMA-TV, DENVER.

FILE NO. 1100CRB, UNIV. OF NO COLORADO, CARTER HALL, GREELEY, CO 80639. SIGNED BY: RICHARD BOND, PRES. GRANT REQUESTED: $12465. TOTAL PROJECT COST: $16620. DATE RECEIVED: 800109. TO ACTIVATE A FIRST RADIO READING SERVICE FOR THE PRINT HANDICAPPED UTILIZING THE SCA CHANNEL OF KUNC-FM TO SERVE THE GREELEY AREA

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AND THE SCA CHANNEL OF KCFR-FM TO SERVE THE DENVER METROPOLITAN AREA.

FILE NO. 1010PTBN, UNIV. OF NORTHERN COLORADO, GREELEY, CO 80639. SIGNED BY: RICHARD R. BOND, PRES. GRANT REQUESTED: $39749. TOTAL PROJECT COST: $39749. DATE RECEIVED: 800109. TO PLAN FOR THE UTILIZATION OF TELECOMMUNICATIONS TECHNOLOGY FOR THE DELIVERY OF CULTURAL, EDUCATIONAL AND INFORMATIONAL SERVICES IN GREELEY AND THE SURROUNDING AREA.

FILE NO. 1016CTB, CITY OF OURAY, BOX 468, OURAY, CO 81427. SIGNED BY: MARGARET PETTY, MAYOR. GRANT REQUESTED: $49683. TOTAL PROJECT COST: $66244. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KTSC-TV, PUEBLO THROUGH TRANSLATORS TO BRING EDUCATIONAL TELEVISION PROGRAMMING TO RESIDENTS OF TWO RURAL COUNTIES IN WESTERN COLORADO—GUNNISON AND OURAY.

FILE NO. 1242CRB, NORTH FORK VALLEY PUBLIC RADIO, BOX 538, PAONIA, CO 81428. SIGNED BY: DAVID C. JOHNSTON, PRES. GRANT REQUESTED: $89121. TOTAL PROJECT COST: $118828. DATE RECEIVED: 800109. TO EXPAND THE BROADCAST SIGNAL OF PUBLIC RADIO STATION KVNF-FM, OPERATING ON 90.9 MHZ AT PAONIA, COLORADO, TO PROVIDE FIRST COVERAGE TO PARTS OF DELTA AND MONTROSE COUNTIES IN WESTERN COLORADO.

FILE NO. 997CTB, JACKSON COUNTY, 396 LAFEVER ST., BOX 337, WALDEN, CO 80480. SIGNED BY: OLIVER MEYRING, CHAIRMAN, BD OF CO COMMISSIONERS. GRANT REQUESTED: $31149. TOTAL PROJECT COST: $41533. DATE RECEIVED: 800109. TO PROVIDE THE RESIDENTS OF JACKSON COUNTY, COLORADO WITH A FIRST PUBLIC TELEVISION SERVICE BY USING TRANSLATOR STATIONS TO RE-TRANSMIT THE SIGNAL OF KRMA-TV, DENVER, COLORADO.

CONNECTICUT

FILE NO. 801CRB, UNIV. OF CONN. AT BRIDGEPORT, 244 UNIVERSITY AVE., BRIDGEPORT, CT 06602. SIGNED BY: HENRY MINOT, GEN MGR. GRANT REQUESTED: $39714. TOTAL PROJECT COST: $52952. DATE RECEIVED: 800109. IMPROVE AND UPGRADE EQUIPMENT TO STATE-OF-THE-ART AT WPKN-FM IN BRIDGEPORT, CONNECTICUT.

FILE NO. 846CTN, CHILDRENS TV WKSHP OF N HAVEN, 7 LINSLEY ST., N HAVEN, CT 06473. SIGNED BY: THEODORE W. ROGERS, DIR OF OPERATIONS. GRANT REQUESTED: $61448. TOTAL PROJECT COST: $111488. DATE RECEIVED: 800109. TO ESTABLISH PRODUCTION FACILITIES TO DEVELOP CHILDREN'S PROGRAMMING TO BE DISTRIBUTED BY CABLE IN NORTH HAVEN, CONNECTICUT.

FILE NO. 860PTN, CITY OF NEW BRITAIN, BOX 512, NEW BRITAIN, CT 06051. SIGNED BY: WILLIAM J. MCNAMARA, MAYOR. GRANT REQUESTED: $15000. TOTAL PROJECT COST: $20000. DATE RECEIVED: 800109. TO CONDUCT COMPREHENSIVE PLANNING FOR A REGIONAL FACILITY THAT WILL UTILIZE CABLE PUBLIC ACCESS CHANNELS IN FIVE CITIES INCLUDING AND AROUND NEW BRITAIN, CONNECTICUT.

DISTRICT OF COLUMBIA

FILE NO. 818PTN, BOOKER T WASHINGTON FDN., 2000 K ST., SUITE 800, WASHINGTON, DC 20006. SIGNED BY: EDWARD E. WALLACE, VICE PRESIDENT FOR ADMIN. GRANT REQUESTED: $114522. TOTAL PROJECT COST: $114522. DATE RECEIVED: 800109. TO PLAN FOR A PRODUCTION/DISTRIBUTION AND TRAINING CENTER TO BE OPERATED BY AND SERVE MINORITIES IN THE REGIONAL AREA OF THE DISTRICT OF COLUMBIA, MARYLAND AND NORTHERN VIRGINIA.

FILE NO. 1027PRB, FEMINIST RADIO NETWORK, BOX 5537, WASHINGTON, DC 20016. SIGNED BY: LYNN CHADWICK, PRES. GRANT REQUESTED: $48240. TOTAL PROJECT COST: $48240. DATE RECEIVED: 800109. THE PROPOSAL REQUESTS PLANNING FUNDS TO EXPLORE THE POSSIBILITIES OF RADIO PRODUCTION FACILITIES WITH PRIORITY ACCESS FOR WOMEN TO PRODUCE PROGRAMMING FOR AND ABOUT WOMEN. THE FEMINIST RADIO NETWORK PROPOSES TO DO THE PLANNING FOR SUCH FACILITIES JOINTLY WITH WESTERN PUBLIC RADIO, AN AFFILIATE BASED IN SAN FRANCISCO, CA.

FILE NO. 870CTN, APPALACHIAN REGIONAL COMMISSION, 1666 CONNECTICUT AVE., WASHINGTON, IC 20235. SIGNED BY: HAROLD E MORSE, DIR COMM SERVICE NETWORK. GRANT REQUESTED: $308767. TOTAL PROJECT COST: $803767. DATE RECEIVED: 800109. CONSTRUCTION REQUEST IS FOR THE PURCHASE OF TWENTY-TWO COMPLETE EARTH STATIONS, TWENTY SETS OF EQUIPMENT TO OUTFIT EXISTING CABLE SYSTEMS, AND OTHER

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ORIGINATION EQUIPMENT. THE EARTH STATIONS WILL BE PLACED AT COLLEGES, REGIONAL EDUCATION SERVICE AGENCIES, AND HOSPITALS THAT CURRENTLY SERVE AS RECEIVE SITES FOR AESP. THE CABLE MODIFICATION EQUIPMENT WILL BE INSTALLED AT CABLE TV SYSTEMS THROUGHOUT THE REGION.

FILE NO. 978PRB, NAT ALLIANCE SPANISH SPKG PEOPLE, 1701 16TH ST NW, WASHINGTON, DC 20009. SIGNED BY: MIGUEL A. SANDOVAL, PRES. GRANT REQUESTED: $50466. TOTAL PROJECT COST: $50466. DATE RECEIVED: 800109. REQUEST FUNDS TO PLAN A NON-COMMERCIAL EDUCATIONAL RADIO STATION IN THE DISTRICT OF COLUMBIA TO PROVIDE TELECOMMUNICATIONS SERVICES TO THE SPANISH SPEAKING COMMUNITIES OF WASHINGTON AND SURROUNDING AREAS.

FILE NO. 1283CRB, NATL FED OF CMTY BROADCASTERS, 1000 11TH ST N.W., WASHINGTON, DC 20001. SIGNED BY: THOMAS J. THOMAS, PRES. GRANT REQUESTED: $29320. TOTAL PROJECT COST: $39319. DATE RECEIVED: 800118. PROPOSES TO CONSTRUCT TAPE DUPLICATION AND PRODUCTION FACILITIES FOR NATIONAL DISTRIBUTION OF PUBLIC RADIO PROGRAMS. THE FACILITIES WILL BE LOCATED AT THE NPCB PROGRAM SERVICE IN CHAMPAIGN, ILLINOIS.

FILE NO. 1084CRB, AMERICAN UNIV., WASHINGTON, DC 20016. SIGNED BY: JOHN MCKINLEY, V.P., FINANCE & BUSINESS. GRANT REQUESTED: $94417. TOTAL PROJECT COST: $125890. DATE RECEIVED: 800109. REQUESTS FUNDING FOR BACK-UP TRANSMITTER FOR REDUNDANT PURPOSES

AND STATE-OF-THE-ART PRODUCTION EQUIPMENT. REQUEST ALSO INCLUDES REMOTE EQUIPMENT TO EXPAND ABILITY TO PRODUCE PROGRAMS FROM COMMUNITY LOCATIONS.

FILE NO. 1137PRB, NATIONAL PUBLIC RADIO, 2025 M ST, N.W., WASHINGTON, DC 20036. SIGNED BY: BILLY B. OXLEY, SR., VICE PRESIDENT FOR DISTRIBUTION. GRANT REQUESTED: $413000. TOTAL PROJECT COST: $644700. DATE RECEIVED: 800109. PROPOSES TO ESTABLISH A CENTRAL SERVICE FOR EARTH TERMINAL PLANNING, DESIGN, AND COSTING FOR PUBLIC TELECOMMUNICATIONS ENTITIES THAT INTEND TO USE THE PUBLIC RADIO SATELLITE INTER-CONNECTION SYSTEM.

FILE NO. 920CRB, PACIFICA FDN, 5316 VENICE BLVD., LOS ANGELES, CA 90019. SIGNED BY: JOEL KUGELMASS, EXEC DIR. GRANT REQUESTED: $56294. TOTAL PROJECT COST: $75058. DATE RECEIVED: 800109. PROPOSE TO CONSTRUCT DUAL STUDIOS IN WASHINGTON, DC FOR PURPOSE OF EXPANDING ITS NEWS AND RELATED SERVICES TO A NATIONWIDE AUDIENCE.

FLORIDA

FILE NO. 1219CTB, PUBLIC BRDCSTG FDN OF PALM BEACH, 505 S CONGRESS AVE., BOYNTON BEACH, FL 33435. SIGNED BY: SAMUEL A. MARANTZ, PRES. GRANT REQUESTED: $564176. TOTAL PROJECT COST: $817235. DATE RECEIVED: 800109. TO FULLY ACTIVATE A NEW PUBLIC TV STATION ON CH 42 IN BOYNTON BEACH, FL BY PROVIDING FIRST LOCAL ORIGINATION CAPACITY FOR THIS UNSERVED AREA.

FILE NO. 832CRB, SCHOOL BD OF BROWARD COUNTY, 1320 S W 4TH ST., FT. LAUDERDALE, FL 30574. SIGNED BY: WILLIAM T. MCFATTER, SUPT OF SCHOOLS. GRANT REQUESTED: $59448. TOTAL PROJECT COST: $79265. DATE RECEIVED: 800109. TO ACTIVATE AN FM RADIO STATION OPERATING ON 88.5 MHZ AT PIPER HIGH SCHOOL IN SUNRISE, FLORIDA, WEST OF FT. LAUDERDALE, TO SERVE CITIES OF SUNRISE, TAMARAC, PORTIONS OF LAUDER HILL, PLANTATION, AND WEST BROWARD CO. WITH LOCAL PROGRAMMING.

FILE NO. 1230CRB, INDIAN RIVER COMMUNITY COLLEGE, 3209 VIRGINIA AVE., FT. PIERCE, FL 33450. SIGNED BY: HERMAN A. HEISE, PRES. GRANT REQUESTED: $135715. TOTAL PROJECT COST: $180953. DATE RECEIVED: 800116. TO ACTIVATE AN FM RADIO STATION OPERATING ON 88.3 MHZ IN FT. PIERCE, FLORIDA AND PROVIDING FIRST SERVICE TO THE FOUR-COUNTY DISTRICT OF INDIAN RIVER, ST LUCIE, MARTIN, AND OKEECHOBEE ON FLORIDA'S CENTRAL EAST COAST.

FILE NO. 965CTB, UNIV. OF FLORIDA, WUFT-TV, 433A STADIUM BLDG., GAINESVILLE, FL 32611. SIGNED BY: ANTHONY E RANDAZZO, ACTING ASSOC DIR., DIV OF RESEARCH. GRANT REQUESTED: $277641. TOTAL PROJECT COST: $370188. DATE RECEIVED: 800109. TO IMPROVE THE LOCAL PRODUCTION CAPABILITY OF PUBLIC TV STATION WUFT, OPERATING ON CH 5 IN ORDER TO BETTER SERVE THE CITIZENS OF NORTH CENTRAL FLORIDA.

FILE NO. 847CRB, UNIV. OF FLA, 433A STA BLDG., GAINESVILLE, FL 32611. SIGNED BY: PATRICIA L. SCHMIDT, ACT ASST DIR DIV OF RESEARCH. GRANT REQUESTED: $35797. TOTAL PROJECT COST: $47730. DATE RECEIVED: 800109. TO IMPROVE RADIO STATION WUFT-FM, WHICH IS UNDER CONSTRUCTION AND WILL OPERATE ON 89.1 MHZ IN GAINESVILLE, FLORIDA BY PROVIDING SATELLITE RECEPTION FOR NPR PROGRAMS, THEREBY ACHIEVING FULL SERVICE STATUS.

FILE NO. 1079CRB, BASCOMB MEMORIAL BDCSTG FDN., INC., BOX WDNA, LUDLAM BR, MIAMI, FL 33155. SIGNED BY: RAYMOND MEYERS, PRES AND GEN MGR. GRANT REQUESTED: $355218. TOTAL PROJECT COST: $507456. DATE RECEIVED: 800109. TO ACTIVATE A FULL SERVICE RADIO STATION WDNA ON 88.9 MHZ IN MIAMI, FLORIDA AND ESTABLISH SCA CAPABILITIES AND SERVICES WHICH WILL PROVIDE LOCAL PROGRAMMING TO MINORITIES, WOMEN, HANDICAPPED AND THE PUBLIC AT LARGE.

FILE NO. 1184CRB, THE SCHOOL BD OF DADE COUNTY, 1410 N E 2ND AVE., MIAMI, FL 33132. SIGNED BY: DR. J. L. JONES, SUPT.

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GRANT REQUESTED: $117067. TOTAL PROJECT COST: $156090. DATE RECEIVED: 800109. TO IMPROVE AND EXTEND FM RADIO STATION WLRN OPERATING ON 91.3 MHZ IN MIAMI, FL BY UPGRADING TRANSMITTER AND EXTENDING ITS SCA SERVICES TO VISUALLY HANDICAPPED AND SCHOOLS.

FILE NO. 1259CTN, THE SCHOOL BD OF DADE COUNTY, 1410 N E 2ND AVE., MIAMI, FL 33132. SIGNED BY: DR. J. L. JONES, SUPT. GRANT REQUESTED: $193125. TOTAL PROJECT COST: $257500. DATE RECEIVED: 800109. TO EXTEND AND IMPROVE THE FACILITIES OF TV STATION WLRN OPERATING ON CHANNEL 17 IN MIAMI BY INTERCONNECTING THE MAJOR LOCAL CABLE SYSTEMS AND INTERCONNECTING PLANNED INSTRUCTIONAL TV FIXED SERVICE SYSTEMS IN BROWARD AND PALM BEACH COUNTIES.

FILE NO. 1218CTB, COMMUNITY TV FDN OF SO FLA, INC., 14901 N E SESAME ST., NORTH MIAMI, FL 33181. SIGNED BY: GEORGE DOOLEY, PRES. GRANT REQUESTED: $152,812. TOTAL PROJECT COST: $203,750. DATE RECEIVED: 800118. TO EXTEND THE SIGNAL OF TV STATION WPBT, CH 2 IN NORTH MIAMI, FL BY CONSTRUCTING A MICROWAVE DISTRIBUTION SYSTEM TO PROVIDE FIRST SERVICE FOR CABLE SYSTEMS IN PALM BEACH, RIVIERA BEACH, STUART, FORT PIERCE AND VERO BEACH.

FILE NO. 889CTB, FLA CENTRAL E COAST EDUC TV, INC., 11510 E COLONIAL DR., ORLANDO, FL 32817. SIGNED BY: STEPHEN M. STECK, PRES. GRANT REQUESTED: $438834. TOTAL PROJECT COST: $585112. DATE RECEIVED: 800109. TO SIGNIFICANTLY INCREASE THE CAPABILITY

OF TV STATION, WMFE, CH 4 IN ORLANDO, FLORIDA TO DELIVER LOCAL PROGRAMMING, THROUGH BOTH CABLE AND BROADCAST, TO THE COMMUNITY OF EAST CENTRAL FLORIDA.

FILE NO. 1217CRB, FLORIDA CENTRAL EAST COAST ED TV, 11510 EAST COLONIAL DR., ORLANDO FL 32817. SIGNED BY: STEPHEN M. STECK, PRES. GRANT REQUESTED: $34116. TOTAL PROJECT COST: $63638. DATE RECEIVED: 800109. TO IMPROVE FM RADIO STATION WMFE OPERATING ON 90.7 MHZ IN ORLANDO, FLORIDA BY PROVIDING FIRST LOCAL REMOTE ORIGINATION CAPACITY.

FILE NO. 800CMB, GULF COAST COMMUNITY COLLEGE, 5230 WEST HIGHWAY 98, PANAMA CITY, FL 32401. SIGNED BY: CHARLES T. WOOTEN, STATION MANAGER. GRANT REQUESTED: $67678. TOTAL PROJECT COST: $90238. DATE RECEIVED: 791227. TO IMPROVE FM RADIO STATION WKGC IN PANAMA CITY, OPERATING ON 90.7 MHZ BY UPGRADING LOCAL PRODUCTION EQUIPMENT TO STATE-OF-THE-ART.

FILE NO. 821CRB, THE FLORIDA A&M UNIVERSITY, BOX 6202, TALLAHASSEE, FL 32307. SIGNED BY: DR WALTER L. SMITH, UNIVERSITY PRESIDENT. GRANT REQUESTED: $101113. TOTAL PROJECT COST: $134861. DATE RECEIVED: 800108. TO EXTEND THE SIGNAL AND IMPROVE LOCAL PRODUCTION CAPABILITY OF FM RADIO STATION WAMF, OPERATING ON 90.3 MHZ IN TALLAHASSEE, FLORIDA BY INCREASING POWER FROM 10 W TO 100 W AND UPGRADING STUDIO EQUIPMENT.

FILE NO. 1075CRB, THE UNIV. OF SOUTH FLORIDA, 4202 FOWLER AVE., TAMPA, FL 33620. SIGNED BY: DR. E. V. JOHNANNINGMEIER, ACTING DIR., SPONSORED RESEARCH. GRANT REQUESTED: $41250. TOTAL PROJECT COST: $55000. DATE RECEIVED: 800109. TO EXTEND THE SCA SERVICES OF RADIO STATION WUSF OPERATING ON 89.7 MHZ IN TAMPA, FLORIDA BY PROVIDING SPECIALIZED PROGRAMMING TO AN INCREASED NUMBER OF THE BLIND AND HANDICAPPED.

FILE NO. 1207CRB, NATHAN B STUBBLEFIELD FDN., 305 SOUTH BLVD., TAMPA, FL 33606. SIGNED BY: PHYLLIS HAMM, VICE PRES. GRANT REQUESTED: $39225. TOTAL PROJECT COST: $52300. DATE RECEIVED: 800109. TO IMPROVE RADIO STATION WMNF-FM OPERATING ON 88.5 MHZ IN TAMPA, FL BY UPGRADING LOCAL PRODUCTION CAPABILITY TO STATE-OF-THE-ART TO STRENGTHEN SERVICE TO MINORITIES.

FILE NO. 1140CTN, UNIV. OF SOUTH FLORIDA, 4202 FOWLER AVE., TAMPA, FL 33620. SIGNED BY: DR ERWIN V. JOHANNINGMEIER, ACTING DIR/SPONSORED RESEARCH. GRANT REQUESTED: $132941. TOTAL PROJECT COST: $177255. DATE RECEIVED: 800109. TO ESTABLISH AN INSTRUCTIONAL TELEVISION FIXED SERVICE FOR THE TAMPA, ST PETERSBURG AREA IN FLORIDA TO BE PROVIDED BY WUSF-TV IN TAMPA.

GEORGIA

FILE NO. 1103CTB, WGTV, UNIV. OF GEORGIA, ATHENS, GA 30601. SIGNED BY: FRED C. DAVIDSON, PRES. GRANT REQUESTED: $246450. TOTAL PROJECT COST: $328600. DATE RECEIVED: 800109. TO AUGMENT THE PRODUCTION CAPABILITY OF WGTV IN ATHENS, GEORGIA.

FILE NO. 942PTN, CITY OF ATLANTA, 68 MITCHELL ST, SW, ATLANTA, GA 30303. SIGNED BY: MAYNARD JACKSON, MAYOR. GRANT REQUESTED: $96480. TOTAL PROJECT COST: $96480. DATE RECEIVED: 800109. TO PLAN FOR PUBLIC AND GOVERNMENTAL USES OF CABLE TV IN ATLANTA, GEORGIA.

FILE NO. 907CRB, RADIO FREE GEORGIA BROADCASTING FDN., BOX 5332, ATLANTA, GA 30307. SIGNED BY: CHRISTINE A. CARROLL, GEN MGR. GRANT REQUESTED: $95884. TOTAL PROJECT COST: $127845. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF WRFG-FM, RADIO FREE GEORGIA, TO THE ENTIRE CITY OF ATLANTA.

FILE NO. 1128CRB, CLARK COLLEGE, 240 CHESTNUT ST., ATLANTA, GA 30314. SIGNED BY: ELIAS BLAKE, JR. PRES. GRANT REQUESTED: $161063. TOTAL PROJECT COST: $234771. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF FM RADIO STATION, WCLK, IN ATLANTA, GEORGIA, TO PROVIDE PROGRAMMING TO A SPECIFIC MINORITY POPULATION.

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31

FILE NO. 1208CTN, TRI-COUNTY REGIONAL LIBRARY, BOX 277, ROME, GA 30161. SIGNED BY: EMILY C. PAYNE, DIR. GRANT REQUESTED: $122086. TOTAL PROJECT COST: $162781. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF THE TRI-COUNTY LIBRARY'S PRODUCTION FACILITY BY UTILIZING A CABLE SYSTEM IN CHATTANOOGA COUNTY, GEORGIA AND TO IMPROVE EXISTING FACILITIES FOR FLOYD AND BARTOW COUNTIES.

FILE NO. 957CRB, SAVANNAH STA COLLEGE, SAVANNAH, GA 31404. SIGNED BY: CLYDE W. HALL, ACTING PRES. GRANT REQUESTED: $[illegible]2335. TOTAL PROJECT COST: $102335. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF THE SAVANNAH COLLEGE RADIO STATION BY INCREASING POWER.

32

HAWAII

FILE NO. 1049CTB, HAWAII PUBLIC BRDCSTG AUTH., 2350 DOLE ST., HONOLULU, HI 96822. SIGNED BY: TERUO IHARA, BD CHAIRMAN. GRANT REQUESTED: $254679. TOTAL PROJECT COST: $339572. DATE RECEIVED: 800109. REQUEST IS FOR FUNDS FOR REPLACEMENT OF BADLY WORN AND OBSOLETE THREE-QUARTER INCH TAPE MACHINES USED FOR RECORDING PBS SATELLITE PROGRAMMING. DUE TO TIME ZONE DIFFERENCES THESE MACHINES HAVE BEEN SUBJECT TO UNUSUALLY HEAVY USAGE. THE AQUISITION OF FOUR ONE INCH VTRS WOULD PERMIT AN INCREASE IN QUALITY.

33

IOWA

FILE NO. 971CTN, KIRKWOOD COMMUNITY COLLEGE, BOX 2068, CEDAR RAPIDS, IA 52406. SIGNED BY: BILL F. STEWART, SUPT/PRES. GRANT REQUESTED: $996894. TOTAL PROJECT COST: $1329192. DATE RECEIVED: 800109. TO ESTABLISH AND EXTEND AN INTERACTIVE MICROWAVE SYSTEM THAT INCLUDES ITFS AND CABLE ACCESS CHANNELS AND WILL BRING EDUCATIONAL SERVICES TO A SEVEN COUNTY AREA AROUND CEDAR RAPIDS.

FILE NO. 901CTN, STA EDUC RADIO & TV FACILITIES BD, BOX 1758, DES MOINES, IA 50306. SIGNED BY: ROD THOLE, EXEC DIR. GRANT REQUESTED: $118500. TOTAL PROJECT COST: $158000. DATE RECEIVED: 800109. TO ESTABLISH A MICROWAVE LINK BETWEEN KDIN-TV AND A CABLE SYSTEM TO PROVIDE AUGMENTED AND SPECIALIZED PROGRAMMING.

FILE NO. 1089CRB, URBAN COMMUNITY BDCSTG., 1365 16TH ST., DES MOINES, IA 50314. SIGNED BY: JO ANNA CHEATOM, EXEC. DIR. GRANT REQUESTED: $101400. TOTAL PROJECT COST: $143800. DATE RECEIVED: 800109. TO EXPAND THE SERVICE OF KUCB WHICH PROVIDES SPECIALIZED PROGRAMMING TO THE BLACK POPULATION OF THE DES MOINES AREA.

FILE NO. 1040CTN, IOWA CITY PUBLIC LIBRARY, 307 E COLLEGE, IOWA CITY, IA 52240. SIGNED BY: LOOY EGGERS, DIR. GRANT REQUESTED: $36880. TOTAL PROJECT COST: $79628. DATE RECEIVED:

34

800109. TO ESTABLISH A CABLE ACCESS FACILITY WHICH WOULD PROVIDE LOCAL PROGRAMMING TO IOWA CITY.

FILE NO. 1024CRB, WESTERN IOWA TECH COMTY COLLEGE, 4647 STONE AVE, BOX 265, SIOUX CITY, IA 51102. SIGNED BY: ROBERT KISER, SUPT. GRANT REQUESTED: $28062. TOTAL PROJECT COST: $46551. DATE RECEIVED: 800109. TO AUGMENT THE SERVICES OF KWIT OF SIOUX CITY, IOWA, BY CONSTRUCTING MOBILE FACILITIES.

FILE NO. 1030CRB, AFRO-AMERICAN COMMUNITY BDCSTG., 527 COTTAGE ST., WATERLOO, IA 50703. SIGNED BY: JIMMIE PORTER, EXEC DIR. GRANT REQUESTED: $77250. TOTAL PROJECT COST: $103000. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KBBG-FM OPERATED BY AFRO-AMERICAN COMMUNITY BROADCASTING, INC. IN WATERLOO, IOWA.

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IDAHO

FILE NO. 1236CRB, UNIV. OF IDAHO, STUDENT UNION BLDG., MOSCOW, ID 83843. SIGNED BY: DEAN VETTRUS, STUDENT UNION MGR. GRANT REQUESTED: $9954. TOTAL PROJECT COST: $13359. DATE RECEIVED: 800118. TO EXTEND THE SIGNAL OF FM RADIO STATION KUOI, OPERATING ON 89.3 MHZ, MOSCOW, IDAHO TO SERVE NORTHERN IDAHO.

36

ILLINOIS

FILE NO. 872CTB, CENTRAL EDUC NETWORK ASSOC., 5400 N ST. LOUIS AVE, CHICAGO, IL 60625. SIGNED BY: JOHN A. MONTGOMERY, PRES. GRANT REQUESTED: $145341. TOTAL PROJECT COST: $193788. DATE RECEIVED: 800109. TO IMPROVE ORIGINATION AND PRODUCTION EQUIPMENT AT THE LINCOLN, NEBRASKA, OPERATIONS CENTER OF THE CENTRAL EDUCATIONAL NETWORK, CHICAGO, ILLINOIS WHICH SERVES A 12 STATE MID-WESTERN AREA.

FILE NO. 1244CTB, CHICAGO EDUC TV ASSN., 5400 NORTH ST. LOUIS AVE, CHICAGO, IL 60625. SIGNED BY: JOHN C. RAHMANN, STATION MGR. GRANT REQUESTED: $435750. TOTAL PROJECT COST: $581000. DATE RECEIVED: 800109. TO STRENGTHEN LOCAL ORIGINATION FACILITIES FOR TELEVISION ON STATION WITW, CH 11, CHICAGO, ILLINOIS BY ACQUIRING PRODUCTION EQUIPMENT THAT WILL INCREASE THE FLEXIBILITY AND DIVERSITY IN PROGRAMMING FOR THE TRI-STATE AREA SURROUNDING METROPOLITAN CHICAGO.

FILE NO. 1196CRB, SOUTHERN ILLINOIS UNIV., BOX 73, EDWARDSVILLE, IL 62026. SIGNED BY: EARL S. BEARD, ACTING VICE PRES & PROVOST. GRANT REQUESTED: $20000. TOTAL PROJECT COST: $26720. DATE RECEIVED: 800109. TO IMPROVE PUBLIC TELECOMMUNICATIONS FACILITIES AT RADIO STATION WSIE 88.7 MHZ, SOUTHERN ILLINOIS UNIV, EDWARDSVILLE BY COMPLETING PROGRAM ORIGINATION FACILITIES USED WITH SATELLITE TRANSMISSION SERVICES FOR THE EDWARDSVILLE AREA.

37

FILE NO. 900PTN, BLACK HAWK COLLEGE, 6600 34TH AVE., MOLINE, IL 61265. SIGNED BY: DR CHARLES CARLSEN, PROVOST. GRANT REQUESTED: $16000. TOTAL PROJECT COST: $21520. DATE RECEIVED: 800109. TO PLAN FOR THE ACTIVATION OF PUBLIC TELECOMMUNICATIONS SERVICES USING COMMUNITY CABLE SYSTEMS TO REACH COMMUNITIES IN ROCK ISLAND, WHITESIDE, AND HENRY COUNTIES, ILLINOIS AND SCOTT AND CLINTON COUNTIES IN IOWA.

FILE NO. 1134CRB, ILLINOIS STATE UNIVERSITY, 310 MEDIA CENTER, NORMAL, IL 61761. SIGNED BY: ROBERT E. MCADAM, DIR., OFFICE OF RESEARCH/GRANTS. GRANT REQUESTED: $22500. TOTAL PROJECT COST: $30000. DATE RECEIVED: 800109. TO IMPROVE THE NONCOMMERCIAL, PUBLIC BROADCAST FACILITIES OF STATION WGLT-FM 89.1 MHZ, ILLINOIS STATE UNIVERSITY, NORMAL, ILLINOIS, THROUGH THE ACQUISTION OF SATELLITE RECEIVE FACILILTIES TO SERVE THE COMMUNITIES OF BLOOMINGTON, INDIANA - NORMAL, ILLINOIS AREA.

FILE NO. 909PTN, OAK PARK AND RIVER FOREST HS, 201 N SCOVILLE AVE., OAK PARK, IL 60302. SIGNED BY: DR JOHN C SWANSON, SUPERINTENDENT. GRANT REQUESTED: $50500. TOTAL PROJECT COST: $54250. DATE RECEIVED: 800109. TO PLAN FOR A PRODUCTION FACILITY UTILIZING THE COMMUNITY CABLE SYSTEM OF OAK PARK, ILLINOIS.

FILE NO. 1243CTB, SO ILLINOIS UNIV. AT CARBONDALE, BOX 430, OLNEY, IL 62450. SIGNED BY: FRANK E HORTON, VICE PRESIDENT. GRANT REQUESTED: $432858. TOTAL PROJECT COST: $816305. DATE

38

RECEIVED: 800109. TO REPLACE THE TRANSMITTER AND IMPROVE ORIGINATION EQUIPMENT FOR PUBLIC TELEVISION STATION WUSI-TV, CH 16, A SERVICE OF SOUTHERN ILLINOIS UNIVERSITY EMAINATING FROM ONLEY, ILLINOIS, TO IMPROVE BROADCAST SERVICES TO SOUTHERN ILLINOIS AND INDIANA.

FILE NO. 1026CTB, THE UNIV. OF ILLINOIS, 354 ADMINISTRATION BLDG., URBANA, IL 61801. SIGNED BY: LINDA S. WILSON, SECY, RESEARCH BOARD. GRANT REQUESTED: $321870. TOTAL PROJECT COST: $429160. DATE RECEIVED: 800109. TO IMPROVE TELEVISION STATION WILL CH 12, UNIV. OF ILLINOIS, URBANA, ILLINOIS BY UPGRADING EXISTING ORIGINATION AND TEST EQUIPMENT TO ENABLE MORE RELIABLE AND IMPROVED QUALITY IN PROGRAM SERVICES TO THE CHAMPAIGN, DECATUR, URBANA AND SPRINGFIELD AREA.

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INDIANA

FILE NO. 952CTB, METRO INDIANAPOLIS TV ASSN, INC., 1440 N MERIDIAN, INDIANAPOLIS, IN 46202. SIGNED BY: FRANK MEEK, EXEC. VICE PRESIDENT. GRANT REQUESTED: $184125. TOTAL PROJECT COST: $245500. DATE RECEIVED: 800109. TO EXEND THE SIGNAL OF TELEVISION STATION WFYI-TV, CHANNEL 20, INDIANAPOLIS, INDIANA TO PROVIDE PUBLIC TELEVISION SERVICES TO UNSERVED CENTRAL INDIANA TOWNS AND TO IMPROVE THE QUALITY OF SIGNAL TO COMMUNITIES ALREADY SERVED IN THE INDIANAPOLIS METROPOLITAN AREA.

FILE NO. 939CRB, BUTLER UNIVERSITY, 4600 SUNSET AVE., INDIANAPOLIS, IN 46208. SIGNED BY: LOUIS F. CHENETTE, DEAN. GRANT REQUESTED: $251061. TOTAL PROJECT COST: $334749. DATE RECEIVED: 800109. TO ACTIVATE SUB-CARRIER CHANNEL SERVICES FOR THE BLIND AND PROVIDE STEREO BROADCAST SERVICES TO FM RADIO STATION WAJC OPERATING ON 104.5 MHZ, INDIANAPOLIS, INDIANA BY ADDING PRODUCTION AND RECEPTION FACILITIES TO BETTER SERVE THE METRO INDIANAPOLIS, INDIANA AREA.

KANSAS

FILE NO. 811CTB, SOUTHWEST KANSAS PUBLIC TV, 401 CAMPUS DRIVE, GARDEN CITY, KS 67846. SIGNED BY: BRYCE RODERICK, II, CHAIRPERSON. GRANT REQUESTED: $608634. TOTAL PROJECT COST: $2170074. DATE RECEIVED: 800109. TO ACTIVATE A TELEVISION STATION LOCATED IN GARDEN CITY, KANSAS THAT WOULD SERVE SOUTHWEST KANSAS RESIDENTS.

FILE NO. 999CTB, SHERIDAN CO., 929 9TH ST., HOXIE, KS 67740. SIGNED BY: KEITH CALDWELL, CHAIRMAN. GRANT REQUESTED: $44114. TOTAL PROJECT COST: $58819. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KSMH-TV IN HAYS, KANSAS, TO THE RESIDENTS OF SHERIDAN COUNTY IN NORTH WESTERN KANSAS.

FILE NO. 888CRN, UNIVERSITY OF KANSAS AUDIO READER NETWORK, 1150 W 11TH ST., LAWRENCE, KS 66045. SIGNED BY: CAROLYN HALLENBECK, DIR OF RESEARCH SUPPORT. GRANT REQUESTED: $23400. TOTAL PROJECT COST: $31200. DATE RECEIVED: 800114. TO PROVIDE ADDITIONAL SCA RECEIVERS TO EXTEND THE UNIVERSITY OF KANSAS' AUDIO-READER NETWORK TO ELDERLY RESIDENTS IN THE METROPOLITAN AREAS OF KANSAS.

FILE NO. 1085CTN, WASHBURN UNIV. OF TOPEKA, 1700 COLLEGE, TOPEKA, KS 66621. SIGNED BY: JOHN HENDERSON, PRES. GRANT REQUESTED: $180000. TOTAL PROJECT COST: $278110. DATE RECEIVED: 800109.

TO ESTABLISH A PRODUCTION FACILITY TO PROVIDE LOCAL PROGRAMMING AND EDUCATIONAL COURSES THROUGH A CABLE SYSTEM IN TOPEKA, KANSAS.

FILE NO. 1092CTN, WICHITA PUBLIC SCHOOLS, USD 259, 428 SO BROADWAY, WICHITA, KS 67202. SIGNED BY: DR. ALVIN E. MORRIS, SUPT. OF SCHOOLS. GRANT REQUESTED: $240241. TOTAL PROJECT COST: $375826. DATE RECEIVED: 800109. TO ESTABLISH A LOCAL PRODUCTION FACILITY TO PRODUCE CULTURAL AND EDUCATIONAL PROGRAMMING THAT WOULD BE DISTRIBUTED TO THE METROPOLITAN AREA OF WICHITA THROUGH CABLE TELEVISION.

FILE NO. 1102CTB, KANSAS PUBLIC TELECOMM SERVICE, 352 N BROADWAY, BOX 288, WICHITA, KS 67201. SIGNED BY: ZOEL PARTENEAU, PRES & GEN MGR. GRANT REQUESTED: $89193. TOTAL PROJECT COST: $118924. DATE RECEIVED: 800109. TO ESTABLISH A SECOND SERVICE CHANNEL WHICH WOULD BE DISTRIBUTED THROUGH CABLE SYSTEMS IN MID-KANSAS.

KENTUCKY

FILE NO. 885PRTB, WESTERN KENTUCKY UNIV., ACADEMIC COMPLEX 153, BOWLING GREEN, KY 42101. SIGNED BY: PAUL B. COOK, ASST TO THE PRES FOR RESOURCES. GRANT REQUESTED: $26905. TOTAL PROJECT COST: $35874. DATE RECEIVED: 800109. TO PLAN FOR A NEW TV STATION PROVIDING LOCAL ORIGINATION AND TO CONDUCT A STATEWIDE SEARCH FOR FM FREQUENCIES.

FILE NO. 1087PTN, FRANKLIN CO BD OF EDUCATION, 916 E MAIN ST., FRANKFORT, KY 40601. SIGNED BY: DR. EDWARD WRIGHT, SUPT. GRANT REQUESTED: $15050. TOTAL PROJECT COST: $17908. DATE RECEIVED: 800109. TO PLAN FOR THE CONSTRUCTION OF AN ITFS SYSTEM THAT INTERCONNECTS FRANKLIN COUNTY, KENTUCKY SCHOOLS AND CABLE SYSTEMS.

FILE NO. 1094PRB, NO KENTUCKY UNIV., LOUIS B NUNN DR., HIGHLAND HGTS, KY 41076. SIGNED BY: A. D. ALBRIGHT, PRES. GRANT REQUESTED: $29374. TOTAL PROJECT COST: $37741. DATE RECEIVED: 800109. TO ESTABLISH A FIRST SERVICE RADIO STATION TO SERVE HIGHLAND HEIGHTS, KENTUCKY.

FILE NO. 1172CTB, KENTUCKY AUTHORITY FOR ETV, 600 COOPER DR. LEXINGTON, KY 40502. SIGNED BY: VIRGINIA G. FOX, ASSOC. EXEC. DIR. GRANT REQUESTED: $1107412. TOTAL PROJECT COST: $1476550. DATE RECEIVED: 800116. TO IMPROVE SERVICES BY DEVELOPING COMPREHENSIVE REMOTE CONTROL CAPABILITY FOR ALL OF KENTUCKY'S 12 ETV TRANSMITTERS.

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43

FILE NO. 850CRB, UNIV. OF LOUISVILLE FDN., INC., 2301 S 3RD ST., LOUISVILLE, KY 40208. SIGNED BY: HERBERT GARFINKEL, VICE PRES., ACADEMIC AFFAIRS. GRANT REQUESTED: $37500. TOTAL PROJECT COST: $51550. DATE RECEIVED: 800109. TO EXPAND SCA SERVICES OF WUOL-FM OF THE UNIVERSITY OF LOUISVILLE TO OFFER PROGRAMMING TO THE BLIND AND OTHER EDUCATIONAL COMMUNITY AUDIENCES.

FILE NO. 849CTN, UNIV. OF LOUISVILLE FDN., INC., LOUISVILLE, KY 40208. SIGNED BY: HERBERT GARFINKEL, VICE PRES FOR ACADEMIC AFFAIRS. GRANT REQUESTED: $80272. TOTAL PROJECT COST: $107254. DATE RECEIVED: 800109. TO IMPROVE ITFS SYSTEM BASED AT THE UNIVERSITY OF LOUISVILLE, KENTUCKY AND SERVING AREA CAMPUSES.

FILE NO. 930CRB, KY WESLEYAN COLLEGE, 3000 FREDERIC ST., OWENSBORO, KY 42301 SIGNED BY: DR. LUTHER W.WHITE, III, PRES. GRANT REQUESTED: $36985. TOTAL PROJECT COST: $49314. DATE RECEIVED: 800109. TO ACTIVATE A RADIO STATION TO SERVE OWENSBORO AND DAVIES COUNTY IN KY.

FILE NO. 927CTN, EASTERN KY UNIV., RICHMOND, KY 40475. SIGNED BY: J. C. POWELL, PRES. GRANT REQUESTED: $71234. TOTAL PROJECT COST: $94979. DATE RECEIVED: 800109. TO ACTIVATE A CATV PRODUCTION STUDIO TO PROVIDE LOCAL ORIGINATION OPPORTUNITIES TO RESIDENTS OF RICHMOND, KY.

44

FILE NO. 877PRB, APPALSHOP, INC., BOX 743, WHITESBURG, KY 41858. SIGNED BY: DEE DAVIS, PRES. GRANT REQUESTED: $30456. TOTAL PROJECT COST: $33501. DATE RECEIVED: 800109. TO PLAN FOR AN FM RADIO STATION TO PROVIDE FIRST SERVICE TO WHITESBURG, KY, AND SURROUNDING AREA.

45

LOUISIANA

FILE NO. 825CTB, LOUISIANA EDUCATIONAL TV AUTH., 2618 WOODDALE BLVD., BATON ROUGE, LA 70805. SIGNED BY: A.FRED FREY, EXECUTIVE DIRECTOR. GRANT REQUESTED: $633961. TOTAL PROJECT COST: $984614. DATE RECEIVED: 800109. TO IMPROVE THE LOUISIANA TV NETWORK'S PROGRAMMING SERVICE TO ENTIRE STATE OF 3.6 MILLION PEOPLE BY SECURING MOBILE PRODUCTION FACILITIES.

FILE NO. 882CTB, GREATER NEW ORLEANS EDUC TV FDN., 916 NAVARRE AVE., BOX 24026, NEW ORLEANS, LA 70184. SIGNED BY: WILLIAM S. HART, PRES. GRANT REQUESTED: $886836. TOTAL PROJECT COST: $1182448. DATE RECEIVED: 800109. TO ACTIVATE A REPEATER TV STATION ON CHANNEL 11 TO BE LOCATED IN HOUMA, LOUISIANA PROVIDING FIRST SERVICE TO THE CITIES OF HOUMA, THIBODAUX, AND MORGAN PLUS THE SURROUNDING RURAL AREAS.

FILE NO. 1041PRB, LA ST UNIV. IN SHREVEPORT, 8515 YOUREE DR., SHREVEPORT, LA 71115. SIGNED BY: A. J. HOWELL, ACTING CHANCELLOR. GRANT REQUESTED: $49959. TOTAL PROJECT COST: $49959. DATE RECEIVED: 800109. TO PLAN FOR THE ESTABLISHMENT OF A FULL SERVICE PUBLIC RADIO STATION TO PROVIDE FIRST SERVICE TO THE GREATER SHREVEPORT, LOUISIANA AREA.

46

MASSACHUSETTS

FILE NO. 1152CRB, UNIV. OF MASS., HAMPSHIRE HOUSE, AMHERST, MA 01003. SIGNED BY: ROBERT S. GOLDFARB, GEN MGR. GRANT REQUESTED: $27914. TOTAL PROJECT COST: $37218. DATE RECEIVED: 800118. TO AUGMENT WFCR'S CURRENT BROADCAST CAPABILITY BY EQUIPPING A MOBILE VAN TO PROVIDE LIVE COVERAGE OF EVENTS IN THE BOSTON/AMHERST AREA.

FILE NO. 1096CRB, BOSTON UNIV., 630 COMMONWEALTH AVE., BOSTON, MA 02215. SIGNED BY: CHARLES W. SMITH, VICE PRES, FINANCE. GRANT REQUESTED: $100367. TOTAL PROJECT COST: $133823. DATE RECEIVED: 800109. TO ESTABLISH A MICROWAVE LINK TO REGIONAL SATELLITE TRANSMITTER AND TO PROVIDE BACK UP TRANSMITTER FOR WBUR.

FILE NO. 1206PTB, WGBH EDUCATIONAL FDN., 125 WESTERN AVE., BOSTON, MA 02134. SIGNED BY: DAVID O. IVES, PRES. GRANT REQUESTED: $127326. TOTAL PROJECT COST: $127326. DATE RECEIVED: 800109. TO PLAN THE MOST EFFECTIVE MEANS OF PROVIDING CAPTIONED PROGRAMMING FOR THE DEAF TO CABLE TV SYSTEMS AND TO DESIGN A TELETEXT BROADCASTING SERVICE.

FILE NO. 1135CRB, TECHNOLOGY BRDCSTG CORP., 3 AMES ST., CAMBRIDGE, MA 02142. SIGNED BY: KENNETH T. POGRAN, PRES. GRANT REQUESTED: $26334. TOTAL PROJECT COST: $35112. DATE RECEIVED: 800109.

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47

TO IMPROVE THE FACILITIES OF WMBR-FM BY ADDING A CONTROL/PRODUCTION ROOM.

FILE NO. 1059CRB, UNIV. OF MASS, BOSTON, DORCHESTER, MA 02125. SIGNED BY: CARL S FINN, ASSOC DIR., GRANTS AND CONTRACTS. GRANT REQUESTED: $74957. TOTAL PROJECT COST: $99957. DATE RECEIVED: 800114. TO ACTIVATE AN ALTERNATE SERVICE RADIO STATION TO SERVE DORCHESTER AND BOSTON, MASSACHUSETTS.

FILE NO. 855CTN, DEAF COMMUNICATIONS INST., BETHANY HILL, FRAMINGHAM, MA 01701. SIGNED BY: JOHN P. FITZPATRICK, EXECUTIVE DIR. GRANT REQUESTED: $561908. TOTAL PROJECT COST: $741908. DATE RECEIVED: 800109. TO EXTEND A COMPUTER-BASED MESSAGE NETWORK FOR THE DEAF IN EASTERN, MASSACHUSETTS.

FILE NO. 1115CRB, TALKING INFORMATION CENTER, INC., BOX 487, MARSHFIELD, MA 02050. SIGNED BY: RONALD BERSANI, EXEC DIR. GRANT REQUESTED: $46759. TOTAL PROJECT COST: $126928. DATE RECEIVED: 800109. TO PROVIDE ADDITIONAL SCA RECEIVERS FOR THE TALKING INFORMATION CENTER OF MARSHFIELD, MASSACHUSETTS.

48

FILE NO. 1156PRTW, TRUSTEES OF TUFTS COLLEGE, BALLOU HALL, MEDFORD, MA 02155. SIGNED BY: CARLA WEMGREN RICCI, DIR., OFFICE OF GOVT RESOURCES. GRANT REQUESTED: $48189. TOTAL PROJECT COST: $75268. DATE RECEIVED: 800118. TO PLAN FOR A TELECOMMUNICATIONS SERVICE FOR THE HANDICAPPED TO SERVE THE GREATER BOSTON AREA.

FILE NO. 1023CTB, THE CLARKE SCHOOL FOR THE DEAF, ROUND HILL RD., NORTHAMPTON, MA 01060. SIGNED BY: DR GEORGE T. PRATT. GRANT REQUESTED: $177401. TOTAL PROJECT COST: $340040. DATE RECEIVED: 800109. TO CONSTRUCT A CAPTIONING PRODUCTION FACILITY TO DISTRIBUTE PROGRAMMING FOR THE DEAF VIA CABLE IN NORTHAMPTON, MASSACHUSETTS.

FILE NO. 1201PTB, WGBY-TV, 44 HAMPDEN ST., SPRINGFIELD, MA 01103. SIGNED BY: STEPHEN W. SMITH, GEN MGR. GRANT REQUESTED: $12392. TOTAL PROJECT COST: $12392. DATE RECEIVED: 800109. TO PLAN FOR FIRST TV SERVICE TO WESTERN MA VIA TRANSLATOR FROM WBGY-TV IN SPRINGFIELD, MASSACHUSETTS.

49

MARYLAND

FILE NO. 914CTN, COMTY COMMUNICATIONS RESEARCH, BOX 2523, BALTIMORE, MD 21215. SIGNED BY: LESTER L. GREEN, PRES. GRANT REQUESTED: $106534. TOTAL PROJECT COST: $142045. DATE RECEIVED: 800109. CONSTRUCT A PHONE LINE TELEVISION NETWORK AND CABLE DISTRIBUTION SYSTEM. THE PHONE LINE TV NETWORK WILL SERVE THE MULTI-PURPOSE CENTERS THROUGHOUT BALTIMORE CITY. ALSO REQUESTED IS A SATELLITE EARTH STATION TO RECEIVE PROGRAMMING FROM THE COMMUNITY SERVICE NETWORK.

FILE NO. 895CRB, WBJC COMMUNITY COLLEGE OF BALTIMORE, 2901 LIBERTY HGTS. AVE., BALTIMORE, MD 21215. SIGNED BY: H. WILLIAM HAMMOND, VICE PRES. FOR ADMIN. GRANT REQUESTED: $114409. TOTAL PROJECT COST: $152545. DATE RECEIVED: 800109. REQUEST IS FOR FUNDS TO PURCHASE STATE-OF-THE-ART OPERATING EQUIPMENT. PRESENT EQUIPMENT IS OLD AND IN POOR CONDITION. EQUIPMENT REQUESTED INCLUDES EXCITER, SCA GENERATION, ORIGINATION, TEST EQUIPMENT AS WELL AS TRANSMITTER REMOTE CONTROL SYSTEM.

FILE NO. 804PTN, COMMUNITY SUPPORT CENTER, INC., 5440 OLD TUCKER HOW, COLUMBIA, MD 21044. SIGNED BY: MICHAEL RIEMER, CHAIRPERSON, BD OF DIRECTORS. GRANT REQUESTED: $67075. TOTAL PROJECT COST: $89075. DATE RECEIVED: 800109. PLAN TO DEVELOP A STUDY IN COOPERATION WITH COMMUNITY CENTERS THAT WILL PROVIDE THE OPPORTUNITY FOR ACCESS TO CABLE SERVICES, INVESTIGATE ALTERNATIVE

50

MODES OF DELIVERY FOR RURAL AREAS OF THE COUNTY WHICH MAY RECEIVE DIRECT CABLE SERVICE, AND TO PLAN THE BASIC FACILITIES AND OPERATIONS OF INNOVATIVE COMMUNITY TELETEXT SERVICE.

FILE NO. 958CTN, HOWARD COMMUNITY COLLEGE, LITTLE PATUXENT PKWY., COLUMBIA, MD 21044. SIGNED BY: DR ALFRED J. SMITH, JR., PRESIDENT. GRANT REQUESTED: $176247. TOTAL PROJECT COST: $234995. DATE RECEIVED: 800109. REQUEST TV EQUIPMENT FOR LEARNING RESOURCES CENTER OF HOWARD COMMUNITY COLLEGE. UTILIZATION WILL BE FOR COMMUNITY DEVELOPMENT TRAINING AND EDUCATIONAL OFFERINGS TO THE PUBLIC. PLAN IS TO SERVE AS ONE OF THE ORIGINATING FACILITIES FOR HOWARD COUNTY CATV.

FILE NO. 966CRB, THE WASHINGTON EAR, INC., 35 UNIVERSITY BLVD. EAST, SILVER SPRING, MD 20901. SIGNED BY: MARGARET W. ROCKWELL, PRES. & CHIEF EXEC OFFICER. GRANT REQUESTED: $46260. TOTAL PROJECT COST: $61680. DATE RECEIVED: 800109. REQUEST IS FOR PURCHASE OF SCA RECEIVERS TO EXPAND SERVICE TO 300 ADDITIONAL BLIND LISTENERS. ADDITIONALLY, REQUEST IS FOR STATE-OF-THE-ART PRODUCTION EQUIPMENT TO REPLACE BADLY WORN OUT EQUIPMENT AND ENABLE PRODUCTION OF MORE SOPHISTICATED PROGRAMMING.

FILE NO. 928PRTBN, TOWSON STA UNIV., 8000 YORK RD., TOWSON, MD 21204. SIGNED BY: PAUL WISDOM, VICE PRES., INST DEV. GRANT REQUESTED: $31279. TOTAL PROJECT COST: $40173. DATE RECEIVED: 800108. PLAN TO STUDY FEASIBILITY OF PUBLIC PROGRAMMING AND

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51

THE RAMIFICATIONS OF COMMITMENT UPON UNIVERSITY FACULTY AND STAFF. DETERMINE TYPES OF COMMUNITY AND PUBLIC PROGRAMMING NEEDED, THE CAPACITY AND SUITABILITY OF PRESENT FACILITIES TO RECOGNIZE PROGRAM NEEDS AND CONCERNS OF MINORITIES IN BALTIMORE COUNTY.

52

MAINE

FILE NO. 1029PTN, MAINE DEPT OF MENTAL HEALTH, RM. 411 STATION #40, AUGUSTA, ME 04333. SIGNED BY: RONALD F MARTEL, ACTING COMMISSIONER. GRANT REQUESTED: $58559. TOTAL PROJECT COST: $65833. DATE RECEIVED: 800109. TO PLAN FOR A TELECOMMUNICATIONS SYSTEM TO MEET THE EDUCATION AND TRAINING NEEDS OF THE CLIENTS OF THE DEPARTMENT OF MENTAL HEALTH.

FILE NO. 1014PRTN, PENOBSCOT TRIBAL COUNCIL, COMM BLDG, INDIAN ISLAND, OLD TOWN, ME 04468. SIGNED BY: WILFRED PEHRSON, TRIBAL GOVERNOR. GRANT REQUESTED: $32036. TOTAL PROJECT COST: $32036. DATE RECEIVED: 800109. TO PLAN FOR COMPREHENSIVE TELECOMMUNICATIONS SERVICES FOR MAINE INDIAN COMMUNITIES.

FILE NO. 992CRB, UNIV. OF MAINE, ORONO, ME 04469. SIGNED BY: WILLIAM J. SULLIVAN, VICE CHANCELLOR FOR ADMIN. GRANT REQUESTED: $104095. TOTAL PROJECT COST: $139095. DATE RECEIVED: 800109. TO UPGRADE EXISTING PRODUCTION EQUIPMENT OF THE MAINE BROADCASTING NETWORK.

FILE NO. 976PRTB, CENTER FOR VIDEO ARTS, BOX 345, PORTLAND, ME 04112. SIGNED BY: PATRICIA COREY, PRES. GRANT REQUESTED: $58030. TOTAL PROJECT COST: $58030. DATE RECEIVED: 800109. TO PLAN FOR A TELECOMMUNICATIONS FACILITY WITH LOCAL ORIGINATION TO SERVE THE STATE OF MAINE.

53

MICHIGAN

FILE NO. 830CTB, UNIV. OF MICHIGAN, ANN AREOR, MI 48109. SIGNED BY: F BRINKERHOFF, VICE PRESIDENT. GRANT REQUESTED: $419917. TOTAL PROJECT COST: $559890. DATE RECEIVED: 800109. TO IMPROVE UNIVERSITY OF MICHIGAN TELEVISION STATION WFMU, CHANNEL 28, FLINT, MICHIGAN, BY ESTABLISHING A MICROWAVE INTERCONNECTING SYSTEM BETWEEN CHANNELS 28, FLINT AND ANN ARBOR, AND FOR IMPROVING ORGINATION EQUIPMENT TO SERVE THE 11 COUNTY METROPOLITAN AREA.

FILE NO. 995PTB, DETROIT EDUC. TV FDN., 7441 SECOND BLVD., DETROIT, MI 48202. SIGNED BY: JOHN T. CALDWELL, JR., PRES AND GEN MGR. GRANT REQUESTED: $25000. TOTAL PROJECT COST: $34800. DATE RECEIVED: 800109. TO PLAN FOR IMPROVED AND EXPANDED PUBLIC TELECOMMUNICATIONS FACILITIES AT TELEVISION STATION WTVS-TV, CH 56, DETROIT, MICHIGAN TO BETTER SERVE THE WAYNE, OAKLAND, MACOMB, WASHTENAW, MONROE COUNTY AREAS OF MICHIGAN.

FILE NO. 972CTB, BD OF CONTROL OF NORTHERN MI UNIV., MARQUETTE, MI 49855. SIGNED BY: DR. JOHN X. JAMRICH, PRESIDENT. GRANT REQUESTED: $75394. TOTAL PROJECT COST: $100525. DATE RECEIVED: 800109. TO AID PUBLIC TELEVISION STATION WNMU-TV, CH 13, NORTHERN MICHIGAN UNIV, MARQUETTE, MICHIGAN TO ACTIVATE CLOSED CAPTIONING SERVICE TO THE DEAF AND ACQUIRE DISSEMINATION AND ORIGINATION EQUIPMENT TO PROVIDE IMPROVED SERVICES TO THE COMMUNITIES IN THE MARQUETTE AND UPPER PENINSULA AREA.

54

FILE NO. 1061CTB , DELTA COLLEGE, DELTA RD., UNIVERSITY CENTER, MI 48710. SIGNED BY: DONALD J. CARLYON, PRES. GRANT REQUESTED: $773500. TOTAL PROJECT COST: $1225000. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF PUBLIC TELEVISION STATION WUCM, CHANNEL 19, DELTA COLLEGE, UNIVERSITY CENTER, MICHIGAN AND ACTIVATE INSTRUCTIONAL SERVICES VIA CABLE DISTRIBUTION MEANS TO COMMUNITIES IN SAGINAW, BAY AND MIDLAND COUNTIES.

FILE NO. 924CTN, CITY OF WESTLAND, 36601 FORD RD., WESTLAND, MI 48185. SIGNED BY: THOMAS E. TAYLOR, MAYOR. GRANT REQUESTED: $250425. TOTAL PROJECT COST: $333900. DATE RECEIVED: 800109. TO ACTIVATE A COMMUNITY-MUNICIPAL CABLE ACCESS SYSTEM SERVING THE CITY OF WESTLAND, MICHIGAN TO PROVIDE LOCAL TELEVISION PROGRAMMING FACILITIES TO MEET THE TELECOMMUNICATIONS NEEDS OF THE MUNICIPALITY AND THE AGENCIES AND INTEREST GROUPS IN IT.

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MINNESOTA

FILE NO. 1035PRB, BEMIDJI STA UNIV., 14TH & BIRCHMONT DR., BEMIDJI, MN 56601. SIGNED BY: R.D. DECKER PRESIDENT. GRANT REQUESTED: $48423. TOTAL PROJECT COST: $48423. DATE RECEIVED: 800109. TO ENABLE BEMIDJI STATE UNIVERSITY STATION KBSB, 89.7 MHZ, BEMIDJI, MINNESOTA, TO PLAN FOR EXPANDED LOCAL RADIO TELECOMMUNICATION SERVICES TO COMMUNITIES IN THE BELTRAMI, CASS, CLEARWATER AND HUBBARD COUNTY AREAS.

FILE NO. 1195CTB, JOINT POWERS COMMUNICASTING BD, BOX K, EAGLE BEND, MN 56446. SIGNED BY: RICHARD W. LUNDGREN, PROJECT DIR. GRANT REQUESTED: $268866. TOTAL PROJECT COST: $393100. DATE RECEIVED: 800109. TO ACTIVATE A PUBLIC TELEVISION COMMUNICASTING SERVICE FOR THE EAGLE BEND SCHOOL DISTRICT, EAGLE BEND, MINNESOTA USING CHANNEL 45, EAGLE BEND, MINNESOTA TO PROVIDE TWO WAY COMMUNICATIONS FOR THE PEOPLE IN RURAL MINNESOTA COUNTIES. USING LOW POWER TRANSLATORS PERMITTED UNDER FEDERAL COMMUNICATIONS COMMISSION EXPERIMENTAL AUTHORITY.

FILE NO. 986CRB, NORTHERN COMMUNITY RADIO, ROUTE 3, GRAND RAPIDS, MN 55744. SIGNED BY: DON BOESE, CHAIRMAN OF THE BOARD. GRANT REQUESTED: $57249. TOTAL PROJECT COST: $76332. DATE RECEIVED: 800109. TO IMPROVE FM PUBLIC RADIO STATION KAXE, 91.7 MHZ, NORTHERN COMMUNITY RADIO, GRAND RAPIDS, MN BY FURNISHING ORIGINATION EQUIPMENT TO ENHANCE LOCAL PROGRAMMING CAPACITIES IN THE 7 COUNTY AREA OF GRAND RAPIDS.

FILE NO. 1116PTN, MINNESOTA COMTY COLLEGE SYSTEM, 1515 EAST 25TH ST., HIBBING, MN 55746. SIGNED BY: DR. JENNIS J. BAPST, PRESIDENT. GRANT REQUESTED: $26686. TOTAL PROJECT COST: $51288. DATE RECEIVED: 800109. TO AID HIBBING COMMUNITY COLLEGE, HIBBING, MINNESOTA TO PLAN FOR AN INTERACTIVE TELEVISION MICROWAVE NETWORK INTERCONNECTED TO LOCAL CABLE RESOURCES TO INCREASE PUBLIC TELECOMMUNICATIONS SERVICES TO COMMUNITIES IN THE ARROWHEAD REGION OF NORTHEASTERN MINNESOTA.

FILE NO. 829PTN, INVER HILLS COMMUNITY COLLEGE, 8445 COLLEGE TRAIL, INVER GROVES, MN 55075. SIGNED BY: WALLACE A.SIMPSON, PRESIDENT. GRANT REQUESTED: $117397. TOTAL PROJECT COST: $127397. DATE RECEIVED: 800109. TO PLAN FOR A PRODUCTION FACILITY AT INVER HILLS COMMUNITY COLLEGE, INVER GROVE HEIGHTS, MINNESOTA TO UTILIZE COMMUNITY CABLE SYSTEMS SERVING THE FIVE COUNTY METROPOLITAN ST. PAUL, MINNESOTA AREA TO PROVIDE ALTERNATIVE PUBLIC TELECOMMUNICATIONS SERVICES.

FILE NO. 1109CRB, MANKATO STA UNIV., BOX 43, MANKATO, MN 56001. SIGNED BY: MARGARET R. PRESKA, PRES. GRANT REQUESTED: $31756. TOTAL PROJECT COST: $42892. DATE RECEIVED: 800109. TO EXTEND AND IMPROVE THE SERVICES OF FM STATION KMSU-FM, 90.5 MHZ MANKATO STATE UNIVERSITY, MANKATO, MINNESOTA BY ACQUIRING MORE POWERFUL DISSEMINATION EQUIPMENT AND REPLACING OBSOLETE PRODUCTION APPARATUS NEEDED TO DELIVER SERVICES.

FILE NO. 964CRB, ROCHESTER COMMUNITY COLLEGE, HIGHWAY 14 EAST, ROCHESTER, MN 55901. SIGNED BY: CHARLES E. HILL, PRES. GRANT REQUESTED: $35282. TOTAL PROJECT COST: $52345. DATE RECEIVED: 800109. TO EXTEND PUBLIC RADIO SERVICES OF STATION KRPR-FM, ROCHESTER COMMUNITY COLLEGE, ROCHESTER, MINNESOTA, TO SERVE THE COMMUNITIES IN THE SOUTHEASTERN MINNESOTA AREA SURROUNDING ROCHESTER.

FILE NO. 819CRB, MINNESOTA PUBLIC RADIO, INC., 400 SIBLEY ST., ST PAUL, MN 55101. SIGNED BY: WILLIAM H. KLING, PRESIDENT. GRANT REQUESTED: $178495. TOTAL PROJECT COST: $237995. DATE RECEIVED: 800109. TO ACTIVATE AN AM RADIO NEWS AND INFORMATION STATION KSJM-AM, ST. PAUL, MINNESOTA, FOR MINNESOTA PUBLIC RADIO, INC. TO SERVE THE COMMUNITIES IN THE METROPOLITAN MINNEAPOLIS/ST. PAUL AREA AND TO PROVIDE FOR THE STATEWIDE NETWORK.

FILE NO. 822CTB, TWIN CITIES PUBLIC TV, INC., 164 COMO AVE., ST. PAUL, MN 55108. SIGNED BY: WILLIAM H. KOHIN, PRESIDENT & GEN MGR. GRANT REQUESTED: $369892. TOTAL PROJECT COST: $493190. DATE RECEIVED: 800109. TO IMPROVE PUBLIC TELECOMMUNICATIONS FACILITIES OF THE TWIN CITIES PUBLIC TELEVISION INC., STATION KTCI-TV, CH 17, ST PAUL, MINNESOTA, TO ENHANCE SERVICES TO THE METROPOLITIAN MINNEAPOLIS-ST PAUL AREA.

MISSOURI

FILE NO. 1000PTN, SOUTHEAST MO STA UNIV., CAPE GIRARDEAU, MO 63701 SIGNED BY: BILL W. STACY, PRES. GRANT REQUESTED: $29997. TOTAL PROJECT COST: $33733. DATE RECEIVED: 800109. TO PLAN THE ESTABLISHMENT OF A 6 COUNTY CABLE TELEVISION SYSTEM FOR SOUTHEASTERN MISSOURI AND THE IMPROVEMENT OF THE TV PRODUCTION CENTER AT THE SOUTHEAST MISSOURI STATE UNIVERSITY IN CAPE GIRARDEAU.

FILE NO. 1129CRB, UNIV. OF MISSOURI, 409 JESSE HALL, BOX 758, COLUMBIA, MO 65211. SIGNED BY: H. KENT SHELTON, ASST. VP, FINANCIAL SERV. GRANT REQUESTED: $37900. TOTAL PROJECT COST: $50537. DATE RECEIVED: 800109. TO IMPROVE RADIO STATION KBIA-FM OPERATING ON 91.3 MHZ IN COLUMBIA, MO. BY EQUIPPING A NEW RADIO NEWS FACILITY TO BETTER SERVE THE COMMUNITY.

FILE NO. 933CRB, CURATORS OF THE UNIV. OF MISSOURI, G-6 LIBRARY, ROLLA, MO 65401. SIGNED BY: H. KENT SHELTON, VICE PRESIDENT, FINANCE & COMPTROLLER. GRANT REQUESTED: $9903. TOTAL PROJECT COST: $13204. DATE RECEIVED: 800109. TO IMPROVE FM RADIO STATION KUMR OPERATING ON 88.5 MHZ IN ROLLA, MISSOURI BY REPLACING OBSOLETE EQUIPMENT NEEDED TO DELIVER SERVICES.

FILE NO. 1082CRB, DOUBLE HELIX CORP., 1226 OLIVE ST., ST. LOUIS, MO 63103. SIGNED BY: KAREN TECHNER, PRES. GRANT REQUESTED: $167000. TOTAL PROJECT COST: $223000. DATE RECEIVED: 800109.

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59

TO ACTIVATE FM RADIO STATION KDNA OPERATING ON 88.1 MHZ IN ST. LOUIS, MISSOURI PROVIDING ALTERNATIVE PROGRAMS TO MINORITIES AND WOMEN IN THE ST. LOUIS AREA.

60

MISSISSIPPI

FILE NO. 851CTN, DELTA FDN., BOX 588, GREENVILLE, MS 38701. SIGNED BY: CHARLES D BANNERMAN, CHAIRMAN OF THE BD. GRANT REQUESTED: $196632. TOTAL PROJECT COST: $262176. DATE RECEIVED: 800109. TO EXTEND EDUCATIONAL AND CULTURAL PROGRAMS VIA CABLE TO THE TOWNS OF MERIGOLD, MOUND BAYOU AND WINSTONVILLE, AND IMPROVE THE LOCAL PRODUCTION CAPABILITY OF THE DELTA COMMUNITY EDUCATION NETWORK ORIGINATING IN GREENVILLE, MISSISSIPPI.

FILE NO. 994PRB, JC MAXWELL BDCSTG GROUP, INC., BOX 22624, JACKSON, MS 39205. SIGNED BY: WILLIAM C. BRENT, CHIEF EXEC OFFICER. GRANT REQUESTED: $30,300. TOTAL PROJECT COST: $69,700. DATE RECEIVED: 800109. TO PLAN FOR THE ESTABLISHMENT OF A FULL SERVICE PUBLIC RADIO STATION PROVIDING FIRST SERVICE FOR THE GREATER JACKSON, MISSISSIPPI AREA WITH A POPULATION OF 288,643, ALMOST 40 PERCENT OF WHICH ARE BLACK.

FILE NO. 1125PRB, UTICA JR COLLEGE, UTICA, MS 39175. SIGNED BY: J LOUIS STOKES, DIR. GRANT REQUESTED: $57888. TOTAL PROJECT COST: $70388. DATE RECEIVED: 800109. TO PLAN TO ESTABLISH A PUBLIC RADIO STATION PROVIDING FIRST SERVICE FOR THE UTICA, MISSISSIPPI AREA WITH 40 PERCENT BLACKS WITHIN THE COVERAGE AREA TOTALLING 388,722 PEOPLE.

61

MONTANA

FILE NO. 1175CTB, SWAN HILL TV DISTRICT, BOX 677, BIGFORK, MT 59911. SIGNED BY: RUSSELL E. PICKETT, PRES. GRANT REQUESTED: $25042. TOTAL PROJECT COST: $33,390. DATE RECEIVED: 800114. TO EXTEND THE SIGNAL OF KSPS-TV, SPOKANE TO RESIDENTS OF LAKE AND FLATHEAD COUNTIES OF MONTANA BY USE OF A TV TRANSLATOR STATION.

FILE NO. 844PRTB, MONTANA TELECOMM ADV CNCL, 155 SAM W MITCHELL BLDG., HELENA, MT 59601. SIGNED BY: DAVID M. LEWIS, DIR, DEPT. OF ADM. GRANT REQUESTED: $109019. TOTAL PROJECT COST: $204194. DATE RECEIVED: 800109. TO PLAN PUBLIC TELECOMMUNICATIONS FACILITIES AND SYSTEMS WHICH WILL DELIVER CURRENTLY UNAVAILABLE SERVICES TO THE MAJORITY OF MONTANANS.

FILE NO. 1037CTBN, UNIV. OF MONTANA, MISSOULA, MT 59812. SIGNED BY: RAYMOND C. MURRAY, ASSOC VP FOR RESEARCH. GRANT REQUESTED: $114900. TOTAL PROJECT COST: $153200. DATE RECEIVED: 800109. TO PROVIDE FIRST SERVICE FOR STUDIO AND REMOTE FACILITIES WHICH WILL BE READILY AVAILABLE TO A LARGE PERCENTAGE OF MONTANANS; DISTRIBUTION OF PROGRAMMING WILL BE IN COOPERATION WITH PUBLIC TV STATION KSPS, SPOKANE AND THE TELEPROMPTER CABLE TV SYSTEMS IN WESTERN AND NORTHERN MONTANA.

62

FILE NO. 1032CTB, TROY TV DISTRICT, BOX 487, TROY, MT 59935. SIGNED BY: IVAN L. DEMPSEY, CHAIRMAN. GRANT REQUESTED: $6325. TOTAL PROJECT COST: $8500. DATE RECEIVED: 800109. TO ACTIVE A TV TRANSLATOR STATION TO PROVIDE EDUCATIONAL TV FROM KSPS-TV IN SPOKANE WASHINGTON TO THE RESIDENTS OF TROY AND WESTERN LINCOLN COUNTIES OF MONTANA.

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63

NORTH CAROLINA

FILE NO. 959PTN, NORTH STAR PUBLIC VIDEO, BOX 3398, DURHAM, NC 27702. SIGNED BY: RICHARD WARD, SECY-TRSR. GRANT REQUESTED: $4500. TOTAL PROJECT COST: $6500. DATE RECEIVED: 800109. TO PLAN FOR A PRODUCTION STUDIO FOR MINORITY JOURNALISTS.

FILE NO. 960CRB, FAYETTEVILLE STA UNIV., 1200 MURCHISON RD., FAYETTEVILLE, NC 28301. SIGNED BY: CHARLES A.LYONS, JR., CHANCELLOR. GRANT REQUESTED: $266762. TOTAL PROJECT COST: $355683. DATE RECEIVED: 800109. TO EXPAND WFSS-FM OF FAYETTEVILLE, NORTH CAROLINA FROM 10 WATTS TO 100 KW.

FILE NO. 985PRTB, AGENCY FOR PUBLIC TELECOMM, 417 N SALISBURY ST, RALEIGH, NC 27611. SIGNED BY: JOSEPH GRIMSLEY. GRANT REQUESTED: $100000. TOTAL PROJECT COST: $130000. DATE RECEIVED: 800109. TO PLAN INTERACTIVE PUBLIC TELECOMMUNICATIONS FACILTIES FOR SPECIAL POPULATIONS IN WESTERN NORTH CAROLINA.

FILE NO. 961CRB, HYDE COUNTY BD OF EDUCATION, ACADEMY ST, BOX 217, SWAN QUARTER, NC 27885. SIGNED BY: D.S.COBLE, SUPT. GRANT REQUESTED: $44874. TOTAL PROJECT COST: $83176. DATE RECEIVED: 800109. TO ESTABLISH A FIRST SERVICE RADIO STATION IN THE REMOTE COUNTY OF HYDE, NORTH CAROLINA.

64

NORTH DAKOTA

FILE NO. 1039CRB, PRAIRIE PUBLIC TV, INC., 4500 SOUTH UNIV. DR., FARGO, ND 58103. SIGNED BY: DENNIS L. FALK, PRES. GRANT REQUESTED: $170475. TOTAL PROJECT COST: $227301. DATE RECEIVED: 800109. TO ACTIVATE AN FM RADIO STATION OPERATING ON 90.5 MHZ AT BISMARK PROVIDING FIRST PUBLIC RADIO SERVICE TO CENTRAL NORTH DAKOTA.

FILE NO. 1218CTH, PRAIRIE PUBLIC TV, INC., 4500 SOUTH UNIV. DR., FARGO, ND 58103. SIGNED BY: DENNIS L.FALK, PRES. GRANT REQUESTED: $350000. TOTAL PROJECT COST: $812999. DATE RECEIVED: 800109. TO ACTIVATE A TELEVISION STATION ON CH 4 AT WILLISTON, ND TO BRING FIRST PUBLIC TELEVISION SERVICE TO RESIDENTS OF NORTH WESTERN NORTH DAKOTA AND NORTH EASTERN MONTANA.

65

NEBRASKA

FILE NO. 947CTN, UNIVERSITY OF NEBRASKA, LINCOLN, BOX 83111, LINCOLN, NE 68501. SIGNED BY: LARRY K.ANDREWS, ASSIST. VICE CHANCELLOR. GRANT REQUESTED: $91087. TOTAL PROJECT COST: $121450. DATE RECEIVED: 800109. TO ENABLE THE UNIVERSITY OF NEBRASKA IN LINCOLN TO SECURE THE NECESSARY EQUIPMENT TO IMPLEMENT THE VIDEO DISC AND DELIVER TO THE PUBLIC TELECOMMUNICATIONS COMMUNITY THE UNIQUE CAPACITIES AND ADVANTAGES OF THIS NEW TECHNOLOGY.

FILE NO. 834PTB, COMMONWEALTH COMMUNICATIONS, 545 S 29TH ST., LINCOLN, NE 68510. SIGNED BY: RONALD C.KURTENBACH, MEMBER, BD OF DIRECTORS. GRANT REQUESTED: $26000. TOTAL PROJECT COST: $26000. DATE RECEIVED: 800109. TO PLAN TO ESTABLISH A SECOND PUBLIC TV STATION FOR LINCOLN, NE PROVIDING A PUBLIC ACCESS CH. TO SERVE THE MINORITIES AND OTHER CONCERNED CITIZENS AMONG THE 160,000 POPULATION IN THE COVERAGE AREA.

FILE NO. 944CTN, UNIV. OF NEBRASKA, BOX 83111, LINCOLN, NE 68501. SIGNED BY: LARRY K.ANDREWS, ASSISTANT VICE CHANCELLOR. GRANT REQUESTED: $69245. TOTAL PROJECT COST: $97747. DATE RECEIVED: 800109. TO CONSTRUCT A MICROWAVE RELAY SYSTEM, LINKING THE NEBRASKA ETV TELECOMMUNICATION CENTER IN LINCOLN WITH THE DISSEMINATING CABLE SYSTEMS IN OMAHA TO PROVIDE AN ALTERNATIVE PROGRM SERVICE.

66

FILE NO. 1192CRN, UNIV. OF NEBRASKA-LINCOLN, 159 NEBRASKA HALL, LINCOLN, NE 68588. SIGNED BY: DR. FRANCIS L.SCHMEHL, RESEARCH ADMINISTRATOR. GRANT REQUESTED: $17071. TOTAL PROJECT COST: $30097. DATE RECEIVED: 800109. TO ACTIVATE A STATEWIDE AUDIO TELECONFERENCING NETWORK IN NEBRASKA WITH THE PRIMARY ORIGINATION CENTER AT THE UNIVERSITY OF NEBRASKA IN LINCOLN.

FILE NO. 953CRB, SCHOOL DIST OF THE CITY OF OMAHA, 3902 DAVENPORT ST., OMAHA, NE 68131. SIGNED BY: OWEN A.KNUZTER, SUPT OF SCHOOLS. GRANT REQUESTED: $57750. TOTAL PROJECT COST: $77000. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF FM RADIO STATION KIOS OPERATING ON 91.5 MHZ IN OMAHA, NEBRASKA PROVIDING SERVICES TO THE RURAL AREAS IN EAST CENTRAL NEBRASKA AND WEST CENTRAL IOWA.

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67

NEW HAMPSHIRE

FILE NO. 915CRB, GRANITE STA PUBLIC RADIO, INC., 77 N MAIN ST., CONCORD, NH 03301. SIGNED BY: GRAHAM CHYNOWETH, CHAIRPERSON. GRANT REQUESTED: $246041. TOTAL PROJECT COST: $328055. DATE RECEIVED: 800108. TO ESTABLISH NH'S FIRST PUBLIC RADIO STATION IN CONCORD.

FILE NO. 866CTB, UNIV. OF NEW HAMPSHIRE, BOX Z, DURHAM, NH 03824. SIGNED BY: JOHN A.LOCKWOOD, ASSOC. DIR. OF RESEARCH. GRANT REQUESTED: $827510. TOTAL PROJECT COST: $1655020. DATE RECEIVED: 800109. TO REPLACE TRANSMITTER, ANTENNA, AND TOWER OF CHANNEL 11 IN DURHAM, NEW HAMPSHIRE.

FILE NO. 867CTB, UNIV. OF NEW HAMPSHIRE, BOX Z, DURHAM, NH 03824. SIGNED BY: JOHN A.LOCKWOOD, ASSOC. DIR. OF RESEARCH. GRANT REQUESTED: $359300. TOTAL PROJECT COST: $534070. DATE RECEIVED: 800109. TO IMPROVE SERVICES OFFERED BY NEW HAMPSHIRE PUBLIC TV BY CONSTRUCTING A MOBILE TV UNIT TO BE BASED AT THE DURHAM STATION.

FILE NO. 1110PRTB, MONTSHIRE MUSEUM OF SCIENCE, INC., 45 LYME RD., HANOVER, NH 03755. SIGNED BY: ROBERT C.CHAFFEE, DIR. GRANT REQUESTED: $24830. TOTAL PROJECT COST: $24830. DATE RECEIVED: 800109. MONTSHIRE MUSEUM HAS REQUESTED $24830 TO PLAN FOR AN INTERACTIVE TELECOMMUNICATIONS SYSTEM WITH LOCAL ORIGINATION CAPABILITIES TO SERVE THE UPPER VALLEY REGION OF NEW HAMPSHIRE AND VERMONT.

68

NEW JERSEY

FILE NO. 886CRB, ELECTRONICS INFO & ED SERVICE, BOX 1111, BLOOMFIELD, NJ 07003. SIGNED BY: PATRICK J.HANIFIN, PRES., BD OF TRUSTEES. GRANT REQUESTED: $45075. TOTAL PROJECT COST: $60100. DATE RECEIVED: 800109. TO ESTABLISH A SCA SERVICE IN BLOOMFIELD, NEW JERSEY, WHICH WILL REACH 68306 PRINT-HANDICAPPED PERSONS.

FILE NO. 879CTB, ENGLEWOOD PUBLIC SCHOOLS, 12 TENAFLY RD., ENGLEWOOD, NJ 07631. SIGNED BY: PHILLIP LEAHY, SUPT. OF SCHOOLS. GRANT REQUESTED: $23311. TOTAL PROJECT COST: $23311. DATE RECEIVED: 800109. TO ESTABLISH A STUDIO FACILITY TO PROVIDE EDUCATIONAL AND PUBLIC PROGRAMMING TO THE RESIDENTS OF BERGEN COUNTY THROUGH CABLE TELEVISION.

FILE NO. 981CRB, CENTENARY COLLEGE FOR WOMEN, 400 JEFFERSON ST., HACKETTSTOWN, NJ 07840. SIGNED BY: FRANK C.FUGLIA, CONSULTANT. GRANT REQUESTED: $47366. TOTAL PROJECT COST: $63154. DATE RECEIVED: 800109. TO REPLACE OUTDATED EQUIPMENT FOR FM RADIO STATION WNTI WHICH IS OPERATED BY CENTENARY COLLEGE FOR WOMEN IN HACKETTSTOWN, NEW JERSEY.

FILE NO. 969CTB, MATAWAN-ABERDEEN REGIONAL SCHOOL, BROAD AND SOUTH STS., MATAWAN, NJ 07747. SIGNED BY: DR KENNETH D.HALL, SUPT. GRANT REQUESTED: $350000. TOTAL PROJECT COST: $437500.

69

DATE RECEIVED: 800109. TO ESTABLISH A CABLE/ACCESS TELECOMMUNICATIONS CENTER THAT WILL PROVIDE EDICATIONAL ARTS AND CULTURAL PROGRAMMING TO MATAWAN AND TO OTHER CABLE SYSTEMS IN THE STATE OF NEW JERSEY.

FILE NO. 858CTN, STATE OF NJ, DEPT. OF ENERGY, 1100 RAYMOND BLVD., NEWARK, NJ 07102. SIGNED BY: JOHN P.CLEARY, DIR. GRANT REQUESTED: $1193159. TOTAL PROJECT COST: $1643159. DATE RECEIVED: 800109. TO ESTABLISH A STATE-WIDE CABLE TELEVISION INTERCONNECT THAT WILL PROVIDE STATE AND REGIONAL PROGRAMMING OF AN EDUCATIONAL AND CULTURAL NATURE TO THE RESIDENTS OF NEW JERSEY.

FILE NO. 1203CTB, ESSEX COUNTY COLLEGE, 303 UNIV AVE., NEWARK, NJ 07102. SIGNED BY: SPENCER A.FREUND, DIR. GRANT REQUESTED: $307000. TOTAL PROJECT COST: $475000. DATE RECEIVED: 800109. TO PURCHASE A MOBILE UNIT WHICH WILL BE UTILIZED TO PRODUCE CULTURAL PROGRAMMING FOR ESSEX COUNTY, NEW JERSEY, THAT WILL BE SHOWN OVER CABLE SYSTEMS IN THE COUNTY.

FILE NO. 876PTN, TOWNSHIP OF PISCATAWAY, 455 HOES LANE, PISCATAWAY, NJ 08854. SIGNED BY: TED H.LIGHT, MAYOR. GRANT REQUESTED: $22163. TOTAL PROJECT COST: $26463. DATE RECEIVED: 800109. TO PLAN FOR A CABLE ACCESS FACILITY WHICH WILL SERVE PISCATAWAY TOWNSHIP, ELEVEN ADJOINING MUNICIPALITIES, AND THE PROPOSED STATEWIDE INTERCONNECT.

70

NEW MEXICO

FILE NO. 864CTN, QUOTE...UNQUOTE, INC., 814 SECOND ST., N.W., ALBUQUERQUE, NM 87102. SIGNED BY: PENNY PRITZL, SPECIAL RESOURCES. GRANT REQUESTED: $232599. TOTAL PROJECT COST: $310132. DATE RECEIVED: 800109. TO ACTIVATE THE PUBLIC ACCESS CABLE CHANNEL IN ALBUQUERQUE, NEW MEXICO BY ESTABLISHING A LOCAL ORIGINATION TV PRODUCTION CENTER.

FILE NO. 1009CTBN, CITY OF ALBUQUERQUE, 1130 UNIV BLVD., NE, ALBUQUERQUE, NM 87102. SIGNED BY: EDMUND B.KASNER, DIRECTOR, OFFICE OF RESEARCH. GRANT REQUESTED: $504164. TOTAL PROJECT COST: $672219. DATE RECEIVED: 800109. TO ACQUIRE ORIGINATION EQUIPMENT TO ACTIVATE PROGRAM SERVICE FROM KNME TV FOR THE EDUCATIONAL CHANNEL ON THE ALBUQUERQUE, NEW MEXICO CABLE TV SYSTEM.

FILE NO. 1215CRB, BD OF EDUC., CITY OF ALBUQUERQUE, 2020 COAL SE, ALBUQUERQUE, NM 87106. SIGNED BY: JOSEPH P.ROBITAILLE. GRANT REQUESTED: $84568. TOTAL PROJECT COST: $105710. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF RADIO STATION KANW-FM OPERATING ON 89.1 MHZ IN ALBUQUERQUE, NEW MEXICO AND THEREBY PROVIDE PROGRAMMING MOSTLY TO THE INDIANS AND HISPANIC POPULATION NOT NOW SERVED BY KANW.

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FILE NO. 898PRB, NAVAJO TRIBE, CROWN POINT, NM. SIGNED BY: LEONARD ARVISO, EXEC DIR. GRANT REQUESTED: $40358. TOTAL PROJECT COST: $42858. DATE RECEIVED: 800109. TO PLAN THE ESTABLISHMENT OF AN INDIAN RADIO STATION IN CROWN POINT, NEW MEXICO PROVIDING FIRST SERVICE TO THE ENTIRE NAVAJO RESERVATION WHICH INCLUDES NW NEW MEXICO, NE ARIZONA, SE UTAH, AND SW COLORADO.

FILE NO. 853CTB, GALLINA-CAPULIN TV ASSN., BOX 151, GALLINA, NM 87017. SIGNED BY: FAYE HOLLEY, PRES, GCTA. GRANT REQUESTED: $26000. TOTAL PROJECT COST: $35385. DATE RECEIVED: 800109. TO ACTIVATE A TRANSLATOR STATION PROVIDING FIRST SERVICE FOR THE GALLINA-CAPULIN AREA OF NEW MEXICO BY REBROADCASTING CHANNEL 5 IN ALBUQUERQUE, NEW MEXICO.

FILE NO. 1005CTB, REGENTS OF NM STA UNIV., BOX 3J, LAS CRUCES NM, 88003. SIGNED BY: DR JOHN J MONAGLE, DIR., ARTS & SCIENCES RESEARCH. GRANT REQUESTED: $34614. TOTAL PROJECT COST: $46152. DATE RECEIVED: 800109. TO IMPROVE THE COST EFFICIENCY OF THE BROADCAST TRANSMITTER AND THE CAPABILITY FOR LOCAL ORIGINATION FOR TV STATION KRWG IN LAS CRUCES, NM.

FILE NO. 1081PRB, ALAMO NAVAJO SCHOOL BD., INC., BOX 907, MAGDALENA, NM 87825. SIGNED BY: ABE PLUMMER, EXEC DIR. GRANT REQUESTED: $18550. TOTAL PROJECT COST: $22637. DATE RECEIVED: 800109. TO PLAN THE ESTABLISHMENT OF AN FM RADIO STATION IN

MAGDALENA, NEW MEXICO PROVIDING FIRST PUBLIC TELECOMMUNICATIONS TO THE ALAMO INDIAN RESERVATION AND MAGDALENA.

FILE NO. 1119CTB, EASTERN NM UNIV., PORTALES, NM 88130. SIGNED BY: DUANE W RYAN, DIR OF BROADCASTING. GRANT REQUESTED: $173160. TOTAL PROJECT COST: $230880. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KENW-TV, CH 3 IN PORTALES, NEW MEXICO BY CONSTRUCTING 3 TRANSLATORS LOCATED IN CARLSBAD, TUCUMCARI, AND THE VILLAGES OF FORREST AND MCALISTER; ALSO TO IMPROVE THE STATION'S LOCAL ORIGINATION CAPACITY.

FILE NO. 1048CRB, RAMAH NAVAJO SCHOOL BD., INC., BOX 18, RAMAH, NM 87321. SIGNED BY: LAURENCE R. MANUELITO, EXEC DIR. GRANT REQUESTED: $121696. TOTAL PROJECT COST: $164961. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KTDB-FM IN RAMAH, NEW MEXICO, OPERATING ON 89.7 MHZ AND THEREBY PROVIDE BILINGUAL PUBLIC RADIO SERVICE TO THE ENTIRE NAVAJO RESERVATION, THE ADJOINING PUEBLOS AND MANY UNSERVED NON-INDIAN TOWNS AND VILLAGES IN THE SURROUNDING AREA.

FILE NO. 926CTN, NM INST OF MINING & TECH., SOCORRO, NM 87801. SIGNED BY: L.GUY DONARUMA, VP FOR ACADEMIC AFFAIRS. GRANT REQUESTED: $78000. TOTAL PROJECT COST: $104000. DATE RECEIVED: 800109. TO ESTABLISH TELEVISION STUDIO AT NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY IN SOCORRO; TO PROVIDE FIRST SERVICE TO THIS AREA BY CABLE CONNECTIONS WITH THE LOCAL CABLE SYSTEM AND WITH

4 KEY LOCAL PROGRAM SOURCES AND BY MICROWAVE INTERCONNECTION WITH THE STATE ETV MICROWAVE NETWORK.

NEVADA

FILE NO. 1153CTB, DUCKWATER SHOSHONE TRIBE, BOX 38, DUCKWATER, NV 89314. SIGNED BY: JERRY MILLETT, TRIBAL CHAIRMAN. GRANT REQUESTED: $26757. TOTAL PROJECT COST: $35676. DATE RECEIVED: 800118. REQUEST ASSISTANCE TO PURCHASE TRANSLATOR EQUIPMENT TO PROVIDE EDUCATIONAL TELEVISION TO SCHOOLS AND RESIDENTS RESIDING IN RURAL AND ISOLATED AREAS OF THE DUCKWATER SHOSHONE TRIBE.

FILE NO. 873CTB, WHITE PINE TV, BOX 704, ELY, NV 89301. SIGNED BY: R.E.SWAIN, CHAIRMAN. GRANT REQUESTED: $11515. TOTAL PROJECT COST: $15220. DATE RECEIVED: 800109. PROPOSE TO PROVIDE FIRST SERVICE TELEVISION TO THE CROSS TIMBERS AREA AND LUND AND PRESTON, NV BY THE INSTALLATION OF A TRANSLATOR. SIGNAL WILL BE PROVIDED BY KLVX CHANNEL 10 LAS VEGAS, NEVADA.

FILE NO. 904CTB, MINERAL TV DISTRICT, BOX 1485, HAWTHORNE, NV 89415. SIGNED BY: DERALD S. LOOMIS, JR., CHAIRMAN-TV BD. GRANT REQUESTED: $24375. TOTAL PROJECT COST: $32500. DATE RECEIVED: 800109. REQUEST IS FOR ASSISTANCE TO PROVIDE EDUCATIONAL TELEVISION TO FOUR COMMUNITIES IN MINERAL COUNTY, NEVADA VIA TRANSLATORS.

FILE NO. 1008CRB, UNIV. OF NEVADA-RENO, 106 EDUCATION BLDG., RENO, NV 89557. SIGNED BY: JOSEPH N. CROWLEY, PRES. GRANT REQUESTED: $112500. TOTAL PROJECT COST: $150000. DATE RECEIVED:

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800109. REQUESTS FUNDS FOR STATE OF THE ART PRODUCTION EQUIPMENT TO EXPAND FACILITIES, ALSO FUNDS TO PURCHASE SATELLITE EARTH STATION.

NEW YORK

FILE NO. 1114CTN, INTER-MEDIA ART CENTER INC., 253 BAYVILLE AVE., BAYVILLE, NY 11709. SIGNED BY: MICHEAL ROTHBARD, DIR. GRANT REQUESTED: $168500. TOTAL PROJECT COST: $769048. DATE RECEIVED: 800109. TO EXTEND THE COVERAGE OF PRODUCTIONS PRODUCED AT THE IMAC PRODUCTION CENTER BY INCREASING PRODUCTION CAPABILITY. THE IMAC CENTER IS UTILIZED BY ARTISTS, INDEPENDENT PRODUCERS, AND COMMUNITY ORGANIZATIONS.

FILE NO. 1220PTN, SOUTHERN WEST CABLE CONSORTIUM, PONDFIELD RD, C/O BD OF EDUCATION, BRONXVILLE, NY 10708. SIGNED BY: DR JOHN E.HELRICH, CHAIRMAN. GRANT REQUESTED: $50800. TOTAL PROJECT COST: $66800. DATE RECEIVED: 800109. TO PLAN FOR A CABLE INTERCONNECT AND LOCAL PRODUCTION FACILITY WHICH WOULD SERVE THE RESIDENTS OF SOUTHERN WESTCHESTER COUNTY, NEW YORK, BY PROVIDING EDUCATIONAL AND CULTURAL PROGRAMMING.

FILE NO. 890CTN, CORNING COMMUNITY COLLEGE, CORNING, NY 14830. SIGNED BY: DR DONALD H.HANGEN, PRES. GRANT REQUESTED: $39214. TOTAL PROJECT COST: $52385. DATE RECEIVED: 800109. TO INTERCONNECT THE STUDIOS OF CORNING COMMUNITY COLLEGE TO THE CITY OF CORNING CABLE SYSTEM AND THE BOCES TRANSLATOR NETWORK AND TO UPGRADE STUDIO FACILITIES.

FILE NO. 1143CTN, DEPEW UNION FREE SCHOOL DIST., 1780 COMO PARK BLVD., DEPEW, NY 14043. SIGNED BY: JOSEPH PLESUR, DIR OF A-V SERVICES. GRANT REQUESTED: $48342. TOTAL PROJECT COST: $210391. DATE RECEIVED: 800109. TO ESTABLISH A PRODUCTION FACILITY TO PRODUCE EDUCATIONAL PROGRAMS THAT WILL BE DISTRIBUTED THROUGH CABLE TELEVISION.

FILE NO. 989CRB, STA UNIV. COLLEGE AT FREDONIA, FREDONIA, NY 14063. SIGNED BY: PERRIN W.FENSKE, DIR., SPONSORED RESEARCH. GRANT REQUESTED: $20125. TOTAL PROJECT COST: $26925. DATE RECEIVED: 800109. TO EXTEND COVERAGE AREA AND PROVIDE SCA SERVICE TO THE PRINT HANDICAPPED IN THE COVERAGE AREA OF WCUF IN FREDONIA, NEW YORK.

FILE NO. 1188CRTB, PUBLIC BDCSTG CNCL OF CENTRAL NY, 506 OLD LIVERPOOL RD., LIVERPOOL, NY 13088. SIGNED BY: RICHARD W.RUSSELL, PRES & GEN MGR. GRANT REQUESTED: $610413. TOTAL PROJECT COST: $813884. DATE RECEIVED: 800109. TO RETUNE TWO TRANSLATORS WHICH SERVE THE UTTICA AND NEDROW AREAS, IMPROVE SCA SERVICE THROUGH A LOCAL PRODUCTION FACILITY AND ADDITIONAL RECEIVERS, TO UPGRADE A STUDIO FILM CHAIN, AND IMPROVE REMOTE CAPABILITIES.

FILE NO. 816CTB, EDUCATIONAL BROADCASTING CORP., 356 WEST 58TH ST., NEW YORK, NY 10019. SIGNED BY: GERALD L.APPY, VICE PRESIDENT, COMMUNICATIONS. GRANT REQUESTED: $374250. TOTAL PROJECT COST: $600000. DATE RECEIVED: 800108. TO ESTABLISH A PRODUCTION

FACILITY IN NEW JERSEY TO PRODUCE PROGRAMMING FOR THAT STATE WHICH WILL BE BROADCAST ON WNET IN NEW YORK CITY.

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FILE NO. 1090PRTBN, TRI-STATE REG PLANNING COMMSN, 1 WORLD TRADE CENTER, NEW YORK, NY 10048. SIGNED BY: FRANK T. JOHNSON, EXEC. DIR. GRANT REQUESTED: $47500. TOTAL PROJECT COST: $47500. DATE RECEIVED: 800109. TO PLAN FOR A CABLE INTERCONNECT IN THE NEW YORK, NEW JERSEY, CONNECTICUT TRI-STATE METROPOLITAN AREA, AND TO PROVIDE STATE, REGIONAL AND METROPOLITAN GOVERNMENTAL AND PUBLIC PROGRAMMING.

FILE NO. 805PTN, NEW YORK INST OF TECHNOLOGY, BOX 170, OLD WESTBURY, NY 11568. SIGNED BY: ALEXANDER SCHURE, PRES. GRANT REQUESTED: $95575. TOTAL PROJECT COST: $138455. DATE RECEIVED: 800109. TO PLAN FOR A NATIONAL TELECOMMUNICATIONS NETWORK, UTILIZING SATELLITE TECHNOLOGY, TO PROVIDE HEALTH-RELATED PROGRAMMING TO HOSPITALS, MEDICAL INSTITUTIONS, AND RURAL COMMUNITIES.

FILE NO. 1136CTN, TOWN OF BROOKHAVEN, 227 MAIN ST., PORT JEFFERSON, NY 11777. SIGNED BY: THOMAS B. WILLIAMS, DIR YOUTH BUREAU. GRANT REQUESTED: $59690. TOTAL PROJECT COST: $79587. DATE RECEIVED: 800109. TO EXTEND THE SERVICE AREA AND PRODUCTION CAPABILITY OF THE CABLE PROGRAMMING PRODUCED UNDER THE AUSPICES OF THE TOWN OF BROOKHAVEN'S YOUTH BUREAU.

FILE NO. 831CTB, ROCHESTER AREA ETV ASSN., 280 STATE ST., BOX 21, ROCHESTER, NY 14601. SIGNED BY: WILLIAM J. PEARCE, PRES AND GEN MGR. GRANT REQUESTED: $153000. TOTAL PROJECT

COST: $204100. DATE RECEIVED: 800109. TO IMPROVE THE TRANSMITTING AND STUDIO CAPABILITIES OF WXXI IN ROCHESTER, NY.

FILE NO. 938CRB, MOHAWK-HUDSON COUNCIL ON ETV, BOX 17, SCHENECTADY, NY 12301. SIGNED BY: DONALD E. SCHEIN, PRES. GRANT REQUESTED: $20133. TOTAL PROJECT COST: $26845. DATE RECEIVED: 800109. TO IMPROVE THE FACILITIES FOR SCA SERVICE TO THE PRINT-HANDICAPPED AND TO EXTEND THE SUB-CARRIER SERVICE THROUGH ADDITIONAL RECEIVERS.

FILE NO. 93[illegible]CTN, MOWHAWK-HUDSON COUNCIL ON ETV, BOX 17, SCHENECTADY, NY 12301. SIGNED BY: DONALD E. SCHEIN, PRES. GRANT REQUESTED: $620905. TOTAL PROJECT COST: $827874. DATE RECEIVED: 800109. TO ACTIVATE AN EDUCATIONAL TELEVISION NETWORK UTILIZING ITFS AND CABLE SYSTEMS. THE EDUCATIONAL PROGRAMMING WOULD SERVE THE SCHOOLS AND LOCAL RESIDENTS OF SIX COUNTIES.

FILE NO. 1212CTB, CITY OF SYRACUSE, 225 CITY HALL, SYRACUSE, NY 13202. SIGNED BY: LEE ALEXANDER, MAYOR. GRANT REQUESTED: $205680. TOTAL PROJECT COST: $278030. DATE RECEIVED: 800109. TO ESTABLISH A PUBLIC TELECOMMUNICATIONS FACILITY WHICH WILL PROVIDE EDUCATIONAL, LOCAL GOVERNMENT, MEDICAL-HEALTH, AND TRAINING PROGRAMMING TO THE RESIDENTS OF SYRACUSE, NEW YORK, THROUGH CABLE TELEVISION.

FILE NO. 1151CTB, BD OF COOPERATIVE EDUC., SPRING RD., VERONA, NY 13478. SIGNED BY: ANDREW D. ROSSETTI, DIST. SUPT. GRANT REQUESTED: $53882. TOTAL PROJECT COST: $74882. DATE RECEIVED: 800118. TO EXTEND THE COVERAGE AREA OF THE PROGRAMMING PRODUCED BY THE BOARD OF CO-OPERATIVE SERVICES OF MADISON-ONEIDA COUNTIES BY INTERCONNECTING VIA MICROWAVE TO TWO LOCAL CABLE SYSTEMS.

FILE NO. 1145CTN, TELE-COMMUNITY INC., 1 MEDIA CROSSWAYS, WOODBURY, NY 11797. SIGNED BY: LAURA F. PERKINS, ACTING EXEC DIR. GRANT REQUESTED: $371807. TOTAL PROJECT COST: $495742. DATE RECEIVED: 800109. TO ESTABLISH A CABLE ACCESS PRODUCTION FACILITY WITH MOBILE CAPABILITY TO PROVIDE THE RESIDENTS OF LONG ISLAND WITH CULTURAL AND EDUCATIONAL PROGRAMMING THOUGH SEVERAL CABLE TELEVISION SYSTEMS.

FILE NO. 1006PTN, MEDIA BUS, INC., 120 TINKER ST., WOODSTOCK, NY 12498. SIGNED BY: BARTON FRIEDMAN. GRANT REQUESTED:

$23800. TOTAL PROJECT COST: $27800. DATE RECEIVED: 800109. TO PLAN FOR A LOCAL PRODUCTION CENTER WHICH WILL PROVIDE EDUCATIONAL, PUBLIC, AND GOVERNMENT ACCESS SERVICES WHICH WILL BE DISTRIBUTED THROUGH CABLE TELEVISION.

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OHIO

FILE NO. 1235CTB, OHIO UNIV., 9 S COLLEGE, ATHENS, OH 45701. SIGNED BY: NEIL BUCKLEW. GRANT REQUESTED: $405803. TOTAL PROJECT COST: $625803. DATE RECEIVED: 800110. TO EXTEND THE SIGNAL OF PUBLIC TELEVISION STATION WOUB-TV, CHANNEL 20, BOWLING GREEN UNIVERSITY, ATHENS, OHIO TO REACH COMMUNITIES IN THE OHIO RIVER, APPALACHIAN VALLEY, OHIO COMMUNITIES.

FILE NO. 936CTB, BOWLING GREEN STA UNIV., TROUPE AVE., BOWLING GREEN, OH 43403. SIGNED BY: DR MICHAEL R.FERRARI, PROVOST. GRANT REQUESTED: $194250. TOTAL PROJECT COST: $259900. DATE RECEIVED: 800109. TO IMPROVE PUBLIC TELEVISION STATION WBGU-TV, CHANNEL 57, BOWLING GREEN STATE UNIVERSITY, BOWLING GREEN, OHIO THROUGH THE ACQUSITION OF ORIGINATION EQUIPMENT TO FACILITATE PROGRAMMING SERVICES TO COMMUNITIES IN N.W. OHIO, FT. WAYNE, INDIANA, AND TWO COUNTIES IN SOUTHERN MICHIGAN.

FILE NO. 813CRB, BUCKEYE BROADCASTING, INC., P.O. BOX 429, CAMBRIDGE, OH 43725. SIGNED BY: BOYER SIMCOX, PRESIDENT. GRANT REQUESTED: $227660. TOTAL PROJECT COST: $510966. DATE RECEIVED: 800109. TO ACTIVATE AN FM PUBLIC RADIO STATION ON FREQUENCY 91.7 MHZ IN CAMBRIDGE, OHIO FOR BUCKEYE BROADCASTING, INC. TO PROVIDE BROADCASTING SERVICES TO THE COMMUNITIES IN THE CAMBRIDGE, OHIO AREA AND IN THE APPALACHIAN COUNTIES OF SE OHIO.

FILE NO. 1157CRB, UNIV. OF CINCINNATI, 110 EMERY HALL, CINCINNATI, OH 45221. SIGNED BY: ALBERT C.YATES, UNIV. DEAN FOR GRAD EDUCATION. GRANT REQUESTED: $157182. TOTAL PROJECT COST: $209577. DATE RECEIVED: 800110. TO EXTEND THE SIGNAL OF PUBLIC, NONCOMMERCIAL FM RADIO STATION WGUC, 90.0 MHZ, UNIVERSITY OF CINCINNATI, OHIO TO SERVE COMMUNITIES IN THE TRI-STATE AREA OF SOUTHWESTERN OHIO, NORTHERN KENTUCKY AND SOUTHEASTERN INDIANA.

FILE NO. 931PTN, OHIO EDUC TV NETWORK COM, 2470 N STAR RD., COLUMBUS, OH 43221. SIGNED BY: DAVE L FORNSHELL, EXECUTIVE DIRECTOR. GRANT REQUESTED: $84922. TOTAL PROJECT COST: $84922. DATE RECEIVED: 800109. TO PLAN FOR A PUBLIC TELECOMMUNICATION FACILITY TO SERVE ALL OHIO COMMUNITIES WITH A STATEWIDE TELETEXT SERVICE UTILIZING THE OHIO PUBLIC TELEVISION NETWORK SYSTEM; PLANNING WILL BE CONDUCTED BY THE OHIO EDUCATIONAL TELEVISION NETWORK COMMISSION, COLUMBUS, OHIO.

FILE NO. 1249PTN, RUSSEL-ROBINSON COMMUNICASTING, 804 HEYL AVE., COLUMBUS, OH 43206. SIGNED BY: UMAHON RUSSEL, SERV COORDINATOR. GRANT REQUESTED: $101645. TOTAL PROJECT COST: $112938. DATE RECEIVED: 791023. TO PLAN FOR A PUBLIC TELECOMMUNICATIONS ORIGINATION FACILITY CAPABLE OF PROVIDING SPECIALIZED TELEVISION PROGRAMS FOR MINORITIES THROUGH A PROGRAM DISTRIBUTION SERVICE UTILIZING LOCAL DISSEMINATION MEANS.

FILE NO. 905PTB, UNIV. REGIONAL BROADCASTING, INC., 3440 OFFICE PARK DR., DAYTON, OH 45439. SIGNED BY: CLAIR R.TETTEMER, PRES AND GEN MGR. GRANT REQUESTED: $23820. TOTAL PROJECT COST: $23820. DATE RECEIVED: 800109. TO PLAN FOR AN EXPANSION OF THE SERVICE AREA AND SPECIALIZED PROGRAMMING FOR PUBLIC TELEVISION STATION WPTU, CH 14 OXFORD, OHIO OPERATED BY UNIVERSITY REGIONAL BROADCASTING, INC., DAYTON, OHIO.

FILE NO. 899CRB, THE MIAMI UNIV., WMUB, SPRING AND OAK STS., OXFORD, OH 45056. SIGNED BY: LLOYD GOOGIN, VP, FINANCE AND BUSINESS AFFAIRS. GRANT REQUESTED: $80500. TOTAL PROJECT COST: $107677. DATE RECEIVED: 800109. TO EXPAND AND IMPROVE PUBLIC RADIO STATION WMUB, 88.5 MHZ MIAMI UNIVERSITY, OXFORD, OHIO BY REPLACING DISSEMINATION AND ORIGINATION FACILITIES TO PROVIDE PROGRAMMING SERVICES TO COMMUNITIES IN WEST-CENTRAL OHIO AND SOUTHEASTERN INDIANA.

FILE NO. 810CTB, THE GREATER TOLEDO ETV FDN., 415 N SAINT CLAIR ST., TOLEDO, OH 43604. SIGNED BY: ROBERT D.SMITH, PRES. AND GEN MGR. GRANT REQUESTED: $173258. TOTAL PROJECT COST: $241011. DATE RECEIVED: 800109. TO EXPAND THE PUBLIC BROADCASTING SERVICE OF THE GREATER TOLEDO ETV FOUNDATION'S RADIO STATION WGTE-FM, TOLEDO, OHIO TO THE COMMUNITIES OF NORTHWEST OHIO AND EASTERN INDIANA BY ACTIVATING A REPEATER STATION ON CHANNEL 217 AT LIMA, OHIO.

FILE NO. 1117CTN, THE UNIV. OF TOLEDO, 2801 W BANCROFT, TOLEDO, OH 43606. SIGNED BY: DR WILLIAM N.FREE, VICE PRES, ACADEMIC AFFAIRS. GRANT REQUESTED: $252900. TOTAL PROJECT COST: $337200. DATE RECEIVED: 800109. TO ACTIVATE PUBLIC TELECOMMUNICATIONS SERVICES AT THE UNIVERSITY OF TOLEDO, TOLEDO, OHIO TO BRING SPECIALIZED TELEVISION SERVICE PROGRAMMING TO THE TOLEDO AREA USING COMMUNITY CABLE CHANNELS.

FILE NO. 1146CTB, CENTRAL STATE UNIVERSITY, WILBERFORCE, OH 45384. SIGNED BY: LIONEL NEWSOM, PRESIDENT. GRANT REQUESTED: $150000. TOTAL PROJECT COST: $200000. DATE RECEIVED: 800109. TO IMPROVE INSTRUCTIONAL AND TELEVISION PRODUCTION FACILITIES AT CENTRAL STATE UNIVERSITY, WILBERFORCE, OHIO TO FURNISH A PUBLIC TELEVISION PROGRAM TO BE DISTRIBUTED BY UNIVERSITY REGIONAL BROADCASTING, INC., DAYTON, OHIO.

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OKLAHOMA

FILE NO. 820CTB, OKLAHOMA EDUCATIONAL TV AUTH., 7403 N KELLEY AVE., BOX 14190, OKLAHOMA CITY, OK 73113. SIGNED BY: ROBERT L ALLEN, EXECUTIVE DIRECTOR. GRANT REQUESTED: $828535. TOTAL PROJECT COST: $1723535. DATE RECEIVED: 800109. TO REPLACE KOED-TV'S TRANSMISSION EQUIPMENT AND PROVIDE FIRST LOCAL PRODUCTION CAPABILITY TO TULSA, OKLAHOMA.

FILE NO. 1062CRB, OKLAHOMA STA UNIV., UNIV & HESTER STS., STILLWATER, OK 74074. SIGNED BY: L.L.BOGER, PRES. GRANT REQUESTED: $13284. TOTAL PROJECT COST: $17713. DATE RECEIVED: 800109. TO IMPROVE ORIGINATION EQUIPMENT AND PROVIDE REMOTE INTERCONNECTION FOR SERVICES TO THE PRINT-HANDICAPPED.

FILE NO. 921CTB, OKLAHOMA STATE UNIV., 317 COMMUNICATIONS BLDG., STILLWATER, OK 74074. SIGNED BY: DR L.L.ROGER, PRES. GRANT REQUESTED: $87918. TOTAL PROJECT COST: $117224. DATE RECEIVED: 800109. TO PROVIDE A MOBILE UNIT THAT WOULD SERVE THE EDUCATIONAL TELEVISION SERVICES DIVISION OF OKLAHOMA STATE UNIVERSITY AND THE OKLAHOMA EDUCATIONAL TELEVISION AUTHORITY.

OREGON

FILE NO. 1083CRB, MT HOOD COMMUNITY COLLEGE, 26000 S.E. STARK ST., GRESHAM, OR 97030. SIGNED BY: DR. STEPHEN NICHOLSON, PRES. GRANT REQUESTED: $183838. TOTAL PROJECT COST: $262625. DATE RECEIVED: 800109. TO ACTIVATE A NONCOMMERICAL RADIO STATION ON 89.1 MHZ, GRESHAM, OREGON.

FILE NO. 1111PRB, KBOO FDN., 65 SW YAMHILL, PORTLAND, OR 97204. SIGNED BY: MICHAEL WELLS, STATION MGR. GRANT REQUESTED: $25408. TOTAL PROJECT COST: $25408. DATE RECEIVED: 800109. TO PLAN AN FM RADIO STATION PRIMARILY FOR RESIDENTS OF ASTORIA AND THE SURROUNDING COMMUNITY AS A REPEATER OF KBOO, PORTLAND WITH LOCAL PRODUCTION CAPABILITIES TO SERVE CLATSOP CO, OREGON AND PACIFIC AND WAHKAIKIM COUNTIES IN WASHINGTON STATE.

FILE NO. 1057CTN, CREATIVE OUTLET INC., 117 N W 5TH AVE., PORTLAND, OR 97209. SIGNED BY: ROBERT FLUG, DIR. GRANT REQUESTED: $34336. TOTAL PROJECT COST: $45782. DATE RECEIVED: 800114. TO ESTABLISH A COMMUNITY ACCESS PRODUCTION AND ORIGINATION FACILITY TO PROVIDE EXPANDED PROGRAM SERVICES TO THE WEST PORTLAND CABLED AREA OF THE CITY.

FILE NO. 1044CRB, STA BD OF HIGHER ED., 2828 S W FRONT AVE., PORTLAND, OR 97201. SIGNED BY: DONALD S.BRYANT, EXEC DIR., OEPBS. GRANT REQUESTED: $126096. TOTAL PROJECT COST: $168128.

DATE RECEIVED: 800109. TO EXPAND AND IMPROVE THE OEPBS MICROWAVE INTERCONNECTION SYSTEM BETWEEN KWAX-FM, EUGENE; KOAC, CORVALLIS; KOAP-FM, PORTLAND; AND KGOL-FM, LA GRANDE; AS WELL AS DELIVER KOAP-FM'S SCA PROGRAMMING FOR THE ELDERLY AND THE SIGHT-IMPAIRED TO EASTERN OREGON FOR RETRANSMISSION ON THE PENDLETON AND LA GRANDE RADIO STATIONS.

FILE NO. 1045CTB, STATE BD OF HIGHER ED, 2828 S W FRONT AVE., PORTLAND, OR 97201. SIGNED BY: DONALD S.BRYANT, EXEC DIR., OEPBS. GRANT REQUESTED: $9506. TOTAL PROJECT COST: $12675. DATE RECEIVED: 800109. TO IMPROVE THE OEPBS TV SIGNAL BEING RECEIVED IN DALLES COMMUNITY AND EXTEND THE OEPBS TV AND RADIO SIGNAL BY MICROWAVE LINK BETWEEN THE BLACK MT REPEATER STATION AND BLUE MT COMMUNITY COLLEGE.

FILE NO. 1214PRTBN, OREGON COMMSN ON PUB BDCSTG., 2828 S W FRONT AVE., PORTLAND, OR 97201. SIGNED BY: TRAVIS CROSS, CHAIRMAN. GRANT REQUESTED: $122123. TOTAL PROJECT COST: $181607. DATE RECEIVED: 800109. TO DEVELOP A COMPREHENSIVE PUBLIC TELECOMMUNICATIONS PLAN FOR THE STATE OF OREGON.

PENNSYLVANIA

FILE NO. 945PRB, LEHIGH VALLEY ETV CORP., MOUNTAIN DR., BETHLEHEM, PA 18015. SIGNED BY: SHELDON R.SIEGEL, PRES AND GEN MGR. GRANT REQUESTED: $32150. TOTAL PROJECT COST: $37314. DATE RECEIVED: 800109. TO PLAN FOR A FIRST PUBLIC RADIO SERVICE TO BETHLEHEM, PA.

FILE NO. 814CTN, NORTH SCHUYLKILL SCHOOL DIST., OAK AND CENTER STS., FRANCKVILLE, PA 17931. SIGNED BY: CHARLES J.GRECO, SUPERINTENDENT. GRANT REQUESTED: $199127. TOTAL PROJECT COST: $377180. DATE RECEIVED: 800107. TO INTERCONNECT LOCAL CABLE SYSTEM WITH COUNTY SCHOOLS WHICH WILL SERVE AS POINTS OF ORIGINATION.

FILE NO. 1267CTN, VENANGO VIDEO INC., 503 13TH ST., FRANKLIN, PA 16323. SIGNED BY: JEFFREY D.STERLING, EXEC DIR. GRANT REQUESTED: $12000. TOTAL PROJECT COST: $22000. DATE RECEIVED: 800114. TO EQUIP A MOBILE TV PRODUCTION VAN TO PROVIDE LOCAL CATV PROGRAMMING OPPORTUNITIES FOR RESIDENTS OF VENANGO CO, PENNSYLVANIA.

FILE NO. 806PRTB, PENNSYLVANIA PUBLIC TV NETWORK, 169 W CHOCOLATE AVE., HERSHEY, PA 17033. SIGNED BY: H.SHELDON PARKER, JR., GEN MGR. GRANT REQUESTED: $120000. TOTAL PROJECT COST: $168000. DATE RECEIVED: 800109. TO ASSESS POTENTIALITIES OF PRESENT TELECOMMUNICATIONS FACILITIES, TO IDENTIFY DUPLICATIVE SYSTEMS

91

AND UNSERVED GEOGRAPHIC AREAS AND TO DEVELOP A COMPREHENSIVE STATEWIDE TELECOMMUNICATIONS PLAN.

FILE NO. 1022PRN, THE PA SCHOOL FOR THE DEAF, 7500 GERMANTOWN AVE., PHILADELPHIA, PA 19119. SIGNED BY: JOSEPH P. FINNEGAN, JR., HEADMASTER. GRANT REQUESTED: $52625. TOTAL PROJECT COST: $52625. DATE RECEIVED: 800109. TO DETERMINE FEASIBILITY OF ESTABLISHING A RADIO NETWORK FOR THE DEAF IN SEVERAL LARGE NORTHEASTERN CITIES.

FILE NO. 1193CRB, UNIV. OF PENNSYLVANIA, 3451 WALNUT ST., PHILADELPHIA, PA 19104. SIGNED BY: ANTHONY MERRITT, DIR., RESEARCH ADMINISTRATION. GRANT REQUESTED: $38487. TOTAL PROJECT COST: $51316. DATE RECEIVED: 800109. TO IMPROVE FACILITIES AT WXPN-FM OF THE UNIV. OF PENN. IN PHILADELPHIA.

FILE NO. 875CTB, NORTHEASTERN PA EDUC TV ASSN, OLD BOSTON RD., PITTSTON, PA 18640. SIGNED BY: GEORGE H. TRIMEL, JR., PRES AND GEN MGR. GRANT REQUESTED: $1285057. TOTAL PROJECT COST: $1713410. DATE RECEIVED: 800109. TO ESTABLISH A TELECOMMUNICATIONS SYSTEM FOR SCRANTON-WILKES BARRE AREA OF PENNSYLVANIA UTILIZING ITFS, CABLE, CLOSED-CIRCUIT TV, SATELLITE.

FILE NO. 1063CTN, READING SCHOOL DIST., EIGHTH AND WASH STS., READING, PA 19601. SIGNED BY: DR JACK D. NEAL, SUPT OF SCHOOLS. GRANT REQUESTED: $90045. TOTAL PROJECT COST: $120045. DATE RECEIVED:

92

800109. TO EXTEND EDUCATIONAL TV PROGRAMMING BY READING SCHOOL DISTRICT VIA CATV & USE OF SHARED TIME ON COMMERCIAL TV STATION.

FILE NO. 1221CTB, BERKS COMTY TV INC., 1112 MUHLENBERG ST., READING, PA 19602. SIGNED BY: DONALD OLLENDORF, VICE CHAIRMAN OF THE BD. GRANT REQUESTED: $223991. TOTAL PROJECT COST: $298991. DATE RECEIVED: 800118. TO EXTEND INTERACTIVE CABLE SIGNAL BY USE OF UHF TRANSLATOR OF STATION WITF, TO NON-CABLED RURAL POPULATION BEYOND READING, PENNSYLVANIA.

FILE NO. 1019PTB, PENN STATE UNIV., 212 J O KELLER BLDG., UNIVERSITY PARK, PA 16802. SIGNED BY: DANIEL T. HOPKINS, ACTING VICE PRES. GRANT REQUESTED: $34980. TOTAL PROJECT COST: $34980. DATE RECEIVED: 800109. TO PLAN FOR THE IMPROVEMENT AND FEASIBILITY OF EXTENSION OF PENN. STATE UNIVERSITY WPSX-TV IN UNIVERSITY PARK.

93

RHODE ISLAND

FILE NO. 1004PTN, RHODE ISLAND COLLEGE, 600 MT PLEASANT AVE., PROVIDENCE, RI 02908. SIGNED BY: JOHN C. O'NEILL, DIR, BUR OF GRANTS. GRANT REQUESTED: $68223. TOTAL PROJECT COST: $68223. DATE RECEIVED: 800109. TO DEVELOP A STATEWIDE CABLE TV PLAN FOR RHODE ISLAND.

94

SOUTH CAROLINA

FILE NO. 823CTN, SOUTH CAROLINA ETV COMMISSION, DRAWER L, COLUMBIA, SC 29250. SIGNED BY: HENRY J. CAUTHEN, PRESIDENT & GEN MGR. GRANT REQUESTED: $358627. TOTAL PROJECT COST: $658627. DATE RECEIVED: 800109. TO CONSTRUCT AN ITFS SYSTEM CONNECTING CHARLESTON COUNTY S.C SCHOOLS AND VOCATIONAL CENTERS.

FILE NO. 925PRTBN, SOUTH CAROLINA ETV COMMISSION, PO DRAWER L, COLUMBIA, SC 29250. SIGNED BY: HENRY J. CAUTHEN, PRES AND GEN MGR. GRANT REQUESTED: $75000. TOTAL PROJECT COST: $136150. DATE RECEIVED: 800109. TO PLAN FOR EXTENSION OF THE STATE'S ETV NETWORK TO RURAL AREAS.

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SOUTH DAKOTA

FILE NO. 1118PRTBN, CHEYENNE RIVER SIOUX TRIBE, BOX 6, EAGLE BUTTE, SD 57625. SIGNED BY: MELVIN GARREAUX, CHAIRMAN. GRANT REQUESTED: $69441. TOTAL PROJECT COST: $69441. DATE RECEIVED: 800109. TO PLAN FOR A TRIBALLY SPONSORED PUBLIC TELECOMMUNICATIONS SYSTEM ON THE CHEYENNE RIVER INDIAN RESERVATION IN NORTH CENTRAL SOUTH DAKOTA.

FILE NO. 1124PRB, AMERICAN INDIAN TREATY COUNCIL, BOX 378, PINE RIDGE, SD 57770. SIGNED BY: DAVID P. LITTLE, PROJECT DIRECTOR. GRANT REQUESTED: $15097. TOTAL PROJECT COST: $15097. DATE RECEIVED: 800109. TO PLAN FOR A NONCOMMERCIAL PUBLIC RADIO STATION ON PINE RIDGE INDIAN RESERVATION IN SOUTH DAKOTA.

96

TENNESSEE

FILE NO. 1239PTB, THE OTHER SCHOOL SYSTEM INC., BOX 840, NASHVILLE, TN 37202. SIGNED BY: JAMES E. ALEXANDER, PHD, EXEC DIR. GRANT REQUESTED: $30210. TOTAL PROJECT COST: $42294. DATE RECEIVED: 800109. TO PLAN FOR PRODUCTION FACILITIES TO DEVELOP TRAINING MATERIALS TO BE USED BY SECA MEMBER STATIONS FOR PARENTS AND CHILDREN.

FILE NO. 1148PTN, METRO GOV NASHVILLE/DAVIDSON CO, 607 STAHLMAN BLDG., NASHVILLE, TN 37201. SIGNED BY: RICHARD H. FULTON, MAYOR. GRANT REQUESTED: $46399. TOTAL PROJECT COST: $61399. DATE RECEIVED: 800109. TO STUDY THE PUBLIC TELECOMMUNICATIONS NEEDS OF METROPOLITAN NASHVILLE, TO DESIGN A PLAN, TO MEET THOSE NEEDS VIA CABLE, AND TO INITIATE A PILOT PROJECT.

97

TEXAS

FILE NO. 963PRH, TEX CONSUMER ED & COMMTY DEV COM, BOX 547, ALAMO, TX 78516. SIGNED BY: ARTURO MARISCAL, BD CHARIMAN. GRANT REQUESTED: $34800. TOTAL PROJECT COST: $64800. DATE RECEIVED: 800109. TO PLAN THE ESTABLISHMENT OF A PUBLIC RADIO STATION IN HARLINGEN, TEXAS PROVIDING FIRST RADIO SERVICE TO CAMERON, WILLACY, AND HIDALGO COUNTIES IN SOUTHERN TEXAS BENEFITING 437,000 PEOPLE.

FILE NO. 1269CTB, TEX CONSUMER ED & COMMTY DEV COM, PO BOX 547, ALAMO, TX 78516. SIGNED BY: ARTURO MARISCAL, CHAIRMAN. GRANT REQUESTED: $384000. TOTAL PROJECT COST: $661000. DATE RECEIVED: 800114. TO SECURE A TOWER TO FULLY ACTIVATE KZLN-TV, CHANNEL 60 IN HARLINGEN, TEXAS, PROVIDING FIRST SERVICE TO THE COMMUNITY OF HARLINGEN-SAN BENITO AS WELL AS THE LOWER RIO GRANDE VALLEY OF SOUTH TEXAS.

FILE NO. 1150PTN, THE UNIV. OF TEXAS AT ARLINGTON, ARLINGTON, TX 76019. SIGNED BY: W.H. NEDDERMAN, PRES. GRANT REQUESTED: $36723. TOTAL PROJECT COST: $36723. DATE RECEIVED: 800118. TO PLAN THE EXPANSION OF NONBROADCAST TV PROGRAMS THROUGH INTERCONNECTION WITH CABLE COMPANIES AND THE IMPROVEMENT OF THE PRODUCTION CENTER FOR THE UNIVERSITY OF TEXAS AT ARLINGTON, TEXAS.

98

FILE NO. 1144PTN, HURST-EULESS-BEDFORD IND SCHOOL, 1849 CENTRAL DR., BEDFORD, TX 76021. SIGNED BY: FORREST E. WATSON, SUPT OF SCHOOLS. GRANT REQUESTED: $39760. TOTAL PROJECT COST: $39760. DATE RECEIVED: 800109. TO PLAN THE ESTABLISHMENT OF A MULTI-TECHNOLOGICAL COMMUNICATIONS INFORMATION CENTER, BASICALLY USING AN INTERACTIVE CABLE SYSTEM LOCATED IN BEDFORD, TX AND PROPOSING TO SERVE THE SCHOOLS AND COMMUNITIES OF HURST, EULESS AND BEDFORD DIRECTLY NE OF FORT WORTH.

FILE NO. 1015PTN, REGION IV ED SERVICE CENTER, BOX 863, HOUSTON, TX 77001. SIGNED BY: DR TOM PATE, JR., EXEC DIR. GRANT REQUESTED: $86365. TOTAL PROJECT COST: $154709. DATE RECEIVED: 800109. TO PLAN TO ESTABLISH A COOPERATIVE TELECOMMUNICATIONS INSTRUCTIONAL NETWORK BY USING AN INSTRUCTIONAL TV FIXED SERVICE SYSTEM TO PROVIDE PROGRAM SERVICE TO 54 SCHOOL DISTRICTS IN A 7 COUNTY NETWORK WITH THE ORIGINATION CENTER IN HOUSTON, TEXAS.

FILE NO. 1034CTB, CENTRAL TEXAS COLLEGE, HIGHWAY 190 WEST, KILLEEN, TX 76541. SIGNED BY: PHILIP H. SWARTZ, DEPUTY CHANCELLOR. GRANT REQUESTED: $450000. TOTAL PROJECT COST: $604000. DATE RECEIVED: 800109. TO IMPROVE THE LOCAL ORIGINATION CAPABILITY OF TV STATION KNCT-CHANNEL 46 IN BELTON, TEXAS TO PRODUCE ON LOCATION PROGRAMS TO COMMUNITIES IN CENTRAL TEXAS NOT FREQUENTLY SERVICEABLE WITH EXISTING STATION FACILITIES.

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FILE NO. 1234CTB, MIAMI TRANSLATOR SYSTEM INC., BOX 68, MIAMI, TX 79059. SIGNED BY: MAX RAY FAULKNER, SECY/TREAS. GRANT REQUESTED: $9750. TOTAL PROJECT COST: $13000. DATE RECEIVED: 800118. TO CONSTRUCT A TV TRANSLATOR TO PROVIDE FIRST SERVICE TO MIAMI, TEXAS AND SURROUNDING AREA BY REBROADCAST OF KETA, CHANNEL 13 IN OKLAHOMA CITY.

FILE NO. 1038CTB, ODESSA COLLEGE, BOX 3752, ODESSA, TX 79760. SIGNED BY: PHILIP T SPEEGLE, PRES. , GRANT REQUESTED: $60438. TOTAL PROJECT COST: $80585. DATE RECEIVED: 800109. TO SECURE A VIDEO TAPE AUTOMATION SYSTEM TO PROGRAM THE LOCAL CABLE CH 10 IN ODESSA, TX PROVIDING FIRST SERVICE AND ACCESS FOR LOCAL GOVERNMENT, EDUCATION AND PUBLIC SECTORS.

FILE NO. 1245CTN, ASSN GRAD ED & RES, N TEXAS, BOX 688, RICHARDSON, TX 75080. SIGNED BY: GILBERT A PETERS, PRES. GRANT REQUESTED: $183393. TOTAL PROJECT COST: $244850. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF 4 ITFS CHANNELS AND CONSTRUCT A SATELLITE DOWNLINK FOR THE TELECOMMUNICATIONS CENTER AT THE TEXAS ASSOCIATION FOR GRADUATE EDUCATION AND RESEARCH IN RICHARDSON, TX THEREBY PROVIDING IMPROVED TV PROGRAMMING OVER THE AGENCY'S CABLE AND ITFS NETWORKS SERVING THE DALLAS AREA.

FILE NO. 1237PTN, UNIV. OF HOUSTON VICTORIA CAMPUS, 2302-C RED RIVER, VICTORIA, TX 77901. SIGNED BY: CHRISTIAN J. BUYS, ACTING CHANCELLOR. GRANT REQUESTED: $91843. TOTAL PROJECT

100

COST: $91843. DATE RECEIVED: 800118. TO PLAN TO ESTABLISH AN EDUCATIONAL TELECOMMUNICATIONS SYSTEM LOCATED AT THE UNIV OF HOUSTON'S VICTORIA CAMPUS PROVIDING EDUCATIONAL TV SERVICE TO 15 COUNTIES IN SO TEXAS.

102

FILE NO. 880CRB, VIRGINIA VOICE FOR THE PRINT, BOX 9259, RICHMOND, VA 23227. SIGNED BY: CARLTON P. BROOKS, EXECUTIVE DIR. GRANT REQUESTED: $23850. TOTAL PROJECT COST: $31715. DATE RECEIVED: 800109. GRANT REQUEST WILL PROVIDE ADDITIONAL SCA RECEIVERS TO BE ISSUED TO PERSONS WHO ARE BLIND OR PHYSICALLY-HANDICAPPED IN BOTH METROPOLITAN AREAS TO BE SERVED, WHICH ARE RICHMOND-PETERSBURGH AND HOPEWELL-COLONIAL HGTS.

FILE NO. 956CRB, VA WESTERN COMMUNITY COLLEGE, 3095 COLONIAL AVE, SW., ROANOKE, VA 24015. SIGNED BY: HAROLD H. HOPPER, PRES. GRANT REQUESTED: $32250. TOTAL PROJECT COST: $40471. DATE RECEIVED: 800109. EXPANSION OF RADIO READING SERVICE FOR THE BLIND AND PHYSICALLY-HANDICAPPED VIA SCA RECEIVERS TO 500 ADDITIONAL PERSONS.

FILE NO. 812CTB, BLUE RIDGE ETV ASSOC., 1215 MCNEIL DR., SW, P.O. BOX 1, ROANOKE, VA 24032. SIGNED BY: E V REXRODE, JR., EXECUTIVE VP AND GEN MGR. GRANT REQUESTED: $735859. TOTAL PROJECT COST: $1235859. DATE RECEIVED: 800109. REQUESTS FUNDS TO PURCHASE AND INSTALL A REPEATER TRANSMITTER TOWER AND ASSOCIATED MICROWAVE SYSTEM TO ACTIVATE FIRST SERVICES NONCOMMERCIAL TELEVISION ON CHANNEL 52 AT MARION, VA.

101

VIRGINIA

FILE NO. 809CTN, ARLINGTON PUBLIC SCHOOLS, 816 S WALTER REED DRIVE, ARLINGTON, VA 22204. SIGNED BY: LARRY CUBAN, SUPT. GRANT REQUESTED: $813804. TOTAL PROJECT COST: $964404. DATE RECEIVED: 800109. REQUESTS ASSISTANCE TO IMPROVE UPON AND EXPAND EXISTING PRODUCTION AND DISTRIBUTION SERVICES EQUIPMENT INCLUDES EDITING-ENG-EFP-HEADEND DISTRIBUTION FOR CABLE AND HOOK-UP OF MATV SYSTEMS.

FILE NO. 1028CTB, HAMPTON ROADS EDUC TELECOM ASSN., 5200 HAMPTON BLVD., NORFOLK, VA 23508. SIGNED BY: JOHN R. MORISON, EXEC VICE PRES & GEN MGR. GRANT REQUESTED: $459975. TOTAL PROJECT COST: $613300. DATE RECEIVED: 800109. REQUESTS FUNDS FOR REPLACEMENT OF OUTDATED PRODUCTION AND DISTRIBUTION SWITCHERS-FILM CHAIN-VTR'S EDITING SYSTEM AND OTHER STATE-OF-THE-ART ORIGINATION EQUIPMENT. A REMOTE PICK-UP MICROWAVE SYSTEM AND TEST EQUIPMENT ARE ALSO REQUESTED.

FILE NO. 1088PTBN, HAMPTON-ROADS EDUC TELECOMM ASSN., 5200 HAMPTON BLVD., NORFOLK, VA 23508. SIGNED BY: JOHN R. MORISON, EXEC. V.P. & GEN MGR. GRANT REQUESTED: $116150. TOTAL PROJECT COST: $116150. DATE RECEIVED: 800109. REQUESTS PLANNING FUNDS TO EXPLORE WAYS TO EXPAND THE WHRO-TV PROGRAMS SERVICES TO NEW AUDIENCES THROUGH ALTERNATIVE NONBROADCAST METHODS.

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FILE NO. 802CRB, CENTER FOR EXCELLENCE, INC., P.O. BOX 158, WILLIAMSBURG, VA 23185. SIGNED BY: JOHN A. CURTIS, PRESIDENT. GRANT REQUESTED: $321781. TOTAL PROJECT COST: $435856. DATE RECEIVED: 800109. REQUEST IS FOR EXTENSION OF SERVICES PROVIDED BY THE BACKBONE OF THE CENTER SYSTEM TO THE EASTERN SHORE OF VA VIA CONSTRUCTION OF A RIB STATION IN EASTVILLE-CONNECTER TO THE NEWPORT NEWS BACKBONE STATION VIA TWO-WAY FM LINK. ADDITIONALLY, A SATELLITE RECEIVER STATION TO BE ADDED IN WILLIAMSBURG WILL ALLOW RECEPTION OF NATIONAL PUBLIC RADIO FOR INCLUSION IN SCA SERVICE TO THE PHINT HANDICAPPED.

FILE NO. 1251PTN, CENTER FOR EXCELLENCE, INC., BOX 159, WILLIAMSBURG, VA 23158. SIGNED BY: JOHN A. CURTIS, PRESIDENT. GRANT REQUESTED: $72057. TOTAL PROJECT COST: $99757. DATE RECEIVED: 800107. PLAN TO IDENTIFY AND DEFINE THE MAJOR UNFILLED EDUCATIONAL, MEDICAL AND SOCIAL SERVICE NEEDS OF THE AREA AND MAKE INTENSIVE USE OF MODERN TELECOMMUNICATIONS TECHNOLOGY TO DELIVER NEEDED SERVICES.

VIRGIN ISLANDS

FILE NO. 1097CTB, VIRGIN ISLANDS PTV SYSTEM, BOX 7879, CHARLOTTE AMALIE, VI 00801. SIGNED BY: DR. ORVILLE KEAN, CHAIRMAN OF THE BOARD. GRANT REQUESTED: $331340. TOTAL PROJECT COST: $531340. DATE RECEIVED: 800109. TO IMPROVE PUBLIC TELECOMMUNICATIONS FACILITIES OF STATION WTJX-TV CHANNEL 12, CHARLOTTE AMALIE, ST. THOMAS, VIRGIN ISLANDS BY REPLACING OBSOLETE APPARATUS NEEDED TO DELIVER PROGRAM SERVICES TO THE ISLANDS OF ST. THOMAS, ST. JOHN AND ST. CROIX.

VERMONT

FILE NO. 923CTB, THE UNIV. OF VERMONT, ETHAN ALLAN AVE., WINOOSKI, VT 05404. SIGNED BY: DR ROBERT B. LAWSON, ASSOC VICE PRES FOR RESEARCH. GRANT REQUESTED: $173422. TOTAL PROJECT COST: $231230. DATE RECEIVED: 800109. TO EXPAND FACILITIES OF VT ETV TO INCLUDE REMOTE PRODUCTION CAPABILITY.

WASHINGTON

FILE NO. 979CTB, PIERCE COUNTY TV RECEPTION, BOX 28, ASHFORD, WA 98304. SIGNED BY: WESLEY SOLBERG, CHAIRMAN. GRANT REQUESTED: $15892. TOTAL PROJECT COST: $21190. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF CHANNEL 62, KTPS-TV, TACOMA BY TRANSLATOR TO PROVIDE FIRST NONCOMMERCIAL TELEVISION SERVICE TO ISOLATED COMMUNITIES IN PIERCE COUNTY, ASHFORD, ELBE, MT. RAINIER NATIONAL PARK AREA, LEWIS COUNTY, MINERAL AND PARADISE ESTATES.

FILE NO. 1017CTN, EASTERN WASH UNIV., SHOWALTER 219, CHENEY, WA 99004. SIGNED BY: SONIA S. COWEN, GRANTS ADMINISTRATOR. GRANT REQUESTED: $14964. TOTAL PROJECT COST: $19952. DATE RECEIVED: 800109. TO ESTABLISH A PRODUCTION CAPABILITY FOR THE LOCAL CABLE CONSORTIUM UTILIZING THE EDUCATIONAL CABLE CHANNELS AVAILABLE TO THE SPOKANE COMMUNITY.

FILE NO. 1131CTB, APPLE VALLEY EDUC TV ASSN., 50 N IOWA, E WENATCHEE, WA 98801. SIGNED BY: RUSSELL H. EDWARDS, PRES. GRANT REQUESTED: $70500. TOTAL PROJECT COST: $94000. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KWSU-TV, PULLMAN USING FIVE TRANSLATORS TO REACH RESIDENTS OF CHELAN AND DOUGLAS COUNTIES IN RURAL EASTERN WASHINGTON.

FILE NO. 1241CTB, TV RECEPTION DIST #1 OF OKANOGAN CO, RT 1 BOX 109, OKANOGAN, WA 98840. SIGNED BY: RUSSELL DETRO, CHAIRMAN.

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107

GRANT REQUESTED: $55457. TOTAL PROJECT COST: $73957. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KSPS-TV, CHANNEL 7, SPOKANE TO NORTH CENTRAL WASHINGTON BY TRANSLATOR AND PROVIDE NONCOMMERCIAL TELEVISION PROGRAMMING TO RESIDENTS OF OKANOGAN COUNTY INCLUDING ABOUT ONE-HALF OF THE COLVILLE INDIAN RESERVATION.

FILE NO. 1210PRTBN, STATE OF WASHINGTON, 400 CAPITOL CENTER BLDG., OLYMPIA, WA 98504. SIGNED BY: DEAN COLE, DIR. GRANT REQUESTED: $100972. TOTAL PROJECT COST: $150985. DATE RECEIVED: 800109. TO PLAN COORDINATED PUBLIC TELECOMMUNICATIONS SERVICES AND FACILITIES IN WASHINGTON STATE AND TO PREPARE AND DISTRIBUTE A STATE PLAN FOR TELECOMMUNICATIONS.

FILE NO. 996CHB, THE EVERGREEN STA COLLEGE, OLYMPIA, WA 98505. SIGNED BY: DANIEL J. EVANS, PRES. GRANT REQUESTED: $32332. TOTAL PROJECT COST: $61142. DATE RECEIVED: 800109. TO BRING FIRST PUBLIC RADIO SERVICE TO AREAS OF GRAYS HARBOR AND PACIFIC COUNTIES, WASHINGTON BY EXTENDING THE SIGNAL OF KAOS-FM IN OLYMPIA, WASHINGTON BY USING FOUR FM TRANSLATORS AND CABLE SYSTEM INTERCONNECTION.

FILE NO. 1086CTB, PRESCOTT SCHOOL DIST. #402-37, BOX 65, PRESCOTT, WA 99348. SIGNED BY: LEW MOORMAN, SUPT. GRANT REQUESTED: $6942. TOTAL PROJECT COST: $9257. DATE RECEIVED: 800109. TO EXTEND THE SIGNAL OF KSPS-TV, CHANNEL 7, SPOKANE, BY TRANSLATOR TO DELIVER EDUCATIONAL TELEVISION SERVICES TO THE RURAL COMMUNITY OF PRESCOTT, WASHINGTON.

108

FILE NO. 1093CRTN, QUINAULT INDIAN NATION, BOX 189, TAHOLAH, WA 98587. SIGNED BY: JOSEPH B. DELACRUZ, CHAIRMAN. GRANT REQUESTED: $166331. TOTAL PROJECT COST: $221775. DATE RECEIVED: 800109. TO ASSIST IN THE CONSTRUCTION OF CABLE TELEVISION SYSTEMS WHICH WOULD DELIVER PUBLIC RADIO AND TELEVISION PROGRAMMING TO QUEETS AND TAHOLAH COMMUNITIES ON THE QUINAULT INDIAN RESERVATION.

109

WISCONSIN

FILE NO. 1036CRB, LAC COURTE OREILLES OJIBWA, RT 2, HAYWARD, WI 54843. SIGNED BY: FRANCIS H. LARSON, VICE PRES. GRANT REQUESTED: $241975. TOTAL PROJECT COST: $669976. DATE RECEIVED: 800109. TO ACTIVATE A PUBLIC FM RADIO STATION ON 88.9 MHZ IN HAYWARD, WISCONSIN OPERATED BY LAC COURTE OREILLES OJIBWA PUBLIC BROADCASTING CORPORATION TO PROVIDE A FIRST PUBLIC TELECOMMUNICATIONS BROADCAST SERVICE TO THE TEN COUNTY AREA SURROUNDING HAYWARD.

FILE NO. 1101PTBN, AMER CNCL FOR BETTER BDCSTS., 120 EAST WILSON ST., MADISON, WI 53590. SIGNED BY: GENEVIEVE FINNEGAN, PRES. GRANT REQUESTED: $62550. TOTAL PROJECT COST: $66000. DATE RECEIVED: 800109. TO SUPPORT PLANNING ACTIVITIES BY THE AMERICAN COUNCIL FOR BETTER BROADCASTS, MADISON, WISCONSIN TO ESTABLISH A CHILDREN'S TELEVISION PROGRAM SERVICE USING CABLE AND OTHER TELECOMMUNICATIONS SERVICES FOR WISCONSIN AND OTHER STATES.

FILE NO. 842PRB, WHITE PINE COMM BDCSTG INC., BOX 754, RHINELANDER, WI 54501. SIGNED BY: PETER D. NORDGREN, PRESIDENT. GRANT REQUESTED: $29849. TOTAL PROJECT COST: $34709. DATE RECEIVED: 800109. TO ENABLE WHITE PINE COMMUNITY BROADCASTING, INC., RHINELANDER, WISCONSIN, PLAN FOR THE ACTIVATION OF A PUBLIC RADIO STATION TO SERVE THE NORTHEAST AND NORTH CENTRAL WISCONSIN AND THE UPPER PENINSULA OF MICHIGAN AREAS.

110

WEST VIRGINIA

FILE NO. 1179CTB, TRUSTEES OF BETHANY COLLEGE, BETHANY, WV 26032. SIGNED BY: ROBERT A. SANDERCOX, PRES. GRANT REQUESTED: $50531. TOTAL PROJECT COST: $67375. DATE RECEIVED: 800117. ESTABLISHMENT AND IMPLEMENTATION OF A MODEL TELECOMMUNICATIONS DEMONSTRATION IN COOPERATION WITH THE NORTHERN PANHANDLE AGENCY FOR THE AGED TO PRODUCE 43 PUBLIC SERVICE PROGRAMS ON THE AGED. INSTALL NEEDED PRODUCTION EQUIPMENT AT CH 3; THE VIDEO TAPED PROGRAMS WILL BE BICYCLED TO 20 CABLE SYSTEMS AND 33 SATELLITE CENTERS.

FILE NO. 1155CRB, TRUSTEES OF BETHANY COLLEGE, BETHANY, WV 26032. SIGNED BY: ROBERT A. SANDERCOX, PRES. GRANT REQUESTED: $79598. TOTAL PROJECT COST: $102131. DATE RECEIVED: 800118. EXPAND ESTABLISHED 10 WATT RADIO STATION TO 1 KW TO SERVE ALL OF BROOKE COUNTY AND NORTHERN PANHANDLE OF WEST VA; ALSO INSTALL FIRST BROADCAST PRODUCTION STUDIO.

FILE NO. 815CRB, POCAHONTAS COMMUNICATIONS COOP., BOX 86, MARLINTON, WV 24954. SIGNED BY: GIBBS KINDERMAN, VICE PRESIDENT. GRANT REQUESTED: $103021. TOTAL PROJECT COST: $114021. DATE RECEIVED: 800108. ACTIVATION OF FIRST SERVICE 1 KW AM RADIO STATION ON 1370 KHZ AT MARLINTON, WEST VIRGINIA. PROPOSED FACILITY WILL SERVE POCAHONTAS COUNTY AND FIVE ADJACENT COUNTIES OF WEST VIRGINIA.

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WYOMING

FILE NO. 1018CTB, CASPER COMTY COLLEGE DISTRICT, 125 COLLEGE DR., CASPER, WY 82601. SIGNED BY: DR TILGHMAN H. ALEY, VICE PRES. GRANT REQUESTED: $30000. TOTAL PROJECT COST: $40000. DATE RECEIVED: 800109. TO PROVIDE FIRST SERVICE PUBLIC TV TO CASPER, USING A TRANSLATOR WHICH WILL BRING PROGRAMMING FROM CH 6, KRMA, DENVER.

FILE NO. 835CTB, SUNDANCE TV ASSN., INC.,BOX 11, SUNDANCE, WY 82729. SIGNED BY: JULIUS HEWES, PRESIDENT. GRANT REQUESTED: $22060. TOTAL PROJECT COST: $29414. DATE RECEIVED: 800109. TO EXTEND PBS PROGRAMMING TO RESIDENTS OF SUNDANCE, WYOMING AND SURROUNDING AREAS BY CONSTRUCTING A TV RECEIVE-ONLY SATELLITE EARTH STATION/TRANSLATOR FACILITY.

FILE NO. 1120CTB, MAMMOTH COMTY TV & FM ASSN., BOX 255, YELLOWSTONE PARK, WY 82190. SIGNED BY: EDWARD PURKEY, PRES. GRANT REQUESTED: $27036. TOTAL PROJECT COST: $36048. DATE RECEIVED: 800109. TO EXTEND PBS PROGRAMMING TO RESIDENTS OF YELLOWSTONE PARK, WYOMING AND GARDINER, MONTANA BY CONSTRUCTING A TV RECEIVE-ONLY SATELLITE STATION/TRANSLATOR FACILITY.

BILLING CODE 3510-12-C

II. Deferred Applications

The following were submitted and accepted for filing in prior fiscal years, but have not been funded through the Public Telecommunications Facilities Program. The applicant in each case has indicated that it wants the application considered for possible Federal funding in Fiscal Year 1980 and has furnished updated data requested by the Public Telecommunications Facilities Division. It is not necessary that local newspaper notice be posted in the area served or proposed to be served under 15 CFR 2301.11.

BILLING CODE 3510-12-M

ACCEPTED FOR FILING IN 1979

AK	NEW FILE NO. 1265CRB	OLD FILE NO.471-R	KUSKOKWIM PUBLIC BDCSTG CORP	MCGRATH
AL	NEW FILE NO. 1071CTB	OLD FILE NO.740-T	ALABAMA EDUC TV COMMISSION	MOBILE
	NEW FILE NO. 990CTB	OLD FILE NO.666-T	ALA ETV COMMISSION	MONTEVALLO
	NEW FILE NO. 1262CRB	OLD FILE NO.503-R	BD OF TRUSTEES U OF ALA	TUSCALOOSA
AR	NEW FILE NO. 1185CRB	OLD FILE NO.63-P	LITTLE ROCK SCHOOL DIST	LITTLE ROCK
AZ	NEW FILE NO. 1033CRB	OLD FILE NO.562-R	PUBLIC RADIO FOR ARIZONA	PHOENIX
	NEW FILE NO. 1189PRB	OLD FILE NO.44-P	ARIZONA WESTERN COLLEGE	YUMA
CA	NEW FILE NO. 1233CRB	OLD FILE NO.475-R	FULLERTON COLLEGE	FULLERTON
	NEW FILE NO. 845PTN	OLD FILE NO.138-P	ARTISTS POST-PRODUCTION STUDIO	LONG BEACH
	NEW FILE NO. 906PTBN	OLD FILE NO.10-P	WATTS LABOR COMM ACTION COMMITT	LOS ANGELES
	NEW FILE NO. 896CRB	OLD FILE NO.563-R	GREAT SILENCE BROADCASTING	PACIFIC GROVE
	NEW FILE NO. 1050CRB	OLD FILE NO.486-R	PASADENA AREA COMTY COLLEGE	PASADENA
	NEW FILE NO. 1132PTN	OLD FILE NO.39-P	SIERRA COMTY COLLEGE	ROCKLIN
	NEW FILE NO. 1031PRTB	OLD FILE NO.50-P	SONOMA STA UNIV ACADEMIC FDN	ROHNERT PARK
	NEW FILE NO. 1164PRTN	OLD FILE NO.58-P	CALIFORNIA POSTSECONDARY ED CMSN	SACRAMENTO
	NEW FILE NO. 1025CRB	OLD FILE NO.556-R	VOCES UNIDES BILIGUAL BDCSTG FDN	SALINAS
	NEW FILE NO. 1105PTN	OLD FILE NO.156-P	MINORITIES & WOMEN TELECOMM NETW	SAN FRANCISCO
	NEW FILE NO. 1266CRB	OLD FILE NO.483-R	SAN JOSE STATE UNIV	SAN JOSE
	NEW FILE NO. 1183CTB	OLD FILE NO.722-T	SAN MATEO COUNTY CMTY COLL DIST	SAN MATEO
	NEW FILE NO. 891CRB	OLD FILE NO.432-R	SANTA MONICA COMTY COLLEGE DIST	SANTA MONICA
	NEW FILE NO. 1177PRB	OLD FILE NO.24-P	BILINGUAL BRDCSTG FDN INC	SANTA ROSA
	NEW FILE NO. 803CRB	OLD FILE NO.559-R	KCPB INC	THOUSAND OAKS
	NEW FILE NO. 1176CTB	OLD FILE NO.4-N	CITY OF YREKA	YREKA
CO	NEW FILE NO. 1003CTB	OLD FILE NO.782-T	COUNTY OF PITKIN	ASPEN
	NEW FILE NO. 1052PRTN	OLD FILE NO.151-P	COMTY FREE SCHOOL	BOULDER
	NEW FILE NO. 941CRE	OLD FILE NO.469-R	KHUM DENVER EDUC BROADCASTING	DENVER
	NEW FILE NO. 912PTN	OLD FILE NO.57-P	COMMUNITY COLLEGE OF DENVER	DENVER
	NEW FILE NO. 1253CRB	OLD FILE NO.466-R	UNIV OF DENVER COLORADO SEMINARY	DENVER
	NEW FILE NO. 970CTB	OLD FILE NO.779-T	FRONT RANGE EDUC MEDIA CORP	LAFAYETTE
	NEW FILE NO. 948CRB	OLD FILE NO.494-R	CHEYENNE MT PUBLIC BRDCSTG HOUSE	MANITOU SPRINGS
	NEW FILE NO. 1186CRB	OLD FILE NO.538-R	UNIV OF SOUTHERN COLORADO	PUEBLO
CT	NEW FILE NO. 1271CTB	OLD FILE NO.726-T	CONN EDUC TELECOMM CORP	HARTFORD
	NEW FILE NO. 1199CTB	OLD FILE NO.718-T	CONN EDUC TELECOMM CORP	HARTFORD
	NEW FILE NO. 1142PTN	OLD FILE NO.45-P	UNIV OF CONNECTICUT	STORRS
DE	NEW FILE NO. 954PTL	OLD FILE NO.7-P	DELAWARE CITIZENS COMMITTEE	OCEAN VIEW
	NEW FILE NO. 955CTB	OLD FILE NO.714-T	DELAWARE CITIZENS COMMITTEE	OCEAN VIEW
FL	NEW FILE NO. 1190PRTN	OLD FILE NO.64-P	THE SCHOOL BD OF BROWARD COUNTY	FT LAUDERDALE
	NEW FILE NO. 1165PRB	OLD FILE NO.65-P	BROWARD PUBLIC RADIO ASSOC INC	FT LAUDERDALE
	NEW FILE NO. 984CTB	OLD FILE NO.741-T	COMMUNITY TV INC	JACKSONVILLE
	NEW FILE NO. 1076CTB	OLD FILE NO.742-T	FLORIDA STA UNIV,TALLAHASSE	TALLAHASSEE
	NEW FILE NO. 1078CTB	OLD FILE NO.743-T	FLA WEST COAST PUBLIC BDCSTG	TAMPA
	NEW FILE NO. 949CTB	OLD FILE NO.654-T	UNIV OF SOUTH FLORIDA	TAMPA

GA	NEW FILE NO. 1252CRB	OLD FILE NO.509-R	EDUC TELECOMMUNICATIONS	ATLANTA
	NEW FILE NO. 1070CTB	OLD FILE NO.744-T	ATLANTA BD OF ED	ATLANTA
	NEW FILE NO. 1139PTN	OLD FILE NO.68-P	MEDICAL COLL OF GA	AUGUSTA
	NEW FILE NO. 946CRB	OLD FILE NO.508-R	GEORGIA PUBLIC RADIO	SAVANNAH
	NEW FILE NO. 916PTB	OLD FILE NO.69-P	VALDOSTA STA COLLEGE	VALDOSTA
IA	NEW FILE NO. 951PTBN	OLD FILE NO.70-P	N. TRAILS EDUC AGENCY	CLEAR LAKE
	NEW FILE NO. 1074CTB	OLD FILE NO.745-T	STA EDUC RADIO & TV FACILITY BD	DES MOINES
IL	NEW FILE NO. 827CRB	OLD FILE NO.518-R	WESTERN ILLINOIS UNIV	MACOMB
	NEW FILE NO. 1198CTB	OLD FILE NO.761-T	IL VALLEY PUBLIC TELECOMM CORP	PEORIA
	NEW FILE NO. 1191CRB	OLD FILE NO.557-R	ARGO COMMUNITY HIGH SCHOOL	SUMMIT
IN	NEW FILE NO. 1197PTB	OLD FILE NO.123-P	NORTHWEST INDIANA PUBLIC BRDCSTG	HIGHLAND
	NEW FILE NO. 929CTB	OLD FILE NO.787-T	INDIANA STA UNIV	TERRE HAUTE
	NEW FILE NO. 1254CRB	OLD FILE NO.294-R	INDIANA STA UNIV	TERRE HAUTE
KS	NEW FILE NO. 1182CRB	OLD FILE NO.511-R	HUTCHINSON COMTY JR COLLEGE	HUTCHINSON
	NEW FILE NO. 1013PTN	OLD FILE NO.71-P	KANSAS PUBLIC TELECOMM SERVICE	WICHITA
KY	NEW FILE NO. 950CRB	OLD FILE NO.480-R	WESTERN KENTUCKY UNIV	BOWLING GREEN
	NEW FILE NO. 913CTB	OLD FILE NO.728-T	BD OF EDUC OF JEFFERSON CO	LOUISVILLE
	NEW FILE NO. 1256PRN	OLD FILE NO.9-P	KENTUCKIANA RADIO INFO SVC	LOUISVILLE
	NEW FILE NO. 1054CRB	OLD FILE NO.470-R	MURRAY STA UNIV	MURRAY
	NEW FILE NO. 877PRB	OLD FILE NO.146-P	APPALSHOP INC	WHITESBURG
LA	NEW FILE NO. 854PRB	OLD FILE NO.72-P	LA STA UNIV AT ALEXANDRIA	ALEXANDRIA
	NEW FILE NO. 982PRB	OLD FILE NO.135-P	THE NATL ASSOC ADV OF MINORITY	BATON ROUGE
	NEW FILE NO. 883CTB	OLD FILE NO.637-T	GREATER NEW ORLEANS EDUC TV FDN	NEW ORLEANS
MA	NEW FILE NO. 1194CRB	OLD FILE NO.526-R	EASTERN PUBLIC RADIO NETWORK	BOSTON
	NEW FILE NO. 1156PRTN	OLD FILE NO.101-P	TRUSTEES OF TUFTS COLLEGE	MEDFORD
	NEW FILE NO. 1166PTB	OLD FILE NO.62-P	WICN PUBLIC RADIO, INC	WORCESTER
	NEW FILE NO. 1268CRN	OLD FILE NO.548R	WCUW INC	WORCESTER
MD	NEW FILE NO. 983CTN	OLD FILE NO.18-N	OLDTOWN COMMUNITY SYSTEMS	OLDTOWN
ME	NEW FILE NO. 976PRTB	OLD FILE NO.142-P	CENTER FOR VIDEO ARTS	PORTLAND
MI	NEW FILE NO. 911CRB	OLD FILE NO.493-R	OVID-ELSIE HIGH SCHOOL	ELSIE
MN	NEW FILE NO. 962CTB	OLD FILE NO.788-T	INDEPENDENT SCHOOL DIST #492	AUSTIN
	NEW FILE NO. 1127PRB	OLD FILE NO.37-P	FRESH AIR INC	MINNEAPOLIS
	NEW FILE NO. 1122CRB	OLD FILE NO.491-R	MINNESOTA PUBLIC RADIO INC	ST PAUL
MO	NEW FILE NO. 1162PTN	OLD FILE NO.77-P	SCHOOL DIST #1	BUFFALO
	NEW FILE NO. 1171PTB	OLD FILE NO.78-P	NEW WAVE CORP	COLUMBIA
	NEW FILE NO. 1154PRB	OLD FILE NO.79-P	CURATORS OF THE UNIV OF MO	COLUMBIA
	NEW FILE NO. 1055PRB	OLD FILE NO.159-P	MIDCOAST RADIO PROJECT INC	KANSAS CITY
	NEW FILE NO. 1121CTB	OLD FILE NO.749-T	SPRINGFIELD COMMUNITY TV INC	SPRINGFIELD
	NEW FILE NO. 824CTB	OLD FILE NO.750-T	CENTRAL MISSOURI STA UNIV	WARRENSBURG
MS	NEW FILE NO. 1167PTN	OLD FILE NO.76-P	MISSISSIPPI STA UNIV	MISS. STATION

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MT	NEW FILE NO. 917CTB	OLD FILE NO.716-T BAKER TV TAX DISTRICT	BAKER
	NEW FILE NO. 1073PRTBN	OLD FILE NO.8-P MONTANA INTER-TRIBAL POLICY BD	BILLINGS
	NEW FILE NO. 1138PRTB	OLD FILE NO.150-P FIRST AMER CMSN,TELECOMM	BILLINGS
	NEW FILE NO. 1053CTN	OLD FILE NO.3-N MONTANA STA UNIV	BOZEMAN
	NEW FILE NO. 837CTB	OLD FILE NO.733-T POWDER RIVER CO TV BD	BROADUS
	NEW FILE NO. 843CTB	OLD FILE NO.734-T EAST BUTTE TV CLUB INC	CHESTER
	NEW FILE NO. 840CTB	OLD FILE NO.731-T CIRCLE TV BOOSTER CLUB INC	CIRCLE
	NEW FILE NO. 841CTB	OLD FILE NO.732-T ROUNDUP TV TAX DISTRICT	ROUNDUP
	NEW FILE NO. 838CTB	OLD FILE NO.725-T MEAGHER CO TV DISTRICT	WHITE SULPHUR SP
	NEW FILE NO. 836CTB	OLD FILE NO.717-T WOLF POINT TV DISTRICT	WOLF POINT
NC	NEW FILE NO. 1149PTBN	OLD FILE NO.42-P W NO CAROLINA ASSOC. COMMUNITIES	CULLOWHEE
	NEW FILE NO. 1091CRB	OLD FILE NO.481-R THE TRUSTEES OF DAVIDSON COLLEGE	DAVIDSON
	NEW FILE NO. 1232PRB	OLD FILE NO.5-P GATES CO BD OF EDUC	GATESVILLE
	NEW FILE NO. 897CRB	OLD FILE NO.498-R STATE UNIV OF NC	GREENSBORO
	NEW FILE NO. 985PRTB	OLD FILE NO.2-P AGENCY FOR PUBLIC TELECOMM	RALEIGH
NE	NEW FILE NO. 943CTB	OLD FILE NO.751-T NEBRASKA ETV COMMISSION	LINCOLN
	NEW FILE NO. 1069CRB	OLD FILE NO.514-R UNION COLLEGE	LINCOLN
NJ	NEW FILE NO. 1133PTN	OLD FILE NO.137-P HUDSON COUNTY AUDIO VISUALS/ AID	JERSEY CITY
	NEW FILE NO. 1261PTN	OLD FILE NO.127-P BD OF ED LENAPE REGIONAL H.S.	MEDFORD
	NEW FILE NO. 1205PRTBN	OLD FILE NO.130-P THEATER OF UNIVERSAL IMAGES	NEWARK
	NEW FILE NO. 1270CTB	OLD FILE NO.706-T NEW JERSEY PUBLIC TV	TRENTON
	NEW FILE NO. 991PTN	OLD FILE NO.17-P JOSEPH F GILCHRIST	WAYNE
NM	NEW FILE NO. 1168PRB	OLD FILE NO.83-P NEW MEXICO STA LIBRARY	SANTA FE
NY	NEW FILE NO. 1060PRN	OLD FILE NO.139-P BLIND ASSOC OF NY	BUFFALO
	NEW FILE NO. 967PRTB	OLD FILE NO.125-P SOUTHERN TIER EDUC TV ASSOC INC	ENDWELL
	NEW FILE NO. 940CTB	OLD FILE NO.1-CRT SOUTHERN TIER ETV ASSOC INC	ENDWELL
	NEW FILE NO. 974PTN	OLD FILE NO.121-P COLUMBIA GREENE COMMUNITY COLL	HUDSON
	NEW FILE NO. 1211PTBN	OLD FILE NO.122-P GLOBAL VILLAGE VIDEO RESOURCE	NEW YORK
	NEW FILE NO. 881CRB	OLD FILE NO.12-R INTOUCH NETWORKS	NEW YORK
	NEW FILE NO. 1255PRB	OLD FILE NO.120-P THE CITY COLL OF CITY UNIV NY	NEW YORK
	NEW FILE NO. 1065CTB	OLD FILE NO.785-T EDUC BDCSTG CORP	NY
	NEW FILE NO. 1108CRB	OLD FILE NO.520-R CITY OF NY FOR WNYS-AM	NY
	NEW FILE NO. 1098CTB	OLD FILE NO.760-T LONG ISLAND ETV COUNCIL	PLAINVIEW
	NEW FILE NO. 884CTB	OLD FILE NO.768-T NORTHEAST NEW YORK EDUC TV ASSOC	PLATTSBURGH
	NEW FILE NO. 977CRB	OLD FILE NO.545-R ST LAWRENCE VALLEY ETV COUNCIL	WATERTOWN
OH	NEW FILE NO. 863CRB	OLD FILE NO.553-R MOUNT UNION COLLEGE	ALLIANCE
	NEW FILE NO. 910CTB	OLD FILE NO.739-T GREATER CINCINNATI TV ED FDN	CINCINNATI
	NEW FILE NO. 1080PRB	OLD FILE NO.98-P STEPCHILD RADIO OF CINCINNATI	CINCINNATI
	NEW FILE NO. 1112CRB	OLD FILE NO.532-R THE OHIO STA UNIV	COLUMBUS
	NEW FILE NO. 1113CTB	OLD FILE NO.776-T THE OHIO STA UNIV	COLUMBUS
	NEW FILE NO. 1068CTB	OLD FILE NO.757-T UNIV REGIONAL BDCSTG	DAYTON
	NEW FILE NO. 1001CTB	OLD FILE NO.755-T NORTHEASTERN EDUC TV OF OHIO	KENT
OK	NEW FILE NO. 1072PRB	OLD FILE NO.74-P CHOCTAW NATION OF OKLAHOMA	DURANT
OR	NEW FILE NO. 848CRB	OLD FILE NO.477-R LANE COMMUNITY COLLEGE	EUGENE
	NEW FILE NO. 1047CTB	OLD FILE NO.704-T OREGON EDUC BDCSTG SERVICE	PORTLAND
	NEW FILE NO. 1046CTB	OLD FILE NO.568-T OREGON EDUC BDCSTG SERVICE	PORTLAND

PA	NEW FILE NO. 1267CTN	OLD FILE NO.20-N VENANGO VIDEO INC	FRANKLIN
	NEW FILE NO. 807CTB	OLD FILE NO.773-T WHYY INC	PHILADELPHIA
	NEW FILE NO. 808CRB	OLD FILE NO.536-R WHYY INC	PHILADELPHIA
	NEW FILE NO. 1209CTB	OLD FILE NO.774-T MET PITTSBURG PUBLIC BDCSTG	PITTSBURG
	NEW FILE NO. 875CTB	OLD FILE NO.15-N NORTHEASTERN PA EDUC TV ASSN	PITTSTON
PR	NEW FILE NO. 988CTB	OLD FILE NO.793-T FUNDACION EDUCATIVA ANA G MENDEZ	RIO PIEDRAS
SC	NEW FILE NO. 925PRTBN	OLD FILE NO.12-P SOUTH CAROLINA ETV COMMISSION	COLUMBIA
TN	NEW FILE NO. 865CRB	OLD FILE NO.499-R VOLUNTEER STATE CMTY COLL	GALLATIN
	NEW FILE NO. 1239PTB	OLD FILE NO.144-P THE OTHER SCHOOL SYSTEM INC	NASHVILLE
TX	NEW FILE NO. 871CRB	OLD FILE NO.448-R SO TEXAS EDUC BRDCSTG COUNCIL	CORPUS CHRISTI
	NEW FILE NO. 862CTB	OLD FILE NO.646-T PUBLIC COMM FDN FOR N TEXAS	DALLAS
	NEW FILE NO. 861CTB	OLD FILE NO.652-T PUBLIC COMM FDN FOR N TEXAS	DALLAS
	NEW FILE NO. 1264PRB	OLD FILE NO.87-P DENTON CHANNEL TWO FDN INC	DENTON
	NEW FILE NO. 1200PTN	OLD FILE NO.88-P ELGIN INDEPENDENT SCHOOL DIST	ELGIN
	NEW FILE NO. 1246CTB	OLD FILE NO.34-N UNIV OF HOUSTON	HOUSTON
	NEW FILE NO. 817PRB	OLD FILE NO.92-P WILEY COLLEGE	MARSHALL
UT	NEW FILE NO. 1163PRB	OLD FILE NO.104-P UTAH STA UNIV OF AGR & APPL SCI	LOGAN
	NEW FILE NO. 1222CRB	OLD FILE NO.497-R LISTENERS COMTY RADIO UTAH	SALT LAKE CITY
VA	NEW FILE NO. 1181CTB	OLD FILE NO.792-T CENTRAL VA EDUC TV CORP	RICHMOND
	NEW FILE NO. 1251PTN	OLD FILE NO.114-P CENTER FOR EXCELLENCE INC	WILLIAMSBURG
VT	NEW FILE NO. 902CRB	OLD FILE NO.561-R VERMONT PUBLIC RADIO	WINDSOR
WA	NEW FILE NO. 1126CTB	OLD FILE NO.772-T WASH STA UNIV	PULLMAN
	NEW FILE NO. 1263CRB	OLD FILE NO.534-R UNIV OF WASHINGTON	SEATTLE
	NEW FILE NO. 1011CTB	OLD FILE NO.771-T UNIV OF WASHINGTON	SEATTLE
	NEW FILE NO. 1258PRL	OLD FILE NO.34-P SEATTLE SCHOOLS DIST#1	SEATTLE
	NEW FILE NO. 833CTB	OLD FILE NO.778-T TACOMA SCH DIST #10	TACOMA
WI	NEW FILE NO. 887PRTB	OLD FILE NO.128-P STATE OF WISCONSIN	MADISON
WV	NEW FILE NO. 869CRB	OLD FILE NO.566-R W VA LIBRARY COMMISSION	CHARLESTON
	NEW FILE NO. 1257CTB	OLD FILE NO.31-N OHIO COUNTY BD OF ED	WHEELING
WY	NEW FILE NO. 839CTB	OLD FILE NO.734-T SHERIDAN TV TRANSLATOR INC	SHERIDAN

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V 45 MY 28 80 UMI

III. American Indian Satellite Planning Application

The reactivation of application No. 1138 (Old File No. 150–P) was filed by First American's Commission for Telecommunications (FACT) on January 9, 1980. FACT sought a grant in the amount of $97,500 to plan for the construction of a project identified as the American Indian Satellite Project. The purpose of the project is to provide effective communication of educational, health and governmental information between Indian people. Because it felt that the application as submitted was inadequate, FACT subsequently requested in a letter from Lee Piper, Chairperson of FACT to Mary Dinota, Program Officer, PTFP, that its application be withdrawn so that it could "regroup and do a more thorough job next time around".

By letter dated March 21, 1980, the Wiconi Project of the South Dakota United Indian Association (Wiconi) requested a "waiver so that (it could) become the official sponsoring organization" for the project in light of FACT's decision not to prosecute the application in the current funding round. Letter from Barbara Wheeler Gilbert, Project Director, Wiconi Project to William Lucas, Associate Administrator, NTIA and Mary Dinota, dated March 21, 1980. (March 21st was the final day specified for amending or augmenting data in pending applications.) Wiconi asserts that FACT was created by the leaders of a large number of Indian organizations to apply for funding for the project.

The Deputy Chief Counsel of NTIA spoke with Lee Piper on April 17, 1980, to try to determine whether FACT endorsed Wiconi's substitution request. Piper stated that FACT did not endorse the request and she restated FACT's intention to refile the application in the FY 1981 funding round.

On April 18, 1980, Wiconi filed a petition with NTIA for extraordinary relief. Wiconi seeks the "conditional substitution" of Wiconi for FACT in order to permit the continued processing of FACT's application until the question of sponsorship is resolved. In support, Wiconi, alleges that the project was conceived by Mr. Jerry Elliot and subsequently endorsed by the leaders of approximately 100 Indian nations, tribes and organizations. Wiconi also alleges that FACT was created by these leaders to apply for a PTFP grant. When FACT withdrew its application for FY 1980, Wiconi continues, the leadership of the 100 nations, tribes and organizations were entitled to specify a new sponsoring organization and established Wiconi to continue prosecution of the application.

The request for extraordinary relief will be granted to the extent that we are conditionally accepting *FACT's* application for filing.* This action does not resolve the merits of the sponsorship allegations raised by Wiconi in its pleadings, but it enables continued processing of the funding request for the project until the issues can be resolved. In this regard, the burden is on Wiconi to establish that the leaders of the 100 groups created FACT to apply for PTFP funds for the Project. Wiconi was directed to submit a supporting brief by April 25, 1980, and to serve copies of both its March and April pleadings on FACT by overnight mail. FACT was requested to respond to Wiconi's allegations by May 6, 1980, after which NTIA will rule on the request.

In light of the nature of our provisional action, neither FACT nor Wiconi will be required to publish notice of acceptance of the application pursuant to Section 2301.11 of the PTFP rules. If Wiconi perfects its claim and we permanently accept the application for processing this year, then, of course, publication will be required.

(47 U.S.C. 390–95; 397–99)

(Catalog of Federal Domestic Assistance Program No. 11.550, Public Telecommunications Facilities Program) This notice issued in Washington, D.C.

Dated: May 20, 1980.

Henry Geller,

The Assistant Secretary for Communications and Information.

[FR Doc. 80–15939 Filed 5–27–80; 8:45 am]

BILLING CODE 3510–12–M

*We emphasize that we are *not* accepting a separate Wiconi application since to do so would constitute a waiver of the January 9, 1980, closing date for filing grant applications. *See* Section 2301.9 of the PTFP rules 15 (CFR 2301.9). We have never permitted the filing of an application after the closing date and Wiconi has not presented any facts which would indicate that we should waive the date in this case.

federal register

Wednesday
May 28, 1980

Part III

Department of the Interior

Bureau of Land Management

Potassium, Sodium, Sulphur, and Phosphate Leases: Fees, Rentals, and Royalties; Requirement of Minimum Production or Minimum Royalty Payments

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V 45 MY 28 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3500

[Circular No. 2466]

Fees, Rentals, and Royalties; Requirement of Minimum Production or Minimum Royalty Payments in Potassium, Sodium, Sulphur, and Phosphate Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will require that potassium, sodium, sulphur, and phosphate mineral leases contain a provision calling for minimum production or the payment of a specified minimum royalty. The minimum production or minimum royalty requirement is necessary to ensure a fair return to the United States for the disposition of mineral rights. The long-term intended effect of the rulemaking is to encourage production of these minerals.

DATE: Effective June 27, 1980.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (520), 1800 C Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David M. Carty (202) 343–7753.

SUPPLEMENTARY INFORMATION: The principal author of this final rulemaking is David M. Carty of the Division of Mineral Resources, Bureau of Land Management, Washington, D.C., assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Proposed rulemaking was published on pages 12464–12466 in the Federal Register of March 7, 1979, and invited comments for 60 days ending May 7, 1979. The comment period was subsequently extended 90 days to August 7, 1979. Comments were received from 37 sources including businesses, individuals and Federal agencies. These comments have been reviewed and analyzed. The following summarizes the comments, suggestions and actions taken.

Speculation

The proposed regulation included a substantial increase in the minimum royalty which, in part, was intended to discourage speculation in minerals on public lands. It was suggested by the comments that this increase in minimum royalties would penalize the leaseholder who has invested in mining and processing facilities based on the assumption of an inexpensive source of leased reserves. It was further pointed out that the majority of these leaseholders are large, competitive organizations that might consider it prudent to drop their reserve leases because of the added costs. These dropped leases might then be picked up by a person or organization with a more speculative bent, thus defeating this particular purpose of the regulations.

The point was also made that prospecting and the development of minerals are by their very nature speculative and that the increase in minimum royalties would merely make it more expensive to pursue these activities. Additionally, there would also be a tendency to discourage those with small capitalization from entering the field which in turn would lead to reduced competition.

It was also pointed out that no documented case has been made to verify the existence of speculation in the leasing of the minerals in question.

Encouraging Production

One of the intended effects of the proposed rulemaking was to encourage mineral production. The general reaction to this in the comments was that the increase in minimum royalties would instead discourage production because the costs would be passed on to the consumer which would result in reduced demand.

The comments expressed the view that extensive, inexpensive and assured reserves are necessary to encourage the full production of these minerals.

In particular, the comments expressed the feeling that leased areas containing fringe or marginal deposits would be abandoned after fulfilling any reclamation requirements. It was further believed that such areas wouldn't be mined in the future because the installation of new production facilities would be too expensive.

The comments also expressed the fear that increasing the cost of domestic production of these minerals might lead to an increased dependence on foreign supplies.

Finally, the comments suggested that minimum royalties should be eliminated on those leased areas that have been mined out, but are still essential for access and the facilities necessary for mineral production.

Fair Return

Another purpose of the proposed rulemaking was to assure a fair return to the Federal Government. The general response to this was that the Federal Government receives a fair return for these minerals through the production royalty which is based on an annually determined value of the ore. The comments also suggested that the production royalty also provides the best means of coping with the inflationary aspect of obtaining a fair return. One comment expressed the opinion that the proposed increase in minimum royalties from the 1920 base would be in violation of the President's voluntary wage and price standards.

Royalty Alternatives

Comments suggested many alternatives to the proposed conditions of royalty payment, including:

(1) Defer increases in minimum royalties indefinitely.

(2) Allow production royalties to be credited to the minimum royalties required on nonproducing leases.

(3) Credit minimum royalties paid on nonproducing leases to the production royalties when the leases become productive.

(4) Require minimum royalties or production royalties, but not both.

(5) Exempt minimum royalties on nonproducing leases that, taken with producing leases, comprise a logical economic unit.

(6) Exempt minimum royalties where mine development is delayed by—

(a) Environmental considerations;

(b) Long-term drilling necessary to develop an acceptable mining plan;

(c) Tardy approval of a mining plan;

(d) Compliance with laws or regulations;

(e) Feasibility studies;

(f) Permit applications;

(g) Impact studies; or

(h) While constructing mining or processing facilities.

(7) Do not change minimum royalties for worked-out areas that support production facilities or access necessary for the continuation of an operation.

(8) Determine royalties on a case-by-case basis because of the disparity of minerals between areas.

Minimum Production

The preamble of the proposed rulemaking opened for comment the possibility of eliminating minimum royalties and replacing them with requirements for the minimum production of minerals. Reader reaction to this idea was generally negative on the grounds that it would place the Government in a position of deciding when and in what quantities the minerals should be produced. The comments felt that these decisions are best left to private industry because it has the ability to react to changing market demands with a rapidity that is necessary for efficient operations.

There were a number of responses to the request for comments on the legal authority for minimum production. The time and effort of those responding to this request is appreciated. However, the issue has become moot because the minimum production requirement has been deleted from the rulemaking.

Miscellaneous

A number of comments expressed the view that a Regulatory Analysis should be prepared for this rulemaking. This rulemaking was in process prior to the effective date of the Department's regulations (43 CFR Part 14) and was not covered. However, the rulemaking was considered under the guidelines applicable to Executive Order 12044 and a determination was made that the rulemaking did not fall within the requirements for a regulatory analysis set in these guidelines. The basis for the conclusion that a regulatory analysis was not needed was discussed in part in the preamble to the proposed rulemaking. With the changes made in the final rulemaking, it is clear that the provisions of existing guidelines do not require a regulatory analysis.

The comments suggested that this rulemaking incorporate the logical mining unit concept so that production royalties could be used in lieu of minimum royalties. It has been decided that logical mining units are not needed at this time, but the concept will be retained for possible future use.

The comments also suggested that a provision be added to this rulemaking which would assure that the transfer of an existing lease would not result in a change in the rates of the lease. Such a provision is unnecessary because applicable law does not provide for a rate change at the time of transfer.

The comment was made that the requirement of minimum annual production or the payment of a minimum royalty in paragraph 3503.3–2(b)(2) has questionable statutory authority as applied to sodium leases. Section 32 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 189), is considered to provide the necessary authority for this requirement.

It was suggested that subparagraph 3503.3–2(b)(2)(ii) be changed so that the lessee will be exempted from the requirement of minimum production or minimum royalties if the lessee's profit falls below 10 percent of his capital investment and operating expenses. To do this would be at cross purposes with the encouragement of production.

A comment requested that the term "commercial quantities" as used in paragraph 3503.3–2(b)(4) be defined. This paragraph has not been included in the final rulemaking, so there is no need to define the term.

One comment found paragraph 3503.3–2(b)(5) objectionable because of the feeling that it would allow the authorized officer to dictate company production schedules. Since it is customary to set minimum production at a level that will generate production royalties equal to the minimum royalties, the reduction of the minimum production level would raise the question of whether the Federal Government would then be receiving a fair return for the minerals leased. This, it would seem, is sufficient reason for the Government to become involved in setting any reduction in the previously agreed upon minimum production level. It must also be pointed out that the Government is not concerned when a lessee decides to produce at some level above the minimum production.

Another comment expressed the feeling that any mineral reserve estimates provided to fulfill the requirements of paragraph 3503.3–2(b)(5) of the proposed rulemaking should be held in strict confidence. If an applicant requests that information be held confidential and gives reasons therefor, that request will be honored to the extent possible under the provisions of the Freedom of Information Act.

There was concern expressed that paragraph 3503.3–2(b)(5) of the proposed rulemaking could be interpreted to be retroactive and that the resultant minimum royalties would prove to be an excessive burden on those unrenewed leases of the past few years that have been allowed to continue production. This paragraph has been changed to make it clear that the new minimum royalty will not be retroactive.

Changes

In light of the foregoing review of comments received and after extensive internal discussions three significant changes have been made in the final rulemaking. These changes are: (1) minimum royalties have been reduced to $2.00 per acre per year with no increase in the 10th year; (2) the requirement that a lease must achieve production in commercial quantities before it can qualify for a reduction in the minimum royalty payment has been deleted; and (3) minimum royalties will be adjusted annually in accordance with the Producer Prices and Price Indexes (Department of Labor, Bureau of Labor Statistics).

Editorial and clarification changes of the proposed regulations have been made as needed.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.), section 3503.3–2 of Subpart 3503, Part 3500, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

James W. Curlin,

Acting Assistant Secretary of the Interior.

May 21, 1980.

1. Section 3503 3–2(b) is amended to read as follows:

§ 3503.3–2 General statement, royalties

* * * * *

(b) *Minimum royalty.* (1) The District Mining Supervisor shall have discretion, upon the request of the lessee, to authorize the advance payment of a minimum royalty in lieu of continued operation for any particular year.

(2) Potassium, Sodium, and Sulphur. Leases will require, beginning with the 6th full calendar year of the lease term, a minimum annual production or the payment of a minimum royalty of $2 per acre per year, as adjusted in accordance with paragraph (6) of this section, unless (i) lease production is interrupted by strikes, the elements, or casualties not attributable to the lessee, or (ii) lease operations are suspended upon a satisfactory showing that market conditions are such that the lease cannot be operated except at a loss, or (iii) lease operations are suspended by the Secretary for the reasons specified in section 39 of the Mineral Leasing Act (30 U.S.C. 209).

(3) Phosphate. Leases will require, beginning with the 4th year of the lease, a minimum annual production or the payment of a minimum royalty of $2 per acre per year, as adjusted in accordance with paragraph (6) of this section, unless (i) lease production is interrupted by strikes, the elements, or casualties not attributable to the lessee, or (ii) lease operations are suspended upon a satisfactory showing that market conditions are such that the lease cannot be operated except at a loss, or (iii) lease operations are suspended by the Secretary for the reasons specified in section 39 of the Mineral Leasing Act (30 U.S.C. 209).

(4) Provided the lessee has established minimum production as specified by the terms of the lease, the lessee may petition the District Mining Supervisor to reduce the amount of minimum production specified in the lease upon the basis of a showing by the lessee.

The petition shall include, among other relevant information (i) the operator's estimate of the tonnage of

leased minerals in the leased land; (ii) all available information as to the grade thereof; (iii) the plan of operations for the leased property and any adjoining property to be worked with it; (iv) a general statement of the method used in mining and processing the leased minerals; (v) the estimated rate of extraction; and (vi) possible absorption in the markets. Within 6 months after receiving this information, the District Mining Supervisor shall determine whether the minimum production requirement in the lease should be reduced or not. In making that determination, the District Mining Supervisor shall consider what would be a reasonable time period needed to mine the leased deposits in view of their location and the lessee's operations on adjacent lands.

(5) Any potassium, sodium, phosphate or sulphur lease renewal or readjustment after the effective date of these regulations shall require a minimum production or a minimum royalty of $2 per acre per year, as adjusted in accordance with paragraph (6) of this section, next anniversary date after renewal or readjustment.

(6) Minimum royalties due in lieu of production shall be adjusted annually in accordance with the Producer Prices and Prices Indexes (Department of Labor, Bureau of Labor Statistics). Leases issued prior to publication of these regulations shall not be affected until the next lease readjustment or renewal.

* * * * *

[FR Doc. 80-16172 Filed 5-27-80; 8:45 am]
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federal register

Wednesday
May 28, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Coachella Valley Fringe-Toed Lizard, Reproposal of Critical Habitat

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Reproposal of Critical Habitat for the Coachella Valley Fringe-Toed Lizard.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service reproposes Critical Habitat for the Coachella Valley fringe-toed lizard (*Uma inornata*), known only from the Coachella Valley, Riverside County, California. Threatened status and Critical Habitat were originally proposed for this species on September 28, 1978 (43 FR 44806–08). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (43 FR 12382–84) because of the procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978 (Pub. L. 95–632; 92 Stat. 3751). This proposed rule complies with the new requirements. This action is based on information in the Office of Endangered Species. The Coachella Valley fringe-toed lizard, eight to eleven centimeters in snout-vent length, is whitish in color with many closely set black marks forming a network of outlined circular whitish areas. No other fringe-toed lizards occur within its range of central Riverside County, California, from Whitewater and the mouth of Snow Creek south to two miles east of Indi, California. The Coachella Valley fringe-toed lizard has been extirpated from large areas within its range. It is the Service's intent to include both the listing and Critical Habitat in any final rule which may be published. If this occurs the rule if promulgated, would provide protection to all wild populations of this species. Comments and information are sought from the public.

DATES: Comments from the public must be received by July 28, 1980. Comments from the Governor of California must be received by August 26, 1980. A public meeting on this proposal will be held on June 20, 1980, and a public hearing will be held on July 7, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this proposed rule and available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The time and place of the public meeting and the public hearing on this proposal is presented in the table below.

FOR FURTHER INFORMATION CONTACT:

For further information on this reproposal, contact Mr. John L. Spinks, Jr., Chief Office of Endanged Species (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

On November 3, 1977, the Fish and Wildlife Service published a notice in the **Federal Register** (42 FR 57492) to the effect that a review of the status of ten reptiles was being conducted. The Coachella Valley fringe-toed lizard was included as part of that review. Based on information received from the California Department of Fish and Game, the California State Office of the Bureau of Land Management and eight professional biologists, a proposal was published in the **Federal Register** (43 FR 44806–08) to list the Coachella Valley Fringe-toed lizard as Threatened and to designate its Critical Habitat. Before final action could be taken Congress passed the Endangered Species Act Amendments of 1978 (P. L. 95–632; 92 Stat. 3751). These amendments substantially modified the procedures the Service must follow when designating critical Habitat. In order to comply with the new requirements the critical Habitat portion of the proposed rulemaking was withdrawn, March 6, 1979 (44 FR 12382–84). The present proposed rule will bring the Critical Habitat proposal for the Coachella Valley fringetoed lizard into conformity with the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531 *et seq.*), as amended.

The Coachella Valley fringe-toed lizard in known only from the Coachella Valley, Riverside County, California. Like other members of the genus *Uma*, it is adapted for living in fine wind-blown sand, and it is restricted to areas where this habitat occurs in the floor of the Coachella Valley.

At times, the Coachella Valley fringe-toed lizard has been considered a subspecies of the Colorado fringe-toed lizard (*Uma notata*). A recent study proposes reestablishing the single species *Uma notata* by lumping the Coachella Valley, the Colorado and the Mohave (*Uma scoparia*) fringe-toed lizards, but it does not address the subject of subspecies. Based on current reproductive, physiological and behavioral evidence, most experts agree on the existence of either three discrete species or three subspecies.

The Coachella Valley fringe-toed lizard is of special interest to scientists because of its morphological and behavioral adaptations to sandy habitats, and its evolutionary relationships to other closely related species.

A detailed summary of comments responding to the notice of status review, to the original proposal for listing the species and its habitat, and to this reproposal of Critical Habitat will appear if a final rule is published.

Factors Affecting the Species

In 50 CFR 424.11(b) of the Service's regulations for Listing Endangered and Threatened Species and Designating Critical Habitat (45 FR 13022–26) it is stated that:

> A species shall be listed if the Director determines on the basis of the best scientific and commercial data available to him after conducting a review of the species' status that the species is Endangered or Threatened because of any one or a combination of the following factors:
>
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;
>
> (3) Disease or predation;
>
> (4) Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat; and
>
> (5) Other natural or manmade factors affecting its continued existence.

These factors, and their application to the Coachella Valley fringe-toed lizard, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The historical range of the Coachella Valley fringe-toed lizard was approximately 324 square miles, which probably included about 200 square miles of suitable habitat. The results of a study funded by the California Department of Fish and Game indicated that by 1975 the historical range of this species had been reduced by 27 percent to 236 square miles. Further, suitable habitat, including marginal areas, comprised only 120 square miles or a reduction of 40 percent. Aerial photographs taken by the U.S. Army Corps of Engineers in 1979, and ground survey conducted in 1975, indicate further loss of suitable habitat. According to these surveys, A. S. England estimated that some 99 square miles of suitable habitat still remained as of 1979. These losses have occurred as a result of rapid urban and agricultural growth in the Valley since 1945, and this trend is expected to continue at an even greater pace in the future.

In 1940, the human population in the Coachella Valley was 12,000. By 1970, it had risen to over 100,000, and has been projected to reach 139,500 to 164,000 by 1990. Population projections made for the early 1970's already have proven to be too low. These predictions were only for permanent populations, and in 1971, seasonal residents represented an additional 40 percent of the total population. At the present time, none of the lizard's habitat has been permanently preserved. An analysis of city and county general plans and county zoning has shown that all remaining habitat could eventually be developed.

Much of the habitat in the southern and eastern part of the Valley is being invaded by dense stands of Russian thistle (*Salsola iberica*), a noxious weed introduced from Europe. This is a recent phenomenon and may be having a detrimental impact on the blow-sand habitat of the fringe-toed lizard by causing stabilization, and thus, allowing other plants to invade. Tamarisk (*Tamarix aphylla*) wind-breaks have been planted throughout the Valley to protect agricultural and urban developments. A row of 40 foot trees can create a windshadow up to 1,200 feet wide on the leeward side of the windbreak, causing changes in soil movement patterns. The potential effects of these plantings on fringe-toed lizard populations are not known.

There is heavy off-road vehicle use in parts of the Valley. Studies in other areas show that this activity can have significant negative effects on densities and biomass of vertebrate populations.

2. *Utilization for commercial, sporting, scientific or educational purposes at levels that detrimentally affect it.* Although existing State regulations prohibit collecting more than two fringe-toed lizards per day without a special permit, collecting for the pet trade has continued. This is due primarily to a sharp increase in prices paid for reptiles. During the spring of 1978, several violations involving the Coachella Valley fringe-toed lizard were issued for over-collecting without a license. The extent of this problem is not known.

3. *Disease or predation.* Not applicable.

4. *Absence of existing regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat.* To the present, nothing has been done to prevent the continued loss of Coachella Valley fringe-toed lizard habitat through conversion to urban and agricultural land uses. Although a county ordinance restricts the use of off-road vehicles on private lands without possession of written permission from the landowner, heavy use continues in certain areas and habitat conditions have deteriorated.

5. *Other natural or man-made factors affecting its continued existence.* Not applicable.

Critical Habitat

50 CFR 424.02 defines "Critical Habitat" to include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and (b) which may require special management considerations or protection; and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Director that such areas are essential for the conservation of the species.

The new proposed Critical Habitat for the Coachella Valley fringe-toed lizard comprises an ara of approximately 11,920 acres (18⅝ square miles) of privately owned land in Riverside County, California, bounded to the east by Washington Street, Hidden Palms and Thousand Palms Oasis and Canyon. The town of Thousand Palms is outside the western boundary of the proposed Critical Habitat. The Southern Pacific Railroad, the Thousand Palms-Dry Camp Siding and Interstate Freeway I-10 are outside the southwestern boundary of the proposed area. A 220 KV transmission line and natural gas pipeline run through the northern part of the area.

As specified in the listing regulations (50 CFR 424.12(b)), "The Director shall consider in determining what areas are Critical Habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management consideration or protection. These requirements include, but are not limited to:

(1) Space for individual and population growth and normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements,

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring . . . and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species."

With respect to the Coachella Valley fringe-toed lizard, the areas proposed as Critical Habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Nesting and successful incubation of eggs occurs within the proposed area. Shelter and hibernation sites are present in the dunes and adjacent sandy habitat. Organisms on the dunes provide food for the lizards, and the sand provides sufficient cover from disturbance and over-heating. Sufficient areas for normal growth of both the population and individual lizards are provided within the proposed Critical Habitat.

The area proposed does not include the entire habitat of this lizard, and modifications to Critical Habitat descriptions may be proposed in the future.

Effect of This Proposal if Published as a Final Rule

If the Coachella Valley fringe-toed lizard is listed as a Threatened species and this reproposal to designate Critical Habitat is published as a final rule, Regulations already published in Title 50, section 17.31 of the Code of Federal Regulations setting forth a series of general prohibitions and exceptions for all Threatened species would be applicable. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale the species in interstate or foreign commerce. it also would be illegal to possess, sell, deliver, carry, transport, or ship any such species which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Threatened species under certain circumstances. Regulations governing permits for Threatened species are at 50 CFR 17.32. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

If published as a final rule this reproposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Coachella Valley fringe-toed lizards, but would also require them to insure that their actions do not result in the destruction or adverse modification of the Critical Habitat as determined by the Director of the Service.

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The Service is required to consider economic and other impacts of specifying a particular area as Critical Habitat, and a draft impact analysis has been prepared. The Service is notifying Federal agencies that may authorize, fund or carry out activities in the area under consideration in this proposed rule. These Federal agencies and other interested persons or organizations are requested to submit information on economic and other impacts of this proposed action. The Service will prepare a final impact analysis prior to the time of publishing a final rule, and will use this document as the basis for its decision whether to modify the area proposed for Critical Habitat for the Coachella Valley fringe-toed lizard.

Several activities involving Federal agencies are presently known which may have an impact on the habitat of the Coachella Valley fringe-toed lizard. These include construction of a sewer line if Department of Housing and Urban Development support is involved, construction of a 500 KV transmission line if additional Federal licenses and permits are required by the Federal Energy Regulatory Commission and the Bureau of Land Management, and possible sale of lots, homes and mobile homes using FHA/VA guaranteed loans. Outside the proposed Critical Habitat area, but in fringe-toed lizard habitat, there is a proposed northward extension of the Coachella Canal that threatens to expand greatly agricultural developments in the Valley.

The U.S. Army Corps of Engineers is investigating potential flood hazards and the feasibility of various flood control alternatives on the Whitewater River in the northwest portion of the Valley. Such control would facilitate urban expansion in the Valley. No other Federal activities are known that may impact the habitat of the Coachella Valley fringe-toed lizard.

It should be emphasized that Critical Habitat designation may not affect any of the Federal activities previously mentioned. If appropriate, the impacts will be addressed during conferral or consultation with the Service as required by Section 7 of the Endangered Species Act, as amended. Modification, and not curtailment, of the affected Federal activity has traditionally been the result of Section 7 consultations.

The following source documents were consulted in the development of this Critical Habitat proposal:

References

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Bury, R.B., R.A. Luckenback, and S.D. Busack. 1977. Effects of off-road vehicles on vertebrates in the California desert. Wildlife Research Report No. 8, U.S. Fish and Wildlife Service, 23 pp.

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Norris, K.S. 1958. The evolution ans systematics of the iguanid genus *Uma* and its relation ot the evolution of other North American desert reptiles. Bull. Amer. Mus. Nat. Hist. 114:247–326.

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Stebbins, R.C. 1944. Some aspects of the ecology of the iguanid genus *Uma*. Ecol. Monog. 14:311–332.

Turner, F.B., P.A. Medica, and H.O. Hill. 1978. The status of the flattailed horned lizard (*Phrynosoa m'calli*) at nine sites in Imperial and Riverside counties, California. Bureau of Land Management—Desert Planning Staff, Riverside, Calif. Preliminary Report.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions for the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule is hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be designated as Critical Habitat;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities which may adversely modify the area which is being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on federally funded or authorized projects.

Public Meetings

The Service hereby announces that a public meeting and hearing will be held on this proposed rule. The public is invited to attend this meeting or hearing and to present opinions and information on the proposal. Specific information relating to the public meeting and the hearing is set out below:

Place: Public meeting—Palm Springs Spa Hotel, 100 North Indian Avenue and Tahquitz Dr., Palm Springs, Calif.; date: June 20, 1980; time: 7:30 p.m.; subject: Proposed critical habitat determination: Coachella Valley—Fringe-toed Lizard.

Place: Public hearing—Palm Springs Spa Hotel, 100 North Indian, Avenue and Tahquitz, Dr., Palm Springs, Calif.; date: July 7, 1980; time: 7:30 p.m.

National Environmental Policy Act

A draft environmental impact assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (40 CFR 1500–1508).

Primary Author

The primary authors of this rule are Kathleen E. Franzreb, Office of Endangered Species, Sacramento Area Office, 2800 Cottage Way, Sacramento, California 95825, (916/484–4106) and Suzanne Mayer, Office of Endangered Species, Washington, D.C. 20240, (703/234–1975).

Regulations Promulgation

§ 17.95 [Amended]

It is proposed that 50 CFR 17.95(c), Reptiles, be amended by adding Critial Habitat of the Coachella Valley fringe-toed lizard after that of the American Crocodile as follows:

Coachella Valley Fringe-Toed Lizard

(Uma inornata)

California, Riverside County: S ½ Section 5, SE ¼ Section 6, E ½ Section, 7, all of sections 8 through 11, W ½ Section 12, W ½ Section 13, all of sections 14 through 16, E ½ Section 17, E ½ NW ¼ Section 17, E ½ SW ¼ Section 17, all of sections 21 thrugh 26, E ½ NW ¼, NW ¼ NW ¼, NW ¼ SE ¼, E ½ SE ¼, NE ¼ Section 27, all of sections 35 and 36, T4S R6E. Known primary constituent elements include areas of loose aeolian sand of extreme aridity with minimum temperature of 26° C and maximum temperature of 40° C, and sparse vegetation, mainly creosote bush, with sufficient food, primarily insects.

Coachella Valley Fringe-Toed Lizard
Riverside Co., Calif.

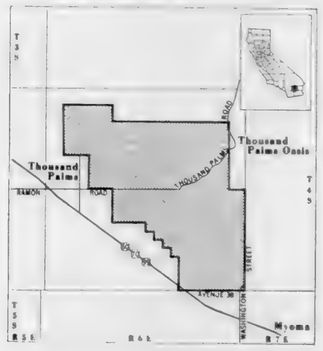

Dated: May 20, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80–16187 Filed 5–27–80; 8:45 am]

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Federal Register

Vol. 45, No. 104

Wednesday, May 28, 1980

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202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
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523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

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523-5233	Executive Orders and Proclamations
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Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MAY

29001-29262	1
29263-29554	2
29555-29780	5
29781-30058	6
30059-30414	7
30415-30610	8
30611-31044	9
31045-31290	12
31291-31694	13
31695-31926	14
31927-32286	15
32287-32654	16
32655-33588	19
33589-33944	20
33945-34256	21
34257-34860	22
34861-35304	23
35305-35800	27
35801-36042	28

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-16 of Apr. 14, 1980 (Amended by Presidential Determination No. 80-18 of May 2, 1980) 29787

No. 80-17 of May 1, 1980 29785

No. 80-18 of May 2, 1980 29787

Executive Orders:

12169 (Amended by EO 12213) 29781

12212 29557

12213 29781

12214 29783

Proclamations:

4754 29555

4755 30059

4756 30415

4757 31695

4758 31927

4759 32655

4760 33945

4761 33947

4 CFR

418 31929

5 CFR

213 35305

300 29530

351 29263

891 30611

1201 34861

Proposed Rules:

351 ..... 31379, 33640

412 29300

511 34895

532 31382

550 31379

6 CFR

706 31935

707 31935

Proposed Rules:

Ch. VII 30445

7 CFR

2 ..... 30417, 31697, 33589

6 33589

25 30417

210 32502

230 33589

319 ..... 31572, 35305

418 29001

419 29001

421 29001

600 30061

729 34861

799 32312

905 35305

907 ..... 29002, 30418, 31698, 31953, 34257

908 ..... 29002, 30418, 31953, 34257

910 ..... 29265, 30612, 32308, 34863

916 32308

917 ..... 32309, 33596

918 29003

928 29559

953 31045

1124 ..... 29559, 34863

1280 32572

1421 ..... 31699, 35801

1425 31699

1430 30419

1435 33597

1464 32311

1701 32312

1945 ..... 29265, 35782

1980 29265

2880 31692

Proposed Rules:

Subtitle A 32192

Ch. I 32192

Ch. II 32192

Ch. III 32192

Ch. IV 29056, 32192

Ch. V 32192

Ch VI 32192

Ch. VII 32192

Ch. IX 32192

Ch. X 32192

Ch. XI 32192

Ch. XII 32192

Ch. XIV 29302, 32192

Ch. XV 32192

Ch. XVI 32192

Ch. XVII 32192

Ch. XVIII 32192

Ch. XXI 32192

Ch. XXIV 32192

Ch. XXV 32192

Ch. XXVI 32192

Ch. XXVII 32192

Ch. XXVIII 32192

Ch. XXIX 32192

6 ..... 33640, 33642

29 30080

274 35335

401 29056

427 30445

437 29056

760 31393

800 32284

810 30446

908 29063

910 35829

911 31726

913.....30638
915.....29843, 33643
944.....29843, 31726, 33643
953.....29846
971.....32319
991.....30447
1002.....32321
1004.....34898
1036.....30638
1071.....30447
1073.....30447
1093.....35168
1097.....30447
1102.....30447
1104.....30447
1106.....30447
1108.....30447
1120.....30447
1126.....30447
1132.....30447
1138.....30447
1207.....31118
1701.....29847, 34898
1804.....30364
1930.....30364
1944.....30364
2856.....35345
2859.....30980

8 CFR

101.....32657
103.....32657, 33949
204.....32657
211.....32657
223.....32657
223a.....32657
231.....32657
239.....29243
242.....35802
245.....32657
246.....32657
247.....32657
249.....32657
261.....32657
264.....32657
299.....32657

Proposed Rules:

211.....29848, 30062
214.....29848
242.....30063

9 CFR

50.....32287
78.....29267
82.....30612
92.....29268
94.....29270

Proposed Rules:

Ch. I.....32192
Ch. II.....32192
Ch. III.....32192
Ch. IV.....32192
92.....29302
308.....30980
381.....30980

10 CFR

35.....31701
50.....30614
205.....33950
211.....29546
212.....29546
456.....33643
516.....35206
798.....31604
1024.....29764

Proposed Rules:

Ch. II.....30448
Ch. III.....30448
Ch. X.....30448
2.....34279, 35345
20.....31118
50.....34279
60.....31393
108.....35764
205.....32322
210.....34846
211.....29770, 31682, 32003, 34008, 34846
212.....29553, 32003, 34846
376.....35830
461.....31408
474.....34008
477.....34015
486.....32560
490.....35788

11 CFR

4.....31291
5.....31292
100.....34865
110.....34865

Proposed Rules:

140.....32003
141.....32003
142.....32003
143.....32003
144.....32003
145.....32003
146.....32003
9001.....32003
9002.....32003
9003.....32003
9004.....32003
9005.....32003
9006.....32003
9007.....32003
9009.....32003

12 CFR

VII.....32290
205.....31705
226.....33599, 35802
265.....34868
303.....30616
309.....31294
524.....31045
528.....31954
545.....31046, 32288
561.....31050
701.....29270, 34869, 34870
745.....35802
1201.....31706
1202.....32288
1203.....31707
1204.....31710

Proposed Rules:

Ch. V.....31119
Ch. VII.....35346
211.....30081–30082
225.....30082
226.....29702, 33644
523.....31727
545.....31727
556.....31121
563.....31408
590.....13122, 35347
1204.....32323

13 CFR

Proposed Rules:

Ch. I.....30338
108.....31410
121.....33645
304.....30320
305.....30320
306.....30320
307.....30320
308.....30320
315.....30320

14 CFR

11.....35306
13.....35306
39.....29004, 29005, 29007, 29008, 29560–29562, 30421, 31052, 32659, 34258–34261, 35307–35310, 35313
71.....29009, 29563, 29564, 30422, 31053, 31971, 32661, 34261–34263
73.....30424, 31974
97.....29565, 31974
121.....30424, 31057
152.....34782
159.....35314
183.....32668
231.....31059
249.....31059
250.....30063
302.....34264
380.....32669
385.....30065
1241.....35321

Proposed Rules:

Ch. I.....31125, 32700
39.....30448, 32011
47.....34286
49.....34286
71.....29063, 30449, 31128, 32702, 34289, 34290, 35348
75.....30452
121.....29064
127.....29064
135.....29064
152.....30398
199.....30398
221.....31411, 34291
250.....30086, 31413
385.....31411

15 CFR

30.....29567
369.....29010
385.....29568, 30617, 33955
399.....29568, 30617
502.....29271
503.....29272
2006.....34870

Proposed Rules:

Subtitle A.....35832
936.....33645, 33649
937.....33645

16 CFR

13.....29010, 31712, 31979
1025.....29206

Proposed Rules:

13.....30650, 31416, 34291, 34293, 34296, 35832
1512.....32705, 35348

17 CFR

1.....34873
15.....30426, 31713
230.....29275
240.....33957
276.....34876

Proposed Rules:

21.....31731
229.....31733
230.....29847
240.....29853, 30454, 31418, 31733
249.....33650
270.....29067

18 CFR

1.....31059
35.....31294
141.....30066, 33600
154.....29011
250.....33600
260.....30066, 33600
270.....29569
271.....29569
273.....30068
274.....35322
282.....29573, 31300, 31622, 31980, 33601
284.....34264
292.....33603, 33958

Proposed Rules:

Ch.I.....31743
2.....31744
270.....35348
271.....31744
273.....31418
284.....34299, 34302

19 CFR

6.....29247
113.....35803
153.....35803
159.....35803
200.....31988
353.....30618
355.....30619, 33964

20 CFR

655.....29854
675.....33846
676.....33846
677.....33846
678.....33846
679.....33846
680.....33846

Proposed Rules:

416.....35838
676.....33923
677.....33923
678.....33923
679.....33923

21 CFR

5.....32550
101.....29275
201.....32550
207.....32393
250.....31303
520.....31304, 32294, 33604
522.....29275, 29789
540.....29276, 32294
561.....32295
610.....32396
660.....32296

Proposed Rules:

70.....32324
109.....30984

110.....30984
182.....29304, 32324
184.....29304, 32324
225.....30984
226.....30984
330.....31422
331.....35349
346.....35576
349.....30002
355.....33650
500.....30984
509.....30984
680.....29305
1030.....29307

22 CFR

51.....30619
143.....31713, 34877

Proposed Rules:

51.....34302

23 CFR

663.....29015

Proposed Rules:

420.....30398
450.....30398
625.....34302
630.....30398
1204.....30398

24 CFR

111.....31880
203.....29277, 29573, 30602, 31716, 33964, 34878
204.....30602, 31716, 33964, 34878
213.....29277, 30602, 33964, 34878
220.....30602, 33964, 34878
221.....29277, 30602, 31894
227.....29277
234.....29277, 30602
235.....29277, 30602, 33964, 34878
240.....33964, 34878
275.....29279
841.....29279, 34265
865.....30346
868.....30349
885.....31990
3280.....29539

Proposed Rules:

203.....29855
215.....31132
234.....29855
241.....30352
570.....30328, 31262, 33651
571.....30455
600.....30330
865.....33651
890.....35776

25 CFR

11.....29790

Proposed Rules:

55b.....30302
172.....29070

26 CFR

1.....33969, 33971, 34879
301.....33973

Proposed Rules:

1.....29308, 34016, 34303
48.....29309
51.....34899

27 CFR

Proposed Rules:

19.....33976
178.....33651
179.....33978
181.....33651
194.....33978
197.....33978
245.....33978
250.....33978
251.....33978
252.....33978

28 CFR

0.....31061, 34268, 34269
2.....33604
16.....32670
45.....29574, 31717
50.....29530
544.....33938
545.....33938
546.....33938
552.....33938
572.....33938

Proposed Rules:

42.....32710, 33652

Proposed Rules:

42.....33652
524.....33942

29 CFR

40.....34879, 35323
56.....29280
1601.....33605
1607.....29530
1910.....35212
1913.....35284
2702.....33606

Proposed Rules:

Ch. XII.....29590
4.....34899
1903.....33652
1928.....35298
2613.....34899

30 CFR

57.....32300
250.....29280
725.....34879
731.....33926
732.....33926

Proposed Rules:

Ch. VII.....29072, 29309–29311, 29855, 32328, 34907
19.....32554
70.....31426
71.....31426
90.....31426
211.....32715
250.....29309
715.....32331
716.....30651, 32331
816.....32331
817.....32331
826.....32331
886.....30382

31 CFR

13.....30619
51.....29530
342.....32301
515.....32671
535.....29287

32 CFR

Ch. I.....30623
369.....34880
370.....34880
371.....34881
372.....34882
555.....32302
706.....31116, 32671
811a.....32301
880.....31113

Proposed Rules:

286b.....29590
1900.....29855

32A CFR

134.....34884

Proposed Rules:

651.....34304
663.....34304

33 CFR

Ch. II.....32302
100.....30430, 31991
110.....30431, 32672, 34269
117.....29020, 35326
165.....29020, 30436
207.....31061

Proposed Rules:

110.....29593
117.....29593, 29594, 31132, 34305, 35349–35351
140.....29072
141.....29072
142.....29072
143.....29072
144.....29072
145.....29072
146.....29072
147.....29072
157.....29087, 34306

34 CFR

Subtitle A.....30802
Ch. I.....30802
Ch. II.....30802
Ch. III.....30802
Ch. IV.....30802
Ch. V.....30802
Ch. VI.....30802
Ch. VII.....30802
Ch. VIII.....30802

36 CFR

7.....32228, 32234
61.....30623
67.....34885
216.....29289
920.....34752
1201.....30623, 34886
1208.....34886

Proposed Rules:

Ch. I.....30414
Ch. II.....32192
Ch. IX.....34017
7.....31752, 34759
50.....29856
223.....30652
1204.....34909
1207.....30378
1208.....34910

38 CFR

3.....31717, 34886, 3532
21.....31062
36.....29292, 31063, 34270

Proposed Rules:

17.....30392
36.....30370

39 CFR

111.....32305, 34271

Proposed Rules:

Ch. III.....34309
267.....30069

40 CFR

51.....31304
52.....29293, 29790, 30069, 30626, 31304, 32674, 33607, 33981, 34271, 35804–35806
81.....30070, 35327
85.....34802, 34829
86.....31719, 34718
122.....29589, 33290, 33516
123.....33290, 33516
124.....33290, 33516
125.....29589
180.....29802–29803, 31312, 32305, 33994
205.....30630
260.....33066
261.....33084
262.....33140
263.....33150
264.....33154, 34055
265.....33154, 34055
408.....32675
415.....31992
775.....32676

Proposed Rules:

35.....30374
51.....30088, 34762
52.....29312, 29313, 29595, 29596, 29864, 30089, 30456, 30654, 32333, 32743, 33656, 34018, 34271, 34917–34921, 35839–35841
61.....34315
81.....30091, 34020
112.....33814
167.....29597
169.....29597
180.....29597, 32338, 32743
258.....30095
261.....33136
264.....33260
265.....33260, 33280
761.....30989

41 CFR

Ch. 1.....35809, 35814, 35815
Ch. 101.....29294, 31313
1.....30633
3–1.....31721, 32306
3–4.....33995
3–7.....32306
5–1.....29574, 29575
5A.....30633
5A–1.....29574
5B–1.....29576
5B–2.....29576
5B–7.....29576
5B–16.....29576
14R–9.....31066
18.....30633
60–3.....29530
101–26.....31315, 31992
105–61.....29577

Proposed Rules:

Ch. 4.....32192

V 45 M Y 28 80 0 UMI

V 45 M Y 28 80 UMI

101-11 32012

42 CFR

52h 35327
54a 31094
57 29803
110 31721

Proposed Rules:

405 29535
420 30634
440 20535
447 30634
456 29535
462 30634
482 29535

Proposed Rules:

405 30655

43 CFR

34 31095
35 30140
2610 34230
2650 31110
2880 34887
3100 ..... 30056, 35156
3500 36034
9260 31276

Public Land Orders:

5309 (Amended by PLO 5724) 31993
5716 (corrected by PLO 5725) 31722
5719 29021
5720 31315
5721 29295
5722 31316
5723 31722
5724 ..... 31993, 35818
5725 31722

Proposed Rules:

4 35351
9 31284
2650 30606
2920 31284
3809 31284

44 CFR

64 31316
65 ..... 29021, 31318, 32000
67 ..... 29577, 31993
70 ..... 29807-29830, 30071, 30076
76 32687

Proposed Rules:

67 ..... 29090, 29313-29323, 29598, 31133, 31427, 31754, 32339, 34923

45 CFR

74 ..... 34272, 35328
104 30635
123 35818
123a 35818
123b 35818
123c 35818
123d 35818
123e 35818
123f 35818
123g 35818
123h 35818
123i 35818
162 34210
162a 34210
162b 34210
162c 34210
163c 29588
185 32588
186 34152
186a 34152
186b 34152
186c 34152
186d 34152
186e 34152
186f 34152
186g 34152
186h 34152
186i 34152
186j 34152
186k 34152
186l 34152
187 34152
188 34152
205 29831
235 29831
801 33628
1061 ..... 32690, 33788

Proposed Rules:

Ch. X 30457
100a 30386
100b 30386
400 35359
1061 35363
1068 35363
1069 31133
1070 35366
1075 35363
1340 35794
1385 31006
1386 31006
1387 31006

46 CFR

33 29588
35 29588
71 29588
75 29588
78 29588
91 29588
94 29588
97 29588
148 31110
160 29588
189 29588
192 29588
196 29588
252 30439
530 31722
547 33996

Proposed Rules:

33 35366
94 35366
261 30410
276 29610
522 35368
524 35368
536 ..... 29323, 31139, 35369
538 ..... 29323, 31139

47 CFR

0 ..... 29835, 31722
2 33629
22 ..... 29023, 35329
64 ..... 31319, 32001
73 ..... 29835-29840, 34888, 35818
76 31723
90 ..... 29297, 30637

Proposed Rules:

Ch. I 30052, 33657, 33662
2 ..... 29323, 32013
21 ..... 29323, 29335, 29350
22 32013
61 29865
67 34315
73 ..... 29865-29872, 30094, 30656, 31139, 32028, 32744, 34931-34938, 35370
74 ..... 29323, 29350
87 31764
94 ..... 29323, 29350

48 CFR

Proposed Rules:

4 29612

49 CFR

107 32690
171 ..... 32692, 34560, 35329
172 34560
173 ..... 32692, 34560
174 ..... 32692, 34560
175 ..... 32690, 35329
176 34560
177 ..... 32692, 34560
220 30443
510 ..... 29032, 32001
571 ..... 29045, 35333
635 30444
1021 31374
1022 31374
1033 ..... 29048-29054, 29840-29841, 31111, 31375, 31724, 34002, 34274, 34276
1131 31374
1131a 31374
1201A 31110
1243 34276
1249 34276

Proposed Rules:

173 ..... 32030, 34316
177 ..... 32030, 34316
258 30398
260 30398
266 30398
533 35403
571 ..... 29102, 35405
575 35408
1033 32745
1045 31139
1048 34316
1056 31766
1057 34020
1102 29102
1254 31767
1262 30659
1270 29104
1271 29104
1272 29104
1273 29104
1274 29104
1275 29104
1276 29104
1277 29104
1278 29104
1279 29104
1320 31766
1321 31766
1322 31766
1323 31766
1324 31766

50 CFR

12 31725
17 ..... 33768, 35821
26 ..... 30077, 35823
32 ..... 34891, 35827
33 ..... 29841, 34891, 35827
227 29054
301 34889
611 ..... 31377, 32001, 34003
651 32699
652 33637
655 32001
656 32002
661 29250
671 31112
674 30444

Proposed Rules:

17 ..... 29370, 29371, 29373, 31446, 32348, 35410, 36038
23 ..... 32353, 33842, 34025, 34317
263 35844
264 35844
216 29375
674 34020
810 34025

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

COMMUNITY SERVICES ADMINISTRATION

28136 4-28-80 / Uniform Federal standards; grant procurement

FEDERAL MEDIATION AND CONCILIATION SERVICE

28105 4-28-80 / Arbitration of pesticide data disputes; interim final regulations

Deadlines for Comments on Proposed Rules for the Week of June 1 through June 7, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

21261 4-1-80 / Cotton, American upland, grade standards; comments by 6-2-80

30080 5-7-80 / Virginia fire-cured tobacco, U.S. type 21; Official Standard grades; comments by 6-6-80

Commodity Credit Corporation—

23449 4-7-80 / Cotton Loan Program; comments by 6-6-80

29302 5-2-80 / 1980 crop sunflower seed price support program; comments by 6-2-80

Food and Nutrition Service—

21998 4-2-80 / Procedures for reducing, suspending or cancelling food stamp benefits; comments by 6-2-80

COMMERCE DEPARTMENT

Economic Development Administration—

21611 4-2-80 / Scope of the non-relocation prohibition; comments by 6-2-80

International Trade Administration—

21615 4-2-80 / Licensing of exports of unprocessed western red cedar; comments by 6-2-80

DEFENSE DEPARTMENT

Engineers Corps—

22112 4-3-80 / Cultural resource protection; permit processing procedures; comments by 6-6-80

Office of the Secretary—

29590 5-5-80 / Personal privacy and rights of individuals regarding their personal rights; comments by 6-4-80

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

31707 5-14-80 / Rules regarding public observation of meetings; comments by 6-6-80

EDUCATION DEPARTMENT

See Health, Education, and Welfare Department.

ENVIRONMENTAL PROTECTION AGENCY

26734 4-21-80 / Addition of ammonia to the Toxic Pollutant List; comments by 6-3-80

[*See also* 45 FR 803, 1-3-80]

29854 5-6-80 / Approval and Promulgation of Implementation Plans: Michigan; comments by 6-5-80

29596 5-5-80 / Colorado; approval of air quality implementation plan; comments by 6-4-80 (*See also* 45 FR 7801, 2-5-80)

21590 4-1-80 / Conformity of Federal actions to State Implementation Plans; comments by 6-2-80

30091 5-7-80 / Designation of areas for air quality planning procedures; attainment States designations; Minnesota; comments by 6-6-80

23706 4-8-80 / General Grant Regulations; revisions; comments by 6-1-80

21292 4-1-80 / Nevada; revision of State Implementation Plan; comments by 6-2-80

29595 5-5-80 / North Dakota; approval and promulgation of air quality implementation plans; comments by 6-4-80

21655 4-2-80 / Petition to add ammonia and sulfide to the list of conventional pollutants published pursuant to Section 304(a) of the Clean Water Act; comments by 6-2-80

29312 5-2-80 / Revision to Florida State Implementation Plan; comments by 6-2-80

30090 5-7-80 / State and Federal administrative orders revising the Michigan State Implementation Plan; comments by 6-6-80

29596 5-5-80 / South Dakota; approval and promulgation of air quality implementation plans; comments by 6-4-80

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

7514 2–1–80 / Interpretive guidelines on employment discrimination and reproductive hazards; comments by 6–2–80

FEDERAL COMMUNICATIONS COMMISSION

1976 1–9–80 / Children's television programming and advertising practices provisions; comments by 6–2–80

25412 4–15–80 / Continued assignment of frequencies in the 420–450 MHz band for non-Government radiolocation usage; comments by 6–2–80

31139 5–12–80 / FM Broadcast Stations in Carson City, Gardnerville-Minden and Sparks, Nevada; comments by 6–6–80

[*See also* 45 FR 16217, 3–13–80]

31139 5–12–80 / FM Broadcast Stations in Chilton, Clintonville, and Maritowac, Wisconsin; comments by 6–5–80

[*See also* 45 FR 17598, 3–19–80]

25414 4–15–80 / FM Broadcast assignment to Elkins, W. Va.; comments by 6–2–80

19575 3–26–80 / FM broadcast station in Cobleskill, N.Y., proposed changes in table of assignments; reply comments by 6–2–80

19574 3–26–80 / FM broadcast station in Livingston, Mont., proposed changes in table of assignments; reply comments by 6–2–80

19576 3–26–80 / FM broadcast station in Milbank, S. Dak.; proposed changes in table of assignments; reply comments by 6–2–80

25414 4–15–80 / Operation of automatic digital communications systems in the aeronautical enroute service; reply comments by 6–2–80

FEDERAL DEPOSIT INSURANCE CORPORATION

22955 4–4–80 / Revision of rules of practice and procedure under various statutes; comments by 6–3–80

FEDERAL HOME LOAN BANK BOARD

31122 5–12–80 / Mobile home loan consumer protection provisions; preemption of state usury ceilings; comments by 6–5–80

FEDERAL MEDIATION AND CONCILIATION SERVICE

21264 4–1–80 / Role of mediation assistance in Federal service; comments by 6–2–80

FEDERAL TRADE COMMISSION

22972 4–4–80 / Performance under automobile warranties; petition to require disclosure of warranty compensation rates; comments by 6–2–80

HEALTH AND HUMAN SERVICES DEPARTMENT

See Health, Education, and Welfare Department.

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

21303 4–1–80 / Direct Grant Programs, State-Administered Programs, and general regulations; comments by 6–2–80

Food and Drug Administration—

22975 4–4–80 / Additional standards for human blood and blood products, antihemophilic factor (human); comments by 6–3–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of the Assistant Secretary—

30329 5–7–80 / Community development block grants, small cities program, energy criteria; comments by 6–6–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

13786 3–3–80 / Endangered and threatened wildlife and plants; review of status of the Columbia tiger beetle; comments by 6–2–80

34025 5–21–80 / Proposed finding of nondetriment in response to U.S. District Court injunction on export of bobcats (*Lynx rufus*); comments by 6–5–80

23370 4–4–80 / Request for information on proposals to list animals and plants in appendices to the convention on International Trade in Endangered Species of Wild Fauna and Flora; comments by 6–3–80

Indian Bureau—

29070 5–1–80 / Leasing of allotted Indian lands for mining; comments by 6–2–80

30302 5–7–80 / Referendum election to determine whether the Yurok Tribe of the Hoopa Valley Reservation desires to establish a representative interim Yurok governing committee; comments by 6–6–80

National Park Service—

29856 5–6–80 / Demonstrations and Special Events; comments by 6–5–80

Surface Mining Reclamation and Enforcement Office—

30382 5–7–80 / Abandoned mine land reclamation program; comments by 6–6–80

27955 4–25–80 / Notice of review of proposed Louisiana regulatory program under the Surface Mining Control and Reclamation Act of 1977; comments by 6–4–80

INTERSTATE COMMERCE COMMISSION

29103 5–1–80 / Railroad cost recovery procedures; comments by 6–2–80

JUSTICE DEPARTMENT

Drug Enforcement Administration—

21652 4–2–80 / Transfer of prescription information for Schedule III, IV, and V controlled substances; comments by 6–2–80

Prisons Bureau—

23367 4–4–80 / Control, custody, care, treatment and instruction of inmates; comments by 6–3–80

LABOR DEPARTMENT

Federal Contract Compliance Programs—

7514 2–1–80 / Interpretive guidelines on employment discrimination and reproductive hazards; comments by 6–2–80

Mine Safety and Health Administration—

24017 4–8–80 / Coal miners having evidence of development of pneumoconiosis; mandatory health standards; comments by 6–2–80

24008 4–8–80 / Miner participation in respirable dust sampling procedures; comments by 6–2–80

24009 4–8–80 / Respirable dust; mandatory health standards; comments by 6–2–80

PERSONNEL MANAGEMENT OFFICE

22953 4–4–80 / Retirement records disclosure provisions; comments by 6–3–80

SECURITIES AND EXCHANGE COMMISSION

29067 5–1–80 / Purchases and sales transactions between registered investment companies and certain affiliated persons; exemption; comments by 6–5–80

24500 4–10–80 / Revised procedures for processing post-effective amendments filed by investment companies; comments by 6–2–80

SMALL BUSINESS ADMINISTRATION

22971 4–4–80 / Minority small business and capital ownership development assistance provisions; comment by 6–3–80

23704 4–8–80 / Size standards; update of regulations; comments by 6–6–80

[Originally published at 45 FR 15442, 3–10–80]

TRANSPORTATION DEPARTMENT

Coast Guard—

26722 4–21–80 / Special service load line vessels; operation during hurricane season; comments by 6–5–80

Federal Highway Administration—

15188 3–10–80 / Maximum weight of trucks on interstate system highways; variable load suspension axles; dummy axles; interpretation and application of bridge formula; comments by 6–2–80

[Originally published at 44 FR 69586, 12–3–79]

Research and Special Programs Administration—

13153 2–28–80 / Transportation of wet electric storage batteries on passenger-carrying aircraft; comments by 6–1–80

Urban Mass Transportation Administration—

26298 4–17–80 / Service changes and fare changes; public hearing requirements; comments by 6–1–80

[Corrected at 45 FR 30444, 5–8–80]

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

16201 3–13–80 / Grape brandy; standards of identity; extension of comment period to 6–2–80

[Originally published at 45 FR 50, 1–2–80]

Customs Service—

29247 5–1–80 / Entry and clearance of aircraft between U.S. and Cuba to Fort Lauderdale—Hollywood International Airport; interim regulations; comments by 6–2–80

Internal Revenue Service—

23400 4–4–80 / Crude Oil Windfall Profit Tax provisions; comments by 6–3–80

VETERANS ADMINISTRATION

21653 4–2–80 / Veterans education; independent study; comments by 6–2–80

Deadline for comments on Proposed Rules for the Week of June 8 through June 14, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

31118 5–12–80 / Potato Research and Promotion Plan; expenses and rate of assessment; comments by 6–12–80

Agricultural Stabilization and Conservation Service—

31393 5–13–80 / Beekeeper Indemnity Payment Program (1978–81); comments extended to 6–12–80

[*See also* 45 FR 24899, 4–11–80]

Commodity Credit Corporation—

24492 4–10–80 / Cooperative marketing associations; eligibility requirements for price support; comments by 6–9–80

Federal Crop Insurance Corporation—

25068 4–14–80 / Forage production crop insurance regulations; comments by 6–13–80

25073 4–14–80 / Forage seeding crop insurance regulations; comments by 6–13–80

Office of the Secretary—

25408 4–15–80 / Natural Gas Policy Act of 1978; certification; addition of SIC 3412—metal shipping barrels, drums, kegs and pails (food related only) to list of essential agricultural uses; comments by 6–12–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

31112 5–12–80 / Commercial Tanner Crab Fishery off the coast of Alaska; amendment to Fishery Management Plan; comment on final regulations by 7–10–80

[*See also* 45 FR 25421, 4–15–80 and 45 FR 25815, 4–16–80]

EDUCATION DEPARTMENT

[*See* Health, Education, and Welfare Department.]

ENERGY DEPARTMENT

Economic Regulatory Administration—

31682 5–13–80 / Alternative amendments to the Mandatory Petroleum Allocation Regulations modifying treatment of Alaska North Slope (ANS) crude oil under the entitlement program; comments by 6–18–80

24092 4–8–80 / Financial assistance programs for State utility regulatory commissions and eligible nonregulated electric utilities; comments by 6–9–80

[*See also* 45 FR 31408, 5–13–80]

32322 5–16–80 / Reports on impending major electric utility system emergencies, customer load reductions and/or significant service interruptions in bulk electric power supply, comment period extended to 6–9–80

[*See also* 45 FR 20109, 3–27–80]

Federal Energy Regulatory Commission—

31744 5–14–80 / Procedures governing applications for special relief under Sections 104, 106 and 109 of the Natural Gas Policy Act of 1978; comments by 6–9–80

ENVIRONMENTAL PROTECTION AGENCY

30654 5–9–80 / Approval of revision to Ohio State Implementation Plan for sulfur dioxide; comments by 6–11–80

30456 5–8–80 / Maryland State implementation plan; proposed revisions; comments by 6–9–80

FEDERAL COMMUNICATIONS COMMISSION

26390 4–18–80 / Amendment of policies and procedures for amending FM table of assignments; reply comments by 6–11–80

25414 4–15–80 / Assignment of FM channels at Coeur D'Alene, Idaho; comments by 6–9–80

[*See also* 45 FR 12451, 2–26–80]

32025 5–15–80 / Domestic public land mobile radio service; one-way signaling on the 35 MHz frequency band; comments by 6–12–80

28773 4–30–80 / FM broadcast station in The Dalles, Oreg.; Proposed changes in table of assignments; comments by 6–13–80

28775 4–30–80 / FM broadcast station in Manchester, Vt.; Proposed changes in table of assignments; comments by 6–13–80

17603 3–19–80 / Modification of FM broadcast station rules to increase the availability of commercial FM broadcast assignments; comments by 6–13–80

24212 4–9–80 / Private line rate structure and volume discount practices; Comments extended to 6–9–80

[*See also* 44 FR 61216, 10–24–79 and 45 FR 18214, 3–13–80]

16222 3–13–80 / Providing optimum conditions for utilization of New Jersey television channel assignments; inquiry; reply comments by 6–9–80

16219 3–13–80 / Television Broadcast Stations in Dover and Seaford, Del.; Asbury Park, Atlantic City, New Brunswick, Newton, Vineland, West Milford and Wildwood, N.J.; Kingston and Syracuse, N.Y.; and Bethleham, Lebanon and State College, Pa.; Proposed Changes in Table of Assignments; reply comments by 6–9–80

28775 4–30–80 / Television broadcast stations in Lansing and Saginaw, Mich., Newark, Sandusky and Toledo, Ohio; Proposed changes in table of assignments; comments by 6–13–80

23478 4–7–80 / Television reciever performance; comments by 6–13–80

FEDERAL HOME LOAN BANK BOARD

31727 5–14–80 / Federal home loan bank system and Fedeal savings and loan system; reduction in reporting requirements; comments by 6–9–80

FEDERAL MEDIATION AND CONCILIATION SERVICE

24507 4–10–80 / Part-time employment for Federal employees; comments by 6–10–80

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

24018 4–8–80 / Coal miners having evidence of development of pneumoconiosis; mandatory health standards; comments by 6–2–80

24010 4–8–80 / Miner participation in respirable dust sampling procedures; comments by 6–2–80

24011 4–8–80 / Respirable dust; mandatory health standards; comments by 6–2–80

FEDERAL RESERVE SYSTEM

Board of Governors—

29067 5–1–80 / Purchases and sales transactions between registered investment companies and certain affiliated persons; exemption; comments by 6–5–80

FEDERAL TRADE COMMISSION

22972 4–4–80 / Performance under automobile warranties; petition to require disclosure of warranty compensation rates; comments by 6–2–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

22975 4–4–80 / Additional standards for human blood and blood products, antihemophilic factor (human); comments by 6–3–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

21303 4–1–80 / Direct Grant Programs, State-Administered Programs, and general regulations; comments by 6–2–80

Food and Drug Administration—

22975 4–4–80 / Additional standards for human blood and blood products, antihemophilic factor (human); comments by 6–3–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of the Assistant Secretary—

30329 5–7–80 / Community development block grants, small cities program, energy criteria; comments by 6–6–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

13786 3–3–80 / Endangered and threatened wildlife and plants; review of status of the Columbia tiger beetle; comments by 6–2–80

34025 5–21–80 / Proposed finding of nondetriment in response to U.S. District Court injunction on export of bobcats (*Lynx rufus*); comments by 6–5–80

23370 4–4–80 / Request for information on proposals to list animals and plants in appendices to the convention on International Trade in Endangered Species of Wild Fauna and Flora; comments by 6–3–80

Indian Bureau—

29070 5–1–80 / Leasing of allotted Indian lands for mining; comments by 6–2–80

30302 5–7–80 / Referendum election to determine whether the Yurok Tribe of the Hoopa Valley Reservation desires to establish a representative interim Yurok governing committee; comments by 6–6–80

National Park Service—

29856 5–6–80 / Demonstrations and Special Events; comments by 6–5–80

Surface Mining Reclamation and Enforcement Office—

30382 5–7–80 / Abandoned mine land reclamation program; comments by 6–6–80

27955 4–25–80 / Notice of review of proposed Louisiana regulatory program under the Surface Mining Control and Reclamation Act of 1977; comments by 6–4–80

INTERSTATE COMMERCE COMMISSION

29103 5–1–80 / Railroad cost recovery procedures; comments by 6–2–80

JUSTICE DEPARTMENT

Drug Enforcement Administration—

21652 4–2–80 / Transfer of prescription information for Schedule III, IV, and V controlled substances; comments by 6–2–80

Prisons Bureau—

23367 4–4–80 / Control, custody, care, treatment and instruction of inmates; comments by 6–3–80

LABOR DEPARTMENT

Federal Contract Compliance Programs—

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SMALL BUSINESS ADMINISTRATION

22971 4–4–80 / Minority small business and capital ownership development assistance provisions; comment by 6–3–80

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Coast Guard—

26722 4–21–80 / Special service load line vessels; operation during hurricane season; comments by 6–5–80

Federal Highway Administration—

15188 3–10–80 / Maximum weight of trucks on interstate system highways; variable load suspension axles; dummy axles; interpretation and application of bridge formula; comments by 6–2–80

[Originally published at 44 FR 69586, 12–3–79]

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13153 2–28–80 / Transportation of wet electric storage batteries on passenger-carrying aircraft; comments by 6–1–80

Urban Mass Transportation Administration—

26298 4–17–80 / Service changes and fare changes; public hearing requirements; comments by 6–1–80

[Corrected at 45 FR 30444, 5–8–80]

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23400 4–4–80 / Crude Oil Windfall Profit Tax provisions; comments by 6–3–80

VETERANS ADMINISTRATION

21653 4–2–80 / Veterans education; independent study; comments by 6–2–80

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

31118 5–12–80 / Potato Research and Promotion Plan; expenses and rate of assessment; comments by 6–12–80

Agricultural Stabilization and Conservation Service—

31393 5–13–80 / Beekeeper Indemnity Payment Program (1978–81); comments extended to 6–12–80

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Office of the Secretary—

25408 4–15–80 / Natural Gas Policy Act of 1978; certification; addition of SIC 3412—metal shipping barrels, drums, kegs and pails (food related only) to list of essential agricultural uses; comments by 6–12–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

31112 5–12–80 / Commercial Tanner Crab Fishery off the coast of Alaska; amendment to Fishery Management Plan; comment on final regulations by 7–10–80

[*See also* 45 FR 25421, 4–15–80 and 45 FR 25815, 4–16–80]

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[*See* Health, Education, and Welfare Department.]

ENERGY DEPARTMENT

Economic Regulatory Administration—

31682 5–13–80 / Alternative amendments to the Mandatory Petroleum Allocation Regulations modifying treatment of Alaska North Slope (ANS) crude oil under the entitlement program; comments by 6–18–80

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[*See also* 45 FR 31408, 5–13–80]

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Federal Energy Regulatory Commission—

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ENVIRONMENTAL PROTECTION AGENCY

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[*See also* 45 FR 12451, 2–26–80]

32025 5–15–80 / Domestic public land mobile radio service; one-way signaling on the 35 MHz frequency band; comments by 6–12–80

28773 4–30–80 / FM broadcast station in The Dalles, Oreg.; Proposed changes in table of assignments; comments by 6–13–80

28775 4–30–80 / FM broadcast station in Manchester, Vt.; Proposed changes in table of assignments; comments by 6–13–80

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24212 4–9–80 / Private line rate structure and volume discount practices; Comments extended to 6–9–80

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23478 4–7–80 / Television reciever performance; comments by 6–13–80

FEDERAL HOME LOAN BANK BOARD

31727 5–14–80 / Federal home loan bank system and Fedeal savings and loan system; reduction in reporting requirements; comments by 6–9–80

FEDERAL MEDIATION AND CONCILIATION SERVICE

24507 4–10–80 / Part-time employment for Federal employees; comments by 6–10–80

HEALTH AND HUMAN SERVICES DEPARTMENT
See Health, Education, and Welfare Department.

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
24070 4–8–80 / Territorial Teacher Training Assistance Program; comments by 6–9–80
Food and Drug Administration—
9286 2–12–80 / Cholecy stokinetic drug products for over-the-counter human use; establishment of a monograph; reply comments by 6–11–80
Public Health Service—
24352 4–9–80 / Health maintenance organization loans and loan guarantees for acquisition and construction of ambulatory health care facilities; comments by 6–9–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Community Planning and Development, Office of the Assistant Secretary—
24808 4–10–80 / Section 312 Reghabilitation Loan Program; comments by 6–9–80
Federal Housing Commissioner, Office of the Assistant Secretary—
30602 5–8–80 / Mortgage insurance; elimination of application fee; comments by 6–9–80

INTERIOR DEPARTMENT
Office of the Secretary—
24074 4–8–80 / Nondiscrimination on the basis of handicap in federally assisted programs; comments by 6–9–80
Surface Mining Reclamation and Enforcement Office—
32331 5–16–80 / Provisions to ensure uniform enforcement of interim and permanent program regulations governing multiple seam mining operations; comments by 6–12–80
30651 5–9–80 / Requirement that Pennsylvania comply with anthracite environmental protection provisions in effect on 8–3–77; comments by 6–9–80

INTERSTATE COMMERCE COMMISSION
28380 4–29–80 / Incentive per diem funds use; reply comments by 6–9–80
28381 4–29–80 / Railroad contract rates; change of policy; comments by 6–13–80
31767 5–14–80 / Remittance of demurrage charges by common carriers of property by rail; comments by 6–13–80

LABOR DEPARTMENT
Occupational Safety and Health Administration—
26366 4–18–80 / Proposed standard for occupational noise exposure; opportunty to comment on additional information; comments by 6–9–80

NUCLEAR REGULATORY COMMISSION
24168 4–9–80 / Licensing and regulatory policy and procedures for environmental protection; alternative site reviews; comments by 6–9–80

PERSONNEL MANAGEMENT OFFICE
24899 4–11–80 / Training in non-goverment facilities; procedural amendments; comments by 6–10–80

SECURITIES AND EXCHANGE COMMISSION
29853 5–6–80 / Stock Options; comments by 6–9–80

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
24505 4–10–80 / Skid resistant pavement surface design; comments by 6–9–80
Federal Highway Administration—
34302 5–22–80 / Design standards for highways; comments by 6–13–80
[*See also* 45 FR 34302, 5–12–80]

TREASURY DEPARTMENT
Comptroller of the Currency—
25078 4–14–80 / Nomination of candidates for election to national bank boards of directors; comments by 6–13–80
Internal Revenue Service—
24203 4–9–80 / Consolidated return regulations; comments by 6–9–80
24201 4–9–80 / Coordination of vesting and discrimination requirements for qualified plans; comments by 6–9–80
24205 4–9–80 / Holding period required for treatment of long-term capital gain or long-term capital loss; changes in terms relating to transactions in capital assets; comments by 6–9–80
26092 4–17–80 / Income tax; shareholder requirements relating to electing small business corporations; comments by 6–13–80
24207 4–9–80 / Withholding on certain individuals engaged in fishing; comments by 6–9–80

WATER RESOURCES COUNCIL
25302 4–14–80 / Principles, standards, and procedures for water resource planning; comments by 6–13–80

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
33674 5–20–80 / Informal Action Committee, Washington, D.C. (open), 6–5–80
33674 5–20–80 / Judicial Review Committee, Washington, D.C. (open), 6–5–80

AGRICULTURE DEPARTMENT
Forest Service—
32032 5–15–80 / Continental Divide National Scenic Trail Advisory Committee, Denver, Colo. (open), 6–3–80
28385 4–29–80 / Pacific Northwest Region, Lincoln City, Ore. (open), 6–6–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION
32144 5–15–80 / Dance Panel, Washington, D.C. (open), 6–2 through 6–4–80
31241 5–12–80 / Humanities Panel, Washington, D.C. (closed), 6–5 and 6–6–80
32145 5–15–80 / Special Projects Panel, Washington, D.C. (closed), 6–5–80
32145 5–15–80 / Special Projects Panel (challenge), Washington, D.C. (closed), 6–6–80
32145 5–15–80 / Theatre Panel (theater for youth), Washington, D.C. (closed), 6–6–80

CIVIL RIGHTS COMMISSION
31147 5–12–80 / District of Columbia Advisory Committee, Washington, D.C. (open), 6–6–80
31147 5–12–80 / Illinois Advisory Committee, Chicago, Illinois (open), 6–2–80
31769 5–14–80 / Maine Advisory Committee, Augusta, Maine (open), 6–4–80
31148 5–12–80 / Ohio Advisory Committee, Cleveland, Ohio (open), 6–7–80
31448 5–19–80 / Ohio Advisory Committee, Cleveland, Ohio (open), 6–7–80
[Changed at 45 FR 32749, 5–19–80]
31148 5–12–80 / Rhode Island Advisory Committee, Boston, Mass. (open), 6–5–80

COMMERCE DEPARTMENT
Economic Development Administration—
33676 5–20–80 / Scoping meetings; industrial park development and resource recovery facilities in New York and New Jersey:
New York, N.Y., 6–4–80
Jersey City, N.J., 6–5–80
International Trade Administration—
29614 5–5–80 / Semiconductor Technical Advisory Committee, Washington, D.C. (open and closed meeting), 6–3–80

National Oceanic and Atmospheric Administration—
32361 5–16–80 / Gulf of Mexico Fishery Management Council, Naples, Fla. (open), 6–4 and 6–5–80
33676 5–20–80 / Mid-Atlantic Fishery Management Council, Scientific and Statistical Committee, Philadelphia, Pa. (open), 6–5–80
Office of the Secretary—
32751 5–19–80 / Semiconductor Manufacturing Materials and Equipment Subcommittee of the Semiconductor Technical Advisory Committee, Washington, D.C. (closed), 6–4–80

DEFENSE DEPARTMENT
29623 5–5–80 / Organization of the Joint Chiefs of Staff: National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School, Washington, D.C. (open), 6–2–80
Air Force Department—
28793 4–30–80 / Scientific Advisory Board, Offutt AFB, Nebr. (closed), 6–3 and 6–4–80
28793 4–30–80 / Scientific Advisory Board, Wright-Patterson AFB, Ohio (closed), 6–5 and 6–6–80
Navy Department—
30469 5–8–80 / Board of Advisors to the President, Naval War College, Newport, R.I., 6–5 and 6–6–80
Office of the Secretary—
27973 4–25–80 / DOD Wage Committee, Washington, D.C. (closed), 6–3–80

EDUCATION DEPARTMENT
[*See also* Health, Education, and Welfare Department]
33687 5–20–80 / Community Education Advisory Council Planning Committee, Annapolis, Md. (open), 6–4 and 6–5–80

ENERGY DEPARTMENT
Federal Energy Regulatory Commission—
32757 5–19–80 / Advisory Committee on Revision of Rules of Practices and Procedures, Subcommittee on Review of Commission Decisional Process, Washington, D.C. (open), 6–4–80
Nuclear Energy Office—
32113 5–15–80 / High Energy Physics Advisory Panel, Subpanel on Review and Long Range Planning for U.S. High Energy Physics Program, Woods Hole, Mass. (open), 6–1, 6–2, 6–5, 6–6, and 6–7–80
32113 5–15–80 / State Planning Council on Radioactive Waste Management, Richland, Wash. (open), 6–3–80

ENVIRONMENTAL PROTECTION AGENCY
30686 5–9–80 / National Air Pollution Control Techniques Advisory Committee, Raleigh, N.C. (open), 6–4 and 6–5–80
31773 5–14–80 / Science Advisory Board, Subcommittee on Arsenic as a Possible Hazardous Air Pollutant, Research Triangle Park, N.C. (open), 6–3–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
31492 5–13–80 / Meeting, Washington, D.C. (open), 6–5–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
(*See also* Education Department and Health and Human Services Department)
Education Office—
31493 5–13–80 / National Advisory Council on Indian Education, Washington, D.C. (partially open), 5–28, 5–29, and 5–30–80
Health Care Financing Administration—
14901 3–7–80 / Consideration of changes in medicare and medicaid participant certification requirements, Chicago, Ill. (open), 6–2 and 6–3–80
National Institutes of Health—
28500 4–29–80 / Animal Resources Review Committee, Bethesda, Md. (partially open), 6–4–80
28505 4–29–80 / Biomedical Library Review Committee, Bethesda, Md. (partially open), 6–4 and 6–5–80
28501 4–29–80 / Communicative Disorders Review Committee, Bethesda, Md. (partially open) 6–2–80 and 6–3–80
11195 2–29–80 / Influence of Female Hormones on Hemostasis and Vascular Diseases, Great Barrington, Mass. (open) 6–3 through 6–5–80
28503 4–29–80 / Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (partially open), 6–5–80 and (closed) 6–6–80
28502 4–29–80 / National Arthritis, Metabolism, and Digestive Diseases Advisory Council, Bethesda, Md. (partially open), 6–3–80 and (closed), 6–4–80
30697 5–9–80 / National Cancer Institute review committees various cities in New York, Maryland, Texas and Pennsylvania (partially open), 6–2 through 6–6–80
28501 4–29–80 / Neurological Disorders Program—Project Review A Committee, Bethesda, Md. (partially open), 6–5–80, and (closed), 6–6–80
28504 4–29–80 / Neurological Disorders Program—Project Review B Committee, Bethesda, Md. (partially open), 6–5 through 6–7–80
28904 4–30–80 / Recombinent DNA Advisory Committee, Bethesda, Md. (partially open), 6–5 and 6–6–80
28505 4–29–80 / Transplantation Biology and Immunology Committee, Bethesda, Md. (partially open), 6–3–80

HEALTH AND HUMAN SERVICES DEPARTMENT
[*See Also* Health, Education and Welfare Department]
Alcohol, Drug Abuse, and Mental Health Administration—
34425 5–22–80 / Social Work Education Review Committee, Bethesda, Md. (open), 6–6–80
Food and Drug Administration—
31494 5–13–80 / Endocrinologic and Metabolic Drugs Advisory Committee, Rockville, Md. (open), 6–3 and 6–4–80
31496 5–13–80 / Gastrointestinal Drugs Advisory Committee, Rockville, Md. (open and closed), 6–2 and 6–3–80
31497 5–13–80 / Immunology and Microbiology Devices Panel, Immunology Devices Section, Silver Spring, Md. (open and closed), 6–2 and 6–3–80
31494 5–13–80 / Obstetrics—Gynecology and Radiologic Devices Panel, Obstetrics—Gynecology Devices Section, Washington, D.C. (open), 6–2–80
31494 5–13–80 / Ophthalmic; Ear, Nose, Throat; and Dental Devices Panel; Ophthalmic Devices Section, Washington, D.C. (open), 6–2 and 6–3–80
31494 5–13–80 / Panel Review of Antimicrobial Agents Bethesda, Md. (open), 6–6 and 6–7–80
31494 5–13–80 / Panel on Review of Miscellaneous Internal Drug Products, Rockville, Md. (open), 6–6 and Bethesda, Md. (open), 6–7–80
31494 5–13–80 / Psychopharmacologic Drugs Advisory Committee, Rockville, Md. (open), 6–2 and 6–3–80
National Institutes of Health—
31760 5–14–80 / Cancer Research Manpower Review Committee, Bethesda, Md. (partially open), 6–5 through 6–7–80
32781 5–19–80 / Division of Research Grants, Various Study Sections, (open and closed), 6–3 through 6–6–80
Office of the Secretary—
33726 5–20–80 / Vital and Health Statistics National Committee, Subcommittee on International Statistics, Washington, D.C. 6–5–80
Public Health Service—
31780 5–14–80 / National Toxicology Program, Washington, D.C. (open), 6–4–80

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Neighborhoods, Voluntary Associations and Consumer Protection, Office of the Assistant Secretary—

33730 5–2–80 / Meeting the developmental needs of small cities, Washington, D.C. (open), 6–2 and 6–3–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

28507 4–29–80 / Proposed Preservation of Reeves Bottoms, Missouri, (open), Hornersville, Missouri, 6–2–80 and Manila, Arkansas, 6–3–80

Geological Survey—

28508 4–29–80 / Earthquake Studies Advisory Panel, (open), Menlo Park, Calif., 6–5 through 6–7–80

Land Management Bureau—

34430 5–22–80 / California Desert Conservation Area Advisory Committee, San Bernardino, Calif. (open), 6–5 through 6–7–80

30551 5–8–80 / Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group Committee, Juneau, Alaska (open), 6–3 and 6–4–80

29417 5–2–80 / Scientific Committee of the Outer Continental Shelf Advisory Board, Woods Hole, Mass. (open), 6–4 and 6–6–80

JUSTICE DEPARTMENT

31835 5–14–80 / United States Circuit Judge Nominating Commission, Second Circuit Panel, New York, N.Y. (closed), 6–5 and 6–6–80

LABOR DEPARTMENT

Employment and Training Administration—

33745 5–20–80 / Apprenticeship Federal Committee, Washington, D.C. (open), 6–4–80

LIBRARY OF CONGRESS

31240 5–12–80 / American Folklife Center Board of Trustees, Washington, D.C. (open), 6–6–80

LIBRARIES AND INFORMATION SCIENCE, NATIONAL COMMISSION

33765 5–20–80 / Meeting, Atlanta, Ga. (open), 6–5 and 6–6–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

32456 5–16–80 / NASA Advisory Council's Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System, Washington, D.C. (open), 6–3 and 6–4–80

NATIONAL MEDIATION BOARD

33765 5–20–80 / Meeting, Washington, D.C. (open), 6–4–80

30196 5–7–80 / Engineering and Applied Science Advisory Committee, Earthquake Hazards Mitigation Subcommittee, Washington, D.C., 6–2 and 6–3–80

NATIONAL SCIENCE FOUNDATION

30197 5–7–80 / DOE/NSF Nuclear Science Advisory Committee, Seattle, Wash. (open), 6–1 through 6–3–80

30197 5–7–80 / Social and Economics Science Advisory Committee, Sociology Subcommittee, Washington, D.C. (closed), 6–5 and 6–6–80

NUCLEAR REGULATORY COMMISSION

32457 5–16–80 / Reactor Safeguards Advisory Committee, Subcommittee on the Sequoyah Nuclear Plant (Units 1 and 2), Washington, D.C. (open), 6–2–80

33749 5–20–80 / Reactor Safeguards Advisory Committee, Reactor Safety Research Subcommittee, Washington, D.C. (partially closed), 6–3–80

34480 5–22–80 / Reactor Safeguards Advisory Committee, Washington, D.C. (open), 6–5 through 6–7–80

34482 5–22–80 / Screening Committee for Lawyer Vacancies on the Licensing Board Panel, Washington, D.C. (open), 6–6 and 6–9–80

SCIENCE AND TECHNOLOGY POLICY OFFICE

34485 5–22–80 / Intergovernmental Science Engineering, and Technology Advisory Panel, San Diego, Calif. (open), 6–6–80

33754 5–20–80 / Intergovernmental Science, Engineering, and Technology Advisory Panel, Seattle Wash. (open), 6–6–80

SMALL BUSINESS ADMINISTRATION

34099 5–21–80 / Region VI Advisory Council, San Antonio, Tex. (open), 6–5–80

TRANSPORTATION DEPARTMENT

Coast Guard—

30588 5–8–80 / Proposed Railroad Bridge Across the Mystic River, Mile 2.4, Between the Towns of Groton and Stonington, Conn., Mystic, Conn. (open), 6–3–80

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Forest Service—

29613 5–5–80 / Paddy Creek Wilderness Study Area Report, Licking, Mo., 6–5 and Jefferson City, Mo., 6–6–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

31682 5–13–80 / Alternative Amendments to the Mandatory Petroleum Allocation Regulations modifying treatment of Alaska North Slope (ANS) crude oil entitlement program, 6–3–80, Seattle, Wash., and 6–5–80, Washington, D.C.

29770 5–5–80 / Crude Oil Supplier/Purchaser Rule, Washington, D.C., 5–29–80, San Francisco, 6–3–80

INTERIOR DEPARTMENT

Land Management Bureau—

29123 5–1–80 / Draft Ironside (Oregon) grazing management environmental impact statement, Ontario, Ore., 6–3–80; Baker, Ore., 6–4–80

29893 5–6–80 / Livestock Grazing Management Program, Tonopah Resource Area, Battle Mountain District, Nev., Reno, Nev., 6–2–80

30547 5–8–80 / Proposed wilderness designation of instant study areas for the Arizona Strip District: Kingman, Ariz., 6–3–80; Flagstaff, Ariz., 6–4–80

LABOR DEPARTMENT

Mine Safety and Health Administration—

24017 4–8–80 / Coal miners having evidence of development of pneumoconiosis: Pittsburgh, Pa., 6–3–80; Lexington, Ky., 6–3–80; Charleston, W.Va., 6–5–80; Denver, Colo., 6–5–80

24008 4–8–80 / Miner participation in respirable dust sampling procedures: Pittsburgh, Pa., 6–3–80; Lexington, Ky., 6–3–80; Charleston, W.Va., 6–5–80; Denver, Colo., 6–5–80

24009 4–8–80 / Respirable dust; mandatory health standards: Pittsburgh, Pa., 6–3–80; Lexington, Ky., 6–3–80; Charleston, W.Va., 6–5–80; Denver, Colo., 6–5–80

TREASURY DEPARTMENT

Internal Revenue Service–

26981 4–22–80 / Allowance of deductions to foreign corporations, Washington, D.C., 6–4–80

29309 5–2–80 / Proposed gas guzzler tax regulations, Washington, D.C., 6–5–80

List of Public Laws

Last Listing May 27, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6839 / Pub. L. 96–246 To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982. (May 23, 1980; 94 Stat. 348) Price $1.

H.R. 10 / Pub. L. 96–247 Civil Rights of Institutionalized Persons Act. (May 23, 1980; 94 Stat. 349) Price $1.

H.R. 3928 / Pub. L. 96–248 To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico. (May 23, 1980; 94 Stat. 355) Price $1.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal Grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

34782 5–22–80 / DOT/FAA—Revision of airport aid program requirements; effective 5–22–80

34272 5–22–80 / HHS—Department wide administration of grants; revised cost principles; effective 5–22–80

34230 5–21–80 / Interior/BLM—Carey Act grants; Segregating and patenting public lands; effective 6–20–80

APPLICATIONS DEADLINES

34493 5–22–80 / CAB—Timely submission or preapplications under the Airport Development Aid Program; preapplications by 6–30–80

32751 5–19–80 / Commerce/MBDA—Financial Assistance Application Announcement; apply by 6–5–80

34948 5–23–80 / Commerce/NOAA—Funding for participation in two programs declining with marine pollution research and development and monitoring; applications closing date extended to 6–23–80

34070 5–21–80 / HHS/HDSO—Dissertation program aging; availability of funds; apply by 7–22–80

34250 5–21–80 / HHS/OASPE—National Channeling Demonstration Program; Announcement for long-term care system development grants; apply by 7–8–80

35032 5–23–80 / Justice/LEAA—Amendments to solicitation by the National Institute for Juvenile Justice and Delinquency Prevention; Part I applications deadline extended to 6–25–80; Part II applications deadline extended to 7–3–80

MEETINGS

34424 5–22–80 / HEW/ADAMHA—National advisory bodies; June meetings

34068 5–21–80 / HHS/Office of the Assistant Secretary for Health—Health Service Research Review Subcommittee, Washington, D.C (partially open), 6–19 and 6–20–80

34068 5–21–80 / HHS/Office of the Assistant Secretary for Health—Health Care Technology Study Section, Hyattsville, Md. (partially open), 6–9–80

34068 5–21–80 / HHS/Office of the Assistant Secretary for Health—Health-Services Developmental Grants Review Subcommittee, Washington, D.C. (partially open), 6–23 and 6–24–80

34091 5–21–80 / NFAH—Literature Panel, Durham, N.C. (partially open), 6–13 and 6–14–80

34091 5–21–80 / NFAH—Special Projects Panel (Folk Arts), Washington, D.C. (closed), 6–12 through 6–14–80

34091 5–21–80 / NFAH—Theatre Panel (Small Companies), Washington, D.C. (closed), 6–11 and 6–12–80

33748 5–20–80 / NSF—Mathematical and Computer Sciences Advisory Committee, Mathematical Sciences Subcommittee, Washington, D.C. (open), 6–10 and 6–11–80

33748 5–20–80 / NSF—Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Ocean Acoustic Tomography Project, Washington, D.C. (closed), 6–17 and 6–18–80

33748 5–20–80 / NSF—Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Biology and Eastern Equatorial Dynamics Project, Washington, D.C. (closed), 6–9 and 6–10–80

33749 5–20–80 / NSF—Social Sciences Advisory Committee, Washington, D.C. (closed), 6–9 and 6–10–80

OTHER ITEMS OF INTEREST

34210 5–21–80 / ED—Basic skills and educational proficiency programs

34152 5–21–80 / ED—Indian Education Act, revised programs regulations

32778 5–19–80 / HHS/HRA—Start-Up Assistance Grants, Health Careers Opportunity Grants, Nursing Capitation Grants and Nursing Special Project Grants

33728 5–20–80 / HHS–NIOSH—Cooperative Agreement Demonstration to conduct a State Occupational Health Surveillance System; correction

[*See* 45 FR 29639, 5–5–80]

33930 5–20–80 / Justice/LEAA—Response to public comment and notice of issuance of program announcement "Removing Juveniles from Adult Jails and Lock-Ups"

34090 5–21–80 / LSC—Grants and contracts; Tennessee; soliciting comments and recommendations

34092 5–21–80 / OMB—Mandatory information requirements for Federal assistance program announcements; effective 7–1–80

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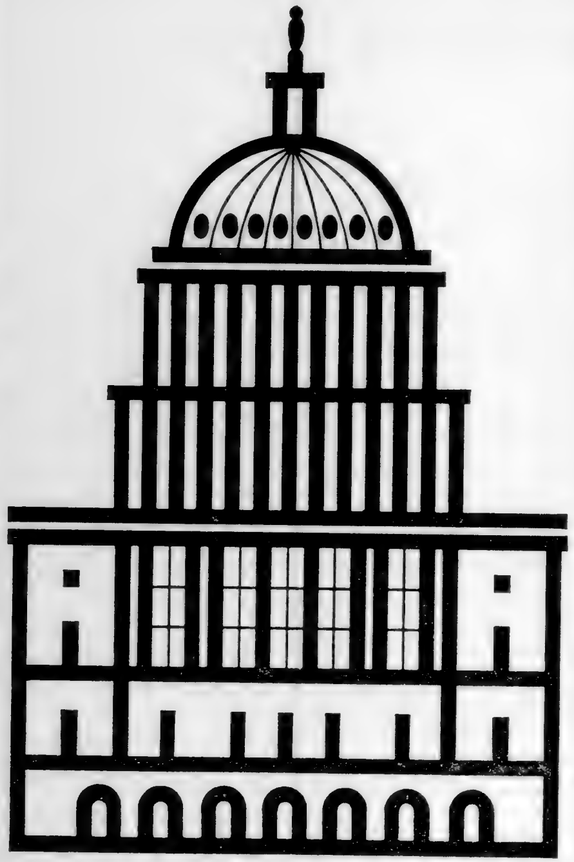

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5-29-80
Vol. 45 No. 105
Pages 36043-36346

Federal Register

Thursday
May 29, 1980

Highlights

36043 **Delegation of Panama Canal Functions** Executive order

36079 **Educational Study Programs** ED changes the regulations for certain programs in order to increase stipend amount which provides for a cost of living increase

36110 **Grants—Education** ED invites applicants for new awards under the State Postsecondary Commissions Program–Intrastate Planning; apply by 7–7–80

36109 **Grants—Education** ED announces closing date for transmittal of applications for continuous projects under Gifted and Talented Children's Education Program, apply by 6–27–80

36047 **Wage and Price Controls** CWPS publishes questions and answers on gross-margin standard for gas, electric and water utilities

36049 **Petroleum Price Regulations** DOE/ERA responds to comments applicable to retailers of motor gasoline; effective 5–19–80

36172 **Continental Shelf** Interior/GS issues proposed revision to standards for training and qualifications of personnel in well-control equipment and techniques for drilling on offshore locations; comments by 7–28–80

CONTINUED INSIDE

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

36179, 36180 **Continental Shelf** Interior/GS issues receipt of proposed development and production plan for oil, gas and sulphur operations (7 documents)

36058 **Air Carriers** CAB adopts statement policy on price discrimination; effective 6–27–80

36082 **Nuclear Power Plants** NRC proposes to require certain minimum provisions for fire protection; comments by 6–30–80

36075 **Securities** SEC adopts requirements for persons filing applications for extension, suspension, or termination of unlisted trading privileges; effective 7–1–80

36063 **Government Employees** SEC revises its conduct regulations; effective 6–2–80

36099 **Water Pollution Control** EPA approves ocean dumping site for aqueous acid waste; comments by 7–28–80

36322, 36327 **Vessels** DOT/CG issues notices regarding various lifesaving equipment, construction, and materials used on vessels (2 documents) (Part II of this issue)

36094 **Trial-Type Proceedings** DOE/FERC proposes controlling *ex parte* communications; comments by 6–27–80

36107 **Cotton Apparel** CITA increases level of restraint for exports from Mexico and India (2 documents)

36256 **Sunshine Act Meetings**

Separate Parts of This Issue

36322 **Part II, DOT/CG**
36332 **Part III, Interior/FWS**
36338 **Part IV, FTC**

Contents

Federal Register
Vol. 45, No. 105
Thursday, May 29, 1980

The President
EXECUTIVE ORDERS
36043 Panama Canal functions, delegation (EO 12215)

Executive Agencies

Agricultural Marketing Service
RULES
36048 Oranges (navel) grown in Ariz. and Calif.
36048 Oranges (Valencia) grown in Ariz. and Calif.
36049 Peaches grown in Ga.

Agriculture Department
See Agricultural Marketing Service; Forest Service.

Air Force Department
NOTICES
Environmental statements; availability, etc.:
36108 Duluth International Airport, Minn.; proposed closure of active Air Force units; meeting

Army Department
See Engineers Corps.

Arts and Humanities, National Foundation
NOTICES
Meetings:
36231 Humanities Panel

Bonneville Power Administration
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
36112 Cottage Grove-Drain Tap Point Substation, Oreg.; proposed sale

Civil Aeronautics Board
RULES
Air carriers, certificated:
36058 Price discrimination, and "status" fares; policy statements
NOTICES
36101 Domestic passenger fares; expanded flexibility; motion for immediate implementation dismissed Hearings, etc.:
36102 Southwest Airline Subpart Q proceeding

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
36102 Delaware

Coast Guard
NOTICES
36327 Equipment, construction, and material approval terminations; list
36322 Equipment, construction, and material approvals; list

Commerce Department
See International Trade Administration.

Commodity Futures Trading Commission
PROPOSED RULES
Reports:
36094 Futures commission merchants; foreign brokers and traders accounts; market information; correction
NOTICES
36256 Meetings; Sunshine Act

Defense Department
See Air Force Department; Engineers Corps.

Depository Institutions Deregulation Committee
NOTICES
36256 Meetings; Sunshine Act

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
36049 Motor gasoline; retailer price rule
PROPOSED RULES
Petroleum allocation and price regulations:
36090 Middle distillates; mandatory production levels; proceeding terminated
NOTICES
Consent orders:
36118 F.L. Roberts & Co., Inc.
36112 Quintin Little Co.
36113 St. Barnabas Exxon et al.
36119 Union Texas Petroleum Corp.
36119 Vaughn Petroleum, Inc.

Education Department
RULES
36079 Graduate and professional opportunities program, public service education program, and domestic mining and mineral and mineral fuel conservation fellowships program; stipend increase
NOTICES
Grant applications and proposals, closing dates:
36110 Bilingual education program; correction
36109 Gifted and talented children's education program, professional development projects
36110 State Postsecondary Education Commissions program; intrastate planning

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
RULES
36053 Contract Adjustment Board rules; appeals
NOTICES
Environmental statements; availability, etc.:
36111 Reduced-enrichment-uranium fuel in research and test reactors; demonstration program on production and use
International atomic energy agreements; civil uses; subsequent arrangements:
36159 Sweden

Meetings:
36112 International Energy Agency Industry Advisory Board

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
36108 West Richmond Channel-Richmond Longwharf Manuevering Area project, San Francisco, Marin and Contra Costa Counties, Calif.

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationery sources:
36077 Fossil fuel-fired steam generators; adjustment of opacity standard
PROPOSED RULES
Water pollution control:
36099 Ocean dumping; New York Bight existing acid wastes dump site; designation as aqueous acid wastes disposal site
NOTICES
Water pollution control:
36166 Zinc and copper; analysis of pollutants; testing procedures

Federal Aviation Administration
RULES
Airworthiness directives:
36054 Beech; correction
36054–36057 Transition areas (6 documents)
PROPOSED RULES
Airworthiness directives:
36091 Tachometers, mechanically actuated, installed in certain small aircraft; advance notice
36092, 36093 Transition areas (2 documents)

Federal Deposit Insurance Corporation
NOTICES
36256 Meetings; Sunshine Act (4 documents)

Federal Election Commission
NOTICES
36257 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood insurance; special hazard areas:
36078 Alabama et al.

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
36076 Ceiling prices; maximum lawful prices for certain catgories of natural gas; applications for rehearing denied
PROPOSED RULES
Practice and procedures:
36094 Ex parte communications and separation of functions; uniform rules for trial-type proceedings
NOTICES
Hearings, etc.:
36120 Brain, Robert E., et al.
36120 Connecticut Light & Power Co.
36120 Connecticut Light & Power Co. et al.
36125 El Paso Electric Co.
36125 Florida Power & Light Co.
36125 Green Mountain Power Corp.
36126 Hartford Electric Light Co.
36126 Hartford Electric Light Co. et al.
36126 H & K Oil Co.
36127 Hydroelectric Constructors, Inc.
36128 Morgan, George J.
36119 National Fuel Gas Supply Corp. et al.
36153 Northeast Oklahoma Electric Cooperative, Inc.
36153 Northern Natural Gas Co.
36155 Southeastern Power Administration et al.
36157 Texas Oil & Gas Corp.
36158 Virginia Electric & Co.
36158 Webster, John N., et al.
36159 West Lake Arthur Distribution Co.
36159 White, Willis S.
36257 Meetings; Sunshine Act
Natural Gas Policy Act of 1978:
36121, 36128 Jurisdictional agency determinations (2 documents)

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
36253 Johnson County, Tex.; intent to prepare

Federal Maritime Commission
NOTICES
36167 Agreements filed, etc.
Casualty and nonperformance, certificates:
36167 Explorer Cruise Lines
36167 Western Cruise Lines et al.

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
36053 Early withdrawal penalty; temporary suspension for depositors in Missouri disaster area
NOTICES
Applications, etc.:
36167 Chase Manhattan Corp. et al.
36168 Cross Financial Corp.
36168 Las Vegas Bancorporation
36168 Marine Corp.
36169 Roger Billings, Inc.
36169 United Whitley Corp.
36258 Meetings; Sunshine Act

Federal Trade Commission
RULES
Procedures and practice rules:
36338 Organization; general procedures; nonadjudicative procedures; and miscellaneous rules
Prohibited trade practices:
36062 Commercial Lighting Products, Inc.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
36254 Florida Farm Bureau Mutual Insurance Co.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
36332 Mountain golden-heather

Forest Service
NOTICES
Environmental statements; availability, etc.:
36101 Alaska region, land and resource management plan; intent to prepare

General Services Administration
RULES
Property management:
36077 Utilization of excess personal property; minimum dollar reporting criteria and direct transfer dollar criteria, increase; etc.

Geological Survey
NOTICES
Meetings:
36180 National Petroleum Reserve Alaska; CDP seismic data acquisition program
Outer Continential Shelf; oil, gas, and sulphur operations:
36172 Well-control equipment and techniques for offshore drilling; personnel training and qualifications
Outer Continential Shelf; oil, gas, and sulphur operations; development and production plans:
36179 ARCO Oil & Co. (2 documents)
36179 Chevron U.S.A. Inc.
36179 Exxon Co. U.S.A.
36180 Mesa Petroleum Co. (2 documents)
36180 Transco Exploration Co.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Health Care Financing Administration; Public Health Service.
NOTICES
Meetings:
36169 White House Conference on Families

Health Care Financing Administration
PROPOSED RULES
Medicare:
36100 Reasonable charge limitations; decision to develop regulations

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
36160, 36162 Cases filed (2 documents)
36161, 36163–36165 Decisions and orders (4 documents)
Remedial orders:
36165, 36166 Objection filed (2 documents)

Interior Department
See Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service; Water and Power Resources Service.

International Trade Administration
NOTICES
Antidumping:
36102 Portland cement, other than white, nonstaining portland cement, from Sweden
Meetings
36105, 36106 Computer Systems Technical Advisory Committee (3 documents)
36104 President's Export Council
Scientific articles; duty free entry:
36103 Food and Drug Administration
36103 Pennsylvania State University
36104 University of Denver
36104 University of Hawaii

International Trade Commission
NOTICES
36229 Countervailing duty orders; review requests receipt
36230, 36231 Harmonized commodity description and coding system; draft (2 documents)
Import investigations:
36229 Adjustable window shades and components
36228 Anhydrous sodium metasilicate from France
36228 Cathode sputter coated glass transparencies
36228 Mushrooms; cancellation of prehearing conference

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
36080 St Maries River Railroad Co.
NOTICES
36225 Hearing assignments
Motor carriers:
36225 Agricultural cooperative transportation; filing notices
36182 Permanent authority applications
36227 Operating rights applications
36210 Temporary authority applications
36227 Railroad applications for long and short haul relief (3 documents)

Land Management Bureau
NOTICES
Applications, etc.:
36172 Wyoming
Coal leases, exploration licenses, etc.:
36171 Montana
Meetings:
36171 Winnemucca District Grazing Advisory Board
Withdrawal and reservation of lands, proposed, etc.:
36172 Montana

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
36181 Santa Monica Mountains National Recreation Area, Calif.
Meetings:
36181 San Antonio Missions Advisory Commission

National Transportation Safety Board
RULES
Organization, functions, and authority delegations:
36080 Air safety proceedings and merchant marine appeals submissions; address changes
NOTICES
36232 Accident reports, safety recommendations and responses, etc.; availability
Organization and functions:
36235 Administrative Law Judges Office and Dockets Section; address change

V 45 M Y 29 80 UMI

36235 Senior Executive Service Performance Review Board; membership
Railroad accidents:
36235 Oakland, Calif.; investigation hearing

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
36082 Fire protection program (plants operating before January 1, 1979)
NOTICES
Applications, etc.:
36237 American X-Ray & Inspection, Inc.
36238 Diagnostic Isotopes, Inc
36241 Florida Power & Light Co
36235 Gulf States Utilities Co.
36241 Indiana & Michigan Electric Co.
36236 Jersey Central Power & Light Co.
36241 Nebraska Public Power District
36242 Southern California Edison Co. et al
36237 Transnuclear, Inc., et al.
36243 Virginia Electric & Power Co. (2 documents)
Meetings:
36237 Reactor Safeguards Advisory Committee
36240, 36242 Regulatory guides; issuance and availability (2 documents)
36236 Standard review plan; issuance and availability

Occupational Safety and Health Review Commission
NOTICES
36258 Meetings: Sunshine Act (2 documents)

Public Health Service
NOTICES
36170 Privacy Act; systems of records

Railroad Retirement Board
NOTICES
36258 Meetings; Sunshine Act

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
36254 Applications; exemptions, renewals, etc.; correction
Meetings:
36254 Technical Pipeline Safety Standards Committee

Securities and Exchange Commission
RULES
36063 Conduct standards; comprehensive revision
36075 Unlisted trading privileges; application procedures for extension, suspension, or termination
NOTICES
Hearings, etc.:
36248 Colonial Gas Energy System et al.
36247 General Public Utilities Corp. et al.
36251 Nationwide Life Insurance Co. et al
36246 Neuberger & Berman Management Inc. et al.
36249 New England Power Co.
36244 Tishman Liquidating Corp.
36244 Wagner Electric Corp.
36250 World Airways, Inc.
36258 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
36245 Midwest Stock Exchange, Inc.
36245 National Securities Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
36244 Midwest Stock Exchange, Inc.

Textile Agreements Implementation Committee
NOTICES
Cotton textiles:
36107 India
36107 Mexico

Trade Representative, Office of United States
NOTICES
36243 Generalized System of Preferences; articles eligible for duty-free treatment; petition request deadline

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration, Transportation Department; Urban Mass Transportation Administration.

Treasury Department
See Fiscal Service.

Urban Mass Transportation Administration
NOTICES
Environmental statements; availability, etc.:
36254 Jacksonville, Fla., downtown people mover; intent to prepare

Wage and Price Stability Council
RULES
36047 Gas, electric, and water utilities; gross-margin standard; questions and answers

Water and Power Resources Service
NOTICES
Contract negotiations:
36181 Broadview Water District, Calif.

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
36231 Humanities Panel, 6–16 through 6–20, 6–23 and 6–24–80

CIVIL RIGHTS COMMISSION
36102 Delaware Advisory Committee, 6–17–80

COMMERCE DEPARTMENT
International Trade Administration—
36105 Computer Systems Technical Advisory Committee, Foreign Availability Subcommittee, 6–18–80
36105 Computer Systems Technical Advisory Committee, Hardware Subcommittee, 6–17–80
36106 Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee, 6–18–80
36104 President's Export Council, East-West Trade Subcommittee, 6–16–80

ENERGY DEPARTMENT
36112 Industry Advisory Board to the International Energy Agency, Subcommittee A, 6–5 and 6–6–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Office of the Secretary—
36169 White House Conference on Families, 6–5 through 6–7–80; 6–19 through 6–21; and 7–10 through 7–12–80

INTERIOR DEPARTMENT
Fish and Wildlife Service—
36332 Endangered and Threatened Wildlife and Plants, Hudsonia Montana Determination, 7–1–80
Land Management Bureau—
36171 Winnemucca District Grazing Advisory Board, 7–9–80
National Park Service—
36181 San Antonio Missions Advisory Commission, 6–17–80

NUCLEAR REGULATORY COMMISSION
36237 Advisory Committee on Reactor Safeguards, Advanced Reactors Subcommittee, 6–13–80

TRANSPORTATION DEPARTMENT
Materials Transportation Bureau—
36254 Technical Pipeline Safety Standards Committee, 6–17 through 6–20–80

V 45 MY 29 80 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
11609 (Amended by EO 12215)....36043
11713 (Revoked by EO 12215)....36043
12215....36043

6 CFR
705....36047

7 CFR
907....36048
908....36048
918....36049

10 CFR
210....36049
212....36049
703....36053
1023....36053
Proposed Rules:
50....36082
211....36090

12 CFR
217....36053

14 CFR
39....36054
71 (6 documents)....36054–36057
399....36058
Proposed Rules:
39....36091
71 (2 documents)....36092, 36093

16 CFR
0....36338
1....36338
2....36338
4....36338
13....36062

17 CFR
200....36063
240....36075
Proposed Rules:
21....36094

18 CFR
271....36076
Proposed Rules:
1....36094
2....36094
3c....36094

40 CFR
60....36077
Proposed Rules:
228....36099

41 CFR
101–43....36077
101–44....36077

42 CFR
Proposed Rules:
Ch. IV....36100

44 CFR
65....36078

45 CFR
179....36079
194....36079
196....36079

49 CFR
800....36080
1033....36080

50 CFR
Proposed Rules:
17....36332

Federal Register
Vol. 45, No. 105
Thursday, May 29, 1980

Presidential Documents

Title 3—

The President

Executive Order 12215 of May 27, 1980

Delegation of Panama Canal Functions

By the authority vested in me as President of the United States of America by the Panama Canal Code (76A Stat. 1), as amended, by the Panama Canal Act of 1979 (93 Stat. 452; 22 U.S.C. 3601 *et seq.*), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–1. The Secretary of Defense.

1–101. The Secretary of Defense shall develop for the President's consideration an appropriate legislative proposal as required by Section 3(d) of the Panama Canal Act of 1979 (93 Stat. 456; 22 U.S.C. 3602(d)). The Secretary of Defense shall coordinate development of this proposal with the Secretary of State and the heads of other interested Executive agencies.

1–102. The function vested in the President by Section 1212(d)(1) of the Panama Canal Act of 1979 (93 Stat. 464; 22 U.S.C. 3652(d)(1)) to exclude employees of, or positions within, the Department of Defense from coverage under any provision of subchapter II, Chapter 2 of Title I of the Panama Canal Act of 1979, is delegated to the Secretary of Defense.

1–103. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–104. The function vested in the President by Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801), with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, is delegated to the Secretary of Defense.

1–105. The functions vested in the President by Sections 1243(c)(1) and 2401 of the Panama Canal Act of 1979 (93 Stat. 474 and 495; 22 U.S.C. 3681(c)(1) and 3851) are delegated to the Secretary of Defense.

1–106. The functions vested in the President by Section 1502(a) of the Panama Canal Act of 1979 (93 Stat. 488; 22 U.S.C. 3782(a)) are delegated to the Secretary of Defense.

1–2. Coordination of Pay and Employment Practices.

1–201. In order to coordinate the policies and activities of agencies under subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463; 22 U.S.C. 3651 *et seq.*), each agency shall periodically consult with the Secretary of Defense with respect to the establishment of rates of pay, in order to develop compatible or unified systems for basic pay. In addition, each agency shall consult with the Secretary of Defense on such other matters as the Secretary may deem appropriate in order to develop compatible or unified employment practices.

1–202. The head of each agency shall, upon approval by the Secretary of Defense, adopt a schedule of basic pay pursuant to Section 1215 of the Panama Canal Act of 1979 (93 Stat. 465; 22 U.S.C. 3655) and adopt regulations governing other matters relating to pay and employment practices.

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1–203. The authority vested in the President by Section 1223(a) of the Panama Canal Act of 1979 to coordinate the policies and activities of agencies (93 Stat. 467; 22 U.S.C. 3663(a)) is delegated to the Secretary of Defense. The Secretary shall exercise such functions in a manner which is in accord with the provisions of Sections 1–201 and 1–202 of this Order.

1–3. Panama Canal Commission.

1–301. The functions vested in the President and delegated to the Secretary of Defense in this Section 1–3 of this Order shall be carried out by the Secretary of Defense, who shall, in carrying out the said functions, provide, by redelegation or otherwise, for their performance, in a manner consistent with paragraph 3 of Article III of the Panama Canal Treaty of 1977, by the Panama Canal Commission.

1–302. The authority of the President under Section 1104 of the Panama Canal Act of 1979 (93 Stat. 457; 22 U.S.C. 3614) to fix the compensation of and to define the authorities and duties of the Deputy Administrator and the Chief Engineer is delegated to the Secretary of Defense.

1–303. The functions vested in the President by Sections 1418, 1801, and 2206 of the Panama Canal Act of 1979 (93 Stat. 487, 492, and 494; 22 U.S.C. 3778, 3811, and 3844) are delegated to the Secretary of Defense.

1–304. The authority of the President under Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801) with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–305. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations in the Republic of Panama made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–306. The functions vested in the President by Sections 82 and 86 of Title 3 of the Panama Canal Code (76A Stat. 54 and 55; 3 P.C.C. 82 and 86), as amended, are delegated to the Secretary of Defense.

1–307. The functions vested in the President by subsections (a), (b) and (c) of Section 8146 of Title 5 of the United States Code, as they apply to the employees of the Panama Canal Commission, are delegated to the Secretary of Defense.

1–308. Except to the extent heretofore delegated, the functions vested in the President pursuant to subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463) are hereby delegated to the Secretary of Defense.

1–4. Other Agencies.

1–401. The functions vested in the President by Sections 1111 and 3301 of the Panama Canal Act of 1979 (93 Stat. 459 and 497; 22 U.S.C. 3621 and 3871), are delegated to the Secretary of State. The Secretary shall perform these functions in coordination with the Secretary of Defense.

1–402. The functions vested in the President by Sections 1112(d), 1344(b), and 1504(b) of the Panama Canal Act of 1979 (93 Stat. 460, 484, and 488; 22 U.S.C. 3622(d), 3754(b), and 3784(b)) are delegated to the Secretary of State.

1–403. The functions vested in the President by Section 1243(a)(1) of the Panama Canal Act of 1979 (93 Stat. 473; 22 U.S.C. 3681(a)(1)) are delegated to the Director of the Office of Personnel Management.

1–404. Paragraphs (22) and (23) of Section 1 of Executive Order No. 11609, as amended, and Executive Order No. 11713 are revoked.

Jimmy Carter

THE WHITE HOUSE,
May 27, 1980.

[FR Doc. 80–16422
Filed 5–27–80; 3:44 pm]
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Rules and Regulations

Federal Register
Vol. 45, No. 105
Thursday, May 29, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflationary Price Standards; Questions and Answers on Gross-Margin Standard for Utilities; Amendment and Additions

AGENCY: Council on Wage and Price Stability.

ACTION: Amendment and Additions to Questions and Answers on Gross-Margin Standard for Gas, Electric and Water Utilities. (Q&A II–C–1 through II–C–5; 44 FR 67060, November 21, 1979.)

SUMMARY: The Council is changing Q&A II–C–5 to provide that, subject to public utility commission (PUC) approval, a portion of the revenues attributable to the incorporation in rate base of additional construction work in progress or net plant in service need not be included in program year gross margins. In addition, the Council is adding Q&A II–C–6, providing that savings in fuel costs made possible by the introduction of new plant may, within limits, be deducted from the revenues otherwise included in the gross margin, and Q&A II–C–7, providing that the costs and revenues associated with incidental sales of steam by electric utilities may be included within the electric operations for purposes of computing gross margins.

DATES: Effective on May 29, 1980. Comments are requested by June 13, 1980.

ADDRESS: Written comments should be sent to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Arthur J. Corazzini, Office of Price Monitoring, (202) 456–7730 or George Johnson, Office of General Counsel, (202) 456–6286.

SUPPLEMENTARY INFORMATION: The Council's gross margin standard for electric, gas and water utilities defines gross margin as "sales less the cost of purchased fuels, gas and power" (for electric and gas utilities), or as "sales less the cost of purchased water and power" (for water utilities).

Q&A II–C–5 currently states that, in determining gross margins, utilities should include revenues attributable to inclusion in the rate base of additions to construction work in progress (CWIP) and new facilities transferred to plant in service, unless an exception is granted by the Public Utility Commission (PUC). Representatives of the electric utility industry have argued that this policy unduly burdens utilities with major construction programs. They point out that Allowances for Funds used During Construction (AFDC) are customarily accounted for "below the line", as non-operating income. As a result, AFDC attributable to such construction is not included in a utility's base-year sales revenue or gross margin, as these terms are defined by the Council. On the other hand, program-year revenues attributable to including additional CWIP or new plant in service in the rate base are included in a utility's program-year sales revenues and its gross margin. Under current Q&A II–C–5, therefore, utilities that have engaged in substantial new construction but that have not enjoyed corresponding increases in sales volume typically require an exception from the gross margin standard. If such exceptions are not freely granted, the gross margin standard can be unduly constraining.

The new Q&A's 5 and 6 eliminate any unintended special burden on utilities with substantial construction projects. If a PUC finds, under its usual and customary policies and new Q&A's II–C–5 and 6, that a utility meets the gross margin standard, then the utility is spared the necessity of demonstrating that it satisfied the usual criteria for qualifying for an uncontrollable cost, undue hardship, or gross inequity exception. The Council is *not* asking the PUC's to change their policies; in particular, it is not asking them to include more CWIP in rate bases than they would ordinarily do. If a PUC does change its policy with respect to such additions to the rate base, however, it should include in its decision an explanation of the reasons for the change in policy.

The new Q&A's II–C–5 and 6 leave the ultimate responsibility for determining compliance with the anti-inflation standards to the PUC's but they give utilities provisions for the treatment of program year revenues attributable to rate base additions of CWIP and net plant in service, and of fuel savings resulting from the introduction of more fuel-efficient plant, in calculating whether a rate increase proposed or allowed is in compliance with the gross margin standard. As described in Q&A 5, utilities may adjust their program-year gross margin to exclude the revenues required to cover the return on additional CWIP or net plant included in the rate base. The only requirement for them to exercise this option is that it be consistent with the PUC's usual and customary policies and practices in this area. If what is involved is a change in the PUC policy for the inclusion of CWIP and net additions to plant in service in rate base, they should seek an exception from the PUC and justify it.

Q&A II–C–6 is directed to a related problem. New plant is frequently more energy-efficient than the plant it replaces. It thus contributes to the national goal of reducing energy consumption. Under the gross margin standard as currently interpreted, however, utilities receive no credit for reducing energy costs. They may thus be penalized for substituting capital costs (which are within the gross margin) for fuel costs (which are not). Q&A II–C–6 makes it clear that the program-year realized gross margin may be adjusted to reflect fuel savings, but is so drafted that they not be permitted to take advantage of those savings twice—once (under Q&A 5) by excluding the additional return requirement associated with the new plant, and again (under 6) by taking full credit for the fuel savings that that plant generates.

Q&A II–C–7 responds affirmatively to inquiries from electric companies about whether they may be permitted to include in the computation of their gross margins costs and revenues associated with small sales of steam.

Issued in Washington, D.C., May 23, 1980

R. Robert Russell,

Director.

The Council hereby revises Q&A II–C–5 (44 FR 67066) and publishes Q&A's II–C–6 and 7 as follows:

Q5. Under the gross margin standard, how should utilities treat program-year revenues that are attributable to the inclusion in the rate base of additional construction work in progress (CWIP) and/or new facilities completed and transferred to plant-in-service since the base year?

A5. A utility applying the gross margin standard may, subject to approval by its PUC, adjust its program-year gross margin by excluding from program year sales all of the revenues that can be expected, under the utility's usual and customary method of accounting, to result from multiplying (a) an increase in rate base attributable to the inclusion of construction work in progress and additions to net plant in service since the base year by (b) the rate of return expected to be realized in the program year.

Q6. Under the gross margin standard, how should utilities treat net reductions in the cost of purchased power and fuel that result from introducing more fuel-efficient plant since the base year?

A6. The realized program year gross margin may be adjusted downward by the amount of estimated fuel savings in the program year, up to the amount by which those savings exceed the additional costs of the new plant recognized in Q&A5.

Q7. If sales of steam by an electric utility produce only a small proportion of its revenues, may it include its steam operations with its electric operations in calculating its gross margin?

A7. Yes.

[FR Doc. 80-16423 Filed 5-28-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 495]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 30, 1980–June 5, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 30, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&B, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 27, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges continues to ease.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.795 is added as follows:

§ 907.795 Navel Orange Regulation 495.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period May 30, 1980, through June 5, 1980, are established as follows:

(1) District 1: 600,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 28, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16568 Filed 5-28-80; 12:06 pm]

BILLING CODE 3410-02-M

7 CFR Part 908

[Valencia Orange Reg. 648]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 30–June 5, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 27, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is easing.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 908.948 is added as follows:

§ 908.948 Valencia Orange Regulation 648.

Order. (a) The quantities of Valencia oranges in Arizona and California which may be handled during the period May 30, 1980 through June 5, 1980, are established as follows:

(1) District 1: 376,000 cartons;
(2) District 2: 424,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 28, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16567 Filed 5-28-80; 12:06 pm]

BILLING CODE 3410-02-M

7 CFR Part 918

Fresh Peaches Grown in Georgia; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and rate of assessment for the 1980–81 fiscal period, to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order covering Georgia peaches. It also authorizes an increase in expenses of the committee for the 1979–80 fiscal period.

EFFECTIVE DATES: The 1979–80 fiscal period ended February 29, 1980, and the 1980–81 fiscal period began March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* These actions are issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918) regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based on recommendations and information submitted by the Industry Committee, and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until June 30, 1980 (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable peaches handled from the beginning of such year. To enable the committee to meet financial obligations for the 1979–80 and 1980–81 fiscal periods, approval of the actions specified herein is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views at an open meeting. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

PART 918—FRESH PEACHES GROWN IN GEORGIA

Therefore, 1. paragraph (a) of § 918.217 (44 FR 28777) is amended to read as follows:

§ 918.217 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the period March 1, 1979, through February 29, 1980, will amount to $17,550.

(b) * * *

2. A new § 918.218 is added to read as follows: (§ 918.218 expires February 28, 1981, and will not be published in the annual Code of Federal Regulations).

§ 918.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the period March 1, 1980, through February 28, 1981, will amount to $17,995.

(b) The rate of assessment for said period payable by each handler in accordance with § 918.41 is fixed at $0.0125 per bushel (48 pounds net weight) of peaches.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 22, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16285 Filed 5-28-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 210 and 212

[Docket No. ERA-R-79-32]

General Allocation and Price Rules and Mandatory Petroleum Price Regulations; Retailer Price Rule for Motor Gasoline

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Final rule and response to major public comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is responding to the major comments, criticisms, and alternatives offered during the period for comment upon its July 1979 amendments to the price regulations applicable to retailers of motor gasoline. After consideration of the comments we are

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repromulgating the regulations currently in effect, with the exception of § 212.93(a)(3), relating to the delegation of authority to State Governors, which is being rescinded in favor of vesting similar authority in the ERA Administrator.

EFFECTIVE DATE: May 19, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–4055.

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7302, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3202.

William Funk or Jeffrey D. Stoermer, (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6736 or 252–6911.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Response to Comments.
III. Conclusion.

I. Background

On June 22, 1979, ERA issued a notice of proposed rulemaking and public hearing (44 FR 27316, June 26, 1979) proposing changes in its retailer price regulations for motor gasoline, as well as alternative regulatory schemes. Hearings were held in San Francisco, California on July 10 and 11 and in Washington, D.C. on July 12 and 13 with nearly 100 witnesses presenting testimony in regard to these proposals. In addition, more than 400 written comments were submitted in conjunction with the proposed rulemaking.

On July 15, 1979, ERA issued a final rule (44 FR 42541, July 19, 1979) adopting the following amendments to the retailer price regulations for motor gasoline, effective July 16, 1979.

1. The maximum lawful selling price for retail sales of each type or grade of gasoline was to be the acquisition cost, plus applicable taxes, plus 15.4 cents per gallon.

2. The acquisition cost for firms which had made their last three purchases from the same supplier was to be the price paid in the most recent purchase of gasoline. All other firms were to use the weighted average price paid in their last three (3) purchases of gasoline in determining their acquisition cost. DOE retained the authority to disallow from the acquisition cost computation purchases of amounts of gasoline which would have the effect of frustrating the purpose of the price regulations.

3. Retail dealers were not to be allowed to pass through current and prospective "banks" of unrecovered costs.

4. The Governor of a State was allowed to increase the margin charged by retailers in that State.

5. Retailers were to post in a prominent place their maximum allowable margin and the maximum allowable price permitted under these regulations. At that time we also extended the written comment period for this rule through November 16, 1979.

On July 30, 1979, we issued a notice of further hearing (44 FR 45957, August 6, 1979) in this rulemaking to receive oral comments dealing with the delegation of authority to the Governors to grant increases in the allowable margins for retail dealers. A hearing was held on August 20, 1979, in Chicago, Illinois, at which sixteen witnesses testified. Twenty-eight additional written comments were submitted before the end of the extended comment period.

On July 30, 1979, we issued interim rules (44 FR 45352, August 1, 1979) amending the posting requirements applicable to gasoline retailers. The interim amendments suspended the posting requirements we had adopted on July 15, 1979, and instead required that all retail sellers of gasoline post either the maximum lawful selling price or a certification that the retail seller had computed its maximum lawful selling price and that its actual selling price is not in excess of the maximum lawful selling price. The postings were required to be located either on the gasoline pump or in a prominent place at the retail outlet. In addition, to aid in the enforcement of the new price rule, we provided that if any retailer fails to comply with the posting requirements DOE could require that the maximum lawful selling price of that retailer be reduced by five cents per gallon for each day of violation, plus an additional 30 days. These amendments were adopted in response to numerous comments we received from retail gasoline dealers who criticized our earlier posting requirements for their anticompetitive effect. In order to fully consider all public comments, these amendments were adopted on an interim basis, and comments were accepted through November 16, 1979.

On October 18, 1979, we issued technical amendments to the posting requirements in response to comments from gasoline dealers who experienced difficulty in meeting the size and location aspects of the posting requirements (44 FR 61169, October 24, 1979). These amendments merely altered the size and location requirements to ease the burden of compliance.

In adopting the final rule effective July 16, 1979, we waived certain procedural requirements of section 501 of the Department of Energy Organization Act (DOE Act), 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91. In accordance with section 501(e) of the DOE Act, this waiver was based upon our finding that strict compliance with these requirements at that time was likely to cause serious harm or injury to the public health, safety or welfare. Section 501(e) further provides that even though a requirement is waived, it must still be satisfied within a reasonable period of time subsequent to the promulgation of the rule. This notice is being published to satisfy the section 501(d) requirement that we publish an "explanation responding to the major comments, criticisms, and alternatives offered during the comment period."

II. Response to Comments

A. *Proposed Amendments:*

1. *Maximum Lawful Markup Expressed as Fixed Cents per Gallon.*—Retail dealers that commented generally agreed that certain of their costs have risen more rapidly than inflation. A few dealers offered personal or local cost data, but none of the dealers offered standard nationwide, regional, or local non-product cost averages in support of their arguments for higher markups. Representatives of city, State, and Federal governmental agencies, as well as consumers and public interest representatives, generally called for tight limits on retail gasoline markups. The method which we decided to adopt for calculating markups uses as a base figure the average margin of all retail stations in the U.S. in the first quarter of 1974 (7.5 cents per gallon). Added to this base figure is the maximum allowable passthrough of increased non-product costs (3 cents per gallon) which was granted in March 1974. This March 1974 average margin (10.5 cents per gallon) is then adjusted periodically for inflation as measured by the GNP deflator. The inflation adjustments added 4.9 cents per gallon in July 1979 and 0.7 cents per gallon in December 1979, so that the current maximum allowable markup is 16.1 cents per gallon. We believe that this is the most equitable method of calculating retailer markups because both retailers and motorists are reasonably protected. Most retailers, who so far have failed to demonstrate that their overall non-product costs have risen at a rate greater than that of general inflation, are permitted to raise prices sufficiently to cover their costs. Those retailers who may be able to show excessively high non-product costs always have the option of seeking exceptions relief. The motorists, on the other hand, are assured that out of the price they pay at the pump, the amount attributable to the retailer's margin will not increase faster than prices in general.

Some commenters, predominantly retailers, suggested that a percentage markup rather than a cents per gallon markup should be utilized. Among those who preferred a percentage markup, however, most stated that they would find a cents per gallon markup acceptable if tied to an inflation index. Other commenters, mostly consumers, public interest representatives, and government officials, were skeptical of percentage markups. Our decision to utilize a cents per gallon markup, adjustable semiannually according to an inflation index, should therefore be acceptable to nearly all commenters. Moreover, the cents per gallon approach is preferable on grounds of simplicity. Retailers could simply add the published cents per gallon markup to their acquisition cost and need not recalculate markups each time their product costs change. Consumers, on the other hand, could more easily monitor retail prices to ensure that retailers are keeping within the allowable markup. We also prefer the cents per gallon approach because of our concern about the fact that the non-product costs of retailing gasoline (which the retailer pays out of his markup) have not increased nearly as fast as product costs, and that this trend will continue. If markups based on a percentage of product costs were used, such markups would give the retailer an unjustified windfall to the extent his product costs increased faster than his non-product costs.

Comments from smaller gasoline dealers and jobbers, particularly from rural areas, suggested a need for regional or local differences in markups due to regional and local differences in the costs of retailing. In the interests of uniformity and simplicity we have adopted a single markup for all regions. We recognize, however, that certain cases might arise where a higher markup is justified to prevent economic hardship. In such cases, DOE's Office of Hearings and Appeals (OHA) is the primary route for granting relief, either to individual retailers or to classes of retailers, through the exceptions process. In addition, since July 16, 1979, we have allowed each Governor limited authority to increase markups for retailers in his State by up to ten cents per gallon, where such increase is cost justified. Exercise of this authority has been voluntary on the part of the Governors. The delegation to the Governors was designed to provide a localized exceptions process in addition to that already provided by OHA. Although we have now decided to rescind the Governors' authority, we remain convinced of the need for a vehicle in addition to OHA which could provide relief for hardships that might arise due to local and regional differences in the costs of retailing. As discussed more fully below, we have accordingly provided that the ERA Administrator may, upon the recommendation of the Governor of a State, increase the markup for some or all of the retailers in a State.

At least one commenter observed that any markup which is applied across the board, without being justified by actual non-product cost increases, would be inequitable in that it could mean higher prices for consumers and higher profits for any retailer whose costs fall below the allowable markup. While we recognize that some retailers may realize slightly higher profits due to the allowance of a nationwide fixed cents per gallon markup, we believe that on balance the simplicity of the approach adopted, in terms of both its administration and enforcement, outweighs the possibility that some retailers may enjoy higher profits. Even though the rules we have adopted do not achieve the impossible goal of perfect equity, we continue to believe that our rules fulfill the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act (EPAA) in that our rules provide for prices that are equitable to the maximum extent practicable while minimizing unnecessary interference with market mechanisms.

2. *Product Cost Banks Eliminated.*—Wide support for the elimination of all unrecouped increased product costs ("banks") was evident in the comments, provided a sufficient increase in the markups for gasoline at retail was allowed. Very few comments defended cost banks. The predominant views expressed in the comments, therefore, are consistent with the amendments we have adopted, which eliminate all product cost banks and provide for increases in the allowable markup as inflation increases.

3. *Eliminate Use of Weighted Average Cost of Inventory in Favor of Most Recent Acquisition Cost.*—Most comments advocated eliminating the use of the weighted average cost of inventory, in favor of the most recent acquisition cost, for determining the maximum allowable retail price for gasoline. Some comments also suggested, however, that if the most recent acquisition cost concept is used, the rule should include qualifications to prevent retailers from taking small, unrepresentative shipments at high costs to justify higher prices. The approach we have adopted is generally consistent with these comments. The most recent acquisition cost concept, which is simpler for everyone concerned, has been adopted. To prevent circumvention of the new rule, a retail firm which has multiple suppliers, or which makes a purchase from a firm other than its usual supplier, must compute its acquisition cost by using the weighted average price paid by it in its last three gasoline purchases. In addition, DOE has retained the authority to disallow from the acquisition cost computation any purchases which would have the effect of frustrating the purpose of the price regulations.

4. *Posting Requirements.*—Requirements that retailers post acquisition cost, allowable markup, applicable taxes, and maximum lawful selling price were widely and strongly criticized as disruptive, discriminatory, expensive, time consuming, troublesome, anticompetitive, and liable to create bad dealer-customer relations. In response to these comments we have made several adjustments to the posting requirements in an effort to make them less troublesome. On July 30, 1979, we suspended the posting requirement adopted on July 15, and substituted the requirement that retailers post either the maximum lawful selling price or a certification that the retailer has computed such price and that the actual selling price is equal to or less than the maximum lawful selling price. (See 44 FR 45352, August 1, 1979). On October 18, 1979, we modified the size and location requirements in order to ease the burden of posting price information. (See 44 FR 61169, October 24, 1979). Nonetheless, we have not totally abolished posting requirements because we continue to believe that such requirements are necessary and desirable to inform the public and to aid in ensuring compliance with the price regulations.

B. *Comments Regarding Alternative Regulatory Schemes:*

1. The alternative of setting a single national maximum retail price for gasoline was widely criticized in the comments as impractical and unfair, primarily due to local and regional cost differences. We generally concur in this assessment and therefore have declined to further consider this alternative.

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2. A few dealer representatives suggested that we adopt a minimum markup requirement so that high volume, "gas-and-go" operators could not capture a greater share of the market by underselling independent dealers during periods of gasoline abundance while "banking" excess nonproduct costs so that they could greatly increase selling prices during periods of gasoline shortage. We observe that this suggested scheme is not necessary or desirable in view of our amendments which have eliminated the banking provisions of the old price rule. Additionally, we cannot impose a requirement for minimum markups under any current legal authority.

3. Some retail dealers advocated the tying of markups to the individual dealers's allocation fraction. The comments of consumers, public interest representatives, and various government agencies expressed doubt that such an additional allowance is needed, citing the fact that markups have commonly been below maximums during periods of adequate supplies. Even if tying markups to allocation fractions would tend to compensate retail dealers for reduced supplies, it would require the use of a formula which is overly complicated to justify the benefits to retailers that might arise from its use.

Numerous administrative problems are inherent in any scheme where markups would be tied to allocation fractions. The calculation of allowable markups would be especially difficult in instances where the retail gasoline dealer has multiple suppliers, each with a different allocation fraction, or where the allocation fraction changes during the course of a month.

C. *Comments Regarding the Delegation of Authority to State Governments to Modify Price Rules:*

Comments from individual States and from the National Governors' Association indicated overwhelming opposition to the delegation of authority to the Governors to raise gasoline markups for dealers in their States. Forty States advocated recision of the Governors' authority, while only one State (South Carolina) publicly supported the provision. One additional State (Oregon) noted that it had exercised the authority reluctantly and referred to the delegation as "unwanted." The most frequently expressed reasons for this opposition were that (1) the States are not equipped to administer such authority, but that DOE alone has the experience, resources, and expertise to grant such relief, (2) the delegation creates confusion and erodes the effectiveness of Federal programs, (3) desirable uniformity can best be achieved at the Federal level, without State interference, and (4) the States were not adequately consulted regarding the delegation prior to the adoption of the rule. The National Governors' Association requested that the delegation provision be rescinded. Gasoline retailers were generally in favor of the delegation in theory, but observed that in practice it may not be effective because of the Governors' reluctance to exercise this authority.

This provision of the regulations has been little used. The Governors of only four States and one territory—Alaska, Arizona, Nevada, Oregon, and the Northern Mariana Islands—have exercised their authority to grant margin increases. Alaska authorized increases up to 10 cents, differentiating, however, between "accessible" and "inaccessible" areas. Nevada authorized margins of 16.5 cents for self-service and 18.2 cents for full-service. Oregon initially authorized an increased margin of 17.9 cents, which it further increased to 18.6 cents in December to correspond to DOE' semiannual upward adjustment for inflation. Arizona authorized a temporary increase for specified counties in the State, but allowed it to expire after Labor Day last year. The Northern Mariana Islands authorized a 3 cent increase to 19.1 cents per gallon. The Administrator of ERA was duly notified and did not object to any of the proposed increases.

The strong and virtually unanimous opposition expressed by State Governors and State energy offices has persuaded us that the adoption of the Governors' authority provision was improvident. We are particularly concerned that its administration would further strain the already limited resources of many of the State energy offices. Accordingly, we have decided to rescind this provision of the rule, effective immediately.

Although we are rescinding the Governors' authority at this time, the recision will have only a prospective effect. Any markup increases granted by a State in accordance with § 212.93(a)(3) prior to the date of issuance of this rule will be unaffected by this recision. Such prior increases will remain valid, subject only to disallowance by the ERA Administrator at any time.

Instead of continuing the Governors' authority to increase markups we are vesting similar authority in the ERA Administrator. Under this amendment the Governors' only role will be to recommend to the Administrator that the markup be increased for some or all retailers in a State. The Governor may delegate this responsibility to any State office or officer. This amendment will fulfill our objective of maintaining a vehicle, in addition to the Office of Hearings and Appeals, that could provide relief for the retailers whose retailing costs are insufficiently covered by a single nationwide fixed markup. In contrast to the previous provision in § 212.93(a)(3), however, this amendment would greatly relieve a State of its burden in initiating an increase in gasoline retail markups in the State.

In addition, in light of the recent regulation adopting a fixed markup for retailers, we are providing for an increase in the fixed markup for retail sales by reseller-retailers that is equivalent to the markup for retail sales by reseller-retailers by the ERA Administrator on the same basis as is provided for retailers.

III. Conclusion

Based upon the foregoing, the preambles to the proposed and final retailer price rules, and ERA's experience under the retailer price rule, ERA has determined that the retailer price rule should be repromulgated, except for § 212.93(a)(3), which is being amended to allow the ERA Administrator, rather than the State Governors, to increase retail markups if cost justified. It is ERA's conclusion that the retailer price rule, with the amendment adopted today, best furthers the objectives of section 4(b)(1) of the EPAA when compared to other regulatory schemes suggested in the comments or proposed by ERA.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately. As thereby amended, we repromulgate Parts 210 and 212 of Chapter II of Title 10 of the Code of Federal Regulations, effective immediately.

Issued in Washington, D.C., May 19, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. In § 212.93, paragraph (a)(3) is revised to read as follows:

§ 212.93 Price rule.

* * * * * *

(a) * * *

(3)(i) Upon the recommendation of the Governor of a State, the ERA Administrator may increase the fixed cents per gallon markup as described in paragraph (a)(2) of this section for all or some of the retailers or reseller-retailers in the State. The amount of markup increase granted to a retailer, reseller-retailer, or class of reseller-retailers or retailers shall not exceed the amount of cost increase experienced by the retailer, reseller-retailer, or class of reseller-retailers or retailers.

(ii) For purposes of this section, the term "Governor of a State" includes the Governors of the 50 States, and the Chief Executive Officers of the District of Columbia, Puerto Rico, and the territories and possessions of the United States, other than the Panama Canal Zone, and further includes their delegates.

(iii) Any increase in the fixed cents per gallon markup described in paragraph (a)(2) of this section that was granted by the Governor of a State prior to May 19, 1980, in accordance with paragraph (a)(3) of this section as then in effect, shall continue to be valid in accordance with the terms of that increase subject to disallowance by the ERA Administrator at any time.

* * * * * *

[FR Doc. 80-16416 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

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10 CFR Parts 703 and 1023

Rules of the Contract Adjustment Board

AGENCY: Department of Energy, Contract Adjustment Board.

ACTION: Final rule.

SUMMARY: These regulations update and revise the rules of procedure of the Department's Contract Adjustment Board to reflect the establishment of the Department of Energy and the continuation of the Contract Adjustment Board pursuant to Secretarial delegation. The Board functions within the Department as provided for in DOE Order 1100.4.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT: John B. Farmakides, Chairman, Contract Adjustment Board, Department of Energy, Webb Building, Room 1006, 4040 No. Fairfax Drive, Arlington, VA 22203. Telephone: (703) 235–2700.

SUPPLEMENTARY INFORMATION: These regulations provide procedures followed by the Contract Adjustment Board of the Department of Energy for handling applications for extraordinary relief under Public Law 85–804. The Contract Adjustment Board has been delegated the authority and responsibility to decide those applications for extraordinary relief that involve "contractual fairness" as defined in 41 CFR 9–17. Such contractual fairness cases relate to those concerned ". . . with facilitating the national defense through fair and equitable treatment of . . . persons directly or indirectly involved in procurement or other contract activities." In addition, the Board, upon specific designation may hear and decide cases of "special management considerations," relating to those cases which ". . . facilitate the national defense through the accomplishment of an important procurement objective or policy goal."

The amendments are routine and do not involve any substantive changes. They are intended merely to update the earlier rules (found at Subpart B of 10 CFR Part 703, issued on March 24, 1976) to reflect the establishment of the Department of Energy, and the continuing charter of the Contract Adjustment Board within the Department. As such, they do not involve substantial issues of fact or law, nor will they have a substantial impact on the Nation's economy, nor affect the quality of the environment.

DRAFTING INFORMATION: The principal persons involved in drafting these regulations are: John B. Farmakides, Chairman; Carlos R. Garza, Vice Chairman; and Beryl S. Gilmore, Member, Department of Energy, Contract Adjustment Board.

Issued in Washington, D.C. on May 23, 1980.

John B. Farmakides,

Chairman, Contract Adjustment Board.

Accordingly, 10 CFR is amended as follows:

PART 703—CONTRACT APPEALS

§§ 703.200—703.203 [Deleted]

1. In Part 703, Subpart B, §§ 703.200–703.203 are deleted.

2. Part 1023 is amended by the addition of §§ 1023.200–1023.203 (Subpart B), to read as follows:

PART 1023—CONTRACT APPEALS

* * * * *

Subpart B—Rules of the Contract Adjustment Board

Sec.
1023.200 Delegation.
1023.201 Applicable rules.
1023.202 Matters pending as contract appeals.
1023.203 Decisions.

* * * * *

Subpart B—Rules of the Contract Adjustment Board

Authority: Pub. L. 95–91, sec. 301, 91 Stat. 577; Pub. L. 85–804, 72 Stat. 972, 50 U.S.C. 1433; E.O. 10789; DOE Order 1100.4.

§ 1023.200 Delegation.

The Board of Contract Appeals when sitting in its designated capacity as the Contract Adjustment Board exercises the authority of the Secretary on applications for extraordinary relief under Pub. L. 85–804 involving contractual fairness cases as defined in 41 CFR 9–17, and also as to such other matters as may be referred to the Board by the Secretary or his designee.

§ 1023.201 Applicable rules.

The Contract Adjustment Board shall proceed to hear and decide matters brought before it, with sole regard to the merits of each matter, in the same general manner as when it presides as the Board of Contract Appeals. (See rules under 10 CFR 1023, Subpart A.)

§ 1023.202 Matters pending as contract appeals.

A matter otherwise before the Board of Contract Appeals which also appears to be an application for extraordinary relief under Pub. L. 85–804 involving contractual fairness, may be heard and decided by the Contract Adjustment Board (upon proper application made by the petitioner, and with due consideration to the circumstances and equities as they affect all parties), provided it is placed on the Contract Adjustment Board's docket for such cases.

§ 1023.203 Decisions.

Decisions of the Contract Adjustment Board shall be made in writing and served simultaneously on all parties. Although recorded, the Contract Adjustment Board's decisions are not considered to be judicial in character and may not be cited as precedents in other matters brought to the Contract Adjustment Board.

[FR Doc. 80-16299 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R-0298]

Interest on Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of

action will be retroactive to May 15

May 1, 1980, make the following

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ACTION: Temporary suspension of Regulation Q.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and tornadoes in Pettis County, Missouri.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3711).

SUPPLEMENTARY INFORMATION: On May 15, 1980, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency designated Pettis County, Missouri a major disaster area. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and tornadoes. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to May 15, 1980, and will remain in effect until 12 midnight November 15, 1980.

Section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in section 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within Pettis County, Missouri which has been officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the severe storms and tornadoes in the Pettis County, Missouri, good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), May 21, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16252 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

[1] Effective July 1, 1979, § 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forfeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion thereof are paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed the current ceiling rate for a savings deposit under section 217.7 and the depositor shall forfeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with the consent of the depositor.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-15-AD; Amdt. 39-3759]

Airworthiness Directives; Beech Models B90, C90, E90 (Military T-44A), 100, A100, A100 (Military U-21F), B100, 200 and A200 (Military C-12A) Airplanes

Correction

In FR Doc. 80-13185, appearing at page 29005, in the issue for Thursday, May 1, 1980, make the following correction:

On page 29006, in the middle column, in the table headed **"Group I"**, beneath the entry "A200 (Military C-12C)", insert the heading **"Group II"**. Models C90 through B100 belong under Group II.

BILLING CODE 1505-01-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-10]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Kokomo, Indiana in order to accommodate a new Instrument Landing System Runway 23 (ILS Runway 23) instrument approach procedure into the Kokomo Municipal Airport which was established on the basis of a request from the Kokomo Airport officials to provide that airport with an additional instrument approach procedure.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200 feet above surface to 700 feet above surface for a distance of approximately 4 miles northeast of that now depicted. The development of the proposed procedure necessitates that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. In addition, aeronautical maps and charts will reflect that area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 16199 of the **Federal Register** dated March 13, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kokomo, Indiana. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 10, 1980, as follows:

In § 71.181 (45 FR 445) the following transition area is amended to read:

Kokomo, Indiana

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Grissom AFB (latitude 40°38'55"N; longitude 86°09'10"W); within a 6½-mile radius of Kokomo Municipal Airport, (latitude 40°31'45"N; longitude 86°03'30"W); within a 5-mile radius of Logansport, Indiana, Municipal Airport (latitude 40°42'35"N., longitude 86°22'45"W.); within 4½-miles each side of the Grissom AFB ILS localizer southwest course, extending from the 8½-mile and 6½-mile radii areas to 4½-miles southwest of the OM; within 3 miles each side of the Kokomo VORTAC 045° radial, extending from the 6½-mile radius to 12 miles northeast of the VORTAC; and within 3 miles each side of the Kokomo VORTAC 129° radial, extending from the 6½-mile radius area to 8 miles southeast of the VORTAC.

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-10, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 12, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-16203 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-11]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Winchester, Indiana in order to accommodate a new instrument approach procedure into the Randolph County Airport, Wincester, Indiana, which was established on the basis of a request from the local Airport officials to provide that airport with an additional instrument approach procedure.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200 feet above surface to 700 feet above surface for a distance of approximately 3 miles northeast of that now depicted. The development of the proposed procedure necessitates that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 14593 of the **Federal Register** dated March 6, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Winchester, Indiana. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 10, 1980, as follows:

In § 71.181 (45 FR 445) the following transition area is amended to read:

Winchester, Indiana

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Randolph County Airport (latitude 40°10'15"N., longitude 84°55'13""W); within 2.5 miles either side of the 111° bearing extending from the 5 mile radius to 6 miles southeast of the airport, and within 3 miles either side of the 068° bearing extending from the 5 mile radius to 8 miles northeast of the airport.

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-11, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 15, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-16204 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-12]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter existing controlled airspace near Willmar, Minnesota in order to accommodate a revised

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instrument approach procedure into the Willmar Municipal Airport.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1,200 feet above surface to 700 feet above surface for a distance of approximately 1 mile southeast of that now depicted. In addition, the floor of controlled airspace south and west will be raised from 700 feet above the surface to 1,200 feet, since it is no longer needed to accomplish instrument operations. The minimum descent altitudes for this revised procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 16199 of the **Federal Register** dated March 13, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Willmar, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 10, 1980, as follows:

In § 71.181 (45 FR 445) the following transition area is amended to read:

Willmar, Minnesota

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Willmar Municipal Airport, Willmar, Minnesota (latitude 45°06'45"N; longitude 95°05'15"W) and within 3.0 miles either side of the 091° true bearing and the 279° true bearing from the Willmar, Minnesota (ILL) VOR (latitude 45°06'50"N; longitued 95°05'12"W) extending from the 6.5 statute mile radius zone to 8.5 statute miles.

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-12, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued at Des Plaines, Illinois, on May 12, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-16205 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-17]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points, Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate controlled airspace near Buffalo, Minnesota to accommodate a new instrument approach into Buffalo Municipal Airport, established on the basis of a request from the local Airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this section is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 20906 of the **Federal Register** dated March 31, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Buffalo, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 10, 1980, as follows:

In § 71.181 (45 FR 445) the following transition area is added:

Buffalo, Minnesota

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Buffalo Municipal Airport, Buffalo, Minnesota (latitude 45°12'00"N; longitude 93°51'00"W).

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-17, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 15, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-16206 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-GL-65]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter existing controlled airspace near Cadillac, Michigan in order to accommodate a new instrument approach procedure into the Wexford County Airport, Cadillac, Michigan which was established on the basis of a request from the Wexford County Airport officials to provide that airport with an additional instrument approach procedure.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet above the surface for a distance of approximately three miles beyond that now depicted. The development of the proposed procedure necessitates that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 14594 of the **Federal Register** dated March 6, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Cadillac, Michigan. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 10, 1980, as follows:

In § 71.181 (45 FR 445) the following transition area is amended to read:

Cadillac, Michigan

That airspace extending upward from 700 feet above the surface within an 8.5 statute mile radius of the Wexford County Airport, Cadillac, Michigan (latitude 44°16'30"N, longitude 85°25'30"W).

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-65, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 9, 1980.

Wm. S. Dalton

Acting Director, Great Lakes Region.

[FR Doc. 80-16207 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-GL-9]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Winamac, Indiana in order to accommodate a new Non-Directional Radio Beacon (NDB) Runway 9 instrument approach procedure into the Arens Field Airport, Winamac, Indiana which was established on the basis of a request from the Arens Airport officials to provide that airport with an additional instrument approach procedure.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200 feet above surface to 700 feet above surface for a distance of approximately 5 miles beyond that now depicted. The development of the proposed procedure necessitates that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 14592 of the **Federal Register** dated March 6, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Winamac, Indiana. Interested persons were invited to participate in this rulemaking

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proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 10, 1980, as follows:

In Section 71.181 (45 FR 445) the following transition area is amended to read:

Winamac, Indiana

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Arens Airport (latitude 41°05'35"N., longitude 86°36'45"W.); within 2 miles each side of the Knox VORTAC 173° radial extending from the 5 mile radius area to 10 miles south of the VORTAC, and within 3 miles each side of a 265° bearing from the airport extending from the 5 mile radius area to 8 miles west of the airport.

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-9, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 12, 1980.

Wayne J. Barlow,
Director, Great Lakes Region.

[FR Doc. 80-16208 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Regulation PS-93; Policy Statements Amendment No. 70 to Part 399; Docket 35253]

Price Discrimination; Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is adopting a statement of policy on price discrimination, stating that it will not interfere with carriers' pricing judgments unless interests worthy of protection are unreasonably threatened and consumer welfare cannot be better served through achievable alternatives to the challenged fare. The policy statement also announces a relaxation in the existing policy toward "status" fares by terminating the presumption that they are unreasonably discriminatory. This rulemaking is at the Board's own initiative.

DATES: Adopted: May 22, 1980; Effective: June 27, 1980.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Office of the Assistant Director for Fares, Rates and Tariffs, Bureau of Domestic Aviation. Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. 202-673-5373.

SUPPLEMENTARY INFORMATION: In PSDR-58, 44 FR 21816, April 12, 1979, the Board proposed for comment a policy designed to relax traditional standards concerning discriminatory pricing practices on the part of air carriers. In reaching this tentative position, we recognized our continued responsibility under section 404(b) of the Federal Aviation Act (49 U.S.C. 1374(b)). This section prohibits unjust discrimination, or undue preference or prejudice by an air carrier or foreign air carrier in providing air transportation. We concluded that on balance, the general diminution of the Board's domestic rate authority by the Airline Deregulation Act of 1978 (ADA) (Pub. L. 95-504), and our policy of not obstructing innovative fares and rates, required some withdrawal from active regulation of discriminatory, prejudicial or preferential pricing.

For purposes of this rulemaking we have defined discrimination in economic terms, as the act of charging different customers prices that differ by varying proportions from the costs of serving them. For example, if an airline's normal fare is 120 percent of its costs, and if it offers a 30-percent-off discount fare to a limited class of passengers, but its costs of serving this class are only 20% lower, the discount fare would be only 105 percent of costs. We would consider this to be within our definiton of price discrimination. In our notice, we recognized the fact that the industry's existing fare structure may contain elements of price discrimination for a variety of reasons which include regulatory considerations as well as the economic conditions of supplier market power and differing consumer price sensitivity. Among the regulatory factors are the Board's willingness to permit discounted fares that may not correspond to airline cost savings, so long as they are available to any passenger who complies with ticketing restrictions, and the Board's decision to construct the Standard Industry Fare Level on a system basis without taking into account factors other than mileage that affect costs.

We concluded that carrier price discrimination served important competitive purposes and hastened the breakdown of cartel pricing. Given the Deregulation Act's mandate to place greater reliance on market forces, its strictures against interference with management marketing decisions, and the increasing competitiveness in the industry, we concluded that the Board should reduce its interference in management decisons on differential pricing. Our proposal accomplished this by limiting findings of unreasonable discrimination to cases where: (a) the fare or rate is in fact discriminatory without providing other benefits recognized under law; (b) the fare or rate is likely to result in long-run economic injury to passengers or shippers; and (c) the undesirable effects are not likely to be eliminated in a reasonable period of time without regulatory interference. We also proposed to eliminate the existing presumption against the legality of "status fares," *i.e.*, those fares based on personal characteristics of the traffic, such as youth fares or family fares.

Comments both supporting our proposal and opposing it were received from various carriers, civic groups, governmental units and individual consumers.[1] We have carefully considered the various comments and have concluded that we have the legal authority to make the policy adjustment proposed in the rule and that the adjustment will not have any adverse economic consequences. Therefore, we are adopting our proposal as written as a final policy statement. We will treat questions raised by our proposal on status fares separately in the discussion.

Legal Authority

Parties opposed to the proposal challenge it with the general argument

[1] Comments were filed by the Antitrust Division, United States Department of Justice, Trans World Airlines, AFS International/Intercultural Programs, Inc., the Air Freight Forwarders Association of America (AFFA), on behalf of its members, the Omaha Airport Authority, the Port of Seattle Commission, the City of Seattle, King County, Washington, the Seattle Chamber of Commerce and the Puget Sound Traffic Association, filing together as the Seattle Parties, Pacific Southwest Airlines, World Airways, and several individuals.

that it exceeds the pace at which Congress, under the Deregulation Act, intended the Board to turn control over to market forces, and also on the ground that Congress specifically intended the Board to continue to interpret section 404(b) as it had in the past. They also argue that the air transportation system remains in law a public utility, having a special public interest, and that, as such, it should remain subject to strict prohibitions against discrimination.

As to Congressional intent in general, the objectors rely on portions of the legislative history of the Airline Deregulation Act. They cite as key a statement in the Report of the Senate Committee on Commerce, Science and Transportation, reporting on the Senate version of the ADA, indicating that the transition to a competitive environment should be gradual, as follows:

. . . the movement to a more competitive airline system should be made without major disruptions to the industry or the traveling public. Thus, the bill provides for a gradual phase in of the more competitive provisions over periods that vary from one to ten years.

These commenters also refer to the Senate Commerce Committee's discussion of section 1002(d)(4) of the Act, which establishes the Board's powers to police rate and fare practices. The Committee noted that the Board would retain its power to declare that rates or fares are unlawful because they are unjustly discriminatory or unduly preferential or prejudicial, and it stated, "The Committee believes that current Board case law defining unlawfully discriminatory, preferential or prejudicial carrier prices and practices are generally satisfactory." [2] The opponents argue that these statements, combined with the directive contained in the Conference Committee Report [4] that deregulation proceed in accordance with the ADA and not in accordance with the views of Board members, prevents the Board from altering substantially its policy on pricing discrimination.

The opponents also assert that the proposed policy statement represents a substantial shift in the burden of proof in discriminatory pricing cases. Currently, carriers must provide data to justify a rate or fare after a *prima facie* showing of its discriminatory, prejudicial or preferential nature. Under the Board's proposal, opponents argue, complainants would in essence be required to prove not only that such a rate or fare is discriminatory, but also that injury results from it and that the situation cannot be corrected without regulatory intervention. This burden, they allege, is virtually impossible to meet, especially in the case of passenger fares, because only carriers are in possession of the data which would indicate whether a particular discriminatory fare meets these criteria and passengers rarely if ever sustain economic injury in the sense intended by the Board, other than the loss of equal treatment. Opponents of the proposal thus argue that this shift in burden is impermissible under the ADA since it would, as a practical matter, write section 404(b) out of the Act and would therefore be inconsistent with Congressional action in retaining section 404(b) in the Act and Congressional statements of its intentions concerning discriminatory pricing.

We do not believe, however, that the legislative history of the ADA compels blind adherence to historical interpretations in this area, particularly in view of the marked changes in both the law and the competitive environment since those interpretations were made. The statements cited by the opponents, noted above, must be read in the context of the entire ADA, including the mandate to place maximum reliance on competitive forces. While Congress mandated a gradual transition to competition it also mandated a smooth one. The breakdown of the administered pricing system—moving from uniform industry pricing under Board formulae to unfettered individual carrier marketing—will not occur in a single step. Rather, the change can be expected to be gradual. Carriers should not be expected to make across the board system-wide changes in their pricing practices. It would be more rational for them to experiment with competitive pricing practices in markets where there is the greatest potential for revenue generation and the least potential for revenue dilution. A continuation of the Board's historic rigid policies against differential pricing would be likely to stifle this experimentation, and create a danger that movement toward a competitive pricing system would be insignificant until Board authority over domestic fares was eliminated entirely. Then, the change would be neither smooth nor gradual.

In contrast, a flexible policy in this area will permit the kind of experimentation that can lead to a continuous and incremental transition while the Board retains its authority to correct any serious abuses. Under these circumstances we believe that a liberalization of our policy toward differential pricing under section 404(b), far from being inconsistent with the Congressional mandate, will implement it by permitting the type of carrier experimentation most likely to lead to that type of transition. This analysis is limited, however, to pricing discrimination which has the potential to enhance the transition to a competitive system. We will continue vigorous enforcement against discrimination which does not enhance competition and may injure consumers. This combination of less vigorous enforcement of section 404 against strict price discrimination and vigilant enforcement against discrimination in its more invidious forms will further a transition that is not disruptive to either passengers or industry. On the one hand, as noted above, carriers will have the freedom to conduct pricing experiments necessary to accomplish the transition. On the other hand, the Board will continue to intervene to protect consumers from any abuses that might occur.

The Board's retained powers under section 1002(d) must also be examined in the context of broader Congressional action in the ADA. Thus, although we have the power to find a domestic fare or rate unlawful on the ground that it is unjustly discriminatory, the Board cannot suspend a fare or rate, even on those grounds, if it falls within the zone of reasonableness established by the ADA.[5] Further, section 1002(d)(5) imposes on persons complaining that a fare is too low in proceedings under section 1002(d)(1) the burden of proving that a fare, rate or charge is too low.[6] Section 1002(d)(1) applies to rates, fares and charges which are unjustly discriminatory or unduly preferential or prejudicial. Finally, amendments to section 102 (declaration of policy) and to section 1002(e) (rules of ratemaking), together with their explanation in the legislative history, make it clear that the Board is not to use its residual powers to frustrate the competitive pricing practices of carrier management, including market-by-market pricing to take into account differences in cost or a competitive situation.[7] Taken together,

[2] S. Rep. 95-631, 95th Cong., 2nd Sess. 5, (1978).

[3] S. Rep. 95-631, *supra*, 109.

[4] H.R. Rep. 95-1779, 95th Cong., 2nd Sess. (1978) 56.

[5] Section 1002(g) of the Act 49 U.S.C. 1382(g) combined with section 1002(d)(4) 49 U.S.C. 1382(d)(4); section 37(a) of P.L. 95-504.

[6] Section 1002(d)(5), 49 U.S.C. 1482(d)(5), P.L. 95-504, section 37(a)(1).

[7] Section 102(a), 49 U.S.C. 1302(a), Section 1002(e), 49 U.S.C. 1482(e), P.L. 95-504 section 37(b). See generally S. Rep. 95-631, *supra*, pp. 108 and 109. Particular statutory provisions, such as sections 102(a)(3), 102(a)(7) and 1002(d)(8) must be read in light of this basic shift in pricing policy and procedure. Compare, for example, the language of section 102(a)(3) before and after its revision by the ADA.

we believe that these modifications clearly permit, if not require, the Board to use restraint in exercising its powers over discriminatory pricing practices.

A higher threshold for finding unreasonable discrimination is wholly consistent with this approach. If the Board is to reduce its intervention in carrier pricing practices, those seeking such intervention should be compelled to present a more convincing case than was necessary in the past. Congress has, of course, in section 1002(d)(5) mandated some shift in the burden of proof to opponents of innovative pricing practices. The purpose of this action is to prevent harassment or discouragement of carriers engaging in pricing competition. While differential pricing may not be an ideal form of pricing competition in the eyes of some, it is one which we believe well prove beneficial in the transition period. Moreover, on the basis of a recent analysis of the economics of providing service in discrete city pairs, a copy of which is included in this docket, we expect differential pricing to be a permanent feature of a competitive air transportation system as airlines attempt to satisfy simultaneously time-sensitive and price-sensitive passengers. Those who argue that Congress intended to tie our hands and force us to adopt policies which will inhibit competition bear a heavy burden, and in our view have not met it.

This policy statement does not shift any burden of proof. It merely describes conditions that must be found as prerequisites to a Board finding of discrimination. The objection made by several commenters that we are unwisely or illegally shifting the burden of proof in discrimination cases is therefore not well taken. Furthermore, these conditions should not be impossible to demonstrate in cases where there is real economic harm to affected persons. Complainants will be in the best position to present evidence of economic injury to themselves. And while carriers have more complete costing data than users of air transportation, much information is publicly available to enable complainants to make a case that the discrimination is not cost justified. On the other hand, once discrimination and injury were demonstrated, we would not ordinarily rely on complainants to show either the absence of countervailing benefits or the inability of competition to eliminate the undesirable effects of the discrimination.

Opponents argue that passengers suffer no economic harm in the traditional sense in the face of discriminatory pricing, but that their injury comes simply from the loss of equal treatment. This position, known as the rule of equality, demands equal charges for equal service. The rule pervades much public utility law, and it was relied on by the courts in the decisions reversing Board dismissals of complaints against status based discount fares which preceded Phase 5 of the *Domestic Passenger Fare Investigation,* Order 72–12–18, December 5, 1972.[8] Although the Board also relied on the rule of equality in ultimately rejecting those discount fares, Phase 5 did not, as we noted in PSDR–58, stand for a rigid enforcement of that rule. Rather, we stated that the rule of equality would be adhered to unless there were sufficient countervailing benefits, in which case deviation might be permitted. Opponents further argue that the Board's proposal, by eliminating the lack of equal treatment as a grounds for declaring a fare unlawful, impermissibly removes air transportation from the realm of a public utility. As an element of the transportation industry, they claim, air transportation, like other modes, is invested with the public interest and as such is to be considered a surrogate of the state and hence a utility. The continuing stringent safety requirements imposed on aviation are alleged to further demonstrate air transportation's continuing status as a public utility.

Status as a public utility, justifying rigorous regulation of prices, does not, however, depend solely on conducting an enterprise connected with the public interest. Another element is the need for state intervention to protect that interest. Where competitive forces cannot be relied on, the state is compelled to act, either directly, or through its surrogate, the public utility.[9] As we noted in PSDR–58, the Airline Deregulation Act reflects quite clearly the decision of Congress that competitive forces can and should be relied on to protect the interests of the public, and that air carriers should not continue to be considered surrogates of the state. Nor does continued safety regulation render air carriers public utilities. Numerous industries or professions are subject to strict governmental regulation for the protection of the health and safety of citizens, such as meat packing, pharmaceutical production, and cosmetology. These industries are not, however, considered public utilities for the purpose of imposing government control over pricing decisions. For this reason, we do not believe that the cases which predated Phase 5 preclude our action to the extent that they affirmed the rule of equality. Regardless of whether airlines are considered a public utility, however, Congress has decided that they are not to be treated the same as other Federally regulated industries. Instead, competition is to be the primary regulator. For example, Congress stated that we are to consider economic, efficient, low-priced service, without unjust discrimination, to be in the public interest. That is what the policy statement here is intended to encourage. The rule of equality is no longer applicable to the airline industry, no matter how the industry may be classified.

[8] *Transcontinental Bus System, Inc.* v. *C.A.B.* 385 F2d 466 (1967) and *Trailways of New England, Inc.* v. *C.A.B.* 412 F2d 926 (1969).

[9] See Wyman "The Law of Public Calling as a Solution to the Antitrust Problem", 17 Harvard Law Review 156, 157–159 (1904).

Effectiveness of the Board's Proposal

Some commentors have questioned the effectiveness of the Board's proposal on two levels. On one level they argue that the policy statement will not cause carriers to change their practices on discriminatory prices. On the other, they allege that any changes in discriminatory pricing practices will not result in the spread of nondiscriminatory low fares.

On the first point, they argue that the rule is too vague and general to be relied on by carrier management for a change in pricing policy. Further, opponents argue that the standards are not specific enough to serve as guideposts to separate the lawful practice from the unlawful, and that they give the Board so much discretion that carriers will tread lightly in altering their pricing practices.

The rule is not intended to provide definitive standards, however. Rather, the purpose of the rule is simply to announce a general shift in Board policy away from historical interpretation of the anti-discrimination provisions of the Act. We fully expect to develop concrete standards on a case-by-case basis in dealing with specific fare or rate proposals, as some of the commentors have urged.

The civic parties especially question the effectiveness of a liberal discriminatory pricing policy in producing a lower overall fare structure. They argue that carriers were willing to extend restricted fares to smaller markets because they could limit the effects of yield dilution through use of restrictions to insure that higher prices continue to be paid by a substantial portion of passengers. They argue that carriers would not be so willing to spread low normal fares to new markets because of the greater potential for revenue dilution. To support this proposition, the objectors point out that the spread of the super-saver fares to smaller markets has not been followed by a spread of existing normal low-fare service to those markets.

Opponents further argue that, rather than spurring the development of low fare proposals, a relaxation of the Board's rules will hinder their spread to more markets. Under this line of argument, established carriers would employ discriminatory pricing practices to undercut low fare operators by using discount fares. These fares are then subsidized by above cost normal fares charged to passengers who have a need to travel by air, almost without regard to price, such as business travelers. Presumably, the discount fare would be below that which could be charged profitably by the low-fare operator as a standard fare, with the result that it would be forced to either give up traffic or resort to a discriminatory pricing structure itself.

On the basis of available information, we are not convinced that either of the results described will occur, or that if they do, they were not anticipated by Congress in enacting the ADA. Those parties who point to the current selection of low normal fares appear to be objecting to discrimination between city-pair markets. One has even suggested as an alternative to PSDR–58 that the Board require carrier management to develop nonrestricted low fare marketing proposals for all markets. Aside from the fact that a Board-ordered low-fare program would be inconsistent with the mandate of the ADA to place maximum reliance on competition, this type of market-by-market price differential was clearly envisioned by the ADA. In discussing amendments to the Board's ratemaking authority (Section 1002(e)), the Senate Commerce Committee repeatedly emphasized that one of its effects would be to require the Board to give strong weight ". . . to the desirability of allowing each air carrier to determine prices in response to its own costs and the competitive condition of the route it serves." [10] Moreover, in enacting the amendments to section 1002, Congress was aware that the use of national averages under the DPFI formulas hindered market-by-market competition on the basis of demand and cost differences.

While we have encouraged the development of unrestricted low fares in the past, it is possible that the extent to which they have been offered to date is the result of the differing cost and demand factors anticipated in the ADA. Moreover, there is evidence that unrestricted low fares are beginning to spread beyond the major transcontinental and Northeast/Florida markets. Midway Airlines has filed low-fare tariffs for transportation between Chicago and three other interior points, Cleveland, Detroit and Kansas City. Northwest Airlines recently reduced normal fares in a number of lower density markets, including Billings-Minneapolis and Minneapolis-Spokane. Since, as discussed below, we do not believe that use of discriminatory fares will hinder the spread of unrestricted low fares where they are economically justified, we are satisfied that the slow pace of their introduction to date does not call for us to delay a liberalization in our policy toward discriminatory, preferential, or prejudicial pricing.

Our belief that discriminatory pricing practices will not be used to hinder the spread of unrestricted low fares rests on theoretical considerations as well as observation of recent carrier behavior. The argument that low-fare pricing will be frustrated rests on a cross-subsidization theory. It is assumed that a large carrier will set prices above cost in markets where it enjoys market power in order to underwrite markets where it competes against a smaller low-fare innovator. However, in the competitive environment which our policies are fostering, this source of funds would evaporate as the new competitors are attracted into high profit markets. Furthermore, the incentive for such predatory pricing, the prospect of charging substantially higher fares after the smaller competitor is driven from the market, will also be reduced as entry freedom increases the likelihood that a new competitor would enter the market to undercut the excessive fares. Although the industry may not yet be at an optimum level of competition, low-fare innovators are already providing service in the most lucrative domestic markets. For example, Capitol International Airways and World Airways offer low-fare transcontinental service and Air Florida offers Northeast-Florida service.

[10] S. Rep. 95–63, *supra* 108.

Status Fares

The most consistent criticism of the change in the Board's policy to allow status fares is that permitting them represents the abandonment of the rule of equality. As we noted above, however, the rule of equality is a rule designed to govern pricing practices of public utilities. Whatever relevance it might have had before the Airline Deregulation Act, we do not believe that, by itself, the rule requires the continuation of our historically stringent policies.

Opponents also argue that price discrimination is impermissible even in unregulated sectors of the economy, by virtue of the Robinson-Patman Act, amendments to the Clayton Act (15 U.S.C. 13 and 13a) and applicable court decisions. They argue that the Board cannot therefore rely on the shift to competition as grounds for liberalizing its policy in this area. The Robinson-Patman Act, however, is expressly limited to the sale of commodities. The sale of services is excluded from its scope, and it is clear that air transportation is not a commodity for purposes of Robinson-Patman.[11] In contrast, numerous service-oriented industries have discriminatory pricing based on status imbedded in their pricing structure. The airline industry shares a characteristic of supply with certain other service-oriented industries such as hotels or theaters that makes differential pricing especially attractive. The inventory of these industries is capacity, and after a certain point unused capacity is lost as a source of revenue. Once a plane takes off, or a show starts, or a single guest checks into a four-person room, the unsold seats or remaining beds can produce no revenue. While this capacity cannot be sold at relatively higher normal prices, some of it could be sold at lower prices. Differential pricing to fill this otherwise unused capacity is a rational business response which, by spreading costs among more consumers, will actually reduce prices in a competitive environment.

Objectors have also alleged that the Board's proposal on status fares will place the Board in the role of making social policy judgments, a role reserved for Congress, which has not delegated it to the Board. They have also suggested that on the basis of experience in the United States, economic incentives cannot be relied upon to cure certain types of status discrimination, such as racial discrimination. This type of discrimination, however, would be included in the category of invidious discrimination, which under our proposal would continue to be

[11] *Gordon* v. *New York Stock Exchange* 366 F. Supp. 1261–63 (S.D.N.Y. 1973) Affd. 496 F.2d 1303, 1305 (2d Cir. 1974). Affd. 422 U.S. 659 (1975). See also *Fleetway, Inc.* v. *Public Service Interstate Transportation Co.* 72 F2d 761 (3d Cir. 1934) *cert. den.* 293 U.S. 626 (1935) holding that tickets for passenger bus transportation did not constitute commodities under the predecessor of the Robinson-Patman Act.

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presumptively illegal.[12] In view of the existence of discriminatory pricing systems in other industries and extensive legislative and judicial actions on the subject that can serve as a guide, we are confident that our role will be limited to maintaining these existing barriers to invidious discrimination.

Finally, even under Phase 5 standards, status fares were not absolutely illegal. They could be approved (as in the case of children's fares) where the Board found sufficient benefits to air transportation or the public under the Act. Under the Airline Deregulation Act, however, carriers themselves, rather than the Board, are primarily responsible for developing air transportation under the disciplines of actual and potential competition. Even if we did not formally modify our policy toward status fares, a more permissive approach under the "qualified disapproval" policy of Phase 5 might have been necessary to implement the Congressional mandate to give primary responsibility for the air transportation system back to the carriers.

International Fares and Rates

While it is true that the original impetus for this policy statement was the ADA of 1978 with its implicit emphasis upon domestic aviation, the Board did not intend to preclude a common international pricing application. We invited comments but made no specific proposals on the international pricing aspects of this subject, and therefore received few concrete proposals or arguments on it. Consequently, we will limit this policy statement to domestic and overseas air transportation.

Nevertheless, the passage of the International Air Transportation Competition Act of 1979, after our initial policy proposal here, has substantially altered the statutory and policy framework within which we consider international pricing and entry issues. In many pertinent respects, the framework is now similar—if not identical—to the domestic area. While there are *ad hoc* circumstantial differences, such as limited entry in some international markets and detailed pricing control by a number of foreign governments, we believe that many of the fundamental policy considerations that lead us to issue this statement are equally applicable to foreign air transportation. Our staff is now considering this issue, and it also has been raised by the commentors in EDR–351B and EDR–383, by which we proposed, among other things, to permit cargo charters on scheduled flights. Thus, we will address this question in more detail shortly.

Miscellaneous Matters

In its comments supporting our proposal, the Air Freight Forwards Association requested that we list in the policy statement as being lawful certain practices, such as multiple shipment discounts, which we have rejected in the past. The policy statement, however, is intended to be a general one without itself authorizing specific carrier practices. As we indicated above, we believe that it would be better to evaluate specific practices in the context of a rate proceeding on a concrete proposal. We are, therefore, not modifying the policy statement in this manner.

World Airways filed a motion to consolidate into this proceeding an application by Davis Agency, Inc., Docket 35533 for an exemption to negotiate for placing charter passengers on scheduled flights. The exemption would have been limited to cases where the direct air carrier that had originally contracted to provide lift for Davis failed to do so and other aircraft could not be obtained on a charter basis. Davis filed an answer in opposition to this motion. Since that time, however, Davis requested withdrawal of its exemption application which request was granted in Order 80–3–44, March 7, 1980. The motion to consolidate is therefore moot.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, *Statements of General Policy*, as follows:

1. A new § 399.36 is added, to read:

§ 399.36 Unreasonable discrimination.

(a) As used in this section—

(1) "Unreasonable discrimination" means unjust discrimination or unreasonable preference or prejudice; and

(2) "Rate" means rate, fare, or charge.

(b) Except in unusual circumstances or as provided in paragraph (c) of this section, the Board will find a rate for domestic air transportation to constitute unreasonable discrimination only if:

(1) There is a reasonable probability that the rate will result in significant long-run economic injury to passengers or shippers;

(2) The rate is in fact discriminatory according to a reasonable cost allocation or other rational basis;

(3) The rate does not provide transportation or other statutorily recognized benefits that justify the discrimination; and

(4) Actual and potential competitive forces cannot reliably be expected to eliminate the undesirable effects of the discrimination within a reasonable period.

(c) A rate that discriminates on the basis of the status of the traffic carried will not be presumed to be unreasonably discriminatory, unless the use of the status categories in question is contrary to established national anti-discrimination policy.

2. The Table of Contents is amended accordingly.

(Secs. 204, 403, 404, 416, 1001, and 1002 of the Federal Aviation Act of 1958, as amended by Pub. L. 95–504; 72 Stat. 743, 758, 760, 771, 788, 92 Stat. 1705; 49 U.S.C. 1324, 1373, 1374, 1386, 1481, 1482)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-16372 Filed 5-28-80; 8:45 am]

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[12] Discrimination on certain bases, such as race or religion, and in some cases sex, raises issues of violating the Constitution as well as various federal statutes. The final rule excludes discrimination which violates federal antidiscrimination policy from the presumption of lawfulness. We would include constitutional and federal statutory prohibitions in that concept as well as forms of discriminations prohibited by Executive Order or agency actions.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3018]

Commercial Lighting Products, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires an Englewood, N.J. seller of light bulbs and other products to cease shipping or billing for unordered merchandise; soliciting orders from unauthorized persons; shipping goods that vary in quantity or price from that ordered; offering discounts or sending collection letters to induce payment for unordered merchandise; and transferring alleged delinquent accounts to debt collection agencies, after being informed that the merchandise had not been ordered. The firm is further prohibited from shipping merchandise pursuant to any unsigned purchase order. Should such a form be received, the company is required to mail to the "Lighting Buyer" of the business an acknowledgment card containing prescribed information and a toll-free number to call should problems arise. Additionally, the order requires that the firm develop and provide relevant personnel with an approved statement of operating principals and practices, and maintain a surveillance program designed to detect those who fail to conform.

DATES: Complaint and order issued May 6, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523–3727.

SUPPLEMENTARY INFORMATION: On Monday, Feb. 25, 1980, there was published in the **Federal Register**, 45 FR 12261, a proposed consent agreement with analysis In the Matter of Commercial Lighting Products, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or Requirements; 13.533–45 Maintain records; 13.533–45(c) Complaints; 13.533–45(e) Correspondence; 13.533–50 Maintain means of communication. Subpart—Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1395 Connections and arrangements with others; § 13.1397 Customer connection.—Goods: § 13.1625 Free goods or services; § 13.1720 Quantity.—Prices: § 13.1776 Prices. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1928 Customer connection or action; § 13.1955 Free goods; § 13.2063 Scientific or other relevant facts. Subpart—Securing Orders By Deception: § 13.2170 Securing orders by deception.

[1] Copies of the Complaint and Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 80-16254 Filed 5-28-80; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6212; 34-16829; 35-21586; 39-567; IC-11181; IA-722]

Comprehensive Revision of Regulation Concerning Conduct of Members and Employees and Former Members and Employees

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its Conduct Regulation. A number of changes have been made in the current rules to reflect changes in federal regulations; to reflect changes in Commission policy; and to make existing rules more specific.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Myrna Siegel, Ethics Counsel, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272–2430.

SUPPLEMENTARY INFORMATION: During the past two years the Commission's Conduct Regulation has been undergoing a thorough review. While the Regulaton has been amended several times [1] since its adoption on April 7, 1966, it has remained essentially the same for the last fourteen years. Although the Commission has consistently acted to maintain high standards of ethical conduct within the agency, the current Conduct Regulation has not always provided sufficient guidance.

The Commission's Conduct Regulation as it now exists presents a broad framework of ethical standards,[2] followed by specific rules dealing with such areas as outside or private employment [3] and securities transactions.[4] Although this broad approach provides the flexibility required for ethical rules, the current Regulation appears to be deficient in several areas. Specifically, it does not include interpretations of various rules which are currently adhered to; it is not sufficiently specific in some areas; it does not provide sufficient guidance with respect to procedures that members and employees should follow when faced with ethical conduct questions; and certain provisions are inappropriate in the face of changing federal statutes.

To remedy these problems the Commission is adopting a comprehensive revision of its Conduct Regulation. Each rule has been reviewed both individually and as part of the entire structure and changes have been made to make the Regulation more readable and more effective as a guide to acceptable conduct by Commission employees.

The reader is referred to the entire Conduct Regulation, set forth below.

The following is a synopsis only of the major changes in the various rules.

§ 200.735–1 Policy.

Minor changes.

§ 200.735–2 Purpose.

Minor changes.

§ 200.735–3 General provisions.

The major changes in this rule are:

(1) The possibility of additional restrictions on the conduct of employees in certain Offices, Divisions or Regions.

(2) More specific restrictions on the acceptance of free meals.

(3) The addition of rules applicable to the acceptance of meals or gifts when one is a participant in a conference or meeting.

(4) The requirement of disclosure to a supervisor under certain circumstances when one is negotiating for employment with another government agency.

§ 200.735–4 Outside employment and activities.

The major changes in this rule are:

(1) Additions to the list of types of entities with whom employment would be incompatible with concurrent Commission employment.

(2) Narrowing of the focus of the rule dealing with incompatible employment of a spouse or member of a Commission employee's household so that such employment would only be incompatible if the spouse or "member of the employee's household" is employed (a) by an entity subject to regulation by the Commission; *or* (b) where the actual job is directly related to the issuance, sale, purchase or investment of securities; *and* (c) in a capacity which relates *directly* to the Commission employee's official duties and activities.

(3) Allowing acceptance of reimbursement for travel expenses from

[1] *See* 33 FR 2831 (Feb. 7, 1968); 42 FR 30834 (June 17, 1977); 43 FR 36900 (Aug. 21, 1978).

[2] 17 CFR 200.735–3 General Provisions.

[3] 17 CFR 200.735–4.

[4] 17 CFR 200.735–7.

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an association or other group predominantly composed of persons regulated by the Commission if authorized by the Chairman.

(4) Allowing, in connection with attendance at conferences or meetings, the acceptance of reimbursement for expenses personally incurred from non-governmental entities, from which reimbursement may be accepted, when an employee is on administrative leave or annual leave. Administrative leave must be authorized by the employee's Division Director, Office Head or Regional Administrator and have the concurrence of the Executive Director.

(5) A clearer articulation of the prohibitions applicable to members, employees, and former members and employees when dealing with nonpublic or confidential information.

(6) Allowing the use of Commission facilities in connection with teaching or writing activities under certain circumstances, when approved by the employee's Division Director, Office Head or Regional Administrator.

(7) Allowing, in appropriate circumstances, a waiver from the prohibition on the acceptance of payment for expenses of a spouse or traveling companion in connection with a member or employee's attendance at conferences or meetings.

(8) Allowing employees to represent other employees in administrative proceedings in connection with allegations arising with respect to official duties.

(9) More specific procedures are provided for the review of speeches and articles written by Commission employees.

§ 200.735–5 Securities transactions.

The major changes are:

(1) The holding period for securities is changed from one year to eleven months.

(2) Members and employees are prohibited from purchasing or selling options. Spouses or other members of a member or employee's household may purchase or sell options or future contracts for commodities.

(3) Subject to certain restrictions, employees, except Senior Executive Service members in the Division of Investment Management, are no longer prohibited from purchasing securities which are registered under the Investment Company Act of 1940. (For the most part these are mutual funds or money market funds.)

(4) The rule relating to blind trusts is made more specific.

§ 200.735–6 Action in case of personal interest.

Minor changes.

§ 200.735–7 Negotiation for employment.

Major change in this rule is a requirement that an employee who is representing the Commission in a particular matter in which another government agency is taking a position adverse to the Commission and who wishes to negotiate for employment with the other government agency must disclose that intention to his or her supervisor.

§ 200.735–8 Practice by former members and employees of the Commission.

This rule has been altered to conform to the requirements of the Ethics in Government Act of 1978.

§ 200.735–9 Indebtedness.

Minor changes.

§ 200.735–10 Miscellaneous statutory provisions.

Minor change.

§ 200.735–11 Statement of employment and financial interests.

The list of persons from whom such statements are required has been revised and procedures applicable to submission of the statements are made more specific.

§ 200.735–12 Special Government employees.

The rule relating to restrictions on special Government employees has been made more specific.

§ 200.735–13 Disciplinary and other remedial action.

The changes in this rule are:

(1) Minor changes making the rule more specific.

(2) Inclusion of a provision which specifies the procedure to be used in implementing the administrative enforcement proceedings for violations of post-employment restrictions of the Ethics in Government Act of 1978.

§ 200.735–15 Interpretive and advisory service.

The major changes in this rule are:

(1) Designation of the General Counsel as "Counselor for the Commission."

(2) More specific provisions dealing with the availability of interpretive and advisory services in connection with these rules.

§ 200.735–16 Delegation.

New section providing for the delegation of certain functions and responsibilities.

§ 200.735–17 Administration of the Conduct Regulation.

New section.

§ 200.735–18 Requests for waiver, modification or postponement.

New section.

Revision of Conduct Regulation

Accordingly, 17 CFR Part 200 is amended by revising Subpart M to read as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION REQUESTS

* * * * *

Subpart M—Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

Sec.

200.735–1 Purpose.
200.735–2 Policy.
200.735–3 General provisions.
200.735–4 Outside employment and activities.
200.735–5 Securities transactions.
200.735–6 Action in case of personal interest.
200.735–7 Negotiation for employment.
200.735–8 Practice by former members and employees of the Commission.
200.735–9 Indebtedness.
200.735–10 Miscellaneous statutory provisions.
200.735–11 Statement of employment and financial interests.
200.735–12 Special government employees.
200.735–13 Disciplinary and other remedial action.
200.735–14 Employees on leave of absence.
200.735–15 Interpretive and advisory service.
200.735–16 Delegation.
200.735–17 Administration of the conduct regulation.
200.735–18 Requests for waivers.

Subpart M—Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11; E.O. 11222; 3 CFR, 1964–1965 Comp., 5 CFR 735.104.

§ 200.735–1 Purpose.

This subpart sets forth the standards of ethical conduct required of members, employees and special Government employees, and former members and employees of the Securities and

Exchange Commission. It is a further revision of a comprehensive conduct regulation first adopted by the Commission in 1953 "to restate the ethical principles which it believes should govern and have governed the conduct of members and employees and former members and employees of the Commission." [1] This revision is necessary to provide members, employees, special Government employees and former Commission members and employees with a comprehensive statement of standards of conduct which are dictated by applicable Federal law, Executive orders, and the Commission's own requirements.

§ 200.735–2 Policy.

(a) The Securities and Exchange Commission has been entrusted by Congress with the protection of the public interest in a highly significant area of our national economy. In view of the effect which Commission action frequently has on the general public, it is important that members, employees and special Government employees maintain unusually high standards of honesty, integrity, impartiality and conduct. They must be constantly aware of the need to avoid situations which might result either in actual or apparent misconduct or conflicts of interest and to conduct themselves in their official relationships in a manner which commands the respect and confidence of their fellow citizens.

(b) For these reasons, members, employees and special Government employees should at all times abide by the standards of conduct set forth in this subpart, the canons of ethics for members of the Securities and Exchange Commission (Subpart C of this Part 200) and, in the case of a professional person, the ethical standards applicable to the profession of such person.

§ 200.735–3 General provisions.

(a)(1) In considering the prohibitions of this section, members and employees must constantly be aware that the provisions here enumerated set forth standards of conduct which are broader than the specific applications stated in the rules which follow. Therefore, members and employees should look to these general prohibitions when assessing the advisability of a particular course of conduct. The broadly stated provisions of this rule are aimed at eliminating the appearance of impropriety as well as any actual wrongdoing.

(2) Accordingly, a member or employee should avoid any action, whether or not specifically prohibited by law or regulation (including the provisions of this subpart), which would result in or might create appearance of, among other things:

(i) Using public office for private gain;

(ii) Giving preferential treatment to any organization or person;

(iii) Losing complete independence or impartiality;

(iv) Making a Government decision outside official channels; or

(v) Affecting adversely the confidence of the public in the integrity of the Government.

(3) While provisions applicable to all employees of the Commission are outlined in this Regulation, certain Offices or Divisions for management reasons may require more stringent regulations in certain areas. These may be imposed by Division Directors, Office Heads or Regional Administrators with the consent of the Chairman and the approval of the Office of Government Ethics. Should such additional regulations be imposed, all employees affected must be notified ten days before the effective date of the restriction or at the time of their employment.

(b) A member or employee of the Commission shall not:

(1) Engage, directly or indirectly, in any personal business transaction or private arrangement for personal profit the opportunity for which arises because of his or her official position or authority, or that is based upon confidential or nonpublic information which he or she gains by reason of such position or authority.[2]

(2) Solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, service, or any other thing of monetary value from any person with whom he or she transacts business on behalf of the United States; who has, or is seeking to obtain, contractual or other business or financial relations with the Commission; who conducts operations or activities regulated by the Commission; or who has interests that may be substantially affected by the performance or non-performance of his or her official duty. This paragraph does not apply (i) when the cirumstances make it clear that it is obvious family or personal relationships rather than the business of the persons concerned which govern and are the motivating factors; (ii) when, on infrequent occasions, food and refreshments of modest value are offered free in the course of a luncheon or dinner meeting, or other meeting not connected with an inspection or investigation where attendance is official and proper and the circumstances make individual payment difficult; (iii) when unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars and other items of modest intrinsic value are offered; (iv) when one is participating as panelist or speaker in an educational program and meals or refreshments are provided to all panelists; or (v) when the employee's Division Director, Office Head or Regional Administrator determines in writing that an exception is warranted and appropriate in a particular situation.

(A) Gifts given for participation in an educational program may be accepted when they are of modest value; or provided to all participants in the program; or are in the nature of a remembrance traditional to the particular sponsor institution.

(B) For purposes of this subpart, "person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company; or any other organization or institution,[3] or anyone who acts for such person in a representative capacity.

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[1] The last major revision of the Conduct Regulation was done in 1966 to implement Executive Order 11222, May 8, 1965, and Part 735 of the Civil Service Commission regulations (5 CFR Part 735) adopted pursuant thereto. It also contains references to the several applicable statutes governing employee conduct, particularly Pub. L. 87–849 (76 Stat. 1119, 18 U.S.C. 201 *et seq.*), and the "Code of Ethics for Government Service," House Concurrent Resolution 175, 85th Congress, 2d session (72 Stat. B 12).

[2] Detailed provisions regarding outside or private employment and transactions in securities and commodities are set forth in §§ 200.735–4 and 200.735–5, respectively. Further provisions regarding use and disclosure of confidential information are set forth in paragraph (b) of this section and in the note appended thereto.

Members of the Commission are subject also to the following prohibition in section 4(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(a)): "* * * No Commissioner shall engage in any other business, vocation, or employment than that of serving as Commissioner, nor shall any Commissioner participate, directly or indirectly, in any stock market operations or transactions of a character subject to regulation by the Commission pursuant to this title * * *." This does not preclude Commissioners from engaging in securities transactions. *See* Opinion letter dated February 11, 1975, sent by the Office of the General Counsel to David Reich, Ethics Counselor at the Civil Service Commission. In addition, members of the Commission are subject to the requirements of Executive Order 11222 of May 8, 1965.

[3] Members and employees of the Commission are subject also to provisions of the Federal Criminal Code which prohibits any officer or employee of the United States from asking, accepting or receiving any money or other thing of value in connection with any matter before him or her in his or her official capacity (18 U.S.C. 203); and which prohibits the compensation of Government employees for service to the Government by entities other than the United States (18 U.S.C. 209).

(3) Solicit contributions from another employee for a gift to an employee in a superior official position. An employee in a superior official position shall not accept a gift presented as a contribution from employees receiving less salary than himself or herself. An employee shall not make a donation as a gift to an employee in a superior official position (5 U.S.C. 7351). However, this paragraph does not prohibit the occasional giving of gifts of modest value to an employee in a superior position or the receipt of such gifts by a superior or the use of completely voluntary contributions of nominal amounts by employees within the Commission to establish funds for the limited purpose of providing token remembrances or gifts of modest value to an employee in a superior position on special occasions.

(4) Accept from a foreign government a gift, decoration or other thing of more than minimal value except in accordance with the provisions of 5 U.S.C. 7342.

(5) Discuss or entertain a proposal for future employment by any person outside the Government with whom he or she is personally and substantially involved in transacting business on behalf of the United States.[4]

(i) If an employee wishes to discuss future employment with another Government agency, this fact should be disclosed to the employee's Division Director, Office Head or Regional Administrator prior to any discussion regarding employment, if at that time the employee is representing the Commission in a particular matter in which the other agency is taking a position adverse to the Commission.

(6)(i) Divulge to any unauthorized person or release in advance of authorization for its release [5] any nonpublic Commission document, or any information contained in any such document or any confidential information: (A) In contravention of the rules and regulations of the Commission promulgated under 5 U.S.C. 552, 552a, and 552b; or (B) in circumstances where the Commission has determined to accord such information confidential treatment.

(ii) Except where the Commission has previously granted approval or in relation to a Commission administrative proceeding or a judicial proceeding in which the Commission, or a present or former Commissioner, or present or former member of the staff, represented by Commission counsel, is a party, any officer, employee or former officer or employee who is served with a subpoena requiring the disclosure of confidential or nonpublic information or documents shall, unless the Commission authorizes the disclosure of such information or documents, respectfully decline to disclose the information or produce the documents called for, basing his or her refusal upon this paragraph.

(iii) Any member, employee or former member or employee who is served with such a subpoena not covered by the exceptions in (2) above shall promptly advise the General Counsel of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability in the public interest of making available such information or documents.[6] The General Counsel shall seek authorization from the Commission to disclose information or documents.

(7) Act in any official matter with respect to which there exists a personal interest incompatible with an unbiased exercise of official judgment.[7]

(8) Have direct or indirect personal, business or financial affairs which conflict or appear to conflict with his or her official duties and responsibilities.

(9)(i) Use, or allow the use of, directly or indirectly, Government property of any kind, including property leased to the Government, for other than officially approved activities. "Officially approved activities" for the purpose of this section are those activities which are part of an employee's official duties or are approved by the employee's Division Director, Office Head or Regional Administrator as being sufficiently related to the employee's official duties, or important to the interests of the Commission to warrant the use of Commission facilities for their accomplishment. Division Directors, Office Heads and Regional Administrators may, for their own activities meeting the same criteria, obtain the concurrence of the Executive Director.

(ii) An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him or her.

(10) Participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(11) Engage in unlawful or unethical conduct, or other conduct prejudicial to the Government.

§ 200.735–4 Outside employment and activities.

(a) No member or employee shall permit his or her name to be associated in any way with any legal, accounting or other professional firm or office.[8]

(b)(1) No employee shall have any outside or private employment, activity, or affiliation incompatible with concurrent employment by the Commission. Incompatible activities include but are not limited to

(i) Employment or association with any securities exchange, association of securities dealers, or other self-regulatory organization either registered under the Securities Exchange Act of 1934 or otherwise involved with the securities industry, any registered broker, dealer, registered municipal securities dealer, public utility holding company, investment company, investment adviser, securities information processor, transfer agent, clearing agency or other persons who are subject to regulation by the Commission, or where the facts relating to a particular employment would create an appearance of impropriety, because the employment is directly or indirectly related to the issuance, sale, purchase or investment of securities;

(ii) Legal, accounting, or engineering work for compensation involving matters in which the Federal government may be significantly interested;

(iii) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in or create the appearance of conflicts of interest;

(iv) Outside employment or activity which impairs the employee's mental or physical capacity to perform his or her Commission duties and responsibilities in an acceptable manner;

(2) For the purposes of this paragraph (b), the private employment of an employee's spouse, or other member of his or her immediate household with any securities exchange, association of securities dealers, or other self-regulatory organization either registered under the Securities Exchange Act of 1934 or otherwise involved in the securities industry, any registered broker, dealer, registered municipal securities dealer, public utility holding company, investment company, investment adviser, securities information processor, transfer agent, clearing agency or other persons who are subject to regulation by the Commission, or where the particular employment is directly related to the issuance, sale, purchase or investment of securities is deemed to be incompatible with the employee's concurrent employment by the Commission if the duties and activities incident to such employment relate directly to the official activities of the Commission employee, except as determined otherwise by the Commission in a specific case.

(i) "Member of his or her immediate household" is defined for the purposes of this paragraph as a resident of the employee's household who is related to the employee by blood or marriage.

(3) No employee shall accept or perform outside employment prohibited by law, regulations of the Office of Personnel Management or the rules in this subpart.

(4) No employee shall receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government (18 U.S.C. 209), except as otherwise provided by law.

(5) The Commission encourages employees to engage in teaching, lecturing, and writing activities with or without compensation.[9] In participating in such activities, employees should be guided by the following:

(i) No teaching, lecturing, or writing should be engaged in if prohibited by law, Executive order, Office of Personnel Management regulations, or the rules in this subpart.

(ii) No teaching, lecturing, or writing should be engaged in (including for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service) that depends on information filed with the Commission, or obtained by the Commission in an investigation or otherwise, or generated within the Commission which is nonpublic, unless the Commission gives formal approval for the use of such nonpublic information on the basis that the use thereof is in the public interest.[10]

(6)(i) A member or employee may accept reimbursement for travel or subsistence expenses and any expenses may be paid on his or her behalf only if reimbursement is authorized by paragraphs (b)(6) (iv) or (v) of this section. No member or employee may, under any circumstances, accept reimbursement for travel or subsistence expenses incurred in connection with attendance at a seminar, meeting, conference, etc., sponsored in whole or in part by any person from whom the acceptance of reimbursement is prohibited by paragraph (b)(6)(ii) of this section.

(ii) No member or employee shall accept reimbursement for travel or subsistence expenses from:

(A) Any person [11] directly required to file reports or registration statements with the Commission;

(B) Any person [11] directly or indirectly regulated by the Commission; or

(C) Unless authorized by the Chairman, any association or other group predominantly composed of persons regulated by the Commission.

(iii) For purposes of this section, the phrase "person regulated by the Commission" means all persons whose activities are directly regulated by, or who are required to register with, the Commission, including, but not limited to, such persons as brokers or dealers in securities, national securities exchanges, national securities associations, investment companies, investment advisers, public utility holding companies, and any self-regulatory organization, as that term is defined in Section 3 of the Securities Exchange Act of 1934, 15 U.S.C. 78(c).

(iv) Subject to the general prohibition set forth in paragraph (b)(6)(ii) of this section, members or employees may, pursuant to 5 U.S.C. 4111, while on official duty status, accept bona fide reimbursement for actual expenses for travel or necessary subsistence incident to attendance at meetings from a person determined by the Secretary of the Treasury to be a tax-exempt organization of the type described in 26 U.S.C. 501(c)(3). *Provided, however,* That no Government payment or reimbursement is made for the expense so reimbursed: *And provided further,* That the member or employee is not reimbursed, nor payment made on his or her behalf, for those personal living benefits which are unreasonable or lavish.

(v) Consistent with the general prohibition set forth in paragraph (b)(6)(ii) of this section and the Commission's regulations governing conflicts of interest, employees (but not members) of the Commission appropriately on either administrative leave or annual leave may accept bona fide reimbursement for actual expenses personally incurred for travel or necessary subsistence from persons in addition to organizations described in paragraph (b)(6)(iv) if this section: *Provided,* That the employee is not reimbursed, nor payment made on his or her behalf, for those personal living expenses, gifts, entertainment or other personal benefits which are unreasonable or lavish.

(vi)(A) In instances in which a Commission employee has an expertise in a particular area, and it is in the interest of the Commission for such employee to participate in a particular program, the employee's Division Director, Office Head or Regional Administrator may, with the concurrence of the Executive Director, approve administrative leave for such appearance for themselves or their subordinates.

(B) In those instances in which administrative leave is not granted pursuant to paragraph (b)(6)(iv)(A) of this section, annual leave may be taken.

(vii) Nothing in this section or otherwise shall be considered as permitting the acceptance from any person of reimbursement to a member or employee of the Commission, directly or indirectly, for the travel or subsistence expenses of the member's or employee's spouse or traveling companion. Under appropriate circumstances, such as programs where participants are expected to engage in social activities, exceptions to this section may be

[4] Detailed provisions regarding negotiations for future employment are set forth in § 200.735–7.

[5] In Section 171 of the Commission's Manual of Administrative Regulations the Commission's policy on making available nonpublic information to federal, state and foreign government authorities, national securities exchanges and national securities associations is outlined.

[6] Detailed prohibitions regarding disclosure or use of confidential or nonpublic information are set forth in Rule 122 (17 CFR 230.122) under the Securities Act of 1933; section 24(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78x) and Rule 0–4 (17 CFR 240.0–4); and Rule 24(b)(2) (17 CFR 240.24b–2), thereunder; section 22(c) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) and Rule 104 thereunder (17 CFR 250.104); section 45(a)(1) of the Investment Company Act, and section 210(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10). *But see,* section 171 of the Administrative Manual which authorizes the staff to divulge certain nonpublic information without Commission approval (n. 5, *supra*).

[7] Section 200.735–6 of this subpart provides a procedure for relieving employees from assignments in certain cases, including those covered by paragraph (f) of this section.

[8] With respect to members, this paragraph supplements the statutory prohibition against outside employment contained in Section 4(a) of the Securities Exchange Act of 1934, quoted in footnote 2. Except as otherwise indicated, the remaining provisions of this section are not made applicable to members in view of the provisions of Section 4(a) of the Securities Exchange Act of 1934.

[9] As to employees, while the receipt of honoraria is discouraged (*See* 17 CFR 200.735–4(b)(7)), that rule is not applicable to the receipt of compensation for teaching.

[10] Since members of the Commission are covered by section 401(a) of Executive Order 11222, they are prohibited by Civil Service Regulations (5 CFR 735.203(c)) from receiving compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of their agencies, or which draws substantially on official data or ideas which have not become part of the body of public information.

[11] As defined in paragraph (b)(2)(ii) of § 200.735–3.

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obtained upon application to the General Counsel.

(7) The provisions of this paragraph (b) and § 200.735–3(b)(2) do not preclude a member or employee from:

(i) Participation in the activities of national or State political parties not proscribed by law;

(ii) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civic organization.

(8)(i) As a matter of general policy, the Commission discourages the acceptance of honoraria or similar fees and payments which are given for publications, speeches or lectures based on the official duties of the employee. In accord with this policy, no member or employee may accept such an honorarium unless written approval is obtained in advance from the Commission's General Counsel, subject to the general review of the Commission. Requests for such approval should be submitted to the General Counsel in writing and should include a statement in support of the request.

(ii) Honoraria which are most likely to be deemed acceptable are those which appear to be remuneration for teaching. An employee may not, under any circumstances, accept an honorarium from any person from whom reimbursement for travel expenses is prohibited by paragraph (b)(6)(ii) of this section. In any event an employee may not accept an excessive honorarium as described in 2 U.S.C. 441(i). This section does not preclude the acceptance of a modest gift for participation as a speaker, as provided in Rule 3.

(c) No employee shall appear in court or on a brief in a representative capacity (with or without compensation) or otherwise accept or perform legal, accounting, engineering, or similar professional work, unless specifically authorized to do so by the Commission. Acceptance of a forwarding fee shall be deemed to be within the foregoing prohibition. As a matter of general policy, outside or private professional work or practice by the staff is discouraged and only in unusual cases or circumstances will it be authorized. However, the Commission encourages its employees, in off-duty hours and consistent with official responsibilities, to participate, without compensation, in programs to provide legal or other appropriate assistance and representation to indigents.[12] Such participation may include limited appearances in court and on briefs when required in connection with such programs. However, such participation may not involve any activities which are prohibited by law, Executive Orders, Office of Personnel Management regulations, or this Subpart M.[13] For example, 18 U.S.C. 205 prohibits a Federal employee from appearing in court in a matter in which the United States has an interest (other than on behalf of the United States), without regard to compensation.

(1) The provisions of this paragraph (c) and § 200.735–3(b)(2) do not preclude an employee from:

(i) Acting without compensation as agent or attorney (A) for a Commission employee who is sued or is under investigation in connection with his or her official duties; (B) for any Commission employee who is the subject of disciplinary, loyalty or other personnel administrative proceedings in connection with those proceedings; or (C) for any Commission employee who raises claims or against whom allegations of wrongdoing are made pursuant to the Commission's equal Opportunity regulations, if such representation is not inconsistent with the faithful performance of the employee's duties.[14]

(d) No member or employee shall hold office in or be a director of any company which has public security holders, except not for profit corporations, savings and loan associations, and similar institutions, whose securities are exempted under Section 3(a)(4) or 3(a)(5) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4), 77c(a)(5)).

(e)(1) As paragraph (b)(5) of this section indicates, the Commission encourages employees to engage in teaching, lecturing and writing activities.[15] It is understood, however, that Commission employees in their teaching, writing and lecturing shall not

(i) Use confidential or nonpublic information;

(ii) Make comments on pending litigation in which the Commission is participating as a party or *amicus curiae;* or

(iii) Make comments on rulemaking proceedings pending before the Commission which would adversely affect the operations of the Commission.

(2) To assist employees in conforming to these requirements the following procedure for reviewing writings prior to publication, or prepared speeches prior to delivery, has been established:

(i) Employees must submit proposed publications or prepared speeches relating to the Commission, or the statutes or rules it administers, to the General Counsel for review. Employees will be notified as promptly as possible, with due regard to publication deadlines, but in any event within 30 days of receipt of the written document, whether such document conforms to the requirements of this Rule.

(ii) A determination by the General Counsel that a proposed publication conforms to the requirements of the rule will not involve adoption of, or concurrence in, the views expressed. Therefore, such publication or speech shall include at an appropriate place or by way of footnote, or otherwise, the following disclaimer of responsibility:

> The Securities and Exchange Commission, as a matter of policy, disclaims responsibility for any private publication or statement by any of its employees. The views expressed herein are those of the author and do not necessarily reflect the views of the Commission or of the author's colleagues upon the staff of the Commission.

In appropriate cases, the above disclaimer may be modified by the General Counsel or the Commission to reflect the circumstances of an individual case. In addition, any publication or speech which reflects positions taken by the Commission shall set forth those positions accurately and, if it contains differences with Commission positions, it shall clearly state that such positions are those of the employee.

[12] As a matter of policy, the Commission encourages members of its staff to participate in matters involving improvement to their communities and service to indigent persons, provided that the necessary approval is obtained in advance. However, in no case will approval be given to participate in matters involving securities.

[13] Attention is called to Title 18, United States Code, sections 201 through 209 which provide, among other things, that Federal employees are prohibited from acting as agent or attorney in prosecuting any claim against the United States or from aiding and assisting in any way, except as otherwise permitted in the discharge of official duties, in the prosecution or support of any such claim, or from receiving any gratuity, or any share of an interest in any claim from any claimant against the United States; and from directly or indirectly receiving or agreeing to receive any compensation whatever for services rendered or to be rendered to any persons in relation to any matter in which the United States is a party or directly or indirectly interested. 18 U.S.C. 205 contains an exception from the foregoing restrictions for acting as agent or attorney, without compensation, for government employees who are the subject of disciplinary, loyalty or other personnel-type proceedings, in connection with these proceedings.

[14] This is adapted from the provision in 18 U.S.C. 205 and expresses the Commission's general policy which favors the representation of fellow employees without compensation. However, it may be necessary to look to other regulations for specific provisions regarding such representation.

[15] This paragraph (e), requiring review of prepared speeches or writings relating to the Commission, does not apply to teaching activities.

(f) An employee who intends to accept or perform any outside or private employment or professional work shall obtain necessary authorization in advance of such acceptance or performance. A request for such authorization shall be submitted to the Division Director, Office Head or Regional Administrator concerned, together with all pertinent facts regarding the proposed employment, such as the name of the employer, the nature of the work to be performed, its estimated duration, and the fee or compensation to be received. Division Directors, Office Heads and Regional Administrators have been delegated the authority to approve routine requests for outside employment. The approving official shall forward to the Director of Personnel a copy of each request showing the date of approval. Requests of a non-routine nature should be forwarded to the Director of Personnel.

(g) The Director of Personnel, or his designee, is authorized to approve or disapprove requests for outside or private employment under this rule, except as to those cases which, in his judgment, should be considered and decided by the Commission. An employee may appeal a disapproved request to the Commission. The written appeal, submitted through the Director of Personnel, shall give reasons why the proposed outside or private employment is consistent with this rule. The Director of Personnel may not approve proposed outside or private employment which is absolutely prohibited by these Rules. The Commission may, in a particular case, approve such employment.[16]

§ 200.735–5 Securities transactions.

(a)(1) This section applies to all transactions effected by or on behalf of a member or employee, including transactions for the accounts of other persons effected by the member or employee, directly or indirectly, under a power of attorney or otherwise. A member or employee is considered to have sufficient interest in the securities transactions of his or her spouse or unemancipated minor child or other member of his or her immediate household so that such transactions must be reported and are subject to all the terms of this section. For purposes of this section, "member of his or her immediate household" means a resident of the member's or employee's household who is related to the employee by blood or marriage or who is in the legal care and/or custody of the employee by reason of adoption, prospective adoption or guardianship.

(2) No securities which a member or employee could not purchase because of a restriction under this Rule shall be recommended or suggested by the employee for purchase by any person over whom the employee has control or substantial influence with respect to investments, by reason of (i) monetary payments made by the employee to or on behalf of the person; or (ii) the age or mental condition of the person.

(b) (1) No member or employee shall effect or cause to be effected any transaction in a security except for bona fide investment purposes. Unless otherwise determined by the Commission for cause shown, any purchase except of money market fund shares [17] which is held for less than 11 months will be presumed not to be for investment purposes. This 11 month holding period is not applicable to securities purchased by a member or employee prior to entrance on duty with the Commission, and such securities may, therefore, be disposed of at any time. Nor is it applicable to debt securities with an initial term of less than one year which are held to term, or shares of a unit investment trust having a term of less than one year.

(2) Any member or employee who believes the requirement of paragraph (a) of this section as to spouse, child or "member of his or her household" or the application of this paragraph (b) will result in undue hardship in a particular case may make written application to the Commission (through the Director of Personnel) setting out, in detail, the reasons for that belief and requesting a waiver.

(c) No member or employee shall effect any purchase or sale of an option or future contract for any commodity or involving a security. The prohibition on the purchase or sale of options or future contracts for commodities shall not apply to spouses or other members of a member's or employee's household.

(d) No member or employee shall carry securities on margin. Also no member or employee shall borrow funds or securities, with or without collateral, for the purpose of purchasing or carrying securities with the proceeds unless prior approval of the Commission has been secured.

(e) No member or employee shall sell a security which he or she does not own, or the sale of which is consummated by the delivery of a security borrowed by or for such member's or employee's account.

(f) No member or employee shall purchase any security which is the subject of a registration statement filed under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), or of a letter of notification filed under Regulation A (§§ 230.251–230.263 of this chapter), or any other security of the same issuer, while such a registration statement or letter of notification is pending or during the first sixty days after its effective date. This prohibition applies even though the registration statement or Regulation A filing covers a so-called limited offering such as to officers and employees of the company under a bonus plan. However, with respect to securities issued by an investment company, other than a closed-end investment company, this provision shall not apply except during the pendency of an initial offering of shares to the public or during the first sixty days after the effective date of such initial offering.

(g) No member or employee shall purchase any security which to his or her knowledge is involved in any pending investigation by the Commission, or in any proceeding before the Commission, or to which the Commission is a party.

(h) No member or employee shall purchase any securities of any company which is in a receivership proceeding in which the Commission is participating, or which arose out of a Commission action which is the subject of a proceeding under the Bankruptcy Act, in which the Commission is a party.

(i) The restrictions imposed in paragraphs (f), (g), (h), and (j) of this section do not apply:

(1) To the exercise of a privilege to convert or exchange securities;

(2) To the exercise of rights accruing unconditionally by virtue of ownership of other securities (as distiguished from a contingent right to acquire securities not subscribed for by others);

(3) To the acquisition and exercise of rights in order to round out fractional shares; or

(4) To the acceptance of stock dividends on securities already owned; to the reinvestment of cash dividends on a security already owned under a reinvestment program; or the participation in a monthly investment plan for the purchase of a security when the original purchase was consistent with the provisions of this Rule.

(j) No member or employee shall purchase securities of (1) any holding company registered under Section 5 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79e), or any subsidiary

[16] The Commission does not favor the granting of waivers from the provision of this subsection.

[17] For purposes of this rule a "money market fund" is defined as an open-end investment company whose investment policy calls for investment of at least 80% of its assets in debt securities maturing in thirteen months or less.

V 45 MAY 29 1980 UMI

thereof, or (2) any company if its status under such Act or the applicability of any provision of the Act to it is known by the employee to be under consideration.

(k) No member or employee holding a Senior Executive Service position in the Division of Investment Management shall purchase any securities issued by any investment company *prima facie* subject to the jurisdiction of the Commission under the provisions of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*). Capital or income dividends received by persons subject to this Rule from securities acquired prior to entrance on duty may not be reinvested but must be accepted in cash if this option is available.

(l) No member or employee shall have a beneficial interest in any broker, dealer or investment adviser through ownership of securities or otherwise. Beneficial interest for the purpose of this paragraph (l) does not include ownership of a life insurance policy in a mutual insurance company; nor does beneficial interest exist by virtue of ownership of a life insurance contract, variable annuity contract or guaranteed investment contract issued by a life insurance company which is affiliated with a broker, dealer or investment adviser.

(m)(1) Except with respect to changes in money market fund holdings, members and employees shall report every purchase or sale of any security within 5 business days of the transaction date. (Reports submitted by employees in field offices must be placed in the mails within 5 business days of the date of each transaction.) Other changes in holdings resulting from inheritance or from reclassifications, gifts, stock dividends, dividend reinvestments or splitups, for example, shall be reported within 5 days of the receipt of the notice of a change in holdings. In addition, every employee owning securities shall furnish the Director of Personnel with a complete list of all securities held by him or her by May 15 of each year. Any required report shall be prepared on the official form provided for this purpose, copies of which may be procured from the Office of Personnel or the Publications Unit. These reports shall be transmitted to the Director of Personnel. The envelope should be marked "Confidential—Securities Transactions."

(2) Employees shall report changes of $2,500 or more in money market funds within 5 days of such change. Reports of total money market fund holdings shall be reported on the form and according to the schedule provided by the Office of Personnel.

(n) At the time of taking the oath of office, or prior thereto for prospective employees if requested by the Director of Personnel, a new member or employee shall fill in the information required, on the form provided by the Office of Personnel, (1) relating to securities owned by him or her, or his or her spouse or unemancipated minor child, or a member of his or her immediate household or by any trust or estate of which he or she is a trustee or other fiduciary or beneficiary or by any person for whom he or she effects transactions under a power of attorney or otherwise; (2) relating to accounts with securities firms; (3) relating to close relatives (*i.e.* parents, grandparents, siblings, aunts, uncles, parents or grandparents, or like relations of a spouse), who are partners or officers of securities firms, investment advisers, or registered public utility holding companies or their affiliates; (4) relating to the holding of office in or being a director of any company which has public security holders; and (5) such other information as may be required by the form.

(o) Paragraphs (b), (m) and (n) of this section do not apply to personal notes, individual real estate mortgages, securities issued by the U.S. Government or its agencies, and securities issued by building and loan associations or cooperatives.

(p) Any member or employee who is a trustee or other fiduciary or a beneficiary of a trust or estate holding securities not exempted by paragraph (o) of this section shall report the existence and nature of such trust or estate to the Director of Personnel. The transactions of such trust or estate which is not a "qualified blind trust" shall be subject to all the provisions of this section except in situations where the member or employee did not create the trust, is solely a beneficiary, and has no power to control, and does not in fact control or advise with respect to the investments of the trust or estate, and except to the extent that the Commission shall otherwise direct in view of the circumstances of the particular case.

(q) In those instances where members or employees have blind trusts, such trusts must conform to the requirements for qualified blind trusts established by Pub. L. 95–521 (Ethics in Government Act of 1978). The holdings and transactions of such trusts, to the extent that they hold securities not exempted by paragraph (o) of this section, shall only be subject to provisions (h), (j), (k) and (l) of this section.

(r) The Director of Personnel, or his designee, is authorized to require the disposition of securities acquired as a result of the unintentional violation of the provisions of this section. Repeated violations shall be reported to the Commission for appropriate action.

§ 200.735–6 Action in case of personal interest.

Any employee assigned to work on any application, filing or matter of a company (a) in which he or she or his or her spouse or his or her minor unemancipated child then owns any securities or has a personal interest, including a continuing financial interest in a pension or retirement plan, shared income, or other arrangement, as a result of any current or prior employment or business or professional association; or (b) with which he or she has been employed or associated in the past 5 years; or (c) which was a client of a firm with which he or she had been associated, shall immediately advise his or her Division Director or other Office Head or Regional Administrator of the fact. Division Directors, Office Heads and Regional Administrators are authorized to direct the reporting employee to continue with the assignment in question where this appears in the interest of the Government, taking into account (1) the prohibitions stated in § 200.735–3 (e) and (f); (2) the general desirability of avoiding situations that require a question of conflict of interest to be resolved; (3) the extent to which the employee's activities will be supervised; and (4) the difficulty of assigning the matter to some other employee. Where the employee in question is not relieved of the assignment, his or her written report concerning the nature of his or her interest shall be forwarded to the Director of Personnel with a notation that he or she has been directed to continue the assignment, together with such explanation, if any, as may seem appropriate. In the event that a Division Director, Office Head or Regional Administrator deems that he or she has, himself or herself, such a personal interest in an application, filing or matter of a company as may raise a question as to his or her disinterestedness, he or she may delegate his or her responsibility with regard thereto to a subordinate, but in that event shall submit a brief memorandum of the circumstances to the Director of Personnel.[18]

[18] 18 U.S.C. 208, provides among other things, that a member or employee is prohibited from participating personally and substantially in any matter in which to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as an officer, director, trustee, partner or

Footnotes continued on next page

§ 200.735–7 Negotiation for employment.

(a) An employee may not negotiate employment with anyone outside the Commission with whom he or she is personally transacting business in any matter on behalf of the Commission or the United States, or while he or she is immediately or personally engaged in representing the Commission in any matter in which the prospective employer is a participant or witness or counsel for such a person, whether or not such a person takes a substantive position in an adversary proceeding in opposition to the Commission's position.

(b) An employee who wishes to negotiate employment with another Government agency at a time when he or she is representing the Commission in a particular matter in which the other Government agency is taking a position adverse to the Commission should disclose this intention to his or her Division Director, Office Head or Regional Administrator prior to taking any action.

(c) No employee shall undertake to act personally on behalf of the Commission in any capacity in a matter [19] that, to his or her knowledge, affects even indirectly any person or organization outside the Commission with whom he or she is discussing or entertaining any proposal for future employment, except pursuant to the direction of the Commission, his or her Division Director, Office Head, or Regional Administrator, as provided in § 200.735–6. *See* footnote 18.

§ 200.735–8 Practice by former members and employees of the Commission.

(a)(1) No person shall appear in a representative capacity before the Commission in a particular matter if such person, or one participating with him or her in the particular matter, participated personally and substantially in that matter while he or she was a member or employee of the Commission.[20] As used in this Rule, a "matter" means a discrete and isolatable transaction or set of transactions between identifiable parties.[21]

(2) No person who has been a member or employee shall, within 2 years after his or her employment has ceased, assist, by personal presence, a person appearing in a representative capacity before the Commission in any matter in which he or she participated personally and substantially while a member or employee of the Commission at any time within a period of 1 year prior to the termination of such responsibility.

(3) No person who has been a member or an employee shall, within 2 years after his or her employment has ceased, appear in a representative capacity before the Commission in any matter which was under his or her official responsibility as a member or employee of the Commission at any time within a period of 1 year prior to the termination of such responsibility. The term "official responsibility" as defined in 18 U.S.C. 202 means the "direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action."

(4) No employee in a position which is designated by the Director of the Office of Government Ethics shall, within one year after his or her employment has ceased, appear in a representative capacity before the Commission or communicate with the Commission or its employees with the intent to influence.[22] This restriction does not apply to members who ceased employment before July 1, 1979, or to employees who ceased employment prior to February 28, 1980.

(b) Any former member or employee of the Commission who, within 2 years after ceasing to be such, is employed or retained as the representative of any person outside the Government in any matter in which it is contemplated that he or she will appear before the Commission shall, within ten days of such retainer or employment, or of the time when appearance before the Commission is first contemplated, file with the Secretary of the Commission a statement as to the nature thereof together with any desired explanation as to why it is deemed consistent with this section. Employment of a recurrent character may be covered by a single comprehensive statement. Each such statement should include an appropriate caption indicating that it is filed pursuant to this section. The reporting requirements of this paragraph do not apply to communications incidental to court appearances in litigation involving the Commission.

(c) As used in this section, the term "appear before the commission" means physical presence before the Commission or its employees in either a formal or informal setting or the conveyance of material in connection with a formal appearance or application to the Commission. As used in this section the term "communication with intent to influence" does not encompass communications which are not for the purpose of influencing the Commission or any of its employees or which, at the time of the filings, are reasonably believed not to involve any potential controversy. As used in this section, the term "representative" or "representative capacity" shall include not only the usual type of representation by an attorney, etc., but also representation of a corporation in the capacity of an officer, director or controlling stockholder thereof.

(d)(1) Partners or associates of any person disqualified from appearing or practicing before the Commission in a particular matter by paragraph (a)(1) of this section are also disqualified. Such partners or associates (the "firm") may request a waiver of this prohibition from the Commission by writing a letter to the General Counsel of the commission setting forth the facts of the proposed representation and the individual's disqualification. In appropriate situations, a firm may request a generic waiver with respect to a number of different matters. Upon the advice of the Office of the General Counsel, the Commission, or the General Counsel exercising delegated authority, will

Footnotes continued from last page

employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. This section (of the Criminal Code) does not apply if the employee has received a written determination made by an authorized official that the interest is not so substantial as to be deemed likely to affect the integrity of the employee's service. Note: Members of the Commission may follow the procedural provision contained in Part V, Section 503 of the Executive Order 11222.

[19] Employees should bear in mind that in this connection the word "matter" is construed very broadly. See 200.735–8 and footnote 20, thereto, *infra*.

[20] As used in this paragraph, a single investigation or formal proceeding, or both if they are related, shall be presumed to constitute a particular matter for at least 2 years irrespective of changes in the issues. However, in cases of proceedings in which the issues change from time to time, such as proceedings involving compliance with section 11 of the Public Utility Holding Company Act (15 U.S.C. 79k), this paragraph shall not be construed as prohibiting appearance in such a proceeding, more than two years after ceasing to be a member or employee of the Commission, unless it appears to the Commission that there is such an identity of particular issues or pertinent facts as to make it likely that confidential information, derived while a member or employee of the Commission, would have continuing relevance to the proceeding, so as to make participation therein by the former member or employee of the Commission unethical or prejudicial to the interests of the Commission.

[21] This definition is taken from Formal Opinion 342 of the ABA Ethics Committee. The opinion states that "work as a government employee in drafting, enforcing or interpreting government or agency procedures, regulations or laws, or in briefing abstract principles of law, does not disqualify the lawyer under DR9–101B (which states 'a lawyer shall not accept private employment in a matter in which he had substantial responsibility while he was a public employee') from subsequent private employment involving the same regulation procedures, or points of law * * *."

[22] This prohibition appears in the Ethics in Government Act of 1978. Pub. L. 95–521.

advise the requestor of the

position of acting as a collection agency

(i) The prohibition against fraud or

advise the requestor of the Commission's response.

(2) Waivers ordinarily will be granted where the firm makes a satisfactory representation that it has adopted screening measures which will effectively isolate the individual lawyer disqualified under paragraph (a)(1) of this section from participating in the particular matter or matters and from sharing in any fees attributable to it. It will be considered significant for purposes of this determination that:

(i) The firm had a pre-existing securities law practice prior to the arrival of the disqualified attorney;

(ii) The matter was previously the subject of consideration by the firm or the client was already advised by the firm;

(iii) In cases where the matter or client became the subject of consideration by the firm subsequent to the firm's employment of the lawyer individually disqualified, that the matter was not brought to the firm because of the disqualified attorney.

(3) Notwithstanding the existence or non-existence of any of these factors, no waiver will be issued if the proposed representation would create a significant appearance of impropriety or would otherwise adversely affect the interests of the government.[23] All proceedings with respect to waivers shall be a matter of public record except to the extent that such public disclosure might violate attorney-client privilege or breach the attorney's obligation to preserve the confidences and secrets of this or her clients, reveal the existence of ongoing private investigations, interfere with law enforcement proceedings, or otherwise be inconsistent with the public interest.

(e) Persons in doubt as to the applicability of any portion of this section may apply for an advisory ruling of the Commission.[24]

§ 200.735–9 Indebtedness.

(a) The Securities and Exchange Commission considers the indebtedness of its members and employees to be essentially a matter of their own concern and will not be placed in the position of acting as a collection agency or of determining the validity or amount of contested debts. Nevertheless, failure on the part of an employee without good reason and in a proper and timely manner to honor debts acknowledged by him or her to be valid, or reduced to judgment by a court, or to make or to adhere to satisfactory arrangements for the settlement thereof, may be a cause for disciplinary action. In this connection each member and employee is expected to meet his or her responsibilities for payment of Federal, State and local taxes. For purposes of this section, "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer.

(b) Compensation due members and employees is subject to garnishment for child support and alimony obligations. (42 U.S.C. 659).

§ 200.735–10 Miscellaneous statutory provisions.

Each member and employee is responsible for acquainting himself or herself with each statute that relates to his or her ethical and other conduct as a member or employee of the Commission and of the Government, including the statutory provisions listed below. Violations of any of these statutes are deemed to be violations of the rules in this Subpart M as well.

(a) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibition against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibition against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) disclosure of confidential information (18 U.S.C. 1905).

(f) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibition against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibition against political activities in subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(p) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

§ 200.735–11 Statement of employment and financial interests.

(a) Members and employees in the Senior Executive Service or Grades GS–16 through GS–18 are required to file a financial disclosure report as provided by Title II of the Ethics in Government Act of 1978, Pub. L. 95–521. Members and such employees need not also file the statement of employment and financial interests required by the following provisions.

(b) Prior to the time of entry on duty, or upon designation to a position set forth in paragraph (c) of this section, such employee shall submit to the Director of Personnel a statement, on the official form made available for this purpose through the Office of Personnel, setting forth the following information:[25]

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions with or in which the employee, his or her spouse, unemancipated minor child or other member of his or her immediate household has—

(i) Any connection as an employee, officer, owner, director, member, trustee, partner, adviser or consultant; or

(ii) Any continuing financial interest, through a pension or retirement plan,

[23] For example, no waiver will be granted if, during the course of representing a client who has an interest with respect to a matter before the Commission, a firm employs, or accepts as a partner, a member of the staff or of the Commission who at any time during the course of that representation had direct and substantial responsibility for the same matter, and whose departure would result in a significant adverse impact upon that matter at the Commission.

[24] Attention of former members and employees is directed to Formal Opinion 342 of the Committee on Ethics of the American Bar Association, 62 A.B.A.J. 517 (1975) and to 18 U.S.C. 207.

[25] In addition to the information required by this Rule, all employees are required by Rule 3(n) to file annually with the Director of Personnel a listing of their securities holdings.

shared income, or other arrangement as a result of any current or prior employment or business or professional association.

(iii) Any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

(2) A list of the names of the employee's creditors and the creditors of his or her spouse, unemancipated minor child or other member of his or her immediate household, other than those creditors to whom any such person may be indebted by reason of a mortgage on property which he or she occupies as a personal residence, or to whom such person may be indebted for current and ordinary household and living expenses such as those incurred for household furnishings, vacations, an automobile, education, or the like.

(3) A list of the employee's interests and those of his or her spouse, unemancipated minor child, or other member of his or her immediate household in real property or rights in lands, other than property which he or she occupies as a personal residence.

(4) For the purpose of this section, "member of his or her immediate household" means a resident of the employee's household who is related to the employee by blood or marriage.

(5) In the instance where a spouse is not a "member of the employee's immediate household," and the employee certifies he or she neither derives nor expects to derive any economic benefit from the holdings of the spouse, the Director of Personnel may waive the requirement of reporting the interests of such spouse.

(c) Except as to employees noted in paragraph (a) of this section, statements of employment and financial interests are required of the following:

(1) All employees in grade GS–15.

(2) Incumbents of the following positions, regardless of grade:

(i) Executive Staff. (A) Legal Assistants to the Chairman and to each Commissioner; (B) Special Counsels to the Chairman.

(ii) Employees serving under SEC Fellowship Programs.

(iii) All employees engaged in any aspect of Government contracting or procurement activities.

(iv) Division, Office, Directorate
(A) Directors
(B) Deputies
(C) Associates
(D) Assistants
(E) Chief Counsels

(v) Regional Offices
(A) Administrators
(B) Associate Administrators
(C) Assistant Administrators
(D) Attorneys-in-Charge of Branch Offices
(E) Chief Enforcement Attorneys

(d) Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of May 15 of each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this paragraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of Section 208 of Title 18, United States Code, or of this Conduct Regulation.

(e) If any information required to be included on a statement of employment and financial interest or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his or her behalf.

(f) Paragraph (c) of this section does not require an employee to submit any information relating to his or her connection with, or interest in, a non-profit educational, charitable, religious, professional, social, fraternal, recreational, public service, civic, or political organization, or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(g) Statements of employment and financial interests filed pursuant to paragraph (c) of this section shall be sent to the Director of Personnel in a sealed envelope marked "Confidential Employment and Financial Interests." They shall be maintained in a confidential file. Only those officials of the Commission whose participation is necessary for the carrying out of the purpose of this Conduct Regulation may have access to such statements and no information may be disclosed from them except as the Commission or the Office of Personnel Management may determine for good cause shown.

(h) In accordance with the requirements of the Ethics in Government Act of 1978, Pub. L. 95–521, the Director of Personnel or the Assistant Director of Personnel shall review the financial disclosure reports filed pursuant to that Act.

(i) The Director of Personnel or the Assistant Director of Personnel shall examine the statements of employment and financial interests filed pursuant to paragraph (c) of this section to determine whether conflicts of interest or apparent conflicts of interest on the part of employees exist. An employee shall be afforded the opportunity to explain any conflict or appearance of conflict. When the Director or Assistant Director of Personnel, in consultation with appropriate superiors of the employee involved, is unable to resolve a conflict or appearance of conflict, he or she shall report the matter to the Commission through the Counselor for the Commission designated under § 200.735–15(a).

(j) The Counselor for the Commission shall examine statements filed by the Director of Personnel and the Assistant Director of Personnel.

(k) Except as otherwise provided in paragraph (a) of this section the statement of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order or regulation. The submission of a statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or the other person's participation is prohibited by law, order or regulation.

(l) An employee has the right to ask for a review through the Commission's grievance procedure outlined in section 771, Part II, Manual of Administrative Regulations, of a complaint that his or her position has been improperly included under the provisions of this section as one requiring the submission of a statement of employment and financial interests.

§ 200.735–12 Special Government employees.

(a) Special Government employee means a person defined in section 18 U.S.C. 202 as a "special Government employee." All of the provisions of this Conduct Regulation are applicable to special Government employees, except that in specific appropriate cases the Commission may exempt such employees from, or modify the applicability of, any portion of any provision of the Conduct Regulation.

(b) In no event will the Commission waive a provision of the Conduct Regulation which would permit a special Government employee to:

(1) Use his or her Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain

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for himself or another person, particularly one with whom he or she has family, business, or financial ties.

(2) Use inside information obtained as a result of his or her Government employment for private gain for himself or herself or another person either by direct action on his or her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he or she has family, business, or financial ties. For purposes of this paragraph, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(3) Use his or her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or herself or another person, particularly one with whom he or she has family, business, or financial ties.

(4) Receive or solicit from a person having business with the Commission anything of value as a gift, gratuity, loan, entertainment, or favor for himself or herself or another person, particularly one with whom he or she has family, business or financial ties.

(c) Prior to entrance on duty, each special Government employee shall submit to the Director of Personnel a statement of employment and financial interests which contains such information as the Director of Personnel determines is relevant in the light of the duties the special Government employee is to perform and, if appropriate, the financial disclosure report as provided by Title II of the Ethics in Government Act of 1978, Pub. L. 95–521. It shall be kept current throughout the period of employment by the filing of supplementary statements in accordance with the requirements of § 200.735–11(d). Statements shall be on the official form made available for this purpose through the Office of Personnel.

(d) The Commission may waive the requirement of paragraph (c) of this section in the case of a special Government employee who is not a "consultant" or an "expert," as those terms are defined in Chapter 304 of the Federal Personnel Manual (5 CFR 735.304), if the duties of the position are determined to be at a level of responsibility which does not require the submission of such statement to protect the integrity of the Commission.

§ 200.735–13 Disciplinary and other remedial action.

(a) Knowing participation in a violation of this subpart by persons not within the scope of the foregoing rules in this subpart shall likewise be deemed improper conduct and in contravention of Commission rules. Departure from any of the rules in this subpart by employees or special Government employees without specific approval may be cause for appropriate remedial and/or disciplinary action or, in the case of former members, employees, and special Government employees, for disqualification from appearing and practicing before the Commission, which may be in addition to any penalty prescribed by law.

(b) When there has been a departure from any of the rules of this subpart without specific approval or when a conflict of interest or an apparent conflict of interest on the part of an employee or special Government employee arises, the Director of Personnel may order immediate action to end such conflict or appearance of conflict of interest. Remedial action may include, but is not limited to (1) changes in assigned duties; (2) divestment by the employee or special Government employee of his conflicting interest; (3) disciplinary action; or (4) disqualification for a particular assignment. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations. The Director of Personnel may refer any recommended action to the Commission. The employee may obtain review by the Commission of any action ordered to be taken by the Director of Personnel. During the period of review, unless otherwise directed by the Commission, the action ordered by the Director of Personnel is stayed.

(c) Former members or employees who violate the post-employment restriction provisions of 18 U.S.C. 207(a), (b) or (c), which parallel the provisions of Rule 8(a), *supra*, will be subject to an administrative enforcement proceeding as set forth in Rule 2(e) of the Commission's Rules of Practice, 17 CFR 201.2(e), except that, when proceedings are brought to determine if violations of post-employment restrictions have occurred, denial of the privilege of appearing and practicing before the Commission will be based on a finding of violation of the provisions of Rule 8(a) and 18 U.S.C. 207 (a), (b) and (c). Procedures applicable to such administrative proceedings are to be found in the Commission's Rules of Practice, 17 CFR 201.1 *et seq.*

§ 200.735–14 Employees on leave of absence.

The provisions of the rules in this subpart relative to employees of the Commission are applicable to employees on a leave with pay or a leave without pay status other than extended military service.

§ 200.735–15 Interpretive and advisory service.

(a) The General Counsel shall be designated "Counselor for the Commission" and shall serve as the Commission's delegate to the Office of Personnel Management on matters covered by the rules in this subpart. The General Counsel shall be responsible for coordinating the Commission's counseling services provided under this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by the rules in this subpart are available to all members and employees.

(b) There shall be designated as Deputy Counselors the Director of Personnel, the Administrator of each regional office, and the person in charge of each branch office. The General Counsel or his or her designee shall provide guidance to the Deputy Counselors for the purpose of achieving uniform interpretations of this subpart.

(c) A member, employee, or former member or employee may obtain advice or guidance on the application of the rules in this subpart from any Deputy Counselor or the General Counsel. In addition, any former member or employee seeking advice or an interpretation relating to the Ethics in Government Act shall submit his or her request to the General Counsel.

(d) The General Counsel and Deputy Counselors will treat information they receive pursuant to requests for advice or guidance under this Rule on a confidential basis, except that information they receive indicating a possible past violation of any provision of this Conduct Regulation or of the law will be brought to the attention of appropriate persons.

(e) The Director of Personnel shall furnish a copy of this Conduct Regulation (Subpart M) to each member, employee and special Government employee immediately upon his or her entrance on duty and shall thereafter, annually, and at such other times as circumstances warrant, bring to the attention of each member, employee and special Government employee this Conduct Regulation (Subpart M) and all revisions thereof.

(f) The Director of Personnel shall notify each member, employee and special Government employee at the time of entrance on duty, and from time to time thereafter, of the availability of counseling services and of how and where these services are available.

§ 200.735–16 Delegation.

Any official responsibility assigned to a person in a particular position pursuant to this subpart may be delegated by such person to any other person.

§ 200.735–17 Administration of the conduct regulation.

Under the general direction of the Executive Director, the Director of Personnel is responsible for the day-to-day administration of this conduct regulation except where otherwise provided.

§ 200.735–18 Requests for waivers.

Unless a different procedure is specifically prescribed in a rule of this part, an employee may submit a request for a waiver, modification or postponement of a requirement included in this part to the Chairman. Such waiver, modification or postponement may be granted if it is determined by the Chairman that such waiver, modification of postponement would not adversely affect the interest of the Commission or the United States. Any such waiver, modification or postponement granted by the Chairman shall be made available to the public. The Chairman may submit any request made pursuant to this rule to the Commission for its consideration. Any Commission action on such request shall be made public only in the discretion of the Commission. Requirements included in this part which implement any provision of Federal law, regulation or Executive Order generally applicable to the Executive Branch shall not be waived under this provision.

* * * * *

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comments under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, are unnecessary. See 5 U.S.C. 553(b).

By the Commission.

George A. Fitzsimmons,

Secretary.

May 22, 1980.

[FR Doc. 16315 Filed 5–28–80; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Part 240

[Rel. No. 34–16831; File No. S7–828]

Applications for Extension, Suspension, or Termination of Unlisted Trading Privileges

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting proposed amendments to Rules 12f–1 and 12f–3 [17 CFR 240.12f–1, 12f–3] under the Securities Exchange Act of 1934 ("Act") to require persons filing applications for an extension, suspension, or termination of unlisted trading privileges to certify that notice of such applications has been given to certain persons specified by Section 12(f)(5) of the Act. This will more fully satisfy the purposes of the notice provisions of Section 12(f)(5) by giving interested persons a better opportunity to comment upon these applications.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Wilk, Division of Market Regulation, Securities and Exchange Commission, Room 341, 500 North Capitol Street, Washington, D.C. 20549. (202) 272–2824.

SUPPLEMENTARY INFORMATION: On April 3, 1980, the Commission issued a release proposing for comment amendments to Rules 12f–1 and 12f–3 under the Act which would require applicants for an extension, suspension or termination of unlisted trading privileges to give notice to certain persons specified in Section 12(f)(5) of the Act.[1]

Rule 12f–1 [17 CFR 240.12f–1] governs the information which must be included in an application by a national securities exchange for extension of unlisted trading privileges. Such an application is made under Section 12(f)(2) of the Act,[2] and may be approved by the Commission if, after appropriate notice and opportunity for hearing, it finds that such extension is consistent with the maintenance of fair and orderly markets and the protection of investors.

Similarly, Rule 12f–3 under the Act [17 CFR 240.12f–3] prescribes the information which must be included in an application for the termination or suspension of unlisted trading privileges. Under Section 12(f)(4) of the Act,[3] the Commission may terminate or suspend unlisted trading privileges if, after appropriate notice and opportunity for hearing, the Commission finds that such action is necessary or appropriate in the public interest or for the protection of investors.

Section 12(f)(5) of the Act [4] provides that "appropriate notice" of not less than 10 days of applications for extension, suspension or termination of unlisted trading privileges should be given to "* * * the issuer of the security involved, to the exchange which is seeking to continue or extend unlisted trading privileges for such security, and to the exchange, if any, on which such security is listed and registered * * *."

Upon the filing of an application for extension, suspension or termination of unlisted trading privileges the Commission publishes notice by the issuance of a Commission release and by publication in the **Federal Register** at least 10 days prior to making a determination on the application. Constructive notice of applications filed under Rules 12f–1 and 12f–3, thus, is provided to all persons. The Commission does not provide personal notice to the parties delineated in Section 12(f)(5) as being entitled to notice.

The Commission has determined to amend Rules 12f–1 and 12f–3 to ensure that notice requirements of Section 12(f)(5) are fully satisfied and that interested persons are provided the opportunity to comment upon any application for the extension, suspension or termination of unlisted trading privileges. The amended rules will require that exchanges, when applying for the extension of unlisted trading privileges pursuant to Section 12(f)(2) of the Act, and issuers, when applying for the suspension or termination of unlisted trading privileges pursuant to Section 12(f)(4) of the Act, certify in their application that a copy of such application has been mailed or otherwise given to the persons required by Section 12(f)(5).

The Commission believes that the amendments to Rules 12f–1 and 12f–3 will more fully satisfy the purposes of the notice provisions of Section 12(f)(5) by providing interested persons a better opportunity to comment upon applications relating to unlisted trading privileges. Further, the Commission believes that the amendments will

[1] Securities Exchange Act Release No. 16730 (April 3, 1980), 45 FR 24505. No comments on the proposal were received.

[2] 15 U.S.C. § 78*l*(f)(2) (1975).

[3] 15 U.S.C. § 78*l*(f)(4) (1975). The issuer of any security for which unlisted trading privileges have been extended, or any other interested person, may make an application to terminate or suspend unlisted trading privileges.

[4] 15 U.S.C. § 78*l*(f)(5) (1975).

facilitate the efficient processing of such

DEPARTMENT OF ENERGY

facilitate the efficient processing of such applications by this agency.

For the reasons stated above, the Commission finds that the proposed amendments are appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act. Accordingly, the Commission acting pursuant to its authority under Section 23(a)(1) of the Act,[5] hereby amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

1. By amending paragraph (a)(5) of § 240.12f–1 and adding paragraph (a)(6) to read as follows:

§ 240.12f–1 Applications for permission to extend unlisted trading privileges

(a) * * *

(5) Any other information which is deemed pertinent to the question of whether the continuation or extension of unlisted trading privileges in such security is consistent with the maintenance of fair and orderly markets and the protection of investors; and

(6) That a copy of the instant application has been mailed, or otherwise personally provided, to the issuer of the securities for which unlisted trading privileges are sought and to each exchange listed in item (3) of this section.

2. By amending paragraph (a)(8) of § 240.12f–3 and adding paragraph (a)(9) to read as follows:

§ 240.12f–3 Termination or suspension of unlisted trading privileges

(a) * * *

(8) A brief statement of the information in the applicant's possession, and the source thereof, with respect to (i) the extent of public trading in such security on such exchange, and (ii) the character of trading in such security on such exchange; and

(9) A brief statement that a copy of the instant application has been mailed, or otherwise personally provided, to the exchange from which the suspension or termination of unlisted trading privileges is sought, and to any other exchange on which such security is listed or traded pursuant to unlisted trading privileges.

* * * * *

By the Commission.

May 22, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16251 Filed 5–28–80; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. § 78w(a)(1).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM 80–44; Order No. 72–A]

Order Denying Applications for Rehearing of Final Regulations Implementing Section 109 of the Natural Gas Policy Act of 1978

May 19, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Applications for Rehearing.

SUMMARY: On March 18, 1980, the Federal Energy Regulatory Commission issued Order No. 72 establishing final regulations implementing section 109 of the Natural Gas Policy Act of 1978. This order hereby denies applications for rehearing of Order 72.

EFFECTIVE DATE: May 19, 1980.

FOR FURTHER INFORMATION CONTACT:
Thomas P. Gross, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 4308, Washington, D.C. 20426, (202) 357–8077.
Mark Magnuson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 4016–I, Washington, D.C. 20426, (202) 357–8511.

On March 18, 1980, the Federal Energy Regulatory Commission (Commission) issued Order No. 72.[1] By that order, the Commission established final regulations implementing section 109 of the Natural Gas Policy Act of 1978 (NGPA). Section 109 establishes ceiling prices for natural gas which is not covered by any maximum lawful price under any other section of Title I, Subtitle A of the NGPA.

The Commission received four applications for rehearing of Order No. 72.[2] Only one argument raised in the applications for rehearing requires a response by the Commission. Tenneco Oil Company, *et al.*, states that section 109(a)(1) was included in the NGPA in order to elicit the drilling of new wells necessary to develop new reserves of gas. These parties then argue that the Commission's interpretation of section 109 frustrates this Congressional purpose by reading out and repealing section 109(a)(1) of the NGPA

The Commission does not agree that its interpretation of section 109, *viz.*, that a new well which qualifies for a lower price under another section of the NGPA is excluded from section 109, reads out or repeals section 109(a)(1).

From experience gained as a result of the implementation of the NGPA, the Commission is aware that producers have chosen not to file applications for determinations under section 102 or 103 for new wells where contractual limitations exist or where the producer is not willing to incur costs associated with the determination process. If the natural gas from these wells is not covered by sections 104, 105, or 106 of the NGPA, then the producer is eligible for the section 109 maximum lawful price; and this natural gas is natural gas "not qualifying for a higher maximum lawful price under this title" within the meaning of section 109(a)(1) because no determination of eligibility for an incentive price has been obtained. The Commission is aware that producers have been selling natural gas at the section 109 price; and section 109 was intended to cover the production of new reserves in these circumstances.[3] Thus, contrary to the argument raised in the applications for rehearing, the Commission's interpretation of section 109 does not repeal section 109(a)(1) but rather gives section 109(a)(1) an interpretation which is consistent with other sections of the statute and which recognizes its legitimate importance in the discovery and production of new gas reserves.

The remaining arguments raised in the rehearing applications were fully considered by the Commission in Order No. 72 and do not require a response by the Commission.

The Commission Orders: For the reasons given above, the applications for rehearing on Order No. 72, filed by the parties listed in footnote 1 of this order are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16371 Filed 5–28–80; 8:45 am]

BILLING CODE 6450–85–M

[1] Order No. 72 "Final Rule Adopting Regulations Implementing Section 109 of the Natural Gas Policy Act of 1978," Docket No. RM80–44 (issued March 18, 1980), 45 FR 18915 (March 24, 1980).

[2] Applications for rehearing were received from Texaco, Inc.; Southland Royalty Company, *et al.* (which includes Southland Royalty Co.; Penn Resources, Inc.; Trustees under the Will of Warren Wright, deceased; William Y. Penn, and the First National Bank of Dallas, Texas, Trustees; Nancy Elizabeth Penson; Elizabeth Hudson Penn, Trustee; Nancy Penson and John G. Penson, Trustees; and Lucille P. Markey and Gene Markey, individually); Exxon Corp.; and Tenneco Oil Company. Pennzoil Company, Pennzoil Producing Company, Pennzoil Oil and Gas, Inc., Pogo Producing Company, General American Oil Company of Texas, and Texasgulf, Inc., jointly.

[3] The fact that producers have been willing to sell natural gas from new wells at the section 109 price is also a sufficient response to the related argument in the applications for rehearing that few, if any, new wells would be justified at the section 109 price.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–1493–1]

Standards of Performance of New Stationary Sources: Adjustment of Opacity Standard for Fossil Fuel Fired Steam Generator

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On April 1, 1980, there was published in the **Federal Register** (45 FR 21302) a notice of proposed rulemaking setting forth a proposed EPA adjustment of the capacity standard for Interstate Power Company's Lansing Unit No. 4, in Lansing, Iowa. The proposal was based on Interstate's demonstration of the conditions that entitle it to such an adjustment under 40 CFR 60.11(e). Interested persons were given thirty days in which to submit comments on the proposed rulemaking.

No written comments have been received and the proposed adjustment is approved without change and is set forth below.

Effective Date: May 29, 1980.

FOR FURTHER INFORMATION CONTACT:
Henry Rompage, Enforcement Division, EPA, Region VII, Area Code 816–374–3171.

Signed at Washington, D.C., on May 22, 1980.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Part 60 of 40 CFR Chapter I is amended as follows:

Subpart D—Standards of Performance for Fossil Fuel-Fired Generators

§ 60.42 [Amended]

1. Section 60.42 is amended by adding paragraph (b)(2):

* * * * *

(b) * * *

(2) Interstate Power Company shall not cause to be discharged into the atmosphere from its Lansing Station Unit No. 1 in Lansing, Iowa, any gases which exhibit greater than 32% opacity, except that a maximum of 39% opacity shall be permitted for not more than six minutes in any hour.

(Sec. 111.301(a), Clear Air Act as amended (42 U.S.C. 7411, 7601)).

2. Section 60.45(g)(1) is amended by adding Paragraph (ii) as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(g) * * *

(1) * * *

(i) * * *

(ii) For sources subject to the opacity standard of § 60.42(b)(2), excess emissions are defined as any six-minute period during which the average opacity of emissions exceeds 32 percent opacity, except that one six-minute average per hour of up to 39 percent opacity need not be reported.

[FR Doc. 80–16409 Filed 5–28–80; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–43, 101–44

[FPMR Amdt. H–122]

Utilization and Donation of Personal Property; Miscellaneous Changes

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates GSA's utilization rules to raise the minimum dollar reporting criteria and direct transfer dollar criteria for reportable excess personal property to correct the imbalance between reportable and nonreportable property brought about by inflation. It also updates GSA's donation rules to provide a more equitable procedure for reimbursement to State agencies for care, handling and transportation costs of undistributed property which is subsequently sold.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Stanley M. Duda, Director, Utilization Division, Office of Personal Property, Federal Property Resources Service (703–557–0714).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

Subpart 101–43.3—Utilization of Excess

1. Section 101–43.315–5 is amended to revise paragraph (a)(1) to read as follows:

§ 101–43.315–5 Procedures for effecting transfers.

(a) * * *

(1) Reportable under § 101–43.311 but has not yet been reported to GSA and its total acquisition cost does not exceed $2,000, and the owning agency's regulations relative to internal redistribution have been satisfied; or

* * * * *

Subpart 101–43.48—Exhibits

2. Section 101–43.4801 is amended to revise paragraph (a)(2) to read as follows:

§ 101–43.4801 Excess personal property reporting requirements.

(a) * * *

(2) It has an acquisition cost (or standard price) of $500 or more, except that a line item in group 71 will be reported to General Services Administration without regard to acquisition cost (or standard price) if it is in better than scrap condition.

* * * * *

PART 101–44—DONATION OF PERSONAL PROPERTY

Subpart 101–44.2—Donations to Public Agencies and Nonprofit Educational and Public Health Activities

3. Section 101–44.205 is amended to revise the introductory paragraph of paragraph (j)(4) to read as follows:

§ 101–44.205 Property in the possession of a State agency.

* * * * *

(j) * * *

(4) When disposing of undistributed property in the possession of a State agency by public sale, GSA may authorize reimbursement to the State agency for expenses related to care and handling incurred by the State agency in acquiring the property from within or outside the United States. Certification by the State agency of costs incurred is required and must be supported by documentation if requested by GSA. Reimbursement for each item or lot sold shall not exceed the proceeds from each individual item or lot. Reimbursement shall not be made to the State agency for actions subsequent to the receipt of property by the State agency from any source, including unloading, moving, repairing, preserving, or storing, except as authorized in paragraph (j)(4)(iii) of this section. Reimbursement will not be authorized by GSA for property acquired from any source if the property has been in the possession of the State agency for a period of 2 years from the date it was received by the State agency until the date it was reported to GSA for disposal. Costs of transporting property to a GSA property center or sales center

or to a location outside a State agency distribution facility are not reimbursable unless transportation was specifically required by GSA. The sale of property at a GSA property center or sales center or at a location outside the State distribution facility, however, does not preclude authorized reimbursement to the State agency. Reimbursement is limited to:

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: May 14, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-16198 Filed 5-28-80; 8:45 am]

BILLING CODE 6820-96-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Federal Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator has published a notification of modification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Administrator has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65 (Presently appearing at its former Section 24 CFR part 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by 60.3 (Presently appearing at its former Section 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4. (Presently also appearing at its former Section 24 CFR 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Alabama	Tuscaloosa	City of Tuscaloosa (Docket No FEMA 5722)	*Tuscaloosa News*, Aug. 25 and Sept. 1, 1979.	Mr. Ernest W. Collins, Mayor, City of Tuscaloosa, P.O. Box 2089, Tuscaloosa, Ala. 35403.	Aug. 16, 1979..	010203A.
California	San Mateo	City of San Carlos (Docket No FEMA 5722)	*Peninsula Times and San Carlos Enquirer*, Aug. 15 and Aug. 22, 1979.	Hon. Bill Steele, Mayor, City of San Carlos, 666 Elm Street, San Carlos, Calif. 94070.	Aug. 21, 1979..	060327C.
Mississippi	Lowndes	City of Columbus (Docket No FEMA 5722)	*Commercial Dispatch*, July 31 and Aug. 7, 1979.	Hon. James M. Trotterer, Mayor, City of Columbus, P.O. Box 703, City Hall, Columbus, Miss. 39701.	Aug. 7, 1979....	280180, 0005C.
Missouri	Lawrence	City of Aurora (Docket No FEMA 5722)	*Aurora Advertiser*, Aug. 16 and Aug. 17, 1979.	The Honorable Max Solomon, Mayor of Aurora, City Hall, Aurora, Mo. 65605.	Aug. 17, 1979..	290199C.
North Dakota	Mercer	City of Hazen (Docket No FEMA 5722)	*Hazen Star*, July 26 and Aug. 2, 1979.	The Honorable Melvin P. Beckler, Mayor, City of Hazen, P.O. Box 717, Hazen, N. Dak. 58545.	July 9, 1979.....	380067, 0001B
Illinois	Cook	Village of Arlington Heights (Docket No. FEMA 5756)	*The Arlington Heights*, Nov. 8 and Nov. 9, 1979.	Mr. L. A. Hanson, Village Manager, Village of Arlington Heights, 33 South Arlington Heights Road, Arlington Heights, Ill. 60005.	Oct. 29, 1979, 1916B	170056.
Louisiana	East Baton Rouge Parish	City of Baker (Docket No FEMA 5756)	*The Baker Observer*, Oct. 11 and Oct. 18, 1979.	Hon. M. A. Cross, Mayor, City of Baker, P.O. Box 707, Baker, La. 70714.	Oct. 18, 1979...	225193C
Massachusetts	Hampden	Town of West Springfield (Docket No. FEMA 5756)	*West Springfield Record*, Oct. 4 and Oct. 11, 1979.	Dr. Frederick Conlin, Chairman, Board of Selectmen, Municipal Office Building, 26 Central Street, West Springfield, Mass. 01089.	Oct. 18, 1979...	250155C.
New Jersey	Bergen	Borough of Bergenfield (Docket No. FEMA 5756)	*The Post*, Oct. 3 and Oct. 10, 1979.	Hon. James F. Lodato, Mayor, Borough of Bergenfield, 198 North Washington Avenue, Bergenfield, N.J. 07621.	Oct. 10, 1979...	340020B.
Alaska		Fairbanks North-Star Borough (Docket No. FEMA 5722).	*News-Miner*, Sept. 5 and Sept. 12, 1979.	The Honorable John Carlson, Mayor, Fairbanks North-Star Borough, P.O. Box 1267, Fairbanks, Alaska 99707.	Sept. 11, 1979..	025009D.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No
Texas	Hidalgo	City of Alamo (Docket No. FEMA 5722).	*Alamo News Monitor*, Sept. 27 and Oct. 4, 1979.	The Honorable Cruz Alaniz, Mayor, City of Alamo, 423 North Tower Road, Alamo, Tex. 78516.	Sept. 25, 1979	480335C.
Wisconsin	Manitowoc	Unincorporated Area (Docket No. FEMA 5722).	*Herald News*, Oct. 12 and Oct. 19, 1979.	Mr. James M. Hendericks, Chairman, Manitowoc County Board, Manitowoc County Courthouse, 1010 South Eighth Street, Manitowoc, Wis. 54220.	Sept. 12, 1979	550236
Pennsylvania	Carbon	Borough of Lehighton (Docket No. FEMA 5756).	*Times-News*, Oct. 29 and Nov. 2, 1979.	Hon. Wilbur A. Bauchspies, Mayor, Borough of Lehighton, Municipal Building, Lehighton, Pa. 18235.	Oct. 16, 1979, 1916B	420251B
Rhode Island	Bristol	Town of Barrington (Docket No FEMA 5756).	*Barrington Times*, Sept. 26 and Oct. 3, 1979.	Mr. Robert J. Schiedler, Town Manager, Town Hall, Barrington, R.I 02806.	Sept. 19, 1979.	445392
Iowa	Scott	City of Riverdale (Docket No. FEMA 5756).	*Quad-City Times*, Nov. 12 and Nov. 13, 1979.	Hon. Ralph I. Brooks, Mayor, City of Riverdale, 209 Manor Drive, Riverdale, Iowa 52722.	Nov. 13, 1979..	190245C

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 40014128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16063 Filed 5-28-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF EDUCATION

45 CFR Parts 179, 194, and 196

Graduate and Professional Opportunities Program; Public Service Education Program; and Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program

AGENCY: Department of Education.

ACTION: Final rule.

SUMMARY: The Secretary of Education amends the regulations for the Graduate and Professional Opportunities Program; Public Service Education Program; and the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program. The regulations will increase the stipend amount to provide for cost of living increases that have occurred since the stipend amount was last determined.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Donald N. Bigelow, Chief, Graduate Training Branch, Division of Training and Facilities, 400 Maryland Avenue, SW., (Room 3060, Regional Office Building 3), Washington, D.C. 20202. Phone (202) 245-2347.

SUPPLEMENTARY INFORMATION: For the Public Service Education Program the President has proposed budget rescissions to the Congress that may reduce the funds available for this program. When the Congress acts on the proposed rescissions, a notice to the public will be published in the **Federal Register** stating whether funds are still available for grants and if so, how much. For the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program the President has proposed budget rescissions to the Congress that may eliminate funds for this program. If the Congress approves the proposed rescissions, a notice to the public will be published in the **Federal Register**, stating that the rescissions have been approved.

Summary of Comments and Responses

In the Notice of Proposed Rulemaking published in the **Federal Register** of February 4, 1980 (45 FR 7582), the Commissioner of Education invited comments on the proposed regulations to increase the stipends in the fellowship programs funded under Title IX, Parts B, C, and D of the Higher Education Act. Without exception, all commenters endorsed the stipend increase. The following is a summary of the other comments received and the responses of the Department of Education.

Comment. Two commenters asked that consideration be given to increasing the institutional allowance which is paid to the institution for each fellow in lieu of tuition and fees.

Response. The Secretary of Education does not plan to increase the institutional allowance at this time. To increase the institutional allowance would reduce the number of fellowships available to an unacceptable level.

Comment. One commenter asked that the institutional allowance in the Graduate and Professional Opportunities Program and in the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program be equal to the stipend paid to the student.

Response. No change has been made in the regulations. Sections 924 and 963 of the Higher Education Act require that the Secretary pay stipends and institutional allowance at rates consistent with prevailing practices under comparable federally supported programs. The Secretary may in the future amend the regulations to increase the institutional allowance to reflect prevailing practices. However, there is no assurance that the prevailing rate for institutional allowance will ever be equal to the prevailing rate of stipend.

(Catalog of Federal Domestic Assistance No. 13.580 Graduate and Professional Opportunities Program; No. 13.555 Public Service Education Program; No. 13.567 Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program)

Dated: May 21, 1980.

Shirley M. Hufstedler,
Secretary of Education.

Steven A. Minter,
Acting Secretary of Education.

PART 179—GRADUATE AND PROFESSIONAL OPPORTUNITIES PROGRAM

Part 179 of Title 45 of the Code of Federal Regulations is amended by revising § 179.50(a) and § 179.51 (a) and (b) to read as follows:

§ 179.50 Amount of the fellowship.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

§ 179.51 Institutional allowance.

(a) The institution of higher education at which the fellow is pursuing his or her course of study shall be paid $3,900 per 12 month period, except that any amount charged to and collected from the fellow by the institution as part of the fellow's instruction program shall be deducted from this amount. If the fellow is enrolled for less than 12 months the institution will be paid a pro rata share of the amount.

(b) Although the institutional allowance accrues on a monthly basis, the institution is entitled to claim one-half of this amount as soon as the fellow has been enrolled for two weeks. It is entitled to claim the remaining amount when the fellow has been enrolled for six and one-half months.

(20 U.S.C. 1134g(b))

* * * * *

PART 194—PUBLIC SERVICE EDUCATION PROGRAM

Part 194 of Title 45 of the Code of Federal Regulations is amended by revising § 194.27(a) to read as follows:

§ 194.27 Stipend.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

PART 196—DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS PROGRAM

Part 196 of Title 45 of the Code of Federal Regulations is amended by revising § 196.7(a) to read as follows:

§ 196.7 Stipend.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

[FR Doc. 80-16282 Filed 5-28-80; 8:45 am]
BILLING CODE 4110-02-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

Organization and Functions of the Board of Delegations and Authority

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment deletes an obsolete mailing address in a National Transportation Safety Board rule relating to submissions in air safety proceedings and adds a reference to merchant marine appeals.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594, (202) 472-6033.

SUPPLEMENTARY INFORMATION: This is an editorial amendment which merely updates 49 CFR 800.6(a).

Accordingly, and pursuant to the authority delegated to me, paragraph (a) of § 800.6 of Title 49, Chapter VIII, Code of Federal Regulations, is amended to read as follows:

§ 800.6 Formal and informal submissions.

(a) All formal submissions required or permitted to be made in air safety on merchant marine proceedings should be addressed to the Docket Section, Office of Administrative Law Judges, National Transportation Safety Board, Washington, D.C. 20594, unless specifically provided otherwise in the provision requiring or permitting such submission. Requirements as to the form and content of such submissions are set forth in the Board's procedural regulations.

(Sec. 304, Independent Safety Board Act of 1974, (49 U.S.C. 1903))

Signed at Washington, D.C., this 23d day of May 1980.

John M. Stuhldreher,
General Counsel.

[FR Doc. 80-16345 Filed 5-28-80; 8:45 am]
BILLING CODE 4910-58-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1472]

St. Maries River Railroad Co. Authorized To Operate Over Lines Conveyed by the Trustee of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1472.

SUMMARY: This order authorizes the St. Maries River Railroad Company to operate over lines acquired from the Chicago, Milwaukee, St. Paul and Pacific Railroad Company between Plummer and Bovill, Idaho, via St. Maries, Idaho, pending the filing of an appropriate application for Public Convenience and Necessity certification as a railroad.

EFFECTIVE DATE: 12:01 a.m., May 24, 1980, and continuing in effect until 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided May 22, 1980.

The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) comprising the Bovill Branch from Bovill to St. Maries, Idaho (a distance of approximately 52 miles), and the line segment from St. Maries to Plummer, Idaho (a distance of approximately 19 miles), was approved for abandonment by the Interstate Commerce Commission (ICC) in Docket AB-7 (SUB-NO. 86F), January 3, 1980, and by Order No. 307 of the U.S. District Court for the Northern District of Illinois, entered April 2, 1980.

The St. Maries River Railroad Company (SMRR) has entered into a purchase agreement for conveyance of the subject lines, dated May 1, 1980, which has been approved by the court. The SMRR's application for certification of public Convenience and Necessity will be filed with the ICC shortly.

It is the opinion of the ICC that an emergency exists requiring the operation by SMRR over tracks conveyed by MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1472 Service Order No. 1472.

(a) *St. Maries River Railroad Company authorized to operate over lines conveyed by the trustee of Chicago, Milwaukee, St. Paul and Pacific Railroad Company.* St. Maries River Railroad Company (SMRR) is authorized to operate over tracks conveyed by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between St. Maries and Bovill, Idaho the Bovill Branch (a distance of approximately 52 miles), and between St. Maries and Plummer, Idaho, (a distance of approximately 19 miles).

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of any application of SMRR seeking authority to operate over these tracks.

(d) *Rate applicable.* Inasmuch as this operation by SMRR over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable via SMRR, become effective.

(e) In transporting traffic over these lines, SMRR, and all other common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Employees*—In providing service under this order SMRR, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(g) *Effective date.* This order shall become effective at 12:01 a.m., May 24, 1980.

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-16284 Filed 5-28-80; 8:45 am]
BILLING CODE 7035-01-M

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Proposed Rules

Federal Register
Vol. 45, No. 105
Thursday, May 29, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Fire Protection Program for Nuclear Power Plants Operating Prior to January 1, 1979

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require certain minimum provisions for fire protection in operating nuclear power plants. These minimum requirements must be established not only to identify fire hazards but also to protect against unacceptable consequences of fire.

DATES: Comment period expires June 30, 1980.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: David P. Notley, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. phone 301–443–5921.

SUPPLEMENTARY INFORMATION:

Comment Period

The position of the staff and the licensees regarding the provisions of this rule is documented and well known. In addition, the public has been afforded several opportunities to comment on the provisions of the rule during two extensive comment periods and in open meetings with the ACRS in which a regulatory guide on fire protection was considered. For these reasons no extension of the comment period will be granted. Further, since the issues involved are well known and have been under discussion for several years, the Commission does not anticipate changes in the rule's action deadline as a result of further comments received.

On March 22, 1975, the Browns Ferry Nuclear Power Plant, owned and operated by the Tennessee Valley Authority, had the worst fire to date in an operating commercial nuclear power plant. The fire was eventually controlled, there was no release of radioactive material to the environment, and the reactor was safely shut down. However, many of the systems relied on for shutdown of the reactor under both normal and emergency conditions were not available because of extensive damage to control cabling of redundant systems. Although this fire was not a particularly large or serious fire in terms of insurance underwriting loss, it was very serious in terms of the type of equipment that was rendered inoperative. Also of concern following this fire was the attitude and belief among those responsible for managing the fire that water should not be used on burning electrical cables because the resultant electrical faults would be worse than the fire damage. As a consequence, the fire was allowed to burn for more than seven hours before it was extinguished with water.

Two recommendations made by the Special Review Group that investigated the Browns Ferry fire pertained to assurance that the fire protection programs at operating nuclear power plants conform to General Design Criterion 3, Fire Protection, contained in Appendix A to this part (GDC 3). One of the recommendations was that NRC should develop additional specific guidance for implementation of GDC 3 requirements. The other was that NRC should make a detailed review of the fire protection program at each operating plant comparing it to the guidance developed per the above recommendation.

In response to the first recommendation, NRR developed Branch Technical Position Auxiiliary Power Conversion Systems Branch 9.5–1 (BTP 9.5–1), "Guidelines for Fire Protection for Nuclear Power Plants" and Appendix A to BTP 9.5–1, "Guidelines for Fire Protection For Nuclear Power Plants Docketed Prior to July 1, 1976." [1] The guidance contained in BTP 9.5–1 was published for public comment in June 1976 as Regulatory Guide 1.120, "Fire Protection guidelines for Nuclear Power Plants." As a result of public comments received, the staff proposed extensive changes to the guide and presented the proposed changes to the ACRS in an open meeting in May 1977. Additional written comments were solicited from the public following that meeting. Nineteen additional comment letters were received and they were also considered in Revision 1 of Regulatory Guide 1.120, which was published for a new one-year public comment period in November 1977. Comments received on Revision 1 of Regulatory Guide 1.120 were generally restatements of comments received during earlier comment periods and had already been considered and evaluated by the staff.

The guidelines in both the BTP 9.5–1 and Appendix A to BTP 9.5–1 were developed to provide a fire protection program that has two basic objectives:

1. to identify and distinguish between those consequences of fire that are acceptable and those consequences that are not.

2. to provide necessary means to minimize all consequences of fire and to prevent unacceptable consequences from occurring.

With respect to the first objective, the phenomenon of fire is believed to be sufficiently well understood to permit evaluation of existing and potential fire hazards and probable extent of damage should a fire occur. Such evaluations are useful in assessing the possible consequences of fire in a given area. However, the phenomenon of fire is so unpredictable in occurrence and development that measures to prevent unacceptable consequences may not be omitted on the basis of low probability of occurrence. The minimum fire protection requirements for nuclear power plants must be established not only to identify fire hazards but also to protect against unacceptable consequences of fire.

In response to the second recommendation of the Special Review Group, the NRC requested every operating plant to (1) compare its fire protection program with the above guidelines and (2) analyze the consequences of fire in each plant area. The NRC then reviewed the licensee's analysis against the guidance contained in Appendix A to BTP 9.5–1 and visited each plant to examine the relationship

[1] Branch Technical Position 9.5–1 and its Appendix A are available from David P. Notley, Office of Standards Development.

of the structures, systems, and components important to safety with both in situ and transient fire hazards, the potential consequences of fire, and the associated fire protection features.

Appendix A to BTP 9.5–1 has been used by the staff as a basis for evaluating the adequacy of fire protection provided at all of the presently operating nuclear power plants in the United States. Most of the licensees have accepted most of the staff positions and interpretations of this Appendix A. However, 17 generic issues exist in the fire protection safety analysis reports for 32 plants where agreement has not been reached between the staff and some licensees. In each case the disagreement turns on how to satisfy the basic protection requirement. For instance, all agree on the need for a fire brigade on all shifts. The disagreement is "how large"? The staff says that five should be the minimum size permitted while some licensees say that a brigade of only three or four will be adequate. Similar disagreements exist with each of the basic requirements covered by this proposed rule. Where the staff's safety evaluations contain open items, the position of the staff and the licensees are documented and well known.

There are, however, a few instances where the staff has accepted certain fire protection alternatives that would not satisfy some of the requirements of this proposed rule. The minimum requirements contained in this rule were developed over a 3 year period and, in each of these instances, the staff accepted a proposed alternative before these minimum requirements were established. All licensees will be expected to meet the requirements of this rule, in its effective form, including whatever changes result from public comments.

Because of the above-mentioned differences between the staff and the licensees in the interpretation of the staff's guidelines, it is timely and necessary for the Commission to state what the minimum fire protection requirements will be in each of these contested areas of concern. This proposed rule and its Appendix R have been developed to establish the minimum acceptable fire protection requirements necessary to resolve these contested areas of concern for nuclear power plants operating prior to January 1, 1979.

Other fire protection criteria that have been used by the staff during its plant-specific fire protection program reviews are contained in Appendix A to BTP 9.5–1. The combination of the guidance contained in Appendix A to BTP 9.5–1 and the requirements set forth in this proposed rule define the essential elements for an acceptable fire protection program at nuclear power plants docketed for Construction Permit prior to July 1, 1976, for demonstration of compliance with General Design Criterion 3 of Appendix A to 10 CFR Part 50. Similar acceptable guidance is provided in BTP 9.5–1 for nuclear power plants docketed for Construction Permit after July 1, 1976.

All modifications (except for alternate or dedicated shutdown capability) would be required to be implemented by November 1, 1980, unless for good cause shown the Commission approves an extension. Since the issues involved are well-known and have been under discussion for several years, the Commission anticipates approving few, if any, extensions. No plant would be allowed to continue operating after November 1, 1980, or beyond an extended date approved by the Commission, unless all modifications (except for alternate or dedicated shutdown capability) have been implemented. The Commission recognizes that, in a few instances, approval has previously been given to particular licensees to extend the implementation dates for some modifications beyond November 1, 1980. The Commission will review these extensions on a case-by-case basis to determine whether continued approval or some revision of the extension is appropriate.

For alternate or dedicated shutdown capability, the proposed rule specifies implementation deadlines which depend on which kind of capability is to be implemented and whether the plant is under review in the Systematic Evaluation Program (SEP).[2] For non-SEP plants, the proposed implementation deadlines are April 1, 1981 for alternate shutdown capability and December 1, 1981 for dedicated shutdown capability. Licensees who have committed to earlier implementation dates will be expected to meet those commitments.

For SEP plants, the proposed implementation deadlines are December 1, 1981 for alternate shutdown capability and October 1, 1982 for dedicated shutdown capability. The proposed rule requires licensees to submit plans and schedules to meet these implementation deadlines by August 1, 1980 (non-SEP plants) and November 1, 1980 (SEP plants). The Commission may revise the implementation deadlines for SEP plants to earlier dates following completion by the NRC staff of its review of the status of fire protection at those plants. The staff review is expected to be completed in August 1980.

[2] Plants under review in the SEP include Palisades, Dresden 1 and 2, Oyster Creek, Millstone 1, Ginna, Haddem Neck, San Onofre 1, La Crosse, Big Rock Point, and Yankee Rowe.

Separate Comments of Commissioners Hendrie and Kennedy

"We agree with the fire safety provisions of the proposed Appendix R to 10 CFR Part 50. However, we do not agree with the implementation schedule that the Commission proposes. In its original presentation of this rule to the Commission, the staff proposed a schedule which we believe is more reasonable.

"In the absence of Three Mile Island and the actions we have required, the short schedule the Commission proposes might be appropriate in view of the extended period during which a number of these fire safety provisions have been under discussion. In the present situation, the Commission has properly imposed a large number of Three Mile Island-related safety requirements on operating nuclear power plants. We are concerned that the short implementation schedule proposed here for fire safety provisions, together with the large workload associated with the Three Mile Island requirements, may make it impossible for licensees to complete all of these measures in a carefully considered and thorough fashion. Since all operating plants have implemented a number of improvements in their fire safety postures, the remaining improvements to be required under the proposed rule do not seem to us so urgent as to require either shutting down of plants because of inability to complete these requirements on the short schedule proposed or to make those improvements in a hasty fashion.

"We note also that the proposed implementation schedule would require licensees to submit their plans for complying with this rule by August 1, 1980. Considering that the staff has said it will not be able to complete its plant-by-plant reviews to determine specific requirements until July 1980, some licensees will simply not have any reasonable time to make an adequate plan."

A brief description of the major parts of the proposed rule, including the need for each of the specific requirements, follows.

I. Introduction and Scope

This section states that the basic objective of the proposed Appendix R is to specify the minimum fire protection requirements with respect to certain recurring generic issues for nuclear power plants operating prior to January

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1, 1979. It limits application to commercial nuclear power electric generating stations and also states that the proposed Appendix R does not rescind any requirements set forth in any Safety Evaluation Report for any nuclear power facility.

II. General Requirements

This section states in general terms the need for a comprehensive fire protection program at each nuclear power plant.

A. Fire Protection Program

The concept of defense in depth is here extended to fire proteciton (1) to prevent fires from starting, (2) to rapidly detect, control, and promptly extinguish those fires that do occur, and (3) to arrange the structures, systems, and components important to safety so that a fire that starts in spite of the fire prevention activities and that is not promptly extinguished by the fixed automatic or manual fire suppression activities will not prevent the safe shutdown of the plant.

B. Loss of Offsite Power

This section requires that any fire detection or suppression system protecting systems necessary to achieve and maintain safe plant shutdown be capable of functioning with or without offsite power.

C. Manual Fire Fighting

This section requires that manual fire fighting capability (a fire brigade) be provided in all areas containing or presenting a fire hazard to structures, systems, or components important to safety.

D. Access for Manual Fire Fighting

This section requires that access for effective functioning of the fire brigade be provided in all areas containing or presenting a fire hazard to structures, systems, or components important to safety.

E. Fire Hazard Analysis

This section requires that the adequacy of fire protection provided in any area to ensure the ability (1) to safely shut down the plant or (2) to minimize and control the release of radioactivity to the environment be determined by analysis of the effects of fires on structures, systems, or components important to safety in the area.

III. Specific Requirements

Each of the 17 specific fire protection requirements in the proposed Appendix R is described below.

A. Fire Water Distribution System

Two of the lessons learned from the Browns Ferry Fire are (1) that water is the best extinguishing agent available for most potential fires in nuclear power plants and (2) that the sooner a fire is extinguished, the less total damage results. These two statements recognize that extenuating circumstances in operating plants may preclude the indiscriminate use of water to figh fires in particular locations; however, such circumstances are exceptions. In practical terms, this means that fires in electrical equipment (which may be subject to water damage) should be extinguished as quickly as possible. Water may not be excluded from an area as a fire extinguishant merely on the basis of potential water damage to safe shutdown equipment. If such water damage hazard is severe, other protective measures such as shields for equipment or alternate shutdown capability would be required.

A separate fire water distribution system would be required at each plant to ensure the necessary water supply with adequate pressure and volume for any combination of automatic and manual fire suppression demands.

A looped fire main with appropriate isolation valves provides a higher reliability of furnishing this necessary water supply to fire suppression systems by providing alternate directions of flow during maintenance or repair on part of the system.

Similarly, at least two water sources—tanks and pumps, or pumps alone from a large body of water such as a lake or a river—are necessary to ensure continuity of water supply. In the case of two intakes from a single large body of water, the intakes must be separated from each other so as to really ensure two separate sources.

B. Sectional Control Valves

This item requires the installation of approved visually indicating sectional control valves, such as Post Indicator Valves, to isolate portions of the fire main for maintenance or repair without shutting off the entire system.

C. Hydrant Block Valves

This item requires block valves to be installed in hydrant laterals if necessary to isolate a hydrant from the yard main without interrupting fire water supply to areas containing safety-related or safe shutdown equipment.

D. Manual Fire Suppression

This item requires that a standpipe system with an adequate number of hose stations located throughout the plant to ensure that all areas containing safety-related cabling and equipment can be reached with at least one effective hose stream. The staff has relied on physical separation of safety-related cables and equipment and has made extensive use of automatic fire detection and suppression systems for additional protection of safety-related cabling and equipment. The staff recognizes, however, the limits of automatic fire protection systems, and that such automatic protection, especially coupled with physical separation, is not always feasible in operating plants. Prudence therefore dictates that manual firefighting capability be available throughout the plant to increase the overall reliability of fire suppression capability.

E. Hydrostatic Hose Tests

This item describes the frequency and severity of hydrostatic tests to which all plant fire hose must be subjected in order to have reasonable assurance that it will function properly without rupture when needed during a fire.

F. Automatic Fire Detection

This item requires automatic fire detection systems in areas containing combustibles and safe shutdown or safety-related systems or components, in order to provide prompt notification and alarm in the event of fire in these areas. This will permit prompt response by the fire brigade to enable speedy extinguishment in those areas not protected by automatic fire suppression systems and may enable the brigade to control fires in areas that are so protected before the automatic systems operate.

G. Protection of Safe Shutdown Capability

A wide spectrum of fire hazards and shutdown equipment subject to fire damage exists in operating nuclear power plant. This item lists several parameters (the combination of fire hazards, the susceptibility of safe shutdown equipment to damage from both fire and fire suppression activities, fire suppression means available, and availability of alternate shutdown capability) that must be considered in evaluating the effectiveness of fire protection in areas containing safe shutdown equipment. Table 1 gives a summary of various conditions that mandate installation of manual or automatic fixed fire suppression systems.

H. Fire Brigade

The need for manual firefighting capability as backup to automatic fire

detection and fixed fire suppression systems is established in Item D, which requires that a standpipe and hose system be installed to provide at least one effective hose stream in each area of the plant containing safety-related or safe shutdown equipment. This item specifies the minimum shift fire brigade size necessary to give reasonable assurance of effective manual firefighting capability. It requires that at least five persons be assigned to the fire brigade on each shift and that these persons have no duties during a fire except those directly related to manual firefighting. It further requires that the brigade leader and at least two brigade members be operations personnel, and that the brigade leader be competent to assess potential safety consequences of a fire and advise control room personnel. It also states some of the equipment that it to be provided for the brigade members.

I. Fire Brigade Training

This item requires that training be provided for each individual brigade member and each shift brigade as a team in order to ensure the necessary high degree of proficiency required of a fire brigade during emergency response to an actual fire. The type and frequency of such training (classroom instruction, hands on practice sessions, and simulated drills) is specified.

J. Emergency Lighting

This item requires that emergency lighting from individual eight-hour battery-powered units be provided in those areas needed for operation of safe shutdown equipment and access routes to safety-related areas. Fire may damage normal lighting in areas other than the area of the fire. Such other areas may contain equipment or controls necessary for safe shutdown of the reactor. Emergency lighting is to be installed in all such areas in order to facilitate operation of such equipment by operations personnel other than the fire brigade in the event of loss of normal lighting due to fire.

K. Adminstrative Controls

The first goal of a fire protection program is fire prevention. Therefore, this item specified a number of administrative controls in an effort to control the more common types of hazards. In addition, certain responses to fire by the plant fire brigade and other plant (operations) personnel are also specified.

L. Alternate Shutdown Systems

This item requires that an alternate means of bringing the reactor to a safe shutdown be provided if the provision of other fire protection does not give assurance that safe shutdown capability will survive a fire.

M. Fire Barriers

This item discusses the need for fire barriers and the need to seal or close openings through fire barriers using fire doors, dampers, or penetration sealants depending on the type of opening. It discusses the need to close such openings in order to maintain the required fire resistance rating of the barrier.

N. Fire Barrier Penetration Seal Qualification

Openings are frequently required in fire barriers to permit passage of cable trays and conduits from one area to another. Such openings are degradations of the barrier and, per the requirements of Item M, are to be sealed with material that has fire retardant properties at least equal to that required of the unpierced barrier. This item describes the testing procedures that must be used to verify adequacy of a given penetration seal design.

O. Fire Doors

Personnel access openings in fire barriers require fire door closures with fire retardant properties at least equal to that required of the unpierced barrier. This item describes acceptable alternative methods to insure that fire doors will be closed in the event of fire.

P. Reactor Coolant Pump Lubrication System

The lubrication system for the reactor coolant pumps represents the largest single fire hazard inside containment. This item describes the arrangement of automatic fire suppression or oil collection systems that are to be provided for protection of this hazard.

Q. Associated Circuits

This item specifies the level of fire protection to be provided for electrical circuits that are not themselves safety circuits but that are associated with safety circuits.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. It is proposed to amend 10 CFR Part 50 by adding a new § 50.48 to read as follows:

§ 50.48 Fire protection.

(a) Each operating nuclear power facility shall have a fire protection plan which meets the requirements of Criterion 3 of Appendix A to this part. This fire protection plan should consist of two sections. The first section should describe the overall fire protection program for the facility, identify the various positions within the licensee's organization that are responsible for the program, state the authorities that are delegated to each of these positions to implement those responsibilities, and outline the plans for fire protection, fire detection and suppression capability, and limitation of fire damage. The second section should describe specific features necessary to implement the first section, such as: administrative controls and personnel requirements for fire prevention and manual fire suppression activities; automatic and manually operated fire detection and suppression systems; and means to insure capability to safely shut down the plant in spite of fire damage to safety related or safe shutdown structures, systems or components.

(b) For nuclear power facilities that commenced operation prior to January 1, 1979, appropriate portions of Criterion 3 of Appendix A to this part will be satisified by meeting the requirements contained in Appendix R to this part.[3]

(c) All fire protection modifications identified by the staff as necessary to satisfy Criterion 3 of Appendix A to this part, whether contained in Appendix R to this part or in other staff fire protection guidance (except for alternate or dedicated shutdown capability) shall be completed by November 1, 1980 unless, for good cause shown, the Commission approves an extension. For alternate or dedicated shutdown capability, the following implementation schedule will apply.

(1) *Plants not included in the Systematic Evaluation Program (SEP).*[3] Licensees implementing alternate

[3] The combination of the guidance contained in Appendix A to Branch Technical Position 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," as implemented by the staff in its plant-specific fire protection program reviews of operating nuclear power plants, and the requirements set forth in Appendix R to this Part define the minimum necessary conditions for demonstration of compliance with General Design Criterion 3 of Appendix A to this Part for nuclear power facilities that commenced operation prior to January 1, 1979.

shutdown capability shall complete

The fire protection program shall extend

cabling, or components in a single fire area to

V 45 MY 29 80 UMI

shutdown capability shall complete implementation by April 1, 1981. Licensees who have previously committed to earlier implementation dates will be expected to meet the earlier dates. Licensees implementing dedicated shutdown capability shall complete implementation by December 1, 1981. Licensees shall submit, by August 1, 1980, plans and schedules for meeting these implementation deadlines.

(2) *Plants included in the SEP.* Licensees implementing alternate shutdown capability shall complete implementation by December 1, 1981; licensees implementing dedicated shutdown shall complete implementation by October 1, 1982. Licensees shall submit, by November 1, 1980, plans and schedules for meeting these implementation deadlines. The Commission may revise those implementation deadlines to earlier dates following completion by the NRC staff of its review of the status of fire protection at SEP plants. The staff review is expected to be completed in August, 1980.

2. A new Appendix R to 10 CFR Part 50 would be added to read as follows:

Appendix R—Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979

I. Introduction and Scope

This Appendix sets forth the minimum fire protection requirements needed for nuclear power facilities to satisfy Criterion 3 of Appendix A to this part with respect to certain recurring generic issues for nuclear power plants that were operating prior to January 1, 1979.[3]

This Appendix applies only to licensed commercial nuclear power electric generating stations operating prior to January 1, 1979; it does not apply to production reactors, test reactors, research reactors, or other licensed or unlicensed reactors used for other than electric power production.

This Appendix does not rescind any requirements set forth in any Safety Evaluation Report for any nuclear power facility.

II. General Requirements

A. *Fire Protection Program.* A fire protection program shall be established at each plant. The program shall establish the fire protection policy for the protection of structures, systems, and components important to safety at each plant and the procedures, equipment, and personnel required to implement the program at the plant site.

The fire protection program shall be under the direction of an individual who has been delegated authority commensurate with the responsibilities of the position. The individual shall be knowledgeable in both fire protection and nuclear safety.

The fire protection program shall extend the concept of defense in depth to fire protection with the following objectives:

- to prevent fires from starting;
- to detect rapidly, control, and extinguish promptly those fires that do occur;
- to arrange the structures, systems, and components important to safety so that a fire that starts in spite of the fire prevention activities and that is not promptly extinguished by the fixed automatic or manual fire suppression activities will not prevent the safe shutdown of the plant.

The fire protection program shall consist of an integrated effort of procedures, equipment, and personnel necessary to carry out the three-part defense-in-depth concept for each fire area containing combustibles and containing or presenting a fire hazard to structures, systems, and components important to safety. Measures for fire prevention; fire detection, suppression, and containment; and alternate shutdown capability shall be provided for each such area as follows:

1. *Fire Prevention.* a. In situ fire hazards shall be minimized by design and plant arrangement.

b. Transient fire hazards associated with normal operation, maintenance, repair, or modification activities shall be identified and minimized. Those transient fire hazards that cannot be eliminated shall be controlled.

2. *Fire Detection, Suppression, and Containment.* a. Fire detection system shall be installed.

b. Portable extinguishers and standpipe and hose stations shall be installed.

c. Manually actuated fixed suppression systems shall be installed where fire hazards of grouped electrical cables are large or access for the fire brigade is restricted.

d. A site fire brigade shall be established, trained, and equipped.

e. Automatic suppression systems shall be provided to control large fire hazards or to protect redundant systems or components important to safe shutdown.

f. Fire retardants, heat shields, or local fire barriers shall be provided where physical separation between redundant safe shutdown systems and components or between such systems and fire hazards is not adequate to ensure that automatic and manual fire suppression can limit the fire damage to one division of shutdown systems.

g. Fire barriers surrounding each fire area shall have a 3-hour fire rating unless the fire hazards analysis demonstrates that a lesser rating exceeds the duration of the in situ fire load by at least one-half hour.

h. Fire detection and suppression systems shall be designed, installed, maintained and tested by personnel properly qualified by experience and training in fire protection systems.

i. Surveillance procedures shall be established to ensure that fire barriers and automatic and manual fire suppression systems and components are operable.

3. *Alternate Shutdown Capability.* Alternate shutdown capability shall be provided when safe shutdown cannot be ensured by barriers and detection and suppression systems, because of the exposure of redundant safe shutdown equipment, cabling, or components in a single fire area to an exposure fire, fire suppression activities, or rupture or inadvertent operation of fire suppression systems.

B. *Loss of Offsite Power.* Fire detection and suppression systems protecting systems necessary to achieve and maintain safe plant shutdown shall be capable of functioning with or without offsite power.

C. *Manual Fire Fighting.* Manual fire fighting capability shall be provided in all areas containing or presenting a fire hazard to structures, systems, or components important to safety.

D. *Access for Manual Fire Fighting.* Access shall be provided to all areas containing or presenting a fire hazard to structures, systems, or components important to safety to permit effective functioning of the fire bridgade.

E. *Fire Hazard Analysis.* The adequacy of fire protection for any particular plant area shall be determined by analysis of the effects of postulated exposure fires involving both in situ and transient combustibles on the ability to safely shut down the reactor, or the ability to minimize and control the release of radioactivity to the environment. Separation of redundant systems and components by three-hour rated fire barriers or at least 50 feet both horizontal and vertical of clear air space shall be deemed adequate. Lesser ratings or distances shall be justified by analysis or test.

III. Specific Requirements

A. *Fire Water Distribution System.* An underground yard fire main loop shall distribute fire protection water from the fire water supplies to the automatic and manual suppression systems. Two fresh water supplies shall be provided to furnish necessary water volume and pressure to the yard fire main loop. Each supply shall consist of a storage tank, pump, piping, and appropriate isolation and control valves. These supplies shall be separated so that a failure of one supply will not result in a failure of the other supply.

Two separate redundant suctions from a large body of fresh water will satisfy the requirement for two separated water storage tanks.

Each supply of the fire water distribution system shall be capable of providing for a period of 2 hours the maximum expected water demands as determined by the fire hazards analysis for safety-related areas or other areas that present a fire exposure hazard to safety-related areas.

Minimum fire water storage shall be ensured by means of dedicated tanks or by means of a vertical standpipe for other water-service when storage tanks are used for combined service-water/fire-water uses.

Other water systems used as a fire water supply shall be permanently connected to the fire main system and shall be capable of automatic alignment to the fire main system. Pumps, controls, and power supplies in these systems shall satisfy the requirements for the main fire pumps. The use of other water systems for fire protection shall not be incompatible with their functions required for safe plant shutdown. Failure of the other system shall not degrade the fire main system.

B. *Sectional Control Valves.* Approved visually indicating sectional control valves such as Post Indicator Valves shall be provided to isolate portions of the fire main for maintenance or repair without shutting off the entire system.

C. *Hydrant Block Valves.* Block valves shall be installed in hydrant laterals if necessary to permit isolation of outside hydrants from the yard fire main without interrupting the fire water supply to any area containing or presenting a fire hazard to safety-related or safe shutdown equipment.

D. *Manual Fire Suppression.* Standpipe and hose systems shall be installed so that at least one effective hose stream will be able to reach any location that contains or could present an exposure fire hazard to safety-related equipment. Standpipe and hose stations shall be inside PWR containments and large BWR containments that are not inerted. For BWR dry wells, standpipe and hose stations shall be placed outside the dry well with adequate lengths of hose to reach any location inside the dry well with an effective hose stream.

E. *Hydrostatic Hose Tests.* Fire hose shall be hydrostatically tested at a pressure 50 psi above maximum service pressure. Hose stored in outside hose houses shall be tested annually. Interior standpipe hose shall be tested every three years.

F. *Automatic Fire Detection.* Automatic fire detection systems shall be installed in all areas of the plant that contain combustibles and safe shutdown or safety-related systems or components.

G. *Protection of Safe Shutdown Capability.* Protective features shall be provided for fire areas that contain cables or equipment of redundant systems important to achieving and maintaining safe shutdown conditions to ensure that at least one means of achieving said conditions survives postulated fires. The protective features may consist of a combination of automatic and manual fire suppression capability, fire propagation retardants, physical separation, partial fire barriers, or alternate shutdown capability independent of the fire area.

1. The design of the protective features shall consider:

a. The zone of influence of postulated fires and the fire extinguishing system used in the fire area.

b. The access for manual firefighting.

c. The potential disabling effects of water on shutdown capability

d. The limitations of fixed suppression systems.

e The separation between redundant divisions.

f. The in situ and transient combustibles.

g. The propagation rate of fire in the configuration.

h. The availability of shutdown capability independent of the fire area.

i. That all organic cable insulation and jacket material is combustible.

j. That metal conduit, covered cable trays, or solid bottom cable trays retard fire propagation but do not by themselves serve as a fire barrier to prevent the loss of function of the cables.

k. That fire retardant coatings retard fire propagation but do not prevent organic cable insulation and jacket materials from burning

l. That oxygen is available to support combustion.

m. The failure of automatic fire suppression systems.

n. That the response of the fire brigade may be delayed.

o. That room air coolers do not provide adequate protection for shutdown systems by removing heat generated by a fire.

2. The following minimum fire protective features shall be provided:

a. An early warning fire detection system.

b. Manual fire suppression capability.

c. Fixed fire suppression systems and alternative shutdown capability as shown on Table 1.[4]

[4] A fire hazards analysis acceptable to the staff shall be used to determine whether the plant can be shut down from the Control Room and whether access for manual firefighting is good.

Table 1.—*Fire Protection Features for Safe Shutdown Capabilities*

Type fire	Fire/water disables normal shutdown capability	Shutdown from control room available	Shutdown from alternate panel required	Access for manual fire fighting	Fixed suppression systems required
In-situ	No	Yes	No	Good	No
Do				Poor	Yes—Manual.
Do	Yes	No	Yes [1]	Good	Yes—Automatic [2]
Do				Poor	Yes—Automatic.
Exposure	No	Yes	No	Good	No.
Do				Poor	Yes—Manual
Do	Yes	No	Yes [1]	Good	Yes—Automatic [2]
Do				Poor	Yes—Automatic

Note 1—When the alternate shutdown capability is provided by an independent system dedicated to achieving and maintaining safe shutdown conditions, manually actuated fixed water systems or automatic gas suppression systems shall be provided for large concentrations of grouped electrical cables.

Note 2—Requirement for fixed suppression may be waived if (a) only in-situ combustible is cable insulation, (b) measures are provided to retard propagation, and (c) separation between redundant systems is at least 10 feet horizontal and vertical of clear air space.

h. *Fire Brigade.* A site fire brigade trained and equipped for firefighting shall be established to ensure adequate manual firefighting capability for all areas of the plant containing structures, systems, or components important to safety. The minimum size of the fire brigade shall be at least five members on each shift. The brigade leader and at least two brigade members shall be operations personnel or have equivalent knowledge of plant safety systems. The fire brigade members' qualifications shall include an annual physical examination for performing strenous firefighting activity. The shift supervisor shall not be a member of the fire brigade. The brigade leader shall be competent to assess the potential safety consequences of a fire and advise control room personnel. Such competence by the brigade leader may be evidenced by possession of an operator's license or equivalent knowledge of plant safety systems. Equipment provided for the brigade will consist of at least the following:

1. Personal protective equipment such as turnout coats, boots, gloves, hard hat, and pressure demand full-vision self-contained breathing apparatus with a minimum one-half hour rated capacity and approved by National Institute of Occupational Safety and Health (NIOSH) for firefighting purposes.

2. Manual suppression equipment such as portable extinguishers and standpipe and hose with nozzles suitable for the location.

3. Other systems and equipment necessary for efficient utilization of the brigade, such as emergency lighting in access routes to areas containing safety-related systems or components, and emergency communication capability throughout the plant that is independent of the normal communication systems. Emergency communication equipment shall not interfere with other plant equipment or controls.

i. *Fire Brigade Training.* The fire brigade training program shall ensure that the capability to fight potential fires is established and maintained. The program shall consist of an initial classroom instruction program followed by periodic classroom instruction, practice in firefighting, and fire drills:

1. *Instruction.* a. The initial classroom instruction shall include:

(1) Indoctrination of the plant firefighting plan with specific coverage of each individual's responsibilities.

(2) Identification of the fire hazards and associated types of fires that could occur in the plant and an identification of the location of such hazards.

(3) The toxic characteristics of expected products of combustion.

(4) Identification of the location of fire fighting equipment for each fire area and familiarization with the layout of the plant, including access and egress routes to each area.

(5) The proper use of available fire fighting equipment and the correct method of fighting each type of fire. The types of fires covered should include electrical fires, fires in cables and cable trays, hydrogen fires, fires involving flammable and combustible liquids or hazardous process chemicals, construction fires, and record file fires.

(6) The proper use of communication, lighting, ventilation, and emergency breathing equipment.

(7) The proper method for fighting fires inside buildings and confined spaces.

V 45 MY 29 80 UMI

(8) The direction and coordination of the firefighting activities (fire brigade leaders only).

(9) Detailed review of firefighting strategies and procedures.

(10) Review of the latest plant modifications and corresponding changes in firefighting plans.

Note.—Items (9) and (10) may be deleted from the training of non-operations personnel who may be assigned to the fire brigade.

b. The instruction shall be provided by qualified individuals who are knowledgeable, experienced, and suitably trained in fighting the types of fires that could occur in the plant and in using the types of equipment available in the nuclear power plant.

c. Instruction shall be provided to all fire brigade members and fire brigade leaders.

d. Regular planned meetings shall be held at least every 3 months for all brigade members to review changes in the fire protection program and other subjects as necessary.

e. Periodic refresher training sessions shall be held to repeat the classroom instruction program for all brigade members over a two year period. These sessions may be concurrent with the regular planned meetings.

2. *Practice.* Practice sessions shall be held for each shift fire brigade on the proper method of fighting the various types of fires that could occur in a nuclear power plant. These sessions shall provide brigade members with experience in actual fire extinguishment and the use of emergency breathing apparatus under strenuous conditions encountered in firefighting. These practice sessions shall be provided at least once per year for each fire brigade member.

3. *Drills.* a. Fire brigade drills shall be performed in the plant so that the fire brigade can practice as a team.

b. Drills shall be performed at regular intervals not to exceed 3 months for each shift fire brigade. Each fire brigade member should participate in each drill, but must participate in at least two drills per year.

A sufficient number of these drills, but not less than one for each shift fire brigade per year, shall be unannounced to determine the firefighting readiness of the plant fire brigade, brigade leader, and fire protection systems and equipment. Persons planning and authorizing an unannounced drill shall assure that the responding shift fire brigade members are not aware of the time or location of the drill until it is begun.

At least one drill per year shall be performed on a "back shift" for each shift fire brigade.

c. The drills shall be preplanned to establish the training objectives of the drill and shall be critiqued to determine how well the training objectives have been met. Unannounced drills shall be planned and critiqued by members of the management staff responsible for plant safety and security. Performance defficiencies of a fire brigade or of individual fire brigade members shall be remedied by scheduling additional training for the brigade or members. Unsatisfactory drill performance shall be followed by a repeat drill within 30 days.

d. At 3-year intervals, drills shall be critiqued by qualified individuals independent of the licensee's staff. A copy of the written report from such individuals shall be submitted to NRC for evaluation.

e. Drills shall as a minimum include the following:

(1) Assessment of fire alarm effectiveness, time required to notify and assemble fire brigade, and selection, placement and use of equipment, and firefighting strategies.

(2) Assessment of each brigade member's knowledge of his role in the firefighting strategy for the area assumed to contain the fire. Assessment of the brigade member's conformance with established plant firefighting procedures and use of firefighting equipment, including self-contained emergency breathing apparatus, communication equipment, and ventilation equipment, to the extent practicable.

(3) The simulated use of firefighting equipment required to cope with the situation and type of fire selected for the drill. The area and type of fire chosen for the drill should be varied such that brigade members are trained in fighting fires in all safety-related areas. The situation selected should simulate the size and arrangement of a fire which could reasonably occur in the area selected, allowing for fire development due to the time required to respond, to obtain equipment, and organize for the fire, assuming loss of automatic suppression capability.

(4) Assessment of brigade leader's direction of the firefighting effort, as to thoroughness, accuracy, and effectiveness.

4. *Records.* Individual records of training provided to each fire brigade member, including drill critiques, shall be maintained for at least 4 years to ensure that each member receives training in all parts of the training program. These records of training shall be available for review. Retraining or broadened training for fire fighting within buildings shall be scheduled for all those brigade members whose performance records show deficiences.

J. *Emergency Lighting.* Emergency lighting shall be provided in all areas needed for operation of safe shut down equipment and in access routes to all safety-related areas and other areas presenting a fire hazard to safety-related areas. Such emergency lighting may be provided by the normal lighting if it is connected to an emergency bus and the fire hazard analysis shows that it will not be damaged by any fire. Otherwise permanently installed sealed beam or florescent units with individual 8-hour minimum battery power supply shall be provided.

K. *Administrative Controls.* Administrative controls shall be established to minimize fire hazards in areas containing structures, systems, and components important to safety. These controls shall establish procedures to:

1. Govern the handling and limitation of the use of ordinary combustible materials, combustible and flammable gases and liquids, high efficiency particulate air and charcoal filters, dry ion exchange resins, or other combustible supplies in safety-related areas.

2. Prohibit the storage of combustibles in safety-related areas or establish designated storage areas and fire protection therefor.

3. Govern the handling of and limit transient fire loads such as combustible and flammable liquids, wood and plastic products, or other combustible materials in buildings containing safety-related systems or equipment during maintenance, modification, or refueling operations.

4. Designate the onsite staff member responsible for the in-plant fire protection review of proposed work activities to identify potential transient fire hazards and specify required additional fire protection in the work activity procedure.

5. Govern the use of ignition sources by means of a flame permit system that controls welding, flame cutting, brazing, or soldering operations. A separate permit shall be issued for each area where work is to be done, and if work continues over more than one shift, the permit shall be valid for not more than 24 hours.

6. Govern the removal from the area of all waste, debris, scrap, oil spills, or other combustibles resulting from the work activity immediately following completion of the activity, or at the end of each work shift, whichever comes first.

7. Govern the periodic housekeeping inspections to ensure continued compliance with these administrative controls.

8. Govern the use of specific combustibles in safety-related areas. All wood used in safety-related areas during maintenance, modification, or refueling operations (such as lay-down blocks or scaffolding) shall be flame-retardant treated. Equipment or supplies (such as new fuel) shipped in untreated combustible packing containers may be unpacked in safety-related areas if required for valid operating reasons. However, all combustible materials shall be removed from the area immediately following the unpacking. Combustible material shall not be left unattended during lunch breaks, shift changes, or other similar periods. Loose combustible packing material such as wood or paper excelsior shall be placed in metal containers with tight-fitting self-closing metal covers.

9. Govern actions to be taken by individual discovering the fire, such as notification of control room, attempt to extinguish fire, and actuation of local fire suppression systems.

10. Govern actions to be taken by the control room operator to determine the need for brigade assistance upon report of a fire or receipt of alarm on control room annunciator panel, such as announcing location of fire over PA system, sounding fire alarms, and notifying the shift supervisor and the fire brigade leader of the type, size, and location of the fire.

11. Govern actions to be taken by the fire brigade after notification by the control room operator of a fire, such as assembling in a designated location, receiving directions from the specific fire fighting fire brigade leader, and, discharging specific fire fighting responsibilities including selection and transportation of fire fighting equipment to fire location, selection of protective equipment, use of fire suppression systems operating instructions, and use of preplanned strategies for fighting fires in specific areas.

12. Define the strategies for fighting fires in all safety-related areas and areas presenting a hazard to safety-related equipment. These strategies shall designate:

a. Fire hazards in each area covered by the specific fire fighting procedures.

b. Fire extinguishants best suited for controlling the fires associated with the fire hazards in that area and the nearest location of these extinguishants.

c. Most favorable direction from which to attack a fire in each area, in view of the ventilation direction, access hallways, stairs, and doors that are most likely to be fire free, and the best station or elevation for fighting the fire. All access and egress routes that involve locked doors should be specifically identified in the procedure with the appropriate precautions and methods for access specified.

d. Plant systems that should be managed to reduce the damage potential during a local fire; location of local and remote controls for such management (e.g., any hydraulic or electrical systems in the zone covered by the specific fire fighting procedure that could increase the hazards in the area because of overpressurization or electrical hazards).

e. Vital heat-sensitive system components that need to be kept cool while fighting a local fire. Particularly hazardous combustibles should be designated to receive cooling.

f. Organization of firefighting brigades and the assignment of special duties according to job title so that all fire fighting functions are covered by any complete shift personnel complement. These duties include command control of the brigade, transporting fire suppression and support equipment to the fire scenes, applying the extinguishant to the fire, communication with the control room, and coordination with outside fire departments.

g. Radiological and toxic hazards in fire zones.

h. Ventilation system operation that ensures desired plant pressure distribution when the ventilation flow is modified for fire containment or smoke clearing operations.

i. Operations requiring control room and shift engineer coordination or authorization.

j. Instructions for plant operators and general plant personnel during fire.

L. *Alternate Shutdown Capability.* 1. If the combination of fire protection features required for safe shutdown includes alternate shutdown capability independent of a specific fire area, the design for such alternate shutdown capability shall accomodate postfire conditions where offsite power is available and where offsite power is not available for 72 hours.

If there are several such areas, the combinations of systems that provide the shutdown capability may be unique for each critical area. However, the shutdown capability provided for each such area shall be able to achieve and maintain subcritical reactivity conditions in the reactor, maintain reactor coolant inventory, achieve and maintain hot standby [5] conditions for a PWR (hot shutdown [5] for a BWR) for at least 72 hours, achieve cold shutdown [5] conditions within 72 hours and maintain cold shutdown conditions thereafter. The reactor coolant system process variables shall be maintained within those predicted for a loss of normal ac power. The fission product boundary integrity shall not be affected; i.e., there shall be no fuel clad damage, rupture of any primary coolant boundary, or rupture of the containment boundary.

2. The performance goals for the shutdown functions shall be:

a. The reactivity control function shall be capable of achieving and maintaining cold shutdown reactivity conditions.

b. The reactor coolant makeup function shall be capable of maintaining the reactor coolant level above the top of the core for BWRs and in the pressurizer for PWRs.

c. The reactor heat removal function shall be capable of achieving and maintaining decay heat removal.

d. The process monitoring function shall be capable of providing direct readings of the process variables necessary to perform and control the above functions.

e. The supporting functions shall be capable of providing the process cooling, lubrication, etc., necessary to permit the operation of the equipment used for safe shutdown functions.

3. Various safety-related and non safety-related equipment and/or systems may be identified by the licensee and accepted by the staff to provide alternative means to achieve and maintain hot standby conditions (hot shut down for a BWR). The fire hazards analysis shall show that at least one means to achieve and maintain hot standby conditions (hot shutdown for a BWR) is undamaged by any fire anywhere in the plant. In addition, the equipment and systems comprising that means of hot standby or hot shut down condition shall be capable of maintaining such conditions for at least 72 hours if the equipment required to achieve and maintain cold shutdown is not available because of fire damage. They shall also be capable of being powered by both onsite and offsite electric power systems or by onsite power systems that are independent of the onsite and offsite electric power systems. The number of operating shift personnel, exclusive of fire brigade members, required to operate the equipment and systems shall be onsite at all times.

4. The fire hazards analysis shall show that either (a) any equipment and/or systems necessary to achieve and maintain cold shut down conditions will not be damaged by any fire; or (b) that any equipment and/or systems necessary to achieve and maintain cold shut down conditions that are damaged by fire can be repaired and cold shut down achieved within 72 hours. Materials for such repairs shall be readily available onsite and procedures shall be in effect to implement such repairs. Equipment and systems used prior to 72 hours after the fire shall be capable of being powered by both onsite and offsite electric power systems or by onsite power systems that are independent of the onsite and offsite electric power systems; equipment and systems used after 72 hours may be powered by offsite power.

These shutdown systems need not be designed to meet seismic Category I criteria or single failure criteria; or to cope with other plant accidents such as pipe breaks or stuck valves except where required for other reasons, e.g., because of interface with or impact on existing safety systems.

M. *Fire Barriers.* Fire barriers (floors, walls, ceilings, or other enclosures) separating fire areas, or equipment or components of redundant systems important to safe shutdown within an area, shall have a fire rating of 3 hours unless a lower rating is justified by the fire hazard analysis.

Structural steel forming a part of or supporting such fire barriers shall have fire resistance equivalent to that required of the barrier. Such fire resistance shall be provided by protection equivalent to metal lath and plaster covering.

Penetrations in these fire barriers, including conduits, cable trays, and piping, shall be sealed or closed to provide fire resistance rating equivalent to that required of the barrier. Door openings shall be protected with doors, frames, and hardware that have been tested and approved by a nationally recognized testing laboratory to have a fire resistance rating equivalent to that required of the barrier.

Penetrations for ventilation systems shall be protected by a standard "fire door damper."

N. *Fire Barrier Penetration Seal Qualification.* Penetration seal designs shall be qualified by an independent testing laboratory in accordance with American Society for Testing Materials, ASTM E–119 and the following conditions:

1. The cables used in the test shall be of the same type of construction as those used in the facility.

2. The test arrangement shall be representative of the worst-case configuration of cable loading, cable tray arrangement, anchoring, and penetration fire barrier size and design. The test sample shall also be representative of the cable sizes in the facility. Testing of the penetration fire barrier in the floor configuration will qualify the fire stop for use in the wall configuration also.

3. Cables penetrating the fire barrier shall extend at least 3 feet on the unexposed side and at least 1 foot on the exposed side.

4. The fire barrier shall be tested in both directions unless the fire barrier is symmetrical.

5. The fire barrier shall be tested with a pressure differential across it (higher pressure on the exposed side) that is equivalent to the maximum pressure differential a fire barrier in the plant is expected to experience unless such pressure differentials are shown to have no effect on the performance of the penetration seal.

6. The temperature levels of the cable insulation, cable conductor, cable tray, conduit, and fire stop material shall be recorded for the unexposed side of the fire barrier.

7. As an alternative to the standard straight-stream hose test stipulated in Sections 9.4 and 9.5 of ASTM E–119, either of the following tests may be used:

a. Two identical test specimens are exposed to the standard fire. After 1 hour, one specimen is subjected to the standard

[5] As defined in the Standard Technical Specifications.

straight-stream hose test stipulated in ASTM

was based upon an intent to assure that

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V 45 M Y 29 80 UMI

straight-stream hose test stipulated in ASTM E119, while the other continues to be exposed to the standard fire for the full 3 hours; or

b. The single test specimen, immediately after the 3-hour standard fire exposure, is subjected to a water fog test using a high-velocity fog nozzle having an included angle of spray no larger than 30° and supplied by a hose no smaller than 1½ inches at a pressure of at least 75 psig measured at the base of the nozzle for an application time of at least 2½ minutes per 100 sq. ft. of test specimen.

8. Acceptance Criteria—The test is successful if:

a. The cable penetration fire barrier has withstood the fire endurance test without passage of flame or ignition of cables on the unexposed side for a period of 3 hours,

b. The temperature levels recorded for the unexposed side are analyzed and demonstrate that the maximum temperature is sufficiently below the cable insulation ignition temperature, and

c. The fire barrier remains intact and does not allow projection of water beyond the unexposed surface during the hose stream test.

O. *Fire Doors.* Fire doors shall be self-closing or provided with closing mechanisms and shall be inspected semiannually to verify that automatic hold-open, release, and closing mechanisms and latches are operable. Fire doors shall be kept closed unless provided with automatic hold-open, release, and closing mechanisms.

One of the following measures shall also be provided:

1. Fire doors shall be electrically supervised at a continously manned location; or

2. Fire doors shall be locked closed and inspected weekly to verify that the doors are in the closed position; or

3. Fire doors shall be provided with automatic hold-open and release mechanisms and inspected daily to verify that doorways are free of obstructions: or

4. Fire doors shall be kept closed and inspected daily to verify that they are in the closed position.

The fire brigade commander shall have ready access to keys for any locked fire doors.

Areas protected by automatic total flooding gas suppression systems shall have electrically supervised self-closing fire doors.

P. *Reactor Coolant Pump Lubrication System.* The reactor coolant pump lubrication system shall be protected by either an oil collection system or an automatic fire suppression system.

Oil collection systems shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pumps' lube oil systems, and draining the oil to a vented closed container. A flame arrestor is required in the vent if the flash point characteristics of the oil present the hazard of fire flashback. Leakage points to be protected shall include lift pump and piping, overflow lines, lube oil cooler, oil fill and drain lines and plugs, flanged connections on oil lines and lube oil reservoirs where such features exist on the reactor coolant pumps. Leakage shall be collected and drained to a closed container that can hold the entire lube oil system inventory. The drain line shall be large enough to accommodate the largest potential oil leak.

To provide adequate protection for a design basis Safe Shutdown Earthquake (SSE), one of the following should be provided:

1. The lube oil system components whose failure could result in leakage should be designed to withstand an SSE without leakage and the dropping of oil collection system components during an SSE should not cause loss of operability of safety-related equipment; or

2. The oil collection system should be designed to withstand an SSE and continue to be able to collect and drain leakage that may occur during an SSE. In this case the oil collection system should be adequate to collect oil from any external lube oil piping not designed to withstand an SSE in addition to leakage from points identified above.

If an automatic fire suppression system is selected, either the automatic and manual fire suppression system or the lube oil system components whose failure could result in leakage should be designed to withstand the SSE.

Q. *Associated Circuits.* Associated circuits shall be electrically isolated from safety equipment so that hot shorts, open circuits, or shorts to ground in the associated circuit will not prevent operation of the safety equipment.

If associated circuits are not known to be so electrically isolated, they shall be considered safe shutdown circuits. The separation and barriers between trays and conduits containing associated circuits of one safe shutdown division and trays and conduits containing associated circuits or safe shutdown cables from the redundant division shall be such that a postulated fire involving associated circuits will not prevent safe shutdown.[6]

All interested persons who desire to submit written comments or suggestions concerning the proposed rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, on or before June 30, 1980. Copies of comments received on the proposed amendments may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

(Sec. 161b, Pub. L. 83–703, 68 Stat. 948; Sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at Washington, D.C., this 21st day of May 1980.

[6] An acceptable method of complying with this alternative would be to meet Regulatory Guide 1.75 position 4 related to associated circuits and IEEE 384–1974 (Section 4.5) where trays from redundant safety divisions are so protected that postulated fires affect trays from only one safety division.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-16212 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-37]

Mandatory Petroleum Allocation Regulations; Establishment of Mandatory Production Levels of Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of termination of rulemaking proceeding.

SUMMARY: On July 30, 1979 (44 FR 46244, August 6, 1979) the Economic Regulatory Administration (ERA) of the Department of Energy solicited comment on a proposed rulemaking that would amend the allocation regulations to require for the months August, September and October 1979 that each refiner's combined production of Nos. 1 and 2 heating oil and Nos. 1 and 2 diesel fuel be at least equal to its average monthly production of those products in the three months during the period January 1977 through December 1978 in which that refiner's combined production of those products was greatest. In addition, we proposed to require that each refiner's combined production of kerosene and kerosene-type aviation turbine fuel in each month proposed to be covered be at least equal to its average monthly production of those products in the three months of 1978 in which its combined production of those products was greatest. This Notice is to advise of our termination of this proceeding.

FOR FURTHER INFORMATION CONTACT:

C. Eric Hager (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3263.

Jack Kendall (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 28585, (202) 252–6739.

SUPPLEMENTARY INFORMATION: At the time that the rule was proposed, ERA was concerned with indications that middle distillate primary stocks were significantly below the normal inventory levels of recent years. The mandatory production level requirement proposed was based upon an intent to assure that inventory accumulation rates would be accelerated to avert possible emergency supply conditions during the upcoming heating oil season.

The 240 million barrel primary stock target established by the Department was met on a voluntary basis by the nation's refiners and this was sufficient to meet the nation's needs this past heating season. In view of this, further action to adopt the proposed rule for the months proposed was considered unnecessary.

In the course of reviewing the many comments received and our further consideration of the merit of having some form of mandatory production level rule on a standby or permanent basis, we considered proposing for public comment a provision that could apply for months other than August, September and October 1979. Based on the data available to us concerning the current adequacy of middle distillate stocks and the comments received we have determined that a middle distillate production level rule as was proposed in July 1979, is unnecessary in any form to achieve the objectives of the Emergency Petroleum Allocation Act of 1973, as amended.

A review of current middle distillate stock, production, and import data suggests that available supplies are increased substantially over this time last year. Currently, primary stocks are considerably higher than the projected normal range. As of March 28, 1980, distillate stocks stood at 175.5 million barrels which is 53.8 percent above the level a year ago. Distillate supplies are higher for this time of year than at any other comparable period in history. The majority of refiners are presently distributing distillate to their purchasers at or near 100% of historic use.

We intend to continue monitoring the middle distillate supply situation closely. In the event that anticipated supply data or other information indicate a need for regulatory intervention to avert middle distillate product shortages, we will not hesitate to act to assure that adequate supplies are available on an equitable basis for the next heating oil season.

The rulemaking proceeding entitled "Establishment of Mandatory Production Levels of Middle Distillates," Docket No. ERA–R–79–37 initiated on July 30, 1979, is hereby terminated.

Issued in Washington, D.C. May 19, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-16197 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-GL-9-AD]

Mechanically Actuated Tachometers Installed In Certain Small Aircraft; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice requests comments concerning a possible Airworthiness Directive (AD) against mechanical/magnetic drag type tachometers used in certain small aircraft to indicate engine RPM. This action deals with problems which may result from the pilot's inability to accurately determine engine RPM due to tachometer error.

DATES: Comments must be received on or before September 1, 1980.

ADDRESSES: Send written comments in duplicate to the Office of Regional Counsel, Federal Aviation Administration, Attn: Rules Docket (AGL–7), Docket No. 80–GL–9–AD, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Robert Alpiser, Engineer and Manufacturing Branch, AGL–214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 308.

SUPPLEMENTARY INFORMATION:

Invitation for Comments

This advance notice of proposed rulemaking is being issued to invite public participation in the identification and selection of a course or alternate course of action with respect to this particular rulemaking problem. An "advance" notice is issued when it is found that the resources of the FAA and reasonable inquiry outside of the agency do not yield a sufficient basis to identify and select a tentative course of action.

Interested persons are invited to participate in the formulation of the FAA action by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking additional action. All comments will be available, both before and after the closing date for comments, in the Rules Docket office for examination by interested persons. If it is determined to be in the public interest to proceed with regulatory action, after consideration of the available data and comments, a notice of proposed rulemaking will be issued.

Background

A Directed Safety Investigation was conducted by FAA field offices in 1979 to determine the accuracy of mechanically actuated tachometers installed in the general aviation fleet. The compiled results of more than 2500 reports from 37 different field offices revealed a high percentage of tachometers with significant errors. The reported errors ranged from 300 RPM less than true engine speed to 270 RPM greater than true engine speed. A tachometer indicating other than true engine or propeller speed, if unknown and uncompensated for by the pilot, can affect airplane performance (takeoff, climb, and range), and may result in engine or propeller failures due to operation in restricted ranges and/or operation above redline limits.

The purpose of this advance notice of proposed rulemaking is to develop a procedure for notifying the pilot about the problem of inaccurate mechanically actuated tachometers, to develop a procedure for determining the installed accuracy of mechanically actuated tachometers, to develop a method of correcting or compensating for a tachometer that is outside the limits of acceptable accuracy, and to determine acceptable limits on tachometer accuracy at various operating conditions or power settings.

Topics of Inquiry

The FAA believes that some small aircraft have mechanical tachometers that are sufficiently inaccurate to cause an unsafe condition. Therefore, some form of corrective action is deemed appropriate. In this regard, the agency is interested in public comments and viewpoints on the following:

1. Should mechanical tachometer accuracy be checked annually?

2. Should allowable tolerance on installed tachometers be held to within plus or minus 50 RPM at various engine speeds from idle to takeoff?

3. Should a new standard be establised for newly type certificated

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aircraft to require a mechanical tachometer accuracy of plus or minus 25 RPM (bench test) at various checkpoints?

4. Should tachometers outside of allowable tolerance be repaired or replaced; or should the restricted and redline ranges be remarked on the dial glass; or should a calibration card be added to the instrument panel?

5. Any suggestions for other possible courses of action not described above are solicited.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Des Plaines, Illinois on May 13, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-16250 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-PC-4]

Alteration of Guam Island Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Guam Island Transition Area to provide additional airspace to protect aircraft executing instrument approaches being developed for Rota International Airport.

DATES: Comments must be received on or before June 30, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Pacific Region, Attention: Chief, Air Traffic Division, Docket No. 80-PC-4, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW, Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, D.C. 20591; telephone: (202) 426-3715.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Pacific Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813. All communications received on or before June 30, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW, Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish a 700 foot transition area at Rota International Airport to protect two NDB approach procedures being established to Runway 9 and Runway 278. The proposed action would designate an area from 700 feet above the surface within an 8-mile radius of the airport (Lat. 14°10'26" N., Long 145°14'41" E.) within 2.5 miles either side of the 084° T(082° M) bearing from the Rota NDB (Lat. 14°10'13" N., Long. 145°14'15" E.) extending from the 8-mile radius area to 11 miles east of the NDB, and within 2 miles either side of the 290° T(288° M) bearing from the Rota NDB extending form the 8-mile radius area to 15 miles west of the NDB. Section 71.181 of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 445).

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undertermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as reapublished (45 FR 445) as follows:

Under Guam Island, "thence to point of beginning." is deleted and "thence to point of beginning, and within an 8-mile radius of the Rota International Airport (Lat. 14°10'26" N., Long. 145°14'41" E.), within 2.5 miles either side of the 084° T bearing from the Rota NDB extending from the 8-mile radius area to 11 miles east of the NDB, and within 2 miles either side of the 290° T bearing from the Rota NDB extending from the 8-mile radius area to 15 miles west of the NDB." is substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issue in Washington, D.C., on May 21, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-16084 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AAL-9]

Proposed Alternation of Transition Area, Gustavus, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Gustavus, Alaska, transition area by expanding the 1,200-foot AGL floor portion of the transition area and designating a 12,500-foot MSL floor portion. The proposed alteration would provide additional controlled airspace for aircraft holding at BERGS intersection and for aircraft climbing northwest bound from Juneau and Gustavus until reaching continental control area. A need for this proposed action was created when holding was authorized at BERGS intersection and a minimum crossing altitude of 13,000 feet was established northwest bound at BERGS intersection.

DATE: Comments must be received on or before June 30, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn.: Chief, Air Traffic Division, Docket No. 80-AAL-9, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

An informal docket may be examined at the office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before June 30, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, or by calling (907) 271-5902. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the Gustavus, Alaska, transition area. This amendment would provide additional controlled airspace to protect IFR aircraft holding at BERGS intersection and aircraft climbing northwest bound between BERGS intersection and the Yakutat VORTAC. A 1,200-foot AGL floor is proposed to protect aircraft holding and a 12,500-foot MSL floor to protect aircraft climbing northwest bound from over BERGS intersection.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Gustavus transition area as follows:

Gustavus, Alaska

After "48 miles SE of the RBN." add "and within 22 miles SW of the 325° bearing from the Gustavus RBN, extending from 16 miles NW to 26 miles NW; and that airspace extending upward from 12,500 feet MSL within 5 miles each side of the Sisters Island VORTAC 302° radial extending from the NW boundary of the 1,200-foot portion transition area to 59 miles NW of the VORTAC, thence widening to 6 miles each side of the 302° radial at 69 miles NW of the VORTAC."

(This amendment is proposed under the authority of § 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Anchorage, Alaska on May 14, 1980.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 80-16083 Filed 5-28-80; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

rules controlling *ex parte* communications in trial-type

the Commission has already opened its

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 21

Futures Commission Merchants—Duties Concerning Accounts Carried for Foreign Brokers and Traders; Proposed Rule

Correction

In FR Doc. 80–14830, at page 31731, in the issue of Wednesday, May 14, 1980, make the following corrections:

(1) On page 31732, in the first column, the first full paragraph, the thirtieth line up, replace "deemed" with "deems".

(2) On page 31733, in the first column under paragraph (a) of § 21.03, the second to the last line, correct "transmissions" to read "transactions".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 2 and 3c

[Docket No. RM80–60]

Revision of Commission's Rules on Ex Parte and Separation of Functions; Notice of Proposed Rulemaking

Issued: May 23, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission gives notice that it proposes to adopt new regulations controlling *ex parte* communications between persons outside the Commission and Commission decisionmakers, and new regulations controlling communications between decisionmakers and the Commission's advocacy or investigatory staff. The proposed rules will provide uniform *ex parte* and separation of functions rules for all trial-type proceedings at the Commission.

DATE: Written comments by June 27, 1980.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, reference Docket No. RM 80–60.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8455.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC or Commission) is proposing rules controlling *ex parte* communications in trial-type proceedings. It is further proposing rules concerning the separation of advocacy and decisionmaking functions in trial-type proceedings.

I. Background

The FERC has never formulated rules governing *ex parte* communications or separation of functions. Instead, pending promulgation of its own rules, the savings provision of the Department of Energy Organization Act (DOE Act) provides that the Federal Power Commission's (FPC) and the Interstate Commerce Commission's (ICC) *ex parte* and separation of functions rules continue to apply to proceedings that were previously subject to the jurisdiction of those Commissions.[1] The FPC rules vary from the ICC rules and neither are fully consistent with the applicable provisions of the Administrative Procedure Act (APA). In addition, other proceedings at the Commission are conducted under statutes that were not administered by the FPC or the ICC. The Commission has no specific *ex parte* or separation of functions rules applicable to these proceedings.

For these reasons, the Commission considers it necessary to promulgate a set of uniform rules on *ex parte* communications and separation of functions applicable to all trial-type proceedings conducted under the various statutes that it administers.[2] The rules proposed herein will accomplish this objective.

In addition, the proposed rules will achieve a more fundamental and continuing objective of the Commission, that is, to insure those who practice before it that the decisionmaking process is both fair and equitable. One aspect of fairness in the decisionmaking process is "open" decisionmaking, a concept embodied in the Sunshine Act amendment to the APA.[3] In an effort to comply with the spirit of this provision, the Commission has already opened its deliberative meetings to the public in the majority of cases, including many cases which it is not required to open by the terms of that statute.

Another aspect of fairness concerns the integrity of the information gathering process that the Commission undertakes in a particular proceeding. In other words, the information gathering process should insure participants that the Commission will reach a decision in a proceeding based upon facts and arguments that have been publicly revealed. In statutorily required on-the-record proceedings, this result is insured by the dual provisions of the APA concerning *ex parte* communications (5 U.S.C. 557(d)) and separation of functions (5 U.S.C. 554(d)). As a matter of policy we propose *ex parte* and separation of functions rules patterned on the APA provisions to be applicable to all of our trial-type proceedings, including those to which the provisions of the APA do not apply.

II. Discussion

There is a close relationship between the proposed rules governing *ex parte* communications and those concerning separation of functions. Generally speaking, each constitutes a limitation on the access to or receipt of information that may be utilized in the decisionmaking process. The proposed *ex parte* rule constitutes a limitation on certain external communications. It proscribes off-the-record communications between decisionmakers and parties or interested persons outside the agency that are relevant to the merits of a pending trial-type proceeding. Similar communications between staff counsel or staff witnesses and third parties are not proscribed by the *ex parte* rule. Rather staff counsel and staff witnesses are restricted in their internal communications with decisionmakers by the proposed separation of functions rule. This rule would prohibit an agency investigator or advocate in a trial-type proceeding from participating in the decisionmaking process for that proceeding or another factually related trial-type proceeding or investigation.

A. Applicability of Proposed Rules

As stated earlier, both proposed rules will apply only to trial-type proceedings.[4] The term trial-type proceeding is defined in § 1.61(f). As proposed, § 1.61(f) sets forth five

[1] Sections 401(f) and 705(a) of the DOE Act. The FPC's rules appear in 18 CFR 1.4 and 1.30(f). The ICC's rules appear in 49 CFR Part 1100, Appendix C.

[2] As part of its effort to arrive at a uniform set of proposed rules, the Commission has received advice and comment from various sources, including a report from the *Ex Parte* and Separation of Functions Subcommittee of the Commission's Advisory Committee on Revision of Rules of Practice and Procedure.

The Subcommittee's report was submitted to the Commission on September 27, 1979. A copy of the report may be obtained from the Commission's Division of Public Information.

In addition, on August 25, 1978, the staff requested comments respecting revision of the rules of practice. Certain of the comments were directed to the *ex parte* rules. (Docket No. RM78–22).

[3] 5 U.S.C. § 52(b).

[4] The proposed rules do not apply to informal rulemaking proceedings. The Commission intends to consider whether to issue a notice of proposed rulemaking governing *ex parte* communications in informal rulemakings proceedings in the near future.

categories of proceedings which will be considered trial-type proceedings. These include proceedings conducted before the Commission under § 1.38 and § 1.40 of the present regulations to review remedial or adjustment orders issued by the Secretary of Energy under § 503(a) and § 504(a) of the DOE Act and proceedings conducted under § 1.40 of the present regulations pertaining to review of the grant or denial of adjustment requests under § 502(c) of the NGPA. The last two categories of trial-type proceedings include any proceeding which by Commission order has been set for hearing before an Administrative Law Judge: or any proceeding which by law, Commission rule, or order is required to be decided on the record after opportunity for Commission hearing.

B. Ex Parte Communications in Trial-type Proceedings

Section 1.63 of the proposed rules governs *ex parte* communications in trial-type proceedings. This section prohibits interested persons and decisional employees from making *ex parte* communications with respect to any trial-type proceeding while such proceeding is pending before the Commission. In addition, this section contains a disclosure requirement for decisional employees who make or receive communications in violation of the *ex parte* rule as well as a sanctions provision for knowing violations of the rule by parties.

Central to an understanding of § 1.63 are the definitions of interested person, decisional employee, *ex parte* communication and pending trial-type proceeding.

1. *Interested Person.* The definition of the term "interested person" is contained in § 1.61(a) of the proposed rule. The term is broadly defined and encompasses those persons defined as "parties" in § 1.61(b). Read in conjunction, § 1.61(a) and § 1.61(b) provide that the term "interested person" includes a party or any agent or other person acting on behalf of a party, as well as any person who has an economic or other identifiable interest in the outcome of a trial-type proceeding.

The broad nature of this definition is supported by the legislative history of the term "interested person" as it appears in Section 557(d) of the APA:

> The wording "interested persons" is intended to be a wide, inclusive term covering any individual or other person with an interest in the agency proceeding that is greater than the general interest the public as a whole may have. The interest need not be monetary, nor need a person to be a party to, or intervenor in, the agency proceeding to come under this section. The term, includes, but is not limited to, parties, competitors, public officials, and nonprofit or public interest organizations, and associations with a special interest in the matter regulated. As used in this section, "person" has the same meaning as elsewhere in the Administrative Procedure Act.[6]

There are certain exclusions contained in the proposed definitions of interested person and party. First, a federal agency which is not a party to a trial-type proceeding is excluded from the definition of interested person. This exclusion is derived from the above-quoted legislative history:

> * * * As used in this section, "person" has the same meaning as elsewhere in the Administrative Procedure Act.[6]

Section 551(2) of the APA defines "person" to include "an individual, partnership, corporation, association, or public or private organization *other than an agency.*" (emphasis supplied) [7]

The Commission believes that there is a sound policy basis for generally excluding federal agencies from the category of interested persons. A cohesive government policy on any issue can only be derived and sustained by a free flow of information between the various federal agencies charged with formulating and implementing various aspects of that policy. This is to be distinguished from the situation where a federal agency becomes a perty to a trial-type proceeding or makes a communication on behalf of a party to a trial-type proceeding. In the latter situation, where the agency acts as an advocate and in an adversary capacity, the communications would properly be characterized as *ex parte.* The proposed definition of "party" contained in § 1.61(b) insures that this result will be reached by encompassing those persons, including for example federal agencies, who act as agent for or on behalf of a party to a trial-type proceeding.

In certain cases, the Commission believes that the policy underlying this exclusion may be equally applicable to communications between the FERC and state agencies which are not parties to a pending trial-type proceeding. The APA does not appear to provide a basis for this exclusion. However, the Commission seeks comment on the legal basis, if any, for permitting such an exclusion for state agencies.

The second exclusion is contained in the definition of "party." As defined, the term "party" does not include the staff of the Commission. The *ex parte* prohibitions contained in the proposed rule are only aimed at interested persons *outside* the agency. The prohibition on intra-agency communications is contained in the proposed rule on separations of functions discussed below.

2. *Decisional Employee.* The definition of "decisional employee" is contained in § 1.61(c) of the proposed rule. Under this definition all employees of the Commission are decisional employees unless they are staff advocates, staff investigators or are otherwise so designated under § 1.62(b) which is discussed below. The terms staff advocate and staff investigator are defined in § 1.61(d) and § 1.61(e), respectively. Staff advocate includes any person who is assigned to or who makes an appearance as staff counsel or staff witness in a trial-type proceeding. Staff investigator includes any person designated under § 1b.5 as an investigating officer in a formal investigation.

In addition, under § 1.62(b) of the proposed rule the Chairman may designate any employee (or class thereof) as a decisional employee, staff advocate or staff investigator. The proposed rule provides that any designation by the Chairman will be available to the public in the Office of the Secretary.

3. *Ex Parte* Communication. As discussed above, the proposed rule prohibits decisional employees and interested persons from making *ex parte* communications. The term *ex parte* communication is defined in § 1.63(d) of the proposed rule and includes any oral or written communication not on the public record which is relevant to the merits of a proceeding and with respect to which reasonable prior notice to all parties has not been given.

The term relevant to the merits is not defined in the proposed rule. However, § 1.62(a) of the proposed rule sets forth certain classes of communications that are specifically excluded from being relevant to the merits.

Section 1.62(a)(1) provides that a communication is not relevant to the merits of a proceeding if it is a status report or request for a status report; relates to a matter of procedure or is made in the course of another proceeding being conducted before the Commission and is on the public record of that proceeding.

Certain other exclusions are contained in § 1.62(a)(2) of the proposed rule. The exclusions contained in this paragraph apply to both the *ex parte* rule set forth in § 1.63 and the separations of functions rule set forth in § 1.64. Communications which are

[5] S. Rep. No. 94–354, 94th Cong., 1st sess. 36 (1975); H. Rep. No. 94–880 Part 2, 94th Cong., 2d sess. 19, (1976).

[6] Id.

[7] 5 U.S.C. § 551(2)

specifically authorized by law are excluded. For instance, communications that take place pursuant to consultation provisions contained in certain of the statutes that the Commission administers would fall within this category. Second, communications which would otherwise be prohibited by the regulations can be made if all parties to the proceeding agree that the communication can take place. Finally, any communication which relates to the conduct of military or foreign affairs is excluded, if the Chairman determines that disclosure of the communication would be inimical to the military or foreign affairs functions of the United States.[8]

4. *Pendency of Proceeding.* The prohibition against *ex parte* communications contained in § 1.63 of the proposed rule applies only while a trial-type proceeding is pending before the Commission. Section 1.63(d)(2) of the proposed rule sets forth the time period during which a proceeding will be considered to be pending before the Commission.

Section 1.63(d)(2)(i) of the proposed rule defines the earliest time at which the *ex parte* prohibition will apply. It will apply at the earliest of: the time that a proceeding is noticed for hearing; the time when an opposing protest or intervention is first filed or a response in opposition to a complaint is filed; the time at which a petition for review is filed under § 1.38(d) or § 1.40(d); or it will apply to a communicator who reasonably believes that a proceeding will be noticed for hearing. In the latter situation the prohibition applies as soon as the communicator obtains such knowledge, but not before the proceeding is docketed. The Commission specifically requests comment on this aspect of the proposed rule.

Section 1,63(d)(2)(ii) of the proposed rule defines the time when a proceeding will no longer be subject to the *ex parte* rule. The concept embodied in § 1.63(d)(2)(ii) of the proposed rule is one of finality. Therefore, as proposed, the *ex parte* prohibitions of § 1.63 will terminate at the earliest of: the time when a decision becomes final agency action for purposes of judicial review; at the expiration of the time for filing applications for rehearings, if rehearing lies and no applications for rehearing have been filed; or ten days after the expiration of time for filing exceptions to an intermediate decision, if no exceptions have been filed.

5. *Remedies.* As described above, the proposed *ex parte* rule prohibits interested persons and decisional employees from making *ex parte* communications with respect to any trial-type proceeding while such proceeding is pending before the Commission. The underlying purpose of the proposed rule is to maintain the integrity of the decisionmaking process by insuring participants that the only facts and arguments that will be utilized in the process are those that have been publicly made on the record of a particular proceeding.

The first step toward achieving this result is to discourage and prohibit interested persons from making off-the-record, *ex parte* communications to decisional employees. The second step is to provide a mechanism whereby participants to a proceeding can obtain knowledge of the nature and contents of an *ex parte* communication should it occur.

Section 1.63(c) of the proposed rule set forth the remedies for noncompliance with the *ex parte* rule. Under § 1.63(c)(1) of the proposed rule, decisional employees are directed to decline the receipt of any communication which that employee has reason to believe is prohibited by the *ex parte* rule and to inform the communicator that the matter is pending before the Commission.

Under § 1.63(c)(2)(i) of the proposed rule if a decisional employee makes or receives an *ex parte* communication it must be delivered to the Secretary of the Commission within 48 hours after that person first had reason to believe that the communication was prohibited under § 1.63. If the communication was written it should be delivered directly to the Secretary. If the communication was made orally, a statement setting forth the substance of the communication must first be prepared and then delivered to the Secretary.

Section 1.63(c)(2)(ii) of the proposed rule requires the Secretary to place any such statements or communications in the public file. This public file is to be associated with the particular proceeding to which the communication relates but is to be separate from the record upon which the Commission will rely in reaching its decision in the proceeding. In addition, the Secretary must mail a copy of the statement or communication to each person on the official service list for the proceeding.

The Commission believes that the disclosure requirement of the proposed rule will serve two purposes. First, it should provide a sufficient disincentive to those persons who would contemplate the use of an *ex parte* communication to achieve a particular result in a pending proceeding. Second, the Commission recognizes that there may be circumstances where an *ex parte* communication may be made inadvertently. In those situations, notice to all participants in the proceeding of the nature and contents of the communication should be an adequate remedy.

However, the Commission realizes that a party to a proceeding may knowingly make or cause another to make an *ex parte* communication to a decisional employee. Depending on the circumstances, the disclosure remedy may not be adequate to either protect the interests of other participants to the proceeding or to discourage a calculated course of conduct.

Therefore, under § 1.63(d)(3) of the proposed rule a participant may apply to the Commission or a presiding officer may certify to the Commission for its determination the question of whether a party has knowingly made a communication in violation of the *ex parte* rule. The proposed rule provides that if the Commission determines that such a violation did occur then the Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected.

C. Separation of Functions

Section 1.64 of the proposed rule concerns the separation of advocacy and decisionmaking functions in trial-type proceedings. Generally, this section prohibits certain employees of the Commission from advising certain decisional employees respecting a pending or factually related trial-type proceeding.

As previously discussed, the proposed separation of functions rule constitutes an internal limitation on the information which may be gathered and used in a particular proceeding. Since the proposed rule limits the Commission's accessibility to staff persons and therefore, limits its access to information that would otherwise be available to it, the rule has been narrowly drawn, both as to the class of persons who will be considered decisionmakers and the class of employees who will be prohibited from giving advice to those decisionmakers respecting a particular trial-type proceeding.

Section 1.64(a) of the proposed rule specifies which persons will be considered decisionmakers for all trial-type proceedings. These include: the Commission, any Commissioner or Commission's assistant, the Oil Pipeline Board or member thereof, any member of the Office of Opinions and Review and the Administrative Law Judge who presided at the trial-type proceeding.

Under the proposed rule, the class of employees prohibited from advising those decisionmakers will vary from case to case. For instance, under proposed § 1.64(a)(1), if the employee was the staff advocate (as defined in § 1.61(a)) in the trial-type proceeding or was a staff advocate in a factually related trial-type proceeding then he would be prohibited from advising on the trial-type proceeding pending decision. Similarly, § 1.62(a)(2) of the proposed rule provides that an employee who was designated as a staff investigator in a formal investigation under § lb.5 of the present regulations would be prohibited from advising on the pending trial-type proceeding if the trial-type proceeding was factually related to the formal investigation.

The proposed rule on separation of functions also sets forth definitions of the terms "factually related" and "advise". Under proposed § 1.64(b)(1)(i), a trial-type proceeding is factually related to another trial-type proceeding if there is a substantial identity of facts which are material to both proceedings. In addition, under § 1.64(b)(1)(ii) of the proposed rule, a trial-type proceeding is factually related to a formal investigation if the same conduct of a person is the subject of both proceedings. The term "advise" is defined in § 1.64(b)(2) of the proposed rule to mean giving advice as to the findings, conclusions, or decision respecting a proceeding, other than in the role of staff counsel or staff witness in a public proceeding.

D. Other Provisions

Section 1.62 contains three additional provisions that warrant discussion. These provisions, which apply to both the *ex parte* rule in § 1.63 and the separation of functions rule in § 1.64, concern: phased or segmented proceedings; waiver of the regulations; and opinions of the General Counsel.

In the past, certain proceedings at the Commission have been phased or segmented in such a way that one phase of the proceeding has been conducted as a trial-type, on-the-record proceeding while another phase has been conducted as an informal rulemaking proceedings. Under section 1.62(e) of the proposed rule, the Commission may by rule or order provide that each phase or segment of the proceeding will constitute a separate proceeding for purposes of the *ex parte* and separation of functions rules.

Section 1.62(c) of the proposed rules contains a general waiver provision, under which the Commission may, to the extent permitted by law, waive any provision of the proposed rules as it may apply to all or part of a proceeding. As discussed earlier, the Commission has chosen, as a matter of policy, to propose rules governing *ex parte* communications and separation of functions which go beyond the applicable APA provisions. The Commission added § 1.62(c) to the rules because it recognizes that certain situations may arise where the application of these more stringent provisions may unduly restrict its ability to render an informed decision.

Finally, § 1.62(d) of the proposed rule concerns opinions of the General Counsel. Under this paragraph any person may apply to the Office of the General Counsel for an opinion as to whether any provision of the proposed rules applies to a communication or class of communications.

III. Commeni Procedure

Interested persons may participate in this proposed rulemaking by submitting written comments. The comments may include any data, views or arguments that the commenter believes are relevant. Legal and policy considerations should be given in support of any recommendations concerning the proposed rules.

An original and 14 conformed copies of the comments should be submitted to the Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 27, 1980. Comments should identify the notice (Docket RM80–60) and should indicate the name, title, mailing address and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

(Federal Power Act, *as amended,* 16 U.S.C. 792 *et seq.;* Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.;* Interstate Commerce Act, as amended, 47 U.S.C. 1 *et seq;* Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2601–2645; Department of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 565, *et seq.,* E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq.*)

In consideration of the foregoing, the Commission is proposing to amend Parts 1, 2 and 3 of Chapter 1, Title 18 Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 1—RULES OF PRACTICE AND PROCEDURE

1. Chapter I is amended in the table of contents to Part 1 and in the text of the regulations by inserting the title "Subpart A—General rules" before § 1.1 and by adding the following to the end thereof:

* * * * *

Subpart B—Ex Parte and Separation of Functions Rules

Sec.
1.61 Definitions.
1.62 General Provisions.
1.63 Ex parte communications in trial-type proceedings.
1.64 Separation of functions.

Authority: Federal Power Act, as amended, 16 U.S.C. 792 et seq.; Natural Gas Act, as amended, 15 U.S.C. 717 et seq.; Interstate Commerce Act, as amended, 47 U.S.C. 1 et seq.; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565, et seq., E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 500 et seq.

Subpart B—Ex Parte and Separation of Functions Rules

§ 1.61 Definitions.

For purposes of this subpart:

(a) The term "interested person" with respect to a proceeding means a person who has an economic or other identifiable interest in the outcome of such proceeding. Such term includes any party to such proceeding, but does not include a Federal agency which is not a party to such proceeding unless the Commission otherwise provides by rule or order.

(b) The term "party" includes an applicant, respondent, petitioner, declarant, complainant, defendant and intervenor in a trial-type proceeding, and any agent or other person acting on behalf of any of the above. Such term does not include the staff of the Commission.

(c) The term "decisional employee" with respect to a proceeding means any member of the Commission, any Commission presiding officer and any employee of the Commission other than (i) a staff advocate, or a staff investigator in such a proceeding, or (ii) any other person designated under § 1.62(b) as not being a decisional employee.

[8] See, 5 U.S.C. § 553(a)(1) and § 554(a)(4).

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(d) "Staff advocate" means any person who is assigned or makes an appearance as staff counsel or staff witness in a trial-type proceeding, and any other person designated under § 1.62(b) as a staff advocate with respect to such proceeding.

(e) "Staff investigator" means a person designated under § 1b.5 as an Investigating Officer or otherwise designated under § 1.62(b) as a staff investigator.

(f) The term "trial-type proceeding" means a proceeding of the Commission:

(1) to review a remedial order under § 1.38,

(2) to review an adjustment request denial under § 1.40,

(3) to review, under § 1.40, the grant or denial of an adjustment under § 1.41(i), or

(4) which by Commission order has been set for a hearing before an ALJ, or

(5) which by law or Commission rule or order is required to be decided on the record after opportunity for Commission hearing and in which protest or intervention in opposition or response in opposition to a complaint is filed.

(g) For definitions of "person" and "Presiding Officer", see §§ 1.1(f)(1) and 1.1(b)(6).

§ 1.62 General provisions.

(a) *Exclusions.* (1) *Not relevant to merits.* For purposes of this subpart, the term "communication relevant to the merits" does not include a communication with respect to proceeding if such communication:

(i) is a status report or request for a status report,

(ii) relates to a matter of procedure,

(iii) is made in the course of another proceeding of the Commission to which it primarily relates, and is on the public record.

(2) *Other exclusions.* This subpart does not apply to any communication:

(i) which is specifically authorized by law;

(ii) which is one all parties to a proceeding agree may be made without regard to the applicable provisions of this part, in the case of a trial-type proceeding; or

(iii) which relates to the conduct of military or foreign affairs functions, the disclosure of which the Chairman determines would be inimical to the military or foreign affairs functions of the United States.

(b) *Designation of employees.* Any employee (or class of employees) may be designated for purposes of § 1.61(c), (d) or (e) by the Chairman, or in a manner prescribed by the Chairman. Any such designation shall be available to the public in the Office of the Secretary.

(c) *Waiver.* The Commission may, by rule or by order, waive or modify any provision of this subpart as it applies to all or part of a proceeding (or class of proceedings), to the extent permitted by law.

(d) *Office of General Counsel opinion.* Any employee of the Commission or person may apply to the Office of General Counsel for an opinion as to whether any provision of this subpart is applicable to a communication or class of communications.

(e) *Phased or segmented proceedings.* If a proceeding is phased or segmented so that one or more parts of the proceeding constitute informal rulemaking and one or more parts constitute trial-type proceedings, the Commission may by order provide that each phase or segment shall constitute a separate proceeding for purposes of this subpart.

§ 1.63 Ex parte communications in trial-type proceedings.

(a) *Applicability.* This section applies to any trial-type proceeding.

(b) *Prohibited communications.* (1) No interested person may, with respect to any trial-type proceeding make (or knowingly cause to be made) to any decisional employee any *ex parte* communication while such proceeding is pending before the Commission.

(2) No decisional employee may, with respect to any trial-type proceeding, make (or knowingly cause to be made to any interested person any *ex parte* communication while such proceeding is pending before the Commission.

(c) *Remedies for noncompliance.*—(1) *Declining to receive and consider communications.* A decisional employee who receives an oral offer of a communication which he has reason to believe is prohibited by paragraph (b)(1) shall decline to listen to such communication, shall state that the matter is pending before the Commission and shall advise the communicator that the communication will not be considered.

(2)(i) *Disclosure.* A decisional employee who makes or receives a communication respecting such proceeding, which is prohibited by paragraph (b) shall, within 48 hours after he first has reason to believe that such communication is prohibited:

(A) prepare and deliver to the Secretary a statement setting forth the substance of the communication if it is in oral form; or

(B) deliver it to the Secretary if it is in written form.

(ii) The Secretary shall place any communications and statements received by him under clause (i) in public files associated with the proceeding, but separate from the record upon which the Commission may rely in reaching its decision. The Secretary shall mail to each person on the official service list of the proceeding a copy of any matter delivered under clause (i).

(3) *Knowing violations by parties.* If on the application of a participant or upon the presiding officer's certification, the Commission determines that the communication was knowingly made (or caused to be made) by a party acting in violation of this section, the Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(d) *Definitions.* For purposes of this section:

(1) *"Ex parte* communication" means an oral or written communication not on the public record which is relevant to the merits of a proceeding and with respect to which reasonable prior notice to all parties has not been given.

(2) A proceeding is pending before the Commission during the period which:

(i) Begins at the earlier of:

(A) When it is noticed for hearing; or

(B) With respect to a communcator who reasonably believes it will be noticed for hearing, when he obtains such knowledge (but not before the proceeding is docketed); or

(C) When a protest, intervention in opposition or response in opposition to a complaint, is first filed; or

(D) When a petition for review is filed in accordance with § 1.38(d) or § 1.40(d); and

(ii) Ends at the earliest of:

(A) The time when the decision becomes a final agency action for purposes of judicial review; or

(B) In cases where rehearing lies and no applications for rehearing have been filed at the expiration of the time for filing such applications; or

(C) Ten days after the expiration of time for filing exceptions to an intermediate decision if no exceptions are filed.

§ 1.64 Separation of functions.

(a) *General rule.* No employee may advise the Commission, any Commissioner (or assistant thereto), the Oil Pipeline Board (or member thereof), member of the Office of Opinions and Review, or presiding Administrative Law Judge, respecting any trial-type proceeding, if:

(1) such employee was a staff advocate in such trial-type proceeding or in a factually related trial-type proceeding or

(2) such employee was a staff investigator in a factually-related formal investigation under § 1b.5.

(b) *Definitions.* For purposes of this section:

(1) *Factually related.* (i) A trial-type proceeding is factually related to another trial-type proceeding if there is substantial identity of facts which are material to both proceedings.

(ii) A trial-type proceeding is factually related to a formal investigation if the same conduct of a person is the subject of both proceedings.

(2) *Advise.* The term "advise" means advise as to the findings, conclusions, or decision respecting a proceeding (other than as witness or counsel in public proceedings).

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 3c—STANDARDS OF CONDUCT

§§ 1.4, 1.27, 1.30, 1.38, 1.40, 2.100, 3c.6, 3c.112, 3c.206 [Amended]

2. Chapter 1 is further amended in the following sections: In § 1.4 by deleting paragraph (d); in § 1.27 by deleting the second sentence of paragraph (c); in § 1.30 by deleting paragraph (f); in § 1.38(o) by deleting "§ 1.4(d) of this subpart" and inserting in lieu thereof "§ 1.63 of this part"; in § 1.40(k)(1) by deleting "§ 1.4(d) of this subpart" and inserting in lieu thereof "§ 1.63"; in § 2.100(d) by deleting "18 CFR § 1.4(d)" and inserting in lieu thereof "§ 1.63 of this subchapter"; in § 3c.6(f) by deleting "Section 1.4(d)" and inserting in lieu thereof "Section 1.63 of this subchapter"; in § 3c.112(f)(3) by deleting "Section 1.4(d)" and inserting in lieu thereof "Section 1.63 of this subchapter"; and in § 3c.206(f)(3) by deleting "Section 1.4(d)" and inserting in lieu thereof "Section 1.63 of this subchapter".

[FR Doc. 80-16355 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL 1458-1]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the existing acid wastes dump site located in the New York Bight as an EPA approved Ocean Dumping Site for the dumping of aqueous acid wastes.

DATES: Comments must be received on or before July 28, 1980.

ADDRESS: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), Oil and Special Materials Control Division, EPA, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/472-2836.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and extended on January 16, 1980 (45 FR 3053 et seq.).

The purpose of this notice is to provide the public an opportunity to comment on the proposed designation, as an EPA Approved Ocean Dumping Site, of the existing acid wastes dump site located in the New York Bight.

The location of the acid site is approximately 27 kilometers east of Long Branch, New Jersey, and south of Long Beach, Long Island, positioned approximately in a rectangle with coordinates as follows:

40°16' N. to 40°20' N.; 73°36' W. to 73°40' W.

The site occupies an area of approximately 41 square kilometers. Water depths within this area range from 22.6 meters to 28.3 meters. The site was selected in 1948 and has been used since for the disposal of aqueous acid wastes.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (hereafter "NEPA"), requires that Federal agencies prepare Environmental Impact Statements (EIS's) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions.

The EPA has prepared a Draft EIS entitled "Environmental Impact Statement for New York Bight Acid Waste Disposal Site Designation." The Draft EIS was made available to the EPA Office of Environmental Review on December 14, 1979, and a notice of availability for public review and comment was published in the Federal Register on December 21, 1979 (44 FR 75713). The public comment period on this Draft EIS closed February 12, 1980.

Based on the information reported in the Draft EIS, EPA proposes to designate the site for: (1) continuing use for the ocean disposal of aqueous acid wastes where the applicant has demonstrated a need for ocean dumping, lack of alternatives to the dumping, and compliance with EPA's marine environmental impact criteria; and (2) use under emergency conditions where the applicant can demonstrate that there exists an emergency requiring the dumping of such materials which poses an unacceptable risk to human health and admits of not other feasible solution.

The designation of the existing New York Bight acid wastes dump site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority on this site will be delegated to the Regional Administrator of EPA Region II.

Interested persons may participate in this proposed rulemaking by submitting written comments within 60 days of the date of this publication to the address given above.

Although this proposed site designation may have substantial local impacts in the vicinity of the dump site and to those who use it, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

(33 U.S.C. Sections 1412 and 1418)

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Dated: May 22, 1980.

Douglas M. Costle,

Administrator.

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding to § 228.12(b) an ocean dumping site for Region II as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(6) Acid Wastes Site—Region II.

Location: Latitude—40°16′ N. to 40°20′ N.; longitude—73°36′ W. to 73°40′ W.
Size: 41 square kilometers.
Depth: Ranges from 22.6 meters to 28.3 meters.
Primary Use: Acid waste (note restriction below).
Period of Use: Acid wastes dumped under Special Permits—continuing use but with Agency review every 5 years; Emergency Permit dumping—unlimited.
Restriction: Disposal shall be limited to aqueous acid wastes except under Emergency Permit.

[FR Doc. 80-16253 Filed 5-28-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Ch. IV

Medicare Program; Reasonable Charge Limitations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: We propose to amend the Medicare regulations on reasonable charges to set forth the process and criteria by which HCFA will establish special reasonable charge rules and payment limits for individually identified high-technology items reimbursed under Part B of the Medicare program.

FOR FURTHER INFORMATION CONTACT: Paul Riesel, Health Care Financing Administration, Department of Health and Human Services, 1-A-3 East Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, 301-594-1843.

SUPPLEMENTARY INFORMATION: The reasonable charge for an item or service is currently computed as the lowest of (1) the actual charge, (2) the customary charge made by the particular physician or supplier, and (3) the prevailing charge (the 75th percentile in the range of customary charges for similar services in the locality). In addition, our current regulations authorize us to consider "other factors that may be found necessary and appropriate, with respect to a specific item or service, to use in judging whether the charge is inherently reasonable."

However, under unusual market conditions, these rules may result in excessive or unreasonable levels of payment. This may occur, for example, when the Federal government is the primary payer for an item; when there is a rapid spread of new, expensive technology; or where an item is furnished by only one supplier.

The proposed regulation would establish a special rule for these situations. It would state general criteria for determining when a limit is appropriate for a specific item, set forth a process for public participation in subsequently establishing a limit on that specific item, and provide for exceptions when a supplier or beneficiary submits acceptable justification. Under the proposed process, once we have identified a situation in which the usual method of determining reimbursement does not appear appropriate, we would consider certain relevant factors on a national or regional basis (such as price mark-up, utilization rate, etc.). If we believe that a limit is appropriate, we would publish a notice in the **Federal Register** and provide for a 60-day period for public comments on the need for the limit and the basis for the proposed dollar amount. After we review all comments, we would make a final determination on the need for and the amount of the limit, and publish any final limit in the **Federal Register.**

The item we have under review for the initial application of this regulation is the computerized tomography scanner. We will be issuing a notice, shortly after publication of the proposed rule, setting forth proposed limits on scanner services and our basis for developing them.

The purpose of this proposed amendment is to control those health care costs that we can clearly identify as excessive under criteria set forth in published regulations, and to prevent the adverse effects on both Medicare beneficiaries and consumers in general that we believe would result from lack of such controls.

HCFA has classified the proposed regulation as policy significant. A regulatory analysis is not planned for this regulation, but may be appropriate for the subsequent notices proposing limits on specific items.

Dated: April 15, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 80-16312 Filed 5-28-80; 8:45 am]

BILLING CODE 4110-35-M

Notices

Federal Register

Vol. 45, No. 105

Thursday, May 29, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Alaska Region's Land and Resource Management Plan; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement on the proposed Land and Resource Management Plan for the Alaska Region. This proposed plan outlines long-term management direction and administration of the National Forest Systems land; State and Private Forestry programs; and identifies Research needs to support management programs.

The proposed Regional Plan is being prepared in response to public issues and management concerns. Scoping sessions have been held with State of Alaska agencies and other Federal agencies, following the initial identification of issues by Forest Service planing staff. An interdisciplinary team completed the identification of tentative issues and concerns and published them on February 19, 1980. Copies of those issues and concerns were mailed to over 5,000 individuals and organizations with a request for response to the adequacy of issue and concerns identification. The issues presented dealt with defining the role of Forest Service lands in Alaska in providing fish and wildlife habitat, wood fiber, energy and minerals, wilderness, and recreational opportunities. The effects of Forest Service programs on community stability and social well-being were also raised as public issues. Management concerns for soil and water shed resources, transportations systems, cooperative programs, research needs, technology transfer, pending legislation, and impacts of prior planning efforts were also rated.

A reasonable range of alternatives will be formulated by an interdisciplinary team to provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during this planning process.

Alternatives will reflect a range of resource outputs and expenditure levels. In formulating these alternatives, the following criteria will be met:

(1) Each alternative will be capable of being achieved;

(2) A no-action alternative will be formulated—that is the most likely condition expected to exist in the future if current management direction would continue unchanged;

(3) Each alternative will provide for orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple-use objectives of that alternative;

(4) Each identified major public issue and management concern will be addressed in one or more alternatives; and

(5) Each alternative will represent to the extent practicable the most cost efficient combination of management practices examined that can meet the objectives established in the alternative. Each alternative will state at least:

(a) the condition and uses that will result from long-term application of the alternative;

(b) the goods and services to be produced, and the timing and flow of these resource outputs;

(c) resource management standards and guidelines; and

(d) the purposes of the management direction proposed.

The selected alternative will guide the management of the Alaska Region through establishment of management standards and guidelines.

John A. Sandor, Regional Forester, is responsible for preparation of the plan. The team leader for the Regional Plan Interdisciplinary Team is Jim Pierce. R. Max Peterson, Chief of the Forest Service, is responsible for approval of the plan.

It is anticipated that the Draft Environmental Impact Statement will be completed and available for review on or about June 18, 1980. A 90-day review period will be followed with a Final Environmental Impact Statement scheduled to be available on October 17, 1980.

Comments on this Notice of Intent or on the proposal should be sent to John A. Sandor, Regional Forester, USDA Forest Service, P.O. Box 1628, Juneau, Alaska 99802.

Dated: May 19, 1980.

Douglas Leisz,

Acting Chief.

[FR Doc. 80-16225 Filed 5-28-80; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 37982; Order 80-5-3]

Proposed Revision To Make Domestic Fare Policies More Flexible; Order Dismissing Motion

Adopted by the Civil Aeronautics Board at its Office in Washington, D.C. on the 1st day of May, 1980

On April 3, 1980, we issued a Notice of Proposed Rulemaking, PSDR-66 (Docket 37982) soliciting comments on several possible alternative changes to our current passenger fare policy.[1] These proposals are intended to permit carriers greater flexibility in establishing their own fares. The proposals in PSDR-66 are: full downward fare flexibility, full or expanded upward flexibility, and expanded flexibility in short-haul markets or on a portion of each airline's available capacity. (45 FR 24178, April 9, 1980)

On April 8, 1980, the Air Transport Association of America (ATA), filed a motion on behalf of the carriers named in Appendix A [2] requesting that we expand immediately, on an interim basis pending finalization of PSDR-66, the upward flexibility zones. ATA's request generally coincides with option V of our rulemaking and would permit the carriers to set fares up to 30 percent above the Standard Industry Fare Level (SIFL) in markets over 400 miles and up to 50 percent above the SIFL in markets of 400 miles or less.[3]

In support of the motion ATA states that the upward flexibility is needed immediately: to offset the rapidly

[1] Our current domestic fare policies are set forth in PS-92 [14 CFR Part 399, Subpart C], 45 FR 24115, April 9, 1980.

[2] Appendix A is filed as part of the original with the Office of the Federal Register.

[3] It is not clear why any request for additional upward flexibility was made on behalf of Air New England. This carrier has unrestricted pricing freedom under PS-92 (14 CFR 399.33(b)), since it only operates aircraft with 60 seats or less.

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deteriorating financial condition of the airline industry; because of the carriers inability to recoup their escalating costs on a timely basis; since the target date for implementation of PSDR–66 appears to be mid-summer which will effectively deny them needed immediate flexibility to maintain a viable, privately owned United States air transport industry consistent with the public interest; and to restore the balance between route and fare deregulation.

ATA also asserts that we could, under the Administrative Procedure Act (5 USC Section 553(b)), effect the expanded upward flexibility zones immediately in this rulemaking if we found good cause (and incorporated our findings and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest.

Upon consideration of the motion and all other relevant facts we find this request to be inconsistent with sound administrative procedure, and therefore the motion will be denied.

We are aware of the current financial results and decline in traffic now being reported by the carriers. We are however, not persuaded by the arguments of ATA that there exists such an emergency as to warrant issuing an interim rule. Absent a true emergency, sound administrative procedure precludes issuing an interim rule involving a major change in policy at the very time comments by interested parties are being prepared. This is especially true considering that we have halved the time for comments from the usual 60 to 30 days, and are dealing with rapid increases in costs by modifying the SIFL every two months, or three times as often as required by statute.

We intend to act expeditiously when the time for comments has expired (May 12, 1980) and contrary to ATA's fears certainly intend to take action before mid-summer. Moreover, as we stated in PSDR–66, the upward flexibility zones we established in PS–80 were not intended to be a strait jacket, precluding fares outside the suspend-free zone; and that carriers could propose fares outside these zones with proper justification. We note that 17 of the 26 carriers in Appendix A have recently requested and have been given authority to set fares above the prescribed zones in PS–80. Should the carriers feel that additional increases are necessary, they are free to pursue the remedies currently available to them under our Regulations and the Act.

Accordingly,

1. We dismiss the motion of the Air Transportation Association of America in Docket 37982; and

2. We shall serve copies of this order on the Air Transport Association of America and all U.S. air carriers.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

All Members concurred.

[FR Doc. 80–16289 Filed 5–28–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–5–157; Docket 38007]

Southwest Airlines Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–5–157, Southwest Airline Subpart Q Proceeding, Docket 38007.

SUMMARY: The Board is proposing to grant unrestricted authority in the Denver-Phoenix/Las Vegas/Amarillo/Albuquerque/Kansas City/Oklahoma City and Tulsa markets to Southwest under our expedited Subpart Q procedures. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions, shall file by June 26, 1980, with the Board and serve upon Southwest a statement of objections, together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 38007, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John F. Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–6069.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–5–157 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–5–157 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 22, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–16292 Filed 5–28–80; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 5:30 pm and will end at 8:00 pm, on June 17, 1980, at the Arsenal On The Green, Market Street, New Castle, Delaware 19720.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss the drafting of a proposal for a Northeast Corridor (Rail) Improvement Project and other areas of possible interest.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 23, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–16223 Filed 5–28–80; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Results of Administrative Review of Antidumping Finding and of Tentative Determination To Revoke; Portland Cement, Other Than White, Nonstaining Portland Cement, From Sweden

AGENCY: U.S. Department of Commerce.

ACTION: Notice of Results of Administrative Review of Antidumping Finding and of Tentative Determination To Revoke.

SUMMARY: This notice serves to advise the public of the results of the administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from Sweden. It also serves as notification of a tentative determination to revoke the above finding. There have been no imports in the last four years of the subject cement from Sweden. This notice is published pursuant to Section 751 of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2361).

SUPPLEMENTARY INFORMATION: On April 21, 1961, a dumping finding with respect to portland cement, other than white, nonstaining portland cement, from Sweden was published in the **Federal Register** as Treasury Decision 55369 (26 FR 3427).

A "Notice of Tentative Determination to Modify or Revoke Dumping Findings" with respect to this merchandise from Sweden was published in the **Federal Register** on September 4, 1979 (44 FR 51696).

Reasons for the tentative determination were published in the above mentioned notice, and interested persons were afforded an opportunity to provide written submissions or request an opportunity to present oral views in connection therewith. No written submissions or requests have been received.

In the **Federal Register** of March 28, 1980, a notice of intent to conduct administrative review was published (45 FR 20511–12). Pursuant to Section 751 of the Tariff Act of 1930, amended (93 Stat. 175, 19 U.S.C. 1675), the present notice serves to advise the public that the Department of Commerce has conducted an administrative review of the above finding of dumping. This review has disclosed no reasons why the tentative revocation should not be finalized. There have been no imports of portland cement, other than white, nonstaining portland cement, from Sweden during the years 1976 through 1979. In addition, although there were shipments during 1973 through 1975, there were no dumping duties assessed in 1973 and 1975 and only *de minimis* duties assessed in 1974. Cementa, A.B. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that the merchandise thereafter imported into the United States is being sold at less than fair value, as provided by Section 353.54(e) of the Commerce Regulations (19 CFR 353.54(e)). Therefore, shipments of portland cement, other than white, nonstaining portland cement, from Sweden which were entered, or withdrawn from warehouse, for consumption on or after September 4, 1979 will not be liable for dumping duties. The above finding will be revoked unless it is established to the Secretary's satisfaction that revocation is not warranted.

Interested parties may submit written comments on or before June 30, 1980 and may request disclosure and/or a hearing on or before June 16, 1980.

This revocation with respect to portland cement, other than white, nonstaining portland cement from Sweden shall be final, effective July 3, 1980 without further notice or action, unless comments are received prior to that time which establish to the satisfaction of the Secretary that revocation is not warranted. The amendment to Annex I, Section 353 of the Commerce Regulations (19 CFR 353, Annex I), will be published in a future **Federal Register** notice.

This notice is published pursuant to Section 751 (a)(1) and (c) of the Act (93 Stat. 175, 19 U.S.C. 1675 (a)(1), (c)), and Section 353.54(e) of Commerce Regulations (19 CFR 353.54(e), 45 FR 8206).

John D. Greenwald,

Deputy Assistant Secretary, Import Administration.

May 23, 1980.

[FR Doc. 80–16201 Filed 5–28–80; 8:45 am]

BILLING CODE 3510–25–M

Food and Drug Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666—11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 80–00089. Applicant: U.S. Food and Drug Administration, HFF–459, 200 C Street, Washington, D.C. 20204. Article: Mass Spectrometer, Model MM ZAB–2F and Accessories. Manufacturer: VG Micromass, United Kingdom. Intended use of article: The article is intended to be used to extend existing capabilities in the trace level analysis of toxic and/or carcinogenic substances that may be present in foods. They include halogenated compounds (phenols, vinyl chloride, vinylidene chloride, polyhalogenated dibenzofurans, dibenzodioxins, and biphenyls), nitrosamines, direct and indirect food additives, veterinary drug residues, mycotoxins, plant toxins, marine toxins, organophosphate pesticides, and aromatic amines.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a guaranteed resolution of 70,000 (10% valley). The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–16246 Filed 5–28–80; 8:45 am]

BILLING CODE 3510–25–M

Pennsylvania State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 80–00085. Applicant: The Pennsylvania State University, Biochemistry Department, 401 Althouse, Lab., University Park, PA 16802. Article: Colora Gel Electrophoresis Apparatus UltraPhor. Manufacturer: Colora Messtechnik GMBH, West Germany. Intended use of article: The article is intended to be used to separate blood (sera) from rats into its various protein components (about 50). After the various proteins in the serum preparations have been separated, the fractions will be tested for inhibitor activity. Studies will be conducted to determine the reason

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why differences exist between normal and tumor-bearing animals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for counter elution which permits recovery of the separated proteins on a continuous basis. The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-16247 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

University of Denver; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 80-00059. Applicant: University of Denver, Department of Chemistry (Colorado Seminary), Denver, Colorado 80208. Article: Spectropolarimeter with Stopped Flow Accessory. Manufacturer: JASCO, Ltd., Japan. Intended use of article: The article is intended to be used to obtain circular dichroism spectra of proteins and nucleic acids in different conformations in the course Biochemistry Laboratory, Purification and Properties of Enzymes and Nucleic Acids.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article measures circular dichroism with a minimum sensitivity of 0.2 millidegrees per centimeter and a minimum wave length accuracy of 0.1 nanometers (nm) over a wave length range of 180-1000 nm. The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-16245 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

University of Hawaii; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301.)

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket Number: 80-00076. Applicant: University of Hawaii, Honolulu, Hawaii 96822. Article: Rotating Anode X-ray Generator and Accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used with a well-established high pressure-high temperature apparatus, and energy dispersive X-ray diffraction system as an intense X-ray source to investigate several very important problems in the area of (i) equation of state, (ii) phase relationships, and (iii) melting phenomena for mantle minerals such as olivines $(Mg, Fe)_2 SiO_4$; pyroxenes $(Mg, Fe) SiO_3$; garnets $(Mg, Fe)_3 Al_2Si_2 O_{12}$; and stishovite (SiO_2) and their analogs (i.e., MgF_2, FeF_2, MnF_2, CoF_2, NiF_2, and ZnF_2) under in situ high pressure (up to 600 kbar) and high temperature (up to 2000°C). Experimental data obtained will be used to refine the earth model and thus will be of great value in understanding of geothermal and geodynamics processes in the earth's interior.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a high intensity (brilliance) 12 kilowatt/square millimeter beam from a rotating anode X-ray system. The National Bureau of Standards advises in its memorandum dated April 1, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is to be intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-16248 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council Subcommittee on East-West Trade; Open Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the East-West Trade Subcommittee of the President's Export Council will be held on Monday, June 16, 1980 at 3:00 p.m. in the Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C., Room 4830. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by

Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The subcommittee has been formed to study U.S. Governmental restrictions on East-West trade and other applicable trade relations issues and to make recommendations to the Council regarding changes or improvements in present U.S. laws and policies relating to East-West trade. It is composed solely of Council members. The agenda of the meeting will be as follows:

1. Review of trade relations with the Soviet Union, Eastern Europe and China.

2. Identification of possible East-West trade issues to be addressed at June 17, 1980 PEC Executive Committee meeting.

3. Organizational business; discussion of Subcommittee's future role and activities.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the Subcommittee before or after each meeting. Oral statements may be presented a the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes (202) 377-5719 (Rm. 4015B) or Mr. Gus Maffry (202) 377-5334 (Rm. 4814A), International Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230.

Dated: May 23, 1980.

J. Mishell George,

Acting Deputy Assistant Secretary for East-West Trade.

[FR Doc. 80-16255 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, June 18, 1980, at 1:30 p.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has six parts:

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Progress report by Office of Export Administration on foreign availability studies.

(4) Future of the Subcommittee and designation of a new chairman.

(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public; a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41073).

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: May 23, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-16322 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday,

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June 17, 1980, at 10:00 a.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed furing the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the meeting have been properly classified under Executive Order 11652 or 12065. All subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41073).

For further information, contact Ms. Margaret A. Cornejo, Operations Division, Office of Export Administration, International Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

Dated: May 23, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-16320 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, June 18, 1980, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Pending items of business:

a. Qualified general license.

b. Permissive reexports under GLR.

c. Technical preevaluation of products.

d. Standard formatting of license applications.

(4) Technical data regulations; member imputs on suggested revisions or required clarifications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: May 23, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-16321 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Level of Restraint for Certain Cotton Apparel Exported From India

May 23, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the level of restraint from 39,326 dozen to 98,315 dozen for cotton skirts, in Category 342, produced or manufactured in India and exported during the agreement year which began on January 1, 1980. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended, on April 23, 1980 (45 FR 27463)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, letters have been exchanged agreeing to increase the level for cotton textile products in Category 342 to 98,315 dozen during the agreement year which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (44 FR 76840) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 342, produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the consultation level for Category 342 is being increased to 98,315 dozen for that period.

Accordingly, in the letter published below, the Chairman of the Committee for the implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of textile products in Category 342, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1980, in excess of the designated level of restraint.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 23, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 21, 1979 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in India.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 23, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 342, produced or manufactured in India in excess of 98,315 dozen.[1]

The action taken with respect to the Government of India and with respect to imports of cotton textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions to the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs functions to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-16261 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

Increasing the Level of Restraint for Certain Cotton Apparel Exported From Mexico

May 23, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level from 152,174 pounds to 543,478 pounds for other cotton apparel products, such as mufflers, scarves, neckties, vests and coveralls, among others, in Category 359, produced or manufactured in Mexico and exported during the agreement year which began on January 1, 1980. A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico, letters have been exchanged agreeing to increase the consultation level for cotton textile products in Category 359 to 543,478 pounds during the agreement year which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 26, 1979, there was published in the **Federal Register** (44 FR 76383) a letter dated December 18, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 359, produced or manufactured in Mexico, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the consultation level for Category 359 is being increased to 543,478 pounds for

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that period. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of textile products in Category 359, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1980, in excess of the designated increased level of restraint.

Pul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 23, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, *Department of the Treasury, Washington, D.C. 20229.*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 18, 1979 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 23, 1980, and for the twelve-month period , beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 359, produced or manufactured in Mexico in excess of 543,478 pounds.[1]

The action taken with respect to the Government of Mexico and with respect to imports of man-made fiber textile products from Mexico has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 80-16280 Filed 5-28-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

DEPARTMENT OF DEFENSE

Department of the Air Force

Environmental Impact Analysis on the Alternative to the Proposed Closure of the Active Air Force Portion of the Duluth International Airport (IAP) MN

The Air Force is expanding the environmental impact analysis process to include an alternative action to the proposed closure of the active Air Force portion of the Duluth International Airport (IAP), MN (**Federal Register**, Vol 44, No. 68, Friday, April 6, 1979). The proposed alternative action is to relocate the Electromagnetic Compatibility Analysis Center (ECAC) from Annapolis, Md, to Duluth IAP, MN, following the inactivation of the Duluth Region Control Center currently scheduled late in 1982. Refurbishment of Duluth facilities to accept ECAC could take 9–12 months. Thus, transfer of ECAC to Duluth is estimated for planning purposes as the fall of 1983.

The environmental impact analysis process for the proposed alternative will consider the biophysical and socioeconomic impacts of this alternative on the current and proposed locations of ECAC. Approximately 15 military, 40 Department of Defense civilians, and 700 contractor personnel would be relocated to Duluth.

The environmental impact analysis process will lead to an environmental assessment which will be used to determine if a draft environmental impact statement will be prepared or if a finding of no significant impact is appropriate.

A public meeting at Annapolis, Md., is planned for mid June 1980. The purposes of the meeting are to inform the public of the Air Force studies being prepared on the proposed alternative, and to provide the public an opportunity to identify issues which should be addressed in the environmental and socioeconomic assessments. Details of the public meeting will be announced in the local Annapolis, Md., news media. Questions on the meeting should be directed to: Mr. Preston Rogers, Headquarters Air Force Systems Command/DEV, Andrews AFB, Washington, DC 20334, Telephone: (301) 981–6341.

Carol M. Rose,

Air Force Federal Register, Liaison Officer.

[FR Doc. 80-16189 Filed 5-28-80; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Draft Environmental Impact Statement; San Francisco Bay to Stockton, California (John F. Baldwin and Stockton Ship Channels) West Richmond Channel—Richmond Longwharf Maneuvering Area, San Francisco, Marin, and Contra Costa Counties, California

AGENCY: U.S. Army, Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Action*—The proposed project consists of deepening and widening the existing West Richmond Channel to minus 45 feet MLLW and 800 feet, respectively, and deepening the existing Richmond Longwharf Maneuvering Area to minus 45 feet MLLW. Both areas are maintained to a depth of minus 35 feet MLLW. Initial dredging would remove about 8 million cubic yards (mcy) of sediment by clamshell dredge. Construction with continuous year-round dredging and disposal is expected to extend over a three-year period. Maintenance dredging would remove about 1.6 mcy per year. All sediments are proposed to be disposed of at the inland water site near Alcatraz (SF 11). This site is in a high energy area, has a 1,000 foot radius, and an average depth of 130 feet.

The increased depth will aid crude oil tankers servicing the Standard Oil Refinery at Richmond Harbor to reduce transportation costs and eliminate tidal delays and lightering.

2. *Alternatives*—The alternatives to the proposed plan described above include the following:

a. No action.

b. Deepening the existing connecting channel (Southampton Shoal) from minus 35 feet MLLW to minus 45 feet MLLW and widening it to 800 feet. The Richmond Longwharf Maneuvering Area would be deepened to minus 45 feet MLLW as described in the proposed plan. Initial dredging by clamshell would remove about 8.7 mcy of sediments. Maintenance quantities are expected to be similar to those of the proposed plan. Bay disposal of sediments near Alcatraz is proposed for this alternative.

c. Alternative disposal sites include land, other historically used inland water sites, and two interim designated ocean disposal sites.

3. *Scoping Process:*

a. On 14 April 1980, the San Francisco District, Corps of Engineers held a scoping meeting with interested

agencies and individuals to discuss the West Richmond Channel—Richmond Longwharf Maneuvering portion of the project. The future plans for the evaluation of the upper reach of the John F. Baldwin was briefly discussed.

b. Significant issues that were identified at the scoping meeting included the following:

(1) The limitation of the disposal at Alcatraz to certain times of the year, if the California Department of Fish and Game (CDFG) felt it was necessary for protection of fishery resources and minimization of losses.

(2) The dredging and disposal impacts on fishery resources.

(3) The quality assurance of laboratories performing chemical analyses of the water and sediments.

(4) The quantities of dredged material to be disposed of and the capacity of the Alcatraz Site; dispersion of the dredged material throughout the Bay and the impacts on local dredgers.

(5) The development of an oil spill contingency plan.

(6) The determination of future vessel usage, projected size class of future tankers, and their maneuvering ability.

(7) The determination of the variability in the San Francisco Bay/Delta Model and the reduction of this variability.

(8) The impacts of the whole project on the Bay/Delta ecosystem.

(9) The projected air quality.

(10) The impacts of dredging on the shellfish bed near the Richmond Longwharf.

(11) The cumulative impacts at the disposal site due to initial and maintenance dredging.

(12) The use of alternative disposal sites.

c. The Corps will be coordinating with the Ecological Services Branch of the U.S. Fish and Wildlife Service (USFWS) on the preparation of their Coordination Report. Coordination will be effected with the Regional Water Quality Control Board, the USFWS, the California Department of Fish and Game, Environmental Protection Agency (EPA) and the National Marine Fisheries Service (NMFS) on the appropriate testing for the preparation of a Section 404 (of the Clean Water Act) Evaluation. This District will be coordinating with the Endangered Species Office of the USFWS in order to prepare a biological assessment, if necessary. The District will work with the Bay Conservation and Development Commission to determine consistency with the Coastal Zone Management Act and Bay Plan. We will be consulting with the NMFS on the impacts of the project on any protected marine mammals. The State Office of Historic Preservation will be consulted and coordinated with on cultural resources.

d. The District has established an Advisory Panel of professional engineers and scientists to review and aid in the interpretation of results obtained from the San Francisco Bay/Delta Model. This group will meet with District personnel throughout the study period.

4. As previously stated, a scoping meeting was held on 14 April 1980 at the District Office.

5. It is estimated that the DEIS will be available for public review in November of 1981.

6. Questions about the proposed action and DEIS can be answered by Karen Daniels, U.S. Army, Corps of Engineers, Environmental Branch, 211 Main Street, Room 809, San Francisco, California 94105.

Dated: May 20, 1980

John M. Adsit,

Colonel, CE, District Engineer.

[FR Doc. 80-16188 Filed 5-28-80; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF EDUCATION

Gifted and Talented Children's Education Program—Discretionary Program for Professional Development Projects

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Transmittal of Applications for Continuation Projects.

Applications are invited for continuation projects under the Gifted and Talented Children's Education Program—Discretionary Program for Professional Development Projects.

Authority for this program is contained in Section 905(a)(1) of the Gifted and Talented Children's Education Act of 1978. (20 U.S.C. 3315)

This program issues awards to State educational agencies, local educational agencies, institutions of higher education and other public and private agencies.

The purpose of the awards is to provide seminars and other high level opportunities for leaders or potential leaders in the education of gifted and talented students.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: An application for a grant must be mailed or hand delivered by June 27, 1980.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the Department of Education, Application Control Center Attention: 13.562B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

the Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

AVAILABLE FUNDS: It is expected that approximately $120,000 will be available for one continuation professional development project in FY 1980.

However, this estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

APPLICATION FORM: Application forms and program information packages may be obtained from the Office for Gifted and Talented, Department of Education, (Room 3835, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges

that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

APPLICABLE REGULATIONS: Regulations applicable to this program include the following:

(a) Regulations governing the Gifted and Talented Children's Education Program (45 CFR Part 195), published April 3, 1980 (45 FR 22690).

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c), which were published in the **Federal Register** on April 3, 1980 (45 FR 22494). EDGAR will govern applications and grants under this program.

FURTHER INFORMATION: For further information contact Dr. Harold C. Lyon Jr., Director, Office for the Gifted and Talented, Department of Education, (Room 3827, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245–2482. (20 U.S.C. 3315)

(Catalog of Domestic Assistance Number 13.562, Gifted and Talented Children's Education Program)

Dated: May 23, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80–16231 Filed 5–28–80; 8:45 am]

BILLING CODE 4110–02–M

Bilingual Education Program; Closing Date For Transmittal of Grant Applications; Correction

AGENCY: Department of Education.

ACTION: Closing date notices for transmittal of grant applications, corrections.

SUMMARY: In the closing date notices, FR Doc. 80–9817, 9818, 9824 and 9825, published at pages 23236–23243 of the April 4, 1980, **Federal Register**, corrections need to be made. These are separate documents but are related and only one correction notice is necessary.

FOR FURTHER INFORMATION CONTACT: Ms. Regina Robbins, Telephone: (202) 245–2600.

The closing date notices are corrected as follows:

Page	Column	Section	Incorrect word(s)	Corrections
Notice of Closing Date for Training Projects				
23236	1	Closing date for transmittal of applications (para. 4)	June 16, 1979	June 16, 1980.
Notice of Closing Date for Support Services Projects—BESCs				
23237	1	Closing date for transmittal of applicabons (para.4).	June 16, 1979	June 16, 1980.
23238	1	(15) (Para. 3)	Kinds, and Tulare Counties	Kinds, Tulare, and San Francisco Counties.
23238	1	(16) (Para. 4)	Multonomah	Multnomah.
23238	1	(16) (Para. 4)	Polk	Polk.
23238	1	(16) (Para. 4)	Linn, and Lane in Oregon	Linn, Lane, and Washington in Oregon.
Notice of Closing Date for Demonstration Projects				
23242	2	ACTION	Projects Applications are invited for new projects under the Bilingual Education Act—Demonstration Project Program.	Projects. Applications are invited for new projects under the Bilingual Education Act—Demonstration Project Program.
23242	3	(Para. 2)	This program issues awards to local education agencies (including certain nonprofit institution and organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Bureau of Indian Affairs) and to institutions of higher education applying jointly with these agencies.	This program issues awards to local educational agencies; institutions of higher education which apply jointly with one or more local educational agencies; and elementary and secondary schools operated or funded by the Bureau of Indian Affairs for Indian children on reservation.
Notice of Closing Date for Basic Projects				
23243	3	(Para. 3).	This program issues awards to local educational agencies (including certain nonprofit institutions and organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Bureau of Indian Affairs) and to institutions of higher education applying jointly with these agencies.	This program issues awards to local educational agencies; institutions of higher education which apply jointly with one or more local educational agencies; and elementary and secondary schools operated or funded by the Bureau of Indian Affairs for Indian children on reservations

Dated: May 21, 1980.

Steven A. Minter,

Acting Secretary of Education.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

[FR Doc. 80–16300 Filed 5–28–80; 8:45 am]

BILLING CODE 4110–02–M

State Postsecondary Education Commissions Program—Intrastate Planning; Application Notice for New Awards for Fiscal Year 1980

Applications are invited for new awards under the State Postsecondary Education Commissions Program—Intrastate Planning.

Authority for this program is contained in section 1203(a) of the Higher Education Act of 1965, as amended, 20 U.S.C. 1142b(a).

This program issues awards to State Postsecondary Education Commissions.

The purpose of the awards is to enable State Commissions to conduct comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by July 7, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Community Service and Continuing Education Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable by the Secretary of the Department of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Community Service and Continuing Education Branch, Division of Training and Facilities, Room 3717, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Community Service and Continuing Education Branch will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4:00 p.m. on the closing date.

Available funds: The President has proposed budget rescissions to the Congress that may eliminate funds for this program. If the Congress approves the proposed rescissions, a notice to the public will be published in the **Federal Register**, stating that the rescissions have been approved. However, the deadline established in this notice will not be extended, and applicants should prepare and submit applications pending further notification.

Application forms: Application forms and program information packages have been mailed to the State Postsecondary Education Commissions. Additional applications may be obtained by writing to the Community Service and Continuing Education Branch at the address listed under Further Information.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Program regulations governing the State Postsecondary Education Commissions Program—Intrastate Planning (45 CFR Part 199a), and

(b) The Education Division General Administrative Regulations (EDGAR), Part 100b (State Administered Programs) and Part 100c (Definitions), published in the **Federal Register** on April 3, 1980 (45 FR 22494–22631).

For further information contact: Charles I. Griffith, Chief, Community Service and Continuing Education Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3717, Regional Office Building 3, Washington, D.C. 20202. Telephone: (202) 245–2671.

(20 U.S.C. 1142b(a))

(Catalog of Federal Domestic Assistance Number 13.550: State Postsecondary Education Commissions Program—Intrastate Planning)

Dated: May 21, 1980.

Steven A. Minter,

Acting Secretary of Education.

[FR Doc. 80–16263 Filed 5–28–80; 8:45 am]

BILLING CODE 4110–02–M

DEPARTMENT OF ENERGY

Reduced-Enrichment Research and Test Reactor (RERTR) Program; Finding of No Significant Impact

AGENCY: Department of Energy.

ACTION: Finding of No Significant Impact for a demonstration program on the production and use of reduced-enrichment uranium in research and test reactors.

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (EA) for its program on the demonstration of the production and use of reduced-enrichment-uranium (REU) fuel in research and test reactors in the U.S. and abroad. Based on the findings of the EA, which is available to the public on request, DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

The proposed RERTR program would provide the technical assistance necessary for the conversion to REU fuel in foreign and domestic research and test reactors presently using highly-enriched-uranium (HEU). The program would involve the technical development, design, testing and the conversion and demonstration of the REU fuel at one to three typical reactors. The program implications of the fuel development, fuel element fabrication and irradiation-testing, materials transportation, uranium enrichment and radioactive waste management are evaluated in the EA.

The purpose of the RERTR program is to demonstrate the feasibility and practicality of using REU fuel and thus minimize the proliferation risks associated with the use of HEU fuel in research and test reactors.

There are no significant environmental impacts associated with the use of REU fuel in research and test reactors. Existing facilities can be adapted easily to the producton, testing and demonstration of REU fuels. There will be a negligible effect on current uranium mining and milling activities. Impacts from the transportation of REU fuel should be minimal due to both the physical characteristics of the fuel (i.e., lower radioactivity levels) and the relatively insignificant addition to current amounts of uranium fuels now being transported. The radioactive wastes generated by the RERTR program will be minor in comparison to

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current amounts generated. Additional manpower needed to implement the demonstration program is minor and should not result in any socioeconomic impacts.

Alternatives to the RERTR program that were considered are (1) continue use of HEU fuel in research and test reactors, (2) discontinue supplies of HEU fuel without providing an alternative, (3) mix a highly-radioactive "spike" with HEU, and (4) increase security requirements on HEU inventories.

The proposed action potentially involves the international shipment of HEU fuel and minor modifications to existing facilities. Section 2-5(a)(v) of Executive Order 12114—Environmental Effects Abroad of Major Federal Actions—exempts all nucelar activities, with the exception of the export of a nuclear production, utilization or waste management facility and those actions which significantly affect the environment of the global commons, from its mandatory environmental review requirements. The proposed program does not involve any such facility exports, nor does it significantly affect the global commons.

Single copies of the EA are available from: Kenneth L. Mattern, Program Manager, NE-50, Mailstop-B-107 GTN, U.S. Department of Energy, Washington, D.C. 20545 301-353-2965.

For further information contact: Richard P. Smith, NEPA Affairs Division, Office of Assistant Secretary for Environment, Room 4G-064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 202-252-4600.

Date issued: May 16, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment

[FR Doc. 80-16192 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided that a meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 5 and 6, 1980, at the offices of the Bundesamt Fuer Wirtschaftliche Kriegvorsorge (Federal Office of the National Economic Defense), Belpstrasse 53, Berne, Switzerland, beginning at 9:30 a.m. on June 5. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a meeting of an IEA Standing Group on Emergency Questions (SEQ) Special Subgroup to design the third IEA Allocation Systems Test (AST-3), which is being held at Berne on those dates.

The agenda for the meeting is under the control of the SEQ Special Subgroup. It is expected that the following agenda will be followed:

1. Discussion of minutes of second meeting.
2. Discussion and review of AST-3 Test Guide.
3. Completion of AST-3 Test Guide
4. ISAG per diem expenses during AST-3.
5. Other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, a verbatim transcript of this meeting will be made; the transcript, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (43 FR 32691, August 5, 1976) and 22 CFR 9a.1-9a.8, will be available in the Reading Room of the Department of Energy, Room 5B-180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 AM and 4:00 PM weekdays, except Federal holidays.

Issued in Washington, D.C., May 20, 1980

Craig S. Bamberger,

Acting Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 80-16216 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Public Notice of Proposed Flood Plain Action; Disposal of Cottage Grove-Drain Tap Point Substation

The Bonneville Power Administration (BPA) hereby solicits public comment on a BPA proposal to dispose of the Cottage Grove-Drain Tap Point Substation by negotiated sale to the Pacific Power & Light Company (PP&L). The substation is located on a 1-acre site, 3½ miles south of Cottage Grove, Oregon, within the 100-year floodplain of the Coast Fork, Willamette River.

BPA would remove existing transformers, and PP&L intends to continue operating the remaining equipment without expanding development at the substation site. Because use of the land would not change or intensify, the proposed action is consistent with State and local land use plans. The conveyance shall reference those uses that are restricted under identified Federal, State, or local floodplain regulations.

All questions and comments concerning the proposed action are welcome, and should be directed to John E. Kiley, Environmental Manager, Bonneville Power Administration, P.O. Box 3621-SJ, Portland, Oregon 97208. The public comment period will close June 13, 1980.

Dated at Portland, Oregon, this 21st day of May 1980.

Sterling Munro,

Administrator.

[FR Doc. 80-16194 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Quintin Little Co.; Final Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on a consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy announces final action of a Consent Order.

EFFECTIVE DATE: May 8, 1980.

FOR FUTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

SUPPLEMENTARY INFORMATION: On March 7, 1980, the ERA of the DOE executed a proposed Consent Order with Quintin Little Company of Ardmore, Oklahoma. Under 10 CFR § 205.199I(c), a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order. At the conclusion of the thirty-day comment peioid, the ERA had received certain notices of claims against the refund amount of the Consent Order which have been forwarded to the Director, Resource Management Branch, Office of Enforcement, U.S. Department of Energy, attention: Special Refund Coordinator, 2000 M Street NW., (Room 5128), Washington, D.C. 20461. There were not objections received to the Consent Order. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and Quintin Little Company is an appropriate resolution of the compliance proceeding which is described and it shall become final and effective as proposed, without modification, upon publication of this Notice. Procedures and requirements for documenting proof of claim are being developed. Refunded overcharges received, if any, will remain in a suitable government escrow account pending the determination of their proper disposition.

Issued in Dallas, Texas on the 15th day of May 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 80-16220 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed concerning selling prices alleged to be in excess of the maximum lawful selling price for motor gasoline. The Consent Orders do not address or limit any liability with respect to the consenting firm's prior compliance with the Mandatory Petroleum Price and Allocation Regulations. Among other matters, the consenting firms agree to reduce prices for each grade of gasoline to no more than the maximum lawful selling price, make a proper posting as required by law, and otherwise comply with applicable law. For further information regarding these Consent Orders, please contact T. Holleran, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, DC 20461, telephone number 202-653-3569.

Issued in Washington, DC on the 19th day of May 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Washington, D.C. Metro Area

Station Name, Address, Date

St. Barnabas Exxon, 5622 St. Barnabas Rd., Oxon Hill, MD 20021—Mar. 28, 1980
Wheeler Rd. Exxon, 4453 Wheeler Rd., Oxon Hill, MD 20021—Mar. 27, 1980
Oxon Hill Exxon, 6716 Livingston Rd., Oxon Hill, MD 20021—Mar. 27, 1980
Dyson General Store, Route 2, Brandywine, MD 20613—Mar. 27, 1980
Toms Cheltenham Sunoco, Box 52, Cheltenham, MD 20623—Mar. 26, 1980
Freddie's Auto, 15772 Livingston Rd., Accokeek, MD 20607—Mar. 27, 1980
Parkland Service Center, 4801 St. Barnabas Rd., Temple Hill, MD 20021—Mar. 18, 1980
Riverdale Mobil, 5701 Riverdale Rd., Riverdale, MD 20840—Mar. 19, 1980
Anderson Knight Exxon, 5732 Tuxedo Rd., Tuxedo, MD 20781—Mar. 24, 1980
Leo C. Bowie Grocery, Route 2, PisGath, MD 20640—Mar. 18, 1980
Captain John's Crab House Marina, Route 2, Cobb Island, MD 20625—Mar. 19, 1980
Easter's Gulf, Box 1411, Hughesville, MD 20637—Mar. 20, 1980
Joe's Liquor & Groceries, General Delivery, Pomfred, MD 20675—Mar. 20, 1980
Poolesville Motor Co., 19920 Fisher Ave., Poolesville, MD 20837—Mar. 31, 1980
Old Georgetown Gulf, 7754 Old Georgetown Rd., Bethesda, MD 20014—Mar. 28, 1980
NPD Inc., 101 University Blvd. W., Silver Spring, MD 20906—Mar. 12, 1980
Kaplan's Sunoco, 11333 Georgia Ave., Wheaton, MD—Mar. 13, 1980
Sullivan's Bethesda Mobil, 7100 Wisconsin Ave., Bethesda, MD 20014—Mar. 24, 1980
Luksensburg Service Center, 8801 Piney Branch Rd., Silver Spring, MD 20903—Mar. 19, 1980
G E M C A Texaco, 8875 Piney Branch Rd., Silver Spring, MD 20903—Mar. 20, 1980
Lansing's Gulf, 12245 Viers Mill Rd., Silver Spring, MD 20906—Mar. 21, 1980
Westover Exxon, 5885 N. Wash. Blvd., Arlington, VA—Apr. 16, 1980
Old Dominion Exxon, 4035 Old Dominion Drive, Arlington, VA 22207—Apr. 24, 1980
R. Pettaway Amoco, 2830 Sherman Ave., NW., Washington, DC 20011—Apr. 2, 1980
Blair Rd. Shell, 5913 Blair Rd., NW., Washington, DC 20011—Apr. 7, 1980
Dingess Delicatessen, 11500 Old Ft. Rd., Friendly, MD 20027—Apr. 4, 1980
Cobb Island Market, Cobb Island, MD 20625—Apr. 22, 1980
Moore Country Store, Box 3431 Croom Rd., Upper Marlboro, MD 20870—Apr. 21, 1980
Lanham BP Scot, 6815 Annapolis Rd., Landover Hills, MD 20785—Apr. 10, 1980
Wheaton Mobil Ser. Center, 11194 Viers Mill Rd., Wheaton, MD 20902—Apr. 11, 1980
Cornwell Corp., 9404 Marlboro Pike, Upper Marlboro, MD 20870—Apr. 9, 1980
Miles Store, General Delivery, Welcome, MD 20693—Apr. 2, 1980
Dynamotion Tune Up Center, 4017 Silver Hill Rd., Suitland, MD 20023—Apr. 15, 1980
Aquasco Hardware & Supply, Box 213, Aquasco, MD 20608—Apr. 2, 1980
Johnny's Discount Gas, 2319 Varnum St., Mt. Rainer, MD 20822—Apr. 8, 1980

Southeast District

Enfinger's Chevron, 807 W. Main St., Dothan, AL 36301—Feb. 29, 1980
Southside Exxon, 2200 Ross Park Circle, Dothan, AL 36301—Feb. 28, 1980
Troy Exxon, 320 S. Three Notch St., Troy, AL 26081—Feb. 28, 1980
Wilson's Chevron, Route 6, Box 5, Troy, AL 36081—Feb. 27, 1980
Bailey's Smokehouse Bar BQ, Route Box 69A, Eufaula, AL 36027—Mar. 14, 1980
Hwy 431 South Station, Route 4 Box 25, Eufaula, AL 36027—Mar. 13, 1980
May's Gulf, 102 S. Prairie, Union Springs, AL 36089—Mar. 13, 1980
Jim's Standard, Route 1 Box 60A, Pike Road, AL 36064—Mar. 13, 1980
Porter's Exxon, 309 S. Oates, Dothan, AL 36301—Feb. 28, 1980
West Main Union 76, 830 W. Main, Dothan, AL 36301—Feb. 29, 1980
Parkway Estates Exxon, 7920 S. Parkway, Huntsville, AL 35802—Mar. 12, 1980
Thomas 82 Service Station, U.S. Hwy 82 East, Union Springs, AL 36089—Mar. 18, 1980
Stough Chevron, Barbour & Orange, PO Box 376, Eufaula, AL 36027—Mar. 18, 1980
Strickland Chevron, Route 3, Eufaula, AL 36027—Mar. 18, 1980
Baskin St. Standard S/S, 101 S. Baskin Street, Union Springs, AL 36089—Mar. 19, 1980
Jim McConnell Auto Svc. Ctr., 2325 Orange Blossom Tr., Orlando, FL 32807—Mar. 17, 1980
Terry Fountain's Exxon, 679 W. Tennessee, Tallahassee, FL 32304—Mar. 3, 1980
Northwood Exxon, 1875 N. Monroe, Tallahassee, FL 32303—Mar. 3, 1980
Stephens Van Terminal, 9500 NW 27th Ave., Miami, FL 33147—Mar. 5, 1980
Dade County Marina, 234 W. Flagler St., Miami, FL 33130—Feb. 22, 1980
Pete's Standard, 2751 N. Monroe, Tallahassee, FL 32303—Mar. 7, 1980
Orange Avenue Exxon, 2211 S. Orange Ave., Orlando, FL 32809—Mar. 14, 1980
Moore's Gulf, 1816 S. Harbor City Blvd., Melbourne, FL 32901—Mar. 14, 1980
Taylor's Texaco, US 1 & New Haven Ave., Melbourne, FL 32901—Mar. 14, 1980
M&D Service Center, 1350 N. Mill Street, Orlando FL 32803—Mar. 13, 1980
Hood's Shell Service, 2015 Alowa Ave., Winter Park, FL 32792—Mar. 13, 1980
Lee Road Texaco, 610 Lee Road, Orlando, FL 32810—Mar. 17, 1980
Rudy's Exxon Service, 600 Lee Road, Orlando, FL 32810—Mar. 17, 1980
College Park Gulf, 2301 Edgewater Dr., Orlando, FL 32804—Mar. 17, 1980
R.C. Texaco, 1199 NW 42 Avenue, Miami, FL 33126—Feb. 21, 1980
Rubio's Texaco, 5900 SW 8th Street, Miami, FL 33144—Feb. 19, 1980
Carriage Trade Car Wash, 4251 LeJeune Rd., Coral Gables, FL 33134—Feb. 21, 1980
Bray's Texaco, 1745 N. Monroe, Tallahassee, FL 32303—Mar. 3, 1980
Van's Exxon, 1909 W. Atlantic Ave., Delray Beach, FL 33444—Mar. 6, 1980
Skyway Gulf, 2090 SW 67th Ave., Miami, FL 33155—Feb. 19, 1980
Family Auto Service, 7375 SW 57th Ave., Miami, FL 33143—Feb. 20, 1980
J&L Exxon Service, 7424 W. Vine St., Kissiwwee, FL 32741—Mar. 13, 1980
Smith's Chevron, 1970 Howell Mill Rd., Atlanta, GA 30318—Mar. 20, 1980
Georgetown Gulf S/S, Box 55, Georgetown, GA 31754—Mar. 18, 1980
Lewis' Standard, 1311 Versailles Rd., Lexington, KY 40504—Dec. 18, 1979
Dixie-Express Exxon, 4116 Dixie Hwy., Louisville, KY 40216—Feb. 28, 1980
Tommy's Chevron, 302 Main St., Stanford, KY 40484—Jan. 7, 1980

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Convenient Standard, South Hwy 27, Somerset, KY 42501—Jan. 8, 1980
Covington's Chevron, I–75 & Barnes Mill Rd., Richmond, KY 40475—Jan. 9, 1980
Hanna's Texaco, P.O. Box 58, Bynalia, MS 38611—Feb. 21, 1980
Providence Road Exxon, 5701 Old Providence, Charlotte, NC 28201—Feb. 14, 1980
Mayberry Mall 66, 455 Frederick St., Mt. Airy NC 27030—Feb. 18, 1980
Northside Exxon, 351 Acron Dr., Winston-Salem, NC—Feb. 19, 1980
Linville Road Exxon, Route 3, Kernersville, NC 27284—Feb. 21, 1980
Doug's Exxon, Route 2, Smithfield, NC 27577—Feb. 13, 1980
White Horse Exxon, 6101 White Horse Rd., Greenville, SC 29611—Feb. 27, 1980
Best Western Exxon, P.O. Box 638, Summerton, SC 29148—Feb. 27, 1980
B&F Exxon, Route Box 674, Orangeburg, SC 29115—Feb. 21, 1980
Rowland Automotive, Hillcrest Shopping Center, Spartanburg, SC 29302—Feb. 28, 1980
Sheppard's Texaco, 2116 Broad River Rd., Columbia, SC 29210—Feb. 20, 1980
Interstate Fina Service, Hwy 301 N. & I–26, Orangeburg, SC 29115—Feb. 21, 1980
Norman's Shell Service, 1117 Savannah Hwy, Charleston, SC 29407—Feb. 25, 1980
Twin Oaks Exxon, 1497 Greenville Hwy, Spartanburg, SC 29301—Feb. 28, 1980
Stuckey's Inc., I–95 & SC 102, Summerton, SC 29148—Feb. 26, 1980
Cagle's Hazlewood Exxon, 7800 Sumter Hwy, Columbia, SC 29209—Feb. 20, 1980
Scallions Texaco, 3706 North Watkins, Memphis, TN 38127—Mar. 12, 1980
Liles Bros, P.O. Box 185 U.S. 70, Mason, TN 38049—Mar. 11, 1980
Alberson's Grocery, 1198 U.S. 70, Arlington, TN 38002—Mar. 11, 1980
Summer Ave. Amoco, 3608 Summer Ave Memphis, TN—Feb. 19, 1980
Jefferson Garage, 199 Jefferson, Memphis, TN 38103—Feb. 20, 1980
Thomas St. Gulf, 1414 Thomas St., Memphis, TN 38107—Feb. 20, 1980
AAA Auto Service, 3020 Thomas, Memphis, TN 38127—Feb. 20, 1980
Aubrey's Exxon, 946 S. Parkway, Memphis, TN 38106—Feb. 14, 1980
Harvell's Exxon, Hwy 51, Millington, TN 38053—Mar. 21, 1980
Dorothy Mize Grocery, Route 2, P.O. Box 424, Atoka, TN—Mar. 21, 1980
Pruett's Texaco Service, 5170 Navy Rd., Millington, TN—Mar. 12, 1980
Millington Texaco, 7837 Hwy 51 S., Millington, TN—Mar. 12, 1980
Brawuan's Exxon, 5818 Jefferson, Newport News, VA 23605—Mar. 13, 1980
Verona Interstate Shell, Rt. 1, Box 698D, Verona, VA 24482—Feb. 20, 1980
Cross Roads Grocery, RFD1, Leeds, AL 35094—Apr. 16, 1980
Haulin's Standard, 2206 Dauphin Island Pkwy, Mobile, AL 36605—Mar. 13, 1980
Interstate Standard, P.O. Box 1145, Clautou, AL 35045—Mar. 24, 1980
Pate's Service Station, 1000—5th St., Tuscaloosa, AL 35401—Mar. 30, 1980
Wynn's Standard Service, 300 S. Three Notch St., Troy, AL 36081—Mar. 17, 1980
Par Mobil, 324 E. Par Ave., Orlando, FL 32804—Mar. 18, 1980
Wayne's Standard Svc., 12505 W. Dixie Hwy, North Miami, FL 33161—Apr. 4, 1980
N. Miami Standard, 13475 NE 2nd Ct., N. Miami, FL 33161—Apr. 4, 1980
5-Points Union 76, 1100 W. King St., Cocoa, FL—Mar. 20, 1980
F&F Chevron, 345 N. Federal Hwy., Donia, FL 33004—Apr. 1, 1980
Treasure Bay Shell, 1508—79th St. Causeway, North Bay Village, FL 33141—Apr. 2, 1980
McCall Automotive, 1136 NY Ave., St Cloud, FL 32769—Mar. 19, 1980
Williams & Son Amoco Svc., 17/92 & Lake Mary Blvd., Sanford, FL 32771—Mar. 18, 1980
Williams Shell Svc., 1449 W. King St., Cocoa, FL 32922—Mar. 20, 1980
Pete's 103rd St. Std., 601 NW 103rd St., Miami, FL 33150—Apr. 3, 1980
Park Service Garage, 2141 N. 60th Ave., Hollywood, FL 33021—Apr. 1, 1980
Spaceport Chevron, 3580 Cheney Hwy, Titusville, FL 32780—Mar. 20, 1980
Cape Union 76, 8100 Astronaut Blvd., Cape Canaveral, FL 32920—Mar. 20, 1980
Al's Chevron, 10 NW 167th St., Miami, FL 33169—Apr. 3, 1980
Alvarez Exxon, 1798 NW 183rd St., Miami, FL 33169—Apr. 3, 1980
Slacks Chevron Svc., 12301 Biscayne Blvd., N Miami, FL 33161—Mar. 31, 1980
Las Olas Chevron, 1415 E. Las Olas, Ft. Lauderdale, FL 33301—Apr. 1, 1980
Widener Village Standard, 801 E. 25th St., Hialeah, FL 33010—Apr. 2, 1980
Nick's Standard Svc., 11650 Biscayne Blvd., N. Miami, FL 33161—Apr. 2, 1980
Face's Chevron, 11815 NE 2nd Ave., Miami, FL 33161—Apr. 2, 1980
Lenny's Texaco, 1722 N. Federal Hwy., Hollywood, FL 33020—Mar. 29, 1980
North Bay Service Sta., 1501 79st Causeway, Miami, FL 33141—Apr. 2, 1980
H&L Auto Svc., 6 South Cocoa Blvd., Cocoa, FL 32922—Mar. 20, 1980
Deaver Chevron, 2041 W. Broad St., Athens, GA 30601—Mar. 27, 1980
Smith Chevron, 2495 Jefferson Rd, Athens, GA 30601—Mar. 27, 1980
Kesler's Chevron, 290 Alps Rd., Athens, GA 30601—Mar. 27, 1980
Loggins Chevron, 853 W. Broad St., Gainesville, GA 30501—Mar. 26, 1980
Broadway Standard, 639 Morosgo Dr. NE, Atlanta, GA 30324—Apr. 4, 1980
Chapel Hill Standard, 4845 Flat Shoals Rd., Decatur, GA 30034—Mar. 20, 1980
Scott Blvd. Chevron, 1726 Scott Blvd., Decatur, GA 30033—Mar. 31, 1980
Prince Ave. Standard, 990 Prince Ave., Athens, GA—Mar. 26, 1980
Kidd's Chevron, I–85 & US 441, Commerce, GA 30529—Mar. 26, 1980
M&W Standard, I–75 & KY–21, Berea, KY 40403—Mar. 4, 1980
Bates Shell Sta., 1449 Bardstown Rd., Louisville, KY 40204—Mar. 11, 1980
Robway South Main Shell, 1450 S. Main St., Paris, KY—Mar. 7, 1980
Brunfield's Standard, 1817 Delaware Ave., McComb, MS 39648—Mar. 25, 1980
Riley's Holiday Gulf, 1810 Delaware Ave., McComb, MS 39648—Mar. 13, 1980
Steve's Chevron Svc. Sta., I–55 & Union St., Brookhaven, MS 39601—Mar. 14, 1980
Foster's Chevron, 127 E. Monticello St., Brookhaven, MS 39601—Mar. 19, 1980
Doug's Chevron, 305 S. Jackson St., Brookhaven, MS 39601—Mar. 18, 1980
Memphis Yacht Club, P.O. Box 3099, Memphis, TN 38103—Apr. 4, 1980
Ragau's 66 Svc. Ctr., 909 Hollywood, Jackson, TN 38301—Mar. 18, 1980
Union 76 Truck Stop, Rt 10, Box 378A, Lebanon, TN—Mar. 20, 1980
Bell Meade Shell, 5315 Harding, Nashville, TN 37205—Mar. 19, 1980
Dugger's Gulf, 629 Old Hickory Blvd., Nashville, TN 37209—Mar. 19, 1980
Clements Exxon, 9080 Hwy 72, Germantown, TN 38138—Apr. 15, 1980
Poplar Perkins Gulf, 4585 Poplar, Memphis, TN 38117—Apr. 18, 1980
Adams Texaco, 1800 Union, Memphis, TN 38104—Apr. 16, 1980
Barton's Gulf, 694 Riverside, Memphis, TN 38114—Apr. 17, 1980
Mac's Market, Rt 151, Roseland, VA 22967—Mar. 19, 1980
Hosepeu Road Exxon, 6306 Hosepeu Rd, Richmond, VA 23226—Mar. 5, 1980
Owens Exxon, 200 E. Leigh St., Richmond, VA 23219—Mar. 8, 1980
H. Devries Texaco, 16073 S. Park, South Holland, IL 60473—Mar. 1, 1980
Ron's Service & Car Wash Mobil, Route 25 & 34, Oswego, IL 60543—Mar. 1, 1980
Irving Pulaski Mobil Service, 4001 W. Irving Park, Chicago, IL 60641—Mar. 4, 1980
Hans Shell Service, 3159 W. Addison, Chicago, IL 60618—Mar. 5, 1980
Third Street Shell, 233 W. Center Street, Milwaukee, WI 53212—Mar. 5, 1980
Alan H. Goetz Mobil, N96 W17500 County Road, Germantown, WI 53022—Mar. 6, 1980
Sunset Shell, 9746 W. Appleton Ave., Milwaukee, WI 53225—Mar. 6, 1980
F. Soyka Mobil, 9601 W. Higgins, Rosemont, IL 60172—Mar. 6, 1980
400 Texaco Super Service, 900 Dodge Street, Evanston, IL 60202—Mar. 12, 1980
F. Stevens Amoco, 7100 South Cole, Chicago, IL 60649—Mar. 12, 1980
M. Rachman Mobil, 1330 E. 33rd Street, Chicago, IL 60641—Mar. 14, 1980
Buffalo Grove Service Center, 1798 Hintz Road, Wheeling, IL 60090—Mar. 20, 1980
Double "M" Standard East, Mill & Lake Road, Addison, IL 60101—Mar. 24, 1980
Costo Shell Service, 4001 N. Laramie, Chicago, IL 60641—Mar. 25, 1980
North Shell, Route 83 & Elmhurst, Elmhurst, IL 60126—Mar. 25, 1980
Willie Watkins Shell, 3390 W. 15th Street, Gary, IN 46406—Mar. 25, 1980
F. Stevens Amoco, 7034 South Shore Drive, Chicago, IL 60617—Mar. 12, 1980
Fred Roempler Amoco, 12658 S. Ashland Ave., Calumet Park, IL 60643—Mar. 25, 1980
Wally Texaco, Ogden & Route 59, Naperville, IL 60540—Mar. 26, 1980
Lake Avenue Shell, 13900 Lake Avenue, Lakewood, Ohio 44107—Mar. 13, 1980
Belak's Sohio, 2609 East 110th, Cleveland, OH 44104—Mar. 13, 1980
D. Huhn's Texaco, 100 W. Lincolnway, Minerva, OH 44657—Mar. 10, 1980
Forest Park Texaco, 610 Northland Boulevard, Forest Park, OH 43240—Mar. 10, 1980

Deer Park Amoco, 4384 Galbraith Road, Cincinnati, OH 45236—Mar. 6, 1980
J & M Exxon, 2350 Wagoner Ford, Dayton, OH 43414—Mar. 5, 1980
Airfield Shell, 499 Woodmor Drive, Dayton, OH 45431—Mar. 6, 1980
Family Exxon, 7888 Brandt Pike, Dayton, OH 45424—Mar. 6, 1980
Euclid Richmond Shell, 26031 Euclid Avenue, Euclid, OH 44132—Mar. 6, 1980
Siemer's Union 76, 2911 Harrison Street, Cincinnati, OH 43212—Mar. 7, 1980
Brady's Sohio, Jasper, OH 43642—Feb. 25, 1980
Troy Frazie's Deep Rock, 2744 Roosevelt Avenue, Indianapolis, IN 46218—Feb. 26, 1980
Elliott Sohio Service, 480 S. Third, Columbus, OH 43215—Mar. 3, 1980
Main & McNaughton Shell, 5989 E. Main, Columbus, OH 43213—Mar. 4, 1980
Gardful Hendrix Shell, 3002 N. Illinois, Indianapolis, IN 46277—Mar. 4, 1980
Gardful Hendrix Shell, 2104 N. Capitol Avenue, Indianapolis, IN 46277—Mar. 4, 1980
Mac's Super Shell, 2964 S. Keystone Avenue, Indianapolis, IN 46203—Mar. 3, 1980
Andrews 11th & Church Sohio, 349 West Church, Newark, OH 43055—Mar. 18, 1980
Fulton & Franklin Shell, 221 N. Fulton Avenue, Evansville, IN 47710—Mar. 19, 1980
Morgan Weimbach Shell, 1929 E. Morgan, Evansville, IN 47711—Mar. 19, 1980
Bankhead's Shell, 14021 St. Clair Avenue, Cleveland, OH 44110—Feb. 29 1980
Avon Union 76, 36008 Detroit Avenue, Avon, OH 44011—Feb. 29, 1980
Ridge & Memphis Shell, 7210 Memphis Avenue, Cleveland, OH 44104—Mar. 6, 1980
Ralph's Sunoco, US 62 NE, Leesburgh, OH 45135—Mar. 24, 1980
Shower & Shine Car Wash #2-Amoco, 388 Village Shopping Ctr., Chesterfield, MO 63042—Mar. 6, 1980
Shower & Shine Car Wash #3-Amoco, 11988 Westline Industrial Dr., St. Louis, MO 63141—Mar. 6, 1980
Shower & Shine Car Wash #2-Amoco, 388 Village Shopping Ctr., Chesterfield, MO 63042—Mar. 6, 1980
Ted's DX, 214 Business, 60 East Mountain Grove, MO 65711—Mar. 12, 1980
Midway Truck Stop, 815 N. Dirksen Parkway, Springfield, IL 62702—Mar. 27, 1980
Bob's Conoco, 1105 W. Main, Marion, IL 62939—Mar. 27, 1980
S&H Arco, 3801 E. 9th, Kansas City, MO 64127—Mar. 3, 1980
Don's 66 Service, 803 South Broadway, Albert Lea, MN 56007—Mar. 7, 1980
Interstate Mobil, 709 21st NE, Austin, NM 55912—Mar. 10, 1980
Eric Mobil Service, 14–32831 Stephen Highway, Madison Heights, MI 46071—Mar. 25, 1980
Fagnelli Shell Service, 608 28th Street, S.W., Wyoming, MI—Mar. 20, 1980

Central District, Consent Orders

Firm name	Firm address	[illegible]	Highest cents per gallon violation
Blessings Shell	34802 Ridge Road, Willoughby, OH 44094	Mar. 27, 1980	.020
Blessings Shell	34750 Chardon Road, Willoughby, OH 44094.	Mar. 27, 1980	.023
Al's Shell	23014 Emery Road, Warrensville, OH 44128.	Mar. 25, 1980	.009
Hurst & Hurst Sunoco Inc	2802 East 62nd Street, Indianapolis, IN 46220.	Mar. 27, 1980	.006
White's Motor Service	4th and Locust, Newark, OH 43055	Apr. 3, 1980	.039
Young's Shell	5300 Warrensville Center, Maple Heights, OH 44137.	Mar. 31, 1980	.056
Derenna Service Texaco	2893 Highland Avenue, Norwood, OH 45219.	Apr. 9, 1980	.071
Euclid 79 Shell	7909 Euclid Avenue, Cleveland, OH 44103	Mar. 27, 1980	.105
Palmer's Gulf	Gross and Broad Street, Glouster, OH 45732	Apr. 9, 1980	.082
Cole Sohio Service	U.S. Rte 50 East, Athens, OH 45701	Apr. 10, 1980	.019
Bob's 66 Service	430 North Alabama, Indianapolis, IN 46204.	Apr. 8, 1980	.02
1317 W. 5th Avenue, Inc	1317 W. 5th Avenue, Columbus, OH 43212.	Apr. 17, 1980	.0894
Gilkey's Service Station	319 East State, Athens, OH 45701	Apr. 17, 1980	.024
Bob Interstate Mobile Service	I70 and Rt. 231, Cloverdale, IN 46120	Apr. 16, 1980	.055
Harvey Smith Shell	Rt. 43 and I 70, Cloverdale, IN 46120	Apr. 17, 1980	.052
Walizer's Shell	105 West State Street, Alliance, OH 44601.	Apr. 18, 1980	.041
Jerry' Shell Service	604 East 200th Street, Euclid, OH 44119	Apr. 11, 1980	.043
Dale's Union 76	50 North Plains Road, The Plains, OH 45780.	Apr 24, 1980	.047
Robert Gregory Shell	2139 S. Wabash, Chicago, IL 60619	Mar. 31, 1980	.0200
Ferris Shell	4346 N. Western Ave., Chicago, IL 60618	Apr. 1, 1980	.0780
George's 76 Union Service	1835 S. Manheim Road, Westchester, IL 60153.	Apr. 4, 1980	.0940
Casey Zaraza Standard	1334 W. Division Street, Chicago, IL 60622.	Apr. 4, 1980	.0500
Garapolo Standard Service	539 Long and Harlem, Riverside, IL 60546	Apr. 9, 1980	.0200
Giannoudakos Arco	6141 N. River Road, Rosemont, IL 60018	Apr. 15, 1980	.0560
Cermak & Harlem Standard	7204 W. Cermak Road, No. Riverside, IL [illegible]	Apr. 16, 1980	.0890
Jim Standard Service	920 W. Lincoln Highway, DeKalb, IL 60115	Apr. 21, 1980	.0760
Sam's Towing Service	9500 Franklin Avenue, Franklin Pk., IL 60134	Apr 23, 1980	.0740
Earl's Arco Service	3202 W. Cermak Road, Chicago, IL 60648	Apr 24, 1980	.1010
S & J Shell Service	260 N. Cass Avenue, Westmont, IL 60559	Apr 25, 1980	.0260
Pavich Shell	31100 Groesbeck, Fraiser, MI 48026	Apr 25, 1980	.034
B&J Standard Service	18982 Fort St., Riverview, MI 48192	Apr 25, 1980	.03
Sunny's Standard Service	36900 Harper, Mount Clemens, MI 48043	Apr. 25, 1980	.022
Broadway Texaco	2602 West Broadway, Sedalia, MO 65301	Mar. 14, 1980	.0205
707 Truck Plaza	I–7 and Interstate 70, Blue Springs, MO 64015.	Jan 4, 1980	.02

Southwest District

Station Name, Address, and Date

Canyon Lake Marina, Star Route 2, Box 220, New Braunfels, TX 78120—Mar. 17, 1980
Terry Gulf Service, I–30 & Hwy 205, Rockwall, TX 75087—Mar. 27, 1980
A & E Texaco, Hwy 78 & Profit Dr., Garland, TX 75405—Mar. 28, 1980
Crenshaw Exxon, I–30 & FM 547, Royce City, TX 75089—Mar. 28, 1980
Ferguson Exxon, 729 W. Illinois St., Dallas, TX 75224—Mar. 28, 1980
Six Flags Texaco, 900 Hwy 360 N., Arlington, TX 76011—Mar. 28, 1980
Agape Force Inc., P.O. Box 386, Lindale, TX 75771—Mar. 11, 1980
Broadway Exxon, 200 N. Broadway, Ballinger, TX 76821—Mar. 5, 1980
Carolyn Park Shell, 701 Perrin Drive, Arabi, LA 70032—Mar. 10, 1980
Eddie's Texaco, 6241 Westbank Expressway, Marreso, LA 70072—Mar. 11, 1980
Badeaux's Gulf, 519 Hopkins St., New Iberia, LA 70560—Mar. 12, 1980
Eagle Exxon, 8733 South Claiborne, New Orleans, LA 70125—Mar. 19, 1980
Confederate Shell, 1534 Kings Hwy, Shreveport, LA 71104—Mar. 3, 1980
Lambson Investment Corp., P.O. Box 338, Thoreau, NM 87323—Mar. 6, 1980
Jim P. Cox, Jr. Service Station, 2407 N. McKinley, Oklahoma City, OK 73106—Mar 21, 1980
Morris Exxon, 101 S. Thompson, Springdale, AR 72764—Mar. 4, 1980
Bell McCann's Texaco, 34 Aldine Bender, Houston, TX 77205—Mar. 1, 1980
Hutchison's Exxon, 5415 Kirby Dr., Houston, TX 77005—Mar. 19, 1980
Stella Link Gulf, 9403 Stella Link, Houston, TX 77025—Mar. 31, 1980
River Oaks Texaco Service Center, 2050 W. Gray, Houston, TX 77019—Mar. 12, 1980
George Hristapoulas' Exxon, 3850 W. Airport Blvd., Houston, TX 77035—Mar. 25, 1980

River Oaks Texaco Service Station, 2517

Latour's Gulf, 4005 Moss Street, Lafayette, LA

Walter's Union Service Center, 4005 West

Al's Exxon, 550 Randolph Street, San

Partanna's Texaco, 28681 Marguerite Pkwy.,

Fairview Union '76, 42 North Fairview,

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River Oaks Texaco Service Station, 2517 River Oaks Blvd., Houston, TX 77019—Mar. 12, 1980
Van's Gulf Service Center, 3810 Little York Rd., Houston, TX 77093—Mar. 25, 1980
Four Corners Gulf Station, 100 E. Market, Highlands, TX 77562—Apr. 16, 1980
Southmore Motors, 2204 Red Bluff, Pasadena, TX 77563—Apr. 24, 1980
Forrest Glenn Cook's Exxon, 1030 Cheshire, Houston, TX 77018—Apr. 15, 1980
Burley's Gulf Service, 14803 Memorial Dr., Houston, TX 77079—Apr. 25, 1980
L. Duff Gulf Service Center, 3503 Dowling, Houston, TX 77004—Apr. 23, 1980
A. G. Alvites, 201 Crawford Street, Houston, TX 77002—Apr. 27, 1980
J. C. Auto Care Centers, Inc., 3941 Fondren, Houston, TX 77057—Apr. 16, 1980
Houchen Gulf Service Center, 1903 McKinney, Houston, TX 77003—Apr. 29, 1980
Luis Molina's Mobil, 4444 West Fuqua, Houston, TX 77045—Apr. 11, 1980
Pete's Texaco, 3700 Gulfway Dr., Port Arthur, TX 77640—Apr. 23, 1980
Richard's Texaco Service, 1449 Gulfway Dr., Port Arthur, TX 77640—Apr. 24, 1980
Hernandez Texaco, 5001 Procter Street, Port Arthur, TX 77640—Apr. 23, 1980
Roger's Texaco, P.O. Box 191, Port Arthur, TX 77640—Apr. 23, 1980
Ed Benkert's Gulf Service, 3999 Gulfway Dr., Port Arthur, TX 77640—Apr. 23, 1980
Red Herring Exxon, 4200 W. Jefferson, Dallas, TX 75211—Feb. 21, 1980
I-I Shell Service Center, 6463 E. Northwest Hwy., Dallas, TX 75231—Apr. 16, 1980
Second Avenue Texaco 7505 Hawn Fwy., Dallas, TX 75215—Apr. 28, 1980
Ken Hall Exxon, 710 W. Pleasant Run, Lancaster, TX 75146—Apr. 28, 1980
King's Shell Service, 1601 Hwy 77S., Carrollton, TX 75006—Apr. 16, 1980
Slagle & Rowe Texaco, 1706 W. Randol Mill Rd., Arlington, TX 76012—Apr. 25, 1980
Fred's Texaco, 503 W. Main, Eastland, TX 76448—Apr 23, 1980
Ruben's Gulf, I-20 and Hwy. 6, Eastland, TX 76448—Apr. 23, 1980.
Seeton Exxon, Hwy 67 and Ninth, Midlothian, TX 76065—Apr. 21, 1980
Forbe's Mobil, P.O. Box 88, Venus, TX 76084—Apr. 21, 1980
Jackson Bros. Texaco, Chalk Mountain TX 76401—Apr. 21, 1980
Blanchard Texaco, 19th and Main, Gatesville, TX 76528—Apr. 21, 1980
Lopez Gulf Service, 900 Ave. D, Cisco, TX 76437—Apr. 23, 1980
Yardley ROBO Wash, Hwy 183 & 9th St., Cisco, TX 76437—Apr. 23, 1980
D&Y Gulf Service, 203 Hwy. 190, Killen, TX 76541—Apr. 22, 1980
East 80 Exxon, 601 East Front, Midland, TX 79701—Mar. 27, 1980
William Texaco, 1333 Plank Rd., Baton Rouge, LA 70805—Apr. 1, 1980
College Drive Gulf, 2929 College Drive, Baton Rouge, LA 70805—Apr. 3, 1980
Howell Park Exxon, 3333 North Foster Dr., Baton Rouge, LA 70805—Apr. 24, 1980
Raceland Car Service, Rt. 3, P.O. Box 405, Raceland, LA 70394—Apr. 25, 1980
Winnwood & Riverside Shell, 4403 Johnson, Lafayette, LA 70506—Apr. 7, 1980
Latour's Gulf, 4005 Moss Street, Lafayette, LA 70506—Apr. 16, 1980
Norman's Exxon, Rt. 1, Box 20, Raceland, LA 70394—Apr. 21, 1980
Keating's Texaco, P.O. Box 267, LaPlace, LA 70068—Apr. 18, 1980
V&M Motor Co., P.O. Box 356, Lutcher, LA 70071—Apr. 23, 1980
LaPlace 66, 100 W. Airline Hwy., LaPlace, LA 70068—Apr. 17, 1980
Champagne Shell, Box 545, Rt. 1, LaPlace, LA 70068—Apr. 24, 1980
Aker's Service Station, 700 E. Broadway, Drumright, OK 74030—Apr. 1, 1980
Sills Kerr McGee, 701 E. North Ave., Tonkawa, OK 74653—Apr. 11, 1980
Lepley's Gulf Service, 11316 E. 21st, Tulsa, OK 74129—Apr. 17, 1980
Canfield's 66 Service Station, 2901 N. Peoria, Tulsa, OK 74106—Apr. 17, 1980
Frank's DX, 21 Van Buren, Eureka Springs, AR 72632—Apr. 30, 1980
Paradise Hills Chevron, 9171 Coors Rd., Albuquerque, NM—Apr. 23, 1980
Exxon Service Center, 601 E. Hubbard, Mineral Wells, TX 76067—Apr. 23, 1980

Western District

Gabriel's Mobil, 210 N. Sierra Madre, Pasadena, CA 91107—Feb. 29, 1980
H & M Texaco, 2083 S. Harbor Blvd., Anaheim, CA 92802—Mar. 3, 1980
Sabeh Mobil Product Service, 9522 Chapman Ave., Garden Grove, CA 92641—Mar. 4, 1980
Mario Camara Chevron, 4201 W. Washington Blvd., Los Angeles, CA 90016—Mar. 5, 1980
Pacific Coast Shell, 1402 W. Pacific Coast Hwy., Wilmington, CA 90744—Mar. 5, 1980
Jose Vetasco Union, 5301 W. Olympic Blvd., Los Angeles, CA 90036—Mar. 6, 1980
Gabe H. Issa Union, 11203 Washington Place, Culver City, CA 90230—Mar. 6, 1980
Bill Fulton Chevron Service, 11197 Washington Place, Culver City, CA 90230—Mar. 6, 1980
Seyed Exxon Service, 9800 N. Archibald, Ontario, CA 91764—Mar. 6, 1980
Ed's Texaco Service, 6520 Wilshire Blvd., Los Angeles, CA 90048—Mar. 6, 1980
Larry's Shell Service, 7601 Topanga Cyn. Blvd., Canoga Park, CA 91304—Mar. 7, 1980
Burrough's Union Service, 7560 Topanga Cyn. Blvd., Canoga Park, CA 91304—Mar. 7, 1980
Dale's Union Service, 18524 Ventura Blvd., Tarzana, CA 91356—Mar. 7, 1980
Ellison's Arco, 18473 Ventura Blvd., Tarzana, CA 91356—Mar. 7, 1980
Greg's Union Service, 12909 Magnolia Blvd., Sherman Oaks, CA 91423—Mar. 10, 1980
White Oak Shell, 6748 White Oak Ave., Van Nuys, CA 91406—Mar. 10, 1980
Roscoe Woodley, Shell Service Ctr., 16207 Roscoe Blvd., Sepulveda, CA 91343—Mar. 12, 1980
Romulo Villaroman, 9972 Westminister Ave., Garden Grove, CA 92461—Mar. 14, 1980
Flinn's Shell Service, 15553 Roscoe Blvd., Van Nuys, CA 91406—Mar. 17, 1980
Chuck Hancock Chevron, 801 W. Hutington Drive, Arcadia, CA 91106—Mar. 19, 1980
Wayne's Chevron Service, 16210 Lassen Street, Sepulveda, CA 91343—Mar. 20, 1980
Kims Union 76 Station, Hawaiian Gardens, CA—Mar. 20, 1980
Walter's Union Service Center, 4005 West Third Street, Los Angeles, CA 90020—Mar. 21, 1980
Garo's Union, 301 South Fairfax Ave., Los Angeles, CA 90036—Mar. 21, 1980
Bedos Union, 7751 Beverly Blvd., Los Angeles, CA 90036—Mar. 21, 1980
H. G. Struever, 703 S. Vermont Ave., Los Angeles, CA 90005—Mar 21, 1980
Fred Jakari Union, 1000 S. Vermont Ave., Los Angeles, CA 90006—Mar. 21, 1980
Hamer Bros., 901 S. Hoover Street, Los Angeles, CA 90006—Mar. 21, 1980
George's Service Center, 2202 S. Vermont, Los Angeles, CA 90007—Mar. 21, 1980
Four Brothers, 22406 Ventura Blvd., Woodland Hills, CA 91346—Mar. 24, 1980
Josh's Exxon Service, 307 North La Brea, Los Angeles, CA 90036—Mar. 24, 1980
Peter Echevarria Union, 4006 Wilshire Blvd., Los Angeles, CA 90005—Mar. 24, 1980
Roberto Franco Mobil, 2918 Riverside Drive, Los Angeles, CA 90052—Mar. 24, 1980
Jose Loza Union, 5200 E. Olympic Blvd., Los Angeles, CA 90022—Mar 24, 1980
John's Union Service, 6760 Topanga Canyon Blvd., Canoga Park, 91303—Mar. 19, 1980
Greg's Foreign Auto, 2130 W. Beverly Blvd., Montebello, CA 90640—Mar. 24, 1980
Russ's Mobil, 2500 E. Lincoln, Anaheim, CA 92806—Mar. 25, 1980
Ira Newman Chevron, 2501 E. Lincoln, Anaheim, CA 92806—Mar. 25, 1980
Auedis Manoukian Union, 101 N. Atlantic Blvd., Monterey Park, CA 91754—Mar. 25, 1980
Gagosian Mobil Service, 897 N. Garfield Ave., Montebello, CA 90640—Mar. 25, 1980
Ray's Mobil, 6601 E. Olympic, Los Angeles, CA 90022—Mar. 25, 1980
Gary Webb and Son's Inc., 3020 W. Olive, Burbank, CA 91502—Mar. 26, 1980
Rhys Tilley's Service, 353 N. Pass Ave., Burbank, CA 91505—Mar. 26, 1980
Schaper's Union, 12501 Burbank Blvd., North Hollywood, CA 91607—Mar. 26, 1980
V & J Arco, 7990 Knott Ave., Buena Park, CA 90620—Mar. 26, 1980
Honolulu Exxon Service, 2817 Honolulu Ave., Verdugo City, CA 91046—Mar. 26, 1980
Fred's Union 76, 501 E. Glenoaks Blvd., Glendale, CA 91207—Mar. 26, 1980
George's Union 76, 900 N. Pacific Ave., Glendale, CA 91203—Mar. 26, 1980
H-V Mobil, 5850 W. 3rd Street, Los Angeles, CA 90036—Mar. 27, 1980
Ira Newman Chevron, 1440 N. State College Blvd., Anaheim, CA 92806—Mar. 27, 1980
Moses Exxon, 434 W. Alameda Ave., Burbank, CA 91506—Mar. 27, 1980
Roger's Service Center, 4411 W. Olive Avenue, Burbank, CA—Mar. 27, 1980
Joe's Service Center, 4801 Laurel Canyon Blvd., North Hollywood, CA—Mar. 27, 1980
Hadleys Union 76, 2384 Foothill Blvd., Montrose, CA 91020—Mar. 28, 1980
Phillip's Shell Service, 5800 Woodman Ave., Van Nuys, CA 91401—Mar. 28, 1980
McManus Chevron, 1814 E. First Street, Santa Ana, CA 92705—Mar. 28, 1980
Oliver's Chevron, 4071 Dam Rd., El Sobrante, CA 94803—Mar. 4, 1980
Pinole Valley Arco Car Wash, Inc., 2747 Pinole Valley Rd., Pinole, CA 94564—Mar. 5, 1980
Chris' Texaco, 5001 Cutting Blvd., Richmond, CA 90804—Mar. 10, 1980

Al's Exxon, 550 Randolph Street, San Francisco, CA 94132—Mar. 12, 1980
Roland's Texaco Service, 1701 Ocean Ave. San Francisco, CA 94112—Mar. 20, 1980
Son Dad Texaco, 1600 No. Texas Street, Fairfield, CA 94533—Mar. 20, 1980
Mountain View Shell, 1288 El Camino Real West, Mountain View, CA 94040—Mar. 27, 1980
Bill's Eastgate Union, 15220 S.E. 36th Place., Bellevue, WA 98006—Mar. 20, 1980
Southcenter 76, 115 Andover Park West, Tukwila, WA 98118—Mar. 20, 1980
Six Corner Chevron, 21090 S.W. Pacific Highway, Sherwood, OR 97140—Mar. 21, 1980
Gene's Auto Svc. Ctr., 1700 W. Glenoaks Blvd., Glendale, CA 91201—Mar. 28, 1980
Abe's Freeway Service, 3240 Cahuenga Blvd Los Angeles, CA 90028—Mar. 28, 1980
Dale Hollick's Arco, 1129 Union Avenue, Bakersfield, CA 93307—Mar. 31, 1980
Hal's Automotive, 520 N. Ventura, Oak View CA 93022—Apr. 1, 1980
Joe's Mobil, 13172 Garden Grove Blvd., Garden Grove CA 92643—Apr. 1, 1980
Mike's Arco, 3704 Cahuenga Blvd., North Hollywood, CA 91604—Apr. 2, 1980
Said El Horr, 530 N. Brookhurst, Anaheim, CA 92801—Apr. 2, 1980
Jerry's Chevron Ser., 3780 Cahuenga Blvd., North Hollywood, CA 91607—Apr. 3, 1980
Albert Grasso, Standard Service, 910 Tustin Ave., Orange, CA 92801—Apr. 3, 1980
Ron's Arco Service, 16751 Yorba Linda Blvd., Yorba Linda CA 92686—Apr. 3, 1980
Yorba Linda Service Center, 17591 Yorba Linda Blvd., Yorba Linda CA 92688—Apr 3, 1980
Frank's Mobil, 1101 N. Euclid, Anaheim, CA 92801—Apr. 4, 1980
Roscoe Shell Service, 12858 Roscoe Blvd. Sun Valley, CA 91352—Apr. 8, 1980
Crown Valley Shell, 30011 Crown Valley Pkwy., Laguna Niguel, CA 92677—Apr. 8, 1980
Fred Jafari Union, 2215 S. Vermont, Los Angeles, CA 90007—Apr. 9, 1980
Abram's Service Center,4715 Van Nuys Blvd., Sherman Oaks, CA 91403—Apr. 9, 1980
Jack's Texaco Service, 17966 Brookhurst Street, Fountain Valley CA 92708—Apr. 9, 1980
S & S Exxon, 504 De La Estrella, San Clemente, CA 92672—Apr. 10, 1980
Howard's Shell Service, 439 N. El Camino Real, San Clemente, CA 92672—Apr. 10, 1980
Roxy Musser Chevron, 1901 N. Allen Ave., Altadena, CA 91001—Apr. 10, 1980
Frank Domoslai and Sons, 1126 S. Grand Avenue, Santa Ana, CA 92705—Apr. 11 1980
Harry's Arco 14881 Sand Canyon Avenue, P.O. Box 31, East Irvine, CA 92650—Apr 11, 1980
Pasadena Shell, 200 N. Fair Oaks, Pasadena CA 91103—Apr. 11, 1980
Penn's Service, 226 N. Fair Oaks, Pasadena CA 91103—Apr. 11, 1980
Mark Service, 290 S. Arroyo Pkwy., Pasadena, CA 91105—Apr. 14, 1980
Deane's Chevron Service, 460 Fair Oaks Ave South Pasadena, CA 91030—Apr. 14, 1980
Tom Wong's Union 76, 5744 San Fernando Rd., Glendale, CA 91202—Apr. 14, 1980
Partanna's Texaco, 28681 Marguerite Pkwy., Mission Viejo, CA 92692—Apr. 15, 1980
Jacquline Luteraan, 5170 Sepulveda Blvd., Sherman Oaks, CA 91403—Apr. 15, 1980
Santelli Union 76, 13650 Vanowen Street, Van Nuys, CA 91405—Apr. 15, 1980
Leisure World Mobil, 24632 El Toro Rd., Laguna Hills, CA 92653—Apr. 16, 1980
Irving Edward's 76., 1127 S. Baldwin Ave., Arcadia, CA 91006—Apr. 17, 1980
Claudes Texaco, 1304 S. Baldwin Ave., Arcadia, CA 91006—Apr. 17, 1980
Gorden Moon Chevron Service, 1729 S. El Camino Real, San Clemente, CA 92672—Apr. 17, 1980
Karl Lauer Chevron, 5602 E. Los Angeles Ave., Simi Valley, CA 92672—Apr. 17, 1980
Mike Cook Chevron, 599 W. Olympic, Los Angeles, CA 90015—Apr. 17, 1980
Mundy Chevron Service, 3070 Rubidoux, Rubidoux CA 92509—Apr. 17, 1980
Jerry Benson Shell, 19309 Sherman Way, Reseda, CA 91335—Apr. 18, 1980
Harry's Mikaelian Brothers, 12450 Burbank Blvd., North Hollywood, CA 91607—Apr. 18, 1980
Dana Point Chevron, 34164 Coast Hwy. Dana Point, CA 92629—Apr. 21, 1980
Mike J. Siminuk, 31696 Pacific Coast Hwy. South Laguna, CA 92677—Apr. 21, 1980
Fred's Chevron Service, 3546 Baldwin Ave., El Monte, CA 91731—Apr. 21, 1980
Cooks Mobil, 4550 Baldwin, El Monte, CA 91731—Apr. 21, 1980
Mel's Texaco, 8520 Warner, Fountain Valley, CA 92708—Apr. 21, 1980
Laguna Chevron Service, 604 South Coast Highway, Laguna Beach, CA 92651—Apr. 21, 1980
Bob's Exxon, 12493 Beach Blvd., Garden Grove, CA 92641—Apr. 23, 1980
Bill Livermore Chevron Service, 854 E. Huntington Drive, Monrovia, CA 91016—Apr. 23, 1980
Al Rauber Chevron Service, 2442 S. Peck Rd. Whittier, CA 90601—Apr. 24, 1980
Bewley's Auto Service, 6001 S. Rosemead Blvd., Pico Rivera, CA 90660—Apr. 25, 1980
John's Chevron, 1201 So. Anaheim, Anaheim, CA 92804—Apr. 25 1980
Bermudez & Sons Texaco, 1001 N. State College, Anaheim, CA 92806—Apr. 25 1980
Lang's Foreign Car Repair, 1819 Cliff Drive, Santa Barbara, CA—Apr. 21, 1980
La Cumbre Chevron Service, 115 So. La Cumbre Rd., Santa Barbara, CA 93105—Apr. 21, 1980
Rateau's Santa Barbara Mobil, 314 Santa Barbara Street, Santa Barbara, CA 93101—Apr. 21, 1980
Charles A. Respecke Union, 3052 De La Vina Santa Barbara CA 93105—Apr. 22, 1980
Wolfgang's Texaco, 2036 Cliff Drive, Santa Barbara CA 93105—Apr. 22, 1980
Fairview Shell, 55 No. Fairview, Goleta, CA 93017—Apr. 22, 1980
Pressly Shell, 7020 Calle Real, Goleta, CA 93013—Apr. 22, 1980
Winchester Union, 20 Winchester Canyon Rd., Goleta, CA 93017—Apr. 23, 1980
Turnpike Shell, 175 No. Turnpike, Santa Barbara CA 93111—Apr. 23, 1980
Turnpike Mobil, 4791 Calle Real, Santa Barbara CA 93111—Apr. 23, 1980
Ray's Mobil Service, 311 Castillo Street, Santa Barbara CA 93101—Apr. 23, 1980
Fairview Union '76, 42 North Fairview, Coleta, CA 93107—Apr. 24, 1980
Tom Butera Texaco, 150 So. La Cumbre, Santa Barbara CA —Apr. 24, 1980
Buellton Chevron, Hwy. 101 and Hwy. 246, Buellton, CA 93424—Apr. 24, 1980
Cecil's Chevron, 970 Merchant Street, Vacaville, CA 95688—Apr. 3, 1980
Mario's Service, 699 Columbus Street, San Francisco, CA 94133—Apr. 11, 1980
Lafayette Chevron East, 3363 Mt. Diablo Blvd., Lafayette, CA 94549—Apr. 18, 1980
Stevenson Texaco, U.S. Hwy. 14 and 2nd Avenue, Stevenson, WA 98648—Apr. 22, 1980
Dave's V 76, 1600 S.W. 312th St., Federal Way, WA 98003—Apr. 22, 1980
University Village Chevron, 4530 25th Ave. N.E., Seattle, WA 98105—Apr. 28, 1980
Truck Town, P.O. Box 363, North Bend, WA 98045—Apr. 29, 1980
Summit Chevron, P.O. Box 104, Snoqualmie Pass, WA 98068—Apr. 30, 1980
Hal's Chevron, 4221 Wheaton, Bremerton, WA 98310—Apr. 23, 1980
Broadway Cab Co., First & Everett N.W., Portland, OR 97225—Apr. 22, 1980
Lake Grove Shell, 16000 Lower Boones Ferry Rd., Lake Grove, OR 97034—Apr. 22, 1980

Northeast District

Westons Texaco, 63 W. Old Country Rd., Hicksville, NY 11801—Mar. 3, 1980
Gee Gee Garage, 2906 Broadway, New York, NY 10027—Mar. 3, 1980
Krokus Service, 980 E. 233 Street, Bronx, NY 10466—Mar. 3, 1980
PH High-Point Cor., 60-11 Queens Blvd., Woodside, NY 11377—Feb. 22, 1980
Success Service Station, Powerhouse Road and Lakeville Road, Lake Success, NY 11040—Feb. 20, 1980
Stone Ridge Garage, Route 209, Stone Ridge, NY 12484—Feb. 14, 1980
Lake Sunoco Service, 3910 Lake Avenue, Rochester, NY 14612—Mar. 7, 1980
Jack McGee & Sons Auto, 2550 East Main Street, Bridgeport, CO—Mar. 7, 1980
Art's Getty Service, 119 Chandler Street, Worcester, MA—Mar. 5, 1980
Peter's Exxon, 1985 Bruckner Blvd., Bronx, NY 10472—Mar. 7, 1980
John "A" Alignment Serv., Upper Court Street, Binghampton, NY 13904—Mar. 10, 1980
Wheeler's Collision Serv., Route 10, Deposit, NY 13754—Mar. 10, 1980
Baisley Service Station, 152-01 Rockaway Blvd., Jamaica, NY 11434—Mar. 10, 1980
Yough Lake Marina, Inc., American Marina Dev., Corp., ARCO, R.D. #1, 156A, Addison, PA 15411—Mar. 10, 1980
Maryland Exxon, 170 Main Street, Maryland, Mass.—Mar 11, 1980.
Lund's Service, 431 So. Main Street, Andover, MA—Mar. 3, 1980
North Street Shell, 111 North Street, Salem, MA—Mar. 12, 1980
Bob Bowies Sunoco, 434-450 McGrath Hwy., Somerville, MA—Mar. 13, 1980
Forte's Sunoco, 251 Lee Burbank Hwy., Revere, MA—Mar. 11, 1980
Pitts Stop Shell, 1 Whalley Avenue, New Haven, CT—Mar. 20, 1980
Aquilla Motors, Inc., 6 Fountain Street, New Haven, CT—Mar. 19, 1980

Allen Tire & Battery, 296 Allen Street, New

F. L. Roberts & Co., Inc.; Action Taken

willing to enter into this Consent Order

Allen Tire & Battery, 296 Allen Street, New Britain, CT—Mar. 21, 1980
Exit 8 Mobil, 90 Riverside Street, Portland, ME—Mar. 21, 1980
Tex Getty, 7 Main Street, Topsham, ME—Mar. 20, 1980
D & O Mobil, 2500 Mass. Ave., Cambridge, MA—Mar. 20, 1980
Alewife Mobil, 2615 Mass. Avenue, Cambridge, MA—Mar. 21, 1980
Randy's Texaco Service Station, 312 W. Boylston Street, West Boylston, MA—Mar. 21, 1980
Natale's Foreign Car & Tire Co., Rt. 1 & LA Newport Ave., So. Attleboro, MA—Mar. 19, 1980
Rickey's Getty, Rt. 2 and 2A, Concord, MA—Mar. 16, 1980
Derry Mobil, Rt. 102, Londonderry, NH—Mar. 21, 1980
Bridge Street Gulf, 90 Bridge Street, Manchester, NH—Mar. 21, 1980
City Line Exxon, 1173 Social Street, Woonsocket, RI—Mar. 20, 1980
Central Service Center, 1900 Bellmore Avenue, Bellmore, NY 11710—Feb. 19, 1980
Personal Auto Center, 2660 jerusalem Avenue, North Bellmore, NY 11710—Mar. 17, 1980
S & R Service Center, 117-20 101 Avenue, Richmond Hill, NY 11419—Mar. 17, 1980
Nanuet Exxon, 286 West Route 59, Nanuet, NY 10954—Mar. 18, 1980
Dan's Allenwood Service, 208 Middle Neck Road, Great Neck, NY 11021—Mar. 10, 1980
Orangeburg Exxon, Route 303 & Palisades, Orangeburg, NY 10962—Feb. 25, 1980
Exit 19 Sunoco, Washington Avenue, Kingston, NY 12401—Mar. 19, 1980
A & A Exxon, 2918 Jersualem Avenue, Wantagh, NY 11793—Mar. 7, 1980
Carl's Hillcrest Exxon, 276 North Main Street, Spring Valley, NY 10977—Mar. 20, 1980
J & J Service Station, 1760 Park Avenue, New York, NY 10035—Mar. 24, 1980
Ghovan's Chevron, 586 Middle Neck Road, Great Neck, NY 11023—Mar. 28, 1980
Center Garage, 1145 Post Road, Darien, CO 06820—Mar. 26, 1980
Chichester Exxon, RFD 10, Concord, NH—Mar. 24, 1980
Barton's Texaco, 52 Cabot Street, Beverly, MA—Mar. 28, 1980
Paul's Mobil, 61 Cabot Street, Beverly, MA—Mar. 25, 1980
Gentile's Exxon, 205 Shrewsbury Street, Worcester, MA—Mar. 27, 1980
George's Texaco, 16 Main Street, Stoneham, MA—Mar. 20, 1980
Miller's Exxon, 602 Main Street, Wakefield, MA—Mar. 28, 1980
Crossroad's Chevron, Route 110, Westford, MA—Mar. 25, 1980
Minots Corner Mobile, Littleton and Boston Rds., Westford, MA—Mar. 24, 1980
Kimy's Exxon, 146 North Main Street, Spring Valley, NY 10977—Mar. 31, 1980
Linden Friendly Service Station, 208-15 Linden Blvd., St. Albans, NY 11411—Mar. 31, 1980
Berdar Auto Service, 114 Saratoga Street, Cohoes, NY 12047—Mar. 20, 1980
H & S Gulf, JFK International Airport, Site #2, Jamaica, NY—Jan. 10, 1980

[FR Doc. 80-16222 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-01-M

F. L. Roberts & Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of a Consent Order.

EFFECTIVE DATE: April 8, 1980.

FOR FURTHER INFORMATION CONTACT: James J. Dowd, Audit Director, Office of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114.

SUPPLEMENTARY INFORMATION: On April 8, 1980, the Office of Enforcement of the ERA executed a Consent Order with F. L. Roberts & Co., Inc. (Roberts) of Springfield, Massachusetts. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Roberts, with its home office located in Springfield, Massachusetts, is a firm engaged in the sale and allocation of Motor Gasoline and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Roberts, the Office of Enforcement, ERA and Roberts entered into a Consent Order, the significant terms of which are as follows:

1. Roberts was a supplier of motor gasoline as defined in 10 CFR 211.51 during the period March 1, 1979 to October 31, 1979 and its sales of motor gasoline are subject to the Mandatory Petroleum Allocation Regulations at 10 CFR 211.

2. Roberts sold motor gasoline during the period March 1, 1979 to October 31, 1979 both through retail gasoline stations operated by Roberts and non-affiliated wholesale purchaser-resellers.

3. DOE alleges that Roberts, during the months of March 1979 to October 1979, supplied its company-affiliated retail outlets with 1,629,810 gallons in excess of the volumes that should have been supplied in accordance with 10 CFR Part 211 and that it offered to its non-affiliated wholesale customers 1,629,810 gallons below the volume that should have been supplied.

4. Roberts, without admitting that it has violated any DOE regulation, is willing to enter into this Consent Order as a means of settling all of its outstanding disputes with DOE concerning the subject matter of this Consent Order, and thus avoiding further disruption of its orderly business functions and the expense of protracted, complex litigation.

II. Disposition of Matters Covered by This Consent Order

In consideration of DOE and F. L. Roberts entering into this agreement, Roberts agrees to do the following:

1. For each month during the four-month period commencing with March 1980, Roberts shall compute its allocation fraction on a uniform basis for company-affiliated and non-affiliated customers and then reduce the amount allocated to its company-affiliated retail outlets by 407,452 gallons per month for the first two months and 407,453 gallons per month for the second two months.

2. Each non-affiliated customer listed on Schedule A (attached) shall be offered the amounts set forth on the Schedule in addition to its normal allocation. Such offer shall be in the form of a written notice, which notice has been approved by the DOE. Each customer shall be allowed to schedule delivery of the additional product during a five-month period commencing with March 1980, but Roberts may limit each monthly delivery to twenty-five percent (25%) of the total offered to the extent that the aggregate amount requested by all customers in any month exceeds 407,453 gallons.

3. If at the end of the five-month period any product remains unpurchased that product shall be added to Roberts' allocable supply for the following month.

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspect of this Consent Order.

You should send your comments to James J. Dowd, Audit Director, Office of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114. You may obtain a free copy of this Consent Order by writing to the same address or by calling 617-223-3740.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on F. L. Roberts' Consent Order". We will consider all documents we receive by 4:30 p.m., local time on (30 days from publication). You should identify any information or data, which in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Philadelphia, PA, on the 29th day of April 1980.

Edward F. Momorella,
District Manager of Enforcement, Northeast District.

[FR Doc. 80-16218 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-01-M

Union Texas Petroleum Corp.; Final Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of final action taken on a consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy announces final action of a Consent Order.

EFFECTIVE DATE: May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

SUPPLEMENTAL INFORMATION: On March 6, 1980, the ERA of the DOE executed a proposed Consent Order with Union Texas Petroleum Corporation of Houston, Texas. Under 10 CFR 205.199I(c), a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order. At the conclusion of the thirty-day comment period, the ERA had received certain notices of claims against the refund amount of the Consent Order which have been forwarded to the Director, Resource Management Branch, Office of Enforcement, U.S. Department of Energy, attention: Special Refund Coordinator, 2000 M Street NW., (Room 5128), Washington, D.C. 20461. There were no objections received to the Consent Order. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and Union Texas Petroleum Corporation is an appropriate resolution of the compliance proceeding which it described and it shall become final and effective as proposed, without modification, upon publication of this Notice. Procedures and requirements for documenting proof of claim are being developed. Refunded overcharges received, if any, will remain in a suitable government escrow account pending the determination of their proper disposition.

Issued in Dallas, Texas on the 15th day of May, 1980.

Wayne I. Tucker,
District Manager, Southwest District Enforcement.

[FR Doc. 80-16219 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-01-M

Vaughn Petroleum, Inc.; Final Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of final action taken on a consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy announces final action of a Consent Order.

EFFECTIVE DATE: April 24, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

SUPPLEMENTARY INFORMATION: On February 21, 1980, the ERA of the DOE executed a proposed Consent Order with Vaughn Petroleum, Inc. of Dallas, Texas. Under 10 CFR 205.199I(c), a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order. At the conclusion of the thirty-day comment period, the ERA had received certain notices of claims against the refund amount of the Consent Order which have been forwarded to the Director, Resource Management Branch, Office of Enforcement, U.S. Department of Energy, attention: Special Refund Coordinator, 2000 M Street NW., (Room 5128), Washington, D.C. 20461. There were no objections received to the Consent Order. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and Vaughn Petroleum, is an appropriate resolution of the compliance proceeding which it described and it shall become final and effective as proposed, without modification, upon publication of this Notice. Procedures and requirements for documenting proof of claim are being developed. Refunded overcharges received, if any, will remain in a suitable government escrow account pending the determination of their proper disposition.

Issued in Dallas, Texas on the 15th day of May 1980.

Wayne I. Tucker,
District Manager, Southwest District Enforcement.

[FR Doc. 80-16221 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-351]

National Fuel Gas Supply Corp., National Gas Storage Corp.; Application

May 22, 1980.

Take notice that on May 2, 1980, National Fuel Gas Supply Corporation (Supply Corporation), 308 Seneca Street, Oil City, Pennsylvania 16301, and National Gas Storage Corporation (Storage Corporation), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP80-351 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange, up until October 31, 1984, up to 1;800,000 Mcf of natural gas or until completion of the exchange of said volume, whichever may first occur, all as more fully set forth in the applicaton which is on file with the Commission and open to public inspection.

Applicants propose to exchange up to 1,800,000 Mcf of natural gas for the purpose, it is stated, of permitting Supply Corporaton to retain the base gas at the East Independence Storage Pool in Allegany County, New York, when the balance of that facility is transferred to Storage Corporation, pursuant to Opinion No. 42 issued June 21, 1979, in Docket No. CP76-492, *et al.*

Storage Corporation states that it would cause equivalent volumes to be delivered to Supply Corporation, which volumes would be purchased by Storage Corporation from three of its proposed storage customers wich would cause such volumes to be delivered to Supply Corporation on behalf of Storage Corporation.

The exchange would, it is stated, occur simultaneously with deliveries by the customers during the 1980 and 1981 summer injection seasons as follows (all volumes in Mcf):

Customer	1980	1981	Total
Delmarva Power & Light Company (Delmarva)	207,000	33,959	240,959
Penn Fuel Gas, Inc. (Penn Fuel)	235,000	38,327	273,327
UGI Corporation (UGI)	1,107,000	178,714	1,285,000
Total	1,549,000	251,000	1,800,000

It is stated that (1) UGI would cause Columbia Gas Tranmission Corporation (Columbia) to make gas available for sale to Storage Corporation; (2) Penn Fuel would cause Columbia and/or Transcontinental Gas Pipe Line Corporation (Transco) to make gas available for sale to Storage Corporation; and (3) Delmarva would, during the summer of 1981, cause Transco to make gas available for sale to Storage Corporation.

Applicant state that the periods of delivery may be varied and thus authorization is requested for the proposed exchange to continue until October 31, 1984, or until completion of the exchange of 1,800,000 Mcf of natural gas, whichever occurs first. Applicants state further that there would be no charge for the exchange and no additional construction of facilities required.

Applicants state that the authorization sought herein would permit Supply Corporation to retain the East Independence base gas in compliance with Opinion No. 42 while avoiding the time consuming and fuel wasting process of withdrawing said gas and injecting it elsewhere.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordances with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16323 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RA 79-33]

Robert E. Brain and Cooper and Brain, Inc.; Termination of Proceeding

Issued: May 22, 1980.

Robert E. Brain and Brain and Cooper, Inc. (B&C), the petitioners in this proceeding, filed a notice of withdrawal of their petition for review of a denial of adjustment relief by the Secretary of Energy.

The motion was deemed a notice of withdrawal under § 1.11(d) of the Commission's Rules of Practice and Procedure.[1] Since no hearing had been held or convened in this proceeding, withdrawal of the petition for review became effective 30 days after B&C's motion was filed. Such withdrawal terminated the proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16333 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-407]

The Connecticut Light and Power Co.; Notice of Filing

May 22, 1980.

The filing Company submits the following:

Take notice that on May 19, 1980, The Connecticut Light and Power Company (CP&L) tendered for filing a proposed Fifth Amendment to Purchase Agreement with Respect to Various Gas Turbine Units (II) (Amendment) dated June 1, 1979 respectively between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and (2) Vermont Electric Cooperative, Inc. (VEC).

CL&P states that the Fifth Amendment provides for a change in the Percentages of Capability to be purchased by VEC for the period from March 1, 1980 (the Fifth Capability Period) and extends the term of the Fifth Capability Period.

CLP requests that the Commission waive the sixty-day notice period and permit the rate schedule filed to become effective March 1, 1980.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P also states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and VEC, Johnson, Vermont.

CL&P also states that no facilities are to be installed or modified in order to supply the service to be furnished under the Fifth Amendment.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16335 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-406]

The Connecticut Light & Power Co., et al.; Filing of Amended Rate Schedule

May 22, 1980.

The filing Company submits the following:

Take notice that on May 19, 1980, The Connecticut Light and Power Company (CL&P) tendered for filing as a revised rate schedule an Agreement Amending and Revising Connecticut Yankee Transmission Agreement (the "Amendment") between CL&P, The Hartford Electric Light Company, Western Massachusetts Electric Company, The United Illuminating Company, New England Power Company, Boston Edison Company, Central Maine Power Company, Public Service Company of New Hampshire, Montaup Electric Company, Cambridge Electric Light Company, New Bedford Gas and Edison Light Company, Central Vermont Public Service Corporation and Vermont Electric Power Company, Inc. The Amendment, dated as of July 1, 1979, provides for transmission service associated with the delivery of power from the Connecticut Yankee Atomic Power Company to all of the parties except New Bedford Gas and Edison Light Company and Vermont Electric Power Company, Inc., who have no power entitlements in the Connecticut Yankee Atomic Power Company's nuclear generating plant at Haddam, Connecticut, but supply transmission service to others under the Amendment.

The Amendment provides for revision of various appendices to reflect changes in the responsibilities of the parties in regard to transmission of power from the Connecticut Yankee Power Company's generating plant and an updating of the rating of the plant. The Amendment results in a redistribution of the transmission fund created under the Connecticut Yankee Transmission Agreement dated as of October 1, 1964 (the "Agreement") to reflect the present transmission responsibilities, as determined by recent studies made by the New England Power Pool (NEPOOL). The amount of payments made to the transmission fund by all the parties are not affected by the Amendment, except as they are increased by the present rating of the generating plant. The Amendment also provides for reimbursement to those parties providing transmission service and receiving net payments from the transmission fund who made payment of a state gross earnings tax with respect to annual net payments received under the Agreement.

CL&P states that delays in the formulation of the details of the Amendment and in securing its execution by the 13 electric utility parties prevented filing until this time. CL&P requests that the Commission, pursuant to § 35.11 of its Regulations, waive the customary notice period and permit the Amendment to take effect as of July 1, 1979.

Each of the other parties to the Amendment has submitted a certificate of concurrence.

The Amendment has been executed by all of the parties thereto, and CL&P states that copies have been mailed or delivered to each of them.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest before the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1980. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16338 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-85-M

[No. 207]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued May 22, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Colorado Oil and Gas Conservation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Bloc No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-32812/80-87
2. 05-001-07452-0000
3. 103 000 000
4. Byron Oil Industries Inc
5. Byron-Degenhart Unit #2
6. Spindle Field Sussex Pool
7. Adams CO
8. 4.0 million cubic feet
9. May 9, 1980
10. Northern Natural Gas

1. 80-32813/80-108
2. 05-123-07932-0000
3. 108 000 000
4. Nielson Enterprises Inc
5. Kerbs #1
6. Wattenberg
7. Weld CO
8. 20.0 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-32814/80-127
2. 05-123-08446-0000
3. 108 000 000
4. Energy Minerals Corp
5. State #1-7
6. Waite Lake
7. Weld CO
8. 19.0 million cubic feet
9. May 9, 1980
10. Crystal Gas Resources

1. 80-32815/80-83
2. 05-087-07454-0000
3. 108 000 000
4. Crystal Oil Co
5. Holbeck #33-9
6. Mosley
7. Morgan CO
8. 20.0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas

1. 80-32816/79-82
2. 05-065-00000-0000
3. 108 000 000
4. Lynco Oil Corp
5. La Posta #2
6. Ignacio Blanco PC
7. La Plata CO
8. 20.0 million cubic feet
9. May 9, 1980
10. Northwest Pipeline Co

1. 80-32817/79-82-B
2. 05-067-06135-0000
3. 108 000 000
4. Lynco Oil Corp
5. La Posta Canyon #2
6. Ignacio Blanco
7. La Plata CO
8. .0 million cubic feet
9. May 9, 1980
10. Northwest Pipeline Corp

1. 80-32818/80-106
2. 05-123-09027-0000
3. 108 000 000
4. Martin Oil Service Inc
5. Teets-Perrin #3
6. Spindle
7. Weld CO
8. .0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas Co

1. 80-32819/80-72
2. 05-013-06017-0000
3. 103 000 000
4. Martin Exploration Mgmt Corp
5. Throndson #1
6. Wildcat
7. Boulder CO
8. .0 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipeline Co

1. 80-32820/80-73
2. 05-123-09543-0000
3. 103 000 000
4. Martin Exploration Mgmt Corp
5. Buffalo Gardens #1-S
6. Spindle
7. Weld CO
8. .0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas Co

1. 80-32821/80-82
2. 05-123-09415-0000
3. 108 000 000
4. Crystal Oil Co
5. Crystal State #57-12
6. Waite Lake
7. Weld CO
8. 8.0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas

[1] That section is applicable to this proceeding pursuant to § 1.40(a)(2)(vi) of the Commission's Interim Regulations governing review of adjustment request denials.

V 45 M Y 29 80 0 UMI

1. 80–32822/80–107
2. 05–087–07466–0000
3. 103 000 000
4. Crystal Oil Co
5. Printz 11–2
6. Orion
7. Morgan CO
8. 28.8 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas Co
1. 80–32823/80–89
2. 05–001–07451–0000
3. 103 000 000
4. Byron Oil Industries Inc
5. Byron-Mark McElwain #8
6. Spindle Field Wattenberg Pool
7. Adams CO
8. 5.0 million cubic feet
9. May 9, 1980
10. Northern Natural Gas Co
1. 80–32824/80–80
2. 05–123–09878–0000
3. 102 000 000
4. Energy Minerals Corp
5. Judy #1
6. Waite Lake
7. Weld CO
8. 294.0 million cubic feet
9. May 9, 1980
10. Crystal Gas Resources
1. 80–32825/80–88
2. 05–001–07486–0000
3. 103 000 000
4. Byron Oil Industries Inc
5. Byron-E Zarlengo #3
6. Spindle Field Wattenberg Pool
7. Adams CO
8. 14.2 million cubic feet
9. May 9, 1980
10. Northern Natural Gas Co
1. 80–32826
2. 05–123–09517–0000
3. 103 000 000
4. Beaver Mesa Exploration Co
5. Klein #24–8
6. Lost Creek 8–2N–62W
7. Weld CO
8. 50.0 million cubic feet
9. May 9, 1980
10. Crystal Gas Resources Inc
1. 80–32827/79–502
2. 05–123–09646–0000
3. 103 000 000
4. Beaver Mesa Exploration Co
5. Klein #21–8
6. Lost Creek 8–2N–62W
7. Weld CO
8. 50.0 million cubic feet
9. May 9, 1980
10. Crystal Gas Resources
1. 80–32828/80–120
2. 05–077–08089–0000
3. 108 000 000
4. Bow Valley Petroleum
5. Wallace Currier 19–3
6. Plateau Creek
7. Mesa CO
8. 14.0 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas Co Inc
1. 80–32829/80–105
2. 05–063–06071–0000
3. 102 000 000
4. Marshall R Young Oil Co
5. Marshall R Young #1 Ziegler
6. Wildcat
7. Kit Carson County CO
8. 18.0 million cubic feet
9. May 9, 1980
10. Peoples Nat Gas Natural Gas P L Co of Amer
1. 80–32830/80–114
2. 05–123–07212–0000
3. 108 000 000
4. Amoco Production Co
5. UPRR 22 Pan American A #1
6. Wattenberg
7. Weld CO
8. 16.8 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32831/80–81
2. 05–125–06267–0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co
5. Tustin 1–29
6. Republican
7. Yuma CO
8. 209.0 million cubic feet
9. May 9, 1980
10.
1. 80–32832/80–117
2. 05–125–06371–0000
3. 103 000 000
4. Kansas Nebraska Natural Gas Co Inc
5. Jesse #1–33
6. Republican
7. Yuma CO
8. 226.0 million cubic feet
9. May 9, 1980
10.
1. 80–32833/80–86
2. 05–123–08263–0000
3. 108 000 000
4. Crystal Oil Co
5. Sargent Farms #2–B
6. Roggen
7. Weld CO
8. 5.0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas
1. 80–32834/80–116
2. 05–009–06245–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Schartz #1
6. Walsh
7. Baca CO
8. 150.0 million cubic feet
9. May 9, 1980
10. The Nueces Co
1. 80–32835/80–75
2. 05–001–07417–0000
3. 102 000 000
4. Mesa Petroleum Co
5. Kiowa Frick 1–12
6. Wildcat
7. Adams CO
8. 180.0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas Co
1. 80–32836/80–102
2. 05–123–09738–0000
3. 103 000 000
4. Amoco Production Co
5. Glenda L Schmidt Unit #1
6. Hambert
7. Weld CO
8. 86.0 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32837/80–101
2. 05–123–09746–0000
3. 103 000 000
4. Amoco Production Co
5. UPRR 38 Pan Am L Well No. 1
6. Wattenberg
7. Weld CO
8. 183.0 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32838/80–100
2. 05–123–09769–0000
3. 103 000 000
4. Amoco Production Co
5. Delbert W Shable Unit Well No. 1
6. Hambert
7. Weld CO
8. 25.0 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32839/79–504
2. 05–009–05336–0000
3. 108 000 000
4. Texaco Inc
5. Texaco Anderson State No C–1
6. Greenwood
7. Baca CO
8. 19.0 million cubic feet
9. May 9, 1980
10. Colorado Interstate Gas Co
1. 80–32840/79–849
2. 05–123–08482–0000
3. 108 000 000
4. Amoco Production Co
5. C E Wingo No. 1
6. Spindle
7. Weld CO
8. 13.4 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32841/80–50
2. 05–123–07920–0000
3. 108 000 000
4. Amoco Production Co
5. St Vrain Land Co Unit A No. 1
6. Wattenberg
7. Weld CO
8. 21.1 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32842/79–816
2. 05–123–07050–0000
3. 108 000 000
4. Energy Minerals Corp
5. Ray No. 1
6. Roggen
7. Weld CO
8. 20.0 million cubic feet
9. May 9, 1980
10. Phillips Petroleum Co
1. 80–32843/80–118
2. 05–061–06156–0000
3. 108 000 000
4. Texas Oil Gas Corp
5. Negley No. 1
6. McClave
7. Kiowa CO
8. 20.0 million cubic feet
9. May 9, 1980
10. The Nueces Co
1. 80–32844/80–122
2. 05–077–08110–0000
3. 108 000 000

4. Bow Valley Petroleum
5. Big Creek 9–1
6. Plateau Creek
7. Mesa CO
8. 11.0 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas Co Inc
1. 80–32845/80–121
2. 05–077–08087–0000
3. 108 000 000
4. Bow Valley Petroleum
5. Wallace Currier 19–1
6. Plateau Creek
7. Mesa CO
8. 20.0 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas Co Inc
1. 80–32846/80–123
2. 05–077–08098–0000
3. 108 000 000
4. Bow Valley Petroleum
5. Milholland 25–1
6. Plateau Creek
7. Mesa CO
8. 3.9 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas Co Inc
1. 80–32847/80–78
2. 05–081–06194–0000
3. 108 000 000
4. The Kemmerer Coal Co
5. State 16–2
6. Big Hole
7. Moffat CO
8. 14.0 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas
1. 80–32848/80–77
2. 05–081–06197–0000
3. 108 000 000
4. The Kemmerer Coal Co
5. Monahan 21–1
6. Big Hole
7. Moffat CO
8. 10.9 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas
1. 80–32849/80–76
2. 05–081–06155–0000
3. 108 000 000
4. The Kemmerer Coal Co
5. Federal Land Bank 15–2
6. Big Hole
7. Moffat CO
8. 10.0 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas
1. 80–32850/80–124
2. 05–077–08094–0000
3. 108 000 000
4. Bow Valley Petroleum
5. Currier 30–2
6. Plateau Creek
7. Mesa CO
8. 13.4 million cubic feet
9. May 9, 1980
10. Rocky Mountain Natural Gas Co Inc
1. 80–32851/80–74
2. 05–123–09820–0000
3. 103 000 000
4. Macey & Mershon Oil Inc
5. Ursula No. 1
6. Spindle
7. Weld County CO
8. 65.0 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32852/80–109
2. 05–123–08162–0000
3. 108 000 000
4. Amoco Production Co
5. UPRR 22 Pan Am K G U No. 1 (2nd filing)
6. Wattenberg
7. Weld CO
8. 17.2 million cubic feet
9. May 9, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–32853/80–126
2. 05–123–09327–0000
3. 103 000 000
4. Amoco Production Co
5. State of Colorado AG Well No. 1
6. Lost Creek
7. Weld CO
8. 130.0 million cubic feet
9. May 9, 1980
10. Crystal Oil Co
1. 80–32854/80–125
2. 05–123–09531–0000
3. 103 000 000
4. Amoco Production Co
5. State of Colorado AJ Well No. 1
6. Lost Creek
7. Weld CO
8. 105.0 million cubic feet
9. May 9, 1980
10. Crystal Oil Co
1. 80–32855/80–104
2. 05–063–06072–0000
3. 102 000 000
4. Marshall R Young Oil Co
5. Marshall R Young No. 1 Devries-State
6. Unnamed T7S–R43W–Sec 36 Nene
7. Kit Carson CO
8. 22.0 million cubic feet
9. May 9, 1980
10. Peoples Nat Gas Natural Gas P L Co of Amer

Montana Board of Oil and Gas Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32859/3–79–64
2. 25–005–21012–0000
3. 108 000 000
4. Tricentrol United States Inc
5. Roberts 27–10–31–18
6. Tiger Ridge
7. Blaine MT
8. 18.6 million cubic feet
9. May 12, 1980
10. Northern Natural Gas Co
1. 80–32860/4–80–89
2. 25–005–21939–0000
3. 102 000 000
4. Tricentrol United States Inc
5. Williamson 12–16–26–18
6. Sherard
7. Blaine County MT
8. 190.7 million cubic feet
9. May 12, 1980
10. Northern Natural Gas Co
1. 80–32861/4–80–94
2. 25–071–21490–0000
3. 108 000 000 denied
4. Midlands Gas Corp
5. 1370 1–13 Rex Burwell
6. Bowdoin
7. Phillips MT
8. 21.0 million cubic feet
9. May 12, 1980
10. Kansas-Nebraska Natural Gas Co Inc Montana Dakota Utilities Co
1. 80–32862/4–80–95
2. 25–071–21326–0000
3. 108 000 000
4. Midlands Gas Corp
5. 1661–1 State
6. Bowdoin
7. Phillips MT
8. 20.0 million cubic feet
9. May 12, 1980
10. Kansas-Nebraska Natural Gas Co Inc Montana Dakota Utilities Co
1. 80–32863/2–80–54
2. 25–071–21491–0000
3. 108 000 000
4. Midlands Gas Corp
5. 2470 1–24 Brown
6. Bowdoin
7. Phillips MT
8. 21.0 million cubic feet
9. May 12, 1980
10. Kansas-Nebraska Natural Gas Co Inc Montana Dakota Utilities Co
1. 80–32864/2–80–51
2. 25–071–21567–0000
3. 108 000 000
4. Midlands Gas Corp
5. 2171 1–2171 R Anderson
6. Bowdoin
7. Phillips MT
8. 21.0 million cubic feet
9. May 12, 1980
10. Kansas-Nebraska Natural Gas Co Inc Montana Dakota Util Co
1. 80–32865/4–80–90
2. 25–005–22132–0000
3. 102 000 000
4. Tricentrol United States Inc
5. Werk 22–32–18
6. Tiger Ridge
7. Blaine MT
8. .0 million cubic feet
9. May 12, 1980
10. Northern Natural Gas
1. 80–32866/4–80–85
2. 25–041–22103–0000
3. 103 000 000
4. Tricentrol United States Inc
5. State 16–16–T30N–R15E
6. Tiger Ridge-Bullhook Unit
7. Hill MT
8. 150.0 million cubic feet
9. May 12, 1980
10. Northern Natural Gas Co
1. 80–32867/4–80–86
2. 25–005–21596–0000
3. 108 000 000
4. Tricentrol United States Inc
5. Hofeldt 7–13–T30N–R19E
6. Tiger Ridge
7. Blaine MT
8. 18.0 million cubic feet
9. May 12, 1980
10. Northern Natural Gas Co

New Mexico Department of Energy and Minerals Oil Conservation Division

2. 30–025–00000–0000

Oklahoma Corporation Commission

2. 17–702–40543–0000–0

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32793
2. 30–025–26436–0000
3. 103 000 000
4. Exxon Corp
5. S W Harrison No. 9
6. Custer Devonian Field
7. Lea County NM
8. 329.0 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co

1. 80–32794
2. 30–015–22779–0000
3. 102 000 000
4. Amoco Production Co
5. Carter Gas Com No. 1
6. North Loving Atoka
7. Eddy NM
8. 547.0 million cubic feet
9. May 7, 1980
10.

1. 80–32795
2. 30–015–22553–0000
3. 102 000 000
4. Amoco Production Co
5. Teledyne 17 No. 1
6. Loving Morrow
7. Eddy NM
8. 740.0 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co

1. 80–32796
2. 30–045–11814–0000
3. 108 000 000
4. El Paso Natural Gas Co
5. Burroughs Com C #5
6. Basin-Dakota Gas
7. San Juan NM
8. 21.0 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co

1. 80–32797
2. 30–039–82261–0000
3. 108 000 000
4. El Paso Natural Gas Co
5. Canyon Largo Unit #138
6. Otero-Chacra Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. May 7, 1980
10. El Paso Natural Gas Co Northwest P L Corp

1. 80–32798
2. 30–025–00000–0000
3. 108 000 000
4. Warrior Inc
5. State WE G #1
6. Eumont Queen-Gas
7. Lea NM
8. 1.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–32799
2. 30–025–00000–0000
3. 108 000 000
4. Warrior Inc
5. Smith #1
6. Eumont Yates Seven Rivers Queen
7. Lea NM
8. 1.0 million cubic feet
9. May 7, 1980
10. Warren Petroleum Co

1. 80–32800
2. 30–025–00000–0000
3. 108 000 000
4. Warrior Inc
5. State WE B #1
6. Eumont Yates Seven Rivers Queen
7. Lea NM
8. 2.0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

1. 80–32801
2. 30–025–11507–0000
3. 108 000 000
4. Arco Oil & Gas Co
5. F M Burleson WN #2
6. Jalmat Gas
7. Lea NM
8. .0 million cubic feet
9. May 7, 1980
10. El Paso Natural Cas Co

1. 80–32802
2. 30–025–00000–0000
3. 103 000 000
4. Wiser Oil Co
5. McQuatters Com No. 1
6. Undesignated Drinkard
7. Lea NM
8. .0 million cubic feet
9. May 7, 1980
10. Phillips Petroleum Co

Virginia Department of Labor and Industry, Division of Mines and Quarries

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32858
2. 45–027–20330–0000
3. 103 000 000
4. Ashland Exploration Inc
5. Clinchfield-Kroll Unit #1
6. Virginia
7. Buchanan VA
8. 128.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

U.S. Geological Survey Metairie, La.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32857/G0–1266
2. 17–702–40543–0000–0
3. 102 000 000
4. Chevron USA Inc
5. OCS–G–2555 #7
6. West Cameron
7. 551
8. 13.5 million cubic feet
9. May 12, 1980
10. Natural Gas Pipeline Co of America

1. 80–32856/G0–1225
2. 42–711–40453–00S1–0
3. 102 000 000
4. Exxon Corp
5. OCS–G 2741 No A–17
6. High Island
7. A–343
8. 30.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp, Trunkline Gas Co, Natural Gas P L Co, Columbia Gas Trans Corp

U.S. Geological Survey, Casper, Wyo.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State, Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32809/CC 895–9
2. 05–103–07895–0000–0
3. 108 000 000
4. Lawrence Barker Jr
5. Government #13
6. South Couglas Creek
7. Rio Blanco CO
8. 17.0 million cubic feet
9. May 8, 1980
10. Northwest Pipeline Corp

1. 80–32810/CC 905–9
2. 05–045–61360–0000–0
3. 102 000 000
4. Texas Gas Exploration Corp
5. Federal 22–9
6. Bridle Field
7. Garfield CO
8. 123.0 million cubic feet
9. May 8, 1980
10. Northwest Pipeline Corp

1. 80–32811/CC 927–9
2. 05–081–06313–0000–0
3. 102 000 000
4. Champlin Petroleum Co
5. Shell Creek #4
6. Shell Creek
7. Moffat CO
8. 776.0 million cubic feet
9. May 8, 1980
10. Colo Int Gas Co

1. 80–32808/ND 894–9
2. 33–053–00734–0000–0
3. 102 000 000
4. Shell Oil Co
5. USA 34X–6
6. Mondak
7. McKenzie ND
8. 140.0 million cubic feet
9. May 8, 1980
10. Montana Dakota Utilities Co

1. 80–32803/UC 459–9B
2. 43–047–30404–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc
5. NBU 34–17B
6. Natural Buttes Unit
7. Uintah UT
8. 10.0 million cubic feet
9. May 8, 1980
10. Colorado Interstate Gas Co

1. 80–32804/UC 462–9B
2. 43–047–30368–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc
5. NBU 29–5B
6. Natural Buttes Unit
7. Uintah UT
8. 50.0 million cubic feet
9. May 8, 1980
10. Colorado Interstate Gas Co

1. 80–32805/UC 464–9B
2. 43–047–30364–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc
5. NBU 26–13B
6. Natural Buttes Unit
7. Uintah UT
8. 5.0 million cubic feet
9. May 8, 1980
10. Colorado Interstate Gas Co

1. 80–32806/UC 465–9B
2. 43–047–30361–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc
5. NBU 27–1B
6. Natural Buttes Unit
7. Uintah UT
8. 2.0 million cubic feet
9. May 8, 1980
10. Colorado Interstate Gas Co

1. 80–32807/UC 468–9B
2. 43–047–30318–0000–0
3. 102 000 000
4. Gas Producing Enterprises Inc
5. NBU 18–26B
6. Natural Buttes Unit
7. Uintah UT
8. 5.0 million cubic feet
9. May 8, 1980
10. Colorado Interstate Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.W., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission, on or before June 13, 1980.

Please reference the FERC control number in all corrrespondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16334 Filed 5–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ES80–55]

El Paso Electric Co.; Notice of application

May 22, 1980.

Take notice that on May 14, 1980, El Paso Electric Company (Applicant) filed a request with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authority to negotiate for the placement of up to $25 million of first Mortgage Bonds. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the First Mortgage Bonds will be used to finance Applicant's construction program.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 13, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washingoton, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary

[Fr Doc. 80–16337 Filed 5–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–408]

Florida Power & Light Co., Notice of Filing

May 22, 1980.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on May 19, 1980 tendered for filing revised Cost Support Schedules C, F and G which support the revised daily capacity charge for services under Service Schedule B of FPL's interchange contracts with Florida Power Corporation, the City of Gainesville, Florida, Jacksonville Electric Authority, Tampa Electric Company and the Orlando Utilities Commission. FPL states that the revised capacity charge has been calculated in accordance with the provisions of Service Schedule B and represents an updating of the currently effective capacity charge to reflect more current costs. FPL requests an effective date of May 1, 1980 for this revised capacity charge for each of the interchange contracts. According to FPL, a copy of this filing was served upon all of the above named parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16338 Filed 5–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Project No. 2879]

Green Mountain Power Corp.; Application for License (Major)

May 22, 1980.

Take notice that an application was filed on April 8, 1980, under the Federal Power Act, 16 U.S.C. Section 791(a)–825(r), by Green Mountain Power Corporation for a license for the Bolton Falls Hydroelectric Project. The project is located on the Winooski River in Washington and Chittenden Counties, Vermont. Correspondence with the Applicant on this matter should be addressed to: Raymond C. DeForge, Vice President, Green Mountain Power Corporation, Green Mountain Drive, P.O. Box 486, Montpelier, Vermont 05602.

Project Description—The Bolton Falls Project would consist of: (1) an existing 66-foot high, 190-foot long rock filled timber crib and masonry dam to be raised 9 feet by the addition of a 5-foot high concrete cap and 4-foot high flashboards; (2) a 70-acre reservoir, 215-acre-feet at a maximum normal water surface elevation of 397 feet msl (one-foot below the original operating water surface elevation in use between 1899 and 1937); (3) an existing forebay, trash rack and intake structure; (4) a new 65-foot long, 10-foot diameter steel penstock and a 55-foot long, 8-foot diameter steel penstock; (5) a new powerhouse containing a single turbine generator unit with a total rated capacity of 6.5 NW; (6) a 13.8/34.5-KV step-up transformer; (7) an 800-foot long 34.5-kV transmission line; and (8) appurtenant facilities. The project would generate approximately 28 million kWh

saving the equivalent of 46,100 barrels of oil or 13,000 tons of coal annually. Energy generated by the project would be distributed by Green Mountain Power Corporation to its customers.

Green Mountain Power Corporation intends to improve and to make available a small day-use, recreation area for swimming, fishing, picnicking and boating to be located below the project dam on the eastern shore of the Winooski River. Above the project dam, a new canoe take-out and portage area is planned.

The application was filed during the term of the Applicant's preliminary permit for the Bolton Falls Project, issued Juned 13, 1979.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 25, 1980, either the competing application itself or a notice of intept to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 24, 1980. Since this application was filed during the term of a preliminary permit, any party intending to file a competing application should review 18 CFR 4.33(h). A notice of itent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene: Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Comission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 25, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16339 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA79-9]

H & K Oil Co.; Termination of Proceeding

May 22, 1980.

H & K Oil Company (H & K), the petitioner in this proceeding, filed a notice of withdrawal of its petition for review of a denial of adjustment relief by the Secretary of Energy.

The motion was deemed a notice of withdrawal under 1.11(d) of the Commission's Rules of Practice and Procedures.[1] Since no hearing had been held or convened in this proceeding, withdrawal of the petition for review became effective 30 days after H & K's motion was filed. Such withdrawal terminated the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16340 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-405]

The Hartford Electric Light Co.; Purchase Agreement

May 22, 1980.

The filing Company submits the following:

Take notice that on May 19, 1980, The Hartford Electric Light Company (HELCO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units dated November 15, 1979 between (1) HELCO and The Connecticut Light and Power Company (CL&P), and (2) The City of Chicopee Municipal Lighting Plant (the City)

HELCO states that the Purchase Agreement provides for a sale to the City of a specified percentage of capacity and energy from five gas turbine generating units during the period from December 1, 1979 to November 30, 1980, together with related transmission service.

HELCO requests that the Commission, pursuant to § 35.11 of its regulations, waive the customary notice period and permit the rate schedule filed to become effective on December 1, 1979.

HELCO states that the Capacity Charge for the proposed service was determined on a cost of service basis. The monthly Transmission Charge is equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the transmission charge rate ($/KW-month), and (ii) the number of Kilowatts of winter capability which the City is entitled to receive. The Variable Maintenance Charge was derived from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge.

CL&P has filed a certificate of concurrence in this docket.

HELCO states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, and the City, Chicopee, Massachusetts.

HELCO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16341 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-404]

The Hartford Electric Light Co., et al.; Purchase Agreement

May 22, 1980.

The filing Company submits the following:

Take notice that on May 19, 1980, The Hartford Electric Light Company (HELCO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units dated November 15, 1979 between (1) HELCO and Western Massachusetts Electric Company (WMECO), and (2) The City of Chicopee Municipal Lighting Plant (the City).

HELCO states that the Purchase Agreement provides for a sale to the City of a specified percentage of capacity and energy from nine gas turbine generating units during the period from December 1, 1979 to November 30, 1980, together with related transmission service.

HELCO requests that the Commission, pursuant to § 35.11 of its regulations, waive the customary notice period and permit the rate schedule filed to become effective on December 1, 1979.

HELCO states that the Capacity Charge for the proposed service was determined on a cost of service basis. The monthly Transmission Charge is equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the Transmission charge rate ($/KW-month), and (ii) the number of Kilowatts of winter capability which the City is entitled to receive. The Variable Maintenance Charge was derived from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge.

WEMCO has filed a certificate of concurrence in this docket.

HELCO states that copies of this rate schedule have been mailed or delivered to WMECO, Hartford, Connecticut, and the City, Chicopee, Massachusetts.

HELCO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16342 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3070]

Hydroelectric Constructors, Inc.; Application for Preliminary Permit

May 21, 1980.

Take notice that Hydroelectric Constructors, Inc. (Applicant) filed on March 4, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3070 to be known as North Fork Hydroelectric Project located on the North Fork South Platte River in Park County, Colorado. Correspondence with the Applicant should be directed to: Mr. Glen G. Dorman, President, Hydroelectric Constructors, Inc., P.O. Box 8986, Denver, Colorado 80201.

Project Description—The proposed Project would comprise the following eight developments which would utilize flows from the U.S. Department of the Interior Water and Power Resources Service's Dill on Reservoir: (a) the Roberts Tunnel Development consisting of : (1) an existing outlet which is closed off and adjacent to three hollow jet valves (the powerplant would not interfere with the physical arrangement of the hollow jet valves); (2) a 50-foot long penstock; (3) a powerhouse containing two 2,000-kW turbine/generator units; (4) a 150-foot long outlet channel into the North Fork of the South Platte River; (5) an 1,100-foot long, 44-kV transmission line; and (6) appurtenant facilities; (b) the Upper Grant Power Development consisting of: (1) a diversion structure at the U.S. Highway 285 culvert outlet at Roberts Tunnel; (2) a 5,300-foot long conduit conveying water to; (3) a 200-foot long penstock; (4) a powerhouse containing a single 1,100-kW turbine/generator unit and located about 1,000 feet southeast of the town of Grant; (5) a 400-foot long, 44-kV transmission line; and (6) appurtenant facilities; (c) the Lower Grant Power Development, 3,900 feet downstream from the Upper Grant Development, consisting of: (1) a diversion structure; (2) a 4,000-foot long conduit conveying water to; (3) a 400-foot long penstock; (4) a powerhouse containing a single 800-kW turbine/generator unit located about 1,000 feet northwest of the town of Santa Maria; (5) a 500-foot long, 44-kV transmission line; and (6) appurtenant facilities; (d) the Santa Maria Power Development, 1,000 feet downstream from the Lower Grant Development, consisting of: (1) an existing 10-foot high diversion dam with a modified headgate; (2) a pond with a storage capacity of 25 acre-feet; (3) a 7,400-foot long conduit conveying water to; (4) a 300-foot long penstock; (5) a powerhouse located upstream of the existing Singleton dam containing a single 1,600-kW turbine/generator unit; (6) a 500-foot long, 44-kV transmission line; and (7) appurtenant facilities; (e) the Singleton Power Development, 1,500 feet downstream from the Santa Maria Power Development, consisting of: (1) an existing 10-foot high diversion dam; (2) an 11,900-foot long conduit conveying water to; (3) a 200-foot long penstock; (4) a powerhouse located about 200 feet upstream from Gibbs Gulch containing a single 2,300-kW turbine/generator unit; (5) a 1,000-foot long, 44-kV transmission line; and (6) appurtenant facilities; (f) the Shawnee Power Development, 5,000 feet downstream from the Singleton Power Development, consisting of: (1) an existing 10-foot high diversion dam; (2) a 30-acre-foot pond; (3) a 7,600-foot long conduit conveying water to; (4) a 200-foot long penstock; (5) a powerhouse located about 200 feet downstream from MacArthur Gulch containing a single 1,400-kW turbine/generator unit; (6) a 2,000-foot long, 44-kV transmission line; and (7) appurtenant facilities; (g) the Glenisle Power Development, 2,500 feet downstream from the Shawnee Development, consisting of: (1) a new diversion structure located about 4,500 feet west of the town of Glenisle; (2) a 7,500-foot long conduit conveying water to; (3) a 400-foot long penstock; (4) a powerhouse located about 4,000 feet west of the town of Bailey, containing a single 1,800-kW turbine/generator unit; (5) a 1,500-foot long, 44-kV transmission line; and (6) appurtenant facilities; (h) the Insmont Power Development, 9,500 feet downstream from the Glenisle Power Development, consisting of: (1) a new diversion structure near the existing bridge at the Peterson Ranch, about 4,000 feet east of the town of Bailey; (2) a 6,800-foot long conduit conveying water to; (3) a 200-foot long penstock; (4) a powerhouse located about 2,500 feet southeast of the community of Insmont, containing a single 1,300-kW turbine/generator unit; (5) an 11,000-foot long, 44-kV transmission line; and (6) appurtenant facilities.

The project would generate up to 91,600,000 kWh annually saving the equivalent of 150,400 barrels of oil or 42,400 tons of coal.

[1] That section is applicable to this proceeding pursuant to § 1.40(a)(2)(vi) of the Commission's Interim Regulations governing review of adjustment request denials.

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Purpose of Project—Energy produced at the project would be sold to a public or private utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months. The Applicant proposes that it would perform surveys, geotechnical investigations, determine the economic feasibility of the project, perform alternative site studies, hydrologic studies, reach final agreement on the sale of project power, secure financing commitments, consult with Federal, state and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 28, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 26, 1980. A notice of intent must conform with the requirments of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene— Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirments of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before July 28, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-18343 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. SA80-120]

George J. Morgan; Application for Adjustment

May 22, 1980.

Take notice that on April 30, 1980, George J. Morgan (Applicant), 250 W. 57th St., New York, N.Y. 10019 filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment pursuant to section 1.41 of the Commission's Rules of Practice and Procedure.

Applicant seeks relief from section 105(b)(1) of the Natural Gas Policy Act (NGPA) and section 271.502(a) of the regulations thereunder (18 CFR 271.502(a)). Applicant is a seller of natural gas under an existing intrastate contract at a contract price of $.33 per Mcf. Specifically, Applicant requests authorization to charge and collect $1.50 per Mcf of gas sold under that existing intrastate contract. The request is more fully set forth in the application which is on file with the Commission and open to public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, Docket No. RM79-32, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before June 13, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-16344 Filed 5-28-80; 8:45 am]
BILLING CODE 6450-85-M

[No. 206]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

May 22, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1.
1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22337
2. 30-045-23474-0000
3. 103 000 000
4. El Paso Natural Gas Co
5. San Juan 32-9 Unit No 30A
6. Blanco Mesaverde
7. San Juan NM
8. 160.0 million cubic feet
9. September 13, 1979
10. El Paso Natural Gas Co

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-32430/03136
2. 35-093-21561-0000
3. 103 000 000
4. Red Eagle Oil Co
5. Hein No 1
6. West Fairview
7. Major County OK
8. 73.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co Oklahoma Natural Gas Gath Corp

1. 80-32431/03578
2. 35-017-21114-0000
3. 103 000 000
4. Viersen & Cochran
5. Spurlin Unit No 1
6. East El Reno
7. Canadian OK
8. 300.0 million cubic feet
9. May 8, 1980
10. Delhi Gas Pipeline Corp

1. 80-32432/03423
2. 35-093-21513-0000
3. 103 000 000
4. Helke Exploration Co
5. Wahl No 1
6. Ringwood
7. Major OK
8. 40.0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum

1. 80-32433/03432
2. 35-093-21529-0000
3. 103 000 000
4. Helke Exploration Co
5. Heffel No 1
6. Ringwood
7. Major OK
8. 75.0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum

1. 80-32434/03591
2. 35-011-20811-0000
3. 103 000 000
4. Rambler Oil Co
5. Stevenson #1-17
6. Watonga Trend
7. Blaine OK
8. 365.0 million cubic feet
9. May 8, 1980
10. Oklahoma Gas & Electric Co

1. 80-32435/03568
2. 35-093-21448-0000
3. 103 000 000
4. J L Thomas Engineering Inc
5. Jantzen #1-13
6. East Ringwood
7. Major County OK
8. 58.0 million cubic feet
9. May 8, 1980
10. Oklahoma Gas and Electric Co

1. 80-32436/03526
2. 35-017-20976-0000
3. 103 000 000
4. Gulf Oil Corp
5. Georgia McCoy 1-19
6. Yukon
7. Canadian OK
8. 159.0 million cubic feet
9. May 8, 1980
10. Phillips Petroleum Co

1. 80-32437/03556
2. 35-093-21418-0000
3. 103 000 000
4. Al McCord Inc
5. Henneke 1-21
6. Meno-Ringwood
7. Major OK
8. 42.0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum Division

1. 80-32438/03559
2. 35-093-21483-0000
3. 103 000 000
4. Al McCord Inc
5. Detrick 1-33
6. Meno-Ringwood
7. Major OK
8. .0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum Division

1. 80-32439/03561
2. 35-093-21444-0000
3. 103 000 000
4. Al McCord Inc
5. Doane 1-21
6. Meno-Ringwood
7. Major OK
8. 50.0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum Division

1. 80-32440/03563
2. 35-093-21481-0000
3. 103 000 000
4. Al McCord Inc
5. B Jantz 1-28
6. Meno-Ringwood
7. Major OK
8. .0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum Division

1. 80-32441/03612
2. 35-011-20481-0000
3. 108 000 000 Denied
4. Universal Resources Corp
5. Rouce #1-4
6. Sooner Trend
7. Blaine OK
8. 12.0 million cubic feet
9. May 8, 1980
10. Phillips Petroleum Co

1. 80-32442/03565
2. 35-093-21532-0000
3. 103 000 000
4. Al McCord Inc
5. Decker 1-20
6. Meno-Ringwood
7. Major OK
8. 35.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co

1. 80-32443/03567
2. 35-093-21480-0000
3. 103 000 000
4. Al McCord Inc
5. Sherman 1-19
6. Meno-Ringwood
7. Major OK
8. 68.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co

1. 80-32444/03616
2. 35-093-20614-0000
3. 108 000 000 Denied
4. Universal Resources Corp
5. Broomfield #1-13
6. Sooner Trend
7. Major OK
8. 12.0 million cubic feet
9. May 8, 1980
10. Phillips Petroleum Co

1. 80-32445/03433
2. 35-093-20880-0000
3. 103 000 000 Denied
4. Helke Exploration Co
5. Becker No 1
6. Ringwood
7. Major OK
8. 155.0 million cubic feet
9. May 8, 1980
10. Union Texas Petroleum

1. 80-32446/03596
2. 35-047-20817-0000
3. 108 000 000 Denied
4. Arco Oil and Gas Co
5. Irma Isbell #2
6. Sooner Trend
7. Garfield OK
8. 15.0 million cubic feet
9. May 8, 1980
10. Exxon Co USA, Oklahoma Natural Gas Co

1. 80-32447/02177
2. 35-083-00000-0000
3. 108 000 000
4. J T Hoke Jr
5. Norris No 6
6. Lovell
7. Logan OK
8. 8.4 million cubic feet
9. May 8, 1980
10. Eason Oil Co

1. 80-32448/00562
2. 35-073-00000-0000
3. 108 000 000
4. Ladd Petroleum Corp
5. Betz Jacob
6. Sooner Trend
7. Kingfisher OK
8. 22.1 million cubic feet
9. May 8, 1980
10. Phillips Petroleum Co

1. 80-32449/03582
2. 35-011-20930-0000
3. 103 000 000
4. Mustang Production Co
5. Pinkerton No 1-6
6. Watonga Trend
7. Blaine, OK
8. 200.0 million cubic feet
9. May 8, 1980
10.

1. 80-32450/03570
2. 35-093-21482-0000
3. 103 000 000
4. Al McCord Inc
5. Koehn 1-13
6. Meno-Ringwood
7. Major, OK
8. 51.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co

1. 80-32451/03569
2. 35-093-21626-0000
3. 103 000 000
4. Al McCord Inc
5. Doll 1-23
6. Meno-Ringwood
7. Major, OK
8. .0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co

1. 80-32452/03566
2. 35-093-21370-0000
3. 103 000 000
4. Al McCord Inc
5. Fuller 1-18
6. Meno-Ringwood
7. Major, OK
8. 92.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co

1. 80-32453/03548
2. 35-073-22182-0000
3. 103 000 000
4. Cummings Oil Co
5. Elling #1-15
6. West Cashion D
7. Kingfisher, OK
8. 7.5 million cubic feet
9. May 8, 1980

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10. Continental Oil Co
1. 80–32454/03547
2. 35–073–22183–0000
3. 103 000 000
4. Cummings Oil Co
5. Johnson #1–10
6. West Cashion C
7. Kingfisher, OK
8. 7.5 million cubic feet
9. May 8, 1980
10. Continental Oil Co
1. 80–32455/03520
2. 35–071–03520–0000
3. 103 000 000
4. Rebel Oil Co
5. Vap No 1
6. East Newkirk
7. Kay, OK
8. .0 million cubic feet
9. May 8, 1980
10. Cities Service Gas Co
1. 80–32456/03508
2. 35–139–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Percy No 2
6. Guymon Hugoton
7. Texas, OK
8. 18.0 million cubic feet
9. May 8, 1980
10. Panhandle Eastern Pipeline Co
1. 80–32457/02994
2. 35–017–20936–0000
3. 103 000 000
4. Universal Resources Corp
5. Hill Hodges #1–12
6. Richland N
7. Canadian, OK
8. 10.0 million cubic feet
9. May 8, 1980
10. Phillips Petroleum Co
1. 80–32458/03560
2. 35–093–21404–0000
3. 103 000 000
4. Al McCord Inc
5. Dierkson 1–18
6. Meno-Ringwood
7. Major, OK
8. 48.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co
1. 80–32459/03564
2. 35–093–21264–0000
3. 103 000 000
4. Al McCord Inc
5. Koehn 1–18
6. Meno-Ringwood
7. Major, OK
8. 37.0 million cubic feet
9. May 8, 1980
10. Pioneer Gas Products Co
1. 80–32460/03496
2. 35–007–21581–0000
3. 103 000 000
4. Search Drilling Co
5. Olmstead No 1
6. Mocane-Laverne
7. Beaver, OK
8. 365.0 million cubic feet
9. May 8, 1980
10. Northern Natural Gas Co

Pennsylvania Department of Environmental Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–32461/107
2. 37–051–00000–0000
3. 108 000 000
4. James E Brumage
5. Sarah Gorley
6. Carmichaels Quadrangle
7. Fayette, PA
8. 9.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32462/107–A
2. 37–051–00000–0000
3. 108 000 000
4. James E Brumage
5. C W Leighty
6. Carmichaels Quadrangle
7. Fayette, PA
8. 9.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32463/355
2. 37–063–23680–0003
3. 103 000 000
4. Castle Gas Co Inc
5. J & S McKee #5 (C–418) Ind–23680
6. White Township
7. Indiana, PA
8. 14.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32464/408
2. 37–063–20031–0003
3. 108 000 000
4. Columbia Gas Transmission Corp
5. De Vinney #1
6. De Vinney
7. Indiana, PA
8. 2.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32465/409
2. 37–063–20036–0003
3. 108 000 000
4. Columbia Gas Transmission Corp
5. De Vinney #2
6. De Vinney
7. Indiana, PA
8. 3.6 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32466/427
2. 37–033–20658–0003
3. 108 000 000
4. Reel Energy Program
5. C H Prescott Jr Farm #1
6. Sandy Township
7. Clearfield, PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Distribution Corp
1. 80–32467/428
2. 37–065–21210–0003
3. 108 000 000
4. Pennergy 1975 Drilling Program
5. David Small Farm #1
6. Union Township
7. Jefferson, PA
8. 5.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32468/469
2. 37–065–21298–0003
3. 108 000 000
4. Reeves Lewenthal
5. Reynlow Park Auth #1
6. Winslow Township
7. Jefferson, PA
8. .0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80–32469/470
2. 37–065–21310–0003
3. 108 000 000
4. Reeves Lewenthal
5. Reynlow Park Auth #2
6. Winslow Township
7. Jefferson, PA
8. .0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80–32470/471
2. 37–065–21322–0003
3. 108 000 000
4. Reeves Lewenthal
5. Reynlow Park Auth No 3
6. Winslow Township
7. Jefferson, PA
8. .0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80–32471/489
2. 37–051–00000–0000
3. 108 000 000
4. R Taylor Mosier
5. Mosier No 1
6. Franklin
7. Fayette, PA
8. .0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32472/490
2. 37–051–00000–0000
3. 108 000 000
4. R Taylor Mosier
5. Mosier No 2
6. Franklin
7. Fayette, PA
8. .0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32473/1058
2. 37–033–20654–0003
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Thomas E H Reitz WN–1631
6. Anderson Creek 017412
7. Clearfield PA
8. 20.0 million cubic feet
9. May 8, 1980
10. General System purchasers
1. 80–32474/1641
2. 37–005–22248–0003
3. 103 000 000
4. Doran & Associates Inc
5. A Prugh No 1 KL 156
6. Upper Devonian Sands
7. Armstrong PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Industrial Energy Service Co
1. 80–32475/1733

2. 37–063–24480–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Bonarrigo No 1 KL 148
6. Upper Devonian Sands
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32476/1734
2. 37–063–24441–0003
3. 103 000 000
4. Doran & Associates Inc
5. G Michna No 1
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. The Peoples Natural Gas Co
1. 80–32477/1735
2. 37–063–24442–0003
3. 103 000 000
4. Doran & Associates Inc
5. G Michna No 2
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32478/1737
2. 37–063–24489–0003
3. 103 000 000
4. Doran & Associates Inc
5. H Howard No 2
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32479/1738
2. 37–063–24450–0003
3. 103 000 000
4. Doran & Associates Inc
5. J Kwisnek No 3
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32480/1739
2. 37–063–24451–0003
3. 103 000 000
4. Doran & Associates Inc
5. J Kwisnek No 4
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32481/1740
2. 37–129–21357–0003
3. 103 000 000
4. Doran & Associates Inc
5. D Shaw No 3
6. Upper Devonian Sands
7. Westmoreland, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32482/1741
2. 37–129–21376–0003
3. 103 000 000
4. Doran & Associates Inc
5. C Seanor No 1
6. Upper Devonian Sands
7. Westmoreland, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32483/1742
2. 37–063–24577–0003
3. 103 000 000
4. Doran & Associates Inc
5. Delton Stiles No 1
6. Upper Devonian Sands
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32484/1743
2. 37–063–24449–0003
3. 103 000 000
4. Doran & Associates Inc
5. O Watson No 1
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32485/1744
2. 37–063–24020–0003
3. 103 000 000
4. Doran & Associates Inc
5. H Reciski No 2
6. White
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32486/1745
2. 37–063–23979–0003
3. 103 000 000
4. Doran & Associates Inc
5. G McJunkin No 2
6. Armstrong
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32487/1746
2. 37–129–21192–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Koontz No 3
6. Loyalhanna
7. Westmoreland PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32488/1747
2. 37–129–21191–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Koontz No 2
6. Loyalhanna
7. Westmoreland PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32489/1748
2. 37–129–21190–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Koontz No 1
6. Loyalhanna
7. Westmoreland, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32490/1749
2. 37–063–24023–0003
3. 103 000 000
4. Doran & Associates Inc
5. H Miller No 3
6. Washington
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32491/1750
2. 37–063–23999–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Philippi No 2
6. East Mahoning
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32492/1751
2. 37–063–23980–0003
3. 103 000 000
4. Doran & Associates Inc
5. G McJunkin No 1
6. Armstrong
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32493/1753
2. 37–005–22150–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Conn No 2
6. Plum Creek
7. Armstrong, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32494/1754
2. 37–033–20752–0003
3. 103 000 000
4. Doran & Associates Inc
5. G Kopenhaver No 1
6. Brady
7. Clearfield, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80–32495/1755
2. 37–005–22153–0003
3. 103 000 000
4. Doran & Associates Inc
5. E Huffman No 1
6. Cowanshannock
7. Armstrong, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32496/1757
2. 37–063–24207–0003
3. 103 000 000
4. Doran & Associates Inc
5. H Follock
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32497/1758
2. 37–005–22155–0003
3. 103 000 000
4. Doran & Associates Inc
5. R Moore No 2
6. Wayne

7. Armstrong, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32498/1759
2. 37–005–22160–0003
3. 103 000 000
4. Doran & Associates Inc
5. H Reefer No 2
6. Plum Creek
7. Armstrong, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32499/1760
2. 37–005–22145–0003
3. 103 000 000
4. Doran & Associates Inc
5. W Hill No 2
6. Cowanshannock
7. Armstrong, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32500/1761
2. 37–063–24342–0003
3. 103 000 000
4. Doran & Associates Inc
5. E Buterbaugh #2
6. Upper Devonian Sands
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32501/1762
2. 37–005–22194–0003
3. 103 000 000
4. Doran & Associates Inc
5. E Stockdill #1
6. Upper Devonian Sands
7. Armstrong PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32502/1763
2. 37–005–22195–0003
3. 103 000 000
4. Doran & Associates Inc
5. J Hawkins #1
6. Upper Devonian Sands
7. Armstrong PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32503/1764
2. 37–005–22163–0003
3. 103 000 000
4. Doran & Associates Inc
5. L Hill #1
6. Upper Devonian Sands
7. Armstrong PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32504/1767
2. 37–063–24266–0003
3. 103 000 000
4. Doran & Associates Inc
5. N Streams #2
6. Upper Devonian Sands
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32505/1776
2. 37–063–24370–0003
3. 103 000 000
4. Doran & Associates Inc
5. H Steele #2
6. Upper Devonian Sands
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32506/1780
2. 37–063–24338–0003
3. 103 000 000
4. Doran & Associates Inc
5. W McCauley #1
6. Upper Devonian Sands
7. Indiana PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32507/1825
2. 37–063–25763–0003
3. 103 000 000
4. Doverspike Gas Venture—1977
5. Wise #1
6. W PA Upper Devonian Sand Section
7. Indiana PA
8. 40.0 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32508/2042
2. 37–063–24069–0003
3. 103 000 000
4. Doverspike/Peacock Joint Venture
5. Stephenson #2
6. W PA Upper Devonian Sand Section
7. Indiana PA
8. 50.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32509/2043
2. 37–063–24152–0003
3. 103 000 000
4. Doverspike/Peacock Joint Venture
5. Stephenson #1
6. W PA Upper Devonian Sand Section
7. Indiana PA
8. 50.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32510/2161
2. 37–063–21850–0003
3. 108 000 000
4. James F Scott
5. Lloyd B Bence
6. Rayne Township
7. Indiana PA
8. 3.8 million cubic feet
9. May 8, 1980
10. Peoples National Gas Co
1. 80–32511/2162
2. 37–063–21929–0003
3. 108 000 000
4. James F Scott
5. Bessie Spence
6. Rayne Township
7. Indiana PA
8. 3.6 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co
1. 80–32512/2180
2. 37–063–24286–0003
3. 103 000 000
4. Phillips Production Co
5. Ellery S Shields Et Ux #1
6. Shields
7. Indiana PA
8. 35.0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Suppy Corp
1. 80–32513/2209
2. 37–031–00000–0000
3. 108 000 000
4. Arnold Elder
5. Elder-Weckerly
6. Beala
7. Clarion PA
8. 3.3 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32514/2210
2. 37–031–00000–0000
3. 108 000 000
4. Arnold Elder
5. Elder-Stewart
6. Beala
7. Clarion PA
8. 1.4 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32515/3279
2. 37–049–00345–0003
3. 108 000 000
4. Meridian Exploration Corp
5. J Orschek 1–277
6. Wildcat
7. Erie PA
8. 4.8 million cubic feet
9. May 8, 1980
10. National Fuel Gas Distribution Corp
1. 80–32516/3280
2. 37–049–20366–0003
3. 108 000 000
4. Meridian Exploration Corp
5. Hunt 1–365
6. Bull
7. Erie PA
8. 7.2 million cubic feet
9. May 8, 1980
10. Natioinal Fuel Gas Distribution Corp
1. 80–32517/3297
2. 37–049–00338–0003
3. 108 000 000
4. Meridian Exploration Corp
5. Neil Baxter 1–271
6. Lexington
7. Erie PA
8. 6.5 million cubic feet
9. May 8, 1980
10. National Fuel Gas Distribution Corp
1. 80–32518/3335
2. 37–049–20699–0003
3. 103 000 000
4. Envirogas Inc
5. A Schultz #1
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32519/3341
2. 37–049–20521–0003
3. 103 000 000
4. Envirogas Inc
5. W Chapman #1
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Distribution Corp
1. 80–32520/3554

2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Morris #2
6. Morris
7. Fayette PA
8. 2.7 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32521/3555
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Delera
6. Delera
7. Fayette PA
8. 2.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32522/3556
2. 37–129–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Armburst
6. Armburst
7. Westmoreland PA
8. 6.5 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32523/3557
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Morris
6. Morris
7. Fayette PA
8. 7.3 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32524/3558
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Linn
6. Linn
7. Fayette PA
8. 1.4 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32525/3559
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Tassone
6. Tassone
7. Fayette PA
8. 17.4 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32526/3560
2. 37–129–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Armburst (602446X)
6. Armburst
7. Westmoreland PA
8. 1.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32527/3561
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Horak
6. Horak
7. Fayette PA
8. 0.5 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32528/3562
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Kelley
6. Kelley
7. Fayette PA
8. 4.4 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32529/3563
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Bixler
6. Bixler
7. Fayette PA
8. 0.9 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32530/3564
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Sumey
6. Sumey
7. Fayette PA
8. .7 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32531/3634
2. 37–063–20662–0003
3. 108 000 000
4. James V Spankard Oil Co
5. I H Hogue et al #1
6. Garry
7. Indiana PA
8. 12.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32532/3644
2. 37–065–21662–0003
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R&P Coal Co WN–1700
6. Soldiers Run 664915
7. Jefferson PA
8. 20.0 million cubic feet
9. May 8, 1980
10. General System Purchasers
1. 80–32533/3666
2. 37–083–00000–0000
3. 108 000 000
4. Robert Nelson
5. PGC #474
6. Ludlow (Lots 230 & 231)
7. McKean PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32534/3667
2. 37–083–00000–0000
3. 108 000 000
4. Robert Nelson
5. PGC #213
6. Ludlow (Lots 230 & 231)
7. McKean PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32535/3668
2. 37–123–00000–0000
3. 108 000 000
4. Robert Nelson
5. Wamblade #1
6. Sheffield
7. Warren PA
8. 17.5 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32536/3686A
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers A 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32537/3686B
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers B 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32538/3687A
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk A 1993
6. Lusk A 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32539/3687B
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk B 1993
6. Lusk B 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32540/3687C
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk C 1993
6. Lusk C 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32541/3687D
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk D 1993
6. Lusk D 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32542/3688
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. McNary
6. McNary 1993

7. Washington PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32543/3689
2. 37–059–00000–0000
3. 108 000 000
4. Robert Nelson
5. Wamblade #2
6. Sheffield
7. Warren PA
8. 17.5 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32544/3690
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers A 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32545/3690A
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers B 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32546/3691A
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk A 1993
6. Lusk A 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32547/3691B
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk B 1993
6. Lusk B 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32548/3691C
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk C 1993
6. Lusk C 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32549/3691D
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk D 1993
6. Lusk D 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32550/3692
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. McNary
6. McNary 1993
7. Indiana PA
8. 0.5 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32551/3693
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Kelley
6. Kelley
7. Fayette PA
8. 4.4 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32552/3694
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Bixler
6. Bixler
7. Fayette PA
8. 0.9 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32553/3695
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Sumey
6. Sumey
7. Fayette PA
8. .7 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32554/3696
2. 37–063–20662–0003
3. 108 000 000
4. James V Spankard Oil Co
5. I H Hogue et al #1
6. Garry
7. Indiana PA
8. 12.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32555/3697
2. 37–065–21662–0003
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R&P Coal Co WN–1700
6. Soldiers Run 664915
7. Jefferson PA
8. 20.0 million cubic feet
9. May 8, 1980
10. General System Purchasers
1. 80–32556/3698
2. 37–083–00000–0000
3. 108 000 000
4. Robert Nelson
5. PGC #474
6. Ludlow (Lots 230 & 231)
7. McKean PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32557/3699
2. 37–083–00000–0000
3. 108 000 000
4. Robert Nelson
5. PGC #213
6. Ludlow (Lots 230 & 231)
7. McKean PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32558/3700
2. 37–123–00000–0000
3. 108 000 000
4. Robert Nelson
5. Wamblade #1
6. Sheffield
7. Warren PA
8. 17.5 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32559/3701
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers A 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32560/3702
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers B 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32561/3703
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk A 1993
6. Lusk A 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32562/3704
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk B 1993
6. Lusk B 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32563/3705
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk C 1993
6. Lusk C 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32564/3706
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk D 1993
6. Lusk D 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32565/3707
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. McNary
6. McNary 1993

7. Indiana PA
8. 0.5 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32566/3708
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Kelley
6. Kelley
7. Fayette PA
8. 4.4 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32567/3709
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Bixler
6. Bixler
7. Fayette PA
8. 0.9 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32568/3710
2. 37–051–00000–0000
3. 108 000 000
4. George H Bortz Jr
5. Sumey
6. Sumey
7. Fayette PA
8. .7 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80–32569/3711
2. 37–063–20662–0003
3. 108 000 000
4. James V Spankard Oil Co
5. I H Hogue et al #1
6. Garry
7. Indiana PA
8. 12.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32570/3712
2. 37–065–21662–0003
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R&P Coal Co WN–1700
6. Soldiers Run 664915
7. Jefferson PA
8. 20.0 million cubic feet
9. May 8, 1980
10. General System Purchasers
1. 80–32571/3713
2. 37–083–00000–0000
3. 108 000 000
4. Robert Nelson
5. PGC #474
6. Ludlow (Lots 230 & 231)
7. McKean PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32572/3714
2. 37–083–00000–0000
3. 108 000 000
4. Robert Nelson
5. PGC #213
6. Ludlow (Lots 230 & 231)
7. McKean PA
8. 2.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32573/3715
2. 37–123–00000–0000
3. 108 000 000
4. Robert Nelson
5. Wamblade #1
6. Sheffield
7. Warren PA
8. 17.5 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32574/3716
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers A 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32575/3717
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Myers B 1993
6. Myers 1993
7. Washington PA
8. 2.1 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32576/3718
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk A 1993
6. Lusk A 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32577/3719
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk B 1993
6. Lusk B 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32578/3720
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk C 1993
6. Lusk C 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32579/3721
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. Lusk D 1993
6. Lusk D 1993
7. Washington PA
8. 2.3 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32580/3722
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. McNary
6. McNary 1993

7. Washington PA
8. 3.6 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32543/3697
2. 37–059–00000–0000
3. 108 000 000
4. E J Brumage
5. Addleman
6. Addleman 5919
7. Greene PA
8. 3.4 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32544/3698A
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. McGowan A
6. McGowan #5921
7. Washington PA
8. 4.6 million cubic feet
9. May 8, 1980
10. Equitable Gas CO
1. 80–32545/3698B
2. 37–125–00000–0000
3. 108 000 000
4. E J Brumage
5. McGowan B
6. McGowan B #5921
7. Washington PA
8. 4.6 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32546/3701
2. 37–059–00000–0000
3. 108 000 000
4. E J Brumage
5. Hoover
6. Hoover 4860
7. Greene PA
8. 4.4 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32547/3702
2. 37–003–00000–0000
3. 108 000 000
4. E J Brumage
5. Grundy
6. Grundy 1540
7. Allegheny PA
8. 3.5 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80–32548/3732
2. 37–059–00000–0000
3. 108 000 000
4. Morris & Irene Burns
5. Burns A Wiley
6. A Wiley Lease
7. Greene PA
8. 2.8 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission
1. 80–32549/3770
2. 37–049–20706–0003
3. 103 000 000
4. Envirogas Inc
5. R Lyons #1
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32550/3777
2. 37–059–00000–0000
3. 108 000 000
4. Richard A Pultorak
5. Sayers #1
6. Sayers
7. Greene PA
8. 14.6 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32551/3778
2. 37–059–00000–0000
3. 108 000 000
4. Richard A Pultorak
5. Pratt #1
6. Pratt
7. Greene PA
8. 14.6 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32552/3779
2. 37–059–00000–0000
3. 108 000 000
4. Richard A Pultorak
5. Cosgray #1
6. Cosgray
7. Greene PA
8. 14.6 million cubic feet
9. May 8, 1980
10. Equitable Gas Co
1. 80–32554/3797
2. 37–049–20793–0003
3. 103 000 000
4. Envirogas Inc
5. C Bemis #2
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32555/3798
2. 37–049–20778–0003
3. 103 000 000
4. Envirogas Inc
5. D Fuller #1
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32556/3989
2. 37–065–21768–0000
3. 103 000 000
4. S T Joint Venture–1978A
5. John B Brandon #2
6. Brandon
7. Jefferson County PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32557/3990
2. 37–065–21779–0003
3. 103 000 000
4. St Joint Venture–1978A
5. John B Brandon #1
6. Brandon
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32558/3991
2. 37–065–21808–0003
3. 103 000 000
4. St Joint Venture–1978A
5. Byron Moore #1
6. Moore
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Gas Supply Corp
1. 80–32559/3992
2. 37–065–21807–0003
3. 103 000 000
4. St Joint Venture–1978A
5. Bodorff #1
6.
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32560/3993
2. 37–065–21814–0003
3. 103 000 000
4. St Joint Venture 1978B
5. Kirkman #1
6.
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp
1. 80–32561/3994
2. 37–065–21811–0003
3. 103 000 000
4. St Joint Venture–1978–B
5. Katzen #3
6.
7. Jefferson, PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Distribution Corp.
1. 80–32562/3995
2. 37–065–21839–0003
3. 103 000 000
4. 1979–A–St Joint Venture
5. Krajewski #1
6.
7. Jefferson, PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32563/3996
2. 37–065–21840–0003
3. 103 000 000
4. 1979A–St Joint Venture
5. Krajewski #2
6.
7. Jefferson, PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32564/3997
2. 37–065–21838–0003
3. 103 000 000
4. 1979A–St Joint Venture
5. Benedek #1
6.
7. Jefferson, PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32565/4028
2. 37–063–21851–0003
3. 108 000 000
4. James F Scott
5. Fred Musser (S172)
6. Rayne Township
7. Indiana, PA
8. 3.8 million cubic feet
9. May 8, 1980
10. Peoples National Gas Co.
1. 80–32566/4138

2. 37–049–20832–0003
3. 103 000 000
4. Taurus Oil Corp
5. Parknow #1
6. Conneaut
7. Erie, PA
8. 36.5 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32567/4140
2. 37–049–20824–0003
3. 103 000 000
4. Taurus Oil Corp
5. Lawrence #1
6. Conneaut
7. Conneaut, PA
8. 36.5 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32568/4155
2. 37–049–20763–0003
3. 102 000 000
4. Doran & Associates Inc
5. W W Waterhouse (Tract18)
6. Upper Devonian Sands
7. Erie, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32569/4227
2. 37–049–20912–003
3. 103 000 000
4. Envirogas Inc
5. W Seymour #1
6. North East Deep
7. Erie, PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32570/4234
2. 37–049–20906–0003
3. 103 000 000
4. Envirogas Inc
5. N Bartlett #1
6. North East Deep
7. Erie, PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32571/4314
2. 37–063–25194–0003
3. 103 000 000
4. Phillips Production Co
5. Anna Mary Hamilton Agent #1
6.
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10.
1. 80–32572/4315
2. 37–063–25183–0003
3. 103 000 000
4. Phillips Production Co
5. Ruth E Boggs Et Al #2
6.
7. Indiana, PA
8. 25.0 million cubic feet
9. May 8, 1980
10.
1. 80–32573/4316
2. 37–063–25116–0003
3. 103 000 000
4. Phillips Production Co
5. Ruth E Boggs et al #4
6.
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10.
1. 80–32574/4322
2. 37–005–22381–0003
3. 103 000 000
4. Doran & Associates Inc
5. F Baker #1
6. Upper Devonian Sands
7. Armstrong, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co.
1. 80–32575/4323
2. 37–033–20870–0003
3. 103 000 000
4. Doran & Associates Inc
5. Joseph M Wells #1
6. Upper Devonian Sands
7. Clearfield, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp.
1. 80–32576/4324
2. 37–065–21890–0003
3. 103 000 000
4. Watson & Swanson Inc/Doran & Assoc
5. Louis Notto #1
6. Upper Devonian Sands
7. Jefferson, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32577/4325
2. 37–063–24933–0003
3. 103 000 000
4. Doran & Associates Inc
5. D Orr #1
6. Upper Devonian Sands
7. Indiana, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Industrial Energy Service Co.
1. 80–32578/4326
2. 37–033–20860–0003
3. 103 000 000
4. Doran & Associates Inc
5. J Bracken #3
6. Upper Devonian Sands
7. Clearfield, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co.
1. 80–32579/4327
2. 37–065–21914–0003
3. 103 000 000
4. Doran & Associates Inc
5. N Smith #3
6. Upper Devonian Sands
7. Jefferson, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. T W Phillips Gas & Oil Co.
1. 80–32580/4328
2. 37–065–21755–0003
3. 103 000 000
4. Doran & Associates Inc
5. N Zimmerman #1
6. Upper Devonian Sands
7. Jefferson, PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp.
1. 80–32581/4374
2. 37–063–24291–0003
3. 103 000 000
4. Castle Gas Company Inc
5. V McCullough #2 (C–286)
6. Young Township
7. Indiana, PA
8. 70.0 million cubic feet
9. May 8, 1980
10. People Natural Gas Company.
1. 80–32582/4375
2. 37–063–24291–0003
3. 103 000 000
4. Castle Gas Company Inc
5. V McCullough #3
6. Young Township
7. Indiana, PA
8. 70.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Company.
1. 80–32583/113
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Altman #1
6. Beaver Township
7. Clarion, PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32584/2874
2. 37–053–21536–0003
3. 108 000 000
4. UGI Development Co
5. Collins-Pine Co #1
6. Deadman Corners
7. Forest, PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp.
1. 80–32585/2848
2. 37–053–21596–0003
3. 108 000 000
4. UGI Development Co
5. Collins Pine Co #6
6. Deadman Corners
7. Forest, PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp.
1. 80–32586/114
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Brewster #1
6. Beaver Township
7. Clarion, PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32587/115
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas co
5. Brewster #2
6. Beaver Township
7. Clarion, PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32588/116
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Corbett #1
6. Beaver Township

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7. Clarion, PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32589/117
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Corbett #2
6. Beaver Township
7. Clarion, PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32590/118
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Corbett #3
6. Beaver Township
7. Clarion, PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp.
1. 80–32591/119
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Corbett #4
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32592/120
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32593/121
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32594/122
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #4
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32595/123
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #5
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32596/124
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #7
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32597/125
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #8
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32598/126
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #9
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32599/127
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #10
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32600/128
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #12
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32601/129
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #13
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32602
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Crick #14
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32603
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dietz #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32604
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dietz #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32605
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32606
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32607
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32608
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #5
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32609
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #6
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32610
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #8
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32611
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #9
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32612
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #11
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32613
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #12
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32614
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #13
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32615
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #14
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32616
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Dovenspike #15
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32617/145
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Eichner #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32618/146
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Eichner #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32619/147
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Eichner #4
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32620/148
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Eichner #5
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32621/149
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Eichner #6
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32622/150
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Graham #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32623/151
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Hahn R H #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32624/152
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Hahn J B #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32625/153
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Hanst J E #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32626/154
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Hanst R B #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32627/155
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Mays R L #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32628/156
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Mays R L #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32629/157
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Mays R L #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32630/158
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Mays W H #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32631/159
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Mays W H #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32632/160
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. McCoy Anna #4
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80–32633/161
2. 37–031–00000–0000
3. 108 000 000
4. McCoy Natural Gas Co
5. McCoy-Crick #1
6. Beaver Township

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7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32634/162
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. McCoy R L #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32635/163
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. McCoy R L/MFGR Light #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32636/164
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Over C C #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32637/165
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Over C C #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32638/166
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Servey G F #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32639/167
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Servey G F #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32640/168
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Swarm #1
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32641/169
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Swarm #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32642/170
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Swarm #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32643/171
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Swarm #4
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32644/172
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Swarm #5
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32645/173
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Vogus #2
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32646/174
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Vogus #3
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32647/175
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Vogus #4
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32648/176
2. 37-031-00000-0000
3. 108 000 000
4. McCoy Natural Gas Co
5. Vogus #5
6. Beaver Township
7. Clarion PA
8. .7 million cubic feet
9. May 8, 1980
10. National Fuel Gas Co
1. 80-32649/735
2. 37-063-23235-0003
3. 108 000 000
4. Castle Gas Co Inc
5. W Smith #2
6. East Mahoning Township
7. Indiana PA
8. 16.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80-32650/737
2. 37-063-23097-0003
3. 108 000 000
4. Castle Gas Co Inc
5. W R Smith #4
6. East Mahoning Township
7. Indiana PA
8. 16.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80-32651/738
2. 37-063-23098-0003
3. 108 000 000
4. Castle Gas Co Inc
5. W R Smith #5
6. East Mahoning Township
7. Indiana PA
8. 16.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80-32652/814
2. 37-063-23623-0003
3. 108 000 000
4. Castle Gas Co Inc
5. P F Rhoads #3
6. Rayne Township
7. Indiana PA
8. 14.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Trans Corp
1. 80-32653/1802
2. 37-051-20035-0003
3. 108 000 000
4. Zenith Exploration Co
5. Grimes Unit #1
6.
7. Fayette PA
8. 2.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80-32654/1803
2. 37-051-20094-0003
3. 108 000 000
4. Zenith Exploration Co
5. D Ryan Unit #2
6.
7. Fayette PA
8. 10.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80-32655/1804
2. 37-051-20098-0003
3. 108 000 000
4. Zenith Exploration Co
5. Armstrong Heirs #2
6.
7. Fayette PA
8. 17.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80-32656/1805

2. 37-051-20115-0003
3. 108 000 000
4. Zenith Exploration Co
5. Savage #1
6.
7. Fayette PA
8. 11.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80-32657/1971
2. 37-063-23749-0000
3. 103 000 000
4. Union Drilling Inc
5. Pearl Bence Heirs 572
6. Rayne Township
7. Indiana PA
8. 26.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80-32658/1972
2. 37-063-23502-0000
3. 108 000 000
4. Union Drilling Inc
5. Earl C Bence
6. Rayne Township
7. Indiana PA
8. 15.0 million cubic feet
9. May 8, 1980
10. Peoples Natural Gas Co
1. 80-32659/2137
2. 37-049-20246-0003
3. 108 000 000
4. Darrell Goe
5. W & A Brewster
6. Albion
7. Erie PA
8. 84.1 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32660/2138
2. 37-049-20282-0003
3. 108 000 000
4. Darrell Goe
5. D Fobes #2
6. Albion
7. Erie PA
8. 51.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32661/2139
2. 37-049-20231-0003
3. 108 000 000
4. Darrell Goe
5. Bish #2
6. Albion
7. Erie PA
8. 28.3 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32662/2140
2. 37-049-20229-0003
3. 108 000 000
4. Darrell Goe
5. M Cherry
6. Albion
7. Erie PA
8. 22.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32663/2141
2. 37-049-00000-0000
3. 108 000 000
4. Darrell Goe
5. F Delong #2
6. Albion
7. Erie PA
8. 33.6 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80-32664/2142
2. 37-049-20112-0003
3. 108 000 000
4. Darrell Goe
5. J&D Case
6. Albion
7. Erie PA
8. 64.3 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80-32665/2143
2. 37-049-20281-0003
3. 108 000 000
4. Darrell Goe
5. A Bainbridge
6. Albion
7. Erie PA
8. 73.3 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32666/2144
2. 37-049-20152-0003
3. 108 000 000
4. Darrell Goe
5. Crist-Hartman
6. Albion
7. Erie PA
8. 31.0 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80-32667/2145
2. 37-049-20274-0003
3. 108 000 000
4. Darrell Goe
5. A&M Fahlen
6. Albion
7. Erie PA
8. 53.3 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32668/2147
2. 37-049-20170-0003
3. 108 000 000
4. Darrell Goe
5. Oravetz
6. Albion
7. Erie PA
8. 19.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32669/2148
2. 37-049-20227-0003
3. 108 000 000
4. Darrell Goe
5. C & M Kreig
6. Albion
7. Erie PA
8. 30.1 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32670/2149
2. 37-049-20179-0003
3. 108 000 000
4. Darrell Goe
5. M Stoner
6. Albion
7. Erie PA
8. 62.8 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32671/2150
2. 37-049-20254-0003
3. 108 000 000
4. Darrell Goe
5. S Ulan #1
6. Albion
7. Erie PA
8. 26.1 million cubic feet
9. May 8, 1980
10. National Fuel Gas
1. 80-32672/2178
2. 37-051-20092-0003
3. 108 000 000
4. Zenith Exploration Co
5. Armstrong-White #1
6.
7. Fayette PA
8. 10.5 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp
1. 80-32673/2229
2. 37-049-20147-0003
3. 108 000 000
4. Dodds et al/Darrelll Goe Agent
5. R D Beckman
6. Albion
7. Erie PA
8. 28.1 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80-32674/2231
2. 37-049—20243-0003
3. 108 000 000
4. Dodds et al/Darrell Goe Agent
5. J Carmen-Betz
6. Albion
7. Erie PA
8. 31.6 million cubic feet
9. May 8, 1980
10. Consolidated Gas Supply Corp
1. 80-32675/2823
2. 37-053-21645-0000
3. 108 000 000
4. UGI Development
5. 3188 A-6
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp
1. 80-32676/2824
2. 37-053-21647-0003
3. 108 000 000
4. UGI Development
5. National Fuel Gas A-8
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp
1. 80-32677/2825
2. 37-053-21646-0003
3. 108 000 000
4. UGI Development
5. 3188A-7 National Fuel Gas #7
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp
1. 80-32678/2826
2. 37-053-21651-0003
3. 108 000 000
4. UGI Development
5. 3188A-12 National Fuel Gas #7
6. Deadman Corners

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7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32679/2827
2. 37–053–21650–0003
3. 108 000 000
4. UGI Development
5. 3188A–11
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32680/2829
2. 37–053–21653–0003
3. 108 000 000
4. UGI Development
5. 3188A–14
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32681/2830
2. 37–053–20335–0003
3. 108 000 000
4. UGI Development
5. 3188 A–C2
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32682/2835
2. 37–053–21330–0003
3. 108 000 000
4. UGI Development Co
5. 3188–1
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32683/2836
2. 37–053–21331–0003
3. 108 000 000
4. UGI Development Co
5. 3188 A–2 Collins Farm
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32684/2837
2. 37–053–21334–0003
3. 108 000 000
4. UGI Development Co
5. Collins Farm #3
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32685/2838
2. 37–053–21333–0003
3. 108 000 000
4. UGI Development Co
5. 3188–4 Collins Farm
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32686/2839
2. 37–053–21556–0003
3. 108 000 000
4. UGI Development Co
5. 3188–5 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32687/2840
2. 37–053–21095–0003
3. 108 000 000
4. UGI Development Co
5. 3188–FPI-Clincer/Crary
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32688/2843
2. 37–053–21687–0003
3. 108 000 000
4. UGI Development Co
5. 3186 #1 Amoco/Dietz
6. Deadman Corners
7. Forest PA
8. 4.4 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32689/2844
2. 37–053–21537–0003
3. 108 000 000
4. UGI Development
5. 5103A–2 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 4.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32690/2845
2. 37–053–21595–0003
3. 108 000 000
4. UGI Development
5. 5103A–5-Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 4.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32691/2846
2. 37–053–21601–0003
3. 108 000 000
4. UGI Development
5. 5103A–11
6. Deadman Corners
7. Forest PA
8. 4.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32692/2849
2. 37–053–21597–0003
3. 108 000 000
4. UGI Development Co
5. 5103–7
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32693/2850
2. 37–053–21598–0003
3. 108 000 000
4. UGI Development Co
5. 5103–8 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32694/2851
2. 37–053–21559–0003
3. 108 000 000
4. UGI Development Co
5. 5103–9 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32695/2852
2. 37–053–21600–0003
3. 108 000 000
4. UGI Development Co
5. 5103–10 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32696/2853
2. 37–053–21801–0003
3. 108 000 000
4. UGI Development Co
5. 5103–18 Collins Pine Co Farm
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32697/2854
2. 37–053–21623–0003
3. 108 000 000
4. UGI Development Co
5. 5102–1
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32698/2855
2. 37–053–21836–0003
3. 108 000 000
4. UGI Development Co
5. 5102–5 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32699/2856
2. 37–053–21838–0003
3. 108 000 000
4. UGI Development Co
5. 5102–7 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32700/2857
2. 37–053–21840–0003
3. 108 000 000
4. UGI Development Co
5. 5102–9 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32701/2859

2. 37–053–20841–0003
3. 108 000 000
4. UGI Development Co
5. 5102–C9 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32702/2860
2. 37–053–00000–0000
3. 108 000 000
4. UGI Development Co
5. 5102–C10 Pennzoil
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32703/2861
2. 37–053–00000–0000
3. 108 000 000
4. UGI Development Co
5. 5102–C11 Pennzoil
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32704/2863
2. 37–053–21096–0003
3. 108 000 000
4. UGI Development Co
5. 3192–1 Trussell-Oakes
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32705/2864
2. 37–053–21280–0003
3. 108 000 000
4. UGI Development Co
5. 3192–2 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32706/2865
2. 37–053–21281–0003
3. 108 000 000
4. UGI Development Co
5. 3192–3 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32707/2866
2. 37–053–21328–0003
3. 108 000 000
4. UGI Development Co
5. 3192–5 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32708/2867
2. 37–053–21329–0003
3. 108 000 000
4. UGI Development Co
5. 3192–6 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32709/2868
2. 37–053–21474–0003
3. 108 000 000
4. UGI Development Co
5. 3192–9 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32710/2869
2. 37–053–22162–0003
3. 108 000 000
4. UGI Development Co
5. 3192–9A
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32711/2870
2. 37–053–21475–0003
3. 108 000 000
4. UGI Development Co
5. 3192–10 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32712/2871
2. 37–053–21476–0003
3. 108 000 000
4. UGI Development Co
5. 3192–11 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32713/2872
2. 37–053–21477–0003
3. 108 000 000
4. UGI Development Co
5. 3192–12 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32714/2873
2. 37–053–21492–0003
3. 108 000 000
4. UGI Development Co
5. 3192–13 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32715/2874
2. 37–053–21496–0003
3. 108 000 000
4. UGI Development Co
5. 3192–14
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32716/2875
2. 37–053–21497–0003
3. 108 000 000
4. UGI Development Co
5. 3192–15
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32717/2876
2. 37–053–21517–0003
3. 108 000 000
4. UGI Development Co
5. 3192–18
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32718/2877
2. 37–053–21518–0003
3. 108 000 000
4. UGI Development Co
5. 3192–19
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32719/2878
2. 37–053–21519–0003
3. 108 000 000
4. UGI Development Co
5. 3192–20 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32720/2879
2. 37–053–21876–0003
3. 108 000 000
4. UGI Development Co
5. 3192–21 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32721/2880
2. 37–053–21521–0003
3. 108 000 000
4. UGI Development Co
5. 3192–22
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32722/2881
2. 37–053–21522–0003
3. 108 000 000
4. UGI Development Co
5. 3192 23 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32723/2882
2. 37–053–21523–0003
3. 108 000 000
4. UGI Development Co
5. 3192 24 Trussell
6. Deadman Corners

7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32679/2827
2. 37–053–21650–0003
3. 108 000 000
4. UGI Development
5. 3188A–11
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32680/2829
2. 37–053–21653–0003
3. 108 000 000
4. UGI Development
5. 3188A–14
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32681/2830
2. 37–053–20335–0003
3. 108 000 000
4. UGI Development
5. 3188 A–C2
6. Deadman Corners
7. Forest PA
8. 1.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32682/2835
2. 37–053–21330–0003
3. 108 000 000
4. UGI Development Co
5. 3188–1
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32683/2836
2. 37–053–21331–0003
3. 108 000 000
4. UGI Development Co
5. 3188 A–2 Collins Farm
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32684/2837
2. 37–053–21334–0003
3. 108 000 000
4. UGI Development Co
5. Collins Farm #3
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32685/2838
2. 37–053–21333–0003
3. 108 000 000
4. UGI Development Co
5. 3188–4 Collins Farm
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32686/2839
2. 37–053–21346–0003
3. 108 000 000
4. UGI Development Co
5. 3188–5 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32687/2840
2. 37–053–21095–0003
3. 108 000 000
4. UGI Development Co
5. 3188–FPI-Clincer/Crary
6. Deadman Corners
7. Forest PA
8. 1.6 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32688/2843
2. 37–053–21687–0003
3. 108 000 000
4. UGI Development Co
5. 3186 #1 Amoco/Dietz
6. Deadman Corners
7. Forest PA
8. 4.4 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32689/2844
2. 37–053–21537–0003
3. 108 000 000
4. UGI Development
5. 5103A–2 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 4.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32690/2845
2. 37–053–21595–0003
3. 108 000 000
4. UGI Development
5. 5103A–5-Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 4.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32691/2846
2. 37–053–21601–0003
3. 108 000 000
4. UGI Development
5. 5103A–11
6. Deadman Corners
7. Forest PA
8. 4.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32692/2849
2. 37–053–21597–0003
3. 108 000 000
4. UGI Development Co
5. 5103–7
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32693/2850
2. 37–053–21598–0003
3. 108 000 000
4. UGI Development Co
5. 5103–8 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32694/2851
2. 37–053–21559–0003
3. 108 000 000
4. UGI Development Co
5. 5103–9 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32695/2852
2. 37–053–21600–0003
3. 108 000 000
4. UGI Development Co
5. 5103–10 Collins-Pine Co
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32696/2853
2. 37–053–21801–0003
3. 108 000 000
4. UGI Development Co
5. 5103–18 Collins Pine Co Farm
6. Deadman Corners
7. Forest PA
8. 2.3 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32697/2854
2. 37–053–21623–0003
3. 108 000 000
4. UGI Development Co
5. 5102–1
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32698/2855
2. 37–053–21836–0003
3. 108 000 000
4. UGI Development Co
5. 5102–5 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32699/2856
2. 37–053–21838–0003
3. 108 000 000
4. UGI Development Co
5. 5102–7 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32700/2857
2. 37–053–21840–0003
3. 108 000 000
4. UGI Development Co
5. 5102–9 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32701/2859

2. 37–053–20841–0003
3. 108 000 000
4. UGI Development Co
5. 5102–C9 Pennzoil Farm
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32702/2860
2. 37–053–00000–0000
3. 108 000 000
4. UGI Development Co
5. 5102–C10 Pennzoil
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32703/2861
2. 37–053–00000–0000
3. 108 000 000
4. UGI Development Co
5. 5102–C11 Pennzoil
6. Deadman Corners
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32704/2863
2. 37–053–21096–0003
3. 108 000 000
4. UGI Development Co
5. 3192–1 Trussell-Oakes
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32705/2864
2. 37–053–21280–0003
3. 108 000 000
4. UGI Development Co
5. 3192–2 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32706/2865
2. 37–053–21281–0003
3. 108 000 000
4. UGI Development Co
5. 3192–3 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32707/2866
2. 37–053–21328–0003
3. 108 000 000
4. UGI Development Co
5. 3192–5 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32708/2867
2. 37–053–21329–0003
3. 108 000 000
4. UGI Development Co
5. 3192–6 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32709/2868
2. 37–053–21474–0003
3. 108 000 000
4. UGI Development Co
5. 3192–9 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32710/2869
2. 37–053–22162–0003
3. 108 000 000
4. UGI Development Co
5. 3192–9A
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32711/2870
2. 37–053–21475–0003
3. 108 000 000
4. UGI Development Co
5. 3192–10 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32712/2871
2. 37–053–21476–0003
3. 108 000 000
4. UGI Development Co
5. 3192–11 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32713/2872
2. 37–053–21477–0003
3. 108 000 000
4. UGI Development Co
5. 3192–12 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32714/2873
2. 37–053–21492–0003
3. 108 000 000
4. UGI Development Co
5. 3192–13 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32715/2874
2. 37–053–21496–0003
3. 108 000 000
4. UGI Development Co
5. 3192–14
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32716/2875
2. 37–053–21497–0003
3. 108 000 000
4. UGI Development Co
5. 3192–15
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32717/2876
2. 37–053–21517–0003
3. 108 000 000
4. UGI Development Co
5. 3192–18
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32718/2877
2. 37–053–21518–0003
3. 108 000 000
4. UGI Development Co
5. 3192–19
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32719/2878
2. 37–053–21519–0003
3. 108 000 000
4. UGI Development Co
5. 3192–20 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32720/2879
2. 37–053–21876–0003
3. 108 000 000
4. UGI Development Co
5. 3192–21 Trussell Farm
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32721/2880
2. 37–053–21521–0003
3. 108 000 000
4. UGI Development Co
5. 3192–22
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32722/2881
2. 37–053–21522–0003
3. 108 000 000
4. UGI Development Co
5. 3192 23 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80–32723/2882
2. 37–053–21523–0003
3. 108 000 000
4. UGI Development Co
5. 3192 24 Trussell
6. Deadman Corners

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7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32724/2883
2. 37-053-21524-0003
3. 108 000 000
4. UGI Development Co
5. 3192 25 Trussell
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32725/2884
2. 37-053-00000-0000
3. 108 000 000
4. UGI Development Co
5. 3192 R 31
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32726/2885
2. 37-053-21273-0003
3. 108 000 000
4. UGI Development Co
5. 4790-1—National Fuel Gas
6. Deadman Corners
7. Forest PA
8. 1.9 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32727/2886
2. 37-053-21274-0003
3. 108 000 000
4. UGI Development Co
5. 4790-2
6. Deadman Corners
7. Forest PA
8. 1.9 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32728/2887
2. 37-053-21473-0003
3. 108 000 000
4. UGI Development Co
5. 4790-3—National Fuel Gas
6. Deadman Corners
7. Forest PA
8. 1.5 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32729/2889
2. 37-053-21127-0003
3. 108 000 000
4. UGI Development Co
5. 5107-1
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32730/2890
2. 37-053-21345-0003
3. 108 000 000
4. UGI Development Co
5. 5107-2
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32731/2891
2. 37-053-21346-0003
3. 108 000 000
4. UGI Development Co
5. 5107-3
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32732/2892
2. 37-053-21602-0003
3. 108 000 000
4. UGI Development Co
5. 5107-6
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32733/2893
2. 37-053-21603-0003
3. 108 000 000
4. UGI Development Co
5. 5107-7
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32734/2894
2. 37-053-21604-0003
3. 108 000 000
4. UGI Development Co
5. 5107-8
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32735/2895
2. 37-053-21605-0003
3. 108 000 000
4. UGI Development Co
5. 5107-9—Collins-Pine Co
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32736/2896
2. 37-053-21690-0003
3. 108 000 000
4. UGI Development Co
5. 5107-10
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32737/2897
2. 37-053-21700-0003
3. 108 000 000
4. UGI Development Co
5. 5107-20
6. Clough-Salmon Creek
7. Forest PA
8. 1.0 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32738/2898
2. 37-053-21540-0003
3. 108 000 000
4. UGI Development Co
5. 5106-1
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32739/2899
2. 37-053-21541-0003
3. 108 000 000
4. UGI Development Co
5. 5106-2
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32740/2900
2. 37-053-21542-0003
3. 108 000 000
4. UGI Development Co
5. 5106-3
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32741/2901
2. 37-053-21633-0003
3. 108 000 000
4. UGI Development Co
5. 5106—6
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32742/2902
2. 37-053-21634-0003
3. 108 000 000
4. UGI Development Co
5. 5106—7
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32743/2903
2. 37-053-21635-0003
3. 108 000 000
4. UGI Development Co
5. 5106—8
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32744/2904
2. 37-053-21636-0003
3. 108 000 000
4. UGI Development Co
5. 5106—9 Collins Pine
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32745/2905
2. 37-053-21637-0003
3. 108 000 000
4. UGI Development Co
5. 5106—10 Collins Pine
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32746/2906

2. 37-053-21638-0003
3. 108 000 000
4. UGI Development Co
5. 5106—11 Collins Pine Farm
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32747/2907
2. 37-053-21674-0003
3. 108 000 000
4. UGI Development Co
5. 5106—16 Collins Pine Farm
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32748/2908
2. 37-053-21676-0003
3. 108 000 000
4. UGI Development Co
5. 5106—18 Collins Pine Farm
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32749/2909
2. 37-053-21677-0003
3. 108 000 000
4. UGI Development Co
5. 5106—19 Collins Pine Farm
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32750/2910
2. 37-053-21679-0003
3. 108 000 000
4. UGI Development Co
5. 5106—21 Collins Pine Farm
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32751/2911
2. 37-053-21681-0003
3. 108 000 000
4. UGI Development Co
5. 5106—23 Collins Pine Farm
6. Clough-Salmon Creek
7. Forest PA
8. 1.8 million cubic feet
9. May 8, 1980
10. UGI Corp

1. 80-32752/3384
2. 37-065-21743-0000
3. 103 000 000
4. Catherine A Wall
5. Joseph Zufall #1
6. Cloe
7. Jefferson PA
8. 2.4 million cubic feet
9. May 8, 1980
10. T W Phillips Gas Co

1. 80-32753/4038
2. 37-033-20917-0003
3. 103 000 000
4. Texaco Inc
5. Rachel Garland No 1A
6. West Decatur
7. Clearfield PA
8. 36.0 million cubic feet
9. May 8, 1980
10. Penn Fuel Gas Inc

1. 80-32754/4156
2. 37-049-20751-0000
3. 102 000 000
4. Doran & Associates Inc
5. Cubbon Lumber #1
6. Upper Devonian Sands
7. Erie PA
8. 30.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

1. 80-32755/4317
2. 37-065-21894-0003
3. 103 000 000
4. S T Joint Venture—1978 B
5. Katzen #1
6. Harry Katzen
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

1. 80-32756/4318
2. 37-065-21945-0003
3. 103 000 000
4. S T Joint Venture—1978 B
5. Katzen #2
6. Harry Katzen
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

1. 80-32757/4319
2. 37-065-21946-0003
3. 103 000 000
4. S T Joint Venture—1978 B
5. Katzen #5
6. Harry Katzen
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

1. 80-32758/4320
2. 37-065-21947-0003
3. 103 000 000
4. S T Joint Venture—1978 B
5. Katzen #6
6. Harry Katzen
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

1. 80-32759/4321
2. 37-065-21973-0003
3. 103 000 000
4. S T Joint Venture—1978 B
5. Bullers #1
6. Malcom Bullers
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

1. 80-32760/4337
2. 37-005-00000-0003
3. 108 000 000
4. Louden Properties Co
5. P George
6. Girty
7. Armstrong PA
8. 8.2 million cubic feet
9. May 8, 1980
10. Crucible Inc

1. 80-32761/4391
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. Jos Blair Est #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32762/4392
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. E A Crick #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32763/4393
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. Allen Rankin #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32764/4394
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. E P Walls #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32765/4395
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. Ramsey Heirs #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32766/4396
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. Roy Culbertson #4
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32767/4397
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. Allen Rankin #3
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80-32768/4398
2. 37-031-00000-0000
3. 108 000 000
4. Hanley & Bird
5. A E Bonnett #1
6. Rimersburg

7. Clarion PA
2. 37-031-00000-0000
7. Clairion PA

2. 37-031-00000-0000

7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32769/4399
2. 37–031–20147–0003
3. 108 000 000
4. Hanley & Bird
5. Roy Culbertson #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32770/4400
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. C T Polliard #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32771/4401
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. J H Lerch #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32772/4402
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. N C Cook #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32773/4403
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. WM Duncan #3
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32774/4404
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. Sam Hawk #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32775/4405
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. David Lawson Heirs #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32776/4406
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. J D Mortimer #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32777/4407
2. 37–049–20817–0003
3. 102 000 000
4. Applachian Energy Inc
5. J Merry #1
6. Silurian Sands
7. Erie PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp

1. 80–32778/4408
2. 37–049–20815–0003
3. 102 000 000
4. Applachian Energy Inc
5. H Bennink #1
6. Silurian Sands
7. Erie PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp

1. 80–32779/4409
2. 37–049–20814–0003
3. 102 000 000
4. Appalachian Energy Inc
5. Adrian Sorenson #1
6. Upper Devonian Sands
7. Erie PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp

1. 80–32780/4410
2. 37–049–20816–0003
3. 102 000 000
4. Appalachian Energy Inc
5. Royal Nickerson #1
6. Upper Devonian Sands
7. Erie PA
8. 30.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp

1. 80–32781/4411
2. 37–063–25001–0003
3. 103 000 000
4. Phillips Production Co
5. Ruth E Boggs Et Al #1
6.
7. Indiana PA
8. 25.0 million cubic feet
9. May 8, 1980
10.

1. 80–32782/4412
2. 37–065–22017–0003
3. 103 000 000
4. Phillips Production Co
5. George W Lyle Et Ux #1
6.
7. Jefferson PA
8. 25.0 million cubic feet
9. May 8, 1980
10.

1. 80–32783/4436
2. 37–031–20125–0003
3. 108 000 000
4. Hanley & Bird
5. H L McHenry #1 SN215
6. Rimersburg
7. Clairion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32784/4437
2. 37–031–20149–0003
3. 108 000 000
4. Hanley & Bird
5. Allen Rankin #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32785/4438
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. E P Walls #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32786/4439
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. E P Walls #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32787/4440
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. Hamler Coal #2
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32788/4441
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. Hamler Coal #3
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32789/4442
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. Earl Culbertson #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32790/4443
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. D C Martin #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32791/4444

2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. W E Chandler #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32792/4445
2. 37–031–00000–0000
3. 108 000 000
4. Hanley & Bird
5. A J Mortimer #1
6. Rimersburg
7. Clarion PA
8. .9 million cubic feet
9. May 8, 1980
10. Hanley Brick Co

1. 80–32553/3796
2. 37–049–20819–0003
3. 103 000 000
4. Envirogas Inc
5. C Bemis #1
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. May 8, 1980
10. National Fuel Gas Supply Corp

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–32383
2. 47–013–02859–0000
3. 103 000 000
4. Harry C Boggs
5. R F Stalnaker No. 9
6. Nicut
7. Calhoun, WV
8. .0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–26872
2. 47–007–01248–0000
3. 108 000 000
4. Royal Resources Corp
5. Eva Williams No. 2
6. Rollyson Field
7. Braxton, WV
8. 17.5 million cubic feet
9. April 15, 1980
10. Equitable Gas Co

1. 80–32260
2. 47–019–00319–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. O L Massey Gas Unit No. 1
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32261
2. 47–019–00326–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. L Minter No. 1
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32262
2. 47–019–00330–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. W W Champe No. 1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32263
2. 47–019–00332–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. M D Steele No. 3
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32264
2. 47–019–00305–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. M Atkins No. 1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32265
2. 47–007–20866–0000
3. 108 000 000
4. Petro-Lewis Corp
5. Singleton No. 1
6. Salt Lick District
7. Braxton WV
8. 3.7 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32266
2. 47–019–00306–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. C Shumway No. 1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32267
2. 47–019–00310–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Ames Timber & Lumber Company No. 1
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32268
2. 47–019–00311–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. S Fox No. 1
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32269
2. 47–019–00314–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. C Shumway No. 2
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32270
2. 47–015–01316–0000
3. 103 000 000
4. Gordon C Morton
5. B C Eakle No. 1
6. Buffalo District
7. Clay County, WV
8. 8.6 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32271
2. 47–015–01288–0000
3. 000 000 000
4. Gordon C Morton
5. Ira Jackson No. 2
6. Buffalo District
7. Clay County WV
8. 6.3 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32272
2. 47–015–01287–0000
3. 103 000 000
4. Gordon C Morton Co Inc
5. Alidene Jackson No. 2
6. Buffalo District
7. Clay County, WV
8. 16.2 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32273
2. 47–015–01286–0000
3. 103 000 000
4. Gordon C Morton
5. Alidene Jackson No. 1 SN–4
6. Buffalo District
7. Clay County, WV
8. 8.1 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32274
2. 47–015–01284–0000
3. 103 000 000
4. Gordon C Morton Co Inc
5. Sarah Bragg No. 3
6. Buffalo District
7. Clay County, WV
8. 7.2 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32275
2. 47–015–01283–0000
3. 103 000 000
4. Gordon C Morton
5. Sarah Bragg No. 2
6. Buffalo District
7. Clay County, WV
8. 1980.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32276
2. 47–015–01282–0000

3. 103 000 000
8. 9.0 million cubic feet

2. 47–007–01368–0000

7. Marion WV

3. 103 000 000
4. Gordon C Morton
5. Sarah Bragg No. 1
6. Buffalo District
7. Clay County WV
8. 9.5 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32277
2. 47–015–01280–0000
3. 103 000 000
4. Gordon C Morton
5. Erie Bragg No. 1 SN–38
6. Buffalo District
7. Clay County WV
8. 39.2 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32278
2. 47–015–01609–0000
3. 103 000 000
4. Sterling Drilling & Prod Co
5. Aloi No. 6
6. Buffalo District
7. Clay, WV
8. 2.9 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32279
2. 47–015–01607–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Aloi No. 4
6. Buffalo District
7. Clay, WV
8. 5.1 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32280
2. 47–015–01590–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Litton No. 4
6. Buffalo District
7. Clay, WV
8. 1.9 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32281
2. 47–015–01558–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Morris No. 3
6. Buffalo District
7. Clay, WV
8. 7.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32282
2. 47–015–01557–0000
3. 103 000 000
4. Sterling Drilling & Production
5. Morris No. 2
6. Buffalo District
7. Clay, WV
8. 9.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32283
2. 47–015–01549–0000
3. 103 000 000
4. Sterling Drilling & Production
5. Summers No. 17
6. Buffalo District
7. Clay, WV
8. 9.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32284
2. 47–015–01525–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Litton No. 2
6. Buffalo District
7. Clay, WV
8. .2 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32285
2. 47–015–01516–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. S Nottingham No. 2
6. Otter District
7. Clay, WV
8. 17.5 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32286
2. 47–015–01514–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Summers No. 12
6. Buffalo District
7. Clay, WV
8. 16.9 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32287
2. 47–015–01508–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Smith No 1
6. Buffalo District
7. Clay WV
8. 19.8 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32288
2. 47–007–01378–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Fear No 4
6. Birch District
7. Braxton WV
8. 1.8 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32289
2. 47–007–01377–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Fear #3
6. Birch District
7. Braxton WV
8. 10.8 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32290
2. 47–007–01371–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. N Nottingham No 1
6. Birch District
7. Braxton WV
8. 1.8 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32291
2. 47–007–01368–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Jarvis #2
6. Birch District
7. Braxton WV
8. 18.9 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32292
2. 47–007–01366–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Fleming #2
6. Birch District
7. Braxton WV
8. 16.5 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32293
2. 47–007–01341–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Given #4
6. Birch District
7. Braxton WV
8. 10.8 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32294
2. 47–007–01330–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Given #3
6. Birch District
7. Braxton WV
8. 2.2 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32295
2. 47–049–00499–0000
3. 108 000 000
4. Pennzoil Co
5. Brumage Jacob #7
6. Mannington
7. Marion WV
8. .3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32296
2. 47–007–01340–0000
3. 103 000 000
4. Sterling Drilling & Prod Co Inc
5. Fleming #1
6. Birch District
7. Braxton WV
8. 1.2 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32297
2. 47–049–00105–0000
3. 108 000 000
4. Pennzoil Co
5. Cunningham WN # 9
6. Mannington
7. Marion WV
8. 2.4 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32298
2. 47–049–00094–0000
3. 108 000 000
4. Pennzoil Co
5. Cunningham Jacob #13
6. Mannington

7. Marion WV
8. .3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32299
2. 47–041–02088–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. F L Hacker 12082
6. West Virginia Other A–85772
7. Lewis WV
8. 20.0 million cubic feet
9. May 7, 1980
10. General System Purchasers

1. 80–32300
2. 47–041–00476–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Alonzo A Teter 11116
6. West Virginia Other A–85772
7. Lewis WV
8. 1.0 million cubic feet
9. May 7, 1980
10. General System Purchasers

1. 80–32301
2. 47–033–00919–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R J Bennett 12042
6. West Virginia Other A–85772
7. Harrison WV
8. 10.0 million cubic feet
9. May 7, 1980
10. General System Purchasers

1. 80–32302
2. 47–021–01207–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W B Maxwell 11112
6. West Virginia Other A–85772
7. Gilmer WV
8. 3.0 million cubic feet
9. May 7, 1980
10. General System Purchasers

1. 80–32303
2. 47–099–20585–0000
3. 108 000 000
4. Ethel Gas Company
5. Frank Yates #1
6. Lincoln
7. Wayne WV
8. 7.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp

1. 80–32304
2. 47–001–01165–0000
3. 103 000 000
4. Chesterfield Corp
5. Carr #2 Bar 1165
6. Barbour County
7. Barbour WV
8. .0 million cubic feet
9. May 7, 1980
10. Columbia Gas Corp

1. 80–32305
2. 47–013–01870–0000
3. 108 000 000
4. Victor Brannon
5. Smith-Ayers Gas Com (A W Siers #1)
6.
7. Calhoun WV
8. 6.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32306
2. 47–041–22551–0000
3. 103 000 000
4. Appalachian Energy Inc DBA LDR
5. Glen Rohr A–E–44
6. Hackers Creek
7. Lewis WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32307
2. 47–035–01509–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Robert L Parsons Farm #2
6. Ripley
7. Jackson WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32308
2. 47–035–01508–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Robert L Parsons Farm #1
6. Ripley
7. Jackson WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32309
2. 47–041–02528–0000
3. 108 000 000
4. James F Scott
5. A P White
6. Freemans Creek District
7. Lewis WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32310
2. 47–033–01687–0000
3. 108 000 000
4. James F Scott
5. Frances Coffman
6. Eagle District
7. Harrison WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32311
2. 47–103–01129–0000
3. 108 000 000
4. Pennzoil Co
5. John Stevens No 15
6. Grant
7. Wetzel WV
8. 2.2 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32312
2. 47–103–01047–0000
3. 108 000 000
4. Pennzoil Co
5. McIntyre-Peterson #4
6. Grant
7. Wetzel WV
8. .3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32313
2. 47–103–00932–0000
3. 108 000 000
4. Pennzoil Co
5. B Wells & Co No 17
6. Grant
7. Wetzel WV
8. 1.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32314
2. 47–049–00561–0000
3. 108 000 000
4. Pennzoil Co
5. Peterson N M #1
6. Mannington
7. Marion WV
8. .3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32315
2. 47–011–20270–0000
3. 108 000 000
4. Swann Gas Co
5. A J Nicely Heirs #1
6. McComas
7. Cabell WV
8. 4.7 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32316
2. 47–043–20628–0000
3. 108 000 000
4. Elkins Branch Gas Co
5. Clarborn Adkins #1
6. Jefferson District
7. Lincoln WV
8. 890.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32317
2. 47–943–20285–0000
3. 108 000 000
4. Elkins Branch Gas Co
5. James Cooper No 4
6. Jefferson District
7. Lincoln, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Pennzoil Company

1. 80–32318
2. 47–043–20284–0000
3. 108 000 000
4. Elkins Branch Gas Co
5. James Cooper No 1
6. Jefferson District
7. Lincoln, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32319
2. 47–043–20282–0000
3. 108 000 000
4. Elkins Branch Gas Co
5. James Cooper No 3
6. Jefferson District
7. Lincoln, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32320
2. 47–079–20262–0000
3. 108 000 000
4. Cooper Gas Company
5. R V Dorsey No 1
6. Curry District
7. Putnam, WV
8. 5.1 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32321

V 45 M Y 29 80 UMI

2. 47–079–20256–0000
3. 108 000 000
4. Cooper Gas Co
5. Alan Estep No 1
6. Curry District
7. Putnam, WV
8. 3.5 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32322
2. 47–079–20213–0000
3. 108 000 000
4. Cooper Gas Co
5. N M Beckett No 1
6. Curry District
7. Putnam, WV
8. 3.7 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32323
2. 47–079–20187–0000
3. 108 000 000
4. Cooper Gas Co
5. Enoch Harper Heirs No 2
6. Curry District
7. Putnam, WV
8. 1.4 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32324
2. 47–079–20186–0000
3. 108 000 000
4. Cooper Gas Co
5. Enoch Harper Heirs No 1
6. Curry District
7. Putnam, WV
8. 1.4 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32325
2. 47–079–20173–0000
3. 108 000 000
4. Cooper Gas Co
5. Floyd Mabe No 1
6. Curry District
7. Putnam, WV
8. 3.3 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32326
2. 47–011–20231–0000
3. 108 000 000
4. Swann Gas Company
5. Swann No 1
6. McComas
7. Cabell, WV
8. 1.1 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32327
2. 47–011–20324–0000
3. 108 000 000
4. Swann Gas Co
5. Swann No 2
6. McComas
7. Cabell, WV
8. 110.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32328
2. 47–043–00684–0000
3. 108 000 000
4. Latin Gas Company
5. A F Morris No 5
6. Laurel Hill
7. Lincoln, WV
8. 11.0 million cubic feet
9. May 7, 1980
10. Industrial Gas Corp

1. 80–32329
2. 47–043–00635–0000
3. 108 000 000
4. Latin Gas Company
5. A F Morris No 4
6. Laurel Hill
7. Lincoln, WV
8. 11.0 million cubic feet
9. May 7, 1980
10. Industrial Gas Corp

1. 80–32330
2. 47–043–00071–0000
3. 108 000 000
4. A F Morris Factor
5. Elkins Lovejoy No 1
6. L H Fork of Mud River
7. Lincoln, WV
8. 7.6 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32331
2. 47–043–00034–0000
3. 108 000 000
4. A F Morris Factor
5. Stump Heirs No 8
6. Big Laurel Creek
7. Lincoln, WV
8. 4.5 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32332
2. 47–043–00033–0000
3. 108 000 000
4. A F Morris Factor
5. Stump Heirs No 9
6. Big Laurel Creek
7. Lincoln, WV
8. 4.5 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32333
2. 47–043–00024–0000
3. 108 000 000
4. A F Morris Factor
5. Stump Heirs No 7
6. Big Laurel Creek
7. Lincoln, WV
8. 4.5 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32334
2. 47–013–02260–0000
3. 108 000 000
4. J B Dale dba Dale Drilling
5. Minnie Kelly Well No 3
6. Nicut
7. Calhoun, WV
8. 2.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32335
2. 47–013–02250–0000
3. 108 000 000
4. J B Dale
5. W R Cottrell No 1
6. Nicut
7. Calhoun, WV
8. 2.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32336
2. 47–013–02231–0000
3. 108 000 000
4. J B Dale dba Dale Drilling
5. Minnie Kelly Well No 1
6. Nicut
7. Calhoun, WV
8. 3.1 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32337
2. 47–013–02206–0000
3. 108 000 000
4. J B Dale dba Dale Drilling
5. J Wesley Chenoweth No 1
6. Nicut
7. Calhoun, WV
8. 1.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32338
2. 47–013–02137–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. F M Mets Well No 1
6. Nicut
7. Calhoun, WV
8. 10.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32339
2. 47–013–02125–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Shimer Well No 5
6. Nicut
7. Calhoun, WV
8. 863.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32340
2. 47–007–00658–0000
3. 108 000 000
4. TWM Petroleum Inc
5. C B Evans No 1
6. Salt Lick District
7. Braxton, WV
8. 1.3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32341
2. 47–021–02112–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Fisher No 2
6. Sheridan
7. Gilmer, WV
8. 4.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32342
2. 47–021–02110–0000
3. 108 000 000
4. Grace Petroleum Corp
5. McDaniel No 2
6. Sheridan
7. Gilmer, WV
8. 3.7 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32343
2. 47–021–02109–0000
3. 108 000 000
4. Grace Petroleum Corp
5. McDaniel No 1
6. Sheridan

7. Gilmer, WV
8. 3.6 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32344
2. 47–021–02099–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Morris No 2
6. Sheridan
7. Gilmer, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32345
2. 47–021–02095–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Morris No 1
6. Sheridan
7. Gilmer, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32346
2. 47–021–02027–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Kidd No 2
6. Sheridan
7. Gilmer, WV
8. 5.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32347
2. 47–021–02013–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Kidd No. 1
6. Sheridan
7. Gilmer WV
8. 5.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32348
2. 47–013–02459–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Knight No. 4
6. Sheridan
7. Calhoun WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32349
2. 47–013–02411–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Elliott No. 1
6. Sheridan
7. Calhoun WV
8. 4.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32350
2. 47–013–02402–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Elliott No. 2
6. Sheridan
7. Calhoun WV
8. 5.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32351
2. 47–013–01102–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Knight #3
6. Sheridan
7. Calhoun WV
8. 2.3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32352
2. 47–085–02997–0000
3. 108 000 000
4. Philip Lemon
5. Mary Welch Well No. 2
6. Murphy
7. Ritchie WV
8. 1.5 million cubic feet
9. May 2, 1980
10. Consolidated Gas Supply Corp

1. 80–32353
2. 47–043–21835–0000
3. 108 000 000
4. Franklin Adkins
5. 1–C
6. Sheridan District
7. Lincoln WV
8. 11.5 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp

1. 80–32354
2. 47–043–21834–0000
3. 108 000 000
4. Franklin Adkins
5. 1–D
6. Sheridan District
7. Lincoln WV
8. 14.6 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp

1. 80–32355
2. 47–033–00471–0000
3. 108 000 000
4. TWM Petroleum Inc
5. C S Trimble No. 2
6. Simpson Dist
7. Harrison WV
8. 14.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32356
2. 47–021–03502–0000
3. 107 000 000
4. Waco Oil & Gas Company
5. Ervin Lowther #2A
6.
7. Gilmer WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Carnegie Natural Gas Co

1. 80–32357
2. 47–021–03505–0000
3. 107 000 000
4. Waco Oil & Gas Company
5. Jones Heirs 3A
6. Ellis
7. Gilmer WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Carnegie Natural Gas Co

1. 80–32358
2. 47–021–03458–0000
3. 107 000 000
4. Waco Oil & Gas Company
5. Jones Heirs 2A
6.
7. Gilmer WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Carnegie Natural Gas Co

1. 80–32359
2. 47–021–03457–0000
3. 107 000 000
4. Waco Oil & Gas Company
5. Ervin Lowther #1A
6. Ellis
7. Gilmer WV
8. 30.0 million cubic feet
9. May 7, 1980
10. Carnegie Natural Gas Co

1. 80–32360
2. 47–079–20229–0000
3. 108 000 000
4. Caldwell Gas Co
5. Virgil Caldwell #2
6. Curry District
7. Putnam WV
8. 1.7 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32361
2. 47–079–20185–0000
3. 108 000 000
4. Caldwell Gas Co
5. Virgil Caldwell #1
6. Curry District
7. Putnam WV
8. 1.7 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32362
2. 47–049–20691–0000
3. 108 000 000
4. Joyce Gas Company
5. Chew Feamster & Johnson #2
6. Tridelphia
7. Logan WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32363
2. 47–045–20614–0000
3. 108 000 000
4. Joyce Gas Co
5. E N White ET AL #2
6. Tridelphia
7. Logan WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32364
2. 47–045–20615–0000
3. 108 000 000
4. Joyce Gas Company
5. R Z Joyce #1
6. Tridelphia
7. Logan WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32365
2. 47–097–01931–0000
3. 103 000 000
4. Union Drilling Inc
5. Edna Gillum ET AL #1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32366

2. 47–097–00000–0000

7. Gilmer WV

2. 47–013–00000–0000

V 45 MY 29 80 UMI

2. 47–097–00000–0000
3. 108 000 000
4. Bogert Coal & Gas
5. Hinkle No. 2
6. Applachian
7. Upshur WV
8. 850.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp

1. 80–32367
2. 47–043–20134–0000
3. 108 000 000
4. R H Adkins Trustee for McComas
5. S A Egnor #1
6. Jefferson
7. Lincoln WV
8. 2.8 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32368
2. 47–043–20248–0000
3. 108 000 000
4. Templeton Gas Company
5. J T Morrison #1
6. Sheridan
7. Lincoln WV
8. 1.4 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32369
2. 47–043–20140–0000
3. 108 000 000
4. Wolf Pen Gas Company
5. H C Osborne #1
6. Jefferson
7. Lincoln WV
8. 1.4 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32370
2. 47–039–21624–0000
3. 108 000 000
4. Courtland Gas Co
5. Brown & Courtney #5
6. Washington
7. Kanawha WV
8. 4.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32371
2. 47–011–20310–0000
3. 108 000 000
4. Templeton Gas Co
5. Otto Browning #1
6. McComas
7. Cabell WV
8. 1.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32372
2. 47–011–20135–0000
3. 108 000 000
4. Enery Gas Co
5. F F Starcher #1
6. McComas
7. Cabell WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32373
2. 47–021–02836–0000
3. 108 000 000
4. Braxton Oil and Gas Corp
5. Woodford No. 1
6. Sand Fork
7. Gilmer WV
8. 27.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32374
2. 47–043–20138–0000
3. 108 000 000
4. R H Adkins Trustee for McComas
5. H C Chandler #1
6. Jefferson
7. Lincoln WV
8. 5.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co

1. 80–32375
2. 47–045–20585–0000
3. 108 000 000
4. Joyce Gas Co
5. E N & C E White #1
6. Tridelphia
7. Logan WV
8. .0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32376
2. 47–045–20656–0000
3. 108 000 000
4. Lamb Gas Co
5. E N White et al #4
6. Tridelphia
7. Logan WV
8. 8.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32377
2. 47–043–20119–0000
3. 108 000 000
4. Vernon Gas Co
5. Roy & Hal Adkins No. 2
6. Union
7. Lincoln, WV
8. 1.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co.

1. 80–32378
2. 47–043–20114–0000
3. 108 000 000
4. Vernon Gas Co
5. Roy & Hal Adkins No. 1
6. Union
7. Lincoln, WV
8. 1.0 million cubic feet
9. May 7, 1980
10. Pennzoil Co..

1. 80–32379
2. 47–021–02579–0000
3. 108 000 000
4. Braxton Oil and Gas Corp
5. Jackson No. 1
6. Aspinall-Finster
7. Gilmer, WV
8. .0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co.

1. 80–32380
2. 47–013–00000–0000
3. 108 000 000
4. McGeorge Oil & Gas Co
5. McGeorge Oil & Gas Co No. 1
6. Nancy McGeorge Lease
7. Calhoun, WV
8. 2.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32381
2. 47–013–00000–0000
3. 108 000 000
4. Mary Duffield Oil & Gas Co
5. Mary Duffield Oil & Gas Co No 4
6. Mary Duffield Lease
7. Calhoun, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32382
2. 47–047–05790–0000
3. 108 000 000
4. Lu Ray Land Inc
5. Harmon No 1
6. Big Creek District
7. McDowell, WV
8. 18.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Transmission Corp.

1. 80–32384
2. 47–013–00000–0000
3. 108 000 000
4. Mary Duffield Oil & Gas Co
5. Mary Duffield Oil & Gas Co No 3
6. Mary Duffield Lease
7. Calhoun, WV
8. 3.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32385
2. 47–415–88000–0000
3. 108 000 000
4. RO-JO Industries Inc
5. Snyder #1
6. Polk Creek
7. Lewis, WV
8. 9.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32386
2. 47–001–29490–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–130 BAR–949
6. Philippi
7. Barbour, WV
8. 2.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32387
2. 47–013–02124–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Dovie Knotts #2
6. Nicut
7. Calhoun, WV
8. 1.8 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32388
2. 47–013–02099–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Roy Arnold No. 4
6. Nicut
7. Calhoun, WV
8. 1.2 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32389
2. 47–013–02081–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Clay Sears No. 2
6. Nicut

7. Calhoun, WV
8. 2.8 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32390
2. 47–013–02065–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Clay Sears No. 1
6. Nicut
7. Calhoun, WV
8. 9.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32391
2. 47–013–02027–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Allie Bennett #1
6. Nicut
7. Calhoun, WV
8. 2.1 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32392
2. 47–013–00534–0000
3. 108 000 000
4. J B Dale dba Dale Drilling Co
5. Shimer #1
6. Nicut
7. Calhoun, WV
8. 1.3 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32393
2. 47–043–20147–0000
3. 108 000 000
4. Huffman Gas Co
5. Sullivan Sias #1
6. Carroll District
7. Lincoln, WV
8. 1.4 million cubic feet
9. May 7, 1980
10. Pennzoil Co.

1. 80–32394
2. 47–011–20291–0000
3. 108 000 000
4. Sue Gas Co
5. H S Fraley #6
6. McComas
7. Cabell, WV
8. 1.9 million cubic feet
9. May 7, 1980
10. Pennzoil Co.

1. 80–32395
2. 47–011–20240–0000
3. 108 000 000
4. Sue Gas Co
5. Joseph O Gill
6. McComas
7. Cabell
8. 1.9 million cubic feet
9. May 7, 1980
10. Pennzoil Co.

1. 80–32396
2. 47–011–20167–0000
3. 108 000 000
4. Sue Gas Co
5. H S Fraley #5
6. McComas
7. Cabell, WV
8. 1.9 million cubic feet
9. May 7, 1980
10. Pennzoil Co.

1. 80–32397
2. 47–011–20145–0000
3. 108 000 000
4. Sue Gas Co
5. H S Fraley #4
6. McComas
7. Cabell, WV
8. 1.9 million cubic feet
9. May 7, 1980
10. Pennzoil Co.

1. 80–32398
2. 47–099–20842–0000
3. 108 000 000
4. Ethel Gas Co
5. Malinda Williamson No. 1
6. Grant
7. Wayne, WV
8. 7.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp.

1. 80–32399
2. 47–099–20648–0000
3. 108 000 000
4. Ethel Gas Co
5. Frank Yates No. 2
6. Lincoln
7. Wayne, WV
8. 7.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp.

1. 80–32400
2. 47–059–20185–0000
3. 108 000 000
4. Ethel Gas Co
5. Vance Farm No 1
6. Harvey
7. Mingo, WV
8. 7.6 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp.

1. 80–32401
2. 47–059–20129–0000
3. 108 000 000
4. Ethel Gas Co.
5. Georgia Workman #1
6. Harvey
7. Mingo, WV
8. 7.0 million cubic feet
9. May 7, 1980
10. Columbia Gas Trans Corp.

1. 80–32402
2. 47–039–00075–0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #14
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp.

1. 80–32403
2. 47–019–00304–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc.
5. D Jones Unit #1
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co.

1. 80–32404
2. 47–019–00343–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. M D Steele #1
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co.

1. 80–32405
2. 47–019–00335–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Western Pocahontas Corp Gas Unit
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co.

1. 80–32406
2. 47–019–00344–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Goad Gas Unit #2
6. Mt Cove
7. Fayette, WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co.

1. 80–32407
2. 47–019–00345–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. M D Steele #2
6. Mt. Cove
7. Fayette, MV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co.

1. 80–32408
2. 47–019–00346–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Faye Farr #3
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32409
2. 47–019–00353–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Hofmier Gas Unit #3–S
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32410
2. 47–019–00350–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Virginia Echols #1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32411
2. 47–019–00347–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. A B Conley #1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32412

2. 47–019–00390–0000

7. Clay WV

2. 47–015–00797–0000

2. 47–019–00390–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. A B Conley #2
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32413
2. 47–019–00388–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. W G Shackleford #1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32414
2. 47–019–00367–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Eva Claiborne #1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32415
2. 47–019–00361–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Nuttall Heirs #1
6. Mt Cove
7. Fayette WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32416
2. 47–067–00502–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. V Bailes Gas Unit #1
6. Jefferson
7. Nicholas WV
8. 52.0 million cubic feet
9. May 7, 1980
10. Equitable Gas Co

1. 80–32417
2. 47–033–00468–0000
3. 108 000 000
4. TWM Petroleum Inc
5. C S Trimble No 1
6. Simpson Dist
7. Harrison WV
8. 14.5 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32418
2. 47–017–01375–0000
3. 108 000 000
4. TWM Petroleum Inc
5. W L Cottrill No 1
6. McClellan Dist
7. Doddridge Co WV
8. 3.8 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32419
2. 47–015–00951–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber No 9
6. Pleasants District
7. Clay WV
8. 5.2 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32420
2. 47–015–00950–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber No 8
6. Pleasants District
7. Clay WV
8. 5.2 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32421
2. 47–015–00949–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber No 7
6. Pleasants District
7. Clay WV
8. 2.8 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32422
2. 47–015–00942–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber No 6
6. Pleasants District
7. Clay WV
8. 9.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32423
2. 47–025–00941–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber Co No 5
6. Pleasants District
7. Clay WV
8. 9.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32424
2. 47–015–00940–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber Co No 4
6. Pleasants District
7. Clay WV
8. 9.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32425
2. 47–015–00939–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber Co No 3
6. Pleasants District
7. Clay WV
8. 9.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32426
2. 47–015–00925–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Elk River Lumber Co No 1
6. Pleasants District
7. Clay WV
8. 15.0 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32427
2. 47–015–00797–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Laura E Price No 2
6. Pleasants District
7. Clay WV
8. 1.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32428
2. 47–015–00748–0000
3. 108 000 000
4. TWM Petroleum Inc
5. Laura E Price No 1
6. Pleasants District
7. Clay WV
8. 1.9 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

1. 80–32429
2. 47–015–00725–0000
3. 108 000 000
4. TWM Petroleum Inc
5. J G Morton No 1
6. Pleasants Dist
7. Clay WV
8. .8 million cubic feet
9. May 7, 1980
10. Consolidated Gas Supply Corp

U.S. Geological Survey, Metairie, La.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–31396/GO–1271
2. 17–720–40064–0000–0
3. 107 000 000
4. Anadarko Production Co
5. West Delta 137 A–2
6. West Delta
7. 137
8. .0 million cubic feet
9. May 6, 1980
10. Northern Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 13, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–16324 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–85–M

[Docket No. EL79–19]

Northeast Oklahoma Electric Cooperative, Inc.; Complaint

May 21, 1980.

Take notice that on June 7, 1979, Northeast Oklahoma Electric Cooperative, Inc. (Coop), filed a complaint pursuant to Section 19 of the Federal Power Act (16 U.S.C. 812); § 35.21 of the Commission's regulations; and, § 1.6 of the Commission's rules of practice and procedure, petitioning the Commission to assume rate jurisdiction over Respondent Grand River Dam Authority (Authority).

Complainant Coop, an Authority customer, asserts that the State of Oklahoma makes no provision for the regulation of Authority's rates and that, therefore, assumption of such jurisdiction by the Commission is both proper and necessary under Section 19 of the Federal Power Act.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before June 30, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–16325 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–85–M

[Docket No. G–280, etc.]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

May 22, 1980.

Take notice that on April 25, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. G–280, *et al.*, a petition pursuant to Section 7 of the Natural Gas Act to amend certain orders of the Commission so as to change the name on such orders from Northern Natural Gas Company to Northern Natural Gas Company, Division of InterNorth, Inc., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the stockholders at their regular annual meeting on March 27, 1980, approved the subject name change. Petitioner further states that on March 28, 1980, it filed an amendment to its corporate charter with the Secretary of the State of Delaware effectuating the name change which amendment is self executing. It is asserted that no order or authorization or other action by the Secretary of State is necessary for the corporate name change to become effective, nor were any of the corporation's rights or obligations affected by the name change.

Petitioner, therefore, proposes that such change be made in the authorizations appended hereto.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

Appendix

Certificate Applications By Docket Number

Docket No	Date of Commission Order
G–280	4–06–43
G–428	10–05–45
G–465	10–26–43
G–476	4–06–43
G–480	1–06–44
G–497	10–05–45
G–500	5–13–47
G–533	11–06–45
G–535	10–05–45
G–623	6–29–45
G–667	1–22–46
G–668	1–22–46
G–672	1–22–46
G–673	5–28–46

Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
G–679	5–29–46
G–686	5–28–46
G–712	6–18–46
G–747	6–09–47
G–750	9–06–46
G–753	8–05–46
G–754	9–25–46
G–783	4–10–47
G–785	1–28–46
G–767	10–29–46
G–777	5–21–47
G–798	10–18–46
G–938	11–04–47
G–949	11–17–47
G–953	11–04–47
G–981	5–05–48
G–998	4–21–48
G–1017	6–24–48
G–1034	7–14–48
G–1039	4–16–56
G–1064	10–13–48
G–1128	12–09–48
G–1129	12–09–48
G–1131	11–30–48
G–1173	4–28–49
G–1183	1–19–50
G–1194	6–22–49
G–1221	8–03–49
G–1331	5–02–50
G–1337	5–19–50
G–1367	8–19–53
G–1398	8–16–50
G–1442	10–01–51
G–1511	10–01–51
G–1618	6–24–52
G–1640	9–19–52
G–1928	5–01–53
G–1994	8–27–54
G–2009	5–13–53
G–2010	7–30–53
G–2063	3–11–54
G–2124	9–17–53
G–2125	9–17–53
G–2195	8–19–53
G–2334	3–18–54
G–2409	6–30–56
G–2430	7–15–54
G–2458	9–07–56
G–2460	8–27–54
G–2465	9–07–96
G–2491	7–28–55
G–2670	11–08–54
G–6867	3–25–55
G–8654	7–28–55
G–8678	6–24–55
G–8792	12–13–57
G–9120	11–02–56
G–9124	2–07–57
G–9156	2–07–57
G–9196	2–07–57
G–9237	1–23–58
G–9536	9–07–56
G–9994	7–12–56
G–10200	4–01–57
G–10434	11–13–56
G–10638	11–20–56
G–10707	10–01–56
G–10800	3–12–57
G–11032	11–20–56
G–11406	3–22–57
G–11657	5–01–59
G–11699	4–08–59
G–11859	7–29–57
G–12032	6–04–57
G–12033	6–19–57
G–12231	6–28–57
G–12241	10–31–58
G–12326	8–02–57
G–12371	9–05–57
G–13041	12–13–57
G–13116	1–03–58
G–13358	2–11–58
G–13359	1–31–58
G–13551	2–11–58
G–13563	3–17–58
G–13630	1–27–58
G–13875	10–05–61
G–14572	6–04–58
G–14697	4–23–59

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Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
G-14738	6-04-58
G-14779	4-23-59
G-14918	7-14-58
G-14962	11-06-58
G-15261	9-24-58
G-15717	2-03-59
G-15911	10-23-58
G-16131	12-08-58
G-16156	12-01-58
G-16447	5-19-59
G-17485	7-31-59
G-17486	7-31-59
G-17874	7-31-59
G-18110	6-19-63
G-18606	10-20-59
G-18633	12-01-59
G-18756	6-28-61
G-18757	10-05-59
G-19287	11-20-59
G-19312	11-17-59
G-19671	6-06-60
G-20570	6-28-61
G-20571	6-28-61
CP60-21	3-23-61
CP60-39	8-21-61
CP60-99	4-18-68
CP61-1	3-17-61
CP61-33	11-22-60
CP61-34	11-07-60
CP61-75	12-19-60
CP61-76	3-23-61
CP61-99	2-01-61
CP61-101	12-29-60
CP61-132	12-28-62
CP61-139	1-11-65, 2-28-77
CP61-186	3-26-62
CP61-190	10-05-61
CP61-213	11-06-61, 5-06-62
CP61-303	8-13-63
CP61-392	1-19-62
CP62-37	2-06-62
CP62-47	11-08-61
CP62-66	3-19-62, 3-21-68
CP62-78	1-19-62
CP62-85	8-30-63
CP62-128	2-06-62
CP62-178	9-30-63
CP62-180	11-08-63
CP62-181	10-28-68
CP62-207	6-08-62
CP62-210	6-08-62
CP62-223	12-17-62
CP62-270	10-08-62
CP62-277	8-15-62
CP62-284	9-21-62
CP62-299	10-01-62
CP62-307	3-18-63
CP63-4	3-11-63
CP63-7	2-05-63
CP63-42	1-24-63
CP63-43	1-29-63
CP63-102	5-14-63
CP63-121	6-03-63
CP63-150	4-30-63
CP63-169	4-23-63
CP63-200	5-17-63
CP63-219	2-26-64
CP63-235	12-23-63
CP63-261	7-03-63
CP63-262	7-03-63
CP63-267	7-02-63
CP63-291	10-10-63
CP64-17	10-29-63
CP64-47	12-11-63
CP64-54	12-03-63
CP64-58	12-18-63
CP64-101	4-06-64
CP64-112	2-10-64
CP64-122	5-25-64
CP64-153	4-28-64
CP64-188	5-05-64
CP64-228	3-09-65
CP64-241	7-13-64
CP64-255	12-21-64(Phase I) 6-02-65(Phase II)
CP64-275	9-28-64

Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
CP64-312	9-04-64
CP65-1	3-30-67
CP65-17	11-20-64
CP65-72	12-04-64
CP65-91	3-30-67
CP65-92	2-08-65
CP65-116	1-19-65
CP65-121	1-19-65
CP65-138	1-13-65
CP65-147	2-16-65
CP65-164	1-29-65
CP65-188	3-31-65
CP65-196	5-25-66
CP65-210	5-25-65
CP65-219	3-24-65
CP65-220	3-15-65
CP65-221	5-25-65
CP65-225	5-06-65
CP65-228	5-12-65
CP65-304	5-13-65
CP65-332	6-11-65
CP65-338	3-30-67
CP65-344	7-07-65
CP65-363	7-06-65
CP65-389	8-15-67, 7-25-69
CP65-399	8-24-65
CP65-414	9-07-65
CP65-415	9-03-65
CP66-44	11-15-65
CP66-71	10-21-65
CP66-75	11-09-65
CP66-80	11-29-65
CP66-86	1-24-66
CP66-98	12-13-65
CP66-151	1-03-66
CP66-158	3-04-66
CP66-185	2-11-66
CP66-206	5-19-66
CP66-308	3-27-66
CP66-320	7-12-66
CP66-321	8-06-66
CP66-326	8-01-66
CP66-370	7-08-66
CP66-405	9-26-66
CP66-409	10-03-66 (Phase I) 9-28-67 (Phase II)
CP67-8	8-30-66
CP67-10	5-19-67
CP67-38	9-16-66
CP67-47	11-28-66 (Phase I) 7-06-67 (Phase II)
CP67-49	1-25-67
CP67-65	11-01-66
CP67-79	12-19-66
CP67-87	11-28-66
CP67-107	11-28-66
CP67-126	1-04-67
CP67-138	6-03-68
CP67-139	2-06-67
CP67-140	1-25-67
CP67-148	3-24-67 (Phase I) 2-05-68 (Phase II)
CP67-162	1-16-67
CP67-193	3-01-67
CP67-194	5-19-67 (Phase I) 2-05-68 (Phase II)
CP67-215	5-16-67 (Phase I) 2-05-68 (Phase II)
CP67-225	4-24-67
CP67-241	4-11-67
CP67-250	5-31-67
CP67-260	4-16-68, 3-23-72
CP67-294	7-06-67
CP67-304	11-22-67
CP67-333	8-22-67
CP67-344	9-21-67
CP67-377	11-16-67
CP67-383	8-04-67
CP68-5	12-11-67
CP68-55	11-20-67
CP68-57	2-21-68
CP68-64	12-07-67
CP68-75	5-20-68, 9-16-77, 4-12-79, 4-17-80
CP68-117	12-28-67

Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
CP68-122	1-10-68
CP68-134	2-26-68
CP68-136	7-08-68
CP68-147	2-01-68
CP68-151	2-21-68
CP68-167	2-01-68
CP68-193	6-14-68, 10-21-68, 3-10-69 (Phase I) 12-23-69 (Phase II) 4-07-70, 8-04-70, 9-11-70
CP68-221	4-22-68
CP68-272	7-01-68
CP68-312	8-05-68
CP68-354	8-21-68
CP69-20	9-27-68
CP69-61	10-28-68
CP69-62	11-04-68
CP69-63	11-12-68
CP69-83	11-19-68
CP69-95	12-03-68
CP69-119	12-09-68
CP69-123	2-04-69
CP69-124	2-17-69
CP69-133	12-03-68
CP69-158	2-11-69
CP69-204	12-23-69
CP69-205	3-12-69
CP69-223	5-08-69
CP69-234	6-30-69
CP69-240	7-01-69
CP69-267	12-23-69
CP69-277	7-25-69
CP69-285	7-25-69
CP69-323	9-16-69
CP69-324	12-23-69
CP70-30	3-06-70
CP70-58	12-23-69
CP70-69, CP70-70 and CP70-71	8-12-74
CP70-84	1-06-70
CP70-95	12-03-69
CP70-96	4-80-70
CP70-105	1-20-70
CP70-111	1-20-70
CP70-131	3-04-70
CP70-132	3-24-70
CP70-172	4-14-70
CP70-181	6-09-70
CP70-201	6-15-70
CP70-202	6-26-70
CP70-203	5-19-70
CP70-220	5-19-70
CP70-235	7-07-70
CP70-286	7-22-70
CP70-312	8-25-70
CP71-11	11-09-70
CP71-15	10-23-70
CP71-57	11-09-70
CP71-62	1-15-71
CP71-63	12-30-70
CP71-107	4-19-71
CP71-110	1-18-71
CP71-122	2-01-71
CP71-160	4-06-71
CP71-179	6-02-71
CP71-183	6-29-71
CP71-188	5-07-71
CP71-218	8-23-71
CP71-228	10-19-71
CP71-245	7-20-71
CP71-254	10-27-71
CP71-270	10-19-71
CP71-298	12-13-71
CP72-4	12-16-71
CP72-24	11-09-71
CP72-41	11-29-71
CP72-51	2-22-72
CP72-56	11-22-71
CP72-57	1-20-72
CP72-61	1-06-72
CP72-123	9-28-72
CP72-124	2-14-72
CP72-149	5-04-72
CP72-154	4-17-72
CP72-171	3-24-72
CP72-194	5-12-72
CP72-224	12-26-72
CP72-225	9-22-72

Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
CP72-234	7-31-72
CP72-236	12-04-72
CP72-241	11-17-72
CP72-248	8-04-72
CP72-254	11-03-72 (Phase I) 12-24-73 (Phase II)
CP72-291	12-04-72
CP73-7	11-20-72
CP73-28	12-07-72
CP73-29	12-13-72
CP73-37	3-01-73
CP73-93	1-29-73
CP73-96	7-02-73
CP73-102	5-17-73
CP73-107	4-09-73
CP73-111	1-17-73
CP73-126	8-07-73
CP73-128	5-31-73
CP73-134	11-19-73
CP73-166	7-20-73
CP73-215	12-18-73
CP73-227	11-30-73
CP73-231	2-15-73, 7-18-73
CP73-233	8-02-73 (Phase I) 10-18-73 (Phase II)
CP73-257	6-28-73
CP73-264	8-02-73
CP73-282	7-24-73
CP73-286	7-31-73
CP73-287	2-05-74
CP73-319	7-31-73
CP74-1	10-09-73, 12-27-73
CP74-16	11-30-73
CP74-24	12-27-73
CP74-30	10-29-73, 1-04-74
CP74-31	10-05-73
CP74-32	12-11-73, 7-03-74
CP74-51	12-27-73
CP74-63	9-28-73
CP74-74	9-06-74
CP74-107	1-10-74
CP74-111	4-15-74
CP74-145	5-29-75, 6-15-77
CP74-196	4-15-74
CP74-205	5-21-74
CP74-223	5-20-74
CP74-236	3-10-75
CP74-237	6-04-74
CP74-264	3-15-76
CP74-294	7-03-74
CP75-13	4-21-75
CP75-21	7-07-77
CP75-25	11-26-74
CP75-41	4-17-75
RP75-12-1	9-20-74
CP75-55	10-31-74
CP75-68	1-06-75
CP75-94	12-24-74
CP75-106	2-07-75, 4-07-75
CP75-114	2-10-75
CP75-126	1-17-75, 5-24-77
CP75-178	4-07-75
CP75-217	1-08-76
CP75-229	7-02-75
CP75-237	4-28-76, 4-15-77, 7-07-77
CP75-280	7-07-75
CP75-285	9-16-75
CP75-298	2-08-77
CP75-304	9-03-76, 2-08-77
CP75-305	2-08-77
CP75-311	7-03-75
CP75-333	8-13-76
CP75-336	9-30-75
RP75-12-3	8-04-75
CP75-351	4-23-76
CP75-365	1-08-76
CP76-4	3-31-76, 12-27-79
CP76-12	6-08-76

Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
CP76-31	12-10-75
CP76-40	11-26-75
CP76-47	3-24-76
CP76-95	6-28-76
CP76-108	1-27-76
CP76-116	2-27-76
CP76-142	2-05-76
CP76-147	2-18-76
CP76-148	2-18-76
CP76-155	6-21-76
CP76-156	12-24-75, 6-21-76
CP76-160	3-16-76
CP76-165	4-09-76
CP76-191	1-04-78
CP76-201	6-21-76
CP76-216	6-11-76
CP76-229	10-08-76
CP76-230	1-12-77
CP76-231	9-28-76
CP76-246	8-05-76
CP76-247	8-09-76, 12-20-77
CP76-248	4-09-76
CP76-271	2-19-76, 5-21-76, 4-01-77, 3-20-78
CP76-291	10-05-76
CP76-296	9-30-77
CP76-330	8-27-76
CP76-340	8-18-76
CP76-348	10-06-76
CP76-355	3-01-77
CP76-362	8-31-76
CP76-366	10-06-76
RP76-105-1	10-04-76
CP76-385	10-27-76
CP76-412	1-18-77, 6-30-77
CP76-438	3-16-77
CP76-456	1-19-77, 9-07-77
CP76-457	11-29-76
CP76-477	11-04-76
CP76-481	12-22-76
CP76-482	11-29-76
CP76-505	12-06-76
CP76-515	12-22-76
CP76-533	2-02-77
CP77-5	2-07-77
CP77-11	8-29-77
CP77-26	2-07-77
CP77-54	8-29-77
CP77-78	3-25-77
CP77-84	5-24-77
CP77-99	5-23-77, 4-10-79
CP77-130	4-12-77
CP77-173	9-30-77
CP77-192	6-30-77
CP77-193	6-23-78
CP77-245	7-14-77
CP77-277	5-11-77
RP77-52	7-20-77
CP77-348	8-05-77
CP77-385	7-19-77
CP77-397	9-19-77
CP77-438	7-26-77, 9-15-77
CP77-443	9-08-77
CP77-450	9-30-77
CP77-473	12-16-77, 9-13-79
CP77-499	10-23-78
CP77-508	11-22-78
CP77-509	9-27-77
CP77-510	11-16-77
CP77-520	8-22-78
CP77-545	11-29-77, 4-03-78
CP77-557	11-29-77
CP77-586	11-02-77
CP77-587	11-02-77
CP77-595	11-23-77
CP77-600	3-22-78
CP77-610	9-19-78
CP77-649	1-02-79
TC78-3	8-23-78

Appendix—Continued

Certificate Applications By Docket Number

Docket No.	Date of Commission Order
CP78-40	1-30-78
CP78-54	4-03-78
CP78-71	5-25-78
CP78-115	3-13-78
CP78-127	3-27-78
CP78-151	7-05-78
CP78-187	10-17-78
CP78-188	4-18-78
CP78-196	5-23-78
CP78-199	11-22-78
CP78-201	9-25-78
CP78-249	3-29-78
CP78-252	12-10-79
CP78-255	7-06-78
CP78-345	12-06-78
CP78-386	11-15-78
CP78-407	4-17-79
CP78-416	12-15-78, 5-25-78
CP78-428	10-23-78
CP78-440	12-22-79
CP78-480	1-02-79
CP78-481	6-07-79
CP78-482	11-22-78
CP78-486	6-13-79
CP78-496	12-15-78
CP78-505	4-23-79
CP78-514	5-02-79
CP78-548	2-21-79, 7-16-79
CP79-2	2-23-79
CP79-5	2-12-79
CP79-6	1-12-79
CP79-91	5-01-79
CP79-110	11-09-79
CP79-111	3-27-79
CP79-122	4-10-79
CP79-125	5-01-79
CP79-126	2-23-79
CP79-138	3-27-79
CP79-139	8-24-79
CP79-145	11-09-79
CP79-185	5-10-79
CP79-186	5-10-79
CP79-201	12-21-79
CP79-213	5-25-79
TC79-50	5-20-79
CP79-246	5-23-79, 12-10-79
CP79-259	5-25-79
CP79-263	5-15-79
CP79-269	11-06-79
CP79-322	12-10-79
CP79-360	4-18-80
CP79-375	9-21-79
CP79-385	11-26-79
CP79-394	11-19-79
CP79-420	10-24-79
CP79-432	12-03-79
CP79-437	10-24-79
CP80-38	5-26-80
CP80-112	5-28-80
CP80-131	2-21-80
CP80-181	3-28-80
CP80-203	3-26-80
CP80-237	4-02-80
CP80-259	4-09-80

[FR Doc. 80-16326 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-7]

Southeastern Power Administration v. Kentucky Utilities Co.; Order Denying Motion to Dismiss, Convening Hearing, Granting Interventions, and Establishing Procedures

May 22, 1980.

On December 11, 1979, the Southeastern Power Administration (SEPA) submitted an application,

pursuant to section 211(a) of the Federal

reserved SEPA power on reasonable

the Federal Power Act; and that SEPA's

timing of any wheeling order which

pursuant to section 211(a) of the Federal Power Act, for an order under sections 211 and 212 directing Kentucky Utilities Company (KU) to provide certain wheeling services on reasonable terms and conditions.

SEPA, a Federal power marketing agency and a "separate and distinct organizational entity" within the Department of Energy, is responsible for marketing wholesale power from 21 hydroelectric projects. Because SEPA owns no transmission facilities, it has negotiated necessary transmission or wheeling arrangements with a number of electric utilities. Nine of the SEPA projects are located in the Cumberland River Basin area of Tennessee and Kentucky; of these nine projects, all but one (the Laurel project) are situated within the service territory of the Tennessee Valley Authority (TVA) and are connected to TVA's transmission system. KU's transmission facilities, in turn, are interconnected with those of TVA at several points.

In its present application, SEPA expresses its desire to furnish approximately 25 megawatts of available peaking capacity and associated energy to eight Kentucky municipalities (Cities) currently being served by KU.[1] According to SEPA, negotiations for a voluntary wheeling arrangement with KU have continued since 1974, but have proven unsuccessful.

SEPA states that under an earlier marketing plan, one-half of the capacity and energy from the Laurel hydroelectric project was to be supplied to cities through KU's transmission system. However, when the Laurel project began commercial operations in 1977, a satisfactory wheeling arrangement had yet to be agreed upon. Accordingly, the entire Laurel project output was sold, instead, to East Kentucky Power Cooperative (East Kentucky) on condition that East Kentucky later relinquish its rights to 25 megawatts of capacity and related energy from other Cumberland River Basin projects to be made available to Cities.[2] SEPA alleges that KU's refusal to provide transmission services is contrary to antitrust law and policy and that an order requiring KU to wheel this reserved SEPA power on reasonable terms and conditions would satisfy the requirements enumerated in sections 211 and 212 of the Act.

On January 21, 1980, the Kentucky Cities of Barbourville, Bardstown, Corbin, Falmouth and Frankfort filed a petition to intervene which supported SEPA's application and requested that the Commission establish expedited procedures for resolving this controversy.[3] The City of Paris, Kentucky also stated its support for the SEPA application in an untimely petition to intervene filed on January 22, 1980. The Commission finds that participation in this proceeding by each of the foregoing petitioners may be in the public interest and that good cause exists to permit the late intervention of the City of Paris.

On January 21, 1980, KU submitted an answer to SEPA's application and moved to dismiss it. Initially, KU relates a series of events commencing in 1954, by which East Kentucky, TVA, and Big Rivers Electric Cooperative have succeeded KU as wholesale power suppliers in various portions of KU's former service territory. KU characterizes this transition as one of harmful fragmentation and urges that an order such as that requested by SEPA would exacerbate this fragmentation process. KU further contends that SEPA's application is premature since necessary arrangements between SEPA and TVA for dispatching and transmitting power into KU's system remain speculative. Among other arguments, KU states: that SEPA has acted in a discriminatory manner in selecting only KU's customers as recipients of the power in question; that the peaking power available from SEPA is not suitable for use by Cities; that SEPA, in reality, intends to transfer the peaking power to TVA and to convert TVA to a power supply source for Cities, allegedly in contravention of the TVA Act of 1959, 16 U.S.C. 831n–4; that the preference provisions of the Flood Control Act of 1944, 16 U.S.C. 825(s), violate the Fifth Amendment to the United States Constitution; that a Commission order requiring KU to wheel only to those of its customers which constitute public bodies or cooperatives would violate the Fifth Amendment as well as the provisions of the Federal Power Act; and that SEPA's rates are unreasonably low, thereby impairing the ability of KU to compete with SEPA.

Two additional contentions advanced by KU involve the ability of this Commission to commence a hearing under Sections 211 and 212, and the ability of Cities, under existing contractual arrangements, to obtain all or part of their service from a power supplier other than KU. Concerning the first of these matters, KU notes the complexity of the requirements set forth in Sections 211 and 212, and objects to the initiation of hearing procedures prior to the promulgation of Commission regulations governing such hearings.

Contrary to KU's suggestions, the Commission is of the opinion that a hearing can and should be convened for purposes of considering SEPA's application. Congress has clearly enunciated the findings that must be made in order for the Commission to direct a utility to provide wheeling services. The Commission's existing rules of practice and procedure, while not specifically tailored to proceedings initiated under Sections 211 and 212, provide ample flexibility for the receipt of all necessary evidence as well as for any of the post-hearing procedures envisioned by Congress. Thus, both the procedural and substantive standards are sufficiently clear for the Commission to exercise its statutory responsibility.

With regard to the question of contractual obligations, KU states that all of the Cities, with the exception of Paris, are subject to fixed-rate, full requirements contracts with KU that are not terminable until May 31, 1981. A partial requirements contract between KU and Paris provides for certain minimum commitments and a three-year notification of termination. According to KU, Cities cannot lawfully abrogate their contracts by obtaining SEPA power while those contracts remain effective.[4]

KU is not suggesting that the existing contracts bar Cities from securing alternative power supplies in perpetuity. Rather, KU's argument involves, at most, the *time* at which a wheeling order could become effective. As with other matters raised by KU and alluded to above, the nature, scope and effect of pre-existing contractual commitments, particularly insofar as they relate to the timing of any wheeling order which might be issued, should be evaluated more fully on the basis of an evidentiary record.

Our review of SEPA's application indicates that an evidentiary hearing is warranted under sections 211 and 212. In order to provide for an expeditious resolution of this controversy, the hearing shall be designed to allow consideration of the threshold question involving the appropriateness of a mandatory wheeling order as well as the ancillary issue of suitable rates, terms and conditions to be incorporated in any such order. This procedure is designed to facilitate the post-hearing phase of this case if a wheeling order is found to be warranted. The development of a comprehensive record on the issues of rates, terms and conditions of service should assist the parties in the negotiations contemplated by Section 212(c) following the issuance of a proposed order and, furthermore, should provide a basis for the establishment of rates, terms and conditions by final Commission order in the event that such negotiations fail.[5]

Concerning the scope of this investigation, we caution the parties that the issues considered at hearing should be framed so as to address the specific evidentiary requirements of sections 211 and 212. For purposes of designating the matters at issue and identifying the evidence that will be sponsored by the parties in support of their respective claims, we shall require that a prehearing conference be held within fifteen days after the issuance of this order. Extraneous issues such as the propriety of previously approved rate levels for other transactions, or questions of statutory constitutionality that are better suited for an alternative forum, should be excluded from consideration. SEPA, followed by the remaining parties, shall file all testimony and supporting exhibits as promptly after the prehearing conference as the presiding administrative law judge considers reasonable under the circumstances.

The Commission orders:

(A) KU's motion to dismiss the application filed in this docket is hereby denied.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and the Regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the application of SEPA for an order requiring wheeling service under sections 211 and 212 of the Federal Power Act.

(C) The Kentucky Cities of Barbourville, Bardstown, Corbin, Falmouth, Frankfort and Paris are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference to be held within fifteen (15) days from the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's rules of practice and procedure. The conference shall be convened for purposes of delineating the issues, identifying the evidence that the parties will seek to introduce, establishing a discovery schedule and otherwise aiding to expedite the orderly conduct and disposition of this proceeding.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16327 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The eight cities are: Barbourville, Bardstown, Benham, Corbin, Falmouth, Frankfort, Nicholasville and Paris. With the exception of Paris, each of these municipalities currently purchases its full requirements from KU.

[2] By order issued October 25, 1979, in Docket No. EF79–3052, the Commission confirmed and approved long-term rates, effective through June 30, 1983, for the sale of Laurel project power and energy to East Kentucky. That order also discussed the continuing negotiations between SEPA and KU for an agreement to wheel SEPA power to Cities.

[3] Public notice of SEPA's submittal was issued on December 21, 1979, with comments required to be filed on or before January 21, 1980. On February 28, 1980, KU filed a motion for extension of time in which to respond to the municipalities' petition to intervene. The motion was granted by notice issued March 7, 1980. In its March 7, 1980 answer to the petition, KU raises no contentions that would suggest a course of action other than that specified in this order.

[4] With respect to Paris, KU submits that a Commission order could not require KU to wheel SEPA power to the extent that it would replace any amounts which Paris is committed to receive from KU during the term of the existing contract. Apart from contractual considerations, KU avers that a period of some five years would be necessary in order for KU to adjust its system resources and facilities to accommodate the contemplated loss of load to SEPA.

[5] We note that the procedures specified in this order may not be suitable for all such cases. However, in view of the protracted nature of prior negotiations between KU and SEPA, a significant likelihood exists that, following a finding requiring wheeling, the Commission would be called upon to prescribe appropriate rates, terms and conditions. Furthermore, the intervenors in this proceeding have expressly requested that we consolidate the question of appropriate terms and conditions with our evaluation of the application itself. Absent such a request, we would consider initiating a phased proceeding that would initially reserve inquiries concerning rates, terms and conditions pending a determination on the underlying wheeling question and the opportunity for negotiations.

[Docket No. GP80-88]

Texas Oil & Gas Corp.; Petition for Declaratory Order

May 22, 1980.

Take notice that on April 7, 1980, Texas Oil & Gas Corporation (TXO), Fidelity Union Tower, Dallas, Texas 75201, filed with the Federal Energy Regulatory Commission (Commission) a petition for declaratory order under § 1.7(c) of the Commission's rules of practice and procedure, 18 CFR 1.7(c). The petition requests that the Commission declare certain potential gas production from TXO's proposed re-entry of the Alamo National Bank No. 1–A Well (Alamo Well) in McCullen County, Texas, to qualify as high-cost natural gas under either section 107(c)(1) or section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA).

TXO states that it is considering plans to re-enter the Alamo Well which was spudded in 1964 and drilled to the depth of 20,800 feet by the Pan American Petroleum Corporation. The Alamo Well failed to produce gas and was abandoned on May 19, 1965. TXO further states that under the proposed re-entry the company plans to expend in excess of $2,500,000 and that a re-entry to the 20,800 feet depth involves extraordinary risks which, accordingly, require the receipt of the high-cost gas incentive price to justify TXO's investment.

If the surface drilling of a well began on or after February 19, 1977, then section 107(c)(1) of the NGPA provides high-cost gas treatment for any production from a completion location below 15,000 feet. TXO argues that since the NGPA does not specifically define "surface drilling" the Commission should, in light of the extraordinary risks and investment required by the proposed project, declare the date of re-entry to be the commencement of "surface drilling." Thus, the re-entry of the Alamo Well would qualify for high-cost gas treatment under section 107(c)(1) and accordingly would be price deregulated under section 121(b) of the NGPA.

In the alternative, TXO asserts that the proposed re-entry should be granted high-cost gas treatment under section 107(c)(5) of the NGPA. TXO believes that the risks and costs associated with the Alamo Well are extraordinary. Section 107(c)(5) authorizes the Commission to designate gas production which present extraordinary risks or costs as high-cost gas. Furthermore, if the Commission finds that such increase in the maximum lawful price is necessary to provide reasonable

production incentives, section 107(b) authorizes the Commission to prescribe a maximum lawful price for high-cost gas which exceeds the otherwise applicable maximum lawful price. TXO suggests that, if the Commission declares such natural gas production to qualify for section 107(c)(5), the appropriate incentive price under section 107(b) is price deregulation.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petition or protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16328 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-403]

Virginia Electric and Power Co.; Filing

May 22, 1980.

The filing Company submits the following:

Take notice that on May 16, 1980, Virginia Electric and Power Company (VEPCO) submitted for filing a letter agreement, dated February 8, 1980, with Shenandoah Valley Electric Cooperative (SVEC). Pursuant to the agreement, VEPCO will own and maintain certain facilities for the purpose of providing SVEC with kWh and kQh data pulses to its equipment at Dayton Delivery Point. This service has been requested by SVEC.

The estimated installed cost for the facilities is $413.40.

VEPCO requests waiver of the timely filing requirements and further requests waiver of the required billing data. Finally, VEPCO requests that the letter agreement become effective as of April 1, 1980, the date of connection of the facilities.

A copy of this filing has been served upon the Virginia State Corporation Commission, the Shenandoah Valley Electric Cooperative, and the Southeastern Power Administrative.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16329 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3132]

John N. Webster and Lawrence Gleeson; Application for Short-Form License (Minor)

May 21, 1980.

Take notice that John N. Webster and Lawrence Gleeson (Applicants) filed on April 7, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Rollinsford Project No. 3132. The project would be located on the Salmon Falls River in the Town of Rollinsford, Strafford County, New Hampshire and in York County, Maine. Correspondence with the Applicant should be directed to: John Webster P.O. Box 1073, Dover New Hampshire 03820.

Project Description—The (proposed) project would consist of: (1) An existing 15-foot high, 350-foot long masonry and concrete gravity dam; (2) an existing reservoir with negligible storage capacity; (3) and 8-foot diameter, 600-foot long penstock; (4) an existing powerhouse, the exterior of which would be restored to its original condition, containing a new generator turbine unit with a total rated capacity of 1,300-kW; (5) a 500-foot long transmission line; and (6) appurtenant facilities. The proposed project would generate approximately 6,500,000 kWh annually saving the equivalent of 10,700 barrels of oil or 3,000 tons of coal.

Purpose of Project—Energy produced at the project would be sold to the Public Service Company of New Hampshire for distribution to it's customers.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 25, 1980, either the competing application itself or a notice of intent to file a competing application Submission of a timely notice of intent allows an interested person to file the competing application no later than November 24, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 25, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application

is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16330 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-350]

West Lake Arthur Distribution Co.; Application for Exemption

May 22, 1980.

Take notice that on May 2, 1980, West Lake Arthur Distribution Company (WLADC), Suite 3310, 1200 Milam, Houston, Texas 77002, filed in Docket No. CP80–350 an application pursuant to Section 1(c) of the Natural Gas Act for an order declaring WLADC exempt from the provisions of the Natural Gas Act and the rules and regulations issued thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WLADC states that on April 28, 1980, pursuant to a corporate reorganization, Sugar Bowl Gas Corporation (Sugar Bowl) transferred to its affiliate, WLADC, a six-inch natural gas pipeline previously owned and operated by it, the transferred pipeline commencing at the Chico B delivery point on the pipeline of Michigan Wisconsin Pipe Line Company (Mich-Wisc), St. Mary Parish, Louisiana, and extending to the Teche Station generating plant of Central Louisiana Electric Company (CLECO), which plant is located at Baldwin, also in St. Mary Parish, Louisiana, where the gas is wholly consumed. Thus, it is asserted, none of the gas received by WLADC moves out of the State of Louisiana. WLADC states that the operation by Sugar Bowl of the pipeline segment here involved had been exempted from Commission jurisdiction pursuant to Section 1(c) of the Natural Gas Act in Docket Nos. CP68–203 and CP68–204.

On April 28, 1980, the Department of Natural Resources, Office of Conservation, for the State of Louisiana certified, it is asserted, that the natural gas rates, service, and facilities of WLADC are subject to its regulatory jurisdiction, and that it is exercising that jurisdiction.

WLADC asserts that the requirements of Section 1(c) have been fully satisfied here and, therefore, requests that the Commission grant its application for exemption pursuant to Section 1(c) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16331 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1598]

Willis S. White; Filing

May 22, 1980.

The filing Company submits the following:

Take notice on March 20, 1980, Willis S. White (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board and Director, Appalachian Power Company, Electric Utility.
President and Director, Beech Bottom Power Company, Electric Utility.
President and Director, Cardinal Operating Company, Electric Utility.
President and Director, Indiana-Kentucky Electric Corporation, Electric Utility.
Chairman of the Board and Director, Indiana and Michigan Electric Company, Electric Utility.
President and Director, Kanawha Valley Power Company, Electric Utility.
Chairman of the Board and Director, Kentucky Power Company, Electric Utility.
Chairman of the Board and Director, Kingsport Power Company, Electric Utility.
Chairman of the Board and Director, Michigan Power Company, Electric Utility.
Chairman of the Board and Director, Ohio Power Company, Electric Utility.
President and Director, Ohio-Valley Electric Company, Electric Utility.
Chairman of the Board and Director, Wheeling Electric Company, Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16332 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Sweden and the Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer from Sweden to the United Kingdom (Windscale) for reprocessing:

RTD/EU(SW)–52, from Oskarshamn units 1 and 2, 272 fuel elements, containing 48.790 kilograms of uranium enriched to 0.931 percent U-235, and 395 kilograms of plutonium.

The Department of Energy has received a letter of assurance from the Government of Sweden that the recovered uranium and plutonium will not be transferred from the United Kingdom without the prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

V45 M Y 29 80 0 UMI

Dated: May 23, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-16468 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Notice of Cases Filed; Week of May 2, 1980 Through May 9, 1980

Notice is hereby given that during the week of May 2, 1980 through May 9, 1980 the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 19, 1980.

Date	Name and location of applicant	Case No.	Type of submission
May 2, 1980	A. O. Smith Oil Corp., Milwaukee, Wisconsin	BEE-1128 and BEL-1128.	Exception and Temporary Exception to Test Procedures. If granted: A. O. Smith Oil Corp. would receive an exception and a temporary exception from the provisions of 10 CFR 430 which would modify its test procedures requirements.
May 2, 1980	Ashland Oil, Inc., Ashland, Kentucky	BED-0052	Motion for Discovery. If granted: Discovery would be granted to Ashland Oil, Inc. in connection with the Statement of Objections submitted in response to the Proposed Decision and Order issued to the firm (Case No. BEE-0373).
May 2, 1980	Bloomingdale Service (Busley), Bloomingdale, Illinois.	BRW-0049	Proposed Remedial Order Finalization. If granted: The March 19, 1980 Proposed Remedial Order issued to Dave Busley, d/b/a Bloomingdale Service by the Central District of the Economic Regulatory Administration would be issued as a final Remedial Order.
May 2, 1980	Energy Cooperative, Inc., Rosemont, Illinois	BEE-1127; BEL-1127 and BES-1127.	Exception, Temporary Exception, and Stay from the Entitlements Program. If granted: Energy Cooperative, Inc. would receive an exception, and a temporary exception or a stay from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations pending a final determination on its Application for Exception.
May 2, 1980	L. S. Riggins Oil Company, Washington, D.C.	BEE-1131	Allocation Exception. If granted: L. S. Riggins Oil Company would receive an exception from the provisions of 10 CFR 211 which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
May 2, 1980	Ohio Independents for Survival, State of Ohio	BEX-0055	Supplemental Order. If granted: A Supplemental order would be issued to Ohio Independents for Survival which would rescind the May 1, 1980 Decision and Order issued to the firm by the Office of Hearings and Appeals (Case No. BEL-1075).
May 2, 1980	R. R. Morrison & Son, Inc., Vicksburg, Mississippi	BEA-0346	Appeal of an Assignment Order. If granted: The February 8, 1980 Assignment Order issued by the Office of Petroleum Operations, Economic Regulatory Administrations, Region IV, regarding an Assignment of base period volume and supplier for an R. R. Morrison & Son., Inc. outlet, would be rescinded.
May 5, 1980	Marathon Oil Company, Washington, D.C.	BMR-0042	Modification and Rescission. If granted: The March 6, 1980, Decision and Order issued to Delta Petroleum Corporation (Case No. DEE-2368) would be modified regarding Marathon Oil Company's supply obligations to the firm for the period of November, 1979 through October, 1980.
May 5, 1980	Southern Bell Telephone and Telegraph, Ft. Lauderdale, Florida.	BEN-0036	Interim Order. If Granted: Southern Bell Telephone and Telegraph would receive exception relief on an interim basis pending a final determination on its Applications for Exception (Case Nos. DEE-8328 and DEL-0002).
May 6, 1980	Combo Furnace Company, Grand Rapids, Minnesota.	BEE-1113	Exception from Test Procedures. If Granted: Combo Furnace Company would receive an exception from the provisions of 10 CFR 430 which would modify the firms's test procedures requirements.
May 6, 1980	Gladieux Refinery, Inc., Washington, D.C.	BEE-1133 and BEL-1133.	Exception to the Buy/Sell Program. If Granted: Gladieux Refinery, Inc. would receive an exception and temporary exception from the provisions of 10 CFR 211.65, 10 CFR 212.94, and the "Special Rule No. 2 which would modify its Buy/Sell obligations for the months of April, May and June 1980 and would allow the firm to receive the crude oil at a price not exceeding the refiner-seller's weighted average per barrel cost of all crude oil, imported and domestic.
May 6, 1980	Mobile Oil Corporation, Scarsdale, New York	BEA-0345	Appeal of Assignment Order. If Granted: The March 13, 1980, Assignment Order would be rescinded, and Mobil Oil Corporation's supply obligations to Cantro Petroleum Corporation would be modified.
May 7, 1980	General Energy Company, Inc., Washington, D.C.	BFA-0349	Appeal of Freedom of Information Request Denial. If granted: The April 9, 1980, Information Request Denial issued by the Southwest District Enforcement Office would be rescinded and General Energy Company, Inc. would receive access to the workpapers of the Department of Energy Auditors.
May 7, 1980	Marathon Oil Company, Findlay, Ohio	BEA-0347	Appeal of an Assignment Order. If granted: The December 6, 1980 Assignment Order (amended April 12, 1980) issued by the Economic Regulatory Administration, Region IV, regarding Marathon Oil Company's supply obligations to Delta Petroleum Corp. would be rescinded.
May 7, 1980	Seaview Petroleum, Inc., Blue Bell, Pennsylvania	BEA-0348	Appeal of the Entitlements Notice. If granted: The January 1980 Entitlements Notice would be modified with respect to Seaview Petroleum, Inc.'s entitlements purchase obligations.
May 7, 1980	Texas City Refining, Inc., Texas City, Texas	BEA-0350	Appeal of the Entitlements Notice. If granted: The January 1980 Entitlements Notice would be modified with respect to Texas City Refining, Inc.'s entitlement purchase obligations.
May 7, 1980	Tucson Electric Power Company, Tucson, Arizona	BED-0852	Motion for Discovery. If granted: Discovery would be granted to Tucson Electric Power Company in connection with the Statement of Obligations submitted in response to the Proposed Decision and Order issued to Tucson Electric Power Company (Case No. BEO-0852)
May 8, 1980	Huntway Refining Company, Encino, California	BEX-0057	Supplemental Order. If granted: The May 1980 Entitlements Notice would be stayed with respect to Huntway Refining Company's entitlements purchase obligations.
May 8, 1980	J & J Enterprises, Pittsburgh, Pennsylvania	BEE-1134	Exception to the Reporting Requirements. If granted: J & J Enterprises would not be required to file Form EIA-23 Part 2, Item 6.0 ("the net successful gas well footage").
May 8, 1980	Ohio Independents for Survival, Cleveland, Ohio	BED-0055 and BEJ-0086.	Motion for Discovery, Motion for Protective Order. If granted: Discovery would be granted to Ohio Independents for Survival (OIS) and OIS would enter into a Protective Order with Standard Oil Company of Ohio (Sohio) regarding the release of propriety information to OIS from Sohio in connection with the Application for Exception filed by OIS (Case No. BEE-1075).

Date	Name and location of applicant	Case No.	Type of submission
May 9, 1980	Chevron, U.S.A., Inc., Washington, D.C.	BED-0056	Motion for Discovery. If granted: Discovery would be granted to Chevron U.S.A., Inc. in connection with the Application for Exception by Phillips Petroleum Company (Case No. DEE-5113).
May 9, 1980	SSM Oil & Gas Producers, Monroe, California	BEE-1137	Price Exception. If granted: SSM Oil & Gas Producers would be permitted to sell, retroactive through October 1, 1979, the crude oil produced from the Myrtle Hubbard Lease located in Richland Parish, Louisiana at stripper well prices.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of May 2, 1980 Through May 9, 1980

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline:

Name, Case Number, Date, and State

Harry Murray, BEE-1132, 5/6/80, Georgia.
Brown's Interstate Service, BEE-1129, 5/2/80, Ohio.
Granite State Nurseneo, BEE-1135, 5/7/80, New Hampshire.
Withrow Tractor Co., BEE-1136, 5/6/80, Washington.

Notices of Objection Received

[Week of May 2, 1980 to May 9, 1980]

Date	Name and location of applicant	Case number
5/6/80	Carlos Chevron Service, Glendale, California	DEE-7676
5/6/80	John B. Walker Texaco, Inc., Jackson, Mississippi	BEE-0388
5/7/80	Chevy Chase Exxon, Chevy Chase Maryland	BEE-0346
5/5/80	Schaeffer Oil Company, Winner, South Dakota	BEE-0326
5/7/80	Amendt Oil Company, Newport Beach, California.	DEE-3699
5/7/80	Adler, Ledoux Tire and Supply, Opelousas, Louisiana.	DEE-5964
5/7/80	Miley's Texaco Service, Oklahoma City, Oklahoma	DEE-6791
5/8/80	JSL, Inc., Washington, D.C.	DEE-4063
5/7/80	Ashland Oil, Inc., Ashland, Kentucky	BEO-1180
5/8/80	Cedar Stock Resort, Lewiston, California.	DEE-7189
5/6/80	Main Street Automotive, Boston, Massachusetts	DEE-6828

[FR Doc. 80-16196 Filed 5-28-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; April 21 Through April 25, 1980

Notice is hereby given that during the period April 21 through April 25, 1980, the Proposed Decisions and Orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception.

Under the procedures governing the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those procedural regulations, the date of service of notice will be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The procedural regulations also specify that if a Notice of Objection is not received from an aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding of conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 19, 1980.

Proposed Decision and Order

Kansas Marine Dealers Association, Beverly, Kansas; DEE-7849, motor gasoline

Kansas Marine Dealers Association (KMDA) filed an Application for Exception from the provisions of 10 CFR Part 212. The exception request, if granted, would permit members of the KMDA to increase their margins on the sale of motor gasoline above the 16.1 cent margin currently allowed by the regulations. On April 23, 1980, the Department of Energy issued a Proposed Decision and Order that would deny the exception request.

Putnam Fuels, Incorporated, North Bergen, New Jersey; BEE-0569, gasohol

Putnam Fuels, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception, if granted, would permit Putnam to purchase quantities of unleaded gasoline in excess of its base period allocation in order to expand its gasohol marketing operations. On April 23, 1980, the Department of Energy issued a Proposed Decision and Order that would deny the exception request.

San Joaquin Refining Company, Newport Beach, California; DEX-0101, crude oil

In accordance with previous Orders issued to San Joaquin Refining Company granting the firm exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program), the firm submitted actual financial data for its 1978 fiscal year. On April 23, 1980, after reviewing the level of exception relief granted to San Joaquin under the applicable standards, the DOE issued a Proposed Decision and Order in which it ordered that San Joaquin purchase $1,802,552 of entitlements.

Schaeffer Oil Company, Winner, South Dakota; BEE-0326, gasohol

The Schaeffer Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and sell gasohol. On April 23, 1980, the Department of Energy issued a Proposed Decision and Order that would deny the exception request.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders that would grant the exception requests.

Company Name, Case Number, and Location

Auto Row Texaco, DXE-8233, San Jose, CA.
Estrellita Estates Co., DEE-7389, Weaverville, CA.
Recreation Plus, Inc., DEE-7164, Trinity Center, CA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders that would deny the exception requests.

Company Name, Case Number, and Location

Adler Ledoux Tire & Supply, Inc., DEE-5964, Opelousas, LA.
Amendt Oil Co., DEE-3699, San Bernadino, CA.
Carlos Chevron Service, DEE-7676, Glendale, CA.
Cedar Stock Resort, DEE-7189, Lewiston, CA.

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Chevy Chase Exxon, BEE–0346, Chevy Chase, MD.
Fairview Marina, DEE–7384, Lewiston, CA.
John B. Walker Texaco, BEE–0388, Jackson, MS.
L. M. Petroleum Co., BEE–0374, Trumbull, CT.
Los Osos Petroleum Products, DEE–6376, Los Osos, CA
Miley's Texaco Service, DEE–6791, Oklahoma, City, OK.
Montgomery Oil Co., DEE–4299, Santa Monica, CA.
Tyler Texaco Station, DEE–5826, Hollister, CA.
Walker Oil Co., Inc., DEE–6090, Kansas City, KS.

[FR Doc. 80–16195 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–01–M

Cases Filed; Week of April 25 Through May 2, 1980

Notice is hereby given that during the week of April 25, 1980 through May 2, 1980 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
May 22, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Apr. 25 through May 2, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 25, 1980	Highway Oil Company, Topeka, KS	BEX–0052	Order to Show Cause. If granted: A supplemental order would be issued to Highway Oil Company which would revoke the relief granted to the firm in the decision and order issued on December 10, 1979 (Case No. DEE–6872)
Apr. 28, 1980	American Gas Association, Arlington, VA	BFA–0339	Appeal of an Information Request Denial. If granted: The April 7, 1980, Information Request Denial issued by the Energy Information Administration would be rescinded and American Gas Association would receive access to price and volume data collected from the EIA–194 "Monthly Alternate Fuel/Incremental Price Monitoring Report" for the months of October, November, and December 1979.
Apr. 28, 1980	Atlantic Richfield, *et al.*, Washington, DC	BRR–0036 thru BRR–0041.	Request for Modification/Rescission. If granted: The January 25, 1980, Decison and Order (Case No. BRZ–0015 thru BRZ–0021) issued to Atlantic Richfield, Gulf Oil Co., and Gulf Exploration and Production Co., Marathon Oil Company, Standard Oil Co. of California and Chevron USA Inc., Standard Oil Co. of Ohio, and Texaco Inc., would be modified or rescinded.
Apr. 28, 1980	Belvia Stokely, Chantilly, VA	BRW–0048	Proposed Remedial Order Finalization. If granted: The November 15, 1979, Proposed Remedial Order issued to Belvia Stokely by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Benson-Montin-Greer Drilling Corp., Farmington, NM.	BEE–1118	Price Exception (Section 212.73). If granted: Benson-Montin-Greer Drilling Corporation would be permitted to sell the crude oil produced from the East Puerto Chiquito Mancos Unit located in Rio Arriba County, New Mexico, at stripper well prices.
Apr. 28, 1980	Bracewell & Patterson, Washington, DC	BFA–0340	Appeal of an Information Request Denial. If granted: The March 31, 1980, Information Request Denial issued by the Department of Energy would be rescinded and Bracewell & Patterson would receive access to certain DOE information.
Apr. 28, 1980	Byrd & Richardson Corp., Hampton, VA	BRW–0042	Proposed Remedial Order. If granted: The November 20, 1979, Proposed Remedial Order issued to Byrd & Richardson, Corp. by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Delbert Frye, Winchester, VA	BRW–0043	Proposed Remedial Order. If granted: The November 20, 1979, Proposed Remedial Order issued to Delbert Frye by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Dr. Hooper Oil & Royalty Company, Conroe, TX	BEE–1116	Price Exception (Section 212.73). If granted: Dr. Hooper Oil & Royalty Company would be permitted to sell the crude oil produced from the W. P. McComb Lease located in Montgomery County, Texas, at market prices.
Apr. 28, 1980	Harrison's Union 76, Hampton, Va	BRW–0044	Proposed Remedial Order. If granted: The November 18, 1979, Proposed Remedial Order issued to Harrison's Union 76 by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Hillcrest Exxon, Johnson City, TN	BRW–0045	Proposed Remedial Order. If granted: The November 5, 1979, Proposed Remedial Order issued to Hillcrest Exxon by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Mobil Oil Corporation, Washington, DC	BED–0294	Motion for Discovery. If granted: Discovery would be granted to Mobil Oil Corp. in connection with the Application for Exception (Case No. BEE–0294) filed by Automatic Comfort Corporation.
Apr. 28, 1980	Pioneer Exxon, Johnson City, TN	BRW–0046	Proposed Remedial Order. If granted: The November 5, 1979, Proposed Remedial Order issued to Pioneer Exxon by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Rural Legal Services of Tennessee, Incorporated, Oak Ridge, TN.	BFA–0338	Appeal of an Information Request Denial. If granted: The April 1, 1980, Information Request Denial issued by the Department of Energy would be rescinded and Rural Legal Services of Tennessee, Inc., would receive access to certain DOE information.
Apr. 28, 1980	State Line Exxon, Gate City, VA	BRW–0047	Proposed Remedial Order Finalization. If granted: The December 5, 1979, Proposed Remedial Order issued to State Line Exxon by the Southeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Apr. 28, 1980	Mid-America Refining Company	BEE–1117, BEL–1117	Exception from the Entitlements Program. If granted: Mid-America Refining Company would receive an exception and a temporary exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations.
Apr. 29, 1980	Cities Service Company, Tulsa, OK	BEA–0342	Appeal of an Assignment Order. If granted: The March 21, 1980, Assignment Order issued to Cities Service Company by the Economic Regulatory Administration, Region IVC, regarding Cities' supply obligation to Sexton Oil Company, Inc., would be rescinded.
Apr. 29, 1980	Farmer's Cooperative Oil Company, Hinton, MI	BEE–1119	Allocation Exception. If granted: The Farmer's Cooperative Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Apr. 29, 1980	Getty Refining and Marketing Co., Tulsa, OK	BEN–0028 thru BEN–0033.	Interim Order. If granted: The Getty Refining and Marketing Company would receive exception relief on an interim basis pending the final determination on its Applications for Exception (Case No. BEE–0621 thru 0626).

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Apr. 25 through May 2, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 29, 1980	Hogan & Hartson, Washington, DC	BFA–0341	Appeal of an Information Request Denial. If granted: The March 31, 1980, Information Request Denial issued by the Office of General Counsel would be rescinded and Hogan & Hartson would receive access to DOE information concerning selling prices by crude oil resellers
Apr. 30, 1980	Gary Energy Corporation, Englewood, CO	BEA–0343, BES–0343.	Request for Stay Appeal of Entitlements Notice. If granted: The February 1980 Entitlements Notice would be modified with respect to Gary Energy Corporation's entitlements purchase obligations. The firm would receive a stay pending a final determination on its Appeal.
Apr. 30, 1980	Hillcrest Beverly Oil Co., Los Angeles County, CA	BEE–1122, BEE–1125.	Price Exception. If granted: Hillcrest Beverly Oil Company would be permitted to sell the crude oil produced from the Olympic and Beverly Hills Leases located in Los Angeles County, CA, at the upper tier ceiling prices
Apr. 30, 1980	Sexton Oil Company, Wartburg, TN	BEN–0035	Interim Order. If granted: Sexton Oil would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE–1068).
Apr. 30, 1980	Standard Oil Company of Ohio, Cleveland, OH	BEE–1123	Price Exception If granted: Standard Oil Company of Ohio would receive an exception from the provisions of 10 CFR 212.83 that would permit the firm to exclude the volume of CO_2 that it sells from its calculations of increased costs allocable to covered products.
May 1, 1980	Derby Refining/Coastal Corporation, Houston, TX	BEE–1130	Price Exception (212.83). If granted: Derby Refining/Coastal Corporation would receive an exception from the provisions of 10 CFR 212.83 which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol.
May 1, 1980	Hobart Corporation, Troy, OH	BES–0039	Request for Stay. If granted: Hobart Corp. would receive a Stay of the provisions of 10 CFR Part 430 pending a final determination on its Application for Exception (Case No. DEE–4459).
May 1, 1980	Mobil Oil Corporation, Washington, DC	BEA–0344, BES–0344.	Appeal of Allocation Notices. If granted: The Economic Regulatory Administration's March 31 and April 18, 1980, Allocation Notices would be modified with respect to the requirements applying to Ashland Oil, Inc., and Koch Refining Company. Mobil would receive a stay of the Allocation Notices pending a final determination on the Appeal
May 2, 1980	Buccaneer Boats, St. James City, FL	BEX–0053	Supplemental Order. If granted: A supplemental order would be issued to Buccaneer Boats which would modify the Decision and Order issued to the firm (BEO–0264)
May 2, 1980	Marathon Oil Company, Morristown, TN	BEX–0054	Supplemental Order. If granted: The April 17, 1980, Decision and Order (Case No BEA–0299), issued to Marathon Oil Company, would be rescinded and the February 19, 1980, Order issued by the Economic Regulatory Administration, Region IV, would be reinstated
May 2, 1980	McBay Oil and Gas Co., Dallas, TX	BEE–1126, BEL–1126.	Price Exception and Temporary Exception. If granted: McBay Oil and Gas Company would be permitted to sell the crude oil produced from the well located in Lake County, California, at market prices. The firm would receive a temporary exception pending a final determination on its application for exception

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

[Week of 4/25/80 through 5/2/80]

Name	Case No and date	State
Parkway Mobil Service	BEE–1115, Apr 28, 1980.	New Jersey
Energy Development Board of Mercer Co.	BEE–1121, Apr. 29, 1980	North Dakota
Hollypark Car Wash	BEE–1120, Apr. 29, 1980.	California
David Douglas Public Schools.	BEE–1124, Apr. 29, 1980.	Oregon

Notices of Objection Received

[Week of 4/25/80 to 5/2/80]

Date	Name and location of applicant	Case No.
4/28/80	Cities Service Co. Tulsa, OK	DEE–7788
4/29/80	Getty Refining and Marketing Tulsa, OK	DEE–2098
4/29/80	John Lynn (Texaco Super Service) Lexington, VA	DEE–5778
4/28/80	R. L. Jordan Oil Co., Inc. Spartanburg, S.C	DEE–8133
4/30/80	Army & Air Force Exchange Dallas, TX	DEE–4771
4/25/80	Bi-Rite Petroleum, Limited St. Louis, Mo	BEO–1174
5/1/80	San Joaquin Refining Co. Newport Beach, CA	DEX–0101

[FR Doc. 80–16349 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; April 21 Through April 25, 1980

Notice is hereby given that during the period April 21 through April 25, 1980, the Proposed Decisions and Orders which are summarizd below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice (May 29, 1980) or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in the a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW, Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
May 22, 1980.

Proposed Decision and Order

Kansas Marine Dealers Association, Beverly, Kans., DEE–7849, motor gasoline

Kansas Marine Dealers Association (KMDA) filed an Application for Exception from the provisions of 10 CFR Part 212. The

exception request, if granted, would permit members of KMDA to increase their margins on the sale of motor gasoline above the 16.1 cent margin currently allowed by the Regulations. On April 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it determined that the exception request be denied.

Putnam Fuels Inc., North Bergen, N.J., BEE–0569, gasohol.

Putnam Fuels, Inc. filed an Application for exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Putanm to purchase additional unleaded gasoline in excess of its base period allocation in order to expand its gasohol marketing operations. On April 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it determined that the exception request be denied.

San Joaquin Refining Co., Newport-Beach, Calif., DEX–0101, crude oil.

In accordance with Decisions and Orders issued to San Joaquin Refining Company which granted the firm exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program), the firm submitted actual financial data for its 1978 fiscal year. After reviewing the level of exception relief granted to San Joaquin under the applicable standards, the DOE issued a Proposed Decision and Order in which it determined that San Joaquin should purchase $1,802,552 of entitlements.

Schaeffer Oil Co., Winner, S. Dak., BEE–0328, gasohol.

The Schaeffer Oil Company filed an Application for exception from the provisions of 10 CFR Part 211. The exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and sell gasohol. On April 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Auto Row Texaco, DXE–8233, San Jose, CA
Estrellita Estates Co., DEE–7398, Weaverville, CA
Recreation Plus, Inc., DEE–7164, Trinity Center, CA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Adler Ledoux Tire & Supply, Inc., DEE–5964, Opelousas, LA
Amendt Oil Co., DEE–3699, San Bernadino, CA
Carlos Chevron Service, DEE–7676, Glendale, CA
Cedar Stock Resort, DEE–7189, Lewiston, CA
Chevy Chase Exxon, BEE–0346, Chevy Chase, MD
Fairview Marina, DEE–7384, Lewiston, CA
John B. Walker Texaco, BEE–0388, Jackson, MS
L. M. Petroleum Co., BEE–0374, Trumbull, CT
Los Osos Petroleum Products, DEE–6376, Los Osos, CA
Miley's Texaco Service, DEE–6791, Okla City, OK
Montgomery Oil Co., DEE–4299, Santa Monica, CA
Tyler Texaco Station, DEE–5826, Hollister, CA
Walker Oil Co., Inc., DEE–6090, Kansas City, KS

[FR Doc. 80–16348 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; April 28 through May 2, 1980

Notice is hereby given that during the period April 28 through May 2, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which has been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations with the date of service of notice shall be deemed to be the date of publication of this Notice (May 29, 1980) or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any futher proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

May 22, 1980

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Decision and Order

Cia. Petrolera Del Caribe, Incorporated, San Sebastian, Puerto Rico, Dee–4214, Motor gasoline

Cia. Petrolera del Caribe, Inc. (Caribe) filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit caribe to receive its base period allocation of motor gasoline from a lower-priced supplier. On April 29, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Capital Energy Corporation, Denver, Colo., BEE–0833, crude oil

Capital Energy Corporaiton filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart C. The exception request, if granted, would permit the firm to classify the crude oil produced from its A. M. Bogart Lease located in Harris County, Texas, as "heavy crude oil" which would in turn be eligible for sale at market price levels. On April 29, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied.

Dearborn Stove Company, Dallas, Tex., BEE–0883, test procedures

Dearborn Stove Company filed an Application for Exception from the provisions of 10 CFR Part 430. The exception request, if granted would relieve Dearborn of the requirement that it test, its vented, gas-fired space heaters equipped with manual and modulating controls in accordance with the procedures specified in Part 430, Appendix O. On April 30, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the Dearborn Application for Exception be granted.

Texas Gas Exploration Corporation, Houston, Tex., DEE–2118, natural gas liquids, propane

Texas Gas Exploration Corporation (Exploration) filed an Application for Exception from the provisions of 10 CFR § 212.167(b). The firm's request, if granted, would permit Exploration to impute a May 1973 cost of propane purchased for resale and a May 1973 cost of the propane content of natural gas liquids. On April 28, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that Exploration's exception request should be granted in part.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Passport Marina, DEE–5885, Panama City Beach, Fl

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

JSL, Inc., DEE–4063, Silver Spring, MD
McDowell Oil Co., DEE–7080, Spruce Pine, NC
Mt. Vernon Sunoco, DEE–5206, Alexandria, VA
Nat'l Car Rental Syst., DEE–7848, Warren, PA
Petrolics, Inc., BEE–0266, Austin, TX
Red Bluff Mobil, BXE–0283, Pasadena, TX
Seaway Arco, DEE–8100, Cleveland, OH
Summer Avenue 66 Station, DEE–6976, Memphis, TN
Super Truck Rental Corp., DEE–6800, Jericho, L.I., NY
The W. Gordon Smith Co., DEE–6658, Eden Prairie, MN

[FR Doc. 80–16347 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; May 12 Through May 16, 1980

Notice is hereby given that during the period May 12 through May 16, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publications of this Notice May 29, 1980 or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Dated: May 22, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Chalfant Oil Company, Aurora, Missouri, Gasohol, BEE–0458

Chalfant Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Chalfant to purchase 40,000 gallons of unleaded gasoline per month in addition to its base period allocation in order to expand its gasohol marketing program. On May 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part, and that Chalfant's base period allocation of unleaded gasoline be increased by 4,000 gallons per month.

City of Long Beach, California, Long Beach, California, crude oil, BXE–0980

The City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Fault Block III Unit for the benefit of the working interest owners at upper tier ceiling prices. On May 15, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Dunston Enterprises, Inc., DEE–7236, Falls Church, VA
Embry Hills Chevron, DEE–3240, Chamblee, GA
Louk Oil Co., DEE–3514, Topeka, KS
Manor 66, DEE–6664, Rockville, MD
Montclair Service Station, DEE–3965, North Quincy, MA
Ramrod Auto Clinic, DEE–3613, Summerland Key, FL
RPN, Inc., DEE–4083, Rockville, MD
Town Line Service, DEE–7116, North Andover, MA
Whitie's Alliance Serv., DEE–3754, Sebastopol, CA

[FR Doc. 80–16352 Filed 5–28–80; 8:45 am]
BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed; Week of March 31 Through April 4, 1980

Notice is hereby given that during the week of March 31 through April 4, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before June 18, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 22, 1980.

Conoco, Inc., Stamford, CT, BRO–1153

On March 31, 1980, Conoco, Inc., which is headquartered at High Ridge Park, Stamford, Connecticut 06904, filed a Notice of Objection to a Proposed Order of Disallowance which the DOE Special Counsel for Compliance issued to the firm on February 20, 1980. In the

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POD the Special Counsel for Compliance found that during October 1973 through May 1975, Conoco overstated its costs with respect to interaffiliate imported Libyan, Venezuelan and Iranian crude oil transactions by approximately $4.1 million.

According to the POD the Conoco violation resulted in $4,153,114.90 of overcharges.

Dave Clark Chevron, Flagstaff, AZ, BRO–1155

On April 2, 1980, Dave Clark Chevron, 1600 E. Santa Fe, Flagstaff, Arizona 86011, filed a Notice of Objection to a proposed Remedial Order which the DOE Western District of Enforcement issued to the firm on March 14, 1980. In the PRO the Western District found that during August 1, 1979 to January 31, 1980, Dave Clark Chevron overcharged retail purchasers of motor gasoline.

According to the PRO the Dave Clark Chevron violation resulted in $3,855.84 of overcharges.

Mobil Oil Corp., New York, N.Y., BRO–1148

On March 31, 1980, Mobil Oil Corporation, 150 East 42nd Street, New York, New York, filed a notice of Objection to a Proposed Order of Disallowance which the DOE Office of Special Counsel issued to the firm on February 20, 1980. In the Proposed Order of Disallowance the Office of Special Counsel found that during the period October 1973 through May 1975, Mobil had overstated its costs with respect to interaffiliate imported Libyan, Venezuelan and Nigerian crude oil transactions in violation of 10 CFR 212.83(b) and 212.84.

According to the proposed Order of Disallowance the Mobil violation resulted in $14,085,000.61 of overcharges.

Noel T. Ouellette d.b.a. Spofford's Chevron, Lewistown, ME, BRO–1149

On April 1, 1980, Noel T. Quellette d.b.a. Spofford's Chevron, 210 Bartlett St., Lewistown, Maine 04240, filed a Notice of Objection to a proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on March 19, 1980. In the PRO the Northesast District found that during the period August 1, 1979 to January 15, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93 and failed to properly post the maximum lawful selling price or a proper certification in violation of 10 CFR 212.129.

According to the PRO the Spofford's violation resulted in $2,864.34 of overcharges.

Sunset Boulevard Car Wash, Los Angeles, CA, BRO–1150

On April 1, 1980, Sunset Boulevard Car Wash, 7935 Sunset Boulevard, Los Angeles, California 90046, filed a Notice of Objection to a Proposed Remedial Order which the Los Angeles Audit Office of the DOE Western District of Enforcement issued to it on March 18, 1980. In the Proposed Remedial Order, the Los Angeles Audit Office found that during the audit period of August 1, 1979 through January 27, 1980, Sunset Boulevard Car Wash made retail sales of motor gasoline at prices which exceeded its maximum lawful selling prices (MLSPs) for those grades of gasoline, in violation of the price regulations contained in 10 CFR Part 212. According to the Proposed Remedial Order, these violations resulted in overcharges to the consuming public of $20,207.04.

[FR Doc. 80–16350 Filed 5–28–80; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed; Week of May 5 through May 9, 1980

Notice is hereby given that during the week of May 5 through May 9, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this Notice were filed with the Office of hearings and Appeals of the Department of Energy.

On or before June 18, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before June 30, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C. on May 22, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Ayers Oil, Inc., Canton, Mo., Refined Produce, BRO–1176

On May 6, 1980, Ayers Oil Company, Inc., P.O. Box 229, Canton, Missouri 63435, filed a Notice of Objection to a Proposed Remedial Order which the Central Enforcement District of the DOE's Economic Regulatory Administration issued to it on April 8, 1980. In the Proposed Remedial Order, the Central Enforcement District found that during the audit period of November 1, 1973 through April 30, 1974, Ayers Oil Company sold motor gasoline, fuel oil, and diesel fuel at prices which exceeded its maximum lawful selling prices for those products in violation of 6 CFR 150.359 and 10 CFR 212.93(a). According to the Proposed Remedial Order, these violations resulted in overcharges to Ayers Oil Company customers totalling $253,856.55.

Bill Freer, d.b.a. B&M Texaco & Towing, Manteca, Calif., Motor Gasoline, BRO–1178

On May 6, 1980, Bill Breer d.b.a. B&M Texaco & Towing (Freer), Lathrop Road and Highway 99, Manteca, California 95336 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on april 10, 1980.

In the PRO the Western District found that during ther period August 1, 1979 to September 30, 1979, Freer charged more than the maximum lawful selling price for motor gasoline in violation of § 212.93 of the DOE Mandatory Petroleum Price Regulations.

According to the PRO the Freer violation resulted in $2,966.68 of overcharges.

Windsor Gas Corp., Houston, Tex., BRO–1177

On May 6, 1980, the Windsor Gas Corporation located at 2300 Neils Esperson, Houston, Texas 77002, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on March 25, 1980.

In the PRO the Southwest District found that during February 1, 1975 to December 31, 1977, Windsor sold gas well condensate at prices in excess of the upper tier ceiling price set forth in 10 CFR 212.74 and 212.77 and, in addition, sold crude oil at prices in excess of the ceiling price set forth in 10 CFR 212.73.

According to the PRO, the Windsor Gas Corporation violation resulted in $77,548.54 of overcharges.

Atlantic Richfield Co., Los Angeles, Calif. BRO–1179

On May 6, 1980, Atlantic Richfield Company, 515 S. Flower Street, AP 3077, Los Angeles, California 90071 filed a Notice of Objection to a Proposed Remedial Order which the DOE Pacific District Office of Special Counsel issued to the firm on April 25, 1980.

In the PRO the Pacific District found that since May 24, 1979, Atlantic Richfield Company has refused to supply all of the base period volume of Carl King Inc., in violation of 10 CFR 211.105(d).

[FR Doc. 80–16351 Filed 5–28–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1502–2]

Approval of Alternate Water Pollutant Testing Procedures; Total and Dissolved Zinc and Copper

In accordance with § 136.5, 40 CFR Part 136, "Guidelines for Test Procedures for the Analysis of Pollutants," the Hach Chemical Company applied for approval of alternate test procedures for the measurement of total and dissolved zinc and copper.

After a thorough review and evaluation by the United States Environmental Protection Agency (EPA) of the results of comparability testing studies and other information submitted by the applicant in accordance with § 136.5, the EPA has designated the Hach procedures as approved alternate test procedures for nationwide use. All information submitted by the applicant is on file and available for public inspection, to the extent consistent with 40 CFR Part 2 (EPA's regulation implementing the Freedom of Information Act), at the Environmental Monitoring and Support Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268.

As approved alternate test procedures, the Hach procedures are acceptable for use by any person required to use approved procedures under § 304(h) of the Clean Water Act Amendments of 1977. For such use, the procedures must be used in strict accordance with the method descriptions for copper: Bicinchoninate Method, Method 8506; and for zinc: Zincon Method, Method 8009. In making this approval, the EPA disassociates itself from any statements in the approved Hach Chemical Company procedures which do not specifically pertain to the determination of analytical equivalency.

The approved methods descriptions and prepackaged reagents are available from the Hach Chemical Company, Post Office Box 389, Loveland, Colorado 80537.

Dated: May 21, 1980.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80–16224 Filed 5–28–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Stret, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 9, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10386–2.

Filing party: Jorge Luis Wachter, Executive Administrator, Conferencia Interamericana de Fletes—Seccion "B", Lavalle 381–8° Piso (1047), Buenos Aires, Argentina.

Summary: Agreement No. 10386–2 is a proposal by the parties to the Argentina/U.S. Atlantic Northbound Pooling Agreement to redefine the specific shares allotted to each party, through December 31, 1983. A/S Ivarans Rederi (Ivarans) was not a signatory to proposed Agreement No. 10386, and its pool share was reserved for it but temporarily allocated to the national and non-national lines on a *pro-rata* basis under proposed Agreement No. 10386–1. Ivarans is a signatory to Agreement No. 10386–2 and has been allotted a specific pool share. It is anticipated that Agreement No. 10386–1 will be withdrawn.

Dated: May 23, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–16258 Filed 5–28–80; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Alaska Tour & Marketing Services, Inc., d.b.a. Explorer Cruise Lines, Suite 312, Park Place Building, Sixth and University Street, Seattle, Washington 98101.

Dated: May 22, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–16256 Filed 5–28–80; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Eastern Steamship Lines, Inc. d.b.a. Western Cruise Lines, Pacific Cruise Lines, Inc., and Gotaas-Larsen Shipping Corporation, c/o Eastern Steamship Lines, Inc., 1220 Biscayne Boulevard, P.O. Box 010682, Miami, Florida 33101.

Dated: May 22, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–16257 Filed 5–28–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de nova* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or

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at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 20, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

The Chase Manhattan Corporation, New York, New York (commercial finance, factoring; Illinois, California): to engage through its wholly-owned subsidiary known as CCC Holding Inc., Newark, Delaware, in the following activities: making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing on a full payout basis personal property or acting as agent, broker or adviser in leasing such property, including the leasing of motor vehicles. Such activities will be conducted by a wholly-owned subsidiary of CCC Holding Inc., Chase Commercial Corporation (CCC), a Delaware Corporation with its principal office located at 560 Sylvan Avenue, Englewood Cliffs, New Jersey 07632, through two *de novo* offices at the following locations: 1. Illinois: 9500 Sears Tower, Chicago, Illinois 60690; 2. California: 560 Mission, San Francisco, California 94105.

The activities of these offices will be coordinated with those of CCC and The Chase Manhattan Corporation as a whole in such a way as to support Chase's commitment to fulfill its obligations under the present program of voluntary credit restraint. Comments on this application must be received by June 16, 1980.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

Maryland National Copporation, Baltimore, Maryland (insurance activities; Ohio and Pennsylvania): to engage through its subsidiary, Mid-Atlantic Life Insurance Company, in underwriting as a reinsurer credit life and credit accident and health insurance directly related to extensions of credit by subsidiaries of the Applicant located in Ohio and Pennsylvania. These activities would be conducted from an office in Baltimore, Maryland; and Phoenix, Arizona, serving Ohio and Pennsylvania.

c. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 22, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16229 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

Cross Financial Corp.; Proposed Retention of Medlin Insurance Agency

Cross Financial Corporation, Oberlin, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its general insurance agency.

Applicant states that the proposed subsidiary would engage in general insurance agency activities in a town of less than 5,000 persons. These activities would be performed from offices of Applicant's subsidiary in Oakley, Kansas, and the geographic area to be served is Oakley, Kansas and surrounding area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 23, 1980.

Board of Governors of the Federal Reserve System, May 22, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16230 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

Las Vegas Bancorp.; Formation of Bank Holding Company

Las Vegas Bancorporation, Las Vegas, New Mexico, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Las Vegas Bank, Las Vegas, New Mexico, which is the successor by merger to The Bank of Las Vegas, Las Vegas, New Mexico. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S. C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16227 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

Marine Corp.; Acquisition of Bank

Marine Corporation, Milwaukee, Wisconsin, requested reconsideration of the Board's Order of March 26, 1980, whereby the Board of Governors denied the application of the Marine Corporation, Milwaukee, Wisconsin for prior approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of First National Bank and Trust Company of Racine, Racine, Wisconsin ("Bank"), pursuant to section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)).

In accordance with the provisions of § 265.3 of the Board's Rules Regarding Delegation of Authority the Board considered the material submitted in Applicant's request for reconsideration and determined that reconsideration would be appropriate.

In connection with the Board's reconsideration of the proposed acquisition comments and views may be filed with the Board not later than June 13, 1980 and should be addressed to the Secretary, Board of Governors of the Federal reserve System, Washington, D.C. 20551. The application, as supplemented by Applicant's request for reconsideration, may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, May 21, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16228 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

Roger Billings, Inc.; Proposed Acquisition of General Insurance Agency Assets

Roger Billings, Incorporated, Delphos, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the assets of The Billings Insurance Agency, Delphos, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of selling insurance, with the exception of credit life, accident, and health insurance, to customers of Applicant's subsidiary, The State Bank of Delphos, Delphos, Kansas. These activities would be performed from offices of Applicant's subsidiary in Delphos, Kansas, and the geographic area to be served is a 10-mile radius from the city of Delphos, Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 18, 1980.

Board of Governors of the Federal Reserve System, May 22, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16249 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

United Whitley Corp.; Formation of Bank Holding Company

United Whitley Corp., Williamsburg, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.3 percent or more of the voting shares of Bank of Williamsburg, Williamsburg, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16226 Filed 5-28-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

White House Conference on Families

The White House Conference on Families was called by President Carter to, "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

To fulfill the President's mandate, the Conference adopted a process that included seven national hearings attended by more than 4,000 persons; activities in virtually all the states and territories, participated in by more than 100,000 Americans; significant involvement of national organizations; and a National Research Forum.

The White House Conferences will be held in Baltimore, June 5–7; Minneapolis, June 19–21; and Los Angeles, July 10–12. Approximately 650 delegates will participate in each of the three Conferences to refine, discuss, and vote on Conference recommendations. They will include delegates elected/selected at the state level; at-large delegates; state coordinators; and members of the National Advisory Committee on the White House Conference on Families.

All delegates will have the same status at the Conferences, will be entitled to participate in the work of the Conference, and will be invited to all official Conference sessions.

Provision has been made for both invited official observers and observers from the general public to be part of the White House Conferences. Observers will be welcome at the sessions indicated below, will have no voice or voting privileges, and will be seated in designated areas. Due to severe space limitations in the Conference facilities, the number of observers at each session will be very limited.

All observers must receive credentials at the Registration Desk prior to attending any Conference sessions. Official observers may attend any session open to observers. Observers from the general public will be admitted to sessions on a rotation basis, with preference being given to those who have not yet observed a session. Admission tickets for public observers will be available at the Conference Registration Desk on a first-come, first-serve basis beginning one hour before the session is scheduled to start. (Registration for the opening session will begin at 12:00 Noon). Luncheon tickets may be purchased in the registration area.

The preliminary conference agenda is shown below. All sessions will be open to the public except those enclosed in brackets.

Thursday

9:00–5:00 Registration
2:00–3:00 Open Session: Jim Guy Tucker, Mayor William Donald Schaefer, President Carter, Slide Presentation
3:30–5:00 Topic Sessions (4): Presentations on Major Topics
5:00–7:00 Delegate Forum

7:30–9:30 Introduction to Workgroups

Friday

8:30–12:00 Work Group Sessions (20): Discussion and Decisions on Recommendations
12:15–2:30 Plenary Lunch: Speaker: George Gallup, Report on Gallup Poll on American Families
2:30–6:00 Topic Sessions (4): Review and Vote on Recommendations of Workgroups
6:00–7:30 Delegate Forum
[8:00 Special Event]

Saturday

[7:45–9:00 State Meetings]
[9:15–1:00 Plenary Session: Voting on Recommendations; Box Lunch]
[2:00–3:00 Election of National Task Force Members by State Delegations]
3:00–4:00 Closing Session

While the Conference agenda has not been finalized, significant changes are not anticipated. The final agenda will be published in the Register, and the sessions open to the public will be identified.

Further information may be obtained from the White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201; telephone (202) 245–6073.

Jim Guy Tucker,

Chairperson, White House Conference on Families.

[FR Doc. 80–16209 Filed 5–28–80; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Privacy Act of 1974; New System of Records

AGENCY: Department of Health, Education, and Welfare; Public Health Service.

ACTION: Notification of a system of records maintained by the Services Management Section, Administrative Services Branch, Division of Management Services, Food and Drug Administration, and FDA field/district offices. The system of records is 09–10–0018, Employee Identification Card Information Record, HEW/FDA/ACMO.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new system of records in the Food and Drug Administration (FDA). This system of records, Employee Identification Card Information Record, is to be used to provide a record of all holders of FDA identification cards for renewal and recovery purposes. PHS invites interested persons to submit comments on the proposed routine uses on or before June 30, 1980.

DATES: PHS sent a Report of New System to the Congress and to the Office of Management and Budget on April 29, 1980. PHS requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. This waiver was granted, therefore, this system, except for the routine use provisions, is effective May 21, 1980. The routine uses will be effective on June 30, 1980, unless PHS receives comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to the Hearing Clerk, Food and Drug Administration, Room 4–65, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Comments received will be available for inspection during regular work days from 9:00 a.m. to 4:00 p.m., in Room 4–65, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Gerald H. Deighton, FDA Privacy Act Coordinator, Room 12A–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or call 301–443–1813.

SUPPLEMENTAL INFORMATION: Since its early years, the Food and Drug Administration has maintained a record of all holders of FDA identification cards for renewal and recovery purposes. These records are also used at FDA Headquarters to locate employees whose names may not have been entered in the FDA locator system. This system of records was previously covered by a Privacy Act notice of a system of records published by the Office of the Secretary, Department of Health, Education, and Welfare, and applicable Departmentwide. However, the Department revoked this notice due to changes in retrievability that removed the system from the coverage of the Privacy Act. FDA has not made similar changes in its card identification system, so it remains subject to the Privacy Act. Due to administrative oversight, no new notice has previously been published by FDA for these records.

The amount of personal data maintained on each person is the minimum feasible to identify these employees. FDA's system, which was previously covered under the Department of Health, Education, and Welfare's system, formerly required that an employee supply his/her social security number, weight, and hair color. These three requirements were deleted from FDA's system of records. Color of eyes and height were retained as being essential added identifiers to the photograph of the employee and the birthdate was retained since the cards are recalled for renewal by date of birth.

FDA will maintain the records in this system in a secure manner compatible with their content and use. Access will be given only to Agency employees whose official duties require access for issuance, renewal, retrieval, and location purposes. FDA will keep records in locked file cabinets or rooms under direct control of authorized personnel. FDA has established computer passwords and security procedures to ensure that unauthorized personnel cannot retrieve information from the minicomputer.

Jack N. Markowitz,

Acting Director, Office of Management, Public Health Service.

09–10–0018

SYSTEM NAME:

Employee Identification Card Information Record, HEW/FDA/ACMO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Services Management Section, Associate Commissioner for Management and Operations, Food and Drug Administration, Rm. 4C–21, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; Office Services Section, Associate Commissioner for Management and Operations, Food and Drug Administration, Rm. B–002, FB–8, 200 C Street, SW, Washington, DC 20204; and Administrative Branches at field/district Offices (see Appendix A to system notice 09–10–0001, Quality Assurance Program, HEW/FDA/EDRO).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Approximately 8,800 FDA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, mailing routing code, office telephone, building, room number, birthdate, identification photograph, height, color of eyes, and type of appointment.

Authority for maintenance of the system:

40 U.S.C. 471, et seq; Management and Disposal of Government Property Act.

PURPOSES:

The system was designed to maintain a record of all holders of FDA identification cards, Forms FD 1887 and 1887h, for renewal and recovery purposes and to identify numbers of lost or stolen cards.

The system may also be used at FDA Headquarters to locate employees whose names have not been entered in the FDA locator system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with he purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms filed in folders in a locked filing cabinet. Computer tapes and discs stored in a locked safe.

RETRIEVABILITY:

Information is filed and retrieved by name and date of birth both on the forms and at Headquarters on a minicomputer.

SAFEGUARDS:

All Forms FD 2923 are kept in locked file cabinets. The minicomputers at Headquarters are maintained in secured areas with access limited to authorized personnel whose official duties required access for issuance, renewal, retrieval, and location purposes. ADP security safeguards meet the requirements of FDA's ADP Security Management Plan for the implementation of Part 6 "ADP Systems Security" of HEW ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are maintained as long as the ID cards are valid. Computer tapes are erased immediately upon termination of employment and inactive forms are destroyed after 6 months by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Branch (HFA–210), Associate Commissioner for Management and Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact FDA Privacy Act Coordinator (HFI–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. In order to ascertain if a record exists, the individual must provide his/her name and any other names officially used during period of employment.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.

None.

[FR Doc. 80–16545 Filed 5–28–80; 11:11 am]

BILLING CODE 4110–03–M

DEPARTMENT OF INTERIOR

Bureau of Land Management

Winnemucca District Grazing; Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Winnemucca District Grazing Board will be held on July 9, 1980. The meeting will begin at 10:00 A.M. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include: (1) MEP II for Sonoma-Gerlach; (2) Coordinated Resource Plans; (3) Paradise-Denio Draft EIS; (4) Meetings with ranchers on Paradise-Denio MFP II; (5) Reading of letters and public comment period; (6) Arrangement for next meeting, and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 P.M. on July 9, 1980 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Management, 705 East Fourth Street, Winnemucca, Nevada by June 9, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: May 19, 1980.

Robert J. Neary,

Acting District Manager for State Director, Nevada.

[FR Doc. 80–16189 Filed 5–28–80; 8:45 am]

BILLING CODE 4310–84–M

[M 46310]

Montana; Coal Exploration License Application

May 19, 1980.

Members of the public are hereby invited to participate with Consolidation Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following-described lands located in Powder River County, Montana:

T. 4 S., R. 45 E., P.M.M.,
Sec. 22: W½W½.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Consolidation Coal Company, Western Exploration Group, No. 14 Inverness Drive East, Building No. 60, Englewood, Colorado 80112. Such written notice must refer to serial No. M 46310 and be received no later than 30 calendar days after publication of this Notice in the Federal Register or 10 calendar days after the last publication of this Notice in this newspaper, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Geological Survey and the Bureau of Land Management. Copies of the Exploration Plan as submitted by Consolidation Coal Company may be examined during normal business hours at the Bureau of Land Management State Office, Granite

V 4 5 M Y 2 9 8 0 UMI

Tower Building, 222 North 32nd Street, Billings, Montana.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-16241 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. M 36710]

Montana; Termination of Proposed Withdrawal and Reservation of Lands

May 20, 1980.

Notice of an application, serial No. M 36710, for withdrawal and reservation of lands was published as FR Doc. No. 77-10336 on page 18455 of the issue for April 7, 1977. The applicant agency has canceled its application in its entirety. The lands involved are described as follows:

Principal Meridian, Montana

T. 13 N., R. 13 W.,
Sec. 4, Lots 2, 3, and 4, SW¼NE¼, S½NW¼, and SW¼;
Sec. 5, All;
Sec. 6, All;
Sec. 7, All;
Sec. 8, All; and
Sec. 9, W½NW¼ and NW¼SW¼.
T. 14 N., R. 13 W.,
Sec. 20 Lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 28, W½NE¼, NW¼, and S½;
Sec. 30, E½E½;
Sec. 32, All; and
Sec. 34, W½NW¼ and NW¼SW¼.

The areas described aggregate 4,471.31 acres in Powell County, Montana.

Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be relieved of the segregative effect of the above application at 10 a.m. on July 5, 1980.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-16244 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-84-M

[W-65918 Amendment]

Wyoming; Application

May 19, 1980.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an amendment to re-route a portion of their pending application for a right-of-way W-65918, and to change the size of their proposed 12¾ inch O. D. pipeline to a 10 inch and 8 inch O. D. pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 117 W.,
Secs. 2, 8 and 10.
T. 18 N., R. 117 W.,
Secs. 24 and 28.

The partial re-route of Northwest Pipeline Corporation's 16 inch Trunk "A" line will begin at a point located in the SW¼SW¼ of Section 8, T. 17 N., R. 117 W., and will extend to a point located in the S½SW¼ of Section 12, T. 18 N., R. 117 W., Uinta County, Wyoming.

The purpose of this notice is inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-16242 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Training and Qualification of Personnel in Well-Control Training

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed revision to the U.S. Geological Survey Outer Continental Shelf Standard No. T 1, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations (GSS-OCS-T 1)."

SUMMARY: The GSS-OCS-T 1, First Edition, was published in the **Federal Register** Notice, Volume 42, Number 251, Page 65291, December 30, 1977. Included in this Notice was an announcement that booklet copies of the Standard would be available from the Geological Survey at several locations. The guidelines for implementing the GSS-OCS-T 1 training program were set forth in the **Federal Register** Notice, Volume 43, Number 246, Page 59551, published by the U.S. Geological Survey on December 21, 1978.

The primary purpose for revising the GSS-OCS-T 1 training standard is to clarify the requirements and combine the guidelines for implementing those requirements into one document. In addition, over the past 2 years, there have been a number of concerns expressed with regard to various paragraphs contained in the present Standard. In response to those concerns, we have rewritten some paragraphs for added clarity.

The new Standard will be published as GSS-OCS-T 1 Second Edition.

DATES: Comments and recommendations should be submitted on or before July 28, 1980.

ADDRESS: Comments and recommendations should be addressed to Mr. Richard B. Krahl, U.S. Geological Survey, Conservation Division, National Center—Mail Stop 640, Reston, Virginia 22092.

Dated: May 21, 1980.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division.

SUPPLEMENTAL INFORMATION: GSS-OCS-T 1 Second Edition:

Foreword

This Standard is applicable to Federal leases on the Outer Continental Shelf (OCS). The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, First Session) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

A primary factor essential to safely conducting oil and gas operations is training. This Standard has been developed to provide the criteria to ensure that key operating personnel of lessees, or contractors employed by the lessees, are trained to conduct oil and gas operations on the Outer Continental Shelf in the manner which emphasizes safe operating practices and minimizes the risk of environmental damage.

This Standard has been developed consistent with the procedures as outlined in the **Federal Register**, Vol. 40, No. 250, December 30, 1975. This Standard is referenced in the requirements of OCS Order No. 2. Booklet copies of this edition are available from the U.S. Geological Survey National Headquarters and from the Conservation Managers as follows:

Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010.
Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006.
Conservation Manager, Alaska Region, U.S. Geological Survey, 800 "A" Street, Suite 201, Anchorage, Alaska 99510.
Conservation Manager, Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Suite 244, Los Angeles, California 90017.
Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, Mail Stop 640, National Center, Reston, Virginia 22092.

Contents

Section

1. Introduction and Scope
2. Guidelines for Course Curricula
2.1 Introduction
2.2 Rotary Helper Training Criteria
2.3 Derrickman Training Criteria
2.4 Driller Training Criteria
2.5 Toolpusher Training Criteria
2.6 Operator's Representative Training Criteria
3. Qualification Procedures
3.1 Rotary Helper
3.2 Derrickman
3.3 Driller
3.4 Toolpusher
3.5 Operator's Representative
4. Well-Control Drills
5. Relief Assignments
Appendix I—General Well-Control Guidelines.
Appendix II—Basic and Refresher Well-Control Training Program Guidelines.
Appendix III—Rotary Helper and Derrickman Well-Control Training Program Guidelines.

1. Introduction and Scope

This Standard provides the minimum criteria for the qualification of drilling personnel in well-control equipment, operations, and techniques to ensure safety and to prevent pollution during drilling on offshore locations. This Standard is applicable to the following drilling personnel classifications:

a. Rotary Helper.
b. Derrickman.
c. Driller.
d. Toolpusher.
e. Operator's Representative.

This Standard is inteded for use in the development of training courses and includes recommendations for testing to ensure that all candidates are qualified upon completion of the course. It shall be used in developing and conducting a qualification program as outlined herein. Section 2, 3, and 4 provide the *basic guidelines* for qualifying personnel employed on drilling rigs utilizing either a surface- or subsea-blowout-preventer stack.

In accordance with the provisions of this Standard, the employer shall maintain a record of training for each employee. Each employee shall be furnished documentation upon successful completion of each level of training.

2. Guidelines for Course Curricula

2.1. *Introduction.* This portion of the Standard describes the materials and instrucitons to be presented to the candidate through classroom lectures and hands-on demonstrations. Curriculum content is described on a general basis for each drilling crew member classification. Specific details will be developed using the criteria contained in this section as a guideline. Training programs presented by an operator or contractor will be directed toward the well-control equipment and techniques most widely used in their respective operations. Other organizations offering training programs may develop a detailed curriculum directed toward well-control equipment and techniques most widely used offshore.

Generally, training programs or portions thereof may be conducted wherever they can be presented most effectively: job site, classroom, or in a training facility at another location. However, for the job classification of Rotary Helper and Derrickman, the hands-on training and qualification drills must be performed at their respective job sites. Each candidates will be provided with a manual containing the course materials for future reference and review.

2.2 *Rotary Helper Training Criteria for Qualification in Well-Control Operations.*

2.2.1 *Prerequisites for Rotary Helper Qualification.* The candidate shall have satisfied the employment requirements specified by the employer.

2.2.2 *Government Regulation.* The candidate shall receive general instructions on Government regulations that are pertinent to his work and to well-control activities. Copies of the regulations, Orders, or abastracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.2.3 *Blowout-Prevention Equipment.* The candidate shall receive general instructions on blowout-prevention equipment consistent with the type of blowout-preventer stack utilized on the drilling rig upon which the candidate is employed. These instructions shall consist of the purpose, operation, and general maintenance of the following:

a. Annular blowout-preventer with and without diverter system.
b. Diverter system.
c. Ram-type blowout preventer.
d. Accumulator system.
e. Drill string inside blowout preventer.
f. Drill string safety valve.
g. Kelly cock.
h. Choke manifold.

2.2.3. In addition to the above, the candidate shall receive instruction on the purpose, operation, and general maintenance of the following auxiliary equipment:

a. Mud pit level indicator.
b. Mud volume measuring device.
c. Mud return indicator.
d. Gas detector.
e. Mud-gas separator.
f. Trip tank.

2.2.4. *The More Obvious Warning Signals of Kicks.* the candidate shall receive instrucitons on the more obvious warning signals of kicks including, but not limited to, the following:

a. Gain in pit volume and/or increase in mud return rate.
b. Hole not taking proper amount of mud during trips.
c. Well flowing with pump shutdown

2.2.5. *Well-Control Operations.* The candidate shall receive hands-on training at the job site for operation of the choke manifold, stand pipe, and mud room valves which require settings for kill operations different from those used in normal drilling operations.

2.3. *Derrickman Training Criteria for Qualification in Well-Control Operations.*

2.3.1. *Prequisites for Derrickman Qualification.* The candidate shall have completed the training as a Rotary Helper or possess equivalent experience before enrolling in the Derrickman course.

2.3.2. *Government Regulations.* The candidate shall receive general instructions on Government regulations that are pertinent to his work and to well-control activities. Copies of the Regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures.
b. Plugging and abandonment.
c. Pollution and waste disposal.

Copies of the Regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements.

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2.3.3. *Blowout-Prevention Equipment.* Consistent with the type of blowout-preventer stack utilized by the drilling rig upon which the candidate is employed, the candidate shall receive instructions on the purpose, operations, and maintenance of the following equipment:

a. Equipment listed under subsections 2.2.3 and 2.2.3.1.
b. Degasser.
c. Adjustable choke.

2.3.4. *Drilling Fluids.* The candidate shall receive general instructions on drilling fluids, with emphasis on the following:

a. Density.
b. Viscosity.
c. Fluid loss.
d. Salinity.
e. Gas-cutting.
f. Procedure for increasing mud density.

2.3.5 *Warning Signals of Kicks.* The candidate shall receive general instructions consistent with his assigned duties on warning signals that indicate a kick or conditions that can lead to a kick such as, but not limited to, the following:

a. Items in subsection 2.2.4.
b. Sloughing shale and its appearance at surface.
c. Drilling rate change.
d. Change in salinity.
e. Change in flow properties of drilling fluid.
f. Trip, connection, and background gas changes.

2.3.6 *Well-Control Operations.* The candidate shall receive hands-on training at the job site on the items covered in subsection 2.2.5 and general instructions on well-killing operations.

2.4 *Driller Training Criteria for Qualification in Well-Control Operations.*

2.4.1 *Prerequisites for Driller Qualification.* The candidate shall have completed training as a Rotary Helper and Derrickman or possess equivalent experience before enrolling in the Driller's course.

2.4.2 *Government Regulations.* The candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a mininum:

a. Drilling procedures including field drilling rules.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.4.3 *Drilling Fluids.* The candidate shall receive instructions on drilling fluids, with emphasis on the following:

a. Density.
b. Viscosity.
c. Fluid loss.
d. Salinity.
e. Gas-cutting.
f. Procedure for increasing mud density.

2.4.4 *Causes of Kicks.* The candidate shall receive instructions on the major causes of kicks. These causes include:

a. Failing to keep the hole full.
b. Swabbing effect of pulling the pipe.
c. Loss of circulation.
d. Insufficient density of drilling fluid.
e. Abnormally pressure formations.

The importance of measuring the mud required to fill the hole during trips and methods for measuring and recording hole-full volumes shall be emphasized. Such importance shall be further emphasized for shallow gas conditions

2.4.5 *Warning Signals of Kicks.* The candidate shall receive instructions on the warning signals that indicate a kick or condition that can lead to a kick. These warning signals include:

a. Gain in pit volume.
b. Increase in return mud flow rate.
c. Hole not taking proper amount of mud during trips.
d. Drilling rate change.
e. Decrease in circulating pressure or increase in pump strokes.
f. Trip, connection, and background gas changes.
g. Gas-cut mud.
h. Water-cut mud or chloride change.
i. Sloughing shale and its appearance at the surface.
j. Well flowing with pump shutdown.
k. Change in flow properties of drilling fluid.

2.4.6 *Shutting-in a Well for Well-Control Purposes.* The candidate shall receive instructions on the correct procedures for controlling a well with the blowout-preventer system, the choke manifold, and/or the diverter system. These instruction shall include the sequential steps to be followed and be consistent with the type of blowout-preventer stack utilized by the drilling rig on which the candidate is employed.

2.4.7 *Well-Control Operations.* The candidate shall receive instructions on one of the following constant bottom-hole pressure methods of well-control:

a. Driller's.
b. Wait and weight.
c. Concurrent (circulate and weight).
d. Other applicable constant bottom hole pressure methods.

2.4.7.1 The instruction process for the above shall include those conditions which may be unique to either the surface- or subsea-blowout-preventer stack utilized by the drilling rig upon which the candidate is employed. An adequate simulator is an acceptable alternate to the model well. A complete well-killing exercise shall be carried out using a simulator or a model well. Classroom instructions shall cover well-control calculations and the reasons for their use. These instructions include:

a. Mud density increase required to control kick.
b. Conversion between the mud density and pressures and the importance of the conversions in understanding formation breakdown, particularly with shallow casing setting.
c. Drop in pump pressure as mud density increases during kill operations.
d. Relationships between pump pressure, pump rate, and mud density.
e. Pressure limitations on casings.

2.4.8 *Unusual Well-Control Operations.* The candidate shall receive instructions on unsual well-control situations to include as a minimum:

a. When drill pipe is off bottom.
b. When out of hole.
c. When lost circulation occurs.
d. When drill pipe is plugged.
e. Excessive casing pressure.
f. Hole in drill pipe.

2.4.9 *Controlling Shallow Gas.* The candidate shall receive instructions on the following:

a. Controlling shallow gas kicks.
b. Use of diverters.
c. Use of marine risers.

2.4.10 *Blowout-Preventer and Diverter System.* The candidate shall receive instructions on the Blowout-Preventer and Diverter Systems

a. Installation.
b. Operation.
c. Maintenance.
d. Testing.

2.4.10.1 In addition to the above, the candidate shall receive instructions on the purpose, installation, operation, and general maintenance of the following auxiliary equipment:

a. Mud pit level indicator.
b. Mud volume measuring device.
c. Mud return indicator.
d. Gas detector.
e. Trip tank.
f. Mud-gas separator.
g. Degasser.
h. Adjustable choke.

2.4.11. *Closing Units.* The candidates shall receive instructions on proper accumulator precharge pressures and the relationship between precharge pressure, operating pressure, and usable volumes using appropriate problems. In addition, maintenance of equipment shall be included.

2.5 *Toolpusher Training Criteria for Qualification in Well-Control Operations.*

2.5.1. *Prerequisites for Toolpusher Qualification.* The candidate shall have completed the training described in subsection 2.4 for the Driller or possess the equivalent experience.

2.5.2. *Government Regulations.* The candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures inlcuding field drilling rules.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.5.3 *Well-Control Calculations.* The candidate shall receive instructions on the calculations required for well-control operations. Example calculations shall be practiced in class problems. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.5.4. *Equipment Limitations.* The candidate shall receive instructions on the limitations of the various items of equipment which will be subjected to pressure and/or wear.

2.5.5 *Mechanics Involved in Well-Control Situations.* The candidate shall receive instructions on the mechanics involved in various well-control situations. The instructions shall include the following subjects:

a. Gas bubble migration and expansion.
b. Bleeding pressure from a shut-in well during gas migration.
c. Excessive annular surface pressures.
d. Differences between a gas kick and a salt water and/or oil kick.
e. Procedures and problems involved in stripping operations with drill pipe.
f. Special well-control techniques such as, but not limited to, barite plugs and cement plugs.
g. Procedures and problems involved when experiencing loss circulation in well-killing operations.

2.5.6 *Supervision of Well-Control Operations.* The candidate shall receive instructions on organizing and directing a well-killing operation and shall subsequently direct such an operation using a model well or equivalent simulation device. In addition, the candidate shall receive instructions on a diverter operation.

2.5.7 *Closing Units.* The candidate shall receive instructions on the purpose and usage of closing units, including the following:

a. Charging Procedures.
(1) Precharge pressure.
(2) Operating pressure.
b. Fluid Volumes.
(1) Usable.
(2) Required.
c. Fluid pumps.
d. Maintenance.
(1) Charging fluid.
(2) Inspection procedures.

2.6. *Operator's Representative Training Criteria for Qualification in Well-Control Operations.*

2.6.1. *Prerequisites for Operator's Representative Qualification.* All candidates shall be familiar with the basic duties and training of the Rotary Helper, the Derrickman, the Driller, and the Toolpusher during well control situations.

2.6.2 *Government Regulations.* The candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate.

The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures including field drilling rules.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.6.3. *Well-Control Operations.* The candidate shall receive instructions on one of the constant bottom-hole pressure methods of well control as set out under subsection 2.4.7 of this Standard. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.6.4. *Stripping Operations.* The candidate shall receive instructions on the use of the entire blowout-preventer system for working pipe in or out of a wellbore which is under well pressure.

2.6.5. *Detecting Abnormally Pressured Formations.* The candidate shall receive instructions on accepted practices used for detecting entry into abnormally pressured formations and the accompanying warning signals. These signals include:

a. Penetration rate change.
b. Shale density change.
c. Mud chloride change.
d. Shale cutting characteristics.
e. Trip, connection, and background gas changes.

2.6.6 *Supervision of Well-Control Operations.* The candidate shall recieve instructions on organizing and directing a well-killing operation and shall subsequently direct such an operation using a model well or equivalent simulation device. In addition, the candidate shall receive instructions on a diverter operation.

3. Qualification Procedures

3.1. *Rotary Helper.*

3.1.1 *Prerequisites.* Prior to qualification as a Rotary Helper, the candidate shall have satisfied the training criteria of subsection 2.2 within the first 6 months of his initial employment.

3.1.2. *Type of Test.* The Rotary Helper qualification test will be a crew performance drill that requires the Rotary Helper to carry out his assignment in a well-control drill within a prescribed time limit (see section 4).

3.1.3 *Maintenance of Qualification.* To maintain this qualification, the candidate must participate in well-control drills, as described in section 4, and carry out his assignments within the time limit prescribed for the drill.

3.1.4 *Documentation of Test Results.* The time required for the candidate to complete the drill shall be recorded on the driller's log. Appropriate documentation of initial qualification shall be furnished to the successful candidate.

3.2 *Derrickman.*

3.2.1 *Prerequisites.* The candidate shall have satisfied the criteria of subsections 2.3 and 3.1.

3.2.2 *Type of Test.* The Derrickman qualification test will be a crew performance drill that requires the Derrickman to carry out his assignment in a well-control drill within a prescribed time limit (section 4).

3.2.3 *Maintenance of Qualification.* To maintain his qualification, the candidate must participate in well-control drills, as described in section 4, and carry out his assignments within the time limit prescribed for the drill.

3.2.4 *Documentation of Test Results.* The time required for the candidate to complete the drill shall be recorded on the driller's log. Appropriate documentation of initial qualification shall be furnished to the successful candidate.

3.3 *Driller.*

3.3.1 *Prerequisites.* The candidate shall have completed the training for Rotary Helper and Derrickman or possess the equivalent experience. He shall have completed the training criteria outlined in subsection 2.4.

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3.3.2 *Qualification Tests.* Written and/or verbal tests and hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well-control equipment and techniques outlined in subsection 2.4.

3.3.3 *Maintenance of Qualification.* The candidate shall maintain qualification by:

1. Successful repetition of the criteria set forth in subsections 2.4 and 3.3 every 4 years.

2. Successful completion of a refresher course in well-control operations, annually, during the intermediate period.

This refresher course shall be a minimum of 8 hours and shall include instruction and training in the most recent improvements in equipment and methods for blowout prevention using a test well or simulator.

3.3.4 *Documentation of Test Results.* Test results shall be entered in the candidate's training record, and appropriate documentation shall be furnished the candidate upon successful completion.

3.4 *Toolpusher.*

3.4.1 *Prerequisites.* The candidate shall have completed the training for Driller or possess the equivalent experience. He shall have completed the training requirements outlined in subsection 2.5.

3.4.2 *Qualification Tests.* Written and/or verbal tests and hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well-control equipment, techniques, and principles outlined in subsection 2.5.

3.4.3 *Maintenance of Qualifications.* The candidate shall maintain qualification by:

1. Successful repetition of the criteria set forth in subsections 2.5 and 3.4 every 4 years.

2. Successful completion of a refresher course in well-control operations, annually, during the intermediate period.

This refresher course shall be a minimum of 8 hours and shall include instruction and training in the most recent improvements in equipment and methods for blowout prevention and shall include the successful individual control of a well kick using a test well or simulator.

3.4.4 *Documentation of Test Results.* Test results shall be recorded in the candidate's training file, and appropriate documentation shall be furnished the candidate upon successful completion.

3.5 *Operator's Representative.*

3.5.1 *Prerequisites.* The candidate shall be familiar with the basic duties of Rotary Helper, Derrickman, Driller, and Toolpusher during well-control operations and shall have completed the training requirements outlined in subsection 2.6.

3.5.2 *Qualification Tests.* Qualification tests and hands-on demonstration shall be used to assure that the Operator's Representative candidate has a thorough understanding of the well-control equipment principles and practices, outlined in subsection 2.6, and is qualified to organize and direct a well-control operation.

3.5.3 *Maintenance of Qualification.* The candidate shall maintain his qualification by:

1. Successful repetition of the criteria set forth in sections 2.6 and 3.5 every 4 years.

2. Successful completion of a refresher course in well-control operations, annually, during the intermediate period.

This refresher course shall be a minimum of 8 hours and shall include instruction and training in the most recent improvements in equipment and methods for blowout prevention and shall include the successful individual control of a well kick using a test well or simulator.

3.5.4 *Documentation of Test Results.* Test results shall be recorded in the candidate's training file and appropriate documentation shall be furnished the candidate upon successful completion.

4. Well-Control Drills

The individual assignments for the crew members, during a well-control operation, will, of necessity, vary with the equipment on the offshore unit and with the type of operations being performed. Thus, the drills shall be designed to acquaint each crew member with his function on the particular test station so he can perform it promptly and efficiently.

The steps described below are general and are based upon the essentials of the operation and should be varied to fit the equipment, personnel, and specific needs of each site. A well-control drill plan, applicable to the particular site, shall be prepared outlining for each crew member the assignments he is to fulfill during the drill and establishing a prescribed time for the completion of his portion of the drill. A copy of the complete well-control drill plan shall be posted on the rig's floor and/or bulletin board.

The actual drill shall be carried out during periods of activity which would minimize the risk of sticking the drill pipe or otherwise endangering the operation. In each of these drills, the reaction time shall be measured up to the point when the designated person is in the position to begin the closing sequence of the blowout preventer. The total time for the crew to complete its entire pit drill assignment shall also be measured. This operation shall be recorded on the driller's log as "Well-Control Drill." All drills shall be initiated by the Toolpusher through raising the float on the pit level device or the equivalent. This operation shall be performed at least once each week (well conditions permitting) with each crew. The drills shall be timed so they will cover a range of different operations which include on-bottom drilling and tripping.

Suggested items for inclusion in "On-Bottom Drilling" and "Tripping Pipe" drills are set out in subsections 4.1 and 4.2 respectively. The listing of these items does not necessarily constitute a recommendation that each of the items be included in the drill or that the drill sequence be the same as the listing.

4.1 *On-Bottom Drilling.* A drill conducted while on bottom may include the following:

a. Detect kick and sound alarm.

b. Position kelly and tool joints so connections are accessible from floor but tool joints are clear of sealing elements in stack; stop pumps; check for flow; close in the well.

c. Record time.

d. Record drill pipe pressure and casing pressure.

e. Measure pit gain and mark new level.

f. Estimate volume of additional mud in pits.

g. Weigh sample of mud from suction pit.

h. Check all valves on choke manifold and blowout-preventer stack for correct position (open or closed).

i. Check blowout-preventer stack and choke manifold for leaks.

j. Check flow line and choke exhaust lines for flow.

k. Check accumulator pressure.

l. Prepare to extinguish sources of ignition.

m. Alert standby boat or prepare safety capsule for launching.

n. Place crane operator on duty for possible personnel evacuation.

o. Prepare to lower all escape ladders and prepare other abandonment devices for possible use.

p. Determine materials needed to circulate out kick.

q. Time drill and enter drill report on driller's log.

4.2 *Tripping Pipe.* A drill conducted during a trip may include the following:

a. Detect kick and sound alarm.

b. Install safety valve; close safety valve.

c. Position pipe; prepare to close annular preventer.

d. Install inside preventer; open safety valve.

e. Record time.

f. Record casing pressure.

g. Check all valves on choke manifold and blowout-preventer stack for correct position (open or closed).

h. Check for leaks on blowout-preventer stack and choke manifold.

i. Check flowline and choke exhaust lines for flow.

j. Check accumulator pressure.

k. Prepare to extinguish sources of ignition.

l. Alert standby boat or prepare safety capsule for launching.

m. Place crane operator on duty for possible personnel evacuation.

n. Prepare to lower escape ladders and prepare other abandonment devices for possible use.

o. Prepare to strip back to bottom.

p. Time drill and enter drill report on driller's log.

5. Relief Assignments

Any employee who acts as assigned relief for another employee with a higher classification (as covered by this Standard) shall meet the training criteria of the higher classified job. (Example: In the event that a Derrickman relieves a Driller, the Derrickman shall be qualified as a Driller.)

Appendix I.—General Well-Control Training Guidelines

The following guidelines are provided for those organizations submitting well-control programs for review. These guidelines delineate the requirements utilized by the Geological Survey in the evaluations of submitted programs as meeting the criteria of the GSS–OCS–T 1 training standard.

General Well-Control Program Guidelines

A. Mail all programs and related correspondence to the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, MS 640, National Center, Reston, Virginia 22092.

B. Submit eight copies of the information required in Appendices II and III, including a listing of the materials contained therein, except for items I.H and II.B of Appendix II and item H of Appendix III.

C. Submit two copies of the information required in items I.H, and II.B of Appendix II and item H of Appendix III.

D. A training plan submitted by an applicant school shall contain a cross-reference of its training manual to GSS–OCS–T 1.

E. A training manual shall be representative of the subject matter addressed during the course of the school.

F. A student is required to attend the entire class. Students who are absent from any part of the class must make up the missed portion of the course before credit will be awarded.

G. Schools shall furnish the two U.S. Geological Survey onsite evaluators a copy of their training manual during the onsite evaluation.

H. Certified basic and refresher well-control schools shall retain all required records for the first 5 years from the date of school approval. At the end of the fifth year, a school may destroy the records of the first year, and, at the end of the sixth year, a school may destroy the records of the second year, etc.

I. Recertification. 1. Basic well-control courses and refresher courses will be approved for a maximum of 4 years.

2. Previously approved schools will forward to the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, at least 90 days prior to their 4-year anniversary date, the following:

(a) Eight copies of the information required in paragraph B of this appendix.

(b) Two copies of the information required in paragraph C of this appendix.

J. Certified schools are subject to unannounced onsite evaluations by U.S. Geological Survey personnel.

Appendix II.—Basic and Refresher Well-Control Training Program Guidelines

Well-Control Program requirements for job classification of Drillers (DR), Toolpushers (TP), and Operators' Representatives (OR) of surface and subsea operation.

I. *Basic Well-Control Course Guidelines*

Organizations are required to submit a training plan to the U.S. Geological Survey for approval. This plan shall contain the following:

A. A curriculum outline describing subject matter content in relation to the GSS–OCS–T 1 training standard. The outline submitted will be similar to the format listed below:

Job Classification—Driller
First Day—10 hours
Subject X–5 hours
  Detail A
  Detail B
  Detail C
Subject Y–3 hours
  Detail D
Subject Z–2 hours
  Detail F
  Detail G
Second Day—10 hours
Subject M–5 hours
  Detail H
  Detail I
  Detail J
Subject N–5 hours
  Detail K
  Detail L

B. Qualifying credentials of instructors including education and experience (both work experience and teaching experience).

C. Class Size.

1. No more than 20 candidates per lecture.

2. Lab (Hands-On) no more than four candidates per exercise.

3. A daily record of student attendance shall be maintained.

D. A description of classroom and lab facilities including equipment and simulator/test well.

E. Classroom/lab time ratio.

F. Material presentation method (lecture, video, filmstrip, etc.) indicating approximate percentages of overall instructional time presented by each method as follows, i.e.:

Lecture—70 percent
Video tape—10 percent
Film strips—10 percent
Simulator—10 percent

Method of presentation, i.e.:

Subject X–4 hours lecture plus 1-hour video tape
Subject Y–2 hour lecture plus 1 hour filmstrip

G. Testing methods (including a sample of the tests to be given). Take-home tests will not be permitted.

(1) The candidate must satisfactorily and completely perform the hands-on test.

(2) The candidate must answer at least 70 percent of all test questions correctly.

(3) The school must submit the methods they will use to assure that the test will be nonrepetitive and will remain confidential.

(4) Retest (written or simulator) is authorized if accomplished within 48 hours. Test questions or problems on retest must be different than those given candidates originally. If the candidate fails either the written or simulator retest, the candidates must repeat the entire course.

(5) Personnel trained and qualified for subsea blowout-preventer (BOP) stacks will be automatically qualified for surface BOP stacks.

H. A copy of handouts or materials to be provided candidates for use and

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retention for future reference. These handouts shall form a complete training manual.

I. A copy of the proposed certificate of successful completion shall include the following:

(1) Candidate's full name.
(2) Course and school.
(3) Date candidate successfully completed course.
(4) Job classification for which certification is awarded.
(5) Surface or subsea qualification.

J. Differences in instructional material for qualifying personnel employed on drilling rigs utilizing a surface BOP stack versus a subsea BOP stack.

K. School's method of updating curriculum and/or facilities to reflect technological advances, Government regulation changes, etc., i.e.:

(1) Attendance at technical meetings.
(2) Review of technical publications.
(3) Review of course by technical and industry advisory boards (e.g., IADC, API, etc.).
(4) Feedback from prior students.
(5) Input from company R&D Programs.

L. Methods for performing student's hands-on qualification test. This should include at least three practice problems with the student's position rotated as part of a team and one official test problem.

M. Means to verify student entrance prerequisites.

N. A course schedule will be submitted to the USGS after acceptance of training plan and on at least a semiannual basis thereafter.

O. A school will notify the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, by letter of all the students that have successfully completed the course. This letter will contain the information that is on the certificate.

P. The applicant shall also state the method they will use to instruct and test those individuals believed to be qualified but nonresponsive to conventional education and testing techniques. The methods employed may include, but not be limited to, oral tests, use of an interpreter, or tutorial assistance.

II. *Refresher Course Guidelines*

Schools applying for refresher course certification should submit the following information:

A. Refresher course "Training Plan."
1. Curriculum outline.
a. As a minimum, one constant bottom-hole pressure method.
b. Simulated well-kick control (as a minimum one practice one test run).
c. Improvements in blowout-prevention equipment and methods.
d. New Government requirements applicable to offshore operations.
2. Qualifying credentials of instructors including education and experience (both work experience and teaching experience).

B. A copy of a training manual comprised of the handouts or materials to be furnished the candidates for their use and retention for future reference. (Not required for schools certified for a basic well control course.)

C. Refresher courses conducted by schools not certified for a basic well-control course will require an onsite evaluation prior to approval.

D. Refresher courses shall include a minimum of 8 hours of instruction of subject matter covered in their course curriculum outline.

E. Class size.
1. No more than 20 candidates per lecture.
2. Lab (hands-on) no more than four candidates per exercise.
3. A daily record of student attendance shall be maintained.

F. The candidate must satisfactorily and completely perform the hands-on test.

G. Hands-on retest is authorized if accomplished within 48 hours. Test problems must be different than those given candidate originally. If the candidate fails the retest, he must repeat the entire course.

H. The proposed certificates of successful completion shall include the following:
1. Candidate's full name.
2. Course and school name.
3. Date of successful completion.
4. Job classification.
5. Surface or subsea qualification.

I. Refresher course training is required on an annual basis and must be accomplished within 45 days of the candidate's anniversary date. The anniversary date is established upon the candidate's successful completion of a basic course in well-control.

J. Candidates cannot upgrade their qualifications, i.e., surface to subsea, Driller to Toolpusher, etc., via a refresher course. Upgrading of qualification can be accomplished only by attendance at an approved basic course

Appendix III.—Rotary Helper and Derrickman Well-Control Training Program Guidelines

1. Well-Control Program Requirements for the Job Classification of Rotary Helper and Derrickman. Organizations are required to submit a training plan to the USGS for approval. This plan shall contain the following:

A. A curriculum outline, describing subject matter content in relation to the GSS–OCS–T 1 training standard for Rotary Helper and Derrickman classifications. The outline submitted will be similar to the format listed below:

First Day—8 hours
Subject X—3 hours
Detail A
Detail B
Detail C
Subject Y—3 hours
Detail D
Subject Z—2 hours
Detail E
Detail F
Second Day—8 hours
Subject M—2 hours
Detail G
Detail H
Subject N—6 hours
Detail I
Detail J

B. Personnel responsible for providing the instructions shall be identified and qualified to the applicable requirements of GSS–OCS–T 1 for their respective classification.

C. Class Size.
1. No more than 20 candidates per lecture.
2. Hands-on completed with a representative rig crew.

D. Description of classroom facilities unless training is conducted at the job site.

E. Classroom/lab time ratio.

F. Material presentation method (lecture, video, filmstrip, etc.) indicating approximate percentages of overall instructional time presented by each method as follows, i.e.:

Lecture—70 percent
Video tape—10 percent
Film strips—10 percent
Hands-on—10 percent

Method of presentation, i.e.:

Subject X—4 hours lecture plus 1 hours video tape
Subject Y—2 hours lecture plus 1 hour filmstrip

G. Testing method to measure the candidates successful completion of training course.

H. A copy of handouts or materials to be provided candidates for their use and retention for future reference. These handouts shall form a complete training manual.

I. A copy of proposed certificates of successful completion shall include the following:
1. Candidate's full name.
2. Course location.
3. Date candidate sucessfully completed initial qualification.
4. Job classification for which certification is awarded.

J. School's method of updating curriculum to reflect technological advances, Government regulation changes, etc.

K. Means to verify candidate's entrance prerequisite.

[FR Doc. 80-16232 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-13-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Louisiana

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice is the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company U.S.A., has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2560, OCS–G 4097, OCS–G 4201, and OCS–G 4202, Blocks 630, 637, 631, and 636, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that is is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes the information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 21, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16235 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Louisiana

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc., has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2956 and OCS–G 4252, Blocks 295 and 145, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 21, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16239 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Louisiana

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3810, Block 107, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations

Dated: May 21, 1980

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16240 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texas

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3723, Block 956, North Padre Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 21, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16236 Filed 5-28-80: 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texas

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mesa Petroleum Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2786, Block A–315, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 21, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16237 Filed 5-28-80: 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texas

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mesa Petroleum Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2715, Block A–567, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practces and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 21, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16238 Filed 5-28-80: 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Texas

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Transco Exploration Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2995, Block A–42, North Padre Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 21, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16243 Filed 5-28-80: 8:45 am]

BILLING CODE 4310-31-M

CDP Seismic Data Acquisition Program in the National Petroleum Reserve Alaska

The U.S. Geological Survey proposes to conduct a CDP seismic data acquisition program in the National Petroleum Reserve Alaska (NPRA) during the winter season of 1980–1981. The size of the program would range from 1000 to 4000 line miles of data dependent upon congressional appropriations for fiscal year 1981 and the number of interested parties that might participate on a cost-sharing basis. The primary purpose of this program is to continue the Geological Survey's resource assessment of the NPRA. The resulting data base would also be useful for tract selection and evaluation by the Department of the Interior and by potential lessees in the event pending legislation is enacted that would permit competitive leasing. Thus, a cooperative program or "group-shoot" with the Geological Survey acting as "Operator" is being considered, similar to such operations often conducted on the Outer Continental Shelf. The Geologiclal Survey will make the final decision on line locations and other parameters of the program but advice is necessary from potential participants in order to incorporate the widest possible range of technical expertise. Full cooperation from industry would also minimize the cost to individual participants.

The details of this program such as geographic area of interest, technical specifications, data rights, participation rules, and cost-sharing arrangements will be discussed in a meeting with potential participants at USGS Western Region Headquarters in Menlo Park, California, on June 23, 1980. The meeting will begin promptly at 9 a.m. in Conference Room A, Building 3 at 345 Middlefield Road, Menlo Park, California. Questions about this program or the meeting on June 23, 1980, should be addressed to Mr. Hillary Oden, Associate Chief, Conservation Division, U.S. Geological Survey, Mail Stop 610, National Center, Reston, Virginia 22092; or by telephone to the following number: 703–860–7524.

H. William Menard,

Director.

[FR Doc. 80-16353 Filed 5-28-80: 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Santa Monica Mountains National Recreation Area; Boundary Revision

In accordance with Section 507(c)(1) of Pub. L. 95–625, which authorized the Santa Monica Mountains National Recreation Area in the State of California, notice of boundary revision is to be published. Notice is hereby given that a boundary revision has been made in the Medea Creek segment of the national recreation area.

Copies of maps depicting the boundary revision are on file and available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, Washington, D.C. 20240.

Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, P.O. Box 36063, San Francisco, California 94102.

Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Blvd., Woodland Hills, California 91364.

Dated: May 21, 1980.

Ira J. Hutchison,

Deputy Director.

[FR Doc. 80-16215 Filed 5-23-80: 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given that a meeting of the San Antonio Missions Advisory Commission will be held at 1:30 p.m., June 17, 1980, at the Institute of Texan Cultures, 801 S. Bowie Street, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95–629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Members of the San Antonio Missions Advisory Commission are Mrs. Mary Ann Castleberry (Chairperson); Mr. Marshall T. Steves; Mr. Cruz S. Chavira; Mrs. Eleanor Freeborn Bennett; Honorable Albert B. Bustamante; Honorable Helen Dutmer; and Dr. Felix D. Almaraz, Jr., (Special Consultant).

Matters to be discussed at this meeting include Swearing-In Ceremony, discussion on Commission Role and Function, Charter Advisory Commission Act, Briefing on Park Legislation and Operation Status, Election of Vice Chairman, and Public Discussion.

The meeting will be opened to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first come, first served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit written statement may contact Jose A. Cisneros, Superintendent, 727, E. Durango, Room A612, San Antonio, Texas 78206; telephone (512) 229–6000.

Minutes of the meeting will be available for public review four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: May 19, 1980.

Robert Kerr,

Acting Regional Director, Southwest Region.

[Fr Doc. 80-16214 Filed 5-28-80: 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Negotiations With Broadview Water District for Drainage Service From the Central Valley Project, Calif.; Intent To Initiate Negotiations for a Repayment Contract

The Department of the Interior, through the Water and Power Resources Service, intends to negotiate a repayment contract with Broadview Water District, Firebaugh, California, under which the district would be allocated drainage capacity and would repay a proportionate share of the costs of constructing, operating, and maintaining the San Luis Drain of the Central Valley Project. The proposed contract will be written pursuant to section 9(d) of the Reclamation Project Act of 1939 (53 Stat. 1195); the Act of June 3, 1960 (74 Stat. 156); and the Act of June 15, 1977 (91 Stat. 225).

The San Luis Drain is a central drainage facility in the San Joaquin Valley for the Central Valley Project and is currently under construction. The Broadview Water District has been reusing drainage effluent and irrigation tailwater. However, the drainage effluent is becoming increasingly salty and is not expected to be reusable in the near future. Therefore, the district desires to utilize the drain to dispose of this effluent. The United States has a limited amount of drainage capacity available. The specific needs of the district will be accommodated to the extent such drainage capacity is available for use by the district and to the extent the district can repay the costs associated with such capacity.

All meetings scheduled by the Water and Power Resources Service with the district for the purpose of discussing terms and conditions of a proposed contract shall be open to the general public as observers. Advance notice of all meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meeting. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed

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contract no later than 30 days after the completed contract draft is declared to be available to the public. Unless significant public interest in the proposed contract is demonstrated in response to this notice, the availability of the negotiated draft contract will not be publicized. The Commissioner of Water and Power Resources will review the comments submitted and based on the number, source, and nature of the comments, will decide whether to hold public hearings.

For further information, please contact Mr. John B. Budd, Division of Water and Power Resources Management, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4380.

Dated: May 22, 1980.

J. D. Ellingboe,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-16234 Filed 5-28-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following aplications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rule of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relief upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed by June 27, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices by June 27, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 168

Decided: May 6, 1980 By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2095 (Sub-29F), filed March 4, 1980. Applicant: KEIM TRANSPORTATION, INC., 420 N. Sixth, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *dry soybean meal,* from the facilities of Farmland Industries, Inc., at or near St. Joseph, MO, to points in KS. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 3114 (Sub-34F), filed February 28, 1980. Applicant: T. H. COMPTON, INC., R.F.D. #1, Berkeley Springs, WV 25411. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *composition board,* from points in SC, to points in DE, MD, NJ, PA, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 4405 (Sub-624F), filed February 27, 1980. Applicant: DEALERS TRANSIT, INC., A corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting (1) *irrigation systems and equipment,* (2) *parts* for the commodities in (1) above, and (3) *supplies and materials* used in the manufacture and distribution of commodities named in (1) and (2) above, between points in Mecklenburg, NC, on the one hand, and, on the other, points in the U.S. (except AK, HI). (Hearing site: Charlotte, NC.)

MC 14215 (Sub-84F), filed March 4, 1980. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *alloys, ores, and metals,* between East Liverpool, OH, on the one hand, and, on the other, points in IL, IN, MD, MI, NJ, NY, PA, VA, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 24784 (Sub-38F), filed February 27, 1980. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *iron and steel articles,* between Manhattan, KS, and points in CO, IA, IL, MO, NE, and OK. (Hearing site: Kansas City, MO.)

MC 26852 (Sub-43F), filed December 6, 1979, previously published in the **Federal Register** issue of April 3, 1980. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82018, Lincoln, NE 68501. Transporting (1) *heating and air conditioning equipment,* from Wichita, KS, to points in the U.S. (except AK and HI), (2) *heating and air conditioning equipment, outdoor recreational equipment,* and *accessories and parts* for outdoor recreational equipment, from New Braunfels, TX, to points in the U.S. (except AK and HI); and (3) *materials, supplies, and equipment* used in the manufacture, sale and distribution of the commodities named in (1) and (2) above, from points in the U.S. (except AK and HI), to Wichita, KS, and new Braunfels, TX, restricted against traffic which because of its size or weight requires the use of special equipment, and restricted to traffic originating at or destined to the facilities of The Coleman Company. (Hearing site: Kansas City, MO.)

Note.—This republication indicates the correct commodity description, and restriction.

MC 26825 (Sub-46F), filed February 29, 1980. Applicant: ANDRESS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *iron and steel articles,* from the facilities of Nucor Steel Division, Nucor Corporation, at or near Norfolk, NE, to points in AZ, AR, IA, KS, LA, NE, NV, NM, OK, and TX. (Hearing site: Omaha, NE.)

MC 52614 (Sub-12F), filed March 3 1980. Applicant: R. S. POWELL, INC., P.O. Box 338, Madison Heights, VA 24572. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier,* transporting (1) *gypsum and gypsum products,* and *building materials,* and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the U.S. in and east of WI, IL, KY, TN, and MS, under a continuing contract(s) with Georgia-Pacific Corporation, of Rosemont, PA. (Hearing site: Washington, DC.)

MC 52704 (Sub-266F), filed January 7, 1980, previously noticed in the **Federal Register** issue of April 22, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (a) *containers, container ends and closures,* (b) *such commodities as are dealt in by manufacturers and distributors of containers,* in mixed loads with containers, and (c) *materials, euipment and supplies* used in the manufacture and distribution of containers, container ends and closures, between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted, (1) against the transportation of commodities in bulk in tank vehicles, and (2) to the transportation of traffic originating at or destined to the facilities of Kerr Glass Manufacturing Corporation. (Hearing site: Atlanta, GA.)

Note.—This republication indicates the correct restriction.

MC 65475 (Sub-34F), filed February 29, 1980. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *ceiling suspension systems,* from the facilities of Chicago Metallic Corporation, at Baltimore, MD, to points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 73165 (Sub-502F), filed March 5, 1980. Applicant: EAGLE MOTOR LINES, INC., 830, 33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *steel bars,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of steel bars (except commodities in bulk), between the facilities of Predco, Inc., at or near (a) Atco, NJ, (b) Gulfport, MS, (c) Wilton, IA, and (d) Wichita, KS, on the one hand, and on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Washington, DC.)

MC 73165 (Sub-503F), filed March 5, 1980. Applicant: EAGLE MOTOR LINES, INC., 830, 33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1)(a) *commodities,* the transportation of which because of size or weight requires the use of special equipment, *self-propelled vehicles, material handling equipment,* and (b) *parts, implements, accessories, and attachments* for (a) above, from points in Harrison and Gregg Counties, TX, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of (1) above, in the reverse direction. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Dallas, TX.)

MC 73165 (Sub-504F), filed March 5, 1980. Applicant: EAGLE MOTOR LINES, INC., 830, 33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *material handling equipment,* (2) *parts attachments and accessories* and (3)

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materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) and (2) above, between Pennsauken, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such aproval is unnecessary. (Hearing site: Washington, DC.)

MC 73165 (Sub-113F), filed February 26, 1980. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, P.O. Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *triethylene glycol, propylene glycol, diethylene glycol, menthanol,* and *antifreeze,* in bulk, in tank vehicles, from Chicago, IL, to Kalkaska, MI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 94265 (Sub-348F), filed February 4, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *Toilet preparations,* from the facilities of Iodent Way Chemical Company, Inc., at Elizabethton, TN, to Birmingham, AL, Orlando, FL, Chicago, IL, Minneapolis and Eagan, MN, Milwaukee, WI, St. Louis, MO, and Scottsville, KY. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 99455 (Sub-5F), filed February 26, 1980. Applicant: M. H. HILLERY, INC., 100 Western Ave., Allston, MA 02134. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW, Washington, DC 20036. Transporting *general commodities* (except, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL, and the facilities used by Seacoast Shippers Association, Inc., at Boston, MA. (Hearing site: Boston, MA.)

MC 104104 (Sub-20F), filed February 25, 1980. Applicant: GEORGE A. FETZER, INC., Newton-Sussex Rd., Augusta, NJ 07822. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *insulating materials and plastics,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from Netcong and Stanhope, NJ, to points in the U.S. in and east of MN, IA, MO, AR, and LA (except CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC). (Hearing site: Newark, NJ.)

MC 107064 (Sub-141F), filed February 27, 1980. Applicant: STEERE TANK LINES, INC., P.O. Box 220998, Dallas, TX 75222. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *petroleum products,* in bulk, from the facilities of Thriftway Co., near Bloomfield, NM, to points in AZ, CO, and UT, restricted to traffic originating at the named facilities. (Hearing site: Dallas, TX.)

MC 107064 (Sub-143F), filed March 4, 1980. Applicant: STEERE TANK LINES, INC., P.O. Box 220998, Dallas, TX 75222. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas TX 75201. Transporting *petroleum and petroleum products,* between the facilities of Caribou Four Corners, Inc., at or near Kirtland, NM, on the one hand, and, on the other, points in AZ, UT, and CO, restricted to traffic originating at or destined to the named facilities. (Hearing site: Dallas, TX.)

MC 109584 (Sub-210F), filed March 4, 1980. Applicant: ARIZONA-PACIFIC TANK LINES, a corporation 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *petroleum products,* in bulk, in tank vehicles, from Odessa, TX, to points in AZ and CA. (Hearing site: Los Angeles, CA.)

MC 110325 (Sub-113F), filed October 2, 1979, previously noticed in the **Federal Register** issue of March 20, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: WENTWORTH E. GRIFFIN, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities,* (except Classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the junction of Interstate Hwy 40 and U.S. Hwy 77 and the junction of Interstate Hwys 70 and 25, from the junction of Interstate Hwy 40 and U.S. Hwy 77 over Interstate Hwy 40 to the junction of U.S. Hwy 270, then over U.S. Hwy 270 to the junction of OK Hwy 3 then over OK Hwy 3 to the junction of U.S. Hwy 83, then over U.S. Hwy 83 to to the junction of Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 25, and return over the same route, as an alternate route, serving no intermediate points. (Hearing site: Los Angeles, CA.)

Note.—This republication indicates the correct route description.

MC 111375 (Sub-125F), filed February 15, 1980. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting (1) *such commodities* as are dealt in our used by grocery, drug and hardware business houses and retail chain stores; (2) *industrial products, institutional products,* and *swimming pool products;* and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk), between points in AZ, CA, CO, ID, IL, NV, NM, OH, OR, TX, UT, and WA, restricted to traffic originating at and destined to the facilities of the Purex Corporation. (Hearing site: Los Angeles, CA.)

MC 112694 (Sub-5F), filed February 27, 1980. Applicant: JAMES J. GALLERY, INC., 555 Pleasant St., Watertown, MA. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Transporting *frozen foods* and *foodstuffs,* in vehicles equipped with mechanical refrigeration, from Boston, Gloucester and Watertown, MA, to points in ME, NH, VT, MA, RI, CT, and NY. (Hearing site: Boston, MA.)

MC 113855 (Sub-511F), filed February 29, 1980. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg. Fargo, ND 58126. Transporting (1) *commodities* the transportation of which, because of size or weight requires the use of special equipment, (2) *self-propelled vehicles,* and (3) *metal and metal articles,* (a) between points in IL and IA, on the one hand, and, on the other, points in NY, PA, MA, RI, CT, NJ, DE, MD, IN, OH, KY, WV, NC, TN, VA, SC, GA, FL, AL, MS, AR, and DC, and (b) between points in WI, on the one hand, and, on the other, points in PA and MD. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114055 (Sub-9F), filed March 4, 1980. Applicant: RAY KOLNIK d.b.a. KOLNIK TRUCKING, Route 1, Prairie View Rd., Walworth, WI 53184. Representative: Joseph E. Ludden, 324 Exchange Bldg., P.O. Box 1567, La Crosse, WI 54601. *Contract carrier,* transporting *malt beverages,* from St. Paul, MN, Belleville, IL, and Frankenmuth, MI, to Fox River Grove, Waukegan, Elgin, and McHenry, IL, under continuing contract(s) with L & V Distributors, Inc., of Fox River Grove, IL, Andro Pucin Distributing Co., of Waukegan, IL, and Charles Herdrick & Son, Inc., of McHenry, IL. (Hearing site: Chicago, IL, or Madison, WI.)

MC 114334 (Sub-75F), filed February 28, 1980. Applicant: BUILDERS TRANSPORTATION CO., a corporation, 3710 Tulane Rd., Memphis, TN 36116. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *pipe, fittings, valves, hydrants and castings,* and (2) *accessories* for the commodities in (1) above, from points in Talledega and Jefferson Counties, AL, to points in AR, GA, IN, IL, LA, KY, MS, MO, OK, TN, and TX. (Hearing site: Memphis, TN.)

MC 114334 (Sub-76F), filed February 28, 1980. Applicant: BUILDERS TRANSPORTATION CO., a corporation, 3710 Tulane Rd., Memphis, TN 36116. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *roofing material and roofing supplies* (except commodities in bulk), from Little Rock, AR, to points in AL, GA, LA, MS, MO, and TN.(Hearing site: Little Rock, AR.)

MC 114604 (Sub-105F), filed December 27, 1979, previously noticed in the **Federal Register** on April 15, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. Transporting *foodstuffs* (except frozen foods or commodities in bulk), between the facilities of Stokely-Van Camp, Inc., at or near Gibson City, Hoopston, and Rochelle, IL, Indianapolis and Tipton, IN, Hart and Scottville, MI, Norwalk and Paulding, OH, Appleton, Cumberland, Frederic, and Plymouth, WI, and, Newport and Tellico Plains, TN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of Stokely-Van Camp, Inc. (Hearing site: Atlanta, GA.)

Note.—This republication corrects the territory description.

MC 115554 (Sub-27F), filed December 17, 1979, previously published in the **Federal Register** issue of March 27, 1980. Applicant: HEARTLAND EXPRESS, INC. of Iowa, P.O. Box 89B, R.R. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting *gas* and *electrical appliances* and *parts, materials, supplies* and *equipment* used in the distribution or repair of appliances, from the facilities of Whirpool Corporation, at St. Paul, MN, to points in AR, IN, IA, MI, MO, NE, OH, IL, and WI. (Hearing site: Chicago, IL.)

Note.—This republication indicates the correct destinations.

MC 115904 (Sub-141F), filed March 3, 1980. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting (1) *iron and steel articles* (except commodities as described in *Mercer Extension-Oil Field Commodities,* 74 M.C.C. 459), from the facilities of Nurcor Corporation, at or near Norfolk, NE, to those points in the U.S. in and west of LA, AR, MO, IA, and MN (except AK, HI, and NE), restricted to traffic originating at the named origin, and (2) *scrap metal,* from those points in the U.S. in and west of LA, AR, MO, IA, and MN (except AK, HI, and NE), to the facilities of Nucor Corporation, at or near Norfolk, NE. Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request of MC 115904 (Sub-109F). (Hearing site: Washington, DC.)

MC 117815 (Sub-336F), filed March 4, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *printed matter,* (1) from the facilities of R. R. Donnelley & Sons, Co., at Glasgow, KY, to Detroit and Plymouth, MI, Minneapolis, MN, and Kansas City and St. Louis, MO, and (2) between the facilities of R. R. Donnelley & Sons, Co., at Glasgow, KY, on the one hand, and, on the other, the facilities of R. R. Donnelley & Sons, Co., at Chicago, Dwight, and Matton, IL, restricted in (1) to traffic originating at the named origins, and in (2) to traffic originating at or destined to the named points. (Hearing site: Chicago, IL, or Washington, DC.)

MC 117954 (Sub-27F), filed March 5, 1980. Applicant: Applicant: H. L. HERRIN, JR., d.b.a. H. L. Herrin Trucking Company, P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *foodstuffs* (except in bulk), from Plover, WI, to points in AL, AR, CO, FL, GA, KY, LA, MS, MO, OK, TN, and TX. (Hearing site: Milwaukee, WI, or New Orleans, LA.)

MC 119634 (Sub-46F), filed March 5, 1980. Applicant: DICK IRVIN, INC., Hwy 2 West, P.O. Box F, Shelby, MT 59474. Representative: Joe Gerbase, 404 North 31st St., Suite 100, Billings, MT 59101. Transporting *fertilizer,* from points in MT, to points in WY and ND. (Hearing site: Billings, MT, or St. Paul, MN.)

MC 121725 (Sub-2F), filed January 8, 1980. Applicant: ARCO, INC., 495 Lovitt Lane, P.O. Box 8875, Reno, NV 89507. Representative: Reese H. Taylor, Jr., 402 North Division St., Carson City, NV 89701. Transporting *construction, logging and mining equipment,* between points in NV on and north of U.S. Hwy 6, on the one hand, and, on the other, points in OR and WA and those points in CA in north of Monterey, Kings, Tulare, and Inyo Counties (except points in Contra Costa, San Francisco, Alameda, San Mateo, Monterey, San Benito, Merced, Fresno, Kings, Tulare, Madera and Mariposa Counties, CA). Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request of MC 121725. (Hearing site: Reno, NV.)

MC 123254 (Sub-8F), filed February 19, 1980. Applicant: PITZER BROTHERS, INC., Box 633, Jeannette, PA 15644. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. NW., Washington, DC 20005. Transporting *malt beverages,* (a) from the facilities of the Pittsburgh Brewing Company, at or near Pittburgh, PA, to St. Louis, MO, and points in CT, MA, RI, NC, GA, AL, TN, and (b) from the facilities of C. J. Schmidt & Sons, Inc., at or near Cleveland, OH, to points in PA on and west of U.S. Hwy 15. (Hearing site: Pittsburgh, PA.)

MC 123744 (Sub-76F), filed December 14, 1979, previously noticed in the **Federal Register** issue of April 8, 1980. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *materials and supplies* used in the mining or land reclamation industries, *machine parts and feed* (except commodities in bulk), between points in Clearfield, Indiana, Centre, Cambria, Clinton, Clarion, Jefferson, Elk, and Blair Counties, PA, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

Note.—This republication is to show "Indiana" as a county in PA.

MC 123965 (Sub-11F), filed November 27, 1979, previously noticed in the **Federal Register** issue of March 27, 1980. Applicant: KEAL DRIVEAWAY COMPANY, a corporation, 852 East 73rd St., Cleveland, OH 44103. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. To transport *automobiles, trucks, chassis, and commercial vehicles,* in secondary movements, in driveaway service, (1) between points in the United States west of U.S. Hwy 81, and (2) between points in (1), on the one hand, and, on the other, points in the United

States in and east of U.S. Hwy 81

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States in and east of U.S. Hwy 81. (Hearing site: Washington, DC.)

Note.—This republication indicates the correct commodity description.

MC 125335 (Sub-88F), filed October 25, 1979, previously noticed in the **Federal Register** issue of April 1, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *Bananas*, and (2) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation, in mixed loads with bananas, from New York, NY, Philadelphia, PA, Wilmington, DE, Mobile, AL, Tampa, FL, and Charleston, SAC, to those points in the US in and east of IA, KS, MN, NE, OK, and TX. (Hearing site: Miami, FL, or Harrisburg, PA.)

Note.—This republication corrects IA instead of IS in the territorial description.

MC 125335 (Sub-101F), filed February 29, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *frozen foods*, (1) from Barker, NY, to points in CT, DE, MA, MD, NJ, PA, and VA, and (2) from Vineland, NJ, to Barker, NY. (Hearing site: Tampa, FL, or Harrisburg, PA.)

MC 126904 (Sub-35F), filed October 15, 1979, previously noticed in the **Federal Register** on April 8, 1980. Applicant: H.C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *malt beverages*, from the facilities of the Stroh Brewery Company, at Detroit, MI, to points in Madison, Randolph, St. Clair, Morgan and Sangamon Counties, IL. (Hearing site: St. Louis, MO, or Atlanta, GA.)

Note.—This republication corrects the destination points.

MC 133154 (Sub-11F), filed February 29, 1980. Applicant: BELL TRANSPORT COMPANY, a corporation, 16036 Valley Blvd., Fontana, CA 92335. Representative: Jerry I. Michael (same address as applicant). *Contract carrier*, transporting *boxes, cans, container ends, paper cups, plastic containers, and plastic trays*, from the facilities of Sealright Company, Inc., in CA, to points in AZ, NV, and UT, under continuing contract(s) with Sealright Company, Inc., at Los Angeles, CA. (Hearing site: Los Angeles, CA.)

MC 133805 (Sub-51F), filed March 4, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Armour & Company, at or near Hereford, TX, to points in NC, GA, FL, MD, AL, SC, TN, MS, RI, MI, KY, WV, VA, PA, NY, MD, NJ, RI, CT, VT, MA, ME, NH, DE, and DC. (Hearing site: Fort Worth, TX, or Phoenix, AZ.)

MC 134404 (Sub-63F), filed February 28, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier*, transporting (1) *plumbing fixtures and plumbing fittings*, and (2) *parts and supplies* for the commodities in (1) above, from Plainfield, CT to points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, and DC, under continuing contract(s) with American Standard, Inc., of New Brunswick, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 135185 (Sub-43F), filed December 19, 1979, previously noticed in the **Federal Register** on March 27, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Contract carrier*, transporting (1) *Paints, stains, varnishes, and polyurethane finishings* (except in bulk), from Flora, IL, to the facilities of Lehn and Fink Products Co., a Division of Sterling Drug, Inc., at or near Belle Mead, NJ. (2) *Disinfectants and deodorant compounds* (except in bulk), from Chicago and North Chicago, IL, to points in WA, CA, TX, NJ, FL, and OH, (3) *Cannisters*, from the facilities of Milton Can Co., at or near Cranbury, NJ, to Chicago and North Chicago, IL, and (4) *Sodium sulfate* in bags, from the facilities of International Salt Co. at or near Lowland, TN, and the facilities of Prior Chemical Co., at or near Kings Mountain and Bessemer City, NC, to Chicago and North Chicago, IL, under continuing contract(s) with Lehn & Fink Products, Co., a Division of Sterling Drug, Inc., of Montvale, NJ. (Hearing site: New York City, NY, or Chicago, IL.)

Note.—This republication corrects the origin point in part (4) of the application to read at or near Lowland, TN, instead of Loveland, TN.

MC 135895 (Sub-48F), filed August 8, 1979, previously noticed in the **Federal Register** issue of February 12, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1)(a) *paper, paper articles, fibreboard, plastic containers, and metal containers*, and (b) *fittings and closures* for containers, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk and those requiring special equipment), between the facilities of Container Corporation of America, at (a) Fernandina Beach, FL, (b) Chattanooga and Memphis, TN, and (c) Muskogee, OK, on the one hand, and, on the other; points in AL, AR, FL, GA, LA, MO, MS, OK, TN, and TX. (Hearing site: Fort Worth, TX, or Atlanta, GA.)

Note.—This republication indicates the correct territorial description.

MC 138104 (Sub-92F), filed February 28, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting (1) *iron and steel articles and* (2) *pipe*, from the facilities of Interlake, Inc., at or near Newport, KY, to points in LA, OK, and TX. (Hearing site: Dallas, or Fort Worth, TX.)

MC 138104 (Sub-94F), filed February 27, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting (1) *building and construction materials* (except commodities in bulk); and (2) *materials and supplies* used in the manufacture and distribution of contruction materials (except commodities in bulk), between points in the U.S. (except AK, and HI), restricted to traffic originating at or destined to facilities of The Celotex Corporation. (Hearing site: Fort Worth, TX, or Tampa, FL.)

MC 138104 (Sub-95F), filed February 29, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting *precast concrete beams*, from points in Bexar County, TX, to points in LA (Hearing site: Fort Worth, or San Antonio, TX.)

MC 138875 (Sub-276F), filed February 28, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). Transporting *hardwood*, from points in WI, to points in CA, OR, and WA. (Hearing site: Seattle, WA, or Boise, ID.)

MC 138875 (Sub-277F), filed February 28, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant. Transporting *pipe and pipe fittings* (except commodities as described in *Mercer Extension—Oil Field Commodities* 74 M.C.C. 459 and 103 M.C.C. 823), from the facilities of Kroy Industries, Inc., at or near Garden City, KS, and York, NE, to points in AZ, CA, CO, ID, MT, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Boise, ID, or Washington, DC.)

MC 139244 (Sub-10F), filed February 29, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier*, transporting *insulation, insulation material, vermiculite* (except crude), *insulation cement*, and *infusorial earth*, from Girard, IL, to points in AL, IN, KY, MI, MO, NY, OH, PA, and WV, under continuing contract(s) with International Vermiculite Company, at Girard, IL. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 139615 (Sub-33F), filed February 28, 1980. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *lumber*, and (2) *materials and supplies* used in the manufacture and distribution of windows, sliding glass doors, folding doors and partitions (except comodities in bulk), from points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI), to Pella, IA. (Hearing site: Des Moines, IA.)

MC 140024 (Sub-176F), filed February 27, 1980. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 8022. Representative: Don L. Bryce (same address as applicant). Transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from points in MA, NY, PA, NJ, DE, MD, and VA, to points in the U.S. (except AK, HI, TN, SC, NC, MS, AL, GA, FL, and DC). (Hearing site: Denver, CO, or Washington, DC.)

MC 141804 (Sub-377F), filed February 27, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *dehydrated soup*, from Lancaster, and Hanover, PA, to Morrow and Doraville, GA, and Jacksonville, Miami and Tampa, FL. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-389F), filed March 4, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting (1) *electronic sending, receiving and recording equipment, electrical appliances, electronic equipment*, and articles that operate on electricity, and (2) *parts and accessories* for the commodities in (1) above, from points in CA, to points in TX. (Hearing site: Los Angeles, CA.)

MC 143264 (Sub-6F), filed November 28, 1979, previously noticed in the **Federal Register** issue of March 27, 1979. Applicant: DAIRY LEASING SERVICE, INC., 803 Herring Avenue, Wilson, NC 27893. Representative: Thomas N. Willess, 1000 Sixteenth Street, NW., Washington, DC 20036. *Contract carrier*, transporting such *commodities as are dealt in by chain grocery and food business houses* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, FL, GA, LA, NC, MD, MS, NY, NC, PA, SC, TN, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., under continuing contract(s) with Kraft, Inc. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—This republication indicates the correct territorial description.

MC 143654 (Sub-5F), filed March 4, 1980. Applicant: DOYLE BRANT, 4701 Valley Lane, St. Joseph, MO 64503. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *dry animal and poultry feed* and *dry animal and poultry feed ingredients*, and (2) *animal health aids* and *animal sanitation products*, between St. Joseph, MO, on the one hand, and, on the other, points in IL. (Hearing site: Kansas City, MO.)

MC 145544 (Sub-5F), filed February 28, 1980. Applicant: W. & M., INC., P.O. Box 2237, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. *Contract carrier*, transporting *such commodities* as are dealt in or used by manufacturers and distributors of air moving control equipment (except commodities in bulk), between LaPorte, IN and Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with New York Blower Corp., of LaPorte, IN. (Hearing site: Chicago, IL.)

MC 145915 (Sub-4F), filed March 4, 1980. Applicant: EAGLE TRANSPORT, INC., P.O. Box 189, Montpelier, ID 83254. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *oil drilling mud compounds*, from the facilities of IMCO Services, at or near (a) Montpelier, ID, and (b) Lovell, WY, to points in Beaverhead, Madison, Dear Lodge, Silver Bowl, and Ravalli Counties, MT. (Hearing site: Boise, ID, or Rock Springs, WY.)

MC 145955 (Sub-3F), filed March 5, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *printed matter, paper and paper products*, (1) between Des Moines, IA, and Chicago, IL, and (2) from Des Moines, IA, to points in CT, IN, LA, MA, MI, NY, OK, PA, and TX, restricted in (1) and (2) to traffic originating at or destined to the facilities of Meredith Printing, at Des Moines, IA. (Hearing site: Des Moines, IA, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 145974 (Sub-8F), filed February 27, 1980. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract carrier*, transporting *lumber and wood products*, from points in WA, OR, ID and MT to points in ND, SC, and MN, under continuing contract(s) with Weeks Forest Products, Inc., of Minneapolis, MN. (Hearing site: Minneapolis/St. Paul, MN.)

MC 146055 (Sub-9F), filed February 29, 1980. Applicant: JOHN H. SCHUEMAN & DENNY SCHUEMAN d.b.a. DOUBLE "S" TRUCK LINE, 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting *canned goods*, from points in CA to the facilities of Midwest Food Distribution Center, at Omaha, NE. (Hearing site: Omaha, NE.)

MC 146314 (Sub-3F), filed November 26, 1980. Applicant: G & T TRUCKING CO., a corporation, route 1, County Rd 2 & I–35, Elko, MN 55020. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Transporting *petroleum and petroleum products*, (1) from Superior, WI, to points in MN, and (2) from Sioux Falls, SD to points in MN and WI. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 146514 (Sub-4F), filed May 8, 1979,

MC 146964 (Sub-7F), filed February 26,

Corporation. (Hearing site: Washington,

those requiring special equipment)

MC 146514 (Sub-4F), filed May 8, 1979, previously noticed in the **Federal Register** on April 3, 1980. Applicant: CLANCY CARTING & STORAGE CO., INC., 795 Beahan Rd., Rochester, NY 14624. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by manufacturers of photographic products (except commodities in bulk), (1) from the facilities of Eastman Kodak Company, at Rochester, NY, to San Ramon, Palo Alto, Whittier, and Hollywood, CA, Dallas, TX, Oak Brook, IL, and Windsor, CO; (2) from the facilities of Eastman Kodak Company at or near Windsor, CO, to Palo Alto, San Ramon and Whittier, CA, Dallas, TX, Dayton, NJ, Oak Brook, IL, and Rochester, NY, and (3) from San Ramon and Whittier, CA, to the facilities of Eastman Kodak Company, at Windsor, CO, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Washington, D.C.)

Note.—This republication corrects part (2) of the application by including Rochester, NY, as a destination point.

MC 146674 (Sub-4F), filed February 28, 1980. Applicant: K.I.T. MOTOR EXPRESS, INC., 1228 Highland Ave., Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036. Transporting (1) *insulating materials* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Carborundum Company, at or near New Carlisle, IN, and New Iberia, LA, on the one hand, and, on the other, points in LA, AL, GA, FL, KY, AR, NC, OK, TN, MS, and TX. (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146674 (Sub-5F), filed February 28, 1980. Applicant: K.I.T. MOTOR EXPRESS, INC., 1228 Highland Ave., Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036. Transporting (1) *electrical transformers, transformer parts, pole line hardware, pole line material, electrical appliances, and electrical equipment,* and (2) *materials, equipment, and supplies* used in the manufacture, and installation of the commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK, and HI), restricted to traffic originating at or destined to the facilities of McGraw Edison Company. (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146964 (Sub-7F), filed February 26, 1980. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting (1) *paper and paper products,* and (2) *materials, supplies, and equipment* used in the production and distribution of the commodities in (1) above, between those points in the U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at and destined to the facilities of Scott Paper Co. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 147275 (Sub-3F), filed February 29, 1980. Applicant: K–W EXPRESS, INC., 6576 Belding Rd., Belding, MI 48809. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *furniture,* from the facilities of LuVan, Inc., at or near Belding, MI, to points in the U.S. (except AK and HI). (Hearing site: Detroit, MI, or Chicago, IL.)

MC 147654 (Sub-2F), filed February 28, 1980. Applicant: TORNETTA'S MOTOR TRUCK, INC., P.O. Box 349, Conshohocken, PA 19428. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Contract carrier,* transporting *iron and steel articles,* (1) between the facilities on National Rolling Mills, Inc., at (a) Malvern, PA, and Brussells Steel America at (b) Bala Cynwyd, PA, on the one hand, and, on the other points in CT, DE, NJ, NY, and OH; and (2) from Philadelphia, PA, to the facilities of Atlantic Track & Turnout Co., at St. Clair, (Schuylkill County), PA, under continuing contract(s) with National Rolling Mills, Inc., at Malvern, PA, Brussells Steel America, at Bala Cynwyd, Pa, and Atlantic Track & Turnout Co., at St. Clair, (Schuylkill County), PA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 148275 (Sub-1F), filed March 4, 1980. Applicant: J. L. McCOY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: Ronald N. Cobert, 1730 M St., NW., Suite 501, Washington, DC 20036. Transporting (1) *aluminum and aluminum products,* (2) *materials, equipment, and supplies* used in the manufacturing and processing of the commodities in (1) above (except commodities in bulk), (3) *refractories and refactory products,* and (4) *materials, equipment, and supplies* used in the manufacturing and processing of the commodities in (3) above (except commodities in bulk), between those points in U.S. in and east of MN, IA, MO, AR, and TX, restricted to traffic originating at or destined to the facilities of Kaiser Aluminum & Chemical Corporation. (Hearing site: Washington, DC.)

MC 148695 (Sub-3F), filed February 27, 1980. Applicant: BOB BENNETT ENTERPRISES, INC., d.b.a. BOB BENNETT TRUCKING CO., 966 Ashby St., Atlanta, GA 30318. Representative: Frank J. Shannon III, Suite 601 Flatiron Bldg., 84 Peachtree St., Atlanta, GA 30303. *Contract carrier,* transporting *new furniture,* from the facilities of Fox Manufacturing Corporation, at Rome GA and Dothan, AL, points in TX, OK, KS, NE, IA, MO, AR, LA, NM, IL, IN, OH, CO, NY, PA, and WI, under continuing contract(s) with Fox Manufacturing Corporation, of Rome, GA. (Hearing site: Atlantia, GA, or Birmingham, AL.)

Passenger

MC 148934F, filed November 20, 1979 previously published in the **Federal Register** issue of April 8, 1980. Applicant: RICHARD TWAIT, d.b.a. MINNESOTA CITY BUS SERVICE, Route 1, Winona, MN 55987. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101. Transporting *passengers and their baggage in the same vehicle with passengers, in round-trip charter operations,* beginning and ending at points in Wabasha, Winona and Houston Counties, MN, and LaCrosse, Trempealeau, and Buffalo Counties, WI, and extending to points in IA, IL, NE, SD, ND, MN, WI, MI, and CO. (Hearing site: Minneapolis, MN, or LaCrosse, WI.)

Note.—This republication indicates the territorial description.

MC 149385F, filed February 28, 1980. Applicant: WHITE BROTHERS TRUCKING CO., a corporation, P.O. Box 96, Wasco, IL 60183. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Contract carrier, transporting (1) *concrete products and pipe fittings,* and (2) *equipment, materials, and supplies* used in the manufacture and installation of concrete products (except commodities in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK, and LA, under continuing contract(s) with Price Brothers Company, of Dayton, OH. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 150275F, filed February 20, 1980. Applicant: UPPER CUMBERLAND FREIGHT, INC., Route 5, Box 196, Cookeville, TN 38501. Representative: Clyde E. Randolph, Route 7, Box 336, Sparta, TN 38583. Transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and

those requiring special equipment), between Sparta, Tullahoma, Chattanooga, Nashville, and Memphis, TN. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 150304F, filed March 4, 1980. Applicant: BRENDALE ENTERPRISES, INC., R.R. No. 1, Okawville, IL 62271. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier,* transporting *gasoline, distillate fuels, and distillate oils,* from St. Louis, MO, to points in IL on and south of U.S. Hwy 36, under a continuing contract(s) with Dalee Oil Company, Inc., of Okawville, IL. (Hearing site: St. Louis.)

MC 150305F, filed March 4, 1980. Applicant: ANCHORAGE FREIGHT SERVICE, INC., 2910 Lexington Ave., Anchorage, AK 99502. Representative: John M. Stern, Jr., P.O. Box 1672, Anchorage, AK 99510. *Contract carrier,* transporting *such commodities* as are dealt in by retail drug, grocery, and sundry stores, between Anchorage, AK, on the one hand, and, on the other, Homer, Kenai, Palmer, Soldotna, and Wasilla, AK, under continuing contract(s) with Proctor's Grocery Stores, of Anchorage, AK, D & A Super of Palmer, AK, Kachemak Foods, of Homer, AK, and Anixter-Pruzan, of Anchorage, AK. (Hearing site: Anchorage, AK.)

Passenger

MC 150354F, filed February 28, 1980. Applicant: BIRDSALL & SERBIN, INC., d.b.a RSB COACHES, 1307 N.W. Valley High Dr., Rochester, MN 55901. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411 Edina, MN 55435. Transporting *passengers and their baggage,* and *unaccompanied baggage,* in charter and special operations, between points in Olmsted County, MN, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI). (Hearing site: Minneapolis, MN, or Chicago, IL.)

Volume No. 169

Decided: May 9, 1980.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones.

MC 4024 (Sub-13F), filed November 9, 1979, previously noticed in the **Federal Register** issue of April 1, 1980. Applicant: HORN TRUCKING CO., a corporation, 300 Schmetter Rd., Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703. Transporting (1) *foodstuffs* (except in bulk), between St. Louis, MO, and Chicago, IL, on the one hand, and, on the other points in IL, IN, MO, WI, and MI, (2) *malt beverages and beer coolers,* between St. Louis, MO, on the one hand, and, on the other, points in IN, MI, OK, AR, AL, MS, KY and TN; (3) *malt beverages,* between St. Louis, MO, on the one hand, and, on the other, points in IL, IA, WI, and MN, and (4) *confectionery,* between the facilities used by Switzer Candy, Co., at St. Louis, MO, on the one hand, and, on the other, points in IL, IN, MI, and WI. (Hearing site: Springfield, IL, or St. Louis, MO.)

Note. This republication indicates the correct territorial description in paragraph (1).

MC 7555 (Sub-74F), filed November 13, 1979, previously published in the **Federal Register** issue of April 3, 1980. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70 Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. Transporting (1) *paints and caulking compound, and materials, equipment, and supplies used in the manufacture thereof* (except in bulk), between the facilities of United Coatings, Inc., at (2) Charlotte, NC, (b) Chicago, IL, (c) Indianapolis, IN, and (d) Memphis, TN, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

Note.—This republication indicates the correct commodity description. Dual operations may be involved.

MC 30045 (Sub-9F), filed November 12, 1979, previously noticed in the **Federal Register** issue of April 1, 1980. Applicant: KITCHELL TRUCK LINES, INC., Ispwich, SD 57541. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *agricultural machinery, agricultural implements and attachments for agricultural machinery and agricultural implements,* from Rock Island, Canton, and East Moline, IL, to points in MN, ND, and SD (Hearing site: St. Paul, MN.)

Note.—This republication indicates the correct origins.

MC 35334 (Sub-89F), filed March 10, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William H. Hanlon (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Seabrook, NH, as an off-route point in connection with carrier's otherwise authorized regular-route operations between Boston, MA and Manchester, NH. (Hearing site: Boston, MA, or Washington, DC.)

MC 52704 (Sub-250F), filed September 25, 1979, previously published in the **Federal Register** issue of March 27, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *plastic containers, performs,* and *base cups* for plastic containers, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, (except commodities in bulk), between points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of INCON, a Division of The Glass Container Group of Indian Head, Inc. (Hearing site: Atlanta, GA.)

Note.—This republication corrects the territorial description.

MC 60014 (Sub-175F), filed February 21, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *iron and steel articles,* between the facilities of Edgewater Steel Company, to or near York, SC, on the one hand, and, on the other, those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Washington, DC.)

MC 60014 (Sub-176F), filed March 5, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *commodities* the transportation of which by reason of size or weight requires the use of special equipment, between points in WI, MI, IL, IN, OH, WV, VA, MD, PA, DE, NJ, NY, CT, RI, MA, VT, NH, ME, and DC. on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 67015 (Sub-1F), filed March 8, 1980. Applicant: TIGARD-SHERWOOD TRUCK SERVICE, INC., 1818 S.E. Second St., Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except classes A and B explosives), (1) from Portland, OR, to Los Angeles, CA, and (2) from Los Angeles, CA, to Portland, Medford, and Eugene, OR. (Hearing site: Portland, OR.)

MC 94265 (Sub-342F), filed March 10, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Rt. 460W, Windsor, VA 23487. Representative:

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Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *unfrozen bakery goods,* (a) from the facilities of Interbake Foods, Inc. at Richmond, VA, Battle Creek, MI, and North Sioux City, SD, to points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC, and (b) from the facilities at North Sioux City, SD, to points in AZ, CA, CO, NV, NM, OR, UT, and WA; and (2) *Materials, equipment and supplies* used in the manufacture and distribution of unfrozen bakery goods, in the reverse direction, restricted to traffic originating at or destined to the facilities of Interbake Foods, Inc. (Hearing site: Richmond VA, or Washington, DC.)

MC 95084 (Sub-149F), filed August 16, 1979, previously noticed in the **Federal Register** issued of February 20, 1980. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 E. Main, Ottumwa, IA 52501. Transporting *iron and steel articles; iron and steel fence tubing,* and *materials and supplies* used in the manufacture of fence tubing, from the facilities of Century Tube Corporation in Jefferson County, AR, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MS, NJ, NH, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC. (Hearing site: Chicago, IL.)

Note.—This republication indicates NH as a destination State.

MC 107295 (Sub-973F), filed March 10, 1980. Applicant: PRE—FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Todd A. Peterman (same address as applicant). Transporting (1) *lumber and lumber products, and (2) accessories* used in the installation of commodities named in (1) above, from points in MI, to points in MN, WI, IL IA, TN, MO, IN, and KY. (Hearing site: Minneapolis, MN.)

MC 110325 (Sub-137F), filed March 4, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Esq., Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in DE, CT, RI, MA, NJ, and those in Rockingham, Hillsborough, and Strafford Counties, NH, York County, ME, Albany, Columbia, Rensselaer, Saratoga, Schenectady, and Washington Counties, NY, Bennington County, VT, and Carroll, Baltimore, Harford, Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Somerset, Worcester, Howard, Montgomery, Anne Arundel, and Prince Georges Counties MD, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Boston, MA, or Philadelphia, PA.)

MC 110525 (Sub-1317F), filed November 9, 1979, previously noticed in the **Federal Register**, on April 1, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Transporting (1) *sulphur trioxide,* in bulk, in tank vehicles, from the facilities of E. I. duPont deNemours & Co., at (a) East Chicago, IN, to points in IL, OH, AR, LA, SC, MO, MI, and TN and (b) Columbia Park, OH, to points in IL, AR, LA, MO, MI, and TN, and (c) Wurtland, KY, to points in AR, LA, and TX, and (2) *chemicals,* in bulk, in tank vehicles, from Orange and Beaumont, TX, to points in the US (except AK and HI). (Hearing site: Washington, DC.)

Note.—This republication corrects (a) in the territory description to read to points in IL, OH, AR, LA, SC, MO, MI, and TN, instead of points in IL, OH, AR, LA, SC, MO, MN, and TN.

MC 111545 (Sub-300F), filed February 27, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as applicant). Transporting *sand,* in containers, between points in Cooke County, TX, on the one hand, and, on the other, points in CA and those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Dallas, TX.)

MC 114194 (Sub-215F), filed March 10, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Rd., East St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *dry corn products,* from Atchison, KS, to points in the United States (except AK and HI). (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 117574 (Sub-343F), filed November 9, 1979, previously noticed in the **Federal Register** on April 3, 1980. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same address as applicant). Transporting (1) *machinery and equipment* used in the production of color television picture tubes, and (2) *accessories, parts, materials and supplies* used in the installation, assembly thereof, between Baltimore, MD, Cleveland, OH, Lancaster, PA, New York, NY, and Pittsburgh, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic moving in foreign commerce. (Hearing site: Washington, DC.)

Note.—This republication corrects the commodity description.

MC 117574 (Sub-344F), filed November 8, 1979, previously noticed in the **Federal Register** on April 3, 1980. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same address as applicant). Transporting (1) *building materials* and (2) *materials, equipment, and supplies* used in the installation and erection thereof, from the facilities of The Celotex Corporation at Sunbury, PA, to points in CT, DE, GA, IL, IN, IA, KY, MA, MD, ME, MI, MN, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, WI, and DC, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—This republication corrects the commodity description.

MC 127834 (Sub-123F), filed February 11, 1979. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. Transporting *iron and steel articles,* from the facilities of Bethlehem Steel Corporation, at or near (a) Lackawanna, NY, (b) Sparrows Point, MD, and (c) Bethlehem, PA, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MN, MO, MS, NE, NC, OK, SC, TN, TX, VA, and WI. (Hearing site: Philadelphia, PA.)

MC 133655 (Sub-210F), filed February 22, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting *sugar,* in containers, from Sugar Land, TX, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VA, WV, and WI. (Hearing site: Houston or Dallas, TX.)

MC 134134 (Sub-69F), filed March 10, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Ave., Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting (1) *alcoholic beverages,* and (2) *non-alcoholic cocktail mixes,* from the facilities of James B. Beam Distilling Co., at or near Clermont, KY, to points in IA, MO, KS, and CO. (Hearing site: Louisville, KY.)

MC 135195 (Sub-5F), filed January 17, 1980, previously noticed in the **Federal Register** issue of April 22, 1980. Applicant: STOVER AIR CARGO, INCORPORATED, 3830 Wisman Lane, Quincy, IL 62301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. Louis, MO, and points in Cedar, Clinton, Des Moines, Henry, Jefferson, Johnson, Lee, Linn, Louisa, Muscatine, Scott, Wapello, and Washington Counties, IA, Adams, Cook DuPage, Hancock, Henderson, Henry, Knox, McDonough, Mercer, Peoria, Pike, Rock Island, Tazewell, Warren, Whiteside, and Woodford Counties, IL, Adair, Clark, Knox, Lincoln, Lewis, Marion, Monroe, Pike, Ralls, St. Louis, and Shelby Counties, MO, restricted to traffic having an immediately prior or subsequent movement by air. (Hearing site: Chicago, IL, or St. Louis, MO.)

Note.—This republication modifies the territorial description.

MC 139495 (Sub-530F), filed March 5, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *alcoholic beverages,* in containers, from Owensboro, KY, to points in WI. (Hearing site: Washington, DC.)

MC 141804 (Sub-379F), filed February 26, 1980. Applicant: WESTERN EXPRESS, DIVISION of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *tools, accessories* for tools, *storage cabinets,* and *work tables,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Snap-On-Tools Corporation. (Hearing site: Los Angeles, CA.)

MC 145015 (Sub-3F), filed January 22, 1980, previously noticed in the **Federal Register** issue of April 22, 1980. Applicant: P.M.E., Ltd., Box 181, Group 261, R.R. 2, Winnipeg, Manitoba, Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract carrier* in foreign commerce only, transporting *used railroad ties,* from ports of entry on the international boundary line between the US and Canada in MN, MT, and ND, to points in AZ, CA, CO, NV, NM, OR, TX, UT, and WA. under continuing contract(s) with Altacon Traders, Ltd., of Edmonton, Alberta, Canada. (Hearing site: Minneapolis, or St. Paul, MN.)

Note.—This republication modifies the territorial description. Dual operations may be involved.

MC 147384 (Sub-1F), filed January 28, 1980. Applicant: DENNIS CARRICO, 2626 Northwood, Mishawaka, IN 46544. Representative: John D. Carrico, 16678 Cleveland Rd., Granger, IN 46530. *Contract carrier,* transporting *such commodities* as are dealt in or used by hardware and lumber stores, (1) from the facilities of Wickes Lumber Company at or near Stevensville, MI, to points in Allegan, Barry, Calhoun, Branch, St. Joseph, Cass, Kalamazoo, Van Buren, and Berrien Counties, MI, and Elkhart, Noble, Whitley, Kosciusko, Fulton Marshall, Starke, St. Joseph, Pulaski, Porter, LaPorte, LaGrange, Steuben, Lake, and Jasper Counties, IN, under a continuing contract(s) with Wickes Lumber Company, of Saginaw, MI. (Hearing site: Lansing, MI.)

MC 147455 (Sub-1F), filed August 27, 1979, previously noticed in the **Federal Register** issue of March 27, 1980. Applicant: W. F. BROADWATER, d.b.a. W. F. BROADWATER TRUCKING CO., Route 3, Box 39–D, Grantsville, MD 21536. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Transporting (1) (a) *refractories,* and (b) *materials, equipment and supplies* used in the manufacture of refractories, between Frostburg, Mt. Savage, and Jennings, MD and St. Charles, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, PA, VA, and WV; and (2) *lumber,* between Mt. Savage, MD and New Bethlehem, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, PA, VA, and WV. (Hearing site: Cumberland, MD.)

Note.—This republication indicates the correct commodity and territorial description.

MC 148694 (Sub-2F), filed February 4, 1980. Applicant: JAMES R. ANDERS, 414 South Martin, Warren, AR 71671. Representative: Ron Lewellyn (same address as applicant). Transporting *lumber* and *wood products,* from Warren, AR, to Fort Worth, TX. (Hearing site: Little Rock, AR.)

MC 148825 (Sub-F), filed January 24, 1980. Applicant: CHRISTY TRUCKING COMPANY, INC., Rt 3, Box 241–A, Mocksville, NC 27028. Representative: Steven M. Beaver, (same address as applicant). Transporting *paint rollers, paint applicators,* and *paint pans,* from the facilities of Hansteck Corporation, at or near Roanoke, VA, to San Bernadino and Torrance, CA. (Hearing site: Charlotte, NC.)

MC 150174 (Sub-2F), filed October 2, 1979. Applicant: HIVELY TRANSPORTATION, INC., 1100 Lafayette St., P.O. Box 1103, York, PA 17405. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Philadelphia, PA 19107. Transporting (1) *building materials,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of building materials (except in bulk, in tank vehicles), from the facilities of Georgia-Pacific Corporation, at Quakertown, PA, to points in OH, VA, MD, DE, NJ, NY, WV, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

Volume No. 176

Decided: May 2, 1980.

By the Commission Review Board, Number 3: Members Parker, Fortier and Hill

MC 14138 (Sub-11F), filed February 29, 1980. Applicant: HEAVY TRANSPORT, INC., P.O. Box 727, Long Beach, CA 90801. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting (1) *contractor's machinery, materials, equipment, parts, and supplies* (except commodities in bulk), and (2) *commodities* which by reason of size or weight require the use of special equipment, between points in CA, on the one hand, and, on the other, points in TX, AZ, NM, ID, UT, CO, WY, NV, WA, and OR. (Hearing site: Los Angeles, CA.)

MC 23618 (Sub-63F), filed March 3, 1980. Applicant: McALISTER TRUCKING COMPANY, d.b.a. MATCO, 2041 S. Treadaway Blvd., Abilene, TX 79604. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting *construction materials, equipment, and supplies,* between points in the U.S. (except AK and HI). (Hearing site: Dallas or Houston, TX.)

MC 28088 (Sub-52F), filed February 20, 1980. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg. 13th & Pennsylvania Ave., NW., Washington, DC 20004. Transporting *foodstuffs* and *commodities* used in the production, storage, and distribution of foodstuffs (except commodities in bulk), betwen Hanover, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, VA, WV, and DC. (Hearing site: Hanover, PA.)

MC 28088 (Sub-53F), filed March 3, 1980. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street,

Harrisonburg, VA 22801. Representative:

MC 31389 (Sub-297F), filed March 6,

Williams Bay, WI, then over County

41 to junction WI Hwy 29, and

Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. Transporting (1) *frozen foods* from the facilities of Pet Incorporated, Frozen Foods Division, at (a) Frankfort, MI, (b) South Bend, IN, and (c) Benton Harbor and Hart, MI, to points in CT, DE, ME, MA, NH, NJ, RI, and VT, and (2) *frozen foods and commodities used in the manufacture sale and distribution of frozen foods,* between the facilities of Pet Incorporated, Frozen Food Division, at or near (a) Frankfort, MI, (b) Chickasha, OK, and (c) Lithonia, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO.)

MC 29079 (Sub-170F), filed February 25, 1980. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St., NW., Washington, DC 20006. Transporting *iron and steel articles,* from St. Louis, MO and Bellevue, OH, to points in AL, DE, GA, IL, IN, KY, MD, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, DC, those points in LA on and east of the Mississippi River, and those in the Lower Peninsula of MI. (Hearing site: Washington, DC.)

MC 29079 (Sub-171F), filed February 25, 1980. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St., NW, Washington, DC 20006. Transporting (1) *iron and steel articles,* from Muskegon, MI to Columbus, IN; (2) *auto parts,* from Ionia, MI, to Fort Wayne, IN and Springfield, OH; (3) *plastic or fiberglas articles,* from Ionia, MI to Huntington, WV and Washington, IN; and (4) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), (2), and (3) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 31389 (Sub-296F), filed March 6, 1980. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First St., Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Cities Service Company at or near Mojave, CA, as an off-route point in connection with applicant's authorized regular route operations. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 31389 (Sub-297F), filed March 6, 1980. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First St., Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Smith System Manufacturing Company at or near Princeton, MN as an off-route point in connection with applicant's presently authorized regular route operations. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 42289 (Sub-15F), filed December 12, 1979, Applicant: LOMBARD BROTHERS, INC., 233 Mill Street, Waterbury, CT 06720. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, NH, and VT, on the one hand, and, on the other, points in CT, MA, RI, NY, NJ, PA, DE, MD, VA, and DC. (Hearing site: Hartford, CT, or Washington, DC.)

MC 46219 (Sub-19F), filed November 7, 1979 (republication). Applicant: STERNBERGER MOTOR CORPORATION, 45–55 Pearson Street, Long Island City, NY 1101. Representative: Lawrence E. Lindeman, 425 13th St. NW, Suite 1032, Washington, DC 20004. Transporting *new furniture and new household furnishings,* uncrated, when moving from retail department stores or retail furniture merchants or from storage or terminal facilities maintained by such stores between New York, NY, on the one hand, and, on the other, points in OH, MI, IN, IL, and WI. (Hearing site: New York, NY.)

Note.—This republication add a restriction to the publication of March 11, 1980.

MC 46829 (Sub-13F), filed November 26, 1979. Applicant: ALLARD EXPRESS, INC., 806 Elm Street, Watertown, WI 53094. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting over regular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Two Rivers, WI, and North Chicago, IL, (a) from Two Rivers over WI Hwy 42 to Manitowoc, WI, then over US Hwy 141 to junction Milwaukee County Hwy B, then over Milwaukee County Hwy B to Milwaukee, WI, then over WI Hwy 42 to the WI–IL State line, and then over IL Hwy 42 to North Chicago, and return over the same route, (b) from Two Rivers to Milwaukee as specified above, then over Milwaukee County Hwy H to junction WI Hwy 38 then over WI Hwy 38 to Racine, WI, then to North Chicago as specified above, and return over the same route, (c) from Two Rivers to Milwaukee as specified above, then over Milwaukee County Hwy AA to junction Milwaukee County Hwy Z, then over Milwaukee County Hwy Z to junction WI Hwy 42, then to North Chicago as specified above, and return over the same routes, serving in (a), (b), and (c) above all off-route points in Milwaukee County, WI, (2) between certain points in WI as follows: (a) from Sheboygan over WI Hwy 32 to Kiel, WI, then over WI Hwy 57 to Chilton, and return over the same route, (b) between Sheboygan and Plymouth, WI, over WI Hwy 23, (c) between Sheboygan and Sheboygan Falls, over WI Hwy 28, (d) from Milwaukee over WI Hwy 19 to Sun Prairie, WI, then over US Hwy 151 to Madison, and return over the same route, (e) from Milwaukee over WI Hwy 15 to Beloit, WI, and then over US Hwy 51 to South Beloit, IL, and return over the same route, (f) from Milwaukee over US Hwy 41 to junction WI Hwy 36, then over WI Hwy 36 to Lake Geneva, WI and then over US Hwy 12 to Genoa City, and return over the same route, (g) between Racine and Janesville, WI, over WI Hwy 11, serving the off-route point of Williams Bay, WI, (h) between Racine and Rochester over WI Hwy 20, (i) from Milwaukee over US Hwy 18 to Waukesha, WI, (also from Milwaukee over WI Hwy 59 to Waukesha), then over WI Hwy 59 to Milton, and then over WI Hwy 26 to Janesville, and return over the same route, serving the off-route point of Genesee Depot, WI, (j) between Watertown and Portage, over US Hwy 16, serving the off-route points of Clyman, Reeseville, Fall River, and Pardeeville, WI, (k) from Watertown over WI Hwy 26 to junction WI Hwy 33, then over WI Hwy 33 to Beaver Dam, WI, then over US Hwy 151 to Columbus, WI, and then over US Hwy 16 to Portage and return over the same route, (l) from Watertown over WI Hwy 26 to Fort Atkinson, WI, then over US Hwy 12 to Whitewater, and return over the same route, (m) from Watertown over County Hwy A to Lake Mills, WI then over WI Hwy 30 to junction WI Hwy 26, and return over the same route, and (n) from Lake Geneva over WI Hwy 36 to

Williams Bay, WI, then over County Hwy H to junction WI Hwy 50, and then over WI Hwy 50 to Delavan and return over the same route, serving all intermediate points on the named routes, (3) irregular routes between Racine, Kenosha, Burlington, Waukesha, Watertown, Port Washington, Sheboygan, and East Troy, WI, and points in Milwaukee County, WI, (4) between points in WI, as follows: (a) from Milwaukee over unnumbered Hwys to junction WI Hwy 15 near East Troy, WI, (b) between Hales Corners and St. Martin, over unnumbered Hwy, (c) between junction unnumbered Hwy and WI Hwy 83 near Lake Beulah and Mukwonago, over WI Hwy 83, (d) between Burlington and junction unnumbered Hwy south of Salem, over WI Hwy 83, (e) between Genoa City and junction unnumbered Hwy north of Twin Lakes, over unnumbered Hwys, (f) betwen junction WI Hwy 83 and unnumbered Hwy south of Salem and Wilmot, over unnumbered Hwy, (g) between Wilmot and junction WI Hwy 83 south of New Munster, over unnumbered Hwy, (h) between junction WI Hwy 83 and unnumbered Hwy northeast of Silver Lake and junction unnumbered Hwy north of Twin Lakes, over unnumbered Hwy, (i) between Kenosha and junction WI Hwy 83, over WI Hwy 50, (j) between junction WI Hwy 50 and unnumbered Hwy and Pleasant Prairie, over unnumbered Hwy, (k) between junction WI Hwy 50 and US Hwy 45 and Bristol, over US Hwy 45, (l) between junction unnumbered Hwys north of Lake Elizabeth and Lake Elizabeth, over unnumbered Hwy, serving all intermediate points, (5) between Gibbsville and Milwaukee, WI, from Gibbsville over WI Hwy 42 to junction Milwaukee County Hwy "B" then over Milwaukee County Hwy "B" to Milwaukee and return over the same route, serving the intermediate point of Cedar Grove, WI and the off-route point of Oostburg, WI, (6) between junction WI Hwy 30 and WI Hwy 19 and Madison, WI, over WI Hwy 30, serving the intermediate point of Delafield, WI, (7) between junction US Hwy 141 and WI Hwy 57 and junction WI Hwy 144 and US Hwy 141, from junction US Hwy 141 and WI Hwy 57 over WI Hwy 57 to junction WI Hwy 144, then over WI Hwy 144 to junction US Hwy 141, and return over the same route, serving no intermediate points, (8) between junction Racine County Hwy K and WI Hwy 38, and junction US Hwy 41 and WI Hwy 36, from junction Racine County Hwy K and WI Hwy 38 over Racine County Hwy K to Thompsonville, WI, then over US Hwy 41 to junction WI Hwy 36, and return over the same route serving all intermediate points, (9) between Beaver Dam, WI and Markesan, WI, from Beaver Dam over WI Hwy 33 to junction County Hwy A at Randolph, WI, then over County Hwy A to Markesan (also from junction WI Hwy 33 and County Hwy A west over WI Hwy 33 to junction WI Hwy 73, then over WI Hwy 73 to junction WI Hwy 44, east of Manchester, WI, and then over WI Hwy 44 to Markesan), and return over the same route, serving the off-route points of Manchester and Kingston, WI, (10) between Minnesota Jct., WI, and Port Washington, WI, over WI Hwy 33, (11) between Oconomowoc, WI and Horicon, WI, from Oconomowoc over WI Hwy 67 to Mayville, WI, then over WI Hwy 28 to Horicon, and return over the same route, serving Horicon for the purpose of joinder only, (12) between junction WI Hwys 33 and 73, and Portage, WI, over WI Hwy 33, serving junction WI Hwys 33 and 73 for the purpose of joinder only, (13) between junction WI Hwys 33 and 44 and Wyocena, over WI Hwy 44, serving junction WI Hwys 33 and 44 for the purpose of joinder only, (14) between junction WI Hwy 44 and County Hwy P and junction WI Hwys 33 and 73 from junction WI Hwy 44 and County Hwy P over County Hwy P to Randolph, then over WI Hwy 73 to junction WI Hwy 33 and return over the same route, serving the termini for purpose of joinder only, (15) between junction WI Hwys 33 and 146, and Cambria, over WI Hwy 146, serving the termini for purpose of joinder only, (16) between Juneau, WI and Hartford, WI, from Juneau over WI Hwy 115 to junction WI Hwys 115, 67, and 60 then over WI Hwy 60 to Hartford, and return over the same route serving Hartford for the purpose of joinder only, as an alternate route for operating convenience only, and (17) between Beloit, WI and Rockford, IL, (a) over US Hwy 51, and (b) from Beloit over Interstate Hwy 90 to junction US Hwy 20 then over US Hwy 20 (also over US Hwy 20 BR) to Rockford, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. The above authority is restricted to the transportation of shipments received from or delivered to connecting carriers at Rockford, IL. (Hearing site: Milwaukee or Madison, WI.)

MC 50069 (Sub-558F), filed February 29, 1980. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *liquid chemicals,* in bulk, in tank vehicles, between Indianapolis, IN and points in IL, KY, MI, and OH. (Hearing site: Washington, DC.)

MC 50069 (Sub-559F), filed February 29, 1980. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, from Lima, OH to points in GA, NC, and SC. (Hearing site: Washington, DC.)

MC 68898 (Sub-7F), filed February 21, 1980. Applicant: HANOVER TRANSFER COMPANY, a corporation, 409 East Hanover St., Hanover, PA 17331. Representative: Barry Roberts, 888 17th St., NW., Washington, DC 20006. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Hanover, PA, and Baltimore, MD, serving all intermediate points, (a) from Hanover, PA, over PA Hwy 194 to Littlestown, PA, then over US Hwy 140 to junction unnumbered hwy (formerly portion US Hwy 140), then over unnumbered hwy via Westminster and Reese, MD, to junction US Hwy 140, then over US Hwy 140 to Baltimore, and return over the same route, and (b) from Hanover, PA, over PA Hwy 94 to the MD–PA State line, then over MD Hwy 30 to Reisterstown, MD, then over US Hwy 140 to Baltimore, and return over the same route. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of certificate No. MC 68898 Sub 6 issued January 8, 1965. (Hearing site: Washington, DC.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 68898 (Sub-8F), filed February 21, 1980. Applicant: HANOVER TRANSFER COMPANY, a corporation, 409 East Hanover St., Hanover, PA 17331. Representative: Barry Roberts, 888 17th St., NW., Washington, DC 20006. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Hanover, PA, and Spring Grove, PA, over PA Hwy 116, (2) between Hanover, PA, and Taneytown, MD, (a) from Hanover over PA Hwy 194

to the PA-MD State line, then over MD Hwy 194 to Taneytown, MD, and return over the same route, and (b) serving Lineboro, MD, and Porters and Glenville, PA, as off-routes points in connection with carrier's route between Hanover, PA, and Baltimore, MD; (3) between Hanover, PA, and Fairfield, PA, from Hanover, over PA Hwy 94 to junction US Hwy 30, then over US Hwy 30 to Cashtown, PA, then over unnumbered highway via Orrtanna, PA, to Fairfield, PA, and return over the same route; (4) between Hanover, PA, and East Berlin, PA, over PA Hwy 194, (5) between Hanover, PA, and Fairfield, PA, over PA Hwy 116, (6) between Littlestown, PA, and Gettysburg, PA, over PA Hwy 97, (7) between Mt. Pleasant, MD, and Melrose, MD, from Mt. Pleasant, over MD Hwy 496 to junction MD Hwy 30, then south over MD Hwy 30 to Melrose, and return over the same route; (8) between Westminster, MD, and Manchester, MD, over MD Hwy 27, (9) between Westminster, MD, and Baltimore, MD, from Westminster over MD Hwy 482 to Hampstead, then over MD Hwy 88 to junction MD Hwy 25, north of Butler, MD, then over MD Hwy 25 to Baltimore, and return over the same route; (10) between Hampstead, MD, and White House, MD, over MD Hwy. 137 (11) between Reisterstown, MD, and Butler, MD, over MD Hwy 128, (12) between Abbottstown, PA, and the junction of US Hwy 30 and PA Hwy 94, over US Hwy 30, (13) between Taneytown, MD, and Westminster, MD, over MD Hwy 97, and (14) between Hampstead, MD, and Baltimore, MD, from Hampstead over MD Hwy 88 to junction MD Hwy 25, then over MD Hwy 25 to Baltimore, and return over the same route, serving all intermediate points in routes (1) through (14) above. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of the regular-route portion of its lead certificate issued September 7, 1967 that duplicates the above authority. (Hearing: Washington, DC.)

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 106398 (Sub-1062F), filed March 3, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *iron and steel articles,* from the facilities of Bull Moose Tube Company, at Gerald, MO, to points in the U.S. (except AK and HI). (Hearing site: St. Louis, Mo.)

MC 106398 (Sub-1063F), filed March 3, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *aluminum and aluminum products,* and *materials, supplies, and accessories* used in the distribution of aluminum and aluminum products, between the facilities of Martin Marietta Aluminum at Lewisport, KY and points in AZ, NM, TX, OK, AR, LA, MS, AL, TN, GA, NC, SC, and FL. (Hearing site: Louisville, KY.)

MC 106398 (Sub-1064F), filed March 3, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *building and construction materials,* and *materials and supplies* used in the manufacture and distribution of building and construction materials, between the facilities of the Donn Corporation at (a) Westlake and Medina, OH, (b) Atlanta, GA, (c) Dallas and Houston, TX, (d) Los Angeles and San Francisco, CA, and (e) Seattle, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Cleveland, OH.)

MC 109449 (Sub-41F), filed June 29, 1979 (republication). Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in IA, IL, MN, ND, SD, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., of Indianapolis, IN. (Hearing site: Chicago, IL.)

Note.—This republication broadens the territorial description as published February 14, 1980.

MC 110098 (Sub-182F), filed March 3, 1980. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Rd., Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). Transporting *foodstuffs* (except in bulk), from points in CA, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, ND, OH, OK, SD, and WI. (Hearing site: Los Angeles or San Francisco, CA.)

MC 112989 (Sub-123F), filed March 3, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *paint and paint products,* and *materials, equipment, and supplies* used in the manufacture and distribution of paint and paint products, between points in ID, WA, OR, CA, and NV. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 114098 (Sub-52F), filed October 11, 1979. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, 425 13th Street, NW., 1032 Washington, DC 20004. Transporting (1) *lumber,* from points in Clarendon County, SC, to points in GA, MD, NC, SC, TN, and VA, and (2) *iron and steel articles,* between points in Surry County, NC, and points in SC. (Hearing site: Charlotte, NC.)

Note.—Dual operations may be involved.

MC 115648 (Sub-36F), filed December 27, 1979, previously noticed in **Federal Register** issue of April 3, 1980. Applicant LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82201. Representative; Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Transporting (1) *limestone* from points in Larimer County, CO, to points in Albany Carbon, Goshen and Platte Counties, WY, and (2) *lime and limestone* from points in Goshen County, WY, to points in the United States in and west of MI, IN, IL, TN, AR, and LA (except AK and HI). (Hearing site: Cheyenne, WY or Denver, CO.)

Note.—This republication shows the correct docket number as MC 115648 (Sub-36F), in lieu of MC 115468 (Sub-36F).

MC 116778 (Sub-4F), filed March 3, 1980. Applicant: FLOYD R. BEARD., P.O. Box 43, Denmark, SC 29042. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Transporting *dry fertilizer and dry fertilizer materials,* from the facilities of Farmers Mutual Exchange, Div. of Gold Kist, Inc., at or near Clio, GA to points in SC. (Hearing site: Columbia, SC, Charlotte, NC, or Washington, DC.)

MC 118959 (Sub-248F), filed March 3, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and commodities requiring special equipment), between the facilities of General Warehouse and Transportation, Inc., at Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL.)

MC 119789 (Sub-683F), filed March 3, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting *rough steel forgings,* from Collierville, TN, to points in AZ, CA, MI, MN, NC, ND, OH, SC, SD, and TX. (Hearing site: Memphis, TN.)

MC 120618 (Sub-25F), filed November 20, 1979, previously noticed in **Federal Register** issue of March 11, 1980. Applicant: SCHALLER TRUCKING CORPORATION, 5700 West Minnesota Street, Indianapolis, IN 46241. Representative: John R. Bagileo, 918, 16th Street NW., Washington, DC 20006. Transporting (1) *brass, copper, aluminum and cupro-nickel coils and tubing,* from East Alton, IL, and Indianapolis, IN, to Buffalo, NY, (2) *radiators, heaters, air conditioners, defrosters, thermostats, recuperators, and heat exchangers,* between Buffalo, NY, and points in MI, OH, MO, KS, and WI, (3) *parts* for the commodities in (2) above, and (4) *automobile parts and automobile accessories,* from Anderson, IN, to the facilities of Harrison Radiator, a Division of General Motors Corporation, at or near Buffalo, NY. (Hearing site: Buffalo, NY, or Indianapolis, IN.)

Note.—This republication is to change the territory and commodity description.

MC 124078 (Sub-1017F), filed March 3, 1980. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *liquid chemicals,* in bulk, in tank vehicles, (1) from Charleston, TN, to points in AL, AR, GA, IL, IN, KY, MS, MO, NC, OH, SC, VA, and WV, and (2) from Augusta, GA, to points in TN and VA. (Hearing site: Washington, DC.)

MC 124078 (Sub-1018F), filed March 4, 1980. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *aqua ammonia,* in bulk, in tank vehicles, from Columbia, SC, to points in GA, FL, NC, and TN. (Hearing site: Columbia, SC, or Atlanta, GA.)

MC 125708 (Sub-194F), filed February 4, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd St., E. Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting (1) *refractories, refractory materials, and refractory products,* and (2) *materials, equipment, and supplies* used in the production of refractories, between Pedro, So. Webster, and Youngstown, OH, So. Rockwood, MI, and Crown Point, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of BMI, Inc. and its subsidiaries Gunning Refractories, Inc. and Lawrence Refractories Co. (Hearing site: Washington, DC.)

MC 126118 (Sub-229F), filed February 29, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *frozen foods,* between Omaha, NE, and Council Bluffs, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Lincoln or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126118 (Sub-230F), filed February 29, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are used by manufacturers of heating and airconditioning units and electrical items (except commodities in bulk, and those requiring special equipment), between Elyria and Medina, OH, on the one hand, and, on the other, points in the U.S. (except AK, HI, and OH). (Hearing site: Cleveland or Columbus, OH.)

Note.—Dual operations may be involved.

MC 126118 (Sub-231F), filed February 29, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting (1) *foodstuffs* (except frozen), *and animal foods,* and (2) *materials, ingredients, supplies, and equipment* used in the manufacture of the commodities in (1) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Starkist Corp. (Hearing site: Los Angeles or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 129759 (Sub-38F), filed March 7, 1980. Applicant: TRIANGLE TRUCKING COMPANY, a corporation, P.O. Box 490, McKees Rocks, PA 15136. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *Contract Carrier* transporting *iron and steel articles,* and *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles (except commodities in bulk) between the facilities of Dietrich Industries, Inc. at or near Ashville, AL, on the one hand, and, on the other, points in AL, CT, DE, DC, IL, IN, IA, KY, ME, MD, MA, MI, MN, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI, under continuing contract(s) with Dietrich Industries, Inc. of Blairsville, PA. (Hearing site: Pittsburgh, PA.)

MC 136008 (Sub-114F), filed June 18, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., Ardmore, OK 73401. Representative: John P. Tipsword, P.O. Box 6210, Moore, OK 73401. Transporting (1) *dry commodities,* in bulk, in dump or tank vehicles, between points in the United States (except AK and HI), (2) *sand and soda ash,* in bulk, between points in the United States (except AK and HI), on the one hand, and, on the other, the facilities of General Electric Company, at (a) Jackson, MS, (b) Lexington and Somerset, KY, (c) Bridgeville, PA, and (d) Cleveland, Bucyrus, Logan, and Niles, OH, (3) *commodities* in bulk or in bags, between points in the United States (including AK but excluding HI), and (4) *materials, equipment, and supplies* used in the manufacture and distribution of concrete products, between points in the U.S. (except AK and HI), restricted in (1) to traffic originating at or destined to the facilities of Anchor Hocking Corporation, Brockway Glass Company, Inc., Ball Corporation, Chattanooga Glass Company, Dresser Industries, Inc., Kerr Glass, Liberty Glass Company, Midland Glass Company, Milchem Incorporated, and Owens-Illinois, restricted in (3) to traffic originating at or destined to the facilities and jobsites of Dowell, Division of Dow Chemicals and further restricted in (4) to traffic originating at or destined to the facilities of Harter Concrete Products, Inc., and Hydro Conduit Corporation. (Hearing site: Oklahoma City, OK.)

MC 136318 (Sub-66F), filed March 3, 1980. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Rd., Lebanon, IN 46052. Representative: Steven K. Kuhlmann, 2600 Energy Center One, 717—17th St., Denver, CO 80202. *Contract carrier* transporting *new furniture,* from the facilities of Boyd Furniture Manufacturing at or near Los Angeles, CA, to points in the U.S. in east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Boyd Furniture Manufacturing, of Carson, CA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 136818 (Sub-109F), filed March 3, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Rd., Suite 320, Phoenix, AZ 85008. *Transporting* (1) *building and construction materials,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk) between the

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facilities of The Celotex Corporation at or near Tracy, CA, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 138438 (Sub-82F), filed March 7, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *malt beverages*, from Newark, NJ and Pabst, GA, to the facilities of G. E. Murray Distributing Company at or near Hagerstown, MD. (Hearing site: Hagerstown, MD.)

Note.—Dual operations may be involved.

MC 138469 (Sub-193F), filed November 8, 1979, previously noticed in **Federal Register** issue of March 11, 1980. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting (a) *pharmaceutical, nutritional, veterinary, and industrial products and cosmetics*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of R. P. Sherer Corporation, at or near St. Petersburg, FL, to points in the U.S. (except AK and HI), and (b) *equipment, materials, and supplies* used in the manufacture of the commodities in (a) above, in the reverse direction, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Orlando or Tampa, FL.)

Note.—This republication changes the facilities location from Clearwater, FL, to St. Petersburg.

MC 138469 (Sub-223F), filed March 3, 1980. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *sugar* (except in bulk, in tank vehicles), from the facilities of Imperial Sugar Company at Sugar Land, TX, to points in the U.S. (except AK and HI), restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Houston or Dallas, TX)

MC 138469 (Sub-224F), filed February 28, 1980. Applicant: DONCO CARRIERS, INC., 4720 SW. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities and merchandise* as are dealt in or used by wholesale and retail chain department stores (except commodities in bulk, in tank vehicles), from points in the U.S. (except AK and HI), to the facilities of the C. R. Anthony Company at Oklahoma City, OK, restricted to traffic orignating at the indicated origins and destined to the named destination. (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 138469 (Sub-225F), filed March 3, 1980. Applicant: DONCO CARRIERS, INC., 4720 S.W., 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *containers and container accessories and materials used in the manufacture of containers and container accessories* (except commodities in bulk), between the facilities of Kerr Glass Manufacturing Corporation at or near (1) Sand Springs, OK and (2) Dunkirk, IN, and points in AR, CO, IL, IA, KS, LA, MI, MS, MO, NE, NM, TN, and TX, restricted to traffic originating at or destined to the named facilities. (Hearing site: Dallas, TX or Oklahoma City, OK.)

MC 140159 (Sub-15F), filed March 3, 1980. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *coal*, in bulk, from points in Jefferson County, PA, to points in NY. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 140549 (Sub-20F), filed March 3, 1980. Applicant: FRITZ TRUCKING, INC., East Hwy 7, Clara City, MN 56222. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *polypropylene agricultural baler twine*, from Albert Lea, MN, to points in AL, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY. (Hearing site: Minneapolis, or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 140889 (Sub-9F), filed February 29, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract carrier*, transporting *frozen bread products*, from the facilities of Dakota Bake'N Serve, Inc. at (a) Cedar Lake, MI, (b) Jamestown, ND, and (c) Columbus, WI, to points in IL, IN, MA, MN, MT, ND, NY, OH, OR, PA, and WI, under continuing contract(s) with Dakota Bake'N Serve, Inc., of Jamestown, ND. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 142059 (Sub-128F), filed March 3, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting (1) *precast concrete products, modular mausoleum crypt systems and concrete forming systems*, from Oshkosh, WI, to points in IL, IN, IA, KY, MI, MN, MO, ND, SD, and OH, and (2) *precast concrete modular crypt units*, from (a) Dade City, FL, to points in AL, GA, LA, MS, NC, and SC, (b) from Laurel, MD, to points in CT, DE, KY, ME, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, and (c) from St. Louis, MO, to points in AL, AR, IL, IN, IA, LA, KS, KY, MI, MN, MS, NE, ND, SD, OH, OK, TN, and TX. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 142559 (Sub-152F), filed March 3, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting *such commodities as are dealt in by the manufacturers and distributors of cleaning solutions, cleaning compounds and air fresheners* (except comodities in bulk) between Los Angeles, CA, on the the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS. (Hearing site: Los Angeles, CA or Washington, DC.)

Note.—Dual operations may be involved.

MC 143008 (Sub-2F), filed February 29, 1980. Applicant: I. T. G. TRUCKING COMPANY, INC., P.O. Box 2823, Jacksonville, FL 32203. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. *Contract carrier*, transporting *cigars*, in cartons, from Jacksonville, FL to Los Angeles and Oakland, CA, under a continuing contract(s) with Jno. H. Swisher & Son, Inc., of Jacksnville, FL. (Hearing site: Jacksonville, FL.)

MC 143708 (Sub-3F), filed July 2, 1979, published in the **Federal Register** issue of February 14, 1980, and republished this issue. Applicant: DUNES BULK TERMINAL COMPANY, INC., 3965 N. Meridian St., Indianapolis, IN 46208. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *such commodities*, as are dealt in or used by manufacturers and distributors of bakery products, between the facilities of West Baking Company at (a) Fremont, Indianapolis, and Lake Station, IN, and (b) Norwalk, OH, on the one hand, and, on the other, points in AR, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NY, NC, OH, OK, PA, TN, TX, VA, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.) This republication includes Indianapolis which was inadvertently omitted from the previous publication.

MC 144188 (Sub-18F), filed March 3, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting (1) *paper and plastic bags and wrapping paper*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) between the facilities of Terminal Paper Bag Co., Inc. at or near Yulee, FL, on the one hand, and, on the other, points in NC, VA, WV, OH, IN, IL, DE, MD, PA, NJ, NY, CT, MA, RI, MI, WI, MN, IA, MO, KY, and DC, restricted to traffic originating at points or facility in one base and destined to points or facility in the other base. (Hearing site: Harrisburg, PA or Washington, DC.)

Note.—Dual operations may be involved.

MC 144188 (Sub-19F), filed March 3, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *aluminum and aluminum products*, and *materials, equipment, and supplies* used in the manufacture of aluminum and aluminum products, between the facilities of Eastalco Aluminum Company at points in Frederick County, MD, on the one hand, and, on the other, points in PA and NY, restricted to traffic originating at and destined to the indicated points. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note: Dual operations may be invovled.

MC 144368 (Sub-4F), filed March 3, 1980. Applicant: GENPAT, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. *Contract carrier*, transporting *iron and Steel articles*, between points in IL on and north of Interstate Hwy 80, and points in OH, and MI, under continuing contract(s) with Lawndale Steel Company and Hancock steel Processing Co., a subsidiary of Lawndale Steel Company. (Hearing site: Chicago, IL.)

MC 144888 (Sub-9F), filed June 18, 1979 (republication). Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 92 East Main Street, Somerville, NJ 08876. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. *Contract carrier*, transporting *such commodities* as are dealt in or used by manufacturers or distributors of foodstuffs (except commodities in bulk and foodstuffs) (1) from the facilities of Beecham Products Company at Rockwood, MI to Clifton, NJ, Morrisville (Bucks County), PA, Los Angeles, CA, Denver, CO, Savannah, GA, Chicago, IL, Kansas City, MO, Milwaukie, OR, Memphis, TN, and Dallas, TX, (2) from the facilities of Beecham Products Company at Clifton, NJ to Rockwood, MI, Morrisville (Bucks County), PA, Los Angeles, CA, Denver, CO, Savannah, GA, Chicago, IL, Kansas City, MO, Milwaukie, OR, Memphis, TN, and Dallas, TX, and (3) from the facilities of Beecham Products Company at Morrisville (Bucks County), PA to Rockwood, MI, Clifton, NJ, Los Angeles, CA, Denver, CO, Savannah, GA, Chicago, IL, Kansas City, MO, Milwaukie, OR, Memphis, TN, and Dallas, TX, under continuing contract(s) with Beecham Products Company, of Pittsburgh, PA. (Hearing site: Washington, DC.)

Note.—This republication corrects the commodity description.

MC 145119 (Sub-4F), filed March 3, 1980. Applicant: LINT TRANSFER, INC., 4549 Delaware Ave., Des Moines, IA 50313. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier*, transporting (1) *tires, tire parts, an inner tubes*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between the facilities of The Firestone Tire & Rubber Company, at Des Moines, IA, on the one hand, and, on the other, points in IL, MN, MO, ND, SD, and WI, under continuing contract(s) with The Firestone Tire & Rubber Company of Des Moines, IA. (Hearing site: Des Moines, IA or St. Paul, MN.)

Note.—T1Dual operations may be involved.

MC 145768 (Sub-6F), filed March 3, 1980. Applicant: KREILKAMP TRUCKING, INCORPORATED, Rural Route No. 1, Allenton, WI 53002. Representative: Nancy J. Johnson, 103 East Washington Street, Box 218, Crandon, WI 54520. Transporting (1) *farm machinery and accessories and parts for farm machinery* from the facilities of Kasten Mfg. Corp., at or near Allenton, WI, to points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada (except MI, IL, IN, and OH) and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) in the reverse direction. (Hearing site: Madison or Milwaukee, WI.)

MC 146019 (Sub-2F), filed October 17, 1979. Applicant: ST. PETERS TRANSPORTATION COMPANY, INC., 14 Heather Drive, St. Peters, MO 63376. Representative: David L. Pentland, 4952 McPherson, St. Louis, MO 63108. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between O'Fallon, St. Peters, St. Charles, and St. Louis, MO. (Hearing site: St. Louis, MO.)

MC 146078 (Sub-19F), filed February 29, 1980. Applicant: CAL-ARK, INC., 854 Moline St., P.O. Box 394, Malvern, AR 72104. Representative: John C. Everett, P.O. Box A, 140 E. Buchanan, Prairie Grove, AR 72753. Transporting (1) *non-woven synthetic fibers*, (2) *paper and paper products*, and (3) *materials, equipment and supplies* used in the manufacture of the commodities in (1) and (2), between the facilities of Paper Pak Products, Inc., at or near Laverne, CA, on the one hand, and, on the other, points in WA, OR, CA, ID, KS, MO, AR, LA, MS, IA, NB, NC, IN, CO, AZ, NM, AL, TN, IL, TX, OK, UT, NV, SC, GA, KY, MT, and WY. (Hearing site: Laverne or San Francisco, CA.)

MC 146258 (Sub-6F), filed April 25, 1979 (republication). Applicant: M. R. BRUTON, INC., P.O. Box 547, Cuba, MO 65453. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *feed and fertilizer, and feed and fertilizer supplements*, (except commodities in bulk), from points in Salida, CO, to points in IL and MO. (Hearing site: St. Louis, MO)

Note.—This republication corrects the territorial description.

MC 146729 (Sub-9F), filed March 3, 1980. Applicant: JAMES S. HELWIG and ALLEN L. GRIMLAND, d.b.a., H & G LEASING, a partnership, 2509 Inwood Road, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *motor truck coupler parts and trailer coupler parts* (1) between the facilities of Holland Hitch of Texas, Inc., at or near (a) Wylie, TX, (b) Denmark, SC, (c) Whitehouse Station, NJ, (d) Holland, MI, and (e) Milpitas, CA, and (2) from Houston to Dallas, TX, restricted to traffic having a prior movement by water. (Hearing site: Dallas, TX.)

MC 146729 (Sub-10F), filed March 3, 1980. Applicant: JAMES S. HELWIG and ALLEN L. GRIMLAND, d.b.a., H & G LEASING, a partnership, 2509 Inwood Road, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *synthetic resin granules* from the facilities of Ren Plastics at or near Grand Prairie, TX, to

points in MI, OH, WI, and IL. (Hearing

WV, VA, MA, DC, NY, and NJ. (Hearing

Winston-Salem, NC, to points in VA,

points in MI, OH, WI, and IL. (Hearing site: Dallas, TX.)

MC 146898 (Sub-5F), filed March 4, 1980. Applicant: MICKS SERVICE, INC., 2146 Camanche Ave., Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Contract carrier,* transporting *paper and paper products,* from the facility of International Paper Co., at or near Clinton, IA, to points in IL, IN, MN, MO, OH, and WI, under continuing contract(s) with the International Paper Company, of New York, NY. (Hearing site: New York, NY, or Chicago, IL.)

MC 147589 (Sub-4F), filed February 19, 1980. Applicant: BAER'S TRANSIT, INC., 754 Airport Rd., Menasha, WI 54952. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. *Contract carrier,* transporting (a) *wire products, fan guards, grills and bolts,* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a), between Schofield, WI, and St. Louis, MO, under continuing contract(s) with Wiremaid Manufacturing, Inc., of Schofield, WI. Conditions: (1) Applicant shall conduct separately its for-hire carriage and other business operations; (2) Shall maintain separate accounts and records for each operation; and (3) Shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Madison or Milwaukee, WI.)

MC 147868F filed May 21, 1979, previously published in the **Federal Register** issue of March 11, 1980. Applicant: OKLAHOMA WESTERN LINES, INC., Route 2, Checotah, OK 74426. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting *scrap and recycled materials,* between points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI. (Hearing site: Chicago, IL.)

Note.—This republication adds OK to the territorial description. Dual operations may be involved.

MC 148088F, filed August 8, 1979 (republication). Applicant: COUNTRY TRAILS BUS CO., INC., R.D. No. 2, Box 25D, Clarion, PA 16214. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transporting *passengers and their baggage, in the same vehicle with passengers,* in special and charter operations, beginning and ending at points in Clarion, Forest, and Jefferson Counties, PA, and extending to points in OH, MI, IL, NC, FL, LA, TN, WV, VA, MA, DC, NY, and NJ. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—This republication adds the State of NY, as previously published February 20, 1980.

MC 148158 (Sub-7F), filed February 26, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., 1800 United California Bank Bldg., Los Angeles, CA 90017. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Cache, Davis, Salt Lake, Tooele, and Weber Counties, UT, and El Paso County, TX, on the one hand, and, on the other, points in CA, GA, IN, KY, TX, and UT. (Hearing site: Los Angeles, CA.)

MC 148629F, filed November 5, 1979 (republication). Applicant: PARKHILL PIPE SERVICES COMPANY, P.O. Box 45388, Tulsa, OK 74145. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *pipe,* and (2) *pipeline materials* incidental to and used in connection with the construction, repairing, maintenance or dismantling of pipelines between points in the US (including AK but excluding HI), restricted to traffic moving to or from pipeline rights of way, and further restricted against transportation of pipe used for the construction of water and sewage collection and distribution lines. (Hearing site: Dallas, TX.)

Note.—This republication broadens the territorial description and adds the restrictions to the publication of March 11, 1980.

MC 148858 (Sub-2F), filed March 3, 1980. Applicant: DARRELL ANDREWS d.b.a. DARRELL ANDREWS TRUCKING, P.O. Box 654, Siler City, NC 27344. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Contract carrier,* transporting (1) *yarn, elastic, and materials used in the manufacture of hosiery,* from Siler City and Eden, NC and Louisville, KY to Twin Falls, ID, and (2) *hosiery and undergarments,* from Twin Falls, ID, to Siler City, NC, under continuing contract(s) with Kellwood Company, Glendale Group of Siler City, NC. (Hearing site: Durham, NC.)

MC 149178 (Sub-2F), filed February 6, 1980. Applicant: C & N EVANS TRUCKING CO., INC., Route 2, Box 39-E, Stoneville, NC 27048. Representative: Clarence B. Evans (same address as applicant). *Contract carrier,* transporting *metal containers,* from the facilities of National Can Corporation at Winston-Salem, NC, to points in VA, under continuing contract(s) with National Can Corporation of Piscataway, NJ. (Hearing site: Charlotte, NC.)

MC 149218 (Sub-4F), filed March 3, 1980. Applicant: SUNBELT EXPRESS, INC., 118 Hamilton Circle, Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *cleaning, buffing, and polishing compounds, textile softeners, lubricating oil, deodorants, and disinfectants* (except commodities in bulk), from the facilities of Economics Laboratory, Inc. at or near Joliet, IL, to points in AL, FL, GA, KY, NC, SC, TN, and WV. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 149239 (Sub-1F), filed December 17, 1979. Applicant: FORT STEUBEN LIMOSINE SERVICE CO., a corporation, 420 Lee Road, Follansbee, WV 26037. Representative: Owen B. Katzman, 1800 M St., N.W., Suite 800 South, Washington, DC 20036. Transporting *passengers and their baggage,* in special operations, in vehicles limited to ten passengers or less, between Greater Pittsburgh International Airport, on the one hand, and, on the other, points in Hancock, Brooke, and Ohio Counties, WV (except Wheeling, WV), and points in Jefferson, Columbiana, and Harrison Counties, OH. (Hearing site: Weirton, WV.)

MC 150269F, filed February 20, 1980. Applicant: BROWN & LAMBRECHT EARTHMOVERS, INC., Route 30 and Gougar Rd. R.F.D. No. 2, Joliet, IL 60431. Representative: Paul J. Maton, 10 S. La Salle St., Chicago, IL 60603. Transporting *heavy machinery and parts and supplies* for heavy machinery, between the facilities of Caterpillar Tractor Co. at or near Mt. Joy, IA, on the one hand, and, on the other, points in IL. (Hearing site: Chicago, IL, or Davenport, IA.)

MC 150309F, filed March 6, 1980. Applicant: MIDWEST TRANSPORTATION, INC., 1501 East Lincolnway, Ames, IA 50010. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *passengers and their baggage,* in round-trip special and charter operations, beginning and ending at points in Boone and Story Counties, IA, and extending to points in the U.S. (except AK and HI). (Hearing site: Des Moines, IA.)

MC 149218 (Sub-4F), filed March 3, 1980. Applicant: SUNBELT EXPRESS, INC., 118 Hamilton Circle, Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *cleaning, buffing, and polishing compounds, textile softeners,*

lubricating oil, deodorants, and disinfectants (except commodities in bulk), from the facilities of Economics Laboratory, Inc. at or near Joliet, IL, to points in AL, FL, GA, KY, NC, SC, TN, and WV. (Hearing site: Atlanta, GA, or Washington, DC.)

Volume No. 180

Decided: May 15, 1980.

By the Commission, Review Board Number 3. Members: Parker, Fortier, and Hill.

MC 2202 (Sub-633F), filed March 20, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Oceanside, Camp Pendleton, and Temecula, CA, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: San Diego, CA.)

MC 2392 (Sub-137F), filed April 25, 1980. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F St., Omaha, NE 68127. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting (1) *soybean oil,* in bulk, in tank vehicles, from the facilities of Agri Industries at Manning, IA to points in IL, MN, NE, and MO, and (2) *phosphatic solution,* in bulk, in tank vehicles, from the facilities of Texasgulf, Inc., at or near Weeping Water, NE, to points in IL, IA, KS, MN, MO, ND, and SD. (Hearing site: Omaha, NE.)

MC 4963 (Sub-120F), filed March 19, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Suite 501, Perpetual Bldg., 1111 E St. NW., Washington, DC 20004. Transporting *metals and metal products,* between the facilities of Oceana Corporation, at or near Darlington, SC on the one hand, and, on the other, points in IA, MO, AL, GA, SC, NC, TN, WI, IL, IN, KY, MI, OH, WV, VA, PA, MD, DE, NJ, NY, VT, CT, RI, MA, NH, and ME. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Charlotte, NC or Washington, DC.)

MC 16903 (Sub-78F), filed March 24, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248 Indianapolis, IN 46240. Transporting (1) *refractories, refractory products, insulation, and insulating materials,* and (a) *materials, equipment, and supplies* used in the manufacture, distribution and installation of the commodities in (1) above, (except commodities in bulk), between the facilities of A.P. Green Refractories Company, Inc., on the one hand, and, on the other, points in the United States in and east of MT, WY, CO, and NM. (Hearing site: St. Louis, MO.)

MC 30383 (Sub-20F), filed March 6, 1980. Applicant: JOSEPH F. WHELAN CO., INC., 439 West 54th St., New York, NY 10019. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10019. *Contract carrier,* transporting *soap, soap products, stearic acid, vegetable stearine, glycerine, oils, cooking fats, cleaning compounds, lard substitutes, toilet preparations, containers, and such commodities* as are dealt in by retail food stores, (except commodities in bulk), between New York, NY, and Bayonne and Carteret, NJ, on the one hand, and, on the other, points in Dutchess, Orange, Putnam, and Ulster Counties, NY, under continuing contract(s) with Procter & Gamble Manufacturing Company and Procter & Gamble Distributing Company, both of Cincinnati, OH. (Hearing site: New York, NY.)

MC 32882 (Sub-144F), filed March 20, 1980. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same address as applicant). Transporting (1) *insulation, insulated panels and boards,* and (2) *materials, equipment and supplies* used in the installation and manufacture of (1) above (except commodities in bulk), between Salt Lake City, UT, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, MO, AR and LA, restricted to traffic originating at or destined to the facilities to Thermal Systems, Inc. (Hearing site: Salt Lake City, UT.)

MC 47142 (Sub-116F), filed February 22, 1980. Applicant: C. I. WHITTEN TRANSFER COMPANY, a Delaware corporation, P.O. Box 1833, Huntington, WV 25719. Representative: J. G. Dail, Jr., P.O. Box LL, McLean VA 22101. Transporting *torpedoes,* between Keyport, WA, on the one hand, and, on the other, New London, CT, Yorktown, Va, Charleston, SC, and Seal Beach, Fairfiled, and San Diego, CA. Condition: This certificate shall be limited to a term expiring 5 years from the date of issuance. (Hearing site: Washington, DC.)

MC 59292 (Sub-37F), filed March 20, 1980. Applicant: THE MARYLAND TRANSPORTATION COMPANY, a corporation, 1111 Frankfurst Avenue, Baltimore, MD 21225. Representative: Charles J. Braun, Jr. (same address as applicant). Transporting *mining machinery, mining machinery parts, conveyors, conveyor sections* and *conveyor parts,* from (1) Baltimore, MD, and (2) Zelienople, PA, to points in OH and WV, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 61592 (Sub-492F), filed March 21, 1980. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Elisabeth A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting *such commodities* as are dealt in or used by manufacturers of building materials, (except commodities in bulk), between (a) Sellersburg, IN, and (b) Louisville, KY, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 72442 (Sub-48F), filed March 20, 1980. Applicant: AKERS MOTOR LINES, INC., P.O. Box 10303, Charlotte, NC 28237. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Transporting *general commodities,* (except those of unusual value Classes A and B explosives, comodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), between (1) points in GA, SC, and NC, (2) points in GA, SC, and NC on the one hand, and, on the other, Washington, D.C., points in MD, VA, PA, NJ, CT, MA and RI, and (3) New York, NY points in Bergen and Essex counties, NJ, on the one hand, and, on the other, points in Albany, Schenectady, Montgomery, Rensselaer, Columbia, Dutchess, Putnam, Westchester and Rockland Counties, NY. (Hearing site: (1) Charlotte, NC, (2) Washington, D.C.).

MC 78042 (Sub-19F), filed March 20, 1980. Applicant: BEAROFF BROTHERS, INC., P.O. Box 37, Bridgeport, PA 19405. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA, 22101. Transporting *Coke,* from Philadelphia, PA, to points in CT, MA, NY, RI, and WV. (Hearing site: Philadelphia, PA.)

MC 80443 (Sub-34F), filed February 25, 1980. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel

Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *games and toys,* from Eden Valley, MN, to points in the U.S. (except AK, HI, and MN). (Hearing site: Minneapolis, MN.)

MC 87103 (Sub-51F), filed March 21, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., DE CORPORATION, P.O. Box 322, Cuyahoga falls, OH 44222. Representative: Edward P. Bocko, (same address as applicant). Transporting (1) *air conditioning and air filtration equipment,* and (2) *equipment, materials, and supplies,* used in the manufacture or distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Gamewell Mechanical, Inc., at Salisbury, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the named facilities. (Hearing site: Charlotte, NC or Washington, DC.)

Note.—Dual operations may be involved.

MC 87523 (Sub-113F), filed March 19, 1980. Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, 1730 M St., NW, Washington, DC 20036. Transporting *beverages,* in containers, from Boston and Springfield, MA, to points in ME, NH, and VT. (Hearing site: Boston, MA, or Washington, DC.)

MC 105813 (Sub-271F), filed March 21, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 SW 12th St., P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank, vehicles), (1) between those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX, and (2) from points in CA to those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX, restricted in (1) and (2) above to traffic originating at or destined to the facilities of Shurfine-Central , of Northlake, IL. (Hearing site: Chicago, IL.)

MC 107002 (Sub-581F), filed April 25, 1980. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, MS 39204. Transporting *spent catalyst,* in bulk, in tank vehicles, from Pascagoula, MS, to points in TX. (Hearing site: New Orleans, LA or Jackson, MS.)

MC 107103 (Sub-27F), filed March 10, 1980. Applicant: ROBINSON CARTAGE CO., a corporation, 2712 Chicago Dr. SW., Grand Rapids, MI 49509. Representative: Donald Sterken (same address as applicant). Transporting *iron and steel articles,* from the facilities of Jones & Laughlin Steel Co., at or near Cleveland, OH, to points in IN, IL, MI, and WI. (Hearing site: Lansing or Detroit, MI.)

MC 107403 (Sub-1326F), filed March 7, 1980. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, from Missoula, MT, to points in Idaho, Nez Perce, Clearwater, Lewis, Latah, Shoshone, Benewah, Kootenai, Gonner, and Boundary Counties, ID. (Hearing site: Washington, DC.)

MC 109823 (Sub-6F), filed March 24, 1980. Applicant: McGAUGHEY BROS., INC., Third & Center St., Leetsdale, PA 15056. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transporting (1) *iron and steel articles,* and (2) *construction materials, equipment and supplies,* between the facilities of Ampco-Pittsburgh Corporation, Wyckoff Steel Division, at Ambridge and Economy, PA, on the one hand, and, on the other, points in KY and IN. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 109823 (Sub-7F), filed March 24, 1980. Applicant: McGAUGHEY BROS., INC., Third & Center St., Leetsdale, PA 15056. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transporting (1) *iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, (a) between the facilities of Jones & Laughlin Steel Corporation at Pittsburgh and Aliquippa, PA, on the one hand, and, on the other, points in KY, and (b) between the facilities of Jones & Laughlin Steel Corporation at Youngstown, OH, on the one hand, and, on the other, points in WV and KY. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 110563 (Sub-316F), filed March 25, 1980. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N., Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington St., Chicago, IL 60602. Transporting (1) *such commodities* as are dealt in or used by groceries and food business houses, institutions, drug stores, and discount department stores (except foodstuffs and commodities in bulk), and (2) *foodstuffs* (except in bulk), between St. Louis, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO.)

MC 110683 (Sub-148F), filed June 25, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 16th St. NW., Suite 502, Washington, DC 20036. Over regular routes, Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between Nashville, TN, and Lynchburg, VA, from Nashville over Interstate Hwy 40 to its junction with Interstate Hwy 81 then over Interstate Hwy 81 to Roanoke, VA then over U.S. Hwy 460 to Lynchburg, VA, and return over the same route serving all intermediate points in VA. Applicant proposes to tack the authority sought with existing authorities at Nashville and intermediate points in VA. (Hearing site: Washington, DC or Richmond, VA.)

Note.—The purpose of this application is to eliminate Staunton, VA as a gateway point on operations between Nashville and points in Virginia presently authorized to be served by applicant, and to eliminate circuitous mileage. Grant of the application will not authorize service at any point not presently authorized. Applicant has no objection to the imposition of the following restriction: *The authority granted shall not be separable by sale or otherwise from carrier's presently-authorized operating rights.*

MC 111812 (Sub-722F), filed March 17, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting (1) *paper, paper products, cellulose products, vinyl products, and plastic products,* and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by The Georgia-Pacific Corp. and its subsidiaries. (Hearing site: Boston, MA.)

MC 113362 (Sub-383F), filed February 8, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *alcohol liquors,* and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, (except in bulk, in tank vehicles), (a) between Ft. Smith, AR, on the one hand, and, on the other, those points in and east of ND, SD, NE, KS, OK, and TX (except AR and FL); (b) between Bardstown and Louisville, KY, on the one hand, and, on the other, points in TX, OK, AR, MS, and AL; and (c) between Plainfield, IL, on the one hand, and, on the other points in MN, IA, MO, ND, SD, NE, KS, OK, and WI, and those in the Upper Peninsular of MI, restricted to traffic originating at or destined to the facilities of Hiram Walker & Sons, Inc., of Peoria, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 113362 (Sub-384F), filed February 27, 1980. Applicant: ELLSWOTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *such commodities* as are dealt in by discount and retail department stores (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, CO, and NM, restricted to traffic orginating at or destined to the facilities of Target Stores, Division of Dayton-Hudson Corporation. (Hearing site: Minneapolis, MN or Des Moines, IL.)

MC 113843 (Sub-281F), filed March 17, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., an OH corporation, 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Shells (same address as applicant). Transporting *felt,* from Millbury, MA, to Jackson, MI. (Hearing site: Boston, MA.)

MC 114552 (Sub-254F), filed April 25, 1980. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Transporting *waste* and *scrap paper* from points in AL, AR, DE, FL, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV and DC to the facilities of the Georgia Kraft Corporation, an affiliate of The Mead Corporation, at Macon, GA. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 116632 (Sub-27F), filed March 17, 1980. Applicant: H. O. BOUCHARD, INC., MRC Box 141A, Bangor, ME 04401. Representative: John R. McKernan, Jr., P.O. Box 586, Portland, ME 04112. Transporting (1) *baled woodpulp,* (2) *building materials and insulating materials,* and (3) *accessories and supplies* used in the installation of the commodities in (2) above, between Woodland, ME, Burlington and Gilman, VT, Wilmington, MA, Manchester, NH, Manchester, CT, Plattsburg, Thomson, Lyons Falls, Syracuse, Albany, Akron, Buchanan, Binghamton, and Nassau, NY, Del-Air and Clifton, NJ, Reading, PA, Franklin, Cincinnati, Dayton and Columbus, OH, Kalamazoo and Detroit, MI, Gary, Elkhart, Ft. Wayne, and Evansville, IN, Bloomington, IL, Milmington, DE, Baltimore, MD, and Emporia, VA. (Hearing site: Portland, ME, or Boston, MA.)

MC 116763 (Sub-650F), filed March 18, 1980. Applicant: CARL SUBLER TRUCKING, INC., a FL corporation, North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting *general commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities requiring the use of special equipment, automobiles, trucks and buses as described in the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Waverly Mineral Products Company, a Division of The Johnson-March Corp. (Hearing site: Philadelphia, PA.)

MC 117373 (Sub-1F), filed February 25, 1980. Applicant: NU-WAY TRUCKING INC., 101 East Monroe, Owensville, MO 65066. Representative: Dennis D. Dunton (same address as applicant). *Contract carrier,* transporting (1) *steel tubing and materials, equipment, and supplies* used in the manufacture and distribution of steel tubing (except commodities in bulk, and those which because of size and weight require the use of special equipment), between the facilities of Maverick Tube Corp., at or near Union, MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KY, KS, OK, and TX, under continuing contract(s) with Maverick Tube Corp., of Union, MO. (Hearing site: St. Louis or Jefferson City, MO.)

MC 119493 (Sub-371F), filed March 17, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting (1) *feed* (except in bulk), and (2) *materials, and supplies* used in the manufacture and distribution of feed (except commodities in bulk), between Portland, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 119552 (Sub-7F), filed March 21, 1980. Applicant: JTL, INC., 49 Rosedale St., Providence, RI 02903. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW., Washington, DC. 20036. *Contract carrier,* transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Dallas, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Simkins Industries, Inc., of Dallas, TX. (Hearing site: Dallas, TX.)

MC 123272 (Sub-47F), filed March 24, 1980. Applicant: FAST FREIGHT, INC., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *malt beverages,* from the facilities of Stroh's Brewery Company, at or near Detroit, MI, and Perrysburg, OH, to points in GA. (Hearing site: Chicago, IL.)

MC 124393 (Sub-5F), filed February 25, 1980. Applicant: FRANK POTTER TRUCKING CO., a corporation, P.O. Box 132, Bonnville, MO 65233. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Contract carrier,* transporting: *beer and cocktail mixes,* from Milwaukee WI, Ft. Worth and Dallas, TX, Omaha, NE, Evansville, IN, and Byhalia, MS, to Boonville, Moberly, Jefferson City, and Sedalia, MO. (Hearing site: Kansas City, MO.)

MC 125433 (Sub-401F), filed March 25, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *power pumps,* and (2) *parts and accessories* for power pumps, from the facilities of Peerless Pump Company, at Fresno, CA, to points in the U.S. (except AK and HI), restricted to traffic originating at the named facilities. (Hearing site: San Francisco, CA.)

MC 125433 (Sub-402F), filed March 26, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). Transporting (1) *hydraulic platform lifts, scissor type,* and (2) *parts, attachments and accessories* used in the manufacture, assemblage and distribution of the commodities in (1) above, between Grand Junction, CO, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Smith Tool Company. (Hearing site: Denver, CO.)

MC 125433 (Sub-403F), filed March 25, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). Transporting (1) *fireplaces and parts* for fireplaces, and (2) *material, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, from the facilities of Marco Manufacturing, Inc., at Lynwood, CA, to points in the U.S.

(except AK and HI), restricted to traffic

MC 133262 (Sub-2F), filed March 24,

TRANSPORTATION, INC., P.O. Box

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(except AK and HI), restricted to traffic originating at the named origin. (Hearing site: Los Angeles, CA.)

MC 126133 (Sub-5F), filed February 21, 1980. Applicant: GENERAL LEASING, INC., 1621 South 15th Street, Prairie du Chien, WI 53821. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Contract carrier,* Transporting *malt beverages* from (1) Omaha, NE, (2) St. Paul, MN and (3) Monroe, WI to Dubuque, IA, under a continuing contract(s) with Best Beers Corporation of Dubuque, IA. Conditions: (1) Applicant shall maintain separate accounts and records for his for-hire carrier operations as distinct from his other business activities, and (2) he shall not at the same time and in the same vehicle transport property both as a private carrier and a for-hire carrier. (Hearing site: Dubuque, IA or Chicago, IL.)

MC 126822 (Sub-88F), filed April 25, 1980. Applicant: WESTPORT TRUCKING COMPANY, a corporation, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt, (same as applicant). *(1) Air conditioning and heating ducts and registers and (2) equipment, materials, and supplies* used in the installation of the commodities in (1) above from points in the U.S. (except AK and HI), to the facilities of Goodman Manufacturing Corporation, at or near Houston, TX. (Hearing site: Houston, TX.)

MC 129063 (Sub-23F), filed March 24, 1980. Applicant: JIMMY T. WOOD, P.O. Box 248, Ripley, TN 38063. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *dry urea,* in bulk, in tank vehicles, from the facilities of W. R. Grave & Co., at or near Woodstock, TN, to points in AR, LA, TX, OK, MO, IL, IN, OH, KY, MS, and AL. (Hearing site: Memphis, TN.)

MC 129913 (Sub-3F), filed March 14, 1980. Applicant: W. C. DEAN, SR., TRUCKING, INC., 495 South Rd., Poughkeepsie, NY 12601. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. *Contract carrier,* transporting (1) *diesel engines, batteries, central office equipment, generators, and trailers,* and (2) *materials and supplies* used in the installation of the commodities in (1) above, between Greenwich, CT, on the one hand, and, on the other, points in Dutchess, Greene, Orange, Sullivan, Ulster, Columbia, Delaware, Putnam, Rockland, Westchester, Queens, Suffolk, and Nassau, Counties, NY, under continuing contract(s) with New York Telephone Co., of White Plains, NY. (Hearing site: Albany, NY.)

MC 133262 (Sub-2F), filed March 24, 1980. Applicant: TIGGES TRUCKING, INC., 5071 JFK Rd., Dubuque, IA 52001. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *sand and gravel,* in bulk, from Bellevue, IA, to East Dubuque, IL. (Hearing site: Chicago, IL.)

MC 134922 (Sub-324F), filed February 25, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: (same address as applicant). Transporting (1) *water clarifying compounds, water hardening compounds, water purifying compounds, and water softening compounds,* (except commodities in bulk), and (2) *coal tar resins and petroleum resins,* (except commodities in bulk), from the facilities of Diamond Shamrock Corporation, at or near Redwood City, Oakland, and San Leandro, CA, to points in the U.S. (except AK and HI). (Hearing site: San Francisco, CA, or Little Rock, AR.)

MC 135012 (Sub-5F), filed March 21, 1980. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Rd. NE., Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–1, Grand Rapids, MI 49503. *Contract carrier* transporting *chemicals,* in bulk, in tank vehicles, from Cook and Madison Counties, IL, to points in MI, under continuing contract(s) with Chemcentral, of Wyoming, MI. (Hearing site: Lansing or Detroit, MI.)

Note.—Dual operations may be involved.

MC 135052 (Sub-27F), filed March 21, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. Transporting *plastic articles and commodities* used in the manufacture and distribution of the foregoing commodities (except commodities in bulk, in tank vehicles) between Indianapolis, IN, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 135052 (Sub-28F), filed March 25, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. Transporting *paper and paper products* (1) from Hazelwood, MO, to points in AR, IL, IN, KY, MI, OH, PA, TN, WI, and WV, and (2) from St. Marys, GA, to points in AL, FL, KY, MS, NC, SC, and TN. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 136343 (Sub-215F), filed March 25, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting *sodium bicarbonate,* in bags, from the facilities of Church & Dwight Co., Inc., in Seneca, Sandusky, Ottawa, Erie, Huron, Crawford, Wyandot, Hancock, Wood, Richland, and Lucas Counties, OH, to points in AL, CT, DE, FL, GA, KY, MA, MD, ME, NH, NC, NJ, NY, PA, RI, SC, TN, VA, VT, WV, and DC, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 138322 (Sub-22F), filed March 18, 1980. Applicant: BHY TRUCKING, INC., 9231 Whitmore St., El Monte, CA 91733. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting *cat litter,* in packages, from Maricopa CA, to those points in and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary Line between the United States and Canada. (Hearing site: Los Angeles or San Francisco, CA.)

MC 138882 (Sub-359F), filed March 24, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *plumbing supplies,* from the facilities of Briggs, a Division of Celotex, at (a) Abingdon and Robinson, IL, and (b) Knoxville, TN, on the one hand, and, on the other, those points in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Tampa, FL, or Montgomery, AL.)

MC 140193 (Sub-11F), filed March 25, 1980. Applicant: RICH GRANT, INC., 910 West 24th St., Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. *Contract carrier,* transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from points in MN, IA, and NE, to points in UT, under continuing contract(s) with Dean & Co., of Salt Lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 141532 (Sub-76F), filed March 21, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 3328 East Valley Rd., Renton, WA 98055. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. Transporting *iron and steel pipe fittings,* from the facilities of Wheeling-Pacific, Division of Wheeling Machine Products Co., at or near Woodlake, CA, to points in CO, KS, LA, MO, OH, OK, TX, and WV. (Hearing site: Washington, DC.)

MC 141532 (Sub-78F), filed March 24, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 3328 East Valley Rd., Renton, WA 98055. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. Transporting *hand tools,* from the facilities of Warwood Tool Co., at or near Wheeling, WV, to points in CA and WA. (Hearing site: Washington, DC.)

MC 141652 (Sub-39F), filed March 25, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MI 39208. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *steel doors,* (2) *door frames,* (3) *parts and accessories* for the commodities in (1) and (2) above, and (4) *materials, equipment, and supplies* used in the installation of the commodities in (1), (2) and (3) above (except commodities in bulk), from the facilities of Ceco Corporation, at or near (a) Milan, TN, and (b) Oklahoma City, OK, to points in AZ, CA, CO, ID, MT, NE, NM, OR, UT, WA, and WY. Condition: Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation, at applicant's written request, of certificates No. MC 141652 (Sub-8) and (Sub-34), issued September 7, 1977 and April 30, 1980, respectively. (Hearing site: Jackson, MS.)

MC 141932 (Sub-29F), filed March 24, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). Transporting (1) *plastic articles,* and (2) *materials, equipment, and supplies* used in the manufacture or distribution of plastic articles, between Montgomery, AL, Lawrenceburg, TN, Macomb, IL, and Peabody and Salem, MA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Webster Industries, Inc. (Hearing site: Boston, MA.)

Note.—Dual operations may be involved.

MC 141932 (Sub-32F), filed April 25, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). *Such commodities* as are dealt in by (1) grocers, food business houses, chain department stores and food stores and (2) *materials, equipment and supplies* used in the conduct of such business (except commodities in bulk) between the facilities of Statler Tissue Company at points in ME and MA, on the one hand, and, on the other, points in the U.S. in and east of IL, MO, AR, and TX, restricted to traffic originating at the named facilities. (Hearing site: Boston, MA.)

Note.—Dual operations may be involved.

MC 144622 (Sub-155F), filed March 26, 1980. Applicant: GLENN BROS., TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address as applicant). Transporting *general commodities* (except classes A and B explosives, and commodities in bulk) (1) from points in Los Angeles and Orange Counties, CA, to points in Dubois County, IN, and Caldwell County, KY, having a prior movement be water, and (2) from points in Caldwell County, KY, to points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR.)

Note.—Dual operations may be involved.

MC 144622 (Sub-157F), filed March 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address and applicant). Transporting (1) *foodstuff and food ingredients,* and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, between the facilities of Morton Foods, at or near Crozet, Va, Searcy and Russellville, AR, on the one hand, and, on the other, points in the U.S. (except AK, HI, MT, OR, UT, WA, ID, and DC). (Hearing site: Little Rock, AR.)

Note.—Dual operations may be involved.

MC 144622 (Sub-158F), filed March 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address as applicant). Transporting *refractories, foundry supplies, chemicals, and chemical products* (except commodities in bulk), (1) from Chicago, IL, to Chattanooga, TN, and points in AL and TX, and (2) from points in OR and NV, to Cleveland, OH. (Hearing site: Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145102 (Sub-52F), filed March 21, 1980. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting (1) *foodstuffs* from Beaver Dam, WI, to points in CA, IL, and OR, and, (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above from points in CA, to Beaver Dam, WI. (Hearing site: Madison or Beaver Dam, WI.)

Note.—Dual operations may be involved.

MC 146153 (Sub-2F), filed February 21, 1980. Applicant: HOWARD KIRKHAM, d.b.a. H & H TRUCK SERVICE, Rte. #9, Box 328, Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from (a) Schuyler and Fremont, NE, (b) Des Moines, Dubuque, and Denison, IA, (c) Rochelle, IL, and (d) Montgomery, AL, to Paducah, KY. (Hearing site: Louisville, KY.)

MC 146293 (Sub-53F), filed March 27, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Road, N.E., Atlanta, GA 30326. Transporting *canned goods,* from the facilities of Woldert Canning, Inc., at or near Lindale and Tyler, TX, to points in the U.S. (except AK, HI, ID, ME, MT, ND, NH, NV, OR, SD, UT, VT, WA and WY). (Hearing site: Dallas, TX or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 146293 (Sub-58F), filed March 25, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S., 3390 Peachtree Rd., NE., Atlanta, GA 30326. Transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in CA, GA, IL, KS, MO, OH, PA, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at the indicated origins or destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146293 (Sub-59F), filed March 25, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettlebaum, Fifth Floor, Lenox Towers, S., 3390 Peachtree Road, N.E., Atlanta, GA 30326. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and

those requiring special equipment), between the facilities of Kimberly-Clark Corporation, Richmond County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Milwaukee, WI, or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 146293 (Sub-60F), filed March 25, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettlebaum, Fifth Floor, Lenox Towers, S., 3390 Peachtree Road, N.E., Atlanta, GA 30326. Transporting *fluorescent light fixtures* and *parts and accessories* for fluorescent lighting fixtures (except commodities in bulk), between Kingston, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Philadelphia, PA, or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 147993 (Sub-2F), filed March 17, 1980. Applicant: C. H. MASLAND & SONS, a corporation, Box 40, 50 Spring Rd., Carlisle, PA 17013. Representative: J. Roger Gratz (same address as applicant). *Contract carrier*, transporting (1) *automobile parts and accessories*, and (2) *materials, equipment, and supplies used* in the manufacture and distribution of automobiles and trucks, (except commodities in bulk), from points in IL, MI, and OH, to points in GA, NJ, and VA, under continuing contract(s) with Ford Motor Company, of Dearborn, MI. Conditions: (1) The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary; (2) applicant shall conduct separately its for-hire carriage and other business operations; (3) shall maintain separate accounts and records for each operation; and (4) shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Harrisburg, PA, or Detroit, MI.)

MC 148183 (Sub-20F), filed March 20, 1980. Applicant: ARROW TRUCK LINES, INC., Post Office Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Building, 425—13th Street, NW., Washington, DC 20004. Transporting (1) *Meats and meat products*, (2) *foodstuffs* in containers, in vehicles equipped with mechanical refrigeration, from points in Hall and Jackson County, GA, to points in AL, FL, IL, IN, KY, LA, MD, MI, MO, MN, MS, NC, NY, OH, PA, SC, TN, VA, WI, and DC (Hearing site: Atlanta, GA or Washington, DC.)

MC 149343 (Sub-1F), filed February 21, 1980. Applicant: SOUTHERN PRIDE TRUCKING, INC., P.O Box 80681, San Diego, CA 92138. Representative: Kenneth F. Dudley, 1501 East Main, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *boats*, between points in CA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, LA, MD, MA, MS, NH, NH, NY, NC, OR, RI, TN, TX, VA and WA, (2) *machine shop and construction machinery, truck bodies and racks*, between points in CA, on the one hand, and, on the other, points in AL, AZ, CT, FL, GA, LA, MA, MS, NH, NJ, NY, NC, OH, PA, SC, TX and VT, (3) *aircraft engines, turbines and parts* for the foregoing commodities, betwen points in CA, on the one hand, and, on the other, points in AZ, CO, CT, FL, GA, IL, KY, NY, SC, TN, TX and WA, and (4) *generators and electrical supplies*, between points in AL and MN, on the one hand, and, on the other, points in AZ, CA, CT, FL, IL, KY, SC and TX. (Hearing site: Los Angeles, or San Francisco, CA.)

MC 150123F, filed, February 19, 1980. Applicant: AIRPORT SPECIAL DELIVERY, INC., 15411 Chatfield Ave, Cleveland, OH 44111. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers of automobiles and trucks and automobile and truck parts, (except automobiles and trucks and commodities in bulk), (1) between points in OH, and (2) between points in OH and the facilities of American Motors Corporation, at or near South Bend, IN. (Hearing site: Cleveland or Columbus, OH).

MC 150233 (Sub-1F), filed March 20, 1980. Applicant: NATIONAL TRUCKLINES, INC., 700 21st Street SW, Watertown, SD 57201. Representative: James B. Hovland, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55402. Transporting (1) (i) *pre-fabricated building*, knocked down, and (ii) *materials, equipment and supplies* used in the installation and erection of the commodities in (1) above, from the facilities of (a) Miracle Span Corporation at or near Watertown, SD, and (b) Aztec Steel Corporation at or near Ft. Madison, IA, to points in the US (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction, under continuing contract(s) with (a) Miracle Span Corporation, of Watertown, SD and (b) Aztec Steel Corporation of Mississauga, Ontario. (Hearing site: St. Paul, MN, or Des Moines, IA.)

MC 150263 (Sub-1F), filed February 19, 1980. Applicant: HOPKINS AIRPORT LIMOUSINE SERVICE, INC., 2903 Wellington Ave., Parma, OH 44134. Representative: E. H. van Duesen, 220 West Bridge St., P.O. Box 97, Dublin, OH 43017. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Ashtabula, Cuyahoga, Erie, Geauga, Huron, Lake Logan, Lorain, Medina, Portage, Stark, Summit, Trumbull, and Wayne Counties, OH, and extending to points in the U.S. (except AK and HI). (Hearing site: Columbus, OH.)

MC 150402F, filed March 21, 1980. Applicant: A–1 AUTO TRAVEL-TRANSPORT CO., INC., 21729 Statler Blvd., St. Clair Shores, MI 48081. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226. Transporting *used passenger automobiles and used trucks*, in secondary movements, in driveaway service, between points in IN, MI, and OH, on the one hand, and, on the other, points in the U.S. (including AK and HI) Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 (a) or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Detroit, MI.)

Volume No. 181

Decided: May 16, 1980.

By the Commission, Review Board Number 1. Members: Carleton, Joyce and Jones.

MC 1668 (Sub-9F), filed March 5, 1980. Applicant: RITEWAY EXPRESS, INC., 397 East 54th St., Elmwood Park, NJ 07407. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NJ, on the one hand, and, on the other, New York, NY; points in Pike County, PA, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster and Westchester Counties, NY; and points in NJ. (Hearing site: New York, NY.)

MC 29079 (Sub-168F), filed January 17, 1980 (republication). Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, NW., Washington, DC 20006. Transporting *metal and metal articles, and material, supplies and equipment* used in connection therewith (except in bulk) between points in AL on and north of U.S. Hwy 80, on the one hand, and, on the other, points in AL, AR, DE, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

Note.—This republication broadens the commodity description.

MC 23618 (Sub-61F), filed February 26, 1980. Applicant: McALISTER TRUCKING COMPANY, a corporation, d.b.a. MATCO, 2041 S. Treadaway Blvd., Abilene, TX 79604. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *Iron and steel articles*, from points in TX bounded by a line beginning at junction U.S. Hwy 271 and TX Hwy 155, and extending along TX Hwy 155 to junction TX Hwy 8, then along TX Hwy 8 to junction TX Hwy 77, then along TX Hwy 77 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 271, then along U.S. Hwy 271 to point of beginning, to points in the US (except AK and HI); and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

MC 31389 (Sub-295F), filed March 6, 1980. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First St., Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Cape Girardeau, Stoddard, Scott and New Madrid Counties, MO, as intermediate and off-route points in connection with applicant's authorized regular-route operations. (Hearing site: St. Louis, MO, or Memphis, TN.)

MC 56799 (Sub-8F), filed March 10, 1980. Applicant: CLAXON TRUCK LINE, INC., P.O. Box 678, Frankfort, KY 40602. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. Transporting *materials, equipment, and supplies* used in the manufacture of applicance parts, between the facilities of General Electric Company at or near Frankfort, KY, on the one hand, and, on the other, the facilities of General Electric Company at or near Bloomington, IN, restricted to traffic originating at and destined to the named facilities. (Hearing site: Frankfort, KY, or Louisville, KY.)

MC 72069 (Sub-29F), filed January 30, 1980. Applicant: BLUE HEN LINES, P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Office Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. Transporting *malt beverages*, from the facilities of Pabst Brewing Company, in Houston County, GA, and at Newark, NJ, to points in MD and DE. (Hearing site: Washington, DC.)

MC 74169 (Sub-7F), filed March 13, 1980. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main St., Ralston, NE 68127. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. Transporting *household goods* as defined by the Commission, between points in PA, NY, MD, VA, WV, IL, NE, MI, SD, ID, MO, OH, IN, IA, CO, KY, WY, MN, KS, WI, and DC, on the one hand, and, on the other, points in CA, OR, WA, AZ, NM, UT, NV, MT, ND, OK, TX, AR, LA, MS, TN, AL, GA, FL, SC, and NC. (Hearing site: Omaha, NE.)

MC 103798 (Sub-51F), filed March 14, 1980. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *foodstuffs*, from (a) the facilities of Land O'Lakes, Inc. at Hudson, IA and (b) the facilities of Estherville Foods at Estherville, IA, to points in IL, KS, MO, and NE. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 106398 (Sub-1023F), filed November 19, 1979, previously noticed in **Federal Register** issue of March 14, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 525 South Manin Main, Tulsa, OK 74103. Transporting (1) *railroad wheels and accessories* for railroad wheels, and (2) *materials and supplies* used in the manufacture and distribution of railroad wheels, between Keokuk, IA, Colton, CA, Kansas City, KS, Bessemer, AL, Bensenville and Chicago, IL, and Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportatioin of traffic originating at or destined to the facilities of Griffin Wheel. (Hearing site: Des Moines, IA.)

Note.—This republication adds part (2) to the commodity description and broadens the territory description.

MC 106398 (Sub-1066F), filed March 4, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *iron or steel machinery*, from the facilities of Clarksville Machine Works at Clarksville, AR, to points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR.)

MC 108119 (Sub-245F), filed March 7, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting (1) *iron and steel rings*, (2) *pipe fittings*, and (3) *rough forgings*, from the facilities of Ladish Company at Cudahy, WI, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 108119 (Sub-246F), filed March 10, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104 Transporting *construction machinery*, from the facilities of Rexnord, Inc., Construction Machinery Division, at Milwaukee, WI, to points in the U.S. (except AK and HI). (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 108119 (Sub-248F), filed March 10, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting *fabricated steel*, from the facilities of Gruman Company at points in Milwaukee County, WI, to points in the U.S. (except AK and HI). (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 108859 (Sub-78F), filed November 19, 1979, previously noticed in the **Federal Register** issue of March 14, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., North, Escanaba, MI 49820. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* (except commodities in bulk, or those requiring the use of special equipment), used in the manufacture or distribution of commodities named in (1) above, between the facilities of (a) Manistique Pulp and Paper Company, at or near Manistique, MI, (b) Badger Paper Mills, Inc., at or near Peshtigo, WI, (c) Scott Paper Company, at or near Fond du Lac, Green Bay, Marinette and Oconto Falls, WI, (d) American Can Company, at or near Green Bay, WI, (e) Menominee Paper Co., division of Bell Fibre Products Corp., at or near Menominee, MI, (f) Niagara of Wisconsin Paper Corp., at or near Niagara, WI, on the one

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hand, and, on the other, Effingham, IL, points in IN, MI, OH, those in WI on and east of U.S. Hwy 51, and those in IL on and north of U.S. Hwy 36. (Hearing site: Chicago, IL.)

Note.—This republication adds Effingham, IL to the radial part of the territorial description.)

MC 110288 (Sub-8F), filed September 26, 1979 (republican). Applicant: HARRY HENERY, INC., 3517 W. Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *iron and steel articles,* from the facilities of Bekaert Steel Wire Corporation at or near Van Buren, AR to points in the United States. (Hearing site: Little Rock, AR.)

Note.—This republication broadens the territorial description published February 20, 1980, and April 8, 1980.)

MC 110659 (Sub-31F), filed February 5, 1980, previously noticed in **Federal Register** issue of April 22, 1980. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia Street, West, Charleston, WV 25302. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Transporting *malt beverages,* in containers, (a) from Newark, NJ, to Charleston and Huntington, WV, (b) from Eden, NC, and Milwaukee, WI, to Huntington, WV, (c) from Perry, GA, to Charleston, WV, (d) from Columbus, OH, and Williamsburg, VA, to points in Greenbrier County, WV, and (e) from points in Wood County, OH, to points in WV. (Hearing site: Charleston, WV) This republication is to show in part (d) Greenbrier County, WV, in lieu of Greenbrier County, OH.

MC 113658 (Sub-33F), filed March 6, 1980. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO 80216. Representative: Richard J. Loose, P.O. Box 16346, Denver, CO 80216. Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods Inc. at or near Garden City, KS, to points in IL, IN, MI, OH, KY, FL, TN, MS, AL, GA, SC, NC, VA, WV, DE, RI, MD, NJ, NY, PA, CT, and MA.

Note.—The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. Dual operations may be involved. (Hearing site: Denver, CO, or Kansas City, MO.)

MC 113658 (Sub-34F), filed November 15, 1979. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO 80022. Representative: Richard J. Loose (same address as applicant). Transporting *food products,* from the facilities of Fearn International, Inc., at or near Franklin Park, IL, to Colorado Springs, CO. (Hearing site: Chicago, IL, or Denver, CO.)

Note.—Dual operations may be involved. The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 113658 (Sub-35F), filed March 14, 1980. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO 80216. Representative: Richard J. Loose, P.O. Box 16346, Denver, CO 80216. Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation at or near Dodge City, KS, to points in the U.S. (except AK and HI), restricted to traffic originating at the named origin. (Hearing site: Kansas City, KS, or Denver, CO.)

Note.—The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. Dual operations may be involved.

MC 113678 (Sub-867F), filed March 10, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *alcoholic beverages* (except commodities in bulk, in tank vehicles), from points in IL, IN, KY, MD, MA, MI, NJ, NY, PA, and TN, to points in the U.S. in and west of MI, OH, KY, MO, AR, and LA (except AK and HI.) (Hearing site: Denver, CO.)

MC 114569 (Sub-369F), filed March 10, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *printed matter,* and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of printed matter (except commodities in bulk), between the facilities of R. R. Donnelley and Sons Company and its subsidiaries at or near Gallatin, TN, Glascow, KY, Lancaster, PA, Harrisonburg, VA, and Spartanburg, SC, on the one hand, and, on the other, points in CA, CO, CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, MN, MO, NH, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VA, WA, WV, WI, and DC. (Hearing site: Chicago, IL, or Harrisonburg, PA.)

MC 114969 (Sub-93F), filed March 10, 1980. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, OH 45150. Representative: James R. Stiverson, 1396 West Fifth Ave., Columbus, OH 43212. Transporting *liquefied petroleum gas,* in bulk, in tank vehicles, from the facilities of Ashland Oil, Inc. at or near Catlettsburg, KY, to points in OH, PA, VA, and WV. Condition: Any certificate issued in this proceeding shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Washington, DC.)

MC 116519 (Sub-82F), filed February 26, 1980. Applicant: FREDERICK TRANSPORT LIMITED, R.R. No. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. In foreign commerce only transporting *such commodities* as are dealt in or used by manufacturers, distributors, and dealers of (1) agricultural equipment, (2) construction equipment, (3) forestry equipment, (4) industrial equipment, (5) irrigation equipment, (6) lawn care and leisure products, and (7) equipment used in the maintenance, feeding, and housing of hogs, livestock, and poultry, (except commodities in bulk), between those ports of entry in the international boundary line between the U.S. and Canada in MI, NY, VT, NH, and ME, on the one hand, and, on the other, points in the U.S. (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY). (Hearing site: Washington, DC.)

MC 119099 (Sub-31F), filed March 7, 1980. Applicant: BJORKLUND TRUCKING, INC., 1st Ave. NE & 8th St., Buffalo, MN 55313. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *roofing,* and *materials, equipment, and supplies* used in the manufacture and distribution of roofing, (a) between Chicago, Wilmington, and Peoria, IL, on the one hand, and, on the other, points in IA, MN, MT, ND, SD, and WI, and (b) between St. Paul, MN, on the one hand, and, on the other, points in ND, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 119789 (Sub-684F), filed March 4, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant).

Transporting (1)(a) *outdoor recreational equipment, and heating and air conditioning apparatus,* (b) *parts* for the commodities in (a), from Wichita, KS, to points in the U.S. (except AL, AK, FL, GA, HI, MS, and SC), and (2) *materials and supplies* used in the production of the commodities in (1) above (except commodities in bulk), from points in the U.S. (except AK and HI) to Wichita, KS. (Hearing site: Wichita, KS.)

MC 119988 (Sub-239F), filed March 4, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting *foodstuffs,* from El Paso, TX, to points in the U.S. (except AK and HI). (Hearing site: Dallas or El Paso, TX.).

MC 119988 (Sub-241F), filed March 4, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting *rubber compound and solvent* in containers, between Placentia, CA, on the one hand, and, on the other, St. Louis, MO, and points in CT, KS, OK, TX, and WA. (Hearing site: Dallas, TX, or San Francisco, CA.)

MC 125708 (Sub-198F), filed March 7, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd St., East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting (1) *aluminum ingots and zinc alloy ingots,* from Maple Heights, OH, to points in AL, IL, IN, IA, KY, MI, MN, MO, NJ, PA, TN, and WI; and (2) *zinc articles and aluminum scrap,* in the reverse direction. (Hearing site: Lakewood, OH, or Washington, DC.)

MC 126118 (Sub-232F), filed March 10, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in by manufacturers and distributors of doors (except commodities in bulk, in tank vehicles), between Grand Island, NE, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NE). (Hearing site: Lincoln or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126679 (Sub-20F), filed March 6, 1980. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *plastic pipe and accessories for plastic pipe,* from the facilities of American Pipe & Plastics, Co., at (a) Kirkwood, NY and (b) Greenville, SC, to points in AL, DE, FL, GA, MD, MS, NJ, NY, NC, PA, SC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 128698 (Sub-22F), filed December 31, 1979, previously notices in **Federal Register** issue of March 18, 1980. Applicant: ERDNER BROS., INC., Davidson Road, Swedesboro, NJ 08085. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, Washington, DC 20005. Transporting (1) *such merchandise as is dealt in by chain grocery stores and food business houses,* and (2) *materials, equipment, and supplies* used in their manufacture and distribution (except in bulk), between Omaha, NE, and those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Campbell Soup Company and its affiliates and subsidiaries. (Hearing site: Washington, DC.)

Note.—This republication broadens the territorial description.

MC 129908 (Sub-33F), filed March 4, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). Transporting *household appliances,* from the facilities of Magic Chef, Div. of Magic Chef, Inc., at Cleveland, TN, to points in KS, NE, OK, and TX. (Hearing site: Chattanooga, TN.)

MC 133689 (Sub-333F), filed March 5, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *lamp ballast,* from Danville, IL, to points in MD, MA, NJ, NY, and PA. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-335F), filed March 10, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), between the facilities of Associated Shippers, Inc. at or near St. Louis, MO, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-336F), filed March 10, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *games and toys, and materials, equipment, and supplies* used in the manufacture and distribution of games and toys, between Minneapolis and Mound, MN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-337F), filed March 10, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *lead products,* and *materials, equipment, and supplies* used in the manufacture and distribution of lead products (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, Murfreesboro, TN. (Hearing site: St. Paul, MN.)

MC 138438 (Sub-80F), filed March 7, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transporting *lime and limestone products,* from the facilities of The J. E. Baker Company, at or near West Manchester Township, (York County) PA, to points in MD, VA, DE, NY, NJ, OH, WV, and DC. (Hearing site: York, PA.)

Note.—Dual operations may be involved.

MC 140768 (Sub-44F), filed August 20, 1979, previously noticed in **Federal Register** issue of February 26, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *malt beverages,* from the facilities of G. Heileman Brewing Company, Inc., at or near Evansville, IN, to points in AL, LA, MS, KY, and TN, (2) (a) *charcoal briquets, vermiculite, active carbon, hickory chips, charcoal lighter fuel, charcoal grills and accessories* for charcoal grills, from the facilities of Husky Industries, Inc., at or near Scotia and Stamford, NY to points in CT, DE, KY, MA, ME, MD, NH, NJ, OH, PA, RI, VA, VT, WV, and DC, and (b) *materials, equipment and supplies* used in the manufacture and distribution of the commodities specified in (2) (a) (except commodities in bulk and those which, because of size or weight, require the use of special equipment), in the reverse direction, (3) *such commodities* as are dealt in or used by grocery, department, and food business houses, (except commodities in bulk and those which, because of size or weight, require the use of special equipment) from the facilities of Lever Brothers Company at or near (a) Baltimore, MD.

MC 140829 (Sub-356F), filed March 10, 1980. Applicant: CARGO, INC., P.O. Box

206, U.S. Hwy. 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *paper and paper articles,* from Dallas, TX and Memphis, TN, to those points in the United States in and east of MT, WY, CO, and NM, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-357F), filed March 10, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy. 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *foodstuffs,* and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MT, WY, CO, and NM, restricted to traffic originating at or destined to facilities used by Pet Incorporated, Frozen Foods Division. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-358F), filed March 10, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy. 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *ferrous sulphate, fertilizer and animal feed* (except commodities in bulk, in tank vehicles), from the facilities of Cosmin Corporation at or near Baltimore, MD, to points in IL, IN, IA, NJ, NY, OH, PA, and VA, restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142059 (Sub-129F), filed March 4, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *paper products* (except in bulk), from Downingtown, PA, to points in the United States (except AK and HI), restricted to traffic originating at the facilities of Dopaco, Inc. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 142449 (Sub-6F), filed December 12, 1979, originally published in **Federal Register** issue of March 18, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, IN 46204. Transporting (1) *synthetic cloth, filters, air-filtering pads, vehicle body padding or seats, plastic or rubber padding,* and (2) *materials and supplies* used in their production between Michigan City, IN, on the one hand, and, on the other, points in IL, MI, WI, MO, OH, and IA. This republication shows the addition of Iowa. (Hearing site: Indianapolis, IN.)

MC 143868 (Sub-8F), filed March 6, 1980. Applicant: R.E.T.E.N.O. CARRIERS, INC., P.O. Box 1438, Willmar, MN 56201. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. *Contract carrier,* transporting (1) *fabricated steel,* from Lakeland, WI, to points in CO, IA, KS, MI, MN, MT, NE, ND, SD, UT, and WY; (2) *materials, equipment, and supplies* used in the manufacture and distribution of fabricated steel, in the reverse direction, under continuing contract(s) with Jack C. Baker, dba Baker Welding, of Cumberland, WI. (Hearing site: Madison, WI, or Minneapolis, MN.)

MC 143999 (Sub-1F), filed March 13, 1980. Applicant: ALLIED INTERNATIONAL TRUCKING CO., INC., 210 Beacham St., Everett, MA 02149. Representative: Raymond P. KEIGHER, 1400 Gerard St., Rockville, MD 20850. *Contract carrier,* transporting *plywood and composition board,* (1) from Gary, IN, Wilmington, NC, Camden, NJ, Philadelphia, PA, Hampton, Newport News, Norfolk, and Portsmouth, VA, and Vancouver, WA, to points in the U.S. (except AK and HI), and (2) from points in CA, CT, FL, LA, MD, MA, ME, NH, TX, and VT to points in MI, under continuing contract(s) with Allied International, Inc., of Charlestown, MA. Conditions: Applicant shall (1) conduct separately its for-hire carriage and other business operations, (2) maintain separate accounts and records for each operation, (3) not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Boston, MA.)

MC 145179 (Sub-4F), filed March 6, 1980. Applicant: J & J CONTRACT CARRIER, INC., 60 South State St., Indianapolis, IN 46201. Representative: Donald W. Smith, P.O. Box 40248, Indianapoliis, IN 46240. *Contract carrier,* transporting *ice cream and frozen novelties,* from Fort Wayne, IN, to Detroit and Grand Rapids, MI, Cleveland, Cincinnati, and Columbus, OH, and Peoria, IL, under continuing contract(s) with The Kroger Company, of Cincinnati OH. (Hearing site: Cincinnati, OH or Indianapolis, IN.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 USC 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 145179 (Sub-5F), filed November 6, 1979. Applicant: J & J CONTRACT CARRIER, INC., 60 South State St., Indianapolis, IN 46201. Representative: Donald W. Smith, P.O. Box 40248, Indianapoliis, IN 46240. *Contract carrier,* transporting *salt,* in packages, from Detroit, Manistee, and Marysville, MI, and Rittman, Fairmount, and Cincinnati, OH, to Indianapolis, Yorktown, and Bloomington, IN, under continuing contract(s) with Distribution Management Associates, Inc., of Indianapolis, IN, and The Morton Salt Division, Morton-Norwich Products, Inc., of Chicago, IL. (Hearing site: Indianapolis, IN.)

MC 145468 (Sub-31F), filed March 10, 1980. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *meats, meat products, dairy products, meat by-products, and articles distributed by meat-packing houses,* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by John Morrell & Co. at or near Sioux Falls, SD, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to traffic originating at the named facilities. (Hearing site: Chicago, IL, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 145468 (Sub-32F), filed March 10, 1980. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Cherokee, IA, to points in AL, FL, and GA, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 146078 (Sub-20F), filed March 10, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, P.O. Box A, 140 E. Buchanan, Prairie Grove, AR 72753. Transporting *iron and steel articles* from the facilities of Keystone Group, Keystone Consolidated Industries, Inc., at or near Peoria, IL, to points in TX, OK, TN, AR, CA, LA, MS, AL, and GA. (Hearing site: Peoria or Chicago, IL.)

MC 146128 (Sub-7F), filed October 11, 1979 (republication). Applicant: MERRITT FOODS COMPANY, d.b.a. MERRITT REFRIGERATED SERVICE, a corporation, 2840 Guinotte, Kansas City, MO. 64120. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *confectionery* in mechanically refrigerated equipment from the facilities of Peter Paul Cadbury, Inc., at Frankfort, IN, to Kansas City, MO and Dallas, TX.

Note.—This republication shows Frankfort, IN, in lieu of Frankfort, IL as published February 26, 1980.

MC 146719 (Sub-3F), filed July 23, 1979. (republication). Applicant: MATERIAL DELIVERY SERVICE, INC., P.O. Drawer F, County Road 26, Alabaster, AL 35007. Representative: Edward J. Kiley, 1730 M Street NW., Suite 501, Washington, DC 20036. Transporting (1) *cement,* and (2) *lime* in bags, from the plantsite of National Cement Co., at Ragland, AL, to points in GA, TN, MS, FL, NC, SC, and LA. (Hearing site: Birmingham, AL, or Washington, DC.)

Note.—This republication broadens the commodity and territorial description as published February 12, 1980.

MC 146798 (Sub-4F), filed December 5, 1979. Applicant: SULLIVAN TRUCKING, INC., 1340 Umatilla Street, Denver, CO 80204. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Transporting (1) *foodstuffs,* (2) *pharmaceutical materials, supplies, and products,* (3) *chemicals,* (4) *dairy products,* (5) *such commodities* as are dealt in by distribution or consolidation warehouse for use in connection with the commodities described in (1), (2), (3), and (4), and (6) *commodities* otherwise exempt from economic regulation when moving with regulated commodities (except commodities in bulk) between the facilities of Beatrice Cold Storage Warehouse at or near Denver, CO, on the one hand, and, on the other El Paso, TX, and points in CA, ID, MT, OR, UT, WA, WY, AZ, and NM. (Hearing site: Denver, CO.)

MC 146888 (Sub-5F), filed March 10, 1980. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *such commodities* as are dealt in by manufacturers and distributors of paper or pulpboard products, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to traffic originating at or destined to the facilities of Alton Box Board Company. (Hearing site: Atlanta, GA.)

Note.—Dual operations are involved.

MC 147398 (Sub-2F), filed August 13, 1979, previously noticed in **Federal Register** issue of February 20, 1980. Applicant: A. T. TUCKER d.b.a. HOTSHOT UNLIMITED, P.O. Box 594, Mills, WY 82644. Representative: A. T. Tucker (same address as applicant). Transporting (1) *machinery, materials, equipment, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, including electric and geothermal energy and ore, and (2) *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in AZ, CO, ID, MT, NM, NV, ND, SD, UT, and WY. (Hearing site: Casper or Cheyenne, WY.)

Note.—This republication adds NM to the territorial description.

MC 147549 (Sub-2F), filed June 7, 1979. Applicant: ROADAIR LEASING, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: Janes D. Ferguson, 6520 Rollymeade Ave., Cincinnati, OH 45243. *Contract carrier* transporting *such commodities* as are dealt in or used by retail drug stores, between Louisville and Cleveland, KY, on the one hand, and, on the other, points in AR, IL, IN, KS, KY, LA, MI, MO, OH, OK, TN, and TX, under continuing contract(s) with SupeRx, Inc., of Cincinnati, OH. Note.—(Hearing site: Cincinnati or Columbus, OH.) The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary. Dual operations may be involved.

MC 148288F, filed September 1, 1979, previously noticed in **Federal Register** issue of February 20, 1980. Applicant: I.T.L. INC., P.O. Box 280, Gering, NE 69341. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *such merchandise* as is dealt in by wholesale and retail grocery business houses (except commodities in bulk), (1) between points in CO, NE, SD, and WY, and (2) between points in CO, NE, SD, and WY, on the one hand, and, on the other, points in the United States (except AK and HI). Condition: Applicant will request revocation of all its existing motor contract carrier authority in Docket No. MC 128304 and subs thereto. (Hearing site: Cheyenne, WY, or Denver, CO.)

Note.—This republication deletes the facilities restriction. Dual Operations may be involved.

MC 148708 (Sub-3F), filed December 13, 1979. Applicant: W. F. DOYLE ENTERPRISES, INC., d.b.a. R.D. CARTAGE, 4720 West 55th Street, Chicago, IL 60629. Representative: Robert J. Gill, First Commercial Bank Bldg., Suite 406, 410 Cortez Road West, Bradenton, FL 33507. Transporting *copper ingot bars* and *copper cathodes,* between points in IL and IN. (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 148799 (Sub-2F), filed March 5, 1980. Applicant: JESSE L. KOGER, 1903 Marshall Ave., Sanford, FL 32771. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McClean, VA 22101. *Contract carrier,* transporting *plastic plant pots and covers for plastic plant pots,* from Tulsa, OK, to Lantana, FL, under continuing contract(s) with Royal Vista Plastics, Inc., of Tulsa, OK. (Hearing site: Jacksonville, FL.)

MC 148818 (Sub-5F), filed March 10, 1980. Applicant: CARL PRINCE, d.b.a. PRINCE TRUCKING, Rt. 1, Box 159, Cane Hill, AR 72717. Representative: John C. Everett, P.O. Box A 140 E. Buchanan, Prairie Grove, AR 72753. Transporting *furniture,* in cartons, from Conway, AR, to points in NM, TX, LA, KS, OK, MS, AL, TN, KY, MO, OH, IL, IN, IA, NE, WI, FL, and GA. (Hearing site: Conway, AR, or Little Rock, AR.)

MC 149258 (Sub-1F), filed February 21, 1980. Applicant: SELCO TRUCKING CO., a corporation, P.O. Box 8801, Canton, OH 44711. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers of leather and leather products, chemicals, and coated fabrics (except commodities in bulk), between the facilities of Seton Company and its subsidiaries at or near (a) Newark, NJ, (b) Wilmington, DE, (c) Canton, OH, and (d) Malvern and Saxton, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to points in the described territory. Conditions: Applicant shall (1) conduct separately its for-hire carriage and other business operations, (2) maintain separate accounts and records for each operation, and (3) not transport

property as both a private and for-hire

(8) MC 127303 (Sub-75F), Applicant:

accessories for the commodities in (1)

Motor Carriers of Property

Pepsi-Cola Company, Anderson Hill Rd.

Newbury, MA 01950. Representative:

property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Chicago, IL, or Washington, DC.)

MC 150139 (Sub-1F), filed March 6, 1980. Applicant: HAMBEL FREIGHT LINES, INC., 4965 South Howell Ave., Milwaukee, WI 53207. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. *Contract carrier* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Minneapolis, MN, points in Allamakee County, IA, and Houston and Winona Counties, MN, points in WI, and points in the Upper Peninsula of MI, on the one hand, and, on the other, Milwaukee, WI, and Chicago, IL, restricted to traffic having a prior or subsequent movement by air, under continuing contract(s) with Burlington Northern Air Freight, Inc., of Milwaukee, WI. (Hearing site: Madison or Milwaukee, WI.)

MC 150319F, filed March 10, 1980. Applicant: WILMINGTON EXPRESS, INC., P.O. Box 540, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *dry fertilizer and dry fertilizer ingredients* (except in bulk, in tank vehicles), between points in NC, SC, and VA. (Hearing site: Wilmington, NC.)

Volume No. 184

Decided: MARCH 20, 1980

By The Commission, Review Board Number 3, Members: Parker, Fortier and Hill.

(1) MC 7840 (Sub-27F), Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601.
(2) MC 48441 (Sub-58F), Applicant: R.M.E., INC., an IN Corporation, P.O. Box 418, Streator, IL 61364.
(3) MC 73688 (Sub-113F), Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107.
(4) MC 78687 (Sub-102F*), Applicant: LOTT MOTOR LINES, INC., a PA Corporation, West Cayuga St., P.O. Box 751, Moravia, NY 13118.
(5) MC 106920 (Sub-91F), Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869.
(6) MC 115331 (Sub-533F), Applicant: TRUCK TRANSPORT, INCORPORATED, 11040 Manchester Rd., St. Louis, MO 63122.
(7) MC 119349 (Sub-36F*), Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450.
(8) MC 127303 (Sub-75F), Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326.
(9) MC 133085 (Sub-16F*), Applicant: TRENCO, INCORPORATED, 2109 Maryland Ave., P.O. Box 697, Williamsport, PA 17701.
(10) MC 136161 (Sub-29F), Applicant: ORBIT TRANSPORT, INC., a DE Corporation, P.O. Box 163, Spring Valley, IL 61362.
(11) MC 136511 (Sub-97F), Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATATION, 9640 Timberlake Rd., Lynchburg, VA 23502.
(12) MC 141914 (Sub-75F), Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332.
(13) MC 142873 (Sub-3F*), Applicant: DEWEY L. WILFONG, d.b.a. D & W TRUCK LINES, 209 First St., Parsons, WV 26287.
(14) MC 144676 (Sub-5F*), Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666.
(15) MC 145950 (Sub-72F*), Applicant: BAYWOOD TRANSPORT, INC., a DE Corporation, Route 6, P.O. Box 2611, Waco, TX 76706.
(16) MC 146573 (Sub-10F), Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354.
(17) MC 146890 (Sub-18F*), Applicant: C & E TRANSPORT, INC., a DE Corporation, d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338.
(18) MC 147451 (Sub-2F*), Applicant: RAY J. FORNEY, INC., a DE Corporation, P.O. Box 207, Ashton, IL 61006.
(19) MC 147452 (Sub-2F*), Applicant: W. D. W. TRUCKING, INC., 2620 S.W. 66th Terrace, Miramar, FL 33023.
(20) MC 148600 (Sub-2F*), Applicant: TRANSHIELD TRUCKING, INC., a DE Corporation, 1470 N. Farnsworth, Ave., P.O. Box 1617, Aurora, IL 60507.
(21) MC 148655 (Sub-2F*), Applicant: ERIEVIEW CARTAGE, INC., a DE Corporation, 100 Erieview Plaza Plaza, P.O. Box 6977, Cleveland, OH 44114.

Representative for all the Above-Named Carriers: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001.

By applications filed January 22, 1980, the 21 above-named carriers are granted authority to transport (1) *glass products, metal products, plastic products, paper products, wax products, clay products, feldspar products, wood products, foodstuffs, antipollution and biochemical apparatus, products* used in radiological research, *organic chemistry kits, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds, and machinery*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk, in tank vehicles), between the facilities of Wheaton Industries, at or near Des Plaines, IL, on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Washington, DC.)

* Note.—Dual operations may be involved.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-16177 Filed 5-28-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. F-30]

The following applications were filed in Region I. Send protests to Regional Authority Center, Interstate Commerce Commission, 150 Causeway St., Rm. 501, Boston, MA 02114.

MC 22675 (Sub-1-1TA), filed May 19, 1980. Applicant: ALLSTATE VAN LINES CORP., 53-13 97th Place, Corona, New York 11368. Representative: Robert J. Gallagher, Esq., Suite 1112, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036. *Household goods,* as defined by the Commission (1) From New York, New York Commercial Zone and New Jersey, on the one hand, and, on the other, points in AZ, CA, NV, TX, NM, CO, LA, AL, MS, and TN. (2) From points in AZ, CA, NV, TX, NM, CO, LA, AL, MS, and TN, on the one hand, and, on the other, points in NY, NJ, CT, DE, FL, GA, IL, IA, MD, MA, MO, NH, NC, OH, PA, RI, SC, VT, VA, WV, KS, OK, AR, TX, MO, and DC. Supporting shipper: Allstate Worldwide Mover, Inc. of Corona, NY 11368.

MC 144305 (Sub-1-1TA), filed May 19, 1980. Applicant: McCAIN TRANSPORT, INC., 5 Wade Road, Washburn, Maine 04786. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, Maine 04101. *Contract* irregular *carbonated and non-carbonated beverages and materials and supplies* used in the manufacture, bottling and distribution of carbonated and non-carbonated beverages in truckload quantities from points in GA, IL, and MA to the premises in Presque Isle, ME of the Coca-Cola Bottling Co. of Presque Isle, Maine pursuant to a bilateral contract with the Coca-Cola Bottling Co. of Presque Isle, Maine.

MC 111309 (Sub-1-1TA), filed May 19, 1980. Applicant: NEWPORT TRUCKING CORP., 4600 Fifth Street, Long Island City, NY 11101. Representative: Michael R. Werner, 167 Fairfield Road, Fairfield, NJ 07006. Contract Carrier, Iregular Routes: (1) Flavoring syrup, flavoring compounds, extracts and beverage preparations. From the facilities of Pepsi-Cola Company at Valhalla, NY to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, SC, VA, VT, NC, and WV. (2) Empty drums, packaging materials and materials, supplies and equipment used in the manufacture of flavoring syrup, flavoring compounds, extracts and beverage preparations. From points in CT, DE, MA, MD, ME, NH, NC, NJ, NY, PA, RI, SC, VA, VT, and WV to the facilities of Pepsi-Cola Company at Valhalla, NY. Supporting shipper(s): Pepsi-Cola Company, Anderson Hill Rd., Purchase, NY 10577.

MC 145829 (Sub-1-4TA), filed May 19, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: GEORGE A. OLSEN, P.O. BOX 357, GLADSTONE, NJ 07934. *Contract carrier:* irregular routes: *Paper and Paper Products, and materials, equipment, and supplies used in the manufacture and sale of Paper and Paper Products (except commodities in bulk),* Between the facilities used or utilized by Union Camp Corporation, located at or near Richmond and Franklin, VA, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470.

MC 145829 (Sub-1-3TA), filed May 19, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Applicant's Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Foodstuffs, canned or preserved and dry cereal,* From Canajoharie, NY, To points in Essex, Hudson, Middlesex, Passaic, and Union Counties, NJ. Supporting shipper(s): Beech-Nut Foods Corporation, 2 Church Street, Canajoharie, NY 13317.

MC 150739 (Sub-1-1TA), filed May 19, 1980. Applicant: MACRIS EXPRESS, INC., 4175 Crosswicks-Hamilton Square Road, Trenton, NJ 08691. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Contract carrier, irregular routes: (1) Plumbing fixtures and fittings and accessory parts and supplies, between the facilities of American Standard, Inc. at or near Trenton, NJ, on the one hand, and, on the other, points in MD, NJ, NY, PA, VA and DC; and (2) Empty trailers, empty containers, and trailer chassis between points in MD, NJ, NY and PA, restricted in (2) above to shipments having a prior or subsequent movement by water, and to traffic originating at or destined to the facilities of American Standard, Inc. Supporting shipper(s): American Standard, Inc., P.O. Box 2003, New Brunswick, NJ 08903.

MC 127524 (Sub-1-3TA), filed May 19, 1980. Applicant: QUADREL BROS. TRUCKING CO., INC., 1603 Hart Street, Rahway, NJ 07065. Representative: David L. Middleton (same address as above). *Tomato paste in bulk in tank vehicles,* from the facility of Hunt-Wesson Foods, Inc., Bridgeton, NJ to Oakfield, NY. Supporting Shipper: Hunt-Wesson Foods, Inc., Fullerton, CA 92634.

MC 148869 (Sub-1-1TA), filed May 16, 1980. Applicant: DOWNEAST DISPATCH, INC., 38 Rolfe's Lane, Newbury, MA 01950. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. Authority sought: *contract carrier* over irregular routes waterheaters and parts, materials and supplies used in the manufacture, distribution and repair of waterheaters, under a bilateral contract with the Vaughn Corporation between the premises of the Vaughn Corporation in Salisbury, MA and points in CT, GA, ME, NH, NJ, NY, OH, PA, RI, and VT. Supporting shipper: Vaughn Corporation, 386 Elm St., Salisbury, MA 01950.

MC 80428 (Sub-1-2TA), filed May 16, 1980. Applicant: McBRIDE TRANSPORTATION, INC., PO Box 430, Goshen, New York 10924. Representative: S. Michael Richards, PO Box 225, Webster, New York 14580. *Aluminum cans and can ends,* between Reynolds Metals Co. facilities at or near Woodbridge, NJ & Middletown, NY, on the one hand, and, on the other, all points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, VA and DC. Supporting shipper: Roy H. Grabman, Division Manager Transportation & Warehousing, Reynolds Metals Company, Richmond, VA 23261.

MC 150177 (Sub-1TA), filed March 13, 1980. Applicant: CONATSER TRUCKING, INC., 57 Berkshire Terrace, Amherst, MA 01002. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Contract carrier,* irregular routes, *bottled water, containers and such commodities as are dealt in or used by distributors of bottled water (except commodities in bulk)* between points and (2) rejects and return empty containers from Poland Spring, ME to points in ME, NH, VT, MA, CT, RI, NY, NJ, DE, MD, WV, VA, NC, SC, GA, AL, FL, MS, TN, KY, PA, OH, IL, WI, IN, MI, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Poland Spring, Inc., Las Vegas, NV 89119.

MC 150186 (Sub-1TA), filed March 13, 1980. Applicant: BEVERAGE TRUCKING, INC., 60 Robbins Road, Springfield, MA 01104. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Contract carrier,* irregular routes, *flour and such commodities as are dealt in or used by manufacturers and distributors of baking matter (except commodities in bulk)* between points in Buffalo, NY to points in MA and CT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Thompson Bakery Supplies, Inc., West Springfield, MA 01089.

MC 10183 (Sub-1-1TA), filed May 16, 1980. Applicant: MA, to points and places east of the

Representative: Leonard E. Murphy,

MC 10183 (Sub-1–1TA), filed May 16, 1980. Applicant: GETZINGER TRUCKING, INC., Morton Avenue, Rosenhayn, NJ 08352. Representative: James W. Patterson, Esquire, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Contract carrier:* irregular routes: *Meat, meat products and by-products, articles distributed by and commodities used by meat packing houses,* (except commodities in bulk, hides, animal feed and animal feed ingredients), in vehicles equipped with mechanical refrigeration. Between Lancaster County, NE, on the one hand, and, on the other, points in DC, DE, MD, NJ, NY, PA, VA, and WV, restricted to traffic originating at or destined to the facilities of Acme Markets, Inc., or its subsidiary, American Stores Packing Company, under continuing contract or contracts with Acme Markets, Inc. or American Stores Packing Company. Supporting shipper(s): Acme Markets, Inc., 124 N. 15th Street, Philadelphia, PA 19101.

MC 150822 (Sub-1–1TA), filed May 16, 1980. Applicant: FLEXIBLE TRANSPORTATION, INC., 18 Hackensack Ave., S. Kearny, NJ 07032. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. *Cable television installation and transmission equipment, and equipment, material and supplies* used in connection therewith. Between the facilities of Anixter-Pruzan at or near Wharton, NJ, Atlanta, GA, Chicago, IL, St. Louis, MO and Houston, TX, on the one hand, and, on the other points in the US in and east of MN, IA, KS, OK and TX, under a continuing contract or contract with Anixter-Pruzan, Wharton, NJ. Supporting shipper: Anixter-Pruzan, 321 Richard Mine Road, Wharton, NJ 07885.

MC 59570 (Sub-1–1TA), filed May 16, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: Jean R. Hecht, President (same as applicant). *Iron and steel articles, and materials, equipment and supplies used in the manufacture and distribution of iron and steel articles (except in tank vehicles).* Between points in Perth Amboy, NJ on one hand, and on the other, in and east of IL, MS, TN, WI. Supporting shipper: Louis J. Chick, Raritan River Steel Company, 225 Elm Street, P.O. Box 309, Perth Amboy, NJ 08862.

MC 150196 (Sub-1–2TA), filed March 3, 1980. Applicant: AUTO CITY, INC., 440 McClellan Hwy., E. Boston, MA 02128. Representative: John A. Maiona, Esq., 294 Washington St., Boston, MA 02108. *Used leased motor vehicles,* over irregular routes, from and to Boston, MA, to points and places east of the Mississippi River, i.e. each state, including all capital and principal cities, towns, including major air, rail and bus terminals, in the following states: ME, NH, VT, MA, RI, CT, NY, PA, NJ, DE, MD, OH, MI, WI, IL, IN, WV, VA, KY, TN, NC, SC, GA, AL, MS, FL, LA, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: (1) Dollar Rent-a-Car, E. Boston, MA, (2) The Hertz Corp, Peabody, MA, (3) Local Car Rental, E. Boston, MA.

MC 143127 (Sub-2TA), filed March 3, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). *Foodstuffs and animal feed* (except in bulk), from Camden, NJ to points in CT, MA, and RI, for 180 days. Supporting shipper: Campbell Soup Company, 100 Market St., Camden, NJ 08101.

MC 16872 (Sub-1–1TA), filed March 3, 1980. Applicant: WILLIAM MIRRER, d.b.a. MIRRER'S TRUCKING, 100 E. 25th St., Paterson, NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Lawn Mowers, Tractors, Snow Blowers, and accessories, materials, equipment, and supplies used in the sale of the foregoing,* from McDonough, GA, to Kenvil, NJ. Supporting shipper(s): KPM Distributors, 926 Route 46, Kenvil, NJ 07847.

MC 150165 (Sub-1–2 TA), filed March 12, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes, *Petroleum catalyst,* in vehicles equipped with mechanical refrigeration, from the facilities of Dow Chemical, U.S.A. at or near Plaquemine, LA to Newark, NJ. Supporting shipper(s): Dow Chemical, U.S.A., P.O. Box 150, Plaquemine, LA 70764.

MC 143236 (Sub-1–3 TA), filed March 12, 1980. Applicant: WHITE TIGER TRANSPORTATION CO., INC., 40 Hackensack Avenue, S. Kearny, NJ 07032. Representative: Elizabeth E. Murphy, 40 Hackensack Avenue, S. Kearny, NJ 07032. *Foodstuffs in cans or boxes* between New York, NY on the one hand, and, on the other points in the United States (except AK and HI) for 180 days. Restricted to traffic originating at or destined to the facilities of Baltic Trading. Supporting shipper: Baltic Trading, Div. of M. H. Greenbaum, Inc.

MC 112963 (Sub-1–2 TA), filed May 16, 1980. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Representative: Leonard E. Murphy, (same as applicant). (1) *tanning oils, in bulk, in tank vehicles,* and (2) *commodities used in the manufacture of tanning oils, in bulk, in tank vehicles.* (1) from the plant site and facilities of Salem Oil & Grease Co., at Salem, MA to points in the U.S. and (2) from points in the U.S. to the plant site of Salem Oil & Grease Co., at Salem, MA. Supporting shipper: Salem Oil and Grease Co., Salem, MA.

MC 146379 (Sub-1–2TA), filed February 14, 1980. Applicant: AUTO EXPRESS, INC., 1520 Paterson Plank Road, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Used automobiles, in secondary movements, in truckaway service,* (1) Between Boston, MA, Philadelphia, PA and New York, NY and their commercial zones, on the one hand, and, on the other, points in FL, (2) Between Albany, NY, on the one hand, and, on the other, Boston, MA and its commercial zone, (3) Between Manheim, PA and Bordentown, NY on the one hand, and, on the other, points in the New York, NY commercial zone, and (4) Between Boston, MA and its commercial zone, on the one hand, and, on the other, points in the New York, NY commercial zone. Supporting shipper: Bill Dretzin Ford, Inc., 420 North Avenue, New Rochelle, NY 10801.

MC 149024 (Sub-1–1TA), filed May 15, 1980. Applicant: JOHNSTON INTERMODAL TRANSPORT, INC., 320 Twelfth Avenue, New York, New York 10001. Representative: Hylan Cooper, Esq., 450 Seventh Avenue, New York, New York 10001. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk)* restricted to traffic moving on bills of lading of freight forwarders. (a) Between Phoenix, AZ and points within 100 miles of Los Angeles and San Francisco, CA, and Seattle, WA., on the one hand, and, on the other hand, points in the commercial zones of Baltimore, MD, Boston, MA, Holyoke, MA, Jersey City, NJ, New York, NY, New Haven, CT, Philadelphia, PA, Chicago, IL, Milwaukee, WI, Rockford, IL, Atlanta, GA, Charlotte, NC, Greensboro, NC, and Memphis, TN. (b) Between points in the commercial zones of Baltimore, MD, Boston, MA, Holyoke, MA, Jersey City, NJ, New York, NY, New Haven, CT, and Philadelphia, PA, on the one hand, and, on the other hand, points in the commercial zones of Chicago, IL, Milwaukee, WI, and Rockford, IL. (c) Between points in the commercial zones

of Chicago, IL, Milwaukee, WI, and Rockford, IL, on the one hand, and, on the other hand, Phoenix, AZ, and points within 100 miles of Los Angeles and San Francisco, CA, and Seattle, WA. 2. *Such merchandise as is dealt in by wholesale retail and chain grocery houses and in connection therewith materials, equipment and supplies used in the conduct of such business.* (a) From Bakersfield, Kerman, Indio, Dinuba, and Los Angeles, CA. To Commercial zones of Baltimore, MD, Boston and Holyoke, MA, Edison, N.J., New York, N.Y., New Haven, CT, Philadelphia, PA, Chicago, IL, and Milwaukee, WI. (b) From Landover, MD, Horseheads, N.Y., and Plymouth, WI. To Points within 100 miles of Los Angeles and San Francisco, CA and Seattle, WA. (c) From Bakersfield, Kerman, Indio, Dinuba, CA and points within 100 miles of Los Angeles and San Francisco, CA, and Seattle, WA. To Harrington, DE, Edison, Florence and Vineland, N.J. and the commercial zones of Baltimore, MD, Boston, MA, New York, N.Y., New Haven, CT, Philadelphia, PA, and Chicago, IL. (d) From Points within 100 miles of Los Angeles and San Francisco, CA. To Harrington, DE, Florence and Vineland, N.J. and the commercial zone of Philadelphia, PA. 3. *Confectionary requiring mechanical refrigeration* (a) From Hackettstown, N.J. To Points in CA, located within 100 miles of Los Angeles or San Francisco. Supporting shippers: Lifschultz Fast Freight, New York, New York; The Great Atlantic & Pacific Tea Co., Inc., Montvale, NJ; Tenneco West, Inc., Bakersfield, CA; Compas Foods, Inc., Montvale, NJ; Plus Discount Foods, Inc., Montvale, NJ; M& M M/MARS, Div of Mars, Inc., Hackettstown, NJ.

MC 145914 (Sub-1–3), filed May 15, 1980. Applicant: COASTAL TRUCK LINE, INC., How Lane, P.O. Box 397, New Brunswick, New Jersey. Representative: Lawrence S. Burstein, Esq., One World Trade Center, Suite 2373, New York, New York 10048. (1) *Empty plastic bottles and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities listed in (1) above* from the facilities of the Bercon Company near Berwick, PA on the one hand and on the other hand, facilities of Clorox Company at or near Frederick, MD and Boston, MA under contract with the Clorox Company; 1221 Broadway, Oakland, California.

MC 10875 (Sub-1–3TA), filed May 15, 1980. Applicant: BRANCH MOTOR EXPRESS COMPANY, 114 Fifth Avenue, New York, NY 10011. Representative: G. G. Heller (same address as applicant). *General commodities,* except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Pownal, VT as an off-route point in connection with applicant's regular routes. Supporting shipper: G K Technologies Inc., Greenwich, CT.

MC 135859 (Sub-1–1TA), filed May 15, 1980. Applicant: KAUFFMAN & MINTEER, INC., P.O. Box 14, Jobstown, NJ 08041. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Gasoline, Gasohol, and Distillates and Residual Fuel Oils, in bulk in tank vehicles,* (1) From Philadelphia, PA, To points in NJ and DE; and (2) From Delair, NJ, To points in DE and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amerada Hess Corporation, 1 Hess Plaza, Woodbridge, NJ 07095.

MC 148793 (Sub-1–3TA), filed May 14, 1980. Applicant: M & L MESSENGER SERVICE, INC., Jewell Lane, New Fairfield, CT 06810. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. (1) *Various documents and machine parts,* between points in Newington, Milford, Bridgeport, Danbury and Stratford, CT, on the one hand, and, on the other, New York, NY and New Jersey, restricted to transportation of packages not exceeding 50 pounds per package originating at or destined to the facilities of Columbia Magnetics, CBS Records, A Division of CBS, Inc., Danbury, CT. (2) *Cassettes and documents,* between Danbury and Norwalk, CT, on the one hand, and, on the other, New York, NY, restricted to transportation of packages not exceeding 50 pounds per package, originating at or destined to the facilities of The Darome Connection, Danbury, CT. (3) *Computer media,* between points in Bethel, Torrington, CT and Waterbury, CT, on the one hand, and, on the other, New York, NY, restricted to transportation of packages not exceeding 50 pounds per package, originating at or destined to the facilities of Duracell Products Company, Bethel, CT. (4) *Correspondence and documents,* between points in CT, NJ and New York, NY, restricted to transportation of packages not exceeding 50 pounds per package, originating at or destined to the facilities of Mark Rothbaum and Associates, Danbury, CT. *(5) Computer reports,* between Danbury, CT, on the one hand, and, on the other, points in Sussex, Passaic, Bergen, Essex, Warren, and Morris Counties, NJ and Westchester, Dutchess, Putnam and Orange Counties, NY, restricted to transportation of packages not exceeding 50 pounds per package, originating at or destined to the facilities of Berkshire Data Service, Danbury, CT, for 180 days. Supporting shippers: Columbia Magnetics, Danbury, CT; The Durome Connection, Danbury, CT; Duracell Products Company, Bethel, CT; Mark Rothbaum and Associates, Danbury, CT; and Berkshire Data Service, Danbury, CT.

MC 147074 (Sub-1–5TA), filed May 14, 1980. Applicant: E Z FREIGHT LINES, 70–76 Gould St., Bayonne, New Jersey 07002. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, Illinois 60603. *Building materials and related articles* from the facilities of Revere Aluminum Products, Inc., located at or near Franklin Park, IL to points in AL, AR, CT, FL, GA, IN, IA, MS, SC, SD, KS, KY, LA, MA, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, TN, TX, VA, WV, DE, and WI. Supporting shipper: Revere Aluminum Products, Inc., Franklin Park, IL.

MC 9936 (Sub-1–1TA), filed May 14, 1980. Applicant: HAVERHILL & LAWRENCE TRANSPORTATION CO., INC., 17 Locke Street, Haverhill, Massachusetts 01830. Representative: Jack Pearce, 1000 Connecticut Avenue, Suite 1200, Washington, D.C. 20036. *Boots and shoes, boot or shoe factory supplies,* between points in Maine, Massachusetts, and New Hampshire. Supporting shipper(s): Eleven supporting shippers.

MC 138567 (Sub-1–1TA), filed May 13, 1980. Applicant: R. L. PAQUETTE, INC., Box 162, Middlebury, VT 05753. Representative: Roger L. Paquette, Jr. (same address as applicant). Contract, irregular: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock feeder bunks, forage metering devices, animal waste spreader tanks, livestock feeding systems, and accessories for the above commodities,* from the plantsites of A. O. Smith at De Kalb, IL and Eureka, IL to Lewis, Franklin, Clinton, Jefferson and St. Lawrence Counties, NY, under a continuing contract with Seaway Harvestore Systems, Inc. Supporting shipper: Seaway Harvestore Systems, Inc., Route 11, Adams Center, NY 13606.

MC 7840 (Sub-1–1TA), filed: May 14, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, New York 13601. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. *Roofing materials and materials, equipment and supplies used in the manufacture thereof (except commodities in bulk),* between the facilities of Koppers Company, Inc., at Follansbee, WV and

Youngstown, Wickliffe and Heath, OH,

Anarock Drive, Somers, NY 10589

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Youngstown, Wickliffe and Heath, OH, on the one hand, and on the other, CT, DE, IN, KY, MA, MD, ME, MI, NH, NJ, OH, PA, RI, VA, VT, WV, and DC. Supporting shipper: Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219.

MC 136647 (Sub-1–1TA), filed: May 14, 1980. Applicant: GREEN MOUNTAIN CARRIERS, INC., P.O. Box 1319, Albany, New York 12201. Representative: Gordon L. Sands, President, P.O. Box 1319, Albany, New York 12201. Commodity: Such commodities as are dealt in by retail and chain grocery, hardware, and drug stores, and materials and supplies (except commodities in bulk), used in the manufacture and distribution of such commodities. Points: From Rouses Point, New York. To Buena Park, Calif.; Denver, Colo.; Atlanta, Ga.; Elkhart, Ind.; Fort Dodge, Ia.; Andover, Mass.; St. Paul, Minn.; No. Kansas City, Mo.; Secaucus & So. Plainfield, N.J.; Monroe, N.C.; Strongville, Ohio; East Whiteland Township & Paoli, Pa.; Memphis, Tenn.; Dallas, Texas; and Kent, Wash. From points in Delaware and Missouri to Rouses Point, New York.

MC 146440 (Sub-1–4TA), filed May 14, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02149. *General commodities,* with the usual exception, from points in Cumberland and Oxford Counties, ME, to points in AL, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. Supporting shipper: Belle Shippers Association, c/o 220 Lowell Street, Peabody, MA 01960.

MC 40815 (Sub-1–1TA), filed: May 13, 1980. Applicant: HARRAN TRANSPORTATION CO. INC., 1417 Jerusalem Avenue, North Merrick, NY. Representative: Owen B. Katzman, 1800 M Street, NW., Suite 800—South, Washington, D.C. 20036. *Passengers and their baggage and express and newspapers in the same vehicle with passengers,* (1) between Bay Shore, NY, and Atlantic City, NJ, from Bay Shore over NY Hwy 27 to Jct Interstate Hwy 678, then over Interstate Hwy 678 to Jct NY Hwy 25, then over NY Hwy 25 to Jct Interstate Hwy 495, then over Interstate Hwy 495 to Jct Interstate Hwy 278, then over Interstate Hwy 278 to Jct NY Hwy 440, then over NY Hwy 440 to Jct NJ Hwy 440, then over NJ Hwy 440 to Jct Garden State Pkwy, then over Garden State Pkwy to Jct Atlantic City Expy, then over Atlantic City Expy to Atlantic City, and return over the same route, and (2) between Hauppauge, NY and Atlantic City, NJ. from Hauppauge at Exit 57 on Interstate Hwy 495, over Interstate Hwy 495 to Jct Community Drive, then over Community Drive to Jct NY Hwy 25A, then over NY Hwy 25A to Jct Interstate Hwy 678, then over Interstate Hwy 678 to Jct Interstate Hwy 95, then over Interstate Hwy 95 to Jct Garden State Pkwy, the over Garden State Pkwy to Jct Atlantic City Expy, then over Atlantic City Expy to Atlantic City, and return over the same route, serving in (1) and (2) above all intermediate points in Nassau, Queens, and Suffolk Counties, NY. Supporting shippers: There are 44 supporting witnesses.

MC 147811 (Sub-No. 1–1TA), filed May 13, 1980. Applicant: FLO-JO CONTRACTING, INC., P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson, P.O. Box 283, Belgrade Lakes, ME 04918. *Contract carrier,* irregular routes, *Lumber* from points in ME, NH, VT and NY to ports of entry on the International Boundary line between the United States and Canada at or near Derby Line, Norton and Newport, VT; Jackman and Coburn Gore, ME; and Champlain, NY, under a continuing contract(s) with Can-Am Lumber Co., of Skowhegan, ME. Supporting shipper: Can-Am Lumber Co., Skowhegan, ME.

MC 150797 (Sub-1–1TA), filed May 13, 1980. Applicant: CARPENTERS MOTOR TRANSPORT, INC., 35 King Street, Box 817, Burlington, VT 05402. Representative: Donald E. Carpenter (same address as applicant). *Contract,* Irregular: *Such commodities as are dealt in or used by retail, wholesale, hardware and appliance stores, garages, and petroleum products* (except in bulk), from Burlington, VT to Clinton, Essex, Franklin, and St. Lawrence Counties, NY, Grafton and Sullivan Counties, NH, under a continuing contract with Vermont Hardware Co., Inc. Supporting shipper: Vermont Hardware Co., Inc., 180 Flynn Ave, Burlington, VT 05401.

MC 138861 Sub-1–6TA), filed May 13, 1980. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, Rhode Island 02814. Representative: Ronald N. Cobert, Esquire, 1730 M Street NW., Suite 501, Washington, D.C. 20036. *Tires* and *tire tubes* from Cincinnati, OH, to Cranston, RI. Supporting shipper: Leon's TBA Warehouse, Inc., Cranston, RI.

MC 124328 (Sub-1–5TA), filed May 13, 1980. Applicant: BRINK'S INCORPORATED, Thorndal Circle, Darien, Connecticut 06820. Representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street NW., Washington, D.C. 20006. *Contract carrier;* irregular routes; *precious metal scrap* between Lee's Summit, Missouri and points in the U.S. Supporting shipper: Western Electric Co., Lee's Summit, MO.

MC 118019 (Sub-1–1TA), filed May 13, 1980. Applicant: PENN TRANSPORTATION CORP., 212 Beacham Street, Everett, MA 02149. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. (1) *Scrap metals,* from Boston, MA to points in RI, CT, NY, NJ, and PA, and (2) *waste paper,* between points in ME, NH, VT, and MA on the one hand, and, on the other, points in NY, NJ, and PA. Supporting shippers: M. Kaplan & Co., Inc., 8 Maple Street, Chelsea, MA 02150 and Great Eastern Paper Stock Corp., 133 Halleck Street, Boston, MA 02120.

MC 59640 (Sub-1–4TA), filed May 12, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier;* irregular routes: *Paperboard, in rolls and disposable dishes, plates, and trays,* between Brentwood, NY, on the one hand, and, on the other, Augusta and Brunswick, GA, Westwood, MA, Chicago, IL and its commercial zone, Buffalo, NY, Syracuse, NY and its commercial zone, points in Northumberland County, PA, and Sheldon Springs and St. Albans, VT. Supporting shipper: Carnation Paper Products Corporation, 86 Emjay Boulevard, Brentwood, NY 11717.

MC 150718 (Sub-1–1TA), filed May 9, 1980. Applicant: K.B. TRUCKING, d.b.a. Kende Leasing Corp., 2 Terry Lane, Clark, NJ 07066. Representative: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410. *Toilet preparations, hair care products, cosmetics, and equipment, material and supplies* used in the manufacture and distribution thereof, except commodities in bulk, between the facilities of, or those used by, Cosmair, Inc., at or near Clark, Piscataway, Saddle Brook and South Brunswick, NJ, on the one hand, and, on the other, Birmingham, AL; Atlanta, GA; Chicago, IL; Sullivan, IN; Florence, KY; Randolph, MA; Detroit and Grand Rapids, MI; Minneapolis, MN; Newburgh and Port Jervis, NY; Cleveland, OH: Delaware Water Gap, Philadelphia, and Sellersville, PA; Murfreesboro and Lewisburg, TN; Covington, VA; and Huntington, WV; and points in their respective commercial zones. Supporting shipper: Cosmair, Inc., 222 Terminal Ave., Clark, NJ 07066.

MC 150698 (Sub-1–2TA), filed May 9, 1980. Applicant: WEST-CONN TRANSPORTATION SERVICE, INC., Anarock Drive, Somers, NY 10589. Representative: Sidney J. Leshin, Esq., 575 Madison Ave., New York, NY 10022. Passengers and their baggage, between points and places in the Counties of Westchester, Putnam and Dutchess, NY and Fairfield County, CT, on the one hand, and, the office and plant facilities of General Foods, located in the City of White Plains, Town of Rye, NY on the other hand under continuing contract with General Foods Employees Group. Supporting shipper: General Food Employees Group, Somers, NY 10589.

MC 150785 (Sub-1–1TA), filed May 9, 1980. Applicant: THOMPSON'S MOTOR TRANS., INC., 1 Innis Drive, Billerica, MA 01821. Representative: Joseph M. Klements, Richardson & Tyler, 84 State St., Boston, MA 02109. *Contract carrier;* irregular route; *beverages and beverage containers* between Portland, ME and Needham, MA, on the one hand, and, on the other, points in ME, MA, NH and VT. Supporting shippers: Cott Corp., 165 Pleasant Ave., South Portland, ME and Coca-Cola Bottling Plants, Inc., 316 Western Ave., South Portland, ME 04106.

MC 141546 (Sub-1–1TA), filed May 12, 1980. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, MA 01810. Representative: Kenneth B. Williams, 84 State St., Boston, MA 02109. *Construction materials, in bulk, in dump vehicles,* from points in NY to points in ME, NH, VT, MA, CT, RI, NY, NJ, and PA. Supporting shipper: Old Dutch Materials, 350 Pfingsten Rd., Northbrook, IL 60062.

MC 112963 (Sub-1–1TA), filed May 9, 1980. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. *Commodities, in bulk, in tank vehicles (except petroleum products, tar, liquefied natural gas, cement, limstone, limestone products, marble and marble products) and petrochemicals, in bulk, in tank vehicles,* (1) between points in CT, MA, ME, NH, RI and VT and (2) between points named in (1) above, on the one hand, and on the other, points in NY, NJ and PA.

MC 143127 (Sub-1–8TA), filed May 9, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). (1) *Malt beverages,* from Winston-Salem, NC to points in NY and Bridgeport, CT, and from Latrobe, PA to Bridgeport, CT; and (2) *Materials, supplies and equipment* used in the manufacture and distribution of malt beverages, from points in NY and Bridgeport, CT, to Winston-Salem, NC, and from Bridgeport, CT to Latrobe, PA. Supporting shippers: Preferred Distributing Corp., 50–35 56th Rd., Maspeth, NY 11378; Gary Beer Distributors, 800 South Ave., Bridgeport, CT 06604; Eade Distributing Co., Inc., 404 North First St., Olean, NY 14760; and Ramapo Valley Distributors, Inc., 37 Washington, Ave., Suffern, NY 10901.

MC 148127 (Sub-1–2TA), filed May 12, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078, Manchester, NH 03108. Representative: Neal R. Michaud (same as above). *Plastic articles and medical devices,* from points in Hillsborough and Cheshire Counties, NH to points in the U.S. except ME, NH, VT, CT, RI, MA, NJ, NY, PA, AL, MS, LA, AR, and TN. Supporting shippers: Bridgeport Metal Goods, N. Hinsdale, NH; Concord Laboratories, Inc., P.O. Box 724, Keene, NH 03431.

MC 146857 (Sub-1–1TA), filed May 9, 1980. Applicant: W. K. THOMAS, INC., 72 Tait Street, Ludlow MA 01056. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Contract carrier,* irregular routes. Printed material, booklets, catalogues, books, and newsprint and such commodities as are dealt in or used by manufacturers and distributors of printed matter (except commodities in bulk) between points. From: Between the facilities of W. A. Krueger Co., located in Bristol, CT, Pontiac, IL, Brookfield and New Berlin, WI, Jonesboro, AR, and Senatobia, MS. To points in: ME, NH, VT, MA, CT, RI, NY, NJ, DE, MD, WV, PA, OH, IN, IL, WI, TN, KY, AR, and MS. Supporting shipper: W. A. Krueger Co., 12821 West Blue Mound Road, Brookfield, WI 53005.

MC 14785 (Sub-1–1TA), filed May 9, 1980. Applicant: DICK WELLER, INC., Shoham Road, Warehouse Point, CT 06088. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Rolls, cloth or fabric woven from glass fiber roving: rolls or cartons of mat, glass fiber, not woven, made from continuous chopped strand fiber.* From: NY and TX to points in: FL, IN, IL, PA, MN, OH, SC, NJ, VA, CA, NY, WI, TX, MD, NC, GA, AL, MS, NM, and AZ. Supporting shipper: Fiber Glass Industries, Inc., Amsterdam, NY 12010.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 107012 (Sub-II–31TA), filed May 12, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (Same as applicant). (1) *Swimming pool and spa filters and heaters* and (2) *parts and accessories for the commodities named in (1) above* from the facilities of Baker Hydro, Inc. at or near Irvine, CA to Atlanta and Augusta, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Baker Hydro, Inc., 17152 Armstrong Ave., Irvine, CA 92771.

MC 107403 (Sub-II–20TA), filed May 7, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Anhydrous ammonia, in bulk, in tank vehicles,* from Blytheville, AR to counties in KY and TN west of the Tennessee River for 180 days. Supporting shipper(s): Hutson Chemical Co., Inc., P.O. Box 1002, Murray, KY 42071.

MC 124111 (Sub-II–5TA), filed May 7, 1980. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Ave., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Meats, meat products, and meat by-products, as described in Section A of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* from Port Newark, NJ; New York, NY; Philadelphia, PA; and Norfolk, VA, including points in their respective commercial zones, to points in GA, IN, IL, KY, LA, MI, MN, MO, NY, NC, OH, PA, TN and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Mastan Trading Co., 201 Penn Center Blvd., Pittsburgh, PA 15235; The Tupman Thurlow Co., Inc., 420 Lexington Ave., New York, NY 10017.

MC 119689 (Sub-II–4TA), filed May 9, 1980. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad St., Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same as applicant). *Chemicals, in bulk, in tank vehicles,* from Philadelphia, PA to the facilities of Tanates Chemical Co. at Wellford, SC; and from the facilities of Tenatex Chemical Co. at Wellford, SC to Chillicothe, OH and Bloomington, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tanatex Chemical Co., Page and Schuyler Ave., Lyndhurst, NJ 07071.

MC 107012 (Sub-II–28TA), filed May 7, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities (except commodities in bulk, those of unusual value, class A & B explosives, household goods as defined*

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by the Commission, and those requiring special equipment), from the facilities of Black & Decker (U.S.), Inc. at or near Raleigh, NC to points in AZ, AR, CA, CO, DC, FL, GA, IL, IN, IA, KS, NM, LA, MD, MI, MS, MO, NE, NV, NY, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Black & Decker (U.S.), Inc., 701 East Joppa Rd., Towson, MD 21204.

Note.—Common control may be involved.

MC 1824 (Sub-2–6TA), filed May 15, 1980. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., Suite 700, 918 16th St. NW., Washington, DC 20006. *Common; regular: General commodities, except those of unusual value, classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) between South Bend, IN and Cincinnati, OH, from South Bend over US hwy 31 to junction US Hwy 30, then over US Hwy 30 to junction I–Hwy 75, then over I–Hwy 75 to Cincinnati, and return over the same route, (2) between Toledo, OH and Cincinnati, OH, (a) from Toledo over I–Hwy 75 to Cincinnati, and return over the same route, and (b) from Toledo over I–Hwy 75 to junction OH Hwy 15, then over OH Hwy 15 to junction US Hwy 23, then over US Hwy 23 to junction I–Hwy 71, then over I–Hwy 71 to Cincinnati, and return over the same route, (3) between Cleveland, OH and Cincinnati, OH, from Cleveland over I–Hwy 71 to Cincinnati, and return over the same route, serving all intermediate points on the above named routes, and as off-route points, all points in OH on and west of I–Hwy 71 for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought with authority held under docket MC 1824 and all subs thereunder. Applicant intends to interline with present connecting carriers at authorized points including but not limited to Ft. Wayne, IN, Norfolk, VA, Baltimore, MD and St. Louis, MO. Supporting shippers: There are 95 supporting shippers. Their statements may be examined at the ICC office in Phila., PA.

MC 143210 (Sub-II–3TA), filed May 14, 1980. Applicant: W. C. HALL GENERAL HAULING, INC., Callao, VA 22435. Representative: Calvin F. Major, 200 W. Grace St., Richmond, VA 23220. *Agricultural limestone and limestone products* from York, PA and Texas, MD to the Counties of Hanover, King William, King & Queen, VA and from York, PA to the Counties of Essex, Richmond, Westmoreland, Northumberland and Lancaster, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: W. L. Jackson Farm Services, Box 17, St. Stephens Church, VA 23148; Southern States-Tappahannock Service, P.O.B. 518, Tappahannock, Va 22560; Southern States Coop, Rt. 1, King William, VA 23086.

MC 140555 (Sub-II–TA), filed May 15, 1980. Applicant: J G EXEC, INC., P.O. Box 593, Dover, DE 19901. Representative: Marshall Kragen, 1835 K Street NW., Suite 600, Washington, D.C. 20006. *Passengers and their baggage,* limited to transportation of not more than 12 passengers in any one vehicle, between Kent County, DE, on the one hand, and, on the other, Norfolk, VA, for 180 days. Supporting shipper: COMNAVAIRLANT, Naval Air Station, Norfolk, VA.

MC 150702 (Sub-II–1TA), filed May 15, 1980. Applicant: HERITAGE EXPRESS COMPANY, 5300 Richmond Rd., Bedford Heights, OH 44146. Representative: Donald Morgenroth (same address as above). Contract; irregular *beer* from Fort Wayne, IN; Pittsburgh, PA and Newport, KY to Cleveland, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Crystal Distributing Co., Inc., 3341 Superior Ave., Cleveland, OH 44114.

MC 138000 (Sub-II–11TA), filed May 15, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Synthetic yarn and empty beams and racks,* between Lewistown, PA, including its commercial zone, on the one hand, and on the other, points in NC, SC, GA, AL, and VA, for 180 days. Supporting shipper: Avtex Fibers, Inc., No. 9, Executive Mall, P.O. Box 880, Valley Forge, PA 19485.

MC 125335 (Sub-No. 2–4TA), filed: May 14, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Plastic containers,* From Wilmington, NC to Marcus Hook, PA, Atlanta, GA, and Freehold, NJ and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: South Atlantic Container Corp., P.O. Box 1197, U.S. Highway 42, Wilmington, NC 28402.

MC 150817 (Sub-II–1TA), filed: May 15, 1980. Applicant: HOFFMAN & DAVIS (a partnership), Route #6, Box 89, Hagerstown, MD 21740. Representative: Edward B. Button, 580 Northern Ave., Hagerstown, MD 21740. Contract; irregular: *Laboratory Reagents and culture media,* from Cockeysville, MD, and its commercial zone, to points in PA, DE, NJ, NY, CT, RI, MA, NH, VT, and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: BBL Micro Biological Systems, 250 Schilling Circle, Cockeysville, MD 21030.

MC 121272 (Sub-II–1TA), filed May 15, 1980. Applicant: HESS TRUCKING CO., 1000 West Chocolate Avenue, Hershey, PA 17033. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Such merchandise* as is dealt in by retail and wholesale discount and department stores from Derry Twp., Dauphin County, PA to Pottstown and Quakertown, PA restricted to traffic destined to facilities owned or utilized by K-Mart Corporation and having a prior movement in interstate or foreign commerce, for 180 days. Supporting shipper: K Mart Corporation, 3100 West Big Beaver Road, Troy, MI 48084.

MC 136295 (Sub-II–1TA), filed: May 15, 1980. Applicant: EXPRESSWAY MESSENGER SERVICE, INC., 2524 Maryland Ave., Baltimore, MD 21218. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Printed matter and documents and film matter for photography,* between the facilities of Donnelly Printing Co., located at or near Lancaster, PA, on the one hand, and on the other, Baltimore, MD, and Washington, DC, and their respective commercial zones, restricted against the handling of shipments weighing more than 250 pounds from one consignor at one location to one consignee at one location on any one day, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Donnelly Printing Co., 391 Steel Way, Lancaster, PA 17604.

MC 138000 (Sub-II–10TA), filed May 15, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Furniture parts, and materials and supplies used in the manufacture of furniture parts (except in bulk)* 1. Between Carthage, Springfield and Aurora, MO, Birmingham, AL, Atlanta and Social Circle, GA, Nashville, TN, Winchester, Simpson and Nicholsville, KY, Dalton, IL, Grafton, WI, Ferndale, MI, Mason, Cincinnati and Burton Station, OH, Edison and Jersey City, NJ, Highpoint, Forest City, Linwood, Newton, and Maxton, NC, Jacksonville, Orlando and Miami, FL, and Tupelo, MS, including their respective

commercial zones; and 2. Between Carthage, Springfield and Aurora, MO, Birmingham, AL, Atlanta and Social Circle, GA, Nashville, TN, Winchester, Simpson and Nicholasville, KY, Dalton, IL, Grafton, WI, Ferndale, MI, Mason, Cincinnati and Burton Station, OH, Edison and Jersey City, NJ, Highpoint, Forest City, Linwood, Newton, and Maxton, NC, Jacksonville, Orlando and Miami, FL, and Tupelo, MS, including their respective commercial zones, on the one hand, and on the other, points in MO, AL, GA, TN, KY, IN, IL, WI, MI, OH, PA, WV, VA, NJ, DE, DC, NC, SC, FL, MS, and MD. The authority requested in 1 and 2 above is restricted to traffic moving from, to or between the facilities of or utilized by Leggett & Platt, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt, Incorporated, 18th Road (P.O. Box 757), Carthage, MO 64836.

MC 125335 (Sub-2–5TA), filed May 15, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale and retail discount stores* (except commodities in bulk), from points in Bradford, Carbon, Columbia, Franklin, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Schuykill, Tioga, and Wayne Counties, PA, and Broome, Cayuga, Chemung, Chenango, Cortland, Onondaga, Schuyler, Seneca, Steuben, Tioga, Tompkins, and Yates Counties, NY, to points in CA, FL, GA, IL, MO, OR, TX, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northeastern Pennsylvania Shipper's Cooperative Association, Inc., Nelson Bldg., West Eighth St., W. Wyoming, PA 18644.

MC 150163 (Sub-II–4TA), filed May 15, 1980. Applicant: HORWITH TRUCKS, INC., R.D. No. 1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Coal* (except filter coal), in bags and in bulk, in dump vehicles, from Minersville, PA to Cos Cob, Ellington and New Britain, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Reading Anthracite Coal Company, 200 Mahantongo St. Drawer F, Pottsville, PA 17901.

MC 150163 (Sub-II–3TA), filed May 14, 1980. Applicant: HORWITH TRUCKS, INC., R.D. No. 1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Coal,* in bulk, in dump vehicles, from the facilities of C. T. Coal Company, Inc., Nesquehoning, PA to ports of entry on the International Boundary Line between the US and Canada, in NY, for 180 days. Supporting shipper: Tonolli Corp., R.D. No. 1, Rte. 54, Nesquehoning, PA 18240.

MC 150717 (Sub-II–1TA), filed May 16, 1980. Applicant: R. T. JACQUES, 125 Oneida Valley Rd., Butler, PA 16001. Representative: R. T. Jacques (same address as above). Contract; irregular *brick, cement, mortar, iron and steel articles, lumber, and equipment, materials and supplies used in or incidental to the manufacture, installation or distribution of the above products,* from points in AR, GA, IL, IN, MI, NY, PA to points in and east of ND, SD, NE, CO, OK, TX and from points in and east of ND, SD, NE, CO, OK, TX to points in NY and PA, under contract with International Chimney, Inc. and Continental Clay Products d.b.a. McKee Kittanning Div. of International Chimney, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: International Chimney Corp., 55 S. Long St., Williamsville, NY 14221; Continental Clay Products d.b.a. NcNess Kittanning Div. of International Chimney Corp., 260 Oak Ave., Kittanning, PA 16201.

MC 113666 (Sub-II–7TA), filed May 12, 1980. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, Freeport, PA 16229. Representative: R. Scott Mahood (same address as applicant). *Animal feed ingredients,* in bags, from Chattanooga, TN to Ft. Washington, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540.

MC 150795 (Sub-II–1TA), filed May 13, 1980. Applicant: HERBERT W. HEFFNER, INC., R.D. No. 2, Reading, PA 19605. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Liquid Nitrogen (Fertilizer),* in bulk, in stainless steel tank vehicles, from Baltimore, MD to Chapman, Lebanon, and Leesport, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): AGWAY, Inc., Box R, Wall St., Leesport, PA 19533.

MC 108589 (Sub-II–5TA), filed May 2, 1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Common; regular: General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Cookeville, TN and Smithville, TN, and its commercial zone, from Cookeville, TN over Interstate Route 40 to junction TN Route 56, thence over TN Route 56 to Smithville, TN and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with existing authority and to interline with other carriers. Supporting shipper(s): There are 4 supporting shippers. Their statements may be examined at the ICC Regional Office in Philadelphia, PA.

MC 145125 (Sub-II–2TA), filed May 9, 1980. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., 109 Electric Avenue, Lewistown, PA 17044. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Extruded aluminum products,* from the facilities of Cressona Aluminum Company at or near Cressona, PA, to points in the United States in and west of MN, IA, MO, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cressona Aluminum Company, Cressona, PA 17929.

MC 121372 (Sub-II–2TA), filed May 9, 1980. Applicant: EXPRESS TRANSPORT CO., 1217 Dalton St., Cincinnati, OH 45203. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. *Iron and Steel Articles* between the facilities of McJunkin Corp. at Nitro, Buckannon, W.VA and Indiana, PA, on the one hand, and points in KY, OH, NY, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McJunkin Corporation, 1400 Hansford Street, Charleston, W.VA 25301.

MC 138000 (Sub-II–9TA), filed May 9, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Malt beverages,* from Peoria, IL, Newark, NJ and Milwaukee, WI, including their respective commercial zones, to points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pabst Brewing Co., 917 W. Juneau Ave., Milwaukee, WI 53201.

MC 150784 (Sub-II–1TA), filed May 9, 1980. Applicant: JEFFREY & JON TRUCKING CO., INC., 3241 Fox St., Philadelphia, PA 19129. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Contract; irregular; *automotive parts, materials and supplies (except in bulk) used in the manufacture and distribution thereof,* between points in NJ, MD, PA (restricted to the transportation of traffic originating at or destined to facilities utilized by Mack Trucks, Inc., for 180

days). An underlying ETA seeks 90 days

statement may be reviewed at the ICC

days). An underlying ETA seeks 90 days authority. Supporting shipper: Mack Trucks, Inc., P.O. Box 6311, Bridgewater, NJ 08807.

MC 73533 (Sub-II–3TA), filed May 9, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as above). *Books and printed matter* from Baltimore, MD to Philadelphia, PA; Albany and New York, NY; Boston, MA and Somerset, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Port City Press, Inc., 1323 Greenwood Rd., Baltimore, MD 21208.

MC 66571 (Sub-II–3TA), filed May 12, 1980. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Cleaning products* (except in bulk), from Roanoke, VA and Salem, VA to points in NC (except those within 150 miles of Roanoke, VA). An underlying ETA seeks 90 days authority. Supporting shipper: Purex Corp., 1414 N. Radcliffe St., Bristol, PA 19007.

MC 66571 (Sub-II–2TA), filed May 12, 1980. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Cleaning products* (except in bulk), from Bristol, PA, So. Kearny, NJ, Hackensack, NJ, and New Castle, DE to the facilities of Purex Corp. at Salem, Va and Roanoke, VA. An underlying ETA seeks 90 days authority. Supporting shipper: Purex Corp., 1414 N. Radcliffe St., Bristol, PA 19007.

MC 66571 (Sub-II–1TA), filed May 12, 1980. Applicant: RED LINE, INC., 2310 Orange Ave. N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Plastic bottles and containers,* from the facilities of Purex Corp. at Baltimore, MD to the facilities of Purex Corp. at Salem, VA and Roanoke, VA. An underlying ETA seeks 90 days authority. Supporting shipper: Purex Corp., 1414 N. Radcliffe St., Bristol, PA 19007.

MC 121205 (Sub-2–2TA), filed May 12, 1980. Applicant: SPECIAL SERVICE DELIVERY CO., INC., 2514 Bridge Ave., Cleveland, OH 44113. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Merchandise, equipment and supplies sold, used, or distributed by a manufacturer of cosmetics* (except commodities in bulk) between Toledo, OH, and points in its Commercial Zone, on the one hand, and, on the other, points in Hillsdale, Jackson, Lenawee and Monroe Counties, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 175 Progress Place, Springdale, Ohio 45246.

MC 117095 (Sub-2–1TA), filed May 12, 1980. Applicant: MERVIN E. WEAVER, 11 S. Tower Rd., New Holland, PA 17557. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Sand,* in dump vehicles, from Cecil County, MD to Chester County, PA, for 180 days. An underlying ETA seeks authority for 30 days. Supporting shipper(s): Atglen Quarries, Inc., P.O. Box 2, Atglen, PA 19310.

MC 21866 (Sub-2–18TA), filed May 12, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from the facilities of Woodstream Corp. at Lititz, PA, to Dallas, TX, for for 180 days. Restriction: The service authorized herein is restricted to the transportation of traffic originating at the named origin. Supporting shipper(s): Woodstream Corp., Lititz, PA 17543.

MC 21866 (Sub-2–19TA), filed May 12, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. *Confectionery and confectionery products,* from the facilities of Just Born, Inc. at Bethlehem, PA, to points in IL, IN, MI, MN, OH, and WI, for 180 days. Supporting shipper(s): Just Born, Inc., 1300 Stefco Blvd., Bethlehem, PA 18018.

MC 146423 (Sub-II–4TA), filed May 15, 1980. Applicant: STEPHEN HROBUCHAK, d.b.a. TRANS–CONTINENTAL REFRIGERATED LINES, Route 502, P.O. Box 1465, Scranton, PA 18503. Representative: Peter Wolff, 722 Pitston Ave., Scranton, PA 18505. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Lackawanna, Lehigh, Luzerne, Monroe, Bradford, Columbia, Franklin, Lycoming, Montour, Northampton, Northumberland, Schuylkill, Tioga and Wayne Counties, PA, and Broome, Cayuga, Chemung, Chenango, Cortland, Onandaga, Schuyler, Seneca, Steuben, Tioga, Tompkins and Yates Counties in NY on the one hand, and, on the other points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY restricted to transportation originating at or destined to the facilities utilized by either Northeastern Pennsylvania Shippers Cooperative Association, Inc., or its member and restricted to shipments on bills of lading of shippers associations for 180 days. Supporting shipper(s): Northeastern Pennsylvania Shippers, Cooperative Association, Inc., Nelson Bldg., W. 8th St., W. Wyoming, PA 18644.

MC 21866 (Sub-2–16TA), filed May 12, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. *Aluminum and aluminum products,* from the facilities of Cressona Aluminum Co. at Cressona, (Schuylkill County), PA, to Vancouver, WA, Greenville, SC, and points in AL, FL, GA, NC and OK, for 180 days. Supporting shipper(s): Cressona Aluminum Co., Cressona, PA 17129.

MC 136077 (Sub-II–2TA), filed May 15, 1980. Applicant: REBER CORP., 2216 Old Arch Rd., Norristown, PA 19401. Representative: Duane, Morris & Heckscher, by Sheri B. Friedman, 1600 Land Title Bldg., 100 S. Broad St., Philadelphia, PA 19110. *Flyash,* from the terminals of National Minerals Corp. at Westmoreland County, Indiana County and Berks County, PA; to points in OH, VA and WV. Supporting shippers: National Minerals Corp., R.D. No. 4, Box 189–B, Indiana, PA 15101.

MC 109124 (Sub-II–2TA), filed May 16, 1980. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Scrap metals* from the facilities of Material Processing at or near Rural Ridge, PA to Taylor, MI, for 180 days. Supporting shipper: Material Processing, Box 7, Rural Ridge, PA 15075.

MC 147901 (Sub-2–1TA), filed May 19, 1980. Applicant: RIDGEWOOD, INC., 2250 Ridgewood Rd., Medina, OH 44256. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Horses, other than ordinary, and in connection therewith, personal effects of attendants, and equipment, materials and supplies used in the care, transportation, racing and exhibition of such horses,* between points in AZ, FL, KY, PA, NY, OH, MI, IL, IN, NJ, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 8 supporting shippers. Their statement may be reviewed at the ICC Regional office in Philadelphia, PA.

MC 116763 (Sub-2–11TA), filed May 19, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as above). *Scrap and waste paper* between points in the United States in and east of MN, IA, MO, OK and TX, for 180 days. Restricted to the transportation of traffic originating at or destined to the facilities utilized by Maslo Co. Supporting shipper: Maslo Co., Front and Ford St., Bridgeport, PA 19405.

MC 150552 (Sub–2–3TA), filed May 19, 1980. Applicant: Virginian Electric Co., d.b.a. VIRGINIAN POWER TRANSPORT, 6333 Emerson Ave., Parkersburg, WV 26101. Representative: John Friedman, 2930 Putman Ave., Hurricane, WV 25526. *Glass containers and closures,* from Coventry, RI and Vienna, WV to points in IL, IN, MI, NC, SC and WI, and from Coventry, RI to points in KY for 180 days. Supporting shipper(s): National Bottle Co., 1 Bala Cynwyd Plaza, Bala Cynwyd, PA 19004.

MC 21866 (Sub–II–20TA), filed May 19, 1980. Applicant: West Motor Freight, Inc., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Building, Phila, PA 19110. *Materials* used in the manufacture of plastic pellets (except commodities in bulk), from Pensacola, FL, to the facilities of Texapol Corp. at or near Bethlehem, PA, for 180 days. Supporting shipper(s): Texapol Corp., 500 Ronca Commercial Park, Bethlehem, PA 18017.

MC 149272 (Sub–2–1TA), filed May 19, 1980. Applicant: SWIFT AIR DELIVERY, INC., 1710 Allied St., Charlottesville, VA 22901. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Baltimore, MD, Washington, DC and points in the commercial zones thereof, on the hand, and, on the other, Charlottesville, Harrisonburg, Stauton and Waynesboro, VA and points in Albermarle, Augusta, Culpeper, Greene, Louisa, Madison, Nelson, Orange and Rockingham Counties, VA, restricted to the transportation of traffic having a prior or subsequent movement by air. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 25 supporting shippers. Their statements may be examined at the I.C.C. regional office in Phila., PA.

MC 114569 (Sub–2–20TA), filed May 19, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *(1) Floor coverings,* and *(2) Materials, equipment and supplies used in the manufacturing, distribution, installation and maintenance of floor coverings* between the facilities of Armstrong World Industries, Inc., at or near Kankakee, IL on one hand and, on the other, points in the states of AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NY, NJ, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WV, WI, and DC. Restricted to traffic of Armstrong World Industries, Inc. originating or terminating at or near Kankakee, IL. Supporting shipper: Armstrong World Industries, Inc., P.O. Box 3001, Lancaster, PA 17604.

MC 148339 (Sub–II–1TA), filed May 19, 1980. Applicant: WM. POTT & SON, INC., 5547 Cheviot Rd., Cincinnati, OH 43239. Representative: Kevin R. Reichley, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of bedding or upholstery (except in bulk),* (1) between Nicholasville, Simpsonville, and Winchester, KY, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, MA, MD, NJ, NC, OH, PA, TN, VA, and WV; and (2) between Mason, OH, on the one hand, and, on the other, points in MA, MD, NC, and NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 64836.

MC 150545 (Sub–2–1TA), filed April 10, 1980, first published in the **Federal Register** of April 28, 1980. Applicant: TRI-CITY TIRES, INC., 1016 Butt St., Chesapeake, VA 23324. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Contract; irregular:* (1) *Adhesives, cement, paint, petroleum, naphtha; plastic or rubber articles; rubber compound; soap; tire treads* and (2) *materials, supplies and equipment used in the manufacture, distribution and sales of commodities in (1) above (except commodities in bulk, in tank vehicles)* between points in Rockdale County, GA, on the one hand, and, on the other, points in AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KY, LA, MA, MD, MI, MN, MO, MS, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WI, and WV, for 180 days. Supporting shipper(s): Uniroyal Tire Co., 1961 Industrial Blvd., Conyers, GA 30207. The purpose of this republication is to reflect the correct destination state of WV which was omitted in the first publication.

MC 150588 (Sub-2–1), filed April 24, 1980, first published in the **Federal Register** of May 7, 1980. Applicant: OWINGS & SONS, INC., Box 297, Millington, MD 21651. Representative: Joseph I. Huesman, 504 Maryland Trust Bldg., Baltimore, MD 21202. *Contract; irregular: Anhydrous ammonia,* from Palmerton, PA, and Gibbstown, NJ to points in DE and Eastern Shore of MD, south of Chesapeake-Delaware Canal for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 5 supporting shippers. Their statements may be examined at the office listed below. The purpose of this republication is to reflect the correct area (Eastern Shore) of destination state of MD which was omitted in the first publication.

MC 142703 (Sub-II–1TA), filed April 17, 1980, first published in the **Federal Register** of May 6, 1980. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. Third St., P.O.B. 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between: (a) Memphis, TN (and its Commercial Zone), on the one hand, and, on the other, the following 24 counties of AL: Bibb, Blount, Choctaw, Colbert, Cullman, De Kalb, Fayette, Franklin, Greene, Hale, Jackson, Lamar, Lawrence, Limestone, Madison, Marengo, Marion, Marshall, Perry, Pickens, Saint Clair, Shelby, Sumtar, Walker; (b) Memphis, TN (and its Commercial Zone) on the one hand, and, on the other, the following 66 counties of AR: Arkansas, Ashley, Baxter Boone, Bradely, Calhoun, Carroll, Chicot, Clark, Clay, Cleburne, Cleveland, Columbia, Conway, Craighead, Crittenden, Cross, Dallas, Desha, Drew, Faulkner, Franklin, Fulton, Garland, Grant, Greene, Hempstead, Hot Springs, Independence, Izard, Jackson, Jefferson, Johnson, Lawrence, Lee, Lincoln, Logan, Lonoke, Madison, Marion, Mississippi, Monroe, Montgomery, Nevada, Newton, Quachita, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, Searcy, Sharp, Stone, St. Francis, Union, Van Vuren, White, Woodruff, Yell; (c) Memphis, TN (and its Commercial Zone) on the one hand, and, on the other, the following 18 counties of IL: Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, White, Williamson; (d) Memphis, TN (and its Commercial Zone) on the one hand, and, on the other, the following 11 parishes in

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LA: Claiborne, East Carroll, Franklin, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll; (e) Memphis, TN (and its Commercial Zone) on the one hand, and, on the other, the following 58 counties of MS: Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, De Sota, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Kemper, Lafayette, Lauderdale, Leake, Lee, Leflore, Lowndes, Madison, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Warren, Washington, Webster, Winston, Yaolbusha, Yazoo; (f) Memphis, TN (and its Commercial Zone) on the one hand, and, on the other, the following 38 counties in MO: Bollinger, Butler, Cape Giardeau, Carter, Christian, Crawford, Dent, Douglas, Dunklin, Franklin, Greene, Howell, Iron, Jefferson, Laclede, Madison, Mississippi, New Madrid, Oregon, Ozark, Pemiscot, Perry, Phelps, Pulaski, Reynolds, Ripley, Saint Francois, Scott, Shannon, Ste. Genevieve, Stoddard, Stone, Washington, Wayne, Webster, Wright, Taney, Texas; (g) Memphis, TN (and its Commercial Zone) on the one hand, and, on the other, the following 47 counties in TN: Bedford, Bentorl, Cannon, Carroll, Cheatam, Chester, Coffee, Crockett, Davidson, Decatur, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Lawrence, Lewis, Lincoln, Madison, Marshall, Maury, McNairy, Montgomery, Obion, Perry, Robertson, Rutherford, Shelby, Stewart, Sumner, Tipton, Trousdale, Wayne, Weakley, Williamson, Wilson: Restricted to the transportation of shipments having a prior or subsequent movement by rail. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the ICC Office in Phila., PA. The purpose of this republication is to reflect the correct destination county of Houston, TN (part g) which was omitted in the first publication.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 35320 (Sub-5–26), filed May 16, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common; regular. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving McAllen, TX and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations restricted to traffic originating at or destined to the facilities of the General Electric Company. Supporting shipper: The General Electric Company, 2401 East Sunshine, Springfield, MO.

Note.—Applicant intends to tack to its existing authority or any authority it may obtain in the future and interline with other carriers. Common control may be involved.

MC 30844 (Sub-TA5–10), filed May 16, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 2122, Tulsa, OK 74121. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Such commodities as are dealt in or used by automotive supply, household appliance and general merchandise stores (except foodstuffs and commodities in bulk)* between points in the US, in and east of MN, IA, NE, KS, OK and TX, restricted to traffic originating at or destined to the facilities of Western Auto Supply Company. Supporting shipper: Western Auto Supply Company, 2107 Grand Avenue, Kansas City, MO 64108.

MC 47583 (Sub-5–7TA), filed May 15, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. (1) *Air coolers, air conditioners, humidifiers, heat pumps, air cleaners, and parts and accessories for air coolers, air conditioners, humidifiers, heat pumps and air cleaners,* from the facilities of General Electric Co., located at or near Tyler, TX to points and places in AL, AR, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MO, MS, NC, NE, NJ, NY, OK, OH, PA, SC, TN, VA, WV; and (2) *Parts and accessories for air coolers, air conditioners, humidifiers, heat pumps and air cleaners,* from Wynn, AR, to the facilities of General Electric Co., located at or near Tyler, TX. Restricted to traffic originating at the named origin points and destined to the named destinations as set out in (1) and (2). Supporting shipper: General Electric Co. 6200 Troup Highway, Tyler, TX 75701.

MC 111401 (Sub-5–6TA), filed May 16, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Crude oil, in bulk, in tank vehicles,* from points in Dundy, Hitchcock and Red Willow Counties, NE to points in Decatur County, KS. Supporting shipper: Central Crude Corporation, Suite 930, Fourth Financial Center, Wichita, KS 67202.

MC 114211 (Sub-5–13TA), filed May 15, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *(1) Experimental and show display tractors, agricultural, industrial, construction, and forestry equipment, (2) parts, attachments, and accessories fo the commodities in (1) above, and (3) paraphernalia, which at the time of movement is being transported for purposes of display or experiment, and not for sale,* from Richmond, VA, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: National Hydro-Ax, Inc., P.O. Box 568, Owatonna, MN 55060.

MC 118089 (Sub-5–3TA), filed May 19, 1980. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, 2909 Avenue C, Lubbock, TX 79408. Representative: Charles M. Williams, Kimball, Williams, & Wolfe, P.C., 350 Capito Life Center, 1600 Sherman Street, Denver, Colorado 80203 (303) 839–5856. *Doors,* from the facilities of Westcoast Doors, Inc. at or near Tacoma, WA to points in TX, NM, OK and LA. Supporting shipper: Westcoast Doors, Inc., 3102 South Pine, Tacoma, WA 98409.

MC 118959 (Sub-5–7TA), filed May 13, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick, Cape Girardeau, MO. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, Illinois. *General commodities (except commodities in bulk)* between Spring Grove, Il on the one hand, and on the other, points in the United States (except Alaska and Hawaii). Supporting shipper: Forms Corporation of America, P.O. Box 278, Spring Grove, Illinois 60081.

MC 119399 (Sub-5–15TA), filed May 16, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, Missouri 64801. Representative: Thomas P. O'Hara (same address as applicant). *Glass containers and accessories thereof,* from Sapulpa, OK to points in AL, FL, GA, and KY. Supporting shipper: Liberty Glass Company, P.O. Box 520, Sapulpa, Oklahoma 74066.

MC 119493 (Sub-5–21TA), filed May 16, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas

D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Salvage merchandise and such commodities as are dealt in or used by wholesale and retail discount or variety stores (except commodities in bulk),* from AL, AR, GA, IL, IN, IA, KS, KY, LA, MS, MO, NE, OK, TN, & TX to facilities of Dollar Saver Stores Inc. in Ponca City and Tulsa, OK and Ft. Smith and Rogers, AR. Supporting shipper: John A. Self, President, Dollar Saver Stores, Inc., 800 Rogers Ave., Ft. Smith, AR 72901.

MC 119493 (Sub-R–22TA), filed May 16, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Wood products, lumber and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk)* Between Van Buren, Ellsimore, and Lodi, MO on the one hand and points in IL, IN, IA, KS, NE, and WV on the other hand. Supporting shipper: Zack Stone, Office Manager, Risby Pallet & Lumber Co., Inc., Route 2, Van Buren, MO 63965.

MC 119493 (Sub-R–23TA), filed May 16, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Charcoal, charcoal products, and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk)* (1) Between facilities of Floyd Charcoal Corp. (a wholly-owned subsidiary of Cupples Company Manufactures) at or near Salem, MO on the one hand and points in AL, IA, IL, IN, KS, KY, MS, NE, OH, PA, WV and WI on the other hand and, (2) between facilities of Imperial Briquet Corp. (a wholly-owned subsidiary of Cupples Company Manufactures) at or near Kenbridge, VA on the one hand and points in DC, DE, MD, NC, NJ, NY, and PA on the other hand. Supporting shipper: Harold E. Boswell, Cupples Company Manufacturers, 1034 South Brentwood, St. Louis, MO 63117.

MC 119789 (Sub-5–18TA), filed May 16, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Cocoa Beans and Coffee Beans, in containers* from New Orleans, LA and Houston and Laredo, TX to Ripon and Salines, CA. Supporting shipper: The Nestles Company, Inc., 100 Bloomingdale Road, White Plains, NY 10605.

MC 119789 (Sub-5–19TA), filed May 16, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). (1) *Electrical applicances, equipment and parts* from Columbia, Moberly, Booneville, Clarence, Jefferson City, Kirksville and Macon, MO to points in TX, LA, AR, and IA and points in the US in and east of WI, IL, KY, TN, and MS and (2) *Materials and supplies used in the manufacture and distribution of electrical appliances, equipment and parts (except commodities in bulk)* from TX, LA, AR, and IA and points in the US in and east of WI, IL, KY, TN, and MS to Columbia, Moberly, Booneville, Clarence, Jefferson City, Kirksville and Macon, MO. Restricted as to (1) and (2) above to the transportation of traffic originating at or destined to the facilities of McGraw-Edison Company in MO. Supporting shipper: McGraw-Edison Company, 1801 No. Stadium Blvd., Columbia, MO 65201.

MC 119988 (Sub-5–12TA), filed May 16, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Texas 75901. Representative: E. Larry Wells. P.O. Box 45538, Dallas, Texas 75245. *Furnaces, airconditioners, compressors, air coolers, fans, blowers, parts and accessories therefor* from Edison, NJ and Effingham, IL to all points in the US (except AK and HI). Supporting shipper(s): Fedders Corporation, Woodbridge Avenue, Edison, New Jersey 08817.

MC 119988 (Sub-5–13TA), filed May 16, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Texas 75901. Representative: E. Larry Wells, P.O. Box 45538, Dallas, Texas 75245. *Wines, spirits and mixes* from CA to TX, OK, KS, NE, IA, MN, AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VT, WV, WI, VA and Washington, D.C. Supporting shipper(s): Sonoma Vineyards, Inc., P.O. Box 368, Windsor, CA 95492; A. Perilli-Minetti & Sons, d.b.a. California Wines, P.O. Box 818, Delano, CA 93216; Glazer Wholesale Drug, 508 Park Avenue, Dallas, TX 75201; and Paul Masson Vineyards, P.O. Box 21069, San Jose, CA 95151.

MC 123993 (Sub-5–11TA), filed May 15, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, La. 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, La. 70526. *(1) Non alcoholic beverages (except in bulk); (2) materials, equipment and supplies used in the manufacture, distribution or sale of (1) (except in bulk),* between Winnsboro, LA on the one hand and on the other points in AL, AR, FL, GA, LA, MS, TN and TX. Supporting shipper: Shasta Beverages. 7333 Major, Houston, TX 77061.

MC 123993 (Sub-5–12TA), filed May 16, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, La. 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, La. 70526. *Poultry and animal feed and mineral or vitamin mixtures for poultry and animal feeding (except in bulk),* between Evergreen Mills, Inc. at or near Ada, OK to points in AR, LA and TX. Supporting shippers: Vivian Feed & Fertilizer, 123 E. Arkansas, Vivian, LA 71082; Hope Feed Co., Inc., P.O. Box 86, Hope, AR 71801.

MC 125254 (Sub-5–3TA), filed May 15, 1980. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. (1) *Fiberboard containers,* From the facilities of Southwest Forest Industries at or near Kansas City, KS, to points in IA and NE; (2) *Materials and supplies (except commodities in bulk),* used in the manufacture, sale or distribution or the commodities in (1); From points in NE and IA to the facilities of Southwest Forest Industries at or near Kansas City, KS; and (3) *Expanded plastics articles,* From the facilities of Southwest Forest Industries at or near Kansas City, MO to points in IA, KS, and NE. Supporting shipper: Southwest Forest Industries, P.O. Box 7548, Phoenix, AZ 85011.

MC 129908 (Sub-5–22TA), filed May 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73107. *Drugs, medicines, toilet preparations, packaging materials, and commodities used in the packaging or manufacture thereof* from the facilities of Beecham Laboratories in Bristol, TN to Elmhurst, IL. Supporting shipper: Beecham Laboratories, 501 Fifth Street, Bristol, TN 37620.

MC 129908 (Sub-5–23TA), filed May 16, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73107. *Aircraft parts and accessories,* between Los Angeles, CA (including commercial zone), on the one hand and the facilities of Vought Corporation in Dallas County, TX, on the other. Supporting shipper(s): Vought Corporation, 9314 West Jefferson, Dallas, TX 75211.

MC 129908 (Sub-5–24TA), filed May

General Electric Company, 6901 Lindsey

Wapakoneta, OH; and Ft Worth, TX; on

MC 129908 (Sub-5–24TA), filed May 19, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73107. *Exercise equipment, Hydrotherapeutic pools, Hot Tubs, Spas and parts and accessories of the preceding commodities* from CA to the facilities of Haden Company, Inc. in CO, OK, TX, Omaha, NE, and Atlanta, GA. Supporting shipper: Haden Company, Inc., 2707 Satsuma, Dallas, TX 75229.

MC 135797 (Sub-5–36TA), filed May 16, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). (1) *Malt beverage and related advertising materials*, and (2) *empty used beverage containers and materials and supplies* used by breweries, between Jefferson County, CO and points in AR. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 135797 (Sub-5–37TA), filed May 16, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Canned goods*, from the facilities of Woldert Canning, Inc. located at Lindale, TX to points in AL, AZ, AR, CA, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, UT, VA, WV and WI. Supporting shipper: Woldert Canning, Inc., P.O. Box 1140, Tyler, TX 75710.

MC 135797 (Sub-5–38TA), filed May 16, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Such merchandise as is dealt in or used by retail, variety and department stores (except in bulk)*, from points in the United States (except AK and HI) to the facilities of Naum Brothers located in MI and Rochester, Buffalo and Syracuse, NY. Supporting shipper: Naum Brothers, Inc., 2373 Ridge Road West, Rochester, NY 14626.

MC 135982 (Sub-5–4TA), filed May 16, 1980. Applicant: S. L. HARRIS, d.b.a. PBI, P.O. Box 7130, Longview, TX 75601. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. (1) *Household appliances and parts and accessories for household appliances*, (2) *Television sets, recorders (tape or wire), and accessories for television sets and recorders*, from Little Rock, AR, to all points in the states of LA, MS, NM, OK, and TX. Supporting shipper(s): General Electric Company, 6901 Lindsey Road, Little Rock, AR 72206.

MC 140665 (Sub-5–13TA), filed May 16, 1980. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Meat, meat by-products, and packinghouse products*, from points in MN, IL, OK, and SD to points in CA and NV. Supporting shipper: Pacific Provisions, Inc., 139 Mitchell Ave., South San Francisco, CA 94080.

MC 141489 (Sub-5–2TA), filed May 16, 1980. Applicant: HUNTER TRUCKING, INC., 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Salt, in bulk*, from the facilities of Texasgulf, Inc. at or near Moab, UT to points in NE, IA and SD. Supporting shipper: Texasgulf, Inc., P.O. Box 30321, Raleigh, NC 27622.

MC 142954 (Sub-5–2), filed May 16, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Contract, irregular: *meats, meat products, meat byproducts and articles distributed by meat packing houses (except hides and commodities in bulk)* between all points in the United States (except AK and HI), restricted to traffic moving for the account of Glenn Brothers Meat Company, Inc. Supporting shipper: Glenn Brothers Meat Company, Inc., Suite 308, 558 South Central Expressway, Richardson, TX 75080.

MC 144622 (Sub-5–29TA), filed May 15, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Candy, confectionery and cough drops (except in bulk)* between Reading, PA on the one hand and on the other, points in the United States (except AK and HI). Supporting shipper: Luden's, Incorporated, 200 N. 8th Street, Reading, PA 19601.

MC 144622 (Sub-5–30TA), filed May 15, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Applicant's Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such merchandise as is dealt in by wholesale, retail and discount stores (except commodities in bulk)* between the facilities of Lancaster Colony Corporation and its subsidiaries located at or near Opeliko, AL; Menlo Park & Torrance, CA; Eatonton & Waycross, GA; Dunkirk & Eaton, IN; Elizabeth, NJ; Bedford Heights, Columbus, Coshocton, Jackson, Lancaster, Leesburg, Massillon, Mt. Sterling, Roseville, Sandusky, & Wapakoneta, OH; and Ft Worth, TX; on the one hand, and on the other, points in the United States (except AK and HI). Supporting shipper: Lancaster Colony Corporation, P.O. Box 70, Lancaster, OH 43130.

MC 144622 (Sub-5–31TA), filed May 16, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Applicant's Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Insulators, electric wiring, or wiring, pottery or pottery and iron combined or parts thereof and the materials and supplies used in the manufacture and distribution thereof* between Sandersville, GA on the one hand and on the other hand, points in the United States (except AK and HI). Supporting shipper: Lapp Insulator, P.O. Box 776, Sandersville, GA 31082.

MC 144622 (Sub-5–32), filed May 16, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Applicant's Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Paper and paper products except commodities in bulk* between the facilities utilized by International Paper Company on the one hand and all points in the United States (except AK and HI) on the other hand. Supporting shipper: International Paper Company, 220 East 42nd, New York, NY 10017.

MC 145150 (Sub-5–6TA), filed May 19, 1980. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R.R. 2, Salina, KS. 67401. Applicant's Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, Ks. 66612. *Liquid fertilizer solutions and dry fertilizer*. From the facilities of Poole Chemical, Inc at or near Texline, TX to points in CO; KS; NM and OK. Supporting shipper: Poole Chemical, Inc., P.O. Box 8, Texline, TX 79087.

MC 146504 (Sub-5–2TA), filed, May 16, 1980. Applicant: LEO TRUCKING COMPANY, P.O. Drawer F, Poteau, OK 74953. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Coal, in bulk*, from the facilities of Muskogee Machinery Co., at or near Muskogee, OK to the facilities of General Portland Cement at or near Dallas, TX. Supporting shipper: Associated Producers Company, 5005 N. Pennsylvania Avenue, Oklahoma City, OK 73112.

MC 148512 (Sub-5–1TA), filed, May 15, 1980. Applicant: WESTERN TANK LINE, INC., 2222 North 11th Street, Omaha, Nebraska 68110. Representative: Donald F. Swerczek, 2222 North 11th Street, Omaha, Nebraska 68110. *Asphalt Emulsion, in bulk, in tank vehicles*, from Alton, IA., to points in MN, SD, and NE. Supporting shipper: Bitucote Products Company, P.O. Box 408, First Street, Alton, IA 51003.

MC 150811 (Sub-5–3TA), filed, May 19, 1980. Applicant: LEONARD SAMPLE, d.b.a., SUPREME TRANSPORT CO., 3022 Bel Air Drive, Council Bluffs, IA 51501. Representative: James F. Crosby, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading*, from the facilities of Cutlas Xpress Corporation, at or near Swanton, VT to points in the United States (except AK and HI). Supporting shipper: Cutlas Xpress Corporation, Franklin Industrial Air Park rfd, Swanton, VT 05488.

MC 150836 (Sub-5–1TA), filed, May 16, 1980. Applicant: JOHN A. FOWLER d.b.a. JOHN FOWLER TRUCKING, Rte 4, No. 12 Robin Dale Lane, Burleson, TX 76028. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, Irregular. *Such commodities as are dealt in by nutritional food distributors*, except in bulk, from points in Los Angeles County, CA to Cleburne, TX. Supporting shipper: Keene Distributors, Inc. of Cleburne, TX.

MC 150841 (Sub-5–1TA), filed May 19, 1980. Applicant: PREMIER TRUCKING CO., INC., P.O. Box 187, Osawatomie, KS 66064. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Contract: *Machinery, equipment, materials and supplies, used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts (except complete drilling rigs) and iron and steel articles*, from points in NY, PA, WV, OH, IN, IL, MO, KS, OK, LA, TX, KY, CO, NE, CA and NM to points in KS, MO, OK, OH, KY, TX, PA, NY, IL and NE. Supporting shipper: Kenneth R. Johnson, Inc., 409 Sixth St., Osawatomie, KS 66064.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 6. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION, REGION 6 MOTOR CARRIER BOARD, P.O. BOX 7413, SAN FRANCISCO, CA 94120.

MC 52323 (Sub-6–1TA), filed May 16, 1980. Applicant: E. I. BRANDT TRUCKING CO., INC., P.O. Box 125, Yuba City, CA 95991. Representative: E. I. Brandt (same as applicant). *Canned goods and preserved fruit products* from Yuba City to Roseville, Sacramento, Stockton, Oakland, and San Francisco, CA, restricted to shipments having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Harter Packing Co., P.O. Box 71, Yuba City, CA 95991, Diamond/Sunsweet Inc., 1050 South Diamond, Stockton, CA 95201.

MC 144621 (Sub-6–5TA), filed May 16, 1980. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Jack B. Wolfe, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Vehicle Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at or near Cherokee, Des Moines, and Cedar Rapids, IA and Albert Lea, MN, to points in CA, for 180 days. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 42487 (Sub-6–17TA), filed May 14, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, corporation of Delaware, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier*, regular route: *General commodities, (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading)*, serving the facilities of Stutz Products Corp., St. Joe Paper Co.—Container Division, Overhead Door Co. of Indiana and Crist, Inc., at or near Hartford City, IN and Monpelier Glove of Indiana, and Gripco Fastener Division—Mite Corporation, at or near Monpelier, IN, as off-route points in connection with carrier's otherwise authorized regular route operations for 180 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will be tacked or joined, as off-route points, with authority presently held in Docket No. MC 42487 Sub 500 and Docket No. MC 42487 Sub 578. These authorities, in turn, will be joined with other present authority of Consolidated Freightways at such points as Minneapolis, MN, St. Louis, MO, Chicago, IL and Cincinnati, OH, to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tarriffs on file with the Interstate Commerce Commission. Supporting shipper(s): There are six (6) statements in support attached to this application which may be examined at the I.C.C. Region 6 Office, San Francisco, CA.

MC 139906 (Sub-6–19TA), filed June 16, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *(1) Paper bags, plastic bags, wrapping paper and (2) equipment, materials and supplies used in the manufacture, sale and distribution of the commodities in (1) above (except in bulk)* between the facilities of Terminal Paper Bag Co., Inc., at or near Yulee, FL, on the one hand, and, on the other, points in MI for 180 days. Applicant seeks 90 days authority under ETA application. Supporting shipper: Terminal Paper Bag Co., Inc., 529 Fifth Avenue, New York, NY 10017.

MC 134599 (Sub-6–20TA), filed May 15, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier; Irregular Routes; Books, toys, games, paper products, telescopes, microscopes and microscope slides* from (1) the facilities of Western Publishing Company, Inc., located at Fayetteville, NC, to points in the United States in and east of OH, KY, TN, MS, and LA; and (2) from the facilities of Western Publishing Company, Inc., located at Coffeyville, KS, to points in the United States in and west of MI, IN, IL, MO, AR, and TX (except AK and HI), for 180 days. Applicant seeks underlying ETA authority for 90 days. Under continuing contract(s) with Mattel, Inc., parent company. Supporting shipper: Western Publishing Company, Inc., 1220 Mound Avenue, Racine, WI 53404.

MC 134440 (Sub-6–1TA), filed May 15, 1980. Applicant: LA VENTURE BROS. TRANSFER, d.b.a. LA VENTURE BROS. TRANSFER, and LA VENTURE BROS. VAN LINES, P.O. Box 119, Maywood, CA 90270. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, D.C. 20036. *Household goods*, as defined by the Commission, (1) between points in CA, ID, OR and WA; (2) Between points in CA, ID, OR and WA on the one hand, and, on the other, points in AR, CO, IL,

V 45 M Y 29 80 UMI

IN, IA, KS, KY, MO, NE, OK, TN and TX for 180 days. Supporting shippers: There are 6 shippers. Their statements may be examined at the Regional office listed.

MC 150670 (Sub-6–1TA), filed May 14, 1980. Applicant: LEMMONS TRUCKING INC., 2308 Talley Way, Kelso, WA 98626. Representative: Earle V. White, 2400 SW Fourth Avenue, Portland, OR 97201. *Wood residuals,* in bulk, from the facilities of Northwest Hardwoods, Inc., Centralia, WA to Wauna and St. Helens, OR and Longview, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northwest Hardwoods, Inc., 3000 Galvin Road, Centralia, WA 98531.

MC 339 (Sub-6–1TA), filed May 14, 1980. Applicant: LINCOLN MOVING & STORAGE CO., INC., 1071 Andover Park West, Seattle, WA 98188. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Household goods* as defined by the Commission in containers between points in the United States (including AK but excluding HI) restricted to transportation of traffic having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional office listed.

MC 128527 (Sub-6–7TA), filed May 14, 1980. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237. *Paper and Paper Products,* from the facilities of Crown Zellerbach at or near Wauna, OR to points in UT including but not limited to Salt Lake City, Ogden, Provo, Murray, Midvalle, and American Fork, for 180 days. Supporting shipper: Crown Zellerbach, 1500 S.W. First Avenue, Portland, OR 97201.

MC 142686 (Sub-6–8TA), filed May 16, 1980. Applicant: MID–WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular routes: *Building Materials and Supplies,* between the facilities of suppliers of Aluma Systems & U.S. WACO. in the United States, on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper: Robert Myers, Aluma Systems & U.S. WACO., 14000 S. Santa Fe, Long Beach, CA 90810.

MC 142686 (Sub-6–9TA), filed May 16, 1980. Applicant: MID–WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular routes: *Vinyl Siding and Plastic Articles used in the manufacture and installation thereof,* between Danville, IL, on the one hand, and, on the other, customers and suppliers of Robintech Corp., at points within the United States, (except AK & HI), for 180 days. Supporting shipper: Robintech Corporation, P.O. Box 835, Weatherford, TX 76086.

MC 142686 (Sub-6–10TA), filed May 16, 1980. Applicant: MID–WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular routes: *Welding equipment and supplies, Medical Equipment, Scrap and other materials and supplies used in the manufacture thereof,* between our Texas facilities on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper: Bud Gafford, P.O. Box 1007, Denton, TX 72601, Victor Equipment Company.

MC 124692 (Sub-6–7TA), filed May 16, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55402. (1) *Iron oxide, in bags,* from Emeryville, CA to points in ID, OR, UT and WA; (2) *limestone, crushed or ground, in bags,* from Lucerne Valley, CA to points in ID, OR, UT and WA; and (3) *talc, in bags,* from Victorville, CA and Dillon , MT, to points in ID, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Pfizer, Inc., 235 East 42nd Street, New York, NY 10017.

MC 150258 (Sub-6–1TA), filed May 15, 1980. Applicant: SAUNDERS BROS. TRUCKING, INC., 125 Industrial Way, Fillmore, UT 84631. Representative: Merrill A. Saunders (same as applicant). *Contract Carrier,* Irregular routes: *Volcanic stone* from Millard County, UT using flat-bed trailers with end dumping capacity to points in UT, CO, NV, AZ, CA, NM, ID, OR, WA, & WY, for the account of Fillmore Products, Inc., for 180 days. Supporting shipper: Fillmore Products, Inc., SR Box 125, Fillmore, UT 84631.

MC 142941 (Sub-6–5TA), filed May 16, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). *Foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk), from Los Angeles, CA and its commercial zone, to points in and east of MN, IA, MO, AR, and TX, for 180 days. Supporting shippers: Oh Boy Corporation, 1516 First Street, Phoenix, AZ 91340, and Sabatasso's Pizza, 240 East Dyer Road, Santa Ana, CA 92707.

MC 150818 (Sub-6–1TA), filed May 15, 1980. Applicant: SUSQUEHANNA TRANSPORTATION, INC., 7400 South Alton Court, Englewood, CO 80112. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* irregular routes, *Plastic pipe; plastic pipe fittings, connectors and valves; insulation and insulation materials; mineral wool; and materials, equipment, and supplies* used in the distribution and production of the described commodities, under a continuing contract(s) with R & G Sloane Manufacturing Company, Inc., and Rockwool Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R & G Sloane Manufacturing Company, Inc., 7606 North Clybourn Ave., P.O. Box 876, Sun Valley, CA 91352 and Rockwool Industries, Inc., 7400 South Alton Court, Englewood, CO 80112.

MC 58035 (Sub-6–4TA), filed May 16, 1980. Applicant: TRANS–WESTERN EXPRESS, LTD., 5231 Monroe Street, Denver, CO 80216. Representative: Jack B. Wolfe, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Household electric appliances and equipment; oral hygiene appliances and equipment; hydrotherapy equipment; sink and shower fixtures; smoke alarms; food processing machines; filters; other commodities manufactured by manufacturers of the commodities named above; and materials, equipment, and supplies used in the manufacture and distribution of the commodities named above,* between the facilities of Teledyne Water Pik, at or near Columbus, OH, on the one hand, and, on the other, points in the United States in and east of MS, TN, KY, IL and WI, for 180 days. Supporting shipper: Teledyne Water Pik, 1730 East Prospect, Ft. Collins, CO 80525. Applicant also seeks to participate in intermodal service on export and import traffic within the scope of the authority requested. An underlying 90 day ETA has been filed.

MC 145435 (Sub-6–2TA), filed May 16, 1980. Applicant: WESTERN AG INDUSTRIES, INC., 2750 N. Parkway Dr., Fresno, CA 93711. Representative: Roland J. Mefford (same as applicant). *Contract Carrier,* Irregular routes: *Foodstuffs and Combustibles,* from the site of the R. T. French Co., Fresno, CA on one hand, to points in CA, OR, WA, ID, UT, AZ, CO, NM, TX, KA, and MO, for the account of the R. T. French Co., for 180 days. Supporting shipper: R. T. French Co., 3366 E. Muscat Ave., Fresno, CA.

MC 89684 (Sub-6–3TA), filed May 16, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West, P.O. Box 366, Salt Lake City, UT 84110. Representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. *(1) Such commodities as are dealt in by mail-order and retail stores (except commodities in bulk), and (2) equipment, materials and supplies incidental to the conduct of mail-order houses and retail stores,* between San Leandro, CA, on the one hand, and, on the other, points in NV, restricted to the transportation of shipments originating at or destined to facilities operated by Montgomery Ward & Company, Inc., for 180 days. Supporting shipper: Montgomery Ward, 2825 E. 14th Street, Oakland, CA 94616.

MC 143775 (Sub-6–12TA), filed May 15, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (Same address as applicant). *Plastic* (except in bulk) and *plastic articles* from Cleburne, TX, and its commerial zone, to points in AZ and CA, for 180 days. Supporting shipper: George Marshall, Rubbermaid Commercial Products, 400 Commerce, Cleburne, TX 76031. An underlying ETA was filed for 90 days.

MC 143775 (Sub-6–13TA), filed May 16, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (Same address as applicant). *Charcoal,* in bags or containers, from Lukeville, AZ, and its commercial zone, to points in CA, for 180 days. Supporting shipper: Frank L. Everhard, Owner, El-Txn, 2912 Mangum, Suite 106, Houston, TX 77092.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16213 Filed 5–23–80; 8:45 am]

BILLING CODE 7035–01–M

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: May 23, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete legal name of cooperative association or federation of cooperative associations: Dairymen, Inc.

Principal mailing address (street No., city, State, and zip code): 10140 Linn Station Road, Louisville, KY 40223.

Where are records of your motor transportation maintained (street No., city, State and zip code): 5304 Panola Industrial Blvd., Decatur, GA 30031.

Person to whom inquiries and correspondence should be addressed (name and mailing address): Beverly Williams, 10140 Linn Station Rd., Louisville, KY 40223.

(2) Complete legal name of cooperative association or federation of cooperative associations: Freedom Trucking, Inc.

Principal mailing address (street No., city, State, and zip code): P.O. Box 2725, Fullerton, CA 92633.

Where are records of your motor transportation maintained (street No., city, State and zip code): 2500 W. Orangethorpe, Fullerton, CA 92633.

Person to whom inquiries and correspondence should be addressed (name and mailing address): David M. Kittelson, 420 S. Hoyt, Springfield, MN 56087.

(3) Complete legal name of cooperative association or federation of cooperative associations: Northwest Agricultural Cooperative Assn., Inc.

Principal mailing address (street No., city, State, and zip code): P.O. Box 1, Ontario, OR 97914.

Where are records of your motor transportation maintained (street No., city, State and zip code): 125 S. Oregon St., Ontario, OR 97914.

Person to whom inquiries and correspondence should be addressed (name and mailing address): Ted Hoots, P.O. Box 1, Ontario, OR 97914.

(4) Complete legal name of cooperative association or federation of cooperative assocations: Red River Valley Potato Express, Inc.

Principal mailing address (street No., city, State, and zip code): 2202 Gateway Drive, Grand Forks, ND 58201.

Where are records of your motor transportation maintained (street No., city, State and zip code): 2202 Gateway Drive, Grand Forks, ND 58201.

Person to whom inquiries and correspondence should be addressed (name and mailing address): Steve P. Butler, 2202 Gateway Drive, Grand Forks, ND 58201.

(5) Complete legal name of cooperative association or federation of cooperative associations: Rockingham Poultry Marketing Cooperative, Inc.

Principal mailing address (street No., city, State, and zip code): Broadway, VA 22815.

Where are records of your motor transportation maintained (street No., city, State and zip code): Broadway, Virginia 22815.

Person to whom inquiries and correspondence should be addressed (name and mailing address): June M. Fahrney, Broadway, VA 22815.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16298 Filed 5–28–80; 8:45 am]

BILLING CODE 7035–01–M

[Notice No. 181]

Assignment of Hearings

May 22, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143433 (Sub-10F), B. L. Gilbert DBA Gilbert Trucking Co., now assigned for Prehearing Conference on May 6, 1980 at Washington, D.C. is canceled and application dismissed.

MC 145539 (Sub-1F), Ohio Northern Transit Co., now assigned for hearing on May 13, 1980 (9 days) at Cleveland, OH will be held in Hearing room, National Labor Relations Board, Region 8, 1965 Anthony J. Celebrezze Federal Building, 1240 East 9th Street.

MC–C–10327, CRST, Inc., A the Kinnison Trucking Company—Investigation and Revocation of Certificates and Certificate of Registration, now assigned for hearing

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on July 14, 1980 (10 days) at Columbus, OH in the Hearing room to be later designated.
MC 145516 (Sub-4F), T. G. Stegall Trucking Co., Inc., now assigned for hearing on May 20, 1980 at Washington, D.C., is postponed indefinitely.
MC 128270 (Sub-35F), Rediehs Interstate, Inc., now assigned for hearing on June 6, 1980 at St. Louis, MO is postponed indefinitely.
MC 14252 (Sub-61F), Commercial Lovelace Motor Freight, Inc., now assigned for hearing on July 29, 1980 (4 days) at Indianapolis, IN in the Hearing room to be later designated.
MC 138703 (Sub-3F), Boesdorfer Trucking, Inc., now being assigned for hearing on July 8, 1980, at Chicago, IL in Room No. 3883, 230 South Dearborn Street.
MC 147062 (Sub-3F), Express Transportation Company, Inc., now being assigned for hearing on July 14, 1980 (2 days) at Atlanta, GA, location of hearing room will be designated later.
MC 126679 (Sub-13F), Dennis Truck Lines, Inc., now being assigned for hearing on July 16, 1980 (3 days) at Atlanta, GA, location of hearing room will be designated later.
MC–C–10565, V.I.P. Limousine, Inc. v. Fugazy Continental Corp. of Connecticut, now being assigned for hearing on September 22, 1980 (2 days) at New York, NY, location of hearing room will be designated later.
MC–C–10540, V.I.P. Limousine, Inc. v. Rudy's Limousine Service, Inc., now being assigned for hearing on September 24, 1980 at New York, NY, location of hearing room will be designated later.
No. 37411, Western Great Lakes Ports Assoc., Et Al. v. Atchison, Topeka & Santa Fe Railway Company, Et Al., now being assigned for hearing on June 30, 1980 at the Offices of the Interstate Commerce Commission in Washington, D.C.
MC 124692 (Sub-292F), Sammons Trucking, now being assigned for hearing on July 22, 1980 (9 days) at San Francisco, CA., in a hearing room to be designated later.
MC 42487 (Sub-910F), Consolidated Freightways Corporation of Delaware, now being assigned for hearing on July 14, 1980 (1 week), at the Grand Rapids Hilton Hotel, 4747 28th Street, SE., Grand Rapids, MI.
MC 108633 (Sub-17F), Barnes Freight Lines, Inc., now assigned for hearing on May 29, 1980 will be held in Room No. 430 (Examination of Document), Federal Building, 1800–5th Avenue North, Birmingham, AL., on May 30, 1980 Grand Jury Room 446 (Examination of Documents) same address as above, June 3, 1980, Room No. 430 (same address as above), June 4, 1980, Grand Jury Room 446 (same address as above), and on June 5 & 6, 1980, Room No. 430 (same address as above).
MC 144743 (Sub-1F), Charles M. Swinford dba Swinford Trucking, is transferred to Modified Procedure.
MC 146258 (Sub-5F), M. R. Brutton, Inc., now assigned for hearing on June 4, 1980 at St. Louis, MO. is canceled and transferred to Modified Procedure.
MC 141033 (Sub-54F), Continental Contract Carrier Corporation now being assigned for hearing on September 9, 1980 (9 days), at San Francisco, CA. in hearing room to be designated later.
MC 95540 (Sub-1052F), Watkins Motor Lines, Inc., now assigned for hearing on July 22, 1980 at San Francisco, CA. is cancelled and Application Dismissed.
No. 37333, Farmers Marketing Association v. Burlington Northern, Inc., Union Pacific Railroad Company, The Denver & Rio Grande Western RR & Southern Pacific Transportation Company, now being assigned for hearing on July 8, 1980 (2 Days), at Denver, CO., in a hearing room to be designated later.
No. 37295F, ADM Milling Company v. Consolidated Rail Corporation, ETAL, now being assigned for prehearing conference on May 28, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 134405 (Sub-56F), Bacon Transport Company, now assigned for hearing on June 2, 1980 at Fort Worth, TX., is cancelled and reassigned for hearing on June 2, 1980 (5 Days), at the Downtown Holiday Inn, 1015 Elm Street, Dallas, TX.
MC 136285 (Sub-3M2F), Southern Intermodal Logistics, Inc., now assigned for hearing on July 14, 1980 at Jacksonville, FL, is postponed indefinitely.
MC 115703 (Sub-17F), Kreitz Motor Express, Inc., now assigned for hearing on May 19, 1980 at Philadelphia, PA., is cancelled and transferred to Modified Procedure.
MC 124211 (Sub-362F), Hilt Truck Line, Inc., transferred to Modified Procedure.
MC–FC–77914, American Tank Transport, Inc., Baltimore, Maryland Transferee and Secon Service System, Inc., New York, New York, Transferor, Now assigned for hearing on June 10, 1980 will be held in Room No. 625, 6 World Trade Center, Vesey Street, New York, NY.
MC 145402 (Sub-2F), Lake Line Express, Inc., now assigned for hearing on June 2, 3, and 4, 1980 will be held in Room No. 298, Federal Building, 517 East Wisconsin, Milwaukee, WI, and on June 5 and 6, 1980 will be held in Room No. 202, Federal Building, 517 East Wisconsin, Milwaukee, WI.
AB 6 (Sub-73F), Burlington Northern, Inc. Abandonment near Laclede and Unionville, MO., now assigned for continued hearing on May 22, 1980 (2 Days), at the Federal Building, 316 Roberts Street, Judge Conally's Courtroom, 6th Floor, St. Paul, MN.
MC 96992 (Sub-17F), Highway Pipeline Trucking Company now assigned for hearing on June 2, 1980 at Houston, TX is postponed indefinitely.
MC 31389 (Sub-278F), McLean Trucking Company, now assigned for hearing on June 17, 1980 will be held in Room No. 556, Federal Office Building, 275 Peachtree Street, N.E., Atlanta, GA.
MC 75192 (Sub-5F), Chas. T. Brown Truck Lines, now assigned for hearing on June 23, 1980 will be held in Room No. 505, Federal Building, 310 New Bern Avenue, Raleigh, NC.
MC 116763 (Sub-528F), Carl Subler Trucking, Inc., now assigned for hearing on July 8, 1980 at Chicago, IL. is cancelled and transferred to Modified Procedure.
MC 67866 (Sub-36F), Film Transit, Inc., now assigned for hearing on June 10, 1980 at Little Rock, AR. is cancelled and transferred to Modified Procedure.
MC 144807 (Sub-1F), Reidhead Trucking, Inc., now assigned for hearing on May 29, 1980 will be held in Room 235, Federal Building & Post Office, 522 North Central Avenue, Phoenix, AZ.
MC 145441 (Sub-38F), A.C.B. Trucking, Inc., now assigned for hearing on June 2, 1980 will be held at the Los Angeles County Courthouse, 111 North Hill Street, Los Angeles, CA.
MC 129857 (Sub-8F), G.R.M., Inc. dba Port Terminal Transport, Inc., now assigned for hearing on June 4, 1980 will be held at the Los Angeles County Courthouse, 111 North Hill Street, Los Angeles, CA.
MC 124211 (Sub-297M1F), Hilt Truck Line, Inc., now assigned for hearing on June 4, 1980 will be held at the Los Angeles County Courthouse, 111 North Hill, Los Angeles, CA.
MC 111375 (Sub-104F), Pirkle Refrigerated Freight Lines, Inc., now assigned for hearing on June 9, 1980 will be held at the Los Angeles County Courthouse, 111 North Hill, Los Angeles, CA.
MC 141804 (Sub-220F), Western Express, Division of Interstate Rental, Inc., now assigned for hearing on June 3, 1980 will be held at the Los Angeles County Courthouse, 111 North Hill, Los Angeles, CA.
MC 113651 (Sub-303F), Indiana Refrigerator Lines, Inc., now assigned for hearing on July 8, 1980 at Chicago, IL. is cancelled and transferred to Modified Procedure.
MC 41404 (Sub-159F), Argo-Collier Truck Lines, Corporation, transferred to Modified Procedure.
MC 120427 (Sub-10F), Williams Transfer, Inc., now assigned for hearing on June 4, 1980 (3 days) at Lincoln, Ne will be held in Room No. 497, Federal Building, 100 Centenntial Mall North.
MC 142559 (Sub-96F), Brooks Transportation, Inc., now assigned for hearing on June 4, 1980 (1 day) at Columbus, Oh will be held in Room No. 220, Federal Building, 85 Marconi Blvd.
MC 147570F, Kabat Express, Inc., now assigned for hearing on June 5, 1980 (2 days) at Columbus, Oh will be held in Room No. 220, Federal Building, 85 Marconi Blvd.
MC 146375F, Mercer International Transportation Management & Consulting Services, Inc., now assigned for hearing on June 9, 1980 (5 days), at Houston, Tx will be held in Room No. 225, Appraisal Store Building, 7300 Wingate.
MC 20824 (Sub-40F), Commercial Motor Freight, Inc., now assigned for hearing on June 2, 1980 (5 days) at Indianapolis, In., will be held in the Conference Room No. 402, Old Federal Building, 46 East Ohio Street.
MC 41432 (Sub-160F), East Texas Motor Freight Lines, Inc., now assigned for hearing on June 3, 1980 (4 days) at Minneapolis, Mn at the Radisson Hotel, 45 South 7th Street.
MC 41432 (Sub-160F), East Texas Motor Freight Lines, Inc., now assigned for hearing on June 9, 1980 (5 days) at Los Angeles, Ca at the Airport Marina, 8601 Lincoln Blvd.

MC–C–10322, Atlas Transportation Company—Investigation and Revocation of Certification, now being assigned for hearing on July 8, 1980 at the Offices of the Interstate Commerce Commission in Washington, D.C.
MC–F–14166, Refrigerated Transport Co., Inc.—Purchase (Portion)—Dakota Express, Inc., and LTL Perishables, Inc., is transferred to Modified Procedure.
MC 107403 (Sub-1219F), Matlack, Inc., is transferred to Modified Procedure.
MC 111812 (Sub-680F), Midwest Coast Transport, Inc., is transferred to modified procedure.
MC 73688 (Sub-95F), Southern Trucking Corporation, is transferred to Modified Procedure.
MC 68100 (Sub-25F), D. P. Bonham Transfer, Inc., is transferred to Modified Procedure.
MC 144122 (Sub-48F), Carretta Trucking, Inc., now being assigned for hearing on July 15, 1980 (2 days) at Fort Worth, TX, location of hearing room will be designated later.
MC 145588 (Sub-13F), Gulf Mid-Western, Inc., now being assigned for hearing on July 17, 1980 (2 days) at Fort Worth, TX, location of hearing room will be designated later.
MC 145733 (Sub-2F), American Auto Shippers, now assigned for hearing on June 17, 1980 (9 days) at New York, Ny will be held in Room F–2220, Federal Building, 26 Federal Plaza.
MC–F–14275, U.S. Bus, Inc.—Purchase (Portion)—Greyhound Lines, Inc., MC 1515 (Sub-286F), Greyhound Lines, Inc., MC 149076F, U.S. Bus, Inc., now assigned for Prehearing Conference on June 19, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–16297 Filed 5–28–80; 8:45 am]
BILLING CODE 7035–01–M

Long- and Short-Haul Application for Relief; Formerly Fourth Section Application

May 23, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before June 13, 1980.

No. 43825, Southwestern Freight Bureau, Agent No. B–61, on coke and coke products, in carloads, moving within Illinois Rate Committee and Western Territories for which rates are published in Supplement 76 to Tariff ICC SWFB 4197, effective June 16, 1980. Grounds for relief—need for revenue relief.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–16294 Filed 5–28–80; 8:45 am]
BILLING CODE 7035–01–M

Long- and Short-Haul Application for Relief: Formerly Fourth Section Application

May 23, 1980.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due to the I.C.C. on or before June 10, 1980.

No. 43824, TEA–ER, Agent (No. 3079, as amended), for carriers parties to Master Tariff ICC TEA 9000, effective June 14, 1980. The rates to be established reflect increase of 3 to 20 percent depending upon the commodity for movement in Official Territory. The increases will not apply in some cases for movements via the Ann Arbor Railroad; Central New York Railroad; Fonda, Johnstown and Gloversville Railroad; Michigan Northern Railroad; or the Long Island Railroad.

Grounds for relief—existing rate levels on the various categories of traffic are not compensatory and produce inadequate returns for the service.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–16295 Filed 5–28–80; 8:45 am]
BILLING CODE 7035–01–M

Long- and Short-Haul Application No. 43825; Formerly Fourth Section Application, Coke and Coke Products, Within IRC and Western Territories

May 23, 1980.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of 49 U.S.C. 10726 (formerly Section 4 of the IC Act).

Filed by: Southwestern Freight Bureau, Agent, No. B–61, on behalf of carriers party to the schedule shown below.
Commodities involved: Coke and coke products.
Territory: Within Illinois Rate Committee and Western Territories.
Grounds for relief: Need for revenue relief.
Schedules filed containing proposed rates: Supplement 76 to Southwestern Freight Bureau, Agent Tariff ICC SWFB 4197, effective June 16, 1980.

Protests against the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before June 13, 1980.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–16296 Filed 5–28–80; 8:45 am]
BILLING CODE 7035–01–M

Operating Rights Application(s) Directly Related To Finanace Procedures

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On application filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission on or before June 30, 1980. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the applications, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it it made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of

[TA-201-43]

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 66900 (Sub-46) filed May 12, 1980. Applicant: Houff Transfer, Inc., P.O. Box 91, Weyers Cave, VA 24486. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Applicant seeks to engage in operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, in the transportation of *general commodities,* except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Virginia and Cumberland and Salisbury, MD; points in WV, and those in Scioto, Gallia, and Lawrence Counties, OH, and Greenup and Boyd Counties, KY, on the one hand, and, on the other, points in those parts of DE and MD lying between the Chesapeake Bay and the Atlantic Ocean and on the south of the north bank of the Chesapeake and Delaware Canal, including Chesapeake City, MD. (Hearing Site: Washington, DC.)

Note.—This application is directly related to MC 14129, Houff Transfer, Inc.—Purchase (Portion)—Cohey Trucking Company, Inc. and is filed to eliminate gateways of Fullerton, MD and Oxford, PA. No. MC-F-14129 was approved by a decision of Review Board Number 5 served December 21, 1979, subject to a restriction on authority of Cohey not involved in the transaction. Applicants have requested removal of this restriction.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-16293 Filed 5-28-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[731-TA-25 (Preliminary)]

Anhydrous Sodium Metasilicate from France; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

Investigation instituted. Following receipt of a petition on May 15, 1980, filed by PQ Corp., Valley Forge, Pa., the United States International Trade Commission on May 23, 1980, instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France of anhydrous sodium metasilicate, provided for in item 421.34 of the Tariff Schedules of the United States, allegedly sold or likely to be sold at less than fair value. This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and procedure (19 CFR 207, 44 FR 76457) and particularly, subpart B thereof, effective January 1, 1980.

Written submissions. Any person may submit to the Commission on or before June 16, 1980, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with the investigation for 10:00 a.m., e.d.t., on June 13, 1980, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. John MacHatton (202-523-0439). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission, and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: May 23, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-16305 Filed 5-28-80; 8:45 am]
BILLING CODE 7020-02-M

[TA-201-43]

Mushrooms; Cancellation of Prehearing Conference

Notice is hereby given that the prehearing conference scheduled for June 5, 1980, in this investigation is cancelled.

Issued: May 22, 1980.
By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-16306 Filed 5-28-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-79]

Cathode Sputter Coater Glass Transparencies; Remand of "Certification of Motion to Terminate"

On May 7, 1980, the presiding officer in the above/captioned case issued the above order, certifying a motion and consent order agreements to the Commission. The Commission is remanding that order to the presiding officer in order to obtain a recommendation regarding whether the consent order agreements should be accepted.

Proposed section 337 consent order rules provide, in proposed § 210.51(a)(2) that: "The licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with his recommendation." Although the proposed consent order rules are not in effect, the Commission believes that having the benefit of a recommendation by the presiding officer is beneficial and in conformance with sound administrative practice. Although rule 210.14 of the Commission's Rules of Practice and Procedure reserve certain public interest factors to the Commission for initial consideration, these factors are not exhaustive of all public interest and equitable considerations that the Commission takes into account when deciding whether to accept an agreement. The practice of obtaining a recommendation from the presiding officer has been followed with regard to settlement agreements. See Certain Resister Chips, Inv. No. 337-TA-63/65 (Recommended Determination of February 22, 1980).

The Commission therefore requests that the presiding officer make recommendations regarding the consent order here in issue.

Issued: May 23, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-16304 Filed 5-28-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-83]

Certain Adjustable Window Shades and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 7, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Newell Window Furnishings Co., 916 South Arcade Avenue, Freeport, Ill. 61032, alleging that unfair methods of completition and unfair acts exist in the importation of certain adjustable window shades into the United States, or in their sale, by reason that such adjustable window shades are allegedly covered by claims 1, 2, 7, 8, and 9 of U.S. Letters Patent No. 4,006,770. The complaint alleges that the effect of tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests a temporary order of exclusion from entry in the United States of the imports in question. Complainant further requests that, after a full investigation has been conducted, a permanent exclusion of said imports be ordered.

Having considered the complaint, the Commission, on May 6, 1980, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe there is a violation and whether there is a violation of this section in the unauthorized importation of certain adjustable window shades, or components thereof, into the United States, or in their sale, by reason that such adjustable window shades are allegedly covered by claims 1, 2, 7, 8, and 9 of U.S. Letters Patent 4,006,770, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Newell Window Furnishings Co., 916 South Arcade Avenue, Freeport, Ill, 61032.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of certain adjustable window shades into the United States, or their sale and are the parties upon which the complainant is to be served:

Tony Plastic Co., Room 8, 7th Floor, 489 Chung-San Second Road, Kaohsiung, Taiwan, Republic of China.
Breneman, Inc., 1133 Sycamore Street, Cincinnati, Ohio 45210.
Stanley Drapery Hardware, 135 Cherry Street, Wallingford, Conn. 06492.
Dirkson, Inc., No. 1-98 Hsin Yi Road, Section 4, Taipei, Taiwan, Republic of China.
Joanna Western Mills Co., 2141 S. Jefferson Street, Chicago, Ill. 60616.

(c) Donald R. Dinan, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for the confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

Issued: May 19, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-16308 Filed 5-28-80; 8:45 am]
BILLING CODE 7020-02-M

Receipt of Requests for Review of Certain Countervailing Duty Orders

Section 104(b) of the Trade Agreements Act of 1979 in pertinent part provides:

(b) Other Countervailing Duty Orders.—

(1) Review by Commission Upon Request.—In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)—

(A) which is not a countervailing duty order to which subsection (a) applies,

(B) which applies to merchandise which is the product of a country under the Agreement, and

(C) which is in effect on January 1, 1980, or which is issued pursuant to court order in an action brought under section 516(d) of that Act before that date,

the Commission, upon the request of the government of such a country or of exporters accounting for a significant proportion of exports to the United States of merchandise which is covered by the order, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 shall make a determination under paragraph (2) of this subsection.

(2) Determination by the Commission.—In a case described in paragraph (1) with respect to which it has received a request for review, the Commission shall commence an investigation to determine whether—

(A) an industry in the United States—

(i) would be materially injured, or

(ii) would be threatened with material injury, or

(B) the establishment of an industry in the United States would be materially retarded,

by reason of imports of the merchandise covered by the countervailing duty if the order were to be revoked.

On March 14, 1980, the Commission published a "Notice of Review of Certain Countervailing Duty Orders" in the **Federal Register**, stating that it was the intention of the Commission to establish a schedule on or about April 30, 1980, for the conduct of investigations pursuant to section 104(b) encompassing requests for such investigations that had been received by March 28, 1980. The 19 requests for review which were received by the

Commission are listed in attachment A. The Commission will publish notice of the institution of these investigations and will establish hearing dates after receipt from the Department of Commerce of updated information on the amount of the bounty or grant. The tentative dates established by the Department of Commerce for providing this information are also set forth in attachment A.

Attachment A.—*CVD Orders for Which the Commission Has Received Requests for Injury Determinations*

	Product and country	Tentative date for subsidy information
1	Float glass/Italy	Oct. 1, 1980.
2	Refrigerators, freezers, and parts/Italy	Oct. 1, 1980.
3	Ski lifts and parts/Italy	Oct. 1, 1980.
4	Steel transmission towers/Italy	Oct. 1, 1980.
5	Compressors and parts/Italy	Oct. 1, 1980.
6	Certain steel products/Italy	Oct. 1, 1980.
7	Steel welded wire mesh/Italy	Oct. 1, 1980.
8	Die presses/Italy	Oct. 1, 1980.
9	Screws/Italy	Oct. 1, 1980.
10	Chains/Italy [1]	Oct. 1, 1980.
11	Optic liquid level sensors/Canada	Jan. 8, 1981.
12	X-radial steel-belted tires/Canada	Jan. 8, 1981.
13	Barley/France	June 19, 1981.
14	Molasses/France	June 19, 1981.
15	Sprits/Ireland	June20, 1981.
16	Sugar/European Communities	July 21, 1981.
17	Glass beads/Canada	Sept. 2, 1981.
18	Sprits/United Kingdom	(3).
19	Textiles/Pakistan	(3).

[1] On April 29, 1980, the National Association of Chain Manufacturers, the petitoner in the Chains from Italy investigation, sent a letter to the Commission requesting that they be allowed to withdraw the petition. The Commission has not yet acted on this request.

[2] The CVD order was revoked by a notice in the FEDERAL REGISTER of February 15, 1977 (42 FR 9168) because the Treasury Department determened that bounties or grants were no longer being paid.

[3] This investigation was instituted by the Commission on May 2, 1980. The Commerce Department informed the Commission that the rates set forth in the FEDERAL REGISTER of July 13, 1979 (44 FR 40884) should be considered the most recent subsidy rates for this investigation.

Issued; May 23, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-16309 Filed 5-28-80; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of U.S. Administration Draft Comments on Draft Chapter of the Harmonized Commodity Description and Coding System

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of a draft of, and draft U.S. comments on, the following chapter of the Harmonized Commodity Description and Coding System.

Chapter 73: Articles of Iron and Steel

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by June 16, 1980.

COPIES OF DOCUMENTS: Copies of the draft chapter and draft U.S. comments thereon which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Nomenclature, Valuation and Related Activities, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523-0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested parties with respect to the above mentioned draft chapter of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices . . .

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapter of the Harmonized Code released for public comment today relate specifically to the Technical Team draft of this chapter and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1978), February 14, 1979 (44 FR 10435 of February 20, 1979), May 16, 1979 (44 FR 29740 of May 22, 1979), September 5, 1979 (44 FR 53112 of September 12, 1979), January 28, 1980 (45 FR 7648), and February 1, 1980 (45 FR 8168), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

Issued: May 23, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-16310 Filed 5-28-80; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of United States Administration Draft Comments on Draft Chapter of the Harmonized Commodity Description and Coding System

AGENCY. U.S. International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of a draft of, and draft U.S. comments on, the following chapter of the Harmonized Commodity Description and Coding System—Chapter 72: Pig iron, iron and steel.

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by June 9, 1980.

COPIES OF DOCUMENTS: Copies of the draft chapter and draft U.S. comments thereon which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT. Eugene A. Rosengarden, Director, Office of Nomenclature, Valuation and Related Activities, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523-0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested parties with respect to the above mentioned draft chapter of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) Full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practice * * *.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harominized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegation. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Haromized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapter of the Harmonized Code released for public comment today relate specifically to the Technical Team draft of this chapter and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1978), February 14, 1979 (44 FR 10435 of February 20, 1979), May 16, 1979 (44 FR 29740 of May 22, 1979), September 5, 1979 (44 FR 53112 of September 12, 1979), January 28, 1980 (45 FR 7648), and February 1, 1980 (45 FR 8168), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

Issued: May 20, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-16307 Filed 5-28-80; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: June 16 and 17, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1023. Program: To review NEH Youth Project applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1980.

2. Date: June 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1023. Program: To review states humanities committee applications in all of the fields of the humanities submitted to the National Endowment for Humanities for projects beginning after October 1, 1980.

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3. Date: June 19 and 20, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Program: To review NEH Youth Projects applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1980.

4. Date: June 23 and 24, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Program: To review NEH Youth Projects applications submitted to the National Endowment for the Humanities for projects after October 1, 1980.

5. Date: June 23 and 24, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1023. Program: To review applications for the development of humanities Special Program formats submitted to the National Endowment for the Humanities for projects beginning after October 1, 1980.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclousre of which would consitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation to proposed agency action;

pursuant to authority granted by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsection (c) (4), (6) and (9) (B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506 or call (202) 724–9367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 80–16311 Filed 5–28–80; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 80–22]

Safety Recommendation Responses and Closeouts; Availability

Responses to Safety Recommendations

Marine

M–79–67 through –69, from the United States Coast Guard, May 13, 1980.—Response is to recommendations issued by the National Transportation Safety Board last June 25 following investigation into the capsizing and sinking of the clam dredge PATTI–B in the Atlantic Ocean on May 9, 1978. The recommendations asked Coast Guard to: Establish procedures to insure that persons aboard disabled vessels are wearing approved personal flotation devices during rescue operations (M–79–67); publish information aimed at commercial fishermen concerning the adverse effects of anchoring by the stern, the adverse effects of water on deck, and the effective loss of stability due to a boat's being momentarily poised on a wave (M–79–68); and conduct a design study to determine if current published intact stability criteria are adequate for vessels similar in design to the PATTI–B (M–79–69). (See 44 FR 39319, July 5, 1979.)

In response to recommendation M–79–67, Coast Guard notes that the responsibility for the safety of a vessel and her crew resides with the master or operator of the vessel, and Coast Guard has no statutory authority to require personnel aboard a disabled vessel to wear lifejackets. Nonetheless, Coast Guard can make its offer of assistance to a disabled vessel contingent upon the wearing of lifejackets by all persons onboard. However, the disabled vessel cannot be compelled to accept Coast Guard assistance, nor is Coast Guard in a defendable position if it refuses assistance if lifejackets are not worn. Coast Guard states that its analysis of recent vessel capsizings indicates that the wearing of lifejackets may actually hinder egress from a capsized vessel. Attached to the May 13 response letter is a copy of a recent revision to Coast Guard's "Addendum, National Search and Rescue Manual" concerning Coast Guard's towing and salvage policies. Coast Guard routinely stresses the wearing of lifejackets by personnel it assists and belives that these policies are adequate for its statutory responsibilities and are not in need of revision.

Coast Guard concurs with recommendation M–79–68. A boarding and educational program is being developed to include a triennial courtesy dockside boarding for every U.S.-uninspected commercial vessel. Also, Coast Guard intends to develop several media methods (handouts, newsletters, TV spots, magazine articles, etc.) directed toward educating uninspected vessel owners and crews regarding legal requirements, safety layouts, casualty scenarios, and other timely safety topics. Through an established and active liaison with the National Marine Fisheries Service, Coast Guard has already jointly disseminated casualty report information of interest to the fisheries industry.

Coast Guard does not concur with recommendation M–79–69. Coast Guard-sponsored research into the seakeeping characteristics of various hull forms, including fishing vessels, has offered considerable insight into small vessel seakeeping problems. Navigation and Vessel Information Circular Resolution 3–76 conveyed to industry the information contained in IMCO Resoulution A.168 "Reccomendation on Intact Stability in following seas in all loading conditions, especially in the light conditions." Coast Guard notes that the Torremolinos Convention applies only to vessels of 24 meters in length and over (length is defined as 96 percent of the total length or a waterline at 85 percent of the least depth). Coast Guard states that it is questionable then whether it is even appropriate to apply these two criteria to the PATTI–B which the Safety Board said is 82 feet long. Coast Guard's weather criteria has its roots in application to large vessels of unusual proportion and form; its shortcomings to small vessels and certain hull forms are recognized by Coast Guard which applies a righting energy criteria to vessels whose intact stability it questions. Coast Guard considers it inappropriate to initiate a design study into the validity of these criteria based upon the capsizing of the PATTI–B which was beyond or at the extreme limits of the scope of each criterion.

Further in connection with recommendation M–79–69, Coast Guard states that aside from the appropriateness of applying each of three criteria, it is unclear whether the accompanying standards of freeing port area, vent heights, sill heights, watertight closures, free surface considerations, and cargo stowage were also satisfied. Coast Guard states, "As an example, water on deck was considered by the Safety Board as a major factor leading to the capsizing of the PATTI–B. However, since the freeing port area provided was not included in the report, it is not clear whether this was taken into account." Coast Guard believes it is highly doubtful that definitive criteria which would be practical can be developed. "Implicit here is the question of the practical limit which can be achieved in making a small vessel seaworthy in all environments, and yet perform its function as a vessel efficiently. Implicit here is also the question of seamanship versus trying to make a vessel safe from mishandling by design."

Railroad

R–79–82 through –85, from the Federal Railroad Administration, April 7, 1980.—Response is to recommendations issued last January 10 following investigation of the derailment of a Union Pacific Railroad Company (UPRR) freight train which occurred at Granite, Wyo., July 31, 1979. The recommendations called on FRA to: Enforce the requirements for testing train brakes in accordance with Federal Power Brake Regulations, 49 CFR Part 232, on the UPRR (R–79–82); issue regulations to require railroads to establish a system for regular instruction and testing of employee's knowledge of the operating rules (R–79–83); review the monitoring system for rule compliance on the UPRR to insure that their supervision can adquately enforce the rules to provide a safe and efficient operation (R–79–84); and study the feasibility of requiring locomotives to be equipped with brake pipe flow indicators to enable engineers to measure trainline air flow (R–79–85). (See 45 FR 5832, January 24, 1980.)

With respect to recommendation R–79–82, FRA states that it has a strong enforcement program through which the railroads are monitored for compliance with requirements of 49 CFR Part 232 which prescribes minimum requirements for inspecting and testing air brakes. Items of noncompliance are dealt with through civil penalty claims. Also, FRA adjudges that adherence to regulations is best accomplished through a continuous and vigorous training program in operating rules and proficiency testing—an approach which permits the railroads to address unique conditions and thus affords a more efficient way to achieve enforcement of safe operating procedures.

In response to recommendation R–79–83, FRA reports that it is assisting the industry in its training efforts. In 1977, FRA funded a contract for the purpose of developing a "Proposed Research Plan to Improve Railroad Employee Training (FRA–OPPD–78–14)." As a result of this project, FRA initiated another contract in November 1978 to develop a comprehensive catalogue of railroad employee training programs. The completed catalogue is being readied for distribution in the near future, and will become an integral part of FRA's overall employee training programs. Also, FRA is developing a program to encourage better training through cooperative training research programs which focus on the development of improved training methods for particular railroad skills. FRA has a small pilot project to develop a task analysis of certain maintenance functions, now nearing completion. FRA says the training needs of the industry can best be served through projects of this type. FRA does not plan to promulgate regulations in this area.

Responding to recommendation R–79–84, FRA reports that a review of the annual operational tests submitted in accordance with 49 CFR Part 217, Railroad Operating Rules and Practices, conducted by UPRR during the past 5 years indicates that the number of tests reported remained relatively constant but the train miles and failures observed had increased significantly. FRA will determine if this increase in number of failures is indicative of higher test quality or a degradation of rule compliance. Results of this action are expected to be completed and forwarded to the Safety Board during the summer of 1980.

FRA notes in connection with recommendation R–79–85 that on September 13 and 14, 1978, FRA conducted a public hearing on its present safety regulatory program with respect to power and train brakes. Information gathered from the hearing (Docket No. RRS 1–78–5, Notice No. 3) and recent correspondence with the Canadian railroads indicate that a brake pipe flow indicator on a locomotive can accurately function only when it is linked to specialized equipment and properly calibrated. The brake pipe flow indicator is a useful instrument but its limitations must be considered insofar as regulations are concerned, FRA states. FRA will include the feasibility of requiring locomotives to be equipped with brake pipe flow indicators under the revision of the power brake rules, 49 CFR Part 232. Futhermore, FRA's Safety Board has granted conditional approval for the performance of two separate tests in which the air flow and gradient method (AFM) will be used to qualify train air brake systems. These tests will be performed within the following specified areas of the United States by Canadian railroads: (1) Canadian National Rail trains operating through the State of Minnesota, between Thunder Bay and Winnipeg; and (2) Canadian Pacific Rail trains operating through the State of Maine, between Megantic, Quebec and McAdam, New Brunswick. Each of these railroads will submit test results, detailing the effect that the use of AFM will have on train handling and other safety aspects in normal operations.

R–80–8 and –9, from the Southeastern Pennsylvania Transportation Authority (SEPTA), April 15, 1980.—Response is to recommendations issued last March 13 as a result of investigation into the passenger fatality which occurred January 1, 1980, on SEPTA's Market Street-Frankfort elevated subway line. The recommendations asked SEPTA to: Change the construction of the side doors on its cars so that they cannot be closed and locked on a person and to establish a control circuit which will prevent the train from moving until all doors are in the closed position (R–80–8) and establish a control circuit which will prevent the train from moving until all doors are in the closed position. (R–80–9) (See 45 FR 16367, March 3, 1980.)

In response SEPTA states that after examining possible solutions, SEPTA cars would require an electrical recycling system installed on all cars. This system would require a complete redesign to cars 20 years old, replacing the air controlled door engines with electric motors and interrelating the electrical requirements to the entire electrical system of the car. Estimates in material alone to accomplish this alteration are $3.5 million. As to a control circuit preventing the train from moving until all doors are in a closed position, this recommendation, coupled with a recycling door system, is determined by SEPTA to lead to delays in scheduling beyond a reasonable measure. SEPTA states that this would lead to more unsafe situations relative to the entire riding public than the alterations would correct.

As an alternative proposal, SEPTA is embarking on a major overhaul of the Market-Frankford cars. It is now planned to install an audible signal on the cars to be used as a pre-door-closing warning device to passengers. Present procedures for conductors and motormen at train stations is evaluated as proper if followed. SEPTA notes that in the subject case the employee failed to adhere to procedures. SEPTA says that all high-speed operators and conductors have received remedial instruction on procedures in station. Also, SEPTA reports that in 1977 FRA conducted extensive reviews of operating sliding doors on transit

capabilities, and use of floatable seat

of all aircraft equipped with Pratt & Whitney

published in the Federal Register by 5

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vehicles in the New York area, inclusive of discussions with car manufacturers. This thorough review on the operation of sliding doors on rail commuter cars concluded that they present a "small safety hazard in terms of overall rail safety." Also, FRA conducted an economic analysis to study relative costs and benefits that a regulation would produce. Their conclusion indicates a regulation would not be sufficient to warrant the increased cost. (A copy of FRA's letter of March 30, 1977, to the Mayor of Rye, N.Y., is provided.)

In conclusion, SEPTA will proceed as planned with the implementation of the sound warning devices and direct that all remedial and new training of high speed operators emphasizes operating procedures in station areas.

Aviation Safety Recommendation Closeouts

During the past 16 months the Safety Board has forwarded letters advising that the recommendations listed below have been classified as "closed." The Federal Aviation Administration was the addressee in each instance. (Date of FAA's last response letter and date of the Safety Board letter and type of closeout action applied are shown in parentheses.)

A–72–171, –173, –174, –175, –176, –180, –181, and –186 re air taxi safety, revisions to 14 CFR Part 135. (FAA, May 29, 1979; NTSB, July 2, 1979, each recommendation "acceptable action" except A–72–175, "acceptable alternate action.")

A–73–41 re stowage of portable, high-intensity lights at cabin attendant stations, amendment of 14 CFR 25.812 and 14 CFR 121.310. (FAA, July 13, 1979; NTSB, August 8, 1979, "acceptable action.")

A–73–53 re expediting passenger evacuation, revision to 14 CFR 23.807 and 14 CFR 25.811(c). (FAA, March 22, 1979; NTSB, April 23, 1979, "acceptable alternate action.")

A–74–30 re development and installation of visibility measuring devices in the approach zone. (FAA, October 12, 1978; NTSB, January 11, 1979, "unacceptable action.")

A–74–114 re "hands-on" training in operating certain emergency equipment. (FAA, July 26, 1979; NTSB, August 30, 1979, "acceptable action.")

A–75–28 re modification of external ground service fluid drains on Boeing 727 series airplanes to prevent overboard leakage in flight of fluid subject to freezing in the flight environment. (FAA, April 11, 1979; NTSB, May 23, 1979, "acceptable alternate action.")

A–75–30 re requirement of each certificate holder to have qualified management personnel to ensure safety in its operations, revision of 14 CFR 135.37. (FAA, December 28, 1978; NTSB, February 23, 1979, "acceptable action.")

A–75–45 and –46 re relocation of the Armel, Va., distance measuring equipment monitor from Washington, D.C., flight service station to Dulles terminal air traffic control facility and review of all terminal air traffic control facilities to assure that controllers at each facility served by a navigational aid will have direct access to the associated monitor for that navigational aid. (FAA, March 20, 1979; NTSB, April 26, 1979, "acceptable alternate action.")

A–75–73 re visual and audible engine-out warning system for turbine-powered helicopters, amendment to 14 CFR 27.33(e) and 29.33(e). (FAA, December 20, 1978; NTSB, February 1, 1979, "acceptable alternate action.")

A–75–74 and –75 re uniformity and standardization of cartographic techniques and specifications used in the aviation industry for approach charts. (FAA, May 9, 1979; NTSB, May 30, 1979, "acceptable action.")

A–76–94 re landing gear malfunction on a Nord 262. (FAA, December 21, 1978; NTSB, February 1, 1979, "reconsidered.")

A–76–109, –114, and –115 re general aviation accidents involving aerobatics and regulatory action to minimize accidents caused by inflight structural failure. (FAA, November 24, 1978; NTSB, January 30, 1979, "unacceptable action.")

A–77–26, –27, and –29 re emergency evacuation, revision to 14 CFR 121.417 (c)(1) and (b)(4), identification and operation of tail cone release handle. (FAA, March 14, 1979; NTSB, May 15, 1979, "acceptable action" for A–77–26 and –27, "acceptable alternate action" for A–77–29.)

A–77–30 re providing operators with more comprehensive data pertaining to inspection and maintenance measures of drive belts and overrunning clutch. (FAA, January 15, 1980; NTSB, February 7, 1980, "acceptable action.")

A–77–42 re revision of 14 CFR 29.923, 29.931, and 29.927 to require helicopter manufacturers to demonstrate 120 percent rotor system overspeed by driving the power train with an external power source, if installed engine power turbine speed (N_2) limits preclude meeting this requirement. (FAA, December 29, 1978; NTSB, March 9, 1979, "acceptable action.")

A–77–52 re amendment of ATP Handbook 7110.65 to require pilots to read back altitudes and vectors. (FAA, January 30, 1980; NTSB, March 11, 1980, "acceptable alternate action.")

A–77–53 re issuance of Notice 8430.293 on January 19, 1978, emphasizing importance of adhering to recommended communications procedures. (FAA, December 12, 1978; NTSB, January 30, 1979, "acceptable action.")

A–77–59 and –60 re emergency exits and passenger briefing on emergency exit procedures prior to takeoff. (FAA, December 29, 1978; NTSB, March 3, 1979, "acceptable action.")

A–78–3 re pilot techniques to minimize the effects of low level wind shear. (FAA, March 20, 1979; NTSB, April 17, 1979, "acceptable action.")

A–78–16 re Airworthiness Directive 78–20–04, McDonnell Douglas, for nondestructive inspection of the outboard slat drive arm and drum shaft. (FAA, December 29, 1978; NTSB, February 23, 1979, "acceptable action.")

A–78–25 re Advisory Circular AC 133–1, rotorcraft external, load operations, 14 CFR Part 133. (FAA, June 27, 1978; NTSB, February 22, 1979, "acceptable action.")

A–78–30, –31, and –32 re requiring corporate/executive flight departments to operate under flight operations manuals, amendment to 14 CFR Part 91. (FAA, July 5, 1978; NTSB, June 15, 1979, "unacceptable action.")

A–78–40 and –41 re revisions to 14 CFR 135.23 prescribing manual content, 135.37 specifying management personnel required, 135.39 specifying personnel qualifications, and 135.77 assigning responsibilities for operational control; 14 CFR Part 135, Subpart J, maintenance, preventive maintenance, and alterations. (FAA, December 29, 1978; NTSB, July 2, 1979, "acceptable action.")

A–78–44 re stall/spin accidents. (FAA, June 18, 1979; NTSB, July 19, 1979, "acceptable action.")

A–78–50 re fuel starvation accidents and incidents involving Piper (Ted Smith) Aerostar Model 600 Series aircraft. (FAA, March 26, 1979; NTSB, April 16, 1979, "acceptable action.")

A–78–51 re requiring Principal Operations Inspectors to assure that their assigned certificate holders provide their pilots and dispatchers with airport analysis data that identifies those runways with displaced thresholds. (FAA, March 14, 1979; NTSB, April 6, 1979, "acceptable action.")

A–78–52 re use of runways with displaced thresholds. (FAA, March 14, 1979; NTSB, April 10, 1979, "unacceptable action.")

A–78–55 re changing minimum equipment list to make the out-of-trim warning system a mandatory requirement for flight. (FAA, May 23, 1979; NTSB, April 9, 1980, "acceptable action.")

A–78–63, –64, and –65 re ensuring free operation of the elevator control system. (FAA, June 7, 1979; NTSB, July 23, 1979, "acceptable action.")

A–78–77 and –78 re establishment of a Terminal Radar Service Area at Lindbergh Airport, San Diego, Calif., and Terminal Control Areas or TRSA's at all airports. (FAA, May 29, 1979; NTSB, July 3, 1979, "acceptable action.")

A–78–79 re procedures for handling consecutive approaches at Memphis, Tenn. (FAA, January 9, 1979; NTSB, February 26, 1979, "acceptable action.")

A–79–6 re runaway pitch trim training and testing. (FAA, November 9, 1979; NTSB, November 29, 1979, "acceptable action.")

A–79–11 re requiring all maintenance logbook sheets to be numbered consecutively. (FAA, September 17, 1979; NTSB, November 8, 1979, "acceptable alternate action.")

A–79–23 re servo drive unit installed on Learjet aircraft. (FAA, November 13, 1979; NTSB, December 5, 1979, "acceptable action.")

A–77–32 re assuring that crew training stresses differences in fuel-quantity measuring instruments and that crews flying with the new system are made aware of the possibility of misinterpretation of gage readings. (FAA, July 23, 1979; NTSB, March 13, 1980, "acceptable action.")

A–79–35 re insuring that air carrier training programs include instructions to crewmembers with respect to availability, capabilities, and use of floatable seat cushions on their aircraft. (FAA, January 23, 1980; NTSB, April 9, 1980, "acceptable action.")

A–79–40 re improved procedures to enhance the quality control function of the Civil Aeromedical Institute with respect to its capabilities for detecting physical disabilities in airmen and performance deficiencies of Aviation Medical Examiners. (FAA, August 29, 1979; NTSB, October 12, 1979, "acceptable action.")

A–79–41 re issuance of emergency Airworthiness Directive requiring inspection of all pylon attach points on all DC–10 aircraft by approved inspection methods. (FAA, August 23, 1979; NTSB, September 27, 1979, "acceptable action.")

A–79–45 and –46 re issuance of telegraphic Airworthiness Directive to require an immediate inspection of all DC–10 aircraft in which an engine pylon assembly has been removed and reinstalled for damage to the wing-mounted pylon aft bulkhead, including its forward flange and the attaching spar web and fasteners; issuance of Maintenance Alert Bulletin directing FAA Maintenance Inspector to contact their assigned carriers and advise them to immediately discontinue lowering and raising the pylon with the engine still attached. (FAA, July 16, 1979; NTSB, August 8, 1979, "acceptable action.")

A–79–47 re resource management and interpersonal communications training for air carrier flight crewmembers. (FAA, August 22, 1979; NTSB, March 21, 1980, "acceptable action.")

A–79–50 and –51 re notice directing inspectors to review operator's manuals and checklists for proper unfeathering procedures and for emphasis of these procedures in their training. (FAA, September 11, 1979; NTSB, March 27, 1980, "acceptable action.")

A–79–55 re change to Handbook 7110.65, paragraph 1284, to require terrain protection for aircraft flying under visual flight rules, receiving Stage III service, comparable to that given to aircraft flying under instrument flight rules. (FAA, October 2, 1979; NTSB, October 29, 1979, "acceptable action.")

A–79–56 and –57 re performance data of Grumman G–21A aircraft at current operating weights and procedures for proper development, testing, review and quality control for issuance of supplemental type certificates. (FAA, October 10, 1979; NTSB, January 4, 1980, "reconsidered.")

A–79–61 re physical and physiologic conditions of crewmembers involved in aircraft accidents in determining probable cause of accidents and developing possible preventive measures. (FAA, October 26, 1979; NTSB, November 29, 1979, "reconsidered.")

A–79–71 re power loss from an engine of a Grumman G–21A. (FAA, November 27, 1979; NTSB, January 4, 1980, "acceptable alternate action.")

A–79–88 re advisory to owners and operations of Cessna 200 series aircraft alerting them to the hazards associated with the aluminum hinge failure problem. (FAA, February 26, 1980; NTSB, March 21, 1980, "acceptable action.")

A–79–91 re issuance of Airworthiness Directive to require a special inspection of the propeller reversing interconnect linkage of all aircraft equipped with Pratt & Whitney Aircraft of Canada Ltd., PT6–6A, 6B, –6C/20 and –20 series turboprop to assure that these installations conform to the aircraft manufacturer's propeller reversing linkage rigging specifications. (FAA, February 26, 1980; NTSB, March 21, 1980, "acceptable action.")

A–79–92 re immediate inspection of all Boeing 737 aircraft main landing gear upper drag strut attach bolts to ascertain that the correct bolts are installed in the proper locations. (FAA, February 26, 1980; NTSB, March 24, 1980, "acceptable alternate action.")

A–79–108 re issuance of a telegraphic Airworthiness Directive to require a one-time inspection of the engine pylon structure in the area of pylon station 128 for loose or missing fasteners and fatigue damage for B–747 aircraft equipped with P&W JT9D engines. (FAA, March 19, 1980; NTSB, April 9, 1980, "acceptable action.")

Note.—Copies of safety recommendation response letters and related correspondence are provided free of charge. All requests must be in writing, identified by recommendation number and date of correspondence. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

May 23, 1980.

[FR Doc. 80–16279 Filed 5–28–80; 8:45 am]

BILLING CODE 4910–58–M

[Docket No. DCA–80–AR–031]

Railroad Accident Investigation Hearing: Oakland, California

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. (local time) July 1 through July 3, 1980, in the Alameda Room of the Hyatt Oakland Inn, 455 Hegenberger Road, Oakland, California 94621.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the derailment of Western Pacific Railroad Company Freight Train Extra UP 3734 West, which occurred at Hayward, California, on April 9, 1980.

Elmer Garner,

Hearing Officer.

May 19, 1980.

[FR Doc. 80–16280 Filed 5–28–80; 8:45 am]

BILLING CODE 4910–58–M

Performance Review Board, Senior Executive Service; Appointment of Members

Appointments of Performance Review Board members are required to be published in the **Federal Register** by 5 U.S.C. 4314(c)(4).

The following persons have been appointed to, and will serve on Performance Review Boards for senior executives in the National Transportation Safety Board:

Elwood T. Driver
Michael C. Cushing
Robert W. Pyle
Lloyd F. Miller
Dennis W. Boyd
B. Michael Levins
Frank T. Taylor
S. Walter Sweet
John M. Stuhldreher
David A. Reyna

Robert W. Pyle,

Chief, Personnel and Training Division.

May 5, 1980.

[FR Doc. 80–16281 Filed 5–28–80; 8:45 am]

BILLING CODE 4910–58–M

Change of Address for Office of Administrative Law Judges

The Office of Administrative Law Judges and the Docket Section of the National Transportation Safety Board will be relocated on May 30, 1980, to the following address: Dodge Center, Suite 301, 1010 Wisconsin Avenue, NW., Washington, D.C. 20007.

An airman who wishes to appeal a Federal Aviation Administration Order or a seaman who wishes to appeal a decision of the Commandant, U.S. Coast Guard, should mail the notice of appeal to the above address.

Dated: May 23, 1980.

John M. Stuhldreher,

General Counsel.

[FR Doc. 80–16282 Filed 5–28–80; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–458A]

Gulf States Utilities Co.; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated May 5, 1980, with respect to River Bend Station, Unit No. 1:

"You have requested our advice pursuant to Section 105(c) of the Atomic Energy Act, as amended, regarding a proposed amendment to the construction permit of the above referenced nuclear unit to allow Cajun Electric Power Cooperative, Inc. ("Cajun")

and Sam Rayburn G&T, Inc. ("Sam Rayburn") to become co-owners of that unit. Cajun will acquire a thirty percent interest in the 940 megawatt unit (approximately 282 megawatts) and Sam Rayburn will acquire a seven percent interest (approximately 66 megawatts). Our review of the information submitted for antitrust review purposes, as well as other information available to the Department, provides no basis at this time to conclude that the participation in the River Bend Station, Unit 1, by Cajun and Sam Rayburn would create or maintain a situation inconsistent with the antitrust laws. Accordingly, it is the Department's view that no antitrust hearing is necessary with respect to the proposed amendment to the construction permit."

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by June 30, 1980 either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Md. this 19th day of May 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 80-15935 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the license for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment adds a new license condition (Paragraph 3.G) which requires the replacement of core spray spargers during the 1981 refueling outage.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1980, (2) Amendment No. 47 to License No. DPR-16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 15th day of May, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 80-16267 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[PSRP-3.9.6 (Rev. 2)]

Proposed Revision to the Standard Review Plan; Availability

As a part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission's Division of Systems Safety, Office of Nuclear Reactor Regulation, proposes to revise SRP Section 3.9.6. "Inservice Testing of Pumps and Valves," and to add an Appendix A to SRP Section 3.9.6, "Leak Testing of Pressure Isolation Valves." A value-impact statement has also been prepared in support of these proposed changes.

The Standard Review Plan is prepared for the guidance of staff reviewers in the Office of Nuclear Reactor Regulation in peforming safety reviews of applications to construct or operate nuclear power plants. The principal purpose of the SRP is to assure the quality and uniformity of staff reviews, and to present a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. It is also a purpose of the SRP to make information about regulatory matters widely available and to improve communication and understanding of the staff review process by interested members of the public and the nuclear power industry.

This proposed revision of the Standard Review Plan and the supporting value/impact statement have not received a complete staff review and approval and do not represent an official NRC staff position. Public comments are being solicited on both the revision and the value/impact statement (including any implementation schedules) prior to a review and decision by the Office of Nuclear Reactor Regulation as to whether this revision should be approved. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. All comments received by August 1, 1980, will be considered.

All of the associated documents and comments considered will be made publicly available prior to a decision by the Director, Office of Nuclear Reactor Regulation, on whether to implement this revision.

Copies of this proposed revision and addition to the SRP and the supporting value-impact statement will be available for public inspection at the NRC Public Document Room at 1717 H Street, NW., Washington, D.C. 20555. Requests for single copies of future proposed revisions to the SRP should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Standard Review Plans are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Bethesda, this 18th day of April 1980.

For the U.S. Nuclear Regulatory Commission.

Roger J. Mattson,

Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 80-16265 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on Friday, June 13, 1980 in room 1046, 1717 H Street NW., Washington, D.C. 20555. Notice of this meeting was published May 15, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Friday, June 13, 1980
8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding NRC funding and program direction or program termination, as appropriate.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities and to protect proprietary information. See 5 U.S.C. 552b(c)(9)(B) and 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5 p.m., e.d.t.

Dated: May 23, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-16286 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 21-15455-01, EA-80-12]

American X-Ray & Inspection, Inc.; Order Revoking License

I

American X-Ray and Inspection Incorporated, 24030 Haggerty Road, Farmington Hills, Michigan 48024 (the "licensee") is the holder of Byproduct Material License No. 21-15455-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The present expiration date of the license is December 31, 1983.

II

By Order dated February 28, 1980, the license was suspended, effective immediately, and the licensee was given an opportunity to show cause why the license should not be revoked. In accordance with the Order, all licensed material has been properly transferred. The Order provided the licensee opportunity to file a written answer thereto within twenty-five days days of the date of the Order, and stated that upon the licensee's failure to file answer within the specified time, the Director, Office of Inspection and Enforcement, would issue a subsequent order without further notice revoking the license. No answer has been filed with the Commission by the licensee.

III

Accordingly, in view of the licensee's failure to answer the Order, It is hereby ordered that: Byproduct Material License No. 21-15455-01 is revoked.

Dated at Bethesda, Maryland the 19th day of May, 1980.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 80-16269 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses for the period May 1 through May 10, 1980. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this day, May 15, 1980, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Apr. 30, 1980, May 1, 1980, XSNM01678.	4.3% Enriched Uranium	11,054.000	475.343	Fuel for S.E.N.A. Reactor	France.
Transnuclear, Inc., Apr. 30, 1980, May 1, 1980, XSNM01679.	93.3% Enriched Uranium	35.088	32.737	Fuel for R-2 Research Reactor	Sweden.
Transnuclear, Inc., Apr. 30, 1980, May 1, 1980, XSNM01680.	93.3% Enriched Uranium	3.000	2.799	Irradiation test samples in the "Phase II of the Project HBK, in irradiation experiments (Project High Temperature Reactor Fuel Cycle)".	Belgium, Netherlands, Sweden, West Germany, and France.
Edlow International, May 7, 1980, May 8, 1980, XSNM01681.	2.65% Enriched Uranium	13.090	347	Routine Reload Mihama Unit 2	Japan

[FR Doc. 80-16268 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License Nos. 29-

by the licensee does not provide a basis for modification of this enforcement action

133 released to an unrestricted area for the period January to August 1979

Statement of Noncompliance

[Byproduct Material License Nos. 29-13985-01, 29-13985-04MD]

Diagnostic Isotopes, Inc.; Order Imposing Civil Monetary Penalties

I

Diagnostic Isotopes, Incorporated, 225 Belleville Avenue, Bloomfiled, New Jersey ("the licensee"), is the holder of Byproduct Material License Nos. 29-13985-01 and 29-13985-04MD ("the licenses") issued by the Nuclear Regulatory Commission ("the Commission"). License No. 29-13985-01 authorizes production, quality control, radiopharmaceutical processing, research and development, and distribution to specifically licensed recipients in accordance with the conditions specified therein, and is due to expire on April 30, 1982. License No. 29-13985-04MD authorizes distribution to persons licensed pursuant to 10 CFR 35.14 and 10 CFR 35.100 for Group I and Group II as described in those sections, and is due to expire on August 31, 1982.

II

An inspection of the licensee's activities under License Nos. 29-13985-01 and 29-13985-04MD was conducted on August 2 and 3, 1979, at the licensee's facility in Bloomfield, New Jersey. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its licenses and with the requirements of the Nuclear Regulatory Commission's "Standard for Protection Against Radiation," Part 20, Title 10, Code of Federal Regulations. Written Notices of Violation were served upon the licensee by letters dated October 15, 1979 and January 10, 1980, specifying the items of noncompliance, in accordance with 10 CFR 2.201. Notices of Proposed Imposition of Civil Penalties dated October 15, 1979 and January 10, 1980 were concurrently served upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provisions of Nuclear Regulatory Commission regulations and license conditions.

Answers dated November 5, 1979 and February 14, 1980, to the Notices of Violation and Proposed Imposition of Civil Penalties were received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for deferral, compromise, mitigation, or cancellation contained therein, as set forth in Appendix A to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the items of noncompliance designated in the Notices of Violation should be imposed, except for Item F.1, which is withdrawn.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of Eight Thousand Dollars ($8,000) within twenty-five days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States, and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five days of the date of this Order, request a hearing. If a hearing is requested, the Commission will issue an order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in noncompliance with the Commission's regulations and the conditions of the licenses as set forth in the Notices of Violation referenced in Section III above; and,

(b) Whether, on the basis of such items of noncompliance, this order should be sustained.

Dated this 15th day of May 1980, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

Appendix A.—Evaluations and Conclusions

For each item of noncompliance and associated civil penalty identified in the Notices of Violation (dated October 15, 1979, and January 10, 1980) the original item of noncompliance is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's responses to each item (dated November 5, 1979 and February 14, 1980) is presented.

Statement of Noncompliance

A. 10 CFR 20.101(a), "Exposure of individuals to radiation in restricted areas," limits the extremity dose that an individual working in a restricted area may receive to 18.75 rems per calendar quarter.

1. Contrary to this requirement, one individual working in your restricted area received a hand exposure of 19.9 rems during the first calendar quarter of 1979.

This is an infraction. (Civil Penalty—$1,000).

2. Contrary to this requirement, one individual working in your restricted area received a hand exposure of 29.8 rems during the fourth calendar quarter of 1978.

This is an infraction. (Civil Penalty—$1,000).

Evaluation of Licensee Response

A.1. The licensee denies this item of noncompliance and bases that denial on the assertion that there could be up to a 10% error in its film badge readings, thus reducing the possible dose below 18.75 rems. The intent of 10 CFR 20.101 is to prevent exposures in excess of the stated limits and not to authorize exposures up to the limit. It is recognized that the exposure is only slightly in excess of the limit. However, such cumulative exposures are preventable. The licensee is expected to predict the exposure for a given operation and thus ensure that an individual's exposure for a calendar quarter stays well below the limit. In addition, the licensee has not provided evaluations to establish that the error margin did in fact exist, and that it would show a higher reading than the actual exposure. Therefore, the exposure as determined by the dosimeter and associated records must be accepted as accurate.

A.2. The licensee admits this item and requests remission of the penalty based on the corrective action taken. Corrective action is always required and is therefore not a basis for mitigation. The licensee also maintains the time interval from its report of the overexposure in February 1979, and the proposed penalty make the penalty inappropriate. The fact that the overexposure of item A.1 occurred after this incident demonstrates the lack of effectiveness of the corrective action and the appropriateness of the penalty. Moreover, the licensee has had a history of exposures in excess of 10 CFR 20.101.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action. Items A.1 and A.2 are similar to items found in inspections 76-02 and 78-02.

Statement of Noncompliance

B. 10 CFR 20.405(a), "Reports of overexposures and excessive levels and concentrations," requires that you submit within 30 days, a report to the Commission concerning each exposure to radiation in excess of any applicable limit in Part 20 of your license.

Contrary to this requirement, as of August 2, 1979, you failed to report to the Commission the exposure described in item A.1 above.

This is a deficiency. (Civil Penalty—$250).

Evaluation of Licensee Response

B. The licensee denies this item for the reasons given in A.1.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action. Item B is similar to an item found in inspection 76-02.

Statement of Noncompliance

C. 10 CFR 20.201(b), "Surveys," requires that you make such surveys as may be necessary for you to comply with all sections of Part 20. As defined in 10 CFR 20.201(a), "Survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal or presence of radioactive materials or other sources of radiation under a specific set of conditions.

1. 10 CFR 20.101, "Exposure of individuals to radiation in restricted areas," limits radiation exposure to the extremities of individuals.

Contrary to this requirement, as of August 2, 1979, you failed to make such surveys as were necessary to assure compliance with 10 CFR 20.101. Specifically, you failed to evaluate the radiation doses to the right hand and fingers of an individual who used that hand to pick up vials and syringes containing millicurie quantities of technetium-99m without wearing a monitoring device on that hand.

This is an infraction. (Civil Penalty—$1,000).

2. 10 CFR 20.106, "Radioactivity in effluents to unrestricted areas," requires that you possess, use, or transfer licensed material in such a manner so as not to release licensed material to an unrestricted area in concentrations which exceed the limits specified in Appendix B, Table II, of Part 20.

Section 4 of the March 17, 1977 application incorporated by reference in license condition 15 of License No. 29-13985-01 specified two specific methods to be used in evaluation (constant air monitoring and material balance) and also that the results be compared to determine the effluent released.

Contrary to these requirements, you failed to make such surveys as were necessary to assure compliance with 10 CFR 20.106. Specifically, you failed to compare the results of the two methods of evaluation and hence failed to evaluate concentrations of xenon-133 released to an unrestricted area for the period January to August 1979.

This is an infraction. (Civil Penalty—$750).

3. 10 CFR 20.105(b), "Permissible levels of radiation in unrestricted areas," requires that radiation levels in unrestricted areas be limited so that if an individual were continuously present in the area, he could not receive a dose in excess of two (2) millirems in any one hour or one hundred (100) millirems in any seven (7) consecutive days.

Contrary to this requirement, on August 2, 1979, you failed to make such surveys as were necessary to assure compliance with 10 CFR 20.105(b). Specifically, radiation levels up to ten (10) milliroentgens per hour existed at a waste dumpster in an unrestricted area behind your facility.

This is an infraction. (Civil Penalty—$750).

Evaluation of Licensee Response

C.1. The licensee denies this item based on data purporting to show an evaluation of the individual's exposure. The licensee's data displays ratios of right to left hand exposures, and he appears to argue that a film badge on the left hand is sufficient to evaluate exposure to the right hand. Four ratios, ranging from 1:1 to 2:1, are inadequate to show a proper evaluation, especially since the licensee's initial response stated the exposures to each hand were approximately equal. Had the licensee relied on these rations for his evaluation, it would have been approximate to require a right hand film badge in order to monitor the hand with the higher exposure.

C.2. The licensee denies this item and has provided dates on which surveys of the air monitoring system were performed by his production manager. This individual has stated to the NRC inspector that he did not follow the procedures for evaluating total activity and concentrations in the effluent as required by the license. The licensee has provided no data or calculations to demonstrate compliance with the methods specified in the license.

C.3. The licensee denies this item based on the observations of his employee that the activity at the waste dumpster was approximately 2 mr/hr. The NRC inspector measured radiation levels up to 10 mr/hr at the dumpster which was in an unrestricted area. The levels were measured using an Eberline Geiger-Mueller Survey Meter, Model E-120, calibrated on June 2, 1979. Following the inspection, the survey meter was satisfactorily checked against a reference source to verify calibration.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action. Item C.1 is similar to items found in inspections 76-01 and 77-02. Item C.2 is similar to items found in inspections 76-01 and 76-02, and is of the same requirement as cited in 76-01 and 76-02, however, in this case the adequacy of the evaluation and not the failure to perform any evaluation was cited. Item C.3 is similar to an item cited in inspection 76-02, and in both instances byproduct material was found in a waste dumpster.

Statement of Noncompliance

D. Condition 12 of License No. 29-13985-04MD requires licensed material be used by, or under the supervision of, a named individual.

Contrary to this requirement, as of August 2, 1979, and for a period of approximately one month prior, licensed materials were dispensed and distributed to Group II licensees by and under the supervision of individuals other than the individual named on the license.

This is an infraction. (Civil Penalty—$500).

Evaluation of Licensee Response

D. The licensee denies this item. He states the named supervisor was present at the facility from July 12 through July 20, 1979, but had not been seen by the midnight to 8 a.m. shift personnel for approximately one month. The intent of the license condition is that the named supervisor be readily available to contact, observe, instruct or otherwise assure that licensed operations are conducted safely and within the limits of NRC requirements.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Statement of Noncompliance

E. Condition 15 of License No. 29-13985-01 requires that licensed materials be possessed and used in accordance with the statements, representations, and procedures contained in your application dated March 17, 1977, letter dated March 24, 1977; application dated July 29, 1977, as amended September 19, 1977, and application dated February 13, 1978.

1. Items A-4, A-14 and B-3 of your "Radiation Safety Manual," attached to your application dated March 17, 1977, requires that individuals wear protective gloves when working with radioactive material, avoid unnecessary exposure to radiation or radioactive materials, and wear laboratory coats before beginning any duties in the restricted area.

Contrary to this requirement, on August 2, 1979, an individual working with millicurie quantities of radioactive materials did not wear protective gloves, did not in all cases use remote handling tools (tongs) or vial and syringe shields to avoid unnecessary exposure to radiation and, in one case, failed to wear a laboratory coat when dispensing millicurie quantities of radioactive materials in your restricted Radiopharmacy area.

This is an infraction. (Civil Penalty—$750).

2. Section 5, "Training Program" of your "Radiation Protection Program," attached to your application dated March 17, 1977, requires that any person whose job requires admittance to the restricted area complete your training program for laboratory personnel.

Contrary to this requirement, on August 2, 1979, truck drivers who entered your restricted area to pick up and deliver packages had not received the required instruction.

This an infraction. (Civil Penalty—$500).

3. Item B-2 of your "Radiation Safety Manual" attached to your application dated

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March 17, 1977, requires that personnel monitoring equipment (TLD badge plus one dosimeter) shall be worn by all authorized personnel entering the restricted area.

Contrary to this requirement, on August 2, 1979, truck drivers who entered your restricted areas had not received the required personnel monitoring equipment.

This is an infraction. (Civil Penalty—$500).

Evaluation of Licensee Response

E.1. The licensee admits this item, but argues the presence of NRC inspectors contributed to the noncompliance. Routine, unannounced inspections are standard procedure to ensure licensee compliance. A licensee consents to reasonable inspections by accepting his license. A licensee is expected to follow basic radiation safety practices whether or not there are NRC inspectors present.

E.2. The licensee denies this item based on the employee drivers' previous training and experience gained while working for other companies in this industry. Previous experience or training by other companies does not suffice to assure that the individuals are knowledgeable about the licensee's radiation safety requirements, procedures, or facility.

E.3. The licensee denies this item on the basis that item B–2. of the Radiation Safety Manual only refers to employees and that a badged escort is sufficient. Item B–2. refers to all "authorized personnel," not just employees. Escorted visitors are authorized personnel and are required to wear personnel monitoring equipment.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action. Item E.1 is similar to an item cited in inspection 76–01. In both instances, required protective clothing was not worn.

Statement of Noncompliance

F. Condition 14 of License No. 29–13985–04MD requires that licensed material be used in accordance with the statements, representations, and procedures contained in your application dated May 27, 1977, and in letters dated July 19, 1977 and August 10, 1977.

1. Item 2.a of the supplement of your application dated May 27, 1977, requires that you check each batch of generator eluate for molybdenum-99 breakthrough and alumina content.

Contrary to this requirement, on August 2, 1979, you failed to check each batch of generator eluate for molybdenum content.

This is an infraction. (Civil Penalty—$500).

2. Item 2.c of this supplement requires that your dose calibrator be checked daily using cesium-137 and cobalt-57 standards as specified in Appendix E, item c of your application dated March 17, 1977.

Contrary to this requirement, you had failed to check your dose calibrator with cesium-137 and colbalt-57 standards during the period July 26, to August 2, 1979.

This is an infraction. (Civil Penalty—$500).

Evaluation of Licensee Response

F.1. The licensee denies this item on the basis that each batch of generator eluate was checked for molybdenum-99 breakthrough and alumina content. This item is unresolved and the records of August 2, 1979, showing the checks of each batch will be reviewed during the next inspection.

F.2. The licensee admits this item but argues that his checks on Monday, Wednesday and Friday were sufficient. He states that an overwhelming body of data supports the reproducibility of his checks on the Monday through Friday performance. In a facility of this sort, with numerous patient doses prepared each day, a daily check is essential. This view is supported by the American National Standards Institute standard N42, 13–1978, which requires a calibration check on each work shift during which the instrument is used.

Conclusion

F.1. The licensee's response, if verified, forms a basis for remitting the civil penalty. Accordingly, this item is withdrawn pending a future inspection.

F.2. This item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Statement of Noncompliance

G. Condition 14 of License No. 29–13985–04MD requires that licensed material be used in accordance with the statements, representations, and procedures contained in your application dated May 27, 1977, and in letters dated July 19, 1977, and August 10, 1977.

Item 3.b of the supplement to your application dated May 27, 1977, requires that you distribute radiopharmaceuticals in compliance with all applicable federal and state regulations. Item 1 of your letter dated July 19, 1977, assigns to your Radiopharmacy responsibility to assure that reports from the customer are submitted to the sponsor.

Contrary to this requirement, as of August 3, 1979, you failed to obtain the reports required by the United States Food and Drug Administration under your Notice of Claimed Investigational Exemption of a New Drug (IND) from your customers who received technetium-99m as pertechnetate eluted from your technetium-99m generating system, the "Union Carbide Master Milker."

This is an infraction. (Civil Penalty—$500).

Evaluation of Licensee Response

G. The licensee denies this item on the basis that patient reports are not required for drugs dispensed under prescription and whose monographs appear in the United States Pharmacopoeia (U.S.P.). It has been the FDA's consistent position that all radioactive drugs are new drugs and must be dispensed under an IND or New Drug Application. There is nothing in FDA regulations that suggests a USP monograph exempts a holder of an IND from the duty of obtaining patient reports, whether the drug is dispensed under prescription or not.

Conclusion

The item as stated is an item of noncompliance. The information presented by the licensee does not provide a basis for modification of this enforcement action.

Dates of Inspection

76–01 March 19, 1976.
76–02 December 29, 1976 and January 2, 1977.
77–01 April 28–29, 1977.
77–02 October 28, 1977.
78–01 May 25, 1978.
78–02 August 8, 1978.

[FR Doc. 80–16278 Filed 5–28–80; 8:45 am]
BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OH 902–1 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Instruction Concerning Risk from Occupational Radiation Exposure" and is intended for Division 8, "Occupational Health." This guide is being developed to describe the instruction that should be provided workers subject to occupational exposure to radiation concerning the biological risks of such exposure.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 21, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 20th day of May 1980.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 80–16272 Filed 5–28–80; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR–31, and Amendment No. 50 to Facility Operating License No. DPR–41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Nuclear Generating, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments incorporate the results of a revised ECCS analysis for a steam generator tube plugging level of 25%.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 29, 1980, (2) Amendment Nos. 57 and 50 to License Nos. DPR–31 and DPR–41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 15th day of May, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 80–16275 Filed 5–28–80; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–316]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR–74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment revises the maximum T_{avg} at Rated Thermal Power used for the overtemperature and overpower delta T trips and departure from nucleate boiling (DNB) limits. The amendment also deletes license conditions which required modifications for leak testing certain containment isolation valves and installation of qualified 600 volt containment power penetration circuits. These modifications and installations have been completed.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated November 2, 1979 as supplemented December 11, 1979 and March 18, 1980, (2) Amendment No. 19 to License No. DPR–74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of May, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80–16273 Filed 5–28–80; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR–46, issued to Nebraska Public Power District, which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

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The amendment changes the Technical Specifications to (1) include prepressurized 8 x 8 retrofit fuel and revise Technical Specification limits of operation to accommodate operation with the fifth core reload, (2) revise limiting conditions of operation to accommodate modifications in conjunction with the Mark I Long-Term Program, (3) delete certain surveillance requirements for the diesel generators which are not necessary now that system design has been verified, and (4) incorporate certain administrative improvements.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 8, 1980, March 17, 1980, as revised April 18, 1980; February 28, 1980; and October 9, 1978, (2) Amendment No. 62 to License No. DPR–46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 20th day of May, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 80-16278 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.14, Revision 1, "Use of Observation (Visual Surveillance) Techniques in Material Access Areas," describes measures the NRC staff considers acceptable for implementing the requirements of surveillance or observation within material access areas to ensure safeguarding of strategic special nuclear material. This guide was revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

Regulatory guided are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 19th day of May 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-16270 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Appendix B (Environmental) Technical Specifications for operation of the San Onofre Nuclear Generating Station Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment deletes subsection 3.1.2.a(1)C.2, "Settling Plates", from the Appendix B Technical Specifications.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 7, 1979, and (2) Amendment No. 47 to License No. DPR–13, including the Commission's transmittal letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of May 1980.

For the Nuclear Regulatory Commission.

Dennis M Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 80-16271 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR–37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit No. 2 (the facility) located in Surry County, Virginia. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to change the heat flux hot channel factor (F_Q) to 2.19 based on a LOCA–ECCS analysis with a steam generator tube plugging limit of 3%.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 31, 1979, as supplemented October 16 and 25, 1979, and January 11 and February 20, 1980, (2) Amendment No. 58 to License No. DPR–37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Swem Library, College of William and Mary, Williamsbug, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 16th day of May 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 80-16274 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. NPF–4 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 1 (the facility) located in Louisa County, Virginia.

The amendment incorporates changes in the Administrative Control Section of the Technical Specifications to reflect the licensee's management reorganization of April 1, 1980. The reorganization divides the fossil and nuclear organizations into separate groups, each with its own operations and technical staff.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action see (1) the application for amendment dated March 27, 1980; (2) Amendment No. 17 to Facility Operating License No. NPF–4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 19th day of May, 1980.

For the Nuclear Regulatory Commission.

Robert A Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 80-16277 Filed 5-28-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP): Notice of Deadline of Petitions Requesting Modifications of the List of Articles Eligible for Duty-Free Treatment Under the GSP

Notice is hereby given that, in order to be considered in the GSP, petitions for modification of the list of articles eligible for duty-free treatment under the GSP must be received no later than the close of business on Tuesday, July 15, 1980. The GSP provides for the duty-free importation of qualifying eligible articles when imported from designated beneficiary developing countries. The GSP was established by Title V of the Trade Act of 1974 and implemented by Executive Order 11888.

Requests should be submitted in English, in 20 copies, in conformance with regulations codified in 15 CFR Chapter XX, especially Part 2007 (published in the September 9, 1977 **Federal Register**, 42 FR 45532), and addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 711, 1800 G Street, N.W., Washington, D.C. 20506. Further information can be obtained from Tim Bennett, Executive Director, GSP Subcommittee, telephone 202–395–6971.

As part of this review a special effort will be made to include on the GSP list products of special export interest to low income beneficiaries, including handicraft items. In addition, to provide increaded opportunities for less developed, less competitive countries limitations on GSP benefits will be considered for the more developed beneficiary developing countries in specific products where they have demonstrated competitiveness. Such limitations will also be considered when new products are added to the GSP eligible list. The development level of

individual beneficiaries, their competitive position in the product concerned and the overall economic interests of the United States will be taken into account when any such action is considered. Any such modifications may be requested by interested parties, subject to the above mentioned requirements. For additional information on this point, reference should be made to the Report to the Congress on First Five Years' Operation of the U.S. Generalized System of Preferences (GSP), Transmitted by the President of the United States on April 17, 1980, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Notice of petitions accepted for review will be published in the **Federal Register** on or about Friday, August 8, 1980. Public hearings on accepted petitions will begin at 10:00 a.m., Monday, September 29th in Room 2008 of the New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Street, N.W.), Washington, D.C., and will continue on that and subsequent days until all witnesses wishing to appear have been heard. The hearings of Friday, October 3 will be held in Room 2010 in the New Executice Office Building.

Ann Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80-16259 Filed 5-28-80; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

Tishman Liquidating Corp.; Application and Opportunity for Hearing

[File No. 81-613]

May 22, 1980.

Notice is hereby given that Tishman Liquidating Corporation ("Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act"), for an order granting Applicant an exemption from Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

On November 7, 1977, the Applicant's shareholders approved a plan of complete liquidation and dissolution. As a result, the only asset remaining is a reserve fund for liabilities. There is no longer any market for the Applicant's securities.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than June 16, 1980, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W.; Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16357 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-621]

Wagner Electric Corp.; Application and Opportunity for Hearing

May 22, 1980.

Notice is hereby given that Wagner Electric Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Application states, in part:

1. In October 1979, by virtue of a corporate merger, the Applicant became an indirect wholly owned subsidiary of McGraw-Edison Company ("McGraw-Edison").

2. The Applicant is the issuer of $12,000,000 principal amount of 6⅞% Subordinated Debentures Due 1977–1986.

3. The 6⅞% Debentures are unconditionally guaranteed by McGraw-Edison.

4. McGraw-Edison is subject to the reporting requirements of Section 13 of the 1934 Act.

5. The Applicant's financial statements will be consolidated into the financial statements of McGraw-Edison.

In the absence of an exemption, Applicant is required to file annual and periodic reports with the Commission pursuant to Sections 13 and 15(d) of the 1934 Act.

Applicant contends that the exemptive order requested is appropriate in view of the facts that since the debentures are fully guaranteed by McGraw-Edison Company, it is the reports of that Company in which investors will be primarily interested; and that the time, effort, and expense involved in preparation of the reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than June 16, 1980 may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegate authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16358 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-0-M

Midwest Stock Exchange, Inc.; For Unlisted Trading Privileges in Certain Securities; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 22, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Dome Petroleum, Ltd. Common Stock, $2.50 Par Value (File No. 5543).

This security is listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before June 13, 1980 written data, views and arguments concerning the above-referenced application.

Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16359 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-16825; File No. SR-NSCC-80-16]

Self-Regulatory Organizations; Proposed Rule Change By National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on May 21, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change.

Amend National Securities Clearing Corporation SCC Division ("NSCC") Rule 7 by adding a new Section 4 thereto as follows:

OTC trade data submitted by members which is uncompared may be resubmitted to the Corporation through the Demand As Of Service. A Member may submit to the Corporation a Demand As Of in the form and manner and at such time as prescribed by the procedures. A Demand As Of which matches another Demand As Of or a Regular As Of shall enter the settlement process in the same manner as a compared As Of trade. A Demand As of which does not match another Demand As Of or a Regular As Of shall generate a Demand Advisory. Members who receive a Demand Advisory must accept or reject the trade in the form and manner and at such time as prescribed by the procedures. A property submitted rejection must indicate the reason(s) for the rejection and will constitute a release of the orginating Member from any further liability to complete the transaction. Accepted trades will enter the Balance Order Accounting Operation or the CNS Accounting Operation in the same manner as Stamped Advisories. A properly submitted Demand As Of which is properly rejected will be dropped from the comparison system. Failure on the part of the Member to accept or reject the Demand Advisory shall automatically generate a compared trade in the comparison system which trade shall be entered into the Balance Order Accounting Operation or the CNS Accounting Operation for settlement and shall be subject to all rules and procedures pertaining to the Balance Order or CNS Accounting Operation.

Amend NSCC Procedures, Roman Numberal II, Section C, by adding a new item No. 7 to the end thereto as follows:

The Corporation also provides a comparison service for aged uncompared OTC trades through use of the Demand As OF service. Members may submit trade data on a Demand As Of form if an advisory from a T+1 or As Of trade has gone unanswered. Trade data shall include the same information as supplied for T+1 trade input.

A Demand As Of which matches another Demand As Of or a Regular As Of as well as Accepted Demand Advisories shall enter the Balance Order Accounting System or the CNS Accounting System. If a Demand As Of does not match another Demand As Of or a Regular As Of, the Corporation shall generate a Demand Advisory. A Demand Advisory must be accepted or rejected prior to the cut-off time specified by the Corporation by marking the appropriate box and, in the case of a rejection, indicating the reason(s) for the rejection. A properly submitted rejection will constitute a release of the originating Member from any further liability to complete the transaction. A copy of the returned Demand Advisory will be sent by the Corporation to the originating Member. A properly submitted Demand As Of which is properly rejected will be dropped from the comparison system.

Demand Advisories which are not returned to the Corporation prior to the time specified by the Corporation will result in the Corporation automatically entering a compared trade into the comparison system.

At any time prior to the cut-off time for acceptance or rejection of the Demand Advisory, the originating Member may correct an erroneously entered Demand As Of by submitting a deletion form to the Corporation.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

At the present time, the only way to obtain release from liability on unresolved OTC transactions prior to the close out of these transactions is by use of the NASD Form 101. The procedure necessary for use of the form is both time consuming and labor intensive. The proposed rule change will provide a more timely and efficient alternative. The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by means of an additional comparison opportunity.

No comments on the proposed rule change have been solicited or received. NSCC does not perceive that the proposed rule change would constitute a burden on competition.

On or before July 3, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 19, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 22, 1980.

[FR Doc. 80-16360 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-16832; File No. SR-MSE-80-7]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Incorporated

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on May 9, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The amendments to Article IV, Rules 3 and 5 would require that a member who

wishes to appeal a summary fine to the

Washington, D.C. 20549. Copies of all

Hemisphere Fund, Inc. ("Hemisphere"),

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wishes to appeal a summary fine to the Committee on Floor Procedure of either the Equity or Options Floor, must file a request specifically stating the action complained of, the specific exceptions taken and the relief sought. Any action not specifically appealed would be considered an admission to the charge and an acceptance of the sanction imposed.

The amendments to Article XII, Rules 2(a) and 3 require that a member's appeal from the summary action of the Chairman of the Committee or one of the Committees on Floor Procedure for an infraction of exchange constitution or rules, or for improper conduct, must specifically admit or deny each charge, state exceptions taken and relief sought. Any change not specifically denied will constitute an admission of that charge. In a trial proceeding any charge not admitted or denied in a written statement will be deemed an admission, pursuant to Rule 5(a).

The imposition of a penalty upon review by the Judiciary Committee or the Board of Governors may be affirmed, reversed or modified. Modifications may include an increase or decrease of the penalty imposed, pursuant to Rule 6(a), (b) and (c).

The Exchange's Statement of Basis and Purpose of Proposed Rule Change

The proposed amendments to Article IV and Article XII, regarding disciplinary proceedings, are fair to the membership and will provide a more effective means for the Midwest Stock Exchange, Incorporated to enforce the Rules of the Exchange.

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments on the Proposed Rule Change. The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

On or before July 3, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whethe the proposed rule change should be disapproved. Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of all such filings with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 19, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 22, 1980.

[FR Doc. 80-16361 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11182; 812-4636]

Neuberger & Berman Management Inc.; and Neuberger & Berman; Filing of Application Pursuant to Section 6(c) of the Act for Order Exempting Applicants From Section 15(a) of the Act

Notice is hereby given that Neuberger & Berman Management Incorporated ("Management"), a New York corporation, and Neuberger & Berman ("N&B"), 522 Fifth Avenue, New York, New York 10036, a New York limited partnership (Management and N&B are hereinafter referred to collectively as "Applicants"), filed an application on March 21, 1980, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 15(a) of the Act to the extent that certain transactions in the shares of Management might result in (1) the termination of the investment advisory contracts between Management and the investment companies it advises ("Investment Companies"), and (2) the termination of sub-advisory contracts between Management and N&B for the benefit of the Investment Companies (the investment advisory contracts and sub-advisory contracts are hereinafter referred to collectively as "Advisory Contracts"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants are both investment advisers registered under the Investment Advisers Act of 1940. Management and N&B serve as investment adviser and sub-adviser, respectively, to the following Investment Companies: Guardian Mutual Fund, Inc., Energy Fund Incorporated, The Partners Fund, Inc., Schuster Fund, Inc., Fundex, Inc., Hemisphere Fund, Inc. ("Hemisphere"), and CL Assets, Inc. ("CL Assets"). All of the Investment Companies are registered under the Act as diversified, open-end, management investment companies except Hemisphere and CL Assets are registered under the Act as diversified, closed-end, management investment companies.

Applicants state that in January 1975, as a result of a restructuring of the stock ownership of Management: (1) N&B, through a wholly owned subsidiary, held approximately 52% of Management's outstanding common stock; (2) Mr. Bernard Stein ("Mr. Stein"), a general partner of N&B, held approximately 19% of Management's common stock; and (3) Mr. Donald C. Samuel ("Mr. Samuel"), also a general partner of N&B, held approximately 29% of Management's common stock. At the time of the restructuring, the shareholders of the Investment Companies voted on and approved the Advisory Contracts between Management and the Investment Companies.

According to the application, an agreement among the three shareholders of Management provided that upon Mr. Samuel's death his shares of Management would convert from voting shares into non-voting shares. Thus, upon Mr. Samuels death on February 20, 1980, N&B's, percentage ownership of Management's voting stock increased to approximately 73% and Mr. Stein's percentage ownership of Management's voting stock increased to approximately 27%. Applicants state that Mr. Stein intends to convert his voting shares of Management to non-voting shares and that such action would further increase N&B's ownership of Management's voting stock to 100%. Mr. Stein and Mr. Samuel's estate each plan to sell their stock of Management either to Management or to N&B.

Section 15(a) of the Act provides, in part, that it shall be unlawful for any person to serve or to act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities of such registered investment company, and unless such contract provides for its automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor but does not include an assignment of partnership interests incidental to the death or withdrawal of a minority of the members of the partnership having only a minority interest in the partnership business. Section 2(a)(9) of the Act defines "control" to mean the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company, and creates a presumption that any person who owns beneficially more than 25% of the voting securities of a company controls that company.

Applicants assert that the conversion into non-voting interests of Mr. Samuel's and Mr. Stein's voting interests in Management, and the contemplated sale of such stock to N&B or Management, has not and will not result in assignments of the Advisory Contracts. However, Applicants note that because Mr. Samuel held approximately 29% of the voting stock of Management and because Mr. Stein's ownership of the voting stock of Management increased to approximately 27% upon Mr. Samuel's death, the transaction described above could be deemed to result in the transfer of controlling interests in Management and thereby constitute assignments under Section 2(a)(4) of the Act.

Applicants assert that the usual presumption of control created by Section 2(a)(9) of the Act is, in this case, rebutted by N&B's continued ownership of a majority of the voting stock of Management and that, therefore, no assignment of a controlling block of voting stock occurred or will occur as a result of the transactions described above. In support of this position, Applicants state that: (1) N&B continues to exert actual control of Management; (2) the transactions arising in this case in a corporate context are analogous to the types of partnership transactions excluded from the definition of "assignment" by Section 2(a)(4) of the Act; (3) no significant changes with regard to officers, directors, portfolio managers or employees have occurred other than changes that have occurred directly from the need to fill positions previously held by Mr. Samuel; and (4) subsequent to Mr. Samuel's death, the Board of Directors of each of the Investment Companies confirmed the continuance of the Advisory Contracts. The Boards of Directors also approved new provisional contracts on identical terms to be submitted to shareholders of the Investment Companies in the event that the requested exemptive order is not granted.

Applicants state that although the uncertainty created by the above transactions could be removed by conducting special shareholder meetings of each of the Investment Companies to vote on new advisory contracts, the costs and expenses of such meetings would be burdensome to the Investment Companies. Applicants further state that they are unable to rely upon Rule 2a-6 under the Act with respect to the transaction. Rule 2a-6 provides, in part, that a transaction which does not result in a change of actual control or management of the investment adviser to an investment company is deemed not to be an assignment for purposes of Section 15(a) of the Act. Because Mr. Samuel was active in the management of the Investment Companies' investment adviser, Applicants believe that it might be argued that a change of actual management of the investment adviser has occurred. Although to the extent that an assignment has occurred Rule 15a-4 under the Act would provide a temporary exemption of 120 days from the requirement that new investment advisory contracts be approved by shareholders. Applicants state that they have applied for an exemption to obviate the need for special meetings of shareholders of the Investment Companies.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the granting of the requested exemption from the provisions of Section 15(a) of the Act would be consistent with Section 6(c) of the Act because, in their view, there has been no actual assignment of the Advisory Contracts, and because the granting of an exemptive order would avoid incurring the expenses inherent in treating the Advisory Contracts as terminated and securing shareholder approval of new advisory contracts.

Notice is further given that any interested person may, not later than June 17, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing theron. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16362 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21589, 70-6151]

General Public Utilities Corp.; GPU Service Corp.; Proposed Issuance and Sale of Long-Term, Secured Note

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its service company subsidiary, GPU Service Corporation ("Service Company"), 100 Interpace Parkway, Parsippany, New Jersey 07054 have filed with the Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders dated May 18, 1978 (HCAR No. 20550) and July 31, 1978 (HCAR No. 20652), this Commission authorized (a) Service Company to issue its unsecured promissory notes maturing on December 31, 1979, evidencing borrowings of up to $13,000,000 from Hartford National Bank and Trust Company ("Hartford") and Citibank, N.A., and (b) GPU to guarantee the payment of principal and interest on such borrowings. Such promissory notes were to bear interest of 105% of the banks' prime rate for commercial borrowings in effect from time to time. The proceeds from such

borrowings were to be used to finance the construction and partial equipping of a 125,000 sq. ft. headquarters office building to be constructed by Service Company on a 25 acre site in Parsippany, New Jersey, or to reimburse Service Company's treasury for funds previously expended therefrom for such purposes. By order dated June 5, 1979 (HCAR No. 21082), the Commission authorized Service Company further to secure such borrowings by granting Hartford a first mortgage on the 25 acre site and office building.

Thereafter, and pending the making by GPU and Service Company of more permanent financing arrangements for the building, by order dated December 31, 1979 (HCAR No. 21372), the Commission (a) extended the time during which Service Company could issue, and GPU could guarantee, notes evidencing borrowings from Hartford and Citibank, as well as the maturity date of such notes, to December 31, 1980, and (b) permitted such notes to bear interest at 108% of the prime rate, in effect from time to time.

GPU and Service Company have conducted discussions with Teachers Insurance and Annuity Association of America ("TIAA"), regarding permanent mortgage financing for Service Company's headquarters office building and the related real estate. As a result of these discussions, GPU and Service Company now propose that Service Company issue and sell to TIAA Service Company's first mortgate note due 2005 in the principal amount of up to $15,500,000 ("Note"). The Note would bear interest at 13.25% per annum and would be secured by a first mortgage lien on the headquarters office building, land, and improvements. In addition, GPU propose unconditionally to guarantee Service Company's payment of principal and interest on the Note.

The Note will provide for level monthly payments of principal and interest designed to retire the Note at maturity. In addition, the Note would be redeemable beginning in 1987 at specified redemption prices; provided that prior to 10 years following the date of issuance, the Note could not be redeemed by Service Company from certain indebtedness or preferred stock, including indebtedness or preferred stock obtained at an interest cost or dividend rate of less than 13.25% per annum.

Service Company will apply $13,000,000 of the proceeds of the sale of the Note to repay all its outstanding indebtedness to Hartford and the balance for general working captial purposes or to repay outstanding indebtedness to GPU. No further short-term notes will be issued pursuant to the authorization in this proceeding.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 19, 1980, request in writing that a hearing be held in respect of such matter, stating the nature of this interest, the reasons for such request, and the issues of fact of law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or adivce as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16363 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21590; 70-6466]

Colonial Gas Energy System et al; Reduction of Number of Outstanding Shares of Common Stock and Termination of Dividend Waiver; Issuance and Sale of Holding Company Common Stock and Request for Exception From Competitive Bidding; Issuance and Sale of Subsidiary Common Stock to Parent

In the matter of Colonial Gas Energy System, 73 East Merrimack Street, Lowell, Massachusetts 01853; Lowell Gas Company, 95 East Merrimack Street, Lowell, Massachusetts 01853; Cape Cod Gas Company, P.O. Box 1360, Hyannis, Massachusetts 02601.

Notice is hereby given that Colonial Gas Energy System ("Colonial"), a holding company, Lowell Gas Company ("Lowell"), and Cape Cod Gas Company ("Cape Cod"), public utility subsidiaries of Colonial, have filed a declaration designating Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration for a complete statement of the proposed transactions.

The declaration deals with a proposed offer to holders of approximately 58½% of the outstanding common stock of Colonial, which are subject to a dividend restriction ("Restricted Stock"), of release from that restriction in consideration of substitution of 4.5 shares of unrestricted stock for each 7 shares of Restricted Stock. Such an offer must be authorized by a vote of at least two-thirds of the holders of the presently unrestricted common shares as well as by a majority of the holders of all outstanding shares of common stock. The shareholders' authorization would terminate one year from the date of shareholder approval. Colonial is seeking authorization from this Commission to solicit approval of the proposed offer or such other offer as may be appropriate from the holders of the unrestricted common shares and to make such offer to the holders of the restricted shares.

In 1975, Colonial had its initial public offering of 495,000 shares of common stock at $12 per share. Prior to that time, all of Colonial's outstanding 709,000 shares of common stock were closely held. In connection with the public issuance of common stock, the six existing shareholders agreed to a restriction through the year 1980 on dividends paid upon their shares. The dividend restriction was extended through calendar year 1988 in connection with a public offering in 1978 of 370,000 shares of $1.80 Cumulative Convertible Preferred Stock of Colonial. Colonial has 1,204,000 shares of common stock outstanding which is presently held by approximately 1600 shareholders.

The dividend restriction, relates to the $.87 a share, in each fiscal year, of common dividends between $.45 a share and $1.32 a share. The Restricted Stock shares on a parity with the other common stock in the first $.45 of common dividends and in dividends

above the $1.32 level. The other common stock receives all common dividends in a fiscal year, exceeding $.45 until it has received $1.32 a share. The effect of the restriction has been to give the unrestricted common shares a preference of about $600,000 a year which permitted payment of $1.32 per share each year to the unrestricted common shares.

There are several limitations on the restrictions. The restricted shareholders reserved the right to sell up to 10% of the restricted shares free of the restriction. Only 5,100 of the shares have been so sold, leaving 703,900 restricted shares, of which 65,800 may be sold.

The restriction is relaxed in any fiscal year in which annual earnings available for common stock exceed the following amounts and $1.32 in dividends has been paid the other shares:

Earnings	Authorized additional dividend
$2,250,000–$2,499,000	$.29
$2,500,000–$2,750,000	$.58
Over $2,750,000	$.87

The restriction expires December 31, 1988.

Upon consummation of the proposed exchange or an exchange on such other terms as are considered appropriate, Colonial will seek to raise approximately $7,000,000 by a public offering of additional common stock. The net proceeds from such sale would be invested in new common stock of Lowell and Cape Cod. Authorization of such transactions is also sought. The terms of such transactions will be supplied by amendment. With respect to the issuance and sale of Colonial's common stock, Colonial requests exception from the competitive bidding requirements of Rule 50(b) pursuant to paragraph (a)(5).

The fees and expenses to be incurred in connection with this proposal will be filed by amendment. No state or federal commission, other than this Commission, has jurisdiction over the proposed exchange. The Massachusetts Department of Public Utilities has jurisdiction over the issuance and sale of common stock to Colonial by Lowell and Cape Cod. No other state or federal commission, other than this Commission, has jurisdiction over the issuance and sale of common stock by the utility subsidiaries.

Notice is further given that any interested person may, not later than June 18, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants, at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, may order a hearing thereon or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Colonial shall enclose a copy of this notice with the notice of its annual meeting to be mailed to shareholders.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16364 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21591; 70-6460]

New England Power Co.; Proposed Charter Amendment to Extend Short-Term Debt Authorization and to Increase Authorized Preferred Stock; Order Authorizing Solicitation of Proxies in Connection Therewith

Notice is hereby given that New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts 01581, a subsidiary of New England Electric System ("NEES"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7(e), and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

The terms of the Cumulative Preferred Stock as set forth in the Articles of Organization and By-Laws provide that, except as voted by the holders of such stock, the short-term unsecured indebtedness of NEP shall not exceed 10% of the sum of the principal amount of all bonds and other secured indebtedness and the capital, premium and surplus of NEP (the "capitalization"), and that all unsecured indebtedness of NEP shall not exceed 20% of such sum. By votes in 1970, 1973, 1975 and 1976 pursuant to Commission approval (HCAR Nos. 16653, 17853, 19095 and 19595), preferred stockholders authorized the issue by NEP of short-term unsecured indebtedness in excess of the 10% limitation, provided that all unsecured indebtedness would not exceed 20% of the capitalization of NEP and that such short-term indebtedness would be issued within limited periods after said votes. The current authority expires July 1, 1980.

In the instant filing, NEP proposes to submit two Board of Director's proposals to its stockholders at a special meeting in lieu of the annual meeting to be held June 25, 1980. The first proposal is to obtain authority from stockholders for the continued issue by NEP of short-term unsecured indebtedness in excess of the 10% limitation provided (i) such indebtedness shall be issued not later than July 31, 1985, (ii) such indebtedness shall have a maturity not later than July 31, 1986, and (iii) the 20% limitation on all unsecured indebtedness of NEP shall remain in effect. This proposal requires the favorable vote, at a meeting called for that purpose, of a majority of the Cumulative Preferred stockholders. On April 30, 1980, NEP had $27,800,000 of short-term debt outstanding, NEP estimates that short-term debt requirements during 1980 will reach a maximum of about $141,000,000, which amount may be reduced by permanent financing.

The second proposal seeks to amend the Articles of Organization and By-Laws to increase from $150,000,000 to $250,000,000 the aggregate outstanding par value of cumulative preferred stock that may be issued without a vote of two thirds of the total number of shares of said stock then outstanding. This amendment will require the affirmative vote of at least two thirds of the Cumulative Preferred Stock, the 6% Cumulative Preferred Stock and Common Stock, each voting as one class.

NEP proposes to solicit proxies from its shareholders, through the use of proposed soliciting material, to obtain the required approval for the proposed

amendments. Proceeds from the issuance of short-term debt and

hereby is, permitted to become effective forthwith pursuant to Rule 62 and

equity investors (the "1980 Owner Participants"), none of whom is

amendments. Proceeds from the issuance of short-term debt and preferred stock will be used for planned construction projects, cash sinking fund requirements and payment of maturing bonds. NEP's 1980–1984 construction program is expected to cost approximately $1,018,000,000, including allowance for funds used during construction. Included in the construction program are $948,000,000 for generation facilities, $66,000,000 for transmission lines and substations, and $4,000,000 for other facilities. In addition, NEP will have $132,000,000 of maturing bonds and $6,250,000 of cash sinking fund requirements between now and July 1985.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $12,525, including $5,000 in printing fees and $4,000 of services to be performed at cost by New England Power Service Company, an affiliate of NEP. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 17, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies from NEP's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration, regarding the proposed solicitation of proxies of NEP's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16365 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-10330]

World Airways, Inc.; Application and Opportunity for Hearing

May 22, 1980.

Notice is hereby given that World Airways, Inc. ("Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeships of Manufacturers Hanover Trust Company ("Manufacturers Hanover"), under (a) an existing indenture qualified under the Act in 1977 and (b) an existing indenture that is not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover from acting as trustee under the qualified indenture.

The Application alleges that:

1. A registration statement was declared effective on August 11, 1977, covering $65,000,000 principal amount of 10% Equipment Trust Certificates Due December 15, 1993 (the "1977 Owner Trustee") for benefit of certain independent equity investors (the "1977 Equipment Certificates"). The 1977 Equipment Certificates were issued pursuant to an indenture dated August 11, 1977 among Applicant, Manufacturers Hanover as indenture trustee, and a trustee (the "1977 Owner Participants"). The proceeds from the sale of the 1977 Equipment Certificates were used to provide financing for approximately 53.5% of the cost of three aircraft (including engines therefor and related equipment) purchased by the 1977 Owner Trustee and leased to Applicant. The balance of the financing was provided by the 1977 Owner Participants. The principal and interest on the 1977 Equipment Certificates (other than payments in connection with an optional redemption) is payable out of rentals paid by Applicant on the equipment.

2. Applicant has now entered into another financing arrangement under which a trustee (the "1980 Owner Trustee") for the benefit of certain equity investors (the "1980 Owner Participants"), none of whom is affiliated with Manufacturers Hanover or with the 1977 Owner Participants, has acquired one aircraft (including three engines therefor) and leased it to Applicant. $24,702,982.74 in aggregate principal amount of 10.875% Equipment Trust Loan Certificates Due January 1, 1997 (the "1980 Loan Certificates") have been issued to finance approximately 55% of the purchase price of the aircraft, pursuant to an indenture between the Owner Trustee and Manufacturers Hanover, as indenture trustee. The principal and interest on the 1980 Loan Certificates (other than payments in connection with an optional redemption and except with respect to a portion of the first interest payment) will be payable out of rentals paid by Applicant on the related aircraft.

3. The 1977 Equipment Certificates and the 1980 Loan Certificates are secured exclusively under separate indentures by a security interest in separate and distinct property. The respective equipment financed in part through the issuance of the 1977 Equipment Certificates and the 1980 Loan Certificates is beneficially owned by equity investors independent of each other and of Applicant and Manufacturers Hanover. Should Manufacturers Hanover have occasion to proceed against the security under one of the indentures, such action would not affect the security or the use of any security under the other indenture. Since the existence of the trusteeship under one indenture should in no way inhibit, discourage or otherwise influence Manufacturers Hanover's actions under the other indenture, Applicant believes that the indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover from acting as trustee under either indenture:

The 1977 indenture contains the provisions permitted by the proviso of Section 310(b)(1) of the Act which allow Applicant to make the application under Section 310(b)(1)(ii).

Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by the application, and (c) all rights of specified procedures under the rules of practice of the Commission.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than June 16, 1980, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16366 Filed 5-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11180, 812-4518]

Nationwide Life Insurance Co.; and Nationwide DC Variable Account; Filing of Application Pursuant to Section 6(c) of the Act for an Order Exempting Proposed Transactions From Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d) and Rule 22c-1

May 22, 1980.

Notice is hereby given that Nationwide Life Insurance Company ("Nationwide"), a stock life insurance company organized under the laws of the State of Ohio, and Nationwide DC Variable Account ("DCVA"), One Nationwide Plaza, Columbus, OH 43216, a separate account of Nationwide registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on August 14, 1979, and an amendment thereto on May 14, 1980, pursuant to Section 6(c) of the Act, for an order exempting from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d) and Rule 22c-1 of the Act, to the extent necessary, a proposed change in the pricing of one of their existing variable annuity contracts. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

DCVA, a separate account of Nationwide, was organized as a unit investment trust pursuant to a custodian agreement between Nationwide, as sponsor-depositor, and the Huntington National Bank of Columbus ("Huntington"), as custodian, and registered under the Act. DCVA was established for the purpose of funding Group Flexible Fund Retirement Contracts ("Contracts") issued by Nationwide. Purchase payments under the Contracts are allocated to the DCVA and invested in shares of one or more of five mutual funds which are registered under the Investment Company Act of 1940.

The Contracts are designed for use in connection with supplemental retirement plans for public employees established by their employers. Contracts will be issued to employers who are exempt from taxation to fund plans for which the employee is exempt from tax on purchase payments until income is received. The employer, as owner of the Contract, makes purchase payments representing the income deferrals of all employee-participants who have designated the Contract as a funding index. The Contracts provide for the accumulation of such purchase payments with any accrued earnings until the annuity commencement date requested by a participant, at which time annuity payments begin as directed by the contract owner.

As currently structured, gross purchase payments designated to DCVA are assessed a sales charge which compensates the depositor, Nationwide, for its sales related expenses, prior to allocation of the net purchase payment to the requested series (one of five mutual funds) comprising the DCVA. Presently the sales charge deducted from purchase payments is not more than 5%. On Contracts for which a sales charge of less than 5% is negotiated and assessed, such reduced charge will reflect actual variations in sales expenses, which will usually result from reduced agents' commissions.

Applicants seek this exemption to permit the implementation of a change in the pricing of the Contracts. Applicants propose to eliminate the assessment of sales charges from the gross purchase payments under the Contracts. Instead, the Applicants propose to assess a contingent deferred sales charge, which will be applied in the case of certain withdrawals from contract value by the contract owners or those made on behalf of the participants. The contingent deferred sales charge will be imposed against the withdrawal of contract value representing participant accounts that have been established under the Contract and held in the DCVA for less than sixteen (16) years. No contingent deferred sales charge will be imposed against the withdrawal of contract value representing participant accounts that have been established under the Contract and held in the DCVA for sixteen (16) years or more.

The contingent deferred sales charge will equal not more than 5% of the *lesser of:* (1) the amount surrendered; or (2) all purchase payments received on behalf of the surrendering participant or the withdrawing contract owner prior to the date on which the surrender is requested. The cumulative sum of all such charges, per participant, will never exceed 5% (or such lesser percentage, if applicable) of the total purchase payments made on behalf of such participant during the period of up to sixteen years prior to the date on which the surrender is requested. On Contracts for which a contingent deferred sales charge of less than 5% is negotiated, such reduced charge will reflect actual variations in sales expense, which will usually result from reduced agents' commissions.

No contingent deferred sales charge will be imposed on contract value that is annuitized under any life-contingent payment option or, if the participant's account has been established in the DCVA for five years or more, a period—certain payment option of five or more years.

When a redemption is requested to effect a cash withdrawal, Nationwide would then surrender accumulation units equal in value to the amount of the cash withdrawal requested by the contract owner or on behalf of a participant, plus the applicable contingent deferred sales charge. The requested cash withdrawal would then be remitted to the contract owner or, upon instructions from the owner, to the participant. The contingent deferred sales charge would be retained by Nationwide to reimburse it for the expenses incurred in connection with the sale of the Contracts. These expenses include commissions, promotional costs, sales administration, and similar sales-related expenses.

Other charges which would be assessed by Nationwide under the Contracts include an annual administrative charge of $12 per participant and an asset charge equal, on an annual basis, to 0.95% of the daily net asset value of the assets of the DCVA. The asset charge is composed of a mortality risk premium, equal to approximately 0.35%, an expense risk charge, equal to approximately 0.15%,

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and a charge equal to approximately 0.45% for administration of the DCVA. Applicants state that these charges are calculated to reimburse Nationwide for costs related to administration of the DCVA and the Contracts and the assumption of mortality and expense risks.

Applicants submit that the proposed pricing change in the Contracts is consistent with all provisions of the Act and that no exemptive relief is required in order to implement the transaction. However, to avoid any possibility that questions may be raised as to the potential applicability of various definitional and regulatory sections of the Act, Applicants have requested an order of the Commission exempting the proposed transaction, to the extent necessary, from the provisions of the Act detailed below.

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants assert that the proposed contingent deferred sales charge is consistent with the intent of the definition of "sales load" contained in the Act. While eliminating the usual initial sales load deduction from purchase payments, Nationwide would continue to incur expenses related to the sale of the Contracts, including commissions paid to sales personnel and the costs of promotion and sales administration. The contingent deferred sales charge would be retained by Nationwide to reimburse it solely for expenses related to the sale of the Contracts, which Applicants maintain is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants assert that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicants have requested an exemption from the provisions of Section 2(a)(35), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Sections 27(c)(2) and 26(a)(2)(C)

Section 27(c)(2) of the Act, in pertinent part, makes it unlawful to sell any periodic payment plan certificate unless the proceeds of all payments on such certificate are deposited with a custodian having the qualifications described in Section 26(a)(1), and are held by such custodian under an agreement containing substantially the provisions required in Sections 26(a) (2) and (3) of the Act. Section 26(a)(2)(C) provides essentially that no payment to the depositor of, or a principal underwriter for, a registered unit investment trust shall be allowed the trustee or the custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by the custodian.

Applicants assert that the proposed contingent deferred sales charge is not the typical kind of expense contemplated by Section 26(a)(2). Applicants submit that Section 26 of the Act was enacted to deal with certain abuses by requiring the trust instrument of a unit investment trust to: (1) designate as trustee or custodian a bank of a specified minimum size; (2) require that all funds and property of the trust be held by a trustee; and (3) provide that the trustee is entitled to reimburse itself out of the trust property for its expenses incurred and fees actually earned. Applicants submit that these requirements were not intended to preclude the depositor of a unit investment trust from taking a sales load. They assert that the contingent deferred sales charge is intended specifically and solely to reimburse Applicants for sales related expenses. Applicants maintain that the deferral of the imposition of this charge, and its contingency upon an event which may never occur, do not change the basic nature of this charge as a sales charge to which Section 26(a)(2)(C) was not intended to apply. Furthermore, Applicants contend that Section 27(c)(2) excepts deductions for sales load from the requirement that the proceeds be deposited with a custodian. Applicants assert that the contingent deferred sales charge is a sales load to which this exception should apply, and that deferring the imposition of the charge and making it contingent upon an event which might never occur should in no way be construed as violative of Section 27(c)(2). However, Applicants have requested an exemption from the provisions of Sections 27(c)(2) and 26(a)(2)(C), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) that the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the DCVA shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain initial sales charges. Applicants submit that the imposition of the contingent deferred sales charge does not violate Section 2(a)(32) or Section 27(d). Applicants assert that Sections 2(a)(32) and 27(d) both contemplate the assessment of an initial sales load. However, Applicants assert that, with a contingent deferred sales charge, the entire purchase payment is invested. Thus, the owner's proportionate share or account value would be the gross purchase payments, plus or minus any increase or decrease in value, less the contingent deferred sales charge. Applicants assert that deferring the imposition of the sales charge in no way restricts the contract owner or participant from receiving his proportionate share or the value of his account on redemption. Rather, Applicants maintain that the contingent deferred sales charge will merely be deducted at the time of redemption in determining that proportionate share, instead of being deducted from purchase payments. Applicants contend that the contingent deferred sales charge merely defers the timing of the imposition of the sales charge and makes the charge contingent upon an event which might never occur. Applicants submit that this method of assessing sales charges permits the purchaser's net amount invested to be increased, thus providing a benefit to the purchaser. However, Applicants have requested an exemption from the provisions of Sections 2(a)(32) and 27(d), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Section 27(c)(1)

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for an depositor or underwriter of such company, to sell any such certificate unless such certificate is a redeemable security. Applicants submit that the assessment of a contingent deferred sales charge upon certain redemptions, which is fully disclosed in the prospectus, should not be construed as such a restriction on redemption. Applicants assert that the Contracts are still redeemable securities, whether the sales charge is imposed against the purchase payment at the time of purchase, or whether such charge is deferred and made contingent upon an occurrence at a later instant during the contract period. Applicants assert that this is particularly true where the deferral of the contingent deferred sales charge until a redemption is effected has the general effect of increasing the contract value that is available for redemption, as compared with the contract value that would be available for redemption were the sales charge deducted from the purchase payment before investment on behalf of a participant. However, Applicants have requested an exemption from the provisions of Section 27(c)(1), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Section 22(c) and Rule 22c-1

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. Applicants submit that implementation of the contingent deferred sales charge is in no way violative of Section 22(c) or Rule 22c-1 promulgated thereunder. When a redemption is requested to effect a cash withdrawal, the price on redemption will be based on the current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption in arriving at the contract owner's or participant's proportionate share or account value. However, Applicants have requested an exemption from the provisions of Section 22(c) and Rule 22c-1 thereunder, to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 16, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following June 16, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16367 Filed 5–28–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Johnson County, Tex.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Johnson County, Texas.

FOR FURTHER INFORMATION CONTACT: George H. Nelson, P.E., District Engineer, Federal Highway Administration, 826 Federal Building, Austin, Texas 78701, Telephone: (512) 397–5988.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an environmental impact statement (EIS) on a proposal regarding State Highway 174 in Johnson County. The proposed project is to begin at State Highway 174 approximately 5 miles north of downtown Cleburne and bypass the CBD of Cleburne proper, either to the east or west, to junction again with State Highway 174 approximately 4 miles south of the downtown area. Because of difficulty in predicting availability of funds, the State Department of Highways and Public Transportation has not decided whether to use State or Federal funds to finance construction of this project.

The proposed highway section will have an adequate number of driving lanes to accommodate the anticipated 2000 AD traffic volumes and consideration will be given to possible grade separations with all intersecting county roads and State highways. As a loop around the City, it will serve the local citizens by segregating the short local trips from the local long-distance trips and through trips, the access to and the safety of local housing and businesses in the CBD will be improved.

Several alternates will be considered for this proposed project: 1) an alternate to the east of Cleburne crossing State Highways 67 and 171, FM Highways 110 and 2135 as well as several county roads

and the Atchison, Topeka and Santa Fe Railroad, 2) an alternate to the west of

1. Docket OPSO–46, Notice 5, LNG

elevated double guideway DPM utilizing

certificates are subject to subsequent

and the Atchison, Topeka and Santa Fe Railroad, 2) an alternate to the west of Lake Pat Cleburne crossing the AT&SF Railroad, State Highways 171 and 67 and FM Highways 1192 and 916, junctioning with existing State Highway 174 south of Rio Vista, 3) an alternate to the west of Cleburne and east of Lake Pat Cleburne crossing State Highways 171 and 67, FM Highways 1192 and 1718, 4) a no-build alternate.

There are currently no plans to hold a formal scoping meeting for this proposal. A public meeting will be held during the early stages of project planning. Adequate public notice will be given through news media as to the time and place that the meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on May 19, 1980.

George H. Nelson, P.E.,
District Engineer, Austin, Tex.

[FR Doc. 80-16130 Filed 5-28-80; 8:45 am]
BILLING CODE 4910-22-M

Materials Transportation Bureau

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

In FR Doc. 80-15108 in the issue of Monday, May 19, 1980, appearing on page 32823, make the following correction:

In the first column, in the "Dates:" line, "June 18, 1980." should be changed to read "June 2, 1980."

BILLING CODE 1505-01-M

Research and Special Programs Administration

Technical Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on June 17-20, 1980, at 9 a.m. in Room 3442, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to discuss the following:

A. Notices of proposed rulemaking:

1. Docket OPSO-46, Notice 5, LNG Facilities; Federal Safety Standards (45 FR 9220, February 11, 1980).

2. Docket PS-65, Notice 1, Incorporation by Reference (45 FR 16226, March 13, 1980).

B. Matters being considered for future rulemaking: Maps and Records, Linemarking at Navigable Waterways, Leak Classifications, and Blasting Near Pipelines.

Attendance is open to the public, but limited to the space available. With approval of the chairman of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Toni Reed, Room 8101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2392, of the topics to be addressed and the time requested to address each topic. The chairman may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

The opportunity for public participation at the meeting is intended to provide information for the Committee to consider in formulating its recommendations to the Materials Transportation Bureau, and not as an extension of the respective times allowed for public participation in the above proceedings.

Dated: May 22, 1980.

Cesar De Leon,
Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-16283 Filed 5-28-80; 8:45 am]
BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement for Proposed Downtown People Mover (DPM), Jacksonville, Fla.

Pursuant to the National Environmental Policy Act (83 Stat. 852) and the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500-1508) the Urban Mass Transportation Administration gives notice that an environmental impact statement is being prepared for a proposed downtown people mover (DPM) for Jacksonville, Florida.

The Jacksonville Transportation Authority proposes to construct with Federal capital grant assistance an elevated double guideway DPM utilizing single vehicles operating on two minute headways at 30 mph. The periphery stations are proposed to provide pedestrian access to and serve as transfer facilities for the bus system and have parking spaces for park and ride patrons. The proposed project will use Automated Guideway Transit (AGT) technology to provide circulation trips throughout the central business district and interface with the existing bus system. The alternatives to be studied inlcude alternative DPM alignments, the no build alternative, and an expanded bus service alternative. Scoping meetings for the proposed project are tentatively scheduled for Thursday evening, June 26, 1980 and Friday, June 27, 1980 in Jacksonville, Florida. The Urban Mass Transportation Administration invites the participation of agencies and individuals with expertise or interest to comment on the scope of this environmental impact statement.

Comments and questions regarding the proposed action and the environmental impact statement should be referred to: Joel Widder, Environmental Protection Specialist, Planning and Analysis Division, Urban Mass Transportation Administration, Washington, D.C. 20590, telephone number (202) 472-7100.

Dated: May 20, 1980.

Peter Benjamin,
Acting Associate Administrator for Transit Assistance.

[FR Doc. 80-16313 Filed 5-28-80; 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 19]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Section 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $477,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

FLORIDA FARM BUREAU MUTUAL INSURANCE COMPANY
P.O. Box 730
Gainesville, Florida 32602
Florida

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1979 Revision, at page 38091 to reflect this change. Copies of the 1980 Revision, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: May 19, 1980.

Gerald Murphy,
Acting Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-16301 Filed 5-28-80; 8:45 am]
BILLING CODE 4810-35-M

Sunshine Act Meetings

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 105
Thursday, May 29, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Depository Institutions Deregulation Committee	2
Federal Deposit Insurance Corporation	3-6
Federal Election Commission	7
Federal Energy Regulatory Commission	8
Federal Reserve System	9
Occupational Safety and Health Review Commission	10, 11
Railroad Retirement Board	12
Securities and Exchange Board	13

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, June 6, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: closed.

MATTERS TO BE CONSIDERED:
Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1054-80 Filed 5-27-80; 1:24 pm]
BILLING CODE 6351-01-M

2

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE.

TIME AND DATE: 5 p.m., Wednesday, May 28, 1980. The business of the Committee requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: Offices of the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Policy options on rate ceilings and terms for various deposit instruments.
2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board of Governors of the Federal Reserve System's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board of Governors of the Federal Reserve System (202) 452-3204.

Dated: May 27, 1980.
Normand R. V. Bernard,
Executive Secretary of the Committee.

[S-1053-80 Filed 5-27-80; 11:28 am]
BILLING CODE 6210-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Time of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the open meeting of the Corporation's Board of Directors scheduled for 2:00 p.m. on Tuesday, May 27, 1980, will be held instead at 3:00 p.m. that day in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C. No earlier notice of the change in the time of the meeting was practicable.

Dated: May 23, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1049-80 Filed 5-27-80; 10:39 am]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Time of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the closed meeting of the Corporation's Board of Directors scheduled for 2:30 p.m. on Tuesday, May 27, 1980, will be held instead at 3:30 p.m. that day in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C. No earlier notice of the change in the time of the meeting was practicable.

Dated: May 23, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1050-80 Filed 5-27-80; 10:41 am]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 2, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Uniform Guideline on Internal Control for Foreign Exchange Activities in Commercial Banks.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550, 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: May 23, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1051-80 Filed 5-27-80; 10:43 am]
BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C.552b), notice is hereby given that at 2:30 p.m. on Monday, June 2, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Applications for Federal Deposit insurance:

Charter Bank and Trust, a proposed new bank, to be located at 9699 East County Line Road, Unincorporated Arapahoe County (P.O. Englewood), Colorado, for Federal deposit insurance.

People's Bank, a proposed new bank, to be located on the southwest corner of the intersection of Fourth and F Streets, Chula Vista, San Diego County, California, for Federal deposit insurance.

Application for consent to establish a branch:

BayBank Middlesex, Burlington, Massachusetts, for consent to establish a branch at 300 Elliot Street, Ashland, Massachusetts.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,239-SR (Addendum)—American Bank & Trust Company, New York, N.Y.
Memorandum re: Southern National Bank, Birmingham, Ala.
Memorandum re: American Bank & Trust Company, New York, N.Y.

Reports of committees and officers:

Memorandum Bids re: Reports Required Under Delegated Authority—Foreclosure.
Memorandum re: Reports Required Under Delegated Authority—Status of Approved Committee Cases.
Memorandum re: Reports Required Under Delegated Authority—Release of Collateral Security for Fair Market Value.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessments of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550, 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: May 23, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1052-80 Filed 05-27-80; 10:43 am]
BILLING CODE 6714-01-M

7

[FR No. 1020]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: 10 a.m., Thursday, May 29, 1980.

CHANGES IN MEETING:

1. The following item has been deleted from the Executive Session: Audit and Review Policy.
2. The following item has been added to the Executive Session: Threshold Audit.
3. The following matters have been continued from the open meeting of May 22, 1980:
   a. March Management Report.
   b. Clearinghouse Project Review.
   c. Impact of Free Distribution of Regulatons.
   d. Proposed General Election Financing Regulations.
   e. FEC Forms 4, 5, and 7.

* * * * *

DATE AND TIME: 10 a.m., Tuesday, June 3, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Personnel. Litigation. Audit and Review Policy. Threshold Audit (continued).

* * * * *

DATE AND TIME: 10 a.m., Wednesday, June 4, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTER TO BE CONSIDERED: Audit and review policy.

* * * * *

DATE AND TIME: 10 a.m., Thursday, June 5, 1980.

PLACE: 1325 K Street NW., Washington, D.C. (5th floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:
Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory opinions:
Draft AO 1980-15—Norman Leventhal, Attorney for Spanish International Network.
Draft AO 1980-40—William L. Hudson, TRANSPAC.
Draft AO 1980-45—Laurie R. Rockett, PPNYC.
Draft AO 1980-48—A. Thomas Wurst, Mid-States Distributing Co., Inc.
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine adminstrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1058-80 Filed 5-27-80; 3:34 pm]
BILLING CODE 6715-01-M

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 35475, May 27, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 28, 1980.

CHANGE IN THE MEETING: The following items have been added:

Item Number, Docket Number, and Company

ER-8—EL79-10, Wisconsin River Power Co.
ER-9—ER80-297, Wisconsin Power & Light Co.
M-2—Department of Transportation's Docket No. OPSO-46, Proposed Department of Transportation Safety Standards Governing the Operation, Maintenance, Fire Protection, and Corrosion Control of LNG Facilities.
M-3(C)—RP75-106 (Appalachian Production), Columbia Gas Transmission Corp.
RP-3—RP78-36, Southern Natural Gas Co.
CP-6—CP75-140, *et al.*, Pacific Alaska LNG Co. *et al.*; CP74-160, *et al.*, Pacific Indonesia LNG Co. *et al.*; C178-453, Pacific Lighting Gas Development Co.; C178-452, Pacific Simpco Partnership.

CAG-17(B)—CP69-180, Cities Service Gas Co.

Kenneth F. Plumb,

Secretary.

[S-1047-80 Filed 5-27-80; 10:33 am]

BILLING CODE 6450-85-M

9

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, June 2, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal by the Federal Reserve Bank of Atlanta to increase the construction contingency budget for the new building of the Miami Branch.
2. Procedures relating to verification and destruction of currency at Federal Reserve Banks.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: May 23, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1046-80 Filed 5-27-80; 10:33 am]

BILLING CODE 6210-01-M

10

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., June 17, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: May 27, 1980.

[S-1055-80 Filed 5-27-80; 2:21 pm]

BILLING CODE 7600-01-M

11

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., June 11, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: May 27, 1980.

[S-1056-80 Filed 5-27-80; 2:21 pm]

BILLING CODE 7600-01-M

12

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., June 5, 1980.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public . The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

(1) Reinstatement of widow's annuities based upon annulment.
(2) Windfall accounting.
(3) Interview by industrial psychologist.
(4) Continuing control of travel by Board employees.
(5) Office of Personnel Management survey of Bureau of Unemployment and Sickness Insurance.
(6) Waivers and recovery of overpayments.

Portion closed to the public:

(A) Appeal from referee's denial of widow's insurance annuity, Virginia J. Higgins.
(B) Intra-Board personnel matter.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-1057-80 Filed 5-27-80; 3:10 pm]

BILLING CODE 7905-01-M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: TO BE PUBLISHED.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Wednesday May 21, 1980.

CHANGES IN THE MEETING: Rescheduling/ additional items.

The following closed item scheduled for Tuesday, May 27, 1980, at 9:00 a.m., has been rescheduled for Wednesday, May 28, 1980, following the 10:00 a.m. open meeting:

Institution of administrative proceeding of an enforcement nature.

The following additional items will be considered at a closed meeting scheduled for Wednesday, May 28, 1980, following the 10:00 a.m. open meeting:

Formal order of investigation.
Institution of injunctive action.
Freedom of Information Act appeal.

Commisioners Loomis, Evans, Pollack, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272-2178.

May 27, 1980.

[S-1048-80 Filed 5-27-80; 10:37 am]

BILLING CODE 8010-01-M

V 4 5 M Y 2 9 8 0 UMI

federal register

Thursday
May 29, 1980

Part II

Department of Transportation

Coast Guard

Equipment, Construction, and Materials

DEPARTMENT OF TRANSPORTATION

Coast Guard

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: This notice announces the Coast Guard's intent to publish a rule that will require the use of approved equipment, construction, and materials on certain vessels. The rule will also require that the equipment, construction, and materials be maintained in accordance with the standards in effect at the time of approval. The rule will apply to vessels that are inspected and certificated by the Coast Guard and to vessels that are not inspected and certificated by the Coast Guard but are required to have certain equipment by the Inland Navigation Rules or the Great Lakes Pilotage Rules. The rule will not apply to vessels that are not inspected and certificated by the Coast Guard and are not required to have certain equipment by the Inland Navigation Rules or the Great Lakes Pilotage Rules. The rule will not apply to vessels that are not inspected and certificated by the Coast Guard and are not required to have certain equipment by the Inland Navigation Rules or the Great Lakes Pilotage Rules.

DATES: Comments must be received on or before July 28, 1980.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/81), U.S. Coast Guard, 2100 Second Street SW., Washington, D.C. 20593. Comments will be available for inspection and copying at Room 8117, 400 7th Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert Markle, Office of Marine Safety, Security and Environmental Protection (G-MMT/81), U.S. Coast Guard, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written comments. Persons submitting comments should include their names and addresses, identify the proposed rule, and give reasons for their comments. Comments should be submitted in duplicate if possible. All comments received before the expiration of the comment period will be considered before final action is taken on the proposed rule. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

DRAFTING INFORMATION: The principal persons involved in drafting this proposed rule are Lieutenant Commander Robert Markle, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Lieutenant Commander Thomas Peterman, Project Attorney, Office of the Chief Counsel.

BACKGROUND: The Coast Guard is proposing to require the use of approved equipment, construction, and materials on certain vessels. The rule will also require that the equipment, construction, and materials be maintained in accordance with the standards in effect at the time of approval. The rule will apply to vessels that are inspected and certificated by the Coast Guard and to vessels that are not inspected and certificated by the Coast Guard but are required to have certain equipment by the Inland Navigation Rules or the Great Lakes Pilotage Rules. The rule will not apply to vessels that are not inspected and certificated by the Coast Guard and are not required to have certain equipment by the Inland Navigation Rules or the Great Lakes Pilotage Rules.

Life Float

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-39]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.
ACTION: Approval Notice.

1. Certain laws and regulations (46 CFR Chapter 1) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artifical islands and fixed structures on the outer Continental Shelf be of the types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from 7 May 1979 to 11 April 1980 (List No. 1–80). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

Buoyant Apparatus

Approval No. 160.010/70/0, 48″×48″×9″ buoyant apparatus, 12 person capacity, box type, polyethylene foam covering, manufactured by Cal-June, Inc., Jim-Buoy Marine Division, P.O. Box 9551, N. Hollywood, CA 91609, effective 12 December 1979. (It is an extension of Approval No. 160.010/70/0 dated 20 January 1975.)

Approval No. 160.010/73/0, 51″×37″×9″ buoyant apparatus, 10 person capacity, rectangular type, Model B series, polystyrene core, vinyl foam or polyethylene foam covering, manufactured by Cal-June, Inc., Jim-Buoy Marine Division, P.O. Box 9551, N. Hollywood, CA 91609, effective 12 December 1979. (It is an extension of Approval No. 160.010/73/0 dated 20 January 1975.)

Gas Mask

Approval No. 160.011/16/0, "P/N 601112–80" all purpose gas mask, Bureau of Mines Approval No. BM–1136, consisting of BM–1436 canister, BM–1435 timer, BM–1435 canister harness, and BM–1418 facepiece with BM–1418 head harness or BM–1418A facepiece with BM–1418A head harness, manufactured by Scott Aviation, Division of ATO, Inc., 225 Erie Street, Lancaster, NY 14080, effective 13 July 1979. (It supersedes Approval No. 160.011/16/0 dated 17 October 1977 to show change in name of manufacturer.)

Approval No. 160.011/38/0, M-S-A Ammonia Mask, Part No. 84869 having the Oval Ammonia Canister and the Clearvue Facepiece Assembly, or Part No. 86199 having the All-Vision Facepiece Assembly, or Part No. 86200 having the All-Vision Speaking Diaphragm Assembly which may be used in conjunction with M-S-A Maskfone; Bureau of Mines Approval No. BM–14F–58, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh, PA 15208, effective 4 February 1980. (It is an extension of Approval No. 160.011/38/0 dated 7 April 1970.)

Self-Contained Breathing Apparatus

Approval No. 160.011/49/0, Bio Pak 45 minute self-contained oxygen breathing apparatus, manufactured by BioMarine Industries, Inc., 303 West Lancaster Avenue, Devon, PA 19333, effective 25 July 1979. (It is an extension of Approval No. 160.011/49/0 dated 11 June 1974.)

Hatchet (Lifeboat and Life Raft)

Approval No. 160.013/5/0, Hatchet steel handle, Estwing Model E–3–24A, Type 1, Class 1, Design E, Style 2, manufactured by Revere Supply Co., Inc., 603–607 West 29th Street, New York, NY 10001, effective 11 April 1980. (It is an extension of Approval No. 160.013/5/0 dated 11 April 1975.)

Approval No. 160.013/6/0, Hatchet steel handle, Vaughn Model A 1 1/4, Type 1, Class 1, Design E, Style 2, manufactured by Revere Supply Company, Inc., 603–607 West 29th Street, New York, NY 10001, effective 11 April 1980. (It is an extension of Approval No. 160.013/6/0 dated 11 April 1975.)

Lifeboat Winch

Approval No. 160.015/109/0, Type 33–M lifeboat winch; approval limited to mechanical components only, and for a maximum working load of 6,600 lbs. pull at the drums (3,300 lbs. per fall), manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 4 February 1980. (It supersedes Approval No. 160.015/109/0 dated 9 January 1975 to provide for drawing consolidation.)

Approval No. 160.015/127/0, Model W1400 survival capsule launching winch; approval limited to mechanical components only and for a maximum working load of 8,000 lbs. on a single-part fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, effective 15 January 1980.

Approval No. 160.015/128/0, Type USW/5.52 lifeboat winch; approval limited to mechanical components only and for a maximum working load of 12,635 lbs. pull at the drums (6,813 per fall), manufactured by Watercraft America, Inc., P.O. Box 130, Edgewater, FL 32780, effective 20 March 1980.

Ladder, Embarkation-Debarkation

Approval No. 160.017/40/1, Model 12 PL–S, Type II embarkation-debarkation ladder, chain suspension, (8–0 lock link chain), steel ears, approval limited to ladders 100 feet or less in length, manufactured by H.K. Metalcraft Manufacturing Corp., 35 Industrial Road, P.O. Box 275, Lodi, NJ 07644, effective 7 January 1980. (It supersedes Approval No. 160.017/40/0 to show approval for longer ladder.)

Approval No. 160.017/53/0, Type I embarkation-debarkation ladder, dacron-jacketed polyethylene rope suspension, one piece reaction injection molded (RIM) polyurethane steps, COMAR Mark/1 Pilot Ladder, experimental design, approval is limited to construction of three ladders, not more than 50′ long, manufactured by Coast Marine and Industrial Supply, Inc., 398 Jefferson St., San Francisco, CA 94133, effective 26 March 1980.

Hand Red Flare Distress Signal

Approval No. 160.021/16/0, Bristol marine and hand red flare distress signal, 500 candlepower, 2 minute buring time, manufactured by Standard Railway Fusee Corp., P.O. Box 178, Boonton, NJ 07005, effective 18 March 1980. (It is an extension of Approval No. 160.021/16/0 dated 18 March 1975.)

Container for Emergency Provisions

Approval No. 160.026/40/2, Container for emergency provisions, manufactured by F & L Packing Corp., 681 Main Street, Belleville, NJ 07109, effective 15 November 1979. (It supersedes Approval No. 160.026/40/1 dated 14 September 1979 to show revision of contents.)

Life Float

Approval No. 160.027/60/3, 5.0′×2.67′ (7½″×10″ body section) peripheral-body type life float, fibrous glass reinforced plastic (FRP) shell with unicellular polyurethane core, 6 person capacity, manufactured by Atlantic-Pacific Mfg. Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective 13 July 1979. (It supersedes Approval No. 160.027/60/2 dated 3 August 1977 to show change in construction.)

Approval No. 160.027/75/0, 50½″×36½×8½″ life float, 8 person capacity, rectangular type, Model A Series, polystyrene core, vinyl foam or polyethylene foam covering, manufactured by Cal-June, Inc., Jim-Buoy Marine Division, P.O. Box 9551, North Hollywood, CA 91609, effective 12 December 1979. (It is an extension of Approval No. 160.027/75/0 dated 20 January 1975.)

Approval No. 160.027/79/0, 50½″×36½″×8″ life float, 6 person capacity, rectangular type, Model A Series, polystyrene core, vinyl foam or polyethylene foam covering, manufactured by Cal-June, Inc., Jim-Buoy Marine Division, P.O. Box 9551, North Hollywood, CA 91609, effective 12 December 1979. (It is an extension of Approval No. 160.027/79/0 dated 9 June 1975.)

Lifeboat Davit

Approval No. 160.032/198/1, type SS 2801 survival capsule launching system (winch type); approved as an alternate to a lifeboat davit for a maximum working load of 11,000 lbs. on a single fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92401, effective 4 February 1980. (It supersedes Approval No. 160.032/198/0 dated 4 February 1975 to provide for minor design changes.)

Approval No. 160.032/213/2, Type MIR/26 gravity davit and launching cradle; approved for a maximum working load of 16,576 lbs. per set (8,288 lbs. per davit head) using single-part falls, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032, effective 25 March 1980. (It supersedes Approval No. 160.032/213/1 dated 12 June 1978 to show load change and drawing revisions.)

Approval No. 160.032/230/0, Type 3400 fixed (outrigger) gravity davit; approved for a maximum working load of 14,000 lbs. using a single-part fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92401, effective 19 March 1980.

Approval No. 160.032/231/0, Type WP21/10.5 gravity pivot davit; approved for a maximum working load of 9,928 lbs. per set (4,964 lbs. per arm) using single-part falls, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032, effective 15 January 1980.

Approval No. 160.032/232/0, type PL 5001 fixed (outrigger) gravity davit; approved for a maximum working load of 18,000 lbs. using a single-part fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, effective 25 February 1980.

Approval No. 160.032/234/0, Type WP–26 gravity pivot davit; approved for a maximum working load of 16,500 lbs. per set (8,250 lbs. per arm) using 2-part falls, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32780, effective 20 March 1980.

Mechanical Disengaging Apparatus (For Lifeboats)

Approval No. 160.033/39/4, Rottmer Type S–1 releasing gear, approved for a maximum working load of 21,300 lbs. per set (10,650 lbs. per hook), manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 25 February 1980. (It supersedes Approval No. 160.033/39/4 dated 15 November 1977 to show updated drawing list.)

Approval No. 160.033/67/0, Whittaker disengaging apparatus, approved for a maximum working load of 20,800 lbs., used only as a single hook, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa CA 92041, effective 6 March 1980.

Lifeboat

Approval No. 160.035/286/4, 24.0′ × 8.0′ × 3.5′ steel oar propelled lifeboat, 40 person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 11 April 1980. (It is an extension of Approval No. 160.035/286/4 dated 11 April 1975.)

Approval No. 160.035/459/0, 26.0′ × 9.0′ × 3.83′ fibrous glass reinforced plastic (FRP), oar-propelled lifeboat, 53 person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 11 April 1980. (It is an extension of Approval No. 160.035/459/0 dated 11 April 1975.)

Approval No. 160.035/461/0, 26.0′ × 9.0′ × 3.83′ fibrous glass reinforced plastic (FRP), hand-propelled lifeboat, 53 person capacity, manufactured by Marine Safety Equipment Corp.,Foot of Wycoff Road, Farmingdale, NJ 07727, effective 11 April 1980. (It is an extension of Approval No. 160.035/461/0 dated 11 April 1975.)

Approval No. 160.035/490/0, 25.74′ × 9.0′ × 3.71′ fibrous glass reinforced plastic lifeboat, oar-propelled, 53 person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 25 February 1980.

Approval No. 160.035/491/1, 25.74′ × 9.0′ × 3.71′ fibrous glass reinforced plastic lifeboat, without radio cabin or searchlight, (Class 1), 48 person capacity, with Lister ST–2 engine, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 6 March 1980. (It supersedes Approval No. 160.035/491/0 dated 2 August 1979 to show addition of Westerbeke LB–40 engine.)

Approval No. 160.035/495/0, Model CA 3400, 19.0′ × 12.5′ × 4.54′ fibrous glass reinforced plastic (FRP) motor propelled, totally enclosed survival capsule, manufactured by Whittaker Corp. 5159 Baltimore Drive, La Mesa, CA 92041, effective 20 February 1980.

Approval No. 160.035/499/0, 25.74′ × 9.0 × 3/71′ fibrous glass reinforced plastic lifeboat, hand-propelled, 53 person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 25 February 1980.

Hand Orange Smoke Distress Signal

Approval No. 160.037/12/0, Bristol marine hand held orange smoke distress signal, manufactured by Standard Railway Fusee Corp., P.O. Box 178, Boonton, NJ 07005, effective 18 March 1980. (It is an extension of Approval No. 160.037/12/0 date 18 March 1975.

Kapok Buoyant Cushions

Approval No. 160.048/264/0, Special approval for 15″ × 15″ × 2″ buoyant cushion, Type IV PFD, manufactured by Kent Sporting Goods Co., 719 Orange Street, Ashland, OH 44805, effective 17 January 1980.

Inflatable Life Raft

Approval No. 160.051/101/0, 8 person inflatable life raft with boarding ramp and conventional water pockets, manufactured by Switlik Parachute Co., Inc., 1325 East State Street, Trenton, NJ 08607, effective 5 July 1979.

Unicellular Plastic Form Life Preserver

Approval No. 160.055/126/0, Adult, Model ILJ–100, Type I PFD, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 13 March 1980.

Unicellular Polyethylene Buoyant Vest

Approval No. 160.060/37/0, Adult Universal, Model 301, Type II PFD, manufactured by Miltco Products Corp.,

139 Emerson Place, Brooklyn, NY 11205, effective 21 January 1980.

Fishing Tackle Kit

Approval No. 160.061/4/2, Model RSCF–182 emergency fishing tackle kit, manufactured by Revere Supply Co., Inc., 603–607 West 29th Street, New York, NY 10002, effective 29 November 1979. (It supersedes Approval No. 160.061/4/1 dated 15 February 1978 to show revised container drawing.)

Launching Device for Life Rafts

Approval No. 160.063./3/2, Type FR–50 (MK–1) fixed-arm launching device with Type R–50H–1 (MK–1) winch; approved for a maximum working load of 5,000 lbs. on a one-part fall, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 20 March 1980. (It supersedes Approval No. 160.063/3/1 dated 25 May 1978 to provide for brake release design revisions.)

Approval No. 160.063/5/0, Type FR–50 (20/25) fixed arm-launching device with Type R–50H–1 (MK–1) winch; approved for a maximum working load of 5,000 lbs. on a one-part fall, manufactuted by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective 20 March 1980.

Marine Buoyant Device

Approval No. 160.064/14/0, 18 ½" ring buoy, Model A1820, Type IV PFD, manufactured by Aquality, Inc., 8938 Mason Avenue, Chatsworth, CA 91311, effective 17 January 1980. (It supersedes Approval No. 160.064/14/0 dated 8 June 1978 to show change in ownership.)

Approval No. 160.064/226/0, Adult, Model No. 211–VF–17.5, Type II PFD, manufactured by Gentex Corp., Carbondale, PA 18407, effective 17 May 1979. (It is an extension of Approval No. 160.064/226/0 dated 17 April 1974.)

Approval No. 160.064/327/1, Adult X-Small, Model VAXS, Type III PFD, manufactured by Texas Recreation Corp., Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307, effective 21 January 1980. (It supersedes Approval No. 160.064/327/0 dated 26 January 1977 to show change in size.)

Approval No. 160.064/573/0, Adult Small, Model Skiguard, Type III PFD, manufactured by Gentex Corp., Carbondale, PA 18407, effective 17 May 1979 (It is an extension of Approval No. 160.064/573/0 dated 10 April 1974.)

Approval No. 160.064/649/0, Adult Small, Style Seamaster, Type III PFD, manufactured by Gentex Corp., Carbondale, PA 18407, effective 17 May 1979. (It is an extension of Approval No. 160.064/649/0 dated 24 April 1974.)

Approval No. 160.064/650/0, Child Medium, Style Seamaster, Type III PFD, manufactured by Gentex Corp., Carbondale, PA 18407, effective 17 May 1979. (It is an extention of Approval No. 160.064/650/0 dated 24 April 1974.)

Approval No. 160.064/775/0, Adult, Model No. SSV–160, Type III PFD, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 7 January 1980. (It is an extension of Approval No. 160.064/775/0 dated 5 December 1974.)

Approval No. 160.064/776/0, Adult, Model No. SSV–165, Type III PFD, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 7 January 1980. (It is an extension of Approval No. 160.064/776/0 dated 5 December 1974.)

Approval No. 160.064/1460/0, Child (30 to 50 lbs.), Model No. CTXS, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1461/0, Youth Medium (50 to 90 lbs.), Model No. CTSS, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1462/0, Adult X-Small, Model No. ATMS, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1463/0, Adult Small, Model No. ATS, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1464/0, Adult Medium, Model No. ATM, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1465/0, Adult Large, Model No. ATL, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1466/0, Adult X-Large, Model No. ATXL, Type III PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 8 January 1980.

Approval No. 160.064/1638/0, Youth (50 to 90 lbs.) Model No. SSV–262, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1639/0, Adult X-Small, Model No. SSV–260, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1640/0, Adult Small, Model No. SSV–260, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No., 160.064/1641/0, Adult Medium, Model No. SSV–260, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1642/0, Adult Large, Model No. SSV–260, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1643/0, Adult X-Large, Model No. SSV–260, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1658/0, Slimfit, Model Nos. 707, 725, 726, 727, 750, 751, Type III PFD, manufactured by Gentex Corp., Carbondale, PA 18407, effective 17 January 1980.

Approval No. 160.064/1659/0, Slimfit, Model Nos. 730, 731, 740–742, 752, 760, 772, 775, 776, Type III PFD, manufactured by Gentex Corp., Carbondale, PA 18407, effective 17 January 1980.

Approval No. 160.064/1660/0, Youth (50 to 90 lbs.), Model No. 2001, Type III PFD, manufactured by H. H. Bremen Mfg. Co., Inc., P.O. Box 243, Bremen, IN 46506, effective 17 January 1980.

Approval No. 160.064/1661/0, Adult Small, Model No. 2002, Type III PFD, manufactured by H. H. Bremen Mfg. Co., Inc., P.O. Box 243, Bremen, IN 46506, effective 17 January 1980.

Approval No. 160.064/1662/0, Adult Medium, Model No. 2004, Type III PFD, manufactured by H. H. Bremen Mfg. Co., Inc., P.O. Box 243, Bremen, IN 46506, effective 17 January 1980.

Approval No. 160.064/1663/0, Adult Large, Model No. 2005, Type III PFD, manufactured by H. H. Bremen Mfg. Co., Inc., P.O. Box 243, Bremen, IN 46506, effective 17 January 1980.

Approval No. 160.064/1664/0, Adult X-Large, Model No. 2006, Type III PFD, manufactured by H. H. Bremen Mfg. Co., Inc., P.O. Box 243, Bremen, IN 46506, effective 17 January 1980.

Approval No. 160.064/1672/0, Adult Small, Model No. 2020, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1675/0, Adult X-Small, Model No. 1040, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1693/0, Adult Ladies-XS, Model No. LVXS, Type III PFD, manufactured by Texas Recreation Corp., Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307, effective 17 January 1980.

Approval No. 160.064/1725/0, Adult Universal, Model No. VN–5860, Type III PFD, manufactured by Toyomenka (America), Inc., Suite 4011, One World Trade Center, New York, NY 10048, effective 17 January 1980.

Approval No. 160.064/1739/0, Pee Wee (30 to 50 lbs.), Model No. 1015, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1740/0, Youth (50 to 90 lbs.), Model No. 15, Type III PFD, manfuactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1741/0, Adult Universal, Model No. U–1, Type III PFD, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880, effective 17 January 1980.

Approval No. 160.064/1742/0, Adult X-Small, Model No. SSV–101, Type III PFD, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1743/0, Adult Small, Model No. SSV–101, Type III PFD manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1744/0, Adult Medium Model No. SSV–101, Type III PFD manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1743/0, Adult Large, Model No. SSV–101, Type III PFD manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1746/0, Adult X-Large, Model No. SSV–101, Type III PFD manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1747/0, Youth (50 to 90 lbs.), Model No. YTP, Type II PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 14 January 1980.

Approval No. 160.064/1748/0, Child (30 to 50 lbs.), Model No. CTP, Type II PFD, manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 14 January 1980.

Approval No. 160.064/1749/0, Infant (under 30 lbs.), Model No. ITP, Type PFD, Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341, effective 14 January 1980.

Approval No. 160.064/1750/0, Pee Wee (30 to 50 lbs.), Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1751/0, Youth (50 to 90 lbs.), Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1752/0, Adult X-Small, Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1753/0, Adult Small, Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1754/0, Adult Medium Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1755/0, Adult Small, Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1756/0, Adult X-Large,Model No. 1042, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121, effective 17 January 1980.

Approval No. 160.064/1767/0, Adult Small, Model No. FV–9, Type III PFD, manufactured by Gladding Corp., Floatation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604, effective 17 January 1980.

Approval No. 160.064/1768/0, Adult Medium Model No. FV–9, Type III PFD, manufactured by Gladding Corp., Floatation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604, effective 17 January 1980.

Approval No. 160.064/1769/0, Adult Large, Model No. FV–9, Type III PFD, manufactured by Gladding Corp., Floatation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604, effective 17 January 1980.

Approval No. 160.064/1770/0, Adult X-Large, Model No. FV–9, Type III PFD, manufactured by Gladding Corp., Floatation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604, effective 17 January 1980.

Approval No. 160.064/1771/0, Adult Small/Medium, Model No. SSV–113 or SSV–114, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1772/0, Adult Large/X-Large, Model No. SSV–113 or SSV–114, Type III PFD, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301, effective 17 January 1980.

Approval No. 160.064/1789/0, 15" × 15" × 2¾", Model MKF, Type IV PFD, manufactured by Gladding Corp., Floatation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604, effective 17 January 1980.

Approval No. 160.064/1791/0, 16" × 16" × 3½", Model No. BC–1, Type IV PFD, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880, effective 17 January 1980.

Exposure Suit

Approval No. 160.071/1/1, Adult, exposure suit, manufactured by Imperial Manufacturing Corp., P.O. Box 4119, Airport Industrial Park, Bremerton, WA 98310, effective 16 July 1979. (It supersedes Approval No. 160.071/1/0 dated 11 August 1977 to show alternate foot valve.

Floating Electric Waterlight

Approval No. 161.010/5/2, Model S1307 Seamaster Distress Marker, floating electric waterlight, manufactured by Soderberg Manufacturing Co., Inc., 20821 Carnier Road, Walnut, CA 91789, effective 7 January 1980. (It supersedes Approval No. 161.010/5/1 dated 26 May 1976 to show revision.

Class A EPIRB

Approval No. 161.011/1/0, Model EB–2BW Whaler (P/N 750082), Class A, float tree, emergency position indicating radio beacon, manufactured by Martech, Inc., P.O. Box 14070, Fort Lauderdale, FL 33302, effective 22 January 1980. (It is an extension of Approval No. 161.011/1/0 dated 7 January 1975.)

Personal Floatation Device Light

Approval No. 161.012/6/0, Model 378–C Incandescent Personal Light, manufactured by The Guest Corp., 17 Culbro Drive, West Hartford, CT 06110, effective 6 March 1980.

Approval No. 161.012/7/0, Model 450 "Jim-Bouy" PFD light, manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, CA 91609, effective 25 February 1980.

Safety Valve (Power Boilers)

Approval No. 162.001/216/1, Style HNB–MS38 drum pilot actuated valve, allow steel body, maximum pressure of 900 p.s.i. maximum temperature 1000

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degrees F., approved for sizes 1½", 2", and 2 ½". Maximum pressure of 800 p.s.i., maximum temperature 1000 degrees F., approved for size 3", manufactured by Crosby Valve and Gage Co., 45 Kendrick Street, Wrentham, MA 02093, effective 22 January 1980. (It supersedes Approval No. 162.001/216/1 dated 8 November 1979.)

Pressure-Vacuum Relief Valve

Approval No. 162.017/84/0, Model MV–250 pressure-vacuum relief valve, manufactured by J.M. Huber Corp., Staylite dept., P.O. Box 2871, Borger, TX 79007, effective January 1980. (It supersedes Approval No. 162.017/84/0 dated 18 July 1975 to reflect change in company name.)

Approval No. 162.017/118/2, Waukesha Bearings Type HS–M venting valve, pressure setting from 1.0 to 3.0 p.s.i.g. and vacuum settings from 0.5 to 1.0 p.s.i.g. vacuum are acceptable; sizes 2½", 3", 4", 6", 8", and 10", manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective 6 March 1980. (It supersedes Approval No. 162.017/118/1 dated 20 July 1977 to include new sizes and materials of construction.)

Approval No. 162.017/122/0, PRES–VAC automatic weight loaded pressure-vacuum relief valve, Type DA, acceptable pressure setttings from 1 to 3 p.s.i.g.; vacuum settings from 0.5 to 1.0 p.s.i.g. vacuum in sizes 4", 8", and 10", manufactures by PRES–VAC, Svanevang 3, 3450 Allerod, Denmark, Effective 13 March 1980.

Liquified Compressed Gas Safety Relief Valve

Approval No. 162.018/68/0, Type 3106 safety relief valve for liquified compressed gas service, maximum set pressure of 300 p.s.i. for 5", 6", and 8" sizes, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, Shokie, IL 60076, effective 7 January 1980. (It supersedes Approval No. 162.018/68/0 dated 25 October 1979 to include interim set pressure.)

Halon 1301 Fixed Fire Extinguishing System

Approval No. 162.029/3/0, FiQuench Model 10–BC1301-M, pre-engineered Halon 1301 extinguishing system unit, stored pressure type, manufactured by Fike Metal Products Corp., 704 South 10th Street, Blue Springs, MO 64015, effective 13 July 1979. (It is an extension of Approval No. 162.029/3/0 dated 11 April 1974.)

Approval No. 162.029/12/0, Model FRX–3T, pre-engineered Halon 1211 extinguishing system unit, stored pressure type, manufactured by AD-X Corp., P.O. Box 272, Littleton, CO 80160, effective 31 October 1979.

Fixed Fire Extinguishing Systems

Approval No. 162.029/13/0, Size 10 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Approval No. 162.029/14/0, Size 15 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Approval No. 162.029/15/0, Size 20 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Approval No. 162.029/16/0, Size 25 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Approval No. 162.029/17/0, Size 35 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Approval No. 162.029/18/0, size 50 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Approval No. 162.029/19/0, Size 75 lbs., carbon dioxide marine type fire extinguishing system, manufactured by Automatic Sprinkler Corp. of America, P.O. Box 180, 1000 East Edgerton Road, Cleveland, OH 44147, effective 22 January 1980.

Foam-Type Fire Extinguishing Systems

Approval No. 162.033/13/0, National Aer-O-Foam marine foam fire extinguishing systems with universal foam liquids, manufactured by National Foam Systems, Inc., 150 Gordon Drive, Lionville, PA 19353, effective 22 January 1980. (It is an extension of Approval No. 162.033/13/0 dated 15 October 1974.)

Carbon Dioxide-Type Fire Extinguishing Systems

Approval No. 162.038/7/0, C-O-Two carbon dioxide type fire extinguishing systems, manufactured by the Ansul Company, Marinette, Wisconsin 54143, effective 22 January 1980. (It is an extension of Approval No. 162.038/7/0 dated 14 January 1975.)

Backfire Flame Arrester for Gasoline Engines

Approval No. 162.041/190/4, Barbron all brass flame arresters Model No. suffixed by "B" Barbron all aluminum flame arresters. Model No. suffixed by "AA" indicates unit's size, manufactured by Barbron Corp., 14580 Lesure Avenue, Detroit, MI 48227, effective 13 February 1980. (It supersedes Approval No. 162.041/190/4 dated 1 August 1982 to show modification in watershield cover.)

Approval No. 162.041/195/0, Facet Type A175–64 backfire flame arrester; Facet Type A175–68 backfire flame arrester, manufactured by Fuel Devices Division, Facet Enterprises, Inc., 696 Hart Avenue, Detroit, MI 48214, effective 13 February 1980. (It supersedes Approval No. 162.041/195/0 dated 26 April 1983 to show additional Model Number.)

Approval No. 162.041/197/0, Facet Type A175–65 backfire flame arrester; Facet Type A175–67 backfire flame arrester, manufactured by Fuel Devices Division, Facet Enterprises, Inc., 696 Hart Avenue, Detroit, MI 48214, effective 13 February 1980. (It supersedes Approval No. 162.041/197/0 dated 26 April 1983 to show additional Model Number.)

Approval No. 162.041/203/0, Barbron Model 91205, size 9 inch diameter, BMW Model 1326895, 2 inches high, manufactured by Barbron Corp., 14580 Lesure Avenue, Detroit, MI 48227, effective 27 July 1979.

Cargo Monitors

Approval No. 162.050/0325/1, Cargo deballasting meter, Model 5E, Type OTM 1411C. Total system known as Type OTM–17, includes automatic calibration device (Model "A", Type "ALL", automatic injections unit AIU) and "Bailetronic Computer" automatic recording device, manufactured by Sasakura Engineering Co., Ltd., 7–5 Mitejima 6-Chrome, Nishiyodogawa-Ku, Osaka 555, Japan, effective 9 January 1980.

Deck Covering

Approval No. 164.006/50/0, "Insulite 1", perlite aggregate exychloride cement deck covering, manufactured by E.H. O'Neil Co., Inc., 5515 Belair Road, Baltimore, MD 21206, effective 14 February 1980. (It supersedes Approval No. 164.006/50/0 dated 4 November 1974 to show change in name of product.)

Approval No. 164.006/52/0, "Selbalith 7K–FR" magnesium oxychloride cement type deck covering, manufactured by Selby Battersby and Co., 5220 Whitby Avenue, Philadelphia, PA 19143, effective 7 January 1980. (It is an extension of Approval No. 164.006/52/0 dated 30 December 1969.)

Bulkhead Panel

Approval No. 164.008/64/1, E.F. Hauserman's "Double Wall" marine bulkhead panel system, manufactured by the E.F. Hauserman Co., 5711 Grand Avenue, Cleveland, OH 44105, effective 10 December 1979. (It is an extension of Approval No. 164.008/64/1 dated 14 November 1974.)

Noncombustible Material

Approval No. 164.009/164/1, Marine veneer, unperforated, Inorganic heavy density sheets, manufactured by Johns-Manville Sales Corp., Denver, Colorado 80217, effective 12 December 1979. (It is a reinstatement of Approval No. 164.009/164/0 terminated 25 May 1978 as requested by manufacturer.)

Approval No. 164.009/211/0, Conwed Type 061, ceramic panels manufactured by Conwed Corp., 332 Minnesota Street, P.O. Box 43237, St. Paul, MN 55164, effective 13 July 1979. (It supersedes Approval No. 164.009/212/0 dated 14 May 1979 to correct model type.)

Interior Finish

Approval No. 164.012/29/0, Type 604 melamine laminate, manufactured by Ralph Wilson Plastics Co., 600 General Drive, Temple, TX 76501, effective 17 March 1980. (It supersedes Approval No. 164.012/29/0 to correct name and add remarks.)

Approval No. 164.012/30/0, Type 607 melamine laminate, manufactured by Ralph Wilson Plastics Co., 600 General Drive, Temple, TX 76501, effective 17 March 1980. (It supersedes Approval No. 164.012/30/0 to correct name and add remarks.)

Approval No. 164.012/41/0, No. 332 perforated glass fabric, manufactured by KWS Co., 111 North Mines Road, Livermore, CA 94550, effective 20 February 1980.

Approval No. 164.012/46/0, Type 264 plastic laminate, manufactured by Ralph Wilson Plastics Co., 600 General Drive, Temple, TX 76501, effective 17 March 1980.

Retroreflective Material

Approval No. 164.018/1/0, Type 1, "SCOTCHLITE" Brand Reflective Sheeting, SOLAS Grade, 3150 (Adhesive Type) and 6750 (Fabric backed, sewable Type), manufactured by Minnesota Mining and Mfg. Co. (3–M), Safety and Security Systems Division, 3M Center, 209–S31, St. Paul, MN 55101, effective 25 February 1980. (It supersedes Approval No. 164.018/1/0 dated 10 December 1979 to show unlimited approval for adhesive.)

W.D. Markle, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR. Doc. 80–16169 Filed 5–28–80; 8:45 am]

BILLING CODE 4910–14–M

[CGD 80–39a]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Termination of approval notice.

1. Certain laws and regulations (46 CFR Chapter 1) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artifical islands and fixed structures on the outer Continental Shelf be of the types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from 7 May 1979 to 7 January 1980 (List No. 1–80). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard, for certain types of equipment construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

Kapok Life Preserver

Approval No. 160.002/88/0, Model 3, Adult kapok life preserver, Type I PFD, manufactured by Noble Products Co., Box 327, Caldwell, OH 43724, no longer manufacturers certain kapok life preserver and Approval No. 160.002/88/0 dated 5 August 1974 was therefore termianted, effective 22 January 1980.

Approval No. 160.002/89/0, Model 5, Child kapok life preserver, Type I PFD, manufactured by Noble Products Co., Box 327, Caldwell, OH 43724, no longer manufacturers certain kapok life preserver and Approval No. 160.002/89/0 dated 5 August 1974 was therefore termianted, effective 22 January 1980.

Lifeboat Davit

Approval No. 160.032/199/1, type SS 1404 small survival capsule launching system (winch type); approved as an alternate to a lifeboat davit for a maximum working load of 6,000 lbs. on a single fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, Approval No. 160.032/199/1 dated 7 March 1975 was terminated effective 17 January 1980.

Inflatable Life Raft

Approval No. 160.051/62/0, Inflatable life raft, 10 person capacity, manufactured by B.F. Goodrich, Engineered Systems Co., Union WV 24983, no longer manufacturers certain inflatable life raft and Approval No. 160.051/62/0 dated 1 April 1975 was therefore terminated, effective 20 February 1980.

First Aid Kit for Inflatable Life Raft

Approval No. 160.054/4/1, Model M–3 first aid kit for inflatable life rafts, manufactured by E. D. Bullard Co., 2680 Bridgeway, Sausalito, CA 94965, Approval No. 160.054/4/1 dated 3 September 1974 was terminated effective 22 January 1980.

Special Purpose Water Safety Buoyant Device

Approval No. 160.064/591/0, Adult Medium, Model No. SKV–2, Type III PFD, manufactured by Nova Products, Inc., 205 Johnson Avenue, Carrollton, GA 30117, Approval No. 160.064/591/0 dated 8 October 1974 was terminated effective 22 January 1980.

Approval No. 160.064/592/0, Adult Large, Model No. SKV–3, Type III PFD, manufactured by Nova Products, Inc., 205 Johnson Avenue, Carrollton, GA 30117, Approval No. 160.064/592/0 dated 8 October 1974 was terminated effective 22 January 1980.

Approval No. 160.064/593/0, Adult X-Large, Model No. SKV–4, Type III PFD, manufactured by Nova Products, Inc., 205 Johnson Avenue, Carrollton, GA 30117, Approval No. 160.064/593/0 dated 8 October 1974 was terminated effective 22 January 1980.

Marine Pyrotechnic Devices

by Johns-Manville Sales Corp., Denver

Marine Buoyant Device

Approval No. 160.064/1708/0, Child (30 to 50 lbs.), Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1708/0 dated 10 October 1979 was terminated effective 22 January 1980.

Approval No. 160.064/1709/0, Youth (50 to 90 lbs.), Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1709/0 dated 10 October 1979 was terminated effective 22 January 1980.

Approval No. 160.064/1710/0, Adult X-Small, Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1710/0 dated 10 October 1979 was terminated effective 22 January 1980.

Approval No. 160.064/1711/0, Adult Small, Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1711/0 dated 10 October 1979 was terminated effective 22 January 1980.

Approval No. 160.064/1712/0, Adult Medium, Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1712/0 dated 10 October 1979 was terminated effective 22 January 1980.

Approval No. 160.064/1713/0, Adult Large, Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1713/0 dated 10 October 1979 was terminated effective 22 January 1980.

Approval No. 160.064/1714/0, Adult X-Large, Model No. 100, Type III PFD, manufactured by Solor Sports, 15005 58th Lane, N.E., Bothell, WA 98011, Approval No. 160.064/1714/0 dated 10 October 1979 was terminated effective 22 January 1980.

Safety Valve (Power Boilers)

Approval No. 162.001/220/0, Type 1910FC, consolidated safety valve, steel body, 300 p.s.i., 450 degrees F., manufactured by DRESSER, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301, Approval No. 162.001/220/0 dated 8 November 1974 was terminated effective 31 March 1980.

Approval No. 162.001/221/1, Style HNB–MS–27 drum pilot actuated safety valve, maximum pressure of 600 p.s.i., maximum temperature of 900 degrees F., approved for sizes 1¼", 2", 2½", and 3", manufactured by Crosby Valve and Gage Co., 45 Kendrick Street, Wrentham, MA 02093, Approval No. 162.001/221/1 dated 7 January 1980 was terminated effective 2 April 1980.

Approval No. 162.001/262/0, Type 1910 GC consolidated safety relief valve, manufactured by DRESSER, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301, Approval No. 162.001/262/0 dated 21 October 1975 was terminated effective 31 March 1980.

Approval No. 162.001/294/0, Safety valve Type 1905, L orifice, maxmium pressure 235 p.s.i.g., maximum temperature 450 degrees p.s.i.g., manufactured by DRESSER, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301, Approval No. 162.001/294/0 dated 24 June 1976 was terminated effective 31 March 1980.

Approval No. 162.001/295/0, Safety valve Type 1905, P orifice, maxmium pressure 235 p.s.i.g., maximum temperature 450 degrees p.s.i.g., manufactured by DRESSER, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301, Approval No. 162.001/295/0 dated 24 June 1976 was terminated effective 31 March 1980.

Bromotrifluoromethane Type Fire Extinguishing Systems

Approval No. 162.035/1/1, Kidde Bromotrifluoromethane (CBrF3) fire extinguishing system for Hydrofoil Craft, manufactured by Walter Kidde and Co., Inc., Belleville, New Jersey 07109, Approval No. 162.035/1/1 dated 12 November 1974 was terminated effective 22 January 1980.

Deck Covering

Approval No. 164.006/17/1, Kompolite Plastic Composition Flooring magnesite type deck covering, manufactured by Weatherguard/Marbleloid Products, Inc., 2515 Newbold Avenue, Bronx, NY 10462, Approval No. 164.006/17/1 dated 6 June 1979 was terminated effective 31 March 1980.

Approval No. 164.006/38/1, Marbleloid, magnesite type deck covering, manufactured by Weatherguard/Marbleloid Products, Inc., 2515 Newbold Avenue, Bronx, NY 10462, Approval No. 164.006/38/1 dated 6 June 1979 was terminated effective 31 March 1980.

Structural Insulation

Approval No. 164.007/31/1, "Cafco Blaze Shield Type DC/F", sprayed fiber type structural insulation, manufactured by United States Mineral Products Co., Stanhope, New Jersey 07874, Approval No. 164.007/31/1 dated 10 June 1974 was terminated effective 22 January 1980.

Approval No. 164.007/47/1, "Cafco Deck-Shield DC/F", sprayed fiber type structural insulation, manufactured by United States Mineral Products Co., Stanhope, New Jersey 07874, Approval No. 164.007/47/0 dated 10 June 1974 was terminated effective 22 January 1980.

Bulkhead Panel

Approval No. 164.008/15/1, Marine Veneer, an inorganic heavy density panel, manufactured by Johns-Manville Sales Corp., Denver, Colorado 80217, Approval No. 164.008/15/1 dated 7 May 1974 was terminated effective 22 January 1980.

Approval No. 164.08/56/1, Cape Boards and Panels Ltd. bulkhead panel "U.K. Marinite–36", manufactured by Cape Boards and Panels Limited, Cape Universa; House Exchange Road, Watford Herts, England, Approval No. 164.008/56/1 dated 11 September 1974 was terminated effective 22 January 1980.

Approval No. 164.008/62/1, Cape Boards and Panels Ltd. bulkhead panel "U.K. Marinite–45", manufactured by Cape Boards and Panels Limited, Cape Universa; House Exchange Road, Watford Herts, England, Approval No. 164.008/62/1 dated 11 September 1974 was terminated effective 22 January 1980.

Approval No. 164.008/72/0, "Firewall Asbestos Ships Board" bulkhead panel, manufactured by TAC Construction Materials Ltd., Building and Insulation Division, P.O. Box 22, Trafford Park, Manchester M17 1RU, England, Approval Number 164.008/72/0 dated 15 October 1974 was terminated effective 31 March 1980.

Incombustible Material

Approval No. 164.009/16/1, "No. 100 Ultralite MC Insulation", glass wool insulation type incombustible material, manufactured by Certain-Teed Products Corp., CSG Group, Suite 610, 1627 K St. NW, Washington, D.C. 20006, Approval No. 164.009/16/1 dated 5 November 1974 was terminated 22 January 1980.

Approval No. 164.009/23/0, "No. 75 Ultralite MC Insulation", glass wool insulation type incombustible material, manufactured by Certain-Teed Products Corp., CSG Group, Suite 610, 1627 K St. NW, Washington, D.C. 20006, Approval No. 164.009/23/0 dated 5 November 1974 was terminated 22 January 1980.

Approval No. 164.009/24/0, "No. 150 Ultralite MC Insulation", glass wool insulation type incombustible material, manufactured by Certain-Teed Products Corp., CSG Group, Suite 610, 1627 K St. NW, Washington, D.C. 20006, Approval No. 164.009/24/0 dated 5 November 1974 was terminated 22 January 1980.

Approval No. 164.009/31/1, "Johns-Manville Marine Acoustical Unit", incombustible material, manufactured by Johns-Manville Sales Corp., Denver, Colorado 80217, Approval No. 164.009/31/1 dated 19 December 1974 was terminated effective 22 January 1980.

Approval No. 164.009/61/0, "Cafco Heat-shield", sprayed asbestos fiber type incombustible material, manufactured by United States Mineral Products Co., Stanhope, New Jersey 07874, Approval No. 164.009/61/0 dated 11 April 1975 was terminated effective 22 January 1980.

Approval No. 164.009/62/0, "Cafco Blaze-Shield type H", sprayed asbestos fiber type incombustible material, manufactured by United States Mineral Products Co., Stanhope, New Jersey 07874, Approval No. 164.009/62/0 dated 11 April 1975 was terminated effective 22 January 1980.

Approval No. 164.009/82/2, "Ultrafine CG 1 through CG 7, fibrous glass type incombustible material, manufactured by Certain-Teed Products Corp., CSG Group, Suite 610, 1627 K St. NW, Washington, D.C. 20006, Approval No. 164.009/82/2 dated 16 December 1974 was terminated effective 22 January 1980.

Approval No. 164.009/126/0, "Reef Hullboard" fibrous glass cloth faced thermal insulation board type incombustible material, manufactured by New Orleans Division of Shook and Fletcher Insulation Co., 4735 River Road, P.O. Box 10564, Jefferson, LA 70181, Approval No. 164.009/126/0 dated 7 May 1974 was terminated effective 31 May 1980.

W. D. Markle, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 80–16170 Filed 5–28–80; 8:45 am]

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federal register

Thursday
May 29, 1980

Part III

Department of the Interior

Fish and Wildlife Service

Proposal To Determine Hudsonia Montana (Mountain Golden-Heather) To Be a Threatened Species and To Determine Its Critical Habitat

V 45 M Y 29 80 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine "Hudsonia montana" (mountain golden-heather) To Be a Threatened Species and To Determine Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a plant, *Hudsonia montana* (mountain golden-heather), to be a Threatened species and to determine its Critical Habitat under the authority contained in the Endangered Species Act. This plant occurs in North Carolina, on land owned by the U.S. Forest Service and is threatened by trampling and other factors. This proposal, if finalized, would implement Federal protection provided by the Endangered Species Act of 1973, as amended.

DATES: Comments from the public must be received by July 28, 1980. Comments from the Governor of North Carolina must be received by August 27, 1980. A public meeting on this proposal will be held on Tuesday, July 1 at 7:00 p.m.

ADDRESS: Public meeting location: Western Piedmont Community College auditorium, Morganton, North Carolina.

Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Office of Endangered Species, 1000 N. Glebe Road, Fifth Floor, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 703/235–2771.

SUPPLEMENTARY INFORMATION: *Hudsonia montana* (mountain golden-heather) was first discovered on the summit of Table Rock, North Carolina in 1816, by Thomas Nuttall. Today all known populations of the species occur within an eight kilometer radius of Table Rock, and all are on U.S. Forest Service land. The plant is a low perennial shrub with needle-leaves and yellow flowers which measure about two centimeters across. The plants occur on open wind-swept rock ledges.

The continued existence of this plant and the fragile plant communities in which it occurs are being threatened by trampling. This rule proposes to determine *Hudsonia montana* to be a threatened species and would implement the protection provided by the Endangered Species Act. The following paragraphs further discuss the actions to date involving this plant, the threats to the plant, and effects of the proposed action.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523–23472) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975 **Federal Register** publication. *Hudsonia montana* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. The notice of review and the proposal included *Hudsonia ericoides* ssp. *montana* rather than *Hudsonia montana*. Treatment of this taxon as a subspecies by Skog and Nickerson (1972) was followed by the Smithsonian Institution and thus the derived **Federal Register** publications. Since 1972, however, this taxon has been treated as a species by various authors. Recent morphological, cytological, and population studies by Morse (1979) have confirmed the distinctness of *Hudsonia montana* from *Hudsonia ericoides*.

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A one year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal along with four other proposals which had expired. At this time the Service has sufficient new information to warrant reproposing *Hudsonia montana*. Critical Habitat is being proposed for *Hudsonia montana* for the first time.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Summary of Factors Affecting the Species

Section 4(a) of the Endangered Species Act (16 U.S.C. 1531 et seq.) states that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a) of the Act. These factors and their application to *Hudsonia montana* Nuttall (mountain golden-heather) are as follows:

(1) *Present or threatened destruction, modification or curtailment of its habitat or range. Hudsonia montana* was originally collected by Thomas Nuttall in 1816, from the summit of Table Rock Mountain in Burke County, North Carolina. Since its discovery, it has been collected at infrequent intervals from this and several other locations all within an eight kilometer radius of Table Rock Mountain, all within Burke County, North Carolina. The species was assumed extinct by various recent treatments due to the failure of botanists to relocate the populations. However, all populations were still extant in 1978 (Morse 1980).

Although all populations are still extant, two populations have shown declines in the number of individuals present (Morse 1980). Nuttall, in 1816, described *Hudsonia montana* as abundant and forming extensive caespitose patches on Table Rock (Pennell 1936). In 1978, approximately 21 plants (including juveniles and seedlings) were observed to be present on Table Rock (Morse, 1980).

This reduction is, in part, due to trampling and soil compaction by human visitors. One location receives heavy use by hikers and campers and one camp fire circle resulted in the partial charring of one large clump of *Hudsonia montana*. The other populations have not been monitored, so changes in the populations cannot be readily determined. All populations are threatened by the heavy use the area receives from hikers and rock climbers and all populations show impact from trampling. Misplaced trails or inadequately regulated hiking and climbing could destroy entire

populations or population segments in a short period.

Hudsonia montana grows on exposed quartzite ledges in an ecotone between bare rock and *Leiophyllum*—dominated heath balds which merge into pine-oak forest. All populations occur on land owned by the U.S. Forest Service in the North Fork Catawba River Planning Unit, Pisgah National Forest, North Carolina.

Efforts to develop a habitat management and monitoring plan are being initiated for the *Hudsonia montana* populations by the U.S. Forest Service personnel. Possible measures which this plan could incorporate include:

(a) Regulations restricting climbing, campfires, and off-trail hiking on designated ledges;

(b) Consideration of *Hudsonia* requirements in trail maintenance operations;

(c) Realignment of trails at locations where these pose a threat to the plant and implementation of erosion control measures at these locations; and

(d) Monitoring studies to evaluate the maintenance and reproduction of *Hudsonia montana*.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation (including grazing).* Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* During the summer of 1979, North Carolina passed new legislation to protect its Endangered plants. At this time, the State is in the process of developing a list of species to be included under that legislation and *Hudsonia montana* could be protected under the State law in the future.

The Forest Service's regulations prohibit removing, destroying, or damaging any plant that is classified as a Threatened, Endangered, rare, or unique species (36 CFR Part 261). These regulations, however, may be difficult to enforce. The Endangered Species Act will offer additional protection to this species.

(5) *Other natural or man-made factors affecting its continued existence. Hudsonia montana* is an early pioneer species and evidence indicates that overtopping by taller shrubs may result in the death of the *Hudsonia* plants. Removal of these taller shrubs overtopping the *Hudsonia* should be incorporated into the management plan for the species. Seedlings have been noted most often in disturbed substrates so preparation of seed beds perhaps by fire or other means may also be necessary.

The small size and number of the populations cause this species to be in greater danger of extinction due to natural fluctuations of populations, especially in the case of the three smaller populations.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, in accordance with the provisions of Section 4 of the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed, in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Section 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation.

Any activity which would result in increased trampling or disturbance of the fragile areas where *Hudsonia montana* occurs would adversely modify the Critical Habitat. The long-term solution on how to best protect *Hudsonia montana* may be to greatly reduce the human traffic in the immediate areas where this plant occurs. In this respect, Critical Habitat designation may affect Federal activities as this may require prohibiting the development of new trails in areas where the plant occurs, relocating old trails, or other steps by the Forest Service.

Critical Habitat for *Hudsonia montana* is being determined to include all known populations of this species in North Carolina. Adjacent suitable habitat is being included as essential to the conservation of the species because it provides an area for natual expansion. Modifications of this Critical Habitat designation may be proposed in the future.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are not significant in the foreseeable future. As stated above, designation would impact only Forest Service practices relating to controlling recreational land usage. The Service has been in contact with the Forest Service and others who had input into the economic analysis of this proposed Critical Habitat. This economic analysis served as part of the basis for the Service's decisions as to whether or not to exclude any area from the Critical Habitat for *Hudsonia montana*. The Service will prepare a final impact analysis prior to the time of final rulemaking.

Effects of This Proposal if Published as a Final Rule

In addition to the effects discussed above, the effects of this proposal if published as a final rule would include, but would not necessarily be limited to, those mentioned below.

The Act and implementing regulations found at 50 CFR 17.61 set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. All of those prohibitions and exceptions also apply to any Threatened species, excluding seeds of cultivated plants treated as Threatened, unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened plants, are found at §§ 17.61 and 17.71, of 50 CFR and are summarized below.

With respect to *Hudsonia montana*, all prohibitions of Section 9(a)(2) of the Act, as implemented by § 17.71 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exemptions would apply to agents of the Service and State conservation agencies. The Act and § 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving Threatened species under certain circumstances.

Section 7(a) of the Act requires all Federal agencies to evaluate their actions with respect to Endangered and Threatened species. Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not nly to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existance of *Hudsonia montana*, but also to insure that their actions are not likely to result in the destruction or adverse modification of its Critical

Habitat which has been determined by the Secretary.

In addition, if listed, the Service will review the status of this species to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendices to that Convention or whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined, by appointment, during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of *Hudsonia montana* and the reasons why any of its habitat should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject areas and the probable impacts of such activities on the area designated as Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on Federal activities.

Final promulgation of the rules on *Hudsonia montana* will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final rules that differ from this proposal.

Public Meetings

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information relating to the public meeting is set out below: Place: 1. Western Piedmont Community College auditorium Morganton, N.C.; date: July 1, 1980; time: 7 p.m.; and subject: Proposal of *Hudsonia montana* to be threatened.

This proposal is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884). The primary author of this proposed rule is Ms. E. LaVerne Smith, Washington Office of Endangered Species (703/235–1975).

Literature Cited

Morse, Larry E. 1980. Report on the Conservation Status of *Hudsonia montana*, a Candidate Endangered Species. In: Geographical Data Organization for Rare Plant Conservation, edited by Larry E. Morse and Mary Sue Henifin, The New York Botanical Garden, Bronx, N.Y. (In Press).

Morse, L. E. 1979. Systematics and Ecological Biogeography of the Genus *Hudsonia* (Cistaceae), the Sand Heathers. Ph. D. dissertation. Harvard University, Cambridge, Mass.

Pennel, F. W. 1936. Travels and scientific publications of Thomas Nuttall. Bartonia 18:1–51.

Skog, J. T. and N. H. Nickerson. 1972. Variation and Speciation in the genus *Hudsonia*. Ann. Missouri Botanical Gardens 59:454–464.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

1. It is proposed to amend § 17.12 by adding, in alphabetical order, the following to the list of plants:

§ 17.12 Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cistaceae—Rockrose Family:						
Hudsonia montana	Mountain golden-heather	U.S.A. North Carolina	T		Yes	NA

2. Also, the Service proposes to amend § 17.96(a) by adding the Critical Habitat of *Hudsonia montana* after that of *Erysimum capitatum* var. *angustatum* (Contra Costa wallflower) as follows:

§ 17.96 Critical habitat-plants.

(a) * * *

Family Cistaceae: Mountain golden-heather *(Hudsonia montana). North Carolina,* (Burke County) the area bounded on the west by the 2200′ contour, and on the east by a line extending from the intersection of the 2200′ contour and the Shortoff Mountain Trail north to the eastern boundary of the Linville Gorge Wilderness; following the boundary northward until it intersects the 3400′ contour at "The Chimneys;" then north along the 3400′ contour until it rejoins the Wilderness Boundary; then north to the intersection with the 3200′ contour north of Tablerock Mountain; then westward along the 3200′ contour until the contour turns south. At this point the line extends west until its intersection with the 2200′ contour.

* * * * *

Mountain Golden Heather, Burke Co., North Carolina

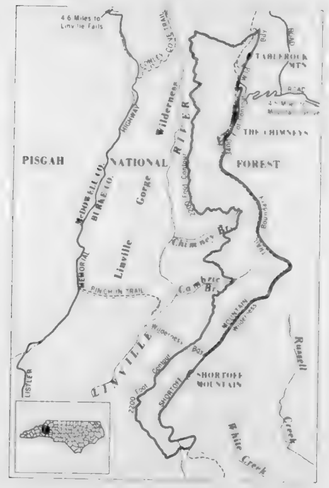

Dated: April 10, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80–16316 Filed 5–28–80; 8:45 am]

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Part IV

Federal Trade Commission

Organization; General Procedures; Nonadjudicative Procedures; and Miscellaneous Rules

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FEDERAL TRADE COMMISSION

16 CFR Parts 0, 1, 2, and 4

Organization; General Procedures; Nonadjudicative Procedures; and Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Interim rules.

SUMMARY: The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended by the Federal Trade Commission Improvement Act of 1980, is revising its rules of practice to conform its procedures to the amendments made by the FTC Improvement Act of 1980, and to make other changes.

EFFECTIVE DATE: These interim rules are effective on May 28, 1980. The Commission will accept Comments on these rules received on or before July 28, 1980, and may re-evaluate them in light of those comments.

ADDRESS: Comments should be submitted to Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3520.

SUPPLEMENTARY INFORMATION: On May 28, 1980, the Federal Trade Commission Improvement Act (Pub. L. 96–252), was enacted. That law amended the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.* These rules are designed to implement those amendments. Additional rule amendments will be published shortly.

1. *Presiding Officers at Rulemaking Proceedings.* Section 9 of the Act amends section 18(c) of the Federal Trade Commission Act, 15 U.S.C. 57a(c), by redesignating section 18(c)(1) through section 18(c)(4) as section 18(c)(2) through section 18(c)(5), respectively, and by adding a new section 18(c)(1). New section 18(c)(1) requires that presiding officers be responsible to a chief presiding officer who shall not be responsible to any other officer or employee of the Commission. The legislative history of Pub. L. 96– , makes clear, however, that periodic evaluations of the performance of presiding officers may be conducted by the Commission through the Office of the Executive Director. New section 18(c)(1) further requires that the officer who presides over the rulemaking proceeding shall make a recommended decision based upon the findings and conclusions of such officer as to all relevant and material evidence, except that such recommended decision may be made by another officer if the officer who presided over the proceeding is no longer available to the Commission. Finally, it prohibits the presiding officer, except, as required for the disposition of *ex parte* matters as authorized by law, from consulting any person or party with respect to any fact in issue unless such officer gives notice and opportunity for all parties to participate.

The Commission's Rules of Practices have been amended in the following respects so as to conform with the requirements of new section 18(c)(1):

a. Part 0 of the Commission's Rules of Practice has been amended to reflect the establishment of an "Office of Presiding Officers."

b. Section 1.13(c) has been amended to provide for: (a) the appointment of a presiding officer by the chief presiding officer upon commencement of a proposed trade regulation rule proceeding; (b) a time limit within which any motion may be filed that is predicated upon the substitution of a new presiding officer for the one originally appointed; (c) the independence of presiding officers from any officer or employee of the Commission other than the chief presiding officer, except that periodic evaluations of the performance of presiding officers may be conducted by the Commission through the Office of the Executive Director; and (d) a prohibition on *ex parte* communications by presiding officers.

c. Section 1.13(d)(6) is amended to reflect the fact that compulsory process can only be issued by a Commissioner, acting pursuant to a Commission resolution (except for matters in adjudication). Presiding officers are thus empowered only to recommend to the Commission that it issue compulsory process. Conforming changes are made in § 1.13(c).

d. Section 1.13(f) has been redesignated § 1.13(g) and amended to reflect the requirement that the officer who presides over the rulemaking proceeding shall make a recommended decision based upon the findings and conclusions of such officer as to all relevant and material evidence, except that such recommended decision may be made by another officer if the officer who presided over the proceeding is no longer available to the Commission.

That section and the following sections have also been amended to change the order of the post-record procedures. Henceforth, the presiding officer's recommended decision will follow the staff report. After the close of the hearing process the staff will prepare its report. The presiding officer would then prepare his recommended decision, taking into account the record of the proceeding as well as the staff report. Interested persons could address both reports in the post-record comment period. This will effectuate the intent of Congress that the presiding officer consider all relevant information in making his decision.

e. Section 1.13(g) has been redesignated § 1.13(f). The first sentence of redesignated § 1.13(f) is amended by substituting the phrase "presiding officer's recommended decision" for the phrase "presiding officer's findings of fact."

f. The first sentence of § 1.13(h) is amended by substituting the phrase "The presiding officer's recommended decision" for the phrase "The findings and conclusions of the presiding officer."

2. *Civil Investigative Demands and Custodial Treatment of Documents.* Section 13 of the Act inserts a new section 20 of the FTC Act which provides that all forms of compulsory process must now be signed by a Commissioner acting pursuant to a Commission resolution. Further, as to investigations "with respect to unfair or deceptive acts or practices" the only form of compulsory process available is a civil investigative demand. This new requirement is modeled after the Department of Justice's authority under the Antitrust Civil Process Act, 15 U.S.C. 1311, *et seq.* The following changes have been made in the Commission's rules:

a. Section 2.4 has been amended to reflect the requirement, contained in amended section 20(i) of the FTC Act that a subpoena or civil investigative demand must be signed by a Commissioner acting pursuant to a Commission resolution. Conforming changes are made in § 2.5.

b. Section 2.6 is amended to reflect the requirement of section 20(c)(2) of the FTC Act that each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

c. Section 2.7 has been amended to reflect the requirement of amended section 20(i) that the Commission shall have no authority to issue compulsory process unless such process is signed by a Commissioner acting pursuant to a Commission resolution. The previous delegation to certain staff members to issue subpoenas has been revoked.

d. Section 2.7(b) is entirely new. The section provides that in investigations performed with respect to unfair or deceptive acts or practices, civil investigative demands as prescribed by amended section 20 of the FTC Act shall be the only form of compulsory process issued. Subsection (1) of § 2.7(b) adopts the requirements of amended section 20(c)(3) of the FTC Act. Subsection (2) of § 2.7(b) adopts the requirements of amended section 20(c)(4) of the FTC Act. Subsection (3) of section 2.7(b) adopts the requirements of section 20(c)(5) of the FTC Act. Appropriate conforming changes are made in §§ 4.2 and 4.4.

e. Section 2.7(c) continues the existing practice by which the Director, Deputy Director, Assistant Director, Regional Director or Assistant Regional Director in charge of investigating any matter is authorized to negotiate and approve the terms of satisfactory compliance with subpoenas and civil investigative demands, including the authority to approve extensions of the time prescribed for compliance.

f. Section 2.7(d) has been revised to adopt, with respect to both subpoenas and civil investigative demands, several of the procedures required by amended section 20 of the FTC Act. Specifically, the term "motion to quash" has been changed to "petition to quash" per section 20(f) of the FTC Act. Such petitions shall be filed with the Secretary of the Commission within 20 days after service of the subpoena or demand, or, if the return date is less than 20 days after service of the subpoena or demand, prior to the return date. The 20-day period is adopted for both civil investigative demands and subpoenas, although section 20(f) mandates the 20-day period only for civil investigative demands. A uniform period is adopted to avoid confusion. Appropriate changes conforming to the statutory requirements have been made in §§ 2.7(e), 2.7(f), 2.8(b), 2.8(c), 2.8A(a), 2.9, 2.10, 2.11, 2.12, 2.13, and 2.15. The Director, Deputy Director, Assistant Director, Regional Director or Assistant Regional Director in charge of the investigation has been delegated the authority to grant extensions of time within which to file petitions to limit or quash.

g. Section 2.16 implements the statutory requirement that the Commission designate a custodian and where necessary a deputy custodian for all information provided to it pursuant to compulsory process in an investigation a purpose of which is to determine whether a violation of law has occurred. The custodial provisions of the rules apply only to documents obtained by the Commission pursuant to compulsory process issued after the effective date of Pub. L. 96– . They are modeled after the Department of Justice's procedures under the Antitrust Civil Process Act, 28 CFR Part 49. The duties and powers of custodians and deputy custodians are as prescribed in FTC Act section 21.

3. *Requests to Reopen Commission Orders.* Section 2 of the Act, amends section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), by adding a provision which requires the Commission to reopen any order issued under section 5 to consider whether such order (including any affirmative relief provision contained in the order) should be altered, modified, or set aside, in whole or in part, if the person, partnership, or corporation involved files a request with the Commission which makes a satisfactory showing that changed conditions of law or fact require such order to be altered, modified, or set aside, in whole or in part. The provision further requires that the Commission determine whether to alter, modify, or set aside such order not later than 120 days after the date of the filing of such request.

Section 2.51 has been amended to conform to the requirements of amended section 5(b). At the same time the rule has been restructured. Specifically, paragraph (a) of § 2.51 sets forth the scope of the rule to include requests to reopen any "Commission decision containing a rule or order which has become effective, or an order to cease and desist which has become final," as did previous § 2.51; the rule therefore applies not only to requests to reopen orders issued under section 5 but also to those issued under other statutory authority, *e.g.*, Clayton Act 11(b), as well as to rules issued after adjudicative hearings under the Fair Packaging and Labeling Act. Paragraph (b) incorporates the requirement of amended section 5(b) that a request contain a satisfactory showing that changed conditions of law or fact require the rule or order to be altered, modified, or set aside in whole or in part. Paragraph (c) sets forth the provisions concerning opportunity for public comment, as did previous § 2.51. And paragraph (d) provides, in conformity with amended section 5(b), that not later than 120 days after the date of the filing of a request, the Commission shall determine whether such request contains the showing required by § 2.51(b) and whether the rule or order should be altered, modified, or set aside as requested.

4. *Confidentiality.*[1] Section 14 of the Act inserts a new section 21 of the FTC Act. Section 21(f) exempts from disclosure under the Freedom of Information Act, 5 U.S.C. 552, material received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated the law if the information is provided under compulsory process or voluntarily in lieu of compulsory process. This exemption applies to all such documents in the Commission's possession on the date of enactment of the Act. Furthermore, documents subject to the custodial requirements of section 21(b) (other than documents which are public such a advertisements) may not be disclosed without the consent of the submitter except to a Commission employee or a contractor, or consultant who has signed a non-disclosure agreement. Such material may, however, be disclosed to a committee or subcommittee of either House of Congress. The Commission is required to notify the owner or provider of the information on receipt of such a request. Further, such information may be disclosed to state and federal law enforcement agencies if they certify that the material will be maintained in confidence and will be used only for official law enforcement purposes. The custodial provisions apply only to documents obtained by the Commission after the effective date of the Act.

Material obtained by the Commission not subject to the custodial provisions described above will not be disclosed if marked confidential without first giving the submitter ten days' notice of the intended disclosure except for congressional disclosure and state and federal law enforcement disclosures as described above. The Commission's authority to make information public is restricted by an amendment to section 6(f) of the FTC Act which precludes the Commission from making public trade secrets or commercial or financial information which is obtained from any person and which is privileged or confidential but expressly authorizes disclosures to state and federal law enforcement agencies if they certify that the material will be maintained in confidence and used only for official law enforcement purposes. Such information obtained in accordance with the Federal Reports Act, 44 U.S.C. § 3512, including information obtained under the Commission's Quarterly Financial Reports Program may be disclosed to other federal agencies for economic, statistical or policymaking purposes only, and the receiving agency shall not disclose such information in an individually identifiable form. The Act does not affect the Commission's ability to disclose information in Commission administrative proceedings or court

[1] These rules also represent the completion of the rulemaking proceeding commenced by the Commission on January 26, 1978, regarding confidentiality of business documents submitted to the Commission. See 43 FR 3571.

proceedings subject appropriate Consumer or court protective or *in camera* orders. Cf. 16 CFR 1.18(b), 3.45. Appropriate implementing changes are made in §§ 4.9, 4.10 and 4.11.

5. *Disposition of Documents Submitted to the Commission.* In the past, it has been the Commission's policy to return original documents on request at the close of a proceeding. This policy was based on the Commission's belief that original documents remain the property of the submitter. The Commission is entitled to retain copies of all documents submitted where the documents constitute "agency records" under the Federal Records Act, 44 U.S.C. 3301. The new legislation expressly requires the return of originals not received into the record of a proceeding (while preserving the right of the Commission to make and retain copies) of documents submitted to the Commission under compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission. Accordingly, a new § 4.12 (the former 4.12 is being redesignated as section 4.16) is added to explain the Commission's policy on treatment of documents at the close of a proceeding or in cases where no proceeding is commenced within a reasonable time after the staff has completed its examination and analysis of the materials assembled in the investigation. It should be noted that although the new legislation only requires return of original documents that have been obtained pursuant to compulsory process, § 4.12 provides for the return of all originals, however obtained, at the close of the proceeding or where a proceeding has not been commenced within a reasonable time after staff has completed its analysis of all documents assembled in the investigation.

Copies of documents will be returned only in extraordinary circumstances and upon a showing that the public interest require return. The procedures described in the rule will be the only way documents submitted to the Commission may be returned and no commitments to return documents will be entered into at any other time.

6. *LB and QFR Programs.* The Line of Business confidentiality provision, an addition to Section 6(f) of the FTC Act, in essence enacts into permanent law restrictions which were contained in the Commission's appropriations riders for fiscal years 1975, 1976, and 1977. Indeed, the Senate Report explains that the Line of Business provision "eliminates the need to re-enact annually what is meant to be a continuing protection." Two sets of LB confidentiality rules (those for 1974 reports and for 1975/76 reports) explicitly are based on these former appropriations riders, so that those rules are not inconsistent with the new legislation. The 1973 LB rules were in effect during the time the riders were effective and are also consistent with the new LB Section.

The Line of Business provision is different from the prior riders in one respect, in providing that "[n]o one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms." The following officers and employees are so designated: (1) Employees of the Division of Financial Statistics of the Bureau of Economics; (2) Employees of the Data Processing and Information Systems Division of the Office of the Executive Director, but only during and for the purpose of electronic processing of information and data contained in LB reports; and (3) Employees of the General Counsel's office and Commissioners and their assistants, upon notification to the General Counsel by the Assistant Director for Financial Statistics of a refusal or failure of the reporting company to file an adequate LB report. These persons shall have access to such portions of that company's LB report required to evaluate the noncompliance and to advise and represent the Commission with respect to any proceeding initiated because of the noncompliance. All of these uses are directly parallel to the Commission's current LB confidentiality rules.

Proposed revisions to 1973–76 LB rules, and proposed 1977 rules, have been published in the **Federal Register** and comment received: 44 FR 59552 (1979); 45 FR 18446 (1980). The Commission anticipates that all of these rules will shortly be revised, and 1977 rules issued, to be based directly on this statute. In the interim the statutory confidentiality restrictions are effective according to their terms.

The QFR confidentiality rules are consistent with the new legislation. The statute puts new limits—Section 6(f), Sections 21(c)–(e)—on disclosure of information obtained by the Commission including QFR information. The QFR rules already provide, however, that data obtained from the reporting companies will not be disclosed outside the Commission and that no individual company data will be disclosed in aggregate reports.

The QFR rules provide few exceptions to this blanket confidentiality. One is that individual company data may be released to other federal agencies under condition of confidentiality. This exception is currently used only for disclosure to the Bureau of Economic Analysis of the Department of Commerce for statistical purposes. It thus is consistent with the new legislation, which permits release of disaggregated confidential commercial or financial information to other federal agencies for economic, statistical or policymaking purposes under confidentiality restrictions.

The QFR rules also except from certain of their prohibitions legal action initiated because of a company's failure to submit reports. This exception, which must be read also to encompass disclosures necessary in the court filing of an action, is consistent with the new legislation's provision for disclosure of confidential commercial or financial information in judicial proceedings to which the Commission is a party.

The QFR rules do not explicitly refer to disclosures to Congress of individual company data. Disclosures of confidential commercial information for this purpose is permitted by the legislation under stated conditions. Because these provisions formally reflect Congress' inherent authority to require the production of information, they are not inconsistent with QFR confidentiality rules as they would likely be construed if a Congressional request were received.

The Commission has proposed, and has received comments on revisions to the QFR rules. See 44 FR 59552 (1979). The Commission anticipates that it will shortly revise the rules, in part to make them more directly parallel with the statute. In the interim, the statutory confidentiality restrictions are effective according to their terms.

In consideration of the foregoing, the Commission hereby amends its rules of practice as follows:

PART 0—ORGANIZATION

1. Section 0.9 is revised to read as follows:

§ 0.9 Organization structure.

The Federal Trade Commission comprises the following principal units:

Office of the Executive Director
Office of the General Counsel
Office of the Secretary
Office of the Policy Planning
Office of Administrative Law Judges
Office of Presiding Officers
Bureau of Competition
Bureau of Consumer Protection
Bureau of Economics
The Regional Offices

§§ 0.15 through 0.18 [Redesignated as §§ 0.16–0.19]

2. Sections 0.15 through 0.18 are redesignated §§ 0.16 through 0.19 respectively. New § 0.15 is added to read as follows:

§ 0.15 Office of Presiding Officers.

Presiding Officers are employees assigned to conduct rulemaking proceedings under section 18(a)(1)(B) of the Federal Trade Commission Act as amended and other rulemaking proceedings as directed.

PART 1—GENERAL PROCEDURES

§ 1.13 [Amended]

3. Section 1.13(c)(1)(vi) is deleted. Sections 1.13(c)(1) (vii), (viii) and (ix) are renumbered 1.13(c)(1) (vi), (vii), and (viii) respectively.

4. Sections 1.13(c) (1) and (2) are redesignatd §§ 1.13(c) (2) and (3) respectively, and new §§ 1.13(c) (1), (4), (5) and (6) are added to read as follows:

§ 1.13 Rulemaking proceeding.

* * * * *

(c) *Presiding Officer.* * * *

(1) *Assignment.*—Upon commencement of a trade regulation rule proceeding, a presiding officer shall be appointed by the chief presiding officer.

* * * * *

(4) *Substitution of presiding officer.*—In the event of the substitution of a new presiding officer for the one originally appointed, any motion predicated upon such substitution shall be made within five (5) days thereafter.

(5) *Organization.*—In the performance of their rulemaking functions, presiding officers shall be responsible to the chief presiding officer who shall not be responsible to any other officer or employee of the Commission, *provided, however,* that periodic evaluations of the performance of presiding officers may be conducted by the Commission through the Office of the Executive Director.

(6) *Ex parte communications.*—Except as required for the disposition of *ex parte* matters as authorized by law, no presiding officer shall consult any person or party with respect to any fact in issue unless such officer gives notice and opportunity for all parties to participate.

5. Section 1.13(d)(6) is revised to read as follows:

* * * * *

(d) *Requests to compel the attendance of persons or the production of documents or to obtain responses to written questions.*—During the course of the rulemaking proceeding the presiding officer shall entertain requests from interested persons to compel the attendance of persons or the production of documents or to obtain responses to written questions on behalf of the Commission's staff or any interested person. Requests to compel the attendance of persons or the production of documents or to obtain reponses to written questions shall contain a statement showing the general relevancy of the material, information or presentation, and the reasonableness of the scope of the request, together with a showing that such material, information or presentation is not available by voluntary methods and cannot be obtained through examination, including cross-examination, of oral presentations or the presentation of rebuttal submissions, and is appropriate and required for a full and true disclosure with respect to the issues designated for consideration in accordance with paragraphs (d)(5) and (d)(6) of this section. If the Presiding Officer determines that a request should be granted he shall transmit his determination to the Commission which shall determine whether to issue an order under rule 2.7.

6. Sections 1.13 (f), (g) and (h) are revised to read as follows:

§ 1.13 Rulemaking proceeding.

* * * * *

(f) *Staff recommendations.*—The staff shall make recommendations to the Commission in a report on the rulemaking record. Such report shall contain its analysis of the record and its recommendations as to the form of the final rule.

(g) *Recommended decision.*—After publication of the staff report, the presiding officer shall make a recommended decision based upon his or her findings and conclusions as to all relevant and material evidence, and taking into account the staff report. The recommended decision shall be made by the presiding officer who presided over the rulemaking proceeding except that such recommended decision may be made by another officer if the officer who presided over the proceeding is no longer available to the Commission.

(h) *Post record comment.*—The staff report and the presiding officer's recommended decision shall be the subject of public comment for a period of sixty (60) days after it is placed in the rulemaking record. Such comments shall be confined to information already in the record and may include requests for review by the Commission of determinations made by the presiding officer.

7. Section 1.18(a) is revised to read as follows:

§ 1.18 Rulemaking record.

(a) *Definition.*—For purposes of these rules the term "rulemaking record" includes the rule, its Statement of Basis and Purpose, the verbatim transcript of the informal hearing, written submissions, the recommended decision of the presiding officer, and the staff recommendations as well as any public comment thereon, verbatim transcripts of oral presentations to the Commission, if any, and any other information which the Commission considers relevant to the rule.

PART 2—NONADJUDICATIVE PROCEDURES

8. Section 2.4 is revised to read as follows:

§ 2.4 Investigational policy.

The Commission encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Commission may, in any matter under investigation adopt a resolution authorizing the use of any or all of the compulsory processes provided for by law.

9. Section 2.5 is revised to read as follows:

§ 2.5 By whom conducted.

Inquiries and investigations are conducted under the various statutes administered by the Commission by Commission representatives designated and duly authorized for the purpose. Such representatives are "examiners" or "Commission investigators" within the meaning of the Federal Trade Commission Act and are authorized to exercise and perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Included among such duties is the administration of oaths and affirmations in any matter under investigation by the Commission.

10. Section 2.6 is revised to read as follows:

§ 2.6 Notification of purpose.

Any person under investigation compelled or requested to furnish information or documentary evidence shall be advised with respect to the purpose and scope of the investigation. When such information or documentary evidence is compelled pursuant to a civil investigative demand issued under Section 20 of the Federal Trade Commission Act, the person served with such demand shall be advised, in the demand, of the nature of the conduct constituting the alleged violation which

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is under investigation and the provisions of law applicable to such violation.

11. Section 2.7 is revised to read as follows:

§ 2.7 Compulsory process in investigations.

(a) *In general*—The Commission or any member thereof may, pursuant to a Commission resolution, issue a subpoena or a civil investigative demand directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence, or both, or, in the case of a civil investigative demand, to provide a written report or answers to questions relating to any matter under investigation by the Commission. Material for which a civil investigative demand has been issued but which is still in the physical possession of the person upon whom the demand has been served, may by agreement between such person and the custodian designated pursuant to rule 2.16, be reproduced by such person, in which case the custodian may require that the copies so produced be duly certified as true copies of the original of the materials involved.

(b) *Civil Investigative Demands*—Civil investigative demands shall be the only form of compulsory process issued in investigations with respect to unfair or deceptive acts or practices within the meaning of FTC Act section 5(a)(1).

(1) Civil investigative demands for the production of documentary material shall describe each class of material to be produced with such definiteness and certainty as to permit such material to be fairly identified, prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction, and identify the custodian to whom such material shall be made available. Production of documentary material in response to a civil investigative demand shall be made in accordance with the procedures prescribed by section 20(c)(10) of the Federal Trade Commission Act.

(2) Civil investigative demands for written reports or answers to questions shall propound with definiteness and certainty the reports to be produced or the questions to be answered, prescribe a date or dates at which time written reports or answers to questions shall be submitted, and identify the custodian to whom such reports or answers shall be submitted. Response to a civil investigative demand for a written report or answers to questions shall be made in accordance with the procedures prescribed by section 20(c)(11) of the Federal Trade Commission Act.

(3) Civil investigative demands for the giving of oral testimony shall prescribe a date, time, and place at which oral testimony shall be commenced, and identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted. Oral testimony in response to a civil investigative demand shall be taken in accordance with the procedures prescribed by section 20(c)(12) of the Federal Trade Commission Act.

(c) Bureau Directors, Deputy Directors, Assistant Directors, Regional Directors, or Assistant Regional Directors, are authorized to negotiate and approve the terms of satisfactory compliance with subpoenas and civil investigative demands and for good cause shown, may extend the time prescribed for compliance. Specifically, the subpoena power conferred by Section 329 of the Energy Policy and Conservation Act (42 U.S.C. 6299) is included within this delegation.

(d) *Petitions to limit or quash.*—Any petition to limit or quash any investigational subpoena or civil investigative demand shall be filed with the Secretary of the Commission within twenty (20) days after service of the subpoena or civil investigative demand, or, if the return date is less than twenty (20) days after service prior to the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the subpoena or civil investigative demand, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash any investigational subpoena or civil investigative demand shall be ruled upon by the Commission itself, but Bureau Directors, Deputy Directors, Assistant Directors, Regional Directors or Assistant Regional Directors are delegated, without power or redelegation, the authority to rule upon requests for extensions of time within which to file such petitions.

(e) The timely filing of a petition to limit or quash any investigational subpoena or civil investigative demand shall stay the time permitted for compliance with the portion challenged. If the Commission denies the petition in whole or in part, the Commission shall specify a new return date.

(f) All petitions to limit or quash investigational subpoenas or civil investigative demands and the Commission's responses thereto, are part of the public records of the Commission, except for information exempt from disclosure under § 4.10(a) of this chapter.

12. Paragraph 2.8 (b) and (c) are revised to read as follows:

§ 2.8 Investigational hearings.

* * * * *

(b) Investigational hearings shall be presided over by the Commission, one or more of its members, or a duly designated representative, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation; and the term "presiding official," as used in this part, means and applies to the Commission or any of its members or designated representative when so presiding and the "Commission investigator" designated in a civil investigative demand for the giving of oral testimony. Such hearings shall be stenographically reported and a transcript thereof shall be made a part of the record of the investigation.

(c) Unless otherwise ordered by the Commission, investigational hearings shall not be public. In investigational hearings conducted pursuant to a civil investigative demand for the giving of oral testimony, the Commission investigators shall exclude from the hearing room all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and the stenographer recording such testimony. A copy of the transcript shall promptly be forwarded by the Commission investigator to the custodian designated in section 2.16.

13. Section 2.8A(a) is revised to read as follows:

§ 2.8A Withholding requested material.

(a) Any person withholding material responsive to an investigational subpoena or civil investigative demand issued pursuant to § 2.7, an access order issued pursuant to § 2.11, an order to file a report issued pursuant to § 2.12, or any other request for production of material issued under this Part, shall assert a claim of privilege or any similar claim not later than the date set for the production of material. Such person shall, if so directed in the subpoena, civil investigative demand or other request for production, submit, together with such claim, a schedule of the items withheld which states individually as to each such item the type, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

* * * * *

14. Sections 2.9(a), (b)(2), and (b)(4) are revised to read as follows:

§ 2.9 Rights of witnesses in investigations.

(a) Any person compelled to submit data to the Commission or to testify in an investigational hearing shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure a copy of any document submitted by him and of his own testimony as stenographically reported, except that in a nonpublic hearing the witness may for good cause be limited to inspection of the official transcript of his testimony. Where the investigational hearing has been conducted pursuant to a civil investigative demand issued under Section 20 of the Federal Trade Commission Act, upon completion of transcription of the testimony of the witness, the witness shall be offered an opportunity to read the transcript of his testimony. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Commission investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness unless the witnesss cannot be found, is ill, waives in writing his right to signature or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded a reasonable opportunity to review it, the Commission investigator shall take the actions prescribed by Section 20(c)(12)(E)(ii) of the Federal Trade Commission Act.

(b) * * *

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the ground therefor. The witness and his counsel shall not otherwise object to or refuse to answer any question, and they shall not otherwise interrupt the oral examination.

* * * * *

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements on the record. Petitions challenging the Commission's authority to conduct the investigation or the sufficiency or legality of the subpoena or civil investigative demand must have been addressed to the Commission in advance of the hearing. Copies of such petitions may be filed with the presiding official or Commission investigator as part of the record of the investigation, but no arguments in support thereof will be allowed at the hearing.

* * * * *

15. Section 2.10 is revised to read as follows:

§ 2.10 Depositions.

In investigations other than those conducted under Section 20 of the Federal Trade Commission Act, the Commission may order testimony to be taken by deposition at any stage of such investigation. Such depositions may be taken before any person having power to administer oaths who may be designated by the Commission. The testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed to by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence as provided in §§ 2.7 through 2.9.

16. Section 2.11(a) is revised to read as follows:

§ 2.11 Orders requiring access.

(a) In investigations other than those conducted under Section 20 of the Federal Trade Commission Act, the Commission may issue an order requiring any person, partnership or corporation being investigated to grant access to files for the purpose of examination and the rights to copy any documentary evidence. The Directors, Deputy Directors, and Assistant Directors of the Bureau of Competition, Consumer Protection, and Economics, and the Regional Directors and Assistant Regional Directors of the Commission's regional offices, pursuant to delegation of authority by the Commission, without power of redelegation, are authorized, for good cause shown, to extend the time prescribed for compliance with orders requiring access issued during the investigation of any matter.

* * * * *

17. Sections 2.12 (a) and (b) are revised to read as follows:

§ 2.12 Reports.

(a) In investigations other than those covered by Section 20 of the Federal Trade Commission Act the Commission may issue an order requiring a person, partnership, or corporation to file a report or answers in writing to specific questions relating to any matter under investigation, study or survey, or under any of the Commission's reporting programs.

(b) The Assistant Director for Financial Statistics, Bureau of Economics, pursuant to delegation of authority by the Commission, without power of redelegation, is authorized to issue notices of default under the Commission's quarterly financial reporting program.

18. Section 2.13(b)(1) is revised to read as follow:

§ 2.13 Noncompliance with investigational processes.

* * * * *

(b) * * *

(1) to institute, on behalf of the Commission, an enforcement proceeding in connection with the failure or refusal of a person, partnership, or corporation to comply with, or to obey, a subpoena, or civil investigative demand if the return date or any extension thereof has passed;

19. Section 2.15(a) is revised to read as follows:

§ 2.15 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) The Bureau Directors, Deputy Directors, Assistant Directors, Regional Directors or Assistant Regional Directors are hereby authorized to request, through the Commission's liaison officer, approval from the Attorney General for the issuance of an order requiring a witness to testify or provide other information and granting immunity under Title 18, section 6002, of the United States Code. The presiding officials or Commission investigators at investigational hearings or depositions are hereby authorized to issue such an order upon the Attorney General's approval. Approval of such an order may be sought only upon determinations by the party requesting approval (1) that the testimony or other information sought from a witness or deponent, or prospective witness or deponent, may be necessary to the public interest, and (2) that such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination. Such order shall be issued upon the approval of the Attorney General where it cannot be determined that a witness or deponent has improperly invoked his privilege against self-incrimination.

* * * * *

20. Section 2.16 is added as follows:

§ 2.16 Custodians.

(a) *Designation.*—The Commission shall designate a custodian and deputy custodian for material to be delivered

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pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission. The custodian shall have the powers and duties prescribed by Section 21 of the FTC Act. Deputy custodians may perform all of the duties assigned to custodians. The appropriate Bureau Directors, Deputy Directors, Regional Directors or Assistant Directors shall take the actions required by section 21(b)(7) of the FTC Act if it is necessary to replace a custodian or deputy custodian.

(b) *Copying of custodial documents.*—The custodian designated pursuant to Section 21 of the Federal Trade Commission Act (subject to the general supervision of the Executive director) may, from among the material submitted, select the material the copying of which is necessary or appropriate for the official use of the Commission, and shall determine, the number of copies of any such material that are to be reproduced. Copies of material in the physical possession of the custodian may be reproduced by or under the authority of an employee of the Commission designated by the custodian.

(c) Material produced pursuant to the Federal Trade Commission Act, while in the custody of the Custodian, shall be for the official use of employees of the Commission in accordance with the Act, but such material shall upon reasonable notice to the Custodian, be made available for examination by the person who produced such material or his duly authorized representative during regular office hours established for the Commission.

21. Section 2.51 is revised to read as follows:

§ 2.51 Requests to reopen.

(a) *Scope.*—Any person, partnership, or corporation subject to a Commission decision containing a rule or order which has become effective, or an order to cease and desist which has become final may file with the Secretary a request that the Commission reopen the proceeding to consider whether the rule or order, including any affirmative relief provision contained therein, should be altered, modified, or set aside in whole or in part.

(b) *Contents.*—A request under this section shall contain a satisfactory showing that changed conditions of law or fact require the rule or order to be altered, modified, or set aside, in whole or in part or that the public interest so requires. This requirement shall not be deemed satisfied if a request is merely conclusory or otherwise fails to set forth specific facts demonstrating in detail the nature of the changed conditions and the reasons why these changed conditions require the requested modifications of the rule or order.

(c) *Opportunity for public comment.*—A request under this section shall be placed on the public record except for material exempt from public disclosure under rule 4.10(a). Unless the Commission determines that earlier disposition is necessary, the request shall remain on the public record for thirty (30) days from the date that the request was filed. During this period the public is invited to comment on the request.

(d) *Determination.*—After the period for public comment on a request under this section has expired and no later than one-hundred and twenty (120) days after the date of the filing of the request, the Commission shall determine whether the request complies with subsection (b) and whether the rule or order should be altered, modified, or set aside as requested. In doing so, the Commission may, in its discretion, issue an order reopening the proceeding and modifying the rule or order as requested, issue and order to show cause pursuant to Section 3.72, or take such other action as is appropriate.

PART 4—MISCELLANEOUS RULES

22. Section 4.2(a) is revised to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

(a) *Filing.* (1) Except as otherwise provided, all documents submitted to the Commission including those addressed to the Administrative Law Judge shall be filed with the Secretary of the Commission; provided, however, that in any ifistance informal applications or requests may be submitted directly to the official in charge of any office of the Commission or to the Director, Deputy Director, or Assistant Director of the appropriate bureau or office or to the Administrative Law Judge. Copies of all documents filed with the Secretary of the Commission by parties in adjudicative proceedings shall, at or before the time of filing, be served by the party filing the documents or person acting for that party on all other parties pursuant to § 4.4. (2) Documents submitted to the Commission in response to a Civil Investigative Demand under § 20 of the FTC Act shall be filed with the custodian or deputy custodian named in the demand.

* * * * *

23. Section 4.4(a)(2) is revised to read as follows:

§ 4.4 Service.

(a) * * *

* * * * *

(2) All other orders and notices, including subpoenas, orders requiring access, orders to file annual and special reports, and notices of default, may be served by any method reasonably certain to inform the affected person, partnership, corporation or unincorporated association, including any method specified in paragraph (a)(1), except that civil investigative demands may only be served in the manner provided by section 20(c)(7) of the FTC Act (in the case of service on a partnership, corporation, association, or other legal entity) or section 20(c)(8) of the FTC Act (in the case of a natural person).

* * * * *

24. Section 4.9(b)(22) is revised to read as follows:

§ 4.9 Public records.

* * * * *

(b)(22) Motions or Petitions to limit or quash compulsory process, and the rulings thereon, except for information exempt from disclosure under § 4.10(a) of this chapter;

* * * * *

25. Introductory text of § 4.10(a), paragraphs (a)(2) and (a)(8) are revised, and paragraphs (a)(9) and (d) are added to read as follows:

§ 4.10 Confidential information.

(a) Except as provided in paragraph (b) of this section, the following records of the Commission are exempt from availability for public inspection and copying pursuant to 5 U.S.C. 552; however, records exempt from disclosure by the provisions of this section may be made available to a requester for inspection and copying upon requests for records under the procedures set forth in § 4.11 or by the Commission upon its own motion, except where prohibited by law:

* * * * *

(2) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. As provided in section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), this exemption applies to competitively sensitive information such as costs or various types of sales statistics and inventories. It includes trade secrets in the nature of formulas, patterns, devices, and processes of manufacture, as well as names of customers in which there is proprietary or highly competitive interest. Assurances of confidentiality given by Commission staff are not binding upon the Commission.

(8) Material which is received by the Commission (i) in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and (ii) which is provided pursuant to any compulsory process under the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, or which is provided voluntarily in place of compulsory process in such an investigation. This material is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552. Except as provided in section 21 of the FTC Act and § 4.11 (b), (c) and (d) of this part, no material received pursuant to compulsory process, in an investigation, a purpose of which is to determine whether any person may have violated any provisions of the laws administered by the Commission, that is not otherwise public shall be made available to any individual other than a duly authorized officer or employee of the Commission without the consent of the person who produced the material or transcripts. Such material may, however, be used in connection with the taking of oral testimony.

(9) Such other records of the Commission as may from time to time be designated by the Commission as confidential pursuant to statute or Executive Order. This exempts from disclosure any information which has been designated nonpublic pursuant to criteria and procedures prescribed by Executive Order and which has not subsequently been declassified in accordance with applicable procedures. The exemption also preserves the full force and effect of statutes which restrict public access to specific government records.

* * * * *

(d) No document submitted to the Commission and marked confidential by the submitter pursuant to section 21(c) of the FTC Act will be released, except as provided in section 21(d) of the FTC Act and in § 4.11 (b), (c) and (d) of this Part, unless it is determined that the document is not a trade secret or commercial or financial information which is obtained from a person and which is privileged or confidential within the meaning of section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and unless the submitter is provided at least 10 days' notice of the intent to disclose the document involved.

§ 4.11 [Amended]

26. Paragraphs 4.11 (b) and (c) are revised, and paragraph 4.11(d) is added, to read as follows:

* * * * *

(b) *Requests from congressional committees and subcommittees.*—Requests from congressional committees and subcommittees shall be referred to the General Counsel for presentation to the Commission, subject to the provisions in 5 U.S.C. 552(c) and FTC Act § 21(b) that neither the Freedom of Information Act, 5 U.S.C. 552, nor the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, is authority to withhold information from Congress. Upon receipt of a request from a congressional committee or subcommittee, the General Counsel will notify the owner or provider or any material marked confidential that is responsive to the request, that the request has been received. No other notice need be provided prior to granting the request.

(c) *Requests from Federal and State law enforcement agencies.*—Requests from law enforcement agencies of the Federal Government should be addressed to the liaison officer for the requesting agency, or if there is none, to the General Counsel. Requests from state agencies should be addressed to the General Counsel. The appropriate liaison officer or the General Counsel may grant the request or where appropriate may authorize the custodian to grant the request, or refer it to the Commission for determination. Prior to granting access under this section to any material submitted to the Commission, the General Counsel or liaison officer will obtain from the requestor a certification that such information will be maintained in confidence and will be used only for official law enforcement purposes.

(d) *Requests from Federal agencies for purposes other than law enforcement.*—Requests from Federal agencies for access not related to law enforcement should be addressed to the General Counsel. Disclosure of nonpublic information will be made consistent with section 21 of the FTC Act.

§ 4.12 [Redesignated as § 4.16].

27. Section 4.12 is redesignated as § 4.16, and a new § 4.12 is added to read as follows:

* * * * *

§ 4.12 Disposition of documents submitted to the Commission.

(a) *Original documents.*—Any person who has submitted documentary material to the Commission may file a written request for the return of original documents which have not been received into evidence, (1) after the close of the proceeding in connection with which the documents were submitted, or (2) when no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such material and other information assembled in the course of the investigation. Such request shall be in writing, addressed to the Custodian designated pursuant to 15 U.S.C. § 61(b)(2)(A) or the Secretary of the Commission in all other circumstances, and shall reasonably describe the documents requested. Request for return of documents shall not be made nor commitments to return documents entered into prior to the time described in this subsection. The Commission is expressly permitted to make the retain copies of documents submitted to it.

(b) *Non-original documents.*—The Commission will not return non-original documents to the submitter unless, upon a showing of extraordinary circumstances made at the time described in subsection (a), the Commission determines that return would be required in the public interest.

(c) *Disposition of documents not returned.*—At the time prescribed in subsection (a), the staff will examine all submitted documents and will determine, pursuant to the Federal Records Act, 44 U.S.C. § 3301, which documents are appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Commission or because of the information value of data in them. The Commission will dispose of all documents determined under paragraph (b) of this section not to be appropriate for preservation in accordance with applicable regulations of the General Services Administration.

(Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383, as amended (5 U.S.C. 552))

By direction of the Commission dated May 22, 1980.

Carol M. Thomas,

Secretary.

[FR Doc. 80-16538 Filed 5-28-80; 12:22 pm]

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V 45 MY 29 80 UMI

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Federal Register

Vol. 45, No. 105

Thursday, May 29, 1980

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523-3517	
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523-5239	TTY for the Deaf
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523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MAY

29001-29262	1
29263-29554	2
29555-29780	5
29781-30058	6
30059-30414	7
30415-30610	8
30611-31044	9
31045-31290	12
31291-31694	13
31695-31926	14
31927-32286	15
32287-32654	16
32655-33588	19
33589-33944	20
33945-34256	21
34257-34860	22
34861-35304	23
35305-35800	27
35801-36042	28
36043-36346	29

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-16 of Apr. 14, 1980 (Amended by Presidential Determination No. 80-18 of May 2, 1980) 29787

No. 80-17 of May 1, 1980 29785

No. 80-18 of May 2, 1980 29787

Executive Orders:

11609 (Amended by EO 12215) 36043

11713 (Revoked by EO 12215) 36043

12169 (Amended by EO 12213) 29781

12212 29557

12213 29781

12214 29783

12215 36043

Proclamations:

4754 29555

4755 30059

4756 30415

4757 31695

4758 31927

4759 32655

4760 33945

4761 33947

4 CFR

418 31929

5 CFR

213 35305

300 29530

351 29263

891 30611

1201 34861

Proposed Rules:

351 ..... 31379, 33640

412 29300

511 34895

532 31382

550 31379

6 CFR

705 36047

706 31935

707 31935

Proposed Rules:

Ch. VII 30445

7 CFR

2 ..... 30417, 31697, 33589

6 33589

25 30417

210 32502

230 33589

319 ..... 31572, 35305

418 29001

419 29001

421 29001

600 30061

729 34861

799 32312

905 35305

907 ..... 29002, 30418, 31698, 31953, 34257, 36048

908 ..... 29002, 30418, 31953, 34257, 36048

910 ..... 29265, 30612, 32308, 34863

916 32308

917 ..... 32309, 33596

918 ..... 29003, 36049

928 29559

953 31045

1124 ..... 29559, 34863

1280 32572

1421 ..... 31699, 35801

1425 31699

1430 30419

1435 33597

1464 32311

1701 32312

1945 ..... 29265, 35782

1980 29265

2880 31692

Proposed Rules:

Subtitle A 32192

Ch. I 32192

Ch. II 32192

Ch. III 32192

Ch. IV 29056, 32192

Ch. V 32192

Ch VI 32192

Ch. VII 32192

Ch. IX 32192

Ch. X 32192

Ch. XI 32192

Ch. XII 32192

Ch. XIV 29302, 32192

Ch. XV 32192

Ch. XVI 32192

Ch. XVII 32192

Ch. XVIII 32192

Ch. XXI 32192

Ch. XXIV 32192

Ch. XXV 32192

Ch. XXVI 32192

Ch. XXVII 32192

Ch. XXVIII 32192

Ch. XXIX 32192

6 ..... 33640, 33642

29 30080

274 35335

401 29056

427 30445

437 29056

760 31393
800 32284
810 30446
908 29063
910 35829
911 31726
913 30638
915 ..... 29843, 33643
944 ..... 29843, 31726, 33643
953 29846
971 32319
991 30447
1002 32321
1004 34898
1036 30638
1071 30447
1073 30447
1093 35168
1097 30447
1102 30447
1104 30447
1106 30447
1108 30447
1120 30447
1126 30447
1132 30447
1138 30447
1207 31118
1701 ..... 29847, 34898
1804 30364
1930 30364
1944 30364
2856 35345
2859 30980

8 CFR

101 32657
103 ..... 32657, 33949
204 32657
211 32657
223 32657
223a 32657
231 32657
239 29243
242 35802
245 32657
246 32657
247 32657
249 32657
261 32657
264 32657
299 32657

Proposed Rules:

211 ..... 29848, 30062
214 29848
242 30063

9 CFR

50 32287
78 29267
82 30612
92 29268
94 29270

Proposed Rules:

Ch. I 32192
Ch. II 32192
Ch. III 32192
Ch. IV 32192
92 29302
308 30980
381 30980

10 CFR

35 31701
50 30614
205 33950
210 36049
211 29546
212 ..... 29546, 36049
456 33643
516 35206
703 36053
798 31604
1023 36053
1024 29764

Proposed Rules:

Ch. II 30448
Ch. III 30448
Ch. X 30448
2 ..... 34279, 35345
20 31118
50 ..... 34279, 36082
60 31393
108 35764
205 32322
210 34846
211 ..... 29770, 31682, 32003, 34008, 34846, 36090
212 ..... 29553, 32003, 34846
376 35830
461 31408
474 34008
477 34015
486 32560
490 35788

11 CFR

4 31291
5 31292
100 34865
110 34865

Proposed Rules:

140 32003
141 32003
142 32003
143 32003
144 32003
145 32003
146 32003
9001 32003
9002 32003
9003 32003
9004 32003
9005 32003
9006 32003
9007 32003
9009 32003

12 CFR

VII 32290
205 31705
217 36053
226 ..... 33599, 35802
265 34868
303 30616
309 31294
524 31045
528 31954
545 ..... 31046, 32288
561 31050
701 ..... 29270, 34869, 34870
745 35802
1201 31706
1202 32288
1203 31707
1204 31710

Proposed Rules:

Ch. V 31119
Ch. VII 35346
211 30081–30082
225 30082
226 ..... 29702, 33644
523 31727
545 31727
556 31121
563 31408
590 ..... 13122, 35347
1204 32323

13 CFR

Proposed Rules:

Ch. I 30338
108 31410
121 33645
304 30320
305 30320
306 30320
307 30320
308 30320
315 30320

14 CFR

11 35306
13 35306
39 ..... 29004, 29005, 29007, 29008, 29560–29562, 30421, 31052, 32659, 34258–34261, 35307–35310, 35313, 36054
71 ..... 29009, 29563, 29564, 30422, 31053, 31971, 32661, 34261–34263, 36054–36057
73 ..... 30424, 31974
97 ..... 29565, 31974
121 ..... 30424, 31057
152 34782
159 35314
183 32668
231 31059
249 31059
250 30063
302 34264
380 32669
385 30065
399 36058
1241 35321

Proposed Rules:

Ch. I 31125, 32700
39 ..... 30448, 32011, 36091
47 34286
49 34286
71 ..... 29063, 30449, 31128, 32702, 34289, 34290, 35348 36092, 36093
75 30452
121 29064
127 29064
135 29064
152 30398
199 30398
221 ..... 31411, 34291
250 ..... 30086, 31413
385 31411

15 CFR

30 29567
369 29010
385 ..... 29568, 30617, 33955
399 ..... 29568, 30617
502 29271
503 29272
2006 34870

Proposed Rules:

Subtitle A 35832
936 ..... 33645, 33649
937 33645

16 CFR

0 36338
1 36338
2 36338
4 36338
13 ..... 29010, 31712, 31979, 36062
1025 29206

Proposed Rules:

13 ..... 30650, 31416, 34291, 34293, 34296, 35832
1512 ..... 32705, 35348

17 CFR

1 34873
15 ..... 30426, 31713
200 36063
230 29275
240 ..... 33957, 36075
276 34876

Proposed Rules:

21 ..... 31731, 36094
229 31733
230 29847
240 ..... 29853, 30454, 31418, 31733
249 33650
270 29067

18 CFR

1 31059
35 31294
141 ..... 30066, 33600
154 29011
250 33600
260 ..... 30066, 33600
270 29569
271 ..... 29569, 36076
273 30068
274 35322
282 ..... 29573, 31300, 31622, 31980, 33601
284 34264
292 ..... 33603, 33958

Proposed Rules:

Ch. I 31743
1 36094
2 ..... 31744, 36094
3c 36094
270 35348
271 31744
273 31418
284 ..... 34299, 34302

19 CFR

6 29247
113 35803
153 35803
159 35803
200 31988
353 30618
355 ..... 30619, 33964

20 CFR

655 29854
675 33846
676 33846
677 33846
678 33846
679 33846
680 33846

Proposed Rules:

416 35838
676 33923

677 33923
678 33923
679 33923

21 CFR

5 32550
101 29275
201 32550
207 32393
250 31303
520 ..... 31304, 32294, 33604
522 ..... 29275, 29789
540 ..... 29276, 32294
561 32295
610 32396
660 32296

Proposed Rules:

70 32324
109 30984
110 30984
182 ..... 29304, 32324
184 ..... 29304, 32324
225 30984
226 30984
330 31422
331 35349
346 35576
349 30002
355 33650
500 30984
509 30984
680 29305
1030 29307

22 CFR

51 30619
143 ..... 31713, 34877

Proposed Rules:

51 34302

23 CFR

663 29015

Proposed Rules:

420 30398
450 30398
625 34302
630 30398
1204 30398

24 CFR

111 31880
203 ..... 29277, 29573, 30602, 31716, 33964, 34878
204 ..... 30602, 31716, 33964, 34878
213 ..... 29277, 30602, 33964, 34878
220 ..... 30602, 33964, 34878
221 ..... 29277, 30602, 31894
227 29277
234 ..... 29277, 30602
235 ..... 29277, 30602, 33964, 34878
240 ..... 33964, 34878
275 29279
841 ..... 29279, 34265
865 30346
868 30349
885 31990
3280 29539

Proposed Rules:

203 29855
215 31132
234 29855
241 30352
570 ..... 30328, 31262, 33651
571 30455
600 30330
865 33651
890 35776

25 CFR

11 29790

Proposed Rules:

55b 30302
172 29070

26 CFR

1 ..... 33969, 33971, 34879
301 33973

Proposed Rules:

1 ..... 29308, 34016, 34303
48 29309
51 34899

27 CFR

Proposed Rules:

19 33976
178 33651
179 33978
181 33651
194 33978
197 33978
245 33978
250 33978
251 33978
252 33978

28 CFR

0 ..... 31061, 34268, 34269
2 33604
16 32670
45 ..... 29574, 31717
50 29530
544 33938
545 33938
546 33938
552 33938
572 33938

Proposed Rules:

42 ..... 32710, 33652

Proposed Rules:

42 33652
524 33942

29 CFR

40 ..... 34879, 35323
56 29280
1601 33605
1607 29530
1910 35212
1913 35284
1990 35212
2702 33606

Proposed Rules:

Ch. XII 29590
4 34899
1903 33652
1928 35298
2613 34899

30 CFR

57 32300
250 29280
725 34879
731 33926
732 33926

Proposed Rules:

Ch. VII 29072, 29309–29311, 29855, 32328, 34907
19 32554
70 31426
71 31426
90 31426
211 32715
250 29309
715 32331
716 ..... 30651, 32331
816 32331
817 32331
826 32331
886 30382

31 CFR

13 30619
51 29530
342 32301
515 32671
535 29287

32 CFR

Ch. I 30623
369 34880
370 34880
371 34881
372 34882
555 32302
706 ..... 31116, 32671
811a 32301
880 31113

Proposed Rules:

286b 29590
1900 29855

32A CFR

134 34884

Proposed Rules:

651 34304
663 34304

33 CFR

Ch. II 32302
100 ..... 30430, 31991
110 ..... 30431, 32672, 34269
117 ..... 29020, 35326
165 ..... 29020, 30436
207 31061

Proposed Rules:

110 29593
117 ..... 29593, 29594, 31132, 34305, 35349–35351
140 29072
141 29072
142 29072
143 29072
144 29072
145 29072
146 29072
147 29072
157 ..... 29087, 34306

34 CFR

Subtitle A 30802
Ch. I 30802
Ch. II 30802
Ch. III 30802
Ch. IV 30802
Ch. V 30802
Ch. VI 30802
Ch. VII 30802
Ch. VIII 30802

36 CFR

7 ..... 32228, 32234
61 30623
67 34885
216 29289
920 34752
1201 ..... 30623, 34886
1208 34886

Proposed Rules:

Ch. I 30414
Ch. II 32192
Ch. IX 34017
7 ..... 31752, 34759
50 29856
223 30652
1204 34909
1207 30378
1208 34910

38 CFR

3 ..... 31717, 34886, 3532
21 31062
36 ..... 29292, 31063, 34270

Proposed Rules:

17 30392
36 30370

39 CFR

111 ..... 32305, 34271

Proposed Rules:

Ch. III 34309
267 30069

40 CFR

51 31304
52 ..... 29293, 29790, 30069, 30626, 31304, 32674, 33607, 33981, 34271, 35804–35806
60 36077
81 ..... 30070, 35327
85 ..... 34802, 34829
86 ..... 31719, 34718
122 ..... 29589, 33290, 33516
123 ..... 33290, 33516
124 ..... 33290, 33516
125 29589
180 ..... 29802–29803, 31312, 32305, 33994
205 30630
260 33066
261 33084
262 33140
263 33150
264 ..... 33154, 34055
265 ..... 33154, 34055
408 32675
415 31992
775 32676

Proposed Rules:

35 30374
51 ..... 30088, 34762
52 ..... 29312, 29313, 29595, 29596, 29864, 30089, 30456, 30654, 32333, 32743, 33656, 34018, 34271, 34917–34921, 35839–35841
61 34315
81 ..... 30091, 34020
112 33814
167 29597
169 29597
180 ..... 29597, 32338, 32743
228 36099
258 30095
261 33136
264 33260
265 ..... 33260, 33280

V 45 M Y 29 80 UMI

761.....30989

41 CFR

Ch. 1.....35809, 35814, 35815
Ch. 101.....29294, 31313
1.....30633
3-1.....31721, 32306
3-4.....33995
3-7.....32306
5-1.....29574, 29575
5A.....30633
5A-1.....29574
5B-1.....29576
5B-2.....29576
5B-7.....29576
5B-15.....29576
14R-9.....31066
18.....30633
60-3.....29530
101-26.....31315, 31992
101-43.....36077
101-44.....36077
105-61.....29577

Proposed Rules:

Ch. 4.....32192
101-11.....32012

42 CFR

52h.....35327
54a.....31094
57.....29803
110.....31721

Proposed Rules:

Ch. IV.....36100
405.....29535
420.....30634
440.....20535
447.....30634
456.....29535
462.....30634
482.....29535

Proposed Rules:

405.....30655

43 CFR

34.....31095
35.....30140
2610.....34230
2650.....31110
2880.....34887
3100.....30056, 35156
3500.....36036
9260.....31276

Public Land Orders:

5309 (Amended by PLO 5724).....31993, 35818
5716 (corrected by PLO 5725).....31722
5719.....29021
5720.....31315
5721.....29295
5722.....31316
5723.....31722
5724.....31993, 35818
5725.....31722

Proposed Rules:

4.....35351
9.....31284
2650.....30606
2920.....31284
3809.....31284

44 CFR

64.....31316
65.....29021, 31318, 32000, 36078
67.....29577, 31993
70.....29807-29830, 30071, 30076
76.....32687

Proposed Rules:

67.....29090, 29313-29323, 29598, 31133, 31427, 31754, 32339, 34923

45 CFR

74.....34272, 35328
104.....30635
123.....35818
123a.....35818
123b.....35818
123c.....35818
123d.....35818
123e.....35818
123f.....35818
123g.....35818
123h.....35818
123i.....35818
162.....34210
162a.....34210
162b.....34210
162c.....34210
163c.....29588
179.....36079
185.....32588
186.....34152
186a.....34152
186b.....34152
186c.....34152
186d.....34152
186e.....34152
186f.....34152
186g.....34152
186h.....34152
186i.....34152
186j.....34152
186k.....34152
186l.....34152
187.....34152
188.....34152
194.....36079
196.....36079
205.....29831
235.....29831
801.....33628
1061.....32690, 33788

Proposed Rules:

Ch. X.....30457
100a.....30386
100b.....30386
400.....35359
1061.....35363
1068.....35363
1069.....31133
1070.....35366
1075.....35363
1340.....35794
1385.....31006
1386.....31006
1387.....31006

46 CFR

33.....29588
35.....29588
71.....29588
75.....29588
78.....29588
91.....29588
94.....29588
97.....29588
148.....31110
160.....29588
189.....29588
192.....29588
196.....29588
252.....30439
530.....31722
547.....33996

Proposed Rules:

33.....35366
94.....35366
261.....30410
276.....29610
522.....35368
524.....35368
536.....29323, 31139, 35369
538.....29323, 31139

47 CFR

0.....29835, 31722
2.....33629
22.....29023, 35329
64.....31319, 32001
73.....29835-29840, 34888, 35818
76.....31723
90.....29297, 30637

Proposed Rules:

Ch. I.....30052, 33657, 33662
2.....29323, 32013
21.....29323, 29335, 29350
22.....32013
61.....29865
67.....34315
73.....29865-29872, 30094, 30656, 31139, 32028, 32744, 34931-34938, 35370
74.....29323, 29350
87.....31764
94.....29323, 29350

48 CFR

Proposed Rules:

4.....29612

49 CFR

107.....32690
171.....32692, 34560, 35329
172.....34560
173.....32692, 34560
174.....32692, 34560
175.....32690, 35329
176.....34560
177.....32692, 34560
220.....30443
510.....29032, 32001
571.....29045, 35333
635.....30444
800.....36080
1021.....31374
1022.....31374
1033.....29048-29054, 29840-29841, 31111, 31375, 31724, 34002, 34274, 34276, 36080
1131.....31374
1131a.....31374
1201A.....31110
1243.....34276
1249.....34276

Proposed Rules:

173.....32030, 34316
177.....32030, 34316
258.....30398
260.....30398
266.....30398
533.....35403
571.....29102, 35405
575.....35408
1033.....32745
1045.....31139
1048.....34316
1056.....31766
1057.....34020
1102.....29102
1254.....31767
1262.....30659
1270.....29104
1271.....29104
1272.....29104
1273.....29104
1274.....29104
1275.....29104
1276.....29104
1277.....29104
1278.....29104
1279.....29104
1320.....31766
1321.....31766
1322.....31766
1323.....31766
1324.....31766

50 CFR

12.....31725
17.....33768, 35821
26.....30077, 35823
32.....34891, 35827
33.....29841, 34891, 35827
227.....29054
301.....34889
611.....31377, 32001, 34003
651.....32699
652.....33637
655.....32001
656.....32002
661.....29250
671.....31112
674.....30444

Proposed Rules:

17.....29370, 29371, 29373, 31446, 32348, 35410, 36040, 36332
23.....32353, 33842, 34025, 34317
263.....35844
264.....35844
216.....29375
674.....34020
810.....34025

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—

28318 4-29-80 / Procedures for prohibiting substances for use in animal food or feed

INTERSTATE COMMERCE COMMISSION

28341 4-29-80 / Redefinition and expansion of Washington, D.C. commercial zone

PERSONNEL MANAGEMENT OFFICE

28301 4-29-80 / Reduction in force; employees in supervisory or managerial positions; probationary period; retention preference

TREASURY DEPARTMENT
Internal Revenue Service—

28319 4-29-80 / Income tax; application for recognition as qualified group legal services plan

List of Public Laws

Last Listing May 28, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 1309 / Pub. L. 96-249 "Food Stamp Act Amendments of 1980". (May 26, 1980; 94 Stat. 357) Price $1.25.

S.J. Res. 175 / Pub. L. 96-250 To extend the expiration date of the Defense Production Act of 1950. (May 26, 1980; 94 Stat. 371) Price $1.

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5-30-80
Vol. 45—No. 106
Book 1:
PAGES
36347-36842
Book 2:
PAGES
36843-37174

federal register

Book 1 of 2 Books
Friday, May 30, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.; Pittsburgh, Pa.; and St. Louis, Mo.**, see announcement in the **Reader Aids** section at the end of this issue.

36563 **Grant Programs—Social Programs** Justice/NIJ requests draft proposals for grants in field of probation and alternatives; apply by 7–25–80

36469 **Grant Programs—Education** ED invites applications for Territorial Teacher Training Assistance Program; apply by 7–14–80

36521 **Grant Programs—Environmental Protection** EPA announces availability of Innovative and Alternative Technology Assessment Manual for municipal wastewater treatment facilities

36810 **Grant Programs—Energy** HHS/SSA issues interim final regulations setting forth requirements for States assisting eligible low income households to offset rising costs; effective 5–30–80; comments by 6–30–80 (Part IV of this issue)

36844 **Calendar of Federal Regulations** The U.S. Regulatory Council publishes catalog of regulations under development (Part VI of this issue)

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

36443 **Medicare** HHS/HCFA proposes to reorganize and revise existing regulations for hospital insurance; comments by 7–29–80

36417 **Food Grades and Standards** USDA/FSQS announces options for possible changes in food grading policy; comments by 8–28–80, hearings on 7–1, 7–16, and 8–7–80

36386 **Medical Research** HHS/FDA provides for the protection of prisoners when used as Human Subjects in Biomedical and Behavioral Research; effective 5–30–81

36394 **Mortgage Insurance** HUD/FHC creates separate maximum interest rate for construction financing of multifamily housing; effective 5–30–80

36393 **Mortgage Insurance—Home Improvement** HUD/FHC decreases FHA maximum interest rate on insured home mortgage loans and establishes separate rate ceiling for those obtained by operative builders; effective 5–15–80

36392 **Mortgage Insurance—Home Improvement** HUD/FHC decreases FHA maximum allowable finance charge on property improvement and mobile home loans; effective 5–19–80

36840 **Mortgages** HUD/FHC modifies graduated payment program; effective 6–30–80; comments by 7–29–80 (Part V of this issue)

36371 **Mortgages** FHLBB issues amendment regarding sale of, participation in mortgages; effective 5–29–80

36395 **Nursing Homes and Intermediate Care Facilities** HUD/FHC defines mortgage insurance eligibility requirements; effective 6–30–80

36400 **Lobbying** HHS/Sec'y issues rule prohibiting use of HHS funds to influence legislation or appropriations; effective 5–30–80

36440, 36442 **Improving Government Regulations** GSA, DOD issue Semiannual Agenda of Regulations

Separate Parts of This Issue

36748 **Part II, Labor/ESA**
36784 **Part III, DOE**
36810 **Part IV, HHS/SSA**
36840 **Part V, HUD/FHC**
36844 **Part VI, U.S. Regulatory Council**

Contents

Federal Register
Vol. 45, No. 106
Friday, May 30, 1980

Agricultural Marketing Service
RULES
36350 Avocados grown in Fla. and imported avocados
36349 Lemons grown in Ariz. and Calif.
Milk marketing orders:
36354 Eastern Ohio-Western Pennsylvania
36353 Potatoes (Irish) grown in N.C. and Va.

Agriculture Department
See Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
36523 June

Alcohol, Tobacco and Firearms Bureau
NOTICES
36575 Firearms; granting of relief; correction

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
36358 Cattle from brucellosis certified free provinces of Canada
PROPOSED RULES
36427 Animal welfare regulations and standards; meetings

Army Department
NOTICES
Meetings:
36467 Medical Research and Development Advisory Panel (2 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
36567 Expansion Arts Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
36467 Procurement list, 1980; additions and deletions

Civil Aeronautics Board
NOTICES
Hearings, etc.:
36462, 36463 Transatlantic, transpacific, and Latin American service mail rates investigation (2 documents)

Commerce Department
See also International Trade Administration; Maritime Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.
NOTICES
Economic development regions; designations boundary modifications, etc.
36466 Coastal Plains

Commodity Futures Trading Commission
NOTICES
36577 Meetings; Sunshine Act

Community Planning and Development, Office of Assistant Secretary
NOTICES
Authority delegations:
36524 Area managers; community development block grant programs, funds reallocation procedures

Customs Service
RULES
36376 Petroleum and petroleum products, imported; standardized public gaugers guidelines for monitoring
NOTICES
Customhouse cartman license revocation:
36575 Diaz, Warren G., Sr.

Defense Department
See also Army Department.
PROPOSED RULES
Improving Government regulations:
36432 Regulatory agenda

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
36359 Normal business practices rule; credit terms
PROPOSED RULES
Petroleum allocation and price regulations:
36427 Alaska North Slope crude oil entitlements; hearing change

Education Department
NOTICES
Grant applications and proposals, closing dates:
36469 Territorial teacher training assistance program
Meetings:
36467 Women's Educational Programs National Advisory Council
36466 Women's Educational Programs National Advisory Council and Vocational Education National Advisory Council

Employment and Training Administration
NOTICES
Comprehensive Employment and Training Act programs:
36564 Reallocation of funds; prime sponsors

Employment Standards Administration
NOTICES
36748 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (D.C., Kans., Md., Minn., Miss., Mo., Mont., N.Y., N. Dak., Pa., Va., W.Va., Wisc.)

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Southeastern Power Administration.
RULES
Outer Continental Shelf oil and gas leasing:
36784 Fixed net profit share bidding system and accounting procedures for determining net profit share payments
PROPOSED RULES
36428 Building temperature restrictions, emergency; alternate plans by owners or operator, etc.; proposed program revisions and hearings; correction
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
36469 Japan and European Atomic Energy Community; correction
36470 Uranium mill tailings remedial actions project; request for expressions of interest in tailings remilling

Environmental Protection Agency
RULES
Air pollution control, new motor vehicles and engines:
36396 Motor vehicle recalls; remedial plan interpretation
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
36398 Inert ingredients; CFR correction
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
36437 Evaporative emission standards, certification and test procedures; gasoline-fueled heavy-duty vehicles, 1983 and later model years; hearing
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
36439 Aluminum hydroxide
36438 Inert ingredients in pesticide formulations
NOTICES
Grants, State and local assistance:
36521 Treatment works construction; Innovative and Alternate Technology Assessment Manual, availability
Pesticide registration, cancellation, etc.:
36521 MKG Red Squill Mouse Tracking Powder et al.
Pesticides; experimental use permit applications:
36520 Elanco Products Co. et al.
36520 Union Carbide Corp. et al.
Pesticides: tolerances in animal feeds and human food:
36519 Domain, Inc.
36521 Monsanto Co.

Equal Employment Opportunity Commission
RULES
36396 Equal employment opportunity in the Federal government; comment period extended for inerim rules
PROPOSED RULES
36431 Employment discrimination and reproductive hazards; interpretive guidelines; extension of time
NOTICES
36577 Meetings; Sunshine Act

Federal Communications Commission
NOTICES
36577, 36580 Meetings; Sunshine Act (2 documents)

Federal Contract Compliance Programs Office
PROPOSED RULES
36431 Employment discrimination and reproductive hazards; interpretive guidelines; extension of time

Federal Emergency Management Agency
RULES
Flood elevation determinations:
36403 Connecticut et al.
Flood insurance; communities eligible for sale:
36400 Arkansas et al.

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
36375 Incremental pricing; small existing industrial boiler fuel users; definition and permanent exemption; extension of deadlines for filing exemption affidavits
PROPOSED RULES
Electric utilities and natural gas companies:
36428 Annual reports (Forms 1–F and 2–A); elimination of unnecessary data requirements
NOTICES
Hearings, etc.:
36473 Amoco Production Co.
36474 Consumers Power Co.
36474 Great Plains Gasification Associates et al.
36474 Montana Dakota Utilities Co. et al.
36475 Natural Gas Pipeline Co. of America
36475 Northern Natural Gas Co.
36476 Northwest Pipeline Corp.
36580 Meetings; Sunshine Act
Natural Gas Policy Act of 1978:
36477, 36495 Jurisdictional agency determinations (2 documents)

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
36361 Borrowing; liberalization and simplification of limitations on associations and institutions
36371 Mortgage, sale of and participation in; "without recourse" definition
NOTICES
Receiver, appointment:
36522 Continental Savings & Loan Association

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
36393 Home mortgages; interest rates
36394 Multifamily housing; construction financing interest rates
36840 Mutual mortgage and home improvement loans, and condominium ownership; modified graduated payment mortgages
36395 Nursing homes and intermediate care facilities; eligibility requirements; definitions
36392 Property improvement and mobile home loans, etc.; interest rates

Federal Labor Relations Authority
RULES
36349 Case processing; Washington, D.C., Regional Office, address and telephone numbers

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
36522 Reed Ocean Freight Forwarding

Federal Reserve System
NOTICES
Applications, etc.:
36522 Virginia National Bankshares, Inc.

Federal Trade Commission
RULES
Prohibited trade practices:
36372 Sears, Roebuck & Co., et al.
PROPOSED RULES
Prohibited trade practices:
36428 Bill Crouch Imports, Inc.; correction

Food and Drug Administration
RULES
Human subjects, protection:
36386 Prisoners involved in clinical investigation research activities
NOTICES
Food additives, petitions filed or withdrawn:
36523 Ciba-Geigy Corp.
Human drugs:
36523 Radioactive drugs; nuclear pharmacies describing activities requiring registration as drug establishment; interim enforcement policy proposed revocation guidelines availability; correction

Food Safety and Quality Service
PROPOSED RULES
36417 Food grading policy; options under consideration for major food commodities; advance notice

Forest Service
NOTICES
Meetings:
36462 Gospel-Hump Advisory Committee
36462 Humboldt National Forest Grazing Advisory Board

General Services Administration
RULES
Property management:
36399 Precious metal recovery; property rehabilitation services and facilities (Standard Form 291)
PROPOSED RULES
Conduct standards:
36441 Ethics in Government; post employment conflict of interest; administrative enforcement procedures
Improving Government Regulations:
36440 Regulatory agenda
NOTICES
Public utilities; hearings, etc.; proposed intervention:
36522 Florida Public Service Commission
36523 Senior Executive Service Performance Review Boards; membership

Geological Survey
NOTICES
36559 Floodplain management and wetlands protection; implementation; interim guidelines; inquiry
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
36558 Exxon Co., U.S.A.
36558 Tenneco Oil Exploration & Production (2 documents)
36558 Transco Exploration Co.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health Care Financing Administration
PROPOSED RULES
Medicare:
36443 Hospital insurance entitlement and benefits

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Social Security Administration.
RULES
Grants, administration:
36414 Audits, grantee and subgrantee; correction
Procurement:
36400 Anti-lobbying provision; prohibition against use of HHS funds to influence legislation or appropriations

Heritage Conservation and Recreation Service
NOTICES
36560 World heritage properties list; U.S. nominations inventory; meeting and inquiry

Housing and Urban Development Department
See also Community Planning and Development, Office of Assistant Secretary; Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
Low income housing:
36524 Certification of housing managers; list of approved certifying organizations

Immigration and Refugee Policy Select Commission
NOTICES
36575 Meetings

Indian Affairs Bureau
NOTICES
36525 Indian tribes, acknowledgment of existence; petitions

V 45 M Y 30 80 0 UMI

Land additions:
36525 Pueblo of Laguna Reservation

Interior Department
See Geological Survey; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Office.

Internal Revenue Service
PROPOSED RULES
Improving Government regulations:
36430 Regulatory agenda; correction
Income taxes:
36431 Charitable contributions of inventory and other property; deduction; hearing
NOTICES
Committees; establishment, renewals, terminations, etc.:
36576 Art Print Panel

International Trade Administration
NOTICES
Antidumping:
36464 Portable electric typewriters from Japan

Interstate Commerce Commission
RULES
Railroad car service orders:
36415 Burlington Northern Inc.
PROPOSED RULES
Practice and procedure:
36460 Railroad cost recovery; filing of general rate increases; advance notice; extension of time
NOTICES
Motor carriers:
36562 Finance applications

Justice Department
See also National Institute of Justice.
NOTICES
36563 Newspaper operating agreement; Chattanooga News-Free Press Co. and Times Printing Co.; application for approval
Pollution control; consent judgments:
36563 United States Steel Corp.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Federal Contract Compliance Programs Office; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
36654 Buckbee Mears Co.
36565 Vecellio & Grogan, Inc.

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
36527 Doyon, Ltd.
36527 Gana-a 'Yoo, Ltd.
Applications, etc.:
36530 Wyoming
Coal leases, exploration licenses, etc.:
36530 Colorado
36530 Montana
Jurisdictional transfer:
36526 Tucson Magnetic Observatory Site, Ariz.
Opening of public lands:
36531 Colorado (2 documents)
Outer Continental Shelf; oil and gas lease sales:
36531 Gulf of Mexico
36526 Northern and Central California; hearings change
Wilderness areas; characteristics, inventories, etc.:
36525 Arizona
Withdrawal and reservation of lands, proposed, etc.:
36531 Utah

Legal Services Corporation
RULES
36414 Eligibility for legal assistance; maximum income levels
NOTICES
36580 Meetings; Sunshine Act

Maritime Administration
NOTICES
Applications, etc.:
36464 Boston VLCC Tankers, Inc. IV
36465 Richmond Tankers, Inc.; extension of time
Trustees; applicants approved, disapproved, etc.:
36465 Marine Midland Bank, N.A.

Merit Systems Protection Board
NOTICES
Organization, functions, and authority delegations:
36566 Secretary; records custody, scheduling of hearings, extension of time requests, etc.

Minimum Wage Study Commission
NOTICES
36567 Meetings

Minority Business Development Agency
NOTICES
36465 Financial assistance application announcements

National Institute of Justice
NOTICES
Grants solicitation, competitive research:
36563 Probation and alternatives in Maryland; experimental study

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
36460 Foreign fishing; assessment of fees; advance notice
NOTICES
Marine mammal permit applications, etc.:
36466 Sea Lions Promotions Ltd.
Meetings:
36466 Gulf of Mexico Fishery Management Council
36466 Pacific Fishery Management Council; cancellation

National Science Foundation
NOTICES
Meetings:
36567 Advisory Council
36568 Engineering and Applied Science Advisory Committee
36568 Ocean Sciences Advisory Committee

Neighborhood Reinvestment Corporation
NOTICES
36580 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
36569 Mississippi Power & Light Co. et al.
Meetings:
36568 Reactor Safeguards Advisory Committee

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans:
36565 Prohibition on transactions; exemption proceedings, applications, hearings, etc.

Personnel Management Office
RULES
Excepted service:
36347 Air Force Department (2 documents)
36347 Entire executive civil service; Young Adult Conservation Corps program
36348 Health, Education, and Welfare Department (4 documents)
36347 National Aeronautics and Space Administration
PROPOSED RULES
Excepted service:
36416 Entire executive civil service; stay-in-school program
36416 Transportation cost entitlements; increase in daily mileage allowance schedule and public transportation offset amount

Regulatory Council
NOTICES
36844 Regulatory calendar for Federal agencies

Rural Electrification Administration
NOTICES
Loan guarantees, proposed:
36462 Corn Belt Power Cooperative

Securities and Exchange Commission
RULES
36374 Proxy disclosure, contests involving liquidation of issuer equity; staff interpretation
NOTICES
Hearings, etc.:
36570 Aetna Life Insurance and Annuity Co.
36572 Berkshire Capital Fund, Inc.
36573 Dupee, Paul R., Jr.
36574 Middle South Utilities, Inc.

Social Security Administration
RULES
Home energy costs:
36810 Low income energy assistance program; interim regulations

Southeastern Power Administration
NOTICES
36471 Cumberland Basin projects; interim power rates

Surface Mining Office
NOTICES
Coal mining and reclamation plans:
36561 Great National Corp.

Trade Representative, Office of United States
NOTICES
Import quotas:
36570 Color television receivers from Taiwan, Korea, and Japan; inquiry
36569 International trade agreements (Tokyo Round); determinations

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service.

Veterans Administration
NOTICES
Meetings:
36576 Educational Allowances Station Committee
36576 Health Service, Research and Development Merit Review Board

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service—
36427 Meetings, 7–1–80 and 7–10–80
Forest Service—
36462 Gospel-Hump Advisory Committee, 6–23–80
Forest Service—
36462 Humboldt National Forest Grazing Advisory Board, 7–18–80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
36466 Gulf of Mexico Fishery Management Council, Scientific and Statistical Committee, 6–19 and 6–20–80

DEFENSE DEPARTMENT
Army Department—
36467 Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects, 6–24–80

EDUCATION DEPARTMENT
36467 Women's Educational Programs National Advisory Council, 6–16, 6–17, and 6–18–80
36468 Women's Educational Programs National Advisory Council, Vocational Education National Advisory Council, 6–16–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
36523 Research Scientist Development Review Committee, 6–18, 6–19, and 6–20–80

MINIMUM WAGE STUDY COMMISSION
36567 Meeting 6–10–80

NATIONAL ENDOWMENT FOR THE ARTS
36567 National Council on the Arts, Expansion Arts Panel 6–17, 6–18, and 6–19–80

NATIONAL SCIENCE FOUNDATION
36567 Advisory Council Steering Committee, 6–17–80

36568 Engineering and Applied Science Advisory Committee, 6–16–80
36568 Ocean Sciences Advisory Committee, Review of Warm Core Rings Ad Hoc Subcommittee, 6–19 and 6–20–80

NUCLEAR REGULATORY COMMISSION
36568 Reactor Safeguards Advisory Committee, General Electric Test Reactor, 6–16 and 6–17–80

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY
36575 Meeting, 6–18–80

VETERANS ADMINISTRATION
36576 Educational Allowances Station Committee, 6–26–80
36576 Health Services Research and Development Merit Review Board, 6–2 and 6–3–80

CANCELLED MEETING

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
36466 Pacific Fishery Management Council, Scientific and Statistical Committee, Groundfish Subpanel, 6–10, 6–11 and 6–12–80, cancelled

HEARINGS

ENVIRONMENTAL PROTECTION AGENCY
36437 Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines, 6–25–80

TREASURY DEPARTMENT
Internal Revenue Service—
36431 Special rule for the deduction of certain charitable contributions of inventory and other property, 7–15–80, outlines of oral arguments by 7–1–80

CHANGED HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
365427 Treatment of Alaska North Slope Crude Oil under entitlements program; 6–2–80, location change

INTERIOR DEPARTMENT
Land Management Bureau—
36526 Outer Continental Shelf; Changes in schedule of public hearing regarding proposed OCS oil and gas lease sale No. 53 offshore northern and central California, scheduling changes

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Ch. XIV 36349
213 (8 documents) 36347–36348
Proposed Rules:
213 36416
591 36416

7 CFR
910 36349
915 36350
944 36350
953 36353
1036 36354
Proposed Rules:
Ch. XXVIII 36417

9 CFR
92 36358
Proposed Rules:
1 36427
2 36427
3 36427

10 CFR
210 36359
376 36784
390 36784
Proposed Rules:
211 36427
490 36428

12 CFR
526 36361
531 36361
544 36361
545 36361
561 (2 documents) 36361, 36371
563 36361

16 CFR
13 36372
Proposed Rules:
13 36428

17 CFR
241 36374

18 CFR
282 36375
Proposed Rules:
141 36428
260 36428

19 CFR
4 36376
144 36376
151 36376
159 36376

21 CFR
50 36386

24 CFR
201 36392
203 (2 documents) 36393, 26840
207 36394
213 (2 documents) 36393, 36394
220 36394
221 36394
232 (2 documents) 36394, 36395
234 (2 documents) 36393, 36840
236 36394
241 36394
242 36394
244 36394

26 CFR
Proposed Rules:
Ch. I 36430
1 36431

29 CFR
1613 36396
Proposed Rules:
1603 36431

32 CFR
Proposed Rules:
Ch. I 36432
Ch. V 36432
Ch. VI 36432
Ch. VII 36432

33 CFR
Proposed Rules:
Ch. II 36432

36 CFR
Proposed Rules:
Ch. III 36432

40 CFR
85 36396
180 36398
Proposed Rules:
86 36437
180 (2 documents) 36438, 36439

41 CFR
3–1 36400
3–7 36400
101–42 36399
Proposed Rules:
Ch. 101 36440
Ch. 105 36440
60–20 36431
105–735 36441

42 CFR
Proposed Rules:
405 36443
408 36443
409 36443
440 36443

44 CFR
64 36400
67 36403

45 CFR
74 36414
260 36810
1611 36414

49 CFR
1033 36415
Proposed Rules:
1102 36460

50 CFR
Proposed Rules:
611 36460

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Rules and Regulations

Federal Register
Vol. 45, No. 106
Friday, May 30, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; National Aeronautics and Space Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions of Program Coordinator/Counselor at grades GS–7/9/11 for part-time and summer employment in connection with the NASA High School Students Summer Research Apprenticeship Program are excepted under Schedule A because it is impracticable to examine for them.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: John Pennington, NASA, 202–755–3340.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3148(f) is added as set out below:

§ 213.3148 National Aeronautics and Space Administration.

* * * * *

(f) Positions of Program Coordinator/Counselor at grades GS–7/9/11 for part-time and summer employment in connection with the High School Students Summer Research Apprenticeship Program.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–16509 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service: Department of the Air Force

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service fifteen positions of Criminal Investigator and Intelligence Research Specialist, GS–11 through GS–14, in the Air Force Office of Special Investigations, Department of the Air Force, because it is impracticable to hold competitive examination for these positions. This amendment increases the numerical limitations and changes the grade level coverage of these positions which were previously excepted under this Schedule A authority.

EFFECTIVE DATE: April 15, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joseph M. Young, Department of the Air Force, 202–694–2739.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3109(f)(1) is revised as set out below:

§ 213.3109 Department of the Air Force.

* * * * *

(f) Air Force Office of Special Investigations.

(1) Fifteen positions of Criminal Investigator and Intelligence Research Specialist, GS–11 through GS–14, for employment not to exceed April 30, 1984, on projects concerned with the security of national defense activities and materials.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–16510 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Schedule A authority for positions as needed not in excess of GS–13, whose incumbents will implement the Young Adult Conservation Corps program, is amended to include those positions that are to be paid out of funds allocated under other appropriated funds receiving direct benefits. This Schedule A exception is still appropriate because it continues to be impracticable to examine for these positions.

EFFECTIVE DATE: February 6, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Bernie Akin, U.S. Department of Agriculture, 202–235–8037.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3102(hh) is revised to read as follows:

§ 213.3102 Entire Executive Civil Service.

* * * * *

(hh) Positions as needed not in excess of GS–13, whose incumbents will implement the Young Adult Conservation Corps program and are to be paid out of funds allocated under title VIII of the Comprehensive Employment and Training Act of 1973, as amended, or other appropriated funds receiving direct benefits. Employment under this authority is not to exceed September 30, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–16511 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service: Department of the Air Force

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment removes the numerical limitation of Instructors of Music (Choirmasters) on the staff of the U.S. Air Force Academy, Colorado, which are currently excepted from the competitive service because it is

impracticable to examine for these positions.

EFFECTIVE DATE: April 2, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joseph M. Young, Department of the Air Force, 202–694–2739.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3109(d)(1) is revised as set out below:

§ 213.3109 Department of the Air Force.

* * * * *

(d) *U.S. Air Force Academy, Colorado.*

(1) Positions of Cadet Hostesses, Instructors in Physical Education, and Instructors in Music (Choirmasters).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–16512 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service: Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This transfers the organizational coverage of two previously authorized excepted employment authorities which were for the Social Security Administration to the Office of the Secretary. One authority excepts from the competitive service 195 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees; provided that new appointments shall be limited to Cuban refugees. The other authority excepts from the competitive service 64 positions directly concerned with the Indochinese Refugee Program Staff; employment under this authority may not exceed September 30, 1981. These exceptions are granted because it is impractical to competitively examine for these positions.

EFFECTIVE DATE: February 21, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Edward Hicks, Department of Health, Education, and Welfare, 202–472–3776.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3116 (d)(4) and (d)(5) are revoked, and paragraphs (k)(2) and (k)(3) are added to read as follows:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(d) *Social Security Administration*

* * * * *

(4) [Revoked.]

(5) [Revoked.]

* * * * *

(k) *Office of the Secretary.* * * *

(2) Not to exceed 195 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees: *Provided,* That new appointments shall be limited to Cuban refugees.

(3) Not to exceed 4 positions on the Indochinese Refugee Program Staff. Service under this authority may not exceed September 30, 1981.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958, Comp. p. 218)

[FR Doc. 80–16513 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; Public Health Service

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: Hospital Administration Resident positions at grade GS–9 in the National Institutes of Health's Clinical Center in Bethesda, Maryland, are excepted under Schedule A because it is impracticable to examine for them. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, Office of Personnel Management, 202–632–4533.

Accordingly, 5 CFR 213.3116(b)(12) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(b) Public Health Service. * * *

(12) Hospital Administration Resident positions at GS–9 in the National Institutes of Health's Clinical Center, Bethesda, Maryland. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–16514 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority for positions of Student Dietitian and Resident Physician at Freedman's Hospital because the authority is no longer used.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3116(b) is amended as follows:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(b) *Public Health Service.* * * *

(7) [Revoked.]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–16515 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment extends through June 30, 1981, the Schedule A exception of 30 positions at GS–15 and below on the staff of the White House Conference on Families. Schedule A exception is still appropriate because it continues to be impracticable to examine for these positions.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Ed Hicks, Department of Health, Education, and Welfare, 202–472–3776.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3116(e)(2) is revised to read as follows:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(e) *General.* * * *

(2) Thirty positions at GS–15 and below for employment not to exceed June 30, 1981, on the staff of the White House Conference on Families.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80–16516 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV

Change in Current Regional Address

AGENCY: The Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Final rule.

SUMMARY: This rule amends Appendix A, paragraph (d)(3) (45 FR 3522) of the final rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 45 FR 3482, to establish a new address and telephone numbers for the Authority's Washington, D.C. Regional Office, pending its move to a permanent location.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT:

D. Randall Frye, Assistant General Counsel (202)–632–6284.

SUPPLEMENTARY INFORMATION: Effective January 17, 1980, the Authority, General Counsel and Panel published, at 45 FR 3482, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. These rules and regulations are required by Title VII of Civil Service Reform Act of 1978.

Appendix A, paragraph (d) of the rules and regulations (45 FR 3522) sets forth the current office addresses and telephone numbers of the Regional Directors of the Authority. The Authority's Washington, D.C. Regional Office has changed its address and telephone numbers presently noted in paragraph (d)(3) of Appendix A.

Accordingly, Appendix A, paragraph (d)(3) of the Authority, General Counsel, and Panel rules and regulations (45 FR 3482) is amended, in part, to read as follows:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(3) *Washington Regional Office*—1133 15th Street, NW., Suite 300, Washington, D.C. 20005. Telephone: FTS—653–8452. Commercial—(202)–653–8452.

* * * * *

(5 U.S.C. 7134)

Dated: May 27, 1980.

Federal Labor Relations Authority.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

Leon B. Applewhaite,

Member.

H. Stephan Gordon,

General Counsel.

[FR Doc. 80–16501 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–19–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 254]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 1–7, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 27, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.554 Lemon Regulation 254.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 1, 1980, through June 7, 1980, is established at 305,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 28, 1980.

record 1,250,000 bushels, compared with

that (1) shipment of the current crop of

Dated: May 28, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16724 Filed 5-29-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 915 and 944

[Florida Avocado Regulation 22; Avocado Import Regulation 28]

Avocados Grown in South Florida; Fruits; Import Regulations; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations specify minimum grade and maturity requirements for shipments of fresh avocados grown in South Florida, and for avocados imported into the United States, for the 1980–81 marketing season through April 30, 1981. Such action is necessary to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of growers and consumers.

EFFECTIVE DATES: § 915.322 Florida Avocado Regulation 22 effective May 30, 1980; § 944.20 Avocado Import Regulation 28 effective June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The avocado import regulation is issued under § 8e (7 U.S.C. 608e–1) of this act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program. Notice of these proposed regulations was published in the **Federal Register** (45 FR 29843; 33643), on May 6, 1980. No comments were received during the 15 days provided in the notice.

These grade and maturity requirements reflect the Department's appraisal of the need for regulating avocados during the 1980–81 season, based on the available supply and market demand conditions. Shipments of 1980–81 season fresh Florida avocados are expected to amount to a record 1,250,000 bushels, compared with 1,016,862 shipped in 1979–80, 894,375 in 1978–79, and 411,024 in 1977–78. Shipment of this season's avocado crop is expected to begin with light shipments of early varieties in late May, but volume shipments will not begin until late June or early July. California is currently producing an avocado crop estimated at 2,636,000 bushels for the season ending October 31. Relatively small quantities of avocados were imported into the U.S. last season, with the majority from the Dominican Republic.

These regulations establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color would also be authorized as a method of determining maturity, for those varieties which turn red or purple when mature. The requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity so they provide consumer satisfaction, which is essential for the successful marketing of the crop. They are also designed to provide the trade and consumers with an adequate supply of mature avocados of acceptable quality, in the interest of producers and consumers pursuant to the declared policy of the act.

The avocado import regulation is issued under section 8e of the act, which requires that when specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that the following grade and maturity requirements are necessary to establish and maintain orderly marketing conditions, that they are in accordance with the provisions of this marketing agreement and order, and that they will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making them effective as specified in that (1) shipment of the current crop of avocados grown in South Florida is expected to begin on or about May 26, 1980, and these regulatory provisions should be applicable, insofar as practicable, to all such shipments, as well as to imported avocados, in order to effectuate the declared policy of the act; (2) the Florida avocado regulation was recommended by the committee following discussion at a public meeting on April 2, 1980; (3) Florida avocado handlers have been apprised of these regulatory provisions for 1980–81 season shipments of Florida avocados; (4) notice of these proposed regulations was published in the **Federal Register** (45 FR 29843; 33643) on May 6, 1980, and no comments were received during the 15 days provided; (5) the regulatory provisions for Florida avocados and imported avocados are the same as those in the notice; (6) the import requirements are mandatory under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and they should become effective at nearly the same time as is reasonably practicable as the domestic requirements; (7) the import regulation imposes the same grade and comparable maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under Florida Avocado Regulation 22; and (8) three days notice thereof, the minimum prescribed by section 8e, is provided with respect to this import regulation.

This final rule has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Telephone: 202–447–5975.

Therefore, new §§ 915.322 and 944.20 are added to read as follows: (§§ 915.322 and 944.20 expire April 30, 1981, and will not be published in the annual Code of Federal Regulations).

§ 915.322 Florida Avocado Regulation 22.

(a)(1) During the period May 30, 1980, through April 30, 1981, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided,* That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR Part 915), for the handling of avocados between

the production area and any point outside thereof;

(2) On and after the effective date of this regulation, except as otherwise provided in subparagraphs (8) and (9) of this paragraph, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with subparagraphs (3), (4), (5), (6), and (7) hereof;

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is at least the diameter specified for such variety in said Column 7;

(6) Except as otherwise provided in subparagraphs (8) and (9) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to June 30, 1980.

(ii) From June 30, 1980, through July 27, 1980, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From July 28, 1980, through August 31, 1980, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 1, 1980, through September 28, 1980, individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(7) Except as otherwise provided in subparagraphs (8) and (9) of this paragraph, varieties of avocados not covered by subparagraphs (2) through (6) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 15, 1980.

(ii) From September 15, 1980, through October 12, 1980, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 13, 1980, through December 14, 1980, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(8) Notwithstanding the provisions of subparagraphs (2) through (7) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided,* That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in subparagraphs (6), and (7) of this paragraph. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(9) The provisions of subparagraphs (2) through (8) of this paragraph shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

Table I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kosel	May 26, 1980	16 oz.	June 9, 1980	13 oz.	June 23, 1980		
Arue	May 26, 1980	16 oz.	June 9, 1980	14 oz. 3 9/16 in.	July 14, 1980		
Roland 2–2	June 9, 1980	22 oz.	June 23, 1980	20 oz.	July 14, 1980		
J. M. Poropat	June 16, 1980	20 oz.	June 23, 1980	18 oz.	July 14, 1980	16 oz.	July 28, 1980
Fuchs	June 16, 1980	14 oz. 3 9/16 in.	June 30, 1980	12 oz. 3 9/16 in.	July 14, 1980		
Dr. DuPuis #2	June 16, 1980	16 oz. 3 9/16 in.	June 30, 1980	14 oz. 3 9/16 in.	July 14, 1980	12 oz. 3 9/16 in.	July 28, 1980
K–5	June 23, 1980	18 oz. 3 9/16 in.	July 7, 1980	14 oz. 3 9/16 in.	July 21, 1980		
Hardee	June 30, 1980	16 oz. 3 9/16 in.	July 7, 1980	14 oz. 2 11/16 in.	July 28, 1980		
Pollock	June 30, 1980	18 oz. 3 1/16 in.	July 14, 1980	16 oz. 3 9/16 in.	July 28, 1980	14 oz. 3 9/16 in.	Aug. 11, 1980
Simmonds	June 30, 1980	16 oz. 3 9/16 in.	July 14, 1980	14 oz. 3 9/16 in.	July 28, 1980	12 oz. 3 9/16 in.	Aug. 11, 1980
Nadir	June 30, 1980	14 oz. 3 9/16 in.	July 7, 1980	12 oz. 3 9/16 in.	July 14, 1980	10 oz. 2 11/16 in.	July 28, 1980
Katherine	June 30, 1980	16 oz.	July 14, 1980	14 oz.	July 28, 1980		
Haile	June 30, 1980	20 oz.	July 14, 1980	16 oz.	July 21, 1980	14 oz.	Aug. 11, 1980
Donnie	July 7, 1980	16 oz. 3 9/16 in.	July 21, 1980	14 oz. 3 9/16 in.	Aug. 18, 1980		
Ruehle	July 14, 1980	18 oz. 3 1/16 in.	July 21, 1980	16 oz. 3 9/16 in.	July 28, 1980	14 oz. 3 9/16 in.	
Ruehle					Aug. 11, 1980	12 oz. 3 9/16 in.	Aug. 25, 1980
Dawn	July 14, 1980	12 oz. 3 9/16 in.	July 28, 1980	10 oz. 3 9/16 in.	Aug. 11, 1980		
Webb–2	July 14, 1980	18 oz.	July 28, 1980	16 oz.	Aug. 11, 1980		
Cash	July 14, 1980	16 oz.	Sept. 29, 1980				
Alpha	July 21, 1980	16 oz. 3 9/16 in.	Aug. 11, 1980				
Biondo	July 21, 1980	13 oz.	Aug. 25, 1980				
Peterson	July 21, 1980	14 oz. 3 9/16 in.	Aug. 4, 1980	10 oz. 3 9/16 in.	Aug. 18, 1980		
232	July 28, 1980	14 oz.	Aug. 11, 1980	12 oz.	Aug. 25, 1980		
Gretchen	July 28, 1980	14 oz.	Aug. 11, 1980	12 oz.	Aug. 25, 1980		
Trapp	July 28, 1980	14 oz. 3 1/16 in.	Aug. 11, 1980	12 oz. 3 9/16 in.	Aug. 25, 1980		
B&B	July 28, 1980	16 oz. 3 9/16 in.	Sept. 1, 1980				
Pinelli	July 28, 1980	18 oz. 3 1/16 in.	Aug. 11, 1980	16 oz. 3 9/16 in.	Aug. 25, 1980		
Miguel	July 28, 1980	22 oz. 3 1/16 in.	Aug. 11, 1980	20 oz. 3 1/16 in.	Aug. 25, 1980	18 oz. 3 1/16 in.	Sept. 8, 1980
Nesbitt	July 28, 1980	22 oz. 3 1/16 in.	Aug. 11, 1980	18 oz. 3 9/16 in.	Aug. 18, 1980	16 oz. 3 9/16 in.	Sept. 1, 1980
Chapple	July 28, 1980	18 oz.	Aug. 25, 1980				
Waldin	Aug. 11, 1980	16 oz. 3 9/16 in.	Aug. 25, 1980	14 oz. 3 9/16 in.	Sept. 8, 1980	12 oz. 3 9/16 in.	Sept. 22, 1980
Millie-D	Aug. 11, 1980	18 oz.	Sept. 8, 1980				

Table I—Continued

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Shula	Aug. 11, 1980	22 oz	Sept. 1, 1980				
Tonnage	Aug. 11, 1980	16 oz, 3 9/16 in	Aug. 25, 1980	14 oz, 3 9/16 in	Sept. 1, 1980	12 oz, 3 9/16 in	Sept. 8, 1980.
Beta	Aug. 11, 1980	18 oz, 3 9/16 in	Aug. 18, 1980	16 oz, 3 9/16 in	Sept. 8, 1980		
K-9	Aug. 11, 1980	16 oz	Sept. 1, 1980				
Gorham	Aug. 11, 1980	29 oz, 4 9/16 in	Aug. 25, 1980	27 oz, 4 9/16 in	Sept. 8, 1980		
Tower-2	Aug. 11, 1980	14 oz, 3 9/16 in	Aug. 25, 1980	12 oz, 3 9/16 in	Sept 15, 1980		
The Franvee	Aug. 18, 1980	23 oz	Sept. 15, 1980				
Lisa	Aug. 18, 1980	12 oz, 3 9/16 in	Aug. 25, 1980	11 oz, 3 9/16 in	Sept 1, 1980		
Fairchild	Aug. 25, 1980	16 oz, 3 19/16 in	Sept. 8, 1980	14 oz, 3 9/16 in	Sept 22, 1980	12 oz, 3 9/16 in	Sept. 29, 1980.
Nirody	Aug. 25, 1980	18 oz, 3 13/16 in	Sept. 8, 1980	16 oz, 3 13/16 in	Sept. 22, 1980		
Loretta	Aug. 25, 1980	28 oz, 4 1/16 in	Oct. 6, 1980				
Catalina	Aug. 25, 1980	24 oz	Sept. 8, 1980	22 oz	Sept. 29, 1980		
Booth 8	Sept. 8, 1980	16 oz, 3 9/16 in	Sept. 29, 1980	14 oz, 3 9/16 in	Oct. 13, 1980	10 oz, 3 9/16 in	Oct. 27, 1980.
Black Prince	Sept. 8, 1980	23 oz, 3 15/16 in	Sept. 22, 1980	16 oz, 3 9/16 in	Oct. 13, 1980		
Blair	Sept. 8, 1980	15 oz, 3 9/16 in	Sept. 22, 1980	14 oz, 3 9/16 in	Oct. 13, 1980		
Booth 7	Sept. 8, 1980	18 oz, 3 15/16 in	Sept 22, 1980	16 oz, 3 13/16 in	Oct. 6, 1980	14 oz, 3 9/16 in	Oct. 20, 1980.
Csonka	Sept. 15, 1980	22 oz	Oct. 13, 1980				
Brooks 1978	Sept. 15, 1980	12 oz	Sept. 22, 1980	10 oz	Sept. 29, 1980	8 oz	Oct. 20, 1980.
Booth 5	Sept. 15, 1980	14 oz, 3 9/16 in	Sept 29, 1980	12 oz, 3 9/16 in	Oct. 13, 1980		
Marcus	Sept. 15, 1980	32 oz, 4 13/16 in	Sept. 29, 1980	24 oz, 4 9/16 in	Nov. 10, 1980		
Collinson	Sept. 22, 1980	16 oz, 3 13/16 in	Oct. 20, 1980				
Chica	Sept. 22, 1980	12 oz, 3 1/16 in	Oct. 6, 1980	10 oz, 3 9/16 in	Oct. 20, 1980		
Rue	Sept. 22, 1980	30 oz, 4 9/16 in	Sept. 29, 1980	24 oz, 3 13/16 in	Oct. 13, 1980	18 oz, 3 9/16 in	Oct. 27, 1980.
Hickson	Sept. 22, 1980	12 oz, 3 1/16 in	Oct. 6, 1980	10 oz, 3 9/16 in	Oct. 20, 1980		
Simpson	Sept. 29, 1980	16 oz, 3 9/16 in	Oct. 20, 1980				
Vaca	Sept. 29, 1980	16 oz, 3 9/16 in	Oct. 20, 1980				
Sherman	Sept. 29, 1980	16 oz	Oct. 13, 1980				
Choquette	Sept. 29, 1980	24 oz, 4 1/16 in	Oct. 13, 1980	14 oz	Oct. 27, 1980	10 oz	Nov. 17, 1980.
Booth 10	Oct. 6, 1980	16 oz, 3 13/16 in	Nov. 3, 1980	20 oz, 3 15/16 in	Oct. 27, 1980	16 oz, 3 9/16 in	Nov. 10, 1980.
Avon	Oct. 6, 1980	15 oz, 3 13/16 in	Oct. 27, 1980				
Booth 11	Oct. 6, 1980	16 oz, 3 13/16 in	Oct. 27, 1980				
Leona	Oct. 6, 1980	18 oz, 3 13/16 in	Oct. 20, 1980				
Winslowson	Oct. 6, 1980	18 oz, 3 13/16 in	Oct. 27, 1980				
Nelson	Oct. 6, 1980	14 oz, 3 9/16 in	Oct. 20, 1980	12 oz, 3 9/16 in	Nov. 3, 1980	10 oz, 3 1/16 in	Nov. 24, 1980.
Hall	Oct. 6, 1980	26 oz, 3 15/16 in	Oct. 20, 1980	20 oz, 3 9/16 in	Nov. 3, 1980	18 oz, 3 9/16 in	Nov. 17, 1980.
Lula	Oct. 13, 1980	18 oz, 3 13/16 in	Oct. 27, 1980	14 oz, 3 9/16 in	Nov. 10, 1980	12 oz, 3 9/16 in	Nov. 24, 1980.
Herman	Oct. 13, 1980	16 oz, 3 9/16 in	Oct. 27, 1980	14 oz, 3 9/16 in	Nov. 10, 1980		
Murphy	Oct. 13, 1980	16 oz	Oct. 27, 1980	14 oz	Nov. 10, 1980	11 oz	Dec.1, 1980.
Ajax (B-7)	Oct. 20, 1980	18 oz, 3 13/16 in	Nov. 10, 1980				
Booth 3	Oct. 20, 1980	16 oz, 3 9/16 in	Oct. 27, 1980	14 oz, 3 9/16 in	Nov. 10, 1980		
Taylor	Oct. 20, 1980	14 oz, 3 9/16 in	Nov. 3, 1980	12 oz, 3 9/16 in	Nov. 17, 1980		
Dunedin	Nov. 3, 1980	16 oz, 3 19/16 in	Nov. 17, 1980	14 oz, 3 9/16 in	Dec. 1, 1980	10 oz, 3 1/16 in	Dec. 22, 1980.
Byars	Nov. 10, 1980	16 oz, 3 13/16 in	Dec. 1, 1980				
Monroe	Nov. 10, 1980	24 oz, 4 1/16 in	Nov. 24, 1980	20 oz, 3 13/16 in	Dec. 8, 1980	16 oz, 3 9/16 in	Dec. 22, 1980.
Linda	Nov. 10, 1980	18 oz, 3 13/16 in	Dec. 1, 1980				
Nabal	Nov. 10, 1980	14 oz, 3 9/16 in	Dec. 1, 1980				
Booth 1	Nov. 17, 1980	16 oz, 3 13/16 in	Dec. 1, 1980				
Zio	Nov. 24, 1980	12 oz, 3 1/16 in	Dec. 8, 1980	12 oz, 3 9/16 in	Dec. 15, 1980		
Wagner	Dec. 1, 1980	12 oz, 3 9/16 in	Dec. 15, 1980	10 oz, 2 13/16 in	Dec. 22, 1980		
Schmidt	Dec. 1, 1980	16 oz	Dec. 29, 1980	10 oz, 3 9/16 in	Dec. 29, 1980		
Meya	Dec. 22, 1980	13 oz, 3 9/16 in	Jan. 5, 1981				
Brookslate	Dec. 29, 1980	14 oz, 3 9/16 in	Jan. 19, 1981	11 oz, 3 9/16 in	Jan. 19, 1981		
Itzamna	Feb.9, 1981	12 oz	Feb. 16, 1981	12 oz, 3 9/16 in	Feb. 2, 1981	10 oz	Feb. 16, 1981.

(b) Terms used in the amended marketing order, when used herein, have the same meaning as is given to the respective term in said marketing order; the term "diameter" shall mean the greatest dimension measured at right angles to a straight line from the stem to the blossom end of the fruit; and the term "U.S. No. 3" shall have the same meaning as set forth in the United States standards for Florida Avocados (7 CFR 2851.3050–2851.3069).

(c) The provisions of this regulation shall become effective May 30, 1980.

§ 944.20 Avocado Import Regulation 28.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period June 2, 1980, through April 30, 1981, unless such avocados meet the following minimum grade and maturity requirements:

(1) All avocados imported during the period June 2, 1980, through April 30, 1981, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to June 30, 1980; (ii) from June 30, 1980, through July 13, 1980, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 1/16 inches in diameter; (iii) from July 14, 1980, through July 27, 1980, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 7/16 inches in diameter; and (iv) from July 28, 1980, through August 10, 1980, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 9/16 inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to August 25, 1980, (ii) from August 25, 1980, through September 7, 1980, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 8, 1980, through September 28, 1980, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to July 28, 1980; (ii) from July 28, 1980, through August 10, 1980, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 19/16 inches in diameter; and (iii) from August 11, 1980, through August 24, 1980, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 7/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to June 30, 1980; (ii) from June 30, 1980, through July 27, 1980, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from July 28, 1980, through August 31, 1980, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 1, 1980, through September 28, 1980, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided,* That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 15, 1980; (ii) from September 15, 1980, through October 12, 1980, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 13, 1980, through December 14, 1980, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided,* That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Certification (7 CFR 944.400).

(c) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(d) It is hereby found that the application of the maturity restrictions being imposed, pursuant to Order No. 915 (7 CFR Part 915), upon avocados grown in south Florida to imported avocados, other than of the Pollick, Catalina, and Trapp varieties is not practicable because of variations in characteristics between the domestic and imported avocados; and the maturity restrictions applicable to imported avocados other than of the Pollock, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados and the maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties are the same as those being imposed upon the domestic commodity.

(e) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(f) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(g) The terms relating to grade, as used herein, shall have the same meaning as when used in the United States Standards for Florida Avocados (7 CFR 2851.3050–2851.3069). "Diameter" shall mean the greatest dimension measured at right angles to a straight line from the stem to the blossom end of the fruit. "Importation" means release from custody of the United States Customs Service.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 23, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16370 Filed 5-29-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 953

Irish Potatoes Grown in the Southeastern States; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina to be inspected and meet minimum grade and size requirements. The regulation is needed to promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: June 5, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter (202) 447–2615.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the May 6, 1980, **Federal Register** (45 FR 29846). The notice afforded interested persons through May 21, 1980, to file written comments on the proposal. None was filed.

This regulation is based upon recommendations made by the committee at its public meeting in Norfolk, Virginia, on April 10, 1980.

These grade and size requirements are the same as those issued for the production area during past seasons. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. The requirements will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided when certain of these requirements would be inappropriate or unreasonable.

Shipments to certain special purpose outlets need not meet the grade, size, and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Shipments for use as livestock feed are exempt because requirements for this outlet differ from those for fresh market. Since no purpose would be served by regulating potatoes used for charity, such shipments also are exempt. Also, potatoes for most processing uses

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are exempt under the legislative authority for this part.

Again this season the minimum quantity exempt from inspection requirements is five hundredweight. This should relieve any burden on handling noncommercial quantities of potatoes and allow direct marketing outlets to operate in greater freedom.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following handling regulation will tend to effectuate the declared policy of the act by setting the minimum grade, size and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date of June 5, 1980, (2) to maximize benefits to producers, the regulation should apply to as many shipments as possible during the marketing season, and (3) handlers under this part should be able to complete by June 5, 1980, all preparations to comply with the regulation, which is similar to those of previous marketing seasons.

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." A Final Impact Analysis has been prepared and is available upon request from Charles W. Porter (202) 447–2615.

Section 953.319 (44 FR 29642, May 21, 1979) is hereby terminated and § 953.320 is added. The regulation is as follows:

§ 953.320 Handling regulation.

During the period June 5 through July 31, 1980, no person shall ship any potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d), or (e) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1⅛ inches (38.1 mm) minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e) of this section, no handler shall ship any potatoes unless the Federal-State Inspection Service has issued an inspection certificate covering them and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as defined under paragraph (f) of this section, livestock feed, or charity, except that the handler of the potatoes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler shipping potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee about the potatoes intended for such a special purpose by applying on a committee form for a Certificate of Privilege;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on a committee form a special purpose shipment report for each such shipment; and

(4) Forward copies of each special purpose shipment report to the committee office and to the receiver with instructions that each receiver sign and return a copy to the committee office. Failure of the handler or receiver to report all such shipments by promptly signing and returning each special purpose shipment report to the committee office shall be cause for suspension of the Certificate of Privilege allowing such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" means the same as when used in the U.S. Standards for Grades of Potatoes as amended (7 CFR 2851.1540–2851.1566), including the tolerances set forth in it. The term "other processing" means the same as when used in the act as amended, in which it is specified as the preparation of potatoes for market involving the application of heat or cold to such an extent that the natural form or stability of the potatoes is substantially changed. This includes use of potatoes for dehydration, chips, shoestrings, starch, and flour. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section have the same meanings as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated May 23, 1980, to become effective June 5, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16432 Filed 5-29-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1036

[Milk Order No. 36; Docket No. AO-179-A44]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changing present order provisions is based on industry proposals which were considered at a public hearing held August 14–16, 1979. The amendments change the funding rate for the advertising and promotion program from a fixed 5 cents per hundredweight to 0.75 percent of the producers' pay price in the market. Producers who do not want to participate in the program would submit one refund request per year instead of one for each calendar quarter. Refunds would be made on a monthly basis rather than quarterly. Another amendment would eliminate the channeling of a handler's payments to individual producers through the market administrator's office if the handler is not delinquent with respect to any payment obligation under the order. Also, the late payment charge on any overdue payment obligation of a handler would be due to the administrative expense fund. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

EFFECTIVE DATE: The order provisions set forth herein shall become effective July 1, 1980, except that the provisions amending § 1036.120 and the new paragraphs (e) and (f) of § 1036.121 shall become effective on June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing: issued July 20, 1979; published July 26, 1979 (44 FR 43735). Recommended Decision: issued March 14, 1980; published March 20, 1980 (45 FR 18013). Extension of Time for Filing Exceptions: issued April 4, 1980; published April 9, 1980 (45 FR 24167). Final Decision: issued May 5, 1980; published May 9, 1980 (45 FR 30638).

FINDINGS AND DETERMINATIONS: The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order partially effective not later than June 1, 1980. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Marketing Program Operations, was issued March 14, 1980, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued May 5, 1980. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order partially effective not later than June 1, 1980, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interest of producers as defined in the order as hereby amended;

(3) The issuance of the order amending the order except for the advertising and promotion program, is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) The issuance of the order amending the order relative to provisions of the advertising and promotion program is approved or favored by a least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1036.31, the introductory text of paragraph (a) is revised to read as follows:

§ 1036.31 Payroll reports.

(a) On or before the 18th day after the end of each month, each handler who pays producers pursuant to § 1036.73(a) shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month:

* * * * * *

2. In § 1036.32, the introductory text of paragraph (a) and the introductory text of paragraph (c) are revised to read as follows:

§ 1036.32 Other reports.

(a) On or before the 22nd day of each month each delinquent handler pursuant to § 1036.73(c) shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

* * * * * *

(c) On or before the 8th day after the end of each month, each delinquent handler (pursuant to § 1036.73(c)), shall report to the market administrator the following information with respect to receipts of milk during such month.

* * * * * *

3. Section 1036.61 is revised to read as follows:

§ 1036.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports prescribed by § 1036.30 for the month and who were not in default of payments to the market administrator pursuant to § 1036.71 for the preceding month;

(b) Deduct the amount of the plus location adjustments and add the amount of the minus location adjustments which are applicable pursuant to § 1036.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which

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(2) The total hundredweight for which a value is computed pursuant to § 1036.60(e);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price".

(f) For the months of January through March and August, subtract from the weighted average price computed in paragraph (e) of this section the withholding rate for the Advertising and Promotion program as computed in § 1036.121(e). The result shall be the "uniform price" for the applicable month.

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) From the remaining amount in paragraph (g) of this section subtract for each of the months of April through July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (d)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but not to exceed 25 cents;

(i) To the remaining amount in paragraph (g) of this section add for each of the months of September, October and November one-fourth of the total amount subtracted pursuant to paragraph (h) of this section and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(j) Divide the resulting sum by the hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the Advertising and Promotion program as computed in § 1036.121(e); and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers for the applicable month.

4. In § 1036.70, paragraph (a) is revised to read as follows:

§ 1036.70 Producer-settlement fund.

(a) The market administrator shall establish and maintain a separate fund known as the "Producer-settlement fund", into which he shall deposit the payments made by handlers pursuant to §§ 1036.71, 1036.76 and 1036.77 and from which he shall make all payments pursuant to §§ 1036.72, 1036.73 and 1036.77.

* * * * *

5. In § 1036.71, paragraphs (a), (b), (c) and (d) are revised to read as follows:

§ 1036.71 Payments to the market administrator.

(a) Subject to paragraph (d) of this section, each handler operating a pool plant shall pay to the market administrator on or before the day prior to the last day of each month an amount determined by multiplying the Class III price for the preceding month (adjusted by the butterfat differential, if the handler so elects) by the following receipts during the first 15 days of such month:

(1) Producer milk from producers whose payments are authorized to be collected by a cooperative association;

(2) Bulk fluid milk products by transfer or diversion from a pool plant operated by a cooperative association; and

(3) Milk from a cooperative association in its capacity as a handler pursuant to § 1036.9(c) that also operates a pool plant.

(b) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 17th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1036.60(a) as adjusted by the butterfat differential specified in § 1036.74 and pursuant to § 1036.60(b) through (e), less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month;

(2) Payments to be made pursuant to § 1036.73(a) and (c) for producer milk received during such month; and

(3) The value at the weighted average price applicable at the location of the plants from which received with respect to other source milk for which a value is computed pursuant to § 1036.60(e).

(c) Subject to paragraph (d) of this section, each handler operating a pool plant who receives bulk fluid milk products by transfer or diversion from a pool plant operated by a cooperative association, or who receives milk from a cooperative association in its capacity as a handler pursuant § 1036.9(c) that also operates a pool plant, shall pay to the market administrator, on or before the 17th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1036.42 by the applicable class price, as adjusted by the butterfat differential specified in § 1036.74, less any payment made by the handler pursuant to paragraphs (a) (2) and (3) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant.

(d) The following conditions shall apply with respect to the payments prescribed in paragraphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator;

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business; and

(3) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1036.73(b).

* * * * *

6. Add a new § 1036.72 to read as follows:

§ 1036.72 Payments from the producer-settlement fund.

Subject to § 1036.73(c), on or before the 18th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the net pool obligation pursuant to § 1036.60 for such handler is less than the value at the uniform price, as adjusted pursuant to § 1036.75 of such handler's receipts or producer milk.

7. In § 1036.73, paragraphs (a) through (d) are revised to read as follows;

§ 1036.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (f) of this section, each handler shall make payment to each producer (whose payments are not authorized to be collected by a cooperative association) as follows:

(1) On or before the last day of the month, to each producer who has not discontinued delivery of to such handler, not less than the amount determined by multiplying the pounds of producer milk received from such producer during the first 15 days of the month by the Class III price for the preceding month, less proper deductions authorized by the producer; and

(2) On or before the 18th day after the end of the month, to each producer not less than the amount determined by multiplying the pounds of producer milk

received from such producer during the month by the uniform price as adjusted pursuant to §§ 1036.74 and 1036.75, less the following amounts;

(i) The payment made pursuant to paragraph (a)(1) of this section for such month;

(ii) Proper deductions authorized by the producer;

(iii) Any marketing service deduction pursuant to § 1036.86; and

(iv) If before such date the handler has not received full payment from the market administrator pursuant to § 1036.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this section following the date on which the remaining payment is received from the market administrator.

(b) Subject to paragraphs (e) and (f) of this section, the market administrator shall pay to each cooperative association:

(1) On or before the last day of each month for milk for which payment pursuant to § 1036.71(a) has been received by the market administrator; and

(2) On or before the 18th day after the end of each month for milk for which payment is received by the market administrator pursuant to § 1036.71. Such payment shall be at the applicable uniform price for the month, subject to the following adjustments:

(i) Any applicable adjustments pursuant to §§ 1036.74 and 1036.75; and

(ii) Less the payments made pursuant to paragraph (b)(1) of this section.

(c) Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to make payments directly to producers for its receipts of producer milk pursuant to paragraph (a) of this section. Any such payments due producers (except any amount due pursuant to § 1036.72) shall be made to the market administrator on or before the day prior to the dates specified in paragraph (a) of this section. The market administrator shall, in turn, pay such producers the amounts so received from the handler plus any amounts due such producers pursuant to § 1036.72. This payment arrangement shall be followed until the handler has met all prescribed payment obligations for three consecutive months.

(d) In making payments to producers pursuant to paragraphs (a) and (c) of this section each producer shall be furnished the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

* * * * *

§ 1036.76 [Amended]

8. In § 1036.76(b)(4), the words "plus 5 cents" are deleted.

9. Section 1036.78 is revised to read as follows:

§ 1036.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1036.71, 1036.73, 1036.76, 1036.77, 1036.85, and 1036.86 shall be increased 1 percent beginning on the first day after the due date of such obligation and on the same day of each succeeding month until such obligation is paid. All such charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

§ 1036.85 [Amended]

10. In the introductory text of § 1036.85, the term "16th" is changed to "17th".

11. Section 1036.86 is revised to read as follows:

§ 1036.86 Deductions for marketing services.

(a) Except as set forth in paragraphs (b) and (c) of this section, each handler or the market administrator in making payments to producers pursuant to § 1036.73 (a) and (c) shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk of such producer (except a handler's own-farm production) and shall pay such deductions to the market administrator not later than the 17th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section and for whom the cooperative is not authorized to collect payment for milk, each handler shall make in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers, and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

(c) In the case of producers for whom a cooperative association is not performing the services set forth in paragraph (a) but for whom the cooperative association is collecting payment for milk pursuant to § 1036.73(b) the market administrator shall make the deduction and perform the services specified in paragraph (a) of this section.

§ 1036.120 [Amended]

12. In § 1036.120, paragraphs (b), (c) and (d) are revised to read as follows:

* * * * *

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of June, September, December, March for milk to be marketed from the first of the immediately following month through the following June 30th.

(c) A dairy farmer who first acquires producer status under this part may, upon application filed with the market administrator pursuant to paragraph (a) of this section by the end of the month immediately following the month in which producer status is acquired, be eligible for refund on all marketings against which an assessment is withheld for the period through the following June 30th and if producer status is first acquired in June such producer shall be eligible for a refund on all marketings during June and the following 12-month period. Eligibility for refund under this paragraph shall not apply to a person who was a producer under a Federal order under which the same refund notification period applied and such person did not appropriately submit a refund application during such period.

(d) A producer who has appropriately filed request for refund of advertising and promotion program assessments on his marketings of milk under another Federal order shall be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk under this order against which an assessment is withheld until the opportunity exists for such producer to request a refund pursuant to paragraph (b) of this section.

13. In § 1036.121, the introductory text of paragraph (b) and paragraph (b)(2) and (3) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1036.121 Duties of the market

Signed at Washington, D.C., on May 27,

§ 1036.121 Duties of the market administrator.

* * * * *

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who made application for such refund pursuant to § 1036.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

* * * * *

(e) As soon as possible after April of each year, compute the rate of withholding by multiplying the simple average of the uniform prices for the 12-month period ending April 30 by 0.0075 and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with July of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674

Effective date: The order provisions set forth herein shall become effective July 1, 1980, except that the provisions amending § 1036.120 and the new paragraphs (e) and (f) of § 1036.121 shall become effective on June 1, 1980.

Signed at Waashington, D.C., on May 27, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 80-16524 Filed 5-29-80; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations to permit cattle from brucellosis certified free provinces of Canada to enter the United States on a similar basis as now provided for cattle from Canadian brucellosis certified free herds. The effect of this action is to allow cattle originating from provinces certified by Canadian Health of Animals authorities as free of brucellosis to enter the United States under less restrictive brucellosis requirements than are now presently provided.

EFFECTIVE DATE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782 (310) 436–8170. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Program Services Staff, Room 870, Federal Building, Hyattsville, MD 20782; 301–436–8695.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". On Tuesday, January 15, 1980, there was published in the **Federal Register** (45 FR 2849–2852) a proposed amendment to the regulations (Title 9, Code of Federal Regulations, Part 92) concerning the importation of cattle from provinces certified by the Canadian authorities as free of brucellosis.

A 30 day comment period was provided for receipt of comments which expired February 14, 1980. A total of two comments were received by the Department both of which endorsed the proposal. After due consideration of the two comments received, the Department has decided to publish the regulations as a final rule essentially as proposed, except to correct typographical errors, make minor editorial changes and to correct an inadvertent omission of part of redesignated § 92.20(c)(3). In the supplementary information of the proposal, the Department stated that present § 92.20(c)(2) would be redesignated § 92.20(c)(3). This paragraph was redesignated as indicated in the supplementary information. However, the Department inadvertently omitted the words "showing them to be such range cattle of the beef breeds and that they have been tested for brucellosis with negative results within 30 days preceding their offer for entry" from the test of redesignated § 92.20(c)(3) published in the **Federal Register** on January 15, 1980. This final rule corrects this error by placing the inadvertently omitted words into redesignated § 92.20(c)(3).

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.1, paragraph (r) is amended and paragraphs (v) and (w) are added to read:

§ 92.1 Definitions.

* * * * *

(r) *Brucellosis certified free herd.* A herd in which all eligible cattle in the herd were negative to brucellosis tests under the Canadian requirements and which is officially certified by the Canadian Government as a brucellosis free listed herd.

* * * * *

(v) *Brucellosis certified free provinces of Canada.* New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland (including Labrador), and British Columbia, known in Canada as brucellosis accredited free provinces.

(w) *Herd.* Any group of animals maintained on common ground for any purpose, or two or more groups of animals of the same species under common ownership or supervision, which are geographically separated, but among which there is an interchange or movement of animals without regard to health status.

2. In § 92.20(c) the first sentence of subparagraph (1) is deleted and the following inserted in lieu thereof:

§ 92.20 Cattle from Canada.

* * * * *

(c) * * *

(1) Cattle from herds designated as brucellosis certified free herds by the Canadian Government must comply with the provisions of this paragraph, paragraph (c)(2), paragraph (c)(4), or paragraph (c)(6) of this section to be imported into the United States. To comply with the provisions of this paragraph, such cattle must be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government.

* * * * *

3. In § 92.20(c), the reference to "paragraph (c)(2)" in the last sentence of subparagraph (c)(1) is changed to "paragraph (c)(3)."

4. In § 92.20(c) present subparagraphs (2), (3), (4), (5), and (6), are redesignated subparagraphs (3), (4), (5), (6), and (7), respectively, and a new subparagraph (2) is added to read:

* * * * *

(c) * * *

(2) Cattle from brucellosis certified free provinces of Canada must comply with the provisions of this paragraph, paragraph (c)(1), paragraph (c)(3), paragraph (c)(4), or paragraph (c)(6) of this section to be imported into the United States. To comply with the provisions of this paragraph, such cattle must be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government. The certificate shall show that the cattle originated from brucellosis certified free province of Canada, that the cattle imported have been tested for brucellosis with negative results within 30 days prior to their date of entry, and that the cattle originated from a herd that has been maintained as a herd unit for at least 1 year prior to their exportation. A herd unit is a herd in which all the cattle were born and raised within the herd or were moved directly from another herd located within the brucellosis certified free provinces of Canada, or were moved directly from a brucellosis certified free herd in accordance with Canadian requirements for movement into brucellosis certified free provinces of Canada. If any cattle in any herd show a positive reaction to a brucellosis agglutination test at any time, cattle from the herd shall not be imported into the United States unless, after such test, the cattle to be imported and the herd are negative to a brucellosis agglutination test and the cattle to be imported are accompanied by a certificate in accordance with this paragraph or the herd is designated by the Canadian Government as a brucellosis certified free herd. Cattle to be imported into the United States from brucellosis certified free provinces of Canada shall be (A) shipped entirely within the boundaries of the brucellosis certified free provinces of Canada from the farm of origin directly to the United States ports of entry of Houlton, Maine, Blaine, Sumas, Lyndon, and Oroville, Washington, and Eastport, Idaho; or (B) such cattle shall be shipped in a vehicle sealed with Canadian Government seals. If the cattle to be imported are shipped in sealed vehicles, the seal numbers shall be recorded on the certificate, and the seals may only be broken by a United States port veterinarian at the United States port of entry.

* * * * *

5. In § 92.20(c), the first sentence of redesignated subparagraph (3) is deleted and the following inserted in lieu thereof.

* * * * *

(c) * * *

(3) Cattle of the beef breeds raised under range conditions in the western provinces of Canada must comply with the provisions of this paragraph, paragraph (c)(2), paragraph (c)(4), or paragraph (c)(6) of this section to be imported into the United States. To comply with the provisions of this paragraph, such cattle must be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be such range cattle of the beef breeds and that they have been tested for brucellosis with negative results within 30 days preceding their offer for entry.

6. In § 92.20(c), the first sentence of redesignated subparagraph (4) is deleted and the following inserted in lieu thereof.

* * * * *

(c) * * *

(4) All cattle imported from Canada must comply with the provisions of this paragraph, paragraph (c)(1), paragraph (c)(2), paragraph (c)(3), or paragraph (c)(6) of this section to be imported into the United States. To comply with the provisions of this paragraph, cattle must be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that the cattle originated from a herd which is officially certified by the Canadian Government as a brucellosis qualified for export herd.

7. In § 92.20(c), the reference to "paragraphs (c)(1), (2), and (3)(i)", in the last sentence of redesignated subparagraph (4)(i) are changed to "paragraphs (c)(1), (3), and (4)(i)".

8. In § 92.20(c), the references to "paragraph (c)(3)(i)" in redesignated subparagraph (4)(ii) are changed to "paragraph (c)(4)(i)".

9. In § 92.20(c), the reference to "paragraph (c)(5)" in redesignated subparagraph (5) is changed to "paragraph (c)(6)".

10. In § 92.20(c), the reference to "paragraphs (c)(1), (2), and (3)(i)" in the first sentence of redesignated subparagraph (6) is changed to "paragraphs (c)(1), (2), (3), and (4)(i)".

11. In § 92.20(c), redesignated subparagraph (7) is amended to read:

* * * * *

(c) * * *

(7) All cattle to be imported from Canada which originate from a brucellosis certified free herd, a brucellosis certified free province of Canada or a brucellosis-qualified for export herd shall move directly to the United States port of entry without contact with cattle which are not from a brucellosis certified free herd or a brucellosis certified free province of Canada or a brucellosis-qualified for export herd.

* * * * *

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, and 134f); 37 FR 28464, 28477, 38 FR 19141)

Done at Washington, D.C., this 21st day of May 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-16462 Filed 5-29-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 210

[Docket No. ERA-R-80-13]

General Allocation and Price Rules; Normal Business Practices Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Normal Business Practices Rule in § 210.62(a) of the General Allocation and Price Rules in light of a regulation adopted by the Federal Reserve Board. This amendment provides that the rule prohibiting suppliers from imposing more stringent credit terms or payment schedules on purchasers than those in effect during the base period (for seasonal credit) or on May 15, 1973 (for other credit terms) shall not apply to the extent that the Federal Reserve Board provides for different terms of credit pursuant to its authority to regulate extensions of credit under the Credit Control Act of 1969.

EFFECTIVE DATE: April 2, 1980.

FOR FURTHER INFORMATION CONTACT: William F. Funk or Sue D. Sheridan, Office of General Counsel, Department of Energy, 1000

Independence Avenue, S.W., Room

On April 14, 1980 the Board made a

Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585 (202) 252–6754.
William Webb, Office of Public Information, Department of Energy 2000 M Street, N.W., Room B–110, Washington, D.C. 20461 (202) 653–4055.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendment Adopted
III. Procedural Requirements

I. Background

Section 210.62(a) of the Department of Energy's General Allocation and Price Rules (10 CFR 210.1 *et seq.*), titled "Normal Business Practices", among other things currently states that suppliers of petroleum products are prohibited from imposing more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser during the base period (for seasonal credit) or on May 15, 1973 (for other credit terms).

On March 14, 1980, the Federal Reserve Board (Board) adopted a consumer credit restraint program that requires certain creditors to maintain a special deposit in a Federal Reserve bank if their consumer credit increases above a certain amount. The intent of this program was to create a financial incentive for these creditors to restrain their credit extensions. Gasoline company credit cards were specifically mentioned by the Board in its release.

The Normal Business Practices rule, while not prohibiting the deposit required by the Board if suppliers' credit increased above the trigger amount, did prohibit suppliers subject to the rule from imposing more stringent credit terms to avoid the increased level of credit and consequently the need to make the deposit. Moreover, several States have laws establishing lengthy notice requirements before changes in credit terms or credit cards can be made.

Because DOE's rule and the State notice laws frustrated achievement of the goals of the March 14, 1980 regulation, the Board amended its regulations on April 2, 1980 to authorize three types of changes in credit terms by open-end consumer creditors "notwithstanding the provision of any other law." As reflected in the Board's preamble to this amendment, the Department of Energy interprets this amendment adopted pursuant to the Credit Control Act (12 U.S.C. 1091–1909) as implemented by Executive Order 12201, to supersede the Normal Business Practices rule to the extent the amendment is legally inconsistent with the rule.

On April 14, 1980 the Board made a change to its April 2 amendment, expanding its coverage to closed-end open accounts maintained by consumer creditors.

II. Amendment Adopted

As explained above, the Department of Energy interprets the Board's action as superseding the prohibition on stricter credit terms contained in § 210.62(a), to the extent that they are inconsistent. In order to reflect this interpretation in our regulations, we are adopting, effective April 2, 1980 an interpretative amendment to that section.

This amendment makes clear that the prohibition on stricter credit terms does not apply to those certain stricter credit terms expressly authorized by the Board. Stricter credit terms not authorized by the Board would still be prohibited by the Normal Business Practices rule. Moreover, other aspects of the Normal Business Practices rule, such as the requirement that credit terms are part of the May 15, 1973 price charged to a class of purchaser, remain in full effect.

We also intend to issue a notice of proposed rulemaking proposing further changes to the Normal Business Practices Rule. In particular, we are considering proposing a rule that would eliminate ERA's role in regulating retail credit practices. We believe it is appropriate to propose this action in view of the President's credit control initiatives designed to restrain the growth of consumer credit, and in view of our stated intention to decontrol motor gasoline as soon as market conditions allow. The Emergency Petroleum Allocation Act of 1973, as amended (EPAA), the statutory basis for controls, expires in September 1981. The proposed changes, therefore, may be viewed as an appropriate step towards the eventual elimination of controls on gasoline.

III. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Act, we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined to determine that it may significantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A copy of this rule was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable effect on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), (42 U.S.C. 4321 *et seq.* Pub. L. 91–190 as amended), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. Section 501 of the DOE Act

Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b), (c) and (d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, United States Code.

This amendment to § 210.62(a) raises no substantial issues of fact or law. Nor is the amendment likely to have a substantial impact on the Nation's economy, since it serves only to clarify the relationship that already exists between regulations adopted by the Federal Reserve Board and the § 210.62(a) of DOE's rules. Therefore, the amendment shall be promulgated in accordance with section 553 of Title 5, United States Code.

E. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act requires generally that a notice of proposed rulemaking be published in the **Federal Register**. In addition, section 553(d) requires generally that rules be published for at least 30 days prior to their effective date. The Act provides however, that these sections do not apply to interpretative rules. As noted previously, the amendment to § 210.62(a) is being adopted in order to clarify the impact of the Federal Reserve Board's recently adopted consumer credit regulations on the DOE Normal Business Practices rule. As such, this rule is interpretative in nature and is therefore exempt from the requirements of sections 553(b) and (d).

F. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures define "insignificant" regulations as those which are not expected to affect important policy concerns or to engage much public interest.

The amendment to § 210.62(a) is being adopted solely to clarify the relationship between the Federal Reserve Board's consumer credit regulations and the DOE Normal Business Practices rule. We do not expect this interpretative rule to engage much public interest.

We find, therefore, that this amendment to § 210.62(a) does not invoke the 60 day advance public comment requirement of Executive Order 12044.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, we hereby amend Part 210 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., May 23, 1980.

Douglas G. Robinson,
Acting Administrator, Economic Regulatory Administration.

Section 210.62(a) is amended to read as follows:

§ 210.62 Normal business practices.

(a) Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter. "Summer fill" programs and other "dating" or seasonal credit programs are among the normal business practices which must be maintained by a supplier under this paragraph, if that supplier had such programs in effect during the base period. Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973 price charged to a class of purchaser under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for allocated products, as customarily associated with that class of purchaser during the base period (for seasonal credit), or on May 15, 1973 (for other credit terms). However, except as otherwise expressly authorized by the Federal Reserve Board, no supplier may require or impose more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser during the base period (for seasonal credit), or on May 15, 1973 (for other credit terms).

* * * * *

[FR Doc. 80–16486 Filed 5–29–80; 8:45 am]
BILLING CODE 6450–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 526, 531, 544, 545, 561, and 563

[No. 80–328]

Federal Savings and Loan Associations and Institutions Amendments Concerning Borrowing

Dated: May 22, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The amendments liberalize and simplify limitations on borrowing by Federal savings and loan associations and institutions insured by the Federal Savings and Loan Insurance Corporation. The amendments are intended to provide greater authority and flexibility to borrow and issue securities, while continuing to assure that borrowing activity does not adversely affect the safety and soundness of insured institutions.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION, CONTACT: Dale Riordan, Director, Office of Policy and Economic Research (202–377–6750), Richard G. Marcis, Chief Economist (202–377–6752), Douglas P. Faucette, Senior Associate General Counsel (202–377–6410) or John R. Hall, Attorney (202–377–6466), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Board Resolution No. 79–541, dated October 25, 1979, the Federal Home Loan Bank Board proposed a revision of the regulations applicable to borrowing by Federal savings and loan associations and institutions insured by the Federal Savings and Loan Insurance Corporation.

Summary of the Proposal

The following changes were proposed: (1) Section 563.8 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.8) would be amended to authorize an insured institution to borrow in an amount up to 50 percent of its assets. Under existing regulations an insured institution's total borrowing may not exceed 50 percent of the total of its shares, share accounts, savings accounts, stock, certificates of deposit, and investment certificates ("savings").

(2) Total outside borrowing, i.e., borrowing from sources other than a Federal Home Loan Bank or state-chartered central reserve institution, by an insured institution would be authorized in an amount up to 20 percent of assets. Under existing regulations, general outside borrowing is limited to 10 percent of savings, with additional outside borrowing in the form of mortgage-backed bonds that meet the requirements of § 563.8–2 ("conforming mortgage-backed bonds") permitted in an amount up to an additional 5 percent of savings.

(3) The proposal specifically solicited comments on whether reverse repurchase agreements used for arbitraging purposes should be treated as borrowings.

(4) Section 563.8–2 would be deleted, thereby removing the distinction between "conforming" and "non-conforming" mortgage-backed bonds.

Also the definition of mortgage-backed

The notification to the Supervisory

conforming mortgage backed bonds. The

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Also the definition of mortgage-backed bonds in § 561.24a would be deleted.

(5) In place of present limitations on issuance of mortgage-backed bonds, and in view of the proposed general expansion of authority to engage in secured borrowing and the need to protect the interest of the Federal Savings and Loan Insurance Corporation ("the Corporation"), the proposed amendments included a new limitation providing that no more than 20 percent of an insured institution's assets may be pledged as security for its outside borrowings. The proposed amendments did not, however, include a limit on collateralization of individual issues, because the Board believes market forces would impose such limits.

(6) In order to ensure that savings institutions observe prudent standards in incurring liabilities, an additional restriction regarding "bunching" of maturities was proposed. Present § 526.10 of the Regulations for the Federal Home Loan Bank System (12 CFR 526.10) provides that no more than 30 percent of a member institution's total savings accounts may mature in any consecutive three months. It was proposed to modify that limitation to include outside borrowing in the 30 percent limitation.

(7) Under proposed § 563.8, if a sale of mortgages or participations therein includes an agreement that the seller will repurchase mortgages after a specified period, the transactions would be considered a borrowing for purposes of borrowing and collateral limitations provided only outstanding current loans were to be repurchased and no substitution of collateral were required.

(8) The following requirements presently included in § 563.8–2 and applicable to conforming mortgage-backed bonds would be included in revised § 563.8 and given more general applicability as follows: (a) For any outside borrowing with an original maturity in excess of one year which is secured by mortgage loans, the obligation would be required to provide for the Corporation to receive notification of default and an opportunity to repurchase or otherwise acquire any collateral that is sold or otherwise disposed of; (b) Each security, regardless of maturity, evidencing outside borrowing would be required to contain a notice that the security is neither a savings account nor insured by the Corporation; and (c) For any outside borrowing with an original maturity in excess of one year, an insured institution would be required to file with the Supervisory Agent a notice of intent to issue.

The notification to the Supervisory Agent would be required to include all information presently required to be provided with a notice of intent to issue a conforming mortgage-backed bond under § 563.8–2. The information includes the principal amount of the debt to be issued, interest rate range, price range, maturity, minimum denomination, prepayment provisions, description of collateral if any, trustee provisions if any, and events and remedies of default. In addition, approval of any provisions of the obligation which restrict, conditionally or otherwise, the operations of the institution would be required.

The proposed procedure for Supervisory Agent review would be similar to the procedure provided in § 563.8–2 with the following changes: (a) the Supervisory Agent would have ten, rather than five, business after notice is filed to object to issuance of the securities; and (2) The basis for objection would be that the Supervisory Agent finds that terms or covenants of the proposed issue place unreasonable burdens on, or convey to the security holder undue control over, the operation of the association. As in present § 563.8–2, if issuance is deemed unobjectionable, the insured institution would have 120 days to issue its securities. If objection is taken by the Supervisory Agent, the matter would be promptly submitted to the Corporation for decision.

(9) The following requirements that are now applicable to issuance of mortgage-backed bonds were proposed to be deleted: (1) Issuing institutions must have scheduled items not exceeding 2.5 percent of specified assets; (2) All appraised losses must be offset by specified loss reserves; (3) The institution's income for its last three fiscal years must be at least double its total debts servicing requirement for bonds issued under § 563.8–2; (4) The minimum maturity of such bonds must be at least 5 years; (5) The maximum required principal repayment may not be more than 20 percent per year; and (6) The mortgage pool must meet certain requirements regarding its composition.

(10) The requirement in present § 563.8 that no insured institution may issue a secured borrowing with an original stated maturity in excess of one year unless the institution meets the net worth requirements of § 563.13(b) would be retained.

(11) Subject to specified exceptions, the proposed minimum authorized denomination of securities evidencing outside borrowings would be $100,000. That minimum is consistent with the present minimum applicable to conforming mortgage-backed bonds. The following exceptions to that minimum were proposed: (1) Subordinated debentures issued under § 563.8–1 would be required to conform to the requirement of that section, i.e., a minimum denomination of $50,000; (2) Securities issued in a private placement to institutional investors and securities constituting evidence of a borrowing from a commercial bank would not be subject to minimum denomination requirements; and (3) A minimum denomination of $10,000 would apply to securities that are not offered or sold at any office of the insured institution or its affiliates or through general advertising, and to securities that may be sold only after purchasers have been furnished an offering circular that is in compliance with the regulations.

(12) Consistent with the present requirement in § 563.8–2 applicable to issuance of mortgage-backed bonds, the proposal would require that no statement made in connection with the offer, sale, or issuance of a security be false, misleading, or lacking any material fact.

(13) Additional requirements would be applicable to offering circulars for securities with $10,000 minimum denominations. First, each offering circular would be required to be submitted to the Board's Office of General Counsel for review and declared effective before it could be furnished to purchasers. Second, each offering circular would be required to be in a form satisfactory to the Corporation and, at minimum, contain information in detail comparable to that required under the Securities Act of 1933, General Form of Registration S–1 and Item 7 of Form PS as prescribed in Part 563b of the Rules and Regulations for Insurance of Accounts. Third, each offering circular would be required to include the insured institution's latest audited annual statement of condition, audited statements of operation for each of its last three years, and its latest unaudited statements of condition and operation on a comparative basis. Financial statements would be required to be prepared in accordance with part 563c of the Rules and Regulations for Insurance of Accounts.

(14) Sections 544.2 and 545.24 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 544.2 and 545.24) would be revised to give Federal associations flexibility to borrow and issue securities as provided in §§ 563.7–2 and 563.8 for state-chartered insured institutions.

(15) Section 563.8–1 would be amended to authorize insured institutions to issue subordinated debt securities under that section without prior approval of the Corporation, provided such approval is subsequently granted. Eligibility requirements would be required to be met on the date of approval. Under the definition of "net worth" in § 561.13(b), subordinated debt securities may be used to meet up to 20 percent of the annual closing net worth requirment in § 563.13(b), provided the securities are issued in accordance with § 563.8–1.

(16) Additional changes to § 563.8–1 would make requirements applicable to issuance of subordinated debt securities consistent with proposed requirements applicable generally to issuance of securities. Under present § 563.8–1 subordinated debt securities may be offered only in negotiated transactions and only if disclosure is provided as described therein. Under the proposed amendments, offering and disclosure would be required to be made in accordance with requirements of § 563.8. Special disclosure requirements applicable to offerings to noninstitutional investors would be deleted. Further, exceptions to minimum denomination requirements in § 563.8 would also be applicable to subordinated debt securities.

(17) Section 563.4 would be amended to exclude securities issued under § 563.8 from the requirement that all securities issued by an insured institution shall be made transferable only on the books of the insured institution.

(18) Section 563.6 would be amended to exclude securities issued in conformity with § 563.8 from the general prohibition of issuance of demand securities by insured institutions. Such a limitation applicable to securities issued under § 563.8 would unnecessarily encumber the borrowing activity of insured institutions.

(19) A conforming change would be made to § 563.3–3(i) to reflect the proposed rewording of the second sentence of § 563.8.

Fifty-seven comments were received on the proposal, and on the basis of those comments and other information available to it, the Board has determined to adopt the proposed revision with changes discussed below.

Summary of Major Comments

Comments recommending changes to the proposed revision are summarized below. Numbers following each heading refer to the proposed changes described above in the summary of the proposal.

A. Limitation on total borrowing (1)

Four commenters stated that the proposal to limit total borrowings to an amount equal to 50 percent of assets is too restrictive. They stated that all limits on the amount of total borrowings should be removed or at least increased to 65–70 percent of assets. They believe that unrestricted access to borrowings is essential for good cash flow management, and one commenter argued that, in an era of money market rate savings accounts, access to large borrowings reduces inherent interest rate risks.

Commenters stated that, because the policies of the Federal Home Loan Banks ("Banks") prohibit their making advances up to the maximum limit, the proposed 50 percent of assets limit on borrowings is actually lower than it appears. One commenter urged that the Board clarify that it would be appropriate for FHLBanks to make advances in excess of the 50 percent limit in case of supervisory problems or unusual disintermediation.

Board response. The Board believes the proposed 50 percent of assets limitation on total borrowings should not be further increased at this time, and the 50 percent limit is adopted as proposed. Institutions' current lending activity is well below the existing 50 percent of savings limitation. Any additional increase in the total borrowing limit should be considered on the basis of experience with the new limit.

B. Limitation on outside borrowing (2)

Nine commenters opposed the proposed 20 percent of assets limitation on outside borrowing and recommended that it be removed. Three commenters asserted that the Bank System does not have the capacity to make up the 30 percent difference between the proposed outside borrowing limit and the proposed total borrowing limit. They also asserted under that current Board policy Banks may not make advances available when an institution's level of liquidity is high, and under that policy, institutions would be unable to take full advantage of interest rate cycles. One commenter recommended reversal of the FHLBank policy prohibiting the use of advances to pay off outside borrowings. Commenters favored increased management flexibility and one commenter recommended removal of all limits on unsecured borrowings.

Board response. The Board has determined to delete the limitation on outside borrowing. Under the final regulation, all borrowing is subject to the 50 percent of assets limit on total borrowing, but institutions now have complete flexibility to determine the source of their borrowed funds. The Board believes this change will permit institutions to manage their liabilities according to their particular circumstances without unnecessary regulatory interference.

In view of this increased authority, the Board has determined to amend its Statement of Policy regarding advances by Federal Home Loan Banks to their members (§ 531.1 of the Regulations for the Federal Home Loan Bank System). The amendment clarifies Board policy with respect to advances made to members that have maturing outside borrowings. Under Board policy, a Federal Home Loan Bank must review with particular care applications for such advances. If, in the Bank's judgment, advances will be used to replace such borrowings, the advances may be granted, provided they are made pursuant to a firm commitment that the member has purchased for a nonrefundable fee prior to incurring the outside borrowings, and the advances are priced at least at a rate consistent with the cost of refinancing the borowings in the market. Before granting a firm commitment to make advances, a Bank must determine that the member has exercised prudence in its borrowing, particularly with respect to cash flow management and bunching of maturities.

The Board believes that, in exercising flexible liability management, an institution should make a careful cash flow projection, demonstrating the institution's ability to meet debt payments at maturity, with a margin for safety. If the institution intends to rely on Federal Home Loan Bank advances to refinance any part of maturing debt, arrangements should be made with the institution's Federal Home Loan Bank in accordance with § 531.1.

C. Maximum amount of assets pledged as collateral. (5)

Twenty-one commenters stated that the proposal to limit total collateral for outside borrowings to 20 percent of assets is unnecessarily restrictive. They noted that no such limitation is currently applicable to issuance of mortgage-backed bonds and that such debt, in order to be marketable, must be collateralized at a rate greater than one-to-one. Thus 20 percent of an institution's assets would be insufficient collaterial for the issuance of mortgage-backed bonds in an amount equalling 20 percent of assets. Commenters also noted that, since institutions prefer to use loans with low interest rates to secure borrowings and higher rate mortgages for sale, the book value of pledged mortgages generally exceeds market value. Thus, agreements requiring collateral amounts based on market value will require additional over-collateralization.

Seven commenters stated that for securities to receive favorable market

ratings collateral in amounts equalling

principle, it is necessary, among other

limits apply only if problems arise. One

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ratings collateral in amounts equalling 150–200 percent of debt is required. They note that, if interest rates rise, the market value of mortgages pledged as collateral falls, and additional collateral must be replaced as the principal amounts of the mortgages in the pool are paid down. Commenters raised the question of whether the proposed limit would affect collateral maintenance provisions in outstanding mortage-backed bonds.

Commenters noted that unsecured borrowings are more expensive than secured borrowings and may be impractical for smaller institutions.

Fourteen commenters recommended deletion of the 20 percent of assets collateral limit. Other commenters recommended that the maximum amount be increased to 30–50 percent.

Four commenters recommended that the limitation on pledged assets apply only to the issuance of a debt instrument, and not to subsequent maintenance of collateral.

Board response. The Board believes that total collateralization for outside borrowing should be limited and that the limit should provide sufficient flexibility for institutions wishing to increase lending activity, while continuing to encourage borrowing on an unsecured basis. The Board believes that, with elimination of the present regulatory limitations on additions and substitutions to a collateral pool securing mortgage-backed bonds and the use of more frequent collateral valuation dates, overcollateralization ratios in excess of 150 percent will no longer be required. However, the Board recognizes that the proposed 20 percent of assets limit could restrict the borrowing activity of a limited number of institutions, and therefore has determined to increase the limit to 25 percent of assets.

Any institution that now has pledged collateral for outstanding issues in excess of the 25 percent limit or that may exceed the limit in the future because of existing collateral maintenance requirements or requirements contained in agreements which are substantially completed prior to adoption of these amendments shall not be deemed in violation of the regulation as a result of those obligations. However, collateral pledged under such outstanding obligations shall be counted against the 25 percent limit in determining whether the institution may issue additional secured borrowings under the revised regulations.

In determining whether an issuance is substantially complete for the purpose of applying the foregoing "grandfather" principle, it is necessary, among other things, that a final agreement was executed within thirty days of adoption of the final regulation, an offering of the issuance was commenced prior to such enactment and the principal terms of the agreement, except as to price, were substantially the same as the terms approved by the board of directors of the subject association prior to the actual offering and execution of the agreement. Further, any mortgage-backed bond exempted from the 25 percent collateralization limit under the "grandfather" principle will be subject to the restrictions prescribed in paragraph (b) of § 563.8–2 as in effect prior to adoption of these amendments.

The Board notes, however, that any institution desiring a waiver of collateral replacement limits may apply for waiver under paragraph (g) of former § 563.8–2. The Board recognizes that, in the current economic climate, collateral replacement limits may be burdensome for certain institutions, and therefore, for institutions whose financial condition warrants such action, the Board will grant exceptions on a liberal basis.

In adopting the 25 percent limit on collateral that may be pledged to secure outside borrowings, the Board considered carefully whether the limitation should apply only at the time debt is incurred, or whether the limit should also restrict institutions in pledging additional collateral to secure outstanding debt. The Board determined that the limitation should apply to all assets pledged to secure borrowings. However, the Board will monitor carefully the effects of the limitation. If, and when, the pledged assets of a significant number of institutions approach the limit, the Board would consider whether a modification of the limitation may be warranted, based upon the additional experience developed with the use of the rule adopted today.

D. Bunching of maturities. (6)

Thirty-one commenters objected to the proposal to permit no more than 30 percent of total savings accounts and borrowings to mature in a 3-month period. Eleven commenters stated that the present requirement that not more than 30 percent of an institution's savings accounts mature in a 3-month period is too restrictive, in view of the increased number of 6-month money market certificates. Twelve commenters recommended that borrowings not be added to the present bunching limits and five commenters urged that all bunching limits be deleted. Three commenters recommended that cash management be maintained through the normal supervisory process, and that limits apply only if problems arise. One commenter suggested that a cash flow plan be provided to the Supervisory Agent when a notice of intent to issue securities with terms in excess of one year is submitted.

Commenters recommend that large borrowings, particularly mortgage-backed bonds that contain "put" and "call" options be given special treatment with respect to any limitation on bunching of maturities.

One commenter stated that careful planning of cash flow is more important than meeting a "numbers test" set by the Board.

Commenters recommended exclusion of short term debt from the proposed limit or an increase in the proposed limit by 5–15 percent. Other commenters recommended the bunching of maturities of debt, money market certificates, variable ceiling accounts, and jumbo accounts be limited separately. One commenter suggested shortening the present 3-month period on which bunching limitations are based.

Board response. The Board has determined to delete the present limitation on the distribution of maturities of certificate accounts (12 CFR 526.10) and to adopt a new limitation (12 CFR 563.8–3) with respect to the distribution of maturities of all types of liabilities. The new regulation is intended to ensure that each insured institution develops and pursues an effective program of overall liability management with appropriate cash-flow provisions that reflect its actual liabilities structure.

Such a program cannot rely totally on adherence to specific regulatory limitations. There should be strong emphasis on careful planning to provide funds for all types of liabilities, including Bank advances, other borrowings, and off balance sheet liabilities, such as loan commitments, as well as certificate maturities and expected savings outflows.

The program should ensure that the planned results are consistent with the institution's lending objectives, anticipated earnings performance, market area economics, cash-flow forecasts and other budget considerations. It should address advertising for savings funds and include planning for borrowings.

Under new § 563.8–3, if accepting additional certificate savings, or borrowing funds, or making additional investment or loan commitments will cause the aggregate of such liabilities of an insured institution maturing in any three-month period, less the amount of the institution's liquid assets, to exceed 30 percent of the institution's assets at the time the additional liability is incurred, the institution must submit to the Board's Principal Supervisory Agent notice, including a description of the institution's program of liability management (including underlying assumptions and supporting documents), sufficient to demonstrate the soundness of the institution's cash flow planning.

The Board believes such notification will provide early warning in cases where an insured institution has an uneven distribution of maturities of liabilities and inadequate provision for funding maturing liabilities. The notification requirement is also intended to encourage insured institutions to maintain sufficient cash-flow data and formulate adequate systems of liabilities management.

Under new § 563.8–3, an insured institution's aggregate liabilities maturing in a 3-month period, less the amount of its liquid assets, may not exceed 40 percent of its total assets, unless the institution obtains Corporation approval prior to incurring such liabilities. The Board presumes that such a heavy concentration of maturities in a quarter represents unsound liabilities management, and therefore no insured institution should incur such liabilities unless it is prepared to demonstrate to the Board the soundness of its cash-flow projections and its overall liabilities management system.

E. Sale of a mortgage pool with an obligation to repurchase loans outstanding at the end of a specified period. (7)

Six commenters stated that, if the sale of a mortgage pool provides for the selling institution to repurchase all current outstanding mortgages at the end of a specified period of time, it is unreasonable to require that the full amount of the potential repurchase obligation be counted as a borrowing, since the amount of the loans that will remain in the pool at the end of the specified period can be projected. The commenters recommended alternative limitations that would subject only a portion of the amount of the potential amount of the repurchase obligation to borrowing limitations.

One commenter recommended that the regulation specifically state that the existence of a call option in a sales agreement does not make any part of the sale a borrowing. One commenter recommended that no borrowing limitation apply to sales that include an agreement to repurchase loans after more than six years. Two commenters recommended that provisions for voluntary substitution be clearly excepted from borrowing limitations. Three commenters recommended that the regulation clearly indicate that only the amount which is subject to the repurchase obligation will be subject to borrowing limits.

Four commenters recommended that the regulations authorize sales agreements that require the selling institution to repurchase, at the end of a specified period, all loans, including loans that qualify as scheduled items. They argued that the anticipated number of scheduled items that will remain in a loan pool after a period of 6–8 years is minimal. Two commenters recommended that repurchase of scheduled items be permitted in amounts up to at least 5 percent of the pool.

Board response. The Board believes that borrowing and collateral limits should not apply to a sale of a mortgage pool that provides that the selling institution will repurchase all mortgages outstanding in the pool after a specified period, provided the repurchase price is the market value of the mortgages at the time of repurchase. Such an agreement involves a commitment to purchase mortgages, and the Board notes that an institution incurring such an obligation must manage its cash flow to assure that it will be prepared to meet its commitment. The Board believes, however, that a sales agreement that requires repurchase at par of current and outstanding mortgages after a specified period should be subject to borrowing limits and collateral limits to the extent of the total outstanding obligation to repurchase. An agreement that requires repurchase at par of mortgages that would be classified as scheduled items would, in the Board's view, be a sale with recourse and therefore prohibited.

F. Reverse repurchase agreements. (3)

Twenty-four commenters recommended excluding from borrowing limits reverse repurchase agreements that are used for arbitraging purposes. Commenters argued that such transactions are not really borrowings but simply the use of paid assets to earn additional income through money market spreads. They note that, at the end of the transaction, the original fully paid assets are automatically returned to the institution.

Six commenters recommended that the term "used for arbitraging purposes" be defined. One commenter recommended that the regulation require that the transactions be "matched date to date."

Board response. The Board believes that reverse repurchase agreements that are used only for arbitraging purposes should not be considered borrowings for purposes of limitations on borrowing and collateral.

Such agreements must consist of the following: (1) an institution sells security A from its portfolio with an agreement to repurchase security A on date X; (2) with the proceeds of the sale of security A the institution purchases security B, which matures on date X; (3) the return on security B for the period to maturity (date X) exceeds the net cost to the institution incurred in the sale and repurchase of security A; and (4) security A and security B qualify as short term liquid assets under § 523.10 of the Regulations for the Federal Home Loan Bank System.

G. Filing of notice of intent to engage in outside borrowings. (8)

Seven commenters objected to the proposed provision that the Supervisory Agent will have ten days to object to the issue of any outside borrowing instruments with a maturity over one year. They argue that any delay in the process of issuing securities can be costly to issuing institutions. Commenters noted that the present regulations allow only 5 days for supervisory objection to the issuance of mortgage-backed bonds. One commenter stated that seven days would provide sufficient time for review. Three commenters recommended that the notification requirement continue to apply only to mortgage-backed bonds.

One commenter recommended that the regulations clarify that a Supervisory Agent may approve the issuance before the end of the prescribed ten day period. Another commenter recommended that the regulations require the FSLIC to decide within 15 days after referral from the Supervisory Agent whether issuance will be permitted. This requirement would permit the issuing institution to begin correcting any problems as soon as possible. Three commenters believe that inclusion of the anticipated interest rate range and price of a proposed debt issue would adversely affect management's ability to negotiate with underwriters.

Board response. The Board has determined that the proposed requirement that a notice of intent to issue securities be submitted to the Supervisory Agent is unnecessary for institutions for which net worth meets the requirements of § 563.13(b) of the Regulations for Insurance of Accounts, and the ratio of scheduled items to specified assets does not exceed 2.5 percent.

However, the Board believes that such early notice is desirable for issues proposed by institutions not meeting those requirements. The proposed ten-

day period for review should provide a reasonable time for analysis of the proposals that are submitted, without unduly delaying issuance of the securities. The information required to be provided is essentially the same as presently required with respect to conforming mortgage-backed bonds and is, in the Board's view, reasonable.

H. Offering circular. (13)

1. Thirteen commenters objected to the requirement that offering circulars for proposed debt issues be submitted for the approval of the Board's Office of General Counsel prior to their use. Commenters argued that submitting offering circulars as proposed would be unwieldy and of no practical benefit. Four commenters stated that the lack of an SEC reporting requirement is one of the advantages for savings and loans issuing mortgage-backed bonds. Commenters state that bunching of issues is common and, therefore, approval of offering circulars will result in costly delays to the issuing institution or in a significant increase in Board staff assigned to the approval process. Two commenters stated that issuers, underwriters, and their respective counsel have been and remain intensely aware of their disclosure obligations. They state that no need for new disclosure requirements has been shown. Six commenters recommended that the time period for considering approval of an offering circular be limited.

Board response. The Board believes that, because of the exemption of insured institutions from SEC reporting requirements, and the Board's general supervisory authority with respect to savings and loans, it has an obligation to assure that public offering circulars are sufficient to fully inform the investing public. The Board believes that as the borrowing authority of insured institutions is increased and more institutions engage in this activity, disclosure should be required by regulation, and the Board should have an opportunity to assure that disclosure is adequate.

With respect to the time required for review of offering circulars, the Board understands that the SEC has an internal guideline of 30 days in which to send out the first letter commenting on a proposed offering circular. If additional information is required, and submitted promptly, issuance of the security may follow shortly thereafter.

The Board believes that its review of most offering circulars will be completed within 10 days and in all except that most difficult cases, review will be completed within 20 days.

2. Eight commenters objected to including in the regulations requirements as to content of offering circulars, or they stated that no Corporation approval of offering circulars is necessary. Commenters urged that the content of offering circulars be left to the discretion of the issuer, underwriters, and their respective attorneys.

Commenters stated that the proposed requirement that offering circulars contain information comparable to the information required under the Securities Act of 1933, General Form of Registration S–1 and Item 7 of Form PS in the Board's regulations is more burdensome for the issuer than forms currently in use for mortgage-backed bonds. Four commenters stated that most issuers currently provide information equivalent to that required by General Form S–7.

Board response. The Board believes that information comparable to that required by General Form of Registration S–1 provides appropriate disclosure, and is generally required. However the final amendments provide that information comparable to that required by Form S–7 will be sufficient, provided the issuing institution meets the requirements for use of that form prescribed by the SEC.

3. Three commenters stated that financial statements should be in compliance with GAAP rather than § 563c.1 of the Board's insurance regulations. One commenter suggested that, in the alternative, the requirements of § 563c.1 should be subject to waiver by the Supervisory Agent. One commenter recommended that the need for interim financial statements be determined by the issuer, underwriters, and their counsel. One commenter stated that inclusion of comparative balance sheets in offering circulars is a new and unnecessary requirement. That commenter also recommended that the offering circular include audited statements of operation for each of the last five years, rather than three years as proposed.

Board response. The Board's accounting requirements were established to provide a uniform standard for financial statements issued by insured institutions. The Board believes those requirements provide appropriate information that should be furnished to potential investors in insured institutions' securities. The Board believes specific requirements will better assure full disclosure than a reference to GAAP or reliance on agreements made with respect to individual issues.

There is no objection to including information for periods longer than those specified in the regulations.

4. One commenter recommended that the regulations clarify that no filing of an offering circular is required for private placement of mortgage-backed bonds.

Board response. While requirements for filing offering circulars clearly apply only to public offerings, the final regulations have been changed to provide additional clarification of this issue.

I. Subordinated debt. (15)

1. Several commenters apparently assumed that no subordinated debt instruments may be issued except in compliance with § 563.8–1, and that provision for subsequent approval under that section would be unreasonable. They note that no significant changes to an instrument could be made after issuance.

Board response. Subordinated debt that is issued in compliance with § 563.8–1 and approved by the Corporation may be counted as part of net worth. Subordinated debt that does not comply with § 563.8–1 or is not approved by the Board may not be counted toward net worth requirements.

2. One commenter recommended that subordinated debt be excluded from the requirement that all securities be transferable only on the books of the institution.

Board response. The final regulations clarify that subordinated debt is excluded from that requirement.

The Board notes that certain limitations and requirements regarding issuance of subordinated debt securities included in the existing regulation were inadvertently omitted from the proposal. No change was intended with respect to those paragraphs and the omitted language is included in the final regulation.

J. Minimum denominations of securities. (11)

1. One commenter recommended that no minimum denomination be specified for securities evidencing outside borrowings, and another commenter stated that a $10,000 minimum would be most generally acceptable in the market place.

Board response. A $10,000 minimum denomination is permitted under the regulations if disclosure requirements are met. While lower denominations may be considered on the basis of experience with the revised regulations, the Board believes the proposed minimums should be retained at this time.

2. Commenters recommended that the types of institutions to which debt

instruments may be issued without regard to minimum denomination requirements include the following: eleemosynary institutions, Keogh plans, other savings and loans, foreign banks, foreign insurance companies, and trust companies.

Board response. The definition of "institutional investor" is amended in the final regulations. The definition is consistent with the definition in the regulations of the Securities and Exchange Commission (17 CFR 230.242(a)(1)) that provide exemption from registration for certain small issues of securities issued to certain investors.

3. One commenter recommended that a partial redemption that lowers the face amount of an instrument to an amount less than a prescribed minimum should not be deemed to violate the regulation.

Board response. Such a partial redemption would not violate the minimum denomination requirement.

K. Requirement that an institution meet the net worth requirement of § 563.13(b) before issuing an outside borrowing with an original maturity in excess of one year. (10)

Two commenters recommended deletion of the minimum net worth requirement. They stated that the price of a debt issue should be based on an institution's net worth. They also stated that it is unreasonable to limit thinly capitalized institutions to short term borrowings.

Board response. Institutions may submit application for an exception to requirements applicable to long-term debt issues, and the application serves to notify the Board when institutions with inadequate net worth intend to incur long-term obligations.

L. One commenter stated that it would be unreasonable to require that, in connection with a public offering, an issuing institution assure that purchasers of securities have been furnished an offering circular. That commenter recommended that the regulation provide instead that public offerings must be made through brokers or dealers who are members in good standing of the National Association of Securities Dealers or through brokers or dealers with their principal place of business located outside the United States, its territories, or possessions and not regulated under the Securities Exchange Act of 1934 who agree to make no sales within the United States, its territories, or possessions or to persons who are nationals thereof or residents therein.

Board response. The Board does not believe that a requirement that offerings be made through registered brokers and dealers would impose an obligation that purchasers receive proper disclosure.

M. Bank policy.

One commenter recommended revision of the Bank policy that requires institutions to begin repaying advances when borrowings exceed 20 percent of savings. Another noted that policy often requires outside borrowings to replace rather than supplement Bank advances.

Board response. The Board believes Federal Home Loan Banks will consider the implications of the revised regulations with respect to their policies on advances.

In view of the current economic trend toward a more favorable borrowing climate, the Board believes that it is in the public interest to implement these liberalized borrowing regulations as soon as possible, and the Board has therefore determined that publication of the amendments for the time specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to their effective date is contrary to the public interest and that the amendments shall become effective as herein set forth.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 526 and 531 of the Regulations for the Federal Home Loan Bank System (12 CFR Parts 526 and 531), Parts 544 and 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Parts 544 and 545), and Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563), as follows:

Federal Home Loan Bank System

PART 526—LIMITATIONS ON RATE OF RETURN

1. Delete § 526.10 as follows:

§ 526.10 [Deleted effective May 30, 1980]

2. Add paragraph (f) to § 531.1 to read as follows:

PART 531—STATEMENTS OF POLICY

§ 531.1 Policy on advances

* * * * *

(f) A Bank shall review with particular care advances applications from members that have maturing borrowings from sources other than the Bank. Advances that, in the Bank's judgment, will be used to replace such maturing borrowings may be granted, provided the advances are made pursuant to a firm commitment to make such advances that the member has purchased from the Bank for a nonrefundable fee prior to incurring such borrowings, and the advances are priced at least at a rate consistent with the cost of refinancing the borrowings in the market. Before granting such a firm commitment, a Bank shall determine that the member has exercised prudence in its borrowing, particularly with respect to cash flow management and bunching of maturities.

Federal Savings and Loan System

PART 544—CHARTER AND BYLAWS

3. Amend paragraph (d) of § 544.2 to read as follows:

§ 544.2 Amendment of charter.

* * * * *

(d) *Borrowing powers.* Revise section 9 to read as follows:

9. *Power to borrow.* The association may borrow money in an aggregate amount not exceeding one-half of its assets. Notwithstanding the foregoing limitation, the association may, with prior approval by the Board, borrow from a Federal Home Loan Bank or from any Federal agency or instrumentality without limitation, upon such terms and conditions as may be required by such bank or agency. The association may pledge and otherwise encumber any of its assets to secure its debts.

* * * * *

PART 545—OPERATIONS

4. Amend § 545.24 to read as follows:

§ 545.24 Borrowing, issuing obligations, and giving security.

An association may borrow as its charter permits and may issue notes, bonds, debentures, or other obligations, or other securities provided such borrowing or issuance is in compliance with § 563.8 of this chapter or is approved in writing by the Board. An association may give security as authorized by its charter or by Board approval, except it may not give security for any of its savings accounts representing share interests in the association unless authorized by regulation.

Federal Savings and Loan Insurance Corporation

PART 561—DEFINITIONS

5. Delete § 561.24a as follows:

§ 561.24a [Deleted effective May 30, 1980]

PART 563—OPERATIONS

6. Amend the first sentence of paragraph (i)(1) of § 563.3–3 to read as follows:

§ 563.3–3 Marketable fixed-rate, fixed-term accounts.

* * * * *

36368 Federal Register / Vol. 45, No. 106 / Friday, May 30, 1980 / Rules and Regulations

(i) *Applicability of other provisions*

Federal Register / Vol. 45, No. 106 / Friday, May 30, 1980 / Rules and Regulations 36369

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(i) *Applicability of other provisions.* (1) Sections 563.2, 563.3, 563.3–1, 563.3–2, 563.4, and 563.8 and the provisions of § 563.17–1(c)(5) do not apply to savings accounts in compliance with § 545.1–4 of this chapter or this section, and such savings accounts are not borrowings within the meaning of § 563.8(b).* * *

* * * * *

7. Amend § 563.4 to read as follows:

§ 563.4 Transfer of securities.

Except as to securities issued in conformity with § 563.8 and 563.8–1 of this Part, all securities issued by an insured institution shall be made transferable only on the institution's books.

8. Amend § 563.6 to read as follows:

§ 563.6 Demand securities.

No insured institution may issue any demand securities or advertise or represent that it will pay holders of its securities on demand, except that this section does not apply to (a) securities issued in conformity with § 563.8 of this Part, (b) checking accounts as defined in § 561.11a of this subchapter, (c) tax and loan accounts, and (d) note accounts.

9. Revise § 563.8 to read as follows:

§ 563.8 Borrowing limitations.

(a) *General.* (1) Except as the Corporation may otherwise permit by advice in writing, an insured institution shall borrow only in accordance with the provisions of this section.

(2) As used in this section, the term "outside borrowing" means a borrowing from other than a Federal Home Loan Bank or state-chartered central reserve institution.

(b) *Amount limitation.* (1) No insured institution shall borrow in excess of the amount authorized by the law under which such insured institution operates and such borrowings, in the aggregate, shall not exceed 50 percent of assets.

(2) No violation of this paragraph (b) shall be found if the limits are exceeded because of a subsequent reduction in assets.

(c) *Limitations on secured borrowings.* (1) For an outside borrowing with an original maturity in excess of one year, an insured institution must meet the net worth requirements of § 563.13(b) of this Part after giving effect to the issuance of such borrowing and the repayment of any such borrowings being refunded out of the proceeds.

(2) For an outside borrowing with an original maturity in excess of one year that is secured by mortgage loans, the terms of such borrowing shall provide that the Corporation receive prompt written notification of any default on the obligation and, before a sale or other disposition of any portion of the collateral, that the Corporation shall have thirty days after written receipt of notice of such proposed sale or other disposition to exercise a right to repurchase such collateral at the price to be paid at such sale or to acquire such collateral at the value to be assigned to it in such other disposition.

(3)(i) Subject to the exceptions in subdivisions (ii) and (iii), the aggregate book value of all collateral securing outside borrowings may not exceed 25 percent of the institution's assets.

(ii) Borrowings issued under § 563.8–2 of this subchapter, prior to May 30, 1980, and other mortgage-backed bonds issued prior to that date shall not be subject to the limitation in subdivision (i) and shall continue to be subject to the requirements and limitations in effect at the time of issuance.

(iii) Secured borrowings substantially completed prior to May 30, 1980, shall not be subject to the limitation in subdivision (i), provided they conform to requirements and limitations with respect to collateral that were in effect prior to that date.

(iv) All collateral pledged to secure borrowings that are exempted, under subdivisions (ii) or (iii), from the limitation in subdivision (i) shall count against that limitation for the purpose of determining whether additional collateral may be pledged to secure borrowings that were not issued or substantially completed prior to May 30, 1980.

(d) *Required statement for all securities evidencing outside borrowings.* Each security shall bear on its face, in a prominent place, the following legend: "This security is not a savings account or a deposit and it is not insured by the Federal Savings and Loan Insurance Corporation".

(e) *Filing requirements for outside borrowings with maturities in excess of one year.* (1) Unless the insured institution meets the net worth requirement of § 563.13(b) and, at the close of its most recent semi-annual period, it had a ratio of scheduled items (other than assets acquired in a merger instituted for supervisory reasons) to specified assets not in excess of 2.5 percent, it shall, at least ten business days prior to issuance, file with the Supervisory Agent a notice of intent to issue securities evidencing such borrowings. Such notice shall contain a summary of the terms of the security, including:

(i) principal amount of the securities;

(ii) anticipated interest rate range and price range at which the securities are to be sold;

(iii) minimum denomination;

(iv) stated and average effective maturity;

(v) mandatory and optional prepayment provisions;

(vi) description, amount, and maintenance of collateral if any;

(vii) trustee provisions if any;

(viii) events of default and remedies of default; and

(ix) any provisions which restrict, conditionally or otherwise, the operations of the institution.

(2) The Supervisory Agent shall have ten (10) business days after receipt of such filing to object to the issuance of such securities. The Supervisory Agent shall object if in his/her judgment the terms or covenants of the proposed issue place unreasonable burdens on, or convey to the security holders undue control over, the operations of the association. If no objection is taken, the insured institution shall have one hundred twenty (120) calendar days within which to issue such securities. If objection is taken, the Supervisory Agent shall promptly cause the question of such issuance to be submitted to the Corporation for decision.

(f) *Minimum denominations of securities evidencing outside borrowings.* (1) *General rule.* The minimum denomination of the security shall be $100,000.

(2) *Exceptions.* (i) There is no minimum denomination for securities:

(*a*) issued in a private placement to institutional investors; or

(*b*) constituting evidence of a borrowing from a commercial bank.

(ii) the minimum denomination may be $10,000, if the securities are not offered or sold at any office of the institution or any of its affiliates, and

(*a*) they are not sold to more than 35 persons or offered by any advertisement, including any broadcast or written communication published in a newspaper, magazine or similar medium, or by any letter, circular, or other written communication, sent, given, or communicated to more than 35 persons who prior to such communication have not indicated an interest in purchasing the securities, and any purchases by such persons are for their own account and not with a view to distribution; or

(*b*) prior to or simultaneously with any offering, and prior to issuance, purchasers of such securities have been furnished an offering circular which conforms to the requirements of paragraphs (g) and (h) of this section.

(3) *Definition of institutional investor for purposes of this paragraph (f).* Any bank as defined in section 3(a)(2) of the Securities Act of 1933 ("Act"), whether acting in its individual or fiduciary capacity; insurance company as defined in section 2(13) of the Act; employee benefit plan, within the meaning of Title I of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, that is either a bank, insurance company or registered investment adviser; investment company registered under the Investment Company Act of 1940; Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958.

(g) *Disclosure.* No insured institution shall, directly or indirectly in connection with the offer, sale, or issuance of a security evidencing a borrowing pursuant to this section, make any statement that: (1) is false or misleading with respect to any material fact; or (2) omits to state any material fact (i) necessary in order to make the statements made, in light of circumstances under which they were made, neither false nor misleading, or (ii) necessary to correct any earlier statement that has subsequently become false or misleading.

(h) *Offering circular.* (1) *Review.* No final offering circular shall be furnished to purchasers under subdivision (f)(2)(ii)(*b*) of this section unless it is filed with the Securities Division of the Board's Office of General Counsel, and declared effective prior to its use.

(2) *Content.* A final offering circular under this section shall be in a form satisfactory to the Corporation. At a minimum, it shall contain information in detail comparable to that required under the Securities Act of 1933, General Form of Registration S–1, or S–7 if the issuing institution meets the eligibility requirements prescribed by the Securities and Exchange Commission for use of that form, and Item 7 of Form PS as prescribed in Part 563b of this subchapter.

(3) *Financial statements.* A final offering circular under this section shall contain the insured institution's latest audited annual statement of condition and audited statements of operations for each of its last three years. It shall also contain the insured institution's latest unaudited statements of condition and operations on a comparative basis for the quarter ending within one hundred twenty (120) days of its latest amendment. Such financial statements shall be prepared in accordance with the requirements of § 563c.1 of this subchapter. The issuer shall also make available promptly upon request to each purchaser of a security issued subject to the requirements of subdivision (f)(2)(ii)(*b*) (including purchasers upon resale) while the securities are outstanding, audited annual statements of condition and operation and comparative unaudited quarterly statements of condition and operations for the first three quarters.

(i) *Note accounts.* For purposes of this section, note accounts are not borrowings.

(j) *Sale and repurchase of mortgages or mortgage participations.* (1) An agreement for the sale by an insured institution of a pool of mortgages or participations therein that provides that the selling institution will repurchase at par all mortgages outstanding at a future date, up to a stated percentage of the pool, shall, for purposes of paragraph (b) and subparagraph (c)(3) of this section, be treated as a borrowing to the extent of the total outstanding repurchase obligation, provided the following conditions are met:

(i) Only current and outstanding mortgages are required to be repurchased; and

(ii) The agreement does not provide for mandatory substitution of collateral.

(2) If the agreement described in subparagraph (1) does not contain the limitations prescribed in subdivisions (1)(i) and (ii), the transaction shall be treated as a sale with recourse.

(3) Loans are not considered current if they would qualify as scheduled items under § 561.15.

(4) If the agreement described in subparagraph (1) provides for repurchase of mortgages at market value, the transaction shall be treated as a sale without recourse.

(k) *Reverse repurchase agreements used for arbitraging.* (1) Such agreements, as defined in subparagraph (2), that involve only securities that qualify as short-term liquid assets under § 523.10 of this chapter shall not be treated as borrowings for purposes of paragraph (b) and subparagraph (c)(3) of this section.

(2) A reverse repurchase agreement used for arbitraging purposes is a transaction whereby an insured institution sells a security under agreement to repurchase that security (a security with the same issuer, coupon, and maturity date) on the date of maturity of a security purchased with the proceeds of the repurchase agreement, and the return to maturity of the security so purchased exceeds the net cost to the institution of the sale and repurchase of the security through the repurchase agreement.

(3) No reverse repurchase agreement described in subparagraph (2) shall be exempted from limitation under this paragraph unless the insured institution maintains records, including a comparison of maturity dates, return, proceeds from sale, and cost and date of repurchase, sufficient to show the arbitraging nature of the transaction.

10. Amend § 563.8–1 to read as follows:

§ 563.8–1 Issuance of subordinated debt securities.

(a) *General.* No insured institution shall issue subordinated debt securities pursuant to this section or amend the terms of such securities unless it has obtained written approval of the Corporation. Approval of the issue under this section, in order to meet the requirements of § 561.13, may be obtained either before or after the securities are issued, but no approval shall be granted unless issuance of the securities and the form and manner of filing of the application are in accordance with the provisions of this section.

(b) *Eligibility requirements.* The Corporation will consider and process an application by an insured institution for approval of the issuance of subordinated debt securities pursuant to this section only if the applicant meets all of the following eligibility requirements at the time of approval, unless one or more of such requirements are waived by the Corporation upon specific request in the case of a particular application:

(1) The issuance of such securities by the applicant is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws;

(2) Applicant's net worth, without regard to the amount of any subordinated debt securities included or to be included in such net worth, meets the requirements of § 563.13;

(3) Applicant's scheduled items do not exceed 2.5 percent of its specified assets;

(4) All appraised losses have been offset by specific loss reserves to the extent required by the Corporation under § 563.17–2;

(5) Applicant's income from operations before income taxes in its most recent fiscal year and at least one of its two immediately preceding fiscal years (after distribution of earnings to the holders of savings accounts and payment of interest on, and amortization of, non-subordinated debt) and its average of such income for such three-year period is at least three times the annual amount required for interest, debt, discount amortization (if any), and amortization of the related expenses of issuance on all outstanding and

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proposed subordinated debt securities (excluding any debt securities to be refunded out of the proceeds of the proposed subordinated debt securities); and

(6) The aggregate amount of all outstanding and proposed subordinated debt securities (excluding any debt securities to be refunded out of the proceeds of the proposed subordinated debt securities) does not exceed 50 percent of applicant's net worth, not including any such outstanding and proposed subordinated debt securities.

(c) *Application form; supporting information.* An application for approval of the issuance of subordinated debt securities by an insured institution pursuant to this section shall be in the form prescribed by the Corporation. Such application and instructions may be obtained from the Supervisory Agent. Information and exhibits shall be furnished in support of the application in accordance with such instructions, setting forth all of the terms and provisions relating to the proposed issue and showing that all of the requirements of this section have been or will be met.

(d) *Requirements as to securities.* Subordinated debt securities issued pursuant to this section shall meet all of the following requirements unless one or more of such requirements are waived by the Board in connection with a sale of such securities to the Corporation in a supervisory situation under subparagraph (d)(4) of this section:

(1) *Form of certificate.* Each certificate evidencing subordinated debt issued by an insured institution pursuant to this section shall:

(i) Bear on its face, in bold-face type, the following legend: "This security is not a savings account or deposit and it is not insured by the Federal Savings and Loan Insurance Corporation";

(ii) Clearly state that the security (*a*) is subordinated on liquidation, as to principal, interest, and premium, if any, to all claims (including post-default interest) against the institution having the same priority as savings account holders or any higher priority; (*b*) is unsecured; and (*c*) is not eligible as collateral for any loan by the issuing institution.

(iii) State or refer to a document stating the terms under which the issuing institution may prepay the obligation, which shall include at least the right to prepay without premium or other penalty during the fifteen months immediately prior to the maturity date;

(iv) State or refer to a document stating that no payment of principal shall be accelerated without the approval of the Corporation, if after giving effect to such payment the institution would fail to meet the net worth or Federal insurance reserve requirements of § 563.13; and

(v) Be in a minimum original amount of at least $50,000, except that the minimum original amount shall be $10,000 for securities meeting the requirements of § 563.8(f)(2)(ii) and upon partial prepayment a certificate for the amount then outstanding may be issued in substitution therefor.

(2) *Limitation as to term.* No subordinated debt security issued by an insured institution pursuant to this section shall have an original period to maturity of less than 7 years. During the first six years that such a security is outstanding, the total of all required sinking fund payments, other required prepayments and required reserve allocations with respect to the portion of such six years as have elapsed shall at no time exceed the original principal amount thereof multiplied by a fraction the numerator of which is the number of years which have elapsed since the issuance of the security and the denominator of which is the number of years covered by the original period to maturity.

(3) *Limitations on sale to certain institutions.* No insured institution may sell any subordinated debt securities issued pursuant to this section to a Federal Home Loan Bank or, except with prior written approval of the Board in a supervisory situation, to the Corporation.

(e) *Filing of application.* The application for approval of the issuance of subordinated debt securities under this section is filed with the Corporation by transmitting the original and three copies of the application and all supporting documents to the Supervisory Agent. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant is located or any other officer or employee of such bank designated by the Board as agent of the Corporation, as provided by § 501.10 or § 501.11 of this chapter.

(f) *Supervisory objection.* No application for approval of the issuance of subordinated debt securities pursuant to this section shall be approved if, in the opinion of the Corporation, the policies, condition, or operation of the applicant affords a basis for supervisory objection to the application.

(g) *Additional requirements.* The Corporation may impose on the applicant such requirements or conditions with regard to the securities or the offering or issuance thereof as it may deem necessary or desirable for the protection of purchasers, the applicant, or the Corporation.

(h) *Limitation on offering period.* Following the date of the approval of the application by the Corporation, the institution shall have an offering period of not more than one year in which to complete the sale of the subordinated debt securities issued pursuant to this section. The Corporation may in its discretion extend such offering period if a written request showing good cause for such extension is filed with it not later than 30 days before the expiration of such offering period or any previous extension thereof.

(i) *Reports.* Within 30 days after completion of the sale of the subordinated debt securities issued pursuant to prior approval under this section, the institution shall transmit a written report to the Supervisory Agent stating the number of purchasers, the total dollar amount of securities sold, and the amount of net proceeds received by the institution.

11. Delete § 563.8–2 as follows:

§ 563.8–2 [Deleted effective May 30, 1980]

12. Add § 563.8–3 to read as follows:

§ 563.8–3 Distribution of maturities of liabilities.

(a) *Definitions.* As used in this section—

(1) The term "liability" includes any savings account, including any account of $100,000 or more, with a specified term or maturity date; any borrowing, including advances from a Federal Home Loan Bank or a State-chartered central reserve institution; any investment commitment, including any commitment to make or purchase a loan or participation therein, and any loans in process (undistributed loan proceeds).

(2) The term "liquid assets" means assets that qualify as liquid assets under § 523.10(g) of this Chapter.

(b) *General.* If, by incurring a liability, an insured institution causes the aggregate of its liabilities maturing in any consecutive three months, less the amount of the institution's liquid assets at the time it incurs such liability, to exceed an amount equalling 30 percent of the institution's total assets, the institution shall provide to the Principal Supervisory Agent notification as prescribed in paragraph (c) of this section. No institution shall incur any liability that will cause its aggregate liabilities maturing in any consecutive three months, less its liquid assets at the time it incurs such liability, to exceed an amount equalling 40 percent of the institution's total assets, unless the institution has obtained prior approval

of the Corporation under paragraph (d) of this section.

(c) *Notification.* Notification required under paragraph (b) of this section shall include information sufficient to demonstrate that the insured institution has an effective program of liability management and will be able to fund maturing liabilities. Such information shall include (1) anticipated loan payments; (2) projected earnings from all sources; (3) projected savings increases; (4) anticipated rollovers of outstanding liabilities; and (5) economic forecasts and other assumptions on which projections are based.

(d) *Approval.* (1) An application for Corporation approval, as required under paragraph (b) of this section, shall be submitted to the Supervisory Agent and shall include information required under paragraph (c) of this section.

(2) The Supervisory Agent shall submit a report and recommendation on the request to the Director, Office of Examinations and Supervision, within 10 business days after receipt of the request. The Director is authorized, on behalf of the Board, to approve the request if, in the Director's opinion, the institution's program of liability management justifies incurring the liability for which approval is requested. In the event that the Director has not acted favorably on the request within 10 business days after receipt of the materials from the Supervisory Agent, the request shall be submitted for decision by the Corporation and the requesting institution shall be so informed.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–16493 Filed 5–29–80; 8:45 am]

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12 CFR Part 561

[No. 80–329]

Amendment Regarding Sale of Mortgages and Participations in Mortgages

Dated: May 22, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Home Loan Bank Board's definition of "without recourse," as that term applies to sales by insured institutions of mortgage loans or participations in loans by means of mortgage pass-through securities. Under present regulations, such sales are prohibited if the agreement of sale provides that a purchaser shall have recourse to the selling institution in the event of default in payment of any loan or mortgage involved or any part thereof. This amendment excludes from the prohibition against sales with recourse any sale of mortgage pass-through securities that provides for the seller to take a subordinate interest in part of the mortgages sold, if (1) the subordinate interest does not exceed 10 percent of the original amount of the mortgage pool, and (2) a specific reserve is designated from net worth in an amount equal to 50 percent of the amount of the subordinate interest that does not exceed 5 percent of the pool, plus 100 percent of the amount of the subordinate interest that exceeds 5 percent of the pool. This change is intended to provide a new method of obtaining funds at a reduced cost to institutions.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas P. Faucette, Associate General Counsel (202–377–6410) or John R. Hall, Attorney (202–377–6466), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Board Resolution No. 79–456, dated November 1, 1979, proposed to amend § 561.8 of the Rules and Regulations for Insurance of Accounts (12 CFR 561.8) to amend the definition of "without recourse." Section 561.8 provides that the term "without recourse" means, in connection with the sale of a loan or a participation interest in a loan, without any agreement or arrangement under which the purchaser is to be entitled to receive from the seller any sum of money or thing of value, whether tangible or intangible (including any substitution), upon default in payment of any loan or mortgage involved or any part thereof or to withhold or to have withheld from the seller any sum of money or any such thing of value by way of security against any such default. Under § 563.23 all loans and participation interests in loans sold by insured institutions must be sold without recourse. The proposal was published in the **Federal Register** November 8, 1979, (44 FR 64840) with an invitation for public comment until December 8, 1979. Thirty-four public comments were received, and on the basis of those comments and other information available to it the Board has decided to adopt the proposed amendment with certain changes discussed below.

The amendments hereby adopted authorize sales of mortgage pass-through securities which include provisions designed to eliminate the expense of acquiring private mortgage insurance. The amendments permit an insured institution selling such securities to retain a junior interest in a specified percentage of the mortgage pool and thereby provide a form of self-insurance.

Summary of Public Comments

Sixteen commenters recommended that, upon sale of a mortgage pool, an institution be permitted to retain a subordinate interest in an amount up to 10 percent of the pool, rather than 5 percent as proposed. They noted that Federal bank regulators have approved sales of mortgage pass-through securities that include provision for subordination by the selling bank or issuance of a standby letter of credit in amounts up to 10 percent of the pool. They argue that savings and loan institutions need comparable flexibility.

Five commenters stated that a subordinate interest of at least 6.5 percent will be required to achieve a AAA rating on mortgage pass-through securities.

Seven commenters recommeded that the maximum subordinate interest be a percentage of the original amount of the pool, not a percentage of the amount of the outstanding mortgages in the pool.

Board response. The Board has determined to permit subordination of up to 10 percent of the original amount of the pool. The Board believes that this limitation will provide sufficient flexibility to permit insured institutions to compete successfully in the securities market, and that the reserve requirement described below will provide adequate protection against risk of loss to the institution.

Eighteen commenters found the proposed reserve requirements too restrictive and recommended more liberal alternatives. Thirteen commenters recommended that the required reserve amount be based on the anticipated rate of mortgage delinquencies. Commenters argued that the anticipated number of delinquencies is minimal and that the required reserve should equal no more than .2–2 percent of the pool.

Several commenters stated that no reserve is necessary when good quality loans comprise the pool to be sold. They stated that the proposed reserve would unnecessarily erode an institution's net worth position, and one commenter noted that small institutions are particularly unable to sustain such

erosion. One commenter recommended

In view of the current economic trend

SUMMARY: This order, among other

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erosion. One commenter recommended that no reserve be required if all mortgages in the pool with a loan-to-value ratio in excess of 80 percent are insured by a private mortgage insurer. Another suggested requiring a reserve only while mortgages have loan-to-value ratios in excess of 80 percent. Other commenters suggested alternatives to requiring a reserve.

Board response. The Board believes that, because a subordinate interest in a pool provides insurance for the entire amount of the senior interest in the pool, it is appropriate that reserves be maintained to reflect potential liability. On further consideration, however, the Board has determined that, if a subordinate interest does not exceed 5 percent of the amount of the pool, a reserve equalling 50 percent of the subordinate interest will provide adequate protection. However, for any subordinate interest in excess of 5 percent of the pool the reserve amount must equal the amount of the subordinate interest. For example, if an institution's subordinate interest in a loan pool equals 7.5 percent of the pool amount, a reserve of 5 percent is required, i.e., 2.5 percent, or one-half of the initial 5 percent subordinate interest, plus an additional 2.5 percent equalling the amount of subordinate interest in excess of 5 percent of the mortgage pool.

Ten commenters recommended that any reserve required in connection with the retention of a subordinate interest in a loan pool be designated or earmarked from net worth, and not established as a charge against income.

Board response. The Board intended that the reserve be designated as commenters recommended, and the final regulation so states.

One commenter recommended that the final amendment clearly state that an insured institution may retain a subordinate interest in mortgages sold only if sale is by means of mortgage pass-through securities. The commenter stated that if the regulation is interpreted to permit subordination in typical secondary market transactions the market could be unnecessarily disrupted.

Board response. The final regulation has been so clarified.

Other commenters recommended that the Board consider permitting insured institutions to take subordinate positions in other types of transactions, or that other types of self-insurance mechanisms be permitted.

Board response. The Board has determined to limit such authority to the type of transactions under consideration when the amendment was proposed.

In view of the current economic trend toward a more favorable climate for issuing mortgage pass-through securities, the Board believes that it is in the public interest to implement this liberalized regulation as soon as possible, and the Board has therefore determined that publication of the amendments for the time specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to their effective date is contrary to the public interest and that the amendments shall become effective as herein set forth.

Accordingly, the Board hereby amends § 561.8 of the Rules and Regulations for Insurance of Accounts by adding at the end thereof a sentence, to read as follows:

Federal Savings and Loan Insurance Corporation

PART 561—Definitions

§ 561.8 Without recourse.

* * * If an insured institution sells a pool of mortgages or interests therein through issuance of mortgage pass-through securities and the agreement of sale provides for the institution directly or indirectly to hold or retain a subordinate interest in a specified percentage of the pool, which percentage does not exceed 10 percent of the original amount of the pool, the transaction shall not, solely because of that provision, be deemed to be with recourse, provided the institution designates a specific reserve from its net worth equal to one-half the amount of its subordinate interest that does not exceed 5 percent of the original amount of the pool plus the total amount of its subordinate interest in excess of 5 percent of the original amount of the pool.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1728. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-16494 Filed 5-29-80; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9104]

SEARS, ROEBUCK AND CO., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a Chicago, Ill., department store chain to cease, in connection with the advertising and sale of dishwashers, representing that its dishwashers will completely clean dishes, pots and pans without prior rinsing or scraping; and claiming without substantiation that items placed in the top rack of the dishwashers will get as clean as those on the bottom rack. The company is prohibited from making claims regarding the performance of any major home appliance unless those claims are supported by reliable and competent tests. The firm is further barred from misrepresenting the purpose, content or conclusions of tests, studies, reports or surveys, and required to maintain specified records for a period of three years.

DATES: Complaint issued Nov. 4, 1977. Final Order issued April 28, 1980.*

FOR FURTHER INFORMATION CONTACT: FTC/PA, Robert L. Barton, Washington, D.C. 20580. (202) 724–1499.

SUPPLEMENTARY INFORMATION: In the Matter of Sears, Roebuck and Co., a corporation, and J. Walter Thompson Co., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.265 Tests and investigations. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–45 Maintain records. Subpart-Misrepresenting Oneself and Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Final Order, including further order requiring report of compliance therewith, is as follows:

Final Order

This matter has been heard by the Commission upon the appeal of counsel for respondent, and upon briefs and oral argument in support of and in opposition to the appeal. The Commission, for the reasons stated in the accompanying Opinion, has granted the appeal in part, and denied the appeal in part. Therefore,

*Copies of the Initial Decision, Opinion of the Commission and Final Order filed with the original documents.

It is ordered that the initial decision of the administrative law judge, pages 1–85, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except for Findings 24–25; last sentence of Finding 26; all of page 80 beginning with the first full paragraph thereon; page 81 except for final paragraph; and except as is otherwise inconsistent with the attached opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered that the following Order to Cease and Desist be entered:

Order

I

It is ordered that for purposes of this Order the following definitions shall apply:

1. "Major home appliance" means air conditioning units (room or built-in), clothes washers, clothes dryers, disposers, dishwashers, trash compactors, refrigerators, refrigerator/freezers, ranges, stoves, ovens (including microwave ovens), and humidifiers.

2. "Competent and reliable test" means a test in which persons with skill and expert knowledge in the field to which the test pertains conduct the test and evaluate its results in an objective manner, using test procedures that insure accurate and reliable results. Such tests must be truly and fully representative of expectable consumer usage.

II

It is further ordered that Sears, Roebuck and Co., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of dishwashers, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any Sears dishwasher will completely remove, without prior rinsing or scraping, all residue and film from all dishes, and from pots and pans used in cooking and baking according to normal consumer recipes and under other circumstances normally and expectably encountered by consumers.

2. Representing, directly or by implication, that dishes in the top rack of any Sears dishwasher will get as clean as those on the bottom rack without prior rinsing or scraping.

It shall be an affirmative defense to a compliance action brought under the preceding paragraphs for Sears, Roebuck and Co. to establish that the representation is truthful.

III

It is further ordered that Sears, Roebuck and Co., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of "major home appliances," in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making any statements or representations, directly or by implication, concerning the performance of such products unless such statements or representations are true and unless, at the time the statements or representations are made, Sears, Roebuck and Co. possesses and relies on a reasonable basis for such statements or representations, which shall consist of competent and reliable tests, or other competent and reliable evidence which substantiates such statements or representations.

2. Misrepresenting in connection with the advertisement of any such products or in any manner, directly or by implication, the purpose, content or conclusion of any test, experiment, demonstration, study, survey, report or research.

3. Making any statements or representations, directly or by implication, in connection with the advertisement of any such products which are inconsistent in any material respect with any statements or representations contained directly or by implication in post purchase material(s) supplied to the purchasers of such products.

IV

It is further ordered, that Sears, Roebuck and Co., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of dishwashers or other "major home appliances," in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall maintain written records:

1. Of all materials that were relied upon in making any claim or representation in advertising, sales materials, promotional materials, or post purchase materials, concerning the performance characteristics of any of Sears, Roebuck and Co.'s dishwashers or other major home appliances;

2. Of all test reports, studies, surveys, or demonstrations in their possession that contradict, qualify, or call into question any claim or representation in advertising, sales materials, promotional materials, or post purchase materials disseminated by Sears, Roebuck and Co., or by any advertising agency on behalf of Sears, Roebuck and Co., concerning the performance characteristics of any of Sears, Roebuck and Co.'s dishwashers or other major home appliances.

Such records shall be retained by Sears, Roebuck and Co. for a period of three years from the date such advertising, sales materials, promotional materials, or post purchase materials were last disseminated. Such records may be inspected by the staff of the Commission upon reasonable notice.

V

It is further ordered, that Sears, Roebuck and Co. shall notify the Commission at least 30 days prior to the effective date of any proposed change in it as a corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

It is further ordered, that Sears, Roebuck and Co. shall forthwith distribute a copy of this Order to each of its operating divisions, and to each of its officers, agents, representatives and employees engaged in or connected with the preparation and placement of advertisements for dishwashers or other major home appliances.

It is further ordered, that Sears, Roebuck and Co. shall within sixty (60) days after service upon it of this Order, and at such other times as the Commission may require, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this Order.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-16508 Filed 5-29-80; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-16833]

Interpretative Release Relating to Proxy Rules

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff interpretation.

SUMMARY: The Securities and Exchange Commission today authorized the issuance of this release reflecting the views of the Division of Corporation Finance (the "Division") with respect to the disclosure in proxy contests where a principal issue in contention is the liquidation of all or a part of the equity of an issuer. These views are being published because of serious concerns regarding the appropriateness and adequacy of the disclosure in this area.

FOR FURTHER INFORMATION CONTACT: Linda C. Quinn (202) 272-3208, Division of Corporation Finance, Securities and Exchange Commission, Washington, DC, 20549.

SUPPLEMENTARY INFORMATION: In the past year, a number of proxy contests have been undertaken in which a principal issue in contention, either as the platform of one party's nominees or as a separate shareholder proposal, has been the disposition of some or all of an issuer's assets or outstanding stock with the proceeds to be made available to shareholders. While the proposals have run the gamut from a mere promise to seek a buyer for the issuer's assets or outstanding stock to a commitment to undertake a program of disposition of assets and distribution of the proceeds realized, each has been based on the premise that the market price of the issuer's securities did not reflect the value that could be realized by its shareholders upon liquidation of all or a part of their investment in the issuer. Whatever form of disposition proposed, the focus has been on the proceeds to be made available to the shareholders, whether by dividend, tender offer, merger, exchange or liquidation distribution. In a number of instances, those sponsoring the proposal have projected the dollar amount per share to be available to shareholders if such proposal is effected.

The Division is concerned that, even when such valuations are the major factor in the solicitation, the usual expectation that the interests of the opposing parties in a contest will generally assure a full airing of the principal issues may not be warranted for reasons peculiar to this arena. Parties to these contests may not engage in a thorough debate of the merits of such valuations for a number of reasons, not the least of which are perceptions of serious risks of liability in attempting to forecast an alternative valuation, and, even if willing to run such risk, the limited time actually available for the opposing party to consider and make its own estimate of the realizable value likely upon execution of the proposal.

The Division recognizes that the factors constituting a basis for such valuations can, and probably will, vary from case to case, depending on the circumstances and the information available to the person making the valuation.[1] However, the Division wishes to emphasize that the inclusion by the management or oppostion of such valuation in its proxy soliciting material is only appropriate and consonant with Rule 14a-9 under the Securities Exchange Act of 1934 when made in good faith and on a reasonable basis and where accompanied by disclosure which facilitates shareholders' understanding of the basis for and the limitations on the projected realizable values.[2] The Division is also concerned that, where the valuations are so qualified and subject to such material limitations and contingencies, inclusion in proxy soliciting material of specific realizable values may be unreasonable.

Further, where material has been prepared and published by an independent party for purposes other than use in connection with the proxy contest and is offered as support for the valuation, reliance on such material must be reasonable and made in good faith. The context and purpose of the original publication of such information, as well as its currency and the qualifications of the original author to publish the material, are among the factors bearing on the reasonableness of such reliance. Care should be taken that information extracted from such material and used in the proxy solicitation document not be extracted out of context. For example, inclusion, where appropriate, of current cost values to support projected net realizable values, without disclosure of the particular nature of this information as reported in the issuer's financial reports, may raise serious questions.[3] The Division also reminds those proposing to use such material that proxy soliciting material consisting of reprints or quotations from previously published articles is subject to the same scrutiny and the same standards of disclosure as any other proxy soliciting material subject to the proxy rules.

The Division is particularly concerned that shareholders be afforded the opportunity to fully understand and evaluate any material limitations on or qualifications of the opinion of any expert, *i.e.*, investment banker, appraiser or other similar advisor, whose opinion has been sought and is being used to support the projected realizable value of the issuer's assets or outstanding stock or the estimated amount of the proceeds the issuer actually would be able to make available to shareholders in view of its cash needs, etc. Particular care needs to be taken in those instances where there has been limited access to the type of information thought necessary by such expert for the formulation of such an opinion. Where such expertise is relied upon, the proxy soliciting material should detail clearly those inquiries the advisor otherwise normally would have undertaken in formulating such an opinion had it unfettered access to all the information necessary in its view to render such an opinion and should explain the effects of the advisor's inability to make such inquiries on the substance of the opinion rendered. When these explanations constitute a significant qualification of the opinion, the use of such an opinion, or reference to it, outside the context of a complete discussion of the limitations of the review and consequent effect on the opinion, would raise substantial questions under Rule 14a-9. Further, those proffering such opinions as support for a valuation, as well as those rendering them, are cautioned that there could be circumstances when the valuation is so qualified or subject to such limitations as to raise questions as to the reasonableness of such reliance on the opinion.

Accordingly, 17 CFR Part 241 is amended by adding this release thereto.

By the Commission.

George A. Fitzsimmons,

Secretary.

May 23, 1980.

[FR Doc. 80-16507 Filed 5-29-80; 8:45 am]

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[1] Where applicable, consideration should also be given to the provisions of Securities Exchange Act Release Nos. 16075 (Going private transactions by public companies or their affiliates) and 15572 (Disclosure in proxy statements containing certain sale of assets transactions).

[2] Guidance may be found in the discussions of projections and other forward looking information contained in Securities Exchange Act Release Nos. 15305 (Guides for disclosure of projections of future economic performance) and 15944 (Safe harbor rule for projections).

[3] Replacement cost or current cost values, while supported by the Commission as being relevant information to an assessment of an entity's economic value, will not necessarily coincide with future realizable value in the context of a given plan for the disposition of assets. Depending on the program of disposition, various factors, other than those considered in the computation of replacement cost or current cost, may enter into the determination of projected realizable value. Accordingly, values previously disclosed as replacement cost or current cost in an issuer's published financial report should not be used or relied upon indiscriminately for the purpose of projecting realizable value in connection with a proposed program for disposition or liquidation. Substantial care must be taken in determining the propriety of using such values in connection with any discussion or display of amounts purporting to represent estimated realizable value.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-24; Order No. 85-A]

Permanent Rule Defining Small Existing Industrial Boiler Fuel Users Exempt From Incremental Pricing Surcharges

Issued: May 20, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Order No. 85, which was issued in this docket on May 8, 1980 (45 FR 31980, May 15, 1980), adopted a final rule defining small existing industrial boiler fuel users permanently exempt from incremental pricing surcharges under section 206(a)(2) of the Natural Gas Policy Act of 1978. Order No. 85 also set forth deadlines and procedures for filing exemption affidavits to obtain a permanent exemption. The Federal Energy Regulatory Commission hereby amends its final regulations to extend by 60 days the deadlines established in Order No. 85 pertaining to exemption affidavits. The amended regulations provide that:

(1) an exemption on the basis of company records or previously-filed exemption affidavits continues until *August 31, 1980;*

(2) natural gas suppliers shall mail or otherwise supply exemption affidavits to appropriate facilities not later than *July 20, 1980;*

(3) executed affidavits shall be filed on or before *August 31, 1980.*

EFFECTIVE DATE: Effective May 20, 1980.

FOR FURTHER INFORMATION CONTACT: Alice Fernandez, Office of Producer and Pipeline Regulator , Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-9095, or Carol M. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8114.

Permanent rule defining small existing industrial boiler fuel users exempt from incremental pricing under the Natural Gas Policy Act of 1978.

Order No. 85, which was issued in this docket on May 8, 1980 (45 FR 31980, May 15, 1980), adopted a final rule defining small existing industrial boiler fuel users permanently exempt from incremental pricing surcharges under section 206(a)(2) of the Natural Gas Policy Act of 1978. Order No. 85 also set forth deadlines and procedures for filing exemption affidavits to obtain a permanent exemption.

The Commission, upon its own motion, has determined that an undue administrative burden may be place upon natural gas suppliers and industrial end-users by the exemption affidavit portion of the order. Due to the immediacy of the filing deadlines, coupled with the large number of industrial end-users required to be served with affidavits, it may not be possible for all affected persons to meet the existing deadlines. It is therefore appropriate to extend the exemption affidavit deadlines established in Order No. 85 for a period of two months. Accordingly, Part 282 is amended to provide that:

(1) an exemption on the basis of company records or previously-filed exemption affidavits continues until *August 31, 1980;*

(2) natural gas suppliers shall mail or otherwise supply exemption affidavits to appropriate facilities not later than *July 20, 1980;*

(3) executed affidavits shall be filed on or before *August 31, 1980.*

The amendments adopted in this order relieve administrative burdens imposed on natural gas suppliers and industrial boiler fuel users; accordingly, the Commission finds there exists good cause to make them effective immediately.

(Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350, 15 U.S.C. 3301, *et seq.*)

In consideration of the foregoing, Part 282 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. In Section 282.204 paragraphs (c)(2), (d)(2)(i)(B), (d)(2)(ii)(B), and (d)(7)(i) (A) and (B) are revised to read as follows:

§ 282.204 Obtaining an exemption.

* * * * * *

(c) *Exemption on the basis of company records until August 31, 1980.* * * *

(2) The natural gas supplier shall treat an industrial boiler fuel facility for which an affirmative determination is made under subparagraph (1) as exempt from incremental pricing under this part until August 31, 1980, without further action by the owner or operator of the facility.

(d) *Exemption on the basis of affidavit.* * * *

(2) *Availability from natural gas suppliers.*

(i) *Initial service.* * * *

(B) Not later than July 20, 1980, each natural gas supplier shall mail or otherwise supply an exemption affidavit, as described in paragraph (d)(3) of this section, to the owner or operator of each industrial boiler fuel facility on such supplier's system which obtained an exemption pursuant to § 282.203(a), as in effect from January 1 to August 31, 1980.

(ii) *Response date.* * * *

(B) Natural gas suppliers which supply exemption affidavits under clause (i)(B) shall request that executed affidavits be filed on or before August 31, 1980, in accordance with subparagraph (4).

* * * * * *

(7) *Effective date of exemption.* * * *

(i) *Permanent exemption under 282.203(a).*

(A) If the owner or operator of an industrial boiler fuel facility files an exemption affidavit with the Commission in order to obtain a permanent exemption under § 282.203(a) and sends a copy to the facility's natural gas supplier on or before August 31, 1980, the facility shall be permanently exempt from incremental pricing in accordance with this part as of September 1, 1980.

(B) If the owner or operator of an industrial boiler fuel facility files an exemption affidavit with the Commission and sends a copy to the facility's natural gas supplier in order to obtain a permanent exemption under § 282.203(a) on or after September 1, 1980, the facility shall be exempt from incremental pricing under this part as of the beginning of the first full month following the date the exemption affidavit is filed with the Commission and received by the facility's natural gas supplier.

* * * * * *

[FR Doc. 80-16408 Filed 5-29-80; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-142]

19 CFR Parts 4, 144, 151, 159

Imports of Petroleum and Petroleum Products; Customs Regulations

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to imported petroleum and petroleum products to incorporate recommendations of a Customs Petroleum Imports Task Force for establishing standardized guidelines and procedures, including the use of public gaugers, for monitoring imports of petroleum and petroleum products. These amendments are being made to ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products. The amendments to the regulations are considered to be significant.

EFFECTIVE DATE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Alice M. Rigdon, Cargo Processing Division, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Controls and checks on the unlading and shore tank gauging of imported petroleum and petroleum products now are established by each district director of Customs under section 151.42, Customs Regulations (19 CFR 151.42). Depending on local conditions, the district director may employ any of the following methods of control:

(a) Complete and continuous supervision by a Customs officer when other methods are not considered adequate, or when the importer requests continuous supervision;

(b) Use of reports of public gaugers approved by the Commissioner of Customs in accordance with section 151.43, Customs Regulations (19 CFR 151.43);

(c) Use of positive displacement meters at installations where provided by the importer;

(d) Use of turbine-type meters at installations where provided by the importer;

(e) Sealing of all valves when practical; or

(f) Taking of vessel ullages before and after the discharge.

To ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products, a Customs Petroleum Imports Task Force was established to survey operations at selected Customs field locations and to formulate proposals to achieve these goals.

Survey teams conducted studies from July 2-20, 1979, in the 10 locations through which most petroleum and petroleum products imported into the United States are entered. The teams "* * * found that, in general, the Customs Service was providing proper controls and reporting reliable statistics." However, it was also discovered that "* * * there were isolated instances of insufficient controls and that the Customs Service was lacking in standardized national procedures and guidelines for various aspects of imported petroleum." Therefore, it was determined to be in the national interest, in light of the present energy situation, to develop standardized guidelines for processing petroleum and petroleum product importations.

On the basis of Task Force recommendations, and in accordance with Customs intent to maintain a permanent oversight function in regard to petroleum imports to ensure continued control in this vital area, the Customs Service published a notice in the **Federal Register** on November 7, 1979 (44 FR 64434), proposing to amend the Customs Regulations to establish standardized guidelines and procedures applicable to the appropriate methods of control and the use of public gaugers in monitoring imports of petroleum and petroleum products. These guidelines were similar to Customs procedures followed in most locations. Significant changes emphasize uniformity throughout Customs and tighter control through increased supervision of various gauging procedures, including controls on the use of public gaugers.

The notice invited interested persons to submit comments on or before December 7, 1979. At the request of an industry trade association, the period of time for the submission of comments was extended until December 14, 1979, by a notice published in the **Federal Register** on November 21, 1979 (44 FR 66835).

In response to the notices, 17 comments were received from corporations, cooperatives, industry representatives, refiners, and others. In addition, in accordance with requests from certain commenters for further discussion of the proposals prior to the issuance of a final rule, pursuant to a notice published in the **Federal Register** on December 21, 1979 (44 FR 75635), Customs held an open conference on January 8, 1980, for the discussion and clarification of the issues raised in the comments. Approximately 45 individuals representing various interested parties attended. Specific proposals were discussed, the Customs position on each was explained, and areas of misunderstanding were clarified.

Summary of Major Changes in Existing Regulations

1. Section 4.12 requires that manifest shortages and overages be reported to the district director. However, it does not state how great the discrepancy must be before a report is mandatory for bulk importations. Customs proposed that discrepancies exceeding one percent between the manifested quantity and the gross quantity unladen be reported on Customs Form 5931, signed by both the carrier and the importer, and that penalties otherwise provided by law be imposed if the required notification and explanation were not filed timely, or if the reasons for the discrepancy was not satisfactorily explained.

This proposal has been adopted and modified to delete the requirement that Customs Form 5931 be signed by both the carrier and the importer.

2. Sections 151.41 and 151.45(c) permit importers to estimate the amount of petroleum and petroleum products to be unladen for entry or withdrawal from bonded tanks if the exact quantity cannot be determined in advance. In order to obtain more accurate statistics regarding these imports, Customs proposed that this estimate not vary by more than one percent from the gross quantity unladen and that penalties otherwise provided by law be imposed if the required notification and explanation were not filed timely, or if the reason for the discrepancy was not satisfactorily explained.

This proposal has been adopted with the modification that the estimate may vary by three percent.

3. Section 151.42 provides that each district director shall establish controls and checks on the unlading and shore tank gauging of petroleum and petroleum products imported by vessel. Customs proposed to amend § 151.42 to include imports by truck, railroad car, pipeline, or other carrier.

This proposal has been adopted without modification.

Section 151.42 also permits the district director to exercise discretion in

determining which methods of control to use in the unlading and gauging of petroleum and petroleum products. Customs proposed that this section be amended to state that, where possible, two methods of control shall be used.

This proposal has been adopted. Accordingly, for control purposes, both shore measurements (§ 151.42(a)(1)) and vessel ullages (§ 151.42(a)(2)) shall be taken. For purposes of determining the gross quantity unladen, shore measurements will be used. Vessel ullages will not be used to determine the gross quantity unladen unless none of the methods of shore measurement are available or adequate.

At the suggestion of one commenter, weighing of trucks and railroad cars has been added as a method of control.

Consistent with an existing requirement that meters used in gauging petroleum and petroleum products be approved by Customs, it was proposed to amend § 151.42 (c) and (d) to provide that positive displacement meters and trubine-type meters used as methods of control in gauging petroleum and petroleum products must be of a type approved by Customs.

This proposal has been adopted without modification.

It was proposed further to amend § 151.42 to provide that Customs officers would perform or witness: (1) opening ullages of carriers; (2) closing ullages of all carriers which have not completely discharged cargo, or if an importer or carrier requests Customs to witness closing ullages due to special problems; (3) shore tank gauges performed by company or related party employees; (4) between 5 and 10 percent of shore tank gauges conducted by public gaugers; and (5) shore tank gauges, including those conducted by a public gauger, where no carrier ullages are taken. Because the sealing of valves is not a complete method of measurement and control, it was proposed to delete § 151.42(e), which refers to this method. Sealing of valves would continue to be used in shore tank gauging to the extent that it is safe and practicable.

These proposals have been adopted without modification.

Customs also proposed to add a new subsection to section § 151.42. The new subsection would require the reporting of discrepancies in manifests of petroleum and petroleum products imported by truck, railroad car, pipeline, or other carrier, if the discrepancy exceeds one percent.

This proposal has been adopted without modification.

4. Section 151.43(a) provides that the acceptance of public gauger quantity reports of imported petroleum and petroleum products is discretionary with the district director. Customs proposed to amend this section to permit acceptance of these reports for shore tank gauging and closing carrier ullages if Customs independently employed, as a second method of control, one of the other methods described in § 151.42(a), and there was no evidence that the public gauger failed to comply with the provisions of Part 151, Subpart C, Customs Regulations.

This proposal has been adopted. Therefore, Customs will accept public gaugers reports only when it has independently performed or witnessed opening and closing carrier ullages as prescribed in § 151.42(b).

5. Section 151.43(b) provides that in applying for Customs public gauger approval, an applicant must agree to avoid conflict-of-interest situations. In its notice of proposed rulemaking, Customs proposed to amend § 151.43(b) to require approved public gaugers to notify the Commissioner in writing within 60 days of any change of name, address of principal place of business, ownership, or financial condition, or, if a corporation, of any change in its articles of incorporation, officers, directors, or parent-subsidiary relationship.

It also was proposed that public gaugers be required to notify Customs of any (1) effort to influence or otherwise impede the performance of their duties in connection with proper gauging of petroleum or petroleum products, or (2) attempt to coerce them fraudulently to change or falsify records maintained by them in the course of their employment.

Both of these proposals have been adopted without modification.

6. Section 151.43(d) provides that a public gauger's Customs approval may be revoked for failure to comply with the provisions of that section but does not provide for the imposition of any other sanction. Customs proposed to amend this section to permit it to suspend approval or to assess liquidated damages under the public gauger bond described in § 113.13(b), Customs Regulations (19 CFR 113.13(b)).

This proposal has been adopted without modification.

7. Section 151.43(e)(1) provides that to be approved by Customs, all measuring and testing devices in use in a public gauger's operation shall be maintained in first-class condition. To clarify that sampling devices also are covered, it was proposed to amend § 151.43(e)(1) to include sampling devices with measuring and testing devices.

This proposal has been adopted without modification.

8. Section 151.43(e)(3) requires that as a condition of approval, public gaugers authorized to sign gauging reports must have a minimum of 6 months on-the-job training and experience. In the notice of proposed rulemaking, Customs proposed to amend § 151.43(e)(3) to require that public gaugers provide Customs with written certification of their training and experience.

This proposal has been adopted with the modification that each public gauger and each other person authorized to sign gauging reports shall furnish the required information.

9. The regulations do not require that a public gauger maintain records for Customs inspection pertaining to the measurement, gauging, testing, or sampling of imported petroleum or petroleum products performed in the course of his employment, nor for Customs verification of any records kept by him in the normal course of business. It was proposed to add new subsections (g) and (h) to § 151.43, establishing a recordkeeping requirement for public gaugers and providing a procedure for verification of these records by Customs.

This proposal has been adopted without modification.

10. Part 151, Subpart C, provides that Customs approval of a public gauger may be revoked for failure to comply with any of the provisions of that subpart. However, it is silent as to the public gauger's rights in such situations. Customs proposed to add a new subsection (i) to § 151.43, to provide an approved public gauger with due process before any revocation or suspension of his approval by Customs.

This proposal has been adopted without modification.

11. It was proposed to add a new subsection (j) to § 151.43 to state that in addition to (1) any penalty otherwise provided by law which may be incurred for failure to comply with the provisions of Part 151, Subpart C, or (2) any sanction which may be imposed against a public gauger approved by Customs under the provisions of that subpart, a monetary penalty also may be assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), if appropriate.

This proposal has been adopted without modification.

12. Section 151.44(c) provides that whenever practicable, the district director may require that the measurements and calibrations shown on the gauge tables of petroleum storage tanks be verified by a Customs officer. Because a district director may deem verification necessary at a time when no qualified Customs officer is available, it was proposed to amend this section to permit the district director to accept an independent certification verifying these

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measurements and calibrations. The independent verification would be performed at the expense of the storage tank proprietor.

This proposal has been adopted with the modification that the district director may require verification of the measurements and calibrations shown on the gauge tables of petroleum tanks whenever he has reason to suspect their reliability, instead of whenever practicable.

Discussion of Comments

A majority of the commenters endorse, in principle, Customs proposals to ensure proper control of imported petroleum and petroleum products, to provide uniform, complete, and reliable statistics relative to the importation of these products, and to establish standardized guidelines applicable to the use of public gaugers for monitoring imports of petroleum and petroleum products. They are generally of the opinion that these guidelines will improve the reliability of public gaugers; promote greater uniformity and accuracy in the measurement of imported petroleum and petroleum products; ensure proper control of imported petroleum and petroleum products; ensure the availability of uniform, complete, and reliable statistics regarding these imports; and simplify the international transportation of petroleum and petroleum products.

However, the commenters criticized the proposals as inadequate, vague, too restrictive, and likely to increase both expenses and the burden of documentation for importers and Customs, which possibly could thwart the collection of accurate statistics and increase discrepancies for which importers would be penalized unfairly.

The specific comments are as follows:

I. Discrepancies

A. Reporting of One Percent Discrepancy

Fourteen commenters object to Customs proposal that discrepancies exceeding one percent between manifested and unladed quantities shall be reported on Customs Form 5931 and that penalties otherwise provided by law may be incurred automatically if the discrepancy exceeds one percent. A number of commenters believe that the one percent figure is too restrictive and suggest allowances ranging from 1.5 to five percent. Other commenters oppose the imposition of any reporting requirement. In their objections, the commenters state that the reporting of manifest discrepancies is impracticable because:

(1) Using at least two methods of measurement, one of which might be ullaging, may in itself guarantee discrepancies exceeding one percent;

(2) Discrepancies may result from factors beyond the control of the carrier or the importer, such as physical losses, temperature deviation, cargo remaining on board, measurement errors at either the loading or receiving port, inconsistent operations in foreign ports, vessel ullages taken at sea, and variables associated with pipelines;

(3) Other factors, such as imprecise gauge tables, and the presence of suspended water and sediment, may increase the likelihood of discrepancies; and

(4) Problems associated with split entries and the use of lightering vessels introduce variables in the determination and measurement of cargo which also may result in discrepancies.

The commenters contend that, for these reasons, the imposition of a penalty in every case in which a manifest discrepancy exceeds one percent would be unreasonable.

The addition of proposed paragraph (c) to § 4.12, Customs Regulations (19 CFR 4.12), does not change materially the requirement that a vessel master or agent is responsible for explaining manifest overages and shortages, but is a restatement of a longstanding Customs practice. Under the proposed amendments, the master or agent would manifest all cargo on board to be imported. The manifested quantity (gross quantity on board and to be unladen) would be compared to the gross quantity actually unladen, as determined in accordance with §§ 151.42(a) and 151.43(a). If there is a discrepancy in excess of one percent between the two figures, the master or agent would be required to file a report on Customs Form 5931 in accordance with § 4.12(a)(2) or (a)(3). It is not intended that a penalty will be imposed automatically if the discrepancy exceeds one percent. However, if the required notification and explanation are not filed timely, or if the reason for the discrepancy is not satisfactorily explained, an appropriate penalty will be imposed.

The net quantity unladen (the gross quantity unladen adjusted for excessive water and sediment) is the quantity which will be used for entry, licensing, and statistical purposes.

Because Customs recognizes that factors beyond the master's control may contribute to discrepancies, a one percent variable has been provided. The manifest is prepared by the vessel master and may be amended at any time before unlading. Accordingly, before unlading, the master may correct the manifest to take into account any variables of which he is aware. This may include correcting the manifest to reflect opening vessel ullages.

Customs has found that in those locations where vessel masters or agents now are required to report discrepancies exceeding one percent, no discrepancy reports were necessary in approximately 95 percent of the transactions.

B. Explanation of Manifest Discrepancies

Six commenters submit observations regarding Customs proposals to require discrepancy reports.

One commenter suggests that because there are reasons other than absorption of moisture, temperature, and faulty weighing at the port of lading, listed in § 4.12(a)(5)(b), which may account for discrepancies between the manifested quantity and the gross quantity unladen, the word "explainable" should be substituted for the word "similar" in the provision " * * * a correction in the manifest shall not be required in the case of bulk merchandise if the district director is satisfied that the difference between the manifested quantity and the quantity unladen is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason."

Another commenter suggests that a correction of the manifest should not be required if discrepancies between the manifested quantity and the quantity unladen can be explained. Other commenters state that references to discrepancies of manifested entered quantities should be more specific as to which method of quantity determination shall be used and that the terms used be more specifically defined. One commenter also notes that carriers other than vessels, such as rail carriers, often are transient, and furnishing a report signed by both the carrier and the importer within 60 days of entry would be difficult.

Customs did not propose any changes to § 4.12(a)(5)(b) and believes that it is inappropriate to amend that section at this time. The section as written is sufficiently broad to take account of factors other than moisture absorption, temperature, and faulty weighing, which may contribute to discrepancies between quantities which are manifested and which are unladen.

The amendments to the Customs Regulations were proposed to ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating

to the importation of these products. To carry out these purposes, proper carrier controls must be maintained. Accordingly, Customs is of the opinion that the provision requiring the correction of vessel manifests if there is a discrepancy of more than one percent between the manifested quantity and the gross quantity unladen is warranted.

As previously noted, vessel manifests may be amended at any time before unlading. Discrepancies will not be determined by comparing the entered quantity to the quantity unladen, but by comparing the quantity manifested to the quantity unladen, with both figures corrected to the same temperature coefficient—60° Fahrenheit.

Customs experience with rail carriers confirms that they are able to submit discrepancy reports within the 60 days provided. However, after further consideration, Customs has determined that it is unnecessary to require that manifest discrepancies reported on Customs Form 5931 be signed by both the carrier and the importer. Accordingly, the requirement has been deleted from proposed section 4.12(c).

II. Methods of Measurement

A. Ullages

Six commenters object to Customs proposal to use vessel ullages as a method of measurement. The commenters contend that the taking of vessel ullages is not a reliable basis for import reporting because it fails to take into account factors such as clingage, remains on board, the tank washing policy, differences in temperature above and below the waterline, and the inherent ship vs. shore measurement bias. It is suggested that ullage measurements be regarded only as an indication that a discrepancy may exist and not as a method for establishing a discrepancy for the purposes of imposing a penalty.

Customs agrees that vessel ullages are not the most accurate method of measuring the quantity unladen. The ullaged figure will not be used to determine quantity unladen for reporting purposes unless no other method of measurement is available or adequate. Nevertheless, vessel ullages shall be taken in every case unless the district director determines that it is unsafe to do so, or because technological factors, such as the presence of inert gas systems, prevent doing so. Customs intends to use the ullaged figure as an indication of the accuracy of the quantity manifested so as to afford the vessel master an opportunity to amend the manifest if a comparison between the quantity manifested and the ullaged figure shows a variance. Customs also will use the ullaged figure as an indication of the accuracy of shore metering and shore tank calibrations.

B. Meters

Four commenters address the proposal that positive displacement and turbine type meters used as methods of measurement be of a type approved by Customs. Two commenters suggest that applicable industry standards be used by Customs as criteria for approval of these meters. One commenter cautions that, in certain circumstances, meters may provide inaccurate measurements and suggests that gauging would be the most reliable means for measuring petroleum and petroleum products. Another commenter states that it is unnecessary for Customs to approve these meters, but if Customs chooses to do so, it should be required to provide approval within a specified time frame (i.e., 15 days) after the importer has requested approval.

Customs traditionally has used accepted industry standards in approving meters and intends to continue this practice. Experience has shown that Customs approved meters are generally as accurate or more accurate than gauging as a method of measurement. Furthermore, Customs may compare manifested quantities and quantities determined by opening ullages to metered quantities as an indication of the accuracy of the meter.

It is, and will continue to be, Customs policy to approve meters as rapidly as possible. Customs recognizes the need for timely approval of these devices and does not intend to inconvenience operators unnecessarily. However, Customs is of the opinion that it would be unduly restrictive to include a time constraint in the regulations.

C. Use of Two Methods of Measurement

Two commenters object to the proposal that, if possible, Customs use two methods of measurement to report imported petroleum and petroleum products. They state that there is no technical basis for assuming that the use of two equivalent measurement systems will give a more accurate reading than the use of one, that such use is expensive and redundant, will not increase the uniformity of controls, and only will generate an additional set of figures, thus creating an area of dispute.

Customs does not intend to use either an average or a combination of both figures for reporting purposes. The figure derived from the shore measurement will be the gross quantity unladen and ordinarily will be the basis for determining the net quantity unladen. The net quantity unladen, as determined by Customs, is the quantity used for entry, licensing, and statistical purposes in each case, whether or not there is a discrepancy between the quantity manifested and the gross quantity unladen. However, if shore measurements are unavailable or inadequate, Customs then will use vessel ullages to determine the gross quantity unladen.

Proposed § 151.42 has been modified to reflect this change.

D. Sealing of Valves

Three commenters oppose Customs proposal to eliminate sealing of valves as a method of control. One of the commenters states that although the sealing of valves is not a method of measurement, it is an effective means of controlling the flow of products into the measuring facility and that elimination of this method of control would remove a deterrent to both the intentional or inadvertent diversion of the product. Another commenter is concerned that eliminating the use of sealing of valves implies that segregation of a receiving system by installation of blinds will be required and that such a system would hinder normal terminal operations, especially lube oil operations.

Customs recognizes that the sealing of valves is an effective means of controlling the flow of products into measuring facilities. However, used alone, it is not a complete method of measurement. Accordingly, the sealing of valves has been deleted from the methods of measurement in proposed § 151.42(a)(1). However, sealing of valves shall continue as part of shore tank gauging to the extent safe and practicable.

Because the sealing of valves may be used in conjunction with the methods of measurement listed in § 151.42(a)(1), Customs does not anticipate that eliminating sealing of valves as a method of control will require the segregation of receiving systems by installing blinds.

E. Other

Additional commenters express reservations concerning use of the other methods of measurement proposed by Customs.

One commenter states that although Customs has set forth four methods of measurement which may be used in measuring imports of petroleum and petroleum products, it has not specified which shall be the ruling one for Customs outturn, license decrementation, and liquidation. The commenter suggests that the methods be given a rated priority of preference.

A second commenter recommends

The net amount unladen is the amount

Another commenter suggests that the

A second commenter recommends that only Customs inspectors perform ullaging and gauging. A third commenter notes that the only method of measurement discussed in the proposal is liquid gallons, but that many petroleum products, such as natural gas, greases, and waxes, are measured otherwise than in liquid gallons, and that weighing, an effective method for measuring the content of tank trucks and railroad cars, is not designated as a method of measurement.

Another commenter states that the shore tank gauge reading should be the only figure used for the determination of exact quantity discharged for statistical purposes and duty assessment where a partial quantity of a vessel's cargo is discharged at a particular port, and that a "bone dry certificate" from an independent surveyor should be required to determine that all of the material on board has been discharged in those instances where the vessel discharges all of the cargo on board.

One commenter suggests that specific procedures (e.g., frequency of audits or rotation of times that audits will be conducted) should be developed stating when the 5 to 10 percent of shore tank gauges conducted by public gaugers would be performed or witnessed by Customs.

One commenter states that with regard to stream-boarding of vessels, the decision whether or not to stream-board should be made by the individual inspector, not the district director.

As previously stated, Customs intends to employ only one method of mesurement (other than ullaging) to determine the gross quantity unladen. Customs does not believe that one method of shore measurement should be given preference over another because each port has different facilities, and a method used efficiently at one port may not be appropriate for use at another.

Because other Customs officers, such as warehouse officers, also may perform ullaging and gauging, Customs does not intend to authorize only inspectors to perform this function.

Although the measurement quantities discussed in the proposal included, but were not limited to, liquid gallons, the methods of control do not specify that measurements must be made in liquid gallons. It is Customs practice to measure merchandise in quantity units appropriate to each commodity.

Customs agrees that the weighing of tank trucks and rail cars is an effective measure and has determined to include it as a method of measurement in proposed § 151.42(a)(1), which has been modified accordingly.

The net amount unladen is the amount to be used for entry, licensing, and statistical purposes. Customs does not require a bone dry certificate because the burden is on the master to account for the entire cargo of the vessel whether or not the entire cargo is discharged at any particular port.

Specific procedures governing when the 5 to 10 percent of shore tank gauges conducted by public gaugers will be performed or witnessed by Customs have been developed. In addition, Customs intends to ensure the reliability and integrity of public gauger reports by random audits and by random on-site verification of quantities measured.

The Customs position, incorporated in an internal directive referencing safety problems, has been to allow each boarding officer to determine at the time of boarding whether or not it is safe to board a vessel in stream. This policy remains in effect. Customs does not intend to jeopardize the health and safety of its employees by requiring them to stream-board vessels under hazardous conditions.

III. Deduction for Basic Sediment and Water (BS&W)

Although the notice of proposed rulemaking did not address the subject, six commenters suggest that Customs amend the existing allowances for BS&W in suspension in imported petroleum and petroleum products.

Customs is amendable to suggestions and discussions leading to review of its BS&W claims policy. However, because no changes in existing policy were proposed in the notice, further consideration of comments regarding BS&E claims policy at this time is inappropriate.

IV. Public Gaugers

Seven commenters respond to Customs proposals regarding public gaugers.

Two commenters note that while Customs proposes to require that public gaugers maintain automatic sampling devices in first class condition, these devices normally are fixed shore installations owned and operated by the terminal operator, who is responsible for their maintenance. They suggest that gaugers be required to determine only that these devices be in first class condition.

One commenter recommends that a system for the verification of selected entries be instituted and that Customs investigate both public gaugers requesting Customs approval and gaugers who previously have been approved.

Another commenter suggests that the proposed amendments also provide for Customs approval of company-employed gaugers.

Two commenters note that while Customs would require each public gauger authorized to sign gauging reports to furnish Customs with a written certification that he has a minimum of six months on-the-job training and experience, there is no requirement that the person doing the gauging provide such certification. The commenter recommends that each gauger certified by Customs be required to carry identification stating that he is certified to perform gauging at any port his employer may send him.

One commenter questions whether, as part of Customs recordkeeping proposal, public gaugers must keep physical samples for a period of five years. The commenter suggests that maintaining these samples for six months or until liquidation of the entry would be sufficient.

One commenter is of the opinion that the provision that the Customs Office of Investigations shall investigate a gauger's fitness and reputation and verify the correctness of the statements made in his application at the direction of the Commissioner, as he deems necessary, vests too much discretion in the Commissioner. The commenter suggests that the provision should be modified to delete the section granting the Commissioner discretion in this situation.

One commenter suggests that if Customs exercises its discretion not to accept reports of public gaugers in certain situations, the volumes recorded for imports by a company and by Customs may vary. The company would employ an independent gauger to determine the discharged volume for accounting and reporting purposes, while Customs might record a different volume.

It has been Customs policy to require that gaugers maintain all of their measuring and testing equipment in first-class condition. In the proposed regulations, sampling devices also were included. However, the word "automatic" was inserted inadvertently in the notice of proposed rulemaking. Proposed § 151.43(e)(1) is modified to correct this error.

It is assumed that in recommending that a system for the verification of selected entries be instituted, the commenter is suggesting that Customs establish a means for ensuring the accuracy of public gaugers' reports. As previously noted, Customs intends to ensure the reliability and integrity of public gauger reports by random audits and by random on-site verification of quantities measured.

All applicants who have received Customs approval previously have undergone Customs investigations to determine their fitness and reputation and to verify the correctness of the statements made in their applications. As set forth in § 151.43(c), this practice will be continued. Customs is of the opinion that re-investigating all public gaugers previously approved would require an unnecessary expenditure of money and manpower. Further, a revised agreement in the form set out in proposed § 151.43(b)(5) will not be required of previously-approved public gaugers. However, because the public gauger bond, posted by all previously-approved public gaugers is conditioned that the public gauger ". . . shall perform in accordance with standards and procedures of gauging as required by the Customs Regulations . . .", approved public gaugers have a continuing obligation to comply with changes in the regulations. Accordingly, they will be required to comply with new requirements set forth in this document. These include: conflict-of-interest requirements; recordkeeping requirements; the maintenance of sampling devices; and employee experience and training.

Customs does not agree that company-employed gaugers also should be approved by Customs and that Customs should accept reports made by company gaugers. Because company gaugers are directly employed by the concern for which the gauging is performed, Customs is of the opinion that accepting reports from company gaugers is not a form of independent verification because it may place the company gauger in a conflict-of-interest situation.

Customs agrees that both persons authorized to sign gauging reports and persons performing gauging should have a minimum of six months on-the-job training and experience. Accordingly, proposed § 151.43(e)(3) has been modified to reflect this change.

Customs does not agree, however, that it would be beneficial to require that each Customs approved gauger carry identification stating that he is certified to perform gauging at any port where his employer may send him because gaugers may perform gauging only in the district(s) for which they are approved. The district director in each district will verify which gaugers are approved to perform gauging within that district.

Public gaugers are not required to retain physical samples for a period of five years. The length of time for retaining physical samples is discretionary with the gauger. Customs maintains its own samples for analysis in cases where questions arise.

Even though in the past the Commissioner has directed that each applicant for Customs public gauger approval be investigated, Customs agrees that an automatic investigation would be beneficial. Accordingly, § 151.43(c) is modified to require that, in all cases, an applicant's fitness and reputation shall be investigated, and the correctness of the statements made in his application shall be verified.

Although an importer may determine his own policy for computing the quantity unladen, the net quantity unladen, as determined by Customs, is the amount to be used for entry license control and statistical purposes. When there is a variance between the quantitites recorded by the company and Customs, the quantity recorded by Customs will be used.

V. Foreign-Trade Zones

Two commenters note that procedures concerning the transfer into and out of, and the processing of petroleum within, foreign-trade zones are not addressed in the notice of proposed rulemaking. One suggests that foreign-trade zones be specifically exempt from the measuring requirements set forth in the notice. The other is of the opinion that operations in foreign-trade zones should be excluded from the proposed amendments except where these procedures can be applied effectively at the discretion of the district director.

The transfer of petroleum and petroleum products into and out of foreign-trade zones, and their processing within foreign-trade zones, were not addressed specifically in the notice of proposed rulemaking because the admission, handling, and removal of foreign-trade zone merchandise is subject to the requirements of Part 146, Subpart D, Customs Regulations (19 CFR Part 146, Subpart D). However, the transfer of petroleum and petroleum products into and out of foreign-trade zones also is subject to the provisions of Part 151, Subpart C, Customs Regulations, as amended by this document.

VI. Quantities Unladen

Three commenters remark on Customs proposal to use the amount of petroleum and petroleum products actually unladen as the quantity imported for statistical purposes.

One commenter suggests that because it is the most nearly correct expression of petroleum imports, the net quantity unladen should be used for all statistical purposes. The commenter further states that the requirement that an independent commercial laboratory must be used to determine the quantity is non-productive because receivers have extensive laboratory facilities for this purpose. This commenter suggests that Customs establish a method for ensuring that laboratory tests by receivers are in accordance with ASTM/API standards and, therefore, acceptable. A second commenter states that the wording used in proposed § 151.47(a) for determining the net quantity of petroleum unladen should refer to the table in § 151.46, instead of sediment and water in excess of 0.3 percent, and that in determining the net quantity unladen, reference should be made to § 158.13 and the need to file Customs Form 4315.

A third commenter is of the opinion that the parties responsible for securing and maintaining samples for testing in laboratories should be specified clearly to establish a chain of custody, and that a Customs laboratory should test all samples, including those tested in gaugers' laboratories.

As previously noted, the net quantity unladen is the amount which will be used for entry, licensing, and statistical purposes.

Customs does not agree that the provision in § 151.47(a) requiring that an independent commercial latoratory be used to determine the quantity should be changed at this time because it did not propose to change this requirement in the notice of proposed rulemaking. However, Customs would consider a request to change this provision at a later date.

Customs agrees that proposed § 151.47(a), the provision for determining the net quantity of petroleum unladen, should be expanded to refer to the table in § 151.46, instead of sediment and water in excess of 0.3 percent. Customs also agrees that in determining the net quantity unladen, reference should be made to § 158.13 and the need to file Customs Form 4315. Proposed § 151.47(a) is modified accordingly.

Because when a claim is made, independent laboratory reports are verified by Customs laboratory tests using Customs own samples, Customs is of the opinion that it is not necessary to establish a chain of custody for samples tested in commercial laboratories.

Customs does not believe that it should routinely test all samples. To do so would not be cost effective. However, Customs now tests, and will continue to test, all samples subject to a claim filed on Customs Form 4315.

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VII. Storage Tanks

Four commenters address Customs proposals to amend sections 151.44 and 151.45, relating to storage tanks.

One commenter objects to the provision in proposed § 151.44(c) that if no qualified Customs officer is available, the district director may accept an independent certification of the measurements and calibrations of storage tanks, performed at the expense of the storage tank proprietor. The commenter states that the provision should state more specifically when a verification is called for and what it is to consist of, and that Customs, not the proprietor, should bear the expense of an independent verification.

A second commenter states that Customs should require certification of carrier tanks when gauge tables are to be used for vessel ullages. Although customs proposed no change to § 151.45(b), a third commenter notes that although this section states that under certain circumstances, non-bonded petroleum may be required to be completely removed from bonded storage tanks, this is not practicable or possible in all situations and that some method of accommodation should be provided.

Another commenter states that if Customs discovers through independent survey that tanks do not contain accurate measurements and calibrations, and it can be proven that the tank proprietor was negligent in reporting suspected inaccuracies to Customs before the survey, a penalty should be assessed against the proprietor.

Customs agrees that proposed § 151.44(c) should state more specifically when verification is called for. Customs is of the opinion that the district director should have discretion to require verification of the measurements and calibrations shown on the gauge tables whenever he has reason to suspect their reliability. Proposed § 151.44(c) is modified accordingly.

Customs believes that it is justified in requiring that independent certification of the measurements and calibrations of storage tanks be performed at the expense of the storage tank operator when no Customs officer is available. The proper maintenance of storage tanks and gauge tables is the responsibility of the owner and, therefore, it is the owner who should bear the expense of properly maintaining them. Further, because Customs allows importers the convenience of unlading at their own facilities, Customs must be assured that provisions for determining the quantities unladen are adequate.

Customs has concluded that certification of carrier tanks when gauge tables are to be used for vessel ullages would cause an unnecessary expense to the carrier in view of the fact that ullages ordinarily will not be used to determine the actual quantity unladen unless none of the other methods of control in proposed § 151.42(a)(1) is available or shore measuring facilities are inadequate.

Customs must be assured that only bonded cargo is stored in storage tanks bonded as warehouses. Accordingly, it is not unreasonable to require removal of non-bonded petroleum from bonded tanks.

Customs is of the opinion that current law provides for the imposition of a penalty if a storage tank proprietor is negligent in reporting suspected inaccuracies to Customs before a survey of his tanks.

VIII. Hearing, Meeting and Study Committee

Three commenters state that, before implementing a final rule, Customs should provide the public with an opportunity to discuss and comment on the proposed changes One commenter suggests that Customs hold a public hearing; the second commenter suggests that Customs establish a study committee consisting of Customs officials, industry representatives, and experts in the science of petroleum management and statistics to study the proposals; and the third commenter suggests that Customs meet with industry personnel to discuss the proposals.

As previously noted, on January 8, 1980, Customs held an open conference with interested members of the public to further discuss and clarify the issues raised by the commenters. At the conference an attempt was made to resolve objections to the proposed regulations to the satisfaction of all participants.

IX. Vagueness of Terms—Need for Further Definition

Seven commenters state that terms used in the proposed regulations are either vague or inadequately defined.

Two commenters state that proposed § 151.42 is vague in that it does not specifically state under what conditions two methods of control are to be used and who is to determine when it is possible to use two methods of control.

Five commenters state that terms such as "petroleum and petroleum products," "gross quantity landed," "net quantity landed," "net quantity," "manifest," "public gauger," "verification," and "acceptance" should be better defined.

As previously stated, Customs has determined that only one method of measurement will be used to determine the amount of petroleum and petroleum products unladen and has modified the proposed regulations accordingly.

Customs is of the opinion that the terms "public gauger," "verification," and "accepted," do not require further definition because their meanings in the context of the regulations are well known to the importing and transportation communities. However, to aid in understanding the regulations, the following definitions are provided:

1. "Petroleum and petroleum products" includes, but is not limited to, those items found in Schedule 4, Part 10, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), and those items in Schedule 4, Part 2, TSUS, if comprised of hydrocarbons derived from petroleum. Customs reserves the right to determine the application of the term on a case-by-case basis.

2. "Gross quantity unladen" or "gross quantity" is the amount directly unladen (landed) from vessel to shore without allowance for excessive water and sediment (BS&W).

3. "Net quantity unladen" or "net quantity" is the gross quantity unladen (landed) adjusted for excessive water and sediment (BS&W) in accordnace with § 151.46, Customs Regulations.

4. "Manifest" is an invoice of the cargo on board a carrier. The form of the manifest and the information therein varies according to the type of carrier. Customs manifest requirements are found in sections 4.7 and 4.7a and Part 123, Customs Regulations (19 CFR 4.7, 4.7a, Part 123) and 19 U.S.C. 1431.

X. Miscellaneous

One commenter is of the opinion that (1) requiring that estimates of petroleum and petroleum products unladen or withdrawn from bonded tanks not vary by more than one percent from the actual gross quantity unladen or withdrawn, and (2) the assessment of a penalty in cases where the variance exceeds one percent, are unreasonable considering the difficulty in measuring certain products or unusually small quantities of a product. A second commenter believes that a difference of three percent should be allowed between estimation and delivery because there are many variables (such as problems in the use of common pipelines to supply fuels to bonded tanks) which make it impossible to meet the one percent requirement.

Another commenter states that, in reference to proposed § 151.41, "Information on Entry Summary," the explanatory material refers to an estimate of the quantity unladen, but the proposed regulation itself requires a notation of the API gravity, which is redundant because petroleum is graded by API gravity for tariff schedule purposes. One commenter questions whether and to what extent the proposed amendments imply recalibration (restrapping).

Customs recognizes the difficulties involved, and in order to allow importers greater latitude in preparing estimates required in proposed §§ 151.41 and 151.45, the regulations have been modified to provide for a three percent variance between the estimated quantity and the net quantity unladen before a penalty may be incurred.

Although § 151.41 requires that the importer show API gravity at 60° Fahrenheit, that and the estimate of the volumetric quantity landed are two distinctly different figures and both must be provided.

Customs does not anticipate that any additional recalibration or restrapping will be required as a result of these amendments.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Department of the Treasury participated in its development.

Adoption of the Proposed Regulations

The proposed regulations set forth in the notice of proposed rulemaking published on November 7, 1979 (44 FR 64434), are adopted subject to the revisions made below.

Amendments to the Regulations

Parts 4, 144, 151, and 159, Customs Regulations (19 CFR Parts 4, 144, 151, 159), are amended as set forth below.

R. E. Chasen,

Commissioner of Customs.

Approved: April 24, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

Amendments to the Customs Regulations

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.12 is amended to read as follows:

§ 4.12 Explanation of manifest discrepancy.

(a)(1) Vessel masters or agents shall notify the district director on Customs Form 5931 of shortages (merchandise manifested, but not found) or overages (merchandise found, but not manifested) of merchandise.

(2) Shortages shall be reported to the district director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in § 158.3 of this chapter, or within 60 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to support the claim of nonimportation [23] or of proper disposition or other corrective action (see section 4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for one year.

(3) Overages shall be reported to the district director within 60 days after the date of entry of the vessel by completion of a post entry [24] or suitable explanation of corrective action (see section 4.34) on the Customs Form 5931.

(4) The district director shall immediately advise the master or agent of those discrepancies which are not reported by the master or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days after the date of such notification, or within 60 days after entry of the vessel, whichever is later.

(5)(a) Unless the required notification and explanation is made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for failing to so report), applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed (see § 162.31 of this chapter). For purposes of this section, the term "clerical error" is defined as a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. For the purpose of assessing applicable penalties, the value of the merchandise shall be determined as prescribed in § 162.43 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(b) Except as provided in paragraph (c) of this section, a correction in the manifest shall not be required in the case of bulk merchandise if the district director is satisfied that the difference between the manifested quantity and the quantity unladen, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing vessel when the quantity and description of the merchandise in such packages are correctly given.

(c) Manifest discrepancies (shortages and overages) of petroleum and petroleum products imported in bulk shall be reported on Customs Forms 5931, if the discrepancy exceeds one percent.

(R.S. 251, as amended, secs. 440, 584, 624, 46 Stat. 712, as amended, 748, as amended, 759 (19 U.S.C. 88, 1440, 1584, 1624))

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(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

Section 144.37(e) is amended by changing the spelling of the word "gage" to "gauge" wherever it appears.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

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[23] * * * "If any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be subject to a penalty of $500: *Provided*, That if the appropriate Customs officer shall be satisfied that the manifest * * * is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *, the term 'clerical error' means a non-negligent, inadvertent, or typographical mistake in the preparation, assembly or submission of the manifest. * * *" (Tariff Act of 1930, sec. 584, as amended, 19 U.S.C. 1584).

[24] "If there is any merchandise or baggage on board such vessel which is not included in or which does not agree with the manifest, the master of the vessel shall make a post entry thereof, and mail or deliver a copy to such employee as the Secretary of the Treasury shall designate and for failure so to do shall be liable to a penalty of $500." (Tariff Act of 1930, sec. 440, as amended; 19 U.S.C. 1440).

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. Section 151.28 is amended by changing the spelling of the words "gage" and "gaging" to " gauge" and "gauging", respectively, wherever the words appear.

2. Subpart C is amended to read as follows:

Subpart C—Petroleum and Petroleum Products

§ 151.41 Information on entry summary.

On the entry summary for petroleum or petroleum products in bulk, the importer shall show the API gravity at 60° Fahrenheit, in accordance with the current edition of the ASTM–IP Petroleum Measurement Tables (American Edition), published by the American Society for Testing and Materials. The appropriate unabridged table shall be used in the reduction of volume to 60° F. If the exact volumetric quantity cannot be determined in advance, the entry summary may be made for "—— United States gallons, more or less", but in no case may the estimate vary by more than three percent from the gross quantity unladen. The information required by this section also shall be shown on the entry summary permit if the entry summary is filed at the time of entry, and on each entry summary continuation sheet regardless of when the entry summary is filed.

§ 151.42 Controls on unlading and gauging.

(a) *Methods of control.*

(1) Each district director shall establish controls and checks on the unlading and measurement of petroleum and petroleum products imported in bulk by vessel, truck, railroad car, pipeline, or other carrier. One of the following methods of control shall be employed:

(i) Customs approved positive displacement meters at installations where provided by the importer;

(ii) Customs approved turbine-type meters at installations where provided by the importer;

(iii) Shore tank gauging; or

(iv) Weighing for trucks and railroad cars.

(2) Vessel ullages shall be taken in every case unless the district director determines that it is impracticable to do so for safety or technological reasons. Ullages may be taken for trucks and railroad cars if weighing or shore tank gauging is not available as a method of control. Vessel ullages will not be used to determine the quantity unladen unless none of the other methods provided for in this paragraph is available or adequate.

(b) *Duties of Customs officers.* Customs officers shall perform or witness ullaging and gauging as follows:

(1) Opening ullages.

(2) Closing ullages of carriers which have not completely discharged cargo, or if an importer or carrier requests Customs to witness closing ullages because of special problems.

(3) Shore tank gauges performed by company or related-party employees.

(4) Between 5 and 10 per cent of shore tank gauges performed by public gaugers.

(5) Shore tank gauges, including those conducted by a public gauger if no carrier ullages are taken.

(c) *Manifest discrepancies.* Manifest discrepancies (shortages and overages) shall be reported by or on behalf of the carrier in the manner specified in section 4.12 of this chapter. If a reported discrepancy is not explained to the satisfaction of the district director, the master or other person in charge, or the owner of the vessel or vehicle, or any person directly or indirectly responsible for the discrepancy, will be subject to the imposition of the appropriate penalty under section 460, 584, or 592, Tariff Act of 1930, as amended (19 U.S.C. 1460, 1584, 1592).

§ 151.43 Public gaugers.

(a) *Acceptance of quantity reports.* Subject to such controls and checks as he may deem necessary, the district director may accept, for shore tank gauging and closing carrier ullages, the reports of quantities of imported petroleum and petroleum products made by public gaugers approved by the Commissioner in accordance with this section, provided—

(1) Customs officers have exercised the supervision required by section 151.42(b) of this part, and

(2) There is no evidence that the public gauger has failed to comply with the provisions of this subpart.

(b) *Application.* Any public gauger desiring approval shall submit an application, which may be in the form of a letter, to the Commissioner of Customs, Washington, D.C. 20229. The application shall contain or be accompanied by the following:

(1) The applicant's name, address, and ownership, and a statement of financial condition.

(2) If a corporation, a copy of its articles of incorporation, a list of its officers and directors, and details of any parent-subsidiary relationship.

(3) A detailed statement of the applicant's qualifications.

(4) The Customs district(s) for which approval is requested.

(5) A written agreement in the following form to avoid conflict-of-interest situations and to comply with operating requirements prescribed by Customs:

Public Gauger Agreement

As conditions for the approval of this application, I undertake and agree:

(1) To have no financial interest or other connection (except for acceptance of the usual fees for gauging services) with any business or other activity which might be considered to affect the unbiased performance of my duties as a public gauger for Customs purposes, in accordance with the standards and procedures approved by the Commissioner of Customs.

(2) To comply with the requirements of Part 151, Subpart C, Customs Regulations (19 CFR Part 151, Subpart C), and with any procedures prescribed by the Commissioner or district director of Customs pursuant to that subpart.

(3) To notify the Commissioner and district director of Customs in writing within 60 days of any change of name, address, ownership, or financial condition, and, if a corporation, of any change in its articles of incorporation, officers, directors, or parent subsidiary relationship.

(4) To communicate immediately to the Commissioner and district director of Customs notice of any—

(i) Effort to influence, or otherwise impede, the performance of my duties in connection with the proper gauging of petroleum or petroleum products, or

(ii) Attempt to coerce me fraudulently to change or falsify records maintained in the course of my employment.

(6) A bond in the amount of $10,000 to insure that the gauging will be in conformance with the approved standards and procedures, and with such procedures as may be prescribed by the district director pursuant to paragraph (f) of this section. The form of the required bond will be available from any district director.

(c) *Investigation of applicant.* The Commissioner shall direct the Office of Investigations to determine the applicant's fitness and reputation, and to verify the correctness of the statements made in the application.

(d) *Notice of approval, disapproval, suspension, or revocation.* When the investigation is completed, the applicant will be advised of the approval of his application, or, if disapproved, of the reasons for such action. An approval may be suspended or revoked by the Commissioner for failure to comply with any of the provisions of this subpart, or liquidated damages may be assessed under the public gauger bond described in section 113.13(b) of this chapter. Notice of approvals or suspensions or revocations of approval will be published from time to time in the Customs Bulletin.

(e) *Requirements for operations.* To be approved for Customs purposes, a public gauger's operations shall conform to the following requirements.

(1) All measuring, testing, and sampling devices in use shall be maintained in first-class condition. Each device shall be calibrated before the first use, and checked at regular intervals thereafter, against standards whose accuracy is traceable to standards issued by the National Bureau of Standards. In making calibrations and checks, the applicable methods of the American Society for Testing and Materials or the American Petroleum Institute shall be used.

(2) All measuring, testing, and sampling procedures shall be in conformance with published industry standards, such as those of the American Petroleum Institute or the American Society for Testing and Materials, and shall conform to such specific procedures as may be required by the district director in accordance with paragraph (f) of this section.

(3) Each public gauger and each other person authorized to sign gauging reports shall furnish Customs with a written certification that he has a minimum of 6 months on-the-job training and experience.

(4)(i) The public gauger shall investigate promptly any apparent irregularities, procedural difficulties, or indications of systematic bias called to his attention by the district director, or of which he otherwise may become aware, and immediately shall take corrective measures if indicated. The public gauger shall notify the district director of any such matter of which he may become aware.

(ii) The district director shall notify the Commissioner of each such matter that he brings to the attention of the public gauger, or which the public gauger brings to his attention, and of the corrective measures taken.

(f) *Procedures prescribed by district director.* The district director is authorized to prescribe general or specific procedures to be followed by each approved public gauger at each of the discharging facilities in the district.

(g) *Recordkeeping requirement.* Records of the public gauger of the type normally kept in the ordinary course of business, pertaining to the measurement, gauging, testing, and sampling of imported petroleum and petroleum products, shall be maintained for 5 years in accordance with sections 162.1a and 162.1c of this chapter.

(h) *Verification requirement.*

(1) *Compliance.* To ensure compliance with the provisions of this subpart and accuracy and uniformity in the information submitted by public gaugers, the district director shall verify by integrity checks, audits, and, if necessary, investigations, the gauging operations in his district. Any discrepancy between the quantity reported by the gauger and the quantity found by Customs shall be resolved in favor of Customs unless the gauger produces clear and convincing evidence that Customs is in error.

(2) *Sanctions.* If a public gauger's reports are repeatedly inaccurate to a significant degree, the gauger may be subject to sanctions in accordance with sections 151.43(d) and (i).

(i) *Suspension or revocation of Customs approval.*—(1) *Grounds.* Failure to comply with the provisions of this subpart may be grounds for suspension or revocation of Customs approval of a public gauger.

(2) *Notice.* The district director shall give written notice of the proposed suspension or revocation to the public gauger. The notice shall be in the form of a statement setting forth specific grounds for the proposed action and shall become final unless the public gauger files a written reply in accordance with paragraph (3) of this subsection. An information copy of the notice shall be forwarded by the district director to Headquarters.

(3) *Reply.* The public gauger may file a written reply with the district director within 10 days following receipt of the notice. An extension of time to reply beyond the 10-day period may be granted for good cause. The reply shall be filed in duplicate and shall set forth the response of the public gauger, including his answers to the allegations and rebuttal evidence, if any. The district director upon request, may allow an oral presentation as to why approval should not be suspended or revoked.

(4) *Action on reply.* If the district director determines that the allegations set forth in the notice have not been proved, he shall notify the public gauger that suspension or revocation no longer is contemplated, and the case shall be closed. Otherwise, the approval shall be suspended or revoked, in which case the district director shall notify the gauger that he may request review of the suspension or revocation by the Commissioner in accordance with paragraph (6). An information copy of the district director's action shall be forwarded to Headquarters.

(5) *Stay of suspension or revocation.* The decision of the district director to suspend or revoke approval shall be stayed until the time for the gauger to file a petition for review by Headquarters has passed and no action has been taken on his part or, if a petition for review has been filed in accordance with paragraph (6), until Headquarters affirms the decision of the district director.

(6) *Review of suspension or revocation of approval.* Petitions for review of suspension or revocation of a public gauger's Customs approval by the district director shall be addressed to the Commissioner and filed in duplicate with the appropriate district director for transmission to Headquarters. Petitions for review shall be filed within 30 days from the date of suspension or revocation of approval and shall state the facts and circumstances relied upon by the petitioner in seeking review of the district director's order. The petition shall be reviewed by the Commissioner or his designee. Upon completion of the review, a written decision shall be forwarded to the district director for delivery to the public gauger.

(7) *Publication.* Notice of any final action by the district director or the Commissioner suspending or revoking approval of a public gauger shall be published in the **Federal Register** and the Customs Bulletin.

(j) *Penalties.* In addition to—

(i) Any penalty otherwise provided by law which may be incurred for failure to comply with the provisions of this subpart, or

(ii) Any sanction which may be imposed against a public gauger approved by Customs under the provisions of this subpart, a monetary penalty also may be assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), if appropriate.

§ 151.44 Storage tanks.

(a) *Plans and gauge tables.* When petroleum or petroleum products subject to duty at a specific rate per gallon are imported in bulk in tank vessels and are to be transferred into shore storage tanks, both the plans of each shore tank showing all outlets and inlets and the gauge table for each tank showing its capacity in U.S. gallons per inch or fraction of an inch of height shall be certified as correct by the proprietor of the tank. One set of these plans and gauge tables so certified shall be kept on file at the plant of the oil company and shall be available at all times to Customs officers. Another certified set of the shore tank plans and gauge tables shall be filed with the district director for use in verifying the Customs officers' reports. The district director may require such additional sets of shore tank plans, including subsidiary pipeline plans, and gauge tables as he may deem necessary.

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The storage tank proprietor shall maintain the plans and gauge tables for 3 years after discontinuing use of the storage tanks as bonded warehouses for the storage of imported petroleum or petroleum products.

(b) *Tags required on valves.* The inlet and outlet valves of each tank shall have tags of a permanent type affixed by the proprietor or lessee indicating the use of the valves.

(c) *Verification of gauge tables.* Whenever he has reason to suspect their reliability, the district director may require the measurement and calibrations shown on the gauge tables to be verified by a Customs officer. If no qualified Customs officer is available, the district director may accept an independent certification verifying the measurements and calibrations. The independent verification shall be performed at the expense of the storage tank proprietor.

§ 151.45 Storage tanks bonded as warehouses.

(a) *Application.* Tanks for the storage of imported petroleum or petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum or petroleum products belonging or consigned to the owner or lessee of the tank. In addition to the documents and bonds required to be filed with the application to bond (see section 19.2 of this chapter), the certified plans and gauge tables required by section 151.43 shall be filed.

(b) *Removal of nonbonded petroleum.* If a bonded tank is not empty at the time the first importation of bonded petroleum or petroleum products is to be stored therein, the amount of nonbonded petroleum or petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. Domestic or duty-paid petroleum or petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(c) *Information on warehouse withdrawal.* Warehouse withdrawals of petroleum or petroleum products from bonded tanks shall show the information specified in section 151.41, as well as the designation of the tank from which the merchandise is to be withdrawn. Such withdrawals may be made for "—— U.S. gallons, more or less", but in no case may the estimate vary by more than three percent from the gross quantity unladen.

§ 151.46 Allowance for excessive water and sediment.

Allowance for excessive moisture or other impurities in imported petroleum or petroleum products shall be made in accordance with section 158.13 of this chapter for the quantity of water and sediment, established to be in excess of that usually found in such merchandise, as set forth in the following table:

Merchandise	Quantity (percent)
Crude petroleum	0.3
Petroleum products having an API gravity at 60° or less than 22°	0.5
22° to 30°	0.3
More than 30°	0.0

§ 151.47 Entered quantities of petroleum or petroleum products released under entry or immediate delivery.

(a) *Optional entry of net quantity landed.* As an alternative to stating on the entry summary the gross quantity of petroleum or petroleum products released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of petroleum or petroleum products unladen. The net quantity shall be determined in accordance with section 158.13 of this chapter, with an allowance made for sediment and excessive water present, as prescribed in the table found in section 151.46, and reported in a laboratory test made by an independent commercial laboratory which has been approved by the Commissioner. The commercial laboratory report shall be filed with the entry summary.

(b) *Approval of independent commercial laboratories.* Applications of independent commercial laboratories for approval of the use of their tests in determining the net landed quantity of petroleum or petroleum products shall be sent to the Commissioner of Customs, Washington, D.C. 20229. For the purposes of this section, the approval of a public gauger by the Commissioner in accordance with § 151.43 shall constitute approval of the commercial laboratories operated by the public gauger as a part of the services rendered by him for his customers.

(c) *Use of Customs laboratory tests for liquidation.* Where there is a difference between the quantity reported by the Customs laboratory and the quantity reported by the approved independent commercial laboratory, the results of the Customs laboratory test shall be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license, unless the difference is within the limits set forth in paragraph (d) of this section.

(d) *Use of commercial laboratory tests for liquidation.* The quantity reported by the approved independent commercial laboratory shall be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license if the difference between the commercial laboratory test and the Customs laboratory test do not exceed the differences set forth in the following table (adapted from ASTM Designation D1796, Fig. 3):

Percentage of water and sediment found by Customs laboratory	Maximum percentage difference allowable
0.05 to 0.50	0.1
0.51 to 1.50	0.2
More than 1.50	0.3

(Sec. 507, 46 Stat. 732 (19 U.S.C. 1507)) (R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (19 U.S.C. 66, 1202 (Gen. Hdntes. 11, 12), 1624))

PART 159—LIQUIDATION OF DUTIES

Section 159.21(a) is amended by changing the spelling of the word "gage" to "gauge" in the first sentence.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 80-16520 Filed 5-29-80; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 50

[Docket No. 78N-0049]

Protection of Human Subjects; Prisoners Used as Subjects in Research

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes regulations to provide protection for prisoners involved in research activities that fall within the jurisdiction of the Food and Drug Administration (FDA). These regulations implement the recommendations of the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research (National Commission) on research involving prisoners. These regulations restrict the use of prisoners in research within the jurisdiction of FDA and establish requirements for the composition of and additional duties for institutional review boards when prisoners are involved in the research.

EFFECTIVE DATE: June 1, 1981.

FOR FURTHER INFORMATION CONTACT: Roger Barnes, Office of Health Affairs (HFV-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: Under the National Research Act (Pub. L. 93-348), the National Commission was charged with, among other duties, identifying the requirements for informed consent by prisoners for participation in biomedical and behavioral research. On the basis of its investigation and study of this issue (see paragraph 7), the National Commission identified the requirements for informed consent and made recommendations to the Secretary of Health and Human Services (HHS) about appropriate administrative actions to ensure that those requirements would be met in research subject to the Department's jurisdiction. The National Commission's recommendations covered research conducted or supported under programs administered by the Secretary and research reported to the Secretary in fulfillment of regulatory requirements (42 FR 3076, 3079, January 14, 1977).

Section 205 of the National Research Act, however, only required the Secretary to determine whether the National Commission's recommendations were appropriate to assure the protection of prisoners as subjects of biomedical or behavioral research conducted or supported under the programs the Secretary administered. (In the **Federal Register** of January 8, 1978 (43 FR 1050), the Secretary announced that the Department was adopting the National Commission's recommendations for such research and was proposing regulations implementing this determination. These regulations were adopted in final form on November 16, 1978 (43 FR 53652).) Section 205 did not explicitly impose an obligation on the Secretary to respond to the National Commission's recommendations with regard to research reported in fulfillment of regulatory requirements.

Nevertheless, the Secretary believed that a determination should be made as to whether the National Commission's recommendations should be adopted for non-HHS supported research that is submitted to FDA to satisfy its regulatory requirements. Because rulemaking authority with respect to FDA activities has been delegated to the Commissioner of Food and Drugs, the Secretary directed the Commissioner to take appropriate action on these recommendations (43 FR 1051).

In the **Federal Register** of May 5, 1978, the Commissioner announced the tentative decision to adopt the findings of both the National Commission and the Secretary regarding the inherently coercive nature of the prison environment and the need for special protections for prisoners involved as subjects of clinical research (43 FR 19417, 19418). Therefore, on the basis of the authority granted under the Federal Food, Drug, and Cosmetic Act (the act), the Commissioner proposed these regulations to establish those special protections.

FDA allowed 60 days for comment on the proposed regulations. The agency received more than 40 letters with comments directed to the proposal. These comments were from government officials, prisoners, clinical investigators, trade associations, professional societies, academic research institutions, drug companies, members of Congress on behalf of constituents, and other private citizens. The substantive comments received and the agency's conclusions about them are discussed below.

In addition, the reasoning in the preambles to HHS's proposed rulemaking (43 FR 1050) and rulemaking on adopting "Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects" (43 FR 53652) has been considered by FDA and is incorporated as part of this record.

Comments on the Advance Notice of Proposed Rulemaking and the Proposed Rule

1. Several comments challenged FDA's authority to issue these regulations.

A thorough discussion of FDA's authority was provided in the preamble to the proposed rule (see 43 FR 19419). FDA believes it is unnecessary to reproduce that discussion here. Some comments on the proposed regulations challenged the agency's analysis of its authority. FDA has studied them carefully, and FDA continues to believe that its assessment is accurate. However, in the interest of responsiveness, FDA will reply to each objection relating to its authority.

2. Two comments stated that FDA lacks authority to promulgate regulations concerning the validity of informed consent based on prisoner status.

FDA rejects these comments. As discussed in the preamble to the May 5, 1978 proposal, sections 505(i), 507(d), and 520(g) (21 U.S.C. 355(i), 357(d), and 360j(g)) of the act require that FDA promulgate regulations for the exemption of drugs and devices for investigational use. These sections of the act direct FDA to issue regulations that protect the public health in the course of clinical investigations and that provide that informed consent will be obtained from the human subjects of the investigations.The act also requires these regulations, in the case of drugs, have due regard for the interests of patients (21 U.S.C. 355(j)(1) and 21 U.S.C. 357(g)(1)) or, in the case of devices, be consistent with ethical standards (21 U.S.C. 360j(g)(1)).

FDA believes that there is significant evidence that additional regulations are necessary to protect adequately the interests of prisoners who participate as human subjects of research within its jurisdiction. FDA notes that the legislative history of the National Research Act indicates that it was passed in reaction to abuses in the field of human experimentation, including prison research. See 1974 U.S. Code Cong. & Admin. News, 93rd Cong., 2d Sess., 3634, 3650 (S. Rep. 93-381). As at least one court has stated, a particular concern to the drafters of the National Research Act was that a subject's consent be based on full disclosure and be free of any form of coercion. *Clay* v. *Martin*, 509 F.2d 109, 173 (2d Cir. 1975), citing 1974 U.S. Code Cong. & Admin. News, *supra*, at 3657. Yet the National Commission found, which finding FDA has adopted, that the prison environment is inherently coercive.

Therefore, FDA has decided that due regard for the interests of prisoners as subject and for appropriate ethical standards, as well as for the protection of the public health and safety, requires that special protections be adopted for prisoners involved in clinical investigations. Under the authority granted to it in sections 505(i), 505(j), 507(d), 507(g), and 520(g) of the act FDA is promulgating these regulations that restrict the circumstances in which prisoners can be used as subjects in the research that is under the jurisdiction of FDA.

3. One comment stated that the act requires FDA to accept all clinical investigations that are submitted to the agency to support marketing of a new drug or device pursuant to sections 505(i), 507(d), and 520(g) of the act. The comment went on to suggest that FDA lacks the rulemaking authority to reject private scientific research on the basis that such research was conducted on prisioners.

FDA rejects this comment. No legal basis for the propositions asserted is cited in the comment, and none exists in the act. The agency's authority to define what clinical investigations it will eccept is well-established and is discussed at length in the preamble to

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the proposed regulations (See 43 FR 19419).

4. Two comments argued that nothing in the act provides FDA with statutory authority to ban all privately supported and conducted scientific research involving prisoner volunteers.

These comments misconstrue the effect of these regulations. These reglations apply to all clinical investigations regulated by FDA under sections 505(i), 507(d), and 520(g) of the act, as well as clinical investigations that support applications for research or marketing permits for products regulated by FDA. However, the regulations do not affect privately supported and conducted scientific research on prisoner volunteers that is not subject to FDA jurisdiction.

5. One comment stated that the proposed regulations are an impermissible intrusion upon the rights of the States to manage their own prison systems. Two comments contended that FDA's regulations would vilolate a California law that permits prisoner research.

FDA disagrees with these comments. These regulations impose no obligations on State prison authorities. They state that except in limited circumstances, the agency will not permit the use of prisoners in the clinical investigations it regulates under sections 505(i), 507(d), and 520(g) of the act or accept clinical investigations that involved prisoner subjects in support of applications for research or marketing permits for products regulated by FDA.

6. Several comments stated that FDA was "taking away a prisoner right" to participate in research, and that these regulations denied equal protection of the law to prisoners by taking away that right.

FDA rejects these comments. Participation in research, which has been a source of income for prisoners, will be greatly restricted by these regulations. However, FDA believes that any deprivation to prisoners that results is clearly outweighed by the fact that these regulations are necessary to assure that the interests of prisoners who participate in research subject to FDA's jurisdiction are adequately protected (see also paragraph 12 of this preamble). It is relevant to point out, as noted in HHS's final rule published in the **Federal Register** of November 16, 1978 (43 FR 53652, 53654), that medical and medically related research involving prisoners: (1) has already been prohibited in all Federal prisons; (2) has been prohibited in eight States; and (3) is conducted only in about seven of the States that either permit it or do not regulate it. These prohibitions have been based on the demonstrable inequities of such research and on the questionable voluntariness of prisoner consent.

7. Many comments objected to the recommendations of the National Commission. The comments argued that the National Commission had no basis to conclude that research conducted with prisoner subjects was unsafe or coercive. Several comments stated that the only rationale for the National Commission's recommendations was an emotional bias against research involving prisoners. These comments suggested that FDA reject the National Commission's recommendations and allow prisoners to continue to be subjects of clinical investigations subject to FDA's jurisdiction.

FDA rejects these comments. The National Commission's findings and recommendations were based on extensive research. The National Commission visited prison research facilities, interviewed many prisoners, and discussed prison procedures with prison officials. In addition, to ensure that viewpoints of minorities were heard, the National Commission contracted with the National Urban Coalition to organize a conference on human experimentation which was held in January 1977. The National Commission also conducted a public hearing on the issue of research involving prisoners and considered papers on the ethical issues involved in research with prisoners that were prepared for it. The National Commission used all of this information in its final report. FDA has not found any reason to alter its decision to adopt the findings and recommendations contained in that report.

8. One comment received by the Secretary after publication of the recommendations of the National Commission stated that the discontinuation of research currently in progress within one year following issuance of the regulations, might cause valid data to be lost or new studies to be jeopardized by sudden termination of the therapeutic regimen afforded by the study. The Secretary stated in response that the Commissioner would consider the effect of this matter on non-HHS supported research (43 FR 1052).

FDA believes that the one year interval strikes an appropriate balance between the need for prompt implementation of these protections for prisoners and the need of sponsors of ongoing clinical investigations involving prisoners as subjects to complete or discontinue the investigations or to bring them into compliance with these regulations without unduly jeopardizing valid data.

9. One comment suggested that regulations of HHS and FDA concerning use of prisoners in clinical investigations be uniform.

FDA agrees that, wherever possible, its regulations should be compatible with, if not identical to, those of the Department. A multiplicity of dissimilar and inconsistent Federal requirements is burdensome to institutions, institutional review boards, and the process of clinical investigation. These regulations closely follow and apply the principles set forth in the HHS regulations on prisoner research.

10. Several comments pointed out that FDA's regulations would prohibit prisoner participation in any research subject to FDA jurisdiction that is not related to the health or well-being of the subjects or is not on conditions particularly affecting prisoners as a class. These comments noted that under the National Commission's recommendations, reports on such research involving prisoners could be accepted in fulfillment of regulatory requirements, if certain conditions were met in the particular study. These comments argue that FDA's regulations consequently exceed the National Commission's recommendations.

FDA acknowledges that the National Commission did not explicitly recommend a prohibition on the use of prisoners in all research that is not related to the health or well-being of subjects or is not on conditions particularly affecting prisoners as a class. However, FDA believes that these regulations are authorized by the act and implement the thrust of the National Commission's recommendations.

The National Commission recommended that reports on research involving prisoners should be accepted in fulfillment of regulatory requirements only if three requirements are satisfied:

a. The type of research fulfills an important social or scientific need, and the reasons for involving prisoners in the type of research are compelling;

b. The involvement of prisoners in research satisfied "conditions of equity"; and

c. A high degree of voluntariness on the part of research subjects and openness on the part of the institutions characterized the conduct of the research (see 42 FR 3080; January 14, 1977).

FDA has reviewed all research subject to its jurisdiction that would not be permitted under § 50.44. Based on the act's requirements that subjects of clinical investigations be protected (see paragraph 2), on the National Commission's finding that the environment in prisons is inherently coercive, and on the findings of the Secretary, FDA has concluded that there are no compelling reasons for involving prisoners in this research, and, consequently, that the first of the National Commission's requirements for the acceptance of reports on investigations cannot be satisfied for such research.

None of the comments submitted in response to the proposal suggested that a compelling reason for the agency to accept reports on this research could be asserted. For example, several comments pointed to problems that might develop in Phase I testing if prisoners could not be used, but no comment suggested that alternate subjects for Phase I testing could not be found. Significantly, other nations active in biomedical research have been able to conduct investigations without involving prisoners.

In addition, FDA has incorporated the reasoning of HHS for restricting the use of prisoners as subjects, which is set forth in the preambles to the proposed and final rulemaking of the Department (see 43 FR 1050–1051 and 43 FR 53652, 53654).

Aside from these substantive factors, FDA decided to prohibit the use of prisoners in research subject to its jurisdiction that is not related to the health or well-being of the subjects or to conditions particularly affecting prisoners as a class because this prohibition is consistent with the regulations adopted by HHS. As discussed in paragraph 9 of this preamble, the agency believes that, when appropriate, there is significant value in FDA adopting regulations compatible with, if not identical to, those of HHS.

11. One comment suggested that a prisoner population is needed to maintain a well-controlled testing atmosphere. The comment pointed out that many activities of prisoners are monitored, and that there is less control over those same activities in nonprisoner populations. Therefore, the comment asserted, drug studies can be more effectively done in prisons.

While it is true that many activities of prisoners are monitored that are not monitored in nonprisoner populations, FDA disagrees with the conclusion and rejects the comment. No data showing that prisoners are necessary to conduct well-controlled research, and that no reasonable alternative is available, have ever been presented to FDA, nor is the existence of such data indicated in the National Commission's report. In addition, FDA has found that in certain circumstances, prisoners are actually an unsuitable population for drug testing. See, e.g., Warner-Lambert/Parke-Davis & Co.; Benylin; Final Decision (44 FR 51512, 51524, August 31, 1979).

12. Several comments stated that research was a good way for prisoners to earn money while incarcerated. Comments also suggested that prisoners receive other benefits from participation in the studies and are motivated by a desire to help the public.

In its report, the National Commission stated that in its interviews with prisoners involved in Phase I drug studies, participants gave many reasons for volunteering for research, "but it was clear that the overriding motivation was the money they received for participating. In fact, their strongest objection was that the pay for participation in research was held down to levels comparable to prison industries" (42 FR 3083). The National Commission found, however, that "although prisoners who participate in research affirm that they do so freely, the conditions of social and economic deprivation in which they live compromise their freedom" (42 FR 3078). The National Commission believed that the availability of a population living in conditions of social and economic deprivation makes it possible for researchers to bring to this population types of research which persons better situated would ordinarily refuse. The National Commission concluded that "prisoners are, as a consequence of being prisoners, more subject to coerced choice and more readily available for the imposition of burdens which others will not willingly bear" (42 FR 3078). FDA adopts these findings by the National Commission.

13. Several comments stated that research involving prisoners is safe, and that prisoners do not need special protections. These comments asserted that prisoners are now free from any outside influence in choosing to participate in studies, and therefore, these regulations are unnecessary.

FDA rejects these comments for the reasons that are set forth in paragraph 12 of this preamble.

14. One comment suggested that FDA prohibit the use of prisoners in any research that is subject to FDA jurisdiction.

FDA rejects this comment. One of the specific recommendations of the National Commission was that "[r]esearch on practices both innovative and accepted, which have the intent and reasonable probability of improving the health or well-being of the individual prisoner may be conducted or supported * * *." (42 FR 3080). The National Commission believed, and FDA agrees, that a research subject should not be deprived of health benefits (even experimental ones) simply because the subject is a prisoner. Section 50.44(b)(2) and (3) (21 CFR 50.44 (b)(2) and (3)) allows submission of research that will benefit the prisoner subjects involved.

15. One comment suggested that psychiatric patients should not be used in drug studies that will not directly benefit their health. The comment stated that because of the nature of their illness, they may not be able to give effective informed consent to participate in a drug study.

FDA agrees with this comment, and except in limited circumstances, psychiatric patients in prisons, like other prisoners, cannot be used as subjects in studies subject to FDA's jurisdiction. The National Commission issued its report concerning the institutionalized mentally disabled patients in the **Federal Register** of March 17, 1978 (43 FR 11328). HHS has issued proposed regulations governing the use of mentally disabled patients as subjects in clinical investigations, and FDA is considering the need to publish similar regulations.

16. One comment questioned the scope of these regulations. The comment stated that it was unclear whether all clinical investigations, including those involving cosmetics, OTC drugs, and low-risk medical devices were covered by these regulations.

The scope of these regulations pertains to those clincial investigations regulated by FDA under sections 505(i), 507(d), or 520(g) of the act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the agency. Therefore, the regulations would be applicable to clinical investigations involving OTC drug products and any medical devices, whether or not the devices are significant risk devices as defined in 21 CFR Part 812, if reports of those investigations are to be submitted to FDA. Cosmetic products are not included among the types of products to which the regulation applies.

17. Several comments raised questions about specific definitions in proposed § 50.3 (21 CFR 50.3). Other comments suggested alternative definitions to those contained in that section.

With one exception, proposed § 50.3 has been reproposed by the agency in its proposed standards for informed consent, published in the **Federal Register** of August 14, 1979 (44 FR 47713). Comments on the proposed standards for informed consent, including reproposed § 50.3, are on file in the Hearing Clerk's office (HFA–305), Rm. 4–62, 5600 Fishers Lane, Rockville,

MD 20857, under Docket No. 78N–0400. Those comments on the prisoner research regulations that contained questions or suggestions about definitions in proposed § 50.3 have been included in Docket No. 78N–0400 and will be addressed when the final regulations governing informed consent are published.

FDA is adopting at this time the definition of the term "Application for research or marketing permit," § 50.3(b) (21 CFR 50.3(b)). The agency has decided to do so to ensure that the meaning of this phrase, which is used to define the scope of these regulations, is clear.

18. Several comments urged that the regulations should permit prisoners to receive placebos as a control group. A few comments stated that the validity of any research done would be questionable unless there was a placebo control group. One comment suggested that the regulationd does not clearly state whether prisoners would be able to act as placebo controls in otherwise permissible prisoner research.

To be consistent with the HHS regulations, FDA has revised § 50.44 (21 CFR 50.44) to permit certain research on conditions particularly affecting prisoners as a class, in addition to research on practices that have the intent and reasonable probability of improving the health and well-being of the subjects. FDA has also decided to permit prisoners to participate in these types of research as members of a control group, including a placebo control group, even though as members of a control group they may not benefit directly from the research. These changes were based on comments received by FDA and the Department. However, to be consistent with the recommendations of the National Commission, FDA has required that prisoner participation in research on conditions affecting prisoners as a class and in research as control subjects be approved by the agency on a study by study basis.

19. One comment noted that the preamble to the proposal stated that the agency has concluded that an environmental impact statement is not required for this regulation, but that an environmental impact assessment was on file with the FDA Hearing Clerk. The comment pointed out that, in fact, no environmental impact assessment had been filed.

The notice of proposed rulemaking did inadvertently refer to an environmental impact assessment (43 FR 19419). However, this proposed action did not require the preparation of an environmental impact assessment under 21 CFR 25.1(b) and (h). An environmental impact assessment also is not required under FDA's proposed new environmental regulations (44 FR 71742; December 11, 1979). The agency has determined pursuant to proposed 21 CFR 25.24(b)(12) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental impact assessment nor an environmental impact statement is required.

20. One comment asserted that a proper economic assessment of the impact of this regulation had not been prepared by FDA. The comment stated that the document FDA prepared did not adequately describe the proposed regulations and was not prepared under the appropriate Executive Order.

FDA agrees with the comment concerning the reference to the appropriate Executive Order. The original economic impact assessment concluded that the proposed regulations would not have a major economic impact as defined by Executive Order 11821, as amended by Executive Order 11949. During the period from January 1, 1978 to March 22, 1978, when Executive Order 12044 was issued, no Executive Order was in effect, although FDA continued to prepare economic impact assessments under the expired order. This process continued until August, 1978, when FDA prepared "Interim Regulatory Analysis Guidelines" for use by the agency in implementing Executive Order 12044. Because the proposed regulations were published during the period of transition from the standards of Executive Order 11821, as amended, to those of Executive Order 12044, the technically appropriate reference was not made. However, the specific relevant standard for assessing whether the action would have a major economic impact was the same.

FDA also agrees in part with the comment that the original economic impact assessment did not adequately describe the proposed regulations. FDA therefore has reassessed the economic impact of this regulation under the standards established in Executive Order 12044. This assessment has confirmed that the regulation will not have a major economic impact as defined by that order.

A copy of the amended regulatory analysis assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 406, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 701(a), 706, and 801, 52 Stat. 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–560, 562–574 (21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371(a), 376, and 381)) and the Public Health Service Act (secs. 215, 351, 354–360F, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 262, 263b–263n)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Subchapter A of Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 50, to read as follows:

PART 50—PROTECTION OF HUMAN SUBJECTS

Subpart A—General Provisions

Sec.
50.1 Scope.
50.3 Definitions.

Subpart B—[Reserved]

Subpart C—Protections Pertaining to Clinical Investigations Involving Prisoners as Subjects

50.40 Applicability.
50.42 Purpose.
50.44 Restrictions on clinical investigations involving prisoners.
50.46 Composition of institutional review boards where prisoners are involved.
50.48 Additional duties of the institutional review boards where prisoners are involved.

Authority: Secs. 406, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 701(a), 706, and 801, Pub. L. 717, 52 Stat. 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–560, 562–574 (21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371(a), 376, and 381); secs. 215, 351, 354–360F, Pub. L. 410, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 262, 263b–263n)

Subpart A—General Provisions

§ 50.1 Scope.

(a) This part applies to all clinical investigations regulated by the Food and Drug Administration under sections 505(i), 507(d), and 520(g) of the Federal Food, Drug, and Cosmetic Act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the Food and Drug Administration, including food and color additives, drugs for human use, medical devices for human use, biological products for human use, and electronic products. Additional specific obligations and commitments of, and standards of conduct for, persons who sponsor or monitor clinical investigations involving particular test articles may also be found in other parts (e.g., Parts 312 and 812). Compliance with these parts is intended to protect the rights and safety of prisoner subjects involved in investigations filed with the Food and Drug Administration pursuant to sections 406, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 706, and 801 of the Federal Food, Drug, and Cosmetic Act and sections 351 and 354–360F of the Public Health Service Act.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

§ 50.3 Definitions.

As used in this part:

(a) [Reserved]

(b) "Application for research or marketing permit" includes:

(1) A color additive petition, described in Part 71.

(2) A food additive petition, described in Parts 171 and 571.

(3) Data and information about a substance submitted as part of the procedures for establishing that the substance is generally recognized as safe for use that results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, described in §§ 170.30 and 570.30.

(4) Data and information about a food additive submitted as part of the procedures for food additives permitted to be used on an interim basis pending additional study, described in § 180.1.

(5) Data and information about a substance submitted as part of the procedures for establishing a tolerance for unavoidable contaminants in food and food-packaging materials, described in section 406 of the act.

(6) A "Notice of Claimed Investigational Exemption for a New Drug," described in Part 312.

(7) A new drug application, described in Part 314.

(8) Data and information about the bioavailability or bioequivalence of drugs for human use submitted as part of the procedures for issuing, amending, or repealing a bioequivalence requirement, described in Part 320.

(9) Data and information about an over-the-counter drug for human use submitted as part of the procedures for classifying these drugs as generally recognized as safe and effective and not misbranded, described in Part 330.

(10) Data and information about a prescription drug for human use submitted as part of the procedures for classifying these drugs as generally recognized as safe and effective and not misbranded, described in this chapter.

(11) Data and information about an antibiotic drug submitted as part of the procedures for issuing, amending, or repealing regulations for these drugs, described in Part 430.

(12) An application for a biological product license, described in Part 601.

(13) Data and information about a biological product submitted as part of the procedures for determining that licensed biological products are safe and effective and not misbranded, described in Part 601.

(14) Data and information about an in vitro diagnostic product submitted as part of the procedures for establishing, amending, or repealing a standard for these products, described in Part 809.

(15) An "Application for an Investigational Device Exemption," described in Part 812.

(16) Data and information about a medical device submitted as part of the procedures for classifying these devices, described in section 513.

(17) Data and information about a medical device submitted as part of the procedures for establishing, amending, or repealing a standard for these devices, described in section 514.

(18) An application for premarket approval of a medical device, described in section 515.

(19) A product development protocol for a medical device, described in section 515.

(20) Data and information about an electronic product submitted as part of the procedures for establishing, amending, or repealing a standard for these products, described in section 358 of the Public Health Service Act.

(21) Data and information about an electronic product submitted as part of the procedures for obtaining a variance from any electronic product performance standard, as described in § 1010.4.

(22) Data and information about an electronic product submitted as part of the procedures for granting, amending, or extending an exemption from a radiation safety performance standard, as described in § 1010.5.

Subpart B—[Reserved]

Subpart C—Protections Pertaining to Clinical Investigations Involving Prisoners as Subjects

§ 50.40 Applicability.

(a) The regulations in this subpart apply to all clinical investigations involving prisoners as subjects that are regulated by the Food and Drug Administration under sections 505(i), 507(d), or 520(g) of the Federal Food, Drug, and Cosmetic Act, as well as clinical investigations involving prisoners that support applications for research or marketing permits for products regulated by the Food and Drug Administration.

(b) Nothing in this subpart shall be construed as indicating that compliance with the procedures set forth herein will authorize research involving prisoners as subjects to the extent such research is limited or barred by applicable State or local law.

§ 50.42 Purpose.

Inasmuch as prisoners may be under constraints because of their incarceration which could affect their ability to make a truly voluntary and uncoerced decision whether or not to participate as subjects in research, it is the purpose of this subpart to provide additional safeguards for the protection of prisoners involved in activities to which this subpart is applicable.

§ 50.44 Restrictions on clinical investigations involving prisoners.

(a) Except as provided in § 50.44(b), clinical investigations regulated by the Food and Drug Administration under sections 505(i), 507(d), and 505(g) of the Federal Food, Drug, and Cosmetic Act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the Food and Drug Administration may not involve prisoners as subjects.

(b) Clinical investigations that are regulated by the Food and Drug Administration under sections 505(i), 507(d), or 520(g) of the Federal Food, Drug, and Cosmetic Act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the Food and Drug Administration, may involve prisoners as subjects only if the institution responsible for the conduct of the clinical investigation has certified to the Food and Drug Administration that the institutional review board has approved the clinical investigation under § 50.48; and

(1)(i) In the judgment of the Food and Drug Administration, the proposed clinical investigation involves solely research on practices both innovative and accepted, which have the intent and reasonable probability of improving, the health and well-being of the subjects;

(ii) In cases in which these studies require the assignment of prisoners in a manner consistent with protocols approved by the institutional review board to control groups that may not benefit from the research, the study may proceed only after the Food and Drug

Administration has consulted with appropriate experts, including experts in penology, medicine, and ethics, and has published notice in the **Federal Register** of its intent to approve such research; or

(2) Research on conditions particularly affecting prisoners as a class (for example, vaccine trials and other research on hepatitis, which is much more prevalent in prisons than elsewhere) provided that the Food and Drug Administration has consulted with appropriate experts, including experts in penology, medicine, and ethics, and has published notice in the **Federal Register** of its intent to approve such research; subject to the approval of the Food and Drug Administration, prisoners may participate in the research even though they are assigned, in a manner consistent with protocols approved by the institutional review board, to control groups that may not benefit from the research.

§ 50.46 Composition of institutional review boards where prisoners are involved.

In addition to satisfying any other requirements governing institutional review boards set forth in this chapter, an institutional review board, in carrying out responsibilities under this part with respect to research covered by this subpart, shall also meet the following specific requirements:

(a) A majority of the institutional review board (exclusive of prisoner members) shall have no association with the prison(s) involved, apart from their membership on the institutional review board.

(b) At least one member of the institutional review board shall be a prisoner, or a prisoner advocate with appropriate background and experience to serve in that capacity, except that if a particular research project is reviewed by more than one institutional review board, only one institutional review board need satisfy this requirement.

§ 50.48 Additional duties of the institutional review boards where prisoners are involved.

(a) In addition to all other responsibilities prescribed for institutional review boards under this chapter, the institutional review board shall review clinical investigations covered by this subpart and approve such clinical investigations only if it finds that:

(1) The research under review represents one of the categories of research permitted under § 50.44(b) (1) and (2);

(2) Any possible advantages accruing to the prisoner through his or her participation in the clinical investigation, when compared to the general living conditions, medical care, quality of food, amenities, and opportunity for earnings in prison, are not of such a magnitude that his or her ability to weigh the risks of the clinical investigation against the value of such advantages in the limited-choice environment of the prison is impaired;

(3) The risks involved in the clinical investigation are commensurate with risks that would be accepted by nonprisoner volunteers;

(4) Procedures for the selection of subjects within the prison are fair to all prisoners and immune from arbitrary intervention by prison authorities or prisoners; unless the principal investigator provides to the institutional review board justification in writing for following some other procedures, control subjects must be selected randomly from the group of available prisoners who meet the characteristics needed for that research project;

(5) Any information given to subjects is presented in language which is appropriate for the subject population;

(6) Adequate assurance exists that parole boards will not take into account a prisoner's participation in the clinical investigation in making decisions regarding parole, and each prisoner is clearly informed in advance that participation in the clinical investigation will have no effect on his or her parole; and

(7) Where the institutional review board finds there may be need for followup examination or care of participants after the end of their participation, adequate provision has been made for such examination or care, taking into account the varying lengths of individual prisoners' sentences, and for informing participants of this fact.

(b) The institutional review board shall carry out such other duties as may be assigned by the Food and Drug Administration.

(c) The institution shall certify to the Food and Drug Administration, in such form and manner as the Food and Drug Administration may require, that the duties of the institutional review board under this section have been fulfilled.

Effective date. This regulation shall become effective June 1, 1981.

Dated: May 27, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-16578 Filed 5-29-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-80-817]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations decreases the HUD/FHA maximum allowable finance charge on Title I property improvement, mobile home loans, and combination and mobile home lot loans. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: May 19, 1980.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. Maximum finance charges on mobile home loans and the property improvement loans have been lowered from 18.00 percent to 16.50 percent and the finance charges on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been lowered from 17.50 percent to 16.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures.

A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart A—Eligibility Requirements—Property Improvement Loans

1. In § 201.4 paragraph (a) is amended to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 16.50 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

1. In § 201.540 paragraph (a) is amended to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 16.50 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

1. In § 201.1511 under paragraph (a), subparagraph (1) is amended to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.*

(1) 16.00 percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C. May 12, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-16466 Filed 5-29-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Parts 203, 213, 234

[Docket No. R-80-816]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations decreases the FHA maximum interest rate on insured home mortgage loans and establishes a separate interest rate ceiling for home mortgage loans obtained by operative builders. This action by HUD is designed to bring the maximum interest rate on HUD/FHA-insured loans into line with current market conditions.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202/426–4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter with respect to the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on FHA home mortgage insurance programs has been lowered from 13.00 percent to 11.50 percent, except that loans obtained under the operative builder provisions of 24 CFR 203.18(c)(2) are subject to a ceiling of 14.00 percent. The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that:

(1) Where an application for commitment was received by the Secretary before May 15, 1980, the mortgage may bear interest at the maximum rate in effect at the time of receipt of the application;

(2) A mortgage executed by a builder (or such other entity as the Commissioner shall approve) of a dwelling which was approved for mortgage insurance (or for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs) prior to the beginning of construction or a dwelling which was completed less than one year preceding the date of the application for mortgage insurance may bear interest at a rate not to exceed 14.00 percent per annum.

* * * * *

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 15, 1980, the loan may bear interest

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at the maximum rate in effect at the time of receipt of the application.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 15, 1980, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

1. In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that:

(1) Where an application for commitment was received by the Secretary before May 15, 1980, the mortgage may bear interest at the maximum rate in effect at the time of receipt of the application;

(2) A mortgage executed by a builder (or such other entity as the Commissioner shall approve) of a dwelling which was approved for mortgage insurance prior to the beginning of construction may bear interest not to exceed 14.00 percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., May 12, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-16465 Filed 5-29-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Parts 207, 213, 220, 221, 232, 236, 241, 242, 244

[Docket No. R-80-815]

Multifamily Housing Mortgage Insurance; Changes in Construction Financing Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: These regulation changes create a separate maximum interest rate for construction financing in the FHA multifamily mortgage insurance programs under Title II of the National Housing Act. This action is needed to meet the market for project construction loans. Such loans carry interest yields substantially higher than the interest rate ceiling on permanent FHA multifamily financing, which remains at 13.00 percent.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Jr., Director, Office of Multifamily Development, 451 7th Street, S. W., Washington, D.C. 20410 (202–755–5720). (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Prior to this rule change, the interest rate on construction financing has been limited to the maximum interest rate established by the Secretary for the permanent mortgage. This limitation has resulted in excessive discount points charged to project developers as construction lenders adjust the yield above the current 13.00 percent interest rate ceiling. The regulation change to establish a two-tier interest rate system for construction and permanent financing is intended to provide relief from this problem.

This Secretary has determined that such changes must take effect immediately in order to meet the needs of the market and facilitate continued development of critically needed rental housing. Therefore, the Secretary has determined that advance notice and public comment procedures are not appropriate and good cause exists to make these amendments effective immediately.

A Finding of Inapplicability with respect to environmental impact has been made in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Dept. of HUD, 451 7th Street, Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

Section 207.7(a) is amended to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgage receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cut-off date for cost certification shall not exceed 16.00 percent per annum.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

Section 213.10(a) is amended to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cut-off date for cost certification shall not exceed 16.00 percent per annum.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

Section 220.576(a) is amended to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

Section 221.518(a) is amended to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum. Interest shall be payable in monthly installments on the prinicipal amount of the mortgage outstanding on the due date of each installment.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

Section 232.29 paragraph (a) is amended to read as follows:

§ 232.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

Section 236.15 paragraph (a) is amended to read as follows:

§ 236.15 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

Section 241.75 is amended to read as follows:

§ 241.75 Maximum interest rate.

The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to loans insured on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum. Interest shall be payable in monthly installments on the principal then outstanding.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

Section 242.33 paragraph (a) is amended to read as follows:

§ 242.33 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum. Interest shall be payable in monthly installments on the principal then outstanding.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

Section 244.45 paragraph (a) is amended to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980; except that interest charged on construction financing prior to and including the cutoff date for cost certification shall not exceed 16.00 percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., May 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-16464 Filed 5-29-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 232

[Docket Number R-80-703]

Nursing Homes and Intermediate Care Facilities Mortgage Insurance Eligibility Requirements Definitions

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This final rule amends Part 232 to allow mortgage insurance for additional facilities for nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

EFFECTIVE DATE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: C. Edward Lewis, Jr., Chief, Health Facilities Branch, Elderly, Co-Operative and Health Facilities Division, Room 6126, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 426–7191. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: This final rule is being published to implement Section 312 of Pub. L. 95–557, Housing and Community Development amendments of 1978. On August 24, 1979 a proposed revision to the regulations for the Mortgage Insurance Program for Nursing Homes and Intermediate Care Facilities (24 CFR Part 232) was published in the **Federal Register** at 44 FR 49700 and 49701. Comments were invited until October 23, 1979. Comments were received from six interested parties. All comments were favorable, however, some comments were beyond the scope of the day-care program. One commentor stated general

approval for the day-care concept and suggested that the regulation make a provision for income received from day-care be used in offsetting debt service requirements. HUD will address this issue in administrative guidelines rather than in this regulation. There was an inquiry as to whether recovery homes, i.e., halfway houses, for alcoholics would be eligible. Halfway or recovery houses would not be eligible for the day-care provision unless they meet all other statutory and regulatory requirements of Section 232. Another commentor expressed approval of the day-care concept as an innovative alternative to more costly inpatient care, and urged that regulations be promulgated on another section of the National Housing Act which is not relevant to this rule. It was suggested by another commentor that social care facilities be included in the Section 232 program. Section 232 is a medical-nursing care program, and legislation would be necessary to establish a program of mortgage insurance for social care or domiciliary care facilities.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is listed as item number H-33-78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044. Accordingly, 24 CFR Part 232 is amended by revising paragraphs (i), (j), and (k) of § 232.1 to read as follows:

§ 232.1 Definitions.

* * * * *

(i) "Nursing Home" means a proprietary facility or a facility of a private nonprofit corporation or association, licensed or regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services. The term also includes additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day. In all such facilities, the nursing care and medical services must be prescribed by, or performed under general direction of persons licensed to provide such care or services in accordance with the laws of the State where the facility is located.

(j) "Project" means a nursing home or intermediate care facility or combined nursing home and intermediate care facility which may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day, and which have been approved by the Commissioner under provisions of this subpart.

(k) "Intermediate care facility" means a proprietary facility or a facility of a private nonprofit corporation or association licensed or regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons, who, because of incapacitating infirmities, require minimum but continous care but are not in need of continous medical or nursing services. The term also includes additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

* * * * *

(Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., May 23, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc 80-16467 Filed 5-29-80; 8:45 am]

BILLING CODE 4210-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim regulations: extension of time for comment.

SUMMARY: Interim regulations establishing procedures under which the Equal Employment Opportunity Commission will conduct investigations of employment discrimination complaints filed against certain federal agencies under Title VII of the Civil Rights Act of 1964, as amended, were published July 11, 1979 (44 FR 40498). The period allowed for comments on those interim regulations was scheduled to expire January 31, 1980. That comment period was subsequently extended until May 31, 1980, and is hereby further extended to September 12, 1980.

EFFECTIVE DATE: May 30, 1980.

COMMENT DATES: Comments will be accepted through September 12, 1980.

ADDRESS: Written comments should be addressed to Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Thomas L. Saltonstall, Director, Technical Guidance Division, Office of Field Services, Equal Employment Opportunity Commission, Room 4250, 2401 E Street, N.W., Washington, D.C. 20506 (202) 634-6855.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission has extended the deadline for comments on these interim regulations because of the complex nature of the procedures proposed. Furthermore, because of the extensive interest in the proposed procedures from both private organizations and federal agencies, and because the Equal Employment Opportunity Commission shall be issuing in September of 1980 an evaluation of the results of the investigations conducted pursuant to its federal sector Pilot Program, further time for comment is deemed appropriate.

For the Commission.

Dated: May 27, 1980.

Eleanor Holmes Norton,

Chair.

[FR Doc. 80-16460 Filed 5-29-80; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[FRL 1502-4]

Motor Vehicle Recalls Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interpretive Rule.

SUMMARY: This rule sets forth EPA's interpretation regarding one aspect of a motor vehicle or motor vehicle engine manufacturer's recall liability under section 207(c)(1) of the Clean Air Act (Act). EPA interprets this section as requiring manufacturers to submit a plan to remedy all vehicles within the class or category of vehicles subject to an ordered recall which experienced the nonconformity during their useful lives, regardless of their age or mileage at the time of repair. The interpretation set out in this rule will provide guidance to vehicle and engine manufacturers to better enable them to submit acceptable remedial plans.

DATES: This rule is effective May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mike Randall, Manufacturers Operations Division (EN-340), Environmental Protection Agency, Washington, DC 20460 at (202) 472-9425.

PUBLIC DOCKET: Copies of materials relevant to this rulemaking proceeding are contained in Public Docket EN-80-10 at the Central Docket Section of the U.S. Environmental Protection Agency, Room 2903B, Waterside Mall, 401 "M" Street, SW, Washington, DC 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION: Section 207(c)(1) of the Act provides in pertinent part:

> (1) If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202, when in actual use throughout their useful life (as determined under section 202(d)), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer.

Section 202(d)(1) of the Act defines the useful life of a light duty vehicle or a light duty vehicle engine as a period of use of five years or fifty thousand miles, whichever occurs first.[1]

In the past, manufacturers have not conditioned a vehicle's eligibility for a recall repair, at the manufacturer's expense, on the basis of the vehicle's age or mileage. Recently, however, some manufacturers have indicated that they will not repair, at their expense, nonconforming vehicles or engines which are beyond the vehicles' useful lives at the time those vehicles or engines are presented for recall repairs. These manufacturers have argued that the reference to useful life in section 207(c)(1) of the Act permits them to impose such a limitation in their remedial plans. As discussed more fully below, this interpretation is inconsistent with the language and purpose of the Act, and its implementation could have a serious negative impact on ambient air quality.

The recall program has two objectives: 1) To assure that manufacturers repair vehicles which are exceeding the emission standards if those vehicles have been properly maintained and used and the nonconformity occurs within the useful life of the vehicles, and 2) to encourage manufacturers to build durable emission-related components to assure that vehicles will not manifest excessive emissions during their useful lives. Both of these objectives are frustrated by an interpretation of useful life which limits manufacturers' liability only to vehicles which are within their useful life at the time of repair.

EPA is issuing an interpretive rule to clarify this aspect of a manufacturer's recall liability under the Act in order to provide guidance to all vehicle and engine manufacturers. This should help to prevent any delays with individual recalls resulting from misunderstandings regarding the manufacturer's recall liability.

In EPA's view, the term "useful life" in section 207(c)(1) refers to a limitation placed upon the Administrator, requiring him to base a recall order on a finding that vehicles do not conform to the regulations prescribed under section 202(a) of the Act within their useful lives, and does not refer to a time or mileage limitation beyond which recalled vehicles need not be repaired at the manufacturer's expense. In other words, as used in section 207(c) the term limits the basis for a determination of nonconformity but does not limit the scope of the remedy.

This conclusion is apparent from the language of the Act. Section 207(c)(1) provides that if the Administrator determines that a substantial number of vehicles of a given class or category are nonconforming "when in actual use throughout their useful life," he must notify the manufacturer "of such nonconformity" and require submission of a "plan for remedying the nonconformity of the vehicles or engines." The plan submitted by the manufacturer must "provide that the nonconformity of *any such vehicle* * * * be remedied * * *" (emphasis added). The language "any such vehicle" refers to vehicles in the class or category that the Administrator initially determines are subject to recall, and there is no indication that Congress intended to create an exception for nonconforming vehicles that are part of that class or category but have passed beyond their useful lives at the time of repair. The language of section 207(c)(1) permits the manufacturer to limit the scope of the remedial plan only on the basis of improper use or maintenance of particular nonconforming vehicles within the subject class or category. In other words, once the recall requirement is triggered, the manufacturer must submit a plan to remedy all properly used and maintained nonconforming vehicles in the subject class regardless of their age or mileage at the time of repair.[2]

The legislative history of the Act offers little guidance in this regard but is consistent with EPA's interpretation. Although Congress specified a 5 year/50,000 mile useful life for cars, it did so primarily to limit the industry's warranty liability in view of manufacturers' assertions that they could not guarantee compliance with emission standards for a longer period. Congress recognized that the actual life of a car is approximately ten years, rather than five, and was by no means indifferent to the problem of emissions from cars that have passed beyond their statutory useful lives but remain on the road for a number of years. Indeed, it expressed the hope that with proper operation and maintenance, the emission control systems on such vehicles would continue to provide some measure of emission control beyond each vehicle's useful life and thus minimize the vehicle's impact on air quality.[3] In view of this Congressional concern, it makes no sense to conclude that Congress intended to excuse a manufacturer from recall liability, for vehicles that have failed to comply with applicable standards during the statutory useful life simply because a particular vehicle has passed beyond the statutory useful life when presented for repair. Indeed, requiring repair of such vehicles furthers the Congressional intention by improving the vehicles' emission performance to the level they would have attained had they conformed

[1] With regard to all other types of motor vehicles and motor vehicle engines, section 202(d) provides the Administrator with discretion to determine the appropriate useful life.

[2] In EPA's view, the manufacturer is not responsible to remedy the nonconformity of a vehicle which, although part of the recall class, experienced the nonconformity only after expiration of the vehicle's useful life. Also, for those vehicles which are subject to repair at the manufacturer's expense, the manufacturer is only responsible to carry out the remedy contained in the approved plan and is not responsible to remedy any other nonconformities.

[3] S.R. No. 91-1196, 91st Cong., 2d Sess. 30 (1970).

originally with the standards during their useful lives.

If the reading of section 207(c)(1) advocated by several manufacturers were followed, anomalous results would occur and the effectiveness of the recall provision could be seriously undermined. For instance, the administrative process for recalls, which begins with an investigation of vehicles that may be subject to recall and ends with the manufacturer repairing the nonconforming vehicles, can consume a great deal of time.[4] During that time many nonconforming vehicles may exceed their useful lives. This problem is further complicated by the fact that many vehicles which cease to conform during their useful lives do not manifest any emission nonconformity until they have accumulated significant mileage. Thus, a useful life limitation on remedial repairs, such as that asserted by some manufacturers, could preclude the repair of many vehicles, particularly those which do not evidence a nonconformity until late in their useful lives. The problem could be even more acute where a recall is challenged in an administrative hearing since, by the time a hearing is concluded and subsequent appeals are exhausted, all vehicles involved may have passed beyond the end of their useful lives.[5] Additionally, an adoption of this interpretation would provide an incentive for greater delays in the administrative process in the future, thereby further limiting the number of vehicles which would receive the remedial repair.

For these reasons, interpreting section 207(c)(1) as imposing a useful life limitation on vehicles eligible for repair under a remedial plan could severely limit the number of nonconforming vehicles repaired pursuant to recall orders, could seriously impact ambient air quality, and would frustrate the intent of Congress. Accordingly, I conclude that section 207(c)(1) should be interpreted to require remedial plans to provide for remedying of nonconforming vehicles as set forth in the interpretive rule that appears below.

NOTE: This rulemaking constitutes a "nationally applicable regulation" under section 307(b)(1) of the Clean Air Act, as amended, 42 U.S.C. 7607(b)(1). Any judicial review of this action is, accordingly, governed by that provision.

Pursuant to section 307(d)(1)(N) of the Clean Air Act, as amended, 42 U.S.C. 7607(d)(1)(N), and section 553(b)(A) of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), this interpretive rule is being promulgated as a final rule effective upon publication.

Under EPA's *Final Report Implementing Executive Order 12044*, 44 Fed. Reg. 30988 (1979), EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or wheher it may follow other specialized development procedures. EPA labels regulation of the latter type "specialized." I have reviewed this regulation and have determined that it is specialized and therefore not subject to the procedural requirements of Executive Order 12044.

Dated: May 22, 1980.

Barbara Blum,

Acting Administrator.

Accordingly, Part 85 of Title 40 of the Code of Federal Regulations is revised as follows:

1. By adding a note at the end of § 85.1803 as set forth below:

§ 85.1803 Remedial Plan.

* * * * *

Note.—An interpretive ruling regarding § 85.1803 is published in Appendix A to this subpart.

2. By adding Appendix A to subpart S as set forth below:

Appendix A—Interpretive Ruling for § 85.1803—Remedial Plans

The purpose of this rule is to set forth EPA's interpretation regarding one aspect of a motor vehicle or motor vehicle engine manufacturer's recall liability under section 207(c)(1) of the Clean Air Act, 42 U.S.C. 7641(c)(1). This rule will provide guidance to vehicle and engine manufacturers to better enable them to submit acceptable remedial plans.

Section 207(c)(1) requires the Administrator to base a recall order on a determination that a substantial number of in-use vehicles or engines within a given class or category of vehicles or engines, although properly maintained and used, fail to conform to the regulations prescribed under section 202 when in actual use throughout their useful lives. After making such a determination, he shall require the manufacturer to submit a plan to remedy the nonconformity of any such vehicles or engines. The plan shall provide that the manufacturer will remedy, at the manufacturer's expense, all properly maintained and used vehicles which experienced the nonconformity during their useful lives regardless of their age or mileage at the time of repair.

(Sections 207 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7541 and 7601(a))

[FR Doc. 80-16504 Filed 5-29-80; 8:45 am]

BILLING CODE 6560-01-M

[4] This administrative process includes a number of different steps. The vehicles subject to an investigation usually undergo surveillance and confirmatory testing. Based on analysis of the test results the Administrator may issue a recall order. Under 40 CFR 85.1802(a), the manufacturer has at least 45 days to respond to the recall order by submitting a remedial plan, or the manufacturer may choose to challenge the Administrator's determination in an administrative hearing. If a remedial plan is submitted, it may prove to be deficient, in which case there may be lengthy negotiations before an acceptable plan is approved. Once an acceptable remedial plan is submitted and approved, the manufacturer must give notice of the recall campaign to the owners of the vehicles involved. Finally the vehicle owner brings the vehicle to a dealership for the actual repair.

[5] Of particular note is EPA's recall of 1975 Chrysler vehicles with 360 and 400 cubic inch displacement (CID) engines on December 8, 1976. This recall order is now under consideration by the U.S. Court of Appeals for the District of Columbia Circuit. A decision is expected by mid-1980 at the earliest, when many, if not all, of these vehicles will be beyond their useful lives.

40 CFR Part 180

[FRL 1503-4; OPP-260034]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Editorial Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule makes nonsubstantive changes to a pesticide regulation. The amendment was requested by Monsanto Company. This rule reinstates three inert ingredients unintentionally dropped from the Code of Federal Regulations (CFR).

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. John Shaughnessy, Process Coordination Branch, Registration Division (TS-767), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/426-9425.

SUPPLEMENTARY INFORMATION: Polyoxyethylated sorbitol fatty acid esters, toluene sulfonic acid and six salts, and xylene sulfonic acid and six salts are three inert ingredients that were inadvertently dropped from the 1977 edition of Title 40, Part 180, Subpart D, § 180.1001(d) after having been published in the 1976 CFR. This omission is being corrected by reinstating the three dropped inert ingredients in § 180.1001(d) as they originally appeared, as set forth below.

Since this change is nonsubstantive in nature, merely corrects an omission, and editorially amends an existing regulation, notice and public rulemaking procedures pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), are not prerequisite to the promulgation of this regulation. This order is effective May 30, 1980.

Dated: May 22, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[30]0098

Part 180, Subpart D, § 180.000(d) is amended by alphabetically reinstating the following chemicals in the table as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(d) * * *

Inert ingredient	Limits	Uses
Polyoxyethylated sorbitolfatty acid esters; the polyoxyethylated sorbitol solution containing 15% water is reacted with fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18} containing minor amounts of associated fatty acids; the poly (oxyethylene) content averages 30 moles.		Surfactants, related adjuvants surfactants.
Toluene sulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.		Surfactants, related adjuvants of surfactants
Xylene sulfonic acid its ammonium calcium, magnesium, potassium, sodium and zinc salts.		Surfactants, related adjuvants of surfactants.

[FR Doc. 80-16434 Filed 5-29-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-42

[FPMR Amendment H-123]

Property Rehabilitation Services and Facilities; Precious Metal Recovery

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation illustrates a new Standard form for use by Federal agencies to report on activities generating precious metals. This form replaces the current format used for reporting on these activities.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Mike Dee, Director, Property Rehabilitation Division (703-557-0795).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purpose of Executive Order 12044.

1. The table of contents for Part 101-42 is amended by adding, revising, or deleting the following entries:

Subpart 101-42.4—101-42.48 [Reserved]

§§ 101-42.4800—101-42.4802 [Deleted]

Subpart 101-42.49 Illustrations of Forms

101-42.4900 Scope of subpart.

101-42.4901 Standard forms.

101-42.4901-291 Standard Form 291, Report of Activities Generating Precious Metals.

2. Section 101-42.301-1 is revised to read as follows:

Subpart 101-42.3—Recovery of Precious Metals and Critical Materials

§ 101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.

Each agency having activities that generate silver or other precious metals (including used hypo solution, scrap film, and other precious-metal-bearing scrap) shall survey each of those activities to obtain information regarding precious metals recovery and potential recovery and shall submit a consolidated semiannual report (based on fiscal year) on that information to the General Services Administration (DPR), Washington, DC 20406. The consolidated report shall be submitted within 45 calendar days after the end of each half fiscal year reporting period. Each agency shall designate an individual to be responsible for coordinating the surveys, implementing and improving recovery procedures, monitoring the recovery programs, and submitting the consolidated report to GSA. Section 101-42.4901-291 illustrates Standard Form 291, Report of Activities Generating Precious Metals (interagency report control number 1529-GSA-SA). The report shall contain specific information regarding the types of silver or other precious-metal-bearing scrap processed or generated; the number of activities generating silver or other precious-metal-bearing scrap and quantity generated; the estimated amounts potentially recoverable and method of estimation; the number of activities recovering precious metals from the scrap and quantity generated; the amount of precious metals recovered in troy ounces; the type of recovery equipment and method of disposition of recovered silver; the method of disposal if precious metals are not recovered; the explanation for any lack of recovery; the agency estimate of dollar savings for the report period; and any actions planned to maximize recovery.

3. Subpart 101-42.48 is deleted and reserved and §§ 101-42.4800—101-42.4802 are deleted, as follows:

Subpart 101-42.4—101-42.48 [Reserved]

§§ 101-42.4800—101.4802 [Deleted]

4. Subpart 101-42.49 is added to read as follows:

Subpart 101-42.49—Illustrations of Forms

§ 101-42.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in this Part 101-42.

§ 101-42.4901 Standard forms.

(a) Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection number in this section corresponds with the Standard form number.

(b) The Standard forms illustrated in this § 101-42.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. The requisition for Standard Form 291 should include the national stock number 7540-01-075-8167.

§ 101-42.4901-291 Standard Form 291, Report of Activities Generating Precious Metals.

(a) Page 1 of Standard Form 291.

(b) Page 2 of Standard Form 291.

(c) Page 3 of Standard Form 291.

Note.—The form illustrated in this § 101-

Dated: May 23, 1980.

Note.—The form illustrated in this § 101-42.4901-291 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: May 21, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-16498 Filed 5-29-80; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-1 and 3-7

Prohibition Against Use of HHS Funds to Influence Legislation or Appropriations

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending its procurement regulations by establishing a new section and contract clause concerning the prohibition against use of HHS funds to influence legislation or appropriations.

The regulations incorporate the "anti-lobbying" provision contained in section 407 of the Title IV General Provisions of the Departments of Labor and Health, Education, and Welfare FY 1979 Appropriations Act (Pub. L. 95-480). Section 407, in part, prohibits the use of appropriated funds to pay the salaries or expenses of grantees and contractors, or their agents, incurred while engaging in activities to influence legislation or appropriations pending before the Congress.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Office of Procurement Policy, Office of Grants and Procurement, OASMB-OS, HHS, Washington, DC 20201 (202-245-0481).

SUPPLEMENTARY INFORMATION: It is the general policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the regulation prescribed in this amendment is based on a provision mandated by the Department's Appropriations Act, the public rulemaking process was deemed unnecessary in this instance. The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Dated: May 23, 1980.

Murray N. Weinstein,

Acting Deputy Assistant Secretary for Grants and Procurement.

1. Under Subpart 3-1.3, General Policies, of Part 3-1, General, § 3-1.358, Prohibition against use of HHS funds to influence legislation or appropriations, is added as set forth below. In addition, the table of contents of Part 3-1 is amended to add the following:

PART 3-1—GENERAL

Subpart 3-1.3—General Policies

* * * * *

Sec.

3-1.358 Prohibition against use of HHS funds to influence legislation or appropriations.

* * * * *

§ 3-1.358 Prohibition against use of HHS funds to influence legislation or appropriations.

(a) This section provides guidance on the implementation of section 407 of the Title IV General Provisions of the Departments of Labor and Health, Education, and Welfare FY 1979 Appropriations Act (Pub. L. 95-480). Section 407, in part, prohibits the use of appropriated funds to pay the salaries or expenses of grantees and contractors, or their agents, incurred while engaging in activities to influence legislation or appropriations pending before Congress.

(b) The clause set forth in § 3-7.5028 implements this provision of section 407 and is to be included in every invitation for bids, request for proposals, contract, and small purchase funded in whole or in part under the FY 1979 Appropriations Act, or any succeeding appropriations act which contains the referenced provision.

2. Under Subpart 3-7.50, Special Contract Clauses, of Part 3-7, Contract Clauses, § 3-7.5028, Prohibition against use of HHS funds to influence legislation or appropriations, is added as set forth below. In addition, the table of contents of Part 3-7 is amended to add the following:

PART 3-7—CONTRACT CLAUSES

Subpart 3-7.50—Special Contract Clauses

* * * * *

Sec.

3-7.5028 Prohibition against use of HHS funds to influence legislation or appropriations.

* * * * *

§ 3-7.5028 Prohibition against use of HHS funds to influence legislation or appropriations.

The following clause is to be used in accordance with § 3-1.358:

Prohibition Against Use of HHS Funds To Influence Legislation or Appropriations

No part of any funds under this contract shall be used to pay the salary or expenses of any Contractor, or agent acting for the Contractor, to engage in any activity designed to influence legislation or appropriations pending before the Congress.

[FR Doc. 80-16502 Filed 5-29-80; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5830]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202 (a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood-prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Arkansas	Union	Huttig, town of	050208B	June 23, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	May 24, 1974 Oct. 17, 1975	June 4, 1980
California	Orange	Anaheim, city of	060213B	June 27, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	July 26, 1974 Apr. 16, 1976	Do
Do	Glenn	Willows, city of	060059B	June 10, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	July 26, 1974 Oct. 3, 1975	Do
Colorado	Summit	Breckenridge, town of	080172B	July 25, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	May 24, 1974 June 4, 1976	Do
Do	Weld	Eaton, town of	080180B	Mar. 3, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	May 10, 1974 Feb. 27, 1976	Do
Connecticut	Tolland	Coventry, town of	090110C	Jan. 7, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Aug. 9, 1974 Feb. 27, 1976	Do
Florida	Putnam	Palatka, city of	120273B	Jan. 20, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	July 19, 1974 Apr. 9, 1976	Do
Illinois	St. Clair	Alorton, village of	170617B	Apr. 26, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 5, 1974 June 18, 1976	Do.
Do	Cook	Dixmoor, village of	170082C	July 21, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 5, 1974 Jan. 16, 1976 Mar. 17, 1978	Do
Do	McHenry	Fox River Grove, village of	170477B	Apr. 17, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 5, 1974 Jan. 30, 1976	Do
Do	Lake	Grayslake, village of	170363C	Dec. 11, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 5, 1974 Feb. 27, 1976	Do
Do	Tazewell	North Pekin, village of	170653B	July 22, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Mar. 8, 1974 Oct. 24, 1975	Do
Do	Lake	Round Lake Park, village of	170391B	July 21, 1975, emergency, June 4, 1980, regular, June 43, 1980, suspended.	Mar. 29, 1974 Oct. 24, 1975	Do
Do	Cook	Westchester, village of	170170B	Nov. 24, 1972, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Oct. 7, 1973 Apr. 2, 1976	Do
Indiana	Lake	East Chicago, city of	180130C	Feb. 28, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 12, 1974 Apr. 9, 1976 Apr. 15, 1977	Do
Do	Porter	Porter, town of	180208B	Oct. 16, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Dec. 28, 1973 Mar. 19, 1976	Do
Do	Vigo	Unincorporated areas	180263A	June 28, 1980, emergency, June 4, 1980, suspended.	Jan. 3, 1975 June 23, 1978	Do
Iowa	Sac	Lake View, city of	190503A	Mar. 3, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	July 23, 1976	Do
Kentucky	Nelson	Bloomfield, city of	210179A	Aug. 8, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	May 10, 1974	Do.
Louisiana	East Feliciana	Jackson, town of	220333A	Feb. 28, 1976, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Jan. 10, 1975	Do
Maine	Kennebec	Chelsea, town of	230234A	Oct. 1, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Feb. 21, 1975	Do
Massachusetts	Middlesex	Chelmsford, town of	250188B	Dec. 6, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Oct. 25, 1974 Oct. 8, 1976	Do
Do	Franklin	Conway, town of	250114B	Dec. 16, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Aug. 2, 1974 Dec. 24, 1976	Do

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Essex	Georgetown, town of	250081B	July 31, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	July 26, 1974 Dec. 3, 1976	Do.
Do	Dukes	Gosnold, town of	250071A	Sept. 29, 1977, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Dec. 20, 1974	Do.
Do	Plymouth	Lakeville, town of	250271B	Apr. 15, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Sept. 6, 1974 Aug. 20, 1976	Do.
Do	Worcester	Shrewsbury, town of	250332B	Apr. 11, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Sept. 6, 1974 Nov. 5, 1976	Do.
Do	Essex	Topsfield, town of	250106B	Sept. 26, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Sept. 13, 1974 July 23, 1976	Do.
Michigan	Oakland	Birmingham, city of	260168B	May 5, 1972, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 6, 1973 June 18, 1976	Do.
Do	Allegan	Casco, township of	260004A	Nov. 6, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Nov. 29, 1974	Do.
Do	do	Laketown, township of	260253A	Nov. 27, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Jan. 3, 1975	Do.
Minnesota	Lac Qui Parle	Unincorporated areas	270239B	July 3, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Feb. 10, 1978	Do.
Mississippi	Panola	do	280125B	Mar. 4, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Nov. 25, 1977	Do.
Missoun	Platte	Edgerton, city of	290291A	Oct. 7, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended	Dec. 20, 1974	Do.
Do	Dunklin	Kennett, city of	290129B	Nov. 23, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Mar. 29, 1974 Nov. 14, 1975	Do.
Montana	Lewis and Clark	East Helena, city of	300039A	May 23, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 5, 1974	Do.
New Hampshire	Grafton	Lebanon, city of	330061A	Dec. 10, 1971, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Sept. 20, 1974	Do.
New Jersey	Union	Roselle Park, borough of	340473B	Apr. 25, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 22, 1977	Do.
Do	Middlesex	South River, borough of	340280B	June 18, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Apr. 5, 1974 Mar. 5, 1976	Do.
Do	Bergen	Wallington, borough of	340079B	June 18, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 14, 1974 June 4, 1976	Do.
New York	Rensslae	Brunswick, town of	361130B	Aug. 26, 1977, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Nov. 12, 1976	Do.
Do	Albany	Green Island, village of	360009B	Dec. 3, 974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Feb. 1, 1974	Do.
Do	Westchester	Mount Pleasant, town of	360919B	Dec. 26, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	May 3, 1974 Oct. 17, 1975	Do.
New York	Broome	Sanford, town of	360054B	July 25, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	July 26, 1974 Jan. 2, 1976	Do.
Do	Niagara	Youngstown, village of	360515B	Mar. 30, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Mar. 1, 1974 July 23, 1976	Do.
North Carolina	Guilford	Unincorporated areas	370111B	Apr. 30, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Jan. 17, 1975 June 23, 1978	Do.
Ohio	Lucas	Ottawa Hills, village of	390362B	Oct. 24, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Nov. 9, 1973 June 4, 1976	Do.
Do	do	Toledo, city of	395373A	Dec. 18, 1970, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Oct. 8, 1976	Do.
Pennsylvania	Northampton	Bethlehem, township of	420980B	Jan. 23, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 14, 1974 Sept. 24, 1976	Do.
Do	Lancaster	Conoy, township of	420545B	July 6, 1973, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Oct. 12, 1973 Aug. 13, 1976	Do.
South Carolina	Abbeville	Abbeville, city of	450001B	Oct. 9, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	May 31, 1974 June 18, 1976	Do.
South Dakota	Moody	Trent, town of	460063A	Feb. 18, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Dec. 6, 1974	Do.
Texas	Wharton	El Campo, city of	480653B	July 17, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 7, 1974 May 14, 1976	Do
Do	Tarrant	Fort Worth, city of	480596A	Sept. 17, 1971, emergency, June 4, 1980, regular, June 4, 1980, suspended.		Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Harris	Spring Valley, city of	480313B	July 31, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 28, 1974 Dec. 3, 1976	Do
Do	Collin	Wylie, city of	480759A	May 18, 1977, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Nov. 12, 1976	Do
Utah	Grand	Moab, city of	490072C	Sept. 17, 1974, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 21, 1974 Dec. 26, 1975	Do
Vermont	Caledonia	Burke, town of	500025B	June 23, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 7, 1974 Dec. 3, 1976	Do
Washington	Kine	Duvall, town of	530282A	Dec. 8, 1977, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Aug. 20, 1976	Do.
Do	Thurston	Tenino, town of	530302A	Feb. 18, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	June 27, 1975	Do.
Wisconsin	Jefferson and Dane	Cambridge, village of	550080B	Nov. 28, 1975, emergency, June 4, 1980, regular, June 4, 1980, suspended.	Dec. 17, 1973 May 14, 1976	Do

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: May 19, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 80-16419 Filed 5-29-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii, call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Watertown, Town, Litchfield County (Docket No. FEMA-5778).	Naugatuck River	Downstream Corporate Limits	*282
			Downstream side of Chase Brass Dam	*289
			400' upstream of Chase Brass Dam	*293
			Approximately 890' upstream of Conrail Bridge	*294
			Approximately 100' downstream of Frost Bridge	*297
			Approximately 100' upstream of Frost Bridge	*302
			Approximately 3,000' downstream of Private Bridge	*308
			Downstream side of Private Bridge	*313
			Upstream side of Private Bridge	*318
			Conrail Bridge	*319
			Upstream Corporate Limits	*321

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Branch Brook	Downstream Corporate Limits	*320
			State Route 8 Bridge	*330
			Approximately 1,400' upstream of State Route 8 Bridge	*340
			Thomaston Road	*357
			Downstream side of Black Rock Dam	*382
			Upstream side of Wigwam Dam	*567
			Upstream Corporate Limits	*569
		Steele Brook	Downstream Corporate Limits	*358
			Parking Lot Bridge	*364
			Downstream side of Pin Shop Pond Dam	*380
			Upstream side of Pin Shop Pond Dam	*390
			Approximately 30' upstream of Main Street	*394
			Approximately 675' upstream of Main Street	*397
			Approximately 675' upstream of Main Street	*397
			Approximately 1,630' upstream of Main Street	*410
			Downstream side of Seymour and Smith Company Dam	*433
			Upstream side of Seymour and Smith Company Dam	*448
			Approximately 100' downstream of Bridge to Treatment Plant	*460
			Upstream of Bridge to Treatment Plant	*463
			French Street	*475
			Approximately 50' downstream of Abandoned Railroad Bridge	*479
			Approximatley 75' upstream of Abandoned Railroad Bridge	*483
			Upstream of Hemingway Pond Dam	*487
			Downstream of U. S. Route 6 and 202	*494
			Approximately 100' upstream of U. S. Route 6 and 202	*499
			Downstream of Northfield Road	*510
			Approximately 100' upstream of Northfield Road	*518
			Downstream of Dam	*537
			Approximately 50' upstream of Dam	*554
			Downstream of Dirt Farm Road Bridge	*545
			Upstream of Dirt Farm Road Bridge	*551
			Approximately 1,350' upstream of Dirt Farm Road Bridge	*563
			State Route 63	*581
Maps available at the Town Planning and Zoning Office, Watertown, Connecticut.				
Florida	Edgewater (City), Volusia County, FEMA-5785.	South Canal	Northwestern side of Hamilton Drive along channel between Riverside Drive and U.S. Highway 1.	*8
		Indian River	Intersection of West Knapp Avenue and Riverside Drive	*8
			Intersection of Park Avenue and Riverside Drive	*8
			Intersection of Marion Avenue and Riverside Drive	*8
			Intersection of Boston Road and Riverside Drive	*8
		E Canal	Intersection of U.S. Highway 1 and channel	*8
			Intersection of Fern Palm Drive and channel	*9
			Approximately 40 feet upstream from the intersection of Florida East Coast Railroad and channel.	*10
Maps available from City Hall, 103 North Riverside Drive, Edgewater, Florida.				
Florida	Fort Meade (City), Polk County, FEMA-5778.	Peace River	50 feet upstream from center of U.S. Highway 98	*85
		Lake (City Beach)	100 feet north of the intersection of 6th Street and French Avenue	*139
		Pond 1A	200 feet northwest of the intersection of Milman Street and Hendry Avenue	*104
		Pond 1	50 feet north of the intersection of Hendry Avenue and Unter Din Linder.	*101
		Pond 2	350 feet southwest of the intersection of Unter Din Linder and Hendry Avenue.	*108
		Pond 3—Shallow Flooding	200 feet east of the intersection of Unter Din Linder and Hendry Avenue	*93
		Pond 4—Shallow Flooding	600 feet south of Milman Street and Washington Avenue	*87
Maps available from City Hall, 8 West Broadway, Fort Meade, Florida.				
Florida	Hillsborough County (Unincorporated Areas), FEMA-5748.	Alafia River	Intersection of river and center of Bell Shoals Road	*24
			Intersection of river and center of State Route 640	*31
		South Prong Alafia River	Intersection of river and center of State Route 640	*48
		North Prong Alafia River	Intersection of river and center of State Route 676	*54
		Delaney Creek	Intersection of creek and center of State Route 676	*19
		Ruskin Inlet	75 feet upstream from center of State Route 674	*12
		Rocky Creek	Intersection of creek and center of Seaboard Coast Line Railroad	*15
		Bullfrog Creek	Intersection of creek and center of Symmes Road	*19
		Hillsborough River	Intersection of river and center of 56th Street	*23
			Intersection of river and center of U.S. Route 301	*50
		Little Manatee River	100 feet upstream from center of U.S. Route 301	*22
			Intersection of river and center of Carlton Lake Road	*46
		Blackwater Creek	Intersection of river and center of unnamed road 4700 feet upstream of mouth.	*52
		Rice Creek	100 feet upstream from center of Balm Road	*13
		Cypress Creek	Intersection of creek and center of State Route 581	*35
		Gulf of Mexico	Intersection of Memorial Highway and West Buffalo Avenue (State Highway 576).	*10
			Intersection of Bayshore Road (State Route 45, U.S. Route 41) and Big Bend Road (State Route 672)	*11
			Intersection of Shell Point Road (State Route 670) and U.S. Route 41 (State Route 45).	*10
			Intersection of Cockroach Bay Road and State Route 674	*9
Maps available at County Courthouse, 419 Pierce and Kennedy Streets, Tampa, Florida.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Lake Hamilton (Town), Polk County, FEMA-5778.	Lake Hamilton	Along western corporate limits	*123
		Crystal Lake	500 feet south of the intersection of Gates Avenue and Fifth Street	*123
		Lake Sara	200 feet west of the intersection of Sample Avenue and Sixth Street	*123
		Lake Lee	400 feet south of the intersection of Omaha Street and Baeschlin Street	*126
		Lake Gordon	400 feet northeast of the intersection of Gordon Drive and U.S. Highway 27A (State Route 17)	*128
		Lake Ida	400 feet southwest of the intersection of Sample Avenue and Lawson Street.	*128
		Lake Dora and Lake Christina	200 feet east of the intersection of Omaha Street and Cunningham Street	*139
		Depressions 1 and 2	Intersection of Gunter Avenue and Rose Street	*139
Maps available at Town Hall, 100 Smith Avenue, Lake Hamilton, Florida.				
Florida	Tampa (City), Hillsborough County (Docket No. FEMA-5798)	Hillsborough River	Intersection of river and center of 40th Street	*23
		Gulf of Mexico	Intersection of John F. Kennedy Boulevard and Hoover Boulevard	*10
			Intersection of Bayshore Boulevard and Interbay Boulevard	*11
			Intersection of Frank Adamo Drive (State Route 60) and 50th Street (U.S. 41).	*11
Maps available from City Hall, City Hall Plaza, Tampa, Florida.				
Illinois	(V) Flossmoor, Cook County (Docket No. FEMA-5702).	Butterfield Creek	Just upstream of Dixie Highway	*636
			Just downstream of Vollmer Road	*655
		Butterfield Creek, Tributary No. 1	At confluence with Butterfield Creek	*645
			Just downstream of Vollmer Road	*652
		Butterfield Creek, Tributary No. 3	At confluence with Butterfield Creek	*652
			Just upstream of Oak Lane Road	*655
			Just upstream of Lake Drive	*658
			Just downstream of Illinois Central Gulf railroad	*660
		Butterfield Creek, Tributary No. 4	At confluence with Butterfield Creek Tributary No. 3	*654
			Just downstream of Oak Lane Road	*656
			Just upstream of Oak Lane Road	*659
			Just downstream of Illinois Central Gulf railroad	*663
		East Branch Cherry Creek	At northern corporate limit	*664
			Just upstream of Governors Highway	*670
			About 420 feet downstream of Homewood/Flossmoor High School driveway.	*681 *685
			Just downstream of Kedzie Avenue	
		East Branch Cherry Creek Tributary.	At confluence with East Branch Cherry Creek	*671
			Just downstream of Governors Highway	*679
		South Leg West Branch Cherry Creek.	At northern corporate limit	*688
			Just downstream of Springfield Avenue	*694
			Just downstream of Crawford Road	*704
Maps available at Village Hall, 2800 Flossmoor Road, Flossmoor, Illinois 60422.				
Illinois	(C) Highland Park, Lake County (Docket No. FEMA-5702).	Skokie River	Just upstream County Line Road	*632
			Just upstream Clavey Road	*635
			About 700 feet upstream Park Avenue West	*639
			About 1200 feet upstream Half Day Road	*642
			At upstream corporate limits	*651
		Middlefork North Branch Chicago River.	At downstream corporate limits	*650
			About 1000 feet upstream Deerfield Road	*654
			About 1,000 feet upstream Half Day Road at upstream limit of flooding affecting Highland Park.	*659
Maps available at City Hall, City Engineer's Office, 1707 St. John's Avenue, Highland Park, Illinois 60035.				
Kentucky	Unincorporated Areas of Nelson County (FEMA-5773).	Rolling Fork	Just upstream of State Highway 31E	*472
		Pottinger Creek (Backwater flooding from Rolling Fork).	Just upstream of State Highway 247	*477
		Rowan Creek	Just upstream of State Highway 49 Bridge	*502
		Town Creek	Just upstream of Old Gilkey Run Road	*490
			Approximately 100 feet upstream of Louisville and Nashville Railroad	*575
		East Fork Simpson Creek	Just upstream of Country Road	*636
		Withrow Creek	Confluence of Withrow Creek and Withrow Creek Tributary	*487
		Withrow Creek Tributary	Kenneth Avenue Extended (Avenue located in the City of Bardstown)	*560
		Beech Fork	Confluence of Beech Fork and Withrow Creek	*485
Maps available at the Nelson County Planning Commission, 113 East Steven Foster, Bardstown, Kentucky 40004.				
Kentucky	City of New Haven, Nelson County (FEMA-5773).	Rolling Fork	Mousers Alley (extended)	*470
			Approximately 500 feet downstream of U.S. Highway 31E	*472
Maps available at Planning Commission Office, 113 E. Steven Foster, Bardstown, Kentucky 40004.				
Kentucy	Newport (City), Campbell County, FEMA-5778.	Ohio River	U.S. Highway 27 crossing the channel	*498
			Approximately 800 feet northwest from the intersection of County Highway 8 and Linden Avenue.	*499
		Licking River	At confluence with Ohio River	*498

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 600 feet southwest from the intersection of Ninth Street and Lowell Street.	*499
			Approximately 300 feet southwest from Lowell Street and Chessie System intersection.	*500
		Woodlawn Creek	Downstream side of the intersection of the channel and Memorial Parkway.	*516
			Upstream side of Wilson Road crossing over the channel	*518
		Woodlawn Tributary 2	Intersection of Lourdes Lane and Burnet Avenue	*517
			Intersection of Chesapeake Avenue and Grand Avenue	*517
	Maps available at Newport Courthouse, 4th and York, Newport, Kentucky.			
Louisiana	Town of Carencro, Lafayette Parish (FEMA-5773).	Beau Basin	Just upstream of Armand Street	*41
			Just downstream of Belizare Street	*42
		Gaston Coulee	At Andre Street	*41
			At St. Anne St.	*41
	Maps available at City Hall, Andre Street, Carencro, Louisiana 70520.			
Louisiana	Town of Church Point, Acadia Parish (FEMA-5773).	Bayou Plaquemine Brule	Just upstream of Louisiana Highway 95	*44
			Just upstream of Louisiana Highway 35	*45
	Maps available at City Hall, 105 S. Main Street, Church Point, Louisiana 70525.			
Massachusetts	Billerica (Town), Middlesex County FEMA-5778.	Concord River	Area southeast from the end of Winthrop Street	*107
			Intersection of river and center of Pollard Street	*115
			Cul-de-sac at the end of Simmons Lane	*117
			Intersection of Riverview Road and Pembroke Street	*119
		Shawsheen River	Intersection of Hamilton Street and First Avenue	*93
			Cul-de-sac at the end of Shawsheen Road	*97
		Content Brook	50 feet downstream from center of Gray Street	*106
		Middlesex Canal	30 feet downstream from center of Pond Street	*110
		Jones Brook	Intersection of brook and center of Baldwin Road	*105
	Maps available at Town Hall, Concord Road, Billerica, Massachusetts.			
Massachusetts	Town of Middleton, Essex County (Docket No. FI-5688).	Ipswich River	Corporate Boundary (Downstream)	*41
			Upstream, Peabody Street	*44
			Upstream, Maple Street	*46
			Upstream, South Main Street	*49
			Downstream, Boston Blacking Company Dam	*53
			Upstream, Boston Blacking Company Dam	*60
			Corporate Boundary (Upstream)	*60
		Tributary A to Ipswich River	Mouth of Tributary	*46
			1,400 feet downstream, Mount Vernon Street	*56
			Downstream, Mount Vernon Street	*66
			Upstream, Mount Vernon Street	*69
			Downstream, South Main Street Culvert	*80
			Upstream, South Main Street Culvert	*85
			Uptstream, Pleasant Street	*89
			Downstream, Middleton Pond Dam	*90
		Boston Brook	Mouth of Brook	*44
			Dam (Downstream side 500 feet below Mill Street)	*45
			Dam (Upstream side just below Mill Street)	*53
			Dam (Upstream 1,600 feet below Liberty Street)	*57
			100 feet upstream, Liberty Street	*59
			1,800 feet upstream, Liberty Street	*69
			5,150 feet upstream, Liberty Street (above railroad constriction)	*78
			2,600 feet downstream, Corporate Boundary (above railroad constriction).	*83
			1,800 feet downstream, Corporate Boundary (at access road)	*83
		Emerson Brook	Mouth of Brook	*44
			Downstream, Mill Street	*44
			Upstream, Dam	*54
			Upstream, Liberty Street	*59
	Maps available at the office of the Building Inspector, Middleton, Massachusetts.			
Minnesota	Hutchinson (City), McLeod County, FEMA-5778	South Fork Crow River	At the intersection of Second Avenue Southeast and Ontario Street	*1,040
			150 feet north of the intersection of School Road and Boulder Street	*1,045
	Maps available from City Hall, 37 Washington Avenue West, Hutchinson, Minnesota.			
Missouri	(C), Cape Girardeau, Cape Girardeau County (Docket No. FI-5233).	Cape La Croix Creek	Mouth at Mississippi River	*354
			1,584 feet upstream of State Route 74	*357
			1,056 feet downstream of Bloomfield Road	*362
			1,320 feet upstream of Gordonville Road	*375
			1,056 feet downstream of Hopper Road	*377
			Just downstream of Hopper Road	*381
			792 feet downstream of U.S. Route 61 (upper)	*386
			Just upstream of U.S. Route 61 (upper)	*390
			Just upstream of County Highway W	*394
			About 1,600 feet upstream of County Highway W	*397
		Walker Branch	About 1.0 mile upstream of County Highway W	*416
			792 feet upstream of mouth	*366
			Just downstream of Independence Street	*370
			Just downstream of Broadway	*373
			317 feet downstream of Lombardo Street	*380
			Just downstream of Marietta Street	*386
			*106 feet downstream of Cape Rock Drive	*396
			Just downstream of Cape Rock Drive	*397

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Mississippi River	At eastern corporate limits	*353
			At western corporate limits	*359
	Maps available at City Hall, P.O. Box 617, Cape Girardeau, Missouri 63701.			
Montana	Troy (Town), Lincoln County, FEMA-5765.	Callahan Creek	Area approximately 1,200 feet south-southeast of intersection of Riverside Drive and Third Street.	*1,883
			25 feet upstream from center of U.S. Highway 2	*1,905
	Maps available at Town Hall, 3rd and Kootenai Streets, Troy, Montana.			
New Hampshire	Londonderry (City), Rockingham County, FEMA-5701.	Beaver Brook	Downstream Corporate Limits	*177
			State Route 128-60 feet upstream from centerline	*197
			Rankins Dam—10 feet downstream from centerline	*198
			Rankins Dam—100 feet upstream from centerline	*207
			Kendall Pond Road Bridge—200 feet upstream from centerline	*219
			Interstate 93 Southbound—100 feet downstream from centerline	*232
		Black Brook	Mammoth Road (State Route 128)—70 feet downstream from centerline	*233
			Mammoth Road (State Route 128)—100 feet upstream from centerline	*242
			Young Road—at centerline	*262
			First Dam upstream from Adams Road—50 feet upstream from centerline	*304
			Second Dam upstream from Adams Road—50 feet downstream from centerline	*307
			Second Dam upstream from Adams Road—50 feet upstream from centerline	*314
		Tributary J	Pillsbury Road—at centerline	*326
			South Road—at centerline	*221
			State Route 128 (Mammoth Road)—at centerline	*223
		Tributary C	Capitol Hill Drive (first crossing)—100 feet downstream from centerline	*234
			Capitol Hill Drive (first crossing)—at centerline	*242
			Capitol Hill Drive (second crossing)—60 feet downstream from centerline	*247
			Capitol Hill Drive (second crossing)—at centerline	*256
			Nashua Road (State Route 102)—50 feet downstream from centerline	*269
			Nashua Road (State Route 102)—135 feet upstream from centerline	*279
			Pillsbury Road—65 feet downstream from centerline	*305
		Tributary D	Downstream Corporate Limits	*245
			Nashua Road Culvert (State Route 102)—at downstream face	*272
			Nashua Road Culvert (State Route 102)—at upstream face	*282
			Londonderry Road—50 feet upstream from centerline	*290
			Ash Street Extension—at downstream side	*320
		Shields Brook	Coteville Road—30 feet upstream from centerline	*301
			Rockingham Road (State Route 28)—75 feet downstream from centerline	*308
			Rockingham Road (State Route 28)—65 feet upstream from centerline.	*313
			Sub-Station Access Road (first crossing)—at centerline	*333
			Scobie Pond Road—75 feet downstream from centerline	*352
		Upper Beaver Brook	Rockingham Road (State Route 28)—125 feet downstream from centerline.	*314
			Rockingham Road (State Route 28)—160 feet upstream from centerline.	*319
			Boston and Maine Railroad (first crossing)—100 feet upstream from centerline	*332
		Cohas Brook	Downstream Corporate Limits	*227
			Auburn Road—350 feet downstream from centerline	*260
		Little Cohas Brook	Industrial Drive—100 feet upstream from centerline	*193
			Boston and Maine Railroad (first crossing)—25 feet upstream from centerline	*232
			Boston and Maine Railroad (second crossing)—120 feet upstream from centerline	*264
			Litchfield Road—80 feet downstream from centerline	*307
		Tributary E	Stokes Road—at centerline	*266
			Boston and Maine Railroad (first crossing)—160 feet downstream from centerline	*266
			Boston and Maine Railroad (first crossing)—160 feet upstream from centerline	*271
			Boston and Maine Railroad (second crossing)—150 feet upstream from centerline.	*277
		Nesenkeag Brook	Clark Road—at centerline	*281
			West Road—at centerline	*183
			Etwood Road—85 feet upstream from centerline	*229
			Dan Hill Road—75 feet upstream from centerline	*238

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			High Range Road—30 feet upstream from centerline	*272
			Nashua Road (State Route 102) (first crossing)—at centerline	*274
			Parmenter Road—80 feet upstream from centerline	*276
			Nashua Road (State Route 102) (second crossing)—75 feet upstream from centerline.	*290
		Tributary H	Wiley Hill Road—at centerline	*236
Maps available at Town Office, 268 Mammoth Road, Londonderry, New Hampshire.				
New York	Town of Henrietta, Monroe County (Docket No. FEMA-5725).	Genesee River	Downstream Corporate Limits (New York State Highway 252)	*523
			New York Thruway (Interstate 90)	*529
			New York State Highway 253	*530
			Confluence with Oatka Creek	*531
			Upstream Corporate Limits	*532
		Red Creek	Downstream Corporate Limits	*521
			Jefferson Road (Interstate 252)	*522
			Conrail Railroad (formerly Erie-Lackawanna Railroad) (Downstream)	*522
		East Branch, Red Creek	Conrail Railroad (formerly Lehigh Valley Railroad) (Downstream)	*525
			U.S. Highway 15	*526
			Calkins Road (Upstream)	*530
			Conrail Railroad (formerly Lehigh Valley Railroad) (Upstream)	*532
			Lehigh Station Road (Downstream)	*532
			New York Thruway (Interstate 90) (Upstream)	*537
			Erie Station Road (Upstream)	*553
		Middle Branch, Red Creek	Mouth of Middle Branch, Red Creek	*525
			Conrail Spur	*525
		East Stem, Middle Branch, Red Creek.	Bailey Road	*527
			Vollmer Parkway (Upstream)	*530
		West Stem, Middle Branch, Red Creek.	Confluence with Middle Branch, Red Creek	*525
			Bailey Road	*525
			Beckwith Street	*525
			Conrail (Upstream)	*530
			Lehigh Station Road (Upstream)	*532
		West Branch, Red Creek	Downstream Corporate Limits	*523
			Lowenthal Road	*523
			Perkins Road	*523
			Wiltsie Road	*523
			Bailey Road (Downstream Elevation)	*523
Maps available at the Town Hall, Henrietta, New York				
New York	Massena, Village, St. Lawrence County (Docket No. FEMA-5778).	Grass River	Downstream Corporate Limits	*166
			Parker Avenue	*174
			700' downstream of dam	*180
			Main Street	*185
			Upstream Corporate Limits	*187
Maps available at the Village Hall, Massena, New York.				
New York	Ogdensburg, City, St. Lawrence County (Docket No. FEMA-5773).	Oswegatchie River	Lake Street	*249
			Ogdensburg Dam (Downstream)	*255
			Ogdensburg Dam (Upstream)	*265
			Upstream Corporate Limits	*266
Maps available at the Office of Planning and Development, City Hall, Ogdensburg, New York.				
North Carolina	Town of Haw River, Alamance County (FEMA-5713).	Haw River	Just upstream of Southern Railway	*506
		East Back Creek	Just upstream of Southern Railway	*515
			Just upstream of U.S. Highway 70 (East Main Street)	*517
		Haw River Tributary "A" (Backwater Flooding from Haw River).	Just upstream of Long Street	*507
Maps available at Town Hall, 403 E. Main Street, Haw River, North Carolina 27258.				
North Carolina	City of Lumberton, Robeson County (FEMA-5773).	Lumber River	Just downstream of Chippens Street	*115
			Approximately 350 feet upstream of Alamac Road	*119
			Just upstream of Interstate 95	*124
		Fivemile Branch	Just upstream of Interstate 95	*125
		Meadow Branch	Just upstream of Interstate 95	*125
			Just downstream of U.S. Highway 301	*132
		Pole Cat Branch	Just upstream of Walnut Street	*129
			Just downstream of U.S. Highway 301	*131
		Ivey Branch	Just upstream of U.S. Highway 301	*130
Maps available at City Hall, 501 E. 5th Street, Lumberton, North Carolina 28358.				
North Carolina	Town of Mebane, Alamance County (FEMA-5773).	Mill Creek	Just upstream of State Highway 119	*570
		McAdams Creek	Just upstream of State Route 1997 Extended	*606
		Lake Michael Tributary	Just upstream of State Route 1306	*612
		Eastside Creek	Just upstream of State Highway 119	*593
			Just upstream of State Route 1996	*613
		Haw Creek	Just upstream of Interstate Highway 85	*604
Maps available at Town Hall, 106 E. Washington Street, Mebane, North Carolina 27302.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Ohio	(V), Lower Salem, Washington County (Docket No. FEMA-5702).	East Fork Duck Creek	At southwest corporate limits, about 1,000 feet downstream of State Route 821	*652
			Just downstream of State Route 821	*653
			Just downstream of Route T-38	*654
			Approximately 400 feet upstream of Route T-38	*655
			Approximately 1,500 feet upstream of Route T-38	*656
			At northeast corporate limits, about 2,200 feet upstream of Route T-[illegible]	*657
Maps available at the Village Hall, P.O. Box 112, Lower Salem, Ohio 45745.				
Pennsylvania	Maxatawny, Township, Berks County (Docket No. FEMA-5773).	Sacony Creek	Upstream Kutztown/Maxatawny Corporate Limits	*406
			Private Lane which intersects Deysher Road Upstream	*409
			Deysher Road crossing	*410
		Little Sacony Creek	Conrail crossing	*443
			Bowers Road crossing	*453
			Fleetwood Road crossing Upstream	*462
			Approximately 400 feet upstream of Fleetwood Road crossing	*469
			Upstream Corporate Limits	*475
Maps available at the Maxatawny Township Municipal Building, Maxatawny, Pennsylvania.				
Pennsylvania	Noyes, Township, Clinton County (Docket No. FI-5624).	West Branch Susquehanna River	Downstream Corporate Limits	*660
			Confluence of Hall Run	*671
			Confluence of Kettle Creek	*690
			Upstream Corporate Limits	*718
		Drury Run	Conrail (Downstream side)	*665
			Conrail (Upstream side)	*672
			Robbins Road	*689
			Limit of Detailed Study approximately 3,700 feet upstream of Robbins Road	*761
		Kettle Creek	Conrail	*690
			Limit of Detailed Study 8,500 feet upstream of Conrail Bridge	*711
Maps available at the Noyes Township Building, Shintown, Pennsylvania.				
Pennsylvania	Phoenixville, Borough, Chester County (Docket No. FEMA-5773).	Schuylkill River	Downstream Corporate Limits	*101
			State Route 113 upstream	*106
			Upstream Corporate Limits	*110
		French Creek	Confluence with Schuylkill River	*102
			State Route 113 (Upstream)	*109
			Paradise Street (Downstream)	*113
			Upstream Corporate Limits (Downstream)	*118
Maps available at the Phoenixville Municipal Building, 140 Church Street, Phoenixville, Pennsylvania.				
Pennsylvania	Royersford, Borough, Montgomery County (Docket No. FEMA-5773).	Schuylkill River	Downstream Corporate Limits	*113
			100' upstream Main Street Bridge	*115
			Conrail Bridge	*116
			Upstream Corporate Limits	*118
Maps available at the Borough Hall, Royersford, Pennsylvania.				
Pennsylvania	Schuylkill, Township, Chester County (Docket No. FEMA-5773).	Schuylkill River	Downstream Corporate Limits	*93
			Pawling Road	*96
			Downstream of Conrail	*97
			Upstream of Conrail	*98
			Upstream Corporate Limits	*101
		Pickering Creek	Confluence with Schuylkill River	*100
			State Route 23	*100
			Upstream side of Pickering Dam	*110
			6,850 feet upstream of Pickering Dam	*112
			Downstream of White Horse Road	*114
			Upstream of White Horse Road	*115
			Downstream of Creek Road	*128
			Upstream of Creek Road	*130
			Upstream Corporate Limits	*132
Maps available at the Schuylkill Township Building, 801 Valley Park Road, Schuylkill, Pennsylvania.				
Pennsylvania	South Park, Township, Allegheny County (Docket No. FEMA-5757).	Peters Creek	Approximately 1,700 feet downstream of Norfolk & Western Railway	*820
			Approximately 650 feet upstream of Norfolk & Western Railway	*825
			Approximately 170 feet downstream of Snowden Road	*830
			Approximately 2,000 feet upstream of Snowden Road	*840
			Approximately 850 feet downstream of Chessie Railroad	*842
			Approximately 400 feet upstream of Chessie Railroad	*855
		Lick Run	Approximately 650 feet downstream of Norfolk & Western Railway	*822
			Approximately 100 feet upstream of Norfolk and Western Railway	*831
			Approximately 1,100 feet upstream of Norfolk & Western Railway	*839
			Approximately 1,900 feet upstream of Norfolk & Western Railway	*847
			Approximately 2,800 feet upstream of Norfolk & Western Railway	*857
			Approximately 2,200 feet downstream of Snowden Road	*867
			Approximately 900 feet downstream of Snowden Road	*875
			Approximately 1,100 feet upstream of Snowden Road	*885
			Approximately 450 feet downstream of Wallace Road	*895

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 520 feet upstream of Wallace Road	*904
			Approximately 180 feet downstream of Private Road to U.S. Bureau of Mines	*912
			Approximately 100 feet downstream of McElheny Road	*922
			Approximately 1,200 feet upstream of McElheny Road	*930
			Approximately 1,150 feet downstream of Wilson Road	*940
			Approximately 80 feet downstream of Wilson Road	*949
			Cochrans Mill Road (Downstream Side)	*958
			Approximately 700 feet downstream of Hough Drive	*968
			Approximately 1,250 feet upstream of Hough Drive	*978
			Curry Hollow Road (Downstream Side)	*985
			Curry Hollow Road (Upstream Side)	*992
			Approximately 600 feet upstream of Curry Hollow Road	*993
	Maps available at the South Park Township Building, South Park, Pennsylvania.			
Rhode Island	Richmond, Town, Washington County (Docket No. FEMA-5778).	Wood River	3,250 feet downstream of Woodville Road	*54
			Upstream of Woodville Road	*55
			Upstream of Dam upstream of Woodville Road	*60
			Upstream of Hope Valley Road	*68
			Upstream of Interstate Route 95	*69
			Upstream of Old Hope Valley Road	*72
			Upstream of Dam upstream of Old Hope Valley Road	*80
			Upstream of State Route 3	*83
			Upstream of Bridge Street	*88
			Upstream of Dam upstream of Bridge Street	*100
			Upstream of Skunk Hill Road	*101
			Upstream of Old Nooseneck Hill Road	*110
			Upstream of Dam upstream of Old Nooseneck Hill Road	*115
	Maps available at the Office of the Assessor, Richmond, Rhode Island.			
South Carolina	City of Forest Acres, Richland County (FEMA-5773).	Gills Creek	Just upstream of Forest Drive (State Highway 12)	*169
			Just downstream of Forest Lake Dam	*172
			Just upstream of Forest Lake Dam	*179
		Pen Branch	Just upstream of Belt Line Boulevard	*197
			Just upstream of Budon Court	*216
		Orphanage Branch	Just upstream of Sunnyside Drive	*212
		Eightmile Branch	Just downstream of Gamewell Drive	*172
			Just downstream of Javrec Court	*181
			Approximately 75 feet downstream from Covenant Road	*197
			Just upstream of Covenant Road	*202
			Just upstream of Deerfield Drive	*218
		Tributary E-1	Just upstream of Roberts Spring Road	*204
			Just upstream of Barnes Spring Road	*217
	Maps available at City Administrator's Office, 5205 Trenholm Road, Forest Acres, South Carolina 29206.			
Tennessee	City of Pegram, Cheatham County (Docket No. FEMA-5778).	Harpeth River	Just upstream of County Road	*509
			Just downstream of Interstate 40	*514
			Just upstream of Riverview Drive	*525
	Maps available at City Hall, P.O. Box 86, Pegram, Tennessee 37143.			
Tennessee	Town of South Carthage, Smith County (FEMA-5769).	Cumberland River	Just upstream of State Highway 25	*486
			Confluence of Cumberland River and Caney Fork River	*486
		Caney Fork River	Just upstream of U.S. Highway 70N	*487
	Map available at City Hall, Route 2, P.O. Box 52, Highway 53, South Carthage, Tennessee 37030.			
Texas	City of Lockhart, Caldwell County (FEMA-5773).	Town Creek	Just upstream of East Market	*478
			Just upstream of North Commerce Street	*495
			Just downstream of North Blanco Street	*510
			Just upstream of Stueve Road	*536
	Maps available at City Hall, 308 W. San Antonio Street, Lockhart, Texas 78644.			
Virginia	Henry County (Unincorporated Areas) (Docket No. FI-4137).	Leatherwood Creek	Confluence with Smith River	*607
			Va. Route 650 (Upstream)	*649
			Va. Route 820 (Upstream)	*664
			Southern Railway (Upstream)	*664
			U.S. Route 58 (Upstream)	*683
			Confluence of Camp Branch	*683
			Confluence of West Fork Leatherwood Creek	*687
			Confluence of Bear Branch	*736

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		West Fork Leatherwood Creek	Confluence with Leatherwood Creek	*687
			Confluence of Reservoir No. 2 Branch	*714
			Va. Route 57 (Upstream)	*728
			Confluence of Wet Branch	*746
			Reservoir No. 3 Dam	*747
		Wet Branch	Confluence with West Fork Leatherwood Creek	*746
			Va. Route 628 (Upstream)	*746
			Reservoir No. 4 Dam	*751
		Reservoir No. 2 Branch	Confluence with West Fork Leatherwood Creek	*714
			Va. Route 57 (Upstream)	*716
			Va. Route 720 (Upstream)	*719
			Va. Route 655 (Upstream)	*771
			Reservoir No. 2 Dam	*772
		Jones Creek	Southern Railway (Upstream)	*723
			U.S. Highway Business 220	*729
			Private Drive upstream of U.S. Business 220	*732
			Va. Route 667 (Upstream)	*737
			Upstream Corporate Limits	*742
		Beaver Creek	Confluence with Smith River	*716
			Va. Route 57 (Upstream)	*716
			Southern Railway (Downstream)	*718
			Norfolk and Western Railway	*720
			Confluence of Jones Creek	*723
			U.S. Highway Business 220 (Upstream)	*728
			Confluence of Little Beaver Creek	*742
			Irrigation Structure	*742
			Private Drive 1,480 feet downstream of Va. Route 108 (Upstream)	*753
			Va. Route 108 (Upstream)	*760
			Va. Route 714 Upstream	*772
			Martinsville Reservoir Dam	*775
		Hairston Branch	Confluence with Little Beaver Creek	*759
			Va. Route 663 (Downstream)	*780
		Little Beaver Creek	Confluence with Beaver Creek	*742
			Va. Route 108 (Upstream)	*749
		Daniels Creek	Confluence with Smith River	*724
			Va. Route 57 (Upstream)	*731
			Private Drive 1,800 feet upstream of Va. Route 57 (Upstream)	*752
			Private Drive 4,100 feet upstream of Va. Route 57 (Upstream)	*775
			Va. Route 1142 (Upstream)	*788
			Wheeler Avenue (Upstream)	*805
			Va. Route 609 (Upstream)	*813
			Cottman Drive (Upstream)	*823
			Redd Boulevard (Upstream)	*832
			Eliza Reamy Avenue (Upstream)	*838
			West Paul Street (Upstream)	*850
			U.S. Highway Business 220 (Upstream)	*856
			Sarah Avenue (Upstream)	*856
		Reed Creek	Confluence with Smith River	*729
			Norfolk and Western Railway (Upstream)	*740
			Downstream Crossing U.S. Highway 220 Bypass (Upstream)	*741
			Confluence of Little Reed Creek	*741
			Va. 57 Route (Upstream)	*745
			U.S. Highway Business 220	*756
			Va. Route 609 (Upstream)	*782
			Private Road 4,900 feet upstream of Va. Route 609	*797
			Va. Route 665 (Upstream)	*854
			Va. Route 657 (Upstream)	*922
		Little Reed Creek	Confluence with Reed Creek	*741
			Va. Route 606 (Upstream)	*741
			Edgewood Road (Upstream)	*747
			Va. Route 57 (Upstream)	*749
			Private Drive 1,100 feet upstream of Va. Route 57 (Upstream)	*752
			Dyer Road (Upstream)	*765
			Meadow Lane (Upstream)	*773
			Private Drive 1,800 feet upstream of Meadow Lane (Upstream)	*788
			Private Road 2,650 feet upstream of Meadow Lane (Upstream)	*790
			Private Road 1,500 feet downstream of Va. Route 669 (Upstream)	*811
			Va. Route 669 (Upstream)	*833
			Private Road upstream of Va. Route 669	*898
		Town Creek	Confluence with Smith River	*790
			Va. Route 603 (Upstream)	*793
			Downstream crossing Norfolk and Western Railway Upstream	*800
			Confluence of Grassy Fork Creek	*820
			Va. Route 604 (Upstream)	*[illegible]
			Upstream crossing Norfolk and Western Railway (Upstream)	*874
			Va. Route 606 (Upstream)	*882
			County Boundary	*890
		Smith River	Downstream County Boundary	*563
			Va. Route 622 (Upstream)	*576
			Va. Route 636 (Upstream)	*595
			Confluence of Leatherwood Creek	*608
			Confluence of Marrowbone Creek	*623
			Norfolk and Western Railway downstream of Va. Route 966 (Upstream)	*665
			Va. Route 966 (Upstream)	*670

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Martinsville Dam (Downstream)	*675
			Martinsville Dam (Upstream)	*704
			Confluence of Grassy Creek	*709
			Confluence of Beaver Creek	*716
			Norfolk and Western Railway (Upstream)	*723
			Jordan Creek Confluence	*724
			New Va. Route 609 (Upstream)	*724
			U.S. Highway Bypass 220 (Upstream)	*729
			Alternate Va. Route 57 (Upstream)	*739
			Va. Route 1228 (Upstream)	*748
			Church Street (Upstream)	*752
			Main Street (Upstream)	*755
			Riverside Drive (Upstream)	*758
			Va. Route 666 (Upstream)	*764
			Confluence of Town Creek	*790
			Va. Route 674 (Upstream)	*791
			Philpott Dam (Downstream)	*817
		Blackberry Creek	Confluence with Smith River	*747
			Alternate Va. Route 57 (Upstream)	*748
			Private Drive 2,800 feet upstream of Alternate Va. Route 57 (Upstream).	*761
			Private Drive 2,000 feet downstream of Va. Route 780 (Upstream)	*777
			Va. Route 780 (Upstream)	*787
			Va. Route 698 (Upstream)	*814
			Va. Route 779 (Upstream)	*830
			Va. Route 676 (Upstream)	*850
			Confluence of Hales Pond Creek	*875
			Private Drive 15,850 feet upstream of Va. Route 676 (Upstream)	*1,066
			Va. Route 832 (Upstream)	*1,160
			Va. Route 687 (Upstream)	*1,166
			Private Drive 3,200 feet upstream of Va. Route 687	*1,185
			County Line	*1,198
		Rangely Creek	Confluence with Jordan Creek	*740
			U.S. Highway Bypass 220 (Upstream)	*744
			Va. Route 683 (Upstream)	*811
			Private Drive 1,500 feet upstream of Va. Route 683 (Upstream)	*817
			Confluence of Valley Drive Creek	*822
			Private Drive 1,500 feet upstream of confluence with Valley Drive Creek	*833
		Jordan Creek	Confluence with Smith River	*724
			Va. Route 682 (Upstream)	*724
			Upstream crossing Norfolk and Western Railway (Upstream)	*726
			Va. Route 684 (Upstream)	*729
			Va. Route 1163 (Upstream)	*734
			Private Drive 1,450 feet upstream of Va. Route 1163 (Upstream)	*738
			Confluence of Rangely Creek	*740
			U.S. Highway Bypass 220 (Upstream)	*745
			Confluence of Meadows Creek	*802
			Confluence of Bassett Branch	*813
			Va. Route 683 (Upstream)	*830
		Meadows Creek	Confluence with Jordan Creek	*802
			Private Road 10,200 feet above mouth	*860
		Grassy Creek	Confluence with Smith River	*708
			U.S. Highway Bypass 220 (Upstream)	*842
			Abandoned Road (Upstream)	*862
			Va. Route 975 (Upstream)	*891
			U.S. Highway 58 (Upstream)	*894
		Little Marrowbone Creek	Confluence with Marrowbone Creek	*692
			Va. Route 1313 (Upstream)	*696
			Va. Route 641 (Upstream)	*735
			Private Drive 1,100 feet upstream of Va. Route 641 (Upstream)	*743
		Marrowbone Creek	Confluence with Smith River	*623
			Va. Route 641 (Upstream)	*624
			Fisher Dam (Downstream)	*641
			Fisher Dam (Upstream)	*658
			Norfolk and Western Railway (Upstream)	*680
			Va. Route 782 (Upstream)	*686
			U.S. Highway 220 (Upstream)	*692
			Confluence of Little Marrowbone Creek	*692
			Va. Route 687 (Upstream)	*711
			Va. Route 688 (Upstream)	*730
			Base of Marrowbone Reservoir Dam	*739
		Camp Branch	Confluence with Leatherwood Creek	*683
			Va. Route 9984 (Upstream)	*683
			Va. Route 630 (Upstream)	*683
			Reservoir No. 6 Dam	*700

Maps available for review at the Office of the County Administrator, Collinsville, Virginia.

Washington	Clallam County, Unincorporated Area, FEMA-5773.	Dungeness River	Intersection of river and Woodcock Road	*83
			Intersection of river and U.S. Highway 101	*248
		Morse Creek	75 feet upstream of intersection of creek and Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge.	*56
			Intersection of creek and Four Seasons Road	*110

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Elwha River	40 feet upstream of intersection of river and Elwha Road	*72
			Intersection of river and Washington Highway 112	*100
		Indian Creek	Intersection of creek and U.S. Highway 101	*495
		Whiskey Creek Tributary	50 feet upstream of intersection of tributary and State Highway 112	*356
		Clallam River	50 feet downstream of intersection of river and Weel Road	*19
		Bogachiel River	Confluence with Calawah River	*90
		Calawah River	Intersection of river and U.S. Highway 101	*221
		Elk Creek	10 feet downstream of intersection of creek and County Road	*351
		Soleduck River	Intersection of river and downstream crossing of U.S. Highway 101	*223
			100 feet upstream of intersection of river and Maxfield Road	*272
			Intersection of river and upstream crossing of U.S. Highway 101	*404
		Lake Creek	Intersection of creek and Tyee Street	*397
		Tumwater Creek	150 feet upstream of intersection of creek and U.S. Highway 101	*171
		Ennis Creek	30 feet upstream of intersection of creek and County Road	*88
		White Creek	Intersection of creek and corporate limits of the City of Port Angeles	*322
		Valley Creek	Intersection of creek and the corporate limits of the City of Port Angeles.	*150
		Dry Creek	Intersection of creek and the corporate limits of the City of Port Angeles.	*199
		Mill Creek	75 feet upstream of intersection of creek and U.S. Highway 101 (Town of Forks corporate limits)	*298
		Warner Creek	40 feet upstream of intersection of creek and U.S. Highway 101 (Town of Forks corporate limits)	*301
		Ford Creek	75 feet upstream of intersection of creek and Peterson Road	*320
			Intersection of Peterson Road and East Division Street	#1
		Straight of Juan de Fuca	Intersection of Jamestown Road and Cemetery Road	*12
		Lake Pleasant	100 feet upstream of Tyee Street	*399

Maps available from Clallam County Courthouse, 223 East 4th, Port Angeles, Washington.

Washington	Fife (City), Pierce County, FEMA-5773.	Wapato Creek	Intersection of 12th Street East and channel	*10
			Intersection of Goldau Road and 20th Street East	*15
			Approximately 140 feet upstream from intersection of 54th Avenue East and channel.	*18
			West of the intersection of Valley Avenue and the southern corporate limits.	*20

Maps available from City Hall, 5209 Pacific Highway East, Fife, Washington.

West Virginia	Summers County (Docket No. FI-5419).	Beech Run	Upstream of State Route 3	*1,373
			.48 mile upstream of confluence adjacent to Beech Run Church	*1,435
			1.03 miles upstream of confluence adjacent to cemetery	*1,500
			2.16 miles upstream of confluence	*1,777
		Big Creek	Upstream of Chessie System	*1,404
			.35 mile upstream of confluence	*1,434
			.55 mile upstream of confluence	*1,467
		Blue Lick Creek	Confluence with Greenbrier River	*1,462
			Upstream of County Route 17	*1,497
			.81 mile upstream of confluence	*1,575
		Bradshaw Creek	Upstream of confluence with Wheel Run	*1,537
			1.59 miles upstream at Private Road	*1,564
			Upstream of State Route 12	*1,597
		Brooks Branch	Confluence with New River	*1,338
			Downstream of State Route 20	*1,351
			.367 mile upstream of confluence	*1,392
		Buggy Branch	Confluence with Greenbrier River	*1,520
			.45 mile upstream of confluence	*1,520
		Fisher Creek	Confluence with Mill Creek	*1,733
			.65 mile upstream of confluence	*1,850
			1.15 miles upstream of confluence	*1,954
			1.725 miles upstream of confluence	*2,091
		Greenbrier River	Upstream State Route 107	*1,377
			Upstream State Route 13	*1,393
			Confluence of Big Creek	*1,404
			Confluence of Powley Creek	*1,412
			Upstream State Route 3	*1,415
			Confluence of Wolf Creek	*1,436
			Confluence of Kissinger Run	*1,445
			Confluence of Blue Lick Creek	*1,461
			Confluence of Hungard Creek	*1,503
			Confluence of Buggy Branch	*1,520
			At confluence of Griffith Creek	*1,540
		Griffith Creek	Downstream of State Route 3	*1,540
			Downstream County Route 7 at mile .75	*1,602
			Downstream Private Road at mile 1.29	*1,672
		Hungard Creek	Downstream State Route 3	*1,503
			.9 mile upstream of confluence	*1,506
			100 feet downstream of State Route 6	*1,541
		Kates Branch	Confluence with New River	*1,325
			Downstream of State Route 20	*1,344
			.4 mile upstream of confluence	*1,400
			.625 mile upstream of confluence	*1,449
		Kissinger Run	Confluence with Greenbrier River	*1,445
			.3 mile upstream of confluence	*1,453
		Laurel Creek	Downstream of State Route 20	*1,280
			.85 mile upstream of confluence	*1,404
			1.84 miles upstream of confluence	*1,485

Final Base (100-Year) Flood Elevations—Continued

DEPARTMENT OF HEALTH AND

The revised Census equivalent to 185% **SUMMARY:** This amendment extends the

V 45 MY 30 80 0 UMI

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Lick Creek	Confluence with New River	*1,274
			Upstream of State Route 20	*1,283
			Upstream of Private Road crossing	*1,353
			.45 mile upstream of Private Bridge	*1,382
			2.8 miles upstream of Private Bridge	*1,470
			Confluence of Mill Creek	*1,545
		Madam Creek	Confluence with New River	*1,365
			Upstream of State Route 3	*1,374
			Upstream Private Drive .69 miles upstream of confluence	*1,435
			Upstream Private Drive 1.09 miles upstream of confluence	*1,470
			Downstream Private Drive 1,865 miles upstream of confluence	*1,529
			Upstream County Route 3/21	*1,556
			Upstream County Route 12/2	*1,626
			Upstream Private Drive .41 mile upstream of County Route 12/2	*1,694
			1 mile upstream County Route 12/2 adjacent to Martha Chapel	*1,800
			Downstream Private Road 4.805 miles upstream of confluence with New River.	*2,099
			5.025 miles upsteam of confluence with New River	*2,178
		Meadow Creek	Confluence with New River	*1,254
			Upstream Chessie System	*1,257
			Upstream County Route 7	*1,276
			.6 mile upstream of County Route 7	*1,359
			.81 mile upstream of County Route 7	*1,382
		Mill Creek	Confluence with Lick Creek	*1,545
			Upstream County Route 4	*1,549
			Upstream Private Road .66 mile upstream of County Route 4	*1,608
			Upstream of downstream State Route 20 crossing	*1,739
			.0125 mile upstream of upstream State Route 20 crossing	*2,021
		New River	Downstream County Boundary	*1,242
			Confluence of Meadow Creek	*1,254
			Confluence of Lick Creek	*1,274
			Confluence of Kates Branch	*1,325
			Confluence of Madam Creek	*1,365
			Confluence of Greenbrier River	*1,376
		Pipestem Creek	1.32 miles upstream of confluence	*1,534
			1.85 miles upstream of confluence	*1,590
			2.5 miles upstream of confluence adjacent to Greenbrier River	*1,656
			2.8 miles upstream of confluence	*1,685
		Powley Creek	County Route 13	*1,412
			.23 mile upstream of confluence	*1,440
			.29 mile upstream of confluence	*1,455
		Stinking Lick Creek	Upstream County Route 33/3 at Jeep Trail	*1,541
			.96 mile upstream from County Route 33/3	*1,571
			1.42 miles upstream from County Route 33/3	*1,607
		Tributary No. 1 to New River	Upstream Chessie System	*1,257
			Upstream County Route 7	*1,272
			Upstream County Route 7/2	*1,331
			About 1 mile upstream County Route 7/2	*1,355
		Wheel Run	Confluence with Bradshaw Creek	*1,535
			Upstream County Route 21/2	*1,544
			Upstream Private Road at .2 mile upstream of confluence	*1,577
			.39 mile upstream of confluence	*1,621
		Wolf Creek	Upstream State Route 12	*1,436
			.135 mile upstream of State Route 12	*1,444

Maps available at the County Commissioner's Office, County Courthouse, Hinton, West Virginia.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: May 9, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–16421 Filed 5–29–80; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 74

Administration of Grants; Grantee and Subgrantee Audits

Correction

In FR Doc. 80–16020 appearing on page 35328, in the issue of Tuesday, May 27, 1980, make the following correction. On page 35329, in the first column, add the following footnote to the end of the document:

[1] OMB Circulars A–102 and A–110 are available on request from the Office of Management and Budget, Publications Room, New Executive Office Building, Washington, D.C. 20503. Here is a summary of some of the main provisions concerning non-Federal audits in those two circulars:

(1) Each recipient must have itself audited by non-Federal auditors at least every two years.

(2) The recipient's auditors must meet certain standards of independence.

(3) The audit is to be performed on an organization-wide basis, with appropriate sampling of grant-related transactions. Awarding parties may not impose grant-by-grant (or subgrant-by-subgrant) audit requirements.

BILLING CODE 1505–01–M

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility for Legal Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule; Revised Appendix.

SUMMARY: The Legal Services Corporation is required by law to establish maximum income levels for individuals eligible for legal assistance. This document revises specified income levels to reflect amendments to the Official Poverty Threshold as defined by the Office of Management and Budget.

EFFECTIVE DATE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Linda Hanten, Legal Services Corporation, 733 15th Street, N.W., Suite 700, Washington, D.C. 20005, (202) 272–4010.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act, 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that income shall be taken into account along with other specified factors. Section 1611.3(b) of Corporation Regulations establishes a maximum income level equivalent to one-hundred and twenty-five percent (125%) of the Official Poverty Threshold as defined by the Office of Management and Budget. The revised figures equivalent to 125% of the Official Poverty Threshold are as follows:

Legal Services Corporation Poverty Guidelines

Appendix A of Part 1611 is revised to read as follows:

For All States Except Alaska and Hawaii

Size of family unit:	Maximum income
1	$4,738
2	6,263
3	7,788
4	9,313
5	10,838
6	12,363

For family units with more than six members, add $1,525 for each additional member in a family.

For Alaska

Size of family unit:	Maximum income
1	$5,950
2	7,850
3	9,750
4	11,650
5	13,550
6	15,450

For each family unit with more than six members, add $1,900 for each additional member in a family.

For Hawaii

Size of family unit:	Maximum income
1	$5,463
2	7,213
3	8,963
4	10,713
5	12,463
6	14,213

For family units with more than six members, add $1,750.00 for each additional member in a family.

Dated: May 24, 1980.

Mario Lewis,

General Counsel, Legal Services Corporation.

[FR Doc. 80–16393 Filed 5–29–80; 8:45 am]

BILLING CODE 6820–35–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1289; Amdt. 5]

Burlington Northern Inc. Authorized to Operate Over Tracks of Union Pacific Railroad Co. at Sterling, Colo.

May 23, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 5 to Service Order No. 1289.

SUMMARY: This amendment extends the effectiveness of service Order No. 1289, until August 31, 1980, permitting the Commission time to consider Burlington Northern's permanent authority application without interruption of the temporary authority.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Upon further consideration of Service Order No. 1289 (42 FR 63423; 43 FR 24694, 56671; 44 FR 31982, and 45 FR 26965), and good cause appearing therefor:

§ 1033.1289 [Amended]

It is ordered,

§ 1033.1289 *Burlington Northern Inc. authorized to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado,* Service Order No. 1289 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16458 Filed 5–29–80; 8:45 am]

BILLING CODE 7035–01–M

V 45 M Y 30 80 0 UMI

Proposed Rules

Federal Register
Vol. 45, No. 106
Friday, May 30, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Stay-in-School Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of personnel management proposes to revise excepted service regulations which authorize appointments under the Stay-in-School Program, to limit the program to students pursuing an education no higher than the baccalaureate level and performing duties no higher than the GS–4 level or equivalent under the Federal Wage System. The revision would provide agencies with more defined guidelines and clarify the original intent of the program.

DATE: Comments will be considered if received on or before July 29, 1980.

ADDRESS: Send or deliver written comments to Arch S. Ramsay, Associate Director for Staffing, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6F08, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:
James R. Poole, 202–632–5677.

SUPPLEMENTARY INFORMATION: Since the removal of the maximum age limit in October, 1978, interpretation of the Stay-in-School Program's intent has varied widely. The amendment would provide agencies with more defined guidelines and clarify the original intent of the Program.

For the sake of clarity and uniform interpretation, the restrictions on renewing or making initial appointments under the authority would be rephrased. OPM has determined that this is a significant regulation for the purposes of EO 12044.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the U.S. Office of Personnel Management proposes to revise § 213.3102(w) to read as follows:

§ 213.3102 Entire Executive Service.

* * * * *

(w) Part-time or intermittent positions, the duties of which involve work of a routine nature up to the GS–4 level of difficulty or equivalent under the Federal Wage System, when filled by students appointed in furtherance of the president's youth Opportunity Stay-in-school Campaign or when filled by mentally retarded or severely physically handicapped students, provided that the following conditions are met:

(1) Appointees are enrolled in or accepted for enrollment as a resident student in a secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning not above the baccalaureate level, accredited by a recognized accrediting body;

(2) Employment does not exceed 16 hours in any calendar week, except that students may work full-time during any period in which their school is officially closed, not to exceed 40 hours in any calendar week which falls within a vacation period.

(3) While employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer;

(4) Appointees need the earnings from the employment to continue in school, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and

(5) Salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance.

Appointments under this authority may not extend beyond 1 year. *However,* such appointments may be made for additional periods of not to exceed 1 year each, if the conditions for initial appointments are still met. Students may not be appointed under this authority unless they have reached their 16th birthday. No *new* appointments may be made between May 1 and August 31, inclusive.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc 80–16210 Filed 5–29–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 591

Allowances and Differentials

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: OPM is proposing to increase the daily mileage allowance schedule and the public transportation offset amount to reflect increases in automobile operating costs and increases in public transit costs.

DATE: Written comments will be considered if received no later than July 29, 1980.

ADDRESS: Send or deliver written comments to Jerome D. Julius, Assistant Director for Pay Programs, Office of Personnel Management, 1900 E Street, N.W., Room 3353, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:
Richard J. Carney (202) 632–6327.

SUPPLEMENTARY INFORMATION: The daily mileage allowance schedule is used to compute employee allowance entitlement in commuting to those eligible remote duty posts where daily commuting by motor vehicle is practicable. This allowance schedule is based on the costs of operation (but not ownership) of an automobile. OPM believes that an increase in the allowance schedule is warranted because of increases in costs of gasoline, oil, tires, maintenance and repairs. Based on changes in public transportation costs in selected cities around the country, OPM proposes also to increase to $1.08 the public transportation offset amount of those commuting situations in which employees use agency-provided transportation and for which a fee is charged. The current amount is 70 cents for each round trip and may be found in subchapter S3–6(1)(a) of Book 591, FPM Supplement 990–2. OPM has determined that this is a significant regulatory change for the purposes of E.O. 12044.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to amend Appendix A of Subpart C of Part 591 of the Title 5, Code of Federal Regulations, to read as follows:

Appendix A of Subpart C.—*Daily Transportation Allowance Schedules, Commuting Over Land by Private Motor Vehicle to Remote Duty Posts*

	Degree		
	A	B	C
Round trip distance in excess of 50 miles:			
Up to 9 miles	$0.40	$0.42	$0.44
10 to 19	1.40	1.47	1.54
20 to 29	2.40	2.52	2.64
30 to 39	3.40	3.57	3.74
40 to 49	4.40	4.62	4.84
50 to 59	5.40	5.67	5.94
60 to 69	6.40	6.72	7.04
70 to 79	7.40	7.77	8.14
80 to 89	8.40	8.82	9.24
90 to 99	9.40	9.87	[1]10.00
100 to 109	[1]10.00	[1]10.00	10.00
110 to 119	10.00	10.00	10.00
120 to 129	10.00	10.00	10.00
130 to 139	10.00	10.00	10.00
140 to 149	10.00	10.00	10.00
150 to 159	10.00	10.00	10.00
160 to 169	10.00	10.00	10.00
170 and over	10.00	10.00	10.00

[1]Under the statute, $10 a day is the maximum allowance.
Authority: 5 USC 5942: EO11609.

[FR Doc. 80–16191 Filed 5–29–80; 8:45 am]

BILLING CODE 63250–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Ch–XXVIII

Food Grading Policy

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The United States Department of Agriculture (USDA) announces options for possible proposed changes in its food grading policy. The positions are the result of (1) the Department's analysis and evaluation of its 1979–1980 survey on Consumer Perceptions of the USDA Food Grading Program, (2) consideration of several other reports and studies on this issue, (3) the Department's deliberation on this policy, and (4) a series of meetings with industry and consumer representatives. This notice is intended to prompt comment from the public on the options the Department is considering. It further serves to announce a series of public hearings to hear oral testimony on these positions and issues. These hearings will be informal in nature; anyone interested in this issue is encouraged to attend and express their views.

DATES: Written comments must be received by the Department on or before August 28, 1980. Public hearings will be held July 1, 1980; July 16, 1980; and August 7, 1980. See section under Supplementary Information for further details.

ADDRESSES: Written comments should be sent to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, D.C. 20250, (202) 447–7163. Public hearings will be held in Ames, Iowa; St. Petersburg, Florida; and San Francisco, California. See section under Supplementary Information for further details.

FOR FURTHER INFORMATION CONTACT: H. Connor Kenneth, Jr., Director, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3932, South Agriculture Building, Washington, D.C. 20250, (202) 447–4476.

SUPPLEMENTARY INFORMATION: This document reports on various rulemaking options that the Department of Agriculture (USDA) is considering for improvements on its food grading policy. Also cited is the documentary evidence related to this issue as well as the Department's 1979–1980 study on Consumer Perceptions on the USDA Food Grading Program. The Department is committed to full public participation in its deliberations concerning its policy. To this end, it seeks in this Notice to invite public comments and input on the costs and benefits of the proposed initiatives. While this issue does not lend itself to a simple solution or analysis, the Department is committed to implementing a policy that is consistent with the program's original purpose of facilitating trading and marketing of agricultural products while addressing the legitimate needs of consumers. The options delineated in this document are intended to indicate the Department's current thinking on this complex issue.

Public Hearings

The Department will hold three informal public hearings to gather oral comments on this notice. Public hearings will be held on the following dates, times, and locations:

Date: July 1, 1980
Place: Fisher Theater, Iowa State University Ames, Iowa
Time: 9 A.M. to 5 P.M.
Date: July 16, 1980
Place: Multi-Service Senior Center, 330 Fifth Street, North St. Petersburg, Florida
Time: 10 A.M. to 8 P.M.
Date: August 7, 1980
Jack Tar Hotel, 1101 Van Ness Avenue, San Francisco, California
Time: 10 A.M. to 8 P.M.

Anyone interested in presenting to the Department his/her views on the information provided in this notice is encouraged to attend and to testify. If you would like to testify, write to Penny Gentilly, Deputy Director, Public Participation, Room 1168-South Agriculture, FSQS, USDA, Washington, D.C. 20250, or call (202) 447–7804. Your request must be received at least 2 weeks before the hearing at which you would like to speak.

In addition, each hearing will include an open mike period when individuals will have the opportunity to make informal comments. Spanish translators will also be available when appropriate.

Comments

The Department is asking for comments on the following food grading options. We want to consider your thoughts and ideas in making decisions, and we are committed to informing you on how the government operates in the rulemaking process and how to comment to us. If after reading the proposal you do not understand it or do not know how to comment, let us know. For technical information about the options, contact Mr. H. C. Kennett, Jr. at the address or telephone number listed above. For information on how to participate, contact Ms. Penny Gentilly, Deputy Director of Public Participation, Policy and Program Planning, Room 1168, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7804. If you decide to send in written comments, send two copies to the Regulations Coordination Division and include the date and page number of this issue of the **Federal Register.** Comments should be kept as brief and to the point as possible. If you are commenting on specific provisions of the options, cite section or paragraph numbers. Give specific and substantive reasons for any stated position. The content of the comment is important, not the length of the statement or the number of signatures attached. All comments will be carefully analyzed and will be considered in the development of final proposals. If you would like to express your views during the public hearings, contact Ms. Penny Gentilly so arrangements can be made. Transcripts will be made of all comments that are orally presented.

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All comments submitted on this document will be available for public inspection at the Office of the Regulations Coordination Division, Food Safety and Quality Service (FSQS), in Room 2637-South Building, during regular business hours.

Background

Grading is a means to categorize or sort raw agricultural and manufactured products into different levels of quality. The distinctions between two or more grade categories take place within a product group, such as one apple from another apple, rather than across products, such as apples versus oranges. Criteria are established for each grade designation of a given product, commonly referred to as a grade standard. Historically, the characteristics that define these grade standards have been agreed upon by the cooperation of government and industry. More recently, broader public input has helped shape grade standards.

Most raw foods vary naturally in quality. Fruit picked from the same tree, for instance, may show a range of color, shape, maturity, and defects such as scars or various kinds of decay. Other raw foods reveal similar levels of quality in their natural state. With manufactured products, such as butter and canned vegetables, the processor presents his product to try to meet the requirements of a particular grade standard—a uniform level of quality—which is then graded by a government representative.

Therefore, U.S. grade standards, established by USDA for products under its jurisdiction, define these grades or levels of quality. Quality in general refers to the presence and level of desirable characteristics of a product, but the precise definition of quality depends on each product itself. Each food or food group has its own characteristics that affect quality and, therefore, its own precise standards. Most grade standards primarily reflect the sensory and aesthetic attributes of a given food. For example, the quality of canned pears of a similar variety is based on color, uniformity of size and symmetry, freedom from defects, texture, and tenderness. Similarly, the U.S. grades for butter are determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color, and salt. Nutritional aspects of a product are not currently part of any grade standard. In most instances, the nutritional value is the same for all grades within a specific product. Likewise, areas such as pesticide and fertilizer usage or additives used within graded products are not criteria for grade standards, and their regulation is controlled through other governmental mechanisms.

Food grading should not be confused with food inspection. Grading refers to the quality of a product based upon certain attributes or standards established by USDA in cooperation with the affected industry. It is a voluntary program under Federal law which is applicable to meats, poultry, eggs, certain dairy products, fresh and processed fruits and vegetables and related foods. USDA grading services assure that foods meet the requirements of the grade stated. Grading services are available in all States and all major production area, processing plants, and destination markets like New York, Chicago, and Los Angeles. Federal law does not require that all foods be retail grade labeled even though they have been officially graded. However, if an official U.S. grade name or grade shield is used, the product must be officially graded.

USDA is also responsible for the routine mandatory inspection of meat and meat products,[1] poultry and poultry products,[2] and egg products [3] when these items are prepared for commerce. These are mandatory services that are designed to assure that these products are not adulterated or misbranded when inspected and sold or otherwise distributed in commerce.[4] Meat and poultry cannot be graded for quality until they have been inspected and passed for wholesomeness.

The Department first established food grade standards in 1917 starting with potatoes. The Food Production Act of the same year encouraged development and use of standards to expedite the movement of foodstuffs for the military and U.S. allies. In its development of food grades and a grading service, the government also hoped to facilitate the transportation of food from rural production areas to urban distribution and market centers for the civilian population.

This encouragement of agricultural marketing reflected the country's changing population and economic trends at the turn of the century. As urban areas grew in size and significance, urban wholesale buyers found they could not examine products before buying them because of the buyers' distances from production areas. Attempts to communicate with farmers, packers or processors on poor quality often produced disagreements. The lack of a useful language to define quality between buyers and sellers contributed to this discord.

Another problem existed with pricing in different wholesale markets. While one region would quote a price for "good" quality, another region offered a different rate for the same quality product. Farmers did not know which market would give the best price if they did not know what each meant by "good." The need for an impartial arbiter became a government problem because no non-governmental group or organization then existed to serve this function for industry.

Therefor, Federal food grades were established primarily to facilitate the marketing of agricultural products and to make wholesale transactions clearer and more efficient. Producers also desired grades because they would reflect consumer preferences through the marketing system in the form of price differentials, which would serve to inform them of the quality level in greatest demand. By having a common language that could be used nationally, transactions would be simplified and time saved by wholesalers. Cost reduction could be transferred to consumers, thereby strengthening acceptance and demand. As this tool found its way in the marketplace, more commodity producers and buyers requested the Department to establish wholesale standards and grades for their products.

Although the Department initiated a voluntary grading service during the 1920's, in 1946 Congress enacted the Agricultural Marketing Act (7 U.S.C. 1621–1627) giving USDA its present authority for the standardization of food quality grades, and establishing a voluntary grading program. As stated in the Act, the Secretary of Agriculture is directed and authorized:

> To inspect, certify, and identify the class, quality, quantity and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection.[5]

In 1977, the food grading functions within the Department were transferred

[1] 21 U.S.C. 601 *et seq.*
[2] 21 U.S.C. 451 *et seq.*
[3] 21 U.S.C. 1031 *et seq.*
[4] Adulteration and misbranding are defined in the statutes establishing the inspection requirements, 21 U.S.C. 453(g), (h); 601(m), (n); 1033(a), (1).
[5] 7 U.S.C. 1622(h).

to FSQS. But unlike the mandatory inspection programs for meat, poultry, eggs, and their products, use of USDA grades and grading services remain voluntary. It is provided to eligible food packers, processors and wholesalers and other qualified applicants who request and pay for it.

Although grade standards were originally developed to aid in wholesale trading, various packers and processors gradually began to use the U.S. grade names on labels or packaging at the retail level. The butter industry began grade labeling its product in 1924. Retail cuts of beef followed in 1927, and eggs, poultry and fresh and processed fruits and vegetables came soon afterwards.

Because grade definitions or "standards" were developed on a product-by-product basis, the grade names for each food product are different. Each food industry—for instance meat, poultry, apples, and potatoes—was concerned with only its own product and the grade terms to which it was accustomed. In many cases, USDA adopted names that were already in use in the wholesale trade or within different States.

Although wholesale grade names have come to be used in marketing certain foods at retail, considerable disparity exists in where and how these grades are used. While most of the fresh beef graded at packing plants retains its grade at the retail level, this is considerably less true for processed fruits and vegetables. For example, 70–75 percent of the fresh beef sold to shoppers is grade labeled with an official USDA grade. For processed fruits and vegetables the figure is three percent. Two other products also illustrate this disparity. Ninety percent of the turkeys available to consumers carry a USDA grade, while the figure for eggs is 40 percent.

Futhermore, the grade names are different for the various commodity food groups, with words, letters and numbers utilized in the standards. Even the top grade for a given food is expressed differently, as in U.S.D.A. Grade "AA" for butter, "U.S. No. 1" for most fresh fruits and vegetables, and "U.S.D.A. Prime" for meat. Information about the criteria used to determine these grades, as well as the meaning of the various grade names, is rarely known or understood by consumers in retail purchases.

The last significant change in the USDA grading program regarding nomenclature occurred in 1976 when the Department adopted a uniform grade nomenclature policy for fresh fruits, vegetables, nuts and other special products. The policy [6] requires that when standards covering 82 commodities are issued, revised or amended, only the classifications "U.S. Fancy, 1, 2, or 3" may be used. Prior to this, there were many different grade names for the products in this group. The name changes take place per commodity as the grade standards require modification. Of the 153 standards currently in effect, 109 conform to the requirements of this policy.

Congressional interest in grade standards and retail grade labeling has heightened in the last few years. Numerous food grading bills containing provisions that were apparently designed to help consumers in food purchasing during times of rising food costs have been introduced.[7] Some bills sought to make grade names uniform for all foods, others called for grade standards to incorporate nutritional factors of a product, and still other bills limited revising standards for a particular product, primarily beef.

The most recent bill is S. 1651, the Department of Agriculture Nutrition Labeling and Information Act, introduced by Senator George McGovern (D-S.D.), Chairman of the Nutrition Subcommittee of the Committee on Agriculture, Nutrition and Forestry. The bill, among other things, would authorize the development of a uniform retail grade name system and a consumer information/education program.

Current Grade Nomenclature

The Department provides grading services for dozens of products in all commodity food groups. Included in these groups are meats, poultry, eggs, dairy products (such as butter, instant nonfat dry milk and certain cheeses), fresh and processed fruits and vegetables, and related items like juices, jams, and honey. Since grade names were developed on a product-by-product basis, it is understandable that the grade nomenclature system is so diverse. Examples of this diversity are shown in the following table:

Table 1.—*Examples of Certain Graded Products and Their Top Three USDA Grades*

	Top grade	Second grade	Third grade
Product:			
Beef	Prime	Choice	Good
Fresh Apples [8]	Extra Fancy	Fancy	No. 1
Poultry	Grade A	Grade B	Grade C
Eggs	Grade AA	Grade A	Grade B
Instant nonfat dry milk	Extra		
Canned Cranberry Sauce [9]	Grade A	Grade C	Grade D
Butter and some Cheeses	Grade AA	Grade A	Grade B.
Fresh Potatoes [8]	Extra No. 1	No. 1	No. 2
Canned Peaches [9]	Grade A	Grade B	Grade C.

[8] Grade names for fresh fruits and vegetables are primarily U.S.D.A. Fancy, No. 1, and No. 2. However, there are numerous exceptions to this order and these names.
[9] Grade names for processed fruits and vegetables are primarily U.S.D.A. A, B, and C. The grade names U.S.D.A. Fancy, Choice, and Standard also are used in conjuction with or separate from these names. However, the grade names gradually are changing to U.S.D.A. A, B, and C exclusively.

It is unlikely that consumers see most of these grade names at retail stores; usually only the top or second grades are normally available. Each industry varies in its philosophy as to whether to use grade labeling at retail as a promotional tool. Nevertheless, the existence of many different grade names in the retail marketplace, as well as the emergence of the consumer movement in the last decade, has prompted calls from multiple sources [10] for the Department to create a simplified, uniform grade nomenclature policy whose purpose would be to give point-of-purchase food quality information to consumers.

Previous Reports and Studies on Food Grading

A number of previous reports and studies have addressed the issue of the retail food grade system and its relevance to consumer needs.

A. In the June 1966 Report of the National Commission on Food marketing titled "Food From Farmer to Consumer," the following suggestions appeared in the "Service to Consumers" section:

[6] 41 FR 21335
[7] See Appendix I
[10] See section "Previous Reports and Studies on Food Grading."

1. "Consumer grades should be

3. Grade standards should be changed to

government quality grades on foods and

1. "Consumer grades should be developed and required to appear on all foods for which such grades are feasible, that are sold in substantial volume to consumers, and that belong to a recognized product category."

2. "The grades should prominently appear on consumer packages if the product is ordinarily sold in such packages by manufacturers. Except for foods for which other nomenclature is well established, the grades should be in the form A, B, C * * *."

The Commission also concluded that while the primary purpose of the suggestions was to inform consumers, they might also serve to reduce excessive use of grade promotion by the food industry.

B. In its final report in 1969, the White House Conference on Food, Nutrition, and Health stated: "Grading standards as they now exist are largely in terms of physical factors. Nutritive content has not played an important role. There is also a lack of uniformity in nomenclature that results in confusion."

The report recommended that a standardized, simple system be designed that is consistent for all foods that are graded. Furthermore, grading standards should be reviewed, it stated, to evaluate their utility in measuring food quality attributes that are relevant to consumers. The report also suggested that grading standards consider the nutritive content of a product where appropriate.

C. USDA Marketing Research Report No. 876, titled "Consumers' Knowledge and Use of Government Grades for Selected Food Items" was published in April 1970. Based on a national telephone sample, the report concluded that (1) most consumers had little knowledge of the existence of U.S. grades, but those who were aware found them helpful in their buying decisions, (2) many consumers believed that all foods had USDA grades and they already purchased graded foods, (3) many consumers confused grade and inspection marks, and (4) respondents preferred letters, followed by words, as the most easily understood grade terms.

D. In the June 1974 Report of the National Nutrition Policy Study, the Senate Select Committee on Nutrition and Human Needs accepted the following recommendations of the study's consumer panel:

1. The nomenclature for U.S. quality grades needs to be simplified and made uniform. The present grade system was acknowledged to be confusing for consumers.

2. Where wholesale grades are used by growers and processors in trading, mandatory retail grades should be required.

3. Grade standards should be changed to reflect nutritional considerations and eating quality rather than uniform appearance and color.

The report concluded that both wholesalers and consumers benefit from use of grades at the retail level. Consumers have accepted and shown confidence in products currently grade labeled—such as beef, poultry and juice concentrates—while producers and processors have been encouraged to improve quality in order to receive a higher quality grade and subsequent price.

E. The General Accounting Office (GAO) in a January 1975 report, "Food Labeling: Goals, Shortcomings, and Proposed Changes," recommended: "To assist consumers trying to use the USDA grading system, we recommend that the Secretary of Agriculture revise existing regulations to make designations uniform and easier for consumers and industry to understand."

This recommendation was based on GAO conclusions that the USDA grade nomenclature is too complex and technical for consumers to understand and grade designations vary from product to product. Yet those consumers who did understand the system found it a valuable tool in comparing the value of food products.

F. The Office of Technology Assessment (OTA) issued a report in June 1977 to the Congress titled "Perspectives on Federal Retail Food Grading." In discussing the issue of grade designation or nomenclature, the report concluded in its findings:

There are unsettled questions regarding the optimum terminology for grades of fresh fruits and vegetables and processed foods [including butter, cheese and canned and frozen fruits and vegetables]. However, no reasons have been found for not instituting uniform designations for these products, regardless of the terminology chosen.

Regarding the issue of combining sensory characteristics and nutritional criteria into the grade standards, the report found that retail grade criteria should not reflect this combination.

Problems include an inverse relationship between sensory and nutritional characteristics and the time lag necessary to establish nutritional content and grade and label the product.

OTA concluded that the most appropriate way to convey nutrition information to consumers was through the use of nutritional labeling, changes in select grade standards, and increased nutritional education programs.

G. The December 1979 Roper Report (80–1) queried its sample of 2,003 adults nationwide on their awareness of government quality grades on foods and how often they look for these grades. The results indicate that the present grading system is of marginal usefulness to the respondents, though awareness and use of grading on some products was higher than on others.

For example, 93 percent of the respondents believed meat was graded for quality by the government while 58 percent thought this was so for eggs. Yet of those who thought meat was graded, only 31 percent stated they look for a grade almost every time they shop. The figure for eggs was 19 percent.

The figures for fresh and processed fruits and vegetables are considerably lower. Twenty-four percent believe canned fruits and vegetables are government graded and four percent said they look for a grade almost every time they shop for these products. The numbers for fresh fruits and vegetables are 19 percent and 4 percent, respectively.

Other authors have studied the Department's grading program from a consumer perspective and found it problematic. In her book *The Supermarket Trap,*[11] Jennifer Cross concluded that "for the consumer the whole system of USDA grades is chaotic." She went on to suggest that a simple and consistent system like A, B, C would be a significant improvement. Similarly, in his book *Consumer Information Systems and Consumer Policy,*[12] Hans B. Thorelli characterizes the quality grading program in the following manner: "Quite notorious are the grading schemes of the U.S. Department of Agriculture (their terminology must be unified!)." Over the years, other consumer writers have voiced similar observations and recommendations for improvement.

1979–80 Survey on Consumer Perceptions of the USDA Food Grading Program

To supplement previous studies on food grading, USDA sponsored a survey on Consumer Perceptions of the USDA Food Grading Program. This research was conducted in two phases in November 1979 and January 1980. The first phase, a series of focus group interviews around the country, was conducted by James A. Clark and Associates, Washington, D.C. Phase two was a national telephone survey of 1,200 primary food purchasers conducted by Chilton Research Services, Radnor, Pennsylvania. The goal of the survey

[11] Jennifer Cross, *The Supermarket Trap*, Indiana University Press, 1970.

[12] Hans B. Thorelli, *Consumer Information Systems and Consumer Policy*, Ballinger Publishing Co., Cambridge, Mass., 1977.

was to find out the extent of consumer information on and perceptions of the grading program and how the program could be made more useful to them. The Department will make available its report on each phase of the survey to itnerested parties. Those wishing to receive either or both of these reports should contact Ms. Penny Gentilly, whose address is given in the Comment section near the beginning of this document. A summary of the survey results is presented below.

Focus Group Interviews

The purpose of the focus group interviews was to obtain qualitative, indepth understanding of the nature and extent of consumer knowledge of commodity food grading and to identify issues to be examined in the telephone survey. Ten sessions were conducted in cities and towns across the United States. The 139 individuals who participated were the major food purchasers for their households. The participants were selected with the assistance of market research organizations in the selected locales. Each interview session involved a mix of participants with respect to variables such as age, education, household size, sex, marital status, occupation, income and social/ethnic background.

1. *Current Use of the Grade System.* Participants rarely found much usefulness in the present grade system. This is because of a lack of awareness about the program and the inability of the system to serve their needs. Grades are seldom used as a criteria in purchasing and many people claimed they never see grades on the foods they buy. Yet they expressed the belief that a grading program could be helpful to consumers, especially with items that are difficult to evaluate for quality at purchase, such as canned, frozen, packaged, or generically-labeled foods, and products costly in the food budget like meat and poultry. The majority of consumers interviewed clearly indicated a desire for a grading system that they could understand and utilize.

2. *Confusion Between Inspection and Grading.* The participants rarely understood the difference between food inspection (a wholesomeness and safety concept) and food grading (a quality designation). They thought that both programs were mandatory for all food products and were unsure who was responsible for each program.

3. *Food Selection and Purchase Criteria.* Price and quality were two attributes most often mentioned as determinates in food buying. In most areas the price of food was the greatest concern, but many people stated that the quality of food often overrode price considerations. Other factors frequently mentioned were freshness, appearance, brand, store appearance and convenience, and ingredient/nutrition labeling. Grade was rarely mentioned as a criterion in food selection.

4. *Improving the Grade Program for Consumers.* Participants spontaneously claimed that a simple, uniform grade name system would be beneficial to them in food purchasing. Suggestions most often offered were "A–B–C" or "1–2–3," but the comments suggest that any method would be acceptable, so long as it was easy to remember and consistent for all products. The consumers also wanted more information about the system: what criteria the grades are based on, and where to look for grades in their retail markets. The helpfulness of a government-sponsored, objective grade system as a piece of information for use in purchasing decisions was emphasized.

5. *Nutrition Considerations.* Ingredient and nutrition considerations in food buying were considered important factors by about 25/35 percent of the participants at each session, because of dietary, health, and lifestyle concerns. Of all those queried, most did not want grading to reflect nutritional criteria. Rather, they felt nutrition information would best be provided by means of separate nutrition/ingredient labeling. Participants felt this would enable those who desire such information to obtain it without confusing further the grade standards.

Telephone Survey

The telephone survey was designed to permit quantitative assessment of consumer use of the USDA grading system. A national probability sample of 1,242 major food purchasers was drawn by random digit dialing to test hypotheses about consumer awareness, confusion, and use of USDA grades. Statistically weighted to permit both national and regional projections, the results are accurate within ±3 percent at the 95 percent confidence level. The quesitionnaire was fully pretested and bias limited through the use of random starts and a mixture of aided and unaided recall questions.

Preliminary analysis of the findings is divided into the following areas which reflect general classes of testable hypothesis:

—Consumer awareness and knowledge about the USDA food grading system.

—Consumer use or application of the food grading system.

—Consumer recommendations for making the grading system more useful in the purchase of food products.

—Consumer recommended strategies for providing food grade information.

Consumer Awareness and Knowledge of USDA Grades

Table 2 illustrates that consumers are aware that certain products are graded. Consistent with the findings of previous surveys, a majority of eligible respondents [13] knew beef, chicken, eggs and butter were graded. However, consumers are less certain about whether canned vegetables and apples are graded. Response distributions are almost evenly divided between yes, no and don't know for these two commodities. Some measure of confusion is evident. Responses on the two products which are not graded, bacon and bread, further demonstrate consumer confusion of food grading. A majority of the respondents evidently believe most meat products are graded and, therefore, assume incorrectly that bacon is graded. On the other hand, more consumers than not recognized correctly that bread is not graded. Still, the data on bread suggests that 33.8 percent of the consumers did not know whether bread was graded while 23.6 percent thought it was graded.

Table 2.—*Consumer Awareness of USDA Grades* [13]

	Yes	No	Don't Know
Beef	1,090 (93.6)	17 (1.5)	57 (4.9)
Chicken	945 (80.3)	95 (8.1)	136 (11.6)
Eggs	782 (65.0)	216 (18.0)	205 (17.0)
Bacon	770 (73.4)	109 (10.4)	170 (16.4)
Butter	409 (57.8)	105 (14.8)	194 (27.4)
Canned Vegetables	399 (37.5)	307 (28.9)	357 (33.6)
Apples	338 (30.3)	390 (34.9)	389 (34.8)
Bread	289 (23.6)	522 (42.6)	414 (33.8)

The depth and substance of consumer knowlege about food grading as tested with a series of questions requiring increasing increments of knowledge. For instance, 63 percent of the respondents correctly knew that the U.S. Department of Agriculture grades food products. Moreover, slightly more than half the respondents knew that the purpose of USDA food grades was to measure quality. However, over three-quarters of the respondents erroneously thought the grading program was mandatory. A similar number (74 percent) could *not* correctly identify the shield as the appropriate symbol used by the USDA to show that a product is graded.

The most stringent test of knowledge was an unaided recall question asking respondents to name the grades of

[13] Only respondents who had purchased these products in the past year are included.

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various food products. Table 3 demonstrates the degree of specific food grade knowledge consumers bring to the purchase of food.

Table 3.—*Correct Knowledge of USDA Food Grades*

Product	Top grade	Percent	Second grade	Percent	Third grade	Percent
Beef	Prime	23.1	Choice	19.0	Good	3.1
Chicken	A	23.8	B	8.6	C	6.0
Eggs	AA	14.7	A	12.5	B	6.4
Butter	AA	11.7	A	8.6	B	3.4
Canned Vegetables	A	12.8	B	7.5	C	6.3
Apples	Extra Fancy	1.2	Fancy	.9	No. 1	0.0

When Table 3 is compared with Table 2, it becomes apparent that although consumers know that certain products such as beef are graded, they do not know the specific grades of the products. For example, 94 percent of the respondents knew beef was graded, but only 23.1 percent could name Prime as the highest grade, 19 percent could name Choice and only 3 percent could correctly name Good as the third grade of beef. Consumer ignorance of specific food grades suggests that consumers are not using the system effectively to purchase food.

Consumer Use of Food Grades

Consumer use of USDA grades was approached in three ways within the survey. First, the consumer was asked to place themselves in the context of a food store and then requested to identify characteristics or factors they considered when they purchased particular food products. Since certain food product grades might be construed as being of more use than others (products which are concealed or partially concealed by packaging), particular attention was directed toward product variation.

Table 4.—*Characteristics Considered When Purchasing Food*[14]

	Brand	Quality	Price	Ingredients	Size	Nutrition	Grade	Type/kind
Butter	45.51	29.0	43.1	10.5	6.1	4.5	3.0	6.1
Beef	3.41	[redacted]	54.6	3.4	11.9	4.6	7.5	21.0
Chicken	14.11	65.1	45.5	1.3	36.7	3.3	2.5	24.9
Apples	11.11	81.1	33.5	0.4	24.3	2.8	2.1	36.7
Bacon	23.91	38.2	47.0	3.8	11.8	4.2	0.5	8.0
Canned Vegetables	59.81	27.5	53.2	[redacted]	11.6	4.2	0.9	12.7
Bread	33.81	60.7	30.9	16.3	10.5	8.7	0.5	35.9
Eggs	6.91	2.6	42.7	0.4	68.7	2.3	10.9	5.1

[14]Multiple mentions were possible; therefore, percentages exceed 100 percent. Data represented in Table 4 are based upon net consumer mentions of each characteristic.

Note in Table 4 that grade is not considered as an important characteristic or factor when consumers purchase food; nonetheless, quality appears to be one of the most important characteristics. This seems to indicate that assessment of quality is important but that consumers do not use the grade system to determine quality.

The second method of assessing consumer use of food grades was simply to ask the food purchaser, "In what ways are food grades useful to you?" The breakdown of the responses highlights the contradiction seen above. Almost 54 percent of the respondents claim that grades are a useful indicator of quality, flavor, texture, appearance, and freshness. But as Table 3 indicates, consumers may claim utility of grades, but the fact is they do not actually use grades as a measure of quality.

In the third instance, consumers were given concrete information on food grades as a preface to a question requesting them to rate grades from very useful to not at all useful. The mean response was between very and somewhat useful. These data, in conjunction with previous responses, suggest that consumers are exaggerating the actual use of food grades. The data points out one important fact. Consumers do look for quality but evidently do not use grades as an aid to locating quality.

Remedies

To find out what strategies the Department of Agriculture could employ to improve the utility of the food grade system for the consumer, respondents were asked to express in their own words "What could be done to make food grading more helpful to you?" Although 27 percent did not know, several suggestions received considerable responses. For instance, 18.4 percent suggested that the consumer should be educated, while 15 percent argued that the grade should be larger and clearer on the product label. Only 12 percent claimed they were satisfied with the present system.

When consumers were given fixed alternative remedies, their responses indicate a preference for more information on food grading, uniform grade names across all products and expanding food grading to all products. Table 5 illustrates the responses.

Table 5.—*Remedies To Improve the Utility of the Food Grade System*

	Very helpful	Somewhat helpful	Not at all helpful
Providing information on the meaning of grades	69.7	24.6	4.6
Using uniform grade names	81.4	14.5	3.2
Grade all food products	63.1	28.2	7.2
Provide more grade levels of food products	32.5	29.1	35.7

Consumers were also asked by what mechanisms or techniques food grade information could be most effectively communicated to them. When the responses were clustered, television was selected by 46.8 percent of the respondents, signs in food stores was selected by 40.9 percent of the respondents and magazines and newspapers received support from 35 percent of the respondents. Other mentions of some significance include radio at 12.4 percent and school programs at 15.5 percent. Because multiple mentions were permitted, these percentages could be deceiving. However, it is apparent that consumers prefer television, signs in stores, and newspaper and magazines as a vehicle for food grade information.

Options Under Consideration

The issue of changing the grading system to better serve consumers has been the subject of study and discussion by numerous organizations and the Department in the last 20 years. Invariably, some kind of standardization among the different sets of grade names is the primary recommended action, acompanied by a program to inform and educate the public about the grading

system. These reports have argued that not only consumers would benefit from uniform grade names, but industry would as well due to greater consumer use of the grade system and continual demand for high quality products. The reports also stated that wholesale trading could be simplified by introducing a uniform system for all products.

For the most part, consumer groups and writers have strongly supported the concept of a uniform grade nomenclature for the Department's food grading programs.

Conversely, certain industries have opposed changes in grade terminology because it could mean disruption, readjustment, and added expense for them. They fear that implementing a uniform grade nomenclature policy would result in misinterpretation and public confusion. Furthermore, a few industries claim they have devoted substantial advertising budgets linking a specific U.S. grade with their brand name.

In developing the various options on this matter, the Department has considered the views of the public, the feasibility to consumers, industry, and the government, and the potential public benefits.

We believe that a consumer information/education campaign will be necessary to implement whichever position the Department ultimately adopts. Past studies and the 179–80 Consumer Perception Study firmly support this need. As you review the options below, keep in mend that the Department will develop an information/education program to support the concept(s) with the greatest merit.

The following options are currently under consideration by the Department. They address the goal of achieving a uniform nomenclature for retail grade names and other possibilities for retail grade labeling. In order to obtain the public's views, the Department is soliciting comments on the following five options. We also welcome other suggestions for improving the grading program. Based upon the information received, the Department will assess which, if any, option or combination of options should be proposed for their consideration.

Options A and B

1. Use present grade names—USDA Prime, Choice, and Good, for meat.

2. Change gradually the grade names for fresh fruits and vegetables to U.S. Fancy, 1, 2, and 3 as new grade standards are established or old ones are revised (this is present policy).

3. Use U.S. Grades A, B, C (Option A) or U.S. Grades AA, A, B (Option B) for all other graded foods—i.e., poultry, eggs, butter, certain cheeses, instant nonfat dry milk, and processed (canned, frozen and dried) fruits and vegetables and related products.

These two options share a number of advantages. USDA research has shown that consumers recognize and understand the presently used grade names for meat. Also, grade names for fresh fruits and vegetables already are gradually being standardized. Using either option would reduce to three the number of grade designation groups for all foods. This simplification compared to the present system could result in greater consumer acceptance and use of the grading system.

An additional advantage of Option A is it would cause no readjustment for the poultry and processed fruit and vegetable industries.

Similarly, Option B would cause no readjustment for the dairy and egg industries. Another advantage of this option is the second grade designation, U.S. Grade A, could have less negative connotations to consumers than U.S. Grade B. More producers might grade lable their products under this option because of the possible positive connotations of U.S. Grade AA and U.S. Grade A to consumers.

Options A and B pose two common disadvantages. First, using U.S. Grade AA or U.S. Grade A for instant nonfat dry milk conflicts with the Food and Drug Administration's (FDA) traditional Grade A for fluid milk. Secondly, the goal of achieving uniform grade names in retail grade labeling is not realized by either of these options.

Additionally, under Option A the dairy and egg industries would lose their U.S. Grade AA designation, resulting in possible commercial disruption. The affected industries claim this disruption would occur due to the longstanding association of their products with U.S. Grade AA. If the grade is changed to U.S. Grade A, they fear consumers familiar with the former designation will be confused by the new system. Another concern is that U.S. Grade A might imply reduction in quality while the price remains unchanged. Lastly, U.S. Grades B and C or 2 and 3 could have negative connotations to the buying public, resulting in less retail grade labeling by producers, processors, and retailers.

Option B would require the poultry and processed fruit and vegetable industries to change their grade names. The potential for commercial disruption discussed above could also occur under this plan. Furthermore, consumers could be confused or misled by "upgrading" current U.S. Grade A products to U.S. Grade AA without an increase in quality.

Option C

Adopt grade names U.S. Grade A, B and C or U.S. Grade AA, A, and B for all graded foods.

This option offers consumers the advantage of simple, uniform grade names for all graded foods. Implementing a uniform nomenclature for retail grade labeling is consistent with the findings of the previous reports and studies cited earlier plus the 1979–1980 USDA consumer perceptions survey on food grading. Grade designations using the letters A, B or C have been recommended by consumers and investigators alike as a desirable grading system. With simple and uniform grade names, consumers are likely to accept and utilize this guide in their food selections. Producers, processors, and retailers may find certain marketing advantages given this consumer interest.

On the other hand, Option C would require all industries with graded products, except poultry and processed fruits and vegetables who use U.S. Grades A, B, and C or dairy and egg who use U.S. Grades AA, A, and B, to readjust to new grade designations. The affected industries might resist these changes because they fear commercial disruption due to consumer confusion. These packers and producers believe that current grade names are associated with their products and understood by the food purchaser. Therefore, they are likely to oppose implementing this option. Industry resistance could result in a significant decrease in official grading of food products.

Another concern is the potential misleading effect current descriptive terms like "choice" or "fancy" could have on the consumer if this option is adopted. These terms could be used without the "U.S." designation unless specifically outlawed.

Finally, the disadvantage of using U.S. Grade A or U.S. Grade AA for instant nonfat dry milk described under Options A and B also applies here.

Option D

1. Retain most present grade names and develop a separate consumer grade certification program utilizing colored grade shields signifying different quality levels to convey quality information to consumers. (Factors such as color blindness in the population and psychological impact of different colors would be considered.)

2. Maintain current nomenclature for

confusion for industry, retailers and

V 4 5 M Y 3 0 8 0 UMI

2. Maintain current nomenclature for wholesale purposes while working towards greater uniformity.

Under this option, different color U.S. grade shields would indicate the different quality levels for all graded food products. For example, a blue shield would signify the top quality grade, a red shield the second quality, and a white shield the third quality of a product. The consumer would look for the color grade shield that indicates the desired quality level. The producer, packer, and retailer could continue to use the current grade names for commercial transactions, and could choose whether to carry these names through to retail grade labeling.

The advantages of Option D are threefold. It creates a simple and uniform grade system for consumers that is consistent for all graded products. Also, industry is allowed to keep the traditional grade names currently in use. Finally, implementing this option could lead to a greater variety of products graded as producers, packers, and retailers develop marketing strategies incorporating the simplifed consumer grade system.

The major disadvantage to this option is it might initially increase the cost of graded products slightly. Current grade labeling would gradually have to be changed to reflect the color grade shield scheme. New labels and signs depicting this color system may cost producers, packers, and retailers slightly more to produce. Furthermore, as with any new grade labeling system, some inevitable confusion for industry, retailers and consumers would likely occur in the initial stages of implementation.

The four options discussed above are concerned with various alternatives for communicating more clearly the intent of the food grading program. The following option addresses the question of whether there should be a mandatory grade label disclosure system.

Option E

Keep the present voluntary grading system but require grade designation at the retail level to be mandatory. That is, if a product is graded and labeled at the wholesale or packer level, then the product must display that grade name at retail point of purchase.

This option would assure consumers whether a product has been quality graded by the USDA. Currently, a producer, processor, packer, or retailer has the option of grade labeling their product once it has been officially graded. Under this option, if a product is officially graded, then the product must display this grade on its packaging or signs at point of purchase by the retail consumer. Of course, products not graded by the government would be unaffected by this proposal. These items would continue to be marketed and sold under other existing quality assurances, such as brand name or direct consumer inspection.

The advantage of this option is that greater information would be available to consumers for making food purchasing decisions. Price and value comparisons between grade labeled and other foods could help consumers purchase foods to meet their needs. The proposal offers consumers direct access to the government's quality certification program.

There are primarily three disadvantages to this option. It would likely be opposed by most segments of the affected industries. They believe the marketing of lower graded products would be more difficult due to the potential negative connotations to consumers. If compelled to disclose grades at retail, a number of producers, processors and packers might discontinue grading services.

Secondly, the price of graded food products could increase slightly for items not presently retail grade labeled. This would be due to package or placard redesign to accommodate the grade designation. Also, expanded compliance and surveillance actions would be required to monitor that grade labeling was proper and correct.

Lastly, the goal of achieving uniform grade names for all graded foods is not addressed by this option. While consumers could have more information in making purchasing decisions, the fundamental problem of improving the usefulness of the grading system remains unresolved.

The following table summarizes the essential aspects of these options:

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Table 6 - Options Under Consideration by Major Food Commodities Graded by USDA

Options Under Consideration	MAJOR FOOD COMMODITIES GRADED BY USDA						
	MEAT	POULTRY	EGGS	DAIRY		FRUITS AND VEGETABLES	
				BUTTER, CHEESE	INSTANT NON-FAT DRY MILK	FRESH	PROCESSED
CURRENT GRADE NAMES	**Prime, Choice, Good**	**A, B, C**	**AA, A, B**	**AA, A, B**	**EXTRA**	**Fancy, No. 1, and No. 2***	**Fancy or A, Choice or B, and Standard or C****
OPTION A and OPTION B	Prime, Choice, Good	A, B, C	AA, A, B	A, B, C	A, B, C	Fancy, No. 1, No. 2	A, B, C
		AA, A, B	AA, A, B	AA, A, B	AA, A, B		AA, A, B
OPTION C	A, B, and C or AA, A and B----------For All Graded Foods----------						
OPTION D	**Develop separate consumer grade system -----For All Graded Foods----- using different color U.S. grade shields to signify different quality levels.**						
OPTION E	Keep present grade names and require mandatory retail grade labeling of a product if it is officially graded. -----For All Graded Foods----------						

*These are primarily the grade names. There are numerous exceptions to this order and these names.

**Currently, either the descriptive or letter grade is in use. However, the grade names are gradually being changed to A, B, and C exclusively.

NOTE: Where applicable, grade designations given indicate the top three official USDA grade names.

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Positions Not Under Consideration

The Department has at this time rejected certain options previously under consideration. Based on our analysis, we believe implementaton of the following positions are beyond current objectives and infeasible. These rejected options are outlined below. They will be reexamined in the future if necessary.

Position 1

Drop entire USDA grade program; allow State and trade associations to develop their own grade standards and terminology.

Pro: Less Federal intervention in private sector.

—Reduction in Federal expenditures.

Con: Would require amending Agriculture Marketing Act.

—Major disruption of wholesale commerce likely would result.

—Might be very difficult, if not impossible, for various industries to operate on a national basis with varying standards in different States. State standards could be used as trade barriers.

—There would be no objective third-party certification of quality.

—No protection of public from claims and manipulation about product quality.

Position 2

Keep present grade names but incorporate nutritional criteria into the grade standards to better serve consumer interest.

Pro: Could promote nutritional awareness among consumers and act as a source of nutrition information and education.

Con: The issue of incorporating nutritional criteria in grade standards in complex and requires a more thorough explanation than the other Positions. The fundamental problem goes back to the purpose of grading, which is to sort out large amounts of a product into categories according to certain quality characteristics. This sorting takes place within a food commodity group, not across commodities.

In most cases, the nutritional value within a given product group is the same. Therefore, assigning a nutrient value or score for all products graded is contrary to the concept of grading. For example, the nutrient content of the different grades of eggs is virtually identical, thereby making this factor inappropriate for grading because is does not discriminate within the product line. Similar comparisons can be made for other graded products.

Another general problem concerns the fact that good nutrition depends on the total diet, which is made up of a wide variety of foods. Nutritionists point out that different foods provide different nutrients, and no one food should be expected to provide the full spectrum of nutrients necessary for good health. A given product is nutritious only in its combination with other foods that contribute to a nutritious diet. Therefore, assigning an overall nutrition score as a grading criterion would not be a helpful nutrition education tool for the public and could be very misleading.

Lastly, the 1979–80 survey on Consumer Perceptions of the USDA Food Grading Program found little interest in including nutrition criteria into the grade standards. Their preference was to obtain this information through nutrition/ingredient labeling and information/education programs. This finding also coincides with the recommendation of the OTA study.

The Department does recognize that in certain commodity groups, grade standards may be related to nutritional value and may even run counter to current nutrition and disease prevention principles. A review of grade standards commensurate with Departmental guidelines and recent scientific evidence will be undertaken in the future.

Position 3

Seek funds from Congress to make the grading program a mandatory function. Implement a uniform nomenclature policy.

Pro: Would satisfy consumer interest for uniform grade system and reduce grading costs to industry.

—Present discrepancy between officially graded products and privately graded or ungraded products would be eliminated.

—Provides equal treatment among commodity groups.

—Public program funded by "public funds."

—Potential for significant consumer information system in food purchasing.

Con: Cost would be extremely high—disproportionately large personnel requirements to cover all precessors, producers, etc. Present system paid almost entirely by users.

—Strongly opposed by food industry.

—Implementation could be difficult, particularly in small volume plants.

—Grading service pushed into performing policing action.

—Require amending Agricultural Marketing Act.

—No indication that consumers desire a mandatory system.

Request for Economic Information

Before taking specific action to propose changes in its food grading policy, the Department wants public comment on these options. One area of interest is the economic implications of the various options. The Department considers this area important to its analysis and decisionmaking. Therefore, before the Department selects a specific course of action, it will analyze the economic impact of the proposed alternatives.

The Department is asking the public for information, data, or analyses to help predict and quantify the economic impact of these options on industry and consumers. This information may be related to packaging and/or labeling, product type, marketing, distribution and advertising, characteristics of firms or establishments, price and availability of foodstuffs in the retail marketplace, total cost of food marketbasket to consumers, and so on. The economic impact on the Department will be developed and considered along with submissions provided by the public comment pursuant to this Notice. Comments on other consumer issues are welcomed as well.

Request for Comments/Notice of Public Hearings

The Department is providing a 90-day comment period and will hold public hearings to gather views on the options and positions discussed in this Notice. Oral testimony and written submissions are important for providing public opinion concerning how the Department should proceed on this matter. Any additional information relevant to this issue not covered in this document is particularly requested. The Department, therefore, welcomes comments on the options herein for achieving a uniform grade designation policy and other grade label changes, including their desirability, cost, and feasibility.

It is hoped that public hearings will provide all interested parties—farmers, agricultural cooperatives, processors, retailers, trade associations, State agencies and associations, as well as individual consumers and consumer groups—with an opportunity to testify.

The public hearings will be held before representatives of USDA on July 1, 1980, July 16, 1980, and August 7, 1980. For further information on Public Hearings, see section under Supplementary Information. Written comment should be submitted to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, D.C. 20250, (202) 447–7163. Written submissions will also be accepted at the hearings for participants who want additional information included in the record. The docket number found in brackets at the heading of this document should be identified with submissions. The submissions may be seen in the office of the Regulations Coordination Division during regular business hours.

Done in Washington, D.C., on: May 27, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

Appendix I.—*Bills Affecting Federal Food Grades in the 94th, 95th, and 96th Congresses*

Bill	Sponsor	Title	Committee
94th Congress			
H.R. 42	Rosenthal	Nutritional Labeling Act	Interstate and Foreign Commerce.
H.R. 472	Gude	Nutritional Grading	Interstate and Foreign Commerce.
H.R. 836	Peyser	Nutritional Grading	Interstate and Foreign Commerce.
H.R. 995	Rosenthal	Truth in Food Labeling Act	Interstate and Foreign Commerce.
H.R. 1367	Price	Consumer Food Grading Act	Agriculture.
H.R. 3011	Karth	Consumer Food Grading Act	Agriculture.
H.R. 3547	Rosenthal	Marketing Practices Disclosure Act.	Interstate and Foreign Commerce.
H.R. 3986	Oberstar	Marketing Practices Disclosure Act.	Interstate and Foreign Commerce.
H.R. 4401	Harrington	Food Labeling Act	Interstate and Foreign Commerce.
H.R. 5266	Peyser	Beef Grading Restriction	Agriculture.
H.R. 6606	Rosenthal	Consumer Food Labeling Act	Interstate and Foreign Commerce.
H.R. 9268	Rosenthal	Consumer Food Labeling Act	Interstate and Foreign Commerce.
H.R. 10776	Richmond	Consumer Beef Grading Act	Agriculture.
95th Congress			
H.R. 42	Rosenthal	Nutrition Labeling Act	Interstate and Foreign Commerce.
S. 1251	Humphrey	Child Nutrition Act	Agriculture Subcommittee on Nutrition.
96th Congress			
H.R. 42	Rosenthal	Nutrition Labeling Act	Interstate and Foreign Commerce.
S. 1651	McGovern	Nutrition Labeling and Information Act.	Agriculture Subcommittee on Nutrition.

[FR Doc. 80—16429 Filed 5–29–80; 8:45 am]

BILLING CODE 3410–DM–M

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

Animal Welfare

AGENCY: Animal and Plant Health Inspection, USDA.

ACTION: Notice of public meetings.

SUMMARY: The purpose of this notice is to inform all interested persons that the Department will hold public meetings to solicit comments and to give the public an opportunity to participate in discussions regarding the regulations and standards which were promulgated under the Animal Welfare Act (7 U.S.C. 2131–2156) and which may be found in parts 1, 2, and 3 of Chapter I of Title 9 of the Code of Federal Regulations. Two such meetings will be held and interested persons will have the opportunity to participate and to submit comments either orally or in writing.

DATES: July 1, 1980—College Park, Md. July 10, 1980—Kansas City, Mo.

ADDRESS: (1) Tuesday, July 1, 1980, at the University College Building, Center for Adult Education, Room 1105, University of Maryland, University Boulevard and Adelphi Road, College Park, MD 20782, 301–454–4712, 9:30 a.m. to 3:30 p.m.; (2) Thursday, July 10, 1080, at the Holiday Inn City Center, 1301 Wyandotte, Kansas City, MO 64105, 816–221–8800, from 9:30 a.m. to 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, VS, APHIS, USDA, Room 703, Federal Building, 6505 Belcrest Road, College Park, MD 20782, 301–436–7833.

SUPPLEMENTARY INFORMATION: Dr. Dale F. Schwindaman will serve as chairman at the public meetings. The procedure to be followed will not be a formal one, and individual presentations will not be scheduled in advance.

Opportunity to comment will be afforded first to those persons who, prior to or at the time of their appearance at the meeting, submit such comments in writing for the panel's consideration and for the record. Individuals making presentations may verbally summarize or emphasize certain points of their written comments. The chairman or other persons at the meetings may ask questions relating to the oral and written presentations. The time for oral presentations may be limited to approximately 5 minutes by the chairman in order to give all persons at the meetings an opportunity to be heard.

All written and oral comments will be made a part of the record for the Department consideration and will be available for public inspection during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business.

Done at Washington, D.C. this 21st day of May

Pierre A. Chaloux, VMD,

Deputy Administrator Veterinary Services.

[FR Doc. 80–16528 Filed 5–29–80; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA–R–80–09]

Alaska North Slope Crude Oil Entitlements; Change in Hearing Schedule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of change in hearing schedule.

SUMMARY: On May 8, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a Notice of Proposed Rulemaking (45 FR 31682, May 13, 1980; 45 FR 33643, May 20, 1980) proposing alternative amendments to the Mandatory Petroleum Allocation Regulations modifying the treatment of Alaska North Slope (ANS) crude oil under the entitlements program, 10 CFR 211.67. The June 2, 1980 public hearing scheduled for Seattle, Washington is hereby cancelled, and the hearing on that date will be held in Los Angeles, California.

DATE: The hearing will be held on June 2, 1980.

ADDRESS: Hearing location: Holiday Inn—Convention Center, Windsor

Room, 1020 Figueroa, Los Angeles,

ACTION: Correction

Bill Crouch Foreign, Inc.

Room, 1020 Figueroa, Los Angeles, California 90015. Requests to speak at the hearing should be submitted to: Department of Energy, San Francisco Regional Office, 333 Market Street, San Francisco, California 94111, Attention: Terry Osborne (telephone: 415–454–7027).

FOR FURTHER INFORMATION CONTACT:

Robert Gillette (Hearings Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3757.

David A. Welsh (Office of Petroleum Operations), Economic Regulatory Administration, Room 6212–A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3873.

Daniel J. Thomas (Petroleum Pricing Regulations), Economic Regulatory Administration, Room 7302, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3202.

William Funk or Christopher M. Was (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6736 or 252–6744.

Issued in Washington, D.C., May 23, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80–16433 Filed 5–29–80; 8:45 am]

BILLING CODE 6450–01–M

Office of the Secretary

10 CFR Part 490

[Docket No. CAS–RM–79–110]

Emergency Building Temperature Restrictions; Amendment of Regulations

Correction

In FR Doc. 16042 appearing at page 35788 in the issue of Tuesday, May 27, 1980, please make the following correction:

On page 35791, in the first column, in the third line under *Public Hearing* and directly following "Room 2105", add "2000" M Street.

BILLING CODE 1505–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 772 3041]

Bill Crouch Foreign, Inc., d.b.a. Bill Crouch Imports, Inc.; Correction.

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the **Federal Register** on Thursday, May 22, 1980. Appendix A to the consent agreement was inadvertently omitted.

DATE: The correction is effective May 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Gregory E. Hales, FTC/SSR, Washington, D.C. 20580. (202) 724–1185.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–15757, appearing in **Federal Register** issue for Thursday, May 22, 1980, 45 FR 34296, Appendix A should have appeared immediately following the Consent Agreement and preceding the Anaylsis of Proposed Consent Order To Aid Public Comment. Appendix A reads as follows:

Appendix A

Important Notice

You Are Entitled to a Refund

Certified Mail—
Return Receipt Requested
(Name)
(Address)
Dear (Name):

Bill Crouch Foreign, Inc. ("Crouch Foreign") has entered into a Consent Agreement with the Federal Trade Commission. The Agreement resulted in a Final Order issued by the Commission on (date). Part of the Agreement provides that Crouch Foreign will refund some freight charges collected from its customers who bought new Honda Accord automobiles.

The Consent Agreement was for settlement purposes only. It was not an admission by Crouch Foreign that the law had been violated.

The Commission Order identifies the customers eligible for refunds and the methods for making refunds. (You can get a free copy of the Order by writing to the Federal Trade Commission, Publications, Room 130, Washington, D.C. 20580. Refer to "Bill Crouch Foreign, Inc., Docket No. ——.").

Under the provisions of the order, the Commission found that you are entitled to a refund of $——. A check in this amount will be mailed to you by the Commission as soon as you sign the enclosed Receipt and Waiver form and return it to the Commission in the stamped, self-addressed envelope which is also enclosed.

By signing and returning the Receipt and Waiver form to the Commission and by accepting and negotiating the check which you will receive, you will be waiving your rights at law or in equity to proceed individually against Bill Crouch Foreign, Inc. regarding the acts of practices which are the subject of the Commission's order.

Bill Crouch Foreign, Inc.

J. J. Kuske,

President.

In Order to Receive a Refund This Form Should be Returned to the Federal Trade Commission in the Enclosed Stamped, Self-Addressed Envelope

Receipt and Waiver

I hereby acknowledge that by accepting and negotiating refund check No. —— in the amount of $——, I waive all of my rights, claims, or causes of action against Bill Crouch Foreign, Inc., its officers, agents, successors, assigns, affiliated or predecessor corporations, arising out of the acts and practices which have been the subject of the Federal Trade Commission's Final Order issued (date) against Bill Crouch Foreign, Inc. I understand that I am entitled to receive a free copy of the Final Order issued by the Commission by writing to the Federal Trade Commission, Publications, Room 130, Washington, D.C. 20580, and referring to "Bill Crouch Foreign, Inc., Docket No. ——."

Dated this —— day of ————, 1979.
Name ————.

Carol M. Thomas,

Secretary.

[FR Doc. 80–16461 Filed 5–29–80; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141 and 260

[Docket No. RM80–59]

Proposed Rulemaking To Revise Annual Report for Public Utilities and Licensees (Class C and Class D): Form No. 1–F, and Annual Report for Natural Gas Companies (Class C and Class D): Form No. 2–A

Issued May 23, 1980

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission gives notice that it proposes to revise its annual reports, Form No. 1–F, "Annual Report for Utilities and Licensees (Class C and Class D)" (18 CFR 141.2), and Form No. 2–A, "Annual Report for Natural Gas Companies (Class C and Class D)" (18 CFR 260.2). The proposed amendments would eliminate certain data elements which the Commission no longer needs to carry out its regulatory functions. The proposed changes are a product of the Commission's ongoing effort to eliminate unnecessary reporting burdens.

DATE: Comments are due by July 22, 1980.

ADDRESS: Comments to this Notice should be addressed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM80–59.

FOR FURTHER INFORMATION CONTACT:

James Kitchen, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3408N, Washington, D.C. 20426 (202) 357–9212.

Elaine M. Dawson, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3405N, Washington, D.C. 20426 (202) 357–9190.

Revisions of Form No. 1–F, Annual Report for Public Utilities and Licensees (Class C and Class D and Form No. 2–A, Annual Report for Natural Gas Companies (Class C and Class D).

I. Background

The Federal Energy Regulatory Commission (Commission) is engaged in an ongoing effort to eliminate unnecessary reporting burdens. This rulemaking, to amend Form No. 1–F, "Annual Report for Public Utilities and Licensees (Class C and Class D)", and Form No. 2–A, "Annual Report for Natural Gas Companies (Class C and Class D)" [1] is part of that effort and reflects an evaluation of data needed by the Commission to carry out its regulatory functions. The proposed revisions for the Form Nos. 1–F and 2–A should result in a significant reduction in respondent burden.

Form No. 1–F collects information annually from privately owned electric utilities. The data primarily include Balance Sheet, Income Statement, and related items.

Form No. 2–A collects information annually from natural gas companies. The data primarily include natural gas operating revenues, expenses, and sales.

The Commission has reviewed Form Nos. 1–F and 2–A in light of its regulatory responsibilities, and has determined that it no longer needs certain elements of the data collected. The proposed deletions would cause an estimated 63 percent reduction in the reporting burden for Form No. 1–F and an estimated 28 percent reduction for Form No. 2–A.

[1] A Class C electric utility or natural gas company is one having annual electric or gas operating revenues of $150,000 or more but less than $1,000,000. A Class D electric utility or natural gas company is one having annual electric or gas operating revenues of $25,000 or more but less than $150,000.

The Energy Information Administration (EIA), however, may decide on behalf of itself or other sponsors within the Department of Energy to continue the collection of some data proposed for deletion herein. If the EIA should make such a determination, the Commission would issue a Final Rule based on this Notice with a delayed effective date. This would provide EIA (or any other potentially interested agency) a period of time in which to justify the need for the data and receive the approval for collection of such data under the agency's own authority.

II. Summary of Revisions

The following is a brief description of the proposed revisions to each of the forms:

a. *Form No. 1–F* [2]

The Commission proposes in this rulemaking to eliminate 509 of the 811 data items now prescribed on Form No. 1–F (approximately 63 percent). Of the 509 items, 448 would be deleted by elimination of reporting requirements for the following schedules:

Schedule:	Page no.
Security Holders and Voting Powers	3
Officers and Directors	3
Accumulated Provision for Depreciation and Amortization of Utility Plant	6
Capitol Stock	6
Long-Term Debt	6
Electric Sales Data for the Year	7
Sales of Electricity for Resale	7
Electric Operation and Maintenance Expenses	7
Purchased Power	11
Utility Plant	11
Generating Station Statistics	12
Transmission Line Statistics	12
Transmission Lines Added During Year	12
Investment Tax Credits Generated and Utilized	13
Accumulated Deferred Investment Tax Credits (Account 255)	14
Expenditures for Certain Civic, Political, and Related Activities	15

The remaining 61 data items would be eliminated by deleting the "Increase and (Decrease)" data requirements of the Comparative Balance Sheet (columns (d) and (h), schedule pages 4 and 5, respectively).

The data which would be retained are currently reported on the following schedules:

Schedule:	Page no.
General Information	[3] 1
Comparative Balance Sheet (columns a, b, c, e, f, g)	4 (a, b, c) 5 (e, f, g)
Statement of Income for the Year	8, 9
Statement of Retained Earnings	10
Attestation	—

[3] A change would be made on page 1 to require that the completed form shall be sent to EIA rather than to the Commission

b. *Form No. 2-A* [4]

The Commission proposes to eliminate 254 of the 907 data itmes now prescribed on Form No. 2–A (approximately 28 percent). These reductions in reporting burdens would be accomplished by: (1) deletion of the Prinicpal Business and Address column of the "Officers and Directors Schedule" (column c, schedule page 3); (2) elimination of the "Increase and (Decrease)" data requirement from the Balance Sheet (columns (d) and (h), schedule pages 4 and 5, respectively); and (3) deletion of the following schedules:

Schedule:	Page no.
Investment Tax Credits Generated and Utilized	15
Accumulated Deferred Investment Tax Credits (Account 255)	16
Expenditures for Certain Civic, Political and Related Activities	17
Service Interruptions Occurring on the Pipeline System	18

Data which would be retained on Form No. 2–A are currently reported on the following schedules:

Schedule:	Page no.
General Information	[3] 1
Security Holders and Voting Powers	3
Officers and Directors (columns a, b, d)	[5] 3
Comparative Balance Sheet (columns a, b, c, e, f, g)	4 (a, b, c) 5 (e, f, g)
Accumulated Provisions for Depreciation, Depletion and Amortization of Utility Plant	6
Capital Stock	6
Long-Term Debt	6
Gas Sales Data for the Year	7
Gas Operation and Maintenance Expenses	7
Statement of Income for the Year	8, 9
Statement of Retained Earnings	10
Sales for Resale—Natural Gas (Account 483)	11
Gas Purchases (Accounts 730, 731—Class C)	12
Utility Plant Natural Gas Companies	13
Gas Account—Natural Gas	14
General Information Concerning Plant and Operations	14
Attestation	—

[3] A change would be made on page 1 to require that the completed form shall be sent to EIA rather than to the Commission

[5] A change would be made to the instructions in the Officers and Directors Schedule whereby the requirement to list the addresses of the officers and directors would be deleted and a requirement to "(list officers first) whose salaries are $50,000 or more", would be added.

III. Comment Procedures

The Commission invites interested persons to submit written comments on this proposal. Copies of all comments will be furnished to the EIA for its use. The Commission specifically requests that the comments address the following questions:

1. Do the proposed revisions or eliminations of required data affect any Commission or State regulatory functions?

2. Is there any reason for continued collection of the data for the purposes of another Federal agency? Suggestions for the continued collection of data which has been proposed for elimination from the present Form Nos. 1–F and 2–A should identify the proper agency and the purpose for collection of the data.

[2] Attachment A
[4] Attachment B.

Comments should be submitted to the

Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should refer to Docket No. RM80–59. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EST, July 22, 1980, will be considered by the Commission prior to promulgation of final regulations. Pursuant to 44 U.S.C. 3501–3511, these proposed revisions will be considered by the Office of Management and Budget for lultimate clearance. Interested persons wishing to have their comments considered during the clearance process should submit copies of their comments to the Commission and to the Clearance Office of Regulatory Policy and Report Management Divisions, Office of Management Division, Office of Management and Budget, Washington, D.C. 20503. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., Washington, D.C. 20426.

[Natural Gas Act, as amended, 15 U.S.C. 717–717w; Federal Power Act, as amended, 16 U.S.C. 792–828c; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267 (September 15, 1977)]

In consideration of the foregoing, the Commission proposes to revise Form No. 1–F, "Annual Report for Public Utilities and Licensees (Class C and Class D)," prescribed by Section 141.2, Chapter 1, Title 18 of the Code of Federal Regulations and Form No. 2–A, "Annual Report for Natural Gas Companies (Class C and Class D)," prescribed by § 260.2, Chapter I, Title 18 of the Code of Federal Regulations as set forth in Attachments A and B.

In addition, in consideration of the foregoing, the Commission proposes to amend Parts 141 and Part 260 of Chapter I, Title 18 of the Code of Federal Regulations, as set forth below. By direction of the Commission.

Kenneth T. Plumb,

Secretary.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. In § 141.2, the section heading and paragraph (c) are revised to read as follows:

§ 141.2 FERC Form No. 1–F, Annual Report for Public Utilities and Licensees (Class C and Class D).

* * * * *

(c) This annual report contains the following schedules:

Identification.
General Instructions.
General Information.
Comparative Balance Sheet.
Statement of Income for the Year.
Statement of Retained Earnings.
Attestation.

* * * * *

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

2. In § 260.2 the section heading and paragraph (c) are revised to read as follows:

§ 260.2 FERC Form No. 2–A, Annual Report for Natural Gas Companies. (Class C and Class D)

* * * * *

(c) This annual report contains the following schedules:

Identification.
General Instructions.
General Information.
Security Holders and Voting Powers.
Officers and Directors.
Comparative Balance Sheet.
Accumulated Provisions for Depreciation, Depletion and Amortization of Utility Plant.
Capital Stock.
Long-Term Debt.
Gas Sales Data for the Year.
Gas Operation and Maintenance Expenses.
Statement of Income for the Year.
Statement of Retained Earnings.
Sales for Resale—Natural Gas.
Gas Purchases.
Utility Plant Natural Gas Companies.
Gas Account—Natural Gas.
General Information Concerning Plant and Operations.
Attestation.

* * * * *

[FR Doc. 80–16356 Filed 5–29–80; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

Correction

In FR Doc. 80–8789 appearing on page 21076 in the issue of Monday, March 31, 1980, insert the following between "§§ 482, 483; LR–171–79" and "§§ 664, 170A, 25.2522, LR–42–73" on page 21079:

1954 code section and file No.	Subject and draftsman and reviewer	Office in which pending and status	Priority
§§ 482, 483; LR–221–78	Inc. Tax—Part 1—Imputed interest rates (Schmalz/Fischer—ITC-Langbein).	ITC—9/27/79 Draft of notice to TLC & T:C 11/20/79 Comments from TC	1
§§ 512 (a) (3), 501 (c)(7), (9) LR–1744.	Inc. Tax—Part 1—Social clubs—Unrelated business income (TRA 1969, §—121 (b)(1)) (Mix/Fischer-TLC-Sims).	EO—5/13/71 Notice pub. 8/31/71 Hrg. held 11/27/79 T.D. recirculated for formal approval 1/4/80 Comments from TLC.	2
§ 527; LR–18–75	Inc. Tax—Part 1—Political organizations (Pub. L. 93–625)/Felton—TCL-Krupsky).	LR—11/24/76 Notice pub.; 2/24/77 Hrg. held 7/18/79 T.D. ret'd. to LR for revision	1
§§ 528, 6012; LR–165–76	Inc. Tax—Part 1—Treatment of Homeowners Associations (TRA 1976, § 2101) (Mix/Fischer—TLC-Sims).	Commr.—1/9/79 Notice pub. 12/28/79 T.D. to Commr. for formal approval	3
§ 532; LR–125–78	Inc. Tax—Part 1—To apply accumulated earnings tax to corps. accumulating E&P to avoid income tax on certain foreign corp. shareholders (Klein/Felton—TCL-Sims/Dolan).	LR—9/18/79 Notice to CC/DED for formal approval	3
§§ 541–45, 551–55; LR–680	Inc. Tax—Part 1—Various sections of the Code affecting personal holding cos. (§ 225, in part), RA 1964; also P.L.'s 89–809, § 104 (h), 206; 91–172, § 101 (j)(16); TRA 1976, §§ 211, 2106).	TLC—9/5/68 Notice pub. 11/3/78 draft of rev. notice to TLC & T:C; 11/30/78 Comments from TC.	2
§§ 584 (a)(1), (c) (1)(A) & (B), (c)(2), (e), 6032; LR–133–76.	Inc. Tax—Part 1—Tax treatment of common trust funds (P.L.'s 94–414, § 1; 94–455; TRA 1976, §§ 2138 (a), 1402 (b), 1901 (b), 2131 (d)) (Schreiner/Coulter—TLC-Sims).	TLC—6/25/79 Notice fwd. for formal approval; 7/30/79 Approved by T:1 Awaiting approval by TLC.	2
§ 593 (b) (3), (4), (5); LR–152–73	Inc. Tax—Part 1—Reserves for losses on loans of mutual savings banks, etc. (TRA 1969, § 432 (a)) (Thompson-Coulter—TLC-Koppelman).	LR—In LR for prep of notice	3
§§ 612, 613; LR–1148	Inc. Tax—Part 1—Restoration of depletion deductions on bonus and advanced royalties in certain cases (Woo/Bromell—TLC-Koppelman).	LR—12/6/79 Notice ret'd. to LR for revision	1

1954 code section and file No.	Subject and draftsman and reviewer	Office in which pending and status	Priority
§ 613; LR–2073	Inc. Tax—Part 1—Percentage depletion deduction—To clarify rules relating to determination of gross income from the property in the case (Woo-Bromell—TLC-Koppelman).	TLC—5/3/73 Partial draft of notice to TLC & T:C Comments from T:C	1
§ 613 (b) LR–2072	Inc. Tax—Part 1—Percentage depletion rates (TRA 1960, § 501); Also P.L. 89–809, §§ 207, 208, 209 (Woo/Bromell—TLC-Schuldinger).	TLC & T:C:—12/12/78 Rev. draft of notice to TLC & T:C	1
§§ 613A, 703 (a), 705 (a); LR–105–75.	Inc. Tax—Part 1—Supplementary rules on limitations on percentage depletion for oil & gas (TRA 1975, § 501; TRA 1976, §§ 1901 (a)(86), 2115) (Woo/Bromell—TLC-Schuldinger).	TLC—5/13/77 Notice pub.; 8/31/77 Hrg. held 8/2/78 Draft of T.D. to TLC & T:C; 9/78 comments from T:C.	1
§ 642 (g); LR–183–76	Inc. Tax—Part 1—Certain expenses of estates (TRA 1976, § 2009 (d)) (Waltuch/Smith—TLC-Sorensen).	TLC & Tech—11/28/79 Rev. draft of notice to TLC & Tech	3
§§ 644, 641 (b); LR–188–76	Inc. Tax—Part 1—Special rule for property transferred at less than fair market value (TRA 1976, § 701 (e)) (RA 1978, § 701 (p)) (Kusma/Smith—TLC-Sorensen).	LR—In LR for prep of notice	2

BILLING CODE 1505–01–M

26 CFR Part 1

[LR–272–76]

Special Rule for the Deduction of Certain Charitable Contributions of Inventory and Other Property; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to a special rule for the deduction of certain charitable contributions of inventory and other property as added by the Tax Reform Act of 1976.

DATES: The public hearing will be held on July 15, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by July 1, 1980.

ADDRESS: The public hearing will be held in the Chief Counsel's Conference Room, Room 4132, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–272–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 170(e)(3) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, March 20, 1980, at page 18030 (45 FR 18030).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by July 1, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80–16495 Filed 5–29–80; 8:45 am]

BILLING CODE 4830–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1603

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–20

Interpretative Guidelines on Employment Discrimination and Reproductive Hazards

AGENCY: Equal Employment Opportunity Commission and Department of Labor.

ACTION: Extension of comment period for proposed rulemaking.

SUMMARY: In order to provide an opportunity for the enforcement agencies to elicit further comments on the proposed Guidelines on Employment Discrimination and Reproductive Hazards (45 FR 7514) published February 1, 1980, the period for submission of written comments is extended for thirty days.

DATE: Written comments should be received by July 2, 1980.

ADDRESSES: Written comments may be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506. All public comments may be reviewed from 9:30 a.m. to 4:30 p.m., Monday through Friday, at the Library (Room 2303), Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Frederick D. Dorsey, Director, Office of

Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, 202–634–7060.

Joseph Hogan, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, 202–523–9428, or James D. Henry, Associate Solicitor, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210, 202–523–8235.

SUPPLEMENTARY INFORMATION: The agencies are extending the comment period in order to elicit additional comment from the public on the proposed Guidelines on Employment Discrimination and Reproductive Hazards published in the **Federal Register** on February 1, 1980 (45 FR 7514).

Signed at Washington, D.C. this 23rd Day of May, 1980.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

Ray Marshall,

Secretary of Labor.

Donald Elisburg,

Assistant Secretary, Employment Standards Administration.

Weldon Rougeat,

Director, Office of Federal Contract Compliance.

[FR Doc. 80-16424 Filed 5-29-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, VII

33 CFR Ch. II

36 CFR, Ch. III

Improving Government Regulations: Semiannual Agenda of Regulations

May 30, 1980.

AGENCY: Department of Defense.

ACTION: Publication of the Semiannual Agenda of Regulations, significant and nonsignificant, under review or development by the Department of Defense and its components.

SUMMARY: In November 1978, the Department of Defense published its initial Semiannual Agenda of Significant Regulations and the Department plan for implementing E.O. 12044, "Improving Government Regulations." The Department, although not considered in the category of a regulatory agency, and largely exempt from the the provisions of the E.O., nevertheless instructed several programs designed to meet its spirit and intent.

The original agenda in November 1978 and later agendas contained many regulations selected for review and public participation that were primarily internal in nature, defense mission oriented, but not of the regulatory economic nature as intended under the E.O. Therefore, these regulations, although limited in public and economic impact, were published in an effort to increase public knowledge and to allow participation in the Department's rulemaking process. These consolidated agendas of regulations are but one part of the Department's overall efforts toward regulatory reform. Other programs continue to be pursued by Department components that are tailored to suit their individual mission needs and statutory requirements.

This fourth DoD agenda contains overviews of Department programs, and a list of regulations that are significant and appropriate for public review and comments. These efforts were made to meet the goals and objectives of E.O. 12044 and the Department plan for Improving Regulations.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD Regulatory Improvement and general Semiannual Agenda information, contact Cololnel Peter H. Karalus, telephone 202–695–4281 or write: Directorate for Organizational and Management Planning, OASD(C), Pentagon, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: The semiannual Agenda format is divided into sections to reflect the various DoD organizational structures and management arrangements. Included are: the Office of the Secretary of Defense (OSD), the Department of the Army, Navy, and Air Force. Each component section contains the following information:

Part I: Status of Regulations Previously Reviewed (Agnedas of May 1979 and Nov. 1979).

Part II: Regulations Under Development.

Part III: Regulations Requiring Regulatory Analysis.

Individual component variations may be found in the agenda format due to the separate mission functions and responsibilities of the Defense components involved.

DATES: The Department of Defense will publish its next Semiannual Agenda on November 30, 1980. It will contain an update to this and previous agendas to include regulations under development and/or regulatory analysis, if appropriate. This Agenda is published by authority of the Secretary of Defense.

May 28, 1980.

David O. Cooke,

Deputy Assistant Secretary of Defense (Administration).

Office of the Secretary of Defense

Improving Government Regulations; Semiannual Agenda

ACTION: Semiannual Agenda of regulatory and procedural documents under development or published by the Office of the Secretary of Defense.

SUMMARY: The charts below list DoD regulatory policy documents (DoD Directives and DoD Instructions) that may effect aegments of the public, are issued under 5 U.S.C. 552 and 1 CFR § 305.76–2, and are submitted in compliance with section 2, E.O. 12044. The Office of the Secretary of Defense maintains a systmatic review program with special emphasis on those policy and regulatory documents that have not been updated for 10 years or longer (sunset review). None of the documents listed below require a regulatory analysis, since their provisions are primarily for internal DoD direction and do not impose regulatory obligations on the public.

FOR FURTHER INFORMATION CONTACT: Where a contact officer is indicated, contract that individual. For other information on the Agenda, contact Mrs. Margete S. Healy, telephone 202–697–4111, or write to Directives Division, C&D, WMS, Room 2A286, Pentagon, Washington, D.C. 20301.

Part I—*Status of Regulations Previously Reviewed (June 1, 1979—Oct. 31, 1979)*

[Period Nov. 1, 1979—Apr. 30, 1979]

CFR No.	Title	DoD Directive/DoD Instruction	Status
32 CFR Part 41	Enlisted Administrative Separations	1332.14	Additional modifications to document required.
32 CFR Part 65	Nomination of Chaplains for the Armed Forces	1304.19	Published 45 FR 3905, 1/21/80.
32 CFR Part 115	Assignment to and Transfer Between Reserve Categories, Discharge from Reserve Status, Transfer to the Retired Reserve, and Notification of Eligibility for Retired Pay.	1200.15	Additional modification to document required.

Part I—*Status of Regulations Previously Reviewed (June 1, 1979—Oct. 31, 1979)*—Continued

[Period Nov. 1, 1979—Apr. 30, 1979]

CFR No.	Title	DoD Directive/DoD Instruction	Status
32 CFR Part 157	Dissemination of DoD Technical Information	5200.12	Published 45 FR 17987, 3/20/80.
32 CFR Part 169	Commercial and Industrial Activities	4100.15	Published 45 FR 17138, 3/18/80.
32 CFR Part 169a	Operation of Commercial and Industrial Activities	4100.33	Published 45 FR 22924, 4/4/80.
32 CFR Part 179	Use of Contractor and Government Resources for Maintenance of Materiel	4151.1	Informally coordinated; being prepared for formal coordination and issuance as proposed rule.
32 CFR Part 196	Work Breakdown Structures for Defense Materiel Items	5010.20	Final manuscript is being processed.
32 CFR Part 209	Metric System of Measurement	4120.18	Published 45 FR 17574, 3/14/80.
32 CFR Part 238	Armed Forces Community Relations	5410.19	Published 45 FR 21228, 4/1/80.
32 CFR Part 244	Honorary Awards to Private Citizens and Organizations	1432.2	Additional modifications to document required.
32 CFR Part 300	Nondiscrimination in Federally Assisted Programs	5500.11	Submitted to the Justice Department for approval of proposed rule February 1980.

Part IA—*Existing Regulations Selected for Review*

CFR No.	Title	DoD directive or DoD instruction	Reason selected	Contact Officer
32 CFR Part 40	Standards of Conduct	5500.7	Update. To be revised to conform with the provisions of the OPM Ethics Office.	D. Ream, 697-3272.
32 CFR Part 42	Interception of Wire and Oral Communications for Law Enforcement Purposes.	5200.24	Update. Final manuscript is being coordinated	Col. R. Webb, 697-9678.
32 CFR Part 151	Status of Forces Policies and Information	5525.1	Update. Published 45 FR 20465, 3/8/80	M. Olson, 697-8343.
32 CFR Part 194	International Coproduction Dual Production Programs and Agreements.	2000.9	Update. Final manufacrpt in preparation for proposed rule.	Col. R. Carlberg, 697-9351.
32 CFR Part 237	Community Relations	5410.18	Withdrawn. Existing directive considered valid	Ltc R. Egenmaier, 695-2709
32 CFR Part 245	Plan for the Secretary Control of Air Traffic and Air Navigation Aids.	5030.36	Update. Changes in Plan are being processed	Co. S. Gilbert, 697-7183
32 CFR Part 286	Availability to the Public of Department of Defense Information, New title: DoD Freedom of Information Act Program.	5400.7	Update. Published 45 FR 28323, 4/29/80	Col. R. Farris, 697-1180
32 CFR Part 296	Publication of Proposed and Adopted Regulations Affecting the Public.	5400.9	Update. Internal DoD comments are being evaluated for inclusion in a proposed rule to be published in the FR shortly.	A. Effron, 695-1078
Additional regulations not cited before:				
32 CFR Part 156	Dod Personnel Security Program	5200.2	Update. Published 45 FR 19227, 3/25/80	W. Fedor, 697-3969
32 CFR Part 164	Contract Cost Performance funds Status and Cost/Schedule Status Reports.	7000.10	Update. Published 45 FR 20469, 3/23/80	R. Kemps, 695-0706.
32 CFR Part 294	Obtaining Information from Financial Institutions: Right to Financial Privacy Act of 1978.	5400.12	Required by the Act. Published 45 FR 17575, 3/19/80.	Maj. W. Goforth, 694-3027.

Part II—*Regulations Planned or Under Development*

CFR No.	Title	Legal basis	Purpose	Comment date	Contact officer
32 CFR Part 56 (DoD 1100.xx)	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs.	Pub. L. 93-112 § 504	Implement the law	Nov. 13, 1979 (Proposed rulemaking published 44 FR 58750, 10/11/79).	C. Haughton, Jr., 695-0106
None (DoD 4165.62)	DoD Implementation of Personnel Parking Facilities Program.	OMB Circular A-118, 40 U.S.C. 490.	Implement OMB Circular A-118	Notice published 44 FR 75442, 12/20/79.	F. Roche, 697-7227.
32 CFR Part 199 (DoD 6010.8-R)	Implementation of the Civilian Health and Medical Program of the Uniform Services (CHAMPUS) CAT Scanning.	10 U.S.C. 1079, 1086	To expand certain health benefits	Published 45 FR 14034, 3/4/80	LTC L. Rowlette, 695-6281.
32 CFR Part 143 (DoD 1354.1)	DoD Policy on Organizations That Seek to Represent Members of the Armed Forces in Negotiation or Collective Bargaining.	10 U.S.C. 976	Implement Pub. L. 95-610	Will be submitted as a proposed rule June 1980.	

Department of the Army

Improving Government Regulations; Semiannual Agenda

ACTION: Publication of the Department of the Army's Fourth Semiannual Agenda of Regulations as required under E.O. 12044 and implemented under the DoD plan for Improving Government Regulations.

SUMMARY: The Department of the Army continues to review and evaluate the need for the development of new regulations and to improve existing regulations in support of the President's Executive Order 12044, Improving Government Regulations and the DoD Implementation Plan. This agenda reports on the areas under consideration in that review and on specific actions taken since the publication of the third agenda in the **Federal Register** issue of November 30, 1979 (44 FR 68864).

FOR FURTHER INFORMATION CONTACT: Mr. J. B. Hudson, 202–697–6900 or write: Office of the Administrative Assistant, OSA, Washington, DC 20310.

SUPPLEMENTARY INFORMATION: This agenda includes regulations which support the National Defense effort as well as the civil works activities of the Corps of Engineers published in Titles 32 and 33 of the Code of Federal Regulations.

Accordingly, the following information is provided concerning Army amendments to the Code of Federal Regulations:

V 45 M Y 30 80 0 UMI

V 4 5 M Y 3 0 8 0 UMI

Department of the Army—Semiannual Agenda

[Period December 1, 1979—May 30, 1980]

Part I—Status of Existing Regulations Reviewed (Agenda November 30, 1979)

CFR No.	Title	Public comments and coordination	Status
32 CFR 552.30 thru 552.74	Acquisition of Real Property and Interests Therein	No comments received in response to Proposed Rule in 43 FR 59328, Dec. 19, 1978.	Not date for publication of Final Rule has been established.
32 CFR 503	Apprehension and Restraint	Revision will be published as a Rule	Pending outcome of proposed Senate bill 1221, 96th Congress.
32 CFR 534	Military Court Fees	Regulation will be published as a Rule	Review is being coordinated. Estimated date for publication in November 1980.
32 CFR 536	Claims Against the United States	No comments received	Final Rule published in 45 CFR 6543, January 29, 1980.
32 CFR 645	Real Estate Annexation	To be published as a Final Rule	Not date for publication of Final Rule has been established.
32 CFR 657	Facilities Engineering Pest Control Services	To be published as a Final Rule	Not date for publication of Final Rule has been established.

Part I—Status of Existing Regulations Reviewed (Agenda May 30, 1980)

32 CFR 630	Military Absentee and Deserter Apprehension	Regulation has ban recodified and was renumbered 32 CFR 536.30 thru 536.35. It was published as a Proposed Rule in 45 FR 6566, January 29, 1980.	Final Rule will be published in November 1980.
32 CFR 651	Implementation of Procedures of National Environmental Policy Act.	Proposed Rule published in 45 FR 1015, January 4, 1980.	Final Rule will be published in November 1980.

Department of the Army—Semiannual Agenda

[Period December 1, 1979—May 31, 1980]

Part II—Regulations Under Development (Previously Reported on May 30, 1979 Agenda)

CFR No.	Title	Legal Basis	Status
32 CFR 504	AR 190-xx, Obtaining Information from Financial Institutions.	12 U.S.C. 3401 (Right to Financial Privacy Act of 1978).	Proposed Rule will be published in November 1980.

The Department of the Army has no regulations under review or being developed which would require a regulatory analysis in accordance with the criteria established by E.O. 12044 and the DoD plan for Improving Government Regulations.

Part III—Civil Works Regulations Under Review

CFR No.	Title	Public comments and coordination	Status
33 CFR 321	Permits for Dams and Dikes in Navigable Waters of the United States.	These regulations are a "set" concerning the Army permit process for civil construction projects. Meetings with Federal Agencies have been held on these regulations that will be published as proposed regulations in June/July 1980. These meetings were held with the Departments of Interior, Energy, Transportation, Commerce, Agriculture and the Environmental Protection Agency. Appropriate comments have been incorporated in the proposed regulations. In addition to publishing the proposed regulations in the Federal Register, the proposed regulations will be directly mailed to National Environmental groups, federal and state agencies and major developmental organizations. Meetings at local levels, to be hosted by the 34 District Engineers, are being arranged. Additional public meetings will be arranged as requirements are generated. Meetings will be held in the 50 states, the commonwealths and trust territories including Guam, Northern Marianas, Virgin Islands, Puerto Rico, and the Marshall Islands.	Final rules originally scheduled for publication by January 1980 have ben delayed pending further review based on recent court findings. New publication date targeted for July 1980.
33 CFR 322	Permits for Structures of Work in or Affecting Navigable Waters of the United States.		
33 CFR 322	Permits for Discharges of Dredged or Fill Material into Waters of the United States.		
33 CFR 324	Permits for Ocean Dumping of Dredged Material		
33 CFR 325	Processing of Department of Army Permits		
33 CFR 326	Enforcement		
33 CFR 327	Public Hearings		

Part IV—Civil Works Regulations Under Development

33 CFR 325	Historic Preservation (Appendix C under Development).	Draft regulitions jointly structured by Army and the President's Council on Historic preservation. Public comments are now being solicited and meetings with state agencies in particular are being arranged where appropriate by District Engineers. This annex was also directly mailed to federal and state agencies and environmental groups.	Proposed rules published 3 April 1980.

Department of the Navy

Improving Government Regulations;

Semiannual Agenda

The Department of the Navy published its first regulatory review agenda in November 1978. Since Navy regulations are primarily directed toward supporting the Navy mission and its people, they do not normally impact upon the public directly. Agenda regulatory reviews contain regulations which are primarily "in-house" in nature and not under the criteria expressed in Executive Order 12044 or the DOD plan. In keeping with the spirit and intent of the Executive Order, the Navy will continue to publish regulations that may be of interest to the general public and provide an opportunity for public comment.

The Department of the Navy has promulgated several other regulatory reform programs.

A Navy directive was issued which instituted a "sunset" clause directing that no reporting requirement shall exceed two years and one-time reports to less than two years shall cite an expiration date.

Each Navy command issuing directives must conduct a least an annual review to ensure:

(a) that the system's requirement and standards are being met; and

(b) that all effective directives which the organization has issued are reviewed to determine whether those directives should be cancelled, updated, revised, or consolidated, as appropriate.

A recent zero-based review of directives, reports, forms, and publications by the Chief of Naval Operations has resulted in 698 cancellations of administrative issuances.

On 3 and 4 March 1980, the Air Force Academy Executive Writing Course was presented for personnel of the Office of the Chief of Naval Operations and other Washington area offices. Total attendance was 350.

The goals and objectives of the Executive Order 12044 and the DOD plan for Improving Government Regulations are being actively pursued throughout the Department of the Navy.

Department of the Navy—Semiannual Agenda

[Period November 30, 1979 through May 30, 1980]

Part I.—Status of Regulations Previously Reviewed (Agenda November 30, 1978)

CFR No.	Title	Public comments and consideration*	Status	Contact officer
32 Part 705	Public Affairs Regulations	Published as final rule	Revision appeared in the Federal Register on February 1, 1979. Regulation dropped from agenda	
32 Part 714	Officer Personnel	Recommended for deletion	Notice of deletion appeared in Federal Register on April 24, 1979. Regulation dropped from agenda	
32 Part 715	Support of Dependents and Paternity Complaints.	Published as final rule	Revision appeared in the Federal Register on July 19, 1979. Regulation dropped from agenda	
32 Part 716	Death Gratuity	Published as final rule	Revision appeared in the Federal Register on May 2, 1979. Regulation dropped from agenda.	
32 Part 718	Missing Person Act	Published as final rule	Revision appeared in the Federal Register on April 16, 1979. Regulation dropped from agenda	
32 Part 725	Disposition of Cases Involving Physical Disability.	To be published as final rule	Under revision due to change in basic requirements	LCDR M. W. Kirkpatrick, NCPB, Tel 696-4366
32 Part 729	Navy and Marine Corps Military Personnel Security Program.	Published as final rule	Revision appeared in the Federal Register on April 24, 1979. Regulation dropped from agenda	
32 Part 730	Administrative Discharges and Related Matters Concerning Separations from the Naval Service.	To be published as final rule	Revision will be submitted to the Office of the Federal Register by July 31, 1980.	Mr. Mirvic, NMPC, Tel. 694-3613
32 Part 744	Policies and Procedures for the Protection of Propnetary Rights in Technical Information Proposed for Release to Foreign Governments.	Published as final rule	Revision appeared in the Federal Register on May 29, 1979. Regulation dropped from agenda	
32 Part 751	Personnel Claims	Published as final rule	Revision appeared in the Federal Register on June 13, 1978. Regulation dropped from agenda.	

Status of Regulation Previously Under Development (Agenda May 30, 1979)

32 Part 724	Naval Discharge Review Board Manual	To be published as final rule	Revision appeared in the Federal Register on November 21, 1979. Regulation dropped from agenda.	

Status of Regulations Previously Under Development (Agenda November 30, 1979)

32 Part 701.1	Availability to the Public of Department of the Navy Records.	To be published as a proposed rule.	Revision will be completed by 30 July 1980	Mr. Donald Carr, OPNAV, Tel: 697-1459.
32 Part 701.100	Personal Privacy and Rights of Indivduals Regarding Their Personal Records.	To be published as a proposed rule.	Revision will be completed by 30 July 1980	Ms. Gwen Rhoads, OPNAV, Tel: 694-2004

Part II.—Regulations Under Development

The Department of the Navy has no regulations under development that meet the criteria of Executive Order 12044 or the DOD plan.

Part III.—Regulations Requiring Regulatory Analysis

The Department of the Navy has no regulations previously reviewed or under development during this period requiring analysis.

*No public comments received.

Department of the Air Force

Semiannual Agenda; 1 December 1979–30 May 1980

ACTION: Publication of the Department of the Air Force fourth semiannual agenda of significant regulations as required under Executive Order 12044 and implemented under the DOD plan for Improving Government Regulations.

SUMMARY: The fourth semiannual agenda lists regulations currently under revision or development within the Department of the Air Force. The agenda informs the public of the actions taken on those regulations previously listed and the reform currently underway within the Department. The regulations are non-significant in nature and do not impact upon the public as defined under the Executive Order criteria, but gives the public an opportunity to comment on those regulations of interest to them. In keeping with the goals and objectives of the Executive Order and the DOD plan for Improving Government Regulations, the Department requires all regulations be reviewed annually for their essentiality, currency and accuracy, and to insure they are written in clear and concise language. Air Force Regulation 5–1 gives the policies, procedures, and standards that govern management of regulations throughout the Air Force. The Department is striving to keep current those regulations presently in the Code of Federal Regulations (CFR) and to delete those that are not applicable to the general public. Five regulations have been deleted from the CFR since the 30 November 1979 agenda was published. A total of 27 have been deleted since implementation of the Executive Order. The regulations currently under review or development do not require a regulatory analysis since they do not have a major economic effect on the general economy. Although not a regulatory agency, the goals and objectives of the Executive Order and the DOD plan for Improving Government Regulations are being actively pursued throughout the Department of the Air Force.

CONTACT: Where a contact person is indicated, contact that individual. For other information concerning the agenda, contact Mrs. Carol M. Rose, telephone (202) 697–1861 or write, Department of the Air Force, AS/DASJR, Pentagon, Washington, D.C. 20330.

Department of the Air Force—Semiannual Agenda

[December 1, 1979—May 30, 1980]

Part I—Status of Regulations Previously Reviewed

CFR No.	Title	Final status
32 CFR 806	Air Force Freedom of Information Act Program	Publication of this regulation will depend on when DOD Directive 5400.7, which the Air Force must supplement, is published.
32 CFR 813	Schedule of Fees for Copying and Searching Records and Other Documentary Material.	Published in the Federal Register as final rule 12 December 1979 (44FR71827).
32 CFR 865	Personnel Review Boards	Publication of this regulation will depend on when DOD Directive, currently under revision, is published.
32 CFR 953	Violations of Public Trust in Contract, Procurement, and Other Matters.	Published as a proposed rule in the Federal Register 1 August 1979 (44 FR 45193), and as a final rule on 7 April 1980 (45FR23423).
32 CFR 989	Environmental Impact Analysis Process	Published as a proposed rule in the Federal Register 26 July 1979 (44 FR44119). Estimated date for publication as final rule in the FR is June 1980.
32 CFR 880 (Subpart A)	Medical, Dental and Veterinary Care from Civilian Sources	Estimated date for publication as final rule in the Federal Register is June 1980.
32 CFR 954	Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense.	Presently in the coordination process.
32 CFR 842	Claims Manual	Revision of this regulation in draft status.
32 CFR (Part No. has not been assigned)	Real Property Management, Acquisition of Real Property.	First manuscript completed.
32 CFR (Part No. has not been assigned)	Air Force Energy Conservation and Management	Final manuscript completed. Estimated date for publication in the FR as final rule is July 1980.
32 CFR (Part No. has not been assigned)	Submitting Material for Publication in the Federal Register.	Due to limited applicability to the general public, this regulation will not be published in the Federal Register.

Department of the Air Force—Semiannual Agenda

[December 1, 1979—May 30, 1980]

Part II—Regulations Under Development or Review

CFR No.	Title	Purpose	Legal basis	Regulatory analysis Yes/No	Contact person
32 CFR 803	Disposition of Personal Property	Explains the procedures of disposition of the personal property of certain deceased and missing Air Force military and civilian personnel when that property is under Air Force jurisdiction.	10 U.S.C. 8012	No	Mr. Beauchemin, AFMPC/MPCCM, Randolph AFB, TX, (512) 652–6457.
32 CFR 827a	Release of Information on Accidents	Gives policy and instructions for quick release to the news media information about accidents and incidents involving Air Force aircraft missiles, vehicles, munitions, and toxic materials	Sec 8012, 70A Stat. 488; 10 U.S.C. 8012.	No	Major Booth SAF/OI, 697–4100.
32 CFR 837	Support of Nongovernment Groups.	States Air Force policy on supporting nongovernment groups engaged in information activities	Sec 8012, 70A Stat. 488; 10 U.S.C. 8012	No	Major Booth, SAF/OI 697–4100.

Department of the Air Force—Semiannual Agenda—Continued

[December 1, 1979—May 30, 1980]

Part II—Regulations Under Development or Review

CFR No.	Title	Purpose	Legal basis	Regulatory analysis Yes/No	Contact person
32 CFR 822	Information Audiovisual (AV) Activities.	Tells how to request AV information coverage of an event or production and how AV material produced by an agency other than the Air Force may be adopted for official Air Force use.	Sec 8012, 70A Stat 488; 10 U.S.C. 8012.	No	Major Booth, SAF/OI, 697–4100
32 CFR 892	Part-Time Career Employment Program.	Establishes a continuing program to provide permanent part-time employment opportunities wthin the Department of the Air Force	5 U.S.C. 3401	No	Mr Giarrusso, 694–2630

[FR Doc. 80–16550 Filed 5–29–80; 8:45 am]

BILLING CODE 3810–70–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1503–7; Docket No. OMSAPC–79–1]

40 CFR Part 86

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures; Evaporative Emission Regulation and Test Procedure for Gasoline-Fueled Heavy-Duty Vehicles; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: This document announces the time and place for a public hearing on the EPA Notice of Proposed Rulemaking (NPRM) for control of evaporative emissions from gasoline-fueled heavy-duty vehicles published on April 30, 1980 (45 FR 28922).

DATES: The hearing will be held on June 25, 1980 and will commence at 9:30 AM EDT.

ADDRESS: Location: The hearing will be held at EPA's Motor Vehicle Emissions Laboratory, 2565 Plymouth Rd., Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Timothy D. Mott. Emission Control Technology Division, Mobile Source Air Pollution Control, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105 Telephone: (313) 668–4462.

SUPPLEMENTARY INFORMATION: The proposed evapotative emission standard for gasoline-fueled heavy-duty vehicles beginning with the 1983 model year is 3.0 grams/test, as tested by the proposed EPA evaporative emission test procedure for gasoline-fueled heavy-duty vehicles (Subpart M of the NPRM). Section 202(a)(1), as amended, 42 U.S.C. 7521(a)(1), provides that the Administrator shall prescribe standards for motor vehicle emissions if such emissions cause or contribute to air pollution which endangers the public health or welfare. The Administrator can require testing of new motor vehicles to determine compliance with applicable standards under section 206, 42 U.S.C. 7525. Section 202(b)(1)(C), 42 U.S.C. 7521(b)(1)(C), requires the Administrator to promulgate a test procedure for measuring "evaporative emissions of hydrocarbons" from heavy-duty vehicles. The general power to promulgate regulations is granted in section 301(a), 42 U.S.C. 7601(a).

Section 307(d), 42 U.S.C. 7607(d) requires the Administrator to give interested parties an opportunity for the oral presentation of data, views, or arguments relating to the April 30, 1980 proposal. Notice of a public hearing to provide this opportunity is hereby given.

The NPRM tentatively scheduled the public hearing for a date at least 30 days after publication of the NPRM. After EPA informed the industry that the Agency was considering June 4, 1980 as the date of the hearing, the Motor Vehicle Manufacturers Association, Ford and General Motors requested a postponement (see Public Docket OMSAPC 79–1). These parties expressed a need for additional time before the hearing to allow them to develop new data pertinent to the hearing. They believe this data would be necessary for them to participate adequately in the hearing. Based on these comments, EPA believes a postponement of the hearing date will be beneficial to the purpose of the hearing. Therefore, EPA has allowed an extra three weeks for data collection.

Participation in the Public Hearing

Any person desiring to make a statement at the hearing or to submit material for inclusion in the record of the hearing should provide written notice of such intention, together with at least one copy of the proposed statement or material for inclusion in the record. All such documents should be submitted to EPA at the address above no later than 48 hours before the day of hearing. EPA requests, but does not require, that at least fifty copies accompany any document which cannot be submitted prior to the start of the hearing.

Participants are advised to adhere to these guidelines if possible. Documents submitted late may not receive full staff consideration prior to the hearing. Further, participants who submit documents on the scheduled day of appearance, without the requested fifty copies, may be rescheduled for a later time in the hearing, if duplication of the documents cannot be completed by EPA prior to the scheduled time of appearance.

The record of the hearing will be left open for 30 days following the close of the hearing to allow submission of rebuttal and supplementary information. Information postmarked no later than July 28, 1980, will be entered into the record of the hearing.

Charles L. Gray, Jr., Director, Emission Control Technology Division, is hereby designated as the Presiding Officer for the hearing. He will be responsible for maintaining order, excluding irrelevant or repetitious material, scheduling presentations and, to the extent possible, notifying participants of the time at which they may appear. The hearing will be conducted informally.

V 45 M Y 30 80 0 UMI

Technical rules of evidence will not apply.

Dated: May 27, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-16503 Filed 5-29-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[OPP-300021; FRL 1503-2]

Certain Inert Ingredients in Pesticide Formulations; Proposed Exemptions From Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This notice proposes that certain additional inert (or occasionally active) ingredients in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by various firms. This amendment would permit the use of the exempted inerts in registered pesticide products.

DATE: Comments must be received on or before June 30, 1980.

ADDRESS: Address comments to: Mr. John Shaughnessy, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460 (202-426-9425).

FOR FURTHER INFORMATION CONTACT: Mr. John Shaughnessy at the above address.

SUPPLEMENTARY INFORMATION: At the request of several interested persons, the Administrator is proposing to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers, and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Firm	Bases for approval
Charcoal, activated	ICI Americas, Inc., Wilmington, DE 19897, and Zoecon Corp., 975 California Ave., Palo Alto, CA 94304.	The Use of activated charcoal meeting food chemical specifications would be of no adverse toxicological significance.
Corn dextrin	Grain Processing Corp., 1600 Oregon Street Muscatine, IA 52761.	Dextrin is a food with no toxicological significance. Corn has previously been cleared under 40 CFR 180.1001.
Styrene-maleic anhydride copolymer.	Arco Chemical Co., 1500 Market Street, Philadelphia, PA 19101.	Styrene component previously cleared under 21 CFR 172.515 as a synthetic flavoring agent. Long-term toxicity studies for maleic anhydride component, which is cleared under 40 CFR 180.1001(d). The compound is essentially innocuous.

Based on the above information, available information on the chemistry of these substances, and a review of their use, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to the environment. It is concluded, therefore, that the proposed amendments to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 30 days after publication of this proposal in the **Federal Register** that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the document control number, "OPP-300021". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Toxicology Branch, Crystal Mall, Building 2, Room 816, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)).

Dated: May 22, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

It is proposed that Part 180, Subpart D, § 180.1001 be amended by alphabetically inserting the items "Charcoal, activated * * *" and "Corn dextrin * * *" in paragraph (c) and by revising the item "Styrene-maleic anhydride copolymer * * *" under limitations in paragraph (d), as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *.

Inert ingredients	Limits	Uses
Charcoal, activated	Meet specifications in the Food Chemical Codex.	Carrier.
Corn dextrin		Solid diluent, carrier.

(d) * * *

Inert ingredients	Limits	Uses
Styrene-maleic anhydride copolymer	For preemergence use and use prior to formation of edible parts of plant if limited to 3% of the formulation.	Suspending or dispensing agent.

[FR Doc. 80-16492 Filed 5-29-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[OPP-300023; FRL 1503-1]

Aluminum Hydroxide; Proposed Exemption From Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This notice proposes that the inert (or occasionally active) ingredient aluminum hydroxide in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by Ralph Fogleman. This amendment would permit the registration of aluminum hydroxide in pesticide formulations.

DATE: Comments must be received on or before June 30, 1980.

ADDRESS: Address comments to: Mr. John Shaughnessy, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460 (202-426-9425).

FOR FURTHER INFORMATION CONTACT: Mr. John Shaughnessy at the above address.

SUPPLEMENTARY INFORMATION: At the request of several interested persons, the Administrator is proposing to amend 40 CFR 180.1001 by exempting alumunum hydroxide, which is an inert (or occasionally active) ingredient, in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Firm	Bases for approval
Aluminum hydroxide	Ralph W. Fogleman, 41 Wertsville Road, Ringoes, NJ 08551.	Widely used in medicine as a nonsystemic antacid, adsorbant, and demulcent in the gastrointestinal tract and as a topical astringent and dusting powder. Aluminum hydroxide gels are used as carrier or substrate for vaccines. Alumina hydrates (crystalline forms of aluminum hydroxide) are generally recognized as safe (GRAS) by the Food and Drug Administration

Based on the above information, available information on the chemistry of this substance, and a review of its use, it has been found that, when used in accordance with good agricultural practice, aluminum hydroxide is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 30 days after publication of this proposal in the Federal Register that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the document control number, "OPP-300023". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS-767), Room E-229, EPA 401 M St., SW, Washington, DC 20460 from 8:30 a.m. to 4 p.m., Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)).)

Dated: May 22, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

It is proposed that Part 180, Subpart D, § 180.1001 be amended by alphabetically inserting "Aluminum hydroxide * * *" in the table in paragraph (c) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
Aluminum hydroxide		Diluent, carrier.

[FR Doc. 80-16491 Filed 5-29-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES

(Mar. 28, 1979). This regulation is

implementing section 504 of the

GENERAL SERVICES ADMINISTRATION

41 CFR Chapters 101 and 105

Agenda of Significant Regulatory Activity

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the significant regulatory actions that GSA plans for the 6-month period from June 1980 to November 1980. This agenda was developed under the guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, Mar. 24, 1978). GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the early stages of the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Stanley W. Bowers, Acting Director, Information Management Division (202–566–0857).

SUPPLEMENTARY INFORMATION: On December 4, 1978, GSA published its final report on implementation plans for Executive Order 12044 at 43 FR 56728. As explained in the report, GSA will publish a semiannual agenda of significant regulatory activity during May and November of each year. The agenda lists, for each of GSA's services and staff officers, new significant regulations that are being considered, changes that are planned to existing significant regulations, significant regulations that will be reviewed during the upcoming 6-month period, and the status of items from the previous agenda.

Dated: May 28, 1980.

R. G. Freeman III,

Administrator of General Services.

National Archives and Records Service

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

1. Public Use of Archives and FRC Records (41 CFR 105–61.1)—in which only § 105–61.104, Access to National Security Information, has been defined as significant—was revised and published as a final rule at 44 FR 18498 (Mar. 28, 1979). This regulation is currently undergoing further revision.

a. Need for change: To resolve conflicts on procedures for implementing Executive Order 12065, National Security Information, for handling Freedom of Information Act requests under 5 U.S.C. 552.

b. Legal basis: Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. Contact point: Adrienne C. Thomas, Director, Planning and Analysis Division (NAA) (202–523–3214).

d. Regulatory analysis: Will not be prepared.

2. Public Use of Donated Historical Materials (41 CFR 105–61.2)—GSA is considering the addition of a provision under which falsifications of information by researchers can provide grounds for denying access to records.

a. Need for change: To provide greater security for records.

b. Legal basis: Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. Contact point: Richard A. Jacobs, Deputy Assistant Archivist, Office of Presidential Libraries (NL) (202–523–3073).

d. Regulatory analysis: Will not be prepared.

C. Regulations Scheduled for Review

No significant regulations are presently being reviewed.

D. Status of Agenda Items Published on November 30, 1979 (44 FR 68869)

No final changes have been made to the items published on the last agenda. These items are listed as B1 and B2, above.

Office of Human Resources and Organization

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

No significant regulations are scheduled to be changed.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Published on November 30, 1979 (44 FR 68869)

1. New regulations. Procedures for implementing section 504 of the Rehabilitation Act of 1973. These regulations are intended to ensure nondiscrimination against handicapped persons in programs and activities that receive financial assistance from GSA.

a. A proposed rule was published on October 30, 1979 (44 FR 62298). GSA is evaluating the comments received on the proposal.

b. Contact point: Jacquie C. Perry, Office of the Civil Rights (202–566–1790).

Transportation and Public Utilities Service

A. New Regulations

1. Travel between city-pairs. These regulations will prescribe policies and procedures applicable to civilian Federal agencies when scheduled airline passenger transportation services are needed for official Government travel between city-pairs.

a. Need for regulations: To reduce costs to the Government.

b. Legal basis: Section 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

c. Contact point: John Millington, Federal Travel Management Division (202–275–6144).

d. Regulatory analysis: Will not be prepared.

B. Changes to Existing Regulations

1. Federal Travel Regulations (41 CFR Part 101–7)—to revise high rate geographical areas, per diem, and reimbursement for the use of privately owned conveyances.

a. Need for change: Will be based on legislation now pending in the Congress to increase the statutory allowances.

b. Legal basis: Executive Order 11609 (July 22, 1971) and the Travel Expense Amendments Act of 1975 (Public Law 94–22, May 19, 1975).

c. Contact point: Audrey Rish, Federal Travel Management Division (202–275–6144).

d. Regulatory analysis: Will not be prepared.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Published on November 30, 1979 (44 FR 62298)

1. Changes to existing regulations.

a. Federal Travel Regulations (41 CFR Part 101–7)—to revise per diem and actual subsistence provisions (parts 7 and 8 of chapter 1).

(1) GSA is in the process of developing the necessary changes.

(2) Contact point: Phyllis Hickman, Federal Travel Management Division (202–275–6144).

b. Federal Travel Regulations (41 CFR Part 101–7)—to revise high rate geographical areas and reimbursement for the use of privately owned conveyances.

(1) A final rule was published on April 23, 1980 (45 FR 27436).

(2) Contact point: Audrey Rish, Federal Travel Management Division (202–275–6144).

Federal Property Resources Service

A. New Regulations

1. Utilization, Donation, Sale, Abandonment, or Destruction of Hazardous materials (41 CFR Chapter 101).

a. Need for regulations: The number of materials identified as hazardous is rapidly increasing, and their disposition is a sensitive matter. A comprehensive regulation is necessary to ensure proper identification and disposal of hazardous materials.

b. Legal basis: Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. Contact point: William Albee, Regional Operations Branch (202–557–0716).

d. Regulatory analysis: Will not be prepared.

B. Changes to Existing Regulations

1. Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority (41 CFR Part 101–46)—revise and clarify.

a. Need for change: The results of a review by GSA employees of proposed Federal Acquisition Regulation (FAR) Subpart 17.3, Exchange/Sale of Nonexcess Personal Property, indicate that 41 CFR Part 101–46, as currently written, does not provide a viable basis for development of the FAR subpart.

b. Legal basis: Section 201(c) of the Federal Property and Administrative Services Act of 1949, 68 Stat. 384, as amended (40 U.S.C. 481(c)).

c. Contact point: Dona Gamble, Sales Division (202–557–0681).

d. Regulatory analysis: Will not be prepared.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Previously Published

No significant regulatory actions are pending.

Office of General Counsel

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

1. Public Availability of Agency Records and Informational Materials (41 CFR Part 105–60); GSA intends to revise its regulations covering public requests for GSA materials under the Freedom of Information Act (FOIA).

a. Need for change: 41 CFR Part 105–60 covers both procedures for the public to follow when requesting GSA information and rules for GSA employees to follow when they receive these requests from the public. GSA is considering revising these regulations to separate the rules that apply to the public from those that apply only to GSA employees. In the process, the rules for public access to information will be simplified and clarified.

b. Legal basis: Section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 552 (Pub. L. 90–23, as amended by Pub. L. 93–502).

c. Contact point: Rebecca Thompson, Administration and Records Division (202–566–1460).

d. Regulatory analysis: Will not be prepared.

C. Regulations scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Previously Published

No items were listed on the previous agenda.

Automated Data and Telecommunications Service

No significant regulatory actions are planned.

Federal Supply Service

No significant regulatory actions are planned.

Office of Acquisition Policy

No significant regulatory actions are planned.

Office of Plans, Programs, and Financial Management

No significant regulatory actions are planned.

Public Buildings Service

No significant regulatory actions are planned.

[FR Doc. 80–16614 Filed 5–29–80; 8:45 am]

BILLING CODE 6820–34–M

41 CFR Part 105–735

GSA Standards of Conduct; Violation of Post Federal Employment Prohibitions

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to amend its standards of conduct regulations to provide procedures for the administrative enforcement of the restrictions on post employment activities by former GSA employees, as required by Title V of the Ethics in Government Act of 1978. The proposed procedures provide for notice to the former employee of the alleged violation of the law; an oportunity for the former employee to refute the allegations and request a hearing before an examiner appointed from GSA's Board of Contract Appeals; the right to request a final decision by the Administrator of General Services; and the impostion of sanctions or other forms of disciplinary action if appropriate.

DATE: Comments must be received no later than June 30, 1980.

ADDRESS: Written comments should be sent to the Director, GSA Office of Ethics (K), General Services Administration, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Saul Katz, Director, GSA Office of Ethics (202–566–1212).

SUPPLEMENTARY INFORMATION: The Director, Office of Government Ethics, Office of Personnel Management, has been consulted on these proposed procedures, and has found that they conform to the law and its implementing regulations. The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, the General Services Administration proposes to amend Part 105–735 as follows:

PART 105–735—STANDARDS OF CONDUCT

1. The table of contents of Part 105–735 is amended to add the following new entries:

Subpart 105–735.6— Violation of Post Federal Employment Prohibitions

Sec.

105–735.601 General.
105–735.602 Notification and opportunity for hearing.
105–735.603 Hearings.

V 45 M Y 30 80 0 UMI

105–735.604 Action by the Administrator.
105–735.605 Period of prohibition and disciplinary action.
105–735.606 [Reserved]

2. Part 105–735 is amended to add the following new subpart:

Subpart 105–735.6—Violation of post federal employment prohibitions.

§ 105–735.601 General.

(a) The Director, GSA Office of Ethics, and the Inspector General of GSA shall be promplty notified of receipt of information indicating that a former GSA employee (including a special government employee as defined in section 202, of Title 18, United States Code), has violated any of the post federal employment prohibitions contained in sections 207(a), (b), or (c) of Title 18, United States Code.

(b) If the Inspector General of GSA, after appropriate review, determines that there is reasonable cause to believe that the former employee has violated section 207(a), (b), or (c) of Title 18, United States Code, or the regulations implementing the foregoing statutory provisions that have been published by the Office of Personnel Management in the Federal Register, he shall (a) provide the Director, Office of Government Ethics and the Criminal Division, U.S. Department of Justice, and the Director, GSA Office of Ethics with the available information concerning the alleged violation, as well as copies of the pertinent agency regulations and such comments as are deemed appropriate, and (b) recommend to the Administrator, General Services, that action be taken pursuant to Part 105–735.602(a) hereunder.

(c) Any investigation or other administrative action taken by GSA in the matter shall be coordinated with the U.S. Department of Justice to avoid prejudicing criminal proceedings.

§ 105–735.602 Notification and opportunity for hearing.

(a) If the Department of Justice acquiesces, the following action shall be promptly taken. The former employee shal be notified by certified mail, return receipt requested:

(1) The Inspector General of the General Services Administration, has recommended that, based on information received, the Administrator of General Services (hereinafter the Administrator) make a finding pursuant to section 207(j) of Title 18, United States Code, that the former employee has violated certain specified post federal employment prohibitions in section 207(a), (b), or (c), and that the Administrator, if he makes such a finding, institute such administrative sanctions as he deems appropriate against the former employee.

(2) The specific violations alleged against the former employee, is sufficient detail to permit the preparation of an adequate defense.

(3) The former employee has the right to:

(i) present information to the Administrator in opposition to the recommendation in person, in writing, and if desired, through a designated representative, or

(ii) request a hearing before a member of GSA's Board of Contract Appeals (conducted by him or her as an Examiner in accordance with the Board's published rules) by addressing such request to: Board of Contract Appeals, General Services Administration, Washington, DC 20405.

(4) A statement that the hearing rights are as set forth in § 105–735.603 below.

(5) If a hearing is held, no individual who has participated in the decision to initiate the proceedings may serve as an Examiner at the hearing.

(6) The period of time to be afforded for decision as to presentation of information for consideration, or for requesting a hearing.

(b) A copy of these regulations will be provided with the foregoing notification.

(c) The period of time to be afforded for notifying GSA of a decision to present information for consideration or for requesting a hearing shall be limited to 20 days from receipt of the notification described in paragraph (a) of this section, unless the former employee requests and is granted additional time before the expiration of the 20-day period.

§ 105–735.603 Hearings.

(a) If a hearing is requested and granted in accordance with § 105–735.602(c) above, the hearing shall be conducted at a reasonable time, date, and place.

(b) In setting a hearing date, the examiner shall give due regard for the former Government employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

(c) A hearing shall include, at a minimum, the following rights:

(1) To represent oneself or to be represented by counsel,

(2) To introduce and examine witnesses and to submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument, and

(5) To a transcript or recording of the proceedings, on request.

(d) In the hearing, the agency has the burden of proof and must establish substantial evidence of a violation.

(e) The examiner shall make a written determination exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(f) Within 10 days of the date of receipt of an initial decision either party may appeal the decision to the Administrator, who shall base his decision on the appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues. If the Administrator modifies or reverses the initial decision, he shall specify such findings of fact and conclusions of law as are different from those of the examiner.

§ 105–735.604 Action by the Administrator.

(a) When the former employee has presented information, pursuant to § 105–735.602(a)(3)(i) above, or has appealed from the decision of an examiner at a hearing as provided in § 105–735.604(f) above, the Administrator shall consider the information presented to him by the Inspector General of GSA and by or on behalf of the former employee, or (in the case of a hearing) the record or portions of the record of the proceedings as described in § 105–735.603(f) above, and shall take such action thereon as he deems appropriate after consultation with the Director, Office of Ethics.

(b) If the Administrator finds, after the requirements for notice and opportunity to present information or for a hearing and appeal as set forth above have been satisfied, and the former employee has violated section 207(a), (b), or (c) of Title 18, United States Code, the Administrator may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to GSA on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 105–735.605 Period of prohibition and disciplinary action.

(a) Any period of prohibited appearance or communications ordered by the Administrator shall be for a reasonable specified period of time, commensurate with the seriousness of the conduct on which the prohibition is based, and may not exceed five years.

(b) Appropriate disciplinary action may include a private letter of:

(1) Warning,

(2) Admonition, or

(3) Reprimand.

(c) If disciplinary action is taken, the former employee shall be promptly notified that such action is subject to review in an appropriate United States District Court.

§ 105–735.606 [Reserved]

(Sec. 501(a), 92 Stat. 1867; 18 U.S.C. 207(j); 5 CFR § 737.27)

Dated: May 9, 1980.

Saul Katz,

Director, Office of Ethics, General Services Administration.

[FR Doc. 80–16499 Filed 5–29–80: 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 408, 409, and 440

Medicare Program; Hospital Insurance Entitlement and Benefits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would clarify, reorganize, and renumber existing regulations for hospital insurance (Part A of Medicare) that deal with eligibility and entitlement, scope of benefits and specific limitations, and the deductible and coinsurance amounts for which beneficiaries are responsible. It would also revise the regulations to implement a legislative amendment that affects entitlement of disabled individuals and to make four minor changes in policy applicable to persons who have end-stage renal disease.

This revision is part of Operation Common Sense and is intended to make our regulations easier to use.

DATES: In order to ensure consideration, comments should be received by July 29, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Md. 21235.

If you prefer, you man deliver comments to:
Room 309G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C. or

Room 789, East High Rise, 6401 Security Boulevard, Baltimore, Maryland

When commenting, please refer to BPP–9–P. Comments will be available for public inspection, beginning approximately 2 weeks from today in room 309G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (telephone 202–245–9870).

FOR FURTHER INFORMATION CONTACT: For eligibility policy—Harold Fishman, Telephone 301–594–9077. For coverage policy—Martin Horowitz, Telephone 301–594–9823

SUPPLEMENTARY INFORMATION:

Purpose and Scope of Revision

This proposal is part of our Operation Common Sense project to reorganize and revise existing regulations for clarity and simplicity and to eliminate unnecessary provisions. A notice published on April 16 (45 FR 25829) announced HCFA's plan to rewrite the Medicare regulations contained in 42 CFR Part 405 and to present them in several different parts. That notice also provided an outline of the proposed reorganization. Two of the new parts have already been established. Part 420, Program Integrity, was published on May 30, 1979 (44 FR 31138); and Part 489, Provider Agreements in Medicare, was published on April 4, 1980 (45 FR 22933).

This proposal would reorganize the content of §§ 405.101 through 405.133, 405.161, 405.180 and 405.181 and redesignate them under two new parts. Part 408 would contain policies on eligibility and entitlement. Part 409 would explain the scope of benefits, the limitations, and the deductible and coinsurance amounts for which a beneficiary is responsible. Each new part would begin with a brief explanation of the legal basis and scope of the part, and definitions of frequently used terms. The remaining sections of Part 405, Subpart A, deal with conditions and procedures for payment and will be recodified later under a new Part 411.

Except for the changes specifically noted in this preamble, the substantive provisions of this proposal are the same as those in existing regulations. Changes in organization and language are intended to clarify and explain without revising the existing policies.

A redesignation table is included to enable the reader to determine the proposed new location for the content of each section of current regulations.

Specific Changes

Disabled Widow or Widower

Section 408.12(b)(4) would implement Sec. 226(i)(4) of the Social Security Act, added by the Social Security Amendments of 1977 (P.L. 95–216). That section provides that a disabled widow or widower may be deemed entitled to monthly disability benefits retroactively for up to 10 months before filing an application for those benefits even though payment of the monthly benefits themselves may not be retroactive. The purpose of this provision is to enable the individual to count those earlier months toward the 25 months of disability entitlement required for entitlement to hospital insurance.

End-Stage Renal Disease

Four changes would be made in policies that apply to individuals with end-stage renal disease (ESRD). The first responds to comments received on final regulations published on September 28, 1978 (43 FR 44803). The other three are the result of further analysis of the impact of those regulations.

The first would provide for entitlement for a patient who begins self-dialysis training but dies before the end of the 3-month waiting period normally required for entitlement. (See § 408.13(e)(4)(iii).) The purpose of this change is to enable Medicare to pay for the part of training that was completed and for treatment furnished during that period. This would protect the facility against loss and the patient's family against medical debts.

The other three changes would:

1. Require that self-dialysis training provided by a facility specifically approved to provide such training. (See § 408.13(e)(4)(i).) This requirement would ensure that self-dialysis training meets quality and safety standards.

2. Require that anyone who seeks entitlement on the basis of ESRD must file an application. Pub. L. 95–292 added the requirement that ESRD patients must file application for Medicare. (Under the Act, such application may not be retroactive for more than 12 months.) Implementing regulations (42 CFR 405.104) were published on September 28, 1978 (43 FR 44802), to be effective October 1, 1978. The preamble to those regulations indicated that an application was not required for those who had ESRD before October 1, 1978. On further consideration, we have realized that the intent of the law was to require an application (with its attendant 12-month limitation on retroactivity) for all ESRD patients who first seek to establish entitlement to hospital insurance after the effective date of the amendment, which is self-implementing. Section 408.13(c) reflects this understanding and is consistent with the basic purpose of the ESRD program, i.e., to enable individuals to obtain currently needed care, rather than to pay (or to reimburse

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patients who paid) for medical care received many years in the past. The change is also necessary to preclude potential inequity. For example, under current regulations, an individual who had ESRD in July 1974 but delayed filing until July 1980 could become entitled retroactively for 6 years. An individual who developed ESRD in November 1978 but did not file an application until July 1980 could become entitled retroactively for only 1 year, to July 1979.

3. Delete the provision that permits an application to be filed on behalf of an ESRD patient after his or her death. This provision was put into effect in October 1978, along with the requirement to file an application. We now believe, however, that we lack authority for this policy. Under the Act, an individual must be alive when the application is filed, unless a specific legal provision permits otherwise. There is no such provision. We anticipate little if any hardship as a result of this change because of the very liberal social security rules. A simple written statement of intent to claim benefits, filed by or on behalf of a live patient, can be considered an application and ensure ample time (at least 6 months) for filing the prescribed application form, even if the ESRD patient dies in the meantime. (The rules about filing applications are set forth in 20 CFR Part 404, Subpart G.)

Clarification

Clarification was particularly needed with respect to the limitations on psychiatric care and the blood deductible.

Limitations on Psychiatric Care

Sections 409.52 and 409.53 would clarify that there is a 190-day lifetime limitation on inpatient psychiatric hospital care and that benefits during the initial benefit period may be reduced if the individual was receiving inpatient psychiatric hospital care on his or her first day of entitlement and had received such care during any of the immediately preceding 150 days. They would delete similar provisions that formerly applied to inpatient care in tuberculosis hospitals but were repealed by the 1967 amendments to the Social Security Act (Pub. L. 90–248).

Blood Deductible

Sections 409.60—409.64 would clarify policy on deductibles and coinsurance. Rules dealing with the blood deductible would:

- Specify that it applies to the first three pints of whole blood or units of packed red cells and that it does not apply to other blood components or to the costs of processing, storing, and administering blood;
- Set forth criteria for satisfying the blood deductible by a replacement offer.

A replacement offer would be acceptable if (1) the replacement blood would not endanger the health of a recipient and (2) the prospective donor's health would not be endangered by making a blood donation. The facility could not charge the beneficiary for any of the first three pints of blood or units of packed red cells for which it received a replacement offer that meets those criteria, even if it or its blood supplier rejected the offer.

Conforming Amendments

Section 440.40 of the Medicaid regulations, which deals with skilled nursing facility services for individuals under 21, would be amended to conform cross-references to the Medicare regulations.

Redesignation Table.—Part 405, Subpart A

Old Section	*New Section*
405.101(a)	409.3
405.101(b)	deleted
405.102	408.10
405.103	408.11
405.104	408.13
405.105	408.12
405.106(a) & (b)	408.20
405.106(c) & (c)(1)	408.21
405.106(c)(2)	408.23
405.106(c)(3)—Deleted as unnecessary. § 405.210 clearly applies only to individuals already entitled to Hospital Insurance. Reference to § 405.106 must be deleted from § 405.205.	
405.106(d)	408.22
405.110(a)...Deleted as inaccurate and unnecessary.	
405.110(a)(1) & (2)	409.51(a)(1)
405.110(b)	409.3
405.110(c)(1)	Deleted as outdated.
405.110(c)(2)	Deleted as redundant.
405.110(d)	409.52(a)
405.111.....Uncoded introduction...Deleted as unnecessary.	
405.111(a)	409.53(a)
405.111(b)	Deleted as outdated.
405.111(c) & (d)	409.53(a)
405.112	409.54
405.113	409.60
405.114	409.62
405.115	409.61
405.116	409.10
405.116(a)	409.10
405.116(b)	409.11
405.116(c)	409.12
405.116(d)(1)	409.13
405.116(d)(2)	409.14
405.116(e)	409.16
405.116(f)	409.15
405.116(g) and (h)	409.18
405.117	409.65
405.118(a)—language through "paragraph (c) of this section"	409.55(b)
405.118(a) remaining language—409.55(a)	
405.118(b)	409.55(c)
405.118(c)	409.55(d)
405.118(d)	409.55(e)
405.119	409.56
405.120(a)(1)—words "he was an inpatient for not less than 3 consecutive days"	409.30(a)
405.120(a)(1)—all other words...Deleted because mostly cross references or duplicative of content of § 409.30.	
405.120(a)(2)—First 2 sentences—Deleted at outdated.	
405.120(a)(2)—Last sentence—Deleted as unnecessary. The cited § 405.152 takes care of the matter.	
405.120(b)(1)—Deleted because 100-day limitation is explained in § 409.51(b).	
405.120(b)(2)	409.32
405.120(b)(3)—Deleted because the specifics of the cited sections are incorporated in § 409.31	
405.120(c)	409.30(a)
405.120(d)(2)—Words through the 3rd and final October 30, 1972"—Deleted as unnecessary. Since (d)(1), which dealt with admissions *before* 10/30/72, was deleted, there is only one set of requirements.	
405.120(d)(2)—remaining words through (d)(2)—409.30(c)	
405.120(d)(3)—Words through the parenthetical statement—Deleted as unnecessary (a calendar day is a calendar day).	
405.120(d)(3).....Remaining words	409.32
405.120(e)—Deductible and coinsurance amount—§§ 409.60 and 409.61	
405.122	409.54
405.123	409.62
405.124	409.64
405.125	409.20
405.126.....Uncoded introduction...Deleted as unnecessary.	
405.126(a) & (b)	409.31
405.127(a)	409.31
405.127(b)	409.32
405.127(c) & (d)	409.33
405.128	409.34
405.128a	409.35
405.130	409.44
405.131—Uncoded introduction (and specifics taken from 405.236)—409.40(a)	
405.131(a)–(f)	409.40(b)
405.133(a)	409.48(a) & (c)
405.133(b)	409.48(b) & (f)
405.133(c)	409.48(d)
405.133(d)	409.48(e)
405.161	409.58
405.180	408.30
405.181	408.31

The remaining sections of Subpart A deal with other matters and will be recodified later.

42 CFR Chapter IV is amended as set forth below:

1. In Part 405, Subpart A, the subpart title is revised, a new § 405.100 is added, §§ 405.101 through 405.133, 405.161, 405.180 and 405.181 are vacated and the table of contents is amended accordingly.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart A—Payment of Hospital Insurance Benefits

Sec.
405.100 Scope.
405.101–405.106 [Vacated. See Part 408 of this chapter.]
405.110–405.133 [Vacated. See Part 409 of this chapter.]
* * * * *
405.161 [Vacated. See Part 409 of this chapter.]
* * * * *
405.180–405–181 [Vacated. See Part 408 of this chapter.]
* * * * *

2. A new § 405.100 is added to read as follows:

§ 405.100 Scope.

This subpart deals only with conditions and procedures for payment of hospital insurance benefits (Part A of Medicare). Provisions dealing with eligibility and entitlement are set forth in Part 409 of this chapter. Provisions dealing with the scope of the benefits are set forth in Part 408 of this chapter.

3. The content of §§ 405.101–405.133, 405.161, 405.180, and 405.181 is revised and redesignated under new Parts 408 and 409.

4. A new Part 408 is added to read as follows:

PART 408—ELIGIBILITY AND ENTITLEMENT

Subpart A—Hospital Insurance

General Provisions

Sec.
408.1 Statutory basis.
408.2 Scope.
408.3 Definitions.
408.5 Bases of eligibility and entitlement.
408.6 Application or enrollment.

Hospital Insurance Without Premiums

408.10 Individual age 65 or over who is entitled to social security or railroad retirement benefits.
408.11 Individual age 65 or over who is not entitled to social security or railroad retirement benefits.
408.12 Individual under age 65 who is entitled to social security or railroad retirement disability benefits.
408.13 Individual who has end-stage renal disease.

Premium Hospital Insurance

408.20 Basic requirements.
408.21 Enrollment and entitlement.
408.22 Monthly premiums.
408.23 Termination of entitlement.
408.25 Prejudice to enrollment rights because of Federal Government error.

Special Circumstances That Affect Entitlement

408.30 Nonpayment of benefits on behalf of certain aliens.
408.31 Conviction of subversive activities.

Authority: Secs. 202(t) and (u), 226, 226A, 1102, and 1818 of the Social Security Act (42 U.S.C. 402(t) and (u), 426, 426A, 1302 and 1395 i–2; Section 103 of Pub. L. 89–97 (42 U.S.C. 426a)).

Subpart A—Hospital Insurance

General Provisions

§ 408.1 Statutory basis.

Sections 226, 226A, and 1818 of the Social Security Act and section 103 of Pub. L. 89–97 establish the conditions for entitlement to hospital insurance benefits. Sections 202 (t) and (u) of the Act specify limitations that apply to certain aliens and to persons convicted of certain offenses.

§ 408.2 Scope.

This subpart specifies the conditions of eligibility for hospital insurance and sets forth certain specific conditions that affect entitlement to benefits. Hospital insurance is authorized under Part A of Title XVIII and is also referred to as Medicare Part A. It includes inpatient hospital care, posthospital skilled nursing facility care, and posthospital home health services.

§ 408.3 Definitions.

"Benefits," "Hospital insurance benefits" or *"Part A benefits"* means payments on behalf of, and in rare circumstances directly to, an entitled individual for services that are covered under Part A of Title XVIII. *"Entitled"* means that an individual meets all the requirements for Part A benefits.

"First month of eligibility" means the first month in which an individual meets all the requirements for entitlement to hospital insurance except application or enrollment if that is required.

"First month of entitlement" means the first month for which the individual is entitled to Part A benefits.

"Insured individual" means an individual who has the number of quarters of coverage required for monthly social security benefits.

"Medicare Part A" means the program authorized under Part A of title XVIII of the Act.

"Quarter of coverage" means a calendar quarter that is counted toward the number of covered quarters required to make the individual eligible for monthly social security benefits. A quarter is counted if during that quarter (or that calendar year) the individual earned a required minimum amount of money. (For details, see 20 CFR Part 404, Subpart B.)

"Railroad retirement benefits" means monthly benefits payable to individuals under the Railroad Retirement Act of 1974 (45 U.S.C. beginning at section 231).

"Social security benefits" means monthly cash benefits payable under section 202 or 223 of the Social Security Act.

§ 408.5 Bases of eligibility and entitlement.

(a) *Hospital insurance without premiums.* Hospital insurance is available to most individuals without payment of a premium if they:

(1) Are age 65 or over; or

(2) Have received social security or railroad retirement disability benefits for 25 consecutive months; or

(3) Have end-stage renal disease. Sections 408.10 through 408.13 explain the requirements such individuals must meet to obtain hospital insurance without premiums.

(b) *Premium hospital insurance.* Many individuals who are age 65 or over, but do not meet the requirements set forth in §§ 408.10 through 408.13, may obtain the benefits by paying a premium. Section 408.20 of this part explains the requirements individuals must meet to obtain premium hospital insurance.

§ 408.6 Application or enrollment.

(a) *Application for monthly cash benefits.*

In most cases, eligibility for Medicare Part A is a result of entitlement to monthly social security or railroad retirement cash benefits. Accordingly—

(1) An individual who is already entitled to monthly cash benefits when he or she meets the eligibility requirements for Medicare need not file a separate application for Medicare Part A; but

(2) An individual who has reached age 65 without applying for monthly cash benefits must apply for those benefits in order to become entitled to Part A benefits.

(b) *Application or enrollment for hospital insurance.*

(1) An individual must file an application for hospital insurance if he or she seeks entitlement on the basis of—

(i) The transitional provisions set forth in § 408.11;

(ii) Deemed entitlement to disabled widow's or widower's benefit under certain circumstances as provided in § 408.12; or

(iii) A diagnosis of end-stage renal disease, as specified in § 408.13.

(2) An individual who must pay a monthly premium for hospital insurance

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must enroll in accordance with the procedures set forth in § 408.21.

Hospital Insurance Without Premiums

§ 408.10 Individual age 65 or over who is entitled to social security or railroad retirement benefits.

(a) *Requirements.*

An individual is entitled to hospital insurance benefits under Section 226 of the Act if he or she has attained age 65 and is:

(1) Entitled to monthly social security benefits under section 202 of the Social Security Act; or

(2) A qualified railroad retirement beneficiary who has been certified as such to the Social Security Administration by the Railroad Retirement Board in accordance with section 7(d) of the Railroad Retirement Act of 1974.

(d) *Beginning and end of entitlement.*

(1) Entitlement begins with the first day of the first month in which the individual meets the requirements of paragraph (a) of this section.

(2) Entitlement continues until the individual dies or no longer meets the requirements of paragraph (a) of this section. Although an individual is not entitled to social security or railroad retirement benefits for the month in which he or she dies, he or she is entitled to hospital insurance for that month if he or she would have been entitled to monthly benefits if he or she had not died.

§ 408.11 Individual age 65 or over who is not eligible for social security or railroad retirement benefits.

(a) *Basis.* Section 103 of the law that established the Medicare program in 1965 (Pub. L. 89–97) provided for eligibility for certain individuals who were age 65 or would soon attain age 65 but would not be able to qualify for social security or railroad retirement benefits.

(b) *Requirements.* Unless he or she is excluded under paragraph (c) of this section, an individual age 65 or over who does not meet the requirements of § 408.10 (and who would not meet those requirements if he or she filed an application), is entitled to Medicare Part A benefits if he or she meets the following requirements:

(1) *Age and quarters of coverage.*

(i) He or she attained age 65 before 1968; or

(ii) If he or she attained age 65 in 1968 or later, he or she must have at least 3 quarters of coverage for each year that elapsed after 1966 and before the year in which he or she attained age 65. (The quarters of coverage may have been acquired at any time, not necessarily during the elapsed years.)

(2) *Residence and citizenship.* He or she is a resident of the United States and—

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has continuously resided in the United States for 5 years immediately preceding the first month in which he or she meets all other requirements for entitlement to hospital insurance.

(3) *Application.* He or she has filed an application for Medicare Part A no earlier than the 3 months before the first month of eligibility.

(c) *Bases for exclusion.* An individual who meets the requirements of paragraph (b) of this section is excluded from Medicare Part A if he or she—

(1) Has been convicted of spying, sabotage, or treason, sedition, and subversive action under chapter 37, 105, or 115 of title 18 of the United States Code;

(2) Has been convicted of conspiracy to establish a dictatorship, spying or sabotage, or assisting others wanted in connection with spying or sabotage, or under section 4 of the Internal Security Act of 1950;

(3) On February 16, 1965, was or could have been covered under the Federal Employees Health Benefits Act (FEHBA) of 1959; or

(4) In his or her first month of eligibility:

(i) Is covered by an enrollment under the FEHBA; or

(ii) Could have been covered by an enrollment under that Act if he or she (or any other person who could provide him or her with coverage) was a Federal employee at any time after February 15, 1965, and had enrolled and retained coverage under that Act.

(d) *End of exclusion.* An individual excluded under paragraph (c)(3) or (4) of this section can become entitled beginning with the first month in which he or she loses the right to FEHBA coverage solely because he or she or the other person leaves Federal employment.

(e) *Beginning and end of entitlement.*

(1) Entitlement begins—

(i) In the first month of eligibility if the application is filed no later than 12 months after the first month of eligibility;

(ii) In the 12th month before the month of application if the application is filed more than 12 months after the first month of eligibility.

(2) Entitlement continues until death or until the month before the month in which the individual becomes eligible under § 408.10.

§ 408.12 Individual under age 65, who is entitled to social security or railroad retirement disability benefits.

(a) *Basic requirements.*

An individual under age 65 is entitled to hospital insurance benefits if, for 25 consecutive months, he or she has been—

(1) Entitled or deemed entitled to social security disability benefits as an insured individual, child, widow, or widower who is "under a disability"; or

(2) A disabled qualified beneficiary certified under Section 7(d) of the Railroad Retirement Act.

(b) *Deemed entitlement to disabled widow's or widower's monthly benefits.*

(1) *Purpose.* The provisions of paragraphs (b) (2), (3), and (4) of this section are intended to enable individuals—

(i) To meet the 25-month requirement of paragraph (a) of this section; or

(ii) To retain hospital insurance entitlement when they are no longer entitled to monthly disability benefits.

(2) *Deemed entitlement for certain individuals entitled to old-age insurance benefits.*

An individual who becomes entitled to monthly old-age insurance benefits before age 65 is, by law, precluded from establishing or retaining entitlement to disabled widow's or widower's monthly benefits. However, for purposes of meeting the 25-month requirement, a widow or widower who meets all other requirements for disability benefits and is excluded solely because of entitlement to old-age insurance benefits, shall be deemed to be (or to continue to be) entitled to disability benefits. A widow or widower who is not entitled to disability benefits for the month before attaining age 60 must file two applications, one for old-age insurance benefits and one for hospital insurance.

(3) *Deemed entitlement for certain individuals entitled to mother's benefits.*

An individual entitled to mother's insurance benefits under section 202(g) of the Social Security Act cannot at the same time be entitled to disabled widow's benefits. However, if she applies for hospital insurance, she will be deemed to be entitled to disabled widow's monthly benefits in the first month (of the 12 months before application) in which she would have been entitled to those benefits if she had filed an application for them.

(4) *Deemed retroactive entitlement for certain disabled widows and widowers.*

In some cases, disabled widows or widowers cannot become entitled to monthly cash benefits before the month in which they file application. However, for purposes of meeting the 25-month requirement, disability benefit entitlement will be deemed to have begun with the earliest month (of the 12 months before the application for cash benefits) in which the individual met all the requirements except the filing of an application.

(c) *When entitlement begins and ends.*

Entitlement to hospital insurance begins with the 25th consecutive month of an individual's entitlement or deemed entitlement to disability benefits and ends with the earliest of the following:

(1) The last day of the last month in which he or she was entitled or deemed entitled to disability benefits or was qualified as a disabled railroad retirement beneficiary, if he or she was notified of the termination of entitlement before that month.

(2) the last day of the month following the month in which he or she is mailed a notice that his or her entitlement or deemed entitlement to disability benefits or his or her status as a qualified disabled railroad retirement beneficiary has ended.

(3) The last day of the month before the month he or she attains age 65. (An individual who is entitled to social security or railroad retirement benefits for the month of attainment of age 65 is automatically entitled to hospital insurance under § 408.10.)

§ 408.13 Individual who has end-stage renal disease.

(a) *Statutory basis and applicability.* This section explains the conditions of entitlement to hospital insurance benefits on the basis of end-stage renal disease, and specifies the beginning and end of the period of entitlement. It implements section 226A of the Social Security Act.

(b) *Definitions.* As used in this section:

"End-stage renal disease" (ESRD) means that stage of kidney impairment that appears irreversible and permanent and requires a regular course of dialysis or kidney transplantation to maintain life.

"Child" or *"spouse"* means a child or spouse whose relationship to the parent or spouse meets the relationship requirements for entitlement to child's monthly social security benefits or to wife's, husband's, widow's, widower's, mother's or father's monthly benefits, as set forth in 20 CFR Part 404. However, the duration of relationship requirements apply only to divorced spouses. (See 20 CFR 404.331.)

"Dependent child" means a person who, on the first day he or she has end-stage renal disease, is unmarried and meets the dependency requirements for entitlement to child's social security benefits on the basis of a parent's earnings (see 20 CFR 404.350–404.365) and:

(1) Is under age 22;

(2) Is under a disability that began before age 22; or

(3) Is under age 26, is receiving at least one-half support from that parent, and has continuously received at least one-half support from that parent since the day before attaining age 22.

"One-half support" means regular contributions, in cash or in kind, that equals or exceeds one-half of the child's total support.

(c) *Requirements.* An individual is entitled to hospital insurance benefits if—

(1) He or she is medically determined to have ESRC;

(2) He or she is:

(i) Fully or currently insured under the social security program (title II of the Act) or would be fully or currently insured if his or her employment (after 1936) as defined under the Railroad Retirement Act were considered "employment" under the Social Security Act;

(ii) Entitled to monthly social security or railroad retirement benefits; or

(iii) The spouse or dependent child of a person who meets the requirements of paragraph (c)(2)(i) of (c)(2)(ii) of this section;

(3) He or she has filed an application for Medicare Part A; and

(4) He or she has satisfied the waiting period explained in paragraph (e) of this section.

(d) *Filing an application.*

(1) An individual may obtain an application form, and help in completing it, from any social security office.

(2) An application is not valid if it is filed earlier than the third month before the month in which the individual meets the conditions of paragraphs (c)(1) and (c)(2) of this section.

(3) If an individual who has ESRD is unable to file because of physical or mental condition, a relative or other person responsible for his or her affairs may file in his or her behalf. If such relative or other person is not available, the hospital or dialysis facility that furnished treatment may file the application. (The rules about filing applications are set forth in 20 CFR Part 404, Subpart G.)

(e) *Beginning of entitlement.*

(1) *Basic limitations.* Entitlement can begin no earlier than the first month in which the individual meets the conditions specified in paragraph (c) of this section, or the 12th month before the month of application, whichever is later.

(2) *Waiting period.* Entitlement begins on the first day of the third month after the month in which the individual initiates a regular course of renal dialysis, if the course is maintained throughout the waiting period, unless entitlement would begin earlier under paragraph (e) (3) or (4) of this section. This means that if dialysis began in January, entitlement would begin April 1.

(3) *Exceptions: Early kidney transplant.* If the individual receives a transplant, entitlement begins with the first day of the month in which the transplant was performed. However, if the individual is admitted as an inpatient to a hospital that is an approved renal transplantation center or renal dialysis center (see § 405.2102) for procedures preliminary to transplant surgery, entitlement begins.

(i) On the first day of the month in which he or she initially enters the hospital, if the transplant is performed in that month or in either of the next 2 months; or

(ii) On the first day of the second month before the month of kidney transplantation, if the transplant is delayed more than 2 months after the month of initial hospital stay.

For example, if an individual enters the hospital in January February, or March, and the transplant is performed in March, entitlement would begin January 1. However, if the transplant is performed in April, entitlement would begin February 1.

(4) *Exceptions: Self-dialysis training.* Entitlement begins on the first day of the month in which a regular course of renal dialysis began if:

(i) Before the end of the waiting period, the individual participates in a self-dialysis training program offered by a participating Medicare facility that is approved to provide such training;

(ii) The patient's physician has certified that it is reasonable to expect the individual will complete the training program and will self-dialyze on a regular basis; and

(iii) The regular course of dialysis is maintained throughout the time that would otherwise be the waiting period (unless it is terminated earlier because the individual dies).

(f) *End of entitlement.* Entitlement ends with:

(1) The end of the 12th month after the month in which a course of dialysis ends, unless the individual receives a kidney transplant during that period or begins another regular course of dialysis; or

(2) The end of the 36th month after the month in which the individual has received a kidney transplant, unless the individual receives another kidney

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transplant or begins a regular course of dialysis during that period.

(g) *Resumption of entitlement.* An individual who initiates dialysis more than 36 months after the month of a kidney transplant or resumes dialysis more than 12 months after the month a previous course of dialysis ended must submit a new application but need not serve a waiting period. If he or she is otherwise entitled under the conditions specified in paragraph (c) of this section, and files an application, entitlement begins with the month in which dialysis is initiated or resumed, subject to the limitations of paragraph (e)(1) of this section.

Premium Hospital Insurance

§ 408.20 Basic requirements.

(a) *General provisions.* Hospital insurance benefits are available to most individuals age 65 or over who do not qualify for those benefits under sections 408.10 through 408.13 of this subpart and are willing to pay a monthly premium. This is called premium hospital insurance.

(b) *Eligibility to enroll for premium hospital insurance.*

An individual is eligible to enroll for Medicare Part A if he or she meest the following conditions:

(1) He or she has attained age 65;

(2) He or she is a resident of the United States and is either—

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has resided in the United States continuously for the 5-year period immediately preceding the month in which he or she meets all other requirements;

(3) He or she is not eligible for Part A benefits under §§ 408.10—408.13; and

(4) He or she is entitled to supplementary medical insurance (Part B of Medicare) or is eligible and has enrolled for it during an enrollment period.

§ 408.21 Enrollment and entitlement.

(a) *Basic provision.* An individual who meets the requirements of § 408.20(b) may enroll for premium hospital insurance only during his or her "initial enrollment period" or a "general enrollment period," as set forth in paragraphs (b) through (d) of this section.

(b) *Initial enrollment period.*

(1) *Duration.*

The initial enrollment period extends for 7 months, from the third month before the month the individual first meets the requirements of paragraph (b) of § 408.20 through the third month after that first month of eligibility.

(2) *Effect of month of enrollment on entitlement.*

(i) If the individual enrolls during the 3 months before the first month of eligibility, entitlement begins with the first month of eligibility.

(ii) If the individual enrolls in the first month of eligibility, entitlement begins with the following month.

(iii) If the individual enrolls during the month after the first month of eligibility, entitlement begins with the second month after the month of enrollment.

(iv) If the individual enrolls in either of the last 2 months of the enrollment period, entitlement begins with the third month after the month of enrollment.

(c) *General enrollment period.*

(1) The general enrollment period extends from January 1 to March 31 of each calendar year.

(2) General enrollment periods are for individuals who fail to enroll during their initial enrollment periods or whose previous period of entitlement has terminated.

(3) If the individual enrolls or reenrolls during a general enrollment period, his or her entitlement begins on July 1 of the calendar year.

(d) *"Deemed" initial enrollment period.*

(1) If an individual fails to enroll during the initial enrollment period because of reliance on incorrect documentary information which led him or her to believe that he or she was not yet age 65, an initial enrollment period may be established for him or her as though he or she had attained age 65 on the date indicted by the incorrect documentary information.

(2) The deemded initial enrollment period will be used to determine the individual's premium and right to enroll in a general enrollment period if such use is advantageous to the individual.

(e) *Limitation on number of enrollments.*

No individual may enroll for premium hospital insurance more than twice.

§ 408.22 Monthly premiums.

(a) *General provisions.*

(1) For months before July 1974, the monthly premium was $33.

(2) For months after June 1974, premiums have been determined for each 12-month period beginning July 1, and published in the **Federal Register** during the last quarter of the preceding calendar year.

(b) *Monthly premiums: Determination of dollar amount.*

(1) The dollar amount is determined by multiplying $33 by the ratio of next year's inpatient deductible to $76, which was the inpatient deductible determined for 1973. (Because of cost controls, the deductible actually charged for that year was $72.)

(2) The amount determined by the mathematical formula is rounded to the nearest multiple of $1. (Fifty cents is rounded to the next higher dollar.)

(c) *Monthly premiums: Effect of delayed enrollment.*

For an individual who enrolls after the close of the initial enrollment period or reenrolls, the amount of the monthly premium, as determined under paragraph (b) of this section, is increased by 10% for each full 12 months in the period that includes—

(1) The number of months elapsed between the end of the initial enrollment period and the end of the general enrollment period in which the individual first enrolled; plus

(2) The number of months elapsed between the end of the initial period of entitlement and the close of the general enrollment period in which he or she reenrolled.

(d) *Collection of monthly premiums.*

(1) HCFA will bill the enrollee on a monthly basis and include an addressed return envelope with the bill.

(2) The enrollee must pay by check or money order that is payable to "HCFA Medicare Insurance," and shows his or her name and the claim number that appears on his or her Medicare card. He or she must return the bill with the check or money order.

§ 408.23 Termination of entitlement.

Any of the following actions or events will terminate entitlement:

(a) *Filing of request for termination.*

The beneficiary may at any time give HCFA or the Social Security Administration written notice that he or she no longer wishes to participate in the premium hospital insurance program.

(1) If he or she files the notice before entitlement begins, he or she will be deemed not to have enrolled.

(2) If he or she files the notice after entitlement begins, that entitlement will end at the close of the month following the month in which he or she filed the notice.

(b) *Eligibility for hospital insurance without premiums.*

(1) If an individual meets the eligibility requirements for hospital insurance specified in § 408.10 or § 408.11, entitlement to premium hospital insurance ends with the month before the month in which he or she meets those requirements.

(2) If an individual meets the requirements of § 408.10 or § 408.11, he or she will be deemed to have filed the required application for hospital

insurance benefits in his or her first month of eligibility under that section.

(c) *Termination of supplementary medical insurance.*

If an individual's entitlement to supplementary medical insurance ends for any reason, entitlement to premium hospital insurance will end on the same date.

(d) *Nonpayment of premium.*

(1) If an individual fails to pay the initial premium bill, entitlement will end on the last day of the third month after the month that premium was due.

(2) If an individual fails to pay a subsequent premium bill, entitlement will end on the last day of the second month after the month payment was due.

(3) If an individual shows good cause for failure to pay on time, HCFA may grant an additional 3 calendar months to pay overdue premiums.

§ 408.25 Prejudice to enrollment rights because of Federal Government error.

(a) If an individual's enrollment or nonenrollment for premium hospital insurance is unintentional, inadvertent, or erroneous because of the error, misrepresentation, or inaction of a Federal employee, or any person authorized by the Federal Government to act on its behalf, the Social Security Administration or HCFA may take whatever action it determines is necessary to provide appropriate relief.

(b) The action may include—

(1) Designation of a special initial or general enrollment period;

(2) Designation of an entitlement period;

(3) Adjustment of premiums;

(4) Any combination of the actions specified in paragraph (b) (1) through (3) of this section; or

(5) Any other remedial action which may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

Special Circumstances That Affect Entitlement

§ 408.30 Nonpayment of benefits on behalf of certain aliens.

(a) Hospital insurance benefit payments may not be made for services furnished to an alien in any month in which his or her monthly social security benefits are suspended (or would be suspended if he or she were entitled to those benefits) because the alien remains outside the United States for more than 6 months.

(b) Benefits will be payable beginning with services furnished in the first full calendar month the alien is back in the United States.

§ 408.31 Conviction of certain offenses.

(a) *Penalty that affects entitlement.*

(1) If an individual is convicted of any of the crimes listed in § 408.11(c)(1) and (2), the court may impose, in addition to all other penalties, a penalty that affects entitlement to hospital insurance, beginning with the month of conviction.

(2) The additional penalty is that the individual's income (or the income of the insured individual on whose earnings record he or she became or seeks to become entitled) for the year of conviction and any previous year may not be counted in determining the insured status necessary for entitlement to hospital insurance.

(b) *Effect of pardon.*

If the President of the United States pardons the convicted individual, that individual regains (or may again seek) entitlement effective with the month following the month in which the pardon is granted.

5. A new Part 409 is added, to read as follows:

PART 409—BENEFITS, LIMITATIONS, AND EXCLUSIONS

Subpart A—Hospital Insurance

General Provisions

Sec.
409.1 Statutory basis.
409.2 Scope.
409.3 Definitions.
409.5 General description of benefits.

Inpatient Hospital Services

409.10 Included services.
409.11 Bed and board.
409.12 Nursing and related services; medical social services; use of hospital facilities.
409.13 Drugs and biologicals.
409.14 Supplies, appliances, and equipment.
409.15 Services furnished by an intern or a resident-in-training.
409.16 Other diagnostic and therapeutic services.
409.18 Services related to kidney transplantations.
409.20 Included services.

Extended Care Services

409.21 Excluded services.
409.22 Bed and board.
409.23 Physical, occupational, and speech therapy.
409.24 Drugs and biologicals.
409.25 Supplies, appliances, and equipment.
409.26 Services furnished by an intern or a resident-in-training.
409.27 Other diagnostic or therapeutic services.

Requirements for Coverage of Extended Care Services

409.30 Basic requirements.
409.31 Level of care requirement.
409.32 Criteria for skilled services and the need for skilled services.
409.33 Examples of skilled nursing and rehabilitation services.
409.34 Criteria for "daily basis."
409.35 Criteria for "practical matter."
409.36 Effect of discharge from SNF.

Home Health Services

409.40 Included services.
409.41 Excluded services.
409.42 Requirements and conditions for home health services.
409.43 Home health service visit.
409.44 Home health services under Medicare Part B.
409.45 Option for beneficiaries who need physical or speech therapy.

Presumed Coverage

409.48 Presumed coverage based on medical condition or type of service.

Scope of Benefits

409.50 Benefit periods.
409.51 General limitations on amounts of benefits.
409.52 Lifetime maximum on inpatient psychiatric care.
409.53 Reduction on inpatient psychiatric benefit days available in the initial benefit period.
409.54 Services that are counted toward allowable amounts.
409.55 Lifetime reserve days.
409.56 Revocation of election not to use lifetime reserve days.
409.58 Guarantee of payment for inpatient hospital services furnished prior to notification of exhaustion of benefits.

Deductibles and Coinsurance

409.60 Inpatient deductibles and coinsurance: General provisions.
409.61 Inpatient hospital deductible.
409.62 Inpatient hospital coinsurance.
409.63 Skilled nursing facility (SNF) coinsurance.
409.64 Blood deductible.
409.65 Exemption of kidney donors from deductible and coinsurance requirements.

Authority: Secs. 1102, 1812, 1813, 1814, 1861, 1866, 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395f, 1395x, 1395cc, 1395hh, and 1395rr).

Supart A—Hospital Insurance

General Provisions

§ 409.1 Statutory basis.

Sections 1812 and 1813 of the Social Security Act establish the scope of benefits of the hospital insurance program under Medicare Part A and set forth the deductible and coinsurance requirements.

§ 409.2 Scope.

This subpart describes the benefits available under Medicare Part A and sets forth the limitations on those benefits, including certain amounts of payment for which beneficiaries are responsible.

§ 409.3 Definitions.

As used in this subpart, unless the context indicates otherwise—

"*Arrangements*" means arrangements must be met, as specified in the

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"*Arrangements*" means arrangements which provide that Medicare payment made to the provider that arranged for the services discharges the liability of the beneficiary or any other person to pay for those services.

"*Covered*" refers to services for which the law and the regulations authorize Medicare payment.

"*HHA*" stands for home health agnecy.

"*Participating*" refers to a hospital or other facility that meets the conditions of participation and has in effect a Medicare provider agreement.

"*Qualified hospital*" means a facility that—

(1) Is primarily engaged in providing, by or under the supervision of doctors of medciane or osteopathy, impatient services for the diagnosis, treatment, and care or rehabilitation of persons who are sick, injured, or disabled;

(2) Is not primarily engaged in providing skilled nursing care and related services for impatients who require medical or nursing care;

(3) Provides 24-hour nursing service in accordance with Sec. 1861(e)(5) of the Act;

(4) If it is a U.S. hospital, is licensed, or approved as meeting the standards for licensing, by the State or local licensing agency; and

(5) If it is a foreign hospital, is licensed, or approved as meeting the standard for licensing, by the appropriate Canadian or Mexican licensing agency, and for purposes of furnishing non-emergency services to U.S. residents, is accredited by the Joint Commission on Accreditation of Hospitals (JCAH), or by a Canadian or Mexican program under standards that HCFA finds to be equivalent to those of the JCAH.

"*Services*" means medical care or services and items, such as medical diagnosis and treatment, drugs, and biologicals, supplies, appliances, and equipment, medical social services, and use of hospital or SNF facilities.

"*SNF*" stands for skilled nursing facility.

§ 409.5 General description of benefits.

Hospital insurance (Part A of Medicare) helps pay for inpatient hospital services. It also pays for extended care services in a SNF and for home health visits when these services are provided after a stay in a hospital or SNF. There are limitations on the number of days of care and visits that Medicare can pay for and there are deductible and coinsurance amounts for which the beneficiary is responsible. For each type of service, certain conditions must be met, as specified in the pertinent sections of this subpart.

The special conditions for impatient hospital services furnished by a qualified U.S., Canadian, or Mexican hospital are set forth in Part 411, Subparts E and F of this chapter.

Inpatient Hospital Services

§ 409.10 Included services.

Subject to the conditions, limitations, and exceptions in §§ 409.11 through 409.18, the term "inpatient hospital services" means the following items and services furnished to an inpatient of a participating hospital or, in the case of emergency services or services in foreign hospitals, to an inpatient of a qualified hospital:

(a) Bed and board;

(b) Nursing services and other related services;

(c) Use of hospital facilities;

(d) Medical social services;

(e) Drugs, biologicals, supplies, appliances, and equipment;

(f) Certain other diagnostic or therapeutic services; and

(9) Medical or surgical services provided by certain interns or residents-in-training.

§ 409.11 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for bed and board and semiprivate (2 to 4 beds), or ward (5 or more beds) accomodations.

(b) *Private accommodations.* (1) *Conditions for payment in full.* Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for a private room if—

(i) The patient's condition requires him or her to be isolated;

(ii) The hospital has no semiprivate or ward accommodations; or

(iii) The hospital's semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the hospital for treatment of a condition that required immediate inpatient hospital care, and have been so occupied during the interval.

(2) *Period of payment.* In the situations specified in paragraph (b)(1) (i) and (iii) of this section, Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The hospital may charge the patient the difference between its customary charge for the private room and its most prevalent charge for a semiprivate room if—

(i) The conditions of paragraph (b)(1) of this section are not met; and

(ii) The private room was requested by the patient or a member of the family, who, at the time of the request, was informed what the hospital's charge would be.

§ 409.12 Nursing and related services; medical social services; use of hospital facilities.

(a) Medicare pays for nursing and related services, use of hospital facilities, and medical social services as inpatient hospital services only if those services are ordinarily furnished by the hospital for the care and treatment of inpatients.

(b) Except as specified in paragraph (c) of this section, Medicare does not pay for the services of a private duty nurse or attendant.

(c) Medicare pays for services furnished by a nurse or attendant who is a bona fide employee of the hospital during the time he or she provides the services. Medicare pays for the services of a private duty nurse or attendant employed by the hospital only if the beneficiary's condition requires such services.

§ 409.13 Drugs and biologicals.

(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as inpatient hospital services only if—

(1) They represent a cost to the hospital;

(2) They are ordinarily furnished by the hospital for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the hospital.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the hospital if it is medically necessary to facilitate the beneficiary's departure from the hospital and required until he or she can obtain a continuing supply.

§ 409.12 Supplies, appliances, and equipment.

(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as inpatent hospital services only if—

(1) They are ordinarily furnished by the hospital to inpatents; and

(2) They are furnished to inpatents for use in the hospital.

Exceptions. Medicare pays for items to be used beyond the hospital stay if—

(1) The item is one that the benficiary must continue to use after he or she leaves the hospital, for example, heart valves or a heart pacemaker; or

(2) The item is medically necessary to permit or facilitate the beneficiary's departure from the hospital and is

required until the beneficiary can obtain a continung supply. Tracheostomy or draining tubes are examples.

§ 409.15 Services furnished by an intern or a resident-in-training.

Medical or surgical sevices provided by an intern or a resident-in-training are included as "inpatent hospital services" if they are provided—

(a) By an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association, or the Bureau of Professional Education of the American Osteopathic Association;

(b) By an intern or a resident-in-training in the field of dentistry under a teaching program approved by the Council on Dental Education of the American Dental Association; or

(c) By an intern or a resident-in-training in the field of podiatry under a teaching program approved by the Council on Podiatry Education of the American Podiatry Association.

§ 409.16 Other diagnostic or therapeutic services.

Diagnostic or therapeutic items or services other than those provided for in §§ 409.12, 409.13, and 409.15 are considered as inpatient hospital services if—

(a) They are furnished by the hospital, or by others under arrangements made by the hospital;

(b) Billing for those services is through the hospital; and

(c) The services are of a kind ordinarily furnished to inpatients either by the hospital or under arrangements made by the hospital.

§ 409.18 Services related to kidney transplantations.

(a) *Kidney transplants.* Medicare pays for kidney transplantation surgery only if performed in a renal transplantation center approved under Subpart U of Part 405 of this chapter.

(b) *Services in connection with kidney donations.* Medicare pays for services related to the evaluation or preparation of a potential or actual donor, to the donation of the kidney, or to post-operative recovery services directly related to the kidney donation—

(1) If the kidney is intended for an individual who has ESRD and is entitled to Medicare benefits or can be expected to become so entitled within a reasonable time; and

(2) Regardless of whether the donor is entitled to Medicare.

Extended Care Services

§ 409.20 Included services.

Subject to the conditions and limitations set forth in §§ 409.21–409.35, posthospital "extended care services" means the following services furnished to an inpatient of a participating SNF:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Bed and board in connection with the furnishing of that nursing care;

(c) Physical, occupational, or speech therapy;

(d) Medical social services;

(e) Drugs, biologicals, supplies, appliances, and equipment;

(f) Certain medical services provided by an intern or a resident-in-training;

(g) Certain other diagnostic or therapeutic services; and

(h) Other services that are necessary to the health of the patient and are generally provided by SNFs.

§ 409.21 Excluded services.

(a) *Services that are not considered inpatient hospital services.* No service is included as an extended care service if it would not be included as an inpatient hospital service under §§ 409.11 through 409.18.

(b) *Services not generally provided.* Except as specifically listed in §§ 409.22 through 409.27, only those services generally provided by SNFs are considered as extended care services. For example, if an individual is furnished the use of an operating room by a SNF, that service is not included as an "extended care service" because SNFs generally do not maintain operating rooms.

§ 409.22 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations.*

(1) *Conditions for payment in full.* Medicare pays in full for a private room if—

(i) The patient's condition requires him to be isolated;

(ii) The SNF has no semiprivate or ward accommodations; or

(iii) The SNF semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the SNF for treatment of a condition that required immediate inpatient SNF care, and have been so occupied during the interval.

(2) *Period of payment.*

In the situations specified in paragraph (b)(1) (i) and (iii) of this section, Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The SNF may charge the patient the difference between its customary charge for the private room furnished and its most prevalent charge for a semiprivate room if:

(i) The conditions of paragraph (b)(1) of this section are not met; and

(ii) The private room was requested by the patient or a member of the family who, at the time of request, was informed what the SNF's charge would be.

§ 409.23 Physical, occupational, and speech therapy.

Medicare pays for physical, occupational, or speech therapy as extended care services if—

(a) It is furnished by the SNF or under arrangements made by the SNF; and

(b) Billing for the therapy is by or through the SNF.

§ 409.24 Drugs and biologicals.

(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as extended care services only if—

(1) They represent a cost to the SNF;

(2) They are ordinarily furnished by the SNF for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the SNF.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the SNF if it is medically necessary to facilitate the beneficiary's departure from the SNF and required until he or she can obtain a continuing supply.

§ 409.25 Supplies, appliances, and equipment.

(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as extended care services only if—

(1) They are ordinarily furnished by the SNF to inpatients; and

(2) They are furnished to inpatients for use in the SNF.

(b) *Exception.* Medicare pays for items to be used beyond the SNF stay if—

(1) The item is one that the beneficiary must continue to use after leaving the SNF, such as a leg brace; or

(2) The item is necessary to permit or facilitate the beneficiary's departure from the SNF, and is required until he or she can obtain a continuing supply. Sterile dressings would be an example.

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§ 409.26 Services furnished by an intern or a resident-in-training.

Medicare pays for medical services furnished by an intern or a resident-in-training as extended care services if—

(a) The intern or resident is in a participating hospital with which the SNF has in effect an agreement for the transfer of patients and exchange of medical records; and

(b) The intern or resident furnishes the services under a hospital teaching program approved in accordance with the provisions of § 409.15.

§ 409.27 Other diagnostic or therapeutic services.

Medicare pays for other diagnostic or therapeutic services as extended care services if provided by a participating hospital with which the SNF has in effect an agreement for the transfer of patients and exchange of clinical records.

Requirements for Coverage of Extended Care Services

§ 409.30 Basic requirements.

Posthospital extended care services are covered only if the beneficiary meets the requirements of this section.

(a) *Pre-admission requirements.* The beneficiary must—

(1) Have been hospitalized in a participating or qualified hospital, for medically necessary inpatient hospital care, for at least 3 consecutive calendar days, not counting the day of discharge;

(2) Have been discharged from the hospital in a month for which he or she was entitled to hospital insurance benefits, in accordance with Part 408 of this chapter; and

(3) Be in need of posthospital extended care of the level described in § 409.31.

(b) *Date of admission requirements.*

(1) Except as specified in paragraph (b)(2) of this section, the beneficiary must—

(i) Be in need of posthospital extended care services within 14 calendar days after the date of discharge from a hospital and on the date he or she is admitted to the SNF; and

(ii) Be admitted to the SNF (and receive the needed care) within 14 calendar days after the date of discharge from a hospital or within 28 days after the day of discharge if the delay is because of lack of appropriate bed space in the geographic area in which the beneficiary lives.

(2) *Exception.* A beneficiary for whom posthospital extended care services would not be appropriate within 14 days after discharge from the hospital may be admitted at the time it would be medically appropriate to begin an active course of treatment.

§ 409.31 Level of care requirement.

(a) *Definition.* As used in this section, "skilled nursing and skilled rehabilitation services" mean services that:

(1) Are ordered by a physician;

(2) Require the skills of technical or professional personnel such as registered nurses, licensed practical (vocational) nurses, physical therapists, occupational therapists, and speech pathologists or audiologists; and

(3) Are furnished directly by, or under the supervision of, such personnel.

(b) *Specific conditions for meeting level of care requirements.*

(1) The beneficiary must require skilled nursing or skilled rehabilitation services, or both, on a daily basis.

(2) Those services must be furnished for a condition—

(i) For which the beneficiary received inpatient hospital services; or

(ii) Which arose while the beneficiary was receiving SNF care for a condition for which he or she received inpatient hospital services.

(3) The daily skilled services must be ones that, as a practical matter, can only be provided in a SNF, on an inpatient basis.

§ 409.32 Criteria for skilled services and the need for skilled services.

(a) The service must be so inherently complex that it can be safely and effectively performed only by, or under the supervision of, professional or technical personnel.

(b) A condition that does not ordinarily require skilled services may require them because of special medical complications. Under those circumstances, a service that is usually nonskilled (such as those listed in § 409.33(d)) may be considered skilled because it must be performed or supervised by skilled nursing or rehabilitation personnel. For example, a plaster cast on a leg does not usually require skilled care. However, if the patient has a preexisting acute skin condition or needs traction, skilled personnel may be needed to adjust traction or watch for complications.

In situations of this type, the complications, and the skilled services they require, must be documented by physicians' orders and nursing or therapy notes.

(c) The restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. Even if full recovery or medical improvement is not possible, a patient may need skilled services to prevent further deterioration or preserve current capabilities. For example, a terminal cancer patient may need some of the skilled services described in § 409.33.

§ 409.33 Examples of skilled nursing and rehabilitation services.

(a) *Services which could qualify as either skilled nursing or skilled rehabilitation services* (1) *Overall management and evaluation of care plan.* The development, management, and evaluation of a patient care plan based on the physician's orders, constitute skilled services when, in terms of the patient's physical or mental condition, such development, management, and evaluation necessitate the involvement of technical or professional personnel to meet his or her needs, promote recovery, and actuate medical safety. This would include the management of a plan involving only a variety of personal care services where in light of the patient's condition, the aggregate of such services necessitates the involvement of technical or professional personnel. For example, an aged patient with a history of diabetes mellitus and angina pectoris who is recovering from an open reduction of a fracture of the neck of the femur requires, among other services, careful skin care, appropriate oral medications, a diabetic diet, an exercise program to preserve muscle tone and body condition, and observation to detect signs of deterioration in his or her condition or complications resulting from restricted, but increasing mobility. Although any of the required services could be performed by a properly instructed person, such a person would not have the ability to understand the relationship between the services and evaluate the ultimate effect of one service on the other. Since the nature of the patient's condition age, and immobility create a high potential for serious complications, such an understanding is essential to assure the patient's recovery and safety. Under these circumstances, the management of such a plan of care would require the skills of a nurse even though the individual services are not skilled. Skilled planning and management activities are not always specifically identified in the patient's clinical record. In light of this, where the patient's overal condition would support a finding that his or her recovery and/or safety could be assured only if the total care he or she requires is planned, managed, and evaluated by technical or professional personnel, it would be appropriate to infer that skilled services are being provided.

(2) *Observation and assessment of the patient's changing condition.* When the patient's condition is such that the skills of a nurse or other technical or professional person are required to identify and evaluate the patient's need for possible modification of treatment and the initiation of additional medical procedures until his or her condition is stabilized, such services constitute skilled services. For example, a patient with congestive heart failure may require continuous close observation to detect signs of decompensation, abnormal fluid balance, or adverse effects resulting from prescribed medication(s) which serve as indicators for adjusting therapeutic measures. Likewise, surgical patients transferred from a hospital to a skilled nursing facility while in the complicated, unstabilized postoperative period, e.g., after hip prosthesis or cataract surgery, may need continued close skilled monitoring for postoperative complications, and adverse reaction. Patients who, in addition to their physical problems, exhibit acute psychological symptoms such as depression, anxiety, or agitation, etc., may also require skilled observation and assessment by technical or professional personnel to assure their safety and/or the safety of others, i.e., to observe for indications of suicidal or hostile behavior. In such cases, special services required must be documented by physicians' orders and/or nursing or therapy notes.

(3) *Patient education services.* In cases where the use of technical or professional personnel is necessary to teach a patient self-maintenance, such teaching services would constitute skilled services. For example, a patient who has had a recent leg amputation needs skilled rehabilitation services provided by technical or professional personnel to provide gait training and to teach prosthesis care. Likewise, a patient newly diagnosed with diabetes requires instruction from technical or professional personnel to learn the self-administration of insulin or foot-care precautions, etc.

(b) *Services which would qualify as skilled nursing services.* (1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) Levin tube and gastrostomy feedings;

(3) Nasopharyngeal and tracheotomy aspiration;

(4) Insertion and sterile irrigation and replacement of catheters;

(5) Application of dressings involving prescription medications and aseptic techniques;

(6) Treatment of extensive decubitus ulcers or other widespread skin disorder;

(7) Heat treatments which have been specifically ordered by a physician as part of active treatment and which require observation by nurses to adequately evaluate the patient's progress;

(8) Initial phases of a regimen involving administration of medical gases;

(9) Rehabilitation nursing procedures, including the related teaching and adaptive aspects of nursing, that are part of active treatment, e.g., the institution and supervision of bowel and bladder training programs.

(c) *Services which would qualify as skilled rehabilitation services.* (1) On-going assessment of rehabilitation needs and potential: Services concurrent with the management of a patient care plan, including tests and measurements of range of motion, strength, balance, coordination, endurance, functional ability, activities of daily living, perceptual deficits, speech and language or hearing disorders;

(2) Therapeutic exercises or activities: Therapeutic exercises or activities which, because of the type of exercises employed or the condition of the patient, must be performed by or under the supervision of a qualified physical therapist or occupational therapist to ensure the safety of the patient and the effectiveness of the treatment;

(3) Gait evaluation and training: Gait evaluation and training furnished to restore function in a patient whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality;

(4) Range of motion exercises: Range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility (as evidenced by a therapist's notes showing the degreee of motion lost and the degree to be restored);

(5) Maintenance therapy: Maintenance therapy, when the specialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance. For example, a patient with Parkinson's disease who has not been under a rehabilitation regimen may require the services of a qualified therapist to determine what type of exercises will contribute the most to the maintenance of his present level of functioning;

(6) Ultrasound, short-wave, and microwave therapy treatments by a qualified physical therapist;

(7) Hot pact, hydrocollator, infrared treatments, paraffin baths, and whirlpool: Hot pack hydrocollator, infrared treatments, paraffin baths, and whirlpool in particular cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures, or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required; and

(8) Services of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.

(d) *Personal care services.* Personal care services which do not require the skills of qualified technical or professional personnel are not skilled services except under the circumstances specified in § 409.32(b). Personal care services include, but are not limited to, the following:

(1) Administration of routine oral medications, eye drops, and ointments;

(2) General maintenance care of colostomy and ileostomy;

(3) Routine services to maintain satisfactory functioning of indwelling bladder catheters;

(4) Changes of dressings for noninfected postoperative or chronic conditions;

(5) Prophylactic and palliative skin care, including bathing and application of creams, or treatment of minor skin problems;

(6) Routine care of the incontinent patient, including use of diapers and protective sheets;

(7) General maintenance care in connection with a plaster cast;

(8) Routine care in connection with braces and similar devices;

(9) Use of heat as a palliative and comfort measure, such as whirlpool and hydrocollator;

(10) Routine administration of medical gases after a regimen of therapy has been established;

(11) Assistance in dressing, eating, and going to the toilet;

(12) Periodic turning and positioning in bed; and

(13) General supervision of exercises which have been taught to the patient; including the actual carrying out of maintenance programs, i.e., the performance of the repetitive exercises required to maintain function do not require the skills of a therapist and would not constitute skilled rehabilitation services (see paragraph (c) of this section). Similarly, repetitious exercises to improve gait, maintain strength, or endurance; passive

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exercises to maintain range of motion in paralyzed extremities, which are not related to a specific loss of function; and assistive walking do not constitute skilled rehabilitation services.

§ 409.34 Criteria for "daily basis".

(a) To meet the daily basis requirement specified in § 409.31(b)(1) the following frequency is required:

(1) Skilled nursing services or skilled rehabilitation services must be needed and provided 7 days a week; or

(2) If a patient needs only skilled rehabilitation services and those services are not available 7 days a week, skilled rehabilitation services must be needed and provided at least 5 days a week.

(b) A break of one or two days in the furnishing of rehabilitation services will not preclude coverage if discharge would not be practical for the one or two days during which, for instance, the physician has suspended the therapy sessions because the patient exhibited extreme fatigue.

§ 409.35 Criteria for "practical matter".

(a) *General considerations.*

In making a "practical matter" determination, as required by § 409.31(b)(3), consideration must be given to the patient's condition and to the availability and feasibility of using more economical alternative facilities and services. However, in making that determination, the availability of payment for those services may not be a factor. Example: The beneficiary can obtain daily physical therapy from a physical therapist in independent practice. In determining the amount of Medicare payment, consideration is given only to the first $100 of services furnished by such a practitioner in a year. This limitation on payment may not be a basis for finding that the needed care can only be provided in a SNF.

(b) *Examples of circumstances that meet practical matter criteria.*

(1) *Beneficiary's condition.*

Inpatient care would be required "as a practical matter" if transporting the beneficiary to and from the nearest facility that furnishes the required daily skilled services would be an excessive physical hardship.

(2) *Economy and efficiency.*

Even if the beneficiary's condition does not preclude transportation, inpatient care might be more efficient and less costly if, for instance, the only alternative is daily transportation by ambulance.

§ 409.36 Effect of discharge from SNF.

If a beneficiary is discharged from a SNF after receiving posthospital extended care services, he or she is not entitled to additional services of this kind in the same benefit period unless—

(a) He or she is readmitted to the same or another SNF within 14 calendar days following the day of discharge from the SNF; or

(b) He or she is again hospitalized for at least 3 consecutive calendar days.

Home Health Services

§ 409.40 Included services.

Subject to the requirements and conditions set forth in § 409.42, "home health services" means the following items and services:

(a) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy;

(c) Medical social services provided under the direction of a physician;

(d) Part-time or intermittent services of a home health aide;

(e) Medical supplies (other than drugs and biologicals) and the use of medical appliances; and

(f) In the case of a home health agency (HHA) that is affiliated or under common control with a hospital, medical services provided by an intern or a resident-in-training of that hospital under a teaching program approved as provided in § 409.15.

§ 409.41 Excluded services.

(a) *Services that are not considered inpatient hospital services.*

No service is included as a home health service if it would not be included as an inpatient hospital service under §§ 409.11–409.18.

(b) *Transportation.*

Transportation required to take a homebound individual to a hospital, SNF, rehabilitation center or other place, to receive services that cannot be provided in the home, is not included as a home health service.

(c) *Housekeeping services.*

The services of housekeepers or food service arrangements such as "meals-on-wheels" programs are not included as home health services.

§ 409.42 Requirements and conditions for home health services.

(a) *Basic rule.*

The services specified in § 409.40 are covered by Medicare Part A only if the requirements of paragraphs (b) through (g) of this section are met.

(b) *Conditions the beneficiary must meet.* The beneficiary must be—

(1) Confined to the home or in an institution that is neither a hospital nor primarily engaged in providing skilled nursing or rehabilitation services;

(2) Under the care of a physician who is a doctor of medicine or osteopathy; and

(3) In need of intermittent skilled nursing care or physical or speech therapy.

(c) *Prior inpatient care requirement.*

(1) The beneficiary must—

(i) Have received inpatient hospital or posthospital extended care services; and

(ii) Need intermittent skilled nursing care or physical or speech therapy for a condition for which he or she received inpatient hospital or posthospital extended care services.

(2) For purposes of this paragraph, the inpatient hospital services must have been received in a participating hospital or a qualified hospital.

(d) *Plan of treatment requirements.*

The home health services must be furnished under a plan of treatment that is—

(1) Established and periodically reviewed by a physician who is a doctor of medicine or osteopathy; and

(2) Established within 14 days after the individual's discharge from a hospital or SNF.

(e) *Where the services must be furnished.*

(1) The home health services must be furnished—

(i) On a visiting basis in the individual's home; or

(ii) If it is necessary to use equipment that cannot readily be made available in the home, on an outpatient basis in a hospital, a SNF, or a rehabilitation center that meets State and local health and safety standards.

(2) If an individual is brought to a facility in accordance with paragraph (e)(1)(ii) of this section, other services that could be furnished in the home may be furnished in the facility at the same time.

(f) *When the services must be furnished.*

The home health services must be furnished within the time frames specified in § 409.51(c).

(g) *By whom the services must be furnished.*

The home health services must be furnished by, or under arrangements made by, a participating HHA.

§ 409.43 Home health service visit.

(a) *What constitutes a "visit".*

For purposes of the 100-visit limitation specified in § 409.50, one visit is charged each time a health worker furnishes home health services to the beneficiary.

(b) *Specific examples.*

(1) If both a physical therapist and a visiting nurse furnish services in the home on the same day, two visits are charged.

(2) If a beneficiary has dressings changed twice in the same day, two visits are charged.

(3) If a beneficiary is brought to the hospital for hydrotherapy, and while there also receives speech therapy, two visits are charged.

(4) If a nurse furnishes several services during the same visit (e.g., skilled nursing care and home health aide services), only one visit is charged.

§ 409.44 Home health services under Medicare Part B.

(a) Home health services are also provided under the supplementary medical insurance program.

(b) Under Medicare Part B, home health services may be furnished—

(1) Even though the beneficiary has not had inpatient care in a hospital or SNF, for the condition for which he or she needs home health services;

(2) Without regard to the time limits established in § 409.42(d)(2) and (f); and

(3) Even though the beneficiary has received 100 visits under Medicare Part A.

(c) Details of the Part B benefits are now contained in Subpart B of Part 405 of this chapter.

§409.45 Option for beneficiaries who need physical or speech therapy.

A beneficiary who needs physical therapy or speech pathology services could, if he is also enrolled in Medicare Part B, receive them on an outpatient basis as a medical and other health service under Part B, and use the Part A and Part B home health visits for other purposes.

Presumed Coverage

§409.48 Presumed coverage based on medical condition or type of service.

(a) *Basis, purpose, and limitations on presumed coverage.*

(1) *Basis for presumption.*

Experience has shown that certain medical conditions usually require a certain minimum number of days of posthospital extended care or a certain minimum number of posthospital home health visits. This experience is the basis for paragraphs (d) and (e) of this section.

(2) *Purpose of, and limitations on, presumed coverage.*

(i) Presumed coverage is intended to guarantee payment in certain situations.

(ii) Only one period of presumed coverage is allowed for each admission to a SNF or to home health agency care.

(iii) Failure to qualify for presumed coverage does not preclude payment of benefits if all the requirements of this subpart A are met.

(b) *Definitions.* As used in this section—

"Unacceptable certifications" means certifications which erroneously indicate that—

(1) The patient's medical condition is among those listed in paragraph (d) of this section; or

(2) The patient needs one or more of the services listed in paragraph (e) of this section.

"Inappropriate treatment plans" means plans that are not appropriate for the certified conditions and do not reflect the level of care required to qualify a beneficiary for posthospital extended care or home health services.

(c) *Conditions for presumed coverage.* The following conditions must be met:

(1) The beneficiary must be entitled to posthospital extended care or home health services in accordance with this subpart A.

(2) The beneficiary must not have exhausted the extended care and home health benefits available in his or her current benefit period.

(3) A physician must submit a written certification to the provider before or at the time of admission to the SNF or before the first home health visit.

(4) The certification must indicate that the patient has one of the medical conditions listed in paragraph (d) of this section or needs one of the services listed in paragraph (e) of this section.

(5) The certification must be accompanied by a plan of treatment for providing SNF or home health agency care.

(6) The certifying physician must be one whose certifications and treatment plans have not been found unacceptable under paragraph (f) of this section.

(7) In the case of extended care services, the SNF's utilization review committee must not have found that the stay is medically unnecessary.

(d) *Medical conditions eligible for presumed coverage of post-hospital extended care services.* If a beneficiary has more than one of the conditions listed in the following table, the period of presumed coverage is the one specified for the condition that shows the longest period.

Medical condition:	Presumed period of covered skilled nursing facility care (days)
1. Acute cerebrovascular accident (CVA) resulting from hemorrhage, thrombosis, embolism, brain injury, or tumor (CVA reason for qualifying hospital stay or occurred during hospital stay)	
Qualifying criteria: Hemiplegia and/or aphasia which requires on a daily basis skilled nursing care, physical therapy, occupational therapy, speech therapy (speech pathology), or a combination thereof—admitted directly from the hospital to skilled nursing facility	15
2. Fracture of femur—neck or shaft, and/or fracture of pelvis or acetabulum.	
Qualifying criteria: Nonweight bearing stage following surgery or reduction, complicated by presence of infection, delayed union or aspetic necrosis; and/or a complicating secondary medical condition(s), necessitated daily skilled nursing observation and/or skilled management—admitted directly from hospital to skilled nursing facility.	
A. Open reduction	15
B. Closed reduction	21
3. Post-arthroplasty of hip with prosthetic device (surgery performed during the hospitalization immediately prior to admission to skilled nursing facility)—admitted directly from hospital to skilled nursing facility	15
4. Malignancies.	
Qualifying criteria: Admitted directly from hospital to skilled nursing facility for:	
A. Administration of anticarcinogenic chemotherapeutic agents	14
B. Postoperative care	10
C. Terminal care—Patient in terminal stage of illness and is unable to function outside of skilled nursing facility because of need for skilled management of care required on a daily basis	14
5. Diabetes Mellitus.	
Qualifying criteria: Admitted directly from hospital to skilled nursing facility with:	
A. Presence of gangrene, ulceration, or unstable peripheral neuropathy	14
B. Below knee amputation requiring prosthesis (amputation performed during the hospitalization immediately prior to admission to skilled nursing facility)	14
C. Above knee amputation requiring prosthesis (amputation performed during the hospitalization immediately prior to admission to skilled nursing facility)	21
6. Disease of digestive system which required colostomy, Deostomy, or gastrostomy.	
Qualifying criteria: Admitted directly from hospital to skilled nursing facility for: Diet control and training required (surgery performed during hospitalization immediately prior to admission to skilled nursing facility)	10
7. Congestive heart failure complicated by disorders of rhythm and/or requiring additional drug or anticoagulant stabilization-admitted directly from hospital to skilled nursing facility	10
8. Myocardial infarction with recurring bouts of angina and/or complicated by disorders of rhythm and/or congestive heart failure—admitted directly from hospital to skilled nursing facility	14
9. Chronic obstructive pulmonary disease complicated by acute respiratory infection and/or congestive heart failure—admitted directly from hospital to skilled nursing facility	14

(e) *Posthospital home health services eligible for presumed coverage.* A beneficiary may need more than one of the types of services listed in the following table. If, for instance, the beneficiary needs two services that that require the same type of visit (e.g. nursing visits), the presumed number of visits is the one specified for the service that shows the greater number. However, if the services require different types of visits (e.g., nursing visits and physical therapy visits), the presumed number of visits is the sum of the numbers shown for each type. The visits may be allocated in any combination, as long as they do not exceed the total allowed number of visits or the total time frame specified.

Skilled services	Presumed number of covered home health visits

Scope of Benefits

beneficiary elects not to use them, as

150 days immediately before that first

participating psychiatric hospital. The

Skilled services	Presumed number of covered home health visits
1. Skilled observation for any unstabilized condition characterized by significant fluctuations in vital signs or marked edema or elevated blood sugar levels.	Nine skilled nursing visits in a 3-week period.
2. Application of dressings involving prescription medications and aseptic techniques because of the presence of open wounds, extensive decubitus ulcers, or other widespread skin disorders.	Ten skilled nursing visits in a 2-week period.
3. A. Instructions in colostomy, ileostomy, or gastrostomy care	Five skilled nursing visits in a 2-week period.
B. Instructions in the routine care of an indwelling catheter	Three skilled nursing visits in a 3-week period.
C. Instruction in tube feeding technique	Six skilled nursing visits in a 1-week period.
D. Instructions of a newly diagnosed diabetic in a diabetic regimen, i.e., training in diet, the administration of insulin injection, urine test, skin care, etc.	Eight skilled nursing visits in a 3-week period.
E. Instruction of recent[1] hip fracture patient, or family members, in an exercise program and/or in the use of crutches, a walker, or a cane.	Four skilled nursing or four physical therapy visits in a 2-week period.
F. Instruction of a recent[1] post-arthroplasty of hip patient or a recent[1] above or below knee amputation patient in the use of a prosthetic device.	Four skilled nursing or four physical therapy visits in a 2-week period.
G. Instruction of a patient who requires respiratory therapy in the use of special equipment such as an IPPB machine or oxygen units.	Three skilled nursing visits in a 3-week period.
H. Instruction in postural drainage procedures and pulmonary exercises.	Three skilled nursing or three physical therapy visits in a 2-week period.
I. Administration of anticarcinogenic chemotherapeutic agents.	Four skilled nursing visits in a 2-week period.
4. Skilled physical therapy services and/or speech therapy (speech pathology) services to restore functions impaired by a recent[1] cerebrovascular accident resulting in hemiplegia and/or aphasia.	Five physical therapy and/or five speech therapy (speech pathology) visits in a 2-week period.

[1] Recent means the medical condition was either the reason for the qualifying hospital or skilled nursing facility stay or occurred during the qualifying stay.

(f) *Unacceptable certifications and treatment plans.*

(1) *Notice of proposed determination.* If HCFA proposes to determine that a physician has, with some frequency, submitted erroneous certifications or inappropriate treatment plans, it will notify the affected physician. The notice will be mailed to the physician's last known address and will—

(i) State the reasons for the proposed determination;

(ii) State HCFA's intention not to accept that physician's future certifications and treatment plans for purposes of presumed coverage; and

(iii) Indicate that HCFA will disclose the fact and effect of the determination to providers, claimants, prospective claimants, and other interested parties.

(2) *Opportunity for administrative hearing.*

(i) The physician will be given 30 days from the date on the notice of the proposed determination to request an administrative hearing.

(ii) If the physician does not request a hearing within the 30-day period, the proposed determination will become final.

(3) *Conduct of administrative hearing.*

(i) The hearing will be conducted by a HCFA hearing officer who has had no involvement in the proposed determination.

(ii) The hearing officer will inquire fully into the matter at issue, hear witnesses, and receive any documents that are relative and material.

(iii) The physician will be entitled to examine and question the evidence; to present and cross-examine witnesses; and to be represented by counsel or other qualified individuals.

(4) *Hearing decision.*

As soon as practicable after a hearing, the hearing officer will prepare a written decision that is based on the hearing record and contains findings of fact and statement of reasons.

(5) *Final determination without hearing.*

If the physician does not request a hearing, HCFA will, at the end of the 30-day period, send written notice that the proposed determination will be effective 15 days after the date on the notice.

(6) *Final determination after a hearing.*

(i) The hearing decision constitutes HCFA's final determination.

(ii) A copy of the decision will be mailed to the physician with the notice of final determination.

(iii) If the decision confirmed HCFA's proposed determination, the notice will indicate that the determination will be effective 15 days after the date on the notice.

(7) *Effective period of determination.*

An adverse determination under this section shall remain in effect until HCFA finds that there is reasonable assurance that the reasons for that determination will not recur.

Scope of Benefits

§ 409.50 Benefit periods.

(a) *When benefit periods begin.* The initial benefit period begins on the day and beneficiary receives inpatient hospital or SNF services for the first time after becoming entitled to hospital insurance. Thereafter, a new benefit period begins whenever the beneficiary receives inpatient services upon admission to a participating hospital or SNF (or one that meets the requirements for participation), after he or she has, for at least 60 consecutive days, not been an inpatient in any hospital, or SNF, or other institution that primarily provides skilled nursing or rehabilitation services.

(b) *Relation of benefit period to scope of benefits.*

The limitations specified in §§ 409.51 and 409.54, and the deductible and coinsurance requirements set forth in §§ 409.61 through 409.64 apply for each benefit period. The limitations of 409.53 apply only to the initial benefit period.

§ 409.51 General limitations on amount of benefits.

(a) *Inpatient hospital services.*

(1) *Regular benefit days.* Up to 90 days are available in each benefit period, subject to the limitations on days for psychiatric hospital services set forth in §§ 409.52 and 409.53.

(i) For the first 60 days (referred to in this subpart as *full benefit days*), Medicare pays the hospital for all covered services furnished the beneficiary, except for a deductible which is the beneficiary's responsibility. (Section 409.61 specifies the requirements for the inpatient hospital deductible.)

(ii) For the next 30 days (referred to in this subpart as *coinsurance days*), Medicare pays for all covered services except for a daily coinsurance amount, which is the beneficiary's responsibility. (Section 409.62 specifies the inpatient hospital coinsurance amounts.)

(2) *Lifetime reserve days.* Each beneficiary has a non-renewable lifetime reserve of 60 days of inpatient hospital services that he may draw upon whenever he is hospitalized for more then 90 days in a benefit period. Upon exhaustion of the regular benefit days, the reserve days will be used unless the beneficiary elects not to use them, as provided in § 409.55. For lifetime reserve days, Medicare pays for all covered services except for a daily coinsurance amount that is the beneficiary's responsibility. (See § 409.62.)

(3) *Order of payment for inpatient hospital services.* Medicare pays for inpatient hospital services in the following order:

(i) The 60 full benefit days;

(ii) The 30 coinsurance days;

(iii) The remaining lifetime reserve days.

(b) *Extended care services in a SNF.* Up to 100 days are available in each benefit period after discharge from a hospital. For the first 20 days, Medicare pays for all covered services. For the 21st through 100th day, Medicare pays for all covered services except for a daily coinsurance amount that is the beneficiary's responsibility. (Section 409.63 specifies the SNF coinsurance amounts.)

(c) *Home health visits.* Medicare pays for all covered home health services. There are no deductible or coinsurance requirements. Up to 100 visits are available—

(1) After the beginning of one benefit period and before the beginning of the next; and

(2) Within one year after the later of the following:

(i) The individual's most recent discharge from a hospital, following a stay of at least 3 consecutive days.

(ii) The individual's most recent discharge from a SNF, following receipt of service for which he or she was entitled to have payment made.

(d) *Renewal of inpatient benefits.* The beneficiary's full entitlement to the 90 inpatient hospital regular benefit days, the 100 SNF benefit days, is renewed each time he or she begins a benefit period. However once lifetime reserve days are used, they can never be renewed.

§ 409.52 Lifetime maximum on inpatient psychiatric care.

There is a lifetime maximum of 190 days on inpatient psychiatric hospital services available to any beneficiary. Therefore, once an individual receives benefits for 190 days of care in a psychiatric hospital, no further benefits of that type are available to that individual.

§ 409.53 Reduction of inpatient psychiatric benefit days available in the intitial benefit period.

(a) *Reduction rule.*

(1) If the idividual was an inpatient in a psychiatric hospital on the fist day of Medicare entitlement and for any of the 150 days immediately before that first day of entitlement, those days are subtracted from the 150 days (90 regular days plus 60 lifetime reserve days) which would otherwise be available in the initial benefit period for inpatient psychiatric services in a psychiatric or general hospital.

(2) Reduction is required only if the hospital was participating in Medicare as a psychiatric hospital on the individual's first day of entitlement.

(3) The reduction applies only to the beneficiary's first benefit period. For subsequent benefit periods, the 90 benefits days, plus any remaining lifetime reserve days, subject to the 190 day lifetime limit on psychiatric hospital care, are available.

(b) *Application to general hospital days.*

(1) Days spent in a general hospital before entitlement are not subtracted under paragraph (a) of this section even if the stay was for diagnosis or treatment of mental illness.

(2) After entitlement, all psychiatric care days, whether in a general or a psychiatric hospital, are counted toward the number of days available in the initial benefit period.

(c) *Examples:*

(1) The individual was an inpatient of a participating psychiatric hospital for 20 days before the first day of entitlement and remained there for another 6 months. Therefore, 130 days of benefits (150 minus 20) are payable. Payment could be made for: 60 full benefit days, 30 coinsurance days, and 40 lifetime reserve days.

(2) During the 150-day period preceding Medicare entitlement, an individual had been a patient of a general hospital for 60 days of inpatient psychiatric care and had spent 90 days in a psychiatric hospital, ending with the first day of entitlement. During the initial benefit period, the beneficiary spent 90 days in a general hospital and received psychiatric care there. The 60 days spent in the general hospital for psychiatric treatment before entitlement do not reduce the benefits available in the first benefit period. Only the 90 days spent in the psychiatric hospital before entitlement reduce such benefits, leaving a total of 60 available psychiatric days. However, after entitlement, the reduction applies not only to days spent in a psychiatric hospital, but also to days of psychiatric treatment in a general hospital. Thus, Medicare payment could be made only for 60 of the 90 days spent in the general hospital.

(3) An individual was admitted to a general hospital for a mental condition and, after 10 days, transferred to a participating psychiatric hospital. The individual remained in the psychiatric hospital for 78 days before becoming entitled to hospital insurance benefits and for 130 days after entitlement. The beneficiary was then transferred to a general hospital and received treatment of a medical condition for 20 days.

The 10 days spent in the general hospital during the 150-day pre-entitlement period have no effect on the inpatient hospital benefit days available to the individual for psychiatric care in the first benefit period, even though the general hospital stay was for a mental condition. Only the 78 days spent in the psychiatric hospital during the pre-entitlement period are subtracted from the 150 benefit days.

Accordingly, the individual has 72 days of psychiatric care (150 days less 78 days) available in the first benefit period.

Benefits could be paid for the individual's hospitalization during the first benefit period in the following manner: For the 130-day psychiatric hospital stay, 72 days (60 full benefit days and 12 coinsurance days), and for the general hospital stay, 20 days (18 coinsurance and 2 lifetime reserve days).

§ 409.54 Services that are counted toward allowable amounts.

(a) Except as provided in paragraph (b) of this section for lifetime reserve days, all covered inpatient days and home health visits are counted toward the allowable amounts specified in §§ 409.51–409.53 if:

(1) They are paid for by Medicare; or

(2) They would be paid for by Medicare if the following requirements had been met:

(i) A proper and timely request for payment had been filed; and

(ii) The hospital, SNF, or home health agency had submitted all necessary evidence, including physician certification of need for services when such certification was required; or

(3) They could not be paid for because the total payment due was equal to, or less than, the applicable deductible and coinsurance amounts.

(b) *Exception.* Even though the requirements of paragraph (a)(2) of this section are met, lifetime reserve days are not counted toward the allowable amounts if the beneficiary elected or is deemed to have elected not to use them, as set forth in § 409.55.

§ 409.55 Lifetime reserve days.

(a) *Election not to use lifetime reserve days.*

(1) Whenever a beneficiary has exhausted the 90 regular benefit days,

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the hospital may bill Medicare for lifetime reserve days unless the beneficiary elects not to use them or, in accordance with paragraph (b) of this section, is deemed to have elected not to use them.

(2) It may be advantageous to elect not to use lifetime reserve days if the beneficiary has private insurance coverage that begins after the first 90 inpatient days in a benefit period, or if the daily charge is only slightly higher than the lifetime reserve days coinsurance amount. In such cases, the beneficiary may want to save the lifetime reserve days for future care that may be more expensive.

(3) If the beneficiary elects not to use lifetime reserve days for a particular hospital stay, they are still available for a later stay. However, once the beneficiary uses lifetime reserve days, they can never be renewed.

(4) If the beneficiary elects not to use lifetime reserve days, the hospital may require him or her to pay for any services furnished after the regular days are exhausted.

(b) *Deemed election.* A beneficiary will be deemed to have elected not to use lifetime reserve days if the average daily charges for such days is equal to or less than the applicable coinsurance amount specified in § 409.62. A beneficiary would get no benefit from using the days under those circumstances.

(c) *Who may file an election.* An election not to use reserve days may be filed by—

(1) The beneficiary; or

(2) If the beneficiary is physically or mentally unable to act, by the beneficiary's legal representative. In addition, if some other payment source is available, such as private insurance, any person authorized under § 405.1664 of this chapter to execute a request for payment for the beneficiary may file the election.

(d) *Filing the election.*

(1) The beneficiary's election not to use lifetime reserve days must be filed in writing with the hospital.

(2) The election may be filed at the time of admission to the hospital or at any time thereafter up to 90 days after the beneficiary's discharge.

(3) A retroactive election (i.e., one made after lifetime reserve days have been used because the regular days were exhausted), is not acceptable unless it is approved by the hospital.

(e) *Period covered by election.* An election not to use lifetime reserve days may apply to an entire hospital stay or to a single period of consecutive days in a stay, but cannot apply to selected days in a stay. For example, a beneficiary may restrict the election to the period covered by private insurance but cannot use individual lifetime reserve days within that period. If an election not to use reserve days is effective after the first day on which reserve days are available, it must remain in effect until the end of that stay, unless it is revoked in accordance with § 409.56.

§ 409.56 Revocation of election not to use lifetime reserve days.

(a) Except as provided in paragraph (c) of this section, a beneficiary (or anyone authorized to execute a request for payment, if the beneficiary is incapacitated) may revoke an election not to use lifetime reserve days during hospitalization or within 90 days after discharge.

(b) The revocation must be submitted to the hospital in writing and identify the stay or stays to which it applies.

(c) *Exceptions.* A revocation of an election not to use lifetime reserve days may not be filed—

(1) After the beneficiary dies; or

(2) After the hospital has filed a claim under the supplementary medical insurance program (Medicare Part B), for medical and other health services furnished to the beneficiary on the days in question.

§ 409.58 Guarantee of payment for inpatient hospital services furnished before notification of exhaustion of benefits.

(a) *Conditions for payment.* Payment may be made for inpatient hospital services furnished a beneficiary after he or she has exhausted the coverage days if the following conditions are met:

(1) The services were furnished before HCFA or the intermediary notified the hospital that the beneficiary had exhausted the available days of coverage and was not entitled to have payment made for those services.

(2) At the time the hospital furnished the services, it was unaware that the beneficiary had exhausted the available days of coverage and could reasonably have assumed that he or she was entitled to have payment made for these services.

(3) Payment would be precluded solely because the beneficiary has exhausted all regular and lifetime benefit days available in the benefit period.

(4) The hospital claims reimbursement for the services and refunds any payments made for these services by the beneficiary or by another person on his or her behalf.

(b) *Limitations on payment*

(1) If all of the conditions in paragraph (a) of this section are met, Medicare payment may be made for up to 6 days, plus the day of admission, but not counting intervening Saturdays, Sundays, and Federal holidays.

(2) Payment may not be made under this section for any day after the hospital is notified that the beneficiary has exhausted the available benefit days.

(c) *Recovery from the beneficiary.* Any payment made to a hospital under this section is considered an overpayment to the beneficiary and may be recovered from him or her under the provisions set forth elsewhere in this chapter.

Deductibles and Coinsurance

§ 409.60 Inpatient deductible and coinsurance: General provisions.

(a) *What they are.*

(1) The inpatient deductible and coinsurance amounts are portions of the cost of covered hospital or SNF services that Medicare does not pay.

(2) The hospital or SNF may charge these amounts to the beneficiary or someone on his or her behalf.

(b) *Changes in the inpatient deductible and coinsurance amounts.*

(1) The law requrires the Secretary to adjust the inpatient hospital deductible each year to reflect changes in the average cost of hospital care. In adjusting the deductible, the Secretary must use a formula specified in section 1813(b)(2) of the Act. Under that formula, the inpatient hospital deductible is increased each year by about the same percentage as the increase in the average Medicare daily hospital costs. The result of the deductible incease is that the beneficiary continues to pay about the same proportion of the hospital bill.

(2) Since the coinsurance amounts are, by statute, specific fractions of the deductible, they change when the deductible changes.

(3) The coinsurance amounts are based on the inpatient hospital deductible for the year in which the benefit period begins. (Section 409.50 specifies when benefit periods begin.) The coinsurance amounts do not change during a beneficiary's benefit period even though the coinsurance days may fall in a subsequent year for which a higher deductible amount has been determined.

§ 409.61 Inpatient hospital deductible.

(a) *General provisions.*

(1) The inpatient hospital deductible is a fixed amount chargeable to the beneficiary when he or she is admitted to a hospital for the first time in a benefit period.

(2) Although the beneficiary may be hospitalized several times during a benefit period, the deductible is charged only once during that period. If the beneficiary begins more than one benefit period in the same year, a deductible is charged for each of those periods.

(b) *Specific deductible amounts.*

Benefit period began—	Amount of deductible
Before 1969	$40
In:	
1969	44
1970	52
1971	60
1972	68
1973	72
1974	84
1975	92
1976	104
1977	124
1978	144
1979	160
1980	180

If the total hospital charge in a benefit period is less than the amount shown in the chart, the deductible is the amount of the charge.

§ 409.62 Inpatient hospital coinsurance.

(a) *General provisions.*

(1) Inpatient hospital coinsurance is the amount chargeable to a beneficiary for each day after the first 60 days of inpatient hospital care in a benefit period.

(2) For each day from the 61st to the 90th day, the coinsurance amount is ¼ of the deductible applicable for that benefit period.

(3) For each day from the 91st to the 150th day (lifetime reserve days), the coinsurance amount is ½ of the deductible applicable for that benefit period.

(b) *Specific amounts of daily hospital coinsurance.*

Benefit period began—	61st to 90th day—	91st to 150th day—
Before 1969	$10	$20
In:		
1969	11	22
1970	13	26
1971	15	30
1972	17	34
1973	18	36
1974	21	42
1975	23	46
1976	26	52
1977	31	62
1978	36	72
1979	40	80
1980	45	90

§ 409.63 Skilled nursing facility (SNF) coinsurance.

(a) *General provisions.*

(1) SNF coinsurance is the amount chargeable to a beneficiary after the first 20 days of SNF care in a benefit period.

(2) For each day from the 21st through the 100th day, the coinsurance is ⅛ of the inpatient hospital deductible applicable for that benefit period.

(b) *Specific amounts of daily SNF coinsurance.*

Benefit period began—	Daily amount
Before 1969	$5.00
In:	
1969	5.50
1970	6.50
1971	7.50
1972	8.50
1973	9.00
1974	10.50
1975	11.50
1976	13.00
1977	15.50
1978	18.00
1979	20.00
1980	22.50

§ 409.64 Blood deductible.

(a) *General provisions.*

(1) As used in this section, packed red cells means the red blood cells that remain after plasma is separated from whole blood.

(2) Medicare does not pay for the first 3 pints of whole blood or units of packed red cells that a beneficiary receives as an inpatient of a hospital or SNF during a benefit period. For example, if an individual receives 2 pints of blood in a hospital and 3 pints in a SNF during a single benefit period, the 2 pints furnished in the hospital and the first pint furnished in the SNF would be the responsiblity of the individual. Medicare would pay for the other 2 pints furnished in the SNF.

(3) The deductible does not apply to other blood components such as platelets, fibrinogen, plasma, gamma globulin, and serum albumin, or to the cost of processing, storing, and administering blood.

(4) The blood deductible is in addition to the inpatient hospital deductible and daily coinsurance.

(5) There is also a separate Part B (supplementary medical insurance) blood deductible. Blood funished under Part B of Medicare cannot be applied to satisfy the Part A (hospital insurance) blood deductible and blood furnished under Part A of Medicare cannot be applied to satisfy the Part B blood deductible.

(b) *Beneficiary's responsibility to pay for or arrange for the replacement of the first 3 pints or units of blood.*

(1) The beneficiary has the option of paying the hospital's charges for the first 3 pints or units of blood, or arranging for them to be replaced. (A unit of packed red cells is considered equivalent to a pint of whole blood.)

(2) A provider may charge a beneficiary its customary charge for any of the first 3 pints or units of blood for which replacement has not been arranged.

(3) The provider may not charge for the blood if it (or its blood supplier) receives, from an invidual or a blood bank, a replacement offer that meets the criteria specified in paragraph (c) of this section. The provider is precluded from charging even if it or its blood supplier rejects the replacement offer.

(c) *Criteria for replacement of blood.* A blood replacement offer made by a beneficiary, or an individual or a blood bank on behalf of a beneficiary, discharges the beneficiary's obligation to pay for deductible blood or packed red cells if—

(1) The replacement blood would not endanger the health of a recipient; and

(2) The prospective donor's health would not be endangered by making a blood donation.

§ 409.65 Exemption of kidney donors from deductible and coinsurance requirements.

The deductible and coinsurance requirements set forth in this subpart do not apply to any services furnished to an individual in connection with the donation of a kidney for transplant surgery.

6. Section 440.40(a)(1)(i) is revised to read as follows:

§ 440.40 Skilled nursing facility services for individuals age 21 or older (other than services in an institution for tuberculosis or mental diseases). EPSDT, and family planning services and supplies.

(a) *Skilled nursing facility services.*

(1) "Skilled nursing facility for individuals age 21 or older, other than services in an institution for tuberculosis or mental diseases," means services that are—

(i) Needed on a daily basis and required to be provided on an inpatient basis under §§ 409.31–409.35 of this chapter.

(Secs. 226, 226A, 1102, 1812, 1813, 1814, 1818, 1861, 1871 and 1881 of the Social Security Act (42 U.S.C. 426, 426a, 1302, 1395d, 1395e, 1395f, 1395i–2, 1395x, 1395hh and 1395rr))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: April 1, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: May 20, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-16500 Filed 5-29-80; 8:45 am]

BILLING CODE 4110-35-M

INTERSTATE COMMERCE

DEPARTMENT OF COMMERCE

provisions of this Act with respect to

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1102

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures; Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The previously established due date for comments on the Commission's proposal to modify its procedures for the filing of railroad general rate increases [See 45 FR 29103 (May 1, 1980)] is being extended by 45 days.

DATE: Comments are now due on or before July 17, 1980.

ADDRESS: An original and 15 copies of comments should be sent to:

Office of Proceedings—Room 5340
Interstate Commerce Commission
Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall (202) 275–7693 or 275–7656.

SUPPLEMENTARY INFORMATION: By petition filed May 9, 1980, the Western Railroad Association requests a 45-day extension of time (until July 17, 1980) to file comments in this proceeding. It states that the Association of American Railroads (AAR), on behalf of the railroad industry, is currently preparing an improved railroad cost index designed to more accurately measure changes in rail operating costs and that more time is needed to complete the index.

We recognize the importance and the complexity of the task undertaken by AAR. In order to ensure the best possible results, a 45-day extension for the submission of comments is warranted.

Decided: By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80–16457 Filed 5–29–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations; Fees; Advance Notice of Proposed Rulemaking

AGENCY: National Marine Fisheries Service (NOAA)/Commerce.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) is developing and evaluating alternative methods of assessing fees for foreign fishermen under the Fishery Conservation and Management Act of 1976 (FCMA). Comments on the options and prices under consideration are requested.

DATE: Written comments may be submitted until June 27, 1980.

ADDRESS: Comments should be sent to: Dr. Roland F. Smith, Acting Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, DC 20235, (202) 634–7432 or 653–5526.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Jelley, Fishery Management Specialist, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, DC 20235, (202) 634–7432 or 653–5526.

SUPPLEMENTARY INFORMATION: The present foreign fishing fee schedule, set forth in 50 CFR 611.22, includes a permit fee, and a "poundage fee" assessed at the rate of 3.5 percent of the U.S. exvessel value of each country's catch. As a result of Congressional and public interest, and based on experience gained in implementing the FCMA, a thorough review of the system used to determine foreign fishing fees is being conducted.

NMFS has reviewed the basis upon which fees may be assessed as set forth in section 204(b)(10) of the Fishery Conservation and Management Act of 1976. This section says, in part, "In determining the level of such fees, the Secretary [of Commerce] may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement." NMFS is examining alternative fee structures appropriate to this basis. One possible alternative is to charge foreign fishing vessels a fee for each day spent on the fishing grounds in the fishery conservation zone (FCZ) (an "effort fee"). This fee could be set to recover all or a portion of the costs to the federal government of administering the foreign fishing aspects of the FCMA. To recover total costs, the fee would have to be set, on a nationwide basis, at a level of approximately $483 per vessel per day on ground; or by area, at levels of approximately $315 per vessel per day on ground in the Gulf of Alaska, Aleutian Islands, and Bering Sea, in the Atlantic $548 per day, and in the northeast Pacific $2,000 per day. The charges would vary since the costs of foreign fishing distributed over the amount of foreign fishing vary widely by area. Alternatively, the fee might be varied by the tonnage of the vessel.

Another option is to increase the percentage assessment based on U.S. exvessel value to a level higher than 3.5%. To recover all costs, on a nationwide basis the fee would have to be set approximately 9%; or, alternatively, on a regional basis, at 5.6% of the value in the Alaska region, 31.3% in the Atlantic, and 38.6% in the northeast Pacific.

If this review supports the recovery of 100 percent of the U.S. costs for foreign fishing, 1981 fees could be charged approximately at the levels noted above. Information is needed to assess the impact of such fees, or fees imposed udner other alternative systems, on foreign fishing strategies.

Advice is requested on options of charging by day on ground or relating fees to the value of catch. Advice is also requested on any other options which may be suggested by the public. NMFS invites public comment on the following issues for evaluation of each option:

(1) What administrative and enforcement burdens would be incurred?

(2) Should foreign processing vessels receiving fish from U.S. fishermen ("joint ventures") be treated in a different manner, since fish received by foreign vessels from U.S. vessels are products of United States harvest?

(3) What impact would each alternative have on United States consumers?

(4) What impact would each alternative have on management of foreign and U.S. fishing in the fishery conservation zone?

(5) What impact would each alternative have on foreign fishing operations?

(6) What alternative would allow the most efficient and practical means of carrying out the provisions of the FCMA with respect to foreign fishing?

(7) What other alternative fee systems are available either under the present law or by legislative amendment, and what would be the implications of such systems?

Any confidential business information submitted on this subject will be protected to the extent possible under existing law if it is clearly identified as confidential business information. Each page of written comments containing such information must be clearly noted at the upper right-hand corner with the words "PRIVATE BUSINESS INFORMATION, FEES."

(16 U.S.C. 1801 *et seq.*)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–16519 Filed 5–29–80; 8:45 am]

BILLING CODE 3510–22–M

Notices

Notices

Federal Register
Vol. 45, No. 106
Friday, May 30, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at 8 a.m., June 23, 1980, at the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The purpose of this meeting will be a three-day field trip on the Nezperce National Forest to gain first-hand knowledge of mining activity, timber resources and management, fire management, wildlife management, and recreation use.

Public participation is welcome, however, participants will be responsible for their own transportation, subsistence and lodging. Persons who wish to participate should notify Ed Laven, 319 East Main, Grangeville, Idaho, telephone 208/983–1950.

Don Biddison,
Forest Supervisor.
May 22, 1980.
[FR Doc. 80–16446 Filed 5–29–80; 8:45 am]
BILLING CODE 3410–11–M

Humboldt National Forest Grazing Advisory Board; Meeting

The Humboldt National Forest Grazing Advisory Board will meet on July 18, 1980 at 10:00 a.m. PDST, at the Ruby Valley Guard Station, Ruby Valley, Nevada. Bring a sack lunch.

The meeting is open to the public.

The purpose of the meeting is to discuss:

1. Allotment management planning.
2. Utilization of Range Betterment Fund.

Dated: May 20, 1980.
John A. Hafterson,
Forest Supervisor.
[FR Doc. 8–16452 Filed 5–29–80; 8:45 am]
BILLING CODE 3410–11–M

Rural Electrification Administration

Corn Belt Power Cooperative, Humboldt, Iowa; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $5,100,000 to Corn Belt Power Cooperative of Humboldt, Iowa, for financing the borrower's 10 percent share of modifications and improvements to the existing Duane Arnold 550 MW nuclear power plant. No additional generating capacity is being provided.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. George W. Toyne, Manager, Corn Belt Power Cooperative, P.O. Box 508, Humboldt, Iowa 50548.

In order to be considered, proposals must be submitted on or before June 30, 1980, to Mr. Toyne. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Corn Belt Power Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 22nd day of May, 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.
[FR Doc. 80–16303 Filed 5–29–80; 8:45 am]
BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

[Dockets 26487 and 37392; Order 80–5–125]

Transatlantic, Transpacific, and Latin American Service Mail Rates Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–5–125 on Reconsideration and fixing final International Mail Rates, Dockets 26487 and 37392.

DATES: Adopted May 19, 1980.

PERSON TO CONTACT FOR FURTHER INFORMATION: James E. Gardner, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5391.

SUPPLEMENTARY INFORMATION: The Board, except for technical modifications denies the petition for reconsideration of Order 80–1–25 which fixed final international mail rates for the last half of 1979 and proposed final rates for the first quarter of 1980.

The Board makes final the International rates for the first quarter of 1980 as set forth in the appendix.

By the Civil Aeronautics Board: May 19, 1980.

Phyllis T. Kaylor,
Secretary.

International Service Mail Rates

[January 1, 1980 through March 31, 1980]

	CY 1975 rates [1]	Escalation factors [2]	Final rates 1/ 1/80 thru 3/ 31/80
	(cents)	(percent)	(cents)
Atlantic rate area:			
Linehaul charge per billing ton-mile:			
Priority amd military ordinary mail	20.22	70.81	34.54
Space available mail	12.96		22.14
Terminal charge per pound originated:			
Priority amd military ordinary mail	11.39	74.81	19.91
Space available mail	10.27		17.95
pacific rate area:			
Linehaul charge per billing ton-mile:			
Priority amd military ordinary mail	21.88	71.30	37.48
Space available mail	13.49		23.11
Terminal charge per pound originated:			
Priority amd military ordinary mail	13.39	55.96	20.87
Space available mail	11.59		18.06
Latin america rate area:			
Linehaul charge per billing ton-mile:			
Priority amd military ordinary mail	21.35	73.63	37.11
Space available mail	16.44		28.58
Terminal charge per pound originated:			
Priority amd military ordinary mail	9.83	32.28	13.00
Space available mail	9.10		12.04

[1] Order 80–1–25.
[2] Appendices B–1, B–2 and B–3.

[FR Doc. 80–16290 Filed 5–29–80; 12:26 pm]
BILLING CODE 6320–01–M

[Order 80–5–126; Docket 37392]

Transatlantic, Transpacific and Latin American Service Mail Rates Investigation; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of May, 1980.

By Order 78–12–159, the Board adopted a review procedure and updating formula for establishing final international service mail rates for future periods on a semi-annual basis. The procedure was further modified by Orders 79–7–17, 79–7–96, 80–1–25 and 80–5–125. The present order to show cause reflects all revisions adopted by the Board and proposes tentative final rates for the second quarter of 1980.

The tentative final service mail rates set forth in the attached Appendix A reflect the application of the following cost excalation factors:

1. Fuel costs: The change in average price per gallon over the last four months (November through March) is added to the March 1980 average price per gallon to arrive at the projected average price per gallon at May 15, 1980, the midpoint of the quarter for which the rates are to be effective; and

2. Other costs: Cost excalation from March 31, 1979, to March 31, 1980, is based on a comparison of unit costs for the year ended September 30, 1979 with unit costs for the year ended September 30, 1978.

The proposed rates represent increases in the linehaul rates of approximately 6.1, 8.3, and 5.8 percent in the Atlantic, Pacific, and Latin American rate areas, respectively, over the final service mail rates established for the first quarter of 1980. The cause for the increase is the continued increase in fuel prices.

The Board tentatively finds and concludes that:

1. The fair and reasonable rates compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of Section 406 of the Federal Aviation Act of 1958, as amended, to the carriers for the transportation by aircraft of space-available mail, military ordinary mail and all other mail over their respective routes in the Atlantic, Pacific, and Latin American rate areas,[1] the facilities used and useful therefor, and the services connected therewith, for the period from April 1 through June 30, 1980, or until further Board order, are those set forth in the attached Appendix A.

2. The fair an reasonable temporary rates of compensation for the transportation of mail by aircraft in international services for the period July 1, 1980, until further Board order shall be the final rates established for the period April 1 through June 30, 1980.

3. The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79–7–16.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302.

1. We direct all interested persons to show cause why the Board should not adopt the foregoing tentative findings and conclusions, and fix, determine and publish the final rates specified above to be effective April 1 through June 30, 1980, or until further Board order.

2. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within 30 days after service of this order.

3. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix A.

4. We shall serve this order upon all parties to the proceeding in Docket 26487.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board. All Members concurred.

Phyllis T. Kaylor,
Secretary.

[1] The Atlantic, Pacific and Latin American rate areas are delineated in Attachments 1, 2, and 3, respectively, to Order 79–7–17.

Appendix A.—*International Service Mail Rates*

[April 1 through June 30, 1980]

	CY 1975 rates [1]	Escalation factors [2]	Final rates 4/ 1/80 thru 6/ 30/80
	(cents)	(percent)	(cents)
Atlantic rate area:			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail	20.22	81.19	36.64
Space available mail	12.96		23.48
Terminal charge per pound orginated:			
Priority and military ordinary mail	11.39	74.81	19.91
Space available mail	10.27		17.95
Pacific rate area:			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail	21.88	85.47	40.58
Space available mail	13.49		25.02

International Service Mail Rates —Continued

[January 1, 1980 through March 31, 1980]

	CY 1975 rates [1]	Escalation factors [2]	Final rates 1/ 1/80 thru 3/ 31/80
	(cents)	(percent)	(cents)
Terminal charge per pound originated:			
Priority amd military ordinary mail	11.39	74.81	19.91
Space available mail	10.27		17.95
pacific rate area:			
Linehaul charge per billing ton-mile:			
Priority amd military ordinary mail	21.88	71.30	37.48
Space available mail	13.49		23.11
Terminal charge per pound originated:			
Priority amd military ordinary mail	13.39	55.96	20.87
Space available mail	11.59		18.06
Latin america rate area:			
Linehaul charge per billing ton-mile:			
Priority amd military ordinary mail	21.35	73.63	37.11
Space available mail	16.44		28.58
Terminal charge per pound originated:			
Priority amd military ordinary mail	9.83	32.28	13.00
Space available mail	9.10		12.04

[1] Order 80–1–25.
[2] Appendices B–1, B–2 and B–3.

[FR Doc. 80–16290 Filed 5–29–80; 12:26 pm]
BILLING CODE 6320–01–M

V 45 M Y 30 80 0 UMI

Appendix A.—*International Service Mail Rates*—Continued

[April 1 through June 30, 1980]

	CY 1975 rates [1]	Escalation factors [2]	Final rates 4/ 1/80 thru 6/ 30/80
	(cents)	(percent)	(cents)
Terminal charge per pound originated:			
Priority and military ordinary mail	13.39	55.86	20.87
Space available mail	11.59		18.06
Latin American rate area:			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail	21.35	83.88	39.26
Space available mail	16.44		30.23
Terminal charge per pound originated:			
Priority and military ordinary mail	9.83	32.28	13.00
Space available mail	9.10		12.04

[1] Order 79-7-17, Appendices D-1, D-2 and D-3, as amended.
[2] Appendices B-1, B-2 and B-3. (Filed as part of the original with the Office of the Federal Register.)

[FR Doc. 80-16291 Filed 5-29-80; 12:26 pm]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Portable Electric Typewriters From Japan; Antidumping: Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Duty

AGENCY: U.S. Department of Commerce.

ACTION: Notice of Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Duty for Certain Exporters of Portable Electric Typewriters.

SUMMARY: This notice is to advise the public that the Secretary has determined that on the basis of information received from certain manufacturers of portable electric typewriters subject to an antidumping duty order a determination of foreign market value and United States price may be made within 90 days from the date of publication of the Antidumping Duty Order. The posting of bond or other security in lieu of the deposit of estimated dumping duties will be permitted for merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and before August 8, 1980, for the manufacturers identified below.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Steven Lim, Office of Investigations, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230 (202-377-1776).

SUPPLEMENTARY INFORMATION: On May 9, 1980, an Antidumping Duty Order was published in the **Federal Register** relating to portable electric typewriters from Japan (45 FR 30618 and 30619). It was announced that pursuant to section 736 of the Tariff Act of 1930, as amended (93 Stat. 172, 19 U.S.C. 1673e) (hereinafter, "the Act") Customs officers were directed to require, at the same time as estimated normal customs duties on the merchandise are deposited, a deposit of estimated antidumping duties pending liquidation of entries of the subject merchandise for all entries, or withdrawals from warehouse, for consumption.

On May 14 and 15, 1980, two manufacturers of the subject merchandise requested that the deposit of estimated duties be waived and an early determination of duty be made. Section 736(c) of the Act (93 Stat. 173, 19 U.S.C. 1673e(c)) provides that if certain conditions are met, the administering authority may permit, for not more than 90 days after the date of publication of an Order, the posting of bond or other security in lieu of the deposit of estimated antidumping duties. Before granting such a waiver, the administering authority must be satisfied that based upon information presented by manufacturers, producers or exporters, he will be able to determine, within 90 days after the date of the publication of the Antidumping Duty Order, the foreign market value and the United States price for all merchandise of such manufacturers described in that Order which was entered, or withdrawn from warehouse, for consumption on or after the date publication of the affirmative preliminary determination under section 733(b) of the Act and before the date of publication of the affirmative final determination by the International Trade Commission under section 735(a) of the Act.

Two manufacturers of merchandise subject to the Antidumping Duty Order, Brother Industries, Ltd., and Silver Seiko Company, have presented the above-described information. After reviewing the information submitted by these two manufacturers, the Department is satisfied that it will be able to determine foreign market value and United States price for all of the subject merchandise entered, or withdrawn from warehouse, for consumption, during the relevant time period. Accordingly, Customs officers are being directed to waive deposit of estimated duty and accept the posting of a bond or other security for all entries of portable electric typewriters manufactured by Brother Industries and Silver Seiko entered or withdrawn from warehouse, for consumption, from the date of publication of this notice. A deposit of estimated antidumping duty shall be collected on entries of the subject merchandise manufactured by any other manufacturer or producer, in accordance with the Antidumping Duty Order published in the **Federal Register** on May 9, 1980 (45 FR 30618 and 30619). The Department will publish a notice in the **Federal Register** of the result of this determination of its foreign market value and United States price before August 8, 1980. Interested parties may request a hearing to present views orally in accordance with section 774 of the Act (19 Stat. 186, 19 U.S.C. 1677c). Requests for a hearing should be made before June 13, 1980, and should be accompanied by a statement outlining the issues which the person wishes to discuss.

This notice is published pursuant to section 736(c)(2)(A) of the Act (93 Stat. 173, 19 U.S.C. 1673e(c)(2)(A)).

John D. Greenwald,
Deputy Assistant Secretary for Import Administration.
May 27, 1980.

[FR Doc. 80-16420 Filed 5-29-80; 8:45 am]
BILLING CODE 3510-25-M

Maritime Administration

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic trade; Application by Boston VLCC Tankers, Inc. IV

Notice is hereby given that an application has been filed by Boston VLCC tankers, Inc. IV (Boston IV) to permit Boston IV's 264,073-deadweight-ton tanker, *New York*, built with construction-differential subsidy, to operate in the Alaska/Panama oil trade for six months, with first loading at Valdez, Alaska, on or about July 9, 1980. The *New York* is currently under subtime charter to Clermont Shipping Company, Inc. (Clermont) who will relet the vessel to Exxon Company, U.S.A. (Exxon) for operation in the Alaskan oil trade.

Clermont advises that the *New York* would replace the Exxon-chartered vessel, *Massachusetts*, in the Alaska/Panama oil trade which vessel will be leaving the trade in mid-June 1980. Clermont notes that Exxon must move 1.7 million barrels of Alaskan crude oil per month, requiring the full capacity of the *New York*, and that no unsubsidized vessel of suitable size is available to meet this requirement.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation who desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the **Federal Register**. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance program No. 11.500 Construction-Differential Subsidies (CDS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: May 27, 1980.

Robert J. Patton, Jr.,
Secretary.

[FR Doc. 80-16523 Filed 5-29-80; 8:45 am]
BILLING CODE 3510-15-M

[Docket No. S-668]

Richmond Tankers, Inc.; Extension of Time To File Comments

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Extension of time to file comments.

SUMMARY: On May 15, 1980 (45 FR 32035), the Maritime Subsidy Board published in the **Federal Register** a Notice of Application seeking comments by May 30, 1980, on the application of Richmond Tankers, Inc. to approve the total repayment of construction-differential subsidy paid in connection with the construction of the *TT Bay Ridge* and thereby lift the domestic trading restrictions imposed pursuant to Board Contract No. MA/MSB-284, dated July 29, 1973. The American Martime Association has requested a ten day extension of time to file comments. Notice is hereby given that the closing date for comments on the application is extended to the close of business on June 9, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr. (202) 377-2188.

Dated: May 27, 1980.

Robert J. Patton, Jr.,
Secretary, Maritime Subsidy Board.

[FR Doc. 80-16522 Filed 5-29-80; 8:45 am]
BILLING CODE 3510-15-M

Approval of Request for Removal, Without Disapproval, from Roster of Approved Trustees

On April 2, 1980, there was published in the **Federal Register** (FR Vol. 45, No. 65), pursuant to 46 CFR 221.28, a Notice of Request for Removal, Without Disapproval, from Roster of Approved Trustees pursuant to the request of Marine Midland Bank, N.A., with offices at 250 Park Avenue, New York, New York.

Therefore, pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30, Marine Midland Bank, N.A. is removed from the Roster of Approved Trustees.

This notice shall become effective on date of publication (May 30, 1980).

Dated: May 22, 1980.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Robert J. Patton, Jr.,
Secretary.

[FR Doc. 80-16373 Filed 5-29-80; 8:45 am]
BILLING CODE 3510-15-M

Minority Business Development Agency

Financial Assistance Application Announcement; San Diego, Calif.

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning August 1, 1980, in San Diego, California, Standard Metropolitan Statistical Area. The cost of the project is estimated to be $214,000 and the Project Number is 09-10-50490-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide the following services to eligible clients: (1) business information, (2) client screening and selection, (3) business plans, and (4) business packaging and marketing assistance.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address:

San Francisco Regional Office,
Minority Busienss Development Agency,
U.S. Department of Commerce,
450 Golden Gate Ave.,
Box 36014, Rm. 15043,
San Francisco, CA 94102.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of June 19, 1980. Detailed submission procedures are outlined in each application kit.

V 45 M Y 30 80 UMI

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Dated May 23, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-16385 Filed 5-29-80; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Scientific and Statistical Committee which will meet to review the draft fishery management plans (FMP's) for spiny lobster and sharks and to select species to be included in an FMP for tropical reef fish.

DATES: The meetings will convene on Thursday, June 19, and Friday, June 20, 1980, at 9 a.m., both days and adjourn at approximately 5 p.m., both days. The meetings are open to the public.

ADDRESS: The meetings will take place in the Tampa Room of the Barclay Airport Inn, 5303 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: May 23, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16489 Filed 5-29-80; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council, its Scientific and Statistical Committee, and its Groundfish Subpanel; Cancellation of Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled meeting of June 10-12, 1980, of the Pacific Fishery Management Council, its Scientific and Statistical Committee, and its Groundfish Subpanel, as published in the **Federal Register**, Volume 45, No. 87, Friday, May 2, 1980, page 29383, has been canceled.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: May 21, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16490 Filed 5-29-80; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name, Sea Lions Promotions Limited (P245).
   b. Address, 9 Auckland Terrace, Parliament Street, Ramsey, Isle of Man.
2. Type of Permit Public Display.
3. Name and Number of Animals: California sea lion (Zalophus californianus).
4. Type of Take: Capture for public display.
5. Location of Activity: Santa Barbara Channel Islands, California.
6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 30, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) it is submitted to the Assistant Administrator for Fisheries, National Marine fisheries Service, through the appropriate agency of the foreign government;

(b) it includes:

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Board of Agriculture and Fisheries, Isle of Man, have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 23, 1980.

William Aron,

Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-16488 Filed 5-29-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Coastal Plains Economic Development Region; Modification of Boundary

Pursuant to the provisions of Section 501(a) of the Public Works and Economic Development Act of 1965, as amended, (42 U.S.C. 3181(a)), and having examined pertinent data, I have determined that the Coastal Plains Economic Development Region, composed of parts of Florida, Georgia, North Carolina, South Carolina, and Virginia, meets requirements for enlargement to include certain additional counties in Florida. Accordingly, in response to a request from the Coastal Regional Commission Governors, I have today, May 12, 1980, modified the boundary of the Coastal Plains Region so that it now includes the following counties in Florida.

Brevard	Manatee
Broward	Martin
Charlotte	Monroe
Collier	Okeechobee
Dade	Orange
DeSoto	Osceola
Glades	Palm Beach
Hardee	Pasco
Hendry	Pinellas
Highlands	Polk
Hillsborough	St. Lucie
Indian River	Sarasota
Lake	Seminole
Lee	Volusia

Inquiries relating to this modification should be addressed to the Special Assistant to the Secretary for Regional Economic Development, Room 2092, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Philip M. Klutznick,

Secretary of Commerce.

[FR Doc. 80-16374 Filed 5-29-80; 8:45 am]

BILLING CODE 3510-36-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1980 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 2, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-11450

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1980, November 27, 1979 (44 F.R. 67925):

Class 8465

Strap, Webbing, Nylon Waist with Lower Back, Pad, LC-2, 8465-01-075-8164.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-16392 Filed 5-29-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Blood Products and Preservation; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting.

Name of Committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Blood Products and Preservation.

Date of Meeting: 27 June 1980.

Time and Place: 0900 hours, Room AS3102, Letterman Army Institute of Research, Presidio, San Francisco, California.

Proposed Agenda: This meeting will be open to the public from 0900-1145 hrs to discuss the scientific research program on Blood Products and Preservation at Letterman Army Institute of Research and from 1700-1715 for the summation of the meeting. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on 27 June 1980 from 1300-1700 hrs for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

J. Ryan Neville, Ph.D., Letterman Army Institute of Research, Bldg 1110, Presidio, San Francisco, CA 94129, (415) 561-4367, will furnish summary minutes, roster of Committee members and substantive program information.

LeeRoy G. Jones,

Colonel, MC, Acting Commander.

[FR Doc. 80-16382 Filed 5-29-80; 8:45 am]

BILLING CODE 3710-08-M

U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting.

Name of Committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects.

Date of Meeting: 24 June 1980.

Time and Place: 0900 hours, Room AS3102, Letterman Army Institute of Research, Presidio, San Francisco, California.

Proposed Agenda: This meeting will be open to the public from 0900-1145 hours to discuss the scientific research program on Laser Bioeffects at Letterman Army Institute of Research and from 1700-1715 for the summation of the meeting. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on 24 June 1980 from 1300-1700 hours for the review, discussion and evaluation of individual programs and projects conducted by the United States Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

J. Ryan Neville, Ph. D., Letterman Army Institute of Research, Bldg. 1110, Presidio, San Francisco, CA 94129, (415) 561-4367, will furnish summary minutes, roster of Committee members, and substantive program information.

LeeRoy C. Jones, M.D.,

Colonel, MC, Acting Commander.

[FR Doc. 80-16381 Filed 5-29-80; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: Education Department, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policies, Practices, and Programs, Civil Rights and WEEA Program Committees. It also describes the functions of Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of its opportunity to attend.

DATE: June 16, 1980, 7:30 p.m. to 9:30 p.m.; June 17, 1980, 8:30 a.m. to 5:00 p.m.; and June 18, 1980, 9:00 a.m. to 4:00 p.m.

ADDRESS: On June 16 from 7:30 to 9:30 and on June 17 from 8:30 to 5:00, meetings will be held at the Council's offices at 1832 M Street, N.W., #821, Washington, D.C. 20036. The June 18 meeting will be held 9:00 a.m. to 4:00 p.m. in the Education Division Conference Room, FOB–6, Room 3000, 400 Maryland Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Dauito, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., #821, Washington, D.C. 20036, (202) 653–5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee will take place on June 16, 1980, from 7:30 p.m. to 9:30 p.m. The agenda will include plans for the Council meeting as well as a discussion of current activities and future plans.

The meeting of the Federal Policies, Practices, and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on June 17, 1980, from 9:00 a.m. to 3:00 p.m.

The agenda for the Federal policies, Practices, and Programs Committee will include a review of the status of pending legislation on higher education and on youth employment and education, review of the progress of the study of implementation of the sex equity provisions in vocational education programs, and a consideration of actions for responding to recommendations received at three recent Council public hearings on educational needs of women.

The agenda for the Civil Rights Committee will include discussion of matters concerning the implementation of Title IX, 1972 Education Amendments, and other non-discrimination initiatives.

The agenda for the Program Committee will include a review of the follow-up survey report of WEEA grantees and a status report on WEEAP regulation and grant activities for fiscal year 1980.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to 9:00 a.m. and from 3:00 p.m. to 5:00 p.m. on June 17 and from 9:00 a.m. to 4:00 p.m. on June 18, 1980. The agenda will include reports of the Executive Director and the Women's Educational Equity Act Program; recommendations of the Council's standing Committees; review of Council Policies and Procedures; and a discussion of the handling of Council public hearing recommendations.

The meetings of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection.

Signed at Washington, D.C., on May 23, 1980.

Joy R. Simonson,

Executive Director.

[FR Doc. 80–16405 Filed 5–29–80; 8:45 am]

BILLING CODE 4110–02–M

National Advisory Council on Women's Educational Programs and the National Advisory Council on Vocational Education; Meeting

AGENCY: Department of Education, National Advisory Council on Women's Educational Programs and the National Advisory Council on Vocational Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a forthcoming meeting of the National Advisory Council on Women's Educational Programs and the National Advisory Council on Vocational Education. It also describes the functions of both Councils. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). This document is intended to notify the general public of its opportunity to attend.

DATE: June 16, 1980, 1:00 p.m. to 5:00 p.m.

ADDRESS: The meeting will be held in the Education Division Conference Room, FOB–6, Room 3000, 400 Maryland Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Martine Brizius, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., Suite 821, Washington, D.C., 20036, (202) 653–5846; or Ralph Bregman or Sarah Bennett, National Advisory Council on Vocational Education, 425 13th Street, N.W., Suite 412, Washington, D.C., 20004, (202) 376–8873.

The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The National Advisory Council on Vocational Education was established under Section 104 of the Vocational Education Amendments of 1968, Public Law 90–576. The Council is directed to: (a) advise the President, Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of vocational education programs supported with assistance under this title; (b) review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and (c) conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On June 16, 1980, from 1:00 p.m. to 5:00 p.m. the National Advisory Council on Women's Educational Programs and the National Advisory Council on Vocational Education will hold the first of two forums in Washington, D.C., on sex equity in vocational education. The purpose of the forum is to share information concerning the implementation of the sex equity provisions of the Vocational Education Amendments of 1976, and assessments of the provisions' effectiveness. Participants will include members of the vocational education community and other informed citizens and organizations.

The agenda will include discussion of data from several contemporary studies and projects, and of testimony presented at two regional public hearings held by the Councils during May in Denver and in New York City.

The meeting will be open to the public. Records will be kept of the proceedings and will be available for public inspection.

Signed at Washington, D.C., on May 23, 1980.

Joy R. Simonson,

Executive Director, National Advisory Council on Women's Educational Programs.

Raymond C. Parrott,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 80–16406 Filed 5–29–80; 8:45 am]

BILLING CODE 4110–02–M

Territorial Teacher Training Assistance Program; Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1980

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1980.

Applications are invited for new projects under the Territorial Teacher Assistance Training Program.

Authority for this program is contained in Title XV, Part C, Section 1525, of the Education Amendments of 1978 (Pub. L. 95–561).

(20 U.S.C. 1172)

This program issues awards to the State educational agency (SEA) of Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

The purpose of the awards is to provide assistance to the territories in the training of school teachers.

Closing date for transmittal of applicantions: An application for a grant must be mailed or hand delivered by July 14, 1980.

To be assured of consideration for funding, an application for an award should be mailed or hand delivered by July 14, 1980. If the application is late, the Department of Education may lack sufficient time to review it with other applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 13.694, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room, 5673, Regional Office Building 3, 7th and D Street, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, execpt Saturday, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: It is expected that approximately $2.0 million will be available for the Territorial Teacher Training Assistance Program. It is estimated that these funds will support 5 projects.

The anticipated award for each project will be between $100,000 and $500,000.

However, these estimates do not bind the Department of Education to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms may be obtained by the Territorial SEA's by writing to the Bureau of School Improvement, Department of Education, (Room 3700, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared an submitted in accordance with the regulations.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations govering the Territorial Teacher Training Assistance Program (45 CFR Part 151);

These regulations were published as a notice of proposed rulemaking on April 8, 1980 (45 FR 24070). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program. If there are substantial changes in the final regulations, an applicant will be allowed to amend its application.

(b) The Education Division General Administrative Regulations (45 CFR Parts 100a and 100c).

EDGAR was published in final form in the **Federal Register** on April 3, 1980 (45 FR 22497). EDGAR supersedes the General Provisions Regulations for the Department of Education Programs (the current 45 CFR Parts 100a through 100d).

Further Information: For further information contact Dr. Thomas W. Fagan, Bureau of School Improvement, Department of Education (Room 3700, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone: (202) 472–2649.

(Catalog of Federal Domestic Assistance Number 13.694, Territorial Teacher Training Assistance Program.)

Dated: May 23, 1980.

Steven A. Minter, Acting

Secretary of Education.

[FR Doc. 80–16395 Filed 5–29–80; 8:45 am]

BILLING CODE 4110–02–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement; Correction

In 45 FR page 34045, published May 21, 1980, the second paragraph should read "RTD/EU(JA)–30, from Fukushima I, units 1, 3 and 4, owned by the Tokyo Electric Power Company, 224 fuel assemblies, containing 42,045 kilograms of uranium enriched to 0.84% in U–235, and 266.4 kilograms of plutonium."

Since this correction does not alter the proposed transaction in any significant way, the subsequent arrangement will take effect on June 5, 1980, which is

fifteen days after publication of the

fifteen days after publication of the original notice in the **Federal Register**.

Dated: May 29, 1980.

Frederick McGoldrick,

Acting Director for Nuclear Affairs, International Programs.

[FR Doc. 80-16698 Filed 5-29-80; 11:00 am]

BILLING CODE 6450-01-M

Uranium Mill Tailings Remedial Actions Project Office, Albuquerque Operations Office; Solicitation of Expressions of Interest to Reprocess Uranium Mill Tailings

AGENCY: U.S. Department of Energy, Uranium Mill Tailings Remedial Actions Project Office, Albuquerque Operations Office.

ACTION: Program Information Notice: Request for Expressions of Interest in Remilling Pursuant to Pub. L. 95–604.

SUMMARY: The Uranium Mill Tailings Remedial Actions Project Office (UMTRA–PO) of the Albuquerque Operations Office (ALO) of the Department of Energy (DOE) is requesting expressions of interest from qualified, private parties regarding the remilling of the residual radioactive materials at the inactive uranium mill tailings sites designated pursuant to Pub. L. 95–604, the "Uranium Mill Tailings Radiation Control Act of 1978." This request for expressions of interest will implement the authority of DOE derived from section 108(b) of Pub. L. 95–604 to determine interest in remilling the uranium mill tailings.

EFFECTIVE DATE: July 14, 1980.

FOR FURTHER INFORMATION CONTACT:

(1) Mr. Richard H. Campbell, Project Manager, Uranium Mill Tailings Remedial Actions Project Office, U.S. Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115, Telephone (505) 844–3941, or

(2) Mr. Mark L. Matthews, Project Engineer, Uranium Mill Tailings Remedial Actions Project Office, U.S. Department of Energy, Albuquerque, New Mexico 87115, Telephone (505) 844–2185.

SUPPLEMENTARY INFORMATION:

The "Uranium Mill Tailings Radiation Control Act of 1978," Pub. L. 95–604, authorizes the Department of Energy (DOE) to undertake a program of remedial action at designated inactive uranium mill tailings processing sites and vicinity properties. The program is being undertaken in order to stabilize and control the tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public. Remedial actions undertaken pursuant to the Act are to be accomplished in cooperation with the interested States, Indian tribes, and the persons who own or control the mill tailings sites. Remedial actions are to include, where appropriate and practical, the remilling of tailings to extract residual uranium and other mineral values.

Pursuant to section 108b of the Act, prior to undertaking any remedial action at a designated site, the Secretary is directed to request expressions of interest from private parties regarding the remilling of the residual radioactive materials at the site and, upon receipt of any expression of interest, the Secretary must evaluate the mineral concentration of the residual radioactive materials at each designated site to determine whether, as a part of any remedial action program, recovery of such minerals is practicable. The Secretary may, with the concurrence of the Nuclear Regulatory Commission, permit the recovery of such minerals under such terms and conditions as he may prescribe. Section 101(7) of the Act defines "residual radioactive materials" as "(1) waste (which the Secretary of Energy determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (2) other waste (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ore or low-grade materials." Section 101(8) of the Act defines "tailings" as "the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted." No recovery is permitted unless the recovery is consistent with remedial action. Any person permitted by the Secretary to recover such mineral must pay to the Secretary a share of the net profits derived from the recovery as determined by the Secretary. After payment of such share to the United States, the person shall pay to the State in which the residual radioactive materials are located a share of the net profits derived from the recovery as determined by the Secretary. The person recovering the minerals bears all costs of such recovery. Any person carrying out mineral recovery activities under this program is required to obtain a license under the Atomic Energy Act of 1954 or under State law as permitted under section 274 of the Act.

The Uranium Mill Tailings Remedial Actions Project Office (UMTRA–PO) of the Albuquerque Operations Office (ALO) of the Department of Energy is presently requesting expressions of interest from qualified, private parties regarding the remilling of the residual radioactive materials at the inactive uranium mill tailings sites designated pursuant to Pub. L. 95–604.

The locations and current owners of those inactive uranium mill tailings sites upon which remilling may be permitted under Pub. L. 95–604 are as follows:

Site, location, and owner

1. Cannonsburg, Pennsylvania, Canon Development Company (V. Crile).
2. Salt Lake City, Utah, Salt Lake County Suburban Sanitary District.
3. Durango, Colorado, Ranchers Exploration and Development Corporation (H. Campbell).
4. Grand Junction, Colorado, Shumway Drilling Company (R. Shumway), AMAX, Inc.
5. Riverton, Wyoming, Lome Drilling & Well Service, Inc. (H. S. Harnsberger, Jr.).
6. Gunnison, Colorado, Decker, Bishop & McEachern (N. M. Bishop).
7. Rifle (Old), Colorado, Union Carbide Corp. (R. Beverly).
8. Rifle (New), Colorado, Union Carbide Corp. (R. Beverly).
9. Lakeview Oregon, Precision Pine Co. (N. Stock).
10. Ambrosia Lake, New Mexico, United Nuclear Corp. (H. J. Abiss)
11. Green River, Utah, Union Carbide Corp. (R. Beverly)
12. Slick Rock (North Continent), Colorado, Union Carbide Corp. (R. Beverly)
13. Slick Rock (Union Carbide), Colorado, Union Carbide Corp. (R. Beverly)
14. Maybell, Colorado, Union Carbide Corp. (R. Beverly)
15. Converse County (Spook), Wyoming, Western Nuclear (G. Bogden)
16. Monument Valley, Arizona, Navajo Tribe (P. MacDonald)
17. Tube City, Arizona, Navajo Tribe (P. MacDonald)
18. Shiprock, New Mexico, Navajo Tribe (P. MacDonald)
19. Mexican Hat, Utah, Navajo Tribe (P. MacDonald)
20. Falls City, Texas, Solution Engineering Co. (T. Fife), Lyssey Dairy Farms (V. Lissey), S. Niestroy
21. Lowman, Idaho, Velsicol Chemical Corp. (W. Giblin)
22. Belfield, North Dakota, Burlington Northern Railway
23. Bowman, North Dakota, Chicago Minneapolis St. Paul and Pacific Railroad
24. Baggs, Wyoming, Information not available

Expressions of interest for tailings remilling are requested at this time. After review of these expressions of interest, DOE may at some time in the future solicit remilling proposals from those who have expressed interest.

Parties interested in obtaining specific information regarding the mill tailings are advised to contact either the owner directly or the following person: Richard H. Campbell, Project Manager; Uranium Mill Tailings Remedial Actions Project Office, U.S. Department of Energy, Albuquerque Operations Office.

Qualified firms intending to express interest should submit, within 45 days from publication of this announcement, an expression of interest including a brief statement of their capability to conduct remilling operations and any other pertinent data, not to exceed a total of three single-spaced typewritten pages.

Responses should be addressed to: Richard H. Campbell, Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115.

Issued in Washington, D.C. May 23, 1980.

John W. Crawford,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 80-16398 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Cumberland Basin Projects; Order Extending Confirmation and Approval of Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Extension of approval on interim basis of Cumberland Basin Projects' rates.

SUMMARY: The Federal Energy Regulatory Commission (FERC) has not taken action on the rate schedules for Cumberland Basin power approved, on an interim basis, by the Assistant Secretary for Resource Applications and submitted to FERC on May 22, 1979. Since action by FERC is not expected prior to June 30, 1980, when the interim approval expires, the Assistant Secretary has extended the effective period for the applicable rate schedules as provided in Rate Order No. SEPA–8.

EFFECTIVE DATES: Extension of confirmation and approval of rates on an interim basis effective July 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Sidney M. Cleveland, Acting Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635 (404) 283–3261.

James A. Braxdale, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633–8336.

SUPPLEMENTARY INFORMATION:

Cumberland Basin Power Rate Schedules CR–1–D and CR–2–D were approved, on an interim basis, by the Assistant Secretary for Resource Applications pursuant to Delegation Order No. 0204–33, 43 FR 60636, for a period beginning July 1, 1978, and ending June 30, 1980.

Rate Order No. SEPA–8 provides that the rate schedules shall remain in effect on an interim basis for an additional 12 months unless such period is extended or until these or substitute rates are confirmed and approved by FERC on a final basis.

Issued in Washington, D.C., May 22, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Department of Energy

Assistant Secretary for Resource Applications

In the Matter of Southeastern Power Administration, Cumberland Basin Projects' Power Rates; Rate Order No. SEPA–8.

Order Extending Confirmation and Approval of Power Rates on an Interim Basis

May 22, 1980.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This Rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

On May 22, 1979, the Assistant Secretary for Resource Applications issued Rate Order No. SEPA–4 confirming and approving on an interim basis, as of July 1, 1978, Wholesale Power Rate Schedules CR–1–D and CR–2–D, applicable to power from the Cumberland Basin Projects, Tennessee and Kentucky. Rate Schedule CR–1–D applies to the Tennessee Valley Authority (TVA) and consists of an Annual Charge paid in monthly increments reduced by credits for power retained and sold to customers outside the TVA area. Rate Schedule CR–2–D applies to retained peaking power and/or standby power sold to Big Rivers Electric Corporation; Indiana Statewide Rural Electric Cooperative, Incorporated, Hoosier Energy Division; Southern Illinois Power Cooperative; and East Kentucky Power Cooperative and delivered at the Cumberland Projects or TVA interconnection points. These rate schedules were to remain in effect on an interim basis through June 30, 1980, unless such period was extended or until FERC confirmed and approved them or substitute rate schedules on a final basis.

These rate schedules, together with an April 1979 Repayment Study and other supporting data, copies of a transcript of a public meeting and applicable power contracts, were submitted to FERC with the request that the rate schedules be confirmed and approved on a final basis.

Discussion

Because of the extraordinary number of Federal power rate actions submitted for final approval since the issuance of Delegation Order No. 0204–33, FERC has been unable to take action on rate schedules applicable to Cumberland Basin power. It is necessary, therefore, for the Assistant Secretary for Resource Applications to extend interim approval of the Cumberland Basin Rate Schedules for an additional 1-year period.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend confirmation and approval on an interim basis, effective July 1, 1980, of attached Rate Schedules CR–1–D and CR–2–D. These rate schedules shall remain in effect on an interim basis through June 30, 1981, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, D.C., this 22nd day of May 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Department of Energy

Southeastern Power Administration

Wholesale Power Rate Schedule CR–1–D

Availability: This rate shedule shall be available to the Tennessee Valley Authority (hereinafter called TVA).

Applicability: This rate shedule shall be applicable to electric power and energy generated at the Dale Hollow, Center Hill, Wolf Creek Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the "Cumberland Projects") and sold under contract between the Department of Energy and TVA.

Character of Service: The electric power and accompanying energy sold hereunder will be three-phase alternative current at a frequency of approximately 60 Hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Rates: The payments to the Department of Energy by TVA hereunder for availability of capacity and deliveries of energy from the Cumberland Projects are estimated to produce over a period of years an average annual payment of $18,450,000, which amount

is hereinafter referred to as the "Basic Annual Charge."

The Basic Annual Charge shall be the applicable annual charge for each year (ending June 30) in which the average unregulated flow of water into Wolf Creek Reservoir as determined hereinafter is between 8,500 and 9,250 c.f.s. To determine the applicable annual charge in other years, the Basic Annual Charge shall be adjusted in accordance with variations in said flow of water as follows: For each 750 c.f.s. or fraction thereof by which said flow of water for the year is greater than 9,250 c.f.s., the applicable annual charge shall be greater by $680,000; for each 500 c.f.s. or fraction thereof by which said flow of water for the year is less than 8,500 c.f.s., the applicable annual charge shall be less by $750,000; provided, that the applicable annual charge for any year shall be not less than $15,450,000 nor more than $21,170,000.

Unless otherwise mutually agreed, the annual unregulated flow of water into the Wolf Creek Reservoir will be established from a consideration of the unadjusted discharge registered at Rowena gauging stations as determined by the U.S. Geological Survey, adjusted for changes in storage at all reservoirs upstream from said station, in accordance with capacity ratings by the owners thereof, and for other possible factors which may be mutually agreed upon by the parties.

TVA shall pay the applicable annual charge to Energy in monthly installments as follows:

A. For each of the months July through December, the monthly installment payment shall be $1,210,000.

B. For the month of January and for each succeeding month through June, the installment payment for each month shall be the amount computed for that month as follows:

1. The estimated applicable annual charge will first be computed using an estimated average flow for the year determined by combining the inflow from the beginning of the fiscal year through the month for which the installment is being computed with the minimum probable inflow for the remainder of the fiscal year as listed in Table I below opposite the month for which said payment is being computed.

2. The installment payment will then be determined by taking the difference between the estimated applicable annual charge for the fiscal year as determined under 1. and the total of the installment payments for the preceding months in that fiscal year and multiplying said difference by the percentage listed in Table II opposite the month for which the installment payment is being computed.

Month	Table I (second-foot days)	Table II (percentage)
January	800,000	20
February	700,000	25
March	290,000	[illegible]
April	50,000	40
May	7,800	50
June	[illegible]	100

C. In the event that the total of the monthly installment payments for any fiscal year exceeds the applicable annual charge for that fiscal year, the excess shall be credited against the monthly installment payments for the succeeding fiscal year.

Credits for Retained Power: The applicable annual charge shall be adjusted as follows to compensate for the retention of Peaking Power, Standby Power, and "special" emergency Standby Power and the transfer of retained power and energy for sale by the Administrator of Southeastern Power Administration to Other Customers. For each Supply Year, beginning November 1, the applicable charges shall be reduced by:

a. $17.88 per kw of Peaking Power Base Amount retained by Administrator.

b. $4.86 per kw of the Contract Standby Demand of the Administrator's first Other Customer, plus $3.24 per kw of the sum of the Contract Standby Demands of the second and third Other Customers. For purposes hereof, such "first" Other Customer shall be the one with the largest Contract Standby Demand.

c. 6.4 cents per calendar day (or fraction thereof) per kw of emergency Standby Power used in November, April, May, June, September, and October of each Supply Year, and 9.9 cents per calendar day (or fraction thereof) per kw of the emergency Standby Power used during any other period of the year.

d. 3.26 mills per kwh of energy associated with the Peaking Power Base Amount and of the energy scheduled with the use of maintenance Standby Power.

e. 5.32 mills per kwh of energy scheduled with the use of emergency Standby Power.

f. $25.50 per kilowatt of the maximum amount, if any, by which the capacity used by the Other Customers exceeds the amount of the Cumberland Capacity to which the Administrator is entitled. For purposes of this subsection, the Administrator shall be entitled at any time to the sum of the following:

(1) The total of Peaking Power retained by the Administrator for use at that time by all of the Other Customers, and

(2) If the Administrator at that time is delivering Standby Power to any Other Customer, the Contract Standby Demand of that Customer and any amount that is being retained as "special" emergency Standby Power at that time.

Notwithstanding the foregoing, insofar as such excess consists of excess emergency Standby Power takings, the reduction provided for in this subsection f. shall not apply to the first 100 mw for the first 24 hours of the first four occasions of the emergency excess takings in any Supply Year caused by outages of generating units of the Administrator's Other Customers occurring simultaneously with scheduled outages or other emergency outages.

g. 5.32 mills per kwh of the energy taken in any hour in excess of the amount of energy to which the Administrator is entitled.

During each month of a Supply Year, the monthly installments due shall be reduced by one-twelfth of the sum of the amounts of the annual reductions computed under a. and b. above, and by the sum of the amounts of the reductions computed under c, d, e, f, and g above for the month.

Service Interruption: When delivery of power to TVA is interrupted or reduced due to failure of facilities at any of the Cumberland Projects and whenever such interruption or reduction results in a loss for a continuous period of more than 31 days of installed capacity (name plate) in excess of 50 megawatts or loss of an entire project, the payments to be made by TVA for the months in which such interruption affects the delivery of power shall be adjusted; provided, however, that no monthly bill will be adjusted until there is a net cumulative monetary credit due TVA. Monthly adjustments will be determined as follows:

a. Adjustments for changes in energy deliveries will be determined by multiplying the change in energy determined by the Administrator to have resulted from the interruption or reduction by 3.16 mills per kilowatt-hour.

b. Ajustments for installed capacity losses for each month in which the interruption or reduction occurs for more than half the hours in the month will be determined by multiplying the name plate capacity determined by the Administrator to have been lost as a result of the Interruption or the reduction by $0.90 per kilowatt.

July 1, 1978.

Wholesale Power Rate Schedule CR–2–D

Availability: This rate schedule shall be available to the Big Rivers Electric Corporation; Indiana Statewide Rural Electric Cooperative, Incorporated, Hoosier Energy Division; Southern Illinois Power Cooperative; and East Kentucky Power Cooperative (hereinafter individually called Customer; collectively, Customers).

Applicability: This rate schedule shall be applicable to Peaking Power, Standby Power, and "special" emergency Standby Power, together with accompanying energy generated at the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of 60 cycles per second and shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission systems of the Big Rivers Electric Corporation and the East Kentucky Power Cooperative. The points of delivery to the Big Rivers EC transmission system will be one at 13,800 volts and two at 161,000 volts in the vicinity of the Barkley dam power plant and another point of delivery at 161,000 volts from the TVA transmission system in the vicinity of Paradise, Kentucky. The point of delivery for East Kentucky PC will be at the 161,000 volt bus of the Wolf Creek power plant. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $16.80 per Supply Year for each kilowatt of the Contract Peaking Demand, payable $1.40 per billing month.

$4.26 per Supply Year for each kilowatt of the Contract Standby Demand, payable in equal monthly installment payments of one-twelfth of the annual charge.

$0.064 per calendar day (or fraction thereof) per kw of Standby Power delivered for emergency purposes in November, April, May, June, September, and October of each Supply Year, and $0.099 per calendar day (or fraction thereof) per kilowatt of the Standby Power delivered for emergency purposes during any other period of the year.

Whenever a Customer's use of standby capacity for emergency outage is reduced during a day because of emergency outage of another or other Customers, the Customer first using emergency standby capacity shall pay the daily use charge to the extent of his maximum usage. Other Customers shall pay a daily use charge that day only to the extent that they cause a higher maximum to be established.

A Supply Year is a year beginning November 1.

Energy Charge: 4.20 mills per kilowatt-hour for all Peaking Energy.

3.26 mills per kilowatt-hour for all maintenance Standby Energy.

5.32 mills per kilowatt-hour for all emergency Standby Energy.

"Special" Emergency Standby Power: "Special" emergency Standby Power from the Cumberland capacity can be made available by the Government to any particular Customer for periods of not less than one week. Any such amounts of power so made available and bought by said Customer shall be at rates as agreed upon by the operating representatives of the parties prior to commencing delvery.

Billing Month: The billing month of power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Standby Capacity and Peaking Capacity and the associated Standby Energy and Peaking Energy sold to Customers under this rate schedule shall come exclusively from capacity and energy available from the Cumberland Projects and retained by the Administrator. Standby Capacity shall be used by Customers only to replace loss of generation on their systems because of maintenance and/or emergency outages of their generating equipment. Maintenance outages shall be a matter of coordination between the Government and the Customers.

The rates and charges for Standby Capacity purchased are predicated upon the purchase of such capacity by three customers.

Each Customer is prohibited from using in any supply year any Standby Capacity and Peaking Capacity in excess of the capacity to which it is entitled. Should the power used by any individual Customer exceed the capacity to which it is entitled in any sixty (60) consecutive minute period in any Supply Year, such Customer shall pay the Government $25.50 per kilowatt of the largest such excess occurring during that year through the current billing period. Notwithstanding the foregoing, insofar as such excess consists of emergency Standby Power takings by a Customer caused by outages of generating units of any of the three Customers occurring simultaneously with scheduled outages or other emergency outages, the payment provided herein shall not apply to the first 100 mw for the first 24 hours of the first four occasions of the emergency takings in any Supply Year; provided, that the first four occasions provided herein are a total for the three Customers and will be applied to the first four excess emergency takings by the Customers in the order of their occurrence. Each Customer shall also pay the Government 5.32 mills per kilowatt-hour for Standby Energy taken in any hour in excess of the amount of energy to which such Customer is entitled.

The terminal equipment required for delivery of power at the Barkley switchyard will be furnished by the Government, and the terminal equipment required at any other points of delivery agreed upon with Big Rivers will be furnished by Big Rivers. The costs of the terminal equipment required for delivery of power at the Wolf Creek power plant to East Kentucky shall be borne by the Government.

Unless otherwise agreed, the interconnected electric systems of the Customers and the system of TVA shall be operated in parallel and such Customers shall not interconnect their respective systems with other power systems that are normally operated in parallel with TVA's system.

Service Interruption: When capacity made available and sold under this rate schedule is reduced or interrupted for sixty (60) minutes or longer and such reduction or interruption is not due to conditions on the individual Customer's system, (a) the monthly demand charge for Standby Capacity for the billing month shall be reduced for billing purposes for each hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to one-twelfth of the annual charge divided by the number of hours in the billing month times the reduction, in kilowatts, of such capacity, (b) the monthly charge for Peaking Capacity for the billing month shall be reduced for billing purposes, for each hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $1.40 divided by the number of hours in the billing month times the reduction, in kilowatts, of such capacity, and (c) the amount of Peaking Energy which such Customer had scheduled but did not receive on the day or days of interruption may be rescheduled and taken by such Customer not later than the close of the then current Supply Year.

July 1, 1978.

[FR Doc. 80–16425 Filed 5–29–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP80–100]

Amoco Production Co.; Section 108 NGPA Determination Purdum Unit No. 1, JD80–25602; Preliminary Finding

May 23, 1980.

On April 9, 1980, the Corporation Commission of the State of Oklahoma notified the Federal Energy Regulatory Commission (Commission) that it had made an affirmative determination that the Purdum Unit No. 1 well qualified as a "seasonally affected" stripper well under § 271.804(d) of the Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA).

Section 271.804(d)(1) provides that in order to qualify for a designation as a "seasonally affected" well, the 24-month production reports must "demonstrate that the well is subject to seasonal fluctuations which temporarily increase average production above 60 Mcf per production day" and the jurisdictional agency must find that the seasonal fluctuations "have not increased and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period." In addition, § 274.206(d)(4) requires the applicant to file "a description of the nature of the seasonal fluctuations as inferred from the data supplied." The record shows that from June, 1977, to February, 1979, production from the Purdum Unit No. 1 well was relatively stable and averaged 15.3 Mcf per production day. However, the subject well has experienced production in excess of 60 Mcf per production day during a 90-day period from March, 1979 through May, 1979. In its application, Amoco stated that, "Pipeline company's line pressure lowered, we swabbed off fluid and well produced more for the 90-day period March, April and May 1979."

In order to qualify as a seasonally affected well, the applicant must demonstrate that any fluctuations above 60 Mcf per day for a 90-day period are seasonal and predictable.[1] Because the applicant has not demonstrated that the well has experienced fluctuations that are seasonal and predictable, the determination is not supported by substantial evidence that the well qualifies as a "seasonally affected" stripper well under § 271.804(d) of the Commission's regulations.

The Commission finds:

[1] *See* "Final Order on Well Category Determinations", Docket No. GP79—123, issued January 8, 1980.

The Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i) that the notice of determination submitted by the Oklahoma Corporation Commission for the above listed well is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16477 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-325]

Consumers Power Co.; Filing Certificate of Concurrence

May 23, 1980.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) tendered for filing on May 15, 1980, its Certificate of Concurrence with the filing by American Electric Power Service Corporation on behalf of its affiliate Indiana and Michigan Electric Company (I & M) of a change of rate schedule, Amendment No. 17, among I & M, Consumers and the Detroit Edison Company (Detroit) (Consumers and Detroit being herein jointly referred to as the Michigan Companies. This Amendment provides for the sale of Unit Power by I & M and the purchase of the electric power by the Michigan Companies for the Contract Period and in the demand quantities as follows:

	kW
From the Amos Station: May 1, 1980—September 30, 1980	100,000
From the Gavin Station: May 1, 1980—September 30, 1980	100,000

Consumers states that the Amos Station and the Gavin Station are owned by affiliation of I & M.

I & M has requested the Commission to accept the Amendment for filing on or before May 1, 1980, as it intends to commence the sale of Unit Power to the Michigan Companies as of that date.

The proposed change would increase the demand rate for Unit Power from $4.50 per kilowatt month to $5.35 per kilowatt month which would increase anticipated revenues on 200,000 kW of sales from $2,805,344 to $2,975,344 per month. There have been no sales of Unit Power since 1978.

A copy of this filing has been served upon the Detroit Edison Company, the American Electric Power Service Corporation, the Public Service Commission of Indiana, Michigan Public Service Commission, and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16478 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP78-391, et al.]

Great Plains Gasification Associates, et al.; Filing, Scheduling Public Conference and Setting Time Limit for Comments

May 23, 1980.

On May 23, 1980, Great Plains Gasification Associates and the pipeline company applicants submitted a motion for modification and clarification of prior Opinions No. 69 and 69-A in this proceeding and for acceptance and approval of modified tariffs and related agreements. A number of documents accompanied the motion. Copies of the motion and the documents also were filed on all parties to the proceeding. The documents are as follows:

(1) Great Plains Coal Gasification rate Adjustment provisions proposed by the Customer Pipeline Companies (Attachments E, F, G, H, and I), together with a related refund undertaking (Attachment J);

(2) Credit Agreement (Attachment K);

(3) Restatement of Coal Sales Agreement (Attachments L and M);

(4) Partnership Agreements (Attachment N); and

(5) Basin Electric Agreements (Attachments O and P).

In most instances the materials submitted are modifications of documents previously included in the record and which have been amended to reflect either explicit directives in the Commission's Opinions and/or changes suggested at the public conferences held on several occasions since the decisions issued. The Credit Agreement and materials related there to were not in the record; however, an earlier version was made available at the public conferences. With the concurrence of the applicants this earlier version, together with the partnership agreement and the gas funding and gas purchase agreements, was reviewed at the Commission's request by the U.S. Treasury Department from a financial viewpoint in order to assist in the Commission's evaluation. The copies of this notice which are being sent to the participants have attached a copy of the Treasury Department's report.

On April 18, 1980, Great Plains filed modified Gas Purchase and Funding Agreements (Attachments A, B, C, and D) on the Commission and the parties, along with a motion requesting their acceptance. The documents have not been changed in the interim and have not been refiled. They will be considered together with the other documents referred to herein.

The Commission desires that all participants in the proceeding have as full an understanding as they may desire of these materials and of the amendments which have been made. Accordingly, a public conference has been scheduled for Tuesday, June 3, 1980, in the Offices of the Commission, commencing at 10:00 a.m. at which representatives of the applicants will explain the several documents. All persons present will be free to participate and pose clarifying questions. Thereafter, following the conclusion of the conference, the parties and staff will have until June 10, 1980, to submit written comments regarding these materials for the Commission's consideration.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16479 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP75-154 and CP75-227; Docket No. CP75-57]

Montana Dakota Utilities Co. and Kansas-Nebraska Natural Gas Co. Inc; Informal Conference

May 23, 1980.

Take notice that on June 5, 1980, at 9:30 a.m. an informal conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 among the applicants in the above-captioned dockets, the intervenors to those dockets and members of the Commission Staff.

At Docket No. CP75-154 Montana-Dakota Utilities Company (MDU) has filed a petition to amend the order issued May 11, 1977 in the instant docket so as to authorize an additional exchange, and to use in interstate commerce certain existing facilities which have previously been used solely in intrastate commerce.

At Docket No. CP75-227 MDU has filed a petition to amend the Commission order issued February 25, 1977 so as to remove an intrastate supply condition prescribed therein so that the communities of Sheridan and Buffalo, Wyoming may continue to be served from the aforementioned facilities.

At Docket No. CP75-57 Kansas-Nebraska Natural Gas Company Inc., (K-N) has filed a petition to amend the order issued May 11, 1977 in the instant docket so as to authorize an additional delivery point under the Bowdoin exchange agreement between KN and MDU dated May 10, 1974.

This informal conference is open to the public, however, attendance or participation at the informal conference will not serve to make the attendees parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the KN and the MDU filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16480 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-347]

Natural Gas Pipeline Co. of America; Informal Conference

May 22, 1980.

Take notice that on June 3, 1980; at 1:30 p.m. an informal conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 among the Petitioner in the above-captioned docket, Getty Synthetic Fuels Inc. (GSF) and members of the Commission Staff.

The informal conference is being held at the request of Petitioner to discuss certain aspects of Petitioner's request filed in Docket No. CP80-347 pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CRF 1.7) for a declaratory order concerning the jurisdictional status of certain landfill gas operations and to permit Petitioner to recover through the Purchased Gas Adjustment Clause of its tariff the cost of the gas to be purchased; and an application pursuant to Section 7(c) of the Natural Gas Act (15 USC 717f(c)) for a certificate of public convenience and necessity authorizing the construction of a side tap to enable Petitioner to receive said gas into its existing interstate system, all as more fully set forth in the petition for declaratory order.

The informal conference is open to the public, however attendance or participation at the informal conference will not serve to make the attendees parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the Petitioner's filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16481 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-88]

Northern Natural Gas Co., Division of InterNorth, Inc.; Order Accepting Tariff Sheets for Filing, and Suspending Rate Increase Subject to Conditions and Refunds, Granting Waiver, Initiating Hearing and Granting Intervention

May 23, 1980.

On April 25, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) filed revised tariff sheets [1] proposed to be effective May 27, 1980. Northern states that the purpose of this filing is to provide for increased jurisdictional rates for Northern's principal market area sales which, when applied to test period sales volumes, will result in increased annual revenues of $163,226,857. Northern further states that this filing provides for increased rates for its jurisdictional field sales made in the three operational areas (Panhandle, Plains and Permian) south of the principal market area. When applied to the test period sales volumes, these latter increased rates will result in increased annual revenues of $812,501. Northern's proposed rates are based on actual data for calendar year 1979, adjusted for changes known and measurable through September 30, 1980.

Public notice of this filing was issued May 2, 1980 providing for protests or petitions to intervene to be filed on or before May 16, 1980. Petitions to intervene were filed by those listed in the appendix, and a notice of intervention was filed by the Public Service Commission of Wisconsin. All of these petitioners have sufficient interest in this proceeding to justify their invention.

Based upon a review of Northern's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing Northern's tariff sheets, subject to conditions, and suspend their effectiveness so that they shall become effective, subject to refund on October 27, 1980, at the end of the full five month statutory period.

Northern stated that the principal reasons for this filing are increases in the cost of obtaining new gas supplies, revenue requirements to provide an overall return of 13.32 percent on its rate base, and operating costs. Northern claims the need for an overall rate of return of 13.32 percent which would provide a 15.50 percent return on common equity. This represents an increase above the overall rate of return of 10.06 percent reflecting a 12 percent return on common equity approved in the settlement in Docket No. RP78-56.[2] Northern has also proposed revisions to its FERC Gas Tariff to modify the general terms and conditions pursuant to an Initial Decision issued November 18, 1977, and the subsequent Commission order issued on September 6, 1979, in Docket No. RP71-107 (Phase II) to reduce minimum Btu provisions and the elimination of building adjustment provisions.

Northern has requested a waiver of Section 154.63(e)(2)(ii) of the Commission's rules and regulations to conditionally permit inclusion in rates of $40.8 million in additional facilities, not in service at this time, which Northern states, may be required in order for Northern to deliver the sales and transportation volumes contemplated by the filing. Since the facilities are expected by Northern to be in service by the end of the nine month adjustment period, the requested waiver of the regulations should be granted to permit the inclusion of costs related to facilities not yet certificated, subject to the condition that Northern file revised tariff sheets prior to September 30, 1980, reflecting the elimination of all costs associated with facilities not in service by that date.

The Commission Orders:

(A) Northern's proposed Twenty-Third Revised Sheet No. 4a, Thirteenth Revised Sheet No. 4b, Second Revised Sheet Nos. 25, 63 and 79, First Revised Sheet Nos. 54, 55, 64a and 64b, Original

[1] Twenty-Third Revised Sheet No. 4a, Thirteenth Revised Sheet No. 4b, Second Revised Sheet Nos. 25, 63 and 79, First Revised Sheet Nos. 54, 55, 64a and 64b, Original Sheet No. 64c, all to FERC Gas Tariff Third Revised Volume No. 1, and Twenty-Third Revised Sheet No. 1c to FERC Gas Tariff Original Volume No. 2.

[2] In Docket No. RP78-56 common equity was 54.27 percent of the total capitalization whereas in this filing common equity constitutes approximately 53.71 percent of the total capitalization.

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Sheet No. 64c, all to its FERC Gas Tariff Third Revised Volume No. 1, and Northern's Twenty-Third Revised Sheet No. 1c to its FERC Gas Tariff Original Volume No. 2 are accepted for filing, suspended and shall become effective on October 27, 1980, subject to refund and conditions as described in paragraphs (B) and (C) below.

(B) Waiver of Section 154.63(E)(2)(ii) of the Regulations, to permit the inclusion in its cost of service of facilities not in service as of September 30, 1980, is granted subject to the condition that Northern file on or before October 27, 1980, a revised tariff sheet reflecting the elimination of all costs associated with facilities not in service by that date, and provided that no off-setting adjustments to the suspended rates shall be permitted prior to hearing except for those adjustments made (1) pursuant to Commission approved tracking provisions, (2) required by this order, or (3) required by other Commission orders.

(C) Northern shall further be required to revise its tariff sheet to reflect the actual balance of advance payments as of September 30, 1980, provided that the inclusion of a higher advance payment balance shall not be permitted to increase the level of the original suspended rates.

(D) Pursuant to Sections 4, 5, 8, and 15 of the Natural Gas Act and the Commission's Rules and Regulations thereunder, a public hearing shall be held concerning the lawfulness of the rates proposed by Northern.

(E) Staff shall serve top sheets on or before August 27, 1980.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR § 3.5 (d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. to establish such further and additional procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided in the rules of practice and procedure.

(G) The petitions to intervene listed in the appendix are granted subject to the provisions of the Commission's Rules and Regulations, *Provided,* However, that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further* that the admission of such intervenors shall be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix

Petitions to Intervene were filed by: Michigan Power Company, Great Plains Natural Gas Company, North Central Public Service Company, Columbia Gas Transmission Corporation, Kansas-Nebraska Natural Gas Company, Iowa Public Service Company, Iowa-Illinois Gas and Electric Company, Iowa-Southern Utilities Company, Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin).

[FR Doc. 80-16482 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-150]

Northwest Pipeline Corp.; Amendment to Application

May 23, 1980

Take notice that on May 9, 1980, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79-150 pursuant to Section 7(c) of the Natural Gas Act, an amendment to its application pending in the instant docket so as to reduce the scope of the authorization requested, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant, in an application filed in the instant docket, on January 17, 1979, and supplemented on November 26, 1979, requested authority to construct and operate certain natural gas facilities and to transport natural gas for Northern Natural Gas Company (Northern), it is stated. In the original application and the supplement thereto, it is stated that Applicant then had gas purchase contracts with Amoco Production Company (Amoco) and with Chevron U.S.A. Inc. (Chevron) covering 87.5 percent of the natural gas reserves in the Ryckman Field, Uintah and Lincoln Counties, Wyoming; additionally, it is stated that Applicant also sought permission to transport Northern's 50 percent interest in the Painter Reservoir.

Subsequently, Applicant states, subject to the execution of a gas purchase contract, it has acquired Amoco's 37.5 percent interest in the Painter Reservoir Field, and that Northern has abrogated the gas transportation agreement between Applicant and Northern in favor of such gas being transported for Northern by the proposed Trailblazer, *et al.,* project.

In view of the withdrawal of Northern's transportation request, Applicant has redesigned its facilities to provide only for the gathering and transportation of gas under contract to Applicant inasmuch as Northern's transportation needs from the Painter Reservoir Field would be met by the Overthrust-CIG-Trailblazer pipeline network, it is asserted. To effectuate these design changes, Applicant proposes to construct and operate the following facilities:

(A) 26.84 miles of 16-inch main trunkline from the Ryckman-Painter junction to a point of interconnection with applicant's existing 16-inch Big Piney Lateral at Applicant's Opal gasoline plant;

(B) 6.36 miles of 8-inch trunkline from the Ryckman-Painter Junction to the Ryckman Field;

(C) 15.49 miles of 10-inch trunkline from the Ryckman-Painter Junction to the Painter Reservoir field;

(D) 4,000 compressor horsepower, 2,725 horsepower to be installed in the Ryckman Field and 1,275 horsepower to be installed in the Painter Reservoir Field; and

(E) Facilities appurtenant thereto.

The cost of the above proposed facilities is estimated to be $20,281,000 which cost would be financed with interim loans to be later supplemented with a permanent form of financing consistent with Applicant's overall financing requirements, it is said.

It is further stated that the gas to be purchased by Applicant is "wet" gas and would, therefore, require processing at Applicant's Opal gasoline plant, and that the producers, Amoco and Chevron, have the right to take their liquid hydrocarbons in kind. In the event the producers elect to take their liquid hydrocarbons in kind, Applicant proposes to charge the producers a 30.2 cents per million Btu rate for gathering liquid and liquefiable hydrocarbons and 5.72 cents per Mcf for processing the gas at Applicant's Opal gasoline plant.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16483 Filed 5-29-80; 8:45 am]

BILLING CODE 6450-85-M

[No. 208]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

May 23, 1980

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Sector of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-33186/K-79-0797
2. 15-175-00000-0000
3. 108 000 000
4. Mallonee-Mahoney Inc
5. Beck No 1
6. Evalyn-Condit
7. Seward KS
8. 21.0 million cubic feet
9. May 9, 1980
10. Northern Natural Gas Co

1. 80-33187/K-79-0585
2. 15-175-00000-0000
3. 108 000 000
4. Cabot Corp
5. Kelly No 1
6. Kansas-Hugoton
7. Seward KS
8. 9.0 million cubic feet
9. May 9, 1980
10. Cities Service Gas Co

1. 80-33188/K-79-0699
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Rosener Gas Unit No 1
6. Hugoton Chase
7. Kearny KS
8. 21.0 million cubic feet
9. May 9, 1980
10. Cities Service Gas Co

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-32868
2. 47-099-21677-0000
3. 103 000 000
4. Davco Drilling Co
5. Pat Napier No 1
6. Lincoln
7. Wayne WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80-32869
2. 47-085-01473
3. 108 000 000
4. Sioux Gas Company
5. C A & J O Nay No 1
6. Union District
7. Ritchie WV
8. .9 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80-32870
2. 47-033-00378-0000
3. 108 000 000
4. Chicago Bears Football Club Inc
5. L L Crawford No 1
6. Elk District
7. Harrison WV
8. 11.1 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80-32871
2. 47-097-00097-0000
3. 108 000 000
4. Galloway Company Inc
5. S R Hill
6.
7. Upshur WV
8. 150.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80-32872
2. 47-013-01916-0000
3. 108 000 000
4. Lowell Sampson
5. William Taylor No 1
6.
7. Calhoun WV
8. 1.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80-32873
2. 47-103-01274-0000
3. 108 000 000
4. C B Westfall
5. Deward Offutt No 1
6.
7. Calhoun WV
8. 4.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80-32874
2. 47-045-00956-0000
3. 103 000 000
4. Devon Corporation
5. Dingess Rum Coal Co No 855
6. Stollings
7. Logan WV
8. 300.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans Corp

1. 80-32875
2. 47-021-02741-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Despard A No 1
6. Glenville South
7. Gilmer WV
8. 16.4 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80-32876
2. 47-097-00618-0000
3. 108 000 000
4. Ross-Wharton Gas
5. Corathers 104-A
6. Pringle Fork
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas

1. 80-32877
2. 47-013-00585-0000
3. 108 000 000
4. W H Hildreth
5. T P Mccune No 1
6. Orma
7. Calhoun WV
8. 1.6 million cubic feet
9. May 12, 1980
10. Cabot Corp

1. 80-32878
2. 47-047-00750-0000
3. 108 000 000
4. Energy Development Corp
5. EDC No 9-MCD-750
6. Big Sandy
7. McDowell WV
8. 14.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80-32879
2. 47-107-00622-0000
3. 108 000 000
4. Big B Drilling Co Inc
5. C E McPherson No 2
6. Clay District
7. Wood WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Co

1. 80-32880
2. 47-085-24253-0000
3. 103 000 000
4. Green L Haught & Sons
5. Betty Semmelman No H-727
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80-32881
2. 47-045-00962-0000
3. 103 000 000
4. Devon Corp
5. Dingess Rum Coal Co No 863
6. Stollings
7. Logan WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80-32882
2. 47-013-02000-0000
3. 108 000 000
4. Lowell Sempson
5. Denver Chenoweth
6.

7. Calhoun WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32883
2. 47–097–00290–0000
3. 108 000 000
4. Galloway Company Inc
5. E C Allman
6.
7. Upshur WV
8. 150.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–32884
2. 47–097–00125–0000
3. 108 000 000
4. Galloway Company Inc
5. Hugh Marple 214A
6.
7. Upshur WV
8. 300.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–32885
2. 47–097–00232–0000
3. 108 000 000
4. Galloway Company Inc
5. S R Hill 400A
6.
7. Upshur WV
8. 150.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–32886
2. 47–039–03393–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 6
6. Cabin Creek
7. Kanawha WV
8. 80.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32887
2. 47–013–01917–0000
3. 108 000 000
4. Lowell Sampson
5. Sarah C Taylor No 1
6.
7. Calhoun, WV
8. 3.0 million cubic feet
9. May 12, 1980
10 Consolidated Gas Supply Corp

1. 80–32888
2. 47–045–00963–0000
3. 103 000 000
4. Devon Corp
5. Dingess Rum Coal Co No 864
6. Stollings
7. Logan, WV
8. 72.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32889
2. 47–077–00128–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Halbritter-A No 1
6. South Burns Chapel
7. Preston, WV
8. 16.4 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32890
2. 47–061–0322–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Roby-D No 1
6. South Burns Chapel
7. Monongalia, WV
8. 15.6 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32891
2. 47–061–00314–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Sellaro A No 1
6. South Burns Chapel
7. Monongalia WV
8. 17.4 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32892
2. 47–085–01574–0000
3. 108 000 000
4. Garold F Fox
5. Rex Snyder & Susanne Fox
6. Murphy District
7. Ritchie, WV
8. 2.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32893
2. 47–013–02181–0000
3. 108 000 000
4. Garold F Fox
5. Floyd Fox Farm No 1
6. Center District
7. Calhoun County WV
8. 4.6 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32894
2. 47–013–01911–0000
3. 108 000 000
4. Garold F Fox
5. E H Dye No 1
6. Shenidan District
7. Calhoun WV
8. 6.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32895
2. 47–013–01832–0000
3. 108 000 000
4. Garold F Fox
5. K. W. Fox No 1
6. Sheridan District
7.
7. Calhoun WV
8. 6.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32896
2. 47–061–00324–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J Shafer
6. Greer-Cascode 290235
7. Monongalia, WV
8. 11.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–32897
2. 47–013–01188–0000
3. 108 000 000
4. Garold F. Fox
5. Rex Snider-O A Skimer
6. Sheridan District
7. Calhoun WV
8. 3.1 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32898
2. 47–045–01018–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Charleston Nat Bk 12511
6. Pineville Field Area A–59442
7. Logan WV
8. 24.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–32899
2. 47–033–01944–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Luther H Coffman
6. West Virginia Other–A–85772
7. Harrison
8. 30.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–32900
2. 47–033–01261–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Paul S Horner
6. West Virginia-Other A-85772
7. Harrison WV
8. 40.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–32901
2. 47–039–03470–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 19
6. Cabin Creek
7. Kanawha WV
8. 47.0 million cubic feet
9. May 12, 1980
10. Columia Gas Transmission Corp

1. 80–32902
2. 47–001–00966–0000
3. 103 000 000
4. Patrick Petroleum Corp of Michigan
5. Clarence Poe No 1
6. Philippi 76 Prog
7. Barbour WV
8 .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32903
2. 47–001–00900–0000
3. 103 000 000
4. Patrick Petroleum Corp of Michigan
5. G McDermitt No 1
6. Philippi 76 Prog
7. Barbour WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32904
2. 47–013–02972–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 3–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32905
2. 47–073–00640–0000
3. 108 000 000
4. A F Marple & Co
5. Bertha F Rawson No 1
6. Jefferson District
7. Pleasants County WV
8. 1.7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32906
2. 47–073–00605–0000
3. 108 000 000
4. A F Marple & Co
5. Bertha F Rawson No 2
6. Jefferson District
7. Pleasants County WV
8. 1.7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32907
2. 47–041–02091–0000
3. 103 000 000
4. United Petro Ltd
5. G E Wilfong No 1–UPL
6. Copley Field
7. Lewis WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32908
2. 47–017–22366–0000
3. 103 000 000
4. Carl E Smith Inc
5. E Davidson Est 3–182
6. West Union Dist
7. Doddridge WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32909
2. 47–021–03227–0000
3. 103 000 000
4. Gulf Oil Corporation
5. Bailey B No 1
6. W Glenville
7. Gilmer WV
8. 112.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32910
2. 47–015–01611–0000
3. 103 000 000
4. Stonestreet Lands Company
5. Orla Siers No 1–S–35
6. Elmira
7. Clay WV
8. 39.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32911
2. 47–085–02143–0000
3. 108 000 000
4. Thunder Oil & Gas Corp
5. T K Layfield No 1
6. T K Layfield
7. Ritchie WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32912
2. 47–013–02971–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 4–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32913
2. 47–013–02968–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 2–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32914
2. 47–033–20920–0000
3. 103 000 000
4. James F Scott
5. Harry C Morrison
6. Coal
7. Harrison WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32915
2. 47–013–02967–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 1–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32916
2. 47–107–00893–0000
3. 103 000 000
4. B & W Producers
5. Dunlap Well No 2
6. Walker Field
7. Wood WV
8. 2.7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32917
2. 47–107–00892–0000
3. 103 000 000
4. B7W Producers
5. Dunlap Well No 1
6. Walker Field
7. Wood, WV
8. 3.6 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32918
2. 47–085–02617–0000
3. 108 000 000
4. W R Funk
5. Dotson
6. Clay District
7. Ritchie County, WV
8. 1.9 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32919
2. 47–013–02452–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. E F Fox No 2
6.
7. Calhoun, WV
8. 1.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32920
2. 47–013–02468–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. E F Fox No 4
6.
7. Calhoun WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32921
2. 47–013–02507–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Arthur No 1
6.
7. Calhoun WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32922
2. 47–013–02511–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Gary Campbell N. 1
6.
7. Calhoun WV
8. 5.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32923
2. 47–105–00522–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Walter & Herman Depue No 1 (Bear Run)
6.
7. Wirt WV
8. 4.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32924
2. 47–105–00625–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. P L Depue No 1
6.
7. Wirt WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32925
2. 47–105–00626–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. P L Depue No 3
6.
7. Wirt WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32926
2. 47–105–00627–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. P L Depue No 4
6.
7. Wirt WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32927
2. 47–013–02512–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Ernest Campbell No 1

6.
7. Calhoun WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32935
2. 47–097–00290–0000
3. 108 000 000
4. Galloway Company Inc
5. E C Allman
6.
7. Upshur WV
8. 150.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–32936
2. 47–097–00125–0000
3. 108 000 000
4. Galloway Company Inc
5. Hugh Marple 214A
6.
7. Upshur WV
8. 300.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–32937
2. 47–097–00232–0000
3. 108 000 000
4. Galloway Company Inc
5. S R Hill 400A
6.
7. Upshur WV
8. 150.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–32938
2. 47–039–03393–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 6
6. Cabin Creek
7. Kanawha WV
8. 80.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32939
2. 47–013–01917–0000
3. 108 000 000
4. Lowell Sampson
5. Sarah C Taylor No 1
6.
7. Calhoun, WV
8. 3.0 million cubic feet
9. May 12, 1980
10 Consolidated Gas Supply Corp

1. 80–32940
2. 47–045–00963–0000
3. 103 000 000
4. Devon Corp
5. Dingess Rum Coal Co No 864
6. Stollings
7. Logan, WV
8. 72.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32941
2. 47–077–00128–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Halbritter-A No 1
6. South Burns Chapel
7. Preston, WV
8. 16.4 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32942
2. 47–061–0322–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Roby-D No 1
6. South Burns Chapel
7. Monongalia, WV
8. 15.6 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32943
2. 47–061–00314–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Sellaro A No 1
6. South Burns Chapel
7. Monongalia WV
8. 17.4 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32944
2. 47–085–01574–0000
3. 108 000 000
4. Garold F Fox
5. Rex Snyder & Susanne Fox
6. Murphy District
7. Ritchie, WV
8. 2.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32945
2. 47–013–02181–0000
3. 108 000 000
4. Garold F Fox
5. Floyd Fox Farm No 1
6. Center District
7. Calhoun County WV
8. 4.6 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32946
2. 47–013–01911–0000
3. 108 000 000
4. Garold F Fox
5. E H Dye No 1
6. Shenidan District
7. Calhoun WV
8. 6.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32947
2. 47–013–01832–0000
3. 108 000 000
4. Garold F Fox
5. K. W. Fox No 1
6. Sheridan District
7.
7. Calhoun WV
8. 6.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32948
2. 47–061–00324–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J Shafer
6. Greer-Cascode 290235
7. Monongalia, WV
8. 11.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–32949
2. 47–013–01188–0000
3. 108 000 000
4. Garold F. Fox
5. Rex Snider-O A Skimer

1. 80–32950
2. 47–073–00640–0000
3. 108 000 000
4. A F Marple & Co
5. Bertha F Rawson No 1
6. Jefferson District
7. Pleasants County WV
8. 1.7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32951
2. 47–073–00605–0000
3. 108 000 000
4. A F Marple & Co
5. Bertha F Rawson No 2
6. Jefferson District
7. Pleasants County WV
8. 1.7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32952
2. 47–041–02091–0000
3. 103 000 000
4. United Petro Ltd
5. G E Wilfong No 1–UPL
6. Copley Field
7. Lewis WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32953
2. 47–017–22366–0000
3. 103 000 000
4. Carl E Smith Inc
5. E Davidson Est 3–182
6. West Union Dist
7. Doddridge WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32954
2. 47–021–03227–0000
3. 103 000 000
4. Gulf Oil Corporation
5. Bailey B No 1
6. W Glenville
7. Gilmer WV
8. 112.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32955
2. 47–015–01611–0000
3. 103 000 000
4. Stonestreet Lands Company
5. Orla Siers No 1–S–35
6. Elmira
7. Clay WV
8. 39.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32956
2. 47–085–02143–0000
3. 108 000 000
4. Thunder Oil & Gas Corp
5. T K Layfield No 1
6. T K Layfield
7. Ritchie WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32957
2. 47–013–02971–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 4–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32958
2. 47–013–02968–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 2–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32959
2. 47–033–20920–0000
3. 103 000 000
4. James F Scott
5. Harry C Morrison
6. Coal
7. Harrison WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32960
2. 47–013–02967–0000
3. 103 000 000
4. United Petro Ltd
5. E C Knotts No 1–UPL
6. Orma-Minnora Gas Field
7. Calhoun WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32961
2. 47–107–00893–0000
3. 103 000 000
4. B & W Producers
5. Dunlap Well No 2
6. Walker Field
7. Wood WV
8. 2.7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32962
2. 47–107–00892–0000
3. 103 000 000
4. B7W Producers
5. Dunlap Well No 1
6. Walker Field
7. Wood, WV
8. 3.6 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32963
2. 47–085–02617–0000
3. 108 000 000
4. W R Funk
5. Dotson
6. Clay District
7. Ritchie County, WV
8. 1.9 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32964
2. 47–013–02452–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. E F Fox No 2
6.
7. Calhoun, WV
8. 1.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32965
2. 47–013–02468–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. E F Fox No 4
6.
7. Calhoun WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32966
2. 47–013–02507–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Arthur No 1
6.
7. Calhoun WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32967
2. 47–013–02511–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Gary Campbell N. 1
6.
7. Calhoun WV
8. 5.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32968
2. 47–105–00522–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Walter & Herman Depue No 1 (Bear Run)
6.
7. Wirt WV
8. 4.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32969
2. 47–105–00625–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. P L Depue No 1
6.
7. Wirt WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32970
2. 47–105–00626–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. P L Depue No 3
6.
7. Wirt WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32971
2. 47–105–00627–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. P L Depue No 4
6.
7. Wirt WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32972
2. 47–013–02512–0000
3. 108 000 000
4. Seminole Oil & Gas Corp
5. Ernest Campbell No 1

V 45 M Y 30 80 UMI

6.
7. Calhoun WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32928
2. 47–061–00108–0000
3. 108 000 000
4. W R Funk
5. Morris E E
6. Grant District
7. Monongalia WV
8. 2.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32929
2. 47–039–03217–0000
3. 108 000 000
4. Trinity Oil & Gas Corp
5. Woodrow Smith No 11
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32930
2. 47–039–03216–0000
3. 103 000 000
4. Trinity Oil & Gas Corp
5. Woodrow Smith No 5
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32931
2. 47–039–03215–0000
3. 103 000 000
4. Trinity Oil & Gas Corp
5. Woodrow Smith No 4
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32932
2. 47–039–32070–0000
3. 103 000 000
4. Trinity Oil & Gas Corp
5. Woodrow Smith No 3
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32933
2. 47–039–03206–0000
3. 103 000 000
4. Trinity Oil & Gas Corp
5. Woodrow Smith No 2
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32934
2. 47–039–02806–0000
3. 103 000 000
4. Trinity Oil & Gas Corp
5. C B Canterbury No 1
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32935
2. 47–039–02803–0000
3. 103 000 000
4. Trinity Oil & Gas Corp
5. Woodrow Smith No 1
6. Wills Creek
7. Kanawha WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32936
2. 47–041–00818–0000
3. 108 000 000
4. Triangle Trucking
5. Mary Moneypenny No 1
6.
7. Lewis WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32937
2. 47–041–00416–0000
3. 108 000 000
4. Triangle Trucking
5. Cox No 2
6.
7. Lewis WV
8. 1.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32938
2. 47–041–00384–0000
3. 108 000 000
4. Triangle Trucking
5. Cox No 3
6.
7. Lewis WV
8. 1.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32939
2. 47–041–00808–0000
3. 108 000 000
4. Four Star Oil & Gas Co
5. Sleeth No 1
6.
7. Lewis WV
8. 2.8 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32940
2. 47–095–00678–0000
3. 103 000 000
4. Carter-Jones Lumber Co
5. Mildred Tuttle No 1
6. Lincoln District
7. Tyler WV
8. 15.0 million cubic feet
9. May 12, 1980
10.
1. 80–32941
2. 47–095–00690–0000
3. 103 000 000
4. Carter Jones Lumber Co Ind Div
5. W Kimble No 2
6. Ellsworth District
7. Tyler WV
8. 15.0 million cubic feet
9. May 12, 1980
10
1. 80–32942
2. 47–021–03521–0000
3. 103 000 000
4. Waco Oil & Gas Co Inc
5. Carson 1B
6. Ellis
7. Gilmer WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32943
2. 47–021–03522–0000
3. 103 000 000
4. Waco Oil & Gas Co Inc
5. Carson No 1A
6. Ellis
7. Gilmer County WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32944
2. 47–021–03542–0000
3. 103 000 000
4. Waco Oil & Gas Co
5. Carson 2B
6. Ellis
7. Gilmer WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32945
2. 47–033–00425–0000
3. 108 000 000
4. Queen Oil Co
5. Ward No 1
6. Elk District
7. Harrison WV
8. 4.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32946
2. 47–033–00442–0000
3. 108 000 000
4. Queen Gas Co
5. Drane No 1 Well
6. Elk District
7. Harrison WV
8. 12.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32947
2. 47–041–00937–0000
3. 108 000 000
4. Four Star Oil and Gas
5. T P Sleeth Jr #3
6.
7. Lewis WV
8. 1.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32948
2. 47–097–00742–0000
3. 108 000 000
4. Queen Gas Co
5. Cutright #1
6. Buckhannon District
7. Upshur WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp
1. 80–32949
2. 47–097–00594–0000
3. 108 000 000
4. Queen Gas Co
5. Gower #1
6. Warren District
7. Upshur WV
8. 3.1 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–32950
2. 47–041–01004–0000
3. 108 000 000
4. Queen Gas Company
5. Hall #3
6. Skin Creek District
7. Lewis County WV
8. 9.1 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32951
2. 47–041–00887–0000
3. 108 000 000
4. Queen Gas Co
5. Hall #2
6. Skin Creek District
7. Lewis County WV
8. 2.9 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32952
2. 47–041–00733–0000
3. 108 000 000
4. Queen Gas Co
5. Hall #1
6. Skin Creek District
7. Lewis County WV
8. 2.9 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32953
2. 47–035–01474–0000
3. 107 000 000
4. Allegheny & Western Energy Corp
5. John J Pfost Farm No 2
6. Washington
7. Jackson WV
8. 18.0 million cubic feet
9. May 12, 1980
10.
1. 80–32954
2. 47–035–01473–0000
3. 107 000 000
4. Allegheny & Western Energy Corp
5. John J Pfost Farm No 1
6. Washington
7. Jackson WV
8. 18.0 million cubic feet
9. May 12, 1980
10.
1. 80–32955
2. 47–011–00336–0000
3. 108 000 000
4. R H Adkins
5. Charles McCrosky #1
6. Guyan-Trace (Grant Dist)
7. Cabell WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Pennzoil Co
1. 80–32956
2. 47–035–01478–0000
3. 107 000 000
4. Allegheny & Western Energy Corp
5. John J Pfost Farm No 4
6. Washington
7. Jackson WV
8. 18.0 million cubic feet
9. May 12, 1980
10.
1. 80–32957
2. 47–035–01477–0000
3. 107 000 000
4. Allegheny & Western Energy Corp
5. John J Pfort Farm No 3
6. Washington
7. Jackson WV
8. 18.0 million cubic feet
9. May 12, 1980
10.
1. 80–32958
2. 47–085–02670–0000
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A–199
6. Murphy District
7. Ritchie WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32959
2. 47–021–22951–0000
3. 108 000 000
4. Franklin Adkins
5. Gainer #2
6. Dekalb
7. Gilmer WV
8. 12.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32960
2. 47–001–21046–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–184
6. Philippi
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32961
2. 47–001–01038–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–214
6. Valley
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32962
2. 47–001–21029–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–170
6. Pleasant
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32963
2. 47–001–21028–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–166
6. Pleasant
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32964
2. 47–001–01026–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–187
6. Elk
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32965
2. 47–001–01016–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–182
6. Union
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32966
2. 47–001–00976–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–172
6. Philippi
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32967
2. 47–001–00990–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–183
6. Philippi
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32968
2. 47–001–00979–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–186
6. Elk
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32969
2. 47–001–00970–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–167
6. Pleasant
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32970
2. 47–001–29610–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–179
6. Philippi
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp
1. 80–32971
2. 47–079–20148–0000
3. 108 000 000
4. Randolph Gas Company
5. Riley Phelps #1
6. Curry District
7. Putnam WV
8. 200.0 million cubic feet
9. May 12, 1980
10. Pennzoil Co
1. 80–32972
2. 47–079–20113–0000
3. 108 000 000
4. Randolph Gas Company
5. Essie Sponaugle #1

V 45 M Y 30 80 0 UMI

V 4 5 M Y 3 0 8 0 UMI

6. Curry District
7. Putnam WV
8. 290.0 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32973
2. 47–079–20111–0000
3. 108 000 000
4. Randolph Gas Company
5. D L Craddock #1
6. Curry District
7. Putnam WV
8. 3.4 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32974
2. 47–079–20060–0000
3. 108 000 000
4. Randolph Gas Company
5. C A Fizer Heirs #1
6. Curry District
7. Putnam WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32975
2. 47–043–20343–0000
3. 108 000 000
4. Stinson Gas Co
5. W R Elkins #1
6. Jefferson District
7. Lincoln WV
8. 13.0 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32976
2. 47–043–20118–0000
3. 108 000 000
4. Paraner Gas Co
5. Albert & Everett Elkins #1
6. Jefferson District
7. Lincoln WV
8. 7.0 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32977
2. 47–043–20106–0000
3. 108 000 000
4. Martin Gas Co
5. Sherman Johnson No 1
6. Sheridan District
7. Lincoln WV
8. 1.4 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32978
2. 47–043–20105–0000
3. 108 000 000
4. Martin Gas Co
5. Elisha Bias Heirs No 3
6. Sheridan District
7. Lincoln WV
8. 1.9 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32979
2. 47–043–20086–0000
3. 108 000 000
4. Martin Gas Co
5. Elisha Bias Heirs No 2
6. Sheridan District
7. Lincoln WV
8. 2.6 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32980
2. 47–043–20052–0000
3. 108 000 000
4. Martin Gas Co
5. Black & Yeager No 1
6. Sheridan District
7. Lincoln WV
8. 1.9 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32981
2. 47–005–00429–0000
3. 108 000 000
4. Ottawa Gas Co
5. Mary F Ellis No 1
6. Washington
7. Boone WV
8. 400.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–32982
2. 47–011–00300–0000
3. 108 000 000
4. Curry Gas Co
5. B F Morris No 2
6. Tylers Creek
7. Cabell WV
8. 5.4 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32983
2. 47–011–00303–0000
3. 108 000 000
4. Marval Gas Co
5. Morrison No 1
6. Tylers Creek
7. Cabell WV
8. 4.6 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32984
2. 47–033–20127–0000
3. 108 000 000
4. Eagle Gas Co
5. Fannie E Dawson No 1–69
6. Eagle District
7. Harrison WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Lumberport-Shinnston Gas Co

1. 80–32985
2. 47–011–00034–0000
3. 108 000 000
4. Russell Gas Co
5. Reynolds No 1
6. Trace Creek
7. Cabell WV
8. 1.1 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32986
2. 47–011–00031–0000
3. 108 000 000
4. Russell Gas Co
5. Russell W Morris No 1
6. Trace Creek
7. Cabell WV
8. 2.6 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32987
2. 47–043–00292–0000
3. 108 000 000
4. Brooks Gas Co
5. Homer Cummings No 1
6. Mud River
7. Lincoln WV
8. 2.6 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32988
2. 47–043–00302–0000
3. 108 000 000
4. Brooks Gas Co
5. Cooper No 1
6. Mud River
7. Lincoln WV
8. 2.6 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32989
2. 47–043–00307–0000
3. 108 000 000
4. Brooks Gas Co
5. Adkins No 1
6. Mud River
7. Lincoln WV
8. 2.6 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32990
2. 47–043–00350–0000
3. 108 000 000
4. Mud River Gas Co
5. E Adkins No 1
6. Mud River
7. Lincoln WV
8. 1.8 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32991
2. 47–005–00129–0000
3. 108 000 000
4. Riverhead Gas Co
5. Nelson No 5
6. Mud River
7. Boone WV
8. 1.1 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32992
2. 47–005–00179–0000
3. 108 000 000
4. Riverhead Gas Co
5. W R Nelson Estate No 10
6. Mud River
7. Boone WV
8. 1.1 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32993
2. 47–011–00301–0000
3. 108 000 000
4. Gibbs Gas Co
5. C C Phillips No 1
6. Trace Creek
7. Cabell WV
8. 1.3 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32994
2. 47–011–00354–0000
3. 108 000 000
4. Gibbs Gas Co
5. Hattie Bias No 1
6. Trace Creek
7. Cabell WV
8. .9 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32995
2. 47–011–00148–0000
3. 108 000 000
4. Curry Gas Co
5. Ben Bledsoe No 1
6. McComes
7. Cabell WV
8. 16.0 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–32996
2. 47–043–00885–0000
3. 108 000 000
4. Adams Gas Co
5. United Fuel Gas No 3
6. Harts Creek
7. Lincoln WV
8. 13.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans

1. 80–32997
2. 47–043–00926–0000
3. 108 000 000
4. Adams Gas Co
5. United Fuel Gas No 4
6. Harts Creek
7. Lincoln WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans

1. 80–32998
2. 47–043–00955–0000
3. 108 000 000
4. Adams Gas Co
5. United Fuel Gas No 6
6. Harts Creek
7. Lincoln WV
8. 13.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans

1. 80–32999
2. 47–043–00985–0000
3. 108 000 000
4. Adams Gas Co
5. United Fuel Gas No 5
6. Harts Creek
7. Lincoln WV
8. 13.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans

1. 80–33000
2. 47–011–00227–0000
3. 108 000 000
4. Morris Adkins
5. Caldwell No 3
6. Salt Rock
7. Cabell WV
8. .0 million cubic feet
9. May 12, 1980
10. Devon Corp

1. 80–33001
2. 47–039–03355–0000
3. 108 000 000
4. Allegheny & Western Energy Corp
5. Imperial Coal Co No 2
6. Cabin Creek
7. Kanawha WV
8. 9.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33002
2. 47–039–03350–0000
3. 108 000 000
4. Allegheny & Western Energy Corp
5. Eastern Associated Coal No 15
6. Cabin Creek
7. Kanawha WV
8. 9.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33003
2. 47–039–03361–0000
3. 108 000 000
4. Allegheny & Western Energy Corp
5. Imperial Coal Co No 1
6. Cabin Creek
7. Kanawha WV
8. 9.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33004
2. 47–039–03349–0000
3. 108 000 000
4. Allegheny & Western Energy Corp
5. Eastern Associated Coal No 14
6. Cabin Creek
7. Kanawha WV
8. 9.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33005
2. 47–013–02870–0000
3. 103 000 000
4. Keith Crihfield
5. Joe Conley No 3
6. Chloe
7. Calhoun WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33006
2. 47–041–21654–0000
3. 108 000 000
4. R Wayne Christenson
5. Alfred No 2
6. Freemans Creek District
7. Lewis WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33007
2. 47–007–00508–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. Denver Ice No 1
6. Birch District
7. Braxton WV
8. .0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33008
2. 47–043–00990–0000
3. 108 000 000
4. Burks Gas Co
5. A F Morris No 1
6. Harts Creek
7. Lincoln WV
8. 3.8 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans Co

1. 80–33009
2. 47–043–00991–0000
3. 108 000 000
4. Burks Gas Co
5. A F Morris No 2
6. Harts Creek
7. Lincoln WV
8. 3.8 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans Co

1. 80–33010
2. 47–001–00216–0000
3. 108 000 000
4. Morris & Adkins
5. Caldwell No 2
6. Salt Rock
7. Cabell WV
8. .1 million cubic feet
9. May 12, 1980
10. Devon Corp

1. 80–33011
2. 47–043–00822–0000
3. 108 000 000
4. Adams Gas Co
5. United Fuel Gas No 1
6. Harts Creek
7. Lincoln WV
8. 10.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans Co

1. 80–33012
2. 47–043–00823–0000
3. 108 000 000
4. Adams Gas Co
5. United Fuel Gas No 2
6. Harts Creek
7. Lincoln WV
8. 9.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Trans

1. 80–33013
2. 47–043–01134–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. Cremeans No 1
6. Harts Creek
7. Lincoln WV
8. 5.7 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33014
2. 47–099–01197–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. Lafayette Ferguson No 2
6. Butler
7. Wayne WV
8. 9.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33015
2. 47–043–01193–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. Joe Phipps No 1
6. Harts Creek
7. Lincoln WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33016
2. 47–099–01249–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. George Odell No 1
6. Butler
7. Wayne WV
8. 5.1 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33017
2. 47–043–00306–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. Pearson No 1

6. Union
7. Lincoln WV

1. 80–33025

6. Lee

6. Union
7. Lincoln WV
8. 6.7 million cubic feet
9. May 12, 1980
10. Pennzoil Company

1. 80–33018
2. 47–047–00749–0000
3. 108 000 000
4. Energy Development Corp
5. EDC No 8
6. Big Sandy
7. McDowell WV
8. 14.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33019
2. 47–039–02794–0000
3. 108 000 000
4. Reel Energy Program
5. Central Appalachian Coal No 8–A
6. Cabin Creek
7. Kanawha WV
8. 10.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33020
2. 47–033–01084–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Matheny-Calkins 12383
6. West Virginia Other A–85772
7. Harrison WV
8. 30.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–33021
2. 47–085–24249–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. Betty Semmelman H–729
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33022
2. 47–085–24199–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. Betty Semmelman No H–652
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33023
2. 47–085–24155–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. Betty Semmelman H–651
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33024
2. 47–107–00649–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. D A Ruley No 4
6. Clay District
7. Wood WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Co

1. 80–33025
2. 47–039–03450–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 7
6. Cabin Creek
7. Kanawha WV
8. 130.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33026
2. 47–085–24263–0000
3. 103 000 000
4. Glenn L Haught & Son
5. G P Ryan Hrs No H–737
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33027
2. 47–085–24262–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. G P Ryan Hrs No H–736
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33028
2. 47–039–03454–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 11
6. Cabin Creek
7. Kanawha WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33029
2. 47–039–03453–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Imperial Coal No 11–B
6. Cabin Creek
7. Kanawha WV
8. 60.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33030
2. 47–039–03452–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 8
6. Cabin Creek
7. Kanawha WV
8. 27.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33031
2. 47–039–03451–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 4–B
6. Cabin Creek
7. Kanawha WV
8. 40.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33032
2. 47–013–02274–0000
3. 108 000 000
4. D A Dorward
5. Barr No 2
6. Lee
7. Calhoun WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33033
2. 47–021–01362–0000
3. 108 000 000
4. D A Dorward
5. Moody No 3
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33034
2. 47–021–01401–0000
3. 108 000 000
4. D A Dorward
5. Moody No 4
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33035
2. 47–021–01522–0000
3. 108 000 000
4. D A Dorward
5. J P Tomblin No 2
6. Glenville
7. Gilmer WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33036
2. 47–021–01586–0000
3. 108 000 000
4. D A Dorward
5. Smith-McHenry No 1
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33037
2. 47–021–01607–0000
3. 108 000 000
4. D A Dorward
5. Smith-McHenry No 2
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33038
2. 47–021–01777–0000
3. 108 000 000
4. D A Dorward
5. J L Moore Heirs No 2
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33039
2. 47–021–01823–0000
3. 108 000 000
4. D A Dorward
5. Heater No 2
6. Glenville
7. Gilmer WV
8. .2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33040
2. 47–021–01824–0000
3. 108 000 000
4. D A Dorward
5. Heater No 1
6. Glenville
7. Gilmer
8. .7 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33041
2. 47–021–01841–0000
3. 108 000 000
4. D A Dorward
5. Greynolds No 1
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33042
2. 47–041–02564–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–252
6. Hackers Creek
7. Lewis WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33043
2. 47–073–20710–0000
3. 103 000 000
4. Energy Unlimited Inc
5. Donald Petty No 1
6. Grant
7. Pleasants WV
8. 5.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33044
2. 47–073–20712–0000
3. 103 000 000
4. Energy Unlimited Inc
5. Rawson-Drake No 2
6. Grant
7. Pleasants WV
8. .1 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33045
2. 47–073–20716–0000
3. 103 000 000
4. Energy Unlimited Inc
5. Farson-Johnson Unit No 1
6. Grant
7. Pleasants WV
8. 4.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33046
2. 47–107–20801–0000
3. 103 000 000
4. Energy Unlimited Inc
5. Ina Todd No 1
6. Union
7. Wood WV
8. 9.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33047
2. 47–013–01825–0000
3. 108 000 000
4. D A Dorward
5. Hays Collins No 1
6. Sheridan
7. Calhoun WV
8. .5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33048
2. 47–013–01845–0000
3. 108 000 000
4. D A Dorward
5. Hays Collins No 2
6. Sheridan
7. Calhoun WV
8. .1 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33049
2. 47–013–01878–0000
3. 108 000 000
4. D A Dorward
5. Hays Collins No 3
6. Sheridan
7. Calhoun WV
8. .1 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33050
2. 47–043–00315–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Kelly No 1
6. Sheridan
7. Lincoln WV
8. 6.7 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–33051
2. 47–043–00321–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Kelly No 2
6. Sheridan
7. Lincoln WV
8. 6.7 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–33052
2. 47–043–00329–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Pearson No2
6. Union
7. Lincoln WV
8. 6.7 million cubic feet
9. May 12, 1980
10. Pennzoil Co

1. 80–33053
2. 47–043–00688–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Spears No 1
6. Laurel Hill
7. Lincoln WV
8. 5.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33054
2. 47–043–00986–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Vernatter No 1
6. Harts Creek
7. Lincoln WV
8. 7.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33055
2. 47–043–01112–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Minnie W. Mullins No 1
6. Harts Creek
7. Lincoln WV
8. 7.5 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33056
2. 47–021–01875–0000
3. 108 000 000
4. D A Dorward
5. Marshall No 1
6. Glenville
7. Gilmer WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33057
2. 47–021–01958–0000
3. 108 000 000
4. D A Dorward
5. Lynch No 1
6. Glenville
7. Gilmer WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33058
2. 47–041–01693–0000
3. 108 000 000
4. D A Dorward
5. Hull No 1
6. Freeman Creek
7. Lewis WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33059
2. 47–041–01663–0000
3. 108 000 000
4. D A Dorward
5. Hull No 1
6. Freemans Creek
7. Lewis WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33060
2. 47–041–01724–0000
3. 108 000 000
4. D A Dorward
5. Erwin No 1
6. Hackers Creek
7. Lewis WV
8. 10.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33061
2. 47–041–01770–0000
3. 108 000 000
4. D A Dorward
5. Gould No 1
6. Hackers Creek
7. Lewis WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33062
2. 47–041–01545–0000
3. 108 000 000
4. D A Dorward
5. Fealy DF1

6. Court House

6. Court House
7. Lewis WV
8. 4.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33063
2. 47–041–01591–0000
3. 108 000 000
4. D A Dorward
5. Devaney No 4 D1
6. Court House
7. Lewis WV
8. 4.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33064
2. 47–041–01557–0000
3. 108 000 000
4. D A Dorward
5. Finster No 2
6. Court House
7. Lewis WV
8. 11.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33065
2. 47–041–01605–0000
3. 108 000 000
4. D A Dorward
5. McCray 1–A
6. Court House
7. Lewis WV
8. 9.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33066
2. 47–041–01523–0000
3. 108 000 000
4. D A Dorward
5. Finster No 1
6. Court House
7. Lewis WV
8. 1.5 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33067
2. 47–085–03867–0000
3. 103 000 000
4. Werco
5. A D Wilson No 1–A
6. Grant
7. Ritchie WV
8. 10.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33068
2. 47–085–03868–0000
3. 103 000 000
4. Werco
5. S C Parks No 7
6. Grant
7. Ritchie WV
8. 10.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33069
2. 47–085–03872–0000
3. 103 000 000
4. Werco
5. Lafayette Moss No 1
6. Grant
7. Ritchie WV
8. 14.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33070
2. 47–085–03873–0000
3. 103 000 000
4. Werco
5. John Lynch No 4
6. Grant
7. Ritchie WV
8. 12.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33071
2. 47–041–21204–0000
3. 108 000 000
4. Glenn H Johnson Co
5. Wimer No 1–TC
6. Collins Settlement
7. Lewis WV
8. 1.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33072
2. 47–073–20705–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Bertha Freshwater No 1
6. Grant
7. Pleasants WV
8. 3.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33073
2. 47–097–21567–0000
3. 108 000 000
4. Glenn H Johnson
5. Kesling No 1
6. Union
7. Upshur WV
8. 4.4 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33074
2. 47–097–21562–0000
3. 108 000 000
4. Glenn H Johnson
5. Regester No 1
6. Union
7. Upshur WV
8. 9.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33075
2. 47–097–20858–0000
3. 108 000 000
4. Glenn H Johnson
5. Brinkley No 1
6. Warren
7. Upshur WV
8. 1.3 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33076
2. 47–097–20808–0000
3. 108 000 000
4. Glenn H Johnson Co
5. Post No 1–T3
6. Buckhannon
7. Upshur WV
8. 2.5 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33077
2. 47–097–20676–0000
3. 108 000 000
4. Glenn H Johnson Co
5. Wingrove No 1
6. Meade
7. Upshur WV
8. 17.8 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33078
2. 47–019–00387–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. L A Harrah No 2
6. Mt Cove
7. Fayette WV
8. 54.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33079
2. 47–019–00369–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. H T Boone No 1
6. Mt Cove
7. Fayette WV
8. 73.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33080
2. 47–019–00364–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Hofmier Gas Unit No 1
6. Mt Cove
7. Fayette WV
8. 73.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33081
2. 47–019–00363–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. J G Mohr No 1
6. Mt Cove
7. Fayette WV
8. 54.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33082
2. 47–019–00357–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. G Steele No 2
6. Mt Cove
7. Fayette WV
8. 60.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33083
2. 47–019–00356–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. G Steele No 1
6. Mt Cove
7. Fayette WV
8. 73.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33084
2. 47–021–03521–0000
3. 107 000 000
4. Waco Oil and Gas Co Inc
5. Carson No 1B
6. Ellis
7. Gilmer WV
8. 30.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33085
2. 47–073–20713–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Rawson-Drake No 3
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33086
2. 47–073–20717–0000
3. 108 000 000
4. Energy Unlimited Inc
5. L McClure No 1
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33087
2. 47–073–20718–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Fulmer-Smith No 1
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33088
2. 47–107–20792–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Miracle-Naish No 1
6. Union
7. Wood WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33089
2. 47–107–20805–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Naish-Powell No 1
6. Union
7. Wood WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33090
2. 47–107–20806–0000
3. 108 000 000
4. Energy Unlimited Inc
5. George W Moore No 1
6. Union
7. Wood WV
8. 3.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33091
2. 47–107–20807–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Oris Johnson No 2
6. Union
7. Wood WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33092
2. 47–083–00235–0000
3. 103 000 000
4. R & B Petroleum Inc
5. Morris No 1
6. Roaring Creek
7. Randolph WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33093
2. 47–083–00238–0000
3. 103 000 000
4. R & B Petroleum Inc
5. Morris No 2
6. Roaring Creek
7. Randolph WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33094
2. 47–083–00247–0000
3. 103 000 000
4. R & B Petroleum Inc
5. Morris No 4
6. Roaring Creek
7. Randolph WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33095
2. 47–083–00248–0000
3. 103 000 000
4. R & B Petroleum Inc
5. Morris No 3
6. Roaring Creek
7. Randolph WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33096
2. 47–083–00258–0000
3. 103 000 000
4. R & B Petroleum Inc
5. Morris No 5
6. Roaring Creek
7. Randolph WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33097
2. 47–097–01888–0000
3. 103 00 000
4. Union Drilling Inc
5. Rachel & French Reeder No 2
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33098
2. 47–097–01927–0000
3. 103 00 000
4. Union Drilling Inc
5. S. H. Winemiller #2
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33099
2. 47–097–01933–0000
3. 103 00 000
4. Union Drilling Inc
5. A Boyles Carter No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33100
2. 47–097–01939–0000
3. 103 00 000
4. Union Drilling Inc
5. Harrison Ritchie O & G No 1
6. Washington District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33101
2. 47–097–01950–0000
3. 103 00 000
4. Union Drilling Inc
5. Brent T Scott No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33102
2. 47–097–01951–0000
3. 103 00 000
4. Union Drilling Inc
5. Woody Lumber Co Inc No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33103
2. 47–097–01952–0000
3. 103 00 000
4. Union Drilling Inc
5. Barbara Ervin Et Al No 2
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33104
2. 47–097–01911–0000
3. 103 00 000
4. Union Drilling Inc
5. J L Killingsworth No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33105
2. 47–097–01912–0000
3. 103 00 000
4. Union Drilling Inc
5. J L Killingsworth No 2
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33106
2. 47–097–01922–0000
3. 103 00 000
4. Union Drilling Inc
5. Gladys Z Sampson No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33107
2. 47–097–01923–0000
3. 103 00 000
4. Union Drilling Inc
5. Barbara Ervin No 1

V 45 M Y 30 80 0 UMI

6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33108
2. 47–083–00259–0000
3. 103 00 000
4. R & B Petroleum Inc
5. Morris No 6
6. Roaring Creek
7. Randolph WV
8. 36.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33109
2. 47–097–01834–0000
3. 103 00 000
4. Union Drilling Inc
5. Bertha Waugh No 1
6. Banks District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33110
2. 47–097–01861–0000
3. 103 00 000
4. Union Drilling Inc
5. William E Newcome No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33111
2. 47–097–01878–0000
3. 103 00 000
4. Union Drilling Inc
5. French Reeder No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33112
2. 47–033–22019–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–266
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33113
2. 47–097–01889–0000
3. 103 00 000
4. Union Drilling Inc
5. Rachel & French Reeder No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33114
2. 47–097–01909–0000
3. 103 00 000
4. Union Drilling Inc
5. Arthur C Hanline et al No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33115
2. 47–097–01910–0000
3. 103 00 000
4. Union Drilling Inc
5. Bertie Frances Hunt No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33116
2. 47–033–22049–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–237
6. Union
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33117
2. 47–033–02053–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–244
6. Union
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33118
2. 47–033–22081–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–238
6. Union
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33119
2. 47–041–02675–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–89 Lew–2675
6. Hackers Creek
7. Lewis WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33120
2. 47–041–02564–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–252
6. Hackers Creek
7. Lewis WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33121
2. 47–097–01832–0000
3. 103 00 000
4. Union Drilling Inc
5. Dewey F Harris No 1
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33122
2. 47–033–02020–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–268
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas SupplyCorp

1. 80–33123
2. 47–033–02021–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–269
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33124
2. 47–033–02023–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–265
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33125
2. 47–033–02028–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–264
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33126
2. 47–001–01084–0000
3. 103 00 000
4. J & J Enterprises Inc
5. B–203
6. Union
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33127
2. 47–033–02014–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–263
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33128
2. 47–033–01950–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–201
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33129
2. 47–033–21917–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–229
6. Clark
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33130
2. 47–033–01721–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–197
6. Sardis
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33131
2. 47–033–21713–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–209
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33132
2. 47–033–01692–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–163
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33133
2. 47–017–22327–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–262
6. West Union
7. Doddridge WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33134
2. 47–017–02326–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–261
6. West Union
7. Doddridge WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33135
2. 47–001–21131–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–218
6. Elk
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33136
2. 47–001–01095–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–205
6. Philippi
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33137
2. 47–001–01093–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–188
6. Elk
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33138
2. 47–001–21092–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–256
6. Union
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33139
2. 47–001–01090–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–204
6. Union
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33140
2. 47–001–01070–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–150
6. Union
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33141
2. 47–001–01053–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–171
6. Pleasant
7. Barbour WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33142
2. 47–107–00663–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. D A Ruley #5
6. Clay District
7. Wood WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Corp

1. 80–33143
2. 47–085–21567–0000
3. 108 000 000
4. R & S Gas Co
5. Burns Cunningham No 1
6. Murphy District
7. Ritchie WV
8. 1.5 million cubic feet
9. May 12, 1980
10. Warren Associates Inc

1. 80–33144
2. 47–085–21727–0000
3. 108 000 000
4. R & S Gas Co
5. L B Maxwell No 3
6. Murphy District
7. Ritchie WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Warren Associates Inc

1. 80–33145
2. 47–085–21693–0000
3. 108 000 000
4. R & S Gas Co
5. L B Maxwell No 2
6. Murphy District
7. Ritchie WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Warren Associates Inc

1. 80–33146
2. 47–085–21616–0000
3. 108 000 000
4. R & S Gas Co
5. L B Maxwell No 1
6. Murphy District
7. Ritchie WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Warren Associates Inc

1. 80–33147
2. 47–085–00386–1000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. V M Wilson
6. West Virginia other A–85772
7. Ritchie WV
8. 84.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–33148
2. 47–033–00122–8000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Jordon Carter
6. West Virginia other A–85772
7. Harrison WV
8. 30.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–33149
2. 47–039–02799–0000
3. 108 000 000
4. Reel Energy Program
5. Central Appalachian Coal #3–A
6. Cabin Creek
7. Kanawha WV
8. 10.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33150
2. 47–085–21615–0000
3. 108 000 000
4. R & S Gas Co
5. B I Cunningham No 1
6. Murphy District
7. Ritchie WV
8. 1.5 million cubic feet
9. May 12, 1980
10. Warren Associates Inc

1. 80–33151
2. 47–107–00658–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. Letha Bungard #2
6. Clay District
7. Wood WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Quakerstate Oil Ref Co

1. 80–33152
2. 47–021–02920–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Lohan-Pearcy

V 45 M Y 30 80 0 UMI

V 4 5 M Y 3 0 8 0 UMI

6. West Virginia other A–85772
7. Gilmer WV
8. 37.0 million cubic feet
9. May 12, 1980
10. General System Purchasers

1. 80–33153
2. 47–097–00813–0000
3. 108 000 000
4. Ross-Whasten Gas
5. Corathus 50 A
6. Pringle Fork
7. Upshur WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas

1. 80–33154
2. 47–033–01949–0000
3. 103 000 000
4. Pennzoil Co
5. Beeson H Brown #14
6. Ten Mile
7. Harrison WV
8. 43.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33155
2. 47–081–00407–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co B–3
6. Marsh Fork
7. Raleigh WV
8. 5.0 million cubic feet
9. May 12, 1980
10.

1. 80–33156
2. 47–081–00398–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co B–2
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 12, 1980
10.

1. 80–33157
2. 47–081–00387–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co A–4
6. Marsh Fork
7. Raleigh WV
8. 18.0 million cubic feet
9. May 12, 1980
10.

1. 80–33158
2. 47–081–00381–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co A–2
6. Marsh Fork
7. Raleigh WV
8. 50.0 million cubic feet
9. May 12, 1980
10.

1. 80–33159
2. 47–081–00379–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co A–5
6. Marsh Fork
7. Raleigh WV
8. 50.0 million cubic feet
9. May 12, 1980
10.

1. 80–33160
2. 47–007–01351–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Dana S Engel Et al No 1
6. Otter
7. Braxton WV
8. 100.0 million cubic feet
9. May 12, 1980
10.

1. 80–33161
2. 47–007–01348–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Dana S Engel Et al No 2
6. Otter
7. Braxton WV
8. 18.0 million cubic feet
9. May 12, 1980
10.

1. 80–35162
2. 47–007–01227–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Robert G Berry No 1
6. Salt Lick
7. Braxton WV
8. 100.0 million cubic feet
9. May 12, 1980
10.

1. 80–33163
2. 47–007–01226–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Lawrence O Berry No 1
6. Salt Lick
7. Braxton WV
8. 50.0 million cubic feet
9. May 12, 1980
10.

1. 80–33164
2. 47–085–03619–0000
3. 108 000 000
4. R & B Petroleum Inc
5. Haught No 2
6. Murphy District
7. Ritchie WV
8. 10.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33165
2. 47–085–03609–0000
3. 108 000 000
4. R & B Petroleum Inc
5. Haught No 1
6. Murphy
7. Ritchie WV
8. 10.2 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33166
2. 47–039–03466–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 13
6. Cabin Creek
7. Kanawha WV
8. 46.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33167
2. 47–039–03461–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 15
6. Cabin Creek
7. Kanawha WV
8. 50.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33168
2. 47–039–03460–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 9
6. Cabin Creek
7. Kanawha WV
8. 44.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33169
2. 47–039–03459–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 10
6. Cabin Creek
7. Kanawha WV
8. 46.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33170
2. 47–039–03412–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 14
6. Cabin Creek
7. Kanawha WV
8. 43.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33171
2. 47–081–00421–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co B–5
6. Marsh Fork
7. Raleigh WV
8. .0 million cubic feet
9. May 12, 1980
10.

1. 80–33172
2. 47–039–03469–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust No 20
6. Cabin Creek
7. Kanawha WV
8. 45.0 million cubic feet
9. May 12, 1980
10. Columbia Gas Transmission Corp

1. 80–33173
2. 47–081–00419–0000
3. 103 000 000
4. Texas Internl Pet Corp
5. Rowland Land Co B–4
6. Marsh Fork
7. Raleigh WV
8. 50.0 million cubic feet
9. May 12, 1980
10.

1. 80–33174
2. 47–073–20709–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Tom Hammett No 1
6. Grant
7. Pleasants WV
8. 2.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33175
2. 47–073–20707–0000
3. 108 000 000
4. Energy Unlimited Inc
5. A C Campbell No 1
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33176
2. 47–017–02313–0000
3. 103 000 000
4. Stonewall Gas Co
5. L S McGee No 1
6. Central
7. Doddridge WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33177
2. 47–043–20139–0000
3. 108 000 000
4. Turtle Lick Gas Company
5. George W. Thompson No 2
6. Jefferson District
7. Lincoln WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Pennzoil Company

1. 80–33178
2. 47–043–20121–0000
3. 108 000 000
4. Turtle Lick Gas Company
5. James Thompson No 1
6. Jefferson
7. Lincoln WV
8. 6.0 million cubic feet
9. May 12, 1980
10. Pennzoil Company

1. 80–33179
2. 47–007–01367–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Fleming No 3
6. Birch District
7. Braxton WV
8. 4.5 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33180
2. 47–015–01588–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Bailes No 2
6. Buffalo District
7. Clay WV
8. 34.2 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33181
2. 47–015–01608–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Aloi No 5
6. Buffalo District
7. Clay WV
8. 27.0 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33182
2. 47–013–02969–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Chenoweth 111
6. Washington District
7. Calhoun WV
8. 4.5 million cubic feet
9. May 12, 1980
10.

1. 80–33183
2. 47–017–02311–0000
3. 103 000 000
4. Stonewall Gas Co
5. Howard Husk No 1
6. Jims Run
7. Doddridge WV
8. .0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33184
2. 47–033–01691–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–161
6. Eagle
7. Harrison WV
8. 20.0 million cubic feet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33185
2. 47–015–01505–0000
3. 103 000 000
4. Sterling Drilling & Production Co I
5. Boggs No 4
6. Otter District
7. Clay WV
8. 1.8 million cubic feet
9. May 12, 1980
10. Equitable Gas Co

1. 80–33189
2. 47–039–03297–0000
3. 108 000 000
4. Pennzoil Co
5. Dodd Mary S No 2
6. Elk
7. Kanawha WV
8. 2.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33190
2. 47–043–02306–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No 5
6. Duval
7. Lincoln WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33191
2. 47–043–02298–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No 6
6. Duval
7. Lincoln WV
8. .5 million cubic feeet
9. May 12, 1980
10. Consolidated Gas Supply Corp

1. 80–33192
2. 47–043–02129–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No 4
6. Duval
7. Lincoln WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33193
2. 47–043–02128–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No 3
6. Duval
7. Lincoln WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33194
2. 47–043–02127–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No 2
6. Duval
7. Lincoln WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33195
2. 47–043–01367–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No W–1
6. Duval
7. Lincoln WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33196
2. 47–043–00212–0000
3. 108 000 000
4. Pennzoil Co
5. Jennie Jones No 8
6. Duval
7. Lincoln WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33197
2. 47–083–00025–0000
3. 108 000 000
4. Robert L Wharton
5. Brennan No 1
6. Pumpkintown
7. Randolph WV
8. 1.2 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33198
2. 47–061–00204–0000
3. 108 000 000
4. Weir Walker
5. John Fleming No 1
6. Cass District
7. Monongalia WV
8. 2.4 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33199
2. 47–017–22343–0000
3. 103 000 000
4. Industrial Gas Associates
5. E Shaughnessy No 1
6. Grant District
7. Doddridge WV
8. 10.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Co

1. 80–33200
2. 47–041–02028–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Charles W Meader 12107

6. West Virginia other A–85772

1. 80–33208

6. West Virginia other A–85772
7. Lewis WV
8. 4.0 million cubic feet
9. May 9, 1980
10. General Systems Purchasers

1. 80–33201
2. 47–041–01974–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Darnall-Clark 11832
6. West Virginia other A–85772
7. Lewis WV
8. 1.5 million cubic feet
9. May 9, 1980
10. General System Purchasers

1. 80–33202
2. 47–013–02610–0000
3. 103 000 000
4. William Dye Riddle
5. Slider Lease
6. Barnes Run
7. Calhoun WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33203
2. 47–091–00182–0000
3. 103 000 000
4. NRM Petroleum Corp
5. Gorr-Arnold No 2
6. Flemington
7. Taylor WV
8. .0 million cubic feet
9. May 9, 1980
10. Petro-Lewis Corp

1. 80–33204
2. 47–091–00179–0000
3. 103 000 000
4. NRM Petroleum Corp
5.E Tomblyn #3
6. Simpson Creek
7. Taylor WV
8. .0 million cubic feet
9. May 9, 1980
10. Petro-Lewis Corp

1. 80–33205
2. 47–001–01108–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–778
6. Cove District
7. Barbour WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33206
2. 47–033–01992–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–773
6. Union District
7. Harrison WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33207
2. 47–033–02050–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–785
6. Ten Mile District
7. Harrison WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33208
2. 47–033–02069–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–775
6. Sardis District
7. Harrison WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33209
2. 47–033–02082–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–751
6. Eagle District
7. Harrison WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33210
2. 47–103–01148–0000
3. 103 00 000
4. Allegheny Land & Mineral Co
5. A–758
6. Grant District
7. Wetzel WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33211
2. 47–097–01877–0000
3. 103 00 000
4. Allegheny Land & Mineral Co
5. A–779
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33212
2. 47–085–24238–0000
3. 103 000 000
4. Warren R Haught Agent
5. Hatfield H–726
6. Grant Dist
7. Ritchie WV
8. 45.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33213
2. 47–103–01151–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–692
6. Grant District
7. Wetzel WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33214
2. 47–085–24206–0000
3. 103 000 000
4. Warren R Haught Agent
5. Hatfield H–603
6. Grant Dist
7. Ritchie WV
8. 30.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33215
2. 47–085–24189–0000
3. 103 000 000
4. Warren R Haught Agent
5. Weideman H–685
6. Murhpy Dist
7. Ritchie WV
8. 15.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33216
2. 47–085–24188–0000
3. 103 000 000
4. Warren R Haught Agent
5. Weideman H–684
6. Murphy District
7. Ritchie WV
8. 15.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33217
2. 47–021–02744–0000
3. 108 000 000
4. Trio Petroleum Corp
5. Bailey No 1
6. Glenville South
7. Gilmer WV
8. 18.4 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33218
2. 47–007–00950–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. J P Hardway No 3
6. Birch District
7. Braxton WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33219
2. 47–007–00911–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. J P Hardway No 2
6. Birch District
7. Braxton WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33220
2. 47–007–00563–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. Parkersburg Mill Co No 1
6. Birch District
7. Braxton WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33221
2. 47–007–00546–0000
3. 108 000 000
4. Big B Drilling Co Inc
5. Wanda Mae Hall No 1
6. Birch District
7. Braxton WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33222
2. 47–085–24187–0000
3. 103 000 000
4. Warren R Haught Agent
5. Weideman H–683
6. Murphy District
7. Ritchie WV
8. 15.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33223
2. 47–017–22339–0000
3. 103 000 000
4. Warren R Haught Agent
5. Hudson H–722
6. Central Dist
7. Doddridge WV
8. 60.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33224
2. 47–017–22340–0000
3. 103 000 000
4. Warren R Haught Agent
5. Hudson H–723
6. Central
7. Doddridge WV
8. 60.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33225
2. 47–017–22325–0000
3. 103 000 000
4. V–H Joint Venture
5. Coplin VH–711
6. New Milton Dist
7. Doddridge WV
8. 40.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33226
2. 47–017–22350–0000
3. 103 000 000
4. V–H Joint Venture
5. Coplin VH–715
6. New Milton District
7. Doddridge WV
8. 60.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33227
2. 47–021–23423–0000
3. 103 000 000
4. V–H Joint Venture
5. Garton H–713
6. Troy District
7. Gilmer WV
8. 15.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33228
2. 47–021–23428–0000
3. 103 000 000
4. V–H Joint Venture
5. Talbott VH–721
6. Troy District
7. Gilmer WV
8. 20.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33229
2. 47–085–24156–0000
3. 103 000 000
4. V–H Joint Venture
5. Allen E Vernon H–676
6. Union District
7. Ritchie WV
8. 6.0 million cubic feet
9. May 9, 1980
10. Carnegie Natural Gas Co

1. 80–33230
2. 47–085–24226–0000
3. 103 000 000
4. V–H Joint Venture
5. Orla J Adams VH–724
6. Union District
7. Ritchie WV
8. 12.0 million cubic feet
9. May 9, 1980
10. Carnegie Natural Gas Co

1. 80–33231
2. 47–085–24182–0000
3. 103 000 000
4. V–H Joint Venture
5. T J Broadwater H–697
6. Clay Dist
7. Ritchie WV
8. 15.0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33232
2. 47–085–24205–0000
3. 103 000 000
4. V–H Joint Venture
5. RSD Baptist Church VH–664
6. Union District
7. Ritchie WV
8. 20.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33233
2. 47–085–24250–0000
3. 103 000 000
4. Glenn L. Haught & Sons
5. Newton H–730
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33234
2. 47–085–24251–0000
3. 103 000 000
4. Glenn L. Haught & Sons
5. Martin Brothers No H–731
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33235
2. 47–085–24252–0000
3. 103 000 000
4. Glenn L. Haught & Sons
5. Martin Brothers H–650
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33236
2. 47–085–24254–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. T R Frashure No H–732
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33237
2. 47–085–24261–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. Blaine Miller H–739
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33238
2. 47–085–24264–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. H W Barton H–738
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33239
2. 47–085–24266–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. Mary Gardner H–744
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33240
2. 47–049–00533–0000
3. 108 00 000
4. Pennzoil Co
5. Higgins Harmon No 1
6. Mannington
7. Marion WV
8. .3 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33241
2. 47–103–00915–0000
3. 108 00 000
4. Pennzoil Co
5. Hays-Higgins No 1
6. Mannington
7. Wetzel WV
8. .7 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33242
2. 47–017–02445–0000
3. 103 000 000
4. United Operating Co
5. Cunningham No 3
6. Cabin Run
7. Doddridge County WV
8. .0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33243
2. 47–033–01558–0000
3. 108 00 000
4. Pennzoil Co
5. Webb G W No 3
6. Eagle
7. Harrison WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33244
2. 47–021–23000–0000
3. 107 00 000
4. Rockwell Petroleum Co
5. T F Reed No 2
6. Glenville District
7. Gilmer WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33245
2. 47–021–22999–0000
3. 107 00 000
4. Rockwell Petroleum Co
5. T F Reed No 3

V 45 M Y 30 80 0 UMI

6. Glenville District
7. Gilmer WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33246
2. 47–021–22914–0000
3. 107 00 000
4. Rockwell Petroleum Co
5. T F Reed No 1
6. Glenville District
7. Gilmer WV
8. .0 million cubic feet
9. May 9, 1980
10. Equitable Gas Co

1. 80–33247
2. 47–021–03512–0000
3. 103 000 000
4. United Operating Co
5. Martha Pitzer No 1
6. Little Kanawha River-Glenville 7½
7. Gilmer WV
8. .0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33248
2. 47–390–32980–0000
3. 108 000 000
4. Pennzoil Co
5. Dodd Virginia M No 1
6. Elk
7. Kanawha WV
8. 1.8 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33249
2. 47–039–03296–0000
3. 108 000 000
4. Pennzoil Co
5. Lincoln Dodd No 3
6. Elk
7. Kanawha WV
8. 2.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33250
2. 47–039–00817–0000
3. 108 000 000
4. Pennzoil Co
5. Lincoln Dodd #1
6. Elk
7. Kanawha WV
8. 10.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33251
2. 47–039–00648–0000
3. 108 000 000
4. Pennzoil Co
5. Monk W F #1
6. Poca
7. Kanawha WV
8. 10.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33252
2. 47–039–00567–0000
3. 108 000 000
4. Pennzoil Co
5. Newhouse T H #6
6. Poca
7. Kanawha WV
8. 9.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33253
2. 47–039–00536–0000
3. 108 000 000
4. Pennzoil Co
5. Monk Virginia E #1
6. Poca
7. Kanawha WV
8. 7.0 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33254
2. 47–039–00518–0000
3. 108 000 000
4. Pennzoil Co
5. Newhouse T H #5
6. Poca
7. Kanawha WV
8. .9 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33255
2. 47–039–00408–0000
3. 108 000 000
4. Pennzoil Co
5. Beane S S #2
6. Poca
7. Kanawha WV
8. 14.5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33256
2. 47–039–00330–0000
3. 108 000 000
4. Pennzoil Co
5. Newhouse T H #3
6. Poca
7. Kanawha WV
8. .5 million cubic feet
9. May 9, 1980
10. Consolidated Gas Supply Corp

1. 80–33257
2. 47–043–00900–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Bishop #1
6. Harts Creek
7. Lincoln WV
8. 17.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33258
2. 47–043–00917–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. U F G Co #4
6. Harts Creek
7. Lincoln WV
8. 17.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33259
2. 47–043–00934–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Workman #1
6. Harts Creek
7. Lincoln WV
8. 7.5 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33260
2. 47–043–00938–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Workman #2
6. Harts Creek
7. Lincoln WV
8. 7.5 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33261
2. 47–043–00942–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Workman #3
6. Harts Creek
7. Lincoln WV
8. 7.5 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33262
2. 47–043–01379–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Seth Miller #1
6. Jefferson
7. Lincoln WV
8. 3.1 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33263
2. 47–045–00536–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. W W Lucus #1
6. Chapmanville
7. Logan WV
8. 7.5 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33264
2. 47–099–01183–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Lafayette Ferguson #1
6. Butler
7. Wayne WV
8. 9.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33265
2. 47–005–00182–0000
3. 108 000 000
4. Riverhead Gas Co
5. F B Nelson #11
6. Mud River
7. Boone WV
8. 1.1 million cubic feet
9. May 9, 1980
10. Pennzoil Co

1. 80–33266
2. 47–005–00176–0000
3. 108 000 000
4. Riverhead Gas Co
5. Nelson #9
6. Mud River
7. Boone WV
8. 1.1 million cubic feet
9. May 9, 1980
10. Pennzoil Co

1. 80–33267
2. 47–005–00169–0000
3. 108 000 000
4. Riverhead Gas Co
5. Nelson #8
6. Mud River
7. Boone WV
8. 1.1 million cubic feet
9. May 9, 1980
10. Pennzoil Co

1. 80–33268
2. 47–005–00157–0000
3. 108 000 000
4. Riverhead Gas Co
5. Nelson #7
6. Mud River
7. Boone WV
8. 1.1 million cubic feet
9. May 9, 1980
10. Pennzoil Co

1. 80–33269
2. 47–085–24267–0000
3. 103 000 000
4. Glenn L Haught & Sons
5. Blaine Miller # H–740
6. Murphy District
7. Ritchie WV
8. 25.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33270
2. 47–043–00857–0000
3. 108 000 000
4. Latin Gas Co
5. A F Morris #9
6. Laurel Hill
7. Lincoln WV
8. 11.0 million cubic feet
9. May 9, 1980
10. Industrial Gas Corp

1. 80–33271
2. 47–043–00038–0000
3. 108 000 000
4. A F Morris Trustee
5. J E Pridemore #2
6. Mud River
7. Lincoln WV
8. 1.1 million cubic feet
9. May 9, 1980
10. Pennzoil Co

1. 80–33272
2. 47–043–00029–0000
3. 108 000 000
4. A F Morris Trustee
5. Edgar Ray #2
6. Mud River
7. Lincoln WV
8. 1.1 million cubic feet
9. May 9, 1980
10. Pennzoil Co

1. 80–33273
2. 47–043–00606–0000
3. 108 000 000
4. Latin Gas Co
5. A F Morris #3
6. Laurel Hill
7. Lincoln WV
8. 11.0 million cubic feet
9. May 9, 1980
10. Industrial Gas Corp

1. 80–33274
2. 47–043–00569–0000
3. 108 000 000
4. Latin Gas Co
5. A F Morris #2
6. Laurel Hill
7. Lincoln WV
8. 11.0 million cubic feet
9. May 9, 1980
10. Industrial Gas Corp

1. 80–33275
2. 47–043–00507–0000
3. 108 000 000
4. Latin Gas Co
5. A F Morris #1
6. Laurel Hill
7. Lincoln WV
8. 11.0 million cubic feet
9. May 9, 1980
10. Industrial Gas Corp

1. 80–33276
2. 47–043–00264–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. J J Smith #
6. Union
7. Lincoln WV
8. 2.6 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33277
2. 47–043–00813–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Toney #1
6. Harts Creek
7. Lincoln WV
8. 1.7 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33278
2. 47–043–00835–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. Robert Toney #1
6. Harts Creek
7. Lincoln WV
8. 17.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33279
2. 47–043–00870–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. UFG Co #2
6. Harts Creek
7. Lincoln WV
8. 17.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

1. 80–33280
2. 47–043–00884–0000
3. 108 000 000
4. Sweetland Land & Mineral Co
5. UFG Co #3
6. Harts Creek
7. Lincoln WV
8. 17.0 million cubic feet
9. May 9, 1980
10. Columbia Gas Transmission Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by June 16, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16484 Filed 5–29–80; 8:45 am]

BILLING CODE 6450–85–M

[No. 209]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

May 27, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Texas Railroad Commission Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–33281/00157
2. 42–235–31228–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 6
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33282/00158
2. 42–235–31227–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 7
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33283/00159
2. 42–235–31214–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 6
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33284/00160
2. 42–235–31215–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 4
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet

V 45 M Y 30 80 0 UMI

9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33285/00161
2. 42–235–31216–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 3
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33286/00162
2. 42–235–31217–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 2
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33287/00163
2. 42–235–31218–000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B B No 1
6. Spraberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33288/00164
2. 42–235–31219–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 8
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33289/00165
2. 42–235–31229–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 7
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33290/00166
2. 42–235–31230–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 6
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33291/00167
2. 42–235–31231–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 5
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33292/00168
2. 42–235–31232–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 4
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33293/00169
2. 42–235–31233–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 3
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33294/00170
2. 42–235–31234–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 2
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33295/00171
2. 42–235–31235–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B A No 1
6. Spraberry (Trend area)
7. Reagan TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33296/00172
2. 42–235–31225–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 8
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33297/00173
2. 42–235–31224–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 7
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33298/00174
2. 42–235–31223–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 6
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33299/00175
2. 42–235–31222–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 5
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33300/00176
2. 42–235–31221–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 4
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33301/00177
2. 42–235–31220–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 3
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33302/00178
2. 42–235–31208–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 2
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33303/00179
2. 42–235–31199–0000
3. 103 000 000
4. Lacy & Byrd Inc
5. Rocker B No 1
6. Spraberry (Trend area)
7. Reagan TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33304/00180
2. 42–435–32085–0000
3. 103 000 000
4. Shenandoah Oil Corp
5. J W Ward No 2–118
6. Sonora (Canyon Upper)
7. Sutton TX
8. 182.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33305/00181
2. 42–435–32084–0000
3. 103 000 000
4. Shenandoah Oil Corp
5. B M Halbert No 2–122
6. Sonora (Canyon Upper)
7. Sutton TX
8. 146.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33306/00341
2. 42–483–00000–0000
3. 108 000 000
4. Morgas
5. George E #1
6. East Panhandle
7. Wheeler TX
8. 17.2 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co
1. 80–33307/00439

2. 42–185–30206–0000
3. 102 000 000
4. Wesley West
5. Sam B Harrison No 2
6. Bedias West (Chalk 8600)
7. Grimes TX
8. 365.0 million cubic feet
9. May 14, 1980
10.
1. 80–33308/00738
2. 42–365–30634–0000
3. 103 000 000
4. Gibson Drilling Co
5. Z L Daniels Gas Unit
6. Carthage South (Pettit Lower)
7. Panola County TX
8. 182.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co
1. 80–33309/00959
2. 42–105–32054–0000
3. 103 000 000
4. Suburban Propane Gas Corp
5. Jones-Miller et al No 2
6. Ozona (Canyon Sand)
7. Crockett TX
8. 150.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33310/00983
2. 42–105–00000–0000
3. 108 000 000
4. Bill J Graham
5. University 12 #2
6. Howard Draw (Grayburg San Andres)
7. Crockett TX
8. 14.6 million cubic feet
9. May 14, 1980
10. Permian
1. 80–33311/01145
2. 42–089–30642–0000
3. 103 000 000
4. Mitchell Energy Corp
5. C W McDermott #4
6. Nada (Wilcox—9700 FB 3)
7. Colorado TX
8. 157.8 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33312/01522
2. 42–105–00000–0000
3. 103 000 000
4. Delta Drilling Co
5. Helbing 14 3
6. Ozona (Canyon)
7. Crockett TX
8. 84.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33313/01523
2. 42–105–00000–0000
3. 103 000 000
4. Delta Drilling Co
5. Helbing 17 2
6. Ozona (Canyon)
7. Crockett TX
8. 173.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33314/01525
2. 42–105–00000–0000
3. 103 000 000
4. Delta Drilling Co
5. Meadows 48 2
6. Ozona (Canyon)
7. Crockett TX
8. 165.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33315/01851
2. 42–389–30881–0000
3. 102 000 000
4. Wayman W Buchanan
5. J B Young No 1
6. J B Y (Delaware)
7. Reeves County TX
8. 91.3 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co
1. 80–33316/01932
2. 42–173–30463–0000
3. 103 000 000
4. Mewbourne Oil Co
5. Chaney #1
6. Spraberry (Trend)
7. Glasscock TX
8. 6.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33317/01939
2. 42–295–3054–0000
3. 103 000 000
4. Mewbourne Oil Co
5. Burchfiel #1
6. Mammoth Creek No (Cleveland)
7. Lipscomb TX
8. 170.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33318/01942
2. 42–357–30832–0000
3. 103 000 000
4. Mewbourne Oil Co
5. Morris #1
6. Northrup (Cleveland)
7. Ochiltree TX
8. 105.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co
1. 80–33319/01950
2. 42–357–30791–0000
3. 103 000 000
4. Mewbourne Oil Co
5. Daniel #1
6. Northrup (Cleveland)
7. Ochiltree TX
8. 75.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33320/01983
2. 42–295–30487–0000
3. 103 000 000
4. Mewbourne Oil Co
5. Ingle #1
6. Bechthold (Tonkawa)
7. Lipscomb TX
8. 20.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33321/02093
2. 42–123–30846–0000
3. 103 000 000
4. H–M Oil Co
5. Herbert Haun #1–T
6. Arneckeville S Y–6
7. Dewitt TX
8. 365.0 million cubic feet
9. May 14, 1980
10. Texas Eastern Transmission Corp, UNI Oil Inc
1. 80–33322/02094
2. 42–123–30846–0000
3. 103 000 000
4. H–M Oil Co
5. Herbert Haun #1–C
6. Arneckeville S Y–1
7. Dewitt TX
8. 365.0 million cubic feet
9. May 14, 1980
10. Texas Eastern Transmission Corp, UNI Oil Inc
1. 80–33323/02389
2. 42–461–31203–0000
3. 103 000 000
4. Gulf Oil Corp
5. J T McElroy Cons No 1008
6. McElroy
7. Upton TX
8. .8 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33324/02852
2. 42–039–30805–0000
3. 103 000 000
4. Sun Oil Co
5. Wisch-Saint Unit No S–U
6. Pledger (Markham 7700)
7. Brazoria TX
8. 1058.0 million cubic feet
9. May 14, 1980
10. United Texas Transmission Corp
1. 80–33325/02853
2. 42–039–30823–0000
3. 103 000 000
4. Su Oil Co
5. Wisch-Saint unit No 6–L
6. Pledger (Betts 8000)
7. Brazoria TX
8. 259.0 million cubic feet
9. May 14, 1980
10. United Texas Transmission Corp
1. 80–33326/02856
2. 42–039–30831–0000
3. 103 000 000
4. Sun Oil Co
5. Wisch-Saint Unit No 7–U
6. Pledger (Cayce 7650)
7. Brazoria TX
8. 492.0 million cubic feet
9. May 14, 1980
10. United Texas Transmission Corp
1. 80–33327/02919
2. 42–237–00000–0000
3. 108 000 000
4. Miles Production Co et al
5. Crawford-Woods #1
6. East Perrin (Caddo)
7. Jack TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Southwestern Gas Pipeline Co
1. 80–33328/02920
2. 42–237–00000–0000
3. 108 000 000
4. Miles Production Co et al
5. Vera Roney #2
6. Lost Valley (Caddo)
7. Jack TX
8. 7.0 million cubic feet
9. May 14, 1980
10. Emco Gas Pipeline Co, Southwestern Gas Pipeline Inc
1. 80–33329/02987
2. 42–475–31658–0000
3. 103 000 000

V 45 M Y 30 80 0 UMI

4. Gulf Oil Corp
5. E W Estes No 245
6. Estes Block 34 (Penn)
7. Ward TX
8. 23.0 million cubic feet
9. May 14, 1980
10. Cabot Corp
1. 80–33330/03064
2. 42–321–30850–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Richers A #1
6. Hamman E (10100 Frio)
7. Matagorda TX
8. 192.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33331/03068
2. 42–355–31327–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Prochaska #1
6. Agua Dulce (6400 Carter)
7. Nueces TX
8. 93.0 million cubic feet
9. May 14, 1980
10. Esperanza Energy Corp
1. 80–33332/03069
2. 42–239–31355–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Blankinship Gas Unit #2
6. Morales
7. Jackson TX
8. 66.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33333/03070
2. 42–239–31326–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Stafford A GU #1
6. Morales (3900)
7. Jackson TX
8. 255.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33334/03071
2. 42–239–31224–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Wearden #4
6. Morales
7. Jackson TX
8. 100.4 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33335/03072
2. 42–239–31328–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Watson B #1
6. Morales
7. Jackson TX
8. 95.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33336/03502
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J A Whittenburg D #3
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33337/03503
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J A Whittenburg D #1
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33338/03509
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J T Hodges #2
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33339/03514
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. J J Perkins C #4–C
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33340/03578
2. 42–483–30483–0000
3. 103 000 000
4. Amarillo Oil Co
5. Evans #1–7 (Morrow) ID 76671
6. Buffalo Wallow (Morrow)
7. Wheeler TX
8. 634.0 million cubic feet
9. May 14, 1980
10. Pioneer Natural Gas Co
1. 80–33341/03591
2. 42–237–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Cap Yates No. 7
6. Boonsville Bend Conglomerate
7. Jack TX
8. 2.7 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33342/03594
2. 42–237–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Ada Worthington No. 1
6. Boonesville Bend Conglomerate
7. Jack TX
8. 5.8 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33343/03620
2. 42–483–30494–0000
3. 103 000 000
4. Davis Oil Co
5. Lee No. 1
6. Mobectic West (Ellenburger)
7. Wheeler TX
8. 175.0 million cubic feet
9. May 14, 1980
10. Michigan Wisconsin Pipeline Co
1. 80–33344/03621
2. 42–393–00000–0000
3. 103 000 000
4. Davis Oil Co
5. Byrum #1
6. Red Deer NE (Granite Wash)
7. Roberts TX
8. 350.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33345/03627
2. 42–233–00000–0000
3. 108 000 000
4. Rogatz & Glass
5. Gulf Whittenburg D #3
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33346/03874
2. 42–435–32052–0000
3. 103 000 000
4. El Paso Natural Gas Co
5. Davis A #3
6. Sonora
7. Sutton TX
8. 170.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33347/03972
2. 42–233–00000–0000
3. 108 000 000
4. Collins Oil and Gas Co
5. J J Perkins #2
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33348/03974
2. 42–233–00000–0000
3. 108 000 000
4. Collins Oil and Gas Co
5. J J Perkins #4
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33349/04073
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. C A Mason #1
6. Boonsville Bend Cong
7. Wise TX
8. 13.2 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33350/04082
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. H S Renshaw #1
6. Boonsville Bend Cong
7. Wise TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33351/04088
2. 42–367–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. H A Thomason #1
6. Boonsville Bend Cong
7. Parker TX

8. 5.2 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33352/04089
2. 42–237–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. Ornee Stewart #3
6. Boonsville Bend Cong
7. Jack TX
8. 6.9 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33353/04118
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. G T Lemay #3
6. Leftwick (Congl 5220)
7. Wise TX
8. 4.4 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33354/04121
2. 42–497–30493–0000
3. 108 000 000
4. Mitchell Energy Corp
5. Joe C Hanna et al #1
6. Alvord (Atoka 6400)
7. Wise TX
8. 4.1 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33355/04147
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. R E Petty #1
6. Boonsville Bend Cong
7. Wise TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33356/04175
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. H P Faith #3
6. Alvord (Atoka Cong)
7. Wise TX
8. 3.9 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33357/04202
2. 42–033–00000–0000
3. 103 000 000
4. Texaco Inc
5. Jo Mill Unit No. 3411
6. Jo Mill (Spraberry)
7. Borden TX
8. 21.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co
1. 80–33358/04219
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. W E Howell #1
6. Alvord (Caddo Cong)
7. Wise TX
8. 10.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33359/04220
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. H A Hedberg #1–C
6. Boonsville Bend Cong
7. Wise TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33360/04259
2. 42–501–00000–0000
3. 103 000 000
4. Texaco Inc
5. Roberts Unit No. 3315
6. Wasson
7. Yoakum TX
8. .4 million cubic feet
9. May 14, 1980
10. Shell Oil Co
1. 80–33361/04315
2. 42–135–00000–0000
3. 103 000 000
4. Texaco Inc
5. West Jordan Unit No. 3–13
6. Jordan
7. Ector TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33362/04339
2. 42–165–00000–0000
3. 103 000 000
4. Texaco Inc
5. A B Wharton Jr No. 93
6. Robertson (San Andres)
7. Gaines TX
8. 13.5 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33363/04395
2. 42–227–31431–0000
3. 103 000 000
4. Amoco Production Co
5. Ellis Iden A No. 3
6. Oceanic (Penn)
7. Howard TX
8. 220.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co, El Paso Natural Gas Co
1. 80–33364/04654
2. 42–481–00000–0000
3. 103 000 000
4. Woods Exploration & Prdg Co Inc
5. Leveridge W C AAIF MD #1
6. East Bernard (7700)
7. Wharton TX
8. 170.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33365/04698
2. 42–105–31921–0000
3. 103 000 000
4. William N Beach
5. Owens 17–1
6. Clara Couch (Wolfcamp)
7. Crockett TX
8. 28000.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33366/04728
2. 42–133–31189–0000
3. 103 000 000
4. Leclair Westwood Inc
5. Brawner #1
6. Penn (Ranger)
7. Eastland TX
8. 17520.0 million cubic feet
9. May 14, 1980
10. Odessa Natural Corp
1. 80–33367/04794
2. 42–497–31074–0000
3. 103 000 000
4. Sun Oil Co
5. O Walker Unit No 2
6. Boonsville
7. Wise TX
8. 35.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America
1. 80–33368/04847
2. 42–357–00000–0000
3. 103 000 000
4. Natomas North America Inc
5. Luthi A #4
6. Dickinson-Luthi
7. Ochiltree TX
8. 274.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co
1. 80–33369/04891
2. 42–105–00000–0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Vada Bean 2–22
6. Ozona Canyon Sand
7. Crockett TX
8. 150.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33370/04907
2. 42–105–31867–0000
3. 108 000 000
4. Ladd Petroleum Corp
5. J S Pierce #1–10
6. Ozona Canyon Sand
7. Crockett TX
8. 18.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33371/04918
2. 42–105–00000–0000
3. 103 000 000
4. American Quasar Petroleum Co
5. Henderson 1–4
6. 1904 FNL & 2132 Fel Henderson Lease
7. Crockett TX
8. 73.0 million cubic feet
9. May 14, 1980
10. Intratex Gas Co
1. 80–33372/04925
2. 42–105–31759–0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Vada Bean 1–22
6. Ozona Canyon Sand
7. Crockett TX
8. 30.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–33373/04957
2. 42–215–00000–0000
3. 108 000 000
4. Clark Fuel Producing Co
5. Sheldon-Wood Unit No 1
6. Sam Fordyce 2500
7. Hidalgo TX
8. 16.0 million cubic feet
9. May 14, 1980
10. South Texas Natural Gas Gath Co
1. 80–33374/04961

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2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. Louella Dethloff #1
6. Bridgeport Atoka Cong 5900
7. Wise TX
8. 9.3 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33375/04962
2. 42–497–31325–0000
3. 103 000 000
4. Mitchell Energy Corp
5. Ella Maeyers #2
6. Boonsville Bend Congl Gas
7. Wise TX
8. 170.3 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33376/05014
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corp
5. Deal Johnson No 1
6. Pandandle West
7. Hutchinson TX
8. 5.6 million cubic feet
9. May 14, 1980
10. Colorado Interstate Gas Co

1. 80–33377/05048
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. L W Ratliff #1
6. Boonsville Bend Cong
7. Wise TX
8. 8.9 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33378/05058
2. 42–367–31230–0000
3. 103 000 000
4. Mitchell Energy Corp
5. Ethel Campbell #2
6. Toto Bend Congl Lower
7. Parker TX
8. 99.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33379/05075
2. 42–497–30163–0000
3. 108 000 000
4. Mitchell Energy Corp
5. Jeff S Fox #1
6. Boonsville Bend Cong
7. Wise TX
8. 7.5 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33380/05091
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. G B Portwood #1
6. Boonsville Bend Cong
7. Wise TX
8. 13.9 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33381/05098
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp
5. C F Hudnall #1
6. Boonsville Bend Cong
7. Wise TX
8. 3.7 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33382/05137
2. 42–103–00000–0000
3. 108 000 000
4. Getty Oil Co
5. North McElroy Unit No 2932
6. McElroy
7. Crane TX
8. .2 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33383/05140
2. 42–103–00000–0000
3. 108 000 000
4. Getty Oil Co
5. North McElroy Unit No 2935
6. McElroy
7. Crane TX
8. .2 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33384/05170
2. 42–497–30095–0000
3. 108 000 000
4. Mitchell Energy Corp
5. C C Stephens #1
6. Boonsville Bend Cong
7. Wise TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33385/05202
2. 42–179–00000–0000
3. 108 000 000
4. W L Bruce Co
5. Walberg #5
6. Panhandle
7. Gray TX
8. 1.1 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33386/05267
2. 42–341–00000–0000
3. 108 000 000
4. W L Bruce Co
5. Morton #12
6. Panhandle
7. Moore TX
8. 11.2 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33387/05530
2. 42–179–00000–0000
3. 108 000 000
4. W L Bruce Co
5. Brinkley #3
6. Panhandle Field
7. Gray TX
8. 15.2 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33388/05551
2. 42–367–31004–0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Carr J R Unit 2
6. Toto
7. Parker TX
8. 64.8 million cubic feet
9. May 14, 1980
10. Lone Star Gas Co

1. 80–33389/05573
2. 42–481–00000–0000
3. 102 000 000
4. Boling Production Co Inc
5. Stolle #1
6. Stolle (Frio) Field
7. Wharton TX
8. 1000.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33390/05578
2. 42–179–00000–0000
3. 108 000 000
4. W H Taylor Estate
5. Taylor Ranch (CTH) 39A
6. West Panhandle (Gas)
7. Gray TX
8. 14.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33391/05607
2. 42–233–00000–0000
3. 108 000 000
4. Aljean Harnon Inc
5. T D Lewis B #8
6. Panhandle Field
7. Hutchinson TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33392/05619
2. 42–179–00000–0000
3. 108 000 000
4. W H Taylor Estate
5. Taylor Ranch (WHT) 22
6. West Panhandle (Gas)
7. Gray TX
8. 17.5 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33393/05625
2. 42–179–00000–0000
3. 108 000 000
4. W H Taylor Estate
5. Taylor Ranch (TEH)
6. West Panhandle (Gas)
7. Gray TX
8. 10.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33394/05650
2. 42–179–00000–0000
3. 108 000 000
4. W H Taylor Estate
5. Bollinger 25329
6. West Panhandle (Gas)
7. Gray TX
8. 15.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33395/05864
2. 42–335–31368–0000
3. 103 000 000
4. Chevron USA Inc
5. W L Foster 1 #47
6. Iatan East (Howard)
7. Mitchell TX
8. 1.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33396/05671
2. 42–475–31580–0000
3. 103 000 000
4. Chevron USA Inc
5. D B Durgin #80
6. South Ward

7. Ward TX
8. .1 million cubic feet
9. May 14, 1980
10. Nueces Co

1. 80–33397/05672
2. 42–475–31581–0000
3. 103 000 000
4. Chevron USA Inc
5. D B Durgin #81
6. South Ward
7. Ward TX
8. 1.5 million cubic feet
9. May 14, 1980
10. Nueces Co

1. 80–33398/05674
2. 42–179–00000–0000
3. 108 000 000
4. W H Taylor Estate
5. Taylor Ranch (TEH) 25338
6. West Panhandle (Gas)
7. Gray TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33399/05676
2. 42–479–31759–0000
3. 103 000 000
4. Chevron USA Inc
5. Bruni Mineral Trust #17
6. Laredo (Lobo)
7. Webb TX
8. 726.0 million cubic feet
9. May 14, 1980
10. Lovaca Gathering

1. 80–33400/05930
2. 42–357–00000–0000
3. 108 000 000
4. Texaco Inc
5. Patton-Holland Unit #LL
6. Farnsworth
7. Ochiltree TX
8. 10.7 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33401/06023
2. 42–427–00000–0000
3. 108 000 000
4. Conoco Inc
5. Frio D–5 Unit No 16
6. Rincon
7. Starr TX
8. .7 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33402/06024
2. 42–079–30473–0000
3. 103 000 000
4. Conoco Inc
5. Conoco-Dean Unit #99
6. Slaughter/San Andres
7. Cochran TX
8. 3.7 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33403/06032
2. 42–427–00000–0000
3. 108 000 000
4. Conoco Inc
5. T B Slick Est-B No 26
6. Rincon (H)
7. Starr TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33404/06097
2. 42–179–00000–0000
3. 108 000 000
4. Texaco Inc
5. E E Gething (NCT–1) #17
6. Panhandle East
7. Gray TX
8. 2.6 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80–33405/06219
2. 42–501–31491–0000
3. 103 000 000
4. Cornell Oil Co
5. Cornell Unit 3180
6. Wasson/San Andres
7. Yoakum TX
8. .6 million cubic feet
9. May 14, 1980
10. Shell Oil Co Coltexo Corp

1. 80–33406/06249
2. 42–131–32008–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. I R Foster #47
6. Hagist Ranch (Queen City Sand)
7. Duval TX
8. 3.2 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33407/06254
2. 42–329–30789–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. June Tippett No 42
6. Pegasus (San Andres) Field
7. Midland TX
8. 1.87 million cubic feet
9. May 14, 1980
10. Arco Oil and Gas Co

1. 80–33408/06268
2. 42–233–30609–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Ellis Cockrell #28
6. Panhandle Hutchinson
7. Hutchinson TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33409/06269
2. 42–233–30606–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Ellis Cockrell No 23
6. Panhandle Hutchinson
7. Hutchinson TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33410/06277
2. 42–233–30608–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Ellis Cockrell #29
6. Panhandle Hutchinson
7. Hutchinson TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33411/06291
2. 42–233–30605–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Ellis Cockrell #29
6. Panhandle Hutchinson
7. Hutchinson TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33412/06320
2. 42–435–31452–0000
3. 108 000 000
4. Arco Oil & Gas Co
5. Mildred Cauthorn 20 No 2
6. Jo Nell (Canyon D)
7. Sutton TX
8. 4.0 million cubic feet
9. May 14, 1980
10. United Texas Transmission Corp

1. 80–33413/06342
2. 42–215–30774–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Engleman Gardens Gas Unit #6
6. San Salvador (2600)
7. Hidalgo TX
8. 72.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipe Line Co

1. 80–33414/06348
2. 42–227–31537–0000
3. 103 000 000
4. Chevron USA Inc
5. A M Bell 40R
6. Iatan East (Howard)
7. Howard TX
8. 1.3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33415/06379
2. 42–131–32896–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. J R Foster #49
6. Hagist Ranch (Queen City Sand)
7. Duval TX
8. 8.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipe Line Co of America

1. 80–33416/06381
2. 42–227–31119–0000
3. 103 000 000
4. Chevron USA Inc
5. A M Bell 19
6. Iatan East (Howard)
7. Howard TX
8. 2.6 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33417/06416
2. 42–335–31392–0000
3. 103 000 000
4. Chevron USA Inc
5. W L Foster 1 #49
6. Iatan East (Howard)
7. Mitchell TX
8. 1.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33418/06704
2. 42–499–30587–0000
3. 102 000 000
4. Taubert & Steed
5. David Lindley No 1
6. Neuhoff (Woodbine)
7. Wood TX
8. 70.0 million cubic feet
9. May 14, 1980
10.

1. 80–33419/06705

2. 42–499–3064–0000

7. Goliad TX

2. 42–065–30586–0000

V 45 M Y 30 80 0 UMI

2. 42–499–3064–0000
3. 102 000 000
4. Taubert & Steed
5. Jack Lindley No 1
6. Neuhoff (Woodbine)
7. Wood TX
8. 68.0 million cubic feet
9. May 14, 1980
10.

1. 80–33420/06707
2. 42–499–30636–0000
3. 102 000 000
4. Taubert & Steed
5. J J Puckett Heirs No 1
6. Neuhoff (Woodbine)
7. Wood TX
8. 68.0 million cubic feet
9. May 14, 1980
10.

1. 80–33421/06893
2. 42–413–30646–0000
3. 102 000 000
4. Pennzoil Co
5. Edmiston #2
6. Page West (Wolfcamp)
7. Schleicher TX
8. 300.0 million cubic feet
9. May 14, 1980
10. Producers Gas Co

1. 80–33422/06894
2. 42–413–30647–0000
3. 102 000 000
4. Pennzoil Co
5. Edmiston #1
6. Page West (Wolfcamp)
7. Schleicher TX
8. 440.0 million cubic feet
9. May 14, 1980
10. Producers Gas Co

1. 80–33423/07064
2. 42–365–30644–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Carthage Gas Unit 20 #4
6. Carthage (Cotton Valley)
7. Panola TX
8. 580.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33424/07102
2. 42–093–00000–0000
3. 103 000 000
4. Corpening Enterprises
5. Halbrook #1
6. Beattie (Marble Falls)
7. Comanche TX
8. 30.0 million cubic feet
9. May 14, 1980
10. Energy Pipeline Corp

1. 80–33425/07121
2. 42–089–30979–0000
3. 103 000 000
4. Everest Exploration Co
5. No 3C Pinchback Gas Unit No 2
6. Rhinehart (2210) Field
7. Colorado County TX
8. 210.0 million cubic feet
9. May 14, 1980
10. Hydrocarbon Gathering Inc

1. 80–33426/07128
2. 42–175–31102–0000
3. 102 000 000
4. Agoil Inc
5. J M Hensley Trust No A–1
6. La Bahia West (3100) Field
7. Goliad TX
8. 108.0 million cubic feet
9. May 14, 1980
10. Trunkline Gas Co

1. 80–33427/07130
2. 42–175–31077–0000
3. 102 000 000
4. Agoil Inc
5. J M Hensley Trust No 4
6. La Bahia East (Frio 3450) Field
7. Goliad TX
8. 108.0 million cubic feet
9. May 14, 1980
10. Trunkline Gas Co

1. 80–33428/07137
2. 42–287–30405–0000
3. 102 000 000
4. Thomas D Coffman
5. Winkler 1–A
6. Giddings (4100) Field
7. Lee TX
8. 380.0 million cubic feet
9. May 14, 1980
10. PGP Gas Products Inc

1. 80–33429/07186
2. 42–285–31191–0000
3. 108 000 000
4. Luling Oil & Gas Co Inc
5. Fojtik No 1
6. Moulton (Jackson)
7. Lavaca TX
8. 19.0 million cubic feet
9. May 14, 1980
10. Shiner Gas Pipeline Inc

1. 80–33430/07190
2. 42–483–00000–0000
3. 108 000 000
4. Komanche Oil & Gas
5. J J Perkins
6. East Panhandle
7. Wheeler TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33431/07270
2. 42–371–32552–0000
3. 103 000 000
4. Tenneco Oil Co
5. Nichols Yates #16
6. Millard
7. Pecos TX
8. 9.1 million cubic feet
9. May 14, 1980
10. Larco Gas Corp

1. 80–33432/07310
2. 42–365–00000–0000
3. 108 000 000
4. Tenneco Oil Co
5. Midyett-Gulley No 2
6. Bethany
7. Panola TX
8. 10.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80–33433/07311
2. 42–501–00000–0000
3. 103 000 000
4. Tenneco Oil Co
5. Bryson 15–SA
6. Prentice 5100
7. Yoakum TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33434/07460
2. 42–065–30586–0000
3. 103 000 000
4. Blair Oil Co
5. Burnett Lease #3–83
6. Panhandle-Carson County
7. Carson TX
8. 124.1 million cubic feet
9. May 14, 1980
10. Panhandle Eastern Pipe Line Co

1. 80–33435/07594
2. 42–249–00000–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Martha E Earhart A–1
6. Amargosa
7. Jim Wells TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33436/07597
2. 42–295–30544–0000
3. 103 000 000
4. Grace Petroleum Corp
5. Hill 2–416
6.
7. Lipscomb TX
8. 160.0 million cubic feet
9. May 14, 1980
10. Diamond Shamrock Corp

1. 80–33437/07598
2. 42–249–00000–0000
3. 108 000 000
4. Grace Petroleum Corp
5. Martha E Earhart A–2
6. Amargosa
7. Jim Wells TX
8. 15.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33438/07605
2. 42–089–30989–0000
3. 103 000 000
4. Tartan Production Co
5. Louis Hoffman No 1
6. Nada (Yegua 6400)
7. Colorado TX
8. 365.0 million cubic feet
9. May 14, 1980
10. Houston Pipeline Co

1. 80–33439/07623
2. 42–103–00000–0000
3. 108 000 000
4. Flag-Redfern Oil Co
5. Connell Estate 8 No 3
6. Sand Hills (Judkins)
7. Crane TX
8. .0 million cubic feet
9. May 14, 1980
10. Warren Petroleum Co

1. 80–33440/07631
2. 42–215–00000–0000
3. 103 000 000
4. Ike Lovelady Inc
5. Ramirez No 1
6. Sullivan City SE
7. Hidalgo TX
8. .0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33441/07638
2. 42–247–30848–0000
3. 103 000 000
4. Sun Oil Co
5. Ruth S Canales No 3
6. Jules Walker (Yegua 7500)

7. Jim Hogg TX
8. 103.0 million cubic feet
9. May 14, 1980
10. Texas Eastern Transmission Corp

1. 80–33442/07715
2. 42–355–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. M Elliff–#14
6. Agua Dulce
7. Nueces TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline

1. 80–33443/07718
2. 42–355–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. M Elliff–#11
6. Agua Dulce
7. Nueces TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33444/07719
2. 42–355–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. M Elliff–#8
6. Agua Dulce
7. Nueces TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33445/07153
2. 42–179–00000–0000
3. 108 000 000
4. Comps Inc
5. R A Massey B No 1
6. Panhandle East
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Warren Petroleum Corp

1. 80–33446/07758
2. 42–365–00000–0000
3. 102 000 000
4. Delta Drilling co
5. Hunt #1
6. Carthage Southeast/Cotton Valley
7. Panola TX
8. 884.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33447/07760
2. 42–365–30313–0000
3. 103 000 000
4. Delta Drilling Co
5. Harold Wilson #1
6. Carthage/Cotton Valley
7. Panola TX
8. 277.0 million cubic feet
9. May 14, 1980
10. Arkansas Louisiana Gas Co

1. 80–33448/07930
2. 42–105–31964–0000
3. 103 000 000
4. H&W Enterprises
5. University 13 #1
6. Farmer-San Andres
7. Crockett TX
8. 1.4 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33449/07931
2. 42–105–31869–0000
3. 103 000 000
4. H&W Enterprises
5. University 10 #1
6. Farmer San Andres
7. Crockett TX
8. 4.9 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33450/07932
2. 42–105–31958–0000
3. 103 000 000
4. H&W Enterprises
5. University 12–A #1
6. Farmer San Andres
7. Crockett TX
8. .1 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33451/07933
2. 42–105–31741–0000
3. 103 000 000
4. H&W Enterprises
5. University 12–B #2
6. Farmer San Andres
7. Crockett TX
8. 5.7 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33452/07938
2. 42–105–31613–0000
3. 103 000 000
4. H&W Enterprises
5. University 9–A well #1
6. Farmer San Andres
7. Crockett TX
8. 3.1 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33453/08028
2. 42–203–30481–0000
3. 102 000 000
4. Amoco Production Co
5. Davidson Foundation Inc well No 1
6. Woodlawn SW Cotton Valley
7. Harrison TX
8. 239.9 million cubic feet
9. May 14, 1980
10. East Texas Industrial Gas Co

1. 80–33454/08054
2. 42–203–00000–0000
3. 108 000 000
4. Amoco Production Co
5. Lewis Gas Unit B No 1
6. Woodlawn Pettit
7. Harrison TX
8. 16.3 million cubic feet
9. May 14, 1980
10. Miss River Transmission Corp

1. 80–33455/08094
2. 42–179–00000–0000
3. 108 000 000
4. Travelers Oil Co
5. Carpenter J–5
6. East Panhandle
7. Gray TX
8. 5.5 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80–33456/08135
2. 42–179–00000–0000
3. 108 000 000
4. Travelers Oil Co
5. Holly Ann
6. East Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 14, 1980
10. Coltexo Corp Transwestern Pipeline Company

1. 80–33457/08140
2. 42–179–00000–0000
3. 108 000 000
4. Travelers Oil Co
5. Chapman C–2
6. East Panhandle
7. Gray TX
8. 5.9 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80–33458/08141
2. 42–179–00000–0000
3. 108 000 000
4. Travelers Oil Co
5. Chapman D–1
6. East Panhandle
7. Gray TX
8. 5.8 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80–33459/08170
2. 42–079–30775–0000
3. 103 000 000
4. Santa Fe Energy Co
5. West Levelland Unit #189
6. Levelland (San Andres)
7. Cochran TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33460/08195
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #18
6. Kingdom (ABO Reef)
7. Terry TX
8. 2.6 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33461/08196
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #20
6. Slaughter
7. Terry TX
8. 31.8 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33462/08197
2. 42–219–32436–0000
3. 103 000 000
4. Great Western Drilling Co
5. Glimp Unit #8–11
6. Slaughter
7. Hockley TX
8. 3.3 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33463/08198
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #21
6. Slaughter
7. Terry TX
8. 3.3 million cubic feet
9. May 14, 1980
10. Amoco Production Co

V 45 M Y 30 80 UMI

1. 80–33464/08200
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #11
6. Kingdom (ABO Reef)
7. Terry TX
8. 4.8 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33465/08201
2. 42–079–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Starnes Unit #5–15
6. Levelland
7. Cochran TX
8. 3.3 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80–33466/08202
2. 42–079–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Starnes Unit #5–13
6. Levelland
7. Cochran TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80–33467/08203
2. 42–079–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Starnes Unit #5–11
6. Levelland
7. Cochran TX
8. 6.2 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80–33468/08205
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #16
6. Kingdom (ABO Reef)
7. Terry TX
8. 4.7 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33469/08206
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #15
6. Kingdom (ABO Reef)
7. Terry TX
8. .0 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33470/08207
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #14
6. Kingdom (ABO Reef)
7. Terry TX
8. 2.2 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33471/08248
2. 42–383–00000–0000
3. 103 000 000
4. Brotherton Production Co
5. University 17 #2
6. Amigo (San Andres)
7. Reagan County TX
8. .0 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33472/08208
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #13
6. Kingdom (ABO Reef)
7. Terry TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33473/08209
2. 42–445–00000–0000
3. 103 000 000
4. Great Western Drilling Co
5. Jacobson #12
6. Kingdom (ABO Reef)
7. Terry TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Amoco Production Co

1. 80–33474/08246
2. 42–383–00000–0000
3. 103 000 000
4. Brotherton Production Co
5. University 17–3
6. Amigo (San Andres)
7. Reagan County TX
8. .0 million cubic feet
9. May 14, 1980
10. Big Lake Gas Corp

1. 80–33475/08287
2. 42–483–30568–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 3
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33476/08288
2. 42–163–31020–0000
3. 103 000 000
4. Dilley Production Co
5. Vivian Battaglia No 1
6. Pearsall (Austin Chalk)
7. Frio TX
8. 1.0 million cubic feet
9. May 14, 1980
10. South Slope Gas Co

1. 80–33477/08290
2. 42–483–30519–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 8
6. Panhandle (Osborne Area)
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–334478/08291
2. 42–163–31464–0000
3. 103 000 000
4. Dilley Production Co
5. A M Dunn A–1
6. Pearsall (Austin Chalk)
7. Frio TX
8. 1.0 million cubic feet
9. May 14, 1980
10. South Slope Gas Co

1. 80–33479/08292
2. 42–483–30555–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 2
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33480/08293
2. 42–483–30548–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 1
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33481/08294
2. 42–483–30585–0000
3. 103 000 000
4. Dilley Production Co
5. Rice No 2
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33482/08296
2. 42–087–30105–0000
3. 103 000 000
4. Dilley Production Co
5. Wm G Hawkins No 5
6. East Panhandle
7. Collingsworth TX
8. 9.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33483/08297
2. 42–087–30104–0000
3. 103 000 000
4. Dilley Production Co
5. Wm G Hawkins No 6
6. East Panhandle
7. Collingsworth TX
8. 9.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33484/08298
2. 42–087–30097–0000
3. 103 000 000
4. Dilley Production Co
5. Wm G Hawkins No 1
6. East Panhandle
7. Collingsworth TX
8. 9.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33485/08300
2. 42–483–30567–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 4
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33486/08301
2. 42–483–30574–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 5

6. Panhandle (Osborne Area)
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33487/08302
2. 42–483–30581–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 6
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33488/08303
2. 42–483–30580–0000
3. 103 000 000
4. Dilley Production Co
5. Mitchell No 7
6. Panhandle (Osborne Area) Field
7. Wheeler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Ashland Oil Inc

1. 80–33489/08312
2. 42–473–30302–0000
3. 103 000 000
4. Exxon Corp
5. Katy Gas Field Unit 1 W–49
6. Katy (First Wilcox) Field
7. Waller TX
8. 1825.0 million cubic feet
9. May 14, 1980
10. Amoco Gas Co Lone Star Gas Co Houston Pipeline Co United Texas Transmission Co

1. 80–33490/08373
2. 42–295–30511–0000
3. 103 000 000
4. Jack G Jones
5. No 1 Gillespie
6. Darren (Morrow Lower)
7. Lipscomb TX
8. 325.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co

1. 80–33491/08395
2. 42–283–30638–0000
3. 102 000 000
4. Mormac Oil & Gas Co
5. Lena Gausemeier A No
6. Cooke (Wilcox 5350)
7. La Salle TX
8. 55.0 million cubic feet
9. May 14, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–33492/08403
2. 42–409–00000–0000
3. 108 000 000
4. Palmco Management Co
5. Baldwin Well No 5
6. White Point East (1630)
7. San Patricio TX
8. 8.0 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33493/08414
2. 42–507–31003–0000
3. 102 000 000
4. Palmco Management Co
5. Norment Foley #1
6. Leona/Elaine
7. Zavala TX
8. 118.0 million cubic feet
9. May 14, 1980
10. South Texas Gas Co

1. 80–33494/08528
2. 42–135–33075–0000
3. 103 000 000
4. Wayman W Buchanan
5. E F Cowden F No 3
6. Foster
7. Ector TX
8. 13.8 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33495/08539
2. 42–133–31553–0000
3. 103 000 000
4. Dallas Production Inc
5. Smith No 1–C
6. New Discovery
7. Eastland TX
8. 182.0 million cubic feet
9. May 14, 1980
10. Bengal Gas Transmission Co

1. 80–33496/08579
2. 42–165–31345–0000
3. 103 000 000
4. Samedan Oil Corp
5. M A Moore #16
6. Robertson (SA)
7. Gaines TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33497/08589
2. 42–161–30388–0000
3. 103 000 000
4. Samedan Oil Corp
5. Boyd Pickett Gas Unit #1
6. Teague (Cotton Valley)
7. Freestone TX
8. 730.0 million cubic feet
9. May 14, 1980
10. Lone Star Gas Co

1. 80–33498/08653
2. 42–341–00000–0000
3. 108 000 000
4. Concho Oil Co
5. Ware #1
6. Panhandle
7. Moore TX
8. 12.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33499/08684
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. Whittenburg R #1
6. Panhandle
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33500/08685
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. Whittenburg R #3
6. Panhandle
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33501/08687
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. Whittenburg R #5
6. Panhandle
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33502/08688
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. Whittenburg Y #1
6. Panhandle
7. Hutchinson TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33503/08696
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. McCarty #13
6. Panhandle
7. Hutchinson TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33504/08701
2. 42–233–00000–0000
3. 108 000 000
4. Detra Producing Co
5. McCarty #9
6. Panhandle
7. Hutchinson TX
8. 13.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33505/08772
2. 42–179–00000–0000
3. 108 000 000
4. J W Snider
5. Johnson Estate 10–176
6. Panhandle-Gray
7. Gray TX
8. 4.9 million cubic feet
9. May 14, 1980
10. Pioneer Natural Gas Co

1. 80–33506/08790
2. 42–383–31318–0000
3. 103 000 000
4. Frank Cass
5. Hughes 14 No 2
6. Spraberry (Trend Area)
7. Reagan TX
8. 31600.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33507/08810
2. 42–165–31218–0000
3. 103 000 000
4. Samedan Oil Corp
5. M A Moore #12
6. Robertson (SA)
7. Gaines TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33508/08903
2. 42–287–30235–0000
3. 103 000 000
4. U S Resources Inc
5. John Ziehr #1
6. John Ziehr #1
7. Lee TX
8. 20.0 million cubic feet

V 45 M Y 30 80 UMI

9. May 14, 1980
10. PGP Gas Products Inc
1. 80–33509/08912
2. 42–287–30377–0000
3. 103 000 000
4. U S Resources Inc
5. Vicky #1
6. Giddings (Austin Chalk)
7. Lee TX
8. 180.0 million cubic feet
9. May 14, 1980
10. PGP Gas Products Inc
1. 80–33510/08916
2. 42–287–30351–0000
3. 103 000 000
4. U S Resources Inc
5. L Ward #1
6. Giddings (Austin Chalk)
7. Lee TX
8. 73.0 million cubic feet
9. May 14, 1980
10. PGP Gas Products Inc
1. 80–33511/08919
2. 42–287–30334–0000
3. 103 000 000
4. U S Resources Inc
5. W H Pieratt #1–A
6. Giddings (Austin Chalk)
7. Lee TX
8. 100.0 million cubic feet
9. May 14, 1980
10. PGP Gas Products Inc
1. 80–33512/08923
2. 42–461–31296–0000
3. 103 000 000
4. John L Cox
5. Morgan No 2
6. Spraberry (Trend Area)
7. Upton TX
8. 16.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33513/08938
2. 42–461–31235–0000
3. 103 000 000
4. John L Cox
5. Carleton No
6. Spraberry (Trend Area)
7. Upton TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33514/08969
2. 42–461–31290–0000
3. 103 000 000
4. John L Cox
5. Owens H No 2
6. Spraberry (Trend Area)
7. Upton TX
8. 16.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33515/08970
2. 42–461–31267–0000
3. 103 000 000
4. John L Cox
5. Owens H No 1
6. Spraberry (Trend Area)
7. Upton TX
8. 17.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33516/08971
2. 42–461–31268–0000
3. 103 000 000
4. John L Cox
5. Owens F No 2
6. Spraberry (Trend Area)
7. Upton TX
8. 26.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33517/08972
2. 42–461–31247–0000
3. 103 000 000
4. John L Cox
5. Owens G No 1
6. Spraberry (Trend Area)
7. Upton TX
8. 20.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33518/08973
2. 42–461–31316–0000
3. 103 000 000
4. John L Cox
5. Owens E No 4
6. Spraberry (Trend Area)
7. Upton TX
8. 17.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33519/08974
2. 42–461–31289–0000
3. 103 000 000
4. John L Cox
5. Owens E No 3
6. Spraberry (Trend Area)
7. Upton TX
8. 17.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33520/08975
2. 42–461–31333–0000
3. 103 000 000
4. John L Cox
5. Langford 13 No 1
6. Spraberry (Trend Area)
7. Upton TX
8. 22.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33521/09000
2. 42–461–31350–0000
3. 103 000 000
4. John L Cox
5. Owens L No 1
6. Spraberry (Trend Area)
7. Upton TX
8. 8.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33522/09019
2. 42–105–31113–0000
3. 103 000 000
4. Crain Oil Co
5. University 23 #1
6. Farmer (San Andres)
7. Crockett TX
8. 1.1 million cubic feet
9. May 14, 1980
10.
1. 80–33523/09020
2. 42–105–31670–0000
3. 103 000 000
4. Crain Oil Co
5. University 23 #2
6. Farmer (San Andres)
7. Crockett TX
8. 1.1 million cubic feet
9. May 14, 1980
10.
1. 80–33524/09028
2. 42–295–30548–0000
3. 103 000 000
4. ONG Exploration Inc
5. Mason No 1
6. Follett NW (Upper Morrow)
7. Lipscomb TX
8. .0 million cubic feet
9. May 14, 1980
10.
1. 80–33525/09044
2. 42–427–00000–0000
3. 108 000 000
4. Philip B Berry P/A No 2
5. Helene Lyons #1
6. Cameron Field
7. Starr TX
8. 7.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co
1. 80–33526/09073
2. 42–461–31272–0000
3. 103 000 000
4. Henry Petroleum Corp
5. Cox B #1
6. Spraberry (Trend Area)
7. Upton TX
8. 3.8 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33527/09080
2. 42–239–31342–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Musselman G #1
6. McDaniel (3300)
7. Jackson TX
8. 80.3 million cubic feet
9. May 14, 1980
10. Delhi Gas Pipeline Corp
1. 80–33528/09169
2. 42–365–00000–0000
3. 108 000 000
4. Nemours Corp
5. Oliver Daniel #1
6. Carthage (Lower Pettit)
7. Panola TX
8. 8.0 million cubic feet
9. May 14, 1980
10. Arkansas Louisiana Gas Co
1. 80–33529/09195
2. 42–211–30867–0000
3. 103 000 000
4. Earl T Smith & Associates Co
5. Bowers #3
6. Washita Creek West (Morrow Upper)
7. Hemphill TX
8. 255.0 million cubic feet
9. May 14, 1980
10. El Past Natural Gas Co
1. 80–33530/09251
2. 42–435–00000–0000
3. 108 000 000
4. HNG Oil Co
5. Espy 40 #31
6. Sawyer (Canyon)
7. Sutton TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co
1. 80–33531/09260

2. 42–089–31001–0000
3. 102 000 000
4. Shell Oil Co
5. Sheridan Gas Unit No 80–U
6. Frank
7. Colorado TX
8. 500.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp
Houston Pipeline Co
1. 80–33532/09292
2. 42–497–00000–0000
3. 103 000 000
4. League Mineral Corp
5. Stewart-Womack #1
6. Risch East (Atoka)
7. Wise TX
8. .0 million cubic feet
9. May 14, 1980
10. Texas Utilities Fuel Co
1. 80–33533/09318
2. 42–373–00000–0000
3. 103 000 000
4. Mitchell Energy Corp
5. J P Hickman #1
6. Hortense (Woodbine)
7. Polk TX
8. 300.0 million cubic feet
9. May 14, 1980
10. Houston Pipeline Co
Natural Gas Pipeline Co
1. 80–33534/09320
2. 42–507–00000–0000
3. 102 000 000
4. Mole Operating Co Inc
5. Mole Pryor-Box 3–C
6. Neta (Bracero) Field
7. Zavala County TX
8. .0 million cubic feet
9. May 14, 1980
10.
1. 80–33535/09330
2. 42–297–31673–0000
3. 103 000 000
4. Southland Minerals Co
5. W Meider #1
6. Coquat (Massive Series) Field
7. Live Oak TX
8. 68.0 million cubic feet
9. May 14, 1980
10. Transcontinental Gas Pipeline Co
1. 80–33536/09369
2. 42–475–31701–0000
3. 103 000 000
4. Southland Royalty Co
5. Janelle Edwards A–2
6. Grawar (Glorieta)
7. Ward TX
8. 24.0 million cubic feet
9. May 14, 1980
10. Warren Petroleum Corp
1. 80–33537/09683
2. 42–297–31718–0000
3. 102 000 000
4. Daniel Oil Co
5. Peters #1
6. Wildcat
7. Live Oak TX
8. 180.0 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co
1. 80–33538/09710
2. 42–295–30586–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Valentine Schoenhals et al No 1
6. Lipscomb
7. Lipscomb TX
8. 100.0 million cubic feet
9. May 14, 1980
10.
1. 80–33539/09733
2. 42–219–32631–0000
3. 103 000 000
4. Texas Pacific Oil Co Inc
5. Central Levelland Unit #229
6. Levelland
7. Hockley TX
8. 4.7 million cubic feet
9. May 14, 1980
10. Amoco Production Co
1. 80–33540/09735
2. 42–219–32633–0000
3. 103 000 000
4. Texas Pacific Oil Co Inc
5. Central Levelland Unit #232
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. May 14, 1980
10. Amoco Production Co
1. 80–33541/09736
2. 42–219–32634–0000
3. 103 000 000
4. Texas Pacific Oil Co Inc
5. Central Levelland Unit #233
6. Levelland
7. Hockley TX
8. 10.0 million cubic feet
9. May 14, 1980
10. Amoco Production Co
1. 80–33542/13878
2. 42–233–03581–0000
3. 103 000 000
4. W R Edwards Jr
5. William No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. 9.4 million cubic feet
9. May 14, 1980
10. Panhandle Producing Co
1. 80–33543/09827
2. 42–233–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Lewis #2
6. Panhandle
7. Hutchinson TX
8. .8 million cubic feet
9. May 14, 1980
10. Getty Oil Co
1. 80–33544/09839
2. 42–179–00000–0000
3. 108 000 000
4. Sage Petroleum Co
5. Andy #4
6. Panhandle
7. Gray TX
8. 2.4 million cubic feet
9. May 14, 1980
10. Pioneer Natural Gas Co
1. 80–33545/09584
2. 42–179–00000–0000
3. 108 000 000
4. Mobil Oil corp
5. J B Bowers #10
6. Panhandle
7. Gray TX
8. 1.4 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33546/09870
2. 42–179–00000–0000
3. 108 000 000
4. Tenneco Oil co
5. Worley #69
6. Panhandle West
7. Gray TX
8. 17.6 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33547/10127
2. 42–003–00000–0000
3. 108 000 000
4. Conoco Inc
5. West Fuhrman-Mascho Unit #69
6. Fuhrman-Mascho
7. Andrews TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33548/10246
2. 42–389–00000–0000
3. 108 000 000
4. Conoco Inc
5. G E Ramsey Jr 8 No 3
6. Geraldine-Ford
7. Reeves TX
8. 7.3 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33549/10278
2. 42–501–31595–0000
3. 103 000 000
4. A J Vogel Inc
5. Webb No 3
6. Brahaney
7. Yoakum TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Shell Oil Co
1. 80–33550/10281
2. 42–501–31596–0000
3. 103 000 000
4. A J Vogel Inc
5. Webb No 4
6. Brahaney
7. Yoakum TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Shell Oil co
1. 80–33551/10390
2. 42–179–00000–0000
3. 108 000 000
4. Rockwall Petroleum Co
5. Roberts #4
6. East Panhandle
7. Gray TX
8. 14.6 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–33552/10430
2. 42–079–00000–0000
3. 108 000 000
4. United Co
5. Seaboard Wright #16
6. Levelland (SA)
7. Cochran TX
8. 17.2 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co
1. 80–33553/10433
2. 42–079–00000–0000
3. 108 000 000

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4. United Co
5. Hornburg-Masten #2
6. Levelland (SA)
7. Cochran
8. 1.7 million cubic feet
9. May 14, 1980
10. Tuco Inc

1. 80-33554/109478
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Jackson #8
6. Panhandle
7. Gray TX
8. .7 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33555/10479
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Jackson #11
6. Panhandle
7. Gray TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33556/10480
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Jackson #12
6. Panhandle
7. Gray TX
8. 3.3 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33557/10488
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. J P Osborne #6
6. Panhandle
7. Gray TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33558/10495
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. J P Osborne #8
6. Panhandle
7. Gray TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33559/10496
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. J. P Osborne #9
6. Panhandle
7. Gray TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33560/10497
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. J P Osborne #10
6. Panhandle
7. Gray TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33561/10499
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Jackson #4
6. Panhandle
7. Gray TX
8. 1.1 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33562/10500
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Jackson #5
6. Panhandle
7. Gray TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33563/10586
2. 42-475/30681-0000
3. 108 000 000
4. Hissom Drilling Co
5. Caroline H Gas Unit #1
6. Quito (Atoka)
7. Ward TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Pioneer Natural Gas Co

1. 80-33564/10535
2. 42-179-00000-0000
3. 108 000 000
4. G C Herrmann co
5. McKinney #15
6. Panhandle
7. Gray TX
8. .7 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33565/10602
2. 42-383/31277-0000
3. 103 000 000
4. Knox Industries Inc
5. Watkins No 1
6. Spraberry Trend Area
7. Reagon TX
8. 41.0 million cubic feet
9. May 14, 1980
10.

1. 80-33566/10603
2. 42-383-31276-00000-0000
3. 103 000 000
4. Knox Industries Inc
5. Slaughter No 1
6. Spraberry Trend Area
7. Reagon TX
8. 12.0 million cubic feet
9. May 14, 1980
10.

1. 80-33567/10606
2. 42-179-00000-0000
3. 108 000 000
4. Lefors Petroleum Co Inc
5. East Bull #3
6. Panhandle
7. Gray TX
8. .4 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80-33568/10607
2. 42-179-00000-0000
3. 108 000 000
4. Lefors Petroleum Co Inc
5. East Bull #4
6. Panhandle
7. Gray TX
8. .2 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80-33569/10608
2. 42-179-00000-0000
3. 108 000 000
4. Lefors Petroleum Co Inc
5. East Bull #5
6. Panhandle
7. Gray TX
8. .4 million cubic feet
9. May 14, 1980
10. Coltexo Corp

1. 80-33570/10728
2. 42-483-00000-0000
3. 108 000 000
4. Barker Production Co
5. Morgan #2
6. Panhandle Wheeler County
7. Wheeler TX
8. 15.8 million cubic feet
9. May 14, 1980
10. Ashland Exploration Inc

1. 80-33571/10729
2. 42-483-00000-0000
3. 108 000 000
4. Barker Production Co
5. Morgan #1
6. Panhandle Wheeler
7. Wheeler TX
8. 15.8 million cubic feet
9. May 14, 1980
10. Ashland Exploration Inc

1. 80-33572/10743
2. 42-483-00000-0000
3. 108 000 000
4. Bronco Oil co
5. Sitter-Warren #3
6. Panhandle Wheeler
7. Wheeler TX
8. 8.4 million cubic feet
9. May 14, 1980
10. Warren Petroleum Co

1. 80-33573/10793
2. 42-469-31375-00000-0000
3. 103 000 000
4. Gulf Minerals Operating Co
5. M Kolodzey
6. Arnold (Yequa 5350)
7. Victoria TX
8. 1.4 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80-33574/10820
2. 42-287-30300-0000
3. 102 000 000
4. Grace Petroleum Corp
5. Varibus Corporation #1
6. Bear Grass N (Cotton Valley)
7. Leon TX
8. 912.0 million cubic feet
9. May 14, 1980
10. Delhi Gas Pipeline Corp

1. 80-33575/10848
2. 42-105-00000-0000
3. 108 000 000
4. Beacon Energy Corp
5. Clay Adams 64177
6. Canyon Sand
7. Crockett TX

8. 9.0 million cubic feet
9. May 14, 1980
10. Detroit-Texas Gas Gathering

1. 80-33576/10850
2. 42-105-00000-0000
3. 108 000 000
4. Beacon Energy Corp
5. Clay Adams 2115
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Detroit-Texas Gas Gathering Co

1. 80-33577/10870
2. 42-211-31007-0000
3. 103 000 000
4. Moody Energy Co
5. Risley #1-18
6. Hemphill (Granite Wash)
7. Hemphill TX
8. .0 million cubic feet
9. May 14, 1980
10.

1. 80-33578/10905
2. 42-431-00000-0000
3. 103 000 000
4. HMH Operators
5. Chevron #1
6. Conger Penn
7. Sterling TX
8. 100.0 million cubic feet
9. May 14, 1980
10. Lo Vaca Gathering Co

1. 80-33579/10908
2. 42-365-30769-0000
3. 102 000 000
4. Pennzoil Producing Co
5. Moore Unit No 2
6. Carthage/Cotton Valley
7. Panola TX
8. 730.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80-33580/10955
2. 42-105-32222-0000
3. 103 000 000
4. Suburban Propane Gas Corp
5. Scheuber A No 2
6. Davidson Ranch (Penn 7890)
7. Crockett TX
8. 365.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80-33581/10992
2. 42-079-31030-0000
3. 103 000 000
4. Monsanto Co
5. Starnes #15
6. Levelland
7. Cochran TX
8. 7.9 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80-33582/10994
2. 42-079-31044-0000
3. 103 000 000
4. Monsanto Co
5. Starnes #16
6. Levelland
7. Cochran TX
8. 8.2 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80-33583/12020
2. 42-393-30622-0000
3. 103 000 000
4. Tenneco Oil Co
5. McMordie 1-89
6. St Clair (Granite Wash)
7. Roberts TX
8. 180.0 million cubic feet
9. May 14, 1980
10. Michigan-Wisconsin Pipeline Co

1. 80-33584/12141
2. 42-105-00000-0000
3. 103 000 000
4. C F Lawrence & Assoc Inc
5. Vaughn 83 #4
6. Holt Ranch (San Andres)
7. Crockett TX
8. 25000.0 million cubic feet
9. May 14, 1980
10. Apache Gas Corp

1. 80-33585/12144
2. 42-239-31394-0000
3. 103 000 000
4. R H Engelke
5. John M Bennett Jr et al B No 3
6. La Salle
7. Jackson TX
8. 249.3 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Corp

1. 80-33586/12146
2. 42-261-30444-0000
3. 103 000 000
4. Exxon Corp
5. Sarita Oil and Gas Unit 145-D
6. Sarita (1-8)
7. Kenedy TX
8. 182.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80-33587/12158
2. 42-497-00000-0000
3. 103 000 000
4. Mote Resources Inc
5. Daniel Rabinowitz
6. Boonsville (Bend Congl Gas)
7. Wise TX
8. 273.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipe Line Co of America

1. 80-33588/12192
2. 42-371-32624-0000
3. 103 000 000
4. Three-B Oil Co
5. Brandor No 1
6. Payton
7. Pecos TX
8. 7.2 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80-33589/12220
2. 42-387-30473-0000
3. 103 000 000
4. Gulf Oil Corp
5. Cook-State A Gas Unit No 1
6. Worsham (Cherry Canyon)
7. Reeves TX
8. 225.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co

1. 80-33590/12221
2. 42-239-00000-0000
3. 103 000 000
4. Holly Energy Inc
5. McDowell #1-C
6. Westhoff Ranch (6610)
7. Jackson TX
8. 100.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80-33591/12255
2. 42-131-32885-0000
3. 103 000 000
4. W Carlton Weaver
5. D Salinas No 2
6. Independence South (2500)
7. Duval TX
8. 50.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80-33592/12273
2. 42-203-30647-0000
3. 103 000 000
4. Enserch Exploration Inc
5. Della Hughes No 3
6. Whelan (Travis Peak)
7. Harrison TX
8. 730.0 million cubic feet
9. May 14, 1980
10. Texas Eastern Transmission

1. 80-33593/12274
2. 42-321-30893-0000
3. 103 000 000
4. Enserch Exploration Inc
5. Matagorda Bay S
6. Matagorda Bay
7. Matagorda TX
8. 730.0 million cubic feet
9. May 14, 1980
10. Lone Star Gas Co

1. 80-33594/12275
2. 42-003-31141-0000
3. 103 000 000
4. Exxon Corp
5. Fullerton Clearfork Unit #1837
6. Fullerton
7. Andrews TX
8. 35.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33595/12276
2. 42-003-31785-0000
3. 103 000 000
4. Exxon Corp
5. Fullerton Clearfork Unit #2235
6. Fullerton
7. Andrews TX
8. 55.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33596/12277
2. 42-003-31791-0000
3. 103 000 000
4. Exxon Corp
5. Fullerton Clearfork Unit #2343
6. Fullerton
7. Andrews TX
8. 10.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33597/12278
2. 42-003-31816-0000
3. 103 000 000
4. Exxon Corp
5. Fullerton Clearfork Unit Well #4421
6. Fullerton
7. Andrews TX
8. 173.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-33598/12280

2. 42-165-31541-0000

7. Howard TX

2. 42-179-00000-0000

2. 42–165–31541–0000
3. 103 000 000
4. Exxon Corp
5. Robertson (Clfk) Unit Well #6202
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33599/12281
2. 42–165–31538–0000
3. 103 000 000
4. Exxon Corp
5. Robertson (Clfk) Unit Well #3502
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33600/12286
2. 42–383–31264–0000
3. 103 000 000
4. Houston Oil & Minerals Corp
5. Merchant Estate 17 No 7
6. Spraberry (Trend Area)
7. Reagan TX
8. 30.0 million cubic feet
9. May 14, 1980
10. Union Texas Petroleum

1. 80–33601/12348
2. 42–179–00000–0000
3. 108 000 000
4. O F Warren
5. E E Reynolds #5
6. Panhandle Gray
7. Gray TX
8. .2 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33602/12373
2. 42–227–31863–0000
3. 103 000 000
4. Exxon Corp
5. Douthit Unit #709
6. Howard Glasscock
7. Howard TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33603/12374
2. 42–475–31838–0000
3. 103 000 000
4. Exxon Corp
5. W E Kreps Estate #3
6. Howe (Yates)
7. Ward TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Intratex Gas Co

1. 80–33604/12375
2. 42–227–31865–0000
3. 103 000 000
4. Exxon Corp
5. Douthit Unit #136
6. Howard Glasscock
7. Howard TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33605/12376
2. 42–227–31862–0000
3. 103 000 000
4. Exxon Corp
5. Douthit Unit #523
6. Howard Glasscock
7. Howard TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33606/12377
2. 42–103–32032–0000
3. 103 000 000
4. Exxon Corp
5. J B Tubb A/C 1 #186U
6. Sand Hills (McKnight)
7. Crane TX
8. 98.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33607/12411
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold #9
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33608/12413
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold #4
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33609/12418
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold #11
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33610/12419
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold #12
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33611/12420
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold #14
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33612/12440
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah #14
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33613/12441
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah #15
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33614/12442
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Harrah #16
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33615/12468
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson et al #2
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33616/12475
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. R B Thompson et al #11
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33617/12542
2. 42–239–31386–0000
3. 103 000 000
4. Howell Drilling Inc
5. Madie K Hillyer #3
6. Gabrysch/6300
7. Jackson TX
8. .0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80–33618/12560
2. 42–003–31848–0000
3. 103 000 000
4. Exxon Corp
5. Means (San Andres) Unit #2768
6. Means
7. Andrews TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33619/12561
2. 42–003–31844–0000
3. 103 000 000
4. Exxon Corp
5. Means (San Andres) Unit #1672
6. Means
7. Andrews TX
8. 10.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33620/12562
2. 42–227–31874–0000
3. 103 000 000
4. Exxon Corp
5. Douthit Unit #308
6. Howard Glasscock

7. Howard TX
8. .0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33621/12563
2. 42–165–31583–0000
3. 103 000 000
4. Exxon Corp
5. Exxon Fee Eubanks D #5
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 8.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33622/12565
2. 42–165–31566–0000
3. 103 000 000
4. Exxon Corp
5. Robertson (Clearfork) Unit #8802
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 94.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33623/12572
2. 42–497–31153–0000
3. 103 000 000
4. Mitchell Energy Corp
5. Joe Skinner #1
6. Boonsville (Bend Congl Gas)
7. Wise TX
8. 30.0 million cubic feet
9. May 14, 1980
10.

1. 80–33624/12579
2. 42–273–31170–0000
3. 103 000 000
4. Sun Oil Co
5. E G Canales No 20
6. Tijerina-Canales-Blucher
7. Kleberg TX
8. 543.0 million cubic feet
9. May 14, 1980
10.

1. 80–33625/12580
2. 42–273–31156–0000
3. 103 000 000
4. Sun Oil Co
5. A T Canales No 51
6. Tijerina-Canales-Blucher
7. Kleberg TX
8. 845.0 million cubic feet
9. May 14, 1980
10.

1. 80–33626/12581
2. 42–427–31265–0000
3. 103 000 000
4. Sun Oil Co
5. Rodriquez-Pena Unit 2 No 1–L
6. Kelsey South
7. Starr TX
8. 143.0 million cubic feet
9. May 14, 1980
10.

1. 80–33627/12582
2. 42–273–31211–0000
3. 103 000 000
4. Sun Oil Co
5. A T Canales No 53
6. Tijerina-Canales-Blucher
7. Kleberg TX
8. 2,290.0 million cubic feet
9. May 14, 1980
10.

1. 80–33628/12598
2. 42–355–31328–0000
3. 103 000 000
4. Canus Petroleum Inc
5. State Tract 700 #1
6. Viola North (4000)
7. Nueces TX
8. 182.5 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33629/12644
2. 42–065–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Vida Lewis B–1
6. Panhandle Carson
7. Carson TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33630/12645
2. 42–065–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Vida Lewis B–2
6. Panhandle Carson
7. Carson TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33631/12646
2. 42–065–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Vida Lewis B–3
6. Panhandle Carson
7. Carson TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33632/12647
2. 42–065–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Vida Lewis B–5
6. Panhandle Carson
7. Carson TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33633/12648
2. 42–065–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Vida Lewis B–7
6. Panhandle Carson
7. Carson TX
8. 2.9 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33634/12656
2. 42–355–31372–0000
3. 103 000 000
4. Tenneco Oil Co
5. East Side Block Unit #12
6. Agua Dulce (7550)
7. Nueces TX
8. 365.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33635/12657
2. 42–355–31384–0000
3. 103 000 000
4. Tenneco Oil Co
5. East Side Block Unit #13–L
6. Agua Dulce (8200)
7. Nueces TX
8. 365.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33636/12658
2. 42–355–31384–0000
3. 103 000 000
4. Tenneco Oil Co
5. East Side Block Unit #13–U
6. Agua Dulce (7550)
7. Nueces TX
8. 500.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33637/12857
2. 42–317–00000–0000
3. 103 000 000
4. Maguire Oil Co
5. Reed #1–16
6. Ackerly (Dean Sand)
7. Martin TX
8. 10.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33638/12858
2. 42–317–00000–0000
3. 103 000 000
4. Maguire Oil Co
5. Jeffcoat A #2–23
6. Ackerly (Dean Sand)
7. Martin TX
8. 20.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33639/12859
2. 42–317–00000–0000
3. 103 000 000
4. Maguire Oil Co
5. Jeffcoat A #1–23
6. Ackerly (Dean Sand)
7. Martin TX
8. 20.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33640/12860
2. 42–317–00000–0000
3. 103 000 000
4. Maguire Oil Co
5. Hale #2–29
6. Ackerly (Dean Sand)
7. Martin TX
8. 50.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33641/12862
2. 42–317–00000–0000
3. 103 000 000
4. Maguire Oil Co
5. Bond A #2–23
6. Ackerly (Dean Sand)
7. Martin TX
8. 40.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33642/12863
2. 42–317–00000–0000
3. 103 000 000
4. Maguire Oil Co
5. Bond A #1–23
6. Ackerly (Dean Sand)
7. Martin TX
8. 40.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33643/12865

2. 42–443–30211–0000
7. Hutchinson TX
2. 42–233–00000–0000

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V 45 MY 30 80 UMI

2. 42-443-30211-0000
3. 103 000 000
4. Mobil Oil Corp
5. Banner Estate #6-L
6. Brown-Bassett (Ellen)
7. Terrell TX
8. 3650.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80-33644/12874
2. 42-497-00000-0000
3. 103 000 000
4. Mote Resources Inc
5. Owen-Shulkey No 1
6. Boonsville (Bend Congl Gas)
7. Wise TX
8. 255.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipe Line Co of America

1. 80-33645/12929
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 19-03
6. Panhandle Gray
7. Gray TX
8. 3.2 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80-33646/12931
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 20-01
6. Panhandle Gray
7. Gray TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80-33647/12932
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 20-03
6. Panhandle Gray
7. Gray TX
8. .5 million cubic feet
9. May 14, 1980
10. Cities Service Co

1. 80-33648/12933
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33649/12934
2. 42-233-00000-0000
3. 10 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 3
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33650/12935
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No. 6
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33651/12936
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 7
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33652/12938
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 9
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33653/12939
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 10
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33654/12942
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 13
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33655/12943
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 14
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33656/12944
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 68
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33657/12945
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 69
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33658/12946
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 70
6. Panhandle Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33659/12949
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 99
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33660/12950
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 101
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33661/12951
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 102
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33662/12953
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Harvey Unit No 8-36
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33663/12954
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Harvey Unit 8-39
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33664/12955
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Harvey Unit No 8-43
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33665/12956
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Harvey Unit No 9-01
6. Panhandle Hutchinson

7. Hutchinson TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33666/12959
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Leopold A No 8
6. Panhandle Gray
7. Gray TX
8. 1.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33667/12960
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Leopold C No 1
6. Panhandle Gray
7. Gray TX
8. 3.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33668/12961
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Leopold C No 3
6. Panhandle Gray
7. Gray TX
8. 2.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33669/12962
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Leopold C No 4
6. Panhandle Gray
7. Gray TX
8. 1.4 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33670/12963
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Leopold C No 5
6. Panhandle Gray
7. Gray TX
8. 1.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33671/12964
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Jordan D No 30
6. Panhandle Carson
7. Carson TX
8. .4 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33672/12965
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Jordan D No 31
6. Panhandle Carson
7. Carson TX
8. .4 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33673/12966
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Jordan D No 32
6. Panhandle Carson
7. Carson TX
8. .4 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33674/12968
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 17
6. Panhandle Hutchinson
7. Hutchinson TX
8. .5 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33675/12969
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 18
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33676/12970
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 19
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33677/12971
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 20
6. Panhandle Hutchinson
7. Hutchinson TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33678/12977
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 28
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33679/12978
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 29
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33680/12979
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 30
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33681/12980
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 34
6. Panhandle Hutchinson
7. Hutchinson TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33682/12981
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 35
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33683/12992
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 36
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33684/12983
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 37
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33685/12985
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Whittenburg No 1
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33686/12987
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Whittenburg No 4
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33687/12989
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Whittenburg No 6
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.5 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80-33688/12990

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2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Whittenburg No 7
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33689/12991
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. SIN Pope No 1
6. Panhandle Gray
7. Gray TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33690/12993
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 16
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.6 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33691/12994
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 17
6. Panhandle Hutchinson
7. Hutchinson TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33692/12995
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 18
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33693/12996
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 19
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33694/12997
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner Kent B No 20
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33695/12998
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 21
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.5 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33696/12999
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 22
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33697/13000
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 24
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33698/13004
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 5A–3
6. Panhandle Gray
7. Gray TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33699/13006
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 5B–9
6. Panhandle Gray
7. Gray TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33700/13008
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 5C–3
6. Panhandle Gray
7. Gray TX
8. 4.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33701/13009
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 5C–5
6. Panhandle Gray
7. Gray TX
8. 1.7 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33702/13012
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 11–8
6. Panhandle Gray
7. Gray TX
8. 1.4 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33703/13014
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 11–10
6. Panhandle Gray
7. Gray TX
8. 4.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33704/13018
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 12–2
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33705/13019
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 12–4
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33706/13020
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 12–5
6. Panhandle Gray
7. Gray TX
8. 6.5 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33707/13021
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 13–2
6. Panhandle Gray
7. Gray TX
8. 3.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33708/13022
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 13–3
6. Panhandle Gray
7. Gray TX
8. 6.5 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33709/13186
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 3
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. May 14, 1980
10. Getty Oil Company

1. 80–33710/13192
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Harvey Unit 6–11
6. Panhandle Hutchinson

7. Hutchinson TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Getty Oil Company

1. 80–33711/13193
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 69
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33712/13218
2. 42–329–30825–0000
3. 103 000 000
4. Parker & Parsley Inc
5. Golladay No 1
6. Spraberry (Trend Area)
7. Midland TX
8. 15.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum

1. 80–33713/13219
2. 42–329–30826–0000
3. 103 000 000
4. Parker & Parsley Inc
5. Golladay A No 1
6. Spraberry (Trend Area)
7. Midland TX
8. 15.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33714/13220
2. 42–317–32050–0000
3. 103 000 000
4. Parker & Parsley Inc
5. Powell A No 1
6. Spraberry (Trend Area)
7. Martin TX
8. 15.0 million cubic feet
9. May 14, 1980
10. Adobe Oil & Gas Corp

1. 80–33715/13221
2. 42–317–30550–0000
3. 103 000 000
4. Parker & Parsley Inc
5. Stewart No 1
6. Spraberry (Trend Area)
7. Martin TX
8. 15.0 million cubic feet
9. May 14, 1980
10. Adobe Oil & Gas Corp

1. 80–33716/13227
2. 42–215–30906–0000
3. 103 000 000
4. Exxon Corp
5. Hidalgo-Willacy Oil Co 2
6. Cerda (H–96)
7. Hidalgo TX
8. 730.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33717/13228
2. 42–261–30464–0000
3. 103 000 000
4. Exxon Corp
5. C M Armstrong 49–D
6. Candelaria (G–77)
7. Kenedy TX
8. 247.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33718/13234
2. 42–007–30611–0000
3. 103 000 000
4. Integral Energy Corp
5. State Tract 84 #1
6. Goose Island (C SD LO)
7. Aransas TX
8. 36.0 million cubic feet
9. May 14, 1980
10.

1. 80–33719/13267
2. 42–219–32576–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit No 69
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33720/13268
2. 42–219–32561–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit #52
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33721/13269
2. 42–219–32584–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit No 63
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33722/13270
2. 42–219–32603–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit #65
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33723/13271
2. 42–219–32589–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit No 71
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33724/13272
2. 42–219–32577–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit No 74
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33725/13273
2. 42–219–32593–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit No 76
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33726/13274
2. 42–219–32591–0000
3. 103 000 000
4. Amoco Production Co
5. East RKM Unit No 78
6. Slaughter
7. Hockley TX
8. 5.5 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33727/13275
2. 42–365–30794–0000
3. 103 000 000
4. Amoco Production Co
5. Carthage Gas Unit 16 No 2
6. Carthage (Cotton Valley)
7. Panola TX
8. 436.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80–33728/13276
2. 42–365–30793–0000
3. 103 000 000
4. Amoco Production Co
5. Carthage Gas Unit #17 No 2
6. Carthage (Cotton Valley)
7. Panola TX
8. 436.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80–33729/13280
2. 42–365–30795–0000
3. 103 000 000
4. Amoco Production Co
5. Rogers Gas Unit No 2
6. Carthage (Cotton Valley)
7. Panola TX
8. 436.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co

1. 80–33730/13282
2. 42–003–31744–0000
3. 103 000 000
4. Amoco Production Co
5. University Bt No 6
6. McFarland (Wolfcamp)
7. Andrews TX
8. 7.5 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co Northern Natural Gas Co

1. 80–33731/13288
2. 42–369–00000–0000
3. 103 000 000
4. C F Lawrence & Assoc Inc
5. Shearer C #1
6. Brooklaw (Tubb)
7. Pecos TX
8. 500.0 million cubic feet
9. May 14, 1980
10. Larco Gas Corp

1. 80–33732/13293
2. 42–495–30964–0000
3. 103 000 000
4. Gifford Mitchell & Wisenbaker
5. Ten Bears #1
6. Cheyenne (Capitan)
7. Winkler TX
8. 9.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33733/13294

5. J B Walton F #99

3. 103 000 000

1. 80–33733/13294
2. 42–495–30981–0000
3. 103 000 000
4. Gifford Mitchell & Wisenbaker
5. Fox Tail A #4
6. Cheyenne (Capitan)
7. Winkler TX
8. 3.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33734/13296
2. 42–495–30919–0000
3. 103 000 000
4. Gifford Mitchell & Wisenbaker
5. Fox Tail #2
6. Cheyenne (Capitan)
7. Winkler TX
8. 22.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33735/13297
2. 42–495–30906–0000
3. 103 000 000
4. Gifford Mitchell & Wisenbaker
5. Fox Tail #1
6. Cheyenne (Capitan)
7. Winkler TX
8. 2.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33736/13298
2. 42–495–30977–0000
3. 103 000 000
4. Gifford Mitchell & Wisenbaker
5. Comanche Capitan #3
6. Cheyenne (Capitan)
7. Winkler TX
8. 1.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33737/13299
2. 42–495–30937–0000
3. 103 000 000
4. Gifford Mitchell & Wisenbaker
5. Comanche Capitan #2
6. Cheyenne (Capitan)
7. Winkler TX
8. 6.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33738/13305
2. 42–365–30920–0000
3. 103 000 000
4. Gulf Oil Corp
5. Carthage Unit 112 No 3
6. Carthage (Cotton Valley)
7. Panola TX
8. 400.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33739/13374
2. 42–495–31018–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #98
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33740/13375
2. 42–495–31031–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #99
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33741/13376
2. 42–495–31006–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #100
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33742/13377
2. 42–495–31000–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #92
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33743/13378
2. 42–495–31010–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #94
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33744/13379
2. 42–495–31009–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #95
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33745/13380
2. 42–495–31008–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #96
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33746/13381
2. 42–495–31019–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #97
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33747/13382
2. 42–495–31020–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #101
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33748/13383
2. 42–495–31045–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton F #102
6. Keystone
7. Winkler TX
8. 115.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–33749/13388
2. 42–475–31787–0000
3. 103 000 000
4. Gulf Oil Corp
5. State Wz No 4
6. Caprito (Delaware Middle)
7. Ward TX
8. 38.8 million cubic feet
9. May 14, 1980
10. Lo- Vaca Gathering Co

1. 80–33750/13408
2. 42–233–30610–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Ellis Cockrell #30
6. Panhandle Hutchinson
7. Hutchinson TX
8. 11.0 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33751/13410
2. 42–227–00000–0000
3. 103 000 000
4. Campana Petroleum Co
5. Read Lease No 1
6. Coahoma North (Mississippian)
7. Howard TX
8. 43.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33752/13428
2. 42–295–30636–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Martha Ginter No 1
6. Lipscomb SW
7. Lipscomb TX
8. 150.0 million cubic feet
9. May 14, 1980
10.

1. 80–33753/13429
2. 42–293–00000–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. C C Duke No 4
6. Bradford
7. Lipscomb TX
8. 100.0 million cubic feet
9. May 14, 1980
10.

1. 80–33754/13439
2. 42–287–30388–0000
3. 103 000 000
4. Superior Oil Co
5. Alwin G Schulze B #1
6. Giddings (Austin Chalk)
7. Lee TX
8. .0 million cubic feet
9. May 14, 1980
10.

1. 80–33755/13455
2. 42–295–30564–0000
3. 103 000 000
4. Cotton Petroleum Corp
5. Bensch No 1
6. Bradford (Cleveland)
7. Lipscomb TX
8. 547.5 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33756/13457
2. 42–399–31325–0000
3. 103 000 000
4. Crampton & Dennis
5. Bailey No 4
6. Cockatoo
7. Runnels TX
8. .0 million cubic feet
9. May 14, 1980
10. Union Texas Petroleum

1. 80–33757/13462
2. 42–235–31362–0000
3. 103 000 000
4. Meadco Properties
5. Burney #1
6. Ela Sugg (Wolfcamp)
7. Irion TX
8. 100.0 million cubic feet
9. May 14, 1980
10.

1. 80–33758/13463
2. 42–235–31356–0000
3. 103 000 000
4. Meadco Properties
5. Busby #1
6. Ela Sugg (Wolfcamp)
7. Irion TX
8. 100.0 million cubic feet
9. May 14, 1980
10.

1. 80–33759/13466
2. 42–235–31346–0000
3. 103 000 000
4. Meadco Properties
5. Sugg #1
6. Ela Sugg (Wolfcamp)
7. Irion TX
8. 100.0 million cubic feet
9. May 14, 1980
10.

1. 80–33760/13473
2. 42–161–30440–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Reed E #1
6. Bear Grass (CVS)
7. Freestone TX
8. 200.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33761/13477
2. 42–161–30466–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Williford #1
6. Reed N (Cotton Valley Lime)
7. Freestone TX
8. 1,000.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33762/13485
2. 42–393–30658–0000
3. 103 000 000
4. Gulf Oil Corp
5. Chambers F M #3–65
6. N W Mendota/Lower Douglas
7. Roberts TX
8. 5.0 million cubic feet
9. May 14, 1980
10. Michigan Wisconsin Pipe Line Co

1. 80–33763/13487
2. 42–211–31063–0000
3. 103 000 000
4. Gulf Oil Corp
5. Isaacs #3–211
6. Canadian SW—Granite Wash
7. Hemphill TX
8. 46.0 million cubic feet
9. May 14, 1980
10. Pioneer Natural Gas Co

1. 80–33764/13492
2. 42–065–00000–0000
3. 108 000 000
4. L Jack Gross Production
5. Burnett J–Z
6. Panhandle (Carson)
7. Carson TX
8. 23.5 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33765/13493
2. 42–065–00000–0000
3. 108 000 000
4. L Jack Gross Production
5. Burnett J–3
6. Panhandle (Carson)
7. Carson TX
8. 23.5 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33766/13499
2. 42–431–30771–0000
3. 103 000 000
4. Marathon Oil Co
5. I W Terry #1–7
6. Conger-Penn
7. Sterling TX
8. 73.0 million cubic feet
9. May 14, 1980
10.

1. 80–33767/13545
2. 42–065–00000–0000
3. 103 000 000
4. Pennowa Oil & Gas Co
5. Ware No 17
6. Panhandle Carson
7. Carson TX
8. 14.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33768/13546
2. 42–065–0000–0000
3. 103 000 000
4. Pennowa Oil & Gas Co
5. Ware No 16
6. Panhandle Carson County
7. Carson TX
8. 14.8 million cubic feet
9. May 14, 1980
10. Getty Oil Co

1. 80–33769/13548
2. 42–383–00000–0000
3. 103 000 000
4. BTA Oil Producers
5. 7813 Lake A Well #1
6. Spraberry (Trend Area)
7. Reagan TX
8. 55.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33770/13549
2. 42–383–00000–0000
3. 103 000 000
4. BTA Oil Producers
5. Lake B #2
6. Spraberry (Trend Area)
7. Reagan TX
8. 55.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33771/13550
2. 42–383–00000–0000
3. 103 000 000
4. BTA Oil Producers
5. Lake C #3
6. Spraberry (Trend Area)
7. Reagan TX
8. 55.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33772/13551
2. 42–383–00000–0000
3. 103 000 000
4. BTA Oil Producers
5. Lake D #4
6. Spraberry (Trend Area)
7. Reagen TX
8. 55.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co

1. 80–33773/13552
2. 42–479–32261–0000
3. 103 000 000
4. Conoco Inc
5. William Hubberd D No 15
6. Laredo (Lobo)
7. Webb TX
8. 995.0 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33774/13553
2. 42–479–32291–0000
3. 103 000 000
4. Conoco Inc
5. H B Zachry F No 1
6. Laredo (Lobo)
7. Webb TX
8. 27.0 million cubic feet
9. May 14, 1980
10. Delhi Gas Pipeline Corp

1. 80–33775/13554
2. 42–323–31350–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No 3763
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 1.8 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33776/13555
2. 42–323–31357–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No 3860
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 8.4 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

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1. 80–33777/13556
2. 42–323–31358–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No 3861
6. Sacatopsa (San Miguel #1 Sand)
7. Maverick TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33778/13557
2. 42–323–31359–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No 3862
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 3.7 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33779/13558
2. 42–323–31368–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No 7028
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 4.0 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33780/13601
2. 42–039–31261–0000
3. 103 000 000
4. Amoco Production Co
5. B L Turner No 26
6. Hastings East
7. Brazoria TX
8. 28.0 million cubic feet
9. May 14, 1980
10. Amoco Gas Co, Texas Eastern Transmission Co

1. 80–33781/13603
2. 42–215–30894–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. T W West #27–L
6. Tabasco
7. Hidalgo TX
8. 300.0 million cubic feet
9. May 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–33782/13605
2. 42–003–31858–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Emma Cowden #61
6. Emma
7. Andrews TX
8. 3.7 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33783/13617
2. 42–211–31040–0000
3. 103 000 000
4. Mobil Oil Corp
5. M Hodgson Unit No 1
6. Feldman (L Morrow)
7. Hemphill TX
8. 912.0 million cubic feet
9. May 14, 1980
10. Transwestern Pipeline Co

1. 80–33784/13638
2. 42–105–32208–0000
3. 103 000 000
4. Three-B Oil Co
5. Shannon Estate No 3
6. Noelke Southeast (Queen)
7. Crockett TX
8. 54.7 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33785/13643
2. 42–367–31105–0000
3. 103 000 000
4. Mitchell Energy Corp
5. A A Farquahar #1
6. Boonsville (Bend Congl)
7. Parker TX
8. 85.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–33786/13656
2. 42–161–00000–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Carter A No 1
6. Simsboro North
7. Freestone TX
8. 45.0 million cubic feet
9. May 14, 1980
10.

1. 80–33787/13658
2. 42–161–00000–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Baum Estate No 1
6. Simsboro N
7. Freestone TX
8. 90.0 million cubic feet
9. May 14, 1980
10.

1. 80–33788/13661
2. 42–399–31359–0000
3. 103 000 000
4. Frank J King
5. Lynn Billips No 1
6. Sykes West (Gardner)
7. Runnels TX
8. 275.0 million cubic feet
9. May 14, 1980
10. Union Texas Petroleum Co, El Paso Natural Gas Co

1. 80–33789/13665
2. 42–443–30211–0000
3. 103 000 000
4. Mobil Oil Corp
5. Banner Estate No 6–U
6. Brown-Bassett (Strawn)
7. Terrell TX
8. 72.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33790/13675
2. 42–203–30624–0000
3. 103 000 000
4. Amoco Production Co
5. Juble D Griffis #1
6. Woodlawn (Cotton Valley)
7. Harrison TX
8. 550.0 million cubic feet
9. May 14, 1980
10. East Texas Industrial Gas Supply

1. 80–33791/13684
2. 42–103–32045–0000
3. 103 000 000
4. Exxon Corp
5. J B Tubb A/C 2 #191U
6. Sand Hills (McKnight)
7. Crane TX
8. .0 million cubic feet
9. May 14, 1980
10. K–3244 El Paso Natural Gas Co

1. 80–33792/13685
2. 42–103–32044–0000
3. 103 000 000
4. Exxon Corp
5. J B Tubb A/C–1 #190L
6. Sand Hills (Tubb)
7. Crane TX
8. 35.0 million cubic feet
9. May 14, 1980
10. K–3244 El Paso Natural Gas Co

1. 80–33793/13686
2. 42–103–32037–0000
3. 103 000 000
4. Exxon Corp
5. Judkins Gas Unit No 3 #189U
6. Sand Hills (Judkins)
7. Crane TX
8. 115.0 million cubic feet
9. May 14, 1980
10. K–1941 El Paso Natural Gas Co, Odessa Natural Corp

1. 80–33794/13687
2. 42–103–32035–0000
3. 103 000 000
4. Exxon Corp
5. J B Tubb A/C–1 #185L
6. Sand Hills (Tubb)
7. Crane TX
8. 4.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33795/13703
2. 42–495–31037–0000
3. 103 000 000
4. Carter Foundation Prodn Co
5. Pure-Walton #32
6. Keystone (Colby)
7. Winkler TX
8. 132.0 million cubic feet
9. May 14, 1980
10. Sid Richardson Carb & Gaso

1. 80–33796/13704
2. 42–495–31036–0000
3. 103 000 000
4. Carter Foundation Prodn Co
5. Pure-Walton #31
6. Keystone (Colby)
7. Winkler TX
8. 269.0 million cubic feet
9. May 14, 1980
10. Sid Richardson Carb & Gaso

1. 80–33797/13720
2. 42–497–30593–0000
3. 103 000 000
4. Mitchell Energy Corp
5. Roy M Wilkes #1
6. Boonsville (Bend Congl Gas)
7. Wise TX
8. 31.0 million cubic feet
9. May 14, 1980
10.

1. 80–33798/13721
2. 42–497–31236–0000
3. 103 000 000
4. Mitchell Energy Corp
5. B W Goodger #1
6. Boonsville (Bend Congl)
7. Wise TX
8. 36.0 million cubic feet
9. May 14, 1980
10.

1. 80–33799/13722

2. 42–367–30926–0000
3. 103 000 000
4. Mitchell Energy Corp
5. A R Tate #1
6. Toto (Bend Congl Lower)
7. Parker TX
8. 30.0 million cubic feet
9. May 14, 1980
10.

1. 80–33800/13743
2. 42–391–31314–0000
3. 103 000 000
4. American Petrofina Co of Texas
5. W J Fox (Tract 1) No 6
6. Greta (6230)
7. Refugio TX
8. 54.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33801/13754
2. 42–003–31845–0000
3. 103 000 000
4. Exxon Corp
5. Means (San Andres) Unit #2322
6. Means
7. Andrews TX
8. 9.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33802/13755
2. 42–003–31847–0000
3. 103 000 000
4. Exxon Corp
5. Means (San Andres) Unit #2474
6. Means
7. Andrews TX
8. 6.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33803/13790
2. 42–131–32906–0000
3. 103 000 000
4. Arco Oil & Gas Co
5. Hagist Gas Unit 3 No 2–UT
6. Hagist Ranch (Wilcox Basal House)
7. Duval TX
8. 450.0 million cubic feet
9. May 14, 1980
10. Natural Gas Pipeline Co

1. 80–33804/13795
2. 42–323–31356–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No 3865
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 9.4 million cubic feet
9. May 14, 1980
10. Lovaca Gathering Co

1. 80–33805/13797
2. 42–105–32254–0000
3. 103 000 000
4. Great Western Drilling Co
5. Sutton 3–2
6. Ingham (Devonian)
7. Crockett TX
8. 370.0 million cubic feet
9. May 14, 1980
10. El Paso Natural Gas Co

1. 80–33806/14805
2. 42–123–30990–0000
3. 103 000 000
4. Howell Drilling Inc
5. Barre-Koenig Gas Unit No 1
6. Anna Barre N
7. De Witt TX
8. 1000.0 million cubic feet
9. May 14, 1980
10. Texas Eastern Transmission Corp

1. 80–33807/15731
2. 42–165–31641–0000
3. 103 000 000
4. Santa Fe Energy Co
5. Folk A #6
6. Hanford (San Andres)
7. Gaines County TX
8. .5 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80–33808/16917
2. 42–025–31106–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Goree B #1
6. Cannan (10350 Wilcox)
7. Bee TX
8. 275.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co

1. 80–33809/17284
2. 42–239–31285–0000
3. 102 000 000
4. Enterprise Resources Inc
5. Rose Gas Unit #1
6. Edna S (5500)
7. Jackson TX
8. .0 million cubic feet
9. May 14, 1980
10. South Jersey Exploration Co, Piedmont Exploration Co Inc, Dover Exploration Co, Tar Heel Energy Corp

1. 80–33810/019721
2. 42–507–31231–0000
3. 102 000 000
4. John M Clark
5. Jones Unit No 1
6. Gable (Escondido A)
7. Zavala TX
8. 50.0 million cubic feet
9. May 14, 1980
10.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by June 16, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16485 Filed 5–29–80; 8:45 am]

BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–188; FRL 1503–5]

Domain, Inc.; Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Domain, Inc. has submitted a pesticide petition proposing to amend 40 CFR 180 by establishing an exemption from the requirement of a tolerance for residues of sodium diacetate on alfalfa, barley grain, Bermuda grass, blue grass, brome grass, clover, corn grain, cowpea hay, fescue, lespedeza, lupines, oat grain, orchard grass, peanut hay, peavine hay, sorghum grain, soybean hay, sudan grass, rye grass, timothy vetch, and wheat grain under the Federal Food, Drug, and Cosmetic Act.

COMMENTS: Comments submitted should bear a notation indicating the petition number "OF 2355". Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

DATE: Comments may be made at any time while the petition is pending before the Agency.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, RM. E–305, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202/755–2562.

SUPPLEMENTARY INFORMATION: Domain, Inc., P.O. Box 248, New Richmond, WI 54017, has submitted a pesticide petition (OF 2355) proposing that 40 CFR 180 be amended by establishing an exemption from the requirement of a tolerance for the residues of sodium diacetate in or on alfalfa, barley grain, Bermuda grass, blue grass, brome grass, clover, corn grain, cowpea hay, fescue, lespedeza, lupines, oat grain, orchard grass, peanut hay, peavine hay, sorghum grain, soybean hay, sudan grass, rye grass, timothy vetch, and wheat grain. This action is being taken under section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 135)).

Dated: May 22, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Program.

[FR Doc. 80–16400 Filed 5–29–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–50476; FRL 150–3]

SW., Washington, DC 20460. Inquiries

[OPP-50476; FRL 150-3]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants under the Federal Insecticide, Fungicide, and Rodenticide Act. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1471–EUP–63. Elanco Products Company, Indianapolis, IN 46206. This experimental use permit allows the use of 1,343 gallons of the active ingredient *N*-ethyl-*N*-(2-methyl-2-propenyl)-2,6-dinitor-4-(trifluoromethyl)benzenamine on seed and pod vegetables and peanuts to evaluate the control of weeds. A total of 2,579 acres are involved. This Program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Utah, and Connecticut. This permit is effective from April 18, 1980 to April 16, 1981. Temporary tolerances for the residues of the active ingredient in or on seed and pod vegetables, forage legumes, peanuts, and peanut hulls have been established. (PM–23, James M. Stone, Room: E–351, Telephone: 202–755–1397)

No. 1471–EUP–72. Elanco Products Company, Indianapolis, IN 46285. This experimental use permit allows the use of 125 grams of the active ingredient N-methyl-2,4-dinitro-*N*-(2,4,6-tribromophenyl)-6-(tribromophenyl)-6-(trifluoromethyl)benzenamine in and around buildings and structures to evaluate control of rats and mice. An unspecified number of structures are involved. This program is authorized only in the States of Alabama, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, and Washington. This program is effective from April 3, 1980 to April 3, 1981. (PM–16, William H. Miller, Room: E–343, Telephone: 202–426–9458)

No. 2724–EUP–24. Zoecon Industries, Dallas, TX 75234. This experimental use permit allows the use of 0.4 pounds of the insecticide permethrin in homes to evaluate control of cockroaches. A total of 180 homes are involved. The program is authorized only in the States of Arizona and Louisiana. The experimental use permit is effective from April 25, 1981. (PM–17, Franklin D. R. Gee, Room: E–341, Telephone: 202–426–9741)

No. 2724–EUP–23. Zoecon Industries, Dallas, TX 75234. This experimental use permit allows the use of 0.4 pounds of the insecticide permethrin in homes to evaluate control of cockroaches. A total of 180 homes are involved. The program is authorized only in the States of Arizona and Louisiana. The experimental use permit is effective from April 25, 1980 to April 25, 1981. (PM–17, Franklin D. R. Gee, Room: E–341, Telephone: 202–426–9741)

No. 27586–EUP–26. Forestry Sciences Laboratory, Corvallis, OR 97331. This experimental use permit allows the use of 2.3 x 19^{10} pounds of the insecticide biorathional-viral inclusion bodies on forests to evaluate control of spruce budworm. A total of 100 acres are involved. The program is authorized only in the State of Arizona. The experimental use permit is effective from April 21, 1980 to April 21, 1981. This permit is being issued under the condition that none of the treated areas will enter the food chain. (PM–17, Franklin D. R. Gee, Room: E–341, Telephone: 202–426–9741)

No. 201–EUP–67. Shell Chemical Company, Washington, D.C. 20036. This experimental use permit allows the use of 80 pounds of the active ingredient cyano (3-phenoxyphenyl) methyl-4-chloro-a-(methylethyl)benzenacetate on pecans and almonds to evaluate control of phytophagous insects. A total of 75 acres are involved. This program is authorized only in the States of Alabama, California, Georgia, Louisiana, Mississippi, South Carolina, and Texas. This permit is being issued on the condition that all treated crops are destroyed or used for research purposes only. The experimental use is effective from April 21, 1980 to April 21, 1981. (PM–17, Franklin D. R. Gee, Room: E–341, Telephone: 202–426–9741)

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, DC 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended (7 U.S.C. 136))

Dated: May 22, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–16401 Filed 5–29–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–50481; FRL 1502–8]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental use.

No. 264–EUP–2. Union Carbide Corporation, Jacksonville, FL 32216. This experimental use permit allows the use of 120 pounds of the insecticide/nematicide aldicarb on potatoes to evaluate control of the Colorado potato beetle and golden nematode. A total of 50 acres are involved. The program is authorized only in the State of New York. This permit is being issued with the limitation that residues in all treated crops do not exceed the established tolerance prior to allowing treated crops into commercial channels of trade. If the established tolerance is exceeded the crop must be destroyed or used for research purposes only. A permanent tolerance for residues of the active ingredient has been established (40 CFR 180.269) (PM 12, Charles T. Mitchell, Room: E–303, Telephone: 202–426–2635).

No. 41326–EUP–1. Texas A & I University Citrus Center, Weslaco, TX 78596. This experimental use permit allows the use of 7,493 pounds of the insecticide/nematicide aldicarb on grapefruit to evaluate control of the citrus nematode. A total of 1,000 acres are involved. The experimental use program is authorized only in the States of California, Florida, and Texas. The experimental use permit is effective from April 15, 1980 to April 15, 1981. A temporary tolerance for the residues of aldicarb and its metabolites has been established. (PM 12, Charles T. Mitchell, Room: E–303, Telephone: 202–426–2635).

Interested persons wishing to review the experimental use permit are referred to the Designated Product Manager (PM), Registration (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460. Inquiries regarding these permits should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended (7 U.S.C. 136)).

Dated: May 22, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–16402 Filed 5–29–80; 8:45 am]

BILLING CODE 6560–01–M

[PF–187; FRL 1502–7]

Monsanto Co.; Filing of Pesticide Petition

AGENCY: Environmental Protection Agency(EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of a pesticide petition by Monsanto Company proposing to increase tolerances for the herbicide alachlor (2-chloro-2,6'-diethyl-N-(methoxymethyl) acetanilide) and its metabolites in or on the raw agricultural commodities corn fodder and forage from 0.2 ppm to 0.5 ppm.

ADDRESS: Written comments and inquiries should be directed to: Robert J. Taylor, Product Manager (PM) 25, Room E–301, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington D.C. 20460, 202/755–2196.

Written comments may be submitted while the petition is pending before the Agency. The comments are to be identified by the document "[PF–187]" and the petition number.

All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: Monsanto Company, 1101 17th Street N.W., Washington, D.C. 20036, has submitted a pesticide petition (PP OF 2348) to EPA proposing that 40 CFR 180.249 be amended by increasing tolerances for the residues of the herbicide alachlor (2-chloro-2,6'-diethyl-diethyl-N-(methyoxymethyl) acetanilide in or on the raw agricultural commodities corn fodder and forage from 0.2 ppm to 0.5 ppm. The proposed analytical method for determining residues is gas chromatography with a nitrogen sensitive detector.

(Sec. 408 (d)(1), 68 Stat. 512, (7 U.S.C. 1351))

Dated: May 22, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

[FR Doc. 80–16403 Filed 5–29–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1502–3]

Grants for Construction of Treatment Works; Innovative and Alternative Technology Assessment Manual; Availability

This notice is published to advise the public of the availability of the Innovative and Alternative Technology Assessment Manual. The Manual has been prepared by the Environmental Protection Agency to assist in the administration of the Construction Grants Program for municipal wastewater treatment facilities.

Single copies can be obtained by ordering the Manual, publication number MCD–53, from the following: General Services Administration (8BRC), Centralized Mailing Lists Services, Bldg. 41, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Lam K. Lim, Municipal Technology Branch (WH–547), Municipal Construction Division, US Environmental Protection Agency, Washington, D.C. 20460, 202/426–8976.

SUPPLEMENTARY INFORMATION: Under the innovative and alternative technology provisions of the 1977 Clean Water Act, EPA is authorized to provide special incentives to those projects incorporating innovative or alternative techniques and processes. Briefly, these incentives include: (1) increase in construction grants funding from 75 to 85 percent; (2) 15 percent cost preference in the cost-effectiveness analysis; (3) potentially higher priority for project funding; and (4) 100 percent funding for modifying or replacing malfunctioning projects.

As part of the implementation of the innovative and alternative technology provisions, regulations and guidelines including criteria for evaluating projects proposed for funding as innovative and alternative technology have already been promulgated in the **Federal Register** (40 CFR 35, Subpart E; 43 FR 44022). The Manual supplements these regulations and guidelines.

The Manual contains four chapters and six supporting appendices including a users guide, innovative and alternative technology decision methodology and screening procedures, as well as innovative/alternative technology concepts and applications. A series of fact sheets provide technical, cost and energy data on over 100 unit treatment processes and techniques.

On March 20, 1979, the availability of the draft manual was announced and the public was encouraged to submit comments on the draft version. On June 25, 1979 a public meeting was held in Washington, D.C. to discuss comments on the draft manual. Comments which were received were reviewed and considered in finalizing the manual. As a result of the public comments, the final manual now includes specific guidance clarifying and elaborating upon innovative technology decision methodology by regional discretion. Also, a number of fact sheets were modified to reflect more accurate cost and energy information.

The manual will be used by the Environmental Protection Agency Regional Offices and the appropriate state agencies as a guide in evaluating grant applications involving innovative and alternative technology. The document will also be used by the municipalities and consulting engineers as guidance in the preparation of facility plans incorporating innovative and alternative technology processes.

Dated: May 7, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80–16404 Filed 5–29–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1503–6; OPP–66069]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: List of firms who have requested voluntary cancellation of registration of their pesticide products as provided for in Section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

EFFECTIVE DATE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lela Sykes, Process Coordination Branch (TS–767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–426–8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of

their intent to voluntarily cancel registration of their pesticide products.

Registration number	Product name	Registrant	Date registered
1021-1326	MKG Red Squill Mouse Tracking Powder	McLaughlin-Gormley King Co	June 25, 1975.
9661-1	College Hill Insect Spray	College Hill Exterminating & Sanitation Inc., 164 Weidewood Rd., Kings Point, LI, NY 11024.	September 13, 1967.

The Agency has agreed that such cancellation shall be effective June 30, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66069]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136))

Dated: May 22, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-16496 Filed 5-29-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL HOME LOAN BANK BOARD

Continental Savings & Loan Association, Gloucester City, N.J.

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation, as sole receiver for Continental Savings and Loan Association, Gloucester City, New Jersey, effective upon compliance with the provisions of Federal Home Loan Bank Board Resolution No. 80–301, dated May 19, 1980. The appointment was effected on May 20, 1980.

Dated: May 21, 1980.

J. J. Finn,

Secretary.

[FR Doc. 80-16487 Filed 5-29-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License No. 2173

Reed Ocean Freight Forwarding, Catherine C. Reed, d.b.a.; Order of Revocation

On April 15, 1980, Reed Ocean Freight Forwarding, Catherine C. Reed, d/b/a, 3724 Bancroft Street, San Diego, California 92104, voluntarily surrendered her Independent Ocean Freight Forwarder License No. 2173 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 2173 issued to Reed Ocean Freight Forwarding, Catherine C. Reed, d/b/a, be and is hereby revoked effective April 15, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Reed Ocean Freight Forwarding, Catherine C. Reed, d/b/a.

Robert G. Drew,

Director of Certification and Licensing.

[FR Doc. 80-16389 Filed 5-29-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Virginia National Bankshares, Inc.; Acquisition of Bank

Virginia National Bankshares, Norfolk, Virginia, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The First National Bank of Troutville, Troutville, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 23, 1980. Any comment on application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 22, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16397 Filed 5-29-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 122]

Florida Power Corp., Florida Public Service Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Florida Public Service Commission concerning the application of the Florida Power Corporation for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202–566–0750, by June 30, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding. (Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4)).

Dated: May 20, 1980

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-16444 Filed 5-29-80; 8:45 am]

BILLING CODE 6820-AM-M

Performance Review Board; Names of Members

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the GSA Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Gregory Knott, Director, Executive Resources Division, General Services Administration, Office of Human Resources and Organization, Executive Resources Division, Office of Personnel, 18th and F Streets, N.W., Washington, D.C. 20405 (202) 566–1207.

SUPPLEMENTARY INFORMATION: Sec. 4314(c) (1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The members of the Performance Review Board are:

1. Allen W. Beres, Commissioner, Transportation and Public Utilities Service
2. Richard D. Casad, Regional Administrator, Region 10
3. Raymond E. Fontaine, Assistant Administrator for Plans, Programs and Financial Manager
4. Earl E. Jones, Assistant Commissioner for Real Property
5. Dennis J. Keilman, Deputy Regional Administrator, Region 5
6. Allie B. Latimer, General Counsel
7. Norman L. Linton, Director of Personnel
8. William M. Paz, Assistant Administrator for Human Resources and Organization
9. Gerald J. Turetsky, Regional Administrator, Region 2.

An additional key Executive Performance Review Board with the responsibility for reviewing the ratings of the members of the Performance Review Board and those senior executives reporting directly to the Administrator or Deputy Administrator will consist of:

1. Ray Kline, Deputy Administrator, General Services Administration
2. William Paz, Assistant Administrator for Human Resources and Organization
3. Jerry Fox, Executive Assistant to the Deputy Administrator
4. Saul Katz, Special Counsel to the Administrator for Ethics.

Dated: May 21, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-16383 Filed 5-29-80; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Research Scientist Development Review Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1980.

Research Scientist Development Review Committee

June 18–20; 9:00 a.m., Coolfont, Berkeley Springs, West Virginia 25411.
Open—June 18, 9:00 to 9:30 a.m.
Closed—Otherwise.
Contact: Miriam Stein, Room 9–97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4844.

Purpose. The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full-time in research and related activities relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 9:30 a.m. on June 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. Summaries of the meeting and rosters of the Committee Members will be furnished upon request by the Committee Management Officer, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4333.

Dated: May 23, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-16396 Filed 5-29-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 80F–0160]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and thermal stabilizer for polycarbonate resins used in articles intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0B3504) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 177.1580 *Polycarbonate resins* (21 CFR 177.1580) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and thermal stabilizer

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for polycarbonate resins used in articles intended for food-contact use.

The Food and Drug Administration (FDA) has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required.

FDA's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 20, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80–16200 Filed 5–29–80; 8:45 am]

BILLING CODE 4110–03–M–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 80D–0069]

Radioactive Drugs; Proposed Revocation of Interim Enforcement Policy and Notice of Availability of Proposed Guideline for Nuclear Pharmacies Describing Activities That Require Registration as a Drug Establishment

Correction

In F.R. Doc. 80–10796 appearing at page 24920 in the issue for Friday, April 11, 1980, third column, fifth line from the bottom, "Albert Lanvender" should read "Albert Lavender".

BILLING CODE 1505–01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. D–80–601]

Regional Administrators, Area Managers; Amendment to Redelegation of Authority With Respect to the Community Development Block Grant Program—Reallocation Procedures

AGENCY: Department of Housing and Urban Development.

ACTION: Amendment to redelegation of authority.

SUMMARY: This amendment to the Redelegation of Authority is issued to allow Area Managers to reallocate funds within the same State, so specified in 24 CFR 570.107.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Kennedy, Office of Block Grant Assistant, Small Cities Division, Community Planning and Development, U.S. Department of Housing and Urban Development, Room 7282, (202) 755–6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Assistant Secretary is redelegating authority to the Area Managers to reallocate funds within the same State. This action amends the Redelegation of Authority which was issued on July 27, 1978 by Assistant Secretary Robert C. Embry, Jr.

Pursuant to the issuance of 24 CFR 570.107 (Reallocation), the Assistant Secretary is amending the Redelegation of Authority published in the **Federal Register** August 2, 1978 (43 FR 34102). Section B.5. prohibited Area Managers from reallocating funds within the same State. This amendment eliminates that restriction so that Area Managers can reallocate funds as prescribed in the new reallocation procedures.

Accordingly, the Assistant Secretary for Community Planning and Development redelegated authority, originally published at 43 FR 34102, as follows:

Sec. B. Authority Excepted. There is excepted from the authority redelegated under Section A the power to:

* * * * *

5. Reallocate funds to other States pursuant to sections 106(e) and 106(f)(2). (42 U.S.C. 5306.)

(Title I: Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).) (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C., May 21, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 16390 Filed 5–29–80; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–80–1007]

Low-Income Public Housing—Certification of Housing Managers; List of Approved Certifying Organizations

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice is hereby given that the following organization has been accredited by HUD as an Approved Certifying Organization for the purpose of providing certification of Housing Managers and Assistant Housing Managers of low-income public housing in accordance with 24 CFR Part 867: National Association of Home Builders, Fifteenth and M Streets, NW., Washington, D.C. 20005.

Other Approved Certifying Organizations, which were previously accredited by HUD and listed in a **Federal Register** Notice, are:

Institute of Real Estate Management, 430 North Michigan Avenue, Chicago, Illinois 60611.

National Association of Housing and Redevelopment Officials, 2600 Virginia Avenue, NW., Washington, D.C. 20037.

National Center for Housing Management, 1133 Fifteenth Street, NW., Washington, D.C. 20005.

Further information about each of these organizations' certification requirements, procedures and fees may be obtained by writing *directly* to the organization. Requirements, procedures and fees vary among the four organizations, so that a full comparison will require information from all four. These inquiries should not be addressed to HUD.

Public Housing Agencies (PHAs) and individuals who expect to be subject to the certification requirements of 24 CFR Part 867 are reminded that the effective date of those requirements is January 1, 1981. Any such individual who has not yet obtained certification should immediately contact one or more of the Approved Certifying Organizations with the aim of satisfying the certification requirements by January 1, 1981. Individuals who may need training to be able to pass an Approved Certifying Organization's examination face an especially urgent situation; they should ascertain what relevant training opportunities are available through the Approved Certifying Organizations or other sources.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 6(c)(4), United States Housing Act of 1937, as amended (42 U.S.C. 1437d))

Issued at Washington, D.C., May 23, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 16391 Filed 5–29–80; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Findings for Federal Acknowledgment of the Jamestown Clallam Tribe of Indians as an Indian Tribe

May 16, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(f) notice is hereby given that the Assistant Secretary proposes to acknowledge that the Jamestown Clallam Tribe of Indians, c/o Ron Allen, Route 5, Box 687, Port Angeles, Washington 98392, exists as an Indian tribe. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 54.7.

Under § 54.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and other parties upon written request.

Section 54.9(f) of the regulations provides that any individual or organization wishing to challenge the proposed findings may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted on or before September 29, 1980. Comments and requests for a copy of the report should be addressed to: Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242, Attention: Federal Acknowledgement Project.

Within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the **Federal Register** as provided in § 54.9(h).

Ralph Reeser,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80–16375 Filed 5–29–80; 8:45 am]

BILLING CODE 4310–02–M

Pueblo of Laguna, New Mexico; Proclaiming Certain Lands as Part of the Reservation

May 14, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On May 14, 1980, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), the following described land, known locally as Major Ranch, located in Sandoval County, New Mexico, are hereby added to and made a part of the Reservation of the Pueblo of Laguna.

The easterly portion of the tract of land commonly known as the Antonio Baca Grant or the Nuestra Senora De La Luz De Las Lagunitas Grant, containing 27,196.496 acres, and being described as follows:

Beginning at the Southeast Corner of the Grant Thence North—5.00 chains,
North 45°55′ West—75.00 chains,
North 44°45′ West—17.00 chains,
North 49°30′ West—8.00 chains,
North 12°30′ West—21.00 chains,
North 15°15′ West—22.00 chains,
North 37°15′ West—66.00 chains,
North 41°22′ West—48.00 chains,
North 64°30′ West—35.00 chains,
North 11°15′ West—61.00 chains,
North 0°59′ West—22.28 chains,
North 31°22′ West—20.06 chains,
North 77°13′ West—24.99 chains,
North 17°04′ West—46.38 chains,
North 6°20′ West—10.63 chains,
North 58°51′ West—27.04 chains,
North 56°38′ West—50.02 chains,
North 58°45′ West—24.63 chains,
North 25°00′ West—30.46 chains,
North 39°08′ West—39.09 chains,
North 8°00′ West—8.98 chains,
to the Northeast Corner of the Grant; thence West—238.12 chains to the Northeast corner of the 20,000 acre tract heretofore sold to Lee S. Evans and to the Northwest corner of this tract being conveyed being a point 1.88 chains East of the 3 mile corner on North boundary of the Grant;

Thence South 711.07 chains to the Southeast corner of said 20,000 acre tract,
Thence on South boundary of the Grant,
South 12°15′ East—15.29 chains,
South 84°00′ East—17.91 chains,
South 16°15′ East—19.16 chains,
North 74°10′ East—34.05 chains,
South 45°00′ East—12.13 chains,
North 17°40′ East—11.66 chains,
North 57°15′ East—17.26 chains,
South 50°00′ East—24.16 chains,
North 34°20′ East—34.56 chains,
South 32°15′ East—15.02 chains,
South 61°50′ East—19.27 chains,
North 43°15′ East—14.12 chains,
North 23°45′ East—18.50 chains,
North 63°40′ East—18.59 chains,
North 38°30′ East—34.87 chains,
North 19°40′ East—18.30 chains,
North 87°30′ East—11.49 chains,
North 13°00′ East—13.19 chains,
South 68°00′ East—25.76 chains,
North 69°45′ East—4.31 chains,
North 64°00′ East—321.25 chains,
to the Southeast corner of the Grant and place of beginning, containing 27,196.496 acres, more or less.

Subject to an undivided 1/32 mineral royalty now held by the First New Mexico Bankshares Corporation, being the same royalty as reserved in that certain warranty deed from the Albuquerque National Trust and Savings Bank to Jerome O. Eddy, dated July 12, 1945, and recorded in Book DR5, Pages 626–627, Sandoval County records.

Subject to easements of record and as they exist on the premises and restrictions and reservations of record.

Sidney L. Mills,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80–16377 Filed 5–29–80; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Arizona; Announcement of Proposed Wilderness Intensive Inventory Results

In accordance with the guidelines in the September 27, 1978 BLM Wilderness Inventory Handbook and Organic Act Directive No. 78–61, Change 3, I hereby announce the proposed wilderness intensive inventory decision under the authority of Sec. 603 of the Federal Land Policy and Management Act of 1976.

During the intensive inventory those lands found to possess such characteristics are being proposed for further consideration for wilderness as Wilderness Study Areas (WSA's). These are not proposals for wilderness designation. Such designation proposals will be developed as part of the study process of WSA's at some future time.

A total of 4,405,322 acres of public lands were included in the scope of this inventory with the following preliminary results:

Distinct	Acres (units) intensively inventoried	Acres proposed as WSA's	Acres proposed to be dropped
Ariz. Strip	1,576,672 (110)	443,711 (24)	1,132,961
Phoenix	1,838,011 (77)	880,349 (35)	957,662
Safford	311,334 (34)	191,731 (19)	119,603
Yuma	679,305 (37)	332,380 (18)	346,925
Total State	4,405,322 (258)	1,848,171 (96)	2,557,151

Publication of this notice in the **Federal Register** begins a 90-day public review and comment period on the 258 intensive inventory units. The public comment period will end on August 28, 1980.

The public is invited to comment on the wilderness intensive inventory proposed decision and to submit additional information in order to assist the BLM in the assessment of wilderness characteristics on these public lands. Copies of the report and map are available from Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073, Phone (602) 261-3831 or from any other BLM office in Arizona.

During the formal public comment period, the following open houses are scheduled.

Open Houses

All open houses are from 9:00 a.m. to 8:00 p.m., local time.

Date, city and location

Tuesday, June 17, 1980, Ajo, Recreation Hall, The Plaza.
Tuesday, June 17, Safford, BLM District Office, 425 East 4th Street.
Tuesday, June 17, St. George, Utah, Four Seasons Motel, 747 E. St. George Boulevard.
Thursday, June 19, Wickenburg, Wickenburg Community Center, Auditorium Room, 160 North Valentine.
Friday, June 20, Page, Page City Townhouse, 605 South Navajo.
Tuesday, June 24, Lake Havasu City, Rodeway Inn, Room A-109, 245 Crystal Avenue.
Wednesday, June 25, Kingman, Mohave County Fairgrounds.
Tuesday, July 1, Flagstaff, Holiday Inn, 100 West Highway 66.
Tuesday, July 8, Yuma, Yuma City & Convention Center, East Wing, 1440 Desert Hill Drive.
Wednesday, July 9, Phoenix, Granada Royale Hometel, Madrid West Room, 2333 East Thomas Road.
Thursday, July 10, Tucson, Holiday Inn, Banquet Room, 22nd and I-10.

All public comments should specifically address the presence or absence of wilderness characteristics within inventory units. All comments received during the comment period will be recorded, reviewed, and considered in developing the final decision which will be announced in mid-November, 1980.

Clair M. Whitlock,
State Director.

[FR Doc. 80-16379 Filed 5-29-80; 8:45 am]
BILLING CODE 4310-84-M

Outer Continental Shelf; Changes in Schedule of Public Hearings Regarding Proposed OCS Oil and Gas Lease Sale No. 53 Offshore Northern and Central California

By **Federal Register** Notice of May 9, 1980, it was announced that public hearings will be held at six locations in June 1980 regarding a proposed oil and gas lease sale offshore northern and central California (OCS Sale #53). The purpose of this notice is to announce two changes in the schedule of these hearings.

It has been necessary to change the location of the Santa Cruz hearing to the Santa Cruz High School Auditorium, 415 Walnut Avenue, Santa Cruz, California. The hearing will be held on June 25 beginning at 8 a.m. and adjourning at 8 p.m. as originally scheduled.

It has also been necessary to extend the public hearing to be held in San Francisco. The hearing in San Francisco will be held as scheduled on Monday, June 23 at Fort Mason, Building "A", from 8 a.m. to 8 p.m. as originally scheduled. However, the hearing will be continued on Tuesday, June 24 from 8 a.m. to 1 p.m. at the same location.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.

May 27, 1980.

[FR Doc. 80-16384 Filed 5-29-80; 8:45 am]
BILLING CODE 4310-84-M

[A-12358]

Arizona: Proposed Transfer of Jurisdiction of Reserved Lands

The Geological Survey, U.S. Department of the Interior, has filed application, Serial Number A-12358, for transfer of jurisdiction of the Tucson Magnetic Observatory Site from the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, to the Geological Survey. Lands affected by the proposed transfer are described as follows:

T. 14 S., R. 15 E., GSR Mer., Arizona
Sec. 5, lots 3, 4, S½NW¼
Containing 172.80 acres in Pima County.

The land was reserved by Executive Order 1082 of June 3, 1909, for use of the U.S. Coast and Geodetic Survey (now NOAA) as a site for a magnetic observatory. It is proposed that the Geological Survey assume the functions and responsibilities formerly performed by NOAA for seismic and magnetic observation and data collection.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed transfer. All interested persons who desire to be heard on the proposed transfer must submit a written request for a hearing to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, within the 30-day period allowed. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be transferred as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register**. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Executive Order 1082 segregated the lands from operation of the public land laws, including the mining laws and the mineral leasing laws. Upon approval of the proposed transfer, the lands will be opened to operation of the mineral leasing laws only, at a time to be specified in the public land order effecting the transfer.

All communications (except for public hearing requests) in connection with the proposed transfer should be addressed to the STate Director, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-16376 Filed 5-29-80; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Selections; Modifications

In the matter of F-19155-29, F-19155-30, F-19155-31, F-19155-32, F-19155-33, F-19155-34, F-19155-36, F-19155-40, F-19155-41, F-19155-43, F-19155-44, F-19155-45, F-21901-08, F-21901-09, F-21901-10, F-21901-11, F-21901-12, F-21901-13, F-21901-14, F-21901-15, F-21901-16, F-21901-17, F-21902-91, F-21902-92, F-21902-93, F-21902-94, F-21902-95, F-21902-96, F-21902-97, F-21902-98, F-21902-99, F-21903-00, F-21903-39, F-21903-40, F-21903-49, F-21903-50, F-21904-52, F-21904-53, F-21905-09, F-21905-15.

By decision dated April 28, 1980, certain lands in the vicinity of Kandik Basin were determined proper for regional selection and approved for interim conveyance to Doyon, Limited under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (1976)) (ANCSA).

The decision of April 28, 1980, is hereby vacated as to the following described lands:

Fairbanks Meridian, Alaska (Unsurveyed)

F-19155-44

T. 8 N., R. 28 E.
Secs. 8, 9, 16 and 17, all;
Secs. 20, 21, 28 and 29, all;
Secs. 32 and 33, all.
Containing approximately 6,400 acres.

Therefore, following are modifications to the decision of April 28, 1980:

Page 1

The paragraph beginning with "In view of" now reads in part:

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 456,678 acres, are considered * * *

This paragraph is hereby modified to read in part:

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 450,278 acres, are considered * * *

Page 3

T. 8 N., R. 28 E., Fairbanks Meridian, Alaska (Unsurveyed)

The description for this township now reads:

Secs. 5 to 11, inclusive, all;
Secs. 14 to 36, inclusive, all.
Containing approximately 18,937 acres.

The description is hereby modified to read:

Secs. 5, 6, 7, and 10, all;
Secs. 11, 14, 15 and 18, all;
Sec. 19, all;
Secs. 22 to 27, inclusive, all;
Secs. 30 and 31, all;
Secs. 34, 35 and 36, all.
Containing approximately 12,537 acres.

Page 9

The total acreage now reads:
Aggregating approximately 456,678 acres.

The acreage is hereby modified to read:
Aggregating approximately 450,278 acres.

Page 11

1. The paragraph beginning with "When the above described lands" now reads:

When the above described lands are surveyed and patented, there will be no further lands to be conveyed and the case files will be closed of record, except for lands within Native allotment F-14487 Parcel A topfiled by regional selection application F-21902-91.

This paragraph is hereby modified to read:

When the above described lands are surveyed and patented, there will be no further lands to be conveyed and the case files will be closed of record, except for lands within regional selection application F-19155-44 and Native allotment F-14487 Parcel A topfiled by regional selection application F-21902-91.

2. The paragraph beginning with "To date approximately" now reads:

To date approximately 2,330,971 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

This paragraph is hereby modified to read:

To date approximately 2,324,571 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Except as modified by this decision the decision of April 28, 1980, stands as written.

Notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Ricky M. Elliott,
Chief, Branch of Adjudication.

[FR Doc. 80-16439 Filed 5-29-80; 8:45 am]
BILLING CODE 4310-84-M

[F-14858-A and F-14858-B]

Alaska Native Claims Selections

This decision rejects a State selection application and approves lands for conveyance to Gana-a 'Yoo for the village of Galena.

Notaaghleedin, Limited, for the Native village of Galena, filed selection applications F-14858-A, as amended, on October 16, 1974, and F-14858-B, as amended, on November 29, 1974, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Galena.

Notaaghleedin, Limited, in its application, excluded Galena Creek. Because this water body has been determined to be nonnavigable, it is considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water body which was improperly excluded in the application of Notaaghleedin, Limited, is considered selected.

On April 6, 1978, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by Public Law 94-204, Sec. 30 (89 Stat. 1148), the Native villages of Galena (Notaaghleedin, Limited), Kaltag (Takathlee-tondin, Incorporated), Nulato (Nik'aghun, Limited) and Koyukuk (Mineelghaadza', Limited) formed a new corporation which consolidated individual village interests into one single constituent corporation, Gana-a 'Yoo, Limited.

On December 29, 1976, the State of Alaska filed general purposes selection application F-23219, as amended, for all unpatented lands in T. 8 S., R. 9 E., Kateel River Meridian, pursuant to Sec.

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6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)).

Section 6(b) of the Alaska Statehood Act states that general purposes selections shall be made from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection.

At the time of filing of the State's selection application, the following lands were withdrawn by Sec. 11 of ANCSA, and properly selected pursuant to Sec. 12 of ANCSA by Notaaghleedin, Limited, for the Native village of Galena.

Therefore, in view of the above, State selection application F-23219 is hereby rejected as to the following described lands:

U.S. Survey No. 2627, Alaska:
That unpatented portion lying within protracted T. 8 S., R. 9 E., Kateel River Meridian.

Containing approximately 580 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 8 S., R. 9 E.
Secs. 1 and 2, all;
Secs. 12, 13 and 24, all;
Secs. 25 and 36, excluding U.S. Survey 2627.

Containing approximately 3,650 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection application as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12 (a) of ANCSA, aggregating approximately 105,452 acres, is considered proper for acquisition by Gana-a 'Yoo, Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 2627, Alaska, Galena Air Navigation Site situated on the right bank of Yukon River at the village of Galena, *including* revocation/restoration application F-452, and *excluding:* Alaska Native Claims Settlement Act Sec. 3(e) applications F-48315 and F-48312; quitclaim deed dated January 15, 1966 (F-035158); Native allotments F-12953 and F-14992 Parcel A; and U.S. Survey 4179.

Containing approximately 3,241 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 8 S., R. 9 E.
Secs. 1 and 2, all;
Secs. 12, 13 and 14, all;
Secs. 25 and 36, excluding U.S. Survey 2627.

Containing approximately 3,650 acres.

T. 9 S., R. 9 E.
Sec. 1, excluding U.S. Survey 2627 and Yukon River;
Sec. 2, excluding Yukon River;
Sec. 11, all;
Sec. 12, excluding Yukon River;
Sec. 13 and 24, excluding Kala Slough.

Containing approximately 2,680 acres.

T. 8 S., R. 10 E.
Secs. 7 and 18, all;
Secs. 25 to 29, inclusive, all;
Secs. 30, 31 and 32, excluding U.S. Survey 2627;
Sec. 33, excluding U.S. Survey 2627, Alaska Native Claims Settlement Act Sec. 3(e) application F-48315 and Native allotment F-12953;
Secs. 34, 35 and 36, excluding U.S. Survey 2627.

Containing approximately 6,911 acres.

T. 9 S., R. 10 E.
Sec. 1, excluding U.S Survey 2627, Native allotments F-15006 and F-14042 Parcel A and Yukon River;
Sec. 7, excluding Yukon River and Kala Slough;
Secs. 8, 9 and 10, excluding Yukon River and its interconnecting slough;
Sec. 11, excluding Yukon River;
Sec. 12, excluding U.S. Survey 2627, Native allotment F-15006 and Yukon River;
Sec. 13, excluding Yukon River;
Sec. 14, all;
Secs. 15 and 16, excluding the interconnecting slough of Yukon River;
Sec. 17, all;
Secs. 18 and 19, excluding Kala Slough;
Secs. 20 and 21, all;
Sec. 22, excluding the interconnecting slough of Yukon River;
Sec. 23, excluding Native allotment F-026970;
Sec. 24, excluding Native allotment F-026970 and Yukon River;
Secs. 25 and 26, excluding Yukon River;
Secs. 27 and 28, excluding the interconnecting slough of Yukon River;
Sec. 29, excluding Kala Slough and the interconnecting slough of Yukon River;
Sec. 30, excluding Kala Slough;
Sec. 31, all;
Sec. 32, excluding Kala Slough and the interconnecting slough of Yukon River;
Secs. 33 and 34, all;
Sec. 35, excluding Yukon River;
Sec. 36, excluding Yukon River and its interconnecting sloughs.

Containing approximately 14,925 acres.

T. 10 S., R. 10 E.
Sec. 1, excluding Native allotment F-13407, Yukon River and its interconnecting sloughs;
Sec. 2, excluding Yukon River;
Sec. 11, excluding Native allotment F-15053;
Sec. 12, excluding Native allotments F-15053 and F-13336, Yukon River and its interconnecting slough;
Sec. 13, excluding Native allotment F-13336 and Yukon River;
Sec. 24, excluding Kala Slough.

Containing approximately 2,420 acres.

T. 8 S., R. 11 E.
Secs. 13 to 29, inclusive, all;
Sec. 30, excluding Native allotment F-15479 Parcel C;
Secs. 31 to 36, inclusive, all.

Containing approximately 15,304 acres.

T. 9 S., R. 11 E.
Secs. 1 to 4, inclusive, all;
Sec. 5, excluding Native allotment F-15027;
Sec. 6, excluding U.S. Survey 2627, Native allotments F-15058 Parcel A, F-14042 Parcel A, F-15006, F-15281 Parcel A and F-13398;
Sec. 7, excluding Public Land Order 1405, Public Land Order 843, Native allotments F-15281 Parcel A, F-15056, F-15058 Parcel A, F-15006 and F-13398 and Yukon River;
Sec. 8, excluding Public Land Order 1405, Public Land Order 843 and Native allotments F-15057 Parcel B, F-13398 and F-15056;
Sec. 9, all;
Sec. 10, excluding Native allotment F-15248;
Sec. 11, excluding Native allotment F-14992 Parcel B;
Secs. 12 to 16, inclusive, all;
Sec. 17, excluding Public Land Order 843;
Sec. 19, excluding Public Land Order 843 and Yukon River;
Sec. 20, excluding Public Land Order 843 and Native Allotment F-15057 Parcel C;
Sec. 21, excluding Native allotment F-15057 Parcel C;
Secs. 22 to 27, inclusive, all;
Secs. 28 and 29, excluding Native allotment F-15057 Parcel C;
Sec. 30, excluding Native allotments F-15556 Parcel A, and F-15057 Parcel D and Yukon River and its interconnecting slough;
Sec. 31, excluding Native allotment F-15057 Parcel D, Yukon River and its interconnecting slough;
Secs. 32, 33 and 34, all;
Sec. 35, excluding Yukon River;
Sec. 36, excluding Native allotment F-15281 Parcel B and Yukon River.

Containing approximately 18,108 acres.

T. 10 S., R. 11 E.
Sec. 1, excluding Native allotment F-14025, Yukon River and its interconnecting slough;
Sec. 2, excluding Yukon River and its interconnecting slough;
Sec. 3, excluding Yukon River;
Sec. 4, all;
Sec. 5, excluding Native allotment F-14421 and the interconnecting slough of Yukon River;
Sec. 6, excluding Native allotments F-13407 and F-14421, Yukon River and its interconnecting slough;
Secs. 7 to 12, inclusive, excluding Yukon River;
Secs. 13, 14 and 15, all;
Secs. 16 and 17, excluding Yukon River;
Sec. 18, excluding Yukon River and Kala Slough;
Sec. 19, excluding Kala Slough;
Sec. 20, all.

Containing approximately 8,617 acres.

T. 9 S., R. 12 E.
Secs. 1 to 23, inclusive, all;
Sec. 24, excluding U.S. Survey 4437;
Sec. 25, excluding U.S. Survey 4437, Native allotments F-13400 and F-15058 Parcel B and Yukon River;
Sec. 26, excluding Native allotment F-15058 Parcel B and Yukon River;
Secs. 27, 28, 29 and 30, all;
Sec. 31, excluding U.S. Survey 5001, Native allotments F-15281 Parcel B, F-15479 Parcel D, F-033115 and F-13405 and Yukon River;
Sec. 32, excluding U.S. Survey 5001, Native allotments F-13405 and F-033115 and Yukon River;
Secs. 33 and 34, excluding Yukon River;
Sec. 35, excluding Native allotment F-15058 Parcel B and Yukon River;
Sec. 36, excluding Yukon River.

Containing approximately 19,700 acres.

T. 10 S., R. 12 E.
Sec. 1, excluding Gohn Creek;
Secs. 2 and 3, excluding Gohn Creek and Yukon River;
Secs. 4 and 5, excluding Yukon River;
Sec. 6 excluding Native allotment F-14025 and Yukon River;
Secs. 7 and 8, excluding Yukon River;
Secs. 9 and 10, excluding Native allotment F-13406 and Yukon River;
Secs. 11, 12 and 13, excluding Gohn Creek;
Secs. 14 and 15, all;
Sec. 16, excluding Native allotment F-13406;
Secs. 17 and 18, all.

Containing approximately 9,896 acres.
Aggregating approximately 102,211 acres.
Total aggregated acreage, approximately 105,452 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14858-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail —The uses allowed on a twenty--five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail —The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles track vehicles, and four-wheel drive vehicles.

60 Foot Road —The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site —The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 9 C5, L, M, N) An easement for a proposed access Trail fifty (50) feet in width from site EIN 14 C5, M, N in Sec. 16, T. 10 S., R. 11 E., Kateel River Meridian, southeasterly to public lands in Sec. 6, T. 11 S., R. 12 E., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 13 L) An easement sixty (60) feet in width for an existing road from Galena in Sec. 5, T. 9 S., R. 10 E., Kateel River Meridian, southeasterly to Louden. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 14 C5, M, N) A one (1) acre site easement upland of the ordinary high-water mark in Sec. 16, T. 10 S., R. 11 E., Kateel River Meridian, on the left bank of the Yukon River. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 21 I) An easement twenty-five (25) feet in width, for an existing utility line from the Galena Air Force Base in Sec. 4, T. 9 S., R. 10 E., Kateel River Meridian, easterly to Sec. 2, T. 9 S., R. 10 E., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation, and maintenance of the utility line. The users allowed are limited to the United States Government and its authorized agents and assignees.

e. (EIN 23 M, N) An easement for a proposed access Trail fifty (50) feet in width from site EIN 23a M, N on the right bank of the Yukon river in Sec. 11, T. 8 S., R. 9 E., Kateel River Meridian, northeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 117(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Comunication Site right-of-way, F-23071, containing approximately 3.52 acres located within SW¼, Sec. 20, T. 9 S., R. 11 E., Kateel River Meridian, issued to RCA Alaska Communications, Inc., under the provisions of Pub. L. 94-579 (October 21, 1976) Title V, 90 Stat. 2743; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c),) that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Gana-a 'Yoo, Limited (for the village of Galena) is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 105,452 acres. The remaining entitlement of approximately 9,748 acres will be conveyed at a later date.

Pursuant to Sec. 4(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Gana-a 'Yoo, Limited, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

Yukon River and its interconnecting sloughs;
Gohn Creek;
Kala Slough.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the

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Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file and appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until June 30, 1980 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Gana-a 'Yoo, Limited, Box 38, Galena, Alaska 99741.
Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Ricky M. Elliott,

Chief, Branch of Adjudication.

[FR Doc. 80-16440 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 30092]

Colorado; Invitation to Participate in Coal Exploration License Application of Northern Minerals Co.

May 22, 1980.

Members of the public are hereby invited to participate with Northern Minerals Company, a Delaware Corporation, in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rio Blanco County, Colorado.

T. 2 N., R. 93 W., 6th P.M.
Sec. 19: Lots 1 thru 4, NE¼, E½W½, N½SE¼;
Sec. 20: Lots 2, 4, 6 thru 13, 22, 23, 25, NW¼SW¼;
Sec. 27: Lots 1 thru 6, E½, E½W¼, SW¼SW¼ (All);
Sec. 28: Lots 1 thru 10, W½SE¼, SE¼SE¼;
Sec. 30: Lots 1 thru 4, E½W½;
Sec. 31: Lots 1 thru 4, E½NW¼, NE¼SW¼.
T. 2 N., R. 94 W., 6th P.M.
Sec. 23: Lots 13, 15, 16, 18, 25, NE¼SE¼, S½SE¼;
Sec. 24: Lots 1, 4, E½, E½W½, W½SW¼;
Sec. 25: All;
Sec. 26: E½, E½W½, W½SW¼;
Sec. 36: E½NE¼, NE¼SE¼.
Containing 4,526.38 Acres, more or less.

Members of the public are advised that all of the foregoing lands are embraced in outstanding coal preference right lease applications and are not subject to competitive leasing until such applications are disposed of by the Department in accord with law and applicable regulations. The holder of the lease applications, Northern Minerals Company, may be issued lease(s) covering some or all of the described lands if the applications are granted. This factor, however, does not preclude participation on a pro rata cost sharing basis by qualified parties in the exploration program described herein.

Any party electing to participate in this proposed program must send written notice of that election to the Bureau of Land Management and Northern Minerals Company directed to the following persons at the addresses indicated:

Leader, Craig Team, Branch of Adjudication, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.
Manager of Exploration and Acquisitions, Northern Minerals Company, P.O. box 17583, Terminal Annex, Denver, CO 80217.

Such written notice must be received by the above indicated persons at the addresses shown not later than June 30, 1980.

A copy of the exploration plan, as submitted by Northern Minerals Company, is available for public review during normal business hours in the following office, under Serial No. C-30092: Colorado State Office, Bureau of Land Management, Room 701, Colorado State Bank Building, 1600 Broadway, Denver, Colorado.

The exploration plan and lands to be included in the exploration license, if issued, are subject to the approval of the U.S. Geological Survey and the Bureau of Land Management, both agencies of the Department of the Interior.

The foregoing notice is publised in the **Federal Register** pursuant to 43 CFR 3410.2-1(d)(1), 43 FR 42584 at 42614 (No. 140, July 19, 1979).

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 16442 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

[W-70805 Amendment]

Wyoming; application

May 21, 1980.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah filed an application amendment for a right-of-way to construct a 6 inch and a 12 inch pipeline for the purpose of transporting processed and unprocessed gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 119 W.,
Sec. 6, lot 5.
T. 15 N., R. 120 W.,
Sec. 2, E½SE¼;
Sec. 10, NW¼NW¼.

The proposed pipelines will serve to transport gas from Chevron Production Plant in lot 5, section 6, T. 15 N., R. 119 W., to a point of connection with Mountain Fuel Supply Company's existing Transmission Mainline No. 36 in the NW¼NW¼ of section 10, T. 15 N., R. 120 W., Uinta County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Jon A. Johnson,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-16448 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

[M 46311]

Montana, Notice of Invitation; Coal Exploration License Application

May 21, 1980.

Members of the public are hereby invited to participate with Spring Creek Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following-described lands located in Big Horn County, Montana:

T. 8 S., R. 39 E., P.M.M.,
Sec. 3: SW¼SW¼;
Sec. 4: N½SE¼;
Sec. 10: NW¼NE¼, E½NW¼, N½SE¼;
Sec. 11: N½SW¼;
Sec. 14: W½E½, N½NW¼, SW¼NW¼, SW¼;

Sec. 15: N½N½, SE¼NE¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 22: NW¼SE¼;
Sec. 23: N½NE¼, E½NW¼;
Sec. 24: NW¼NW¼.
T. 8 S., R. 40 E., P.M.M.,
Sec. 19: SW¼SW¼.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Spring Creek Coal Company, c/o Nerco, Inc., 111 SW Columbia, Portland, Oregon 97201. Such written notice must refer to the serial number M 46311 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in this newspaper, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Geological Survey and the Bureau of Land Management. Copies of the exploration plan as submitted by Spring Creek Coal Company may be examined during normal business hours at the Bureau of Land Management State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-16453 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

[Utah 24667]

Utah; Termination of Proposed Withdrawal and Reservation of Lands

Notice of a Bureau of Land Management, U.S. Department of the Interior application, Utah 24667 for withdrawal and reservation of lands was published as FR 74-24, on pages 833-834 of the issue of January 3, 1974. The lands were proposed for use in investigations, studies, and experiments by the Department of the Interior, or with others in the improvement, management, use, and protection of the lands and their natural resources under section 101 of the Public Land Administration Act (43 U.S.C. 1362) and pursuant to paragraph 10 of the notice of oil shale lease published in the November 30, 1973, issue of the **Federal Register** (38 FR 33187-33199). The applicant agency has canceled its application in its entirety. The lands involved are described as follows:

Salt Lake Meridian, Utah

T. 10 S., R. 24 E.,
Sec. 35
T. 11 S., R. 25 E.,
Sec. 5, SW¼NW¼, and W½SW¼;
Sec. 6, SE¼NE¼, and NE¼SE¼.

The areas described aggregate 840.00 acres in Uintah County. Therefore, pursuant to the regulations contained in 43 CFR Part 2311, such lands, at 10 a.m. on July 10, 1980, will be relieved of the segregative effect of the above-mentioned application.

Dated: May 22, 1980.

Gary J. Wicks,

State Director.

[FR Doc. 80-16454 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 23394]

Order Providing for Opening of National Forest Lands

The Federal Power Commission (now Federal Energy Regulatory Commission) issued an order November 6, 1975 (FR 75-30143) vacating in their entirety lands withdrawn for Power Development Project No. 1404 affecting portions of the following described lands. These lands are located in the Arapaho and White River National Forests.

Sixth Principal Meridian

T. 8 S., R. 79 W.,
Sec. 3: W½NE¼, SE¼NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 4: NE¼NE¼.

The area described aggregates approximately 15.15 acres.

At 10 a.m. on June 30, 1980 the above described lands shall be open to such forms of appropriation as may by law be made of National Forest Lands.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-16505 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 23329]

Order Providing for Opening of National Forest Lands

The Federal Power Commission (now Federal Energy Regulatory Commission) issued an order November 4, 1975 (FR 75-30411) vacating in their entirety lands withdrawn for Power Development Project Nos. 892 and 1100. All of the subject lands lie within the Rio Grande National Forest.

Power Project 892 affects portions of the following described lands:

New Mexico Principal Meridian

T. 47 N., R. 7 E.,
Sec. 13: SE¼NE¼, N½SE¼.
T. 47 N., R. 8 E.,
Sec. 18: S½NW¼.

The area described aggregates approximately 6 acres.

Power Project 1100 affects portions of the following described lands:

New Mexico Principal Meridian

T. 47 N., R. 7 E.,
Sec. 23: NE¼NE¼,
Sec. 24: N½NW¼, SE¼NW¼.

The area described aggregates approximately 6 acres.

At 10 a.m. on July 7, 1980, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest Lands.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-16506 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf, Gulf of Mexico; Proposed Oil and Gas Lease Sale No. A62

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior has established a policy pursuant to Sec. 19 of the OCS Lands Act, as amended, with respect to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States the opportunity to review the proposed sale notice before its final publication in the **Federal Register.** The following is a proposed sale notice for proposed Sale No. A62 in the offshore waters of the Gulf of Mexico area. This notice is hereby published as a matter of information to the public.

Dated: May 23, 1980.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved:

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-16354 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-84-M

PROPOSED SALE NOTICE

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300) as well as the Department of Energy Organization Act (91 STAT. 565) and the regulations issued thereunder (10 CFR Parts 376 and 390).

2. Filing of Bids. Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., September 29, 1980; or by personal delivery to the Louisiana Superdome, Gate "C", Hyatt Ramp, Level 200, Rooms 4 and 5, 1500 Poydras Street, New Orleans, Louisiana between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., September 30, 1980. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., September 30, 1980. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 45 FR 26827, April 21, 1980, as corrected in 45 FR 27836, April 24, 1980 and 45 FR 28822, April 30, 1980.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., September 30, 1980" must be submitted for each tract. A suggested form appears in 43 CFR Part 3300 (44 FR 38289, June 29, 1979), Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft on a solvent bank, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300 (44 FR 38289, June 29, 1979), Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental of $3 per acre or fraction thereof. The following systems will be utilized. (These systems are subject to final approval by the Departments of Energy and Interior).

(a) Bonus Bidding with 33 1/3 Percent Royalty. Bids on tracts A62-71, A62-72, A62-73, A62-74, A62-75, A62-81, A62-82, A62-83, A62-113, A62-114, A62-115, A62-116, A62-129, A62-130, A62-148, A62-149, A62-150, A62-151, A62-152, A62-153, A62-154, and A62-232 must be on a cash bonus basis with a fixed royalty of 33 1/3 percent.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts A62-12, A62-13, A62-14, A62-18, A62-19, A62-20, A62-21, A62-22, A62-23, A62-24, A62-25, A62-26, A62-27, A62-28, A62-29, A62-30, A62-37, A62-44, A62-45, A62-48, A62-49, A62-51, A62-52, A62-65, A62-66, A62-67, A62-69, A62-70, A62-76, A62-96, A62-100, A62-104, A62-105, A62-106, A62-107, A62-108, A62-112, A62-117, A62-118, A62-119, A62-123, A62-124, A62-125, A62-126, A62-142, A62-143, A62-144, A62-145, A62-147, A62-155, A62-156, A62-157, A62-158, A62-159, A62-160, A62-161, A62-166, A62-227, and A62-231

must be submitted on a cash bonus basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way; when the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved removed or sold in quarter j

b = 13.0

Ln = natural logarithm

Vj = the value of production in quarter j adjusted for inflation, in millions of dollars

s = 3.0

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 21.25878 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the the nearest dollar (for example, 15.392847 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis,

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Figure 1
Form of the Sliding Royalty Schedule

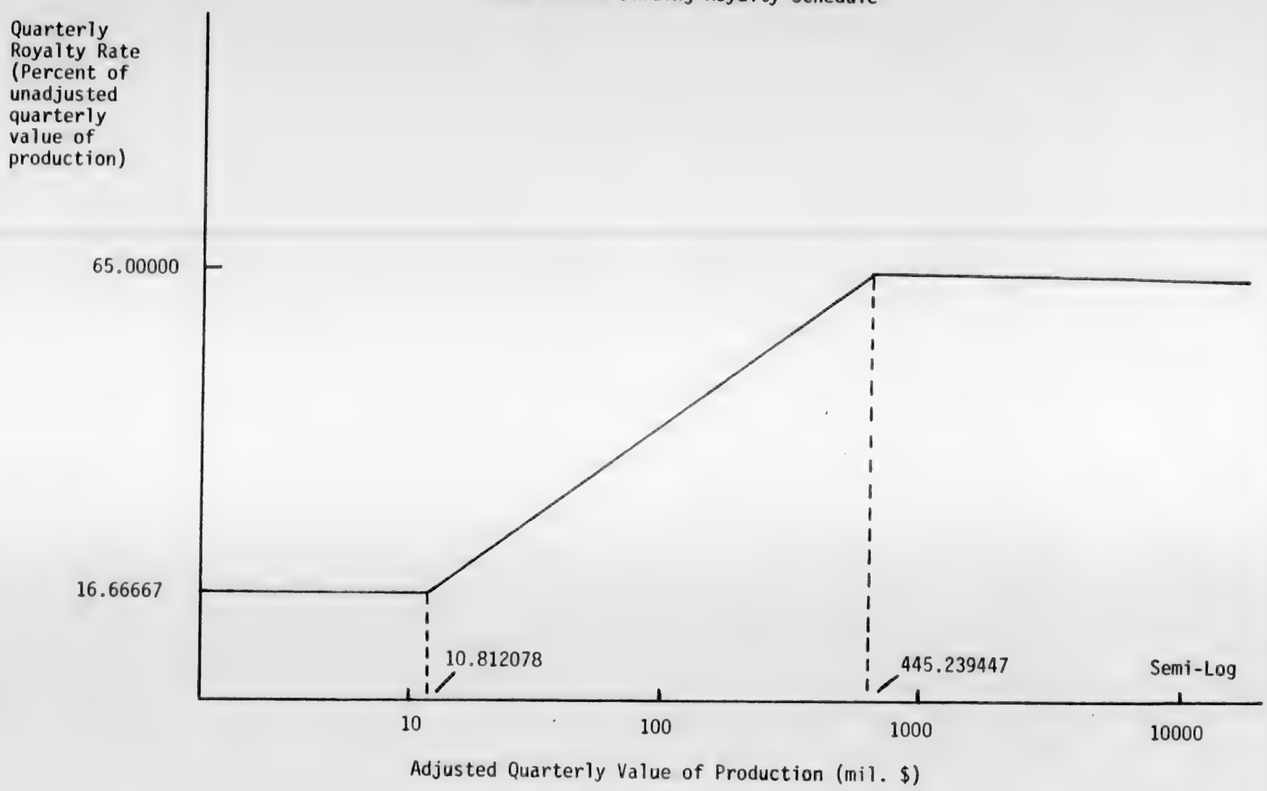

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	26.19374	7.858122
90.000000	200.0	4/3	67.500000	40.47570	36.428130
270.000000	200.0	4/3	202.500000	54.75766	147.845682
810.000000	200.0	4/3	607.500000	65.00000	526.500000
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	23.29287	6.987861
90.000000	250.0	5/3	54.000000	37.57483	33.817347
270.000000	250.0	5/3	162.000000	51.85679	140.013333
810.000000	250.0	5/3	486.000000	65.00000	526.500000

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E). All values are rounded for display purposes only.

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U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts A62-53, A62-54, A62-55, A62-56, A62-57, A62-85, A62-86, A62-87, A62-88, A62-89, A62-120, A62-121, A62-122, A62-128, A62-133, A62-134, A62-135, A62-136, A62-162, A62-163, A62-164, A62-165, A62-168, A62-169, A62-170, A62-171, A62-172, A62-173, A62-174, A62-175, A62-176, A62-177, A62-178, A62-179, A62-180, A62-181, A62-182, A62-183, A62-184, and A62-233 must be submitted on a cash bonus basis with a fixed net profit share rate of 50 percent and a 1.25 capital recovery factor. (Note: The capital recovery factor represents the actual capital recovery premium that is debited to the net profit share lease capital account, which is made in addition to the debit for actual expenses). The net profit share payment shall be calculated according to the Department of Energy regulations 10 CFR 390.

(d) Bonus Bidding with a 16 2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16 2/3 percent.

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office at the address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Texas Nos. 1 through 8. These maps are arranged in two sets, Nos. 1 through 4 (7 maps), which sell for $5 per set; and Nos. 5 through 8 (9 maps), which sell for $7 per set.

(b) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(c) Outer Continental Shelf Official Protraction Diagrams:

NH 15-12 Ewing Bank

NH 16-7 Viosca Knoll

NH 16-10 Mississippi Canyon

NG 15-3 Green Canyon

These sell for $2 each.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., September 30, 1980, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. Bid Opening. Bids will be opened on September 30, 1980, beginning at 10:00 a.m., c.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, September 30, 1980, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts on a solvent bank, submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

12. Tract Descriptions. The tracts offered for bids are as follows: Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice. Some of the blocks are included in prior environmental statements rather than the environmental statement for this sale.

TENTATIVE TRACT LIST
OCS SALE #A62

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
(Approved March 7, 1977)

Tract	Block	Description	Acreage
A62-1	12	All	5000
A62-2	14	All	5000

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-3	53	All	5000
A62-4	54	All	5000
A62-5	58	All	5000
A62-6	59	All	5000
A62-7	64	All	5000
A62-8	68	N 1/2	2500
A62-9	79	All	5000
A62-10	90	All	5000
A62-11	91	All	5000
A62-12	97	All	5000
A62-13	166	All	5000
A62-14	167	All	5000
A62-15	203	All	5000
A62-16	211	All	5000
A62-17	240	All	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957)

Tract	Block	Description	Acreage
A62-18	157	All	2170.32
A62-19	289	All	5000
A62-20	290	All	5000
A62-21	291	All	5000
A62-22	293	All	5000
A62-23	298	All	5000
A62-24	299	All	5000
A62-25	300	All	5000
A62-26	315	All	5000
A62-27	317	All	5000
A62-28	363	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-29	489	All	5000
A62-30	490	All	5000
A62-31	518	All	5000
A62-32	519	All	5000
A62-33	523	All	5000
A62-34	547	All	5000
A62-35	548	All	5000
A62-36	553	All	5000
A62-37	646	All	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
A62-38	2	1/	2413.79 (est.)
A62-39	16	1/	2417.32 (est.)
A62-40	43	All	5000
A62-41	50	All	5000
A62-42	65	All	5000
A62-43	66	S 1/2	2500

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-44	348	All	5000
A62-45	349	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-46	77	All	5000
A62-47	78	All	5000
A62-48	89	All	5000
A62-49	91	All	5067.26
A62-50	221	All	5204.83

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OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-51	275	All	5000
A62-52	280	All	5000
A62-53	304	All	5000
A62-54	305	All	5000
A62-55	306	All	5000
A62-56	317	All	5000
A62-57	318	All	5000
A62-58	326	All	5000
A62-59	336	All	5000
A62-60	341	All	5000
A62-61	350	All	5000
A62-62	396	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
A62-63	24	All	5000
A62-64	34	All	5000
A62-65	62	All	5000
A62-66	64	All	2965.03

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-67	100	All	5000
A62-68	122	All	5000
A62-69	160	All	5000
A62-70	198	All	3545.99

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
A62-71	231	7/	3592.72
A62-72	232	All	4818.68
A62-73	234	2/	1756.63
A62-74	236	8/	2070.72
A62-75	242	9/	3068.22
A62-76	247	All	4926.98
A62-77	274	All	5035.27

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-78	76	All	5000
A62-79	90	N1/2; SW1/4	3750
A62-80	113A	All	5000
A62-81	116	W1/2	2500
A62-82	117	All	5000
A62-83	129A	All	3824.72
A62-84	133	All	5000
A62-85	142	All	5000
A62-86	143	All	5000
A62-87	146	All	5000
A62-88	147	All	5000
A62-89	148	All	5000
A62-90	159	All	5000
A62-91	160	All	5000
A62-92	181	All	5000
A62-93	182	All	5000
A62-94	226	All	5000
A62-95	240	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-96	396	All	5000

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OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-97	12	All	5000
A62-98	13	3/	4357.81 (est.)
A62-99	14	4/	3237.49 (est.)
A62-100	50	All	5000
A62-101	67	1/	587.05 (est.)
A62-102	173	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-103	319	All	5000
A62-104	332	All	5300.60

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-105	76	All	5000
A62-106	77	All	5000
A62-107	96	All	5000
A62-108	97	All	5000
A62-109	160	All	5000
A62-110	174	All	3772.18
A62-111	192	All	5000
A62-112	200	All	5000
A62-113	208	All	5000
A62-114	209	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
A62-115	227	All	5000
A62-116	228	All	5000
A62-117	246	All	5000
A62-118	269	All	5000
A62-119	274	All	5000
A62-120	284	All	5000
A62-121	285	All	2148.46
A62-122	287	All	5000

OCS LEASING MAP, SOUTH PELTO AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-123	2	1/	3344.50 (est.)
A62-124	3	1/	4756.84 (est.)
A62-125	4	All	5000
A62-126	7	All	5000

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-127	34	All	5000

OCS LEASING MAP, GRAND ISLE AREA, SOUTH ADDITION, LOUISIANA MAP NO. 7A
(Approved September 8, 1959; Revised March 7, 1961)

Tract	Block	Description	Acreage
A62-128	91	All	5000
A62-129	100	All	4539.89
A62-130	101	All	4539.89

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OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-131	27	All	5000
A62-132	102	All	5000

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description	Acreage
A62-133	143	All	5000
A62-134	144	All	5000
A62-135	147	All	5000
A62-136	148	All	5000

OCS LEASING MAP, SOUTH PASS AREA, LOUISIANA MAP NO. 9
(Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973)

Tract	Block	Description	Acreage
A62-137	35	1/	741.70 (est.)
A62-138	38	1/	4747.92 (est.)
A62-139	45	All	4999.96
A62-140	56	5/	2999.84 (est.)

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-141	(77 (78	1/	4655.16 (est.)
A62-142	108	All	4994.55
A62-143	126	All	4994.55
A62-144	150	All	4994.55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-145	265	All	4994.55
A62-146	301	All	4999.96
A62-147	315	All	4999.96

OCS LEASING MAP, BRETON SOUND AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-148	39	1/	1237.38 (est.)
A62-149	40	1/	4877.30 (est.)
A62-150	41	All	4994.55
A62-151	42	1/	4551.84 (est.)
A62-152	43	1/	1994.55 (est.)
A62-153	54	N1/2; N1/2SW1/4; N1/2S1/2SW1/4; SW1/4SW1/4SW1/4; N1/2SE1/4; N1/2S1/2SE1/4	4448.27
A62-154	55	N1/2	2497.27

OCS LEASING MAP, CHANDELEUR AREA, LOUISIANA MAP NO. 11
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-155	17	All	5000
A62-156	25	All	5000
A62-157	32	All	5000
A62-158	33	All	5000
A62-159	34	All	5000

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-160	24	All	5760
A62-161	68	All	5760
A62-162	864	All	5760
A62-163	865	All	5760
A62-164	908	All	5760
A62-165	909	All	5760

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OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-166	304	All	3140.42

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-167	149	All	5611.56

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-168	89	All	5760
A62-169	90	All	5760
A62-170	91	All	5760
A62-171	133	All	5760
A62-172	134	All	5760
A62-173	135	All	5760
A62-174	136	All	5760
A62-175	137	All	5760
A62-176	138	All	5760
A62-177	139	All	5760
A62-178	140	All	5760
A62-179	179	All	5760
A62-180	180	All	5760
A62-181	181	All	5760
A62-182	182	All	5760
A62-183	183	All	5760
A62-184	184	All	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-226	69	S1/2	2500

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-227	171	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-228	34	All	3772.18

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-229	78	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-230	575	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
A62-231	26	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
A62-232	235	6/	3633.65

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OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-233	123	All	4994.55

1/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

2/ That portion of the lease block located landward of a line three marine leagues seaward of a line extending from a point on Shell Keys at a latitude 29°24'32.15"N., longitude 91°51'16.59"W., (X = 1,834,019.00, Y = 270,301.00), northwesterly in a straight line to Tigre Point at latitude 29°32'23.13"N., longitude 92°14'57.15"W., (X = 1,708,756.00, Y = 318,661.00). The coordinates used refer to the Louisiana Plane Coordinate System, South Zone.

3/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2SE1/4.

4/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2S1/2.

5/ That portion of the lease block located landward of a line which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, December 13, 1965, United States vs. Louisiana No. 9 Original (382 U.S. 288).

6/ A portion of Block 235, OCS Official Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the northwest corner of Block 235, the coordinates of which referred to the Louisiana (Lambert) coordinate System (South Zone) are: X = 1,765,446.562 and Y = 246,149.987;

From the initial corner,

South	8,033.742 ft.	to X=1,765,446.562	Y=238,116.245
S.68°53'24"E.	15,214.20 ft.	to X=1,780,204.612	Y=232,418.716
North	11,981.284 ft.	to X=1,780,204.612	Y=244,400.00
N.56°36'22"W.	3,179.53 ft.	to X=1,777,550.00	Y=246,149.987
West	12,103.483 ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

7/ A portion of Block 231, OCS Official Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Northwest Corner of Block 231, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,750,688.512; Y=260,908.037.

From the initial corner,

South	14,758.05 ft.	to X=1,750,688.512	Y=246,149.987
East	14,758.05 ft.	to X=1,765,446.502	Y=246,149.987
North	5,700.013 ft.	to X=1,765,446.502	Y=251,850.000
N.58°17'31"W.	4,756.54 ft.	to X=1,761,400.000	Y=254,350.000
N.55°58'50"W.	4,825.97 ft.	to X=1,757,400.000	Y=257,050.000
N.50°00'48"W.	6,003.70 ft.	to X=1,752,800.000	Y=260,908.037
West	2,111.488 ft.	to the point of beginning	

8/ A portion of Block 236, OCS Official Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of Block 236, the coordinates of of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,780,204.612 and Y = 231,391.937;

From the initial corner,

East	13,495.388 ft.	to X=1,793.700	Y=231,391
N.46°26'43"W.	5,381.42 ft.	to X=1,789,800	Y=235,100
N.40°36'05"W.	3,687.82 ft.	to X=1,787,400	Y=237,900
N.46°41'05"W.	4,810.41 ft.	to X=1,783,900	Y=241,200
N.49°06'33"W.	4,888.34 ft.	to X=1,780,204.612	Y=244,400
South	13,008.063 ft.	to the point of beginning	

9/ A portion of Block 242, OCS Official Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of block 242, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,794,962.662 and Y=216,633.887;

From the initial corner,

East	14,758.05 ft.	to X=1,809,720.712	Y=216,633.887
North	4,635.811 ft.	to X=1,809,720.712	Y=221,269.698
Northwesterly along the arc of a 54,721.8 ft. radius circle to		X=1,804,097.05	Y=224,484.49
N.56°51'08"W	10,909.83 ft.	to X=1,794,962.662	Y=230,450.00
South	13,816.113 ft.	to the point of beginning.	

13. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 6 Royalty on Production. (a) The lessee agrees to pay the lessor royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[LN\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 13.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.0

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

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In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 21.25878 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(c), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first profit share payment becomes due".

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net Profit Share. The lessee agrees to pay a net profit share rate of 50 percent with a 1.25 capital recovery factor.

Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale. In the following stipulations the term Supervisor refers to the Gulf of Mexico Area Oil and Gas Supervisor for Operations of the Geological Survey and the term Manager refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the Supervisor, having reason to believe that a site, structure or object of historical or archaeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the Supervisor and the Manager for review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

The lessee agrees that if any site, structure or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its preservation.

Stipulation No. 2

(To be included only in the leases resulting from this proposed sale for Tracts A62-53, A62-54, A62-55, A62-56 and A62-57.)

a. No structures, drilling rigs, or pipelines will be allowed within the 55 m isobaths of Sonnier Banks as shown in Figure 3 attached to and made a part of this lease.

b. Operations within the areas shown as "1 Mile Zone" in Figure 3 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

c. Operations within the area shown as "3 Mile Zone" in Figure 3 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Supervisor on a schedule established by the Supervisor, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the Supervisor shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 3

(To be included only in the lease resulting from this proposed sale for Tract A62-62).

Operations within the area shown as "3 Mile Zone" in Figure 4, (Rezak Bank) attached to and made a part of this lease, shall be restricted as specified in either (a) or (b) below at the option of the lessee.

a. All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

b. The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Supervisor on a schedule established by the Supervisor, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the Supervisor shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation No. 4

(To be included only in the lease resulting from this proposed sale for Tract A62-104.)

Operations within the area shown as "3 Mile Zone" in Figure 5, (Diaphus Bank), attached to and made a part of this lease, shall be restricted as specified in either (a) or (b) below at the option of the lessee.

a. All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

b. The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Supervisor on a schedule established by the Supervisor, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the Supervisor shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation No. 5

(To be included only in the leases resulting from this proposed sale for Tracts A62-133, A62-134, A62-135 and A62-136.)

a. No structures, drilling rigs, or pipelines will be allowed within the 85 m isobath of Sackett Bank as defined in Figure 6 attached to and made a part of this lease.

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b. Operations within the areas shown as "1 Mile Zone" in Figure 6 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

c. Operations within the area shown as "3 Mile Zone" in Figure 6 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Supervisor on a schedule established by the Supervisor, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the Supervisor shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 6

(To be included only in the leases resulting from this proposed sale for Tracts A62-37, A62-54, A62-70, A62-96, A62-128, A62-136 through A62-141, A62-144, and A62-166 through A62-184.)

All or portions of this lease may be subject to mass movement of sediments, unstable slopes, shallow faults, or gaseous sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the Supervisor's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all such unstable areas must be mapped. The Supervisor may also require soil testing before exploration and production operations are allowed.

Stipulation No. 7

(To be included only in the leases resulting from this proposed sale for the fixed sliding scale and the 33 1/3 percent royalty tracts listed in paragraph 4 of this notice.)

a. The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Geological Survey, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been underway for one year or more.

b. Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in Sec. 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16 2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

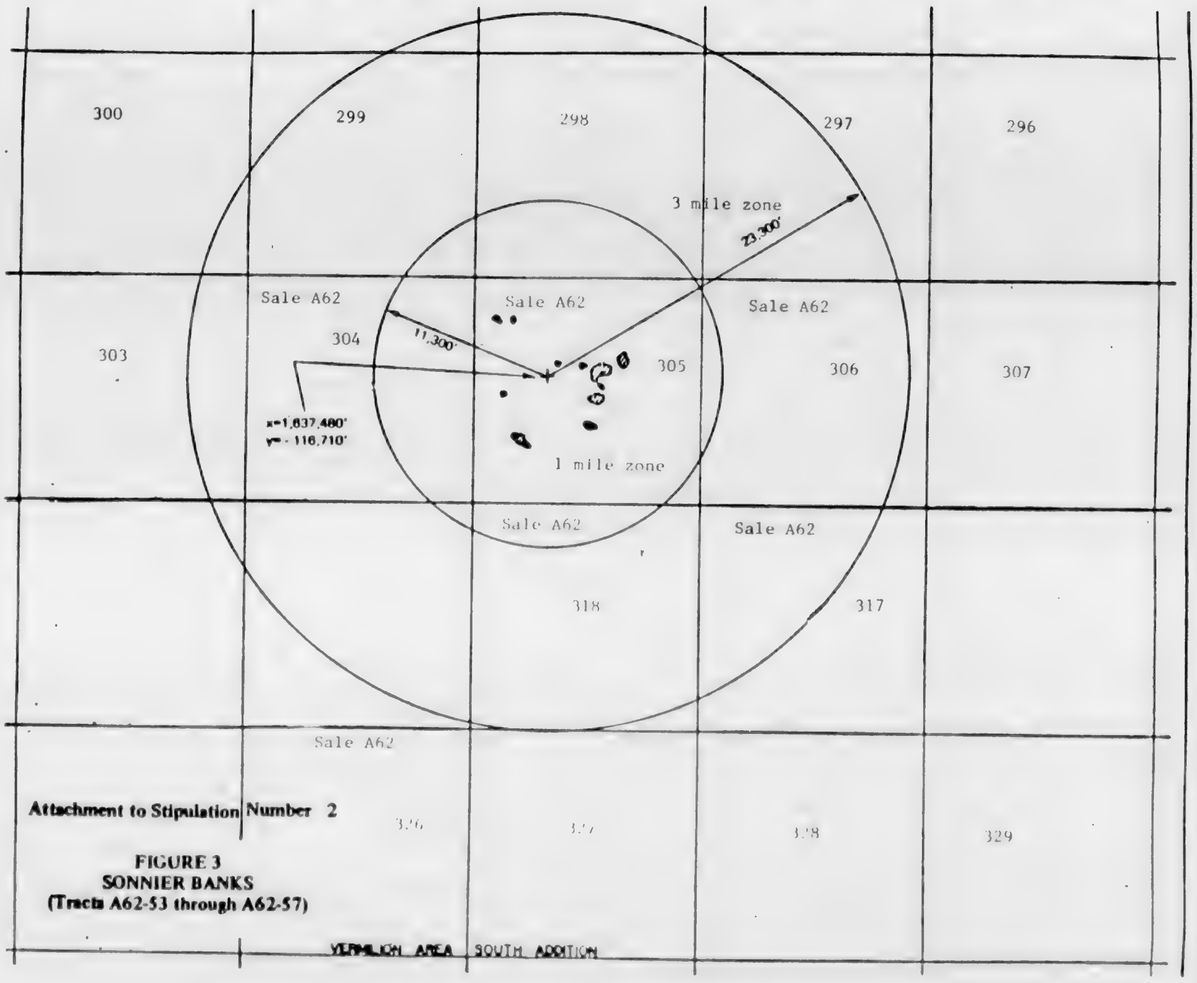

Attachment to Stipulation Number 2

FIGURE 3
SONNIER BANKS
(Tracts A62-53 through A62-57)

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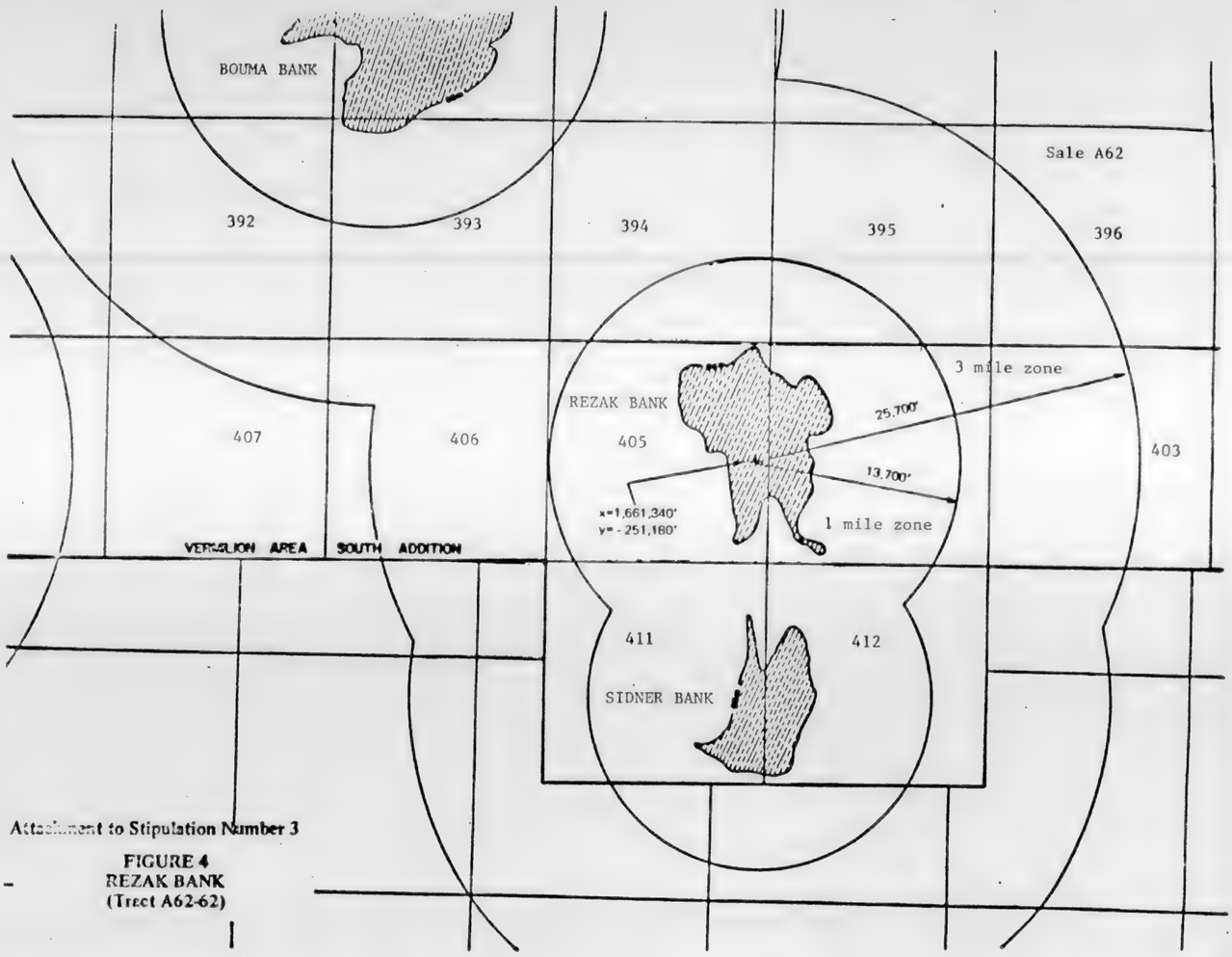

Attachment to Stipulation Number 3

FIGURE 4
REZAK BANK
(Tract A62-62)

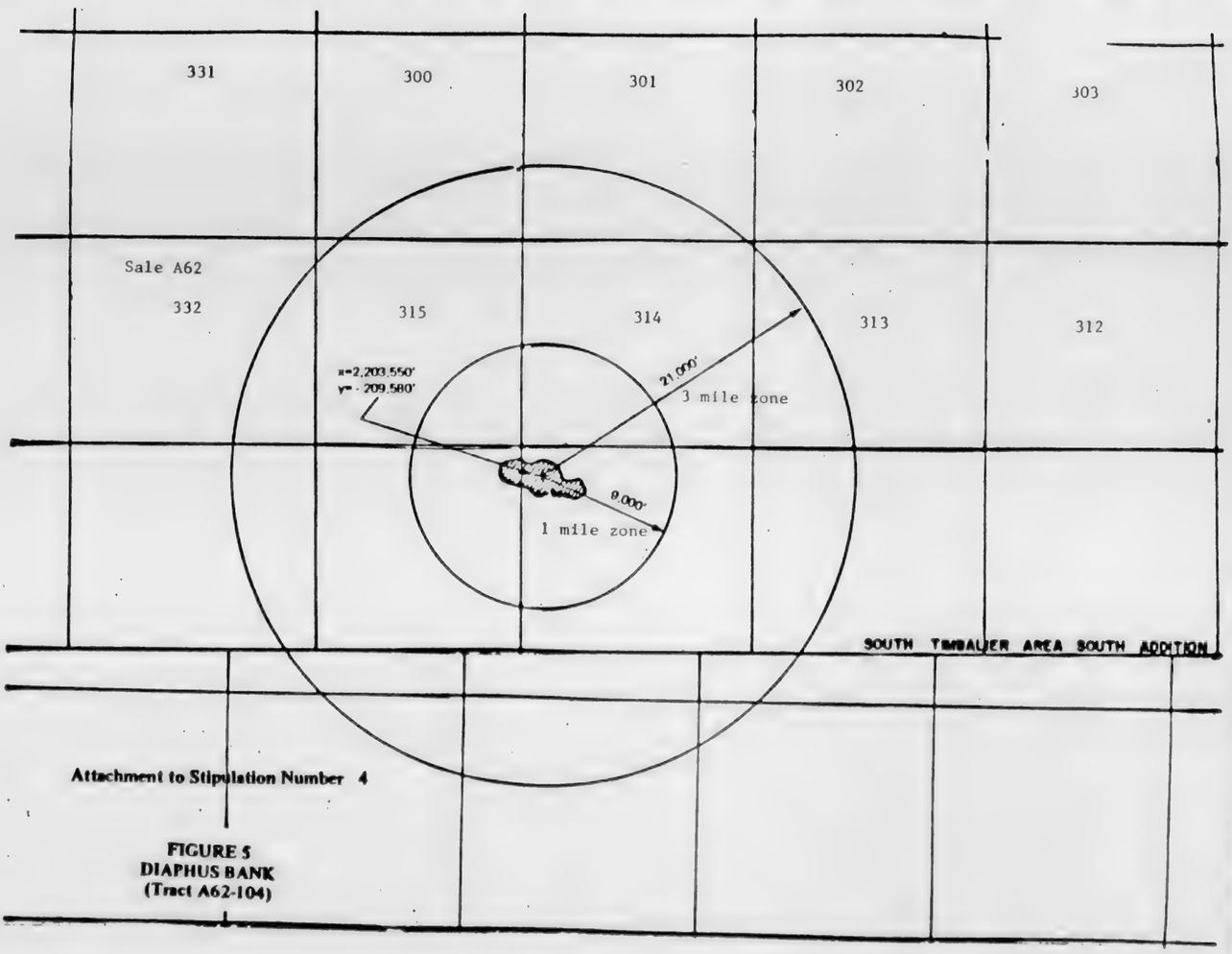

Attachment to Stipulation Number 4

FIGURE 5
DIAPHUS BANK
(Tract A62-104)

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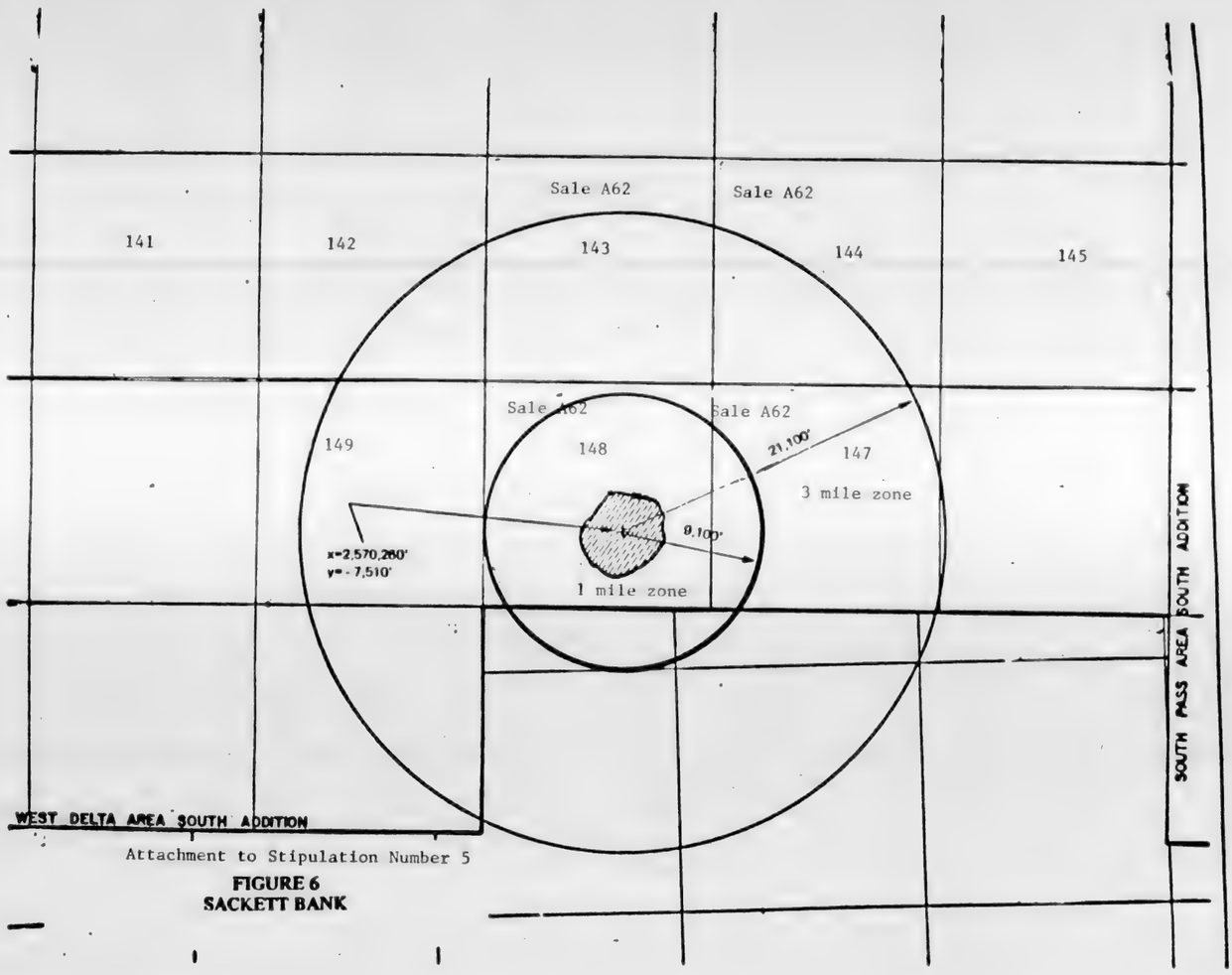

Attachment to Stipulation Number 5

FIGURE 6
SACKETT BANK

14. Information to Lessees. The Department of the Interior will seek the advice of the States of Texas, Louisiana, Mississippi and Alabama, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities then the Supervisor, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the Manager, BLM, and the States, will require the lessee to undertake any measures deemed economically, environmentally, and technologically feasible to protect live bottom areas.

Bidders are advised that the Department of Energy is authorized, under Section 302(b) & (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

BILLING CODE 4310-84-C

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4082, Block 18, portion, Sabine Pass Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 22, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16449 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production, has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 3957 and OCS–G 4191, Blocks 8 and 11, Sabine Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 22, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16450 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A., has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3799, Block 267, Mississippi Canyon Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 22, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16451 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Self; Transco Exploration Co.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Transco Exploration Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3388, Block 336, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and the other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 22, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16455 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-31-M

Floodplains and Wetlands Executive Orders; Availability for Public Comment on Geological Survey Interim Procedures for Implementation

AGENCY: Geological Survey, Department of the Interior.

ACTION: Interim guidelines.

SUMMARY: The Geological Survey is making available for public review and comment the interim procedures it will use to implement Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. The Geological Survey will consider comments from the public and other governmental agencies when finalizing its procedures.

DATES: These interim procedures are effective as of May 30, 1980, and will remain in effect until a final form is published, but not later than December 31, 1980, reflecting field testing and outside comment. Comments must be received by: June 30, 1980.

ADDRESS: All comments should be sent to: Daniel B. Krinsley, Chief, Environmental Impact Analysis Program, Mail Stop 760, U.S. Geological Survey, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Priscilla Woll, telephone (703) 860–7455.

SUPPLEMENTARY INFORMATION: Executive Order 11988, Floodplain Management, affirmed that it is the policy to protect and enhance the natural and beneficial values of floodplains and to actively discourage noncompatible development. The Executive Order 11990, Protection of Wetlands, recognized that our remaining wetlands are a valuable national resource. All Federal agencies are to do everything possible to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The U.S. Water Resources Council's Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030, February 10, 1978) provides the basic implementation guidelines. The Survey's interim procedures, based on the Department of the Interior's procedures, incorporate the Water Resources Council's guidelines and make them specific to the various Survey programs. The interim procedures described in this notice are to guide all Geological Survey employees in assuring that all their actions further the intent and purpose of both Presidential Executive Orders.

U.S. Geological Survey Procedures for Floodplain Management and Wetlands Protection

1. *Purpose:* This identifies the U.S. Geological Survey policy and procedures for implementing Executive Order 11988, Floodplain Management, May 24, 1977, and Executive Order 11990, Protection of Wetlands, May 24, 1977, pursuant to Chapter 1 of Part 520 of the Department of the Interior Manual, issued June 11, 1979.

2. *Background: Floodplain* is defined in Executive Order 11988 as lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including at a minimum, that area subject to a 1 percent or greater chance of flooding in any given year.

Wetlands are defined in Executive Order 11990 as those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

A. Executive Orders 11988 and 11990 apply to three general classes of Federal activities:

(1) acquiring, managing, and disposing of Federal land and facilities;

(2) providing Federally undertaken, financed, or assisted construction and improvements; and

(3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

B. In the U.S. Geological Survey, these procedures shall apply to regulatory functions and internal program initiatives in floodplains and wetlands involving, but not limited to:

(1) dredging of river or seaport sites

(2) constructing special-purpose facilities

(3) drilling exploratory, development, or service wells

(4) excavating with power equipment for exploration or operational purposes

(5) establishing field camps for more than 15 people for more than 1 month.

These procedures do not apply to internal program initiatives involving non-destructive data collection activities, including establishment of instrumentation that measures environmentally significant hydrologic characteristics, such as stream-gaging stations and water-level observation wells.

3. *Policy:* It is the policy of the U.S. Geological Survey to:

A. Carry out its functions in a manner that exhibits leadership in the preservation, restoration, or enhancement of the natural and beneficial values of floodplains and wetlands, by avoiding (if practical) or minimizing the risk of their destruction, loss, or degradation, and by minimizing the impact of floods on human safety, health, and welfare.

B. Utilize National Environmental Policy Act procedures and documents to comply with the Executive Orders.

C. Incorporate the Unified National Program for Floodplain Management into relevant Geological Survey programs.

4. *Responsibilities:*

A. The Director shall be responsible for all statements of findings required by the Executive Orders.

B. Assistant Director-Program Anasysis shall be responsible for assuring that all budget requests for any proposed construction activity to be located in floodplains or wetlands reflect consideration of natural and beneficial values of floodplains and wetlands.

C. Assistant Director-Administration, Chiefs of Geologic, Water Resources, Conservation, and National Mapping Divisions, and the Chief, Land Information and Analysis Office, shall be responsible for:

(1) Assuring that all stages of program planning reflect consideration of natural and beneficial values of floodplains and wetlands and are in compliance with these procedures;

(2) Assuring appropriate consultation with Surface Managing Agencies and other agencies or institutions with expertise in the natural and beneficial values of floodplains and wetlands.

D. District Offices of the Water Resources Division shall be responsible

for providing available hydrologic data

1980. A Federal interagency panel will

Potential U.S. World Heritage

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for providing available hydrologic data that may be needed by other units of the Geological Survey to comply with the Executive Orders and for technical advice and assistance in making the requisite identification of location of floodplains and wetlands. Such assistance shall also include identification of other available sources of hydrologic data and expertise.

5. *Procedures:* The Geological Survey shall use Water Resources Council Guidelines, and the Unified National Program for Floodplain Management as reference documents in performing the required evaluations. National Environmental Policy Act procedures (516 DM 1–7), as modified by the procedures in 520 DM 1, shall be used to implement this policy and to provide for public involvement, public notification, consultation, coordination, and documentation.

Dated: May 23, 1980.

H. William Menard,

Director.

[FR Doc. 80-16399 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

Potential U.S. World Heritage Nominations for 1981

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Notice of public meeting and request for public comment.

SUMMARY: The Department of the Interior, through the Heritage Conservation and Recreation Service, previously published an inventory of suggested U.S. World Heritage properties in the **Federal Register** on April 30, 1980 (45 FR 28828). The inventory included 275 natural and cultural properties in the United States recommended for consideration for the World Heritage List. The Department announces and invites comments on properties which have been identified as potential U.S. World Heritage nominations for 1981. The Department will host a public meeting to discuss and recieve comments on the potential nominations.

DATES: The World Heritage public meeting will be held on Wednesday, June 18, 1980, at 10:00 a.m. Written comments on any property listed as a potential 1981 U.S. World Heritage nominations should be received by July 1, 1980. A final list of proposed U.S. nominations will be published in the **Federal Register** on or before July 15, 1980. A Federal interagency panel will meet in November 1980 to review the accuracy and completeness of the proposed 1981 nominations and will recommend properties to the Secretary of the Interior. The Secretary will then transmit formal nomination(s) to the Department of State on or before December 1, 1980, for submission to the United Nations Educational, Scientific and Cultural Organization (UNESCO) by January 1, 1981.

ADDRESSES: The World Heritage public meeting will be held in Room 7000A, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. Written comments on any potential U.S. nomination should be sent to the Director, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (Attn: Division of State Heritage Programs).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ritsch, Acting Associate Director for Natural Programs, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (202–343–4278).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention), ratified by the United States and 47 other Nations as of this date, establishes a means by which natural and cultural properties of outstanding universal value to mankind may be recognized and protected.

The country nominating a property for inclusion on the World Heritage List assumes responsibility for taking all necessary and appropriate legal, scientific, technical, administrative and financial measures for the identification, protection, conservation, presentation, and rehabilitation of the property it nominates. The Department is seeking to clarify the legal implications of nominating a non-Federal property to the World Heritage List and the Federal responsibility for the preservation of properties included on the List, i.e., the need to ensure that owner(s) take all necessary measures to preserve the integrity of the nominated property. Until this legal question is resolved, U.S. nominations will be limited to properties owned or controlled by the Federal government.

A January 9, 1980, **Federal Register** notice (45 FR 1947) identified the criteria which natural and cultural properties must satisfy in order to be placed on the World Heritage List.

Potential U.S. World Heritage Nominations for 1981

The Heritage Conservation and Recreation Service has identified the following natural and curltural properties, arranged alphabetically by State, as potential U.S. World Heritage nominations for 1981:

Alaska

Bristol Bay, Kenai Peninsula and Unorganized Boroughs

Katmai National Monument. The lakes, forests, mountains, marshland, and lagoons contained within this site abound in wildlife, including the Alaskan brown bear, the world's largest carnivore. Its interior wilderness includes the Valley of 10,000 Smokes, which resulted from a 1912 volcanic eruption. The eruption produced countless fumeroles, a few of which are still active today.

Unorganized Boroughs

Mount McKinley National Park. A unique and spectacular combination of geologic features, including major earthquake faults, active glaciers, and Mt. McKinley, the highest mountain peak in North America at 20,320 feet. Caribou, Dall sheep, moose, grizzly bear, and timber wolves are found here.

Arizona

Pima County

Organ Pipe Cactus National Monument/Cabeza Prieta National Wildlife Range. A joint National Park Service/U.S. Fish and Wildlife Service proposal, this area contains block-faulted mountains separated by wide valleys, along with playas, lava fields, and sands. Plants and animals which are representative of the Sonoran Desert are found in this area and nowhere else in the United States.

Florida

St. Johns County

Castillo de San Marcos National Monument, St. Augustine. The oldest masonry fort in the continental United States, the Castillo guarded Spanish Saint Augustine, which was the first permanent settlement by Europeans in that area. It is a significant symbol of the Hispanic heritage of the United States.

Georgia

Carlton and Ware Counties (extends into Baker County, Florida)

Okefenokee National Wildlife Refuge. This area contains what is considered to be the largest and most primitive swamp in the United States dedicated to the preservation of native flora and fauna. It encompasses a vast peat bog, interspersed with upland prairies, marshes, and open water. This diversity of habitat is home for a wide range of uncommon, threatened, or endangered species, including black bear, otter, and American alligator.

Kentucky

Barren, Edmonson, and Hart Counties

Mammoth Cave National Park. This series of underground passages, with beautiful limestone, gypsum and cave onyx formations, deep pits, high domes, and an underground river, is one of the outstanding examples of karst terrain in the world. It has 215 miles of surveyed interconnected passages, making it the most extensive network of cave passages known on earth. It contains a rich collection of plant and animal species and has evidence of use by early subsistence societies.

New Mexico

San Juan County

Chaco Canyon National Monument. This canyon, which includes numerous smaller ruins, contains thirteen major Indian ruins that represent a high point of Pueblo pre-Columbian culture.

New York

Dutchess County

Home of Franklin D. Roosevelt National Historic Site and Eleanor Roosevelt National Historic Site, Hyde Park. This proposal contains the birthplace and lifelong home of Franklin D. Roosevelt, distinguished for his leadership of the United States in World War II and his role in the founding of the United Nations. Mrs. Roosevelt, who chaired the Human Rights Commission of the United Nations, was instrumental in drafting the Universal Declaration of Human Rights.

New York County (extends into Hudson County, New Jersey)

Statue of Liberty National Monument. This colossal statue was a gift from the French, commemorating the friendship of the two Nations in the American Revolution. The area also include Ellis Island, through which millions of immigrants, mostly European, entered the United States.

North Carolina

Dare County

Wright Brothers National Memorial, Kitty Hawk. The first sustained flight in a heavier-than-air machine was completed here by Wilbur and Orville Wright on December 17, 1903.

Tennessee

Haywood and Swain Counties (extends into Blount, Cocke, and Sevier Counties)

Great Smoky Mountains National Park. This area, which includes one of the oldest uplands on earth, has a diversity of lush vegetation associated with its varied topography, including spruce-fir, hemlock, deciduous, and mixed forests. Many fast flowing, clear mountain streams crisscross the area.

Pennsylvania

Adams County

Gettysburg National Military Park. One of the most significant battles of the American Civil War, Gettysburg is symbolic of that conflict, not only because of the battle, but also because of Abraham Lincoln's Gettysburg Address, which was delivered at the dedication of the national military cemetery here.

Virginia

James City and York Counties

Colonial National Historical Park, Jamestown-Yorktown vicinity. This part encompasses most of Jamestown Island, site of the first permanent English settlement in the United States (1607), and Yorktown, scene of the culminating battle of the American Revolution (1781).

Washington

Clallam, Grays Harbor, Jefferson and Mason Counties

Olympic National Park. This area's diverse topography, ranging from alpine ridges and ice fields to offshore islets and sand spits, contains the finest remnant of Pacific Northwest temperate rain forest. The rare Roosevelt elk is found here, along with coyote, marten, mink, fisher, and marmots.

David F. Hales,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

May 28, 1980.

[FR Doc. 80-16604 Filed 5-29-80; 8:45 am]

BILLING CODE 4310-03-M

Office of Surface Mining Reclamation and Enforcement

Availability of Mine Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of Availability of Surface Mining and Reclamation Plan.

SUMMARY: Pursuant of § 211.5(b) of Title 30, CFR, notice is hereby given that the Office of Surface Mining has received a proposed mine plan for a coal mining and reclamation operation on Federal coal lands:

Location of Lands

Applicant: Great National Corporation (Nevada).
Mine Property Name: McCurtain No. 2—Federal.
State: Oklahoma.
County: Haskell.
OSM Reference No: 36–0008.
General Description of Affected Lands: Approximately 140 acres under coal lease NM 24005, located in Sections 14 and 15, T8N, R22E.

This mine is located approximately one (1) mile north of McCurtain, Oklahoma, and lies between two nonfederal tracts previously mined by the Great National Corporation under permits issued by the Oklahoma Department of Mines. The Great National Corporation is presently surface mining coal approximately one (1) mile east of the Federal lease under a permit issued by the Oklahoma Department of Mines. The company proposes to mine on 140 acres of a Federal coal lease that contain approximately 32 acres of of strippable coal.The company expects to produce coal for three years or until the strippable reserves are exhausted. Mining will be open pit stripping and removal of overburden with a dragline after blasting. All coal will be shipped by rail. The reclamation plan is designed to provide productivity equal to or better than existing pastureland and rangeland. Other surface mining operations are conducted in the McCurtain area of eastern Oklahoma.

The mine plan is available for public review at Region IV, Office of Surface Mining, 818 Grand Avenue, Scarritt Building, Fifth Floor, Kansas City, Missouri 64106.

The Office of Surface Mining has not yet determined whether the plan is adequate and may, during the course of its review, request additional information. Any information so obtained will also be available for public review. Prior to a final decision on this mine plan, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to Section 211.5(c)(2) of Title 30, Code of Federal Regulations.

DATES: Comments on the plan should be received by the Region IV Office not later than June 30, 18|980.

ADDRESSES: Comments should be sent to the Regional Director, Office of Surface Mining, Reclamation and Enforcement, Region IV, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106.

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FOR FURTHER INFORMATION CONTACT:
Assistant Regional Director, Division of Technical Services and Research, Office of Surface Mining, Region IV, 818 Grand Avenue, Room 426, Scarritt Building, Kansas City, Missouri 64106. Telephone: (816) 374–5109 or FTS 758–5109.

David R. Maneval,
Assistant Director, Technical Services & Research.

[FR Doc. 80–16470 Filed 5–29–80; 8:45 am]
BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before June 19, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevent transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicated that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before June 30, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Motor Carrier Board, Members Holyfield, Hedetniemi, and Healy.

Agatha L. Mergenovich,
Secretary.

Federal Register Summary for Certificate or Permit

MC–FC–78388. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Spark, Inc., of Philadelphia, PA, of Certificate MC 70996 issued 12/5/61 to Stanley H. Salkowitz, of Philadelphia, PA, authorizing the transportation of household goods and property usual in a store when part of the stock, equipment, or supplies of such store, between Philadelphia, PA, on the one hand, and, on the other, points in NJ. Applicant's representative is: Richard Rueda, 133 N. 4th Street, Philadelphia, PA 19106.

MC–FC–78444. By decision of February 4, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Venera A. Wright d.b.a. Riteway Trucking Company of Dewitt, New York of Certificate MC 4056 issued November 8, 1940 to Glen Lindsley d.b.a. Lindsley Motor Express authorizing the transportation of general commodities, except those of unusual value, and except high explosives, household goods (when transported as a separate and distinct service in connection with so-called "household movings"), commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over a regular route, between Syracuse, N.Y., and Marcellus, N.Y.; from Syracuse over New York Highway 5 to junction New York Highway 174, thence over New York Highway 174 to Marcellus, and return over the same route. Service is authorized to and from the intermediate and off-route points of Camillus, Marcellus Falls, Split Rock, Marietta, and Amber, N.Y. Applicant's representative is: Thomas V. Dadey, 824 State Tower Building, Syracuse, New York 13202. TA application has not been filed.

MC–FC–78531. By decision of April 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Command Bus Company, Inc., of Brooklyn, NY, of certificate MC 142530 (Sub-1) issued April 21, 1978, to Pioneer Bus Corp., of Staten Island, NY, authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in special operations, beginning and ending at those points in the Borough of Brooklyn, NY, on and south of Atlantic Avenue and extending to the site of the New Jersey Sports and Exposition Authority, at or near East Rutherford, NJ.

Applicant's representative is: Sheldon Rudoff, Attorney, 235 East 42nd Street, New York, NY, 10017. Application for TA has been filed. Transferee holds no authority; however its affiliate holds authority under docket No. MC–1111.

MC–FC–78541. (Republication). By decision of March 21, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Henry's Transportation Company, Inc. of Pocatello, ID, of Certificate MC 115904 (Sub-35) issued October 31, 1975 to Grover Trucking Co., of Idaho Falls, ID, authorizing the transportation of *Crushed scrap automobiles and parts,* from points in Colorado, to points in California, Nevada, Oregon, Utah, and Washington, from points in Idaho, to points in California, Nevada, and Utah, from points in Kansas (except Parsons), to points in California, from points in Kansas (except Kansas City), to points in Oregon and Washington, from points in Kansas (except Kansas City and Parsons), to points in Utah, from points in Montana, to points in California, Nevada, and Utah, from points in Nebraska, to points in California, Nevada, Oregon, Utah, and Washington, from points in Nevada, to points in California, Oregon, Utah, and Washington, from points in New Mexico, to points in California, Nevada, Oregon, Utah, and Washington, from points in Oregon, to points in California, and Nevada, from points in Utah, to points in California and Nevada, from points in Washington (except Vancouver), to points in Nevada, from points in Wyoming, to points in California, Nevada, Oregon, Utah, and Washington. Applicant's representative is: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transferee holds no authority from the Commission. An application seeking TA lease has not been filed.

MC–FC–78570. By decision of May 13, 1980 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133. The Motor Carrier Board approved the transfer to Sero Ski Ventures, inc., of Glen Allen, VA, of License MC 130473 issued March 26, 1979 to MS Ltd., of Richmond, VA, authorizing operations as a broker at Henrico County, VA, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, in round-trip tours, in special and charter operations, between points

in the United States (including AK and HI), restricted to the transportation of tour groups, beginning and ending at points in Richmond, VA, Chesterfield County, Henrico County and Hanover County, VA. Applicant's representative is: Hamill D. Jones, Jr., 815 Mutual Bldg., Richmond, VA. 23219. Transferee holds no authority from this Commission.

[FR Doc. 80–16407 Filed 5–29–80; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Action Under the Clean Water Act in Which the United States Seeks to Enforce Compliance by the United States Steel Corporation With the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, 38 FR 19029, notice is hereby given that on May 14, 1980, a proposed consent decree in *United States of America* v. *United States Steel Corporation* was lodged with the United States District Court for the Northern District of Ohio (Eastern Division). The proposed consent decree requires United States Steel Corporation to install a blast furnace recycle system at its Lorain, Ohio facility and upgrade treatment at its coke plant and pipe mill lagoon to meet the effluent limitations prescribed by its NPDES permit in accordance with the compliance schedule contained in the decree. The decree provides that USSC will spend $4 million over four years on a dust suppression program to offset the payment of civil penalties. Such expenditures are intended by the parties to be net expenditures after calculation of any tax benefit. The decree also provides for stipulated penalties of $7,500 per day for failure to comply with the terms of the consent decree.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse, Room 400, Cleveland, Ohio 44114; at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. The Department of justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Deputy Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States of America* v. *United States Steel Corporation*, D. J. Ref. 90–5–1–1–987. In requesting a copy, please enclose a check in the amoumt of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,
Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 8–16443 Filed 5–29–80; 8:45 am]
BILLING CODE 4410–01–M

[Attorney General Order No. 895–80]

Application of the Times Printing Co. and the Chattanooga News-Free Press Co. for Approval of a Joint Newspaper Operating Arrangement

May 23, 1980.

On May 19, 1980, pursuant to 28 CFR § 48.7, this Office received the Report of the Assistant Attorney General in Charge of the Antitrust Division in the above-styled matter. That Report noted that the applicants had implemented a joint operating arrangement on May 12, and concluded that "the Attorney General has no authority to grant an exemption for operating arrangements that are already in effect."

A. Assuming, without deciding, that the Attorney General does have authority to grant an exemption for a proposed arrangement similar but not identical to an arrangement already in effect, and that this application presents such a situation, the Antitrust Division is directed to submit a Supplemental Report. That Report should set forth in detail the facts and the Division's conclusions on the following two questions raised by the application for an exemption:

1. Is more than one of the newspaper publications involved in the arrangement a publication other than a failing newspaper (15 U.S.C. § 1803(b))?

2. Would approval of such arrangement effectuate the policy and purpose of the Newspaper Preservation Act (*id.*)?

These questions should be answered without regard to the effect of the arrangement implemented on May 12.

B. Pursuant to 28 CFR § 48.7(d), any person may file a reply to the original Report of the Assistant Attorney General in Charge of the Antitrust Division within 30 days after that Report was filed. In addition, any person may, within 30 days after the filing of the Supplemental Report required by this Order, file a reply to that Supplemental Report for the consideration of the Attorney General.

Benjamin R. Civiletti,
Attorney General.

[FR Doc. 80–16521 Filed 5–29–80; 8:45 am]
BILLING CODE 4410–01–M

National Institute of Justice

Notice of Solicitation

The National Institute of Justice announces a competitive research grant solicitation to support an experimental study of probation and alternatives to probation in the State of Maryland. The major objective of this research is to acquire greater understanding about the efficiency and effectiveness of the probation sanction compared to other alternatives for selected offense and offender sub-groups. The solicitation focuses upon the implementation of a controlled experiment with random assignment to experimental and control groups in three Maryland jurisdictions.

The solicitation requests submission of draft proposals rather than full, formal proposals. Full proposals will be requested from those applicants receiving favorable review by a peer review panel. In order to be considered, a draft proposal must be postmarked to the National Institute no later than July 25, 1980. One grant is expected to be awarded under this announcement. A maximum of $200,000 will be awarded for a project with an expected duration of 24 months.

Additional information and copies of the solicitation may be obtained by contracting: Lawrence A. Greenfeld, Corrections Division, Office of Research Programs, National Institute of Justice, 633 Indiana Avenue N.W., Washington, D.C. 20531 (301) 492–9118.

Harry M. Bratt,
Acting Director, National Institute of Justice.

[FR Doc. 80–16456 Filed 5–29–80; 8:45 am]
BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Reallocation of Funds; CETA

AGENCY: Employment and Training Administration, Labor.

ACTION: Thirty-Day Notice of Intent to Reallocate Funds Under Title II–D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces its intent to reallocate funds in the following amounts from the CETA prime sponsors indicated below. The purpose of this notice is to provide 30 days notice to all interested parties of the Department's intent to reallocate these funds.

COMMENTS DUE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5010, Washington, D.C. 20213, Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: A review of the following prime sponsors' actual Title II–D operations, compared to their Fiscal Year 1980 planned operations as of April 30, 1980, indicates that these prime sponsors are substantially below plan and are not effectively utilizing the funds available to them. Therefore, the Department is notifying these prime sponsors that it intends to reallocate excess funds which have accumulated due to the underperformance.

The estimated amount to be reallocated from each prime sponsor is indicated below. The prime sponsors are given 30 days to reply to the notice of intent to reallocate and to correct identified deficiencies. The Governor of the appropriate State and the general public are also given 30 days in which to comment on the proposed allocations.

Reallocations Based on April Data

	Title II–D
REGION I	
City of New Haven, Connecticut	$29,000
City of Worcester, Massachusetts	21,140
Balance of State, Rhode Island	65,450
REGION II	
Onondaga County, New York	45,686
Hempstead County, New York	64,841
Westchester County, New York	84,448
Camden County, New Jersey	54,925
Essex County, New Jersey	14,535
REGION III	
Balance of State, Pennsylvania	40,785
Southern Allegheny Consortium	260,040
Westmoreland County, Pennsylvania	38,191
Bucks County, Pennsylvania	738,576
Balance of State, Delaware	95,880
District of Columbia	999,792
Prince Georges County, Maryland	97,370
REGION IV	
Hillsborough County, Florida	79,910
Balance of State, Florida	240,100
Broward County, Florida	577,125

Reallocations Based on April Data—Continued

	Title II–D
Heartland Consortium, Florida	69,083
Sarasota County, Florida	19,260
Marion County, Florida	38,286
Seminole County, Florida	37,666
DeKalb County, Georgia	24,202
Gwinnett County, Georgia	31,356
Louisville/Jefferson Consortium, Georgia	89,352
City of Charlotte, North Carolina	45,920
Robeson County, North Carolina	71,187
Balance of State, Tennessee	421,383
City of Chattanooga, Tennessee	24,553
REGION V	
St. Clair County, Michigan	100,000
Region III Consortium, Minnesota	95,000
City of Duluth, Minnesota	37,000
Hennepin County, Minnesota	108,000
Columbus/Franklin Consortium, Ohio	318,000
Central Ohio Rural Consortium	108,000
REGION VI	
City of New Orleans, Louisiana	300,000
Oklahoma City Consortium	250,000
Tulsa Consortium, Oklahoma	150,000
Texas Panhandle Alliance	121,037
Capitol Area Manpower Consortium, Texas	202,803
Cameron County, Texas	421,237
Coastal Bend Consortium, Texas	166,258
City of Dallas, Texas	1,144,059
Dallas County Consortium, Texas	34,937
West Central Texas Consortium	42,513
City and County of El Paso, Texas	609,706
Tarrant County, Texas	92,289
North Texas State Regional Consortium	58,308
Gulf Coast Consortium, Texas	341,184
Perman Basin Consortium, Texas	217,802
REGION VII	
Central Iowa Regional Area of Governments	90,700
Linn County, Iowa	48,400
Woodbury County, Iowa	102,800
Iowa Balance of State	252,900
Nebraska Balance of State	101,800
Kansas City/Wyandotte Consortium, Kansas	101,100
REGION VIII	
None.	
REGION IX	
Stanislaus County, California	299,490
Shasta County, California	52,280
San Luis Obispo, California	53,000
Ventura County, California	1,300,000
Inland Manpower Consortium, California	1,076,520
Merced County, California	18,000
City of San Diego, California	1,305,660
Arizona Balance of State	800,000
Pima County, Arizona	11,872
Washoe County, Nevada	111,275
Hawaii Balance of State	336,601
Commonwealth of Northern Marianas	33,672
REGION X	
Balance of State, Oregon	706,308
Thurston County, Washington	199,001
Yakima County, Washington	112,546

Signed at Washington, D.C., this 23rd day of May 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80–16427 Filed 5–29–80; 8:45 am]

BILLING CODE 4510–30–M

Office of the Secretary

[TA–W–6914]

Buckbee-Mears Co., In-Line Products Division; Negative Determination Regarding Application for Reconsideration

By an application dated April 30, 1980, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing TV parts (Sony masks) at Buckbee-Mears Company, In-Line Products Division, St. Paul, Minnesota. The determination was published in the **Federal Register** on April 18, 1980 (45 FR 26494).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that the TV parts (Sony masks) which they produced are different from the aperture masks under which they first petitioned, TA–W–2404. The petitioners further claim that the production of these parts was transferred to West Germany and that they now enter the U.S. in assembled TV sets.

The Department's review indicated that the workers of the In-Line Products Division of Buckbee-Mears, St. Paul, Minnesota, were denied eligibility because they did not meet the "contributed importantly" test of Section 222 of the Trade Act of 1974. The review also showed that the workers producing Sony masks were the subject group under investigation. Evidence developed during the course of the investigation revealed that since October, 1978, all the production and sales of the Sony masks at the St. Paul facility had been exclusively for the export market.

The Department does not see any validity in the petitioners' claim that the transfer of the production of Sony masks to West Germany is a basis for certification since all the production and sales of these masks were exclusively for the export market. The Sony masks are now being produced in a company plant in Mullheim, West Germany, where they are shipped to Japan for assembly into Sony color TV sets.

With respect to the petitioners' claim that component parts (Sony masks) are like or directly competitive with the completed article (color TV sets), it should be noted that the Department has determined earlier that component parts are not like or directly competitive with the finished article. This position is supported by the courts in at least one decision, *United Shoe Workers of America* v. *Bedell*, 506 F. 2d 174 (1974). In this case, the court ruled on a petition seeking a generous interpretation of the term "like or directly competitive." The court ruled that imported finished women's shoes were not like or directly competitive with domestically produced shoe counters, a component of footwear.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 22nd day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80–16430 Filed 5–29–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5137–5140B]

Vecellio and Grogan, Inc., Mining Division; Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in accordance with Section 223 of the Act, on May 31, 1979, the Department of Labor issued certifications of eligibility to apply for adjustment assistance applicable to workers and former workers of Vecellio and Grogan's Whitby Strip Mine, Raleigh County, West Virginia, TA–W–5137; Whitby Auger Mine, Raleigh County, West Virginia, TA–W–5138; Sullivan #1 Mine, Raleigh County, West Virginia, TA–W–5139; Sullivan #2 Mine, Raleigh County, West Virginia, TA–W–5140; Mining Division Office, Beckley, West Virginia, TA–W–5140A; and the Mining Division Field Office, Stoco, West Virginia, TA–W–5140B; engaged in employment related to the production of metallurgical coal. The Notice of Certification was published in the **Federal Register** on June 8, 1979, (44 FR 33182).

Pursuant to Section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers of Vecellio and Grogan, Inc., Mining Division, Beckley, West Virginia, continue to be attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b), the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than June 9, 1980.

The record of the certifications (TA–W–5137–5140B), containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of May 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–16431 Filed 5–29–80; 8:45 am]

BILLING CODE 4510–28–M

Pension and Welfare Benefit Programs

[Application No. D–1641]

Proposed Exemption for Certain Transactions Involving the Industrial Wire Products Co., Inc. Profit Sharing Plan and Trust; Westbury, N.Y.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by the Industrial Wire Products Co., Inc. Profit Sharing Plan and Trust (the Trust) of a mortgage to Mr. John F. Helenck and Mr. Emil S. Helenck, officers and shareholders of Industrial Wire Products Co., Inc. and trustees of the Trust. The proposed exemption, if granted, would affect the participants and beneficiaries of the Trust.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 30, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1641. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Charles S. Edelstein of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Trust was terminated by appropriate corporate action on October 31, 1979. An application for a determination upon termination was filed with the Internal Revenue Service (the Service). After receipt of a determination letter from the Service, Trust assets will be distributed to the participants.

2. The Trust owns a mortgage which it received as part of the proceeds from the sale of real property to an unrelated third party in November 1978. The mortgage at inception had a face value of $45,000. The mortgage is being amortized monthly over a period of 12 years with interest at 9 percent.

3. The trustees, who are the sole participants in the Trust, wish to rollover their distributions from the Trust into Individual Retirement

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Accounts (IRA). The trustees represent that they have not been able to find an institution which will accept the mortgage in an IRA rollover.

4. The trustees have obtained an independent appraisal of the fair market value of the mortgage. The appraisal was performed by Mr. Stanley Greenstein of The Seldin Organization, Inc. located in Valley Stream, New York. The appraisal states that as of April 10, 1980, the value of the mortgage is 20 percent less than the current outstanding balance. The trustees have offered to purchase the mortgage for cash at the fair market value as of the date of sale.

5. The trustees represent that there is no market for the sale of the mortgage to an independent third party and that the proposed transaction is in the best interests of the Trust and its participants and beneficiaries.

6. In summary, the applicants represent that the statutory criteria contained in section 408(a) of the Act will be satisfied by the propsoed sale because: (1) it is a one time transaction for cash, the terms of which can be readily verified; (2) the Trust would dispose of an asset which the trustees find undesirable for distribution to the Trust's participants; and (3) the sale would facilitate the liquidation of the Trust and the distribution of benefits to the participants.

Notice to Interested Persons

Since the only persons affected by the transaction are the sole participants and trustees of the Trust, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a mortgage for cash by the Trust to Mr. John F. Helenck and Mr. Emil S. Helenck, the trustees and sole participants of the Trust, provided the price paid is the fair market value as of the date of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 23d day of May 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-16426 Filed 5-29-80; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Delegations of Authority to the Secretary

AGENCY: Merit Systems Protection Board.

ACTION: Delegations of Authority to the Secretary, Merit Systems Protection Board.

Pursuant to the provisions of Pub. L. 95–454 (5 U.S.C. 1205(f)), the Merit Systems Protection Board hereby delegates to the Secretary of the Board, the following functions and duties to be performed by him/her or under his/her direction.

(a) The Secretary shall be the custodian of all the records of the Board, maintaining and ultimately disposing of them as directed, and shall be responsible for making them available to Board members and employees and to the public as appropriate. This function shall include the maintenance of a current docket sheet on all cases before the Board.

(b) The Secretary, with the concurrence of the head of the operating office primarily responsible for the processing of the case, shall fix the time and place for hearings and oral arguments before the Board, Board members and its administrative law judge(s). When necessary, the Secretary, with the concurrence of the head of the operating office primarily responsible for the processing of the case, shall postpone, adjourn, or reschedule hearings before the Board, Board members, or its administrative law judge(s).

(c) The Secretary, with the concurrence of the head of the operating office primarily responsible for the processing of any case before the Board, shall act upon requests for extensions of the time within which to file papers and shall set the time for filing answers or other documents.

(d) The Secretary shall issue all orders and opinions of the Board within 24 hours of authorization by the Board or Board member(s) and shall ensure that all such orders and opinions are properly served. As directed by the Board, the Secretary shall sign all Board orders and opinions and letters.

(e) The Secretary shall prepare and certify records and indices of records for filing in the courts in accordance with court rules.

(f) The Secretary shall attend all Board hearings for the purpose of administering oaths, receiving documentary evidence, and supervising the recording of the transcript.

(g) In cases before the Board, the Secretary shall be responsible for accepting documents which are submitted in the proper form for filing and for rejecting documents which are not submitted in the proper form. The Secretary shall reject documents which are not dated and are not signed by counsel, if any, for the submitting party or by the party if appearing *pro se*. The Secretary shall reject all documents which are not accompanied by a proper certificate of service when service is required to be made by parties under the Board's regulations or any Board order. The Secretary shall reject documents which the Secretary, in consultation with the Office of General Counsel, deems to be unacceptable for any other reason. All documents filed, or required to be filed in any proceeding before the Board, shall be filed with the Office of the Secretary between 9:00 a.m. and 5:30 p.m., Monday through Friday (except Federal holidays). Documents hand delivered for filing must be submitted by 5:30 p.m. to be accepted for filing on that day.

(h) The Secretary shall respond to all Freedom of Information Act requests and make the initial decision to grant or deny release of information requested.

(i) The Secretary shall execute subpoenas when issuance is authorized by the Board.

(j) Notwithstanding any of the foregoing, the Secretary shall submit any matter to the Board which he/she believes appropriate.

EFFECTIVE DATE: May 23, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert E. Taylor, Secretary, Merit Systems Protection Board, 1717 H Street, N.W., Room 350, Washington, D.C. 20419 (202) 632–4525.

Ruth T. Prokop,

Chairwoman.

[FR Doc. 80-16410 Filed 5-29-80; 8:45 am]

BILLING CODE 6325-20-M

MINIMUM WAGE STUDY COMMISSION

Meeting

May 23, 1980.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name: Minimum Wage Study Commission.

Date: June 10, 1980.

Time: 10:30 a.m.

Place: 1430 K Street, N.W., Suite 1102, Washington, DC 20005.

Original notice of this meeting date appeared in the **Federal Register** May 2, 1980.

Proposed Agenda:

1. Progress Report on Overtime Study—Dr. Ronald Ehrenberg.
2. Progress Report on Conglomerate Study—Arthur Young & Co.
3. Status of Internal and External Research.
4. Executive Session—Internal Personnel Matters.

Next meeting of the Commission will be Tuesday, July 8, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St., NW, Suite 500, Washington, DC 20005, telephone (202) 376–2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-16428 Filed 5-29-80; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Expansion Arts Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committe Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Panel to the National Council on the Arts will be held June 17, 1980 from 9:00 a.m.–5:30 p.m.; June 18, 1980 from (9:00 a.m.–5:30 p.m.; and June 19, 1980 from 9:00 a.m.–5:30 p.m., in Room 1422, Columbia Plaza Office Complex, 2401 E St. NW., Washington, D.C.

A portion of this meeting will be open to the public on June 17, 1980 from 9:00 a.m.–11:00 a.m. for opening remarks and panel orientation.

The remaining sessions of this meeting on June 17, 1980 from 11:00 a.m.–5:30 p.m.; June 18, 1980 from 9:00 a.m.–5:30 p.m.; and June 19, 1980 from 9:00 a.m.–5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: May 21, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-16447 Filed 5-29-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Council Steering Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting.

NAME: Steering Committee of the NSF Advisory Council.

PLACE: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

DATE AND TIME: June 17, 1980, 9 a.m. to 5 p.m.

TYPE OF MEETING: Open.

CONTACT PERSON: Ms. Jeanne Hudson, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, N.W., Washington, D.C. 20550. Telephone (202) 357–9433.

PURPOSE OF STEERING COMMITTEE: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.

SUMMARY MINUTES: May be obtained from the contact person at above stated address.

AGENDA: To review with cognizant NSF staff the issues being studied by the four task groups and other issues of general concern.

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Dated: May 27, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-16388 Filed 5-29-80; 8:45 am]

BILLING CODE 7555-01-M

Ad Hoc Subcommittee for Review of Warm Core Rings; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: *Ad Hoc* Subcommittee for the Review of the Warm Core Rings (WCR) Project of the Advisory Committee for Ocean Sciences.

DATE AND TIME: 19-20 June 1980, 8:30 a.m. to 5:00 p.m.

PLACE: National Science Foundation, 1800 G Street, NW, Room 643, Washington, DC 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Rodger W. Baier, International Decade of Ocean Exploration, Science, Room 605, National Science Foundation, Washington, DC 20550; telephone 202/357-9749.

PURPOSE OF SUBCOMMITTEE: To provide the IDOE Ad Hoc Subcommittee members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to the Warm Core Rings Project.

AGENDA: Detailed review and evaluation of proposals for support of the Warm Core Rings Project.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

May 27, 1980.

[FR Doc. 80-16387 Filed 5-29-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Engineering and Applied Science; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering and Applied Science—Task Group on Unique Problems in Engineering Research and Education.

Date: June 16, 1980.

Place: 1800 G Street, N.W., Room 421, Washington, D.C 20550.

Type of meeting: Open.

Contact person: Ms. Mary F. Chezmar, Executive Secretary, Advisory Committee for Engineering and Applied Science, Room 537, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357-9571.

Summary minutes: Ms. Mary Chezmar, Special Assistant, Directorate for Engineering and Applied Science, Room 537, National Science Foundation, Washington, D.C. 20550.

Purpose of Advisory Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering and Applied Science activities and programs.

Agenda:

June 16—9:00 a.m. to 4:30 p.m.

Discussion of the NSF and Department of Education response to President Carter's request for a review, with recommendations, on whether U.S. science and engineering education is adequate to meet the Nation's long-term needs.

Discussion of National Academy of Engineering (NAE), Task Force on Engineering Education, study on issues in engineering education.

M. Rebecca Winkler,

Committee Management Coordinator.

May 27, 1980.

[FR Doc. 80-16386 Filed 5-29-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on the General Electric Test Reactor; Meeting

The ACRS Subcommittee on the General Electric Test Reactor (GETR) will hold a meeting on June 16-17, 1980 at the Sunol Valley Golf Club, 6900 Mission Road, (Highway 680, Andrade Turnoff), Sunol, CA. Notice of this meeting was published May 15.

In accordance with the procedures outlined in the **Federal Register** on October, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday and Tuesday, June 16-17, 1980

8:30 a.m. until the conclusion of business each day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Company, their consultants and other interested persons as it continues its review of the geologic, seismologic and structural engineering aspects of the GETR plant site. Other matters related to the NRC Order to Show Cause may also be discussed.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio G. Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: May 23, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-16287 Filed 5-29-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-416A and 417A]

Mississippi Power and Light Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Mississippi Power and Light, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information concerning proposed additional ownership of the Grand Gulf Nuclear Station, Units 1 and 2. The current holders of the construction permits are Mississippi Power and Light Company and Middle South Energy, Inc. The application proposes to add South Mississippi Electric Power Association as co-owner; it contains information requested by the Attorney General for the purpose of performing an antitrust review of the application as set forth in 10 CFR 50, Appendix L.

Construction of the Grand Gulf Nuclear Station, Units 1 and 2, two boiling water reactors, was authorized on September 4, 1974. This construction is currently underway at the applicant's site in Claiborne County, Mississippi.

The original application was dated November 17, 1972; the related Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was initially published in the **Federal Register** on December 6, 1972 (37 FR 25964). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Applicants' Environmental Report; the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the **Federal Register** on July 28, 1978 (43 FR 32903).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Claiborne County Chancery Clerk's Office, Claiborne County Courthouse, Port Gibson, Mississippi.

Any person who wishes to have his views on the antitrust matters with respect to South Mississippi Electric Power Association presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before July 29, 1980.

Dated at Bethesda, Maryland, this 16th day of May, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-16266 Filed 5-29-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding the Application of Certain International Agreements

This notice modifies the determination published in the **Federal Register** of January 4, 1980 (45 FR 1181) *, as amended, to reflect additional signatories to the international agreements negotiated in the Tokyo Round of Multilateral Trade Negotiations.

Paragraph 3 of Presidential Determination Regarding the Acceptance and Application of Certain International Trade Agreements, signed December 14, 1979 (44 FR 74784), delegates the functions of the President under section 2(b) of the Trade Agreements Act of 1979 ("the Act") and 701(b) of the Tariff Act of 1930, as amended by section 101 of the Act, to the United States Trade Representative (so designated by section 1-105 of Executive Order 12188) who shall exercise such authority with the advice of the Trade Policy Committee.

Now, therefore, I, Reubin O'D. Askew, United States Trade Representative, in conformity with the provisions of section 2 of the Act (93 Stat. 147), section 701 of the Tariff Act of 1930, as amended effective January 1, 1980 (93 Stat. 151), and paragraph 3 of Presidential Determination Regarding the Acceptance and Application of Certain International Trade Agreements (44 FR 74781), do hereby determine, effective except as otherwise noted on the date of signature of this Notice, that:

1. With respect to the Agreement on Interpretation and Application of Article VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (the "Subsidies Code"), the following countries have accepted the obligations of the agreement with respect to the United States and should not otherwise be denied the benefits of the Agreement:

—Finland
—Japan
—Pakistan

In accordance with section 701(b)(1) of the Tariff Act of 1930, as amended effective January 1, 1970 (93 Stat. 151), each of these countries will be considered a "country under the Agreement."

This determination supercedes that made with respect to Finland and Japan in paragraph 1(b) of the Determination published in the **Federal Register** of January 4, 1980 (45 FR 1182), and that made with respect to Pakistan in paragraph 1(b) of the Determination published in the **Federal Register** of March 21, 1980 (45 FR 18547).

2. With respect to the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade, the following countries have accepted the Agreement with respect to the United States and should not otherwise be denied the benefits of the Agreement:

—Finland
—Hungary
—Japan

3. With respect to the Agreement on Technical Barriers to Trade, the following countries have accepted the Agreement with respect to the United States and should not otherwise be denied the benefits of the Agreement:

—Finland
—Hungary
—Japan

4. With respect to the Agreement on Import Licensing Procedures, Japan has accepted the Agreement with respect to the United States and should not otherwise be denied the benefits of this Agreement.

5. With respect to the Agreement on Trade in Civil Aircraft, the following countries have accepted the Agreement with respect to the United States and should not otherwise be denied the benefits of the Agreement:

—Japan
—Switzerland, effective April 2, 1980

6. With respect to the International Dairy Arrangement, Finland has accepted the Agreement and should not otherwise be denied the benefits of the Agreement.

7. With respect to the Arrangement Regarding Bovine Meat, Finland has accepted the Agreement and should not otherwise be denied the benefits of the Agreement.

Reubin O'D. Askew,

United States Trade Representative.

[FR Doc. 80-16441 Filed 5-29-80; 8:45 am]

BILLING CODE 3190-01-M

* A complete list of signatories to the agreements negotiated in the Multilateral Trade Negotiations may be obtained from the Public Affairs Office, United States Trade Representative, 1800 G Street, NW., Washington, D.C. 20506.

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Color Television Receivers: Extension, Reduction or Termination of Import Relief; Solicitation of Public Views

Presidential Proclamation No. 4634 (44 FR 5633 (1979)) imposed import restrictions on color television receivers and subassemblies thereof from Taiwan and Korea. Presidential Proclamation No. 4511 (42 FR 32747 (1977)) had imposed restrictions upon imports of such products from Japan. These restrictions were imposed pursuant to Section 203(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2253(a)), in response to a finding by the USITC that the U.S. industry producing like or directly competitive products was suffering serious injury or threat thereof caused by increasing imports of color television receivers and subassemblies thereof.

The import relief proclaimed will expire on June 30, 1980, unless extended by the President pursuant to section 203(h)(3) of the Trade Act (19 U.S.C. 2253(h)(3)) after receiving advice from the USITC and taking into account the considerations contained in section 202(c) (19 U.S.C. 2252(c)).

On My 16, 1980, the USITC reported to the President its advice, under section 203 (i)(3) and (i)(5) of the Trade Act, on the probable economic effects of the expiration of import relief on color television receivers. (See USITC Report No. TA–203–6 of May 1980.)

The Office of the United States Trade Representative chairs the Trade Policy Staff Committee which will consider the recommendation the U.S. Trade Representative will make to the President on what action, if any, should be taken to extend, reduce or terminate the import relief. Interested persons are invited to submit briefs to the Trade Policy Staff Committee on the probable effects of the extension, reduction, or termination of the current import restrictions on those items which are covered by TSUS items 923.74 through 923.83 inclusive. Briefs should address those factors listed under section 202(c) (3) through (9) of the Trade Act (19 U.S.C. 2252(c) (3) through (9)).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 1800 G Street NW., Room 735, Washington, D.C. 20506. Comments must be received no later than June 2, 1980, to be considered.

For additional information call March Schweitzer (202) 395–7203.

Ann Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80–16394 Filed 5–29–80; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11186; 812–4604]

AEtna Life Insurance and Annuity Co.; Application for an Order Granting Exemptions and for an Order Approving an Offer of Exchange

May 22, 1980.

In the matter of Variable Annuity Account B of AEtna Life Insurance and Annuity Company, Variable Annuity Account C of AEtna Life Insurance and Annuity Company, Variable Annuity Account E of AEtna Life Insurance and Annuity Company and AEtna Life Insurance and Annuity Company, 151 Farmington Avenue, Hartford, Connecticut 06156 (812–4604).

Notice is hereby given that Variable Annuity Accounts B, C, and E of AEtna Life Insurance and Annuity Company (the "Accounts"), each of which is registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and AEtna Life Insurance and Annuity Company (the "Company"), the principal underwriter therefor (sometimes hereinafter referred to as "Applicants"), filed an application on January 25, 1980, and an amendment thereto on April 23, 1980 pursuant to Section 6(c) of the Act for an order of the Commission granting exemptions from Sections 2(a)(32), 2(a)(35), 22(c) (and Rule 22c–1 thereunder), 26(a)(2)(C), 27(c)(1), 27(c)(2) and 27(d) of the Act, and pursuant to Section 11 of the Act for an order approving an offer of exchange. All interested persons are referred to the application on file with Commission for a statement of the representations contained therein, which are summarized below.

The Company, a stock life insurance company domiciled in Connecticut, is a wholly-owned subsidiary of AEtna Life and Casualty Company. Variable Annuity Accounts B, C, and E are separate accounts of the Company established pursuant to the insurance laws of Connecticut for purpose of holding reserves attributable to certain of the Company's variable annuity contracts. The assets of the Accounts are invested in the shares of AEtna Variable Fund, Inc., AEtna Income Shares, Inc., AEtna Variable Encore Fund, Inc., (the "Funds"), open-ended management investment companies registered under the Act. The Company is registered as an investment adviser under the Investment Advisers Act of 1940 and, as such, acts as investment adviser to the Funds.

Under variable annuity contracts currently offered by Applicants, sales charges are deducted from contract purchase payments as they are made. By this application Applicants seeks the necessary exemptions which will permit the offering of new variable annuity contracts (the "Contracts") on which sales loads will be imposed only when, and if, contract values are withdrawn. Contract values will vary with the investment performance of the full purchase payments (less periodic deductions from those values) until the selected annuity commencement date, at which time annuity payments will begin as designated by the Contract owner or participant, as appropriate. The Contract owner may, at any time prior to the annuity commencement date, withdraw some or all of the accumulated contract value. At that time, a deduction for sales charges ("Deferred Sales Charge") would be made. Such charge would vary in amount according to the length of time for which purchase payments had been made under the Contract. The Deferred Sales Charge will not be imposed on withdrawals due to the death of a participant nor will it be imposed upon election of an annuity option involving life contingencies.

The Company proposes to make both single premium and periodic payment Deferred Sales Charge Contracts available through each of the Accounts. The Deferred Sales Charge which would be imposed on single premium Contracts would equal the lesser of: (1) 9% of the original purchase payment, or (2) 5% of the amount surrendered if the contract is surrendered in the first five contract years, 4% in the sixth contract year, 3% in the seventh year, 2% in the eighth year, 1% in the ninth year and zero thereafter.

Two types of periodic payments Deferred Sales Charge Contract are proposed. One (the "Small Group Contract") would be available to individual and small group purchasers. The other (the "Large Group Contract") would be available to large group plans involving at least $100,000 of annual purchase payments and mass solicitation of plan participants. Under the proposed Small Group Contracts, Deferred Sales Charges would be imposed on withdrawals from contract values which would equal the lesser of: (1) 9% of all purchase payments made on the Contract, or (2) 5% of the amount surrendered in the first five purchase payment years, 4% in years six and seven, 3% in years eight and nine, and 2% thereafter. Under the proposed Large Group Contract, the Deferred Sales Charges would be the same as the Small Group Contract, except that the Deferred Sales Charge would equal 2%

in years ten through nineteen, and zero thereafter.

Applicants seeks, in addition, an order pursuant to Section 11 of the Act approving an offer of exchange which may be deemed to be made in connection with all contracts offered through the Accounts. Under each such contract, the Company will (in the absence of contrary instructions from the contract owner or participant, as appropriate) transfer any contract values accumulating in AEtna Variable Encore Fund, immediately prior to the commencement of annuity payments, at AEtna Variable Fund, since AEtna Variable Encore Fund is not available as a funding vehicle for the contracts once annuity payments are to begin.

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or "administrative expenses or fees which are not properly chargeable to sales or promotional activities." Section 2(a)(35) appears to contemplate that a "sales load" will be charged at the time purchase payments are made. The Deferred Sales Charge that would be deducted only upon the surrender of a Contract would be retained by the Company to reimburse it solely for the costs associated with "sales" and "promotional activities." Applicants assert that, but for the timing of the imposition of such charges, the Deferred Sales Charges fall within the statutory definition of "sales load." Applicants have requested an exemption from the operation of the provisions of Section 2(a)(35), to the extent necessary, to offer the Contracts.

Sections 26(a)(2)(C) and 27(c)(2)

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1), and are held by such trustee Or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that no payment to the despositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. For purposes of the Act, the Company is the depositor and the principal underwriter with respect to the subject unit investment trusts and acts as its own custodian.

Section 26(a)(2)(C) provides that no payment to the depositor of or principal underwriter for a registered unit investment trust shall be allowed the trustee or custodian as an "expense." Applicants submit that the proposed Deferred Sales Charge is not the kind of expense comtemplated by Section 26(a)(2). Applicants submit that Section 26 of the Act was enacted to deal with certain abuses by requiring the trust instrument of a unit investment trust to: (1) designate as trustee or custodian a bank of a specified minimum size; (2) require that all funds and property of the trust be held by a trustee; (3) provide that the trustee is entitled to reimburse itself out of the trust property for its expenses incurred and fees actually earned. Applicants submit that these requirements were not intended to prevent the depositor of a unit investment trust from imposing a sales load. They assert that the Deferred Sales Charge to be imposed upon the withdrawal of Contract values is designed to recover costs related solely to the sale of the Contracts. Section 27(c)(2) expressly provides for the deduction of sales loads from purchase payments before the proceeds are deposited with a custodian under the requirements of Section 26. Applicants submit that the Deferred Sales Charges are sales loads to which Section 27(c)(2) applies, and that the deferral of the imposition of the sales charge until withdrawal of Contract value, an event which may never occur, should not be construed in any way as in violation of Section 27(c)(2). Applicants have requested an exemption from the provisions of Section 26(a)(2)(C) and Section 27(c)(2), to the extent necessary, to offer the Contracts.

Applicants have consented to the exemptions requested herein from Sections 26(a) and 27(c)(2) being made subject to the following conditions: (1) that the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdicition being reserved for such purpose; and (2) that the payments of sums and charges out of the assets of the Accounts shall not deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services; and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums or charges.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act defines a redeemable security as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants assert that Sections 2(a)(32) and 27(d) contemplate the deduction of sales charges from purchase payments at the time they are made. Applicants assert that under a Contract, the net amount invested would be the gross purchase payments, and therefore, the holder's "proportionate share" would be the gross purchase payment(s), plus or minus any increase or decrease in value, less the Deferred Sales Charge. Applicants maintain the deferral of the sales charge does not restrict in any way the Contract owner from receiving his or her proportionate share or the value of his or her accout on redemption. The Deferred Sales Charge would be deducted upon redemption in determining the proportionate share or account value, as opposed to being deducted from initial purchase payments. Applicants submit that the deferral of sales charges permits the Contract owner's net amount invested to be increased, to the benefit of the Purchaser. Applicants have requested an exemption from the provisions of Sections 2(a)(32) and 27(d), to the extent necessary to permit the imposition of the Deferred Sales Charge.

Section 27(c)(1)

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificates unless it is a redeemable security. Applicants submit that a Deferred Sales

Charge imposed on redemption of the Contracts is not a restriction on redemption under Section 27(c)(1). Applicants assert that this is particularly true where the deferral of sales charges until the Contract is redeemed has the effect of increasing the Contract value available for redemption. However, Applicants have requested an exemption from the operation of the provisions of Section 27(c)(1), to the extent necessary, to permit sales charges to be imposed only upon withdrawal of Contract values.

Section 22(c) and Rule 22c–1

Rule 22c–1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing redeemable securities from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. When a Contract owner surrenders all or part of the value of the Contract, the price on redemption will be based on the current net asset value. The deferred Sales Charge will merely be deducted at the time of redemption in arriving at the Contract owner's proportionate share or account value. While Applicants do not believe that the imposition of the Deferred Sales Charge is violative of Section 22(c) or Rule 22c–1, Applicants have requested an exemption from the provisions of Section 22(c) and Rule 22c–1 thereunder, to the extent necessary, to offer the Contracts.

Section 11

Section 11 of the Act requires approval by the Commission of any exchange of a security of a unit investment trust for the security of any other investment company. In Applicants' view, the transfers described herein involve either an exchange of one mutual fund for another at net asset value, specifically permitted by Section 11, or an exchange of one security of a unit investment trust for another security of the same trust not requiring Section 11 approval; nevertheless, in order to remove any doubt in this regard, and because it might be argued that there is a potential change in the economic interest of participants in the Accounts other than through affirmative voluntary action on their part, Applicants request an order under Section 11 approving such transfers from AEtna Variable Encore Fund to AEtna Variable Fund when annuity payments are about to commence.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, securities or transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 17, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following June 17, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16435 Filed 5–29–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11186; 811–1656]

Berkshire Capital Fund, Inc.; Filing of Application for Order Declaring That Applicant has Ceased to be an Investment Company

May 23, 1980.

In the matter of Berkshire Capital Fund, Inc., 700 South Street, Pittsfield, MA 01201 (811–1656).

Notice is hereby given that Berkshire Capital Fund, Inc. ("Applicant"), a Massachusetts corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, has filed an application on January 7, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on May 22, 1968, and that the registration statement for 1,000,000 of its common shares became effective under the Securities Act of 1933 on December 12, 1968, at which time public offering of those shares commenced.

According to application, on December 4, 1979, pursuant to an Agreement of Merger and Plan of Reorganization ("Plan"), Massachusetts Financial Development Fund, Inc. ("MFD"), an investment company registered under the Act, acquired all portfolio securities and other assets of Applicant in exchange for shares of capital stock of MFD. Applicant states that its board of directors authorized the merger and related events at meetings held on July 23, August 20 and October 22, 1979, and that the Plan was approved by a majority vote of the shareholders of Applicant on December 4, 1979. The application states that the shares of Applicant were converted into shares of MFD at relative net asset values. A total of 297,158.994 shares of MFD, with an aggregated value of $5,143,855.01 was issued to shareholders of Applicant. The application further states that all expenses incurred by Applicant in connection with effectuating the Plan are being reimbursed to Applicant by Berkshire Management & Research Corporation, Inc., its investment adviser. The cost of preparation of the proxy materials was borne by Massachusetts Financial Services Company, MFD's investment adviser, and MFD bore the expenses it incurred in connection with the Plan.

The application further states that, as of the date of the application, Applicant had no assets, debts or other liabilities, was not a party to any litigation or administrative proceeding, and had no securities holdings. The Applicant further represents that it is not now engaged in any business activities other than those necessary for the winding up of its affairs and that a distribution to all shareholders of Applicant has been made in complete liquidation of their interests in Applicant. The application states that Applicant's legal existence has ceased pursuant to the Business Corporation Law of the Commonwealth of Massachusetts under which Applicant was created.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment compnay has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than June 16, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16436 Filed 5–29–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11183; 812–4670]

Paul R. Dupee, Jr.; Filing of Application for an Order Granting Exemption

May 23, 1980.

In the matter of Paul R. Dupee, Jr., 151 Central Park West, New York, New York (812–4670).

Notice is hereby given that Paul R. Dupee, Jr. ("Dupee"), has filed an application for an Order pursuant to Section 9(c) of the Investment Company Act of 1940 (the "Act") exempting him from the provisions of Section 9(a) of the Act.

Applicant Dupee is a member of the Board of Directors of the Capitol Life Insurance Company ("Capitol Life") having been elected to such position on February 18, 1977. Capitol Life is a stock life insurance company organized under the laws of the State of Colorado with its home office located at 1600 Sherman Street, Denver, Colorado 80203. Capitol Life is an indirect wholly-owned subsidiary of Gulf & Western Industries, Inc. Among other things, Capitol Life is the depositor of the Capitol Life Separate Account A and Capitol Life Separate Account M (the "Separate Accounts") which Separate Accounts are engaged in the business of issuing Variable Annuity Contracts and as such they are registered investment companies under the Act.

On May 11, 1971, the Commission commenced an action in the United States District Court for the Southern District of New York pursuant to Section 21 (e) and (f) of the Securities Exchange Act of 1934, Section 20(b) of the Securities Act of 1933, Section 209 of the Investment Advisers Act of 1940 and 42(e) of the Act. In the action entitled *Securities and Exchange Commission* v. *Everest Management Corporation, et al.*, C.A. No. 71–4932, Dupee was one of the 44 named defendants. The complaint alleged that the defendants engaged in acts and practices which constituted violations of various sections of the securities laws and the rules and regulations promulgated thereunder.

On November 6, 1973, Dupee executed a Consent to the entry of a Final Judgment of Permanent Injunction by the United States District Court for the Southern District of New York in connection with C.A. 71–4932, without admitting or denying any of the allegations in the complaint, without trial or adjudication of, or finding on, any issue of fact or law or any wrongdoing or liability on the part of Dupee and without the Final Judgment constituting evidence or admission with respect to any such issue. The Final Judgment, as entered on March 19, 1974, prohibits Dupee from, directly or indirectly, using the mails or any means or instrumentalities of interstate commerce, in connection with purchase or sale of securities to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person by (1) causing or attempting to cause the purchase or sale of any security by any investment adviser on behalf of any client of such investment adviser on the basis of factors other than the investment merits of such security; or (2) causing or attempting to cause the purchase or sale of any security by any investment adviser on behalf of any client of such investment adviser without first adequately investigating the investment merits of such security. The Final Judgment also prohibits Dupee from, directly or indirectly, using the mails or any means or instrumentalities of interstate commerce, while acting as an investment adviser, to engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any client or prospective client of such investment adviser with respect to the transactions, practices and courses of business described in such Judgment of Permanent Injunction, and transactions or practices of similar purport of object. Neither the Commission's complaint nor the Final Judgment cited violations of the Act by Dupee.

Dupee was not a member of the Board of Directors of Capitol Life during the period or activities alleged in the Commission's complaint, nor was he a Director of Capitol Life as of the date the Final Judgment was entered in C.A. 71–4932.

Section 9(a) of the Act, insofar as here relevant, makes it unlawful for any person or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of any advisory board, investment adviser, or depositor for any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a) as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Dupee submits that the prohibitions of Section 9(a) of the Act to the extent applicable by virtue of the entry of the Final Judgment and the execution of the Consent in C.A. 71–4932 should not apply to Dupee as they would be unduly

and disproportionately severe as applied to Dupee and his conduct has not been such as to make it against the public interest or protection of investors to grant the exemption for which application has been made. In support of the Application, Dupee represents that:

(a) The prohibitions of Section 9(a) would deprive Capitol Life of the services of Dupee as a director of Capitol Life;

(b) The allegations of the complaint in no way relate to any activities of Capitol Life or the Separate Accounts nor to any of Dupee's activities on behalf of Capitol Life or the Separate Accounts;

(c) Capitol Life has no investment responsibility for the Separate Accounts, and under the particular circumstances in which Capitol Life acts as depositor to the Separate Accounts, the type of activities mentioned in the 1971 complaint could not occur;

(d) Other than in the complaint noted hereinabove, Dupee has never been the subject of an SEC enforcement proceeding, either judicial or administrative;

(e) Depee has never been required to apply for an exemption from the provisions of Section 9(a) of the Act; and

(f) The entry of the Final Judgment did not constitute an adjudication of any liability or wrongdoing by Dupee and was entered into with his consent for purposes of the action only, without admitting or denying the allegations of the complaint.

The Application states that applicant understands that the granting of this Application would not preclude the Commission from commencing a proceeding under Section 9(b) of the Act on the basis of conduct other than the giving rise to this Application, nor would it preclude the Commission, in any such proceeding, from taking such conduct into consideration.

Notice is further given that any interested person may, not later than June 20, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request shall be served personally or by mail upon Applicant at the address set forth above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16437 Filed 5–29–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21588; 70–6450]

Middle South Utilities; Proposal to Issue Notes to Banks Pursuant to a Revolving Credit

May 22, 1980.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112 (70–6450).

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to enter into a revolving credit agreement ("Credit Agreement") providing for the issuance and sale by Middle South of up to $230,000,000 of its unsecured promissory notes to a group of commercial banks.

Under the terms of the Credit Agreement, Middle South may effect borrowings and reborrowings until December 31, 1984 by issuing to the participating banks its unsecured promissory notes payable on December 31, 1984. The names of the participating banks and the maximum amounts of their respective original participations (collectively, the "Commitments") in the proposed borrowings by Middle South are as follows:

Name of bank	Maximum principal amount to be borrowed
Manufacturers Hanover Trust Company	$40,000,000
Continental Illinois National Bank and Trust Company of Chicago	40,000,000
The First National Bank of Chicago	40,000,000
Bank of America National Trust and Savings Association	25,000,000
The First National Bank of Boston	17,000,000
Irving Trust Company	15,000,000
Morgan Guaranty Trust Company of New York	13,000,000
The Northern Trust Company	10,000,000
The Fidelity Bank	10,000,000
Crocker National	10,000,000
Chemical Bank	10,000,000
Total	$230,000,000

Each borrowing and each payment by Middle South will be made pro rata among the participating banks according to their respective original Commitments. Subject to the right of Middle South at any time on three business days' notice to terminate the Commitments or from time to time to reduce the Commitments then in effect: (1) the original Commitments will remain in effect until December 31, 1982, at which time they will be ratably reduced to an aggregate principal amount of $172,500,000 (or 75% of the original Commitments); and (2) thereafter, these reduced Commitments will remain in effect until December 31, 1983, at which time they will be further ratably reduced to an aggregate principal amount of $115,000,000 (or 50% of the original Commitments) for the remaining term of the Credit Agreement.

Any such reduction of the Commitments will be accompanied by prepayment of the Notes and accrued interest thereon to the extent that the aggregate principal amount thereof then outstanding exceeds the Commitments of the participating banks as so reduced.

The Notes issued will bear interest from the date thereof on their unpaid principal amount at a rate per annum which (a) to and including December 30, 1980, shall be a percentage equal to the sum of ½ of 1% and the product of 105% multiplied by the Base Rate (as defined below), (b) thereafter, to and including December 30, 1982, shall be a percentage equal to the sum of ¾ of 1% and the product of 105% multiplied by the Base Rate, and (c) thereafter, shall be a percentage equal to the sum of ¾ of 1% and the product of 107% multiplied by the Base Rate. As used herein, the Base Rate means, at any time of determination thereof, the greater of (i) the prime commercial loan rate of Manufacturers Hanover Trust Company (the "MHTC Rate") then in effect or (ii) the sum of ½ of 1% per annum and the latest three-week moving average of secondary market morning offering rates for three-month certificates of deposit of major United States money market banks ("C/D Rate").

Interest on the notes will be payable quarterly on the last business day of each September, December, March and June, commencing September 30, 1980, or upon payment of the unpaid principal amount thereof.

Middle South will agree to pay to each participating bank a commitment fee for the period from June 27, 1980 to and including December 31, 1984 (or any earlier date of termination of the Commitments) computed at the rate of ½ of 1% per annum on the average daily unused portion of the Commitments in effect during the period for which payment is made. Such commitment fee will be payable to each participating bank quarterly on the last business day of each September, December, March and June, commencing September 30, 1980, and on the date upon which Middle South shall terminate the Commitments. Based upon the MHTC Rate (19.5%) and the C/D Rate (17.25%) in effect as of April 25, 1980, the effective interest cost to Middle South of the proposed borrowings as of that date would be 20.975% per annum. Middle South presently intends to repay the Notes out of the proceeds of the sale of additional shares of its common stock. The notes will be prepayable at any time on two business days' notice in whole or in part without premium.

The initial borrowing under the Credit Agreement will be used for the payment of short-term notes issued by Middle South to various commercial banks under an existing credit agreement dated as of June 29, 1979, as amended. As of February 29, 1980, $145,900,000 aggregate principal amount of notes were outstanding under the existing credit agreement, and it is estimated that at the time the initial borrowing is made under the Credit Agreement the aggregate principal amount of such notes payable will amount to approximately $150,000,000. The proceeds of the borrowings under the existing agreement were or will have been, utilized by Middle South to purchase, at various times, the common stocks of certain of its subsidiary companies. Subsequent borrowings under the Credit Agreement will be used by Middle South to purchase additional common stock of its subsidiaries.

A statement of the fees, commissions and expenses to be incurred by Middle South in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 16, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16438 Filed 5–29–80; 8:45 am]

BILLING CODE 8010–01–M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Open Meeting

June 18, 1980.

The Select Commission on Immigration and Refugee Policy will hold its fifth meeting on:

Date: June 18, 1980.

Time: 9:00 a.m. to 10:00 a.m.

Place: The Great Hall, Department of Justice, Constitution Avenue Entrance (between 9 and 10 Streets), Constitution Avenue, Washington, D.C.

Included on the agenda will be organizational and business matters, and consideration of reform of the Immigration and Nationality Act.

The meeting is open to the public but tickets must be obtained in advance. Call: 395–5615 for reservations.

Written statements may be filed with the Commission before or after the meeting.

The Select Commission on Immigration and Refugee Policy was created by Pub. L. 95–412, signed October 5, 1978. The Commission is charged with a comprehensive review of U.S. immigration laws, policies, and procedures. Membership of the Commission includes four Cabinet members, four members of the House Committee on the Judiciary, four members of the Senate Judiciary Committee, and four members appointed by the President, including the Reverend Theodore M. Hesburgh, President, University of Notre Dame, and Chairman of the Select Commission.

Address inquiries to: Select Commission on Immmigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, NW., Washington, D.C. 20506, telephone: (202) 395–5615.

Dr. Lawrence H. Fuchs,

Executive Director.

[FR Doc. 80–16525 Filed 5–29–80; 8:45 am]

BILLING CODE 6820–AR–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief; Disabilities Incurred by Conviction

In Doc. No. 80–15289 in the issue of Monday, May 19, 1980, appearing on page 32825, please make the following correction:

On page 32825, at the bottom of the first column, please add the following information:

Benner, Billy V., 3 Belfast Court, Greensboro, North Carolina, convicted on May 13, 1969, in the Supreme Court of Brunswick County, North Carolina.

BILLING CODE 1505–01–M

Customs Service

[T.D. 80–141]

Customhouse Cartman License; Revocation of Customhouse Cartman's License No. 26 Issued by the District Director of Customs, New Orleans, La., to Warren G. Diaz, Sr.

Notice is hereby given that on May 12, 1980 pursuant to the provisions of section 565, Tariff Act of 1930, as amended, and section 112.30 of the Customs Regulations (19 CFR 112.30), it was decided that Customhouse

V 45 M Y 30 80 0 UMI

Cartman's License No. 26 issued in the District of New Orleans on June 2, 1975, to Warren G. Diaz, Sr., be revoked. This revocation is effective as of May 12, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-16459 Filed 5-29-80; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

Art Print Panel of the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for establishment of the Art Print Panel.

SUMMARY: It is in the public interest to establish the Art Print Panel.

FOR FURTHER INFORMATION CONTACT: Tom Hartnett, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5547, Washington, D.C. 20224, Telephone No. 202-566-4427, (not a toll free number).

Title. The Art Print Panel of the Commissioner of Internal Revenue.

Purpose. The Panel assists the Internal Revenue Service by reviewing and evaluating the acceptability of appraisals and value allocations on art prints, related property and property rights submitted by taxpayers in support of fair market value claimed in Federal income, estate and gift taxes in accordance with sections 1012, 1011, 48, 167, 170, 2031, and 2512 of the Internal Revenue Code of 1954.

Providing this assistance requires Panel records and discussions to include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c)(3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of Title 26 of the U.S. Code.

Statement of Public Interest. It is in the public interest to establish the Art Print Panel. The Secretary of Treasury, with the concurrence of the Office of Management and Budget, and the General Services Administration, has also approved establishment of the Panel.

The membership of the Panel is to be balanced by the inclusion of publishers, distributors, and retailers of art prints and related commercial exploitation of art images, and by museum print curators.

Authority for this Panel will expire two years from the date the Charter is approved by the Assistant Secretary of the Treasury for Administration and filed with the appropriate congressional committees unless, prior to the expiration of its Charter, the Panel is renewed.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

Jerome Kurtz,

Commissioner.

[FR Doc. 80-16497 Filed 5-29-80; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on June 26, 1980, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A-220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Johnson City Vocational Technical School, Johnson City, Tennessee, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: May 23, 1980.

R. S. Bielak,

Director.

[FR Doc. 8-16445 Filed 5-29-80; 8:48 am]

BILLING CODE 8320-01-M

Health Services Research and Development Merit Review Board; Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of a meeting of the Health Services Research and Development Merit Review Board. This meeting will convene in Room 119 of the Veterans Administration Central Office Building, 810 Vermont Avenue, NW, Washington, DC, on June 2, 1980, beginning at 3:00 p.m. and on June 3, 1980, beginning at 8:30 a.m. The purpose of the meeting is to review health services research and development applications for scientific and technical merit and to make recommendations to the Director, Health Services Research and Development Service (HSR&DS) regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the June 2nd session in order to cover administrative matters and to discuss the general status of the program. During the closed session (beginning approximately one-half hour from the start of the June 2nd session), the Board will be reviewing research and development applications relating to the delivery and organization of health services. This review involves the reference to and discussion, examination, and oral review of site visits, staff and consultant critique of research protocols, and similar documents that necessitate the consideration of personnel qualifications and performance and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Further, decisions recommended by the Board are strictly advisory in nature; other factors are considered in final funding decisions. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with provisions set forth in section 552b, subsections (c)(6) and (c)(9)(B), title 5, United States code and the determination of the Administrator of Veterans Affairs pursuant to section 10d) of Pub. L. 92-463.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Miss Linda Hudock, Staff Assistant for Merit Review (152B), Health Services Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 (phone: 202-389-5365).

The appearance of this notice at least 15 days in advance of the meeting has been hindered due to delays in administrative processing.

Dated: May 27, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-16517 Filed 5-29-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 106

Friday, May 30, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Equal Employment Opportunity Commission	2
Federal Communications Commission	3, 4
Federal Energy Regulatory Commission	5
Legal Services Corporation	6
Neighborhood Reinvestment Corporation	7

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 9:30 a.m., May 28, 1980.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matter.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1061-80 Filed 5-28-80; 11:04 am]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, June 3, 1980.

PLACE: Commission Conference Room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. State and Local Program—Staff Policy Recommendations for EEOC's Program for State and Local Fair Employment Practice Agencies.
2. Proposed Revised Regulations of Freedom of Information Act.
3. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued May 27, 1980.

[S-1062-80 Filed 5-28-80; 11:21 am]

BILLING CODE 6570-06-M

3

TIME AND DATE: 9:30 a.m., Thursday, May 29, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Motion for voluntary withdrawal of a petition for reconsideration and related pleadings pertaining to a settlement agreement in the Rochester, New York, AM renewal proceeding (Docket Nos. 20791 and 20792).

General—1—Incorporation by reference of Section 67.1 of the Commission's Rules and subsequent Amendments in the Code of Federal Regulations. *Summary:* Incorporation by reference of Section 67.1 of the Commission's Rules, the 1971 Common Carrier Bureau's Separations Manual and all subsequent amendments thereto into the Code of Federal Regulations.

General—2—*Title:* Application for review of an Order issued by the Chief, Field Operations Bureau pursuant to delegated authority denying a request for rule amendment, etc. *Summary:* The Commission will consider whether to grant the request for review filed by Merrill T. See to amend Volume 1, Part O of the Commission's Rules.

Private Radio—1—*Title:* Notice of Proposed Rule Making to clarify the aeronautical enroute station rules and provide two additional frequencies for use by certain aircraft operating agencies. *Summary:* The FCC will consider whether to propose a general clarification of the rules concerning aeronautical enroute stations. It also will consider whether to propose providing two additional frequencies for use by relatively small aircraft operating companies without restriction as to the number of station licensees at a location. Aeronautical enroute stations provide air-ground communications for the operational control (flight management) of aircraft by the operating company.

Private Radio—2—*Title:* Amendment of Part 97, governing the Amateur Radio Service, to allow modification and renewal only of existing club, military recreation and RACES station licenses. *Summary* The Commission will consider whether to adopt the Third Report and Order in Docket No. 21135 which would amend the Amateur Radio rules to permit modification and renewal only of existing club, military recreation and RACES station licenses. This time was prepared by the staff in accordance with prior Commission instructions. (See Item 1, Private Radio Agenda, March 12, 1980)

Private Radio—3—*Title:* Amendment of Section 97.65(c) of the Commission's Rules and Regulations governing the Amateur Radio Service. *Summary:* The Commission will decide whether or not to remove the restriction in Section 97.65(c) which limits the allowable bandwidth of frequency modulated (FM) voice emissions in the 50-54 MHz band.

Private Radio—4—*Title:* Report and Order permitting public coast stations on the Great Lakes to broadcast weather information on Channel 17 (156.850 MHz). *Summary:* The Commission will consider permitting coast stations on the Great Lakes to broadcast weather information to ship stations on Channel 17 (156.850 MHz) by both voice and facsimile, F3 and F4 emission respectively. This Report and Order, if adopted will alleviate the problems experienced by both ship and coast stations where the lengthy weather broadcasts interfere with the public correspondence service.

Common Carrier—1—*Title:* The feasibility and need for Amendment to Section 21.118 of the Commission's Rules to require that unattended stations in the point-to-Point Microwave Radio Service be equipped with automatic alarm facilities. *Summary:* The Commission will decide whether to terminate the proposed rulemaking in this matter.

Common Carrier—2—*Title:* Application for Review of Common Carrier Bureau's authorization of St. Tammany Cablevision, Inc., to construct and operate a receive-only earth station at Slidell, Louisiana. *Summary:* The Commission will consider whether the application for review, filed by Jackson Cable TV, Inc., presents issues not properly considered by the Bureau Among the questions raised is whether the applicant's failure to disclose a *nolo contendere* plea to criminal antitrust charges, entered by its parent and sister corporations, required a denial of the application.

Common Carrier—3—*Title:* Application for Review of Common Carrier Bureau's authorization of Community Television of Utah, Inc. to construct and operate a receive-only earth station at Price, Utah. *Summary:* The Commission will consider whether the application for review, filed by Utah Satellite Company, presents issues not properly considered by the Bureau. To

be discussed is whether the petitioner's allegation of competitive ruin requires denial of the application.

Common Carrier—4—*Title:* Response to Notice of Apparent Liability issued in complaint of Mark Edwards, dba Edwards Industries, Inc., against Bell Telephone Co. of Nevada, PT&T, and AT&T, TS 7–78. *Summary:* Defendants are seeking to have the Commission not impose the forfeiture specified in a previously issued Notice of Apparent Liability for attempting to interfere with use of complainant's coupler. Defendants argue that they acted upon a reasonable belief that the coupler was not registered and took adequate measures to determine its status.

Common Carrier—5—*Title: ITT World Communications Inc.* v. *RCA Global Communications, Inc.*, File No. TS 5–80. *Summary:* On November 16, 1979, ITT Worldcom filed a complaint alleging that RCA Globcom was in violation of § 203(c) of the Communications Act by charging for service at less than the tariffed rate and requesting that RCA Globcom be ordered to cease and desist. ITT Worldcom also urged that penalties be imposed.

Common Carrier—6—*Title:* Graphnet Inc.'s Petition for Immediate Declaratory Rulings as to the Membership and Lawful Scope of Activities of the International Formula Committee, File No. E–DR–80–1. *Summary:* Graphnet, Inc. has requested that the Commission issue three declaratory rulings: first, that the International Formula Committee's functions are limited to implementing Western Union's formula distribution of outbound international message traffic; second, that discussion of Graphent's business data is beyond the Committee's authority; and third, that Graphnet is entitled to membership or participation in the Committee.

Common Carrier—7—*Title:* Larry L. Schrecongost. *Summary:* The FCC is considering the petition for reconsideration of Commission action filed by Larry L. Schrecongost, a mobile telephone subscriber of the Mid-Penn Telephone Corporation. He originally filed a "Petition for an order to Show Cause" requesting that sanctions be issued against Mid-Penn. The Chief, Common Carrier Bureau denied an "Application for Commission review" of the staff's action. This denial is the subject of the pending petition for reconsideration. The original complaint alleged that Mr. Schrecongost's mobile telephone did not work properly and that Mid-Penn used unlicensed personnel to make service adjustments.

Common Carrier—8—*Title:* Formal complaints against RCA American Communications, Inc. filed by Spanish International Network, Inc. (File No. TS–10–79), Eastern Microwave, Inc. (File No. TS 4–80), Cable News Network (File No. E 80–13) and National Christian Network (File No. E 80–15). *Summary:* The complaints raise questions concerning RCA Americom's practices in assigning transponders on its domestic satellite system to cable program suppliers. The issues include alleged violations of Sections 201–203 and 214 of the Communications Act and alleged inconsistencies with the Commission's open entry and competitive policies.

Common Carrier—9—*Title:* Petitions for rejection, and suspension and investigation, of American Telephone and Telegraph's tariff revisions filed March 3, 1980, which propose a 10.5 percent uniform across-the-board rate increase. *Summary:* The FCC will consider whether to grant petitions requesting either rejection or suspension and investigation of American Telephone and Telegraph's tariff revisions filed March 3, 1980, proposing a 10.5 percent uniform across-the-board rate increase.

Common Carrier—10—*Title:* Applications for Review and Requests for Stay of the Grant of Temporary Authority under Section 214 of the Communications Act for a Communication Channel between Atlanta, Georgia and a Douglasville, Georgia Earth Station, and Uplink at WK42 and Transponder Capacity on SATCOM F–1, (File Nos. W–P–C–3131, W–P–C–3166, W–P–C–3217). *Summary:* Before the Commission are applications to review and requests for stay of this grant filed by Spanish International Network and Eastern Microwave, Inc. Among issues raised are whether this grant of temporary authority prejudiced Commission decision of complaints concerning RCA Americom's transponder allocation practices and whether the Common Carrier Bureau exceeded its delegated authority.

Common Carrier—11—*Title:* Communications Satellite Corporation, Inc.'s revisions to its Tariff F.C.C. No. 1, contained in Transmittal No. 366. *Summary:* Before the Commission are revisions filed by Comsat to its Tariff F.C.C. No. 1, contained in Transmittal No. 366. Petitions to reject or suspend and investigate the revisions have been filed by ITT World Communications Inc., RCA Global Communications, Inc. and Western Union International, Inc. The Commission must determine whether to allow the proposed revisions to go into effect.

Cable Television—1—*Title:* Petitions for Special Relief (CSR–1455, 1456, 1457, 1458) filed January 18, by Warner Cable Corp. *Summary:* Warner Cable Corp. requests a waiver of Section 76.59 of the Commission's Rules to enable it to add one independent Station, WFFT (Ind., Channel 55) Ft. Wayne, Indiana. In support of this request, Warner has submitted an impact formula which predicts that if every cable television system within thirty-five miles of the local commercial broadcast station (WLIO) were authorized to add the signal requested, the total cumulative impact would be 4.0 percent. An analysis by the Commission's staff has estimated the cumulative impact as 3.4 percent.

Cable Television—2—*Title:* "Petition for Special Reflief" (CSR–1453) filed January 17, 1979, by H. C. Ostertag Cable Television, Inc., operator of a cable television system serving Hellam Township, Pennsylvania. *Summary:* H. C. Ostertag Cable Television requests a waiver of Section 76.63, as it relates to Section 76.61, of the Commission's Rules to enable it to continue carrying WCAU–TV (CBS, Channel 10) Philadelphia, Pennsylvania and WKBS–TV (Ind., Channel 48) Burlington, New Jersey. Ostertag contends that a cumulative analysis would impose an "undue hardship" in light of the small number of potential subscribers to its system and the large number of cable operators within the market.

Cable Television—3—*Title:* "Petition for Special Relief" (CSR–1446) filed January 9, 1979, by Monmouth Cablevision Associates. *Summary:* Monmouth Cablevision Associates requests a waiver of Section 76.61 of the Commission's Rules to enable it to add the following three network stations to its cable systems: KYW–TV (NBC, Channel 3), WCAU–TV (CBS, Channel 10), and WPVI–TV (ABC, Channel 6), Philadelphia, Pennsylvania.

Cable Television—4—*Title:* "Petition for Special Relief" (CSR–1387) filed November 14, 1978, by National CableSystems Inc. d.b.a. Leadership Cablevision Associates, Ltd. *Summary:* National CableSystems, Inc. d.b.a. Leadership Cablevision Associates, Ltd. requests a waiver of Section 76.59 of the Commission's Rules to enable it to add a distant Television Broadcast Station, WTBS (Ind., Channel 17) Atlanta, Georgia. In support of this request, Leadership has submitted an impact formula which predicts that if every cable television system within thirty-five miles of the local commercial broadcast stations (WPTV and WPEC) were authorized to add the signal requested, the total cumulative impact would be 3.81 percent on WPTV and 3.45 percent on WPEC. An analysis by the Commission's staff has estimated the cumulative impact as 0.3 percent on WPTV and 0.2 percent on WPEC.

Cable Television—5—*Title:* "Petition for Special Relief" filed November 15, 1978, by Palm Beach Cable Television Co. *Summary:* Palm Beach Cable Television Co. requests a waiver of Section 76.59 of the Commission's Rules to add Station WCIX–TV (Ind., Channel 6) Miami, Florida to various cable television systems in the West Palm Beach, Florida smaller television market (#114). In support of the request, Palm Beach submitted an impact formula which predicted that carriage of WCIX–TV by all local cable systems would result in the following total cumulative impact on the two local stations: WPTV—3.81% and WPEC—3.45%. An analysis by the Commission's staff estimates the total cumulative impact as follows: WPTV—0.9%; WPEC—0.9%.

Cable Television—6—*Title:* "Petition for Special Relief" (CSR–1253) filed by Athena Cablevision of Corpus Christi, to carry Television Broadcast Station WTBS. *Summary:* Athena Cablevision of Corpus Christi (CSR–1253) has requested a waiver of Section 76.59 of the Commission's Rules to enable it to carry Television Station WTBS (Ind., Channel 17) Atlanta, Georgia.

Renewal—1—*Title:* Petition of Community Coalition for Better Broadcasting to deny renewal of licenses to Mississippi Authority for Educational Television for Stations WMAA–TV, WMAB–TV, WMAE–TV, WMAH–TV, WMAO–TV, WMAU–TV, WMAV–TV and WMAW–TV. *Summary:* Community Coalition for Better Broadcasting (CCBB) has filed a petition to deny the license renewal applications of Mississippi Authority for Educational Television (MAET) for Stations WMAA–TV, WMAB–TV, WMAE–TV, WMAH–TV, WMAO–TV, WMAU–TV, WMAV–TV, and WMAW–TV. The agenda item considers the allegations in the petition to deny, an opposition, an amendment to the renewal application and a reply to the opposition.

Renewal—2—*Title:* Petition of Community Coalition for Better Broadcasting for reconsideration of license renewals of Mississippi Authority for Educational Television for Stations WMAA–TV, WMAB–TV, WMAE–TV, WMAH–TV, WMAO–TV, WMAU–TV, WMAV–TV, WMAW–TV and for grant of license to operate a UHF translator at Columbia, Mississippi. *Summary:* Community Coalition for Better Broadcasting (CCBB) has filed a petition requesting reconsideration of the Commission's Order released May 18, 1979, granting renewal of licenses to Mississippi Authority for Educational Television for noncommercial stations WMAA–TV, WMAB–TV, WMAE–TV, WMAH–TV, WMAO–TV, WMAU–TV, WMAV–TV, WMAW–TV, and granting a license to operate a UHF translator at Columbia, Mississippi. The agenda item considers the allegations made by petitioner as grounds for reconsideration, the licensee's opposition and supplement to the opposition.

Renewal—3—*Title:* License Renewal Application of Campbell County Broadcasting Corporation for Station WLAF, LaFollette, Tennessee. *Summary:* Patsy E. Denney has filed a petition to deny the subject application. Petitioner raises the following issues: (1) violation of Commission rules by charging political candidates a higher rate for advertising than permitted under the lowest unit charge rule; (2) program log violations; (3) broadcast of program length commercials; and (4) general lack of concern for the public interest. The item also considers petitioner's standing as a party in interest.

Aural—1—*Title:* Memorandum Opinion and Order in re application of City College of New York, New York for a construction permit for a new Class D noncommercial educational FM broadcast station. *Summary:* The Commission considers the aforementioned application and a Petition to Deny filed by Fordham University, licensee of WFUV(FM), New York, New York dealing with the methods of computing objectionable interference.

Aural—2—*Title:* Memorandum opinion and Order in re Application of South County Community College District—Chabot College, for a construction permit for a new noncommercial educational FM broadcast station in Hayward, California. *Summary:* The Commission considers the aforementioned application and a request for waiver of the prohibition against causing interference to another station.

Aural—3—*Title:* Memorandum Opinion and Order in re application of Mariner Communications, Inc. (File No. BP–790403AD) for construction permit for AM station WITS, Boston, Massachusetts. *Summary:* The Commission considers this application and a petition to deny it filed by the licensee of AM station WNTN, Newton, Mass.

Television—1—*Subject:* Application of Liberty Television, Inc. for minor change in Station WQOW(TV), channel 18, Eau Cláire, Wisconsin; request for waiver of Section 73.685(e) of the Rules. *Summary:* In order to obtain network affiliation, new UHF station proposes to use directional antenna to minimize overlap with station with same network, but will violate maximum-to-minimum ratio specified in rules. Question is whether waiver is justified.

Broadcast—1—*Title:* Report and Order in Docket 14614 concerning a 1962 Commission initiated proposal to amend Section 4.602 (now Section 74.602) of the Rules to prohibit the assignment of more than one channel to provide duplicate television STL or intercity relay circuits between the same point of origin and destination. *Summary:* The Commission will determine the reliability of the comments filed in this proceeding (in view of the passage of eighteen years since adoption of the Notice of Proposed Rule Making) and the actual or probable impact (as appropriate) of subsequently adopted or pending proposals concerning the use of the broadcast auxiliary spectrum, to determine whether or not the rules should be amended as proposed.

Broadcast—2—*Title:* Petition for rulemaking filed by Mid-Indiana Broadcasters Corporation, licensee of AM Station WHYT, Noblesville, Indiana. *Summary:* This petition requests amendment of Section 73.99 of the Rules to permit a uniform PSA sign-on time of 6:00 a.m., local time, for certain Class II stations.

Broadcast—3—Memorandum Opinion and Order in Docket 21211, regarding Commission's assignment of FM Channel 285A to LaFollette, Tennessee. *Summary:* The Commission considers a petition for reconsideration seeking the assignment of FM Channel 282 to Knoxville, Tennessee, rather than the assignment of FM Channel 285A to LaFollette, Tennessee, as well as a petition for reconsideration seeking an extension in the deadline for changing frequencies, filed by the licensee of WYSH–FM, Clinton, Tennessee.

Broadcast—4—Request for waiver of the "prime time access rule" by Station WTHR–TV, Indianapolis, to permit use of off-network "Pink Panther" program in access time on Saturdays. *Summary:* The Commission considers a Memorandum Opinion and Order deciding the matter. The prime time access rule (Section 73.658 (k)) generally limits stations in major markets to three hours of network and off-network programming during prime time each evening. It has an exemption for certain kinds of material, including programming designed for children; but this exemption specifically does not apply on Saturday evenings. The waiver request seeks permission to use the "Pink Panther" cartoon series, formerly on a network on Saturday mornings, as off-network material during "access time" on Saturday evenings.

Broadcast—5—Application for review in Docket No. 78–98 of Broadcast Bureau's assignment of FM Channel 300 to Burlington, Vermont, with a reservation for noncommercial educational use.

Broadcast—6—*Title:* Petition to reconsider the *Notice of Proposed Rule Making* in BC Docket No. 80–90. *Summary:* A petition for reconsideration of the Commission's refusal to include in its Notice of Proposed Rule Making a proposal to permit the use of directional antennas in connection with the assignment of FM channels is considered. The Notice of Proposed Rule Making proposed several changes in the FM allocation rules including additional classes of channels and the use of Class A facilities on Class B/C channels.

Broadcast—7—Reregulation and Rules Oversight of Radio and TV Broadcasting. Modification and clarification of rules pertaining to:

—Station identification: adding to the rule the FCC criteria for consideration of requests for multiple-city identification.
—Retention of logs: allowing log storage on microfilm or other data-storage systems.
—Logs and records, availability to FCC: stating station procedure if records/logs are stored on microfilm or such systems.
—Public inspection of program logs: conforming rule to newly allowed storage-of-log options.
—Contingent applications: clarifying rule to include new station applications.
—Local public inspection file: to include program exclusivity contracts and state period of retention.
—FCC Policy listing: Plugola Policy added to listings, with citations.
—FCC lists: broadcast stations' and applications' updated.

Broadcast—8—*Title:* Report and Order (Docket No. 20642) Revision of rules governing use of the 25 Class I–A AM clear channels. *Summary:* The Commission will consider proposals to authorize more unlimited-time Class II stations to operate on Class I–A AM clear channels, and the conditions for continued operation of the dominant stations on those channels.

Broadcast—9—*Title:* Public Notice of international notification of AM station assignments. *Summary:* The Commission will consider the issuance of a Public Notice concerning its current submission to the ITU International Frequency Registration Board of an inventory of U.S. AM stations in operation, authorized, applied for, and projected to result from clear channel allocation changes, together with a list of the last-mentioned projected assignments on the Class I–A clear channels.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

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Issued: May 23, 1980.

[S-1065-80 Filed 5-28-80; 3:31 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 29, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting which commences at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item Number and Subject

Hearing—1—Draft remand Order in the comparative proceeding involving Sound Radio, Inc. (Sound), Community Group for New Jersey Radio, Inc. (Community), Gilbert Broadcasting Corporation (Gilbert), and Fidelity Voices, Inc. (Fidelity) for a construction permit to operate station WNJR, Newark, New Jersey.

Hearing—2—Draft Decision in the Tucson, Arizona, Radio Station KIKX renewal proceeding (Docket No. 20287).

Hearing—3—Remand from the Court of Appeals and request for action filed by Mobilfone Service, Inc. in the Willis, Texas, DPLMRS proceeding (Docket No. 20224).

Hearing—4—Two Petitions for Reconsideration of an interlocutory Order in the Portsmouth, Virginia, Broadcast renewal proceeding (Docket Nos. 21278 and 21279).

Hearing—5—Request for instructions in the Alexander S. Kein, Jr., Media, Pennsylvania, FM radio proceeding (Docket Nos. 20567-20569).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 23, 1980.

[S-1064-80 Filed 5-28-80; 3:12 pm]

BILLING CODE 6712-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 35475, May 27, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., May 28, 1980.

CHANGE IN THE MEETING: The following item is being added:

Item Number, Docket Number and Company

CAM-2—GP80-70, State of Ohio, s 102 NGPA Determination, Jerry Moore, Inc., Huber A. Brenley, No. 1 Well Ohio State Docket No. 6831, FERC JD No. 80-4312.

Kennth F. Plumb,

Secretary.

[S-1060-80 Filed 5-28-80; 11:02 am]

BILLING CODE 6450-85-M

6

LEGAL SERVICES CORPORATION.

(Committee on Operations)

TIME AND DATE: 9 a.m., 3:30 p.m., Tuesday, June 12, 1980.

PLACE: Copley Plaza, State Suite A & B, 138 St. James Avenue, Copley Square, Boston, Massachusetts.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of September 6, 1979, Meeting.
3. Discussion on Regulation 1607, Selection of Recipient Board Members.
4. Discussion on Regulation 1601, Bylaws of the Corporation.
5. Discussion, Comprehensive Recipient Civil Rights Regulation.
6. Discussion on Regulation 1612.4, Legislative and Administrative Representation.
7. Short Funding, State Bar of Texas Recommendation.
8. Report on the Opinion Issuance System.
9. President's Report.
10. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 272-4040.

Date issued: May 27, 1980.

Dan J. Bradley,

President.

[S-1059-80 Filed 5-28-80; 10:44 am]

BILLING CODE 6820-35-M

7

NEIGHBORHOOD REINVESTMENT CORPORATION.

Regular meeting of the Board of Directors.

TIME AND DATE: 2:30 p.m.; June 4, 1980.

PLACE: Board room, Seventh floor, National Credit Union Administration; 1776 G Street NW., Washington, D.C.

STATUS: Open meeting; rescheduled from April 23, 1980 and May 19, 1980.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Assistant Director, Communications (202) 377-6815.

MATTERS TO BE CONSIDERED:

Agenda

I. Call to Order and Remarks of the Chairman.
II. Approval of Minutes, January 23, 1980.
III. Report of the Personnel Committee.
IV. Report of the Audit Committee.
V. Resolution: Appointment of Assistant Treasurer.
VI. Resolution: Amendment to Banking Resolutions.
VII. Treasurer's Report.
VIII. Executive Director's Report.
IX. Resolution: Allocation of Interest Earnings.

Donnie L. Bryant,

Secretary.

[S-1063-80 Filed 5-28-80; 12:23 pm]

BILLING CODE

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Federal Register

Friday
May 30, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

without limitation as to time and

V 4 5 M Y 3 0 8 0 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Divisions, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original general wage determination decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

District of Columbia:	
DC80–3040	May 16, 1980.
Kansas:	
KS80–4009	Apr. 4, 1980
KS80–4010	Apr. 4, 1980
KS80–4011	Apr. 4, 1980
Maryland:	
DC80–3040	May 16, 1980
MD79–3010	May 11, 1979.
MD79–3031	Nov. 30, 1979
Mississippi	
MS80–1002	Jan. 18, 1980
Missouri:	
MO80–4023	Apr. 11, 1980.
Montana:	
MT80–5111	Mar. 28, 1980
MT80–5113	Apr. 18, 1980.
New York:	
NY79–3011	May 18, 1979
NY80–3022	Apr. 4, 1980
North Dakota:	
ND80–5102	Feb. 1, 1980
Pennsylvania:	
PA80–3025	Apr. 11, 1980
PA80–3026	Apr. 11, 1980.
PA80–3027	Apr. 18, 1980
PA80–3028	Apr. 11, 1980
PA80–3037	May 2, 1980.
Virginia:	
DC80–3040	May 16, 1980

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Minnesota:	
MN79–2021 (MN80–2033)	May 4, 1979
Pennsylvania:	
PA78–3044 (PA80–3030)	May 12, 1978
PA78–3066 (PA80–3032)	Sept. 22, 1978
West Virginia:	
WV77–3083 (WV80–3016)	Sept. 30, 1977
Wisconsin:	
WI78–2130 (WI80–2040)	Oct. 27, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. This 23rd day of May 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

[FR Doc. 80–16314 Filed 5–29–80; 8:45 am]

BILLING CODE 4510–27–M

UMI 8 0 8 0 3 M Y 5 4 V

MODIFICATION PAGE 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. DC80-3040-Mod. #1 (45 FR 32528- May 16, 1980) District of Columbia, Maryland-Montgomery & Prince Georges; D.C. Training School; Virginia-Independent City of Alexandria, Arlington & Fairfax Counties, Va.					
CHANGE:					
Heavy construction excluding water & sewer lines: All Counties					
Building Construction: Excluding Alexandria,Va.					
Bricklayers	$13.45	1.17	.85		.15
Carpet Layers	8.30	.30			
Electricians	13.15	.75	3%+.80		.13
Ironworkers:					
Reinforcing	12.44	.87	1.15		.07
Lathers	12.21	.80	.65		.05
Painters (Excludes Fairfax County):					
Brush, Spray, Paperhanger, Tapers	12.40	.96	1.10		.08
Steel, Sandblasting, Swing stage, Power brushing	12.90	.96	1.10		.08
ADD:					
Divers	23.20	.80	.65		.05
Roofers:					
Material Handlers (only to supply materials and to prepare decks for new roofs or repairs)	8.25	.74	.50		

MODIFICATION PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. KS80-4009 MOD. #2 (45 FR 23252, April 4, 1980) Shawnee County, KANSAS					
Building Construction					
Change:					
Bricklayers, stonemasons	$12.19	.40	.25		
Tile setters	12.00				
DECISION NO. KS80-4010 MOD. #2 (45 FR 23257, April 4, 1980) Shawnee County, KANSAS					
Residential Construction					
Change:					
Bricklayers, stonemasons	$12.19	.40	.25		
Tile setters	12.00				
DECISION NO. KS80-4011 MOD. #2 (45 FR 23255, April 4, 1980) Sedgwick County, KANSAS					
Building Construction					
Change:					
Bricklayers, stonemasons	$11.48	.60	.50		.02
Ironworkers	11.18		1.00	.53	.02

MODIFICATION PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. MD79-3010-Mod.#4 (43FR 27173-May 11, 1979 Allegany and Garrett Counties, Maryland					
Change:					
Linemen-Allegany County					
Linemen	$11.40	.80	3%+.70		
Equipment Operator	10.84	.80	3%+.70		
Truck Driver	7.42	.80	3%+.70		
Groundmen	7.42	.80	3%+.70		
Linemen-Garrett County					
Linemen	11.80	.80	3%+.70		
Equipment Operator	11.24	.80	3%+.70		
Truck Driver	7.82	.80	3%+.70		
Groundmen	7.82	.80	3%+.70		
DECISION NO. MD79-3031-Mod. #4 (44 R69110-November 30, 1979) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties Maryland					
Change:					
Laborers: Building					
Common Laborers	$8.45	.35	.60		.075
Powertool Operators	8.55	.35	.60		.075
Pipelayers (Concrete & Clay)	8.65	.35	.60		.075
Wagon Drill Operator, Jack hammer Operator (80# or over), Barco Tampers	8.70	.35	.60		.075
Plasterers Laborers	8.60	.35	.60		.075
Hod Carrier, Gunnite Nozzle & Gun Operator	8.85	.35	.60		.075
Burners (Demolition)	8.95	.35	.60		.075

MODIFICATION PAGE 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision NO. MS80-1002-Mod#1 (54 FR 3863-January 18,1980 Bolivar,Carroll,Coahoma, Desoto,Grenada,Leflore, Montgomery,Panola,Quitman, Sunflower,Tallahatchie,Tate, Tunica,Washington & Yalobusha Counties, Mississippi Heavy Construction					
CHANGE:					
Pipelayers	$3.10				
DECISION #M080-4023 - Mod. #2 (45 FR 24997 - April 11, 1980) Statewide, Missouri					
Change:					
Carpenters & Piledrivermen Zone 9	$12.30	.50	.40		.06

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MODIFICATION PAGE 5

DECISION #MT80-5111-Mod. #3 (45 FR 20651-March 28, 1980)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Statewide, Montana, except Beaverhead and Silver Bow Counties:					
Carpenters	$11.43	.80	.75		.02
Millwrights	12.43	.80	.75		.02
Piledrivermen and Power Saw Operators	11.68	.80	.75		.02
Cement Masons:					
Cement Masons	10.88	.85	.40		
Grinder, Bush Hammer and Clipping Fan preparing finished surface; Epoxy	11.03	.85	.40		
Painters:					
Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg:					
Painter	10.02				
Paint Mitt	10.52				
Stacks, Steeples, Brushing of steel, Spraying and Airless Spraying	12.80				
Statewide:					
Highway, parking and marking traffic surface applicator Operator; Material Mixer; Sandblaster; Stripper	10.60	.56	.40		
Truck Drivers: (See attached)					
Add:					
Electricians:					
Custer & Garfield Counties	9.40		3%+.50		48

MODIFICATION PAGE 6

DECISION NO. MT80-5111 (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.00	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.88	.82	.84		
Over 3 Batch to and including 5 Batch	10.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

MODIFICATION PAGE 7

DECISION NO. MT80-5111 (Cont'd)

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
Over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

MODIFICATION PAGE 8

DECISION NO. MT80-5111 (Cont'd)

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.20	.82	.84		
LUMBER CARRIERS, LIFT TRUCKS and FORK LIFTS	11.10	.82	.84		
POWER BOOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment					
TRUCK MECHANIC	11.04	.82	.84		
TRUCKS with power equipment if under Teamster jurisdiction, such as: Winch, A-Frame Truck, Swedish Crane, Hydralift, Groutcrete Truck and Combination Mulching, Seeding and Fertilizing Truck	11.10	.82	.84		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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MODIFICATION PAGE 9

DECISION #MT-80-5113-Mod #2
(45 FR 26626 - April 18, 1980)

Cascade, Deer Lodge, Gallatin, Hill, Missoula Silver Bow, and Valley Counties, Montana.

Change:

Modification #2 issued in Vol. 45 FR, page 32524, on May 16, 1980 to read Modification #1.

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Bricklayers:					
Gallatin County	$12.85	.90	.55		
Marble Masons:					
Gallatin County	12.85	.90	.55		
Terrazzo and Tile setters:					
Gallatin County	12.85	.90	.55		
Carpenters:					
Silver Bow County					
Carpenters	11.43			.75	
Millwrights	11.93			.75	
Piledrivermen	11.93			.75	

MODIFICATION PAGE 10

DECISION [illegible] Mod. #1
(44 FR 29249 - May 18, 1979)
Bronx, Kings, Queens, New York & Richmond Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Bricklayers	12.00	1.48	3.98		
Tile Setters	11.25	1.15	1.10		

DECISION No. NY80-3022-Mod. #1
(45 FR 23264 - April 4, 1980)
Monroe County, New York

Change:

Asbestos Workers	13.92	1.40	1.05		.01
Carpenter, Heavy & Highway	10.39	1.23	1.06		.025
Cement Masons, Heavy & Highway	10.89	.75	.85		
Electricians	13.95	1.00	3%+1.40		.25%
Ironworkers: Structural, Ornamental, Reinforcing, Rodman, Stone derrickman and welder, Machinery mover, Fence erector	13.05	1.00	1.05		.10
Sheeter	13.30	1.00	1.05		.10
Sheeter, Bucker-up	13.175	1.00	1.05		.10
Laborers: Heavy Construction					
CLASS A	8.15	1.95	1.14	a	
CLASS B	8.35	1.95	1.14	a	
CLASS C	8.55	1.95	1.14	a	
CLASS D	8.75	1.95	1.14	a	
Sheet Metal Workers	13.62	.85	1.52		

DECISION #ND80-5102 - Mod. #1
(45 FR 7463-February 1, 1980)
Statewide, North Dakota

Change:

Power Equipment Operators:					
Group 1	$10.32	.75	.60		
Group 2	10.16	.75	.60		
Group 3	10.00	.75	.60		
Group 4	9.95	.75	.60		
Group 5	9.68	.75	.60		
Group 6	9.43	.75	.60		
Group 7	8.44	.75	.60		
Group 8	8.28	.75	.60		
Group 9	8.17	.75	.60		
Group 10	7.80	.75	.60		

MODIFICATION PAGE 11

DECISION NO. PA80-3025
Mod. No. 1
[45 FR 25015 - April 11, 1980]

Adams and York Counties, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
BRICKLAYERS & STONEMASONS	$10.50	.65	.45		
CARPENTERS:					
York County	10.59	.85	.55		.03
CEMENT MASONS:					
Adams County	11.53	.70	.70		
LABORERS:					
General Laborers	7.55	.50	.67		
Operator of Jackahmmer, (etc.)	7.75	.50	.67		
Wagon Drill Operator	7.85	.50	.67		
Handling of all materials (etc.)	7.70	.50	.67		
Laborers assisting tile (etc.)	7.60	.50	.67		
Handling & using dynamite	7.88	.50	.67		
Caisson work (top men)	7.80	.50	.67		
Caisson work (bottom men)	8.00	.50	.67		
Mixer man	7.95	.50	.67		
MILLWRIGHTS:					
Adams County	13.52	.60	.70		.05
York County	11.09	.85	.55		.03
MARBLE, TILE & TERRAZZO WORKERS	9.50	.45	.45		
PLASTERERS:					
Adams County	10.31	.80	.80		.01
PLUMBERS	11.80	1.00	1.00		.12
POWER EQUIPMENT OPERATORS:					
GROUP 1	13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%
STEAMFITTERS	11.80	1.00	1.00		.12
SOFT FLOOR LAYERS:					
Adams County	9.60	.55	.65		.05
York County	11.09	.85	.55		.03

MODIFICATION PAGE 12

DECISION NO. PA80-3026 Mod. #1
(45 FR 25017-April 11, 1980)
Lehigh County, Pennsylvania

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Carpenters	$11.75	.84	.72		.05
Cement Masons	11.97	1.00	.41		
Electricians	12.45	.70	3%+.80		
Millwrights	12.15	.84	.72		.05
Plasterers	11.82	1.00	.41		.01
Plumbers	13.23	.85	1.40		.14
Power Equipment Operators					
Group 1	13.19	7.9%	10.3%	a	1.8%
Group 2	12.90	7.9%	10.3%	a	1.8%
Group 3	12.03	7.9%	10.3%	a	1.8%
Group 4	11.26	7.9%	10.3%	a	1.8%
Group 5	10.79	7.9%	10.3%	a	1.8%
Group 6	9.88	7.9%	10.3%	a	1.8%
Group 7	13.44	7.9%	10.3%	a	1.8%
Group 7-A	13.69	7.9%	10.3%	a	1.8%
Group 7-B	13.93	7.9%	10.3%	a	1.8%

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MODIFICATION PAGE 13

Decision No. PA80-3027
Mod. #1
(45 FR 26654 - April 18, 1980)
Schuylkill County, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
BRICKLAYERS & STONEMASONS	$10.90	.70	1.35		
CEMENT MASONS	10.90	.70	1.35		
LABORERS:					
Unskilled laborers & window cleaners	7.60	.45	.50		
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, virtified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal of power buggies	7.75	.45	.50		
MARBLE SETTERS & TERRAZZO WORKERS	9.90	.70	1.35		
MILLWRIGHTS	13.52	.60	.70		.05
PAINTERS:					
Townships of North Union, East Union, Union, Mahonoy, West Mahonoy, Butler, Kline, Delano, Ryan, Rush, Rahn, West Penn., & City of Tamaqua					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10

MODIFICATION PAGE 14

Decision No. PA80-3027(Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%
PLASTERERS	10.90	.70	1.35		
ROOFERS:					
Barry Branch, Butler, Delano, East Brunswick, East Union, Elfred, Foster, Fraily, Hegins, Hubley, Kline, New Castle, North Union, Porter, Hahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn:					
Composition	11.15	.90	.85		
Remainder of County:					
Composition, damp waterproofing	14.17	1.40	.95	e	
Roofer Assistant	7.00	1.40	.95	e	
SHEET METAL WORKERS	11.95	.75	.81		.02
TILE SETTERS	9.90	.70	1.35		

MODIFICATION PAGE 15

Decision No. PA80-3028
Mod. #1
(45 FR 25019 - April 11, 1980)

Berks County, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Bricklayers & Stonemasons	$10.90	.90	1.00		
Carpenters	10.83	.82	.75		
Cement Masons	10.79		1.65		
Electricians: Herford, Longswamp and Washington Townships, Portion of Maxatawney Township, East of Sacony Creek	12.45	.70	3%+.80		.02
General Laborers	8.45	.45	.50		
Operators of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools coming under the jurisdiction of laborer, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metalic pipe and the making of joints for same, wagon drill operators and concrete power buggies	8.60	.45	.50		
Cofferdam, (below 10'), tunnel free air muckers	8.73	.45	.50		
Handling and using cutting or burning torches in the wrecking of buildings, plasterer tenders, scaffold builders and removal for plasterers	8.04	.45	.50		
Mason tenders, scaffold builders, removal for mason and power buggies	8.88	.45	.50		
Blasters	8.90	.45	.50		
Millwrights	11.35	.82	.75		
Lathers	11.78		.25		.01
Plasterers	10.81		1.65		.01

MODIFICATION PAGE 16

Decision PA80-3028(Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%
Plumbers	13.23	.85	1.40		.14

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MODIFICATION PAGE 17

DECISION NO. PA80-3037 - MOD. #1 (45 FR 29522 - May 2, 1980) Sullivan County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
CARPENTERS:					
Benton Air Force Base	$11.79	.60	.70		.05
LABORERS:					
Unskilled & window washers	9.87	.65	.85		
Mason tenders incl. scaffold builders	10.27	.65	.85		
Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of buring torches, asphalt of other hot materials, cement finishers & blaster helpers, power buggies, walk alnng hmist	10.07	.65	.85		
Plumterers tenders, blasters & wagon drill operators	10.19	.65	.85		
MILLWRIGHTS	13.02	.60	.70		.05
PAINTERS:					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10

MODIFICATION PAGE 18

DECISION NO. PA80-3037 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS					
Group 1	13.19	7.9%	10.3%	a	1.8%
Group 2	12.90	7.9%	10.3%	a	1.8%
Group 3	12.03	7.9%	10.3%	a	1.8%
Group 4	11.26	7.9%	10.3%	a	1.8%
Group 5	10.79	7.9%	10.3%	a	1.8%
Group 6	9.88	7.9%	10.3%	a	1.8%
Group 7	13.44	7.9%	10.3%	a	1.8%
Group 7-A	13.69	7.9%	10.3%	a	1.8%
Group 7-B	13.93	7.9%	10.3%	a	1.8%
ROOFERS	11.15	.90	.85		
SHEET METAL WORKERS	11.95	.75	.81		.02

SUPERSEDEAS DECISION

STATE: Minnesota — COUNTIES: See Below*
DECISION NUMBER: MN80-2033 — DATE: Date of Publication
Supersedes Decision No. MN79-2021 dated May 4, 1979 in 44 FR 26463
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

*COUNTIES: Anoka, Carver Hennepin, Scott, Dakota, Ramsey, & Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.81	.60	1.00		.14
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.65	.55	.93	.80	
CARPENTERS:					
Building					
S. W. Portion of Scott Co.	12.40	.42			
Remainder of Cos. & Scott Co. Carpenters, Millwrights & Piledrivermen	11.66	.70	.60	.60	.02
Soft Floor Layers	11.33	.81	.74	.65	.02
Site Preparation, Excavation & Incidental Paving	10.13	.60	.60		
CEMENT MASONS:					
Building	12.43	.60	.60		
Site Preparation, Excavation & Incidental Paving	10.13	.60	.60		
ELECTRICIANS:					
Building					
Hennepin & Scott Cos. & Twps. of Anoka & Fridley in Anoka County					
Contracts over $50,000	11.35	7%	6%	10½%	3/4 of 1%
Contracts less than $50,000	9.20	7%	6%	10½%	3/4 of 1%
Remainder of Anoka County & Remaining Counties	12.25	5 3/4%	5 7/8%	11½%	3/4 of 1%
Residential					
Carver, Hennepin & Scott Cos; Twps. of Anoka, Fridley, Crow & Ramsey in Anoka County: Construction of all new family dwellings up to & including 4-plexes; and to all residential remodeling, rewiring & repairing in apartment buildings up to & including a 400 ampere service. This is limited to 3 floor occupied as living quarters floors, & non-elevator apartment buildings.	8.50	.48	3%	.37	1%

DECISION No. MN80-2033

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Dakota, Ramsey, Washington Cos. & Remainder of Anoka Co., Construction of all new family dwellings up to & including 4-plexes, townhouses of 4 or less contiguous units; and to all residential remodeling, rewiring & repairing except that any single apartment project including a change of main service entrance shall not exceed 8 living units or 400 amps.	$ 9.25	.50	3%	7%	3/4 of 1%
ELEVATORS CONSTRUCTORS:					
Constructors	11.31	.745	.35	a	.02
GLAZIERS	11.30	.45	.50	.35	.01
IRONWORKERS	12.95	.85	.90		.04
LATHERS:					
Anoka, Carver & Hennepin Cos.	11.79	.50	.65		.01
Washington; Dakota & Ramsey Cos.	12.49	.50	.50	.70	.01
MARBLE SETTERS	12.355	.655	.53		
MARBLE FINISHERS	9.35	.37	.50		
TERRAZZO WORKERS	12.82	.64	.25		
TERRAZZO FINISHERS	12.10				
TILE SETTERS	12.30	.62	.50		
TILE FINISHERS	11.45	.62	.50		
PAINTERS:					
Dakota, Ramsey & Washington Cos:					
Brush & Drywall Finisher	10.84	.55	.25		.12
Structural Steel & Spray	11.44	.55	.25		.12
Remaining Counties:					
Brush & Roller	12.01	.65	.50		.13
Structural Steel & Spray	12.61	.65	.50		.13
PLASTERERS:					
Dakota, Ramsey Washington Cos.	11.10	.70	.50	.65	.01
Remaining Counties	11.55	.50	.45		.02

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DECISION No. MN80-2033

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PLUMBERS:					
Plumbers, Steamfitters & Pipefitters:					
Dakota, Ramsey & Washington Cos.	$11.77	.51	.50	1.92	.06
Plumbers & Steamfitters & P/F Remaining Counties:					
Plumbers	11.94	.53	.50	1.35	.05
Steamfitter & Pipefitters	11.94	.54	.50	1.25	.05
ROOFERS	12.45	.85	.50		.03
SHEET METAL WORKERS:					
Dakota, Ramsey & Washington Cos.	12.66	.79	.90		.06
Remaining Counties	13.02	.52	.81		.06
SPRINKLER FITTERS	12.83	.75	1.05		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Day After Thanksgiving

FOOTNOTE:

a. Employer contributes 8% Basic Hourly Rate for over 5 years service, 6% Basic Hourly Rate for under 5 years as Vacation Pay; 7 Paid Holidays A through G

DECISION No. MN80-2033

MINN-27-LAB-1

LABORERS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	$10.05	.60	.45	.40	
CLASS 2	10.10	.60	.45	.40	
CLASS 3	10.15	.60	.45	.40	
CLASS 4	10.20	.60	.45	.40	
CLASS 5	10.30	.60	.45	.40	
CLASS 6	10.35	.60	.45	.40	
CLASS 7	10.45	.60	.45	.40	
CLASS 8	10.45	.60	.45	.40	
CLASS 9	10.755	.60	.45	.40	

CLASS 1 - Common Laborer, Steel hoist handler (erection); Power Buggy Opr., Carpenter Tender, Earth Dumpman, Flagman
CLASS 2 - Reinforced Steel Handler
CLASS 3 - Men handling cement 2 hours per day (Bulk or Sack, excluding Mortar Mixer; Mason Tender; Concrete Joint Saw Opr., Demolition & Wrecking Laborer
CLASS 4 - Hot tar caulker & corker; Laborers on swing stage line scaffold (excl. "patent" scaffolding); Automatic Tamper Opr., Chipping Hammer Setter & Driver on Heavy Building, Excavation, Jackhammer Men
CLASS 5 - Underground work
CLASS 6 - Pipelayer
CLASS 7 - Caisson work, Underpinning
CLASS 8 - Nozzlemen
CLASS 9 - Dynamite Men, Power for Blasting purposes

DECISION No. MN80-2033

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	$10.00	.60	.45	.40	
CLASS 2	10.10	.60	.45	.40	
CLASS 3	10.15	.60	.45	.40	
CLASS 4	10.25	.60	.45	.40	
CLASS 5	10.30	.60	.45	.40	
CLASS 6	10.35	.60	.45	.40	
CLASS 7	10.40	.60	.45	.40	
CLASS 8	10.43	.60	.45	.40	
CLASS 9	10.45	.60	.45	.40	
CLASS 10	10.63	.60	.45	.40	
CLASS 11	10.68	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab.; Rein Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler
CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, Batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Curb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing Batchermen (Stationary Plant); Stonemasons Tender; Drill Runner (Heavy, incl. Churn Drill)
CLASS 3 Chainsaw Man. Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)
CLASS 4 Bottom Man (Sewer, Water or Gas Trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric Pressure) Underpinning Work, Caisson Work, other work more than 8' below level of manual work Open ditch work

DECISION No. MN80-2033

LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - Bituminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

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DECISION No. MN80-2033

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$10.90	.65	.65		
GROUP 2	10.45	.65	.65		
GROUP 3	10.35	.65	.65		
GROUP 4	10.15	.65	.65		

GROUP 1 - Driver (Hauling machinery for employer's own use, including opr., of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-Axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Opr.,), Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & Truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman, Tractor Opr., (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Opr., Single Axle Trucks.

DECISION No. MN80-2033

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	$15.70	.75	.60		.05
CLASS 2	14.05	.75	.60		.05
CLASS 3	13.80	.75	.60		.05
CLASS 4	13.20	.75	.60		.05
CLASS 5	12.85	.75	.60		.05
CLASS 6	12.75	.75	.60		.05
CLASS 7	12.50	.75	.60		.05
CLASS 8	12.38	.75	.60		.05
CLASS 9	12.30	.75	.60		.05
CLASS 10	12.03	.75	.60		.05
CLASS 11	11.15	.75	.60		.05
CLASS 12	10.70	.75	.60		.05

CLASS 1 - Helicopter Opr.,
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, incl., jib
CLASS 3 - Truck & Crawler Cranes with 200' of Boom, up to and not inc., 300' of Boom, incl. jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not incl., 200' of Boom, incl. jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Opr.,
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, incl., jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Opr., Overhead Crane Opr., (Inside Building Perimeter); Tower Cranes-Stationary Tractor Opr., with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Opr., 375 CFM or over; Pump Opr., and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complacu-type Machine Opr., Forklift
CLASS 9 - Boom Truck Opr., Concrete Mixer Opr., Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (one drum); Straddle Carrier Opr., Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Opr., over D2; Well Point Pump Opr.,
CLASS 10 - Concrete Batch Plant Opr., Fireman, First Class License; Gunite Opr., Tractor Opr., D-2 or similar size; Front End Loader Opr., up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr., Fireman, Temporary Heat; Brakeman, Pick-up Sweeper (1 cu. yd. and over hopper capacity); Trunk Crane Oiler; Welding Machine Opr., (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach).
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Opr.,

DECISION No. MN80-2033

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

MINN-7M-PEO-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$15.99	.75	.60		.05
GROUP 2	12.66	.75	.60		.05
GROUP 3	12.25	.75	.60		.05
GROUP 4	12.12	.75	.60		.05
GROUP 5	12.03	.75	.60		.05
GROUP 6	11.05	.75	.60		.05
GROUP 7	10.45	.75	.60		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu.yds. & over Mfg. rates capacity
GROUP 3 - Cableway Opr., Concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu.yds. Mfg. rates capacity, Dredge Opr., or Engineer, Dredge Opr., (power) & yds. & over, Grader or Motor Patrol Finishing Earth & Bituminous, Locomotive Crane Opr., Master Mechanic, Mixer (paving) Concrete Paving Opr., Road Mole Opr., incl. power supply, Mucking Machine., incl. Mucking Operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Opr., (Boom Type), Truck Crane Opr., Tugboat Opr., 100 HP & over
GROUP 4 - Dual Tractor Opr., Elevating Grader Opr., Pumpcrete Opr., Scraper Opr., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Opr., Crushing Plant Opr., or Gravel Washing, Crushing and Screening Plant Opr., Dope Machine Opr., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Opr., Loader Opr., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machines Opr., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or Bending Machine Opr., Power Plant Engineer., Power Actuated Horizontal Boring Machine, over 6" Opr., Pugmill Opr., Roller., 8 tons or over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Opr., Tie Tamper & Hallast Machine Opr., Tractor Opr., over D2, TD6 or similar HP with power take-off, Tractor Opr., over 50 HP wihtout power take-off, Trenching Machine Opr., (sewer, water, gas) Turnapull Opr., (or similar type) well point installation, dismantling or repair mechanic

DECISION No. MN80-20

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air Compressor Opr., 375 CFR or over, Bituminous Spreader and Bituminous Finishing Machine Opr., Concrete Dist. & Spreader Opr., Finishing Machine Longitudinal Opr., Joint Mach. Opr., Spray Concrete Mixer Opr., 14S and under, Concrete Opr., (Mult. Blade), Curb Machine Opr., Fine Grade Opr., Form Trench Digger, Front End Loader Opr., (up to & incl. 1 cu. yd), Grader Opr., (Motar Patrol), Gunnite Opr., Gunall, Lead Greader, on truck on rack, Loader Opr., Power Actuated Augars and Boring Machine Opr., Power Actuated Jacks Opr., Pump Opr., Roller Opr., Self-Propelled Chip Spreader, Shouldering Machine Opr., Stump Chipper Opr., Tractor Opr., (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, Switchman, Conveyor Opr. Deckhand, Fireman, Tank Car Heater Opr., Gravel Screening Plant Opr., Greaser Leverman, Mechanic Helper, Mechanic Space Heater, Oiler, Self-Propeller Vibrator Packer Opr., Sheep Foot Roller, Tractor Opr., 50 HP or less w/o Power take-off, Truck Crane Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NUMBER: PA80-3030
Supersedes Decision No. PA78-3044 dated May 12, 1978, in 43 FR 20711
COUNTY: Luzerne
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction, including single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$11.875	.80	.60		.01
BOILERMAKERS	14.64	1.175	1.00		.02
BRICKLAYERS: Stonemasons:					
Nescopeck, Hollenback and Salem Townships	10.55	.55	.70		.01
Remainder of County	11.75	.85	.75		
CARPENTERS:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	10.92	.55	.65		.05
Remainder of County	11.79	.60	.70		.05
CEMENT MASONS:					
Pittston, Yatesville, Laflin, Exeter Wyoming, Deryea and Avoca	12.05				
All North of Hazleton, extending half-way between Wilkes-Barre and Hazleton, Harleigh, Jeddo, Cranberry; Foster Twps., Butler Twps., Dennison Twps., Sugarloaf Twps., Conyngham, Drums, S.Johns, Borough of Freeland & White Haven, Banks Twps; Beaver Meadows, Tresckow, Jeansville & Audenried	12.25				.01
Remainder of County	12.78				
ELECTRICIANS:					
That portion east of a line following the Susquehanna River south to the City of Pittston, east & south on the limits of Pittston but excluding it, to U. S. Highway 11, east on 11 to Dupont Borough & Highway 215, and southeast on 215. Also that portion of Luzerne County south and					

Decision No. PA80-3030(Cont'd) Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ELECTRICIANS (Cont'd)					
east of a line following the Thornhurst Road, south west to State Highway 115 and southeast on 115 to the Monroe County line.					
Zone A - From 20 to 30 miles from zero milestone marker	11.35	.75	3%+.50	1.00	.10
Zone B - All distance beyond 30 miles	11.85	.75	3%+.50	1.00	.10
Hazleton:					
Commercial	11.87	.65	3%+.30	a	b
Remainder of County	12.54	.65	3%+1.05		.03
ELEVATOR CONSTRUCTORS	11.27	.895	.89	c+d	.03
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.895	.89	c+d	.03
ELEVATOR CONSTRUCTORS' (PROB.)	50% JR				
GLAZIERS	10.50	.65	.85		
IRONWORKERS:					
Structural & Ornamental	12.80	e			.10
Reinforcing	12.70	e			.10
LABORERS:					
Hazleton:					
Laborers	7.84	.65	.85		
Mason tenders including scaffold builders	8.24	.65	.85		
Pneumatic, electric and mechanical tool operators 2" pumps - non-metallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blasters' helpers, Power buggies, walk along hoist	7.94	.65	.85		
Plasterers' tenders, blasters, and wagon drill operators	8.09	.65	.85		
Remainder of County:					
Unskilled Laborers	9.87	.65	.85		
Semi skilled laborers, pneumatic and other mechanical tool operators;					

Decision No. PA80-3030 (Cont'd) Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LABORERS (Cont'd)					
2" pump or under, handling and mixing of all material used by masons from stock pile to mason; non-metallic pipelayer & making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material, cement finishers and blasters' helpers	10.07	.65	.85		
Plasterers' tenders, blaster, wagon drill operators	10.19	.65	.85		
Mason tenders and scaffold builders	10.27	.65	.85		
LATHERS:					
Pittston, Avoca, Dupont & Duryea	11.54		.10		.01
Remainder of County	11.43		.35		.01
LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION:					
Linemen, Dynamitemen, Heavy equipment operator	12.37	.55	3%		3/8%of 1%
Groundman	8.30	.55	3%		3/8%of 1%
Winch truck driver	8.68	.55	3%		3/8%of 1%
MARBLE SETTERS:					
Pittston	10.85	.50	.50		
Hazleton	9.20	.35	.50		
Remainder of County	10.75		.75		
MILLWRIGHTS	13.52	.60	.70		.05
PAINTERS:					
Pittston:					
Brush and Roller	9.50		1.20		
Structural Steel	10.50		1.20		
Remainder of County:					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10
PILEDRIVERMEN	11.52	2.48	1.40	g	.13
PLASTERERS:					
Hazleton	10.25				.01
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	12.13				
Remainder of County	12.78				

DECISION NO. PA80-3030 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS	11.89	.80	1.25		.85
POWER EQUIPMENT OPERATORS:					
GROUP 1	13.14	7.9%	10.3%	a	1.8%
GROUP 2	12.85	7.9%	10.3%	a	1.8%
GROUP 3	11.97	7.9%	10.3%	a	1.8%
GROUP 4	11.20	7.9%	10.3%	a	1.8%
GROUP 5	10.72	7.9%	10.3%	a	1.8%
GROUP 6	9.80	7.9%	10.3%	a	1.8%
GROUP 7	13.39	7.9%	10.3%	a	1.8%
GROUP 7-A	13.64	7.9%	10.3%	a	1.8%
GROUP 7-B	13.89	7.9%	10.3%	a	1.8%

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

GROUP 1 - Machines doing hook work; any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to above

GROUP 2 - All types of Cranes & backhoes; Cableways; Draglines; Keystones; All types of shovels; Derricks; Trench Shovels; Trenching machines; Hoists with two towers; Pavers, 21E & over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 3½ cu. yds. & over; Tandem scrapers; Pippin type backhoes; Boat captains: Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift & over; Machines similar to above

GROUP 3 - Conveyors; Building hoists (single drum); Scrapers & Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers & tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Drill helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machines similar to above.

GROUP 4 - Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line graders; Fine grade machines; Road finishing machines; Concrete breaking machines; Rollers; Seaman pulverizer mixer; Power broom; Seeding spreaders; Tireman (for power equipment); Machines similar to above

GROUP 5 - Fireman, Grease truck

GROUP 6 - Oilers & deck hands (personnel boats); Core drill helper

GROUP 7 - All machines with booms (including jib, masts, leads, etc.); 100 ft and over

GROUP 7-A - 150 ft and over

GROUP 7-B - 200 ft and over

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	Basic Hourly Rates *	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Composition and Kettlemen	11.15	.90	.85		
SHEET METAL WORKERS	11.95	.75	.80		.02
SOFT FLOOR LAYER	9.60	.55	.65		.05
STEAMFITTERS	12.34	.65	.95		.05
SPRINKLER FITTERS	13.55	.75	1.05		.08
TRUCK DRIVERS:					
Pittston:					
Class 1	9.52				
Class 2	9.59				
Class 3	10.08				
Remainder of County:					
Pickup, service dump and flat including 2 license	8.07	h	j		
All trucks over 2 license	8.12	h	j		
Fork lifts; Tow motors; Front and pneumatic tired loaders	8.08	h	j		
WELDERS: Receive rate for Craft					

TRUCK DRIVER CLASSIFICATIONS
PITTSTON

Class 1: Helper; Stake body truck (single axle dumpster)

Class 2: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; Farm tractor when used for transportation; Stake body truck (tandem)

Class 3: Euclids type; Off-highway equipment - back or belly dump trucks and double-hitched equipment; Straddle (Ross Carrier); Low-bed trailers

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: C and D

b. Employer shall contribute $0.12 per day per employee

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

e. Employer contributes $2.60 per hour to Health and Welfare and Pension Fund.

f. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day

h. $41.00 per month for employees who have worked 60 hours or more during the month

j. $25.00 per month to employees employed for over 13 weeks.

Unlimted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(i)(ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Columbia, Montour & Snyder

DECISION NO.: PA80-3032 DATE: Date of Publication

Supersedes Decision No. PA78-3066 dated September 22, 1978, in 43 FR 43228.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, does not include single family homes or apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE I	11.875	.80	.60		.01
ZONE II	11.61	1.12	.90		.01

AREA COVERED BY ASBESTOS WORKERS

ZONE I - Columbia & Montour Counties

ZONE II - Snyder County

BOILERMAKERS	14.64	1.175	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE I	11.00	.55	.65		
ZONE II	11.35	.55	.70		.01

AREA COVERED BY BRICKLAYERS & STONEMASONS ZONES

ZONE I - Montour & Snyder Counties

ZONE II - Columbia County

CARPENTERS	10.92	.55	.65		.05
CEMENT MASONS					
ZONE I	10.95				.01
ZONE II	10.95	.55	.70		.01

AREA COVERED BY CEMENT MASONS ZONES

ZONE I - Montour & Snyder Counties

ZONE II - Columbia County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE I	11.95	.50	3%+.20		.05
ZONE II	11.87	.65	3%+.30		.12
ZONE III	11.36	.65	3%+.67		.08

AREA COVERED ELECTRICIANS ZONES

ZONE I - Montour County; North of U.S. Highway #522 and Selinsgrove Township in Snyder County and Remainder of Columbia County

ZONE II - Berwick Borough in Columbia County

ZONE III - South of U.S. Highway #522 in Snyder County

GLAZIERS					
ZONE I	10.00	.65	.85		.01
ZONE II	10.14	.55	.60		.01
ZONE III	10.50	.65	.85		

AREA COVERED BY GLAZIERS ZONES

ZONE I - Roaring Creek, Locust, Cleveland, Cunningham, Mt. Carmel Townships in Columbia County, Montour County

ZONE III - Snyder County

ZONE III - Remainder of Columbia County

IRONWORKERS					
ZONE I	12.505	1.24	1.36		.03
ZONE II					
Structural and Ornamental	12.80	b			.10
Reinforcing	12.70	b			.10

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Montour & Snyder Counties

ZONE II - Columbia County

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DECISION NO. PA80-3032	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr Tr
LABORERS					
ZONE I					
CLASS I	$7.84	.65	.85		
CLASS II	8.24	.65	.85		
CLASS III	7.94	.65	.85		
CLASS IV	8.09	.65	.85		
ZONE II					
CLASS I	7.95	.65	.55		
CLASS II	8.10	.65	.55		
ZONE III					
CLASS I	8.65	.55	.65		
CLASS II	9.12	.55	.65		
CLASS III	8.05	.55	.65		
CLASS IV	9.01	.55	.65		

AREA COVERED BY LABORERS ZONES AND CLASSIFICATIONS

ZONE I - Columbia County

CLASS I - Unskilled laborers and window washers

CLASS II - Mason tenders and scaffold builders

CLASS III - Pnuematic electrical tool operator under the jurisdiction of laborers 2' pump-non-metallic pipe laying and making joints clay terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material; cement finishers and blasters helpers, power buggies, and walk along hoist

CLASS IV - Plasterers tenders, blasters and wagon drill operator

ZONE II - Montour County

CLASS I - Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition

AREA COVERED BY LABORERS ZONES AND CLASSIFICATIONS (CONT'D)

ZONE II (CONT'D)

CLASS II - Operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings, masons tenders

ZONE III - Synder County

CLASS 1 General Laborers: Air, fuel and electric tool operators and all other pneumatic and mechanical tools, including blow-pipe and vacuum cleaners. Cassion workers (top men), Pipelayers for all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same. Power-buggy, precast slab placers & signal men, Blaster helper, Excavation of all foundation, digging of trenches, piers and manholes. Wrecking and moving of all structures. Under pinning & shoring. Stripping, dismantling, oiling & moving of concrete forms, loading, and carring of reinforcing steel, handling & distribution of lumber, and all other building material to stock piles, unloading, carring, distribution, and laying of precast concrete slabs and planks for flooring & roofing, general cleanup & removal of refuge, debris and all scrap material(s), vibrator operator (concrete placing - whose power is supplied by compressed air, electric, gasoline & any other means);

CLASS 2 Semi-Skilled: Cassion worker (bottom men), blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine (nozzle men), and steam jenny. Plaster & cement mason tenders, machine mixers, plater pump and scaffold builders (excluding masonry scaffolding Sand Blasting (nozzle men);

CLASS 3 Nursery Workers, window washers, floor scrubbers, and watchmen. Tenders of propane gas burners, salamander(s), smudge pots, toolroom workers. Fire watch;

CLASS 4 Mason tenders, machine mixers, Motorized stockers, scaffold builders (masonry), mortar pump, conveyors, mechanical cleaners, and sandblasting for masonry and masonry equipment

DECISION NO. PA80-3032	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
Zone I	11.43	.40	.35		.01
Zone II	10.71	.40	.25		.01
Zone III	11.53		.20		.01

AREA COVERED BY LATHERS ZONES

ZONE I - Columbia County

ZONE II- Montour County

ZONE III- Snyder County

LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION					
Lineman, dynamite man, heavy equipment operator	12.37	.55	3%		3/8 of 1%
Winch truck operator	8.68	.55	3%		3/8 of 1%
Groundman	8.30	.55	3%		3/8 of1%
MARBLE SETTERS	10.00		.50		
MILWRIGHTS	13.52	.60	.70		.05
PAINTERS					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10
PILEDRIVERMEN	11.52	2.48	1.40	d	.12
PLASTERERS					
ZONE I	10.95	.55	.70		.01
ZONE II	10.20				

AREA COVERED BY PLASTERERS ZONES

ZONE I - Columbia County

ZONE II - Snyder & Montour

DECISION NO. PA80-3032	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS	$11.80	1.00	1.00		.12
ROOFERS					
ZONE I	11.15	.90	.85		
ZONE II	10.76	.80	.55		

AREA COVERED BY ROOFERS ZONES

ZONE I - Columbia & Montour Counties

ZONE II - Snyder County

SHEET METAL WORKERS	11.95	.75	.81		.02
SOFT FLOOR LAYERS	9.60	.55	.65		.05
SPRINKLER FITTERS	13.55	.75	1.05		.08
TRUCK DRIVERS					
ZONE I	7.20				
ZONE II					
CLASS I	8.07	a	b		
CLASS II	8.12	a	b		
CLASS III	8.08	a	b		

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS

ZONE I - Montour County

ZONE II - Columbia & Snyder Counties

CLASS I - Pick-ups and service dump and flat including "Z" license

CLASS II - All trucks over "Z" license

CLASS III - Fork lifts tow motors, front and pneumatic tired loaders

FOOTNOTES:

a. Employer contributes $41.00 per month to employees who have worked 60 hours or more for the employer during the preceding month.

b. Employer contributes $25.00 per month to employees who have been employed over 13 weeks.

UMI 8008 0303 YM 5454

DECISION NO. PA80-3032 . Page 7

WELDERS - Rate of craft

FOOTNOTES:

a. Paid Holidays: July 4th, Labor Day, Thanksgiving Day Good Friday.

b. Employer contributes $2.60 to a combined Health and Welfare and Pension Fund.

c. Paid Holidays: New Year's Day; Memorial Day; Indenpendence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

PAGE 8

DECISION NO. PA80-3032 POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt palnt engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machimes, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishingmachines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: West Virginia COUNTY: Statewide
DECISION NO.: WV80-3016 DATE: Date of Publication
Supersedes Decision No. WV77-3083, dated September 30, 1977, in 42 FR 53172
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
BRICKLAYERS & STONEMASONS:					
AREA 1	11.52	.65	.75		
AREA 2	13.58	.55	.50		.05
AREA 3	11.96	.65	.67		.02
AREA 4	12.53	.65			.03
AREA 5	14.46	.75	.40		
AREA 6	13.30	.80			
AREA 7	11.19	.65	.40		
AREA 8	10.70				

AREAS COVERED BY BRICKLAYERS & STONEMASONS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh & Summers Counties.
AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Preston, Randolph, Taylor, Tucker, Upshur & Webster Counties.
AREA 3 - Marshall, Ohio, Tyler & Wetzel Counties.
AREA 4 - Brooke & Hancock Counties.
AREA 5 - Cabell, Lincoln, Mason, Mingo & Wayne Counties.
AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt & Wood Counties.
AREA 7 - Berkeley, Hampshire, Jefferson, Mineral & Morgan Counties.
AREA 8 - McDowell, Mercer, Monroe & Wyoming Counties.

CARPENTERS:					
Heavy Construction	10.44	.80	.50		.05
Highway Construction	10.24	.80	.50		.05
CEMENT MASONS:					
Heavy Construction	11.42	.50			
Highway Construction	11.21	.50			

Page 2

DECISION NO. WV80-3016	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
ELECTRICIANS:					
AREA 1					
Wiremen	13.50	.50	3%+.75		.04
Cable splicers	14.85	.50	3%+.75		.04
AREA 2					
Contracts $15,000 or less:					
Wiremen	9.17	.50	3%+.67	.77	.06
Cable splicers	9.47	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.07	.50	3%+.67	.77	.06
Cable splicers	12.37	.50	3%+.67	.77	.06
Area 3					
Wiremen	10.95	.50	3%+.50	2.00	.03
Cable splicers	12.045	.50	3%+.50	2.00	.03
AREA 4					
Wiremen	12.60	.50	3%+.35	1.00	.04
Cable splicers	12.85	.50	3%+.35	1.00	.04
AREA 5					
Wiremen	13.50	7%	10%	10%	½ of 1%
AREA 6					
Contracts under $12,000:					
Wiremen	6.15	.50	3%+.50	2.00	.02
Contracts $12,000 or more:					
Wiremen	11.35	.50	3%+.50	2.00	.02
Cable splicers	11.50	.50	3%+.50	2.00	.02
AREA 7					
Wiremen	11.75	.50	3%+1.25	1.50	.04
Cable splicers	12.00	.50	3%+1.25	1.50	.04
AREA 8					
Wiremen	12.52	.50	3%+1.02	1.02	.04
Cable splicers	13.15	.50	3%+1.02	1.02	.04
AREA 9					
Wiremen	12.97	.50	3%+1.02	1.02	.04
Cable splicers	13.62	.50	3%+1.02	1.02	.04
AREA 10					
Wiremen	12.72	.50	3%+1.02	1.02	.04
Cable splicers	13.36	.50	3%+1.02	1.02	.04

UMI 8008 0363 YM 5454

DECISION NO. WV80-3016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ELECTRICIANS (CONT'D):					
AREA 11					
Wiremen	11.40	.80	3%+.70		1%
AREA 12					
Wiremen	11.40	.80	3%+.70		1%
AREA 13					
Wiremen	12.00	.80	3%+.70		1%
AREA 14					
Wiremen	8.51	.30	3%		½ of 1%
Cable splicers	8.91	.30	3%		½ of 1%
AREA 15					
Contracts $15,000 or less:					
Wiremen	9.47	.50	3%+.67	.77	.06
Cable splicers	9.77	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.37	.50	3%+.67	.77	.06
Cable splicers	12.67	.50	3%+.67	.77	.06
AREA 16					
Contracts $15,000 or less:					
Wiremen	9.67	.50	3%+.67	.77	.06
Cable splicers	9.97	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.57	.50	3%+.67	.77	.06
Cable splicers	12.87	.50	3%+.67	.77	.06
AREA 17					
Contracts under $30,000:					
Wiremen	6.45	.50	3%		3/4 of 1%
Contracts $30,000 or more:					
Wiremen	10.20	.50	3%		3/4 of 1%
AREA 18					
Wiremen	10.26	8%	6½%	8%	1%
Cable splicers	10.66	8%	6½%	8%	1%

DECISION NO. WV80-3016

AREAS COVERED BY ELECTRICIANS

AREA 1 - Boone, Braxton, Calhoun, Clay, Fayette (Falls & Kanawha Townships only), Gilmer, Kanawha, Nicholas, Putnam, Raleigh (Clear Fork & Marsh Fork Townships only), Roane & Webster Counties.
AREA 2 - Raleigh (remainder of county) County.
AREA 3 - Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties.
AREA 4 - Brooke (Buffalo Twp Only), Marshall, Ohio & Wetzel Counties
AREA 5 - Brooke (except Buffalo Twp) & Hancock (except Grant Twp.) Counties.
AREA 6 - Marion, Monongalia, Preston, Taylor & Tucker Counties.
AREA 7 - Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.
AREA 8 - Cabell & Wayne Counties.
AREA 9 - Logan, Mason & Mingo Counties.
AREA 10 - Lincoln County.
AREA 11 - Mineral County.
AREA 12 - Berkeley, Hampshire & Morgan Counties.
AREA 13 - Grant County.
AREA 14 - Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties.
AREA 15 - Fayette (remainder of county) County.
AREA 16 - Summers & Wyoming Counties.
AREA 17 - Hardy, Jefferson & Pendleton Counties.
AREA 18 - Hancock County - Grant Twp. only

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
IRONWORKERS:					
AREA 1	12.25	1.00	1.45		.09
AREA 2	12.60	.90	1.75		.05
AREA 3	11.95	1.00	1.45		.03
AREA 4					
Zone 1 - 10 miles from Union Hall	12.07	.90	1.05		.01
Zone 2 - 10 to 15 miles from Union Hall	12.22	.90	1.05		.01

DECISION NO. WV80-3016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
IRONWORKERS (CONT'D)					
Zone 3 - 15 to 20 miles from Union Hall	12.32	.90	1.05		.01
Zone 4 - over 20 miles from Union Hall	12.42	.90	1.05		.01
AREA 5	10.44	.60	.90		
AREA 6	10.55	.60	.85		.03

AREAS COVERED BY IRONWORKERS

AREA 1 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Nicholas, Putnam, Raleigh, Webster & Wyoming Counties.
AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.
AREA 3 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.
AREA 4 - Cabell, Mingo & Wayne Counties.
AREA 5 - Berkeley, Grant, Hampshire, Hardy, Mineral, Morgan, Pendleton, Preston, Randolph & Tucker Counties.
AREA 6 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

LABORERS:					
Heavy Construction:					
Group 1	10.04	.60	.60		.05
Group 2	9.62	.60	.60		.05
Group 3	9.32	.60	.60		.05
Group 4	8.99	.60	.60		.05
Group 5	8.75	.60	.60		.05
Group 6	8.25	.60	.60		.05
Highway Construction:					
Group 1	9.86	.60	.60		.05
Group 2	9.45	.60	.60		.05
Group 3	9.13	.60	.60		.05
Group 4	8.81	.60	.60		.05
Group 5	8.51	.60	.60		.05
Group 6	8.05	.60	.60		.05

All classifications who are required to work in open vertical ditches and manholes that are 6' or more in depth shall receive 15¢ per hour above their regular rate of pay.

DECISION NO. WV80-3016

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Blacksmith, Tunnel Driller, Tunnel Miner and Powderman.
GROUP 2 - Mucker-Chucker.
GROUP 3 - Caison bottom man, Pipe Layer (including Laser Beam Set-up), Form setter (road), Drill Operator and Inside Laborer.
GROUP 4 - Airtool Operator, Vibrator Man, Whacker, Chainsaw Operator, Mortarman, Mason Tender, Blacksmith Helper, Cement Finisher Helper, Drill Helper, Powderman Helper, Waterproofer, Sheeter and Shorer, Pipelayers Helper, Bullfloat Man, Pavement Reinforcing Placer, Handyman, Signal Man, Asphalt Raker, Greencutter, Georgia Power Buggie, Burner, Grade Checker, Concrete Blower Man.
GROUP 5 - Laborer, Deckhand, Mulcher and Seeder (hand or machine), Trees Trimmer, Flagman.
GROUP 6 - Watchman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
AREA 1					
Linemen	13.68	.60	3%+.50	.90	1/2%
Cable Splicer and Linemen Welder	15.05	.60	3%+.50	.90	1/2%
Mechanized Equipment Operators	10.94	.60	3%+.50	.90	1/2%
Groundmen	8.09	.60	3%+.50	.90	1/2%
AREA 2					
Linemen and operators (all mechanized equipment)	11.97	.70	3%+.67	.77	1/2%
Cable Splicers	12.27	.70	3%+.67	.77	1/2%
Groundmen	9.58	.70	3%+.67	.77	1/2%
AREA 3					
Linemen and Equipment Operators	11.65	.60	3%+1.25	1.50	1/2%
Cable Splicers	12.82	.60	3%+1.25	1.50	1/2%
Groundmen	9.32	.60	3%+1.25	1.50	1/2%
AREA 4					
Linemen and Equipment Operators	10.95	.50	3%+.50	2.00	1/2%
Cable Splicers	12.045	.50	3%+.50	2.00	1/2%
Groundmen and Truck Drivers	8.78	.50	3%+.50	2.00	1/2%

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Page 7

DECISION NO. WV80-3016	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
AREA 5					
Linemen & operators (all mechanized equipment)	12.60	.50	3%+.35	1.00	½ of 1%
Cable splicers	12.85	.50	3%+.35	1.00	½ of 1%
Groundmen	10.08	.50	3%+.35	1.00	½ of 1%
AREA 6					
Linemen & operators (all mechanized equipment)	13.50	7%	10%	10%	
Cable splicers	14.00	7%	10%	10%	
Groundmen	8.78	7%	10%	10%	
AREA 7					
Linemen & operators (all mechanized equipment)	11.35	.50	3%+1.02	1.52	½ of 1%
Cable splimers	12.485	.50	3%+1.02	1.52	½ of 1%
Groundmun & Truck Drivers	9.08	.50	3%+1.02	1.52	½ of 1%
AREA 8					
Linemen	10.15	.50	3%+.25		½ of 1%
Equipment operators	9.64	.50	3%+.25		½ of 1%
Truck drivers & groundmen	6.60	.50	3%+.25		½ of 1%
AREA 9					
Linemen	10.35	.50	3%+.25		½ of 1%
Equipment operators	9.84	.50	3%+.25		½ of 1%
Truck drivers & groundmen	6.80	.50	3%+.25		½ of 1%
AREA 10					
Linemen	10.55	.50	3%+.25		½ of 1%
Equipment operators	10.04	.50	3%+.25		½ of 1%
Truck drivers & groundmen	7.00	.50	3%+.25		½ of 1%
AREA 11					
Linemen, cable splicers & equipment operators	12.11	.45	3%		½ of 1%
Truck with winch, pole or steel handling	7.43	.45	3%		½ of 1%
Groundmen	7.17	.45	3%		½ of 1%
AREA 12					
Linemen and operators (all mechanized equipment)	12.27	.70	3%+.67	.77	1/2%
Cable Splicers	12.57	.70	3%+.67	.77	1/2%
Groundmen	9.82	.70	3%+.67	.77	1/2%

Page 8

DECISION NO. WV80-3016	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
AREA 13					
Linemen and operators (all mechanized equipment)	12.47	.70	3%+.67	.77	1/2%
Cable Splicers	12.77	.70	3%+.67	.77	1/2%
Groundmen	9.98	.70	3%+.67	.77	1/2%
AREA 14					
Linemen	8.66	.35	3%		½ of 1%
Cable splicers	9.06	.35	3%		½ of 1%
Equipment operators	7.45	.35	3%		½ of 1%
Trucks with earth boring auger	6.06	.35	3%		½ of 1%
Trucks with winch, groundmen	4.76	.35	3%		½ of 1%
AREA 15					
Linemen & Equipment Operators	10.26	6%	6½%	8%	1%
Cable splicers	10.66	6%	6½%	8%	1%
Truck drivers & Groundmen	9.36	6%	6½%	8%	1%

AREAS COVERED BY LINE CONSTRUCTION

AREA 1 - Boone, Braxton, Cabell, Calhoun, Clay, Fayette (Falls and Kanawha Twps.), Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Nicholas, Putnam, Raleigh (Clear Fork and Marsh Fork Twps.), Roane, Wayne & Webster Counties.
AREA 2 - Raleigh County (excluding Clear Fork and Marsh Fork Twps.)
AREA 3 - Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.
AREA 4 - Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties.
AREA 5 - Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties.
AREA 6 - Brooke (except Buffalo Twp.) & Hancock (except Grant Twp.) Counties.
AREA 7 - Marion, Monongalia, Preston, Taylor & Tucker Counties.
AREA 8 - Mineral County.
AREA 9 - Berkeley, Hampshire & Morgan Counties.
AREA 10 - Grant County.
AREA 11 - Hardy, Jefferson & Pendleton Counties.
AREA 12 - Fayette County (excluding Falls and Kanawha Twps.)

Page 9

DECISION NO. WV80-3016

AREAS COVERED BY LINE CONSTRUCTION (CONT'D)

AREA 13 - Summers & Wyoming Counties
AREA 14 - Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties.
AREA 15 - Hancock County - Grant Twp. only.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
AREA 1					
Painters					
An area within 50 miles of Huntington, W.V.	9.73	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	11.06	.45	.35		.02
Bridge & Hazardous Work (includes towers, smoke stacks, flag poles & tanks)					
An area within 50 miles of Huntington, W.V.	11.69	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	13.04	.45	.35		.02
AREA 2					
Brush, roller, and spray	9.35	.30			
Industrial structural steel	12.65	.30			
Power cleaning tools and lining machine work - 50c over appropriate scale					
Material emitting toxic vapors-$1.00 over appropriate scale					
Height clause - additional $1.00 per hour per 100'					

Page 10

DECISION NO. WV80-3016	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
AREA 3					
Painters'	11.66		.20		
Structural steel after erection	12.57		.20		
Bridge painting	12.47		.20		
Spray painters	13.16		.20		
Towers, tanks & stacks	13.00		.20		
Repaint industrial & structural steel	11.77		.20		
Sand blasters	13.64		.20		
AREA 4					
New Construction:					
Brush	10.76		.30		.01
Roller	11.02		.30		.01
Spray & Blast, Pot-Men	11.78		.30		.01
Repaint Work					
Brush	9.34		.30		.01
Roller	9.62		.30		.01
Spray & Pot-Men	11.78		.30		.01
Bridge					
Brush	11.46		.30		.01
Roller	11.71		.30		.01
Spray, Blast, glove	12.46		.30		.01
Open structural steel	11.11		.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30 feet high	11.71		.30		.01

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DECISION NO. WV80-3016	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS (CONT'D):						
AREA 5						
Brush	9.96	9.07	.55			
Air Compressor Operator	9.96	9.07	.55			
Roller, Spray, Dipping & Mitten Work	10.36	9.46	.55			
Water blasters, Steam jenny nozzle men, swinging scaffold & Boatswain chair, window belt & window jack work	10.88	10.27	.55			
Brush painters on bridges needle beam, cable work, power tool work, brush & flame cleaning	11.29	10.74	.55			
Sand blaster	11.64	11.09	.55			
All stacks, vent pipes, flag poles in excess of 30' high, all towers, elevated tanks, electrical switch yards, transformer banks, television towers	12.67	12.21	.55			
Spray painter or sandblaster on bridges needle beam cable work	11.64	11.02	.55			

DECISION NO. WV80-3016	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS (CONT'D):					
AREA 6:					
Brush & roller	9.87	.65	.50		.02
Glove	10.12	.65	.50		.02
Spray, sandblast & steam-cleaning	10.87	.65	.50		.02
Height over 40' - Brush	10.37	.65	.50		.02
Locks and Dams - Brush	10.95	.65	.50		.02
Towers - Brush	12.19	.65	.50		.02
Elevated Tanks over 35' - Brush and Roller	12.19	.65	.50		.02
Standpipe tanks over 35'-Brush and Roller, Power-line towers-Brush, Flag-poles over 40'-Brush, and Substations-Brush	12.19	.65	.50		.02
Railroad and Highway Bridges:					
Spray and Sandblast	12.19	.65	.50		.02
Brush	11.19	.65	.50		.02
Glove and Roller	11.44	.65	.50		.02
AREA 7					
Brush & roller	6.20	.50	.40		
Spray	7.20	.50	.40		
AREA 8					
Light Work					
Brush, rollers, sign painting	9.35		.50		
Brush & roller (toxic materials)	9.85		.50		
Spray, sandblasting & use of flame burning & power tools	10.35		.50		
Spray (toxic materials)	10.85		.50		
Heavy & Hazardous Work:					
Brush & sign painting	10.35		.50		
Brush (toxic materials)	10.85		.50		
Spray, rollers, sandblasting, & use of flame burning & power tools	11.35		.50		
Spray & roller (toxic materials)	11.85		.50		

DECISION NO. WV80-3016

AREAS COVERED BY PAINTERS

AREA 1 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.
AREA 2 - Monongalia & Preston Counties.
AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.
AREA 4 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.
AREA 5 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.
AREA 6 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.
AREA 7 - Brooke (remainder of county), & Hancock Counties.
AREA 8 - Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PILEDRIVERMEN - HEAVY CONSTRUCTION:					
AREA 1	10.60	5%	10%		1%
AREA 2	10.77	.80	.50		.05

AREAS COVERED BY PILEDRIVERMEN
HEAVY CONSTRUCTION

AREA 1 - Brooke, Hancock, Marshall, Monongalia, Ohio, and Wetzel Counties.
AREA 2 - All remaining Counties.

DECISION NO. WV80-3016	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PILEDRIVERMEN - HIGHWAY CONSTRUCTION:					
AREA 1	10.60	5%	10%		1%
AREA 2	10.56	.80	.50		.05

AREAS COVERED BY PILEDRIVERMEN
HIGHWAY CONSTRUCTION

AREA 1 - Brooke, Hancock, Marshall, Monongalia, Ohio, & Wetzel Counties.
AREA 2 - All remaining counties

PLUMBERS AND PIPEFITTERS:					
AREA 1 Harrison, Marion, and Monongolia Counties	11.57	.65	1.00	1.157	.04
AREA 2 Barbour, Doddridge, Lewis, Preston, Taylor, and Upshur Counties	11.82	.65	1.00	1.182	.04
AREA 3 Braxton, Gilmer, Randolph, and Tucker Counties	12.07	.65	1.00	1.207	.04
AREA 4 Grant, Hampshire, Hardy, Mineral, and Pendleton Counties	12.32	.65	1.00	1.232	.04
AREA 5 Brooke (south of Buffalo Creek), Marshall, Ohio, and Wetzel Counties	11.79	.75	1.00	1.18	.05
AREA 6 Brooke (remainder of County) and Hancock Counties	12.61	.50	8%	8%	.12
AREA 7 Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt, and Wood Counties	11.83	.50	.00		

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DECISION NO. WV80-3016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND PIPEFITTERS: (CONT'D):					
AREA 8					
Cabell, Lincoln, Logan, Mason, Mingo, and Wayne Counties:					
Zone 1 - Within 8 mile radius of Cabell County Courthouse	10.88	.60	1.40		.02
Zone 2 - 8 to 15 miles from the Courthouse	11.00	.60	1.40		.02
Zone 3 - 15 to 25 miles from the Courthouse	11.28	.60	1.40		.02
Zone 4 - Over 25 miles from the Courthouse	11.53	.60	1.40		.02
AREA 9					
McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming Counties:					
Contracts $75,000 or less	8.55	.55	.60		.09
Contracts over $75,000	12.33	.55	.60		.09
AREA 10					
Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocohontas, Putnam, Roane and Webster Counties	12.95	.65	.80		.05
AREA 11					
Berkeley, Jefferson, and Morgan Counties	7.82	.60	.80	a	
POWER EQUIPMENT OPERATORS:					
Heavy Construction:					
Group 1	11.29	1.00	.60		.11
Group 2	10.49	1.00	.60		.11
Group 3	9.75	1.00	.60		.11
Group 4	9.51	1.00	.60		.11
Group 5	9.18	1.00	.60		.11
Group 6	8.86	1.00	.60		.11
Group 7	10.07	1.00	.60		.11

All classifications performing tunneling and underground work shall Receive an additional 25¢ per hour

DECISION NO. WV80-3016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Highway Construction:					
Group 1	11.13	1.00	.60		.11
Group 2	10.30	1.00	.60		.11
Group 3	9.56	1.00	.60		.11
Group 4	9.32	1.00	.60		.11
Group 5	8.99	1.00	.60		.11
Group 6	8.67	1.00	.60		.11
Group 7	9.89	1.00	.60		.11

All classifications performing tunneling and underground work shall receive an additional 25¢ per hour.

CLASSIFICATION DEFINITION FOR POWER EQUIPMENT OPERATORS ON HEAVY AND HIGHWAY CONSTRUCTION

Group 1 - Cranes, derricks, tower cranes, all shovels, draglines, clamshells, backhoes, cableways, derricks (2 drums or more), dredge, sideboom tractors and similar equipment having a reach from the top of the boom to the ground of 150 feet, or a capacity of 3 cubic yards and/or a lift capacity of 50 tons. Endloaders and concrete mixing plants of 4 cubic yards capacity or over. Hoist with 18,000 pound line pull or over, tug, tow or work boat above 25 horsepower engine. Transloader. Capacities to be based on manufacturer's specifications. Master Mechanic.

Group 2 - Crane, derrick boat, dragline, grade-all, hoist (two drums or more), mechanic (heavy), mixer plant (two or more mixers including batch control), paver (dual drums), pile driver, shovel, coredrill operator, trencher (20" or over), truck crane, backhoe, hi-lift (1-1/2 cubic yards or over), dozer with ripper (when dozer is D-8 class or larger), double hitched equipment, bulldozer with roller, standard gauge locomotive, concrete pump, controlled fine grade machine, slip form paver operator, dozer with sloper and log loader.

DECISION NO. WV80-3016

CLASSIFICATION DEFINITION FOR POWER EQUIPMENT OPERATORS ON HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

Group 3 - Fork lift, self-propelled concrete spreader, concrete finishing machine, Bulldozer, derrick (single drum), hi-lift (under 1-1/2 cubic yards), hoist (single drum), single drum paver, trencher (under 20"), motor grader, air tugger, rubbertired scraper, self-loading tractor pan, Ross Carrier, "A" Frame, multiple concrete saw, asphalt paver, hydraulic post driver, base paver, rotary drill, lead greaser on grease truck or service island, snake or push tractor, horizontal road boring machine, conductor of locomotive, tie distributor, track liming machine ballast tamper, anchor application machine, ribbon rail puller, ballast regulator, auto sled, turn table.

Group 4 - Concrete mixer (single drum) one cubic yard or over, tireman, asphalt batch plant, concrete batch plant, crushing plant, screening and washing plant, form subgrader, power form handling equipment, burlap and curing machine, form grader, bull float, portable concrete saw roller and compactor, bar and joint installing machine and power broom.

Group 5 - High pressure fireman.

Group 6 - Air compressor, concrete mixer (under one cubic yard), conveyor-belt or bucket, light plant, narrow gauge locomotive, welding machine, low pressure fireman, mechanic's helper, oiler, deckhand, screed man, spreader box man, farm tractor, joint sealer and pump, steam jenny and brakeman of locomotive.

Group 7 - Group 6 operators when operating on (1) or more [illegible] CFM compressors or one (1) or more pumps 4" or larger, or more than one (1) air compressor, conveyor-belt or bucket, light plant, welding machine, and pumps.

DECISION NO. WV80-3016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Heavy Construction					
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan and Pendleton					
Group 1	9.04	b	c		
Group 2	9.21	b	c		
Group 3	9.45	b	c		
Group 4	9.79	b	c		
Group 5	9.87	b	c		
Group 6	10.05	b	c		
Group 7	10.25	b	c		
Group 8	10.29	b	c		
Area 2: Grant, Hardy, Hampshire, Mineral, Morgan, and Pendleton Counties:					
Group 1	9.04	1.00	.77		
Group 2	9.21	1.00	.77		
Group 3	9.45	1.00	.77		
Group 4	9.79	1.00	.77		
Group 5	9.87	1.00	.77		
Group 6	10.05	1.00	.77		
Group 7	10.25	1.00	.77		
Group 8	10.29	1.00	.77		
TRUCK DRIVERS:					
Highway Construction:					
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan, & Pendleton					
Group 1	8.84	b	c		
Group 2	9.00	b	c		
Group 3	9.24	b	c		
Group 4	9.60	b	c		
Group 5	9.66	b	c		
Group 6	9.84	b	c		
Group 7	9.99	b	c		
Group 8	10.08	b	c		

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DECISION NO. WV80-3016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (CONT'D)					
Area 2: Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Counties:					
Group 1	8.84	1.00	.77		
Group 2	9.00	1.00	.77		
Group 3	9.24	1.00	.77		
Group 4	9.60	1.00	.77		
Group 5	9.66	1.00	.77		
Group 6	9.84	1.00	.77		
Group 7	9.99	1.00	.77		
Group 8	10.08	1.00	.77		

All truck driver classifications performing tunneling and underground work shall receivean additional 25¢ per hour

CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS ON HIGHWAY & HEAVY CONSTRUCTION

Group 1 - Warehouse, yardmen, truck helper, pick-ups, station wagons, panel trucks, team 2-up

Group 2 - Single axle trucks used as dump, supply, fuel, water, van, flatbody, monorail, distributor, (Other than bituminous distributors) and including towed single units - material checkers, material receivers, team 4-up, greasers, tiremen and mechanic helpers (trucks).

Group 3 - Tandem axle trucks used as dump, supply, fuel, water, van, flatbody, monorail and including towed single units, truck tractors used in combination with dump, van, tank, flatbed, low platform, or pole trailers, bituminous distributors, agitator or mixer trucks (up to and including 5 c.y.).

Group 4 - Agitator or mixer trucks over 5 c.y. and less than 12 c.y., rubbertired tractors (towing or pushing), drag drivers, and tag alongs.

DECISION NO. WV80-3016

CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS ON HIGHWAY & HEAVY CONSTSUCTION CON'T

Group 5 - Tri-axle trucks used as dump, supply, fuel, water, van, flatbed, monorail and including towed single units, agitator or mixer trucks (over 12 c.y. to 20 c.y.)

Group 6 - Mobile metered mixer, agitator or mixer trucks (over 20 c.y.), off highway rear dump trucks to 75 tons.

Group 7 - "A" frame operator

Group 8 - Off highway rear dump - over 75 tons.

FOOTNOTES:

a. Holiday: Christmas Day

b. Employer contributes $110.00 per month per employee

c. Employer contributes $84.50 per month per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTY: Green & Rock
DECISION NUMBER: WI80-2040 DATE: Date of Publication
Supersedes Decision No. WI78-2130 dated October 27, 1978 in 43 FR 50362
DESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.55	.95	1.00	1.25	.09
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS & STONEMASONS	11.58	.75	.70	.25	.02
CARPENTERS & SOFT FLOOR LAYER	11.83	.60	.70		.12
Millwrights	12.40	.60	.70		.12
Piledrivermen	11.98	.60	.70		.12
CEMENT MASONS	10.55	.75	1.00		
ELECTRICIANS	12.85	.55	5%	7%	3%
ELEVATOR CONSTRUCTORS:					
Southern portion of County	13.00	1.045	.69	a+b	.03
Northern portion of County	12.04	1.045	.82	a+b	.03
Elevator constructors' helpers:					
Southern portion of County	9.10	1.045	.69	a+b	.03
Northern portion of County	8.43	1.045	.82	a+b	.03
GLAZIERS:					
Northern 2/3 of County	11.93	.70			.03
Southern 1/3 of County	10.08	.47	.35	1.5%	.02
IRONWORKERS (mill):					
Vic. Edgerton, Milton, Poolville, & Evansville	12.04	.75	.75		.07
Vic. of Janesville, Shopier	13.25	.75	.375		.10
LABORERS:					
General, Mason Tenders, Plaster tenders	9.47	.55	.45		.03
Mortar Mixers, Jackhammer & Air Hammer Operator	9.62	.55	.45		.03
LATHERS:					
Eastern ½	11.44	.55	.45		.01
Southerwestern portion	12.05	.55	.85		.04
Remainder of County	10.30	.55	.20	.50	.01
LINE CONSTRUCTION:					
Linemen	11.82	.62	7%		3%
Heavy Equipment Operator	10.64	.62	7%		3%
Light Equipment Operator	9.46	.62	7%		3%
Heavy Groundman - Truck Driver	8.27	.62	7%		3%
Light Groundman - Truck Driver	7.68	.62	7%		3%
Groundman	6.50	.62	7%		3%
PAINTERS:					
Brush	10.46	.80	.30	.40	
Structural Steel (brush)	10.46	.80	.30	.40	
Spray	11.21	.80	.30	.40	
Swing Stage	10.71	.80	.30	.40	

Decision: WI80-2040 (Cont'd) Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	10.65	.75	1.00		
PLUMBERS & STEAMFITTERS	13.71	.65	.80		.06
ROOFERS	13.35	.55			
SHEET METAL WORKERS	13.21	.85	.72		.04
TILE SETTERS	11.30	.75	.70	.25	.02

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Six Paid Holidays: A through F.

b. Employer contributes 8% of regular hourly rate for vacation pay credit for employee who has worked in business more than 5 years's and 6% for employee who has worked in the business less than 5 years

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	12.02	1.05	.90		.05
GROUP II	11.77	1.05	.90		.05
GROUP III	11.47	1.05	.90		.05
GROUP IV	11.37	1.05	.90		.05
GROUP V	10.96	1.05	.90		.05
GROUP VI	10.62	1.05	.90		.05

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POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

Unlimted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

BILLING CODE 4510-27-C

federal register

Friday
May 30, 1980

Part III

Department of Energy

Fixed Net Profit Share Bidding System for Outer Continental Shelf Oil and Gas Leases and Accounting Procedures for Determining Net Profit Share Payments; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 376, 390

Final Rulemaking Regarding a Fixed Net Profit Share Bidding System for Outer Continental Shelf Oil and Gas Leases and Accounting Procedures for Determining Net Profit Share Payments

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: These regulations establish a "fixed net profit share" bidding system for use in lease sales of Outer Continental Shelf oil and gas tracts. The bidding system uses cash bonus as the bid variable and requires net profit share payments at a rate that is constant for the duration of the lease and a fixed annual rental payment. These regulations also establish accounting procedures that oil and gas firms are required to use in order to calculate net profit share payments due the United States for the right to produce oil and gas from Outer Continental Shelf leases issued under net profit share bidding systems. The most significant changes from the proposed regulation include a modification of the definition of the capital recovery period and changes to the accounting procedures, most notably those dealing with required inventories, audits, and records retention. This regulation implements rulemaking responsibilities under section 8(a) of the Outer Continental Shelf Lands Act, as amended by Pub. L. 95–372, that were transferred to the Department of Energy under sections 302(b) and 303(c) of the Department of Energy Organization Act.

EFFECTIVE DATES: The amendment to Part 376 contained in this regulation and Part 390 shall be effective May 14, 1980.

FOR FURTHER INFORMATION CONTACT:

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Michael T. Skinker (Office of General Counsel), U.S. Department of Energy, 1000 Independence Avenue, SW., Room 5E074, Forrestal Building, Washington, D.C. 20585, (202) 252–2900.

Fred Appel (Public Affairs—Resource Applications), U.S. Department of Energy, 1200 Pennsylvania Avenue, NW., Room 3307, Washington, D.C. 20461, (202) 633–9418.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Analysis of Public Comments.
A. General.
B. Foundations of the Regulation.
C. Structure of the Fixed Net Profit Share System:
1. Fixed Capital Recovery System.
2. Administrative Burden.
3. Role of the USGS.
4. Other Issues.
D. Accounting Procedures:
1. Direct Costs.
2. Legal Expenses.
3. Cash vs. Accrual Accounting.
4. Monthly Reporting Requirement.
5. Replacement Costs.
6. Contract Services.
7. Rental Charges.
8. Taxes.
9. Relocation Costs.
10. Transportation Costs.
11. Communications.
12. Environmental Costs.
13. Overhead.
III. The Accounting Procedures.
IV. Changes in the Final Regulation.
V. NPSL Accounting Example.
VI. Environmental Review.
VII. Effective Date.

I. Introduction

Sections 302 and 303 of the Department of Energy Organization Act (DOE Act, Pub. L. 95–91, 91 Stat. 578–580 (42 U.S.C. 7152, 7153)) transferred to the Secretary of Energy certain authorities previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSLA), the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act. Specifically, with respect to Federal leases issued under these statutes, section 302(b) of the DOE Act authorizes the Secretary of Energy to promulgate regulations which relate to the: (1) Fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures); (2) implementation of alternative bidding systems authorized for the award of Federal leases; (3) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements); (4) setting rates of production for Federal leases; and (5) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

The Secretary of Energy is specifically authorized to promulgate regulations under the OCSLA as they relate to the implementation of alternative bidding systems authorized for the award of Federal Outer Continental Shelf (OCS) leases (section 302(b)(2) of the DOE Act) and to disapprove any term or condition of a Federal OCS lease which relates to the authority to promulgate regulations under section 302(b) (§ 303(c)(1) of the DOE Act).

On November 30, 1979, the Department of Energy (DOE) issued a proposed regulation (44 FR 70390, December 6, 1979) to establish a fixed net profit share bidding system for use in OCS lease sales. The proposed bidding system differed in significant respects from the traditional bidding system used for OCS lease sales under which leases were issued on the basis of a cash bonus bid with subsequent payments to the government based on a fixed royalty and a fixed annual rental. The proposed bidding system retained cash bonus as the bid variable, but replaced the royalty payment as the basis on which the Federal Government would receive further payments for its resources with payment of a fixed share of the net profits. The regulation as proposed also established accounting procedures for allocating expenditures incurred by lessees during exploration, development and production of net profit share leases and for calculating net profit share payments. To the extent feasible, DOE based the accounting procedures in the proposed regulation on those generally used within industry. In addition, the proposed regulation established procedures for auditing by the Federal Government of lessees' accounting practices and net profit share calculations and prescribed the process whereby a lessee might challenge any adjustment to its calculations resulting from such auditing. The proposal incorporated a fixed capital recovery system as the means through which lessees would recover costs of exploration and development from production revenues, as well as a reasonable return on investment.

Implementation of a fixed net profit share bidding system satisfies a primary intention of Congress in enacting the OCSLA Amendments of 1978 (Amendments, Pub. L. 95–372, 92 Stat. 629) that there be experimentation with various bidding systems. Explicit in the Amendments is Congress' conclusion that terms and conditions under which leases are awarded, i.e., the bidding and leasing process, have an important effect on orderly and efficient resource development. In particular, "with the present shortage of investment capital that will prevail for many years, increasing risk of uncertainty, and the increasing integration and concentration of energy industries, there is some doubt whether cash bonus bidding remains the best system for the future." (Report of the House Ad Hoc Select Committee on the Outer Continental Shelf, H.R. Rep. No. 95–590 to accompany H.R. 1614, 95th Congress, 1st Session (1977), p. 54). Thus, Congress directed through the Amendments that bidding arrangements other than the cash bonus-fixed royalty system be developed and used on an experimental basis, so as to "strike a proper balance between securing a fair market return to the Federal Government for the lease of its lands, increasing competition in exploitation of resources, and providing the incentive of a fair profit to the oil companies, which must risk their investment capital" (House Report, p. 54).

A review of the Amendment's legislative history indicates that Congress was particularly interested in profit share bidding systems. Congress's perception was that large cash bonus payments may inhibit competition for OCS leases by preventing smaller independent firms from participating in OCS development.

By design, use of a net profit share system places greater emphasis on contingency payments for generating fair returns to the government, and thereby less reliance on the initial cash bonus. Reduction of cash bonus bids constitutes a primary effect intended under the proposal. The proposal was also intended to result in increased production of oil and gas from the OCS, foster development of marginal oil and gas fields, increase effective competition for OCS leases, and free more funds for exploration in addition to increasing total revenue to the public.

DOE has determined that initial experimentation with a net profit share bidding system should retain cash bonus as the bid variable. This determination is based upon the belief that profit share rate bidding will exhibit the same problems experienced with royalty rate bidding, *i.e.*, a tendency to overbid the profit share rate, speculative bidding, and inefficient resource development.

Since the administration of this regulation is the responsibility of the U.S. Geological Survey (USGS) within the Department of the Interior (DOI), utilization of this bidding system will result in greater administrative responsibilities for the USGS, relating to determination of proper rates for certain costs, concern for inventory, and performance of periodic audits. USGS regulations are not superseded by this action but must be followed in conjunction with this regulation, as appropriate.

Pursuant to § 204 of the Amendments, a copy of the proposed regulation was transmitted to the Attorney General for his views on any matters contained herein that may affect competition. No comments have been received. DOE consulted with DOI in the preparation of this regulation and its views have been carefully considered in the development of the final regulation.

II. Analysis of Public Comments

A. General

The proposed regulation was published in the **Federal Register** on December 6, 1979 (44 FR 70390) and public comment was invited over a period of three months; the comment period closed on March 7, 1980. During the comment period, DOE held public hearings on the proposed regulation in Washington, D.C. and Houston, Texas. In response to the proposal, comments were received from 27 private firms (all actively engaged in the offshore oil and gas industry), 2 State agencies, and 2 Federal agencies.

The comments divided logically along several lines. Most of the comments received from industry, for example, expressed some degree of opposition to the concept of a net profit share system. For a variety of reasons, however, the degree of opposition ranged from strong objection to mild disapproval of the concept. Some disagreed with the underlying rationales of the regulation, asserting that sufficient competition already exists for OCS leases or that the present cash bonus—fixed royalty bidding system has served optimally to facilitate recovery of oil and gas from the OCS. Others felt that the proposed regulation would fail to achieve its goals, except for increasing revenue to the public. Few comments wholeheartedly endorsed the proposal.

A second area of concern focused on the proper structure of a net profit share system. Nearly all the comments perceived conceptual difficulties in the proposal. Among the considerations raised as presenting difficulties were the choice of a fixed capital recovery system, with the inherent difficulties posed by the selection of a fixed capital recovery factor and the selection of a point for termination of the preproduction period; the increased administrative requirements for both Government and industry, including the perceived problems associated with lowered incentives to early exploration or to formation of joint ventures; unitization of net profit share leases with fixed royalty leases; use of the proposed system in frontier areas, and frequency of its use; and the augmented role of the USGS in the administration of the fixed net profit share system. Other comments expressed a preference for a fundamentally different system of profit sharing, the investment account system, instead of the fixed capital recovery system proposed in the regulation. For reasons detailed below, DOE has chosen to adopt in this final regulation the proposed fixed capital recovery system with certain modifications, as the most efficacious and least burdensome means of implementing profit share leasing.

The third major portion of the comments addressed technical issues, most notably perceived shortcomings in the accounting procedures contained in the proposal. Several sets of comments contained detailed recommendations to remedy perceived flaws in the proposal, several from those respondents expressing greatest disapproval of the net profit share concept. The major shortcomings of the proposed regulation discussed in the comments centered on exclusion of various costs from the profit share accounts, and allocation of certain operating costs to overhead. DOE intends this regulation to provide lessees with incentives to early exploration and development. Insofar as possible, the final regulation defers to industry accounting practices as set out in procedures of the Council of Petroleum Accounting Societies of North America (COPAS). Deviations from COPAS procedures are basically due to the different purpose of this regulation from that of usual joint venture accounting because COPAS leaves allocation of certain contract factors (e.g. overhead rates) to negotiation by the joint venturers.

DOE has carefully reviewed all of the comments and considered them in redrafting this regulation. The discussion of the major comments which follows is divided into three sections: the foundation of the regulation, the structure of the fixed net profit share system, and the accounting procedures. The comments provided considerable assistance in the redrafting of the regulation, particularly with respect to many technical aspects of the accounting procedures.

B. Foundations of the Regulation

Most comments received from industry expressed some degree of opposition to the concept of leasing with a net profit share term in OCS leases. The degree of opposition varied, but appeared to stem from a general apprehension among firms engaged in OCS operations that introduction of a net profit share system might lead to decreased reliance upon the cash bonus-fixed royalty system at present in dominant use, and that the perceived burdens associated with any net profit

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share system might outweigh its beneficial aspects. Others questioned the existence of any beneficial aspects to the proposal, as compared with the traditional cash bonus—fixed royalty system. The comments also raised issues with regard to the foundations of the proposal, in theory and practice, and the assumptions used by DOE in formulating the proposal. The causal nexus between the proposed regulation and its intended effects was seriously doubted.

DOE appreciates the reservations of industry with regard to the introduction of a new bidding system. Nevertheless, DOE believes that rational objections to the concept of net profit share are answerable. Relatively few comments were received taking serious issue with the conclusions reached in DOE's regulatory analysis although there were comments which criticized some of the assumptions of the regulatory analysis. Several comments stated that other analyses arrived at conclusions comparable to those in the DOE regulatory analysis. Other objections, unfortunately, were merely speculative assertions, unsupported by argument or data. As to these, DOE's analysis leads to different conclusions.

The regulatory analysis prepared by DOE for this regulation indicates that use of the proposed fixed net profit share system should result in a reduction of cash bonus bids for OCS leases. Several firms, however, took issue with this point, asserting that major oil and gas companies, due to their size, access to capital, and presumed economies of scale, can tolerate a lower return on investment. Therefore, these firms can afford not to discount cash bonus bids as much as smaller firms, to the detriment of these smaller firms in competing for OCS leases.

In response, DOE notes that this situation would represent perverse bidding behavior on the part of major companies. In their comments, companies have stressed the wholly rational process used in the formulation of bids for OCS leases, a process which generates a point bid or narrow range of bids and is based upon resource estimates for the tract, expected costs of exploration and development, and the value of subsequent payments to the Federal government for the lease. Companies have ascribed non-rational bidding behavior to other firms, but never to themselves. Nothing in the record, regulatory analysis, or bidding history has come to light to support the contention that net profit share leasing systems will lead to less rational bidding behavior on the part of firms than would occur under other bidding systems for OCS leases. The possibility of irrational bidding exists under present bidding systems, but while acknowledging the possibility, DOE doubts that such behavior is likely, or that such behavior is more likely when profit share systems are employed.

The general idea of competition for OCS leases, and especially its relation to the fixed net profit share system, received a good deal of discussion in the comments. Several comments asserted that competition for leases on the OCS is sufficient at present and, moreover, that no qualified company is presently precluded from participation, at least through joint ventures. Other comments questioned the necessary relationship of use of the fixed net profit share system and increased competition for OCS leases, instead citing such inhibiting factors as aversion to risk, inability to meet overall capital requirements, and lack of technical capability, as the major limitations on participation by firms in OCS lease sales.

DOE has never maintained that large front-end cash bonuses are the sole inhibiting factor to participation in OCS lease sales; however, large bonuses do figure importantly in a company's decision whether to participate in an OCS lease sale, as the comments also make clear. To the extent that a firm's decision to participate, either alone or as a part of a joint venture, depends on the initial cash bonus, use of fixed net profit share can operate to increase competition for OCS leases by reducing cash bonus amounts. The regulation makes no pretense of presenting a final solution to all problems associated with participation in OCS exploration and development, such as access to all necessary capital or technical competence. It should be noted, however, that under a net profit share system, a lessee is able to recover expenses of exploration and development, plus a reasonable return on that investment, from production revenues prior to payment of any net profit share to the government. This differs significantly from a fixed royalty system, where contingent payments to the government begin with the first barrel of production.

Several additional assumptions used in the regulatory analysis were criticized in the comments as being erroneous or unwarranted. Major among them were sizes of average reservoir and bonus, timing of investment development costs, and constant capital recovery factors. A majority of comments pointed out that not all investment in development facilities takes place prior to commencement of production from a lease. The assumption in the regulatory analysis as to the timing of development investment costs was made for purposes of computer simulation, but in no way invalidates the conclusions reached in the regulatory analysis. In addition, as discussed more fully below, DOE has not assumed that no development costs are incurred after the onset of production, but merely that those costs bear a different relationship to the goals sought to be achieved by the regulation.

Neither do the results of the regulatory analysis depend for their validity on the assumptions made with regard to reservoir size, bonus, or constant capital recovery factor in a given OCS lease sale. The regulatory analysis examined a range of reserve sizes, from small (30 million barrels) to large (one billion barrels), to determine the impact of reservoir size on production incentives created by the various systems.

Similarly, no *a priori* selection of system parameters (capital recovery factor and profit share rate) was assumed; rather, the whole range of these factors was examined to determine the combination most suitable for each system, given varying cost and resource size conditions. In theory, tailoring capital recovery factors to individual tracts operates to serve the purposes of the regulation more closely, to the extent that resource and cost estimates are more accurately reflected in the combination of parameters applied to each tract.

C. Structure of the Fixed Net Profit Share System

A number of comments questioned whether the fixed net profit share system would achieve its intended objectives, but approached the question from the perspective of structuring a fixed net profit share system, rather than the concept of net profit share itself. Comments from both industry and government admonished that adoption of a fixed net profit share system would not necessarily increase competition for OCS leases, maximize production, or foster development of marginal oil and gas fields, due to the manner in which DOE might choose to structure the concept of fixed net profit share. In general, the comments appeared to group around the choice of the fixed capital recovery system, the perceived administrative burden to industry and government associated with any form of net profit share, and the increased role of the USGS in the administration of the regulation.

Many related issues are subsumed within this characterization, but are either minor variations, or permutations, of these broader concerns.

1. *Fixed capital recovery system.* In the final regulation, as in the proposal, DOE has chosen to employ a fixed capital recovery system. This choice generated some approval and a good deal of criticism in the public comments. No attention was focused on an annuity accounts system; instead, there was much discussion of the relative merits and drawbacks of the fixed capital recovery system, as contrasted with an investment account system.

Stated briefly, the fixed capital recovery system as originally proposed accumulates costs incurred during OCS operations, without distinction as to whether they are capital or noncapital in nature, depending on when the expenses are incurred. After commercial production begins, exploration and development costs are recovered from production revenues.

As proposed, exploration and development expenses, those incurred prior to the onset of commercial production, receive a return designed to compensate for the capital at risk during the preproduction period. Costs that qualify for the allowance for capital recovery are charged against the NPSL accounts at a value equal to the amount of expenses increased by application of the capital recovery factor.

The capital recovery factor is unique to each lease and selected on the basis of cost and resource expectations. Recovery of costs incurred after the end of the preproduction period takes place on a dollar-for-dollar basis.

Evaluations of the fixed capital recovery system were divided, although even some supporters of this system recommended changes. Other comments found the proposal sufficiently deficient to suggest adoption of an investment account system instead. Criticisms of fixed capital recovery appeared to focus predominantly on two features of the system: difficulty in selection of the capital recovery factor and determination of the end of the period for which the capital recovery is allowed.

The fixed capital recovery procedure, which incorporates a capital recovery factor, is fundamental to the fixed net profit share system promulgated by this regulation. It is a mechanism for providing the lessee a return on the investment risk incurred to explore and develop a tract. A number of comments pointed out the difficulty inherent in determining a capital recovery factor that allows the lessee a return adequate to induce necessary investment, yet discourages uneconomic or wasteful investment resulting from a capital recovery factor set too high. Other comments questioned the feasibility of basing the capital recovery factor on cost and resource estimates made prior to the lease term, since both components are very uncertain until well into exploration and development. Wide discrepancies between USGS pre-sale estimates of minimum tract worth and high bids were cited as evidence of erroneous valuations by USGS; one comment frankly doubted the capacity of USGS to conduct this analysis. Several comments suggested that an investment account system would obviate need for a capital recovery factor. Also, these comments added that using a current market rate of interest, such as the prime rate, would suffice to establish the interest rate to apply to the investment account, variously defined. Such an interest rate would float in response to economic forces, and perhaps be more accurate than a capital recovery factor fixed in advance of a lease site.

Most of the comments endorsing the investment account system recommended its use on the basis of simplicitly and minimized administrative burden. However, the DOE regulatory analysis demonstrates that the investment account system suffers from intrinsic shortcomings that render it less efficacious than the fixed capital recovery system. In essence, an investment account approach permits application of an interest rate to expenses incurred, with interest being charged to the account even when no work is performed on the lease, as during periods of inactivity. With respect to its putative simplicity, while the investment account approach eliminates the need to determine at what point to terminate the period for which capital recovery is allowed, the auditing difficulties associated with administration of an investment account system are substantial. The requirement to track each expense, and assign each to a discrete time period for the duration of the lease, represents a major undertaking and an auditing burden. Since the present value of any expense is "worth more" when incurred or booked one period earlier, there exists a major inducement to "front-end" development expenses, the very criticism leveled at the fixed capital recovery system. Due to compounding of interest, an investment account approach tends to provide more encouragement to such "front-end" loading of investment than a fixed capital recovery approach.

Moreover, selection of a proper interest rate for the investment account system poses no less a problem than selecting a capital recovery factor. Solving this dilemma by adoption of the prime interest rate, most often recommended in the comments, would institutionalize in the regulation a truly floating variable whose derivation is unrelated to the context of risk incurred by lessees on the OCS. The prime rate, in essence, represents a short-term cost of money to preferred customers, and floats continually in response to factors exogenous to OCS exploration and development, which constitute long-term investments.

In addition, several comments complained of including two variables in the fixed net profit share system, the capital recovery factor as well as the profit share rate. The investment account sytem has the same problem, since both an interest rate and a profit share rate must be selected. Use of any floating interest rate would introduce another real variable into profit share determinations. Calculations of bid amounts, taking future interest rates into account, might prove somewhat more difficult than at present. The comments were unable to demonstrate that an investment account approach could offer benefits exceeding those provided by a fixed capital system.

Rather than contend with the difficulties of the investment account system, despite its superficial attractiveness, DOE has chosen to retain the fixed capital recovery system in the final regulation, with modifications, recognizing that establishment of proper capital recovery factors is based on uncertainties and may be somewhat problematic. Capital recovery factors and net profit share rates will derive from many of the same estimates now employed to determine royalty terms and minimum acceptable bids for OCS leases. To the extent that the capital recovery factor is set inaccurately, undesirable consequences, such as overinvestment or impeded exploration, are possible. Capital recovery factors must be published in the **Federal Register**, and DOE anticipates that bidders will discount or increase bids as their estimates of costs and resources vary from those reflected in the capital recovery factor. As a truly fixed term in each lease, use of the capital recovery factor removes some uncertainty from planning bids or operations. The expected practice of discounting or increasing bids in response to net profit share rates and capital recovery factors is analogous to the same practice done in response to varying royalty rates.

Perhaps more than any other aspect of the proposed fixed net profit share system, the provision relating to the end of the preproduction period, that period during which expenses incurred would qualify for the allowance for capital recovery, engendered critical reaction in the comments.

Several comments reflected a misperception that the preproduction period in the proposed regulation terminated at the onset of any production, regardless of volume or value, and expressed the consequent concern that major development expenses would be excluded from application of the capital recovery factor as a result of relatively insignificant amounts of production. This was never the intent of the proposed regulation. As defined in the proposal, production meant "commercial production", that is, the production of oil or gas in commercial quantities.

Many comments reflected the view that even the onset of commercial production would exclude too many legitimate development costs from eligibility for capital recovery, as it is possible that commercial production would begin from some wells on a platform prior to completion of all wells planned for the platform. The comments differed in their perception of the severity of this problem, as well as in their assessment of the likelihood of commercial production prior to the completion of all wells. The comments also reflected a concern that there would be an incentive to delay production in order to include more costs in the preproduction account, particularly where costs yet to be incurred were significant.

Most comments indicated a preference for commencing production as early as possible, to obtain a flow of revenue. As a consequence of this policy to go on-stream early on, considerable development and even some exploration activities may take place after commencement of commercial production, and the comments suggested that it was inequitable to treat post-production expenses differently from preproduction costs solely on that basis. Moreover, a number of comments pointed out that this treatment raised the prospect of front-end loading of investment, and distortion of accustomed development patterns.

Front-end loading would involve a lessee in funding as much exploration, development, and production activitiy as possible prior to the onset of commercial production, in order to qualify for inclusion in the allowance for capital recovery. However, to the extent that the regulation as originally proposed induces lessees to incur exploration and development expenses sooner, DOE views this incentive as consistent with Congress's intent to induce timely and efficient production, as expressed in the Amendments.

In contrast to the concerns expressed with respect to the acceleration of exploration or development activities, some comments suggested that the regulation as proposed created an incentive to delay production in order for additional development expenses to gain preferred treatment in the allowance for capital recovery. DOE agrees that this potential existed under the proposal, but the degree or severity of any delay rests entirely on the relative magnitude of the expenses already incurred by the lessee, the duration of the production delay, and the loss in value represented by the reduced present value of revenues from production initiated at a later time. It is difficult to construct scenarios where, given the magnitude of the development expenses likely to have been booked prior to the time any commercial production could commence *and* the potential loss in present value of gross revenues from production delayed, any substantial delay could be advantageous to a lessee. Also, USGS enforcement of development and production plans, which note the planned onset of commercial production and which are approved in advance of any development activity, provides additional insurance against protracted production delays.

The primary reason for implementing the fixed capital recovery system is that it creates incentives for prompt exploration and development. These incentives result largely from the application of the capital recovery factor to capital invested for exploration and development. Under the proposed regulation, the lessee would be denied this incentive on certain expenditures if "commercial" quantities of production were realized before the completion of development. Bypassing, without dismissing their importance, questions such as how much production might occur prior to the completion of platform development, or (proportionately) the magnitude of originally intended development costs that might be incurred subsequent to producing "commercial" quantities, it seems imprudent to deny the capital recovery incentive to a lessee on the basis of minor amounts of production. Conversely, it is equally imprudent to provide unnecessary incentives. Under the original proposal, once a lease has achieved commercial production, additional incentives are logically unneeded, absent special circumstances. Normal incentives for profit will motivate subsequent development activity.

It should be emphasized that the purpose of the capital recovery factor is to provide an incentive for early and expeditious exploration and development of a lease and to provide for a sharing of the risks of exploration by the government. As exploration and development expenses are recovered from production revenues, the original justification no longer obtains to the same degree. Whatever impact the incentive is going to have has been provided, and the risks attendant upon exploration and development have decreased significantly. Therefore, a dollar-for-dollar balancing of revenues against costs is appropriate after production has come on-line.

To the extent that current income is being employed for development, the government should not be required to give a premium for that investment. To argue that every dollar invested deserves a premium recovery is to ignore the different purposes served by the allowance for capital recovery and the simple recovery of costs from current income. When current income covers current costs, the premium intended to compensate for the costs of carrying the investment over an extended period of time is no longer warranted.

In order to accommodate certain of the concerns expressed, DOE has made several changes in definitions and nomenclature, which accord more closely with DOE's perception of how the final regulation will operate in practice. The "preproduction period" of the proposed regulation has become the "capital recovery period" in the final regulation. This shift in name has been made because the period during which the lessee may recover its expenses incurred in exploration and development of the NPSL tract is no longer restricted to the onset of commercial production, but may extend beyond that point, in part at the discretion of the lessee. The term "production period" has been dropped from the final regulation as its utility has been obviated through the adoption of somewhat different accounting procedures from those contained in the proposed regulation.

DOE has also altered the concepts of the "allowance for capital recovery" and the "capital recovery factor" from the proposed regulation. As originally proposed, the allowance for capital recovery, computed by multiplying the capital recovery factor by eligible costs, included both the amount of investment at risk and the premium allowed such investment, and the capital recovery factor was therefore expressed as a number equal to or greater than 1.0. To accommodate the revised accounting procedures adopted in the final regulation, DOE has elected to define the allowance for capital recovery as including only the premium allowed investment at risk, and not the amount of investment itself. It should be noted, as one consequence, that the capital recovery factor only needs to be a number greater than zero.

DOE has analysed many different options for termination of the capital recovery period and has determined that some degree of flexibility should be provided in the regulation. In addition, for reasons of administrative convenience and to provide an objective, predetermined standard, DOE has determined to tie the end of the capital recovery period to the provisions of the approved development and production plan for an NPSL.

As a consequence of the foregoing considerations, the final regulation provides that the capital recovery period ends not later than the time when the last well on the first platform specified in the development plan is completed and wellhead equipment installed, but may be terminated at such earlier time as the lessee may elect. In the event that the last well on the first platform proves dry, the capital recovery period will be deemed to end with the determination that the last well is nonproductive. In the event the development plan is not completed, the capital recovery period will end with the last activity completed on the first platform pursuant to the development plan. A further change has been made to the accounting system to provide that production revenue attributable to the capital recovery period will be entered as a credit in that period, and that revenues in excess of incremental costs will operate to reduce the debit balance outstanding in the NPSL capital account as described in more detail in the discussion of the changes to § 390.020.

The purpose of the above changes is to provide a certain degree of flexibility in the regulation without distorting the underlying objectives of the regulations. This flexibility will not necessarily result in a reduction in those accrued costs already eligible for favorable treatment or even in the loss of favorable treatment for those post-production development costs in excess of revenues accrued during the capital recovery period. The regulation permits the lessee to receive an allowance for capital recovery on accrued costs in the NPSL capital account until such time as the lessee determines that it is no longer economically sound to do so, that is, in most cases, at the point when incremental revenues equal and then exceed incremental costs. It is possible that an individual lessee, if projected future costs significantly exceed projected revenues for the same period, might choose not to terminate the capital recovery period. The flexibility in the final regulation will permit a lessee to include those significant post-production costs to the extent that they exceed revenues.

2. *Administrative burden.* Many comments expressed the view that the proposal would not increase competition, or attain its other objectives, due to the administrative burden placed upon lessees. DOE recognizes that any net profit share system represents a dramatic departure from bidding systems used in the past. Industry's evaluative and operational procedures will have to be adapted to the profit share system; this adjustment may require several lease sales employing the fixed net profit share system and experience implementing the accounting procedures before this adaptation is completed. The procedures incorporated into the final regulation attempt to minimize administrative, compliance, and auditing costs. DOE's efforts to minimize administrative costs begin with adoption of as many COPAS procedures as possible. Ultimately, however, the success of this regulation rests with the industry, whose negative predisposition with respect to the fixed net profit share system could be transformed into a disastrous self-fulfilling prophecy.

DOE does not dispute that some increased administrative costs will result from implementation of the fixed net profit share system, although it maintains reservations as to the apparent magnitude of the burden claimed to be associated with implementation. Most of the comments generally complained of the administrative costs to be shouldered by both industry and government, and highlighted undesirable effects that might flow from these added costs, without specifying the magnitude of the costs.

Paramount among the concerns expressed was the disproportionate effect that raising administrative costs would have on smaller firms, which might well be unequipped to handle the increase in workload without additional staff or other resources. It was asserted that smaller firms are therefore placed at a relative disadvantage with respect to major oil and gas producers, and net profit share tracts would become relatively less attractive to these firms. As a consequence, smaller firms might withdraw from competition for net profit share leases as sole bidders, if not as part of joint ventures. Provision of data to USGS was cited as a major cost factor, especially early in the implementation of the fixed net profit share system, until both industry and USGS gain experience in administration. Certain accounting procedures, notably record retention, yearly inventories, allocation of employee time, and audits, were also cited as unduly burdensome. DOE has attempted to minimize the magnitude of the administrative burden in the final regulation, and will review closely the performance of the regulation in light of actual experience.

DOE must concede, however, that the actual costs of administration to both industry and government remain largely indeterminate. In the interests of minimizing these costs, the final regulation contains a number of revisions in the accounting procedures from the original proposal, to align them more closely to COPAS practice and other industry standards. Requirements for record retention, for example, now approximate standards set by IRS for income tax purposes. Audit provisions have been revised to allow for audit of accounts for a period of three years, absent fraud or misrepresentation, which more closely accords with industry practice; and the regulation no longer requires yearly inventories. In this fashion, the administrative burden should be reduced to little more than already exists in joint venture accounting.

Several comments predicted that the fixed net profit share system would lower incentives to formation of joint ventures, due to increased administrative workloads inherent in the accounting procedures. It was asserted that net profit share leases tend to inhibit formation of joint ventures relative to leases issued on a cash bonus-fixed royalty basis.

It is difficult to understand why implementation of the fixed net profit share system would act as an impediment to formation of joint ventures, in view of the accounting procedures incorporated into the regulation. The COPAS procedures were devised originally to allocate costs among partners in joint ventures, a use very similar to that made in the regulation. Although the accounting procedures deviate from COPAS guidelines in some respects, DOE feels

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that the overall structure of the accounting procedures in the final regulation should not constitute an impediment to joint ventures.

A corollary concern expressed in the comments is that a net profit share system will impede unitization, particularly where the proposed unit includes net profit share leases and fixed royalty leases. DOE is persuaded that such a situation would not render unitization difficult. The contention appears to make little sense, particularly since USGS will either require or approve a unit agreement before it is effective. Voluntary unitization among net profit share and royalty leases would seem to involve no more difficulty than among leases with different fixed royalties or among leases with sliding scale royalty and fixed royalty. Unitization is not directly addressed in the final regulation, except in the provision for allocation of joint costs and credits (§ 390.014(d)). Again, with regard to unitization, USGS represents the interests of the public, and will approve a unitization plan which comports with the objectives of the OCSLA, as amended, and this regulation.

Increased competition for OCS leases is an intended objective of the fixed net profit share system, and DOE remains sensitive to any aspect of the regulation that may operate to reduce competition, through increased costs of administration or lowered incentives to formation of joint ventures. Despite repeated assertions that the proposal seriously underestimated the costs involved in administration, no attempt to quantify the level of added costs is evident in the comments. Industry comments in the main disagreed with DOE's estimate of $50,000 to $150,000 for accounting system modification and $25,000 to $30,000 in annual administration costs, but offered little in its place. Ultimately DOE sees no reasons to alter its estimate of administrative costs to lessees, particularly in view of modifications from the proposal to the final regulation.

3. *Role of the USGS.* The fixed net profit share system necessarily calls for a somewhat greater involvement on the part of government, as a sharer in net profits, in the administration of this system, in contrast to the cash bonus-fixed royalty system. This aspect of the regulation received a significant amount of comment, most of it negative. Several comments characterized the role of the USGS in this regulation as unwarranted intrusion by the government into corporate business decisions, while one comment stated that the role of the USGS reduced the lessee to the status of a general contractor.

Under the final regulation, which replaces the Supervisor by the Director of USGS or delegate, the authority of the USGS to regulate substantive economic decisions has not been increased over its present level. However, it is necessary to recognize that, in a very real sense, the USGS represents the interests of the public in the exploration and development of its resources and already has an active role in OCS decisions. As future sharer in net profits, USGS must ensure that any sharing arrangement make provision for monitoring expenses incurred during exploration, development, and production, in order to ensure an equitable division of net profits. As the agency most directly connected with operations on OCS leases, the USGS is the logical choice to perform such monitoring.

In the proposed regulation, responsibility was vested in the USGS to make determinations on the allowability of certain costs, inventory, and performance of periodic audits. In addition, resource information provided by the USGS will be used in determining proper capital recovery factors and profit share rates.

Most of the criticisms directed at the role of the USGS in administering the fixed net profit share system seemed to center on provisions which authorize the USGS to approve certain investment and operating decisions of the lessee. Specifically, the proposed regulation would have permitted the USGS to interpret and implement guidelines for inventory, purchasing, and control of materiel; to recalculate net profit share payments based on determinations that expenses were improperly claimed or classified; to determine the point at which production in commercial quantities begins; to establish maximum rental rates for equipment and facilities supplied by the lessee; to approve pricing of transferred or disposed materiel valued in excess of $100,000, on a current market basis; to establish charges for loading and unloading of tubulars; and to approve other costs not treated in the proposed regulation.

The criticisms considered these authorities unwarranted and unprecedented, and an intrusion by government into the daily business decisions of lessees. It was felt that approval by the USGS of certain expenditures might lead to disputes and operational delays, with consequent deferrals of exploration and development. Several comments pointed out that the USGS must already approve plans for exploration, and for development and production, prior to actual operations. Also, operators must obtain a permit to drill each well on a lease. These plans and permits were suggested as means of obtaining general approval of expenses. Other comments stated that these plans and permits allow the government adequate control over OCS operations, and that audits provided the proper means for resolution of financial disputes. DOE has incorporated a modification of this approach into the final regulation.

DOE acknowledges that the responsibilities vested in the Director of USGS or delegate under the fixed net profit share system will probably affect certain operational decisions, although to an uncertain degree, and has made several changes in the regulation to reduce the Director's involvement to the minimum needed for effective administration. DOE has attempted to eliminate the potential for delay of exploration and development through administrative snarls. The time period between audits and inventories has been lengthened, more in accordance with industry practice. DOE recognizes that review of exploration and development and production plans, as well as permits, can afford the Director at least a detailed overview of anticipated expenses to be incurred by the lessee.

Many comments doubted the capacity of the USGS to perform the tasks assigned it under the proposed regulation, at least without a massive infusion of new personnel and funding. Several comments stated that the new personnel required by USGS to administer this regulation are precisely those with skills now scarce and most in demand by industry. Interestingly, the Department of the Interior in its formal comments only noted that the administrative role of the USGS warranted further delineation prior to promulgation. During the consultation process, DOI indicated the adequacy of its personnel to administer this regulation as promulgated.

The efficiency of USGS approvals and audit procedures to resolve disputes is a point well taken. However, DOE expects administrative snarls to be the exception rather than the rule. Particularly in comparison with other agencies, USGS has compiled a record of relative promptness in permit issuance and plan approval on the OCS. USGS staff have demonstrated considerable expertise and familiarity with OCS operations. The approval provisions that remain in the final regulation reflect a concern on the part of DOE that lessees understand, as early as possible, treatment of costs by the USGS, in order to ameliorate disputes well in advance of audits, particularly in view of the lengthened period between audits. And, with respect to considerations of delay, it should be emphasized as well that the regulation requires approval of expenses by the Director only for purposes of inclusion in the NPSL capital account, and therefore chargeable in determining net profit share payments. The lessee retains absolute discretion to incur such additional costs as appear warranted. Also, no provision in the regulation requires approval of costs before they are incurred. Requests for approval after the fact are expected to be very common.

4. *Other issues.* A number of relatively tangential issues deserve mention. Several comments were critical of the fixed net profit share system for its anticipated impact on farmins and farmouts, expressing apprehension that smaller firms in the market would not be able to handle both the increased administrative workload and the profit share rate on top of the interest retained by the lessee; one comment predicted that no market for farmouts would exist on net profit share leases. DOE discounts this possibility, inasmuch as the situation in a prospective farmout arrangement under a net profit share lease differs only marginally from that under a lease with fixed royalty. In fact, a net profit share lease might make a more attractive farmin candidate, due to the ability of the lessee to recover accumulated costs. However, cognizant of the relative increase in administrative costs caused by the regulation, DOE has attempted to make clear that responsibility for recordkeeping and administration rests with the lessee, and not on the party taking the farmout (§ 390.030(a)).

There appeared often in the comments a statement that return to the public for its OCS resources has already proven more than fair during the 25 years of OCS operations; usually the assertion was made in connection with a suggested ceiling for profit share rates near the minimum, or a recommendation to establish a constant profit share rate for each OCS lease sale. Behind this statement, and underlying industry criticisms of risk-sharing by government, is an implicit conclusion that a net profit share system reduces the possibility of tapping a "bonanza" field, the reserves of which far exceed pre-sale estimates. Lessees may then apply revenues from "bonanza" fields to recoup costs of acquisition and operations on unsuccessful leases.

It has been suggested that with net profit share, because the government shares in each dollar of net revenue gained from production, the return to industry for tapping a "bonanza" field may be substantially reduced. This perception seems to provide a basis for recommendations that the fixed net profit share system allow the lessee to include expenses incurred in unsuccessful operations on other leases in the allowance for capital recovery on producing leases. DOE has chosen not to adopt this suggestion, although it acknowledges the diminished relative value of a "bonanza" field under a net profit share lease. Risk-sharing by government carries with it the concomitant opportunity to share increased returns (to the public) realized from the large fields. Also, risk-sharing by government should reduce the impact of nonproductive leases, thereby reducing the need for substantial offsetting revenues.

D. Accounting Procedures

Nearly every facet of the accounting procedures devised to administer the proposed fixed net profit share system received scrutiny in the comments. DOE obtained a good deal of information and suggestions from the comments with regard to modification of the accounting procedures in the final regulation. The comments proved especially useful in recommending changes in audit and recordkeeping requirements, by providing insight to operational joint venture accounting practices.

In its proposed form, the fixed net profit share system was structured to comport with industry accounting practice to the extent consistent with the rationale and purposes underlying the regulation. Alignment with standard industry accounting practice was seen by DOE as a way to minimize confusion in accounting for expenses and revenues resulting from OCS operations, thereby helping to reduce administrative costs to the lessee. Departures from industry practice in the main involved situations not covered under COPAS guidelines, or where the industry standards invited a negotiated, arms-length agreement by the parties, absent in this regulatory context. In these situations, USGS approval has been required.

On the basis of the comments, DOE has decided to implement a number of changes in the accounting procedures. Some of these changes became necessary due to the shift in the definition of the end of the capital recovery period, while other changes seemed reasonable and useful from the comments.

Some items raised in the comments on the accounting procedures have not been adopted for the reasons set out immediately below. A more complete discussion of changes incorporated into the accounting procedures follows in Section IV of this preamble.

1. *Direct costs.* Several recommendations were made in the comments for DOE to allow as direct costs certain items which the proposed regulation specifically disallowed from the NPSL capital account. The rationale offered for such inclusion seemed based on the contention that lessees should be able to charge the NPSL capital account for all expenses incurred during exploration and development, regardless of the difficulty in ascertaining their amounts or in ensuring that they were attributable to NPSL operations in the amounts claimed, or delays in exploration and production might result.

These claims remain unpersuasive to DOE. None of the comments challenged the reasoning that underlay exclusion of various costs. Exclusion of the cash bonus tends to reduce the level of cash bonus bids without distortion of production economics, as it represents a sunk cost. Interest is unallowable because the fixed capital recovery system will provide a return on investment at risk, without regard to the source of the capital employed.

Other costs were not allowed because they were considered inappropriate, not customary, or very difficult to allocate directly to a net profit share lease. Construction costs of onshore facilities and acquisition of real property, certain employee relocation costs, and fines and penalties levied by Federal agencies for regulatory violations are disallowed for these reasons; while the costs of maintaining a legal staff, taking of inventory, research costs (including in-house), and administration of employee benefit plans are intended to be covered by overhead. For reasons discussed in Section IV of the preamble, abandonment costs are allowable as a direct charge to an NPSL to the extent incurred before cessation of production and that there are offsetting production revenues. It should be noted that, in the case of research and development, personnel expenses may be allowable under § 390.011(b).

2. *Legal expenses.* Several comments noted an apparent discrepancy between the disallowance of the cost of a lessee's legal staff or outside attorneys, and the allowance for the legal expenses of handling, investigating, and settling litigation and claims, lien discharge, and payment of judgments or settlements, in connection with NPSL operations. The

latter situation almost assuredly will involve the services of a legal staff, whether in-house or outside counsel. DOE considers the distinction one of allocability, fully analogous to the situation with regard to wages and salaries. Insofar as the services of a legal staff relate directly to NPSL operations, or are necessary to protect or recover NPSL property, such costs directly benefit or are incurred in support of an NPSL, and are therefore chargeable to the NPSL account. In the opposite circumstance, where the services of attorneys do not relate specifically to an NPSL, costs associated with such services are properly charged as overhead, and disallowed from the NPSL account. Moreover, in connection with costs of litigation against the Federal government, it is inappropriate for the government to pay a share of the costs through the NPSL profit share. If it so determines, it is within the discretion of the trial court to award attorney's fees and court costs in appropriate cases. Clarifications have been added to the final regulations to reflect these decisions.

3. *Cash versus accrual accounting.* DOE has declined to adopt the recommendations which took issue with DOE's determination not to allow lessees to keep NPSL accounts on a cash basis. DOE believes that there is clear evidence that the industry operates on an accrual basis almost exclusively.

4. *Monthly reporting requirement.* Other comments faulted the proposed fixed net profit share system for requiring monthly reports during the production period, asserting that the provisions represent an unduly onerous burden on lessees. DOE is receptive to means of minimizing reporting requirements in order to reduce administrative costs to lessees. However, in this instance, DOE has chosen to retain monthly reports after production revenues begin to accrue in the NPSL capital account, in the interests of providing a flow of information to the Director. Normal accounting practice results in a monthly balancing of accounts, and therefore merely requiring that this information be provided to USGS does not represent a significant burden. Review of monthly reports should assist in avoiding disputes, or in their resolution prior to audit. Reports are required only yearly prior to the onset of production, the period during which most costs will be accrued; however once revenues from production begin to accrue in the NPSL capital account, the final regulation provides for reports on a monthly basis, regardless of whether the capital recovery period has terminated. Except in the case of inventory, where 90 days had already been provided in which to file the report, DOE has lengthened the filing period from 45 days to 60 days after the end of each month. Monthly reports of production are similar to reporting provisions in USGS regulations and DOE expects that it may be possible to blend the various requirements into a single report.

5. *Replacement costs.* A small number of comments requested modification of the provision that excludes costs to repair or replace NPSL property, lost or damaged through willful misconduct or negligence on the part of the lessee, as allowable direct costs. These comments recommended insertion of the term "gross", before "negligence" so that costs incurred due to lessee's ordinary negligence might be allowable. DOE has elected not to adopt this suggestion, as the incentive to avoid negligent actions would be diminished.

6. *Contract services.* The proposed regulation allowed costs of contract services as a direct charge to the NPSL account to the extent that such services constituted necessary and proper NPSL operations or support for NPSL operations, and were performed in the NPSL project area. Contract services performed outside the NPSL project area were allowed only if the contract dealt exclusively with services benefitting the NPSL tract or NPSL operations. Several comments indicated that it is common industry practice to contract for routine services covering more than one tract, and therefore separate contracts for NPSL tracts are unnecessary and burdensome.

DOE is sensitive to assertions that aspects of this regulation might contribute to increasing administrative costs to lessees, and DOE acknowledges that contract services performed outside the NPSL project area may play an important role in exploration and development of the NPSL tract. The difficulty in this instance becomes one of allocating those costs incurred in order to benefit the NPSL tract, under the contract. Therefore, DOE has determined to modify this provision to permit a charge to the NPSL capital account for the costs of contract services which are applicable to NPSL operations and which are separately and specifically identified in the contract. Services not so identified and performed off the tract may not be included as a direct charge.

7. *Rental charges.* Rental charges for equipment and facilities owned by the lessee for use in NPSL operations received much discussion. The proposed regulation established a rental allowance for lessee-owned equipment and facilities, the charge to be based upon actual costs of acquisition, construction, and operation. This provision follows COPAS procedures very closely. DOE has chosen not to adopt a suggestion that rental rates be standard for all NPSL tracts, preferring instead to base rental charges on actual costs incurred by the lessee, subject to the ceiling of average commercial rates for similar equipment and facilities prevailing in the vicinity of the NPSL project area.

Despite assertions to the contrary, the proposed regulation did recognize depreciation as an element in establishing rental charges, and gave due consideration to shore-based facilities that might be built solely in support of NPSL operations. DOE does not see a reason for treating such facilities differently from those servicing both NPSL and non-NPSL operations, which are allowed as a rental charge. DOE also disagrees with the recommendation in several comments to apply the prime interest rate annually to the remaining undepreciated basis of such equipment and facilities, on the strength of the assertion that 8% is too low. Application of the prime rate presents difficulties of measurement; moreover, it does not comport with COPAS procedures in this situation. As a short-term money market rate, it would be inappropriate to employ it in a context of relatively long-term depreciation of assets. However, the final regulation does provide that the USGS Director is authorized to revise this rate in appropriate circumstances.

8. *Insurance.* The provision in the proposed regulation relating to allowance of insurance premiums and reimbursements is unchanged in the final regulation, although some criticism was directed towards procedures for crediting reimbursements to the proper NPSL accounts. In particular, the credit procedure covering reimbursement of damaged NPSL property was considered inequitable in the comments. In cases where a charge is incurred for lost or damaged NPSL property and that charge receives the allowance for capital recovery, DOE finds nothing inequitable in applying the capital recovery factor to the reimbursement, before crediting the NPSL capital account.

9. *Relocation costs.* For purposes of administrative convenience to both industry and government, DOE has elected to retain the provisions in the proposed regulation concerning employee relocation costs as more in accord with COPAS procedures than the suggestion, contained in several comments, to allow as direct costs all expenses associated with employee relocation that are the normal practice of the lessee. DOE believes that there may be considerable variance from lessee to lessee in the treatment of such costs, and therefore feels that a uniform standard should be established by the regulation to ensure equal treatment for purposes of the NPSL accounts.

10. *Transportation costs.* Several comments took issue with the limited allowance for transportation costs as a direct charge. There is no doubt that the provision in the proposed regulation is more restrictive than COPAS procedures on this point, in that COPAS limits such costs only with respect to movements between the NPSL project area and storage facilities which the lessee owns or controls. The final regulation retains the more restrictive version, and the limitation covers all movements of materiel between the NPSL project area and any storage facility, regardless of location or connection with the lessee. The comments received on this issue suggested allowance of all transportation costs related to movement of materiel, and removal of USGS from approving exceptions to the general rule. However, in the interest of certainty in allocating transportation costs that directly benefit NPSL operations, DOE has left this provision unchanged from the proposed regulation. Since all actual transportation costs are not allowed as direct charges to the NPSL account, retention of the Director is needed, for approval of exceptional cases.

11. *Communications.* According to many of the comments received, it is common practice within the industry to apportion communications facilities among operations because the expense and capacity of these facilities makes it uneconomical to maintain a separate system for each operation. The proposed regulation allowed as a direct charge the costs of acquiring, installing, operating, repairing, and maintaining communication systems between the NPSL tract and the lessee's nearest shore base facility. Suggestions appeared in the comments to allow *pro rata* apportioning of costs associated with communications systems that serve several leases, rather than applying a rental charge, as in the proposed regulation. DOE considers the application of a rental charge as, effectively, a *pro rata* share of costs incurred in communications systems in support of NPSL operations. In arriving at rates for communications systems, the lessee may include any of the factors available in determining rental rates for equipment and facilities owned by the lessee, such as actual costs of acquisition and operation, labor, maintenance, repair, and depreciation. A separate provision for *pro rata* apportionment of costs incurred in communications systems is thus unnecessary. The regulation has been modified to include as a direct cost the cost of leasing communications facilities, as the comments indicated that this was common practice.

12. *Environmental costs.* In its proposed form, the fixed net profit share system allowed as a direct cost to the NPSL account expenses incurred in environmental or ecological surveys required by Federal or state agencies. This allowance is retained in the final regulation. DOE also proposed allowance of costs associated with pollution containment and removal equipment, as well as costs of actual control, cleanup, and consequent responsibilities of oil spills, and requested specific comment from the public on this issue.

Comment on inclusion of costs for control and cleanup of oil spills revealed a significant difference of opinion. Industry comments expressed the view that such costs are part of normal business expenses and thus should be allowed as a direct charge. A contrary view was expressed by government agencies like the Department of the Interior, which argued that such allowance would be inequitable. Other concerns focused on the propriety of the Federal government sharing in the cost of repairing damage to the NPSL tract caused by the negligence of the lessee.

In the final regulation, DOE has opted to allow control and cleanup costs as a direct charge to the NPSL capital account, in the belief that such allowance is not inequitable, except where the costs are incurred because of the negligence or willful misconduct of the lessee. DOE notes the existence of remedies such as the Offshore Oil Spill Contingency Fund to recompense injured parties for damages and penalties; assessments made on a per barrel basis in support of such Funds are also allowable as a direct charge to the NPSL capital account.

DOE notes in this connection that spilled oil falls within the definition of "production", and shall be taken into account in determining production revenues and net profit share payments due the Federal government.

13. *Overhead.* In the proposed fixed net profit share system, overhead was calculated at the rate of 4 percent applied to the preproduction account, and 10 percent of the balance of the production account. DOE specifically requested comment on the accuracy of these rates. In the absence of alternatives demonstrably more useful, the final regulation incorporates these same rates.

Several comments from industry recommended application of the capital recovery factor to the overhead allowance, on the theory that overhead substitutes generally for costs incurred during exploration and development. Overhead, includible as a charge to the NPSL capital account is intended to cover interstitial components of expenses that, although very real are difficult to measure directly, and it estimates their magnitude at some percentage of applicable, identifiable costs.

Because overhead represents actual costs incurred, DOE has determined that it is appropriate that the capital recovery factor be applied to overhead.

Several issues regarding overhead were mentioned repeatedly in the comments. The first was that the regulations should provide for some recoupment of costs during periods of operational inactivity. Several comments indicated that operationally inactive periods may actually be times of intense analytical and preparatory work. Rather than a defect in the proposed regulation, DOE views this case as illustrative of the workings of the fixed net profit share system. Costs associated with analysis and preparation may be charged as direct to the NPSL capital account, or be reflected in the charge for overhead, depending on specific items. But no recoupment of such costs can take place until production begins.

A second issue associated with overhead maintained that the percentage allowance should allow for increased administrative burden to the lessee. Administrative costs form a component of overhead, and are included in the percentage allowance already established.

A number of comments called for a higher overhead percentage in frontier areas than in mature operating areas, like the Gulf of Mexico. DOE feels that application of a higher overhead rate in such areas is inappropriate, since the higher operating expenses of frontier regions will result in higher absolute dollar amounts of overhead. Direct costs are not more difficult to identify in frontier areas and, therefore, there is no reason that unidentifiable costs represent a higher percentage of direct costs in frontier areas than elsewhere.

IV. Changes in the Final Regulation

The final regulation differs from the proposed fixed net profit share system

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in significant respects, many of which have been discussed above. Due both to the comments received, and further analysis, DOE has been persuaded that the changes discussed in this section should serve the purposes of the regulation. Among the changes are a revised definition of production and a more precise means of measuring the end of the capital recovery period. The five NPSL accounts have been consolidated into a single NPSL capital account to ease administration, and accounting of expenses and calculation of the allowance for capital recovery have been shifted to a monthly basis. Changes have been made to the audit provisions and inventory requirements to bring them more into line with industry practice, and record retention provisions have been somewhat relaxed.

The discussion below follows changes in the regulation on a section-by-section basis.

§ 390.002 Definitions.

The definition of "Compensated personal absence" has been deleted, and replaced with "Lessee's cost of allowed employee absence", which comports more closely with COPAS Bulletin #15.

The definition of "cost" has been expanded to include accruals incurred in the conduct or in support of NPSL operations. This expansion came about in response to comments pointing out that NPSL accounts are required to be kept on an accrual basis, yet accruals had been omitted from the definition.

The definition of "cost pool" has been clarified through language making certain that the pool of costs, prior to allocation under § 390.014, may include costs from other leases, including non-NPSL leases.

The definition of "credit" has been amended, in order to accord more closely with the revised accounting procedures in the final regulation.

The definition of "G & G" has been modified to include "geochemical" and other similar investigations in response to recommendations from the comments.

The definition of "NPSL operations" now includes "final abandonment" costs, to reflect allowance of certain abandonment costs incurred while the lease is still producing as direct charges to the NPSL account.

The definition of "preproduction period" has been deleted, and replaced with "capital recovery period." It retains its conceptual meaning as the period from lease issuance until the time when the allowance for capital recovery will no longer be given to further costs incurred, but the end of the capital recovery period has become somewhat variable, and a matter left to the discretion of the lessee, within stated limits. See the discussion of § 390.020 for a detailed explanation of how the capital recovery period will now be terminated. DOE has undertaken this revision in response to criticisms in the comments regarding the perceived arbitrariness in the proposed regulation of closing the preproduction account at the onset of commercial production, and to reflect the revamping of accounting procedures.

The definition of "production" has been revised, as suggested in the comments, to follow the DOI definition of the term.

The definition "production period" has been deleted.

The definition of "production revenue" has been changed to reflect the amended definition of "production."

A definition of "Director" has been added.

The definition of "tract" has been modified to agree more closely with an extant DOE definition of the term, in 10 CFR Part 375.

§ 390.010 NPSL capital account.

There was a considerable amount of comment received suggesting elimination or consolidation of the five accounts proposed for NPSL operations. In particular, the net profit share payment account and the lessee's net profit share account attracted a good deal of criticism as cumbersome and unnecessary. It was asserted that establishment of these accounts might conflict with the lessee's usual accounting practices as well.

To simplify the required accounting procedures, DOE has decided to eliminate the five accounts enumerated in the proposed regulation and substitute a single NPSL capital account in their place. Debits and credits would be applied directly to the NPSL capital account, as incurred, along with the allowance for capital recovery and the overhead allowance. This change is intended to reduce the administrative burden associated with an NPSL, and reduce the costs of regulatory compliance, particularly for smaller companies.

§ 390.011 Schedule of allowable direct and allocable joint costs and credits.

1. *Labor.* A good deal of confusion was manifested in the comments on whether employees need be assigned permanently to NPSL operations for allowance as labor costs. Many comments were severely critical of the proposed regulation for its seeming disallowance of wages and salaries paid to employees not assigned permanently to an NPSL operation.

DOE never intended that employees had to be assigned permanently to an NPSL in order for the costs of their wages and salaries to be includible. As a general case, employees need be engaged in NPSL operations continually only for a specific period of time, such as month, week, or pay period. Their wages and salaries as well as other enumerated personnel costs are then includible.

A paragraph has been added to state a special case, where costs of wages and salaries for other than full-time NPSL employees may be charged to the NPSL capital account, to the extent that the lessee can substantiate such costs through time records. The general rule, however, appears to offer greater administrative ease to the lessee, and to reduce costs associated with administration of this regulation. In addition, the regulation does not permit inclusion of any associated personnel costs for employees not employed full time on NPSL operations.

In paragraph (b)(2), the term, "lessee's cost of allowed employee absence", has been substituted for "compensated personal absence", as more in keeping with COPAS provisions.

The percentage limitation on labor benefits in paragraph (b)(5) occasioned a good deal of criticism in the comments. Many comments pointed out that COPAS guidelines currently allow actual costs of labor benefits not to exceed 23% of wages and salaries. DOE has raised this percentage from the proposed 20% to the 23% figure, and added a provision to allow the USGS to revise this percentage from time to time. DOE fully expects that the USGS will rely on the percentage most recently recommended by COPAS in revising this rate.

2. *Materiel.* Paragraph (c) has been amended to make clear that only an amount of materiel sufficient for economical operations may be charged to the NPSL capital account.

3. *Contract services.* In paragraph (e), DOE has determined to modify the costs that may be charged to the NPSL capital account to include those costs of contract services performed at sites outside the NPSL project area that benefit the NPSL operations exclusively, and that are separately and specifically identified in the contract. One problem with including costs for services performed outside the project area under a contract covering more than the NPSL operations was the difficulty inherent in quantifying what portion of the cost of the contract was associated with the NPSL operations. Therefore, as

an accommodation between the interests of including all legitimate costs and of certainty in the charging of costs, the final regulation only permits costs to be charged to the extent that the contract is sufficiently precise in distinguishing them.

4. *Legal expenses.* In paragraph (f), DOE has added language to clarify the alleged discrepancy between those legal expenses allowed as charges to the NPSL capital account, and those disallowed under § 390.013. Briefly, legal expenses directly attributable to NPSL operations may be charged to the NPSL capital account, while expenses not so attributable, such as having in-house or outside legal services available, may not be charged to the NPSL capital account. DOE considers these expenses to be appropriately compensated by the overhead allowance.

5. *Rental of lessee-owned equipment and facilities.* The charge for depreciation permitted to be included in establishing a rental charge for lessee-owned equipment and facilities in paragraph (g)(1) has been modified in two respects. Depreciation may be calculated according to any generally accepted accounting method and the interest rate on undepreciated assets may be modified by the Director.

With regard to rate charges for automotive equipment under paragraph (g)(2), several comments recommended linking these rates to those established by the Petroleum Motor Transportation Association (PMTA), and not involving USGS in rate determination. While DOE has not adopted this recommendation, it does anticipate that the Director will take PMTA rates into consideration, with appropriate adjustments for areas to which those rates do not apply.

6. *Damages and losses.* Paragraph (h) has been modified to delete the requirement that the lessee notify the Director of all damages and losses. It appears that this represented an unusually burdensome requirement that did not provide a significant benefit beyond that which would be provided by periodic audits. In addition, it is assumed that the Director will be made aware of major damages and losses to the NPSL property and that, therefore, the requirement was unnecessary.

7. *Taxes.* Paragraph (i) now illustrates the types of taxes chargeable to the NPSL capital account. These taxes include severence, excise, ad valorem, and mineral taxes. As a form of excise tax, "windfall profits" taxes imposed pursuant to Pub. L. 96–223, are chargeable.

8. *Communications.* Paragraph (k) has been modified to permit the charging of the costs of leasing communications equipment and the list of covered communications systems has been expanded to include explicitly computer production controls for the NPSL operations.

9. *Ecological and environmental.* Paragraph (1) has been amended to include explicitly, as chargeable, assessments to funds and organizations which provide assistance in the event of oil spills or other environmental damage.

10. *Audits.* The original paragraph (m), relating to audit costs, has been deleted, since DOE has determined, as a result of comment, that it is appropriate for the government to conduct audits of NPSL operations.

11. *Dry or bottom hole contributions.* A new paragraph (m) has been inserted, to allow explicitly as chargeable, costs of dry or bottom hole contributions. A number of comments expressed the view that this allowance was desirable and measurable, but the proposed regulation did not mention these costs specifically. This paragraph has been added to remove any doubt.

12. *Abandonment costs.* DOE has added a new paragraph (n), to allow actual abandonment costs, those incurred on other than an accrual basis. The industry comments received were nearly unanimous in their recommendation that DOE provide some explicit allowance for abandonment costs. In the proposed fixed net profit share system, DOE disallowed abandonment costs, as difficult to estimate accurately. Instead, bidders were anticipated to incorporate estimates of abandonment costs in arriving at bonus bids for OCS leases. DOE continues to believe that estimated abandonment costs should not be permitted to accrue in the NPSL capital account.

The comments indicated that some abandonment costs are incurred prior to actual lease abandonment. Therefore, the approach taken in the final regulation permits charging of actual costs, to the extent incurred before the cessation of production, and to the extent that there are offsetting revenues. DOE recognizes that this will not permit the charging of all abandonment costs and still anticipates that bidders will discount bids based upon their estimates of the magnitude of abandonment costs not offset by revenues.

13. *Other costs.* Paragraph (n) in the proposed regulation has been re-numbered (o) in the final regulation. A new provision has been inserted to deem as approved by the Director other costs to the extent they are separately identified in an approved development and production plan. This provision is expected to reduce administrative costs for both USGS and the lessee by not requiring approval by the Director for costs incurred in normal operations on a lease.

§ 390.012 Overhead allowance.

The exclusions from overhead charges contained in paragraph (c) of this section have been modified by deleting legal expenses incurred under § 390.011(f) and rental costs incurred under § 390.011(g) and by limiting the exclusion from the overhead allowance of injected substances to those reinjected substances originally produced on the lease.

§ 390.013 Unallowable costs.

Paragraph (j), disallowing abandonment costs, has been deleted, to reflect their allowance as charges to the NPSL capital account.

A new paragraph (j) has been added, to make clear that rentals on facilities, for which the lessee has charged investment costs to the NPSL capital account, are not allowable.

A new paragraph (k) has been added, to specify that costs incurred by the lessee prior to issuance of the NPSL, are not allowable.

§ 390.014 Allocation of joint costs and credits.

Paragraph (b)(2) has been amended to change the basis of allocation of wages and salaries from a well basis to a "reasonable and equitable" basis, since these costs may not be related to wells in many cases.

A new paragraph (d) has been added, to account for the allocation of costs and credits where NPSL tracts are unitized with other tracts.

§ 390.015 Pricing of materiel purchases, transfers, and dispositions.

Paragraph (a)(3), the requirement for USGS approval of pricing on a current market basis for items costing in excess of $100,000, has been deleted.

Several comments indicated that no limit should be placed on this materiel, particularly since the $100,000 limit is rather low and exceeded often. Administratively, the USGS would be swamped and pricing decisions postponed for no pressing reason. The paragraph has been deleted to eliminate both the $100,000 limit and the need for the USGS approval and the final regulation relies instead on audits to remedy discrepancies.

§ 390.020 Calculation of the allowance for capital recovery.

The calculations described in this section have been modified to reflect the adoption, in the final regulation, of a single NPSL account, the NPSL capital account, instead of the system of five NPSL accounts used in the proposed regulation. This switch to a single account responds directly to the many comments that suggested that a five account scheme was unnecessarily complicated and cumbersome.

More importantly, the calculations described in this section have been modified to reflect the new approach adopted in the final regulation regarding the allowance for capital recovery. As noted earlier in this preamble, the termination of the preproduction period received the most negative comment. The comments were concerned that the proposed system would preclude favorable capital recovery treatment for any expense, development or otherwise, incurred after first commercial production. Unfortunately, little factual information was provided to illustrate the relative proportion of total development expenses typically incurred following first commercial production.

However, in an attempt to expand the opportunity for development expenses to receive favorable capital recovery treatment, the proposed preproduction period has been extended beyond the onset of first commercial production. Because the period for capital recovery treatment is no longer exclusively "preproduction", it has been renamed the "capital recovery period." In the final regulation, the lessee may at his discretion extend the capital recovery period beyond the onset of first commercial production until the sooner of two events occurs: (1) When the balance in his NPSL capital account changes from a debit balance to a credit balance, marking the point at which all expenses have been recovered through production revenues; or (2) when the last development well from the first platform specified in the development plan is completed and wellhead equipment installed. In the event that the last well proves dry, the end of the capital recovery period will be deemed to end at the date of determination that the last well is non-productive. Prior to either of these two events, the lessee may choose to terminate the capital recovery period by making this election in writing to the USGS; this election is irreversible.

Thus, the lessee may choose to initiate production while keeping the capital recovery period open. Revenue from production during the capital recovery period would be credited to the NPSL capital account until the end of the capital recovery period. To the extent that production revenues in a month during the capital recovery period exceed expenses incurred during the month, the excess revenues will offset previously accumulated expenses and reduce proportionately the previously "earned" capital recovery premium. The accounting mechanism for accomplishing this proportionate reduction, given the fact that under the single account system the allowance for capital recovery will already have been calculated for previously incurred costs, is to enter, in addition to the credit entry for the production revenues, a negative allowance for capital recovery which shall be the amount by which monthly revenues exceed monthly costs multiplied by the capital recovery factor.

These new provisions allow the lessee to end the capital recovery period at the point he believes most advantageous. More development expenses will receive capital recovery treatment, and as such there should be little if any incentive to delay production as expressed in the public comments. However, the requirement to credit production revenues against current expenses and to compute a negative allowance for capital recovery for any month in which revenues exceed allowable costs, provides some insurance that the capital recovery period will not be extended indefinitely.

§ 390.021 Determination of net profit share base.

This section describes the "accounting cycle" for an NPSL lease. It specifies accounting procedures and entries required to maintain the NPSL capital account. Because it relies on previous sections for such calculations as the allowance for capital recovery and the overhead allowances, it has been altered extensively to conform with the changes made to those sections.

Three changes partially discussed in earlier sections of the preamble, but which interrelate and which influence the structure of this section, are described here. First, the regulation now requires monthly entries in the NPSL capital account throughout the life of the lease. At the end of each month, the appropriate allowance for overhead and the allowance for capital recovery (during the capital recovery period) must be calculated and entered, and the account balance determined. Also, when required during the capital recovery period, a negative allowance for capital recovery must be entered, if revenues and credits for a month exceed allowable expenses.

Second, the capital recovery factor has itself been changed from a number greater than 1.0 to a number greater than zero. This does not alter the original concept of providing a premium on all allowable expenses made during the capital recovery period. Rather, the change makes possible additional simplification in the accounting procedures. Now, the capital recovery factor represents the actual capital recovery premium that is debited to the NPSL capital account, which is made in addition to the debit for actual expenses.

Third, this section has been modified to reflect the additional inclusions permitted to the cost base for calculating the allowance for capital recovery. The regulation now provides for captial recovery treatment of the allowance for overhead during the capital recovery period.

§ 390.022 Calculation of net profit share payment.

Elements of this section have been altered to conform to the NPSL capital account specified in § 390.010.

§ 390.030 Maintenance of records.

Many comments objected to the requirement in proposed paragraph (b) to retain records from the issuance of the NPSL until five years after abandonment, arguing that the requirement imposed an additional administrative burden and that it did not comport with normal company practice. Several comments provided recommendations that DOE link record retention to audits to ameliorate the perceived burden in increased administrative costs. DOE has modified paragraph (b) to allow closing of books for audit adjustment purposes upon agreement by the auditor that there are no required adjustments or upon the lapse of thirty-six months from the due date or mailing date of the statement of account on an NPSL. Paragraph (b) of this section has been changed to require the maintenance of records for the same period as the account remains open for audit. However, ledger cards showing charges and credits to the NPSL accounts are to be maintained until thirty-six months after abandonment of the field.

§ 390.031 Reporting and payment requirements.

The deadlines for filing reports required in paragraphs (a), (b), and (e) of this section have been extended from 45 to 60 days after the end of the period covered in the report, in response to comments that the filing deadline was too short in the proposed regulation and imposed an unwarranted administrative cost on the lessee; the filing deadline for inventory reports in paragraph (d) remains at 90 days.

The interest on unpaid net profit share payments due the United States has been changed to the prevailing rates as published quarterly in the bulletin to the Department of the Treasury Fiscal Requirements Manual (TFRM). The interest charge provides compensation for the delay in receipt of the original amount due. Because of the volatility of interest rates, DOE has decided to adopt the quarterly interest rate of the Department of the Treasury, for applying interest charges to delinquent accounts. The rate will be published in a Treasury Bulletin to the TFRM issued prior to the first day of each calendar quarter, beginning in June 1980, for the quarter beginning July 1, 1980.

§ 390.032 Inventories.

Complaints in the comments regarding this section focused on the requirement for lessees to take inventory each year. This provision was considered unduly burdensome on the lessee as it departed from accepted industry practice.

DOE was sufficiently convinced of the validity of this contention to extend the period separating inventories to a maximum of three years, in paragraph (b). A caveat has also been added to this paragraph, in order not to bind the Director to an inventory taken in his absence, where clear indication of willful misrepresentation or fraud exists.

Paragraph (d) has been changed to delete the requirement that a list of overages and shortages be provided the Director and to require merely that it be available to the Director for the audit period.

§ 390.033 Audits.

The audit provisions in the proposed regulation attracted a good deal of comment and criticism, much of it well-founded. Industry comments were critical of the requirement to audit each NPSL every two years, and to hold the lessee liable for the costs of auditing. Industry practice in joint venture operations indicates that non-operating parties assume the cost of an audit deemed necessary from time to time. Audit costs are borne in the normal course of business by the parties requesting the audit; an additional benefit of this practice lies in the avoidance of a possible conflict of interest arising from payment of the auditor by the company audited.

DOE agrees that the auditor should be employed, directly or indirectly, by the Federal government, which should bear the costs of the audit. The time requirement of paragraph (a) has been amended for greater flexibility to the Director and reduced administrative costs to the lessee; this paragraph now allows the government to initiate an audit within thirty-six months of the date of the statement to be audited, but not more often than annually, absent fraud or willful misrepresentation. Language has been added to paragraphs (a) and (b) to encourage cooperation between the government and non-operators in the calling and conduct of the audit, in order to reduce administrative costs.

Procedures for exceptions and adjustments in accordance with COPAS guidelines, except for cases in which such an exception or adjustment would result in a change in any net profit share payment, are outlined in new paragraph (c), and subsequent paragraphs of this section have been re-numbered.

§ 390.034 Redetermination and appeals.

Criticism of this section focused on the interest charged to redetermined net profit share payments. There were several requests for clarification as to the time from which the interest charge would be applied. Interest charges will be applied from the date on which the amount redetermined originally fell due. While DOE considers this part of paragraph (b) to be clear, it perhaps needs emphasis that this charge is not a penalty, but rather compensation for the delay in receipt of the original amount due. The interest rate has been changed to the prevailing rates as published quarterly in the bulletin to the Department of the Treasury Fiscal Requirements Manual.

V. NPSL Accounting Example

An example of the entries to the NPSL capital account together with the related computations of the overhead allowances and the allowance for capital recovery (ACR) is provided in this section. For illustrative purposes, the account is presented on a collapsed time basis with five monthly periods designed to illustrate the recording of transactions in various stages of the development and production cycle. DOE does not assume that the development and production cycle would occur in such a short time period.

The NPSL capital account as shown provides for three separate categories of costs. "ACR & Overhead Qualifying" costs are those costs that qualify for both the allowance for capital recovery and the overhead allowance. "ACR-only Qualifying" costs are those costs that qualify for the allowance for capital recovery but not for the overhead allowance. There are two cost elements that fall into this category: (1) Costs of contract services, and (2) the overhead allowance. The third column of the account includes the "Non-qualifying" costs. A column is provided for the total debits to the account. The credit side of the account includes the NPSL production revenues as well as other credits together with the appropriate allowances thereon.

In the first account, the first line entry represents the direct costs and the allocable joint costs which are properly chargeable to the NPSL capital account. Of the total $16,200 in costs, $11,400 qualify for both the allowance for capital recovery and the overhead allowance; $4,600 qualify for the capital recovery allowance but not for the overhead allowance (e.g., contract services); and $200 do not qualify for either allowance even though they are chargeable to the account (e.g., lease rental).

The first step in the end-of-month accounting procedure is to compute the overhead allowance. This is done by multiplying the qualifying expenditures by the 4% overhead allowance applicable to the capital recovery period. The resulting $456 is added to the column of costs that qualify for the ACR only, as well as to the total debit column. The allowance for capital recovery is computed by adding the fully qualifying costs to the ACR-only qualifying costs and multiplying the results by the capital recovery factor. The capital recovery factor is assumed to equal 0.30 for the example. The computation is then:

ACR = ($11,400 + $4,600 + $456) × .30 = $4,937

This amount is added to the non-qualifying costs column as well as to the total debit column.

The debits resulting from the overhead allowance and the allowance for capital recovery are added to the end-of-month account balance before computation of the monthly balance. The result is the total debits to the account. Any credits would be subtracted and the account balance would be obtained. Since there are no credits and no revenues, the end of month balance is now $21,593. This debit balance is carried forward to the next monthly accounting period.

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Month 1.—*NPSL Capital Account*

	Debits				Credits
	ACR and overhead qualifying	ACR-only qualifying	Nonqualifying	Total debits	Revenues and other credits
Direct and allocable joint costs	$11,400	$4,600	$200	$16,200	
Overhead allowance (4% × $11,400)		456		456	
Allowable for capital recovery: ($11,400 + $4,600 + $456) × 0.30			4,937	4,937	
Totals	11,400	5,056	5,137	21,593	
Balance forward				21,593	

In Month 2, the $21,593 balance is carried forward. The debits for the direct costs and allocable joint costs are made to the account as in Month 1. Of the $17,800 in current month costs, $10,100 qualify for both allowances, $7,400 qualify only for the capital recovery allowance, and $300 do not qualify for either allowance. The overhead allowance is computed by multiplying the $10,100 in qualifying costs by the 4 percent allowance. The resulting $404 is added to the ACR-only qualifying costs column and as a debit to the account in the total debits column.

The allowance for capital recovery in Month 2 is computed by taking the sum of the qualifying debits ($10,100 + $7,400 + $404, which equals $17,904) and subtracting the revenue credit ($4,200). The result $13,704 = ($17,904 − $4,200) is mutiplied by the capital recovery factor (0.30) to obtain the allowance of $4,111 (i.e., 0.30 times $13,704 + $4,111).

The computed allowance is then debited to the account. The sums of the debits and credits are computed as is the account balance. Since the balance is a debit, it is carried forward to the next month (Month 3).

Month 2.—*NPSL Capital Account*

	Debits				Credits
	ACR and overhead qualifying	ACR-only qualifying	Nonqualifying	Total debits	Revenues and other credits
Balance forward				$21,593	
Direct and allocable joint costs	$10,100	$7,400	$300	17,800	$4,200
Overhead allowance (4% × $10,100)		404		404	
Allowance for capital recovery: ($10,100 + $7,400 + $404 − $4,200) × 0.30			4,111	4,111	
Totals	10,100	7,804	4,411	43,908	4,200
Balance forward				39,708	

In Month 3, the total costs are $9,900, of which $6,700 are fully qualifying, $3,100 are ACR-only qualifying, and $100 are non-qualifying. The current month revenues exceed the current debits and therefore, if the lessee has determined to leave the capital recovery period open, would result in a negative ACR. This is calculated by taking the fully qualifying costs ($6,700), multiplying by the overhead allowance (4%) and obtaining the overhead allowance that would apply if the month were to be included in the capital recovery period. The resulting allowance is $268. The sum of the debits that would qualify for the ACR is $10,068 (i.e. $6,700 + $268 + $3,100). The revenue credit is $17,200. When the revenue is subtracted from the total debits, the base for the allowance for capital recovery becomes $—7,132 and the resulting allowance would be $—2,140 (i.e. $—7,132 times .30). To avoid taking a negative ACR, the lessee may elect to close the capital recovery period. For example purposes, it is assumed that the lessee has elected to close the capital recovery period as of the start of Month 3.

Therefore, the computations for Month 3 will include the overhead allowance at the post-capital recovery period rate of 10%. The accounting would proceed as follows. The direct costs and the allocable joint costs have been debited to the account as for Months 1 and 2. The revenue is credited as for Month 2. The costs that qualify for the overhead allowance amount to $6,700. The overhead allowance is computed by multiplying the $6,700 cost base by the overhead rate of 10%. The resulting $670 is debited to the NPSL capital account. Since the allowance for capital recovery no longer is applicable, totals can be taken immediately after computation of the overhead allowance. Total debits now amount to the sum of the $39,708 balance forward plus the current period allowable costs ($9,900) plus the 10% overhead allowance ($670). The total credits amount to $17,200. The account balance is a debit of $33,078 (i.e. $50,278 debits minus $17,200). Since the balance is a debit, it is carried forward to the next period (Month 4).

Month 3.—*NPSL Capital Account*

	Debits				Credits
	ACR and overhead qualifying	ACR-only qualifying	Nonqualifying	Total debits	Revenues and other credits
Balance forward				$39,708	
Direct costs and allocable joint costs	$6,700		[1]$3,200	9,900	$17,200
Overhead allowance: (10% × $6,700)			670	670	
Totals	6,700		3,870	50,278	17,200
Balance forward				33,078	

[1]Since this month is the month when the election to close the capital recovery period takes place, there is no need for a separate column for ACR-only costs, since there is no ACR. Although for reasons of consistency the original column headings are retained in this example, the account could at this point have only "Overhead Qualifying" and "Non-Qualifying" debit columns. The $3,200 represents the sum of the $3,100 of costs that would qualify for the ACR but not the overhead allowance had the month stayed within the capital recovery period plus the $100 in costs that would not qualify regardless of the election.

NOTE.—For illustration, the following entries demonstrate the accounting entries required for Month 3 if the lessee decided *not* to terminate the capital recovery period.

Month 3.—*NPSL Capital Account*

	Debits				Credits
	ACR and overhead qualifying	ACR-only qualifying	Nonqualifying	Total debits	Revenues and other credits
Balance forward				$39,708	
Direct costs and allocable joint costs	$6,700	$3,100	$100	9,900	$17,200
Overhead allowance (6,700 × .04)		268		268	
Allowance for capital recovery: ($6,700 + $3,100 + $268 − $17,200) × .3			(2,140)	(2,140)	
Totals	6,700	3,368	(2,040)	47,736	17,200
Balance forward				30,536	

Month 4.—*NPSL Capital Account*

	Debits				Credits
	ACR and overhead qualifying	ACR-only qualifying	Nonqualifying	Total debits	Revenues and other credits
Balance forward				$33,078	
Direct and allocable joint costs	$3,850		$200	4,050	$42,100
Overhead allowance ($3,850 × 10%)			385	385	
Totals	3,850		585	37,513	42,100
Balance before profit share					4,587
Profit share:					
U.S. Government (40%)				1,835	
Lessee (60%)				2,752	
Totals				4,587	4,587
Balance forward					

Month 5.—*NPSL Capital Account*

	Debits				Credits
	ACR and overhead qualifying	ACR-only qualifying	Nonqualifying	Total debits	Revenues and other credits
Balance forward				0	
Direct costs and allocable joint costs	$7,100		$50	$7,150	$47,600
Overhead allowance (10% × $7,100)			710	710	
Totals	7,100		760	7,860	47,600
Balance before profit share					39,740
Profit shares:					
United States (40%)				15,896	
Lessee (60%)				23,844	
Totals				39,740	39,740
Balance forward					0

In Month 4, the NPSL capital account achieves payout. The $3,850 of overhead qualifying costs are charged to the account together with the $200 of non-qualifying costs. The overhead allowance of 10 percent is computed based on the $3,850 of qualifying costs and the overhead allowance is debited to the NPSL capital account. The total debits in the account now amount to the sum of the balance forward ($33,078) plus the current period costs ($4,050) plus the overhead allowance ($385). From this $37,513 total the revenues of $42,100 are subtracted. The result is the account balance of $4,587 credit.

Since the balance in the account is now a credit, profit share payments are due the United States. The profit share payment is computed by taking the profit share base (i.e. the credit balance in the NPSL capital account after all entries and allowances for the month) and multiplying that balance by the profit share rate. Assuming a profit share rate of 40 percent, the profit share due the United States in Month 4 would be $1,835 (i.e., $4,587 times 40 percent). The profit share due the lessee would be the difference between the profit share base and the profit share due the United States or $2,752 (i.e. $4,587 less $1,835). The profit shares are debited to the NPSL capital account. As a result, the NPSL capital account balance is zero. The zero balance is carried forward to the next month, Month 5.

In Month 5, there are $7,150 in new costs which are charged to the NPSL capital account. The overhead allowance of 10% is computed based on the costs that qualify for that allowance ($7,100). The resulting allowance of $710 is debited to the NPSL capital account. The total debits and total credits are computed and a balance obtained. If the balance were a debit, that debit balance would be carried forward to the next month. However, in this example, the balance is a credit ($47,600 revenues less $7,860 costs equals the credit balance of $39,740). The United States' profit share is computed by multiplying the $39,740 profit share base by the 40% profit share rate. The resulting $15,896 is debited to the account. The lessee's share is computed as the $23,844 difference between the profit share base and the United States' profit share. The account is debited for the amount of the lessee's profit share. As a result of these entries, the balance in the NPSL capital account is reduced to zero. The zero balance is carried forward to the next month.

VI. Environmental Review

After reviewing this regulation pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321)), DOE has determined that

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the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, DOE has determined that no environmental impact statement is required for this regulation.

Environmental impacts resulting from the use of the fixed net profit share bidding system are expected to be minimal. There are two sources of potential environmental impact. First, since the fixed net profit share system is expected to improve economic incentives for expeditious exploration and development of tracts, there could be an increase of this activity on profit share tracts in the sale area. Second, the fixed net profit share bidding system will improve economic conditions and incentives for developing and producing smaller oil and gas deposits. Thus, the use of this bidding system could result in increased levels of production from the sale area.

In either case, however, the use of the bidding system is expected to result in cumulative incremental increases in activity or production, but not major individual increases. Absolute rates of activity or ultimate levels of production are not expected to fall outside the ranges that should be considered during an environmental impact analysis for lease sales conducted with conventional leasing systems. Environmental impacts associated with using the fixed net profit share bidding system will, of course, be examined prior to each lease sale. Moreover, potential environmental impacts resulting from the use of this system will be considered prior to the selection of a leasing system for tracts in each sale.

Thus, to summarize, DOE believes that any environmental impacts attributed directly to the use of the fixed net profit share bidding system are minimal and inconsequential. Moreover, the rates of activity and levels of production that could result from the use of the fixed net profit share bidding system are well within the ranges that must be considered by the environmental impact analysis for each specific sale.

VII. Effective Date

Section 8 of the OCSLA requires that the rules governing the calculation of net profits under the fixed net profit share bidding system implemented by this regulation be established at least ninety days prior to any notice of lease sale. Section 8 also requires that the notice of lease sale be published not later than thirty days prior to a lease sale. Therefore, in order to be available for use in any lease sale, the procedures contained in this regulation must be established at least one hundred twenty days prior to the sale. DOI has scheduled an OCS lease sale for the second half of September 1980. In order that the fixed net profit share bidding system be available for use in that sale, DOE finds in accordance with 5 U.S.C. 553(d)(3) that there is good cause to make this regulation effective immediately. DOE further finds that there is good cause to make this regulation effective immediately in that there will be no impact from this regulation until after the thirty-day period otherwise required.

(Outer Continental Shelf Lands Act, ch. 345, 67 Stat. 462 (43 U.S.C. 1331 *et. seq.*, 1953), as amended by Pub. L. 95–372; Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et. seq.*, 1977), E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., May 14, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications, Department of Energy.

PART 376—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

1. Part 376 of Chapter II of Title 10, Code of Federal Regulations, is amended by adding a new paragraph (4) to § 376.110(a) to read as follows:

§ 376.110 Bidding systems.

(a) * * *

(4) *Cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area and a fixed annual rental*—(i) *Net profit share payment calculation.* The amount of the net profit share payment to the United States by the person awarded the lease shall be determined for each month by multiplying the net profit share base times the net profit share rate, in accordance with § 390.022.

(A) *Net profit share base. (1)* The net profit share base shall be calculated in accordance with § 390.021.

(2) The capital recovery factor needed to calculate the allowance for capital recovery, in accordance with § 390.020, shall be specified in the notice of OCS lease sale published in the **Federal Register** and may vary from tract to tract.

(B) *Net profit share rate.* The net profit share rate, which determines the fixed share of the net profits owed to the United States, shall be a percentage that is specified in the notice of OCS lease sale published in the **Federal Register**. Such net profit share rate shall not be less than 30 percent of the net profit share base and may vary from tract to tract.

(ii) The amount of cash bonus to be paid is determined by the person submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the **Federal Register**.

(iii) The annual rental to be paid by the person awarded the lease shall be the amount specified in the notice of OCS lease sale published in the **Federal Register**.

2. Chapter II of Title 10, Code of Federal Regulations, is amended by adding a new Part 390 to read as follows:

PART 390—ACCOUNTING PROCEDURES FOR DETERMINING NET PROFIT SHARE PAYMENT FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES

Sec.

390.001 Purpose and scope.
390.002 Definitions.
390.010 NPSL capital account.
390.011 Schedule of allowable direct and allocable joint costs and credits.
390.012 Overhead allowance.
390.013 Unallowable costs.
390.014 Allocation of joint costs and credits.
390.015 Pricing of materiel purchases, transfers, and dispositions.
390.020 Calculation of the allowance for capital recovery.
390.021 Determination of net profit share base.
390.022 Calculation of net profit share payment.
390.030 Maintenance of records.
390.031 Reporting and payment requirements.
390.032 Inventories.
390.033 Audits.
390.034 Redetermination and appeals.

Authority: Sec. 205, Pub. L. 95–372, 92 Stat. 643 (43 U.S.C. 1337); sec 302(b), Pub. L. 95–91, 91 Stat. 578–79 (42 U.S.C. 7152(b)).

§ 390.001 Purpose and scope.

(a) This Part 390 establishes accounting procedures for determining the net profit share base and calculating net profit share payments due the United States for the production of oil and gas from OCS leases.

(b) The procedures established by this Part 390 apply to any OCS lease issued by the Department of the Interior under a net profit share bidding system established by § 376.110(a)(4) of this chapter.

§ 390.002 Definitions.

For purposes of this Part 390:

"Allowance for capital recovery" means the amount calculated according to procedures specified in § 390.020. This amount allows a premium for risk initially undertaken by the lessee and a return on investment made during the capital recovery period. It is provided in lieu of interest on equipment and materiel charged to the NPSL capital account.

"Capital recovery period" means the period of time that begins on the date of issuance of the NPSL and ends on the last day of the month during which the sooner of the following occurs:

(1) The lessee completes the last well on the first platform specified in the development and production plan originally approved by the USGS, with any approved amendments thereto, and installation of wellhead equipment. In the event the last well is dry, then the capital recovery period shall be deemed to have ended with the determination that the last well is non-productive;

(2) The balance in the NPSL capital account changes from a debit balance to a credit balance; or

(3) The lessee, at his election, chooses to terminate the capital recovery period. A decision to terminate the capital recovery period prior to the events specified in paragraphs (a) (1) and (2) of this definition shall be communicated in writing to the Director and shall be irrevocable.

"Controllable materiel" means materiel which at the time is so classified in the Materiel Classification Manual as most recently recommended by the Council of Petroleum Accountants Societies of North America.

"Cost" means an expenditure or an accrual incurred by a lessee in conducting NPSL operations.

"Cost pool" means a grouping of costs identified with more than one OCS lease, whether the leases are NPSLs or other types of leases.

"Credit" means a payment, rebate, reimbursement to a lessee, or other reduction in cost or increase in revenue attributable to NPSL operations.

"Direct cost" means any cost listed in § 390.011 that benefits only NPSL operations.

"Director" means the Director of USGS, Washington, D.C., or his delegate.

"Field employee" means an employee below a first level supervisor who is directly employed in the NPSL project area.

"First level supervisor" means an employee whose primary function in NPSL operations is the direct supervision of other employees and/or contract labor directly employed on the NPSL project area in a field operating capacity.

"G & G" means geological, geophysical, geochemical and other similar investigations carried out on the NPSL tract.

"Joint cost" means any cost listed in § 390.011 that benefits NPSL operations and one or more other operations of the lessee or an outside party.

"Lessee" means a person authorized by an OCS lease, or an approved assignment thereof, to develop and produce oil and gas, including all parties holding such authority by or through the lessee, and the person designated to conduct NPSL operations.

"Lessee's cost of allowed employee absence" means the lessee's cost of holiday, vacation, sickness, disability benefits, jury duty and other customary excused allowances.

"Materiel" means equipment, apparatus, and supplies.

"Net profit share base" means the end of the month credit balance in the NPSL capital account determined pursuant to § 390.021. The net profit share base is the production revenue remaining after subtracting all allowable costs and adding all allowable credits (including production revenue) in accordance with the procedures established by this Part 390.

"Net profit share payment" means the portion of the net profit share base payable to the United States.

"Net profit share rate" means the fixed percentage share of the net profit share base payable to the United States.

"NPSL" means a net profit share lease, which is an OCS lease that provides for payment to the United States of a fixed share of the net profits for production of oil and gas from the tract.

"NPSL operations" means all activities subsequent to issuance of the NPSL necessary and proper for the exploration, development, operation, maintenance, and final abandonment of the NPSL property.

"NPSL project area" means the NPSL tract, offshore facilities, and shore base facilities.

"NPSL property" means the NPSL tract, and materiel and offshore facilities acquired for use in NPSL operations and that are installed and/or used on the NPSL tract.

"NPSL tract" means a tract subject to an NPSL.

"OCS lease" means a Federal lease for oil and gas issued under the OCSLA.

"OCS lease sale" means the DOI proceeding by which leases for certain OCS tracts are offered for sale by competitive bidding and during which bids are received, announced, and recorded.

"Offshore facilities" means platform and support systems located offshore that are necessary to conduct NPSL operations, *e.g.*, oil and gas handling facilities, living quarters, offices, shops, cranes, electrical supply equipment and systems, fuel and water storage and piping, heliport, marine docking installations, communication facilities, and navigation aids.

"Outside party" means any person who is not a lessee.

"Person" means person as defined in Part 376 of this chapter.

"Personal expenses" means travel and other reasonable reimbursable expenses of lessee's employees.

"Production" means all oil, gas, or other hydrocarbon products produced, removed, saved, or sold from the NPSL property. Gas and liquids of all kinds are included in production. Production includes the allocated share of production from a unit of which the NPSL is a part.

"Production revenue" means the value of all production attributable to an NPSL property, which value is determined in accordance with § 376.110(b) of this chapter.

"Railway receiving point" or "recognized barge terminal" means the location that a vendor would use in determining the sale price to the lessee of new materiel to be delivered to the NPSL project area.

"Reliable supply store" means a recognized source or common stock point for the particular materiel involved.

"Shore base facilities" means onshore facilities necessary for NPSL operations, including:

(1) Shore base support facilities, *e.g.*, a receiving and trans-shipment point for materiel, staging area for shuttling personnel to and from the NPSL tract, a communication, scheduling, and dispatching center; and

(2) Shore base production facilities, e.g., pumps, separating facilities, gas plants, and tankage for production from the NPSL tract.

"Technical employees" means those employees having special and specific engineering, geological or other professional skills, and whose primary function in NPSL operations is the handling and resolution of specific operating conditions and problems for the benefit of NPSL operations.

"Tract" means land located on the OCS that is offered for lease through an OCS lease sale and that is identified by a leasing map or an official protraction diagram prepared by DOI.

§ 390.010 NPSL capital account.

(a) For each NPSL tract, an NPSL capital account shall be established and maintained by the lessee for NPSL operations. The NPSL capital account shall include debit entries for all allowable direct and allocable joint costs incurred during the term of the lease, appropriate overhead allowances permitted on these costs pursuant to § 390.012, and allowances for capital recovery calculated pursuant to § 390.020. The NPSL capital account shall be credited with production revenues attributable to the NPSL and any other credits arising from NPSL activities.

(b) The NPSL capital account shall be kept on an accrual basis.

§ 390.011 Schedule of allowable direct and allocable joint costs and credits.

The costs and credits specified in paragraphs (a)–(p) of this section may be charged direct, or allocated to NPSL operations, as appropriate, in accordance with § 390.014.

(a) *Lease rental.* The rent paid by the lessee for the NPSL tract is allowable.

(b) *Labor.* (1)(i) Salaries and wages of lessee's field employees, first level supervisors and technical employees employed in the NPSL project area in NPSL operations are allowable if such costs are not charged under paragraph (g) of this section.

(ii) Salaries and wages of technical employees within technical branches of the lessee's organization who are either temporarily or permanently assigned to, and directly employed in NPSL operations are allowable provided that such employees work "full time" on some particular aspect of NPSL operations or some specific technical problem. Excluded from this category are employees assigned a role in NPSL operations as a dufy collateral with other duties that do not directly benefit NPSL operations.

(iii) Salaries and wages of technical employees within technical branches of the lessee's organization who are assigned technical tasks directly related to NPSL operations may be allowable. Costs may be charged to the NPSL if supported by adequate time records showing the nature of the task and the hours spent on that task.

(2) Lessee's cost of allowed employee absence paid to employees whose salaries and wages are chargeable to NPSL operations under paragraph (b)(1)(i) and (ii) of this section are allowable.

(3) Expenditures or contributions made pursuant to assessments imposed by governmental authority that are applicable to lessee's costs chargeable to NPSL operations under paragraphs (b)(1)(i) and (ii) and (b)(2) of this section are allowable.

(4) Reasonable personal expenses, including allowable relocation costs of employees whose salaries and wages are chargeable to NPSL operations under paragraph (b)(1)(i) and (ii) of this section and that are paid by the lessee or for which the employees are reimbursed under the lessee's normal practice are allowable except as limited by § 390.013(g).

(i) Allowable relocation costs include:

(A) Travel expenses, including transportation, lodging, subsistence, and reasonable incidental expenses of the employee and members of his immediate family and transportation of his household and personal effects to the new location.

(B) Other necessary and reasonable expenses normally incident to relocation, such as costs of cancelling an unexpired lease, disconnecting and reinstalling household applicances, and purchases of insurance against damages to or loss of personal property are allowable. Costs of cancelling an unexpired lease shall not exceed three times the monthly rental.

(C) Closing costs (i.e. brokerage fees, legal fees, appraisal fees, etc.) for the sale of the employee's actual residence when notified of the transfer are allowable; and

(D) Continuing costs of ownership of the vacant former actual residence being sold, such as continuing mortgage principal and interest payments, maintenance of building and grounds (exclusive of fixing-up expenses), utilities, taxes, property insurance, etc., after settlement date of lease or date of new permanent residence are allowable.

(ii) The combined total of costs listed in paragraphs (b)(4)(i) (C)–(D) shall not exceed 8 percent of the sales price of the property sold.

(iii) Section 390.013(g) specifies employee relocation expenses that are not allowable as a charge to NPSL operations.

(5) Lessee's current costs of established plans for employee's group life insurance, hospitalization, pension, retirement, stock purchase, thrift, bonds, and other benefit plans of a like nature that are made available to all of lessee's employees on an equitable basis, applicable to lessee's labor cost chargeable to NPSL operations under paragraphs (b)(1) (i) and (ii) and (b)(2) of this section, are allowable. The amount of these charges shall be lessee's actual cost not to exceed 23 percent of the total charges under paragraphs (b)(1) (i) and (ii) and (b)(2) except that the Director may from time to time establish a different maximum percentage.

(6) Charges for expenses incurred under paragraphs (b)(2)–(b)(5) of this section may be made to NPSL accounts on a "when and as paid" basis or by a percentage assessment method. If the percentage assessment method is used, it shall be based upon the lessee's actual cost experience expressed as a percentage of costs chargeable under paragraphs (b)(1) (i) and (ii) and (b)(2) of this section. Under either method the lessee's own cost of administering the plans and paying the salaries and benefits defined in this paragraph shall be excluded. In determining actual cost experience of an employee benefit plan, any dividend or refunds received that are applicable to insurance or annuity policies shall be used to reduce the cost of such policies.

(c) *Materiel.* (1) Materiel purchased or furnish by a lessee as NPSL property shall be charged or credited at amounts specified in § 390.015. The purchase and inventoryihg of materiel is subject to the conditions and provisions in § 390.032.

(2) Charges to an NPSL account shall be made only for such materiel purchased or furnished as NPSL property as is reasonably practical and consistent with efficient and economical operations. The accumulation of surplus stocks shall be avoided.

(3) Credit for salvaged or returned materiel shall be made to the NPSL capital account. When the amount originally charged qualifies for the allowance for capital recovery in § 390.020, the credit shall be calculated pursuant to § 390.021(a)(3).

(d) *Transportation.* Transportation of employees and materiel necessary for NPSL operations to, from, and within the NPSL project area, are allowable, but subject to the following limitations:

(1) If materiel is moved to the NPSL project area, no charge shall be made to NPSL operations for a distance greater than the distance from the nearest reliable supply store, recognized barge terminal, or railway receiving point where like materiel is normally available, unless agreed to by the Director.

(2) If surplus materiel is moved from the NPSL project area, no charge shall be made to NPSL operations for a distance greater than the distance to the nearest reliable supply store, recognized barge terminal, or railway receiving point unless agreed to by the Director. No charge shall be made to NPSL operations for moving materiel to other properties owned by or under the control of a lessee, unless agreed to by the Director.

(3) In the application of paragraphs (d)(1) and (d)(2) of this section, there shall be no equalization of actual gross trucking costs of $200 or less, excluding accessorial charges.

(e) *Contract services.* Except when excluded by paragraph (f) of this section and/or § 390.013(c), the cost of services and utilities provided under contract by outside parties to the lessee and which constitute proper and necessary NPSL operations or support for NPSL operations, and rental charges paid to outside parties for the use of equipment used in the NPSL project area in support of NPSL operations, may be charged to NPSL operations subject to the following conditions and limitations:

(1) Contract services (including professional consulting services and contract services of technical personnel) that are entirely performed in the NPSL project area and benefit exclusively NPSL operations may be charged at the rates specified in the contract.

(2) Contract services (including professional consulting services and contract services of technical personnel) that are entirely performed in the NPSL project area and benefit the NPSL operations and operations on other tracts must be allocated among all tracts benefited and only that portion representing services benefiting the NPSL tract charged to NPSL operations.

(3) Contract services (including professional consulting services and contract services of technical personnel) that are performed at sites outside the NPSL project area may be charged to NPSL operations only if:

(i) The contracted services charged to the NPSL operations benefit only the NPSL tract or support NPSL operations;

(ii) The contract under which such services are provided deals exclusively with services benefiting the NPSL tract or NPSL operations, or the costs of the contract services which are applicable to the NPSL tract or NPSL operations are separately and specifically identified in the contract; and

(iii) Services specified in the contract relate to the resolution of specific technical problems confronting NPSL operations, or specific engineering design problems related to equipment or facilities required for NPSL operations.

(4) The cost of any contract service related to research and development is specifically excluded, as are contract services calling for feasibility studies not directly related to specific engineering design problems or alternatives for equipment and facilities required by NPSL operations.

(f) *Legal expenses.* Expense of handling, investigating and settling litigation or claims, discharging of liens, payments of judgments and amounts paid for settlement of claims incurred in or resulting from NPSL operations, or necessary to protect or recover the NPSL property are allowable, except those costs listed in § 390.013(f) as unallowable. This includes the salaries and wages of lessee's legal staff and the expense of outside attorneys who are assigned to matters described in this paragraph if supported by adequate time records showing the nature of the matter, its direct relationship to NPSL operations, and the hours spent on the matter.

(g) *Rental of equipment and facilities furnished by lessee.* (1)(i) The NPSL capital account shall be charged for the use of equipment and facilities owned by a lessee that are proper and necessary for NPSL operations, including shore base and offshore facilities and pipelines from the tract to shore base production facilities, and that are not NPSL property. Rental charges shall be made at rates based upon actual costs of acquisition, construction, and operation. Such rates may include labor, the cost of setting up and dismantling equipment, maintenance, repairs, other operating expenses, insurance, taxes, depreciation (calculated using a method consistent with generally accepted accounting principles, consistently applied) and a return on the remaining undepreciated basis not to exceed 8 percent per year, except that the Director may from time to time establish a different maximum percentage. Any cost of acquiring real property in excess of that reasonably required to support the facilities furnished for NPSL operations shall not be included in the costs used to establish these rates. Rates charged shall not exceed average commercial rates for equipment and facilities of similar nature and capability currently prevailing in the vicinity of the NPSL project area.

(ii) The term "equipment and facilities" is used in the broad sense to include equipment that may be mobile or semimobile and also installations that may be semipermanent or permanent in nature. Such equipment and facilities listed below shall be charged on the basis indicated.

Equipment/facilities	Basis of charge
A Mobile equipment:	
Aircraft	Hour
Automobiles	Mile or hour
Trucks	Mile or hour
Tractors	Hour
Bulldozers	Hour.
Mobile cranes	Hour
Trailer-mounted test separators	Hour
Truck-mounted cement mixers	Hour
Boats	Day or hour
House trailers	Day.
B Semimobile equipment:	
Drill rigs	Foot or day
Workover rigs	Hour
Pulling units	Hour
Derricks	Day.
Drilling tender	Day
Barges	Day
C Semipermanent installations:	
Skid-mounted separators	Day or volume.
Skid-mounted compressors	Day or volume
D Permanent installations:	
Compressor stations	Volume
Saltwater disposal wells	Volume or wells
Source water wells and supply systems	Volume
Roads	Wells.
Production/drilling platform	Volume or wells
Canals	Wells
Dock	Wells
Oil storage and loading facilities	Volume
Gathering systems and pipeline	Volume
ACT systems	Volume
Laboratory services (excluding research work)	Hour or unit
Shore base production facilities	Volume.
Shore base support facilities	Wells.
E Miscellaneous:	
Drill pipe	Foot or day
Casing setting tools	Day.
Well testing equipment	Day.

Equipment and facilities that are not listed shall be charged on a basis consistent with the nature of the use.

(2) In lieu of charges in paragraph (g)(1) of this section, the lessee may elect to use average commercial rates prevailing in the vicinity of the NPSL project area less 20 percent. For automotive equipment, the lessee may elect to use rates established by the Director. For other equipment for which no commercial rate exists, the lessee shall submit the basis for determining such costs to the Director for approval.

(h) *Damages and losses to NPSL property.* All costs necessary for the repair or replacement of NPSL property made necessary because of damages or losses incurred by fire, flood, storm, theft, accident, or other causes not covered by insurance, except those resulting from lessee's negligence or willful misconduct may be charged to the NPSL capital account. Any settlement received from an insurance carrier should be credited to NPSL operations when received.

(i) *Taxes.* All taxes, except income taxes, profit share payments, and taxes based upon income, that are assessed or levied upon or in connection with NPSL operations and which have been paid by the lessee are allowable. Allowed taxes shall include, but not be limited to, production, severance, excise, ad valorem, and mineral taxes.

(j) *Insurance.* (1) Net premiums paid for insurance required to be carried for NPSL operations are allowable. For NPSL operations in which the lessee may act as self-insurer for Workmen's Compensation and Employer's Liability, the lessee may include the risk under its

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self-insurance program in providing coverage under State and Federal laws and charge NPSL operations at lessee's cost not to exceed manual rates.

(2) NPSL operations shall be credited for all reimbursements for costs of damage to NPSL property or personal injury. Reimbursements for damaged NPSL property shall be credited as follows:

(i) If the damaged NPSL property is replaced or repaired, to the NPSL capital account charged for the cost of replacement or repair; or

(ii) If the damaged NPSL property is not replaced or repaired, to the NPSL capital account except that if the cost of the property originally qualified for the allowance for capital recovery in § 390.020, the credit shall be calculated pursuant to § 390.021(a)(3).

(k) *Communications.* Costs of leasing, acquiring, installing, operating, repairing and maintaining communication systems, including radio, microwave facilities, and computer production controls for the NPSL operations are allowable. If communication facilities systems serving the NPSL tract serve operations and/or facilities outside the NPSL project area, charges to NPSL operations shall be made as provided in paragraph (g) of this section or shall be allocated to NPSL operations in accordance with § 390.014.

(l) *Ecological and environmental.* Costs incurred in the NPSL project area as a result of statutory regulations for archeological and geophysical surveys relative to identification and protection of cultural resources and other environmental or ecological surveys required by the Bureau of Land Management or other regulatory authority, may be charged to the NPSL capital account. Also, the costs to provide or have available pollution containment and removal equipment, including payments to organizations and/or funds which provide equipment and/or assistance in the event of oil spills or other environmental damage are allowable. The costs of actual control and cleanup of oil spills and resulting responsibilities required by applicable laws and regulations are allowable, except that a charge shall not be allowed for any such costs attributable to the lessee's negligence or willful misconduct.

(m) *Dry or bottom hole contributions.* The costs of dry or bottom hole contributions made to obtain information about the structure or other characteristics of the geology underlying the NPSL tract are allowable.

(n) *Abandonment costs.* Actual costs incurred in the plugging of wells, dismantling of platforms and other facilities and in the restoration of the NPSL project area shall be charged to the NPSL capital account only when incurred (i.e., not on an accrual basis), except that costs incurred after the cessation of production shall not be charged to the NPSL capital account. Abandonment costs in excess of offsetting revenues shall not form the basis of any claim against the United States.

(o) *Other costs.* Any other costs not covered in paragraphs (a)–(n) of this section and not disallowed by § 390.013 that are incurred by the lessee in the necessary and proper conduct of NPSL operation and are approved by the Director, are allowable. Approval of a plan of development and production for the NPSL tract by the Director shall be considered sufficient approval for these other costs provided they are separately identified in said plan of development and production. Such separate identification shall note the nature of these other costs and may include an estimate of their magnitude. Any cost approvals under this paragraph for which the specific amounts have not been itemized are presumed to be approved provided they fall within the limits for a prudent operator. Approval of costs under this paragraph shall be approval solely for the purposes of determining allowable costs and shall not preclude a subsequent adjustment at audit of the amount of such costs.

(p) *Other credits.* Credit shall be given to the NPSL capital account, depending on when it is incurred, for NPSL property leased or used in non-NPSL operations, for the sale of information derived from test wells and G & G, and for any and all amounts earned or otherwise due lessee as a result of NPSL operations.

§ 390.012 Overhead allowance.

(a) During the capital recovery period the overhead allowance shall be calculated on a percentage basis at the rate of 4 percent of allowable direct and allocable joint costs charged to the NPSL capital account, exclusive of costs specified in paragraph (c) of this section. This overhead allowance shall be debited to the NPSL capital account in accordance with § 390.021(b)(2).

(b) For each month after the end of the capital recovery period, an overhead allowance shall be calculated on a percentage basis at the rate of 10 percent of allowable direct and allocable joint costs charged to the NPSL capital account, exclusive of costs specified in paragraph (c) of this section. This overhead allowance shall be debited to the NPSL capital account in accordance with § 390.021(c)(2).

(c) Overhead shall not be charged on the value of:

(1) Lease rental (§ 390.011(a));

(2) Contract services (§ 390.011(e));

(3) Taxes (§ 390.011(i));

(4) Re-injected hydorcarbons, originally produced from the NPSL tract, that are charged under § 390.011(c); and

(5) Credits for materiel charged under § 390.011(c) that are salvaged, returned, or used for the benefit of non-NPSL operations.

§ 390.013 Unallowable costs.

The following costs shall not be charged as direct or joint costs to NPSL operations:

(a) Bonus payments to the United States;

(b) Interest (except as permitted under § 390.011(g));

(c) Depreciation, depletion, amortization, or any other charge for capital recovery for materiel charged to the NPSL capital account under § 390.011(c), except as explicitly provided by the allowance for capital recovery calculated according to § 390.020;

(d) The cost of taking inventory;

(e) Research and development costs;

(f) The following legal expenses:

(1) The costs of litigation against the Federal government;

(2) Fines or penalties levied by any Federal agency;

(3) Settlement of claims or other litigation resulting from the lessee's violation of regulatory requirements or negligence; and

(4) The cost of the lessee's legal staff or expense of outside attorneys, except as explicitly allowed under § 390.011(f);

(g) The following employee relocation costs (whether incurred by the employee or the lessee):

(1) Loss on the sale of a home;

(2) Purchase price of a home in the new location;

(3) Payments for employee income taxes incident to reimbursed relocation costs; and

(4) Any relocation cost in connection with an employee move that is for the primary benefit of the lessee's non-NPSL operations;

(h) The lessee's own cost of administering employee benefit plans;

(i) The cost of acquiring or constructing shore base facilities and real property improvements that are charged to NPSL operations on a rental basis under § 390.011(g);

(j) Rentals on any facilities, the investment costs of which have been charged either directly or as allocable joint costs, to the NPSL capital account; and

(k) Pre-NPSL expenditures.

§ 390.014 Allocation of joint costs and credits.

(a) Joint costs shall be grouped in cost pools for allocation to NPSL and non-NPSL operations in reasonable proportion to the beneficial or causal relationships which exist between a specific cost pool and the operations. That portion of a joint cost pool that may be allocated to NPSL operations is called an allocable joint cost.

(b) The following allocation principles apply in allocating joint costs:

(1) *G & G.* G & G shall be allocated on a line mile per tract basis.

(2) *Wages and salaries.* Wages and salaries that are not charged as direct on the basis of time spent on a particular job shall be allocated on a reasonable and equitable basis.

(3) *Compensated personal absence, payroll taxes and personal expenses.* These items shall be allocated on the same basis as wages and salaries.

(4) *Transportation costs.* Transportation costs for employees that are not charged direct shall be allocated on the same basis as their wages and salaries.

(c) Joint credits shall be allocated in the same manner as joint costs.

(d) When the NPSL is made a part of a unit, the allowed costs shall be charged to the NPSL capital account on the basis specified in the unit operating agreement as approved by the Director. Revenues and other credits shall be made to the NPSL accounts on the same basis as specified in the approved operating agreement. Joint costs of an NPSL and a non-NPSL tract that are adjacent to one another and are on the same structure shall be allocated on a basis approved by the Director.

§ 390.015 Pricing of materiel purchases, transfers, and disposition.

(a)(1) *Purchased materiel.* Except as provided in paragraph (a)(2)(i) of this section, materiel purchased for use in NPSL operations shall be charged to NPSL operations at the price paid, after deduction of any discounts received. Should any purchased materiel be defective or returned to a vendor for other reasons, the credit shall be allocated to NPSL operations when received by the lessee in accordance with § 390.011(c)(3).

(2) *Transferred and disposal materiel.* An item of materiel, which is acquired by the lessee for use in NPSL operations by means other than purchase or disposed of by any means, shall be priced according to this subparagraph:

(i) *Condition A (New) Materiel:* (A) Tubular goods, except line pipe, shall be priced at the current market price in effect on date of movement on a minimum carload or barge load weight basis, regardless of quantity transferred, equalized to the lowest published price "free on board" (f.o.b.) railway receiving point or recognized barge terminal nearest the NPSL tract where such materiel is normally available.

(B) Line Pipe.

(1) Movement of less than 30,000 pounds shall be priced at the current price in effect at date of movement, as listed by a reliable supply store nearest the NPSL tract where such materiel is normally available.

(2) Movement of 30,000 pounds or more shall be priced under the provisions for tubular goods pricing in paragraph (a)(2)(i)(A) of this section.

(C) Other materiel shall be priced at the current price in effect at date of movement, as listed by a reliable supply store or f.o.b. railway receiving point nearest the NPSL tract where such materiel is normally available.

(ii) *Condition B (Good Used) Materiel.* Materiel in sound and serviceable condition and suitable for reuse without reconditioning:

(A) Materiel transferred to the NPSL project area shall be priced at 75 percent of current Condition A price.

(B) Materiel transferred from the NPSL project area shall be priced:

(1) at 75 percent of current Condition A price, if the materiel was originally charged to NPSL operations as Condition A materiel, or

(2) at 65 percent of current Condition A price, if the materiel was originally charged to NPSL operations as Condition B materiel at 75 percent of current Condition A price.

(iii) *Conditions C and D (Other Used) Materiel*—(A) *Condition C.* Materiel that is not in sound and serviceable condition and not suitable for its original function until after reconditioning shall be priced at 50 percent of current Condition A price.

(B) *Condition D.* Materiel no longer suitable for its original purposes but suitable for some other purpose shall be priced on a basis commensurate with its use and comparable with that of materiel normally used for such other purpose. If the materiel has no alternative use it should be priced at prevailing prices as scrap.

(iv) *Obsolete Materiel.* Materiel that is serviceable and usable for its original function and has a vlaue less than Condition A, B, or C materiel may be valued at a price agreed to by the Director. Such price should be the equivalent of the value of the service rendered by such materiel.

(b) *Pricing conditions.* (1) Loading and unloading costs shall be charged at a rate of 15 cents per hundred weight, or such other rate as may be set by the Director, on all tubular goods movements, in lieu of loading/unloading costs sustained, when the actual hauling costs of such tubular goods is equalized under provisions of § 390.011(d).

(2) Materiel involving erection costs shall be charged at the applicable percentage of the current knocked-down price of new materiel.

(c) When materiel subject to paragraphs (a)(2)(ii)(iii) of this section is transferred, the cost of reconditioning shall be borne by the receiving party.

§ 390.020 Calculation of the allowance for capital recovery.

(a) For purposes of this section, the cost base for the allowance for capital recovery in a particular month shall consist of the sum of:

(1) All allowable direct and allocable joint costs chargeable to the NPSL capital account during the month less any costs specified in § 390.012(c); plus

(2) The value of contract services chargeable to the NPSL capital account during the month pursuant to § 390.011(e); plus

(3) The capital recovery period overhead allowance, calculated in accordance with § 390.012(a), that is chargeable to the NPSL capital account for the month; less

(4) Production revenues and other credits received during the month.

(b) If the cost base for a month is greater than zero (that is, if the sum of the charges specified in paragraphs (a)(1)–(3) of this section exceeds the value of production revenues and other credits), the allowance for capital recovery shall be calculated by multiplying the cost base by the capital recovery factor, and shall be debited to the NPSL capital account as specified in § 390.021(b).

(c) If the cost base for a month is less than zero, the allowance for capital recovery for the NPSL capital account shall be calculated by multiplying the resulting negative cost base by the capital recovery factor. The negative product of this calculation shall be debited to the NPSL capital account as specified in § 390.021(b).

(d) No allowance for capital recovery shall be calculated on the charges or credits related to any time period after the end of the capital recovery period.

§ 390.021 Determination of net profit share base.

(a) During each month of the lease term, the NPSL capital account shall be:

(1) Debited with allowable direct and allocable joint costs;

(2) Credited with an amount reflecting the production revenues for the month.

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calculated in accordance with § 390.110(b) of this chapter;

(3) Credited with amounts properly credited back to the NPSL capital account as specified in § 390.011(p). Credits associated with charges to the NPSL capital account during the capital recovery period, however, shall first be increased by the value of the credit multiplied by the recovery factor, before crediting that sum to the NPSL capital account.

(b) At the end of each month of the lease term during the capital recovery period:

(1) The transactions specified in paragraph (a) of this section shall be made to the NPSL capital account.

(2) The capital recovery period overhead allowance shall be calculated in accordance with § 390.012(a) and debited to the NPSL capital account.

(3) The allowance for capital recovery shall be calculated in accordance with § 390.020 and the allowance debited (or the negative allowance debited, as appropriate) to the NPSL capital account. (A debit entry of a negative allowance for capital recovery shall have the same effect as a credit entry of the absolute value of the allowance for capital recovery.)

(4) The balance in the NPSL capital account shall be calculated. If, as a result of the accounting transactions described in paragraphs (b)(1)–(3) of this section, there is a credit balance in the NPSL capital account, the capital recovery period will be considered terminated as of this month. The credit balance will be forwarded to the next month, which will be the first month for which a profit share payment is due.

(c) At the end of each month of the lease term following the end of the capital recovery period:

(1) The transaction specified in paragraph (a) of this section shall be made to the NPSL capital account.

(2) An overhead allowance shall be calculated in accordance with § 390.012(b) and debited to the NPSL capital account.

(3) The balance in the NPSL capital account shall be calculated.

(d) If, as a result of the accounting transactions described in paragraph (c) of this section, there is a credit balance in the NPSL capital account, this credit balance is the net profit share base for that month. The opening debit and credit balances in the NPSL capital account for any month following a month in which there is a credit balance in the NPSL capital account (except as provided in paragraph (b)(4)) of this section shall be zero.

(e) If, as a result of the accounting transactions described in paragraph (b) or (c) of this section, there is a debit balance in the NPSL capital account, this debit balance shall be the opening debit balance in the NPSL capital account for the following month.

(f) Any credit balance in the NPSL capital account shall become the net profit share base as described in this section. Any debit balance in the NPSL capital account shall be maintained only insofar as necessary for the determination of profit share payments. Such debit balance shall not represent a claim against the United States.

§ 390.022 Calculation of net profit share payment.

The net profit share payment shall be calculated by multiplying the net profit share base calculated in accordance with § 390.021 by the net profit share rate. The net profit share payment shall be paid to the United States in accordance with § 390.031.

§ 390.030 Maintenance of records.

(a) Each lessee subject to this Part 390 shall establish and maintain such records as are necessary to determine for each NPSL:

(1) The volume and disposition of all oil and gas production saved, removed or sold for each month;

(2) The value of all oil and gas production saved, removed or sold for each month;

(3) The amount and description of costs and credits to the NPSL capital account;

(4) The amount and description of all costs of acquisition, construction, and operation of equipment and facilities furnished by the lessee and charged to the NPSL capital account under § 390.011(g). Such records shall include worksheets or other documents that indicate the method used to calculate the amount of each charge made under § 390.011(g);

(5) The cumulative balance of costs and credits to the NPSL capital account; and

(6) The inventory of materiel.

(b) The ledger cards showing the charges and credits to the NPSL capital account shall be maintained until thirty-six months after the cessation of NPSL operations by the lessee. All other documents, journals and records shall be maintained for thirty-six months from the due date or date of mailing of the statement of account on an NPSL, whichever comes later, except that nothing in these regulations shall limit the time of investigation or the need to produce records when prima facie evidence of fraud or willful misconduct is obtained with respect to the government's interest in the NPSL.

§ 390.031 Reporting and payment requirements.

(a) Each lessee subject to this part shall file an annual report during the period from issuance of the NPSL until the first month in which production revenues are credited to the NPSL capital account. Such report shall list the costs incurred, including allowances applied, credits received, and the balance of the NPSL capital account. Not later than 60 days after the end of the first month in which production revenues are credited to the NPSL capital account, a final report relating to the period shall be filed.

(b) Beginning with the first month in which production revenues are credited to the NPSL capital account, each lessee subject to this Part 390 shall file a report for each NPSL, not later than 60 days following the end of each month, containing the following information for the month for which the report is filed:

(1) The volume and disposition of all oil and gas production saved, removed or sold;

(2) The production revenue;

(3) The amount and description of all costs and credits to the NPSL capital account;

(4) The balance of the NPSL capital account; and

(5) The net profit share base and net profit share payment due the United States and the monthly profit share of the lessee.

(c) Each lessee subject to this Part 390 shall submit, together with the report required by paragraph (b) of this section, any net profit share payment due the United States for the period covered by the report.

(d) Each lessee subject to this Part 390 shall file a report not later than 90 days after each inventory is taken, reporting the controllable materiel on hand, acquired, transferred or used.

(e) Each lessee subject to this Part 390 shall file a final report, not later than 60 days following the cessation of production, together with the appropriate net profit share payment, indicating the remaining balance and costs and credits to the NPSL capital account for the period.

(f) Reports required by this section shall be filed with the Director, either separately or as part of the reports that are currently filed.

(g) Interest shall be calculated at the prevailing rate or rates as published in the Bulletin to the Department of the Treasury Fiscal Requirement Manual, in effect for the period or periods over which the net profit share payment is owed, compounded monthly, on the amount of a net profit share payment, from the due date (60 days following the end of each month for which the payment was due) of a net profit share payment until such payment is received by the United States.

§ 390.032 Inventories.

(a) The lessee is responsible for NPSL materiel and shall make proper and timely cost and credit notations for all materiel movements affecting NPSL property. The lessee shall provide only such materiel as may be required for immediate use or is consistent with practical, efficient, and economical operations. The accumulation of surplus stocks shall be avoided by proper materiel control, inventory and purchasing. The lessee shall make timely disposition of idle and surplus materiel through sale.

(b) At reasonable intervals, but at least once every three years, inventories of controllable materiel shall be taken by the lessee. Written notice of intention to take inventory shall be given by the lessee at least 30 days before any inventory is to be taken so that the Director may be represented at the taking of inventory. Failure of the Director to be represented at an inventory shall bind the Director to accept the inventory taken by the lessee, except in the case of willful misrepresentation or fraud.

(c) Inventory shall be valued with any generally accepted accounting method used by the lessee to value the same materiel for financial or income tax reporting purposes, provided that the method is consistently applied throughout the life of the materiel.

(d) Reconciliation shall be made of a physical inventory with the NPSL capital account by the lessee, and a list of overages and shortages shall be available to the Director for audit as provided in § 390.033. Inventory adjustments of controllable materiel shall be made by the lessee to the NPSL capital account for overages and shortages. Controllable materiel removed from physical inventory that has not been credited to NPSL operations under § 390.015(a)(2) shall be credited to NPSL operations at its original value, except that when the cost of the materiel originally qualified for the allowance for capital recovery in § 390.020, the credit shall be calculated pursuant to § 390.021(a)(3).

§ 390.033 Audits.

(a) The accounts of an NPSL lessee or of a contractor of the lessee which are related to NPSL operations shall be subject to audit by DOI or its appointed agent. Where possible, the auditor for DOI shall coordinate audit efforts with other nonoperators, if any. DOI shall have the right to initiate an audit any time within thirty-six months of the due date of the monthly statement that is to be audited or the date that the statement was mailed, whichever is later, provided, however, that audits may not be conducted any more frequently than once every year except upon a showing of fraud or willful misrepresentation.

(b)(1) When nonoperators of an NPSL lease call an audit in accordance with the terms of their operating agreement, the Director shall be notified of the audit call in the same manner as the operator is notified. DOI may elect to send an auditor with the audit team specified by the nonoperators in lieu of calling for a separate audit by DOI.

(2) If DOI determines to call for an audit, DOI shall notify the lessee of its audit call and set a time and place for the audit. Such a notice shall be sent at least thirty days before the suggested time for the audit to allow the nonoperators to join in DOI's audit in lieu of calling for their own audit. The place for the audit will normally be the place where the lessee maintains its records pertaining to the NPSL lease. The lessee shall send copies of the notice to the nonoperators on the lease. The lessee shall use reasonable effort to notify all nonoperators, but failure to include one or more nonoperators in the notification shall not void the notice.

(3) When DOI calls for an audit, DOI may suggest the date and time when the audit may commence. The estimated duration of the audit may be mentioned to the lessee as well as to the other nonoperators who may elect to supply and auditor for their own audit purposes. The lessee's office where the audit will be held may be named or, if not known, inquired about. If a visit to a field plant or field office is contemplated by the government auditor, such a field trip may be mentioned. If DOI expresses a desire to review a period on which the thirty-six month time limitation has expired, it is the lessee's prerogative to allow the review or to request that DOI adhere to the time limitation specified in these regulations.

(c)(1) Exceptions to the accounting by the lessee, whether in favor of the government or the lessee, shall be noted in a report to the lessee. The lessee shall have 60 days from the mailing of a notice of exceptions to agree to the adjustments proposed by the DOI auditor or to object to the proposed adjustments. If the lessee accepts the proposed adjustments, the adjustment shall be booked in the month in which the lessee agrees to the adjustment, except where such adjustment would have resulted in a change in any net profit share payment due the United States. In such a case, there shall be a redetermination of the NPSL capital account pursuant to § 390.034.

(2) If the lessee disagrees with the adjustment, the lessee shall have the right to appeal the adjustment to the Director.

(d) Upon receipt of an agreement by the government auditor that there are no required audit adjustments, upon final determination with respect to any audit adjustment proposed by the government auditor, or upon the lapse of thirty-six months from the due date or date of mailing of the statement of account on an NPSL lease, whichever comes later, the books shall be closed for audit adjustment purposes, except upon a showing of fraud or willful misrepresentation.

(e) Records required to be kept under § 390.030(a) shall be made available for inspection by any authorized agent of DOI at any time during normal business hours upon the request of the Director or other authorized official.

§ 390.034 Redetermination and appeals.

(a) If, as a result of an inspection of records or an audit under § 390.033, the Director determines that there is an error in the NPSL capital account or an error in calculating the net profit share payment, whether in favor of the government or the lessee, the Director shall redetermine the net profit share base and recalculate the net profit share payment due the United States and notify the lessee of the recalculation.

(b) The lessee shall pay any additional amount of net profit share payment owed plus interest, compounded monthly, from the date that the payment was due until the date it is actually paid. Interest shall be calculated at the prevailing rate or rates as published in the Bulletin to the Department of the Treasury Fiscal Requirements Manual, in effect for the period or periods over which the payment is owed.

(c) If the recalculated profit share payment is less than the amount paid the United States, the lessee shall apply such overpayment to the next profit share payment.

(d) Within 30 days after receiving notice of the recalculation as provided in paragraph (a) of this section, the lessee may appeal the decision of the Director in accordance with the appeals provision of 30 CFR Part 290.

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Friday
May 30, 1980

Part IV

Department of Health and Human Services

Social Security Administration

Low Income Energy Assistance Program; Interim Final Regulations

DEPARTMENT OF HEALTH AND

Under the Act, responsibility for

States are expected to begin planning

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 260

Low Income Energy Assistance Program

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Interim final regulations.

SUMMARY: These interim final regulations set forth the requirements for States seeking allotments under the Home Energy Assistance Act of 1980. That Act authorizes grants to States for assistance to eligible low income households to offset rising costs of home energy. The regulations describe the procedures for administration of the program in States, Puerto Rico and the Trust Territories. They also describe the priorities for assistance and the ways in which States may assist eligible households.

DATES:

Effective date: These regulations are effective on an interim basis beginning May 30, 1980.

Comment date: Before adopting final regulations we will consider any comments we receive by June 30, 1980.

ADDRESSES:

Comments should be submitted in writing to: Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from May 30, 1980, the public may review the comments during regular business hours in the following office: Room 1169, 330 Independence Ave. SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ira Goldstein, Office of Family Assistance, Room B428 Transpoint Building, 2100 2nd Street SW., Washington, D.C. 20593, (202) 245–2015.

SUPPLEMENTARY INFORMATION:

1. Nature of Program

The Home Energy Assistance Act of 1980 (Title III of Pub. L. 96–223) authorizes grants to the States "to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income." The funds for this program will come from revenue produced by the windfall profits tax.

Under the Act, responsibility for Federal administration of Low Income Energy Assistance Program funds for FY 1981 is assigned to the Department of Health, Education, and Welfare (now the Department of Health and Human Services). This document sets forth interim final regulations for the States seeking allocations under the Act. The States have the responsibility for local administration of the Low Income Energy Assistance Program and for decisions concerning operation of the program on a local level. States are required to submit State plans to HHS in accordance with procedures, timetables and standards established in these rules. Provisions are also made for grants to Puerto Rico, Guam, American Samoa, the Virgin Islands, Northern Mariana Islands and the Trust Territories of the Pacific Islands, and funds are also available for incentive grants to the States to pay up to 25% of some State-established fuel assistance programs for residential energy costs.

2. Timing and Form of Regulations

The Act allows us only 60 days from enactment to issue regulations for the Low Income Energy Assistance Program. It was signed on April 2, 1980, which requires rules by June 1.

These regulations are Interim Final regulations, and are effective May 30, 1980. This is because the Act requires rules within 60 days of enactment, which is impossible to do if a Notice of Proposed Rulemaking is provided. In addition, it is in the public interest for these interim rules to be published quickly so that States may begin their program planning as early as possible in order that payments are available when the heating season begins. This would not be possible without the high level of assurance provided by interim final rules (rather than an NPRM) that few or no major changes would be made. We have engaged in extensive consultations, as discussed under section 6 below. For all of these reasons, it is in the public interest for us to waive the NPRM.

Nevertheless, we are interested in comments and advice regarding changes which should be made to these rules. We will review any comments on these rules which we receive by [30 days], and will republish the final rules, with any necessary changes, in August. For the same reasons that we have identified above for waiving the NPRM, we allow only 30 days for comment rather than our usual 60 days. Comments should be addressed to the Commissioner of Social Security, Box 1585, Baltimore, Maryland 21203.

States are expected to begin planning their FY 1981 Low Income Energy Assistance programs on the basis of these interim final regulations. Some decisions, including the notification to the Commissioner of Social Security of a State's intent to enter into an agreement with us, according to the option provided by the Act and the regulations under which we will make payments to SSI households, must be made prior to publication of final regulations. This notification must be made no later than June 30, 1980.

Plans may be submitted at any time before September 15, 1980, but States must submit public participation plans described in § 260.22 (Subpart C) by June 30, 1980, prior to implementation of their public participation process. Determinations concerning administration of the program for American Indians must also be made promptly before plans are submitted.

A summary listing of key dates in the regulations is presented at the end of this preamble.

3. Regulatory Analysis

We believe that the administrative costs to the States of operating this program will total less than $100 million, given the cap on reimbursable administrative expenses established by the Congress. A formal regulatory analysis is therefore not required under Executive Order 12044. Under the statute, the Department has very little if any discretion with respect to the administrative responsibilities of the States as detailed in these regulations. Nevertheless, we will review comments to determine whether a formal regulatory analysis seems appropriate.

4. Consultation Process

Prior to publication of these interim final regulations, we engaged in extensive consultations with interested parties. Meetings were held with representatives of Governors, State administrators of energy assistance programs, State legislators, legal service groups, utilities and companies supplying a wide range of fuel types, national energy-related associations, Community Services Administration staff, recipient populations and other Federal agencies including the Departments of Housing and Urban Development, Agriculture, Labor and Energy, as well as the Veterans' Administration. The views of these parties were considered in the development of the regulations and are sought during the comment period as well.

5. Analysis of Major Provisions

The following is provided both to summarize the regulations and to explain the policy considerations we made in developing the interim final regulations published today.

Low Income Energy Assistance Program

Subpart A—Introduction

Section 260.1 gives a general summary of the intent of the Low Income Energy Assistance Program, those eligible for assistance, the form that assistance can take and the factors to be considered in determining the amount of assistance provided.

We have also put a guide to the organization of these regulations into paragraph (b) of this section. The regulations are divided into eleven subparts, labeled A through K.

Definitions of various terms used in the remainder of the regulations are identified in section 260.2.

Subpart B—State Plans—General

In this section we provide a brief summary and overview of the requirements for State Plan approval along with references to those sections of the regulations which contain further descriptions of these requirements.

Subpart C—Development of State Plans

1. *General Procedures.* The State plan for Energy Assistance is a comprehensive statement of the nature and scope of the State's program and will allow us to determine if the plan can be approved and Energy Assistance Program funds alloted to the individual State. State Plan preprints will be distributed to States shortly for their use in submitting plans.

2. *Public Participation in the Development of the State Plan.* We want to assure that the residents of each State have the opportunity to participate meaningfully in the State's decision-making process with respect to development of the State plan for energy assistance. The public participation process is intended to assure that each State has provided for prior participation by eligible households, public and private organizations—including organizations which represent and serve elderly and handicapped persons, public officials, energy suppliers, housing operators, members of Indian tribes and organizations and the general public in assessing need for assistance, identification of priorities and allocating resources in development of the State plan.

States must submit a description of their public participation process by June 30, 1980. We hope to help States avoid noncompliance with § 260.22, concerning essential elements of the public participation process, by asking for the public participation plan prior to State plan submission. The public participation process followed by the State must also be included in its State plan.

The essential elements of the public participation process include publication of the plan provisions and eligibility requirements in local newspapers; wide availability of the plan and plan summary; a public comment period of at least 20 days; and of course consideration of and public access to the written comments received.

States may choose to adopt procedures such as public hearings and advisory committees in addition to the required elements for public participation. We encourage the use of advisory committees with a balanced representation from recipient groups, energy suppliers, service providers, and government representatives as a good way to get input from a wide range of groups who will have important roles in the operation of a State's program. This is left to State option to insure maximum flexibility for States to meet local considerations in the development of their plan.

Any waivers that are being requested by the State at the time of plan submission must be available for review during the public participation process and comments on those waiver requests must be summarized and submitted to us, as described in § 260.26(c). Major amendments to the State plan are also subject to the public participation process.

3. *Timetable for Submitting and Approving Plans.* The timetable for submitting and approving plans is outlined in § 260.24. State plans must be submitted by September 15, 1980. Since speedy action is essential if funds are to be made available to eligible recipients for winter heating needs, we will approve (subject to the availability of funding under FY 1981 Congressional appropriation) or disapprove State plans submitted in accordance with these regulations as soon as possible, and will make every attempt to do so within 30 days after receipt of the plan. We are terming these plans and our approval as "conditional" due to the need for an appropriation. If the appropriation for the program is different from the $2.2 billion the Administration has proposed to the Congress, we will issue a notice giving the States 15 days to resubmit State plans.

One important exception to this timetable is our early need to know which States will ask us to make payments for them to SSI households. We must therefore receive notification by June 30, 1980, of a State's intention to enter into an agreement for Federal administration of Energy Assistance Program payments to SSI households. A State which provides such notice or signs the required agreement for these payments may amend it at anytime prior to September 15, 1980, or—if the appropriation is different from $2.2 billion—15 days after the enactment of the appropriation, whichever is later. A State may withdraw from the agreement at any time. However, if it withdraws after September 15, 1980 it must reimburse us for our administrative costs in preparing to make payments on the State's behalf.

Amendments to State plans may be submitted at any time. We will make every effort to approve or disapprove a plan amendment within 30 days after it is received. Requirements for public review of plans and plan amendments prior to submittal or contained in § 260.22.

4. *Waiver of State Plan Requirements.* Where we determine that a waiver is necessary for the State to be able to administer its program, and is likely to assist in promoting the objectives of the program, we may waive compliance with any of the requirements for the State plan (§ 260.26) for a sufficient period of time to enable the State to carry out its energy assistance program. We will determine the time when considering the waiver request.

Waivers will *only* be granted when they are *actually necessary* to enable a State to operate the program and *only* when a waiver of a requirement will promote the objectives of the Act. We do not intend to waive items solely for the convenience of States or when they would make entire population groups ineligible. We intend to review waiver requests carefully to assure that they further the intentions of Congress as identified in the Act.

States may submit requests for waivers in writing to the Commissioner with a copy to the Regional Commissioner at the same time the State plan is submitted. When submitting a waiver, the State must supply the following: (1) A statement of the requirement for which the waiver is being requested; (2) as statement of how the requested waiver will promote the objectives of the Act; (3) the time period for which the waiver will be in effect; (4) a description of why the State would be unable to operate its program without the waiver and the consequences to the State and to eligible households if the request is disapproved; and, (5) the

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expected cost impact if the waiver is granted.

A waiver submitted as part of a State plan will be subject to the public participation requirement for State plans. Comments received as a result of public participation should be summarized and submitted to us as part of the waiver request.

If a waiver is requested by a State after plan submittal, the State must, before submitting the waiver request, give notice through local or State-wide media that it intends to request a waiver of a plan requirement and must make copies of the proposed waiver request available in accessible locations for a period of 10 days after notice is given. The State must then consider any comments received, identify how residents of the State had the opportunity to review the waiver request, and summarize those comments as part of the waiver request submitted to us.

5. *Plan Approval and Disapproval.* The State plan should be submitted by the State Agency administering the Energy Assistance Program to the SSA Associate Commissioner for Family Assistance and a copy should be submitted at the same time to the appropriate SSA Regional Commissioner. Federal statutes, these regulations and other issuances will be used to determine if a State plan or plan amendment meets Federal requirements. The plan and amendments will be reviewed in the SSA Regional offices, where staff will consult with State officials who prepared the plan to clarify questionable aspects of the plan or amendments. The Regional staff will send recommendations to the SSA Associate Commissioner for Family Assistance on approval or disapproval of the State plans and amendments. The Associate Commissioner will rule on each plan and will notify the State of his approval or his intent to disapprove of the State plan or amendment and, if disapproved, of the opportunity for a hearing under § 260.30.

6. *Hearing on Plan Disapproval:* A State may make a written request for a hearing within 10 days after receipt of notification of our intent to disapprove its plan or plan amendment according to the procedures outlined in § 260.30.

Upon receipt of the State's request for a hearing, we will promptly send the State a list of all material that was used in making the decision to disapprove the plan or plan amendment and will notify the State of the date, time, and location of a hearing to be held in the State, on the issues pertaining to our decision. The presiding officer at the hearing will be designated by us. The hearing will be held not less than 20 days after the date of the notice to the State in order to give the State time to prepare for the hearing.

The Commissioner will arrive at a decision within 30 days after the receipt of the hearing officer's record and recommendations. The Commissioner's decision will be our final administrative action on the disapproval.

Attempts will be made before and after the hearing to aid the State in rectifying any plan deficiencies in order to allow their program to be approved.

7. *Withholding of Funds for Noncompliance With Approved State Plans.* We will cite a State for noncompliance when it fails to substantially comply with the Home Energy Assistance Act and implementing Federal regulations and issuances or if the State's practices are not in compliance with an approved State plan. Issues of noncompliance are outlined in § 260.32.

We will notify the State by letter whenever a question of compliance exists. At the same time we will give notice of the intent to withhold funds and inform the State of its right to a hearing. The State may, within 20 days, request a hearing which will be carried out in accordance with the procedures described in § 260.30.

If after a hearing a finding of substantial failure to comply is made, we will make no further payments to the State. We will resume payments if or when we are satisfied that there is no longer any substantial failure to comply.

Subpart D—Administration of the State Program

1. *State Agency and Local Administrative Arrangements.* A single State agency must be designated in the State plan for the purpose of administering the energy assistance program. This designation will have to be made by the Governor or the Attorney General in his or her behalf. Functions may be delegated to other agencies of the State and to local agencies, unless these functions involve administrative or policy discretion. If the State agency decides to use another agency to perform any operational function of the program, the State plan must specify the division of responsibility between the agencies and how the designated single State agency retains control and supervision. The State plan must also specify what methods are available to the single State agency to achieve corrections if another agency performing functions pursuant to the plan either fails to carry them out or does so improperly or inadequately.

This allows States to contract with such organizations as community action agencies and utilities, as well as local governments, to accept and process applications. This flexibility permits the widest possible access by eligible households. However, some contracting organizations, such as utilities, may have a vested interest in finding applicants eligible. Accordingly, we stress that the State retains full responsibility for correct eligibility determinations and must closely monitor organizations to which it delegates functions.

2. *Administrative Procedures.* Appendix B provides a description of the specific administrative requirements that the State must meet in its State plan. This information will be included in State plan preprints to be provided by us.

3. *Maintenance of Regular Benefit Levels.* In § 260.56 we require as a condition to receiving funds under the Act, that States not reduce, before October 1, 1981, the level of benefits in any Federally assisted cash assistance program from the level in existence as of February 26, 1980. However, if benefits in a Federally assisted cash assistance program were increased solely to help pay for home energy, the State may reduce those increased benefits by the same amount provided to households under the energy assistance program.

We have reviewed programs that could be described as "Federally assisted cash assistance programs" and view this requirement as applying to AFDC, SSI State Supplements, and Federal-State Unemployment Compensation programs. Regular benefit levels refers to the basic payment standard or schedule on which recurring benefits are based. This would not include special or nonrecurring payment items.

4. *Coordination With Weatherization and Energy Conservation Efforts.* We are requiring that the State plan provide for effective coordination of the State's energy assistance program with energy conservation and weatherization efforts. In particular, we are asking the State to indicate its plan for coordination with government, voluntary agency and private industry weatherization and conservation programs, with a goal of reducing residential energy usage as well as costs.

This will require a description of: The procedures by which weatherization and conservation services for residential purposes are identified; information and instruction about such services provided by local agencies, particularly those participating in the State's energy assistance program; and referral of recipients of energy assistance to

conservation and weatherization services.

5. *Outreach.* We want to assure that the greatest proportion of potentially eligible persons is made aware of the energy assistance program. Towards that end we require State plans to make provisions for outreach to meet this goal. Emphasis for outreach activities should be on those most vulnerable either in terms of health needs or income levels, to the effects of rising energy costs. Specific groups include the elderly, homebound, handicapped, young children, low-income families, migrants, and those who are isolated from services programs by geographical conditions or language barriers.

We require that State plans provide for maximum, effective use of both State-wide and local resources to reach these groups, such as community action agencies and local service providers, public and private organizations serving and representing elderly and handicapped persons, Federal government offices, home energy suppliers, the public education system, local law enforcement agencies, Indian tribes and off-reservation Indian community-based organizations, and, of course, the mass media. A fiscal plan may also provide reimbursement—as a proper expenditure under a State's administrative costs—to other agencies used for outreach activities under the State plan. The State should consider working with Community Action Agencies, State and local area agencies on aging, and State chapters or member organizations of groups such as the National Association of Farmworker Organizations, the National Council of Senior Citizens, the American Coalition of Citizens With Disabilities, and a wide range of governmental and voluntary service organizations which have experience in this area.

6. *Identification and Certification of Eligible Households.* The State plan must describe how the State will identify and certify eligible households for the program and how records supporting these eligibility determinations will be kept.

7. *Monitoring.* The State must design a system for monitoring its program and must describe its monitoring system fully in the State plan. The plan must demonstrate how the State can identify and correct problems in a timely way, especially problems of compliance with the key requirements of this Part, including coordination, outreach, certification, data collection, levels of assistance, agreements with home energy suppliers, verification of income, and timeliness of assistance.

A schedule and format for reporting State monitoring information to HHS will be provided in a program instruction prior to the beginning of FY 1981.

Monitoring records must be maintained for at least three years.

We will conduct reviews of the State's program and monitoring system during FY 1981, including conformance with the State plan; the implementation of sampling techniques, if any; and the validity and reliability of the data collected. Where insufficiencies are identified, our review will include the records and documentation from which program monitoring information has been collected.

We will also review the State's implementation of its data collection system, as required in Section 260.66, for conformance with the State's approved sampling plan, and for the validity and reliability of data. This review may include spot checks of the State records.

8. *Data Collection and Reporting by the States.* The Act requires that State plans describe energy usage and the average cost of home energy in the State by the type of fuel and by regions of the State.

States are also required to provide us with additional information on the operation of the Energy Assistance Program. The data to be reported are either specifically mandated by the Act or are necessary to evaluate State programs in terms of Federal goals and requirements. However, Office of Management and Budget clearance has not yet been obtained for any reporting instruments and thus no reports will be required until such OMB clearance has been obtained and States notified.

Where obtaining information on the entire home energy assistance population would be unduly burdensome, States will gather the data via samples. Tight deadlines are necessary for gathering and reporting the data to us because of the legislatively-mandated annual report which we must submit to Congress.

With regard to the population assisted by the State under the energy assistance program, the State must report on the actual totals of and benefit expenditures for: (1) Eligible households assisted; (2) building operators paid on behalf of eligible households and households for whom those payments are made; and (3) reservation Indian households assisted. In addition, the State must report total administrative expenditures and certain application and hearings processing activities.

These data are to be reported for each calendar month of fiscal year 1981 and must be submitted within 30 days after the end of the month for which the report is being made. The early reports on these basic program aspects are needed to assist us and the Congress as we consider fiscal year 1982 energy assistance.

We recognize that, as described in the regulations, there may be some duplication between fiscal and program data requirements. We will eliminate this duplication by use of a common form whenever this is possible.

The State must also report certain data for a sample of the population assisted under this program. We will provide specifications for size, methods and schedule of the State sampling plan, and the State plan pre-print will be designed to include this information. The sample data required are necessary to assess the State's program, and includes items such as income, priority group, primary source of residential heating energy, source and cost of home energy, method and amount of assistance payment, and housing class. These data are to be reported in unaggregated form.

Sample data for households with heating assistance must be reported by August 1, 1981, and complete data, including data for households with medically necessary cooling, must be submitted by November 1, 1981.

We will provide technical assistance to the States in designing and implementing their data collection systems for the fiscal year 1981 Energy Assistance Program.

Records on which the data reports are based must be maintained for a least three years. The State's expenses for collection and reporting of these program data are allowable administrative costs.

States must also cooperate with our efforts to develop additional information on home energy usage by the general population as required by the statute. This information will include but might not be limited to, data on (1) home energy consumption by the general population, and (2) the annual cost and types of fuel used by various income groups.

9. *Cooperation by States in Program Evaluations.* The State is required to cooperate in any evaluations of the Energy Assistance Program which we may conduct. Such evaluation efforts will be designed to complement information collected as described in the above two sections and to answer remaining questions about the program's effectiveness or efficiency. They will also be designed to impose a minimum burden on State and local program administrators.

Subpart E—Fiscal Control and Accountability

1. *Accounting System and Supporting Fiscal Records.* We require that the State agency designated to administer the energy assistance program, as well as any other State or local agency having costs chargeable to the program, must maintain an accounting system and supporting records adequate to verify the costs claimed. (§ 260.80)

2. *Grants to the States.* We will make quarterly grants to States with approved plans for expenditures. The amount of a State's quarterly grant will be determined on the basis of the State's estimate of its need for funds and its report of expenditures for the past period. Forms for these estimates and reports will be furnished to the States. Because the need for energy assistance is significantly affected by seasonal factors, we believe that quarterly grants will best enable us to coordinate available funds with States' need for funds.

3. *Emergency Reserve.* A State may reserve up to 3 percent of the amount allocated to it for use in case of weather-related or supply shortage emergencies as described in § 260.84. The regulations allow the States to define these emergencies. A State that chooses to have an emergency reserve must describe in its State plan the emergencies or types of emergencies it will cover; the amount and kind of assistance it will provide; the procedures for carrying out its emergency program; and, what it will do with the funds if emergencies do not use up all of the funds. Funds reserved under this section and combined with another State-funded program must not be used in a manner that would violate the provisions of these regulations.

4. *Fiscal Reports By States.* (OMB clearance for any reporting instruments has not yet been obtained and therefore no reports will be required until such OMB clearance has been obtained and States notified.)

In order to make funds available to States when they need them we will require three kinds of reports from States (§ 260.86).

Forty-five days before the start of each quarter the State must submit an estimate of its need for Federal funds for the forthcoming quarter and an estimate of its need for Federal funds for the fiscal year. We will use this report to assist us in determining quarterly grants and reallocation of funds.

Thirty days after the end of each quarter the State must submit a financial status report showing the amount, by type, of payments it has made for the past periods; e.g. direct payments to households, payments to home energy suppliers, etc. In addition, not later than 15 working days after the end of each month the State must submit a report of its cumulative cash disbursements. The purpose of these reports is to facilitate the review of the State's need for Federal funds and the reallotment of funds.

5. *Administrative Costs.* A State may use a portion of its grant award for program administration. Generally, the amount of Federal funds the State may use for administration from its allotment may not exceed 5 percent of the cost of carrying out the plan. We define the cost of carrying out the plan as the sum of the assistance payments actually made and the total administrative costs actually incurred under an approved State plan.

In unusual circumstances we may allow a State to use an additional amount of Federal funds for administration not to exceed 2½ percent of the cost of carrying out the plan. A State must obtain our approval before it uses additional Federal funds for administration. Unusual circumstances may include special geographical factors and events that cause administrative costs to increase but that could not have reasonably been foreseen at the time the State plan was developed.

In no case may the Federal funds used for administering the plan exceed 50 percent of the State's total cost of administration. The State must pay from non-Federal sources the remaining costs of administration.

This means that from its allotment the State may expend for administration and planning up to 5 percent (or, in unusual circumstances 7½ percent) of the total cost of carrying out the plan and it must match the Federal funds equally from State funds. Beyond that point, the State must pay 100 percent of the administrative expenses out of State funds.

Subpart F—Federal Allotments and Payments

1. *Computation of States' Allotments (§ 260.100).* We will divide and assign the amount appropriated for State plans for energy assistance programs according to the formula contained in Section 306(a) of the Act. In the near future we will provide to States, in a separate issuance a chart showing the States' proportional allotments and the amount each State would recieve based on a total appropriation of $2.2 billion, which is the amount requested by the Administration for the energy assistance program.

2. *Apportionment for Other Programs Authorized by the Act.* After allocating the funds appropriated for State plans and for Federal administrative costs, we will distribute the balance of the funds in the following manner and order:

a. First, to the Commonwealth of Puerto Rico and the Insular Areas (Guam, American Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands), $2.5 million for programs described in item 3 below.

b. Next, to the Community Services Administration, $100 million or the balance after (a), whichever is less, to carry out energy crisis activities under Section 222(a)(5) of the Economic Opportunity Act.

c. Then, any balance which remains (after (a) and (b)) will be made available as incentive grants to the States for fuel assistance programs. We describe these incentive grants in item 7 below.

d. Lastly, if the programs qualifying for grants under paragraph (c) do not exhaust the funds available, any amounts remaining will be distributed to the States in accordance with the formula used in determining their original allotments.

3. *Energy Assistance Programs For the Commonwealth of Puerto Rico and the Insular Areas.* Congress recognized that while there is little need for heating in Puerto Rico and the Insular Areas, energy costs are increasing for refrigeration and other home uses.

We are considering three alternative methods for allocating funds to the Commonwealth of Puerto Rico and the Insular Areas. One method would apportion the funds by population; another would apportion the funds on the basis of aggregate residential energy costs and low income population; still another would apportion the funds on the basis of the amounts needed to carry out plans for energy assistance submitted by the jurisdiction. We have not selected a method of allocation for inclusion in these interim final regulations because we believe it is important to obtain the views of the governments of these jurisdictions, as well as the general public, on these alternatives. We also wish to analyze more thoroughly the available data on income levels and energy usage in these jurisdictions. Since there is little need for winter heating assistance in these jurisdictions there is not the same urgency for final rules on this issue as there is for final rules on State plans. The public is specifically asked to comment on the alternatives identified above.

Each of the jurisdictions, in order to receive funds, must submit a plan which

is consistent with the requirements which States must meet for State plans. Generally in lieu of heating assistance, plans submitted by Puerto Rico and the Insular Areas may provide for home energy uses such as refrigeration and air conditioning when medically necessary.

4. *Equivalent Benefits for Indians.* The Act requires that Indians receive benefits that are equivalent to benefits provided to other eligible households in the State. For the purposes of this program we employ the definitions of Indians, Indian tribes and Indian organizations that are established in our Administration for Native American Program regulations (45 CFR 1336.1).

Our preferable method of assuring equivalent benefits to Indians is through each State's plan for energy assistance. Other vehicles are possible, however. In order for Indians to be served by any vehicle other than by a State via its plan for energy assistance we must make two determinations. We must make a determination that (1) the Indians are not receiving equivalent benefits, or would not receive equivalent benefits under the plan submitted, and (2) that the Indians would be better served through direct grants to a tribe or an Indian organization. In the event of a determination that equivalent benefits are not being provided, we may require that the State make changes in its plan or we may make direct grants from the State's allotment to the tribe or organization. We intend to work with States to make these changes necessary to assure equivalent benefits, where possible. Alternatively, we would work through HHS' Administration for Native Americans to assure that equitable treatment for Indians is guaranteed by the best vehicle.

We recognize that it may sometimes be necessary to agree beforehand that a grant should be made directly to a tribe, where it can be predicted that to do otherwise would clearly yield inequitable treatment of the tribe or people living on the reservation. Therefore, in making our determination to provide a direct grant to a tribe we will take into consideration an agreement between the tribe and the State that the members of the tribe(s) would be better served by a direct grant. This provision for advance agreements does not apply to Indian organizations that are not tribes.

In the event it is decided to make a direct grant to an Indian tribe or organization, the amount of that grant will be the same proportion of the State's total allotment under this program as the appropriate Indian population which should be eligible under the State's plan bears to the population of all eligible households in the State. This means, for example, that if there are 100,000 eligible households in a State, including 10,000 Indians who are entitled to receive equivalent benefits under the State Plan, the State's allotment would be reduced by 10 percent and that amount would be granted directly to the tribe or Indian organization. The tribe or organization will be required to submit a plan that meets the same requirements as are required of the States.

Funds transferred to a tribe or organization in the form of a direct grant will include the 5 or 7½ percent which can be used for administrative costs. Because of the difficulty many tribes or organizations may have providing 50% of administrative costs, we are prepared to seriously consider waiver requests where necessary to enable tribes or organizations to administer grants. In addition, because some of the grants may be extremely small, they may require higher proportional administrative expenses. We are prepared to consider limited waivers of the 5 to 7½ percent administrative cost ceiling. The conditions of transfer of funds and administrative costs would apply to off-reservation Indian community based organizations as well as to tribes.

5. *Reallotment.* If we determine that a portion of a State's allotment will not be required to carry out the State's plan we will reallot that portion to other States based on their need and ability to expend the funds consistent with the provisions of this part. We will make this determination based upon a comparison between actual expenditures and the State's quarterly spending projections. Thus, we will not penalize a State which has spread the use of its funds over the course of the winter or chosen to reserve funds for use in the summer to assist households with a medical need for cooling.

Forty-five days before the beginning of each quarter of FY 1981 each State must submit an estimate of its need for Federal funds in the forthcoming quarter as well as for the fiscal year. Fifteen working days after the end of each month in FY 1981 each State must submit a report on its cumulative disbursements of Federal funds. These reports will assist us in determining which States have allotments greater or less than the amount needed to carry out their approved plans. We will consider the information in these reports in determining whether a reallotment should take place. In addition to these regular reports, a State must advise us whenever it knows that a portion of its allotment will not be required to carry out its approved plan.

Before we reallot any funds away from a State we will notify the Governor of the State by letter, and the general public by notice in the **Federal Register**, of our intent to reallocate a portion of the State's funds.

Comments on the proposed reallocation may be submitted to us during the 30 days following publication of the notice in the **Federal Register**. We will review and consider any comments we receive during the 30 day comment period and notify the Governor by letter, and the public by notice in the **Federal Register**, of our final decision with regard to reallocation of the State's funds.

We will reallot any funds which become available under the above procedure to States expressing a need for additional funds, taking into account the original allocations to those States and their need and ability to expend the funds consistent with the provisions of the Act.

6. *Reimbursement for Expenditures by States in Advance of an Appropriation or State Plan Approval.* To prepare for this winter's energy assistance programs the States will have to begin planning and administrative activities as early as this spring; certainly before the beginning of the 1981 fiscal year on October 1. In order to carry out these activities States will have to advance the costs from their own sources. Thus, we provide in these regulations that any State which uses its own sources after April 2, 1980 (the date of enactment for Pub. L. 96–223) for planning and administration in substantial compliance with its subsequently approved State plan, may claim reimbursement retroactively (after the plan is approved) for those advance expenditures.

Reimbursement for State expenditures incurred before the start of FY 1981 is consistent with the Act, which authorizes reimbursement for advance State expenditures when funds are appropriated to carry out the Act. Since the Act became law on April 2, 1980, we believe that a State could reasonably incur expenditures for planning, and administration on or after that date.

We are considering whether to reimburse States for assistance payments, in addition to planning and administrative expenses, they make before the start of fiscal year 1981 in substantial compliance with their subsequently approved State plans. States that believe they will be in a position to make assistance payments before October 1, 1980 are invited to

address this issue during the comment

who are protected from energy costs

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address this issue during the comment period.

7. *Incentive Grants to States for Residential Energy Assistance Programs.* After we have alloted funds to the States for the energy assistance program and to the Commonwealth of Puerto Rico, the Insular Areas and the Community Services Administration for their programs, we will make the remainder available to States as matching grants for up to 25% of some State-funded fuel assistance programs serving the same households which are eligible under this Act. The total amount available for these grants will be approximately $7.3 million if the program is funded at the Administration's proposed level of $2.2 billion. The purpose of these grants is to provide an incentive to States which have State funded energy assistance programs to continue such programs and as incentive to other States, where there is a need, to begin such programs.

We have considered two methods for making these funds available to the States. One method is to make the funds available through formula grants. Under this method, each State with an energy assistance program serving the same population as the population eligible under the Act would automatically receive a proportionate share of the funds available. The other method is to make funds available through discretionary grants. Under this option States would apply for grants for programs based on priorities and requirements we would establish. We would select from the applications those which best carry out the priorities established.

We have decided to adopt the option of distributing the funds by means of discretionary grants. We believe this option best utilizes the amount of funds available in support of the priorities established under this Act.

We will publish priorities and requirements for funding incentive grants in the **Federal Register** in July, 1980. States will have until September 1, 1980 to submit applications.

Subpart G—Furnishing Home Energy Assistance

1. *Who Is Eligible for Assistance.* The Act permits payments on behalf of households with income under or at the Bureau of Labor Statistics' Lower Living Standard. It also permits payments for households with at least one person eligible for AFDC, SSI, Food Stamps or certain income-tested Veterans Administration benefits. The definitions in §§ 260.2 and 260.150 exclude certain categories of AFDC and SSI recipients who are protected from energy costs because of their living arrangements.

A State is not required to make payment to every household the Act authorizes as an eligible household. It may limit its program to a smaller eligible population if it chooses. However, the regulations require that if the State does exclude any of the households eligible under the Act it may do so only in accordance with the Act's priority and required considerations, which are defined in § 260.154. Thus, for example, income exclusions would have to be made for highest income households before lower income households. This issue is discussed further in the section on amounts of assistance.

Therefore, while the Act and regulations define the limits of eligibility for assistance, the State retains flexibility for different treatment of eligible groups in its State plan, within the defined set of eligible households and the Act's priorities. If we required States to pay benefits to all eligible households, and thus serve the broadest possible population, the amount of assistance available to each household would be limited and the States' ability to target their assistance on families with highest energy costs and lowest incomes would be hampered.

A State may use evidence of categorical eligibility, i.e. eligibility for SSI, AFDC, Food Stamps, or Veterans benefits to determine eligibility for energy assistance. For example, a State could use our State Data Exchange (SDX) file of SSI benefit payments to determine that a household contains a member eligible for SSI. The intent of this provision is to expedite eligibility determinations. Therefore, a State may not rely on evidence of eligibility for a categorical program if obtaining such evidence would delay furnishing assistance to a household.

2. *To Whom Payments Can Be Made.* Payments may be made directly to eligible households. In addition, payments may be made on behalf of eligible households to their home energy suppliers (under Subpart I). The Act requires that payments be made to operators of subsidized housing (under Subpart H), but those payments may be made only on behalf of a specially-defined subgroup of eligible households, which we call "eligible tenants". We will discuss this special group further below.

A household must be economically at risk for rising costs of home energy in order for a payment to be made to it or to its energy supplier on its behalf. This means that no household which is fully protected by another government program from the impact of energy cost increases may be aided under this program. To receive an energy assistance payment a household must pay some part of its energy cost increases from its own resources, either through increases in rent or utility bills. For example, a household in public housing with rent and utility entirely limited to a fixed percentage of income would be protected from energy cost increases. No payment could be made to or for that household. On the other hand, a similar household in public housing which permits some part of energy cost increases to be reflected in tenants' payments would be at least partially at risk. Tenants in non-subsidized apartments would be considered fully vulnerable to cost increases, even when utilities are included in the rent, because rental levels reflect utility levels when leases are renewed.

Other examples of households which are not vulnerable to energy costs may also be, but are not limited to residents of some rent-controlled housing where increased energy costs will not be added as rent increases; some persons living in congregate or domiciliary care facilities; and other facilities where living costs are subsidized by Federal, State or local governments. A list of more specific examples to aid States in screening out households that are not vulnerable to energy cost increases is included in Appendix D.

In considering whether a household is economically at risk (i.e., vulnerable) for energy cost increases it is not relevant whether the household has actually experienced recent increases. What is relevant is whether there is some formal or structual protection the household has against increases. If there is none, it must be assumed that the costs of energy are being borne by the household. In addition, we do not mean that a family must be in any emergency situation to be economically at risk.

Those who pay their energy costs included in their rent must be treated comparably to those who pay energy costs directly to suppliers. This requirement will assure that households living in rented residential units where energy usage is not metered, and where the cost is included as an undesignated part of the rental payment, are not excluded from eligibility if all other eligibility criteria are met. In addition, the levels of assistance for this group must be comparable to those for households similarly situated in terms of income, priority, and burden of energy costs in relation to income.

Duplicate payments, i.e. more than one payment attributable to the same

energy costs for the same household, are not permitted.

3. *Amounts of Assistance Payments.* Section 260.154 sets requirements for determining amounts of assistance according to the priorities and factors the Act requires for computing benefits.

As specified by the Congress, lowest income households must receive priority, and the highest level of assistance must be given to households with the lowest incomes and the highest energy costs in relation to income. States are left to define "lowest income" and set income ranges.

There are a number of other factors which States must take into account in computing the level of benefits for eligible households. The first of these is average home energy expenditure for households. Because it is extremely difficult to collect adequate direct energy cost information, we will allow both heating degree day data and cost by type of energy source to be substituted as a proxy for average home energy expenditures where that information is inadequate or unavailable. Since use of energy source, and therefore expenditures for energy, depends heavily on the degree days in a location and differential costs of energy sources can be great, we believe these are reasonable measures for determining home energy costs.

The other factors which States must take into account in computing the level of benefits are: (1) The proportional burden of energy cost in relation to ranges of income; (2) the variation in degree days in regions of the State where this information is appropriate and where variations do exist; and (3) the extent to which the household, or category of households, is economically at risk from or protected against rising costs of home energy. The State may also wish to take into account other relevant considerations that are in accordance with the purposes of this program and are not contrary to the priority requirements.

The criteria which we expect a State to use in determining whether different payment categories need to be established are contained in a discussion in Appendix C to the regulations. This includes what we believe are reasonable standards for variations based on degree days and fuel type. Other criteria or interpretations of our suggested standards may be used where the State can justify the alternative measure.

We have left States flexibility in the area of establishing benefit levels particularly for those who pay for utilities indirectly. The legislative history indicates that benefit levels must be established so as to provide generally comparable relief to those who pay utilities directly and those who pay them through rent. We believe a common factor for both groups is the burden of energy costs in relation to income. A State would be expected to evaluate this factor in setting a benefit level. Since information concerning the burden factor of energy expenditures in relation to income may not be available for those who pay their utilities as undesignated portions of rent, it will be necessary for that factor to be "deemed" in their behalf. This suggests use of a percentage of income or of rent, either of which could be based upon a reasonable comparison with energy costs of those who pay utilities directly.

The regulations also state that the amount of the payment should reflect the extent to which an eligible household is vulnerable, i.e., economically at risk.

In reviewing both the priority requirements and the Act's requirement on computing the level of benefits, we had to consider under what conditions an automatic grant (i.e. without application) to families categorically eligible for energy assistance would be acceptable since adequate information regarding vulnerability to energy costs and heating burden are not generally available in the existing State program records for these families. Issuance of an automatic grant for recipients of entitlement programs (AFDC, Food Stamps, SSI, veteran's benefits—all subject to the definitions in §§ 260.2 and 260.150) would be acceptable as one part of a total State program. When an automatic grant is used, other parts of the State's program would have to be established to meet the requirements of § 260.154. The State plan will have to show how the priority and benefit level requirements of the statute and regulations are met in their total program. Further discussion of the use of automatic payments is contained in Appendix C.

4. *Priority for Households With Elderly and Handicapped Persons.* The Act requires that priority be given to eligible households with an elderly or handicapped individual. States are left free to define "elderly", except the elderly may not be younger than 60 years of age. We permit States to use, as a definition of "handicapped," the definition in Section 504 of the Rehabilitation Act; that used for "disability" under Title II or XVI of the Social Security Act; or any other State definition for "handicapped" used in a statewide program.

The State plan must assure that these priorities are provided. This can be done through special treatment relating to ease of application or access to assistance, such as certifying elderly and handicapped persons by home visits or by mail, providing transportation and utilizing the services and facilities of agencies and organizations which serve these individuals.

This priority status does not remove or supplant the priorities in amount of assistance given by the Act to households with the lowest incomes. Extra benefits, or higher benefit levels, may be permitted for households with elderly or handicapped individuals only if those additional benefits are justified by the State in terms of the considerations in § 260.154 relating to income and burden of energy costs.

5. *Purpose for Which Payments Can be Made.* Payments may be made only to: (1) Meet the rising costs of energy sources needed to provide heat in a residential dwelling for an eligible household; and (2) meet the rising costs of energy sources needed to provide cooling in a residential dwelling for an eligible household, when the household establishes to State satisfaction that the need for cooling is medically necessary. The State plan must identify the conditions under which these payments will be made. Payments for cooling can only be made when there is a threat to life or health due to a particular medical condition that can be eased by use of home cooling.

No payments may be made for repairs, weatherization or conservation services under this program. Households in need of weatherization or conservation assistance must be referred to other resources, as indicated in § 260.58.

6. *Methods of Payment.* The State plan must indicate the forms of assistance that will be used to furnish benefits to or on behalf of eligible households. Benefits may include: (1) Cash; and/or (2) in-kind payments, such as deliveries of fuel or prepaid utility bills; and/or (3) vouchers, stamps, coupons or other forms of certificates which may be used in exchange for energy supplies. In-kind payments may not include clothing or shelter. In all cases, the assistance supplied must be directly related to offsetting the rising cost of home energy.

The benefit of any payment made on behalf of an eligible household must accrue to the household for which it was paid. The household must realize full compensation corresponding to the amount paid under this Act to another party. This is intended to prohibit requirements such as those which mandate that eligible households give their assistance or "sign-over" two party

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checks unless there is a dollar-for-dollar benefit realized by the household.

6. *Timetable.* The State plan must include a timetable by which payments will be made and indicate the time standard for acting on each application for assistance. Subject to an appropriation for fiscal year 1981, the State's program must begin 30 days after the appropriation or December 15, 1980 whichever is later.

7. *Income and Assets.* In determining what should be counted as income in measuring a household's eligibility, we require States to consider the household's total cash actually received from all sources, excluding cash over which the household has no control. Cash over which the household has no control would include reimbursement for expenses incurred in connection with employment or reimbursement for medical or other expenses. It would also include payments made on the household's behalf to others.

We also permit exclusion of income that is administratively difficult to compute. We leave it to States to define such income, such as irregular or small amounts. In verifying income, the State must apply standards and procedures for verification that are consistent with those it uses for AFDC.

We have been urged to permit or require States to deduct medical expenses from households' income, but we do not believe the Act allows us to do so.

For categorically eligible households, States must not apply assets tests other than the one applied to the appropriate AFDC, SSI, Food Stamp, or specified VA benefit program.

For other households, States may establish assets tests, but must not count cars, household and personal belongings, or a primary residence.

The primary criterion for eligibility for home energy assistance is intended to be income.

Subpart H—Payments to Building Operators

1. *General Principles and Definitions.* The Act specifies that building operators of public and subsidized housing must receive energy assistance payments on behalf of eligible tenants in the building. The payment per eligible tenant paid to a building operator is based on exact monthly expenditures for heat, and may not exceed an amount comparable to the amount established for other eligible households. Our regulations set this comparable amount equal to the limit on the total amount the State may pay to building operators (determined in § 260.206(b)) divided by the number of eligible tenants on whose behalf building operators receive payments under the State's plan.

The comparable amount may be adjusted by the State for individual building operators or categories of operators under criteria based on the factors used to determine whether a building operator should receive a payment.

The Act directs the Secretary to determine the comparable amount by regulation, and we believe this definition assures that comparable amounts are available for payments to eligible households and eligible tenants in public or subsidized housing. After allocating the federal grant to eligible tenants and other households in proportion to their relative numbers, the definition of comparable amount establishes a ceiling on the payment per eligible tenant (as required by the statute) which corresponds to the amount available to the State for assisting other eligible households.

The term "building operator" means the owner or representative of an owner of a residential building or buildings in State or local government-operated housing projects which admit low income tenants based upon an income test. State or local projects that are financed but not operated by the State or local government are not included in this definition. In addition, it means the operator of a residential building or buildings established under five specific HUD and one USDA program set forth in § 260.202(a).

States are not required to make payments to all housing projects and buildings operators. However, distinctions must be based upon objective criteria, including the extent to which the operator's costs are uncompensated by subsidy programs and the benefits such payments will have for the tenants.

The State must also prevent duplicate payments. Thus, the amount of any entitlement a tenant has as an eligible household must be subtracted from the payment made to the building operator for that tenant.

The State must define the criteria by which a tenant in subsidized or public housing will be considered "vulnerable," including partially and fully vulnerable. Tenants who pay excess usage charges or surcharges must be considered vulnerable to some extent. The State is given flexibility to include in its definition of "vulnerable" tenants who have recently experienced rent increases. An example of this would be a municipality which raised the proportion of income the tenant must pay for shelter, over the last few years, from 25% to 30%, and from 30% to 35%.

The State must limit the proportion of its allotment which it pays to operators to the ratio of the number of eligible tenants in the buildings which will receive assistance divided by the total number of eligible households under the State Plan. In determining the total number of eligible households for this ratio, the State will include the eligible tenants in the buildings for which operators will receive assistance. If a State does not have sufficient data to derive an exact number of eligible tenants or households, the State may use estimates. In either case, the State plan must specify the State's limit and the bases upon which it was computed. Since this is a State plan requirement, a waiver of the limit can be considered. However, it would be necessary for the State to show that such a waiver would assist in promoting the Act's objectives and that it was necessary to enable the State to carry out its program. (See § 260.26.)

"Eligible tenant" is used in the regulations for the purposes of establishing the amount of payment to a qualified building operator. In order for an "eligible tenant" to be counted for purposes of payment to a building operator under this subpart, the tenant must occupy a dwelling unit in a building or project operated by a building operator as defined above; meet the eligibility criteria for an eligible household under the State's plan; make a combined payment for rent and utilities in which the utility cost is not differentiated; and must not be fully vulnerable to energy cost increases.

Tenants who pay utility costs separate from rent must not be counted as eligible tenants for the purposes of calculating the amount payable to a building operator, but may still be eligible for a payment as an eligible household under Subpart G.

In the case of a fully protected (i.e., non-vulnerable) tenant in subsidized housing, the State may pay the full benefit to the building operator. In the case of an eligible tenant who is economically vulnerable to the rising costs of energy, the tenant may also qualify as an eligible household under Subpart G and the building operator's payment on his behalf must be reduced by the amount of the household's direct entitlement. In this case the State must pay the tenant as an eligible household, but only to the degree the tenant is vulnerable to the rising costs of fuel.

2. *Method of Calculating a payment to a Building Operator.* Payments will be calculated by taking the exact monthly heating costs of the building operated by an eligible building operator and dividing those costs by the total number of living units in the building. The resulting heating cost per unit must then be multiplied by the number of eligible tenants. Since exact costs are specified in the act, this would have to be done retroactively rather than before or during each month.

Exact heating costs are the monthly residential heating costs incurred for the building. The State must assure that reimbursement is made based on costs that reflect actual consumption during the month. For example, if a ten unit building has heating costs of $800 during a month specified by the State for heating assistance the cost per unit would be $80. If there are four eligible tenants, the maximum amount payable to the building operator for that month would be $320. The $80 per eligible tenant, and therefore the $320 payment, would have to be decreased, if the comparable amount described under "General Principles and Definitions" was less than $80, or any of the eligible tenants are entitled to receive payments directly as eligible housholds under the State program.

3. *Documentation and Verification.* The State must make payments to a building operator only if the operator documents the specific location of each building for which payments are requested, documents the number of dwelling units in each building, and documents the tenants by name and by either income or type of aid received, if categorically eligible. The building operator must also document the exact monthly amounts of expenditures for heating costs for the building and must certify that tenants eligible for assistance under this program are not discriminated against with respect to rent. This means that they will not, or have not, raised the rent payment for any eligible households living in the project due to a payment received by that household under this program either directly or through a vendor on their behalf.

The State plan must indicate for which months the State will make payments to building operators.

The State is also responsible for the determination of eligibility for payments under this Subpart through prior verification of the data supplied by the building operator. Data sampling, rather than a 100% review, will be acceptable for purposes of State verification. The State will also promptly notify the subsidizing Federal, State or local agency of any payments, by amount and location, to operators of buildings under their jurisdiction.

The State must also provide for methods to avoid duplication of payments when building operators are involved. In order to do this, the State must establish some mechanism or screen by which it can identify those tenants for whom the building operator will receive payment. This will include the necessity to screen out, or adjust the benefits to "eligible tenants" in any flat grant approach used for eligible households.

Direct contact with potentially eligible building operators by the single State agency or other agency responsible for carrying out this Subpart will be the most effective method of obtaining information about eligibility for payments under this Subpart. But this may be difficult and expensive. Therefore, to assist the States in determining which residents of public and subsidized housing are not subject to increases in fuel costs as part of their rent payments, we are developing with the Department of Housing and Urban Development and the Farmer's Home Administration a list of the specific housing programs and subprograms which have statutory or regulatory limits on tenants' rent payments which would make them completely vulnerable and therefore ineligible for direct energy assistance payments as eligible households. Payments to building operators will be made on their behalf subject to the criteria specified above. This information will be sent to the States through a separate transmittal.

The transmittal described above will also include the name, addresses and phone numbers of local HUD and FmHA offices to facilitate this State and building operator communication. Those offices have comprehensive lists of building operators within their local area. Both HUD and FmHA will be notifying all of these local offices of the energy program and the expected communication with the States.

The State has latitude in making payments to building operators. Although the calculation of cost per eligible tenant is calculated on a monthly basis, the State may choose to make monthly payments or a single lump sum payment (for one or more months) to the building operator. Since establishing exact monthly costs is only possible after each month, there are some operational decisions that will have to be made by the State. A lump sum payment *after* the winter season might be utilized not only as an aid in determination of exact costs, but will also allow time to screen out households which may have had direct payment entitlements *during* the winter months under Subpart G.

4. *Reduction of Subsidies.* Congress intended that payments to building operators be in addition to rather than in lieu of the normal subsidies for utility costs. Therefore these subsidies should not be reduced on account of payments received under the State plan.

Subpart I—Payments and Tax Credits to Home Energy Suppliers

States may furnish energy assistance on behalf of eligible households through payments or tax credits to one or more home energy suppliers for the eligible household.

Payments to a home energy supplier may be by means of installment payments, reimbursements or a line of credit.

We have not defined "home energy supplier" because we believe the States should be free to determine the person to whom payments or tax credits would best carry out the purposes of this Part. We also leave to the States the decision whether to allow more than one energy supplier for an eligible household.

A State that agrees to make payments to a home energy supplier on behalf of eligible households must obtain certain agreements from the energy supplier in return. The supplier must agree not to discriminate against eligible households in its terms of sale, credit, delivery or price. For example, the supplier must offer deferred payment and level payment plans to eligible households if it offers them to other households. The supplier must agree not to charge them more than the difference between the home energy assistance program payments and the energy bills the households would otherwise receive.

Under the Act, the supplier must also agree not to terminate service to an eligible household on whose behalf the supplier is receiving payment from the State unless the household has failed to pay the amount charged to it for at least two months and has been provided at least 30 days advance notice of the termination and the opportunity for a hearing prior to termination. We provide that the time for measuring the household's failure to pay a bill begins on the date that payment is due and ends on the same date two months later. If the household is behind in its payment and pays a portion of the bill, the payment must be applied to the oldest part of the bill. Once the part of a bill for which service could be terminated is paid, the supplier cannot terminate service because of a remaining arrearage that is less than two months overdue.

The household must receive the termination notice at least 30 days before the scheduled date of termination. Where State law or other requirements provide for longer grace periods and notification periods, these

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State requirements will prevail. The termination notice must inform a household that it may request a hearing before a government agency, to be determined by the State, on the proposed termination within 10 days after receiving the notice and that its energy supply will then continue until a decision based on the hearing is issued.

The hearing must afford the household a reasonable opportunity to explain its side of the dispute to a disinterested party who will settle the issues. Under this requirement the State need not provide a formal adjudicative hearing; States are free to consider less formal dispute settlement mechanisms and innovative techniques of dispute resolution. We will review the hearing procedures set out in the State plan for fairness and efficiency for both the household and energy supplier.

If the State determines that these restrictions on termination would seriously jeopardize the ability of a small home energy supplier to continue in business, the State may partly or wholly exempt that supplier from these restrictions, subject to State law or other requirements. We suggest the factors the State should consider in making that determination, including such things as the number of eligible households that have designated the supplier to receive their energy assistance payments, and the feasibility of the supplier's passing through its losses from nonpayment to other customers. These are among the factors we believe indicate the effect the termination restrictions are likely to have on the supplier's ability to continue in business. The State may determine exemptions individually or by category of supplier. We do not anticipate that public utilities would qualify for an exemption from the termination agreement since they have the ability to "expense" such debts among all their customers. We believe that Congress meant by "small home energy suppliers" independent dealers in fuel oil, propane, wood and the like.

In deciding how it will apply the exemption from the termination requirement, the State should consult with State trade associations, consumer organizations and other interested parties to assure that the exemption is applied in a way that is administratively feasible and consistent with the purpose of restricting terminations as well as the purpose of waiving those restrictions. The State may wish to form an advisory council to recommend policy for granting the exemption from the termination requirement.

State tax credits may be provided to an energy supplier that sells energy at reduced rates to eligible households. Such a credit may not exceed the amount of the supplier's loss of revenue on account of such reduced rates.

A State that chooses to assist eligible households through tax credits to home energy suppliers need not enter into the agreements required for payments to home energy suppliers. Congress did not require such agreements in the case of tax credits.

Subpart J—Direct Payments by SSA to SSI Beneficiaries

A State Plan may provide for automatic payments made directly to categorically eligible SSI recipients. If the State chooses to make such payments, it may make them itself or it may have the Social Security Administration make them for it. This is an administrative option offered to the State by the Act and regulations if the State wants to make automatic payments to SSI recipients. Such payments by us, at the request of a State, are payments made under the State plan and are subject to the same conditions and limitations as other payments made by the State under its plan.

The State must make its request by June 30, 1980 and sign an agreement with us by September 1, 1980, but can withdraw from the agreement without cost at any time before September 15, 1980. Like the State plan, any agreement signed before the appropriation for this program is enacted will be conditional on an appropriation of $2.2 billion.

We will make these payments as checks separate from those for regular SSI benefit payments. We cannot make energy assistance payments centrally to home energy suppliers or to operators of subsidized or government-operated housing. The Act does not authorize us to do so, and there would be no special advantage for the States in having us do so.

A State can have us pay up to five different amounts varying geographically, in the State, but there can only be one amount within each county. These and most other limits on State options for our payments are due to limitations on how much we can modify our existing SSI computer records and programming for the energy assistance payments within the time available.

We will make payments in up to four checks, one per month, sent in any one or more of the months of December 1980, and January, February, and March 1981.

We cannot make payments to help with the cost of medically necessary home cooling, because our records generally contain no information about this medical need.

The State will be responsible for providing hearings requested by SSI beneficiaries who do not receive energy payments or who think the payment should be larger. The State must also make any payments that result from the hearings. If we receive the hearing request we will forward it to the State with all relevant information we have.

We will withhold from the State's allotment enough money to cover both the estimated payments to SSI households (plus a margin for error) and half our administrative costs for making the payments. The State must reimburse us for the other half of our administrative costs out of State funds.

We can do only limited screening of our SSI rolls to avoid payments to ineligible households, or duplicate payments to a single household. We will screen out (a) people who cannot qualify as a household for energy assistance by virtue of their SSI eligibility because they live in a Medicaid institution, or live in another person's household receiving support and food, as well as shelter, from that other person, or are children under the SSI definition and live with a parent or parent's spouse; (b) people who live in institutions or in other living arrangements where they are not vulnerable to energy costs, if the State is one whose supplements to SSI benefits we administer and the State tells us, at least 60 days before our first agreed-on processing date for the State's energy assistance payments, the data codes for living arrangements that we should screen out; (c) in the case of SSI couples, one spouse; and (d) any other the State can identify for us individuals to screen out which the State gives at least 14 days before our processing date in a form our computers can use.

We will give the State a list showing whom we paid, when, how much, and the basis for paying that amount. The list will be in the same form as the State Data Exchange (SDX) records we give the States showing payments of SSI benefits.

The State must screen against this list to avoid making duplicate payments to or for households we have already paid on the State's behalf.

Instead of having us make its payments to SSI households, a State can use special SDX computer tapes for one or more of the months December 1980–March 1981 to make its own payments. We will provide the tape or tapes subject to reimbursement for cost. We will screen the tape just as we would if we were making the State's payments. The timetable for arranging for this service is the same as for our making the payments.

Subpart K—Applications, notices, and hearings.

States have the option of whether to require an application for energy assistance by categorically eligible households under the State plan or to pay them automatically. The need for an application from these households will depend mainly on whether the State chooses to make automatic payments and how the State wants to take account of factors about which it needs information from the households.

Non-categorically eligible households must file applications to establish their eligibility. The application must be written and signed under criminal penalty for giving false information.

Anyone wishing to apply must be informed of eligibility requirements and appeals rights and be given the opportunity for a hearing and any assistance needed to apply. The State must identify in its plan the time standard it will use for acting on applications for the energy assistance program.

The State agency must also provide communications assistance, in the form of bilingual staff, applications, literature, and other services, if the agency's service area contains a substantial number of non-English speaking eligible households which are not English-speaking proficient. Communication assistance for handicapped persons is also required, as described in § 260.352.

The State's notice of payment, denial, or earlier-than-expected termination of energy assistance must inform the household of its right to a hearing if the household objects to the amount, denial, or termination of the payments. The State must not require that the hearing be requested less than 60 days after notice of payment or denial or less than 10 days after notice of termination. Before conducting a State agency hearing on amount, denial, or termination of assistance the State may provide a preliminary appeal step. This can be either an evidentiary hearing before a local agency or an informal conference, or both. This preliminary step may resolve disputed claims quickly and inexpensively.

The same kind of hearing must also be available if a State fails to approve or disapprove an application for energy assistance within 30 days after application.

The hearing decision on amount, denial, or delay of assistance must be issued within 30 days after the hearing request. The hearing decision on termination must be issued before termination.

Summary of Key Dates From the Regulations

Date	Activity	Reference
	SUMMARY OF KEY DATES FROM THE REGULATIONS	
Apr. 2, 1980....	Earliest date for FFP reimbursement of expenses for planning fiscal year 1981 program	(260.110)
June 30, 1980	1. States must submit description of public participation process.	(260.22)
	2. Deadline for Indian tribe/State intent to enter into agreement for direct grants to tribes.	(260.102)
	3. States must declare intent to use SSA for making payments to SSI recipients.	(260.300)(b)(1))
July 1980.....	We will publish priorities for State incentive grants.	(260.112(c))
Aug. 15, 1980.	1. Financial report on quarterly estimates of need for first quarter fiscal year 1981 due.	(260.86(a))
	2. Indian tribe/State agreement for direct grants to tribes must be signed.	(260.102)
Sept. 1, 1980..	1. States must complete agreement with SSA for delivery of SSI payments.	(260.300(b)(2))
	2. Deadline for State applications for incentive grants.	(260.112)
Sept. 15, 1980	Final day for States submittal of conditional plans (which States can revise depending on time and amount of appropriation)	
Sept. 15, 1980	Last day for States to withdraw from SSA agreement without paying SSA administrative costs.	(260.300(c))
Oct. 1, 1980....	First quarter grant made to States (provided appropriation is enacted by this date).	(260.102)
	15 DAYS AFTER ENACTMENT OF APPROPRIATION	
	1. States submit revision to State plan if appropriation different than $2.2 billion.	(260.24(b))
	2. States last day to confirm or withdraw from SSA agreement if appropriation different than $2.2 billion.	(260.300(d))
	BEGINNING OF PROGRAM	
	1. 15 working days after first month, monthly report of expenditures due.	(260.86(o))
	2. 30 days after first month, first program date report due.	(260.66)
Dec. 1980	Award for approved State incentive grants.	(260.112)
Jan. 30, 1981.	First financial report on first quarter fiscal year 81 due[1]	(260.88(b))

[1] First of recurring reports.

Dated: May 22, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: May 23, 1980.

Patricia Roberts Harris,

Secretary.

Chapter II of Title 45 of the Code of Federal Regulations is amended by adding Part 260 to read as follows—

PART 260—LOW INCOME ENERGY ASSISTANCE PROGRAM.

Subpart A—Introduction

Sec.

260.1 Scope of this part.
260.2 Definitions.

Subpart B—State plan requirements

260.15 Summary of State plan requirements.

Subpart C—Development of State plans

260.20 General.
260.22 Public participation in development of the State plan.
260.24 Timetable for submitting plans.
260.26 Request for waiver of plan requirements.
260.28 Approval and disapproval of State plans and plan amendments.
260.30 Hearing on plan disapproval.
260.32 Withholding of funds for non-compliance with approved State plans.

Subpart D—Administration of the State program

260.50 State agency and local administrative arrangements.
260.52 Administrative procedures.
260.56 Maintenance of regular benefit levels.
260.58 Coordination with weatherization programs and energy conservation efforts.
260.60 Outreach activities.
260.62 Identifying and certifying eligible households.
260.64 Monitoring procedures by States.
260.66 Data collection and reporting by States.
260.68 Federal monitoring.
260.70 Cooperation by States in program evaluations.

Subpart E—Fiscal control and accountability

260.80 General.
260.84 Reserve funds for emergencies.
260.86 Fiscal reports by States.
260.88 Administrative costs.

Subpart F—Federal allotments and payments

260.100 Definitions.
260.101 Computation of States' allotments.
260.102 Quarterly grants to States.
260.104 Allotments for the Commonwealth of Puerto Rico and the insular areas.
260.106 Equivalent benefits for Indians.
260.108 Reallotment of funds.
260.110 Reimbursement for funds advanced by States.
260.112 Incentive grants to States.

Subpart G—Eligibility and payments for home energy assistance

260.150 Who is eligible for assistance.
260.152 To whom payments may be made.
260.154 Amounts of assistance payments.
260.155 Priority for households with elderly or handicapped persons.
260.156 Purposes for which payments may be made.
260.158 Methods of payment.
260.159 Timetable for making payments.
260.160 Income and assets—definition and verification.

Subpart H—Payments to building operators

260.200 General.
260.202 Definitions.
260.204 Computing a payment to a building operator on behalf of eligible tenants.

260.206 State administration of payments to building operators.
260.208 Documentation and verification.

Subpart I—Payments and tax credits to home energy suppliers

260.250 When the State may make payments to energy suppliers.
260.254 Conditions for termination of home energy by participating suppliers.
260.256 Termination notices.
260.258 Pre-termination hearings.
260.260 Exceptions to the pre-termination requirements.
260.264 When home energy assistance funds may be used for tax credits to home energy suppliers.

Subpart J—Direct Payments by Social Security Administration to Beneficiaries of the Supplemental Security Income Program

260.299 General.
260.300 Timetable for agreements by States with the Social Security Administration.
260.301 Where we will send checks.
260.302 Payment amounts and timing.
260.304 Notices to households and States.
260.306 Appeals.
260.308 State's payment to Social Security Administration.
260.310 Screening out ineligibles and preventing duplicate payments to households.
260.314 State use of SSI payment tapes.

Subpart K—Applications, Notices, and Hearings

260.350 Applications.
260.352 Communication assistance for limited English-speaking proficiency and handicapped persons.
260.354 Criminal penalties for false information.
260.358 Notices.
260.360 Fair hearing for dissatisfied household.
Appendix A—Lower Living Standard Income Levels.
Appendix B—General Administrative Requirements for the Low Income Energy Assistance Program.
Appendix C—Guidelines for Varying Payment Amounts.
Appendix D—Guidelines for Households Not Vulnerable to Energy Cost Increases.

Authority: Sec. 313, Title III, Pub. L. 96–223, 94 Stat. 298 (42 U.S.C. 8612).

Subpart A—Introduction

§ 260.1 Scope of this part.

(a) *General.* This part implements Title III of Pub. L. 96–223, the "Home Energy Assistance Act of 1980." This Act establishes the Low Income Energy Assistance Program, through which grants will be made to States to provide assistance for eligible low-income households to offset the rising costs of home energy that are excessive in relation to household income. For this purpose, the Act authorizes grants to States for fiscal year 1981 to provide financial assistance to and on behalf of eligible households. Eligible households are those containing a person eligible for Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) (with some exceptions), Food Stamps, certain Veterans Administration benefits, and other households with income at or below the Bureau of Labor Statistics Lower Living Standard. The assistance can be in the form of direct payments to eligible households; payments on their behalf to their suppliers of home energy; and, for certain eligible tenants that live in specified public or subsidized housing, payments to their building operators. The amount of assistance for a household depends on such things as the household's income and energy costs, climate, and the presence of an elderly or handicapped person in the household.

(b) *How this part is organized.* (1) Subpart A (§§ 260.1 and 260.2) provides an introduction and important definitions of terms used throughout this part.

(2) Subpart B (§ 260.15) contains a summary of provisions required to be in a State's energy assistance plan.

(3) Subpart C (§§ 260.20–260.34) explains the procedures for submission of a State Plan to us. It includes a discussion of plan approval and disapproval, compliance, waivers of Federal requirements, and public participation in development of the State plan.

(4) Subpart D (§§ 260.50–260.70) explains the State's administration of the energy assistance program. It includes a discussion of required coordination, outreach, monitoring, data collection, and reporting by the States.

(5) Subpart E (§§ 260.80–260.88) explains fiscal control and accountability requirements.

(6) Subpart F (§§ 260.100–260.112) explains how allotments will be computed for the States, Puerto Rico, the territories, the Community Services Adminstration, and additional incentive grants to the States. It also explains how and when we will reallocate funds among States and the conditions under which we will reimburse a State for expenditures incurred before it has an approved State plan. It also explains conditions for direct Federal payment to Indian tribes.

(7) Subpart G (§§ 260.150–260.158) explains who may receive energy assistance and the purpose for which it may be paid. In addition, this Subpart discusses methods and amounts of payments.

(8) Subpart H (§§ 260.200–260.206) explains the circumstances under which States may make payments to building operators on behalf of eligible tenants, and the amount of these payments.

(9) Subpart I (§§ 260.250–260.264) explains the agreements States may make with energy suppliers to pay them on behalf of eligible households, and conditions these suppliers must meet before terminating supply to an eligible household. The subpart also describes the States' option to grant tax credits to energy suppliers.

(10) Subpart J (§§ 260.300–260.316) explains how a State may, at its option, request SSA to administer energy payments to supplemental security income beneficiaries.

(11) Subpart K (§§ 260.350–260.356) discusses applications, need determinations, notices and hearings, and criminal penalties for false information.

§ 260.2 Definitions.

Terms used in single sections or subparts are defined in those sections or subparts. Terms used throughout the part are defined here. As used in this part—

"Act" means the "Home Energy Assistance Act of 1980," title III of Pub. L. 96–223.

"AFDC" means Aid to Families with Dependent Children payments made under title IV–A of the Social Security Act, but not including Foster Care payments under § 233.110 or Emergency Assistance payments to needy Families with children under § 233.100 of this chapter.

"Associate Commissioner" means the Associate Commissioner of Social Security for Family Assistance.

"Commissioner" means the Commissioner of Social Security.

"Compliance" means the State plan and State practice meets requirements of the Energy Assistance Act, Federal regulations and issuances.

"Categorically eligible" means eligible for assistance under the Act as a result of eligibility for AFDC, Food Stamps, certain SSI and certain veterans benefit programs.

"Days" means calendar days.

"Elderly" means a person over any age designated by the State, but not less than 60 years old.

"Eligible household" means—

(a) Any household in which one or more persons are categorically eligible; and

(b) Any other household with income equal to or less than the Lower Living Standard Income Level.

"Fiscal year" means the Federal fiscal year October 1 through September 30, unless otherwise stated.

"Handicap" or "handicapped" means one of the following, at State choice—

(a) The definition of handicapped established by the Rehabilitation Act of 1974, under which a handicapped person is a person who "has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment;"

(b) The definition of disability established by Title II of the Social Security Act for the SSA disability program, under which disability means—

(1) "Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months"; or

(2) In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(c) The definition of disability established by Title XVI of the Social Security Act for the SSI program, under which disability means—

(1) "Inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity);" or

(2) Permanent and total disability as defined under a state plan approved under title XIV or XVI of the Social Security Act as in effect for October 1972 and for which an individual received aid under such plan (on the basis of disability) for December 1973, and for at least one month prior to July 1973 so long as he is continuously disabled as so defined; or

(d) Any definition of handicap or handicapped or equivalent term which the State uses for a Statewide program of assistance for the handicapped.

"Heating degree days" means the result of the following calculation: For each day in a year's time on which the day's mean temperature in a given locality is less than 65 degrees F., find the difference between the day's mean temperature and 65 degrees F. Then add together all of these daily difference for the whole year. The result is the "heating degree days" for that locality.

"Home energy" means electricity, oil, gas, coal, wood, kerosene, or any other fuel used for heating or cooling in a residential dwelling.

"Household" means any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent.

"Lower Living Standard Income Level" means the income level determined annually by the Secretary of Labor based upon the most recent Lower Living Standard family budget. The amount is different for different places in the United States and families of different sizes. The current Lower Living Standard Income Levels are listed in Appendix A.

"Regional Commissioner" means the Regional Commissioner of Social Security for the Federal Region within which the State is located.

"Secretary" means the Secretary of Health and Human Services.

"State" means the 50 States and the District of Columbia.

"SSI benefits" means Supplemental Security Income benefits under title XVI of the Social Security Act, including mandatory and optional payments that we administer for a State under Subpart T of 20 CFR Part 416 to supplement Federal benefits, but excluding benefits:

(a) Paid under 20 CFR 416.231 because the beneficiary is living in a Medicaid institution and Medicaid is paying more than 50 percent of the cost of care;

(b) Reduced by one-third under 20 CFR 216.1125(b) because the beneficiary is living in another person's household and is receiving both support and maintenance (food and shelter) from that person and is not paying his pro rata share of food and shelter expenses; or

(c) Paid to a beneficiary who is:

(1) A child for SSI purposes under 20 CFR 416.1050; and

(2) Living with a parent or with the spouse of a parent.

"We", "us", or "our" means the Department of Health and Human Services.

Subpart B—State Plan Requirements

§ 260.15 Summary of State plan requirements.

Each State that wishes to receive a home energy assistance grant must submit a State Plan. Following is a brief summary of the requirements for State plan approval. The referenced sections include a full description of the State plan requirements which States must include in their plans. The State plan must—

(a) Be submitted in accordance with procedures, timetables, and standards established by us. See §§ 260.20–260.28;

(b) Designate an agency of the State to administer the program, and describe local administrative arrangements. See § 260.50;

(c) Provide that the State agency will furnish home energy assistance to eligible households through payments to home energy suppliers, to eligible households, to any combination of home energy suppliers and eligible households, and to building operators. See § 260.150—260.314;

(d) Describe procedures for identifying and certifying eligible households as participants. See § 260.62;

(e) Describe the amount of assistance to be provided to or for participating households, assuring that priority is given to households with lowest incomes and to eligible households with elderly or handicapped persons; and that the highest level of assistance is provided to households with the lowest incomes and highest energy costs in relation to income. See §§ 260.154 and 260.155;

(f) Provide for agreements with home energy suppliers under which they will receive payments. See § 260.250;

(g) Provide for direct payments to eligible households when the household is paying for utilities through rent and in other situations when the State determines it is practical to do so. See § 260.152;

(h) Provide for public participation in the development of the State Plan and describe that process. See § 260.22;

(i) Provide assurance that owners and renters will be treated equitably. See § 260.152;

(j) Provide that, in carrying out the plan, the State will pay from non-Federal sources at least half of its total program administrative costs. In addition, provide that the State will use from its Federal allotment, to pay for administrative costs no more than an amount equal to 5 percent (and in some unusual circumstances 7½ percent) of its total costs of carrying out the plan. See § 260.88;

(k) Provide that there are administrative procedures for carrying out the Plan. See § 260.52;

(l) Provide fair hearing procedures to be used by the designated State agency for individuals whose claim for assistance is denied or not acted upon with reasonable promptness. See § 260.360;

(m) If the State chooses, provide for a setaside of up to 3 percent of its

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allotment for weather-related and supply shortage emergencies. See § 260.84;

(n) Provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with existing Federal, State, and local weatherization and energy conservation efforts. See § 260.58;

(o) Provide for outreach activities through community agencies and home energy suppliers to assure that all eligible households are aware of assistance availability—with emphasis upon the elderly, the handicapped, the house-bound, migrants, persons with limited English-speaking proficiency, the working poor, children, and those in remote areas. See § 260.60;

(p) Establish procedures for monitoring the assistance provided under the Plan, including monitoring and auditing agreements with home energy suppliers. See § 260.64;

(q) Provide assurances that the State will not reduce regular benefit levels, from the level of such benefits as of February 26, 1980, in existing federally assisted cash assistance programs, except that in a State which increases those program benefits solely for energy assistance, that increase may not be considered a part of the regular program for the purposes of this requirement. See § 260.56;

(r) Provide that fiscal controls and fund accounting procedures will be established as may be necessary to assure proper disbursal and accounting for Federal funds. See § 260.80;

(s) Provide that reports will be filed and will contain all information we require. See § 260.66; and

(t) Provide assurance that the State will not establish any energy assistance program eligibility requirements involving assets tests which count cars, household or personal belongings, or primary residences. See § 260.160.

Subpart C—Development of State Plans

§ 260.20 General.

The State plan is a comprehensive statement submitted by the State agency administering the Home Energy Assistance Program which describes in full the nature and scope of its program. It represents the State's commitment to administer the program in conformity with Federal statutes, regulations and issuances. The State plan must contain all Federally-imposed State plan requirements in sufficient detail for us to determine if the program is approvable.

§ 260.22 Public participation in development of the State plan.

(a) The purpose of the public participation process is to enable the residents of each State to participate meaningfully in the State's decision-making processes for the home energy assistance program. It is intended to assure that each State has provided an opportunity for prior public participation of eligible households, public and private organizations—including organizations serving or representing elderly and handicapped persons—public officials, energy suppliers, housing operators, Indian tribes and off-reservation Indian community-based organizations, and the general public in needs assessments, identification of priorities and allocation of resources in development of the State plan.

(b) The State plan must provide for public participation in the development of the plan. Under this requirement, the state must—

(1) Submit a description of its public participation process to the Associate Commissioner and the Regional Commissioner by June 30, 1980. We will promptly tell the State if its planned process complies with the requirements of this section.

(2) Include a description of its public participation process in its State Plan. The process must include at least—

(i) Notices or advertisements in major local newspapers containing a summary of the major provisions, eligibility requirements, and any waiver requests (under § 260.26) in the plan;

(ii) Availability of the proposed State plan for inspection, and distribution of a summary (which must include explicit identification of any waivers requested under § 260.26), free of charge, at a public agency in each county;

(iii) Notice to the public through news media of—

(A) The locations within each county where the proposed plan may be inspected and the plan summary obtained;

(B) The latest date on which written comments on the proposed plan will be accepted, which must be no less than 20 days from the date the notice is published; and

(C) The address where written comments may be sent and, if there are to be public hearings on the proposed plan, the location, date and time for those hearings; and

(iv) Consideration of, and public access to, the written comments received by the State agency.

(c) States may adopt procedures in addition to those required under paragraph (b)(2) of this section including public hearings, advisory committees and other mechanisms. States are urged to consider use of advisory committees which would provide a broad base of usable information and general public reaction.

(d) States must use the above public participation process when major amendments are proposed to approved State plans. Amendments which involve significant changes in the population served or amounts of assistance paid, are examples of major amendments.

§ 260.24 Timetable for submitting plans.

(a) By September 15, 1980, States must submit proposed State plans. These proposed plans must be conditional on the assumption that the program will be appropriated at a level of $2.2 billion. We will approve or disapprove State plans submitted in accordance with these regulations expeditiously. Approvals will also be conditional on the assumption that the program's funding will total $2.2 billion. Extenuating circumstances or the need for additional information may delay a decision to approve or disapprove a plan.

(b) If the appropriation for the program is different from $2.2 billion, we will issue a notice giving States 15 days in which to resubmit State plans or amendments according to their new allotments. If the appropriation is $2.2 billion, we will release the "conditional" aspect of any approvals.

(c) Amendments to State plans may be submitted at any time.

§ 260.26 Request for waiver of plan requirements.

(a) Where we determine that a waiver is necessary for the State's administration of its program and is likely to assist in promoting the objectives of the home energy assistance program, we may waive compliance with any of the State Plan requirements of § 260.15, to the extent and for the period necessary to enable a State to carry out its energy assistance program.

(b) Requests for waivers.

(1) States must submit requests for waivers of any State plan requirements in writing to us. Requests may be made when State plans or amendments are submitted.

(2) The waiver request must—

(i) Identify the specific requirement the State is asking us to waive;

(ii) State specifically and in detail how the requested waiver would promote the objectives of the energy assistance program;

(iii) State the period during which the waiver would be in effect;

(iv) Describe in detail why the State would be unable to carry out its energy assistance program without the waiver and the consequences to the States' program if the request is disapproved; and

(v) Identify the expected cost impact if the waiver is granted.

(c) Before submitting a request for a waiver the State must do the following unless it is exempted from doing so under paragraphs (d) or (e) of this section—

(1) Give public notice through local or State-wide media that it plans to request a waiver of a plan requirement and describe the waiver contemplated;

(2) Make available copies of the waiver request in accessible locations for a period of at least 10 days after notice is given;

(3) Consider any comments received;

(4) Send copies or a summary of comments to the Associate Commissioner; and

(5) Certify to us that residents of the State had the opportunity to review the waiver request and that their comments were considered.

(d) The State need not adhere to the requirements of paragraph (c) of this section if—in our judgment—the requirement to be waived is not significant.

(e) A waiver request that is submitted as part of the State plan will be subject to the public participation requirements established for plan submissions under § 260.22 rather than the requirements of paragraph (c) of this section.

§ 260.28 Approval and disapproval of State plans and plan amendments.

(a) State plans and amendments must meet the requirements of Federal statutes, regulations and issuances. They must be submitted in the format we prescribe to the Associate Commissioner with a copy to the Regional Commissioner.

(b) Approval of State plans and amendments.

(1) The date of receipt of the State plan or amendment is the date the Associate Commissioner receives it.

(2) Staff of the Regional Commissioner will—

(i) Review each proposed State plan and amendment;

(ii) Secure clarification of the plan or amendment as appropriate;

(iii) Send recommendations to the Associate Commissioner regarding disposition of the proposed plan or amendment.

(3) If the Associate Commissioner approves the State plan or amendment he will so notify the State.

(4) If the Associate Commissioner believes the plan or amendment should be disapproved, he will notify the State of the intent to disapprove and of its opportunity for a hearing under § 260.30 prior to disapproval.

(5) If after approval we discover that the plan or amendment should not have been approved we will notify the State, as provided under paragraph (b)(3) of this section, that disapproval is being contemplated. In this case the State will have an opportunity for a hearing under § 260.30.

§ 260.30 Hearing on plan disapproval.

(a) A State may request a hearing within 10 days after receiving notice under § 260.28(b)(4) or (5) that we intend to disapprove its plan or amendment. The request must be made in writing to the Commissioner with copies to the Associate Commissioner and the Regional Commissioner.

(b) Upon receipt of the State's request for a hearing we will—

(1) Promptly send the State a list of all material that was used in deciding that the plan or amendment should be disapproved;

(2) Notify the State of the date, time and place in the State at which a hearing will be held. The hearing will be held not less than 20 days after the date of this notice to the State unless there is written agreement with the State to hold the hearing at another time.

(c) We will work with the State to resolve the issue at any time before, during or after the hearing. If the issue is resolved and an approvable plan or amendment is submitted, the hearing will be cancelled or terminated.

(d) We will designate a hearing officer, who will preside at the hearing and—

(1) Take testimony;

(2) Make a record of the proceedings;

(3) Hold conferences to settle or simplify issues; and

(4) Submit to the Commissioner the hearing record and his or her recommendation(s) regarding the disapproval.

(e) The Commissioner will arrive at a decision and notify the State regarding the disapproval within 30 days after receiving the hearing officer's record and recommendation(s).

(f) The Commissioner's decision is our final administrative action on the disapproval.

§ 260.32 Withholding of funds for non-compliance with approved State plans.

(a) We will cite a State for noncompliance when it fails to substantially comply with the Home Energy Assistance Act and implementing Federal regulations and issuances. An issue of noncompliance exists when—

(1) The State fails to amend its approved plan to conform to new Federal requirements for State plans; or

(2) The State fails in practice to comply with its Plan or a Federal requirement (whether or not its State plan has been amended to conform to the requirement);

(b) If we believe a State is out of compliance, we will notify it of this belief including our intention to withhold funds.

(c) The State may request a hearing within 20 days after it receives the notice specified in paragraph (b) of this section. The hearing will be carried out in accordance with the procedures in § 260.30.

(d) After a hearing, or after the 20 day time period in paragraph (c) of this section if the State has not requested a hearing, we will make a finding regarding whether there has been a substantial failure to comply. If there has been such a failure, we will withhold further payments to the State. Further payments will not be made until we are satisfied that there is no longer any such failure to comply.

Subpart D—Administration of the State Program

§ 260.50 State agency and local administrative arrangements.

(a) The State plan must name a single State responsible for administering the home energy assistance program for the State. Under this requirement, the single State agency must be certified by the Governor or Attorney General of the State as having proper authority to administer the program.

(b) The single State agency may contract with other agencies such as community action agencies, off-reservation Indian community-based organizations or utilities to perform operational functions of the home energy assistance program. If it does so, the State may not delegate any function which involves administrative or policy discretion. The State plan must specify, in relation to any functions that are delegated—

(1) The division of responsibility between the agencies;

(2) How the single State agency plans to carry out its responsibility for supervision of the program with respect to the functions that are delegated; and

(3) What methods are available in the single State agency for correction of errors in case the agency performing operational functions fails to carry them out correctly.

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§ 260.52 Administrative procedures.

The State plan must include an agreement by the State that it will implement the administrative procedures to be used in carrying out the plan and satisfying the requirements of these regulations, including the specific administrative requirements in Appendix B.

§ 260.56 Maintenance of regular benefit levels.

The State plan must provide that—

(a) In order to receive assistance under the Act, the State will not reduce, before October 1, 1981, regular benefits levels in any federally assisted cash assistance program from the level as of February 26, 1980.

(1) By "federally assisted cash assistance programs" we mean AFDC, SSI State Supplements and Federal-State unemployment compensation.

(2) By "regular benefit levels" we mean the basic payment standard or schedule on which recurring benefits are based. This would not include special or non-recurring payment items.

(b) Notwithstanding paragraph (a) of this section, if benefits in a Federally assisted cash assistance program were increased solely to help pay for home energy, the State may reduce those increased benefits by no more than the amount provided to eligible households under this energy assistance program.

§ 260.58 Coordination with weatherization programs and energy conservation efforts.

A State plan must—

(a) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with existing Federal, State and local weatherization and conservation efforts. To carry out this requirement, the State plan must—

(1) Specify the government, voluntary and private weatherization and conservation programs to which there will be referrals in order to reduce the energy costs of households eligible for assistance under this program;

(2) Specify the arrangements made by the State agency with the programs specified in subparagraph (1) of this paragraph, including the services available to recipients of assistance to help them make economical and efficient use of energy.

(3) Identify information about and indicate instructions for use of such programs for distribution to local agencies participating in the administration of the State's program.

(b) Indicate how recipients of assistance under this program will be referred to programs identified in paragraph (a) of this section and informed about and instructed in energy conservation and weatherization practices.

§ 260.60 Outreach activities.

A State plan must—

(a) Make provision for reaching and serving those eligible for and in need of assistance under the State's program, with priority attention to outreach activities to identify and serve—

(1) Those most vulnerable to the effects of cold, especially the elderly, the ill and bedridden, handicapped and young children;

(2) Those for whom access to assistance programs is made difficult by—

(i) Remote location of residence, such as isolated or rural areas;

(ii) Frequent change of residence, such as migrants and migrant farm workers;

(iii) Limited English speaking proficiency or communications handicaps;

(iv) General lack of knowledge about community service programs; and

(3) Lowest income individuals and families, especially those who are most seriously threatened by the increased costs of energy for residential purposes or who are not categorically eligible.

(b) Provide for maximum, effective use of Statewide and local resources serving and finding the eligible individuals, families and groups specified in paragraph (a) of this section, for example—

(1) Community service agencies such as Community Action Agencies, State and Local Welfare Agencies, and other appropriate agencies and organizations within the State.

(2) Volunteer programs carried out under the Domestic Volunteer Service Act of 1973;

(3) State and local area agencies on aging.

(4) Indian tribes and off-reservation Indian community-based organizations.

(5) Home energy suppliers;

(6) Crisis assistance programs or other agencies with outreach expertise or experience with winter energy programs;

(7) Individuals particularly recruited and trained for the purposes to serve as casefinders, program interpreters and escorters;

(8) Units of the Federal government located within the State, including post offices, SSA District and Branch offices and Veterans Administration Regional Offices;

(9) The public education, public library and public recreation system as well as police and fire departments throughout the State;

(10) Religious organizations; and

(11) Public media facilities.

(c) Provide a fiscal plan for reimbursement of outreach activities as proper administrative expenses. Contracting with organizations or other agencies to perform outreach activities is a valid part of the State's fiscal plan and administrative expenditures.

§ 260.62 Identifying and certifying eligible households.

The State plan must describe how the State will identify and certify eligible households as home energy assistance program participants and the records the State will keep to support its eligibility decisions.

§ 260.64 Monitoring procedures by States.

The State plan must describe the program monitoring system which will be used including the monitoring of agreements with energy suppliers and securing documentation of energy supplied to eligible households. That system must enable the State to identify and correct, in a timely manner, problems in the operation of its home energy assistance program, including non-compliance with the provisions of this Part or of the State's plan.

§ 260.66 Data collection and reporting by States.

(a) The State plan must provide—

(1) A description of energy usage and the average cost of home energy in the State, identified by type of fuel and by region of the State; and

(2) For reporting to us information on the following items—

(i) For the population of eligible households who apply for or are assisted by the program the State agency must report to us for each month, by the end of each following month—

(A) The number of eligible households assisted and the benefit expenditures;

(B) The number of building operators to whom payments are made (under Subpart H) the total expenditures to those building operators, and the number of eligible tenants on whose behalf those payments are made;

(C) Total administrative expenditures;

(D) The number of applications received for benefits, and their dispositions;

(E) The number of requests received for hearings, and their dispositions; and,

(F) The number of assisted Indian households located on reservations and the total benefit expenditures for them.

(ii) For a sample of the households assisted under the program—

(A) Whether a member is categorically eligible under § 260.150;

(B) The income of the household;

(C) The household's Lower Living Standard income level;

(D) Whether the household falls into a priority group due to the presence of an elderly or handicapped person, or its classification as "lowest income" level;

(E) Whether the household falls into an outreach target group under § 260.60—for example, due to the presence of handicapped person or persons with limited proficiency in the English language;

(F) The primary source of home energy—for example, electricity, fuel oil or natural gas;

(G) The actual cost of home energy for FY 1981;

(H) Whether payments are made directly to the household, to a vendor, or to the building operator;

(I) Whether payments are in cash, voucher, line of credit, or another form;

(J) The amount of assistance in dollars;

(K) Whether the residence is owned by the recipient, rented with designated energy payments, rented with undesignated energy payments, or a building operated by an operator defined in § 260.202(a);

(L) The county of the residence;

(M) Whether any weatherization or conservation referral occured as a result of participation by the household in the energy assistance program.

(N) The number of people in the household;

(O) The age of the oldest person in the household;

(P) The sex and ethnicity of the head of household; and

(Q) Such other data as may be specified in program issuances.

(b) Records on which the reports described in paragraph (a) of this section are based will be maintained for a minimum of three years after the reports are received by us, in a manner as to provide ready access by us.

(c) Expenses incurred by States for data collection and reporting required under this section are valid administrative costs under the State's plan.

(d) States must submit data required under paragraph (a) of this section according to specifications we will provide in subsequent instructions. The instructions will establish specifications and a schedule for sample data under paragraph (a)(2) of this section. Data under paragraph (a)(2) of this section relating to heating assistance must be submitted to us by August 1, 1981. Complete sample data, including data for households with medically necessary cooling, must be submitted to us by November 1, 1981.

(e) States must cooperate with our additional efforts to develop information on home energy usage by the general population. This information will include, but might not be limited to—

(1) Home energy consumption by the general population; and

(2) The annual cost and types of fuel used by various income groups.

§ 260.68 Federal monitoring.

The Regional Commissioner will monitor the State's compliance with its approved State plan.

§ 260.70 Cooperation by States in program evaluations.

The State agency must cooperate in any evaluations of the energy assistance program that are conducted or funded by the Federal government.

Subpart E—Fiscal Control and Accountability

§ 260.80 General.

The State plan must provide that fiscal controls and accounting procedures will be established to assure proper disbursal and accounting for Federal funds. Under this requirement the agency must—

(a) Maintain an accounting system and supporting fiscal records adequate to audit and otherwise verify that the assistance payments and administrative cost claims for reimbursement meet Federal requirements.

(b) Assure that any other State or local agency having costs chargeable to the home energy assistance program will maintain a similar accounting system and supporting fiscal records.

§ 260.84 Reserve funds for emergencies.

(a) The State reserve up to 3% of the funds allotted under § 260.100(a) for weather-related and supply shortage emergencies.

(b) A State wishing to reserve these funds must include in its State plan—

(1) A description of the emergencies or types of emergencies it will cover and the amounts and kinds of assistance to be available;

(2) Its procedures for planning for such emergencies;

(3) The administrative procedures it will use to determine that covered emergencies have occurred; and to implement its emergency plan;

(4) The procedures by which eligible households will be informed that emergency assistance is available and how they may apply for it; and

(5) The procedures for the use of funds reserved under this section during the fiscal year in the event that the funds are not exhausted by emergencies.

§ 260.86 Fiscal reports by States.

(a) The Quarterly Estimate of Expenditures and Allotment Need will be used to help determine the amount of the State's quarterly grant and for reallotment purposes. It must—

(1) Provide the State agency's estimate of its need for Federal funds for a forthcoming quarter and an estimate of its need for Federal funds for the fiscal year. (We will provide a form for this report).

(2) Contain the following information—

(i) The amount by which the State's allotment under § 260.100 is greater or less than the amount needed to carry out the approved State plan;

(ii) An explanation, if the State's allotment is less than the amount needed, of how the State determined the additional amount it needs and how the total amount requested for the fiscal year will be expended;

(iii) Estimated energy assistance payments to be made during the estimate quarter;

(iv) Total estimated expenditures, Federal share and State share, for the estimate quarter;

(v) Total estimated administrative costs, Federal share, and State share for the estimate quarter; and

(vi) Estimated Federal funds needed for the fiscal year.

(3) Be submitted to the Associate Commissioner, with a copy to the Regional Commissioner, at least 45 days before the beginning of each calendar quarter in fiscal year 1981.

(b) The Financial Status Report presents the State agency's accounting of the disposition of the Federal funds granted for past quarters and provides the basis for making adjustments necessary when the State's estimates are greater or less than the amount the State actually expended in the period covered by this report. (We will provide a form for this report.) It must—

(1) Contain information including, but not limited to—

(i) Expenditures for home energy assistance payments to eligible households;

(ii) Expenditures for payments made to home energy suppliers on behalf of eligible households;

(iii) Expenditures for payments made to housing operators on behalf of eligible tenants;

(iv) Expenditures for tax credits to home energy suppliers; and

(v) Total expenditures for planning and administering the State's approved plan for energy assistance to low income households and the Federal share of those expenditures.

(2) Be submitted to the Associate Commissioner, with any necessary supporting schedules, with a copy to the Regional Commissioner, by 30 days after

the end of each calendar quarter in fiscal year 1981 and each quarter

States whose allotment amount is in excess of Federal fund needs and

Insular Areas upon approval of their

appropriate Indian tribe or Indian

this reallotment is to assure the most

additional amount each State needs, the

the end of each calendar quarter in fiscal year 1981 and each quarter thereafter until the State has submitted its final report for the 1981 program.

(c) The Grantee Monthly Report of Expenditures must—

(1) Present the State agency's cumulative cash disbursements for the period covered by the report; and

(2) Be submitted to the Department's Federal Assistance Financing System office with a copy to the Associate Commissioner in accordance with our instructions by 15 working days after the end of each month in fiscal year 1981, and quarterly thereafter until the State has computed its 1981 Energy Assistance program.

§ 260.88 Administrative costs.

(a) A State may use for planning and administering the plan an amount of its allotment up to 5 percent of the total cost of carrying out the plan. By "total cost of carrying out the plan" we mean the sum of all expenditures for allowable assistance payments and administrative costs made under an approved State plan.

(b) Upon proof of unusual circumstances that affect administrative costs, and after approval by us, the State may use an additional part of its allotment for planning and administering the plan up to 2½ percent of the total cost of carrying out the plan.

(1) "Unusual circumstances" include, but are not limited to, special geographical factors, acts of God, and a low total grant level such as might occur if we make grants to some Indian Reservations.

(2) A State which seeks to use an amount of its allocation for planning and administering its plan between the 5 percent and 7½ percent limitations must submit to us a description of the unusual circumstances on which it bases its request and such other information as we may require.

(c) In no case may the Federal funds received under the Act be used to pay over half of the State's total cost of planning and administering the plan. The State will pay from non-Federal sources the remaining costs of planning and administering the plan.

Subpart F—Federal Allotments and Payments

§ 260.100 Definitions.

As used in this part:

"Allotment" means a State's share of the Federal funds appropriated for the Low Income Energy Assistance Program for fiscal year 1981.

"Reallotment" means decreasing the allotment amount, for one or more States whose allotment amount is in excess of Federal fund needs, and redistributing such excess to the State or States in need by increasing the allotment amount for those States.

§ 260.101 Computation of States' allotments.

We will distribute each State's allotment and the remainder of the amount appropriated under the Act in the following manner and order (after providing for Federal administrative expenses)—

(a) First, to each State with a State plan approved under § 260.28 of these regulations, an amount computed in accordance with the allocation formula contained in section 306(a) of the Act;

(b) Next, to the Commonwealth of Puerto Rico, and the Insular Areas (as defined in § 260.104(a)(1)) $2,500,000 allotted on the basis of need under § 260.104(b);

(c) Next, to the Director of the Community Services Administration, $100,000,000 or the balance after paragraphs (a) and (b), of this Section whichever is less;

(d) Next, to the States as incentive grants for fuel assistance programs under § 260.112, the balance, if any, after paragraphs (a), (b) and (c) of this Section:

(e) The remainder after paragraphs (a), (b), (c) and (d) of this Section, if any, will be distributed in accordance with the allotment formula contained in section 306(a) of the Act.

§ 260.102 Quarterly grants to States.

Grants will be made for each quarter of FY 1981 to States with plans approved under this Part.

§ 260.104 Allotments for the Commonwealth of Puerto Rico and the Insular Areas.

(a) *Definitions.*

(1) "Insular Areas" means Guam, American Samoa, the Virgin Islands, Northern Mariana Islands and the Trust Territory of the Pacific Islands.

(2) "Home energy," for purposes of this section, means a source of heating, refrigeration or other home uses, but includes air conditioning only when medically necessary.

(b) [Reserved for allotment method]

(c) Each jurisdiction seeking a home energy grant under this section must submit to us a plan containing provisions which describe the program for which a grant is sought and which are consistent with the requirements for State plans under this part. (See § 260.15) Grants for home energy assistance will be awarded to the Commonwealth of Puerto Rico and the Insular Areas upon approval of their respective plans.

(d) Except as otherwise provided in this section, the provisions of Subparts A through K of this part apply to grants under this section.

§ 260.106 Equivalent benefits for Indians.

(a) *Definitions.* As used in this section, "Indian", "Indian Tribe", and "Indian Organization" mean the definition established for them, respectively, by 45 CFR 1336.1, under which—

(1) Indian means "any individual who is a member or a descendent of a member of a North American tribe, band, or other organized group of native people who are indigenous to the continental United States or who otherwise have a special relationship with the United States through treaty, agreement, or some other form of recognition. This includes any individual who claims to be an Indian and who is regarded as such by the Indian community of which he or she claims to be a part. This definition also includes Alaskan Natives".

(2) Tribe or Indian tribe means "a distinct community of Indians that exercises powers of self-government." Consortia of tribal governments may act in behalf of Indian tribes.

(3) Indian organization means "a public or private non-profit agency whose primary purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian."

(b) The State plan must provide assurances that Indians will receive benefits that are equivalent to benefits provided to other households in the State.

(c) If we make a determination that Indians are not receiving or will not receive equivalent benefits under the proposed State plan—

(1) As a condition of approving the plan we will require the State to make changes in its plan so that Indians will receive benefits equivalent to other households in the State; or

(2) We will determine that Indians would be better served through grants made directly to Indian tribes or organizations. If we make this determination, we will—

(i) Withdraw from the State's allotment that proportion of its total allotment that the population of eligible Indians not receiving equivalent benefits bears to the population of all eligible households in the State; and

(ii) Provides that proportion of the Federal funds by direct grant to the appropriate Indian tribe or Indian organization.

(d) If, during the development of a State's plan, the State and an Indian tribe within that State (or a tribe and more than one State, in cases where tribal lands are in more than one State) agree that members of the tribe would be better served by a direct grant to the tribe, rather than under the State's plan, the State and the tribe must notify us of their intent to enter into such an agreement by June 30, 1980 and must finalize the agreement by August 15, 1980. We will determine whether members of the tribe are not receiving or will not receive equivalent benefits, and will determine whether members of the tribe would be better served by a direct grant from us, taking that agreement into consideration. In the event of such an agreement and determinations, we will make a direct grant to the tribe.

(e) In order for an Indian tribe or tribal organization to receive direct funding if we make the determinations under paragraph (c)(2) of this section, it must submit to us for approval a plan containing the same provisions that are required of States. We will provide, on a priority basis, technical assistance to help an Indian tribe or organization for which such determinations have been made to prepare a Plan for delivering benefits to members. Under that Plan—

(1) The tribe or organization will receive Federal funds according to the calculation in paragraph (c)(2) of this section;

(2) If it is demonstrated by the tribe or organization that it is unable to provide the administrative matching funds required under § 260.88, we will consider a waiver of the administrative cost-sharing requirement; and

(3) If the size of the tribe's or organization's program is so small that administration within the 5% limit under § 260.88 is infeasible, we will determine, upon request, whether unusual circumstances as defined in § 260.88(b)(1) exist, and may approve administrative costs from Federal funds up to 7½ percent. If appropriate, we will also consider a waiver of the 7½ percent limit in favor of a more appropriate, higher limit.

§ 260.108 Reallotment of funds.

(a) The portion of any State's allotment which the Secretary determines will not be required to carry out its approved State plan for fiscal year 1981 will be reallotted as provided below to other States based on their need and ability to expend the funds consitent with the provisions of their approved State plans. The purpose of this reallotment is to assure the most effective use of the funds available.

(b) In addition to meeting the reporting requirements set forth in § 260.86, a State must advise the Commissioner whenever it determines that a portion of its allotment will not be required to carry out its home energy assistance plan.

(c) We will determine after the end of each month the amount of funds, if any, available for reallotment. The determination will be based on—

(1) Reports from the States submitted under to these regulations;

(2) Climatic conditions;

(3) Provisions in State plans regarding method, timing and form of payment, emergency reserves, and payments for *summer cooling* when medically necessary;

(4) Notice and comment under paragraphs (d) and (e) of this section; and

(5) Other relevant factors necessary to assure that no State loses funds necessary to carry out the purposes of the home energy assistance program.

(d) Before removing any portion of funds which were allotted to a State, we will notify the Governor of the State by letter and the general public by notice in the **Federal Register** of the intent to reallot, inviting comment. A period of 30 days from the date of publication of the notice in the **Federal Register** will be allowed for comments to be submitted to us.

(e) After considering any comments received during the 30 day notice period, we will notify the Governor of the State of any decision to reallot funds and will publish the decision in the **Federal Register.**

(f) We will reallot the funds determined to be available under paragraph (e) of this section to States having a valid need for additional funds using the following method:

(1) First, the total amount of the excess allotment for those States determined to have an excess will be computed;

(2) Then, the total original allotment amounts for those States which have a need for additional funds will be computed;

(3) Next, for each of the States in paragraph (f)(2) of this section the percentage its original allotment is of the total in paragraph (f)(2) of this section will be determined;

(4) Next, the percentage for each State determined in paragraph (c)(3) of this section will be applied to the amount determined in (f)(1) of this section; and

(5) Last, if each State's reallotment determined in paragraph (f)(4) of this section is equal to or less than the additional amount each State needs, the process of making the reallotment is completed.

(6) If the amount of the reallotted funds to any State in paragraph (f)(4) of this section exceeds the additional needs of that State, the excess will be further reallotted to those States needing additional funds using the procedures in paragraph (f)(2), (f)(3) and (f)(4) of this section. This reallotment process will continue until all excess allotments available for reallotment have been reallotted or all the States' needs have been satisfied.

(g) A State allotment as changed by any reallotment will be considered to be its allotment under § 260.100(a) for fiscal year 1981.

§ 260.110 Reimbursement for funds advanced by States.

Any State which, on or after April 2, 1980, makes advances from its own sources for activities relating to the development of a State plan or other activities in substantial compliance with a subsequently approved State plan, may be reimbursed for such advances from the allotment made to that State under § 260.100(a) when funds are appropriated to carry out the provisions of this part.

§ 260.112 Incentive grants to States.

(a) The purpose of these grants is to provide an incentive to States that have State-funded home energy assistance programs serving eligible households as defined in § 260.150 to continue these programs. It is also to provide an incentive to other States, where there is a need, to begin such State-funded programs.

(b) A State seeking an incentive grant under this section must submit a written application to the Secretary no later than September 1, 1980. The application must—

(1) Describe the State program for which Federal incentive funds are sought under this section;

(2) Identify the eligible households that will be served under the program;

(3) Provide that the provisions of 45 CFR Part 74, apply to the State program; and

(4) Describe how the State program meets the priorities for funding established by us under paragraph (c) of this section.

(c) We will publish in the **Federal Register** in July, 1980, priorities for the awarding of grants under this section and any additional provisions that a State must include in its application.

(d) We will select from the applications for grants those State programs which in our judgment will

best carry out the priorities established

portions of their rent payments will be

(1) The average home energy

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best carry out the priorities established by us. States will be notified in December, 1980, whether their programs have been selected for funding. States whose programs are selected will be sent grants in that month.

(e) No grant under this section will be for more than 25% of the cost of the State program selected for incentive funding assistance.

Subpart G—Eligibility and Payments for Home Energy Assistance

§ 260.150 Who is eligible for assistance.

The State plan must identify the categories or groupings of households that will be eligible for home energy assistance under the State's program.

(a) In order for a household to be an eligible household, it must have income less than or equal to the Bureau of Labor Statistics Lower Living Income Standard. However, households that have incomes over that income standard are nevertheless eligible households if they contain at least one person eligible for—

(1) AFDC (other than AFDC Foster Care or Emergency Assistance to Needy Families with Children);

(2) Supplemental Security Income (except if excluded in § 260.2);

(3) Food Stamps; or

(4) Veteran's benefits under sections 415, 521, 541 or 542 of title 38 of the U.S. Code.

(b) In determining eligibility for categorically eligible households, a State may use verified data already on file for such households, if using that data will expedite or not unreasonably delay delivery of benefits.

§ 260.152 To whom payments may be made.

(a) The plan need not provide for payment for all households identified in § 260.150(a). However, when it does not provide for payments for all of those households, it may make exclusions only after taking into account the priority identified in § 260.154(a)(1). This means that people who have lowest incomes may not be excluded.

(b) The State plan must provide that payments for home energy assistance will be made—

(1) Directly to eligible households;

(2) To home energy suppliers in behalf of eligible households, as described in Subpart I; or

(3) To any combination of eligible households and home energy suppliers; and,

(4) To operators of subsidized housing in behalf of eligible tenants, as described in Subpart H.

(c) Under the Plan, eligible households that pay energy costs as undesignated portions of their rent payments will be treated comparably to similarly situated eligible households that pay those costs directly to energy suppliers.

(d) The State Plan must provide that payments will not be made to or on behalf of households that are not vulnerable to energy cost increases, except for payments made to building operators on the basis of eligible tenants as described in Subpart H.

(1) By "vulnerable to energy cost increases" we mean that a household is at least in part responsible for its own energy costs. This could be through direct payments to utilities, increases in rent when leases are renewed, extra energy charges or surcharges, or other vehicles through which the household's costs for shelter could ultimately be expected to rise as home energy costs rise. A household that is vulnerable to energy cost increases is one that is not fully protected against such increases under any government program.

(2) Appendix D contains guidance and examples of some situations in which households may not be vulnerable to energy cost increases.

(e) The plan must assure that no duplicate payments will be made and we will not reimburse for any duplicate payments. A duplicate payment is more than one payment under the plan attributable to the same energy costs for the same household

§ 260.154 Amounts of assistance payments.

The State plan must describe the amounts of assistance that will be furnished under the plan and how—

(a) In setting the amounts of assistance to be furnished to or on behalf of eligible households—

(1) Priority is given to households with lowest incomes; and

(2) The highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income.

(b) The State plan must indicate how the State will meet the priority requirement under paragraph (a) of this section. As used in this section, "priority" means that special amounts of assistance are provided under the State's program. This can be done through higher benefits, or favorable methods of income or payment calculation for households with priority, over similarly situated households without priority.

(c) Payment amounts must vary according to differences in circumstances for categories of households. In computing the amount of benefits, States must reasonably take into account—

(1) The average home energy expenditure for households. If adequate information is not available, heating degree day data and average cost by type of energy source may be substituted;

(2) The proportional burden of energy costs in relation to income or ranges of income;

(3) The variation in degree days in regions of the State, where appropriate. If the degree day variation within the State is minimal, the State may elect not to take this into account; and

(4) The extent to which the household is vulnerable to or protected against rising costs of home energy; and

(5) Any other relevant consideration selected by the chief Executive of the State, including provisions for payment levels for households making undesignated payments in the form of rent.

(d) The factors in paragraph (c) of this section must be taken into account in computing amounts of benefits. Criteria which we consider reasonable, in determining whether different payment amounts must be established due to variation in those factors, are set forth in Appendix C. Upon adequate explanation, we will consider the applicability of additional or substitute criteria, or alternative uses of the criteria discussed in the appendix, if the requirements of paragraph (c) of this section are met.

(e) In computing benefit amounts, the State may take into account the specific energy costs of an eligible household. It may also take into account other relevant considerations that are in accordance with the purposes of this program and not contrary to the priority requirements in paragraph (a) of this section and in § 260.155, or the required payment considerations in paragraph (c) of this section. If the State chooses such optional considerations, it must identify them in the plan.

(f) A State may use automatic payments to categories of eligible households. However, if such a system is used, other payment mechanisms in the State's Plan must satisfy the requirements of paragraphs (a) and (c) of this section and as described in Appendix C.

(1) States which use automatic payments must describe in their Plans their procedures for assuring that such payments will not be made to households that are not vulnerable to the rising cost of home energy, except where a waiver has been granted.

(2) An automatic payment is a payment made under this program to an eligible household, without use of a separate application, based upon its categorical eligibility.

(g) Households eligible under the State's plan and that are similarly situated with respect to energy costs, income, and other considerations relevant to assistance under the Act, must receive similar amounts of assistance. In the case of households that pay energy costs as undesignated portions of their rent, the State must establish and describe in the State Plan its method for reasonably attributing a portion of the rent to energy costs.

§ 260.155 Priority for households with elderly or handicapped persons.

(a) The State plan must describe how priority will be given to eligible households with elderly or handicapped persons. As used in this section "priority" means that households are given special treatment relating to ease of application or access to assistance, timing of benefits, or guarantees of assistance if program funds are inadequate.

(b) A State may provide extra or higher benefit levels for households with elderly or handicapped individuals only if the State's Plan justifies those levels on the basis of the income and energy burden considerations required by § 260.154(b). If the State's Plan does establish such higher or extra benefit levels on that basis, those higher levels will satisfy the priority requirements of this section.

§ 260.156 Purposes for which payments may be made.

(a) The State plan must provide that payments will be made only to—

(1) Meet the rising cost of energy needed to provide heat in a residential dwelling for an eligible household; and

(2) Meet the rising cost of energy needed to provide cooling, when medically necessary, in a residential dwelling for an eligible household.

(b) The State plan must identify the conditions under which payments will be made to eligible households for the rising costs of cooling. Payments for cooling may be made only when there is a threat to life or health due to a particular illness or medical condition which can be ameliorated by cooling facilities. An example of such conditions would include certain respiratory diseases.

(c) The State's energy program must not provide assistance for weatherization, conservation or repairs.

§ 260.158 Methods of payment.

(a) The State Plan must indicate the form(s) and method(s) of payment to or on behalf of eligible households. These may include, but are not limited to—

(1) Cash; and/or

(2) In-kind payments, including deliveries of fuel, and prepaid utility bills. In-kind payments may not include clothing or shelter; and/or

(3) Vouchers, stamps, coupons and other forms of certificates which may be used in exchange for energy supplies.

(b) The benefit of any payment made to or on behalf of an eligible household must accrue to that eligible household. Under this requirement, when a payment in behalf of a household is made to another party, the household must realize full compensation corresponding to the amount paid to the other party.

§260.159 Timetable for making payments.

The State Plan must include the timetable by which payments will be made under its energy assistance program. Under this requirement, the State's energy assistance program must begin 30 days after the date of the appropriation, or December 15, 1980, whichever is later.

§ 260.160 Income and assets—definition and verification.

(a) Household income is the household's total cash actually received from all sources, excluding—

(1) Cash over which the household has no control, including but not limited to—

(i) Reimbursement for expenses incurred in connection with employment;

(ii) Reimbursement for other expenses incurred, such as for medical expenses; and

(iii) Payments made to others on the household's behalf;

(2) Loans; and

(3) Any cash which the State defines in its plan as excluded because it is administratively difficult to consider or compute, such as irregular or small amounts.

(b) States must verify household income eligibility. In verifying income, the State must apply verification standards and verification procedures consistent with those it uses for AFDC. For categorically eligible households it is sufficient to verify that the household is eligible for or receiving assistance under one of the programs identified in § 260.150(a)(1) through (a)(4).

(c) For categorically eligible households, the State may apply no assets test other than the one it applied to that household under the appropriate categorical program. For other households, the State may establish an assets test, but that test may not consider cars, household or personal belongings, or a primary residence.

Subpart H—Payments to Building Operators

§ 260.200 General.

The State plan must provide for direct payments to building operators of specified public and subsidized housing projects on behalf of eligible resident tenants. The amount paid to each operator must be based upon the monthly actual heating cost per unit in the building(s), the number of eligible tenants, and the entitlement to direct assistance which eligible households have under the State's Plan. Payments need not be made to all building operators; and the State must consider several factors in determining those to which the payments will be made. States must prevent duplicate payments as defined in § 260.152.

§ 260.202 Definitions.

(a) "Building operator" means the owner of a residential building or buildings, or the owner's representative, in State or local government-operated housing projects which admit low-income tenants based upon an income test. In addition, it means the owner of a residential building or buildings, or the owner's representative, in housing projects established under—

(1) Section 221(d)(3) of the National Housing Act of 1968 (12 U.S.C. 1715 1);

(2) Section 236 of the National Housing Act of 1968 (12 U.S.C. 1715 z–1);

(3) Section 202 of the Housing Act of 1959 (12 U.S.C. 1708);

(4) Low rent housing established by the U.S. Housing Act of 1937 (42 U.S.C. 1437);

(5) Section 8 Housing as created by the Housing and Community Development Act of 1974 (42 U.S.C. 1437 f); or

(6) Section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(b) An "eligible tenant" means a houshold that—

(1) Occupies a dwelling unit in a building or project operated by a building operator;

(2) Meets the rquirements for an eligible household under the State's plan;

(3) Generally makes payment for energy as an undesignated portion of rent. A family that generally pays for its heating or cooling energy with separate payments directly to a supplier or utility is not an eligible tenant; and

(4) Is not vulnerable under the State's definition required in § 260.204(d).

§ 260.204 Computing a payment to a building operator on behalf of eligible tenants.

(a)(1) Payments to building operators must be calculated by first taking the exact monthly residential heating costs of the building or project divided by the total number of living units in the building or project, and multiplying the quotient by the number of eligible tenants in the building or project that month. The payment to the building operator must be the lesser of that amount or the product, calculated on a monthly basis, of the comparable amount determined under paragraph (a)(2) of this section multiplied by the number of eligible tenants in the building or project.

(2)(i) The comparable amount is equal to the limit on the total amount of the State may pay to building operators as determined in § 260.206(b) divided by the number of eligible tenants in the buildings and projects which will receive assistance under the State Plan.

(ii) The comparable amount may be adjusted higher or lower for individual building operators or categories of operators according to criteria which reflect—

(A) The extent to which the building operator's costs for residential heating are not compensated by subsidies, rent receipts, and other revenues; and

(B) The extent to which payments made to the building operator will benefit eligible tenants in the building or project.

(iii) The State must make any adjustments under paragraph (a)(2)(ii) of this section in such a way as to assure that the total payments to building operators under the Plan substantially equals the amount the State may pay to building operators under § 260.206(b).

(b) "Exact monthly residential heating cost" is the cost of fuel used for heating the building or project during the month for which payment is claimed. States must specify in the State plan those months for which payments will be made to building operators.

(c) An example of the calculation in paragraph (a) of this section would be as follow—

(1) If the State specifies that it will make payments to building operators for the month of January, the payment for a ten unit building would be calculated by first dividing the exact cost of heating fuel consumed during that month by ten units. If the exact cost of heating fuel consumed was $800, the per-unit cost would be $80. If there are four eligible tenants who are not entitled to a direct payment as eligible households, then under this heating cost formula the amount payable to the building operator for January would be $320.00.

(2) Suppose, however, that under the State's plan the comparable amount determined under paragraph (a)(2) of this section is $60 for January, tenants would receive $60 for January. This would then be the maximum per-tenant payment, and would yield a maximum payment of $240 for four tenants. The State must pay the lesser of this amount or the $320 computed under paragraph (c)(1) of this section. In this case, the payment would be $240.

(3) If one of the four eligible tenants is partially vulnerable and therefore entitled to a direct payment from the state under § 260.154, the amount to which that tenant could entitle the operator would then have to be further reduced by the amount of that tenant's direct entitlement.

§ 260.206 State administration of payments to building operators.

(a) The State Plan must identify the objective criteria the State will use to determine which housing operators will receive payments under this subpart. In establishing these criteria the State must take into account—

(1) The extent to which building operators's costs for residential heating are not compensated by subsidies, rent receipts and other revenues; and

(2) The extent to which payments made to particular building operators will benefit the eligible tenants in their buildings or projects.

(b) The State plan must specify the total amount the State will pay to building operators under the Plan.

(1) This amount must equal the State's allotment multiplied by the number of eligible tenants in the buildings and projects for which operators will receive assistance under the State Plan divided by the total number of eligible households (including eligible tenants) who qualify for assistance under the State plan.

(2) The Plan will identify the basis upon which the State's payments to building operators are computed under this paragraph.

(c) The State plan must assure that no duplicate payments will be made as required under § 260.152(e). Under this requirement, any time an eligible tenant is entitled to assistance as an eligible household under Subpart G and the State Plan the amount of that assistance must be deducted from the payment to the building operator on that tenant's behalf.

(d) The State Plan must define "vulnerability" for eligible tenants.

(1) This definition must include as vulnerable those eligible tenants who pay extra energy charges, surcharges or other excess charges over the normal monthly undesignated rent payment.

(2) The Plan may include as vulnerable those tenants whose rent payments have increased recently to compensate for rising energy costs.

(3) Under this requirement the State plan must identify criteria for determining extent of tenant vulnerability, including at least partially vulnerable and fully vulnerable.

(e) The benefit of any payment made to a building operator must accrue to the tenants in the building or project for which the payment was made.

§ 260.208 Documentation and verification.

(a) States may make payments to a building operator only after the operator—

(1) Documents the specific location of each building for which payments are requested;

(2) Documents the number of dwelling units in each building;

(3) Documents the number of eligible tenants in each building by—

(i) Name and income, if eligible because of income below the Lower Living Standard; or

(ii) Type of aid received (e g., AFDC, SSI, FS, VA), if categorically eligible.

(4) Documents the exact monthly costs of heating fuel used in that building during the month or months for which the operator will receive a payment; and

(5) Certifies that tenants eligible for assistance under this program are not discriminated against with respect to rent. This means that the rent has not been and will not be raised because a tenant has received, directly or through a vendor, a payment under this program.

(b) The State agency must—

(1) Be responsible for the determination of eligibility of eligible tenants and verification of the data supplied by the building operator upon which the eligibility determination was based; and

(2) Promptly notify the subsidizing Federal, State or local agency of any payments, by amount and location of building, made to the operator.

Subpart I—Payments and Tax Credits to Home Energy Suppliers

§ 260.250 When the State may make payments to energy suppliers.

(a) A State may furnish home energy assistance on behalf of an eligible household through payments to one or more home energy suppliers designated by the household, but only if the supplier has agreed:

(1) To charge the household in the supplier's normal billing process and no more than the difference between—

(i) The actual cost of the energy delivered; and

(ii) The payments the supplier has received or can expect to receive from the State under this Plan.

(2) Not to discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery, or price; and

(3) Unless exempted under § 260.260, not to stop supplying energy to any eligible household except under the conditions in § 260.254.

(b) Payments to an energy supplier must be made by the State in a timely manner by means of installment payments, reimbursements, or a line of credit.

(c) The State must notify each eligible household when it makes a payment to a home energy supplier on the household's behalf, specifying the amount of the payment.

§ 260.254 Conditions for termination of home energy by participating suppliers.

(a) A home energy supplier, unless exempted under § 260.260, must agree not to terminate home energy to an eligible household except under the following conditions—

(1) The household has failed to pay its share of an energy bill under § 260.250(a)(1) for at least two months measured from the due date for each such payment to the same date two months later;

(2) The household has received a written termination notice, as described in § 260.256, at least 30 days prior to the termination; and

(3) If the household requests a hearing within ten days after receiving the termination notice, the supplier will continue supplying home energy to the household until a decision is reached in accordance with the requirements of §§ 260.256 and 260.258.

(b) If State law or other legal requirements provide for longer periods of time than those contained in paragraph (a) of this section, the State law or other legal requirements must apply.

(c) For purposes of this section and § 260.256, the date of receipt of a termination notice is presumed to be five days after the date of such notice unless there is a reasonable showing to the contrary.

§ 260.256 Termination notices.

The termination notice required by § 260.254 must be in writing and state at least the following—

(a) The earliest date the supplier will stop supplying home energy to the household;

(b) The reason for the termination;

(c) The amount the household must pay, by when, and where, to prevent termination;

(d) How to request a hearing and where the hearing will be held; and

(e) That if the household requests a hearing within 10 days after receiving the termination notice, the supplier will continue supplying home energy to the household until a hearing decision is reached.

§ 260.258 Pre-termination hearings.

The hearing required by § 260.254 must be held and decided by the State agency or another Government agency designated by it. The hearing must afford the household a reasonable opportunity to appear before a disinterested party who will hear and resolve the dispute fairly between the household and energy supplier.

§ 260.260 Exceptions to the pre-termination requirements.

(a) If a State determines that the requirements of §§ 260.254 through 260.258 would seriously jeopardize the ability of small fuel oil dealer or other small home energy supplier to continue in business, the State may, subject to State law or other legal requirements, modify its plan provisions to change the requirements of those sections as they relate to those suppliers or exempt them from some or all of the requirements of those sections. If the State chooses to do this it must identify the criteria it will use to determine which suppliers will be subject to modifications of §§ 260.254 through 260.258, and what those modifications are.

(b) The State may make the determination under paragraph (a) of this section on an individual basis or by categories of suppliers. In making the determination, the State may consider among other things—

(1) The feasibility of the supplier passing through its non-payment losses to other customers;

(2) The number of eligible households that have designated the supplier to receive their energy assistance payments as a proportion of the supplier's total customers;

(3) The number of persons employed by the supplier;

(4) The supplier's gross sales in dollars;

(5) The supplier's sales in terms of gallons or other unit of measurement;

(6) The availability of credit to the supplier;

(7) The supplier's past credit practices; and

(8) The supplier's overdue and uncollectable accounts.

§ 260.264 When home energy assistance funds may be used for tax credits to home energy suppliers.

(a) The State plan may provide for a credit against State tax to an energy supplier that sells energy at reduced rates to eligible households. The credit may not exceed the amount of the supplier's loss of revenue on account of the reduced rate.

(b) For purposes of paragraph (a) of this section:

(1) "State tax" means any tax imposed by the State directly on the energy supplier, or on the consumer when the energy supplier is acting in the capacity of a collections agent for the State;

(2) "Reduced rates" means the sale price of home energy to eligible households at less than the energy supplier's normal selling price to households other than eligible households in the same or similar location.

(c) A State plan that includes provision for tax credits under paragraph (a) of this section must provide for—

(1) Certification to us, at the end of each quarter, of the total amount of credits provided which represent an allowable Federal expenditure; and

(2) Maintenance of auditable records supporting the amount of tax credits provided and showing that the tax credits meet Federal and State requirements.

Subpart J—Direct Payments by the Social Security Administration to Beneficiaries of the Supplemental Security Income Program

§ 260.299 General.

A State plan may provide for automatic payments made directly to categorically eligible SSI recipients. If the State chooses to make such payments, it may make them itself or it may have the Social Security Administration make them for it.

§ 260.300 Timetable for agreements by States with the Social Security Administration.

(a) At the request of a State, we will make its energy assistance payment for heating needs, out of the State's allotment, to members of eligible households in the State who receive SSI benefits as defined in § 260.2.

(b) Such payments by us, at the request of a State, are payments made under the State plan and are subject to the same conditions and limitations as

other payments made by the State under

§ 260.304 Notices to households and

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other payments made by the State under its plan.

(c) In order to have us make its payments to SSI beneficiaries, a State must—

(1) Notify us by June 30, 1980 of its intent; and

(2) Sign an agreement with us to this effect by September 1, 1980.

(d) A State which signs an agreement by September 1, 1980, may withdraw from it without cost any time before September 15, 1980. A State which withdraws later must pay us the administrative cost we incurred preparing to make energy assistance payments for the State.

(e) If a State signs the agreement in paragraph (b)(2) of this section before an appropriation for this program is enacted, the agreement will be conditional on appropriation of $2.2 billion for the program. If the appropriation is a different amount, the State must confirm its agreement or sign an amendment by September 1, 1980, or 15 days after the appropriation is enacted, whichever is later, in order to have us make its payments to SSI beneficiaries. The State can also withdraw from the agreement, as provided by paragraph (c) of this section.

(f) To make the payments for a State as early as December 1980, we must know its payment amount by November 1, 1980.

§ 260.301 Where we will send checks.

(a) We will send the household's check directly to the SSI beneficiary (or his or her representative payee under Subpart F of 20 CFR Part 416).

(b) It will be a separate check from the regular SSI benefit check.

(c) We will not make energy assistance payments to home energy suppliers or to operators of subsidized or government-operated housing.

§ 260.302 Payment amounts and timing.

(a) A State may have us make payments in up to five different amounts (See Appendix C). The State must specify in the agreement one amount for each county or list of counties.

(b) A State can have us make energy assistance payments, based on SSI rolls, in any one or more of the months of December 1980, and January, February and March 1981. Each month's payment will be made only to individuals who, according to our automated records at the time we process the energy payment, have received an SSI payment for that month.

§ 260.304 Notices to households and States.

(a) We will enclose a general, State-wide notice of eligibility with our energy assistance payments to SSI households in each State.

(b) After making energy assistance payments for a State to its SSI households, we will give the State a tape showing whom we paid, when, how much, and the basis for paying that amount. The tape will be in the same format as the State Data Exchange (SDX) records we give the States showing payments of SSI benefits.

§ 260.306 Appeals.

Under the State Plan the responsibility for conducting a hearing for any dissatisfied SSI beneficiary receiving direct payments from us belongs to the State.

(a) We will forward to the State, for appropriate action, any complaints or appeals we receive about failure to receive a payment or about the amount of the payment. We will include all information we have relevant to the complaint or appeal.

(b) The State must provide a hearing under § 260.360 on request.

(c) If the State decides the household is entitled to a payment, or is entitled to a payment amount other than the amount it received or will receive from us, the State must make the payments.

§ 260.308 State's payment to Social Security Administration.

(a) For benefits to be paid by us, we will withhold from the State's allotment for energy assistance an amount agreed on with the State from which to make payments to SSI households. The amount withheld will include a margin of up to 7 percent for any errors in estimating the number of SSI households. When we have finished making our energy assistance payments to the State's SSI beneficiaries—

(1) We will return to the State any remaining part of the amount we withheld; or

(2) If the payments we made total more than we withheld, the State must pay us the difference.

(b) We will also withhold from the State's allotment half of our administrative costs caused by making energy assistance payments for the State. The State must pay us the other half out of State funds.

§ 260.310 Screening out ineligibles and preventing duplicate payments to households.

(a) To avoid payments to ineligible households and to households that are not vulnerable to rising energy costs and to avoid duplicate payments to households, we will screen out—

(1) The three groups excluded by the definition of SSI benefits in § 260.2;

(2) One member of eligible SSI couples;

(3) People who live in institutions or other living arrangements where they are not vulnerable to rising energy costs (as described in § 260.152), if the State is one whose supplements to SSI benefits we administer and the State tells us, at least 60 days before our first agreed processing date for the State's energy assistance payments, the State's data codes for living arrangements that we should screen out; and

(4) Other people who are on a list of individuals to screen out which the State gives us at least 14 days before our processing date in a form our computers can use. We will furnish States on request our requirements for the format of this tape. To make sure our computers can use the tape, we must have a test copy of the tape, listing individuals to exclude, at least 60 days before our agreed processing.

(b) By a combination of giving us the items required under paragraphs (a)(3) and (4) of this section, for us to screen out payments, and the State's screening its own payments against the record we provide of the payment we made, the State must, unless it has received a waiver under § 260.26, prevent—

(1) Duplicate payments; and

(2) Payments to households that are not vulnerable to energy costs increases.

§ 260.314 State use of SSI payment tapes.

(a) If a State wishes to make payments to SSI households itself rather than having us make them, we will give the State, upon request, a special SDX computer tape screened as in § 260.310(a). The State must reimburse us for our cost for providing this tape.

(b) The tape will reflect SSI payment status for one or more of the months of December 1980, and January, February, and March 1981, at the State's option.

(c) The timetable for arranging for this service is the same as for our making the payments (§ 260.300).

Subpart K—Applications, Notices and Hearings

§ 260.350 Applications.

(a) The State Plan may require an application for energy assistance by categorically eligible households or provide for automatic payments to categorically eligible households who are receiving payments under the Plan. The State must require a member of other eligible households to file an application to establish eligibility for energy assistance.

(b) Where an application is required, it must be written and must be signed under penalty of criminal prosecution if false information is knowingly given which results in a payment to which the applicant is not entitled.

(c) The State Plan must assure that everyone who wishes to apply for assistance is—

(1) Given the opportunity to apply without delay;

(2) Provided assistance, when needed, in completing the application form, or in obtaining required documentation; and

(3) Informed of eligibility requirements and hearing rights under § 260.360.

(d) The State Plan must identify that State's time standard for acting on each application after receiving it.

§ 260.352 Communication assistance for limited English-speaking proficiency and handicapped persons.

(a) The State agency must provide communication assistance as needed to serve persons with limited English-speaking proficiency.

(b) If the agency that receives applications serves an area that contains a substantial number of eligible households with limited English-speaking proficiency, who speak the same language and who are or may be eligible for assistance, the agency must provide—

(1) Bi-lingual staff;

(2) Application forms and literature in the appropriate language;

(3) A translation of the notices required in § 260.358 in the appropriate language and a statement that bi-lingual services are available; and

(4) A statement on the notice in the appropriate language explaining the purpose of the notice and a telephone number to call for more information and bi-lingual assistance.

(c) The agency must provide communication assistance, as needed, to insure that persons with impaired hearing, vision or speech or who are illiterate can learn about the program, know their appeal rights and understand what is needed to determine eligibility. Communication assistance must include helping the individual understand notices and forms, complete forms and obtain necessary information. Assistance may include taped material, material in braille or very large type, use of sign language and other communication aids.

(d) The agency must assure that individuals who are illiterate or handicapped are helped in applying for assistance and in establishing eligibility.

§ 260.354 Criminal penalties for false information.

Anyone who violated the provisions of the Act or who knowingly provides false information in any report required under it must be fined not more than $10,000 or imprisoned not more than five years or both.

§ 260.358 Notices.

The State Plan must assure that—

(a) When the State makes its payment (or, in cases of multiple payments, its first payment) to a household, the State will notify the household of the amount and duration of the household's payments.

(b) The State will send a notice to any household whose application for a payment is denied or whose amount or duration of payments will be less than indicated in the notice under paragraph (a) of this section. The notice must state the reason for the denial or for the decrease in amount or duration.

(c) The notice required in paragraph (a) and (b) of this section will state the household's hearing rights under § 260.360.

§ 260.360 Fair hearing for dissatisfied household.

(a) The State plan must provide the opportunity for a fair hearing before the State agency to any household whose—

(1) Application is denied;

(2) Application is neither approved nor denied within 30 days after application, unless the delay was caused by the household's lack of cooperation in providing necessary and reasonable evidence;

(3) Payment is less than the household believes it should be; or

(4) Payments will be made in a lesser amount or duration than the household was notified earlier.

(b) The hearing must meet the following standards—

(1) It must be held in a place reasonably convenient to the claimant;

(2) The claimant must have a chance before the hearing to review the case file and any written evidence that will be used in the hearing;

(3) The hearing officer must be a State employee not involved in the decision being appealed;

(4) The claimant must have the right to—

(i) Bring to the hearing a representative of his or her choice;

(ii) Present oral and written statements and other evidence;

(iii) Have witnesses subpoenaed;

(iv) Cross-examine witnesses; and

(v) Bring an interpreter if needed;

(5) Testimony must be under oath; and

(6) The hearing must be recorded and the decision must be based on the record.

(c) The State may provide a preliminary appeal step, either as an evidentiary hearing before a local agency or as an informal conference, or both, to try to resolve the issue before conducting a State agency hearing.

(d) The State plan must observe the following time limits for hearing—

(1) The State may require that a hearing be requested within a fixed time period after notice of payment, notice of denial or notice of decreased payment amount or duration, but that time must be at least—

(i) 60 days after sending notice of payment or denial; and

(ii) 10 days after sending notice of decreased payment amount or duration.

(2) If a claimant requests a hearing within the time limit allowed, the hearing must be held, a decision issued, and action to carry out the decision taken—

(i) Within 30 days after the request, regardless of whether the State provides a preliminary appeals step, if denial, delay or payment amount is the issue; or

(ii) Before decreasing or stopping payments, if that is the issue.

(e) The State must assure that funds are available to pay successful appeals.

Appendix A.—Lower Living Standard Income Levels

The lower living standard income level varies by location and size of household. First, on Table 1 find the Standard Metropolitan Statistical Area (SMSA) or non-SMSA area for which you want the living standard. That gives the living standard for a household of 4. To find the income level for a household of other than 4, identify the line in Table 2 which contains, in the column for a family size of 4, the standard you found in Table 1. Then track across that line to the desired family size column.

Table 1—*Family of 4*

A. Northeastern States (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont), and Virgin Islands	
Boston SMSA	$13,620
New York SMSA	12,950
Other SMSA's	12,880
Non-SMSA	12,420
B. North Central States (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin)	
Chicago SMSA	$12,890
Milwaukee SMSA	12,690
Minneapolis-St. Paul SMSA	12,790
Other SMSA's	12,600

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Table 1—*Family of 4*—Continued

Non-SMSA	12,240
C. Southern States (Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia), American Samoa, Northern Marianas, Puerto Rico, and Trust Territory of Pacific Islands	
Baltimore SMSA	$12,770
Houston SMSA	12,100
Washington, D.C.-Maryland-Virginia SMSA	13,630
Other SMSA's	11,960
Non-SMSA	11,180
D. Western States (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming)	
Los Angeles-Long Beach SMSA	$13,400
San Francisco-Oakland SMSA	13,910
Seattle-Everett SMSA	13,910
Other SMSA's	13,240
Non-SMSA	13,540
E. Alaska	
Anchorage SMSA	$19,690
Non-SMSA	18,510
F. Hawaii and Guam	
Honolulu SMSA	$16,510
Non-SMSA	15,520

Table 2.—*Adjustment of Lower Living Standard Income Level by Household Size*

1	2	3	4	5	6[1]
$4,020	$6,600	$9,060	$11,180	$13,190	$15,430
4,310	7,060	9,690	11,960	14,110	16,500
4,360	7,140	9,800	12,100	14,280	16,700
4,410	7,220	9,910	12,240	14,440	16,890
4,470	7,330	10,060	12,420	14,660	17,140
4,540	7,430	10,210	12,600	14,870	17,390
4,570	7,490	10,280	12,690	14,970	17,510
4,600	7,530	10,340	12,770	15,070	17,620
4,600	7,550	10,360	12,790	15,090	17,650
4,640	7,600	10,430	12,880	15,200	17,770
4,640	7,610	10,440	12,890	15,210	17,790
4,660	7,640	10,490	12,950	15,280	17,870
4,770	7,810	10,720	13,240	15,620	18,270
4,820	7,910	10,860	13,400	15,810	18,490
4,870	7,990	10,970	13,540	15,980	18,690
4,900	8,040	11,030	13,620	16,070	18,800
4,910	8,040	11,040	13,630	16,080	18,810
5,010	8,210	11,270	13,910	16,410	19,200
5,590	9,160	12,570	15,520	18,310	21,420
5,940	9,740	13,370	16,510	19,480	22,780
6,660	10,920	14,990	18,510	21,840	25,540
7,090	11,620	15,950	19,690	23,230	27,170

[1]For each household member over 6 persons, add to the 6-person level an amount equal to the difference between the 6-person level and the 5-person level.

Source: Department of Labor, Employment and Training Administration, Office of Comprehensive Employment Development.

Appendix B.—General Administrative Requirements for the Low Income Energy Assistance Program

A. Single State Agency Responsibility

The single State agency designated to administer the State's low income energy assistance program under Pub. L. 96–223, accepts responsibility for the administration of the program. The State agency must administer the program in accordance with the requirements of 45 CFR Part 74 and § 260.50. This includes responsibility for eligibility and administrative policy, and for operational procedures, including: 1. Outreach; 2. Intake process; 3. Methods of eligibility determination; 4. Maintenance of adequate records supporting the eligibility decisions, including a consideration of income and energy cost increases; 5. Method of payment or issuance of vouchers and cash flow; 6. The accounting system; 7. Procedures for monitoring agency performance; 8. Staffing and plans for staff training related to the energy program; 9. Procedures for handling complaints and review process; and 10. Remedial methods for correction of errors.

B. Agency Delegation

If the single State agency uses one or more other agencies to perform any operational function of the energy program, the agencies must enter into an agreement which must specify, at a minimum—

1. The division of responsibility among or between the agencies;

2. The manner in which the single State agency retains control and supervision of the program with respect to—a. Eligibility policy; b. Operational implementation; c. Payment process and methods of reporting; d. Recording and accounting procedures; e. Monitoring of agency performance; f. Handling of complaints and review processes including fair hearings; g. Staffing and staff training plans; h. Administrative cost reimbursements; and i. Benefit calculations.

The agreement must also specify remedial methods for the correction of admininstrative errors, if the agency or agencies providing operational support fail(s) to carry out the provisions of the agreements.

Agreements entered into must be submitted to us as an attachment to the State Plan and are subject to review and approval by us.

C. Expenditures Not Reimbursable Under the Energy Assistance Program

The following expenditures are not subject to Federal reimbursement and must not be claimed—

1. Energy assistance payments to or on behalf of households not meeting the eligibility and payment requirements under the State plan;

2. Tax credits which are not in accordance with the State plan;

3. Any portion of an energy assistance payment which exceeds the amount set forth in the State plan;

4. Allowable administration and planning costs in excess of the limitations in 45 CFR 260.68;

5. Allowable assistance payments, tax credits, and administration and planning costs in excess of the amount we allot to the State;

6. Administrative costs which do not meet the requirements of 45 CFR Part 74 (Administration of grants), 45 CFR 205.150 (Cost allocation), and 45 CFR 205.160 (Non-expendable personal property);

7. Energy assistance payments made to or on behalf of eligible households or tax credits after September 30, 1981; and

8. Any expenditures which are not in accordance with the approved State plan.

We will determine the allowability of costs claimed for reimbursement under the energy assistance program. A State may appeal our determination that expenditures are not reimbursable under the energy assistance program. We will establish procedures for such appeals.

D. Allowable Administrative Costs

Costs charged to the administration of the energy assistance program will meet the requirements set forth in 45 CFR Part 74 (Administration of grants), 45 CFR 205.150 (Cost allocation), 45 CFR 205.160 (Non-expendable personal property), and the following criteria—

1. *For costs which do not require allocation*—those costs that result directly from carrying out the State plan;

2. *For costs which must be allocated*—those costs incurred for common or joint purposes; not readily assignable to a process, function, or activity; and allocated to the administration of the State Plan in accordance with an approved cost allocation plan.

Any State agency having administrative costs chargeable to the energy assistance program must have a cost allocation plan for allocating costs to the administration of the energy assistance program. That plan must be approved by the Regional Director, Division of Cost Allocation, before any allocated costs can be allowed for Federal reimbursement.

Any local agency having administrative costs chargeable to the energy assistance program must have a cost allocation plan available for review. That plan must show the methods used for allocating the costs to the energy assistance program, except when the local agency has an approved cost allocation plan or indirect cost rate. In these cases, the local agency must execute an amendment to its approved plan.

If an agency, other than those local agencies referred to above, does not have a Federally approved cost allocation plan or indirect cost rate, it must establish one in order to claim administrative costs. The Division of Cost allocation of the Social Security Administration's Regional office may be called upon for assistance.

Only those costs that are incurred by the State in administering its approved energy assistance plan, and which are not allocated to and claimed for Federal reimbursement under any other Federal program, may be claimed as a cost of administering the State plan.

We will not reimburse costs associated with the State or local agency's ongoing activities—e.g., eligibility determination, redeterminations or case maintenance for any program other than the energy assistance program.

E. Accounting System

The State's designated agency, any other involved State agency, and, where applicable, any local agency, having costs chargeable to the energy assistance program, will maintain an accounting system and supporting fiscal records adequate to audit and otherwise verify that the energy assistance payments and administrative costs claimed for reimbursement meet Federal requirements.

F. Audits and Reviews

The operations of the State will be subject to review by us. The State will make available the records and documentation requested for review and audit.

G. Records

The State agency must, in discharging its fiscal accountability, maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with Federal requirements. Under this requirement, State and local agencies must retain accounting records for the energy assistance program for a period of 3 years, subject to the following conditions—a. The 3 year retention period starts from the date of submission of the final expenditure report; b. The records must be retained beyond the 3 year period if audit findings have not been resolved; c. Records for nonexpendable property which was acquired with Federal grant funds must be retained for 3 years after final disposition of the property.

H. Recovery of Erroneous Payments

States may recover erroneous payments made. Whenever a State does recover erroneous payments, appropriate adjustments will be made in the State's report of expenditures.

I. Safeguarding of Information

The use or disclosure of information concerning recipients of the energy assistance program will be limited to purposes directly connected to the administration of assistance programs as provided in 45 CFR 205.50 (Safeguarding information).

J. Funds Not Expended

Funds not spent under the State's Plan must be returned to us. We will issue a grant decreasing the State's grant authority for the energy assistance program by the amount of any funds to be returned to us. The State must return the funds by check or it may request that the amount be offset against its grant authority for its Aid to Families with Dependent Children program under Title IV–A of the Social Security Act.

K. Personnel Standards

The State must comply with 45 CFR Part 80, 84 and § 205.200 governing merit system, equal opportunity, affirmative action, protection of civil rights and provision for the handicapped.

Appendix C.—Guidelines for Varying Payment Amounts

1. Payment Variations

The purpose of this appendix is to give States guidance on reasonable payment variations and to provide examples of reasonable standards.

Under § 260.154, States must consider average home energy expenditure in computing benefit amounts. Where actual expenditure data are not available, heating degree data for the area and cost by type of energy source may be substituted.

With regard to heating degree day variations, we believe it is reasonable to establish a separate category for each region of the State which experiences a difference of 500 degree days or more. Therefore, if the 6 Northern counties of State X average 525 heating degree days more than the 10 Southern counties of the same State, the State should set up two regions for purposes of payment under its energy assistance program.

In the same example, if a variation in the average costs of different fuel types exists in that State, a payment variation by fuel types should be built into the program. For example, if the cost of fuel oil is 30% higher than the cost of gas and the cost of gas is 25% higher than the cost of electricity, the State should establish three different payment categories by fuel type. In addition, significant variation in the cost of a single fuel type by Region would also warrant separate payment categories. In each case, it is reasonable to consider a 20% or greater variation in average costs to be significant enough to warrant a different payment amount category.

If less than about 5% of the population uses a specific fuel type, a separate payment category may not be necessary. If in the same State, for example, the cost of wood is 30% less than the cost of electricity, but only 2% of the population uses wood, the State may want to place wood users in the nearest payment category (in this case, electricity) rather than create a separate payment category for wood as a fuel type.

Another requirement under § 260.154 is that the highest level of benefits goes to those with the lowest incomes and highest energy burden. If the highest benefit goes to the lowest income families in each climate region for each fuel type, the payments will reflect the proportional burden of energy cost in relation to need. Income ranges by dollar amount or by percentages of the lower living standard would both be reasonable measures of income variation.

If State X, in the example above, chooses to use dollar income ranges, its payment variations could be set according to a chart like Chart 1:

	Fuel Oil		Gas		Electricity	
Income ($)	Reg I	Reg II	Reg I	Reg II	Reg I	Reg II
under 3,000						
3000 - 6000						
6001 - 9000						
over 9000						

Chart 1

Actual payment amounts could then be set based on estimates for fuel cost by type and region, or by variations on a base benefit amount. The boxes in Chart 1 would either contain payment amounts or multipliers to be applied against a base benefit, and would reflect the differences in the burden attributable to each category of household.

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Other variables for payment categories may be desired to reflect other energy cost variations—such as size of dwelling—if the State wishes.

Households which pay undesignated portions of their rent may be either an additional payment category in the chart developed by the State, or could be accommodated with another chart. This will apply to the categorical automatic payment example described below as well.

2. Categorical Automatic Payments

Chart 1 above is most practical in a program which pays benefits upon case-by-case applications. If a State makes automatic payments to categorically eligible households, however, it may not be able to vary those automatic payments by all of the factors in that chart. It might use one of the following alternative method of payment for serving those households categorically eligible.

The benefit level for automatic payments to categorically eligible households might be based only on household income and heating degree days for the climatic zone in which the household is located. This information is readily available. Additional variations could be used if additional information is solicited from categorically eligible households on such item as fuel type or actual energy expenditures.

For example, if State Y has the same two climatic zones as State X above, but for reasons of administrative efficiency or other reasons chooses to make automatic payments to categorical recipients, its payment chart constructed from known information could be as illustrated in Chart 2:

Income ($)	Climatic Reg I	Climatic Reg II
under 3,000		
3000 - 6000		
6001 - 9000		
over 9,000		

Chart 2

Since this payment chart reflects only some of the factors used in identifying the burden of energy costs, the State must establish an additional payment mechanism to reflect variations in fuel burdens as well. One way to do this would be for the State to base the payments in Chart 2 on the least expensive fuel type used in State Y. The State could then supplement those payments with additional payments to households using more expensive fuel types by establishing a vendor line of credit with suppliers of the more expensive fuel types. Thus, the total benefit to households would reflect burden variations, including fuel costs. Alternatively, the State could refer categorically eligible households to an agency responsible for energy assistance applications for income eligible households under the State's plan. An application for additional assistance, up to the payment level set for the appropriate fuel type, or according to other variables the State may set, would then be processed.

If a State did not wish to, or was unable to, vary the automatic payment by income or Region, a flat payment for the smallest amount in the State's plan could be sent to categorically eligible households. Additional assistance would then have to be made available based on the other variables (such as income fuel type and climate) in order to reflect the burden of energy costs. This amount could be available through an application or by a vendor line of credit.

In a variation of the above example, if a State makes an automatic payment to SSI recipients (administered either by us or the State), it may choose to send either a flat amount or an amount only varied by climatic region to all SSI recipients. To meet the other priorities of the Act, additional assistance must also be made available based on variables such as income and cost of energy by fuel type. However, in the case of SSI, and in other instances where income ranges for recipients may be very narrow, an income variation may not be necessary.

Under all payment approaches, all households not vulnerable to energy costs must be screened out. Under an application program this can readily be done as part of the application process; with automatic payments it is the responsibility of the State to achieve this screen, collecting whatever data is necessary prior to making payments.

We believe the guidelines discussed in this appendix (i.e., 500 degree day difference for determining regions, 20% variation in cost of fuel type used by at least 5% of the population) are reasonable standards for establishing payment categories. If the State can justify different standards for creating payment categories, it may do so.

Appendix D—Guidelines for Households Not Vulnerable to Energy Cost Increases

Payments may not be made to households that are not vulnerable to energy cost increases. This will require that States screen applicants to determine those who are not vulnerable for rising energy costs. This screen will have to be made prior to our sending out payments on behalf of a State to SSI recipients, prior to any automatic payments that may be sent out by the State, and at the time of application for other households under the State plan.

In order to assist the State in this screening process we have developed the following list that gives examples of households that may not be vulnerable to energy cost increases. These examples are not an all inclusive list, but should give some guidance about what living arrangements to look for in screening for energy vulnerability.

(1) Residents of some public housing projects;

(2) Residents of some rent-controlled housing;

(3) SSI recipients living in "congregate" care or "domiciliary" care facilities or foster care placements who receive SSI State supplements which correspond to these living arrangements; and

(4) Others in public or private institutions whose living costs are subsidized by State or local governments. Examples of such individuals include, but are not limited to:

(i) Residents of vocational education facilities whose living costs are subsidized; and

(ii) Persons in nursing homes or medical institutions for whom Medicaid pays over 50% of costs.

(5) Residents of group living facilities who share the burden of energy cost increases. These residents must be screened to prevent payments that total more than the amount for a similarly situated household. Payments can be set lower since residents are only partially vulnerable for energy costs.

[FR Doc. 80-16346 Filed 5-29-80; 8:45 am]
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federal register

Friday
May 30, 1980

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Modification of Graduated Payment Mortgage Program; Interim rule

DEPARTMENT OF HOUSING AND

alter the existing Section 245 program

homebuyer, and will also help stimulate

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

[Docket No. R-80-808]

Modification of Graduated Payment Mortgage Program; Interim Rule

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner; Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: The Housing and Community Development Amendments of 1979 provided for an alternative Graduated Payment Mortgage program under Section 245 of the National Housing Act. Under the new program, a smaller cash investment is required of eligible homebuyers. This provision should make homeownership available to a broader segment of the population.

DATES:

Effective date: June 30, 1980

Comments due: Comments must be received on or before July 29, 1980.

ADDRESS: Written comments should refer to the docket number and date of this rule and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The interim rule may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Coonts, Acting Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street SW., Washington, D.C. 20410. (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1979 amended Section 245 of the National Housing Act to broaden the availability of graduated payment mortgages by modifying existing restrictions on the maximum loan-to-loan ratio permitted for such mortgages. The amendment does not alter the existing Section 245 program, but instead would provide for an alternate program, which would permit the principal obligation of the mortgage to rise during the mortgage term to an amount higher than the initial appraised value of the property. The following limitations have been placed on this program: (1) The program is being limited by regulation to properties approved prior to the start of construction or substantial rehabilitation, and properties under construction involving Section 203(b) mortgage insurance which are covered by approved insured warranty plans. (2) The program is available only to mortgagors who have not owned a home within the three-year period preceding their application for a graduated payment mortgage. (3) The program would be limited to applicants for mortgage insurance who could not reasonably afford to purchase the home by utilizing the existing Section 245 program or other FHA insurance programs. (4) The mortgage balance could not exceed the lesser of: (a) the limits, when no deferred interest is added, prescribed in Sections 203.18(a), 203.18(b), and 203.18a of HUD regulations, or (b) an amount which, when all deferred interest is added, can never exceed 113 percent of the original appraised value of the home, or 97 percent of the projected value of the property which shall be determined by increasing the value at a rate not to exceed 2½ percent per annum during the period of increasing payments to principal and interest.

(5) Maximum mortgage amounts will be established locally based upon an appraised value which may not exceed 110 percent of the median prototype costs determined for the area in which the property is located, not to exceed the maximum mortgage amount for Sections 203(b) and 234(c). (6) The activity level of the program is limited to 10 percent of the total amount of FHA one- to four-family mortgages insured in the preceding fiscal year or 50,000 mortgages, whichever is greater. (7) The program is limited to two graduated mortgage payment plans providing for increasing mortgage payments for a period of 10 years at a rate of 4.9 percent per year or for a period of 5 years at a rate of 7½ percent per year.

Due to sharp increases in the cost of housing, many middle-income families and individuals have been excluded from homeownership. This interim regulation will make homeownership available to a broader segment of the population, particularly the first time homebuyer, and will also help stimulate and stabilize the production of housing.

The Secretary has determined that this program should be made available to the public as soon as possible since the implementation of this program will make homeownership possible for potential purchasers who are priced out of the present housing market. Accordingly, the Secretary has found that the delay that would result from providing an opportunity for public comment prior to the effective date of this rule would be contrary to the public interest. Thus, this rule will become effective 30 days after publication, with a 60-day public comment period following such publication.

The Department's initial determination was that the numerical criteria which trigger the preparation of a Regulatory Analysis would not be exceeded. However, due to the innovative nature of this program, the Department has subsequently decided to prepare a Regulatory Analysis, which will be available for public inspection in the near future. Also, it is recognized that since this program is unique, close monitoring of actual loss experience is necessary. The Department intends to review this experience and if losses exceed reasonable expectations, appropriate measures will be implemented.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of Rules Docket Clerk at the address set forth above. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Parts 203 and 234 are amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. A new § 203.46 is added as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

A mortgage containing provisions for varying rates of amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart subject to compliance with additional requirements of this section if the mortgagor could not reasonably afford to purchase the property by means of a mortgage insured under any other one-to four-family mortgage insurance program.

(a) The mortgagor shall not have owned a home within the three-year period preceding the date of application for mortgage insurance.

(b) The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(c) The mortgage amount shall not exceed the lesser of:

(1) The limits prescribed in §§ 203.18(a), 203.18(b), and 203.18a, provided that the appraised value shall not exceed 110 percent of the median prototype housing cost limits as established by the Commissioner for the market area in which the property is located, or

(2) An amount which, when added to all accrued mortgage interest which will be unpaid pursuant to a financing plan approved by the Secretary, shall not at any time exceed the lesser of:

(i) 113 percent of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance, or

(ii) 97 percent (or if the mortgagor is a veteran, the percentage prescribed for veterans in § 203.18(a)) of the projected value of the property which value shall be determined by increasing the appraised value as of the date the mortgage is accepted for insurance at a rate of 2½ percent per annum during the period of increasing payments to principal and interest.

(d) The mortgage shall cover a dwelling which:

(i) Was approved for mortgage insurance prior to the beginning of construction or substantial rehabilitation.

(ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs prior to the beginning of construction or substantial rehabilitation.

(iii) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction.

(e) The mortgage must contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of his/her reasonable ability to pay as determined by the Secretary. The sum of the payments to principal and/or interest shall increase annually for a period of ten years at a rate of 4.9 percent per year or for a period of 5 years at a rate of 7½ percent per year. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments, the sum of the payments to principal and interest in each month shall be substantially the same.

(f) The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(g) Sections 203.21, 203.43, 203.43a, 203.43b, 203.44, and 203.50 through 203.102 shall not be applicable to this section.

(h) The aggregate amount of the initial principal obligation of mortgages which are insured under this section and § 234.76 in any fiscal year shall not exceed 10 percent of the aggregate amount of the initial principal obligation of all mortgages covering one- to four-family properties which are insured during the preceding fiscal year, or 50,000 mortgages, whichever is greater.

(i) "Substantial rehabilitation" as used in this section means the improvement of a unit in substandard condition to a decent, safe and sanitary level, meeting FHA's standards for mortgage insurance. Units are in substandard condition when, while they may be structurally sound, they do not provide safe and adequate shelter, and in their present condition endanger the health, safety, or well-being of the occupants. Such housing has one or more defects, or a combination of potential defects in sufficient number or extent to require considerable repair or rebuilding, or is of inadequate original construction. The defects are either so critical or so widespread that the structure should be extensively repaired. The estimated cost of rehabilitation should normally not be less than 25 percent of the value of the property (including land) after rehabilitation. The rehabilitation should be of such scope that, when completed, all the components in the house are operable and should not be anticipated to require any work or major expense over and above normal maintenance for the first one-fourth to one-third of the mortgage term.

(j) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to Section 245 of the National Housing Act.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

2. A new § 234.76 is added as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

A mortgage containing provisions for varying rates of amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section if the mortgagor could not reasonably afford to purchase the property by means of a mortgage insured under any other one-to four-family mortgage insurance program.

(a) The mortgagor shall not have owned a home within the three-year period preceding the date of application for mortgage insurance.

(b) The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(c) The mortgage amount shall not exceed the lesser of:

(1) The limits prescribed in §§ 234.27(a) and 234.27(c), provided that the appraised value shall not exceed 110 percent of the median prototype housing cost limits as established by the Commissioner for the market area in which the property is located.

(2) An amount which, when added to all accrued mortgage interest which will be unpaid pursuant to a financing plan approved by the Secretary, shall not at any time exceed the lesser of:

(i) 113 percent of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance, or

(ii) 97 percent of the projected value of the property which value shall be determined by increasing the appraised value as of the date the mortgage is accepted for insurance at a rate of 2½ percent per annum during the period of increasing payments to principal and interest.

(d) The construction or substantial rehabilitation of the condominium project shall have been completed not more than one year prior to the application for mortgage insurance and the family unit shall have had no previous occupant other than the mortgagor.

(e) The mortgage must contain complete amortization provisions satisfactory to the Secretary requiring

monthly payments by the mortgagor not in excess of his/her reasonable ability to pay as determined by the Secretary. The sum of the payments to principal and/or interest shall increase annually for a period of ten years at 4.9 percent per year or for a period of 5 years at a rate of 7½ percent per year. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases or payments, the sum of the payments to principal and interest in each month shall be substantially the same.

(f) The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(g) Sections 234.36 and 234.70 shall not be applicable to this section.

(h) The aggregate amount of the initial principal obligation of mortgages which are insured under this section and § 203.46 in any fiscal year shall not exceed 10 percent of the aggregate amount of the initial principal obligation of all mortgages covering one- to four-family properties which are insured during the preceding fiscal year, or 50,000 mortgages, whichever is greater.

(i) "Substantial rehabilitation" as used in this section means the improvement of a unit in substandard condition to a decent, safe and sanitary level, meeting FHA's standards for mortgage insurance. Units are in substandard condition when, while they may be structurally sound, they do not provide safe and adequate shelter, and in their present condition endanger the health, safety, or well-being of the occupants. Such housing has one or more defects, or a combination of potential defects in sufficient number or extent to require considerable repair or rebuilding, or is of inadequate original construction. The defects are either so critical or so widespread that the structure should be extensively repaired. The estimated cost of rehabilitation should normally not be less than 25 percent of the value of the property (including land) after rehabilitation. The rehabilitation should be of such scope that, when completed, all the components in the house are operable and should not be anticipated to require any work or major expense over and above normal maintenance for the first one-fourth to one-third of the mortgage term.

(j) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to Section 245 of the National Housing Act.

(Secs. 203, 211, 245 of National Housing Act, as amended; 12 U.S.C. 1709, 1715b, 1715z-10)

Issued at Washington, D.C., April 22, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-16463 Filed 5-29-80; 8:45 am]

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Federal Register

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INFORMATION AND ASSISTANCE

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Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MAY

29001-29262.....1
29263-29554.....2
29555-29780.....5
29781-30058.....6
30059-30414.....7
30415-30610.....8
30611-31044.....9
31045-31290.....12
31291-31694.....13
31695-31926.....14
31927-32286.....15
32287-32654.....16
32655-33588.....19
33589-33944.....20
33945-34256.....21
34257-34860.....22
34861-35304.....23
35305-35800.....27
35801-36042.....28
36043-36346.....29
36347-37174.....30

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-16 of Apr. 14, 1980 (Amended by Presidential Determination No. 80-18 of May 2, 1980).....29787

No. 80-17 of May 1, 1980.....29785

No. 80-18 of May 2, 1980.....29787

Executive Orders:

11609 (Amended by EO 12215).....36043

11713 (Revoked by EO 12215).....36043

12169 (Amended by EO 12213).....29781

12212.....29557

12213.....29781

12214.....29783

12215.....36043

Proclamations:

4754.....29555

4755.....30059

4756.....30415

4757.....31695

4758.....31927

4759.....32655

4760.....33945

4761.....33947

4 CFR

418.....31929

5 CFR

Ch. XIV.....36349

213.....35305, 36347-36348

300.....29530

351.....29263

891.....30611

1201.....34861

Proposed Rules:

213.....36416

351.....31379, 33640

412.....29300

511.....34895

532.....31382

550.....31379

591.....36416

6 CFR

705.....36047

706.....31935

707.....31935

Proposed Rules:

Ch. VII.....30445

7 CFR

2.....30417, 31697, 33589

6.....33589

25.....30417

210.....32502

230.....33589

319.....31572, 35305

418.....29001

419.....29001

421.....29001

600.....30061

729.....34861

799.....32312

905.....35305

907.....29002, 30418, 31698, 31953, 34257, 36048

908.....29002, 30418, 31953, 34257, 36048

910.....29265, 30612, 32308, 34863, 36349

915.....36350

916.....32308

917.....32309, 33596

918.....29003, 36049

928.....29559

944.....36350

953.....31045, 36353

1036.....36354

1124.....29559, 34863

1280.....32572

1421.....31699, 35801

1425.....31699

1430.....30419

1435.....33597

1464.....32311

1701.....32312

1945.....29265, 35782

1980.....29265

2880.....31692

Proposed Rules:

Subtitle A.....32192

Ch. I.....32192

Ch. II.....32192

Ch. III.....32192

Ch. IV.....29056, 32192

Ch. V.....32192

Ch VI.....32192

Ch. VII.....32192

Ch. IX.....32192

Ch. X.....32192

Ch. XI.....32192

Ch. XII.....32192

Ch. XIV.....29302, 32192

Ch. XV.....32192

Ch. XVI.....32192

Ch. XVII.....32192

Ch. XVIII.....32192

Ch. XXI.....32192

Ch. XXIV.....32192

Ch. XXV.....32192

Ch. XXVI.....32192

Ch. XXVII.....32192

Ch. XXVIII.....32192, 36417

Ch. XXIX.....32192

6.....33640, 33642

29 30080
274 35335
401 29056
427 30445
437 29056
760 31393
800 32284
810 30446
908 29063
910 35829
911 31726
913 30638
915 ..... 29843, 33643
944 ..... 29843, 31726, 33643
953 29846
971 32319
991 30447
1002 32321
1004 34898
1036 30638
1071 30447
1073 30447
1093 35168
1097 30447
1102 30447
1104 30447
1106 30447
1108 30447
1120 30447
1126 30447
1132 30447
1138 30447
1207 31118
1701 ..... 29847, 34898
1804 30364
1930 30364
1944 30364
2856 35345
2859 30980

8 CFR

101 32657
103 ..... 32657, 33949
204 32657
211 32657
223 32657
223a 32657
231 32657
239 29243
242 35802
245 32657
246 32657
247 32657
249 32657
261 32657
264 32657
299 32657

Proposed Rules:

211 ..... 29848, 30062
214 29848
242 30063

9 CFR

50 32287
78 29267
82 30612
92 ..... 29268, 36358
94 29270

Proposed Rules:

Ch. I 32192
Ch. II 32192
Ch. III 32192
Ch. IV 32192
1 36427
2 36427
3 36427
92 29302
308 30980
381 30980

10 CFR

35 31701
50 30614
205 33950
210 ..... 36049, 36359
211 29546
212 ..... 29546, 36049
376 36784
390 36784
456 33643
516 35206
703 36053
798 31604
1023 36053
1024 29764

Proposed Rules:

Ch. II 30448
Ch. III 30448
Ch. X 30448
2 ..... 34279, 35345
20 31118
50 ..... 34279, 36082
60 31393
108 35764
205 32322
210 34846
211 ..... 29770, 31682, 32003, 34008, 34846, 36090, 36427
212 ..... 29553, 32003, 34846
376 35830
461 31408
474 34008
477 34015
486 32560
490 ..... 35788, 36428

11 CFR

4 31291
5 31292
100 34865
110 34865

Proposed Rules:

140 32003
141 32003
142 32003
143 32003
144 32003
145 32003
146 32003
9001 32003
9002 32003
9003 32003
9004 32003
9005 32003
9006 32003
9007 32003
9009 32003

12 CFR

VII 32290
205 31705
217 36053
226 ..... 33599, 35802
265 34868
303 30616
309 31294
524 31045
526 36361
528 31954
531 36361
544 36361
545 ..... 31046, 32288, 36361
561 ..... 31050, 36361, 36371
563 36361
701 ..... 29270, 34869, 34870
745 35802
1201 31706
1202 32288
1203 31707
1204 31710

Proposed Rules:

Ch. V 31119
Ch. VII 35346
211 30081–30082
225 30082
226 ..... 29702, 33644
523 31727
545 31727
556 31121
563 31408
590 ..... 13122, 35347
1204 32323

13 CFR

Proposed Rules:

Ch. I 30338
108 31410
121 33645
304 30320
305 30320
306 30320
307 30320
308 30320
315 30320

14 CFR

11 35306
13 35306
39 ..... 29004, 29005, 29007, 29008, 29560–29562, 30421, 31052, 32659, 34258–34261, 35307–35310, 35313, 36054
71 ..... 29009, 29563, 29564, 30422, 31053, 31971, 32661, 34261–34263, 36054–36057
73 ..... 30424, 31974
97 ..... 29565, 31974
121 ..... 30424, 31057
152 34782
159 35314
183 32668
231 31059
249 31059
250 30063
302 34264
380 32669
385 30065
399 36058
1241 35321

Proposed Rules:

Ch. I 31125, 32700
39 ..... 30448, 32011, 36091
47 34286
49 34286
71 ..... 29063, 30449, 31128, 32702, 34289, 34290, 35348 36092, 36093
75 30452
121 29064
127 29064
135 29064
152 30398
199 30398
221 ..... 31411, 34291
250 ..... 30086, 31413
385 31411

15 CFR

30 29567
369 29010
385 ..... 29568, 30617, 33955
399 ..... 29568, 30617
502 29271
503 29272
2006 34870

Proposed Rules:

Subtitle A 35832
936 ..... 33645, 33649
937 33645

16 CFR

0 36338
1 36338
2 36338
4 36338
13 ..... 29010, 31712, 31979, 36062, 36372
1025 29206

Proposed Rules:

13 ..... 30650, 31416, 34291, 34293, 34296, 35832, 36428
1512 ..... 32705, 35348

17 CFR

1 34873
15 ..... 30426, 31713
200 36063
230 29275
240 ..... 33957, 36075
241 36374
276 34876

Proposed Rules:

21 ..... 31731, 36094
229 31733
230 29847
240 ..... 29853, 30454, 31418, 31733
249 33650
270 29067

18 CFR

1 31059
35 31294
141 ..... 30066, 33600
154 29011
250 33600
260 ..... 30066, 33600
270 29569
271 ..... 29569, 36076
273 30068
274 35322
282 ..... 29573, 31300, 31622, 31980, 33601, 36375
284 34264
292 ..... 33603, 33958

Proposed Rules:

Ch.I 31743
1 36094
2 ..... 31744, 36094
3c 36094
141 36428
260 36428
270 35348
271 31744
273 31418
284 ..... 34299, 34302

19 CFR

4 36376
6 29247
113 35803

144 36376
151 36376
153 35803
159 ..... 35803, 36376
200 31988
353 30618
355 ..... 30619, 33964

20 CFR

655 29854
675 33846
676 33846
677 33846
678 33846
679 33846
680 33846

Proposed Rules:

416 35838
676 33923
677 33923
678 33923
679 33923

21 CFR

5 32550
50 36386
101 29275
201 32550
207 32393
250 31303
520 ..... 31304, 32294, 33604
522 ..... 29275, 29789
540 ..... 29276, 32294
561 32295
610 32396
660 32296

Proposed Rules:

70 32324
109 30984
110 30984
182 ..... 29304, 32324
184 ..... 29304, 32324
225 30984
226 30984
330 31422
331 35349
346 35576
349 30002
355 33650
500 30984
509 30984
680 29305
1030 29307

22 CFR

51 30619
143 ..... 31713, 34877

Proposed Rules:

51 34302

23 CFR

663 29015

Proposed Rules:

420 30398
450 30398
625 34302
630 30398
1204 30398

24 CFR

111 31880
201 36392
203 ..... 29277, 29573, 30602, 31716, 33964, 34878, 36393, 36840
204 ..... 30602, 31716, 33964, 34878
207 36394
213 ..... 29277, 30602, 33964, 34878, 36393, 36394
220 ..... 30602, 33964, 34878 36394
221 ..... 29277, 30602, 31894 36394
227 29277
232 ..... 36394, 36395
234 ..... 29277, 30602, 36393, 36840
235 ..... 29277, 30602, 33964, 34878
236 36394
240 ..... 33964, 34878
241 36394
242 36394
244 36394
275 29279
841 ..... 29279, 34265
865 30346
868 30349
885 31990
3280 29539

Proposed Rules:

203 29855
215 31132
234 29855
241 30352
570 ..... 30328, 31262, 33651
571 30455
600 30330
865 33651
890 35776

25 CFR

11 29790

Proposed Rules:

55b 30302
172 29070

26 CFR

1 ..... 33969, 33971, 34879
301 33973

Proposed Rules:

Ch. I 36430
1 ..... 29308, 34016, 34303 36431
48 29309
51 34899

27 CFR

Proposed Rules:

19 33976
178 33651
179 33978
181 33651
194 33978
197 33978
245 33978
250 33978
251 33978
252 33978

28 CFR

0 ..... 31061, 34268, 34269
2 33604
16 32670
45 ..... 29574, 31717
50 29530
544 33938
545 33938
546 33938
552 33938
572 33938

Proposed Rules:

42 ..... 32710, 33652

Proposed Rules:

42 33652
524 33942

29 CFR

40 ..... 34879, 35323
56 29280
1601 33605
1607 29530
1613 36396
1910 35212
1913 35284
1990 35212
2702 33606

Proposed Rules:

Ch. XII 29590
4 34899
1603 36431
1903 33652
1928 35298
2613 34899

30 CFR

57 32300
250 29280
725 34879
731 33926
732 33926

Proposed Rules:

Ch. VII 29072, 29309–29311, 29855, 32328, 34907
19 32554
70 31426
71 31426
90 31426
211 32715
250 29309
715 32331
716 ..... 30651, 32331
816 32331
817 32331
826 32331
886 30382

31 CFR

13 30619
51 29530
342 32301
515 32671
535 29287

32 CFR

Ch. I 30623
369 34880
370 34880
371 34881
372 34882
555 32302
706 ..... 31116, 32671
811a 32301
880 31113

Proposed Rules:

Ch. I 36432
Ch. V 36432
Ch. VI 36432
Ch. VII 36432
286b 29590
1900 29855

32A CFR

134 34884

Proposed Rules:

651 34304
663 34304

33 CFR

Ch. II 32302
100 ..... 30430, 31991
110 ..... 30431, 32672, 34269
117 ..... 29020, 35326
165 ..... 29020, 30436
207 31061

Proposed Rules:

Ch. II 36432
110 29593
117 ..... 29593, 29594, 31132, 34305, 35349–35351
140 29072
141 29072
142 29072
143 29072
144 29072
145 29072
146 29072
147 29072
157 ..... 29087, 34306

34 CFR

Subtitle A 30802
Ch. I 30802
Ch. II 30802
Ch. III 30802
Ch. IV 30802
Ch. V 30802
Ch. VI 30802
Ch. VII 30802
Ch. VIII 30802

36 CFR

7 ..... 32228, 32234
61 30623
67 34885
216 29289
920 34752
1201 ..... 30623, 34886
1208 34886

Proposed Rules:

Ch. I 30414
Ch. II 32192
Ch. III 36432
Ch. IX 34017
7 ..... 31752, 34759
50 29856
223 30652
1204 34909
1207 30378
1208 34910

38 CFR

3 ..... 31717, 34886, 3532
21 31062
36 ..... 29292, 31063, 34270

Proposed Rules:

17 30392
36 30370

39 CFR

111 ..... 32305, 34271

Proposed Rules:

Ch. III 34309
267 30069

40 CFR

51 31304

V 45 M Y 3 0 8 0 0 UMI

52.....29293, 29790, 30069, 30626, 31304, 32674, 33607, 33981, 34271, 35804-35806
60.....36077
81.....30070, 35327
85.....34802, 34829, 36396
86.....31719, 34718
122.....29589, 33290, 33516
123.....33290, 33516
124.....33290, 33516
125.....29589
180.....29802-29803, 31312, 32305, 33994, 36398
205.....30630
260.....33066
261.....33084
262.....33140
263.....33150
264.....33154, 34055
265.....33154, 34055
408.....32675
415.....31992
775.....32676

Proposed Rules:

35.....30374
51.....30088, 34762
52.....29312, 29313, 29595, 29596, 29864, 30089, 30456, 30654, 32333, 32743, 33656, 34018, 34271, 34917-34921, 35839-35841
61.....34315
81.....30091, 34020
86.....36437
112.....33814
167.....29597
169.....29597
180.....29597, 32338, 32743 36438, 36439
228.....36099
258.....30095
261.....33136
264.....33260
265.....33260, 33280
761.....30989

41 CFR

Ch. 1.....35809, 35814, 35815
Ch. 101.....29294, 31313
1.....30633
3-1.....31721, 32306, 36400
3-4.....33995
3-7.....32306, 36400
5-1.....29574, 29575
5A.....30633
5A-1.....29574
5B-1.....29576
5B-2.....29576
5B-7.....29576
5B-16.....29576
14R-9.....31066
18.....30633
60-3.....29530
101-26.....31315, 31992
101-42.....36399
101-43.....36077
101-44.....36077
105-61.....29577

Proposed Rules:

Ch. 4.....32192
Ch. 101.....36440
Ch. 105.....36440
60-20.....36431
101-11.....32012
105-735.....36441

42 CFR

52h.....35327
54a.....31094
57.....29803
110.....31721

Proposed Rules:

Ch. IV.....36100
405.....29535, 30655, 36443
408.....36443
409.....36443
420.....30634
440.....20535, 36443
447.....30634
456.....29535
462.....30634
482.....29535

43 CFR

34.....31095
35.....30140
2610.....34230
2650.....31110
2880.....34887
3100.....30056, 35156
3500.....36036
9260.....31276

Public Land Orders:

5309 (Amended by PLO 5724).....31993, 35818
5716 (corrected by PLO 5725).....31722
5719.....29021
5720.....31315
5721.....29295
5722.....31316
5723.....31722
5724.....31993, 35818
5725.....31722

Proposed Rules:

4.....35351
9.....31284
2650.....30606
2920.....31284
3809.....31284

44 CFR

64.....31316, 36400
65.....29021, 31318, 32000, 36078
67.....29577, 31993, 36403
70.....29807-29830, 30071, 30076
76.....32687

Proposed Rules:

67.....29090, 29313-29323, 29598, 31133, 31427, 31754, 32339, 34923

45 CFR

74.....34272, 35328, 36414
104.....30635
123.....35818
123a.....35818
123b.....35818
123c.....35818
123d.....35818
123e.....35818
123f.....35818
123g.....35818
123h.....35818
123i.....35818
162.....34210
162a.....34210
162b.....34210
162c.....34210
163c.....29588
179.....36079
185.....32588
186.....34152
186a.....34152
186b.....34152
186c.....34152
186d.....34152
186e.....34152
186f.....34152
186g.....34152
186h.....34152
186i.....34152
186j.....34152
186k.....34152
186l.....34152
187.....34152
188.....34152
194.....36079
196.....36079
205.....29831
235.....29831
260.....36810
801.....33628
1061.....32690, 33788
1611.....36414

Proposed Rules:

Ch. X.....30457
100a.....30386
100b.....30386
400.....35359
1061.....35363
1068.....35363
1069.....31133
1070.....35366
1075.....35363
1340.....35794
1385.....31006
1386.....31006
1387.....31006

46 CFR

33.....29588
35.....29588
71.....29588
75.....29588
78.....29588
91.....29588
94.....29588
97.....29588
148.....31110
160.....29588
189.....29588
192.....29588
196.....29588
252.....30439
530.....31722
547.....33996

Proposed Rules:

33.....35366
94.....35366
261.....30410
276.....29610
522.....35368
524.....35368
536.....29323, 31139, 35369
538.....29323, 31139

47 CFR

0.....29835, 31722
2.....33629
22.....29023, 35329
64.....31319, 32001
73.....29835-29840, 34888, 35818
76.....31723
90.....29297, 30637

Proposed Rules:

Ch. I.....30052, 33657, 33662
2.....29323, 32013
21.....29323, 29335, 29350
22.....32013
61.....29865
67.....34315
73.....29865-29872, 30094, 30656, 31139, 32028, 32744, 34931-34938, 35370
74.....29323, 29350
87.....31764
94.....29323, 29350

48 CFR

Proposed Rules:

4.....29612

49 CFR

107.....32690
171.....32692, 34560, 35329
172.....34560
173.....32692, 34560
174.....32692, 34560
175.....32690, 35329
176.....34560
177.....32692, 34560
220.....30443
510.....29032, 32001
571.....29045, 35333
635.....30444
800.....36080
1021.....31374
1022.....31374
1033.....29048-29054, 29840-29841, 31111, 31375, 31724, 34002, 34274, 34276, 36080 36415
1131.....31374
1131a.....31374
1201A.....31110
1243.....34276
1249.....34276

Proposed Rules:

173.....32030, 34316
177.....32030, 34316
258.....30398
260.....30398
266.....30398
533.....35403
571.....29102, 35405
575.....35408
1033.....32745
1045.....31139
1048.....34316
1056.....31766
1057.....34020
1102.....29102, 36460
1254.....31767
1262.....30659
1270.....29104
1271.....29104
1272.....29104
1273.....29104
1274.....29104
1275.....29104
1276.....29104
1277.....29104
1278.....29104
1279.....29104
1320.....31766
1321.....31766
1322.....31766

1323.....31766
1324.....31766

50 CFR

12.....31725
17.....33768, 35821
26.....30077, 35823
32.....34891, 35827
33.....29841, 34891, 35827
227.....29054
301.....34889
611.....31377, 32001, 34003
651.....32699
652.....33637
655.....32001
656.....32002
661.....29250
671.....31112
674.....30444

Proposed Rules:

17.....29370, 29371, 29373, 31446, 32348, 35410, 36040, 36332
23.....32353, 33842, 34025, 34317
263.....35844
264.....35844
216.....29375
611.....36460
674.....34020
810.....34025

V 45 M Y 30 80 0 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

29297 5–2–80 / Private Land Mobile Radio Service; providing for geographic sharing of certain frequencies in the petroleum, forest products, special industrial, and manufacturers radio service.

[Corrected at 45 FR 30637, May 9, 1980]

Rules Going Into Effect Sunday, June 1, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

28081 4–28–80 / Filberts grown in Oregon and Washington; changes in certain reporting requirements

31045 5–12–80 / Potatoes grown in Southeastern States; expenses and rate of assessment

ENERGY DEPARTMENT

Economic Regulatory Administration—

22012 4–3–80 / Phase out of small refiner bias

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—

30602 5–8–80 / Mortgage insurance; elimination of application fee

SECURITIES AND EXCHANGE COMMISSION

23653 4–8–80 / Registration Statement Form S–8 and Annual Report Form 11–K; amendments

TRANSPORTATION DEPARTMENT

Coast Guard—

2027 1–10–80 / Navigation safety; electronic navigation equipment

Federal Railroad Administration—

26708 4–21–80 / Freight car safety standards; pre-depature inspections, defective cars received in interchange, etc.

VETERANS ADMINISTRATION

31717 5–14–80 / Increase in pension rates and income limitations

List of Public Laws

Last Listing May 29, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 668 / Pub. L. 96–251 To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049). (May 26, 1980; 94 Stat. 372) Price $1.

H.R. 2313 / Pub. L. 96–252 "Federal Trade Commission Improvements Act of 1980". (May 28, 1980; 94 Stat. 374) Price $1.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: June 27; July 11 and 25; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

PITTSBURGH, PA.

WHEN: June 4 at 1:30 p.m. and June 5 at 9 a.m. (identical sessions.)

WHERE: Rooms 2212 and 2214 (both days), Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa.

RESERVATIONS: Call Mary Silipo, Pittsburgh Federal Information Center, 412–644–3456.

ST. LOUIS, MO.

WHEN: June 24 and 25; at 9:00 a.m. (identical sessions.)

WHERE: Room 3720, Federal Office Bldg. 1520 Market Street, St. Louis, Mo.

RESERVATIONS: Call Evelyn Wiebusch, Federal Information Center, 314–425–4106.

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Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

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Book 2 of 2 Books
Friday, May 30, 1980

Part VI

United States Regulatory Council

36844 Calendar of Federal Regulations
36851 Chapter 1—Energy
36884 Chapter 2—Environment and Natural Resources
36925 Chapter 3—Finance and Banking
36938 Chapter 4—Health and Safety
37014 Chapter 5—Human Resources
37032 Chapter 6—Trade Practices
37061 Chapter 7—Transportation
37086 Index I—Sectors Affected by Regulatory Action
37108 Index II—Date of Next Regulatory Action
37123 Index III—Dates for Public Participation Opportunities
37133 Appendix I—The Regulatory Reform Program of the Carter Administration
37134 Appendix II—Public Participation in the Federal Regulatory Process
37156 Appendix III—Status of Regulations from November 1979 Edition
37165 Appendix IV—Publication Dates for Agency Regulatory Agendas
37166 Appendix V—Important Regulations Scheduled for Agency Review

UNITED STATES REGULATORY COUNCIL

AGENCY: The United States Regulatory Council.

ACTION: Calendar of Federal Regulations.

SUMMARY: The United States Regulatory Council publishes the **Calendar of Federal Regulations** in order to provide a comprehensive catalog of important Federal regulations under development by participating agencies. This is the third edition. We publish the **Calendar** every six months, in November and May.

The **Calendar** is designed to provide in one place a concise summary of important regulations under development. It is a tool to increase public awareness of and participation in the regulatory process.

Special indices and appendices to the **Calendar** should help readers quickly identify the items that might be of most interest; other indices and appendices describe how to participate in the rulemaking process at each Council department and agency.

ADDRESS: United States Regulatory Council, Washington, D.C. 20503.

FOR FURTHER INFORMATION: For information about specific regulations, please refer to the "Agency Contact" listed at the end of each entry.

For information on the work of the Council: Peter J. Petkas, Director, United States Regulatory Council, Washington, D.C. 20503 (202) 395–6110.

For information on the Calendar: Mark G. Schoenberg, Associate Director, United States Regulatory Council, Washington, D.C. 20503 (202) 426–1962 or (202) 653–7240.

SUPPLEMENTARY INFORMATION:

Letter From the Chairman of the United States Regulatory Council

President Carter established the United States Regulatory Council in October 1978 to improve coordination of Federal regulatory activities and encourage more effective management of the regulatory process. The Council is one element of the President's regulatory reform program. (See Appendix I: "The Regulatory Reform Program of the Carter Administration.")

Presently chaired by Environmental Protection Agency Administrator Douglas M. Costle and directed by Peter J. Petkas, the Council is comprised of 36 departments and agencies with significant regulatory responsibilities.

The Council seeks to eliminate duplication and inconsistencies in existing and proposed rules. When several agencies regulate the same product or sector of the economy, the Council may analyze the cumulative regulatory impact and work to correct specific problems.

The Council's **Calendar of Federal Regulations** provides a comprehensive overview of important regulations which agencies are developing, and a summary of the analytical bases for them. It is designed to encourage greater public participation in the regulatory process, identify areas of multiple regulatory impact, and to assist the regulators in developing cost-effective and consistent regulations.

Other Council activities include:

- Developing national policies on major regulatory issues, such as the control of cancer-causing chemicals;
- Resolving special regulatory problems of small businesses;
- Organizing interagency efforts to manage better the regulatory environment of specific industries, such as automobiles and nonferrous metals;
- Identifying and reducing conflicting regulation or action affecting single industries, such as hospitals and coal producers;
- Assessing the benefits of regulation;
- Encouraging innovative, market-oriented approaches to regulation, such as EPA's "bubble" policy; and
- Improving regulatory methods, such as regulatory analysis.

The **Calendar of Federal Regulations** is an important tool for the President, the Congress, the regulators, and the public to understand and shape the way we implement national regulatory policy goals. This **Calendar** is also the first comprehensive and continually updated catalog of important Federal regulations under development. With the **Calendar** and the semiannual regulatory agendas now published by each agency under President Carter's Executive Order on Improving Government Regulations (E.O. 12044; 43 FR 12661, March 14, 1978), interested persons can follow most of the regulatory activity underway in the Federal government.

The **Calendar of Federal Regulations** is a cooperative product of the Regulatory Council staff and the staffs of the 36 Council agencies.

We published the first edition of the **Calendar** (44 FR 11388) on February 28, 1979 and the second edition (44 FR 68201) on November 28, 1979.

We designed the **Calendar of Federal Regulations** as a tool for the user to locate easily information on the regulations described in it, and to help you to participate effectively in the Federal regulatory process. We surveyed many of those who used the previous two editions, and incorporated many of their suggestions for improving the document.

We hope to continue to improve each edition and ask your help in doing so. Please send us any comments and suggestions that would make this document more useful to you. We would appreciate hearing from you.

Dated: May , 1980.

Douglas M. Costle,

Chairman.

TABLE OF CONTENTS

	Page
Letter from the Chairman of the United States Regulatory Council	36844
Council Members and the Calendar	36844
Information about Additional Copies and Book Reprints	36845
How to Use the Calendar	36845
About the Entries	
Criteria for Selection	36845
Contents of Entries	36846
Data Limitations	36846
List of Abbreviations	36846
List of Agency Acronyms	36847
List of Regulations (alphabetically by Agency)	36848
Chapters	
Chapter 1 Energy	36851
Chapter 2 Environment and Natural Resources	36884
Chapter 3 Finance and Banking	36925
Chapter 4 Health and Safety	36938
Chapter 5 Human Resources	37014
Chapter 6 Trade Practices	37032
Chapter 7 Transportation and Communication	37061
Indices	
Index I Sectors Affected by Regulatory Action (by Chapter)	37086
Index II Date of Next Regulatory Action (alphabetically by agency)	37108
Index III Dates for Public Participation Opportunities (alphabetically by agency)	37123
Appendices	
Appendix I The Regulatory Reform Program of the Carter Administration	37133
Appendix II Public Participation in the Federal Regulatory Process	37134
Appendix III Status of Regulations from November 1979 Edition	37156
Appendix IV Publication Dates for Agency Regulatory Agendas	37165
Appendix V Important Regulations Scheduled for Agency Review	37166

COUNCIL MEMBERS AND THE CALENDAR

The Regulatory Council is composed of 36 Federal departments and agencies. Eighteen executive agencies are participating members, and 18 independent regulatory agencies contribute to the activities of the Council in various ways. The extent of an independent regulatory agency's activity in any Council project is determined by the independent agency. They may observe or fully participate in any Council activity as they choose. All council agencies have submitted information for some sections of this Calendar. For a variety of reasons, seven agencies have not submitted entries concerning regulations under development to this edition. These agencies are identified with an asterisk (*) in the following list. Five of the seven agencies that did not submit entries do not issue regulations of the type covered by this document, though they do conduct some forms of activity related to regulations, such as analysis of administrative procedures or administrative adjudications. These five agencies are identified by a dagger (†) in the following list.

Executive Agencies

†*Administrative Conference of the United States
Department of Agriculture
Department of Commerce
Department of Energy
Department of Health, Education, and Welfare
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of Treasury
Environmental Protection Agency
Equal Employment Opportunity Commission
General Services Administration
National Credit Union Administration
Small Business Administration
†*United States International Trade Commission
Veterans Administration

Independent Regulatory Agencies

Civil Aeronautics Board
Commodity Futures Trading Commission
Consumer Product Safety Commission
Federal Communications Commission
Federal Deposit Insurance Corporation
*Federal Election Commission
Federal Energy Regulatory Commission
Federal Home Loan Bank Board
Federal Maritime Commission
†*Federal Mine Safety and Health Review Commission
*Federal Reserve System
Federal Trade Commission
Interstate Commerce Commission
†*National Labor Relations Board
Nuclear Regulatory Commission
†*Occupational Safety and Health Review Commission
Postal Rate Commission
Securities and Exchange Commission

INFORMATION ABOUT ADDITIONAL COPIES AND BOOK REPRINTS

Additional copies of the **Federal Register** edition of the **Calendar** are available for $1.00 each from:
Superintendent of Documents
Washington, D.C. 20402
(202) 783–3238
Stock No. 022–003–01057–2

In addition, the Council will republish the **Calendar** in a paperback book format. It will be available from the Superintendent of Documents as Stock No. 052–003–00755–0. Please contact the Council or the Superintendent of Documents for further information.

HOW TO USE THE CALENDAR

The **Calendar** is organized to help users locate information about regulations of interest to them. The **Calendar** contains a letter from Regulatory Council Chairman, Douglas M. Costle; a Table of Contents; a section on how to use the **Calendar**; a List of Abbreviations; a List of Regulations covered in this Edition; seven chapters describing these regulations, three indices, and five appendices.

The section on how to use the **Calendar** explains the basic organization of the **Calendar**, how to use its individual components, the criteria the agencies used to select the regulations reported, the type of information available in each entry, and the limitations on the data presented.

We have divided the entries describing regulations into seven Chapters; each covers a major area of Federal regulatory activity.

The Chapters are:

Energy: developing and conserving energy resources

Environment and Natural Resources: protecting the environment and protecting and developing natural resources

Finance and Banking: Regulating banks, financial institutions, and securities and commodity markets

Health and Safety: Promoting and protecting human health and safety, including consumer product and workplace safety

Human Resources: Promoting social justice and non-discrimination, and managing social services

Trade Practices: Promoting fair business and trade practices

Transportation and Communication: Promoting and regulating different modes of transportation and communication.

Within each Chapter, the entries are presented in alphabetical order first by executive and then by independent agencies. The entries are further alphabetized by issuing office, if any, and then by the title of the entry.

We have created eight Indices and Appendices to aid **Calendar** readers to locate easily information that may be important to them and to help them learn more about the process of developing regulations.

Separate indices identify sectors affected by each proposal, the estimated date of the next regulatory action, and information on opportunities for public participation in developing the individual regulations, where applicable.

The Appendices include sections on President Carter's regulatory reform program, public participation procedures in each agency, status of the regulations reported in the last edition of the **Calendar**, publication dates for each agency's semiannual Regulatory Agenda, and important regulations scheduled for agency review under the provisions of Executive Order 12044.

Each index and appendix begins with a brief description of its contents, and how to use it.

ABOUT THE ENTRIES

Council agencies submitted entries that describe their regulations under development. These entries comprise the body of the **Calendar**.

Criteria for Selection

This edition of the **Calendar** provides an overview of important regulations under development by member agencies of the Regulatory Council. Each agency submits entries for the **Calendar** according to several criteria. At a minimum, agencies were asked to use the same criteria as those they use for determining when to prepare regulatory analyses under the general guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, March 14, 1978).

These Executive Order guidelines apply to executive agencies and those independent agencies which voluntarily choose to follow them, and cover:

- Regulations that have an annual effect on the economy of $100 million or more.
- Regulations that will impose a major increase in costs or prices for individual industries, levels of government, or geographic regions.
- Regulations otherwise determined by the agency head.

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In addition to these criteria, agencies have submitted reports on regulations for this edition that concern:

- Precedent-setting rules.
- Issues of great public interest.
- Rules that may increase productivity and/or profits without causing any adverse affects.
- Grants and income transfer program regulations that may impose annual compliance costs of $100 million or more
- Regulations which the agency is reproposing after review pursuant to Executive Order 12044, if the proposed change will have important consequences.

In addition, any regulation which was noted in the second edition of the **Calendar** is also noted in this third edition unless it has been finally issued or withdrawn. If so, this action is noted in Appendix III: Status of Regulations from November 1979 Edition.

The regulations covered in the **Calendar**, that is, those that are "under development," are those for which an agency is reasonably likely to issue an Advance Notice of Proposed Rulemaking (ANPRM), a Notice of Proposed Rulemaking (NPRM), a Final Rule, or to take other significant action *within the next twelve months.*

For clarity and consistency, the Council staff asked all agencies to follow a set of guidelines developed in consultation with the agencies and the Office of Management and Budget, the Council of Economic Advisors, the Council on Wage and Price Stability, and others in the Executive Office of the President. In addition, we published the guidelines for the November edition of the **Calendar** in the **Federal Register** (45 FR 7992, February 5, 1980) and incorporated public comments in the guidelines we issued for this edition. A copy of the full set of Regulatory Council guidelines used by agencies in preparing submissions to this edition of the **Calendar** is available from the Council.

Contents of Entries

Category—Each CALENDAR entry describes a regulation and contains the following standard categories of information	Content—The following information is provided in each category
Title and FR citation	Title of the regulation under development and the CFR citation for the regulation. An asterisk (*) after the CFR citation indicates that the regulation will be a revision to an existing regulation that has been codified in the CFR. If the regulation under development will occupy a new CFR section, there is no asterisk. If there is no CFR citation, the regulation has not yet been assigned a place in the CFR.
Reason for including This Entry	A brief statement of the importance of the regulation under development.
Statement of Problem	A brief discussion of the problem that the regulation is addressing.
Alternatives Under Consideration	A brief description of the major choices the agency is considering to achieve its regulatory objectives.
Summary of Benefits	A discussion of the expected direct and indirect benefits of the regulatory action to the sectors of the economy, population, government, etc. that will be affected
Sectors Affected	A listing of those sectors that may benefit as a result of the proposal.
Summary of Costs	A discussion of the expected direct and indirect costs of this action to the sectors of the economy, population, government, etc., that may be affected.
Sectors Affected	A listing of the sectors that may bear costs as a result of the proposal.
Related Regulations and Actions	A description of other regulations or actions, either within or outside the agency, that are related to the regulation under consideration.
Active Government Collaboration	The steps the agency is taking to coordinate the proposed regulation with any other Federal, State, or local agencies.
Timetable	A chronological listing of the future major steps which the agency will take to develop the regulation.
Available Documents	A list of major background documents related to the proposed regulation, and notice of where they may be obtained or read
Agency Contact	The name, address, and telephone number of a person in the agency who can respond to questions about the proposed regulation.

Data Limitations

Agencies prepared entries for this edition of the **Calendar** to give the public the earliest possible notice of their schedules for proposing and promulgating regulations. They have tried to predict their future plans accurately, but dates and schedules are still tentative. Some regulations listed may be withdrawn, and some not listed may be proposed or promulgated. The regulations included that are going to be proposed or promulgated may be developed at an earlier or later date than those listed in the **Calendar**. The **Calendar** does not create a legal obligation on submitting agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear. The information in this edition is accurate as of May 2, 1980, in the judgment of the submitting agencies.

Readers should note that information on costs, benefits, and other economic effects make up only a part of the basis for decisions in regulatory agencies. In particular, agencies do not mechanically add up estimates of costs on the one hand, and benefits on the other, and then act on that basis. Furthermore, there is considerable disagreement about methods used for estimating costs, benefits, and other economic impacts. Necessarily, agencies that include economic information in the Calendar have not used a common methodology in producing it. Therefore, such information when expressed quantitatively, cannot and should not be added.

LIST OF ABBREVIATIONS

The following abbreviations appear throughout this edition of the **Calendar**:

ANPRM—The Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. It is issued before the agency develops a detailed proposed rule. It usually describes the general area that will be subject to the regulation, lists the alternatives that are under consideration, and asks for public comment in developing a regulation.

CFR—The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. It is issued quarterly and revised annually.

E.O.—An Executive order is a Presidential directive to executive agencies that is promulgated under Constitutional or statutory authority. For certain E.O.'s, independent agencies may voluntarily comply. E.O.'s are published in the **Federal Register** and in Title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal government publication that announces all proposed and final Federal regulations. It also contains notices of public meetings and other events the agency may schedule. Most major libraries carry the **Federal Register.**

FY—Fiscal year is a budget term. The Federal fiscal year runs from October 1 to September 30 as opposed to the calendar year which runs from January 1 to December 31.

NTIS—The National Technical Information Service of the Department of Commerce, is the central point in the United States for the public sale of government funded research and development reports and other analyses prepared by Federal agencies, their contractors, or grantees.

NPRM—The Notice of Proposed Rulemaking is the document issued by an agency, and published in the **Federal Register**, that solicits public comment on a proposed regulatory action. Under the Administrative Procedure Act, it must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceedings;
- Reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the regulation under development, or a description of the subjects and issues involved.

SIC—The Standard Industrial Classification Manual, published by the Office of Management and Budget in the Executive Office of the President, defines industries in accordance with the composition and structure of the economy and covers the entire field of economic activities. The **Calendar of Federal Regulations** uses SIC terminology, whenever possible, throughout the "Sectors Affected" sections.

U.S.C.—The United States Code contains a consolidation and codification of all laws of the United States. The U.S.C. is divided into 50 titles which represent broad areas subject to Federal law.

LIST OF AGENCY ACRONYMS

Executive Agencies

ACUS—Administrative Conference of the United States
USDA—United States Department of Agriculture
- AMS—Agricultural Marketing Service
- FNS—Food and Nutrition Service
- FSQS—Food Safety and Quality Service
- SCS—Soil Conservation Service

DOC—Department of Commerce
- EDA—Economic Development Administration
- MARAD—Maritime Administration
- NOAA—National Oceanic and Atmospheric Administration
- OCZM—Office of Coastal Zone Management

DOE—Department of Energy
- BCS—Buildings and Community Systems
- CS—Conservation and Solar Applications
- ERA—Economic Regulatory Administration
- RA—Resource Applications

HEW—Department of Health, Education, and Welfare
- FDA—Food and Drug Administration
- HCFA—Health Care Financing Administration

HUD—Department of Housing and Urban Development
- FHA—Federal Housing Administration
- HOUS—Office of the Assistant Secretary for Housing
- NVACP—Neighborhoods, Voluntary Associations and Consumer Protection

DOI—Department of the Interior
- BLM—Bureau of Land Management
- FWS—Fish and Wildlife Service
- HCRS—Heritage Conservation and Recreation Service
- OSM—Office of Surface Mining
- WPRS—Water and Power Resource Service

DOJ—Department of Justice
- BOP—Bureau of Prisons
- CRD—Civil Rights Division
- INS—Immigration and Naturalization Service
- OJARS/LEAA—Office of Justice Assistance, Research, and Statistics/Law Enforcement Assistance Administration

DOL—Department of Labor
- ESA—Employment Standards Administration
- ETA—Employment and Training Administration
- LMSA—Labor Management Services Administration
- MSHA—Mine Safety and Health Administration
- OSHA—Occupational Safety and Health Administration

DOT—Department of Transportation
- FAA—Federal Aviation Administration
- FHWA—Federal Highway Administration
- FRA—Federal Railroad Administration
- NHTSA—National Highway Traffic Safety Administration
- USCG—United States Coast Guard

TREAS—Department of the Treasury
- ATF—Alcohol, Tobacco and Firearms Bureau
- CUSTOMS—U.S. Customs Service
- OCC—Office of the Comptroller of the Currency

EPA—Environmental Protection Agency
- OANR—Office of Air, Noise, and Radiation
- OMSAPC—Office of Mobile Source Air Pollution Control
- OPTS—Office of Pesticides and Toxic Substances
- ORD—Office of Research and Development
- OWWM—Office of Water and Waste Management

EEOC—Equal Employment Opportunity Commission
- OPI—Office of Policy Implementation

GSA—General Services Administration
- FPRS—Federal Property Resources Service
- HRO—Administration Operations Division
- NARS—National Archives and Records Services

NCUA—National Credit Union Administration
SBA—Small Business Administration
USITC—United States International Trade Commission
VA—Veterans Administration
- DMA—Department of Memorial Affairs
- OHG—Office of Human Goals

Independent Regulatory Agencies

CAB—Civil Aeronautics Board
CFTC—Commodity Futures Trading Commission
CPSC—Consumer Product Safety Commission
FCC—Federal Communications Commission
FDIC—Federal Deposit Insurance Corporation
FEC—Federal Election Commission
FERC—Federal Energy Regulatory Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FMSHRC—Federal Mine Safety and Health Review Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
ICC—Interstate Commerce Commission
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
OSHRC—Occupational Safety and Health Review Commission
PRC—Postal Rate Commission
SEC—Securities and Exchange Commission

LIST OF REGULATIONS

Alphabetically by Agency

EXECUTIVE BRANCH AGENCIES

Department of Agriculture

USDA-AMS Amendments to Federal Seed Act Regulations 37032
USDA-AMS Proposed Federal Milk Order for the Southwestern Idaho-Eastern Oregon Marketing Area (Boise, Idaho) 37034
USDA-FSQS Proposed Net Weight Regulations 37035

DOL-OSHA Standard for Occupational Exposure ...

USDA-FSQS Proposed Polychlonnated Biphenyls (PCBs) Regulation 36938
USDA-FSQS Voluntary Meat and Poultry Quality Control Systems 36940
USDA-SCS Watershed Protection and Flood Prevention Program 36884

Department of Commerce

DOC-NOAA Regulations Implementing a Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean 36885
DOC-NOAA Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area 36887
DOC-NOAA Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters 36890
DOC-NOAA—OCZM Channel Islands Marine Sanctuary Regulations 36892

Department of Energy

DOE-CS Emergency Building Temperature Restrictions 36851
DOE-CS Energy Conservation Program for Consumer Products Other than Automobiles 36852
DOE-CS—HUD-NVACP Energy Performance Standards for New Buildings 36856
DOE-CS Standby Federal Emergency Conservation Plan 36854
DOE-ERA Amendments to Puerto Rican Naptha Entitlements Regulations 36857
DOE-ERA Amendments to the Crude Oil Supplier/Purchaser Rule 36859
DOE-ERA Amendments to the Emergency Provisions of the Crude Oil Buy/Sell Program 36850
DOE-ERA Decontrol of Propane/Simplified Propane Price Rules 36862
DOE-ERA Decontrol of Synthetic Natural Gas Feedstocks 36864
DOE-ERA Entitlement Adjustments to Alaskan North Slope (ANS) Upper Tier Crude Oil 36864
DOE-ERA Gasohol Marketing Regulations 36866
DOE-ERA Incentives to Refine Lower Quality Crude Oil 36867
DOE-ERA Motor Gasoline Allocation Regulations Revisions 36868
DOE-ERA Natural Gas Curtailment Priorities for Interstate Pipelines 36870
DOE-ERA Powerplant and Industrial Fuel Use Act of 1978; Implementing Regulations 36871
DOE-ERA Proposed Amendments to the Equal Application Rule 36872
DOE-RA Outer Continental Shelf (OCS) Sequential Bidding Regulations 36874
DOE-RA Profit Share Bidding System Regulations for Federal Outer Continental Shelf (OCS) Oil and Gas Leases 36875
DOE-RA Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales 36876

Department of Health, Education and Welfare

HEW-FDA Chemical Compounds Used in Food Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues 36942
HEW-FDA Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs) 36943
HEW-FDA Food Labeling Initiatives 36946
HEW-FDA Prescription Drug Products; Patient Labeling Requirements 36947
HEW-HCFA Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities 36949
HEW-HCFA Life Safety Code in Hospitals, Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)—General Notice 36950
HEW-HCFA Uniform Reporting Systems for Health Service Facilities and Organizations 36951

Department of Housing and Urban Development

HUD-FHA Coinsurance for Private Mortgage Lenders (New Construction) 36925
HUD-HOUS Minimum Property Standards for One- and Two-Family Dwellings 37014
HUD-NVACP—DOE-CS Energy Performance Standards for New Buildings 36856
HUD-NVACP Lead-Based Paint Poisoning Prevention Act Regulations 36952

Department of the Interior

DOI-BLM Surface Management of Mining Claims Located on the Public Lands 26894
DOI-HCRS Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands 26895
DOI-HCRS Rules and Regulations Pertaining to the Urban Park and Recreation Recovery Program 36897
DOI-OSM Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant" 36900
DOI-OSM Discharge from Mine Areas; Revision of Standards for Effluent Limits and Sedimentation Ponds 36901
DOI-OSM Surface Coal Mining and Reclamation Operations Permanent Regulatory Program: Performance Bonding 36903
DOI-WPRS Rules and Regulations for Acreage Limitation Under Federal Reclamation Law 36904

Department of Justice

DOJ-CRD Regulations Prohibiting Discrimination Solely on the Basis of Handicap in Federally Assisted Programs 37014
DOJ-CRD Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance 37015
DOJ-INS Admission of Refugees and Asylum Procedures 37016
DOJ-INS Employment Authorization 37017
DOJ-OJARS/LEAA Equal Service Evaluation Guidelines 37018
DOJ-OJARS/LEAA Procedures Relating to the Implementation of the National Environmental Policy Act 36905

Department of Labor

DOL-ESA Sex Discrimination Guidelines—Employee Benefits 37019
DOL-ETA Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance 37021
DOL-LMSA Definition of Plan Assets and Establishment of Trust 38023
DOL-LMSA Individual Benefit Reporting and Recordkeeping 37024
DOL-MSHA Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines 36953
DOL-MSHA Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers 36954
DOL-MSHA Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines 36955
DOL-MSHA Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations 36956
DOL-MSHA Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines 36957
DOL-OSHA Chemical Substance Identification (Labeling) 36958
DOL-OSHA Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation 36960
DOL-OSHA Occupational Noise Exposure Hearing-Conservation Amendment 36962
DOL-OSHA OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standard for Ladders and Scaffolding, and Floor and Wall Openings, and Stairways 36964
DOL-OSHA Regulation for Reducing Safety and Health Hazards in Abrasive Blasting Operations 36965
DOL-OSHA Safety and Health Regulations for Construction Underground Operations-Tunnels, Shafts and Related Work Areas 36967
DOL-OSHA Safety and Health Regulations for Entry and Work in Confined Spaces in Construction 36968
DOL-OSHA Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry 36970
DOL-OSHA Standard for Occupational Exposure to Asbestos 36971
DOL-OSHA Standard for Occupational Exposure to Cadmium 36974

DOL-OSHA Standard for Occupational Exposure to Chromium 36975
DOL-OSHA Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities 36977

Department of Transportation

DOT-FAA Flammability Standards for Crewmember Uniforms 36979
DOT-FHWA Buy America Requirements 37037
DOT-FHWA Certification of Vehicle Size and Weight Enforcement 37061
DOT-FHWA Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways 37062
DOT-FHWA Hours of Service of Drivers 36980
DOT-FHWA Minimum Cab Space Dimensions 36981
DOT-FHWA Withdrawal of Interstate Segments and Substitution of Alternative Transportation Projects 37063
DOT-FRA Alerting Lights Display—Locomotives 36982
DOT-NHTSA Fuel Economy Standards for Model Year 1983–85 Light Trucks 36878
DOT-NHTSA Heavy Duty Vehicle Brake Systems 36983
DOT-NHTSA Pedestrian Protection 36984
DOT-USCG Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases 36985
DOT-USCG Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage 36906

Department of the Treasury

TREAS-ATF Advertising Regulations under the Federal Alcohol Administration Act 37038
TREAS-ATF Implementation of the Distilled Spirits Tax Revision Act of 1979 37040
TREAS-ATF Unlawful Trade Practices under the Federal Alcohol Administration Act 37041
TREAS-CUSTOMS Accelerated Duty Payment 37042
TREAS-CUSTOMS Civil Aircraft Regulations 37044
TREAS-CUSTOMS Imports of Petroleum and Petroleum Products 37045
TREAS-CUSTOMS Valuation of Imported Merchandise for Customs Purposes 37046
TREAS-OCC Description of Office, Procedures, Public Information; Supplemental Application Procedures; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Policy Statements 36926
TREAS-OCC Lending Limits; Unimpaired Surplus Fund 36926

Environmental Protection Agency

EPA-OANR Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes 36986
EPA-OANR Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer 36987
EPA-OANR Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone and Lead) 36907
EPA-OANR Remedial Action Standards for Inactive Uranium Processing Sites 36989
EPA-OANR Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide 36909
EPA-OANR Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide 36910
EPA-OANR Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter 36911
EPA-OANR Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Dioxide 36912
EPA-OANR Standards of Performance to Control Atmospheric Emissions from Industrial Boilers 36913
EPA-OANR Visibility Protection Requirements 36914
EPA-OANR—OMSAPC Fuels and Fuel Additives 36915
EPA-OANR—OMSAPC Gaseous Emission Regulations for 1983 and Later Model Year Light-Duty Trucks 36916
EPA-OANR—OMSAPC Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines 36917
EPA-OANR—OMSAPC Heavy-Duty Diesel Particulate Regulations 36919
EPA-OPTS Chemical Hazard Warning Labels 36992
EPA-OPTS Pesticide Registration Guidelines 36994
EPA-OPTS Premanufacture Notification Requirements and Review Procedures 36995
EPA-OPTS Rules Restricting the Commerical and Industrial Use of Asbestos Fibers 36996
EPA-OPTS Test Rule for Chemical Substances and Mixtures—Chloromethane and Chlorinated Benzenes 36998
EPA-OWWM Control of Organic Chemicals in Drinking Water 37000
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron & Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters into Publicly Owned Treatment Works 36920
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways 36922
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants 36923
EPA-OWWM Hazardous Waste regulations: Core Regulations to Control Hazardous Solid Waste from Generation to Final Disposal 37001

Equal Employment Opportunity Commission

EEOC-OPI Guidelines on Discrimination Because of Religion 37025
EEOC-OPI Interim Amendment to Guidelines on Discrimination Because of Sex 37026
EEOC-OPI Interpretive Guidelines on Employment Discrimination and Reproductive Hazards 37027

General Services Administration

GSA-FPRS National Defense Stockpile Acquisition Regulations 37048
GSA-FPRS National Defense Stockpile Disposal Regulations 37048
GSA-HRO Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Financial Assistance 37028
GSA-NARS Freedom of Information Act Requests for National Security Classified Information in the National Archives 37029

National Credit Union Administration

NCUA Deregulation of Loan Interest Rate Classification 36928

Small Business Administration

SBA Revision to Method of Establishing Size Standards and Definitions of Small Business 37049

Veterans Administration

VA-DMA State Cemetery Grants 37030
VA-OHG Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Veterans Administration (VA) 37030
VA-OHG Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance 37031
Independent Agencies

INDEPENDENT AGENCIES

Civil Aeronautics Board

CAB Air Carrier Fitness 37064
CAB Air Carrier Insurance and Liability 37065
CAB Essential Air Service Subsidy Guidelines 37066
CAB Plain English for Airline/Passenger Contracts 37068

Commodity Futures Trading Commission

CFTC Proposed Rules Concerning Foreign Brokers and Traders 36930
CFTC Review of Guideline No. 1—Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation 36930

V 45 M Y 3 0 8 0 0 UMI

Consumer Product Safety Commission

CPSC Consumer Products Containing Asbestos 37004
CPSC Omnidirectional Citizens Band Base Station Antenna Standard 37006
CPSC Upholstered Furniture Cigarette Flammability Standard 37007
CPSC Urea Formaldehyde Foam (UFF) Insulation 37009

Federal Communications Commission

FCC Children's Television Programming and Advertising Practices 37069
FCC Creation of "New" Personal Radio Service 37069
FCC Deregulation of Competitive Domestic Telecommunications Market 37070
FCC Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation 37071

Federal Deposit Insurance Corporation

FDIC Disclosure of Information 37031

Federal Energy Regulatory Commission

FERC High-Cost Natural Gas Produced from Tight Formations 36879
FERC Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 36880
FERC Regulations Governing Applications for Major Unconstructed Projects 36882
FERC Regulations Governing the Safety of All Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act 36883

Federal Home Loan Bank Board

FHLBB Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980 36932

Federal Maritime Commission

FMC Amendments to Tariff Filing Requirments for Controlled Carriers 37073
FMC Filing of Currency Adjustment Factors 37074
FMC Revision of Commission General Order 4, "Licensing of Independent Ocean Freight Forwarders" 37075

Federal Trade Commission

FTC Amendment to Eyeglasses Rule and Eyeglasses II 37051
FTC Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans 37053
FTC Proposed Trade Regulation Rule on Mobile Home Sales and Service 37055
FTC Residenbal Real Estate Brokerage Industry Practices 37057
FTC Trade Regulation Rule Concerning Credit Practices 37059

Interstate Commerce Commission

ICC Improvement of TOFC/COFC Regulation 37077
ICC Intercorporate Hauling 37078
ICC No Suspend Zone—Motor Common Carriers of Property 37080

Nuclear Regulatory Commission

NRC Decommissioning of Nuclear Facilities Regulation 37011
NRC Disposal of High Level Radioactive Waste in Geologic Repositories Regulation 37012

Postal Rate Commission

PRC Experimental Classification Rulemaking 37061
PRC Postal Rate Commission Docket MC79-3 (Red Tag) 37083
PRC Postal Rate Commission Docket R80-1 (Postal Rate and Fee Changes, 1980) 37084

Securities and Exchange Commission

SEC Proposed Amendments to Annual Report Form; Integration of Securities Act Disclosure Systems 36933
SEC Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies 36935

CHAPTER 1—ENERGY

DEPARTMENT OF ENERGY

Conservation and Solar Applications

Emergency Building Temperature Restrictions (10 CFR 490)

Legal Authority

Title II, Sections 201(a) and (b) of the Energy Policy and Conservation Act, Pub. L. 94–163, 42 U.S.C. 6261 (b) *et seq.*

Reason for Including This Entry

This entry is included because of its widespread impact and its importance as a nationwide mandatory conservation measure.

Statement of Problem

The Emergency Building Temperature Restrictions (EBTR) were implemented July 16, 1979, after the President determined that the United States was unable to rely upon imports of crude oil to meet normal demand due to international instability. Worldwide production of crude oil is now at levels below those of the comparable period last year. As the President pointed out in the proclamation extending the Building Temperature Restrictions on April 15, 1980, the United States has had to terminate crude oil imports from Iran, and is experiencing increased uncertainty about the level of continued crude oil supplies from other producing countries. Actions by the Soviet Union in Afghanistan and the tensions between Iraq and Iran further increase the threat to the stability of commerce in the Persian Gulf.

U.S. dependence on insecure crude oil imports, which have rapidly increased in price, has substantially increased our inflation rate and created a major adverse impact on the national economy. Because these effects are likely to be of significant scope and duration, it is necessary to take action which will help forestall additional shortages.

The Energy Policy and Conservation Act contains provisions permitting the President to develop and submit to Congress standby emergency energy conservation contingency plans. Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions (EBTR), was transmitted to Congress on March 1, 1979, and approved by both Houses. The plan was implemented by Presidential proclamation on July 16, 1979, due to a severe energy supply disruption caused by events in Iran, and renewed for an additional nine months on April 15, 1980. Savings are estimated between 200,000 to 400,000 barrels per day oil equivalent, about 25 percent of which can be translated directly into barrels of oil saved, principally middle distillates. By saving this amount of energy, EBTR may help to alleviate the severity of the continuing energy crisis faced by the nation. Additionally, EBTR has helped complying building owners and operators to develop new energy-saving modes of building operation.

EBTR accomplishes this goal by generally requiring that thermostats in most nonresidential buildings be set no lower than 78° F. for cooling, no higher than 65° F. for heating, and no higher than 105° F. for general purpose hot water. The regulations also require building temperature setbacks during unoccupied hours.

Alternatives Under Consideration

The EBTR regulations permit any State or political subdivision to submit to the Department of Energy (DOE) for approval a comparable plan which could include temperature limits other than those provided for in the EBTR regulations, in addition to other building energy conservation measures. Such plans have already been approved for New Jersey, Massachusetts, and Houston, Texas.

Section 231 of Title II of the Emergency Energy Conservation Act of 1979 (EECA) (P.L. 96–102, 93 Stat. 757, to be codified at 42 U.S.C. 8501) requires that EBTR must permit a State or political subdivision to include in any comparable plans, procedures permitting individual building owners to propose alternative conservation means that will achieve at least as much energy savings in their buildings as would the temperature restrictions plan. DOE has published an amendment to the EBTR regulations bringing them into compliance with this provision of EECA (10 CFR 490), February 28, 1980.

DOE is strongly considering publication of an amendment which would permit all building owners or operators to submit alternate plans directly to DOE. Alternate means would not be restricted to adjustments in heating, ventilating and air-conditioning systems, but might include changes in the design, construction, or operation of the building, such as lighting reduction, insulation, weatherstripping, installation of control systems, hours of operation, etc. This will afford maximum flexibility to building owners and operators and give retailers, restaurateurs and others the chance to implement strategies which they have indicated may be more appropriate to their particular circumstances. This amendment would be designed to help foster creative and innovative approaches to energy efficient building operation.

The emphasis of the EBTR program is on voluntary public compliance. Although over 30,000 building inspections have been conducted by DOE and participating States, (demonstrating approximately an 80% compliance rate), inspectors have concerned themselves primarily with educating the public and assisting building owners in bringing their buildings into compliance, rather than stressing enforcement and punitive action.

Summary of Benefits

Sectors Affected: The general public: and owners and operators of approximately 2.8 million nonresidential buildings, including industrial/manufacturing buildings, schools, restaurants, retail stores, offices, hotel/lodging nonsleeping areas, shopping centers, warehouses, and retail food stores, and excluding the sleeping areas of hotels and other lodging facilities, hospitals and other health care facilities, elementary schools, nursery schools, and day care centers.

Compliance with the EBTR regulations can save an average of 6 percent of total building energy use (with consequent reductions in utility bills), although this figure will naturally vary from building to building. Nationwide, DOE estimates that the program has saved between 200,000 to 400,000 barrels per day oil equivalent.

In estimating potential fuel savings, computer simulations of building energy usage before and after EBTR were used. These building models were based on sensitivity analyses of key characteristics affecting energy savings, such as infiltration and building HVAC (heating, ventilating, airconditioning system) system type. Building owners and managers will become more conscious of energy conservation.

Summary of Costs

Sectors Affected: DOE; and State energy offices.

The costs of EBTR were primarily administrative. Eight million dollars was expended over the first nine months of the program to cover grants to States for inspections and public education, and for DOE regional and headquarters support. This included funding for program analysis (Argonne National Laboratory), administrative costs, printing and mailing of program manuals and operation of a toll-free EBTR information hotline.

Related Regulations and Actions

Internal: The Standby Federal Emergency Energy Conservation Plan, (10 CFR 477, February 7, 1980), developed under the authority of EECA, contains a building temperature measure similar to EBTR.

External: Some State energy offices are considering the inclusion of building temperature measures in State emergency energy conservation plans being developed to meet the requirements of EECA.

Active Government Collaboration

DOE has been working with over 75 Federal agencies to ensure that all Federal buildings are in compliance with EBTR. The energy conservation directors of each of these agencies have maintained contact with DOE and have inspected any buildings against which public complaints have been lodged. The General Services Administration, Department of Defense (DOD) and Post Office, the three Federal agencies with the largest building populations, are in almost daily contact with DOE regarding EBTR enforcement within their jurisdictions. DOD, with over 122,000 buildings covered by EBTR, has conducted inspections of 64,000 buildings since the program was implemented in July 1979.

Timetable

NPRM—DOE plans to publish a series of amendments to the EBTR regulations in May 1980
Public Comment Period—30 days after publishing NPRM amendments
Public Hearing—to be determined.

Available Documents

Emergency Building Temperature Restrictions Regulations (10 CFR 490), July 5, 1979

"How to Comply with Emergency Building Temperature Restrictions." Copies may be obtained by writing to the Agency Contact listed below or calling the toll-free Emergency Conservation Service Hotline: (800) 424–9122 or 252–4950 (Washington, D.C.).

Emergency Building Temperature Restrictions Docket No. CAS–RM–79–109. Transcripts of all public hearings and supporting documents are available for review in the Freedom of Information Office. Correspondence should be addressed to:

Milton Jordan, Director
Freedom of Information Office
Department of Energy
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Agency Contact

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DOE–CS

Energy Conservation Program for Consumer Products Other Than Automobiles (10 CFR Chapter II Subchapter D Part 430)

Legal Authority

Title III, Part B of the Energy Policy and Conservation Act, P.L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, P.L. 95–619, 92 Stat. 3257.

Reason for Including This Entry

The Department of Energy includes this entry because the proposed rule imposes substantial conversion costs on a $20-billion appliance industry, increases the cost of consumer appliance products, and involves energy conservation issues of great public interest.

Statement of Problem

Major consumer products now being manufactured are less energy efficient than they could be. The Department's Energy Conservation Program for Consumer Products Other than Automobiles seeks to reduce energy consumption of major household consumer products. The legal authority establishes 13 product categories for review. These product categories are: refrigerators and refrigerator/freezers, dishwashers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), television sets, kitchen ranges and ovens, clothes washers, humidifiers and dehumidifiers, central air conditioners, and furnaces.

DOE has developed test procedures for determining compliance with the impending efficiency standards. These standards will establish the minimum level of energy efficiency required to be achieved by the covered product, but will not prescribe the methods, designs, processes, or materials to be used to achieve the particular efficiency level. The Energy Policy and Conservation Act (EPCA) further directs that DOE design any standard it issues to achieve the maximum improvement in energy efficiency which is technologically feasible and economically justified. Manufacturers will be required to certify that their products are in conformance with the standards by testing them in accordance with DOE test procedures before they can place such products on the market.

Alternatives Under Consideration

The major alternatives considered for each covered product were labeling, rebates, tax incentives, consumer education, prescriptive standards, voluntary programs, and no regulation.

Each of these alternatives has been evaluated relative to achieving the mandate of Congress, and other related policy objectives.

The alternative of labeling as the primary action of DOE was considered to be inappropriate because Congress has, in the Act, mandated the establishment of a labeling program by the Federal Trade Commission (FTC). FTC's labeling program requires that each covered product be labeled as to its average annual operating cost. These costs are based on Federal test procedures developed by DOE. No additional benefits, over and above the estimated benefits of the FTC labeling program, were expected to result from further labeling requirements imposed by DOE.

The alternative of providing consumer rebates for purchase of more energy efficient products was determined to involve unnecessary expenditure of Federal funds. Since the consumer is the ultimate benefactor with regard to net cost savings resulting from increased energy efficiency, a rebate to the consumer would serve only to further increase the consumer's economic benefit. In addition, a rebate would be provided to consumers who would have purchased more efficient products without further stimulus as well as to those whose behavior would be altered by the incentive. The length of time over which the rebate would be extended was also a factor in rejecting this alternative. A long-term program could be very costly, while a short-term program may not achieve lasting benefits.

The alternative of providing tax incentives for purchasing or manufacturing energy efficient products was also considered by DOE. Many of the same problems that were anticipated in the rebate alternative are also pertinent to this alternative. In both programs, the majority of the associated costs would be borne by the Federal government, i.e., distributed among all taxpayers, while the benefits would be derived only by the purchasers of covered products. Thus, on an individual-by-individual basis, the costs would outweigh the benefits for those taxpayers who do not purchase the covered products.

DOE has not rejected the alternative of a consumer or public education program. Rather, DOE believes that a strong, viable education program is an important facet of any approach undertaken to achieve energy efficiency of the covered products. DOE's education program will focus on educating consumers to read energy efficiency labels when purchasing covered products, and on the most energy efficient use of the covered products. The concept of energy efficiency does not only relate to the design of a product, but also to how the product is used. The benefits of a well-designed energy efficient product may be completely lost if users are not aware of how to operate and maintain the product to achieve the desired performance as well as energy efficiency. For example, some refrigerators provide an antisweat heater to use during damp or humid weather. Proper use of the heater will reduce energy consumption of the refrigerator.

Other alternatives that DOE considered included the possibility of prescriptive standards based on specific energy efficient design elements rather than the proposed performance standards. This approach was rejected because of the potential for reducing manufacturers' options to use innovative technology to achieve the energy efficiency requirements.

The original version of the Act (EPCA, P.L. 94–163) called for the industry to set up voluntary energy efficiency targets for the covered products. Congress specifically changed this section when amending the Act to provide for immediate establishment of Federal standards. DOE rejected the voluntary program in order to achieve energy efficient products as rapidly as possible.

The "no regulation" alternative assumes that standards are not implemented for any of the covered products. If we chose this alternative some energy efficiency improvements would result in the covered products because of State regulations, and labeling programs, voluntary industry certification, and increasing interest by consumers in energy efficiency as energy costs rise. However, these increases would be much less than the levels that would be obtained with minimum energy efficiency standards. Thus, relative to the proposed standards, this alternative would result in smaller energy savings, and reduced progress toward national energy self-sufficiency.

DOE proposes to require industry to meet a prescribed performance standard rather than a specific design standard, leaving the manufacturer free to find the most cost effective means of compliance while maintaining the desired level of overall quality. This performance standard distinguishes the Energy Conservation Program for Consumer Products as one employing an innovative regulatory technique.

Summary of Benefits

Sectors Affected: Users of major household appliances; and the general public.

The improvement of consumer product efficiencies will decrease the amount consumers pay on their monthly utility bills and the overall amount of energy consumed in the Nation. It is also expected that implementation of Federal standards will accelerate adoption of high efficiency consumer products by 10 years. Standards will be effective beginning in 1981. All products below the prescribed level of standards will be eliminated. Energy savings are estimated at between 13.4 quadrillion, British thermal units (Btu's) and 24.1 quadrillion Btu's over the period 1982 through 2005. The discounted value of these energy savings will be between $18.8 and $24.4 billion, in 1975 dollars. For the year 2000, annual energy savings are expected to be between 0.8 quadrillion Btu's and 1.9 quadrillion Btu's. This translates to energy savings in the range of 376,000 to 993,000 barrels of oil equivalent per day by the year 2000.

Summary of Costs

Sectors Affected: Manufacturing of major household appliances; and users of these appliances.

The costs resulting from implementation of the program will be borne by consumers in the form of increased consumer product prices. This cost over the 1982 through 2005 period is expected to be between $8.3 and $11.1 billion in discounted 1975 dollars. However, the overall program will have a positive net present value between $10.5 and $13.3 billion.

Adverse impacts will be minimized by prescribing separate standards for each category of consumer products. This allows the Federal government to maximize benefits while minimizing burdens in a more judicious manner.

Stronger, more technologically sophisticated firms are not expected to be severely burdened. The greatest potential for near-term adverse impacts to manufacturers will be for those which produce air conditioning and refrigeration products. The overall competitive effect of standards is expected to be a slight increase in concentration in this 300-firm industry.

Burdens on manufacturers will be kept to a minimum through careful consideration of potential impacts on a firm-by-firm basis. In addition, firms with sales under $8 million are allowed exemption from standards for 2 years upon successful petition to the Federal government.

Related Regulations and Actions

Internal: Energy Performance Standards for New Buildings, Residential Conservation Service Program.

External: Minimum Property Standards for One- and Two-Family Dwellings, Department of Housing and Urban Development.

Active Government Collaboration

Federal Trade Commission and National Bureau of Standards.

Timetable

NPRM for Nine Products—May 1980
Public Meeting—June 1980
Public Hearings (2)—July 1980—Washington, D.C. and Chicago, Ill.
Written Comment—60-day comment period following publication of NPRM
Final Rule for Nine Products—December 1980
NPRM for Four Products—March 1981
Final Rule for Four Products—November 1981

Available Documents

Test Procedures:

Refrigerators, Refrigerator-freezers—42 FR 46140, September 14, 1977.

Freezers—42 FR 46140, September 14 1977.

Dishwashers—42 FR 39964, August 8. 1977.

Clothes Dryers—42 FR 46140, September 14, 1977.

Water Heaters—42 FR 54110, October 4, 1977, 43 FR 48986, October 19, 1978, 44 FR 52632, September 7, 1979.

Room Air Conditioners—42 FR 27896, June 1, 1977.

Home Heating Equipment—not including Furnaces, 43 FR 20108, May 10, 1978.

Television Sets—42 FR 46140, September 14, 1977.

Kitchen Ranges and Ovens—42 FR 20108, May 10, 1978.

Clothes Washers—42 FR 49802, September 28, 1977.

Humidifiers and Dehumidifiers—42 FR 55599, October 18, 1977.

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Central Air Conditioners, including Heat Pumps—42 FR 60150, November 25, 1977, 44 FR 76700, December 27, 1979.

Furnaces—43 FR 20108, May 10, 1978.

Sampling Requirements of Consumer Products Test Procedures—44 FR 22410, April 13, 1979.

Representative Average Unit Costs of Electricity, Natural Gas, No. 2 Heating Oil, and Propane—44 FR 37534, June 27, 1979.

Standards:

ANPRM Regarding Energy Efficiency Standards for Nine Types of Consumer Products—44 FR 49, January 2, 1979.

NPRM Regarding Energy Efficiency Standards for Four Types of Consumer Products—44 FR 72276, December 13, 1979.

ANPRM Regarding Energy Efficiency Standards for Heat Pumps—45 FR 5602, January 23, 1980.

Agency Contact

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DOE–CS

Standby Federal Emergency Conservation Plan (10 CFR 477)

Legal Authority

Title II of the Emergency Energy Conservation Act of 1979, Pub. L. 96–102, 93 Stat. 757, to be codified at 42 U.S.C. 8501.

Reason for Including This Entry

The Department of Energy (DOE) issues this rule to conform to the requirements of the Emergency Energy Conservation Act of 1979 (EECA). The Standby Federal Emergency Energy Conservation Plan (the Federal Plan) is one element in the framework provided by EECA for a coordinated national response to a severe energy supply interruption.

Statement of Problem

Serious disruptions due to continued high dependence on insecure crude oil imports have occurred recently in the gasoline and diesel fuel markets of the United States. Because it is likely that such disruptions could recur, an urgent need exists for Federal, State, and local governments to establish emergency energy conservation measures for gasoline, diesel fuel, home heating oil (middle distillates), and other energy sources which may be in scarce supply.

EECA, passed by Congress on November 5, 1979, provides the framework for national, statewide, and local responses to severe energy supply disruptions. Under the terms of the Act, if the President finds that a "severe energy supply interruption" exists or is imminent, or that actions are necessary to restrain domestic energy demand under the terms of international energy agreements, he may establish emergency energy conservation targets for the Nation generally, and for each State for each affected energy source (e.g., gasoline). Within 45 days from the publication of the targets, the Act requires States to submit to DOE emergency conservation plans containing measures designed to meet or exceed the energy savings targeted by the President. Section 213 of the Act requires that DOE establish a Standby Federal Emergency Energy Conservation Plan containing measures designed to reduce the consumption of targeted energy sources. If, after a period of not less than 90 days, a State is not substantially meeting its target, and there is a persistent shortage of 8 percent or greater of the targeted energy source, the President may impose upon the State all or a portion of the measures contained in the Federal Plan.

Because petroleum seems the most likely fuel to be subject to a severe supply interruption, DOE gave primary emphasis in the Federal Plan to measures which are designed to reduce the demand for gasoline and other motor fuels. One nonmotor fuel measure (mandatory building temperature restrictions) was included because it has already demonstrated the potential for savings between 200,000 and 400,000 barrels per day (BPD) of oil equivalent.

Several of the measures referred to above are interim final rules, while others are proposed rules. Included in the interim final rules are:

1. Public information measures, intended to inform motorists about fuel conservation actions they can take, including efficient operation and maintenance of vehicles, alternative means of travel, and trip planning. Additionally, gasoline station owners would be required to have available working air pumps and tire pressure gauges and informative, prominently displayed signs regarding the energy efficiency of proper tire pressure.

2. Minimum automobile fuel purchase restrictions, which set forth restrictions on any minimum gasoline purchase scheme implemented under Federal authority (i.e., the minimum amount of gasoline which may be purchased for a vehicle with 8 or more cylinders shall be $7.00, and for vehicles with fewer then 8 cylinders, the minimum amount shall be $5.00).

3. Odd-even motor fuel purchase restrictions, which set forth restrictions on any odd-even gasoline purchase program adopted by the Federal government.

4. Portions of the employer-based commuter and travel measure, which require private and public employers of a certain size to undertake measures to encourage the use of energy-efficient modes of transportation by their employees in commuting to work.

5. Speed limit enforcement measures, which require States to increase immediately the compliance level for the 55 miles per hour (mph) speed limit, and take additional steps to reduce speed limits depending on the severity of the shortage.

6. Mandatory temperature restrictions, which prescribe thermostat levels for heating, cooling, and hot water in most nonresidential buildings.

Included as proposed rules are:

1. Portions of the employer-based commuter and travel measure, including employer subsidization of employees' cost for mass transit, and "work-at-home" arrangements.

2. The compressed workweek measure, requiring all but exempted government and business activities to reduce their work week by one day.

3. The vehicle-use sticker measure, which prohibits the operation of certain motor vehicles on either one, two, or three preselected days of the week.

Most of the measures are much more intricate than can be captured in this brief analysis. DOE suggests the Federal plan be read in order to gain a better appreciation of each measure. In addition to the demand reduction measures, the Federal Plan also contains a section which describes the contents, review, and approval of State emergency energy conservation plans.

Alternatives Under Consideration

The Act requires that DOE develop emergency conservation measures designed to reduce the public and private demand for certain fuels in the event of an energy supply emergency. The legislation also establishes criteria to judge the suitability of various measures for inclusion in the Plan.

Demand reduction measures may be implemented by Federal, State or local government officials. Measures may be voluntary or mandatory, designed to achieve three goals: a reduction in energy use through a reduction in product or service output, improvements in efficiency which will reduce the energy required for the same output, and switching from a fuel in short supply to one that is more abundant.

DOE employed a systematic process in selecting demand restraint measures for inclusion in the Federal Plan. First, we analyzed the specific characteristics of U.S. energy demand in order to ascertain which sectors were likely to experience the most severe impact of an energy supply interruption. Next, we analyzed past shortages, and devised demand restraint measures to meet a probable future shortage. We reviewed the existing literature, and surveyed the measures already in operation in various States to develop a catalog of measures for inclusion in the Federal Plan. Finally, we subjected these measures to an increasingly rigorous review to eliminate those which conflicted with statutory requirements. Other reasons for eliminating measures included their relatively minor energy savings, or their perceived unacceptable impacts on public health, the national economy, and the environment. However, some measures we did not select for inclusion within the Federal Plan may well be appropriate for inclusion in State plans in States where they could result in significant energy savings and could be readily enforced. Examples of these measures are:

1. school schedule modification
2. electricity end-user measures
3. electric utility conservation measures
4. commercial and industrial boiler efficiency improvements
5. industrial and utility fuel switching
6. reductions of lighting energy use.

Because the transportation sector accounts for nearly one half of the Nation's average daily consumption of petroleum products, we targeted this sector for concentration in the Federal Plan. The greatest potential for fuel savings in transportation exists in the use of gasoline in passenger automobiles, which now accounts for more than 50 percent of all transportation energy consumption. For these reasons, all but one of the measures contained in the Federal Plan address the consumption of gasoline and motor fuels.

Summary of Benefits

Sectors Affected: All sectors of the economy; particularly transportation related industries; and the general public.

The benefits accruing from the Federal Plan are difficult to measure for it is a standby plan. It is only to be implemented after the States have been given an opportunity to develop and administer their own emergency conservation plans; the State plans may include elements of the Federal Plan. Publication of the interim final rule in February 1980, has sparked an intense debate at all levels of government and the private sector as to the efficacy of various emergency conservation measures. It is clearly in the national interest that a standby plan be prepared so that our Nation will be able to respond within a coordinated framework to a severe energy supply interruption.

The average daily demand for gasoline in 1979 was just over 7 million BPD. Estimated energy savings (primarily gasoline) for the measures contained in the Federal Plan are:

Measure:	Estimated reduction (in thousand BPD)
Public information	70–200
Minimum fuel purchase restrictions	Unknown
Odd-even purchase restrictions	Unknown
Employer-based commuting	55
Speed limit (The range indicated depends on the degree of enforcement and designated speed limits)	30–400
Compressed workweek	300
Building temperature restrictions (measured in barrels/oil equivalent)	200–400
Vehicle-use sticker (The range indicated depends on the number of nondriving days, from 1 to 3)	265–1,350

Summary of Costs

Sectors Affected: All sectors of the economy, particularly transportation related industries.

The actual costs associated with this plan depend on the extent of the energy shortfall, how long the shortfall lasts, and which of the standby measures are actually implemented. Implementation costs will be borne by all units of government as well as by the private sector. To give an indication of how much it might cost to implement portions of the standby plan in an energy shortfall consider the following example. A minimal program to reduce gasoline consumption by 8 to 10 percent could include the public information, employer-based commuting, and 55 mph speed limit enforcement measures. It has been estimated that the costs to the Federal government of implementing these three measures would total roughly $100 million.

Under the public information measure, gasoline station owners will be required to have available tire pressure gauges and operating tire pumps. According to the employer-based commuter and travel measure, employers over a certain size will be required to develop for each affected worksite a program to reduce work-related travel by employees. It should be emphasized that these substantial costs are incurred only in the event of an energy shortfall. Administrative costs associated with developing state standby plans will total about $10 million.

Related Regulations and Actions

Internal: On July 16, 1979, the Emergency Building Temperature Restrictions became effective. The regulations, which prescribe heating and cooling limits for most nonresidential buildings, were extended until January 16, 1981, by Presidential Proclamation on April 15, 1980.

External: Many State Energy Offices have begun to design emergency conservation plans. We are encouraging States to submit plans to DOE prior to the actual publication of mandatory emergency conservation targets.

Active Government Collaboration

An interagency task force has been created to ensure that effective input from all Federal agencies is heard in the development of the Federal Plan. Included on this task force are representatives from the Departments of Defense, Labor, Agriculture, Health and Human Services, Transportation, Commerce; the General Services Administration; and the Postal Service.

Timetable

Final Rule—DOE expects to publish the final rule in June 1980
The final rule may incorporate both the interim and the proposed rules.
Regulatory Analysis—

Available Documents

Standby Federal Emergency Energy Conservation Plan—Interim Final and Proposed Rules (10 CFR 477), published February 7, 1980.

Standby Federal Emergency Energy Conservation Plan Docket CAS–RM–79–507. Transcripts of all public hearings, and supporting documents are available for review in the Freedom of Information Office. Correspondence should be addressed to:

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DOE-CS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Neighborhoods, Voluntary Associations and Consumer Protection

Energy Performance Standards for New Buildings (10 CFR Part 435)

Legal Authority

Energy Conservation Standards for New Buildings Act of 1976, 42 U.S.C. §§ 831–6840; Department of Energy Organization Act, § 304, 42 U.S.C. § 701 *et seq.*

Reason for Including This Entry

This entry is included because it imposes significant costs on the building and residential housing industries, and because it involves energy conservation issues of great public interest.

Statement of Problem

A major goal of the National Energy Plan, which by law the Department of Energy (DOE) must submit to Congress annually, is to reduce our dependence on uncertain and expensive foreign oil supplies by reducing the growth in demand for energy used in buildings. DOE and the Department of Housing and Urban Development (HUD) are pursuing this goal through a number of conservation programs. The intent of this regulation is to reduce the amount of energy consumed in new buildings by requiring construction which would make them energy efficient. One-third of all energy consumed in the United States is now used in buildings, and inefficient building designs and equipment waste about 40 percent of this energy.

The regulations DOE is developing will set energy consumption "budget" levels, which buildings must be designed to meet. Energy consumption will be measured on the basis of building design, in terms of consumption per square foot of floor space per year. These "design energy budgets" will take into account the differences in energy consumption required by climate and by the different functions of buildings.

Current plans call for HUD to implement and administer the regulations DOE will issue.

Alternatives Under Consideration

According to the legislation, the requirements of the Building Energy Performance Standards permit consideration of few alternatives. However, these regulations are performance-oriented, avoiding specification of design, materials, or components, and they adapt to differences in regional conditions and building functions. The regulation does not require specific construction techniques. This is an innovative alternative approach, which will allow the private sector a great deal of flexibility.

The main alternatives which we are now considering within this program deal with (1) the way in which energy use is measured, and (2) the method of implementation.

The energy consumption measured at the building site does not indicate the loss which occurred in transmitting the energy to the building site. The proportion of this loss varies by energy type. It takes about 7 percent more energy to deliver one British Thermal Unit (Btu) of oil to a building than it does to deliver one Btu of natural gas. (A Btu is the amount of energy required to raise one pound of water by one degree Fahrenheit.) Almost two Btu's of energy are lost in delivering one Btu of electricity. These figures are national averages, and are higher or lower for specific localities, depending on availability of fuel, transportation distance, and the demand for energy at each locality. Basing design energy budgets only on the energy consumption at a site would overlook a significant amount of energy consumption.

An alternative is to relate the energy that is actually used to the amount of energy that is consumed at the building site, and to set standards based on the actual use. This would be done through the use of Resource Utilization Factors (RUFS) to account for energy losses, and Resource Impact Factors (RIFS) to account for economic and environmental impacts. These factors would be applied to the energy used to give an adjusted total energy use.

Another alternative would be to relate the use of each type of energy to the "marginal cost" of that type of energy, and to set standards based on marginal cost. It is easier to determine marginal costs for specific localities than to get RUF and RIF values. (Marginal cost measures the increase in economic resources that must be diverted to energy production when the demand for energy increases.)

Alternative implementation methods range from a voluntary (no Federal sanctions) approach to a mandatory (strong sanction) approach. We are currently conducting research on the effectiveness of different implementation methods.

Summary of Benefits

Sectors Affected: The building industry (architectural services, construction, and manufacturing of construction materials); building workers (professional, management, skilled, and operative); the building market (realtors, purchasers and users of buildings); and the general public.

Buildings which meet these energy budgets will be expected to consume from 17 to 52 percent less energy than recently constructed buildings, depending on the building type.

Energy savings from the Standards are projected to be 0.22 quads annually (0.1 million barrels per day of oil equivalent [MBDOE]) by 1985, and 0.46 quads annually (0.2 MBDOE) by 1990. (A quad is one quadrillion (10^{15}) Btu.) This is in addition to the energy saved by other building energy efficiency improvement programs. The cumulative energy saved between 1980 and 2020 is projected to be 29 quads.

The Standards that we will propose, may, by 1990, increase the gross national product by 0.1 percent and improve the balance of trade by 5 percent. Employment is projected to increase through additional investment in building energy conservation. It is expected that, cumulatively, 48,000 additional jobs will be created in 1980, 86,000 in 1985, and 70,000 in 1990. This includes all classes of labor: professional management, skilled, and operatives. Business is expected to increase in the following building product sectors because of the Building Energy Performance Standards: insulation, heating, ventilating and air conditioning equipment, masonry products, glass, lumber, and wood products. Some decrease is anticipated in the lighting products sector.

Summary of Costs

Sectors Affected: The building industry (architectural services, construction, and manufacturing of construction materials); the building market (realtors, purchasers and users of buildings); DOE; HUD; and State and local governments.

Construction costs for all new buildings will increase slightly. For new commercial buildings, we expect the increase to be from 3 to 5 percent. The cost of a residential building will increase slightly; the cost of a 1,640 square foot one-story home will increase, on the average, about $1200. However, the energy savings that are achieved under the regulation will more than offset these increased construction costs. The added cost to enforce the standards may be about $22 million per year. An estimated $36 million per year is currently being spent to enforce existing energy standards for buildings. These existing standards would remain in effect.

The Standards will apply to the building industry. They will also affect the general public, because the cost of constructing new buildings will increase by the amounts we estimated above. There may be an increase in the resale price of existing buildings, because these buildings compete in the market with new buildings that will become more expensive.

If sanctions are provided, they may involve the loss of Federal benefits to governmental jurisdictions, rather than Federal penalties to builders. Therefore, with a sanction, the rule could directly affect all governmental jurisdictions that have new building activity. These include the 50 States, 4 territories, 16,000 permit-issuing jurisdictions within the States and territories, and a large but unknown number of local jurisdictions that do not control construction activity within their own boundaries.

Related Regulations and Actions

Internal: DOE: DOE is developing a Model Building Code. This model code specifies detailed requirements for building components (e.g., "install six inches of attic insulation") that are consistent with the performance standards under development.

HUD: Minimum Property Standards for One- and Two-Family Dwellings, Department of Housing and Urban Development (HUD); Minimum Property Standards for Multifamily Dwellings, HUD Handbook 4810, Revision 5, April 1977; Proposed Increase in Thermal Insulation Requirements for the Minimum Property Standards for One- and Two-Family Dwellings, 43 FR 17371–17374, April 24, 1978; Farmers Home Administration, Form 424.7, 7 CFR 1804, Subpart A, Appendix D, Construction Standards.

External: None.

Active Government Collaboration

The Department of Energy, The Department of Housing and Urban Development, and the National Bureau of Standards are participating in activities related to the development of these regulations.

Timetable

Final Rule on standards (DOE)—August 1980.
Final Rule effective—60 days after we issue the final rule.
NPRM on implementation and enforcement (HUD)—August 1980.
Public Comment—for at least 60 days following NPRM.
Regulatory Analysis—under preparation.

Available Documents

NPRM on Performance Standards, 44 FR 6812, November 28, 1979
Phase One/Base Data for the Development of Energy Performance Standards for New Buildings (Final Report), PB–286 898:
Climatic Classification, PB–286 900
Data Collection, PB–286 902
Residential Data Collection and Analysis, PB–286 899
Data Analysis, PB–286 901
Building Classification, PB–286 904
Sample Design, PB–286 903, January 12, 1978
Draft EIS, DOE/EIS–0061–D, November 1979
Draft EIS supplement DOE/EIS–0061–DS, March 1980
Documents available from the Agency Contact listed below.

Agency Contact

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DOE–ECONOMIC REGULATORY ADMINISTRATION

Amendments to Puerto Rican Naphtha Entitlements Regulations (10 CFR Parts 211 and 212)

Legal Authority

Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The regulation could have a significant impact on the competitive position of the Puerto Rican petrochemical industry in relation to its main competitors, the petrochemical producers on the United States mainland. Additionally, any increased entitlement benefits to this segment of the industry would result in corresponding crude oil costs to the domestic refining industry.

Statement of Problem

During the 1950s and 1960s the Federal government and the Puerto Rican government encouraged the development of a refining and petrochemical industry in Puerto Rico. Commonwealth Oil Refining Company (CORCO), Phillips, Sun, and Union Carbide were among the major firms which invested large amounts of capital in refinery facilities, based on the tax relief afforded by the Puerto Rican government and the allocation of substantial quantities of low-cost foreign crude oil and naphtha (a volatile, colorless, distillate product between gasoline and refined oil) by the Federal government. Both naphtha and crude oil are "feedstocks" convertible into one or more end-products in the process of refinery operations and petrochemical production.

Two major considerations governed the joint policy of the Puerto Rican and the Federal government towards the establishment of this refining capacity. First, the policy was based on the availability of low-cost imported feedstock, particularly naphtha, which provided a cost advantage over petrochemical producers on the mainland. This advantage was needed to offset the higher shipping and other costs of starting up the industry in the relatively underdeveloped economy of Puerto Rico. A second major consideration was that the new refinery facilities would expand employment and provide Puerto Rico with fuel for manufacture, transportation, and agriculture.

Since the 1960s, the petrochemical industry in Puerto Rico has grown to such an extent that it now contributes greatly to U.S. petrochemical capacity and to the economy of Puerto Rico. In 1977, petroleum related industry in Puerto Rico contributed more than $2 billion to the island's economy, approximately one-third of its total income. In addition, 10 percent of U.S. petrochemical output is now located in Puerto Rico.

Despite these gains, Puerto Rico oil refineries have been severely affected by the worldwide increase in the price of imported crude oil, coupled with the imposition of price controls on domestic crude oil by the Federal government. The combination of soaring prices for imported naphtha and crude oil, joined to Federal regulatory policy which enabled mainland refiners to purchase cheaper domestic crude oil, has reversed the feedstock cost advantage that the

Puerto Rican petrochemical industry formerly enjoyed. Mainland competitors now pay less for feedstocks than Puerto Rican refiners.

To lessen the competitive disadvantage to Puerto Rican companies of higher feedstock costs, the Federal Energy Administration (FEA) amended the entitlements program on July 20, 1976, to permit Puerto Rican petrochemical producers to receive entitlement benefits for imported naphtha feedstocks. (An "entitlement" is a credit given by DOE to a refiner, and is equivalent to the difference between the average [volume weighted] delivered cost per barrel of uncontrolled crude oil and the average [volume weighted] delivered cost per barrel of domestic price-controlled crude oil.) The entitlement credit, used in this manner, would reduce the price of purchased feedstocks. FEA determined that it would be inappropriate to grant the full crude oil entitlement benefit to naphtha imports in months when the differential between the prices of imported and domestic naphtha is less than that month's per-barrel entitlement value. Accordingly, the rules the FEA adopted tie the entitlement credit for naphtha imported into Puerto Rico to the difference between the average (volume weighted) cost for imported naphtha and an imputed domestic naptha price. This imputed value is set at 108 percent of the average (volume weighted) cost of crude oil to refiners. (It is necessary for the government to impute this price because very little naphtha is sold domestically.) The maximum entitlement value that can be received is still limited to the actual per-barrel entitlement value of the crude oil.

These rules are now the responsibility of the Department of Energy (DOE), and are administered by the Economic Regulatory Administration (ERA) within DOE. DOE believes that two factors in the current regulations are causing problems: (1) the naphtha entitlement value is limited to a crude oil entitlement value, and (2) the factor used to impute the domestic naphtha price is too low. FEA never expected that it would need to grant more than a full crude oil entitlement, because, historically, world naphtha prices have paralleled crude oil prices. However, during the last year the prices for imported naphtha have increased much faster than those for crude oil. Further, ERA's review of current data on naphtha prices and crude oil costs shows that the factor presently used to impute the domestic naphtha cost is much too low. As a result of these factors, approximate feedstock costs equalization (the goal of the entitlements system) is not given to firms that import naphtha at their current prices.

In recognition of the problems facing the petrochemical industry in Puerto Rico, DOE's Office of Hearings and Appeals (OHA) issued, on May 16, 1979, a proposed Decision and Order which would have made an exception to existing rules to provide relief for a period of six months to those petrochemical companies in Puerto Rico that import naphtha. This interim relief was proposed in order to provide ERA with sufficient time to address these issues through the rulemaking process. The relief OHA proposed would have given two entitlements for each barrel of imported naphtha used in Puerto Rican petrochemical plants. On August 15, 1979, OHA decided to reverse their earlier finding, based upon their belief that the Puerto Rican petrochemical industry was not experiencing extraordinary financial difficulties which required the immediate attention of DOE. Thus, they recommended that the difficulties described by the petitioners be handled through the rulemaking process.

Alternatives Under Consideration

DOE will consider several options for better calculating the imputed cost of domestically produced naphtha. The cost of naphtha to the mainland domestic petrochemical industry is a central issue in determining the appropriate level of price protection that should be afforded through the entitlement program to maintain a competitive petrochemical industry in Puerto Rico. These Puerto Rican producers find it difficult to compete with mainland domestic firms because these mainland firms have access to naphtha produced from lower cost domestic crude oils.

The possible approaches to imputing a domestic naphtha price that we will examine include:

- Using the current approach of imputing a price based on domestic crude oils, but periodically changing the factor to reflect changes in world market naphtha prices;
- Basing the imputed naphtha price on the prices in alternative but related markets, such as the market for unleaded regular gasoline, jetfuel, or heating oil; and
- Using the current approach, but comparing international naphtha prices to international costs of low-to-medium sulfur crudes rather than domestic crude costs in setting an imputed cost factor.

In addition to examining changes in the ways of calculating the imputed cost of domestically produced naphtha, DOE is considering the possibility of removing the current restriction on a naphtha entitlement value. Currently, the naphtha entitlement cannot exceed the value of a crude oil entitlement. In light of the increasing prices of naphtha worldwide, this may no longer be reasonable.

Summary of Benefits

Sectors Affected: Puerto Rican petrochemical production in the industrial organic chemical industry; the general public of Puerto Rico; and users of naphtha-derived petrochemicals.

Any of the alternative proposals should increase the competitive position of the Puerto Rican petrochemical industry with petrochemical producers located on the mainland. The Puerto Rican petrochemical industry maintains that if no regulatory changes are made to equalize their naphtha feedstock costs with those of firms operating on the Gulf Coast, they will be forced either to trim seriously their operations or incur large operating losses. In fact, one major Puerto Rican petrochemical plant has already closed. As we formerly stated, the development of refining and petrochemical facilities has had a great impact upon the economy of Puerto Rico. Thus, the proposed changes, in making the Puerto Rican petrochemical industry more competitive, would have a direct positive effect on Puerto Rico's economy.

The proposal should reduce the costs of naphtha-derived petrochemicals to U.S. consumers by a small amount.

Summary of Costs

Sectors Affected: Domestic petroleum refining; petrochemical production in the industrial organic chemical industry; and domestic users of petroleum products

None of the proposed changes to the Entitlement Program will increase ERA's compliance or administrative costs. There will be no added reporting requirements for the petroleum industry However, by providing larger entitlements to naphtha, credits available to crude oil are reduced. This would increase the cost of crude feedstock to domestic refiners and, in turn, result in a small price increase in oil products to U.S. consumers.

An increased naphtha entitlement value might also have the adverse effect of increasing the price of naphtha in the world marketplace

Timetable

This rulemaking has not yet been approved by the Secretary, therefore the timetable is strictly tentative.

NPRM—Draft Regulatory Analysis—second quarter, 1980
Public Comment—60 days following NPRM
Final Rule—third quarter, 1980
Final Rule Effective—60 days after it is issued.

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DOE—ERA

Amendments to the Crude Oil Supplier/Purchaser Rule (10 CFR Part 211*)

Legal Authority

Emergency Petroleum Allocation Act of 1973. 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The Department of Energy (DOE) believes that the proposed amendments to the supplier/purchaser rule are significant because they would provide a transitional period during which producers, resellers, and refiners could realign their contractual arrangements in a manner more reflective of the economic efficiencies of a free market situation.

Statement of Problem

The domestic crude oil supplier/purchaser rule was adopted by the Federal Energy Office (FEO) in January 1974 (39 FR 1904, January 15, 1974) in response to the Arab oil embargo, and the associated price increases in foreign oil. The primary purpose of the rule was to maintain intact the existing distribution system for domestic crude oil, and thereby to assure all refiners, especially small and independent refiners, continued access to price-controlled domestic crude oil. In addition, by stabilizing the national crude oil distribution system, the rule laid the foundation for a general allocation of crude oil among domestic refiners.

In effect, the original rule froze domestic crude oil sales; it stated that all supplier/purchaser relationships in effect on December 1, 1973 for sales, purchases, and exchanges of domestic crude oil were to remain in effect for the duration of the program. It stated that such relationships could be terminated by mutual consent and that a producer could terminate sales of new and released oil (generally speaking, oil exempt from ceiling prices) if the present purchaser failed to meet any bona fide offer (i.e. not above the ceiling price) from another purchaser. The rule also provided that new and released oil subsequently sold from a property not in production on December 1, 1973, could be sold in a first sale to any person, but that such sale would constitute the establishment of a supplier/purchaser relationship subject to the same restrictions imposed by the rule on relationships in effect on December 1, 1973.

The original need for a regulatory-based allocation system resulted from the combination of shortage conditions and domestic price controls. Imposition of ceiling prices at less than market clearing values foreclosed the use of the normal market mechanism for allocating supplies of domestic oil among refiners. This foreclosure was of particular concern in view of the significant variation in the extent of crude production by individual refiners. Without an effective allocation system, the prospect existed of vertically integrated refiners refusing to continue historical supply relationships, thereby adversely affecting nonintegrated refiners and refiners having lesser degrees of proprietary access to domestic crude oil. In addition to limiting inequities, allocation also was required simply to provide market stability in a period when price competition (for old oil, although not for other domestic oil) was foreclosed. Because all purchasers were restricted to offering generally the same price (ceiling) for domestic crude oil, and the demand at that price was greater than the quantity a producer could supply, a mechanism was needed to carry on the function which price competition had previously provided in stabilizing as much of the existing crude oil flow as possible.

Recent DOE policy has been to simplify the petroleum allocation and price regulations, thus eliminating as much of the current regulatory burden on the industry as possible. In accordance with this policy, we have reevaluated the supplier/purchaser rule to determine whether, and to what extent, it remains an essential feature of the crude oil allocation programs. This reevaluation was prompted by the belief that the rule may be adversely affecting crude oil movements in certain cases, and is inconsistent with the President's plan to decontrol domestic crude oil prices.

As presently structured, the rule prevents significant changes in the distribution of price-controlled domestic crude oil from the pattern existing prior to December 1, 1973, despite major changes in the volumes and areas of production of domestic crude oil, and a significant number of new entrants in both the marketing and small refiner segments of the industry. As a result, the rule may prevent the market from redirecting reduced domestic crude oil supplies in the most effective manner. This would appear to be true in those instances where the rule requires a small refiner to sell its production to other refiners or resellers, or where it prevents a small refiner from competing for volumes of crude oil located nearby. In addition, the rule seems to hinder market forces in the disposition of crude oil supplies in response to changing demand for particular types of crude oil.

Although some major and large independent refiners may rely on the rule to assure continued access to supplies of unique crudes, our analysis indicates that major and large independent refiners do not depend on the rule for large portions of their supplies of crude oil. Most of the larger refiners have access to various sources of crude oil supplies in both domestic and foreign markets, and presumably would be able to replace losses of domestic crude oil from either domestic or foreign sources. In contrast, small refiners have more limited access to crude oil supplies in both domestic and foreign markets, and thus are restricted in their replacement capabilities. The fact that most foreign producers prefer to sell crude oil in large volumes and that a large-volume capital outlay is prohibitively costly for many small refiners has often made long-term contracts between foreign producers and small refiners infeasible. In addition, major oil companies have reduced voluntary sales of foreign crude oil to third parties, further limiting the small refiner's access to crude oil. As a result, small refiners are more vulnerable than the major and large independent refiners to worldwide fluctuations in the supply and distribution of crude oil.

Another factor which prompted the reevaluation of the supplier/purchaser rule is the President's plan for phased decontrol of domestic crude oil. Under phased deregulation, price-controlled crude oil will be moved into the uncontrolled category, and, for all intents and purposes, will be removed from the supplier/purchaser freeze as a

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result of the "bona fide offer" provisions. Therefore, the rule will be affecting smaller and smaller amounts of crude oil over the next year and a half. Price deregulation will ultimately bring about the recision of the rule. As stated previously, a primary function of the supplier/purchaser rule is the allocation of domestic crude oil absent the market mechanism of price competition. Because phased deregulation will allow a gradual return to the free market and price competition, continuance of the supplier/purchaser rule may be at variance with such goals.

Alternatives Under Consideration

In an effort to minimize the supplier/purchaser rule prior to the expiration of its allocation authority and to provide a transitional period for producers, resellers, and refiners, DOE proposed, on April 28, 1980, the following options for amendments to the supplier/purchaser rule:

(A) Complete elimination of the supplier/purchaser rule, except as it applies to purchases of all domestic crude oil (or alternatively only price-controlled crude oil) by small refiners. This will assure small refiners a degree of supply security with respect to volumes of controlled oil and will further assure them the right of first refusal on domestic crude oil sold at market level prices. It will also provide a transitional period during which producers, resellers, and refiners may realign their contractual arrangements in a manner more reflective of the economic efficiencies of a free market situation. It will only guarantee continued access to price-controlled crude oil to small refiners.

(B) Continuance of the current rule as it pertains to volumes of price-controlled crude oil for all purchasers, except where the purchaser is a small refiner. This will provide continued access to price-controlled crude oil to most refiners, but will probably continue to prevent the redirection of reduced domestic crude oil supplies in the most economic manner.

(C) Complete elimination of the supplier/purchaser rule. While this will provide greater flexibility in the marketplace by removing artificial barriers to competition, it may also have an adverse impact on small refiners who no longer would have an assured source of crude oil.

DOE's initial preference is Option (A) because it will assure small refiners a degree of supply security with respect to price-controlled crude oil, and will ease the transition to a free market for all refiners.

Option (B) provides a greater degree of assurance that the effects of price controls on remaining volumes of this category of crude oil are not circumvented by numerous resales of the crude or loss of the identity of its pricing category in the distribution chain. Option (C), while consistent with the Administration's policy to reduce regulation of the industry, could diminish the effectiveness of price controls on crude oil and result in so abrupt a return to free market conditions when full decontrol occurs in October 1981 that unwarranted disruptions in product supply and distribution could result.

Summary of Benefits

Sectors Affected: Crude oil production; and refining and wholesale trade of petroleum, particularly small refiners.

Small refiners would be the principal beneficiaries of Option (A), but independent crude oil producers would also benefit, as would refiners. Small refiners would have the benefit of continuing protection from the rule, but would gain the additional benefit of being able to compete for desirable price-controlled crude oils now unavailable to them because of the application of the rule in other frozen sales. Independent purchasers would benefit by being able to sell crude oil to those producers most able to provide beneficial terms in nonprice areas. Resellers would benefit from being able to compete for additional volumes of crude oil, particularly from independent producers, not now available to them as a result of the rule.

While economic benefits could accrue to individual refiners which obtained price-controlled crude oil from a supplier/purchaser relationship to their own refineries, no net economic impact on the refining industry is anticipated as a result of the amendments we are proposing. These modifications would result in a redistribution of the benefits associated with access to price-controlled oil. To the extent such benefits exist, they will decrease rapidly as phased decontrol progresses.

Summary of Costs

Sectors Affected: The petroleum refining industry, other than small refiners.

Refiners other than small refiners would run the risk of losing some volumes of crude oil now protected by the supplier/purchaser rule. The volume and value of these losses cannot be quantified. Presumably, the refiner would compete vigorously for volumes which are especially desirable.

None of the proposed changes to the supplier/purchaser rule will increase the Economic Regulatory Administration's compliance or administrative costs. There will be no added reporting requirements for the petroleum industry.

Related Regulations and Actions

Internal: Notice of Intent on Amendments Concerning Processing Agreements Involving Non-Refiners (45 FR 3060, January 16, 1980).

External: None known.

Active Government Collaboration

None

Timetable

Regulatory Analysis—preliminary with NPRM, final with final rule.
Public Hearings—May 29, 1980 in Washington, D.C.; June 3 and 4, 1980 in Los Angeles.
Public Comment—for 60 days following NPRM.
Final Rule—about 90 days after NPRM.
Final Rule Effective—30 days after final rule issuance.

Available Documents

44 FR 59240, October 15, 1979.

Transcripts and public comments of the public hearing held on October 18, 1979.

NPRM issued April 28, 1980; 45 FR 29770–29780 FR, May 5, 1980

Preliminary Regulatory Analysis

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA-142, 1000 Independence Avenue, S.W., Washington, D.C. 20595.

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DOE-ERA

Amendments to the Emergency Provisions of the Crude Oil Buy/Sell Program (10 CFR Parts 211 and 212)

Legal Authority

Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The regulation could possibly involve the entire domestic refining industry, and result in crude oil supply and price impacts to most refiners.

Statement of Problem

The crude oil buy/sell program is designed to implement provisions of the Emergency Petroleum Allocation Act of 1973 which require the protection of the competitive viability of small refiners. The program requires the 15 major, integrated refiners (i.e., refiners with integrated systems of exploration, production, transportation, and marketing) to sell crude oil for regular 6-month allocation periods to small refiners that lack physical access to imported crude oil. The buy/sell program regulations also make provision for emergency allocations for most other small refiners which incur sudden losses of supplies. The size of the major refiners enables them to obtain access and favorable terms in negotiating for oil supplies. By contrast, many small refiners lack access to adequate supplies of domestic and foreign crude oil and have difficulty obtaining desirable terms.

Under the terms of the emergency allocation program, DOE has made emergency allocations of crude oil totalling over 21 million barrels to small refiners during the first eight months of 1979. These allocations were required by the weak position of the small refiners in the market and by the continued tightening of world crude oil supplies during the period following the cut-off of crude oil exports from Iran. The Department of Energy (DOE) had received reports from many small refiners that their contracts for crude oil supply have been broken and that they were unable to obtain enough foreign crude oil at any price. Thus, the crude oil buy/sell program was used to maintain the competitive position of the small refiners.

At the same time, the 15 major refiners, required to sell oil under the program, contend that the emergency allocations have caused them undue hardship. They advance two principal objections against the present administration of the program. First, the major refiners contend that the present method of determining the price at which oil is to be sold to small refiners prevents them from recovering their full costs of acquiring that oil. Under the present pricing system, the maximum price a refiner-seller may charge for its crude oil is the weighted average landed cost of imported crude oil purchased during the month of sale. This pricing scheme does not reflect the actual cost of crude oil purchases in periods of rapidly escalating prices, because supplies must often be replaced at much higher costs. Second, refiner-sellers state that emergency allocations have required them to reduce output from their refineries. The major refiners have been compelled to absorb the expense of unused refinery capacity.

The crux of the problem is to maintain the crude oil buy/sell program, while finding a way to alleviate the burdens on the major refiners that we have described. There appears to be a need to distribute sales obligations in a more equitable manner, and to allow refiner-sellers to charge prices which are closer to the market rate.

Alternatives Under Consideration

DOE has proposed two amendments to the crude oil buy/sell program. One of these amendments would expand the classification of refiner-sellers under the program to include, in addition to the 15 major integrated refiners, all other refiners with refining capacity in excess of 175,000 barrels per day (B/D). There are seven large, "independent" refiners that fall into this classification. Including the large, independent refiners in the crude oil buy/sell program would increase the number of refiner-sellers from 15 to 22 (15 major refiners plus 7 large independent refiners), thereby distributing the sales obligations of the program among a greater number of participants. Second, DOE proposed that refiner-sellers be allowed to charge the actual landed cost of crude oil sold to refiners with a refining capacity in excess of 50,000 B/D for emergency allocations only. Refiner-buyers with a refining capacity less than 50,000 B/D would continue to pay the weighted average price of imported crude oil.

DOE is exploring the following range of alternatives in relation to a pricing mechanism which would reduce potential burdens the program imposes on major refiners:

(*A*) *No action.* We would keep the present pricing mechanism charging refiner-buyers the monthly weighted average landed cost. This option would be reasonable if shortages of crude oil supply disappeared and the rapid escalation in spot market prices eased.

(*B*) *Increase handling fee.* We could attach a larger surcharge handling fee to the current weighted average cost of imported crude oil sold under the buy/sell program. The current handling fee (paid by buyers to sellers) is $0.05 per barrel; the handling fee under standby emergency crude oil allocation regulations is $0.25 per barrel.

DOE is exploring the following alternatives with relation to the proposed expansion of the refiner-seller list.

(*A*) *No action.* If the current shortfall of crude oil supply stabilizes, and if emergency allocations are greatly reduced, we could keep the refiner-seller list as it is, consisting of only the 15 major integrated oil companies.

(*B*) *Implementing standby regulations.* In January 1979 we adopted standby rules for allocation of crude oil which we could make effective. We could implement this program if the Administrator of ERA determined that the crude oil supply situation had worsened.

(*C*) *Product allocation.* Instead of allocating crude oil to refiner-buyers, we could allocate refined products to refiner-buyers on an equitable basis.

(*D*) *Large independents selling to only certain small refiners.* We could require the large independents to sell crude oil only to refiner-buyers with refining capacities greater than 50,000 B/D. Thus if the proposed price change for small refiners is implemented, these new sellers could recover the total cost of crude sold under the program, thereby imposing relatively small burdens on this segment of the refining industry

Summary of Benefits

Sectors Affected: Major, integrated petroleum refiners; and small, independent refiners.

The proposed changes could result in several benefits. Expansion of the refiner-seller list will increase the ability of small independents to obtain crude oil under the program for they would then be able to buy from 22 rather than from just 15 firms included in the current program. However, the sector of the petroleum industry that would benefit the most from the proposed changes would be the 15 major, integrated refiners, as the average number and volume of sales per refiner–seller would decrease. Moreover, the proposal to increase the price of crude oil sold by refiner-sellers would result in a price closer to the market price in such sales. This might be more equitable to the major integrated oil companies, and because the price would be higher, it might provide a greater incentive for refiner-buyers to purchase their own crude supplies. For these reasons, refiner-sellers would probably be more willing to negotiate sales with potential refiner-buyers.

Summary of Costs

Sectors Affected: Independent petroleum refiners; and users of petroleum products.

The costs of compliance and administration associated with the proposed amendments would be slight Only the seven largest independent refiners, if they are included as sellers, would face added reporting requirements.

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The regulation would impose only minimal costs on the industrial and public sectors. Including the large independents as sellers and changing the price of the crude would probably increase the price of crude sold to the refiner-buyers. The increase in crude costs legally can and probably would be passed on to the consumer by the refiner-buyers; however, given the small amount of crude sold under the program the impact of prices would be slight. Including large, independent refiners as sellers would only have a small financial effect on them, as long as they were able to replace crude sold under the program and could pass through any additional crude oil cost increases in their product prices.

Related Regulations and Actions

NPRM—Activation of Standby Mandatory Crude Oil Allocation Program (44 FR 67602, November 26, 1979). In response to the President's decision to prohibit the importation of Iranian crude oil into the United States, DOE issued an NPRM on November 23, 1979, designed to take care of any significant crude oil supply problems the domestic refining industry might encounter as a result of this action. In addition, the NPRM requested comments on possible amendments to the existing Buy/Sell and Entitlements Programs to include revisions in the method of determining the price of allocated crude oil, the addition of the large, independent refiners as refiner-sellers, and the inclusion of newly constructed refineries in the Buy/Sell Program. Therefore, many of the issues and proposals contained in the May 14, 1979, NPRM were subsumed by this subsequent NPRM.

Active Government Collaboration

None

Timetable

Final Rule—No decision has been made by DOE regarding any of the proposed revisions to the Buy/Sell and Entitlements Programs contained in either of these NPRMs.
Regulatory Analysis—not required

Available Documents

NPRM—44 FR 26060 (May 4, 1979).
NPRM—44 FR 67602 (November 26, 1979).

Transcripts and public comments of the public hearings held on May 31, 1979, and on December 13 & 14, 1979.

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA–142, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

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DOE-ERA

Decontrol of Propane/Simplified Propane Price Rules (10 CFR Part 212)*

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The Department of Energy (DOE) thinks this rule is important because simplifying the current rules, or decontrolling propane, will create an incentive for future propane production, thereby reducing our reliance on propane from foreign sources.

Statement of Problem

Existing regulations have not allowed propane prices to rise as rapidly as those for alternative fuels (mainly distillate fuel oil). As a result, domestic production has declined and imports have increased. Many refiners find it more profitable to use propane as a refinery fuel rather than selling the gas. Gas processors often do not choose to extract additional quantities of propane from natural gas, for lack of adequate incentives, and sell the propane and other liquids as residue natural gas. The regulations also create disincentives to conserve by users that have access to propane at a price that is held down by controls—in particular, petrochemical plants that find propane considerably less expensive than feedstocks derived from crude oil.

Under the current regulations, different regulatory principles govern the pricing of propane gas depending on whether it is produced from crude oil or natural gas. At the present time, approximately 60 to 65 percent of domestic supply is extracted from natural gas and 25 to 30 percent is derived from refining crude oil. Refiners and gas processors are only permitted to recover actual increased costs (calculated in cents per gallon) incurred over May 1973 levels. There is currently as much as a 30 cents/gallon difference in the maximum producer price between propane derived from crude oil and that derived from natural gas. However, because most sellers are refiners who also own gas processing facilities, these extreme differences are not reflected generally in market prices. Propane resellers and retailers under the current regulations may pass through increased product and marketing costs. As of January 1, 1980, small propane retailers received a 4 cents/gallon increase in marketing costs.

Although supplies and prices of propane have fluctuated considerably over the past 18 months, domestic supplies of propane, including imports, currently appear to be at adequate levels. According to American Petroleum Institute (API) data, end of December stock levels were over 71 million barrels, and demand (measured by stock drawdown) is relatively moderate when compared with that of previous years. Imports are generally running at approximately 10 percent of domestic demand. We do not foresee any future shortages of propane of any consequence that could not be filled by foreign supplies, which are projected to increase in the future. Propane prices at the wholesale level over the past year have risen from a low of about 20 cents to about 40 cents per gallon in response to the passage of the Natural Gas Policy Act, Organization of Petroleum Exporting Countries (OPEC) crude oil price increases, and refiner/gas processor use of "banked" costs accumulated during 1977–1978 when market conditions kept prices abnormally low. We expect propane prices to approach parity with other fuels (e.g. No. 2 heating oil) with similar uses, as long as refiners and gas processors continue to draw down "banked" costs and because high cost imports (5 to 20 cents per gallon above domestic prices) are increasing in volume and are being rolled in with lower cost domestic supplies.

"Bank" or "banking" are terms applied to certain allowable increased costs that are accumulated because the costs are not recoverable in the marketplace. Stated another way, "banks" are the difference between the maximum allowable price computed under the Federal energy guidelines and the market price. "Banked costs" are only accumulated when the price in the marketplace is less than the maximum lawful selling price.

Alternatives Under Consideration

DOE has under consideration three alternatives with respect to the pricing of propane:

(1) Continuation of the current regulatory concepts with minor modification. The advantages of this approach would be that relatively minor modifications can be made that would alleviate some of the operational problems and financial disincentives;

industry has learned to live with these regulations for 5 years and could probably continue to do so through October 1981 when controls end; and residential and agricultural users receive some degree of protection against price increases caused by crude oil price increases and some assurance of supply availability. The disadvantages of this approach are that the regulations; (a) do not recognize current replacement costs or create incentives to construct new processing facilities, (b) are overly complex and cause considerable administrative expense to the industry, and, (c) cause significant price disparities between various types of propane producers and result in implicit subsidies to some consumers, mainly in the natural gas producing areas.

This concept is the least favored, as prior modifications have not resolved all of the problems, and to correct all of the disparities and financial disincentives of these regulatory principles would require massive revisions to the current concepts.

(2) Implementation of a simplified concept of price controls under which DOE would set a single nationwide price that would be adjusted monthly to reflect cost increases. The advantages of this approach would be that it would create incentives for increased construction of gas processing facilities and for some refiners to sell propane, instead of using it as a refinery fuel (to the extent that proposed Federal Energy Regulatory Commission [FERC] incremental pricing rules do not result in propane being cheaper than natural gas); alleviate the greatest complexities of the regulations and eliminate substantial price disparities between propane derived from natural gas and that derived from crude oil; and provide a "cap" that propane prices could not exceed if a substantial supply/demand imbalance occurs.

The disadvantages of this approach would be that it would result in higher prices for historical low-cost consumers supplied primarily by propane derived from low-priced natural gas, allowing current average prices (40–42 cents/gallon) to increase somewhat over the next year when compared to what might be allowed under current regulations; does not address current limitations on wholesaler and retailer margins; and could delay adoption of a final rule as a more extensive regulatory analysis would be required.

Under this simplified concept, "banks" of unrecovered costs will be eliminated, the price of propane imports would not be controlled, classes of purchasers for propane producers will be eliminated, and future increases would be based on (a) increases in the average refinery crude oil acquisition cost as well as the domestic price of natural gas, (b) actual transportation and storage costs incurred by the producers to the point of sale, and (c) actual increased marketing costs allowed under current regulations for independent resellers and retailers of propane.

This approach would retain the concept of a ceiling on propane prices, while greatly simplifying producer pricing of propane by eliminating pricing disparities between types of producers.

(3) Decontrol. The advantages of this approach would be that it could create the greatest incentive for expansion of domestic production capabilities and reduction of imports; result in enhanced allocation efficiency and GNP increase, because the free market would better allocate supplies; reduce disincentives to conservation by consumers with anomalously low-priced supplies; and it could result in lower prices than Option (2), under which all levels of distribution would likely seek to obtain maximum allowable margins for fear of not being able to recover them in the future if the market softens.

The disadvantages fo this approach would be that it could result in higher prices than Option (2) if a supply/demand imbalance occurs; would be opposed by agricultural and residential users; and would reduce the British thermal unit (Btu) content of natural gas streams to the extent that more propane is extracted.

At present, market factors are generally controlling propane supply and demand. Because demand is fairly strong and there is upward price pressure caused by the high relative cost of competing fuels and feedstocks from crude oil, propane prices are probably now being somewhat constrained by DOE regulations. If propane were deregulated, there would likely be little short-term effect on supply or demand. Over the longer term, new demands could develop more easily because of the ability of suppliers to enter into long-term supply contracts based on new sources of supply. At the same time, these new supply sources would be more likely to be developed as corporate planners would be free of regulatory uncertainties in making investment decisions regarding new gas processing and recovery plants, import terminals, pipeline expansions, underground storage, and other facilities necessary to insure supplies to consumers.

We prefer Option (3), which is decontrol, as it will increase domestic production, reduce high-priced imports, spur conservation, and enhance the Nation's gross national product. Although Option (2), simplified pricing, would improve current market conditions, we believe the optimum solution to the problems to be full decontrol.

Summary of Benefits

Sectors Affected: Propane production; industrial users of propane, particularly petrochemical production in the industrial organic chemical industry; and residential and commercial users.

Either decontrol or a simplified refiner/gas processor pricing mechanism will remove current disincentives for increased production, encourage conservation, and eliminate market anomalies that have occurred over the past 7 years. The simplified pricing mechanism for refiners and gas processors, however, would be time consuming and would not address needed changes to the wholesalers and retailer's regulations.

Summary of Costs

Sectors Affected: industrial users of propane, particularly petrochemical plants in the industrial organic chemical industry; and commercial and residential users of propane.

Irrespective of which option is selected there would likely be some price increases because of the current price disparity between propane and alternate fuels on a Btu basis. However, these increases over the longer term would help to assure supplies by providing adequate price incentives to extract the propane from increasingly valuable "wet" natural gas streams. There would also be some tendency for the currently lower propane prices to exert some downward pressure on No. 2 oil prices because of the lower cost basis of propane. Moreover, the short-term availability of Canadian imports (which Canadian producers need to dispose of as gas production is increased) and the longer term forecast surpluses of propane from major world production areas, such as Saudi Arabia, Mexico, and the North Sea, will also tend to hold propane prices down worldwide through much of the 1980s.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

Awaiting final decision on whether to proceed with an NPRM or Regulatory Analysis—

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Available Documents

None reported.

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DOE-ERA

Decontrol of Synthetic Natural Gas Feedstocks (10 CFR 211.29)

Legal Authority

Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

This proposed rule, which would decontrol propane and naphtha used for synthetic natural gas (SNG) feedstocks, is warranted by the increasing availability of natural gas, which has reduced SNG demand, and by the impending expiration of the Emergency Petroleum Allocation Act (EPAA) on September 30, 1981. In addition, naphtha has already been decontrolled for every other use.

Statement of Problem

The Federal Energy Administration (FEA) first issued the SNG petroleum feedstock regulations in 1974. "Feedstocks" refers to gas used as an ingredient of the end-product of production as distinguished from gas used to power machinery. The criteria for allocation of petroleum products to SNG plants were very restrictive, because the intent of the regulations was to minimize the construction of new SNG plants. Seven of the 13 existing plants have permanent allocations of petroleum products based on historical use. Six SNG plants, which were completed after 1974, do not have permanent allocations and have continually been before the agency in separate proceedings seeking allocations. The regulations had the effect of limiting their petroleum feedstock use during the period 1974–77. The National Energy Plan published in April 1977 recommended that a Federal task force be organized to revise the regulations. As a result of the task force's efforts the SNG regulations were revised, effective October 1, 1977. The revised regulations, which are currently in place, are somewhat less restrictive, but they continue to provide detailed criteria for the allocation of feedstocks.

The principal feedstocks for SNG plants are naphtha and the liquid petroleum gases (primarily propane and butane). FEA lifted price and allocation controls on naphtha, which is also used as a gasoline and petrochemical plant feedstock, except for the limitations on its end use as an SNG plant feedstock. Propane is still subject to price and allocation controls, as well as the SNG feedstock limitations. DOE decontrolled butane on January 1, 1980 and at the same time exempted it from the end-use controls on SNG feedstocks. Thus, only naphtha, an otherwise decontrolled product, and propane, are currently subject to the SNG plant feedstock limitations.

Alternatives Under Consideration

In an effort to minimize the impact on the marketplace of the final deregulation of SNG feedstocks in 1981, to end the discrimination against users of naphtha for SNG feedstock vis-a-vis other users of naphtha, and to reduce the current regulatory burden on the energy industry, DOE is considering the following alternatives to the current SNG feedstock regulations:

(A) The deregulation of all SNG feedstocks, which would have the advantage of eliminating compliance burdens from SNG plant operators, and should not result in higher SNG feedstock use since no new SNG plants are under construction.

(B) "Grandfathering," i.e. creating an exemption for all current SNG plants at allocation levels commensurate with full capacity production for each plant's historic operating period. This would effectively decontrol the allocation of SNG feedstocks for existing plants, but would leave in effect the outmoded regulations.

(C) Complete reevaluation of the SNG regulations with the intent of making substantial revisions to reflect the current energy situation. This would have the advantage of tailoring the regulations precisely to the existing energy situation, but would take more time than the other options and might produce a regulation which would be rapidly outmoded.

DOE proposes to deregulate propane and naphtha as SNG feedstocks because it is the most direct way of dealing with the changes in the energy supply situation which have occurred since the regulation of SNG feedstocks was implemented. Because natural gas is no longer in critically short supply, and no new SNG facilities can be brought on line before the expiration of the EPAA on September 30, 1981, DOE believes that the time expended by the agency under the present regulations in evaluating petitions and issuing orders is excessive in terms of the benefits derived from maintaining controls over SNG feedstocks.

Summary of Benefits

Sectors Affected: SNG plants in the industrial gas industry; and propane production.

The operators of SNG plants will be able to obtain feedstocks without the delay and costs inherent in applications for allocations from DOE. The elimination of the feedstock allocation program will allow adjustments in the propane market prior to full decontrol, and thus minimize its impact when the EPAA expires.

Summary of Costs

Sectors Affected: Petrochemical plants in the industrial organic chemical industry.

There may be an increase in demand for propane to be used as an SNG feedstock which could adversely affect supplies available for use by the petrochemical industry. However, developing world surpluses of propane and other gas liquids should result in adequate supplies for all users.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

NPRM—Second quarter, 1980
Draft Regulatory Analysis—Second quarter, 1980
Public Comment Period—60 days following NPRM
Final Rule—Third quarter, 1980
Final Rule effective—30 days after it is issued

Available Documents

None

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DOE-ERA

Entitlement Adjustments to Alaskan North Slope (ANS) Upper Tier Crude Oil (10 CFR 211.67*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et. seq.*

Reason for Including This Entry

This proposal would redress a current regulatory distortion in the retail gasoline market, which is causing severe competitive dislocations, and creating the potential for refiners of Alaskan North Slope (ANS) upper tier crude oil to realize greater profits on the volumes of such crude oil used to produce decontrolled products.

Statement of Problem

The domestic crude oil allocation (entitlements) program is the program the Federal Energy Administration (FEA) implemented in December 1974 to help equalize crude oil costs among U.S. refiners. Essentially, the entitlements program (subject to certain qualifications not here relevant), by requiring transfers of cash through purchases and sales of entitlements among refiners, achieves the same result as if FEA had directly allocated to each refiner a "mix" of lower tier, upper tier, exempt, and imported crude oil that reflected the national supply ratios for each of these price categories of crude oil.

Stated another way, the entitlements program means that lower tier crude oil, upper tier crude oil, and exempt and imported crude oil all have relatively equivalent effective acquisition costs to the refiner (subject to certain qualifications and assuming that crude quality and prices do not differ to a large extent). Because the entitlement transfers are computed nationally on the basis of total volumes of lower tier, upper tier, and uncontrolled oil, and on the basis of the national average prices of these broad classifications, the net payment by or to a given refiner depends not on the price or quality of an individual crude, but rather on these national averages.

It is important to note that, because the purpose of the entitlements program is to equalize refiners' costs rather than producers' revenues, entitlements values are based on average laid-in costs to refiners, inclusive of transportation costs. This distinction from DOE's crude oil ceiling price rules, which apply to wellhead prices exclusive of transportation, has considerable significance for the pricing of ANS production, as will be seen below.

As a consequence of the method of entitlement computation, and because regulated domestic crude oil prices are maximum prices rather than mandated levels, the incentive exists for refiners to shop competitively for crudes in order to minimize their total feedstock acquisition costs, comprised of delivered crude costs plus or minus the entitlements costs or benefits. Thus, for example, refiners contemplating the purchase of a new supply of crude will determine the price that they are willing to pay for that crude based on their average acquisition costs of existing crudes, the comparative quality of the crude, the difficulty of processing and the value of the petroleum products which can be produced from it, and the entitlement benefit or obligation associated with that tier of crude oil. In the case of ANS crude, therefore, the delivered price a given refiner will be willing to pay ANS crude producers for their oil will depend very heavily on whether DOE treats ANS crude for entitlement purposes as upper tier or as import/uncontrolled tier oil.

To take a specific example, suppose that a refiner regards ANS crude to have the same processing difficulty and to yield the same value of products as a certain alternate imported crude oil. If the ANS crude were treated as imported crude oil for entitlement purposes, then the refiner would get the same entitlement value for a barrel of ANS crude as for imports, and would therefore be willing to pay a delivered price for ANS crude roughly equivalent to the landed cost of the import. If, however, ANS crude were treated as upper tier oil for entitlements purposes, and the refiner had to purchase the entitlement obligation associated with upper tier crude oil, he would only be willing to pay a delivered price for ANS crude that would be less than the price of the import by the amount of the upper tier entitlement cost.

In August 1977, FEA adopted a rule treating ANS upper tier crude oil as imported crude oil under the entitlements program. This decision was based on an extensive analysis which showed that because of the extraordinary costs of transporting ANS crude to the continental United States, imported oil entitlements treatment was desirable to provide "the maximum monetary and psychological incentive for these other producers to explore aggressively elsewhere in the Arctic and in other frontier regions" (42 FR 41567, August 17, 1977).

The necessity for special entitlements treatment for ANS crude oil resulted from the unique circumstances identified in the rulemaking relating to transportation of ANS production to domestic refiners. Because of the Trans-Alaska Pipeline tariffs and shipping costs, extraordinary costs are associated with the transportation of ANS crude oil from the North Slope to domestic refiners compared with other upper tier domestic crude production. An analysis undertaken as part of the 1977 rulemaking concluded that the cost of transporting ANS crude oil to the continental United States was approximately $7 to $9 per barrel.

By giving ANS crude oil imported tier entitlements treatment, the ANS producers could sell the oil at a price delivered to the refinery of about $14 per barrel, competitive at the time with imported oil. After deduction of transportation costs, this yielded a wellhead price of about $5 to $7 per barrel, which was approximately the average ceiling price of lower tier oil and was well below ANS oil's upper tier ceiling price of about $12 per barrel. If ANS oil had been given upper tier entitlements treatment, it would have been sold at a delivered price equivalent to upper tier prices and, after subtracting transportation costs, would have yielded a wellhead price of only about $3 to $5 per barrel.

Currently, because of extraordinary increases in the foreign oil prices that determine the value of ANS crude, uncontrolled ANS crude oil released since January 1, 1980 under DOE's upper tier decontrol rule can be sold competitively with foreign crudes above $30 per barrel delivered. However, the bulk of ANS production is still subject to its upper tier wellhead ceiling price at approximately $14 per barrel. After adding transportation costs, ANS producers are constrained to charge no more than about $21 to $23 per barrel delivered (based on January entitlements data).

Thus, the treatment of ANS upper tier oil as imported crude oil under the entitlements program, at a time when ANS crude oil is constrained by ceiling prices, is causing anomalous effects in the refining industry. Refiners with access to significant volumes of ANS upper tier crude oil have the lowest cost domestic crude oil after entitlements adjustments and retain the full benefit of price controls that limit their acquisition costs. This has resulted in anomalies in the retail gasoline market, where lower crude costs must be reflected in lower selling prices. To the extent that ANS crude is refined into exempt products, the potential exists for refiners of ANS upper tier crude oil to realize substantially greater profits on these volumes than refiners that do not have access to ANS upper tier crude oil as a result of the current structure of the entitlements program.

Alternatives Under Consideration

We are considering two options to solve the problem:

(1) Create a separate entitlements category for ANS upper tier crude. This

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approach has the advantage that refiners of ANS crude would pay reduced upper tier entitlements. The payment would generally allow ANS crude to continue to sell at its wellhead ceiling price.

(2) The second alternative proposal under consideration would require ANS crude oil to incur regular upper tier entitlements obligations reduced by a transportation cost differential established by DOE. The transportation cost differential could correspond to the estimated additional costs of transporting ANS crude oil from the North Slope to refineries in the lower 48 states.

Summary of Benefits

Sector Affected: Petroleum refining; wholesale and retail trade; and consumers of gasoline not containing ANS crude oil.

This rule change would affect the price of petroleum products sold in the United States. It would increase costs to the consumer of products produced by refiners processing ANS crude oil, but it would also reduce the prices of controlled products (i.e., gasoline) to the customers of refiners not processing ANS crude oil.

The adverse competitive impacts on the retail gasoline market that currently exists would be reduced.

Either proposed alternative would raise the price of gasoline refined entirely from ANS crude oil by about 18 to 20 cents per gallon. Gasoline refined domestically from all other crude oil will be reduced in prices to dealers by nearly 2 cents per gallon (based on January 1980 entitlements data).

Refiners producing decontrolled products would experience similar changes in crude oil feedstock cost. Therefore, the potential advantage to refiners on uncontrolled products resulting from ANS crude runs would be reduced.

Summary of Costs

Sectors Affected: Refining of ANS crude oil; wholesale and retail trade; and consumers of gasoline containing ANS crude oil.

The proposed change will result in no overall economic benefit to the petroleum industry, but the changes should remove regulatory-induced anticompetitive problems in the marketplace caused by wide variations in refiner crude oil acquisition costs. The impact on individual refiner's costs and prices has been previously discussed.

There will be no change in the total amount of costs which the industry in general can pass through in gasoline prices. While there will be an increase in entitlements costs to refiners of ANS upper tier crude oil, there will be an offsetting decrease in entitlements costs for all other domestic refiners. The impact that these shifts in costs will have on the price of gasoline at the pump is a function of the relative level of competition in the marketplace.

Related Regulations and Actions

Internal: Elimination or modification of the Equal Application Rule may reduce regulation-induced anomalies in the retail gasoline market.

External: None.

Active Government Collaboration

None reported

Timetable

NPRM—Second quarter, 1980
Public Comment Period—30 or 60 days following publication of NPRM
Final Rule—Second quarter, 1980
Regulatory Analysis—in preparation

Available Documents

None

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DOE-ERA

Gasohol Marketing Regulations (10 CFR Parts 211, 212)

Legal Authority

Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The Department of Energy (DOE) believes that amendments to the motor gasoline allocation and price regulations to clarify the rights and responsibilities of refiners and marketers who enter the gasohol market are significant because of the degree of public interest in the further development of gasohol.

Statement of Problem

Gasoline supplies can be stretched further if increased use is made of gasohol, which is a blend of ethanol (a kind of alcohol) and unleaded gasoline. Because the ethanol in gasohol can be produced from domestic resources such as grain, the President has set increased use of gasohol as a national goal. This would reduce our dependence on foreign oil.

Existing Federal regulations on the allocation of motor gasoline control the distribution of gasoline in the United States. Price regulations also control the ways in which refiners can allocate costs to gasoline in total and to individual grades of gasoline. Unless these rules are appropriate to the growth of the gasohol market, it will be difficult for new and existing businesses to plan production and distribution of gasohol. Therefore, DOE is considering amendments to the regulations which will clarify the criteria under which DOE will assign supplies of unleaded gasoline to blenders for gasohol production, clarify the responsibilities of gasohol producers in marketing gasohol pursuant to the regulations, and amend the ways in which refiners must allocate ethanol costs.

The current regulations do not specify criteria to be employed, or procedures to be followed, to assign unleaded gasoline to potential blenders. The only recourse under the current allocation regulations is to apply for an exception through DOE's Office of Hearings and Appeals (OHA). As the gasohol market grows, this is an inappropriate device for a caseload of the magnitude expected. Furthermore, unless the allocation regulations were amended, gasohol marketers would have to assume that gasohol would have to be allocated by applying the regulations to the unleaded gasoline which constitutes 90 percent of the gasohol blend. This, however, may be entirely inappropriate to the development of a strong and viable market for this product. Finally, applications of the current refiner price rules to gasohol would require that the refiner allocate ethanol costs among all barrels of a grade of gasoline (e.g., unleaded regular gasoline). This would unfairly depress the price of gasohol by attributing some of its costs to other gasoline. All of these problems must be corrected in order to supplement the strong position previously taken by DOE in support of the development of gasohol.

Alternatives Under Consideration

(A) DOE could do nothing at this time, in which case the Office of Hearings and Appeals would still provide an avenue of relief for firms entering the gasohol market. But there are major disadvantages in inaction, including continued uncertainty over rules applicable to gasohol, unleaded gasoline supply dislocation, and a possibly unmanageable caseload for OHA.

(B) Deregulation of gasohol must be considered as an alternative, because price and allocation controls on motor gasoline will expire on September 30, 1981. This would allow gasohol blenders and marketers to compete in the market

for the unleaded gasoline blend stocks they need to mix with ethanol, and would not require a large bureaucracy to implement. However, deregulation of unleaded gasoline for gasohol blending suggests enforcement problems with other unleaded gasoline continuing under controls, because suppliers of unleaded gasoline have a preemptory regulatory obligation to supply unleaded gasoline to their base-period purchasers first before they can sell it on the market.

(C) DOE could amend the allocation and price regulations to provide for an appropriate passthrough of ethanol costs to gasohol, specify the criteria by which DOE will assign supplies of unleaded gasoline to a potential marketer, and create new provisions for the allocation of gasohol within a refiner's system.

DOE believes that both options (B) and (C) are viable. The tentative preferred choice is option (C), providing new pricing and allocation rules for gasohol. This approach will substitute clear general rules for the present case-by-case approach, providing a desired certainty and predictability in the marketplace. While it largely avoids the enforcement problems suggested by deregulation, it results in a significant regulatory burden on a fledgling industry.

Summary of Benefits

Sectors Affected: Gasohol refining; ethanol production; gasohol wholesale and retail trade; and the general public.

Allocation of unleaded gasoline for blending with ethanol to produce gasohol could provide a regulatory framework within which ethanol fuel production could increase, perhaps from the present 60 million gallons per year to as much as 300 million gallons per year by 1982. Gasohol use may eventually reach 3 billion gallons per year, or 3 percent of present gasoline consumption, as a result of this and other measures. In addition, use of gasohol would also reduce dependence on foreign oil. (See the Report of the Alcohol Fuels Policy Review, DOE, June 1979.)

Summary of Costs

Sectors Affected: Refining of unleaded gasoline; and wholesale and retail trade of those refiners' unleaded gasoline production.

Allocation of unleaded gasoline to gasohol blenders reduces the amount of unleaded gasoline available to other distributors. Because we expect ethanol production and blending to occur primarily in the Midwest, near resources to produce ethanol, this rule could result in a shift of gasoline suppliers to the Midwest at the expense of other regions. DOE has not yet determined whether the gasohol, once blended, would flow back to the regions affected by reduced gasoline supplies. However, because the proposed amendments are expected to serve largely as a codification of certain procedures, or modification of those procedures, which are now undertaken by the Office of Hearings and Appeals to avert these costs, we are unable to state definitely that direct costs will occur or, if they do, in what magnitude.

Related Regulations and Actions

Internal: DOE has already provided certain price incentives for the marketing of gasohol. DOE price regulations permit gasohol resellers and retailers to passthrough as product costs the cost of nonpetroleum-based alcohol blended with gasoline (43 FR 24265, June 5, 1978). DOE has also issued a rule to permit refiners to allocate all of the costs of alcohol among the various grades of gasoline (44 FR 69594, December 5, 1979). DOE has issued a rule offering an entitlement benefit (a payment related to the difference in costs between imported and domestic crude) to alcohol producers or gasohol blenders (44 FR 63515, November 5, 1979). An environmental assessment is being prepared and will be used to determine whether an environmental impact statement (EIS) is required.

External: Gasohol marketing is encouraged by the National Energy Act motor fuel excise tax exemption on gasoline/alcohol blends, which is worth 4 cents per gallon of gasohol (at a 9 to 1 ratio) and 40 cents per gallon of ethanol if blended with gasoline. This is equivalent to $16.80 per barrel of ethanol. This exemption will continue through the year 1992 under the terms of the Crude Oil Windfall Profits Tax Act [Public Law 96-223, April 2, 1980, Section 232(a)]. Provisions of various State governments permit whole and partial exemptions from State motor fuel taxes for gasohol, in an attempt to ensure that gasohol is competitively priced.

Active Government Collaboration

DOE is cooperating actively with the Alcohol Fuels Commission on this issue.

Timetable

NPRM—second quarter, 1980
Regulatory Analysis—draft with NPRM, final with final rule
Environmental Assessment—within 30 days after NPRM
Public Hearing—about 45 days after NPRM
Public Comment—for about 60 days after NPRM
Final Rule—about 90 days after NPRM, and EIS if needed
Final Rule effective—30 days after final rule issuance

Available Documents

DOE's Report of the Alcohol Fuels Policy Review, June 1979 (prepared by the Office of the Assistant Secretary for Policy and Evaluation). This document is available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Printed copy—$7.25; microfiche—$3.00.

See the Regulatory Analysis bibliography for an extensive description of available literature.

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DOE-ERA

Incentives to Refine Lower Quality Crude Oil (10 CFR Part 212)

Legal Authority

The Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

There is a continuing decline in the available supply of premium crude oil. To the extent a refiner makes controlled products, there is no incentive under the pricing regulations to reduce dependence on these higher priced, premium crudes by installing new equipment or upgrading existing equipment. This proposal would provide such an incentive.

Statement of Problem

On August 30, 1979, the Department of Energy (DOE) issued a Notice of Inquiry (44 FR 50148) regarding adequate incentives for refineries. The notice was issued in response to requests that the price regulation be modified to provide refineries with an adequate return on new investments in order to promote increased capacity.

Respondents to the notice stated that (1) adoption of a rate of return regulation would be an indication that DOE's regulations were not really expected to expire on September 30, 1981, and (2) decontrol was the best method for encouraging new investments. They also noted that the

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pricing rules do not allow refiners to retain the benefits of using lower cost crudes to produce controlled products, thereby discouraging investments and operating changes to increase the use of these crudes.

Currently, the refiner price regulations provide various mechanisms for the recovery of certain investment costs in order to encourage refiners to make needed investments in refineries. The following recovery mechanisms are presently in effect: (1) the capital costs of new refining investments can be depreciated and these depreciation costs can be passed through in higher product prices; (2) the interest cost of borrowed capital may be passed through in higher product prices; (3) the so-called gasoline "tilt" rule, adopted March 1, 1979, provides refiners with the opportunity to passthrough more of their costs of producing gasoline by increasing gasoline prices; and (4) refiners are permitted an additional increase in prices of gasoline that reflects their increased production of unleaded gasoline.

In addition, most refined products are now exempt from price controls, and, if market conditions permit, refiners can retain the benefits of reducing their costs to produce these products.

Comments from the public hearings and DOE's analysis indicated that any regulatory amendment to incorporate a rate of return to encourage investment is not advisable. Further, it is not certain that there is a need for any regulatory incentives to encourage the use of lower quality crudes. Because decontrol will occur in October 1981, there is a long lead time to bring investment projects on line, and market conditions may provide a sufficient incentive for such investments as the better quality crudes become more expensive and less available. We have determined that further investigation is necessary to define the extent and type of refinery investments currently underway.

Alternatives Under Consideration

Upon completion of DOE's investigation of refinery investments, to include consideration of the expiration of price controls by October 1981, a determination will be made whether a regulatory incentive to encourage the use of lower quality crudes is needed. Several alternatives could be adopted. One method would be to allow refiners an added cost passthrough for each additional barrel of lower quality crude oil that they refine. This added cost passthrough would enable refiners to realize some of the cost savings derived from using lower quality crude oil and thereby would provide an economic return on the investment to use such crudes. This method would provide an added value that is proportional to the increase in the volume of lower quality crude actually processed. The disadvantage of this method is that a single value for all refiners may not reflect the actual savings realized by each refiner.

Another alternative would be to allow refiners a credit against the cost saved by supplementing each barrel of high-valued crude oil with a lower quality crude. The credit would be treated as an increased cost under DOE regulations. This alternative would allow refiners to realize the full benefits of the lower cost crude. However, because the added cost would be based on the difference between the actual cost of the crude purchased and an estimated value for the cost of the crude that would have been purchased, it may be difficult to establish or verify.

Two procedural alternatives will be considered if an incentive is to be provided. First, Standby Regulations may be amended. Second, a recommendation may be made that post-Emergency Petroleum Allocation Act legislation include such an incentive program if controls were ever reimposed.

If it is determined that this incentive is not needed, no regulatory action will be taken.

Summary of Benefits

Sectors Affected: Extraction and refining of lower quality crude oil; consumers of petroleum products; and manufacturing of oil refining equipment.

Refiners will be encouraged to invest in new or retrofitted equipment to use lower quality crudes and lower the Nation's average cost of crude. The increased capability to process lower quality crude oil can lead to increased use of lower valued domestic crude oils (e.g., from California and Florida). It can also reduce dependence on, and therefore the cost of, premium imported crude oil. Product prices may respond to these lower crude costs, to the extent that competitive conditions cause refiners to pass on the savings of the lower cost crudes in product prices.

This incentive will create lower costs for refiners, and allow the refiners to retain some of the savings. A reduction of 1 degree API in the average gravity of all crude used in the United States would reduce refiner cost by about $300 to $350 million annually. A 1 percent increase in the average use of sour crudes would reduce refiner costs by $200 to $250 million annually. Under the present limited product control system, about half of these cost reductions would be retained by refiners, and the balance would be used to reduce the maximum lawful selling price of gasoline and propane. The incentive may cause added demand for equipment to upgrade refineries.

Summary of Costs

Sectors Affected: None.

Related Regulations and Actions

Internal: None.
External: Council of Wage and Price Stability Guidelines.

Active Government Collaboration

None.

Timetable

Completion of refinery investment investigation—summer 1980 (further action, if any, will depend on decisions made as a result of the investigation)

Available Documents

Notice of Inquiry—44 FR 50148, August 30, 1979.

Transcripts of Public Hearings: New York, NY, October 2, 1979; Houston, Texas, October 4, 1979.

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DOE–ERA

Motor Gasoline Allocation Regulations Revisions (10 CFR Parts 205, 211)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The Department of Energy (DOE) motor gasoline allocation program has a significant influence on the energy sector of the Nation's economy. Changes to the overall regulatory scheme can have potential impacts upon every level of supply down to retail outlets and their customers. In addition, if the changes proposed succeed in avoiding future gasoline lines at retail stations, a direct impact will be felt by motorists as a result of the alleviation of adverse economic impacts, such as lost time from work and fuel waste from waiting in queues.

Statement of Problem

The Mandatory Petroleum Allocation Regulations apply to all domestic transactions in motor gasoline. The allocation regulations operate to smooth supply reductions by requiring continuation of historic supplier purchaser relationships. Priorities are formed by establishing allocation levels for all purchasers with reference to volumes supplied during the base period of November 1977 through October 1978.

An allocation system based on historic relationships cannot respond smoothly to recent shifts in demand. A principal means to reflect shifts in demand and changes in marketing techniques are the procedures available for assigning allocations for new retail outlets and adjusting base period volumes, or allocation entitlements. Additional flexibility in the program is provided by the state set-aside program through which governors can reallocate up to five percent of allocated product within their own states and by DOE and refiner redirection authority. However, the evidence to date suggests that these provisions have not been used to equalize regional impacts associated with gasoline shortages.

A contributing factor to some regional supply disparities has been the relative differences in supplier's allocation fractions. These are the primary measures of a supplier's ability to meet the needs of its customers. Areas primarily supplied by firms with low allocation fractions experience greater percentage cutbacks than those supplied by firms having higher fractions.

During the 1979 summer driving season, 18 states and the District of Columbia experienced moderately severe or severe gasoline lines at the retail level, according to DOE's Energy Emergency Information Center. The available evidence suggests that gasoline lines and actual shortages at the retail level occurred mainly in densely populated urban and suburban areas. These areas appear most prone to gasoline lines because travel and gasoline demand patterns appear to have actually shifted during last year's shortage. This shift apparently was the result of less intercity travel and travel to vacation and other rural areas by motorists who became concerned about the availability of gasoline. There was relatively less of a reduction of driving within urban regions, where a lower percentage of the driving is discretionary.

Our tentative view is that if the present allocation system remains unchanged, the same parts of the Nation which suffered most of the gas lines in 1979—mainly urban areas—may again experience lines during a future supply shortage. To date, the allocation system has not provided sufficient flexibility to respond to these apparent demand shifts, and motorists in urban areas have had to bear a disproportionate share of the hardships associated with gasoline shortages. We believe that it is prudent to identify and explore various options for improving the ability of our regulations to manage equitably any future shortages experienced by retail gas stations and their customers.

In addition, we have also become aware of certain unintended effects of our regulations. We are concerned that branded independent retail dealers may be experiencing competitive difficulties as a result of their relative inability to obtain increased allocations for increased demand as easily under our regulations as many reseller-retailer and refiner operated outlets. In our view, a rulemaking proceeding that would identify and explore such apparent inequities is needed to assure that the regulations operate as intended without interfering with the competitive balance existing within gasoline markets at the retail level.

Alternatives Under Consideration

Each of the alternative proposals that may be offered will be explored thoroughly, and extensive opportunity for public comment and discussion will be provided. On the basis of full consideration of each, DOE may determine to adopt some or all of the following proposals, or may determine that no action is warranted and terminate the proceeding.

Among the possible alternatives being explored presently for inclusion in a proceeding to review the overall motor gasoline allocation regulations are:

(1) More restrictive standards for making allocation assignments for new retail outlets, and methods of limiting present interim supply procedures.

(2) An allocation adjustment for use during shortages to make geographical shifts in product to reflect geographical shifts in demand.

(3) Protection of small retailers during a shortage by guaranteeing a minimum allocation level to stations with low base-period uses to maximize the number of stations having product during a shortage.

(4) Clarification of existing regulations to authorize state set-aside officials to require cross-branded deliveries (delivery of a gas from a supplier with one brand name to a seller with a different brand name).

(5) Authorization of reseller-retailers supplying more than one brand to maintain and base deliveries on separate allocation fractions.

(6) Substitution of a more equitable mechanism for the present "unusual growth" provision.

Consideration of the foregoing alternatives is at a preliminary stage of examination and each or all could be modified or deleted prior to issuance of an NPRM. Additional methods of improving the gasoline allocation regulations may also be developed and included within a rulemaking proceeding.

Summary of Benefits

Sectors Affected: Retail gasoline sales outlets in urban areas and their customers; small retail outlets and their customers; and urban gasoline consumers.

Because of the number of alternatives DOE is considering, the benefits and costs of each will be addressed in a regulatory analysis. This analysis is currently under preparation and will be issued in draft to accompany the NPRM. A final version will be issued with the final rule.

Summary of Costs

Sectors Affected: Retail gasoline sales outlets in rural areas and their customers; rural gasoline consumers; new retail outlets.

Related Regulations and Actions

Internal: An NPRM, "Motor Gasoline Allocations; Adjustments and Downward Certification" (44 FR 69962), was issued on December 5, 1979. On April 26, 1980, DOE issued a notice of intent not to adopt as a final rule its principal proposal on downward certification. The alternative proposals remain under consideration.
External: None.

Active Government Collaboration

DOE is actively cooperating with the Small Business Administration in the portions of this proposal concerning assignments for new retail outlets and adjustments for existing retail outlets.

Timetable

NPRM—Second quarter, 1980
Regulatory Analysis—draft with NPRM, final with Final Rule; draft is currently under preparation
Public Hearing—about 45 days after NPRM in Washington, D.C., and several other locations nationwide
Public Comment—for 60 days after NPRM
Final Rule—about 90 days after NPRM
Final Rule Effective—30 days after Final Rule

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Available Documents

None.

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DOE–ERA

Natural Gas Curtailment Priorities for Interstate Pipelines (10 CFR Part 580)

Legal Authority

Natural Gas Act, Natural Gas Policy Act of 1978 (P.L. 95–621), §§ 401, 402, 403. Department of Energy Organization Act, (P.L. 95–91), §§ 301(b), 402(a)(1)(E), and 501, 91 Stat. 565. E.O. 11790 (39 FR 23185), E.O. 12009 (42 FR 46267).

Reason for Including This Entry

This rule will implement the curtailment priorities established by the Natural Gas Policy Act (NGPA) and will address, as indicated by our review, any other changes determined to be necessary in the general area of natural gas curtailments. Because of the potentially far-reaching effects of such a rule on interstate pipelines, local distributors, and their natural gas customers, we are including it in the Calendar.

Statement of Problem

Natural gas curtailment priorities deal with the manner in which natural gas will be allocated to customers of interstate pipelines. Under the Department of Energy Organization (DOE) Act, the Secretary of Energy is responsible for the establishment and review of priorities for curtailments. The Secretary of Energy has delegated this authority to the Administrator of the Economic Regulatory Administration (ERA). Under the DOE Act, the Federal Energy Regulatory Commission (FERC) administers and implements the curtailment policies developed by the ERA.

Historically, FERC's predecessor, the Federal Power Commission (FPC), had exclusive Federal jurisdiction concerning curtailment of natural gas in interstate pipelines pursuant to its authority under the Natural Gas Act (NGA). The FPC dealt with curtailment of natural gas on a case-by-case basis. From the rulings issued in these cases, a priority system developed which ranked end users of natural gas from high (last to be curtailed) to low (first to be curtailed). The FPC priority system generally placed residential and small commercial use in the highest priorities and interruptible large volume industrial users in the lowest, first-curtailed priorities.

Several considerations shaped FPC's approach to the curtailment priority system: first, the importance of gas used to protect health, safety, and other human needs; second, the operational difficulty of physically cutting off or reducing service to residential and small commercial customers; and third, the differences in the costs that different kinds of end-users would experience in converting to an alternate fuel.

This review and rulemaking process will reconcile the curtailment priority system that the FPC developed with the provisions of the NGPA that mandate the establishment of certain curtailment priorities. An additional reason motivating the rulemaking is that the existing policy on natural gas curtailment priorities, adopted by the FPC in 1973, has long needed review in the light of current circumstances and requirements.

Specifically, the areas which the review of curtailment priorities will select for focus are as follows:

(1) Essential agricultural uses. Section 401 of the NGPA requires the Secretary of Energy to prescribe a rule restricting interstate pipelines from curtailing the essential agricultural use requirements that the Secretary of Agriculture has certified as necessary for full food and fiber production (44 FR 15642, March 15, 1979). This rule was issued March 9, 1979. Essential agricultural uses may only be curtailed to meet needs of "high priority users" (e.g., schools, hospitals, residences) or when FERC determines, in consultation with the Secretary of Agriculture, that an alternate fuel is economically practicable.

(2) Industrial process or feedstock use. Section 402 of the NGPA directs the Secretary of Energy to prescribe a rule limiting the circumstances in which an interstate pipeline may curtail gas supplies used in an industrial process or as a feedstock. Use as a feedstock refers to gas employed as an ingredient of the end-product, as distinguished from gas used to power production machinery.

(3) Emergency allocation authority. Relevant sections of the National Energy Act (NEA) authorize the President to declare a natural gas supply emergency which would trigger various consequences related to this review. As an example, the President could authorize an interstate pipeline to make emergency purchases from intrastate pipelines under short-term contracts. This authority, while outside the scope of the curtailment priority system itself, must work in concert with it. Therefore, this inquiry will consider the effects of the NEA on the curtailment priority system.

(4) Development of supplemental supplies and reductions in oil imports. The question arises to what extent the ERA should use its curtailment authority to facilitate and encourage the development of supplemental gas supplies or alternative sources of fuel. Facilitation of the development of new energy sources would promote the objective of reducing oil imports.

Alternatives Under Consideration

ERA is considering several alternative approaches to a curtailment priority system. They are as follows:

(1) Maintaining the present system as developed by the FPC while making those changes required by the NGPA.

(2) Developing a curtailment system as in (1) but updating the base period from which requirements are measured in one or more ways.

(3) Relating the incremental pricing provisions of the NGPA to the curtailment priority system. Under this approach, low-priority users of natural gas would be among the first to pay the relatively high cost of additional units of natural or synthetic gas. High-priority users, by contrast, would continue to pay the lower average or "rolled-in" costs of additional increments of gas.

Consideration is also being given to whether the guidelines should apply strictly to all interstate pipelines which transport gas, or whether FERC should be allowed to depart from strict application of the general policy under the ERA rule to account for the differing circumstances of individual pipelines, making adjustments where they are necessary.

Summary of Benefits

Sectors Affected: Interstate pipelines; natural gas distributors; all direct users of natural gas, particularly high-priority users such as agricultural, commercial, and residential users; customers of direct gas users; and the general public.

The benefits and the costs of different curtailment priority alternatives will be presented in the Regulatory Analysis and Draft Environmental Impact Statement accompanying the NPRM to be issued as a result of this review.

Summary of Costs

Sectors Affected: Interstate pipelines; natural gas distributors; direct users of natural gas, particularly low-priority users, such as interruptible large-volume industrial users; and customers of direct gas users.

The costs of curtailments are greater than necessary when gas service is continued to one end user at the expense of another who values it more highly, because that user has to incur a greater expense to offset the effects of curtailment. However, because changes from the norm create confusion and uncertainty, even improvements in curtailment policy may result in added costs if unnecessary expenditures are undertaken to reduce apparent but not real risks, or if established supply patterns are upset. The Regulatory Analysis and EIS will weigh the different costs and benefits for each alternative examined.

Related Regulations and Actions

Internal: "Curtailment Priorities for Essential Agricultural Use," Final rule issued 44 FR 15642, March 15, 1979.

"Emergency Natural Gas Regulations," under consideration.

External: FERC—Incremental Pricing Rules issued under Title III of the NGPA.

FERC—Curtailment Implementation Rules issued under Title IV of the NGPA.

Active Government Collaboration

The Federal Energy Regulatory Commission staff is kept informed of Economic Regulatory Administration activities. The Commission will formally review the DOE/ERA rule, as provided in § 404 of the DOE Act.

Timetable

NPRM—second quarter, 1980
Public comment—60 days following publication of NPRM
Public Hearings—third quarter, 1980 in Washington, D.C., Atlanta, GA, Chicago, IL, Houston, TX, and San Francisco, CA
Final Rule—fourth quarter of 1980
Final Rule Effective—immediately on publication in the **Federal Register**
Regulatory Analysis and Draft Environmental Impact Statement—DOE is preparing and will issue these documents with the NPRM

Available Documents

Final Rule—"Curtailment Priorities for Essential Agricultural Uses," 44 FR 15642, March 15, 1979.

Notice of Inquiry Concerning Review of Natural Gas Curtailment Priorities, 44 FR 16954, March 20, 1979.

Notice of Inquiry Concerning Use of Natural Gas Authorities to Increase Coal and Other Non-Petroleum Fuel Usage and Heavy Oil Production, 44 FR 61243, October 24, 1979.

Public comments on the above.

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA–142, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

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DOE–ERA

Powerplant and Industrial Fuel Use Act of 1978; Implementing Regulations (10 CFR Parts 500–515)

Legal Authority

Powerplant and Industrial Fuel Act of 1978, 42 U.S.C.A. § 8301 *et seq.* (FUA or Act)

Reason for Including This Entry

The Department of Energy (DOE) believes that these regulations are important because they will have an annual effect of $100 million or more on the economy.

Statement of Problem

The Fuel Use Act (FUA) requires DOE to adopt regulations requiring electric powerplants and major fuel-burning installations ("MFBI" or "installation") above a certain size to reduce or eliminate their use of natural gas or petroleum. The Act contains three general statutory prohibitions:

- New electric powerplants may not be constructed without the capability of using coal or another alternate fuel (a fuel other than natural gas or petroleum) as their primary fuels.
- Existing electric powerplants are prohibited from using natural gas after January 1, 1990, and are, in the interim, prohibited from increasing their proportional use of natural gas above certain specified historic levels.
- New major fuel burning installations and powerplants are prohibited from using natural gas or petroleum as their primary energy source unless an exemption to do so is granted under the Act.

DOE is given the authority to prohibit, at its discretion, certain additional existing powerplants and installations from using oil and gas if these facilities are capable of using coal or another alternate fuel as their primary energy source.

Under FUA, DOE may grant exemptions, based on certain specified criteria, from the statutory prohibitions. In granting exemptions, DOE may consider the cost of compliance and the type of fuel-burning equipment that will be used.

Interim rules were adopted by DOE May 9 and July 11, 1979. Because of the complexity of the subject matter, additional comments were solicited with respect to the definitional and procedural rules, the criteria upon which owners and operators of facilities may petition for exemptions from the Act's prohibitions, and the procedures and criteria pursuant to which DOE will exercise its discretionary prohibition authority. After review of the comments received and experience gained during almost one year of operation of the program, DOE is revising the interim rules and expects to issue final rules in the near future.

Alternatives Under Consideration

DOE is exploring alternative means of simplifying the regulations and reducing the regulatory burden placed upon petitioners. One alternative being considered is an increase in the number of exemptions which could be granted upon certification by the petitioner that he meets the eligibility requirements, rather than requiring a detailed demonstration of evidence. A second alternative DOE is considering is the elimination of the extensive fuel search and accompanying Fuels Decision Report required by the interim rule for certain of the exemptions. DOE is also considering publication (in the future) of a presumptive matrix of alternate fuels and technologies which would identify various fuels and their feasibility on such basis as industry, geographic location, unit size or type, and other criteria. Once such a matrix is published, petitioners would examine only the alternate fuels which are included in that part of the matrix which applies to them.

DOE also proposed for comment and is reviewing alternative cost comparison methodologies for use in calculation of the cost of using alternate fuel compared to the cost of using imported oil. This comparison, known as "the substantially exceeds cost test," is the standard by which a petitioner qualifies for an exemption on the basis of cost under the Act. DOE is considering revising both the standard and the methodology used in this computation in order to simplify the exemption and reduce the regulatory burden placed upon the petitioner and DOE. DOE is exploring the following alternatives:

(1) *Cost Calculation Procedure Adopted in the Interim Rules.* The cost calculation procedures adopted for the Interim Rules require computation of a ratio of the cost of using an alternate fuel to the cost of using imported oil (or

the British thermal unit [Btu] equivalent

the British thermal unit [Btu] equivalent of natural gas). If this ratio exceeds a specified index, the cost of using alternate fuel substantially exceeds the cost of using imported oil. The costs of using alternate fuel and imported oil are based upon the petitioners' current price of alternate fuel and oil (the latter is subsequently adjusted to reflect imported oil price). For the purposes of these cost calculations, these fuel prices are the same, in real (uninflated) dollars, for the life of the facility. Our judgment as to the change in the future prices is embedded in the index itself.

For the Interim Rules, DOE has set the index at 1.3. As discussed in the preamble to the Interim Rules published on May 17, 1979 (44 FR 28953 and 29603), DOE set this index at 1.3 based upon our judgment as to the social benefits associated with increased alternate fuel use and future increases in the gap between oil and coal prices.

(2) *Variant #1—Ratio with Explicit Trajectory.* Under this variant, DOE would specify an explicit price difference trajectory—the annual percentage rate at which the gap between imported oil and coal prices would increase. The applicant would then adjust the annual cost of imported oil to appropriately reflect the specified increase in the imported oil/coal price gap. The index would then be restricted solely to reflect our judgment of the social benefits associated with increased alternate fuel use.

(3) *Variant #2—Net Present Value with Explicit Trajectory.* Under this variant, rather than computing a ratio of the cost, as in the Interim Rules, the applicant would compute the difference in the cost of using alternate fuel and the cost of using oil. An exemption would be allowed when the cost of using alternate fuel is greater than the cost of using oil; the imported oil price would be adjusted by a specified dollar increment to reflect our judgment of the social benefit of increased alternate fuel use. In addition, as in variant #1, the oil price would reflect the imported oil price, adjusted on an annual basis for specified projected increases in the imported oil/coal price gap.

Summary of Benefits

Sectors Affected: The general public; and coal mining and other alternate fuel industries.

The benefits of the alternative regulations are measured in terms of reductions in oil and gas consumption and the concomitant benefits realized by the Nation's economy.

The purposes of the Act include a reduction in the importation of petroleum, and an increase in the nation's capability to use indigenous alternate energy resources and move toward a goal of national energy self-sufficiency. Other purposes include the conservation of natural gas and petroleum for uses other than electric or other industrial or commercial generation, the encouragement of the use of coal and other alternate fuels as primary energy sources, the conservation of our Nation's supplies of natural gas and petroleum for the benefit of present and future generations, and a reduction in the vulnerability of the United States to energy supply interruptions.

Benefits to be realized by the program involve four primary areas: (1) the effect of an increased use of coal in reducing demand for petroleum and concomitant decreases in the world price of oil; (2) effect of an increased use of coal on United States balance of payments and the domestic rate of inflation; (3) the effect of an increased use of coal on our national security; and (4) the impact of the implementation of the Act on accelerating the use and development of alternate fuels and alternate fuel technologies.

DOE expects the Act to accelerate the use of other alternate fuels besides coal. At this time we cannot quantify these benefits, but increased use of alternate fuels would clearly reduce oil imports, in particular displacing oil where direct burning of coal is environmentally limited. A significant benefit resulting from such a reduction in the U.S. demand for imported oil is the anticipated reduction in world oil prices, or what is more likely, the reduction in the rate of increase in world oil prices. Any reduction in the world oil price path will benefit the United States (and other consuming nations as well) as all crude oil may be obtained at lower prices. Thus, the economic costs that are saved by importing less oil are measured, not solely by the price per barrel at which saved imports would have been imported, but also by the resultant reduction in the price of the barrels that are imported.

Summary of Costs

Sectors Affected: Electric services, and major fuel-burning installations in manufacturing industries which have the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or any combination of two or more such units which have a capability of consuming any fuel at an input rate of 250 million Btu's per hour or greater; and consumers of the products of these industries.

The total costs imposed on firms directly affected by the FUA are generally expected to increase as the level of stringency of the regulations increases as well as over time.

Related Regulations and Actions

Internal: Special Rule for Temporary Public Interest Exemption for Use of Natural Gas (44 FR 21230, April 9, 1979); Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (44 FR 27606, May 10, 1979). Certification of Use of Natural Gas to Displace Fuel Oil (10 CFR Part 595)

External: FERC—Powerplant Design Capacity (44 FR 38837, July 3, 1979). FERC Order No. 30, Docket No. RM79–34, Transportation Certificates for Natural Gas for the Displacement of Fuel Oil.

Active Government Collaboration

None

Timetable

Final Rule—on definitions, administrative procedures, and new facilities—second quarter, 1980
Final Rule—on existing facilities, third quarter, 1980
Regulatory Analysis—under preparation

Available Documents

NPRM—43 FR 53974, November 17, 1978; 44 FR 5808, January 29, 1979
Comments in response to NPRM
Transcript of hearings from NPRM
(See 44 FR 43176 for listing of notices and rules issued under the Act)

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room 6A–142, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

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DOE–ERA

Proposed Amendments to the Equal Application Rule (10 CFR § 212.83(h))

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

Changes in the gasoline-pricing regulations are necessary to (1) reduce the price disparities between gasoline marketers at the retail level of

distribution and (2) remove the current regulatory constraints which require company operated retail outlets to underprice independent gasoline retailers. These two actions result in serious competitive problems.

Further, E.O. 12044 requires all departments to review existing regulations. The equal application rule has been a regulation subjected to much discussion and some criticism. Accordingly, DOE considers it appropriate to review this rule in light of current market conditions and eventual gasoline decontrol which will occur in October 1981.

Statement of Problem

The Department of Energy (DOE) is proposing to eliminate the equal application rule with respect to, (1) retail sales of gasoline, (2) all sales of gasoline, or (3) all sales of gasoline as long as the price differential between retail prices and other prices does not decrease.

On July 16, 1979 (44 FR 42541, July 19, 1979), DOE issued a final rule concerning the pricing of motor gasoline by independent retailers. The rules adopted for these retailers established simplified means of calculating the maximum lawful selling price of each type or grade of gasoline. In effect, the new retailer price rules state that the maximum lawful selling price for each type or grade of gasoline is the acquisition cost, plus a 15.4 cents fixed cents per gallon markup, plus applicable taxes. The equal application rule with respect to independent retailers' retail sales of gasoline was no longer operative and therefore was deleted.

To prevent price distortions in the retail gasoline market, on July 30, 1979, DOE issued amendments to the refiner and reseller-retailer price rules which limited the maximum lawful retail selling price for gasoline sold by refiners and reseller-retailers at their own retail outlets to an amount approximately equal to that permitted independent retailers. Under this rule, refiners and reseller-retailers may not charge a price at their own retail outlets which exceeds the most recent dealer tank-wagon selling price charged by the refiner or reseller-retailer to the nearest independent retailer, plus 15.4 cents per gallon, plus applicable taxes. Accordingly, the current rules prevent any segment of the retail market from charging inflationary prices and price gouging during a shortage situation.

The equal application rule in some instances may provide a regulatory incentive for certain refiners and reseller-retailers to maintain their selling prices in retail sales of gasoline substantially below those of independent retailers. This creates competitive imbalances in the marketplace which possibly could have serious effects in the long run on the independent sector of the industry.

Accordingly, in the September 17, 1979 NPRM, we proposed alternatives to deal with this possible problem. The limited exception to the equal application rule for refiners' sales at retail and other levels of distribution would be increased. A similar exception would be given to reseller-retailers. The proposed rule would require that any increases in retail prices would be offset by reductions in the prices charged for other sales or the drawdown of "banked" costs.

At the public hearings many refiners and other marketers stated that the proposed rules would not completely remove the regulatory disincentive for them to increase retail prices to avoid undercutting independent retailer competition. This is because, while they would not be required to apply costs equally between retail and other sales within the retail sales category, they would still be deemed to recoup any increase in one retail sale on all other retail sales. Because competition would generally not allow them to raise all retail prices by the same amount, the disincentive to increase retail prices under the proposed limitation to the equal application rule would still occur.

Although the NPRM would not address all competitive problems with the equal application rule, DOE has issued a final rule adopting the proposed changes as an interim measure to allow many refiners and reseller-retailers to raise retail prices and thereby mitigate the anticompetitive effects of the previous regulations. This rule, however, will not increase refiners' overall revenues.

Many commenters specifically suggested that the most effective method of meaningfully addressing this problem would be to eliminate the equal application rule in its entirety with respect to all gasoline sales, or at a minimum do so at the retail level. As a result of these comments, and our further analysis of this issue, a further NPRM is being developed.

Alternatives Under Consideration

Under the first alternative, the equal application rule would only be eliminated for retail sales of gasoline. This would allow firms to raise retail prices for some retail sales without being deemed to have recouped increased costs for other retail sales.

The advantage of the alternative is that firms would be less constrained by the regulations from increasing particular retail prices, thus increasing competition with independent retailers. The disadvantage is that it would postpone price adjustments for all other sales (the vast majority of most refiner sales) that will occur after deregulation and will continue the anticompetitive impacts of the current regulations until decontrol occurs.

The second alternative would eliminate the equal application rule with respect to all sales by refiners, resellers, and reseller-retailers. The elimination of the equal application rule in its entirety would be advantageous because it would permit firms to allocate increased costs at the various levels of distribution without regard to historic differentials between or within classes of purchaser (in other words, firms would be free to alter the price differentials between or within classes of purchaser without being deemed to have recouped with respect to all customers the highest increased cost passed through to any customer); allow price adjustments to markups that have been frozen since May 1973; allow cost-justified price adjustments for changed marketing practices; allow refiners to adjust their downstream prices (at dealer tank wagon [DTW] or company operated stores) to match prices that are allowed their branded wholesale or retail competitors; prevent claims of underpricing and customer piracy by those competitors (who strongly support allowing refiner direct sales prices to increase at DTW and retail levels); increase reseller-retailers competitive position and viability to the extent that increased costs are used to increase prices at company-operated retail stores and fewer costs will be available to be passed through in resales; diminish the possibility of gasoline lines forming at company-operated retail outlets that have lower prices dictated by the regulations; and reduce public confusion at wide price differentials. The proposed changes would not allow any greater recovery of increased costs by refiners than they would otherwise be entitled to recover.

Disadvantages of this alternative are that it would allow a faster passthrough of banked costs to the extent they are not otherwise constrained by other government programs or agencies, such as the Council on Wage and Price Stability. However, it would lessen the possibility of future radical price increases to the extent banks do not continue to build and would allow refiners to recover increased costs as market conditions allow.

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The third alternative is to eliminate the equal application rule for all gasoline sales, provided that the increased flexibility is not used to decrease the price differential between retail sales and other sales. The advantages of this alternative are that it would allow refiners to increase retail prices (only) to roughly match those of their independent retail competitors; not raise concerns of wholesalers or retail chain operators that refiners will use price to force them out of business by under-pricing retail sales; improve the competitive position of wholesale customers to the extent refiners use increased costs at retail making fewer costs available to increase wholesale prices; encourage more realistic retail prices and conservation of gasoline; and give independent retailers a better chance to realize their maximum allowable margins, as refiners would be able to pass through more of their increased costs at retail.

The disadvantage of this alternative is that it may postpone other inevitable price adjustments that will occur after deregulation.

Summary of Benefits

Sectors Affected: Independent gasoline retailers (including retail operations of independent refiners and resellers); chain retailers; refiners; reseller-retailers (wholesaler-retailers); and wholesalers.

The effect of the proposal would be to ameliorate price distortions in the retail gasoline market by preventing regulatory induced undercutting by refiners and reseller-retailers of their independent competitors. This would have the effect of enhancing competition, permitting independent retailers a better chance to receive margins currently permitted by DOE regulations.

Summary of Costs

Sectors Affected: Purchasers of gasoline at retail.

The effect of such a rule would be to allow refiners and reseller-retailers to pass through greater increased costs at retail than at other levels, or pass through greater increased costs in some retail markets than in others, without having the differences deemed to have been recouped.

The proposed rule would not increase the potential revenues of refiners and reseller-retailers because it would not increase the total amount of increased costs that could be passed through under the current regulations. Rather, the rule would permit refiners and reseller-retailers to recoup their increased costs in a different and more flexible manner, and to establish their prices to better reflect market conditions.

Any monetary effects of the proposed regulations are currently under study by DOE, but are only considered significant to the extent refiners may be able to recover banked costs at a greater rate, and that independent retailers may be able to increase their current margins.

Related Regulations and Actions

None reported

Achive Government Collaboration

None reported.

Timetable

Final Rule—second quarter, 1980
Further NPRM—third quarter, 1980
Public Comment—following further NPRM
Draft Regulatory Analysis—under development by DOE

Available Documents

NPRM—44 FR 54902, September 21, 1979
Public Comments on above NPRM
Transcripts of Public Hearings

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA-142, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

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DOE-RESOURCES APPLICATIONS

Outer Continental Shelf (OCS) Sequential Bidding Regulations (10 CFR Part 376)

Legal Authority

Department of Energy Organization Act, §§ 302(b)(1) and 303(c), 42 U.S.C. §§ 7152(b)(1) and 7153(c); and the Outer Continental Shelf Lands Act, as amended § 8(a)(1), 43 U.S.C. § 1337(a)(1).

Reason for Including This Entry

This entry is included because sequential bidding would improve the competitive position of smaller firms for Outer Continental Shelf (OCS) oil and gas leases.

Statement of Problem

The present cash bonus-fixed royalty bidding system for OCS leases requires the Federal government to offer all drilling areas (tracts) included in an OCS lease sale to bidders at the same time. All bids must be sealed and accompanied by one-fifth of the cash payment the bidder intends to pay for the lease (cash bonus). Bids are opened, announced publicly, and recorded, but no bids are accepted or rejected, and no leases are awarded at that time. Within sixty days of the opening of bids, the Department of the Interior (DOI), which administers this program, decides whether to accept the bid from the highest qualified bidder for each tract. Bids that DOI does not accept within the 60-day period, it rejects. The Department returns the money that was deposited on rejected bids.

The present bid-opening system requires a substantial commitment of cash resources by firms to particular OCS lease sales; this may strain the ability of some firms to participate in the OCS leasing process. Bidders must be prepared to support each bid immediately with a deposit of one-fifth of the total cash payment. Opening all the bids at the same time may limit the number and magnitude of bids that an individual firm is able to submit. In addition, a firm might win on a greater number of tracts in an OCS lease sale than it had anticipated, which could call for bonus payments that exceed the firm's financial resources, forcing it to search for additional sources of capital.

The Department of Energy (DOE) expects that smaller firms are more subject to constraints of this type than larger firms. Some small companies may have withdrawn from competition for tracts because of financial barriers. In addition, the simultaneous nature of the bidding process may tend to preserve an informational advantage that larger firms may have over smaller ones because they can afford more extensive exploration in advance of a lease sale.

Under § 302(b)(1) of the Department of Energy Organization Act, DOE has authority to promulgate regulations which foster competition for Federal leases, to ensure the public a fair return on its resources. Thus, DOE is interested in alternative bidding mechanisms which may improve the ability of smaller companies to compete in these lease sales.

Sequential bidding would address these problems by dividing an OCS lease sale into at least three bidding sessions, separated by a minimum of 48 hours. Tracts would be assigned to bidding sessions through a random selection procedure; each bidding session would consist of an approximately equal number of tracts. Cash bonus deposits accompanying the highest bid on each tract would be retained by DOI until it made a decision on awarding leases. DOI would return all other cash bonus deposits to the bidders that submitted them immediately after the conclusion of each bidding session. Arrangements for disclosure of bids are presently being discussed within DOE and DOI; they include no information release, announcement of the highest bidder, and disclosure of all bidders and amounts of bids at the end of each bidding session.

Alternatives Under Consideration

Possible alternatives to sequential bidding which we have been considering include a "bid limit" option, which would allow bidders to set a "maximum aggregate winning cash bonus limit" for the lease sale. This would enable a firm to bid on tracts with the assurance that its winning bids would not exceed an amount which it had stipulated.

Another possible approach that might achieve results similar to sequential bidding would be to hold lease sales at shorter intervals, each sale with approximately the same number of tracts. However, in order to reduce a bidder's financial exposure as effectively as we think sequential bidding could do, 18 to 24 lease sales would be necessary each year compared with five to six lease sales now being held annually. The administrative burdens on DOI associated with this alternative would be severe.

Retention of the present bid opening system is another alternative. This alternative would preserve a maximum degree of simplicity in administrative matters, but would not address the problems we have discussed above.

DOE has proposed that sequential bidding be tested on an experimental basis. This will allow bidders to become familiar with the process, and allow DOE and DOI to study bidder reactions. This experimental approach is an innovative alternative to an immediate move to an unproved new bidding process.

Summary of Benefits

Sectors Affected: Off-shore oil and gas extraction (including independent producers and joint business ventures), particularly small firms; and the general public.

DOE expects sequential bidding to foster competition for Federal OCS leases, partially by easing financial barriers to participation, and partially by reducing informational advantages that major OCS participants currently have. Returning cash bonus deposits of unsuccessful bidders after each session would allow them to use returned funds in the subsequent bidding session. Announcing the amount of the high bid for each tract will provide information on the value other bidders have placed on tracts as a result of their exploration. These changes will tend to equalize the informational and financial position of smaller firms participating in leasing competition.

DOE estimates that the application of sequential bidding to an OCS lease sale would yield greater revenue to the Government because of increased competition for OCS leases.

The use of sequential bidding primarily affects current and prospective bidders for OCS leases. DOE anticipates that smaller firms would benefit more from sequential bidding than would the major participants in OCS lease sales.

Summary of Costs

Sectors Affected: DOE, DOI.

The use of sequential bidding imposes a relatively minor administrative cost on DOE and DOI in performing additional analyses and extending the actual conduct of the sale over a minimum of three days.

Related Regulations and Actions

Internal: Final OCS bidding system regulations, published at 45 FR 9536, February 12, 1980 (10 CFR Part 376).

External: Current OCS lease sales bidding procedures, administered by DOI (43 CFR 3300).

Active Government Collaboration

Department of the Interior. The Department of Justice and the Federal Trade Commission are advising on competition issues.

Timetable

Final Rule—second quarter, 1980
Final Rule Effective—60 days after it is issued

Available Documents

Draft Regulatory Analysis, "Increasing Competition for Federally-Owned Mineral Fuels by Altering the Present Bidding Process to Allow for Sequential Bidding," (September 2, 1979).

NPRM—44 FR 52842, September 11, 1979
Public comments in response to NPRM.

All documents are available in the DOE Freedom of Information Reading Room, Room GA-142, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

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DOE-RA

Profit Share Bidding System Regulations for Federal Outer Continental Shelf (OCS) Oil and Gas Leases (10 CFR Parts 376 and 390)

Legal Authority

Outer Continental Shelf Lands Act, ch. 345, 67 Stat. 462 (43 U.S.C. § 1331 *et seq.*), as amended by Outer Continental Shelf Lands Act Amendment of 1978, 92 Stat. 629. Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. § 7101 *et seq.*).

Reason for Including This Entry

This entry is included because the adoption of the profit share bidding system would improve the competitive position of smaller firms for OCS oil and gas leases.

Statement of Problem

The Department of the Interior (DOI) currently leases Outer Continental Shelf (OCS) oil and gas tracts to developers. The Department of Energy (DOE) is authorized to promulgate regulations to foster competition for OCS leases and implement alternative bidding systems. The present cash bonus-fixed royalty bidding system places a heavy reliance on large front-end cash payments by bidders (the cash bonus) as the principal means of selecting a winning bidder and obtaining a fair price on the public's property. The requirements for large cash bonus payments may inhibit competition for OCS leases by preventing smaller firms from participating as fully as they might in OCS development. The fixed net profit share bidding system is designed to shift government return away from initial cash bonuses into deferred payments which, in the case of this bidding system, would be based on net profits from the actual production of oil and gas.

In connection with a fixed net profit share bidding system, we must establish rules to govern the calculation of net profits. Any regulations will, therefore, include accounting procedures designed to permit lessees to calculate net profits in a uniform manner, as well as procedures for audits by the Federal government and challenges to any adjustments the government might make as a result of such audits.

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Alternatives Under Consideration

A net profit share bidding system requires a procedure for measuring revenue from oil and gas produced from a lease. In addition, a means to identify and measure the costs of lease operations must be specified, and those costs must be subtracted from revenues to determine the net profits attributable to a lease. The need to identify costs makes the fixed net profit share system considerably more complex than bidding systems that have been previously used for OCS lease sales.

DOE is now examining several different profit sharing systems. All of these basic systems set rules for adding up costs and for subtracting these costs from production revenue to determine net profits. The systems differ primarily in the method by which each allows the successful bidder to recover money invested during the exploration and development stages of a lease term. Those differences involve technical accounting issues. A complete description and comparison of these systems is available elsewhere (see "Available Documents").

We have chosen the proposed accounting procedures to conform, as closely as practicable, with the accounting procedures for joint off-shore operations developed by the Council of Petroleum Accountants Societies of North America (COPAS). The COPAS procedures are an appropriate base for the cost identification portion of the accounting system because: (1) the net profit share lease relationship is analogous to a joint working interest agreement between private parties (i.e., an agreement that shares at a fixed rate all costs and revenue); (2) COPAS procedures identify, measure, and allocate costs for direct billing of joint interest partners; hence, the procedures are not complicated by rules for capitalization or other guidelines for disposition of costs that would be contained in a complete financial accounting procedure; and (3) the COPAS procedures or minor variations on them, are in widespread use; thus, their adoption by DOE would minimize the accounting burden and interpretation problems for the industry.

Summary of Benefits

Sectors Affected: Off-shore oil and gas extraction (including independent producers and joint business ventures), particularly small firms; and the general public.

The profit share bidding system should make it possible for smaller firms to compete more effectively for OCS leases and to free funds for exploration that previously have been tied up in cash bonuses. Because the system will normally require smaller payments from less productive OCS leases than would be the case under a fixed royalty system, we believe that the regulation will foster the development of smaller oil and gas fields, maximize production of oil and gas from the OCS, and increase the total revenue to the public from the lease of public OCS property.

Summary of Costs

Sectors Affected: Offshore oil and gas extraction (including independent producers and joint business ventures); and DOI–USGS.

The administration of the regulation is the responsibility of the U.S. Geological Survey (USGS) within DOI. Use of this bidding system will result in greater administrative responsibilities for the USGS, which will have to make determinations on the allowability of certain costs, and perform periodic audits.

Firms seeking leases under the net profit share system will be required to comply with the accounting and reporting procedures established by these regulations. A preliminary study of industry account practices indicates that most firms that might participate in profit share leasing already use internal accounting procedures that can identify and assign costs to individual OCS tracts they have leased. Thus, the profit share system would impose periodic reporting requirements, but would not substantially alter internal accounting operations.

Related Regulations and Actions

Internal: Final OCS bidding regulations, (10 CFR Part 376)

External: Regulations of the Department of the Interior regarding OCS leases (43 CFR 3300).

Active Government Collaboration

As required by § 303(b) of the DOE Act, we consulted with the Secretary of the Interior on these proposed regulations and gave him 30 days to comment formally on them. The Secretary of Interior made preliminary comments on initial drafts of these regulations, and formally reviewed the final draft.

Timetable

Final rule—May 15, 1980
Regulatory Analysis—

Available Documents

Public comment period closed March 7, 1980; comments available.

NPRM and draft Regulatory Analysis, 44 FR 70390, December 6, 1979.

"Evaluation of Profit Share Leasing System," draft, dated March 1979.

This document is available from the Leasing Policy Development Office, Room 2317, Federal Building (Mail Stop 3344), Department of Energy, 12th St. & Pennsylvania Avenue, N.W., Washington, D.C. 20461.

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DOE–RA

Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales. (10 CFR Part 378)

Legal Authority

Department of Energy Organization Act, §§ 302(b)(2) and 303(c)(1), 42 U.S.C. §§ 7152(b)(2) and 7153(c); Mineral Lands Leasing Act, §§ 2(a), 7(a) and 32, 30 U.S.C. §§ 201, 207 and 189, and the Mineral Leasing Act for Acquired Lands, §§ 3 and 10, 30 U.S.C. §§ 352 and 359.

Reason for Including This Entry

The Department of Energy (DOE) includes this entry because the regulations it is proposing are intended to increase competition for Federal coal leases, and thereby encourage the development of coal resources in an efficient and timely manner. The regulation affords smaller companies opportunity to compete successfully in coal lease sales, and encourages bidding on tracts that would not otherwise receive bids under the traditional system.

Statement of Problem

On August 4, 1976, Congress enacted the Federal Coal Leasing Amendments Act of 1976 (FCLAA, P.L. 94–377, 90 Stat. 1083) which amended the Mineral Lands Leasing Act of 1920 (30 U.S.C. § 181 *et seq.*). The legislation addressed eight major problems of the then existing Federal coal leasing program. These problem areas were: (1) speculation; (2) concentration of holdings; (3) inadequate return to the public; (4) need for environmental protection, planning and public participation; (5) adverse social and economic impacts; (6) need for information; (7) need for maximum economic recovery; and (8) military lands.

One of the nation's most abundant sources of energy is coal. However, there has not been general leasing of Federal lands for coal production since

1971. Under regulations published by the Department of Interior (DOI) on July 19, 1979 (44 F.R. 42585), Federal coal leasing is scheduled to resume in January 1981.

The proposed regulations address some of the above noted problems, goals, and changes in the law by establishing coal bidding systems and procedures to be used by the government at coal lease sales. These bidding systems and procedures can be used to achieve some of the goals of the FCLAA (i.e., to discourage speculation and concentration of holdings and to ensure receipt of a fair return to the government) and the National Energy Plan.

On August 4, 1977, Congress enacted the Department of Energy Organization Act (DOE Act, 42 U.S.C. § 7101 *et. seq.*). Section 302(b) of the DOE Act gave DOE a role in Federal coal leasing by transferring to the Secretary of Energy the functions of the Secretary of Interior to promulgate regulations for among other things, the implementation of alternative bidding systems authorized for the award of Federal leases. Accordingly, DOE is proposing promulgation of these regulations pursuant to section 302(b) and 303(c) of the DOE Act, sections 2(a), 7(a) and 32 of the MLLA, and §§ 3 and 10 of the MLAAL.

Alternatives Under Consideration

DOE has proposed three alternative bidding systems: (1) cash bonus bid with a fixed royalty; (2) royalty bid with a fixed bonus; and (3) cash bonus bid with a sliding-scale royalty.

The first bidding system proposed is the cash bonus bid with a fixed royalty. Under this system the Department of the Interior (DOI) fixes the royalty rate in advance of the lease sale at not less than 12.5 percent, and firms competing for coal leases bid a cash bonus (a lesser royalty rate may be allowed in the case of coal removed by underground mining operations). The highest cash bonus bid for a tract wins the lease, provided the bid exceeds a minimum level established by the U.S. Geological Survey prior to the sale. This bidding system is the one historically used in competitive sales of Federal coal leases. It places heavy emphasis on initial commitment of capital by the bidder, although this requirement has been somewhat alleviated by the provision for deferred payment of the bonus. However, it can discourage participation by smaller companies, which may reduce competition and limit the number of bids per tract. Primarily for these reasons, bidding systems using larger contingency (royalty and profit share) payments have received considerable attention as alternatives to the cash bonus system.

The second proposed bidding system is the royalty bid with a fixed cash bonus. Under this system, DOI fixes the cash bonus at a nominal level prior to the sale and the bid variable is the royalty rate that will apply if the lease is productive. Because royalty bidding de-emphasizes the cash bonus, it encourages greater participation by smaller companies. There is no immediate penalty to the bidder for increasing this royalty bid. However, there is a danger inherent in this system that a bidder will increase his royalty bid in an attempt to win the lease only to find that the royalty rate is too high to permit him to develop the resource economically. In sum, while this system reduces initial financial requirements for engaging in the bidding process, there is a substantial risk that winning royalty bids will be "too high," and will prevent resource development for smaller or marginal reserves.

The third bidding system which DOE is proposing is the cash bonus bid with a sliding-scale royalty. This system uses a cash bonus bid variable, but the royalty rate that applies for each time period is based on the value of production from the lease during the time period. Several methods are available for calculating the applicable royalty rate. When compared with the cash bonus and fixed royalty system under similar conditions, the sliding-scale system tends to reduce the expected cash bonus required to win a lease. Also, when compared to the royalty bid system, the sliding-scale system tends to reduce the risk that smaller reserves will not be developed. The reduced cash bonuses should encourage bidding by smaller companies and could entice firms to bid on tracts that would not otherwise receive bids under the traditional system.

No single system is invariably superior to all other systems given the wide range of economic, geological, and engineering conditions which might be experienced. In individual sales, specific sale and tract conditions and the relative importance placed on the various (and often competing) legislative and energy policy objectives will dictate which is the most appropriate bidding system.

In addition to the three bidding systems outlined above, intertract competition, a bidding procedure, is also being proposed in these regulations. Under the intertract competition bidding procedure DOI offers a greater number of tracts for lease sale than are to be leased. Bids are received on all tracts offered for lease sale and are submitted on a standard measure of value, e.g., dollars per ton of coal reserves. Leases are awarded to the highest bidders until the desired level of leasing is achieved, e.g., 1 million tons of coal. Because only a fraction of the total tracts offered will be leased, bidders are placed in competition not only with each other for the same tract, but also with the highest bidders on all tracts that are part of the lease sale. DOE believes that an intertract competition procedure will increase competition in coal leasing and provide a means of selecting tracts for leasing. However, this procedure may cause DOI additional administrative problems, including larger lease sales, more costly environmental impact statements, and tract evaluations for a much larger number of tracts.

Summary of Benefits

Sectors Affected: Coal mining; and the general public.

DOE anticipates that the regulations will improve the coal leasing program. They are designed to serve several purposes:

(1) increase return to the Federal government for its resources;

(2) increase competition for Federal leases;

(3) encourage development of coal resources in an efficient and timely manner;

(4) discourage speculation; and

(5) discourage concentration of lease holdings.

In addition they will carry out the intent of the DOE Organization Act, the Mineral Lands Leasing Act, and the Mineral Leasing Act for Acquired Lands, because they will foster competition and implement alternative bidding systems for Federal leases. The public will also benefit if the revised bidding system regulations do a better job of meeting the stated objectives because coal production and availability will increase while costs are held at reasonable levels.

Summary of Costs

Sectors Affected: DOI.

DOE anticipates no significant additional costs to the government as a result of this regulation. DOI's administrative costs may increase slightly if the intertract competition bidding procedure is used. Also, the Department of the Interior has indicated that the U.S. Geological Survey, prior to actual use of a sliding scale royalty bidding system in a lease sale, will analyze the administrative costs associated with that system.

Related Regulations and Actions

Internal: Coal production goals have been developed by the Leasing Policy

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Development Office, and are currently being updated to reflect development of synthetic fuels.

External: Regulations of the Department of the Interior regarding coal leasing, 43 CFR Part 3500.

Active Government Collaboration

The Departments of the Interior and Justice have reviewed the proposed regulations, in accordance with the provisions of the DOE Act.

Timetable

NPRM publication—late May 1980
Public Comment—within 60 days after NPRM
Final Rule—August 31, 1980
Final Rule Effective—60 days after issuance of Final Rule

Available Documents

We have prepared a draft regulatory analysis entitled "Coal Bidding Systems Regulations" and it is available, along with the proposed regulation, from the agency contact listed below.

All documents are also available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GB–142, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Agency Contact

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Neighborhood Voluntary Associations and Consumer Protection

DEPARTMENT OF ENERGY

Conservation and Solar Applications

Energy Performance Standards for New Buildings

Please see text of joint HUD and DOE entry under DOE–CS on page 36856.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Fuel Economy Standards for Model Year 1983–85 Light Trucks (49 CFR Part 533*)

Legal Authority

Motor Vehicle Information and Cost Savings Act, § 502(b), 15 U.S.C. § 2002.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks this rule is important because of its impact on the automotive industry, the public, and energy consumption.

Statement of Problem

In 1978, roughly half of the total petroleum consumed in the United States was used for transportation. The light truck fleet, which includes vehicles such as conventional pickups and vans, consumed approximately 20 percent of that amount. During the past ten years, light truck sales have grown dramatically. Sales recently have declined, in part because of the poor gasoline mileage of these vehicles and the rising price of gasoline. Nevertheless, we expect light trucks to account for 20 percent of all vehicle sales annually because of the demand for multi-use vehicles. Such sales mean that light trucks will continue to consume substantial amounts of fuel.

Congress set fuel economy standards for passenger cars for model years 1978–80 and 1985 and thereafter, and directed NHTSA to establish standards for model years 1981–84. Without similar fuel economy standards for light trucks, the gap between the improving fuel efficiency of passenger cars and the low fuel efficiency of light trucks would widen, contrary to the national objective of fuel conservation. In response to the Congressional mandate of Title V, Improving Automotive Efficiency, of the Motor Vehicle Information and Cost Savings Act (the Act), NHTSA already has established fuel economy standards for light trucks in the 1979–82 model years. NHTSA published the 1982 model year standard in the **Federal Register** on March 31, 1980 (45 FR 20871) and has proposed ranges of possible standards for 1983–85.

Alternatives Under Consideration

The final fuel economy standards for light trucks for model years 1983–85 must satisfy the statutory criterion for maximum feasible average fuel economy and must reflect technological feasibility, economic practicability, the impact of other Federal standards for motor vehicles, and the Nation's need to conserve energy. Based on the results of the Agency's preliminary regulatory analysis, we have proposed the following ranges of possible performance standards for 1983–85 model years. The final standards will most likely be within these ranges. Manufacturers can decide how they want to meet the standards.

Proposed Fuel Economy Standards for Light Trucks in 1983–85 Model Years

Model year	Vehicle miles per gallon (mpg)	
	2-wheel drive	4-wheel drive
1983	18.0–20.0	15.6–18.0
1984	18.8–21.4	16.1–19.3
1985	19.7–22.4	16.2–19.9

Summary of Benefits

Sectors Affected: Buyers of new light trucks; the general public; and suppliers of materials and components that improve fuel efficiency.

NHTSA estimates that the new fuel economy standards for model year 1982 light trucks and the standards proposed for light trucks in the 1983–85 model years will save between 11 and 17 billion gallons of gasoline more than the standards for model year 1981 light trucks. The Nation could save between $3.5 billion and $5.1 billion in 2005 (at the July 1979 price of $23 per barrel for imported oil). The buyer of a 1985 model year truck meeting the proposed fuel economy levels would save between $510 and $1,120 (in 1979 dollars) over the life of the vehicle compared to a buyer of a truck meeting the 1981 model year standards.

Summary of Costs

Sectors Affected: Manufacturing of light trucks; suppliers of materials and components which reduce energy efficiency; buyers of new light trucks; petroleum production and refining; and State and local governments.

NHTSA is currently developing detailed information on the costs associated with these fuel economy standards. Based on preliminary information, the Agency estimates that the average retail price of a model year 1985 vehicle compared to a model year 1981 vehicle would increase by $350 to $615 per vehicle. However, the two major economic issues in this rulemaking are the marketability of new, more fuel-efficient models and the financial capability of the industry to produce these new models.

The general economic effect would probably be as follows. Vehicle manufacturers would incur increases in capital expenditures and variable manufacturing costs to implement technologies for fuel efficiency. The absolute amount of such increases depends upon the level of the standards. Material suppliers would experience changes in demand. For example, the substitution of aluminum for steel would increase the demand for aluminum and reduce the demand for steel. Components for new vehicles, such as computerized controls to improve engine efficiency, may be installed. Thus, there would be a greater demand for these items. The petroleum industry would face a reduced increase in demand for gasoline. State and local governments would face a lower rate of increase in revenue from gasoline taxes due to a decrease in the rate of growth of the demand for gasoline. The initial purchase price of light trucks may increase due to potentially higher manufacturing costs.

NHTSA does not anticipate that the standards will have a significant effect on employment. The effect of the standards on the gross national product (GNP), inflation, and urban areas will depend directly on the price and availability of gasoline, and on the level of fuel economy set in the standards.

Related Regulations and Actions

Internal: NHTSA has already issued standards for fuel economy for light trucks in model years 1979–82 (49 CFR 533).

External: The Environmental Protection Agency (EPA) has issued regulations governing how fuel economy in motor vehicles is to be measured (40 CFR 600). EPA also has issued regulations governing emissions from light trucks in 1983 and later model years (44 FR 40784, July 12, 1979). The Federal Trade Commission has issued guidelines governing the advertising of fuel economy for motor vehicles (16 CFR 259).

Active Government Collaboration

NHTSA coordinates its program for fuel economy standards principally with the Department of Energy and the Environmental Protection Agency. NHTSA also reviews the program with the Council on Wage and Price Stability.

Timetable

Regulatory Analysis—will accompany Final Rule
Final Rule—December 1980

Available Documents

NPRM—44 FR 77199, December 31, 1979
Draft Regulatory Analysis
NHTSA Docket No. FE 78–01; Notice 1
All documents are available for review in the Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

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FEDERAL ENERGY REGULATORY COMMISSION

High-Cost Natural Gas Produced from Tight Formations (18 CFR Parts 271*, 273*, and 274)

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301 *et seq.*

Reason for Including This Entry

The Federal Energy Regulatory Commission (Commission) thinks that this rule is important because it encourages production of natural gas from unconventional sources. So-called "unconventional" or "high-cost" gas represents an important and abundant domestic energy resource and can help in our national efforts to become energy self-sufficient.

Statement of the Problem

Unconventional gas, while abundant, can be discovered and produced only at extraordinary risks or costs.

The purpose of this rule is to encourage the development and production of one type of unconventional gas—"tight formation gas"—by means of a high incentive price. President Carter expressly urged the establishment of such a new incentive rate for tight formation gas in his energy address to the Nation on July 16, 1979.

Tight formation gas is found in a fairly common geological structure known as a "tight formation" or "tight sands." This geological formation is characterized by low permeability—the hydrocarbon-bearing rock is extremely dense and tightly packed, not loose or sandy—causing wells drilled into gas-bearing tight formations to produce generally at very low rates.

The interim regulations promulgated in this rule implement the Congressional authorization to the Commission in § 107(b) of the Natural Gas Policy Act of 1978 (NGPA) to set a "special price" which is "necessary to provide reasonable incentives for the production of . . . high-cost natural gas." The regulations also contain guidelines for jurisdictional agencies and the Commission to identify and formally designate tight formations, and define which wells drilled into tight formations will qualify for the incentive price. Under the interim rule most new wells drilled into designated tight formations will be eligible for the incentive price.

One threshold problem is distinguishing, on the basis of geological data, true tight formations from other types of formations. The interim regulations provide that the appropriate agency in each State may recommend formations within that State that meet Commission specifications, and therefore may be eligible to be designated by the Commission as tight formations. With the recommendations, the jurisdictional agency must submit supporting geological and engineering data, information locating all wells which have produced from the recommended formation, and other relevant data. After public comment, the Commission will formally designate the eligible formations.

The guidelines for identifying tight formations set forth in these interim regulations focus on permeability, gas productivity, and production of associated oil. Eligibility of a formation under the permeability and production standards need not be proven on a well-by-well basis. Formal designation of a specific tight formation will be based on a jurisdictional agency's and this Commission's assessment of the general characteristics of the formation.

In order to qualify for the incentive price, a well drilled into a designated tight formation must have been commenced on or after July 16, 1979. This date was selected in recognition of the President's policy initiative on tight sands.

The Commission has decided initially to set the maximum lawful price for natural gas produced from a new well in a tight formation at 150 percent of the Congressional ceiling price, set in the NGPA, for gas from a new, conventional onshore production well.

Alternatives Under Consideration

The Commission is soliciting further comments on the incentive price for this tight formation gas and may raise the price ceiling when more information concerning supply elasticity and availability of drilling rights is available. If comments or further information show that higher prices are necessary to encourage development of tight formations, the Commission will increase the price ceiling. However, the Commission does not intend to decrease the ceiling price for tight formation gas produced from new wells below 150 percent of the maximum lawful price established in § 103 of the NGPA unless the Commission finds it necessary to

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reduce the incentive price for prospective infill drilling.

The interim rules apply to new wells. However, substantial amounts (at least 100 trillion cubic feet) of tight formation gas may be trapped "behind-the-pipe" in reservoirs penetrated by old wells but never tapped. Although new wells would not have to be drilled to produce this gas, an incentive price may be required to encourage production of this gas.

Accordingly, the Commission is considering an additional related proposal to create a special incentive price for production of this incompletely or partially developed gas. The price would equal the incentive price which Congress fixed for conventional development under § 103 of the NGPA. The Commission is also soliciting comments on this proposal.

The Commission also has proposed to permit a ceiling (equivalent to the price ceiling described in § 103 of the NGPA) on tight formation gas produced from an old well which did not produce from the tight formation prior to July 16, 1979, and which is subject to a negotiated contract price.

Most of the comments to the NPRM on these interim regulations suggested that the Commission adopt a commodity value price-setting approach. This means that the maximum lawful price would be tied to the price of comparable, alternative fuels, such as Mexican or Canadian gas, or OPEC oil imports.

The comments did not, however, provide information to demonstrate that such a price is in fact necessary to encourage production—the standard enunciated in § 107 of the NGPA. Despite urgings in comments submitted by the Environmental Protection Agency and the Council on Wage and Price Controls, the Commission has not been able to make the finding of necessity which is needed to adopt the suggested commodity value pricing. Moreover, the Commission also is concerned that commodity-based price-setting might divert production activities from conventional formations, leading to the production of less gas on a nationwide basis than would occur if a more moderate price ceiling were adopted.

Summary of Benefits

Sectors Affected: Natural gas production; natural gas users; and the general public.

If the adopted ceiling price is appropriate, it should encourage production of more gas from tight formations without discouraging optimal production from conventional fields.

In addition, the special incentive price for certain tight formation gas produced from old wells should encourage the production of gas without the drilling of new wells.

Increased production from tight formation wells will yield additional gas which may be used to displace significant amounts of imported oil by making additional gas available from domestic sources.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas consumers; and the general public.

If the ceiling price adopted is lower than that reasonably necessary to encourage production, producers will be discouraged from recovering the tight sands gas, less foreign imports will be displaced, and less gas will be available to consumers. Conversely, if we choose a higher than necessary price, consumers will also pay higher than necessary prices to encourage additional production of tight formation gas. Finally, if the price goes too high and the availability of drilling equipment is limited, producers will be encouraged to produce gas from tight formations *instead* of producing gas from conventional, cheaper, and higher producing fields. If the proper price is chosen, the price of the gas will be higher than that otherwise permitted, but it may displace even higher priced imported oils.

Related Regulations and Actions

Internal: Other categories of gas which may be high-cost and high risk are currently being considered by the Commission. However, they do not affect the regulations concerning gas produced from tight formations.

External: None.

Active Government Collaboration

The Environmental Protection Agency worked with the Commission in preparing an environmental analysis of the rule. The Council on Wage and Price Controls also submitted comments on the NPRM.

Timetable

Final Rule—Considered by Commission late 1980
Final Rule Effective—late 1980
Regulatory Analysis—Part of Final Rule

Available Documents

NPRM–44 FR 52255, September 7, 1979 (Docket No. RM79–76)

Interim Rule and Request for Further Comments—45 FR 13414, February 28, 1980 (Docket No. RM79–76)

NPRM—45 FR 13427, February 28, 1980 (Docket No. RM79–76)

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FERC

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 (18 CFR Parts 2,* 271*)

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.;* Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.;* Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.;* E.O. 12009, 3 CFR, 1977–78 Comp., p. 142

Reason for Including This Entry

This proposed regulation would encourage producers of three categories of natural gas to undertake new production or production enhancement projects not otherwise economically feasible.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) established a maximum lawful price (MLP) for any first sale of natural gas. The proposed regulations are important because they would implement the Federal Energy Regulatory Commission's (Commission) authority under the NGPA to set prices higher than the MLP for three categories of gas sales, namely: first sales of gas committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA, first sales of gas under rollover contracts, and first sales of gas not covered by any MLP under any other section of the NGPA.

In the past, ceiling prices for sales of natural gas were set by the Commission or its predecessor, the Federal Power Commission, on an area—later a nationwide—basis. These prices were set to cover classes of producers (large or small) and vintage (when the well was drilled or production began). In some instances, however, the ceiling price did not permit a producer to earn a fair profit or, in the extreme case, recover his cost of production. This put the producer face-to-face with two alternatives: continue production at an economic loss, or abandon the well. Neither of these alternatives was in the public interest, as the first affected the

producer and would likely discourage further business ventures, and the latter affected the consumer because it made less gas available. Therefore, regulations called "special relief procedures" were adopted; they allowed producers to apply for prices higher than those set at area or nationwide ceilings.

Passage of the NGPA fundamentally removed the responsibility for establishing ceiling prices from the Commission. The MLP for a particular sale now depends on when the well is drilled, where the gas is produced, and whether it was priced under the earlier practices of the Commission. As part of its general regulatory scheme, however, the NGPA provides that the Commission may set a price higher than that stated in the NGPA for certain types of producer sales; in other words, the Commission may continue to grant "special relief" under the NGPA.

The Commission believes that it is necessary to continue providing producers with the opportunity, in special or unusual situations, to obtain relief from the MLPs. To this end, the Commission has proposed new regulations for granting such relief. The new regulations describe the circumstances under which a producer-seller of natural gas may seek a "special relief" rate, the manner in which the seller may apply for the rate, the process by which the Commission will consider an application, and the cost standards that the Commission will use to determine a special relief rate.

Alternatives Under Consideration

In providing regulations to govern the application for and the granting of special relief under the NGPA, the Commission must determine which of the various categories of natural gas that are priced under the NGPA will be eligible for the relief, and on what basis it will grant the relief. There are alternatives for both of these questions.

The Commission has the authority to grant special relief for the three above-discussed categories of natural gas sales. It does not, however, have authority to grant special relief for the remaining five categories of natural gas sales, defined in the NGPA, namely: new natural gas and certain natural gas produced from the outer continental shelf; natural gas produced from new, onshore production wells; natural gas sold under existing intrastate contracts; certain high-cost natural gas; and stripper well natural gas. However, the NGPA could be read to permit a price higher than the MLP for these categories under circumstances which might be considered as warranting "special relief." The Commission is, therefore, considering other rulemaking procedures to encompass some or all of these categories.

Also under consideration is the advisability of an upper limit ("cap") on special relief. The Commission has requested comments on this issue, and a related one: If a "cap" is indeed advisable, what should it be?

One of the more complex problems in establishing a rule for special relief is the criteria by which the Commission should grant it. Under the old special relief rules, a producer could recover either out-of-pocket expenses, or a rate sufficient to provide a fair return on past and future costs, including any extra investment he had to make. The new regulations, while simplifying the standards by providing a formula approach, also distinguish between a producer who must undertake an important investment to make his well economically productive, and one who requires no such investment. There are criteria for each, the major difference being the treatment of the producer's return on investment. The Commission could treat both situations in the same way by providing for a return on total investment.

The relative pros and cons of alternative standards are extremely complex. In deciding among them, the Commission must balance the impact of each alternative against the practicalities of producer regulation, the supplies affected, the administrative difficulty (or simplicity) of the regulations, and the intent of the NGPA.

Summary of Benefits

Sectors Affected: The Commission; natural gas and natural gas liquids production; natural gas pipelines; and users of natural gas.

This proceeding will directly benefit producer-sellers of natural gas. It will provide the sellers with an opportunity to petition for maximum lawful prices greater than those explicitly set forth under the NGPA. This is important for those sellers who might incur real economic harm, or hesitate to undertake new projects because the cost to produce their gas exceeds the MLP they could get for the gas under the NGPA.

In addition, the proceeding will benefit the pipelines that purchase the gas and the ultimate consumers. The benefits will be in the form of added supplies of natural gas which would otherwise never reach the market and which would have to be replaced with fuel oil or other expensive or scarce alternatives.

Summary of Costs

Sectors Affected: The Commission; natural gas producers-sellers; natural gas pipelines that purchase the gas; and users of natural gas.

The procedures to allow special relief applications will place upon the Commission an administrative burden that will add an administrative cost. The number of petitions for special relief that may be filed cannot be determined at this time and will depend upon many variables, including general economic trends and the particulars of individual cases. About 50 to 60 cases per year were administered under the old special relief procedures. This would be a realistic estimate for cases filed under the proposed regulations.

The new procedures of the proposed rule should result in a more economical use of the Commission's time. Thus, administrative costs should be lower than under prior practices. However, about 130 requests for special relief are now pending. These cases, originally filed under the old procedures, form an immediate backlog for administrative action under the new procedures.

The granting of a special relief rate means that a producer-seller can receive a higher price for the sale of his gas. This higher price can be passed through to the ultimate consumer. The exact magnitude of this effect is unknown but could well reach into the millions of dollars.

Related Regulations and Actions

Internal: Regulations implementing the Natural Gas Policy Act.

External: None.

Active Government Collaboration

None.

Timetable

Final Rule Issued—mid–1980
Final Rule Effective—mid–1980
Regulatory Analysis—part of Final Rule

Available Documents

NPRM—44 FR 49468, August 23, 1979 (Docket No. RM 79–67)

Notice Granting Extension of Time to Comment—44 FR 53759, September 17, 1979 (Docket No. RM79–67)

Notice of Public Hearing, issued October 13, 1979 under Docket No. RM79–67

Notice of Request for Public Comments and Notice of Public Discussion, 45 FR 5321, January 23, 1980 (Docket No. RM 79–67)

Transcript of Public Hearing and Public Discussion, and written comments. All of these documents are available at the Commission's Office of

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FERC

Regulations Governing Applications for Major Unconstructed Projects (18 CFR Part 4*)

Legal Authority

Federal Power Act, 16 U.S.C. § 791(a) *et seq.*; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et seq.*

Reason for Including This Entry

This rulemaking is important because it simplifies and clarifies licensing requirements and procedures for major unconstructed projects built for the generation of electric energy by means of water power, thereby making the development of new sources of hydroelectric power generation—a renewable energy resource with great undeveloped potential—more attractive and efficient.

Statement of Problem

This rulemaking is the third phase of the Federal Energy Regulatory Commission's (Commission) licensing reform program for all projects built for the generation of electric energy by means of water power that are within the Commission's jurisdiction.

Section 405 of the Public Utility Regulatory Policies Act of 1978 (PURPA) charges the Commission with establishing simple licensing procedures for water power projects which are connected with existing dams, and have a capacity to generate 15 megawatts (20,000 horsepower) or less of electricity at any one time. The Commission is extending the benefit of the § 405 reform to all water power projects. As a result, this rulemaking proposes licensing reforms which deal with all "major" projects (those with a generating capacity of more than 1.5 megawatts or 2,000 horsepower) (1) for which there is no dam or impoundment (body of water impounded by a dam) at the time of the application, (2) which would result in a significant increase in the normal surface elevation of an existing impoundment, or (3) which are otherwise determined, pursuant to the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), to have a potentially significant environmental impact.

The current regulations governing major water power projects are scattered in various sections of the Commission's regulations. An applicant may be required to submit information in as many as 23 different exhibits within each application. Frequently, the existing regulations do not explain in sufficient detail what information applicants must submit. This can result in duplicate filings or deficient applications. The revision of the regulations governing major unconstructed projects, where no dam or impoundment has been built, will consolidate and simplify the exhibits required of any applicant in a way which elicits only that information which is relevant to an informed decision on the application.

Projects of the magnitude covered by this rulemaking naturally result in more significant environmental disturbances than other, smaller water power projects. The Commission will, therefore, require any applicant for a major unconstructed project to file an Environmental Report of considerably greater depth and detail than it will require for smaller projects or projects at existing dams. The Commission is also revising its NEPA regulations that set forth the specifications of an Environmental Report for all projects, and is tailoring the requirements for such reports to the type of water power project for which the applicant seeks a license. The need for relatively greater detail concerning such projects will also extend to the submission of information relating to their structural and financial integrity.

Alternatives Under Consideration

The Commission is not required by PURPA to reform its licensing procedures for hydroelectric projects that are not connected with existing dams. Nevertheless, we have previously reformed hydroelectric licensing procedures outside the scope of PURPA, and this rulemaking accordingly extends to major unconstructed projects the benefits of the simplified licensing program.

The Commission also must choose how it will revise the licensing procedures, and decide which of the current reporting requirements we will simplify and consolidate, while still requiring relevant and necessary information. For example, how extensive must an Environmental Report—submitted by any applicant—be for such projects? Because construction of a dam involves new inundation of land and the impacts of extensive construction activity, more environmental detail will be needed to assess the impact of such a project than is needed for projects where the dam pre-exists. As a result of the extensive impacts of such a project, the Commission will also revise its NEPA reporting requirements to require an Environmental Impact Statement for all such projects.

Summary of Benefits

Sectors Affected: The Commission; State, municipal and private developers of major unconstructed hydroelectric power projects within the jurisdiction of the Commission; consumers of hydroelectric power; and the general public.

Better licensing procedures should expedite the licensing of water power projects, thus encouraging more hydroelectric development. This in turn will help replace costly imported energy supplies with a cheap, renewable energy resource.

Additional hydroelectric facilities will mean that more consumers will have access to hydropower. This may create greater stability in the cost of electricity to consumers. It may even result in lower rates for electric power.

The improved regulations will help conserve the manpower and financial resources of both the Commission, and the hydroelectric facility applicants, because the regulations will be more understandable and more reasonable in their requirements. As a result, industry may file fewer deficient applications which require upgrading, and both industry and the Commission will waste less time interpreting and litigating the regulations.

By obtaining more complete environmental data, the improved regulations should also enable the Commission to better fulfill its obligations under NEPA to identify and minimize adverse environmental disturbances. The public will benefit because development of hydropower will be more attractive and its adverse side effects will be minimized.

Summary of Costs

Sectors Affected: State, municipal, and private developers of major unconstructed hydroelectric power projects within the jurisdiction of the Commission.

This proposal will require an applicant for a major unconstructed project to file with the Commission a more detailed Environmental Report than is required for smaller projects or for projects at existing dams. The Commission will also require greater specificity regarding the structural and financial integrity of these projects. This will create an additional reporting burden for major project developers. The burden should not discourage them from applying for licenses, however, in light of the significant improvements in the other licensing procedures.

Related Regulations and Actions

Internal: The first phase of the licensing reform program revised the licensing regulations for all "minor" projects (installed capacity of 1.5 megawatts or less) (FERC Order No. 11, 43 FR 40215, September 11, 1978). The second phase revised the regulations for "major" projects (more than 1.5 megawatts of installed capacity) where at least a dam and impoundment are in existence at the time of the application (FERC Order No. 59; 44 FR 67645, November 27, 1979). In conjunction with these reforms, the Commission also revised its procedural regulations governing licenses and preliminary permits for all water power projects (FERC Order No. 54; 44 FR 61328, October 25, 1979).

The Commission proposed new Regulations Implementing the National Environmental Policy Act of 1969 governing the collection, evaluation, and dissemination of environmental information concerning Commission actions. (NPRM; 44 FR 50052, August 20, 1979, Docket No. RM79–76)

External: None.

Active Government Collaboration

None

Timetable

NPRM—third quarter 1980
Final Rule Issued by Commission—late 1980
Regulatory Analysis—part of NPRM and Final Rule

Available Documents

FERC Order No. 11; 43 FR 40215, September 11, 1978
FERC Order No. 59; 44 FR 67645, November 27, 1979
FERC Order No. 54; 44 FR 61328, October 25, 1979
NPRM; 44 FR 50052, August 20, 1979; Docket No. RM79–76

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FERC

Regulations Governing the Safety of All Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act (18 CFR Part 12)

Legal Authority

Federal Power Act, 16 U.S.C. § 792a *et seq.*

Reason for Including This Entry

Recent dam failures demonstrate a need for more stringent examination of the structural soundness of project works, and for the establishment of well-conceived plans to protect life and property if a dam is breached. The purpose of this rule is to reassess old and possibly outdated dam safety rules, as recommended by a Presidential review panel and other authorities, and revise them appropriately.

Statement of Problem

Under § 10(c) of the Federal Power Act, the licensee of any water power project within the jurisdiction of the Federal Energy Regulatory Commission must comply with regulations that the Commission may prescribe "for the protection of life, health, and property."

On December 27, 1965, the Commission's predecessor agency, the Federal Power Commission (FPC), issued Order No. 315, establishing regulations under 18 CFR Part 12 for complete safety inspections of dams and other water-power-project works by independent consultants at regular 5-year intervals, or more frequently if necessary. The inspection procedures the FPC established by Order No. 315 were designed to supplement routine prelicensing inspections supervised by an independent consultant. The FPC chose to apply the inspection requirements to only those licensed projects that have a dam exceeding 35 feet in height above the streambed, or projects with a gross storage capacity of more than 2,000 acre-feet.

These existing dam safety regulations provide only for the 5-year inspection of project structures and equipment, under the guidance of an independent consultant. The inspection provisions, including the consultant's report on the inspection, are highly generalized. These regulations make no provision for procedures to be followed by the licensee in the event of an emergency, for warning or safety devices, for periodic testing of spillways, or for other measures that experience has shown to be important for protecting the public safety.

This rulemaking accordingly revises these existing 18 CFR Part 12 dam inspection procedures, and replaces them with new practices and procedures that encompass dam inspections by independent consultants, and other procedures for a successful dam safety program.

This rulemaking also expands the safety regulations to include any dam with a high-hazard potential, as defined by the Corps of Engineers, if the Commission's regional engineer determines that such a dam needs a consultant's inspection. The rule-making is also intended to improve the quality and efficiency of the Commission's inspections, to improve guidance for the 5-year inspections, to increase use of the dam inspection career training plan, and to make other managerial improvements.

Alternatives Under Consideration

Among various alternatives under consideration are these: Should all dams be subject to the new rules, or only those exceeding a specific height or volume capacity? In addition to dams meeting the specified physical criteria, the Commission is inclined to apply the rule to other dams which may, for various reasons, have a high-hazard potential. Also under consideration is the cost, benefit, and desirability of a "damage reporting" requirement: For example, should licensees have to report heavy slides on their dikes? If so, within what time period and to which local, State, or Federal agencies? What other kinds of injuries or events might weaken the structure? Should they be reported also?

Summary of Benefits

Sectors Affected: State, municipal, and private hydroelectric power projects within the jurisdiction of the Commission with a gross storage capacity of more than 2,000 acre feet, or which have a dam with a high-hazard potential or a dam which exceeds 35 feet in height above the streambed; employees at these projects and persons in surrounding communities; independent engineering consulting services; the Commission; and the general public, particularly users of hydroelectric power.

A more comprehensive dam safety program should result in increased public safety. It will help ensure a high degree of quality in the design, construction, and maintenance of water power projects, by improving the quality and efficiency of the Commission's inspections. The rulemaking should help increase public confidence in dam safety, and further encourage the

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increasing development and maintenance of hydroelectric power, a reliable and presently underutilized source of energy that is based on renewable resources.

Summary of Costs

Sectors Affected: State, municipal, and private hydroelectric power projects which have potentially high-hazard dams.

The costs incurred under the proposed rulemaking should not be any greater for dams that are now subject to the existing 18 CFR Part 12 regulations. Dams that have never been subject to these regulations—namely, certain high-hazard dams—may incur an additional cost because of the requirement that outside consultants be used in assessing the structural safety of a facility. Overall, the Commission believes that the proposed regulations should not appreciably increase the costs of dam safety.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

NPRM—May 28, 1980
Final Rule—August 1, 1980
Regulatory Analysis—See NPRM and Final Rule above

Available Documents

Federal Dam Safety Report of the Office of Science and Technology Policy Independent Review Panel, Executive Office of the President, December 6, 1978. Copies of this document are available at the cost of reproduction from the Chief of Federal Dam Safety, Federal Emergency Management Agency, 909 Premier Building, 1725 I Street, N.W., Washington, D.C. 20472.

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CHAPTER 2—ENVIRONMENT AND NATURAL RESOURCES

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Watershed Protection and Flood Prevention Program (7 CFR 622)*

Legal Authority

Watershed Protection and Flood Prevention Act of 1954, 16 U.S.C. § 1001 *et. seq.*

Reason for Including This Entry

The Department of Agriculture believes this regulation is important to improvement of program performance so as to achieve maximum reduction in upstream flood damages in an economically and environmentally defensible manner. Emphasis will be given to minimizing adverse impacts on wetlands and prime farmlands as well as to the integration of nonstructural alternatives and water conservation measures into the program.

Statement of Problem

The Watershed Protection and Flood Prevention Act authorizes the Secretary of Agriculture to give technical and financial help to sponsoring local organizations to plan and install watershed projects to prevent erosion, sedimentation, and floodwater damage; to further the conservation, development, use, and disposal of water; and to further the conservation and proper use of land. Sponsoring local organizations consist of units of State and local government; the sponsoring local organizations for a watershed project must have the ability under State statutes to obtain lands for project works of improvement, bear their share of the cost of installation, and operate and maintain the project—such as a dam—after installation. Some watershed projects benefit urban areas, but most are located in rural areas. Projects provide benefits such as flood damage reduction, erosion reduction, recreation, irrigation, and water supply and conservation to rural communities and agricultural areas.

The Watershed Protection and Flood Prevention Act of 1954 indicates that works of improvement installed with program assistance are to yield benefits in excess of their costs. Program activities are to be governed by rules and regulations issued by the President. Among other things, E.O. 10584 states that the Secretary of Agriculture shall establish criteria for the formulation and justification of plans for works of improvement and criteria for the economic and engineering soundness of works of improvement consistent with the provisions of the Act and with policies, rules, and regulations issued by the President.

Executive Order 12044 and the Secretary of Agriculture's Memorandum 1955 require that the rules and regulations for all programs be systematically reviewed at regularly specified intervals. In keeping with this requirement, as well as the President's initiatives, and other concerns, the Department of Agriculture (USDA) has scheduled for review the rules and regulations governing the formulation, implementation, and operation of watershed projects.

Alternatives Under Consideration

USDA will develop and consider alternatives to help resolve issues in each of the problem areas (environment, economic evaluation, equity aspects, and safety aspects), and to improve the performance of the program in achieving its objectives.

The review will consider such things as the appropriate mix of structural and nonstructural alternatives to achieve flood control, appropriate levels of protection to achieve national flood damage objectives, and appropriate levels of soil and water conservation and measures to be used to achieve conservation objectives.

Summary of Benefits

Sectors Affected: People living in existing or potential watershed project areas; and State and local governments.

A change in the rules and regulations for the Watershed Protection and Flood Prevention Program could affect people living in rural and urban watersheds of up to 250,000 acres that have erosion, sediment, flood, drainage, irrigation, recreation, or water supply problems. The units of local government that might sponsor a watershed project, and therefore be affected, include the following: soil and water conservation districts; conservancy districts; boards of county commissioners; county councils; water districts; natural resource districts; city, town, and village councils; State departments of natural resources; State fish and wildlife departments; and State park departments.

USDA will analyze the benefits of each regulatory alternative considered for each problem area as a part of the regulatory analysis process. The sectors of the economy and groups to whom the benefits are expected to accrue will also be identified.

Summary of Costs

Sectors Affected: People living in existing or potential watershed project areas; and State and local governments.

Those who pay the costs of watershed projects, both monetary and nonmonetary, are generally the members of the same sectors and groups who receive the benefits of the program.

USDA will analyze the costs of each regulatory alternative considered for each problem area as a part of the regulatory analysis process. The sectors of the economy and groups to whom the costs are expected to accrue will also be identified. Alternatives considered in the regulatory review will include those which would allocate costs specifically to those who benefit from the program.

Related Regulations and Actions

Internal: 1. Compliance with NEPA (National Environmental Protection Act), Procedures for SCS-Assisted Programs, 7 CFR 650.1

2. Compliance with NEPA, Related Environmental Concerns, Flood Plain Management, 7 CFR 650.25

3. Support Activities, Compliance with NEPA, Protection of Wetlands, 7 CFR 650.26

4. Procedures for the Protection of Archaeological and Historical Properties Encountered in SCS-Assisted Programs, 7 CFR 656

5. Prime and Unique Farmlands, 7 CFR 657. Describes prime and unique farmlands and states policy for protecting and preserving them for agricultural use.

External: 1. Principles and Standards for Planning Water and Related Land Resources—Water Resources Council (WRC)

2. Procedures for Evaluation of Natural Economic Development Benefits and Costs in Water Resources Planning—WRC

3. Executive Order 10584, "Rules and Regulations Relating to Administration of the Authority of the Watershed Protection and Flood Prevention Act."

Active Government Collaboration

During the study of rules and regulations for the watershed program, USDA will coordinate applicable changes with the Water Resources Council.

Prior to initiating review of the program, USDA will develop a plan for public participation by the public groups, State and local governmental groups, and other Federal agencies.

Timetable

USDA will not complete the review of rules and regulations for the watershed program until the Water Resources Council has finalized new procedures for planning and evaluating water resource projects. The present schedule is as follows:

Environmental Quality Manual—September 1980
Supplement to National Economic Development Manual—September 1980
Review of the rules and regulations for watershed projects (7 CFR Chapter VI, Part 622) is scheduled to begin in August 1980. USDA will publish notice of the start of this study in the **Federal Register** at that time.
NPRM—February 1981
Final rule—July 1981
Draft and Final Regulatory Analyses—will be available for public inspection.

Available Documents

Watershed Projects, 7 CFR 622; 40 FR 12475, March 19, 1975

Revision of "Principles and Standards for Planning Water and Related Land Resources," December 1979

Procedures for Evaluation of National Economic Development Benefits and Costs in Water Resources Planning, December 1979

Related Regulations and Actions Cited Above.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Regulations Implementing a Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean

Legal Authority

The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. § 1801 *et seq.*

Reason for Including This Entry

We believe these regulations are of significant public interest in the fishery management area under the geographical jurisdiction of the Mid-Atlantic Fishery Management Council. The regulations are expected to result in increases in productivity and profits of some groups of U.S. fishermen.

Statement of Problem

Background Information on Fishery Management Plans

The Fishery Conservation and Management Act of 1976 (Act), as amended, established a national fishery management program for the conservation and management of fishery resources which are subject to exclusive U.S. management authority in the fishery conservation zone (FCZ). The FCZ is the area between the seaward boundary of each coastal state and a point 200 miles from the baseline used to measure the territorial sea. Congress authorized this program to prevent overfishing, rebuild overfished stocks, ensure conservation of fishery stocks, and realize the full potential benefits of the Nation's fishery resources for present and future genrerations. To meet these objectives, the Act calls for the preparation of fishery management plans (FMPs) by the eight Regional Fishery Management Councils or, under certain conditions, by the Secretary of Commerce (the Secretary), and for the review, approval, and implementation of these FMPs by the Secretary. Each Council has the authority to prepare an FMP for each fishery within its geographical area of authority. (A fishery is defined as one or more stocks of fish identifiable on the basis of geographical, scientific, technical, recreational, and economic characteristics). Enforcement of the Act, including the provisions of approved FMPs and the implementing regulations, is the joint responsibility of the Secretary and the Secretary of Transportation (who oversees the operations of the Coast Guard).

The Act established seven National Standards to be applied by both the Council and the Secretary in the preparation and review of any FMP. The National Standards require that FMPs be designed to: (1) achieve the optimum yield of a stock of fish (a species, subspecies, geographical grouping, or other category of fish capable of being managed as a unit) on a continuing basis; (2) use the best scientific information available; (3) manage an individual stock of fish as a unit throughout its range; (4) be nondiscriminatory between residents of different states (assigning fair and equitable fishing privileges); (5) promote efficiency in harvesting techniques or strategies; (6) take into account the variability of fishery resources and the

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needs of fishermen, consumers, and the general public; and (7) minimize conservation and management costs. Optimum yield (OY) is based upon the maximum sustainable yield (MSY) of a fishery, modified by relevant economic, social, or ecological factors. The MSY is an average, over a reasonable length of time, of the largest catch which can be taken continuously from a stock under current environmental conditions.

An FMP allows foreign fishing fleets to harvest that portion of the OY of a fishery which will not be harvested by U.S. fishermen. To participate in a U.S. fishery in the FCZ, a foreign fishing vessel must have a permit issued by the Secretary. Each permit contains a statement of the conditions and restrictions with which the foreign fishing vessel must comply.

Before a foreign nation may obtain a U.S. fishing permit, it must sign a Governing International Fishery Agreement (GIFA). This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment of that nation to comply with the terms and conditions specified under the Act. Any existing international agreements, other than GIFAs, are considered valid only if they were in effect before the Act and have not expired, been renegotiated, or been negated in any manner. The Secretary of State, in cooperation with the Secretary of Commerce, determines the allocation of the total allowable surplus the applicant nation will receive.

The Butterfish FMP

The Mid-Atlantic Fishery Management Council (the Council) has developed an FMP for the butterfish fishery of the Northwest Atlantic Ocean to provide a framework for controlling the catch levels of U.S. and foreign fishing fleets. In 1978, the United States began to export significant quantities of butterfish to Japan. The development of this export market was partially caused by reductions in the total allowable level of foreign butterfish catches in the FCZ from an annual average level of 9,146 metric tons (mt) between 1967–1976, to 5,500 mt in 1977, and 4,000 mt in 1978 and 1979. The Council anticipates that the growth of the U.S. butterfish fishery, coupled with foreign catches, can eventually lead to overfishing and depletion of the resource if it does not place limits on the total harvest. In addition, the Council is concerned about the foreign catch of butterfish in the FCZ because it is an unavoidable bycatch in a directed fishery for Atlantic squid. An uncontrolled incidental catch of butterfish could adversely affect the harvesting costs of U.S. fishing vessels by reducing butterfish stock densities.

At present, the butterfish fishery is being managed by regulations implemented through a Preliminary Fishery Management Plan (PMP) for Foreign Trawl Fisheries of the Northwest Atlantic developed by the Secretary. Under a PMP, however, regulations may be implemented to cover only foreign fishing operations in the FCZ. By preparing an FMP, the Council can more effectively specify optimum yield and management measures for both domestic and foreign fishing to provide a stable and comprehensive management regime for butterfish. Specific management objectives the Council identified for this fishery are as follows: (1) promote the growth of the U.S. butterfish export industry; (2) minimize the cost of harvesting butterfish; (3) increase employment opportunities for U.S. commercial fishermen; (4) prevent exploitation of the butterfish resource beyond the level that produces the maximum sustainable yield; and (5) minimize costs of enforcement and management of the butterfish resource.

Alternatives Under Consideration

In the process of preparing the FMP, the Council considered alternative management options to attain the plan's objectives. Before making a final decision on a particular set of management options, the Council developed a draft FMP and solicited, through public hearings and public comments, the advice and recommendations of interested persons, including States, and commercial and recreational fishery groups. After the Council selected the preferred management options, it prepared a final FMP for submission to the Secretary for review, approval, and implementation.

Alternative management options the Council considered for the butterfish FMP were as follows:

(1) *Optimum Yields of 11,000 mt or 16,000 mt.* The Council proposed an optimum yield of 11,000 mt. The Council estimated U.S. harvesting and processing capacity at 7,000 mt, and set the total allowable level of foreign fishing (TALFF) at 4,000 mt. The TALFF remains unchanged from the 1978 and 1979 PMPs. Because the U.S. fishery is in its initial stages of development, the Council believes that an OY of 16,000 mt, with U.S. capacity set at 7,000 mt and a TALFF of 9,000 mt, might hinder U.S. export opportunities. In this case, foreign fleets could catch Atlantic butterfish rather than purchase it from U.S. processors. In addition, the Council believes that a TALFF of 4,000 mt is sufficient to allow foreign fleets to harvest their squid allocations, as specified in the FMP for Atlantic squid.

(2) *Continue the 1979 PMP.* Under this alternative the 1979 PMP prepared by the Secretary would remain in effect. This PMP proposed an optimum yield of 16,000 mt, a U.S. harvesting and processing capacity of 12,000 mt, and a TALFF of 4,000 mt. The continuation of the PMP would probably result in a large reallocation of butterfish to foreign fleets at the end of the 1979–1980 fishing season. This reallocation would come from any uncaught portion of the U.S. allocation. We expect such a reallocation to have an adverse impact on the U.S. export market for butterfish because foreign fleets could catch the butterfish instead of purchasing it from U.S. firms.

(3) *Different Fishery Management Units.* The Council considered the following management units: (a) butterfish within the FCZ north of Cape Hatteras (3–200 miles); (b) butterfish within all U.S. waters north of Cape Hatteras (0–200 miles); and (c) all butterfish under U.S. jurisdiction north of Cape Hatteras. The Council proposed option (c) because it covers the entire range of the butterfish stock (territorial waters, the FCZ, and Canadian waters). The proposed OY is based on this option in anticipation of a U.S.-Canadian bilateral fishing agreement. If the United States and Canada fail to achieve an agreement during the 1979–1980 fishing season, then the management unit is the same as option (b).

(4) *Fishing Gear, Fishing Area, and Fishing Season Restrictions.* The Council believes that these management measures for domestic fishermen are not necessary at this time because overfishing is not a serious problem.

Summary of Benefits

Sectors Affected: U.S. commercial fishing and processing.

The FMP will ensure conservation of the butterfish fishery in the Northwest Atlantic Ocean. We also expect this FMP to increase U.S. exports of fishery products and employment opportunities for U.S. commercial fishermen. U.S. processors reported that exports were negligible in 1977 but in 1978 increased to 2,400 mt. The exvessel (dockside) value of the exported butterfish was approximately $2 million. The estimated value of the processed exports ranges between $3 to $4 million. Estimates of exports for the 1979/1980 fishing season are not yet available.

Under the FMP, the proposed TALFF is 4,000 mt. The current poundage fee for butterfish is 3.5 percent of $626 per metric ton as specified in the 1980 Foreign Fishing Fee Schedule (44 FR 76295, December 26, 1979) established pursuant to the Act. The TALFF is expected to yield $87,640 in revenues to the U.S. Treasury.

Summary of Costs

Sectors Affected: The Mid-Atlantic Council; NOAA's National Marine Fisheries Service; and the Coast Guard.

Management costs incurred by the Mid-Atlantic Council and NOAA's National Marine Fisheries Service will be limited to collecting and processing basic fishery data for monitoring and revising the FMP. These costs are expected to range between $10,000–$30,000 annually (1980 dollars).

The Coast Guard will incur enforcement costs, although it is not possible to specify the actual costs for enforcement of the butterfish FMP because of the Coast Guard's concurrent responsibilities for other FMPs and PMPs. Most of the Coast Guard's enforcement costs will be attributable to surveillance and inspection of foreign fishing vessels.

Related Regulations and Actions

Internal: Regulations implementing the FMP for the squid fishery of the Northwest Atlantic are related to the butterfish FMP because of the potential by catch of butterfish in a directed fishery for squid. The FMPs for Atlantic herring, Atlantic mackerel, Atlantic groundfish, and the PMP for silver and red hake are also related to the butterfish FMP, because these fisheries are part of the same general geophysical, biological, social, and economic setting. Regulations for a particular fishery may have an impact on the other fisheries by causing transfers of fishing effort. Moreover, the fisheries of the Northwest Atlantic are interrelated because of the high potential for bycatches of nontarget species in a directed fishery for another species.

External: The Council reviewed the Coastal Zone Management Programs of Massachusetts and Rhode Island for conflicts with the butterfish FMP and found no conflicts currently exist.

Active Government Collaboration

The Council has requested comments on the butterfish FMP from the Departments of Interior, State, and Transportation; the Environmental Protection Agency; the coastal States of Maine through North Carolina; the New England and South Atlantic Fishery Management Councils; and various individuals and organizations.

Timetable

Final Rule—June 1980
Final Rule Effective—July 1980

Available Documents

NPRM (45 FR 21307, April 1, 1980).
Final Environmental Impact Statement/Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean.
Draft Regulatory Analysis for the Butterfish Fishery Management Plan
All documents are available for review at the National Marine Fisheries Service, Office of Resource Conservation and Management, Plan Review Division, 3300 Whitehaven Street, Washington, D.C. 20235.

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DOC–NOAA

Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area

Legal Authority

The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. § 1801 *et seq.*

Reason for Including This Entry

We believe these regulations are of significant public interest in the fishery management area under the geographical jurisdiction of the North Pacific Fishery Management Council. The regulations are expected to provide the framework for development of underutilized species of fish, and to rebuild fishery stocks or maintain them at productive levels.

Statement of Problem

Background Information on Fishery Mangement Plans

The Fishery Conservation and Management Act of 1976 (Act), as amended, established a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S. management authority in the fishery conservation zone (FCZ). The FCZ is the area between the seaward boundary of each coastal state and a point 200 miles from the baseline used to measure the territorial sea. Congress authorized this program to prevent overfishing, rebuild overfished stocks, ensure conservation of fishery stocks, and realize the full potential benefits of the Nation's fishery resources for present and future generations. To meet these objectives, the Act calls for the preparation of fishery management plans (FMPs) by the eight Regional Fishery Management Councils, or under certain conditions, by the Secretary of Commerce (the Secretary), and for the review, approval, and implementation of these FMPs by the Secretary. Each Council has the authority to prepare an FMP for each fishery within its geographical area of authority. (A fishery is defined as one or more stocks of fish identifiable on the basis of geographical, scientific, technical, recreational, and economic characteristics). Enforcement of the Act, including the provisions of approved FMPs and the implementing regulations, is the joint responsibility of the Secretary and the Secretary of Transportation (who oversees the operations of the Coast Guard).

The Act established seven National Standards to be applied by both the Council and the Secretary in the preparation and review of any FMP. The National Standards require that FMPs be designed to: (1) achieve the optimum yield of a stock of fish (a species, subspecies, geographical grouping, or other category of fish capable of being managed as a unit) on a continuing basis; (2) use the best scientific information available; (3) manage an individual stock of fish as a unit throughout its range; (4) be nondiscriminatory among residents of different states (assigning fair and equitable fishing privileges); (5) promote efficiency in harvesting techniques or strategies; (6) take into account the variability of fishery resources and the needs of fishermen, consumers, and the general public; and (7) minimize the costs of conservation and management measures. Optimum yield (OY) is based upon the maximum sustainable yield (MSY) of a fishery modified by relevant economic, social, or ecological factors. The MSY is an average, over a reasonable length of time, of the largest catch which can be taken continuously from a stock under current environmental conditions.

An FMP allows foreign fishing fleets to harvest that portion of the optimum yield of a fishery which will not be harvested by U.S. fishermen. To participate in a U.S. fishery in the FCZ, a foreign vessel must have a permit issued by the Secretary. Each permit contains a statement of the conditions and restrictions with which the foreign fishing vessel must comply.

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Before foreign nations may obtain a U.S. fishing permit, it must sign a Governing International Fishery Agreement (GIFA). This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment of that nation to comply with the terms and conditions specified under the Act. Any existing international agreements, other than GIFAs, are considered valid only if they were in effect before the Act and have not expired, been renegotiated, or been negated in any manner. The Secretary of State, in cooperation with the Secretary of Commerce, determines the allocation of the total allowable surplus the applicant nation will receive.

The Bering Sea/Aleutian Island Groundfish FMP

The North Pacific Fishery Management Council (the Council) has developed an FMP for the groundfish fishery of the Bering Sea/Aleutian Island area off the coast of Alaska. The stocks covered by this FMP include Pacific Ocean perch, Alaska pollock, Pacific cod, yellowfin sole, turbots, sablefish, other flounders and flatfish, atka mackerel, squid, and other species.

The FMP for the groundfish fishery in the Bering Sea/Aleutian Island area would replace the current Preliminary Fishery Management Plan (PMP). This was necessitated by the PMP's lack of coverage of a domestic groundfish fishery and by the potential for incidental catches of halibut in a directed fishery for groundfish.

The FMP addresses four problems: maintaining stocks currently at levels of MSY; rebuilding depleted stocks to levels of abundance producing MSY; controlling the incidental catch of species of commercial importance to U.S. fishermen; and establishing an environment conducive to development of a U.S. groundfish fishery.

(*1*) *Maintaining or rebuilding of stocks.* We have conducted stock assessment studies on the following categories of Bering Sea/Aleutian Island groundfish species: Alaska pollock, Pacific halibut, yellowfin sole, turbots, other flatfishes, Pacific cod, rockfishes, sablefish, atka mackerel, squid, and other species. With the exception of Pacific Ocean perch, Pacific halibut, and sablefish, we believe all other groundfish species in the Bering Sea/Aleutian Island area to be at levels of abundance equal to or greater than those that would produce MSY.

We consider Pacific Ocean perch stocks to be at relatively low levels of abundance because of a continuous decline in catch per unit of effort (CPUE) since 1968, a drastic reduction in the availability of all sizes of ocean perch between 1969–72, a heavy dependence of the fishery on younger fish, and the lack of any evidence of a strong incoming year class. We defined the target level which would serve the development of a stock-rebuilding program as being equal to MSY (107,000 metric tons [mt]) in the FMP. Therefore, to promote rebuilding, we set the allowable biological catch (ABC=10,750 mt) of Pacific Ocean perch at half of the current equilibrium yield (EY=21,500 mt). The ABC is a seasonally determined catch that may differ from MSY for biological reasons. The EY is the annual or seasonal harvest which allows the stock to be maintained at approximately the same level of abundance, apart from the effects of environmental variation, in successive seasons or years.

Pacific halibut stocks have declined sharply in the eastern Bering Sea since the early 1960s. Recent surveys indicate an increase in the abundance of juveniles; however, abundance is still below early 1960's levels. An allowable biological catch for Pacific halibut was not set in the FMP because the fishery is currently regulated by the International Pacific Halibut Commission (IPHC). Instead, the Council specified OY for species other than halibut covered by the FMP to accommodate rebuilding of halibut stocks. Further, the Council proposed halibut savings areas (closed areas) to reduce the incidental catch of halibut. It is important to note that the rebuilding program of the IPHC is governed by a philosophy rather than a mandate to achieve a specified stock size. Specifically, the IPHC's concern is focused on rebuilding stocks back to levels which can support the maximum catch, given the biological and economic conditions of the fishery.

Analyses of CPUE data for sablefish by both U.S. and Japanese scientists show a declining trend. They have interpreted the declining trend in CPUE, coupled with catch data, as indicating that sablefish stocks in the eastern Bering Sea/Aleutian Region are at reduced levels of abundance. The Council set the allowable biological catch for sablefish (5,000 mt) at 38 percent of the estimated MSY (13,200 mt) to facilitate rebuilding of the stock.

(*2*) *Incidental catch.* Current fishery activity directed at Bering Sea groundfish resources is dominated by foreign fishing fleets. While foreign vessels target on groundfish, substantial numbers of halibut and crabs (king and Tanner) are taken as an incidental catch. Although regulations require that these species be released, most die from injuries received during capture. In the eastern Bering Sea, we estimated the annual yield loss of halibut due to the incidental catch by foreign vessels to be 5,000 mt. On the basis of 1978 exvessel (dockside) prices, we estimated the potential market value of the lost halibut to be $11,550,000. We estimated the incidental catches of king and Tanner crab during 1977 to be about 0.6 million and 17.5 million crabs, respectively. The magnitude of halibut and crab losses indicates that optimum yields, total allowable levels of foreign fishing, and domestic allowable harvests established in the FMP can affect several important domestic fisheries.

(*3*) *Development of a U.S. groundfish fishery.* Many U.S. fishing interests perceive the presence of fleets of large foreign trawlers as an impediment to the development of a domestic groundfish trawl fishery in the Bering Sea because of the possibility of: (a) preemption of favored grounds by concentrations of foreign vessels that are two to three times the size of the largest U.S. trawlers, and (b) competition for fish by foreign vessels that can apparently operate successfully at levels of abundance and average fish sizes that are less than those required for economic operation of domestic trawlers.

Management objectives for the groundfish fishery in the Bering Sea/Aleutian Island area are as follows:

(a) Continue rebuilding the halibut resource so that a viable halibut longline (a type of gear with hooks attached to a long rope suspended from buoys) fishery is again available to American fishermen;

(b) Rebuild depleted groundfish stocks to, and maintain healthy groundfish stocks at, levels of abundance that will produce MSY;

(c) Provide an opportunity for U.S. involvement in the Bering Sea/Aleutian Island groundfish fishery, limited only by the OY of individual species and objectives (a) and (b) above; and

(d) Allow foreign participation in the fishery, consistent with objectives (a), (b), and (c), above.

Alternatives Under Consideration

In the process of preparing the FMP, the Council considered alternative management options to attain the plan's objectives. Before making a final decision on a particular set of management options, the Council developed a draft FMP and solicited, through public hearings and public comments, the advice and recommendations of all interested persons, including States, and

commercial and recreational fishery groups. After the Council selected the preferred management options, it prepared a final FMP for submission to the Secretary for review, approval, and implementation.

(*1*) *Continue the 1979 PMP.* Under this alternative, the 1979 PMP would be extended to cover the 1980 fishing season. However, a PMP can only regulate foreign fishing. As a result, the North Pacific Fishery Management Council would not be able to develop regulations to permit the rebuilding of depleted stocks or to control the incidental catch of species of commercial importance to U.S. fishermen (halibut, king crab, and Tanner crab).

(*2*) *Develop an FMP.* The FMP developed by the North Pacific Fishery Management Council contains management measures specifying OY for the total fishery (1,559,226 metric tons [mt]), domestic allowable harvest (56,100 mt), reserves (73,324 mt), and the total allowable level of foreign fish (TALFF) (1,429,802 mt). The Council set optimum yields for Pacific Ocean perch and sablefish at levels which should result in rebuilding these stocks to MSY levels. The Council also set the domestic allowable harvest at a level consistent with the production expectations of both U.S. harvesters and processors.

To prevent the OY from being exceeded without hindering unexpected domestic fishery development (an unanticipated increase in U.S. catching capability and intent), 500 mt or 5 percent of the OY (whichever is greater) of each species will be held in "reserve" for allocation later in the fishing season on the basis of domestic need. Unless specifically withheld by the National Marine Fisheries Service Alaska Regional Director, acting with the advice of the North Pacific Council, up to 25 percent of the reserve of each species can be released to TALFF every two months, beginning with the end of the second month of the fishing year. Initial TALFFs for each species were determined by subtracting the sum of domestic allowable harvest and reserve from optimum yield.

Additional management measures selected by the Council included: (1) seasonal area closures for U.S. trawlers in fishing grounds where juvenile halibut are known to concentrate; (2) statistical reporting requirements; and (3) permit requirements and area closures for foreign fishing vessels.

(*3*) *Areas Closed to Foreign Fishing.* The Council considered several area closure alternatives applicable to foreign fishing fleets. These areas cover the "Winter Halibut-savings areas," the Petrel Bank, and fishing grounds off the western portions of the Aleutian Islands. If we allowed foreign fishing in these areas during the specified time periods, there would be a continuation of incidental halibut catches. Although these areas are known to contain large concentrations of juvenile halibut, we are unable to quantify the halibut yield losses.

Summary of Benefits

Sectors Affected: U.S. commercial fishing, processing, and exporting in Alaska; and the general public.

The optimum yield of 1,559,226 mt set by the 1980 FMP represents an increase of 133,156 mt over the OY of 1,426,070 mt specified in the 1979 PMP. There were also increases in the domestic allowable harvest (46,100 mt), reserves (71,224 mt), and the TALFF (15,832 mt). We have estimated that foreign nations could pay $11.9 million in vessel and privilege fees to fish in the Bering Sea/Aleutian Island area in 1980.

At present, there is insufficient information to quantify the economic effects of this FMP on U.S. fishermen and processors. Projections of domestic catches are not reliable for the fishery because there has been only a limited amount of effort directed at the harvesting of groundfish by U.S. fishermen in the Bering Sea/Aleutian Island area. However, the preferential U.S. allocation of groundfish allows opportunity for expansion of U.S. harvests as rapidly as the private sector is willing to invest in the fishery. The U.S. allocation will permit the continued harvest of groundfish, which are used as crab bait, as well as the implementation of pilot projects for food-fish production. If these projects are successful, there may be an opportunity for expansion of U.S. exports of seafood products.

This FMP will ensure the conservation of the groundfish fishery for the Bering Sea/Aleutian Island area.

We also expect economic benefits from the rebuilding of stocks to levels of high abundance or to MSY levels. There are potential reductions in the cost of harvesting fish because of larger CPUE (i.e., greater productivity). Additionally, there is a strong consumer demand for halibut products. A rebuilt stock, under proper management, will enable the catch of the fishery to expand and increase the supply of halibut for the U.S. consumer.

A biological benefit of rebuilding depleted fish stocks is the maintenance of a large amount of genetic variability in the stock to increase its chances of adapting to changes in the environment. Also, there is the benefit of stabilizing the fishable population to reduce the likelihood of sharp yearly variations in the harvest.

Summary of Costs

Sectors Affected: The State of Alaska; NOAA; and the Coast Guard.

We project the annual cost of implementing the FMP at $5,574,000 (1979 dollars). Of this total, the cost of the foreign fishery observer program of $370,000 will be reimbursed to the U.S. Treasury by foreign governments. The remaining $5,204,000 is divided among the National Oceanic and Atmospheric Administration ($493,000), for administrative and data collection costs, the State of Alaska ($11,000) for data collection costs, and the Coast Guard ($4.7 million) for ship and aerial patrols.

Related Regulations and Actions

Internal: Provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. § 1361 *et seq.*), have a bearing on this FMP through restrictions on killing or harvesting seals and sea lions (50 CFR Part 216), which may prey on fish already captured in nets. The FMP for Groundfish in the Gulf of Alaska (43 FR 17242, April 22, 1978) has implementing regulations designed to minimize the incidental catch of halibut. In addition, the directed catch of halibut is controlled by the Convention for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (5 U.S.C. 5).

External: The Alaska Department of Fish and Game and the Alaska Limited Entry Commission issue regulations which control the harvest of fishery resources in State territorial waters (0–3 miles) off the coast of Alaska.

Active Government Collaboration

We requested comments on this FMP from the Environmental Protection Agency; the Marine Mammal Commission; the Departments of Agriculture, Interior, State, and Transportation, as well as several State governments.

Timetable

Final Rule—May–June 1980
Final Rule Effective—June–July 1980

Available Documents

NPRM—(44 FR 66356, November 19, 1979)

The Draft Environmental Impact Statement and Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Island area

Draft Regulatory Analysis for the FMP

All documents are available for review at the National Marine Fisheries Service, Office of Resource Conservation and Management, Plan

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Review Division, 3300 Whitehaven Street, Washington, D.C. 20235.

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DOC-NOAA

Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters

Legal Authority

The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. § 1801 *et seq.*

Reason for Including This Entry

We believe these regulations are of significant public interest in the fishery management area under the geographical jurisdiction of the Gulf of Mexico Fishery Management Council. These regulations are expected to increase productivity in the shrimp fishery.

Statement of Problem

Background Information on Fishery Management Plans

The Fishery Conservation and Management Act of 1976, as amended, established a national fishery management program for the conservation and management of fishery resources which are subject to exclusive U.S. management authority in the fishery conservation zone (FCZ). The FCZ is the area between the seaward boundary of each coastal state and a point 200 miles from the baseline used to measure the territorial sea. Congress authorized this program to prevent overfishing, rebuild overfished stocks, ensure conservation of fishery stocks, and realize the full potential benefits of the Nation's fishery resources for present and future generations. To meet these objectives, the Act calls for the preparation of fishery management plans (FMPs) by the eight Regional Fishery Management Councils or, under certain conditions, by the Secretary of Commerce (the Secretary), and for the review, approval, and implementation of these FMPs by the Secretary. Each Council has the authority to prepare an FMP for each fishery within its geographical area of authority. (A fishery is defined as one or more stocks of fish identifiable on the basis of geographical, scientific, technical, recreational, and economic characteristics). Enforcement of the Act, including the provisions of approved FMPs and promulgated regulations, is the joint responsibility of the Secretary and the Secretary of Transprotation (who oversees the operations of the Coast Guard).

The Act established seven National Standards to be applied by both the Councils and the Secretary in the preparation and review of an FMP. The National Standards require that FMPs be designed to: (1) achieve the optimum yield of a stock of fish (a species, subspecies, geographical grouping, or other category of fish capable of being managed as a unit) on a continuing basis; (2) use the best scientific information available; (3) manage an individual stock of fish as a unit throughout its range; (4) be nondiscriminatory among residents of different states (assigning fair and equitable fishing privileges); (5) promote efficiency in the harvesting techniques or strategies; (6) take into account the variability of fishery resource and the needs of fishermen, consumers, and the general public; and (7) minimize conservation and management costs. Optimum yield (OY) is based upon the maximum sustainable yield (MSY) of a fishery, modified by relevant economic, social, or ecological factors. The MSY is an average, over a reasonable length of time, of the largest catch which can be taken continuously from a stock under current environmental conditions.

An FMP allows foreign fishing fleets to harvest that portion of the OY of a fishery which will not be harvested by U.S. fishermen. To participate in a U.S. fishery in the FCZ, a foreign vessel must have a permit issued by the Secretary. Each permit contains a statement of the conditions and restrictions with which the foreign fishing vessel must comply.

Before a foreign nation may obtain a U.S. fishing permit, it must sign a Governing International Fishery Agreement (GIFA). This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment of that nation to comply with the terms and conditions specified under the Act. Any existing international agreements, other than GIFAs, are considered valid only if they were in effect before the Act and have not expired, been renegotiated, or been negated in any manner. The Secretary of State, in cooperation with the Secretary of Commerce, determines the allocation of the total allowable surplus the applicant nation will receive.

The Shrimp FMP

The Gulf of Mexico Fishery Management Council (the Council) has developed an FMP for the U.S. shrimp fishery in the Gulf of Mexico. Target species comprising the shrimp fishery include brown shrimp, white shrimp, pink shrimp, and royal red shrimp. Seabobs and rock shrimp are caught incidental to the target species.

Shrimp is the single most valuable fishery in the United States measured by the exvessel value of the reported catch (the value of the catch at dockside). In 1979, the U.S. fleet landed 93,722 metric tons (mt) of shrimp in the Gulf of Mexico with an exvessel value of $378 million. Total value of all U.S. landings in 1979 (exclusive of catches off foreign coasts) was $2.08 billion (2.68 million mt).

The Gulf Council identified the following major problems in the shrimp fishery.

1. Conflict Among User Groups on Fishing Areas and Harvest Size of Shrimp. The commercial shrimp fishing fleet consists of small boat operations restricted to inland bays and shallow water offshore areas, and larger vessels which can fish in the territorial seas and the FCZ. In these fleets, some vessels prefer small-size shrimp while other vessels focus on the larger size (higher valued) shrimp. Gulf State regulations control the shrimp catch in the territorial sea; however, there are no regulations in the FCZ to reflect the size preferences of the different segments of the shrimp fishing fleet.

2. Discard of Shrimp by Culling. Several states have laws which restrict the size (i.e., the number of shrimp per pound) at which shrimp can be legally landed and marketed. Often, illegal size shrimp are inadvertently caught and subsequently discarded (culled). There is a high mortality of these discarded shrimp, and this lowers the yield from the shrimp fishery.

3. *The Continuing Decline in the Quality and Quantity of Estuarine and Associated Upland Habitats.* The alteration of the natural environment has destroyed some of the habitat of shrimp in their postlarvae and juvenile stages. Alterations include: (1) impoundments which prevent the movement of shrimp; (2) bulkheading, which seals off critical marsh water or mangrove water interface; and (3) diversion of freshwater which changes the salinity factor of natural areas. Most of these physical areas are outside the FCZ and, therefore, not under the direct jurisdiction of the Council. However, the Council is encouraging State and Federal government agencies to protect these critical habitat areas, and has

established a special committee to monitor and research this problem.

4. Lack of Basic Data Needed for Effective Management. Although statistical data covering the shrimp fishery of the Gulf of Mexico is more complete than for many other Gulf fisheries, a shortage of information regarding the optimum harvest sizes, seasons, marketing information, and marketing sector analysis still exists.

Alternatives Under Consideration

In the process of preparing the FMP, the Council considered alternative management options to resolve the problems in the shrimp fishery. Before making a final decision on a particular set of management options, the Council developed a draft FMP and solicited, through public hearings and public comments, the advice and recommendations of all interested persons, including States, and commercial and recreational fishery groups. After the Council selected the preferred management options, it prepared a final FMP for submission to the Secretary for review, approval, and implementation. The following alternatives are a partial listing of the options considered in the shrimp FMP.

(1) *Permanent Closure of the "Tortugas Shrimp Sanctuary."* This option would close to fishing the Tortugas Shrimp Sanctuary which serves as a sanctuary for pink shrimp in the Tortugas and Sanibel shrimping grounds. The State of Florida has closed part of the Tortugas sanctuary in its territorial waters to shrimp fishing; however, the sanctuary also extends into the FCZ where Florida does not have jurisdiction over fishing vessels of other States. The objective of this option is to eliminate the capture and subsequent mortality of undersized shrimp. As a result, the average size and availability of shrimp is expected to increase in the fishing grounds beyond the sanctuary.

(2) *Closure of the Territorial Sea of Texas and the Adjacent U.S. FCZ to Shrimp Fishing.* The Department of Commerce will close the FCZ at the same time that the State of Texas closes its territorial sea. Closure normally occurs June 1 to July 15; however, the effects of environmental conditions on shrimp growth may necessitate a 15-day flexibility in the closing and opening dates. We expect this option to increase the yield of shrimp and to eliminate waste due to discarding of undersized brown shrimp in the FCZ. Studies indicate that closure would protect the smaller shrimp until they have grown to a more valuable size.

(3) *Seasonal Closure of the FCZ off the Texas Coast out to either 20 Fathoms or 30 Nautical Miles.* The State of Texas usually closes its territorial sea from June 1 through July 15. Extension of the closed season to either 20 fathoms or 30 nautical miles is intended to reduce the discard (biological waste) of small brown shrimp in the territorial sea and the FCZ associated with Texas during the May through August period.

(4) *Spawning Area Closures.* The Council considered several management measures which would protect shrimp from being harvested during spawning periods. These measures included area and seasonal closures and the establishment of sanctuaries. However, the Council did not propose any of these measures because our data did not support a biological advantage from protecting spawning shrimp. Our scientists have not established a strong relationship between the number of spawners and number of recruits into the fishery.

(5) *Other Management Options.* The Council considered a wide range of management measures concerning minimum sizes, different seasons, entry restrictions, and different gear types. These measures were rejected because they could result in high enforcement costs, impose economic burdens on fishermen, or have no biological benefits.

The two major management measures selected by the Council are closure of the Tortugas Shrimp Sanctuary and the closure of the U.S. FCZ at the same time that Texas closes its territorial sea to brown shrimping.

Summary of Benefits

Sectors Affected: U.S. commercial fishing and processing; and the general public.

We have determined jointly with the Council that management of the shrimp stocks in the FCZ is expected to provide a higher yield of shrimp in both weight and value than by taking no action. In the absence of an FMP, there would continue to be waste from culling and discarding of small shrimp, conflicts among users, and inadequate statistical information to monitor the fishery.

We expect that the expansion of the Tortugas Shrimp Sanctuary beyond the Florida territorial sea will result in an increase in pink shrimp landings of 1 million pounds. This increase is due to a combination of two factors: (1) growth in undersized shrimp (smaller than 69 tails to the pound); and (2) reductions in discarded (culled) shrimp. We estimate the total exvessel value of the increased landings at $2.43 million (1978 dollars). In addition, we expect a positive effect on the economic efficiency of the shrimp fleet; i.e., landings per vessel should increase, assuming effort remains constant. However, as revenues increase, more shrimp vessels could be attracted into the fishery and have a negative impact on economic efficiency in the long run.

Closure of the FCZ off the Texas coast, when a substantial portion of the brown shrimp weigh less than a count of 65 tails to the pound, is expected to result in an increase in landings of 2.1 million pounds. This increase includes 0.5 million pounds from the growth of smaller shrimp and 1.6 million pounds due to use of previously discarded shrimp which now can be marketed. The exvessel value of the increase in landings is estimated at $7.1 million (1978 dollars). The reason for the large increase in value is that the Texas closure shuts down the fishery for 45 days, which allows the shrimp to attain a larger, more valuable size. In the short run, we expect the economic efficiency of the fleet to increase as a result of the availability of more and larger sized shrimp for a given level of effort.

The Council did not propose the 20 fathom and 30 nautical mile closure alternatives. Although these measures would reduce biological waste, they would create substantial enforcement problems for the Coast Guard and National Marine Fisheries Service in monitoring the limited closure areas. Closure of the FCZ was the least expensive enforcement alternative.

Summary of Costs

Sectors Affected: U.S. commercial and recreational fishing and processing; and the Federal government.

We estimate the government's costs associated with the implementation and enforcement of the shrimp FMP at $1.7 million (1980 dollars). These cost estimates include $543,000 for enforcement, $374,000 for data system development, and $782,000 for annual data system operation.

The statistical reporting system involves surveys of fishermen and processors. We have not yet established the sampling strategy for the surveys and, therefore, do not have estimates of reporting burdens.

Related Regulations and Actions

Internal: The shrimp FMP is related to the stone crab FMP which establishes a seasonal boundary line to resolve gear conflicts. The shrimp FMP is also related to the draft coastal migratory pelagic resources (mackerel) FMP and the draft reef fish FMP through the incidental catch of groundfish and reef fish by shrimp fishing gear. The incidental catch

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of sea turtles, which are taken by shrimp trawling operations, is regulated by the Endangered Species Act of 1973 (16 U.S.C. § 1531 *et seq*). The shrimp FMP also attempts to be consistent with the Marine Mammal Protection Act of 1972. (16 U.S.C. § 1361 *et seq*).

External: The States of Texas. Louisiana, Mississippi, Alabama, and Florida regulate the catch of shrimp in their respective territorial seas.

Active Government Collaboration

We have requested comments on the draft FMP from Federal and state agencies, Regional Fishery Management Councils, Fisheries Associations and Commissions, Sea Grant Advisory Services, and the general public. We also work closely with the U.S. Fish and Wildlife Service to protect sea turtle populations.

Timetable

NPRM (Assuming FMP Approval)—May 1980
Final Rule—August 1980
Final Rule Effective—September 1980

Available Documents

Draft Regulatory Analysis for the Shrimp Fishery Management Plan
Draft Environmental Impact Statement and Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.
Final Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico
All documents are available for review at the National Marine Fisheries Service, Office of Resource Conservation and Management, Plan Review Division, Washington, D.C. 20235.

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DOC–NOAA–OFFICE OF COASTAL ZONE MANAGEMENT

Channel Islands Marine Sanctuary Regulations (15 C.F.R. Part 935)

Legal Authority

Marine Protection, Research and Sanctuaries Act of 1972, § 302(f), 16 U.S.C. § 1432(f).

Reason for Including This Entry

The Office of Coastal Zone Management (OCZM) believes these proposed regulations are important because the regulations are of great public interest. The area involved has significant ecological and recreational values and may have considerable oil and gas development potential, resulting in particularly complex management questions.

Statement of Problem

The waters immediately around the northern Channel Islands and Santa Barbara Island off the coast of California support an extraordinary assemblage of marine mammals; numerous seabirds, including the endangered brown pelican; and important fishery resources, including kelp and shellfish. Until recently, these waters have been left relatively untouched by human activity because of their distance from the populous mainland. Transportation and recreation use of the Santa Barbara Channel is increasing, however, placing pressure on these natural resources.

Title III of the Marine Protection, Research and Sanctuaries Act of 1972, (16 U.S.C. §§ 1431–1434) authorizes the Secretary of Commerce, after consultation with appropriate Federal agencies, and with Presidential approval, to designate ocean areas having distinctive conservation, recreational, ecological, or aesthetic values as marine sanctuaries, and issue necessary and reasonable regulations to protect the resources in these areas.

Based on different recommendations submitted by the Resources Agency of the State of California, the National Park Service, and the County of Santa Barbara, and on hearings held by the California Coastal Commission, the Office of Coastal Zone Management (OCZM) of the National Oceanic and Atmospheric Administration (NOAA) is considering designating a marine sanctuary in the waters around the northern Channel Islands and Santa Barbara Island. This would be the first sanctuary designated since 1975, and since the President's Environmental Message of 1977, which directed expansion of the program. We prepared a Draft Environmental Impact Statement (DEIS) on the proposed action in November 1979, and are now preparing a Final Environmental Impact Statement (FEIS). The FEIS will discuss the integrated management program which designation of a marine sanctuary will provide. If we designate the area as a sanctuary, we will institute programs for research, assessment, and monitoring of the important resources of the site, programs for education of the public about the value of the resources and the potential for harm from certain activities; engage in long-term planning and coordination of programs; and issue necessary regulations. We published an NPRM in the **Federal Register** on December 5, 1979, and are evaluating comments from the public. These comments, the FEIS, and consultations with other Federal agencies may affect the final scope and content of the regulations. The regulations we discuss here represent NOAA's current position.

The alternative we prefer for a sanctuary extends 6 nautical miles (nmi) (11.1 kilometers) seaward from the mean high tide line around the Channel Islands (San Miguel Island, Santa Rosa Island, Santa Cruz Island, Anacapa Island, Santa Barbara Island, Castle Rock, and Richardson Rock). We have proposed that we regulate the following activities within the sanctuary that have potentially harmful impacts on the resources of the area:

oil and gas operations
discharging or depositing any substance into the sanctuary waters
alteration of or construction on the seabed
navigation and operation of vessels (other than fishing and kelp harvesting vessels)
disturbing marine mammals and birds by aircraft overflights below 1,000 ft. (305 meters)
removal or otherwise deliberate harm to cultural or historical artifacts

Generally we would prohibit these activities throughout the sanctuary except for navigation which would be prohibited only for limited types of vessels, such as cargo and offshore supply vessels, and only within 1 mile of the islands. Construction is prohibited within 2 miles of the islands only.

Although many agencies currently regulate or have authority over aspects of these activities and over the natural resources of the waters, the focus of their responsibilities differs from that of the marine sanctuary program, which is to protect the area's ecosystem. Further, individual agencies evaluate individual impacts of various activities which might affect the resources, and cumulative impacts may be overlooked. Moreover, without marine sanctuary regulations, certain activities which could potentially be damaging, such as the disposal of trash in sanctuary waters, are not subject to any regulatory authority. Finally, as a result of designation as a marine sanctuary, additional enforcement resources could become available for the area.

Alternatives Under Consideration

The major alternatives are to (1) designate or (2) not designate a marine sanctuary. The effects of designation are explained above. Nondesignation could result in environmental degradation because of the projected increase in use of these waters and the lack of any specific protective mechanism for this area. A number of restrictions which apply under existing State and Federal laws would continue to apply to the activities in question (see Related Regulations and Actions); however, lack of coordination could reduce their effectiveness.

Another alternative would be to designate a smaller or larger sanctuary than that proposed, which could range from a sanctuary extending 3 nmi from the limit of the territorial waters around the Channel Islands to an area including the entire Santa Barbara Channel and extending 12 nmi around the islands. A smaller area would not provide adequate protection to sensitive resource areas. Providing adequate management for any larger area is considered unfeasible as well as economically unrealistic. Within any area proposed, there are a number of alternatives for the activities subject to regulation and the nature of the restriction placed on each activity.

Summary of Benefits

Sectors Affected: Channel Islands and the Santa Barbara Island; commercial fishing; recreational fishers, boaters and other users of the area; nearby tourist industry; general public; and endangered species and marine life.

Marine sanctuary designation would result in enhanced preservation of ecological, recreational, and esthetic resources, particularly endangered species, marine mammals and birds, and the habitats of these populations. Fishing and recreation activities, two major sources of income for the region, also depend on the continued health of the marine resources of the area. In 1975, commercial fishermen landed 12,248,000 pounds of fish and shellfish from the waters around the northern Channel Islands and Santa Barbara Island. The California Department of Fish and Game reported that 187,500 angler days occurred in the Channel (from partyboats) in 1970, with a catch of over 500,000 fish and estimated, related expenditures of nearly $2.3 million in 1973. Most of these expenditures occur on the mainland rather than on the islands. The designation of a marine sanctuary in these waters would help assure protection for the natural resources upon which these economic activities partially depend.

Our proposed prohibition of petroleum operations on any leases in the proposed sanctuary area acquired on or after the effective date of the sanctuary designation will ensure a partial buffer of 6 nmi between petroleum development and nearshore marine mammal and fish habitats, recreational, and other resources. The buffer would provide increased time and distance for natural forces to weather and volatilize oil spills and for at-sea cleanup and oil spill containment. The buffer also reduces the visual and acoustic disturbances of petroleum development which affect both the marine mammals and seabirds, and the aesthetic qualities of the islands.

The proposed prohibition of discharges and littering will enhance the area's aesthetic features and will reduce the threat to living marine resources in the sanctuary from such deposits. The suggested restrictions on alteration of or construction on the seabed and on navigation and operation of vessels and aircraft will reduce disturbance of marine mammals and seabirds, which could affect their behavior and possibly their reproductive success. The proposed prohibition on removing or harming historical or cultural artifacts will preserve these resources for future study.

Summary of Costs

Sectors Affected: Federal government; the State of California; and oil and gas extraction.

These proposed regulations will impose minimal costs except for those caused by the prohibition on oil and gas operations under any lease if executed after the effective date of the regulations. The extent of these costs is unclear for the following reasons:

First, reliable data on the hydrocarbon reserves within the sanctuary is not available. Approximately half of the proposed sanctuary has never been considered for leasing and NOAA has no resource estimates in these areas. In the remaining half, there are 54 tracts. The 54 tracts include 11 which are leased already, and thus, not subject to the proposed regulations; and 43 unleased tracts, 24 of which the Department of the Interior's Bureau of Land Management considered for Lease Sale No. 48, and then withdrew, and 19 tracts on which the leases have expired due to insufficient attempts at development. For the 24 withdrawn tracts, the U.S. Geological Survey has estimated reserves of 5.7 million barrels of oil and 8.9 billion cubic feet of gas. These figures are the only available indication of the total oil and gas resources in the proposed sanctuary area.

Secondly, the extent to which the United States will forego any resources, whatever their potential, as a result of the proposed prohibition is questionable. At least some of the available reserves could be recovered by slant drilling from outside the sanctuary, despite any prohibition. Furthermore, in many areas where recovery of oil and gas will be unfeasible under the prohibition, it might be blocked by other agencies independent of any sanctuary regulation. For instance, the State of California prohibits oil and gas development within its waters surrounding the five islands in the proposed sanctuary. The Department of the Interior has already withdrawn 24 tracts in response to comments by the State of California. The number of tracts it would actually offer for lease cannot be predicted.

Finally, to the extent that the capital available for the development of oil and gas reserves in the Southern California Bight can be directed to other tracts outside the sanctuary, the costs attributable to the prohibition would be minimal. No effect on supply would be felt until such time as excess capital is available. The reserves in the sanctuary would not be destroyed or permanently lost because of the proposed regulation; they could be available in the future if modifications in regulations are instituted.

The petroleum industry would forego any profits it could otherwise realize from the development of the affected tracts. Oil companies that have leased tracts in the area include Texaco, Chevron, Exxon, Mobil, Continental, Union, Phillips, and Champlin. However, as discussed above, in the short term this prohibition will impose only minor losses, if any, on the industry, because operators can channel their capital for exploration and development to other areas of the Southern California Bight in which industrial interest appears stronger.

Other primary sectors affected are the Federal government and the State of California because of the loss of possible revenue from lease sales. It is likely that the industry will not bid on affected tracts located completely within the sanctuary if BLM offers those tracts in future lease sales, and will either not bid or will offer reduced bids on tracts located partially within the sanctuary. As we explained above, we cannot estimate the actual loss of revenues at this time. The Department of the Interior estimated the social value of the 24 tracts removed from Sale 48 to be $1 million based on the reduced USGS resource estimates. The social value is the saving gained by producing oil

domestically rather than importing it. The Federal government obtains most of these savings through leases, royalties, and taxes. As oil prices rise, the social value of hydrocarbon reserves will rise as well.

Finally, development on tracts and portions of tracts within six nmi of the Islands which industry has already leased would have to meet certain provisions for oil spill containment equipment in excess of those imposed by USGS. However, because it is likely that in many cases the California Coastal Commission would also require identical equipment, NOAA's minimum may not impose any additional cost.

Related Regulations and Actions

Internal: None.

External: A number of State and Federal agencies have regulatory authority over the activities and resources subject to the proposed regulations. The major ones are:

State

(A) The California Coastal Act of 1976, Cal. Publ. Res. Code § 3000 *et seq.* establishes comprehensive policies for the protection of coastal resources and the management of orderly economic development. These policies apply to activities within State waters and to Federal activities and federally licensed or funded activities with requisite effects on the coastal zone.

(B) The California Fish and Game Code, § 1580 *et seq.*, establishes ecological reserves in a portion of the proposed sanctuary. Within these reserves, the State can control activities that threaten the resources.

(C) The Water Quality Control Act, Cal. Water Code § 13300 *et seq.*, regulates water quality in State waters, particularly in Areas of Special Biological Significance which the State designates within 1 nmi from the islands.

(D) The Cunningham-Shell Tidelands Act, as amended, Cal. Pub. Res. Code § 6850 *et seq.*, establishes State regulation of offshore oil and gas development. The California legislature has created an oil and gas sanctuary generally prohibiting oil and gas development within 3 nmi of the islands, except for Santa Barbara Island.

Federal

(A) The Fishery Conservation and Management Act, 16 U.S.C. § 1801 *et seq.*, provides for fishery management between 3 and 200 miles.

(B) The Endangered Species Act, 16 U.S.C. §§ 1531–1543, provides protection for listed species, several of which are located within the proposed sanctuary.

(C) The Marine Mammal Protection Act, 16 U.S.C. § 136 *et seq.*, provides for the protection and management of marine mammals.

(D) The Clean Water Act, 33 U.S.C. § 1342, authorizes the Environmental Protection Agency to issue National Pollution Discharge Elimination System (NPDES) permits regulating the discharge of any pollutant into navigable water from a point source.

(E) The Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 *et seq.*, gives the Secretary of the Interior primary responsibility for managing OCS oil and gas activities, while requiring a variety of measures to mitigate impacts and protect living marine resources.

Active Government Collaboration

The Office of Coastal Zone Management (OCZM) has worked closely with the State of California on the development of this proposal. We have written an Issue Paper at the request of the State, and a DEIS as the direct result of the recommendation of the State. We sent two representatives from State and local governments copies of the Issue Paper, preliminary draft chapters of the DEIS, the DEIS, the NPRM, and all other applicable documents. OCZM has contracted with the State for the State to study appropriate management measures, including joint State/Federal sanctuary management.

OCZM met with Federal agencies on January 23 and April 13, 1979, in accordance with the directions of the Council on Environmental Quality, to determine the issues involved. OCZM invited the Departments of Energy and Interior, the Environmental Protection Agency, the Coast Guard, and the Navy to be cooperating agencies in the preparation of the DEIS.

OCZM regulations require active consultation with all relevant agencies throughout the remaining process (15 CFR 922.24(b), 922.25, and 922.26(a)) (44 FR 44831, July 31, 1979).

Timetable

Notice of Availability of Final Environmental Impact Statement—May 1980.
Final Rule—June 1980.
Final Rule Effective—July 1980.
Regulatory Analysis—not required.

Available Documents

Transcripts of the following meetings are also available from the Agency Contact noted below:

Public workshop in Santa Barbara, California—April 1978

Public comment on Issue Paper (California Coastal Commission hearings)—February, March, April, 1979

Issue Paper on Possible California Marine Sanctuary Sites, December 1978.

NPRM—44 FR 69971, December 5, 1979

Draft Environmental Impact Statement—December 5, 1979

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Surface Management of Mining Claims Located on the Public Lands (43 CFR 3809)

Legal Authority

Revised Statutes, § 2319, 30 U.S.C. § 22.

Revised Statutes, § 2478, 30 U.S.C. § 1201.

The Federal Land Policy and Management Act of 1976. §§ 302(b) and 603(c), 43 U.S.C. § 1701 *et seq.*

Reason for Including This Entry

The Department of the Interior (DOI) believes that these rules and regulations are important because they will afford the public lands a degree of protection from activities carried on pursuant to the 1872 Mining Law, while at the same time imposing the least possible burden on the mining public.

Statement of Problem

The 1872 Mining Law gave individuals the right to go on the public lands to explore for and develop hard rock minerals. This right has gone unregulated since it was granted in 1872. In the period since 1872, thousands of mining claims have been located and developed on the public lands with little or no regard for their environmental impact on the public lands.

The objective of these regulations is to ensure environmental protection to the public lands and their resources by preventing undue and unnecessary degradation of the public lands that may be caused by careless mining practices, while having a minimal effect on the legitimate mining industry.

Alternatives Under Consideration

At the heart of the question of how much control the Department of the Interior can exercise over the mining of hardrock minerals on the public lands is the right granted by the 1872 Mining Law to anyone who wishes to enter the public lands for the purpose of exploring for and developing hardrock minerals. The alternatives the Department of the Interior is considering vary from the present non-control to the most stringent control possible without denying an individual the right of entry that the 1872 Mining Law grants.

The primary method the Department is considering as a method of regulation is setting a threshold or level of permissible mining activity that will be allowed without requiring an individual to obtain a permit from the Bureau of Land Management to engage in mining activity. The principal alternatives have to do with the level of the threshold for the allowed activity. Once it determines the allowed level, the Department of the Interior will require a permit for all mining activity that exceeds that level. Since the Department has never regulated this activity before, we have no estimate of the number of individuals the regulations will affect. It is clear that the lower the level of activity that the Department allows without a permit, the higher will be the number of individuals the regulation will affect.

The aim of the regulations is to balance the right of entry permitted by the law against the need to protect the public lands, to the greatest extent possible, from unnecessary degradation.

In determining the level of mining activity that the Department of the Interior will allow without imposing a requirement for a permit, the Department has worked closely with all sectors of the mining industry, State and local governments, and environmentalists.

Summary of Benefits

Sectors Affected: The general public.

This regulation will benefit all members of the public who use the public lands for general purposes, particularly those in the public land states of the West.

The resultant benefits of this action could include reduced air pollution, cleaner water, acceptable landscape management, and better road locations and designs. There also could be improved protection of soils; plants; animals; survey monuments; areas of critical environmental concern; and cultural, historical, and scientific resources. In addition, there could be improvements in waste disposal, and fire prevention and control.

Summary of Costs

Sectors Affected: Professional and nonprofessional hardrock mineral mining; and the general public.

This regulation will directly affect all members of the public who engage in mining of hardrock minerals on the public lands either as a profession or as a hobby, and the general public.

The Department of the Interior cannot estimate the extent of the economic effects, because this activity has never been regulated and there is no basis for determining the number of individuals, number of mines, or areas that the regulations will affect. The costs involved can be balanced against the worth of environmentally protected public lands and the increased costs of minerals that the protection extended by the implementation of regulations will cause. Rough estimates of the costs per operation for reclamation have ranged from less than $5,000 to over $12,000. The general public will be affected to the extent these compliance costs are passed on to the public.

Related Regulations and Actions

None

Active Government Collaboration

There have been consultations with the Department of Agriculture so that the Department of the Interior regulations will be as consistent as possible with those published by the Forest Service. The Environmental Protection Agency will be involved through the review of an environmental impact statement related to the preparation of these regulations.

Timetable

Final Environmental Impact Statement—August 1980
Final Rulemaking—September 1980

Available Documents

Surface Management of Public lands under the Mining Laws, NPRM—December 6, 1976, Department of the Interior, Bureau of Land Management.

Surface Management of Public Land Under the Mining Laws, NPRM—March 3, 1980, Department of the Interior, Bureau of Land Management.

Draft Environmental Assessment of the Impact of Proposed Regulations for Surface Management of Public Land Under the Mining Laws as noted in the **Federal Register** of March 3, 1980.

Draft Regulatory Analysis of the impacts of the proposed regulations for Surface Management of Public Lands Under the Mining Laws, Bureau of Land Management, March 1980.

The above documents are available at Office of the Bureau of Land Management, Washington, D.C., address below.

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DOI–HERITAGE CONSERVATION AND RECREATION SERVICE

Rules and Regulations for the Protection and Conservation of Archaeological Resources located on Public and Indian Lands (36 CFR 1215).

Legal Authority

The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470 aa–11.

Reasons for Including This Entry

The Department of the Interior believes these rules and regulations are important because they will significantly affect most archeological investigations on public and Indian lands by providing an equitable decisionmaking process within the permitting procedure and thereby ensuring greater accountability among Federal agencies. Furthermore, the regulations will improve management of the archaeological resources, detail procedures for civil penalties, and benefit authorized users by reducing or eliminating procedural differences within and among agencies.

Statement of Problem

In the past, the administration of the American Antiquities Act of 1906 (Public Law 59–209; 16 U.S.C. 431–433) was subjected to legal challenges in the courts. The challenge was based on the statute's vagueness, resulting from its failure to inform the public in lay terms what constitutes an "object of antiquity." Consequently, the criminal sanctions of this statute were easily avoided by those individuals who were destroying, excavating, and removing objects of antiquity without authorization from federally owned or controlled lands. In addition, Public Law 59–209 did not foster cooperation from all segments of society to protect and conserve such resources, for its focus was directed toward institutionally initiated research only. By 1974, it became obvious that the permitting sections of the Act were outdated because they did not provide adequate criminal penalties for violations.

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As a result of the above, the Archaeological Resources Protection Act of 1979 (Public Law 96–95) was enacted providing adequate criminal penalties, clear definitions, new civil penalties, and the promotion of greater public involvement in the decisionmaking process connected with the permitting procedure. This law, as is Public Law 59–209, is administered by the Heritage Conservation and Recreation Service (HCRS) on behalf of the Secretary of the Interior. Although HCRS exercises overall policy direction, each of the land-managing bureaus of the Department is responsible for field-level program operations on those lands under their immediate jurisdiction. This statute applies to all Interior land-managing bureaus, the Departments of Defense and Agriculture, the Tennessee Valley Authority, and all other independent land managing or holding agencies of the Federal government.

These regulations establish procedures for enforcing the Act. The regulations will place limitations on the use of archaeological resources located on all public and Indian lands. The regulations will have a direct impact on the activities of collectors, treasure hunters, and other users of the public domain. These rules will also have a direct impact upon the activities of professional archaeologists undertaking either institutionally initiated field research investigations or work directly related to survey, clearance, and mitigation investigations for energy projects. These regulations will also impose new responsibilities upon the Native American community, resulting in their direct authority to provide protection for such resources as a part of their immediate cultural heritage.

Permits for archaeological investigations are either issued or denied after an institutional and professional review procedure is completed in response to each application received. This process is managed and administered by the HCRS on behalf of the Secretary of the Interior. The review system constitutes a formal analysis of the applicant's ability to undertake the work, provide adequate curatorial facilities for the archaeological resources recovered, and several other requirements which demand professional objectivity by the Federal government. Today, the success of many small professional archeological businesses and the livelihood of thousands of employees depends upon responsible and objective review.

Therefore, the Federal Antiquities Program is one of the few such programs centralized to maintain uniform policy direction within the Department of the Interior and to ensure professional full accountability within the permitting authority. Applications are received from potential permittees and placed within a comprehensive review system which includes internal review, review by the affected land managing bureau, scholars who are familiar with the archaeology of the proposed land area, and representatives of the appropriate American Indian community. Permits are normally issued within four to six weeks after an application is received. In addition, an emergency permitting procedure may be imposed when specific archaeological resources are in immediate danger from erosion or man-made terrain altering activities, or when such investigations may delay energy-related projects if not allowed to commence immediately.

On Indian lands, the specific individual Indian land owner or the recognized Indian tribal authority with jurisdiction over such lands owns the archaeological resources located thereon. Such lands are administered jointly by the Bureau of Indian Affairs and the appropriate tribal authority.

Alternatives Under Consideration

No major alternatives were considered because uniform regulations are specifically imposed by the Congress under law. However the law did not specify all the details necessary for full implementation, and requires further clarification, definitions, and explanation to the public of its responsibilities and of the Federal obligation to the public.

Summary of Benefits

Sectors Affected: Federal land managers; professional archaeologists; educational and scientific institutions; numerous small businesses in the private sector (professional archaeology firms); Native Americans; collectors and treasure hunters; and public and Indian lands throughout the United States (approximately 800 million acres) with major emphasis in the 13 Western States where the majority of such lands are located.

The major benefit of the proposed rules will be to inform the public of what is expected of them, and to clarify obligations of the Federal land managers to the public. The rule will include a systematic permitting procedure, an appeals process for parties denied permits and a procedural approach for civil penalties imposed by the Secretary of the Interior and the other major Federal land managers for those persons who violate the statute in a noncriminal manner. This approach leaves a measure of Secretarial discretion in educating the public rather than using only criminal sanctions as the single effective deterrent to resource degradation. Archaeological research and the resource base benefit because the program procedures are simpler to understand, and thereby inform the public in a clear, concise manner while affording a systematic and equitable permitting procedure for legitimate field investigations. The Native American community also benefits greatly because these regulations provide greater control of archaeological resources to the Indian landowners, and afford all Indian tribes an opportunity to provide comment on all undertaking proposed to occur on non-Indian public lands which may be their traditional tribal lands. This rule also clarifies the enforcement procedures of each land-managing bureau of the Department. The most important single benefit to the public in this rule lies in its implicit intent to foster greater and improved involvement and cooperation among the professional archaeological community, Native Americans, and collectors nationwide.

The Department of the Interior strongly believes one of the most important aspects of the Archaeological Resources Protection Act and its regulations lie in their authority to bring about a greater national sensitivity for the protection and conservation of archaeological resources. Accordingly, through a nationwide public awareness program, the Interior Department is confident that public educational programs will enhance and safeguard that which remains of our national patrimony as represented by the tangible remains of man's prehistory and history in America.

These regulations seek Federalwide uniformity in program administration and management policy direction. The Department of the Interior, as the lead Federal agency in the field of historic preservation, seeks to provide national leadership in this effort.

Summary of Costs

Sectors Affected: Federal land managers; professional archaeologists; educational and scientific institutions; numerous small businesses in the private sector (professional archeaology firms); Native Americans; collectors and treasure hunters; potentially affiliated industries, such as the metal-detecting industry; and Federal agencies.

It is difficult to provide reliable estimates for the direct and indirect costs of the regulations to the sectors they affect. However, we anticipate only minimal costs. Increases will occur in the costs to the Federal government of administering the Federal Antiquities Program, especially through policy direction at the national level by HCRS on behalf of the Secretary of the Interior. Such expenses as recordkeeping, inspections of curatorial facilities, on-site field investigations, and overall program monitoring of project-specific activities by the land-managing bureaus will obviously bring additional costs. These same bureaus will incur slight increases in funds for law enforcement efforts, not by increasing the number of field agents, but by providing greater coordination among existing facilities at the State and local levels and increased coordination among Federal law enforcement agencies.

HCRS has requested $425,000 for FY 1981 for implementation of the program at the national policy direction level. The funding level for FY 1980 was $58,000 with a request for supplemental funding of $124,500. Such funds as are necessary to implement the responsibilities of the several land-managing bureaus of the Department will be sought as needed by those bureaus, as well as the other Federal land managing departments and independent agencies. We anticipate the needs of the Interior land managing bureaus not to exceed $400,000 per fiscal year (Bureau of Land Management, $220,000; Fish and Wildlife Service, $75,000; National Park Service, $50,000; Bureau of Indian Affairs, $35,000; and Water and Power Resources Service, $20,000).

Figures for the Department of Defense are anticipated to be approximately $110,000 per fiscal year for full program implementation for all lands under its immediate jurisdiction. However, as in the past, we anticipate that program policy authority will be delegated from Defense to Interior, and thus reduce fiscal needs of the Defense Department substantially. Figures for full implementation by the Department of Agriculture are anticipated not to exceed $200,000 per fiscal year, because only one land-managing bureau exists within that Department (Forest Service). The Tennessee Valley Authority will require approximately $60,000 for full implementation.

Cost estimates provided above for the Departments of Defense and Agriculture, and the Tennessee Valley Authority should only be regarded as estimates subject to those agencys' internal needs as recognized by each.

Related Regulations and Actions

Internal: American Antiquities Act of 1906 (43 CFR 3)—The Department of the Interior published proposed rulemaking on the "Definition of an Object of Antiquity" on April 10, 1978 (43 CFR 14975). We will publish final regulations on the definition of an "object of antiquity" relative to Public Law 59–209 immediately subsequent to publishing final regulations for Public Law 96–95.

External: None.

Active Government Collaboration

The Department of the Interior, through HCRS and under the auspices of the Federal Antiquities Program, initiated an interagency task force to write the rules and regulations immediately prior to the President's signing House Bill 1825 (Archaeological Resources Protection Act), on October 31, 1979. On March 24, 1980, the Secretary of the Interior formally created the Interagency Rulemaking Task Force for the Implementation of Public Law 96–95. This task force is comprised of representatives of each Interior land-managing bureau, the Departments of Defense (Navy, Air Force, and Army) and Agriculture, and the Tennessee Valley Authority. In addition, several other smaller land-managing and holding independent agencies will be affected by these uniform regulations, and expected to issue agency-specific guidelines and procedures. This interagency task force will remain active through publication of final uniform regulations in the **Federal Register.**

These rules and regulations are the first in a three-tier rulemaking process. Subsequent to the publication of final regulations in the **Federal Register** of the uniform regulations, each Federal land manager (department or independent agency) is required to publish the next level of regulations specific to that department or agency's overall mission. Procedurally each may vary in scope and applicability within the framework of the uniform regulations. Subsequent to the publication of final departmental land regulations in the **Federal Register**, each bureau of a department may issue bureau mission specific guidelines or procedures which may take the form of regulations within the scope of that particular bureau's departmental regulations.

Timetable

NPRM—June 15, 1980
Public Comment Period—90 days following NPRM, ending approximately September 15, 1980
Public Hearings—July 15, 1980–September 15, 1980 (Albuquerque, New Mexico; Anchorage, Alaska; Sacramento, California; Denver, Colorado; Chicago, Illinois; and Atlanta, Georgia)
Final Rule—January 30, 1981

Available Documents

"Archaeological Resources Protection Act of 1979; Notice of Permitting Procedures Pending Publication of New Regulations", **Federal Register,** January 23, 1980 (45 CFR 5302).

"Archaeological Resources Protection Act of 1979; Public Hearings Prior to Publication of Proposed Rulemaking", **FEDERAL REGISTER,** March 19, 1980 (45 CFR 17622).

Transcripts and recordings of early input public hearings held in Denver, Colorado (March 22, 1980); Phoenix, Arizona (March 29, 1980); Portland, Oregon (April 12, 1980); and Knoxville, Tennessee (April 19, 1980).

The above documents are available at offices of the Heritage Conservation and Recreation Service, Washington, D.C. 20243 (202) 343–7105.

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DOI–HCRS

Rules and Regulations Pertaining to the Urban Park and Recreation Recovery Program (36 CFR Part 1228)

Legal Authority

Urban Park and Recreation Recovery Act of 1978, 16 U.S.C. 2501–2514.

Reason for Including This Entry

The Department of the Interior (DOI) has determined that these rules are significant because they explain procedures for a new grant program which may have an annual effect on the national economy of over $100 million.

Statement of Problem

In 1977, the Heritage Conservation and Recreation Service (HCRS) of DOI completed a National Urban Recreation Study, mandated by Congress, which described and assessed the current condition of urban recreation in the country. The Study indicated that the quality of life in urban areas is closely related to the availability of fully

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functional park and recreation systems, and that city residents need close-to-home recreation opportunities that meet specialized urban demands. The greatest recreational deficiencies are in large cities, especially at neighborhood levels. In addition, inadequate local financing of urban recreation programs, because of the fiscal difficulties of many large cities, has led to the deterioration of facilities, lack of recreational services, and an inability to adapt recreational programs to changing circumstances. Over the past decade, the share of municipal spending devoted to parks and recreation has declined by as much as 26 percent. There is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

In his policy message of March 27, 1978, President Carter proposed a new Federal grant program whereby urban communities could compete for funds to revive and rebuild their parks and recreation facilities. On October 13, 1978, Congress passed the National Parks and Recreation Act of 1978, and on November 10, 1978, the President signed the bill into law. Title X, the Urban Park and Recreation Recovery Act (UPARR) of 1978, authorized the Secretary of the Interior to establish a five-year program to provide Federal grants to economically hard-pressed communities, specifically to help rehabilitate critically needed recreation areas and facilities and develop improved recreation programs. The Secretary of the Interior has delegated the responsibility for developing the Urban Park and Recreation Program to the Director of the Heritage Conservation and Recreation Service.

Beginning in fall 1979, this new program has operated under interim rules to provide grants to local governments to rehabilitate existing indoor and outdoor recreation facilities, to demonstrate innovative ways to enhance park and recreation opportunities, and to develop local Recovery Action Programs, which are documents that identify community needs, objectives, action priorities, and strategies for revitalizing the total public and private recreation system. Congress authorized a total of $725 million to be spent on the UPARR Program over the next five years, $150 million for FY 1979–1982, and $125 million for FY 1983. Congress appropriated a supplementary budget of $20 million for FY 1979; the House passed an appropriation for FY 1980 of $125 million. As of the first two grant rounds (FY 1979 and FY 1980—Round 1), the UPARR Program has already offered awards totaling $53 million to 151 jurisdictions.

The program aims to develop linkages between cities and States; between urban recreation, physical resource, and human services programs; between the Federal government and the States; and between the Department of the Interior and other Federal agencies that will help ensure the long-term success of the overall urban revitalization effort.

There are three types of project grants under the UPARR Program. Rehabilitation grants are matching capital grants (70 percent Federal–30 percent local) to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities. Funds may be used to improve park landscapes, buildings, and support facilities. Funds may not be used for routine maintenance and upkeep activities, nor may they be used for acquisition.

Innovation grants are matching grants (70 percent Federal–30 percent local) to local governments to cover costs of personnel, facilities, equipment, supplies or services designed to demonstrate innovative and cost-effective ways to enhance park and recreation opportunities at the neighborhood level. Innovation proposals should demonstrate solutions to common problems in system management and the delivery of recreation services. These funds may not be used for routine operation and maintenance activities. Innovation grant awards are limited to ten percent of the total annual authorization for the UPARR Program.

Recovery Action Program grants are matching grants (50 percent Federal–50 percent local) to local governments for the development of local park and recreation system recovery plans. They may be used to fund preparation of resource and need assessments, coordination, citizen involvement, and policy development activities which contribute to public definition of recovery goals and priorities.

Rules for the UPARR Program have been published as three separate sections of 36 CFR Part 1228. Rules regarding eligibility and the list of eligible jurisdictions are Appendix A and B of Part 1228, and were published as final rules in 44 FR 58088, October 9, 1979. Rules regarding the preparation of local Recovery Action Programs are Subpart B of Part 1228, and were published as final rules in 45 FR 15456, March 10, 1980. The remaining rules, consisting of Subparts A, C, and D, are entitled the Grant Procedure regulations, which consist of the administrative procedure requirements and selection criteria for grant proposals. Only the Grant Procedure regulations were determined to be "significant" rules by the DOI.

This entry outlines the program content of the final Grant Procedure rules and responses to comments which DOI will publish.

Alternatives Under Consideration

Alternatives which we considered for distributing funds under this program included the following: (1) first-come, first-served, (2) allocation by jurisdiction, and (3) competition for funds based on a series of specific criteria. On a first-come, first-served basis only those jurisdictions with enough money to initially hire staff and prepare a Recovery Action Program more quickly than their economically distressed neighboring communities, would receive grants. Because this program is meant for distressed communities, according to the legislation, it would not be fair to accept the first completed programs and applications without allowing ample time for other hard-pressed and/or inexperienced jurisdictions to acquire the resources to plan their programs.

DOI feels that allocations of a specific fund amount to eligible jurisdictions would also not be fair, because each jurisdiction is unique, with different needs and priorities. Some jurisdictions may need only one rehabilitation grant to improve a small distressed area, while others may need both rehabilitation and innovation grants to help revitalize a recreation system which has a history of financial problems.

The DOI rejected these two alternatives, because they did not satisfy the intent of the President's message to Congress on the National Urban Policy. The message stated that these grants would be "challenge grants." Therefore, the intent of the program would not be served if funds were allocated without equal competition, or without considering the quality of local planning and commitment on a case-by-case basis.

The third alternative we considered was a competitive program for selecting proposals. The DOI decided to use this method, by developing a set of criteria for judging the quality of proposals. This method will allow us to consider a larger variety of factors. Emphasis will be on the existing conditions that are unique to each community, on the quality of the specific projects it proposes, and on its overall commitments to improvement in planning, design, coordination and

support for recreation. Three sets of criteria were established for each of the three types of grants available and are based on the priority criteria listed in the UPARR Act, 16 U.S.C. 2501, § 1005. The criteria are targeted to disadvantaged populations, condition of existing facilities; neighborhood recreation deficiencies, public participation and overall community revitalization.

Summary of Benefits

Sectors Affected: State and local urban governments; users of urban parks and recreation areas, particularly low and moderate-income groups, minorities and populations under 18 and over 60; the general public; and the urban environment.

The UPARR Program will have the largest beneficial effect on low- and moderate-income groups, minorities, and populations under 18 and over 60 who live in urban areas. All members of the public who use the areas, facilities or programs improved with UPARR grant money will also benefit. The general public will be affected to the extent that it will enjoy the overall social and economic benefits of an improved and upgraded community.

This program will improve the quality of life for residents of large, distressed urban areas where deteriorating and obsolescent community facilities are usually located. Many of these neighborhoods are racially mixed and densely populated, and have low-income, unemployed residents. UPARR will also upgrade parks and facilities to improve areas, both environmentally and aesthetically. It will encourage urban jurisdictions to rehabilitate existing recreation areas and develop plans and programs for long-term operation and maintenance. Some money for innovative projects, otherwise unfundable because of budget restraints, will also be available. The rehabilitation of park and recreation areas and facilities will encourage careful and creative use of existing resources and historic facilities. Energy costs should decrease as neighborhood residents stay near home to enjoy recreation facilities and areas.

The UPARR Program may not change the composition of minority groups in cities, but it could help to stabilize neighborhoods so that more people may choose to stay in the areas. Many urban jurisdictions must also serve a growing senior citizen population, and provide specialized programs for the handicapped. Because the UPARR Program is designed to involve all groups in the planning and development of local programs, the program would have a positive impact on these special population groups, and will be a means to meet their needs. Through this program of coordinated public and private effort, diverse groups of urban residents can at least revitalize one segment of their community service needs. People who are involved in local planning will also take pride in their neighborhoods. They would, in turn, discover ways to improve housing, schools, and other public services, and attract new industrial and commercial establishments, which would increase the tax base and provide more jobs.

Because expressions of ongoing commitments to planning, rehabilitation, operation and maintenance are required as a condition for grants under this program, Recovery Action Programs will be prepared, by the jurisdictions, emphasizing local goals and priorities, coordination with other community programs, and the desires of citizens. Involvement of elected officials, businesses, and private groups will also increase commitments of public and private resources to revitalize local areas, and operate and maintain programs.

As stated in the Act, the Secretary of the Interior will coordinate this program with other Federal urban assistance efforts. This will produce the positive impact of complementing other Federal programs, while targeting efforts to identified recreation needs. DOI has already established active collaboration with three other Federal agencies.

This program will improve environmental quality through the provision of rehabilitated recreation facilities, which will be highly visible as definite improvements in distressed areas. Beauty, health, and well-being will again be available to residents of distressed urban areas. These rehabilitation projects will encourage careful and creative re-use of existing resources and historic facilities, as opposed to massive clearance and redevelopment.

This program will have the indirect impact of providing both skilled and unskilled jobs for the actual park rehabilitation projects, and subsequent provision of recreation service and programs. In the private sector, it is difficult to estimate the number of jobs, because coordination will be taking place with local park and recreation agencies and other Federal job programs, such as the Comprehensive Employment and Training Act (CETA).

The private sector jobs should be located in the distressed areas, and because many of the program applicants will have high unemployment levels based on the eligibility criteria, we will give consideration to employment opportunities for local low- and moderate-income residents. Blue-collar and professional jobs will be required to do the actual ground work and administer the program on a local level. In the public sector, some jobs will be needed to help administer and coordinate the overall initiative of this program, with the majority of these jobs located at the city and regional levels.

Summary of Costs

Sectors Affected: DOI; and State and local governments.

We anticipate few adverse effects from the program, and we expect minimal negative environmental impacts. DOI administrative functions will increase only to the extent that this is a new program and requires staff for its administration. Grant applications require applicants to do minimal paperwork. Most local administrative and planning costs can be counted as a portion of a local matching grant, if the locality is selected for a rehabilitation or innovation grant award. Those communities which prepare a 5-year local Recovery Action Program but do not receive grant awards must bear the cost. However, their Recovery Action Program will prove to be a valuable component of local planning programming efforts.

The State Action Incentive provision of the program is aimed at enabling States to effectively share in the financial responsibilities, while providing technical advice and coordinating local projects with State plans and programs. Many States have expressed the desire to aid their own cities. Therefore, by matching funds, they not only help the cities, but provide overall improvements for the entire State.

Income will be an indirect cost impact as a result of increased employment opportunities and neighborhood revitalization. Again, because this program is targeted to distressed urban areas, the majority of jobs, and thus income, should benefit the low-income, minority residents of these areas. The amount of income generated should not in itself alter the tax burdens of citizens. Taxes and assessments could be increased in the long-run, if the local distressed areas revitalize completely. However, if business and industry stay or return to "former" distressed areas, the tax base would be strengthened, and, therefore, help keep homeowners' taxes down to a reasonable level.

Related Regulations and Actions

Internal: "Eligibility Regulations", Final Rule, 36 CFR Part 1228, Appendix A and B, 44 FR 58088, October 9, 1979.

"Uniform Criteria for Preparation of Local Recovery Action Programs," Final Rule, 36 CFR Part 1228, Subpart B, 45 FR 15456, March 10, 1980.

"Grant Procedure Regulations for Administration of the Urban Park and Recreation Recovery Act of 1978," Interim Rule, 44 FR 47018, August 9, 1979.

External: None.

Active Government Collaboration

The Department of Housing and Urban Development is cooperating with the HCRS, Division of Urban Programs in compliance with Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federally Assisted Programs); and on the Public Housing Urban Initiatives Anti-Crime Program, initiated by HUD and signed as a "Memorandum of Understanding" (MOU) October 10, 1979.

The Department of Labor is cooperating with the HCRS to coordinate CETA and UPARR Programs to meet multiple labor and employment opportunity objectives. MOU was signed August 3, 1979.

The National Endowment for the Arts is cooperating with the HCRS to coordinate NEA and UPARR objectives leading to the improvement of arts and cultural activities in parks and recreation systems. MOU was signed October 9, 1979.

Timetable

Final Rule for Grants Procedures—June 1980.

Available Documents

36 CFR 1228. Eligibility Regulations, Interim Rule, 44 FR 15486, March 14, 1979.

"Uniform Criteria for Preparation of Local Recovery Action Programs," Interim Rule, 44 FR 39342, July 5, 1979.

Grant Procedure Regulations for Administration of the Urban Park and Recreation Recovery Act," Interim Rule, 44 FR 47018, August 9, 1979.

"Program Eligibility Provisions," Final Rule, 44 FR 58088, October 9, 1979.

"Local Recovery Action Programs," Final Rule, 45 FR 15456, March 10, 1980.

A Draft Regulatory Analysis, an Urban and Community Impact Analysis, an Environmental Assessment, and the public comments received on the interim regulations are available for review at the HCRS, Division of Urban Programs, Pension Building, Room 310, 440 G Street, N.W., Washington, D.C. 20243.

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DOI–OFFICE OF SURFACE MINING

Definition: "Surface Coal Mining Operations" (30 CFR 700.5*) and "Coal-Processing Plant" (30 CFR 701.5*)

Legal Authority

30 U.S.C. 1201 *et seq.*

Reason For Including This Entry

To more clearly determine the jurisdiction of its regulatory authority, the Department of the Interior (DOI), Office of Surface Mining (OSM) is initiating a study of the characteristics of coal-processing plants located outside the permit area of a mine. An outcome of this study may be amendment of the definitions of Surface Coal Mining Operations and Coal-Processing Plant. The amendment, if undertaken, might have a major impact on the coal industry.

Statement of Problem

The definitions of "Surface Coal Mining Operations" and "Coal-Processing Plant" in current regulations do not indicate clearly what off-site coal-processing plants are to be regulated. Physical or chemical processing of coal may produce coal waste. The coal-processing plants and their support facilities may be located within or outside the permit area for a mine. Furthermore, the degree of the environmental impact from the operation of coal-processing plants may vary according to the nature and location of the plant. Consequently, unless a clear understanding of the whole industry is obtained and a better jurisdiction for regulatory authority is determined, some coal-processing plants which are located outside the permit area but cause serious environmental and pollution problems may be outside the jurisdiction of the regulatory authority. OSM is, therefore, taking action to initiate a study and possibly to revise the definitions of Surface Coal Mining Operations and Coal-Processing Plant. Among other things, the study will determine the number and location of coal-processing plants that will produce clean coal and coal waste and the number and location of coal-processing plants that will only crush and load coal. The study will also report what environmental standards those plants are currently operating under or should be complying with and the cost of such compliance.

OSM's action is mainly in response to a 1979 decision of the DOI Office of Hearings and Appeals, Board of Surface Mining and Reclamation Appeals. The case involved Western Engineering, which operates a river terminal exclusively to prepare and load coal on barges. Western sometimes crushes coal and sprays the coal with water or takes other measures to control dust. Western was cited by OSM for failure to pass the effluent from these operations through a sedimentation pond and for violation of the effluent limitations. The Board ruled in favor of Western because OSM's definition was unclear as to whether this type of facility was to be regulated.

If OSM does not take any action, similar uncertainty and pollution will continue to occur and therefore make OSM's enforcement work difficult.

Alternatives Under Consideration

The proposed amendment will clarify OSM's intent on what coal-processing plants are to be regulated and eliminate any ambiguities as to the definitions. Consequently, another alternative considered is no action. Depending upon the outcome of the study, it is possible that no action may be taken; OSM favors the change of definition in order to minimize the adverse environmental impact of coal-processing operations.

Summary of Benefits

Sectors Affected: Owners of coal-processing plants; persons who live near and around coal-processing plants; the general public; and OSM and the State regulatory authority.

Owners of coal-processing plants will have the benefit of knowing whether their plants are subject to regulation. This will eliminate uncertainty and save cost. Citizens who live near coal-processing plants will have the benefit of knowing whether the plants are subject to regulation. OSM or the State regulatory authority will know the jurisdiction of its enforcement authority, and therefore perform better enforcement.

Indirectly, citizens who live in the communities with coal-processing plants will enjoy cleaner air and water and an improved quality of life. The general public will also enjoy a better environment.

Summary of Costs

Sectors Affected: Owners of coal-processing plants; OSM and the State regulatory authority; and coal users.

OSM is initiating a study to determine more specifically the number and location of various types of coal-processing plants, such as the number and location of plants that only crush and load coal, and the number and location of coal-processing plants that clean coal and produce waste products.

This study will discuss the direct and indirect costs resulting from the proposed action. Such costs might include the cost incurred by the plant owner to comply with the regulations.

Related Regulations and Actions

None

Active Government Collaboration

None at present. OSM may collaborate with the Environmental Protection Agency and the Mine Safety and Health Administration in the future.

Timetable

ANPRM—September 1, 1980
NPRM—January 15, 1981
Public Hearings—February 15, 1981 at the following locations:
Washington: Department of the Interior Auditorium
18th and C Streets N.W.
Washington, D.C.
Indianapolis: Indiana World War Memorial Auditorium
431 North Meridian Street
Indianapolis, Indiana
Denver: Court House
1961 Stout Street, Room C–503
Denver, Colorado

Public Comments—Written comments can be mailed or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Records Office, Room 153 South, 1951 Constitution Avenue N.W., Washington, D.C. 20240. Written comments will be accepted between January 15, 1981 and March 15, 1981.

Final Rule—Final rule will be published in the **Federal Register** on April 16, 1981.

Final Rule Effective—30 days after the publication of the final rule.

Available Documents

None available at this time

Agency Contact

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DOI–OSM

Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds (30 CFR 716.17, 717.17, 816.42, 816.46, 817.42, and 817.46)

Legal Authority

Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1201 *et seq.*

Reason For Including This Entry

The Department of the Interior (DOI) considers these rules to be of general public interest because they concern the environment and the public health and safety, and because they will help to improve the quality of the waters of the United States.

Statement of Problem

On December 13, 1977, the Office of Surface Mining (OSM) published initial regulations for control of sediment in discharges from areas of surface coal mining and reclamation activities, and on March 13, 1979, published final regulations. The rules established specific limitations—called "effluent limitations"—on the total suspended solids (TSS) iron and manganese content of the discharges from the mining area. The rules also required that all runoff be passed through sedimentation ponds and established minimum design criteria for these ponds. Essentially, sedimentation ponds improve the quality of discharges by detaining runoff until heavier particles settle to the bottom of the pond.

The TSS limitations were essentially the same as those established by the Environmental Protection Agency (EPA) on April 26, 1977; (42 FR 21380), and on January 12, 1979, (44 FR 2586). EPA's regulations were promulgated pursuant to the Clean Water Act, 33 U.S.C. § 1251 *et seq.* OSM's pond design criteria were based on the best technical information available when the OSM regulations were published. Six months after publication of the final regulations, however, two studies—one conducted by Skelly & Loy under contract to EPA and the other by D'Appolonia under contract to OSM—indicated that discharges from ponds designed to meet OSM's design criteria might not be able to meet the TSS effluent limitations during large precipitation events.

On the basis of these studies, a petition was filed with the Secretary of the Interior to suspend immediately the TSS effluent limitations and sedimentation pond design criteria. The petition was published in the **Federal Register** (October 18, 1979, 44 FR 60226–60230), and a public comment period followed. EPA also solicited comments on the studies during the same period and, on December 28, 1979, amended its effluent limitation regulations. The amendment granted an exemption from compliance with the effluent limitations during rainfall events to operations whose facilities are designed, constructed, and maintained to treat or contain a 10-year/24-hour rainfall event.

On December 31, 1979, OSM suspended certain of its regulations and also published an NPRM. On January 30, 1980, OSM adopted EPA's amended effluent regulations, including EPA's rainfall exemption from the effluent limitations.

EPA expects to publish proposed TSS regulations by October, 1980, and final regulations by April 1981. These will be based on an ongoing EPA field study of representative sedimentation ponds across the country. Consequently, OSM will postpone further rulemaking pertaining to these issues until sufficient data from this study are available for use in revising the OSM sedimentation pond design criteria, if that should be necessary.

Alternatives Under Consideration

Option (A): OSM would re-adopt its present regulations, including the effluent limitations and the sedimentation pond design criteria.

This option will comply with the mandate of the Act by improving the quality of the waters entering the receiving stream. However, as the Skelly & Loy and D'Appolonia studies have indicated, operators may not be able to comply with the effluent limitations during large rainstorm events, even with ponds conforming to the design criteria.

Option (B): OSM would adopt a rainfall exemption modified either to increase or decrease the size of the precipitation event to which the exemption is keyed—10-year/24-hour at present—but would re-adopt the effluent limitations and sedimentation pond design criteria.

This option will comply with the mandate of the Act and give minimum national design standards for sedimentation ponds. This option will also protect and improve the Nation's waters and limit the additional contribution of TSS to the receiving stream. However, the studies have indicated that even with ponds designed to OSM standards, operators may exceed effluent limitations during large rainfall events. Furthermore, it would be hard to choose a rainfall event that would be technically acceptable nationwide, in light of the varied settling characteristics of the sediments.

Option (C): This option is the same as Option (B) except that the sedimentation pond design criteria would be modified to reflect the conclusions of the Skelly & Loy and the D'Appolonia studies.

This option has advantages and disadvantages similar to those of Option (B).

Option (D): OSM would re-adopt the effluent limitations, but would delete design criteria concerned with the size of sedimentation ponds and the efficiency of the structure. All other design criteria would be re-adopted including the requirement to install a pond. The sizing of the pond would be left to the operator and/or regulatory authority.

This option has advantages and disadvantages similar to those of Option (B). However, it will provide operators and regulatory authorities with greater flexibility in designing sedimentation ponds.

Option (E): OSM would re-adopt its effluent limitations and design criteria, but an exemption from the effluent limitations would be granted to structures conforming to OSM's design criteria. Special design criteria for steep slope areas will be proposed.

One of the advantages of this option is that it will help protect the Nation's waters while giving relief to operations on steep slope areas. A disadvantage is that, according to the Skelly & Loy and D'Appolonia studies, the effluent limitations may be exceeded during rainfall events even with ponds designed to OSM design standards.

Option (F): OSM would re-adopt all sections of the regulations on sedimentation ponds as they existed prior to suspension, except for sections dealing with effluent limitations and rainfall exemptions. These sections would be deleted and replaced by new regulations incorporating rainfall and TSS effluent limitations to be promulgated by EPA under 40 CFR 434.

By adopting EPA's effluent limitations, OSM would comply with the requirements of the Act. However, as stated previously, re-adoption of the sedimentation pond design criteria will not ensure that the effluent limitations will be met at all times.

Option (G): OSM would re-adopt the current effluent limitations and apply them only to base flow (discharges during nonrain periods). OSM would adopt a rainfall event effluent limitation to be promulgated by EPA based on field data presently being gathered. Based on the rainfall event effluent limitations, OSM would develop minimum nationwide sedimentation pond design standards.

This option is currently being considered as the most feasible. It is known that the existing effluent standards are achievable during nonrain periods. EPA is collecting field data throughout the Nation and sampling the influent and effluent from sedimentation ponds before, during, and after rainstorms. Once the data are analyzed, nationwide effluent standards for rainstorms can also be promulgated. This two-tier effluent standard system will give maximum protection to the Nation's waters without imposing an undue burden on operators.

Summary of Benefits

Sectors Affected: The coal mining industry; users of water downstream from coal mining and reclamation operations; and the general public.

There will be a significant improvement in the quality of the Nation's waters due to improvement in the discharges from sedimentation ponds. This will benefit all downstream users, improve the aesthetics of streams receiving discharges from coal mining and reclamation operations and give coal operators guidance on how to comply with the Act, eliminating confusion which they now experience.

The cost of treating water for human consumption will decrease, though the exact amount is not yet known. Pathogenic water-borne organisms will decrease by an amount not yet known. Fish as well as organisms living on stream and lake bottoms will be subject to less man-caused pollution. In summary, the quality of life will be improved.

Summary of Costs

Sectors Affected: The coal mining industry; users of coal as a fuel; and the general public.

We have not prepared a formal Regulatory Analysis of all the alternatives. An informal Regulatory Analysis shows that the production-weighted average national cost in incremental cents per ton of constructing sediment ponds designed to OSM specifications is $0.16 for surface mining and $0.02 for deep mining. There is a distinct possibility that this average cost might decrease when OSM promulgates new regulations because required sedimentation pond size might be smaller. OSM does not envision an increase in these figures. Because these costs are relatively insignificant compared to the cost of a ton of coal (roughly $22), no decrease in coal mining operations is expected. Moreover, as coal becomes more desirable as a fuel, it is expected that more will be mined.

It is difficult to assess how much more the users of coal will pay because of the regulations.

Related Regulations and Actions

None reported.

Active Government Collaboration

OSM is actively coordinating its rulemaking efforts with EPA, which has the responsibility for regulating all discharges to the Nation's waters. The agencies will work together in promulgating regulations.

Timetable

ANPRM—September 1980
NPRM—October 1, 1980
Public Hearings—between October 1980 and December 1980
Final Rule—April 1, 1981
Final Rule Effective—May 1981

Available Documents

42 FR 62639–62716, December 13, 1977
44 FR 14901–15463, March 13, 1979
44 FR 30610–30634, May 25, 1979
Evaluation of Performance Capability of Surface Mine Sediment Basins, Skelly & Loy, August 3, 1979
Evaluation of Sediment Pond Design Relative to Capacity and Effluent Discharge, D'Appolonia, August 3, 1979
Petition filed with OSM by the National Coal Association/American Mining Congress (NCA/AMC) Committee on Surface Mining Regulations, September 21, 1979
44 FR 60226–60228, October 18, 1979
Comments on the NCA/AMC Petition (fifty).
44 FR 77447–77454, December 31, 1979
44 FR 77456–88457, December 31, 1979
45 FR 6813, January 30, 1979
Comments on NPRM for sedimentation ponds (45 FR 6913)
Final Regulatory Analysis, Permanent Regulatory Program of the Surface Mining Control and Reclamation Act of 1977, OSM–RA–1
Documents can be examined at:
OSM Headquarters, U.S. Department of the Interior, South Building, Room 153, 1951 Constitution Avenue N.W., Washington, D.C. 20240; (202) 343–4728.
OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard East, Charleston, West Virginia 25301; (303) 342–8125
OSM Resgion II, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902; (615) 637–8060
OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 520, Indianapolis, Indiana 46204; (317) 269–2609
OSM Region IV, 818 Grand Avenue, Scarritt Building, 5th Floor, Kansas City, Missouri 64106; (913) 753–2193. OSM Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; (303) 827–5511

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DOI–OSM

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program: Performance Bonding (30 CFR Parts 800–809, Subchapter J)

Legal Authority

Surface Mining Control and Reclamation Act of 1977, P.L. 95–87, 91 Stat. 45.

Reason for Including This Entry

The Office of Surface Mining (OSM) of the Department of the Interior believes this rulemaking is important because it addresses significant problems and adds flexibility to regulations which, through the petition process, were said to be overly restrictive and in need of amendment.

Statement of the Problem

OSM has proposed amendments to its permanent program regulations for performance bonding of the reclamation of surface coal mines. OSM issued these regulations to implement §§ 509 and 519 of the Surface Mining Control and Reclamation Act of 1977, which require OSM to develop a regulatory program that requires a surface coal operator disturbing the land overlying a coal seam to post a bond in an amount sufficient to repay the regulatory authority for conducting the reclamation necessary to restore the land to its original condition, if the operator fails or is unable to perform the reclamation itself.

The bonding regulations provided various ways of assuring that funds would be available if forfeiture occurred. These included a financial commitment by a third party (a surety); offering collateral, such as cash, certificates of deposit, or letters of credit; and self-bonding (an attachment of real and personal property holdings by which, upon liquidation, funds would be made available). These alternative provisions contained specific criteria for acceptance which, upon issuance on March 13, 1980, and by review by coal companies, the surety industry, and mining regulatory agencies, were found to contain standards that were said to be unnecessarily stringent, inflexible, and in need of modification.

Under these regulations, which would not become effective until 1981, coal operators claimed it would be impossible to obtain bonding, and as a result, permits would not be issued to authorize surface coal production. The surety industry, which would be responsible for bonds issued for years to come, was said to be unable to evaluate the risks in guaranteeing reclamation performance as required by the regulations.

Mining operators unable to provide a performance bond would be prevented from mining coal, because issuance of the mine permit is contingent on bond being posted. If bonds are not available, a large segment of the mining industry may be unable to conduct business lawfully. Unless changes are made in the current performance bond requirements, the coal industry may be prevented from opening new mines and repermitting existing coal mines. If these amendments are not made, most of the small operators and many of the medium-sized operations probably will not be able to secure surety bonds.

Through public hearings and meetings with interested parties, OSM has developed amendments to the original regulations which address the main areas of concern. Several changes are proposed in response to the petition for rule-making filed with OSM and supported by the mining and bonding industries. Other changes proposed are a result of comments received during the public comment process.

Alternatives Under Consideration

OSM, in considering alternatives to the original regulations, has developed additional methods by which to bond, modified the language of the regulations to increase flexibility, provided adaptation to regional conditions, and addressed many of the issues in the petition.

The proposed regulations make changes in the following areas: cumulative bonding (a method for minimizing the amount of bond through contemporaneous reclamation practices); long-term vs. short-term bonding (recognition of the difficulty in obtaining a long-term commitment from a surety company); allowable conservation practices (those reclamation practices not extending the period necessary to ensure successful revegetation); a grace period for operators losing bond through no fault of their own; simplifying the bond release provisions; allowing a surety company to perform the reclamation under forfeiture instead of paying the total amount; and use of forfeited bonds on the permit area covered.

These proposals clarify the regulations and should ease the difficulties in obtaining bonds that are currently imposed.

Summary of Benefits

Sectors Affected: The coal-mining industry; the surety industry; coal-related industries, such as manufacturing of mining machinery; and users of coal, including electric, gas, and sanitary services.

The changes instituted through this rulemaking will benefit all coal mines in the United States by increasing the availability of bonds and bonding methods due to OSM allowing acceptance of more types of collateral and recognizing the differences in long-term vs. short-term mining operations.

Many coal-related industries, such as equipment producers, and transportation systems, and users of coal, including public utilities, may also benefit through the continued and expanded production of coal.

Summary of Costs

Sectors Affected: The coal industry; and consumers.

OSM cannot determine the costs at this time.

Related Regulations and Actions

Portions of Subchapter J—Suspended by OSM.

Portions of Subchapter J—Remanded by Litigation.

Active Government Collaboration

OSM has developed these proposed regulations without collaboration. Upon development of final rules, Federal agencies such as the Environmental Protection Agency and the Departments of Energy and Agriculture, will be requested to concur before final issuance. Each State in which coal is produced must submit a regulatory program as required by the Act, including regulatory standards for bonding which are at least as stringent as the Federal requirements. In those States not complying with this mandate, coal mining and reclamation will be under a Federal regulatory program and will be subject to the sections of the regulations proposed in this rulemaking.

Timetable

Final Rule—June 1980
Final Rule Effective—immediately

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Available Documents

These documents are relevant in tracking the development of the rulemaking action:

Petition to amend regulations, 44 FR 28005, May 14, 1979

ANPRM, 44 FR 52098, September 6, 1979

NPRM, 45 FR 6028, January 24, 1980

Final Regulatory Analysis, OSM–RA–1, March 1979

Final Environmental Statement, OSM–EIS–1, January 1979

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program, 44 FR 15110–15125, 15385–15393, March 13, 1979

Transcripts of public hearings held June 5, 1979, and February 13, 1980

Comments received during comment period on the petition May 14, 1979 to June 15, 1979

Surface Mining Control and Reclamation Act of 1977, P.L. 95–87, 91 Stat. 445, August 3, 1977

Documents can be examined at OSM Headquarters, U.S. Department of the Interior, South Building, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343–4728

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DOI—WATER AND POWER RESOURCE SERVICE

Rules and Regulations for Acreage Limitation Under Federal Reclamation Law (43 CFR 426)

Legal Authority

The Reclamation Act of 1902, as amended and supplemented, 43 U.S.C. § 371 *et seq.*

Reason for Including This Entry

The Department of the Interior (DOI) believes that these rules and regulations are important because they will affect about 50,000 farms throughout the 17 Western States which receive irrigation water from projects administered by its Water and Power Resources Service (WPRS), formerly the Bureau of Reclamation.

Statement of Problem

Federal Reclamation law places a limit of 160 acres on the quantity of land an individual or organization may own and irrigate with water from a Federal water supply project. Only projects where specific congressional or administrative exemptions or modifications to the law have been granted may exceed this limit, which has been in effect since the basic Reclamation Law was enacted in 1902. Land in excess of 160 acres may receive project water if the owner enters into a contract with the United States agreeing to sell the excess land to an individual who, after the purchase, will not own more than 160 acres. The sale must be made under terms and conditions that satisfy the Secretary of the Interior, and at a price that does not reflect the increase in the value to the land attributable to the construction of the Federal Reclamation project. The contract specifies the time period during which the landowner must sell the excess land. If the landowner does not sell the land within that period, the Secretary of the Interior has power of attorney to sell the land. If the landowner chooses not to use Federal project water for the excess land, there is no requirement that he place the land under contract or that he sell it. The 1902 Act also imposes a requirement that the landowner be a resident on or in the neighborhood of the land, interpreted to be 50 miles from the land, to be eligible to receive project water.

The purposes of the acreage limitation provisions of the Reclamation law are to promote owner-operated family farms, provide opportunity for a maximum number of farmers on land that Federal project water serves, and preclude speculative gain in the disposition of land that project water serves. In the past, these provisions have been administered through State-chartered irrigation districts and other entities that have contracted with the United States for the Federal Reclamation project. The DOI has made determinations on the application of the provisions on a case-by-case basis, based on court decisions and opinions of the Solicitor of the Department of the Interior. The DOI has never promulgated formal rules by which the acreage limitation provisions would be administered.

The practices followed in the past have resulted in a lack of uniformity among irrigation districts in administering the acreage limitation provisions, and, in some cases, in lax enforcement of those provisions by the districts. In August 1976, a United States district court ordered the Secretary of the Interior to prepare and publish rules and regulations dealing with acreage limitation under Reclamation law, with specific reference to procedures to be used to approve sales of excess land (*National Land for People, Inc.* v. *The Bureau of Reclamation of the Department of the Interior* (417 F. Supp. 449 [D.C.D.C. 1977]). Such rules and regulations will provide the needed guidelines for the uniform administration of the acreage limitation of the Reclamation law to assure that the purposes of the law are carried out.

On August 25, 1977, the DOI published proposed rules and regulations for acreage limitation in the **Federal Register** (43 CFR Part 426). During the 128-day comment period on these proposed rules, the DOI received over 11,000 written comments and heard testimony from 1,075 witnesses at 17 public hearings. The Department then revised the proposed rules, taking these comments into consideration. These revised rules will serve as the basis for the environmental impact statement (EIS) the DOI is preparing to comply with the order of a United States district court, issued December 7, 1977, halting the rulemaking until the Department completed an EIS. The draft EIS will be published by December 15, 1980, and the final EIS by July 1, 1981. The EIS will assess the economic, social, community, and environmental effects of the proposed rules.

Alternatives Under Consideration

The EIS will address a number of alternatives to amend the acreage limitation provisions of Reclamation law and the rules that the DOI can establish under existing law. The alternatives will deal with the size of ownerships and operations that are eligible for Federal project water, residency requirements, ownership arrangements, and procedures that the DOI must use in processing sales of land receiving Federal project water. The alternatives will include the following:

Alternative (1) is a small-farm alternative, with the size of the farm operation eligible to receive Federal project water limited to 320 acres.

Alternative (2) is based on amendments to Reclamation law proposed by DOI that reflect the revised proposed rules. They would limit the size of the farm operation that is eligible to receive Federal project water to 960 acres, and limit the multiple ownership arrangements that are permitted.

Alternative (3) is based on procedures used in the past which limited ownership to 160 acres per individual, permitted loose multiple ownership arrangements and unlimited leasing.

Alternative (4) is based on the pricing structure for Federal project water that would permit delivery of project water to excess land upon payment to the Federal Government of the full cost of providing the water service.

Alternative (5) is based on no acreage limitation or the repeal of the acreage limitation provisions and residency requirements of Reclamation law.

The EIS will consider other alternatives as well. Both the draft and final EIS will address the pros and cons of the alternatives; the draft statement is scheduled to be published December 15, 1980, and the final statement July 1, 1981.

Summary of Benefits

Sectors Affected: Agriculture in the 17 Western States where (WPRS) projects are located.

The major effect of the proposed rules will be related to the change in the size of farm operations on Federal Reclamation projects and to the number of family farms that may result. On many projects the change in the number and size of farms may not be significant, while on others, where larger farm operations exist, there would be a noticeable increase in the number of farms and a reduction in their size. The change in the agricultural sector could result in economic effects on production efficiency, improving the efficiency in some cases and reducing it in others; changes in income to the farm family, both up and down; increases to the community income as the number of farms increases; and changes in the nature and number of employment opportunities. The EIS on the proposed rules, currently being prepared, will identify and analyze these and other impacts of the rules. While the reduction in large-scale farming may result in a change in the number of farming opportunities, the overall change in income to the agricultural sector may not be significant; however, DOI will complete a regulatory analysis of the proposed rules if it appears necessary after we have completed the draft EIS.

Summary of Costs

Sectors Affected: Agriculture in the 17 Western States where WPRS projects are located; and WPRS.

The regulations will apply to deliveries of irrigation water to over 12 million acres of land in about 50,000 farms in these projects.

Until we complete the EIS, it is difficult to provide reliable estimates of the direct and indirect costs of the regulations to the sectors they affect. We have discussed the possible costs-versus-benefits in the section above. In addition, increases may occur in the cost of administering the acreage limitations of law under the regulations by the Federal government in recordkeeping, inspections, and monitoring irrigation water deliveries in projects involved. There may be an increase in the cost of public services in some areas where new farms may be established.

Related Regulations and Actions

None

Active Government Collaboration

The Department of Agriculture is cooperating in preparing the EIS on the proposed regulations.

Timetable

Draft EIS and Revised NPRM—December 15, 1980
Public Hearings—December 15, 1980—March 16, 1981
Regulatory Analysis—after December 15, 1980, if required
Final Rule—September 1981

Available Documents

"Department of the Interior, Bureau of Reclamation, Acreage Limitation Rules and Regulations." NPRM—43 CFR Part 426, August 25, 1977.

"Environmental Assessment of the Impact of Proposed Rules and Regulations for Acreage Limitation Administration as published in the **Federal Register**, August 25, 1977." Prepared by the Bureau of Reclamation, January 1977.

The above documents are available without cost from the Water and Power Resources Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

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DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

Procedures Relating to the Implementation of the National Environmental Policy Act (28 CFR 19.1, et seq.)

Legal Authority

National Environmental Policy Act, 42 U.S.C. § 4231, *et seq.;* Environmental Quality Improvement Act, as amended, 42 U.S.C. § 4371, *et seq.;* (Council on Environmental Quality, "Regulations to Implement the National Environmental Policy Act") 40 CFR 1500, *et seq.*

Reason for Including This Entry

The Office of Justice Assistance, Research, and Statistics (OJARS) believes that these guidelines are important because they will help assure that agencies receiving funds from us will protect and enhance the environment while undertaking construction projects.

Statement of Problem

The National Environmental Policy Act (NEPA) requires regulatory agencies to consider the effect of their actions on the environment. NEPA requires that each agency, before taking an action, analyze potential environmental effects and prepare an Environmental Impact Statement (in cases where the environment may be affected) or a Finding of No Significant Impact upon the proposed action on the environment. The Department of Justice has a separate proposal giving general guidance on this issue.

On December 27, 1979, the Justice System Improvement Act of 1979 reorganized the Department of Justice's Law Enforcement Assistance Administration (LEAA) by establishing the Office of Justice Assistance, Research, and Statistics. OJARS is an umbrella organization composed of three financial assistance offices: the National Institute of Justice, the Bureau of Justice Statistics, and the LEAA itself. These offices undertake few projects which significantly affect the environment. In addition, OJARS has adopted the policy of prohibiting the use of its funds by State or local governments to undertake any new construction projects.

Accordingly, we expect the number of projects necessitating the use of the NEPA regulations will be small. However, as a granting and contracting agency which allots funds to State and local agencies for criminal justice improvement programs, such as prison renovations, which may affect the environment, OJARS must have specific NEPA regulations. Therefore, OJARS is simplifying and clarifying its current regulations to eliminate unnecessary expenditures of staff time and effort for compliance with the requirements of NEPA.

Alternatives Under Consideration

We indicated in the **Federal Register**, 44 FR 68234 (November 28, 1979), that LEAA was considering certain alternative approaches to the modification of its NEPA regulations. OJARS has chosen the alternative which provided for the removal of the current 28 CFR 19 and the replacement of

updated and simplified procedures. These procedures supplement the proposed procedures of the Department of Justice and provide only such guidance as is specific for OJARS. We will publish the proposed regulations in the **Federal Register** for comment.

Summary of Benefits

Sectors Affected: State and local governments applying for OJARS funds; OJARS; and the general public.

Reduced paperwork and processing time for funding projects will result in savings to the agency, to taxpayers, and to recipients of funds.

Summary of Costs

Sectors Affected: None.

We do not expect to bear or cause any additional costs.

Related Regulations and Actions

Internal: Proposed Department of Justice Procedures for implementing the National Environmental Policy Act, 44 FR 93751, July 26, 1979.

External: Regulations of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500–1508. In accordance with the CEQ guidance, the new regulations will incorporate by reference other environmental statutes including: Fish and Wildlife Coordination Act, 16 U.S.C. § 661, *et seq.;* the National Historic Preservation Act of 1966, 16 U.S.C. § 470, *et seq.;* Flood Disaster Protection Act of 1973, 42 U.S.C. § 4001, *et seq.;* Clean Air Act and Federal Water Pollution Control Act, 42 U.S.C. § 7401, *et seq.;* 33 U.S.C. § 1251, *et seq.;* Safe Drinking Water Act, 42 U.S.C. § 300, *et seq.;* Wild and Scenic Rivers Act, 16 U.S.C. § 1271, *et seq.;* the Coastal Zone Management Act of 1972, 16 U.S.C. § 1451, *et seq.;* and other environmental review laws and executive orders.

Active Government Collaboration

We have forwarded a copy of the proposed regulations to the Council on Environmental Quality in the Executive Office of the President for review and comment.

Timetable

NPRM—May 1980
Public Comment Period—May to July 1980
Final Rule—August 1980
Final Rule Effective—Upon publication as final
Regulatory Analysis—not required

Available Documents

None

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DEPARTMENT OF TRANSPORTATION

United States Coast Guard

Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage (46 CFR 30, 32, and 35)

Legal Authority

Port and Tanker Safety Act of 1978, § 5, P.L. 95–474, 92 Stat. 1480 (1978).

Reason for Including This Entry

The Coast Guard believes that this rule is important because it has major economic implications for the barge and towing industry in this country. In addition, testimony presented at the hearings on this proposal indicated that the rule may adversely affect the national oil supply network because it would take barges out of service that may not be replaced.

Statement of Problem

Data gathered by the Coast Guard show that, from 1973 through 1977, the total volume of oil spilled by tank barges was about 174,000 barrels. Approximately 85 percent of the oil spilled resulted from hull damage, which occurred as a result of groundings and collisions in the normal course of barge movements. Because barges operate mainly on the inland river system, most of the oil spilled by tank barges enters highly sensitive inland waters where the effect on the marine environment is more significant than it would be on the high seas. While the amount of pollution entering the waters from tank barges fluctuates annually, it is not decreasing in general. Thus, the present regulations dealing with pollution prevention, which essentially regulate only loading and unloading operations, are insufficient to reduce oil pollution from tank barges. Based on a study entitled "Tank Barge Oil Pollution Study," prepared by Automation Industries, Inc., the Coast Guard has concluded that the lack of construction standards for tank barges is a major factor in the pollution they cause. After reviewing the data, the Coast Guard determined that a "no action" alternative is not acceptable. The barge industry would not attack the river pollution problem without our intervention. The Coast Guard believes that barges need the protection of a double hull to prevent cargo discharge which would ordinarily result from groundings and minor collisions that breach the hulls of single-skin barges.

Alternatives Under Consideration

In 1971 the Coast Guard proposed a requirement for double walls on new tank barges constructed for the carriage of oil in specified trades. This proposal would have required the vertical surfaces, or walls, of barges to be double, but it did not propose double bottoms. Normal attrition of tank barges would delay any dramatic reduction in oil pollution. In order to accelerate the retirement of single-hull barges already in service, the proposal included a provision that would have precluded the complete rebuilding of existing vessels, and would have allowed only limited repair to damaged areas on these vessels. This provision was designed to reduce the number of existing single-hull barges gradually. Another proposed alternative was to specify a date after which owners and operators could not use single-hull barges.

Because of the extensive negative comments from the towing industry, we did not impose the double-wall construction requirement for new tank barges at that time. Instead, the Coast Guard initiated two studies. The first, "Alternative Inland Tank Barge Designs for Pollution Avoidance," developed design and construction alternatives and evaluated them for effectiveness. The second, "Tank Barge Study," evaluated design, construction, and equipment standards for tank barges that carry oil. These studies have convinced the Coast Guard that a double-hull tank barge fleet is necessary to prevent pollution, due to hull damage.

The comments we received in response to the 1971 NPRM indicated that, while the industry supported the intent of the regulations to prevent pollution, it strongly objected to the methods proposed to accelerate the retirement of existing single-hull vessels and to substitute double-hull barges. We received no comments suggesting economically acceptable ways to accelerate retirement of these vessels.

The Coast Guard is aware that the problems and costs associated with the construction of new barges differ greatly from the problems and costs associated with modifying existing barges. For this reason, following the 1971 proposal, the Coast Guard split this rulemaking into two parts: an ANPRM asking for comments on how to reduce the pollution problem posed by the existing fleet and an NPRM proposing construction standards for new barges.

The present barge fleet consists of about 1,200 full double-hull barges, 2,200 single-hull barges, and 428 barges with partial double skins. Hastening the retirement of single-hull barges could significantly affect both the economic viability of many individual tank barge operators and the tank barge industry's collective ability to respond to the Nation's need to transport bulk liquid cargo. The alternatives we considered in the ANPRM are early retirement of vessels, conversion to other service, restriction of routes, increased Coast Guard inspection standards, and reduction of the numbers of barges towed together as a single unit.

In the case of new construction, the NPRM proposed two alternatives to the double-hull approach: taking no action or requiring the use of heavier internal structures in either selected areas of the vessel or overall to make the hulls more resistant to penetration. We selected the double-hull alternative as a result of information gathered in a joint Coast Guard/Maritime Administration study known as the "1974 Tank Barge Study" because results indicated that this was the most effective method.

Because any action taken on these two items would have a profound affect on the environment and the economy of the towing industry, we decided to hold a series of hearings on both the ANPRM and the NPRM in various parts of the country. Responses at the hearings addressed both the ANPRM and NPRM without distinguishing between them.

In general, the comments advocated the following alternatives:

(A) Do not retire existing equipment.

(B) Require constructing single-hull barges with heavier materials.

(C) Require more stringent inspection and vigorous enforcement of existing regulations. In addition, industry representatives questioned the effectiveness of double hulls in preventing pollution.

These issues are valid and deserve further consideration. The Coast Guard has decided that an independent agency should evaluate the proposed alternatives. In addition, industry estimates of costs differ greatly from Coast Guard estimates. Industry estimates are higher by far. In light of the industry data, the Coast Guard will have to reexamine the anticipated economic effects of the proposal. Consequently, the National Academy of Sciences will reexamine the entire tank barge issue and recommend various options to accomplish the Coast Guard's objective.

Summary of Benefits

Sectors Affected: Manufacturing of tank barges; and the general public.

The Coast Guard has concluded that double hulls would be 95 percent effective in preventing pollution due to hull damage. This conclusion is based on the report we mentioned previously, the "1974 Tank Barge Study."

Summary of Costs

Sectors Affected: Water transportation of oil tank barges; towing services; manufacturing of tank barges; and users of oil.

The cost of a double-hull inland tank barge would range from $146,000 to $425,000 more than for a single-hull inland barge of comparable size. In 1978, added costs for full double hulls on ocean barges ranged from $700,000 to $1,700,000 for each barge.

The costs for modifying existing barges are more difficult to determine. The proposals in the ANPRM would cost a total of approximately $222 million, (current dollars) or a 31 percent increase over present expenses for the tank barge industry. The ANPRM solicited estimates of these costs as well as costs the industry would incur for activities, such as oil recovery and cleanup resulting from spills related to hull damage. Compliance costs would be passed on to the consuming public.

Related Regulations and Actions

Internal: The Coast Guard is also considering double-hull requirements as a possible solution to spilling hazardous materials.

External: None.

Active Government Collaboration

The Coast Guard has informed the Environmental Protection Agency and the Maritime Administration of its regulatory proposals.

Timetable

The National Academy of Sciences held a workshop on these proposals on April 15 and 16, 1980. Now the Academy is developing recommendations for the Coast Guard. We will defer any further action until we have evaluated these recommendations, and any new economic information.

Final Regulatory Analysis—will accompany Final Rule
Final Rule—unknown at this time

Available Documents

Karlson, E. S., et al., "Alternative Inland Tank Barge Designs for Pollution Avoidance," May 22, 1974

"Polluting Incidents In and Around U.S. Waters," annual reports for 1971 through 1977. Coast Guard publication number C.G. 487

Joint Coast Guard/Maritime Administration Study, "Tank Barge Study," October 1974. National Technical Information Service number COM–75–10284/AS

Bender, A., et al., "Tank Barge Oil Pollution Study," prepared for the Coast Guard by Automation Industries, Inc., 1978

NPRM—36 FR 24960, December 24, 1971 (superseded)

NPRM—44 FR 34440, June 14, 1979, for new construction

ANPRM—44 FR 34443, June 14, 1979, for existing construction

Supplementary NPRM—45 FR 16438, March 13, 1980, for both proposals

Draft Regulatory Analysis and Environmental Impact Statement, "Design Standards for New Tank Barges and Regulatory Analysis for Existing Tank Barges to Reduce Oil Pollution Due to Accidental Hull Damage, May 1979"

Documents available from Agency Contact.

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone and Lead). (40 CFR 51.24, 52.21)*

Legal Authority

The Clean Air Act, as amended, § 166, 42 U.S.C. § 7476.

Reason for Including This Entry

The regulation, when developed and promulgated, is likely to impose siting restrictions on air pollution sources because of limitations on areawide emission totals. This could have a significant effect on industry.

Statement of the Problem

The purpose of this program is to provide for adequate representation of the public interest where the Nation's clean air resources are threatened by increases in concentrations of Set II pollutants (hydrocarbons, carbon monoxide, nitrogen oxides, ozone, and

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lead). The present Prevention of Significant Deterioration (PSD) regulations administered by the Environmental Protection Agency (EPA) require the use of "best available control technology" (BACT) on all new or modified major sources of all pollutants covered by the Clean Air Act. In addition the present program also limits increases in areawide concentrations of sulfur dioxide and particulate matter through an air quality increment system. The present program, however, does not similarly limit areawide emission levels or air quality impacts of Set II pollutants and, therefore, cannot protect against the degradation of air quality up to the National Ambient Air Quality Standards (NAAQS). The Clean Air Act, as amended in 1977, requires EPA to respond to this problem (42 U.S.C. 7476).

Alternatives Under Consideration

EPA is now reviewing a range of regulatory alternatives which appear to be most reasonable at this time. These alternatives include the following:

Emissions Controls Only—This system would rely primarily on the requirements for best available control technology (BACT) on major new stationary sources and the Federal standards for motor vehicle emissions, with the possible addition of motor vehicle inspection and maintenance requirements. Control requirements under this system would not vary as a function of ambient pollutant concentrations or of the proximity of other sources, as long as the National Ambient Air Quality Standards were not violated.

Ambient Air Quality Increments—This approach would call for developing an area classification system establishing numerical limits for allowable degradation of ambient air quality. This system would be similar to that already in effect for particulate matter and sulfur dioxide.

Emission Density Zoning (EDZ)—An EDZ system would set theoretical ambient air quality increments to be used only as a guideline for establishing limits on maximum allowable emissions per unit land area. Once EPA established these emission density limits, the appropriate State or local air pollution control agency would base preconstruction review of new and modified sources on the emission density limits rather than on ambient air quality.

Inventory Management—This system would require State and local agencies to develop and maintain detailed emission inventories, with the provision for mandatory periodic public review whenever the local emission inventory increased by a pre-established quantity or percentage. The system would require this public review before allowing any further incremental increase in emissions, and could include an environmental analysis, a community environmental education program, a public hearing, and a vote by elected officials from the potentially affected areas.

Statewide Emission Limitation (Bubble)—We would design this system to ensure that aggregate statewide emissions would not increase. Every local increase (after some fixed time) would require an equivalent decrease somewhere else within the State to offset it.

Avoidance of Juxtaposed Major Sources of Hydrocarbons and Nitrogen Oxides—We would design this approach to prevent significant deterioration in air quality which results from the formation of ozone. Such a program would focus special attention on the hydrocarbon/nitrogen dioxide ratio, and would prevent the location of major sources within a certain fixed distance of each other.

Emission Fees—The State would set up a fee system to strengthen the requirements for BACT on major new stationary sources. The State air pollution control agency would then levy a fee on each major new source. The fee would be based on the quantity of emissions and would thus give the source an incentive to develop and incorporate new and more effective strategies for controlling emissions.

Marketable Permits—A marketable permit system would establish permits to emit a certain fixed quantity of emissions and allow air pollution sources to buy and sell those permits. As in an emission fee system, the cost of these permits gives the source an incentive to minimize the quantity of emissions. Furthermore, the responsible air pollution control authority could limit the exact quantity of emissions within any one area by limiting the number of marketable permits allowed within that area.

Summary of Benefits

Sectors Affected: The general public.

Areas of the country which are presently attaining the NAAQS for carbon monoxide, nitrogen dioxide, ozone, and lead will have a program to prevent significant air quality deterioration from those pollutants. In addition, regulations will provide special protection to national parks, national wilderness areas, and other Class I areas.

These regulations are at such an early stage of development that we cannot yet quantify benefits and costs. The benefits will vary depending on the alternative or alternatives we select. As we noted above, the regulations are unlikely to impose additional direct emission control requirements on air pollution sources, but they may impose siting restrictions because of limitations on areawide emission totals. Once we complete the regulatory analysis, we will have a better estimate of the benefits and costs associated with this regulation.

Summary of Costs

Sectors Affected: Industries emitting Set II pollutants, including: transportation, electric services, and manufacturing (particularly the petroleum refining and the primary metal industries).

We do not anticipate that the regulation will affect small businesses disproportionately. The regulatory analysis will, however, specifically address this problem.

As we noted above, we will assess the costs of implementing these regulations as a part of the regulatory analysis. We already require the affected sources under the present PSD regulations to install the best available control technology (40 CFR 51.24 and 40 CFR 42.21). Therefore, the costs resulting from this regulation alone will be related only to site location.

Related Regulations and Actions

Internal: EPA has developed and currently administers regulations for the prevention of significant deterioration of air quality resulting from emissions of particulate matter and sulfur dioxide (40 CFR 51.24). The same regulations also require best available control technology on the sources potentially affected by this regulation.

External: The regulation will require each State to develop regulations to implement this program. These regulations will require EPA review and approval.

Active Government Collaboration

EPA has formed an interagency work group to assist it in the development and review of these regulations. The following are members of the workgroup: Department of Transportation; Department of Energy; Department of Interior, National Park Service, Fish and Wildlife Service and Bureau of Land Management, Department of Commerce, Department of Housing and Urban Development, Department of Agriculture, and Council on Environmental Quality. In addition, we have solicited and received cooperation from State governments through the State and Territorial Air Pollution Program Administrators, and local agencies throughout the Association of Local Air Pollution Control Officers.

Timetable

ANPRM—May 1980
Public Meeting—July 1980
Regulatory Analysis—May 1981
NPRM—August 1981
Public Hearing—September 1981
Final Rule—April 1982

Available Documents

None

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d)(1) of the Clean Air Act as amended directs EPA to review existing national ambient air quality standards (NAAQS) every five years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and welfare. EPA set the original carbon monoxide (CO) standards (April 30, 1971 36 FR 8186) at 9 parts per million (ppm) averaged over an 8-hour period and 35 ppm for a 1-hour period. After review of scientific bases for the standards (the air quality criteria), EPA will decide whether to propose new standards or reaffirm the original standards. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQS.

The magnitude of the problem resulting from human exposure to carbon monoxide has not been completely quantified. However, there are several population groups that are particularly sensitive to carbon monoxide exposure, such as patients with coronary heart disease (e.g., angina pectoris), peripheral vascular disease, cerebrovascular disease, or chronic obstructive pulmonary disease; pregnant mothers and their fetuses; and patients with anemia. These sensitive population segments range from 5 to 12 percent of the U.S. population. In other words, several million persons in the United States with cardiovascular, pulmonary, and central nervous system diseases can have these conditions aggravated by exposure to carbon monoxide.

Alternatives Under Consideration

Major alternatives to maintaining existing standards are:

(1) to change the concentration levels of the standards; and

(2) to change the time periods over which concentrations are measured. EPA may make the health-based (primary) standards more stringent, less stringent, or keep them at current levels. The Agency is looking at alternative primary standard levels, and at the need for the existing secondary standard to protect against environmental and other nonhealth damages.

We are investigating no new Federal regulatory techniques in the CO NAAQS review process. All governmental regulatory actions taken as a result of EPA's setting a NAAQS are at the discretion of State governments. The States are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, especially persons particularly sensitive to CO exposure.

Revision of air quality criteria and review of the existing ambient standard will result in greater assurance that the standard which EPA reaffirms or newly promulgates will protect public health and welfare. The standard will especially benefit those individuals with coronary heart disease, anemia, central nervous system and pulmonary disorders; pregnant women and fetuses.

Summary of Costs

Sectors Affected: Manufacturing of motor vehicles and motor vehicle equipment regulation; and administration of transportation programs; the driving public; and EPA and State air pollution control agencies.

State air pollution control strategies for attaining CO ambient air quality standards probably will focus on reducing emissions from motor vehicles. These strategies may affect the automotive industry, the driving public, transportation planning, and highway street operations. Motor vehicles account for nearly 75 percent of the nationwide CO emissions; most high CO monitor readings occur in urban areas with heavy traffic. EPA will complete a study of the costs and economic effects of controlling CO emissions to meet alternative air standards at the time we propose any changes to the CO standard.

Related Regulations or Actions

Internal: Based on the alternative air quality standards under consideration and our current understanding of control requirements, it is unlikely that revised EPA emissions standards for motor vehicles will result from this review.

External: Modifications in existing standards could require States to reassess their current implementation control programs, and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the standard include the Departments of Transportation, Energy, and Health, Education, and Welfare. In addition, EPA has contacted the Interagency Regulatory Liaison Group (IRLG) and will involve them in the standard review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—summer 1980
Regulatory Analysis—summer 1980
Public Comment Period—to be specified in NPRM.
Public Hearing in Washington, D.C.—summer 1980
Final Rule—fall 1980

Available Documents

ANPRM—"Review of the Carbon Monoxide Air Quality Standard," 43 FR 56250, December 1, 1978

"Air Quality Criteria for Carbon Monoxide" (External Review Draft, April 1979); it is available from the Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711

U.S. Environmental Protection Agency Science Advisory Board Clean Air Scientific Advisory Committee, Subcommittee on Carbon Monoxide, "Transcript of Proceedings" for January 30 and 31, 1979 and June 14–16, 1979; these are available for review in the Central Docket Section, EPA, Room 2903B, 401 M Street, S.W., Washington, D.C. between 9:00 a.m. and 4:00 p.m. on weekdays.

"Control Techniques for Carbon Monoxide Emissions," EPA–450/3–79–006, June 1979; the report is available from EPA Library (MD–35), Research Triangle Park, NC 27711. Telephone: (919) 541–2777.

EPA has established a docket (EPA, Central Docket Section OAQPS–79–7) for review of this standard.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, §§ 109(c) and 109(d), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure the protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(c) of the Clean Air Act as amended directs EPA to promulgate a short-term nitrogen dioxide (NO_2) standard unless there is no significant scientific evidence that such a standard is needed to protect public health. Section 109(d)(1) of the Act requires EPA to review existing National Ambient Air Quality Standards (NAAQS) every 5 years. (Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and safety.) This review includes the existing NO_2 annual average standard promulgated by EPA on April 30, 1971 (36 FR 8186). This standard is 100 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean (40 CFR 50.11). The Agency has combined possible proposal of a short-term NO_2 standard with review of the annual average NAAQS into one rulemaking process (see 45 FR 6959, January 31, 1980). After review of scientific bases for the standards (the air quality criteria), EPA will decide whether to propose a short-term NO_2 standard and change, or reaffirm the existing annual NO_2 NAAQS.

Public exposure to NO_2 can result in impairment of pulmonary (lung) function and can increase susceptibility to respiratory infection. NO_2 or other nitrogen oxide compounds in the ambient air can adversely affect crops, visibility, and materials, and can cause acid rainfall. Acid rain adversely affects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

Based on revised air quality criteria, EPA may decide to keep the existing annual standard without change, or make some modification to the allowable air concentration of nitrogen dioxide, the period over which the concentration is measured, or, the number of times States will be allowed to exceed the standards. The agency may also decide to propose a short-term NO_2 standard.

We are investigating no new regulatory techniques in the NO_2 NAAQS review/standard-setting process. All governmental regulatory actions taken as a result of setting a NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdictions. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory attainment dates.

Summary of Benefits

Sectors Affected: The general public, particularly those persons suffering from respiratory disease.

Revision of air quality criteria and review of the existing ambient standard will result in greater assurance that the standard which EPA reaffirms or newly promulgates will protect public health and welfare, crops, materials and aquatic ecosystems.

Summary of Costs

Sectors Affected: Industries emitting nitrogen oxides, such as manufacturing, electric services, and natural gas pipelines; manufacturing of motor vehicles and motor vehicle equipment; regulation and administration of transportation programs; and EPA and State air pollution control agencies.

We will complete a study of the costs and economic effects of controlling oxides of nitrogen for alternative short-term and annual standards at the time we propose a revised standard. If the Agency's NO_2 activities result in a new regulatory action, the regulation could affect the level of control for point sources of nitrogen oxides emissions, such as power plants, industrial boilers, and natural gas pipeline stations. We currently are controlling mobile source emissions under existing emissions limits for motor vehicles; however, a stringent short-term NO_2 standard could result in the need for communitywide inspection and maintenance programs for automobile and truck emissions.

Related Regulations and Actions

Internal: Changes to the current ambient standard may affect EPA's regulations for nitrogen oxides emissions from motor vehicles and EPA regulations for new source review.

External: Modifications in the existing standard may require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary. A new short-term standard would require States to assess ambient air quality data, and if concentrations exceed the standard, develop a State implementation plan to control NO_2 emissions.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the nitrogen dioxide standards are the Departments of Energy; Transportation; Interior; Commerce; and Health, Education and Welfare; and the Tennessee Valley Authority. In addition, we have informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—spring 1981
Regulatory Analysis—spring 1981
Public Comment Period—to be specified in NPRM
Public Hearings—60 days after publication of NPRM
Final Rule—fall 1981

Available Documents

"Air Quality Criteria for Nitrogen Dioxide" (external review draft, June 1979), available from the Environmental Criteria and Assessment Office (ECAO), U.S. Environmental Protection Agency, MD–52, Research Triangle Park, NC 27711

U.S. Environmental Protection Agency, Science Advisory Board, Clean Air Scientific Advisory Committee, Committee Meeting on Air Quality Criteria for Oxides of Nitrogen, "Transcript of Proceedings" conducted in Washington, D.C. on January 29 and 30, 1979; available from ECAO

EPA will complete a study of costs and economic impacts of controlling nitrogen oxides when it issues the NPRM.

"Control Techniques for Nitrogen Dioxide Emissions" (draft, January 1978), available from Emission Standards and Engineering Division, U.S. Environmental Protection Agency, MD–13, Research Triangle Park, NC 27711

"National Ambient Air Quality Standards: Establishment of Standard Review Docket for Nitrogen Dioxide," 45 FR 6958, January 31, 1980

EPA has established a docket (EPA, Central Docket Section OAQPS–78–9) for review of the NO_2 standard

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs EPA to review the existing National Ambient Air Quality Standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and safety. The current Primary Standard for particulate matter (to protect public health) is 75 micrograms per cubic meter ($\mu g/m^3$)) annual geometric mean and 260 $\mu g/m^3$, maximum 24 hour concentrations, not to be exceeded more than once per year. The current Secondary Standard for particulate matter (to protect public welfare) is 150 $\mu g/m^3$, maximum 24-hour concentration, not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQS.

EPA will review the scientific basis of the standard (the air quality criteria) as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Exposure to airborne particulate matter (PM) aggravates asthma and other respiratory disorders, and cardiovascular diseases; and can impair pulmonary function, and increase coughing and chest discomfort. PM may also increase the adverse health effects of gaseous air pollutants, such as sulfur dioxide. Depending on their chemical composition, specific types of PM may have more serious toxic or carcinogenic effects than others. Elevated PM levels result in increased soiling of exposed materials and impair visibility.

Alternatives Under Consideration

Based on the revised air quality criteria, EPA may decide to keep the existing standards without change, or may decide to change the allowable air concentration of particulate matter, the period over which the concentration is measured, or the number of allowable exceedences. EPA is also considering standards based on the size of the particulate as well as its concentration. This consideration is based on evidence that smaller particles penetrate deeper into the lung, and evidence that when elevated concentrations of particulate matter occur in combination with elevated levels of sulfur oxides adverse health effects may be more pronounced.

EPA is not investigating new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting a NAAQS are at the discretion of State governments which are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQS by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases and cardiovascular diseases.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adequately protect health and welfare of the general public including those groups within the general public most sensitive to adverse health affects of PM.

Summary of Costs

Sectors Affected: Electric, gas, and sanitary services; the non-ferrous metal industry; those industries that use or supply large quantities of fossil fuel; and State air pollution control agencies.

EPA will complete a study of costs and economic impacts of controlling particulate matter under alternative standards when it issues the NPRM. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs to accommodate revisions to the existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards for particulate matter may affect EPA's regulations for new source review.

External: Modifications in the existing standards would require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies which are actively involved in reviewing the standards for particulate matter are the Departments of Energy; Transportation; Interior; Commerce; Health, Education and Welfare; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The

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IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—fall 1980
Regulatory Analysis—fall 1980
Public Comment Period—to be specified in NPRM
Public Hearing—60 days after publication of NPRM
Final Rule—spring 1981

Available Documents

ANPRM—"National Ambient Air Quality Standards: Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 192, October 2, 1979

"Air Quality Criteria for Particulate Matter," AP–49, January 1969, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161

"Health Effects Considerations for Establishing a Standard for Inhalable Particles," July 1978, available from the Health Effects Research Laboratory, Environmental Protection Agency, Research Triangle Park, NC 27701.

"Airborne Particulate" National Academy of Sciences, 1977, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161

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EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Dioxide (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs the EPA to review the existing National Ambient Air Quality Standards (NAAQS) every 5 years. Ambient air-quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and welfare. The present primary standard for sulfur dioxide (set to protect public health) is 80 micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean, and a maximum 24-hour concentration of 365 $\mu g/m^3$, not to be exceeded more than once per year. The current secondary standard for sulfur dioxide (to protect public welfare) is 1300 $\mu g/m^3$, maximum 3-hour concentration not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQS.

EPA will review the scientific basis of the standards (the air quality criteria) as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Sulfur oxides in the air, working alone or in combination with other pollutants, aggravate respiratory diseases such as asthma, chronic bronchitis and emphysema, and also irritate the eyes and respiratory tract. Sulfur oxides also cause impaired visibility and help form acid rain which adversely effects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

Based on the revised air quality criteria, EPA may decide to keep the existing standards without change, or may alter the air concentration of sulfur dioxide or the period over which the concentration is measured.

EPA is investigating no new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting a NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQS by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children, those persons suffering from respiratory diseases, and agricultural interests.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards whether reaffirmed or newly promulgated, will adequately protect the health and welfare of the general public including those most sensitive to adverse health effects of sulfur oxides.

Summary of Costs

Sectors Affected: Electric, gas and sanitary services; the non-ferrous metal industry; the petroleum refining industry; those industries that supply or use large quantities of fossil fuel; and State air pollution control agencies.

A study of costs and economic impacts of controlling sulfur oxides under alternative standards will be completed by EPA when the NPRM is issued. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs in order to accommodate any revisions to existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards may affect EPA's regulations for new source review.

External: Modifications in the existing standards would require States to reassess their current implementation control programs, and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies which are actively involved in reviewing the sulfur oxide standards are the Departments of Energy; Transportation; Interior; Commerce; Health, Education and Welfare; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG functions to coordinate certain regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—fall 1980
Regulatory Analysis—fall 1980
Public Comment Period—to be specified in NPRM
Public Hearing—60 days after publication of NPRM
Final Rule—spring 1981

Available Documents

ANPRM—"National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 192, October 2, 1979.

"Air Quality Criteria for Sulfur Oxides," AP–50, January 1969—available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Sulfur Oxides," National Academy of Sciences, 1978—available from the National Academy of Sciences, Printing and Publication Office, 2101 Constitution Avenue, Washington, D.C. 20418.

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EPA–OANR

Standards Of Performance To Control Atmospheric Emissions From Industrial Boilers (40 CFR Part 60)

Legal Authority

The Clean Air Act, as amended. § 111, 42 U.S.C. § 7411.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this rule would be important because it would affect many industries, address a major air polluter, namely industrial boilers, and minimize emissions in the face of increased industrial use of coal. The impact of this regulation on industry would approach $100 million per year for additional capital and annualized costs by 1990.

Statement of Problem

Combustion of coal, oil, and gas in industrial boilers results in the emission of significant quantities of particulate matter, sulfur dioxide, and nitrogen oxides to the atmosphere. Because of the large number of boilers and the associated emission rates, industrial boilers contribute significantly to air pollution in the United States. In 1975, emissions from industrial boilers were estimated to include 2.77 million tons of particulate matter, 3.25 million tons of sulfur dioxide, and 2.01 million tons of nitrogen oxides or approximately 17, 11, and 8 percent of total national emissions of these pollutants. The projected growth rate of the use of industrial boilers, coupled with the emphasis on shifting fuel from gas and oil to coal, will increase the potential for emissions. These air pollutants affect the health and welfare of most of our urban-dwelling citizens by contributing to disease in people and animals, reducing visibility in the atmosphere, damaging vegetation, and soiling and deteriorating real estate. Failure to provide more effective control of emissions from industrial boilers will increase exposure to the undesirable effects of these pollutants and will expand the portions of the country that exceed EPA's ambient standards for these pollutants. This rule will apply to new and modified industrial boilers.

Alternatives Under Consideration

The 1977 Clean Air Act requires that EPA adopt standards of performance for stationary sources of air pollution that are fired by fossil fuels. EPA is gathering information on eight technologies for reducing boiler emissions: (1) oil cleaning and existing clean oil, (2) coal cleaning and existing clean coal, (3) synthetic fuels, (4) fluidized bed combustion, (5) particulate control, (6) flue gas desulfurization, (7) nitrogen oxides combustion modification, and (8) nitrogen oxides flue gas treatment.

We are using computer modeling to examine alternatives to determine the cost impacts, emission impacts, effects upon fuel consumption, overall energy impacts, and other environmental effects on a regional and national basis. The alternatives include differing levels of emissions for various sizes of boilers and type of fuels.

Summary of Benefits

Sectors Affected: Manufacturing industries; and the general public.

This rule will apply to new and modified industrial boilers used in a large number of manufacturing industries, particularly energy-intensive industries, such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281), and will affect people in urban and rural areas who are subject to pollution emissions from these industries.

Installing equipment that represents the best available control technology at new and modified industrial boiler facilities will help lessen air pollution in already affected areas and preserve clean air in as yet unpolluted areas of the country. Such control will reduce the need for using the "cleanest" fuels, which can be diverted to existing plants in which new add-on controls are less cost effective.

A regulation that requires more stringent controls on new and modified industrial boilers will allow industrial expansion and economic growth without an accompanying assault on ambient air quality.

Summary of Costs

Sectors Affected: Manufacturing industries; and consumers of products produced by these industries.

Energy intensive industries such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281) are the specific industries that this rule would affect most.

Cost estimates for applying the control technology required by a regulation governing emissions from industrial boilers would be determined by the number, sizes, and types of sources we regulate and the degree of control we require. EPA estimates that by 1990 annual added capital costs of control will approach $200 million and annualized costs will approach $100 million (1978 dollars). These estimates are necessarily very tentative at this time. Consumers may pay higher prices for products manufactured by energy-intensive industries.

Related Regulations and Actions

Internal: We have issued water pollution regulations in the form of "Best Practical Technology Currently Available" and "Best Available Technology Economically Achievable." Industrial boilers are also subject to requirements of the Resource Conservation and Recovery Act.

External: Industrial boilers are subject to the Fuel Use Act and associated regulations established by the Department of Energy.

Active Government Collaboration

Because emissions from industrial boilers come from the combustion of fossil fuels, EPA is working closely with the Department of Energy to share information and stimulate advances in technology.

Timetable

Regulatory Analysis—July 1980
NPRM—February 1981
Public Hearing—March 1981
Final Rule—December 1981

Available Documents

ANPRM—40 CFR 60 (44 FR 37632, June 28, 1979)

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EPA-OANR

Visibility Protection Requirements (40 CFR Part 51.300-51.307)

Legal Authority

The Clean Air Act, as amended, § 169A, 42 U.S.C. § 7491.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because it will establish a new regulatory program for visibility protection.

Statement of Problem

Congress has set aside certain international parks and national wilderness areas, national memorial parks, and national parks (Class I areas) to preserve and enhance their beauty for present and future generations to enjoy. The intrinsic beauty of these areas, however, has been threatened because of visibility degrading pollution. Congress became aware of the need to protect visibility in these areas and directed EPA to explore the relationship between man-caused pollution and visibility.

From this research we can say there are generally two types of air pollution which reduce or impair visibility:

(1) smoke dust, or colored gas plumes that are emitted from stacks of a single source or a small group of sources that obscure the sky or horizon, and (2) widespread, regionally homogeneous haze from a multitude of sources which impairs visibility in every direction over a large area.

These types of pollution are caused by factories and plants that emit particles and gases into the air. These substances either absorb or scatter the light, thus reducing the amount of light a person can receive from a viewed object. The practical effect is that impaired visibility degrades the aesthetic value of the surrounding landscape by either discoloring the atmosphere to produce a visible plume, whitening the horizon and causing objects to appear flattened so that landscape colors and textures become less discernible, or, in the case of a discernible plume, obscuring some portion of the landscape.

Current air pollution control regulations, such as the State Implementation Plans, New Source Performance Standards, and the Prevention of Significant Deterioration Program, while requiring emission controls and protection of national ambient air quality standards, do not necessarily provide specific visibility protection in the Class I areas. Therefore, if EPA fails to implement this program, visibility in certain Class I areas will continue to be impaired and/or may be impaired in the future, thus limiting people's enjoyment of the area.

In a preliminary survey of the Class I area Federal Land Managers, approximately one-third reported undesirable impaired visibility and/or the need to evaluate suspected pollution sources. However, few, if any, areas are totally free from manmade pollution which impairs visibility.

Alternatives Under Consideration

EPA could propose and promulgate a full-scale program to address all types of visibility impairment. However, because of lack of technical and scientific evidence on the cause of visibility impairment, the agency prefers a phased program that will first address impairment which visual observations or other monitoring techniques can reasonably attribute to a source. The agency plans to address other visibility problems when the source/impact relationships are better understood.

Under Phase I of the program the States, in coordination with the Federal Land Managers of the Class I areas, will develop plans which will:

1. Require control of impairment that can be traced to a single major source or small group of sources.
2. Evaluate and control new sources to prevent future impairment, and
3. Require States to adopt other strategies to remedy existing and prevent future visibility impairment.

Future phases will further implement the visibility program by addressing more complex problems, such as regional haze and urban plumes. Under this alternative, we will promulgate future phases when improvement in monitoring techniques provides more data on source-specific levels of visibility, regional scale models become refined, and our general scientific knowledge of visibility improves.

We expect that Phase I of the visibility protection program will serve as a basic framework into which future phases can be incorporated. In other words, the basic plan requirements will remain consistent while only the elements which define the scope of Phase I will change in response to advances in our technical knowledge.

Summary of Benefits

Sectors Affected: General public, especially those in the Western States.

This regulation will affect the 156 mandatory Class I Federal areas where EPA has determined that visibility is an important value (44 FR 69122, November 30, 1979), and the millions of visitors who use those areas.

These regulations and the State plans developed to implement them will reduce the man-made visibility impairment in those Class I areas. In addition, any added controls on existing and new sources will provide general visibility improvement in the region around those areas.

Summary of Cost

Sectors Affected: Electrical services and their customers; manufacturing industries; and States.

EPA expects that fossil fuel fired power plants and a few large industrial complexes (such as pulp mills and metal smelting) in the Western United States will feel the primary economic effects of the first phase of the program.

The costs of the existing industries involved will be the capital and annual operating costs of additional control equipment. In the case of electric power plants, we expect the costs to be passed on, in the form of rate increases, to the customers of these facilities. EPA will quantify costs as we define regulatory alternatives.

New sources and modification of existing sources which impact the visibility in Class I areas may require additional controls or may be prevented from building.

Related Regulations and Actions

Internal: EPA's Prevention of Significant Deterioration regulations (40 CFR 51.24 and 52.21), which govern new source controls and location, affect many of the sources which visibility regulations will affect. Also, EPA's new source performance standard for utility boilers (40 CFR 60 Subpart D) places controls on power plants.

External: Approximately 36 States will be required to develop implementation plans. These plans will require EPA's review and approval.

Active Government Collaboration

EPA has formed an interagency work group to assist it in the development and review of these regulations. The following are members of the work group: Department of Agriculture, U.S. Forest Service; Department of Interior, National Park Service, Fish and Wildlife Service, and Bureau of Land Management; Department of Energy; Tennessee Valley Authority; and Council on Environmental Quality. In addition, we have solicited and received cooperation from State government through the State and Territorial Air Pollution Program Administrators, and local agencies through the Association of Local Air Pollution Control Officers.

Timetable

EPA's current schedule for the first phase shows:

Regulatory Analysis—May 1980
NPRM—May 1980
Public Hearing—June/July 1980
Final Rule—November 1980

Available Documents

Designation of Mandatory Class I Federal Area Where Visibility is an Important Value. 40 CFR Part 81 (44 FR 69122, November 30, 1979)

ANPRM-41 FR 69116, November 30, 1979

"Protecting Visibility: An EPA Report to Congress" (EPA 450/5-79-008) Strategies and Air Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711

"The Development of Mathematical Models for the Prediction of Anthropogenic Visibility Impairment" (EPA-450/3-78-110 a, b, c), (FINAL), National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161 (PB 293119, PB 293120, PB 293121)

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EPA-OANR-OFFICE OF MOBILE SOURCE AIR POLLUTION CONTROL

Fuels and Fuel Additives (40 CFR Part 79*)

Legal Authority

The Clean Air Act, as amended, § 211, 42 U.S.C. § 7545.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have a marked effect on the way fuels and fuel additives are developed and marketed. While this rule may not have an annual impact of $100 million or more, the synthetic fuel and fuel additive areas will be active ones in the future as the Nation attempts to lessen its dependence on foreign oil.

Statement of Problem

In 1977, Congress amended the Clean Air Act, adding § 211(e) which requires EPA to develop regulations to test the environmental and health effects of fuels and fuel additives. Section 211(e)(2) of the Act itself establishes deadlines by which the manufacturer must provide the requisite information to the EPA Administrator. Section 211(e)(3) authorized the Administrator to: (1) exempt small businesses from the regulations, (2) provide for sharing of testing costs among manufacturers who desire to register identical compounds, and (3) exempt businesses from duplicative testing requirements.

The present registration regulation requires that manufacturers submit certain information on the chemical composition and the toxicity of fuels and fuel additives to the extent this information is known to the manufacturer as the result of testing conducted for reasons other than fuel registration (40 CFR 79.31 (c)).

The proposed action may require the manufacturer to perform certain physical, chemical, and biological testing of fuels and fuel additives before registration.

On August 29, 1978, EPA published an ANPRM in the **Federal Register** (43 FR 38607) requesting comments on specific topics. In response to this request, the Agency received over 22 submittals of comments from the interested public. These regulations will consider all comments received from the interested individuals and organizations.

Alternatives Under Consideration

Our preferred alternative is to require testing on a tier basis. This approach would require manufacturers to report the chemical composition of all candidate fuels and fuel additives. If, based on chemical composition, EPA can make a determination that the environmental and health impacts are insignificant, further testing may not be required.

The second alternative would require full testing for all fuels and fuel additives with no exemptions. Approximately 2,000 fuels and fuel additives would require full environmental and health testing. This alternative would be unnecessarily costly, as many fuels and fuel additives whose environmental impact we can predict to be small or negligible will have to be tested.

The third alternative would be to submit regulated pollutants only (oxides of nitrogen, carbon dioxide, hydrocarbons) to registration and performance testing but not to health or environmental testing. This is the present system as required by 40 CFR 79 but which the Congress changed.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas where the concentration of vehicles is greatest; and those people who live near or work in plants which produce fuels or fuel additives.

The benefit we expect from this regulation is the protection of public health. Those fuels and fuel additives and the products of their combustion, which may be harmful to public health, will be identified and eliminated from the marketplace, where appropriate.

We cannot estimate the economic benefits, in terms of reduction in respiratory and other diseases, at this time. However, because of the current cost of medical services and because of the generally accepted view that prevention is preferable to treatment of diseases, the expected economic and social benefits, although they are not quantifiable at this time, should be significant.

Summary of Costs

Sectors Affected: Petroleum refining; manufacturing of motor vehicles and equipment; users of motor vehicles or their services; and the general public.

There are over 2,000 fuels and fuel additives currently registered under § 211 of the Clean Air Act. We estimate that approximately 200 of these will require some degree of testing by the manufacturers. The cost to the industry of implementing these tests should be between $90 and $120 million. These costs will be distributed over the first three years of regulation, because by law all fuels and fuel additives must meet the testing requirements within three years of the date of promulgation of this regulation. Small businesses would be exempt from the most costly tests. Users of motor vehicles will share these costs to the extent they are passed through to the consumer.

Related Regulations and Actions

Internal: Fuels and Fuel Additives Registration, 40 CFR Part 79

Proposed Guidelines for Registration of Pesticides, 40 CFR Parts 161, 162, and 163

Toxic Substances Control Act, § 4, Carcinogen Protocols and Chronic Toxicity Protocols, 40 CFR Part 772

Ambient Air Quality Standards, 40 CFR Part 50

External: None.

Active Government Collaboration

Health-testing protocols will be submitted to the Interagency Regulatory Liaison Group (IRLG) for screening before the regulation is promulgated.

Timetable

ANPRM—December 1980
NPRM—July 1981

Regulatory Analysis—July 1981
currently under preparation
Public Hearing—60 days after
publication of NPRM
Public Comment Period—90 days
following publication of NPRM
Comments may be sent to:
Charles L. Gray, Jr., Director
Emission Control Technology Division
Environmental Protection Agency
2565 Plymouth Road
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—Final Rule—July, 1982
—Final Rule Effective—three years after
promulgation of regulation.

Available Documents

Testing for Health Effects on Fuels and Fuel Additives, Cause, et al., Environmental Monitoring Systems Laboratory, Research Triangle Park, N.C. 27711

Test Plan to Study the Effect of MMT on Emissions as a Function of Fuel and Additive Composition, EPA–600/2–750048, September 1975

ANPRM—43 FR 38607, August 29, 1978, EPA docket ORD–78–1

All documents available for review at the EPA, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street S.W., Washington, D.C. 20460. The documents are available for personal inspection or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA–OANR–OMSAPC

Gaseous Emission Regulations for 1983 and Later Model Year Light-Duty Trucks (40 CFR Part 86*)

Legal Authority

The Clean Air Act, as amended, §§ 202, 206, 207, and 301, 42 U.S.C. §§ 7521, 7525, 7541, and 7601.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we expect it will have an annual economic impact of more than $100 million.

Statement of Problem

The Clean Air Act as amended in 1970 contained many provisions aimed at removing harmful pollutants from the air we breathe. Among other things, the 1970 Act called for the establishment of National Ambient Air Quality Standards. These levels were to be set so that there would be no danger to public health and welfare. To date, we have set ambient air quality standards for five pollutants: particulate matter, sulfur dioxide (SO_2), carbon monoxide (CO), nitrogen dioxide (NO_2) and ozone (of which hydrocarbons (HC) is the main precursor). Of these five pollutants, mobile sources are major contributors to the total pollutants emitted for three: HC, CO, and oxides of nitrogen (NOx). This regulation package concerns the establishment of standards for HC and CO from light-duty trucks.

Both HC and CO emissions have been related to adverse health effects. Briefly, HC emissions react with sunlight to form ozone and other photochemical oxidants. Ozone is a pulmonary irritant that affects the respiratory mucous membranes, other lung tissues, and respiratory functions. CO when inhaled replaces oxygen in the blood. The presence of CO adversely affects the carrying and delivering capacity of oxygen by the blood.

Although significant improvements have been made in air quality since 1970, a review of air-quality monitoring data makes it clear that additional reductions in HC and CO emissions will be necessary if ambient air quality goals set by Congress in the Clean Air Act are to be achieved. On March 3, 1978, EPA published in the **Federal Register** a listing on a State-by-State, pollutant-by-pollutant basis, of the status of attainment of air quality goals for every area of the Nation (43 FR 8962). This information, compiled by the respective States and reviewed by EPA, was the most accurate picture available of the Nation's air quality status as of the adoption of the Clean Air Act Amendments. These data indicated that of 3,215 counties or county equivalents covered by those designations, 607 (19 percent) were classified as nonattainment for photochemical oxidant, and 190 (6 percent) were classified as nonattainment for carbon monoxide. Nonattainment status indicates that the given area fails to meet the primary national ambient air quality standard (NAAQS) for the pollutant under consideration based upon either direct air quality monitoring or indirect estimates for areas lacking monitoring data. Current nonattainment data is available to indicate the changes which have occurred since 1977. As of July 1979, the nonattainment designations include 586 (18 percent) counties for ozone and 164 (5 percent) for carbon monoxide.

Light-duty trucks (LDTs) contribute a significant portion of the total nationwide emissions of HC and CO, yet to date we have not controlled LDTs to the stringency represented by existing light-duty vehicle (passenger cars only) standards, which is greater than a 95 percent reduction of HC and CO from the uncontrolled state. Presently, LDTs contribute more than 16 percent and 15 percent of the total mobile source hydrocarbon and carbon monoxide emissions, respectively. If we impose no further control, we project that they will contribute more than 20 percent of the hydrocarbon emissions and 29 percent of the carbon monoxide emissions, in the urban areas of the United States by 1995.

In recognition of the above facts, the Clean Air Act, as amended in 1977, granted the Environmental Protection Agency the statutory authority to reduce HC and CO emissions from light-duty trucks by at least 90 percent (from uncontrolled levels).

Alternatives Under Consideration

In the broadest sense, the Environmental Protection Agency considered the following alternatives in proposing this action:

(A) Implement more stringent HC and CO standards than the minimum 90 percent reductions mandated by the Clean Air Act.

(B) Separate the light-duty truck class into two subcategories by weight—those under 6,000 pounds and those over 6,000 pounds gross vehicle weight (GVWR)—and set separate standards for each.

(C) Implement HC and CO standards that represent a 90 percent reduction from baseline levels.

We did not consider less stringent control of HC and CO emissions from the 6,000 to 8,500 pounds GVWR group as an additional alternative since the Clean Air Act requires at least a 90 percent reduction in 1983. We may only consider alternatives involving less stringent standards if we determine that the technological infeasibility provisions of § 202(a)(3)(C) of the Act apply. EPA did not find the conditions existed to justify less stringent standards.

EPA did not seriously consider standards more stringent than the 90 percent reductions (alternative A) because Congress had determined that these levels were reasonable reductions achievable on the specified schedule with current control technology. Both EPA and the manufacturers provided Congress with the information necessary to arrive at these mandated reductions. Also, the extremely short timetable for promulgating the new standards hindered EPA's ability to fully examine the alternative of more stringent standards. EPA will continue looking into the feasibility of promulgating more stringent standards if necessary.

It would be possible to divide the LDT class into smaller categories based upon finer divisions in GVWR, curb weight, or other features (alternative B). Presently, LDTs with the least technological potential for emission reductions (generally those with the highest inertia weights and roadloads) constrain the stringency of the emission standards for the entire class. By subdividing the class, we could set more stringent standards for the smaller LDTs.

We could see a greater reduction in total emissions from the light-duty truck class if we adopted this alternative. However, such an approach would take away some of the manufacturers' incentive to reduce LDT weight and thus improve fuel economy. Because of these foregone fuel economy benefits and also leadtime constraints, EPA is postponing consideration of this alternative.

Alternative C is the alternative that EPA proposes. The Agency has determined that the 90 percent reductions in HC and CO are achievable at a reasonable cost. We anticipate there will be no increases in fuel use with the application of electronic engine controls (EECs). The use of EECs will be caused by increased market pressures and fuel economy regulations.

Summary of Benefits

Sectors Affected: The general public in urban areas.

EPA's environmental impact analysis indicates that the proposed regulations will reduce the lifetime emissions of an average LDT by 76 percent for HC and 82 percent for CO. Based on a cross section of urban areas experiencing air quality problems, these reductions in per vehicle emissions will by 1995 yield improvements of 1 to 2 percent in average ozone air quality and 3 to 4 percent in average carbon monoxide air quality.

Summary of Costs

Sectors Affected: Light-duty truck manufacturing; and purchasers and users of light-duty trucks.

EPA estimates that compliance with the proposed 1983 requirements will increase the average purchase price of a light-duty truck by approximately $95 (in 1980 dollars) which is a 1 to 2 percent increase to the average purchase price. We do not anticipate any increase in operating or maintenance costs.

The estimated aggregate cost of compliance to the Nation for the 5-year period 1983 through 1987 is $1.28 billion (in 1980 dollars). This figure is the aggregate cost, based on a discount rate of 10 percent, to the beginning of the 5-year period. Use of a discount rate emphasizes that because of the time value of money, a cost incurred now is worth more to the Nation than a cost incurred in the future.

Related Regulations and Actions

Internal: Current emission standards for light-duty trucks are found in "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86. Regulations implementing the Department of Transportation light-duty truck fuel economy standards are found in "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

EPA has recently finalized standards and measurement procedures for the control of particulate emissions from diesel-fueled light-duty trucks ("Standard for Emission of Particulate Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks," 45 FR 14496, March 5, 1980). Other related regulations we recently finalized are HC and CO emission regulations for 1984 and later model year heavy-duty vehicles. These regulations are very similar to the light-duty truck proposal we describe here, in that they finalized HC and CO standards representing 90 percent reductions from uncontrolled levels. Further information is available in "Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines," 45 FR 4136, January 21, 1980.

In addition to the existing regulations above, EPA is in the process of developing revised oxides of nitrogen standards for light-duty trucks effective in the 1985 model year.

External: Light-duty vehicle and light-duty truck fuel economy standards are found in the Department of Transportation "Passenger Automobile Average Fuel Economy Standards," 41 CFR Part 531.

Active Government Collaboration

Department of Transportation, Council on Wage and Price Stability, Department of Commerce.

Timetable

Final Rule—May 1980
Effective Date—June 1980

Available Documents

NPRM—44 FR 40784, July 12, 1979
Draft Regulatory Analysis and Environmental Impact of Final Emission Regulations for 1983 and Later Model Year Light-Duty Trucks
Public Docket OMSAPC–79–2 (LDT Rulemaking)
Public Docket OMSAPC–78–4 (1984 HDT HC and CO Rulemaking)
All documents can be inspected and copied at the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street S.W., Washington, D.C. 20460.

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EPA–OANR–OMSAPC

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines (40 CFR Part 86*)

Legal Authority

The Clean Air Act, as amended, § 202, 42 U.S.C. § 7521.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we expect it will have an annual economic impact of more than $100 million.

Statement of Problem

The Clean Air Act Amendments of 1977 mandate the establishment of regulations which require a reduction (from the uncontrolled state) of heavy-duty engine or vehicle emissions of 90 percent for hydrocarbon (HC) and carbon monoxide (CO) in 1983 and 75 percent for oxides of nitrogen (NOx) in 1985. These amendments also provide EPA with options to either temporarily revise or change the standards under certain conditions. As defined in the Act, heavy-duty vehicles include those trucks over 6,000 pounds gross vehicle weight (GVW); excluded are off-road vehicles, such as farm tractors and construction equipment. This definition overlaps two truck categories as used by EPA. These are light-duty trucks (LDTs) which EPA defines as trucks up to 8,500 pounds GVW, and heavy-duty vehicles (HDVs) which includes the 8,500 pounds GVW and over trucks. We published regulations implementing the mandated reductions in HC and CO emissions on January 21, 1980 (45 FR 4136) for HDVs and are in the process of finalizing regulations for LDTs.

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During high temperature combustion in internal combustion engines, atmospheric nitrogen reacts to form nitrous oxide (NO) and a comparatively small amount of nitrogen dioxide (NO_2). In the atmosphere, the NO is converted to NO_2 by direct reaction with oxygen and by photochemical processes. NO_2 in the atmosphere causes visibility restrictions and brownish coloration. Elevated NO_2 levels are also associated with both long-term and short-term health effects on the respiratory system.

Based upon the present annual standard of 0.05 parts per million, EPA has identified several (8 or less) Air Quality Control Regions which are currently exceeding acceptable levels. EPA's analysis of future oxides of nitrogen (NOx) emissions indicates that current light-duty and heavy-duty vehicle NOx control strategies will produce some overall NOx reductions through the mid-1980s, after which annual growth of vehicle sales, industry, and other sources contributing to pollution will begin to dominate. Thus, to even maintain the status quo, further NOx controls will be needed. Heavy-duty vehicles and light-duty trucks, representing approximately 40 percent of mobile source NOx emissions, constitute one area where further, in addition to already existing, NOx control is available on a cost-effective basis. Mobile sources themselves constitute about 30 percent of total NOx emissions.

Alternatives Under Consideration

In the development of the NOx standard EPA will consider the following alternatives.

(A) Implement an oxides of nitrogen standard that reflects the Clean Air Act's mandated 75 percent reduction.

(B) Implement an oxides of nitrogen standard that is either less stringent or more stringent than the 75 percent reduction required by the Clean Air Act.

(C) Establish a corporate average standard which would allow a manufacturer to average in some way the fleet emissions of oxides of nitrogen. The average emission level, rather than the specific emission level of each vehicle or engine, would have to meet the standard.

With regard to alternatives (A) and (B), EPA is currently evaluating the advantages and disadvantages of both alternatives. Although the Clean Air Act (as amended August 1977) directs EPA to set an oxides of nitrogen standard that reflects a 75 percent reduction (from uncontrolled levels) applicable for the 1985 model year, provisions are incorporated in the Act allowing EPA either to set more stringent standards or less stringent standards. EPA can make such revisions to the standard if it finds that the emission standards cannot be achieved by available technology at reasonable cost. Of course, as standards are made more stringent, more benefits will accrue. Likewise as standards become more stringent, costs of compliance will generally increase. The task confronting EPA is one of determining technological capabilities, and balancing costs and benefits.

EPA is considering alternative (C) as a means of obtaining necessary NOx reductions and, at the same time, allowing greater flexibility to the manufacturers in complying with emission standards. Under an averaging approach, a manufacturer could achieve compliance to an emission standard by averaging its aggregate fleet emissions. Some engines could be designed to be below the standard and others above it. Conceptually, this approach could increase a manufacturer's flexibility from both a technological and an economic standpoint. There are some disadvantages to such an approach that still need attention; principally they are the basic inconsistencies of such an approach with the requirements of the Clean Air Act, the complexity of enforcement, and the inherent inequities between manufacturers of different total sales and products.

At the present time the agency considers alternative (A) as the most likely option to propose. However, we will continue to address issues, such as technological capability and cost, in the development of the final rule. It is possible that after analyzing manufacturers' comments, EPA will reconsider alternative (B). It is also quite probable that EPA will pursue alternative (C) further in the proposal. Specifically, EPA may solicit comments and suggested approaches to an averaging standard to help the agency in further evaluation of such an approach to mobile source emission control.

Summary of Benefits

Sectors Affected: The general public living in urban areas.

Although a thorough and detailed benefit analysis has not been performed yet, we can roughly estimate the environmental impact. A proposed NOx standard representing a 75 percent reduction from uncontrolled levels would reduce lifetime emissions of an average light-duty truck by 500 pounds, and of an average heavy-duty vehicle by approximately 1 ton, and 7 tons for gas and diesel, respectively (compared to vehicles sold under present regulations). These reductions will yield improvements in excess of 10 percent in average NOx air quality by 1995.

Summary of Costs

Sectors Affected: Manufacturing of heavy-duty engines and vehicles, and light-duty trucks; purchasers and users of heavy-duty engines and vehicles, and light-duty trucks.

This regulation will require the addition of engine emission control hardware and/or engine modifications in order to comply with the proposed NOx standard. Consequently, to cover the cost of any new hardware or engine modifications, manufacturers will have to increase the price of their products. Although precise cost estimates are not available at this time, we project that the average price increases of a light-duty truck or gasoline-fueled heavy-duty vehicle may be as high as $250 (in 1980 dollars). Diesel heavy-duty vehicle first cost increases could be more than $200 (in 1980 dollars) or less than 1 percent of the total cost per vehicle. Slight increases in maintenance costs may result; however, no estimates are available at this time.

Related Regulations and Actions

Internal: Current emission standards for light-duty trucks and heavy-duty engines can be found in "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86. Regulations implementing the Department of Transportation light-duty truck fuel economy standards are found in "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

EPA has recently finalized standards and measurement procedures for the control of particulate emissions for diesel-fueled light-duty trucks ("Standard for Emission of Particulate Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks," 45 FR 14496, March 5, 1980). Other related regulations recently finalized are HC and CO emission regulations for 1984 and later model year heavy-duty vehicles. For further information consult "Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines," 45 FR 4136, January 21, 1980.

In addition to the existing regulations above, EPA is in the process of finalizing more stringent hydrocarbon and carbon monoxide standards for light-duty trucks, and developing particulate regulations for heavy-duty diesel engines.

External: Light-duty vehicle and light-duty truck fuel economy standards are found in the Department of Transportation "Passenger Automobile Average Fuel Economy Standards," 41 CFR Part .....

Active Government Collaboration

Department of Transportation, Council on Wage and Price Stability, and Department of Commerce.

Timetable

Draft Regulatory Analysis—May 1980 (currently under preparation)
NPRM—July 1980
Public Hearing—August 1980
Public Comment Period—60 days following publication of NPRM.
Comments may be sent to:
Charles L. Gray, Jr., Director
Emission Control Technology Division
Environmental Protection Agency
2565 Plymouth Road
Ann Arbor, MI 48105
Final Rule—December 1980
Effective Date—January 1981, applicable to model year 1985

Available Documents

None at this time

Agency Contact

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EPA-OANR-OMSAPC

Heavy-Duty Diesel Particulate Regulations (40 CFR Part 86*)

Legal Authority

The Clean Air Act, as amended, §§ 202, 206, 207, and 301, 42 U.S.C. §§ 7521, 7525, 7541, and 7601.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have an annual effect of $100 million or more on the economy.

Statement of Problem

Despite significant gains made in the control of particulate emissions, there are still many regions of the United States that are not able to meet the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP). To help improve this situation, Congress required EPA (through the Clean Air Act Amendments of 1977) to prescribe standards for the emission of particulate matter from 1981 model year heavy-duty diesel vehicles. EPA must base this standard on the lowest emission rates that we find technologically feasible at the time the standard will take effect, while also taking cost, noise, energy, and safety into consideration.

Diesel engines already power one-third of the heavy-duty vehicles sold in this country. By 1990, EPA expects this figure to increase to over two-thirds, primarily because of the fuel economy advantage of diesel engines over gasoline engines. These diesels emit 40 to 100 times the particulate matter emitted by catalyst-equipped vehicles operated on unleaded gasoline. (EPA expects that most gasoline-fueled heavy-duty vehicles will require catalysts and unleaded gasoline beginning in 1984 due to stringent standards for the emissions of hydrocarbons and carbon monoxide (see 45 FR 4136, January 21, 1980)). Heavy-duty diesel vehicles, if left uncontrolled, would emit 171,000 to 241,000 metric tons per year of particulate matter to the atmosphere by 1990. Urban areas would be the most seriously affected by these emissions. Ambient particulate levels from heavy-duty diesels alone would reach 2 to 7 micrograms per cubic meter (annual geometric mean) in cities such as Chicago, Los Angeles, New York, and Dallas. Somewhat smaller levels of 2 to 5 micrograms per cubic meter (annual geometric mean) would occur in smaller cities such as St. Louis, Denver, and Phoenix. These levels would occur over large-scale areas within these cities. Additional diesel particulate levels of 4 to 6 micrograms per cubic meter (annual geometric mean) would be expected in localized areas within 90 meters of very busy roadways. If controls are not applied, these ambient impacts would hinder the efforts of many urban air quality control regions to meet the primary NAAQS for TSP of 75 micrograms per cubic meter. This NAAQS was set at a level to protect the public health, and many areas of the country are currently exceeding the standard.

Diesel particulate is a particular health concern because of its chemical nature. Diesel particulate contains polycyclic organic matter, which is believed to be carcinogenic, and carbon, which can synergistically increase the effects of other pollutants. The extractable organic fraction of diesel particulate has been shown to be mutagenic (causing genetic damage) in short-term bioassays. EPA is currently performing a health assessment to determine the carcinogenic risk (if any) to human health.

Diesel particulate is also extremely small in size, allowing it to penetrate deeply into the lungs. Over 95 percent of diesel particulate is fine (aerodynamic diameter of less than 2.5 micrometers). Fine particles, such as these, have the greatest potential health impact as they have the longest contact with the most sensitive areas of the respiratory tract. Particulate emitted from diesels also has a greater relative exposure impact than that from many stationary sources because it is emitted at ground level in areas where people live and work.

Alternatives Under Consideration

EPA will consider the following alternatives when proposing a standard for particulate emissions from heavy-duty diesel vehicle engines:

(A) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply additional controls to particulate emissions from stationary sources. Control of particulate emissions from stationary sources may be less costly than controlling particulate emissions from heavy-duty diesel vehicles. But these stationary source controls could also be more costly and may not be able to provide the necessary improvements in air quality which are available from the control of heavy-duty diesel vehicles.

(B) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply more stringent controls to particulate emissions from other classes of motor vehicles. Controls placed on these other vehicle classes may be more effective or less costly than heavy-duty diesel controls. But controls placed on these other vehicle classes may be more costly and less effective, and may not be able to provide the same improvement in air quality as the regulation of emissions from heavy-duty diesels.

(C) Prescribe a heavy-duty diesel particulate standard and examine alternative levels of control along with alternative dates of implementation. It is likely that the different alternatives examined will have different costs and effectiveness and one may prove to be significanty better than the others, while still complying with Congressional mandates.

We currently regard alternative (C) as the most desirable alternative. Additional particulate controls available for stationary sources and other mobile sources do not appear able to reduce particulate emissions enough to remove the need for regulation of particulate emissions from heavy-duty diesel engines.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas or near busy roadways, and those who are especially susceptible to respiratory disease; and States

containing areas currently in violation of the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP).

EPA estimates that this regulation will reduce particulate emissions from heavy-duty diesel vehicles by 50 to 75 percent. This reduction would begin to appear with those new vehicles produced in the 1985 model year. By 1990, emissions of particulate matter from these vehicles would be reduced from 171,000 to 241,000 metric tons per year (depending on the number of diesels on the road) to 71,000 to 147,000 metric tons per year. Urban levels of heavy-duty diesel particulate in the atmosphere would be reduced from 2 to 7 micrograms per cubic meter to 1 to 4 micrograms per cubic meter. Roadside levels would be reduced similarly. These reductions will help many areas of the country meet the primary NAAQS for TSP (75 micrograms per cubic meter) which EPA set at a level to protect the public health. Because diesel particulate is highly respirable, these reductions should provide an added benefit in the area of public health.

Also, because diesel particulate is very small (average diameter of 0.07 to 0.2 micrometer) and is primarily made up of carbon, they are very effective in reducing visibility. Thus, any reduction in diesel-particulate concentration should improve visibility, particularly in urban areas.

Summary of Costs

Sectors Affected: Manufacturers of heavy-duty diesel engines and vehicles; purchasers and users of heavy-duty diesel vehicles.

This regulation probably will require the addition of emission control devices to heavy-duty diesel engines, though the actual devices used and their cost could vary from manufacturer to manufacturer and engine to engine. Manufacturers of these engines and the vehicles equipped with these engines will have to raise prices to recover their increased investment. While this increase could be substantial, very roughly a one-time purchase price increase of $200 to $600 (1980 dollars), EPA does not expect this to adversely affect sales. This increase only represents a 1 to 3 percent increase in the price of a heavy-duty diesel vehicle.

EPA does not expect this regulation to increase the operating costs of heavy-duty diesel vehicles, in fact a decrease may actually be possible. Because operating costs comprise 90 to 95 percent of the total cost of owning and operating heavy-duty diesel vehicles, this regulation should have a negligible impact (less than 0.5 percent) on the cost of hauling freight in these vehicles. Thus, neither those whose business is hauling freight nor those who have their freight hauled should be adversely affected. Small, independent haulers should experience no disproportionate effect.

Related Regulations and Actions

Internal: "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures." 40 CFR Part 86.

EPA is also in the process of revising the standard for the emissions of nitrogen oxides from both gasoline-fueled and diesel heavy-duty engines.

External: None.

Active Governmental Collaboration

None

Timetable

ANPRM—May 31, 1980
NPRM—June 30, 1980
Regulatory Analysis—June 30, 1980
Current Status—under preparation
Public Hearing—30 days after publication of NPRM, Ann Arbor Michigan.
Public Comment Period—60 days following publication of NPRM.
Comments may be sent to:

Charles L. Gray, Jr., Director
Emission Control Technology Division
Environmental Protection Agency
2565 Plymouth Road
Ann Arbor, MI 48105
—Final Rule—May 1, 1981
—Final Rule Effective—the 1985 Model Year

Available Documents

ANPRM—42 FR 61287, December 2, 1977, EPA docket A–80–18

All documents available for review at the EPA, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460. The documents are available for personal inspection or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA—OFFICE OF WATER AND WASTE MANAGEMENT

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants From Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced Into Publicly Owned Treatment Works (40 CFR Part 420)

Legal Authority

The Clean Water Act, as amended, §§ 301, 304, 306, 307, and 501, 33 U.S.C. §§ 1311, 1314, 1316, 1317, and 1351.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this regulation is important because it will provide control of discharges into the water from the largest metal manufacturing industry in the United States. We expect it will have an annual effect on the economy of more than $100 million.

Statement of Problem

The Clean Water Act requires EPA to promulgate regulations to control the discharge of pollutants into navigable waters and the introduction of pollutants into publicly owned treatment works (POTWs). These regulations must include effluent limitations representing the best practicable technology (BPT), the best conventional technology (BCT), the best available technology (BAT), new source performance standards (NSPS), and pretreatment standards for facilities introducing wastewaters into POTWs.

Initially we promulgated regulations for the iron and steel manufacturing industry on June 28, 1974 (Phase I or "steelmaking" operations), and on March 29, 1976 (Phase II or forming, finishing, and specialty steel segments). The U.S. Court of Appeals for the Third Circuit remanded the regulations for several reasons, including the agency's failure to consider adequately (1) the impact of plant age on the cost or feasibility of retrofitting, (2) site-specific costs, (3) consumptive water use, (4) the economic condition of the industry, and (5) the achievability of certain limitations. (*AISI et al.* v. *EPA*, 526 F.2d 1027 (3d Cir. 1975) and *AISI et al.* v. *EPA*, 568 F.2d 284 (3d Cir. 1977)).

We are developing new BPT regulations to replace the regulations remanded by the court. These regulations will reflect new information from industry surveys and sampling, and will remedy the deficiencies found by the court. In addition, we are developing BCT and BAT regulations to control toxic pollutants, as required by the 1977 amendments to the Clean Water Act. We expect to publish an NPRM in the **Federal Register** in December 1980 which will include effluent limitations and standards for the manufacturing operations covered by the 1974 and 1976 regulations.

The iron and steel manufacturing category (Standard Industrial Classification Codes 3312, 3315, 3316, 3317, and parts of 3479) is comprised of approximately 650 manufacturing facilities nationwide. The amount of process water used by these facilities is estimated to be 6,272 million gallons per day. Because of these large flows, the quantity of pollutants discharged is very large, even though the concentration of pollutants in a waste stream sometimes may be relatively small.

During its sampling program, EPA detected, in iron and steel manufacturing wastewaters, significant levels of copper, chromium, cyanide, iron, nickel, lead, zinc, oil and grease, ammonia, sulfide, fluoride, and suspended solids. Additionally, the agency found a wide variety of organic materials, including benzene, phenols, and aromatic compounds, in wastewaters from coke manufacturing, in blast furnaces which use the coke, and in cold rolling operations. The heavy metals may produce cumulative toxic effects and many of the organic compounds are known or suspected carcinogens.

Alternatives Under Consideration

The Agency is evaluating the capabilities and costs of various wastewater treatment technologies for controlling pollutant discharges from iron and steel manufacturing facilities. A primary focus of this effort is to promulgate regulations to control the discharge of toxic pollutants.

The technologies for the control of wastewater pollutants include both end-of-pipe treatment and methods to reduce water usage. End-of-pipe treatment, best applied after recycle to reduce wastewater volumes, includes, where appropriate, cyanide oxidation, hexavalent chromium reduction, metals precipitation, oil removal, suspended solids (including precipitated metals) removal, and chemical and biological destruction of ammonia and toxic organic materials. While there is some variation in options between the segments of the industry, the options outlined below are generally applicable to all iron and steel manufacturing facilities.

Option (A) includes in-process controls to reduce water flows, metals precipitation (if not already required by BPT), and filtration. This option also includes extended biological treatment of coke plant wastes.

Option (B) includes sulfide precipitation of metals prior to filtration. Coke plants would add powdered activated carbon to the extended biological treatment system.

Option (C) includes advanced treatment, such as evaporation to achieve zero discharge, and chemical oxidation of blast furnace wastewaters to reduce discharges of ammonia and organic pollutants.

In evaluating options for this regulation now under development, we considered all of the important factors, including the quantity and type of pollutants generated by each wastewater source; the treatment technologies available for application to that wastewater source; air, solid waste, energy, and other non-water quality environmental aspects of the proposed regulation; and the cost and economic impact of applying each of the several options.

We are still gathering additional information on costs and on the availability and effectiveness of technologies. We have not at this time selected the options we will propose, although we think that options which reduce the discharge of water to the maximum extent are the most environmentally acceptable.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the regulation we will propose will be the reduction of toxic pollutant discharges from iron and steel manufacturing facilities. The quantity of pollutants removed from discharges to the environment under this regulation will vary depending on the various options selected. The Agency estimates that through compliance with the BPT regulation the industry will remove approximately 3.4 million pounds per year of toxic organics, 5.8 million pounds per year of toxic metals, and 176 million pounds per year of suspended solids, oil and grease, ammonia, and other pollutants. Options (A), (B), or (C) will reduce BPT process wastewater volumes from about 2,600 million gallons per day (mgd) to about 300 mgd. Option (A) will reduce BPT pollutant discharge loads by about 85 to 90 percent. Options (B) and (C) will provide some additional but less dramatic removals of pollutants.

Summary of Costs

Sectors Affected: Manufacturing of iron and steel products; and users of these products.

We are continuing to refine the cost data for the various options. We are also considering the cost effectiveness of requiring different levels of treatment for the various operations. As an approximation of the costs of compliance, the capital investment for the BAT regulatory options range from about $600 million above BPT for Option (A) to over $1 billion for Option C in 1976 dollars. We do not expect these costs to result in a substantial decrease in steel production or increase in steel costs. Industry would likely pass through any increased cost of iron or steel to consumers. However, some shifts in production from marginal plants to more efficient plants will likely continue to occur as the industry strives to become more competitive with foreign producers.

Related Regulations and Actions

Internal: The Agency is reviewing the interaction between this regulation and air pollution and solid waste disposal requirements. As an example, we are evaluating the possible disposal of blowdown from blast furnace wastewater recycle systems by evaporation in slag pits. This is being coordinated with air programs.

In addition, in evaluating wastewater treatment alternatives, the Agency is considering, to the extent possible, the requirements and costs for the management of solid wastes under the Resource Conservation and Recovery Act.

External: This regulation will set minimum requirements on a national level which supercede less stringent State or local regulations. However, all levels of government may require more stringent limitations in specific instances if water quality criteria or other requirements so justify.

Timetable

NPRM—December 1980
Public Comments and Hearing—February 1981
Final Rule—July 1981
Regulatory Analysis—February 1981

Available Documents

The applicable documents currently available are:

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Steelmaking Segment of the Iron and Steel Manufacturing Point Source Category, June 1974, EPA–440/1–79/024–a.

Development Document for Proposed Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category.

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Volumes 1 through 9, October 1979, EPA 440/1–79/024–a

Copies of the June 1974 report are available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA. 22161. The accession number is PB 238–837 and the cost is $24.80 per copy. The October 1979 report may be obtained through the EPA contact designated below.

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EPA–OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills Into Navigable Waterways (40 CFR Parts 430* and 431*)

Legal Authority

The Clean Water Act, §§ 301, 304, 306, 307, 308, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, and 1361.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it will have an annual effect of $100 million or more on the economy.

Statement of Problem

EPA is required under the statute cited above to develop technology-based effluent limitations guidelines and standards for discharges into navigable waterways, and to review such guidelines and standards at least every five years. EPA promulgated effluent limitations guidelines reflecting the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT) and new source performance standards (NSPS) for six subcategories of the industry on May 9 and 29, 1974 (39 FR 16578, 40 CFR Part 431; and 39 FR 1872, 40 CFR Part 430). EPA promulgated BPT guidelines for the 16 remaining subcategories of the industry on January 6, 1977 (42 FR 1398, 40 CFR Part 430).

The Clean Water Act of 1977 requires industry to achieve by July 1, 1984, effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under § 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve by July 1, 1984, "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-conventional" and are subject to regulation under BAT.

EPA expects to publish proposed effluent limitations guidelines for BAT, BCT, NSPS and pretreatment standards for existing and for new sources (PSES, PSNS) in the **Federal Register**, September 1980.

EPA estimates that there are 700 operating pulp, paper, and paperboard mills in the United States which discharge about 4.2 billion gallons per day of wastewater. Toxic and nonconventional pollutants of concern detected in the industry's wastewaters during an EPA sampling program were 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, chloroform, ammonia, and zinc. Conventional pollutants routinely monitored in discharges from pulp, paper, and paperboard mills include biochemical oxygen demand, suspended solids, and pH.

Alternatives Under Consideration

The agency is considering various wastewater treatment technologies for controlling toxic, nonconventional, and conventional pollutant discharges from the pulp, paper, and paperboard industry to the Nation's waterways. Toxic and nonconventional pollutants will be regulated under the best available technology economically achievable (BAT), new source performance standards (NSPS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS). Conventional pollutants will be regulated under the best conventional pollutant control technology (BCT) and "new source performance standards" (NSPS).

In evaluating the options for development of regulations, the agency considers several important factors, including the quantity and type of pollutants each wastewater source discharges, treatment technologies that are available for the control of these wastewaters, the air pollution and solid wastes that the wastewater treatment systems may produce, and the cost of these systems.

The Agency, through its sampling and data-gathering efforts, has determined that existing biological treatment systems are very effective in removing most priority pollutants found in pulp, paper, and paperboard industry wastewaters. Several toxic pollutants were detected with sufficient frequency and/or at sufficient levels to concern us, and we are considering them as candidates for control under BAT and pretreatment regulations. The pollutants of concern and the options being considered to ensure their control under BAT are described below.

Pentachlorophenol, 2,4,5-trichlorophenol, and 2,4,6-trichlorophenol (toxic pollutants) were found in treated effluents in many subcategories of the industry. These compounds are present in certain of the slimicide and fungicide formulations used in the pulp, paper, and paperboard industry. The best and least expensive method for control of these pollutants is the substitution of these slimicides and fungicides with formulations that do not contain pentachlorophenol, 2,4,5-trichlorophenol, or 2,4,6-trichlorophenol.

Chloroform (a toxic pollutant) was found in very high concentrations (up to 10 milligrams per liter) in raw wastewaters from mills producing bleached pulps. Biological treatment systems are capable of removal of chloroform to low levels (less than 0.1 milligrams per liter). The agency is considering establishing BAT effluent limitations guidelines and NSPS based on those levels of chloroform attained through the application of biological treatment.

Zinc (a toxic pollutant) was found in wastewaters from facilities using zinc hydrosulfite as a bleaching chemical. The agency is considering establishing BAT effluent limitations guidelines, NSPS, and pretreatment standards based on the substitution of zinc hydrosulfite with sodium hydrosulfite.

Ammonia (a nonconventional pollutant) is discharged from facilities using ammonia-based pulping processes. The Agency is considering establishing BAT effluent limitations and NSPS based on either a substitution to a different chemical base or on the application of additional end-of-pipe treatment.

Conventional pollutants currently regulated include: biochemical oxygen demand (BOD), total suspended solids (TSS) and pH. The Agency is considering three options under BCT to reduce the discharge of BOD and TSS from pulp, paper, and paperboard mills:

(1) includes the addition of in-plant production process controls to reduce raw wastewater flow and BOD to the existing BPT treatment system.

(2) includes the reduction of BOD and TSS to levels typical of best performing mills. This option may require expansion or upgrading of existing end-of-pipe treatment systems at many mills in the pulp, paper, and paperboard industry.

(3) includes the application of chemically assisted clarification in addition to the technology considered as the basis of Option (1).

The Agency is still developing information on the costs and capabilities of the three technology options.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the proposed rule will be the reduction or elimination of toxic, nonconventional, and conventional pollutant discharges from pulp, paper, and paperboard mills. The discharge of 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, and zinc would be virtually eliminated and the discharge of chloroform and ammonia would be greatly reduced.

The discharges of BOD and TSS from pulp, paper, and paperboard mills will be substantially reduced by the following amounts dependent upon the option selected as the basis of BCT regulations:

BOD: Option 1—18 percent, Option 2—40 percent, Option 3—50 percent

TSS: Option 1—18 percent, Option 2—45 percent, Option 3—80 percent

The current discharge of one million pounds per day of BOD from pulp, paper, and paperboard mills accounts for about 45 percent of the total industrial contribution of BOD. Therefore, these additional reductions represent a significant portion of current conventional pollutant discharge to the Nation's waterways.

Summary of Costs

Sectors Affected: Pulp, paper, and paperboard mills; and users of pulp, paper, and paperboard products.

The agency is currently refining cost data for the various technology options. It is expected that, with the exception of ammonia removal options, the BAT, PSES, and PSNS technology options will have an insignificant impact on the pulp, paper, and paperboard industry. It is likely that large capital expenditures will be necessary at the nine pulp mills using ammonia-based cooking liquors, should we establish limitations for the control of ammonia.

The agency has made preliminary estimates of the capital costs (1978 dollars) for all U.S. pulp, paper, and paperboard mills to attain levels of BOD and TSS associated with the BCT technology options. They are: Option 1—$.83 billion, Option 2—$1.2 to 1.9 billion, and Option 3—$2.2 billion.

Related Regulations and Actions

Internal: Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the cost of installation and operation of various wastewater treatment technologies.

External: None.

Active Government Collaboration

The Department of Commerce has provided assistance by reviewing materials.

Timetable

NPRM—September 1980
Public Comment Period—60 days following publication of NPRM
Final Rule—June 1981
Regulatory Analysis—September 1980

Available Documents

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Unbleached Kraft and Semichemical Pulp Segment of the Pulp, Paper, and Paperboard Mills Point Source Category, EPA, May 1974, National Technical Information Service (NTIS) Number PB–238 833

Development Document for Effluent Limitations Guidelines (BPCTCA) for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink and Non-Integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Category, EPA, December 1976. Available for review at EPA Headquarters Library

Preliminary Data Base for Review of BATEA Effluent Limitations Guidelines, NSPS, and Pretreatment Standards for the Pulp, Paper, and Paperboard Point Source Category, prepared for the U.S. Environmental Protection Agency by the Edward C. Jordan Co., Inc., Portland, Maine, June 1979. Available for review at EPA Headquarters and Regional Libraries only.

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EPA–OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants (40 CFR Part 423)

Legal Authority

The Clean Water Act, §§ 301, 304, 305, 306, 307, 311, 402, and 504, 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, 1321, 1364, and 1346.

Reason for Including This Entry

The Environmental Protection Agency (EPA) expects that these regulations will cause industry to bear annualized compliance costs of $100 million or more.

Statement of Problem

The Environmental Protection Agency (EPA), in its efforts to control water pollution under the statute cited above, is required to develop technology based effluent limitations guidelines and standards to control pollutant discharges from the steam electric power-generating industry, and to review these regulations once every five years. We initially promulgated effluent limitations guidelines for this industry on October 8, 1974. The U.S. Court of Appeals for the Fourth Circuit remanded parts of the guidelines (*Appalachian Power v. Train*, 545 F. 2d 1351 (4th Cir. 1976)). The court found the record insufficient with respect to various technical aspects and non-water quality considerations (especially cost data and ultimate disposal of wastes).

We are reviewing the 1974 regulations to reflect updated information and remedy the deficiencies pointed out by the Fourth Circuit Court of Appeals. In addition to the pollutants examined in the previous regulations, we are expanding the review to include toxic substances cited in the June 8, 1976 Consent Decree, *Natural Resources Defense Council et al.* v. *Train*, 8 ERC 2120 (D.D.C. 1976). We expect to publish the NPRM in the **Federal Register**, July, 1980. We will not include guidelines for thermal discharges in these regulations. The Agency is still considering various thermal options in light of *Appalachian*.

The steam electric generating industry is composed of approximately 1000 generating plants nationwide. These plants have extremely large discharge flows; therefore, the quantity of pollutants they discharge is substantial even though the concentration is relatively low. Pollutants detected in significant quantities in the wastewaters of steam electric plants during an EPA sampling program were total residual chlorine, copper, zinc, nickel, chromium, arsenic and trihalomethanes.

Alternatives Under Consideration

The Agency is considering several wastewater treatment technologies for controlling pollutant discharges from steam electric plants to the Nation's waterways. The primary focus of this effort is to control the discharges of toxic substances. We have determined

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that cooling water and ash transport water from power plants are the major contributors of toxics. With cooling water, the Agency is concerned about the discharge of pollutants resulting from the use of chlorine and other chemical additives. Technology options for controlling pollutant discharges from this waste stream include end-of-pipe treatment (such as dechlorination) and management practices (such as using alternative chemicals).

For ash transport water (defined below), the Agency is concerned with the discharge of inorganic toxic substances. The control technologies that the Agency has evaluated include: (1) methods of ash transport without the use of water, (2) complete recirculation of the water used, (3) partial recirculation; and (4) end-of-pipe treatment.

In evaluating the options for regulation development, we considered several important factors, including the quantity and type of pollutants each wastewater source discharges; treatment technologies that are available for the control of these wastewaters; the air and solid wastes that the wastewater treatment systems may produce; and the cost of these systems.

The various technologies under consideration for waste streams other than ash transport water have minimal economic impact. However, ash transport pollutant control technologies may cause major economic impact for smaller size facilities. These pollutants enter the water because coal or oil that is burned in a steam electric plant's boiler produces varying amounts of ash that require periodic collection and disposal. Some relatively fine and light-weight ash is carried from the boiler with the flue gases and collected with air pollution control equipment. This type of ash is called "fly ash." The relatively bulky and heavy ash that settles at the bottom of the boiler's furnace is called "bottom ash." These two types of ash can be transported wet or dry to their ultimate or temporary disposal sites. Only those plants that use water to transport their ash would be affected by these regulations. The advantages and disadvantages associated with the control options for ash transport water are given below because of their potentially significant economic impact.

Fly Ash

We are considering three technological options for developing effluent guidelines for steam electric plants. The first option requires zero discharge of water used for fly ash transport. The technology for achieving this option is to use transport methods that do not require the use of water (dry transport). The advantages to this option are that the technology is demonstrated and available, and it will eliminate the discharge of toxic metals. The disadvantage is that the cost is high, especially for existing plants.

The second option requires recycling and reuse of the ash transport water. The advantage is that it will reduce toxic pollutants in both their suspended and, to a lesser degree, their dissolved form. However, data are not available yet to determine the degree of recirculation that is possible.

As a third option, the Agency is considering adding a further requirement to the second option that will reduce arsenic from fly ash transport water to 0.05 milligrams per liter, through coagulation and lime precipitation. The advantage of this treatment is that it would be required only of those plants with high levels of arsenic. Since this technology is not used currently in steam electric plants for this wastewater stream, the Agency would be required to use data from other industries to determine the effluent concentration that is achievable.

Bottom Ash

There are two technological options under consideration for bottom ash transport water, including a zero discharge option. The zero discharge option can be achieved through complete reuse/recycling of the ash sluice water or by using transport methods that do not require water. This option will remove completely all toxics in both their dissolved and suspended forms. The other technological option under consideration is partial recirculation of bottom ash transport water. This will remove suspended toxic metals and a limited amount of dissolved metals, although technology for further removal of dissolved metals is available.

We are still gathering additional information on the costs and availability of the technologies. We have not selected the option for proposal, although the Clean Water Act requires regulations "which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants", § 301(b)(2)(A).

Summary of Benefits

Sectors Affected: The general public; manufacturing of antipollution equipment; and the aquatic environment.

The major benefit of the proposed rule will be improvement of the aquatic environment through the reduction and/or elimination of discharges from steam electric generating facilities containing toxic compounds, primarily total residual chlorine and metals. A rough estimate of the quantity of inorganic toxics that the zero discharge option for fly ash would remove is 2,876 lb/day for existing plants and 1,192 lb/day for new plants. The zero discharge option for bottom ash sluice water would remove an estimated 1,131 lb/day of priority pollutants for existing plants and 477 lb/day for new plants.

Manufacturers of antipollution equipment would find increased demand for their products.

Summary of Costs

Sectors Affected: Electric services; and users of electric power.

On a national basis, an estimate of the total capital expenditures required to bring existing plants into compliance with the proposed regulations for the period 1980–1985 is approximately $3.31 billion (1980 dollars). This represents about 1.5 percent of the total anticipated capital expenditures for the industry during the same period. With the addition of operation and maintenance costs, this means that the average electric bill for consumers would increase by approximately 0.5 percent. None of these requirements is expected to cause plant closings; however, the impact on smaller existing plants can be significant. The Agency is currently updating the cost data and is considering exempting smaller plants from the zero ash water discharge requirement based on economic impacts.

Related Regulations and Actions

Internal: The scrubber systems used to comply with air pollution regulations may discharge contaminated water. The proposed requirements of the New Source Performance Standards under § 111 of the Clean Air Act will increase the number of facilities with scrubber systems in the future. Section 316(b) of the Clean Water Act authorizes the Agency to require the best technology available in the location, design, construction, and capacity of intake structures for cooling water, to minimize adverse environmental impact.

Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the economic and environmental factors associated with various wastewater treatment technologies.

External: The recent emphasis on converting oil-fired power plants to other fuel types and the problems associated with nuclear waste disposal will affect the distribution of generating capacity by fuel types in the industry and, therefore, the amount of pollutants that would be discharged and controlled.

Active Government Collaboration

The Nuclear Regulatory Commission, the Department of Interior, and the Department of Energy have provided assistance by supplying the Agency with information and/or reviewing materials.

Timetable

NPRM—July 1980
Final Rule—March 1981
Regulatory Analysis—July 1980

Available Documents

The Final Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Steam Electric Power Generating Point Source Category, EPA, October, 1974, National Technical Information Service (NTIS) Number PB–240853/P5

Supplement for Pretreatment to the Development Document for the Steam Electric Power Generating Point Source Category, EPA, April 1977, EPA 440/1–77/084

Technical Report for the Revised Effluent Limitations Guidelines for the Steam Electric Power Generating Point Source Category, EPA, September 1978

Copies of the above reports can be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 or the EPA contact designated below.

Agency Contact

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Energy and Mining Branch
Effluent Guidelines Division (WH–552)
Environmental Protection Agency
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CHAPTER 3—FINANCING AND BANKING

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

Coinsurance for Private Mortgage Lenders (New Construction) (24 CFR Part 251)

Legal Authority

National Housing Act, Section 244, 12 U.S.C. § 1715z(9).

Department of Housing and Urban Development Act, § 7(d), 42 U.S.C. § 3535(d).

Reason for Including This Entry

Increased lender participation in the Federal Housing Administration (FHA) multifamily insurance programs of § 221 of the National Housing Act is important, because § 221 provides the main mortgage insurance vehicle for § 8—assisted lower income housing developed with FHA-insured mortgage financing.

Statement of Problem

Most of the nation's depository financial institutions are reluctant to use FHA mortgage insurance because they feel that a lengthy processing time is required for FHA underwriting analysis. Coinsurance, in which the insured lender bears a share of any loss caused by mortgage default by the borrower, can solve this problem, because it enables HUD to delegate processing to coinsured lenders. They can be trusted to perform underwriting analysis carefully because they bear a risk of loss upon default.

Section 8 new construction or substantial rehabilitation, which is not financed with tax-exempt bonds or with conventional uninsured mortgages, is generally financed under § 221(d)(3) or 221(d)(4) programs for, respectively, nonprofit or profit-motivated mortgagors. The latter is currently the most active FHA-multifamily program.

Alternatives Under Consideration

HUD considered two alternatives which it subsequently rejected:

(1) HUD might delegate processing to approved mortgagees that originate mortgage loans with full FHA insurance. This could, however, impose an unacceptable risk on the FHA Insurance Fund, because HUD would then be obligated to pay 100 percent of any loss on these loans (instead of 85 percent under coinsurance) in which the lender and not HUD performed underwriting analysis.

(2) HUD might permit mortgage bankers to originate coinsured § 221 mortgages. To limit HUD's risk exposure, eligible coinsurance originators could be limited to supervised depository lenders, because they have the assets and net worth to absorb a share of coinsurance losses, and they are supervised by Federal or State bank examiners.

Summary of Benefits

Sectors Affected: Savings and loan associations, commercial banks, and savings banks; private rental housing developers; residential building construction; occupants of low- and moderate-income housing projects; HUD; and the general public.

The benefits of this proposal would be:

(1) Faster processing of FHA § 221 mortgage insurance approvals.

(2) Reduced HUD insurance risk exposure. (HUD takes 85 percent of loss under coinsurance, instead of full 100 percent).

(3) An increased source of supply of private mortgage financing for § 221 housing, including § 8—assisted lower income housing.

No additional HUD staff would be required to implement this program.

Summary of Costs

Sectors affected: Savings and loan associations, commercial banks, and savings banks.

This proposal could cause increased risk exposure for lenders because for those mortgages which terminate in default, the lender would assume 15 percent of the loss (basically, unpaid mortgage balance less (a) the amount realized upon resale of the housing project; (b) the lender's share of all FHA mortgage insurance premiums collected from the mortgagor; and (c) the amount of application and insurance commitment fees normally collected from lenders, because these fees would no longer be charged as the lender would be performing processing with its own staff specialists in property appraisal, mortgage credit analysis, and construction inspection).

Related Regulations and Actions

Internal: HUD already has in operation FHA coinsurance programs for single-family housing, 24 CFR Part 204; and State Housing Finance Agencies multifamily housing, 24 CFR Part 250; and will soon implement a program of FHA § 223(f) coinsurance under 24 CFR Part 255.

External: Unknown.

Active Government Collaboration

The Federal Home Loan Bank Board has provided informal advice and comments in the drafting of this proposed rule.

Timetable

NPRM—August 15, 1980
Draft Regulatory Analysis—available with NPRM

Available Documents

None

Agency Contact

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TREASURY DEPARTMENT

Comptroller of the Currency

Description of Office Procedures, Public Information (12 CFR 4)*; Supplemental Application Procedures (12 CFR 5)*; Employee Stock Option and Stock Purchase Plans (12 CFR 13)*; Changes in Capital Structure (12 CFR 14)*; Change in Bank Control (12 CFR 15)*; Policy Statements (41 FR 47964)*

Legal Authority

Depository Institutions Deregulation and Monetary Control Act of 1980 P.L. 96-221, 94 Stat. 132.

Reason for Including This Entry

These regulations will affect the supervision and regulation of the national banking system and the delivery of competitive financial services to the public.

Statement of Problem

The authority of the Office of the Comptroller of the Currency (OCC) over entry into the national banking system and over the structural configuration and corporate activities of national banks has significant impact on the supervision and regulation of the national banking system and the delivery of competitive financial services to the public. OCC has received comments from applicants and other members of the public that current OCC methods of handling and deciding applications could be revised in a variety of ways. OCC is reassessing its current published policies, the need for additional policies, and existing regulations, seeking appropriate improvements in OCC's decision criteria and reductions in inappropriate burdens on applicants.

There are approximately 4,500 national banks located throughout the United States. Each may file various applications with OCC at any time. In 1979, for example, OCC received approximately 90 charter applications, 1,000 branch applications, 90 merger applications, and hundreds of applications for changes in capital structure, relocations, operating subsidiaries, title changes, and other matters.

Two considerations underlie this project. First, OCC believes that its regulations and policies governing how applications are decided should be periodically reviewed with input from national banks and other members of the public. Second, it is OCC's belief that the application process should not create unnecessary delays and costs. Application forms and processing procedures should not require the submission or review of unnecessary information while failing to elicit information vital to an appropriate decision.

Alternatives Under Consideration

Although proposed changes will be issued for comment on a subject-by-subject basis (i.e. charters, branches, mergers, etc.), the major alternatives common to each involve the choice between greater or lesser levels of government intervention in the business judgments of national banks. OCC's intent is to eliminate unnecessary interference in the business decisions of national banks. For example, OCC will consider whether national banks in particularly sound condition desiring to branch or raise capital should be permitted to do so with lesser filing requirements and lesser review procedures than currently in effect.

Summary of Benefits

Sectors Affected: National banking industry; customers and shareholders of national banks; the general public; and OCC.

The benefits of greater government intervention could include assuring that bank activities serve the public interest and that poor bank decisions are not implemented to the detriment of the bank, its customers, shareholders, and community. The benefits of lesser government intervention could include enhanced competition, efficiency, and financial services delivery. In addition, OCC's and applicants' direct and indirect costs could be reduced.

Summary of Costs

Sectors Affected: National banking industry; customers and shareholders of national banks; and the general public.

The costs of greater government intervention could include decreased competition, excessive costs and delays, and increased risk that judgments made by government officials will be inconsistent with sound business decisions made in light of market realities.

The costs of lesser government intervention could include implementation of poor business decisions by individual banks which could increase costs (which would be passed on to customers and shareholders), or increase the number of individual banks exiting from the banking system through mergers or failures.

Related Regulations and Actions

Internal: None

External: Each of the 50 States has rules governing applications for State-chartered banks. Regulations of the Board of Governors of the Federal Reserve System are included in 12 CFR 262, 263, and 265. Federal Deposit Insurance Corporation regulations are included in 12 CFR 303, 304, 306, and 308.

Active Government Collaboration

Proposals issued for comment will be sent to the banking authorities for each of the 50 States and to the Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation.

Timetable

Public Comment Period—May 19 to July 18, 1980
Comments should be sent directly to the AGENCY CONTACT listed below.
Final Rule—September, 1980
Final Rule Effective—October, 1980
Regulatory Analysis—OCC will not prepare

Available Documents

Policy Statements: 41 FR 47964, November 1, 1976.
Semiannual Agenda: 45 FR 9743, February 13, 1980.
NPRM: May 19, 1980 (FR cite unavailable at time of this publication)
These documents are available from the Agency Contact listed below.

Agency Contact

Alan Herlands, Director
Regulations Analysis Division
Office of the Comptroller of the Currency
490 L'Enfant Plaza East, S.W.
Washington, D.C. 20219
(202) 447-1177
Technical assistance available in consumer protection, community and civil rights regulations as they relate to consumer involvement with national banks from:
Jo Ann S. Barefoot, Deputy Comptroller for Customer and Community Programs
Comptroller of the Currency
Washington, D.C. 22019
(202) 447-0934

TREAS-OCC

Lending Limits (12 CFR 7.1100)*; Unimpaired Surplus Fund (12 CFR 7.7545*)

Legal Authority

Depository Institutions Deregulation and Monetary Control Act of 1980, P.L. 96-221, 94 Stat. 132.

Reason for Including This Entry

This proposal will affect the activities of all national banks, State and local governments, and the general public.

Statement of Problem

The Office of the Comptroller of the Currency (OCC) charters, examines, regulates and supervises national (e.g., federally-chartered) banks. Maintaining adequate capital in national banks is an important part of OCC's goal to assure a safe and sound national banking system. OCC is considering changes to its policy and procedures for assessing the adequacy of capital of individual banks. In connection with that effort, OCC is reviewing interpretive rules which define capital.

Numerous activities of national banks are also limited by statute based on the amount of bank capital. Immediate changes in the interpretive rulings which define capital under those statutes would have an immediate impact on all national banks in their determinations of the magnitude of permissible activities. These changes would thus also have an impact on borrowers from national banks, State and local governments which issue securities, national bank shareholders, and other members of the public.

Capital planning is an important element in the management of every national bank. Assuring adequate capital in national banks is an important element of bank supervision, promoting a safe and sound national banking system. Although maintaining adequate capital in the national banking system is an historic, ongoing goal of the OCC, several factors in the current financial markets have increased OCC's current attention to the subject. These factors include, among others, the effects on bank capital of inflation-generated growth in bank assets and liabilities.

In order to develop and implement a revised, rational capital adequacy policy, an appropriate definition of capital is necessary. The present OCC definition includes (for most, but not all, purposes) all shareholders' equity accounts, subordinated notes and debentures, (long-term debt securities whose holders' rights are subordinate to the rights of depositors and other creditors) and 50 percent of the reserve for possible loan losses (a contra-asset account reflecting expected losses in the loan portfolio). This definition is inconsistent with definitions used by the Board of Governors of the Federal Reserve System, and by the Federal Deposit Insurance Corporation with respect to State chartered banks. OCC is working with these agencies to develop a consistent definition of capital and a more uniform capital adequacy policy. In light of recent economic conditions and uncertainty as to the future, OCC believes that a revised, consistent, rational capital adequacy policy (based on an appropriate definition of capital) is necessary at this time to supervise and monitor national banks properly and to assist banks in their analyses and planning.

Various statutes limit the extent of a national bank's activities based on the amount of its capital. These activities include, among others, holding of investment securities, establishing branches, aggregate borrowings, lending to a single entity or group of related entities, real estate lending, and lending to affiliated entities. In some cases the limitation is on the aggregate extent of activity; in others, the limitation is on the magnitude of the activity as it relates to single bank customers. Adoption of OCC's rulemaking proposals under consideration to change the definitions of capital would affect all of these activities.

Alternatives Under Consideration

OCC is considering alternatives to the definition of capital and alternative implementation programs for any such changes. One alternative is, of course, to make no changes. A disadvantage of this approach is that it would inhibit the development of well-conceived capital adequacy policies. The advantage of taking no action is that it would generate no costs to implement changes.

OCC is considering deleting the reserve for possible loan losses from the definition of capital. This contra-asset account reflects the difference between the face amount of all loans outstanding on the books of the bank and the amount it anticipates will be repaid. As such, this account does not reflect any of the characteristics generally attributed to capital. The advantage of deleting the reserve for possible loan losses is that the revised definition of capital would then be more reflective of what is considered by most financial experts as capital. The disadvantage of deleting this account from the definition of capital is that it would further limit the maximum size of certain loans and investments by national banks.

OCC is also considering deleting some or all subordinated notes and debentures from the definition of capital. Although these debt instruments reflect some of the characteristics of capital when they have distant maturities, they must be repaid, interest payments must be made, and they become less like capital instruments as maturity dates near. OCC will consider whether all or only short-term subordinated debt should be excluded. The advantage of eliminating all subordinated debt from capital is that this change would focus each bank's attention on equity, a shortfall which cannot be overcome by long-term debt. One disadvantage of total elimination is that the capital-like characteristics of long-term subordinated debt would not be included in capital determinations. In addition, totally deleting these instruments would further curtail the various bank activities presently subject to limitations based on bank capital.

OCC is also considering eliminating only subordinated notes and debentures with short maturities from the definition of capital. The advantage of this approach is that it would permit the capital-like characteristics of long-term subordinated debt to be included in capital. The disadvantages include reducing banks' focus on equity and curtailing various bank activities.

Alternative implementation options being considered for eliminating the reserve for possible loan losses include (a) establishing a single future date when these amounts will be excluded and (b) establishing a timetable for reducing the percentage of the reserve which may be included in stages (i.e., a phase-out over time). The implementation alternatives for eliminating subordinated notes and debentures include the same alternatives as well as an alternative which would permit existing long-term debt to be included for its life, but which would exclude new debt regardless of its maturity. OCC will solicit comments specifically on appropriate implementation programs. The combination of anticipated growth in other components of capital over time and delayed effective dates of the changes under consideration should significantly reduce the potential for disruptive effects of the proposals.

Summary of Benefits

Sectors Affected: National banking industry; customers of national banks; the general public; and OCC.

Adequately capitalized banks permit a broad range of banking services to be competitively offered to the public. Improvements in capital adequacy analysis will have nonquantifiable benefits for national banks and their customers by improving the ability of bankers and regulators to assess capital adequacy. Related OCC decisions to be made, such as the need for OCC review of bank plans to issue debt and equity, may reduce burdens on applicants and the OCC, and are expected to result in

expanded abilities of national banks to take advantage of market place opportunities to issue appropriate securities.

Summary of Costs

Sectors Affected: National banking industry, particularly in rural areas; and customers of national banks, including businesses and State and local governments.

Reductions in capital, as defined, however, will further limit a variety of national bank activities. For example, current statutes generally permit a national bank to lend to an individual entity no more than ten percent of its defined capital. Similarly, current statutes generally permit a national bank to invest in a revenue obligation issued by a State or local government in an amount no greater than ten percent of its defined capital. Reducing the amount of defined capital will decrease the maximum lending and investment limits at every national bank.

Based on information otherwise filed by national banks, OCC has performed a preliminary study indicating that 999 of the country's approximately 4,500 national banks have subordinated debt outstanding in an aggregate amount approximating $3.3 billion; that many of these banks have equity capital to asset ratios below the average level for banks of similar size; and that the average decrease in maximum lending limits for these banks, if subordinated debt were excluded from the definition of capital, would be 12.8 percent. Similarly, the average reduction in maximum lending limits for all national banks, should the reserve for possible loan losses be excluded from the definition of capital, would be approximately 4.5 percent.

This analysis by itself does not, however, indicate whether the changed limits would affect actual bank performance. For example, the preliminary analysis might indicate that a specific national bank's lending limit to a single borrower would be decreased from $100,000 to $90,000 if the proposals were adopted without a delayed effective date. If that bank has not made and does not intend to make loans to a single borrower in excess of $70,000, the changes would have little impact. Conversely, if that bank had been making loans at its limit and its present and future customers were likely to need loans in amounts approaching the bank's lending limit, the effects of the changes could be more dramatic. However, the anticipated growth in other components of capital between the date of adoption of the changes and the delayed effective dates expected to be proposed would significantly decrease the likelihood of disruptive adverse consequences. Accordingly, OCC intends to issue an NPRM for comment which specifically requests input on the extent of adverse effects the changes under consideration would have. In light of (a) the generally smaller size of banks located in rural areas and (b) the lesser number of alternative lenders in rural areas, these changes could have greater adverse consequences for banks, businesses, and local governments in rural areas if the local banks have significant amounts of subordinated debt outstanding.

Related Regulations and Actions

Internal: Section 303 of the Comptroller's Handbook for National Bank Examiners describes the present capital adequacy analysis.

External: Each of the 50 States may have adopted capital definitions and limitations based on capital applicable to state chartered banks.

Active Government Collaboration

OCC has been working with the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation to develop a uniform capital adequacy policy and definition of capital. Meetings among staffs are held frequently.

Timetable

NPRM—June 2, 1980

Public comment periods—June 2 to August 1, 1980. Comments should be directed to the Agency Contact listed below.

Final Rule Effective—December 31, 1980

Regulatory Analysis—OCC will not prepare

Available Documents

Semiannual Agenda, 45 CFR 9743, February 13, 1980

Comptroller's Handbook for National Examiners, § 3.

These documents are available from the Agency Contact listed below.

Agency Contact

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NATIONAL CREDIT UNION ADMINISTRATION

Deregulation of Loan Interest Rate Classification (12 CFR 701.21-1(d)*)

Legal Authority

Federal Credit Union Act 12 U.S.C. §§ 1757, 1766, and 1789

Reason for Including This Entry

The National Credit Union Administration (NCUA) believes this rulemaking is important because it is part of our program to deregulate Federal credit union operations. This rulemaking will give Federal credit unions greater flexibility in managing their lending activities and may also increase competition.

Statement of Problem

NCUA currently requires Federal credit unions to have a loan classification policy. We limit the distinctions between loans to three categories: the type of loan plan, the purpose of the loan, and the type or value of security in relation to the amount of the loan. Federal credit unions must apply the same rate of interest uniformly to all borrowers within a given classification.

The following problems arise as a result of this rule. Federal credit unions that grant real estate loans to members in different areas of the country cannot vary the interest rate in accordance with the prevailing rates in each locality. This may make interest rates uncompetitively high in one market and unnecessarily low in another (which, additionally, because of mortgage market practices, may prevent a Federal credit union from selling the loans and generating additional funds to make new loans). For other types of loans, the rule would prevent credit unions from adopting the market practice of varying the interest rate on the basis of the amount of the loan balance outstanding. This practice is widely used by other financial institutions offering credit cards at 18 percent on the first $500 and 15 percent on amounts over $500. Our prohibition also prevents credit union management from exercising the prudent portfolio management technique of matching loan maturities and interest rates to corresponding share certificate dividend rates. The rule also prevents Federal credit unions from passing on savings, in the form of lower interest rates, that result from borrowers using more efficient methods of repayment, such as payroll deductions.

As a result of these problems, NCUA is proposing to revise its present requirement for loan classifications as part of this Agency's review of existing regulations pursuant to NCUA's Final Report, "In Response to E.O. 12044: Improving Government Regulations" (44 FR 17954, March 10, 1979). The review is also in response to requests from Federal credit unions for exceptions to the present limitations.

If the Agency does not take any action, the present restrictions will continue. Federal credit unions will be less able to respond to those problems described above, in a manner that constitutes sound and legitimate business practice. This, in turn, may adversely affect the financial condition of some credit unions, and may make fewer loans available to consumers.

Alternatives Under Consideration

NCUA is considering several alternatives:

(A) Amend the regulation to alleviate the specific problems noted. This would solve identified problems by creating additional permissible classifications of loans, such as loans repaid by payroll deductions, real estate loans in different sections of the country, or "energy saver" home improvement loans. The advantage of this method is that it permits NCUA to evaluate a particular type of classification to determine whether a significant problem exists, whether the classification will alleviate the problem, and whether the classification will serve the permissible and legitimate interests of credit unions and their consumer members. The disadvantages of this approach are the administrative burden of reviewing each problem as it is identified, and the delay in responding to the problems that are inherent in the rulemaking process, such as the required 60-day public comment period.

(B) Amend the regulation to eliminate the specification of mandatory classes of loans and instead issue guidelines describing appropriate classes. We proposed this alternative in an NPRM (45 FR 26073, April 17, 1980). This alternative would solve the problems by requiring Federal credit unions to establish loan classifications based upon factors which constitute sound and legitimate business practices (those which are based on the characteristic of the loan and not on the characteristic of the borrower). Examples of such classifications are included in the proposed rule as guidelines only, and not as mandatory categories. Included in the examples are those "additional classifications" mentioned in alternative (A) above. (The preamble to the proposed rule invites commentors to submit examples of possible categories.) This approach has the following advantages. It will permit a credit union to have flexibility in establishing lending and interest rate policies, while still requiring that these policies have a sound and legitimate business interest. It permits credit unions to create new categories in response to legitimate problems without requiring prior approval by NCUA. Finally, by continuing to require written policies that are based on the characteristic of the loan and not on the characteristic of the borrower, this approach will help to prevent arbitrary or improper policies. For example, it will prevent a Federal credit union from establishing more favorable loan rates for direct employees of the credit union's sponsor company than for other members of the credit union who are equally credit worthy. The disadvantages of this approach arise from the lack of certainty that a classification (other than those listed in the examples) constitutes a sound and legitimate business interest and is permissible under the rule. Loans may be granted on some basis other than sound and legitimate business practices at different interest rates before NCUA can review and prohibit the classification. Also, this alternative may result in litigation over varying interpretations of what constitutes sound and legitimate practices.

(C) Delete the loan classification requirement. This alternative would solve the problems by permitting Federal credit unions to establish and vary interest rates on any basis (so long as it does not violate the Equal Credit Opportunity Act, the Fair Housing Act, or other applicable laws and regulations). The advantage of this approach is that it gives Federal credit unions relatively complete control over their lending and interest rate policies. The disadvantage is that it might permit Federal credit unions to make arbitrary determinations not related to sound business practices, and might result in interest rate policies based on the characteristics of the borrower (other than those bases prohibited by other laws).

Summary of Benefits

Sectors Affected: Federal credit unions and their borrowers and shareholders.

The primary direct effect of the proposed amendment is the increased flexibility that Federal credit unions will have to tailor interest rate and lending policies to meet sound and legitimate business needs. To the extent this will result in a more rational pricing of loans, this will benefit consumers in at least two ways. First, it may lower interest rates through increased competition. For example, interest rates will be permitted to vary from one geographic region to another so that a credit union will be able to meet competitive local rates. Also, interest rates will be permitted to vary according to the method of repayment, so that savings from more efficient methods may be passed on to borrowers in the form of lower interest rates or to savers (shareholders) in the form of higher dividends. Federal credit unions will benefit by being able to address problems quickly without waiting for prior approval by NCUA. Second, this could result in a lower cost of funds to Federal credit unions. Because of the cooperative nature of Federal credit unions, any savings in operational costs can be passed on to members in the form of lower loan rates or higher dividends.

Summary of Costs

Sectors Affected: Federal credit union members.

By allowing Federal credit unions greater flexibility to vary interest rates, the proposed rule may result in higher interest rates on certain types of loans. Any adverse effects will be minimized, however, by the requirement that loan categories be based on factors that relate to sound business practices. The possibility that a Federal credit union will establish an improper loan classification based upon the characteristics of the borrowers may nonetheless increase because new classifications will not require prior approval by NCUA. Costs for both Federal credit unions establishing new categories and for NCUA may increase if litigation becomes necessary to determine whether the classifications are proper.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

Public Comment Period—April 17, 1980 to June 16, 1980. Comments may be sent to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W. Washington, D.C. 20456.

Final Rule—approximately 30 to 60 days after the close of the Public Comment Period.

Regulatory Analysis—none

Available Documents

NPRM—45 FR 26073, April 17, 1980

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Preliminary review memorandum, setting forth a statement of the problem, the need for the amendments, and alternatives to be explored.

All documents available for review in the Office of General Counsel, National Credit Union Administration, 1776 G St., N.W., Washington, D. C. 20456.

Agency Contact

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COMMODITY FUTURES TRADING COMMISSION

Proposed Rules Concerning Foreign Brokers And Traders (17 CFR 21.03)

Legal Authority

Commodity Exchange Act, §§ 4g, 4i, 5, 5a and 8a, 7 U.S.C. §§ 6g, 6i, 7, 7a and 12a. (1976).

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) thinks this rule is important because it will facilitate the Commission's ability to obtain timely information concerning foreign traders. We expect that, if adopted, the rule could substantially improve our market surveillance capability.

Statement of Problem

The CFTC is considering proposed rules which would make persons located in the United States who are registered with the Commission primarily responsible for ensuring the availability of information needed by the Commission about the foreign brokers and traders on their accounts who participate in futures trading. At present, the Commission receives less timely, less complete, and less verifiable information from some foreign brokers and traders than it generally receives from their domestic counterparts, about the size of accounts and the identity of the persons for whose benefit the accounts were established. The Commission has encountered difficulties and delays in trying to identify and communicate with these foreign entities. There is apparent widespread noncompliance by foreign brokers and traders with CFTC reporting requirements and it is difficult for the Commission to take effective enforcement action against them. As the markets regulated by the Commission have become increasingly international in character, with foreign participation now accounting for 25 percent or more of the activity in some commodities, the need for us to address these problems has become more important. If the agency does not take any action, its market surveillance program will be hampered, and it will be difficult for the Commission to detect and take action to prevent market disruptions.

Alternatives Under Consideration

The proposed rules would require domestic futures commission merchants who are registered with the Commission and who carry accounts for foreign persons to obtain a list of the persons for whose benefit the accounts were established. CFTC will request public comments on whether that information should be maintained routinely, or acquired only when it is specifically requested by the Commission. Routine maintenance of the information might be more effective for our market surveillance program but acquisition of the information only as needed would be less burdensome for futures commission merchants and foreign brokers and traders.

Summary of Benefits

Sectors Affected: All sectors of the U.S. commodity futures markets, including farmers and other producers, processors, manufacturers, commercial users and consumers of commodities; persons speculating in the futures markets; and CFTC.

If the CFTC adopts the proposed rule, the information available to the agency will be increased and foreign persons who refuse to provide requested information will have their futures contract positions eliminated. The availability of this information will promote fair dealing and integrity in the markets and improve the CFTC's ability to detect and take action to prevent market disruptions. All market users will benefit from more honest markets. The CFTC will benefit from being able to shift the burden from government to industry for obtaining this information.

Summary of Costs

Sectors Affected: Registered domestic futures commission merchants; and foreign brokers and traders who participate through domestic agents in the U.S. futures markets.

The proposed regulation could impose some administrative costs on registered futures commission merchants who would be responsible for obtaining required information. Additionally, if futures commission merchants are required to liquidate customers' accounts to comply with the rule, they may experience some loss of foreign business.

Related Regulations and Actions

Internal: On April 1, 1980, CFTC voted to adopt final rules which would require foreign brokers and traders to have an agent for service or delivery of Commission communications. ("Designation of a Futures Commission Merchant to be the Agent of Foreign Brokers, Customers of Foreign Brokers and Foreign Traders", 17 CFR 15.05).

External: None.

Active Government Collaboration

None

Timetable

NPRM—May 1980
Public Comment Period—45 days following publication of NPRM
Final Rule—Fall 1980
Regulatory Analysis—CFTC, an independent regulatory agency, does not prepare regulatory analyses, as defined under E.O. 12044.

Available Documents

NPRM available in **Federal Register** after May 1980.

"Rules Concerning Foreign Brokers and Traders", Memorandum of the Office of the General Counsel, April 1, 1980. Available by mail at no cost from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Room 806, Washington, D.C. 20581.

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CFTC

Review of Guideline No. 1—Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation

Legal Authority

Commodity Exchange Act, §§ 5, 5a, 5b, 6 and 8a, 7 U.S.C. §§ 7, 7a, 7b, 8 and 12.

Reason for Including This Entry

The Commodity Futures Trading Commission's (CFTC) Guideline No. 1 sets forth the criteria that must be met by a board of trade to become and to continue to be a market for a particular commodity futures contract. Changes in these criteria could have a significant

effect on the futures contracts traded on boards of trade.

Statement of Problem

The Commodity Exchange Act requires a board of trade (commodity exchange) seeking to become a market for a particular commodity futures contract to show that trading in the contract would not be contrary to the public interest. Guideline No. 1 sets forth the criteria to be met by a contract market in making such a showing. It indicates that the public interest test includes an "economic purpose" test and "to meet the 'economic purpose' test a board of trade is expected to establish that something more than occasional use of the contract for hedging (a method of protecting against price fluctuations) or price basing exists, or can reasonably be expected to exist." It also requires a demonstration, based on the individual terms and conditions of the contract, that the contract is commercially viable. Further, the guideline requires a showing that transactions for future delivery in the commodity will not be contrary to the public interest.

The public interest, hedging and price-basing standards, as presently contained in Guideline No. 1 are very general. As a result, it may be difficult for CFTC to ascertain whether a board of trade has met or is continuing to meet its statutory obligation. Further, the existence of a particular futures market which does not meet a public interest standard could have an adverse impact on markets for the underlying and related commodities, to the detriment of farmers and other producers, processors, fabricators, commercial users, and consumers of the commodity, as well as members of the public who buy and sell futures contracts. Trading in a contract for which an adequate deliverable supply does not exist, for example, could result in price distortions. Similarly, lack of adequate customer protection could injure public customers. The recent enormous growth of the futures markets and the development of futures contracts in many new commodities make this issue particularly important at the present time. If the agency does not act, it will continue to be difficult to assess what showing is required by a board of trade seeking designation as a contract market and what standards should be applied for continuation of such designation.

Alternatives Under Consideration

The Commission's staff has suggested consideration of several alternatives. Because chronically inactive futures markets may no longer serve any economic purpose, the staff has suggested developing standards concerning the level and duration of inactivity against which all previously designated contracts would be judged. This would have the advantage of eliminating potential misuse of inactive futures contracts, with few apparent disadvantages, because such contracts appear to provide few, if any, economic benefits.

For futures contracts which have not yet been approved for trading (designated), the staff has made an alternative suggestion: the Guideline might be revised to encourage a board of trade seeking designation for a particular commodity to agree voluntarily to vacate the designation if the contract were not actively traded. This would accomplish the ends described above, without the need for government action.

Another approach suggested by the staff is that the Commission, in assessing the potential economic purpose for a new contract, inquire into the economic purpose served by existing similar contracts and what incremental benefits are likely to result from trading in an additional contract. Adoption of this line of inquiry would enable the Commission to consider better whether a particular duplicative contract is needed and whether it would be likely to have any negative effects on the underlying commodities markets. This approach could have anticompetitive implications, however.

The Commission staff has also suggested that in evaluating whether a board of trade meets the public interest standard for designation of a new contract, the Commission should consider how well the board of trade is discharging its obligations with respect to existing contracts. The staff has also suggested the development of specific standards for judging whether a futures contract is contrary to the public interest.

Summary of Benefits

Sectors Affected: All sectors of commodity futures markets, including farmers and other producers, processors, manufacturers, commercial users, and consumers of commodities; persons who speculate in the futures markets; boards of trade; and CFTC.

Improvement of Guideline No. 1 would help assure the proper functioning of the futures and cash markets by reducing the potential for market abuses such as manipulations, corners, and squeezes, decreasing the likelihood of adverse effects on other sectors of the economy which would result from artificial commodities prices, and enhancing the protections provided to customers by boards of trade. It also could make the Commission contract review process more efficient by clarifying the standards to be applied. A reduction of the uncertainty about what the Commission considers an adequate showing that a board of trade meets the public interest should also reduce the effort and resources which boards of trade expend in new contract preparation. In addition, to the extent that the submission of more detailed, relevant information facilitates agency action, the Commission could realize some savings.

Summary of Costs

Sectors Affected: Boards of trade.

Boards of trade could incur some additional administrative costs if their submissions to the CFTC are required to be more detailed.

Related Regulations and Actions

Internal: Guideline on Economic and Public Interest Requirements for Contract Market Designations, CCH Commodity Futures Law Reporter § 6145 (May 13, 1975).

External: None.

Active Government Collaboration

None

Timetable

Commission discussion of proposed FR notice—fall 1980

Regulatory Analysis—CFTC, an independent regulatory agency, does not prepare regulatory analyses as defined under E.O. 12044.

Available Documents

"Possible Revisions to Commission Guideline No. 1," Staff discussion paper, April 22, 1980, available by mail at no charge from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Room 806, Washington, D.C. 20581, after April 28, 1980.

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FEDERAL HOME LOAN BANK BOARD

Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980. (12 CFR Subchapters A, B, C, and D)

Legal Authority

The Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. Law No. 96–221, 94 Stat. 161.

Reason for Including This Entry

The Depository Institutions Deregulation and Monetary Control Act of 1980 signed by President Carter on March 31, 1980, will result in very substantial changes to the savings and loan industry. To implement this legislation, over the coming months, the Board will be considering numerous regulatory changes, including changes that provide Federal savings and loan associations a number of new or expanded investment authorities.

Statement of Problem

While the primary function of the industry—to provide home financing—will remain unchanged, the Act's provisions will increase the ability of savings and loans to compete for deposits by allowing expansion into areas traditionally reserved to commercial banks.

The following list indicates provisions of the Act that affect Federal Savings and Loan Insurance Corporation (FSLIC)-insured institutions and specifies the Board's target date for action on each regulatory proposal. Where the Board has already issued a proposal for public comment, or implemented a final regulation, the date of the Board action and the **Federal Register** cite are provided.

(1) *Consumer Safeguards on Mobile Home Lending*—The Act requires implementation of consumer regulations under the usury preemption section within 120 days of the effective date of the Act, by July 30, 1980. The Board adopted a proposal on May 5, 1980, which solicits public comment until June 5. The Board expects to act on final regulations by the end of June.

(2) *Mutual Capital Certificates*—The Act permits Federal associations to offer mutual capital certificates and permits their inclusion in reserve accounts. The Board expects to adopt a regulatory proposal in early June.

(3) *State Stock to Federal Stock Charter*—The Act allows associations to transfer from state stock to Federal stock form. The Board expects to adopt a draft regulatory proposal in early June.

(4) *Residential Real Estate Authority*—The Act revises Federal associations' investment authority pursuant to § 5(c) of the Home Owners' Loan Act. The Board expects to adopt a regulatory proposal in June.

(5) *Regulatory Simplification*—The Act requires the agency to determine the need for and to carefully analyze regulations prior to adoption. The Board expects to adopt a proposed regulation in June.

(6) *Federal Insurance Reserve (FIR)*—The Act permits the statutory reserve requirement to be established by the Board between 3 and 6 percent. Any immediate change to the reserve requirement will be accomplished by regulatory action, most likely in July.

(7) *Consumer Lending Power*—The Act establishes for Federal associations a new 20 percent of assets basket for consumer loans, commercial paper, and corporate debt securities. The Board expects to adopt a regulatory proposal in July.

(8) *Credit Cards*—The Act permits Federal associations to engage in credit card operations. The Board expects to adopt a regulatory proposal in July.

(9) *Increased Investment in Service Corporations*—The Act allows Federal associations to invest up to 3 percent of assets in service corporations provided that one-half of any investment in excess of 1 percent is allocated to community development purposes. The Board proposal adopted on April 3 will be finalized after review of public comments. The comment period closed May 9, 1980. The Board expects to adopt implementing regulations in July.

(10) *Money Market Fund Investments*—The Act permits Federal associations to invest in money market funds and permits members to use money market funds as legal investments for liquidity. The Board expects to adopt a regulatory proposal in August.

(11) *Federal Mutual Savings Banks' Leeway Authority*—The Act permits Federal mutual savings banks to invest up to 5 percent of assets in a new leeway authority designed to permit commercial lending. The Board expects to adopt a regulatory proposal in August.

(12) *Reserves Against S&L Deposits*—The Act establishes reserve requirements (sterile reserves held by the Federal Reserve Board) on transaction account deposits and short-term, nonpersonal time deposits. A regulation amending the liquidity provisions to include reserves held by the Federal Reserve is expected in August.

(13) *FHLBank Processing NOW Accounts*—The Act gives the Federal Home Loan Banks authority to process and clear NOW (negotiable orders of withdrawal) and other drafts. The Board expects to adopt a regulatory proposal in September.

(14) *NOW Account Authority*—Effective December 31, 1980, all financial institutions are permitted to offer NOW accounts. The Board expects to adopt a regulatory proposal in September.

(15) *Overdraft Authority for Federals on NOW Accounts*—Overdraft authority will be implemented in connection with regulations authorizing nationwide NOW accounts, in September.

(16) *Trust Powers*—The Act permits Federal associations to engage in trust operations. The Board expects to adopt a regulatory proposal in early fall.

Alternatives Under Consideration

Prior to implementation of final regulations, the Board plans to issue, in each case, a regulatory proposal soliciting public comment regarding alternative approaches to each proposal. For example, the proposed rule regarding investments in service corporations (published at 45 FR 24178, April 9, 1980) requests comment on the types of investments that should qualify as community development investment activities under the Act's requirement that investments in service corporations be used in part for this purpose. The Board has also requested comment on the types and extent of consumer protections that should be required in mobile home finance contracts (45 FR 31122, May 5, 1980). Compliance with the final consumer protection regulations will, in part, determine whether a mobile home lender is exempted from State usury laws.

Because the Depository Deregulation Act was enacted only recently, there has not been sufficient time for the Board to settle many legal and policy issues prerequisite to the development of identifiable regulatory alternatives.

Summary of Benefits

Sectors Affected: The savings and loan industry, particularly associations with Federal charters; savings and loan depositors; and the 12 Federal Home Loan Banks.

Implementation of the increased authorities provided by the Depository Deregulation Act will provide savings and loans with the means to compete more effectively for deposits by offering an increased range of loan types and services to the public and by attracting new sources of capital investments.

Summary of Costs

Sectors Affected: The savings and loan industry, particularly associations with Federal charters; savings and loan depositors; and the 12 Federal Home Loan Banks.

Because regulatory alternatives have not yet been identified, no summary of costs is available.

Related Regulations and Actions

Internal: Statutory changes affect existing regulations included in 12 CFR Subchapters A, B, C, and D.

External: Other provisions of the Act will be implemented by, or in conjunction with, the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. Examples of such provisions are in the areas of reserves against transaction accounts, and clearing services to be provided by the Federal Reserve Banks and the Federal Home Loan Banks for NOW account drafts drawn on savings and loan deposits.

Active Government Collaboration

Under the Act, a six-member Depository Institutions Deregulation Committee has been established to promulgate regulations for setting rates on savings deposits. These members, which are the Secretary of the Treasury, the Comptroller of the Currency, and the Chairperson of the Federal Reserve, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration, also work together in implementing various other provisions of the Act.

Timetable

Consumer Safeguards on Mobile Home
Lending—Public Comment Period—Open until June 5, 1980
Final Rule—June 1980
Mutual Capital Certificates—NPRM—June 1980
State Stock to Federal Stock Charter—NPRM—June 1980
Residential Real Estate Authority—NPRM—June 1980
Regulatory Simplification—NPRM—June 1980
Federal Insurance Reserve (FIR)—Final Rule—July 1980
Consumer Lending Power—NPRM—July 1980
Credit Cards—NPRM—July 1980
Investments in Service Corporations—Final Rule—July 1980
Money Market Fund Investments—NPRM—August 1980
Mutual Savings Bank Leeway Authority—NPRM—August 1980
Reserves Against S&L Deposits—Final Rule—August 1980
Federal Home Loan Banks Processing NOW Accounts—NPRM—September 1980
NOW Account Authority—NPRM—September 1980
Overdrafts on NOW Accounts—Final Rule—September 1980
Trust Powers—NPRM—October 1980

Available Documents

The Board has proposed a rule regarding investments in service corporations (45 FR 24178, April 9, 1980). The public comment period closed May 9, 1980. The Board has issued final regulations under § 501 of the Act regarding preemption of State usury laws for mortgage loans (45 FR 24112, dated April 9, 1980) and increasing deposit insurance from $40,000 to $100,000 (45 FR 26024, April 17, 1980). The Board has also proposed consumer protections for mobile home loans (45 FR 31122, May 5, 1980) and will accept public comment until June 5, 1980. Copies of public comment letters on proposed rules are available for inspection at the Board; copies of transcripts of public meetings are available from the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

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SECURITIES AND EXCHANGE COMMISSION

Proposed Amendments to Annual Report Form; Integration of Securities Act Disclosure Systems. (17 CFR Parts 229, 231, 239, 240, 241, 249*)

Legal Authority

Securities Act of 1933, §§ 6, 7, 8, 10 and 19(a), 15 U.S.C. § 77a *et seq.*

Securities Exchange Act of 1934, §§ 12, 13, 15(d) and 23(a), 15 U.S.C. § 78a *et seq.* (1976 and Supp. I 1977).

Reason for Including This Entry

The Securities and Exchange Commission (SEC) believes that these rule and form amendments are important because they will significantly revise the format, and to some extent the content, of most reports and registration statements filed with the Commission under the federal securities acts by approximately 8,000 public companies.

Statement of Problem

All companies with publicly traded securities are required to register with the Securities and Exchange Commission, to file annual and other periodic reports, and to register additional securities which they may wish to sell to the public. The Securities and Exchange Commission is proposing to revise its annual reporting forms, promulgated under the Securities Exchange Act of 1934, and certain of its registration forms, promulgated under the Securities Act of 1933, to establish a single, integrated disclosure system which will permit most registered companies to comply simultaneously with the disclosure provisions of both acts.

At present, the Securities Act of 1933 and the Securities Exchange Act of 1934, each give rise to separate procedures. The Securities Act of 1933 requires that registered companies give detailed disclosure concerning their business and financial condition at the time that securities are offered for public sale. Under the Securities Exchange Act of 1934, companies whose shares are registered with the Commission or which have previously sold shares to the public under the Securities Act of 1933, must file periodic reports containing detailed disclosure of their affairs. Often major portions of the disclosure required in Securities Act registration statements and in Exchange Act reports overlap to a great degree, but because of differences in the timing of the filings the disclosure is not word for word the same.

In addition to filing registration statements and periodic reports with the Commission, many public companies prepare and deliver to shareholders informal annual reports. Portions of these annual reports are required by various State laws and by Commission rules. Again, the informal annual reports prepared by many public companies tend to contain information which duplicates some of the information contained in Securities Act registration statements and in Exchange Act reports. In the case of informal reports, however, the duplicated information tends to be delivered in a somewhat different format. This is often the case with company financial information. In informal annual reports, financial information usually is prepared in accordance with generally accepted accounting principles, while in registration statements and in Exchange Act reports the information is prepared

in accordance with Commission rules. Although in most cases the differences are not great, they are numerous.

The problem faced by the Commission is to eliminate much, if not all, of the duplicative reporting and to reduce thereby both the volume and the cost of the material which companies prepare. Concurrently, the Commission is seeking to maintain the quality of disclosures and to update disclosure obligations to eliminate outmoded or unnecessary requirements.

At least three significant factors suggest that the Commission should act at this time to combine or integrate disclosure under the Securities Act, the Exchange Act, and in informal shareholder reports. First, the report of the Commission's Advisory Committee on Corporate Disclosure delivered to the Commission in November 1977 examined the possibility of combined reporting and indicated a significant and urgent need. Second, a Commission examination of registration statements, Exchange Act reports, and informal shareholder reports indicates that over the years the number of significant content differences may have diminished, thereby making an integrated system more feasible. Finally, as the volume of disclosure requirements has increased over the years, the cost to registrants and the burden upon the Commission staff has correspondingly increased. An integrated system will reduce the volume of disclosure documents, thereby significantly easing both the costs and burdens to reporting companies.

If the Commission does not act now, unnecessary costs and burdens will be continued. Additionally, from the Commission's point of view, over the past ten years the Commission staff responsible for the review of filings has been gradually reduced while the volume of disclosure has increased. At present staffing levels, if the Commission did not eliminate the need to review essentially duplicative filings, the Commission staff would increasingly dilute its ability to effectively review the content and quality of filed documents.

Alternatives Under Consideration

(A) With respect to Exchange Act reports, information would be classified into two general categories relating to either an Exchange Act filing or to an informal shareholder report. Information included in the Exchange Act filing would not be duplicated in the shareholder report, but the Commission would permit, and in some cases require, cross references from the filing to the report. The content of public company registration filings, made under the Securities Act in connection with the sale of additional securities, would depend upon the availability of previously documented information in the marketplace or from other sources outside of the filing. Thus, the Commission would classify companies desiring to sell securities in three general categories. First, companies with widely traded securities could incorporate most disclosure by reference to Exchange Act filings and informal reports to shareholders. Second, companies with no record of financial difficulty and three years of adequate Exchange Act filings could incorporate some disclosure by reference to Exchange Act filings or to informal reports to shareholders, but the Commission would require the delivery of one or more of those filings or reports to prospective purchasers of securities. Finally, the Commission would require all other companies to prepare extensive registration statements which would involve some duplication of information previously filed in Exchange Act reports. The Commission staff believes the implementation of this alternative would result in both a more rational organization of information concerning public companies, and the development of informal reports to shareholders which could serve as the primary source of descriptive and financial information concerning those companies. Commission reports would supplement, but would not duplicate, the informal shareholder report. Although the Commission staff does not expect a reduction in the size or information content in the informal shareholder report, it would expect dramatic decreases in both size and content of formal Commission filings.

(B) This alternative would involve the combination of the informal shareholder report with the formal Exchange Act report in a manner similar to that described in the first alternative. Thus, information would be required in one report or the other, but not in both. The Commission would make no effort, however, to further integrate these reports with registration statements filed under the Securities Act. Because some duplication of prior disclosures would be required where a registrant decided to sell additional securities to the public, this approach would result in less cost saving to public companies. On the other hand, this approach would accept the existing different structures, and particularly the existing different liability provisions of the two acts, thereby avoiding potentially difficult legal issues which arise when a document prepared for filing under the Exchange Act is subsequently used to satisfy a requirement under the Securities Act.

(C) As a variation on the second alternative, the Commission could mandate a single report which would serve both as the informal report to shareholders and the formal Exchange Act filing. This report could be integrated with Securities Act disclosure, as suggested by the first alternative, or could be separate from such disclosure, as is suggested by the second alternative. Assuming full integration with Securities Act filings in the manner described in the first alternative, this approach would maximize cost-savings to companies and would simplify the disclosure system by reducing mandated disclosure from three to two documents. This alternative, however, would be considerably less flexible than either of the first two alternatives, and the information in and presentation of the annual report might suffer.

(D) This alternative would integrate disclosure under the official Exchange Act filings and Securities Act registration statements, but would leave informal reports to shareholders outside of the formal disclosure system. This would continue much of the present disclosure system. The Commission would require companies to make changes in Exchange Act reports to make them more readable so that they could be used more effectively in connection with Securities Act registration statements. This approach would maximize a company's ability to communicate in informal reports, but probably would not result in a significant reduction in the volume of disclosure documents.

The Commission currently is pursuing alternative A, which maximizes the reductions in duplicative disclosure without doing away with informal reports. The Commission believes that informal shareholder reports serve an established purpose and presently are the most effective means of communicating with shareholders. Accordingly, the greater simplification represented by combining alternatives (A) and (C) does not appear to be appropriate at this time. On the other hand, alternative (D) does not appear to be attractive because the more significant duplications appear to be in informal shareholder reports and in Exchange Act reports, and those duplications would be continued under that alternative. Finally, the Commission is not pursuing alternative (B) because reductions in duplicative disclosure would be minimal, and in any event the Commission may have to address elsewhere the liability problems which alternative (B) avoids.

Summary of Benefits

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act; shareholders of such companies; persons wishing to purchase shares of such companies; and other persons who rely upon or use information filed by such companies with the Commission, or who rely upon or use information contained in informal shareholder reports; and the Securities Exchange Commission.

The Commission believes, on the basis of its own informal estimates, that the proposed rule and form amendments would reduce the total volume of Exchange Act periodic reports (approximately 30,000 in 1979) filed by a particular registered company from 0 to 50 percent, and of registration statements (approximately 2500 in 1979) filed under the Securities Act from 0 to 75 percent. The greater reductions would relate to filings by companies with widely traded securities, since those companies incur the largest costs. In this regard, the Commission's Advisory Committee or Corporate Disclosure reported in 1977 that large companies incurred costs averaging more than $45,000 per year to prepare Commission-mandated annual reports. Additionally, we believe that at least some direct cost-savings would be realized by nearly all companies having a reporting or filing obligation.

The Commission does not believe that there will be any measurable cost savings to shareholders, potential investors, and other users of financial reports and filed information. However, to the extent that corporate costs are reduced, companies may pass on some of the cost reduction to one or more of these interests.

Because of the reduction in the total volume and complexity of disclosure documents, registered companies and issuers of securities should realize reduced legal, and other professional costs, printing and duplicating charges, and mailing costs. Although the Commission cannot measure the amount of these savings, because of numerous internal variables and the lack of a reporting system, the Commission believes them to be significant. Additionally, the overall volume reductions should decrease the administrative burden to the Commission staff, increase processing speed, improve communications with shareholders and investors, and result in some improved access to capital markets.

Shareholders, investors, and other users of filed information should also benefit because companies will produce more readable and communicative disclosure information.

Summary of Costs

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act; shareholders of such companies; persons wishing to purchase shares of such companies; and other persons who rely upon or use information filed by such companies with the Commission, or who rely upon or use information contained in informal shareholder reports.

The Commission does not believe that any significant costs would be incurred by any affected sector as a result of the adoption of this proposal, although in some circumstances a limited number of companies filing reports and issuing shares could incur greater auditing costs as a result of these proposals.

Additionally, if the Commission mandates information in informal reports to shareholders, it may eliminate some flexibility in the manner in which companies disseminate information to shareholders, and the Commission imposition of Securities Act liability on portions of these documents could inhibit their presently communicative style, even though the Commission expects the overall communicability of the portions which do become formal filings and reports to improve.

Shareholders, investors, and other users of filed documents will receive slightly less information as a result of these proposals; and to the extent that legal liability makes portions less readable, these sectors could also be detrimentally affected. The Commission believes, however, that these costs will be more than offset by the greater readability of the overall information package.

Regulated Regulations and Actions

None

Active Government Collaboration

None

Timetable

Regulatory Analysis—SEC, as an independent agency, is not required to prepare a regulatory analysis as defined under E.O. 12044.

Final Rule—September 1980

Available Documents

"Proposed Amendments to Annual Report Form; Integration of Securities Acts Disclosure Systems." Securities Act of 1933 Release No. 6176, 45 FR 5974, January 15, 1980

"Business Combination Transactions—Proposed Amendments of Related Rules." Securities Act of 1933 Release No. 6177, 45 FR 5934, January 15, 1980

"General Revision of Regulation S–X." Securities Act of 1933 Release No. 6178, 45 FR 5943, January 15, 1980

"Uniform Instructions as to Financial Statements—Regulation S–X." Securities Act of 1933 Release No. 6179, 45 FR 5963, January 15, 1980

These releases are available from Publications, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 272–2960.

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SEC

Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies (17 CFR 230.465, 239.15*, 239.16*, and 274.11*)

Legal Authority

Securities Act of 1933, 15 U.S.C. § 77a *et seq.*, and Investment Company Act of 1940, 15 U.S.C. § 80a–1 *et seq.*

Reason for Including This Entry

The Securities and Exchange Commission (SEC) believes that this rule is important because it will set a precedent that will significantly reduce regulatory delays which might be experienced by investment companies filing post-effective amendments to their registration statements.

Statement of Problem

The Securities Act of 1933 requires most U.S. and foreign companies to file a registration statement with the Commission before they may offer their securities for sale to the U.S. public. The registration statement form on which securities are registered includes a prospectus. The prospectus is the principal selling document for securities because it includes material information

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about the company and its operations necessary for informed decisionmaking by investors.

Generally, securities cannot be sold until the registration statement has become effective. Although, by law, registration statements can become effective automatically through lapse of time (20 days after filing), for the most part issuers delay the effective date and request the Commission to declare the registration statements effective only after the Commission has reviewed the disclosure in the registration statements for compliance with the securities laws.

This statutory scheme also applies to investment companies, but with a major difference. Most investment companies, including open-end management investment companies (the type commonly known as mutual funds) and unit investment trusts, issue securities which are redeemable on demand by the shareholder. Because those investment companies are engaged in the continuous offering and sale of securities to the public, the Investment Company Act of 1940, together with the Securities Act of 1933, require these investment companies to maintain a current prospectus. They are required to bring their prospectuses up to date at approximately yearly intervals by means of a post-effective amendment to their registration statements. Investment companies also file post-effective amendments to their registration statements for other purposes: (1) to increase the amount of securities registered under the Securities Act; (2) to register an indefinite number or amount of securities; (3) to correct deficiencies in registration statements discovered after such filings have become effective; or (4) to incorporate in the prospectus any important changes or developments in the business, operations, or services of the company. Most of these filings are routine. The amendments filed to update prospectuses generally substitute current financial statements for outdated ones, while those filed to change the number of securities usually consist only of a brief informational page and the required signature. Nevertheless, the Commission and its staff must individually examine and declare an effective date for each post-effective amendment. There is currently no procedure for post-effective amendments under which they can become effective automatically through lapse of time, as is the case for new registration statements.

As a result of the variety of purposes for which investment companies file post-effective amendments to their registration statements, the Commission processes far more post-effective filings than new registration statements. In addition, the number of registered investment companies, and thus the number of post-effective amendments they file, has increased over the years. For example, in FY 1978, there were 1,472 registered investment companies filing 327 registration statements and 2,167 post-effective amendments. In FY 1979, 1,507 registered investment companies filed 347 registration statements and 2,135 post-effective amendments. For FY 1980, the Commission staff estimates that approximately 1,536 investment companies will file 350 registration statements and 2,289 post-effective amendments with the Commission. The estimates for the number of registration statements and post-effective amendments to be filed in fiscal year 1980 represent increases of approximately 7 percent and 6 percent respectively, over the figures stated for FY 1978. This increase in filings will be accompanied by a decrease in the number of Commission staff available to review and process them. While the Commission had 35.6 staff-years available for processing in FY 1978, this figure is expected to drop to 33.8 staff-years in FYs 1980 and 1981.

In the past, the Commission has implemented several procedures to process filings expeditiously. The first, the two-part filing procedure, was instituted in 1976 to spread the processing of post-effective amendments over several months. Under this procedure, the Commission requested investment companies to file, two months before the end of their fiscal year, an amendment containing only the narrative portion of the prospectus (marked to indicate changes from the most recent prospectus) and then, after the end of the fiscal year, to file another amendment containing the financial statements for the year and any further changes in the narrative. This procedure was implemented to alleviate the enormous seasonal workload on the Commission staff resulting from the fact that most investment companies have the same fiscal-year ending date, and thus must update their prospectuses by the same date each year to maintain a current prospectus in compliance with the statute.

More recently, in 1978, the Commission established a procedure for "red-line" review, under which the Commission staff limits its review of annual updating amendments to financial statements, narrative material marked to indicate textual changes, and areas in which recent developments suggest that changes in disclosure are likely to be appropriate.

While these changes have helped the Commission to make more efficient use of its resources, the Commission, nevertheless, finds it increasingly difficult to process all these post-effective filings on a timely basis. Without more significant changes to our procedures, the Commission fears that registrants will be faced with unacceptable delay in keeping their prospectuses up to date in order to be able to sell their shares. Changes are also necessary to focus the Commission's resources on disclosure documents where detailed review is necessary, and to ensure that such review is accomplished thoroughly, timely, and in a manner fair to investment company issuers. The Commission has, therefore, proposed for public comment a rule under the Securities Act of 1933 under which most post-effective amendments filed by investment companies would become effective automatically, without affirmative action by the Commission or its staff. Post-effective amendments would become effective either immediately upon filing, or 60 days after filing, depending upon their content. The two categories are related to the complexity of the filing and the need for Commission review to ensure its compliance with the securities laws.

Alternatives Under Consideration

One alternative to the rule the Commission has proposed is a rule under which all post-effective amendments would become effective immediately upon filing, thereby eliminating all staff review and comment. This approach would eliminate the delay investment companies now encounter in keeping their prospectuses current, and would make the issuers the sole judges of what disclosures should appear in their prospectuses. However, the elimination of staff review might result in an unnecessary sacrifice of investor protection. Major changes in the investment company's operations would go unreviewed by the staff, and any false or misleading statements could be corrected only if the Commission took formal action against the issuer.

Another alternative, similar to what the Commission proposed, would be to set up two categories of automatic effectiveness (immediately upon filing or 60 days thereafter), and to set up an exclusive list of events which would cause an amendment to be placed in the latter category. This alternative would have the advantage of certainty, in that

investment companies would have no doubts about the status of their filings. But it would also eliminate the flexibility needed to respond to unforeseen situations that are bound to arise, given the wide variety of investment companies.

The rule the Commission proposed strikes a balance between these alternatives. Post-effective amendments which the Commission can safely consider routine will become effective immediately upon filing. This category includes those amendments filed to change the number of securities under registration, and those filed annually to update the prospectus, provided that the registrant represents that none of the material events listed in the rule, and no other material event requiring disclosure in the prospectus, have occurred since the effective date of the registrant's most recent post-effective amendment. All other post-effective amendments would become effective 60 days after filing, including those which contain disclosure about a material event listed in the rule or any other event which the registrant represents to be material.

By framing the rule in this way, the Commission expects to eliminate staff review and comment for approximately one-third to two-thirds of all post-effective filings. This will free staff resources for comprehensive review of the more complex filings, such as post-effective amendments in the 60-day category and initial registration statements, with no detriment to investor protection. As stated above, the rule sets forth certain events which the Commission deems material and which would cause a post-effective amendment disclosing such an event to be placed in the 60-day category. The list includes such major events as termination of any contract to provide investment advisory services to an investment company, and changes in the issuer's investment objectives or fundamental policies. The events listed in the rule are those which the Commission views as clearly material to the investing public, or those likely to present complex legal or factual problems requiring close scrutiny. The list is not intended to be exhaustive, and any post-effective amendment containing disclosure about any other event which the registrant represents to be material and requiring disclosure in the prospectus would still be subject to staff review and comment. This provision was included in the rule because the Commission could not list every conceivable material event requiring disclosure in the prospectus. More importantly, the Commission wanted issuers to be responsible for determining what events were material, because they bear the liability in this area.

Under the rule there are two exceptions to automatic effectiveness after 60 days. First, the Commission may advance the effective date in appropriate situations, although the Commission warned issuers that the fact that a prospectus is, or is about to become, outdated would not be sufficient cause for the Commission to set an earlier effective date. Second, the Commission can suspend automatic effectiveness on written notice to the issuer if it appears that the amendment may be incomplete or inaccurate in a material respect. The Commission staff usually would exercise this power only where the Commission had authorized injunctive action or administrative proceedings against the issuer. If the Commission suspends automatic effectiveness, the issuer is entitled to file a petition for review of the suspension at any time, and also to have a hearing on the suspension if one is requested.

Summary of Benefits

Sectors Affected: Registered open-end management investment companies and unit investment trusts (except registered separate accounts of insurance companies as defined in Section 2(a)(37) of the Investment Company Act); and SEC.

Investment companies will benefit from the proposed rule because they will no longer have to await processing of routine post-effective amendments by the Commission staff. Even for routine filings, the review process currently extends over at least 2 months. With respect to filings that are not routine, the 60-day period generally approximates the current processing time, so, for the most part, investment companies whose filings come within this category will not have to wait longer for their filings to be processed. In addition, these investment companies will have the benefit of staff comments regarding what it considers incomplete or inaccurate disclosure, but, because filings will become effective automatically, such companies will not feel compelled to accept those comments which they feel are not needed to make the filing legally sufficient. Although investment companies and their counsel will have to shoulder greater responsibility for the accuracy and completeness of the disclosure in their filings, to the extent they are willing to do so they will be able to avoid the time-consuming and expensive process of coming to agreement with the Commission staff about difficult disclosure. Thus, investment companies should be spared many of the costs currently associated with the comment process and a corresponding benefit will accrue to investment company shareholders.

The rule should also benefit the Commission, because it will be able to redirect its resources to those filings most likely to require, and to benefit from, staff review.

Summary of Costs

Sectors Affected: None.

The Commission foresees no additional costs resulting from this rule.

Related Regulations and Actions

Internal: The proposed rule on automatic effectiveness of post-effective amendments is the result of an ongoing review of the disclosure process as it applies to investment companies. The aim of the study is to eliminate duplicative and unnecessary burdens on investment companies that stem from current disclosure requirements. On February 22, 1980, the Commission adopted a rule under the Securities Act providing for automatic effectiveness of most post-effective amendments relating to employee benefit plans.

External: None.

Active Government Collaboration

None

Timetable

Regulatory Analysis—The SEC, as an independent agency, is not required to prepare a regulatory analysis as defined under E.O. 12044
Public Comment Period—April 3, 1980 to June 2, 1980
Send comments to George A. Fitzsimmons, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 and refer to File No. S7–829
Final Rule—September 1980

Available Documents

NPRM—published April 3, 1980 as Securities Act Release No. 6205, 45 FR 24500, April 10, 1980
All documents available for review in the Commission's Public Reference Room, 1100 L St., N.W., Washington, D.C. 20549.

Agency Contact

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CHAPTER 4—HEALTH AND SAFETY

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

Proposed Polychlorinated Biphenyls (PCBs) Regulation (9 CFR Parts 308, 381*)

Legal Authority

Federal Meat Inspection Act, 21 U.S.C. § 621. Poultry Products Inspection Act, 21 U.S.C. § 463.

Reason for Including This Entry

The Food Safety and Quality Service (FSQS) protects the public health by ensuring the safety and quality of meat and poultry food products. Recently, in various parts of the United States, polychlorinated biphenyls have contaminated feed supplies which eventually affected the human food chain. FSQS is seeking to prevent the recurrence of such situations.

Statement of Problem

FSQS intends to prohibit the introduction of any new or replacement equipment or machinery in any meat, poultry, or egg products establishment that it regulates if that machinery or equipment contains polychlorinated biphenyls (PCBs) in excess of 50 parts per million (ppm) in the liquid medium.

PCBs are part of a broad group of organic chemicals known as chlorinated hydrocarbons. PCBs were produced in the United States from 1929 to 1977. (Virtually all production then came to a halt, in anticipation of a prohibition placed by the Environmental Protection Agency on the manufacture of PCBs in July 1979.) Because of their almost complete resistance to fire and explosion, their high dielectric performance (nonconductors of electric current) and their excellent heat transfer properties, PCBs were primarily used in electrical transformers, capacitors, heat-transfer systems, and hydraulic systems. (PCBs in meat, poultry, and egg products plants are primarily confined to transformers and capacitors.)

Research and studies conducted during the past 15 years have demonstrated numerous adverse health effects, including skin eruptions, visual impairment, and gastrointestinal disorders, associated with various levels of exposure to PCBs. During this same period of time there have been a number of incidents where human food supplies have been contaminated by PCBs. These cases of environmental contamination have resulted either from leaking industrial equipment or from industrial accidents where equipment containing PCBs has been ruptured and the fluid escaped into the feed or animal byproduct system.

The purpose of the proposed action to prohibit the introduction of any equipment or machinery containing PCBs in excess of 50 ppm is to reduce the likelihood of an incident of environmental contamination and thereby reduce the overall threat to public health.

On May 9, 1980, the FSQS proposed joint regulations at 45 FR 30980 with the Food and Drug Administration and the Environmental Protection Agency to supplement and extend the coverage of this proposal. The May 9 proposal established the requirement that no equipment or machinery, other than capacitors containing less than 3 pounds of PCB liquid, and no separately maintained liquids in U.S. Department of Agriculture (USDA) inspected plants and establishments would contain PCBs in excess of 50 ppm. This would mean that firms with existing equipment containing excessive PCBs would have to replace the equipment or remove the PCBs from that equipment. A 6-month disposal period would be allowed which would not begin until disposal facilities become available. All equipment removal or flushing, and all handling or removal of PCB liquids, would be performed according to EPA regulations.

Alternatives Under Consideration

(1) Take no action on the use of equipment or machinery containing PCBs in plants under FSQS jurisdiction. These plants could still use existing equipment or introduce new or replacement equipment containing PCBs. This would not stop the potential contamination of the food supply from equipment leaking PCBs.

(2) Prohibit by regulation the introduction of any new or replacement equipment or machinery containing liquid PCBs on the premises of the meat, poultry, and egg products plants under FSQS jurisdiction. This option would reduce the likelihood of environmental contamination by PCBs and thereby reduce the overall threat to public health posed by these chemicals. It would not eliminate the possibility of PCB contamination of the food supply.

(3) Conduct an extensive Information and Education campaign aimed at the managers of all plants under FSQS jurisdiction. This campaign can stress the seriousness of PCB contamination, the unnecessary liability associated with introducing new or replacement equipment containing PCBs, and the likelihood of an eventual phaseout of all equipment containing PCBs.

Under this option new or replacement equipment containing PCBs could be introduced at the discretion of individual plant managers. Managers would, however, be making informed choices. Some PCBs could contaminate the food supply.

(4) Take no regulatory action at the current time, but work toward the development of a ban on all PCB-containing equipment from the premises of meat, poultry, and egg products establishments under FSQS jurisdiction. Under this option it is possible that, for the time being, decisions to introduce new or replacement equipment containing PCBs could be made by plant managers having inadequate knowledge of PCB hazards, individual plant liability, and pending regulatory actions. PCBs could contaminate the food supply until a total ban on PCBs in food establishments is instituted.

FSQS is proceeding to develop the necessary information to propose a regulation that would eliminate all PCBs from plants under FSQS jurisdiction. When it is proposed, FSQS will conduct an impact analysis of various regulatory options. FSQS is currently planning a survey that will provide data on the number of existing transformers/capacitors in plants under FSQS jurisdiction, the size of these units, and the number of these units that may contain PCBs. The Environmental Protection Agency (EPA) has contracted for additional surveys and studies to determine the prevalence of PCBs in food plants, and to determine the cost of removing all PCBs in concentrations in excess of 50 ppm from these plants.

Summary of Benefits

Sectors Affected: Manufacturing of meat, poultry, and egg products; consumers of these products; and FSQS.

Manufacturers benefit from reducing the likelihood of PCB contamination of the food supply. Food contaminated with PCBs cannot be sold for human consumption, and must be destroyed at the producer's expense. Also, in checking for PCBs in food, products are detained and tested. Thus, the producer's sales are postponed.

FSQS also benefits through cost avoidance. When alerted to a PCB contamination incident, the agency must spend its resources tracking and testing products to ensure they are not contaminated.

When the likelihood of PCB contamination is reduced, consumers have greater confidence in the products they buy. (Greater confidence may also lead to increased purchases—a benefit for producers.) Consumers also benefit from avoidance of adverse health effects.

The value of these benefits is difficult to quantify. However, FSQS estimates that a recent PCB contamination incident in Montana cost approximately $5 million.

Summary of Costs

Sectors Affected: Manufacturing of meat, poultry, and egg products; and consumers of these products.

Option (2) would be the most costly of the four options. Of the approximately 1,100 (out of 6,824) firms reporting in the October 1979 agency survey, 380 identified existing transformers which may contain PCBs on their premises. Based on these responses, we estimate that between 30 and 40 percent (or from 2,100 to 2,800) of the approximately 7,000 federally inspected plants have transformers. To estimate a maximum impact, the analysis assumes that 3,000 federally inspected establishments have transformers and that all these transformers contain PCBs. In a similar manner, we estimate that a maximum of 1,000 federally inspected firms use capacitors containing PCBs.

The data from the FSQS survey show that those firms having transformers reported an average of 3 units per plant, and those firms having capacitors reported an average of 15 capacitors per plant. Applying these averages to the estimated number of firms results in an estimated inventory of 9,000 (3,000 × 3) transformers and 15,000 (1,000 × 15) capacitors.

We estimated that transformers and capacitors have an expected product life varying from 25 to 40 years. Thus, from 2.5 to 4.0 percent of these existing units will be phased out each year. To estimate a maximum impact we assumed that 4 percent of the units will wear out each year. Some firms will also replace equipment in the process of upgrading their facilities. We assumed that this will involve an additional 1 percent of the units. Thus, we estimate that 5 percent or 450 transformers and 750 capacitors will be replaced or added each year in the normal course of industry operations.

At present, the replacement cost for a transformer is approximately $12 per Kilo Volt Ampere (KVA) and for a capacitor approximately $10 per Kilo Volt Ampere Reactive (KVAR). Using these figures and data from the survey, we estimate that existing transformers would cost an average of from $5,000 to $6,000 to replace, and that existing capacitors would cost an average of from $300 to $350 to replace. The total annual cost of 450 transformers could then be $2.7 million ($6,000 × 450). The total cost of 750 capacitors could then be $262.5 thousand ($350 × 750) per year. The total maximum replacement cost of this equipment would therefore be approximately $3 million per year excluding all installation costs. There are estimates of average transformer costs that are much higher (up to $20,000). However, use of the highest average cost estimate still results in total replacement costs of less than $10 million per year. (The cost of replacing the transformers and capacitors with non-PCB-containing equipment would be somewhat higher.)

The enforcement of Option (2) places an additional burden on USDA inspectors or compliance personnel. If FSQS promulgates a ban on additions of PCB equipment, the agency must monitor the replacement of equipment to assure compliance with the regulation. However, the agency already has inspectors at the federally inspected plants. It has been estimated that at most, 3,000 plants have transformers and 1,000 plants have capacitors. It is also estimated that a maximum of 1,200 units per year will be introduced, affecting at most 1,200 plants, but probably far fewer since one plant may introduce many units. We, therefore, estimated that requiring existing in-plant inspectors to monitor the installation of at most 1,200 units will not be a major effort.

Under Option (3), the agency could conduct an extensive Information and Education (I&E) campaign aimed at those plant managers who must make decisions on whether or not to introduce electrical equipment containing PCBs. Product liability will influence these decisions. Concern for the public health should also influence these decisions.

Under Option (4), the agency would not, at the current time, take any action with respect to the introduction of new or replacement equipment containing PCBs on the premises of any plant under FSQS jurisdiction. This option would not require any additional surveillance of FSQS-inspected establishments to prevent the addition of PCB-containing equipment and machinery. It also would not require any extensive I&E resources. Under this option, some plant managers will decide to install PCB equipment. Some plant managers may make uninformed decisions that they would not have made if they were aware of PCB hazards, product liability, and FSQS regulatory strategy.

Options (1), (3), and (4) also carry the public health costs associated with PCB contamination incidents which might result from not regulating the chemicals. The size of such costs is unknown, but could potentially equal several million dollars per incident.

Related Regulations and Actions

None.

Active Government Collaboration

FSQS, the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA) are concurrently and cooperatively developing broader rulemaking (as discussed in Option [4], for example) which would address the present use of PCBs by the food, feed, pesticide, and fertilizer industries.

PCBs are a toxic substance identified for regulatory coordination by the Toxic Substances Work Group of the Interagency Regulatory Liaison Group (IRLG). During the development stage of this regulation, FSQS consulted representatives of EPA, FDA, the Consumer Product Safety Commission, and the Occupational Safety and Health Administration. FDA and EPA have separately reviewed and concurred in this proposal. These agencies agreed that any comments received as a result of this proposed rulemaking will also be shared with them.

Timetable

Final Rule—July 1980

Regulatory Analysis—Final Impact Statement will be completed as part of the rulemaking process.

Available Documents

Public Comment—Comments available upon request. Docket number FR Doc. 80-6467.

Proposed Regulation—Prohibition of All New and Replacement Equipment and Machinery Containing Liquid Polychlorinated Biphenyls (PCB's)—45 FR 13471, February 29, 1980

Draft Impact Analysis—Prohibition of All New and Replacement Equipment and Machinery Containing Liquid Polychlorinated Biphenyls (PCB's), February 13, 1980

Agency Contact

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USDA-FSQS

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USDA-FSQS

Voluntary Meat and Poultry Quality Control Systems (9 CFR Parts 318 and 381)

Legal Authority

Federal Meat Inspection Act, 21 U.S.C. § 601 *et seq.* Poultry Products Inspection Act, 21 U.S.C. § 451 *et seq.*

Reason For Including This Entry

Growth in the number of meat and poultry plants as well as industry innovations have increased the number and volume of products from these plants. Thus, inspection costs for processed foods are constantly increasing for the Food Safety and Quality Service (FSQS), which has the responsibility to inspect for the safety and quality of meat and poultry products. Voluntary quality control by the plants themselves would supplement FSQS's ability to regulate processed products and enhance consumer protection.

Statement of Problem

Personnel of FSQS, United States Department of Agriculture (USDA) administer the inspection requirements of the Federal Meat Inspection Act and the Poultry Products Inspection Act. The growth in the number of meat and poultry plants, and the innovations within the industry, have increased both the volume and the number of processed products industry produces. Processed products are those created through manufacture, such as frankfurters and luncheon meat, as opposed to those created strictly through slaughter and butchering, such as steaks and roasts. The increase in the supply of processed products has resulted in increased responsibilities for the FSQS inspection programs.

Federal meat and poultry inspectors currently inspect approximately 6,900 processing plants, compared to 4,037 in 1970. The annual volume of processed product inspected increased 25 percent between 1970 and 1978. Federal processing inspectors inspected 74.1 billion pounds in 1978, compared to 59.4 billion pounds in 1970. Although most of this increase may be attributed to increases in production volumes and additional plant facilities, Federal assumption of State inspection responsibilities has also been a factor. As of June 1, 1979, the department has assumed responsibility for 25 State poultry and 17 State meat inspection programs in 25 States which were either unwilling or unable to effectively maintain their own programs. This number should continue to grow in the near future.

FSQS must continue to guarantee that marketed products are wholesome, unadulterated, and properly labeled, in spite of this tremendous increase in the volume of product it must inspect. To ensure this, FSQS currently employs 2,350 processing inspectors, compared to 1,928 in 1970. Reliance on laboratory testing has also grown since 1970. Combined with inflation, which has increased the salaries which have to be paid to inspectors, these two factors have resulted in an increase in inspection costs from $25 million in 1970 to $69 million in 1979. Food processing inspection, as opposed to animal slaughter inspection, accounts for an ever-increasing share of total inspection costs. Thus, while total inspection costs increased 130 percent, processing inspection increased 176 percent.

Despite the increase of processed products, the basic techniques of inspection, which rely on the continuous presence of inspectors, have remained essentially the same since the beginning of this century; therein lies the problem. This proposal could solve the problem and alleviate the burden on inspectors by giving FSQS increased access to a plant's records concerning its quality control process. This would lead to more complete and efficient inspection.

Quality control refers to controlling a process so that certain specifications are met. The result is a consistent and uniform product, involving a predictable cost, which meets Federal regulatory requirements. During the process of production, the plant checks to determine if a change in the process is needed to assure the wholesomeness of the finished product. Problems are detected during, rather than after, the process. Under our proposal, plants would supply FSQS with the data resulting from these checks to aid in inspection. While not eliminating the older system, this would add to it and improve the ability of FSQS to regulate processed products. The proposal provides for both total and partial inspection programs for quality control. (A partial quality control program covers only selected portions of the production process.)

In exchange for this increased access to a plant's records, FSQS is considering granting plants operating under an approved quality control program the right to use special labeling. Such labeling would differentiate products inspected through such a program from those inspected only in the usual manner. The labeling would signify to the consumer that the product had gone through a thorough, systematic inspection involving the use of increased technology.

In December 1977, the General Accounting Office released a report on "A Better Way for the Department of Agriculture to Inspect Meat and Poultry Plants." This report recommended that a quality control program be implemented on a mandatory basis; this would require a change in the existing statutory law. At the present time, over 600 processing establishments voluntarily have instituted one or more partial quality control programs which have been approved by FSQS. Without such a program, the burdens arising from the growth in the meat and poultry processing industries will be increasingly difficult to manage. Effective use of voluntary systems of quality control, operated by the plants themselves, should serve to strengthen the inspection system while allowing FSQS to be more cost-effective in the use of its inspection budget.

Alternatives Under Consideration

In developing this proposal, FSQS evaluated, among other things, the two basic alternatives to the establishment of a voluntary quality control system: (1) the retention of the present inspection system, which, while incorporating some use of quality control, does not provide for the total use of the process as an inspection system, and (2) the mandatory imposition of a requirement for a quality control program. The latter alternative would require that all meat and poultry processed products be inspected through a quality control program.

It is the view of FSQS that we cannot require mandatory quality control under the existing law. Consequently, FSQS is currently considering the possibility of seeking legislative authority to impose mandatory quality control systems, while proceeding to propose systems on a voluntary basis. Generation of data from the voluntary system would better enable USDA to properly evaluate the advisability of such a legislative change.

FSQS has recognized the need to consider the impact and effect of the proposal on the smaller operator. In the past, the department has assisted many small establishments in implementing microbiological monitoring of their sanitation programs without employing a microbiologist, determining fat and moisture content of frankfurters and bologna without expensive laboratory equipment or chemists, and controlling the count of meatballs in a container by periodic samples and charting methods. FSQS will provide the same assistance to small operators in implementing other quality control systems and will approve all such systems which meet departmental criteria.

Thus, FSQS is seeking to adopt a more nontraditional approach to the inspection system. FSQS will not require participation in the program, but will encourage it by the availability of the special labeling. Such labeling will aid the consumer via an informational approach, increasing the knowledge with which a purchase is made.

Summary of Benefits

Sectors Affected: FSQS; manufacturing of meat and poultry processed products; and consumers of such products.

FSQS expects implementation of a voluntary quality control system to result in a gain in inspectors' efficiency. Currently, full-time, on-site inspections are performed even in plants which have established voluntary quality control programs. This results in a duplication of effort. Voluntary quality control will allow FSQS to concentrate inspection resources on chronic problem areas and, in the future, will allow for inspection of additional processing plants and increased product volumes with little or no additional increase in inspection resources. Improved inspector efficiency could result in a total net savings to the department over the next five years of between $511,200 and $1,462,000.

Industry will benefit, because plants which elect to use a quality control program will be able to exercise a more systematic control over their operations, increasing their ability to comply with standards. There will be savings for the following reasons: (1) each processor will be better able to assure a uniform amount of ingredients in each package; (2) because of this uniformity, manufacturers will be able to develop formulas for ingredient use, thus enabling them to purchase large quantities of ingredients at a minimum cost; (3) this uniformity will also reduce the amount of errors which require reprocessing, repackaging, and relabeling; and (4) overhead costs will thus be lowered.

The proposal will help small firms by providing technical assistance for the design and implementation of quality control programs which would yield the benefits discussed above.

The reduction in producers' costs can be passed on to the consumer. Consumers will also benefit as the department improves its ability to assure the distribution of wholesome, unadulterated, and properly labeled products. Quality control systems will detect products which do not conform to Federal requirements and the plants will remove these products and remedy the problems early in the processing chain. The program should serve to increase product quality and uniformity, and increase consumer confidence in the safety and quality of meat and poultry products as well. The special logo will allow consumers to identify products produced in firms with quality control systems.

Summary of Costs

Sectors Affected: FSQS; and manufacturing of meat and poultry processed products.

If this proposal is implemented, FSQS will need approximately 13 full-time quality control specialists in addition to those who are currently employed in the inspection force. The evaluation and approval of individual quality control plants will cost the department about $439,600 per year. However, as noted earlier, FSQS expects an overall savings.

Industry will bear the primary costs of implementing and maintaining these systems. The proposal would affect those plants which voluntarily elect to participate. At the end of five years, an estimated 100 plants would have quality control programs that USDA has approved. The great majority of these plants already have acceptable quality control programs, and would incur no additional costs. Some plants would choose to participate even though they would incur some additional expenses, mostly in start-up costs. FSQS estimates that 10 to 15 plants would fall into this category, and that their start-up costs would be approximately $1,000 per plant.

The immediate cost impacts associated with this proposal will vary with the size of the plant. FSQS expects that those meat and poultry processing plants which produce over 13 million pounds of product per year and the upper 50 percent of those plants which produce 3 million to 13 million pounds of product per year (medium-size plants) would incur no additional compliance and implementation costs. These are the plants which already have in-plant programs for quality control that should meet FSQS's minimum requirements for quality control. The impact would occur only on the lower 50 percent of the medium-sized plants. FSQS does not expect any plants producing 0.5 to 3 million pounds of product per year to participate voluntarily.

Government involvement in this program would be only at the Federal level.

Related Regulations and Actions

Internal: Informal approvals of pilot quality control programs and techniques (via industry permission for FSQS inspection of records and reports and samples). The proposal would formalize these approvals into a formal regulatory system.

External: Food and Drug Administration, 21 CFR Parts:

103—Quality Standards for Food with No Identity

109—Unavoidable Contaminants in Food for Human Consumption and Food Packaging Material

110—Current Good Manufacturing, Processing, Packaging, or Holding Human Food

113—Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers

118–189—Requirements for Various Food Products

197—Seafood Inspection Program

The above contain FDA requirements which must be met by industries with quality control programs. Because FDA does not require mandatory inspection of food programs, these regulations are substitutes for inspection rather than components of a mandatory inspection system.

Active Government Collaboration

This is an action which has been and would continue to be carried out solely by FSQS. The Food and Drug Administration does not deal with meat and poultry inspection.

Timetable

Final rule—second quarter 1980
Final Regulatory Analysis—available from Agency Contact listed below upon publication of final rule

Available Documents

NPRM—44 FR 53526–53534, September 14, 1979

Draft Regulatory Analysis—available from Agency Contact listed below

Public comments received on or before November 13, 1979

"A Better Way for the Department of Agriculture to Inspect Meat and Poultry Processing Plants." Single copies available free from: U.S. General Accounting Office, Distribution Section, 441 G Street, N.W., Washington, D.C. 20548. Multiple copies available at $1.00 per copy from: U.S. General Accounting Office, Distribution Section, P.O. Box 1020, Washington, D.C. 20013.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues (21 CFR Parts 70, 500, 514, and 571)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 409(c)(3)(A), 512(d)(1)(H), 706(b)(5)(B), and 701(a).

Reason for Including This Entry

This final rule will establish criteria and procedures for evaluating assays for carcinogenic residues in animal-derived food and, accordingly, will provide equitable and uniform application of the requirements of the Federal Food, Drug, and Cosmetic Act. The rule will benefit industry by delineating the requirements that must be met before drugs, food additives, or color additives that leave carcinogenic residues in edible animal tissue can be approved.

Statement of Problem

The DES (diethylstilbestrol) Provisos of the Federal Food, Drug, and Cosmetic Act (409(c)(3)(A), 512(d)(1)(H), and 706(b)(5)(B)) require the Secretary of Health, Education and Welfare, and, by delegation, the Commissioner of Food and Drugs, to refuse approval for use in food-producing animals of any new animal drug, food additive, or color additive that induces cancer when ingested by man or animal or, after tests which are appropriate for evaluation of the safety of such drug, induces cancer in man or animal, except if the Secretary finds that, under the conditions of use specified in the proposed labeling and reasonably certain to be followed in practice (a) such compound will not adversely affect the animals for which it is intended, and (b) no residue of such compound be found (methods of examination prescribed or approved by the Secretary by regulation) in any edible portion of such animals after slaughter, or in any food yielded by or derived from the living animals.

The enactment, in 1962, of this diethylstilbestrol proviso to the Delaney (anticancer) clause of the Act has been a source of continuing controversy stemming from the phrase "no residue will be found." This phrase can be interpreted either in an absolute or an operational sense. There are two important facts bearing on this controversy. First, the introduction of a compound, whether or not carcinogenic, into the system of a food-producing animal is likely to leave in its edible tissues minute residues that cannot be detected or measured by any known or likely to be developed method of analysis. Second, for any test developed to measure the concentration of a residue in an edible tissue, there is some level of residue in that tissue below which the test will show no interpretable result. In view of these facts, the Commissioner could not permit any use of carcinogenic drugs in animals if he adopted the absolute interpretation of the phrase "no residue will be found." The effect of that interpretation would be to deny the diethylstilbestrol provisos any effect whatever. The second possible interpretation is to assume that Congress intended to require the Commissioner to give an operational and more realistic definition to the phrase "no residue" and to proceed accordingly.

As a matter of policy, to implement the diethylstilbestrol provisos, the agency has adopted the second interpretation as a more likely reflection of congressional intent, for two reasons. First, by its nature, the absolute interpretation constitutes a negation of the diethylstilbestrol provisos to the Delaney clause and leads to the conclusion that the Congress introduced the provisos intending them to have no effect. Second, the critical term in the provisos is that no residue will be "found"—not that none will exist. Therefore, application of the Delaney clause to animal drugs, food additives, or color additives hinges on the availability of appropriate analytical methods that determine whether residues are present in edible tissues from animals treated with carcinogenic drugs. Although Food and Drug Administration (FDA) has adopted the second interpretation, it has never specified by regulation the criteria and procedures that apply in the process of approving methods for analyzing animal tissues for carcinogenic residues. The proposed regulation specifies such criteria and procedures.

Alternatives Under Consideration

The agency examined three approaches for alternative ways to implement the language "no residue shall be found." The first approach, which the agency has considered inappropriate from the start, defines the phrase "no residue" as the lowest limit of measurement or detection by the best analytical method that is capable of measuring the residues of a compound in edible tissues of animals, and that is available at the time the compound was approved. The agency has rejected this approach. Different compounds have differing carcinogenic potencies. These differences are not in any way related to the availability or lack of sensitive analytical methods that measure residues in edible tissues from food-producing animals that have been administered a compound. Thus, the degree of public risk associated with the use of a compound would become a function solely of the capability of available analytical technology. For instance, depending on the relative sensitivity of the available methods, in some cases FDA would permit public consumption of meat contaminated with very large levels of potently carcinogenic residues while in others it would require that meat be essentially free from carcinogenic residues of low potency.

The second approach would be to establish a "practical zero" for the residues of all carcinogens. This approach would have one advantage over alternative (1); it would provide a well-defined criterion for the lowest limit of measurement that any sponsor's assay would have to satisfy. This approach also would not, however, take into account differences in carcinogenic "potency" among various carcinogens. Therefore, it is unacceptable for the same reason as alternative (1). Unless the "practical zero" were set at the level appropriate for the most "potent" carcinogen, it would provide insufficient protection; but if it were set at that level, it might be unnecessarily stringent for carcinogens that produce a response that is of a lower magnitude. In sum, no one "practical zero" is appropriate for all carcinogens.

Recently, the agency has been using a third approach in which "no residue" is operationally defined on the basis of quantitative carcinogenicity testing of residues, and the extrapolation of test data using one of a number of available procedures to arrive at levels that are safe in the total diet of test animals and that would, if they occurred, be considered safe in the total diet of man. Under this approach, an assay is required that can reliably measure the safe level in edible tissue. The responsibility of developing the assay falls upon the sponsor of the compound, not FDA. Under this approach, the agency accepts a very low level of increased risk of cancer (one case in one million lifetimes).

Summary of Benefits

Sectors Affected: Veterinary pharmaceutical manufacturing; FDA; and consumers.

The proposal provides uniform criteria and procedures for evaluating the carcinogenic risk presented by residues of sponsored compounds for use in food-producing animals. Both FDA and industry will benefit from uniformity in regulation of such compounds.

Summary of Costs

Sectors Affected: Veterinary pharmaceutical manufacturing; livestock agricultural production; and consumers.

The draft regulatory analysis estimated that the average one-time costs of compliance with the procedures will not exceed $2.8 million (1979 dollars) for each combination of target species, route of administration, and exogenous substance (a synthetic or natural origin substance that is not produced in the body of the food-producing animal). There is a corresponding estimate of $0.5 million for endogenous substances (a substance normally produced in the body of the food-producing animal). The aggregate cost estimate will depend on the outcome of the agency's process of identification of known or suspect carcinogens. Other potential impacts include the costs to feedlot and poultry operations and consumer price effects, if the lack of availability or inability to develop residue testing methods of the required sensitivity results in withdrawal of approval.

Related Regulations and Actions

Internal: FDA is developing procedures and priorities for the cyclic review of animal drugs.

External: None.

Active Government Collaboration

We are keeping the Department of Agriculture (USDA) informed of our action and they are reviewing the analytical methodology that we require.

Timetable

Tentative Final Rule or Final Rule—July 1980
Final Regulatory Analysis—available with Final Rule

Available Documents

NPRM—44 FR 17070, March 20, 1979.

FDA requested comments on the proposal and, in order to foster substantive comments, held a public hearing on the proposal on June 21-22, 1979. FDA prepared a draft regulatory analysis under E.O. 12044 and made it publicly available when we published the proposal. An administrative record supporting the proposal, the draft regulatory analysis, and a transcript of the public hearing are available in the Office of the Hearing Clerk, Food and Drug Administration, 5600 Fishers Lane, Rm. 4-62, Rockville, Maryland, 20857.

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HEW-FDA

Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs)

Legal Authority

Federal Food, Drug, and Cosmetic Act, §§ 402(a), 406, 409, and 701(a); 21 U.S.C. 342(a), 346, 348, and 371(a). The Public Health Service Act § 361; 42 U.S.C. 264.

Reason for Including This Entry

The Food and Drug Administration thinks that this regulation is important and of general public interest because of the proposed action would protect the public from food contaminated with PCBs.

Statement of Problem

Polychlorinated biphenyls (PCBs) are a class of chemicals that have been widely used in electrical transformers, capacitors, electromagnets, and heat transfer and hydraulic systems. They are useful in industrial applications because of their chemical stability, low flammability, high boiling points, and low electrical conductivity. PCBs were also used as plasticizers in the manufacture of paints, adhesives, and caulking compounds, as fillers for investment casting waxes, and as dye carriers in carbonless copy paper.

Although PCBs were first manufactured and commercially marketed for industrial uses in 1929, it was not until 1967 that their presence in the food supply was detected. At that time, and during the years since, the Food and Drug Administration (FDA) encountered a number of isolated industrial accidents resulting in PCB contamination of animal feed and human food. These accidents involved either the spillage or leakage of the chemical directly onto animal feed from manufacturing equipment, or animal feed otherwise coming in physical contact with PCB-containing materials. The consumption of the contaminated feed by food-producing animals resulted in the transfer of PCBs to human food (e.g., milk, meat, eggs).

In 1967, FDA's knowledge of the hazards of PCBs to human health was limited to primarily one incident that occurred in Yusho, Japan, in 1968 when very high levels of PCBs leaked from processing equipment and contaminated rice oil. The PCB-contaminated rice oil was sold as salad oil and, after several weeks, consumers were stricken with the so-called "Yusho" disease, which ultimately was traced to the PCBs. Among the many symptoms exhibited by the victims of this disease were chloracne (skin rash), discoloration of the gums and nailbeds, swelling of joints, and waxy secretions from glands in the eyelids.

The levels of PCB that produced those effects substantially exceeded the levels of PCB found at any time in the U.S. food supply. However, because PCBs accumulate in the fatty tissue of humans and animals, FDA found ample evidence that prolonged exposure to PCBs, even at low levels, posed a potential health risk. Therefore, FDA concluded that there was a need to limit consumer exposure to PCBs in food and, to accomplish this end, FDA decided to eliminate the use of PCB-containing equipment in food and feed establishments.

On July 6, 1973, FDA promulgated final regulations providing that new equipment or machinery for handling or processing human food and animal feed, and for manufacturing food or feed-packaging materials shall not contain PCBs. FDA required establishments in these industries that had such equipment in place to replace any PCB-containing fluids in such equipment with fluid that did not contain PCBs by September 4, 1973. The regulations, however, specifically exempted electrical transformers and condensers (capacitors), which hold PCBs in sealed containers, because, at that time, there were no known suitable replacement fluids for such equipment, and FDA did not expect their use in FDA-regulated establishments to result in direct contact with materials being processed.

Since 1973, FDA has received toxicity data based upon laboratory animal studies that demonstrate a definite association between low-level PCB exposure and potentially more serious subchronic and chronic toxicities, including adverse reproductive effects, liver damage, and tumor production.

One of these studies also has confirmed many of the adverse effects exhibited by the Yusho victims.

Recently FDA studied a number of incidents in which the use or disposal of PCBs resulted in contamination of food in the United States. PCBs leaking from damaged spare transformers and contaminating feed for poultry and livestock caused at least two of these incidents. The contaminated feed caused PCBs to be carried into human food. A fire in a warehouse in Ponce, Puerto Rico, caused one of the incidents in 1977, when PCBs were released from transformers stored in the warehouse. The warehouse served as a storage area for tuna fishmeal, which was dried, rebagged, and shipped to manufacturers for use in the manufacture of animal and and fish feeds. Over 2 million pounds of finished feed and fishmeal were contaminated, more than 400,000 chickens destroyed, and millions of eggs withheld from consumer markets.

The second transformer incident occurred in a federally inspected meat-slaughtering and processing establishment in Billings, Montana, in 1979. A spare transformer, stored in a shed at the packing plant, leaked an estimated 200 gallons of PCB-containing transformer oil into the plant's wastewater system. The solids that the operators recovered from the plant's wastewater system were rendered, and these rendered residues were included in meat meal. This contaminated meat meal was then fed to poultry and livestock and caused the contamination of approximately 800,000 chickens, 3.8 million eggs, 4,000 hogs, 800,000 pounds of assorted animal feeds and feed ingredients, and many bakery items in which contaminated eggs were used.

Quick action by plant officials and a U.S. Department of Agriculture (USDA) inspector, recognizing PCB leakage from a capacitor in a federally inspected hog-slaughtering establishment in Iowa, prevented another incident of potential massive contamination.

FDA's proposal would prohibit or limit the amount of PCBs in sealed electrical transformers and capacitors used or stored in or around food, feed and food- and feed-packaging materials plants or storage facilities, and require that certain raw materials used in human foods which are susceptible to PCB contamination be examined and analyzed to ensure that they comply with FDA tolerances for PCBs. (This regulation would not affect manufacturing of meat, poultry, and egg products, which is regulated by the U.S. Department of Agriculture.) FDA proposes to exempt capacitors containing less than 3 pounds of fluid from the regulations. These small capacitors are not included because most of the PCBs they contain are in a nonliquid, nonmobile state.

Alternatives Under Consideration

The agency considered several alternatives before developing its proposal:

(1) Do nothing. The agency abandoned this alternative because we concluded that the continued use of PCB-contaminated electrical equipment poses unreasonable risk of injury to human health. We cannot readily measure the potential harm, but the recent contamination incidents demonstrate the extent to which large numbers of people can be exposed to PCB health risks because of a single contamination.

(2) Complete ban. A complete ban on equipment containing any level of PCBs in food, feed, and food-packaging plants, i.e., a "zero" level in electrical fluids, would be unnecessarily restrictive. This approach would not allow the retrofilling of transformers where it is the less expensive option. Furthermore, the increased margin of safety may not be justified by the significantly higher costs.

(3) Inspection program. A contract study, prepared for EPA, examined this alternative which requires regularly scheduled inspection of PCB-containing equipment, in lieu of replacing such equipment. The study estimated that a daily inspection program, based on a 15-minute inspection for transformers and a 5-minute inspection for capacitors, cost $1,825 per year per transformer, and $608 per year per capacitor. While these costs are lower than replacement or retrofilling equipment, they must be endured for the life of the equipment and, consequently, this option has a higher net present value. Also, an inspection program, however rigorous, cannot necessarily prevent contamination experienced in recent incidents, e.g., fire.

(4) Restrict PCBs in new equipment only. This alternative would require companies using PCB-containing equipment to replace it at the going obsolescence rate for transformers and capacitors. This would extend the danger of PCB contamination in foods over many years, because the life of a transformer can exceed 40 years.

Variations on this option could phase out PCB-containing equipment over periods of time shorter than the remaining life of existing equipment, thus reducing the immediate economic impact of the proposal. This alternative may also ensure that the demand for replacement transformers and capacitors would be more easily met by the electrical manufacturing industry. Because this alternative would not provide any action to eliminate a potential public health hazard in the interim, it does not meet the essential requirement for timely protection against future contamination incidents.

(5) Installation of protection devices against leaks and spills. This alternative would require owners of transformers and capacitors to install basins, signaling devices, or similar systems to prevent PCBs leaked or spilled from transformers or capacitors, from contaminating foods, feeds, and food-packing materials. At this time FDA does not have cost data on this alternative but hopes to obtain such information through a contracted survey, and also through the comments submitted in response to this proposal. We are not considering this alternative at this time because of lack of information on the effectiveness or cost of any protective system.

(6) Restrict the use of PCB-containing equipment in animal feed and feed-ingredient facilities only. Recently reported incidents of direct PCB contamination of foods, feeds, and food-packaging material (where the PCB source was known to have been from transformers or capacitors) originated in facilities manufacturing and/or storing animal feeds or ingredients. Therefore, this alternative would remove the most recently experienced problem sources and result in no costs to the remainder of the food and food-packaging industry.

We did not consider this option a suitable alternative because there is insufficient evidence to warrant limiting this proposal to the animal feed industries. The potential for leaking PCBs exists in the human food industry as well, and direct human food PCB contamination would present a much greater health hazard since there would be no PCB dilution as in the feed processing chain.

Summary of Benefits

Sectors Affected: The general public; and manufacturing of transformers and capacitors.

The proposal would significantly reduce the likelihood of additional incidents in which the use or disposal of PCBs would result in contamination of food. A reduction of such incidents would be in the interest of protecting the public health and would serve to avoid the necessary destruction of PCB-contaminated food with attendant economic cost. The manufacturers of transformers and capacitors would

benefit because of increased demand for new machinery.

Summary of Costs

Sectors Affected: Manufacturing of food and kindred products (except meat, poultry, and egg products); consumers of these products; public warehousing of food and feeds; manufacturing of food-packaging materials, including metal cans and shipping containers, wood and plastic containers, and paperboard containers and boxes.

While we do not have sufficient data for a reliable estimate of transformer and capacitor use in the industries subject to this proposal, it seems likely from the data available at this time that transformers and capacitors are concentrated in a comparatively few large establishments. Data which FDA has contracted for or has requested be included in comments submitted on the proposal should permit us to define with greater precision the sectors that will be affected by the proposal.

The proposal would permit an FDA-regulated food, feed, and food-packaging establishment either to replace PCB-containing transformers and capacitors with non-PCB equivalents, or to drain the PCB-containing fluid from transformers and refill them with fluid containing not more than 50 parts per million PCB. We presume that all capacitors must be replaced because we do not believe retrofilling of capacitor fluid is feasible. The proposal has the potential to affect all establishments using PCB-containing equipment where there exists the possibility of contaminating the food supply. FDA knows of approximately 76,000 food establishments using this equipment, including 34,000 food manufacturers and 24,000 food warehouses. Additionally, we know there are an unknown number of food and feed-packaging materials establishments. We also know that not all these establishments use PCB-containing equipment, but do not know their proportions. That is, we have no reliable estimates of the number of potentially affected establishments that own or use utility-owned transformers or capacitors. Neither do we have reliable estimates of the proportion of such equipment that may be PCB-free, nor of the proportion of such equipment that may be used or stored in such a way that it is not in or around a plant or facility within the meaning of FDA's proposal.

The preliminary analysis of this proposal indicates that the economic costs of the proposal would exceed $100 million, the threshold established by E.O. 12044 for requiring a regulatory analysis, even though a reliable estimate of economic costs cannot be made without additional data.

(See USDA-FSQS, Proposed Polychlorinated Biphenyls [PCBs] Regulation, for more information on this point.)

FDA expects to obtain additional insight into the feasibility and costs of its proposed action, as well as alternatives to it. We expect to obtain much essential information from contract efforts. The proposal solicits any comments that may provide additional data or ideas helpful in developing a final regulatory analysis and a final rule on the proposal.

Related Regulations and Actions

Internal: 21 CFR Parts:

109—Unavoidable Contaminants in Food for Human Consumption and Food-Packaging Material

110—Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding Human Food

225—Current Good Manufacturing Practice for Medicated Feeds

226—Current Good Manufacturing Practice for Medicated Premixes

500—General

509—Unavoidable Contaminants in Animal Food and Food-Packaging Material

External: Environmental Protection Agency

40 CFR Part 761—Polychlorinated Biphenyls (PCBs)

—Department of Agriculture, Food Safety and Quality Service

7 CFR Part 2859—Inspection of Eggs and Egg Products (Egg Products Inspection Act of 1970)

9 CFR Part 308—Sanitation

381—Poultry Products Inspection Regulations

Active Government Collaboration

As a result of the multiagency involvement in PCB containment and the recent incidents of PCB leakage from electrical transformers and capacitors, FDA, as a member of the Interagency Regulatory Liaison Group (IRLG), joined in a cooperative effort with the Environmental Protection Agency (EPA) and the Food Safety and Quality Service of the U.S. Department of Agriculture (USDA), to determine if any additional controls were necessary to further protect the public health from the use of PCB-containing equipment in or around food and feed facilities.

EPA sponsored and EPA, FDA, and USDA distributed a technical booklet entitled, "Polychlorinated Biphenyls: An Alert for Food and Feed Facilities," December 1979, which was the result of interagency cooperation. We prepared this booklet to aid the food, feed, pesticide, and fertilizer industries in identifying potential problems with PCBs and to recommend that these industries institute a program for preventive action without delay. This cooperation also resulted in the agencies' concluding that further mandatory controls are needed.

EPA has published a proposal in the **Federal Register** of May 9, 1980 (45 FR 30989) to restrict the use of PCBs at agricultural pesticide and fertilizer facilities.

USDA published a proposal in the **Federal Register** of February 29, 1980 (45 FR 13471) to amend the Federal meat, poultry, and egg-products inspection regulations by prohibiting the entry of new or replacement equipment and machinery containing PCBs onto the premises of plants under their jurisdiction. USDA has also published a proposal in the **Federal Register** of May 9, 1980 (45 FR 30980) to prohibit PCB-containing equipment or machinery and liquid PCBs in federally inspected meat, poultry-product, and egg-product plants. Comments received as a result of the USDA proposals, the EPA proposal, and FDA's proposal will be shared among the members of IRLG.

Timetable

Final Rule—to be coordinated with EPA and USDA.

Final Rule Effective—FDA proposes that any final regulations resulting from this proposal be effective 180 days after the date of publication of the final regulations in the **Federal Register**, or after an EPA-approved incinerator is available, whichever is later

Regulatory Analysis—Final Regulatory Analysis with final rule.

Available Documents

NPRM—45 FR 30984, May 9, 1980

Supporting data and information (including EPA's current regulations on PCBs), a copy of FDA's testimony to Congress regarding the proposal, and the draft regulatory analysis are on file with the Hearing Clerk, FDA.

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HEW-FDA

Food Labeling Initiatives (21 CFR Chapter I
7 CFR Chapter XXVIII
9 CFR Chapter III
16 CFR Chapter I)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 343 *et seq.*

Reason for Including This Entry

The Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA) and the Federal Trade Commission (FTC) are assessing existing food labeling laws and policies to develop an overall labeling strategy that will benefit consumers by providing better information about the foods they eat.

Statement of Problem

FDA, USDA, and FTC believe that the existing Federal food labeling laws and implementing regulations should be updated. These laws are enforced by the USDA (meat and poultry) and FDA (all other foods). The FTC is interested in food labeling because it is responsible for regulating food advertising.

Congress enacted the first Federal food laws in 1906, and, although some changes have been made since, the basic concepts of food labeling have remained unchanged for many years. For example, the last major revision of the food labeling provisions of the Federal Food, Drug, and Cosmetic Act (FD&C) administered by FDA was in 1938.

Since these food laws were enacted, significant changes have occurred both in the food industry and in Americans' attitudes toward the food supply and their diet. Advances in the food industry have resulted in a wider variety of available foods and increased availability of fresh foods. At the same time, the number of processed foods on the market now account for more than half of the American diet.

Federal agencies have attempted to meet these changes through labeling regulations. Because different regulatory agencies are responsible for different aspects of food labeling, the resulting rules have been complex, duplicative, and/or inconsistent. FDA, USDA, and FTC realized a need to reassess the existing food labeling regulations before implementing any further revisions.

In 1978, the agencies conducted a series of five public hearings soliciting views on food labeling issues, and FDA sponsored a Consumer Food Labeling Survey to determine public opinion. The agencies designed these efforts to provide themselves with information that would help develop legislative proposals or goals, devise new or revised regulations, and avoid initiating unwarranted actions. The announcement of hearings and request for comments on a series of food labeling topics were published in the **Federal Register** of June 9, 1978 (43 FR 25296). The agencies sought the public's views on many issues including ingredient labeling, nutrition labeling and dietary information, open date labeling, food fortification, imitation and other substitute foods, safe and suitable ingredients, and the total food label as an information source for consumers.

Over 9,000 people commented on these and other related food labeling issues. They especially wanted labels describing all ingredients for *all* foods, nutrition labeling on more foods, open dating on more foods, labeling of sugar content, and labels telling a product's salt content. FDA, USDA, and FTC analyzed these comments and published their tentative positions on 27 food labeling issues ranging from ingredient labeling to nutrition labeling to the labeling of imitation and substitute foods in the **Federal Register** of December 21, 1979 (44 FR 75990) for further comment. In the same issue of the **Federal Register**, the agencies announced a public hearing held on March 4 and 5, 1980 to hear oral testimony on 27 positions and issues. At this time, it is premature to discuss these as single actions because they are closely related and are part of a total package. Any specific action that will change the present legal requirements for food labeling would come only after we have considered comments on the individual issues.

Alternatives Under Consideration

New legislation and new or revised regulations will be needed to effect the changes in food labeling suggested in the tentative positions. The agencies themselves feel that more informative labeling is needed to assist consumers in making appropriate purchases based on health, nutrition, and personal preference.

In addition to regulatory action, the agencies could encourage industry to institute voluntarily some of the food labeling changes. To do nothing would run the risk of FDA being told by consumers that the Federal government does not listen to the public's wants and needs with respect to improved food labeling. In fact, the agencies will be encouraging industry to take steps to institute certain food labeling policies. For example, we encourage industry to develop a means of sharing information for purposes of nutrition labeling, which would save analytical costs that would otherwise be passed on to consumers in the form of higher prices. In addition, development of such bases could stimulate greater use of nutrition labeling because sharing information would reduce the burden on individual food producers.

Although some of the food labeling initiatives can be realized through voluntary compliance, others will require agency action through regulations or congressional action through legislation to ensure food-labeling uniformity and consistency.

Summary of Benefits

Sectors Affected: The general public.

We find it difficult to quantify the benefits that will accrue from improved food labeling. Qualitatively, the benefits can be viewed in the context of protecting public health and helping consumers make sound purchasing decisions.

Of the factors that guide the agency in making food-labeling changes, the public health consideration is the most important. From this latter standpoint, consuming essential nutrients in sufficient quantities is vital to human health. This goal can be achieved only by eating a variety of foods. An improper selection of foods can result in a person receiving inadequate or excessive amounts of nutrients, either of which may be detrimental to health.

Accurate and informative labeling concerning a product's ingredients and nutrient content is of even greater public health significance now than in the past because advances in technology have created more processed and fabricated foods whose nutrient content and other characteristics are not readily discernible to consumers without adequate food labeling. As the relationship of nutrition to certain diseases is becoming better understood, food labeling becomes even more important by providing consumers with information for choosing products. In some instances (e.g., sodium labeling) food labeling may be the most effective method for providing health protection.

Many Americans need special diets because of disease or abnormal physiological conditions, such as allergies. These people especially need accurate food labeling information.

Summary of Costs

Sectors Affected: Manufacturing of food and kindred products other than meat and poultry, and consumers of these products.

The food-labeling initiatives will affect all segments of the food manufacturing industry, regardless of size. The smaller segments of this industry will be most adversely affected because of the costs associated with revising labels. This effect can be alleviated somewhat by providing sufficient time for making the changes, and by setting a reasonable uniform effective date. The agencies assume that the immediate cost impacts on food-processing firms will be very largely passed on to consumers through increases in produce prices. Ultimately, therefore, it is consumers to whom the cost as well as the benefits of the initiatives will accrue.

Because none of these food labeling initiatives has proceeded to the proposal stage, FDA has not made an economic or regulatory assessment. Of the various initiatives under consideration, the majority are at a stage where proceeding directly to proposals for implementing regulations would be premature, either because legislative changes will be needed to clarify the agencies' authority or because further study is necessary to determine the best approach. For these initiatives, the agencies expect that the evidence of economic impact will accumulate during the course of the legislative and research process. A number of other initiatives, however, warrant immediate and detailed analysis of their economic impact as a step toward selection of specific proposals and courses of action. The agencies, therefore, are asking the public for data or analyses that may be helpful in clarifying and quantifying the economic impact of the current proposals on industry and consumers. We will request information in a **Federal Register** notice. In particular the agencies are requesting economic data in areas of ingredient labeling and nutrition labeling.

In addition to this request for economic information, FDA will contract for a study to determine the economic impact of the possible labeling changes. The study is expected to begin in June 1980 and be completed by the end of that year.

Related Regulations and Actions

None.

Active Government Collaboration

The development of any subsequent food labeling revisions will occur in cooperation with the Food Safety and Quality Service of the U.S. Department of Agriculture and the Federal Trade Commission. The agencies will initiate activities to implement food labeling revisions according to each agency's authorities and procedures, and will coordinate such action with other agencies to ensure consistency among them.

In addition, we are keeping the White House Office of Consumer Affairs advised of these activities.

Timetable

Institute actions to implement food labeling revisions, i.e., public proposals, or seek or support legislation—summer 1980
Regulatory Analysis—not required

Available Documents

The following documents are available for review in the Office of FDA's Hearing Clerk:

1) Notices of Hearings and Requests for Comment on Food Labeling Issues—43 FR 25296, June 9, 1978—44 FR 75590 December 21, 1979

2) Food Labeling Background Papers

3) FDA 1978 Consumer Food Labeling Survey

4) Food labeling report on the analysis of comments

5) Transcripts of the six public hearings and written comments on food labeling issues

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HEW-FDA

Prescription Drug Products; Patient Labeling Requirements (21 CFR Part 203)

Legal Authority

The Federal Food, Drug, and Cosmetic Act, § 502, 503, 505, 506, 507, and 701, (21 U.S.C. 352, 353, 355, 356, 357, and 371). The Public Health Service Act, Sec § 351 (42 U.S.C. 262) 21 CFR 5.1.

Reason for Including This Entry

This regulation will benefit the public because it will help patients obtain information they need to use prescription drugs more safely and effectively.

Statement of Problem

The Food and Drug Administration (FDA) has conducted original research and reviewed various studies to determine how much is being done to communicate information on prescription drug products to patients. The FDA research and review suggest that health professionals do not always adequately communicate information about prescription drug products to patients. In addition, patients may not pay attention to, understand, accept, or remember information that is presented orally. The agency believes that required patient labeling leaflets will help overcome the problems that hamper the oral communication of important information about prescription drug products to patients.

Under the Food, Drug, and Cosmetic Act, professional labeling (commonly referred to as the package insert) is required to accompany the drug product. At this time FDA proposes to regulate distribution of labeling directed to the patient in nontechnical and nonpromotional language.

These informational pieces are referred to as patient labeling, and will be made available at the dispensing point. In most cases this will be at the retail pharmacy level, physician-dispensing level, public health clinics, or other dispensing points.

Another FDA literature review has shown that many patients misuse prescription drug products by failing to adhere to the prescribed regimen; for example, a patient may space doses improperly, fail to take the drug for the period of time necessary for adequate treatment, skip doses, or take extra doses. On the average, 30 to 50 percent of patients do not follow instructions for a wide range of prescription drug products. A patient's failure to know about or to comply properly with a prescribed course of therapy may be a major cause for the therapeutic failure of the product, or may cause the patient to experience a serious adverse reaction. Patient labeling of drugs, however, appears to improve the compliance rate.

Nationwide surveys sponsored by FDA, as well as those conducted independently, show that broad patient support exists for patient labeling. A 1978 nationwide survey showed that consumers wanted patient labeling by a 2 to 1 margin, that this desire was consistent across all age, sex, and educational subgroups.

Alternatives Under Consideration

FDA considered several alternatives to its proposed patient labeling requirements, including: 1) establishing requirements for patient labeling on a case-by-case basis, instead of requiring a general program applicable to most prescription drug products, 2) requiring that patient labeling be distributed with a new prescription, but not with refills of that prescription, 3) requiring that

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copies of patient labeling be placed on

In 1978, consumers spent $9 billion on

copies of patient labeling be placed on display in each pharmacy, but not distributed, and 4) requiring that current labeling for doctors and other health care providers for prescription drug products be distributed to patients.

The alternative of establishing requirements for patient labeling on a case-by-case basis is unacceptable because too much time elapses between when the need is identified and when the requirement is put into effect. Further, studies of patient compliance suggest the need for patient labeling for most, if not all, prescription drug products. Although requirements established on a case-by-case basis might permit greater public review of the need for patient labeling for each drug product, this alternative would not fulfill the immediate need for a broad and workable distribution system.

The other alternatives are unacceptable because they limit consumer access to important drug information. If patient labeling were required only for new prescriptions, chronic users of some products would be denied timely information about the products. Providing patient labeling as a reference source in pharmacies would serve only the interested consumer and would provide only information that must be remembered, unless photocopying facilities are available. Also, the patient is often not the person who obtains the drug product at the pharmacy. Finally, labeling written for health care professionals may be too technical to be understood by most patients.

Summary of Benefits

Sectors Affected: Consumers of prescription drug products.

Patient labeling would provide patients with information about prescription drug products (information that 64 percent of consumers surveyed favor receiving). We believe patient labeling would increase compliance with prescribed short-term drug therapy, help patients avoid harmful drug-drug and food-drug interactions, avoid serious side effects and adverse reactions, and could help patients manage serious side effects or prevent them from worsening.

FDA has identified the following benefits that could accrue because of patient labeling: 1) reduced prescription drug use, 2) fewer revisits to health care professionals, 3) fewer hospital admissions for avoidable adverse drug reactions or therapeutic failures due to noncompliance, and 4) fewer work-days lost due to avoidable adverse drug reactions.

In 1978, consumers spent $9 billion on prescription drug products, of which an estimated $1.9 billion was for drugs for short-term therapy. Patient labeling could affect prescription sales by improving compliance with the original therapeutic regimen, and thus prevent the need for a refill or a second prescription because of the therapeutic failure of the first. It could also reduce the need for treating avoidable drug interactions with another drug.

Consumers could avoid revisiting health care professionals, at an average cost of $15 per follow up visit, if success rates for the initial drug therapy improve because patients comply better with the prescribed regimen. Return visits may also be reduced if drug interactions are avoided and side effects are better understood as a result of patient labeling. Also patients could distinguish better between potentially serious adverse drug reactions needing medical attention and adverse reactions that would disappear once the patient has adjusted to taking the drug.

Some adverse effects of prescription drug use require hospitalization of the patient. Hospital treatment of adverse drug reactions annually costs between $156 and $520 million. Patient labeling, in helping to avoid some of these costs, will yield a substantial benefit.

Finally, improper use of prescription drug products can have effects that do not require hospitalization but may force a patient to curtail normal activities.

Thus, patient labeling may produce large potential savings, for example, in the form of fewer work-days lost because of avoidable adverse drug reactions.

Summary of Costs

Sectors Affected: Manufacturing of pharmaceuticals; pharmacies, hospitals, nursing and health-related personal care facilities; consumers of prescription drug products; and FDA.

FDA intends to implement the patient labeling requirements gradually over a period of several years. Under the proposed regulation, FDA assumed that the requirements would be applied to 25 products (representing 20 percent of all prescriptions issued to consumers) in the first year, and to approximately 375 products (representing 90 percent of all prescriptions issued to consumers) by the fifth year. FDA estimated that in the fifth year of implementation the total cost of the program will be $90.04 million. The cost would affect FDA, the pharmaceutical industry, pharmacies, other health care providers, and consumers. FDA estimated that its total cost for program management would be $180,000 annually.

We estimated annual cost to the pharmaceutical industry for writing and printing patient labeling texts to range from $2.84 million in the first year to $12.78 million in the fifth year. We estimated annual costs to industry for writing patient labeling texts to range from $45,000 in the first year (when FDA would provide guideline patient labeling texts) to $180,000 in the fifth year. We estimated costs to industry of printing patient labeling to range from $2.8 million in the first year to $12.6 million in the fifth year. We do not expect shipping and distribution costs for drug products to change appreciably.

We estimated costs to retail pharmacies, because of patient labeling storage (equipment, space, and pharmacy modification) and clerical activities (filing and dispensing), to range from $20 million in the first year of implementation to $75 million in the fifth year. FDA expected that the following estimates of capitalized costs to retail pharmacies from patient labeling will remain constant over the first five years of implementation: $2.58 million for equipment, $870,000 for storage space, $1.38 million in pharmacy modifications to provide storage space, and $0 and $1.19 million in foregone profits.

We estimated clerical costs to retail pharmacies to range from $15.56 million in the first year to $70 million in the fifth year of implementation.

Hospital pharmacies and other long-term care facilities will not have to give individual patient labeling information pieces to patients but they will have to have information available to patients for reference. We expect the cost to hospitals to be approximately $2.25 million per year.

FDA expects that almost all of the costs of the proposed requirements will be passed on to the consumer, but almost all of the expected gains will accrue to consumers as well. Assuming a straight passthrough to consumers of FDA costs (taxes), pharmaceutical and retail pharmacy costs (prescription drug prices), and hospital pharmacy costs (hospital costs), the estimated total costs to the consumer in the fifth year of implementation are $90.04 million. Thus, the average prescription price would increase by about 1 percent, from $6.44 to $6.50, assuming that all industry costs are passed on and that they are equally distributed over all 1.4 billion prescriptions dispensed at the retail level.

Based on a preliminary review of the comments received in response to the proposal, FDA believes it may be appropriate to modify earlier estimates of the rate of implementing a final regulation. We are considering, therefore, applying the final requirements to approximately ten products for the first year. Before additional patient labeling would be required the impact of patient labeling for these ten products would be evaluated during a two to three year period. If this revised procedure is adopted in the final regulation, the cost input would be substantially reduced. New cost estimates would be developed for a final regulatory analysis that would be available with the final regulation.

Related Regulations and Actions

Internal: 21 CFR 201.305 (isoproterenol inhalation drug product patient labeling requirement); 21 CFR 310.501 (oral contraceptive patient labeling requirement); 21 CFR 310.515 (estrogenic drug product patient labeling requirement); 21 CFR 310.502 and 801.527 (intrauterine devices for contraception patient labeling requirements); and 21 CFR 310.516 (progestational drug product patient labeling requirement).

External: None.

Active Government Collaboration

None

Timetable

Final Rule—winter 1980–81.
Final Rule Effective—for a drug product 120 days after a guideline patient labeling text is established for the product.
Regulatory Analysis—final Regulatory Analysis available with the Final Rule

Available Documents

NPRM—44 FR 40016, July 6, 1979

We have received over 1,300 comments. Comments were also submitted by the Council on Wage and Price Stability, in the form of a report of the Regulatory Analysis Review Group. Three public hearings on the proposal were held on September 10, 12, and 14, 1979. We prepared a draft regulatory analysis under E.O. 12044 when we published the proposal and placed it on file in the Office of FDA's Hearing Clerk (HFA–305, Room 4–62, 5600 Fishers Lane, Rockville, Maryland 20857). The draft regulatory analysis comments received in response to the proposal, and transcripts of the public hearings are available in the Office of FDA's Hearing Clerk.

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HEW–HEALTH CARE FINANCING ADMINISTRATION

Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities (42 CFR Parts 405, 442, and 483)

Legal Authority

Title XVIII (Health Insurance for the Aged and Disabled) and Title XIX (Grants to the States for Medical Assistance Program) of the Social Security Act, 42 U.S.C. §§ 1302, 1295F, 1395K, 1395I, 1395x, 1395z, 1395bb, 1395cc, and 1395hh.

Reason for Including This Entry

The proposed regulations would recodify, revise, and consolidate present regulations governing conditions of participation for skilled nursing and intermediate care facilities under the Medicaid and Medicare programs. It will benefit patients in nursing homes by focusing standards on quality care and accurately measuring facility compliance.

Statement of Problem

Nursing homes must meet a number of requirements in order to provide long-term care services under the Medicare and Medicaid programs, which fund services to many elderly and low-income citizens. These requirements are set out in the Social Security Act and in the Department of Health, Education and Welfare (HEW) regulations called the "Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities." Skilled nursing facilities (SNFs) provide long-term care for patients who require skilled nursing on a daily inpatient basis which intermediate care facilities (ICFs) are used by patients who do not require regular skilled nursing, but do need some health care on a long-term inpatient basis.

The Social Security Act and HEW regulations set standards for the health and safety of Medicare and Medicaid patients in SNFs and ICFs, and are designed to assure that patients receive quality care. SNFs and ICFs are surveyed annually by State governments under contract with HEW to determine if they meet the requirements of the law and regulations. Based on information collected in the surveys, the HEW regional offices certify institutions for participation in the Medicaid and Medicare programs.

Approximately 18,000 long-term care facilities participate in Medicare and Medicaid. Medicare payments for long-term care were about $400 million for FY 1978, and Medicaid payments for long-term care totalled over $6 billion for FY 1977.

The present regulations have been in effect since 1974. The major reasons for revising the regulations are:

1. To improve the quality of patient care by developing requirements which better measure the actual quality of the care which patients receive in SNFs and ICFs.
2. To control the cost of long-term care, while not sacrificing the quality of care.
3. To update the regulation to reflect new methods of delivering health care services.
4. To strengthen requirements for the protection of patients' rights in nursing homes.
5. To make the regulations clearer and simpler, as a part of HEW's commitment to revise all old regulations to make them more readable and helpful.
6. To eliminate areas of ambiguity in the current regulations which have resulted in discrepancies in enforcement.

Alternatives Under Consideration

We held a series of public hearings during the summer of 1978 and a wide range of alternatives were discussed. Major issues were:

- What minimum qualifications should be established for professional personnel in SNFs and ICFs?
- Should unlicensed personnel be allowed to administer medications?
- How often should physicians be required to visit SNF patients?
- Should physician extenders (nurse practitioners and physician assistants) be permitted?
- Should facilities be required to provide or arrange for respiratory therapy?
- Should the requirement for annual surveys of SNFs and ICFs by State agencies be changed?

We intend to propose an evaluation system to monitor a patient's medical condition and to place greater emphasis on patients' rights in nursing homes.

Summary of Benefits

Sectors Affected: Nursing and health-related personal care facilities (SNFs and ICFs); patients and staff at these facilities; and State health agencies.

We expect the revised regulations to improve the quality of patient care and increase patients' rights in nursing homes. Nursing home personnel and patients will find the new regulations

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simpler to use because they will be clearer, and diverse requirements from the old regulations will be consolidated where possible.

HEW is studying the costs of these regulation revisions and will fully describe the cost impact in the NPRM. We now believe that several of the revisions to the regulations now under review would result in savings for nursing homes which could result in lower costs for patients. These cost saving changes that are under consideration would eliminate some procedural requirements which are not directly related to the quality of patient care. In addition, revisions to the Life Safety Code requirements that will permit alternative (and less costly) methods for achieving compliance will affect the cost of these regulations.

However, new requirements under consideration could result in increased costs. The major new requirement under consideration is the proposed patient assessment provisions. These proposals concern a comprehensive assessment of all patients' health needs when they enter a nursing home, and a system for evaluating a patient's progress on a regular basis. A draft regulatory analysis providing estimates of the costs of these requirements will be available when the NPRM is published.

Summary of Costs

Sectors Affected: Nursing and health-related personal care facilities (SNFs and ICFs); patients and staff at these facilities; and State health agencies.

See above discussion under 'Summary of Benefits."

Related Regulations and Actions

Internal: As part of "Operation Common Sense" (the HEW-wide operation to make regulations clear, concise, and understandable to the general public), the department intends to review and revise all standards and certification regulations which affect providers participating in the Medicare and Medicaid programs. At the present time, we are revising the HEW regulations on "Conditions of Participation for Hospitals."

External: None.

Active Government Collaboration

The Federal Trade Commission, which is concerned with patient rights in nursing homes.

HEW-Health Care Finance Administration (HCFA) is also consulting with State agencies.

Timetable

NPRM—spring 1980
Draft Regulatory Analysis—spring 1980
Final Rule—fall 1980
Final Regulatory Analysis—fall 1980

Available Documents

"New Directions for Skilled Nursing and Intermediate Care Facilities" (Summaries of Public Hearings), September 1978

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HEW–HCFA

Life Safety Code in Hospitals, Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)—General Notice (Not Codified in CFR LSC Are Provisions at 42 CFR 405.1134 and 442.331 et seq (Nursing Homes) and 42 CFR 405.1022 (Hospitals))

Legal Authority

Title XVIII (Health Insurance for the Aged and Disabled) of the Social Security Act, 42 U.S.C. § 1302.

Reason for Including This Entry

This proposal would benefit patients in hospitals and nursing facilities by providing a framework which guarantees that the high standards of fire safety necessary to protect patients will be maintained. It would provide flexibility in meeting Life Safety Code (LSC) requirements and would accommodate new advances in safety technology and practice.

Statement of the Problem

Hospitals and nursing homes must meet a number of requirements, primarily relative to the health and safety of patients, in order to participate in the Medicare and Medicaid programs which finance health services for many elderly and low-income families. These requirements are set out in the Social Security Act and in Department of Health, Education and Welfare (HEW) regulations. One of the requirements is the LSC of the National Fire Prevention Association. The LSC contains a detailed set of standards, mostly related to safety aspects of the physical plant, such as structure, fire prevention systems, and hazard alarms.

Current procedures which require strict adherence to the provisions of the Code, may unnecessarily require hospitals and nursing homes to undertake large capital expenditures to correct LSC deficiencies. The result of strict adherence to each LSC requirement is that:

1. Some institutions cite nonconformance with the LSC as the basis for complete replacement of a facility. This may increase health costs and would be especially unnecessary in areas which already have more hospital or nursing home beds than needed.

2. Some major structural changes are made in obsolescent facilities with short life of service expectancies to bring them into compliance.

The LSC permits uses of alternative means of protecting patient safety which may be less costly than strict adherence to the specific standards in the LSC. In 1974, HEW asked the National Bureau of Standards, in the Department of Commerce to develop a rating system to assess a facility's life safety provisions without requiring vigorous adherence to each specific standard. "A System for Fire Safety Evaluation of Health Care Facilities," developed by the National Bureau of Standards was approved by the Department of Commerce in December 1978. Under this new rating system, safety provisions are assigned numerical values. Therefore, two facilities with differing safety provisions could still be rated as having equivalent levels of life safety.

Alternatives Under Consideration

HEW is considering alternatives other than continued strict adherence to the Life Safety Code. These alternatives would, for example, use the rating system developed by the National Bureau of Standards. The major alternatives are:

(1) To continue the current HEW policy of requiring hospitals and nursing homes to meet the specific standards in the LSC.

(2) To permit hospitals and nursing homes to meet either the LSC or an equivalent level of safety as measured by the rating system developed by the National Bureau of Standards.

(3) To permit hospitals, but not nursing homes, to use equivalent or alternative means of protecting patient safety. These means may be less expensive than strict application of the LSC.

Summary of Benefits

Sectors Affected: Hospitals; nursing and health-related personal care facilities which participate in Medicare and Medicaid; and patients in these facilities.

The costs savings are potentially significant but the savings will vary based upon the options individual facilities select to assure patient safety. The cost savings are expected to be greatest in older facilities.

The cost of correcting deficiencies found during an FSES evaluation will not be greater than the cost of correcting the same deficiencies under the current evaluation process. In approximately 60 facilities evaluated using the FSES, there was an aggregate cost savings potential of about $6.7 million. Under current practice, many capital improvements required by the LSC are not made because of the great cost involved.

Summary of Costs

Sectors Affected: Hospitals; nursing and health-related personal care facilities which participate in Medicare and Medicaid.

See above discussion under "Summary of Benefits."

Related Regulations and Actions

Internal: ANPRM—Intent to consider regulation on automatic extinguishment systems for long-term care facilities, 43 FR 57166, December 6, 1978

External: None.

Active Government Collaboration

HEW worked with the National Bureau of Standards in the Department of Commerce, which developed the system for rating equivalent means of achieving LSC standards. HEW is also collaborating with the Veterans Administration which has adopted the National Bureau of Standards system for veterans hospitals.

Timetable

Final Notice for Hospitals, SNFs and ICFs—spring 1980
Regulatory Analysis—none

Available Documents

Notice with Comment Period—44 FR 37818, June 28, 1979.

Public comments available from HCFA, Room 325G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201

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HEW–HCFA

Uniform Reporting Systems for Health Services Facilities and Organizations (42 CFR Parts 402, 405, and 450)

Legal Authority

Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95–142), 42 U.S.C. § 1121.

Reason for Including This Entry

The regulations require all health care facilities that receive payments under the Medicare and Medicaid programs to report cost-related information, such as cost of operation, volume of services, and capital assets, in a prescribed uniform manner.

In FY 1981 the Health Care Financing Administration (HCFA) will pay more than $50 billion for services delivered under the Medicare and Medicaid programs. HCFA's ability to manage these publicly funded health care programs has been impeded by the current cost-reporting methods, which make it difficult to judge the efficiency of institutional providers and to compare accurately the costs of services furnished within institutions or among institutions.

The proposed rule's purpose is to obtain comparable cost and related data on all participating hospitals for reimbursement, effective cost, and policy analysis, assessment of alternative reimbursement mechanisms, and health planning.

Statement of Problem

Section 19 of Pub. L. 95–142 requires improved financial and statistical data from institutional providers of Medicare and Medicaid services to accurately identify costs and to aid in the control of an ever-increasing inflation rate in health care costs. It requires the Secretary of Health, Education and Welfare (HEW) to establish a uniform reporting system for institutional health care providers.

Since the enactment of the Medicare legislation in 1965, the costs of health care have consistently increased at a rate significantly above the overall rate of inflation. Efforts by HEW to curb this increase under existing reporting provisions have been ineffective, in part because of the lack of comparable cost data. These regulations would establish uniform reporting systems for all health services facilities and organizations including hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, and health maintenance organizations that participate in the Medicare and Medicaid programs.

The law specifically requires regulations to establish a uniform system of reporting for the following types of information for each type of health services facility or organization:

- cost of operation;
- volume of services;
- capital assets, as defined by the Secretary of HEW, including capital funds, and the value of land, facilities, and equipment as appropriate; and
- patient discharge and bill data.

We will implement uniform reporting requirements through several separate regulations. To date, we have completed substantial work on uniform hospital cost reporting. Proposed rules were published January 23, 1979 and March 19, 1980.

Alternatives Under Consideration

Within the legislative mandate certain options are available. Timing and scope of a reporting system are limited by a timetable and objectives specified in the legislation. The primary objective is to design a system that will obtain comparable cost and related data from all institutional providers participating in Medicare and Medicaid. Among other things, we intend to use this data for reimbursement purposes and to improve our capacity to detect fraud and abuse. Other factors which affect the scope of the regulation include HEW's concern about minimizing the reporting burden and eliminating duplicate and overlapping data requirements placed on the provider, while meeting the intent of the legislation.

For the regulation implementing reporting of hospital data on cost, utilization, and capital assets, the major options we chose were:

(1) to merge, to the extent possible, departmental data collection activities (e.g., Medicare and Medicaid cost reporting and hospital facilities components of the Cooperative Health Statistics Systems funded by the Public Health Service) in order to coordinate reporting requirements and minimize the burden on the hospitals furnishing the data;

(2) to provide reduced cost reporting requirements for small facilities (less than 4,000 admissions annually) because they generally have fewer cost centers than large hospitals and less information to report;

(3) to limit, to the extent possible, the level of detail required to ascertain the cost of services provided for specific cost centers, in an effort to decrease the reporting burden (for example, the system would report employee work-time on a sample basis instead of requiring detailed time reporting).

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We designed alternatives to minimize the level of detail and the cost of providing the information while permitting accurate comparisons of costs between hospitals furnishing the same type of service or care.

For the regulation implementing the collection of hospital bill and discharge data, the major areas of consideration are: (1) confidentiality regarding data collection on non-Federal patients and physicians; and (2) method of collecting and processing the bill and discharge data.

Summary of Benefits

Sectors Affected: Hospitals, nursing and health-related personal care facilities, medical laboratories, outpatient care facilities, health care and allied services that participate in the Medicare and Medicaid programs; patients of these facilities; and HCFA.

HCFA is designing uniform reporting systems with the intent of reducing and eliminating costly multiple collection and processing of the same data. HCFA will provide data collected via the uniform reporting systems to any interested parties, eliminating the need for many duplicative systems.

These systems will enable the department to obtain uniform comparable data necessary for reimbursement, effective cost containment and policy analysis, assessment of alternative reimbursement mechanisms, and health planning. Adequate and comparable data is not presently available to support these objectives. Attainment of these objectives will aid efforts to curb the inflationary spiral of health care costs.

Providers will receive valuable management information that could be used to assess efficiency at all levels of their operations. This would permit control over expenditures for supplies, services, and capital. A uniform reporting system for home health agencies is in the early planning stage. HCFA commissioned an accounting cost study on June 11, 1979, and will publish an NPRM after we have reviewed the results of that study. At that time, we will make an estimate of industry and government costs for implementing the system. Cost savings derived from the bill and discharge portions of § 19 of Pub. L. 95–142 are expected to offset costs associated with the cost and utilization reporting regulations.

Summary of Costs

Sectors Affected: hospitals, nursing and health-related personal care facilities, medical laboratories, outpatient care facilities, and health and allied services that participate in the Medicare and Medicaid programs.

HCFA will develop estimates of the cost of implementing the uniform reporting system for all health services and organizations as each regulation is prepared. HCFA has completed cost estimates specifically for the regulation implementing uniform reporting of costs for hospitals. HCFA awarded a contract to an accounting firm to determine the actual cost and burden of implementing the hospital cost reporting system. The results of this study showed total annual operating costs (in 1978) of $37 million nationwide, an average of about $5,300 per hospital. These costs represent .2 percent of the $25 billion HCFA paid to hospitals in 1978, and .079 percent of the $70.9 billion hospitals received from all sources.

For the 7,000 affected hospitals, HCFA estimated that the total one-time first year startup costs for the hospital cost reporting segment would be $19 million in 1978 dollars, or $2,720 per hospital.

Related Regulations and Actions

Internal: On January 23, 1979, HEW published an NPRM for collecting cost, utilization, and capital assets data from hospitals.

Because of extensive public comment, HCFA has prepared a revised manual and the department published a second NPRM to obtain further public comment.

HCFA is developing cost reporting regulations for long-term care facilities, home health agencies, and health maintenance organizations. Other regulations under development pertain to discharge and bill data.

External: None.

Active Government Collaboration

None

Timetable

Uniform Hospital Cost Reporting Final Rule—FY 1981
Uniform Hospital Discharge and Billing Data NPRM—FY 1981
Uniform Nursing Home Cost Reporting NPRM—FY 1981
Uniform Nursing Home Discharge and Billing Data NPRM—FY 1982
Uniform Reporting for Home Health Agencies NPRM—FY 1981
Uniform Discharge Data for Home Health Agencies NPRM—FY 1981

Available Documents

NPRM for Uniform Hospital Cost Reporting—44 FR 4741, January 23, 1979
NPRM and Regulatory Analysis for Uniform Hospital Cost Reporting—45 FR 17894, March 19, 1980
"Uniform Reporting Systems for Health Services Facilities and Organizations," System for Hospital Uniform Reporting, HEW draft manual, December 1978. Copies of this manual are no longer available for public distribution, but a copy is available for public inspection in Room 309G of HEW's offices at 200 Independence Ave., S.W., Washington, D.C. The revised draft manual of instructions, Annual Hospital Report, February 20, 1980, and accompanying forms are being sent in response to requests made after publication of the second NPRM. Requests should be made to, Chief, Printing and Publications Branch, Division of Administrative Services, HCFA, 1710 Gwynn Oak Bldg., Baltimoré, Md. 21235 (301) 594–5514.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Neighborhoods, Voluntary Associations, and Consumer Protection

Lead-Based Paint Poisoning Prevention Act, Title 3, Section 302, 42 U.S.C.

Legal Authority

Lead-Based Paint Poisoning Prevention Act, Title 3, § 302, 42 U.S.C. 4801 *et seq.*

Reason for Including This Entry

This proposal has the potential for a major economic effect on the economy, with costs and benefits which may exceed $100 million per year, depending on the option we pursue, as set forth in the Statement of the Problem below.

Statement of the Problem

The Department of Housing and Urban Development (HUD) is required pursuant to the Lead-Based Paint Poisoning Prevention Act to establish procedures to eliminate the "immediate hazards" of lead-based paint poisoning in all federally owned housing, and in housing which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary of HUD. Further, HUD is to assure notification to purchasers and tenants of pre-1950 HUD-insured or HUD-assisted

housing of the hazards, symptoms, and treatment of lead-based paint poisoning. The current regulations define "immediate hazards" as cracking, scaling, chipping, peeling, or loose paint. While this procedure removes the most obvious hazards, there is concern that children may ingest lead by chewing intact surfaces containing high levels of lead. Also, there is concern that levels of lead used in post-1950 paint may constitute an immediate hazard to health. Reliable estimates of the number of cases of lead poisoning are not available, but the Center for Disease Control found "undue lead absorbsion" (indicating a risk of lead poisoning) in over 7 percent of preschool children screened in 1977. Also, according to a legal opinion from the Office of the General Counsel, the legislative history of paragraph 302 of the Act indicates that Congress intended that intact lead-based painted chewable surfaces be included as part of the "immediate hazard."

Alternatives Under Consideration

We are considering the following alternatives, and subalternatives:

(1) institute no regulatory change; or

(2) redefine "immediate hazard" to include intact leaded chewable surfaces.

Within the second option, several subalternatives exist: a. What level of lead in applied paint is considered unacceptable? b. What surfaces are considered accessible to children and therefore potentially chewable? c. What methods of treatment are necessary to render a chewable surface acceptable?

Generally, the more stringent the standard for unacceptable lead, the more extensive will be the required abatement and the more inclusive the percentage of a dwelling that is considered chewable. The more stringent are the standards for making a surface acceptable, the greater are the costs of lead-paint abatement, and the greater the removal of environmental lead, and hence the potential for reducing cases of lead poisoning.

Summary of Benefits

Sectors Affected: Occupants of HUD-associated housing (particularly children who are more susceptible to elevated blood lead levels); and painting contractors.

The linkages between the existence of lead paint in homes, potential for ingestion by children, the elevation of blood lead, and the emergence of symptoms of lead poisoning are not well understood. However, elevated blood lead levels are correlated with higher levels of lead in dwellings. What is known is that since 1970 the percentage of children with elevated blood lead has declined substantially, but lead poisoning has not disappeared.

Benefits to be received from reducing the number of cases of lead poisoning include the avoidance of costs of medical treatment, the reduction in the occurrence of mental retardation traced to this source, and the avoidance of suffering by victims of lead poisoning. It is very difficult to place numerical estimates on these benefits, but the regulatory analysis will examine the available evidence.

Summary of Costs

Sectors Affected: Local housing authorities; HUD; and private lessors of HUD-assisted properties.

Costs of lead-paint abatement depend heavily on the definitions of immediate hazards of unacceptable lead levels in applied paint, the percentage of units subject to inspection, the type of inspection performed, the abatement technique used, and the definition of chewable surface. Currently, loose, peeling, and chipping paint is presumed to pose a hazard if it occurs in HUD-associated housing, and such surfaces must be made intact. Alternative (2) above involves detection of lead paint in which lead exceeds allowable levels, as well as removal and refinishing of chewable surfaces. Estimates in 1977 indicated the cost might be at least $1,000 per dwelling unit for a particular set of definitions (removal of all lead paint from the interior of a typical dwelling built prior to 1940, where lead paint is defined as concentration greater than 2 milligrams per square centimeter). Actual costs could be higher or lower than this depending on the choices among the subalternatives under alternative (2). Likewise, the total cost would depend on the number of units covered by the regulations, and this, too, is open to a range of alternatives. The regulatory analysis will examine these costs, and how they vary according to the definition adopted.

Related Regulations and Actions

Internal: None.
External: Unknown.

Active Government Collaboration

None

Timetable

Public Comment Period—60 days following ANPRM (May 16)
NPRM—November 21, 1980
Draft Regulatory Analysis—will accompany NPRM
Public Comment Period—60 days following NPRM
Final Rule—May 8, 1981
Final Regulatory Analysis—will accompany Final Rule
Final Rule Effective—June 8, 1981

Available Documents

ANPRM published May 16, 1980

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines (30 CFR Part 77)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811

Reason for Including This Entry

The Mine Safety and Health Administration (MSHA), plans to include additional requirements in its existing regulation and believes that initial industry costs to comply may exceed $50 million.

Statement of Problem

Approximately 89,000 miners currently work in the Nation's surface coal mines and surface areas of underground mines. MSHA statistics for 1978 reveal a fatality rate of .04 and an injury rate of 4.08 per 200,000 hours worked. The primary causes of fatalities are from haulage and machinery accidents.

MSHA has reviewed all existing safety standards for surface coal mines and comments received from industry and labor representatives on regulations initially proposed in 1977, and has determined that there is a need to strengthen and clarify certain provisions. In addition, in light of E.O. 12044, some subparts and sections of the current regulations need reorganizing in order to make them easier to use by operators and inspectors. We will expand the following sections to include additional requirements for: illumination of work areas; guarding of electrical equipment; examination and testing of high-voltage circuit breakers; protection of direct current circuits; protection of low- and medium-voltage alternating current circuits; protection of electric

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warning and equipment; handling of energized trailing cables and portable feeder cables; mine maps; ground control; and locations for explosives magazines. Where appropriate we will simplify sections and delete irrelevant provisions.

Alternatives Under Consideration

We first proposed these regulations in January 1977. The proposal would revise all the safety requirements for surface coal mines and surface areas of underground coal mines. MSHA has evaluated the proposal and comments received in response to that proposal. Three alternatives were available: First, to develop a final rule based on the 1977 proposal, but this approach would have sacrificed revisions which reflect new technology and further public comment on these revisions; second, to separate the 1977 proposed rule into several sections such as electrical and nonelectrical safety requirements. This approach would allow MSHA to address high priority areas first but would diminish our ability to consider all the surface safety regulations as one cohesive package. Third, to repropose the entire Part.

MSHA has decided to repropose the entire Part as described above, within the framework of the Federal Mine Safety and Health Act of 1977 and its requirements. This approach will allow MSHA to consider all its surface safety requirements as one cohesive unit within the context of the new Act, which became effective in March 1978.

Summary of Benefits

Sectors Affected: Surface coal mining and surface areas of underground coal mining; miners who work in these areas; and representatives of miners, which according to Part 40 can include any person or organization which represents two or more miners at a coal or other mine.

MSHA expects that these improved standards will help reduce fatalities and injuries of miners. This reduction in fatalities and injuries will decrease certain costs to surface mine operators, e.g., productivity lost because of accidents and lower insurance premiums. In addition, the increased readability of the standards will benefit mine operators. In some instances, specific requirements will be included in the standards rather than incorporating other documents by reference. This will provide clarity for operators, miners, and their representatives.

In 1978 approximately 417 million tons of coal, from a total figure of 660 million tons mined, was taken from surface mines and we expect this tonnage to increase.

Summary of Costs

Sectors Affected: Surface coal mining and surface areas of underground coal mining.

When we first proposed these regulations in January 1977, our economic estimates revealed that it would cost approximately $44 million for the industry to comply with the proposal. The principal costs relate to additional equipment purchases to meet requirements for low-resistance portable feeder cables; protection of direct current circuits; guarding of high-voltage equipment; examination and protection of high-voltage circuit breakers; protection of low- and medium-voltage alternating current circuits; illumination; guarding of electrical equipment; and protection of electric wiring and equipment. The 1977 estimates were as follows: illumination—$20 million; guarding of electrical equipment—$16 million; protection of electric wiring and equipment—$2.2 million; high-voltage circuit breakers, examination—$6 million; energized trailing cables—$.9 million; protection of direct current circuits—$2.0 million; guarding of high-voltage equipment—$3.2 million; and booms and masts, warning devices—$3.5 million.

The initial estimate does not take into consideration industry expansion and overall cost increases caused by inflation; industry costs to comply may well exceed $50 million in the first year (1976 dollars). Approximately 90 percent of the costs are associated with one-time equipment purchases. Therefore, they are expected to decline drastically for the second year.

Related Regulations and Actions

Internal: MSHA has regulations setting forth requirements for underground coal mines—30 CFR Part 75. MSHA is working on safety and health standards for construction work on mine property—30 CFR Part 110.

External: None.

Active Government Collaboration

None

Timetable.

NPRM—July 30, 1980
Public Comment Period—60 days following NPRM
Public Hearings—broken up by sections of proposal
Regulatory Analysis—will accompany NPRM beginning 90 days after close of public comment period
Final Rule—1982

Available Documents

NPRM—42 FR 2800, January 13, 1977
Comments on first NPRM (see Agency Contact)

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DOL-MSHA

Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers (30 CFR Part 48)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. §§ 811, 815.

Reason for Including This Entry

The Department of Labor has included this entry because of great public interest in the regulation.

Statement of Problem

Preliminary industry estimates reveal that there are approximately 70,000 to 90,000 employees engaged in mine construction work and the Bureau of Labor Statistics' data reveal that construction is a high hazard industry. In 1977, based upon the Occupational Safety and Health Administration (OSHA) data, the incidence of accidents and injuries for all workers in the private sector was 9.3 per 100 full-time workers; however, it was 15.5 per 100 for construction workers. The Mine Safety and Health Administration (MSHA) has no separate accident and injury statistics, to date, for construction workers on mine property. Section 115(d) of the 1977 Federal Mine Safety and Health Act requires that the Secretary of Labor promulgate appropriate standards for safety and health training for construction workers. These regulations will require that all construction workers on mine property be appropriately trained by their employers in the safety and health hazards of their jobs. Such training should help construction employees avoid accidents in the mines, thereby resulting in a reduced accident incidence rate for construction workers.

Alternatives Under Consideration

MSHA is considering the following alternatives: what amount of training we will require; how often, if there is a need for refresher training; what training can be substituted for that which the regulation may require. MSHA believes that an important consideration in the development of the regulation will be to determine exactly what kind of training is currently being provided, so that appropriate credit can be given for such training to avoid any duplication of industry and labor training effort. MSHA is engaging in consultations with both labor and industry to get this information.

Summary of Benefits

Sectors Affected: Mine construction industry and employees; mining industry, miners, and representatives of miners (any person or organization which represents two or more miners at a coal or other mine).

MSHA expects that these regulations will provide a strong framework for reducing injuries, illnesses, and fatalities which are associated with mine construction work. Our long-term goal is to reduce measurably the hazards related to construction in the mining workplace. We anticipate that the 15.5 incidence rate previously mentioned can be reduced for the 70,000 to 90,000 construction workers on mine property. A reduction in the incidence rate will benefit the industry in the form of higher productivity and lower accident-related costs. In addition, a reduced incidence rate will result in fewer injuries, illnesses, and fatalities, which will benefit construction employees.

Summary of Costs

Sectors Affected: Mine construction industry, and the mining industry.

MSHA is developing estimates for the costs of complying with these regulations. Since MSHA is only in the drafting stage with respect to this regulation, the cost estimates will depend, in large part, upon the final make-up of the regulation, including categories of training required, hours of training, etc.

Related Regulations and Actions

Internal: The Mine Safety and Health Administration is developing safety and health standards for construction work on mine property—30 CFR Part 110. The Mine Safety and Health Administration has existing mandatory safety and health training regulations for miners—30 CFR Part 48. The Occupational Safety and Health Administration has construction safety and health standards—29 CFR Part 1926, and portions of 29 CFR Part 1910, some of which require training. MSHA is developing regulations which set forth criteria for identifying those independent contractors who will be operators within the meaning of 3(d) of the Mine Act—30 CFR Part 45.

External: None.

Active Government Collaboration

None

Timetable

ANPRM—December 1980
NPRM—1981
Regulatory Analysis—we are unsure at this time if we will prepare one

Available Documents

None

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DOL-MSHA

Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines (30 CFR Parts 55.20-10*, 56.20-10*, and 57.20-10*, and New Parts not yet Specified).

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Mine Safety and Health Administration (MSHA) thinks these regulations are important because current regulations are inadequate to ensure safe construction and maintenance of metal and nonmetal waste-impounding structures. We expect the regulation to have a major cost impact as defined in E.O. 12044 on the industry.

Statement of Problem

There are approximately 680 metal and nonmetal tailings dams in the United States. Based upon a recent survey, MSHA estimates that 15 to 20 percent of the existing structures pose some form of potential hazards, which might result in loss of life to both workers at the mines and members of the public or damage to the environment. We developed and published improved standards governing impoundments and waste piles at coal mines following the coal mine dam failure at Buffalo Creek in 1972, which resulted in many injuries and fatalities. However, because of recent waste dam failures at metal and nonmetal mines and the continuous potential for loss of life, MSHA decided that there is a problem related to the construction of new and existing impounding structures and that improved standards are necessary. MSHA anticipates that these improved standards will result in a reduction of injuries at the mine site, and will minimize the chances of water and waste from the ore spilling over into the surrounding public environment, and creating the possibility for physical damage to the land and health damage to its occupants.

Alternatives Under Consideration

MSHA has considered the following major alternatives:

(1) The manner in which we will require metal and nonmetal operators to construct new dams, i.e., how they should be designed and the materials used in construction. The type and specificity of requirements for these structures will affect the cost of the industry to comply. Although structures will, of course, have to vary depending upon the nature and geography of the mine being served, and the type of waste product involved, requirements which are specific and yet allow for operator flexibility could possibly result in more consistent enforcement by MSHA and greater miner safety. In other words, these requirements will give operators better notice of what their responsibilities are with respect to waste dams, and MSHA inspectors will have better guidelines upon which to base citations for violations.

(2) Whether or not there will be a delayed effective date to allow existing facilities to comply.

(3) Whether certain existing facilities will be exempted from or receive special treatment under the new requirements. It might be feasible to include a grandfather clause in the regulation which will exempt certain existing facilities from the requirements of the standard.

(4) Whether metal and nonmetal operators will have to submit plans for the construction of waste and impoundment structures. These plans would be approved by the appropriate Department of Labor Metal and Nonmetal Mine Safety and Health District Manager. This requirement would increase the paperwork burden on the affected industry; however, it would ensure that all new facilities are constructed in the proper manner.

(5) What the applicability will be of the Department of Army's Corps of Engineers' requirements related to impounding construction.

(6) Whether to allow the existing regulation to remain in its very general form, and do nothing at all. At this time, it appears that this alternative would not do anything to help solve the problem. Because the existing regulation contains no general guidelines or performance standards, the quality of waste dams vary greatly.

MSHA is considering whether to appoint an advisory committee composed of members from labor, industry, and the public to review these and other related issues in order to arrive at the best approach possible to alleviating the present problem.

Summary of Benefits

Sectors Affected: Miners working in mines having waste dams; persons who live in close proximity to such mines; the mining industry; the general public; and State and local governments.

Although there are no current statistics on the number of injuries resulting from dam failures at metal and nonmetal mines, the dam failure at the Buffalo Creek coal mine killed 123 persons and left thousands in the surrounding community homeless. Four metal and nonmetal failures have caused damage to the surrounding public environment; wastewater and mud were released not only into the land, but also into the source of the local water supply. We anticipate that this regulation, in whatever form we propose it, will reduce injuries, fatalities, and environmental damage associated with dam failures by setting forth more[4] stringent requirements for waste dam construction.

Summary of Costs

Sectors Affected: Metal and nonmetal mining industry (but not fuels); States and localities which conduct mining activities; miners; and representatives of miners (any person or organization which represents two or more miners at a coal or other mine).

MSHA is in the process of developing data about the economic impact on the metal and nonmetal mining industry. The final cost estimates will have to take into consideration vast differences in types of mines, types and amounts of waste products involved, and the geographical terrain. In addition, the extent to which existing facilities can comply with the regulation with only minor changes will affect the cost. We have prepared a request for proposals notice in order to negotiate a contract with a consultant organization to determine the economic impact of these regulations. This will assist in our decision to proceed with the regulations in their present form. We do expect them to qualify as a major regulation under the cost criterion of E.O. 12044, and the Department of Labor's Guidelines for Improving Government Regulations (44 FR 5570, January 26, 1979). Operators of metal and nonmetal mines which have waste dams would be most affected by the costs of the regulation. We are also preparing a preliminary risk assessment of the currently prevailing situation with regard to impounding structures, and we will obtain more detailed information from the contract.

Related Regulations and Actions

Internal: The Mine Safety and Health Administration currently has surface coal mine safety standards for refuse piles—30 CFR 77.214–217. The Mine Safety and Health Administration has existing metal and nonmetal safety standards which regulate waste piles—30 CFR 55.20–10; 30 CFR 56.20–10; 30 CFR 57.20–10.

External: The Department of the Army has authority, through the Corps of Engineers, to regulate dams and their construction under P.L. 92–367, 86 Stat. 506–507. The Department of the Interior, Office of Surface Mining, has authority to regulate coal mine dams and waste piles under the Surface Mining Control and Reclamation Act of 1977, P.L. 95–87, 91 Stat. 445.

Active Government Collaboration

None

Timetable

ANPRM—September 30, 1980
NPRM—March 30, 1980
Public Comment Period—March 30–May 30, 1981
Public Hearing—September 30, 1981
Final Rule—January 30, 1982
Regulatory Analysis—will accompany NPRM

Available Documents

None

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DOL–MSHA

Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations (30 CFR Parts 55, 56, and 57*)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Mine Safety and Health Administration (MSHA) believes this rule is important because it is a major review of all standards affecting the metal and nonmetal mines.

Statement of Problem

One of the goals which MSHA has set and communicated to the mining community is to undertake a thorough review of all the agency's safety and health standards. MSHA committed itself to a review of all existing metal and nonmetal standards when it published the final rule on August 17, 1979, converting its former metal and nonmetal advisory standards to mandatory standards. That document stated that "MSHA intends to conduct a comprehensive study of all the health and safety standards contained in 30 CFR Parts 55, 56, and 57 in order to assess their continued applicability and effectiveness." More specifically, MSHA is undertaking this review in order to update and upgrade existing standards and to consider eliminating, consolidating, clarifying, simplifying, or reorganizing provisions where appropriate. MSHA's review will also cover changes in technology and economic conditions and other factors which affect the applicability of existing standards.

Alternatives Under Consideration.

MSHA is open to suggestions from the mining community and interested public. The agency published an ANPRM (45 FR 19267, March 25, 1980), and solicited public comment on problems related to existing standards and on the order in which MSHA should review the standards. This rulemaking project will cover all of the safety and health standards included in Parts 55, 56, and 57, which is divided into sections relating to such areas as fire prevention and control; storage, transportation and use of explosives; use of equipment; and electricity.

Current standards may need to be: (1) reorganized to facilitate their use by the metal and nonmetal mining community, (2) simplified and clarified so that they can be easily understood; (3) deleted if

outdated, duplicative or overlapping with other MSHA standards. Other standards may no longer be applicable because of changes in technology. In addition, it might be helpful to the metal and nonmetal mining community to include a more detailed index, with cross-referencing to other MSHA standards, as well as other style and format changes.

Summary of Benefits

Sectors Affected: Metal and nonmetal mining industry (except fuel); and miners in these industries.

This review will benefit the metal and nonmetal mining community because it will result in improved safety and health standards. In addition, we will revise or revoke outdated standards; clarify those standards which are confusing; and delete standards which overlap. These actions will make it easier for metal and nonmetal operators to comply with MSHA's standards. In addition, a deletion of duplicative and outdated standards may result in a reduction of operator costs associated with compliance.

Summary of Costs

Sectors Affected: Metal and nonmetal mining industry.

Because MSHA is in the initial stages of reviewing this regulation, we do not know if there will be any additional costs placed upon mine operators.

Related Regulations and Actions

Internal: All existing standards covering Parts 55, 56, and 57, as of January 1, 1980.

External: None

Active Government Collaboration

None

Timetable

Notice of MSHA decision of priorities—September 30, 1980
MSHA will establish further steps and timetables for this rulemaking process in its decision notice
Regulatory Analysis—

Available Documents

All existing standards in 30 CFR Parts 55, 56, and 57, as of January 1, 1980
ANPRM (45 FR 19267–68, March 25, 1980)
Public comments received in response to ANPRM (see Agency Contact)

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DOL–MSHA

Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines (30 CFR Part 110)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Department of Labor (DOL) believes there is significant public interest in this regulation.

Statement of Problem

Construction work at the Nation's surface mines and surface areas of underground mines constitutes approximately 10 to 15 percent of total construction activity and exposes approximately 70,000 to 90,000 persons per year to safety and health hazards associated with construction. In 1977, based upon Occupational Safety and Health Administration (OSHA) data, the incidence of accidents and injuries for all workers in the private sector was 9.3 per 100 full-time workers; however, it was 15.5 for construction workers. In addition, although the Mine Safety and Health Administration (MSHA) has no separate accident and injury statistics, to date, for construction workers on mine property we do know that of the 136 fatalities which occurred at metal and nonmetal mines in 1978, eight were related to construction. MSHA is currently in the process of developing complete injury illness, and fatality data for construction workers on mine property

Prior to March 9, 1978, construction contractors performing work at metal and nonmetal mines were subject to OSHA s construction standards. On that date, the Mining Enforcement and Safety Administration, which was transferred from the Department of the Interior to the Department of Labor became MSHA and assumed jurisdiction over industry working on all surface mine property If MSHA does not publish comprehensive regulations which address the hazards associated with all phases of construction work, protection will be inadequate for this important segment of the construction industry

Alternatives Under Consideration

MSHA has circulated for public comment an ANPRM which contained virtually all of OSHA s current requirements related to construction. Requirements for personal protective equipment, fire protection, welding and cutting, steel erection, excavation, trenching, shoring, and blasting are included. This alternative, endorsed by the majority of those commenting on the ANPRM, will provide the least disruption to that portion of the industry which, prior to March 9, 1978 was subject to the jurisdiction of OSHA while working on surface mine property.

Other alternatives include:

(1) Which edition of the American Conference of Governmental Industrial Hygienists' "Threshold Limit Values of Airborne Contaminants" should be incorporated into the standard governing exposure of employees to gases, vapors, fumes, dusts, and mists at construction sites. OSHA uses the 1970 edition, but the 1978 edition is more current, and imposes more stringent requirements, resulting in reduced employee exposure to some contaminants.

(2) The substitution of certain requirements (e.g., a requirement that all electrical work be performed by qualified and certified persons), from 30 CFR Parts 71 and 77 regarding construction activities, for related ones of OSHA's. This would retain certain practices currently existing at coal mine construction sites.

Summary of Benefits

Sectors Affected: Mine construction industry and employees; the mining industry miners, and representatives of miners (any person or organization which represents two or more miners at a coal or other mine).

The use of OSHA s standards will minimize disruption of the construction industry. Use of updated threshold limit values for airborne contaminants would potentially decrease the incidence of occupational illness and its attendant costs.

Summary of Costs

Sectors Affected: Mine construction industry· and mining industry.

MSHA is developing the estimates for the costs to industry of complying with these regulations. Although these are new regulations for MSHA, they will not represent new requirements for a large segment of the construction industry for the following reason. Prior to the effective date of the Federal Mine Safety and Health Act of 1977 all construction activity in metal and nonmetal mines which was not undertaken by the operator was subject to OSHA s jurisdiction. This was by far the largest portion of construction work at metal

and nonmetal mines. Thus, construction contractors working at metal and nonmetal mines had to comply with OSHA's construction standards.

All construction on coal mine property was subject to the jurisdiction of the Mining Enforcement and Safety Administration, this agency's predecessor. Because MSHA's draft standards are, in large part, OSHA's current construction regulations, these standards will have a minimum impact on the methods by which construction contractors do business, and no new areas will be regulated. However, if MSHA does decide to incorporate the latest edition of the "Threshold Limit Values of Airborne Contaminants," there could be increased costs associated with reduced employee exposure levels.

Related Regulations and Actions

Internal: The Mine Safety and Health Administration currently has coal mine surface construction regulations—30 CFR Part 77. The Occupational Safety and Health Administration has regulations which govern construction activity—29 CFR 1926, and portions of 29 CFR 1910. MSHA is coordinating all aspects of this rulemaking with OSHA. MSHA has proposed regulations which set forth criteria for identifying those independent contractors who will be operators within the meaning of § 3(d) of the 1977 Act—30 CFR 45. MSHA is also drafting regulations setting forth requirements for safety and health training for mine construction workers—30 CFR Part 48.

External: None.

Active Government Collaboration.

None

Timetable

NPRM—September 30, 1980
Public Comment Period—60 days after NPRM Public Hearings—November–December 1980. Various locations to be announced.
Final Rule—June 1981 Regulatory Analysis—undecided

Available Documents

ANPRM—44 FR 52258, September 4, 1979
Comments received in response to ANPRM (available through Agency Contact)
OSHA Standards—44 FR 8575, February 9, 1979, and 44 FR 20940, April 6, 1979

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DOL–OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Chemical Substance Identification (Labeling)

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this proposed regulation is extremely important because it will allow employees to identify the chemical substances and know the workplace hazards to which they are exposed, thereby enabling them to take actions to better protect themselves from these hazards.

Statement of Problem

Approximately 20 million American workers are currently exposed to toxic chemicals where they work. A 1972 National Institute for Occupational Safety and Health (NIOSH) survey found 85,000 trade name products that are commonly used in the workplace. In 90 percent of the cases neither employer nor employee knew the identity of the chemicals or the hazards of these products. The rapid proliferation of new chemicals increases the number of substances found in the workplace, and consequently increases the number of substances with which employees may be unfamiliar. Without provisions for chemical identification, workers do not know what chemicals they are using and are unaware of the potential hazards. Thus, employees are less able to properly protect themselves or seek adequate protection from their employers. Furthermore, if chemicals in the workplace are not appropriately identified, it is difficult to determine which chemicals are responsible when occupational diseases occur.

Alternatives Under Consideration

The agency is currently considering five major alternatives:

(A) Issue a regulation based essentially on the recommendations in the report of the OSHA Standards Advisory Committee on Hazardous Materials Labeling which was convened in 1974. The regulation would include provisions applying to virtually all hazardous or toxic chemicals requiring container labeling, chemical identification lists (compilations of all hazardous chemicals in a given workplace), material safety data sheets (brief papers containing pertinent information on the identified hazards), and employee training. This alternative would be the most comprehensive, but also the most expensive approach.

(B) Delete employee training provisions from alternative (A) to reduce the economic impact of the regulation on employers. This alternative would remove the mechanism that would ensure that workers will understand the information provided by labeling and material safety data sheets.

(C) Issue a regulation that would only apply to workplaces that are directly involved in the manufacture, reaction, processing, formulation, or storage of chemicals. This alternative is based on the assumption that workers in the chemical industries have the greatest potential for serious exposures to chemical substances. The overall costs of the regulation would be reduced by limiting the scope of the standard to these industries. However, there are a substantial number of workers employed in other industries which use chemical substances, and are thus exposed to significant concentrations of these substances. By narrowing the scope of the standard to the chemical industries, these additional workers would not be afforded adequate protection, although they would be exposed to the same recognized hazards.

(D) Promulgate a regulation which would apply only to those chemicals which have already been regulated or classified as recognized hazards by other Federal, private, or international organizations. Although workers are exposed to a large number of toxic or hazardous substances in the course of their employment, private or governmental organizations have established regulations or voluntary permissible exposure limits for only a relatively small percentage of these substances. By narrowing the scope of the standard to these "recognized hazards," the cost of the regulation would be reduced. However, this approach would eliminate regulation of many substances for which there is evidence that exposure may present a hazard, although they have not been specifically considered a "recognized hazard" by any organization. Thus, this alternative would severely limit the benefits of employee protection which will result from the standard.

(E) Promulgate a regulation jointly or in coordination with the Environmental Protection Agency (EPA). In order to implement the requirements of the Toxic Substances Control Act (TSCA), EPA is planning to issue regulations concerning warning of hazardous or toxic substances. OSHA and EPA are exploring the possibility of issuing a joint or coordinated rulemaking. This would have the advantage of avoiding duplicative requirements imposed on employers and inconsistent labeling practices.

The regulatory mandates of TSCA and the Occupational Safety and Health Act are complementary. OSHA has jurisdiction for the protection of employees, while EPA governs the distribution of the products in commerce. Although the contents of the rulemakings have not been finally determined, it is expected that the two agencies will divide the responsibility for requirements of a comprehensive chemical substance identification rule. For example, OSHA may require that employers disclose the identity of chemical substances in the workplace to employees, while EPA may require that hazard warnings be applied to containers. Thus, each agency's individual rulemaking would be limited, but comprehensive coverage would be provided through joint implementation of the two regulations.

OSHA currently regards alternative (E) as the most desirable because it would provide employees with the necessary information without requiring duplication of regulation by government agencies.

Summary of Benefits

Sectors Affected: Workers and establishments in all industries which produce, use, or otherwise come in contact with hazardous chemicals, particularly manufacturing and construction.

This regulation will directly affect workers and employers in manufacturing and construction establishments which produce or use hazardous chemicals. (Standard Industrial Classification [SIC] Codes 15 through 39.) Establishments and employees in other industries not required to comply with the standard (for example, in retail trade or services) will also benefit from this regulation because they will receive products on which the chemical hazards will be identified.

The most important direct benefit of the standard or its alternatives is the information which they will provide to workers exposed to toxic and hazardous chemicals. Although the private market does supply some information on chemical hazards, there is clear evidence that it is of insufficient quality and quantity. In the absence of additional regulation, there will continue to be—as there have been in the past—substantial numbers of injuries and illnesses due to workers' lack of knowledge of the hazards present in the workplace.

The ultimate purpose of the regulation is to provide information to the worker which can be used to identify potential hazards and enable the worker to take steps to avoid or minimize his exposures. In addition, this information can be used by the worker to alert his or her physician to the potential cause of observed health effects.

Unmeasurable direct benefits of the various alternatives under consideration are the improvements in workplace health and safety which will result. With the added information which the standard will provide, workers will be likely to work more safely and be more inclined to use personal protective devices. Employers will discover the existence of previously unknown hazards which, in some cases, may be easily reduced. Nonhazardous or less hazardous products may be substituted for hazardous ones, and labor market pressures which the added information will engender are likely to provide incentives for employers to invest in health and safety programs and equipment, and to develop safer substances and control techniques.

Indirect benefits of the regulation or its alternatives are likely to be considerable, but they are unmeasurable. Workers' families and relatives will benefit because of reduced medical care costs (including hospitalization and physician services), and reduced pain and suffering. Quicker medical diagnoses will also occur when physicians are able to discover the actual chemical identification of workplace hazards. Recordkeeping will similarly improve diagnoses where workplace diseases have long latency periods and will provide valuable information to improve epidemiological research. Finally, reduced absenteeism and a clean workplace may contribute to production gains.

Additional indirect benefits include a reduction in the likelihood and severity of low probability, but spectacular, chemically caused disasters. For example, the polybrominated biphenyl (PBB) tragedy in Michigan might have been prevented had this standard been in effect at the time.

Summary of Costs

Sectors Affected: Establishments in manufacturing and construction (SIC Codes 15 through 39) which produce or use hazardous chemicals; and users of goods produced by these establishments.

The direct costs of the standard include one-time administrative expenses of identifying, listing, and recording information on existing hazardous substances. Capital costs will be minor and will consist of a small amount of information-processing equipment which some firms will purchase. There will also be considerably smaller ongoing costs of updating the information system as new information is discovered, new chemicals are added to lists, new labels are discovered, lists are updated, and so on. OSHA is in the process of estimating the costs for the various regulatory options. As yet, however, no overall estimate of total direct compliance costs are available for any of the regulatory alternatives.

Potential indirect costs could include the following. Chemical identification may disclose some industry trade secrets. If so, there is a potential for adverse impacts on industry research and development expenditures and hence upon innovation. There may be price increases for products containing or produced with hazardous substances both because of the direct costs of identification and labeling and also because the information provided by the standard may force firms to pay additional wages for hazardous work or induce them to make additional investments in health and safety equipment or training. The standard may also have an adverse competitive impact on small producers or users of hazardous substances, and on low-volume hazardous substance products. Because there are substantial overhead costs involved in identification, low-volume products and small firms, especially those without data-processing capabilities, could suffer competitive harm. OSHA does not currently have estimates on the magnitude of any of these potential costs.

Related Regulations and Actions

Internal: None.

External: A hazard-warning regulation authorized by the Toxic Substances Control Act of 1976 is currently under development by EPA. The regulation would require hazard warnings on all containers distributed in commerce. EPA, under the Federal Insecticide, Fungicide and Rodenticide Act, also has regulations requiring the labeling of pesticides. The Department of Transportation (DOT), Food and Drug Administration (FDA), and the Consumer Product Safety Commission (CPSC) all have labeling regulations.

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DOT's regulations pertain to the bulk shipment of hazardous goods. They have published an NPRM (44 FR 32972, June 7, 1979) for the display of identification numbers for hazardous materials to improve emergency response capability. FDA and CPSC regulations pertain to products for consumer consumption.

Active Government Collaboration

OSHA and the Environmental Protection Agency (EPA) are cooperating in the development of this hazard warning rule. In addition, OSHA is actively participating in the Interagency Regulatory Liaison Group (IRLG) and its Labeling Task Force to assure that the provisions of this rule do not conflict with the existing regulations of other agencies.

Timetable

NPRM—June 1980
Regulatory Analysis—June 1980
Public comment period—following NPRM
Final Rule—early 1981

Available Documents

ANPRM—42 FR 5372, January 28, 1977 "A Recommended Standard . . . An Identification System for Occupationally Hazardous Materials," (HEW–NIOSH, Publication Number 75–126)

Public docket of the record of rulemaking on chemical labeling (OSHA Docket H–022)

These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, 200 Constitution Avenue, N.W. Washington, D. C. 20210.

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DOL–OSHA

Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation (29 CFR Part 1910)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) has determined that regulation is necessary for the immediate protection of workers employed in the manufacture and formulation of pesticides. Numerous incidents of harmful employee exposures to a variety of pesticides have already been recorded in these industries. The large number of pesticides being produced in this country, as well as the broad range of toxic effects they produce, suggests that there is a potential for continuing harmful exposures and, thus, a need for employee protection.

Statement of Problem

Approximately 34,000 workers are exposed to toxic substances during the manufacture and formulation of pesticides. Pesticides are biologically active substances which are designed to kill or alter some living organism, usually designated as the target "pest." However, pesticides frequently cause health effects in whatever living organisms are exposed to them, including humans.

Extensive evidence in the scientific literature indicates that worker exposure to pesticides results in serious health problems, including severe skin irritation, damage to the liver and kidneys, sterility, lung damage, and central nervous system disorders. In addition, some pesticides cause cancer, genetic changes, and birth defects. Several well-publicized tragedies have occurred in recent years involving the development of adverse health effects in employees who were exposed to pesticides during manufacture and formulation operations (for example, the effects of Kepone on workers in a Virginia plant and the cases of sterility in male workers packaging the pesticide dibromochloropropane (DBCP)). Investigations of these incidents indicate that there is an immediate need for regulatory action by OSHA to reduce the risk of occupational disease in exposed workers.

Alternatives Under Consideration

Mandatory standards may be necessary to protect employees working in the pesticides manufacturing and formulation industries. One alternative is to develop standards for pesticides on a substance-by-substance basis. OSHA currently has permissible exposure limits for approximately 160 substances that are used as pesticides. However, the Environmental Protection Agency (EPA) has registered nearly 1,500 pesticide active ingredients which are formulated into almost 40,000 pesticide products, so OSHA's current regulations cover only a small percentage of available pesticide products. Thus, pursuing this alternative would significantly delay extending protection to many employees in these operations and would require a much greater investment of government time and resources. The agency currently believes that a generic approach to regulation—that is, regulation of pesticides as a class of hazardous substances rather than on a substance-by-substance basis—provides basic protection to workers more quickly, and appears to be a more manageable approach for implementation by employers.

OSHA is considering several variations of a generic standard covering employee exposure to pesticides. The basic provisions, in all cases, address emergency situations, worker training, medical surveillance, hygiene practices, housekeeping, and personal protective equipment. The approaches differ primarily in the degree of specification used to describe the required control measures and the "trigger points" at which certain provisions would be required.

At present, we are evaluating three alternative approaches:

(A) This alternative would base requirements for control measures solely on the degree of control that is currently used in each individual workplace. For example, the employer whose employees work in an area where pesticides are manufactured in an enclosed process (one which results in minimal exposure potential for employees) would be required to provide fewer additional control measures than the employer formulating pesticides in open vats (where the potential for employee exposure is great). Only personal protective equipment and respiratory protection devices would be required; no engineering controls (such as local exhaust ventilation) would be specified. All pesticides would be regulated in the same manner under this alternative, with no differentiations with respect to toxicity.

(B) In the second alternative, various provisions would be triggered, depending on the toxicity of the pesticide. OSHA would incorporate the toxicity categorization scheme that EPA developed under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA 7 U.S.C. § 136 *et seq.*) into this approach. For example, employers that have pesticides in Toxicity Category I (highly toxic) in their workplaces would have to perform housekeeping activities, such as removal of pesticide accumulations on surfaces, more frequently than those with pesticides in Toxicity Category III (slightly toxic). The standard would also include detailed requirements for engineering controls.

(C) This approach would be performance-oriented, and would require the employer to assume responsibility for ensuring that proper control measures are selected and implemented when necessary. Rather than indicating which specific control measures would be required in each case, the standard would require the employer to perform a hazard evaluation and then determine the appropriate control measures on the basis of the hazards found. The hazard evaluation would involve a survey of the workplace and an assessment of the conditions in which employees work. The employer would be required to consider all relevant factors (for example, toxicity, physical state, current level of control) before implementing controls.

Although OSHA has not determined which alternative it will propose as a standard, the performance-oriented, work practices approach (alternative (C)) seems to be the most appropriate for a generic standard. This type of standard relies heavily on the "good faith" efforts of employers to comply with the intent of the regulation, but it appears to be the most equitable way to deal with the large number of pesticides involved and the range of hazards they produce. The standard would provide immediate protection for all employees in the pesticide industries. OSHA may decide to develop substance-specific standards for the most hazardous pesticides at a later date.

Summary of Benefits

Sectors Affected: Establishments engaged in manufacturing and formulating pesticide active ingredients and products; and workers in these establishments.

Sectors affected by this regulation include, but may not be limited to, establishments classified in Standard Industrial Classification (SIC) codes: 281 (Industrial Inorganic Chemicals), especially 2812 (Alkalies and Chlorine); 286 (Industrial Organic Chemicals), especially 2869 (Industrial Organic Chemicals, not elsewhere classified); and 287 (Agricultural Chemicals), especially 2879 (Pesticides and Agricultural Chemicals, not elsewhere classified). Firms classified in a number of other SIC codes also manufacture or formulate pesticides, although not as a primary product. We estimate at least 4,600 establishments will be affected by this regulation.

The direct benefit we expect from this action is a reduction in the incidence and prevalence of the adverse health effects in the 34,000 workers that are exposed to pesticides. The standard will also result in indirect benefits, such as reduced costs of adverse health effects to the worker, to industry, and to society. For the worker and his/her family, these costs may include loss of potential earnings because of disability or premature death, medical expenditures (including hospital costs, physicians' fees, and pharmaceuticals) and intangible costs, such as pain and suffering, and family bereavement. The regulation will also result in declining social costs of social security disability insurance, public assistance programs, Medicaid, and Medicare payments. Employers may experience gains in productivity as a result of reductions in employee absenteeism and turnover and from the improved health of employees. OSHA does not, as yet, have estimates of the magnitude of any of these benefits. Because workers will be healthier and have fewer job-related illnesses, workers' compensation premiums may decrease. OSHA is in the process of evaluating the alternative schemes for a regulatory analysis, which will be available when we publish the NPRM in the **Federal Register** in the fall of 1980.

Summary of Costs

Sectors Affected: Establishments engaged in manufacturing and formulating pesticide active ingredients and products, and users of these pesticide ingredients and products.

OSHA is currently estimating the direct and indirect costs of compliance of the alternatives and will make this data available at the time it publishes the proposal. We expect the costs to be significant for some of the alternatives under consideration.

The pesticide producers and formulators will probably attempt to pass through their increased compliance costs in the form of higher prices for their products to pesticides users. The agricultural sector is the largest user of pesticides, but this standard would indirectly affect many other diverse users, because pesticides are used in many workplaces to control pests.

Related Regulations and Actions

Internal: OSHA promulgated a final standard for control of employee exposure to the pesticide dibromochloropropane (DBCP) on March 17, 1978 (43 FR 11514), and for inorganic arsenic, which is found in some pesticide formulations, on May 5, 1978 (43 FR 19584). The OSHA Air Contaminant Standards (29 CFR 1910.1000) contain maximum permissible limits for about 160 chemicals which may be used as pesticides. All of these specific permissible exposure limits will continue to apply when the agency promulgates the generic standard for pesticides.

External: The Environmental Protection Agency (EPA), the Food and Drug Administration of the Department of Health, Education and Welfare (HEW) and the Departments of Transportation and Agriculture have programs for regulating the use of pesticides.

Active Government Collaboration

The National Institute for Occupational Safety and Health (NIOSH) has published a "criteria document," a report containing recommendations for controlling occupational exposure to pesticides during their manufacture and formulation. NIOSH is also preparing a control technology assessment of the pesticides industries. OSHA has been working with NIOSH to obtain information relevant to the development of an OSHA pesticide standard.

The Environmental Protection Agency (EPA) has the primary federal responsibility for regulating the use of pesticides in the United States. OSHA has a working relationship with EPA whereby EPA makes available to the appropriate OSHA staff any disclosable information relevant to an OSHA pesticides standard.

The State of California's occupational safety and health program has an active pesticides division. Working relationships have been established to exchange information and develop a pesticides data base.

Timetable

NPRM—fall 1980
Regulatory Analysis—fall 1980
Public Comment Period—following NPRM
Final Rule—summer 1981
Final Rule effective—fall 1981

Available Documents

"Request for Comments and Information—Occupational Exposure to Pesticides," 43 FR 54955, November 24, 1978

"Criteria for a Recommended Standard . . . Occupational Exposure During the Manufacture and Formulation of Pesticides," (NIOSH–HEW, 1978)

Public docket of the rulemaking record, Docket H-115

These documents are available by mail and for review and copying at the OSHA Technical Data Center, Room S-6212, 200 Constitution Avenue, N.W., Washington, D. C. 20210. A fee is usually charged for copies of these documents.

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U.S. Department of Labor–OSHA

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monitoring, audiometric (hearing)

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DOL–OSHA

Occupational Noise Exposure Hearing-Conservation Amendment (29 CFR 1910.95*)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) has included this entry because we believe that an amendment to the present noise standard will provide protection to many workers who are adversely affected by noise. We estimate that the amendment will have an annual impact of $100 million or more on the economy.

Statement of Problem

Exposure to high levels of noise may cause temporary or permanent hearing loss and other harmful health effects. The extent of damage depends on two factors: the intensity of the noise and the duration of the exposure. Noise intensity is, for purposes of the existing standard, determined by a sound pressure level, measured as "decibels" and abbreviated dBA.

There is an abundance of epidemiological and laboratory evidence that protracted noise exposures above 90 dBA cause hearing loss in a substantial portion of the exposed population, and that more susceptible individuals will incur hearing loss at levels below 90 dBA. Noise–induced hearing loss is an irreversible condition that progresses with increased exposure and with age. Because hearing is essential for communication, hearing loss can lead to serious social and psychological handicaps.

Noise can also cause other adverse effects, such as degraded job performance, increases in accidents and absenteeism, job dissatisfaction, headaches, fatigue, sleeplessness, stress-related illnesses, and other effects that are more difficult to isolate as noise-related than hearing loss, but which are just as real when they occur.

OSHA's existing standard for occupational exposure to noise (29 CFR 1910.95) specifies a maximum permissible exposure to noise of 90 dBA for a duration of eight hours, with higher levels allowed for shorter durations, such as 95 dBA for a period of four hours, or 100 dBA for a period of two hours, and so on. The agency refers to this relationship as the 8-hour time-weighted average of 90 dBA. Thus, exposure to an 8-hour time-weighted average greater than 90 dBA is considered overexposure. Employers must use engineering or administrative controls, or combinations of both, whenever employee exposure to noise in the workplace exceeds the permissible exposures. The standard also requires employers to administer a "continuing, effective hearing conservation program" for overexposed employees but the standard does not define such a program.

OSHA proposed a revised noise standard in 1974 (39 FR 3773, October 24, 1974), which maintained the current standard's 90 dBA time-weighted average exposure limit, but expanded the requirements for hearing conservation programs. There was a great deal of controversy about alternative permissible exposure limits and their technical and economic feasibility, but few commentors challenged the concept of a hearing conservation program. Along with the 1974 proposal, the agency developed draft environmental and economic impact statements and held two sets of public hearings. At present, the written comments and transcripts of the oral testimony in the Hearing Record amount to approximately 25,000 pages. Analysis of the Record reveals information gaps in the area of nonauditory physiological effects of noise (i.e., adverse health effects other than loss of hearing, such as high blood pressure), and also in the areas of economic and technological feasibility of noise control. The agency needs to obtain additional material and to perform additional impact analyses before we can propose a comprehensive new regulation.

In the meantime, there are an estimated 2.5 million workers in American production industries with exposures in excess of 90 dBA, and an additional 2 million employees with exposures between 85 dBA and 90 dBA. These workers could receive greatly increased protection if the agency can promulgate and enforce hearing conservation requirements as an amendment to the present standard. The agency would then issue a final comprehensive standard after obtaining the missing but necessary information, updating existing cost figures, and selecting the appropriate control strategy.

Alternatives Under Consideration

OSHA is considering the following alternatives at this time:

(A) No regulation; do not make specific requirements for noise monitoring, audiometric (hearing) testing, selection and use of ear protection, and employee education. We do not favor this alternative, however, as issuance of and compliance with a final comprehensive regulation are some time off, and the agency believes workers need the interim protection that hearing conservation measures can provide.

(B) Issue a final regulation in the immediate future that is essentially the same as the 1974 proposal. This option has the advantage of providing renewed emphasis on engineering controls, but it appears that the exposure limits in the proposed standard are not adequately protective. Furthermore, we lack sufficient information on the feasibility of reducing noise to below 90 dBA for all industries. Also, we lack quantitative information on the nonauditory effects of noise.

(C) Issue the hearing conservation requirements as an amendment to the present noise standard (29 CFR 1910.95), and issue the final regulation at a later date. Under this alternative, the agency would continue to study the nonauditory effects of noise and we would explore various regulatory approaches to engineering controls, such as providing different compliance periods for different industries or requiring lower noise levels for new plants. During this time the agency would continue to enforce the present standard.

We currently regard Alternative (C) as the most desirable alternative because it will provide millions of employees with immediate protection while the agency prepares the final standard.

Summary of Benefits

Sectors Affected: Manufacturing industries, and electric, gas, and sanitary services; Federal and State agencies with industrial programs; and employees of these industries and programs.

In 1976, an OSHA study presented the following estimates of the percentage of workers who would be affected by the proposed noise regulation in various industry sectors.

SIC	Industry	Percent
20	Food	28
21	Tobacco	10
22	Textiles	75
23	Apparel	1
24	Lumber and Wood	94
25	Furniture and Fixture	30
26	Paper	40
27	Printing and Publishing	45
28	Chemicals	37
29	Petroleum and Coal	76
30	Rubber and Plastics	20
31	Leather	1
32	Stone, Clay and Glass	76
33	Primary Metals	63
34	Fabricated Metals	34
35	Machinery Except Electrical	26
36	Electric Machinery	7
37	Transportation Equipment	23
49	Electrical Gas and Sanitary Services	4

Percent of production workers exposed above 85 dBA

Insofar as OSHA regulations impact government waters this action will also affect Federal and State government waters in industrial jobs.

Hearing conservation measures, including noise exposure monitoring, audiometric testing, hearing protection devices, and employee education, should result in considerable benefits for more than 4.5 million employees. OSHA is in the process of quantifying the expected benefits of a hearing conservation regulation by estimating the amount of hearing that may be saved by instituting hearing conservation measures at various exposure levels. The Agency will also discuss the nonauditory benefits in qualitative terms. We will provide these estimates and discussions before we issue the hearing conservation amendment.

Hearing protection devices should reduce the incidence of noise-induced hearing loss and also the various nonauditory effects mentioned above. Audiometric tests should enable employers and employees to take proper precautions to prevent further deterioration of hearing, and monitoring and educational programs will increase general awareness of noise problems, and should encourage noise control at the source.

Hearing conservation measures, however, will not provide 100 percent protection to overexposed employees. The adequacy of protection will depend upon the quality of the hearing protector, the tightness of the fit, and its use by employees. Permanent hearing loss can occur before it is identified by audiometric testing and, of course, nonauditory effects cannot be detected by audiometry. Thus, none of these measures is as effective as controlling the hazard at the source, although a well-run hearing conservation program can be very effective in minimizing the adverse effects of noise.

One of the intangible benefits of this regulation may be a general improvement of employee and employer awareness of occupational health problems and the need for precautions. Another benefit, which was suggested by a National Institute of Occupational Safety and Health study, is a reduction in workplace accidents and absenteeism.

Summary of Costs

Sectors Affected: Manufacturing industries, and electric, gas and sanitary services; and Federal and State agencies with industrial programs.

All of the two-digit SIC industries listed under "Summary of Benefits" above have noise problems sufficient to necessitate hearing conservation programs. At this time the agency reserves judgment on whether or not this action will apply to the construction industry.

A 1976 OSHA study estimated that the hearing conservation requirements in the proposed standard would cost approximately $284 million annually in higher operating expenses. The breakdown in terms of 1976 dollars, was:

- noise monitoring—$155 million
- audiometry—$86 million
- ear protection—$43 million

A number of companies have already instituted hearing conservation programs, or parts of such programs, but we do not have an estimate of the numbers of these programs at present. OSHA will update these figures and analyze the costs and economic impacts of hearing conservation requirements in greater detail, and the economic analysis will precede issuance of the hearing conservation amendment.

At this time we do not anticipate any indirect costs, such as job losses or plant closings. However, we will try to identify any such costs before completing our economic analysis.

Related Regulations and Actions

Internal: Within OSHA there is a regulation for occupational noise exposure in the construction industry (29 CFR 1926.52). This regulation is virtually identical to OSHA's regulation for general industry (29 CFR 1910.95).

Within the Mine Safety and Health Administration (MSHA) there are three noise exposure regulations:

- Underground coal mines—30 CFR 70.500 to 70.510. These regulations cover permissible exposure limits, noise measurement and survey requirements, and reporting procedures.
- Surface work areas of underground coal mines and surface coal mines—30 CFR 71.300 to 71.305. These regulations are essentially the same as those for underground coal mines.
- Metal and nonmetal mines—30 CFR 55.5, which is essentially the same as OSHA's noise standard, 29 CFR 1910.95.

External: All States having their own occupational health programs must promulgate requirements at least as protective as those of the Federal OSHA. A few States already have some hearing conservation requirements.

The Department of Defense (DOD) has had hearing conservation requirements for many years. Under the most recent DOD Instruction (No. 6055.3 June 8, 1978) the three services (Army, Navy, Air Force) develop and issue their individual requirements.

The Federal Advisory Council on Occupational Safety and Health has established a Subcommittee on Noise for the purpose of developing noise abatement and hearing conservation guidelines to be used by all Federal agencies.

The Environmental Protection Agency (EPA) has regulations and programs for noise control and hearing conservation Under the Noise Control Act of 1972, EPA has the statutory responsibility to coordinate all Federal noise programs.

Active Government Collaboration

Formal coordination between OSHA and other agencies takes place under the auspices of the Interagency Regulatory Liaison Group. The vehicle is the Noise Subgroup of the Regulatory Development Work Group. This Subgroup is chaired by the Environmental Protection Agency (EPA) OSHA interacts with the other member agencies: EPA, Consumer Product Safety Commission, and Food and Drug Administration. We are also coordinating activities with the Mine Safety and Health Administration and with the Department of Defense under the auspices of the Noise Subgroup s "Hearing Conservation Planning Group," which is chaired by OSHA. Informal liaison takes place with the National Institute for Occupational Safety and Health, the Department of Transportation's Federal Railroad Administration, and the National Bureau of Standards in the Department of Commerce.

Timetable

Public Comment Period—on items received for the record between 1977 and present April 11–June 9, 1980.
Regulatory Analysis—summer 1980
Final Rule—fall 1980

Available Documents

Occupational Noise Exposure, 29 CFR 1910.95 (existing standard).

"Impact of Noise Control at the Workplace," contractor report on technical and economic impact, January 1974.

Occupational Noise Exposure, 39 FR 37773, October 24, 1974 (NPRM)

"Proposed Regulation: Noise," June 1975. Draft Environmental Impact Statement

"Economic Impact Analysis of Proposed Noise Control Regulation," April 1976 (contractor report) OSHA Docket OSH–011A and B

All documents are available for review and copying in the Docket Office, Room S–6210, U.S. Department of Labor–OSHA, 200 Constitution Ave, N.W., Washington, D.C. 20210 (202) 523–7894. A fee is usually charged for copies of these documents.

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DOL–OSHA

OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standards for Ladders and Scaffolding, and Floor and Wall Openings, and Stairways (29 CFR Part 1910 Subpart D, and 29 CFR Part 1926 Subparts L and M)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Department of Labor (DOL) thinks these rules are important because they establish minimum safety standards for the prevention of work related falls. The proposed revisions of these standards will ensure safer working conditions for construction and industrial workers throughout the country by correcting deficiencies in the existing standards. In addition, the Occupational Safety and Health Administration (OSHA) will incorporate plain language in an easier-to-use format and eliminate redundant, ambiguous, or inconsequential provisions.

Statement of Problem

Occupational injuries resulting from falls associated with unsafe ladders, scaffolding, floors, wall openings, stairways, and walking and working surfaces range from 20 to 25 percent of all occupational injuries in general industry and construction. There are approximately 60 million workers in these categories. The National Safety Council estimates that the direct medical and lost productivity costs of injuries and fatalities resulting from these hazards may reach $5 billion annually (1977 dollars).

Portions of the current safety and health standards, which were promulgated by OSHA in 1971, are deficient in coverage, not up to date with current technology, ambiguous, or redundant. As a result, industry and construction groups have revised and updated their own voluntary standards. Court decisions have held some of the current standards to be invalid, and other standards have been modified by OSHA program directives or variances in an attempt to deal with problems of interpretation. OSHA has received many petitions and informal requests to upgrade or revoke certain provisions of these standards. The proposed revision of the standards will allow these deficiencies to be addressed and will incorporate all modifications.

OSHA needs to replace the existing specification-orientation standards with revised performance-oriented standards (where criteria are set, but not specific ways of meeting the criteria), and to include specific hazardous items not currently covered, such as catenary scaffolds (those suspended on two horizontal parallel wire ropes) and roof-perimeter guarding. Furthermore, if no agency action is taken, the existing ambiguous and lengthy language will continue to be inadequate in mandating safety protection in the areas discussed above.

OSHA bases this proposed action on over five years of data collection which document hazards, and on its commitment to prevent hazard-related injuries. OSHA will coordinate the revision of these standards with similar activities of professional and trade organizations and industry and labor representatives.

Alternatives Under Consideration

The first alternative, a comprehensive revision of the existing standards, would incorporate performance-oriented standards, language simplification, and additional coverage for hazards that are not currently regulated. As a result, employees and employers would become more aware of hazards, and of ways to avoid and eliminate them. The performance-oriented standards would permit and encourage more flexibility in controlling hazards. OSHA believes that greater flexibility would lead to more effective protection at decreased expense. As part of the first alternative, OSHA would include an appendix to the standards document to aid employers and employees in complying with the performance-oriented standards through alternative methods. The appendix would provide specific, nonmandatory ways of complying with the standard. Failure to use any of the alternatives in the appendix would not mean failure to comply with the standard. The purpose of the appendix is to help employers who do not want to develop their own alternative ways of complying with the performance-oriented language of the standard.

The advantage of this alternative is that it would address the most important problems of the existing standards by fully using the research work, support studies, and outside assistance that OSHA has collected to date. A comprehensive revision of the standards would permit more flexible and cost-effective compliance methods, reduce inconsistency among several regulatory standards, and simplify regulatory language. However, this alternative may have a major economic impact because it would cover a greater number of hazards than the present standards. Consequently, this option would involve a greater number of interested parties in the rulemaking procedures.

The second alternative is a phased effort to remedy major problems in the existing standards, rather than to comprehensively revise those standards. This alternative would not address the many gaps and shortcomings in the current standards and would not include an appendix listing alternative methods of compliance.

This alternative may cost the affected employers less and may simplify the rulemaking process, but it would not address many important hazards that are presently causing working injuries. In addition, it would not advance OSHA's regulatory policy to promulgate more performance-oriented standards.

The third alternative is to take no action, leaving the present standards as they are. This would greatly hinder OSHA's enforcement and consultation efforts, and certain hazardous areas such as catenary scaffolding and steep-roof-perimeter protection, would remain unregulated. Many organizations and individuals who have contributed significantly to the development of proposed revisions might refuse to cooperate further with OSHA. In addition, there would be no immediate hope of more adequately addressing those hazards that may account for one-fifth of all occupational injuries.

Adoption of any one of the three alternatives would have some effect on construction activities. However, under the first and second alternatives, OSHA would stagger the effective dates for implementation to enhance voluntary compliance, to minimize potential economic effects, and to provide time to implement an enforcement strategy.

The agency currently regards the first alternative as the most desirable, because it is the only one that will adequately address the total injuries associated with falls.

Summary of Benefits

Sectors Affected: All general industries (manufacturing; wholesale and retail trade; transportation, communications, electric, gas, and sanitary services finance, insurance, and real estate; and service industries); and employees in these industries; the construction industry; and the general public.

The major benefit expected is a reduction in work-related injuries and deaths by approximately 20 percent. Also, there would be a reduction in related personal and family pain and suffering. OSHA expects to see benefits because the proposed standard would cover currently unregulated hazards and would revise existing standards that offer inadequate protection. In addition to pain, suffering, premature disability, and death, we know that occupational injuries contribute immediately and directly to losses in national productivity while at the same time contributing additional inflationary pressure to the hospitalization and medical services sectors. Although there are no simple solutions to the hazards covered by these standards, even marginal improvements in accident rates will be significant when aggregated on a nationwide basis. For example, a 10 percent reduction in work-related falls could save $500 million (1977 dollars) annually in associated medical and lost productivity costs.

In addition to these economic benefits, the revision of the construction standards to include all relevant provisions and the parallel rulemakings for construction and for general industry would encourage compliance by all employers by making it easier for employers to locate the particular regulations covering a specific situation. Further, OSHA will use a new format that will help to eliminate redundancy and ambiguity. Elimination of ambiguity will assist employers and compliance officers alike by reducing confusion regarding the exact requirements of the standard. Less ambiguous language will also aid in any judicial review of a citation.

Summary of Costs

Sectors Affected: all general industries (manufacturing; wholesale and retail trade; transportation, communications, electric, gas, and sanitary services; finance, insurance, and real estate; and service industries); and the construction industry.

The cost of the first alternative, which is the comprehensive revision using performance-oriented standards, may exceed $100 million for employers to comply. This cost includes capital costs as well as operation and maintenance costs. These costs primarily affect the private sector and include every employer who is covered by either the OSHA general industry or construction industry standards. OSHA will conduct an economic analysis.

Related Regulations and Actions

Internal: Following this action, OSHA will revise its present standards for walking and working surfaces in the maritime industries. The agricultural standards do not need revision at this time.

External: Publications by the American Society of Testing and Materials, The American National Standards Institute, and the American Society of Civil Engineers, contain, or soon will contain related voluntary standards for many of the products and installations that this proposal addresses. OSHA has shared its research information with all of the affected standards development groups.

Active Government Collaboration

OSHA has worked and is continuing to work with the National Bureau of Standards in the Department of Commerce to develop safety requirements for scaffolding, guardrails, and safety belts. The Consumer Product Safety Commission and OSHA have been working together to establish satisfactory ladder performance standards.

The Coast Guard is also developing standards for maritime vessels and oil-drilling platforms on the Outer Continental Shelf where hazards exist that are comparable to those addressed in this rulemaking. OSHA will coordinate this rulemaking with the Coast Guard's action in these areas.

Timetable

NPRM—fall 1980
Regulatory Analysis—accompanying NPRM
Public Hearings—in at least three cities
Public Comment Period—90 days following NPRM
Final Rule—to be determined
Final Rule Effective—to be determined

Available Documents

ANPRM—40 FR 17100, April 23, 1976.

Comments and transcripts from town meetings. OSHA Public Reading Room, SA6212, U.S. Department of Labor, Washington, D.C. 20210.

These documents are available for review and copying at the OSHA Technical Data Center, Room S6212, Second and Constitution Avenue, N.W., Washington, D.C., 20210.

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DOL–OSHA

Regulations for Reducing Safety and Health Hazards in Abrasive Blasting Operations (29 CFR 1910.94 (a))*

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this regulation to be necessary to protect the 100,000 abrasive blasters and employees who work in and around abrasive blasting operations from respiratory impairment and a variety of occupational safety and health hazards.

Statement of Problem

Abrasive blasting operations expose workers to several occupational hazards which may cause disease and physical injury. Of primary concern are the hazards of (1) dusts of silica (sand) and silica substitutes, (2) excessive noise levels, and (3) safety hazards, such as slippery surfaces and conditions which enhance the development of fires and explosions.

In abrasive blasting operations, streams of silica or sand substitutes are projected by compressed air to prepare a clean surface for subsequent treatment. Large quantities of dust are created which, when inhaled, are responsible for specific types of lung disease.

Silicosis is one of those diseases. It is a tissue-scarring disease of the lung that

is irreversible and often fatal. The disease is responsible for a large number of deaths, either directly or by predisposing workers to tuberculosis and other infectious diseases.

The severity of this preventable disease has been repeatedly emphasized by the occupational health community in which there is general agreement that abrasive blasters usually contact silicosis after about 10 years of occupational exposure. The incidence of silicosis increases progressively with increasing concentrations of dust present in the work environment. Systemic poisoning or cancer may also develop, depending upon the composition of the abrasive. Abraded byproducts may also contain toxic materials and cancer-causing agents. Furthermore, dust hazards affect not only the abrasive blasters, but also those nearby employees assisting with the blasting as well as other employees at adjacent worksites.

In addition to the severe dust hazards, this worker population is exposed to excessive noise levels. The primary effect of noise exposure is premature hearing loss, although a wide spectrum of nonauditory adverse health effects, such as changes in blood pressure and decreases in respiratory rates, can also result from noise exposure.

In abrasive blasting work, a realistic potential for causing loss of life or limb is also created by the heavy dust clouds which reduce visibility. Additionally, the powerful collision of abrasive material against hard surfaces generates airborne particulates which may result in fire and explosion hazards, particularly where electrical apparatus is present.

Alternatives Under Consideration

The agency is considering the following regulatory approaches:

(A) There are major deficiencies with the existing abrasive blasting standard (29 CFR 1910.94 (a)) which result in inadequate employee protection. These deficiencies include the lack of requirements for regulated abrasive blasting zones; monitoring for silica exposures; adequate engineering controls and work practices; and adequate respiratory protection programs, medical surveillance and employee training. One alternative would be to eliminate existing regulatory deficiencies by adding the appropriate requirements and revising the existing regulations by referencing appropriate health and safety provisions (occurring throughout 29 CFR Parts 1910–1926) which currently apply to abrasive blasting.

(B) A second alternative would be to ban the use of sand in addition to the regulatory additions and revisions discussed above. Sand used in abrasive blasting is already banned in several countries and MSHA is considering prohibiting its use in aboveground mining operations. Nonetheless, it is not clear that this alternative is economically or technologically feasible in the abrasive blasting industry. Moreover, the toxicity of some alternative abrasives and abraded products indicates that a revision of the existing regulations must be accomplished to ensure adequate employee protection, regardless of whether or not the agency decides to ban sand as an abrasive. At the present time, therefore, this alternative is not our preferred regulatory approach.

The agency believes there is no suitable nonregulatory approach because the existing regulations are inadequate to provide protection and the traditional nonregulatory approaches, such as program directives and consultation, do not appear to provide relief.

Summary of Benefits

Sectors Affected: Abrasive blasters; associated workers; and establishments in the construction, manufacturing, and transportation industries listed in Table 1, particularly heavy construction not elsewhere classified, painting, paperhanging and decorating, and plating and polishing.

Table 1.—*Industries Affected by the Abrasive Blasting Standard*

SIC code	Industry short title
1629	Heavy construction, not elsewhere classified
1721	Painting, paperhanging and decorating
1743	Terrazzo, tile and marble, and mosaic work
2911	Petroleum refining
3272	Concrete products, except block and brick
3281	Cut stone and stone products
3312	Blast furnaces and steel mills
3321	Gray iron foundries
3322	Malleable iron industries
3323	Steel foundries, not elsewhere classified
3352	Aluminum rolling and drawing
3356	Nonferrous rolling and drawing
3361	Aluminum foundries
3362	Brass, bronze, and copper foundries
3369	Nonferrous foundries, not elsewhere classified
3391	Iron and steel forgings
3399	Primary metal, not elsewhere classified
3441	Fabricated structural steel
3471	Plating and polishing
3731	Shipbuilding and repairing
4011	Railroads, line-haul operating

The Census Bureau categorizes these workers as machine operatives (Census number 690) and construction laborers (Census number 751).

Regulatory action in this area will decrease the number of cases of lung disease among exposed workers. The reduction in exposure levels will produce a corresponding reduction in adverse health effects. The agency also expects regulatory action to result in fewer injuries and deaths related to abrasive blasting safety hazards. Reduction in lung disease and injury associated with abrasive blasting will decrease the pain and suffering of workers and their families and the burden on social programs, and will provide employees with significant cost reductions and improvements in productivity.

Summary of Costs

Sectors Affected: Construction, manufacturing and transportation industries listed above in Table 1, particularly heavy construction not elsewhere classified, painting, paperhanging and decorating, and planting and polishing.

Three industrial classifications, SIC 1629 (Heavy construction, not elsewhere classified), SIC 1721 (Painting, paperhanging and Decorating) and SIC 3471 (Plating and polishing), account for approximately 55 percent of the abrasive blasting operations and employ about 78 percent of the abrasive blasters. The approximate population at risk is 100,000 workers.

Preliminary estimates of the additional costs of alternative (A) are listed below. The size of the range reflects variations in the stringency and timing of selected provisions of this alternative.

Table 2.—*Cost of Alternative A*

	Amount 1978 dollars (million)
Type of cost:	
Installed capital	13–185
Annual capital charge	3–44
Annual additional energy used	.01–8
Annual operating and maintenance	51–78
Total annualized	54–130

OSHA estimates that the alternative of banning sand would cost an additional $94 million in annual operating and maintenance costs because of the extra cost of substitutes for silica sand. Because sand sold for blasting is less than 3 percent of the sales of sand suppliers, the incremental effect on sand suppliers of banning sand would be minor.

As noted above, there may also be indirect costs caused by increases in health problems due to the possible hazardous properties of substitutes which may be used for sand. For example, the National Institute of Occupational Safety and Health has determined that some slag substitutes break down, after blasting, into respirable particulates of highly toxic heavy metals.

These preliminary figures suggest that both alternatives are economically feasible for the industries affected. The agency is preparing an economic impact assessment; tentative results indicate that even if industry is able to pass on compliance costs completely to their customers, prices will increase by less than two-tenths of one percent if sand is banned (Alternative B), and by less than one-tenth of one percent if Alternative (A) is implemented. Impact on output, employment, and market structure are expected to be minor as well.

Related Regulations and Actions

Internal: OSHA intends to develop a new standard covering the use of silica in all industries. This new standard may change the current permissible exposure limit for silica and may apply to abrasive blasting operations.

External: The Mine Safety and Health Administration is also considering a change in the permissible exposure level for silica. In addition, it is considering banning its use in aboveground operations.

Active Government Collaboration

None

Timetable

NPRM—June 1980.
Regulatory Analysis—July 1980
Public Hearing—following NPRM.
Final Rule—June 1981.
Final Rule effective—to be determined

Available Documents

Public docket of the record of rulemaking on safety and health hazards of abrasive blasting operations (OSHA Docket No. H–102).

Economic and environmental impact statements will be available when a standard is proposed.

These documents will be available by mail and for review and copying at the OSHA Technical Data Center, Room S–6212, Third Street and Constitution Avenue, N.W. Washington, D.C. 20210. A fee is usually charged for copies of these documents.

Agency Contact

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DOL-OSHA

Safety and Health Regulations for Construction Underground Operations-Tunnels, Shafts and Related Work Areas (29 CFR Part 1926.800)*

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655; Contract Work Hours Act Amendment 1969, P.L. 91–54, 76 Stat. 357, 40 U.S.C. § 327 note; 29 CFR Part 1926.800.

Reason for Including This Entry

The Department of Labor (DOL) thinks this rule is important because it will significantly contribute toward the reduction of underground accidents and injuries. The proposed revision of this standard will ensure safer working conditions by correcting deficiencies in the existing standard. In addition, OSHA will incorporate plain language in an easier-to-use format and eliminate redundant, ambiguous, or inconsequential provisions.

Statement of Problem

During the five year period starting in 1971 at least six catastrophic incidents involving explosion, fire, or flooding took place at underground operations-tunnels, shafts, and related worksites. These disasters resulted in 48 deaths, 42 injuries, and millions of dollars in property damage, and the toll could have been greater except for a particularly fortunate set of circumstances at the time of the accidents. In addition, many workers in underground operations are subject to other life-threatening hazards on an almost daily basis. To reduce the incidence of future catastrophes, the Occupational Safety and Health Administration (OSHA) is revising its workplace construction standards for underground operations to cover hazards that are not currently regulated.

Currently, billions of dollars worth of underground construction projects are underway or scheduled. These include subway systems in five major cities, and numerous water and sewer lines and utility networks. OSHA estimates that up to 350,000 workers per year may be involved in situations that present repeated opportunities for major disasters. Tunnels and shafts for mining operations are regulated by the Mine Safety and Health Administration (MSHA).

OSHA promulgated safety and health regulations for tunneling operations on April 17, 1971. During the ensuing years of enforcement, interested parties have identified a number of problem areas. For example, some rules were claimed to be excessively stringent. Under the current standard, fire-resistant fluids are required to be used in underground hydraulic systems. Equipment manufacturers and employers claim that the use of such fluids considerably reduces the lifespan of certain machinery and that alternative methods of protection, such as fire suppression, should be allowed. Conversely, others have suggested more specific rules to deal with potentially explosive gas atmospheres in tunnels, and the improvement of hoisting equipment to prevent the recurrence of past catastrophes.

In addition, some of the current rules need updating and clarification. As a result, the proposed standard will rely on more current information to prohibit those work conditions which needlessly contribute to the most serious accidents.

Alternatives Under Consideration

OSHA is considering the following alternatives:

(A) No revision; do not clarify and update the regulation, and do not expand the regulation's coverage. This option would allow underground hazards to continue unabated. For instance, the provisions for defining a gassy site, acceptable emergency procedures, site safety program, air quality, fire prevention, haulage, and hoisting are either not currently addressed or insufficient.

(B) Revise the regulations to address those unique hazards of underground work that require additional or special attention. For example, some sites have special ventilation requirements, others need special lighting, etc. This alternative has the advantage of addressing only the most important problems, such as clarifying the scope and providing for gas operations, emergency procedures, fire prevention, ground support, and haulage and hoisting operations.

The revision would incorporate performance-oriented standards (where criteria are set but where specific ways of meeting the criteria are not set) and thus provide greater flexibility in complying with the standard.

(C) Revise the regulation so that either one subpart or section of the regulation will address all the hazards of underground work. This option might produce a more comprehensive standard but would duplicate in some part, existing regulatory treatment of construction hazards that are not unique to underground work and would, thus, become excessively cumbersome.

OSHA prefers alternative (B), because it will deal with the major hazards

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causing underground accidents in the most efficient and least costly way.

Summary of Benefits

Sectors Affected: The construction industry, and all other industries involved in the building and maintenance of undergournd facilities; employees of these industries; and the general public.

There are approximately 3,000 employees working on the construction of large, new underground tunnels to be used in water and sewer systems, rapid transit systems, highways, and railroads. An estimated 20,000 workers are engaged in other types of major underground construction projects, including underground power plants, underground storage and refrigeration, subsurface transmission of electric power, underground sewage treatment facilities, and subterranean military defense installments. Moreover, there are additional thousands of workers for utilities and other contractors who are involved in more routine construction tasks in already existing underground facilities, or are hired to extend, repair or build smaller tunnel networks. Many of these operations are included under the following Standard Industrial Classification (SIC) Codes: 1622 (bridge, tunnel and elevated highway construction); 1923 (water, sewer, pipeline communication, and power line construction); 1929 (heavy construction, not elsewhere classified); 1794 (excavating and foundation work); and 49 (electric, gas, and sanitary services).

Preliminary estimates indicate that 7,000 worker-injuries per year occur on major new underground construction projects. OSHA's ongoing analysis estimates that the regulation would prevent about 800 of these accidents and avoid 37,000 lost workdays per year. This is in addition to the real but presently nonquantifiable potential of the standard to eliminate major tunnel disasters from fire, explosion, flooding, etc. which have accounted for up to 38 fatalities in a single year (1971).

Fewer underground accidents will result in reduced lost wages and medical expenses. The general taxpayer will benefit to the extent that government welfare payments are lowered. Employers will benefit from reduced property damage, lower insurance premiums, and increased productivity as a result of reduced production downtime and lower labor turnover and training costs.

Summary of Costs

Sectors Affected: The construction industry, and all other industries involved in the building and maintenance of underground facilities; and the general public.

Preliminary estimates of the annual compliance costs for the new provisions of the proposed standard, in 1979 dollars, are about $1 million for tunneling operations, and about $3 million for other underground projects. The compliance costs amount to less than 0.2 percent of the value of the affected construction projects.

DOL's preliminary analysis of the proposed standard indicates that the regulation will not significantly disrupt any segment of the industry, and adjustments in prices, employment, and production will be minor. Taxpayers will be affected to the extent the revised regulation increases costs for government construction projects, and consumers will be affected as transportation or private utility companies pass on increased costs.

Related Regulations and Actions

Internal: The Mine Safety and Health Administration (MSHA) has promulgated regulations for metal and nonmetal mining activities, including tunnel and shaft construction for mines, and OSHA has an existing construction tunnel and shaft regulation for all other construction.

External: The American National Standards Institute, Inc. is developing a voluntary standard for the construction of tunnels, shafts, and caissons. Also, a number of States, operating their own safety and health plans under an agreement with OSHA, have tunneling regulations. Some States mirror the OSHA regulations and others, such as California and Michigan, have developed their own regulations, which OSHA considers to be as effective as the Federal regulations. States with plans are required to update their standards to be as effective as the OSHA requirements.

Active Government Collaboration

The proposal will include the health and safety requirements for the design, permissibility, and suitability of mobile diesel-powered transportation equipment (Schedule 31) which the Bureau of Mines in the Department of Interior developed and which are now included in the Mine Safety and Health Administration (MSHA) regulations. Also, OSHA will propose that any self-rescuer breather apparatus for escaping from underground areas subject to smoke and fire hazards, be capable of generating its own oxygen supply when site conditions warrant. Such devices are jointly approved by MSHA and the National Institute for Occupational Safety and Health. OSHA will continue to coordinate regulatory activities dealing with similar hazards with MSHA.

Timetable

Economic Assessment—June 1980
Environmental Assessment—June 1980
NPRM—August 1980
Public Comment—60 days following NPRM
Informal Hearing—late fall 1980
Final rule—early 1981
Regulatory Analysis—undecided

Available Documents

Transcripts of public meetings held by the OSHA Construction Safety and Health Advisory Committee, 1974–1980.

Proposed rule, Tunnels, Shafts and Related Work Areas, 39 FR 10216, March 18, 1974.

Transcript of public hearing held on June 26, 1974.

Written comments received relative to the March 18, 1974 proposal.

These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, Third and Constitution Avenue, N.W., Washington, D.C. 20210.

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DOL–OSHA

Safety and Health Regulations for Entry and Work in Confined Spaces in Construction (29 CFR Part 1926) and in General Industry (29 CFR Part 1910)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this rule is important because injuries and deaths would be reduced for a significant portion of the labor force in construction and general industry.

Statement of Problem

The agency continues to receive reports of injuries and deaths caused by entering and working in confined spaces, such as tanks, reactor vessels, vats, hoppers, vaults, and pits that are oxygen deficient or contain toxic or flammable atmospheres. Additionally, rescue attempts into confined spaces often cause death or injury to the rescuer. A review of 6,000 preliminary fatality/catastrophe event reports from 1976 and 1977 indicated that 132 events were related to entry and work in confined spaces. These reports indicate that multiple injuries and deaths occur with each event, e.g. of these 132 events, there were 130 injuries and 143 fatalities. The technology is available to test these atmospheres prior to entry and to make them safe for human occupancy or to provide the appropriate protective equipment. A recent report published by the National Institute for Occupational Safety and Health, dealing with the hazards of confined spaces, has confirmed OSHA's opinion that regulatory action is urgent.

If the Agency does not take any action, the death and injury toll will continue to increase in frequency because of the increase in work taking place in confined spaces with contaminated atmospheres and the fact that many employers and employees seem to be unaware of the seriousness of confined-space hazards.

Alternatives Under Consideration

(A) OSHA will consider limiting the scope of coverage of this proposed regulation to those unique confined-space situations showing a high incidence of injury or fatality. These situations involve atmospheres containing an oxygen excess or deficiency, or flammable, toxic, corrosive, irritant, or asphyxiating atmospheres. This option would have a smaller impact on the economy than a general confined-space regulation, but it would also offer protection to fewer employees.

(B) OSHA is considering a second option requiring permits to be issued before beginning work in confined spaces, and requiring that more complete records be kept of near-injuries, injuries, and fatalities. At issue in this option is who would issue the permits, who would be required to obtain a permit, and who would be responsible for keeping records. This approach would force awareness of the hazards of confined spaces on employers and employees, by requiring a qualified person from industry to inspect the space and ensure that any proper precautions had been taken. More comprehensive data relating to injuries in confined spaces would be helpful in analyzing measures to be taken to prevent future injuries. The administrative problems for both DOL and industry associated with a permit system and the increased recordkeeping and reporting required by this approach are the drawbacks of this alternative.

OSHA is also considering exempting certain industries that perform work in confined spaces from the scope of the standard if it can be shown that voluntary compliance with an existing industry standard has been effective, or if there are existing standards that adequately cover those industries. Further, the agency intends to write a performance-oriented standard (where criteria are set but specific ways of meeting the criteria are not set) which will give employers greater flexibility in meeting the regulation's objectives.

Summary of Benefits

Sectors Affected: All industries with employees who work in confined spaces; such as tanks, reactor vessels, vaults, and pits; and employees in these industries.

Workers are seriously injured or killed in more than 10 percent of all confined space accidents. Data are presently unavailable to project annual frequency and severity rates.

The primary benefit of hazard reduction would be a decrease in employee injury, illness, and death. Property losses are usually not major in these cases, although there are exceptions.

Summary of Costs

Sectors Affected: All industries with employees who work in confined spaces; such as tanks, reactor vessels, vaults, and pits.

Employers will bear direct costs in the form of additional equipment and labor necessary for hazard evaluation and preventive measures. The largest cost impacts will accrue to employers who currently do not have programs and equipment for safe operation in confined spaces. At this time, we have no estimate of the number of workers at risk. Preliminary indications are that most employers already have programs that may not require extensive modification, and costs may fall most heavily on a small group of employers who have no programs in effect. If so, small contractors could encounter increased economic barriers to conducting confined space work. To lessen the requirement for the small contractors, however, would defeat the purpose of this regulation.

There are also special costs associated with a permit system if we select that option. Some permit systems, such as EPA's requirement for pesticides, involve permits issued by governmental agencies. OSHA is not contemplating this type of system. The OSHA approach is intended to establish responsibility with a knowledgable individual in the establishment to issue permits after determining that appropriate preconditions for entry have been (or will be) met. No cost estimates have been made, but it is not anticipated that this provision will be a major expense item.

If small contractors encounter economic barriers, the nature of confined-space work is such that market dominance by a limited number of companies is unlikely.

It is not likely that this regulation will cause costs of compliance in excess of $100 million. Price effects resulting from increased operating costs in industries with confined spaces will be minimal.

Related Regulations and Actions

Internal: There are existing paragraphs in 29 CFR Part 1926 that specifically reference confined or enclosed spaces. These are 1926.21(b)(6), 1926.154(a)(2), 1926.350(b)(4), 1926.352(g), 1926.353(b), 1926.353(c), and 1926.354(c)(1). Additionally, there are paragraphs that do not specifically address confined spaces but are relevant and to some extent address hazards encountered when working in confined spaces. These are 1926.103(b)(3), 1926.104, 1926.250(b), 1926.651(v), 1926.850(e), 1926.956(a), 1926.956(b), 1926.957(h)(2), 1910.94, and 1910.134.

The additional paragraphs in subparts C, D, E, and F of Part 1926 are of a general nature and would be referenced in a separate standard for confined spaces.

There are related OSHA regulations pertaining to confined spaces in the rules that govern Ship Repairing, Shipbuilding, Shipbreaking and Longshoring, including 1915.2(m), 1915.2(n), 1915.11, 1915.23, 1915.24, 1915.31, 1915.32, 1915.33, 1915.54, 1915.82, 1916.2(m), 1916.(2)(n), 1916.11, 1916.23, 1916.24, 1916.31, 1916.32, 1916.33, 1916.54, 1916.82, 1917.(2)(m), 1917.2(n), 1917.11, 1917.31, 1917.33, 1917.54, 1917.82, and 1918.93.

There are related OSHA regulations pertaining to confined spaces in the rules that govern General Industry and Agriculture, including 1910.194(d), 1910.252, 1910.261(b)(5) and 1910.268(o)(2) as well as provisions in those subparts of Part 1910 which cover walking and working surfaces, fire protection, protection from hazardous and toxic materials, and guarding from mechanical and electrical hazards.

On October 19, 1979, OSHA issued an ANPRM (44 FR 60334) for entry and work in confined spaces in general industry, Docket No. S–019. This was a

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request for written information that would be of value to the agency in the development of a proposed standard.

On March 25, 1980, OSHA issued an ANPRM (45 FR 19266) for entry and work in confined spaces in the construction industry, Docket No. S–107. This also was a request for written information that would be of value to the agency in developing a proposed standard.

Drafts of the proposed regulation will be submitted to the Mine Safety and Health Administration in the Department of Labor.

External: American National Standards Institute (ANSI) has published Safety Requirements for Working in Tanks and Other Confined Spaces, ANSI Z117.1–1977. Organization Resource Counselors, Inc. has been developing a Proposed Performance Standard for Confined Spaces, and individual States such as California, Wisconsin, and Maryland have standards regulating work in confined spaces.

Active Government Collaboration

OSHA has held discussions with the National Institute for Occupational Safety and Health during the Institute's development of a criteria document on confined spaces. Drafts of the proposed regulation will be submitted to the Department of the Army, and the Office of Pipeline Safety in the Department of Transportation for comment.

Timetable

General Industry:
Informal Public Fact-Finding Meetings—May 1980
NPRM—late 1980
Public Comment Period—early 1981
Public Hearings—early 1981
Final Rule—early 1981
Regulatory Analysis—undecided
Construction:
NPRM—December 1980
Public Comment Period—60 days after publication of NPRM
Public Hearings—March 1981
Final Rule—August 1981
Regulatory Analysis—undecided

Available Documents

ANPRM (General Industry)—44 FR 60333, October 19, 1979, Docket No. S–019

ANPRM (Construction)—45 FR 19266, March 25, 1980, Docket No. S–107

Transcripts of the Informal Public Fact-Finding Meetings held in:
Houston, Texas—May 13 and 14, 1980
Denver, Colorado—May 20 and 21, 1980
Washington, D. C.—May 28 and 29, 1980

"Criteria for a recommended standard, *Working in Confined Spaces,*" published by the National Institute for Occupational Safety and Health, U.S. Department of Health, Education and Welfare, December 1979

American National Standard, Safety Requirements for Working in Tank and Other Confined Spaces, ANSI A117.1–1977, American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018

Comments received in response to these ANPRM's and other documents are available for review and copying in the Docket Office, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D. C. 20210.

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DOL-OSHA

Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry (29 CFR Part 1910) and in Construction (29 CFR Part 1926)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) thinks this rule is important because it concerns a subject in which the public has shown a considerable interest, and it will also fill a gap in our current regulations and will consolidate the widely dispersed regulatory provisions related to lockout hazards.

Statement of Problem

The proposed regulation will protect employees from accidents caused by the failure to deactivate (lock out) and tag machinery, equipment, or systems while they are being worked on. Lockout/tagging is a term used to define a method and procedure which can prevent activation of the machinery, equipment, or systems while employees are performing the activities of maintenance, repair, servicing, or installation.

Evaluation of 125 fatality investigations on fixed machinery covering the two year period of 1974–1976 indicates that 46.4 percent (58) of the 125 fatalities were either directly or very closely related to the failure to properly deactivate and lock out equipment.

The regulation will apply with few exceptions to all equipment and systems in industries covered by Title 29 of CFR Part 1910, for General Industry and in Title 29 of CFR Part 1926, for the Construction Industry.

At present, lock out-related regulatory provisions are scattered throughout CFR Parts 1910 and 1926 and many of these provisions are inadequate because they only address lock out procedures for electrical power sources. The new standard will deal with the hazards associated with the more sophisticated machines in modern use, which use hydraulic, pneumatic, and electronic power sources, and will also address the potential energy latent in these systems.

OSHA is proceeding with a lock out and tagging rulemaking at this time in response to requests from national consensus organizations, labor unions, industry and trade associations, and public comments. If OSHA fails to initiate a rulemaking, lock out-related injuries and fatalities will continue to occur at the same rate.

Alternatives Under Consideration

OSHA is considering the following alternatives.

(A) Continue using the existing standards. Adopting this option means that accidents attributable to inadequate and outdated lockout provisions will continue, and compliance activity will also continue to rely on the General Duty requirement of the OSH Act. The advantage of this approach is that it would require no additional outlay of Agency resources; the disadvantages are that accidents and the lack of worker awareness of lockout hazards will continue.

(B) Revise the lock out-related provisions in all the subparts of 29 CFR Part 1910 (General Industry Standards) and Part 1926 (Construction Safety Standards). The advantage of this choice is that the lockout provisions pertaining specifically to a particular industry would be located in the appropriate subpart with all other industry-specific rules. The disadvantage of this option is that revising all the affected subparts would take many years and be very expensive in terms of OSHA's money and personnel.

(C) Promulgate a new lockout and tagging standard that will apply, with few exceptions, to all machines, equipment, and systems used in industries covered by 29 CFR Parts 1910 and 1926. The disadvantage of this approach is that a general standard covering all industries may not be as responsive to the needs of a specific industry as one tailored to the industry. The chief advantage is that the Agency will be able to reduce the injury and fatality toll attributable to lock out-related causes in the most effective and timely fashion. OSHA presently favors alternative (C) for this reason.

Summary of Benefits

Sectors Affected: All manufacturing industries (SIC Division D), construction industries (SIC Division C), and machinery and process system users scattered throughout the transportation, communications, electric, gas, and sanitary services, wholesale, retail and service sectors (SIC Divisions E, F, G, and I); and workers in these divisions.

OSHA believes serious lock out-related incidents are on the increase as the use of more complex and sophisticated power sources becomes widespread in the industrial economy. This proposal would reduce the number of incidents. Although property losses are sometimes involved, the most significant losses result from injuries and fatalities to workers. Workers who suffer permanent disablements sustain large personal and economic losses, while employers lose skilled workers. Data to estimate trend increases for this type of accident are not currently available, but we will gather it during the rulemaking process.

Indirect benefits may accrue to machinery manufacturers if the regulation's performance requirements reduce product liability, as is anticipated.

Summary of Costs

Sectors Affected: All manufacturing industries (SIC Division D), construction industries (SIC Division C), and machinery and process system users scattered throughout the transportation, communications, electric, gas, and sanitary services, wholesale, retail, and service sectors (SIC Divisions E, F, G, and I).

Direct costs to employers will result from the increased cost of lockout devices and increased labor costs required by preventive lockout procedures and work practices. These costs will be partially offset by productivity increases associated with accident reduction. Some portion of these direct costs may be passed on to consumers in the form of lower machine profit margins in the event that machinery users postpone machinery replacements and reduce overall demand.

Related Regulations and Actions

Internal: The General Industry Standards, 29 CFR Part 1910, and the Construction Standards, 29 CFR Part 1926, contain widely dispersed lockout-related provisions. Examples can be found in 1910.145, 1910.179, 1910.213, 1910.218, 1910.261, 1910.262, 1910.263, and 1910.265.

External: The States of California, Michigan, and Washington presently have or have proposed regulations governing the locking out and tagging of energy sources. These States submitted plans under OSH Act U.S.C., §1667, which allows for the development and enforcement of State occupational safety and health standards if they are as effective as the Federal regulations. The American National Standards Institute, Inc. is developing a voluntary standard for lockout and tagout. The National Fire Protection Association is also developing a voluntary standard for locking out and tagging of electrical equipment.

Active Government Collaboration

OSHA is coordinating its efforts and sharing information with the National Institute for Occupational Safety and Health of the Department of Health, Education and Welfare, which has published a Request for Information on this topic in the *Federal Register* (45 FR 7006, January 30, 1980).

Timetable

General Industry:
ANPRM—May 1980
Public Comment Period—60 days after publication of ANPRM
Public Meetings—30 days after publication of ANPRM
NPRM—April 1981
Regulatory Analysis—undecided
Construction:
ANPRM—Spring 1980
NPRM—Mid-1980
Regulatory Analysis—Late 1980
Public Comment Period—60 days after publication of NPRM
Informal Public Meetings—after NPRM
Final Rule—early 1981

Available Documents

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DOL–OSHA

Standard for Occupational Exposure to Asbestos (29 CFR 1910.1001)*

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) thinks this regulation is necessary to protect workers from the carcinogenic risks and other adverse health effects associated with exposure to asbestos.

Statement of Problem

An estimated 2.3 to 2.5 million employees have some degree of occupational exposure to asbestos. Of this total, 180,000 to 400,000 are in the construction industry and the remaining 2.1 million are in general industry. A significant number of these employees are exposed to airborne asbestos levels at OSHA's existing exposure limit (2,000,000 fibers per cubic meter) or higher. This level was established for the limited purpose of reducing the incidence of asbestosis, rather than cancer.

The National Institute for Occupational Safety and Health (NIOSH) and other sources have provided data to OSHA which indicate that the present OSHA exposure limit may be inadequate to protect workers from asbestos-related disease. Exposure to asbestos can cause asbestosis (a diffuse, nonmalignant, scarring of the lungs), lung cancer, and mesothelioma (a cancer of the chest and abdominal cavity linings of exposed workers). Recent epidemiologic evidence indicates

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these diseases may be induced at very low levels of exposure, and experimental data in animals suggest that all forms of asbestos present a health hazard.

OSHA is developing a proposal to revise the current standard for occupational exposure to asbestos. The regulation would set a permissible exposure limit (PEL) for employee exposure to asbestos, and affected industries would have the opportunity to implement control measures to achieve the PEL for their operations in the most cost-effective manner. Failure to promulgate new regulations will prolong the occurrence of disease, disability, and mortality associated with asbestos exposures.

Alternatives Under Consideration

The Agency is considering a range of alternative PELs, including:

(A) a 1,000,000 fiber/m³ eight-hour time-weighted average (TWA) with a 5,000,000 fiber/m³ ceiling (above which no employee may be exposed);

(B) a 500,000 fiber/m³ TWA with a 5,000,000 fiber/m³ ceiling; and

(C) a 100,000 fiber/m³ TWA with a 500,000 fiber/m³ ceiling. For each of these alternatives, other revisions to current provisions for engineering and work practice controls, hygiene facilities, medical surveillance, respirators, training, etc., may be included in the proposed regulations.

Studies indicate that all commercially available forms of asbestos are cancer-causing agents. Some scientists argue that all asbestos materials, therefore, should be regulated equally. Others believe that different asbestos forms display varying degrees of toxicity and that OSHA should develop separate standards based on data associated with each specific asbestos mineral. OSHA will consider the merits of each of these regulatory options.

Still another approach is to establish regulations for asbestos on the basis of the feasibility of compliance for different industries. Specific requirements of the standard would differ according to the feasibility of various control measures in different industries or processes, such as construction versus general industry.

We do not anticipate issuing an NPRM until fall 1980, and currently have no preferred alternative.

Summary of Benefits

Sectors Affected: Workers in manufacturing, retail trade, construction and service establishments which produce or use asbestos-containing products; establishments manufacturing substitutes for asbestos or asbestos-containing products; and the general public.

Affected industries include the primary manufacturers of asbestos products; secondary fabricators in the automobile aftermarket, shipbuilding and repair, and elsewhere; and the construction industry. The primary manufacturers are largely grouped in Standard Industrial Classification (SIC) Code 3292 (Asbestos products), and many of these establishments also perform some secondary fabrication. Shipbuilding and repair is included in SIC Code 3731. The automobile aftermarket includes establishments which repair, resurface, and repackage such friction parts as brake shoes and clutch faces. The establishments involved are located in SIC Code 55 (Automotive dealers and gasoline stations), SIC Code 3714 (Motor vehicle parts and repair), and SIC Codes 7538 and 7539 (General automotive repair shops, and automotive repair shops not elsewhere classified). Other secondary fabricators are located in SIC Code 3293 (Gaskets, packing, and sealing devices), and in many other SIC Codes too numerous to list here. Construction (SIC Codes 15–17) will also be affected where asbestos-containing products are used, such as roofing felt, asbestos-cement pipe, asbestos-cement siding, and some forms of floor tile.

Establishments which produce substitutes for asbestos or asbestos-containing products will also be affected. Although a complete enumeration of such substitutes and their respective SIC Codes is not included here, a partial listing is as follows: Substitutes for asbestos itself, in various uses, include fibrous glass (SIC Code 322), mica (SIC Code 329), graphite-carbon fibers (SIC Code 329), nylon (SIC Code 228), polypropylene (SIC Code 282), and others. A large number of substitutes also exist for asbestos-containing products. Iron or polyvinyl chloride pipe (produced in SIC Codes 33 and 307) can be substituted for asbestos-cement pipe. Substitutes for asbestos-cement siding include vinyl, aluminum, and wood siding; substitutes for vinyl-asbestos floor tile include pure vinyl tile, carpeting, and hardwood flooring.

The direct benefit we expect from controlling exposure to asbestos is a reduction in the incidence and prevalence of the health effects cited in "Statement of Problem." OSHA has not yet completed a quantitative analysis of the number of lives expected to be saved by reducing exposures to any of the alternative levels being considered. However, because of the large numbers of workers exposed, and the accumulated evidence on the toxicity of even low levels of asbestos exposure, the numbers are expected to be large. Such reductions in mortality and morbidity will result in reduced pain and suffering for employees, and in savings in medical expenses and lost output which would otherwise occur.

Indirect benefits from controlling asbestos exposures to any of the various alternative levels will include reductions in the burden placed on such public support programs as Medicare and Medicaid, Welfare, and Workers' Compensation. In addition, improved worker health and safer working conditions are likely to reduce employee turnover and raise labor productivity. Finally, further controlling asbestos exposures will stimulate a search for asbestos substitutes and for alternatives to asbestos-containing products, and it will induce employers to innovate improved control technologies. With less asbestos and fewer asbestos products used, consumers will benefit as incidental asbestos exposures will decline.

Summary of Costs

Sectors Affected: Workers and establishments in manufacturing, retail trade, construction and service industries which produce or use asbestos-containing products; and consumers of these products.

The costs of the regulatory options being considered are largely the capital and operating expenses which the regulated firms will incur in order to comply. Because these cost increases will raise the prices of asbestos-containing products, the quantity demanded of such products will decline. Higher prices of asbestos products will also result in a switch to presently unregulated substitutes. To the extent that some of the substitutes may have adverse health or safety effects themselves, these will also be costs of the regulation. Finally, it is possible that the regulation may result in both a one-time decline in the level of labor productivity and a decline in its rate of increase if firms are forced to use resources to provide protection rather than produce goods, or if firms' profits and, therefore, investment funds, are significantly diminished.

The direct costs of the regulatory alternatives which we can measure most easily are the capital and annual costs which asbestos producers and users will bear. The table below provides preliminary estimates of these costs for each regulatory alternative being considered for the major sectors of the economy that will be affected.

Preliminatory Cost Estimates

(Millions of 1978 Dollars)

Industry sectors	Alternatives		
	(A)	(B)	(C)
Primary manufacturing			
Capital	4	18	61
Total annual	17	25	61
Auto aftermarket			
Capital	0.2	2.3	8
Total annual	140	141	151
Other secondary manufacturing			
Capital	30	30	30
Total annual	141	14	14
Construction			
Capital	36	88	250
Total annual	102	127	378
All sectors			
Capital	70	138	349
Total annual	274	309	607

The annual costs in this table include both operating expenses and annualized capital costs computed using a five year depreciation rate and a ten percent rate of interest.

A further direct impact of the regulatory alternatives may be to raise product prices and to reduce production and employment in the sectors both directly and indirectly affected. The one-time price effects to be expected in the directly affected sectors, assuming full passthrough of annualized compliance costs, are as follows:

Estimated Percentage Increase in Prices Due to Regulatory Options

Industry sectors	Alternatives (percent)		
	(A)	(B)	(C)
*Primary manufacturing	7	1.1	2.9
*Automotive aftermarket	2.5	2.5	2.7
*Shipbuilding and repair	.05	.05	.05
*Other secondary manufacturing	0	1.0	1.4
*Construction	.05	.07	.2

The largest increases are in primary manufacturing for option (C), the most stringent of the three alternatives, and in the automotive aftermarket for all the alternatives. The sharp cost and price increase for option (C) in primary manufacturing is caused by the costs for the increased engineering controls which will be needed in order to comply with this option.

The large cost and price increases in the automotive aftermarket will occur because nearly all establishments would have to install a broad range of ventilation systems to attain any of the control options.

Declines in output and employment are not likely to be large. For the most stringent regulatory option being considered, the decline in employment will amount to about one percent of 1978 employment in the affected industries (the year for which the analysis was undertaken) or about 30,000 jobs. Of course, this number cannot be interpreted as the amount by which unemployment will rise as most of the workers will likely find jobs elsewhere, such as in establishments producing asbestos substitutes.

Total annual output of asbestos products will decline by $1 billion (in 1978 dollars) in the directly affected sectors if the most stringent standard is adopted. This amounts to .4 percent of these sectors' total production and is a gross overestimate of the impact on the gross national product because (1) most asbestos products are intermediate goods and are, therefore, double counted, and (2) most of the resources freed are likely to be reallocated to an alternative use where they will raise output and partially offset this decline.

A direct cost of the standard which cannot, at present, be measured is its potential impact on productivity growth. Some idea of the possible impact may be gleaned by noting the capital expenditures which might be required relative to the size of the industry. If a large fraction of industry capital funds are absorbed by the investments mandated by the standard, other investments might be diminished with a concommittant adverse impact on productivity growth. Primary manufacturing is likely to be the sector most seriously affected and compliance capital costs will range from .2 percent to 3.2 percent of 1976 sales, depending upon the regulatory alternative chosen. Clearly, there seems to be at least the potential for the most stringent option to diminish productivity growth.

Indirect costs attributable to additional regulation hinge on the estimated impact of the use of substitute products and their likely consequences for health, safety, and product quality. Costs associated with the most stringent alternative could result in a significant use of substitutes for asbestos fibers and asbestos-containing products. The extent of this substitution is under investigation and quantitative estimates are presently unavailable. The health and safety effects of likely substitutes are also being evaluated but, again, no qualitative or quantitative estimates can be ventured at this time.

Related Regulations and Actions

Internal: The existing OSHA standard for asbestos found at 29 CFR 1910.1001 of the agency's General Industry Standards, which specifies an eight-hour time-weighted average of 2,000,000 fibers/m³ with a ceiling of 10,000,000 fibers/m³, will be modified. Other provisions of the standard address monitoring, medical surveillance, training, respirators, recordkeeping, protective clothing, and methods of compliance.

On October 7, 1975, OSHA published a notice proposing to revise the current asbestos standard and to reduce the PEL to 500,000 fibers/m³ (40 FR 3392). Analysis of the economic and technological impact of that and alternative exposure levels is being performed.

External: Regulatory measures are under consideration by the Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC). EPA/CPSC published an ANPRM for asbestos use in October 1979. EPA currently has a national emission standard for asbestos (38 FR 8820) and CPSC regulates uses of asbestos in certain consumer products.

Active Government Collaboration

An OSHA/EPA/CPSC task group will coordinate development of an appropriate regulatory response to possible health hazards associated with asbestos. Information-sharing activities with other governmental agencies such as the National Institute for Occupational Safety and Health, the Food and Drug Administration, and the Department of Agriculture are underway.

Timetable

NPRM—fall 1980
Regulatory Analysis—fall 1980
Public Hearing—following NPRM
Final Rule—fall 1981
Final Rule Effective—to be determined

Available Documents

"Occupational Exposure to Asbestos," NPRM (40 FR 47652, October 7, 1975), and comments received in response to the NPRM (OSHA Docket No. H–033.)

"Criteria for a Recommended Standard . . . Occupational Exposure to Asbestos" (NIOSH–HEW, 1975); updated Criteria Document (1976).

These documents are available by mail and for review and copying at the OSHA Technical Data Center,
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DOL–OSHA

Standard for Occupational Exposure to Cadmium (29 CFR 1910.1000, Table Z–2*)

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) thinks this regulation is necessary to protect workers from the carcinogenic risks associated with exposure to cadmium. We anticipate that this regulation will be significant in terms of costs and number of workers affected.

Statement of Problem

The National Institute for Occupational Safety and Health (NIOSH) has estimated that 100,000 employees have some degree of occupational exposure to cadmium. Cadmium is obtained commercially as a byproduct in the refining of zinc, lead-zinc, and copper-lead-zinc ores. Electroplating is, and has been, the leading use for cadmium, consuming from 45 to 60 percent of the amount produced each year. Cadmium is also used extensively for stabilizers in plastics, pigments, and alloys. These four categories account for 80 to 90 percent of cadmium used in the United States.

NIOSH and other sources have provided OSHA with data which indicate that while OSHA currently limits occupational exposures to cadmium to an eight-hour time-weighted average (TWA) of 0.1 mg/m^3 (100 ug/m^3) and 0.3 mg/m^3 (300 ug/m^3) ceiling for cadmium fume and 0.2 mg/m^3 (200 ug/m^3) TWA, 0.6 mg/m^3 (600 ug/m^3) for cadmium dust, a more comprehensive regulation of this toxic substance is necessary.

Workers risk developing a wide variety of adverse health effects from exposure to cadmium. Clinical diagnoses have shown that cadmium can produce adverse health effects to the respiratory system, ranging from chemical pneumonitis and emphysema to acute, and often fatal, pulmonary edema. The most common abnormality found in workers exposed to cadmium is proteinuria (kidney damage). Other health effects, such as anemia and osteomalacia (e.g., Itai-Itai disease) have been associated with cadmium toxicity. In addition, OSHA is investigating epidemiologic evidence in workers and experimental results in animals which suggest that cadmium or certain cadmium compounds have the potential to induce lung and prostate cancer.

OSHA is developing a proposal to revise the current standard for occupational exposure to cadmium. The regulation would set a permissible exposure limit (PEL) for cadmium, and affected industries would have the opportunity to implement engineering and work practice control measures to achieve the PEL for their operations in the most cost-effective manner. The proposed regulation may also require the employer to perform medical surveillance of exposed employees, periodic monitoring of the workplace environment, and employee training and education. If OSHA fails to regulate expeditiously, it will prolong the occurrence of the diseases, disability, and mortality associated with cadmium exposures.

Alternatives Under Consideration

The agency is considering a range of alternative-performance PELs applicable to all cadmium compounds (both dusts and fumes), including: (A) 40 ug/m^3 TWA with a 200 ug/m^3 ceiling, as recommended by NIOSH, and (B) the lowest TWA exposure limit technologically feasible, with no ceiling or with an appropriate ceiling. Other provisions requiring engineering controls, work practices, and hygienic facilities may supplement the PEL.

Studies indicate that at least some cadmium compounds associated with certain industrial processes are suspect carcinogens. Some scientists argue that all cadmium compounds should be presumed to be carcinogenic, and regulated as such. Others believe that the assessment of toxicity/carcinogenicity of various compounds should be done separately. OSHA will consider the merits of these regulatory options.

Still another approach is to establish regulations for cadmium on the basis of the feasibility of compliance for different industries. Specific requirements of the standard would differ according to the feasibility of various control measures in different industries or processes where the potential for exposure exists.

Summary of Benefits

Sectors Affected: Workers and establishments in manufacturing industries using or producing cadmium, particularly electroplating, cadmium metal refining, manufacturing of pigments, plastics, alloys and nickel-cadmium batteries, and welding operations; and the general public.

The direct benefit of reducing occupational exposure to cadmium is a corresponding reduction in the number of cases of cadmium-related diseases which would have occurred in the absence of regulatory action. While a reduction in acute health effects and fatalities will be realized as soon as compliance is achieved, there will be a lag in the reduction of chronic diseases due to the long latency period between exposure to cadmium and the onset of clinical effects. However, after this initial period of adjustment, the benefits of reduced levels of exposure will continue to occur over time.

OSHA also expects indirect benefits to occur as a result of controlling cadmium exposures. For instance, pain and suffering and medical care costs (including hospitalization and physician services) will be reduced. To the extent that these costs are borne by public support programs, such as Medicaid, Medicare, and Workers' Compensation, the burden on society at large will be reduced. Also, reduced absenteeism and a cleaner workplace may contribute to productivity gains. In addition, affected industries are likely to develop technological innovations which may improve production processes in general.

OSHA is gathering information on occupational exposures to cadmium and will determine the magnitude of the benefits associated with the various regulatory alternatives.

Summary of Costs

Sectors Affected: Manufacturing industries using or producing cadmium, particularly electroplating, cadmium metal refining, manufacturing of pigments, plastics, alloys and nickel-cadmium batteries, and welding operations.

OSHA is currently developing a baseline profile of cadmium using and producing industries. This study will enable the agency to estimate the costs of various regulatory alternatives, provision by provision. The study examines current industry expenditures on occupational health and resultant exposure levels, market structure, potential substitutes, control technology, and other relevant variables. No estimates are available currently, but we believe that regulatory action may have a major impact because of the widespread use of cadmium and because many establishments will incur compliance costs.

Related Regulations and Actions

Internal: The existing OSHA Air Contaminants Standards for cadmium found at 29 CFR 1910.1000, Table Z–2, of the agency's General Industry Standards, will be modified. (PELs for cadmium fume are 0.1 mg/m^3 TWA and 0.3 mg/m^3 ceiling, and for cadmium dust 0.2 mg/m^3 TWA and 0.6 mg/m^3 ceiling). The Mine Safety and Health Administration has jurisdiction over metallic mines and, therefore, will be concerned with this regulation.

External: The U.S. Department of Defense would be impacted by the standard because cadmium has many applications in defense operations and programs.

This regulation is also of great concern to other government agencies including the Environmental Protection Agency (EPA), Food and Drug Administration (FDA), Department of Agriculture (USDA), and the Consumer Product Safety Commission (CPSC). Industrial discharges of cadmium that reach ambient air, drinking water supplies, and, subsequently, food chains, are hazardous to humans and the environment.

EPA's Office of Research and Development prepared a health effects assessment of the air pollution potential of cadmium. The health effects study assesses the contribution of air, water, and food to determine the total body burden from cadmium. The EPA Office of Solid Waste used the report to establish proposed criteria for the use of solid waste containing cadmium on agricultural land. These criteria are intended to prevent increased exposure to cadmium in the food chain. EPA and FDA coordinated the development of the food chain criteria.

Active Government Collaboration

Information-sharing activities with the National Institute for Occupational Safety and Health, Consumer Product Safety Commission, Department of Agriculture, and Environmental Protection Agency are underway.

Timetable

NPRM—winter 1980
Regulatory Analysis—winter 1980, if required
Public hearing—following NPRM
Final Rule—to be determined
Final Rule Effective—to be determined

Available Documents

Request for Information on Cadmium—42 FR 5434, January 28, 1977
"Criteria for a Recommended Standard . . . Occupational Exposure to Cadmium" (NIOSH–HEW, 1976)

Public docket of the record of rulemaking, including the comments received in response to the Request for Information on Cadmium (OSHA Docket No. H–057)

These documents are available by mail and for review and copying at the OSHA Technical Data Center, Room S–6212, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210. There is usually a fee charged for copies of these documents.

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DOL–OSHA

Standard for Occupational Exposure to Chromium (29 CFR 1910.1000, Table Z–1*)

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) views this regulation as necessary to protect workers from the carcinogenic risks and other health effects associated with exposure to chromium and chromium compounds. A relatively large proportion of the work force is exposed to chromium compounds. The excessive risk of lung cancer observed at exposure levels near the current OSHA permissible exposure limit (PEL) and the upper respiratory tract irritation observed at exposure levels below the OSHA PEL demonstrate the urgent need for a reduction in the levels of occupational exposure.

Statement of Problem

As many as 8 million employees may be exposed to chromium and its compounds. In 1975, the National Institute for Occupational Safety and Health (NIOSH) submitted a criteria document to OSHA which recommended reducing the current OSHA PELs for "carcinogenic" hexavalent chromium compounds to 1 microgram (μg) per cubic meter as an 8-hour time-weighted average. (The current OSHA PEL for hexavalent chromium compounds is 100 ug per cubic meter.) Preliminary data indicate that over 135,000 workers are exposed to levels of hexavalent chromium greater than 10 ug per cubic meter as an 8-hour time-weighted average.

Chromium workers' risks include a wide variety of adverse health effects that are attributable to exposure to chromium and chromium compounds. There is evidence of dermatological effects (including skin ulceration and allergic contact dermatitis), respiratory effects (including perforation of the nasal membrane, nasal discharge, irritation of the throat, and respiratory spasms), and systemic effects (including liver damage, kidney abnormalities, erosion and discoloration of the teeth, perforation of the eardrum, and abdominal pain).

OSHA is investigating the numerous epidemiologic studies which indicate a large and significantly increased lung cancer risk for workers in the chromium chemical production industry. Additional studies suggest that a cancer hazard may also be present in the chromate pigment industry, the chromium plating industry, the ferrochromium alloy production industry, and chromate spray-painting operations. Experimental results in animals also suggest that chromium compounds are potential human carcinogens.

OSHA is developing a proposal to regulate occupational exposure to chromium and other chromium compounds as determined by available health and technological/economic feasibility data. The regulation would set a permissible exposure limit (PEL) for chromium, and affected industries would be permitted to implement engineering and work practice controls of their choice to comply with this PEL in the most cost-effective manner. The regulation may also require the employer to perform medical surveillance of exposed employees, periodic monitoring of the workplace environment, and employee training and education. Failure of OSHA to regulate expeditiously will prolong the occurrence of the incidence of diseases, disability, and mortality associated with exposures to chromium.

Alternatives Under Consideration

The agency has under consideration a range of alternative performance PELs, including:

(A) a 10 μg/m^3 eight-hour time-weighted average (TWA) with a 25 μg/m^3 ceiling above which no employee may be exposed,

(B) 1 μg/m^3 TWA with a 10 μg/m^3 ceiling, and

(C) the lowest technologically feasible TWA with no ceiling or with an appropriate ceiling (such as 10, 25, or 50 μg/m^3). Other provisions requiring

engineering controls, work practices, and hygienic facilities may supplement the PEL. The agency has asked for public comment on other possible alternatives for limiting workers' exposures to chromium.

Studies indicate that workers exposed to industrial processes involving exposure to chromium compounds have an increased risk of lung cancer. Some scientists argue that all chromium compounds should be presumed to be carcinogenic and regulated as such. Others believe that carcinogenic and noncarcinogenic forms of chromium can be identified, and that OSHA should develop separate standards. OSHA will consider the merits of each of these regulatory options.

Still another approach is to establish regulations for chromium on the basis of the feasibility of compliance for different industries. Specific requirements of the standard would differ according to the feasibility of various control measures in different industries or processes where the potential for exposure exists.

Summary of Benefits

Sectors Affected: Industries in which workers are exposed to chromium: workers in those industries; manufacturing of chromium substitutes and substitute products; and the general public.

This regulation will affect industries in the following Standard Industrial Classifications: 2819 (Chromates and Bichromates), 2816 (Pigments), 2851 (Paints), 2865 (Plastic colorants), 2893 (Printing inks), 2899 (Plating compounds), 2899 (Water treatment compounds), 2865 (Dyes), 2819 (Catalysts), 311 (Leather tanning and finishing), 3479 (Spray painting), 3471 (Electroplating), 1799 and 7692 (Welding), 3339 (Primary chromium refining), 1721 (Painting traffic lanes), 5194 (Tobacco manufacturing), 3312 (Stainless steel), and 5133 (Textiles).

Other than studies which indicate a potential cancer hazard among spray painters and chromium platers, OSHA has not yet collected information on the risks workers may face in industries which use chromium products. (Those industry segments where the product is not physically or chemically changed (e.g., involving no grinding, drilling, polishing, or heating of the material) will probably not be covered by the proposed regulation.) Some of the substitutes for chromium compounds, including lead, cadmium, and organic pigments, may also be potential hazards. Relative toxicities of substitutes are not known.

Risks to the general public are not well-documented. EPA regulations call for no visible emissions from stainless steel plants and require reporting of chromium effluents.

At this time, no estimates have been made of the magnitude of occupational disease attributable to exposure to chromium. The direct benefit of reducing occupational exposure to chromium, however, is a corresponding reduction in the number of cases of chromium-induced malignant and nonmalignant diseases, prolonged life expectancy for workers, and an increase in the lifetime earnings of workers. While a reduction in the acute health effects will be realized as soon as compliance is achieved, there will be a lag in the reduction of cancer incidence because workers will continue to develop cancer from past exposures to chromium compounds because of the long latency period between exposure to chromium and the onset of clinical lung cancer. However, after this initial period of adjustment, the benefits of reduced exposure levels will continue to accrue over time.

OSHA also expects indirect benefits to occur as a result of controlling chromium exposures. Medical care costs for employees (including hospitalization and physician services) will be reduced to the extent that these costs are borne by public support programs such as Medicaid, Medicare, and workers' compensation. Another area where benefits can be expected is in the disbursement of social security disability payments and welfare payments to disabled workers and their families. Also, reduced absenteeism and a cleaner workplace may contribute to productivity gains. In addition, affected industries are likely to develop technological innovations that may improve production processes in general.

OSHA will gather more data on the benefits of the regulatory alternatives prior to proposal of this regulation. No information is available yet on the benefits to firms that manufacture chemical substitutes and/or control technology.

Summary of Costs

Sectors Affected: Industries in which workers are exposed to chromium.

Those industries listed in the summary of benefits section and any others that may be identified after further study will incur compliance costs as a result of this regulation.

The chart below compares initial estimates in 1976 dollars of the direct costs of compliance with the various PELs (for hexavalent chromium only.) The total annualized cost estimate is the sum of the annual operating costs and the annualized capital costs. Annualized capital costs were calculated with a standard capital recovery formula using an 18 percent rate of return and a 10-year average life of equipment.

Preliminary Cost Estimates

In millions of 1976 dollars

Alternative		Capital	Annual Operating	Total Annualized
(A)	-	104	63	85
(B)		196	120	160
(C)		194	63	103

These direct costs of compliance may result in several indirect effects. Analysis to date indicates that the chromate pigment production and use (paints, dyes, inks) industries will incur larger costs than other industrial sectors. Because there are competitive substitutes in this market, the demand for pigments containing chromium will probably decline. For other pigment applications, metal finishing uses, and manufacture of stainless steel, there are no available substitutes for chromium. In these cases, preliminary analysis indicates that compliance costs will be passed on to consumers. Negligible price changes are projected for chromate production, because small compliance costs will be spread over a large volume of production, resulting in very small price increases per pound. Compliance in the catalyst production industry is not expected to generate significant price changes because the cost of a catalyst is a very small portion of the cost of the final product. Negligible price changes are also projected for the textile mill users because of low compliance costs.

Minor changes in the number and size distribution of firms are likely to occur in pigment production, water treatment compound formulation, and chrome alloy welding. OSHA will also examine the proposed regulation's effects on employment and international trade.

The economic impact of regulating all chromium compounds as opposed to hexavalent forms is not presently known. OSHA will determine the additional costs of this action.

Related Regulations and Actions

Internal: The OSHA Air Contaminants Standards found at 29 CFR 1910.1000, Table Z-2, of the Agency's General Industry Standards, specify a maximum PEL of one milligram per 10 cubic meters of air as chromic acid and chromates. This is the equivalent of 100 $\mu g/m^3$ and is

calculated as an 8-hour TWA. Table Z-1 specifies a ceiling exposure value of 0.1 milligram per cubic meter with a notation to avoid skin contact for tert-Butyl chromate as chromium trioxide. Table Z-1 also specifies a PEL of 0.5 mg/m^3 for soluble chromic and chromous salts and 1 mg/m^3 for metallic chromium and insoluble salts.

External: The Environmental Protection Agency (EPA) has issued the following regulations for the control of chromium pollution: (1) .05 mg/liter in drinking water, (2) 4 mg/liter effluent guideline in wood preserving, and (3) 1 mg/liter (daily maximum) and 0.5 mg/liter (30 day average) in the manufacture of chromium metal and ferroalloys, and 0.1 mg/liter (daily maximum) and 0.5 mg/liter (30 day average) as hexavalent chromium. In addition, EPA has proposed the following regulations: (1) 0.5 mg/liter in leachate from hazardous wastes, and (2) 4.2 mg/liter (daily maximum) and 1.6 mg/liter (30 day average) in electroplating effluents.

Active Government Collaboration

We are sharing information with the National Institute for Occupational Safety and Health and the Environmental Protection Agency.

Timetable

NPRM—fall 1980.
Regulatory analysis—fall 1980, if required.
Final Rule—summer 1981.
Final Rule effective—to be determined

Available Documents

ANPRM—41 FR 18869, May 7, 1976.
"Criteria for a Recommended Standard . . . Occupational Exposure to Chromium (VI)," (NIOSH-HEW, 1975).
"Criteria for a Recommended Standard . . . Occupational Exposure to Chromic Acid," (NIOSH-HEW, 1973).
Public docket of the record of rulemaking on the 1975 NPRM-Docket H-033

These documents are available by mail and for review and copying at the OSHA Technical Data Center, Room S-6212, Third Street and Constitution Avenue, N.W. Washington, D.C. 20210. A fee is usually charged for copies of these documents.

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DOL-OSHA

Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities (29 CFR 1910)

Legal Authority

The Occupational Safety and Health Act, 29 U.S.C. 655; Secretary of Labor's Order 8-76 (41 FR 25059), 29 CFR Part 1911

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this rulemaking is important because we anticipate that this regulation will cause significant economic costs to the affected industries.

Statement of Problem

Workers in the grain handling industry are exposed to safety and health hazards associated with fires and explosions as well as organic dust, fungicides, and biologic growths. For example, in late 1977 and early 1978, fires and explosions that occurred in grain handling facilities killed more than 60 persons and injured numerous others. OSHA responded to these disasters by issuing a grain elevator hazard alert for the purpose of providing industry with recommended safety and health guidelines. OSHA also contracted with the National Academy of Sciences to study the causes of these fires and explosions to better understand the problem and to seek recommendations.

OSHA has also increased the number of inspections directed at recognized hazards within grain handling facilities, but enforcement personnel have encountered problems in applying existing OSHA standards to control the hazards in grain handling facilities because present standards do not address the most serious safety and health problems. Enforcement personnel believe that a gap exists because of the lack of specific OSHA standards concerning grain handling facilities. Interested employee groups have also requested OSHA to develop grain handling facilities standards.

OSHA believes that continued absence of regulation will not be in the best interest of employers, employees, or the country. Although the annual number of fires and explosions involving grain elevators is highly variable, there has been no indication of any decrease in the number of explosions occurring in grain handling facilities because of voluntary measures, such as the grain elevator hazard alert. On the contrary, there seems to be a continuation of past experience even after the efforts put forth to inform affected groups of the hazards.

During 1979, there were 20 grain handling facilities that suffered serious fires or explosions in the United States, resulting in devastation, several deaths, and more than 15 injuries. Already in 1980 there have been at least eight explosions or serious fires that caused several deaths and serious injuries.

In addition there is no specific OSHA health standard protecting the 225,000 grain elevator workers and the additional 450,000 grain processing workers from the health hazards particular to grain handling facilities. These hazards include exposure to grain dust, pesticides, and the biological agents associated with grain. Exposures to these substances can result in various acute and chronic health effects including allergies, dermatitis, respiratory disease, and cancer.

The present regulations that apply to these health hazards are incomplete. For example, OSHA currently regulates exposures to dust (permissible exposure level of 15 mg/m^3) under 29 CFR 1910.1000, Table Z-3. These regulations for "inert" or "nuisance dust," however, are not specific for organic dust, such as grain dust, nor do they include provisions for exposure monitoring, personal protective equipment, or other control measures. Studies indicate that exposure to grain dust also exposes workers to toxicological hazards from fumigants used to protect the grain.

OSHA also has permissible exposure limits for some 160 substances which may be used as pesticides (29 CFR 1910.1000, Tables Z-1 and Z-2). However, these standards cover only a small percentage of the total number of pesticides manufactured and formulated in this country. In addition, they establish only airborne concentration limits and general control requirements for the 160 pesticides and do not address other protective measures, such as exposure monitoring, personal protective equipment, and medical surveillance. Thus, the existing standards are not comprehensive enough to fully control worker exposure to the health hazards of pesticides in grain handling operations.

OSHA does not currently regulate occupational exposures to harmful fungi, molds, and bacteria, or their toxins.

Alternatives Under Consideration

Safety Options: In addition to voluntary measures which have already been attempted, there are at least three options that can be considered.

The first option is to promulgate specific standards for the grain handling industry. This approach would simplify

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enforcement activities, and could minimize the possibility of fires and explosions in grain handling facilities. The standard would address new as well as existing facilities in a comprehensive manner. The major disadvantage would be the cost impact on the grain handling facility operators in modifying their plants.

The second option is to develop specific standards for new grain handling facilities but include special, less stringent standards for existing facilities. This option would permit due consideration of the economic burden on older facilities by not requiring these facilities to meet the more stringent standards designed for new facilities.

The third option is to develop specific standards for new and major rehabilitated facilities with an exemption for all existing facilities. This approach would be similar to that taken by the Environmental Protection Agency in their regulation of pollutants for grain handling facilities. However, this option would only partially close the gap in current OSHA standards. It would complicate enforcement activities, and the major problems in older facilities would go unchecked.

Health Options: We are considering two major regulatory approaches for controlling hazards in grain handling facilities:

The first option is a single total grain dust standard low enough to control the health hazards of grain dust, pesticides, and biological agents. This approach would include provisions to establish a permissible exposure limit for grain dust, provide proper work practice procedures for working with fumigated grain, and require controls to minimize exposures to grain dust and biological agents as well as pesticides.

The second option is three separate general industry standards to individually regulate grain dust, pesticides, and biological agents. Under this alternative we could develop a specific grain dust standard or a more general organic dust standard. Similarly, we could develop a standard to provide protection against employee exposure to pesticides and another to address the biologically derived hazardous material. (Although OSHA is developing a generic standard for exposure to pesticides, the anticipated scope of the regulation covers only the manufacture and formulation of pesticides. We are currently not considering industry-wide regulation for specific biological hazards.)

Summary of Benefits

Sectors Affected: Grain handling facilities; workers in these facilities; and grain producers, shippers, and users.

The proposed regulation will affect the following industries: cash grains (SIC 011), crop preparation for market (SIC 0723), grain mill products (SIC 204); bakery products (SIC 205; distilled liquor, except brandy (SIC 2085); trucking, local and long distance (SIC 421); farm product warehousing and storage (SIC 4221); deep sea domestic transportation (SIC 442, 443 and 444); and grain wholesale (SIC 5153). Grain handling facilities are scattered throughout the grain-producing states, with major bulk terminals at proximate domestic and export distribution points along the Great Lakes and on the east, west, and gulf coasts.

This proposal would reduce explosions and fires in the Nation's 15,000 grain handling facilities, which continue to plague the industry despite substantial industry motivation to adopt preventive measures. During 1979, 20 major fires and explosions resulted in 15 injuries and several deaths, and one explosion in late 1977 caused 36 deaths. In such instances, property losses often exceed $25 million. Insurance premiums are high, and coverage is sometimes difficult to obtain. In addition, increasing evidence indicates the potential for serious health hazards resulting from worker exposure to grain dust as well as toxic fumigants and biologic agents in the dust.

Catastrophic explosions occur at a rate of more than five per year and have ranged as high as 15 within a single year. Under such circumstances, secondary economic losses to producers and shippers could easily result in annual direct and indirect property losses exceeding $200 million. Insufficient data presently make it difficult to estimate medical care costs, lost income, and other substantial personal losses in these cases, but these costs are also very substantial, as reflected by numerous liability case settlements. It is apparent that workers and their employers will benefit directly from any reduction in workplace hazards that is achieved by regulatory action. In fact, most affected parties seem to agree that action is needed.

Grain producers and consumers will benefit indirectly from the reduction in economic losses that currently are pushed back to the producers through lower grain prices or higher storage fees, or pushed forward to the consumer through higher prices. Also dependents of workers and local communities will benefit indirectly from any reduction in grain industry accidents, which are frequently catastrophic to local communities.

Summary of Costs

Sectors Affected: Grain handling facilities, and OSHA.

OSHA has not yet initiated studies to estimate direct costs, but anticipates that this proposal will be a "major action under E.O. 12044." Ventilation equipment will be expensive, but probably will be necessary to reduce explosion and fire hazards throughout the grain facilities, and to reduce health hazards at employee work stations. We will require grain-monitoring equipment and associated recordkeeping, along with preventive maintenance beyond that presently performed. These direct costs will be offset to some extent by reduced losses.

Under application of any final regulation, older facilities may bear a disproportionately higher share of the compliance costs because they lack the safety provisions that are designed into newer facilities, and because retrofitting is typically more expensive. Geographic impacts appear to be evenly spread among the grainhandling facilities.

Employers will incur indirect overhead and administrative costs. Additionally, some share of OSHA resources will be diverted from other standards development and enforcement activities. These indirect costs will be incurred by any program that can effectively control grain handling hazards.

Related Regulations and Actions.

Internal: None.

External: The Department of Agriculture (USDA), in particular, the Federal Grain Inspection Service (FGIS), enforces the United States Grain Standards. The Environmental Protection Agency (EPA) regulates the application of pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) that EPA promulgated in 1972. The National Institute for Occupational Safety and Health and the Department of Energy are involved in grain dust research. The Council of Wage and Price Stability and the Office of Management and Budget will want to take active parts in the economic analysis that will be required for the regulation.

Active Government Collaboration

OSHA has established working relationships with the Environmental Protection Agency to determine EPA's jurisdiction regarding pesticides. We have held meetings with USDA Federal Grain Inspection Service personnel to obtain health-hazard information regarding exposure monitoring of the Federal Grain inspectors. The National Institute for Occupational Safety and Health is providing data from in-house and conttract studies on the health hazards of grain handling. Both the USDA and NIOSH are participating in OSHA's informal public meetings scheduled during the spring of 1980.

Through the National Academy of Sciences panel on grain elevator explosions, criteria development for this rulemaking effort is being interfaced with EPA, the U.S. Coast Guard (USCG,) USDA, and NIOSH.

Timetable

ANPRM—fall 1980.
NPRM—to be determined.
Regulatory analysis—to be determined.

Available Documents

"Occupational Safety and Health Hazards in Grain Handling Facilities Request for Comments and Information and Notice of Informal Public Meetings," 45 FR 10732, February 15, 1980

Public docket of the rulemaking record, Docket H–117. These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flammability Standards for Crewmember Uniforms (14 CFR Part 121)

Legal Authority

Department of Transportation Act, § 6(c), 49 U.S.C. § 1655(c); Federal Aviation Act of 1958, as amended, §§ 313(a), 601, and 604, 49 U.S.C. §§ 1354(a), 1421, and 1424; 14 CFR Part 121.

Reason for Including This Entry

The Federal Aviation Administration (FAA) thinks these proposed rules are important because they will impose a major increase in costs or prices on the airline industry.

Statement of Problem

The FAA has found that many uniform items worn by flight crewmembers are highly flammable when exposed to fire and other sources of ignition. Tests performed by the National Bureau of Standards of the Department of Commerce under contract to FAA established that fabrics presently used in making uniforms for crewmembers would not resist the effects of flame and heat flux in survivable cabin fires, and could prevent crewmembers from helping passengers in such situations. Among other actions, the FAA is considering establishing standards of flammability and resistance to heat flux for materials used in crewmember uniforms.

Alternatives Under Consideration

Possible alternatives to establishing flammability standards for crewmembers are:

(A) No regulation; do not require uniforms worn by crewmembers to meet any flammability standard. Current materials used to make uniforms provide maximum comfort, a range of styling, and are easily cleaned. However, they are constructed of conventional fabric that is flammable and may provide inadequate protection from radiant heat in cabin fires which people could survive if they wore adequate protective clothing. Also, without protective clothing, crewmembers may be incapable of performing necessary functions in certain emergencies.

(B) Require crewmembers to put on special garments such as firemen wear in case of a fire. This option was fully explored and reported in FAA Report No. FAA–RD–77–18. Although the garment provides maximum protection from flame and radiant heat, it is very expensive and difficult to put on.

(C) Require that crewmember uniforms meet a standard similar to the current children's sleepwear standards. This is a performance standard that requires that materials used for children's sleepwear resist ignition when exposed to flame, and self-extinguish rapidly. Materials which satisfy the children's sleepwear standard must be flame-resistant, but need not protect the wearer from radiant heat transferred through clothing.

(D) Require crewmember uniforms to meet a test measuring resistance to ignition and ability to self-extinguish, as well as a standard designed to protect the wearer from injury from the transfer of radiant heat through clothing.

We regard Alternative (D) as the most desirable alternative, because crewmembers must be adequately protected from both flame and radiant heat injury if they are to perform their duties adequately in an emergency.

Currently, technology in the textile industry permits the establishment of a standard that protects wearers from both flame and radiant heat. Most fabrics can be treated to increase their protective qualities. In addition, fire-retardant wool and cotton are available in a wide range of colors and weights. These fire-retardant fabrics are woven of both natural and synthetic fire-retardant fibers to maximize wearability and protection. Synthetic fabrics such as Nomex are available in a variety of weights. Although these synthetics provide the greatest protection to the wearer, their range is somewhat limited because of problems with colorfastness. In the past, Nomex has been used primarily by fire and police agencies, and color choice was not a problem. If demand for more variety increases, a wider range of colors may be developed.

Although certain fabrics such as polyester have limited fire-retardant qualities, other fabrics of similar weight and purpose may be substituted. Fire-retardant fabrics are available that are comparable to conventional fabrics with respect to durability, color choice, style and tailoring capability, and fabric-weight range. The fire retardant properties of some fabrics can be retained through the useful life of the garment. For other fabrics, it could last through at least 50 wash/cleaning cycles.

Summary of Benefits

Sectors Affected: Air carrier flight crewmembers and passengers.

The benefits expected from the proposed flammability standards would be increased safety for crewmembers and passengers. Flightcrews would be safer in case of fire, which would increase safety for the traveling public.

Summary of Costs

Sectors Affected: Manufacturing of textile mill products, and apparel and other textile products; the air transportation industry; and air passengers.

The cost per uniform would increase, causing an economic impact on the user

or purchaser. The U.S. textile and clothing industry would be affected by the economic impact of producing new materials and clothing made from these materials. The air carrier industry would bear the cost, possibly through increased airfare, which would directly affect air passengers. No specific cost information is available at this time. We will include it in the Regulatory Analysis.

Related Regulations and Actions

Internal: Parts 121 and 135 of the Federal Aviation Regulations and FAA Report Nos. FAA–RD–75–176 and FAA–RD–77–18.

External: Federal Rule, Flammability Standard for Children's Sleepwear, 16 CFR 1616.5(a)(b)(c)(i)(ii). State and local governments have established clothing standards for some hazardous professions, such as those for firemen.

Active Government Collaboration

The National Transportation Safety Board's comments on ANPRM 75–13 recommended that the scope be expanded to include clothing of all crewmembers, to give them the same protection as flight attendants. The National Bureau of Standards developed the technical basis for the flammability standard.

Timetable

The FAA is proposing standards to be listed in appendices to 14 CFR Part 121. The following are action and future action dates:

NPRM—July 1980
Comment Period—for hearing, June 6, 1980; for NPRM, 90 to 120 days after we issue the NPRM
Draft Regulatory Analysis—will accompany NPRM
Final Rule—pending
Effective Date of Regulation—36 months after we issue amendment

Available Documents

ANPRM 75–13, issued March 13, 1975, is available from the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rule Docket (AGC–24), Docket No. 14451, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

You can get copies of FAA reports entitled "Development of a Proposed Flammability Standard for Commercial Transport Flight Attendant Uniforms," Report No. FAA–RD–75–176, and "Development of a Fire Protective Overgarment for Use by Air Carrier Flight Attendants," Report No. FAA–RD–77–18, from the National Technical Information Service, Springfield, VA 22161.

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DOT-FEDERAL HIGHWAY ADMINISTRATION

Hours of Service of Drivers (49 CFR Part 395*)

Legal Authority

The Motor Carrier Act of 1935 (Part II of the Interstate Commerce Act), 49 U.S.C. § 304. Department of Transportation Act, § 3, 49 U.S.C. § 1655.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because any change in the hours of service regulations that restrict when a driver may work could have a major economic impact on both the trucking industry and consumers, causing considerable controversy.

Statement of Problem

The FHWA is considering revising the regulations that limit the driving hours and prescribe rest periods for drivers of vehicles engaged in interstate or foreign commerce. It is taking this action in response to: (1) numerous requests from public interest groups, labor organizations, motor carriers, and individual drivers; (2) research studies showing driver fatigue to be a cause in commercial motor vehicle accidents; and (3) a 1974 decision of a Federal District Court involving a suit brought by PROD, Inc., an interest group representing some commercial truck drivers who sought judicial review of the FHWA's failure to initiate rulemaking proceedings on the hours of service regulations. The suit was dismissed by the court to allow the FHWA to begin rulemaking. The dismissal allowed PROD to reinstate the suit in 18 months if the FHWA had failed to initiate rulemaking.

The objective of this regulation is to increase the overall safety of the Nation's highways through the revision of current regulations governing the hours of service for drivers of commercial trucks and buses engaged in interstate or foreign commerce.

The FHWA currently limits, by regulation, the hours of service for drivers, as part of its overall responsibility for the safe operation of motor carriers. Research studies dating from the mid–1930s have indicated that fatigue causes narrowing of vision and inattention, which make drivers miss signs and signals, and results in highway accidents. In 1978, more than 34,000 commercial motor vehicle accidents were reported to the Bureau of Motor Carrier Safety; many of these were single-vehicle and other accidents that involved running off the road without apparent cause. The FHWA suspects that fatigue was a factor in many of these cases.

If we do not take regulatory action, we may be unable to prevent fatigued drivers from traveling the Nation's highways, thereby allowing a potentially dangerous situation to continue.

Alternatives Under Consideration

Some of the alternatives to current regulations that FHWA is studying include longer off-duty periods for drivers between driving or work assignments and mandatory rest periods during long driving assignments. FHWA is also considering simplifying the methods drivers use to record hours of service, in order to reduce the paperwork burden on both the driver and the motor carrier companies. In addition, the FHWA is considering requirements related to the following: (1) maximum weekly work hours, (2) maximum on-duty time, (3) minimum off-duty time, (4) driving hours or mileage limitations, (5) driver relief periods, (6) elimination of intermittent off-duty periods which extend the overall length of the work day, (7) mandatory meal periods, and (8) special provisions for night-driving assignments.

Providing simpler methods for recording hours of service would eliminate the industrywide complaints about the drivers' logs, and may increase compliance. The other proposed regulatory actions would provide stricter controls over drivers' work habits, but they would not necessarily increase compliance.

Summary of Benefits

Sectors Affected: Users of highways, including bus drivers, truckers, and the general public; the interstate trucking industry; interstate bus lines and bus charter services; shippers and users of goods transported by truck or bus; and passengers and tour groups that normally travel by bus.

The FHWA believes that revisions to regulations on the hours of service for drivers would help reduce driver fatigue and ensure alertness, thereby eliminating the risk of fatigue-related accidents. This, in turn, would increase the overall safety of the Nation's highways.

The FHWA expects that the revised regulation would have economic benefits, because there would be fewer fatalities and injuries and less property damage caused by highway accidents. In addition, motor carriers' operating expenses would be reduced because of fewer accidents, lower insurance premiums, and reduced compensation payments. The FHWA does not have an estimate of the savings that would occur as a result of these regulations. Many factors impair drivers' alertness. The FHWA cannot distinguish those accidents that would be prevented by changing these regulations from those that would be prevented by taking other actions.

Summary of Costs

Sectors Affected: Interstate trucking industry; interstate bus lines and bus charter services; interstate truckers and bus drivers; shippers and users of goods transported by truck or bus; and passengers and tour groups that normally travel by bus.

The FHWA expects that the costs resulting from these regulations may be high. Revising the hours of service regulations to restrict the hours that a driver may work could increase payroll expenses for motor carriers because they may need additional drivers. This could increase other operating expenses for motor carriers, resulting in increased costs to passengers and shippers for truck and bus transportation and, eventually, for goods consumed. The initial rough estimate of increases in expenses to motor carriers exceeds $100 million annually. This estimate, however, does not consider any offsetting benefits, such as reduced vehicle downtime, minimized delays in cargo delivery, and lower insurance premiums that could result from fewer accidents.

Related Regulations and Actions

Internal: Current FHWA regulations restrict hours of service of drivers (49 CFR Part 395).

The FHWA has initiated a test program, beginning May 1, 1980, to evaluate alternatives to drivers' daily logs.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—November 1980 Draft Regulatory Analysis—will accompany NPRM
Final Rule—March 1981

Available Documents

ANPRM—41 FR 6275, February 13, 1976
Second ANPRM—43 FR 21905, May 22, 1978
Bureau of Motor Carrier Safety Docket MC–70–1
Sixteen reports or professional journal articles are referenced in the second ANPRM, 43 FR 21905, May 22, 1978
"PROD, Inc., et al v. Brinegar," Civil Action 2098–73, U.S. District Court, District of Columbia (May 20, 1974). This is a decision in which the District Court dismissed, without prejudice to renew in 18 months, a suit brought against DOT by PROD, Inc., a group representing professional drivers. The suit sought judicial review of the FHWA's failure to institute rulemaking proceedings on "hours of service."
"Effects of Hours of Service, Regularity of Schedules, and Cargo Loading on Truck and Bus Driver Fatigue," October 1978, available through the National Technical Information Service, Springfield, VA 22161 (DOT HS–803799)
Bureau of Motor Carrier Safety dockets are available at the Federal Highway Administration, Room 3402, 400 Seventh Street, S.W., Washington, D.C. 20590.

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DOT-FHWA

Minimum Cab Space Dimensions (49 CFR Part 393)

Legal Authority

The Motor Carrier Act of 1935 (Part II of the Interstate Commerce Act), 49 U.S.C. § 304. Department of Transportation Act, 49 U.S.C. § 1655.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because it could necessitate redesigning the cab portion of a truck to make it larger for safety purposes. This may reduce the amount of cargo space available and possibly increase costs for the trucking industry.

Statement of Problem

All States and the District of Columbia impose restrictions on total vehicle length for trucks. Most of these restrictions range from 55 to 65 feet; 75 feet is the maximum length that any State allows. However, there are no regulations for the minimum size of the cab portion of trucks. Thus, drivers of heavy commercial vehicles must sometimes drive trucks with cab dimensions that make them uncomfortable, thereby increasing fatigue and the likelihood of an accident. The extent of the problem is unknown.

FHWA's preliminary investigations suggest that the older truck cabs, whose dimensions may cause problems, are being phased out. However, reports from drivers' organizations have stated that vehicle manufacturers, in response to customer requests, are manufacturing new trucks with smaller cab dimensions in order to enlarge the space available for cargo. Reducing the size of the cab can make the driver uncomfortable and the engine less accessible for inspection. It can also place excessive weight on the steering axle, making the truck harder to steer and overloading the front tires, which can cause flats. Some studies have linked highway accidents with these conditions.

If the size of the cab actually increases accident rates by causing driver fatigue, failure to require adequate cab size through regulation could result in continued accidents.

Alternatives Under Consideration

The alternatives in this case are to regulate or not to regulate. (Any regulations would apply only to new trucks.) If, in fact, there is a serious safety problem related to cab size, a possible alternative to rulemaking is to propose voluntary model advisory standards for minimum cab space dimensions. The National Highway Safety Advisory Committee Report of March 1977 recommended this approach.

Within the rulemaking process, certain factors should be considered. One is whether certain types of weight classes of vehicles should be exempted from the regulations. Another is whether to restrict manufacturers from placing cabs over engines. A third is the safety of different length cabs matched with different length trailers.

If the FHWA either suggests voluntary standards or pursues the regulatory route, the driver would have a better driving environment, which would lead to safer vehicle operation. Voluntary standards would give the industry an opportunity to comply without the need for Federal regulation in this area. If the industry failed to comply, regulation would be necessary, with the associated disadvantages of additional recordkeeping requirements and

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reporting burdens. Any regulation would have to take into account the factors described above. The obvious advantage of the regulation is that is would ensure compliance.

Summary of Benefits

Sectors Affected: Users of highways, including the interstate trucking industry, truckers, and the general public.

The benefit of this regulatory action would be to reduce wheel and axle overloading and protect the driver's work place, thereby reducing the risk of accidents to all highway users. FHWA does not know at this time what dollar savings to expect as a result of reduced accident involvement or avoidance. The percentage of accidents that would be avoided through regulatory action is unknown, but the risk would be reduced.

Summary of Costs

Sectors Affected: Manufacturing of truck cabs; the interstate trucking industry; and shippers and users of goods transported by truck.

These regulations may necessitate substantially redesigning the cab portion of some trucks. Initially, the manufacturers would bear the financial burden of accomplishing this redesign and retooling. This would lead to an increase in the cost of trucks to users. Unless the States change the allowable overall length of a tractor/semi-trailer cargo space, this could result in smaller loads and the need for additional vehicles and drivers to ship the same amount of goods. All of these factors could increase shipping costs and eventually result in consumer price increases for all items carried by truck. Specific estimates of the costs are not available at this time.

Related Regulations and Actions

Internal: None.
External: Fifty States and the District of Columbia have regulations limiting overall vehicle length.

Active Government Collaboration

None

Timetable

NPRM—September 1980
Draft Regulatory Analysis—will accompany NPRM

Available Documents

ANPRM—43 FR 6273, February 14, 1978
Bureau of Motor Carrier Safety Docket MC–79
"Interior Cab Dimensions of Heavy Duty Vehicles," February 1980, in the Bureau of Motor Carrier Safety Docket MC–79
"Driver Profile and Body (Anthropometric) Data on Interstate Truck Driver," April 1977, available through the National Technical Information Service, Springfield, VA 22161 (PB273514/AS)
"A Study of Heat, Noise, and Vibration in Relation to Driver Performance and Physiological Status," October 1974, available through the National Technical Information Service, Springfield, VA 22161 (PB238829)
"Cause and Control of Commercial Vehicle Accidents Involving Front Tire Failure," August 1975, available through the National Technical Information Service, Springfield, VA 22161 (PB245863)
Bureau of Motor Carrier Safety dockets are available at the Federal Highway Administration, Room 3402, 400 Seventh Street, S.W. Washington, D.C. 20590.

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DOT—FEDERAL RAILROAD ADMINISTRATION

Alerting Lights Display—Locomotives (49 CFR Part 222)

Legal Authority

Federal Railroad Safety Act of 1970, § 202(a), 45 U.S.C. § 431(a); Locomotive Inspection Act, 45 U.S.C. § 22 *et seq.*

Reason for Including This Entry

The Federal Railroad Administration (FRA) has included this entry because of the degree of controversy the ANPRM and the NPRM evoked, and because of the cost impact on the railroad industry.

Statement of Problem

Each year hundreds of persons are killed and thousands are injured in accidents at rail-highway grade crossings (the intersections of railroad tracks and highways at the same level). The National Grade Crossing Inventory maintained by the Department of Transportation (DOT) indicates the following number of grade crossings: 217,068 public, 140,653 private, and 3,609 pedestrian. During the period from 1968 to 1978, there was an annual average of 1,232 fatalities and 3,803 injuries resulting from accidents of all types at rail-highway grade crossings. In 1978, the most current year for which the FRA has analyzed data, there was a total of 12,435 crossing accidents of all types resulting in 1,021 fatalities and 4,256 injuries. The majority of accidents, injuries, and fatalities occurred at public crossings.

To reduce the number of these accidents, the FRA is proposing to require railroad locomotives to display highly conspicuous alerting lights at public rail-highway grade crossings. FRA is taking this action at the present time in response to: (1) congressional interest as reflected in legislation proposed during the past several sessions to require strobe lights on locomotives, and (2) technological advances in types of lighting devices. FRA believes that corrective action is necessary because the probable consequence of inaction would be a continuation of the current accident level.

Alternatives Under Consideration

FRA has considered several alternatives to the status quo.

The first option, and the one that FRA is proposing, would require railroad locomotives to display highly conspicuous alerting lights at public rail-highway grade crossings. The lights would provide additional warning to motorists who are approaching public grade crossings. A specific requirement would result in a uniform system of warning lights that motorists would associate with the presence of a railroad locomotive. One possible disadvantage is that the locomotive engineer may be distracted by the reflection caused by a pulsating light.

A second alternative would be to rely on voluntary action by the railroads to install and display alerting lights on railroad locomotives. In an attempt to stimulate such voluntary action, FRA would use existing studies and data indicating that highly conspicuous alerting lights reduce accidents. There are drawbacks to this alternative. First, many railroads probably would not install alerting lights. Many railroads question the effectiveness of the lights and others do not want to commit the necessary funds. If motorists are to associate alerting lights with the presence of a locomotive, the lighting system must be uniform. Second, lights with differing characteristics (color, location, flash rate, and intensity) might be installed on the locomotives. Again, uniformity of the lights used would improve the effectiveness of the system for motorists.

FRA also considered two other alternatives to determine the relative cost-effectiveness of alerting lights. One

alternative is to install active warning systems (lights, bells, and gates) at all public rail-highway grade crossings; the other is to eliminate all public crossings by separating public highways from rail lines (by overpasses and underpasses). These alternatives were less cost-effective than alerting lights and prohibitively expensive—in 1980 dollars, approximately $4 billion for active warning systems and $200 billion for grade separation.

FRA believes the first alternative is the most cost-effective and readily available overall approach. It would result in a uniform alerting device that motorists would associate with the presence of a locomotive. Active warning systems and grade separations will continue to be superior options, however, at specific high-risk crossings.

Summary of Benefits

Sectors Affected: Users of highways, and the railroad transportation industry.

The proposed rule would benefit the driving public because of the anticipated reduction in rail-highway grade crossing accidents, injuries, and fatalities. Accident reduction would also have a beneficial impact on the railroad industry by reducing the costs associated with rail-highway grade crossing accidents.

A study done for the FRA, "Analysis for NPRM—Strobe Lights on Locomotives" (from here on referred to as the Study), estimated that 124 fatalities, 566 injuries, and 1,414 accidents would be avoided each year if an alerting lights system using xenon strobe lights were employed. The Study estimated the total annual benefit to be $65 million, produced by the anticipated accident reduction. The net present value benefit in 1980 dollars, including all societal benefits, was estimated to be $432.6 million (with present value calculations based on a 20-year project evaluation and a 10-percent discount rate). The net present value benefit is the estimated dollar savings for the full 20-year period, after subtracting the costs involved, and calculating a discount to reflect the current value of future cost savings. The Study used actual and estimated cost figures for evaluation of fatalities, injuries, property damage, lost use of the rail line, and other costs. Moreover, the probable decrease in injuries and fatalities is of great importance in itself, in addition to the economic benefits.

Summary of Costs

Sectors Affected: The railroad industry; shippers and users of goods transported by rail; and rail passengers.

The railroad industry would absorb the initial cost of installing alerting lights. The proposed rule may affect shippers and the general public if the short-term costs to railroads exceeds the short-term benefits, because this could lead to rate increases.

The initial cost of installing alerting lights would be approximately $21 million over a 3-year period. This would be substantially offset by the anticipated reduction in costs related to grade crossing accidents. In the short term, costs might exceed benefits. According to the Study, however, the estimated present value cost in 1980 dollars of application and subsequent maintenance of an alerting lights system using xenon strobe lights is $32.3 million (based on a 20-year evaluation), while the economic impact is estimated to be a benefit of $61.4 million to the railroads.

If the short-term costs due to the capital expense of installing alerting lights exceed the short-term benefits, the financial condition of the railroad industry could necessitate recovering these costs through rate increases. (See, "A Prospectus for Change in the Freight Railroad Industry," a preliminary report by the Secretary of Transportation, October 1978.) Because the cost of installing alerting lights is only $21 million over a 3-year period, the effect on rates would not be large.

Related Regulations and Actions

Internal: FRA requires that railroads report all grade crossing accidents (49 CFR Part 225). FRA publishes each year a "Rail-Highway Grade Crossing Accident/Incident Bulletin." In addition, FRA has published and periodically updates the National Grade Crossing Inventory. Railroad locomotives are required by 49 CFR 230.231 to have a headlight. In addition, the Federal Highway Administration has authority under 23 U.S.C. § 130 to fund the construction costs of projects that eliminate hazards at rail-highway grade crossings.
External: None.

Active Government Collaboration

None

Timetable

Final Rule—July 1980

Available Documents

NPRM—44 FR 34982, June 18, 1979
ANPRM—43 FR 9324, March 7, 1978
Draft Regulatory Analysis
"A Prospectus for Change in the Freight Railroad Industry," October 1978, a preliminary report by the Secretary of Transportation
Analysis for NPRM—"Strobe Lights on Locomotives," Input Output Computer Services, Inc., May 26, 1978
DOT Transportation Systems Center Study—"Grade Crossing Resource Allocation for Strobe Lights and Conventional Warning Systems," November 16, 1978
The above documents are available from the Agency Contact listed below.

Agency Contact

John A. McNally, Chief,
Operating Practices Division
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Federal Railroad Administration
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20590
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DOT—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Heavy Duty Vehicle Brake Systems (49 CFR Parts 571.105* and 571.121*)

Legal Authority

National Traffic and Motor Vehicle Safety Act, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks this rule is important because of the high level of public and congressional interest.

Statement of Problem

Various Federal safety standards apply to truck, bus, and trailer brake systems (Federal Motor Vehicle Safety Standards No. 106, "Brake Hoses," No. 116, "Brake Fluids," and No. 121, "Air Brake Systems"). Although these standards have improved heavy truck braking performance considerably, problems with braking systems remain, and heavy truck accident rates are increasing. NHTSA is examining the long-range issues related to braking systems for trucks, buses, and tractor-trailers.

The number of people killed while riding in heavy trucks increased from 847 in 1975 to 1,248 in 1978—an increase of 47 percent. In addition, the number of deaths involving automobiles and heavy trucks increased from 2,086 in 1975 to 2,959 in 1978. Roadside inspections, which the Bureau of Motor Carrier Safety (BMCS) of the Federal Highway Administration (FHWA) conducted, indicate an unacceptably high number of poorly maintained trucks. In a recent BMCS inspection survey of 273 heavy trucks, the inspectors put 57 percent of the trucks out of service. Half of these

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violations were attributable to the braking system. In another BMCS survey of 1,400 vehicles, 51 percent had brakes that were not adjusted properly; inspectors found that 17 percent of these vehicles were unsafe for highway operation.

If the Agency does not take any action, the number of deaths resulting from accidents involving heavy trucks is likely to continue.

Alternatives Under Consideration

NHTSA has issued an ANPRM to solicit comments on the Agency's long-range course of action regarding medium- and heavy-duty truck braking performance. Although it is too early in the regulatory process to identify specific alternatives and their advantages and disadvantages, general areas of consideration include:

(A) Establishing performance requirements in one or more of the following areas: (1) brake adjustment; (2) stability of the vehicle during stopping; (3) fade resistance, or stopping power for brakes exposed to high brake temperatures caused by prolonged or severe use; (4) contamination of brake systems by road dust, water, etc.; and (5) reliability and maintainability. The NHTSA standards apply to types of vehicles rather than to how they are used. Therefore, rulemaking related to devices that act on the engine rather than on the brakes to help slow the vehicle during mountain-descents will probably be up to the BMCS or to State governments. These agencies have the authority to regulate vehicles in use.

(B) Other possible approaches include: (1) issuing a public advisory notice on ways to improve fade resistance, (2) establishing criteria for total brake system performance and stopping distance capability, (3) increasing State vehicle inspection programs, (4) teaching drivers how to avoid accidents, and (5) requiring vehicle manufacturers to improve the design of vehicles to enhance the driver's vision and ability to brake rapidly.

Summary of Benefits

Sectors Affected: Users of highways, including the trucking industry, truckers, bus lines, bus charter services, bus drivers, and the general public; and manufacturing of trucks, buses, tractor-trailers, and braking systems.

The benefits this rulemaking would achieve depend on specific performance requirements, which have not yet been determined. The chief benefit would be a reduction in the number of accidents related to the braking systems in heavy trucks. The purpose of the ANPRM is to make the public aware of NHTSA's concerns, to outline our research plans, and to solicit relevant comments from the trucking industry.

Summary of Costs

Sectors Affected: Manufacturing of trucks, buses, tractor-trailers and braking systems; purchasers of buses, trucks, and tractor-trailers; and the general public.

Generally, the manufacturers would incur costs for designing new brake systems or components. Ultimately, such costs would be passed on to consumers through higher prices. However, until the regulatory requirements are defined, it is not possible to specify the overall economic impact.

Related Regulations and Actions

Internal: NHTSA issued an ANPRM (44 FR 9783) on February 15, 1979. The ANPRM proposed to establish a new Air Brake Standard (No. 130) for trucks, buses, and trailers over 10,000 pounds gross vehicle weight rating (GVWR) to replace Air Brake Standard No. 121. The new Air Brake Standard would reinstate a stopping distance requirement to replace the one invalidated by the decision of the U.S. Court of Appeals for the Ninth Circuit in *PACCAR v. NHTSA and Department of Transportation,* 573 F 2d 632 (9th Cir. 1978), cert denied, 439 U.S. 862 (Oct. 2, 1978). NHTSA also issued an NPRM (44 FR 60120) that would amend existing Standard No. 121. That amendment would require all vehicles with a GVWR over 10,000 pounds to have service brakes on all wheels.

External: None.

Active Government Collaboration

None

Timetable

NPRM—to be determined
Draft Regulatory Analysis—will accompany NPRM
Final Rule—to be determined

Available Documents

ANPRM—45 FR 13155, February 28, 1980
Draft Regulatory Analysis
NHTSA Docket No. 79–03, Notice 03
All documents are available for review in the Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

Agency Contact

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DOT-NHTSA

Pedestrian Protection (49 CFR Part 571)

Legal Authority

National Traffic and Motor Vehicle Safety Act, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks that this rule is important because the performance requirements associated with the proposal probably would necessitate redesigning the front ends of all passenger cars. This may have an annual effect of $100 million or more on the economy. The rule also would benefit pedestrians by reducing the number of injuries and deaths resulting from accidents with passenger cars.

Statement of Problem

NHTSA has been interested in pedestrian safety since the agency was formed. Each year, there are nearly 130,000 accidents involving pedestrians and motor vehicles. NHTSA is concerned about the number and severity of the injuries in these mishaps: pedestrians suffer an average of four injuries, of varying severity, in each accident. Federal, State, and local agencies have designed numerous programs to reduce this figure. Nevertheless, approximately 8,000 pedestrians die annually in accidents with motor vehicles.

NHTSA decided to initiate this rulemaking when results from the agency's pedestrian impact protection research program showed that it was possible to design the front ends of vehicles to reduce injury to a pedestrian in an accident.

Follow-up research has indicated that the severity of an injury, especially to a pedestrian's lower body, can be reduced when the front ends of vehicles are designed so that they use more energy-absorbing materials, such as rubber or plastic. Because the proposal would not help prevent accidents involving pedestrians and motorists, we expect to measure the benefits in terms of reducing the severity of injuries and increasing the number of lives saved.

Data from the agency's accident file show that the frontal structure of passenger cars is the major cause of a large percentage of pedestrian injuries. The only approach likely to change this situation is rulemaking to require automobile manufacturers to make the front ends of vehicles safer. If the agency takes no action, the current number of pedestrian fatalities and injuries will stay the same or possibly increase.

Alternatives Under Consideration

The agency has considered the following options:

(A) Require manufacturers of passenger cars to design the front ends of these vehicles so that pedestrians would suffer fewer injuries if they were hit;

(B) increase efforts to improve operating systems of vehicles, such as braking and lighting, so that collisions with pedestrians will be avoided;

(C) establish a comprehensive program to teach drivers and pedestrians how to avoid accidents involving pedestrians and motor vehicles; and

(D) encourage Federal, State and local government agencies to build pedestrian overpasses or underpasses in locations where numerous accidents occur.

To reduce accidents involving pedestrians and motor vehicles, the agency is currently implementing Option (B) by issuing motor vehicle safety standards; it is implementing Option (C) by providing States with funds for educational programs. However, because the number of pedestrian deaths and injuries is still too high, we think Option (A) is the most effective way to lower this figure. Option (D) is outside the authority of the agency, but it is also a potential way to reduce pedestrian accidents, deaths, and injuries.

Summary of Benefits

Sectors Affected: Domestic and foreign manufacturing of passenger cars and parts; suppliers of materials, such as steel, aluminum, and plastics, used in constructing the front ends of vehicles; body repair shops; and pedestrians.

NHTSA is developing an analysis of the benefits for the proposed rulemaking. The chief benefit would be to reduce the number and severity of injuries to the lower body of a pedestrian struck by a passenger car. Consequently, there would be fewer deaths and injuries in accidents involving pedestrians and motor vehicles.

Summary of Costs

Sectors Affected: Domestic and foreign manufacturing of passenger cars and parts; and purchasers and users of passengers cars.

NHTSA is currently developing an analysis of the expected costs of the proposed rulemaking. Generally, the costs to the manufacturers would include initial redesign, material substitution, and additional tooling. We expect design changes to reduce the weight and, therefore, the cost of some vehicles, but to increase the weight and cost of others. The agency is considering these factors in deriving the expected manufacturer costs. We anticipate that manufacturers will pass along any additional costs to consumers. NHTSA will examine how much it would cost the consumer to operate a vehicle over its lifetime to determine the difference between vehicles that do not meet the standard and vehicles that do.

Related Regulations and Actions

Internal: The most closely related NHTSA standard is the Part 581-Bumper Standard. The proposal's performance requirements may require modification of this standard.

External: None.

Active Government Collaboration

None

Timetable

NPRM—October 1980
Draft Regulatory Analysis—will accompany NPRM

Available Documents

None yet.

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DOT—U.S. COAST GUARD

Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (46 CFR 31, 34, 38, 40, 54, 98, and 154)

Legal Authority

The Port and Tanker Safety Act of 1978, P.L. 95–474, § 5, 92 Stat. 1480 (1978).

Reason for Including This Entry

This proposal concerns the safe shipping of bulk liquefied gas in existing ships that have been designed for this purpose. The safety of this cargo and class of vessels has been a general public concern for several years.

Statement of Problem

Existing U.S. ships for carrying liquefied gas, which are called gas ships, were designed and constructed in accordance with current Coast Guard standards. The Coast Guard developed these standards as the need for ships capable of carrying extremely cold liquefied gas grew. However, there has never been an internationally accepted set of design, equipment, and construction standards, and virtually every nation uses its own unique standards. This has created problems because not all countries recognize each other's standards. Therefore, an individual ship must comply with the standards of each country with which it wants to trade. To alleviate this situation, the international community in 1976, agreed upon a uniform set of standards for gas ships, developed by the International Maritime Consultative Organization (IMCO). This is known as the Existing Gas Ship Code. The Coast Guard needs to evaluate the impact of this code on the U.S. fleet, so we have issued an ANPRM for public comment.

Alternatives Under Consideration

The Coast Guard has issued an ANPRM to gather information for future rulemaking. At this time, the Coast Guard is analyzing basic information on the estimated amount of equipment that the IMCO code would require, the purchase price of such equipment, the availability of the equipment, the time needed for delivery and installation, and projected costs. Based on the comments we receive in response to the ANPRM, we will develop various alternatives.

Summary of Benefits

Sectors Affected: The general public; the marine environment; manufacturing of liquefied gas cargo vessels; and water transportation of bulk liquefied gas.

The Coast Guard expects that any proposed regulation would ensure the safe transportation of bulk liquefied gases aboard existing vessels entering the United States by upgrading the minimum standards for their equipment, material, and construction. Although there have been no catastrophic accidents involving this type of vessel, routine Coast Guard inspection of existing ships has shown that, in terms of safety, some approaches to vessel construction and equipment are superior to others. The Coast Guard expects that having internally uniform rules would help the industry by eliminating confusing conflicts between various standards accepted in different parts of the world. In addition, this proposal

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would protect the marine environment by lowering the risk of the accidental discharge of liquefied gas.

Summary of Costs

Sectors Affected: Manufacturing of liquefied gas cargo vessels; water transportation of bulk liquefied gas; and users of this product.

Through an ANPRM issued in July 1977, the Coast Guard is examining the economic effect of implementing the IMCO Existing Gas Ship Code. Final estimates will not be available until we complete the regulatory analysis. One of the primary purposes of the ANPRM is to provide the information necessary to assess the costs of the regulation accurately. The Coast Guard will attempt to find the most cost-effective method of implementing the international requirements.

Any regulatory action would directly affect owners and operators of gas ships, who probably will pass costs on to the general consumer.

Related Regulations and Actions

Internal: On May 3, 1979, the Coast Guard published rules for new self-propelled vessels carrying bulk liquefied gases, which are based on the IMCO Gas Code for new ships. The rules were effective on May 31, 1979.

External: IMCO Existing Gas Ship Code.

Active Government Collaboration

None

Timetable

NPRM—December 1980. This project has been delayed because other regulatory proposals have had priority over the limited USCG resources available for drafting
Draft Regulatory Analysis—will accompany NPRM

Available Documents

ANPRM—42 FR 33353, June 30, 1977
Documents available from Agency Contact.

Agency Contact

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes (40 CFR Part 191)

Legal Authority

Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(b)

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because it is a critical step towards developing disposal methods for high-level and other long-lived radioactive wastes which are now unregulated and would pose serious health problems to current and future generations of people. In addition, we estimate that the cost for implementing these standards will exceed $100 million (1978 dollars).

Statement of Problem

It is important to ensure proper management and disposal of high-level radioactive wastes because they represent a significant health risk to the population of the United States. Large quantities of these wastes already exist and more are being produced in national defense programs, commercial nuclear power plants, and research reactors. At present, 70 million gallons of high-level defense wastes are stored in various liquid and solid forms on three Federal reservations in the States of Idaho, South Carolina, and Washington. Nuclear fuel rods, after having been used to generate electrical power, are removed from the reactor and are referred to as spent fuel. The current inventory of spent fuel is about 6,000 tons. The spent fuel is being temporarily stored in holding ponds at the sites of nuclear power plants. Over the next few years this spent fuel inventory is expected to grow at a rate of about 600 tons per year from reactors currently licensed to operate. EPA estimates that by issuing these standards, cancer deaths resulting from these wastes will be limited to less than 10 per 100 years over the first 10,000 years after the wastes are disposed.

Our program to develop these standards began in 1976 as part of an interagency effort to speed up development and demonstration of a high-level waste repository. The program was announced as part of President Ford's Nuclear Waste Management Plan on October 27, 1976. President Carter established an Interagency Review Group (IRG) on Waste Management in March 1978 to review existing programs and recommend new policies where necessary. After holding several public hearings on its draft report, the IRG prepared a final report to the President in March 1979. This report recommended that EPA accelerate its programs to set standards for nuclear waste management and disposal activities. President Carter approved this recommendation as part of his Program on Radioactive Waste Management which he announced on February 12, 1980.

If EPA took no action this would further delay the Federal waste management program and could have significant environmental consequences. Delay in developing disposal methods results in longer storage of existing wastes in surface facilities requiring human control. Such storage is not necessarily a danger under normal conditions. The wastes, however, are more vulnerable to accidental release in surface storage than they would be in disposal facilities. The chances for environmental damage are greater the longer the wastes are stored in existing sites. Furthermore, the lack of a solution to this problem has caused serious uncertainty about the future use of nuclear energy in the United States. This uncertainty makes both national and local energy policy more difficult and has many indirect adverse economic and environmental effects.

Alternatives Under Consideration

The disposal system for high-level radioactive waste has yet to be designed and demonstrated. As a result, we are evaluating two basic types of environmental protection standards, and a third option which combines certain aspects of both.

Option (A). We could develop a standard establishing general principles to govern disposal methods without setting quantitative standards. These principles would specify broad design requirements for disposal systems such as: (1) designing multiple manmade barriers and using natural barriers to prevent release of the wastes, (2) disposing of the wastes so that future generations could recover and relocate them, if necessary, and (3) designing disposal systems to reduce potential releases to the lowest levels reasonably achievable. Such requirements would reduce some of the uncertainties of the disposal systems to be developed, which must work for very long times. However, they would not place any clear limit on expected environmental effects.

Option (B). We could set numerical performance requirements for disposal systems without using general principles like those discussed in Option (A). These environmental protection standards would then be compared against the predicted performance of a proposed disposal system to determine whether the system should be approved. Such an approach would allow complete flexibility in meeting the objectives; however, it would rely upon predictions over very long time periods and such predictions involve many uncertainties.

Option (C). Combine both types of standards discussed above. This will require long-term predictions of disposal system performance to determine if environmental protection objectives are met. The general principles will require conservative design approaches which will protect the environment as much as possible even if these long-term predictions are wrong.

We believe that Option (C) provides the most reliable protection of the general population and the environment.

Summary of Benefits

Sectors Affected: The general public.

The primary benefit of these standards is the protection of human health. Because the Federal government has yet to design and demonstrate the disposal system, we are unable to determine accurately the health impact resulting from these standards. We estimate that the number of premature cancer deaths that would be caused by disposal in compliance with our standards would not exceed 1,000 over the first 10,000 years after disposal of the wastes. This is an average of one death every 10 years. Because our estimates are conservative, there is a good chance that actual disposal systems would result in fewer cancer deaths than we estimate.

Many sectors of society, especially environmental groups, State governments, and Members of Congress, have stated that nuclear power should not continue to be used while the problem of high-level radioactive waste disposal remains unsolved. Nuclear power now provides approximately 13 percent of the Nation's power supply. While EPA is neither for nor against nuclear power, we believe that these standards are the first step towards solving the problem of disposing of high-level radioactive wastes, so that the Nation can decide whether or not nuclear power will continue to be part of our energy system.

Summary of Costs

Sectors Affected: Commercial nuclear power plants, consumers of electricity supplied by nuclear power, Federal defense waste management programs, and NRC.

The high-level radioactive waste disposal program will be initially financed by the Federal government. According to the provisions of President Carter's spent-fuel policy, utilities will pay a one-time full cash recovery charge to the Federal government for the transfer of spent fuel. Military produced wastes are to be managed and disposed of by the Federal government.

We calculated the cost impact of these standards by estimating the cost of the additional steps the Federal government would have to take to be in compliance. Based largely on data and analyses performed by the Department of Energy (DOE), we estimate that in the year 1990 (the year we assume the waste program will be established) these standards will result in an incremental annual cost to commercial waste management of no more than $600 million (1978 dollars). This cost impact amounts to less than a 1 percent increase in national average electricity rates.

We also estimated that the standards would cause an increase of less than $1.7 billion (1978 dollars) over the total cost of the reference defense waste management program (assuming on-site disposal of high-level waste in geological repositories as the reference program), which is estimated to cost about 3.7 billion (1978 dollars).

The Nuclear Regulatory Commission (NRC) is responsible for implementing these standards.

Related Regulations and Actions

Internal: The part of these standards that covers normal waste management operations is coordinated with our Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR Part 190) to provide consistent exposure standards for all uranium fuel cycle operations.

External: The Nuclear Regulatory Commission (NRC) is responsible for implementing these standards. To accomplish this, NRC is currently developing regulations for Disposal of High-Level Radioactive Wastes in Geologic Repositories (10 CFR Part 60); see their entry in this **Calendar**.

Active Government Collaboration

We established an interagency working group to help us develop these standards. The agencies represented are the Nuclear Regulatory Commission, the Department of Energy, and the United States Geological Survey.

Timetable

NPRM—June 1980
Regulatory Analysis and Environmental Impact Statement—June 1980; under preparation
Public Hearings—several public hearings will be conducted during the public comment period, at times and places that we will announce in the **Federal Register**
Public Comment Period—180 days following publication of NPRM
Final Rule—June 1981
Final Rule Effective—June 1981

Available Documents

ANPRM—41 FR 235, December 6, 1976

Agency Contact

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EPA–OANR

Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer (40 CFR Part 61)

Legal Authority

The Clean Air Act, as amended, §§ 111, 112, and 301(a), 42 U.S.C. §§ 7411, 7412, and 7601(a).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this policy is important because it will set a precedent in establishing how EPA will regulate airborne carcinogens under the Clean Air Act, and include the role of risk assessment and economics in the regulatory process.

Statement of Problem

Cancer is the second leading cause of death in the United States. One American in four is expected to contract some form of cancer in his or her lifetime, and one in five is expected to die from the disease. The most recent statistics show a continued increase in the total incidence of cancer, resulting principally from increases in lung cancer.

Studies of human cancer rates and their worldwide geographical variations, and observations of incidence rates in migrant populations, have revealed that factors in the human environment are

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probably responsible for a large proportion of cancers. "Environmental factors" in the broad sense include chemical exposures from smoking, diet, occupation, drinking water, and air pollution; various forms of radiation, including sunlight; and some forms of severe physical irritation. Although the uncertainties are great, estimates by the World Health Organization, other prominent institutions, and individual experts suggest that these factors may cause 60 to 90 percent of all human cancers.

Although airborne carcinogens may induce cancer at a number of areas in the body, lung cancer is thought to be the principal form of cancer related to air pollution. While cigarette smoking is probably the most important cause of lung cancer in the United States, many scientists believe that various air pollutants increase the risk of cancer from smoking and other carcinogenic insults. Available estimates also indicate that occupational exposures to chemicals are responsible for a significant portion of the incidence of lung cancer in the United States.

Through preliminary examination of industries producing chemicals and radioactive materials, and of air sampling results, EPA has identified over 50 known or potential chemical carcinogens and numerous radioactive materials which may be emitted into the atmosphere. Many of these substances are synthetic organic chemicals that have been in commercial use only since the 1930s. Because cancer induced by exposures to small amounts of airborne carcinogens may not appear for 15 to 40 years after exposure, it is still too early to detect the full effects of these chemicals on human health. Thus, it is both prudent and, in view of the large number of people potentially affected, important to reduce or contain emissions of known or suspected atmospheric carcinogens in order to prevent future problems before we actually observe them.

We have, since 1971, listed three airborne carcinogens (asbestos, vinyl chloride, benzene) as hazardous pollutants under § 112, "National Emission Standards for Hazardous Air Pollutants," of the Clean Air Act. As required by § 112, we have developed and are continuing to develop emission standards for significant sources of these pollutants. In addition, we are evaluating a number of other potentially carcinogenic substances to determine whether action under § 112 is appropriate. We have found our actions on airborne carcinogens to be hampered by the lack of a policy, developed with public participation, that would guide our use of § 112 to control airborne carcinogens.

Specifically, we need publicly stated, legally binding policies and regulatory mechanisms to: (1) determine the carcinogenicity and carcinogenic risks of air pollutants for regulatory purposes, (2) establish priorities for evaluating the need for and implementing additional regulatory action, (3) specify the degree of source control required in general under § 112 and indicate how we will determine that level of control in setting individual standards, and (4) provide more extensive public involvement in the Agency's decisionmaking on the regulation of airborne carcinogens.

Alternatives Under Consideration

We describe a number of alternatives in the proposal document (44 FR 58642, October 10, 1979). Beyond that, the principal alternative is to have no formal policy. Under this alternative, EPA would continue with a case-by-case approach for regulating airborne carcinogens under § 112 of the Clean Air Act. This strategy would allow the Agency maximum regulatory flexibility, but would not give either the general public or the regulated industry sufficient information to enable them to participate fully in the rulemaking process. In addition, the alternative of no policy would not resolve the difficulties which EPA has encountered in the listing of airborne carcinogens and in the subsequent development of emissions regulations. It also does not recognize the need for procedures to ensure that available resources are allocated to the most important or tractable problems on a priority basis.

Under the policy, we will list under § 112 those airborne substances identified as high probability human carcinogens which present a significant carcinogenic risk to public health as a result of air emissions from one or more categories of stationary sources. Where applicable, we will propose generic standards for control of fugitive emissions from industrial sources. We will submit these standards concurrently with the listing to expedite reductions in emissions which can be achieved through good housekeeping practices in the manufacturing, handling, or use of hazardous materials. We will use risk assessments to determine priorities for further regulation of significant source categories and in the evaluation of residual risk.

At a minimum, the policy requires new and existing sources which present or would present significant cancer risks to apply best available technology (BAT) to control emissions of listed airborne carcinogens. BAT for new sources represents the most advanced level of control adequately demonstrated, considering economic, energy, and environmental effects. For existing sources, the determination of BAT also considers the impacts and technological problems associated with the retrofitting of control equipment. Controls more stringent than BAT may be imposed if the risk remaining after the application of BAT is unreasonable, or, for new sources, if EPA's criteria for risk avoidance associated with plant siting cannot be met.

Our proposed policy contains no reporting requirements.

In most cases, emission standards we establish pursuant to our proposed policy will be in the form of performance standards, rather than specific design standards. Design, operating, or equipment standards will be used only when performance standards are not practical.

In addition, the new source-siting provisions of the policy allow a new source owner to use an emission offset mechanism to locate a new source of airborne carcinogens in an area where other such sources exist or where the owner has difficulty in meeting emission requirements for the new source.

Summary of Benefits

Sectors Affected: The general public.

Generic and emission standards that we develop for sources of airborne carcinogens under the proposed policy will reduce cancer risks for large segments of the U.S. population exposed to airborne carcinogens in the ambient air. The greatest benefits will be to individuals who live in the immediate vicinity of characteristic source types.

While low levels of potentially carcinogenic substances have been detected in many parts of the country, the areas of greatest concern are densely populated urban centers and areas with a high concentration of chemical manufacturing industries. In the latter case, the proposal would benefit populations in the Gulf Coast (Louisiana and Texas), the Kanawha Valley (West Virginia), and Northern New Jersey.

The proposed policy will significantly improve EPA's regulatory effort in identifying and controlling airborne carcinogens. Proposing generic standards for certain categories or sources concurrent with listing under § 112 will provide significant reduction in emissions pending development of final § 112 standards.

A mechanism for establishing regulatory priorities will ensure that we address the most important or tractable problems first. The policy also provides for increased public understanding of and participation in EPA's actions and allows EPA to give earlier notice of its findings and regulatory intent to State and local regulatory authorities and to industries.

Summary of Costs

Sectors Affected: Source types emitting carcinogenic substances into the atmosphere, including establishments which mine or manufacture minerals, inorganic chemicals, radioactive substances and byproducts, and synthetic organic chemicals; petroleum refining; and users of these products.

Our preliminary analyses have identified a number of source types which may emit carcinogenic substances into the atmosphere. Most of these types fall into one of the following six broad groups: (1) mining, smelting, refining, manufacture and end-use of minerals and other inorganic chemicals; (2) combustion processes, coke ovens, incinerators, power plants, etc.; (3) petroleum refining, distribution, and storage; (4) synthetic organic chemical industries and end-use applications and waste disposal; (5) mining, processing, use and disposal of radioactive substances and radioactive by-products; and (6) sources of noncarcinogenic emissions which are chemically transformed into carcinogens in the atmosphere.

We intend the proposed rule only to guide the Agency in identifying and controlling airborne carcinogens. In its present form, we cannot assess its regulatory effects quantitatively. This policy will, however, provide a basis for impact assessments in subsequent regulatory actions that are taken in accord with its provisions.

Related Regulations and Actions

Internal: Other offices within EPA which are also in the process of developing carcinogen control programs include the Office of Pesticides and Toxic Substances, the Office of Water and Waste Management, and the office of Mobile Source Air Pollution Control. A program is also underway to develop an agencywide cancer policy.

External: Related external efforts include the development of a national cancer policy by the member agencies of the U.S. Regulatory Council, the recent report by the Risk Assessment Work Group of the Interagency Regulatory Liaison Group (IRLG) on the identification of carcinogens and the quantitative assessment of risks; a staff paper by the White House Office of Science and Technology Policy on the identification, characterization, and control of potential human carcinogens; and a report to the President by the Interagency Toxic Substances Strategy Committee.

Other regulatory agencies that are involved in this area include the Occupational Safety and Health Administration, which published a final policy for regulating occupational exposure to carcinogens on January 22, 1980, (45 FR 5002), the Food and Drug Administration, and the Consumer Product Safety Commission. Nongovernmental groups which have expressed interest in or made recommendations on the control of carcinogens include the Environmental Defense Fund, the American Industrial Health Council, and the Natural Resources Defense Council.

Active Government Collaboration

The Agency has presented testimony at the public hearings held after the Occupational Safety and Health Administration proposed its carcinogen policy. We have also provided information briefings for the Interagency Regulatory Liaison Group and members of the President's Council on Environmental Quality, the Council on Wage and Price Stability, Congressional staff, and interested State air pollution agencies. We have participated in the proposed policy regulating chemical carcinogens issued by the Regulatory Council on October 17, 1979 (44 FR 60038).

Timetable

Science Advisory Board Review—June 1980
Public Comment Period—October 10, 1979, to August 12, 1980. Comments should be sent to: Central Docket Section, Room 2903B Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460, ATTN: OAQPS 7914.
Final Rule—December 1980.
Regulatory Analysis—none

Available Documents

"Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer," NPRM, October 10, 1979, 44 FR 58642

"National Emission Standards for Hazardous Air Pollutants—Generic Standards," ANPRM, October 10, 1979, 44 FR 58662

"Summary of Responses and Proposals—Testimony and Written Submissions", EPA Public Hearings on Regulation of Carcinogenic Air Pollutants, Washington, D.C., March 23, 1978

Testimony presented at public hearings in Washington, D.C., Boston, MA, and Houston, TX the week of March 10, 1980 as well as the written comments received

These documents as well as others referenced in the proposed policy are available in public rulemaking docket number OAQPS 79–14. The docket is open for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at: Central Docket Section, Room 29039, Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460.

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EPA-OANR

Remedial Action Standards for Inactive Uranium Processing Sites 40 CFR Part 192*

Legal Authority

Uranium Mill Tailings Radiation Control Act of 1978, § 206, 42 U.S.C. § 2022

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks these standards are important because the Federal and State governments cannot undertake the remedial actions Congress authorized until we have promulgated standards for them. People, primarily of the Rocky Mountain States and Pennsylvania, who live or work near tailings areas are very interested in all aspects of the remedial action program.

Statement of Problem

The soils and rocks which make up the earth's crust contain radioactive uranium and thorium isotopes (radionuclides). Almost all human activities which involve removing and processing materials from the earth's crust can result in the release of some of these radioactive materials into the atmosphere. These releases can become potentially hazardous when:

1. The activity involves handling materials that contain concentrations of these radionuclides significantly above the average concentrations in soil;
2. These radionuclides are concentrated during processing to a

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level significantly above the average concentrations in soil; or

3. The radioactive material is redistributed from its place in nature into a pathway where humans can be exposed to it.

Uranium mining operations involve removing large quantities of ore-containing uranium and its radioactive decay products in concentrations up to 1,000 times greater than are normally found in the natural terrestrial environment. After mining, the ores are shipped to uranium mills for separation of the uranium from the other materials in the ore. After the mill crushes and grinds the ore, the uranium is dissolved, precipitated, dried, and packaged as "yellow cake" ($U3O_8$). The residues of the process, normally in the form of a wet sand, are discharged to a disposal area where the liquids are evaporated or partially recycled.

The tailings disposal area consists of a pond and a dry beach area. The size of each component depends on the amount of water that is recycled, the rate of evaporation, and the amount of raw ore being milled. In areas of high evaporation, large dry beach areas are exposed. Radioactive emissions from these areas result from wind erosion of the tailings and diffusion of radioactive radon gas out of the tailings. In addition, radioisotopes and other toxic substances may seep into ground water. The release of radon gas from piles of uranium mill tailings exposes people in the immediate vicinity of the tailings site to radioactivity and, to a lesser extent, exposes more distant populations. Windblown radioactive particulates from tailings sites and direct gamma radiation constitute secondary sources of radiation exposure. If the tailings are uncontrolled, EPA estimates that approximately 200 premature deaths per century could occur in the national population from radiation-induced lung cancer resulting from emissions from these sources. These effects would be divided approximately equally between people who live within five miles of the inactive tailings piles and those in the rest of the country. Health effects from potential contamination of ground water resources are not included in this estimate. The radioactive components in the tailings will remain hazardous for hundreds of thousands of years.

In addition to the hazards posed by tailings piles are those from tailings which have been removed from the piles. In source areas, tailings have been used in construction, often as fill under buildings. Radioactive gas from the tailings may then enter the buildings and raise indoor radioactivity well above normal levels. Congress recognized that unless it acted, tailings from inactive processing sites might pose a continuing health hazard. Therefore, with the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Congress authorized a joint Federal and State program to perform remedial actions for inactive uranium-processing sites according to standards EPA would set. Under the terms of UMTRCA, the Department of Energy (DOE) has designated 25 eligible inactive processing sites. Tailings piles at these sites contain more than 26 million tons of residual radioactive materials on more than 1,030 acres of land. In addition, DOE is working to designate additional lands and buildings which are affected by tailings from these sites. However, UMTRCA also provides that no remedial actions may be undertaken until EPA has promulgated standards.

Alternatives Under Consideration

EPA's standards for uranium mill tailings will be standards of general application. They are standards which define environmental radiation conditions which must not be exceeded, but they do not specify the means of remedying existing excesses. UMTRCA requires DOE to conduct the remedial action program. We are developing the standards based on currently available knowledge of the potential harmful effects of uranium mill tailings, and the technology and costs of avoiding them. With regard to the form and content of the standards, we are considering the following alternatives:

1. *Disposal Standards.* EPA is considering an entire range of options from no control to virtually complete control of releases of radioactivity and of nonradioactive toxic substances from tailings. We find that means of providing long-term control of radon releases are available. We are examining the health benefits and costs of controlling these releases to alternative levels which are (A) significantly above the radon release rates characteristic of undisturbed land areas, (B) within the normal range of release from undisturbed lands, or (C) significantly below average rates from such lands.

We currently favor alternative (B) because it avoids nearly all the harmful effects of radon releases and appears to be technically and economically achievable. Alternative (C) is neither needed nor is it clear that it is reasonably achievable.

We are also considering whether we should prohibit releases of radioactive and nonradioactive toxic substances from tailings to water, or should limit releases to levels which preserve water quality for potential uses, including drinking and agriculture. Although information is very limited, we currently believe that a standard prohibiting any releases may be very difficult to implement, and is not clearly needed. We prefer standards for uranium mill tailings disposal which prohibit degrading the existing quality of underground and surface water bodies.

The health protection the disposal system ultimately affords depends on the control levels and the time over which they are maintained. We are examining the technical and economic reasonability of requiring effective control for (a) several hundred years, (b) hundreds to thousands of years, and (c) longer than tens of thousands of years. We currently believe it reasonable to apply the disposal standards for at least 1,000 years. Applying them for very much longer periods would be impractical for general application.

2. *Cleanup Standards for Contaminated Open Land.* We are considering alternative standards for cleanup of contaminated open land as follows:

(A) Standards which would reduce residual radiation levels to local natural background levels.

(B) Standards which would limit the residual radioactivity to levels which may be above local background, but are still within a common natural range of values.

(C) Standards which limit residual radiation to levels significantly above normal background.

Alternative (A) would be unreasonable because the measurements required to distinguish small elevations above background radioactivity would be unproductively expensive. We believe alternative (B) is technically and economically reasonable, and the residual risk will be very small in practice. Therefore, we feel alternative (C) is not warranted.

3. *Cleanup Standards for Buildings.* Tailings have sometimes been used as construction materials for buildings. This can cause elevated indoor radioactivity and increased risk of lung cancer for occupants who breathe radioactive particles in the air. In developing remedial action standards for this condition, we are considering earlier recommendations by the U.S. Surgeon General for a similar situation at Grand Junction, Colorado, and guidance provided by EPA to the State of Florida regarding indoor radioactivity. We are also considering alternative standards which take account of this earlier guidance, and which reflect current assessments of the health effects of the indoor

radioactivity. The standards will take the form of "action levels," i.e., specifications, which, if exceeded, will require remedial action.

We could set action levels in terms of the total indoor radioactivity concentrations, or as an increment above average natural background levels. We prefer to express the indoor radon decay product action level in terms of total radon decay concentration, because background levels cannot be determined separately in practice. Indoor gamma radiation levels are much more easily determined, however, so we prefer to express the gamma radiation standard as an increment above background. In all cases, the standards will apply to radiation which may reasonably be attributed to tailings, not to other causes.

Summary of Benefits

Sectors Affected: People living near inactive uranium mill tailings sites designated by DOE for remedial actions under UMTRCA, which are located in Arizona, Colorado, Idaho, New Mexico, North Dakota, Oregon, Texas, Pennsylvania, Utah, and Wyoming; and the general public.

The disposal standards will avoid virtually all detrimental effects of uranium mill tailings for as long as the standards apply. Based on current population distributions, we estimate about 200 lung cancer deaths per century caused by radon emissions from tailings piles will be avoided. The number may be larger if populations increase, or if population centers develop near piles which are now remote from people. Furthermore, surface and ground water will be protected from degradation by the tailings. Individuals who live or work in contaminated buildings will benefit from application of the cleanup standards. Finally, applying the cleanup standards for open land will result in conditions which do not require further control. This could make several thousand acres of land available for use, and avoid a potential future administrative burden.

Local economies could benefit from decreased unemployment and increased business activity associated with performing the remedial actions to comply with the standards. The remedial actions would also virtually eliminate the inequitable distribution of risk associated with the tailings, which is now greater for people who live or work near the piles or in contaminated buildings than it is for the general population. After disposal, the radiation risk for such people will be within the normal range of natural background values.

Summary of Costs

Sectors Affected: The Federal government; affected States; and the general public.

The Federal government will bear 90 percent of the costs of the remedial action program and the affected States will bear 10 percent. The Federal government will bear all the costs of remedial actions on Indian lands.

The costs of meeting the disposal standards of all the tailings piles eligible under UMTRCA are difficult to estimate, primarily because methods should be chosen on a site-specific basis. We estimate the average one-time cost of meeting the standards we currently propose to be about $1 to $6 million (1978 dollars) per site if the existing site is suitable, and $6 to $13 million (1978 dollars) per site otherwise. Disposal costs for all sites would therefore be about $21 to $273 million. More restrictive standards, which would limit radon releases from tailings to well below release rates from normal soils, could require much costlier methods of disposal.

A DOE contractor (Ford, Bacon and Davis, Utah Inc.), using interim cleanup criteria, previously estimated that cleanup costs for open lands and buildings would be about $10 million (1978 dollars). Even allowing for increased costs under the cleanup standards we now prefer, which are very difficult to estimate, tailings disposal is still by far the largest cost component of the remedial action program.

During the performance of the remedial actions, localities will be subjected to increased traffic, dust, and other side effects of earth-moving and construction operations. Disposal operations may require large quantities of clay and soil for covering the tailings. Contaminated open land will be subjected to scraping and digging by the cleanup operations. The environmental effects of these land disturbances will vary with the site.

Related Regulations and Actions

Internal: 1. Radiation protection guidance for remedial actions on residences on Florida phosphate lands.

2. Draft proposed standard for high-level radioactive waste (in development).

3. Proposed standards for treatment, storage, and disposal of hazardous wastes under the Resource Conservation and Recovery Act.

4. Draft Clean Air Act Standards for radioactive materials (in development).

5. Proposed Environmental Protection Criteria for Radioactive Wastes, and applicable Federal Radiation Protection Guidance.

6. Clean Water Act regulations.

7. National Interim Primary Drinking Water standards.

8. EPA Air Carcinogen Policy.

9. Resource Conservation and Recovery Act.

External: Under UMTRCA, the responsibility for selecting and performing remedial actions which satisfy EPA's standards is given to the Department of Energy. Any States which share the cost must fully participate, and the Nuclear Regulatory Commission must concur. Any affected Indian tribe and the Department of Interior must be consulted when Indian lands are involved. In addition, the Department of Justice has responsibilities related to determining the responsibility, if any, of any private parties for remedial actions

Active Government Collaboration

The President's Energy Coordinating Committee has formed a subcommittee to oversee Federal implementation of UMTRCA. The subcommittee is chaired by the Administrator of the Environmental Protection Agency. Other participating agencies are the Nuclear Regulatory Commission, and the Departments of Justice, Energy, and Interior. These agencies, which all have responsibilities under UMTRCA, have formed a staff-level working group which plans necessary interagency coordination and reviews draft documents as appropriate.

Timetable

NPRM—Disposal Standards—June 1980
Final Rule—Cleanup Standards—October 1980
Final Rule—Disposal Standards—December 1980
Final Rules Effective—60 days after promulgation
Regulatory Analysis—EPA will not develop an analysis, because we expect the cost of implementing the standard in any calendar year will be less than the $100 million criterion EPA has established for requiring an economic analysis
Public Hearing—EPA plans to conduct public hearings on the NPRMs, but has not established a date or location for the hearings at this time. We will announce the dates and locations in the **Federal Register.**
Public Comment Period—The public will have at least a 60-day comment period before the agency issues the final rules

Available Documents

each hazardous chemical, (b) require

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Available Documents

From the Congress—Public Law 95–604 Uranium Mill Tailings Radiation Control Act (UMTRCA); House Report No. 95–2480, Pt. I, Committee on Interior and Insular Affairs; House Report No. 95–1480, Pt. II, Committee on Interstate and Foreign Commerce, House Document Room, H–226 Capitol, Washington D.C. 20515

From DOE—"Phase II, Title I, Engineering Assessment of Inactive Uranium Mill Tailings Sites" by Ford, Bacon and Davis, Utah Inc., Technical Library, Bendix Field Engineering Corp., P.O. Box 1569, Grand Junction, Colorado, 81502 (Microfiche copy only, nominal charge per report)

From EPA/ORP–OANR–460—"EPA Development of Standards for Uranium Mill Tailings and Uranium Report on Mining Wastes—Call for Information and Data," **Federal Register** notice, 44 FR 33433, June 11, 1979

From EPA/ORP–OANR–460—"EPA Indoor Radiation Exposure Due to Radium-226 in Florida Phosphate Lands—Radiation Protection Recommendations and Request for Comment," **Federal Register** notice, 44 FR 38664–38670, July 2, 1979

From EPA/ORP–OANR–460—"Interim Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 2736b–27368, April 22, 1980

From EPA/ORP–OANR–460—"Proposed Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 27370–27375, April 22, 1980

EPA documents listed above are available at 401 M Street, S.W., Washington, D.C., 20460. Additional documents, when they become available, will be placed in Docket No. A–79–25 which is located in the EPA, Central Docket Section, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460.

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EPA–OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

Chemical Hazard Warning Labels (40 CFR Parts 765 and 766)

Legal Authority

Toxic Substances Control Act, 15 U.S.C. §§ 2605(a)(3) and (c)(1); 15 U.S.C. §§ 2607(a)(1) (A) and (B), 15 U.S.C. § 2625(c).

Reason for Including This Entry

These regulations may have a significant impact on at least some segments of the chemical industry and may cause the industry initial costs of $100 million or more.

Statement of Problem

Industrial workers are exposed in their jobs to a large number of chemical substances and mixtures, many of which present health or safety hazards. Approximately 47,000 substances are produced for commercial purposes. This number only accounts for *substances;* far more of the chemical products manufactured or imported for commercial purposes are *mixtures,* composed of combinations of these substances. Existing data indicate that as many as 25 percent of these substances present health and/or safety hazards. Exactly how many of the estimated 300,000 chemical products—counting both substances and mixtures—are hazardous is not known.

Manufacturing industries employ approximately 20.5 million people; the chemical industry alone employs approximately 1.1 million, including professionals (such as chemists and chemical engineers) and a variety of production, maintenance and repair, and janitorial workers.

During production there are many opportunities for workers to be exposed to hazardous chemicals. Exposure may occur as workers maintain and repair industrial systems; as they handle raw materials, intermediates, and finished products; or as a result of breakdowns, leaks, and spills. Workers also may be exposed continuously to airborne concentrations of hazardous chemicals.

In 1977 the National Institute of Occupational Safety and Health published the National Occupational Hazard Survey. The results indicated that approximately 7.5 million workers were exposed to trade-name products containing at least one of approximately 400 substances that the Occupational Safety and Health Administration (OSHA) then regulated. Workers who were exposed experienced, on the average, exposures to seven hazards simultaneously (the survey recorded exposures to different substances or exposure to the same substance through different routes [e.g., inhalation and dermal contact] as distinct exposures).

The Bureau of Labor Statistics (BLS) reported approximately 168,000 new cases of occupational illness in 1976 and 162,000 in 1977. But underreporting of occupational illness is a major problem, in part because the chemical causes of many acute and chronic occupational illnesses remain unrecognized. These BLS data indicate that 91,900, or 54.7 percent, of occupational illnesses in 1976 and 93,800, or 57.9 percent, of occupational illnesses in 1977, other than malignant or benign tumors, were caused directly by exposure to chemicals.

To deal with this problem, EPA is planning to promulgate a rule requiring manufacturers and importers of chemical substances and mixtures presenting acute health or safety hazards to label containers of these chemicals with warning statements and precautions for use. The agency will simultaneously be promulgating a rule requiring similar labeling for carcinogenic substances and mixtures.

Some chemical manufacturers already place adequate hazard warning labels on containers of their products. EPA has reviewed a sample of labels that industry currently uses voluntarily and has found that many provide clear and comprehensive hazard information. In some cases, indeed, labels provide extensive information. However, many companies use labels that are incomplete, inconsistent, or inaccurate. These rules will make mandatory an activity that is now voluntary, and, in doing so, will ensure that all workers who are exposed to chemical hazards have access to information about these hazards and about the precautions they can take against them.

Alternatives Under Consideration

The principal alternatives to this rule that the agency is considering are (1) taking no regulatory action, (2) using some method other than labeling to provide hazard warning information, and (3) limiting the scope of the labeling rules in some way.

Alternative (1), taking no regulatory action at this time, would benefit the chemical industry, as the industry would incur no compliance costs. However, there would be no impetus for current labeling practices to improve, and there would be no corresponding improvement to workers' health and safety. The agency would incur no cost, but would miss an opportunity to use its resources for a form of regulation that could produce continuing benefits at a relatively low annual cost to industry, long after industry and the agency have made the initial investment.

Alternative (2), requiring some form of hazard warning other than labels, breaks down into three separate alternatives: (a) require manufacturers and importers to provide workers with material safety data sheets (MSDS) on each hazardous chemical, (b) require manufacturers and importers to provide workers with training about the hazards they may encounter from chemicals in the workplace, and (c) require manufacturers and importers to provide a combined program of worker training, MSDSs, workplace posting, and container labeling.

MSDSs can be very complete and can offer information that will be useful to management, occupational health specialists, and labor organizations, as well as to workers. But they do not offer immediate and easy-to-understand information to the worker at the site of potential exposure to a hazard. Without labeling as a supplement, the worker may not be able to connect a given container of a chemical with the specific MSDS containing the relevant information.

Training programs can be very useful in warning workers of chemical hazards. They can be tailored to a specific company's needs. But costs can be extremely high, especially to small companies, and the costs of a federally mandated program, which would need to require a perhaps undesirable degree of standardization in training programs, would be even higher. An additional disadvantage is that the benefits of a training program would be lost without the kind of written reinforcement that labels and MSDSs would provide.

A combined program of container labels, MSDSs, workplace posting, and worker training programs would provide the most complete hazard warnings by combining the advantages of several information sources while avoiding the disadvantages that would result from using any one of them in isolation. However, the cost of such a comprehensive program, both to industry and the agency, would be prohibitive.

The agency has decided to require container labeling, because it provides an immediate source of hazard information at the site of exposure to chemicals in the workplace, at a relatively low cost. This approach has the same focus as current industry practice, and workers are familiar with systems of labeling on which the proposed rules are based.

Alternatives for the rules' scope of applicability are to have them apply to (A) all hazardous chemicals distributed in commerce, (B) chemical substances but not mixtures, and (C) large volume chemicals only.

Alternative (A), applying the rules to all hazardous chemicals distributed in commerce, is the agency's choice. Alternative (B) has the advantage that it would be easier for industry to comply with the rules. It would eliminate the difficulties of determining the hazards of mixtures, and it would apply to a much smaller set of chemicals. In addition, current voluntary industry standards already cover far more chemical products than would be covered by rules with such a narrowed scope. For these reasons, the agency believes that to narrow the scope of the rules in this way would result in virtually meaningless rules.

Alternative (C) is to have the rules apply only to large volume chemicals. A relatively small number of chemicals accounts for a large percentage of the production volume. But because many of these are produced by automated processes which reduce human exposure, these large volume chemicals may not account for most of the worker exposure to chemical hazards. In addition, while each incident of exposure might be small, the number of exposed individuals is still large. To limit the scope of the rules in this way would lower the cost considerably, but would probably not reduce worker exposure enough to justify it.

The proposed rules as they are presently written provide substantial flexibility, so that companies which are essentially in compliance now need not redesign their labels. Compliance will be on a phased schedule, allowing industry to take advantage of information it develops for substances in developing information for mixtures. Because mixtures are composed of combinations of substances, the rules will require manufacturers of substances to comply earlier than manufacturers of mixtures. The rules will require recordkeeping to document industry decisions to label or not to label a given product.

These rules require the disclosure of information, and in this respect employ an innovative regulatory technique. When information about the hazards of chemicals in the workplace is widely available to workers and to occupational health specialists, they may modify their behavior accordingly and thus eliminate the necessity, in some cases, for more restrictive forms of regulatory action.

Summary of Benefits

Sectors Affected: Workers in most industries.

The primary benefit of these labeling regulations will be that industry will provide information to industrial workers, through labels supplied by the manufacturers of hazardous chemicals, about the hazards to which their work exposes them. The agency expects that workers will use this information to protect themselves from injury and illness that may result from exposure to hazardous chemicals. The knowledge so gained should result in reduced exposure to chemical hazards and reduced occurrences of occupational injury and illness resulting from such exposure. A regulatory analysis is in progress. Even when it is complete, however, the benefits of these rules will not be altogether quantifiable.

The indirect benefits of the labeling regulations may be great. Once workers have adequate hazard information, they can work with management to control or eliminate most hazardous exposures. Companies that use chemicals may stop using the most hazardous, thereby creating incentives for the development of safer substitutes and/or better exposure controls for specific uses.

Summary of Costs

Sectors Affected: Most segments of the chemical industry.

Chemical companies will incur initial costs for developing information and designing labels. Ongoing costs will include the costs of producing the necessary number of labels for a given year's production and the administrative costs of recordkeeping and periodic updating of labels. The agency awaits completion of its regulatory analysis for quantitative information on these costs.

Related Regulations and Actions

Internal: None.

External: OSHA of the Department of Labor will be proposing a rule requiring that labels on containers of hazardous chemicals in the workplace disclose the chemical identity of the contents.

Active Government Collaboration

EPA and the Occupational Safety and Health Administration have been coordinating the development of their respective labeling rules and will be proposing them in the **Federal Register** simultaneously.

Timetable

NPRM—July 1980.
Regulatory Analysis—will be published with NPRM
Public Hearings—schedule not yet set
Public Comment Period—following NPRM
Final Rule—July 1981
Final Rule Effective—not yet determined

Available Documents

None

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EPA-OPTS

Pesticide Registration Guidelines (40 CFR Part 163, Subparts A-P)

Legal Authority

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136 a(c)(2)(A), 136f, 136w (1978).

Reason for Including This Entry

The Environmental Profection Agency (EPA) estimates that cost to registrants (principally chemical companies whose products are registered or who apply for registration of their products) will be approximately $1.4 billion over the next ten years to meet the Guidelines requirements.

Statement of Problem

With certain limited exceptions, EPA must, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), register all pesticides before manufacturers and formulators can legally distribute and sell them in the United States. The purpose of requiring registration of a pesticide is to permit EPA to determine if: (a) its composition is such as to warrant the proposed claims for it; (b) its labeling and other material required to be submitted comply with the requirements of the Act; (c) it will perform its intended function without unreasonable adverse effects on the environment; and (d) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

FIFRA expressly requires the EPA Administrator to publish Guidelines to specify the kinds of information required to support a registration application. Our proposed Guidelines specify the health and safety data that registrants of different types of pesticide products must submit, and the testing methods to be used in developing these data.

Prospective registrants (primarily pesticide manufacturers and formulators) are responsible for both the testing and submittal of test results to the agency in support of their registration applications.

In addition, FIFRA expressly requires that currently registered pesticides be reregistered expeditiously. In many cases, the registrants of these pesticides will now have to submit health and safety data that meets FIFRA requirements, either because they had not previously submitted the data or because they had submitted inadequate data.

Without these Guidelines, the following problems would inevitably result: registration applications would often be incomplete or inadequate, applicants would spend unnecessary time and money because requirements were not delineated or clarified, and EPA would not be able to perform registration reviews efficiently. These are the problems that existed before the proposed Guidelines were first published.

Alternatives Under Consideration

Section 3(c)(2)(A) of FIFRA requires that "The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time." Therefore, we are not considering alternatives to publication of the Guidelines. The agency is analyzing public comments on the portions already proposed (see "Available Documents"), and is considering these comments to improve the nature and clarity of the proposed data and testing requirements.

Summary of Benefits

Sectors Affected: Pesticide and agricultural chemical manufacturing; chemical/biological testing laboratories; EPA; agriculture; and the general public.

This regulation will effect establishments in the following SIC classifications: (SIC 2879) pesticides and agricultural chemicals; (SIC 281) agricultural pest control chemicals, such as insecticides, fungicides, and herbicides; (SIC 286) DDT, BHC, 2,4-D carbamates, etc.; and (SIC 32) agricultural lime products.

The guidelines will give prospective registrants the benefit of knowing precisely what kinds of data the agency requires (though there are some provisions for waiving some requirements under some circumstances). Manufacturers and formulators, therefore, will be able to plan their research and development programs with greater certainty, thereby saving money and time. The chemical/biological testing industry will also benefit from increased business because of some additional requirements and because of the standardized requirements that improve planning and efficiency. The Guidelines will benefit the agency by improving the quality of data available for decisionmaking, and also by allowing for more efficient processing of applications. Farmers and the general public will benefit generally from having safer pesticides available.

Summary of Costs

Sectors Affected: Pesticide and agricultural chemical manufacturing; farmers; and the general public.

EPA estimates that, to meet the Guidelines requirements over the next ten years, it will cost registrants approximately $336 million for the data call-in program, $273 million in remaining data for registration standards, $600 million for data to support new registrations, and about $150 million for data to be required by those subparts of the Guidelines yet to be proposed. (The annual costs would be slightly higher during the first five years than during the latter five years.)

The projected cost represents expenditures for conducting laboratory and field testing, and developing the reports of such tests. While registrants will initially bear the cost, we expect that the cost will be passed on to the pesticide users, with farmers as the major users. The per-farm cost was estimated in 1978 to be $45 to $50 per year, which included $15 for costs of new requirements in the Guidelines.

We do not expect these Guidelines to have any significant effect on employment in the pesticide industry, or to have any other nationally significant economic effects. We do expect producers of some pesticides of small economic significance to withdraw their products from the market rather than go to the cost of developing the required data. In this situation, consumers, including farmers, will ordinarily choose other available pesticides rather than have no pesticide for pest control use.

Related Regulations and Actions

Internal: EPA also is developing testing standards for chemical substances and mixtures under the Toxic Substances Control Act (TSCA). As far as possible, EPA will make the pesticide testing methods prescribed by the Guidelines consistent with the TSCA testing standards. The Good Laboratory Practice standards we are developing under TSCA and FIFRA, which prescribe uniform standards of performance for toxicological testing, will also be consistent.

External: Under the aegis of the Interagency Regulatory Liaison Group, five Federal agencies (EPA, the Food and Drug Admininstration, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and the Department of Agriculture) are jointly developing guidelines describing test methods and

standards that will meet all five agencies' needs.

Active Government Collaboration

Agencies and other government groups that we have consulted or have provided assistance in Guidelines development include members of the Interagency Regulatory Liaison Group, the National Cancer Institute, and the Departments of the Interior; and Agriculture. The latter department is required by FIFRA to comment on proposed and final regulatory documents.

Timetable

Final Rules—between June and November 1980 for those portions already published as NPRMs. Additional portions of the Guidelines, which will be published as NPRMs between June 1980 and March 1981, are Subpart G—Product Performance; Subpart H—Label Development; Subpart I—Experimental Use Permits; Subpart J—Hazard Evaluation: Nontarget Plants and Microorganisms; Subpart K—Exposure Data Requirements; Subpart L—Hazard Evaluation: Nontarget Insects; Subpart M—Data requirements for Biorational Pesticides; Subpart O—Chemistry Requirements: Residue Chemistry; and Subpart P—Data Requirements for Pesticide Disposal.
Public Comment Periods—will vary from 60 to 90 days, depending on the size and complexity of the proposal.
Regulatory Analysis—an economic impact analysis on those portions of the Guidelines was published in 1978: "Economic Impact Analysis of Guidelines for Registering Pesticides in the U.S.", 43 FR 39644, September 6, 1978. This analysis covered the costs of those subparts (Subparts B, D, E, and F) that would elicit about 90 percent of the total costs of the Guidelines. With the publication of each subsequent subpart, we will make available brief analyses set in the context of the incremental and total costs of the Guidelines. Following or concurrent with the publication of most subparts as final rules, we will publish an overall regulatory analysis for the entire Guidelines.

Available Documents

We have published the following portions of the Guidelines as NPRM:

Subpart B—Introduction, 43 FR 29606, July 10, 1978. (This subpart will become Subpart A when published final)

Subpart C—Registration Procedures (interim final), 40 FR 41788, September 9, 1975

Subpart D—Chemistry Requirements, 43 FR 29696, July 10, 1978. (This subpart will be divided into three subparts when published final: D—Product Chemistry, N—Environmental Fate, and O—Residue Chemistry)

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms, 43 FR 29696, July 10, 1978

Subpart F—Hazard Evaluation: Humans and Domestic Animals, 43 FR 37336, August 22, 1978

Subpart F—Hazard Evaluation: Humans and Domestic Animals, two additional general sections on good laboratory practices for toxicology testing, 45 FR 26373, April 18, 1980 (This proposal will be separated from Subpart F when developed into a final rule)

"Economic Impact Analysis of Guidelines for Registering Pesticides in the U.S.," 43 FR 39644, September 6, 1978, is also available

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EPA-OPTS

Premanufacture Notification Requirements and Review Procedures (40 CFR Part 720)

Legal Authority

Toxic Substances Control Act (TSCA), § 5, 15 U.S.C. § 2604

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because the regulations may have a substantial economic impact on the chemical industry.

Statement of Problem

To prevent public health risks and environmental contamination before potentially toxic substances are widely used and dispersed, Congress included a section on premanufacture notification in the Toxic Substances Control Act (TSCA) of 1976. This section requires a manufacturer to notify the Environmental Protection Agency (EPA) of his intent to manufacture or import a new chemical substance, and to submit information concerning that substance which the Agency can use to assess the risks associated with its manufacture, processing, or distribution in commerce, use, or disposal. On the basis of this assessment and an evaluation of economic considerations and other relevant factors, EPA will make decisions concerning the reasonableness of any risk and will take appropriate action to obtain more information or data, regulate production or use, or require reporting by manufacturers, processors, or distributors of chemicals once the substance is in commerce. If EPA does not regulate the substance during the premanufacture notification period, the manufacturer may begin production (subject to regulation under any other laws).

To implement the notification process, EPA proposed a set of premanufacture notification rules and forms for public comment on January 10, 1979. In response to comments received on its initial proposal, EPA revised and reproposed the forms and certain portions of the rules on October 16, 1979. The rules, when final, will clarify the statutory obligations of manufacturers and importers of new chemical substances to provide information to EPA on the substances, and will also clarify the Agency's procedures for reviewing the information. The forms will provide a detailed specification of the information they must submit and the formats in which they should supply the information. The manufacturers are responsible for assembling the information. EPA must decide, generally within 90 days of receiving the information, whether the substance in question presents an unreasonable risk to human health or the environment, and, if so, what action to take.

Alternatives Under Consideration

EPA must resolve several significant issues in this rulemaking. Among them are the scope and level of detail of information to be required; the identification of specific chemical substances for which industry must submit premanufacture notifications to EPA; policies regarding the confidentiality of information submitted; the extent to which the submitter must contact prospective customers to obtain relevant data; supplemental reporting; and whether and how EPA determines that submissions meet its requirements. EPA is considering other approaches to resolving these and related issues based on the comments received from industry and public interest groups which suggested alternatives to the initial proposal. (See "Available Documents," NPRM for Proposed Rules and Other Issues-44 FR 59764, October 16, 1979).

Summary of Benefits

Sectors Affected: The general public.

The premanufacture review process will benefit public health and the environment by preventing the production, use, or disposal of new

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chemicals which present unreasonable risks. By preventing potential hazards at an early state, EPA can minimize economic dislocation, especially that which would result if a chemical is in full production, and use is withdrawn. Adverse employment effects and the obsolescence of plant equipment will be substantially reduced by early regulation. Preventing toxic chemicals from entering the environment also will decrease lost workdays and hospitalization costs that result from worker exposure to toxic chemicals.

Summary of Costs

Sectors Affected: The chemical industry, including manufacturing and importing; and users of chemical products.

EPA is conducting an in-depth study of the premanufacture notification requirements in order to determine, with a greater degree of confidence, the nature of the costs and economic effects of this rulemaking. These effects will include those on research and development programs; industry sales, growth and profitability; and the structure of the chemical industry. EPA will use the results of this study in making final decisions on how to implement the premanufacture notification program. Preliminary results of this analysis estimated that the notice form proposed in January 10, 1979, would cost between $2,500 and $22,500 to complete for each notice submitted. Estimates for the October 16 reproposed, shortened form indicated that completion of the revised form would cost between $1,155 and $8,925. It has also been estimated that approximately 400 notices would be submitted per year. Therefore, the total cost of providing the notice forms in a typical year would be between $462,000 and $3,570,000 (1979 dollars). October 16 cost estimates also included costs per claim of between $0–$6,400 for asserting and substantiating claims of confidential business information.

Related Regulation and Actions

None

Active Government Collaboration

Other Federal agencies that have been involved in this rulemaking include the Consumer Product Safety Commission, the Occupational Safety and Health Administration, the Food and Drug Administration, the Department of Transportation, and the Bureau of the Census.

Timetable

Proposed Economic Analysis and Regulatory Analysis—July 1980
Public Comment Period—July
Final Rule—September 1980

Available Documents

NPRM for Premanufacture Notification Requirements and Review Procedures, 44 FR 2242, January 10, 1979

Discussion of Premanufacture Testing Policy and Technical Issues, 44 FR 16240, March 16, 1979

Interim Policy Statement, 44 FR 28558, May 15, 1979. NPRM for Rules and Other Issues, 44 FR 59764, October 16, 1979 (Docket number OTS–050002)

These documents are available from the Agency Contact listed below.

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EPA–OPTS

Rules Restricting the Commercial and Industrial Use of Asbestos Fibers (40 CFR Part 763)

Legal Authority

Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601, 2605

Reason for Including This Entry

The Environmental Protection Agency (EPA) has included this action because of its potential economic impact on the asbestos industry. The economic cost of the rule will probably exceed $100 million. We may prohibit a large portion of the domestic production and importation into the United States of asbestos-containing products.

Statement of the Problem

Epidemological studies have established that exposure to asbestos fibers greatly increases a person's chance of contracting lung disease, particularly asbestosis and lung cancer. Since the turn of the century tens of thousands of Americans have suffered from asbestos-related diseases.

EPA is concerned that in spite of past governmental regulation of asbestos millions of Americans may be exposed to levels of asbestos which significantly increase the risk of contracting asbestos-related diseases. (Past regulations are cited below under Related Regulations and Actions) Currently, more than two million workers are exposed to asbestos fibers (at levels higher than background) in their places of employment. In addition, the 159 million Americans who live in urban areas may be exposed to asbestos fiber levels which significantly increase the risk of contracting asbestos-related diseases. EPA is concerned that asbestos fiber emissions from the mining, millings, processing, or distribution of asbestos or from the use, misuse, or disposal of asbestos-containing products might cause significant pollution of urban air.

It is difficult to estimate the number of people who will contract asbestos-related diseases at current exposure levels. Data on mortality rates are available for workers who are exposed to asbestos fiber levels considerably higher than general population exposures. EPA will extrapolate to predict risks for the general population.

EPA is conducting this regulatory program because the agency is not convinced that existing regulations have adequately protected the public. These regulations have focused on limited aspects of the asbestos exposure problem, such as worker exposures and air emissions from manufacturing facilities and a few consumer products. Regulation under the Toxic Substances Control Act (TSCA) would eliminate unreasonable human health risks from all asbestos-related activities.

If EPA does not promulgate a rule in this area, a large number of people might die from asbestos-related diseases each year.

Alternatives Under Consideration

The extent of EPA action will depend on the seriousness of the problem and the extent to which other Federal agencies take additional actions to reduce risks. EPA is considering the following alternative actions: (1) prohibiting the manufacture and processing of asbestos for nonessential uses, (2) prohibiting the manufacture and processing of asbestos for specific uses, (3) restricting the quantity of fibers which may be mined or imported, allocating quotas to businesses, and allowing industry to decide which uses will be restricted, (4) requiring labeling of asbestos-containing products, (5) regulating under laws other than TSCA, and (6) not regulating.

EPA's choice of a regulatory program will depend on the seriousness of the risks and the identification of the major sources of exposure. EPA suspects that much of the asbestos to which the public is exposed comes from emissions caused by mining, milling, and processing asbestos fibers; emissions resulting from the use of asbestos-containing products may not be as significant. In that case, EPA would want to reduce mining, milling, and processing risks as much as is reasonable (option [1]).

If mining, milling, and processing present unreasonable risks, it would not be necessary for EPA to investigate emissions from all individual products in order to regulate. Calculating exposures from these products would require a herculean effort and would greatly delay the agency's ability to reduce risk. Further, regulating only selective uses would provide considerably less public health protection than a more inclusive rule. Therefore, EPA is unlikely to choose option (2). If EPA implements either option (1) or option (2), the agency will need to grant exemptions for essential uses—those uses which produce major social benefits and for which substitutes do not exist.

Option (3) is a possible substitute for either of the first two options. Allocation of quotas could be a very difficult process and could result in some inequities within industry. Further, at this time it is not clear that the economic impact of such an approach would be any less than option (1). The major advantage of option (3) over option (1) is that the marketplace, rather than EPA, would decide which uses of asbestos should continue.

EPA is considering imposing a labeling requirement (option [4]) either in addition to or in lieu of other requirements. A labeling rule would have considerably less economic impact than options (1), (2), or (3), and it would also provide less direct protection to public health.

Finally, EPA is considering either regulating under other Federal laws administered by EPA or not regulating in deference to other Federal agencies. Several comments on the ANPRM (44 FR 60056, October 17, 1979) indicated that industry does not consider TSCA to be an appropriate authority for regulating asbestos and that further Federal regulation, if needed, should be implemented under other laws, particularly the Occupational Safety and Health Act. EPA is not currently convinced that if the Occupational Safety and Health Administration (OSHA) lowers its workplace standard to 0.1 fibers per cubic centimeter, (as it has announced its intention to do), its action will sufficiently protect workers and the general public. EPA will consider the impact of any likely future OSHA action on its evaluation of human health risks from exposure to asbestos. Nevertheless, in spite of action by OSHA, EPA may find that it is necessary to restrict production and importation of products containing asbestos.

Any action by the Consumer Product Safety Commission (CPSCC) would not affect production of industrial asbestos-containing products, and these production processes may cause significant fiber emissions.

A combination of EPA actions under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, the Resource Conservation and Recovery Act, and other laws might significantly reduce asbestos-related risks. However, the EPA Administrator might find that it is in the public's interest to regulate under one law (TSCA) than several laws, particularly if the risk reduction achievable under one TSCA rule will be the same as or greater than the combined impact of several regulations under other laws.

Summary of Benefits

Sectors Affected: The general public; asbestos workers; and manufacturing of asbestos substitutes.

At this early stage of development of EPA's rule it is impossible to estimate benefits in quantitative terms. Regulation will decrease the incidence of asbestosis and lung cancer in the United States, thus decreasing the number of worker days lost because of worker sickness, increasing space available in hospitals, and decreasing costs due to illness and premature death.

EPA regulation of asbestos should increase demand for substitutes such as fiberglass, ceramic fibers, polyvinyl chloride, and ductile iron pipe. Therefore, manufacturers and distributors of substitutes should benefit from regulation.

Summary of Costs

Sectors Affected: The asbestos industry: asbestos mining, manufacturing of asbestos products, wholesale trade (including importing); importers, and users of asbestos products and substitute products.

Because EPA has not completed its analysis of economic effects, cost estimates are not available. Asbestos mines and asbestos processors will be forced to reduce production, and many processors will be forced out of the asbestos business. EPA plans to regulate in a manner which will allow asbestos processors time to convert to substitutes. Small businesses may seek aid from the Small Business Administration in order to obtain capital to convert. It is too early to predict the effect of regulation on employment. EPA hopes that jobs lost from the asbestos industry will be offset by job gains in substitute industries. Substitute products generally cost more than asbestos-containing products, and these costs will be passed on to consumers.

Related Regulations and Actions

Internal: EPA has established National Emission Standards for Hazardous Air Pollutants for several asbestos sources under the Clean Air Act, 42 U.S.C. § 7401 *et. seq.* EPA is developing effluent guidelines regulating wastewater discharges of asbestos under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et. seq.*, as amended in 1972 and 1977. It is also considering additional regulation of asbestos in drinking water under the Safe Drinking Water Act, 42 U.S.C. § 3006 *et seq.*

The agency is investigating the development of a rule to require surveys to determine whether asbestos hazards are present in public schools because of deteriorating insulation. EPA is also considering requiring appropriate corrective measures where it finds hazards. (See 44 FR 54676, Sept. 20, 1979). Other existing asbestos sources that the Agency may control in the future include public buildings where asbestos was used as an insulation or decorative material and merchant ships, where asbestos is widely used as insulation.

EPA regulations directed specifically to asbestos are found in 40 CFR Part 61 (air) and Parts 129 and 427 (water).

External: EPA and CPSC both published ANPRMs on October 17, 1979 in the **Federal Register** (44 FR 60053). These ANPRMs were prefaced by a Joint Statement of Cooperation signed by the EPA Administrator and CPSC Chairman. The statement indicated how the two agencies will cooperate and direct their regulatory efforts to minimize reporting requirements and other burdens on industry, and to improve overall public health. EPA is planning to promulgate a rule under § 8(a) of TSCA to require manufacturers and processors of asbestos fibers to submit economic and exposure information. EPA is also planning to promulgate a rule under § 8(d) of TSCA requiring industry to submit unpublished health and safety studies relating to asbestos. CPSC is planning to issue a general order requiring manufacturers and private labelers of some categories of consumer products to submit information on the use of asbestos in those products. CPSC will not require the submission of information already submitted to EPA.

OSHA plans to lower its workplace standard for asbestos exposure (8 hour time weighted average) from 2f/cc (fibers per cubic centimeter) to 0.1 f/cc.

This action is in response to a recommendation in April, 1980 by the joint National Institute for Occupational Safety and Health (NIOSH)—OSHA Asbestos Work Group that "a new occupational standard be promulgated which is designed to eliminate nonessential asbestos exposures, and which requires the substitution of less hazardous and suitable alternatives where they exist."

CPSC—16 CFR Parts 1145, 1304, and 1305; OSHA 29 CFR Part 1910; FDA—21 CFR Parts 121, 128, 133, and 191; DOT—49 CFR Parts 170–189; MHSA—30 CFR 55, 56, 57, and 71.

Active Government Collaboration

To maximize the effectiveness of this proposed rule, EPA is coordinating either directly or through the Interagency Regulatory Liaison Group (IRLG) with the Occupational Safety and Health Administration (OSHA), the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), the Mine Safety and Health Administration (MSHA), and the Department of Transportation (DOT).

Timetable

NPRM—winter 1980–81
Public Comment Period—120 days following NPRM
Public Hearings—during public comment period
Final Rule—1982
Final Rule effective—1980s, possibly staggered, depending on the scope of the rule
Regulatory analysis—EPA will prepare a regulatory analysis in accordance with E.O. 12044

Available Documents

ANPRM for Asbestos-Containing Materials in School Buildings—44 FR 54676, September 20, 1979. ANPRM for Commercial and Industrial Use of Asbestos Fibers, 44 FR 60056, October 17, 1979. (Comment period extended, 44 FR 73127, December 17, 1979.)

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EPA–OPTS

Test Rule for Chemical Substances and Mixtures—Chloromethane and Chlorinated Benzenes (40 CFR Part 771)

Legal Authority

Toxic Substances Control Act, §§ 4 and 26 (15 U.S.C. §§ 2603 and 2625).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we need data to assess the risk of injury to human health caused by exposure to the chemicals chloromethane and chlorinated benzenes. This rule is also significant because it is the first rule the Agency has proposed under § 4 of the Toxic Substances Control Act (TSCA) which will require manufacturers and processors of chemical substances to perform testing to assess the health effects of toxic substances.

Statement of Problem

Section 4 of TSCA gives the Environmental Protection Agency the authority to require that manufacturers and/or processors of chemicals test these chemicals for possible adverse effects on human health or the environment. To implement § 4, we are in the process of developing, proposing, and promulgating test standards and test rules. A test standard is a description of the scientific methodology and analysis to be used in testing for an effect. A test rule is a regulation requiring manufacturers and processors of specific chemicals to test these substances for certain effects according to appropriate test standards. The agency establishes a reasonable timetable in which industry must complete the development of the test data.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to make recommendations to the EPA Administrator, in the form of a list, regarding chemical substances that should receive priority consideration in the agency's development of test rules. For the most part, chemicals to be included in test rules come from the semiannual recommendations made by the ITC. The committee's eight members represent the Council on Environmental Quality, the Department of Commerce, the Environmental Protection Agency, the National Science Foundation, the National Institute of Environmental Health Sciences, the National Institute of Occupational Safety and Health, the National Cancer Institute, and the Occupational Safety and Health Administration.

The ITC, in its Initial Report (42 FR 55026, October 12, 1977), recommended that chloromethane be tested for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects, and emphasized its concern about chloromethane's effects on the central nervous system, liver, kidney, bone marrow, and the cardiovascular system.

We have completed our analysis of data on the health effects of and levels of exposure to chloromethane. Approximately 300 to 500 million pounds of choromethane are manufactured annually in the United States. We believe that the level of human exposure to chloromethane during manufacturing and processing may pose unreasonable risk to human health. Our analysis of studies showing gene mutations in bacteria, chromosomal changes in plant cells, neurotoxicity, birth defects, embryo and fetal toxicity in test animals, and other data indicate that exposure to chloromethane may cause cancer and structural birth defects in humans. Because of these findings and the estimated levels of human exposure, we are proposing requirements for industry to test for the health effects of chloromethane in our first test rule.

Monochlorobenzene and dichlorobenzene were also contained in the ITC's initial report. The ITC recommended the development of rules that would require industry to test these chlorinated benzenes for potential to cause cancer, gene mutation and chromosomal aberration, structural birth defects, and other chronic environmental effects, and also recommended requiring an epidemiological study. The ITC's third report (43 FR 50630, October 30, 1978) added the higher chlorinated benzenes, (tri-, tetra-, and penta-), to the priority list and recommended testing requirements for the same effects.

Our investigation of the chlorinated benzenes indicates that the annual domestic production volume ranged from over one million pounds of pentachlorobenzene to 325 million pounds of monochlorobenzene. Exposure to the liquid chlorobenzenes is due to their use as a functional fluid in transformers, process solvents, solvents in formulated products, and synthetic intermediates, while exposure to the solid forms results from their use as synthetic intermediates and pesticides. Workers are exposed to chlorinated benzenes during manufacture, processing, and use, consumers are exposed to certain chlorobenzenes in their use, and the general population may be exposed from environmental

concentrations resulting from manufacture, processing, use, and disposal of the substances.

Our analysis shows that exposure to the chlorinated benzenes may present an unreasonable risk of cancer, structural birth defects, and reproductive and subchronic/chronic effects. These conclusions are based on (1) their chemical structural similarity to known carcinogens and teratogens; (2) the tumor promoting activities of chlorinated benzene metabolites; and (3) studies showing, among other things, mutagenic effects, birth defects, embryo- and fetotoxic responses, and reproductive effects in animals; and (4) reports of adverse effects on human livers and blood production. Because of these findings and the potential for human exposure, we are proposing health effects testing requirements for the chlorobenzenes in the first test rule.

Alternatives Under Consideration

The alternatives available to us are quite limited. Under TSCA, if EPA finds that (1) a chemical may present an unreasonable risk of injury to human health or the environment, or a chemical may enter the environment in substantial quantities or result in significant human exposure, and (2) there are insufficient data or experience to characterize its effects on health or the environment, and (3) testing is necessary to develop such data, we must require industry to conduct testing and there is no alternative to issuing a test rule. However, we will encourage industry to begin testing of a chemical before a test rule is proposed. If such testing is satisfactory, it could obviate the need for a test rule.

Another alternative is to conduct testing in governmental facilities or under contract to the government. We will take this approach where it would be inappropriate or infeasible to require testing by the chemical industry, but heavy reliance on this approach would be in direct conflict with TSCA, which states that the development of data on health and environmental effects "should be the responsibility of those who manufacture and those who process chemical substances and mixtures."

Summary of Benefits

Sectors Affected: Workers in establishments manufacturing chloromethane and chlorinated benzenes; users of these chemicals; and the general public.

The data generated from the testing required by this rule would permit EPA to assess the risk to human health of manufacturing, processing, and use of chloromethane and the manufacturing, processing, use, and disposal of the chlorinated benzenes. If the Agency finds this risk to be unreasonable, it may take action to reduce human exposure under one of its authorities or recommend regulation by another agency such as OSHA. The testing required by this rule could potentially benefit the workers who manufacture or process these chemicals, the consumers of these chemicals, and the general public.

Summary of Costs

Sectors Affected: Manufacturing of chlorinated benzenes, including some manufacturers and processors of industrial solvents, dyes, organic intermediates, pesticides, and solvent-carrying chemicals; and manufacturing of chloromethane, including manufacturers and processors of some silicone products, chlorinated hydrocarbons, butyl rubber products, herbicides, and lubricating greases and oils.

The costs of complying with these rules is estimated to be $0.8 million for manufacturers and processors of chloromethane and $2.4 million for the manufacturers and processors of the chlorinated benzenes.

Related Regulations and Actions

Internal: We proposed health effects test standards for various effects on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054) and standards for Good Laboratory Practices for Health Effects on May 9, 1979 (44 FR 27362).

We also published a proposed rule under TSCA § 8(d) that would require persons to submit all unpublished health and safety studies concerning all chemicals recommended for testing by the Interagency Testing Committee (44 FR 77470, December 31, 1979).

We are planning to publish a Proposed Statement of Exemption Policy and Procedure relating to the granting of exemptions from § 4 testing.

We are also planning to announce our tentative decision not to require health effects testing for acrylamide, a compound suspected of entering surface water and ground water through its use as a chemical grout, a wastewater treatment chemical and other industrial applications. This conclusion is based on animal studies that demonstrate the consistent induction of nervous system disorders at very low exposure levels, and we believe that any further information gained through testing would not affect regulatory actions designed to reduce human exposure to acrylamide. Acrylamide was included in the ITC's second list of chemicals (43 FR 16684, April 19, 1978) to be considered by EPA for test rule development.

External: Under the aegis of the Interagency Regulatory Liaison Group, the EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission are jointly developing guidelines describing test methods that will meet all four agencies' needs.

Active Government Collaboration

Other Federal agencies that have been or will be consulted include the Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, National Cancer Institute, and National Institute of Environmental Health Sciences.

Timetable

NPRM—June 1980
Public Hearings on NPRM—third quarter, FY 1980
Publication of final rule—fourth quarter, FY 1981

Available Documents

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules; Proposed Good Laboratory Practice Standards for Health Effects, 44 FR 44054, July 26, 1979

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules, 44 FR 27334, May 9, 1979

The Interagency Testing Committee established under TSCA has issued four reports making recommendations on chemicals to be covered by TSCA testing rules:

First Report: 42 FR 55026, October 12, 1977

Second Report: 43 FR 16684, April 19, 1978. OTS Docket 040004

Third Report: 43 FR 50630, October 30, 1978. OTS Docket 040005

Fourth Report: 44 FR 31866, June 1, 1979. OTS Docket 410001

Fifth Report: 44 FR 70664, December 7, 1979. OTS Docket 410001

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EPA—OFFICE OF WATER AND WASTE Interim Primary Drinking Water

"Economic Analysis of Proposed

Alternatives Under Consideration

EPA—OFFICE OF WATER AND WASTE MANAGEMENT

Control of Organic Chemicals in Drinking Water (40 C.F.R. Part 141)

Legal Authority

The Safe Drinking Water Act, as amended, § 1412, 42 U.S.C. § 300(f) *et seq.*

Reason for Including This Entry

This regulation is likely to impose costs of over $100 million on the economy.

Statement of Problem

Recent technological developments in sophisticated analytical measurement techniques have resulted in the identification of numerous organic contaminants in drinking water that may pose a health risk to consumers. On November 29, 1979, EPA published regulations designed to control one class of these organic chemicals, the trihalomethanes (THMs). Future measures to control organic chemicals in drinking water are proceeding through two related approaches:

(1) Treatment Technique Requirement for the Control of Synthetic Organic Chemicals—to be reproposed late 1980 to early 1981.

(2) Control of volatile organics in drinking water; to be proposed late Summer 1980.

(1) Treatment technique requirement:

Synthetic Organic Chemicals.

Synthetic organic chemicals are chemicals which enter sources of drinking water as a result of industrial discharges, spills, sewage discharge, and urban and rural rainwater runoff (nonpoint sources). Some of these organic chemicals are either known or suspected carcinogens. The list of synthetic organic chemical contaminants that have been found at least once in drinking water has grown to over 900. Because of the technical infeasibility of controlling every synthetic organic contaminant individually by setting a Maximum Contaminant Level, (MCL), EPA has determined that control of a broad spectrum of organic chemicals by a treatment technique (granular activated carbon [GAC]) or equivalent technology would be appropriate in certain locations where substantial risk of contamination exists. The intent of these regulations is to improve the quality of drinking water at the tap and reduce the health risk to the public from long-term exposures to synthetic organic chemicals in drinking water. This proposal would amend EPA's National Interim Primary Drinking Water Regulations, or equivalent regulations adopted by the States, which apply to all public water systems in the United States.

Alternatives Under Consideration

The alternatives being considered include requirements for community water systems to install GAC, or its equivalent, if they serve more than 10,000 people and use sources of drinking water which are vulnerable to contamination by synthetic organic chemicals. The reproposed regulations will consider, among other possibilities, changes in the application of the GAC technology, in that the GAC requirement might be achieved by replacing sand with GAC in existing filter beds, and the frequency of reactivation (removal of adsorbed organic chemicals from the GAC) of the GAC would be specified in the regulations. Frequencies for reactivation of the GAC under consideration range from six months to one year.

Since the original proposal, criteria for determining which public water systems are vulnerable to contamination by synthetic organic chemicals have been re-evaluated and the reproposed regulations may specify rivers or stream segments that are considered to be subject to such contamination. These water sources will be chosen through an evaluation of the number and type of industrial/municipal discharges upstream of drinking water intakes, an estimate of the transportation of industrial and agricultural chemicals on the water way and the potential contamination by non-point sources (e.g., urban runoff).

Summary of Benefits

Sectors Affected: The general public; municipally and privately owned water supply systems; and all other segments of the water supply industry, including consulting sanitary engineers, analytical chemists, equipment manufacturing, and wholesale and retail trade.

The reproposed treatment technique for control of synthetic organic chemicals will provide protection to a larger population at a lower per capita cost (upwards of 80 percent of the American population at a per capita cost of $2.60 to $7.10) than would the original (1979) proposal (52 percent of the population and $7.10 to $26.10, respectively). The reproposed technique provides broad spectrum protection from synthetic organic contaminants and could be implemented two to three years earlier than the original proposal.

Summary of Costs

Sectors Affected: Municipally and privately owned water supply systems; users of GAC treated water; and State and local governments.

The estimated total national capital cost to implement this reproposal is $333 million over three years (in 1980 dollars). We estimate that such expenditures will increase local water rates by approximately $5 per year per family of three in those communities whose water supply system would install GAC facilities.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contamination of water would be indirectly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, and Water Quality Criteria.

External: State programs would deal with decisions on variances and exemptions from the regulations, and would provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of the proposed regulation requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Products Safety Commission, Occupational Safety and Health Administration, and the Food and Drug Administration. Also, we have gained data supporting development of criteria to determine if public water systems are vulnerable to contamination by synthetic organic chemicals through cooperation with the Coast Guard, and Departments of Transportation and Commerce.

Timetable

Reproposed NPRM—late 1980 to early 1981
Public hearings (to be announced)—Spring 1981
Final Rule—late 1981

Available Documents

ANPRM—41 FR 28991, July 14, 1976
"Drinking Water and Health," National Academy of Sciences, 1977
"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975
"National Organics Monitoring Survey," EPA, Office of Drinking Water.
"Statement of Basis and Purpose for an Amendment to the National Interim Primary Drinking Water Regulations on a Treatment Technique for Synthetic Organic Chemicals," EPA, Office of Drinking Water, 1977

"Economic Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," EPA, Office of Drinking Water, 1977
"Draft Interim Treatment Guide for the Control of Synthetic Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, 1978
"Revised Economic Impact Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," EPA, Office of Drinking Water, 1978
"Operational Aspects of Granular Activated Carbon Adsorption Treatment," EPA, Municipal Environmental Research Laboratory, 1978
NPRM—43 FR 5766, February 9, 1978
National Academy of Sciences Study on Granular Activated Carbon, 1979

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II. Control of Volatile Organics in Drinking Water

Recent information indicates that a number of volatile organic chemicals exist in both raw and finished drinking waters, particularly in ground water supplies which have been contaminated by improper waste disposal practices. Accordingly, revisions to the existing NIPDWR will be proposed to include MCLs for certain volatile organic chemicals. At this time, contamination of drinking water by the volatile organics has been found to be most serious in ground waters in urbanized and industrial areas. The levels of occurrence, coupled with the suspected carcinogenicity and toxicity of several identified compounds, appear to support the setting of MCLs for several of the following compounds:

- Trichloroethylene
- Carbon tetrachloride
- Tetrachloroethylene
- 1,2-Dichloroethane
- 1,1,1-Trichloroethane
- 1,1-Dichloroethane
- Dichloroethylenes (3)
- Methylene chloride
- Vinyl chloride

If EPA takes no action with regard to the above chemicals, a possible health risk to the public will continue to exist and the overall quality of drinking water will be suspect in those ground water areas.

Alternatives Under Consideration

Specific options are being developed and alternatives will be separately evaluated for each contaminant. MCLs will be proposed only after careful evaluation of the best available evidence in the areas of epidemiology, toxicology, analytical methods, quality assurance, monitoring requirements, feasibility and efficiency of competing treatment methods, and economic impacts. MCLs are now being developed for the following compounds: trichloroethylene, carbon tetrachloride, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, and vinyl chloride.

Summary of Benefits

Sectors Affected: The general public; municipally and privately owned water supply systems; and all other segments of the water supply industry, including consulting sanitary engineers, analytical chemists, equipment manufacturering, and wholesale and retail trade.

These MCLs will have their greatest impact on small water supply systems which currently employ little or no treatment. The public served by such systems will, in particular, realize the benefits of this proposal. The water supply industry will benefit from increased demand for their service. It is impossible at this time to assign direct monetary values to the benefits to be realized under this proposal. Such benefits include a lessening of public exposure to toxic substances in drinking water and a consequent safeguarding of public health.

Summary of Costs

Sectors Affected: The general public; State and local governments; and municipally and privately owned water supply systems.

The public in general will be the principal group affected by this proposal, as the users will undoubtedly bear the costs of any necessary modifications to their water supply systems. This will particularly be true for users of small water supply systems which currently employ little or no treatment. No estimates of the economic impact are available at this time.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contaminants of water are indirectly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, and Water Quality Criteria and Hazardous Waste Disposal Controls.

External: State programs would be expected to deal with decisions on variances and exemptions from the regulations and to provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of any proposed regulation requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Products Safety Commission, and the Food and Drug Administration. In addition, the National Academy of Sciences and the National Drinking Water Advisory Council will be consulted during the MCL development.

Timetable

Proposed Rule—late Summer 1980
Public hearing (to be announced)—late Fall 1980
Final Rule—Summer 1981

Available Documents

"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975.
"National Organics Monitoring Survey," EPA, Office of Drinking Water.
"Interim Treatment Guide for Controlling Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, January, 1978.
"Occurrence of Volatiles in Drinking Water," EPA, Office of Drinking Water, Criteria and Standards Division, March 1980.

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EPA–OWWM

Hazardous Waste Regulations: Core Regulations to Control Hazardous Solid Waste From Generation to Final Disposal. (40 CFR Parts 260, 261, 262, 264, 265, and 266)

Legal Authority

Resource Conservation and Recovery Act of 1976 (RCRA), as amended, §§ 3001, 3002 and 3004, 42 U.S.C. § 6921, § 6922 and § 6924.

Reason for Including This Entry

These regulations are important because they will initiate, for the first time on a national level, management of

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hazardous solid waste from generation to final disposal.

Statement of Problem

The Environmental Protection Agency (EPA) estimates that more than 54 million metric tons of hazardous waste is generated annually in the United States. Hazardous waste includes toxic chemicals, pesticides, acids, caustics, flammables, and explosives. Of this hazardous waste, EPA estimates that 90 percent is managed by practices that will not meet these proposed new Federal standards. A variety of health and environmental damages result from improper management practices, the most frequent of which are direct contact with toxic waste; fire and explosions; groundwater contamination by leachate; surface water contamination through runoff or overflow; air pollution by open burning, evaporation and wind erosion; and poisoning through the food chain. The amount of hazardous waste will increase by 30 percent in the next decade, primarily because other environmental laws have curtailed emissions into the air, waterways and oceans.

EPA has information on more than 400 cases of damage to human health or the environment caused by improper hazardous waste management. One such case, Love Canal in Niagara Falls, New York, resulted in the evacuation of 239 local families. The cost to the State and Federal governments is estimated at about $36 million for clean up, relocating residents, health and environmental testing services, and other associated expenses. This does not include the cost of secondary consequences, such as possible increases in birth defects, miscarriages, and hepatic and respiratory disorders. With as many as 30,000 hazardous waste disposal sites posing potential public health and environmental threats, hundreds of millions of dollars in damages and remedial costs could result if the problem is left unattended.

Alternatives Under Consideration

We studied a number of alternatives prior to this proposed rulemaking and, also, as a result of public comment and new information, during the development of the final regulations. We are considering a number of significant changes to the regulations that may require reproposal, partial promulgation, or promulgation of interim final rules for §§ 3001 and 3004. In the preamble to the final rules, EPA will discuss in detail the alternatives considered and the reasons for their selection or rejection.

The proposed regulations provide two mechanisms for determining if a waste is hazardous: (1) a set of characteristics and (2) a list of specific wastes. The proposed regulations include four (ignitable, corrosive, reactive, and toxic) of eight characteristics originally considered. Because test methods are not fully developed or validated for the other four characteristics (radioactive, infectious, phytotoxic, and teratogenic and mutagenic), we excluded these characteristics.

The proposed regulations exclude hazardous waste generated by households, farmers, retail establishments, and others who generate less than 100 kilograms per month. This exclusion assumes that small amounts of hazardous waste will be disposed of in land disposal facilities approved under Subtitle D of the Resource Conservation and Recovery Act (RCRA) of 1976 and, therefore, will not pose a hazard to human health or the environment. We are considering whether or not we should increase or decrease the size of the small-generator exemption prior to promulgation of the regulations.

There are several reasons which will affect what these regulations will cover: the number of wastes we define as hazardous; the definition of "small" if we exempt small generators from regulation; and the number of wastes we define as "special wastes." The special waste category, as proposed, defers most treatment, storage, and disposal standards for certain wastes of high volume but low hazard, such as those produced by utilities, mining, oil and gas drilling, and cement kiln operations.

Eliminating the special waste category is a regulatory choice. In addition, candidate special wastes may be altered as the result of proposed Congressional amendments to the pending RCRA reauthorization bills. These amendments will address special wastes (either by deferral or exemption), such as utility wastes; solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and uranium ore; and cement kiln dust waste.

Time-phasing the implementation of the regulations could help reduce the potential burden on environmentally acceptable disposal sites. Disposal capacity is currently limited and generators may be unable to find adequate disposal facilities. Public opposition to siting may delay the development of additional landfill capacity. The phasing approach could help assure that the most serious environmental problems are addressed first if a degree of hazard approach is used. We designed all alternatives under consideration to make efficient use of limited disposal capacity.

Delineating degrees of hazard is difficult, and was not reflected in the proposed waste classification regulations. A risk-oriented hazard system for regulations affecting treatment, storage, and disposal facilities could tailor design and operating standards to correspond to the character and hazard of the wastes. However, the risk of a particular waste in a particular location depends as much on the management situation as on the inherent hazard of the waste. Myriad combinations of wastes, site-specific designs, and operating conditions make regulations based on this approach extremely difficult and presumptive. The regulations, as proposed, reflect the similar management needs of most hazardous wastes. They establish standards for each of the several methods of disposing, treating, and storing hazardous waste (landfilling, application to the land, treatment in surface impoundments such as holding or aeration ponds, and incineration), that do not vary according to the waste.

The proposed treatment, storage, and disposal standards are applicable to most facilities that handle hazardous wastes, except those mentioned previously. Phased-facility permitting and notes and variances included in the proposed regulations offer alternatives for accommodating possible difficulties associated with retrofitting existing facilities.

A House amendment to the RCRA reauthorization bill proposes to exempt existing wastewater treatment facilities from regulatory control if they demonstrate certain environmental safeguards. Both bills propose mechanisms for the Administrator to require separate standards for new and existing facilities which would ease the regulations' burden on existing facilities.

Other choices are to design alternative standards for the facilities, to enhance implementation by those in existence or close to start-up of operations, and to ease the technical and economic impact of the regulations on them.

EPA is making potentially significant changes to the RCRA § 3004 technical standards. Short of the full set of technical, financial, and administrative requirements contained in the proposed regulations for treaters, storers, and disposers of hazardous waste, EPA will, at a minimum, finalize the interim status standards under § 3004. Owners and operators of treatment, storage, and disposal facilities will have to begin properly storing wastes and meeting

interim status standards, including administrative standards for security, recordkeeping, reporting, visual inspection, training of personnel, contingency plans, closure, and financial responsibility.

The proposed technical standards for hazardous waste facilities are based primarily on design and operating standards intended to achieve complete containment or destruction of the waste. These are backed up by ambient air, water, and groundwater performance requirements in the event the specified designs do not achieve expected levels of health and environmental protection. The approach we are developing for the final regulation is a system based on application of "Best Engineering Judgment" for permitting individual treatment, storage, and disposal facilities. With this approach, as an alternative to design and operating standards, we will provide judgment factors, a decision model, and/or design and operating guidance to facilitate application of Best Engineering Judgment to each permit case.

The three proposed hazardous waste regulations are part of a series of seven required by Subtitle C of the Resource Conservation and Recovery Act of 1976 to initiate a national hazardous waste management program.

RCRA required that EPA promulgate the hazardous waste regulations within 18 months of enactment of the law (by April 1978). Despite suit against EPA by environmental organizations and the State of Illinois, EPA did not meet this deadline because of the enormous complexity of the task. This delay was caused by the number of public comments received, the amount of supporting data and documentation needed, and the complexity of the technical and policy issues. The U.S. District Court approved EPA's proposed schedule for development of the Subtitle C regulations before the fall of 1980.

Summary of Benefits

Sectors Affected: The general public.

By issuing these regulations, EPA is creating a framework for the control of hazardous wastes which would otherwise contaminate groundwater, surface waters, and soils, poison humans and animals; and cause air pollution, fires, and explosions. These regulations will require proper hazardous waste management that will reduce the incidence of damage to human health and the environment and save hundreds of millions of dollars in the costs associated with clean-up, emergency response, and health and environmental damages (such as occurred at Love Canal, mentioned previously).

Comprehensive regulatory controls over the generation, movement, storage, and treatment of hazardous wastes may also help reduce opposition to the siting of hazardous waste management facilities. Overcoming the barrier of local opposition will allow siting of management facilities at environmentally secure sites and further reduce the possibility of damages to health and the environment.

Summary of Costs

Sectors Affected: All industries generating hazardous waste, especially manufacturing; public and private waste management; and the general public.

Although these regulations affect most industries throughout the country, the manufacturing industries most affected by the proposed regulations are: textile mill products; industrial inorganic chemicals; plastic materials; drugs; paints; industrial organic chemicals; explosives; agricultural chemicals, including pesticides; petroleum refining; lubricating oil and greases; rubber products; leather tanning and finishing; primary metal industries; plating and polishing of metals; special industrial machinery; electronic components; and batteries. Eight sectors are likely to experience some plant closures and job losses. These sectors include electroplating; wool fabric dyeing and finishing, mercury cell chlorine, leather finishing, mercury smelting and refining; and secondary copper, secondary lead, and secondary aluminum smelting.

The estimated annual compliance cost attributed to the Interim Status Standards part of the RCRA hazardous waste regulations is $510 million. Of this, $303 million is associated with closure/post-closure liability requirements, $57 million is attributable to treatment and disposal, and $15 million is associated with recordkeeping and reporting. Monitoring and testing, administration, training, and contingency planning account for the remaining $135 million. The total cost represents less than 0.2 percent of the annual value of the production for those affected industries examined.

The regulations will also affect the public and private hazardous waste management industry. In all, some 380,000 generators, transporters, treaters, storers, and disposers of hazardous wastes will be brought into the regulatory program. The affected industrial segments will probably pass on the increased costs to the public, resulting in a nominal increase in prices of selected consumer items.

Industries which presently dispose of hazardous waste at their own facilities may begin to ship their waste to off-site facilities rather than incur the costs of upgrading their disposal facilities to comply with the regulations. This is likely to cause a short-run shortage of disposal capacity, which will increase demand for new sites. This capacity shortage and rigorous standards for facilities may result in a nominal increase in the cost of disposal.

The governmental costs associated with the implementation and maintenance of the hazardous waste management program are estimated at $20 to $35 million per year. We currently estimate that 35–41 states and territories will assume the program while EPA operates a Federal program in the remaining 15–21.

Because Texas, Ohio, Pennsylvania, Louisiana, Michigan, Indiana, Illinois, Tennessee, West Virginia, and California generate 65 percent of all hazardous waste produced nationally, these States will probably be affected to a greater degree than others.

Related Regulations and Actions

Internal: Proposed hazardous waste rules linked with the three described in this calendar in creating the RCRA Subtitle C regulatory framework are:

(1) Proposed Consolidated Permit Regulations, 44 FR 34244–34344 and Draft Consolidated Permit Application Form, 44 FR 34346–34392, June 14, 1979 (proposed rule and draft application forms, respectively).

(2) Hazardous Waste Guidelines and Regulations, 44 FR 49402–49404, August 22, 1979 (supplemental proposed rule).

(3) Authorization of State Hazardous Waste Programs; Advance Notice of Final Regulation, 45 FR 6752–6756, January 29, 1980.

(4) Notification of Hazardous Waste Activity; Public Notice, 45 FR 12746–12754, February 26, 1980.

EPA issued rules regarding disposal of polychlorinated biphenyls (PCBs) under the Toxic Substances Control Act, § 6(e), (15 U.S.C. § 2605). Regulations issued under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 135 *et seq.*) address the disposal of pesticides and pesticide containers. Rules under the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 *et seq.*) control incineration or dumping of hazardous waste at sea.

External: The Department of Transportation (DOT) has developed hazardous materials transportation regulations (49 CFR Parts 171–173, 178–179) controlling containerization and labeling of waste by generators using transporters engaged in interstate or

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foreign commerce. EPA published the final rule, Standards Applicable to Transporters of Hazardous Waste, in 45 FR 12737–12744, February 26, 1980.

This incorporated DOT's rules on labeling, marking, packaging, placarding, and discharge reporting. DOT, in its final rule, will incorporate EPA's manifest requirements and expand its list of hazardous materials to include hazardous wastes which require a manifest.

Active Government Collaboration

Department of Defense, Occupational Safety and Health Administration, Department of Energy, Food and Drug Administration, Soil Conservation Service, Water Resources Council, the Center for Disease Control of the Department of Health, Education and Welfare, Department of Transportation and Interstate Commerce Commission cooperated with EPA during development of the proposed regulations.

Timetable

Final Rules—Criteria for Identifying and Listing Hazardous Waste (RCRA § 3001) and Interim Status Standards (RCRA § 3004) will be promulgated in May 1980; Technical Standards (RCRA § 3004) in October 1980.
Final Rules Effective—Regulations affecting hazardous waste generators become effective on August 26, 1980.
Regulations for identification and listing of hazardous waste will be effective upon promulgation.
Regulations affecting owners or operators of hazardous treatment, storage, or disposal facilities will be effective six months after promulgation.

Available Documents

NPRM—43 FR 8946–59208, December 18, 1978
Supplemental Proposed Rule—44 FR 49402–49404, August 22, 1979
Final Rule—Hazardous Waste Management: Overview and Definitions; Standards Applicable to Generators of Hazardous Waste (RCRA § 3002); 45 FR 12722–12744, February 26, 1980
The EPA Office of Solid Waste Docket (Room 2711, EPA, 401 M Street, S.W., Washington, D.C. 20460) maintains the following documents for public review:
Draft background documents
Draft Resource Requirements
Summary Draft Regulatory Analysis
Public comments
Summaries of ex parte contacts
Public hearing transcripts
Studies and reports on hazardous wastes and hazardous waste management

Copies of the following documents are also available from Edward Cox, Solid Waste Information Office, 26 West St. Clair, Cincinnati, Ohio 45260:
Draft Environmental Impact Analysis
Draft Integrated Impact Assessment of Hazardous Waste Management Regulations
Studies and reports on hazardous wastes and hazardous waste management

Agency Contact

(1) Criteria for Identifying and Listing Hazardous Waste (RCRA § 3001)—
Gary Dietrich, Associate Deputy Assistant Administrator for Solid Waste
U.S. Environmental Protection Agency
Office of Solid Waste (WH–562)
401 M Street, S. W., Room 2710
Washington, D. C. 20460
(202) 755–9170
(2) Standards Applicable to Generators of Hazardous Waste (RCRA § 3002)—
Harry Trask, Program Manager Systems Implementation Program
U.S. Environmental Protection Agency
Office of Solid Waste (WH–563)
401 M Street, S. W., Room 2624
Washington, D. C. 20460
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(3) Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (RCRA § 3004)—
John Lehman, Director
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CONSUMER PRODUCT SAFETY COMMISSION

Consumer Products Containing Asbestos (44 FR 60057)

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051, *et seq.*
Federal Hazardous Substances Act, 15 U.S.C. § 1261, *et seq.*

Reason for Including This Entry

This investigation is of considerable interest to consumers, manufacturers, and users of asbestos or products containing asbestos because of the serious potential health hazards that may be involved.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned that the presence of asbestos in consumer products, under certain conditions, may present a risk of cancer and respiratory disease to consumers. On the basis of present information, it appears that consumer products containing asbestos fibers can pose a health hazard if the products release asbestos fibers into the air which consumers can inhale.

CPSC, therefore, issued an ANPRM on asbestos in October 1979. The primary purpose of CPSC issuing the ANPRM was to begin a formal investigation of the use of asbestos in consumer products by identifying consumer products containing asbestos, and to discuss ways CPSC could act to protect the public from exposure to asbestos fibers in consumer products. CPSC could impose a ban, require labeling of consumer products containing asbestos, encourage some form of voluntary action by industry, or take other action.

There is a large body of scientific evidence on hazards from asbestos, both from animal testing and from studies of health effects to people exposed to asbestos in occupational settings. Studies have demonstrated increased incidence of asbestos-related diseases, including lung cancer and mesothelioma (cancer of the pleura—the membranes surrounding the lung) among people who are exposed to asbestos occupationally, as well as in individuals with only brief or intermittent "bystander" exposures. In addition, autopsy studies of lung tissues of residents in urban areas in many parts of the world indicate that the population as a whole is being exposed to asbestos from the general environment and that, once inhaled, asbestos fibers may remain lodged in the lungs for life.

Asbestos released from consumer products poses several problems in the household. First, young children and infants are exposed. Second, asbestos fibers that consumer products release into the living space can remain there over long periods of time and may be subject to repeated cycles of settling and resuspension. The presence of asbestos fibers can thus pose an ongoing inhalation risk in the household. Third, unlike the workplace, where engineering control systems and protective clothing are available to minimize workers' exposure to asbestos, the home provides household members with little or no protection from exposure to asbestos fibers released from consumer products.

We do not know exactly how many asbestos-containing products are available to the consumer; however, we estimate that hundreds of different types of consumer products contain asbestos in some form. Asbestos paper has been used in many consumer products, such as household appliances, as a thermal or electrical insulating barrier. Asbestos is also commonly used in household building products, such as roofing, shingles, and tile, to provide strength and stability.

One example of CPSC action on products containing asbestos is hairdryers. As a result of information indicating that certain hairdryers released asbestos fibers during use, CPSC asked the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare to conduct tests. The results showed that some hairdryers released asbestos fibers into the air stream and directly on the user's head during ordinary use; thus, any fibers the hairdryers emit could potentially be inhaled.

As a result of negotiations between the Commission's staff and firms which share approximately 90 percent of the consumer hairdryer market, the firms agreed to cease production and distribution of hairdryers containing asbestos and to offer consumers some form of repair, replacement, or refund for hairdryers they currently own.

By issuing the ANPRM we expect to gather additional information on consumer products containing asbestos which will assist the Commission in making regulatory decisions on asbestos. The ANPRM states that the Commission may also use general and special orders to gather further information on particular asbestos-containing products and notes that the Commission will apply the following criteria in selecting products for priority attention in this investigation:

- the number of units of the product which the Commission estimates that consumers are using;
- the form and location of the asbestos in the product;
- the frequency, manner, and location in the consumer's environment of product use, including such factors as the useful life of the product, presence of heat and/or moisture, and the likelihood of abrasion during use or foreseeable misuse;
- the likely availability and feasibility of substitutes for asbestos in the product;
- the relative ease of data collection and analysis by the Commission and the reporting burden on industry; and
- the degree of potential overlap of CPSC reporting requirements with the information-gathering efforts of other regulatory agencies, particularly the Environmental Protection Agency.

Alternatives Under Consideration

The ANPRM outlines the possible statutory tools available to CPSC for regulating asbestos in consumer products, including:

- consumer product safety standards—establish requirements for performance, composition, contents, design, construction, finish, or packaging of a product;
- information—require labeling of the product with warnings or instructions for use;
- ban—ban certain products as hazardous products or substances under the Consumer Product Safety Act or the Federal Hazardous Substances Act, both administered by CPSC; and
- notification/recall—if the product presents a substantial hazard we may require the manufacturer, distributor, or retailer to notify the public and either repair or replace the product or refund the purchase price.

If we discover a product containing asbestos which presents an "imminent hazard" to the public, as that term is used in the Consumer Product Safety Act, the Commission may file a civil action in a United States district court against the product or the manufacturer, distributor, or retailer of the product for seizure or injunctive relief. In addition to these tools, we may also elect to encourage voluntary action or to permit market forces to work by educating consumers about the dangers of exposure to asbestos fibers so they will demand products which do not emit asbestos fibers.

The Commission intends to work closely with the Environmental Protection Agency in developing any regulatory approaches to asbestos.

Summary of Benefits

Sectors Affected: The general public.

The benefits we expect ultimately from CPSC asbestos activities involve the reduction of consumer exposure to chronically toxic substances. In the "Statement of Problem," we mention the unique nature of the consumer risk—that the products may release asbestos fibers when the consumer is using them and the fibers may remain in the household air. Data show that these fibers, once inhaled, may remain in the lung and pleura of consumers throughout their lifetimes. The primary benefit of the information we wish to collect, therefore, would be to identify products that release asbestos fibers, so that we could take action to reduce or eliminate the consumer's exposure. The diseases that result from exposure to asbestos fibers—cancer, mesothelioma, and asbestosis (a lung condition caused by inhalation of asbestos dust)—are life-threatening, cause incalculable pain and suffering, and involve enormous medical expense. The information we obtain from responses to the ANPRM may help us to determine which products should receive priority attention in our investigation.

Summary of Costs

Sectors Affected: Asbestos mining industry; manufacturing, wholesale and retail trade, and users of products containing asbestos.

The ANPRM is intended to be responded to by industry groups as well as by the general public. Because of the broad range of products that contain asbestos, firms in major sectors such as mining, manufacturing, construction, wholesale trade, retail trade, and services are likely to respond.

The public would voluntarily supply the information requested by the ANPRM. The information we obtain as a result of this ANPRM on the number of consumer products, their use, and the value of the products may enable us to estimate the costs of any further action.

Related Regulations and Actions

Internal: In 1977, the Consumer Product Safety Commission banned consumer patching compounds containing asbestos and artificial gas-fired emberizing (giving the appearance of a live coal) materials for fireplaces that contained respirable asbestos (16 CFR 1304, 1305).

External: Several agencies regulate exposure to asbestos fibers. The Occupational Safety and Health Administration of the Department of Labor limits worker exposure to airborne asbestos fibers to two fibers, longer than five micrometers, per cubic centimeter of air (8-hour time weighted average) (29 CFR 1910).

The Environmental Protection Agency's (EPA) national emission standard for hazardous air pollutants regulates demolition and renovation operations involving friable asbestos materials and prohibits spray application of these materials if they contain more than 1 percent asbestos (40 CFR 61).

The Department of Transportation regulates the transportation of asbestos and the packaging of asbestos for transportation (49 CFR 172–177).

The Food and Drug Administration of the Department of Health, Education and Welfare, in 1972, banned asbestos-containing garments for general use (21 CFR 191).

Active Government Collaboration

CPSC

Active Government Collaboration

We have worked closely with the Environmental Protection Agency to ensure that our efforts to investigate and possibly regulate the use of asbestos will be coordinated, compatible, and nonduplicative. EPA simultaneously published an ANPRM in October 1979 which describes that Agency's systematic effort to gather information on groups of asbestos products, and to evaluate risk from these products based on the "life cycle" concept. In the life cycle analysis, the Agency examines cumulative risk from human exposure to asbestos from primary processing through end use and disposal. The CPSC's ANPRM describes an approach to the investigation of possible health risks that may be associated with the use of asbestos in a number of consumer products.

Through close cooperation in our regulatory endeavors, EPA and CPSC hope to achieve the following three objectives. The first is to reduce significantly, through complementary actions, unreasonable human health risk from exposure to asbestos. The second is to reduce potential reporting burdens on industry by coordinating information-gathering activities. Third, to avoid inconsistent or needlessly burdensome regulations, we will develop regulatory actions that may result from these investigations in close consultation with each other.

Timetable

General Order to Industry—mid-1980.
Regulatory Analysis—the Commission, as an independent agency, is not required to prepare a regulatory analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

CPSC—Consumer Products Containing Asbestos; Advance Notice of Proposed Rulemaking—44 FR 60057, October 17, 1979.

Agency Contact

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CPSC

Omnidirectional Citizens Band Base Station Antenna Standard (44 FR 53676)

Legal Authority

Consumer Product Safety Act §§ 7 and 14, 15 U.S.C. §§ 2056 and 2063.

Reason for Including This Entry

This standard may impose a major increase in costs or prices for antenna manufacturers, distributors, retailers, and purchasers.

Statement of Problem

The Consumer Product Safety Commission (CPSC) staff estimates that approximately 220 persons in 1975, 275 persons in 1976, and 220 persons in 1977 were electrocuted in incidents involving communications antennas. The vast majority of these deaths occurred when people were putting up or taking down the antennas which in the process contacted electric power lines. Typically, these incidents occur when the antenna contacts the power line while people are transporting it to the erection site or when it falls into a power line because it gets out of the control of the people who are putting it up or taking it down. The Commission estimates that over 70 percent of the antennas involved in these accidents are Citizens Band (CB) base station (other than mobile) antennas.

The Commission on June 29, 1978 issued a rule under § 27(e) of the Consumer Product Safety Act which requires manufacturers and importers of (1) outdoor Citizens Band (CB) base station antennas, (2) outdoor television antennas, and (3) antenna supporting structures to provide purchasers with (a) instructions on how to avoid the hazard of contacting electric power lines with the antenna or supporting structure while putting it up or taking it down, (b) labels on the antennas and supporting structures warning of this hazard and referring the reader to the instructions, and (c) statements on the packaging or parts container, and at the beginning of the instructions, warning of this hazard and referring the reader to the instructions. We intend this rule to help prevent injuries and death from electric power lines when people put up or take down antennas or antenna-supporting structures. The Commission reasoned that if consumers know of the danger and how to avoid it, they will be able to take the necessary steps to protect themselves.

While the Commission believes that the present information and labeling rule will reduce the deaths that occur because of the contact of television and CB base station antennas with electric power lines, the Commission also believes that a standard which would ensure that the antenna would not transmit a harmful amount of electricity to the installer if the antenna did contact a power line may address the risk of electrocution more effectively, and thereby cause a greater reduction in deaths.

Alternatives Under Consideration

Possible alternatives to pursuing a mandatory standard at this time include delaying further action until we measure the § 27(e) information and labeling rule's ability to reduce deaths and injuries. The Commission estimates that it could take from one to two years to assess the rule's effectiveness because of the time it takes to influence the product mix (number of complying products) in the marketplace.

Another alternative is a voluntary approach through the Electronics Industries Association (EIA). The EIA has formed an ad hoc committee to develop a voluntary standard for CB and TV antennas. While the voluntary approach would require the least amount of CPSC resources to develop a standard, it is unclear what the level of effectiveness, or of industry conformance with the voluntary standard would be, and therefore we do not know what percent of the known antenna-related deaths could be prevented.

Under the Consumer Product Safety Act, CPSC may develop a proposed consumer product safety standard in the following ways: (1) People or organizations outside the Commission may be invited to develop a recommended standard (those who submit such offers are referred to as "offerors" and the development of recommended standards in this manner is called the "offeror process"); (2) the Commission may invite people or organizations outside the Commission to submit to the Commission an existing standard which it could propose as a consumer product safety standard; (3) the Commission may publish an existing standard as a proposed consumer product safety standard; or (4) the Commission may develop the standard itself.

In the case of the electrocution hazard associated with CB base station antennas, the Commission is not aware that any Federal department or agency or other qualified agency, organization, or institution has issued, adopted, or proposed any standard that would adequately reduce the risk and that the Commission could publish as a proposed standard. The Commission has determined that it would be more expeditious to develop this standard itself than for interested parties outside the Commission to develop the standard. The Commission started the proceeding by publishing an ANPRM in the **Federal Register** in September 1979.

Summary of Benefits

Sectors Affected: Users or installers of communication antennas, especially CB base station omnidirectional antennas.

The benefits from this proceeding are related to the injury and death information we cited in "Statement of Problem." The staff estimates that the standard could prevent about 64 percent of the deaths associated with outdoor communications antennas (all outdoor antennas) by addressing omnidirectional (reception and transmission essentially uniform in all directions) CB antennas only.

In addition to the reduction in deaths associated with the standard, we anticipate that the § 27(e) rule will reduce other deaths: (a) some deaths that would otherwise be associated with antennas manufactured between October 1978, the effective date of the rule, and the date when the new standard will take effect; (b) some deaths otherwise associated with antennas that the standard does not cover, and (c) some deaths where contact would be between the power line and the mast, rather than the antenna itself.

Certain provisions of the standard may also benefit consumers in the form of improved performance and increased useful life of the product.

Summary of Costs

Sectors Affected: Manufacturing, wholesale and retail trade, and purchasers of CB base station omnidirectional antennas.

The CPSC staff estimates that the average price of CB antennas will probably increase as a result of the standard; however, we cannot supply estimated figures because the costs are dependent upon the requirements.

We anticipate that manufacturers may meet the standard by coating or covering the antenna with a nonconductive material, or by constructing antennas of a nonconductive material, depending on the required strength, electrical resistance, and performance life of the antenna. One type of nonconductive material that industry representatives have suggested is fiberglass.

Based on information available at this time, price increases ranging up to about 25 percent might occur, depending on the means manufacturers use to comply with the standard. Certain producers may leave the CB antenna market if they cannot develop the capability to produce insulation at a reasonable cost.

Related Regulations and Actions

Internal: CB Base Station Antennas, TV Antennas and Supporting Structures: Warning and Instructions Requirements (16 CFR 1402, 43 FR 28392).

External: Electronics Industry Association (EIA) development of a Voluntary Standard for CB Antennas.

Active Government Collaboration

We encourage Federal agencies and State governments to participate in developing the standard by soliciting their comments.

Timetable

NPRM—April 30, 1981
Final Rule—October 30, 1981
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a regulatory analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.
Public Meeting Dates—June 30, 1980 (Tentative), Washington, D.C. October 31, 1980 (Tentative), Washington, D.C.

Available Documents

"CPSC Staff Briefing Packages" dated January 23, 1979 and August 1, 1979 are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207

Omnidirectional Citizens Band Base Station Antennas—Proceeding to Develop a Consumer Product Safety Standard by the Commission, 44 FR 53676, September 14, 1979

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CPSC

Upholstered Furniture Cigarette Flammability Standard

Legal Authority

Flammable Fabrics Act, § 4, 25 U.S.C. § 1193.

Reason for Including This Entry

One of the major causes of deaths, injuries, and property damage in the United States each year is from fires in upholstered furniture started by burning cigarettes. Appropriate action is needed to reduce this death and injury toll.

Also, an upholstered furniture cigarette flammability standard, if adopted as a mandatory rule, could result in a major increase in costs for upholstered furniture manufacturers, distributors, and retailers, and increase prices for purchasers.

Statement of Problem

The staff of the Consumer Product Safety Commission (CPSC) estimates that 45,000 upholstered furniture fires occur each year in residences in the United States, 33,000 of which are associated with cigarettes. Our current estimates indicate that 3,200 injuries and 800 deaths occur annually because of these fires. At a minimum, cigarette ignition of residential upholstered furniture causes 1,700 of the injuries and 500 of the deaths. Among other actions, the Commission is considering a cigarette-ignition resistant flammability standard for upholstered furniture to reduce the number of injuries and deaths.

The Commission staff estimates that property damage resulting from cigarette ignition of upholstered furniture runs $25 million annually. The human losses are difficult to express in economic terms, especially since the Commission does not endorse monetary estimates of the value of human life. The CPSC staff has used a figure of $1 million per life for illustrative purposes only. This figure is probably a conservative expression of value, but is within the range of estimates that are associated with studies of the "statistical value of life." The annual cost of lives lost, therefore, could be about $500 million. The staff has also estimated $16 million for annual injuries exclusive of pain and suffering. A rough estimate of the annual losses associated with cigarette ignition of upholstered furniture, thus, is $541 million.

Alternatives Under Consideration

The major alternative to a mandatory standard is the Upholstered Furniture Action Council's (UFAC) Voluntary Action Program. UFAC believes that manufacturers who agree to build furniture according to the provisions of the UFAC program, will produce furniture that can resist ignition by cigarettes. This program provides for the classification of upholstered fabrics into two categories based on their

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performance in a cigarette-ignition test that UFAC developed. For furniture containing Class I fabrics, this voluntary program requires elimination of ignition-prone welt cord (heavy yarn enclosed by fabric around the edges of furniture cushions) and untreated cotton beneath the decking fabric (the material on which a loose seat cushion rests) and in immediate contact with the covering of inside vertical furniture walls. The requirements for furniture containing Class II fabrics are the same as for Class I with the addition that furniture using Class II fabrics must prevent contact between conventional polyurethane foam cushions and horizontal seating surfaces. The UFAC voluntary program provides test methods to determine acceptable filling materials (such as treated cotton batting, polyester batting, etc.) for use in furniture.

Tests carried out during 1979 indicated that the UFAC Voluntary Action Program has a strong potential for significantly increasing the safety (cigarette ignition resistance) of upholstered furniture. Late in 1979, the Commission voted to defer any regulatory action on the flammability of upholstered furniture for one year, in order to determine the effectiveness of UFAC's voluntary program in reducing the ignition of upholstered furniture by cigarettes.

If the industry's voluntary program is not effective, CPSC will consider adopting a mandatory performance standard which is now in draft form. Under this draft mandatory standard, firms would test upholstery fabrics and place them into one of four classes—A through D—on the basis of their resistance to ignition from cigarettes burned on the fabric. Fabric manufacturers would label fabrics according to these classes to show their flammability classification.

Furniture manufacturers would determine furniture constructions suitable for use with the fabric classes by testing mockups of the furniture to demonstrate their resistance to cigarette ignition. The standard would require annual testing, and permit manufacturers to use only the combinations of fabric and filling materials that did not ignite when the applicable mockup was tested.

Summary of Benefits

Sectors Affected: Users of upholstered furniture; manufacturing of fabrics made from thermoplastic fibers.

The benefits we expect from the proceeding are related to the injury and loss statistics we cite in "Statement of Problem." The staff estimates that the standard could prevent about 430 deaths, 1,462 injuries, and $22 million in property damage annually, which constitutes 86 percent of the losses. The Commission staff estimates that the annual benefits (calculated as discussed in "Statement of Problem") could be about $470 million when all upholstered furniture is manufactured in compliance with the standard.

Other benefits that may be related to the cigarette-ignition standard are a reduction in losses associated with pain and suffering from burn injuries, a possible reduction in losses due to ignition sources other than cigarettes, and a possible increase in the durability of upholstered furniture fabrics as thermoplastics replace cellulosic fibers.

Summary of Costs

Sectors Affected: Upholstered furniture manufacturing; upholstery shops; textile mill products manufacturing, particularly cotton and other cellulosic fibers; wholesale and retail trade, and users of upholstered furniture.

The CPSC staff estimates that the annual retail cost increase to the consuming public as a result of the mandatory standard which it is considering would range from $114 to $174 million.

The staff estimates that the average manufacturing cost increases would range from $1.75 to $2.65 per piece ($3.50 to $5.50 retail price increase) for chairs and from $3.30 to $5.00 per piece ($6.60 to $10.00 retail price increase) for sofas.

The CPSC staff estimates that the possible increases in manufacturing cost that result from the standard would range from $57 to $87 million in the first year that all provisions of the standard are in effect. Ths projected increase consists of anticipated costs of $8 million for use of filling material with greater resistance to cigarette ignition; $12 to $17 million for smolder-resistant backcoating of 50 percent of the Class D fabrics, which are the least smoldering-resistant fabrics that the fabric classification test reveals; $8 to $11 million for the use of foil barriers on 10 percent of the furniture pieces that are covered with Class D fabrics; and $3 to $5 million for required recordkeeping.

Consumers may find fewer types of upholstery fabrics available. We expect heavier fabrics, such as damasks, jacquards, and velvets that are made from cotton and rayon to require more extensive and costly treatment under the standard. CPSC staff expects the early response to be a shift by the furniture industry away from these fabrics to fabrics made from thermoplastic fibers, such as nylon, polyester, or olefin. If we adopt the standard, we estimate that the furniture industry may not use 10 to 14 percent of currently available fabrics.

The Commission staff expects that the standard would result in relatively greater cost increases for the smaller furniture fabric producers than for larger producers. We expect that smaller producers would face higher furniture mockup testing costs as a percentage of sales. These costs may represent about three percent of the total value of shipments for firms with less than $250,000 in annual sales. Firms with about $2 million in annual sales are expected to face costs for mockup testing totaling two percent of their value of shipments. Firms with annual sales of about $7 million can expect to have mockup testing costs of only one percent of their value of shipments. This disparate effect on smaller firms may be made worse to the extent that these firms produce furniture covered with fabric supplied by the customer, which is more likely to be Class D fabric. The requirement for Class D mockup tests would substantially increase the price of such special order items. The Commission believes that smaller furniture manufacturers are more likely than larger ones to produce furniture with a customer's own material.

Small fabric producers, like small furniture producers, can expect to face higher testing costs as a percentage of sales than larger fabric producers. In addition, these firms are more likely to produce cotton or other cellulosic fabrics that we expect to decline in demand as an early response to the standard. Conversion by these firms to greater use of thermoplastic fibers may be difficult. Capital expenditure to alter machinery may be necessary. Furthermore, these changes would place these firms in more direct competition with the larger firms that now produce thermoplastic fabrics.

Changes in filling materials used under the standard may affect suppliers of polyester fiberfill and urethane foam cushioning who are likely to find increased demand for their products. Others, such as producers of cotton batting, are likely to face a reduction in demand by the furniture industry. The extent of the reduction in demand for certain filling materials, as well as for cellulosic fabrics, will largely depend on the result of research now underway into smolder-retardant treatment methods for materials which are flammable.

Related Regulations and Actions

Internal: None.

External: The State of California has flammability regulations, parts of which the CPSC standard would preempt. Other states may have similar regulations.

Active Government Collaboration

The National Bureau of Standards of the Department of Commerce developed the technical basis for the standard.

Timetable

We will make a Commission decision on the need for a mandatory standard after the completion of the one-year assessment of the effectiveness of the industry voluntary action program (2nd quarter FY 1981).
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a regulatory analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

"CPSC Staff Briefing Packages," November 15, 1978 and September 27, 1979, and other applicable material related to upholstered furniture flammability are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

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CPSC

Urea Formaldehyde Foam (UFF) Insulation

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*

Reason for Including This Entry

This investigation is of great public interest because of possible adverse health and safety effects of Urea Formaldehyde Foam (UFF) insulation. It is of special interest to consumers with homes containing the insulation, to consumers considering the purchase of it, and to those who manufacture, distribute, sell, and install it.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned about adverse safety and health effects that may be associated with UFF insulation. This type of home insulation, which is also referred to as urea-based foam insulation or foamed in-place insulation, is manufactured at the job-site by drilling holes in existing wall cavities and pumping in the resin and a foaming agent through pressurized hoses. The Commission has received over 1,000 reports about adverse health effects that may be associated with the release of formaldehyde gas from UFF insulation. It has conducted approximately 218 in-depth injury investigations of the injury reports, approximately 40 percent of which resulted in either a temporary or permanent period of dislocation of consumers from their homes. The in-depth investigations indicate that in some cases consumers were hospitalized. The range of severity of reported reactions varies from short-term discomfort to permanent impairment, such as the loss of visual acuity, and reduction in lung function. Current information suggests that the most common reactions of consumers exposed to formaldehyde gas released from UFF insulation are: (1) eye, nose, and throat irritation; (2) coughing and shortness of breath; (3) skin irritation; (4) headaches and dizziness; and (5) nausea. Persons with respiratory problems or allergies, especially persons who are allergic to formaldehyde, can suffer more serious reactions.

In addition to the above effects, current information indicates that formaldehyde is a strong sensitizer, so that exposed individuals may experience increasingly severe reactions to formaldehyde at increasingly low levels of exposure. Sensitized individuals may find it increasingly difficult to stay in their homes. In some cases, the individual's sensitization to formaldehyde is so severe that after leaving the home, the consumer may be adversely affected by exposure to even very low levels of formaldehyde from other sources. Since there are many sources of formaldehyde exposure, complete avoidance of this exposure may be nearly impossible.

Although some consumers' reactions to formaldehyde may be so severe that they seek medical attention, many others may experience a less specific but persistent discomfort that may be mistaken for a cold, allergy, or general rundown feeling.

In addition to the potential adverse safety and health effects described above, based on the acute toxicity of formaldehyde, interested persons should be aware that on October 16, 1979 representatives of the Formaldehyde Institute, an industry trade association, informed the Commission that preliminary test results from the Chemical Industry Institute for Toxicology (CIIT), a scientific organization supported by 36 U.S. chemical corporations, indicate that formaldehyde has caused cancer in some laboratory animals. The CIIT study is still in progress and the human health implications of these findings have yet to be assessed.

Information currently available to the Commission indicates that the potential for UFF insulation to release formaldehyde may be dependent on the following factors: (a) quality of ingredients in the insulation; (b) age or shelf life of ingredients; (c) viscosities of ingredients; (d) ratios of ingredients; (e) temperatures at which foaming occurs; and (f) mixing of ingredients. Additional factors that may increase the likelihood of liberating formaldehyde are: (a) excess formaldehyde in the resin; (b) excess catalyst in the foaming agent; (c) excess foaming agent; (d) improper ratio of resin to foaming agent; (e) foaming at high humidities; (f) foaming with cold chemicals; (g) dry density of foam exceeding the manufacturer's specifications; (h) application against recommended practice; and (i) improper use or lack of vapor barriers.

After the UFF insulation is in place it may begin to release formaldehyde, either immediately or after a delay and may continue to release formaldehyde indefinitely. Available information indicates that heat and humidity may increase formaldehyde emissions. Because of these factors, the Commission believes that some consumers may insulate their homes in the winter months and not experience adverse health and safety effects until the summer months.

CPSC concerns about consumer exposure to formaldehyde are not limited to UFF insulation, because formaldehyde is an ingredient in many different consumer products, including textiles, paper, and wood products.

An estimated 6.5 billion pounds of formaldehyde are produced annually by American industry, with about half of the annual production going into wood products, such as plywood, fiber board, and particle board. In these products, formaldehyde is combined with urea of phenol to create an inexpensive, effective binding agent.

Alternatives Under Consideration

At the present time the Commission is continuing to gather and assess epidemiological, technical, and economic information concerning UFF insulation.

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On October 20, 1976 the Metropolitan Denver District Attorneys' Consumer Office filed a petition under § 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2059, requesting the Commission to develop a safety standard under section 7 of the CPSA, 15 U.S.C. § 2065, for certain types of home insulation products, including UFF insulation. The petitioner claimed that there is an unreasonable risk of injury of irritation and poisoning associated with UFF insulation. After considering information compiled by the Commission staff, on March 5, 1979, the Commission decided to defer a decision on the parts of the petition that dealt with UFF insulation and instructed the Commission staff to evaluate additional information on possible means of addressing this alleged unreasonable risk of injury (44 FR 12080).

The Commission has held public hearings concerning safety of formaldehyde gas from UFF insulation in Portland, Oregon, on December 13, 1979; in Atlanta, Georgia, on January 10, 1980; in Minneapolis, Minnesota, on February 5, 1980; and in Hartford, Connecticut, on February 26, 1980. The primary purpose of the hearings was to obtain additional information concerning health and safety problems that may be associated with UFF insulation. The Commission is also considering information presented at the hearings about safety and health problems that may be associated with the release of formaldehyde from other consumer products.

The CPSC Commissioners in their decision on what regulatory actions, if any, should be taken for UFF insulation and other products containing urea formaldehyde will consider the evaluation of additional information, including that obtained at the public hearings. This additional evaluation will allow a more comprehensive and thorough evaluation of the hazard of these products and the costs involved in the various alternatives that can be taken by the Commission to address them.

The Commission staff has recommended that the Commission propose a regulation under § 27(e) of the CPSA (15 U.S.C. § 2076(e)) that would require manufacturers of UFF insulation to provide prospective purchasers with performance and technical data concerning the release of formaldehyde from the product. The staff plans to present a regulatory options paper to the Commissioners in September 1980, discussing the need for any additional regulatory action.

Summary of Benefits

Sectors Affected: Consumers exposed to UFF insulation, especially persons with respiratory problems and allergies.

The benefits we expect from this proceeding are improved public health and safety, resulting from the reduction of consumer exposure to formaldehyde released from UFF insulation.

The Commission staff estimates that as many as 150,000 homes may have been insulated with UFF insulation in 1979. UFF insulation is pumped into the walls of a home in a shaving-creamlike foam and hardens in place, once inside the wall. This insulation has been primarily used to retrofit existing homes because the insulation can be pumped through relatively small holes in the walls of standing structures. The Commission staff believes that there are substitutes for most, but not all, uses of UFF insulation. Although the Commission does not believe that consumers in all UFF insulated homes will experience adverse safety and health effects that may be associated with the release of formaldehyde gas from UFF insulation, each home is a potential source of formaldehyde exposure. The Commission is not aware of a practical solution that has been demonstrated to be effective in all instances to the problem of released formaldehyde gas from UFF insulation. Some of the remedial measures that have been suggested by industry representatives include ventilation by opening windows and doors and turning on air conditioners, the use of ammonia or other chemicals to neutralize formaldehyde gas, painting interior walls with an oil-base paint to keep formaldehyde gas out of the living areas of the home, and the use of chemically treated air filters to absorb formaldehyde gas. These remedies have not been successful in all cases. In some instances, persons have successfully eliminated problems by removing the UFF insulation after it has hardened. However, because this remedy requires removal of the interior walls of the home, it can be a very expensive solution. The Commission has also received reports that in some instances formaldehyde gas problems have continued even after the UF foam insulation has been removed.

A written notice to consumers providing performance and technical data describing possible effects of formaldehyde gas released from UFF insulation would give all prospective purchasers more information to decide whether they should buy the product. If consumers who are more likely to have adverse reactions to formaldehyde would refrain from purchasing UFF, this could improve the utility of the product by substantially reducing the total medical and nonmedical costs attributable to formaldehyde emissions from UF foam installations, without greatly reducing the demand for the product. Also, firms may realize a decrease in the number of complaints, costs of remedial measures to correct installations involving complaints, law suits involving adverse health effects, and unfavorable publicity.

Summary of Costs

Sectors Affected: Manufacturing, wholesale and retail trade, installers, and users of UFF insulation.

The major economic impact of a notification requirement on the UFF insulation industry would be a possible reduction in the number of installations. It is difficult to project the decrease in the number of installations that may result from a rule requiring notification of possible adverse health effects, because it would depend on factors such as: (1) previous State and local actions; and (2) previous public awareness of the possible effects of formaldehyde emissions.

Related Regulations and Actions

Internal: None.

External: The Commission is aware of the following actions taken by Federal and State agencies concerning UFF insulation:

(1) The State of Massachusetts has declared UFF insulation to be a banned hazardous substance and has required the removal of UFF insulation from commerce in that State (105 CMR: Department of Public Health 650.020). The Massachusetts ban became effective November 14, 1979. The Massachusetts regulations are currently in litigation, although the ban itself is in effect during this litigation.

(2) The Attorney General's office of the State of Connecticut has entered an agreement with nine members of the UFF insulation industry to resolve complaints concerning adverse physical effects associated with UFF insulation. The Connecticut agreement also requires manufacturers to provide prospective purchasers with a notice concerning possible adverse health effects associated with UFF insulation. On January 1, 1980, the Connecticut Department of Consumer Protection proposed a regulation to require a health warning in all UFF insulation contracts from all manufacturers.

(3) The Office of the Attorney General of the State of Colorado has issued a warning about potential health hazards

to consumers who have purchased UFF insulation. Denver County has adopted a prohibition against the use of UFF in new or existing construction.

(4) On December 18, 1979, the Virginia Department of Health issued a Health Hazard Alert on formaldehyde and UFF insulation.

(5) In several state legislatures, bills have been introduced to require a safety-related disclosure (New York, Minnesota) to ban or impose a moratorium on the sale of the product (New Jersey, California, Arizona, West Virginia, New Hampshire, Maryland) or to set performance requirements limiting formaldehyde emission (Minnesota, California).

(6) The Department of Housing and Urban Development (HUD) has issued a Use of Materials Bulletin #74 that explains the conditions under which HUD will accept UFF insulation and stipulates certain limitations for its use.

(7) On December 21, 1979, the Department of Energy (DOE) reproposed material and installation standards for UFF insulation under the Residential Conservation Service (RCS) Program established by Title II, Part 1 of the National Energy Conservation Policy Act (NECPA), Pub. L. No. 96-619 (44 FR 75956).

Active Government Collaboration

The Commission requested the National Academy of Sciences (NAS) to evaluate available information on the toxicity of formaldehyde and recommend a "tolerable" level, if one exists, for formaldehyde in the home environment. The Commission has received the NAS report and is currently studying the report results.

The Commission is also conducting research with DOE to help determine why formaldehyde gas is released from UFF insulation and whether there are means of preventing such release. In addition, the Commission has recommended that formaldehyde be tested for carcinogenicity, teratogenicity, and mutagenicity under the National Toxicology Program. The Commission has also received a completed economic study, conducted by a contractor, concerning the major uses of formaldehyde in consumer products, including UFF insulation. The study also provides an overview of the production of and market for formaldehyde.

The Commission staff has had meetings with the National Association of Urea Foam Insulation Manufacturers and the Formaldehyde Institute (including the National Particleboard Association and the Hardwood Plywood Manufacturers Association). Complaints received by CPSC are being forwarded to the applicable association for follow-up.

Timetable

Consideration of Proposed Written Notification—May 1980
Regulatory Option Paper—September 1980
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a regulatory analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

CPSC staff briefing packages dated November 2, 1979 and April 23, 1980 and a draft proposed notification requirement dated May 2, 1980 are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207

"Public Hearings Concerning Safety and Health Problems that May Be Associated with Release of Formaldehyde Gas From Urea Formaldehyde (UF) Foam Insulation"—44 FR 69578, December 3, 1979

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NUCLEAR REGULATORY COMMISSION

Office of Standards Development

Decommissioning of Nuclear Facilities Regulation (10 CFR Parts 30*, 40*, 50*, and 70*)

Legal Authority

Atomic Energy Act of 1955, as amended, § 161, 42 U.S.C. § 2201.

Reason for Including This Entry

The Nuclear Regulatory Commission (NRC) thinks that this rule is important because the NRC expects it will eventually have an annual effect of $100 million or more on the economy.

Statement of Problem

Decommissioning is the removal or isolation of the radioactive contaminants from a nuclear facility so it can be released for unrestricted use. The purpose of this regulation is to specify requirements for planning and implementing decommissioning to reduce potential radiation hazards to both the public and workers at a facility after the end of its useful life. The regulation will clearly specify NRC requirements for the method, cleanup criteria, schedule, and financial assurance of decommissioning actions.

Alternatives Under Consideration

The present regulatory approach leaves the choice of decommissioning method, schedule, and financial procedures to the licensee within a loose framework of regulatory criteria. The proposed regulatory approach will carefully specify the decommissioning procedures licensees must follow.

NRC is considering two major alternatives for the method of decommissioning. One is the removal of radioactive constituents by the licensee, allowing unrestricted use of the facility and site, after decommissioning. By unrestricted use we mean the site is not limited by its previous nuclear use. The other is the permanent isolation of the radioactive components on the site, where small portions of the site will have temporary limited access for public use (depending on radioactive decay times). For facility components that have long-lived radioactive materials (i.e., significant radioactivity for 100 years or more), the latter method is unacceptable, because their isolation cannot be adequately guaranteed. The regulation may provide for delays of varying lengths before decommissioning to allow for reduction of radiation exposure and decommissioning costs.

The advantages and disadvantages of the above two options are detailed and complex, and they are being developed as part of the Generic Environmental Impact Statement which we plan to prepare by January 1981.

The regulation will also consider various methods of paying for decommissioning. While it is generally acknowledged that those who benefit (the users of the power) should pay, the manner and timing of such payment is unclear. Requiring funds before NRC issues a license, while a facility is in operation, at the end of its life, or a combination of these are all viable alternatives.

Summary of Benefits

Sectors Affected: Workers in firms and facilities licensed by the NRC or by States having agreements with NRC to assume certain regulatory responsibilities for nuclear materials and facilities, including approximately 70 nuclear power plants and over 20,000 material licensees, such as firms manufacturing nuclear fuel and radiopharmaceutical supplies, and industries using radioisotopes; and the general public.

At the present time, NRC can characterize the benefits of the regulations only in a qualitative way. The NRC's systematic and encompassing regulations identify licensing requirements that will ensure the licensee accomplishes decommissioning safely. This will reduce the potential radiation hazards to both the public and occupationally exposed workers.

The following are examples of regulatory particulars that are designed to provide the desired benefits: (1) Clearly specified decommissioning requirements simplify planning and conduct of decommissioning activities and reduce the need for remedial actions to clean up sites that are found to have been inadequately decommissioned. (2) NRC design requirements for new facilities that are directed toward facilitating eventual decommissioning can mitigate occupational radiation exposures associated with decommissioning, as well as reduce radiation exposures associated with routine facility operations.

Summary of Costs

Sectors Affected: Firms and facilities licensed by the NRC or by States having agreements with NRC to assume certain regulatory responsibilities for nuclear materials and facilities, including approximately 70 nuclear power plants and more than 20,000 material licensees, such as firms manufacturing nuclear fuels and pharmaceutical suppliers, and industries using radioisotopes; and users of electricity produced by nuclear power.

The estimated cost of decommissioning a single nuclear power reactor is approximately $40 million (in 1978 dollars). There are 70 such reactors now operating, and about 100 are under construction or being planned. None of the currently operating reactors is in need of decommissioning in the near future. Although this action would not change the existing responsibility of licensees to decommission, it could require immediate collections from electricity customers to accumulate decommissioning funds. These collections could amount to $2 million per year for each reactor, or a total amount of $140 million per year (in 1978 dollars). While the added cost to the consumer would depend on many factors, we estimate this cost to be relatively insignificant and on the order of a tenth of a mill (1/10 of a cent) per kilowatt-hour of electricity used. If NRC requires advanced collection or surety bonding, rather than collection over the anticipated operating life of the facility, the economic impact will be to increase further the cost of the electricity that nuclear reactors produce. It is not likely that the change in the cost of electricity will affect the existence of any reactor-owning company. It is possible that additional financial assurance costs could drive smaller nuclear fuel cycle licensees, such as fuel fabricators or uranium mill operators, out of the nuclear business.

The costs of decommissioning and financial assurance for the more than 20,000 material licensees (e.g., radiopharmaceutical suppliers, industrial radioisotope users) are not well established at this time.

Related Regulations and Actions

Internal: NRC action regarding radioactive waste disposal.

External: Environmental Protection Agency standard for low level radioactive residues in the environment.

Federal Energy Regulatory Commission requirements for accounting methods and treatment of decommissioning costs by electrical wholesalers.

Internal Revenue Service rulings on tax treatment of funds collected for future decommissioning actions.

State Public Utility Commission requirements for accumulation of funds for decommissioning.

State Legislatures' passage of laws requiring bonds or other surety for nuclear decommissioning.

Department of Energy development of programmatic decommissioning plans.

International Atomic Energy Agency decommissioning programs.

Active Government Collaboration

We are carrying on active liaison with the States, the Environmental Protection Agency, the Federal Energy Regulatory Commission, the Internal Revenue Service, the Department of Energy, and the International Atomic Energy Agency.

Timetable

Draft Environmental Impact Statement—January 1981
Publish Policy Statement—September 1981
NPRM—January 1982

Regulatory Analysis

Although no regulatory analysis is being prepared, the Draft Environmental Impact Statement will contain much of the same information.

Available Documents

NUREG—0436, Rev. 1, "Plan for Reevaluation of NRC Policy of Decommissioning of Nuclear Facilities," dated December 1978

NUREG—0278, "Technology, Safety and Cost of Decommissioning of Reference Nuclear Fuel Reprocessing Plant," dated October 1977

NUREG/CR—0130, "Technology, Safety and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station," dated June 1978

NUREG/CR—0130 (Addendum), "Technology, Safety and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station," dated August 1979

NUREG/CR—0131, "Decommissioning of Nuclear Facilities—An Annotated Bibliography," dated October 1978.

NUREG/CR—0129, "Technology, Safety and Costs of Decommissioning a Reference Small Mixed Oxide Fuel Fabrication Plant," February 1979

NUREG/CR—0671, "Decommissioning Nuclear Facilities: A Review and Analysis of Current Regulations," dated August 1979

NUREG/CR—0569, "Facilitation of Decommissioning of Light Water Reactors," dated December 1979

NUREG—0590, Rev. 1, "Thoughts on Regulation Changes for Decommissioning," Draft Report, dated October 1979

NUREG—0584, Rev. 1, "Assuring the Availability of Funds for Decommissioning Nuclear Facilities," Draft Report, December 1979

All of the above documents are available in the NRC Public Document Room at 1717 H Street, N.W., Washington, D.C., for inspection and copying. A charge of 8 cents per page is made for documents copied in the PDR. The NUREG documents are also available by writing to the National Technical Information Service, Springfield, VA 22161.

Agency Contact

Keith Steyer, Chief Fuel Process Systems Standards Branch Office of Standards Development U.S. Nuclear Regulatory Commission Washington, D.C. 20555 (301) 443–5918

NRC–SD

Disposal of High Level Radioactive Waste in Geologic Repositories Regulation (10 CFR Parts 2*, 19*, 20*, 30*, 40*, 51*, 60, and 70*)

Legal Authority

Energy Reorganization Act of 1974, § 202 (3) and (4), 42 U.S.C. § 5842.

Reason for Including This Entry

The Nuclear Regulatory Commission (NRC) thinks that this rule should be included in the Calendar because it deals with an important health and safety issue which has great public interest.

Statement of Problem

The Energy Reorganization Act of 1974 gives NRC licensing and regulatory authority over facilities to be built and operated by the Department of Energy (DOE) for the disposal of high level radioactive wastes (HLW) that have been generated under activities licensed by the Commission or by government programs.

The intent of this regulation is to provide information to DOE and other interested parties on how the NRC plans to exercise its authority over DOE facilities to be used for the disposal of HLW in prepared cavities deep in the earth. (This method of waste disposal is commonly termed "geologic disposal," and the facility itself is called a "geologic repository.") Specifically, the regulation spells out the procedures DOE should follow in applying for an NRC license for geologic disposal of HLW and the procedures NRC should follow in reviewing that application. It will state the technical criteria the NRC will use in evaluating a DOE application, approving or disapproving a license, and inspecting the placement of the waste within the geologic repository. Specific topics addressed include the suitability of a site and the design and closure of a repository. During the licensing process, the NRC staff will be made available to discuss with representatives of both State and local governments opportunities for participation.

Alternatives Under Consideration

This regulation addresses only geologic disposal of HLW. The NRC had considered promulgating a broad regulation to cover other methods which have been suggested for the disposal of HLW, such as placing the wastes on the ocean floor (seabed emplacement), or within a polar ice cap (icesheet disposal). However, neither of these methods appears to be within NRC's jurisdiction, and other potential methods (e.g., transmutation—alteration of the waste to decrease its radioactivity) do not appear to be technically developed yet to the point that rulemaking would be warranted.

The NRC had also considered whether to proceed with rulemaking at this time or to rely on its existing body of regulations in discharging its licensing responsibilities over the disposal of HLW. The NRC has decided to proceed with rulemaking because reliance on existing regulations would neither give proper perspective to the unique problem of geologic disposal of HLW, nor provide the guidance to both DOE and the public which NRC believes to be necessary to an efficient and publicly accessible licensing process.

Summary of Benefits

Sectors Affected: Industries producing high level radioactive waste, such as electric services using nuclear power; DOE (including HLW from its research and development, and military programs); State and local governments; and the general public.

Industry would be able to dispose of its high level radioactive waste permanently in a DOE repository licensed under this regulation. State and local governments would be able to participate in the licensing process under the provisions of this regulation. This regulation would require NRC to make a finding of reasonable assurance that the high level radioactive waste could be disposed of in a manner that would protect the public health and safety, and the environment.

There is great concern on behalf of the public, State governments, and the Congress that a "safe" method be found for the disposal of HLW. The sort of regulation we are proposing should contribute to public confidence by providing an opportunity for public review and comment during the construction, operation, and closure of the repository. Another benefit is that the regulation will serve as a base from which DOE can plan and develop such a facility, hence saving both time and expense in the licensing process

Summary of Costs

Sectors Affected: Industries producing high level radioactive waste, such as electric services using nuclear power; DOE (including HLW from its research and development, and military programs); and users of electricity produced by nuclear power.

Estimated construction and operation costs for a geologic repository range from $1 to $5 billion (in 1978 dollars). Estimates of the impact on the cost of electricity production vary over a wide range, but we do not expect the cost to exceed one mill (1/10 of a cent) per kilowatt hour. As many as four repositories may be required to accommodate the HLW that the government and commercial interests generate by the end of the century.

The only costs to produce the regulation are the resources that NRC expends to develop, support, and issue it.

Related Regulations and Actions

Internal: This action is related to an NRC program to classify radioactive waste according to the degree of hazard it presents.

External: This action is related to the Environmental Protection Agency's criteria and standards for the disposal of HLW.

Active Government Collaboration

We have active liaison with the Environmental Protection Agency, the United States Geological Survey, and the Department of Energy.

Timetable

ANPRM (Technical Requirements)—May 1980 (60-day public comment period).
NPRM (Technical Requirements)—December 1980
Final Rule (Procedural Requirements)—December 1980
Final Rule (Technical Requirements)—December 1981
Regulatory Analysis—not required, but similar material available in NPRM

Available Documents

Commission Paper—SECY 79–366 (and agenda)

Policy Statement—"Licensing Procedures for Geologic Repositories for High-Level Radioactive Wastes," 43 FR 53869, November 17, 1978

NPRM (Procedural Requirement)—"Disposal of High-Level Radioactive Wastes in Geologic Repositories; Proposed Licensing Procedures," 44 FR 70408, December 6, 1979

NUREG—0279—"Determination of Performance Criteria for High-Level Solidified Nuclear Waste," July 1977

NUREG—0465—"A Classification System for Radioactive Waste Disposal—What Waste Goes Where?" June 1978

All of the above documents are available in the NRC Public Document Room at 1717 H Street, N.W., Washington, D.C., for inspection and copying. A charge of 8 cents per page is made for documents copied in the PDR. The NUREG documents are also available for sale by writing the National Technical Information Service, Springfield, VA 22161.

Agency Contact

I. C. Roberts, Assistant Director for Siting Standards, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443–5966

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CHAPTER 5—HUMAN RESOURCES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing

Minimum Property Standards for One- and Two-Family Dwellings (24 CFR Part 200, Subpart S)

Legal Authority

National Housing Act, § 211, 12 U.S.C. § 1715(b).

Reason for Including This Entry

This proposal is an initial effort by the department to reduce unessential regulations, incorporate model code standards and minimize the bulk of current Minimum Property Standards.

Statement of Problem

HUD now imposes Minimum Property Standards on the construction of one- and two-family dwellings. Over the years these standards have increased in length and complexity to a point where streamlining and updating is now appropriate. HUD's Housing Task Force identified several aspects of the minimum property standards which, if changed, should improve the affordability of housing without substantially lowering the construction quality of Federal Housing Administration units. For this reason, HUD is proposing a revision to delete redundant, obsolete, and unnecessary requirements. Appropriate parts of the model one- and two-family dwelling code have also been incorporated.

Alternatives Under Consideration

Alternative #1 would be to make no change in the present standards. This would save administrative effort but has no other advantage. On the other hand, if we do not revise the standards the burden on builders will only increase and the standards will progressively prove less responsive to the needs of the construction industry and the homebuying public.

Summary of Benefits

Sectors Affected: Residential building construction and construction workers; public and private developers of housing programs; occupants and owners of minimum standard housing, especially FHA insured housing; and the mortgage banking industry.

Although the standards govern all FHA Housing, FHA eligible dwellings are often built to standards higher than the Minimum Property Standards. In these cases lowering the standard would not have an effect. We expect, however, that the impact of these changes would be felt throughout the construction industry generally by promoting lower building costs and ultimately reducing the purchaser's outlay. Indirect benefits depend on the extent to which the changes to minimum property standards actually lower market costs. However, some indirect benefits would accrue to housing construction workers and to the mortgage banking industry: for workers, more employment; for the banking industry, increased building activity. Also, the standards are picked up in a number of local building codes and for this reason changes in the standards should have an impact that extends beyond FHA-insured housing alone. Thus, uninsured as well as insured properties should be brought to a new level of quality in localities where an improvement in the standards causes a corresponding improvement in the code.

Summary of Costs

Sectors Affected: Residential building construction.

Staff members have attempted to consider both the cost savings and cost increasing dimensions of the proposed regulations. If an average upper bound of the total net cost savings per new dwelling of these regulatory changes is estimated at $750.00 and 20% of the units constructed are affected (106,479 units (total 1979 starts) × 20% = 21,296) we arrive at the following conclusion. The aggregate expenditures on new dwellings affected by the proposed regulatory changes would be just under $16 million. These figures are assumptions and appear to be on the high side of probable actual experience when all of the economic impacts of the proposed changes are incorporated into the analysis.

Related Regulations and Actions

Internal: None.
External: Local building codes.

Active Government Collaboration

None

Timetable

NPRM—early June, 1980
Public Comment Period
60 days following NPRM—
Regulatory Analysis—to be issued concurrently with the NPRM
Final rule—to be published some time after the close of the comment period

Available Documents

None

Agency Contact

Mervin Dizenfeld, Mechanical Engineer, Department of Housing and Urban Development, 451 7th Street, S.W., Room 6170, Washington, D.C. 20410 (202) 755–6590.

DEPARTMENT OF JUSTICE

Civil Rights Division

Regulations Prohibiting Discrimination Solely on the Basis of Handicap in Federally Assisted Programs

Legal Authority

The Rehabilitation Act of 1973, § 504, 29 U.S.C. § 794. E.O. 11914, 41 FR 17871, October 31, 1976. Department of Health, Education and Welfare (HEW) Guidelines on Rehabilitation, 45 CFR § 85.

Reason for Including This Entry

This proposed regulation is intended to eliminate discrimination against handicapped persons participating or attempting to participate in Department of Justice (DOJ) assisted programs.

Statement of Problem

A substantial number of people in the United States are denied full participation in major activities, such as employment, because of discrimination based on their handicaps. Recognizing this fact, the Congress passed § 504 of the Rehabilitation Act of 1973, which prohibits discrimination solely on the basis of handicap in all programs and activities that receive Federal financial assistance. Federal agencies that provide such assistance must develop and publish regulations in furtherance of the broad remedial purpose of § 504.

Alternatives Under Consideration

Executive Order 11914 requires all Federal departmental regulations that implement § 504 to be consistent with HEW § 504 regulations. Accordingly, there are no alternatives to the standards which HEW has published (43 FR 2132) in terms of scope, timing, or substantive requirements obligating recipients of Federal assistance from DOJ. However, within that context, the department has attempted to take the least burdensome approaches to achieving the objectives of § 504. For example, the department's proposed § 504 regulations require employers with 50 or more employees who receive department assistance of more than $25,000 to provide for recordkeeping and notice procedures and grievance mechanisms. This standard makes the proposed DOJ regulations consistent with the Law Enforcement Assistance Administration's Equal Employment Opportunity Guidelines (28 CFR § 43.302(d)) for the development, by recipients of Federal assistance through the department, of an equal employment opportunity program with respect to race and sex. Accordingly, we rejected other, more inclusive criteria, e.g. 15 or more employees and no minimum amount of financial assistance through the Department of Justice.

Further, while recipients are encouraged to provide communications to their applicants, employees, and beneficiaries in the appropriate medium (e.g., braille, tapes), the regulations require only that recipients communicate effectively with those who have impaired vision and hearing (§ 42.503[e] of proposed regulations). Other options that the department is considering are included in the supplementary information section of the NPRM (44 FR 54957–60, September 21, 1979).

Summary of Benefits

Sectors Affected: Approximately 9,000 units of State and local governments that are involved in law enforcement and related activities, their employees, and other individuals eligible to take part in their programs; and approximately 1,000 private entities, such as juvenile homes, educational institutions, public interest groups, etc., that participate in activities related to the Nation's criminal justice system.

The regulations will establish standards to assure nondiscrimination based on handicap in programs and activities that receive Federal financial assistance from DOJ. They will define and prohibit acts of discrimination against qualified handicapped persons in employment and as beneficiaries of programs and activities that receive assistance from DOJ. Programs and activities that the regulation would cover would include those administered by State and local units of the criminal justice system that receive Federal assistance in the form of grants and Federal assistance contracts from the Law Enforcement Assistance Administration (e.g., police departments, prisons, courts), or training from the Federal Bureau of Investigation or other agencies within DOJ.

The elimination of discrimination against the handicapped in federally assisted programs and activities will further advance the national policy against such invidious discrimination, will assure that the benefits of federally assisted programs and activities will be extended to the qualified handicapped, and will preclude the discriminatory exclusion of the handicapped as employees in programs and activities that receive Federal financial assistance.

Summary of Costs

Sectors Affected: Approximately 9,000 units of State and local governments that are involved in law enforcement and related activities, their employees, and other individuals eligible to take part in their programs; and approximately 1,000 private entities, such as juvenile homes, educational institutions, public interest groups, etc., that participate in activities related to the Nation's criminal justice system.

It is difficult to project the cost of compliance. Two aspects of § 504 may increase the expenditures of recipients administering federally assisted programs. The first requires that recipients make a reasonable accommodation for the known physical or mental limitations of an otherwise qualified handicapped applicant or employee. A reasonable accommodation might involve job restructuring, modified work schedules, or acquisition or modification of equipment or devices. The recipient must decide what constitutes a reasonable accommodation on a case-by-case basis.

The second aspect of the regulation requires that programs and activities that receive Federal assistance be prohibited from excluding qualified handicapped people from federally assisted programs because a recipient's facilities are inaccessible or unusable. Structural changes to existing facilities may be unnecessary where other less costly or burdensome methods are equally effective. Facilities constructed after final rulemaking must, however, be designed and constructed to make them accessible to and usable by the handicapped. We cannot provide precise estimates of compliance costs at this stage, although at present it appears that the compliance cost of the regulation will not result in major economic consequences within the meaning of E.O. 12044. We considered the appropriateness of a regulatory analysis and invited public comment on this issue.

Related Regulations and Actions

Internal: DOJ regulations under Title VI of the Civil Rights Act of 1964, 28 CFR § 42.401 *et seq.*

External: HEW § 504 Regulations, 42 FR 22676, May 4, 1977.

Active Government Collaboration

By virtue of E.O. 11914 the President delegated the coordination of governmentwide enforcement of § 504 to HEW and directed that Federal agency regulations under § 504 be consistent with the standards and procedures that the Secretary of HEW has established.

Timetable

Final Rule—May 1980
Regulatory Analysis—none

Available Documents

NPRM—44 FR 54950, September 21, 1979

Agency Contact

Robert N. Dempsey, Attorney, Federal Enforcement Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530, (202) 633–2374

DOJ-CRD

Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance

Legal Authority

Education Amendments of 1972, as amended, Title IX, §§ 901, 902, 20 U.S.C. § 1681 *et seq.*

Reason for Including This Entry

Because of a recent Supreme Court decision, *City of Los Angeles Department of Water & Power* v. *Manhart*, 435 U.S. 702 (1978), the Department of Justice's (DOJ) proposed Title IX regulations, unlike the regulations already issued by the Department of Health, Education and Welfare (HEW) (45 CFR Part 86) and the United States Department of Agriculture (USDA) (45 FR 21608–21619, April 11, 1979), will prohibit the recipient's use of fringe benefit plans which discriminate in benefits or in employee contributions on the basis of sex.

Statement of Problem

Section 901 of the Education Amendment of 1972, as amended, mandates that Federal grant agencies issue a regulation to enforce the prohibition against sex discrimination, contained in § 901 of the statute, in education and training programs or activities receiving Federal financial assistance. We are issuing the regulations pursuant to that mandate.

On June 4, 1975, HEW issued final regulations, which have generally served as a model for other grant agencies, implementing Title IX for their programs. The DOJ regulations will, for

the most part, be consistent with

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the most part, be consistent with HEW's. However, there will be one major exception. Section 86.56b(2) of the HEW regulations provides that "A recipient shall not: . . . Administer, operate, offer or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal contributions to the plan by such recipients for members of each sex."

This section was consistent with the Department of Labor's interpretation of the Equal Pay Act (29 U.S.C. § 206[d]) in effect at the time the regulation was issued. However, it is inconsistent with the Equal Employment Opportunity Commission's interpretation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000(e). 29 CFR § 1604.9(f)). Further, in *Manhart* the Supreme Court ruled that requiring higher employee contributions to a pension plan from women than from similarly situated men was discrimination on the basis of sex, which violated Title VII and the Equal Pay Act. We believe that under the Court's reasoning in *Manhart* paying lower benefits under a pension or other fringe benefit plan to individual members of one sex than the other is sex discrimination, and that such sex discrimination violates Title IX. Our proposed regulation, therefore, will prohibit use of fringe benefit plans which discriminate in benefits or in employee contributions on the basis of sex.

Alternatives Under Consideration

DOJ had two possible alternatives to choose from in designing this congressionally mandated regulation: it could have followed the directions provided by the other Federal agencies, HEW and USDA, which have already issued their Title IX regulations; or it could have developed an entirely new approach to Title IX enforcement ignoring the work performed by other agencies. We have chosen to follow the leads of HEW and USDA in order to ensure consistency in the Federal government's approach to enforcing Title IX.

Summary of Benefits

Sectors Affected: State and local law enforcement and correction agencies, employees of these agencies, and other individuals eligible to take part in their education and training programs and activities; and private entities participating in activities related to the Nation's criminal justice system, such as juvenile homes, educational institutions, and public interest groups.

This regulation will prevent discrimination on the basis of sex in access to education and training programs and in fringe benefit plans sponsored by recipients receiving assistance from DOJ. Viewed from a larger perspective, implementation of the regulation will upgrade the quality of law enforcement and related activities by ensuring equal access to education and training programs regardless of sex. Specifically, it will improve the ability of women who have traditionally been discriminated against by the employment practices of law enforcement agencies to obtain equal access, once hired, to those activities needed for professional advancement.

Summary of Costs

Sectors Affected: State and local law enforcement and correction agencies; and private entities participating in activities related to the Nation's criminal justice system, such as juvenile homes, educational institutions, and public interest groups.

We cannot provide precise estimates of compliance costs at this stage; however, they appear to be minimal, with the possible exception of changes which may be required in the recipient's pension and other fringe benefit programs. We do not believe that the compliance costs associated with this regulation will have any major economic consequences within the meaning of E.O. 12044. Should the public raise the issue of costs during the comment period, we will consider conducting a regulatory analysis.

Related Regulations and Actions

Internal: DOJ regulation issued by the Law Enforcement Assistance Administration under the authority of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3701 *et seq.* This law, which contains a general prohibition against sex discrimination, has been reenacted in the Justice System Improvement Act of 1979, P.L. 96–157, and is implemented by 28 CFR §§ 42.201–.217. Recipients in compliance with that statute and regulation will be considered in compliance with the DOJ Title IX regulation.

External: HEW regulation 45 CFR Part 86, USDA Regulation, 44 FR 21608–21619, April 11, 1979.

Active Government Collaboration

No Federal agency has been delegated overall responsibility for coordinating enforcement of Title IX. However, DOJ has attempted to make its regulation consistent with those already published by the Department of Health, Education and Welfare and the United States Department of Agriculture.

Timetable

NPRM—May 1980
Final Rule—August 1980
Regulatory Analysis—we may consider preparing an analysis if public comment indicates costs as a significant issue

Available Documents

None

Agency Contact

Ms. Stewart B. Oneglia, Director, Office of Coordination and Review, Civil Rights Division, Department of Justice, Washington, D.C. 20530, (202) 724–6757

DOJ–IMMIGRATION AND NATURALIZATION SERVICE

Admission of Refugees and Asylum Procedures (8 CFR 207 and 208)

Legal Authority

Refugee Act of 1980, Pub. L. 96–212, 94 Stat. 102.

Reason for Including This Entry

These proposed regulations will set a precedent for U.S. programs providing relief for the increasing numbers of refugees seeking haven in the United States. The refugee problem has generated worldwide attention and is of major concern to the United States and its citizens.

Statement of Problem

The Refugee Act of 1980 is a major departure from prior legislation which provided relief for refugees. It establishes a permanent and systematic procedure for meeting these humanitarian needs. Prior statutory provisions have proven to be inadequate because of the lack of uniformity in treating refugees from different parts of the world. The Immigration and Naturalization Service must adopt regulations to implement the provisions of the new act.

The proposed regulations provide that the Immigration and Naturalization Service accomplish the following specific responsibilities: determine who qualifies as a refugee; establish asylum procedures; adjust the status of refugees; establish procedures for inspection and examination of refugees; waive certain exclusionary grounds for admitting refugees; develop regulations for procedures to terminate the status of those who no longer qualify as refugees; and admit refugees into the United States, subject to numerical limitations established by the President after appropriate consultation with Congress. In addition, the regulations also specify procedures for the Immigration and Naturalization Service to inform aliens, other governmental agencies, and the public as to who may qualify as a refugee, and the methods and procedures for refugees to apply for the benefits which the act provides.

Alternatives Under Consideration

Because of certain retroactive provisions in the Refugee Act of 1980, and the short time frame within which to develop regulations, the Service has decided to publish interim regulations to meet these exigent circumstances. The nature of the problem we are faced with—emergency relief for human suffering—argues against a prolonged deliberative process to weigh innumerable alternatives before deciding upon a course of regulatory action. We believe that by publishing interim regulations as quickly as we can, the intent of the law will be served best. Fine tuning of the regulations can be done at a later date in the form of final regulations after opportunity for public comment.

Summary of Benefits

Sectors Affected: Refugees; Federal agencies, such as Departments of State; Health, Education, and Welfare; and Labor; and the Public Health Service; international organizations; foreign governments; State governments; others involved in refugee relief and resettlement; and the general public.

Until the refugees are absorbed into the economy and contribute to the Nation's gross national product through their labor and services, they will place a burden upon public agencies.

Summary of Costs

Sectors Affected: Federal agencies, such as Departments of State; Health, Education, and Welfare; and Labor; and the Public Health Service; international organizations; foreign governments; State governments; and others involved in refugee relief and resettlement.

As the number of refugees admitted increases because of the new liberalized admission trend reflected in the act, the workload of the Federal agencies, public and private agencies, and charitable organizations will increase proportionately. The need for financial and medical assistance for the refugees will fall upon various Federal and State agencies responsible for public health and welfare. Private and voluntary organizations which provide services not available from public agencies will also have increased operating costs. While we are unable at this time to place a dollar value on the cost to all sectors affected by the act, our experience in FY 1979 indicates that about 108,000 refugees were admitted into the United States by the Immigration and Naturalization Service. We believe the total will be about 225,000 for FY 1980.

Related Regulations and Actions

Internal: Existing regulations, dealing with asylum, 8 CFR 108, adjustment of status, 8 CFR 245, and other references in various subsections in Title 8, Chapter I of the regulations will be affected by the new interim regulations, and we will amend them as necessary.

External: While other Federal agencies are also affected by the Act, it is not certain at this time what revisions they must make to their regulations when the Immigration and Naturalization Service publishes its interim regulations.

Active Government Collaboration

Operating units of the Immigration and Naturalization Service have been in contact with the Departments of State; Labor; and Health, Education and Welfare because of the mutual areas of responsibility each shares under the act.

Timetable

Interim Regulations—July 1980
Public Comment Period—July 1980–August 1980
Written comments to: Commissioner, Immigration and Naturalization Service, 425 I Street, N. W., Room 7100, Washington, D.C. 20536
Regulatory Analysis—not required

Available Documents

Refugee Act of 1980, Public Law 96–212 (94 Stat. 102)
Available from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at $1.50 per copy
Senate Conference Report 96–590, Refugee Act of 1980
Available from: Senate Document Room, U.S. Capitol Washington, D.C. 20510 (no cost)

Agency Contact

For questions on asylum procedures for refugees:
Harry Klajbor, Deputy Assistant Commissioner, Adjudications, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, (202) 633–3229

For questions on admission of refugees:
John Z. Rebsamen, Director, Office of Refugee and Parole, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, (202) 633–2391

For questions on adjustment of status of refugees:
Charles G. McCarthy, Deputy Assistant Commissioner, Adjudications, Immigration and Naturalization Service, 425 I Street, N. W., Washington, D.C. 20536, (202) 633–2399

DOJ–INS

Employment Authorization (8 CFR Part 109, 45 FR 19563, March 26, 1980)

Legal Authority

Immigration and Nationality Act, 8 U.S.C. §§ 1103 and 1255(c).

Reason for Including This Entry

The Immigration and Naturalization Service thinks this rule is important because the various subsections, Service policy, and standards relating to employment authorization for aliens will be codified under one new part. In the existing regulations employment authorization and revocation of employment authorization were discretionary with the district directors of the Immigration and Naturalization Service. The new regulations will clearly specify the classes of aliens eligible to work upon admission into the United States and those aliens who will require administrative authorization to work. The regulation also impacts upon the Social Security Act and related labor laws.

Statement of Problem

Immigration and Naturalization Service procedures for granting employment authorization to aliens are based on the Attorney General's authority under 8 U.S.C. 1103, which charges him with the administration and enforcement of the immigration and nationality laws. 28 CFR 0.105 delegates this authority and responsibility to the Commissioner of Immigration and Naturalization. A 1976 amendment to the Immigration and Nationality Act bars adjustment of status of any alien (other than an immediate relative of a U.S. citizen) who after January 1, 1977 engages in unauthorized employment prior to filing an application for adjustment of status.

Implementation of the amendment to the law resulted in numerous revisions to the Immigration and Naturalization Service's regulations and instructions.

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determinations of work eligibility on a case-by-case basis, and discretionary grants of employment authorization based upon the financial necessity of the alien. To ensure a more uniform application of the Immigration and Naturalization Service's policies in this area, we need clearly defined criteria for granting employment authorization to specific classes of aliens. We should consolidate numerous policy guidelines into one ready reference.

On July 25, 1979 the Immigration and Naturalization Service published regulations in the **Federal Register** (44 FR 43480) to codify the body of procedures and criteria which it had already developed through experience with granting employment authorizations. The proposed regulations would require nonimmigrant aliens to continue complying with existing regulations relating to employment for their particular nonimmigrant status. Other aliens would apply to the district directors of the Immigration and Naturalization Service for discretionary grants of employment authorization based upon establishing financial necessity for employment or presumable qualification for some type of permanent status in the United States.

In view of the comments we received from interested persons, the Immigration and Naturalization Service has significantly modified its proposed rule by specifically setting out those classes of aliens who are authorized to be employed in the United States as a condition of their admission without specific authorization from the Service. The new proposed rule also clearly describes the classes of aliens who may apply for discretionary work authorization based upon their financial needs caused by subsequent changes in circumstances. Lastly, the proposed rule defines the criteria to be used by the Immigration and Naturalization Service district directors and the uniform procedures they must follow in revoking previously granted discretionary work authorizations. We published this new proposal in the **Federal Register** on March 26, 1980 (45 FR 19563) and the public had 60 days to submit their comments.

Alternatives Under Consideration

We originally conceived this as a consolidation of existing procedures; however, in view of the public comments received and the significant issues raised, we are considering making substantive changes. At this time, proposing alternative actions would be premature.

Summary of Benefits

Sectors Affected: Aliens; industries employing aliens, including the medical profession, nursing profession, and other skilled labor professions; the Service; Federal agencies such as the Departments of Labor and State, and the Social Security Administration; State and local governments; charitable organizations; and others requiring classification of an alien's employable status.

This rule will not only benefit aliens entering the United States but also will benefit the general public. Definable classes of aliens will be employable without delay and employers will know what classes of aliens can be legitimately employed without requiring proof of work authorization from the Immigration and Naturalization Service. The regulation will also clarify for employers what class of alien is covered under the Social Security Act and Federal labor laws, as social security coverage and labor law protection of workers are dependent upon the alien's classification and whether or not he/she is legitimately employable. The Immigration and Naturalization Service will benefit because this proposal will generate information which will forestall many individual inquiries from employers, other government agencies, and charitable organizations requesting classification of an alien's employable status. Agencies such as the Departments of Labor and State, and the Social Security Administration will benefit by the clearly defined employment status of aliens because their regulations also impact upon defining eligibility for visas and benefits.

Summary of Costs

Sectors Affected: None.

Related Regulations and Actions

Internal: This regulation codifies the numerous interpretations and policies of the Service relating to work authorization which were spread throughout Chapter I of the regulations and the Immigration and Naturalization Service's Operations Instructions.

External: Related regulations of the Departments of Labor and State, and the Social Security Administration will be affected by the proposed regulations.

Active Government Collaboration

The Immigration and Naturalization Service expects to receive comments from the Departments of Labor and State, and the Social Security Administration in formulating the final rule because of the interaction of responsibilities in the alien employment area. We anticipate that these agencies also will amend their regulations to clarify the status of employable aliens who are entitled to benefits under the various agencies.

Timetable

Final Rule—July 1980
Final Rule Effective—30 days after publication as Final Rule
Regulatory Analysis—not required

Available Documents

NPRM—45 FR 43480, July 25, 1979
NPRM—45 FR 19563, March 26, 1980
All documents available for review in the Public Reading Room, Room 5037, Immigration and Naturalization Service, 425 Eye Street, N. W., Washington, D.C. 20536.

Agency Contact

Harry Klajbor, Deputy Assistant Commissioner, Adjudications
Immigration and Naturalization Service
425 Eye Street, N. W.
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DOJ—OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS' / LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Equal Service Evaluation Guidelines (28 CFR Part 42)

Legal Authority

Justice System Improvement Act of 1979, 42 U.S.C. § 3782(a), *et seq.*

Reason for Including This Entry

The Office of Justice Assistance, Research, and Statistics (OJARS) believes that these guidelines are important because they will help it assure that State and local criminal justice agencies do not discriminate in the delivery of services to the public, and will help the agencies spot and correct discriminatory practices without the need for Federal action.

Statement of the Problem

OJARS, the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS) award grants to support improvements in all parts of the criminal justice system—police, corrections, courts, probation, parole, prosecution, defense, and juvenile justice agencies.

The nondiscrimination provision of the Justice System Improvement Act of

1979, 42 U.S.C. § 3879d(c)(1), states that no person may be "excluded from participation in, . . . denied the benefits of, . . . subjected to discrimination under or denied employment in connection with" any program or activity supported by funds made available under the Act on the basis of race, color, religion, national origin, or sex. The Act requires OJARS to take rapid action to end assistance to recipients who practice such discrimination.

The OJARS Office of Civil Rights Compliance (OCRC) investigates complaints of discrimination and, even in the absence of a complaint, conducts "compliance reviews" of its recipients. OCRC has received an increasing number of complaints alleging discrimination in the services that criminal justice agencies provide to minority groups and women. Complaints may range from a police department's failure to respond to calls for assistance from a minority neighborhood to a department of corrections' failure to provide the same "halfway house" facilities for women that it does for men. OCRC has also sought to focus more compliance reviews on recipients' efforts to serve their communities equitably. In attempting to investigate these complaints and conduct these reviews, however, OCRC has found that recipients do not maintain the information necessary to permit OJARS to make a determination of compliance or noncompliance. As a result, OJARS cannot fully implement the nondiscrimination provision in the services area.

Alternatives Under Consideration

There are three alternative methods of addressing the problem. OJARS could:

(1) Establish a guideline broad enough to inform each category of criminal justice recipient (e.g., police agency, court, corrections department) of the type of information OJARS would need to review to determine compliance with 42 U.S.C. § 3789d(c)(1);

(2) implement an ad hoc method of collecting information tailored to each recipient that OJARS would establish after it initiated its complaint investigation, or compliance review, of the recipient; or

(3) decide not to investigate complaints of discrimination in services, or to close all such investigations for "insufficient data."

Options (2) and (3) would do little to assist OJARS in eliminating discrimination in services from the criminal justice system. Option (2) would also be too time-consuming and impractical to administer for the 20 persons who comprise OCRC's staff. We cannot obtain the information from another Federal agency because no other agency collects the type of data OJARS needs for review.

Option (1) is the only alternative that would effectively assist OJARS in implementing the nondiscrimination provision of the Justice System Improvement Act. Administered properly, it would assure OJARS that the information it needed to evaluate a complaint of discrimination would be available for review, and would enable the recipient criminal justice agency to quickly and effectively rebut a false charge. The guideline will also be a useful self-examination tool for criminal justice agencies seeking to voluntarily curb discrimination that they might not have previously recognized.

Summary of Benefits

Sectors Affected: State and local criminal justice agencies; members of the public served by those agencies, particularly inmates of correctional institutions, persons on probation, parolees, and juveniles found to be delinquent by a court; and OJARS.

The proposed guideline will:

1. greatly improve OJARS' ability to assure that recipients of its funds are not in violation of the nondiscrimination provision of the Justice System Improvement Act;
2. help protect individuals from being subjected to discrimination in violation of the Justice System Improvement Act;
3. reduce the time needed to conduct complaint investigations and compliance reviews;
4. help OJARS recipients defend themselves against baseless charges of discrimination; and
5. give recipient agencies the information they need to voluntarily end discrimination they might not have previously known they were practicing.

Summary of Costs

Sectors Affected: State and local criminal justice agencies.

OJARS recipients may incur some indirect personnel costs in developing a mechanism to collect the required data. Those costs should diminish considerably after they have established the mechanism. However, because most agencies already collect the data the guidelines would require, it should not be unduly burdensome to them.

Related Regulations and Actions

Internal: OJARS has previously published Nondiscrimination Regulations at 28 CFR 42.201, *et seq.*, and Equal Employment Opportunity Program (EEOP) Guidelines at 28 CFR 42.301, *et seq.* The proposed guideline would seek to collect services information in much the same way that the EEOP Guidelines collect employment information. OJARS will revise the EEOP Guidelines for comment at the same time it proposes the Equal Service Program Guidelines. The anticipated revisions in the EEOP Guidelines will reflect an attempt to streamline and clarify the scope of those requirements.

OJARS also revised the existing Nondiscrimination Regulations in April 1980, primarily to make them conform with technical amendments made in the civil rights provisions of the Justice System Improvement Act.

External: None.

Active Government Collaboration

OJARS will request the views of the Civil Rights Division of the Department of Justice, and give them serious consideration.

Timetable

NPRM—June 1980
Public Comment Period—June to August 1980
Final Rule—September 1980
Final Rule Effective—upon publication as final
Regulatory Analysis—not required

Available Documents

ANPRM—44 FR 53179, September 13, 1979

Agency Contact

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DEPARTMENT OF LABOR

Employment Standards Administration

Sex Discrimination Guidelines—Employee Benefits (41 CFR 60–20.3c*)

Legal Authority

E.O. 11246 (September 28, 1965), as amended by E.O. 11375 (October 17, 1967).

Reason for Including This Entry

This proposal could cause substantial costs by prohibiting the sex-based provision of unequal fringe benefits, which is a matter of considerable public interest.

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Statement of Problem

E.O. 11246, as amended, prohibits employment discrimination on the basis of race, color, religion, sex, or national origin against any person employed by or seeking employment with Federal contractors or under federally assisted construction contracts. It also establishes obligations for Federal contractors and subcontractors to take affirmative action to ensure nondiscriminatory treatment of their employees and of applicants for employment. The sex discrimination guidelines for compliance by Federal contractors with the equal employment opportunity requirements of E.O. 11246 are in 41 CFR 60–20. They contain a section (41 CFR 60–20.2(c)) which says that with respect to employers' contributions for insurance, pensions, welfare programs, and similar fringe benefits, the guidelines are not violated where employer contributions for such programs are equal for men and women *or* where the resulting benefits are equal.

On August 25, 1978, the Department of Labor published in the **Federal Register** proposals to revise both this regulation and the same standard under the Department's Interpretative Bulletin concerning the Equal Pay Act. Under these proposals, sex-based differentials in employee benefits would not be lawful even if unequal employer contributions are necessary to ensure equal benefits. Also, these proposals would not permit covered employers to require sex-based differentials in employees' contributions to achieve equal benefits. On July 1, 1979, the Equal Employment Opportunities Commission (EEOC) assumed responsibility for administration and enforcement of the Equal Pay Act. The Department of Labor retained responsibility for administration and enforcement of E.O. 11246.

In light of an April 25, 1978 U.S. Supreme Court decision in the case of *Los Angeles Department of Water and Power* v. *Manhart*, 435 U.S. 702, it is not realistic to expect that "the equal contributions or equal benefits" rule, in its present form may continue. In the *Manhart* decision, the Supreme Court ruled that a city employer's requirement that female employees make larger contributions to its pension fund than male employees because of the longer life expectancy of women as a class discriminated against the individual female in violation of Title VII of the Civil Rights Act of 1964. The Court also ruled that retroactive monetary recovery was inappropriate because this was the first litigation challenging differences in pension fund contributions based on valid actuarial tables, which fund administrators might have assumed justified the differential; the resulting prohibition constituted a marked departure from past practice; and drastic changes in legal rules can have grave consequences on pension funds.

In order to achieve consistency among regulations concerning the equal employment opportunity obligations of employers under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, and E.O. 11246, as amended, modification of this regulation will be necessary.

Alternatives Under Consideration

The major issues under consideration in relation to the treatment of fringe benefits under Title VII, the Equal Pay Act, and E.O. 11246 include: (1) whether and how the provision in the Equal Pay Act which prohibits any reduction in the wage rate of any employee in order to comply with that law applies to resolution of the equal benefits issue; (2) the applicability of the proposal to each of the numerous types of fringe benefit plans (e.g., defined benefit pension plans, defined contribution pension plans, health insurance, life insurance, etc.); (3) its applicability to the various options under retirement benefit plans (e.g., straight-life, joint and survivor, early retirement, etc.); and (4) the effective date of the amendments, including the issue of retroactivity and its effect on accrued or vested benefits.

We will cooperate with the EEOC in developing alternative approaches on this matter.

Summary of Benefits

Sectors Affected: Employees of Federal contractors and federally assisted construction contractors.

Employers are precluded by the Equal Pay Act from achieving compliance with that law by means of rate reductions for employees of the higher paid sex where sex-based wage differentials exist. Applying the prohibition to the fringe benefits issue under the Equal Pay Act, elimination of the equal cost allowance would result in increased fringe benefits for employees whose employers do not already provide fringe benefits on an equal basis to male and female employees regardless of sex because, based on sex-segregated actuarial computations, the cost for any particular benefit results in higher costs, on average, for similarly situated employees of one sex or the other. Retirement benefits could be affected particularly, because women's longevity, on average, is significantly greater than men's. Thus, payment of equal retirement benefits where this has not been the practice will result in higher benefits for female employees. (Male employees' retirement benefits would also be affected in terms of increased periodic payments to their surviving spouses where such employees choose a joint-and-survivor pension benefit option that provides the surviving spouse with a continuing payment). Fewer employees are affected by coverage under E.O. 11246 than are affected under Title VII and the Equal Pay Act.

Summary of Costs

Sectors Affected: Federal contractors and federally assisted construction contractors.

Employee benefit costs of Federal contractors, along with those of employers not affected by E.O. 11246, can be expected to increase as Federal contractors and employers are required to implement the *Manhart* decision. Because virtually all Federal contractors are also covered by Title VII of the Civil Rights Act and the Equal Pay Act, which also apply to other employers, the costs for them to comply with the equal benefits requirement constitute part of the total costs of employers involved in complying with such a standard under Title VII and revised guidelines under the Equal Pay Act. Cost estimates will be developed in relation to the identification of legally feasible options. We will consult with EEOC to delineate the implications for Federal contractors.

Related Regulations or Actions

Internal: None.

External: Subsequent to its July 1, 1979 assumption of jurisdiction for administering and enforcing the Equal Pay Act, the EEOC has made an interim decision not to adopt the interpretations which the Department of Labor used in administering the Equal Pay Act (29 CFR 800). The EEOC is studying the question of how to interpret properly the Equal Pay Act in relation to Title VII of the Civil Rights Act, under which it has regulations that also address the subject of equal benefits.

Active Government Collaboration

In order to achieve consistency among the Federal regulations concerning the equal employment opportunity obligations of employers under Title VII of the Civil Rights Act, the Equal Pay Act, and E.O. 11246, as amended, active consultation by the Department of Labor with the Equal Employment Opportunity Commission is necessary. Also, the Internal Revenue Service is being consulted in order to avoid any potential conflicts with the Internal Revenue Code and the Employee Retirement Income Security Act.

Timetable

The timetable for finalizing this section of the Office of Federal Contract Compliance Programs' sex discrimination guidelines is contingent on EEOC's progress in addressing the issues involved in determining appropriate treatment of the equal benefits issue, particularly in relation to standards regarding prohibited wage discrimination under the Equal Pay Act and treatment of this issue under Title VII of the Civil Rights Act.

Available Documents

Office of Federal Contract Compliance Programs Sex Discrimination Guidelines—41 CFR 60–20.

NPRM—43 FR 38057, August 25, 1978.

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DOL—EMPLOYMENT AND TRAINING ADMINISTRATION

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting From Federal Financial Assistance (29 CFR 32)

Legal Authority

The Rehabilitation Act of 1973, 29 U.S.C. 794, Part V. E.O. 11914, 41 CFR 17871, Oct. 31, 1976.

HEW—Federal Agency Coordination Guidelines (45 CFR 85)

Reason for Including This Entry

The Department of Labor (DOL) believes this rule is important because it will make employment and training services accessible to handicapped persons in federally funded programs. It will provide them protection against unfair treatment because of their handicap. This regulation may also have a major economic impact, as defined under E.O. 12044.

Statement of Problem

The proposed regulation requires that all recipients of Federal financial assistance from DOL ensure that their federally assisted programs and activities are operated without discrimination on the basis of physical or mental handicap. The recipient is to operate each program so that when viewed in its entirety, it is readily accessible to the handicapped. In FY 1978, Comprehensive Employment and Training Act (CETA) programs served 178,500 handicapped persons accounting for 4.3 percent of all CETA participants. United States Employment Service offices served 15.5 million persons during this same year; 5 percent of whom were handicapped. Presumably, most, if not all, of these persons either are not hindered by architectural barriers, or are working or training in facilities that are already accessible to them.

However, there are undoubtedly a number of persons with severe physical handicaps who currently are not using employment and training services because of architectural barriers, but who would use these services if they were offered in more accessible facilities. We estimate that an additional 105,000 handicapped individuals could potentially benefit from more accessible employment and training facilities.

The proposed regulation mandates capital expenditures by both the public and private sectors to make the necessary minor and structural modifications so that facilities are accessible to handicapped persons. Government agencies which must meet the added cost burden of regulations have few options open to them other than realigning their current capital spending plans to pay for architectural changes. Many small private industry employers may be reluctant to participate in employment training programs because of potential costs. This would result in the loss of new training opportunities.

Alternatives Under Consideration

Possible alternatives for providing accessibility to handicapped persons are:

(1) that recipients of federal funds make selected sites accessible for all programs

(2) that recipients of Federal funds make selected sites accessible but not for all programs

(3) that small recipients of Federal funds with fewer than 15 employees or participants need not either consult with handicapped persons seeking their services and/or refer them to "accessible" employers.

The first alternative would meet the requirements of "program accessibility" in the proposed regulations, since the primary recipient of Federal financial assistance has the obligation to comply with the legislative mandate.

For CETA programs, such as On-The-Job-Training, Job Corps, and Private Sector Initiative, the prime sponsor has the responsibility to ensure that these programs, when viewed in their entirety, are accessible. In all other CETA programs or activities, the subrecipient shares this responsibility.

In the case of Job Corps, it is inaccurate to consider each individual center as a separate program or recipient of Federal financial assistance. Congress, when it established the Job Corps in 1964, stated that it was a national program with program operating authority centralized at the Federal level. This being the case, Job Corps can comply with the requirements of § 504 by designating regional centers that will serve both handicapped individuals who need specialized services and nonhandicapped individuals.

The second alternative suggests that in Private Sector Initiative Programs and On-The-Job training programs, the phrase "when viewed in its entirety" be applied to specific occupations in these programs. Training need not necessarily be available at each site within each occupation. But, each prime sponsor has the responsibility to ensure that "viewed in its entirety" specific occupations are accessible.

The small recipients' alternative would address both the expensive duplication of specialized occupational training and the number of occupations that must be offered to make a program "accessible" when viewed in its entirety. Small employers participating in the Private Sector Initiative Program (PSIP) offering training in highly specialized occupation or occupations with limited demand, would not have to assume large capital expenditures in order to participate in On-The-Job Training Programs. The prime sponsor still would have the ultimate responsibility of ensuring accessibility to these programs.

This proposed rule will meet its regulatory objective of prohibiting discrimination against individuals with a variety of innovative regulatory techniques which fall in the category of performance standards. These standards are: Reasonable Accommodation: The proposed regulation provides a broad spectrum of actions a recipient can take to ensure that handicapped persons can avail themselves of the program services. They include job restructuring, modification of job or program schedules, acquisition of equipment or devices, and provision of readers and interpreters so that a handicapped person can communicate with others

around them. Program Accessibility: The proposed regulation states that every existing training and employment facility need not be made physically accessible whenever a handicapped person enrolls in a program. The prime sponsor has flexibility in choosing which sites to make accessible, so long as programs "when viewed in their entirety" are readily accessible. Programs: The provision "when viewed in their entirety" allows the recipients the flexibility of not making every part of a facility accessible to and usable by a handicapped person. Instead, the recipient can use other methods such as redesign of equipment, reassignment of classes or other service to accessible buildings, assignment of aides to handicapped persons, home visits, physical modification of facilities, and delivery of service at alternate accessible locations.

In relation to Public Service Employment (PSE), On-The-Job Training (OJT), and Private Sector Initiative, the requirement that programs "when viewed in their entirety be readily accessible" is a very significant component of this proposed rule. The cost of making all the estimated employment and training facilities accessible could approach $300 million.

Summary of Benefits

Sectors Affected: Handicapped persons eligible to participate in employment and training programs receiving DOL financial assistance; the Veterans Administration; and the Vocational Rehabilitation Agency.

The population this regulation will benefit includes CETA eligible persons who are handicapped as defined by the Rehabilitation Act of 1973. The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment. The regulation also will affect any and all people participating in or wishing to participate in programs funded by the Department of Labor. CETA is by far the largest affected program in the Department of Labor. Handicapped people are by and large concentrated in the larger industrial States.

There are more than 450 Prime Sponsors or recipients of Federal funds who administer the Comprehensive Employment and Training Programs. A Prime Sponsor may be a State, a unit of general local government which has a population of 100,000 or more, or a consortium of units of local government. We estimate the number of training sites provided by these Prime Sponsors to be 315,000.

Major benefits are:

(1) More accessible employment and training facilities will increase the number of handicapped persons served at these training sites. Such persons, by acquiring work skills and earning an income, will obtain greater independence.

(2) Reduced transfer payments will lower costs for the Veterans Administration and the Vocational Rehabilitation Agency.

(3) Finally, the major benefit of these regulations relates to improving the quality of life of handicapped persons.

Currently CETA programs service about 178,500 handicapped persons. Preliminary estimates show that an additional 105,000 handicapped individuals potentially could benefit from more accessible employment and training facilities. We base our estimate on an updated 1974 Survey of Disabled and Nondisabled Adults. Our estimate included the severely and partially disabled handicapped who use the following aids—wheelchairs, braces, crutches, and artificial limbs—and who are able to go out of doors without help. For this group, the survey shows that in addition to 40,000 handicapped, unemployed workers, about 115,000 severely disabled and 25,000 partially disabled people are not in the labor force. In addition to the unemployed handicapped, we estimate that 40,000 severely disabled and all of the partially disabled may be employable and thus benefit from CETA programs. Thus, there will be about 105,000 additional handicapped people who could benefit from more accessible employment and training facilities. We recognize that some people with severe physical handicaps may not be able to use employment and training facilities even when they are accessible.

Summary of Costs

Sectors Affected: Employment and training programs receiving DOL financial assistance.

Overall preliminary estimates are that the total capital costs of making employment and training programs accessible under the proposed regulation (alternatives [2] and [3]) would amount to $128 million of Federal monies. This estimate is based on making accessible existing facilities which are currently used in employment and training programs.

A thorough analysis of accessibility costs would require an architectural survey of all existing facilities. Instead, a maximum cost figure was developed by estimating the number of intake centers based on the type and size of Prime Sponsors and the number of work and training sites based on the number of participants.

The total number of intake centers and training sites was reduced by the percent of facilities estimated to be currently in compliance with the proposed regulations. All applicants must have access to CETA Intake Centers. We estimate that there are 1,036 such centers.

The following table presents a summary of total capital costs:

Capital Costs by Program Activity (Alternative 2)

	In 1979 dollars thousands
1 State Employment Security Agencies (SESA)	6,000
2 Comprehensive Employment and Training Act (CETA) Intake Centers	388
Minor Modifications	
Major Modifications	5,633
CETA Employment and Training Facilities	
3 Classroom Training	4,900
4 Public Service Employment and Work Experience	55,338
5 Youth Programs	28,531
6 On The Job Training	12,060
7 Private Sector Initiative Program	15,000
Total	127,850

Under a more restrictive interpretation of program accessibility in the Private Sector Initiative Program and the On-The-Job Training Program total capital costs could be as high as $280 million (alternative 1). In this context, this could mean that selected sites must provide "program accessibility" for PSIP, OJT, and Job Corps, possibly in every occupational grouping.

The cost of modification and employer participation depends greatly on whether or not every job site in PSG, OJT or PSIP must be made accessible.

Related Regulations and Actions

Internal: Department of Labor (DOL)—Comprehensive Employment and Training Act Regulations (20 CFR 675, 676, 677, 678, and 669). DOL—Affirmative Action Obligation of Contractors and Subcontractors for Handicapped Workers (41 CFR 60–741). DOL—E.O. 11758, which in part delegated authority to the Secretary of Labor for implementing § 503 (a) and (c) of the Rehabilitation Act of 1973. DOL—Regulation issued pursuant to § 503 of the Rehabilitation Act of 1973 (41 CFR 60–741).

External: Health, Education and Welfare (HEW)—Regulations (45 CFR 84) issued by HEW covering its own grant programs.

HEW—E.O. 11914, which requires DHS to coordinate the government-wide enforcement of § 504 of the Rehabilitation Act.

HEW—Federal Agency Coordination Guidelines (45 CFR 85).

Active Government Collaboration

None

Timetable

Final Rule—August 1980

Available Documents

45 FR 1392, January 4, 1980
Public comments
Regulatory Analysis—45 FR 1402, April 1980

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DOL—LABOR MANAGEMENT SERVICES ADMINISTRATION

Definition of Plan Assets and Establishment of Trust (29 CFR Part 2550)

Legal Authority

Employee Retirement Income Security Act of 1974, §§ 401(b), 403(b) and 505, 29 U.S.C. §§ 1101(b), 1103(a), 1103(b) and 1135.

Reason for Including This Entry

These proposed regulations have generated considerable public interest. A number of the public comments submitted to the department on the proposals argued that employee benefit plan investments would be curtailed in certain types of companies which invest in small businesses, thereby affecting the amount of capital available to small business.

Statement of Problem

The Employee Retirement Income Security Act of 1974 (ERISA) covers virtually all private employee benefit plans. There are several statutory exceptions such as plans for government employees or plans established by churches. ERISA does not require any employer to establish an employee benefit plan; but if the employer does have an employee benefit plan, the requirements of ERISA will apply to it.

Part 4 of Title I of ERISA sets forth certain requirements that a fiduciary has to meet in handling plan assets. The term "fiduciary" is defined in § 3(21) of ERISA to include a person who exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets.

While ERISA contains a definition of fiduciary and that definition uses the concept of "plan assets", ERISA does not explicitly define plan assets. The proposed regulation would provide this key definition. This definition is important under ERISA because plan assets are the funds which will generate the benefit payments to participants and beneficiaries. Consequently, in order to protect plan assets, ERISA requires that they be held in trust, and provides that persons responsible for decisions regarding those assets be subject to ERISA's fiduciary responsibility requirements (i.e., they must meet certain standards of conduct such as making prudent investments).

These proposed regulations also relate to the requirement of ERISA that assets of an employee benefit plan must be held in trust by one or more trustees. The Secretary of Labor is authorized to exempt the assets of certain types of employee benefit plans from the trust requirement. One of the proposed regulations would exempt, pursuant to that authority, certain assets of employee welfare benefit plans.

On August 28, 1979, these proposed regulations appeared in the **Federal Register** (44 FR 50363). They substituted for and withdrew a proposal made in December 1974 and never finalized (29 CFR 2552.1).

The proposed regulations clarify the concept of "plan assets" by providing that any property in which a plan has a beneficial ownership interest (i.e., the plan owns) is a plan asset. It also provides that the assets of an entity in which a plan has an equity investment would be plan assets, except that the assets of operating companies (i.e., companies which are primarily in the business of providing goods or services, but not the investment of capital), companies whose shares are widely held and truly transferable, and companies that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940 would not be regarded as plan assets.

The department believes that the concept of "plan assets" should be clarified so that persons exercising discretionary authority or control respecting the management or disposition of these assets (and who, therefore, are fiduciaries with respect to the plan) are aware of their responsibilities under ERISA.

Alternatives Under Consideration

For the reasons set forth above, the department has concluded that the alternative of not publishing a regulation defining "plan assets" is inappropriate. The Department is considering the modifications to the proposed definition suggested by commentators in this matter.

Summary of Benefits

Sectors Affected: Fiduciaries (which include trustees and persons providing investment management services, such as banks and insurance companies), sponsors (e.g., employers, labor unions, and joint labor-management bodies that establish pension plans), participants, and beneficiaries of employee benefit plans.

The benefit of regulations in this area is that confusion as to what are plan assets would be avoided.

Summary of Costs

Sectors Affected: Fiduciaries, sponsors, participants, and beneficiaries of employee benefit plans.

There will be some administrative costs incident to holding in trust any plan assets that are not now being held in trust. The proposed regulation may also make some persons reluctant to invest in plan assets or to act as a fiduciary. This could change plan investment strategies (i.e., investments might be made in different vehicles). The amount of plan assets invested in certain types of companies could be affected. For example, venture capital companies have asserted that employee benefit plans would be unwilling to invest in venture capital companies, which are a source of small business capital, because, they argue, the venture capital company's assets might, under the proposed regulations, be plan assets subject to the fiduciary requirements of ERISA. They believe that such a result would be unduly burdensome in light of the structure and operations of those companies. Assuming that this argument is correct, the extent of the effect on small business will depend largely on the availability of alternative sources of investment capital. Similarly, the cost to employee benefit plans of seeking alternative investments will depend upon the return available from the alternative investments.

Related Regulations and Actions

Internal: None.
External: § 4975 of the Internal Revenue Code of 1954.

Active Government Collaboration

None

Timetable

Final Rule—undecided

Available Documents

Available Documents

NPRM: 39 FR 44456, December 24, 1974
NPRM: 44 FR 50463, August 28, 1979
Public Comments —
All documents are available for review in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

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DOL—LMSA

Individual Benefit Reporting and Recordkeeping (29 CFR Parts 2520 and 2530)

Legal Authority

Employee Retirement Income Security Act of 1974, §§ 105, 209, and 505, 29 U.S.C. §§ 1025, 1059, and 1135.

Reason for Including This Entry

The proposed regulation has generated considerable public interest from those members of the public directly and indirectly involved with the administration of pension plans.

Statement of Problem

The Employee Retirement Income Security Act of 1974 (ERISA) imposes a comprehensive scheme of regulation on private sector employee benefit plans. There are several statutory exceptions such as plans for government employees and plans established by churches. ERISA does not require any employer to establish an employee benefit plan; but if the employee does have an employee benefit plan, it is subject to Title I of ERISA. In the case of pension plans, Title I of ERISA imposes reporting and disclosure requirements, fiduciary duties, and minimum standards. With respect to welfare plans, Title I of ERISA imposes only reporting and disclosure requirements and fiduciary duties. This proposed regulation only applies to pension plans.

ERISA requires each pension plan administrator to provide participants and beneficiaries with statements of their individual benefit entitlements (i.e., the benefits which they would be entitled to receive at retirement age by virtue of their service up to the date of the benefit statement) upon written request and upon certain other occasions, such as a one-year break or the termination of service. These statements must include information on the total benefits the individual has accrued, the percentage of those accrued benefits which are nonforfeitable (i.e., the benefits which they will be entitled to receive at retirement age regardless whether they leave employment before retirement age), and the earliest date the benefits would become nonforfeitable.

ERISA also requires employers to maintain records so that the information is available for the administrator of the plan to compile the benefit statements. ERISA leaves to the Secretary of Labor the specifics of these requirements. Thus, the proposed regulations specify content, format, and timing of benefit statements and the type, retention time, and content of records.

Many plans now provide benefit statements to their participants and beneficiaries; however, many others do not. Further, of those plans that do issue benefit statements, some of the plans' statements may not be adequate or may not be provided at the appropriate times. Likewise, some plans keep records; but many plans have inadequate or no records. Many plans are awaiting these regulations before they adopt a benefit reporting or recordkeeping system so as to avoid the burden and cost of changing procedures twice.

The recordkeeping requirements of the Act pose different problems for different kinds of pension plans. Single employer plans can often maintain the records necessary for providing benefit statements with a minimum of difficulty. On the other hand, administrators of multiple employer plans (i.e., plans sponsored by more than one employer) must rely on the individual employers to provide on a timely basis accurate information concerning the participants and their service. In the absence of regulations to provide guidance on the scope of records which employers must maintain and on the content of individual employer reports to multiple employer plans, some plans do not have adequate records to prepare benefit statements. Some plans currently do not have any system for collecting information from the employers. In the past, many multiple employer plans have relied on the Social Security Administration earning records for the necessary data.

On February 9, 1979, the Department published in the **Federal Register** (44 FR 8294) proposed regulations dealing with these topics.

Alternatives Under Consideration

In adopting final regulations in this area, the department is seeking to achieve a balance. We must ensure, on the one hand, that participants and beneficiaries are provided accurate, timely and useful information, and that there are available to them the records on which the benefit statements are based. On the other hand, we must avoid imposing undue administrative burdens and costs on employers and administrators.

In response to the proposed regulations, the department received a great number of comments. As a result, the proposed regulations may be substantially changed. In this connection the following are among the alternatives we are considering.

(1) Whether to extend the periods within which benefit statements must be provided. The proposed regulation contained a 60-day time frame for plan administrators to provide a benefit statement in response to a written request. The proposal also required plan administrators to provide a benefit statement within 60-days after the end of the plan year in which a break in service occurs or within 60 days after termination occurs. If this 60-day period were extended it would allow the plan administrator more flexibility in coordinating these statements with other administrative functions. The extra time would allow the administrator to avoid some duplication of effort or to schedule the workload more efficiently. This could reduce the administrative burden and cost of the regulations. This change, however, would result in less timely information for participants and beneficiaries.

(2) Whether to reduce the amount of information that the plan administrator is required to set forth in the benefit statement, particularly that information which is unique to each participant or beneficiary. This would minimize the burden and cost to the plan attendant to retrieving, compiling, and reporting the information in a benefit statement. This change, however, would make less information available to participants and beneficiaries.

(3) Whether to separate the proposed regulation into two regulations, one for single employer plans and one for multiple employer plans. While we anticipate that the regulations will require both single and multiple employer plans to provide benefit statements, the recordkeeping problems of multiple employer plans may merit special consideration. Separation of the regulations would permit the Secretary to establish standards that are appropriate to the different conditions of single employer and multiple employer plans.

(4) Whether to delay the date on which multiple employer plans have to

be in compliance with the recordkeeping rules. Multiple employer plans which are by definition maintained pursuant to collective bargaining agreements, may require changes in the collective bargaining agreement to implement the recordkeeping standard. Because of this the department is considering a delayed implementation schedule. Such a change would allow more orderly compliance with the regulations.

Summary of Benefits

Sectors Affected: Pension plan sponsors (employers, labor unions and joint labor-management bodies that establish pension plans), administrators (persons who are responsible for the administration of pension plans), participants, and beneficiaries.

There are approximately 23 million single employer plan participants and beneficiaries and 8 million multiple employer plan participants and beneficiaries.

The proposed regulations would provide plan administrators with the necessary guidance for compliance with the statutory provisions. This would enable pension plan participants and beneficiaries to receive accurate, timely, and useful information about their specific benefit entitlements under pension plans, and to have the information verified from records maintained by the plan under the standards established by the Secretary. With this information participants and beneficiaries will be better able to protect their rights to retirement benefits. Today, even if this information is available it may not be available in a useful manner.

Summary of Costs

Sectors Affected: Sponsors and administrators of pension plans.

According to data furnished in public comments submitted on the proposed regulation, implementation as proposed would cost plans a total of approximately $274 million in the first year. Single employer plans would be faced with approximately $82 million in start-up costs and $92 million in annual costs for a first year total of approximately $174 million. Costs to multiple employer plans would be approximately $49 million to start-up and $51 million annually. (We estimated all costs based on 1979 dollars.)

In response to extensive public comment, and consistent with the department's continuing efforts to reduce administrative burdens and costs associated with regulatory compliance if at all possible, we are considering alternatives which could reduce total implementation costs to a sum of less than $100 million. The costs to single employer plans would be substantially reduced to approximately $22 million annually, with no significant start-up costs. The cost reductions for multiple employer plans would be less substantial but nonetheless significant; start-up costs for them would be reduced to approximately $34 million with annual costs decreasing to approximately $43 million.

If the department adopts the alternative of extending the effective dates for multiple employers until the collective bargaining agreement expires, the cost of the regulation in either the first or any ensuing year would be substantially less than the estimated total cost.

Related Regulations and Actions

Internal: None.
External: 6057 of the Internal Revenue Code of 1954.

Active Government Collaboration

None

Timetable

NPRM—June 1980
Final Rule—undecided
Regulatory Analysis—undecided

Available Documents

NPRM (44 FR 8294, February 9, 1980)
All documents are available for review in the
Public Documents Room, Pension and Welfare Benefit Programs U.S. Department of Labor, Room N–4677
200 Constitution Ave., N.W.
Washington, D.C. 20216 (202) 523–8671

Agency Contact

Robert Doyle
Pension and Welfare Benefit Programs
U.S. Department of Labor
Washington, D.C. 20216
(202) 523–8671

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of Policy Implementation

Guidelines on Discrimination Because of Religion (29 CFR 1605*)

Legal Authority

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 (e) *et seq.*

Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) believes these Guidelines are important because they will aid in the elimination of discrimination on the basis of religion.

Statement of Problem

§ 701(j) of Title VII of the Civil Rights Act of 1964, as amended, creates an obligation to provide reasonable accommodation for the religious practices of an employee or prospective employee, unless to do so would create an undue hardship. In 1977, the Supreme Court rendered its decision in *Trans World Airlines, Inc.* v. *Hardison*, 432 U.S. 63 (1977). The Court's interpretation of an undue hardship led to much confusion in the employment sector. It left employers, employees, and labor organizations unclear about the extent of their statutory duty under Title VII to provide reasonable accommodation for the religious practices of an employee or prospective employee.

The Commission held public informational hearings on this issue in April and May of 1978 in New York City, Los Angeles, and Milwaukee. To allow interested persons an opportunity to participate in all stages of its rulemaking process, the Commission published its intent to review its Guidelines on Discrimination Because of Religion. The purpose of this review was to determine if any changes in the Guidelines were needed based on the information obtained from the Commission's informational hearings.

The Commission revised its Guidelines and published the transcript of the hearings because the hearings established that many people desired clarification of the Guidelines, and that many employers had developed alternative employment practices for accommodating the religious practices of employees and prospective employees which could be of use generally.

The Guidelines clarify the obligation imposed by Title VII of the Civil Rights Act of 1964, as amended, (§§ 701(j), 703 and 717) to accommodate the religious practices of employees and prospective employees.

Alternatives Under Consideration

The Commission considered several alternatives. These included: 1) seeking new legislation, 2) publishing the transcripts and then allowing employers to develop solutions from the information obtained at the hearings, 3) relying on existing Guidelines, 4) reviewing its Guidelines or 5) revising the Guidelines and publishing the transcript of the hearings. As noted above, the Commission chose to revise its Guidelines and publish the transcript of the hearings. The Commission may

make further revisions to the Guidelines as a result of comments received.

Summary of Benefits

Sectors Affected: Employees and employers in all industries subject to Title VII of the Civil Rights Act of 1964.

The Guidelines will clear up confusion in the Employer community, inform employers and applicants for employment of their rights under Title VII of the Civil Rights Act of 1964, and aid the agency in fulfilling its mandate under Title VII of the Civil Rights Act of 1964 to eliminate employment discrimination on the basis of religion.

Summary of Costs

Sectors Affected: Employers in all industries subject to Title VII of the Civil Rights Act of 1964.

In the *Hardison* decision (432 U.S. at 84)m the Court indicated that it would be undue hardship on an employer if it is forced to bear "more than a de minimis cost" in order to accommodate an employee's need to be absent from his or her scheduled duty hours. Interpretation of "more than a de minimis cost" has to be made on a case-by-case basis with due regard given to the identifiable cost in relation to the size and operating cost of the employer, and the number of individuals who will in fact need a particular accommodation. In general, the Commission interprets this phrase as it was used in the *Hardison* decision to mean that costs similar to the regular payment of premium wages of substitutes, which was at issue in *Hardison*, would constitute undue hardship. However, the infrequent payment of premium wages for a substitute or the payment of premium wages while a more permanent accommodation is being sought are costs which EEOC can require an employer to bear as a means of providing a reasonable accommodation. In most circumstances EEOC can also require an employer to pay administrative costs necessary for providing the accommodation, such as those costs involved in rearranging schedules and recording substitutions for payroll purposes.

Related Regulations and Actions

None

Active Government Collaboration

In compliance with E.O. 12067 (3 CFR, 1978, Comp., p. 206), the Commission consulted during the drafting stage with representatives of the Departments of Justice, Labor, and Treasury; and the Office of Personnel Management.

Timetable

Final Guidelines—late summer or early fall.
Regulatory Analysis—EEOC will not prepare

Available Documents

Guidelines, published—September 14, 1979.

The transcript of the Commission's Hearings on Religious Discrimination can be examined by the public at: The Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

Agency Contact

Frederick D. Dorsey, Director, Office of Policy Implementation Equal Employment Opportunity Commission, 2401 E Street, N.W. Washington, D.C. 20506
(202) 634–7060

EEOC–OPI

Interim Amendment to Guidelines on Discrimination Because of Sex (29 C.F.R. 1604.11)

Legal Authority

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.*

Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) believes this Amendment is important because it will set forth clearly the Commission's position on the issue of sexual harassment, and aid in the elimination of discrimination on the basis of sex.

Statement of Problem

Sexual harassment, like harassment on the basis of color, race, religion, or national origin, has long been recognized by EEOC as a violation of § 703 of Title VII of the Civil Rights Act of 1964, as amended. However, despite the position taken by the Commission, sexual harassment continues to be widespread. Because of the continued prevalence of this unlawful practice, the Commission has determined that there is a need for guidelines in this area of Title VII law. Therefore, EEOC proposes to amend its Guidelines on Discrimination Because of Sex (37 FR 6836, April 5, 1972, as amended) to add § 1604.11, Sexual Harassment.

Proposed § 1604.11(a) provides that harassment on the basis of sex is a violation of Title VII and states that such unwelcomed behavior may be either physical or verbal in nature. The proposed section also sets out three criteria for determining whether an action constitutes unlawful behavior. These criteria are (1) submission to the conduct is either an explicit or implicit term or condition of employment; (2) submission to or rejection of the conduct is used as the basis for employment decisions affecting the person who did the submitting or rejecting; or (3) the conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. It is the Commission's position that sexual harassment, like racial harassment, generates a harmful atmosphere. Under Title VII, employers should afford employees a working environment free of discriminatory intimidation whether based on sex, race, religion, or national origin. Therefore, the employer has an affirmative duty to maintain a workplace free of sexual harassment and intimidation.

Proposed § 1604.11(b) recognizes that the question of whether a particular action or incident established a purely personal, social relationship without a discriminatory employment effect requires a factual determination. In making such a determination, the Commission will look at the record as a whole and at the totality of the circumstances, emphasizing the nature of the sexual advances and the context in which the alleged incidents occurred. The Commission's determination of the legality of a particular action will be made from the facts, on a case-by-case basis.

Proposed § 1604.11(c) applies general Title VII principles to the issue of sexual harassment and states that an employer is responsible for the acts of its supervisory employees or agents, regardless of whether the acts were authorized or forbidden by the employer and regardless of whether the employer knew or should have known of the acts. This subsection further states that the Commission will determine whether an individual acts in either an agency or a supervisory capacity on a case-by-case basis, examining the circumstances of the particular employment relationship and the job functions performed by the individual, rather than accepting an individual's title as being controlling.

Proposed § 1604.11(d) distinguishes the employer's responsibility for the acts of its agents or supervisors from the responsibility it has for the acts of other persons. This subsection states that liability for the acts of those persons not mentioned in subsection (c) exists only when the employer, or its agents or

supervisory employees, know or should have known of the conduct. The subsection further provides that the employer may rebut this apparent liability for the conduct by showing that it took immediate and appropriate corrective action.

Consistent with the policy of voluntary compliance under Title VII, § 1604.11(e) recognizes that the best way to achieve an environment free of sexual harassment is to prevent the occurrence of sexual harassment by using appropriate methods to alert the employees to the problem and to stress that sexual harassment, in any form, will not be tolerated. This subsection requires an employer to take all steps necessary for the prevention of sexual harassment and gives the following as examples of steps which might be deemed necessary: affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise the issue of sexual harassment under Title VII, and developing methods to sensitize all concerned.

Alternatives Under Consideration

EEOC is not considering any alternatives at this time. However, EEOC may make revisions to this proposal as a result of comments received.

Summary of Benefits

Sectors Affected: Employees in all industries subject to Title VII of the Civil Rights Act of 1964.

The Guidelines apply to employers as defined in § 701(j) of Title VII of the Civil Rights Act of 1964. The Guidelines will aid the agency in fulfilling its mandate under Title VII of the Civil Rights Act of 1964 to eliminate employment discrimination on the basis of sex.

Summary of Costs

Sectors Affected: None.

The Guidelines require employers subject to Title VII of the Civil Rights Act of 1964 to take all steps necessary for the prevention of sexual harassment. The Commission believes that the costs to be borne by employers in complying with the Guidelines will be minimal.

Related Regulations and Actions

EEOC has jurisdiction over the Federal agencies' Affirmative Action Plans and has directed agencies to prepare them and submit them to EEOC. The Commission has specifically directed that Federal agencies include, as a supplement to their phase II Affirmative Action Planning Process, a plan indicating the steps the agency will take to prevent sexual harassment.

Active Government Collaboration

In compliance with E.O. 12067 (3 C.F.R. 1978, Comp., p. 206), the Commission has consulted with representatives of the Office of Personnel Management, and the Departments of Justice; Labor, and Health, Education, and Welfare.

Timetable

Public Comment Period—ends June 10, 1980
Regulatory Analysis—EEOC will not prepare

Available Documents

Copies of the Guidelines, published April 11, 1980, are available through the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

Agency Contact

Frederick D. Dorsey, Director
Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506
(202) 634–7060

EEOC–OPI

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

Legal Authority

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000(e) *et seq.*

Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) believes these Guidelines are important because employment policies, practices, and plans relating to reproductive hazards can have the effect of denying employment opportunities to individuals. Thus, the Guidelines will aid in the elimination of discrimination on the basis of sex.

Statement of Problem

The Hazardous Substances Guidelines are the result of collective efforts and expertise of several Federal agencies. These efforts were necessitated by charges presented to the Equal Employment Opportunity Commission and to the Office of Federal Contract Compliance Programs (OFCCP), alleging employment discrimination in workplaces containing substances and conditions hazardous to reproductive health.

Also, EEOC and OFCCP became aware of the increasing number of employers and contractors who are initiating policies excluding all women of childbearing capacity from certain jobs because of exposure to hazardous substances or conditions. A number of employers and contractors have policies of not hiring women of childbearing capacity for jobs in which there is exposure to alleged reproductive hazards, and have terminated or transferred women to lower paying jobs based on such policies. Employers and contractors in establishing such practices often show a lack of concern for similar effects upon men. Some employers and contractors have attempted to justify these policies on the basis of potential harm occurring to an unborn child through exposure of the mother. These policies have been developed without apparent regard to whether exposure of the father can result in harm to the unborn child. Preliminary evidence indicates that as many as 20 million jobs may involve exposure in the workplace to alleged reproductive hazards.

In response to such exclusionary practices, the EEOC, on April 21, 1978, issued a policy statement indicating its concern about whether such practices conform with Federal antidiscrimination laws. In a May 31, 1978 letter from the Department of Labor's Assistant Secretary for Occupational Safety and Health, (OSHA) expressed its concern regarding employment practices which deny opportunities to any class of workers on the basis of safety and health. On February 1, 1980, the EEOC published Guidelines specifically addressing those situations involving allegations of sex discrimination.

Title VII and E.O. 11246 require that the enforcement agencies closely scrutinize the exclusion of a sex-based class from consideration for employment.

Exclusions which, by their terms, are based on membership in a sex-based class are per se violations of Title VII and E.O. 11246 because the exclusions are expressed or implemented in terms of membership in a class protected by Title VII and E.O. 11246. Also, an employer/contractor's conduct which treats disparately members of a sex-based class raises a presumption of a violation of Title VII and E.O. 11246. Finally, a neutral employment policy which is neutral on its face which has an adverse impact upon a specific sex-based class is an unlawful employment practice unless it is truly neutral and is justified by the employer/contractor.

It is important to note that, as a result of the Pregnancy Discrimination Act,

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P.L. 95–555, 92 Stat. 2067 (1978), women affected by pregnancy, childbirth, or related medical conditions constitute a protected class under Title VII. All such women must be treated the same for employment-related purposes as other persons not so affected but similar in their ability or inability to work. For example, where an employer/contractor seeks to determine the hazardous reproductive effects on pregnant women from their exposure to a certain substance or condition, the employer/contractor must also determine the effects on males and nonpregnant females from the same exposure.

If the hazard is known to affect the fetus through either parent, an exclusionary policy directed only at women would be unlawful under Title VII and E.O. 11246. Further, if the hazard is shown by reputable scientific evidence to affect the fetus through women only, the class excluded must be limited to pregnant women and not all women of child-bearing capacity. Whether expressed in a policy or not, the employer/contractor's conduct will be examined by the enforcement agencies to determine whether the conduct is nondiscriminatory or justified.

Alternatives Under Consideration

There are no alternatives under consideration at this time. However, EEOC may make revisions to its proposal as a result of comments received.

Summary of Benefits

Sectors Affected: Employees of industries in which workers are exposed to reproductive hazards.

The Guidelines apply to employers as defined in § 701(j) of Title VII of the Civil Rights Act of 1964. The Guidelines will aid the agency in fulfilling its mandate under Title VII of the Civil Rights Act of 1964 to eliminate employment discrimination on the basis of sex.

Summary of Cost

Sectors Affected: Industries in which workers are exposed to reproductive hazards.

The Guidelines require employers to initiate research designed to produce evidence of the effect of the reproductive hazard as used in the employer/contractor's workplace. The Guidelines provide for the conducting of joint studies by employers. Also, if the employer/contractor does not have the capacity to conduct or sponsor the necessary research, the employer can request the occupational Safety and Health Administration (OSHA) to perform the research. The Commission believes that the cost of conducting such research will vary from employer to employer. The Commission is unable to place a dollar figure on the cost of such research. However, the Commission does believe that the benefits derived from carrying out its mandate to prohibit sex discrimination under Title VII of the Civil Rights Act of 1964 will outweigh any costs to be incurred by employers in conducting such research.

Related Regulations and Actions

None

Active Government Collaboration

In compliance with E.O. 12067 (3 CFR, 1978, Comp. p. 206), the Commission consulted with representatives of the Department of Labor, the Occupational Safety and Health Administration, and the Office of Federal Contract Compliance Programs.

Timetable

Public comment ends—Period June 1, 1980
Regulatory Analysis—EEOC will not prepare

Available Documents

Copies of the Guidelines, published February 1, 1980, are available through the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W. Washington, D.C. 20506. Comments may be reviewed from 9:30 a.m.–4:30 p.m. at the Equal Employment Opportunity Commission Library.

Agency Contact

Frederick D. Dorsey, Director,
Office of Policy Implementation
Equal Employment Opportunity Commission, 2401 E Street, N.W.,
Washington, D.C., 20506
(202) 634–7060

GENERAL SERVICES ADMINISTRATION

Administration Operations Division

Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Assistance (41 CFR Part 101–6.3)

Legal Authority

Rehabilitation Act of 1973, 29 U.S.C. § 794 E.O. 11914, 3 CFR, 1976 Comp., p. 117 40 U.S.C. § 486(c)

Reason for Including This Entry

The General Services Administration (GSA) has included this item because of the high level of public interest in nondiscrimination against handicapped persons in federally assisted programs and activities.

Statement of Problem

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) prohibits discrimination against handicapped persons in all programs and activities receiving Federal assistance. E.O. 11914 designated the Department of Health, Education and Welfare (HEW) as the lead agency to coordinate government wide enforcement of § 504. HEW issued regulations (45 CFR Part 85) in 1978 which set standards, procedures and guidelines for other agencies to follow in issuing their own regulations. GSA's proposed regulation is intended to be consistent with the HEW standards and guidelines. It establishes the procedures GSA will use to enforce nondiscrimination against handicapped persons in programs and activities which receive Federal assistance under laws which GSA administers in whole or in part.

GSA's assistance typically consists of donation or sale below market price of surplus Federal property—land, buildings, historical records, vehicles, or supplies—to State and local governments and other public or charitable bodies. These recipients in turn use the property for a wide range of purposes, such as airports, parks, education, public health, public safety, and economic development. GSA makes over 50,000 grants of assistance and conveys approximately $4 billion in surplus property to the States each year.

The proposed GSA regulation will require that applicants for assistance from GSA submit an assurance to GSA that the assisted program or activity will be offered on a nondiscriminatory basis, and will be accessible to the handicapped. Where the assistance is in the form of real property, the proposed regulation requires a covenant in the deed which would allow GSA to reclaim the property if the recipient's use is contrary to the nondiscrimination provisions. The proposed regulation requires recipients to evaluate the effectiveness of their nondiscrimination efforts and to set up a grievance procedure and encourages them to take remedial action on a voluntary basis. The requirement of nondiscrimination also applies to employment under federally assisted programs and activities.

Alternatives Under Consideration

There are no alternatives under consideration because HEW guidelines leave little room to vary these proposals. At an early stage in the development of the proposed regulation, we decided simply to require an "assurance," the form of which may be different for different applicants, and to exempt small recipients (those with fewer than 15 employees) from some requirements of the regulation.

Summary of Benefits

Sectors Affected: Persons with physical handicaps; State and local governments receiving assistance from GSA; and programs and activities that benefit from this assistance.

The physically handicapped of our society will be assured of equal benefit from and access to programs and facilities which receive Federal support through GSA. A study of the number of handicapped persons who use these programs and activities is now underway.

Where employment is stimulated by the federally supported programs, we expect to see long term productivity improvements because of the high productivity levels of qualified handicapped workers. Some handicapped workers may achieve self-sufficiency or higher standards of living because of these employment opportunities.

Summary of Costs

Sectors Affected: State and local governments and other public and charitable bodies receiving Federal assistance through GSA; programs and activities that benefit from this assistance; and GSA.

We will require recipients to ensure that the assisted programs and services are available on a nondiscriminatory basis to handicapped persons. The costs of actual compliance imposed by statute may be quite high (as where buildings modifications are needed). The cost of giving assurances to GSA, as the GSA regulation would require, is quite small and we do not expect that cost to deter any applications for assistance from GSA.

All recipients and GSA would incur some cost of compliance monitoring. This monitoring is closely related to the monitoring for racial and other forms of prohibited discrimination and we expect the additional cost to recipients will be small. GSA will bear the costs of more on-site reviews.

Related Regulations and Actions

Internal: 41 CFR Part 101–6.2
External: 28 CFR Part 42.401–415

Active Government Collaboration

GSA has worked with the Architectural and Transportation Barriers Compliance Board (a government board created by the Rehabilitation Act of 1973) on developing standards for the design, construction or alteration of facilities. As required by the Department of Health, Education and Welfare (HEW) regulation, GSA's proposed final regulation has been submitted to HEW.

Timetable

Public Comment Period—ended December 31, 1979, but we will accept comments until approximately June 25, 1980, from visually impaired persons using the braille or recorded cassette NPRM which we recently made available.
Final Rule—July 31, 1980
Regulatory Analysis—not required

Available Documents

NPRM—44 FR 62298, October 30, 1979

Agency Contact

Jacquie C. Perry, Acting Director,
Compliance and Investigations Division,
Office of Civil Rights,
General Services Administration,
18th & F Streets, N.W., Room B–219,
Washington, D.C. 20405,
(202) 566–1790

GSA—NATIONAL ARCHIVES AND RECORDS SERVICE

Freedom of Information Act Requests for National Security Classified Information in the National Archives (41 CFR Part 105–61*)

Legal Authority

Freedom of Information Act, 5 U.S.C. § 552. E.O. 12065, 43 FR 28949, June 28, 1978.

Reason for Including This Entry

The General Services Administration (GSA) included this rule in the *Calendar* because access to classified information is an important resource for historical research.

Statement of Problem

The Freedom of Information Act (FOIA) sets out procedures for obtaining information and records from Federal government agencies. Researchers and other persons seeking access to records of Federal agencies under FOIA direct their requests to the agency which has custody of the records. The National Archives and Records Service (NARS) of the General Services Administration acts as custodian of noncurrent records of Federal agencies, including records classified for reasons of national security. A request for access to classified information also serves as a request for declassification of the information. NARS is authorized to declassify records more than 20 years old (or 30 years in the case of foreign government information provided to the United States). If a request is for newer classified records, NARS forwards a request for declassification to the agency with declassification authority (usually the originating agency), and that agency decides whether to declassify the requested information. FOIA requires NARS to notify the requestor of a denial of access, but under current NARS regulations agencies with declassification authority sometimes inform requestors directly of denials of declassification without informing NARS. As a result, NARS is sometimes unable to respond to requests on a timely basis, while at other times the requestor may receive duplicate notices from the other agency and from NARS.

Alternatives Under Consideration

The proposed regulation changes the current procedure so that agencies with declassification authority would notify NARS of decision about declassification and NARS would in turn provide a single notification to the requestor. Our alternative would be to keep the current procedure.

Summary of Benefits

Sectors Affected: Persons and organizations requesting access to national security classified information under the Freedom of Information Act; NARS; and other agencies with declassification authority.

If NARS changes the regulation, the 100 to 200 people a year who request access to national security classified information will maintain direct contact with NARS when it is the agency which has physical custody of the records, and will receive notices only from NARS. We expect that this "single point of contact" approach will be less confusing to persons requesting information. It should also slightly reduce costs of other government agencies by reducing duplication of notices.

Summary of Costs

Sectors Affected: None.

The proposed regulation has no direct or indirect costs.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

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Timetable

NPRM—July 1980
Public Comment—60 days following NPRM.
Final Rule—October 1980
Regulatory Analysis—not required

Available Documents

Public Use of Archives and FRC Records, 41 CFR 105–61

Agency Contact

Adrienne C. Thomas, Director
Planning and Analysis Division (NAA)
National Archives and Records Service
General Services Administration
Washington, D.C. 20408
(202) 523–3214

VETERANS ADMINISTRATION

Department of Memorial Affairs

State Cemetery Grants (38 CFR 39)

Legal Authority

Veterans Housing Benefits Act of 1978, § 202(b)(1), 38 U.S.C. § 1008.

Reason for Including This Entry

We believe that these regulations will be of interest to veterans, State officials, and the general public.

Statement of Problem

The Veterans Housing Benefits Act of 1978 authorized the Veterans Administration (VA) to make grants to States to assist in establishing and improving veterans cemeteries. The proposed regulations will define eligibility and requirements for participation in the program, and establish minimum standards for cemetery construction projects assisted through grant funds. The requirements will elaborate the provisions of Office of Management and Budget Circular No. A–95 (Revised), which provides for the evaluation, review, and coordination of Federal and federally assisted programs and projects, and OMB Circular No. A–102, which provides the uniform administrative requirements for grants-in-aid to State and local governments.

Alternatives Under Consideration

These regulations will implement the requirements of § 1008 of the Veterans Housing Benefits Act of 1978. The regulations establish cemetery construction standards which will be applied to this grant program.

Summary of Benefits

Sectors Affected: States, Territories, and Possessions of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, that apply for grant assistance for a cemeterial construction project; and veterans and their families.

These regulations will guide and assist State officials in applying for assistance for veterans' cemeterial projects from the State Cemetery Grants Program. The total of these grants to all applicants will not exceed $5 million per year.

The grant program and the regulations will help interested States develop and improve State veterans' cemeteries. This will indirectly benefit the veteran and other residents of the State.

Summary of Costs

Sectors Affected: None.

Congress authorized an appropriation of $5 million for FY 1980 and for each of the four succeeding fiscal years for the purpose of these VA grants. The cost of compliance with this regulation on the part of the States wishing to apply for a grant will not be significant.

Related Regulations or Actions

None

Active Government Collaboration

None

Timetable

Final Rule—June 1980
Regulatory Analysis—not required

Available Documents

OMB Circular No. A–95 (Revised)
OMB Circular No. A–102

Agency Contact

Thomas W. Creed, Acting Director,
State Cemetery Grants Program
Department of Memorial Affairs (40G),
Veterans Administration,
810 Vermont Avenue N.W.,
Washington, D.C. 20420,
(202) 389–2313

VA—Office of Human Goals

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From the Veterans Administration (38 CFR Part 18e)

Legal Authority

The Age Discrimination Act of 1975, 45 U.S.C. § 6101 *et seq.*

Reason for Including This Entry

The Veterans Administration (VA) thinks this rule is important because it will allow qualified individuals regardless of age to participate in programs and activities, which are federally funded, that have been previously denied to them.

Statement of Problem

The Age Discrimination Act of 1975 requires each Federal agency which grants Federal financial assistance to any program or activity to implement regulations to carry out the provisions of the Act. The purpose of the Act is to prohibit discrimination on the basis of age. The Act applies to persons of all ages. These proposed regulations concern activities which receive Federal financial assistance from VA.

VA proposes to use procedural provisions contained in the regulations for Title VI of the Civil Rights Act of 1964 to enforce proposed VA regulations. These provisions are 38 CFR Part 18.9–18.11 and 38 CFR Part 18b.

Alternatives Under Consideration

This regulation will implement the requirements of the Age Discrimination Act of 1975 and the governmentwide regulations issued by HEW (45 CFR Part 90). These requirements provide no alternatives for consideration.

Summary of Benefits

Sectors Affected: All persons involved in programs and activities receiving VA financial assistance.

The regulations will establish standards to prohibit impermissible discrimination on the basis of age in programs and activities that receive Federal financial assistance from the Veterans Administration. The programs that are covered are generally the same as those covered by Title VI of the Civil Rights Act of 1964, but exclude those programs which involve employment.

These regulations will help assure that the benefits of federally assisted programs and activities will be extended to all eligible persons without prohibited age distinctions.

Summary of Cost

Sectors Affected: None.

We believe that the cost to the Veterans Administration and to the recipients will be minimal.

Related Regulations and Actions

Internal: None.
External: Department of Health, Education and Welfare. "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR Part 90.

Active Government Collaboration

The Veterans Administration's regulation will be similar to those issued by the Department of Health, Education and Welfare (HEW), except as necessary to meet specific Veterans Administration organizational, procedural, or program requirements. We anticipate entering into a delegated agreement with other Federal agencies to eliminate duplication of enforcement effort. This would parallel the delegations of responsibility with regard to Title VI of the Civil Rights Act of 1964, where HEW is responsible for institutions of higher learning, public school, hospitals and other health facilities, and the Veterans Administration is responsible for proprietary schools (privately owned schools).

Timetable

NPRM—May 1980
Final Rule—Target date May 1981
Regulatory Analysis—Not required

Available Documents

None

Agency Contact

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VA—OHG

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance (38 CFR Part 18d)

Legal Authority

The Rehabilitation Act of 1973, § 504, 29 U.S.C. § 794. E.O. 11914, 3 CFR, 1976 Comp., p. 117. HEW Guidelines on Rehabilitation, 45 CFR Part 85.

Reason for Including This Entry

The Veterans Administration (VA) thinks this rule is important because it will allow qualified handicapped individuals to be employed in places previously closed to them because of discrimination on the basis of their handicap.

Statement of Problem

A substantial number of people in the United States are denied full participation in major activities such as employment, because of discrimination based on their handicaps. Recognizing this fact, Congress passed § 504 of the Rehabilitation Act of 1973, which prohibits discrimination solely on the basis of handicap in all programs and activities that receive Federal financial assistance. Federal agencies that provide such assistance must develop and publish regulations in furtherance of the broad remedial purpose of § 504.

Alternatives Under Consideration

This regulation will implement the requirements of the Rehabilitation Act, E.O. 11914, and Department of Health, Education, and Welfare (HEW) Guidelines on Rehabilitation. These requirements provide no alternative for consideration.

Summary of Benefits

Sectors Affected: All handicapped persons in programs or activities receiving VA financial assistance.

The regulations will define and prohibit acts of discrimination against qualified handicapped persons in employment and as beneficiaries of programs and activities that receive assistance from the VA. The elimination of discrimination against the handicapped in federally assisted programs and activities will further advance the national policy against such invidious discrimination, will ensure that benefits of federally assisted programs and activities will be extended to the qualified handicapped, and will preclude the discriminatory exclusion of the handicapped as employees in programs and activities that receive Federal financial assistance.

Summary of Costs

Sectors Affected: Programs and activities receiving VA financial assistance.

We believe that the cost to the Veterans Administration of complying with this regulation will be minimal. The greatest cost to recipients of Veterans Administration funds may be involved in making structural changes to buildings in order to allow access for handicapped individuals. In those cases, we expect to follow the guidelines established by the Department of Health, Education and Welfare.

Related Regulations or Actions

Internal: None.
External: Department of Health, Education and Welfare, "Nondiscrimination on the Basis of Handicap, Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 45 CFR Part 85.

Active Government Collaboration

The Veterans Administration's regulations will be similar to those issued by the Department of Health, Education and Welfare, except as necessary to meet specific Veterans Administration organizational, procedural, or program requirements. We expect to divide the enforcement responsibility between the Veterans Administration and HEW to eliminate duplication. This would parallel the delegations of responsibility with regard to Title VI of the Civil Rights Act of 1964, where HEW is responsible for institutions of higher learning, public schools, hospitals, and other health facilities, and the Veterans Administration is responsible for proprietary schools (privately owned schools).

Timetable

Final Rule—Target date May 1980
Regulatory Analysis—Not required

Available Documents

NPRM—43 FR 19166, May 3, 1978

Agency Contact

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FEDERAL DEPOSIT INSURANCE CORPORATION

Disclosure of Information (12 CFR Part 309*)

Legal Authority

Federal Deposit Insurance Act, § 9, (12 U.S.C. § 1819).

Reason for Including This Entry

The proposed rule is important because it will benefit the general public by ensuring that the Federal Deposit Insurance Corporation (FDIC) observes the privacy rights granted to bank customers by recent Federal law when the agency handles customer information.

Statement of Problem

FDIC has proposed amendments to Part 309 of its regulations which govern its disclosure of information to the public, other Federal financial supervisory agencies, State financial supervisory agencies, and other State and Federal agencies. The amendments

will add new provisions to Part 309 to conform it with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), which became effective in March 1979. This Act establishes certain procedures that FDIC must follow when it transfers customer information which it has obtained from a financial institution, to other Federal agencies. In general, the procedures permit FDIC to transfer the customer information to other Federal agencies only when FDIC certifies in writing that it has reason to believe the information is relevant to a legitimate law enforcement inquiry. When such a transfer is made, FDIC is generally required to, within 14 days after the transfer, send the customer (1) a copy of the written certification, and (2) a notice which states the nature of the legitimate law enforcement inquiry and the fact that the information has been transferred to an agency that is identified in the notice. The amendments to Part 309 will significantly reduce any possible transfer of bank customer records in violation of the Right to Financial Privacy Act.

Alternatives Under Consideration

No alternative requirements were considered. By its terms, the Right to Financial Privacy Act does not grant FDIC any latitude for discretion regarding the requirements imposed on the agency by the Act, except with respect to who may make the written certification and send the notice and a copy of the certification to the customer.

Summary of Benefits

Sectors Affected: Customers of the 9,306 insured State-chartered banks that are not members of the Federal Reserve System ("insured State nonmember banks").

The bank customers will benefit generally from the proposed amendment of Part 309 because the amendments will restrict FDIC's use of customer financial information, and will generally require the agency to advise a customer when financial information concerning the customer is transferred to another Federal agency.

Summary of Costs

Sectors Affected: FDIC.

The regulation FDIC proposes to amend is an internal regulation only. No reporting or recordkeeping or other requirements will be imposed on insured State nonmember banks as a result of the proposed changes. The FDIC will bear the costs of compliance with the amendments. The primary cost factor is expected to be administrative, *i.e.*, personnel time for determining what information may be transferred, and giving customer notice when appropriate. This cost has not been ascertained.

Related Regulations and Actions

Internal: FDIC has prepared and issued instructional materials to acquaint its field personnel with the Right to Financial Privacy Act requirements for handling bank customer information.

External: The Federal Reserve Board has adopted a regulation which states the procedures to be used by a Federal agency in reimbursing a financial institution for assembling and copying customer records when those records are requested under the Right to Financial Privacy Act.

Active Government Collaboration

FDIC has coordinated its efforts to comply with the Right to Financial Privacy Act with the other Federal financial supervisory agencies and the Justice Department. The financial supervisory agencies are currently following somewhat different procedures when making referrals of suspected crimes to the Justice Department. Efforts continue among the Federal financial supervisory agencies to establish a uniform interpretation of the requirements of the Right to Financial Privacy Act when making such referrals.

Timetable

Final Rule—pending final coordination with the other Federal financial supervisory agencies
Regulatory Analysis—None. The amendments will have no impact on insured State nonmember banks.

Available Documents

Federal Register Notice—44 FR 75652, December 21, 1979. Copies of notice are available at the Information Office, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

Agency Contact

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CHAPTER 6—TRADE PRACTICES

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Amendments to Federal Seed Act Regulations (7 CFR Parts 201, 202*)

Legal Authority

Federal Seed Act of 1939, 7 U.S.C. § 1551 *et seq.*

Reason for Including This Entry

The U.S. Department of Agriculture (USDA), the State governments that cooperate in the enforcement of the Federal Seed Act (FSA), and the seed industry recognize several problem areas in the Federal seed regulatory program. The goal is to modify the regulations to serve the public interest more effectively.

Statement of Problem

The FSA is designed to protect farmers and other consumers who buy seed that is sold across State lines, or is imported. The FSA requires labeling of all such seed, prohibits false labeling and advertising, and prohibits importation of uncleaned seed, seed with low germinating levels, and seed containing noxious-weed seeds. USDA and State governments cooperate in enforcing the FSA. USDA is now reviewing and revising existing regulations used to administer the FSA. USDA will repromulgate these regulations, as amended, to provide up-to-date rules for testing seed, improve standards for certified seed, change rules for sampling new and different containers of seed, and clarify definitions and other provisions in light of current marketing practices.

Specific problem areas are:

(1) Handling complaints promptly. USDA investigates and takes action on complaints of alleged violations of the FSA, mostly from State seed regulatory agencies that cooperate with USDA. Slow action draws criticism from State agencies and the seed dealers regulated.

(2) Enforcing seed laws uniformly. Variability of State programs and unequal cooperation by State agencies results in unequal administration of the Federal law.

(3) Sampling of imported seeds. U.S. Customs agents sample the seed at the ports of entry and forward the samples to USDA seed laboratories. USDA tests the samples and admits or rejects the seed. Failure to sample, misidentification of seed samples, or delays in sampling affect the efficiency of the program.

(4) Regulating labeling of seed varieties. The FSA requires labeling and prohibits false labeling. With some seeds, it is impossible to identify the variety by seed characteristics; it is necessary to subject them to special biochemical tests or grow them in field plots to differentiate varieties. Some seedsmen question the methods used and the interpretations of their results.

Alternatives Under Consideration

USDA held public meetings in September 1979 in Memphis and Denver, and invited all interested parties to express their views on the effect the FSA has on their business practices. We are considering the comments and letters we received in a study of the FSA now underway. When we have evaluated this new information, it should provide guidance for possible alternative strategies.

They are:

(1) *No change in the regulations.* The current regulations explain the requirements of the FSA, add definitions, specify kinds of seed that are subject to the FSA, prescribe rules for sampling and testing, and set forth standards for certain purposes. Possible advantages of this alternative are consistency (status quo), avoidance of controversy, and no cost to the government or the industry to change.

(2) Amend the regulations to make possible improvements in the current system. USDA expects many changes to have the support of all affected parties. Others will be controversial. Hearings will air controversial issues and will, hopefully, shed light on suitable solutions. The regulations need to be updated because of developments in technology and seed marketing. For example, seed of new plant populations is being sold, there are more seed products designed for the apartment dweller or mini-gardener, and additional methods of measuring seed quality exist. Technical bodies of the State agencies have recommended to USDA changes in the technical rules for testing, and standards for certified seed. Some other contemplated amendments would involve making additional seeds subject to the FSA, preinoculated and hermetically sealed seed, variety status and naming, recordkeeping, and the procedures for sampling seed. Most interested parties urge uniform State and Federal regulations.

(3) Amend authorizing legislation to change the mandate for regulations, such as: delete certain sections of the law completely, change the approach from "truth-in-labeling" to grades or permits, or require compulsory inspection before marketing. The current system is a truth-in-labeling and spot-check-inspection system. It is not perfect. Cost-benefit analysis may justify the current inspection system. The freedom to produce and distribute seeds without inspection or constraint simplifies the distribution system and minimizes the regulatory burden. On the other hand, the current system may not suffice to protect consumers from faulty seed which may cause crop losses. A farmer's crop may be lost before the fault in the seed is detected. Premarket inspection and a pedigree system might reduce errors.

Summary of Benefits

Sectors Affected: The seed industry, including growers, wholesale trade (including importing), and retail trade; seed testing laboratories; USDA; State seed regulatory and seed certifying agencies; farmers, gardeners and other seed users; and the U.S. Treasury Department's Bureau of Customs.

There are approximately 2,500 seed shippers, and the value of seed shipped interstate each year is estimated at $3 billion.

Revised regulations would improve compliance and enforcement because improving the wording of the regulations would minimize misunderstandings. USDA now receives approximately 1,000 violation complaints each year, and USDA expects it could handle the resultant fewer complaints more promptly and avoid the problems of currently drawn-out proceedings, thus improving relations with the State agencies and seed dealers at all marketing levels. The cooperative agreements with the States would be more effective under improved regulations, which could help overcome unequal enforcement in the States. Adoption of new rules for sampling and testing seed and changes in standards for certified seed would promote uniformity and effectiveness of seed regulations and the administration of seed laws. Furthermore, the accuracy of seed labeling would be enhanced to the benefit of seed users.

A possible facet of this proposal would be to change lists of noxious-weed seed in imported seed to agree with regulations under the Federal Noxious-Weed Act, administered by Animal and Plant Health Inspection Service (APHIS), which would facilitate cooperation between APHIS and the Agricultural Marketing Service (AMS) for the inspection of imported seeds and commodities infested with weed seed. (This action could be taken under all three of the alternatives previously listed). It may be possible and advantageous to relieve Customs officials of the burden of sampling imported seed. This change would place the enforcement of the import provisions of the FSA in one government department.

Summary of Costs

Sectors Affected: The seed industry; USDA; State seed regulatory and certifying agencies; and farmers, gardeners, and other seed users.

The FSA appropriation USDA requested for FY 1980 is about $1.4 million. USDA will incur only minor administrative costs in improving the wording of the regulations. However, the department may need additional Federal funds for seed inspection and testing, ranging from about $300,000 to $5 million annually, depending on the type of testing or inspection it uses to assure truthful labeling. If seed inspection is improved in States that are not cooperating, then Federal cost increase will be minimal, but if the Federal government totally assumed the inspection in the approximately 20 States that are inactive, the costs will be high. We do not know what States spend now or what increased costs the States would have if activity were changed.

The seed dealers are now required to label seed, and the changes that can be made in the regulations without basic statutory change should not create a significant change in costs to seed dealers. USDA presently contemplates no statutory changes that would create a cost burden to the industry. Passthrough costs to consumers for the amendments contemplated would be minimal, because there would be minimal additional burden or cost to seedmen.

Transferring responsibility for sampling imported seeds from Customs to USDA probably would not result in a shift of funds from Customs to USDA because sampling seed comprises only a small portion of Customs inspectors' time and cost. No significant increase in cost to USDA for sampling is anticipated.

Related Regulations and Actions

Internal: USDA has proposed amendments to the Federal Seed Act, but is withholding further action pending completion of two detailed studies of the program. The contemplated amendments to the regulations would not be contrary to the proposed amendments to the FSA that USDA is considering. They are intended to clarify wording, update certain provisions, and delete provisions that are obsolete or unnecessary.

The Plant Variety Protection Act (7 U.S.C. § 2321 *et seq.*) that this agency administers interacts with the FSA in

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certain instances regarding determination of variety status and prohibition of selling certain protected varieties unless the seed is certified.

Seed imports that are subject to the FSA are inspected by AMS under that Act for noxious weeds. Imports of all other commodities must be inspected for certain weed species under the Federal Noxious Weed Act (7 U.S.C. § 2321 *et seq.*), which APHIS administers. AMS has held informal discussions with APHIS regarding cooperative inspection of imported seed and identification of weed seeds in other commodities.

External: State seed laws and regulations are similar to but not required to conform with the FSA.

Active Government Collaboration

AMS has already worked with State regulatory agencies in developing ideas for the proposed amendments and will continue to develop a set of proposed regulations. AMS will be in communication with Customs in connection with import sampling matters.

Timetable

USDA has a limited study underway regarding scientific aspects of the FSA and has another general study planned to more broadly evaluate the FSA. If the department decides to amend the regulations, the following estimated dates are applicable:

NPRM—spring 1981
Public Comment—minimum of 60 days following NPRM
Public Hearing—following NPRM
Final Rule for changing the regulations—fall 1981
Regulatory Analysis—will be prepared as part of the rulemaking process
Final Rule Effective—spring 1982

Available Documents

Available from the Agency Contact below.

Backgrounder: "Public meetings on the Federal Seed Act." August 1979
Federal Seed Act and regulations

Agency Contact

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USDA–AMS

Proposed Federal Milk Order for the Southwestern Idaho-Eastern Oregon Marketing Area (Boise, Idaho) (7 CFR 1135—Tentative)

Legal Authority

Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. § 601 *et seq.*

Reason for Including This Entry

The U.S. Department of Agriculture (USDA) thinks this rule is important because adoption of the proposed order could have a significant impact on milk handlers, dairy farmers, and consumers in the proposed marketing area.

Statement of Problem

Under the Agricultural Marketing Agreement Act, USDA is vested with authority to issue milk marketing orders designed to stabilize marketing conditions in cases where disorderly marketing conditions exist.

As stated in the Agricultural Marketing Agreement Act (7 U.S.C. § 601 *et seq.*), the declared purpose of the Act is "to establish and maintain such orderly marketing conditions as will establish . . . (prices which) are reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions, (and which will) insure a sufficient quantity of pure and wholesome milk, and be in the public interest."

In September 1978, three dairy cooperative associations in the Boise, Idaho, area proposed that USDA institute a milk marketing order for that area. Their proposal entailed a complete order to regulate the handling of milk in 18 southwestern Idaho and five eastern Oregon counties. The purpose of such an order would be to establish stable and orderly marketing conditions for producers and to assure consumers of an adequate supply of fluid milk at reasonable prices.

The USDA in turn invited alternative proposals to that suggested by the three dairy cooperative associations. Subsequently, we held a public hearing over the period December 5–8, 1978, in Boise to consider testimony on reasons for establishing an order and its specific provisions.

Our recommended decision, based on the hearing evidence, stated that dairy farmers supplying the marketing area under consideration were not experiencing disorderly marketing conditions (e.g., handlers cutting producer prices, certain producers losing their market, and a disproportionate sharing among producers of the market's surplus milk) to an extent warranting Federal intervention in the region. Thus, our recommended decision was to not issue an order—that is, not to regulate. The detailed findings and conclusions of the Department are stated in the recommended decision which was published in the **Federal Register**, (44 FR 48128, August 16, 1979).

USDA received significant objections to the recommended decision, and the time for filing exceptions to the decision was extended from September 17, 1979, to October 31, 1979.

After considering the objections to the recommended decision, the department decided to reopen the hearing, as requested by producer groups, for the purpose of receiving additional evidence concerning the need for an order. The reopened hearing, which was announced in November 1979, was held on February 5–8, 1980, in Boise, Idaho.

The department is now evaluating the additional evidence received at the February 1980 hearing. We will issue a revised recommended decision after we have completed our analysis.

Alternatives Under Consideration

(1) Issuing a milk marketing order for the Boise, Idaho, area to establish, by regulation, formula prices for milk by class of use.

(2) Relying on existing marketing arrangements (i.e., not issuing an order).

The department considers proposals initiated by milk producers, normally through their cooperative associations, and/or by other parties, rather than initiating proposals of its own.

Three cooperative associations representing producers proposed the Boise, Idaho, order. Their proposal represented a complete order to regulate the handling of milk in 18 southwestern Idaho and 5 eastern Oregon counties. It included definitions for determining which plants would be pool plants, (i.e., fully regulated plants). Their proposal defined a pool distributing plant as one that disposed of 50 percent or more of its total milk receipts on routes, with 10 percent or more of the distribution in the marketing area. A pool supply plant is one that transferred 50 percent or more of its Grade A milk receipts from dairy farmers to pool distributing plants. Plants that distributed less than the standards proposed would not be fully regulated, but they would be affected by provisions relating to partially regulated plants.

The cooperatives proposed a three-tiered pricing system similar to that used in most of the existing Federal milk orders. Handlers are required to pay these prices for the amounts of milk used in each of the three classes of use.

The proposal called for a Class I milk price (for milk used for fluid use) computed at the level of the Minnesota-Wisconsin price for the second preceding month plus $1.75 per hundredweight. The Class II price (for milk used in cottage cheese, ice cream, and other cream products) would be the Minnesota-Wisconsin price for the month plus 10 cents per hundredweight. The Class III price (for milk in butter and nonfat dry milk) would be the Minnesota-Wisconsin price for the month. The Minnesota-Wisconsin price is a price computed each month by the Economics, Statistics, and Cooperatives Service of the USDA. It represents an average of the prices paid for milk at unregulated manufacturing plants for Grade B milk in the two States.

The cooperatives proposing the order contend that an order is needed: (1) to stabilize marketing conditions in the area; (2) to equalize prices among competing handlers; (3) to ensure that all producers in the area share equally in the proceeds of the Class I market through the mechanism of the marketwide weighted average price to producers computed by the Federal milk market administrator; (4) to ensure, through the auditing procedure provided by the market administrator's office, that producers are paid accurately for their milk based on the use of the milk, the weight of the milk, and the butterfat test of the milk; and (5) to provide a source of accurate market information through the collection and disbursement of data by the market administrator's office.

Summary of Benefits

Sectors Affected: Dairy farmers; operators of fluid milk plants; and consumers in the southwest Idaho-eastern Oregon marketing area.

The benefits of an order, if it were found on the basis of a hearing record that an order should be adopted, would be stable and orderly marketing conditions for producers and handlers in some Oregon and Idaho counties, an equitable sharing of returns among producers in the market, and the assurance for consumers of an adequate supply of milk at reasonable prices.

Summary of Costs

Sectors Affected: Dairy farmers; operators of fluid milk plants; and consumers in the southwest Idaho-eastern Oregon marketing area.

The costs associated with a Federal milk order are administrative assessments (not more than 5 cents per hundredweight under the producers' proposal—perhaps $2500 per month for an average-size handler) against the regulated processors to cover USDA's expenses for administering and operating the marketing order. Consumers could be indirectly affected by slightly higher prices (not more than 5 cents per gallon) as a result of the pricing formula under the proposed order and the passthrough of administrative costs. Under the proposal, dairy farmers who are not receiving marketing services through a cooperative association could be required to pay a marketing service fee of 4 cents per hundredweight ($45 per month for an average-size producer).

Related Regulations and Actions

Internal: There are 47 Federal milk orders in operation. In 1978, in areas subject to milk orders, 119,398 producers delivered 78 billion pounds of milk to 1,187 milk handlers. Forty-one billion pounds, or 53 percent of the deliveries, were used in Class I—packaged for fluid milk consumption, on which marketing orders focus. The milk deliveries represented two-thirds of all milk marketed by the Nation's dairy farmers.

External: Agencies of State governments define, by sanitary handling conditions and product description, that milk which can qualify as Grade A or suitable for fluid consumption. (All Class I milk must be Grade A.)

Active Government Collaboration

None

Timetable

Revised recommended decision—October 1, 1980.
Regulatory Analysis—will be available

Available Documents

Notice of Hearing issued October 19, 1978 (43 FR 49704, October 24, 1978)

Corrections (procedural): 43 FR 50187, October 27, 1978 and 43 FR 52496, November 13, 1978

Recommended Decision "Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Recommended Decision and Opportunity to File Written Exceptions on Proposed Marketing Agreement and Order" issued August 13, 1979 (44 FR 48128, August 16, 1979)

Extension of Time for Filing Written Exceptions to the Recommended Decision, issued September 14, 1979, published in 44 FR 54303, September 19, 1979. The public had until October 31, 1979, to submit written comments on the recommended decision

Notice of reopened hearing issued on November 27, 1979 (44 FR 68853, November 30, 1979)

Notice of rescheduling of reopened hearing issued on December 19, 1979 (44 FR 76551, December 27, 1979).

Draft Regulatory Analysis.

The records of the hearings held in Boise in December 1978 and February 1980, and the public comments received thus far in the proceeding are on file with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C., under Docket No. AO–380.

Agency Contact

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USDA—FOOD SAFETY AND QUALITY SERVICE

Proposed Net Weight Regulations (9 CFR Parts 318 and 381*)

Legal Authority

Federal Meat Inspection Act, 21 U.S.C. § 453(h)(5) *et seq.*

Poultry Products Inspection Act, 21 U.S.C. § 343(e) *et seq.*

Reason for Including This Entry

The U.S. Department of Agriculture (USDA) has received a number of consumer complaints about current Federal net weight regulations for meat and poultry products. Those regulations permit weight variations caused by moisture changes during the course of the distribution process. USDA is seeking to find a means of standardizing those weights to assure more accurate consumer and marketing information.

Statement of Problem

Present USDA regulations concerning net weight for meat and poultry products permit "reasonable variations" in weight caused by the loss or gain of moisture during distribution. In October 1977, the State of California filed a petition with USDA requesting new regulations which would permit States and municipalities to enforce strict standards at the time of consumer purchase. (State and local regulatory agencies enforce the Federal net weight regulations.) Officials of 47 other States, several farm organizations, and consumer groups cosigned the petition.

According to the petition, the Supreme Court decision in *Rath Packing*

Company v. *M. H. Becker, et al.* in March 1977 had left states without adequate authority to enforce their own net weight regulations. The Court had held that States and municipalities were preempted from enforcing standards that were stricter than Federal regulations, which are based on "reasonable variations." Because the term "reasonable variations" does not provide a quantifiable standard, the petition contended that States and municipalities were, in effect, precluded from enforcing net weights at retail.

In addition, consumers have complained that net weight statements on packages of meat and poultry do not provide accurate information on the amount of usable product in the package. Present USDA regulations now require that net weight statements be accurate only at the time they leave the plant and not at the time food is purchased by consumers. The present regulation also counts free liquid as part of the net weight. (Free liquid is liquid that has seeped out of a product into the package but has not been absorbed by the packaging material.) As a result of moisture loss and free liquid, consumers have frequently complained that they have no way of knowing how much usable product they are getting for their money.

In response to the California petition and consumer complaints, the Food Safety and Quality Service (FSQS) published proposed Federal net weight regulations on December 2, 1977. The principal features of the proposal were as follows:

- Free liquids, as well as liquids, fats and solids absorbed by packaging material, would be excluded from a product's net weight. Thus, net weight would be based on a drained weight system, as opposed to a wet tare or dry tare. (Tare is the quantity subtracted from gross weight to determine net weight.) Under a wet tare, net weight equals package and contents minus the weight of the packaging material and liquids absorbed by the packaging material. (Free liquid is included in the net weight.) Under a dry tare, net weight equals package and contents minus the weight of the dry packaging material (again, free liquid is included).
- The present allowance for moisture loss due to evaporation during distribution would be eliminated. The average weight for products from the same lot would be required to equal or exceed the labeled net weight. Single packages, however, would be permitted actual weights below the labeled weight by a specified amount.
- Federal net weight standards would be established for bulk shipments or wholesale-size packages.
- An FSQS approved quality control program for net weight would be required at federally inspected meat and poultry plants.

After the proposal appeared in the **Federal Register**, USDA received over 3,000 comments, indicating widespread disagreement concerning the need for the new regulations and their economic impact. Since the closing of the comment period, FSQS has commissioned two economic studies. The first, "Analysis of Proposed Regulations on Net Weight Labeling" (October 1978), was carried out by the Consumer Federation of America. The second of these, "Assessment of Proposed Net Weight Labeling Regulation," conducted by USDA's Economics, Statistics, and Cooperatives Service (ESCS), was made available for comment on August 31, 1979. The comment period closed on October 30, 1979.

Alternatives Under Consideration

The comments on the ESCS study had a significant bearing on the available alternatives. FSQS now appears to have four alternatives:

(1) Retain the present regulations. This appears to be the least likely course, because States have clearly spoken in favor of new regulations that will give them an enforceable standard at retail.

(2) Publish the December 2, 1977 proposal as a final regulation, with only nonsubstantive changes. This, too, does not appear to be a strong possibility. Over the past year, USDA officials have held a series of meetings with Food and Drug Administration (FDA) officials to develop a consistent Federal approach on net weight regulations for all food. (FDA has authority over all food except meat and poultry.) The agreements that have been reached in these meetings would involve substantive changes in USDA's December 1977 proposal, and, therefore, would make it necessary to repropose rather than go ahead with final regulations.

(3) Publish a new proposal that would incorporate the agreements reached with FDA, but that would leave most other portions of the December 1977 proposal unchanged.

(4) Publish a new proposal that incorporates the agreements reached with FDA, as well as other changes designed to reduce the costs to industry and keep enforcement costs to States and localities to a minimum. (For example, the drained weight system might be changed to a wet tare or dry tare system.) This appears now to be the most likely alternative. It would make use of the ESCS findings on the economic impact of the December 1977 proposal.

Summary of Benefits

Sectors Affected: Wholesale and retail trade of meat and poultry; consumers of these products; and State and local governments.

According to the ESCS study, there would be three benefits to establishing a more objective (or quantifiable) Federal net weight standard.

First, consumers—a large proportion of the general public—would benefit from more accurate net weights at retail. (The total value of meat and poultry products sold in 1979 exceeded $60 billion.) In buying a chicken, ground beef, or bacon, a consumer will almost always look at the price per pound. Without accurate information on the weight of the product, however, shoppers cannot make accurate price comparisons. With an objective standard, enforceable at retail, consumers would be in a better position to make price comparisons.

Second, there would be more accurate information on meat and poultry products at all points in the distribution and marketing chain. For example, the buyers of bulk-packed products would have a clearer standard for checking the weights of shipments they receive. Such a standard would be helpful, particularly to small volume buyers who may now be reluctant to adjust invoices to correct for underweight shipments.

Third, because States and municipalities would have a more enforceable standard at retail, the risk of deliberate fraud would be reduced. Although ESCS's study found no evidence of consistent or flagrant short-weighing of meat and poultry products now in the marketplace, State officials have stated that it could occur unless there is an enforceable Federal standard in place.

Summary of Costs

Sectors Affected: manufacturing, and wholesale and retail trade of meats and poultry; FSQS; and State and local government.

The ESCS study predicts that the labeled price per pound for some products would increase under the December 1977 proposal, but that there would be no real cost increase for consumers, because they would be receiving more usable product at the higher price. Similarly, producers would have to include more product in packages to compensate for the stricter standard, and thus would incur additional costs per package. However, these costs would be offset by the increase in the labeled price per pound. Thus, a stricter standard, by itself, would result in no additional real costs to either industry or consumers.

However, the quality control requirements would result in additional annual personnel (operating) costs of $57 to $114 million to industry, according to the ESCS study. Capital costs to industry would be less than $2 million, according to the study. Under alternative (4), the quality control portion of the proposal would not be included.

The additional costs of the 1977 proposal (alternative (2)) to State and local governments would be about $500,000. Most of these costs would be in new equipment to enforce a drained weight system. If the proposal were changed to a wet tare or dry tare system under alternative (4), almost all of the additional costs to State and local governments could be avoided.

Most producers would be affected more than retailers, because they would have to take into account weight over a longer period of time (between packaging at the plant and consumer purchase, or between packaging at the plant and repackaging by a wholesaler or retailer). The producers of some products would be more affected than the producers of others. For example, some sausage products lose more moisture during distribution than, say, vacuum-packed bacon, and, therefore, the producer would have to do more "over packing" at the plant. The effect of the regulation would also depend on the type of packaging material used, and may result in a shift to different types of packing than now used. The size of these various impacts cannot be estimated with any confidence.

The regulation's effect on the industry will also vary with the type of tare that it requires. Under a drained weight system, alternatives (2) and (3), products that lose a significant amount of moisture through seepage into the package, such as corned beef briskets, will have a higher labeled price per pound than they do at present, simply because the free liquid will no longer be included in the net weight. This will not change the price a consumer pays for a given package, but the increase in the labeled price per pound might alter consumers' preference.

Related Regulations and Actions

Internal: Proposed Rule for Voluntary Meat and Poultry Plant Quality Control System (44 FR 53526, September 14, 1979).

External: Food and Drug Administration, 21 CFR 501.105q. Federal Trade Commission, 16 CFR 500.22

Active Government Collaboration

FSQS and the Food and Drug Administration (FDA) have held a series of meetings over the past year to develop, as far as possible, a common approach to net weight regulations. In late 1977 and early 1978, the two agencies held several public hearings on the issue of net weights.

In 1975, USDA, FDA, the Federal Trade Commission, and the National Bureau of Standards formed an interagency net weight committee. The committee has met intermittently since then.

In the past two years, FSQS officials have consulted regularly with State and local weights and measures officials and State Departments of Agriculture.

Timetable

Reproposal—June 1980
Public Comment Period—ends August 1980
Final Rule—October 1980
Regulatory Analysis—USDA will perform as part of the rulemaking process

Available Documents

Notice of availability of ESCS study—44 FR 51275, August 31, 1979. Comment period on ESCS study closed October 30, 1979.

Net Weight Regulations for Meat and Poultry Products, 9 CFR 317.2(h)(2), 9 CFR 381.121(e)(6)

Proposed Regulations for Meat and Poultry Products—42 FR 61279, December 2, 1977

Consumer Federation of America, "Analysis of Proposed Regulations on Net Weight Labeling," October 1978

General Accounting Office, "Proposed Changes in Meat and Poultry Net Weight Labeling Regulations Based on Insufficient Data," CED–79–28, December 20, 1978

Economics, Statistics, and Cooperatives Service, USDA, "Assessment of Proposed Net Weight Labeling Regulation," August 1978. Public comments on this study are also available. Docket number 79–27236.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Requirements (23 CFR 635.410)

Legal Authority

Surface Transportation Assistance Act of 1978, § 401; P.L. 95–599, 92 Stat. 2689.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because it is both controversial and could possibly increase construction costs in the Federal-aid highway program by 2 percent, or approximately $150 million, annually.

Statement of Problem

In 1933, Congress enacted the first Buy America provisions, which required all Federal agencies to comply with domestic preference requirements in direct purchases. The Buy America provisions (§ 401) of the Surface Transportation Assistance Act (STAA) of 1978 require that all articles, materials, and supplies purchased with grant funds authorized under the Act must be of U.S. origin. The States, as recipients of the grant funds, are responsible for enforcing § 401.

Before Congress enacted STAA, suppliers of certain foreign products, including steel, were allowed to compete for contracts on Federal-aid highway projects. The pressure of foreign competition has been increasing and will continue. In fact, the General Accounting Office (GAO) found that, in 1976 and 1977, foreign-produced steel products valued at $97.8 million (in 1976 and 1977 dollars) were used in Federal-aid highway construction projects.

Under STAA, DOT must develop and enforce a policy on procurement of foreign materials for projects funded by Federal-aid highway assistance. However, the Secretary of Transportation has retained the authority to waive the Buy America provisions under certain conditions. These include situations where domestic supplies are unavailable or where using them would increase the cost of the project by more than 10 percent.

Alternatives Under Consideration

The Buy America provisions were effective immediately and required implementation. Therefore, the FHWA issued an emergency regulation on November 17, 1978 to implement them. That regulation applied only to foreign structural steel.

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The FHWA is considering continuing the provisions of the emergency rule because its approach is consistent with the legislative history of the Buy America provisions. Competition between domestic and foreign sources for highway construction contracts generally has been limited to the structural steel market. Other products are abundant domestically or are not available in sufficient quantities from American sources to meet highway construction needs (e.g., petroleum and petroleum products).

The FHWA is considering whether to apply stringent Buy America restrictions on all materials used in Federal-aid construction projects over $500,000. While fairly large quantities of petroleum products, such as fuel, lubricants, and asphalts are used on all highway projects, domestic petroleum is not sufficiently and reasonably available to meet this need. Restrictions on the purchase of petroleum products undoubtedly would delay many construction projects and would be contrary to the legislative intent. Moreover, the statute clearly allows domestic preference only if the exclusion of foreign products would not increase project costs by more than 10 percent.

At this time, the FHWA cannot quantify the economic affect of requiring that all materials for contracts on Federal-aid highway projects be of U.S. origin. However, construction costs probably would rise since there would be fewer acceptable suppliers. Because the States are responsible for administering the regulations, State administrative costs may increase. Further, projects could be delayed until the Secretary approved any necessary waivers.

Summary of Benefits

Sectors Affected: Domestic steel industry, including blast furnaces and basic steel products manufacturing, steel foundries, and fabricated structural steel products manufacturing.

Reduction in the use of foreign products would give domestic suppliers more opportunities for contracts. The FHWA estimates that, from 1979 to 1982, the Bridge Replacement and Rehabilitation Program will use more than $500 million (in 1980 dollars) annually in structural steel. The GAO estimates that 9.5 percent of the steel used annually in the Federal-aid highway program is from foreign sources. For the years 1976–77, the GAO estimated that $97.8 million in foreign steel products were used in the highway program. Domestic suppliers could have provided this steel.

Summary of Costs

Sectors Affected: Highway construction industry, States, and steel importing.

The increase of up to 10 percent in the cost of highway construction projects may affect all industries participating in these projects. The regulatory provisions would force contractors to find domestic sources for some of their steel and steel products. States would be required to bear additional administrative costs in order to evaluate bids. A limited number of steel importers could lose some import business.

The FHWA has estimated that the provisions of Buy America, which apply to approximately 87 percent of the Federal-aid authorization of $35 billion over the years 1979–82, could increase construction costs by 2 percent, or $150 million (in 1980 dollars), annually.

Related Regulations and Actions

Internal: The Buy America regulation of the Urban Mass Transportation Administration (49 CFR Part 660).

External: None.

Active Government Collaboration

None

Timetable

NPRM—May/June 1980
Draft Regulatory Analysis—will accompany NPRM
Final Rule—October 1980

Available Documents

Emergency Rule—43 FR 53717, November 17, 1978

Federal Highway Administration Docket 78–35

GAO Report "Foreign Source Procurement Funded through Federal Programs by States and Organization," report number 1D–79–1, November 30, 1978

All documents are available for review in the Office of the Chief Counsel, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Advertising Regulations Under the Federal Alcohol Administration Act (27 CFR Parts 4, 5, and 7)

Legal Authority

Federal Alcohol Administration Act, 27 U.S.C. § 205(f).

Reason for Including This Entry

The Department of the Treasury believes this rule is important because it is the first major amendment of alcoholic beverage advertising regulations since the repeal of prohibition. The regulations proposed are intended to deregulate in some instances and update advertising standards in other instances.

Statement of Problem

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for ensuring that advertisements for alcoholic beverages contain certain information about the product, and that the advertisements are not false or misleading. While the current advertising regulations have remained basically unchanged since ATF adopted them in the mid-1930s, advertising techniques and practices, and consumer education and awareness have changed significantly in the past 40 years. Over the years, ATF has issued a number of rulings interpreting the regulations in light of the changing advertising practices and growing consumer awareness. In many cases, inappropriate regulations and varied interpretations of these regulations have caused confusion for both the advertiser and the consumer.

ATF reviews approximately 8,000 advertisements for alcoholic beverages each year, usually after the advertiser is ready to release the advertisement to the media. However, because review by ATF is not mandatory, some advertisements are released without ATF review.

Furthermore, because of the confusion over certain regulations, some advertisements violate these regulations, and ATF recalls or rejects them, costing the industry and ATF money and effort. ATF does not have a monetary estimate of the costs which it and industry incur because of recalled and rejected advertisements.

From the consumer's perspective, many advertisements which conform to ATF regulations seem to be false or misleading because of consumers' changing perceptions toward certain products. For instance, the term "light" used with a malt beverage traditionally referred to the color of the product. Now the term "light" has a completely different meaning—reduced caloric content—to most consumers of malt beverages.

For these reasons, ATF is reviewing the advertising regulations for possible updating and revision. Among the areas under review are:

(a) the use of athletes and persons dressed to play in athletic events in alcoholic beverage advertisements;

(b) the use of subliminal advertising techniques;

(c) the use of the word "Natural" in advertisements to imply that the product is natural;

(d) the current interpretation of false or misleading advertisements;

(e) the use of curative or therapeutic references in advertisements;

(f) comparative advertisements;

(g) an interpretation of disparagement (for instance, whether statements about a competitor's product which are true but nonetheless disparaging be allowed in advertisements);

(h) the use of "taste tests" in alcoholic beverage advertisements; and

(i) the use of the term "light" on malt beverages.

If ATF fails to address these issues, the problem of false and misleading advertising will continue.

Alternatives Under Consideration

ATF has reviewed the comments received on the ANPRM (43 FR 51808, November 21, 1978). We are analyzing alternatives, and the draft NPRM in-process will reflect a consideration of the alternatives and comments received on the ANPRM. The Federal Alcohol Administration (FAA) Act requires the Treasury Department to regulate the advertisement of alcoholic beverages. But the Treasury Department may deregulate in certain areas within the framework of the FAA Act and may rely on self-regulation by the industry. On the other hand, ATF has received in response to the ANPRM approximately 8,900 comments from the public at large who wanted, in general, greater restrictions placed on alcoholic beverage advertising.

By clarifying and consolidating regulations, policies, interpretations, and rulings on advertising into a single comprehensive package, ATF hopes to liberalize the regulations in certain areas (for example, if ATF allows the use of truthful comparative advertising, the consumer might gain more information about various alcoholic beverage products and be able to make a more informed selection). ATF hopes also to restrict certain advertising practices which the public finds objectionable (for example, many respondents objected to the possible use of subliminal stimuli in alcoholic beverage advertising).

ATF will uniformly apply the adopted regulations to all alcoholic beverage advertising.

Summary of Benefits

Sectors Affected: Manufacturing, and wholesale and retail trade of advertised alcoholic beverages, including malt beverages, wines, brandies and distilled liquors; the advertising industry; consumers who view advertisements of these products; and Federal and State governments.

These regulations will benefit consumers and those listed above. Because these regulations will clarify ATF's position on advertising, they will help reduce the recall and rejection of advertisements, thus saving the industry money, while protecting the industry's right to advertise its products and reinforcing the consumer's right to expect clear and truthful advertisements. For example, the use of taste tests will encourage competition among industry members. The advertiser can project any message he desires with the use of subliminal advertising techniques. With regulations prohibiting this, the consumer would be protected against undue persuasive advertising.

Revising the regulations should not increase costs to government. The government may benefit, because it currently spends much effort in explaining confusing regulations and rulings.

Certain State governments may also benefit from a revision of the regulations, as many States adopt Federal advertising regulations to cover interstate commerce. The Federal Alcohol Administration Act only affects advertising that involves interstate commerce. In addition, Federal alcoholic beverage regulations, including the advertising regulations, apply to malt beverages in any State only to the extent that the law of the State imposes similar requirements.

Summary of Costs

Sectors Affected: Manufacturing, and wholesale and retail trade of advertised alcoholic beverages, including malt beverages, wines, brandies, and distilled liquors; and the advertising industry.

We have not been able to determine specific cost estimates for this project. In general, costs to producers of alcoholic beverages and the advertising media should not increase because these regulations affect only advertising content and not methods of advertising.

Related Regulations and Actions

Internal: ATF is in the process of preparing a final rule requiring ingredient labeling for alcoholic beverages. ATF contracted with Michigan State University to study the effects of alcoholic beverage advertising on the drinking habits of young people. The University has submitted a preliminary report, which we are reviewing. We held a meeting with the Federal Trade Commission and the National Institute of Alcohol Abuse and Alcoholism concerning the report.

External: The Federal Trade Commission (FTC) is responsible for regulating the advertisement of wine with less than 7 percent alcohol by volume and the advertisement of nonalcoholic beverages.

Active Government Collaboration

The Federal Trade Commission and ATF are collaborating on this project. ATF will also solicit comments on proposed regulations from other Federal agencies, and State and local governments.

Timetable

NPRM—August 10, 1980
Public hearings—we will hold them if warranted
Regulatory Analysis—ATF will not prepare

Available Documents

ANPRM—Notice No. 313, 43 FR 51808, November 21, 1978, entitled Advertising Regulations Under the Federal Alcohol Administration Act

A notice extending the comment period—Notice No. 313, 44 FR 2603, January 12, 1979

Copies of the documents and comments may be inspected at the ATF Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., during normal business hours.

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TREAS-ATF

Implementation of the Distilled Spirits Tax Revision Act of 1979 (27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251, and 252)

Legal Authority

Distilled Spirits Tax Revision Act of 1979 (Title VIII, Trade Agreements Act of 1979), P.L. 96–39, 93 Stat. 273.

Reason for Including This Entry

The Department of the Treasury thinks this proposed rule is important because it establishes a new tax system for proprietors of distilled spirits plants. There will also be an annual revenue loss to the Treasury in excess of $100 million and a tax savings amounting to over $100 million a year to importers of bottled distilled spirits.

Statement of Problem

Under the Internal Revenue Code of 1954, the Secretary of the Treasury has strict control over liquors for beverage purposes and alcohol for industrial purposes, from the beginning of the production process to the point of removal from bonded premises (the portion of the distilled spirits plant where spirits on which the tax has not been paid or determined are stored). The Secretary has maintained control through a rigid system requiring permits, on-site supervision, and restriction of industry operations to separate premises or designated areas. However, in recent years, Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF) has recognized the need for modernizing this system of control and has sought legislative amendments to make possible an all-in-bond system for taxing and controlling distilled spirits. Under the all-in-bond system, all distilled spirits operations are conducted on the bonded premises of a distilled spirits plant, and the tax is determined after processing and bottling is completed on the basis of the proof (alcoholic content) of the finished product when removed from bond.

The Distilled Spirits Tax Revision Act of 1979 changed the tax system to eliminate disparities in taxation between domestic and imported spirits. Under this Act, the tax is based solely on the alcoholic content of the domestic or foreign distilled spirits products. The Act also gave the Secretary of the Treasury authority to discontinue assignment of government officers at distilled spirits plants. Finally, in order to promote increased efficiency of government and industry operations, the Act permitted many other simplifications in the regulation of the distilled spirits industry.

On December 11, 1979, ATF issued interim regulations in Temporary Document (T.D.) ATF–62 (44 FR 71613). These regulations implemented the Distilled Spirits Tax Revision Act of 1979, effective January 1, 1980.

Alternatives Under Consideration

Because these regulations were required to implement a statute, there was no practical alternative to issuing them. However, because these regulations completely changed the ways the distilled spirits industry was operated and regulated, ATF issued them in the form of interim rules with provision for public comment. Based on the public comments received, ATF will issue a final rule. By the time we do this, the final rule will have benefited from the practical experience of both the industry and the government under the interim regulations.

Summary of Benefits

Sectors Affected: Manufacturing of distilled spirits, including brandy spirits; importing of distilled spirits; bonded manufacturers of wine; and the Federal government.

Direct benefits accruing to proprietors of distilled spirits plants include savings due to simplification of their operational methods and required recordkeeping. With respect to operations, greater flexibility on the use of premises and equipment is possible, because all operations are conducted on bonded premises. In addition, eliminating the requirement for government officers to supervise directly certain operations or to be present to allow proprietors access to bonded areas allows for more efficient scheduling of plant operations.

Under the new system, proprietors determine the amount of tax due to the government, after processing and bottling is completed, on the basis of the proof (alcoholic content) of the bottled product when removed from bond. Under previous regulations, ATF officers determined the tax when bulk spirits were withdrawn from bonded premises to nonbonded processing and bottling facilities. By postponing the tax determination until removal of the finished products, the new system simplifies the records systems necessary for proprietors to document their tax liability.

Distilled spirits taxes are paid on the basis of semimonthly returns. Under the previous system, qualified proprietors could defer actual payment of tax for up to 30 days. The new law provided for an additional deferral period of 15 days, and this benefits proprietors of distilled spirits plants because it saves them the cost of borrowing money for this additional length of time. This increased deferral period will be phased-in over three years.

Wineries are also directly affected by the elimination of "standard wine premises." Under previous law, winery proprietors could not manufacture and bottle wine products (for example, wine products made with artificial flavors) other than "standard" wines on winery premises. These other wine products were manufactured and bottled at distilled spirits plants only, using wines on which the tax was paid. Effective January 1, 1980, winery proprietors may manufacture and bottle these wine products.

These regulations directly affect importers of bottled distilled spirits because such products are no longer taxed on a wine gallon basis when below proof (i.e., on the actual volume of liquid in the product when below 100 degrees proof). Under the new law and regulations, imported bottled distilled spirits are taxed on a proof gallon basis (i.e., on the actual degree of proof in the product). As a result, importers will pay a reduced amount of tax amounting to over $100 million a year.

The government will realize manpower savings because of the elimination of on-site supervision of distilled spirits plants by ATF officers, and the more simplified methods of tax collection, records, and reporting requirements.

Summary of Costs

Sectors Affected: Manufacturing of distilled spirits, including brandy spirits; manufacturing of wines and alcoholic flavorings; and the Department of the Treasury.

Proprietors of distilled spirits plants should generally experience some increase in costs during the first year of the new system. Training employees, adopting security measures to replace those that were formerly provided by the government, and revising internal control and recordkeeping systems will entail a one-time cost.

The wine industry and manufacturers of alcoholic flavorings used in spirits will probably feel some effects of the new distilled spirits tax system. While the regulations will provide ways for wineries and flavoring manufacturers to continue their existing relationships with distilled spirits plants, the statutory changes in the tax system may lead to changes in product mix or in the formulation of existing products which would affect their sales to the distilled spirits industry.

The government also will bear administrative costs of implementing the new system. Specific costs include those for developing the new regulations and procedures and for providing assistance to the industry in converting to the new system. The taxation of certain distilled spirits on a proof gallon basis rather than on a wine gallon basis directly affects the government because there will be an annual revenue loss to the Treasury amounting to over $100 million a year.

Related Regulations and Actions

Internal: The principal regulations that this statutory change affects are the following: Gauging Manual (27 CFR Part 13); Distilled Spirits Plants (27 CFR Part 19); Distilled Spirits Plants (27 CFR Part 201); Wine (27 CFR Part 240); Taxpaid Wine Bottling Houses (27 CFR Part 231); Liquors and Articles from Puerto Rico and the Virgin Islands (27 CFR Part 250); Importation of Distilled Spirits, Wine and Beer (27 CFR Part 251); Exportation of Liquors (27 CFR Part 252); Gauging Manual (27 CFR Part 186); Miscellaneous Regulations Relating to Liquors (27 CFR Part 170); Distribution and Use of Denatured Alcohol and Rum (27 CFR Part 211); Distribution and Use of Tax-free Alcohol (27 CFR Part 213); Liquor Dealers (27 CFR Part 194); Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products (27 CFR Part 197); and Labeling and Advertising of Distilled Spirits (27 CFR Part 5).

We have incorporated the following regulation projects that were under development into this general revision:

Alternate Premises between Distilled Spirits Plants and Bonded Wine Cellars (27 CFR Parts 201 and 240)

Formulas for Rectified Products (27 CFR Parts 170, 201, 250, and 252)

Strip Stamps and Alternative Devices (NPRM published November 7, 1978, 43 FR 51808, 27 CFR Parts 194, 201, 250, 251, and 252)

Export Storage Facilities at Distilled Spirits Plants (27 CFR Part 201)

Samples of Distilled Spirits (27 CFR Part 201)

Distilled Spirits Meters (27 CFR Part 201).

External: The statutory changes affect the regulations that the U.S. Customs Service administers (Title 19, Code of Federal Regulations).

Active Government Collaboration

Certain aspects of the regulatory changes affect procedures of the U.S. Customs Service and the Internal Revenue Service (IRS). Some distilled spirits plants currently receive imported bulk spirits under an immediate delivery procedure whereby ATF officers act as Customs officers. Elimination of assignment of ATF officers would preclude the use of this procedure in the future. ATF is coordinating its plans for withdrawal of ATF officers with the U.S. Customs Service.

The repeal of the rectification tax (an additional tax applicable to certain mixed or processed products) eliminated the need for the collection of the rectifier's occupational tax by IRS.

Timetable

Public Comment Period—written comments on NPRM due on or before September 11, 1980
Final Rule—March 1981
Regulatory Analysis—ATF will not prepare

Available Documents

ANPRM—Notice No. 326, 44 FR 41833, July 18, 1979
Public comments in response to ANPRM
NPRM—Notice No. 329, 44 FR 71612, December 11, 1979
Temporary Rule—T.D. ATF–62, 44 FR 71613, December 11, 1979
Public Law 96–39, Trade Agreements Act of 1979
Committee Reports—U. S. Senate, Committee on Finances (S. 1376); U.S. House of Representatives, Ways and Means Committee (H.R. 4537).

These documents are available for public inspection at the ATF Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., during normal business hours.

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TREAS-ATF

Unlawful Trade Practices Under the Federal Alcohol Administration Act (27 CFR Parts 6, 8, 10, and 11)

Legal Authority

Federal Alcohol Administration Act, 27 U.S.C. § 205.

Reason for Including This Entry

The Department of the Treasury thinks this rule is important because it liberalizes the permitted marketing practices of all manufacturers and wholesalers of alcoholic beverages in respect to their sales to retail liquor dealers.

Statement of Problem

The Federal Alcohol Administration (FAA) Act prohibits certain unfair trade practices within the alcoholic beverage industry. Among these practices are unfair labeling and advertising of alcoholic beverages, bribery of wholesale or retail employees or officials by suppliers, creation of "tied-house" relationships between suppliers and retailers, and consignment and conditional sales or other sales which are not bona fide sales. The FAA Act also provides for some exceptions from these general prohibitions.

The FAA Act became law in 1935. Since then, Treasury has issued regulations relating to items or legal inducements that a wholesaler or supplier may furnish to a retailer. Treasury has not issued regulations concerning other trade practice provisions of this Act, although it has enforced these provisions. Since 1935, the Bureau of Alcohol, Tobacco and Firearms (ATF) has issued rulings and industry circulars in order to interpret the provisions of the FAA Act on unlawful trade practices. These interpretative documents have generally addressed one specific problem or a circumstance which required clarification.

ATF has reviewed past circulars, rulings, and its present interpretation of the unlawful trade practice provisions of the FAA Act. Some conclusions of this review are:

(1) ATF policy with respect to legal inducements such as free goods, things of value, and services is based largely on hearings and public comments during the late 1930s; for example, although inflation has increased costs many times since the 1930s, the maximum costs permitted for items supplied by suppliers to retailers such as clocks, signs, or calendars has remained almost unchanged in the regulations.

(2) ATF has never formally stated all possible reasons for the legitimate return of alcoholic beverages by a retailer to a supplier; confusion exists among suppliers and wholesalers whether some returns are permitted, such as returns from a retailer engaged in business only part of a year or returns from a retailer of products for which only a seasonal demand exists.

(3) Industry practices have changed greatly since the 1930s and certain practices, such as shelf stocking and rotation of beer and wine bottles by a supplier at a retailer's premises, have become commonplace. However, regulations have never recognized these practices as legitimate.

(4) Industry members are seeking guidelines on permissible activities, such as their participation in activities sponsored by retail liquor dealer associations. Because regulations do not address this issue, it is difficult to determine what activities are recognized as legitimate.

(5) Rules specifying unlawful trade practices have never been compiled in an easy-to-use reference; instead, many separate rulings and circulars exist covering the same subject. In order to research the position of ATF on a trade practice, it may be necessary to examine many rulings, letters, and circulars dating as far back as 1936. Moreover, many of these documents are difficult for the general public to find.

As a result of this review, ATF has decided to issue regulations clarifying and implementing all of the unlawful trade practice provisions.

By issuing these regulations, ATF wishes to modernize and update its interpretation of the FAA Act and liberalize requirements for the alcoholic beverage industry as much as is consistent with the intent of the FAA Act. ATF will also allow for full public participation in the development of new rules and will combine all outstanding rulings and circulars into a single codified source of rules relating to unlawful trade practices.

Alternatives Under Consideration

One alternative to issuing these regulations would be to issue no new regulations. However, by statute, the "tied-house" prohibitions cannot be liberalized without the issuance of exceptions through regulations. ATF could also issue rulings which would clarify, update, and consolidate outstanding rulings and circulars. ATF believes that new regulations present the best alternative because they will clarify all the trade practice issues which have caused confusion in the past, will present a single, unified source of rules relating to unlawful trade practices, and will liberalize existing requirements.

Summary of Benefits

Sectors Affected: Manufacturing, wholesale trade (including bottling and importing), and retail trade of alcoholic beverages, including malt beverages, wines, brandies, and distilled liquors; States which engage in wholesale or retail trade of these products; Federal government; and the general public.

These regulations benefit industry, government, and the public. The new regulations, resulting from re-examination of rules, some of which are over 40 years old, will modernize and liberalize the requirements. As a result of this re-examination and of dropping some restrictions, there will be less Federal government regulation in some areas, such as stocking shelves and rotation of alcoholic beverage bottles by wholesalers at retailer's premises. ATF expects that these regulations will further promote competition among manufacturers and wholesalers of alcoholic beverages by increasing the types of services which they may offer to retailers, and by encouraging the development of new merchandising techniques for alcoholic beverages. We intend these regulations to protect the three-tier system of manufacturers, wholesalers, and retailers, and to prevent manufacturers and wholesalers from exercising monopolistic control over the retail sale of alcoholic beverages.

Consumers will benefit from increased competition through a greater selection of alcoholic beverages, and the insurance of fresher products on retailer shelves. Increased competition in the distribution of alcoholic beverages may possibly tend toward lower prices.

The codification and simplification of these regulations will benefit industry and the Federal and State governments by making compliance easier with requirements which can be understood easily.

Summary of Costs

Sectors Affected: None.

ATF does not believe costs to industry will increase by a noticeable amount because of the regulations, and therefore, there should not be an increase in retail prices of alcoholic beverages. Nor does ATF expect to bear increased administrative costs because of the new regulations.

Related Regulations and Actions

Internal: We will incorporate existing 27 CFR Parts 6 and 8 into these regulations.

External: Regulations on prohibited trade practices that were issued by ATF under the FAA Act, and which relate to beer apply *only* in States which have adopted similar laws or regulations regarding trade practices.

Active Government Collaboration

ATF has provided each State liquor control board with copies of this NPRM (44 FR 45298, August 1, 1979). ATF received State input during public hearings, and from written comments to the ANPRM and NPRM.

Timetable

Final Rule—June 1980

Regulatory Analysis—ATF will not prepare

Available Documents

ANPRM—Notice No. 315, 42 FR 27116, December 30, 1977

NPRM—Notice No. 327, 44 FR 45298, August 1, 1979

Transcripts of five public hearings—September and October 1979

These documents may be inspected at the ATF Reading Room, Room 4408, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C., during normal business hours.

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TREAS–CUSTOMS SERVICE

Accelerated Duty Payment (19 CFR Parts 141, 142 and 144)

Legal Authority

Customs Procedural Reform and Simplification Act of 1978, § 103, 19 U.S.C. 66, 1484, 1505, 1557, 1624.

Reason for Including This Entry

The Customs Service (Customs) thinks this project is important because it would alter existing policy governing the deposit of customs duties, and impose an increased economic burden on a substantial segment of the importing community.

Statement of Problem

The Department of the Treasury has overall responsibility to maintain adequate cash to meet the government's expenditure needs. One source of that revenue is the duty which Customs collects on imported merchandise. To expedite the flow of funds to the government, Customs must maintain effective cash management practices. In this regard, the Department has determined that Customs' current practice of allowing importers a 10-day deferral period to deposit estimated duties after "entry" of imported merchandise, or immediate release of the merchandise before entry papers are filed, causes the government unnecessary borrowing and associated interest costs. The government's cash flow could be improved if Customs collected duties earlier than it does now.

We based this determination on a Report to the Congress by the Comptroller General entitled "Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed," dated August 21, 1978.

According to the Report, Customs collected about $3.9 billion in duties on entries during FY 1976. Of these duties, importers deferred payment of about $3.3 billion in estimated duties because they used the immediate delivery procedure. The Report also stated that although the government is entitled to payment when merchandise is released to the importer, a study indicated that importers deferred payment an average of 12.4 calendar days, ranging as high as 33 days. Using the 12.4 day delay developed in the study and interest costs of 6.5 percent per year, the Report estimated that deferrals delayed collections which, had they been deposited when the merchandise was released, could have reduced governmental interest cost by about $7.3 million in FY 1976. It should be noted that the cost of the government's borrowing money today is significantly greater than 6.5 percent per year.

The Customs Procedural Reform and Simplification Act of 1978 (the "Act"), made significant changes in the Customs laws on the entry of imported merchandise. A document amending the Customs Regulations (19 CFR, Chapter I) to establish new procedures needed to reflect these changes was published as Treasury Decision (T.D.) 79–221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

One of the more significant statutory changes involved amending § 505(a), Tariff Act of 1930, as amended (19 U.S.C. § 1505(a)), to permit the payment of estimated duties either at the time of making entry or at a later time, but not later than 30 days after making entry, as prescribed by regulations.

Although the amendments made by T.D. 79–221 continued the practice of requiring estimated duties to be deposited within ten working days after the date of entry, the NPRM that preceded those amendments (43 FR 55774, November 29, 1978) advised the public that Customs was considering the possibility of requiring the deposit of estimated duties earlier than ten working days after the date of entry.

After further review of the matter and of the current need to improve the flow of funds received as duty on imported merchandise, the Treasury Department and Customs are considering a project to reduce the ten-working-day period to a three-working-day period for the deposit of estimated duties. We would phase in the proposed reduction, if adopted, over a seven-year period, one day each year, beginning January 1, 1981. However, we would monitor each yearly reduction closely and assess the impact on Customs and the importing community to determine if we should implement the next reduction as scheduled. We would also consider a rollback of a scheduled reduction to a longer period where circumstances warrant.

It is essential to understand that Customs must maintain the most effective cash management practices possible to expedite the flow of funds to the government. Collecting duties earlier than is now the practice will improve the government's cash flow and maximize the use of Customs collections in reducing unnecessary borrowing and associated interest costs. Customs believes that any hardships imposed by the project can be mitigated substantially if that segment of the importing public most likely to be affected by the change, i.e., Customs brokers (persons licensed by Customs and authorized to act as agents of importers in customs transactions) adopt more responsible cash management practices.

Alternatives Under Consideration

As stated above, Customs is currently considering the reduction of the time for deposit of estimated duties from ten days to three days, spaced over a period of seven years. However, because we have not yet published an NPRM and received public comment, we are not committed to that specific time frame.

Possible alternatives might be to reduce immediately the time period to three days, or to some other period greater than three days but less than ten days after the time of entry, instead of spacing out the reduction. Other alternatives might be to phase in the reduction of the time period during which estimated duties must be deposited over some period less than seven years (e.g., three years, five years).

Summary of Benefits

Sectors Affected: The Federal government; the general public; and domestic manufacturing which competes with foreign imports.

If we adopt this proposal, there will be a savings to the government, which would collect duties earlier than at present, and place them in Treasury depositories. This would spare the government the interest expense of raising the equivalent amount of revenue by borrowing from the public. The government would save the following amount of interest during each of the 1981–87 calendar years:

	Projected duty collections (in current billions of dollars)	Estimated government [illegible] bond interest rate (percent)	Interest savings to the Government (in current millions of dollars)
Calendar year			
1981	9.1	10.4	3.0
1982	10.1	10.7	7.0
1983	11.1	10.9	11.7
1984	12.0	10.3	15.9
1985	13.0	9.8	20.4
1986	14.1	9.8	26.5
1987	15.4	9.8	34.2

Customs predicts that a slight decrease in trade may occur if the time in which estimated duties may be deposited is reduced. This may aid U.S. balance of payments and help sustain those domestic manufacturers which compete with imported products.

Summary of Costs

Sectors Affected: The Federal government; customhouse brokerage services; and importers.

The government may incur increased processing costs and a decrease in tax revenue from the importing community. The proposal might result in errors in liquidation and other bottlenecks caused by the rush to pay estimated duties in less than ten working days. Those negative factors would necessitate increased processing costs to Customs and decreased tax revenue owing to increased tax writeoffs by the importing community, which would incur additional business expenses.

While it is likely that the proposal could lead to some additional costs to the government, the actual amount of those costs cannot be determined adequately at this time without further study and information. In any case, it is conceivable that any additional costs incurred by the government would lessen as experience with the new processing approach is developed.

The proposal will probably lead to increased interest-related costs of well over $8 million to the importing community in 1981. This figure is necessarily higher than the $3 million benefit to the government, because borrowing costs incurred by brokers will be higher than those of the government. The brunt of the over $8 million will be borne by brokers in the short run, and small brokers (perhaps 80 percent or more of all brokers) would be affected most of all. The increased costs ultimately would be passed on to the remainder of the importing community and then to consumers.

Brokers currently benefit from the "float" they enjoy in the duty-payment process. "Float" (in this case) refers to the procedure whereby brokers receive

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early duty payments from some clients, and use those to cover late duty payments on duties owed by other clients. Brokers also benefit from the deposit in interest-bearing accounts of monies received from clients until the date when the estimated duty payment is due.

Implementation of the proposal would deprive many brokers of a certain amount of interest on their float. Moreover, some brokers could be forced to resort to additional borrowing in order to pay estimated duties (or interest due) sooner. Small brokers would be at a greater disadvantage than large brokers, because small brokers generally would have more difficulty obtaining credit, and likely would incur higher borrowing fees than large brokers. Because some brokers may tend to operate on narrow margins, the effects of the proposal on those brokers could be adverse, although (as discussed below) the costs involved per broker may not be extremely significant.

There are approximately 1,000 licensed brokers in the United States, employing a total of 10,000 to 12,000 people. Many of those brokers are also freight forwarders who transport merchandise for importers, and whose brokerage activities often account for 40 percent or less of a firm's business. If a form of accelerated duty payment is adopted by Customs, this latter group of large brokers stands to lose relatively less than small brokers whose entire livelihood is based on the brokerage business alone.

The over $8 million in interest and borrowing cost to brokers in 1981, which we estimate to occur if we adopt the proposal, translates into an $8,000 cost per broker if each of the 1,000 brokers shared equally in the cost. The actual cost would vary widely according to the broker's size and the duty rates on the type of merchandise handled. It could be difficult for brokers to pass on the increased costs to their clients in the short run because of contractual reasons as well as competitive reasons.

In addition to interest and borrowing losses to brokers, the proposal could increase the cost of processing for many brokers.

Importers generally will not be as adversely affected by the proposal as brokers would be (at least not in the short run). Importers, especially large importers, temporarily would be well insulated from any adverse effects, although in time much of the increased costs would be passed on to importers by brokers. However, some smaller importers who rely on brokers to finance their imports could be affected adversely in the short run.

The impact of the proposal on U.S. foreign trade probably will be negligible, despite the fact that the importing community (especially brokers) has indicated that the proposal would cause trade bottlenecks, distribution delays, and the disruption of normal trade patterns, ultimately resulting in a decrease in trade. While a decrease in trade may occur, Customs believes that the decrease would be very small, even if the importing community were to incur significant costs owing to the proposal. Even if the entire sum (proposal costs) were passed on to import costs, the total decrease in U.S. imports still would be only a negligible portion (0.06 percent) of the $295 billion in U.S. imports projected for 1981.

In addition, even if the increased costs of the proposal incurred by the importing community were completely passed on to consumers over a period of time, it is unlikely that the effect on either consumers or the general inflation rate would be significant.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

Work Plan 80–3—spring 1980
Draft Regulatory Analysis—spring 1980
NPRM—summer 1980
Public Comment Period—60 days following publication of NPRM
Final Rule/Treasury Decision (T.D.)—fall 1980
Final Rule Effective—30 days following publication

Available Documents

NPRM—43 FR 55774, November 29, 1978
Treasury Decision (T.D.) 79–221, 44 FR 46794, August 9, 1979
Work Plan 80–3
Report to the Congress by the Comptroller General, "Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed," dated August 21, 1978.

Copies of these documents may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, Room 2426, during normal business hours.

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TREAS—CUSTOMS

Civil Aircraft Regulations (19 CFR Parts 6, 10)

Legal Authority

Trade Agreements Act of 1979, § 601, 19 U.S.C. §§ 66, 1624.

Reasons for Including This Entry

The Customs Service (Customs) believes this rule is important because, by eliminating duty on civil aircraft and parts for civil aircraft, it implements the Civil Aircraft Agreement of the Multilateral Trade Negotiations (MTN). The amended regulation will mitigate the effect of government support of the aircraft industry in the trade of civil aircraft and parts for civil aircraft.

Statement of Problem

Unless specifically exempted, all merchandise imported into the United States is subject to a customs duty. One of the major responsibilities of Customs is to assess and collect duties when due, and to process all imported merchandise.

In some instances, the President and the Congress determine that it would be in the national interest to reduce or eliminate duty on particular merchandise. In this regard, as part of the MTN conducted with many of the nations engaged in international trade, the United States signed the Agreement on Civil Aircraft. This Agreement, which was incorporated into U.S. law as Title VI of the Trade Agreements Act of 1979 (the "Act"), provides for the duty-free trade in civil aircraft and parts for civil aircraft.

To implement the statutory provisions of Title VI of the Act, Customs is proposing to amend its regulations as they relate to (1) the importation of civil aircraft and parts for civil aircraft, and (2) foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft. The regulations which we will develop will enable us to administer the provisions of the Agreement.

In the area of tariffs, the Agreement eliminates, as of January 1, 1980, duties on the following:

(a) all civil aircraft;

(b) all civil aircraft engines and their parts and components;

(c) all other parts, components, and subassemblies of civil aircraft; and

(d) all ground-flight simulators (machines used for training on the ground which duplicate flight conditions), and their parts and components whether used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of civil aircraft.

"Civil aircraft" are defined in Title VI of the Act to mean all aircraft other than those purchased for use by the Department of Defense and the Coast Guard.

Under the Act, parts, components, and subassemblies of civil aircraft qualify for duty-free entry if they (1) are for use in civil aircraft, and (2) are classified for Customs purposes under one of the specific Tariff Schedules of the United States (19 U.S.C. 1202) headings listed in Title VI of the Act.

To be admitted free of duty, parts, components, and subassemblies must be "Certified for Use in Civil Aircraft" by the Federal Aviation Administration (FAA) or an FAA-recognized airworthiness authority in the country of exportation.

In addition, duties on foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft, previously assessed under § 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), and §§ 6.7 (d) and (e), Customs Regulations (19 CFR 6.7 (d) and (e)), are eliminated.

Alternatives Under Consideration

Customs cannot consider specific alternatives to the proposal because it must implement the provisions of the Agreement and the Act providing for the duty-free entry of civil aircraft and aircraft parts.

Summary of Benefits

Sectors Affected: Domestic and foreign manufacturing, repair services, wholesale trade (particularly importing), and retail trade of civil aircraft and parts for civil aircraft; the general public; and purchasers of civil aircraft and parts for civil aircraft.

This Agreement and implementing regulations will indirectly benefit all nations with a civil aircraft industry, whether it be a civil aircraft manufacturer, air carrier, or civil aircraft maintenance industry, by providing for the free flow between countries that are signatories to the Agreement on civil aircraft and parts for civil aircraft.

Foreign repairs to, and foreign purchase of repair parts and materials for U.S.-registered civil aircraft which were previously dutiable, are duty free under the Act and Customs' proposed implementing regulations. This will eliminate a trade barrier to foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft. Elimination of the duty will also benefit purchasers of foreign civil aircraft and purchasers of spare or replacement parts for those aircraft through a reduction in the purchase price because of elimination of duties.

Summary of Costs

Sectors Affected: Customs.

While we have not prepared an analysis of the costs, we believe that they would be negligible.

Related Regulations and Actions

Internal: Customs has appointed an MTN Coordinator to oversee implementation of the Act, including the proposed regulations relating to civil aircraft. We have held meetings at the Customs Service headquarters with representatives of the aircraft industry and others who were involved in the MTN negotiations on this Agreement.

External: None.

Active Government Collaboration

The proposal has been coordinated with representatives of the Office of the Special Trade Representative, the Departments of State, Commerce, Agriculture, and Treasury; the International Trade Commission; and the Federal Aviation Administration.

Timetable

Regulatory Analysis—none
Final Rule—Summer 1980
Final Rule Effective—30 days following publication of Final Rule

Available Documents

Work Plan 79–30
NPRM—45 FR 1633, January 8, 1980
Public Comments on NPRM

Copies of these documents may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, Room 2426, during normal business hours.

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TREAS—CUSTOMS

Imports of Petroleum and Petroleum Products (19 CFR Parts 4, 144, 151, and 159)

Legal Authority

Trade Agreements Act of 1979, 19 U.S.C. §§ 66, 1202 (Gen. Hdnotes 11, 12, Tariff Schedules of the United States), 1624.

Reason for Including This Entry

The Customs Service ("Customs") believes the proposed amendments are important because they will ensure proper control of imported petroleum and petroleum products, and uniform, complete, and reliable statistics relating to the importation of these products. In view of the need to maintain a continued oversight function in this area, Customs believes these measures would be in the national interest.

Statement of Problem

In addition to its responsibility for assessing and collecting customs duties, processing passengers and cargo, intercepting and seizing contraband, and enforcing the laws and regulations of other government agencies relating to international trade, Customs collects import and export data which is compiled as international trade statistics by the Department of Commerce. In light of the present energy situation, the Commissioner of Customs established a Customs Petroleum Imports Task Force to survey operations at selected Customs field locations and formulate proposals to ensure that each Customs district (1) was collecting reliable data relating to the importation of petroleum and petroleum products, and (2) was observing proper controls in measuring these imports.

Survey teams conducted studies from July 2 to 20, 1979, in the ten locations through which most petroleum and petroleum products imported into the United States enter. The teams ". . . found that, in general, the Customs Service was providing proper controls and reporting reliable statistics." However, it was also discovered that ". . . there were isolated instances of insufficient controls and that the Customs Service was lacking in standardized national procedures and guidelines for various aspects of imported petroleum."

On the basis of the Task Force recommendations, Customs proposed to amend various parts of the existing Customs Regulations (19 CFR Chapter I) to establish standardized guidelines and procedures for monitoring imports of petroleum and petroleum products.

Significant changes would:

(1) establish standardized procedures to be followed by Customs districts throughout the country in collecting statistics regarding imports of petroleum and petroleum products;

(2) provide for increased supervision of procedures used in gauging imported petroleum, including additional controls

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on the use of public gaugers (private concerns which measure, weigh, or gauge commodities); and

(3) tighten the reporting requirements imposed by Customs upon carriers and importers.

If Customs does not implement the proposed amendments in accordance with the Task Force recommendations, control procedures for measuring imports of petroleum and petroleum products throughout the United States may continue to lack uniformity. The lack of uniformity could prevent Customs from collecting accurate statistics regarding the quantity, quality, and origin of imported petroleum and petroleum products. Accurate statistics are necessary for the effective enforcement of recent Presidential directives pertaining to petroleum and petroleum product imports.

Alternatives Under Consideration

By an NPRM published in the Federal Register, Customs invited interested persons to submit comments regarding the proposed amendments by December 7, 1979. At the request of an industry trade association, the period of time for the submission of comments was extended until December 14, 1979.

Following requests from certain commentors for further discussion of the proposals before implementation of a final rule, Customs held an open conference on January 8, 1980, to discuss and clarify the issues raised in the comments. At the conference, specific proposals were discussed, the Customs position on each was explained, and areas of misunderstanding were clarified.

In response to suggestions made at the conference and contained in the written comments, Customs is considering modifications to the proposed amendments which include: (1) changing certain discrepancy reporting requirements; (2) revising the methods of control which will be employed in measuring imports of petroleum and petroleum products; and (3) clarifying how the measurement figures will be used in compiling statistics. Because numerous modifications are being considered and no decision has been made regarding which proposals will be changed, a detailed analysis of the changes cannot be included in this document, but will appear in the final rule.

Summary of Benefits

Sectors Affected: The Federal Government; and the general public.

Implementation of the proposed amendments will:

1. aid in the effective enforcement of Presidential directives pertaining to petroleum and petroleum product imports; and

2. provide standardized guidelines for Customs to check measurement information furnished by importers and carriers.

We anticipate that the application of these guidelines will ensure the continued collection of accurate statistics concerning the quantity of petroleum and petroleum products imported into the United States. Information derived from these statistics will enable energy planners to monitor present use and plan for future needs. Also, the application of these guidelines will provide additional quantity control for importers and carriers.

Summary of Costs

Sectors Affected: Importing of petroleum and petroleum products; and foreign production, refining, and wholesale trade of imported petroleum and petroleum products.

These changes will not have a disproportionate effect on any one geographical area, and will have a negligible impact on the general public, and all concerned sectors.

At the present time, there is no specific estimate of the cost of implementing the proposed amendments. However, Customs does not believe that the amendments will impose substantial additional requirements or costs on those affected.

Related Regulations and Actions

Internal: Report of Customs Petroleum Imports Task Force.

External: None.

Active Government Collaboration

The proposed amendments were prepared by personnel from Customs and the Treasury Department. The Customs Petroleum Imports Task Force consulted with the Departments of Commerce, Energy, and Transportation, and the National Bureau of Standards, in formulating its report.

Timetable

Final Rule—Summer 1980
Regulatory Analysis—none

Available Documents

NPRM—44 FR 64434, November 7, 1979

Extension of comment period—44 FR 66835, November 21, 1979

Notice of conference—44 FR 75685, December 21, 1979

Treasury Department press release announcing conference—December 21, 1979

Copies of these documents and comments are available for review at Customs Service Headquarters, 1301 Constitution Avenue, N.W., Room 2426, Washington, D.C., during normal business hours.

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TREAS—CUSTOMS

Valuation of Imported Merchandise for Customs Purposes (19 CFR Part 152)

Legal Authority

Trade Agreements Act of 1979, 19 U.S.C. §§ 66, 1624.

Reasons for Including This Entry

The Customs Service ("Customs") thinks this proposal is important because it changes the methods used for determining the customs value of all merchandise imported into the United States.

Statement of Problem

The purpose of customs valuation is to establish the value of imported merchandise in order for Customs and foreign customs services to assess duties levied on an ad valorem (percentage of value) basis. Such values are also used, with appropriate adjustment, for reporting the value of imports. The method of valuation which a country applies can be as important as the tariff rate itself, in determining the actual amount of duty charged. The customs valuation can be used to impede or promote importation of merchandise.

The Tokyo Round of the Multilateral Trade Negotiations (MTN) was the seventh round of negotiations held under the General Agreement on Tariffs and Trade (GATT) since 1948. The six previous rounds were concerned primarily with tariff reductions.

Many countries have criticized the U.S. customs valuation system, which has nine different methods of determining value, as being a major U.S. nontariff barrier to trade. Therefore, a principal objective of these countries in the Tokyo Round was to obtain changes in the U.S. customs valuation system.

The customs valuation systems of several of the countries engaged in trade with the United States also have controversial and protective features. A major objective of the United States in the negotiations was the elimination of the arbitrary and protective features from foreign customs valuation systems.

It was against this background that a new set of international rules was developed in the Tokyo Round to eliminate or reduce these features from customs valuation as nontariff barriers to trade.

The Trade Agreements Act of 1979, incorporates into U.S. law the trade agreements negotiated by the United States in the Tokyo Round and transmitted to the Congress by the President on June 19, 1979.

Title II of the Act, "Customs Valuation," implements the Agreement on Implementation of Article VII of the GATT relating to customs valuation. Title II makes significant changes in the laws administered by Customs relating to the valuation of all imported merchandise. Therefore, it is necessary to amend the Customs Regulations (19 CFR Chapter I), to implement and administer the provisions of Title II.

The Act repeals § 402a, Tariff Act of 1930, as amended (19 U.S.C. § 1402), and amends § 402 of the Tariff Act (19 U.S.C. § 1401a) to establish a new and different concept of valuation comprised of a primary and four secondary methods. These five methods are arranged in hierarchical fashion, in order of precedence for use: transaction value, transaction value of identical merchandise, transaction value of similar merchandise, deductive value, and computed value. If none of the five bases can be used, then Customs will determine a value derived from one of these bases, reasonably adjusted.

A general explanation of these terms follows. Transaction value is the price actually paid or payable for the imported merchandise when sold for exportation to the United States. Transaction value of identical merchandise is the previously accepted transaction value of imported merchandise identical to that being appraised, sold for export to the United States, and exported at or about the same time as the merchandise being appraised. Transaction value of similar merchandise is the previously accepted transaction value of imported merchandise similar to that being appraised, sold for export to the United States, and exported at or about the same time as the merchandise being appraised.

Deductive value is the resale price in the United States of the imported merchandise, with deductions for certain items. These items are commissions or profit and general expenses, transportation, and insurance costs, customs duties, and other Federal taxes, and, if appropriate, the value of further processing.

Computed value is the sum of (a) materials, fabrication, and other processing used in producing the imported merchandise; (b) profit and general expenses; (c) any assist, if not included in (a) and (b); and (d) packing costs.

Customs must amend Part 152, Customs Regulations (19 CFR Part 152), to reflect the new methods of value established by the Act. We will place the proposed regulations in a new subpart to existing Part 152.

Alternatives Under Consideration

Because Customs must propose regulations to implement those provisions of the Act which change the bases for determining the valuation of all merchandise imported into the United States, there are no alternatives.

Summary of Benefits

Sectors Affected: U.S. import and export trade; customhouse brokerage services; the general public; and Customs.

The proposed regulations provide guidelines, definitions, interpretations, and examples to enable all sectors of the importing community to understand and use the new valuation law. All importers and customhouse brokers will be affected by the proposed regulations to some degree regardless of whether they import for business or personal use. The degree to which they are affected will vary according to the merchandise imported.

The Statement of Administrative Action, approved as part of the legislative history to the Act, indicates that the Agreement on Implementation of Article VII of the GATT serves the interests of the United States commerce in the following ways:

1. Provides an agreed interpretation of current GATT rules on customs valuation. This should result in greater international uniformity in customs valuation practices and reduce the potential for dispute.

2. Bases customs values, to the greatest extent possible, on transaction values. This should lead to greater predictability and certainty in the determination of customs values both in the United States and abroad, thus benefiting both U.S. importers and exporters.

3. Eliminates the protective features of current foreign customs valuation systems, including arbitrariness in valuation methods, and fictitious values. This should serve to make the customs valuation process abroad trade neutral; that is, the level of protection in foreign markets facing U.S. exports will not be provided by the valuation process but will be confined to the tariff rate.

4. Places increased obligations on foreign customs services regarding the transparency and propriety of their actions in customs valuation matters, thereby safeguarding U.S. exporters from abuse.

5. Increases the opportunities for U.S. exporters to appeal improper customs valuation decisions both at the national and international levels.

6. Simplifies the current U.S. valuation system without reducing the protection of U.S. industries afforded by certain features of the current U.S. system.

7. Increases the ease of administration of U.S. valuation laws and clarifies certain controversial areas of those laws. This should result in streamlined customs valuation procedures, in reduced administrative costs, and in fewer disagreements between U.S. importers and Customs.

Summary of Costs

Sectors Affected: None.

The Statement of Administrative Action states that adoption of a transaction value-based system of customs valuation, as provided in the Agreement, will not have a significant overall impact on the amount of customs duties collected in the United States. Products for which there might have been significant impact, such as those currently subject to the American Selling Price method of customs valuation, will have new tariff rates apply to them to ensure that U.S. industries producing those products receive protection substantially equivalent to what they currently receive from present rates of duty applied on customs values determined under present U.S. law.

The legislative history of the Act also states that the paperwork and recordkeeping requirements the regulations may impose are not anticipated to be different in any significant or substantial way from those under existing law.

The legislative history further states that there would be no new budget authority or any new or increased tax expenditures or new budget authority providing financial assistance to State and local governments.

Related Regulations and Actions

Internal: Customs has appointed an MTN Coordinator to oversee implementation of the Act, including the proposed regulations relating to Customs valuation. Customs has held meetings with representatives of the importing community throughout the United States to explain the new

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methods of determining value for customs purposes. In addition, we have prepared a pamphlet, "Customs Valuation," and distributed it throughout the importing community.

External: None.

Active Government Collaboration

The proposed regulations were coordinated with and reviewed by an interagency task force made up of representatives of the Office of the Special Trade Representative; the Departments of State, Commerce, and Treasury; and the International Trade Commission.

Timetable

Public Comment Period—Written comments on the NPRM may be submitted through May 30, 1980 Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2426, Washington, D.C. 20229.
Final Rule—summer or fall 1980—the effective date of the regulations will be the date of publication of the Treasury Decision in the **Federal Register**
Regulatory Analysis—none

Available Documents

Trade Agreements Act of 1979, Pub. L. 96–39, 93 Stat. 144.

Trade Agreements Act of 1979, Statement of Administrative Action House Document No. 96–153, Part II (96th Congress, 1st Session)

House Report on H.R. 4537, House Report No. 96–317 (96th Congress, 1st Session)

Senate Report on H.R. 4537, Senate Report No. 96–249 (96th Congress, 1st Session).

NPRM—45 FR 20912, March 31, 1980
Customs Valuation, March 1980

Copies of these documents and comments received may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, Room 2426, during normal business hours.

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GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

National Defense Stockpile Acquisition Regulations (41 CFR Part 5C)

Legal Authority

Strategic and Critical Materials Stockpiling Act, 50 U.S.C. § 98 *et seq.*

Reason for Including This Entry

This regulation will be of interest to industries concerned with commodities maintained in the national defense stockpile because the government is a significant buyer of these commodities.

Statement of Problem

Under the Strategic and Critical Materials Stockpiling Act, the Federal Property Resources Service (FPRS) is responsible for the acquisition and disposal of materials for the National Defense Stockpile. The Stockpile contains a supply of 93 commodities such as tungsten, tin, and industrial diamonds, which would have strategic or critical importance in the event of war or other national emergency. The stockpile has a current market value of $14 billion, and more than a hundred acquisition transactions are planned each year with a total value of as much as $500 million.

Section 6(b) of the Act provides that "acquisition of strategic and critical materials under this Act shall be in accordance with established Federal procurement practices." At this time there is no regulation which describes the practices and procedures which FPRS uses in making acquisitions for the stockpile. The proposed regulation is intended to describe FPRS practices in a publicly available form. These practices often reflect both commercial procedures which are unique to certain commodities, and the consideration FPRS gives to avoiding market disruption and preventing avoidable loss to the government.

Alternatives Under Consideration

We have considered issuing no regulation, amending other procurement regulations to cover stockpile acquisitions, and issuing a separate regulation. If we do not issue a regulation, the public will be left without a formal description of our practices and procedures for stockpile acquisitions. Amendment of other procurement regulations would introduce into them a large body of information which pertains only to stockpile transactions. For this reason, we believe that a separate regulation is preferable, and can better describe FPRS practices in acquiring stockpile commodities.

Summary of Benefits

Sectors Affected: Domestic and foreign industries which supply, trade, and use the basic industrial raw materials of the economy of the United States; and users of these raw materials.

The proposed regulation will increase public knowledge of FPRS's stockpile acquisition practices. This knowledge should help other buyers, traders, and users of affected commodities to deal with FPRS and to plan their transactions.

Summary of Costs

Sectors Affected: None.

The proposed regulation does not impose direct or indirect costs on the government or any sector of the economy because it will not require changes in existing practices.

Related Regulations and Actions

None

Active Government Collaboration

The Federal Emergency Management Agency coordinates National Defense Stockpile program activity, developing stockpile goals and setting overall annual disposal and acquisition plans in coordination with the Departments of Defense, Interior, State, Commerce, and Treasury; the Central Intelligence Agency; GSA; and the Office of Management and Budget. GSA has sole control over actual stockpile transactions.

Timetable

Final Rule—late 1980
Regulatory Analysis—not required

Available Documents

None

Agency Contact

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GSA–FPRS

National Defense Stockpile Disposal Regulations (41 CFR Part 101–14*)

Legal Authority

Strategic and Critical Materials Stockpiling Act, 50 U.S.C. § 98 *et seq.*

Reason for Including This Entry

This regulation will be of interest to industries concerned with commodities

maintained in the national defense stockpile because the government is a significant buyer of these commodities.

Statement of Problem

Under the Strategic and Critical Materials Stockpiling Act, the Federal Property Resources Service (FPRS) is responsible for the acquisition and disposal of materials for the National Defense Stockpile. The stockpile contains a supply of 93 commodities such as tungsten, tin, and industrial diamonds, which would have strategic or critical importance in the event of war or other national emergency. The stockpile has a current market value of $14 billion, and more than a hundred disposal transactions are planned each year with a total value of as much as $500 million.

Section 6(b) of the Act provides that "disposal of materials from the stockpile shall be made by formal advertising or competitive negotiation procedures." The purpose of advertising a sale, when appropriate, and of competitive negotiations, is to involve the largest practical number of bidders, and thereby to obtain the most favorable offer. At this time there is no regulation which describes the practices and procedures which FPRS uses in disposing of materials from the stockpile. The proposed regulation is intended to describe FPRS's practices in a publicly available form. These practices often reflect both commercial procedures which are unique to certain commodities and the consideration FPRS gives to avoiding market disruption and preventing avoidable loss to the government.

Alternatives Under Consideration

We have considered issuing no regulation, amending other disposal regulations to cover stockpile disposals, and issuing a separate regulation. If we do not issue a regulation, the public will be left without a formal description of our practices and procedures for disposal of stockpile materials. Amendment of other disposal regulations would introduce into them a large body of information which pertains only to stockpile transactions. For this reason, we believe that a separate regulation is preferable, and can better describe FPRS practices in disposing of stockpile commodities.

Summary of Benefits

Sectors Affected: Domestic and foreign industries which supply, trade, and use the basic industrial raw materials of the economy of the United States; and users of these raw materials.

The proposed regulation will increase public knowledge of FPRS stockpile-disposal practices. This knowledge should help other buyers, traders, and users of affected commodities to deal with FPRS and to plan their transactions.

Summary of Costs

Sectors Affected: None.

The proposed regulation does not impose direct or indirect costs on the government or any sector of the economy because it will not require changes in existing practices.

Related Regulations and Actions

None

Active Government Collaboration

The Federal Emergency Management Agency coordinates National Defense Stockpile programs activity, developing stockpile goals and setting overall annual disposal and acquisition plans in coordination with the Departments of Defense, Interior, State, Commerce, and Treasury; the Central Intelligence Agency; GSA; and the Office of Management and Budget. GSA has sole control over actual stockpile transactions.

Timetable

Final Rule—late 1980
Regulatory Analysis—not required

Available Documents

None

Agency Contact

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SMALL BUSINESS ADMINISTRATION

Revision to Method of Establishing Size Standards and Definitions of Small Business (13 CFR Part 121)

Legal Authority

The Small Business Act, 15 U.S.C. §§ 632, 634

Reason for Including This Entry

The Small Business Administration (SBA) thinks that this rule is important because it will define the term "small business" and thus clarify what businesses are eligible for SBA programs.

Statement of Problem

SBA is charged by the Small Business Act of 1953 and the Small Business Investment Act of 1958 to administer a wide variety of programs designed to benefit the small business community of the United States. These programs include financial business assistance, such as direct loans, loan guarantees, and surety bond guarantees; management and technical assistance, such as direct consultation; and provision of opportunities to contract with the Federal government to provide it goods and services. Eligibility for these programs is based on, among other things, the size of the applicant. SBA must define the term "small business" in a manner which is equitable to all concerns seeking the agency's assistance. Hence, size standards are necessary, and we have set them to cover each of the industries specified in the Standard Industrial Code. We urge other Federal agencies to use these standards as well, and many do, in their contracting and financial assistance programs.

The promulgation of size standards is a difficult chore because the concept of size is by nature a relative one. The Small Business Act precludes SBA from rendering assistance to firms which are dominant in their industries. However, one's conception of the size of a firm can be based on a number of other factors including number of employees, sales per particular time period, and competitive position within an industry or geographic area. It may also be appropriate to define "small" differently, depending on the SBA program involved.

In the past, size standards have varied from SBA program to program and were often set to suit the preferences of SBA's program offices or other procuring agencies within the Federal government. However, many of these standards attracted considerable criticism from the public because they were factually unsubstantiated, inconsistent, and confusing, and not tied sufficiently to expressed SBA policy. Both the House and Senate Small Business Committees have made frequent inquiries concerning SBA's size-standard setting procedures, and the General Accounting Office prepared two reports in 1978 and 1979 which were somewhat critical of the process as it concerned SBA's procurement and timber set-aside programs.

All of this led SBA Administrator A. Vernon Weaver to pledge in congressional testimony that SBA would develop new size standards where justified.

SBA thinks that this revision of these size standards rules is important because it will update and improve the logic, methodology, and mode of presentation related to the size standards. It will simplify understanding of SBA programs for the small business community, reduce complexity in the administration of SBA's programs, and improve the targeting of SBA's resources.

Alternatives Under Consideration

The possible alternatives under consideration are:

SBA can use a combination of factors to determine a firm's size for the purposes of these proposed rules, such as sales, number of employees, and gross assets. The advantage of this system is that it allows for review of a firm from a number of different viewpoints. The disadvantage is that it can confuse the small business community and the public at large because it will require comparisons of the operative factors within various industries which cannot be easily made and which will make uniformity, to the extent that it is desirable, an impossibility. Furthermore, SBA has found that size standards measured in dollars, such as in sales or gross assets, are not a true measure since inflation can affect different products or assets differently, and distort any attempt to compare their prices.

SBA can use a single factor, such as number of employees, to determine a firm's size. Such a standard will be easier for SBA to administer, but might be inequitable. However, SBA feels that using employment as opposed to sales or assets will provide greater stability for SBA and its clients, because it will remove distortions generated by inflation and will reduce the need for frequent future adjustments merely to reflect inflation.

SBA can use the same size standard in administering each of its programs. This will promote uniformity in SBA decisionmaking and ease of administration for SBA and applicants, but it also inevitably will lead to strident, unyielding decisions.

SBA can use individual size standards for each of its programs, which may mean several different standards would apply to one company. This will lead to a more flexible decisionmaking process, but will also promote confusion and difficulty in administration, because a given company might be eligible for one SBA program and not another based on this system.

Currently, SBA bases its size standards on a combination of factors and uses different standards for each of its programs. We are proposing to use the firm's number of employees as the exclusive measure of size, and to develop a single standard to cover all of our programs by this proposed revision.

Summary of Benefits

Sectors Affected: All Businesses, and SBA.

These regulations will affect all U.S. businesses because we will use them to determine which businesses are eligible for SBA assistance and which are not. Our program will classify all sectors covered by the Standard Industrial Classifications.

As a result of this proposal, SBA expects that 95 percent of all American firms will be considered small for the purpose of eligibility for SBA assistance. Of course, the other eligibility requirements of each of SBA's programs would still apply to an applicant in a given situation.

Summary of Costs

Sectors Affected: None.

SBA expects no costs as this rule by itself would impose no burdens.

Related Regulations and Actions

Internal: In order to be eligible for any SBA business assistance, SBA must determine the firm is "small." Therefore, these regulations will, of necessity, affect the application of all of the agency's business assistance regulations, including 13 CFR §§ 106, 107, 115, 118, 119, 120, 122, 124, 125, 128, 129, 130, and 131.

External: These regulations will affect any Federal regulations which contemplate governmental assistance to, or contracting with, small business, if those regulations incorporate by reference SBA's definitions of small business. Use of SBA's size standards is left to the discretion of each governmental agency.

Active Government Collaboration

In establishing its size standards, SBA has relied upon information developed by the Department of Commerce and Internal Revenue Service. SBA contemplates the receipt of comments and suggestions from other Federal and State agencies on its proposed rules during the comment period thereon.

Timetable

Public Comment Period—March 10–June 6, 1980
Public Hearings—May 8–June 5, 1980, as indicated at 45 FR 23704
NPRM—August 5, 1980
Final Rule—October 5, 1980
Regulatory Analysis—in preparation

Available Documents

ANPRM—45 FR 15442–15453, March 10, 1980; amended ANPRM—45 FR 23704, April 8, 1980

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FEDERAL TRADE COMMISSION

The entries for credit practices and mobile homes describe rulemaking proceedings that are currently in progress. The views expressed in these entries are those of the rulemaking staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself, which will address the issues presented after it reviews the entries record.

The entries for Blue Shield, real estate and eyeglasses describe investigations that might lead to rulemaking proceedings. The views expressed here are those of the investigative staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself, which will consider whether a rulemaking proceeding should be undertaken after it reviews the results of the investigation and comments in response to advanced notices of proposed rulemakings.

The entries for the standards and certification and the children's advertising rulemaking proceedings which were included in the **Calendar of Federal Regulations** published in November 1979 are not included in this edition. Descriptions of those two proceedings may be found in Volume 44 of the **Federal Register** at pages 68331–36, published on November 28, 1979. Although these proceedings are currently pending, they would be affected by authorization legislation which may become law in the near future.

As of May 1, 1980, provisions of legislation agreed to by the House and Senate conferees, if enacted into law, would affect the proceedings as follows: The Federal Trade Commission's authority to issue the standards and certification rule with respect to "unfair or deceptive active acts or practices" under Section 18 of the FTC Act would be removed. The bill would leave unaffected whatever authority the FTC might have under any other provision of the ACt to issue a rule with respect to "unfair methods of competition." The pending legislation would suspend the children's advertising proceeding until the FTC voted to publish the text of a proposed rule. Additionally, any further action in the proceeding could be based only upon acts or practices which are "deceptive."

Amendment to Eyeglasses Rule and Eyeglasses II (16 C.F.R. Part 456)

Legal Authority

Federal Trade Commission Act, §§ 5 & 18, 15 U.S.C. §§ 45 & 57(a).

Reason for Including This Entry

The staff of the Federal Trade Commission (FTC) believes this investigation is important because it is exploring ways to reduce the prices of eye care services and products, and increase consumer access to vision care. We will design any Commission rulemaking in this area to ensure that the quality of vision care is maintained to protect public health and safety.

Statement of Problem

The staff of the FTC's Bureau of Consumer Protection has identified a number of categories of State laws which may have the effect of decreasing consumer access to vision care services, increasing the cost of those services, and impeding the growth of alternative "nontraditional" delivery systems. The Commission's interest in assessing the effect of these restrictions stems from its earlier eyeglasses investigation, which culminated in a new Federal regulation requiring the release of eyeglasses prescriptions following an eye examination. In that investigation the Commission's staff found that there are a number of additional business practice restrictions which may significantly harm consumers by maintaining higher prices and limiting the availability and accessibility of vision care products and services. Little evidence, other than anecdotal experiences, supported the assertions by proponents of these restrictions that they are necessary to protect the public health and safety.

One category of restriction prohibits the commercial or high-volume practice of optometry and opticianry. For example, many States prevent optometrists from working for opticians. In addition, many States prohibit opticians and optometrists from working for nonprofessional corporations of department stores, or from locating in high-traffic commercial locations, such as shopping centers. Many States also ban the use of trade names by practitioners, or place restrictions on the number of branch offices they may operate.

The effect of these laws may be to prevent individual practitioners from locating in areas, such as shopping centers, where the potential for developing high-volume operations exists. They may also limit the ability of opticians, optical chains, and department stores to compete with optometrists. Furthermore, they may hinder the growth of optical chains and other high-volume businesses which, because of economies of scale, may be able to charge lower prices than smaller entities.

Preliminary evidence indicates that these restrictions may tend to raise consumer prices. Branching and location restrictions may also restrict consumer accessibility to vision care, especially affecting the elderly and other less mobile members of society. Both higher prices and decreased accessibility may mean that some consumers receive no care at all or obtain vision care less frequently than they otherwise would.

The second category of State laws which the FTC staff has examined tends to have the effect of limiting the consumer's ability to comparison shop for eyeglasses or contact lenses. This limitation results from State laws which prohibit opticians from (1) duplicating a new eyeglass lens from an existing lens, and (2) fitting contact lenses. These restrictions, operating in conjunction with industry practice whereby consumers are rarely given a copy of their prescriptions following the initial sale of eyeglasses or a contact lens fitting, may lessen competition and cause inflated prices.

Approximately twelve States prohibit opticians from duplicating a new eyeglass lens from an existing lens. One of the justifications advanced in support of such prohibitions is that opticians may not be able to duplicate accurately eyeglasses from an existing pair. However, even in States where duplication is prohibited, an optician is permitted to make new eyeglass lenses from a valid prescription. Thus, if the consumer had been provided with a copy of his or her prescription following the initial sale of eyeglasses (i.e., a "re-release" procedure), he or she could use that prescription to purchase new eyeglass lenses from any optician and all problems in the duplication process would be avoided.

A possible concern with such a "re-release" procedure is that the consumer will thereby be able to bypass regular eye examinations. However, staff is unaware of any State which presently requires an additional eye examination before the purchase of new eyeglasses, if the seller already possesses a valid prescription for the consumer. Thus, even in States where duplication is proscribed, a consumer can purchase additional eyeglasses from his or her initial seller and avoid the cost of further eye examinations.

Certain States also prohibit opticians from fitting contact lenses. The justification offered for these restrictions is that opticians may not be adequately trained to perform this function. The staff is currently exploring alternatives, described below, which may increase consumers' options for purchasing contact lenses without in any way expanding the classes of providers who currently are permitted to fit lenses. Preliminary data suggest that such alternatives should lower the cost of the lenses.

The staff believes that if no action is taken in these areas, restrictions which may not be necessary to protect the public health and safety and which harm consumers by being anticompetitive may continue to exist.

Alternatives Under Consideration

Various options are available to the Commission including an amendment to its Eyeglasses Rule, the promulgation of another trade regulation rule, a formal complaint against parties alleged to have engaged in unfair acts or practices, legislative recommendations to Congress or to the States (including development of model State laws), a public report setting forth the findings of the staff, or no action.

The FTC staff intends to recommend an ANPRM be issued bythe Commission proposing an amendment to the Eyeglasses Rule (on "re-release" issues) and new trade regulation provisions concerning commercial practice. The purpose will be to examine the issues raised by the staff's investigation, further evaluate the facts which have been developed, and explore all possible remedies for any consumer injury which is found to exist.

An amendment to the Eyeglasses Rule could take a variety of forms. For example, such an amendment could impose a "re-release" procedure which would require a seller of lenses to return the eyeglasses prescription (or a duplicate) to the consumer after the prescription has been filled or refilled. This would enable the consumer to purchase duplicate or replacement eyeglasses from the provider of his or her choice, and it would not require an additional eye examination. Such an approach would also eliminate concern over the accuracy of the duplication

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process, since new lenses would be produced from the prescription.

A proposed amendment could also require the release of complete contact lens specifications after the initial fitting so that consumers could purchase additional lenses from other qualified providers. This alternative would permit consumers to purchase additional contact lenses from other than their original seller without in any way expanding the class of providers who currently are permitted to fit lenses.

A proposed trade regulation rule could address limitations on commercial practice by eliminating certain legal restraints. For example, the Commission could remove restrictions on branch offices, employment, and trade names.

Other alternatives available to the Commission include a proposal for model State legislation in lieu of any proposal for a trade regulation rule, or promulgation of a trade regulation rule together with proposed model State laws designed to implement such a rule. For example, the Commission could promulgate a rule removing certain State restrictions on the commercial practice of optometry and, at the same time, recommend model State legislation designed to control any abuses which could accompany such a change.

Summary of Benefits

Sectors Affected: The retail ophthalmic industry, and primarily three groups within that industry: ophthalmologists, optometrists, and opticians; and consumers of eyeglasses and contact lenses.

The Commission's staff estimates that the removal of commercial practice restraints should benefit consumers by reducing vision care costs and making vision care more accessible. In this regard, the Commission's Bureau of Economics (BE) has conducted a study which compared prices charged for eye examinations and eyeglasses in cities where commercial optometry exists and in cities where it is restricted. The data suggest that (1) prices are significantly lower in cities where commercial practice and advertising are not restricted; (2) commercial optometrists charged lower prices than noncommercial optometrists; and (3) noncommercial providers who operated in markets where commercial practice was permitted charged less than those noncommercial providers working in markets where commercial practice was proscribed.

The BE study also found that the average optometrist charged $72 for an eye examination and eyeglasses in markets where commercial practice was permitted as opposed to $94 in restrictive cities. Given the substantial size of this industry i.e., consumers annually spend approximately $2.7 billion for ophthalmic goods and an additional $1 billion for eye examinations—there may be considerable savings to consumers if commercial practice restrictions are eliminated or reduced.

The lifting of commercial practice restraints is also likely to facilitate the growth of commercial chains or volume practices because practitioners would be able to locate in high-traffic commercial areas, have branch offices, and be employed by lay individuals and firms. Such firms could compete with other traditional dispensers of optical goods, and the effect of the competition should lower consumer prices. In addition, the changes are likely to provide consumers with a wider choice of providers and greater accessibility to vision care.

If the Commission adopts a requirement that the person who fills an eyeglasses prescription must return the prescription (or a duplicate), consumers will be able to have their prescriptions refilled by sellers of their choice, without necessarily obtaining another eye examination. Such a "release" requirement would enable consumers to engage in comparison shopping for replacement lenses (thereby increasing competition which should lead to lower prices) and it could also save them the added expense of obtaining an additional eye examination. Recent data place the average cost of an examination at approximately $25; thus, the savings which may result from foregoing this added (and not always necessary) expense could be considerable.

If the Commission adopts a provision which requires original contact lens fitters to release complete contact lens specifications after the initial fitting, consumers would be able to engage in comparison shopping for replacement lenses. The market for replacement lenses appears to be substantial; preliminary data indicate that contact lens wearers purchase, on the average, one new lens per year. Furthermore, the data suggest that there may be wide price dispersion for replacement lenses.

Summary of Costs

Sectors Affected: The retail opthalmic industry, and primarily three groups within that industry: opthalmologists, optometrists, and opticians.

One cost associated with removal of present commercial restrictions may involve the issue of quality of care. While removal of these restrictions may lower consumer prices, it is necessary to determine whether their removal would involve any decrease in the quality of care received by the public. Before any final action is taken, the Commission must determine what, if any, effect there will be if such restrictions are removed.

Results from the Bureau of Economics study indicate that commercial optometrists derived the correct prescription and produced accurate eyeglasses no less frequently than noncommercial optometrists. Moreover, the incidence of prescribing of unnecessary eyeglasses was not found to be more prevalent among commercial optometrists than among noncommercial optometrists. On the other hand, the data also indicate that examinations given by commercial optometrists were less thorough than the examinations given by noncommercial providers insofar as the number of procedures or tests performed during the examinations. (The study did not measure whether the practitioners performed the procedures correctly.) Based on the evidence to date, however, the Commission's staff does not believe that elimination of the restrictions on commercial practices under investigation will have a detrimental effect on the quality of care.

It is not yet known exactly what costs would be associated with a requirement that a seller must return an eyeglass prescription (or a duplicate) to the purchaser, or a requirement that the original contact lens fitters must release complete contact lens specifications (or a duplicate) to their customers following the fitting process.

In assessing the costs of this proposed action, it should be clearly understood that this proposal is essentially deregulatory, not regulatory. That is, the investigation seeks to eliminate regulation which may not be in the public interest, with a return to the free market as the alternative. As a consequence, the income of some providers of eye services may be reduced. However, this revenue loss may be partially offset by the increased volume of sales resulting from the reduction in consumer prices.

Compliance costs would depend on what action, if any, the Commission takes. For example, if the Commission promulgates a rule which imposes a requirement that when an eyeglass prescription is filled the seller return it (or a duplicate) to the patient, the compliance cost is minimal. If the rule requires ophthalmologists and optometrists to release complete contact lens specifications following the initial contact lens fitting so that consumers can obtain replacement contact lenses from a fitter of their choice, the compliance cost is, again, minimal.

If the Commission removes commercial practice restraints and recommends model State legislation to control any abuses in the marketing of vision care which might accompany such a change, States might impose certain examination requirements. If so, the States would have to monitor compliance with those requirements. Furthermore, such examination requirements could result in some amount of price increases by commercial providers.

Active Government Collaboration

None reported.

Related Regulations and Actions

Internal: The Advertising of Ophthalmic Goods and Services Trade Regulation Rule (16 CFR Part 456).

External: Various State laws which restrict commercial vision care practices and the ability of opticians to fit contact lenses and duplicate lenses without a prescription.

Timetable

The Commission staff will recommend the issuance of an amendment to the Eyeglasses Rule and a proposed trade regulation rule. The following estimated date is applicable:

Advanced Notice of Proposed trade regulation rule and
Amendment—summer/fall 1980

Available Documents

"Staff Report on the Advertising of Ophthalmic Goods and Services and Proposed Trade Regulation Rule (16 CFR Part 456)," dated May 1977; "A Comparison of a Random Sample of Eyeglasses," prepared by Resource Planning Corporation for the Federal Trade Commission, dated July 2, 1979; "Advertising and Commercialism in the Profession: The Case of Optometry," prepared by the FTC's Bureau of Economics, dated

All are available from Room 281, Federal Trade Commission, Washington, D.C. 20580.

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FTC

Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans (16 CFR Ch. 1)

Legal Authority

Federal Trade Commission Act, §§ 5 & 6, 15 U.S.C. §§ 45 & 46.

Reason for Including This Entry

Two Federal Trade Commission (FTC) staff reports which analyze medical participation in control of Blue Shield and other open-panel medical prepayment plans suggest that control of these plans by physician organizations may reduce competition in the provision of health care services and may raise the prices of these services. The issues raised are important because of the continuing rise of medical care costs and the public interest in identifying appropriate ways to contain these cost increases.

Statement of Problem

Blue Shield and other open-panel medical prepayment plans pay for or deliver care to patients principally through physicians who compete with each other to provide covered services. In general, patients subscribing to "open-panel plans" may use virtually any physician practicing in the area served by the plan. This characteristic distinguishes open-panel plans from other plans where care is delivered through physicians who are employed by the plans or who comprise a relatively small percentage of the physicians in the area.

Blue Shield plans make up the largest system of open-panel medical prepayment plans in the Nation. The 70 Blue Shield plans operating in the United States today cover about 40 percent of the population of the Nation, and control or administer payment of about a quarter of all funds paid for the services of physicians. Other open-panel plans—variously called medical service bureaus, foundations for medical care, and/or individual practice association-type health maintenance organizations (IPA-type HMOs)—cover a small but rapidly growing portion of the population of the Nation. The Commission's current inquiry deals with issues relating to the control of such open-panel plans by medical societies and other groups of physicians.

In April 1979, the Bureau of Competition's (BC) staff of the FTC submitted to the Commission a report entitled "Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans," which notes that many members of such boards frequently have been selected by medical societies and other groups of physicians whose services were paid for by the plan. The report points out that as of 1978, for example, medical societies and other physician groups formally participated in the selection of some members of the boards of directors of 47 of the 70 Blue Shield plans and selected a majority of the boards of directors of 32 plans. Thirty-one plans had physician majorities on their boards, and virtually all plans had physician-dominated committees that made decisions about payments and coverages.

The staff report expresses the concern that groups of competing physicians, such as State and local medical societies, may control or participate in the control of many Blue Shield and other open-panel plans. When such physician groups elect members on the boards of directors, or otherwise participate in control of plans, they may be able to control or influence plan decisions about how much to pay physicians, which physicians or other health professionals to pay for covered services, what cost-containment mechanisms to employ, and other matters that may affect competition and costs in the professional health services sector of the Nation's economy.

The staff report concludes that there is reason to believe that control or participation in the control of open-panel medical prepayment plans by physician organizations impairs competition among physicians and between physician and nonphysician providers of health care services, and thus may be an unfair method of competition in violation of § 5 of the Federal Trade Commission Act.

In November 1979, the Bureau of Economics (BE) of the FTC published a staff study titled "Physician Control of Blue Shield Plans." The study examines the correlation between medical participation in control of Blue Shield plans, the prices of selected medical procedures, and plan administrative efficiency. The strongest results of the study relate to medical society participation in plan governance. Other factors being equal, Blue Shield reimbursement rates in 1977 were 16 percent higher where a local medical society or other organized group of physicians selected plan board members. The study also reports that five other measures of participation by physicians in plan governance were correlated with higher reimbursement rates. The study suggests that medical control of plans has little relation to plan administrative costs.

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Alternatives Under Consideration

The Commission has not decided whether or not to take action on the basis of the recommendations set forth in these two reports. However, the Commission believes that the reports raise a number of important issues, especially in light of the rapid escalation of the cost of health care. Is there a relationship between medical participation in control of Blue Shield and other open-panel medical prepayment plans, and the increase in fees charged by physicians? Does a plan controlled by a physician organization have less incentive than one which is not controlled to attempt to keep down physicians' fees and to pay the fees of nonphysician providers of health care? What are the benefits of medical participation in these plans, and can these benefits be obtained if physician groups do not control the plan? In public policy terms, is such control or participation in control in the public interest? And in terms of § 5 of the Federal Trade Commission Act, is such control or participation in control an unlawful restraint of trade?

Before considering these issues, however, the Commission decided to solicit comments on its staff's analyses, on the facts supporting the reports written by BC and BE staff, and on certain specific areas of concern. The Commission believes that such public comment may enhance its understanding of the issues which should be considered in determining what action, if any, to take.

The first specific area about which the Commission has solicited comment in the Request for Comment and ANPRM, published March 17, 1980, concerns the degree and types of medical participation in control of open-panel medical prepayment plans which may lead to anticompetitive effects. More specifically, when physician organizations participate in the selection of plan board members, do they represent the interests of the medical profession as a whole, thus posing antitrust concerns? Do these concerns depend on the nature of the physician organization? For example, does participation in control by groups of "participating physicians"—that is, physicians who have agreed to abide by the plan's payment terms and cost-containment programs—present less of a problem than participation by medical societies or other more highly organized groups? Similarly, do these concerns depend on the extent of this participation? For example, does participation on plan boards by a minority consisting of representatives of a physician organization pose a sufficient danger of anticompetitive effects that, on balance, it should be forbidden? The Commission also asked whether any action it might take should be focused on plan boards, or whether it should also consider ways by which physician organizations might participate in plan decisions through control of plan committees, or by reason of plan delegation of decisions to those organizations.

A second area of specific questions raised by the Commission concerns the role of governing bodies whose members choose their own successors. The BC staff report indicates the possibility that plans, currently controlled by boards selected by physician organizations, will make decisions which will perpetuate the influence of the physician organization. Staff raises a similar concern about plans which have recently changed from boards with physician organization control to self-perpetuating boards. The Commission has asked if this is a serious problem, and if so, how to deal with it.

Another significant area of Commission interest concerns the types of plans to which the analysis of the staff should apply. As discussed above, the open-panel plans, which make up the Blue Shield system, comprise the largest system of medical prepayment plans in the nation, and medical control of these plans would appear to have the most immediate and substantial impact on the professional health care sector. However, there apparently also exists a growing number of other open-panel medical prepayment plans which the staff report indicates may operate like Blue Shield member plans and may raise the same issues as medical participation in control of Blue Shield. Others have asserted that these plans in general, and Individual Practice Association-type (IPA-type) plans in particular, have enhanced competition, and that medical participation in the governance of such plans either has been beneficial or, at worst, has had little effect on competition. In addition, the Office of HMOs of the Department of Health, Education and Welfare has asserted that its regulations are sufficient to alleviate any problem which may exist insofar as it relates to federally qualified IPA-type HMOs. The Commission has also invited comments on each of these positions, and on the staff's suggestion that its analysis should apply only to plans that will pay more than 50 percent of the physicians practicing in their areas for nonemergency services they provide to subscribers. The basis for this suggestion is that plans which will reimburse relatively few physicians may encourage competition in the medical service market, even if physician groups control them. The Commission is also questioning various alternatives, including the possibility of applying the staff's analysis only to Blue Shield plans, or only to plans that cover more than a specified percentage of the population of their service areas.

The Commission is also seeking specific comment on procedures it should use to further explore these issues if the Commission determines that this is appropriate. While the staff points out that the choice among procedural options is not clearcut, it has stated its belief that rulemaking may be the fairest and most efficient way to address the problem, because it allows the Commission to consider, and the public to present, all of the facts, policy considerations, and possible remedies in one forum, and does not single out any one plan. The staff points out that one alternative approach would be for the Commission to issue one or several complaints against physician organizations and/or plans which present the problems discussed in its report. In addition, the Commission has noted that at least three other alternatives are open to it. First, the Commission might consider issuing an industry guide to provide a basis for voluntary abandonment of inappropriate and illegal relationships. Second, the Commission might prepare a report to the Congress or to the States respecting these issues. Finally, the Commission might issue a complaint against Blue Shield Association (BSA) and/or conclude that BSA's assurance that it will move toward the goals of minimizing medical society involvement on plan boards and committees is sufficient to resolve the problems presented by the staff report.

Summary of Benefits

Sectors Affected: Subscribers to hospital and medical service plans, particularly open-panel medical prepayment plans; alternate health care delivery systems, including closed-panel HMOs and independent open-panel hospital and medical service plans; nonphysician providers of health care services; medical groups; and the general public.

In recommending alternative methods by which the Commission might challenge the structural ties between physician organizations and open-panel medical prepayment plans, the staff is proposing termination of what may be an antitrust violation. Such action also may promote competition in the health service sector by permitting open-panel plans to make their payment, benefit, and coverage decisions in an independent manner. Increased competition may help to hold down health care costs by (1) increasing the incentives of open-panel plans to hold down the level of physicians' fees and to provide appropriate coverage for the services of nonphysicians; (2) encouraging commercial insurers to seek to hold down the costs of health care services; and (3) providing an environment in which alternative health care delivery systems, including closed-panel health maintenance organizations and independent, open-panel plans, have a full opportunity to compete.

Specific cost savings that would result cannot be calculated at this time as they would depend on the specific course of action taken. However, the staff believes they would be substantial. The BE study indicates that medical participation in the control of Blue Shield plans leads to significantly higher reimbursement levels.

Summary of Costs

Sectors Affected: Open-panel medical prepayment plans; physician organizations which control or participate in the control of these plans; and subscribers to these plans.

One type of direct cost which might occur because of Commission action would be the administrative costs involved in changing the way affected plans would be governed. The staff has not yet attempted to estimate the amount of these costs. It is possible that some indirect costs might occur if medical societies react to any Commission action in ways which may interrupt the ability of some plans to offer paid-in-full coverage to subscribers, or to implement certain kinds of cost-control programs. It is also possible that any Commission action, which has the general effect of dissuading medical societies from establishing and operating prepayment plans open to all physicians in the community, may reduce the number of such plans that are formed. The actual costs will depend on the final form of any action taken by the Commission.

Related Regulations and Actions

Internal: The Commission has an ongoing program of investigation of competitive restraints in the health care sector.

External: A number of States have laws governing the composition of health plans' boards of directors. These laws would not be affected by any staff proposal now under consideration. In some States, such as Pennsylvania, these laws have recently been amended to reduce medical participation in the control of Blue Shield plans. In other States, including Ohio and Indiana, court suits or administrative actions have been undertaken for the same purpose. Other States, including New York and Virginia, have recently studied the relationship between plans and medical societies.

The Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce held hearings in 1978 on Blue Shield's impact on rising health care costs. One of its recommendations was that the FTC consider promulgating a rule "prohibiting physicians and physician organizations from dominating Blue Shield plans." The Department of Health, Education and Welfare has published a notice of intent to issue a regulation prohibiting doctors, hospital administrators, and others with financial interests in the health care industry from dominating the governing body of any carrier or intermediary that participates in the Medicare program or any fiscal agent that participates in the Medicaid program. The National Health Plan legislation recently proposed by the Executive Branch would also impose restrictions on the proportion of the boards of plans administering that program which may be physicians or selected physicians. The General Accounting Office is conducting an econometric study relating to these concerns.

Active Government Collaboration

The BC and BE staff have consulted with numerous other Federal and State agencies in the course of preparing their reports. The staff expects to continue to solicit the views of both Federal agencies and the States in the course of the comment period, and to consider these views in preparing its recommendations to the Commission.

Timetable

Comment Period terminated—May 16, 1980
Commission consideration of Staff Recommendations—summer/fall 1980

Available Documents

ANPRM 45 FR 17019 (March 17, 1980)
Bureau of Competition, Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans, Staff Report to the Federal Trade Commission and Proposed Trade Regulation Rule, April 1979
Bureau of Economics, Staff Report on Physician Control of Blue Shield Plans, November 1979

Copies of these documents may be obtained from: Public Reference Room (Room 130), Federal Trade Commission, 6th & Pennsylvania Avenue, N.W., Washington, D.C. 20580 (202) 523–3598.

In addition, the public may review and obtain at the above address during normal business hours comments and materials submitted by Blue Shield Association, The American Association of Foundation for Medical Care, and other parties.

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FTC

Proposed Trade Regulation Rule on Mobile Home Sales and Service (16 CFR Part 441)

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

Mobile homes are an important segment of the housing industry, with annual sales of approximately 275,000 units. The proposed rule, if promulgated, is designed to improve warranty service in the mobile home industry and, therefore, may have a substantial impact on the housing market.

Statement of Problem

Most mobile home manufacturers offer a one-year written warranty to cover defects in the materials and workmanship of the home.

Although the warranty obligates them to repair defects, evidence indicates that some manufacturers and dealers in a significant number of instances have failed to provide adequate warranty service to the homeowner. The evidence also suggests that many mobile homeowners discover defects in their new mobile homes, including water leaks, malfunctioning plumbing, buckled frames, and inoperative windows and doors. Improper transportation or installation of a mobile home may also cause damage. Severe problems, for example, lack of electricity and heat, where they occur, may threaten the safety of the homeowner and render the

mobile home uninhabitable. Nonetheless, indications are that when consumers seek warranty repairs, manufacturers and dealers may refuse service or delay repairs beyond a reasonable time. In other instances, when manufacturers and dealers attempt repairs, they do not adequately remedy the problem.

This evidence indicates that mobile home manufacturers and dealers may not have adequate warranty performance systems. The current warranty systems appear to be deficient in several ways. First, although dealers perform much of the warranty work, some manufacturers do not consider service capabilities in selecting their dealers. Second, manufacturers may fail to clearly allocate service responsibilities between themselves and their dealers. As a result, disputes between manufacturers and dealers can delay warranty service. Third, some manufacturers and dealers fail to have sufficient parts, service personnel, and equipment to fulfill consumer requests for repairs. Finally, some manufacturers do not properly monitor their dealers to determine if they have completed repairs. Without an adequate warranty performance system, manufacturers and dealers are not able to provide prompt and competent warranty repairs for mobile homeowners.

The Federal Trade Commission's investigation into warranty service problems initially led to consent orders against four major manufacturers. Under the orders, the companies agreed to take specific steps to improve their warranty service programs. (A consent order is an agreement between the Commission and a company in which the company agrees to change certain of its business practices. The agreement is not an admission of wrongdoing by the company.) Shortly thereafter, the Commission began this rulemaking proceeding because it had reason to believe that substantial numbers of mobile home purchasers receive inadequate warranty service, and that an industrywide approach might be required to address the problem. The proposed rule would seek to improve warranty service by setting time standards for warranty repairs, and requiring manufacturers or dealers to perform preoccupancy and followup inspections of the home. It would also require that those who offer warranties on mobile homes have available the necessary equipment, personnel, parts, and recordkeeping systems to adequately fulfill their warranty obligations. It also would require manufacturers to evaluate the service capability of, and enter into written service agreements with, dealers and others who perform warranty repairs, and to disseminate a consumer questionnaire to monitor the adequacy of dealer repairs.

Alternatives Under Consideration

The Commission staff is evaluating the need for each of the provisions of the proposed rule, based upon a review of the written comments received and testimony presented at hearings on the rule. For example, staff is assessing whether it should recommend retaining the requirement for a second on-site inspection of the mobile home. Elimination of this provision would reduce manufacturer compliance costs by approximately $100 per home, but might also allow installation problems to go undetected. (This figure is based on 1977 estimates.) The Commission staff is also considering alternative rule provisions that would rely more directly upon market forces to improve industry warranty performance. One such provision would establish deadlines for repair and require inspections before mobile homes are delivered to consumers, but leave most other aspects of the warranty performance system to the discretion of manufacturers and dealers. Staff is also exploring ways to provide consumers with increased information about industry warranty performance to enhance competition among sellers.

Summary of Benefits

Sectors Affected: Purchasers of mobile homes; and the general public.

The proposed rule seeks to ensure that owners of new mobile homes receive prompt and competent warranty service.

Survey data on the rulemaking record indicate that, in certain sections of the country, as many as 40 percent of mobile homeowners have been unsuccessful in having repairs promptly completed under the warranty. Thus, significant numbers of owners either had to pay for repairs themselves or suffer the inconvenience of defective homes. Improved warranty service would reduce these problems. Moreover, consumers may benefit from inspections that provide early detection and repair of problems. Because many defects can lead to more serious structural damage if not promptly repaired, the proposed rule might also prolong the useful life of mobile homes and increase their resale value. This, in turn, might lead to more favorable financing terms for purchasers of mobile homes, making mobile homes a more attractive investment and providing consumers with a less costly but reliable alternative to site-built homes.

The proposed rule may also induce warrantors to reduce customer claims by correcting the underlying causes of defects. For example, manufacturers may find it less costly to comply with the rule if they build better homes that require less warranty service. This would benefit consumers as well.

By ensuring that warranty obligations are met, the proposed rule may heighten industry competition by removing the unfair advantage enjoyed by companies that breach their warranties. It would allow manufacturers to communicate the effectiveness of their warranty repair program through written warranties, and enable consumers to rely on competing warranty claims when making their decision to select a particular brand.

Summary of Costs

Sectors Affected: Mobile home manufacturing and dealers, particularly firms not currently providing adequate warranty service.

The proposed rule would affect the business practices of some 220 mobile home manufacturers (Standard Industrial Classification 2451) and approximately 12,000 mobile home dealers.

The rule is designed to impose greater compliance costs on firms that do not currently provide adequate warranty service. For such companies, we estimate that the costs to comply with the proposed rule would be a maximum of $200 per home. Our cost projections are based in part upon an analysis of records submitted in 1977 by the four mobile home manufacturers operating under consent orders similar in terms to those of the proposed rule, and are expressed in 1977 dollars. These estimates of compliance costs are based on the terms of the proposed rule and may be reduced significantly if the rule is modified.

Industry compliance costs can generally be assigned to one of two categories: (1) administrative and other overhead costs, and (2) additional repairs to mobile homes. We estimate that, depending upon company size, from one to four professional work-years at the corporate headquarters level will be required to administer the warranty performance system and resolve disputes among consumers, dealers, and the manufacturer. This represents a maximum per home cost increase of about $5.00 to $15.00 for large manufacturers and $15.00 to $25.00 for smaller producers, assuming that no corporate officials now work on warranty matters. Since most companies currently assign at least some corporate personnel to their warranty programs, the net cost increase should be substantially below these estimates.

The cost to manufacturers of evaluating dealer-service capabilities and entering into written agreements should be concentrated in the first year of compliance and, therefore, should have minimal effect on prices in the long run. For the most part, the long-run impact would depend on the frequency with which manufactuers affiliate with new dealers. The cost of evaluating dealers should vary from roughly $2.00 to $15.00 per home. Responses from the companies currently under Commission order indicate that legal costs for drafting the written service contracts should not exceed about $2.00 per home for the average-size manufacturer.

Based upon the experiences of the consent order companies, the required consumer questionnaires should cost no more than $8.00 per home to print, distribute, and tabulate. Adding this figure to the other costs brings the total administrative compliance costs of the proposed rule to a maximum of $50.00 per home.

Analysis of data from the companies under the consent orders indicates that each of the required pre-occupancy inspections of mobile homes costs these manufacturers about $50.00. Each of the reinspections costs them approximately $100. The higher cost for the reinspection reflects the fact that it occurs after the home is occupied and would require a separate trip to the homesite. These estimates include reimbursements to dealers for travel and all inspection expenses, including repairs. This figure does not cover major repairs or general increases in warranty expenditures resulting from more diligent attention to customer complaints. It is difficult to estimate the magnitude of these increases in warranty costs, as the rule presumably could motivate producers to lower the incidence of defective homes. Specifically, manufacturers can be expected to introduce quality control improvements whenever the cost is justified by expected future savings in warranty expenditures. In addition, these two inspections should permit dealers to spot and correct installation problems before costly structural problems result and would therefore reduce overall warranty service expenditures.

The proposed rule eases overhead costs for smaller companies by exempting firms that produce fewer than 5,000 units annually from some of the administrative requirements of the rule (approximately 200 firms). Furthermore, because the total number of inspections would depend directly upon the number of homes sold, large and small manufacturers would spend approximately the same amount per home to meet the inspection requirements of the proposed rule.

The proposed rule should not alter the competitive structure of the industry significantly. The Commission staff has investigated whether the proposed rule would encourage manufacturers to integrate vertically into retailing or enter into exclusive franchising agreements with dealers. The rulemaking record indicates that even the largest manufacturers would find the capital costs of developing a national dealer network prohibitive. The record also documents that dealers would not find exclusive franchises as profitable as their present practice of representing four to five manufacturers. Since consumers generally do not select mobile homes on the basis of brand reputation, dealers currently compete for sales by offering the widest possible selection of homes in varying price ranges, sizes, and floorplans. Exclusive dealing would necessarily limit the variety of homes that could be offered without giving dealers any compensating benefits.

Related Regulations and Actions

Internal: Four mobile home companies are currently required under Commission consent orders to establish effective warranty performance systems. Other cases have been brought against mobile home companies allegedly in violation of the warranty disclosure and labeling requirements of the Magnuson-Moss Act, § 101 *et seq.*, 15 U.S.C. § 2301 *et seq.*

External: The Department of Housing and Urban Development regulates the production of mobile homes at the factory under the National Mobile Home Construction and Safety Standards Act of 1974 (Title VI), 42 U.S.C. § 5401 *et seq.*

Seventeen States require warranties in the sale of new mobile homes. A number of States license and bond mobile home dealers and manufacturers.

Active Government Collaboration

The Department of Housing and Urban Development, Small Business Administration, and representatives from eleven State attorneys general offices participated in the rulemaking hearings. Other Federal and State officials submitted written comments on the proposed rule.

Timetable

Publication of staff report (including a cost-benefit analysis) and proposed Final Rule—summer 1980
Public comment period—fall 1980
Commission consideration—1981

Available Documents

NPRM—40 FR 23334, May 29, 1975
Final NPRM—42 FR 26398, May 23, 1977

The record of this proceeding is publicly available at the Office of Legal and Public Records Section, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N. W., Washington, D.C. 20580.

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FTC

Residential Real Estate Brokerage Industry Practices

Legal Authority

Federal Trade Commission Act, § 5, 15 U.S.C. § 45.

Reasons for Including This Entry

The Federal Trade Commission (FTC) believes the issues raised by this investigation present possible remedial options that could involve an annual effect of over $100 million on the economy, and affect consumers, brokers, and agents in real estate transactions.

Statement of Problem

The FTC staff estimates that in 1979 approximately 3.8 million existing homes were sold through real estate brokers. Total revenues from those 1979 sales exceeded $215 billion, generating an estimated $13 billion in commissions paid to the over 2 million licensed brokers and agents in the country.

Complaints from many sources within the real estate brokerage industry have been received by the FTC. Brokers and sales agents throughout the country have contended that their competitive efforts have been frustrated in ways they consider unfair.

In addition, complaint letters, petitions, and public statements from individuals and consumer groups have called attention to alleged consumer problems in the brokerage services market. For example, inadequate representation of the buyer's or the seller's interests has been alleged.

Further, articles and studies in legal and economics publications have suggested that problems may exist in the

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competitive process of the industry. Economists and other observers have questioned, in particular, whether the seemingly high degree of price and service uniformity, characterized by the commonplace 6 or 7 percent commission rate, is the product of problems with the competitive process.

The FTC staff has identified five issues for particular emphasis in its study of the residential brokerage industry: (1) the nature and role of private trade associations of brokers; (2) the structure and operations of multiple listing services (systems for sharing house listings among brokers); (3) problems facing brokers who offer innovative packages of prices and services; (4) the role of the broker in the residential brokerage transactions, including issues of potentially conflicting duties and interests which may make difficult the adequate representation of consumers; and (5) the nature and role of State law and State agencies which regulate the industry.

The Commission staff is now completing its investigative fieldwork, and is preparing a summary report for the Commission. The staff currently expects to complete this report in the second quarter of 1980. It will summarize staff findings and recommend any appropriate FTC action.

If no action is taken, the staff anticipates that the prevailing modes of competition, including the uniform commission rates, and the current broker/consumer relationships, will persist.

Alternatives Under Consideration

As the FTC staff is only now completing investigative work, no conclusions on any appropriate FTC action have been reached, either by the staff or by the Commission. However, the following will introduce the numerous alternatives under scrutiny.

The FTC staff is considering at least five major types of alternative recommendations: (1) public reports containing legislative proposals to Congress or the State legislatures, seeking to alter the legal standards of practice for the industry; (2) a trade regulation rule or rules, which would declare certain brokerage acts or practices "unfair," and thus unlawful under § 5 of the FTC Act; (3) FTC efforts to educate the home buying and selling public, including attempts to increase consumer understanding of the brokerage transaction and to facilitate consumer shopping efforts; and (4) formal administrative complaints, alleging anticompetitive or unfair practices, against groups or individuals in the industry; and (5) no FTC action.

One or more of these alternatives might encourage a number of substantive changes. Among the many possible provisions the staff is considering are: (1) prohibitions upon those practices which may discourage brokers from offering differing prices and differing packages of services; (2) alteration of certain requirements or conditions on the use of multiple listing services, and other important services, with the intent of easing private regulations on brokerage practice; (3) clarification of existing legal duties between brokers, and between brokers and consumers; and (4) requirements that brokers make simple and brief disclosures to consumers of information to help them make informed choices about brokerage services. These provisions could be incorporated in any of the above alternative approaches.

The FTC staff, in considering various policy alternatives, is seeking to ensure that the marketplace will be allowed to provide the choices consumers want. The staff is giving primary consideration to actions which free the market of anticompetitive private restraints and which improve the flow of accurate information to consumers.

Summary of Benefits

Sectors Affected: Licensed real estate brokers and agents, and brokerage firms; and consumers of brokerage services, both buyers and sellers.

The costs and benefits of FTC action will depend upon the final choices the Commission makes among the numerous policy alternatives currently under consideration. Overall estimates will remain highly conjectural until the Commission determines which specific actions, if any, it will take. However, much of the current work of the staff is aimed at producing careful analyses of each alternative.

Direct and quantifiable benefits which might accrue from some of the above alternatives can only be roughly estimated prior to the above Commission determinations. However, if one accepts the view of some experts that the widespread 6 percent standard commission rate is not the product of healthy competition, then reductions in prevailing rates resulting from improved competition could produce significant reductions in consumer settlement costs.

General benefits said to flow from some of the above alternatives include: more vigorous competition between different systems of brokerage, in addition to competition between different firms offering essentially the same approach; increased consumer choice among different packages of prices and services; greater consumer understanding of the brokerage process, and thus more effective consumer shopping and bargaining skills; and greater efficiency in brokerage operations. Brokers and brokerage firms would benefit from reduced uncertainty over broker liability, and from increased freedom in the competitive environment.

Summary of Costs

Sectors Affected: Licensed real estate brokers and agents, and brokerage firms; trade associations; and related services, such as multiple listing services.

FTC action in the brokerage industry, if any, will be carefully designed to minimize regulatory burdens and costs. For example, many of the alternatives under consideration involve the removal of private regulation of brokers' activities, rather than additional government regulation. Other alternatives, such as affirmative disclosures, would in most cases involve no more paperwork than brokers currently use, and would require disclosures currently recommended by real estate attorneys to protect brokers from liability. The costs of these efforts would be the one-time costs involved in redrafting forms.

Any change in standards of brokerage practice would entail costs, such as redrafting forms and changing training programs. However, most such transitional costs would be nonrecurring. It is possible that lower rates flowing from greater competition might reduce total revenues to the industry as a whole if there is little change in business volume. However, any such reduction might be offset by increases in business volume resulting from the reduced rates.

The staff is analyzing all the proposals under consideration against the criterion that the positive impact on the millions of households using brokers each year must outweigh the burdens imposed. The staff is taking particular care to identify alternatives which avoid placing small businesses at a competitive disadvantage.

Related Regulations and Actions

Internal: None.

External: Other Federal agencies have a role in the brokerage industry. The Justice Department's Antitrust Division has conducted a series of investigations of brokerage practices, primarily involving alleged local brokerage conspiracies in restraint of trade. The Department of Housing and Urban Development (HUD) maintains a Real Estate Brokerage Practices Division. HUD is currently conducting a two-year study of settlement services, including

brokerage services, in light of the 1975 Real Estate Settlement Procedures Act, which requires certain information be provided to the consumer at different stages of the home purchase/sale process.

State departments of real estate or real estate commissions have primary regulatory responsibility in this arena. The FTC staff believes this will continue to be the case. A number of the State agencies are actively engaged in reviewing and revising licensing and related regulations.

State antitrust enforcement officials are also active in the brokerage industry. State and local prosecutors in California, New Jersey, New York, Washington, and many other States have conducted investigations and brought lawsuits involving many of the practices identified for study in this investigation.

Active Government Collaboration

The FTC staff is in contact with the Justice Department and the Department of Housing and Urban Development regarding the studies and investigations underway in those agencies.

The staff has sent a "Notice of Intent to Make Recommendations and Invitation to Comment" to State and local government officials, including all the State departments of real estate, governors, attorneys general, and legislatures, and to selected local prosecutors and State consumer agencies. State and local agencies will be encouraged to participate in every phase of any FTC effort in the industry.

Timetable

The timetable for any FTC action will depend upon the nature of the action selected. If the Commission decides upon rulemaking, a possible schedule might be:

Decision of FTC as to appropriate action—fall 1980.

Available Documents

Documents available to the public include:

(1) FTC Press Release, dated December 27, 1975, describing the initiation of the original FTC brokerage investigation; (2) FTC Press Release, dated March 31, 1978, announcing that the Los Angeles Regional Office of the FTC was assigned to coordinate the consolidated FTC brokerage investigation; (3) "Notice of Intent to Make Recommendations and Invitation to Comment," issued in July 1979, to State and local government officials.

Copies of these documents can be obtained from the FTC Office of Public Information, Sixth and Pennsylvania Avenue, N.W., Washington, D.C., 20580, or from the staff contact listed below.

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FTC

Trade Regulation Rule Concerning Credit Practices

Legal Authority

Federal Trade Commission, §§ 5 & 18, 15 U.S.C. §§ 45 & 57(a).

Reason for Including This Entry

This proposed rule is a major reform proposal which, if adopted by the Commission, would change the relationship between creditors and debtors in the United States and affect a large sector of the economy.

The rule focuses on the practices used by creditors when consumers have difficulty repaying their debts. The current state of the economy has produced a marked increase in consumer credit problems. It is reasonable to anticipate that continuing inflation and a possible recession will protract this trend.

For these reasons, the proposed Credit Practices Rule is highly significant to those who obtain consumer credit, as well as those who extend it.

Statement of Problem

Most Americans use consumer credit at some time in their lives. At any given time about half of all households in the Nation are making payments on installment debt. Many encounter financial or other problems which cause them to become delinquent in their payments. Only rarely is such delinquency intentional. Studies show that the leading causes are such unplanned events as unemployment, illness, and circumstances in which the consumer is overburdened with debt obligations.

When debtors default they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, inflict injury on debtors that may be disproportionate to the gain to creditors. The injury includes not only dollar losses, but also nonpecuniary harm, such as emotional distress, loss of privacy, and disruption of family relationships. The disproportionate nature of the injury may mean that many consumers may be obtaining credit on terms that they would not choose in a market in which more complete information about credit terms were available.

The right of creditors to use remedies derives largely from provisions included in credit contracts. Credit contracts are standardized form documents prepared by creditors. There is generally no bargaining over terms between debtor and creditor.

The record shows that consumers frequently cannot shop for credit terms because they lack the specialized legal knowledge necessary to understand and evaluate remedy terms in contracts. Furthermore, creditors often do not compete with each other with more favorable remedy terms of contracts, and therefore, in a given market, consumers will find little variation in such terms. We believe that all these factors indicate market forces have not produced an optimum balance of creditor and debtor rights in credit contracts.

Specific contractual and other creditor remedies which may cause injury to consumers and which are in widespread use include the following:

1. *Confession of judgment*—The debtor signs a form which authorizes the creditor to obtain a court judgment against him without notice to the consumer and without any opportunity for the consumer to appear and defend himself. The debtor thus loses due process rights, such as the ability to contest disputed claims.

2. *Waivers of state property exemptions*—The debtor waives the right, granted by state law, to keep certain minimal property if a court judgment is obtained against him. In many States, a court will not honor the waiver; however, the rulemaking record shows that some creditors nonetheless have used this waiver to threaten debtors with loss of all their goods.

3. *Wage assignments*—The debtor authorizes the creditor to seize a portion of his wages without first obtaining a court judgment. The debtor loses the ability to contest disputed claims. Moreover, some debtors may be subject to disciplinary action or firing by employers who do not like to divide employee wages between a creditor and an employee because of the accounting costs this imposes.

4. *Blanket security interests in household goods*—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. Because in many instances such goods may have little resale value, it appears that creditors may use security interests primarily to

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threaten the debtor and deter default, rather than to actually secure the debt.

5. *Cross-collateral security interests*—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase.

6. *Deficiencies*—Following the repossession and sale of collateral, the creditor can sue the debtor for a deficiency, i.e., the difference between the sale price of the product and the amount the consumer owes. The evidence shows that the sale prices of repossessed collateral may frequently be very low, resulting in large deficiencies.

7. *Attorney's fee provisions*—The provisions require the debtor to pay the creditor's attorney fees. They thus may tend to inhibit debtors from defending themselves against payment of disputed debts. The evidence indicates that in some instances, attorneys' fees assessed by courts may be larger than actual court costs or the cost of actual service provided.

8. *Late charges*—Late charges are penalty fees that the creditor assesses when the debtor fails to pay an installment on time. The rulemaking record shows that sometimes they are "pyramided," i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments.

9. *Third party contacts*—The record indicates that creditors make contacts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job loss.

10. *Cosigners*—Creditors sometimes have the debtor obtain one or more cosigners who agree to pay the debt if the principal debtor does not. The evidence shows that cosigners frequently do not understand that the obligation they undertake is substantial.

Alternatives Under Consideration

The rule that the Commission initially proposed on April 11, 1975, would ban a number of the above creditor remedies and restrict the use of others. It would prohibit or limit confessions of judgment, waivers of state property exemptions, wage assignments, nonpurchase money security interests in household goods, and attorneys' fee provisions. Creditors would have to promise in the contract not to make third party contacts except to locate the debtor or his property. The Commission would permit cross-collateral security only if creditors released collateral from the security agreement as the consumer paid for it in the order it was purchased by the consumer. Creditors could collect deficiencies only if they credited the debtor with the fair market retail value of the collateral. Late fees would be limited. Cosigners would have to be given a notice explaining their obligation and a three day "cooling-off" period to evaluate that obligation. Creditors would also be required to give cosigners copies of relevant documents, to notify cosigners in the event of default by the principal, and to make serious efforts to collect from the principal before seeking payment from the cosigner.

Following publication of the NPRM, members of the public (including many members of the credit industry which would be affected by the rule) have suggested numerous modifications, alternatives, exceptions, and deletions to the proposed rule. The Commission will consider these alternatives and will decide what form of rule, if any, it ultimately should promulgate.

Summary of Benefits

Sectors Affected: Consumer debtors.

The primary beneficiaries of this rule would be consumers who borrow to obtain goods or services and have difficulty repaying their debts. While the rule would not prevent creditors from compelling consumers to pay legitimate debts where necessary, it seeks to limit unjustified consumer injury arising from the use of certain boilerplate collection remedies where the benefits to creditors from such use are small and the injury to consumers is substantial.

Although at the present time the Commission does not know what form of rule, if any, it will adopt, it is possible to identify the type of benefits that should result if it promulgates certain provisions of the proposed rule. For example, several provisions would produce dollar benefits for consumers by eliminating requirements to pay excessive deficiencies and late fees. If the final rule eliminates collection methods which result in injury to the employment relationship, it would benefit consumers by protecting their employment security. Eliminating practices by which creditors evade due process requirements would increase the fairness with which creditors treat consumers and would improve consumers' ability to protect themselves against fraud.

An important qualitative benefit of any final rule should be fairer treatment of people suffering from financial difficulties. We believe that the proposed rule attempts to rectify practices that currently result in such individuals being threatened unfairly with the loss of their possessions and jobs, and harassment of their friends and relatives.

Quantitative information relevant to an assessment of current injury to consumers is available for a number of provisions of the proposed rule. For example, evidence in the rulemaking record indicates that over 60,000 consumers have wage assignments filed with their employers each year. One source estimates that use or threatened use of wage assignments results in loss of employment 10 to 20 percent of the time, at least for low-income consumers. Next, the rulemaking record indicates that well over 10 million consumers are subject to contracts containing blanket security interests in household goods. Creditors sometimes make an implicit or explicit threat to repossess when borrowers become seriously delinquent. We estimate, using the rulemaking record, that creditors make threats to repossess to at least several hundred thousand borrowers each year. Finally, over 750,000 automobiles are repossessed each year. In most cases where an auto is repossessed, it is sold at less than its wholesale value and the consumer continues to owe the creditor money. The amount owed totals over $400 million. The provision of the proposed rule relating to deficiency judgments, if adopted, may significantly reduce this amount.

Summary of Costs

Sectors Affected: Consumer debtors; banking, credit agencies other than banks, particularly installment sales finance companies, and other establishments providing consumer credit; retail trade of consumer products; adjustment and collection agencies; and State governments.

Cost to consumers of any rule may potentially take two forms: increases in the price of consumer credit and reductions in availability of credit to certain consumers.

The rulemaking record contains empirical economic evidence based on data in States with credit laws similar to the proposed rule. These economic studies and other information on the record provide an imprecise estimate of the effect a rule would have on the cost of credit, but suggests that adopting the rule in the form we originally proposed may cause no more than a small increase in the annual percentage rate of loans made by finance companies in States with no existing regulation.

Testimony by State officials, some creditors and others who have experience in States with laws similar to the proposed rule, indicates that prohibitions on the covered creditors' remedies have not had significant impact on either the cost or availability of credit in those States.

However, the Commission and its staff will analyze this economic data carefully before determining whether or what form of rule should be issued.

The main costs of creditors' compliance with any rule should be those associated with revising contract forms and instructional materials that they give their employees. They will have to do these tasks only once. Creditors can spread the costs over all subsequent transactions; costs will therefore be low on a per transaction basis. While the rule restrains creditor remedies, the evidence suggests that such restraints will not prevent creditors from collecting debts.

The proposed rule is likely to affect large and small creditors in similar ways. Finance companies will be affected by this rule more than other creditors.

The rule will not impose any requirements on State and local governments. However, several of the proposals concerning cosigners could preempt State laws on this subject.

Related Regulations and Actions

Internal: None.

External: If the Commission decides to adopt the proposed rule, the Federal Reserve Board is required by Section 18 of the FTC Act to consider adopting a substantially similar rule for banks, unless the Board determines that such acts or practices of banks are not unfair or deceptive or that implementation of similar regulations would seriously conflict with essential monetary and payment systems policies of the board.

Most States have laws similar to one or more provisions of the proposed rule. A small number of States—including Connecticut, Iowa, and Wisconsin—have laws similar to most provisions of the rule, though they differ in detail.

Active Government Collaboration

Federal, State, and local government agencies participated in the rulemaking proceeding. Representatives of over half of the States testified at hearings, along with a number of local government officials. A number of the Federal Reserve Board staff also testified. The Commission received written comments from additional government agencies including, among others, the Department of Defense, the National Credit Union Administration, and several State and local agencies.

Timetable

Publication of Staff Report—fall 1980
Public Comment Period—fall 1980
Commission Consideration—1981

Available Documents

40 FR 16347, April 11, 1975
Final Notice Concerning Proposed Trade Regulation Rule, 42 FR 32259, June 24, 1977
Report of the Presiding Officer—August 1978

Copies of these documents can be obtained from the Office of Legal and Public Records, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

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CHAPTER 7—TRANSPORTATION, DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Certification of Vehicle Size and Weight Enforcement (23 CFR Part 658.9*)

Legal Authority

Federal-Aid Highway Amendments of 1974, §§ 106 and 107, 23 U.S.C. §§ 127 and 141. Surface Transportation Assistance Act of 1978, §§ 161 and 123, 23 U.S.C. §§ 315 and 141.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because it is extremely controversial. If enacted, the rule would permit FHWA to withhold a substantial portion of a State's Federal-aid highway funds if it failed to comply with the size and weight enforcement regulations.

Statement of Problem

The need for highway maintenance, which is the responsibility of the States, is increasing much more rapidly than the FHWA and the States anticipated it would when the highways were constructed. Inflation has sent maintenance costs soaring and reduced the amount of work that the States can accomplish with the money available. This has created an undesirable backlog of deferred maintenance for many States. Accelerating pavement deterioration, which is partially due to increasing amounts of vehicular traffic, particularly heavy trucks, also increases maintenance needs. On many sections of the Interstate and other highway segments, current traffic volumes have exceeded the volumes the roads were designed to accommodate.

While legally loaded trucks contribute to inevitable pavement deterioration, this fact is accounted for in pavement design. Regular operation of trucks with loads above the current legal limits, some of them operating legally under special permits, or operating above the weight limits for which the pavement originally was designed, also greatly accelerate the rate of pavement deterioration. The latter case would be a factor in those States that opted to increase their legal axle and gross weight limits as a result of the Federal-Aid Highway Amendments of 1974, which Congress enacted as a response to the need for improved energy conservation and to make truck transportation more efficient. All of these factors force maintenance work or reconstruction sooner than the States originally planned, administratively and financially.

The objective of the proposed regulation is to make each State enforce its vehicle size and weight laws, as well as to document enforcement.

Alternatives Under Consideration

The FHWA considered three alternatives in developing the NPRM that it published in the **Federal Register** on March 14, 1979. They were to:

(A) rescind present regulations, which require a State to submit substantial data on enforcement, and simply require a statement by the State that it enforced the laws;

(B) adopt a purely quantitative approach to evaluate enforcement in each State in terms of the number of weighings, arrests, etc. (actually only an expansion of present regulations); and

(C) use an approach whereby each State would develop annually a size and weight enforcement program geared to its own requirements, which the FHWA would approve. At the end of the year, each State would submit quantitative information to certify its enforcement of the program.

The States probably would prefer Alternative (A) because they would not have to develop a plan or collect data to submit to the FHWA. However, the statement called for in this alternative would not provide the FHWA with the information required by 23 U.S.C. to verify the States' enforcement efforts.

Alternative (B) would increase the States' data collection and reporting efforts but, again, the quality of the information would be insufficient to verify these efforts. Alternative (C) also would increase the States' data collection and reporting efforts. Since this alternative would require each State to establish an enforcement and documentation program, it is the only one that would provide the FHWA with sufficient information to assess enforcement efforts.

The NPRM described the approach in Alternative (C). Under this approach, the FHWA would require each State to submit for review and acceptance a truck size and weight enforcement plan for the next year. In addition, States would submit the actual certification to the FHWA by January 1 of each year. It would provide the quantitative information upon which the FHWA would base the annual program assessment.

The program would specify, among other things, the number of personnel necessary for size and weight enforcement, the use of fixed and portable scales for weighing trucks, methods for handling excessive loads to bring them within legal limits, and the manner in which repeat offenders would be handled. Once the FHWA approved the State's program, it would become the norm by which the agency would evaluate the State's activity for that year to determine whether the State was enforcing vehicle size and weight laws adequately. The Surface Transportation Assistance Act of 1978 provides for a penalty of 10 percent of the highway funds apportioned to a State if the State fails to enforce size and weight laws adequately.

The comment period on the NPRM closed June 2, 1979. The next step is to prepare a final rule.

Summary of Benefits

Sectors Affected: State governments; and users of highways, including the trucking industry, truckers, and the general driving public.

The primary benefit of this regulation would be to reduce the number of illegally overweight vehicles on the highway system. State governments would realize a long-range benefit from the savings in highway maintenance costs, including lengthening the lives of pavements and bridge structures, maintaining the safe condition of the highways, and saving repair and maintenance funds. Operators of cargo-carrying vehicles and the general public also would realize safety benefits from improved highway conditions.

Summary of Costs

Sectors Affected: State governments; and the trucking industry.

The direct cost to each State for implementing the proposed regulation would vary, depending on its present enforcement program. States with extensive programs to enforce size and weight laws would probably incur only the modest costs of additional reporting requirements. However, States with limited enforcement programs would incur some substantial costs through increases in personnel and equipment.

Operators of cargo-carrying trucks who, as a matter of company policy, load their vehicles beyond legal limits, would incur additional costs because they would need more vehicles to haul a given tonnage on legally loaded vehicles. They would not be able to haul the same tonnage in fewer vehicles loaded beyond legal axle and gross vehicle weights. It should be noted, however, that the economics of motor truck transportation cannot be based on a philosophy of deliberately loading vehicles beyond legal limits.

At this time, the FHWA cannot estimate what it will cost a State to expand its weight enforcement program. Similarly, the agency has no estimates of reduced maintenance costs associated with fewer overloaded trucks using a State's highway system. However, States that would be required to upgrade their programs substantially could do so incrementally over several years, rather than incurring a one-time, lump sum expenditure.

Related Regulations and Actions

Internal: The department of Transportation recently completed an inventory of systems of penalties for violations of State vehicle weight laws, rules, and regulations, as well as systems in the States for issuing special permits authorizing a vehicle to exceed the applicable weight limitation. FHWA submitted a final report to Congress on January 28, 1980.

The department is also currently conducting a congressionally mandated study covering vehicle sizes and weights and their effect on road construction, reconstruction, and maintenance; the relationship of highway design, construction practices, and maintenance costs in States with weight laws above the Federal maximum; the adequacy of current standards for highway and bridge design regarding present and future transportation needs; and the need for and desirability of uniformity in maximum truck size and weight limits throughout the United States. The Department is to complete and report upon this study no later than January 15, 1981.

External: "Excessive Truck Weight: An Expensive Burden We Can No Longer Support," General Accounting Office Report, July 16, 1979.

Active Government Collaboration

None

Timetable

Regulatory Analysis—will accompany Final Rule
Final Rule—July 1980

Available Documents

ANPRM—43 FR 2634, January 18, 1978
NPRM—44 FR 15637, March 14, 1979
Federal Highway Administration Docket 77–21, Notice 2, Current size and weight regulations, 23 CFR 658.9
Draft Regulatory Analysis
"Excessive Truck Weight: An Expensive Burden We Can No Longer Support," General Accounting Office Report, July 16, 1979
All documents are available for review in the Office of the Chief Counsel, Federal Highway Administration, Room 4205, 400 Seventh Street, S.W., Washington, D.C. 20590. .

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DOT–FHWA

Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways (23 CFR Part 625*)

Legal Authority

Federal-Aid Highway Act of 1976, §§ 106, 108(a)(1), 23 U.S.C. §§ 101(a), 104(b)(5). Surface Transportation Assistance Act of 1978, § 116, 23 U.S.C. § 119.

Reason for Including This Entry

The Federal Highway Administration (FHWA) believes this rule is important because of the controversy over its possible impacts on safety and because the geometric design criteria proposed in the ANPRM would substantially affect the condition of the Nation's highway system.

Statement of Problem

The 1976 and 1978 Highway Acts provided for a Federal-aid program to assist the States in resurfacing, restoration, and rehabilitation (RRR) of streets and highways. Under current procedures, RRR work must meet the standards contained in FHWA regulations for new construction. The FHWA permits exceptions on a project-by-project basis. The intent of this action is to amend existing regulations in order to establish separate RRR procedures to carry out this program. Many highways in need of RRR work have deteriorated and do not meet today's traffic demands, or the design standards that are currently required by FHWA regulations for new construction for safety features such as banking of curves, roadway and bridge width, and horizontal clearances of obstructions. Failure to provide design standards for RRR work would mean that the work would have to meet design standards for new construction or be exempted. This practice has probably resulted in RRR work not being accomplished in a timely manner. In light of this, the FHWA is considering a number of alternatives for implementing the RRR program.

Alternatives Under Consideration

The FHWA explored major alternatives through the publication of an ANPRM on August 25, 1977. The three alternatives discussed in the ANPRM were:

(A) continue FHWA design approval operations within the provisions of the current regulations (23 CFR Part 625) by granting exceptions to existing design standards on an individual project basis for RRR projects;

(B) incorporate, by reference, the American Association of State Highway and Transportation Officials' (AASHTO) "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets" as the acceptable criteria for Federal-aid RRR work; and

(C) develop, with State officials, individual RRR standards for each State by using the AASHTO "RRR Guide" and other guides.

After reviewing the ANPRM comments on all three alternatives, an FHWA task force formulated new recommendations. The task force rejected all three previous proposals, and the FHWA withdrew the ANPRM.

The FHWA then recommended a new set of geometric design standards for RRR projects, which it published as an NPRM in August 1978. The NPRM elicited more than 100 comments, primarily from State and local highway agencies. The FHWA subsequently established an internal working group to review the comments it received on the NPRM and to identify and evaluate alternatives for implementing the RRR program.

Summary of Benefits

Sectors Affected: Users of highways; State and local governments; and the general public.

The primary benefits of this program would be to prolong the life of the existing highway system and to enhance highway safety features. These highways would otherwise continue to deteriorate to the point of structural failure, requiring a much larger expenditure for reconstruction. Other anticipated benefits include reducing costs related to vehicle operation and future highway repair, lowering energy consumption, and increasing the comfort, convenience, and safety of drivers.

Summary of Costs

Sectors Affected: Users of highways; State and local governments; the highway construction industry and its suppliers; and engineering services.

The FHWA is preparing an analysis of the impact of the major alternatives. A full analysis will be available when we publish the next rulemaking action. Using estimates of the funding levels that Congress might provide, the analysis will discuss the impact of various levels of design standards.

Related Regulations and Actions

Internal: FHWA has regulations establishing geometric design standards for highway construction projects (23 CFR Part 625).

External: None

Active Government Collaboration

None

Timetable

NPRM—May/June 1980
Draft Regulatory Analysis—will accompany NPRM

Available Documents

ANPRM—42 FR 42876, August 25, 1977, FHWA Docket 77–4
Withdrawal of ANPRM—43 FR 2734, January 19, 1978
NPRM—43 FR 37556, August 23, 1978
Notice regarding status of proposed rulemaking—44 FR 29921, May 23, 1979
Draft Regulatory Analysis of the proposed regulation
FHWA Docket 78–10
All documents are available for review in the Office of the Chief Counsel, Federal Highway Administration, Room 4205, 400 Seventh Street, S.W., Washington, D.C. 20590

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DOT–FHWA

Withdrawal of Interstate Segments and Substitution of Alternative Transportation Projects (23 CFR Parts 450 and 476*)

Legal Authority

Federal-Aid Highway Act of 1973, 23 U.S.C. § 103 (e)(2) and (e)(4). Federal-Aid Highway Act Amendments of 1974, 23 U.S.C. § 103 (e)(2) and (e)(4). Federal-Aid Highway Act of 1976, 23 U.S.C. § 103 (e)(2) and (e)(4). Surface Transportation Assistance Act of 1978, as amended, 23 U.S.C. § 103 (e)(2) and (e)(4). National Mass Transportation Assistance Act of 1974, 49 U.S.C. §§ 1602, 1603, 1604.

Reason for Including This Entry

The Federal Highway Administration (FHWA) has determined that this program has substantial cost implications for State and local governments, and the effect on transportation systems has created considerable public interest.

Statement of Problem

A number of segments of the Interstate Highway System are involved in serious controversy or litigation due to opposition to their construction from environmental groups, community action groups, or others seeking alternative transportation methods. Recognizing that opposition to such projects could preclude their construction and that transportation needs are changing, Congress, in 1973, enacted legislation to permit State and local governments to withdraw segments of proposed Interstate routes from the system and receive Federal funds for substitute alternative transportation projects. These projects include mass transit construction and equipment purchases for mass transit. The FHWA issued regulations implementing the initial substitution provisions in 1974. The regulation currently under development reflects amendments enacted in the Federal Highway Act of 1976 and the Surface Transportation Assistance Act of 1978. Among other things, these laws revise Federal funding shares, expand projects eligible for Federal funding to include certain highway construction projects, and impose deadlines for withdrawing

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Interstate segments and substituting alternative transportation projects. The legislation also prohibits FHWA from designating new Interstate routes and expands the eligibility of routes that State and local governments may wish to withdraw. The regulation would provide additional guidance for the States on how to proceed with withdrawal and substitution actions.

Alternatives Under Consideration

Under the statutory provisions, there are no alternatives to this approach. These provisions simply permit State and local governments to submit withdrawal requests, and the FHWA and the Urban Mass Transportation Administration approve them if they meet the statutory requirements.

Summary of Benefits

Sectors Affected: State highway agencies; transportation planning services; local and suburban transit in specific urban areas that choose to take advantage of these provisions; and the general public.

The substitution program would increase transportation choices and permit shifting resources from Interstate construction to other transportation projects. In addition, there is a potential benefit to the mass transit construction and manufacturing industry because substitution funds can be used for either highway or mass transit projects.

Summary of Costs

Sectors Affected: State and local governments.

Under this provision, State and local governments would be required to provide 15 percent matching funds for projects as opposed to 10 percent matching funds for Interstate projects. Consequently, they may decide not to build segments of Interstate highways worth billions of dollars and receive similar amounts of Federal funds for alternative transportation projects. The FHWA has made more than $8 billion in Federal funds available for public mass transit projects or alternate highway projects since Congress first enacted the substitution program in 1973.

Related Regulations and Actions

Internal: Current FHWA regulations require State and local governments to develop transportation plans for urban areas (23 CFR Part 450). Other FHWA regulations prescribe requirements and standards for the disposition and use of property acquired by States with Federal-aid highway funds in connection with projects that they modify or terminate (23 CFR Part 480).

External: None

Active Government Collaboration

The FHWA and the Urban Mass Transportation Administration are preparing the regulations jointly within the Department of Transportation.

Timetable

Regulatory Analysis—will accompany Final Rule
Final Rule—June/July 1980

Available Documents

We issued regulations on June 12, 1974 (39 FR 20663), which provided rules for initial implementation of 23 U.S.C. § 103(e)(4) and 23 CFR Part 476
NPRM—45 FR 2296, January 10, 1980
Draft Regulatory Analysis
FHWA Docket 79–29
All documents available for review in the Office of the Chief Counsel, Federal Highway Administration, Room 4205, 400 Seventh Street, S.W., Washington, D.C. 20590.

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CIVIL AERONAUTICS BOARD

Air Carrier Fitness (14 CFR Part 204)

Legal Authority

The Federal Aviation Act of 1958, §§ 401 and 419, 49 U.S.C. §§ 1371 and 1389, as amended by the Airline Deregulation Act of 1978, P.L. 95–504, 92 Stat. 1705.

Reason for Including This Entry

The Civil Aeronautics Board (CAB) thinks this rule is important because airline safety and financial fitness are of broad public interest.

Statement of Problem

In amending the Federal Aviation Act with the Airline Deregulation Act of 1978, Congress retained the requirement that air carriers demonstrate that they are fit, willing, and able to conduct air transportation service and comply with the law. The Congress emphasized the importance of this "fitness" requirement by amending the declaration of policy in the Federal Aviation Act to stress the need for safe airline operations, and by adding a new requirement directing CAB to monitor and evaluate on a continuing basis the airlines' fitness for scheduled operations. In addition, as part of the Deregulation Act's program to guarantee essential air service to small communities, Congress required the CAB to ensure (1) the fitness of all airlines serving points that are eligible for CAB-subsidized service, and (2) the reliability of those airlines proposing to provide essential air transportation.

The general purpose of this public policy is to ensure that airline operations are conducted safely and without undue financial risk to consumers. In order to comply with the Congressional mandate, the CAB has proposed a comprehensive system of informational requirements for original fitness determinations and ongoing data-filing requirements for continuing fitness. The CAB has also reached an accord with the Federal Aviation Administration (FAA) to integrate the CAB's economic monitoring of the airlines with the FAA's safety jurisdiction, because each agency has expertise that is relevant to the other's statutory mission.

Alternatives Under Consideration

The major alternatives are: (1) continuing the current, case-by-case approach to informational standards; and (2) codification of those standards in a regulation. The CAB is inclined towards the second alternative because of the benefits listed below.

Summary of Benefits

Sectors Affected: Air travelers, including prospective travelers.

The rule should help the CAB and the FAA to determine the fitness of air carrier applicants for new operating authority. It should also help the CAB and the FAA to monitor airlines' continuing fitness. While the benefits are difficult to quantify, they are complementary to other FAA and CAB requirements that are designed to ensure that airline operations are conducted safely and without unacceptable financial risk to consumers.

Summary of Costs

Sectors Affected: The air transportation industry, the CAB, and the general public.

The direct costs of compliance with the rule on the part of applicant and incumbent air carriers should be minimal in relation to the revenue involved. The CAB has an ongoing project to weigh the costs and benefits of reports and suggest ways to simplify them. The project will include a review of data received in accordance with this rule. Over time, the results of this project could further reduce the cost of this rule.

In the case of initial licensing of an airline, direct costs for an applicant

consist of legal counsel, in-house or external consultants, and management time. For a major new applicant such costs could run between $100,000 and $500,000, taking into account the cost of the time necessary to pursue the application.

The cost of complying with CAB reporting requirements for monitoring continuing fitness will vary with the magnitude of the airline's operations. It appears that all of the data that the proposed rule may require to be filed and reported are already collected and compiled by each airline for general business and tax purposes. Accordingly, the additional cost for the airlines of complying with CAB requirements is probably minimal.

The major indirect cost to the national economy of the fitness licensing provision relates to the delay between the filing of an application and the granting of the application by the CAB. For a new air carrier, this delay may vary between 6 and 18 months. The only other substantial direct cost is that incurred by the government in processing applications and monitoring ongoing fitness. No other substantial indirect or direct costs appear likely.

Related Regulations and Actions

Internal: The CAB has historically made fitness determinations, including decisions about what information it needs, on a case-by-case basis. Requirements for the submission of information are also found in 14 CFR Parts 201 and 241.

External: Federal Aviation Administration safety regulations:

"Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft," 14 CFR Part 121

"Air Taxi Operators and Commercial Operators of Small Aircraft," 14 CFR Part 135

Active Government Collaboration

The CAB and the Federal Aviation Administration have reached an accord to integrate their procedures and share their expertise.

Timetable

Final Rule—late spring 1980
Final Rule Effective—summer 1980
Regulatory Analysis—the CAB, as an independent agency, is not required to prepare a regulatory analysis as it is defined under E.O. 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available Documents

NPRM—44 FR 44106, July 26, 1979 (CAB reference number for this document: EDR–385)
Public comments available for review in Civil Aeronautics Board Docket 36176
Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

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CAB

Air Carrier Insurance and Liability (14 CFR Part 205)

Legal Authority

Federal Aviation Act of 1958, § 401(q), 49 U.S.C. § 1371(q), as amended by the Airline Deregulation Act of 1978, § 22(d), P.L. 95–504, 92 Stat. 1722.

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it would place insurance requirements on certificated route airlines for the first time, and would substantially increase the present requirements for air taxi operators. The proposed rule would also meet a concern of Congress when it passed the Airline Deregulation Act of 1978—that passengers be protected during the airlines' transition to a more competitive environment.

Statement of Problem

The CAB staff estimates that the average bodily injury/death claim award for losses suffered by passengers and non-passengers has climbed from $55,182 in 1967 to a projected $252,834 in 1979, an increase of 450 percent. The CAB's insurance regulations, which require airlines to obtain insurance from private companies, now only apply to air taxis (operators of small aircraft), charter airlines, and domestic cargo carriers. The minimum insurance limits that the CAB requires for these carriers range from $75,000 per person to $500,000 per person. However, at the present time, there are no CAB insurance requirements for CAB-certificated passenger carriers, such as the large nationwide airlines.

The Airline Deregulation Act of 1978 requires all certificated air carriers to have liability insurance coverage as established by the CAB. Unless a carrier complies with the CAB's insurance rules, it cannot obtain or retain operating authority. Although there has not been a problem with the ability of existing scheduled carriers to pay claims made against them, Congress concluded that airline deregulation would significantly reduce the barriers to entry into air transportation. This in turn could result in operations by new carriers that are less able to compensate the public for damage losses in an accident.

Changes in the liability protection rules also appear to be needed to keep pace with the steadily increasing value of losses the public suffers in aircraft accidents. The restructuring and revision of insurance rules will also meet the mandate of the Congress, in ensuring protection of the public during the transition of air transportation from a heavily regulated to a deregulated market.

Alternatives Under Consideration

Possible alternatives the CAB is considering include (1) minimum standards for insurance policies and self-insurance plans, to prohibit certain types of exclusions of liability or to require certain specific terms, (2) minimum limits of coverage, (3) requiring disclosure of the carrier's insurance and liability limits to passengers and shippers, (4) establishing different limits and standards for different types and sizes of air carriers, and (5) no action at all at this time.

Minimum limits of liability and minimum standards for insurance policies, alternatives (1) and (2), would set specific amounts and terms and conditions that the carriers must meet. These standards would be similar to the CAB's current insurance rules. These alternatives have the advantage of ensuring a minimum financial responsibility for all existing carriers, whatever their past records, and for new carriers as the historical barriers to entry are reduced. They would also go further in meeting the intent of the Airline Deregulation Act, which emphasizes that safety in air transportation be given primary importance in the transition to deregulation.

For domestic air cargo transportation, the CAB now uses alternative (3), and requires carriers to disclose their insurance and liability limits, but does not require specific amounts for those limits. While the CAB has only used this type of approach in regulation of insurance liability for a short time, it has the advantage of allowing carriers to establish their own liability limits within the boundaries of competition and internal economic management. Its disadvantages are that it depends on a

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generally knowledgeable consumer, such as a shipper in cargo transportation, and may not be as effective in giving actual notice to vacation travelers and others who might not be regular users of air transportation.

Alternative (4) is important because of the wide variety in the size of airlines, the aircraft they use, and the size of their businesses. The advantages of different rules for large and small aircraft or businesses are that the rules may be structured so that the costs are not overwhelming, and that they better address the special problems of each situation. The disadvantage is that nonuniform rules may be misleading to passengers and shippers.

Alternative (5) is based on the assumption that the present standards, conditions, and applicability of the CAB's insurance requirements are adequate, and that the burden should generally be on passengers and shippers to ensure that they have necessary insurance coverage in case of an accident. Advantages are no increase in costs, other than inflation. The disadvantages are the possibility of substantial loss for some passengers, and that passengers would have no way of knowing whether the airline has adequate coverage.

The CAB is proposing to use a combination of alternatives (1) through (4). The proposal includes authorized exclusions and standards for insurers, and minimum coverage of $300,000 per passenger. The minimum for passenger liability per accident would be $300,000 × 75 percent of the number of seats. For third-party liability, the proposed amounts are $300,000 per person and $20 million per accident ($2 million for small aircraft). The proposal would also require disclosure of a carrier's insurance and liability limits to shippers. This would allow the agency to tailor insurance regulations to the needs of each group of shippers and passengers, and to the ability of carriers to afford needed coverage.

Summary of Benefits

Sectors Affected: Air cargo carriers; air travelers; and shippers using air transportation.

Both air passengers and air shippers can be expected to benefit from the proposed insurance requirements because they would be better able to recover money damages in the event of an accident or damage to property. Cargo air carriers would benefit by being able to set their own insurance levels and liability limits to meet market demand, thus ensuring they will be at the most efficient amounts.

Summary of Costs

Sectors Affected: The air transportation industry, including certificated air passenger carriers, flying charter services, air taxis, and air cargo carriers; the insurance industry; air travelers; and shippers using air transportation.

Although the CAB has not previously required certificated route carriers to maintain insurance, most already have coverage in amounts equal to or greater than the limits being considered. All but one of the charter airlines also have such coverage. Some air taxi operators may have to increase their insurance coverage to meet the proposal, and new carriers would, of course, have to obtain coverage meeting these standards. The CAB staff estimates that the increased annual cost to the air taxis for new passenger liability coverage may be approximately $200 per seat, and the increase in cost for public liability coverage (insurance for liability to people other than passengers) may be approximately $200 to $4,000 (1979 dollars) per plane, depending on the size of the plane. These costs would likely be passed on to passengers and shippers as increases in prices.

The insurance industry would have some costs in rewriting present policies and obtaining reinsurance to meet the new coverages and conditions.

Operators of small aircraft would have somewhat smaller costs for the proposed third-party liability coverage, because the per occurrence limit set for those aircraft would be $2 million rather than $20 million.

Related Regulations and Actions

Internal: Insurance requirements for special classes of air carriers:

Indirect Cargo Carriers, 14 CFR Part 296
Air Taxis, 14 CFR Part 298
Domestic Cargo Carriers, 14 CFR Part 291
Charter Carriers, 14 CFR Part 208

External: The CAB staff is researching related actions by other agencies.

Active Government Collaboration

CAB staff held discussions with the Federal Aviation Administration, whose experience with accident litigation and insurance problems is helpful to the CAB in formulating a proposed rule, and with the Military Traffic Management Command for information about insurance of air carriers carrying civilians for the Department of Defense.

Timetable

Final Rule—summer 1980
Final Rule Effective—fall 1980
Regulatory Analysis—the CAB, as an independent agency, is not required to prepare a regulatory analysis as it is defined under E.O. 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available Documents

NPRM—45 FR 7566, February 4, 1980 (EDR–395)

Extension of comment period—45 FR 14062, March 4, 1980 (EDR–395A) (Note: Numbers in parenthesis are CAB reference numbers for these documents.)

Civil Aeronautics Board Dockets 37531 and 37532

Public comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C.

Agency Contacts

Foreign air carrier requirements:
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CAB

Essential Air Service Subsidy Guidelines (14 CFR Part 271)

Legal Authority

Federal Aviation Act of 1958, § 419(d), 49 U.S.C. § 1389(d), as amended by the Airline Deregulation Act of 1978, P.L. 95–504, 92 Stat. 1739.

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it should significantly reduce the Federal subsidy of airlines. It also represents a major shift in focus of the subsidy program. Rather than subsidizing certificated airlines to aid in their economic viability and expansion, the new subsidy program will focus on smaller commuter airlines in order to improve air service to small communities.

Statement of Problem

The primary thrust of the Airline Deregulation Act of 1978 is to let the level, quality, and price of air transportation be determined by free competition of airlines seeking to meet consumer demand, instead of by pervasive government regulation. However, to minimize the potential disruption caused by airlines' increased freedom to reduce or eliminate service in particular markets, the Deregulation Act also established a program to preserve essential air service to small communities, using Federal subsidy when necessary. The CAB is responsible for determining the level of essential air transportation at each eligible point and ensuring that such service is provided. "Eligible points" basically are those to which any certificated airline was authorized to provide service on October 24, 1978 (555 points), plus certain other points that the CAB may designate. "Essential air transportation" is a level of air transportation that the CAB, according to statutory criteria, finds will satisfy the community's needs for air transportation to one or more principal destinations, and will ensure the community's access to the nation's air transportation system.

This rulemaking to establish subsidy guidelines responds to § 419(d) of the Federal Aviation Act, as amended, which states:

> The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation to any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point.

During FY 1979, the CAB began work on deciding whether subsidy is needed for essential service to 27 points. During FYs 1980 and 1981, the CAB expects to provide subsidy support for 12 additional points each year.

Alternatives Under Consideration

The Airline Deregulation Act does not point the CAB toward any particular subsidy approach. On the contrary, Congress expects the CAB to develop new and innovative subsidy methods. The primary emphasis is on ensuring essential services, rather than on minimizing the costs of the program; i.e., the subsidy program must be structured so as not to hinder in any way the provision of essential services. But, of course, the CAB must be prudent with Federal expenditures, so it is faced with the dual and conflicting objectives of keeping subsidy at a reasonable level without interfering with the provision of essential air services.

Developing a market for air service is a step common to achieving both goals. Specifically, increased traffic volumes can at once justify better service (more flights) and reduced subsidy cost. The CAB is considering three alternatives for achieving these goals. One alternative is cost-plus subsidy, under which airlines are reimbursed for their expected losses, allowed a reasonable profit, and, in addition, compensated for any additional losses that they incur in actually providing the service. This approach does not appear to promote either goal. Instead, the CAB favors two innovative incentive approaches. Under one, the fixed incentive rate, the airline would be reimbursed for a predetermined projected loss and allowed a reasonable profit. If it incurred additional losses, it would not receive additional compensation. If the airline received additional revenue, however, it could keep the extra profit. The possibility of making large profits with subsidy gives airlines the incentive to be cost-efficient and develop the market. The possibility of uncompensated losses, however, poses the danger of service terminations. To avoid this problem, the CAB is also considering a third approach, the shared incentive rate. Under this approach, as with the others, the airline would be reimbursed for a predetermined projected loss and allowed a reasonable profit. The difference is that under the shared rate, the CAB would compensate the airline for some of its additional losses instead of all of them (cost-plus approach) or none of them (fixed rate approach). These three alternatives will be discussed in the NPRM.

Summary of Benefits

Sectors Affected: Small communities; air travelers and potential travelers to these communities; the air transportation industry, particularly small, commuter airlines; CAB; and the general public.

The benefits from the subsidy program are the avoidance of severe economic dislocation and the continuation of essential air service to communities that would otherwise lose that service as a result of airline deregulation. In some subsidy cases, the combination of deregulation and subsidy will result in more flights and better air service. This may lead to other tangible benefits to the communities, such as the attraction of new industry or business, and to intangible benefits, such as an improved way of life stemming from better and continued access to the Nation's air transportation system.

Smaller commuter airlines will benefit as the program focuses on subsidizing them to provide services to smaller communities.

The subsidy guideline rule, as opposed to the subsidy program itself, should also provide several benefits. It would simplify the procedures for computing subsidy amounts, thus saving administrative time for the CAB and airlines. It could also result in improved services and lower subsidy costs if it uses an incentive approach. Although the effect on individual taxpayers of the choice of guidelines will be slight in any event, the incentive plan should minimize subsidy compensation and save taxpayers in the aggregate several million dollars annually, when compared with other approaches to subsidy.

The Congressional Budget Office estimated that when this new system is phased in and the old subsidy system phased out (1986), there will be a savings of 26 million subsidy dollars per year. The subsidy program and guidelines are not predicated on a cost/benefit analysis by the agency, but are required by law.

Summary of Costs

Sectors Affected: CAB.

The CAB staff's preliminary estimates of the costs to the government of the underlying subsidy program are $380,000 for FY 1979, $9.4 million for FY 1980, and $13.4 million for FY 1981. The program is still in an early stage, and these estimates could prove to be understated, particularly if the defined level of "essential air transportation" is raised. A regulation establishing subsidy guidelines, as opposed to the subsidy program itself, is not likely to impose any significant costs.

Related Regulations and Actions

Internal: The CAB has adopted the following new regulations:

Criteria for Designating Additional Eligible Points—14 CFR Part 270
Terminations, Suspensions, and Reductions of Service—14 CFR Part 323
Procedures for Compensating Air Carriers for Losses—14 CFR Part 324
Guidelines for Individual Determinations of Essential Air Transportation—14 CFR Part 398

External: The CAB is a party to an interagency cooperative agreement, described below.

Active Government Collaboration

The CAB is a party to an interagency cooperative agreement for the purpose

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of fostering optimum air service to small communities through coordinated financial assistance. The agreement is titled "Small Community Air Transportation Memorandum of Cooperation." Other parties to it are: the Economic Development Administration (Department of Commerce), the Federal Aviation Administration (Department of Transportation), the Farmers Home Administration, and the Small Business Administration (Department of Commerce).

Timetable

NPRM—spring 1980.
Final Rule—fall 1980.
Final Rule Effective—fall 1980.
Regulatory Analysis—the CAB, as an independent agency, is not required to prepare a regulatory analysis as it is defined under E. O. 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available Documents

Final Rule adopting Part 270: 44 FR 76767, December 28, 1979 (ER–1166)
Final Rule adopting Part 323: 44 FR 20635, April 6, 1979 (PR–200)
Final Rule adopting Part 324: 44 FR 42171, July 19, 1979 (PR–209)
Final Rule adopting Part 398: 44 FR 52646, September 7, 1979 (PS–87) (Note: Numbers in parentheses are CAB reference numbers for these documents.)

Agency Contact:

John R. Hokanson, Chief
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Bureau of Domestic Aviation
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CAB

Plain English for Airline/Passenger Contracts.

Legal Authority

Federal Aviation Act of 1958, as amended, §§ 403, 404, and 411, 49 U.S.C. §§ 1373, 1374, and 1381.

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it should greatly benefit a large portion of the public by increasing passengers' ability to understand their agreements with the airlines, and to make informed choices about what airlines to fly and what services to buy. It should also help airlines to prepare for the later stages of deregulation, when they will have to make contracts directly with passengers, rather than through tariffs filed with the CAB.

Statement of Problem

Contracts between airlines and their passengers are very complicated. The airlines write thousands of contract provisions in technical legal language and publish them in tariffs, which are documents that airlines file with the CAB. These documents contain crucial information about the rights passengers do or do not have when they encounter air travel problems like mishandled baggage, delayed or canceled flights, oversold flights (bumping), lost tickets, or fare misunderstandings. Unlike the practice with most contracts, airlines do not give air travelers a copy of the tariffs to take home and read. The CAB requires airlines to inform passengers about a few basic subjects by using airline ticket notices and ticket counter signs written by the CAB. But even these notices have been technical and hard to understand, and to read most of the terms of their contracts, passengers must visit the Tariffs Section at the CAB or an airline ticket office where tariffs are kept open for public inspection. It is hard for the average passenger to locate and understand important information in the tariffs, and most airline passengers don't find out about many important limitations on their rights until after they have a serious problem and register a claim with the airline. But because of the legal doctrine of "constructive notice," under which passengers are assumed to know what is in the tariffs, passengers are usually bound by the contents of tariff rules, whether or not they are aware of them when they agreed to buy their tickets.

Alternatives Under Consideration

The CAB is considering issuing an NPRM that would propose the airlines find some simpler, more direct way than tariffs of informing passengers of their contract terms. One alternative would simply be to state that airlines may not use the tariff system to put terms in the contract without giving passengers a direct opportunity to read and know of them. The courts would review the adequacy of the airlines' notification efforts, as they do in unregulated industries. Other possible alternatives under consideration would entail increased amounts of CAB involvement in specifying "plain English" standards for the contract documents prepared by airlines, or in reviewing the clearness and completeness of documents. More detailed regulation has the disadvantages of restricting airline management decisions, and not necessarily using the most effective and least costly method.

Summary of Benefits

Sectors Affected: Air travelers (over 250 million passengers yearly), the air transportation industry, and travel agents.

Passengers would have more reasonable expectations of just what is included in their air fares, and would be able to take precautions to avoid many types of air travel problems or minimize the consequences when problems do arise. They would also be able to make more informed choices among competing airlines, because they would have a clearer understanding of the differences in the services offered. Airlines would also receive some benefits, because they would gain valuable experience for the later phases of deregulation, when they will no longer have the protection of a government-regulated tariff system and the doctrine of constructive notice. Similarly, travel agents would be better able to serve their customers, because they could more easily determine the differences between different airlines' service offerings.

Summary of Costs

Sectors Affected: The air transportation industry; and air passengers.

There would be one-time airline costs to develop "plain English" contract documents, as well as printing and distribution costs to make the documents available to passengers. Under airline deregulation, when tariffs are eliminated for domestic air transportation in 1983, however, airlines will eventually face this problem and these costs in some form anyway. The effect of the CAB regulation would not be to add significantly to costs in the long run, but instead to assist the industry in developing the most cost-effective means of making passengers aware of the terms and conditions of their travel.

Related Regulations and Actions

Internal: On April 16, 1980, the CAB issued an NPRM to simplify the notices that it already requires airlines to give passengers (45 FR 25817; CAB reference number for this document is EDR–396)
Exemption of U.S. and Foreign Air Carriers from Tariff Observance Requirements to Permit Resolution of Consumer Complaints, Order 78–12–49, Docket 34189
Air Carrier Rules Governing Failure to Operate on Schedule or Failure to Carry, Orders 79–4–115, 79–9–129, 79–11–23, and 80–3–10, Docket 35361
Air Carrier Rules Governing the Application of Tariffs, Order 79–2–106, 79–12–98, and Order 80–4–52, Docket 34772.
14 CFR Part 221, *Tariffs*
14 CFR Part 250, *Oversales*
External: None.

Active Government Collaboration

None

Timetable

NPRM—summer 1980.
Final Rule—winter 1980–1981.
Regulatory Analysis—The CAB, as an independent agency, is not required to prepare a regulatory analysis as it is defined under E.O. 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available Documents

The orders listed under Related Regulations and Actions can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428 (202) 673–5432

Agency Contact:

Patricia Kennedy, Chief
Policy Development Division
Bureau of Consumer Protection
Civil Aeronautics Board
Washington, D.C. 20428
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FEDERAL COMMUNICATIONS COMMISSION

Children's Television Programming and Advertising Practices

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 307, 308, and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks that these proposed regulations are of significant public interest because it receives heavy citizen mail about children's television programming and practices. This proposed rulemaking puts out for comment the options we think may be available for changing children's television programming practices, if change is appropriate.

Statement of Problem

On January 26, 1971, at the request of a public interest group, Action for Children's Television (ACT), the FCC issued a Notice of Inquiry into children's programming and advertising practices, calling for comments on ACT's proposal that the Commission adopt certain guidelines for television programming for children. As a result of this inquiry, the FCC issued a Children's Television Report and Policy Statement in October 1974 stating that it expected television licensees to make meaningful efforts to voluntarily regulate themselves in several areas:

- to air programming specifically designed for children;
- to air a reasonable amount of programming (no less than 14 hours) designed to educate and inform and not merely to entertain;
- to provide programming for specific age groups; and
- to improve scheduling practices;

It also set forth specific advertising guidelines regarding too many commercials, separation of program matters from commercial matters, host selling (use of a program host or other program personality to promote products), and tie-ins (promotion of products during a program in such a way that it constitutes advertising). In 1978, the Commission reopened its inquiry and issued a Second Notice of Inquiry seeking information to evaluate the effectiveness of its 1974 guidelines and to assess possible alternatives to these guidelines. As a result of the Commission's findings, the FCC issued a Children's Television Task Force Report in December 1979, concluding that industry self-regulation during this period had not been effective in fully meeting the programming guidelines set forth in the 1974 Children's Television Report and Policy Statement. Because the industry had not regulated itself enough in the programming area, the Commission issued an NPRM asking for comments on a number of options for rules to be applied to the broadcast industry. Comments are due on June 2, 1980.

Alternatives Under Consideration

In considering whether (and to what extent) the FCC needs to regulate children's television programming, the FCC is considering the following alternatives.
(A) repealing the existing Policy Statement;
(B) maintaining or modifying the Policy Statement in accordance with comments received;
(C) adopting interim programming rules requiring a minimum amount of educational programming for preschool and school-age children; (The Task Force report recommended 2½ hours per week of educational and instructional programming for school-age children and 5 hours per week for preschool children.);
(D) adopting similar requirements as license-renewal processing guidelines; and/or
(E) encouraging competition among broadcasters by increasing the number of cable systems, subscription television, and other types of pay television.

Summary of Benefits

Sectors Affected: Children nationwide and their families; cablevision services, subscription or closed circuit television, and other types of pay television.

If adopted, this proposal could improve the amount of educational television programming and decrease the number of commercials which children watch, and by deregulating the industry as proposed, improve competition among broadcasters throughout the pay television industry.

Summary of Costs

Sectors Affected: The entire broadcasting industry, including networks, stations, and production and programming activities; and the advertising industry.

The FCC expects public comments on the question of potential costs of this proposal. For this reason, the FCC has not made any express findings of the costs of this proposal.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

Public Comment Period—closes June 2, 1980 Reply Comments—closes August 1, 1980

Available Documents

The Notice of Inquiry/Notice of Proposed Rulemaking of January 9, 1980 is available on request from the FCC's Office of Public Affairs, Washington, D.C. 20554. Request Docket 19142.

Agency Contact

Susan Greene, Chief Children's Television Task Force Federal Communications Commission Washington, D.C. 20554 (202) 653–7586

FCC

Creation of "New" Personal Radio Service

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C.§§ 154(i) and 403.

Reason for Including This Entry

The Federal Communication Commission (FCC) thinks this rule is

important because it would make a new radio service available to the public at large.

Statement of Problem

For over 30 years, the Federal Communications Commission has recognized the need for, and the value of, personal radio communications. The largest personal radio service is the Citizens Band (CB) Radio Service, in which the FCC has licensed more than 14 million people. Other personal radio services include the General Mobile Radio Service, which offers the general public very high quality communications, but at considerable equipment costs; and the Radio Control Radio Service, which licenses people to operate model boats, cars, and airplanes by radio control. The CB Radio Service meets many personal and business needs, but there are continuing complaints by CB users about channel congestion and interference.

The FCC is now exploring several issues:

(1) to what extent does the public view the limitations of the three personal radio services as problems (the limitations include the complaints discussed above, as well as any other problems brought to our attention during the comment period);

(2) whether creation of a new personal radio service in a different frequency range would solve any problems;

(3) what the demand would be for a new personal radio service; and

(4) what features the public would like to see incorporated in a new personal radio service.

Alternatives Under Consideration

The FCC is considering whether to establish a new personal radio service in the 900 MegaHertz (MHz) band. The major alternative under consideration is for the FCC to decline to create a new personal radio service. A secondary alternative which we are considering involves decisions about the specific features of a new personal radio service, if the FCC creates one. For example, the FCC will decide whether equipment to be used in this new service should be designed so that it automatically identifies the station, and what frequencies should be allocated to the new service.

Summary of Benefits

Sectors Affected: Manufacturing, wholesale and retail trade of two-way radio transmitting, signalling and detection equipment and apparatus; all two-way radio users; and all owners of home entertainment equipment (such as stereos and television sets).

Some members of the public have suggested that the benefits of a new personal radio service at 900 MHz would include better quality communications than those available in CB Radio Service, less potential than CB Radio Service for causing home entertainment equipment interference, and the possibility to incorporate special features (such as channels devoted to special uses) in the new service. A new service could reduce congestion in the CB Radio Service and offer a higher quality radio service than the current CB service offers.

The FCC is interested in knowing whether this Inquiry will affect other sectors, and, because the FCC has asked the public to comment on the potential benefits of a new service, it has not yet taken a position on the merits of the suggested benefits.

Summary of Costs

Sectors Affected: Manufacturing, wholesale and retail trade of two-way radio transmitting, signalling, and detection equipment and apparatus; all two-way radio users; all owners of home entertainment equipment (such as stereos and television sets).

The FCC has requested the public to comment on the issue of possible costs. For example, the FCC expressly asked for comments on whether the costs of radios in the new service could be kept within the financial means of most potential users, and if the CB industry would suffer sales loss.

Because the issue of costs is open for public comment, the FCC has not taken a position on many of the questions related to potential costs. However, when issuing this Inquiry, the FCC stated that it would expect the initial cost of basic 900 MHz equipment to be in the range of $300 to $500. FCC expects that prices would decrease as demand grows. This contrasts with the range of approximately $50 to $500 for CB equipment, depending on whether or not the unit has special features.

The FCC is interested in knowing whether this Inquiry will affect other sectors.

Related Regulations and Actions

Internal:

The FCC has received a number of petitions from individuals and CB clubs for changes in the fundamental purpose of the Personal Radio Services. Two of these (RM–2776 and RM–3071) called for the creation of a "special" radio service between 27.505 and 27.900 MHz, which was, in effect, to be like the current Amateur Radio Service, without the requirement that now exists in the Amateur Radio Service that licensees pass examinations in receiving messages in Morse code. The FCC dismissed the petitions on the basis that a radio service (the Amateur Radio Service) satisfying the described communications requirements (which were almost exclusively amateur in nature) already existed, and that the creation of a codeless service would be contrary to international agreements. (International agreements require amateur radio operators using certain radio frequencies to be proficient in the international Morse code.) The FCC also based its denial on the fact that stations in other radio services and the U.S. government were already using the requested frequency band. Recently, too, the Commission terminated the proceeding in Docket 19759 (the proposal to create a new personal radio service in the 220 MHz band). The public comments filed in this proceeding were inconclusive. The FCC concluded that a "fresh start" was necessary on the creation of a new Personal Radio Service, and, therefore, that it would start a new rulemaking proceeding to request public comment.

External: None

Active Government Collaboration

None

Timetable

NPRM—early 1981

Available Documents

The Notice of Inquiry (June 7, 1979) is available on request from the FCC's Office of Public Affairs, Washington, D.C. 20554. For review of public comments, request PR Docket 79–140.

Agency Contact

Joseph M. Johnson, Engineer, Federal Communications Commission, Washington, D.C. 20554, (202) 254–3301

FCC

Deregulation of Competitive Domestic Telecommunications Market (47 CFR 61.38)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 4(j), 201, 202, 203, 204, 205, 214, and 403.

The Administrative Procedure Act, 5 U.S.C. § 553.

Reason for Including This Entry

The Federal Communications Commission (FCC) is attempting to change from its traditional approach to regulating common carriers to one where only the commission would exercise that amount of regulation that is necessary, given the size and amount of competition faced by the particular common carrier.

Statement of Problem

The telecommunications industry provides telephone, telegraph, and similar "common carrier" services. As a result of technological and regulatory developments in recent years, the telecommunications industry has evolved from one dominated by a few large entities to one where there is now some competition for the provision of some communications services.

The FCC is considering the problem that the rules it originally adopted to regulate a monopoly telecommunications market may now result in unnecessary regulatory burdens on smaller, competitive carriers.

Alternatives Under Consideration

In considering whether (and to what extent) the FCC needs to continue to regulate extensively in the common carrier field, the FCC is considering a number of alternatives:

(1) Should the FCC allow smaller ("nondominant") carriers to file tariffs (prices, terms, and conditions of service) without requiring them to file underlying cost support data? (The current rules require them to do so.)

(2) Should the FCC assume that rates contained in the tariff filings of nondominant carriers are lawful?

(3) Should the FCC relax its rules that now restrict the addition of new circuits or the discontinuation of service by smaller (nondominant) carriers?

(4) If the FCC establishes any of the above procedures for nondominant carriers, how should it determine which carriers are dominant or nondominant?

The FCC is also considering further deregulatory options, such as not regulating the smaller (nondominant) carriers at all. The FCC has not made a specific proposal, but has set forth the issues for public comment.

Summary of Benefits

Sectors Affected: The telecommunications industry, particularly nondominant carriers; telecommunications users; and the FCC.

If adopted, this proposal could affect the internal work priorities of FCC.

In proposing this deregulation, the FCC speculates that the proposal could save smaller carriers the costs of complying with FCC regulation and reduce entry barriers associated with the regulations. This savings in turn could be passed on to the consumer. The proposal could also save the FCC the costs of implementing and enforcing the rules.

The FCC expects public comments on the question of potential benefits of the proposed deregulation. For this reason, the FCC will not make any express findings of benefits unless it decides to proceed with deregulation.

The FCC would like to learn during the public comment period of any other sectors that this Inquiry/Proposal would benefit.

Summary of Costs

Sectors Affected: The telecommunications industry, domestic telecommunications users, and the FCC.

The FCC would like to learn during the public comment period of any other section for which this Inquiry/Proposal would cause costs.

The FCC expects public comments on the question of potential costs of this proposal. For this reason, the FCC has not made any express findings of the costs of this proposal.

Related Regulations and Actions

Internal: The FCC is considering whether the public interest requires that long-distance telephone service be provided on a sole source (monopoly) basis or whether it should be opened to competition. (FCC Docket 78–72, MTS–WATS Market Structure Inquiry.)

External: None.

Active Government Collaboration

None.

Timetable

Memorandum Opinion and Order—late summer 1980

Available Documents

The Notice of Inquiry/NPRM of September 27, 1979, is available on request from the FCC's Office of Public Affairs, Washington, D.C. 20554. Request FCC Docket 79–252.

Agency Contact

Kenneth Levy, Attorney, Federal Communications Commission, Washington, D.C. 20554, (202) 632–6317

FCC

Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation (47 CFR Part 73)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 1, 154(i), 154(j), 303(g), 303(r), and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks this proposed rule is important because it proposes a major change in the traditional FCC emphasis on detailed regulation of the broadcast industry. The proposed rules would better reflect structural changes in the radio industry which have occurred over the past two decades.

Statement of Problem

The FCC is reviewing some of its regulations governing commercial radio broadcast stations. In particular, the FCC is reviewing four groups of regulations which may no longer be needed in today's radio market.

In the 1930s and 1940s, when the FCC first began to regulate radio broadcasting, the radio marketplace was very different than it is today. There were many fewer stations, for example, and television was not the dominant medium it is today.

The FCC is exploring whether the regulatory assumptions it made in the 1930s and 1940s are still valid. In particular, the Inquiry/Proposal will focus on whether current radio regulations are the most effective and least costly way to achieve such goals as:

(1) adequate informational (nonentertainment) programming,

(2) reasonable limits on the number of commercial minutes each hour,

(3) consideration by the radio broadcaster of community needs and interests, and

(4) retention by the broadcaster of adequate records of nonentertainment programming and commercial time ("program logs").

Current FCC regulations accomplish these goals in a variety of ways. In the area of nonentertainment programming, FCC rules specify that the amount of nonentertainment programming must be at least a minimum percentage of a station's total programming. For AM stations, FCC rules specify that nonentertainment programming should be at least 8 percent of total programming. For FM stations, FCC rules specify 6 percent of total programming. If a radio station is applying for renewal of its license and

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proposes to program less than 8 percent (or 6 percent, as appropriate) nonentertainment programming, the FCC's Broadcast Bureau staff cannot routinely grant the renewal until the application is considered by the full Commission.

In the area of commercial limits, FCC rules now set commercial limits (18 to 20 minutes per hour, plus additional time during political campaigns) that, if a radio station renewal applicant exceeds them, can prevent routine granting of an application by the Broadcast Bureau under its delegated authority.

FCC policies also now require a radio broadcaster to consider the community's needs and interests when planning a station's programming. The FCC adopted a detailed primer setting out procedures for determining the composition of the area to be served, consulting with community leaders and members of the general public, enumerating and evaluating community problems and needs, and relating proposed programming to these evaluated problems and needs. The FCC has denied applications based on the failure of the applicant to ascertain these criteria in accordance with the requirements of the primer. The FCC calls this procedure "ascertainment."

Current FCC rules require a broadcaster to keep detailed records of his programming and commercial time. The program log rules require numerous entries, such as the source of each program, the time each program begins and ends, the sponsor(s) of the program, and the public service announcements that the station broadcasts. A radio station licensee must make these logs available to the public on request.

In the notices proposing radio deregulation, the FCC said, "We have long been, and remain, committed to the principle that radio must serve the needs of the public. We have never, however, believed that radio is a static medium that requires the retention of every rule and policy once adopted. A regulation that was reasonable when adopted, and appropriate to meet a given problem, may be most inappropriate if retained once the problem ceases to exist. In our view, it is vital that our rules and policies be appropriate for the industry and marketplace we regulate, reducing regulation to the maximum extent consistent with the public interest, convenience, and necessity. We note in passing that Congress is now examining whether legislative reform is necessary to foster optimum development of all communications industries, including broadcasting. Additionally, the President has ordered executive agencies to adopt procedures to improve existing and future regulations, including the deletion of unneeded ones."

Alternatives Under Consideration

(1) There are a number of alternative approaches by which the FCC could modify or eliminate current nonentertainment rules and policies:

(a) The FCC could remove itself from all consideration of the amounts of nonentertainment programming that commercial radio licensees furnish, leaving it to the marketplace to determine what levels of such programming broadcasters would present;

(b) The FCC could relieve individual licensees of any obligation to provide nonentertainment programming but instead, could analyze the amounts of such programming on a marketwide basis, and, if the amount of such programming in a particular market fell below a certain level, the FCC then could take action to redress the matter;

(c) The FCC could free licensees of any specific responsibilities with respect to nonentertainment programming (as well as ascertainment and commercial limits) but would require licensees to show, if their renewals were challenged, that they were serving the public interest (FCC would use the wants and needs of the marketplace for such evaluation);

(d) The FCC could impose quantitative programming standards (and not just set out guidelines) for each nonentertainment programming category, such as a minimum number of hours per week for each category of programming or a specified percentage of time to be devoted to each category;

(e) The FCC could impose quantitative standards, but measure the adequacy of programming on the basis of each station's expenditures. In other words, the FCC could mandate a proportion of revenues or profits that a station must reinvest in nonentertainment programming;

(f) The FCC could establish a minimum, fixed percentage of local public service programming that licensees would have to present—including local news, public affairs and public service announcements, community bulletin boards, or any other locally produced nonentertainment programming that served local needs.

(2) Changes in the commercial limit rules that the FCC is now considering include:

(a) eliminating all rules and policies dealing with the amount of commercial time and allowing the marketplace to determine tolerable levels of commercialization;

(b) setting quantitative standards which, if ignored, would result in the FCC imposing some sanction against the licensee;

(c) eliminating all rules specific to individual licensees but interceding if heavy levels of commercialization occurred marketwide; or

(d) retaining quantitative guidelines but only with regard to the Broadcast Bureau's delegation of authority.

(3) The Commission said there were four options warranting consideration in the area of ascertainment of community problems and needs:

(a) The FCC could eliminate all federally mandated ascertainment requirements and leave it to marketplace forces to ensure that stations provided programming to meet the needs and problems of each station's listenership;

(b) The FCC could require that licensees conduct ascertainment but permit them to decide in good faith how best to conduct that ascertainment without the current detail of formalized FCC requirements;

(c) The FCC could retain the ascertainment requirement, but in a simplified form; or

(d) The FCC could retain existing ascertainment requirements.

(4) The FCC's requirements for program logging are intended, in part, to assure documentation of nonentertainment programming and commercial practices. If we removed nonentertainment programming and commercial requirements as a result of this proceeding, we also would consider eliminating or modifying program log requirements. However, members of the public challenging a station's programming failure might need these records to substantiate such claims. Therefore, the FCC is considering the following three options:

(a) The FCC could eliminate the need for AM and commercial FM stations to keep program logs;

(b) The FCC could eliminate its program log requirements, but require any licensee keeping records of its programming or commercial schedules for its own purposes to make these available to the public in accordance with procedures outlined in the Commission's rules;

(c) The FCC could continue current program logging and disclosure requirements.

Summary of Benefits

Sector Affected: The radio broadcasting industry, including networks, local stations, and programming and production services; the advertising industry; radio listeners; and the FCC.

If adopted, this Inquiry/Proposal could affect the internal work priorities of the FCC.

The FCC said in the Inquiry/Proposal that it had seen evidence that market forces will, in most instances, yield programming that serves consumer well-being. If the FCC adopts deregulation, the FCC anticipates that radio programming would reflect listeners' tastes, rather than regulatory decisions.

The FCC has asked for public comments on the issue of potential benefits of this proposal. Therefore, the FCC will not make any express findings of benefits from this Inquiry/Proposal unless it decides to proceed with deregulation.

The FCC is interested in learning during the comment period if this proceeding will affect any other sectors.

Summary of Costs

Sectors Affected: The radio broadcasting industry, including networks, local stations, and programming and production services; the advertising industry; radio listeners, and the FCC.

If adopted, this Inquiry/Proposed could also affect the internal work priorities of the FCC.

The FCC is interested in learning during the comment period if this proceeding will affect any other sectors.

The cost of complying with FCC regulation could be passed on to the consumer. Some members of the public have suggested that the deregulation Inquiry/Proposal will not result in broadcasting which serves the public interest.

The FCC has asked for public comment on potential costs of the Inquiry/Proposal. For this reason, the FCC has not made any express findings of costs.

Related Regulations and Actions

Internal:

The FCC is continuing a long-standing broadcast deregulation project. The purpose of this project is to review the continued usefulness of each radio and television broadcast regulation. The FCC will closely coordinate the work of this project with the radio deregulation Inquiry/Proposal.

External: None.

Active Government Collaboration

None.

Timetable

Reply Comments—until June 25, 1980

Available Documents

The Notice of Inquiry/NPRM issued September 6, 1979, is available on request from the FCC's Office of Public Affairs, Washington, D.C. 20554. Request BC Docket 79–219.

Agency Contact

Roger Holberg, Attorney Federal Communications Commission Washington, D.C. 20554 (202) 632–7792

FEDERAL MARITIME COMMISSION

Amendments to Tariff Filing Requirements for Controlled Carriers (46 CFR Part 536*)

Legal Authority

The Shipping Act of 1916, §§ 18(b), 18(c), 21, and 43, 46 U.S.C. §§ 817(b), 817(c), 820 and 841(a).

Ocean Shipping Act of 1978, P.L. 95–483, 92 Stat. 1607.

The Administrative Procedure Act, § 4, 5 U.S.C. § 553.

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will have a salutary impact on the U.S. liner trades.

Statement of Problem

Section 18(c) of the Shipping Act of 1916, as amended by the Ocean Shipping Act of 1978, provides that the FMC shall regulate the rates and charges for ocean transportation services filed by certain state-owned or controlled carriers operating in the foreign commerce of the United States. The term "state-controlled carrier" means a common carrier by water in the foreign commerce of the United States whose operating assets are directly or indirectly owned or controlled by the sovereign government (i.e., state) under whose registry the carrier's vessels operate. Controlled carriers, operating as "cross-traders" (carriers that operate in a specific trade and do not fly the flag of the exporting or importing nations in that trade) in the U.S. oceanborne foreign commerce and backed by the resources of their government have penetrated the United States liner trades by actively and systematically pursuing a practice of rate cutting (maintaining rates in their tariffs that may be below a level which is just and reasonable) to attract more cargo for their ships. Such rate cutting threatens to disrupt the international trade of the United States and may jeopardize the economic viability of U.S. flag carriers as well as other privately owned carriers. The seriousness of the problem was underscored by the fact that the state-controlled carriers of one nation which did not trade at all in the U.S. ocean commerce several years ago had captured 5 to 10 percent of the cargo on several U.S. trade routes at the time of the enactment of the Ocean Shipping Act of 1978.

The Ocean Shipping Act of 1978 (P.L. 95–483) strengthens the provisions of the Shipping Act of 1916 and thus the powers of the Federal Maritime Commission to regulate the rate cutting practices of state-controlled carriers. The provisions of § 18(c) of the Shipping Act of 1916, which were created by the Ocean Shipping Act of 1978 and became effective November 17, 1978, impose upon the Federal Maritime Commission the responsibility to regulate the rates and practices of certain state-owned or controlled carriers operating in the oceanborne foreign commerce of the United States in order to eliminate the threat posed by such rate cutting.

The Commission proposes to amend 46 CFR Part 536 to implement the requirements of P.L. 95–483. The proposed amendments prescribe the technical requirements for the publication, filing, justification, and suspension of controlled carrier tariff rates, charges, classifications and rules. They also require that all common carriers annually file with the Federal Maritime Commission an information circular which contains specific questions related to the carriers' ownership, vessels, subsidiaries, service, flag, form of organization, forwarding activities, consolidation activities, intermodal operations, and the number of containers owned or leased.

The Commission, acting under the authority of § 21 of the Shipping Act of 1916, added this requirement to 46 CFR Part 536 so that it will be apprised of all controlled carriers serving the U.S. trades. However, the Commission will give these controlled carriers an opportunity to submit information which may warrant an exemption from the requirements of § 18(c).

Alternatives Under Consideration

There are no realistic alternatives because the proposed rules are necessary to implement the requirements of P.L. 95–483. In enacting this legislation, the Congress provided the Commission with no flexibility in the interpretation of the tariff filing requirements needed to put the law into effect, and specifically mandated that Commission responsibilities be broadened to address the problem. Although the Commission has many

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alternatives in the administration of P.L. 95–483, there are no alternatives to the tariff-filing requirements which literally implement the law.

Summary of Benefits

Sectors Affected: All common carriers in the foreign commerce of the United States.

It is necessary to provide a systematic method to adopt the standards set forth in P.L. 95–483, which was designed to prevent controlled carrier penetration and disruption of U.S. trades through rates and practices which are unjust and unreasonable. The requirement that all common carriers file an information circular with the Federal Maritime Commission is needed for the Commission to properly classify common carriers entering or leaving trades in the U.S. foreign commerce and to identify those which are state-controlled. The proposal will protect all privately owned carriers operating in the U.S. oceanborne foreign trade from the noncompensatory rates and predatory practices of controlled carriers which operate without covering the cost of the resources used in the provision of a shipping service. The information obtained from the circular will also benefit privately owned carriers, shippers, and the general public by identifying those carriers which are state-owned and providing those sectors with information regarding their ownership, registry, and operations.

Summary of Costs

Sectors Affected: All common carriers in the foreign commerce of the United States.

All carriers required to file the information circular will have some administrative costs. We will ask the carriers to provide an estimate of the financial and man-hour burden expected of them. In our NPRM, we will also ask controlled carriers to submit a separate estimate of the financial and man-hour burden, if any, which will be incurred in complying with the other requirements of the proposed rules. Shippers, the users of ocean transportation, are the Commission's real consumers; therefore, it is extremely difficult, if not impossible, to determine the cost of the proposed rules to the lay consumer.

Related Regulations and Actions

None

Active Government Collaboration

The Department of State and the Commission, before the rulemaking, coordinated an effort to initially identify state-controlled carriers.

Timetable

NPRM—June 1980
Regulatory Analyses; other analyses—This rule does not require a regulatory analysis under E.O. 12044 because we are developing it through a formal rulemaking process in accordance with the Administrative Procedure Act.
Public Comment Period—60 days following publication of NPRM
Final Rule—winter 1980–1981
Final Rule Effective—winter 1980–1981

Available Documents

None

Agency Contact

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N. W., Washington, D.C. 20573, (202) 523–5725

FMC

Filing of Currency Adjustment Factors (46 CFR Parts 536 and 538*)

Legal Authority

The Shipping Act of 1916, 46 U.S.C. §§ 813(a), 817(b), 820, 833(a), and 841(a).
The Administrative Procedure Act, 5 U.S.C. §§ 552 and 553.

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will provide shippers with greater rate stability and the consequent ability to improve long-range commercial marketing practices.

Statement of Problem

The shocks absorbed in foreign exchange markets since 1971, arising from two devaluations of the U.S. dollar and a shift of most of the major currencies from fixed to floating exchange rates, have created frequent and substantial fluctuations in these exchange rates. Consequently, ocean carriers and conferences (associations of carriers permitted, pursuant to an agreement approved by the Commission under § 15 of the Shipping Act of 1916, to discuss, establish, and file rates and practices on behalf of their member lines) have filed numerous currency adjustment factors with the Commission in recent years to accommodate currency fluctuations. A currency adjustment factor is a surcharge imposed upon the shipping public by steamship carriers and conferences to allow for the adjustment of ocean freight rates to reflect currency fluctuations. Several years ago, carriers in the U.S. foreign commerce began to impose these surcharges upon the shipping public in response to currency changes.

Whenever currency adjustment factors are established by steamship conferences, the shipping public frequently registers legitimate complaints about their establishment. Over the last several years the Commission has received an increased number of such complaints centering on three major issues. One major complaint refers to the fact that such surcharges often do not reflect current foreign exchange market conditions because currency surcharges are generally implemented some time after the negative currency fluctuation in question has occurred. Another complaint concerns the allegedly disproportionate level of the surcharge imposed in response to the currency fluctuation and the methods used in its computation. The shipping public also protests the lack of reciprocal adjustments to reflect positive tariff currency changes.

When a surcharge of any type is filed by an ocean carrier or conference, the Commission has an obligation to ensure that these transportation costs will not unduly impede our international trade by interfering with the efficient flow of goods or imposing costs upon U.S. exporters that are unreasonably high in comparison to costs imposed upon their foreign counterparts. In response to this obligation, the Commission promulgated rules to provide for a procedure under which certain carriers and conferences that operate pursuant to a Commission-approved system of dual-rates could justify and impose currency surcharges on less than the required statutory notice period (90 days) in the event of a depreciation of the tariff currency. (Dual-rate contracts are used as a patronage or loyalty device to offer lower rates to shippers who agree to give all or a fixed portion of their shipments to a specific carrier or conference. The Shipping Act of 1916 requires that the contract rate shall not be more than 15 percent lower than the published ordinary rate.) Owing to its cumbersome requirements for justifying a "short-notice" currency surcharge, this rule has never been used by any carrier or conference since its promulgation.

Since this rule has never been used, the staff of the Commission developed other, informal procedures in February 1977 to validate currency surcharges. However, this system did not produce sufficient data to permit proper evaluation of the surcharges. Since the existing formal rule has never been used and the Commission's informal system has yielded inadequate data regarding the validity of currency surcharges, it has become apparent that a new procedure is required.

The proposed regulation replaces the existing rules, which apply only to carriers and conferences employing approved dual-rate systems. The purpose of the new regulation is to establish procedures and tariff filing requirements under which steamship carriers and conferences may publish and file currency adjustment factors in their ocean freight rate tariffs on not less than 15 days' notice in the event of a change in the value of the tariff currency. The proposed rule will establish a simplified and uniform procedure for the filing of all currency surcharges and will apply to all carriers and conferences.

The proposed regulation represents an effective system which will ensure prompt Commission consideration of all currency surcharges. The proposal establishes clear, understandable procedures that are equitable to the industry and permit adequate review by the Commission to ensure protection of the shipping public.

Alternatives Under Consideration

Retention of the existing rules and the informal currency surcharge validation system is an alternative. However, to do so would cause the Commission to be unresponsive to problems that have arisen under these procedures. For example, one of these problems concerns the selection of a base date used by a carrier or conference to compute the level of a currency surcharge. The proposed rule eliminates the uncertainties under existing procedures by specifically defining the base date that must be used.

If the Commission takes no action, regulatory supervision over carriers and conferences imposing currency surcharges will continue to be inadequate and the shipping public will not benefit from the increased degree of protection that would be provided through the rule.

Other alternatives would entail different systems of evaluating currency adjustment factors. The Commission has deemed the existing proposal the simplest and most equitable, however, affording shippers the greatest protection while imposing the least burden upon the industry and generating the least administrative cost within the FMC.

Summary of Benefits

Sectors Affected: Steamship carriers and conferences operating in the U. S. foreign commerce; and shippers.

All steamship carriers and conferences operating in the U.S. foreign commerce will be affected by the proposed rule if they impose currency surcharges. The rule will allow carriers and conferences to impose such surcharges on short notice (15 days), thus permitting more responsive and faster adjustments in rates due to currency fluctuations. The proposal establishes a simplified and uniform procedure for the publication of currency adjustment factors. This will enable the Commission to fairly, reasonably, and promptly review these surcharges under statutory standards, and provide a greater degree of protection to the shipping public.

The rule also requires a reciprocal adjustment in rates if the tariff currency appreciates by 2 percent or more. This requirement permits the currency adjustment factor to operate as a true adjustment, restoring the prior currency relationship, and it is, therefore, clearly responsive to shippers' complaints. Since the methods used to compute a currency adjustment factor level as prescribed in the rule are uniform, shippers will be aware of how individual currency surcharges are determined. The Commission will benefit from the elimination of uncertainty and the streamlining of procedures, enabling more efficient and effective planning of regulatory policies affecting the U.S. foreign commerce.

Summary of Costs

Sectors Affected: Steamship carriers and conferences.

No quantitative estimate of the relative costs are available. However, those carriers and conferences imposing currency surcharges must submit expense data in a specific format (Currency Adjustment Factor Computation Statement), and thus will incur some administrative costs.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

Regulatory Analyses; other analyses—This rule does not require a regulatory analysis under E.O. 12044 because we are developing it through a formal rulemaking process in accordance with the Administrative Procedure Act.
Public Comment Period—on or before June 9, 1980
Final Rule—fall-winter 1980
Final Rule Effective—fall-winter 1980.

Available Documents

NPRM—45 FR 23708, April 8, 1980
Federal Maritime Commission Docket 80–19
Commission General Order 13, "Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States" (46 CFR Part 536)
Commission General Order 19, "Dual-Rate Contract Systems in the Foreign Commerce of the United States" (46 CFR Part 538)
All documents are available for review in the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N. W., Washington, D. C. 20573.

Agency Contact

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5725.

FMC

Revision of Commission General Order 4, "Licensing of Independent Ocean Freight Forwarders" (46 CFR Part 510*)

Legal Authority

Shipping Act of 1916, 46 U.S.C. §§ 820, 841(a) and 841(b).
Administrative Procedure Act, 5 U.S.C. § 553.
46 CFR Part 510 (45 FR 17029, March 17, 1980).

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will substantially affect the entire ocean freight forwarding industry and that industry's commercial relationships with the shipping public and oceangoing common carriers, thus impacting a significant portion of United States export commerce. It will modernize the Commission's regulations affecting the freight forwarding industry, which have not been substantially modified in 18 years, to reflect significant changes in the practices and economics characterizing the U. S. ocean commerce.

Statement of Problem

There has been a need to revise and modify FMC General Order 4, "Licensing of Independent Ocean Freight Forwarders," to reflect the changing nature of the U.S. export commerce. An independent ocean freight forwarder is an individual, corporation, partnership, association, or other legal entity that, for a fee, dispatches shipments on behalf of

oceangoing common carriers and handles the processing incident to such shipments. Services rendered by this industry include the dispatching and facilitation of export cargo on behalf of shippers; examining instructions and documents received from shippers; preparing and processing export declarations; booking or confirming cargo space; preparing and processing delivery orders and dock receipts; arranging for and furnishing trucks and lighters (boats used in unloading and loading vessels not lying at wharves, or in transporting freight about a harbor); preparing instructions to truckmen and lightermen; preparing and processing ocean bills of lading; preparing and processing government international commercial documents and arranging for their certification; arranging for and furnishing warehouse storage; arranging for insurance; clearing shipments in accordance with United States government export regulations; preparing and sending advance notifications of shipments and other documents to banks, shippers or consignees; advancing necessary funds in connection with the dispatching of shipments; coordinating the movement of shipments from origin to vessel; rendering special services in connection with unusual shipments or difficulties in transit; and giving expert advice to exporters concerning letters of credit, licenses, and inspections.

General Order 4 sets forth regulations affecting all aspects of these functions by establishing criteria for qualification as an independent ocean freight forwarder and setting guidelines for the performance of forwarding duties, specifically providing for the Commission's licensing of independent ocean freight forwarders, the procedure for applying for licenses, the qualifications required of applicants, and the grounds for Commission revocation or suspension of licenses. The General Order also contains rules pertaining to the practices of licensed independent ocean freight forwarders, ocean freight brokers (persons engaged by a carrier to sell transportation services and who hold themselves out by solicitation or advertisement as entities who negotiate between shipper and carrier for the purchase, sale, conditions, and terms of transportation), and oceangoing common carriers pursuant to 46 U.S.C. § 841(b), as enumerated above. The FMC believes that since the General Order was originally issued in December 1961, many of the rules published in that Order have become outdated and impractical, creating confusion and consequent inefficiency in their application.

Additionally, substantive questions have arisen which the proposed rule attempts to resolve. At present, each branch office of a licensed forwarder is not required to post a separate surety bond covering the cargo shipments it handles nor have a qualified individual supervise its operation. For better protection of the shipping public, the FMC believes that consideration should be given to requiring each branch office to be separately licensed, individually bonded, and have its own qualifying officer or individual. The FMC also needs to clarify fitness qualifications for prospective forwarders and establish a more realistic rule governing the forwarder's payment of freight monies to the carrier. Increased costs compel higher license fees and the policies of the Shipping Act Amendments of 1979, P.L. 96–25, 93 Stat. 71, need to be reflected in the General Order, ensuring that forwarders certify, as required by the FMC, that they will not engage in illegal rebating activities (46 U.S.C. § 820(b) and will be subject, if necessary, to the Commission's assessment of civil penalties for such activities (46 U.S.C. § 831(b).

If the FMC takes no action at this time, regulatory supervision over freight forwarding will be more difficult and less current, and the shipping public may not be sufficiently protected from injury caused by inexperience, malpractice, negligence, or financial mismanagement.

Alternatives Under Consideration

Retention of the existing General Order 4 is an alternative, but it represents an option that would be unresponsive to current commercial practices in the ocean shipping industry and to the problems that have arisen under the regulations encompassed in the current Order. The proposed rule requires a surety bond in the same amount from each licensed branch office. This may prove to be too burdensome for some small branch offices while providing insufficient indemnification of the shipping public for other, larger offices. The proposal invites comments on the alternative approach of graded levels of surety bonds from a forwarder's home office, depending on the company's number of branch offices.

In evaluating alternative criteria which may be used to determine the qualifications for a forwarding license, the Commission must weigh the administrative costs, paperwork burden, and overall regulatory burden of extensive criteria for qualification against the need to protect the shipping public from unscrupulous or financially irresponsible applicants. Similarly, in considering alternative criteria for revocation and/or suspension of forwarding licenses, the FMC must balance the regulatory burden of careful monitoring and oversight of the forwarding industry against the ongoing need to protect the shipping public.

The FMC invites comments on alternative proposals and methodologies from interested parties on all or any part of the proposed rule.

Summary of Benefits

Sectors Affected: Independent ocean freight forwarders; shippers; and oceangoing common carriers.

Through more detailed clarification of the qualifications necessary to obtain a license and the rights and duties of forwarders in their relationships with shippers and carriers, the FMC anticipates fewer problems developing within this industry, with a resulting decrease in the need for more burdensome regulation in the form of formal proceedings and assessment of civil penalties.

There are more than 1,300 licensed independent ocean freight forwarders located in almost every State, most of whom will benefit from this rule. By increasing the time within which such forwarders must make payment of freight monies to carriers, a more orderly and commercially realistic operation should emerge. Forwarders will also benefit by being allowed to deduct from such freight payments monies owed them by the carriers. Currently licensed responsible freight forwarders will also be better protected from competition from irresponsible or inexperienced forwarders, both licensed and unlicensed.

All manufacturers of goods for export abroad, located in every State of the United States, represent shippers that will benefit from the protections afforded by the proposed rule. A stringent rule requiring payment by the forwarder to the carrier of the freight monies advanced by the shipper should minimize those situations where the carrier sues the shipper for such freight monies when a forwarder does not pay it. A more experienced and responsive forwarding industry will perform better services for shippers. Where something does go wrong, shippers will be better protected by more stringent and adequate surety-bond requirements.

Oceangoing common carriers departing every U.S. port will benefit by a more responsive forwarding industry. More cargo will be generated for carriage leaving little to do by the carrier itself other than loading cargo aboard ship and taking the cargo to its destination.

A revised and clarified General Order should benefit all affected sectors by providing a better description of the rights and obligations attendant upon all participants in forwarding activities and transactions. Revision of General Order 4 also provides the opportunity to modernize existing regulations to conform to current commercial needs and practices, with consequent benefits for all affected sectors.

Summary of Costs

Sectors Affected: Independent ocean freight forwarders.

As a result of increased costs determined by an FMC cost analysis, the proposed rule would increase license application fees from $125 to $350 and add new fees of $100 each for supplementary investigations and processing applications for approval of changes. Recordkeeping and reporting requirements have been slightly changed. Other than these, the FMC cannot accurately evaluate the regulatory burden but is asking interested parties to provide an estimate of the financial and work-hour burdens which will be incurred in complying with the recordkeeping and reporting requirements as well as with other substantive regulations.

Related Regulations and Actions

Internal: The proposed rule would eliminate publication in the **Federal Register** of notice of applications for independent ocean freight forwarder licenses as unnecessary. A separate rulemaking to accomplish this in more expeditious fashion is being considered.

External: None

Active Government Collaboration

None.

Timetable

Regulatory Analyses; other analyses—This rule does not require a regulatory analysis under E.O. 12044 because we are developing it through a formal rulemaking process in accordance with the Administrative Procedure Act.
Public Comment Period—on or before July 15, 1980.
Final Rule—winter 1980–1981.
Final Rule Effective—winter of 1980–1981; branch office licensing may become effective somewhat later, depending on comments.

Available Documents

NPRM—45 FR 17029, March 17, 1980

Federal Maritime Commission Docket 80–13

All documents are available for review in the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street N.W., Washington, D.C. 20573.

Agency Contact

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5725

INTERSTATE COMMERCE COMMISSION

Improvement of TOFC/COFC Regulation (Ex Parte No. 230 (Sub-No. 5)) (49 CFR Part 1090)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 10321, 10505, 10701, 10702, 10705, 10921, 10922, 10923, 10927, and 11101.

Reason for Including This Entry

The Interstate Commerce Commission believes that this proposed rule is important because it could cause an increase in productivity and/or profits in the motor common carrier and rail transportation industries without causing any adverse effects.

Statement of Problem

The Federal Railroad Administration, the General Accounting Office, and the Interstate Commerce Commission have undertaken recent studies of efforts by the various transportation modes to provide a continuous movement of freight between two points in combined service (such as motor-rail, motor-water, or any other combination of modes). These studies show that numerous factors have discouraged the development of combined (intermodal) traffic movement plans.

The principal factors that discourage intermodal traffic are that carriers would have to make substantial changes in established operations to implement the plans; negotiate with collective bargaining representatives to modify established work rules (where employees are members of a labor union); and make significant and often substantial cash outlays to install special material-handling equipment.

The major intermodal traffic movement concepts that the Commission presently regulates are the Trailer-on-Flatcar (TOFC) and Container-on-Flatcar (COFC) plans. Generally, these plans implement the transportation of a truck, trailer, semitrailer, or detachable container on a rail car.

There are five basic intermodal plans presently in use. Under Plan I, a motor carrier (truck operator) may substitute rail for motor service between points which the motor carrier is authorized to serve. Under Plan II, a railroad may provide complete door-to-door service; under Plan III the portion of the service that the railroad performs is limited to rail transportation between established TOFC ramps (the shipper must provide the trailers); and Plan IV is comparable to Plan III, except that the shipper must also furnish the rail car. Plan V involves coordinated continuous motor-rail or motor-rail-motor services at joint rates which may be originated by either mode on the originator's shipment request (bill of lading). This latter plan facilitates coordination of rail and motor operations where the carriers serve different territories.

To date, motor carrier participation in these intermodal traffic movement plans has been very limited. The Commission's TOFC/COFC traffic data indicates that more than 50 percent of all current TOFC/COFC traffic moves under Plan II (all-rail plan); 15 percent moves under Plans III and IV, and the remaining traffic moves under Plans I and V. In 1978, TOFC/COFC traffic represented only 7.9 percent of total rail carloads.

The purpose of this rulemaking proceeding is to determine what the Commission can do to increase the use of TOFC/COFC services. The proceeding is limited to motor-rail intermodal movements; it does not embrace intermodal movements with a prior or subsequent movement by water.

The Commission is proposing this action at this time because studies have suggested that Commission regulation has impeded the use of TOFC/COFC service. We hope to determine whether and how regulation should be adjusted to eliminate any impediments and, if possible, to provide incentives to stimulate the growth of TOFC/COFC traffic.

Alternatives Under Consideration

There are several major alternatives under consideration. The first alternative is to exempt the rail and truck portions of TOFC/COFC service-pricing from our regulation under § 10505 of the Interstate Commerce Act, on the grounds that the limited scope of such plans makes economic regulation unnecessary (in 1978, for example, containerized shipments represented less than 8 percent of total railcar loadings). The principal benefit of this alternative is that railroad and trucking management would be permitted to establish a price (rate) for the

continuous movement of traffic without Commission intervention, essentially allowing free market forces to establish the rate. (Under present regulation, decisions of this kind are subject to Commission review.) However, we will require participants to adhere to the statutory provisions designed to prevent broad differences in rates that tend to favor or discriminate against a particular shipper or group of shippers. Similarly, this alternative will require participants to publish their rates in a public price sheet (tariff) with the accompanying 30-day notice period so that the Commission can monitor unjustified broad differences in rates. This alternative will also require that participants adhere to the Commission's present accounting and reporting requirements.

The major disadvantage is that the users of intermodal service would have little recourse—other than making a unilateral decision not to use a particular service—for a rate which is unreasonably disproportionate to the cost of providing the service. Under present regulation, concerned shippers could challenge an unreasonably high rate under the rate investigation and suspension provisions of the Interstate Commerce Act.

A second alternative would relax the rules and regulations governing the practices of motor carriers which participate in intermodal movements. At the present time, a motor carrier must have operating authority from the Commission to serve the ultimate origin and destination points of a movement, as well as the points at which it gives traffic to or receives traffic from the railroad. This requirement discourages participation in intermodal plans, because a carrier has to seek new authority if the shipment consolidation points are changed. Similarly, carriers which do not now possess authority to perform transportation in intermodal service must petition the Commission for authority for each point at which they will perform service. This practice also tends to discourage efforts to experiment or develop intermodal plans. To remove this problem, the Commission is considering developing a so-called "master certificate," which would encompass a generalized nationwide finding of public convenience and necessity based on the foreseen benefits of TOFC/COFC service and competition.

The benefit of this second alternative is that it would eliminate the need for specific, localized authority to serve the interchange point and eliminate the attendant delay that would accompany each application for authority. The disadvantage of this alternative is that carriers now authorized to participate in intermodal traffic plans could lose traffic they now handle to new carriers, who would not have to obtain authority from the Commission to participate in the traffic plans.

A third alternative would revise our current policies regarding participation by truck operators performing services under contract (contract carriers) in intermodal plans. At present, contract carriers are not permitted to participate in intermodal service; this alternative would permit contract carriers to enter into intermodal service and negotiate with railroads for service under agreed rates. The principal benefit of this alternative is that contracts would generally be of several years duration and would reflect the individual needs and operating characteristics of the railroad and truck operators. This would lend stability to the intermodal plan and insure its continuance. A disadvantage is that the entrance of contract carriers into this freight market would further dilute the traffic available to existing truck operators.

Summary of Benefits

Sectors Affected: Railroad transportation and trucking; and shippers of goods by rail and truck, especially in the Western States.

The principal benefit of revised TOFC/COFC regulations is that improved intermodal service will combine the best characteristics of rail and motor transportation by offering the long-haul cost and energy advantages of rail, and the geographic operating flexibility of motor carriers. Moreover, it should offer containerized service to some shippers who do not have it available to them now as a transportation alternative because of present Commission regulatory practices, and it will generate another source of revenue for the financially ailing railroad industry. Similarly, the increased competition that should result from implementation of the proposals would be an effective force in allocating transportation resources and improving the quality of service.

The alternatives we are considering could have their most significant impact in the Western United States, where the long-haul benefits of rail transportation can be realized. Shippers in the Western States could conceivably benefit most from improved TOFC/COFC regulation.

Summary of Costs

Sectors Affected: Railroad transportation and trucking; and shippers of goods by rail and truck, especially in the Western States.

The Commission staff expects the proposed rules to promote coordination of rail and motor services. This would more than likely force a realignment of the market for some freight. Some freight, which is transported by all-rail or all-motor movement, for example, could be diverted to a shared movement.

Related Regulations and Actions

Internal: "Practices of For-Hire Carriers of Property Participating in Trailer-on Flatcar Services." 49 CFR 1090.

External: None

Active Government Collaboration

None

Timetable

NPRM—May or June 1980.
Final Rule—September 1980.
Regulatory analysis—the Commission does not plan to issue a separate regulatory analysis in this proceeding. The NPRM and the notice of final rules will incorporate the results of our regulatory analysis.

Available Documents

ANPRM (44 FR 49279, August 22, 1979). "Substituted Service-Water for Motor Service (Fishy-back Service)—Alaskan Trade," 44 FR 30786, May 29, 1979, 361 ICC 359(1979).

Agency Contact

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ICC

Intercorporate Hauling (Ex Parte No. MC–122) (49 CFR Chapter X)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 10321 and 10524.

Reason for Including This Entry

The Interstate Commerce Commission (ICC) believes that this rulemaking is important because it could cause an increase in the productivity of private motor carriers of property.

Statement of Problem

Critics of government intervention in truck transportation focus on allegations that regulation causes inefficiency. They say that prices for truck transportation are too high because regulated truck operations can collectively establish

rates, and because regulation imposes artificial constraints on entry into the trucking business and operational freedom. Accordingly, they argue that regulation prohibits business enterprises which perform their own trucking operations from engaging in efficient use of their equipment.

Critics of regulation also claim that regulation distorts markets and distribution facilities and that it retards innovation in patterns of operation. These critics say that regulation imposes unnecessarily high costs on change because of the various administrative and legal requirements it imposes on carriers. They believe that decisionmaking in a regulatory environment results in commodities being transported inefficiently, and that a reliance on normal market forces would cure many of these problems.

In June 1977, at the request of the Commission, a staff task force studied and recommended to the Commission ways in which it could use market forces to improve regulation of the trucking industry. One recommendation was to relax the Commission's control over hauling between related corporations (those with some degree of common ownership). At the present time, transportation in furtherance of a primary business other than transportation is exempt from regulation by the Commission; this is so-called "private carriage." The statute does not define private carriage, but the Commission historically has defined the term narrowly to exclude transportation between corporations with a common owner; private carriage was limited to the transportation for and by a single corporation. The primary motivating factor in using or expanding private transportation is the necessity to meet unusual service demands that regulated carriers find impractical or impossible to meet.

As a result of the task force recommendations, the Commission published a proposed policy statement that would broaden the definition of private carriage to include (and thereby exempt from Commission regulation) transportation between and for members of a corporate family. Public response has endorsed the change in policy. It is generally felt by private truck operators that a more liberal Commission policy over intercorporate hauling will provide opportunities to reduce the number of miles operated without freight, thereby allowing for the consolidation of fleets, improved fuel efficiency, and lower overall transportation costs.

The Commission is proposing this action at this time as part of its overall program to improve its regulation of the motor carrier industry, and in response to staff studies and public comments that have indicated the Commission should change its policy toward intercorporate hauling. If we do not act now, Commission policy will continue to have the effect of preventing private carriers from conducting their operations as efficiently as they could.

Alternatives Under Consideration

There are four major alternatives under consideration in this proceeding.

The first is to maintain the status quo. At the present time, Commission regulations do not permit hauling between or for related corporations by private carriers for compensation (it can be done, however, if it is performed without charge). The problem with this alternative is that it does not permit corporations and their subsidiaries to make the most efficient use of their transportation fleets.

The second, third, and fourth alternatives are related to the degree of control a parent corporation has over its subsidiary, but they would encourage change in corporate transportation policies and encourage efficient operations.

The second alternative would permit compensated intercorporate hauling (without Commission regulation) for and between corporations that are at least 50 percent commonly owned.

The major advantage, relative to the options that require a more restrictive level of ownership, is that a greater number of private shippers could use compensated intercorporate hauling.

The primary disadvantage is that advocates of compensated intercorporate hauling may have underestimated the diversion of traffic from regulated carriers and the resulting adverse economic impact on carriers. If such diversion took place, undesirable effects would be maximized with this option. Moreover, it provides for less gradual adjustment to a new regulation by shippers, carriers, and consumers who might be affected adversely than the other alternatives.

The third alternative would permit compensated intercorporate hauling only for and between corporations that are 100 percent commonly owned.

This option is the most restrictive of the three options that would allow compensated intercorporate hauling. Its advantage is that it would minimize any adverse impacts the new policy might have on regulated carriers. At the same time, it would give the Commission actual experience with the effects of relaxing the restrictions on intercorporate hauling before proceeding to relax the restrictions further.

The major disadvantage is that we believe this alternative would be too restrictive. A survey by one of the respondents to ascertain the benefits of relaxed rules on intercorporate hauling indicates that roughly two-thirds of the 1,500 corporations surveyed by that respondent would not be able to take advantage of the relaxed policy because they are not 100 percent commonly owned.

The fourth alternative (which ICC proposes to adopt) would permit intercorporate hauling by corporations that are 80 percent commonly owned. This alternative is a compromise between the 100 percent and 50 percent common ownership levels. A policy of caution and gradualism is reflected in this alternative, but it broadens the scope and size of overall net benefits; moreover, it is consonant with Internal Revenue Service guidelines permitting consolidated financial reports at the 80 percent common ownership level and recognizing a subsidiary owned 80 percent or more by its parent as part of a corporate family.

The Commission's approach to the problem of intercorporate hauling is self-regulatory; the policy, if the Commission adopts it, will broaden the area of corporate transportation that is exempt from regulation by the Commission. At the present time, a substantial amount of intercorporate hauling is performed without compensation.

Summary of Benefits

Sectors Affected: Corporations which now operate or desire in the future to operate private truck fleets; and users of these corporations' products.

If the proposed policy change is adopted, a corporation which has a private truck fleet would be able to expand the use of that fleet by using it to haul freight for any subsidiary corporation at least 80 percent of which is owned by the parent corporation. For example, private trucks owned by a parent company and hauling freight from the parent to the subsidiary could also haul freight from the subsidiary to the parent. This could reduce considerably the empty mileage traveled by trucks in the private fleet. In cases where a parent corporation and its subsidiary both operate private fleets, it would be possible to consolidate the fleets and to eliminate duplicate staff positions. Corporations which do not have private fleets, but wish to have them, will find private hauling a more efficient and, therefore, a more attractive alternative if this proposal is adopted.

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The proposed change in policy could virtually guarantee a reduction in direct costs for trucking between related corporations by removing a portion of corporate decision-making from regulatory overview. Estimates from some of the parties which responded to the NPRM indicate that cost savings which could result from the broader definition of private carriage would be as much as three cents per mile less than the present cost to corporations which operate their own transportation fleet. Moreover, the policy change would alleviate the present burden on corporations to obtain operating certificates from the ICC where transportation is performed for and between a parent corporation and its subsidiary for compensation. A precise estimate of the savings to corporations is not available, but if we change the present policy, corporations would no longer have to obtain operating certificates, wait for accompanying agency action, or bear the expenses associated with those activities.

Similarly, there should be indirect cost savings to consumers. Although improved efficiency will not necessarily lower existing consumer prices (because a multitude of cost and competitive factors enter into pricing decisions), the change in policy should relieve inflationary pressure and defer or reduce future consumer price increases. The increased efficiency that corporations should be able to realize as a result of the proposal should help them to keep overall production costs down.

Summary of Costs

Sectors Affected: The regulated trucking industry.

If the proposed policy change leads to an increase in the amount of freight hauled by private truck fleets, it could result in a reduction in the amount of freight hauled by ICC-regulated trucking companies.

Related Regulations and Actions

Internal: "Intercorporate Parent-Subsidiary Transportation," 123 M.C.C. 768 (1975).

External: None

Active Government Collaboration

The Department of Transportation is appearing as a party in the proceeding and is advocating use of the 50 percent common-ownership level to determine what constitutes a closely knit corporate family.

Timetable

Legislation currently being considered by Congress may result in a change in the Interstate Commerce Act to achieve a result similar to that proposed in this proceeding. If no action is taken by Congress in this regard, we will issue a final policy statement in this proceeding sometime after June 1, 1980.

Regulatory Analysis—this proceeding will be discussed in the notice of the final policy statement.

Available Documents

"Intercorporate Parent-Subsidiary Transportation," 123 M.C.C. 768 (1975)

"Status Report-Intercorporate Hauling Regulation," Bureau of Economics, Interstate Commerce Commission, December 1978

"Request for Comments: Intercorporate Hauling," 43 FR 58002, December 11, 1978

NPRM, "Intercorporate Hauling" (Ex Parte No. MC–122) Proposed Policy Statement, 44 FR 42838, July 20, 1979; public comments available for review at Secretary's Office, ICC, 12th & Constitution Avenues, Washington, D.C.

Agency Contact

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Interstate Commerce Commission
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ICC

No Suspend Zone—Motor Common Carriers of Property (Ex Parte No. Mc–137) (49 CFR Chapter X)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 10321 and 10708.

Reason for Including This Entry

The Interstate Commerce Commission thinks that this rulemaking is important because it involves a precedent-setting approach to the regulation of motor carrier rates. This new approach could be beneficial to the motor common-carrier industry and to the national transportation system.

Statement of Problem

When motor common carriers raise or lower their rates their action is subject to challenge. Shippers and others may protest the rate changes and the Commission can suspend the effectiveness of the new rates pending an investigation. This process impedes the carriers' ability to compete and inhibits them from seeking some rate changes. The Interstate Commerce Act generally requires that rates be published on 30-days' notice. This limits carriers ability to react quickly to market changes. The Commission would like to adopt a new procedure to provide Commission approval. At the same time, we want to retain safeguards to ensure that carriers do not charge rates which are unfair or destructive of competition.

The purpose of this proceeding is to consider establishing a "no suspend zone" for freight rates published by motor common carriers of property. The limits of the zone would be percentages by which carriers could propose to raise or lower their rates without their action being subject to suspension, or investigation on the grounds that the rates appear to be unreasonably high or low. Rates within the zone would be immune from challenge unless they appear to be unfair and destructive competitive practices, unduly prejudicial, unjustly discriminatory, beyond the scope of the proponent's operating authority, or in violation of an outstanding order or regulation of the Commission. Otherwise, rate changes within the zone might be taken at any time and as needed, within the carrier's managerial discretion. We are also considering establishment of a more limited no notice zone within which rates changes could be made effective without notice and would not be subject to suspension or investigation on any grounds whatsoever. We contemplate that the competitive ratemaking freedoms would apply only for rates published individually by carriers and would not extend to rate increases (or reductions) proposed by carriers collectively through a rate bureau.

The Commission is proposing this action at this time in response to a staff study, the Initial Report of the Motor Carrier Task Force (published in May of 1979) and a petition from the Federal Trade Commission, both of which recommended similar action. If we do not act now, carriers will continue to be exposed to regulatory ratemaking requirements which restrict both their ability to compete and the services that they can offer.

Alternatives Under Consideration

The Commission does not believe that maintaining the status quo is a viable alternative in this instance. Nor have we discovered any method other than the one proposed for accomplishing the goals outlined in this proceeding. We are pursuing the alternative of working to secure changes in the Act, and legislation currently being developed by the Congress may adopt a similar approach to that being proposed here, thus influencing the outcome of this proceeding.

We believe that the development of a no-suspend zone would be an innovative regulatory technique which would allow competition to play a greater role in regulating the level of carrier rates.

We are actively considering a number of alternatives within the scope of the present proposal; that is, we are trying to determine what the actual percentage figures should be for the maximum and minimum limits of the zone. We have specifically solicited suggestions from the public in this regard.

Summary of Benefits

Sectors Affected: The trucking industry; and shippers and consumers of products transported by truck.

It is our belief that, through establishment of a no-suspend zone, increased competition may be readily translated into rates which are more representative of market conditions. The net result should be improved transportation, distribution, and location practices which produce benefits for the economy. The proposed rule would directly benefit carriers because they will be able to act quickly to raise rates to cover increased costs, such as those resulting from fuel increases. They will also be freer to lower rates to attract new business or to meet new competition. The zone would enable motor carriers to respond rapidly to changing market conditions with rates which are competitively priced and which offer a broad variety of rate-service options, while at the same time enhancing the ability of carriers to meet their service commitments. To the extent that lower rates or increased efficiency result from adoption of the zone, we would hope that the benefits would be shared by the users of the carriers service and indirectly, through reduced rates, by consumers of the goods which the carriers transport.

Summary of Costs

Sectors Affected: The trucking industry; and shippers and consumers of products transported by truck.

It is possible that the increased competition, which would result from adoption of the zone, might lead to a loss of business for less efficient or less market-sensitive carriers. The fact that, within the zone, carriers would be able to raise rates more quickly—without prior Commission approval—would mean that shippers would feel the effects of the increases sooner than they would were they able to protest the increase or were the Commission to institute an investigation and suspension proceeding. Any passing-on of the increase to consumers would also occur more quickly. The opportunity to challenge rates, which shippers and others presently have, would be limited.

Related Regulations and Actions

Internal: The Commission has opened a number of proceedings to determine whether it could or should adopt a master certificate licensing procedure for various specialized segments of the motor common carrier industry. The outcome of these proceedings depends on the outcome of the legislation pending in Congress. If the Commission were to proceed with those rulemakings, we would propose to consider refining the "no-suspend zone" concept to apply to each of the specialized segments.

External: None

Active Government Collaboration

The Federal Trade Commission has filed a petition seeking action similar to that which we propose in this proceeding, and we expect them to be active participants.

Timetable

Final rule—Sometime after June 1, 1980 Regulatory Analysis—we will discuss the conclusions reached as a result of the analysis in the notice of final rules, instead of issuing a separate regulatory analysis.

Available Documents

NPRM appears at 45 FR 6974, January 31, 1980; corrections appear at 45 FR 12273, February 25, 1980.

Agency Contact

Richard B. Felder, Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275–7693.

POSTAL RATE COMMISSION

Experimental Classification Rulemaking (39 C.F.R. §§ 3001.120 et seq.)

Legal Authority

The Postal Reorganization Act of 1970, as amended, §§ 3603, 3622 and 3623, 39 U.S.C. § 3601 (1970).

Reason for Including This Entry

This rulemaking may have a national effect because it may help to facilitate the offering of new postal services which have been developed with the assistance of marketplace experiments. It is of national concern because changes in postal services can have an effect on all mail users.

Statement of Problem

The Postal Service must request a recommended decision from the Postal Rate Commission before implementing a change in postal rates and fees or classifications (39 U.S.C. §§ 3622–23). The Postal Rate Commission issues its decision after giving interested parties an opportunity for a hearing in compliance with 5 U.S.C. §§ 556–57.

From the time the Postal Service took over the functions of the Post Office Department in 1971, it presumed that it had authority to conduct marketplace experiments (experimental changes in services, fees, classification, or required mail preparation) without requesting a recommended decision from the Postal Rate Commission.

On August 7, 1979, the Court of Appeals for the Third Circuit held that the Postal Service must come to the Postal Rate Commission for a recommended decision before conducting any marketplace experiment which includes a change in rates any mailer pays, or the classification of any mail. (*United Parcel Service* v. *USPS*, No. 78–2390 [3d Cir. Aug. 7, 1979]).

The Postal Rate Commission has designed its current rules of procedure (39 CFR §§ 3001.1–3001.116), with a view toward recommending decisions on proposals for permanent rates and classifications. The rules require the Postal Service to provide in writing the detailed information necessary if the mailing public is to participate meaningfully in Commission proceedings. This information also is necessary for the Commission to fulfill its statutory duties, found in 39 U.S.C. §§ 3622(b) and 3623(c), in recommending changes in rates and classification.

The rules may not be suited for requests for authority to conduct experiments. A substantial amount of the information required by the rules may not be available because it may be the very information the Postal Service seeks to acquire through the experiment. Any change in the rules will attempt to bring into better balance the right of the public to participate in this decisionmaking and the need for the Postal Service to obtain expeditious consideration of its proposed experiments from the Postal Rate Commission.

Alternatives Under Consideration

The Commission held a conference on possible rulemaking on this subject on September 26, 1979 to explore potential solutions to the perceived problem. Six parties have submitted written comments, which the Commission is considering. Additional alternatives may appear during the course of the Commission's consideration. The Commission also is considering taking features from different sets of comments

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to fashion the best set of rules for use in this category of cases. The alternatives that parties have advanced or the Commission is otherwise considering are:

(A) No change in the rules of procedure. The Postal Service would be required to provide all the information in accordance with the current rules unless it requested and received a waiver (39 CFR § 3001.22). Parties who regularly take part in Commission proceedings are familiar with the current rules and should have no problem dealing with waiver motions. The Commission's rules of procedure, however, were not designed for use with experimental proposals. The waiver procedure may be unduly time-consuming and repetitious. Additionally, the Commission may be able to design rules that permit it to consider experimental proposals more expeditiously.

(B) The Postal Service proposes a notice and comment procedure similar to informal rulemaking. After the Postal Service filed a proposed experiment with the Commission, interested parties could file statements of position containing as much factual material and as many arguments as they desired. The Postal Service's proposed rules require the Commission to approve the experiment unless a party's statement of position has demonstrated that the experiment would not be in the public interest or in accordance with the policies of the Postal Reorganization Act. While this alternative might be the most appropriate if the Commission could choose it, the law requires the Commission to give interested parties an opportunity for a hearing on the record (39 U.S.C. § 3624). Specifically, the statute requires the procedures, including the opportunity for a hearing, called for in §§ 556–557 of the Administrative Procedure Act (5 U.S.C. §§ 556–557).

(C) The Commission could adopt rules providing for a procedure to identify, at the beginning of the proceeding, the issues not requiring a trial-type hearing. Also, the rules could provide that satisfactory explanation of the absence of information normally required would preclude that absence being used as an argument against approving the experiment. A procedural deadline for considering the proposed experiment could be set. These changes might streamline the necessary procedure.

(D) The rules proposed by the Officer of the Commission, who represents the interests of the general public in Commission proceedings, contemplate that the Postal Service need not file the information that would be required in a proceeding for permanent changes if the Postal Service can give a satisfactory explanation for the absence of that information. The rules, however, would require the Postal Service to provide estimates for most of the information required for consideration of a permanent change. Each accounting quarter the Postal Service would submit to the Commission a summary of the data collected. The Postal Service could make changes in the experiment with 30-days notice unless the Commission suspended the proposed change. To end the experiment early, the Postal Service would file a motion with the Commission. These rules are designed specifically to regulate Postal Service experiments, unlike the current rules. It appears that they would require a substantial amount of Commission involvement in the conduct of the experiment and limit the Postal Service's flexibility in this regard.

(E) Another alternative is advanced by Purolator Courier Corporation, *et al.*; it supports the Officer of the Commission's proposed rules with one exception. It proposes that the rules contain a definite time limit to prevent the Postal Service from continuing an experiment indefinitely.

(F) The American Bankers Association's (ABA) proposed rules would give the Postal Service extensive authority to experiment. The primary restriction that the ABA proposes is a definite time limit on the experiment. These rules limit the Commission's role to preventing experiments if it finds sufficient cause. These proposed rules appear to give the Postal Service substantial flexibility, but the public's ability to affect the decisionmaking might be severely limited.

(G) United Parcel Service proposes rules requiring the Postal Service to file all information and data underlying the Postal Service's decision to experiment. The Postal Service would have to show that the cost of providing the experimental service would be covered by the revenues generated. The experiment could not begin earlier than 90 days after publication of a notice in the **Federal Register**, and it would run for a definite time. When the experiment is completed, the Postal Service would file a report with the Commission. These rules appear to call for the Postal Service to use a substantial amount of effort to justify an experiment, and the public apparently would have a strong voice in the decisionmaking.

The Commission has not yet made even a tentative decision on what is the best alternative.

The parties who have taken part in the proceedings are: Officer of the Commission, United Parcel Service, Purolator Courier Corporation, *et al.*, Mail Order Association of America, American Bankers Association, National Association of Greeting Card Publishers, Time Incorporated, and the United States Postal Service.

Summary Of Benefits

Sectors Affected: United States Postal Service; the Postal Rate Commission; and the mailing public.

Rules designed specifically for the expeditious consideration of proposed experiments should assist the Postal Service in developing new services and improving current ones to meet the needs of the mailing public. The rules should help the Commission and interested parties focus on the factors that are important for an experiment, without having to make case-by-case, repetitious identification of what is important in considering a permanent change, but not an experiment.

Special rules for this group of cases should enable the parties to participate in a more meaningful way and the Commission to consider the cases more expeditiously. Additionally, the opportunity for interested parties to participate in the decisionmaking for experiments should give the Postal Service valuable insight and information concerning mailers' needs. The parties may suggest improvements in the proposed experiments that otherwise would not have been considered.

Summary Of Costs

Sectors Affected: United States Postal Service; the Postal Rate Commission; and the mailing public.

Adoption of special rules for consideration of proposals for experiments may result in lower costs of regulation to the Postal Service and of participation to the other participants. If the Postal Service had to follow the current rules, it is possible that it and the other participants would expend efforts on issues that need not be explored when considering a proposal for an experiment. The Postal Rate Commission's costs of considering proposed experiments may be less if it has a special procedure for that category of cases than if it must use its current rules of procedure, which were designed for other types of cases.

Related Regulations And Actions

None

Active Government Collaboration

None

Timetable

NPRM—to be determined Public Comment Period—30 days after NPRM

Available Documents

The transcript of the September 26, 1979, conference and the comments that parties have filed on Possible Rulemaking on USPS Experimental Services are available by contacting the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, D.C. 20268. (202) 254–3800.

Agency Contact

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PRC

Postal Rate Commission Docket MC79–3 (Red-Tag)

Legal Authority

39 U.S.C. §§ 3621, 3622, 3623 and 3601.

Reason For Including This Entry

The Postal Rate Commission thinks this case is important because it involves a proposal to change the rates that publishers pay to send periodicals through the mail.

Statement of Problem

This proceeding stems from a previous case, Docket MC76–2, in which the Officer of the Commission, who represents the interests of the general public in Commission cases, proposed to extend to all second-class mail users the availability of the expeditious (red-tag) treatment currently afforded certain time-sensitive publications, such as newspapers, and to impose a surcharge for this preferential treatment. Second-class mail consists of magazines and newspapers, and red-tag treatment is preferential delivery treatment for it, similar to the expeditious treatment given first-class mail. Currently there is no surcharge for red-tag treatment.

When the Officer of the Commission made his proposal in the prior case, the Commission found insufficient evidence to justify a surcharge for red-tag treatment. The Commission also found inadequate cost information to justify extension of the "red-tag" treatment to any second-class mailer requesting it.

In the last postal rate case, Docket R77–1, filed on July 13, 1977, two months after the record had closed on the original red-tag surcharge proposal, the Postal Service introduced service-related cost (SRC), a new costing concept, which traced the higher costs of priority handling to the mail causing them. However, in Docket R77–1 there was insufficient data and time to pursue the precise allocation of service-related cost to the different types of second-class mail. Because the SRC concept was not involved in the original red-tag proposal, the Commission believed it should institute a new case to investigate the desirability of a red-tag surcharge covering costs allocated by the SRC costing theory. If the Commission were to recommend such a change, it also would be appropriate to explore the feasibility of offering such priority handling to all second-class mailers willing to pay the surcharge.

The Commission instituted this proceeding on January 4, 1979. Because this case did not originate with the Postal Service, as is usual, the Commission directed the Postal Service to file its case by March 15, 1979. However, the Postal Service was unable to meet this deadline and the date of filing was reset to May 31, 1979. The deadline for other parties to file their responses was changed from June 15, 1979, to June 29, 1979. Hearings began on September 11, 1979, and ended on December 18, 1979. Initial briefs were filed on January 16, 1980, and reply briefs were filed on January 30, 1980. We held oral argument on February 8, 1980.

Alternatives Under Consideration

Parties in this case have advanced various alternatives. Representative alternatives advanced by four parties, the Postal Service, Dow Jones & Company, Inc., Reader's Digest and the Officer of the Commission are as follows:

(A) The Postal Service believes that, at this time, the rate schedule should contain no surcharge for red-tag service and the criteria used for deciding which publications are entitled to red-tag treatment should remain as they are. The Postal Service believes it should be given more time to study the costs involved.

(B) Dow Jones & Company, Inc. opposes any surcharge for red-tag service. It believes that the record contains insufficient data to support a surcharge.

(C) Reader's Digest proposes an increase of 1.9¢ per piece for red-tag service and a reduction of 1.4¢ per piece for nonred-tag second-class mail. Mailers could choose between red-tag and nonred-tag.

(D) The Officer of the Commission proposes an increase of 2.75¢ per piece for red-tag service and a reduction of 1.4¢ per piece for nonred-tag second-class mail. Mailers could choose between red-tag and nonred-tag.

Parties in the proceeding include: United States Postal Service, Agricultural Publishers Association, Inc., American Business Press, American Library Association, American Newspaper Publishers Association, American Retail Federation, Association of American Publishers, Inc. and Book Manufacturers Institute, Association of Second Class Mail Publications, Catholic Press Association, Classroom Publishers Association, Department of Defense, Direct Mail/Marketing Association, Inc., Dow Jones & Company, Inc., Gestetner Corporation, Macmillan, Inc., Magazine Publishers Association, Inc., Meredith Corporation, The National Industrial Traffic League, National Newspaper Association, Samuel C. Pennington, Purolator Services, Inc., The Reader's Digest Association, Inc., Time Incorporated, Fairchild Publications, International Labor Press Association AFL-CIO/CLC, James T. Lowder, Publisher, Ohio Antique Review, Inc., National Association of Greeting Card Publishers, The New Republic, Inc., New York Magazine Company, Inc., The New Yorker Magazine, Inc., Newsweek, Inc., U.S. News & World Report, Inc., United Parcel Service, Council of Public Utility Mailers, Washington Monthly Corporation, National Rural Cooperative Association, and the Officer of the Commission.

Summary of Benefits

Sectors Affected: United States Postal Service; and publishers and recipients of second-class mail.

The purpose of this case is to explore possible ways of refining the allocation of costs among second-class mailers. More precise allocation of costs means that it might be possible to make the rate and classification schedule more fair and equitable. Additionally, the Commission is considering the arguments advanced by some of the parties that offering red-tag service to any second-class mailer willing to pay a surcharge would lead to better allocation of resources than the criteria the Postal Service is using currently.

It would be inappropriate for the Commission to comment further on the issues in this case before issuing a final decision.

Summary of Costs

Sectors Affected: United States Postal Service; and publishers and recipients of second-class mail.

The purpose of the proponents of a surcharge is not to change the Postal

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Service's revenues from second-class but to reallocate some of the costs underlying the rates. The proponents of the surcharge want the rate schedule changed so that mailers choosing priority service would get a rate increase while mailers declining priority service would get a rate decrease.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

Commission Decision—second quarter, 1980

Available Documents

All of the following documents are available by contacting the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, D.C. 20268. (202) 254–3800:

Commission Order No. 228, instituting the proceeding in MC 79–3 and the Notice sent to the **Federal Register** on January 10, 1979, 44 FR 2211–14

Transcripts of Hearings, as well as Testimony, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, Requests for Oral Cross-Examination and Written Cross-Examination for Docket MC 79–3

Commission Orders and Notices; Presiding Officer's Orders, Rulings, Motions and Notices, Petitions for Leave to Intervene and Request for Limited Participation; Commission's Recommended Decision (when issued) for Docket MC 79–3

Agency Contact

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PRC

Postal Rate Commission Docket R80–1 (Postal Rate and Fee Changes, 1980)

Legal Authority

Postal Reorganization Act, 39 U.S.C. §§ 3621–23.

Reason for Including This Entry

This case is important because it may result in changes in every postal rate and fee charged the mailing public. The Postal Service estimates that its proposed changes would increase its revenues by $3.75 billion in the 12-month period from March 21, 1981 to March 20, 1982.

Statement of Problem

On April 21, 1980, the United States Postal Service (USPS) filed with the Postal Rate Commission (PRC), Docket No. R80–1, a request for a recommended decision on its proposed changes in postal rates and fees, together with proposals for certain changes in mail classification. The Postal Service says that unless the PRC recommends the proposed changes in postal rates and fees, the Service will suffer a deficit of $4.9 billion in the 12-month period from March 21, 1981 to March 20, 1982.

In addition to rate and fee increases—and certain decreases for some mail given special preference by Congress—the Postal Service proposes a number of changes in the way rates are structured and mail is classified.

Alternatives Under Consideration

At this point in the proceeding, the Postal Service is the only party to have presented its proposal although four parties have filed petitions to intervene. The procedural schedule will give all interested parties—the Commission anticipates 50 to 60 intervenors—an opportunity to present their proposals for consideration by the Commission. A summary of the Postal Service's proposal and statements of positions from four parties' petitions to intervene are as follows:

(A) The percentage rate increases the Postal Service proposes for the various major categories of mail service are approximately as follows:

First-class (includes letter mail)—33.1% (increase from 15¢ to 20¢ for the first ounce).

Second-class (regular) (magazines and newspapers)—1.9% (increase in average rate paid per piece from 10.2¢ to 10.4¢).

Third-class bulk rate (regular)—17.7% (increase in average rate paid per piece from 8.5¢ to 9.5¢).

Fourth-class Parcel Post—8.4% (increase in average rate paid per piece from $2.12 to $2.34)

Special-rate (for books, records and tapes)—0.6% (increase in average rate paid per piece from 112.8¢ to 113.4¢).

Included with the Postal Service's request are various proposals affecting mailing practices. The proposed rate structure includes a three-cent discount for mailers who presort first-class mail by ZIP codes, and a four-cent discount for mailers who presort to the carrier route on which the mail will be delivered. Mailers who presort post cards to ZIP codes or carrier routes will receive discounts of one and two cents, respectively.

Other highlights of the proposed rate structure include a merger for rate purposes of the controlled circulation category of publications with regular second-class mail so that mailers of both categories of publications would pay the same rates. Second-class is for periodicals that have paying subscribers. Controlled circulation can be used with periodicals that do not have paying subscribers, such as trade journals sent without charge to the recipient. The Postal Service proposes an additional parcel post zone for items mailed within the delivery area of the bulk mail center, which is the central point in the area to which parcels are sent for processing; and a reduction of rates for lockbox rentals in small post offices where neither rural nor city delivery service is provided.

Additionally, the proposed rate structure and associated classification changes would eliminate some fees now required of mailers of presorted bulk first-class; create an additional zone for express mail and make return receipts available with it; charge an additional fee, of 20¢ or 60¢ depending on destination, for parcel post not compatible with Postal Service processing machines, and make insurance optional with registered mail.

(B) In its petition to intervene, the Council to Save the Post Card states that it intends to oppose the Postal Service's proposed 3¢ increase for post cards.

(C) In its petition to intervene, the Bank Stationers Association (BSA) states that it intends to oppose some of the Postal Service's proposed increases. From the petition, it appears that BSA may challenge the proposed increases in first-class, third-class, and fourth-class in the local and first zones.

(D) In its petition to intervene, the American Retail Federation states that upon preliminary inspection of the Postal Service's proposal, it is concerned that the proposed discounts for presort may not reflect the cost savings appropriately.

(E) In its petition to intervene, the National Newspaper Association supports the Postal Service's proposals for within-county rates and second-class regular rates, but it is concerned that the Postal Service's proposal to merge controlled circulation with second-class may have an adverse impact on second-class.

Currently, the parties to the proceeding are: USPS; Council to Save the Post Card; Bank Stationers Association; American Retail Federation; National Newspaper Association and the Officer of the Commission. The deadline for petitions to intervene was May 12, 1980. Based on past experience, there will probably be approximately 50 to 60 parties in total, although as of this writing we do not know the number.

Summary of Benefits

Sectors Affected: United States Postal Service; the mailing public; and recipients of mail.

The purpose of this case is to adjust rates so that the Postal Service's revenues, together with appropriations, as nearly as practicable equal its expenses in accordance with 39 U.S.C. § 3621. The Postal Service says that the proposed increases, totaling $3.75 billion, are necessary to comply with the provisions of 39 U.S.C. § 3621. Any change in rates and fees that the Commission recommends must be in accordance with the factors listed in 39 U.S.C. § 3622(b). Any change in mail classification that the Commission recommends must be in accordance with the factors listed in 39 U.S.C. § 3623(c).

The Postal Service believes that an additional zone in the rate schedule for Express Mail and a new zone for parcel post to be delivered within the delivery area of the bulk mail center will allocate costs more accurately; that is, mail causing lower costs to the Postal Service will pay lower rates. Additionally, the Postal Service believes that the elimination of certain fees currently required with presorted bulk first-class mail will encourage more mailers to presort, to the benefit of both the mailers, through lower rates, and the Postal Service, through reduced processing of the mail before delivery. The Commission will consider the merits of these proposals, and those which other parties advance, during the course of the proceedings.

Summary of Costs

Sectors Affected: The mailing public; and recipients of mail.

The Postal Service estimates that its proposal would increase postal revenues by $3.75 billion. Increases in rates must be paid by users of the mails; businesses may pass along higher postal costs to their customers in higher prices for the goods and services they provide. The Commission cannot estimate the economic effect of this case until all the evidence is on the record, and it has made its analysis.

Related Regulations and Actions

None

Active Government Collaboration

None

Timetable

The following is a tentative hearing schedule:

Procedural Stage Month/Date/Year
Completion of all discovery directed to the Postal Service. (Answers due July 10, 1980 or 20 days after filing of the interrogatory, whichever is earlier.)—June 23, 1980
Filing of the case-in-chief of each participant (including that of OOC).—July 21, 1980
Conferences for the purpose of clarification of each participant's case.—August 1, 1980
Beginning of hearings, i.e., cross-examination on the Postal Service's case-in-chief.—to be issued
Completion of all discovery directed to the intervenors. (Answers will be due no later than 20 days after filing of the interrogatory.)—to be issued
Completion of evidentiary hearings as to the Service's case-in-chief.—to be issued
Beginning of evidentiary hearings as to the case-in-chief of each participant.—to be issued
Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)—to be issued
Completion of the evidentiary hearings as to the case-in-chief of each participant.—to be issued
Beginning of evidentiary hearing on rebuttal evidence.—to be issued
Close of the evidentiary record. November 14, 1980
Initial briefs filed.—to be issued
Reply briefs filed.—to be issued
Oral argument.—to be issued

Available Documents

As the following documents are filed with the Commission or issued by it during the course of the proceedings, they will be available by contacting the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, D.C. 20268. (202) 254–3800:

Commission Order No. 332 instituting the proceeding in R80–1 and the Notice sent to the **Federal Register**, published at 45 FR 28552, April 29, 1980

Transcripts of Hearings, as well as Testimony, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, and Requests for Oral Cross-Examination and Written Cross-Examination for Docket R80–1

Commission Orders and Notices; Presiding Officer's Orders, Rulings, Motions and Notices, Petitions for Leave to Intervene and Requests for Limited Participation; and Commission's Recommended Decision for Docket R80–1

Agency Contact

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INDEX I.—SECTORS AFFECTED BY REGULATORY ACTIONS

This index graphically highlights those sectors of our society—economic, environmental, and social—which the regulatory agencies have identified as being affected by the regulations that they are developing. This index is not intended to be a comprehensive listing of every sector affected either directly or indirectly by the regulations. We designed it to display only those sectors most directly affected. For full information on the effects of the regulation, the reader must refer to the more complete description in each Calendar entry.

This index presents the regulations in the order they appear in the Calendar—by chapter, and alphabetically by agency within each chapter. The seven chapters represent the broad policy objectives of agency regulatory activity.

For each regulation, the index identifies the major industrial and other sectors affected, and also highlights impacts on State and local governments, geographic areas, and "special" populations. (Special populations are those with particular characteristics such as age, income, health status, or ethnicity.)

A reader who is interested in a particular industry or group can easily identify those regulations that have a major impact on that industry or group. The reader should locate the relevant "Affected Activities" or "Special Impacts" heading and scan the columns within them to locate the specific industry or other sector in which he or she is interested. For each entry, the reader can then see the agency issuing the regulation, the title of the regulation affecting the sector of interest, and the page number on which the regulation appears in the Calendar.

Similarly, a reader who is interested in a particular regulation can identify the activities and groups that the particular regulation will affect significantly. Some regulations have an across-the-board impact on all sectors, which we indicate by drawing an arrow across all the appropriate columns.

Where possible in the "Affected Activities" columns, we have used nomenclature from the Standard Industrial Classification Manual published by the Office of Management and Budget in 1972. The S.I.C. terms define industries in accordance with the composition and structure of the economy and cover the entire field of economic activities. For industries, the index shows the following two categories: (1) regulated industries, that is, those industries that the regulation requires to take a specified action, and (2) industries that are important customers of the regulated industries, important suppliers, and providers of substitute products. We therefore identify the affected sector (1) and the sectors that will experience the most important indirect effects (2). By limiting category (2), we highlight the industries that will experience the largest impacts. It also avoids our burdening this index with a large number of entries that represent small impacts which are only remotely connected to the regulation.

The Sectors Affected Categories are listed below:

Affected Activities Include:

Agriculture, Forestry, Fishing, Mining

This division includes establishments primarily engaged in agricultural production of crops, seeds, and livestock, forestry, commercial fishing, mining, coal processing, oil and gas extraction, and related services. Manufacturing and processing of agricultural products away from the farm, packaging of fish, petroleum refining, and smelting and refining of metal are classified under "Manufacturing."

Construction

This division includes establishments primarily engaged in construction. The term "construction" includes new work, additions, alterations, and repairs. Three broad types of construction activity are covered: (1) building construction; (2) heavy construction, such as highways, tunnels, cemeteries and mines; and (3) construction by special trade contractors, such as painting and carpentry.

Manufacturing

This division includes establishments engaged in the mechanical or chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills. The materials processed by manufacturing establishments include products of agriculture, forestry, fishing, mining, and quarrying as well as products of other manufacturing establishments.

Transportation, Communications, Electric, Gas, and Sanitary Services

This division includes establishments providing to the general public or to other business enterprises passenger and freight transportation, communication services, electricity, gas, steam, water or sanitary services, and the U.S. Postal Service.

Trade

This division covers both wholesale and retail trade. Wholesale trade includes establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Retail trade includes establishments engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of the goods.

Finance, Insurance, Real Estate

This division includes establishments operating primarily in the fields of finance, insurance, and real estate. Finance includes banks, trust companies, credit agencies other than banks, investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and all insurance agents and brokers. Real estate includes owners, lessers, lessees, buyers, sellers, agents and developers of real estate.

UMI 8008 03 YM 5454

Services

This division includes establishments primarily engaged in providing a wide variety of services for individuals, business and government establishments, and other organizations. Included are health, engineering, and other professional services; educational institutions; business and repair services; and membership organizations.

Other

This category includes those affected sectors which do not readily fall into any of the previous six divisions.

Special Impacts Include:

State, Local Government

Entries appear in this category if State or local governments are regulated directly by the proposed regulatory action, are involved in implementing it, or are affected by it in some other way.

Special Populations

This includes population groups which agencies have identified as being potentially affected by the regulation. They include segments of the population defined by age, income, health status, ethnicity, or nationality.

Geographic Areas

In this category, agencies have indicated certain areas of the country that may be affected by the regulation, such as specific States or regions.

Other

This category includes any special remarks the agencies may wish to make. Agencies also use the column to record the words "small business", if the regulation affects or is specially designed to account for effects on small business.

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INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
DOE-CS Emergency Building Temperature Restrictions	36851						Owners & Operators of Non-residential Buildings			State Energy Offices		
DOE-CS Energy Conservation Program for Consumer Products other than Automobiles	36852			Major Household Appliances								Small Business
DOE-CS HUD-NVACP Energy Performance Standards for New Buildings	36856		Building Industry							State, Local		
DOE-CS Standby Federal Emergency Conservation Plan	36854	← All Sectors of the Economy →		Transportation						State Energy Conservation Plans		
DOE-ERA Amendments to Puerto Rican Naptha Entitlements Regulations	36857			Puerto Rican Petrochemical Production							Puerto Rico	
DOE-ERA Amendments to the Crude Oil Supplier Purchases Rules	36859	Crude Oil Extraction		Petroleum Refining		Gasoline Wholesale						Small Business
DOE-ERA Amendments to the Emergency Allocation of the Crude Oil Supplier Regulations	36860			Petroleum Refining								Small Business
DOE-ERA Secretarial Proposed Propane Price Rules	36862	Propane Production		Users of Propane		Commercial Uses						
DOE-ERA Secretarial Synthetic Natural Gas Feedstocks	36864			Synthetic Natural Gas Plants Propane Production								
DOE-ERA Entitlement Adjustments for Alaskan North Slope (ANS) Lower Tier Crude Oil	36864			Petroleum Refining		Gasoline Retail						
DOE-ERA Gasohol Marketing Regulations	36866			Gasohol Refining Ethanol Production							Midwest	

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INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
DOE-ERA 36867 Incentives to Refine Lower Quality Crude Oil	Extraction of Lower Quality Crude Oil		Petroleum Refining, Refining Equipment								
DOE-ERA 36868 Motor Gasoline Allocation Regulations; Revisions					Retail Gasoline Sales Outlets					Urban	Small Business
DOE-ERA 36870 Natural Gas Curtailment Priorities for Interstate Pipelines	Agricultural Users		Industrial Users	Interstate Pipelines; Natural Gas Distribution	Commercial Users						
DOE-ERA 36871 Powerplant and Industrial Fuel Use Act of 1978; Implementing Regulations	Coal Mining		Major Fuel-burning Installations	Electric Services							
DOE-ERA 36872 Proposed Amendment to the Equal Application Rule			Petroleum Refining		Independent Gasoline Retail Chain Retail and Wholesale						Small Business
DOE-RA 36874 Outer Continental Shelf (OCS) Sequential Bidding Regulations	Off-Shore Oil and Gas Extraction									Outer Continental Shelf	Small Business
DOE-RA 36875 Profit Share Bidding System Regulations for Federal Outer Continental Shelf (OCS) Oil and Gas Leases	Off-Shore Oil and Gas Extraction									Outer Continental Shelf	Small Business
DOE-RA 36876 Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales	Coal Mining										Small Business
DOT-NHTSA 36878 Fuel Economy Standards for Model Year 1983-85 Light Trucks			Light Trucks						State; Local		
FERC 36879 High-Cost Natural Gas Produced from Tight Formations	Natural Gas Production			Natural Gas Transmission							

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
FERC 36880 Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978	Natural Gas Production			Natural Gas Transmission, Natural Gas Pipeline							
FERC 36882 Regulations Governing Applications for Major Unconstructed Projects				Hydroelectric Power Projects					State; Local		
FERC 36883 Regulations Governing the Safety of all Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act				Hydroelectric Power Projects					State; Local		
USDA-SCS 36884 Watershed Protection and Flood Prevention Program	Agriculture; Forestry								State; Local	Rural	
DOC-NOAA 36885 Regulations Implementing a Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean	Commercial Fishing		Fish Processing		Exporting of Fish Products					Mid-Atlantic Coast	
DOC-NOAA 36887 Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area	Commercial Fishing		Fish Processing		Exporting of Fish Products					Alaska	
DOC-NOAA 36890 Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters	Commercial Fishing		Fish Processing							Gulf States	
DOC-NOAA-OCZM 36892 Channel Islands Marine Sanctuary Regulations	Oil and Gas Extraction							Marine Life		California	Channel Islands; Santa Barbara Island
DOI-BLM 36894 Uniform Management of Mining Claims Located on the Outer Lands	Hardrock Mineral Mining									Particularly Western States	Small Business

UMI 8008 03 YM 54 V

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
DOI-HCRS 36895 Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands							Archeological Activities			Native Americans, Particularly in Western States	Small Business
DOI-HCRS 36897 Rules and Regulations Pertaining to the Urban Park and Recreation Recovery Program									State, Local	Low and Moderate Income Groups; Urban	
DOI-OSM 36900 Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"	Coal Processing Plants								State		
DOI-OSM 36901 Discharge from Mine Areas; Revision of Standards for Effluent Limits and Sedimentation Ponds	Coal Mining										
DOI-OSM 36903 Surface Coal Mining and Reclamation operations Permanent Regulatory Program; Performance Bonding	Coal Mining					Surety Industry					
DOI-WPRS 36904 Rules and Regulations for Acreage Limitation Under Federal Reclamation Law	Agriculture									17 Western States	
DOJ-OJARS/LEAA 36905 Procedures Relating to the Implementation of the National Environmental Policy Act									State, Local		
DOT-USCG 36906 Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage			Tank Barges	Oil Tank Barges			Towing Services	Marine Environment			

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
EPA-OANR 36907 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone and Lead)			Industries Emitting Set II Pollutants	Transportation; Electric Services					State		Small Business
EPA-OANR 36909 Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide			Motor Vehicles and Motor Vehicle Equipment	Transportation Programs					State Air Pollution Control Agencies		
EPA-OANR 36910 Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide			Industries Emitting Nitrogen Oxides	Electric Services, Natural Gas Pipelines					State Air Pollution Control Agencies	People with Respiratory Problems	
EPA-OANR 36911 Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter			Non-ferrous Metals	Electric, Gas, and Sanitary Services				Industries that Supply or Use Large Amounts of Fossil Fuel	State Air Pollution Control Agencies	Children; People with Respiratory and Cardiovascular Diseases	
EPA-OANR 36912 Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Dioxide			Petroleum Refining, Non-ferrous Metals, Chemicals	Electric, Gas and Sanitary Services				Industries that Supply or Use Large Amounts of Fossil Fuel	State Air Pollution Control Agencies	People with Respiratory Diseases; Children	
EPA-OANR 36913 Standards of Performance to Control Atmospheric Emissions from Industrial Boilers			All Manufacturing Industries								
EPA-OANR 36914 Visibility Protection Requirements			All Manufacturing Industries	Electric Services					State	Parks and Wilderness Areas, Mostly in Western U.S.	

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
EPA-OANR-OMSAPC Fuels and Fuel Additives	36915			Petroleum Refining, Motor Vehicles and Equipment							Urban	Small Business
EPA-OANR-OMSAPC Gaseous Emission Regulations for 1983 and Later Model Year Light-Duty Trucks	36916			Light Duty Trucks							People Susceptible to Respiratory Disease, Urban	
EPA-OANR-OMSAPC Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy Duty Engines	36917			Heavy Duty Engines, Light Duty Trucks								
EPA-OANR-OMSAPC Heavy-Duty Diesel Particulate Regulations	36919			Heavy Duty Diesel Engines and Vehicles								
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron & Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters into Publicly Owned Treatment Works	36920			Iron and Steel						State		
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	36922			Pulp, Paper, and Paperboard Mills						State		
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants	36923				Electric Services				Aquatic Environment	State		Small Business
HUD-FHA Coinsurance for Private Mortgage Lenders (New Construction)	36925		Residential Building Contractors				Savings and Loans and Banks, Rental Housing Developers				Occupants of Low- and Moderate Income Housing Projects	

Chapter 3: Finance and Banking

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
TREAS-OCC [illegible]	36926						National Banking Industry					
TREAS-OCC Lending Limits; Unimpaired Surplus Fund	36926						National Banking Industry			State, Local	Rural Areas	
NCUA Deregulation of Loan Interest Rate Classification	36928						Federal Credit Unions					
CFTC [illegible]	36930						Registered Domestic Futures Commission Merchants, Foreign Commodities Brokers and Traders					
CFTC [illegible]	36930						Commodities Markets, Regarding Trade					
FHLBB [illegible]	36932	Savings and Loan Associations, Federal Home Loan Banks										
SEC [illegible]	36933	← Publicly Traded Companies Required to Register with SEC →										

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
SEC 36935 Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies						Registered Open-ended Management Investment Companies, Unit Investment Trusts					
USDA-FSQS 36938 Proposed Polychlorinated Biphenyls (PCBs) Regulation			Meat, Poultry and Egg Products								
USDA-FSQS 36940 Voluntary Meat and Poultry Quality Control Systems			Meat and Poultry Processed Products								Small Business
HEW-FDA 36942 Chemical Compounds Used in Food Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues	Livestock		Veterinary Pharmaceuticals								
HEW-FDA 36943 Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs)			Transformers and Capacitors; Food; Food Packaging Materials		Food and Feed Warehousing						
HEW-FDA 36946 Food Labeling Initiatives			Food								Small Business
HEW-FDA 36947 Prescription Drug Products; Patient Labeling Requirements			Pharmaceuticals				Health				
HEW-HCFA 36949 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities							Skilled Nursing and Intermediate Care Facilities		State Health Agencies		

Chapter 4: Health and Safety

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
HEW-HCFA 36950 Life Safety Code Requirements, Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)—General Notice							Health				
HEW-HCFA 36951 Uniform Reporting Systems for Health Service Facilities and Organizations							Health				
HUD-NVACP 36952 Lead-Based Paint Poisoning Prevention Act Regulations						Hud-assisted Housing				Children	
DOL-MSHA 36953 Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines	Coal Mining										
DOL-MSHA 36954 Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers		Mine Construction									
DOL-MSHA 36955 Requirements for Construction and Maintenance of Impounding Structures and Tailings Dikes at Metal and Nonmetal Mines	Metal and Nonmetal Mining										
DOL-MSHA 36956 Review of Safety and Health Standards Applicable to Metal and Nonmetal Mines and Milling Operations	Metal and Nonmetal Mining										
DOL-MSHA 36957 Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines	Mining	Mine Sites									
DOL-OSHA 36958 Chemical Substance Identification (Labeling)								All Industries Involved with Hazardous Chemicals			Small Business
DOL-OSHA 36960 Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation			Pesticides								

UMI 8 0 8 0 3 M Y 4 5 V

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
DOL-OSHA Occupational Noise Exposure Hearing-Conservation Amendment	36962			All Manufacturing Industries	Electric Gas and Sanitary Services					State Agencies with Industrial Programs		
DOL-OSHA OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standard for Ladders and Scaffolding, and Floor and Wall Openings, and Stairways	36964	← All General Industries →										
DOL-OSHA Regulation for Reducing Safety and Health Hazards in Abrasive Blasting Operations	36965		Construction, Particularly Heavy Construction	Manufacturing Using Abrasive Blasting	Railroads							
DOL-OSHA Safety and Health Regulations for Construction, Underground Operations-Tunnels, Shafts, and Related Work Areas	36967		Construction						All Other Industries Involved in the Building and Maintenance of Underground Facilities			
DOL-OSHA Safety and Health Regulations for Entry and Work in Confined Spaces in Construction	36968								All Industries with Employees Working in Confined Spaces			Small Business
DOL-OSHA Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry	36970		All Construction Industries	All Manufacturing Industries	Machinery and Process Users	Machinery and Process Users		Machinery and Process Users				
DOL-OSHA Standard for Occupational Exposure to Asbestos	36971		Uses of Asbestos Products	Asbestos; Asbestos Substitutes				Establishments which Use Asbestos-Containing Products				
DOL-OSHA Standard for Occupational Exposure to Cadmium	36974			Industries Using or Producing Cadmium								

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
DOL-OSHA Standard for Occupational Exposure to Chromium	36975			Industries Producing or Using Chromium or Substitutes								
DOL-OSHA Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities	36977	Grainhandling Facilities Grain Producers		Grain Products		Grain Shipping						
DOT-FAA Flammability Standards for Crewmember Uniforms	36979			Textile Mill Products and Apparel; Other Textile Products	Air Transportation							
DOT-FHWA Hours of Service of Drivers	36980				Interstate Trucking and Interstate Busing			Charter Bus Services		State		
DOT-FHWA Minimum Cab Space Dimensions	36981			Trucks, Truck Cabs	Interstate Trucking							
DOT-FRA Alerting Lights Display--Locomotives	36982				Rail Transportation							
DOT-NHTSA Heavy Duty Vehicle Brake Systems	36983			Trucks, Buses, Tractor-Trailers and Braking Systems	Trucking, Busing Bus Charter Services							
DOT-NHTSA Pedestrian Protection	36984			Autos and Auto Parts	Automobile			Body Repair Shops				
DOT-USCG Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases	36985			Liquified Cargo Vessels	Water Transportation of Bulk Liquified Gas				Marine Environment			
EPA-OANR Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	36986				Commercial Nuclear Power Plants							

UMI 0 8 0 3 Y M 5 4 V

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, ELECTRIC, COMMUNICATIONS, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
EPA-OANR 36987 Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer	Mineral Mining		Industries Emitting Carcinogenic Substances							Gulf Coast, West Va., Northern New Jersey	
EPA-OANR 36989 Remedial Action Standards for Inactive Uranium Processing Sites									State	Southwest U.S. Oregon North Dakota Pennsylvania	
EPA-OPTS 36992 Chemical Hazard Warning Labels			Chemical; Other								Small Business
EPA-OPTS 36994 Pesticide Registration Guidelines	Agriculture		Pesticides; Agricultural Chemicals					Chemical Biological Testing Laboratories			
EPA-OPTS 36995 Premanufacture Notification Requirements and Review Procedures			Chemical		Chemical Importing						
EPA-OPTS 36996 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers	Asbestos Mining		Asbestos and Substitute Products		Wholesale Trade and Importing of Asbestos and Substitute Products			Industrial Users of Asbestos and Substitute Products	State, Local		
EPA-OPTS 36998 Test Rule for Chemical Substances and Mixtures -- Chloromethane and Chlorinated Benzenes			Chloromethane Chlorobenzenes								
EPA-OWWM 37000 Control of Organic Chemicals in Drinking Water				Municipally and Privately Owned Water Supply Systems					State, Local	Urban	
EPA-OWWM 37001 Hazardous Waste Regulations: Core Regulations to Control Hazardous Solid Waste from General to Final Disposal			Industries Generating Hazardous Waste	Public and Private Waste Management					State		

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, ELECTRIC, COMMUNICATIONS, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
CPSC 37004 Consumer Products Containing Asbestos	Asbestos Mining		Products Containing Asbestos								
CPSC 37006 Omnidirectional Citizens Band Base Station Antenna Standard			CB Antennas								Small Antenna Manufacturers
CPSC 37007 Upholstered Furniture Cigarette Flammability Standard			Upholstered Furniture; Textile Mill Products								Small Business
CPSC 37009 Urea Formaldehyde Foam (UFF) Insulation			UFF Insulation				Installers of UFF Insulation			People with Respiratory Problems and Allergies	
NRC 37011 Decommissioning of Nuclear Facilities Regulation			Nuclear Materials	Nuclear Power Plants					State		Small Business
NRC 37012 Disposal of High Level Radioactive Waste in Geologic Repositories Regulation								Establishments Producing High Level Radioactive Waste	State, Local		
HUD-HOUS 37014 Minimum Property Standards for One- and Two-Family Dwellings		Residential Buildings				Mortgage Banking					
DOJ-CRD 37014 Regulations Prohibiting Discrimination Solely on the Basis of Handicap in Federally Assisted Programs								DOJ Funded Private Entities	State, Local Law Enforcement	Handicapped	
DOJ-CRD 37015 Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance								DOJ Funded Private Entities	State, Local Law Enforcement		

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
DOJ-INS 37016 Admission of Refugees and Asylum Procedures								International Relief Organizations	State	Refugees	
DOJ-INS 37017 Employment Authorization	← Industries Employing Aliens →									Aliens	
DOJ-OJARS/LEAA 37018 Equal Service Evaluation Guidelines									State Local Law Enforcement	Minorities	
DOL-ESA 37019 Sex Discrimination Guidelines--Employee Benefits	← Industries with Employee Benefit Plans →							DOL Funded Activities		Women	
DOL-ETA 37021 Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance								DOL Funded Activities		Handicapped	Small Business
DOL-LMSA 37023 Definition of Plan Assets and Establishment of Trust	← Industries with Employee Benefit Plans →										Small Business
DOL-LMSA 37024 Individual Benefit Reporting and Recordkeeping	← Industries with Employee Benefit Plans →										
EEOC-OPI 37025 Guidelines on Discrimination Because of Religion			Industries Subject to Title VII of the Civil Rights Act of 1964								
EEOC-OPI 37026 Interim Amendment to Guidelines on Discrimination Because of Sex			Industries Subject to Title VII of the Civil Rights Act of 1964								
EEOC-OPI 37027 Interpretive Guidelines on Employment Discrimination and Reproductive Hazards								Industries in Which Workers are Exposed to Hazardous Substances			

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
GSA-HRO 37028 Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Financial Assistance								GSA Funded Programs and Activities	State; Local	Handicapped	Small Business
GSA-NARS 37029 Freedom of Information Act Requests for National Security Classified Information in the National Archives											
VA-DMA 37030 State Cemetery Grants		Cemetary Construction							State	Veterans and Their Families	
VA-OHG 37030 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Veterans Administration (VA)								VA Assisted Activities	State; Local		
VA-OHG 37031 Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance								VA Assisted Activities	State; Local	Handicapped	
FDIC 37031 Disclosure of Information						Insured State Nonmember Banks					
USDA-AMS 37032 Amendments to Federal Seed Act Regulations	Seed Industry				Seed Importing				State		
USDA-AMS 37034 Proposed Federal Milk Order for the Southwestern Idaho-Eastern Oregon Marketing Area (Boise, Idaho)	Dairy Farming		Milk Plants							Southwest Idaho; Eastern Oregon	
USDA-FSQS 37035 Proposed Net Weight Regulations			Meat and Poultry						State; Local		Small Business
DOT-FHWA 37037 Buy America Requirements		Highway	Steel Industry		Steel Importing				State		

Chapter 6: Trade Practices

UMI 8 0 8 0 3 M Y 5 4 V

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
TREAS-ATF 37038 Advertising Regulations under the Federal Alcohol Administration Act			Alcoholic Beverages		Wholesale and Retail of Alcoholic Beverages		Advertising		State		
TREAS-ATF 37040 Implementation of the Distilled Spirits Tax Revision Act of 1979			Distilled Spirits, Wine, Alcoholic Flavoring		Importing				State		
TREAS-ATF 37041 Unlawful Trade Practices under the Federal Alcohol Administration Act			Alcoholic Beverages		Wholesale and Retail of Alcoholic Beverages				State		
TREAS-CUSTOMS 37042 Accelerated Duty Payment					Custom-house Brokerage Services, Importing						Small Business
TREAS-CUSTOMS 37044 Civil Aircraft Regulations			Aircraft and Parts	Airline Industry			Aircraft Repair				
TREAS-CUSTOMS 37045 Imports of Petroleum and Petroleum Products					Petroleum Importing						
TREAS-CUSTOMS 37046 Valuation of Imported Merchandise for Customs Purposes					Importing; Custom-house Brokerage Services						
GSA-FPRS 37048 National Defense Stockpile Aquisition Regulations								Industries Supplying, Trading or Using Basic Industrial Raw Materials			
GSA-FPRS 37048 National Defense Stockpile Disposal Regulations								Industries Supplying, Trading, or Using Basic Industrial Raw Materials			

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
SBA 37049 Revision to Method of Establishing Size Standards and Definitions of Small Business	← Small Businesses in All Industries →										
FTC 37051 Amendment to Eyeglasses Rule and Eyeglasses II					Ophthalmologists, Optometrists, and Opticians				State		
FTC 37053 Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans						Hospital and Medical Service Plans					
FTC 37055 Proposed Trade Regulation Rule on Mobile Home Sales and Service			Mobile Homes						Some States	Mobile Home Dwellers	
FTC 37057 Residential Real Estate Brokerage Industry Practices						Real Estate Brokers and Agents			Some States		
FTC 37059 Trade Regulation Rule Concerning Credit Practices					Retail Sales of Consumer Products	Banking and Credit Agencies					
DOT-FHWA 37061 Certification of Vehicle Size and Weight Enforcement				Trucking					State		
DOT-FHWA 37062 Design Standards for Highways - Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways		Highway Construction	Highway Construction Supplies				Engineering		State Local		
DOT-FHWA 37063 Withdrawal of Interstate Segments and Substitution of Alternative Transportation Projects		Highway		Mass Transit			Transportation Planning		State Highway Agencies		

Chapter 7: Transportation and Communication

UMI 8 0 8 0 3 Y M 5 4 V

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
CAB 37064 Air Carrier Fitness				Air Transportation							
CAB 37065 Air Carrier Insurance and Liability				Air Transportation		Insurance					Small Business
CAB 37066 Essential Air Service Subsidy Guidelines				Air Transportation							Small Commuter Airlines
CAB 37068 Plain English for Airline/Passenger Contracts				Air Transportation							
FCC 37069 Children's Television Programming and Advertising Practices				Television Broadcasting						Children	
FCC 37069 Creation of "New" Personal Radio Service			Two-Way Radio	Radio Broadcasting						Personal Radio Service Users	
FCC 37070 Deregulation of Competitive Domestic Telecommunications Market				Telecommunications							Small Business
FCC 37071 Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation				Radio Broadcasting						Radio Listeners	
FMC 37073 Amendments to Tariff Filing Requirements for Controlled Carriers				All Common Carriers in the Foreign Commerce of the United States							
FMC 37074 Filing of Currency Adjustment Factors				Steamship Carriers Operating in U.S. Foreign Commerce			Ocean Carrier Conferences				

INDEX I: SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED ACTIVITIES: AGRICULTURE, FORESTRY, FISHING, MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	TRADE	FINANCE, INSURANCE, REAL ESTATE	SERVICES	OTHER	SPECIAL IMPACTS: STATE, LOCAL GOVERNMENT	SPECIAL POPULATIONS, GEOGRAPHIC AREAS	OTHER
FMC 37075 Revision of Commission General Order 4, "Licensing of Independent Ocean Freight Forwarders"				Independent Ocean Freight Forwarding, Oceangoing Common Carriers							
ICC 37077 Improvement of TOFC/COFC Regulation				Railroad and Trucking						Western States	Small Business
	← Shippers of Goods by Rail and Truck →										
ICC 37078 Intercorporate Hauling	← Corporations with Private Truck Fleets →										
ICC 37080 No Suspend Zone--Motor Common Carriers of Property				Trucking							Small Business
PRC 37081 Experimental Classification Rulemaking				U.S. Postal Service							
PRC 3701[illegible] Postal Rate Commission Docket MC79-3 (Red Tag)				U.S. Postal Service; Second Class Mail							
PRC 3701[illegible]4 Postal Rate Commission Docket RR0-1 (Postal Rate and Fee Changes, 1980)				U.S. Postal Service							

UMI 8 0 8 0 3 0 M Y 4 5 V

UMI 8003 MAY 45 V4

INDEX II: DATE OF NEXT REGULATORY ACTION

This index graphically displays the anticipated date of the next regulatory action that the agency plans to take for each proposed regulation the agency has described in this edition of the Calendar. The index is organized alphabetically by agency, unit within the agency, and then by the title of the regulation.

The actions we note fall into four general categories: ANPRM (the date on which the agency plans to publish an Advance Notice of Proposed Rulemaking in the Federal Register), NPRM (the date on which the agency or department plans to publish a Notice of Proposed Rulemaking in the Federal Register), Final Rule (the date on which the agency plans to publish the final rule in the Federal Register), and Other (the category that indicates the date of any other important next action that does not fall into the above three categories). Independent agencies are most likely to have "Other" actions, such as Staff Recommendations or Commission Decisions.

To see the schedule which the agency anticipates for all future actions on a regulation, the reader should turn to the Calendar entry for that regulation and refer to the Timetable section of the entry.

NOTE: In most cases, the Agencies can only estimate these dates. For current information on any action, please call the agency contact listed in the specific entry.

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
USDA-AMS	Amendments to Federal Seed Act Regulations	37032												←	N	→	
USDA-AMS	Proposed Federal Milk Order for the Southwestern Idaho-Eastern Oregon Marketing Area (Boise, Idaho)	37034						O									
USDA-FSQS	Proposed Net Weight Regulations	37035	N	→													
USDA-FSQS	Proposed Polychlorinated Biphenyls (PCBs) Regulation	36938			F												
USDA-FSQS	Voluntary Meat and Poultry Quality Control Systems	36940	←	F	→												
USDA-SCS	Watershed Protection and Flood Prevention Program	36884				A											
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean	36885		F													

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area	36887	←	F	→												
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters	36890				F											
DOC-NOAA /OCZM	Channel Islands Marine Sanctuary Regulations	36892		F													
DOE-CS	Emergency Building Temperature Restrictions	36851	N	→													
DOE-CS	Energy Conservation Program for Consumer Products Other than Automobiles	36852								F			N				
DOE-CS HUD-NVACP	Energy Performance Standards for New Buildings	36856				N											
DOE-CS	Standby Federal Emergency Conservation Plan	36854		F													
DOE-ERA	Amendments to Puerto Rican Naptha Entitlements Regulations	36857	N	→													
DOE-ERA	Amendments to the Crude Oil Supplier/ Purchaser Rule	36859			←	F	→										
DOE-ERA	Amendments to the Emergency Provisions of the Crude Oil Buy/Sell Program	36850	Final rule date unknown														
DOE-ERA	Decontrol of Propane/Simplified Propane Price Rules	36862	Awaiting final decision about whether to proceed														
DOE-ERA	Decontrol of Synthetic Natural Gas Feedstocks	36864	←	N	→												

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
DOE-ERA	Entitlement Adjustments to Alaskan North Slope (ANS) Upper Tier Crude Oil	36864	←N→														
DOE-ERA	Gasohol Marketing Regulations	36866	←N→														
DOE-ERA	Incentives to Refine Lower Quality Crude Oil	36867		←O→													
DOE-ERA	Motor Gasoline Allocation Regulations Revisions	36868	←N→														
DOE-ERA	Natural Gas Curtailment Priorities for Interstate Pipelines	36870	←N→														
DOE-ERA	Powerplant and Industrial Fuel Use Act of 1978; Implementing Regulations	36871	←F→			←F→											
DOE-ERA	Proposed Amendments to the Equal Application Rule	36872	←F→			←N→											
DOE-RA	Outer Continental Shelf (OCS) Sequential Bidding Regulations	36874	←F→														
DOE-RA	Profit Share Bidding System Regulations for Federal Outer Continental Shelf (OCS) Oil and Gas Leases	36875	F														
DOE-RA	Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales	36876				F											
HEW-FDA	Chemical Compounds Used in Food Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues	36942			F												
HEW-FDA	Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs)	36943	Final Rule to be coordinated with EPA, USDA														

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
HEW-FDA	Food Labeling Initiatives	36946		←O→													
HEW-FDA	Prescription Drug Products; Patient Labeling Requirements	36947							←F→								
HEW-HCFA	Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities	36949	←N→														
HEW-HCFA	Life Safety Code in Hospitals, Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)--General Notice	36950	←O→														
HEW-HCFA	Uniform Reporting Systems for Health Service Facilities and Organizations	36951									←F→					F	
											←N→					N	
HUD-FHA	Coinsurance for Private Mortgage Lenders (New Construction)	36925				N											
HUD-HOUS	Minimum Property Standards for One- and Two-Family Dwellings	37014		N													
HUD-NVACP	Lead-Based Paint Poisoning Prevention Act Regulations	36952							N								
DOI-BLM	Surface Management of Mining Claims Located on the Public Lands	36894				N											
DOI-HCRS	Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands	36895		N													
DOI-HCRS	Rules and Regulations Pertaining to the Urban Park and Recreation Recovery Program	36897		F													
DOI-OSM	Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"	36900					A										

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

UMI 8 0 3 0 8 MAY 45 V4

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
DOI-OSM	Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds	36901					A										
DOI-OSM	Surface Coal Mining and Reclamation Operations Permanent Regulatory Program: Performance Bonding	36903		F													
DOI-WPRS	Rules and Regulations for Acreage Limitation Under Federal Reclamation Law	36904								N							
DOJ-CRD	Regulations Prohibiting Discrimination Solely on the Basis of Handicap in Federally Assisted Programs	37014	F														
DOJ-CRD	Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance	37015	N														
DOJ-INS	Admission of Refugees and Asylum Procedures	37016			O												
DOJ-INS	Employment Authorization	37107			F												
DOJ-OJARS /LEAA	Equal Service Evaluation Guidelines	37018		N													
DOJ-OJARS /LEAA	Procedures Relating to the Implementation of the National Environmental Policy Act	36905				F											
DOL-ESA	Sex Discrimination Guidelines--Employee Benefits	37019	Undecided at time of publication														
DOL-ETA	Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance	37021				F											
DOL-LMSA	Definition of Plan Assets and Establishment of Trust	37023	Date of publishing final rule undecided														

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
DOL-LMSA	Individual Benefit Reporting and Recordkeeping	37024		N													
DOL-MSHA	Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines	36953			N												
DOL-MSHA	Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers	36954								A							
DOL-MSHA	Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines	36955					A										
DOL-MSHA	Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations	36956					O										
DOL-MSHA	Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines	36957					N										
DOL-OSHA	Chemical Substance Identification (Labeling)	36958		N													
DOL-OSHA	Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation	36960					N										
DOL-OSHA	Occupational Noise Exposure Hearing-Conservation Amendment	36962					F										
DOL-OSHA	OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standard for Ladders and Scaffolding, and Floor and Wall Openings, and Stairways	36964					N										
DOL-OSHA	Regulation for Reducing Safety and Health Hazards in Abrasive Blasting Operations	36965								N							

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

UMI 800 303 MAY 45 V4

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
DOL-OSHA	Safety and Health Regulations for Construction Underground Operations-Tunnels, Shafts and Related Work Areas	36967				N											
DOL-OSHA	Safety and Health Regulations for Entry and Work in Confined Spaces in Construction	36968								N							
DOL-OSHA	Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry	36970	A	← N →													
DOL-OSHA	Standard for Occupational Exposure to Asbestos	36971					←	N	→								
DOL-OSHA	Standard for Occupational Exposure to Cadmium	36974								←	N	→					
DOL-OSHA	Standard for Occupational Exposure to Chromium	36975					←	N	→								
DOL-OSHA	Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities	36977					←	A	→								
DOT-FAA	Flammability Standards for Crewmember Uniforms	36979			N												
DOT-FHWA	Buy America Requirements	37037	←	N →													
DOT-FHWA	Certification of Vehicle Size and Weight Enforcement	37061			F												
DOT-FHWA	Design Standards for Highways-Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways	37062	←	N →													
DOT-FHWA	Hours of Service of Drivers	36980							N								
DOT-FHWA	Minimum Cab Space Dimensions	36981					←	2	→								

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
DOT-FHWA	Withdrawal of Interstate Segments and Substitution of Alternative Transportation Projects	37063		←	F	→											
DOT-FRA	Alerting Lights Display--Locomotives	36982			F												
DOT-NHTSA	Fuel Economy Standards for Model Year 1983-85 Light Trucks	36878								F							
DOT-NHTSA	Heavy Duty Vehicle Brake Systems	36983	Date unknown at time of publication														
DOT-NHTSA	Pedestrian Protection	36984						N									
DOT-USCG	Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases	36985								N							
DOT-USCG	Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage	36906	Date unknown at time of publication														
TREAS-ATF	Advertising Regulations under the Federal Alcohol Administration Act	37038				N											
TREAS-ATF	Implementation of the Distilled Spirits Tax Revision Act of 1979	37040											F				
TREAS-ATF	Unlawful Trade Practices under the Federal Alcohol Administration Act	37041		F													
TREAS-CUSTOMS	Accelerated Duty Payment	37042		←	N	→											
TREAS-CUSTOMS	Civil Aircraft Regulations	37044		←	F	→											
TREAS-CUSTOMS	Imports of Petroleum and Petroleum Products	37045		←	F	→											
TREAS-CUSTOMS	Valuation of Imported Merchandise for Customs Purposes	37046				←		F		→							

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
TREAS-OCC	Description of Office, Procedures, Public Information; Supplemental Application Procedures; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Policy Statements	36926	N														
TREAS-OCC	Lending Limits; Unimpaired Surplus Fund	36926		N													
EPA-OANR	Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	36986		N													
EPA-OANR	Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer	36987								O							
EPA-OANR	Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone and Lead)	36907	A														
EPA-OANR	Remedial Action Standards for Inactive Uranium Processing Sites	36989						F									
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide	36909			N												
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide	36910											N				
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter	36911						N									

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Dioxide	36912					N										
EPA-OANR	Standards of Performance to Control Atmospheric Emissions from Industrial Boilers	36913										N					
EPA-OANR	Visibility Protection Requirements	36914							F								
EPA-OANR -OMSAPC	Fuels and Fuel Additives	36915								A							
EPA-OANR -OMSAPC	Gaseous Emission Regulations for 1983 and Later Model Year Light-Duty Trucks	36916	F														
EPA-OANR -OMSAPC	Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy Duty Engines	36917			N												
EPA-OANR -OMSAPC	Heavy-Duty Diesel Particulate Regulations	36919		N													
EPA-OPTS	Chemical Hazard Warning Labels	36992			N												
EPA-OPTS	Pesticide Registration Guidelines	36994	Proposed subparts will go final between June and November 1980. Other subparts will be proposed between June 1980 and March 1981.														
EPA-OPTS	Premanufacture Notification Requirements and Review Procedures	36995					F										
EPA-OPTS	Rules Restricting the Commercial and Industrial Use of Asbestos Fibers	36996									N						
EPA-OPTS	Test Rule for Chemical Substances and Mixtures -- Chloromethane and Chlorinated Benzenes	36998		N													
EPA-OWWM	Control of Organic Chemicals in Drinking Water	37000				N											

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

UMI 8 0 8 0 3 3 Y M 5 4 4 V

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron & Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters into Publicly Owned Treatment Works	36920								N							
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	36922					N										
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants	36923			N												
EPA-OWWM	Hazardous Waste Regulations: Core Regulations to Control Hazardous Solid Waste from General to Final Disposal	37001						F									
EEOC-OPI	Guidelines on Discrimination Because of Religion	37025				F											
EEOC-OPI	Interim Amendment to Guidelines on Discrimination Because of Sex	37026	Next regulatory action unknown at this time														
EEOC-OPI	Interpretive Guidelines on Employment Discrimination and Reproductive Hazards	37027	Next regulatory action unknown at this time														
GSA-FPRS	National Defense Stockpile Aquisition Regulations	37048						F		F							
GSA-FPRS	National Defense Stockpile Disposal Regulations	37048						F		F							

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL'81 and beyond
GSA-HRO	Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Financial Assistance	37028			F												
GSA-NARS	Freedom of Information Act Requests for National Security Classified Information in the National Archives	37029			N												
NCUA	Deregulation of Loan Interest Rate Classification	36928			F												
SBA	Revision to Method of Establishing Size Standards and Definitions of Small Business	37049				N											
VA-DMA	State Cemetery Grants	37030		F													
VA-OHG	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Veterans Administration (VA)	37030	N														
VA-OHG	Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance	37031	F														
CAB	Air Carrier Fitness	37064	F														
CAB	Air Carrier Insurance and Liability	37065		F													
CAB	Essential Air Service Subsidy Guidelines	37066	N														
CAB	Plain English for Airline/Passenger Contracts	37068		N													
CFTC	Proposed Rules Concerning Foreign Brokers and Traders	36930					F										

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

UMI 8008 0303 MAY 4545

UMI 0 8 0 3 0 3 M Y 4 5 V

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
CFTC	Review of Guideline No. 1--Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation	36930					N										
CPSC	Consumer Products Containing Asbestos	37004	O														
CPSC	Omnidirectional Citizens Band Base Station Antenna Standard	37006												N			
CPSC	Upholstered Furniture Cigarette Flammability Standard	37007											O				
CPSC	Urea Formaldehyde Foam (UFF) Insulation	37009					O										
FCC	Children's Television Programming and Advertising Practices	37069			O												
FCC	Creation of "New" Personal Radio Service	37069									N						
FCC	Deregulation of Competitive Domestic Telecommunications Market	37070			O												
FCC	Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation	37071		O													
FDIC	Disclosure of Information	37031	Final rule pending final coordination with other federal financial supervisory agencies.														
FERC	High-Cost Natural Gas Produced from Tight Formations	36879						F									
FERC	Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978	36880			F												

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
FERC	Regulations Governing Applications for Major Unconstructed Projects	36882			N												
FERC	Regulations Governing the Safety of all Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act	36883				F											
FHLBB	Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980	36932	FHLBB will propose regulations on a continuing basis until it implements all provisions of the act.														
FMC	Amendments to Tariff Filing Requirements for Controlled Carriers	37073		N													
FMC	Filing of Currency Adjustment Factors	37074						F									
FMC	Revision of Commission General Order 4, "Licensing of Independent Ocean Freight Forwarders"	37075									F						
FTC	Amendment to Eyeglasses Rule and Eyeglasses II	37051				A											
FTC	Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans	37053				O											
FTC	Proposed Trade Regulation Rule on Mobile Home Sales and Service	37055	O														
FTC	Residential Real Estate Brokerage Industry Practices	37057	Commission will decide on the nature of action to take														
FTC	Trade Regulation Rule Concerning Credit Practices	37059						O									
ICC	Improvement of TOFC/COFC Regulation	37077	N														
ICC	Intercorporate Hauling	37078		O													

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II: DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	JUN '81	JUL '81 and beyond
ICC	No Suspend Zone--Motor Common Carriers of Property	37080		F													
NRC	Decommissioning of Nuclear Facilities Regulation	37011															O September 81
NRC	Disposal of High Level Radioactive Waste in Geologic Repositories Regulation	37012	A							F							
PRC	Experimental Classification Rulemaking	37081	No date available at time of this publication														
PRC	Postal Rate Commission Docket MC79-3 (Red Tag)	37083	No date available at time of this publication														
PRC	Postal Rate Commission Docket R80-1 (Postal Rate and Fee Changes, 1980)	37084	←				O				→						
SEC	Proposed Amendments to Annual Report Form; Integration of Securities Act Disclosure Systems	36931					F										
SEC	Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies	36935					F										

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

This index provides the basic timetable information needed by readers who are interested in participating in the development of regulations. The index is organized alphabetically by agency, by unit within the agency, and then by the title of the regulation.

The index graphically displays the dates of public comment periods, meetings, and hearings on proposed regulations which agencies describe in this edition of the Calendar. Where possible, we indicate the length and closing dates of the comment periods, where the public should send their written comments, the dates and locations of public hearings and meetings, and the next regulatory action for the entry. The index also indicates whether the agencies provide funding or technical assistance for each regulation.

Not all regulations described in the Calendar are included here, only those with present or future opportunities for public participation. Those which are not listed usually had public comment periods, meetings, or hearings that have passed.

For more information about public participation opportunities, the reader should consult Appendix II, Public Participation in the Federal Regulatory Process. For further information on each regulation the reader should refer to the text of the entry in the appropriate Chapter of the Calendar.

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
USDA-AMS	Amendments to Federal Seed Act Regulations	37032												←	C →	Funding: No Assistance: Yes	NPRM	Public meetings-September, 1979 Public hearing-Planned following NPRM, if USDA decides to amend regulations
USDA-AMS	Proposed Federal Milk Order for the Southwestern Idaho-Eastern Oregon Marketing Area (Boise, Idaho)	37034	←		C	→										Funding: No Assistance: Yes	Revised Recommended Decision	Public hearing December, 1978 Reopened hearing February, 1980
USDA-FSQS	Proposed Net Weight Regulations	37035		←	C	→										Funding: No Assistance: Yes	NPRM	2 economic studies were commissioned in late '77 and early '78 available from USDA FSQS and FDA held several public hearings
USDA-SCS	Watershed Protection and Flood Prevention Program	36884							←	C	→					Funding: No Assistance: Yes	ANPRM	
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean	36885	C	→												Yes	Final Rule	Public comment period closed on May 27, 1980 Compensation for public participation may be available on a case-by-case basis
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters	36890														Yes	NPRM	Compensation for public participation may be available on a case-by-case basis
DOC-NOAA-OCZM	Channel Islands Marine Sanctuary Regulations	36892	←	C	→											Yes	Final Rule	Intent to prepare a Draft Environmental Impact Statement (EIS) from December 5, 1978 to March 7, 1980 Comment period indicated on the notice, written only. Compensation for public participation may be available on a case-by-case basis

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

UMI 8 0 3 0 3 M Y 4 5 V

UMI 8 0 3 0 8 M A Y 5 4 V

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
DOE-CS	Emergency Building Temperature Restrictions	36851		C												No	NPRM	Public comment period - 30 days following NPRM Public hearing to be announced
DOE-CS	Energy Conservation Program for Consumer Products Other than Automobiles	36852		C	M	H										No	Final Rule	Public hearings - Washington, D.C. Chicago
DOE-CS HUD-NVACP	Energy Performance Standards for New Buildings	36856						C								No	Final Rule NPRM	Public comment period - for 60 days following NPRM published by HUD
DOE-CS	Standby Federal Petroleum Conservation Plan	36854			C											No	Final Rule	
DOE-ERA	Amendment to Part 211 of Title 10 Entitlements Program	36857			C											No	NPRM	Public comment period - 30 days following NPRM
DOE-ERA	Amendment to the Emergency Petroleum Purchase Rule	36859		C	H											No	Final Rule	Public hearings - Washington (May 29 1980) and Los Angeles (June 3 and 4, 1980)
DOE-ERA	Decontrol of [illegible] Propane Price Rules	36862														No	Other	Awaiting decision about whether to proceed
DOE-ERA	Decontrol of [illegible] Crude Oil	36864			C											No	NPRM	
DOE-ERA	Entitlement Allocation to Alaskan North Slope (ANS) Crude Oil	36864		C												No	NPRM	Public comment period - 30 or 60 days after NPRM
DOE-ERA	Gasohol Marketing Regulations	36866			C	H										No	NPRM	
DOL-ERA	Motor Gasoline Allocation Regulations Revision	36868			C	H										No	NPRM	Public comment 60 days after NPRM Public hearings in Washington, D.C. and other locations nationwide
DOE-[illegible]	Natural Gas Curtailment Priorities for Interstate Pipelines	36870		C				H								No	NPRM	Public hearings - Washington, D.C. Atlanta Houston and San Francisco Public comment period-60 days after NPRM
DOE-ERA	Powerplant and Industrial Fuel Use Act of 1978; Implementing Regulations	36871		C				C								No	Final Rule	
DOE-ERA	Proposed Amendments to the Equal Application Rule	36872														No	Final Rule Further NPRM	Public hearings held in Denver (October 18 1979) and Washington, D.C. (October [illegible] 1979)

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
DOE- RA	Outer Continental Shelf (OCS) Sequential Bidding Regulations	36874	C													No	Final Rule	Public comment period-closed November 15, 1979 Public hearing - Washington, D.C. (October 15, 1979)
DOE- RA	Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales	36876		C												No	Final Rule	Public comment period-within 60 days after NPRM
HEW-FDA	Food Labeling Initiatives	36946														No	Other	Comments accepted on individual proposals See entry for Agency Contact.
HEW-HCFA	Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities	36949														No	NPRM	See entry for Agency Contact
HUD-FHA	Coinsurance for Private Mortgage Lenders (New Construction)	36925					C									No	NPRM	Public comment period - [illegible] days following NPRM
HUD-HOUS	Minimum Property Standards for One- and Two-Family Dwellings	37014		C												No	NPRM	Public comment period - 60 days following NPRM
HUD-NVACP	Lead-Based Paint Poisoning Prevention Act Regulations	36902	C						C							No	NPRM	Public comment period - 60 days following ANPRM (May 16, 1980) and 60 days following NPRM
DOI-BLM	Surface Management of Mining Claims Located on the Public Lands	36904				C											Final Rule	Public comment period - 30 days following NPRM
DOI-HCRS	Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands	36905			C												NPRM	Public [illegible] comment period closes approx. Sept 15 1980 Public hearings will be held in Albuquerque Sacramento, Denver, Chicago and Atlanta
DOI-OSM	Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"	36900									H	C					ANPRM	Public hearings - February 15, 1981 in Washington, Indianapolis, Denver, written comments accepted See calendar entry for addresses
DOI-OSM	Discharge from Mine Areas:: Revision of Standards for Effluent Limits and Sedimentation Ponds	36901						H									ANPRM	
DOI-WPRS	Rules and Regulations for Acreage Limitation Under Federal Reclamation Law	36904						C			H						NPRM	
DOJ-CRD	Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance	37015			C											No	NPRM	Public comment period - tentatively scheduled through August
DOJ-INS	Admission of Refugees and Asylum Procedures	37016			C											No	[illegible]	Send written comments to Commissioner Immigration and Naturalization Service 425 I Street, N.W. Washington, D.C. 20536

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

UMI 0 8 0 3 M Y 4 5 V

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
DOJ-INS	Employment Authorization	37017	C→													No	Final Rule	Public comment period closes May 27, 1980 Send written comments to: Commissioner, Immigration and Naturalization Service, 425 Eye Street, N.W. Room 7100, Washington, D.C. 20536
DOJ-OJARS /LEAA	Equal Service Evaluation Guidelines	37018		←C→												No	Final Rule	Public comment period - June to August 1980 (60 days following NPRM
DOJ-OJARS /LEAA	Procedures Relating to the Implementation of the National Environmental Policy Act	36905	←C→													No	Final Rule	Public comment period - May to July, 1980 60 days following NPRM
DOL-LMSA	Definition of Plan Assets and Establishment of Trust	37023														No	Final Rule	Date of Final Rule - undecided
DOL-LMSA	Individual Benefit Reporting and Recordkeeping	37024														No	NPRM	Public comment period - following NPRM
DOL-MSHA	Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines	36953				←C→										No	NPRM	Public hearings - begin 90 days after close of public comment period
DOL-MSHA	Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers	36954														No	ANPRM	Undecided at present
DOL-MSHA	Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines	36955												←C→		No	ANPRM	
DOL-MSHA	Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations	36956	C→													No	Other	Public comment period - closed May 27, 1980
DOL-MSHA	Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines	36957						←C→	←H→							No	NPRM	Public hearings - locations will be announced
DOL-OSHA	Chemical Substance Identification (Labeling)	36958														No	NPRM	Public comment period - following NPRM
DOL-OSHA	Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation	36960														No	NPRM	Public comment period - following NPRM
DOL-OSHA	Occupational Noise Exposure Hearing-Conservation Amendment	36962	←C→													No	Final Rule	Public comment period - closes June 9, 1980
DOL-OSHA	OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standard for Ladders and Scaffolding, and Floor and Wall Openings, and Stairways	36964														No	NPRM	Public comment period - 90 days after NPRM Public hearings - will be held in at least 3 cities

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
DOL-OSHA	Regulation for Reducing Safety and Health Hazards in Abrasive Blasting Operations	36965														No	NPRM	Public comment period following NPRM Public hearing - following NPRM
DOL-OSHA	Safety and Health Regulations for Construction Underground Operations-Tunnels, Shafts and Related Work Areas	36967					←C	→H←								No	NPRM	Informal hearing - late fall, 1980
DOL-OSHA	Safety and Health Regulations for Entry and Work in Confined Spaces in Construction	36968									←C	→H←				No	NPRM	Public comment period following NPRM
DOL-OSHA	Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry	36970														No	ANPRM	Public comment period - 60 days after ANPRM Public meetings - 30 days after ANPRM
DOL-OSHA	Standard for Occupational Exposure to Asbestos	36971														No	NPRM	Public comment period - 60 days after NPRM Informal meetings - after NPRM
DOL-OSHA	Standard for Occupational Exposure to Cadmium	36974														No	NPRM	Public comment period following NPRM Public hearing - after NPRM
DOL-OSHA	Standards for Occupational Exposure to Chromium	36975														No	NPRM	Public comment period - following NPRM
DOL-OSHA	Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities	36977														No	ANPRM	Public comment period - following NPRM
DOT-FAA	Flammability Standards for Crewmember Uniforms	36979	→H←			←C→											NPRM	Public comment period for hearing - closes June 6, 1980 Public comment period - 90-120 days following NPRM
DOT-FHWA	Buy America Requirements	37037															NPRM	Public comment period - following NPRM
DOT-FHWA	Design Standards for Highways - Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways	37062															NPRM	Public comment period - following NPRM
DOT-FHWA	Hours of Service of Drivers	36980															NPRM	Public comment period - following NPRM
DOT-FHWA	Minimum Cab Space Dimensions	36981															NPRM	Public comment period - following NPRM
DOT-NHTSA	Heavy Duty Vehicle Brake Systems	36983															NPRM	Date unknown at time of publication
DOT-NHTSA	Pedestrian Protection	36984															NPRM	Public comment period following NPRM
DOT-USCG	Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases	36985															NPRM	Public comment period - following NPRM

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

UMI 8 0 8 0 3 Y M 4 5 V

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
DOT-USCG	Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage	36906															Other	The National Academy of Sciences conducted a workshop on the proposal April 15 and 16, 1980
TREAS-ATF	Advertising Regulations under the Federal Alcohol Administration Act	37038				←		C		→						No	NPRM	Anticipated comment period, 8/10/80 1/10/81 Write to Director, BATF, P.O. Box 385, Washington, D.C. 20044. Public hearings - will hold if warranted
TREAS-ATF	Implementation of the Distilled Spirits Tax Revision Act of 1979	37040	←		C	→										No	Final Rule	Public comment period closes September 11, 1980. Send written comments to Director, BATF, P.O. Box 385 Washington, D.C. 20044
TREAS-CUSTOMS	Accelerated Duty Payment	37042														No	NPRM	Public comment period - 60 days following NPRM
TREAS-CUSTOMS	Valuation of Imported Merchandise for Customs Purposes	37046	C	→												No	Final	Public comment period closes May 30, 1980 Send written comments to Commissioner of Custom, Attn: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Ave., N.W. Room 2426 Washington, D.C. 20229
TREAS-OCC	Description of Office, Procedures, Public Information; Supplemental Application Procedures; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Policy Statements	36926	←	C	→											Funding - No Assistance - Yes	NPRM	Public comment period closes July 18, 1980 For technical assistance and place to send written comments - see Agency Contact in entry
TREAS-OCC	Lending Limits; Unimpaired Surplus Fund	36926		←	C	→										Funding - No Assistance - Yes	NPRM	Public comment period closes August 1 1980 For technical assistance and place to send written comments - see Agency Contact in entry
EPA-OANR	Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	36986			H			C		→						No	NPRM	Public comment period, a minimum of 60 days following NPRM. Public hearings to be announced
EPA-OANR	Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer	36987		←	C	→										No	Other	Public comment period closes August 12 1980. Send comments to Central Docket Section, Room 2903 B Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460. Attn: OAQPS 7914

PUBLIC COMMENT PERIOD = C **PUBLIC MEETING = M** **PUBLIC HEARING = H** **OTHER = O**

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
EPA-OANR	Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone and Lead)	36907			M											No	NPRM	Public comment period - a minimum of 60 days following NPRM
EPA-OANR	Remedial Action Standards for Inactive Uranium Processing Sites	36989				←	C	→	←	C	→					No	Final Rule NPRM	Two regulations. Public hearings - to be announced
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide	36909														No	NPRM	Public hearing - Washington, D.C. Public comment period will be specified in NPRM
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide	36910													H	No	NPRM	Public comment period will be specified in NPRM. Public hearings - 60 days after publication of NPRM
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter	36911								←	H	→				No	NPRM	Public hearing - 30 days following NPRM
EPA-OANR	Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Dioxide	36912								H						No	NPRM	Public comment period will be specified in NPRM. Public hearing - 60 days following NPRM
EPA-OANR	Standards of Performance to Control Atmospheric Emissions from Industrial Boilers	36913											←	H	→	No	NPRM	
EPA-OANR	Visibility Protection Requirements	36914			←	C	→									Yes	ANPRM	Possible pilot program
EPA-OANR -OMSAPC	Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy Duty Engines	36917				←	C	→								No	NPRM	Address written comments to Charles L. Gray Jr., Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105
EPA-OANR -OMSAPC	Heavy-Duty Diesel Particulate Regulations	36919				←	C	→								No	ANPRM	Public hearing - 30 days after publication of NPRM in Ann Arbor, Michigan
EPA-OPTS	Chemical Hazard Warning Labels	36992	←	C	→											Yes	NPRM	Public hearings - schedule not set yet Possible pilot program
EPA-OPTS	Pesticide Registration Guidelines	36994														No	Final Rule, NPRM	Varying schedules for different provisions
EPA-OPTS	Premanufacture Notification Requirements and Review Procedures	36995														No	Final Rule	Public comment period - 30 days following NPRM
EPA-OPTS	Rules Restricting the Commercial and Industrial Use of Asbestos Fibers	36996											←	C	→	Yes	NPRM	Possible pilot program Public comment period - 120 days following NPRM
													←	H	→			
EPA-OPTS	Test Rule for Chemical Substances and Mixtures -- Chloromethane and Chlorinated Benzenes	36998				←	C	→								No	NPRM	Public comment period - a minimum of 60 days following NPRM
EPA-OWWM	Control of Organic Chemicals in Drinking Water	37000						H								No	NPRM	Public hearing - to be announced Public comment period - a minimum of 60 days following NPRM

INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron & Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters into Publicly Owned Treatment Works	36920										C				No	NPRM	Public comment period - a minimum of 60 following NPRM
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	36922						C								No	NPRM	Public comment period - a minimum of 60 days following NPRM
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants	36923														No	NPRM	Public comment period - a minimum of 60 days following NPRM
EEOC-OPI	Interim Amendment to Guidelines on Discrimination Because of Sex	37026	C													No	Guidelines	Public comment period - closes June 10 1980
EEOC-OPI	Interpretive Guidelines on Employment Discrimination and Reproductive Hazards	37027	C													No	Guidelines	Public comment period - closes June 1, 1980
GSA-FPRS	National Defense Stockpile Aquisition Regulations	37048						C								Funding - No Assistance - Yes	Final Rule	Public comment period - 60 days following NPRM For information on technical assistance - see entry "Agency contact"
GSA-FPRS	National Defense Stockpile Disposal Regulations	37048						C								Funding - No Assistance - Yes	Final Rule	Public comment period - 60 days following NPRM For information on technical assistance - see entry "Agency contact"
GSA-HRO	Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Financial Assistance	37028	C													Funding - No Assistance - Yes	Final Rule	General comment period - closed December 31, 1979 - Comment period was extended for visually handicapped persons requesting braille or recorded cassette information - See entry for address.
GSA-NARS	Freedom of Information Act Requests for National Security Classified Information in the National Archives	37029				C										Funding - No Assistance - Yes	NPRM	Public comment period - 60 days following NPRM
NCUA	Deregulation of Loan Interest Rate Classification	36928		C												No	Final Rule	Public comment period - April 17, 1980 to June 16, 1980. Send written comments to Robert S. Monhet, Senior Attorney, Office of the General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington D.C. 20456
SBA	Revision to Method of Establishing Size Standards and Definitions of Small Business	37049		C H												No	NPRM	Public comment period - closes June 6, 1980 Public hearings - for schedule, see 45 FR 23704
CAB	Essential Air Service Subsidy Guidelines	37066														No	NPRM	Public comment period - following NPRM duration to be determined
CAB	Plain English for Airline/Passenger Contracts	37068														No	NPRM	Public comment period - following NPRM duration to be determined

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INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	MAY '80	JUN '80	JUL '80	AUG '80	SEP '80	OCT '80	NOV '80	DEC '80	JAN '81	FEB '81	MAR '81	APR '81	MAY '81	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
CFTC	Proposed Rules Concerning Foreign Brokers and Traders	36930		C												No	Final Rule	Public comment period - 45 days following NPRM
CFTC	Review of Guideline No. 1-- Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation	36930														No	NPRM	Public comment period - 60 days following NPRM
CPSC	Omnidirectional Citizens Band Base Station Antenna Standard	37006		M				M							C	Assistance - No Funding - Yes	NPRM	Public comment period - closes June 30 1981 Public hearings - tentatively, Washington, D.C. (June 30, 1980 and October 31, 1980.)
FCC	Children's Television Programming and Advertising Practices	37069		C												Assistance - Yes Funding - Under Consideration	Final Rule	Public comment period - closes June 2, 1980 Reply comments - accepted until August 1, 1980
FCC	Creation of "New" Personal Radio Service	37069														Assistance - Yes Funding - Under Consideration	NPRM	Public comment period - tentatively 60 days following NPRM
FCC	Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation	37071		C												Assistance - Yes Funding - Under Consideration	Final Rule	Public comment period - closed January 25, 1980 Reply comments accepted until June 25, 1980
FERC	High-Cost Natural Gas Produced from Tight Formations	36079														No	Final Rule	Public comment period - originally 30 days, extended to 45 days following NPRM
FERC	Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978	36080		C												No	Final Rule	Public comment period - 30 days following NPRM
FERC	Regulations Governing Applications for Major Unconstructed Projects	36082														No	NPRM	Public comment period - 60 days following NPRM
FERC	Regulations Governing the Safety of all Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act	36083														No	Final Rule	Public comment period - 60 days following NPRM
FHLBB	Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980	36932							C							No	ANPRM	FHLBB will propose regulations on a continuing basis until it implements all provisions of the act
FMC	Amendments to Tariff Filing Requirements for Controlled Carriers	37073			C											No	NPRM	Public comment period - 60 days following NPRM
FMC	Filing of Currency Adjustment Factors	37074	C													No	Final Rule	Public comment period closes June 9, 1980
FMC	Revision of Commission General Order 4, "Licensing of Independent Ocean Freight Forwarders"	37075		C												No	Final Rule	Public comment period - closes July 15, 1980
FTC	Amendment to Eyeglasses Rule and Eyeglasses II	37051														No	ANPRM	Public comment period - will be announced in ANPRM
FTC	Proposed Trade Regulation Rule on Mobile Home Sales and Service	37055						C								Yes	Final Rule and Staff Report	Public comment Period - will be 30 or 60 days following - NPRM

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INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

AGENCY	TITLE OF REGULATION	PAGE	FUNDING, TECHNICAL ASSISTANCE AVAILABLE (YES/NO)	NEXT REGULATORY ACTION	COMMENTS
FTC	Trade Regulation Rule Concerning Credit Practices	37059	Yes	Staff Report	Public comment period - 30 or 60 days following NPRM
ICC	Improvement of TOFC/COFC Regulation	37077	Funding - No; No Assistance - Yes	NPRM	Public comment period - 60 days following NPRM
NRC	Disposal of High Level Radioactive Wastes in Geologic Repositories; Regulation	37012	Nil	ANPRM	Documents available from the Public Document Room, 1717 H St., N.W., Washington, D.C.
PRC	Experimental Classification Rulemaking	37081	Nil	NPRM	Public comment period - ## date available at time of this publication
PRC	Postal Rate Commission Docket R80-1 (Postal Rate and Fee Changes, 1980)	37084	No	Other	Prehearing Conference May 7, 1980 other dates - not available at the time of this publication
SEC	Proposed Amendments to Annual Report Form; Integration of Securities Act Disclosure Systems	36933	Nil	Final Rule	This public comment period - closed April 30, 1980 for some proposals and May 15, 1980 for others
SEC	Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies	36935	Nil	Final Rule	Public comment period - closed June 2, 1980. Send comments to George A. Fitzsimmons, Securities and Exchange Commission 500 North Capitol Street Washington D.C. 20549. Refer to File No. S7-829

MAY '81 | APR '81 | MAR '81 | FEB '81 | JAN '81 | DEC '80 | NOV '80 | OCT '80 | SEP '80 | AUG '80 | JUL '80 | JUN '80 | MAY '80

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

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APPENDIX I—THE REGULATORY REFORM PROGRAM OF THE CARTER ADMINISTRATION

President Carter's Regulatory Reform Program has two goals: eliminating unneeded regulations and reducing the burden imposed by the regulations we do need. To achieve these goals, the Administration is implementing two broad types of reform: economic deregulation and improvement of regulatory management.

Economic Deregulation

1. Economic deregulation dismantles regulatory programs that attempt to make marketplace decisions that the marketplace itself can handle better. Federal regulation may be needed where competition is lacking, but when regulatory programs intervene to control price and entry in competitive industries, the result may very well be that prices are higher. The President is committed to deregulation in such industries and, working with Congress, has deregulated three important markets:

- airlines
- crude oil and natural gas pricing
- financial institutions

2. The Administration has identified a number of other industries where more competition can be introduced, and is supporting bills in Congress to achieve this goal. Three of these areas are:

- trucking
- railroads
- telecommunications

Improving Management

Improving management of regulatory programs leads to better regulations—cost-effective regulations that are developed in cooperation with the public, written with common sense, in plain English, and administered efficiently. The Administration is improving management in the following ways:

1. Executive Order 12044

The Executive Order is designed to ensure that regulations are as simple and clear as possible, that they achieve their legislative goals effectively and efficiently, and that they do not impose unnecessary burdens on the economy, on public or private organizations, on individuals, or on State and local governments. The Office of Management and Budget is responsible for ensuring compliance with this order.

- Twice a year agencies publish agendas of significant regulations under development to give the public adequate notice of upcoming regulations. The agencies also give the public an early and meaningful opportunity to comment on proposed regulations and participate in their development.
- Agency heads are responsible for overseeing the process of developing a regulation.
- Regulations must be written in plain English.
- Agencies periodically review their existing regulations to assess the continued need for each regulation.
- For regulations with major economic consequences, agencies prepare an analysis which includes a statement of the problem a regulation is intended to address; a description of the major alternative approaches to dealing with the problem that were considered by the agency; an analysis of the economic impact of each of these alternatives; and a detailed explanation of the reasons—not just the economic ones—for selecting one alternative over the others.

2. Regulatory Analysis Review

The President created the Regulatory Analysis Review Group (RARG), to review regulatory analyses accompanying proposed major regulations. The Council of Economic Advisers chairs RARG and the Council on Wage and Price Stability staffs it. Although agency heads may use the Regulatory Analysis Review Group's comments to make final decisions on proposed regulations, RARG's comments are not binding.

3. U.S. Regulatory Council

The President established the Regulatory Council on October 31, 1978 to coordinate Federal regulatory activity and to deal with problems of overlapping, conflicting, or duplicative regulations.

- The Council is composed of 18 executive departments and agencies with major regulatory responsibilities and 18 independent regulatory commissions.
- The Council publishes the **Calendar of Federal Regulations** to present in a concise, consistent format an overview of the most important regulatory actions under development in the Federal government.

4. Innovative Techniques

The President has encouraged regulatory agencies to use innovative, market-oriented techniques. These techniques, less rigid than traditional regulation, put private ingenuity to work at finding better long-term solutions to regulatory problems. The Regulatory Council staff is working with the agencies to identify and implement them. These techniques include:

- *Enhanced competition:* achieving needed regulatory goals more efficiently by adjusting market structure to enhance competition—often through removing regulatory and other barriers to competition.
- *Marketable rights:* allowing government-conferred rights to be exchanged by private parties, eliminating the need for detailed government involvement in their allocation.
- *Economic incentives:* structuring fees or subsidies (rather than government-enforced standards) that encourage private sector achievement of regulatory goals.
- *Performance standards:* replacing regulations that specify the means of compliance (usually detailed design standards) with more general standards. These standards are based on desired overall performance levels—leaving regulated firms free to find the most efficient means of compliance.
- *Information disclosure:* replacing direct regulation with programs to give consumers informed freedom of choice among products and services.
- *Voluntary standard setting:* negotiating voluntary rules with industry groups that pledge to adopt them, subject to regulatory agency review or audit.
- *Compliance reform:* creating market-oriented substitutes for Federal compliance inspections, including such devices as government licensed private auditors, consumer deputies, third-party inspections, self-reporting, whistle-blower programs, and noncompliance penalties.
- *Tiering:* setting less demanding standards or exempting business institutions based on the size or nature of the organizations.

5. Legislation

The President has proposed, and the Congress is working on, comprehensive regulatory reform legislation. The President's bill has the following major provisions:

- Put E.O. 12044 into statute and expand its coverage to include the independent regulatory commissions;
- Streamline lengthy and cumbersome administrative proceedings;
- Provide funds for greater public involvement in regulation development; and
- Reform the selection and evaluation of administrative law judges.

6. Paperwork Reform

The President has had a paperwork reduction program underway since 1977. Overall, federally imposed paperwork has been reduced by 15 percent.

- Under OMB's auspices, a governmentwide paperwork budget is

being put into operation for fiscal year 1981.

• The Paperwork Reduction Act, now pending before Congress, would institutionalize many of the President's paperwork reforms.

APPENDIX II—PUBLIC PARTICIPATION IN THE FEDERAL REGULATORY PROCESS

I. Introduction

This appendix provides "first step" guidance toward effective participation in the Federal regulatory process; and it discusses the major procedures at the Federal level that help to ensure that the public's interests are considered fairly in the final decisionmaking process. The appendix describes the general requirements for public participation in the agencies of the Federal government. This section of the appendix briefly discusses procedures that establish the public's role in the Federal rulemaking process. Specific information on the participation procedures at each Regulatory Council agency follows, including:

• The name of each unit, if any, in the agency that issues regulations;

• A brief description of the functions of the agency;

• A summary of the agency's public participation activities;

• A description of any special funding or technical assistance available for public participation activities;

• A list of documents describing the public participation procedures in the agency; and

• The contact person(s) who can provide further information.

Basic Definitions

Below are some basic definitions that will be helpful for those unfamiliar with Federal regulatory proceedings:

"Agency" means an organization of the Federal government, and includes executive departments and agencies, independent agencies, and their components. (It does not include Congress or the courts.)

"Executive agencies" are headed by persons chosen by the President and who serve at his pleasure, while "independent agencies" are headed by persons appointed by the President for a specific length of time to chair the agency's commission or board. (There are specific limitations on the power of the President to remove the heads of these agencies.)

We have explained in the text of this appendix other terms with which readers may not be familiar.

II. Public Participation Funding

In 1975, Congress passed the Magnuson-Moss Act that paved the way for reimbursement of selected groups and individuals to participate in rulemaking proceedings at the Federal Trade Commission. Although not all agencies offer public participation funding, in some cases because of statutory limitations, those that do offer such funding provide financial assistance to interest groups, individuals and/or businesses, or to those trade associations that can add a unique perspective to the proceeding and/or would not be able to participate otherwise. These assistance grants generally cover only out-of-pocket expenses, such as travel, telephone, duplication services, some attorney's fees, etc.

Statutes like the Magnuson-Moss Act as well as court decisions on judicial review also influenced agencies to hold more public hearings during major rulemaking proceedings. During the 1970's a great number of social regulations were promulgated, heightening public interest in rulemaking proceedings and increasing the need and demand for public hearings. The Administration is supporting legislation that would authorize public participation funding across the government.

III. Public Participation in Statutes and Executive Orders

Public participation contributes to the efficiency of government by providing policymakers with a perspective on issues that enables them to make informed decisions. The history of the public participation provisions that have permitted public access to information on agency records and proceedings shows the Federal government's sensitivity toward guaranteeing information flow between the public and the agency.

A. *Federal Register Act (1935).* The first provision permitting access to information resulting from rulemaking and other agency proceedings was the Federal Register Act of 1935. This Act requires agencies to file documents with the Office of the Federal Register, which prints the **Federal Register**, a daily government publication that announces the official actions of Federal agencies. The Act also allows for public inspection of documents the day before their publication in the **Federal Register**.

The **Federal Register** is available at Federal depository libraries, where most government publications are maintained for public use. Designated regional Federal depository libraries will have at least one copy of all Federal publications in printed or film form. There are more than 1,500 Federal depository libraries in the United States and its territories. Also, many university libraries have been designated as Federal depositories. To find the one nearest you, contact a public library, university library or your U.S. Congressional representative.

B. *Administrative Procedure Act (1946).* The first major provision for public participation in Federal regulatory proceedings was implemented in 1946 through the Administrative Procedure Act (5 U.S.C. §§ 551–559, 701–706). This Act obligates agencies to follow specific procedures in rulemaking, adjudication, and related matters where public input is most valuable.

This Act gives the public the right to participate in most rulemakings as follows:

1. *NPRM*—The agency must publish a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** to let the public know of proposed rules the agency is considering. The NPRM must include the time, place, and nature of the proceeding; the legal authority under which the agency is proposing the rule; and a description of the proposed rule's substance or a description of the subject and issue(s) involved.

The Act also allows for members of the public to initiate a rulemaking proceeding by petitioning the agency to amend, modify, or repeal an existing rule. Not all agencies have specific procedures explaining how to submit a petition for rulemaking, as the Act does not require them. Individuals and/or groups interested in developing a petition for rulemaking should examine the statutory basis for such a rule, the agency's mandate and related activities, or consult an attorney. The format for such a petition can follow the same as that for submitting public comments.

2. *Making Public Comments*—The agency must allow interested persons and groups the opportunity to participate in rulemaking through written comments to the agency that support, oppose, or suggest modifications in proposed or existing rules—with or without the opportunity for an oral presentation. Anyone can take advantage of this opportunity during the public comment period.

Each agency may have its own specific requirements for how it will accept public comments. Generally, agencies prefer that you:

• Type your comments neatly;

• Indicate the rulemaking proceeding that the comments address;

• Include the writer's name, full address, and title and/or affiliation; and

• Clearly state your arguments favoring or opposing the rule, e.g., you could include information about how the agency's proposal could affect the socioeconomic growth and quality of life of a community, region, or State; whether there are "new" issues that the agency rule or proposal fails to consider or give proper attention to; or how problems the agency may not have considered could be solved more efficiently through another viewpoint or an alternative or compromise solution. Be as specific as possible.

When public comments reach the agency they are officially logged into the public record (often referred to as the "docket"), and the reviewing staff analyzes the comments to determine whether any significant issues were raised that the agency should consider during the decisionmaking stage.

Interested persons should contact agencies directly for information on the opening and closing dates for comment periods on particular rulemakings, the address they should send comments to, and the number of copies they should submit. (Agency contacts whom readers can call or write are listed in this appendix.)

3. *Final Rule*—When the agency finally issues a rule it must publish the rule in the **Federal Register** along with a statement about the rule's basis and purpose, and a discussion of any significant issues raised during the public comment period. The agency must publish substantive rules, i.e., nonprocedural rules, at least 30 days before the rule becomes effective.

Rulemaking requirements, as set out in this Act, do not apply to U.S. military or foreign affairs functions or agency matters related to personnel or public property, loans, grants, benefits, or contracts. However, some agencies voluntarily apply the above NPRM and public comments requirements to those types of matters.

In addition, the requirements do not apply to rules stating a general agency policy or to rules dealing with agency organization or procedure. The Act also exempts situations where the agency believes that public participation is "impracticable, unnecessary, or contrary to the public interest." However when an agency claims such an exemption, it must give its reasons.

C. *Freedom of Information Act (1967).* The Freedom of Information Act (FOIA) (5 U.S.C. § 552), requires each Federal agency to make available to any person any agency document—whether published or unpublished—that the agency obtains, maintains, or internally produces so long as the material is specifically identified and requested in accordance with procedures established by agency rules. Agencies must usually respond to a request within 10 days of its receipt.

An agency may refuse to disclose a document in cases where the agency is prohibited by statute from distributing the material, or where the documents falls within one or more of the exemptions contained in the Act describing confidential matters and materials. However, the exemptions are not compulsory but left to the agency's discretion.

Sometimes you may only want particular parts of a document. Therefore, you should precisely word your request so the agency knows exactly what you want. The FOIA allows agencies to charge searching and copying fees; such fees may vary from agency to agency. You can obtain general information about FOIA requests from each agency's FOIA officer.

FOIA questions can be difficult to answer, and space does not permit a detailed explanation of all of the provisions of the Act. The Department of Justice's Office of Information Law and Policy oversees Federal FOIA matters. For more general information you can contact them at:

Office of Information Law and Policy
Department of Justice
Main Justice Building
10th & Constitution Ave. N.W., Room 5259
Washington, D.C. 20530
(202) 633–2674

D. *Federal Advisory Committee Act (1972).* The Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C. Appendix I) gives the public the right to know about meetings between agencies and the outside groups they establish to assist them in their work. This Act also controls the number and composition of these groups or committees. Section 10 of the Act requires open meetings and advanced public notice of most advisory committee meetings. Agencies may close such meetings if the meeting agenda includes a subject that may be kept confidential under one or more of the exemptions of the "Sunshine Act," which is explained in the following section.

The general Services Administration's Committee Management Secretariat oversees governmentwide Federal advisory committee matters. For more information contact:

Committee Management Secretariat
National Archives and Records Service
Office of the Executive Director
General Services Administration
1100 L Street, N.W., Room 9403
Washington, D.C. 20408
(202) 357–0019

E. *Government in the Sunshine Act (1976).* This provision, referred to simply as the "Sunshine Act," is an outgrowth of the Federal Advisory Committee Act and opens various agency meetings to public observation in those agencies headed by a board or commission. The Act calls for public notice of agency meetings and specifies when the agency may close meetings to the public or may withhold information from meeting notices. Exempt meetings are those dealing with (a) secret matters of national defense, (b) agency personnel rules and practices, (c) confidential commercial or financial information, (d) criminal charges, (e) personal privacy invasion, (f) investigatory records for law enforcement purposes, (g) supervision of financial institutions, (h) previously disclosed agency actions, and/or (i) agency participation in a civil court case.

Interested members of the public should contact the agency directly for information about how to receive meeting notices, how to request that a closed meeting be opened, or where to review available public records of agency meetings.

F. *Executive Order 12044 (1978).* Thirty-two years after Congress passed the Administrative Procedures Act, President Carter issued Executive Order 12044, Improving Government Regulations, which established a system for executive agencies to manage their regulatory responsibilities and included provisions for expanding public participation in the development of significant agency regulations. Executive agencies are required to comply with the Executive Order, and the President asked that independent agencies voluntarily comply. This Executive Order builds upon the requirements of the Administrative Procedure Act by asking agencies to:

• Publish an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public views before formally proposing the regulation for public comment in a Notice of Proposed Rulemaking (NPRM). An ANPRM describes problems or situations that regulatory action might deal with. Public comments on an ANPRM can raise questions and considerations that help the agency decide whether regulating is the best way to control the problem or situation, and if the agency's regulatory plan is adequate. The ANPRM is

sometimes referred to as a "Notice of

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sometimes referred to as a "Notice of Inquiry;"

• Allow at least 60 days for public comment at the NPRM stage as opposed to the 30 days customarily permitted by agencies for comment, and to analyze and prepare a discussion of significant public comments before approving regulations;

• Send notices to publications in addition to the **Federal Register** that are read by those who will be affected by the proposed regulation, such as consumer newsletters and trade journals;

• Notify the affected parties directly regarding developments in the proceeding; and

• Hold open conferences or public hearings.

This Executive Order also asks agencies to write and explain regulations clearly and simply in "plain English" so that nonspecialists can interpret the regulations easily.

In addition, the Order also requires agencies to publish, in the **Federal Register**, semiannual regulatory agendas to facilitate public participation. These agendas, which are usually available from their respective agencies, list all of the significant regulations that an agency has under development or scheduled for review. The lists also advise the public of the agency's regulatory action schedule, and thus ensure the earliest possible opportunity for public participation in rulemaking. At a minimum, the agenda items identified as "major" by executive agencies are reported here in the **Calendar of Federal Regulations** Appendix IV, of this Calendar, "Publication Date for Agency Regulatory Agendas," indicates the date each agency published its agenda in the **Federal Register**.

G. *Executive Order 12160 (1979).* Executive Order 12160, Providing for the Enhancement and Coordination of Federal Consumer Programs, establishes a comprehensive policy to guide all agencies in identifying agency consumer affairs staff who will participate in the development and review of all agency rules, policies, programs, and legislation; and it establishes procedures for the early and meaningful participation by consumers—individuals and groups—in the development and review of all agency rules, policies, and programs. In addition, the Order requires agencies to produce and distribute informational materials that explain agency services and responsibilities, procedures for consumer participation, and aspects of the marketplace over which the agency has some jurisdiction. Agencies also have to provide information to consumers who attend agency meetings open to the public.

Agencies will have their consumer programs and procedures operating by mid-June 1980.

4. Agency Public Participation Entries

Public participation activities and possibilities are many and varied, depending, of course, upon the agency's resources, the suitability of the activity to the type of proceeding the agency is conducting, and the desired participation result.

Each of the 36 Regulatory Council agencies submitted a general summary of its public participation programs which we have published in the following pages, to help you participate in their activities. Call or write the various agencies for more information. You and your community surely will benefit from your participation in the Federal regulatory process. The Regulatory Council encourages your interest and involvement.

Adminstrative Conference of the United States (ACUS)

Units That Issue Regulations

The Administrative Conference has no regulatory responsibilities. The only regulations it issues pertain to its organizational duties, found at 1 CFR Parts 301–304. The formal work product of the Conference is reflected in Recommendations and Statements concerning administrative practice and procedure, codified at 1 CFR Parts 305 and 310.

Functions

The Administrative Conference of the United States was established as a permanent independent agency in the Executive Branch by the Administrative Conference Act, 5 U.S.C. § 571–576, enacted in 1964. It is an advisory agency, not a regulatory agency. Its mandate is to "study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies" and to make recommendations for the improvement of those procedures to the agencies, Congress, the President and the courts. The Office of the Chairman provides advisory and consultative assistance to the government and the public.

Public Participation Summary

The Administrative Conference develops and adopts its Recommendations through open meetings, which receive advance notice in the **Federal Register**. Conference members serve on nine committees, with a staff attorney serving as committee liaison. The Office of the Chairman is now developing a mailing list of persons interested in receiving early notice of ACUS committee meetings.

Funding and Technical Assistance

The Administrative Conference's activities are all open to the public and ACUS enthusiastically solicits public participation; however, none of its activities require funding of participants. Upon request, technical assistance through consultations with staff will be offered if necessary to facilitate participation.

Public Participation Documents

"An Interpretive Guide to the Government in the Sunshine Act" (1978), a staff publication that explains the provisions of the Act, and draws from the legislative history. It has been cited by several court decisions interpreting the Act. (Single copies are available from the librarian in the Office of the Chairman.)

"Guide on Agency Reports Under Executive Order 12044" (1978), a staff publication that explains the President's Order and cites agencies' responses to it. (Available free from the librarian.)

The continuing series of recommendations and reports on administrative procedure is also available from the librarian in the Office of the Chairman. There is normally no charge for such documents if an adequate supply is on hand.

Information Contact

For information on general public participation procedures or for publications requests:

Jeffrey S. Lubbers, Senior Staff Attorney
Administrative Conference of the United States
2120 L Street, N.W., Suite 500
Washington, D.C. 20037
(202) 254–7020
or
Sue Boley, Librarian
Administrative Conference of the United States
2120 L Street, N.W., Suite 500
Washington, D.C. 20037
(202) 254–7020

ACUS maintains a mailing list for its annual reports and occasional newsletters and notices of meetings. Contact either of the persons listed above.

Department of Agriculture (USDA)

Units That Issue Regulations

Agricultural Marketing Service
Agricultural Stabilization and Conservation Service
Animal and Plant Health Inspection Service
Farmers Home Administration
Federal Crop Insurance Corporation
Federal Grain Inspection Service
Food and Nutrition Service
Food Safety and Quality Service
Foreign Agricultural Service
Forest Service
Office of Energy
Office of Environmental Quality
Office of Equal Opportunity
Rural Electrification Administration
Science and Education Administration
Soil and Conservation Service

Functions

USDA establishes national policy regarding the Nation's production, distribution and consumption of agricultural commodities, foodstuffs, and forest resources, as well as national policy governing the use of agricultural commodities or services for personal or household purposes.

Public Participation Summary

The majority of rulemakings at USDA are informal, or notice and comment actions. Each of the administrative units named above solicits public comments on policy issues under consideration.

The exception is the formal rulemaking process required for commodity marketing orders administered by the Agricultural Marketing Service (AMS). Before holding an evidentiary hearing, AMS performs a prenotice investigation, reviewing public comments framing the issues that must be covered in developing an adequate decision. Following the public hearing and analysis of the record a recommended decision is issued, subject to comment and the filing of exemptions. AMS's final decision is put to a referendum by the regulated producers that the final order will affect.

Each USDA unit listed above has a public participation contact. These are listed below under "Information Contacts."

In addition to the normal educational and informational responsibilities, USDA's public participation office monitors the adequacy of the opportunity for the public to participate in all agency proceedings. The department public participation staff and agency public participation stafffs have the responsibility for assuring that a thorough and systematic effort is made to obtain timely, informed, and substantive comment from those interested in or potentially affected by a proposed action. Public participation plans are required to accompany each impact analysis; for "significant" decisions, the plans are monitored by the department's public participation staff while plans for "not significant" decisions are monitored by agency public participation staffs. Plans are sent to public participation staffs in the early developmental stages of an action for staff concurrence.

Efforts to increase participation include increased use of prenotice, development of reimbursement regulations (described below), public meetings and briefings, updating of mailing lists, and more use of "Backgrounders" providing additional information on issues and how to participate.

Recent examples of innovative public participation efforts by USDA include:

—Regulations implementing the Grain Standards Act of 1978. We published for early comment a background study and draft regulations covering complex and controversial new program areas. We received many substantive comments, resulting in substantial revision to and improvement in the regulations which we proposed.

—A Food Safety and Quality Service (FSQS) effort to involve the public early in contemplation of a possible future rulemaking activity on food grading. Recent studies have shown that consumers are confused about what the various food grading systems mean, including USDA grades and "house" grades.

USDA has graded meat, poultry, eggs, dairy products, fresh fruits and vegetables, and related products such as jams and juices since 1917. Grading means separating items of food into different levels of quality, where quality refers to the usefulness, desirability, or marketability of the product.

As phase one of this activity, we have conducted a consumer survey to understand consumer perceptions of grading as it now exists and to understand the benefits to consumers if we were to modify the system. More specifically, we are seeking information on what consumers know about USDA food grading, the extent to which the consumer may be confused about grading, and how we might modify the current grading system to improve its utility to consumers.

We are now using information from the survey to develop options to present to the public for comment. We will make a substantial public information and participation effort, including hearings, to ensure that adequate information is widely distributed to elicit a broad range of substantive comment.

Following the hearings, FSQS will review the record and conduct an analysis on (1) whether to propose new regulations and (2) the best options to propose.

Funding and Technical Assistance

On January 24, 1980, USDA issued regulations governing reimbursement of qualified individuals and groups for the costs of participating in USDA rulemaking proceedings. Those regulations became effective 30 days later. (A "Handbook for Applicants" is also available through the department or agency public participation staff listed below.) Applicants may qualify for assistance if: they are an individual, or profit or nonprofit group, association, partnership, or corporation; they lack sufficient resources to participate effectively without financial assistance; their participation is likely to contribute to a full and fair determination of the issues; and they are from the area affected by the proposed action.

The head of the agency conducting the rulemaking will make the determination as to whether funds will be used for this purpose. An independent, department-level evaluation board will make the final decision on awarding funds to a particular applicant.

Those interested in applying for funding should contact the director of public participation or the public participation contact for the agency proposing the specific action.

Public Participation Documents

In addition to the "Handbook for Applicants" for the reimbursement regulations, described above, the department public participation staff will soon publish a manual for the public on how to participate in USDA decisionmaking.

Information Contact

For further information contact:
Elizabeth A. Webber, Director of Public Participation
Department of Agriculture
Room 119–A, Administration Building
Washington, D.C. 20250
(202) 447–2113

Agency Public Participation Contacts

Hal Ricker, Assistant to the Administrator
Agricultural Marketing Service
Department of Agriculture
Room 3068–S, South Building
Washington, D.C. 20250
(202) 447–8669

Ray Voelkel, Assistant to the Deputy Administrator for Commodity Operations
Agricultural Stabilization and Conservation Service
Department of Agriculture
Room 3755–S, South Building

Washington, D.C. 20250
(202) 447-7865
Nick Bedessem, Assistant to the Administrator
Animal and Plant Health Inspection Service
Department of Agriculture
Room 2139-S, South Building
Washington, D.C. 20250
(202) 447-2996
Bob Lake
Office of Information
Forest Service
Department of Agriculture
Room 3219-S, South Building
Washington, D.C. 20250
(202) 447-3760
Earle Gavett
Office of Energy
Department of Agriculture
Room 5167-S, South Building
Washington, D.C. 20250
(202) 447-7195
Barry Flamm
Office of Environmental Quality
Department of Agriculture
Room 412-A, Administration Building
Washington, D.C. 20250
(202) 447-3965
Mark Nestle, Director
Program Evaluation Staff
Farmers Home Administration
Department of Agriculture
5th Floor, Presidential Building
Beltsville, MD.
(301) 436-7740
Pete Cole, Secretary for the Corporation
Federal Crop Insurance Corporation
Department of Agriculture
Room 4088-S, South Building
Washington, D.C. 20250
(202) 447-6975
Don Leathem
Federal Grain Inspection Service
Department of Agriculture
Room 1127 Auditors Building
Washington, D.C. 20250
(202) 447-3910
William Payne, Deputy Chief, Program, Planning and Evaluation
Office of Equal Opportunity
Department of Agriculture
Room 4119, Auditors Building
Washington, D.C. 20250
(202) 447-7327
Harlan Severson, Director
Office of Information and Public Affairs
Rural Electrification Administration
Room 4043-S, South Building
Washington, D.C. 20250
(202) 447-5606
David Dyer
Science and Education Administration
Department of Agriculture
Room 307-A, Administration Building
Washington, D.C. 20250
(202) 447-5211
Christine Van Lenten, Agency Consumer Affairs and Public Participation Officer
Food and Nutrition Service
Department of Agriculture
Room 758, GHI Building
Washington, D.C. 20250
(202) 447-8982
Penny Gentilly, Deputy Director for Public Participation
Food Safety and Quality Service
Department of Agriculture
Room 1168-S, South Building
Washington, D.C. 20250
(202) 447-7804
Ida Cuthbertson
Soil and Conservation Service
Department of Agriculture
Room 6123-S, South Building
Washington, D.C. 20250
(202) 447-5810
Jeff Hudgins, Assistant to the Administrator
Foreign Agricultural Service
Department of Agriculture
Room 5065-S, South Building
Washington, D.C. 20250
(202) 447-7631

Department of Commerce (DOC)

Units That Issue Regulations

Bureau of the Census
Bureau of Economic Analysis
Economic Development Administration
International Trade Administration
Maritime Administration
Minority Business Development Agency
National Bureau of Standards
National Oceanic and Atmospheric Administration
National Telecommunications and Information Administration
Patent and Trademark Office

Functions

The principal mission of the Department is to foster, promote, and develop the foreign and domestic commerce of the United States. The activities of the components of the Department in furthering the mission are broad and varied in scope and cover such diverse areas as: patents, assistance to minority business and economically depressed areas, tourism, weather, ocean and atmospheric programs, standards development, promotion of domestic and international trade, the censuses, statistical and economic data and analyses, ship subsidies, and telecommunications policy.

Public Participation Summary

The departmental units each have different procedures for developing and promulgating regulations, including public notification and participation. These procedures were published in the **Federal Register** on January 9, 1979, as a Department Administrative Order (44 FR 2082). The Administrative Order, entitled "Issuing Departmental Regulations," implements Executive Order 12044, "Improving Government Regulations."

The Consumer Affairs Office (CAO), in conjunction with the Office of Regulatory Policy (ORP), coordinates consumer participation responsibilities throughout the department. The CAO and consumer contact persons in the operating units will be responsible for assuring that timely and meaningful consumer participation occurs throughout the development and review of the department's rules, policies, and programs.

Participation mechanisms and special features include:

—Notices of proposed and final rules, programs, and policies published in the **Federal Register**.
—Quarterly notices of upcoming rulemaking activities disseminated to consumer representatives and consumer media by CAO, and to other constituents through the Regional Representatives of the Secretary.
—Informal meetings and briefings arranged between Commerce officials and consumer leaders to discuss emerging or ongoing problems and issues, as well as policy and program developments.
—Funds made available whenever possible (see below).

Specific Unit Programs for Public Participation include:

• National Bureau of Standards (NBS)

The NBS Center for Consumer Product Technology, in conjunction with Underwriters Laboratories, the American Society for Testing and Materials, the National Fire Protection Association, and the American National Standards Institute, sponsors and maintains a Consumer Sounding Board network to ensure that consumer input on program activity is obtained. The Consumer Sounding Boards are composed of a demographic cross section of consumers convened for the purpose of providing standards-making organizations with direct consumer involvement in their programs. The Center's programs are reviewed annually be a panel appointed by the National Academy of Sciences. This panel is composed of individuals from industry, academia, government, and consumer interest groups. The Center has also contracted with consumer interest groups to review its program plans regarding major activities such as

the Department of Energy-supported "Energy Appliance Program" and the DOC "Consumer Product Information Labeling Program." The Center also works with the National Conference on Weights and Measures, which is composed of State and local government representatives who have responsibility for consumer issues. These representatives are able to provide input on consumer issues relevant to the mission of NBS and the Center. The Center will continue to seek consumer input to its program from all these sources in the future.

• National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS)

Through the availability of the Saltonstall-Kennedy Funds, NMFS conducts a grants program under its Fisheries Financial Assistance Program to further the use and development of U.S. fisheries. Proposals are encouraged in such areas as determining consumer attitudes toward seafood and seafood consumption patterns, studies to determine education and information materials needed for consumers and the best methods of disseminating them, and activites to educate consumers on the nutritional value, economy, handling and preparation of fish and fish products.

The Marine Fishery Advisory Committee (MAFAC), composed of approximately 25 representatives from industry, academia, and consumer groups, advises NMFS on fishery activities. The MAFAC Subcommittee on Consumer Affairs covers consumer related fishery activities.

Under the authority of the Fishery Management Conservation Act of 1976, eight Fishery Management Councils were established. The members of the Council are required by the Act to have fisheries expertise. The majority of the members are appointed by the Governors of the Coastal States. These appointments include consumer members. NMFS consumer affairs personnel are actively pursuing strengthened consumer representation on these Councils. In addition, NMFS is planning regional workshops to be held in conjunction with the Councils to encourage and expand consumer participation.

• National Telecommunications and Information Administration (NTIA)

NTIA is in the process of establishing an advisory committee that will offer advice on the Public Telecommunicaitons Facilites Program's (PTFP) grant applications and on the development of public telecommunications policy. The proposed advisory committee will have 20 members; a seat will be reserved for a representative of a public interest or consumer organization.

Funding and Technical Assistance

The department's General Counsel has decided that, where no statutes forbid establishment of a public participation funding program, Department funds may be used for such funding when the participation is found necessary and when lack of funding would preclude the participant from participating.

The department will be giving special attention to developing new procedures and funding sources to finance consumer participation in the department's regulatory proceedings.

Funds will be made available whenever possible to enable consumer representatives to give in-depth advice and assistance on major policy or program initiatives. (Recent examples include the Department's development of recommendations on the problem of product liability, where a series of Consumer Forums was funded; and a pilot project on voluntary consumer product information labeling, for which a national consumer organization was a consultant to the Department.)
and to other groups interested in public telecommunications. Also, NTIA prepares informational materials explaining the process of obtaining matching grants for telecommunications facilities. This information is distributed to individuals, public interest groups, the trade press, publishers, journals, and other media.

NMFS plans to hold individual consultations and workshops for consumer interest groups to provide technical assistance in preparing proposals for cost-sharing funding under the Fisheries Financial Assistance Program.

Public Participation Documents

During FY 1981, ORP and CAO will develop general guidelines for consumer participation for use throughout the department.

Information Contact

Meredith Fernstrom, Director of Consumer Affairs
Department of Commerce, Room 5889
Washington, D.C. 20230
(202) 377-5001

Department of Energy (DOE)

Units That Issue Regulations

Board of Contract Appeals
Conservation and Solar Applications
Economic Regulatory Administration
Office of the Controller
Office of Equal Opportunity
Office of Minority Economic Impact
Resource Applications

Functions

The President established DOE in 1977 to consolidate the major energy programs scattered throughout the government into a unified agency that could provide a national energy policy. DOE has played a major role in developing regulatory initiatives for energy policy, including a program for solar energy, plans for gasoline rationing, a program for phased decontrol of crude oil, and a program for import reduction.

Public Participation Summary

DOE reponded to E.O. 12044 with an agency Order making certain public participation procedures mandatory. Recision of that DOE Order has been proposed; however, the provisions relating to public participation contained in the Department Order should remain unaffected. Some of these procedures include:

• Notification of interested parties, the Governor of each State, DOE regional representations, and appropriate Federal advisory committees;

• Distribution of appropriate notices or press releases describing the regulatory action to trade journals, newspapers, and newsletters read by interested parties;

• public hearings and conferences with interested groups and individuals (with adequate advance notification), where appropriate; and

• Provision for one or more public hearings, preceded by at least 14 days notification, for all significant regulations proposed.

In response to a later Executive Order, No. 12160, which provides for the enhancement and coordination of Federal consumer programs, DOE has drafted a plan and is in the process of implementing a departmentwide effort to institutionalize the provisions of that Order.

In addition, the Department conducts citizen participation workshops. It is the responsibility of each program area to conduct those workshops that pertain to their particular program area.

When the Department solicits public comments, it requires full, verbatim transcripts for all public hearings. These transcripts are used in all proceedings where citizens comment for the official record. Our Office of Consumer Affairs publishes public comments in some issues of the "The Energy Consumer."

The Office of Consumer Affairs has the primary responsibility for managing

and coordinating the public

become part of the new Department of

regulations under development or

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and coordinating the public participation efforts of the Department. However, DOE program areas are directly accountable for regular and substantive public participation programs.

Funding and Technical Assistance

DOE is prohibited by Congress from providing funding for public participation. Therefore, no funding is available.

Public Participation Documents

The following document is available from the Office of Consumer Affairs: "The Energy Consumer."

Information Contact

The Office of Consumer Affairs maintains a mailing list for distribution. In addition, citizens with specific interests can have their names placed on specialized mailing lists. The Technical Information Center at Oak Ridge, Tennessee, also has a mailing list for its "Energy Meetings" bulletin. For more information contact:

Polly W. Craighill, Director
Consumer Impact Division
Office of Consumer Affairs
Department of Energy
Forrestal Bldg., Rm. 8G–087
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 252–5866

Hotline Numbers: For problems with getting gasoline or heating oil, or to report excessive dealer prices: (800) 424–9246. In the Washington, D.C. area (202) 653–3437.

For questions and comments on alcohol fuel technology: (800) 535–2840. In Louisiana: (800) 353–2870.

Department of Health, Education, and Welfare (HEW)

Units That Issue Regulations

Assistant Secretary for Education
Assistant Secretary for Human Development Services
Health Care Financing Administration
Office of Child Support Enforcement
Office of the Inspector General
Office of the Secretary
Social Security Administration
U.S. Public Health Service

Functions

HEW is the domestic funding agency for 300 programs that focus on assistance to the economically disadvantaged, social security, retirement and social service. The agency also regulates standards for food and drug safety and performs basic and applied research in health. The education activities of HEW will become part of the new Department of Education, when HEW becomes the Department of Health and Human Services (HHS).

Public Participation Summary

HEW frequently publishes an ANPRM to allow the earliest possible public participation in agency rule proposals. The department also frequently holds regional hearings and meetings to obtain public input in decisionmaking activities. These public meetings are held at times and places most convenient for those affected by the regulations. Accommodations are made to allow certain groups to participate in meetings that they might not be able to attend otherwise.

A pilot program of service desks will be opened in four regions to answer questions from manufacturers about Food and Drug Administration (FDA) regulations. The desks, located in East Orange, New Jersey; Chicago, Illinois; Atlanta, Georgia; and Santa Ana, California, will respond to questions dealing with problems such as how to fill out applications and other government forms, what regulations must be followed to market a new product, and how FDA regulations affect manufacturers' products or manfacturing processes.

Finally, in response to the President's specific concern about the impact of Federal regulations on small businesses, the Food and Drug Administration is attempting to give special assistance to small businesses in their attempt to decipher the various government regulations with which they must comply. The FDA will begin two programs to simplify regulations. FDA also will be appointing an official to the Commissioner's staff to "help assure a consistent agency-wide policy for small business."

Funding and Technical Assistance

HEW is currently developing a proposed regulation that will allow for compensation to the public for participation in the regulations development process. FDA published a final regulation on public participation funding in the October 12, 1979 **Federal Register**. The name and address of the FDA contact person is listed below under "Information Contact."

Public Participation Documents

None available at this time. However HEW's semiannual regulatory agenda provides important information that may lead to increased public participation. This document exceeds the requirements of EO 12044 by identifying not only "significant" regulations but all regulations under development or consideration at the department. In addition, program regulations are listed by the types of services provided and their effect upon organizations, institutions, and individuals. Over 400 regulations are presented in each agenda. The department's next agenda will be published on June 13, 1980.

Information Contact

The departmentwide contact person for public participation activities is:

Bill Wise, Assistant Secretary for Public Affairs
Department of Health, Education and Welfare
200 Independence Avenue, S.W.
Washington, D.C. 20201
(202) 245–1850

For information on proposed regulations currently being drafted for compensation of citizen participation contact:

Glenn Kamber, Director
Regulations Management Unit
Department of Health, Education and Welfare
200 Independence Avenue, S.W.
Washington, D.C. 20201
(202) 245–3161

For information on FDA public participation funding contact:

Alex Grant, Special Assistant to the Commissioner on Consumer Affairs
Food and Drug Administration
Room 1685, HF–7
5600 Fishers Lane
Rockville, Maryland 20857
(301) 443–5004

Department of Housing and Urban Development (HUD)

Units That Issue Regulations

Community Planning and Development (CPD)
Fair Housing and Equal Opportunity (FH&EO)
Government National Mortgage Association (GNMA)
Housing
Immediate Office of the Secretary
Neighborhoods, Voluntary Associations and Consumer Protection (NVACP)
New Community Development Corporation (NCDC)

Functions

HUD's national goal is to ensure that the basic rights of all consumers are considered, respected, and protected in all the agency's housing and community development activities. The agency hopes to achieve this goal through promoting viable communities, providing decent housing, achieving equal opportunity, and effectively coping with natural disasters.

Public Participation Summary

The Office of Citizen Participation, under the Assistant Secretary for NVACP, reviews the public participation requirements of key rules.

HUD has implemented several of the Administration's recommendations for extended public participation, including publishing ANPRMs, extending public comment periods to 60 days, holding public hearings on proposed regulatory changes, and announcing regulatory changes in publications oriented toward special interest groups. HUD's mailing list numbers about 78,000 individuals.

Funding and Technical Assistance

No funding is available at this time. We published an ANPRM on Funding Public Participation in rulemaking on March 4, 1980. Comments are being evaluated.

Public Participation Documents

24 CFR Parts 10 and 15. Part 10 is HUD's procedures for rulemaking that voluntarily adopt 5 U.S.C. 553 for public benefit programs, and provide for rulemaking petitions.

Part 15 discusses the availability of documents and the fees charged for search and reproduction of materials.

Information Contact

Father Geno Baroni, Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Affairs
Department of Housing and Urban Development
451 7th Street, S.W., Room 4100,
Washington, D.C. 20410
(202) 755–0950

Department of the Interior (DOI)

Units That Issue Regulations

Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
Geological Survey
Heritage Conservation and Recreation Service
National Park Service
Office of Minerals Policy and Research Analysis
Office of Surface Mining and Enforcement
Office of Water Research and Technology

Functions

The functions of the Department of the Interior include:

- Management of lands and water resources, including access to publicly owned energy and other mineral resources;
- Regulation of energy and mineral development;
- Protection of fish and wildlife populations and their habitat;
- Protection and interpretation of historic, archaeological, and other cultural or recreation resources of national significance;
- Advocacy for American Indian and Alaska Native peoples for whom the Federal Government has a trust responsibility;
- Oversight of Federal programs delivered to the various Territories of the United States.

These responsibilities of the department are carried out through the day-to-day operations of its eleven major bureaus, services, or offices. These offices are grouped by related functions under four Assistant Secretaries—Land and Water Resources; Energy and Minerals; Fish, Wildlife and Parks; and Indian Affairs. The Office of Territories reports directly to the Secretary, and there is an Assistant Secretary for Policy, Budget and Administration—to whom the cross-cutting and coordinative staffs report.

The Department of the Interior acts as steward for the Nation's storehouse of natural resources. As such, the department's missions are carried out for all citizens, and any member of the public has a potential interest in the department's business.

Public Participation Summary

Because of the nature of Interior's business—for example, as a land management agency or as a regulator of the surface effects of mining—much of the public's concern with activities naturally arises locally or regionally rather than in Washington. For this reason, the Department of the Interior has established a policy that its managers at all levels must consider the needs of the public, and must make allowance for the fact that the public may have an interest in participating in the development and review of not only rules, policies, and programs, but program activities on the regional or local levels. For this reason, program managers and support staff at any level can become the "responsible official" for a public participation plan and its implementation which is integrated with the steps necessary to reach final decisions.

Rulemaking procedures are prescribed by the Administrative Procedure Act, EO 12044, and in part 318 of the Department Manual. These procedures call for early notice of intent to write regulations, not only in the **Federal Register**, but by press release, and where applicable, by mailings to groups and individuals, and other means.

For major policy, program, or other Secretarial level decisions, the department has specific procedures requiring input on options with department-wide review before presentation to the Secretary. Part 301 of the Departmental Manual prescribes the steps for Secretarial Issue Documents. These instructions include a requirement to display the kind and amount of public participation in the preparation of options for decision.

Every six months, the department publishes a semiannual agenda of regulations pending or planned, as do other Federal agencies.

A continuing source of information about Department activities is the public process in producing environmental impact statements. Widely publicized and discussed under a variety of agency auspices, the department initiates, monitors, or reviews hundreds of such statements annually. Public comments on a wide range of natural resource concerns are registered, and become built-in considerations for departmental managers.

Officials throughout the Department look for opportunities to improve the general level of public knowledge about significant authorities and activities of the department, with provision for recorded comment and feedback. Such activities include periodic publication of calendars of anticipated actions printed in the popular and official press; periodic open public meetings; periodic "open office" time; and other public involvement techniques which, being regularly scheduled, could lessen the need for the number of separate public participation plans or events.

The best point of access to the Department of the Interior for an individual person anywhere in the country is a public information officer for the bureau or office carrying out the activity of interest. If a person does not know which unit is responsible for his/her area of concern, the best beginning point of contact would be the Secretary's Public Affairs Office or the Department Coordinating Officer for Public Participation and Consumer Affairs. The consumer will be directed to the best source of information about his/her concern, including information about the procedures and responsible officials that govern the decisionmaking or activity about which he/she is concerned.

Funding and Technical Assistance

The Department's Bureaus and Offices have supplied technical assistance in their varied fields of

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expertise. Traditional recipients have been State and local officials who shared administration responsibility for Department programs. But, for example, citizens or groups interested in reviewing or contributing to a specific element of their State's Comprehensive Outdoor Recreation Plan can obtain reports and technical information, and even visit sites as work schedules of knowledgeable personnel permit. On a similar basis, bureaus/offices can guide interested people to available information, and many units provide de facto technical assistance amounting to consultation on specific problems. It is important in this context to remember that the preparation of an environmental impact statement or other major reports, or a rulemaking decision may extend over several years.

If a citizen does not know who to contact, he/she should ask the closest Public Affairs Office of the Department. Such assistance can be provided at various levels of the agency. It usually occurs during interaction on agency programs through sharing of scientific data, answering procedural questions, assisting in preparation of application forms, etc. Bureaus and offices make every effort to provide appropriate technical assistance to public organizations and to the general public upon request, in accordance with existing laws, regulations, policies, and administrative procedures.

Certain laws provide for payment of attorney fees and expert witness fees for intervenors, for example Section 520 of the Surface Mining Control and Reclamation Act.

Public Participation Documents

Departmental Manual Chapter, "Public Participation in Decision-Making: (Part 301, Departmental Chapter 2, DM2), is available from the Office of the Assistant Secretary for Policy, Budget and Administration listed below.

Information Contact

Ms. Cecil Hoffman, Staff Assistant to the Assistant Secretary for Policy, Budget and Administration and Public Participation Coordination Officer
U.S. Department of the Interior
18th and C Streets, N.W.
Washington, D.C. 20240
(202) 343–5106
or
Harmon Kallman, Acting Director of Public Affairs
U.S. Department of the Interior
18th and C Streets, N.W.
Washington, D.C. 20240
(202) 343–6416

Department of Justice (DOJ)

Units That Issue Regulations

Antitrust Division
Bureau of Prisons
Civil Rights Division
Criminal Division
Drug Enforcement Administration
Federal Bureau of Investigation
Immigration and Naturalization Service
Office of the Attorney General
U.S. Parole Commission

Functions

The DOJ enforces criminal laws and laws against subversion; ensures healthy business competition; safeguards the consumer; and enforces drug, immigration and naturalization laws. The DOJ also plays a significant role in crime prevention, crime detection, and rehabilitation of offenders. In addition, the Department represents the United States in the Supreme Court and generally renders legal advice and opinions upon request to the President and heads of executive departments.

Public Participation Summary

Within the DOJ, none of the divisions or components that engage in regulatory activity operate under formalized public participation procedures.

As a law enforcement agency, the DOJ does not engage in much informal rulemaking activity and, therefore, has not centralized the function of providing information about public participation in such activity. However, pursuant to Attorney General Order No. 831–79, May 25, 1979, the Associate Attorney General and the Deputy Attorney General exercise oversight over components' regulatory agenda with administrative support from the Office of the Administrative Counsel, Justice Management Division.

Funding and Technical Assistance

The DOJ is not authorized to fund public participation activities.

Public Participation Documents

The DOJ's draft consumer plan was published at 44 CFR 71384 on December 10, 1979. The final plan is scheduled for publication in June 1980.

Information Contact

For referral to a knowledgeable official on the agency's semiannual regulatory agenda and any related public activity in the appropriate DOJ component contact:
William Snider, Administrative Counsel
Justice Management Division
U.S. Department of Justice
Washington, D.C. 20530
(202) 633–3452
The Department maintains general public information mailing lists. Any person who wishes to have his or her name included may contact:
Sandy Smith
Office of Public Affairs
U.S. Department of Justice, Room 5114
Washington, D.C. 20530
(202) 633–2014

Department of Labor (DOL)

Units that Issue Regulations

Bureau of International Labor Affairs
Bureau of Labor Statistics
Employment and Training Administration
Employment Standards Administration
Labor-Management Service Administration
Mine Safety and Health Administration
Occupational Safety and Health Administration

Functions

DOL is primarily concerned with the quality of work-life in America and with the worker/employer-job relationship, including working conditions, pay, job and pay discrimination, job training, collective bargaining, workers compensation, and unemployment insurance. In addition, DOL administers the Labor Management Reporting and Disclosure Act and works with the Internal Revenue Service to administer the Employee Retirement Income Security Act of 1974.

Public Participation Summary

DOL develops a public participation plan for each significant rule proposed. Each of the administrative units named above has designated a consumer representative to handle inquiries and complaints; and the Special Assistant to the Secretary for Consumer Affairs coordinates public participation for all the units and the outreach activities of DOL's regional offices.

The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) use advisory committees set up on an ad hoc basis to determine the need for regulatory action, as well as the content of a needed regulation. Any member of the public may request an informal public hearing in connection with the development of the regulation. MSHA and OSHA also are authorized to implement temporary standards under action circumstances.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

For general information or referral to the consumer representative for any administrative unit name above, contact:
Judy Sorum, Special Assistant to the Secretary for Consumer Affairs
Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
(202) 523–9184

Department of Transportation (DOT)

Units That Issue Regulations

Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration
National Highway Traffic Safety Administration
Office of the Secretary
Research and Special Programs Administration
St. Lawrence Seaway Development Corporation
U.S. Coast Guard
Urban Mass Transportation Administration

Functions

The Department of Transportation (DOT) fosters the development and maintenance of safe, effective transportation systems to move people and goods. Each administrative unit named above has separate activities to reach the public, depending upon the nature of ongoing proceedings. DOT's Office of Consumer Affairs coordinates the public participation activities of all the administrative units.

Public Participation Summary

In the past year, the department has taken a number of major steps to enhance its public participation programs. First, based on suggestions we received at the department's Conference on Transportation and the Consumer, held in May 1979, the department issued an ANPRM (44 FR 46971, August 9, 1979). The ANPRM solicited the public's comments to help the department review and evaluate citizen participation in the transportation planning and project development process. Second, the department along with other government agencies, published its "Draft Consumer Program" (44 FR 71370, December 10, 1979), which contained an extensive section on public participation in rulemaking and decisionmaking in policies and programs. In addition, the department is reviewing its experience with public hearings in rulemaking proceedings to improve them.

An appendix to the department's Semi-Annual Regulations Agenda contains information on how interested persons may include their names on an agency's mailing list to receive documents issued within the department. Other appendices list the locations and hours of operation of the department's public rules dockets and the addresses and phone numbers of persons who can provide general information on DOT's rulemaking process. Persons who want to be placed on a mailing list for future copies of the agenda should call or write the appropriate office listed below under "Information Contact."

The Office of Consumer Affairs publishes a newsletter of general public interest. To receive it, call or write this office, which is listed below under "Information Contact."

Funding and Technical Assistance

In the past, DOT operated a demonstration program in the National Highway Traffic Safety Administration (NHTSA) for certain rulemaking proceedings. The program provided financial assistance to individuals and groups who otherwise would have been unable to participate effectively in NHTSA proceedings. Recently, however, funding for the demonstration program was eliminated by the action taken by Congress on the department's FY 1980 appropriations.

Public Participation Documents

The "Transportation Consumer Newsletter" is available from DOT's Office of Consumer Affairs.

The "Department of Transportation Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979), and the "Semi-Annual Regulations Agenda" are available from the Office of the General Counsel. (See "Information Contact" below.)

Information Contact

Contact the following office for information on any DOT activity:
Office of Consumer Affairs
Department of Transportation
400 Seventh Street, S.W., Room 9402
Washington, D.C. 20590
(202) 275–4166
Contact the following office for copies of DOT's "Regulatory Policies and Procedures" and "Semi-Annual Regulations Agenda:"
Office of Regulation and Enforcement
Office of the General Counsel, C–50
Department of Transportation
400 Seventh Street, S.W., Room 10421
Washington, D.C. 20590
(202) 426–4723

Department of the Treasury

Units That Issue Regulations

Bureau of Alcohol, Tobacco and Firearms
Bureau of Government Financial Operations
Bureau of Public Debt
Comptroller of the Currency
Internal Revenue Service
Office of Revenue Sharing
Office of the Secretary
U.S. Customs Service
U.S. Savings Bonds Division
U.S. Secret Service

Functions

The Department of the Treasury collects, disburses, and ensures the integrity of government revenues.

Public Participation Summary

The Department of the Treasury has the following unique public participation and outreach activities:

- Public speaking by Treasury officials on Treasury regulatory activities.
- Public hearings scheduled by IRS if even one party so requests. Public hearings held in cities outside of Washington by AT&F with evening hearing times available upon request.
- Developing "consumer forums," arranging informal meetings, or providing special briefings for consumers, and their representatives.

Funding and Technical Assistance

Economic data and reports are supplied to researchers, private and public sector officials, students and consumers at little or not cost to the recipients.

Public Participation Documents

- Agenda of pending regulations on a monthly basis by IRS. The Bureau of National Affairs reprints and circulates it to subscribers.
- Direct distribution of regulatory documents issued by the Comptroller of the Currency to all national banks.
- Publication of all Customs NPRMs and Final Rules in the Customs Bulletin which is mailed to any individual expressing an interest in Customs regulatory activities.
- Publication of the "Consumer Affairs Handbook," available from the Special Assistant to the Secretary (Consumer Affairs).
- No general materials available. For information on specific regulatory activities, write or call the Information Contact listed below.

V 45 M Y 30 80 0 UMI

Contact Person

Steven L. Skancke
Deputy Executive Secretary
Department of the Treasury
Room 3408, Main Treasury
Washington, D.C. 20220
(202) 566–2269

Individuals and interest groups interested in adding their names to the general public information mailing list may do so by writing to the agency's Deputy Executive Secretary listed above.

Environmental Protection Agency (EPA)

Units That Issue Regulations

Office of Air, Noise and Radiation
Office of Enforcement
Office of Planning and Management
Office of Research and Development
Office of Toxic Substances
Office of Water and Waste Management

Functions

The President created EPA in 1970 to administer environmental laws, conduct research and demonstration projects, establish and enforce standards, monitor pollution in the environment and assist State and local governments in their efforts to restore and protect the environment. EPA's regulatory responsibilities are in the areas of air, water, toxics, pesticides, and solid waste management programs.

Public Participation Summary

The agency develops an individual outreach plan for most proposed regulations. The agency develops a special contact list, publishes an ANPRM, provides informal open meetings and workshops to explore regulatory issues, and then develops a summary of public viewpoints and preferences for inclusion into the final decisionmaking process. EPA also provides feedback on the outcome of public involvement to all those who participated in the above.

There is no required format for submitting a rulemaking petition, and multiple copies of public comments are not required, except in special cases to expedite agency review of comments.

The Administrator's Special Assistant for Public Participation is developing a policy for increased public participation (see below, under "Public Participation Documents"), as well as a pilot program to provide compensation for participation in certain rulemaking activities. The Office of Public Awareness is developing a proposed consumer plan to provide for increased consumer participation in EPA activities.

Funding and Technical Assistance

EPA is developing a pilot program to compensate selected participants for their participation in six specific forthcoming rulemakings, including rules issued under the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act. The general qualifications for compensation provide that: (1) The participant would be unable to participate effectively without agency compensation; and (2) the participant could make a useful contribution to a full and fair assessment of the issues involved.

Those individuals and groups participating in rulemaking proceedings regarding the control of hazardous chemical substances and mixtures not only must meet the above two requirements but also must not have a direct economic interest in the outcome of the proceeding.

Public Participation Documents

EPA is soliciting public comments on the "Proposed Policy on Public Participation" (45 FR 28912), which sets forth EPA's plan for increasing public participation.

"Improving Environmental Regulations" (44 FR 30988), describes EPA's regulatory development procedures and responds to E.O. 12044.

EPA has published a document on public participation in a specific program, entitled "Public Participation in Programs under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act" (44 FR 10286). EPA has published numerous other free books and pamphlets on several significant regulations and on some of its programs. These publications are available from the Office of Public Awareness.

Information Contact

Sharon Francis, Special Assistant to the Administrator for Public Participation (A–100)
Environmental Protection Agency
401 M Street, S.W., Room 1227 West Tower
Washington, D.C. 20460
(202) 245–3066

To receive copies of agency publications call or write:
Joan Martin Nicholson, Director
Office of Public Awareness (A–107)
Environmental Protection Agency
401 M Street, S.W., Room 311 West Tower
Washington, D.C. 20460
(202) 755–0700
James Keys
Public Information Center (PM 215)
Environmental Protection Agency
401 M Street, S.W., Lobby West Tower
Washington, D.C. 20460
(202) 755–0707

To have your name included on the agency's mailing list call or write:
Carol Hummer
Constitutent Coordinator (A–107)
Environmental Protection Agency
401 M Street, S.W., West Tower
Washington, D.C. 20460
(202) 755–0710

The Office of Pesticides and Toxic Substances' Industry Assistance Office will provide information concerning the implementation of the Toxic Substances Control Act, call or write:
John Ritch
Industry Assistance Office (TS–795)
Environmental Protection Agency
401 M Street, S.W., East Tower
Washington, D.C. 20460
(202) 554–1404
(800) 424–9065

Equal Employment Opportunity Commission (EEOC)

Units That Issue Regulations

Field Services
Office of Policy Implementation
Systemic Programs

Each commissioner also may issue regulations with the approval of the majority of the full Commission.

Functions

EEOC's primary responsibility is to enforce Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin. In addition, the agency recently assumed jurisdiction over the Equal Pay Act and the Age Discrimination in Employment Act.

Public Participation Summary

EEOC involves affected Federal agencies, State and local governments, business, labor unions, public interest organizations, civil rights groups, and various individuals early in the process of developing proposed regulations. The EEOC's outreach plan is a very

extensive one, and includes holding public conferences and hearings, sending press releases and notices to special interest publications, and publishing ANPRMs to allow public comments at the earliest rule development stage.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

Karen Danart, Deputy Director
Office of Policy Implementation
2401 E Street, N.W.
Washington, D.C. 20506
(202) 634–7060

General Services Administration (GSA)

Units That Issue Regulations

Automated Data and Telecommunications Service
Executive Committee on the Federal Register
Federal Property Resources Service
Federal Supply Service
Information Security and Oversight Office
National Archives and Records Service
Office of Acquisition Policy
Office of General Counsel
Office of Human Resources and Organization
Public Buildings Service
Transportation and Public Utilities Service

Functions

GSA is the Federal government's business manager. GSA's regulations establish other agencies' procedures on matters such as managing Federal property and records; constructing and operating buildings; obtaining and distributing supplies; using and disposing of property; managing transportation, traffic, and communications; stockpiling strategic materials; and managing the government's automatic data processing resources program. While GSA is not a major regulatory agency, when agencies apply GSA regulations, the rules do have an effect on the public, for example, the rule on smoking in public buildings.

Public Participation Summary

GSA's procedures are designed in the spirit of openness to gain effective public participation rather than to satisfy specific legal requirements. For each proposed regulation, we select methods of public notice and participation based on the subject of the proposed regulation and the interests of the groups and sectors that will be affected by it. For instance, we may publicize some proposals in industry and trade publications while regulations abour facilities for the handicapped may be made available in Braille and in recorded tape cassettes. In every case, the notice tells how to participate in GSA's view of a regulation and who to contact.

Funding and Technical Assistance

No funding is available for public participation in GSA's regulatory process. In some cases, GSA employees may be able to give technical assistance to the public concerning a proposed regulation.

Public Participation Documents

"Consumer Resource Handbook." The Handbook provides a directory of Federal agencies and includes a list of private consumer organizations involved in citizen participation and representation.

Federal Register, December 10, 1979 (Volume II). This **Federal Register** volume contains the proposed consumer programs of 30 Federal agencies. Each draft program contains that agency's plan to provide for public involvement in development of its rules. The Handbook and the **Federal Register** volume are available free from GSA Consumer Information Center, Boulder, CO 81009. Please mark "Free" on the envelope to speed your order.

GSA's Federal Information Centers provide a toll-free telephone point of contact in more than 85 cities for information and referral to all Federal government activities, including public participation opportunities. Federal Information Centers are listed under "U.S. Government" in the telephone directory white pages.

Information Contact

For general information about regulations being developed call or write:
Anthony Artigliere
Directives Management Branch
General Services Administration
18th & F Streets N.W.
Washington, D.C. 20405
(202) 566–0666

For information on public participation in general:
David F. Peterson
Director of Consumer Affairs
General Services Administration
18th & F Streets N.W., Room G–142
Washington, D.C. 20405
(202) 566–1794

Nonprofit consumer organizations can enter their names on a special mailing list by contacting:
Teresa Nasif
Consumer Information Center
General Services Administration
18th & F Streets N.W., Room G–142
Washington, D.C. 20405
(202) 566–1794

GSA Hotline for reporting fraud or violations:
(800) 424–5210
(202) 566–1780—Washington, D.C. metro area only.
Or write:
GSA Hotline
P.O. Box 28341
Washington, D.C. 20005

Dial-A-Reg: Call the following numbers in the city nearest you for information on selected documents scheduled for publication in the next day's Federal Register.
(202) 523–5022—Washington, D.C.
(312) 663–0884—Chicago, IL
(213) 688–6694—Los Angeles, CA

National Credit Union Administration (NCUA)

Units That Issue Regulations

All regulations are issued by the NCUA Board.

Functions

NCUA is responsible for chartering, regulating, and supervising Federal Credit Unions. The agency is also responsible for administering the National Credit Union Share Insurance Fund, which insures the share (savings) accounts of the members of all federally chartered credit unions and select State-chartered credit unions. The NCUA board also serves as the board of directors of the National Credit Union Administration Central Liquidity Facility, which is a mixed ownership government corporation created to provide funds to meet the liquidity needs of credit unions.

Public Participation Summary

NCUA relies upon published requests for written comments on proposed rules. Advance copies of proposed rules are regularly sent to those persons and associations that have expressed an interest in being placed on NCUA's regulatory mailing list. Send requests to the Office of Administration, at the same address as the Agency Contact.

Funding and Technical Assistance

No funding or technical assistance is available at this time.

Public Participation Documents

NCUA final report "In Response to Executive Order 12044: Improving

V 45 M Y 30 80 0 UMI

Government Regulations" 44 FR 17954, March 23, 1979.

Information Contact

Robert S. Monheit, Senior Attorney and Regulatory Development Coordinator
Office of General Counsel
National Credit Union Administration
1776 G Street, N.W.
Washington, D.C. 20456
(202) 357–1030

Small Business Administration (SBA)

Units That Issue Regulations

All regulations are issued under the signature of the agency Administrator.

Functions

The agency provides the small business community with financial assistance, management training and counseling, and help in getting a fair share of government contracts through over 100 offices in all parts of the nation. SBA also serves as small business' chief advocate in the Federal government, and administers the government's home, personal property, and business Disaster Loan Recovery Program.

Public Participation Summary

SBA does not favor the Administrative Procedure Act's exemption of regulations concerning grants, loans, and other forms of financial assistance from normal public participation procedures; notices on these matters also go out to the general public for comments. Therefore, the Agency has developed 13 CFR 101.9, which specifies that public participation will be encouraged in all SBA rulemaking to the maximum extent possible. In this regard, the Agency makes use of regional hearings on its regulatory proposals and solicits advice on a regular basis from advisory committees. Otherwise, the Agency's procedures are in keeping with the Administrative Procedure Act and the spirit of E.O. 12044.

Funding and Technical Assistance

None.

Public Participation Documents

SBA's regulations dealing with public participation in rulemaking can be found at 13 CFR 101.9. Copies may be obtained by calling or writing the Information Contact listed below.

Information Contact

For general information on the preparation of regulations and policy, the promulgation of rules, or public participation procedures contact:
George M. Grant, Jr., Associate General Counsel for Legislation
Small Business Administration
1441 L Street, N.W., Room 700
Washington, D.C. 20416
(202) 653–6662

United States International Trade Commission (USITC)

Units That Issue Regulations

The Office of the General Counsel at the Commission is responsible for recommending the adoption of regulations by the Commission, recommending rulemaking proceedings, and preparing notices for rulemaking proceedings.

Functions

The Commission is an independent agency created to provide the Congress and the Executive Branch with expert advice on matters related to U.S. foreign trade. In addition to the general advisory responsibilities, the Commission conducts many investigations related to the impact of imported products on the domestic markets of U.S. producers.

Public Participation Summary

The Office of the Secretary at the Commission is responsible for assisting interested persons with participation in Commission investigations, facilitating access to information gathered by the Commission, and providing general information concerning the agency. Much of the information developed by the Commission concerns the domestic markets for products. Accordingly, consumers, producers, and importers of the products subject to investigation often have an interest in Commission proceedings and publications.

Funding and Technical Assistance

Although no compensation is made available to the public for paraticipation in a Commission proceeding, assistance is available. Inquiries concerning assistance should be directed to the Office of the Secretary.

Public Participation Documents

"Summary of Statutory Provisions Related to Import Relief" (Publication No. 1057, April 1980) summarizes the statutory provisions for agency investigations of the impact of imports in domestic product markets and is available from the Office of the Secretary.

A brochure that generally describes the agency is also available from the Office of the Secretary.

Information Contact

Hal Sundstrom
Assistant Secretary and Public Information Officer
Office of the Secretary
U.S. International Trade Commission
701 E Street, NW.
Washington, D.C. 20536
(202) 523–0161

This agency has a general public mailing list. Address requests to be added to the mailing list to the Office of the Secretary.

Veterans Administration (VA)

Units That Issue Regulations

Department of Medicine and Surgery
Department of Veterans Benefits
Department of Memorial Affairs
Other units can on occasion issue internal regulations; that is, for adherence by the agency only.

Functions

The VA provides services to veterans and their dependents through a variety of programs including compensation, pension, education, vocational rehabilitation, insurance, home loans, burial, and health care and hospitalization.

Public Participation Summary

The VA works closely with community organizations and knowledgeable individuals involved in veterans' interests in reviewing its regulations and procedures to determine program responsiveness to public need. VA medical centers and regional offices provide many services and disseminate information at the local level, where public involvement is particularly visible.

Also, the VA sends copies of proposed regulations to the U.S. House and Senate Veterans Affairs Committees, to veterans' organizations, and other interested parties. The VA encourages the public to submit written comments on the agency's regulatory activities. These are no formal requirements for submitting these comments, and the comment period on all rulemaking proceedings is either 30, 60, or 90 days, depending on the significance of the regulation.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

Nancy C. McCoy
Assistant Director for Administrative Issues
Office of Management Services (61)
810 Vermont Avenue, N.W.
Washington, D.C. 20420
(202) 389–3770 or 2073

Civil Aeronautics Board (CAB)

Units That Issue Regulations:

None. CAB regulations are issued by the CAB itself.

Functions

The CAB is responsible for economic regulation of air transportation and for overseeing the transition to a deregulated air transportation system.

Public Participation Summary

Private and public interest groups that petition CAB for rulemaking must file an original and 19 copies of the petition with CAB's Docket Section. Respondents to the petition should also file an original and 19 copies. Individuals may file their comments as consumers without filing multiple copies.

Public files on agency proceedings may be examined at CAB in Room 711, 1825 Connecticut Avenue, N.W., Washington, D.C., during normal business hours Monday–Friday.

Funding and Technical Assistance

The CAB's public participation funding program was terminated by P.L. 96–131, 93 Stat. 1023, November 30, 1979. (See 45 FR 36035, April 17, 1980.)

Public Participation Documents

In May and November, the CAB publishes an agenda of significant regulations under development or review. The first agenda appeared at 44 FR 65104, November 9, 1979.

Information Contact:

For information on public participation:
Mark Schwimmer, Assistant Chief
Rules and Legislation Division
Office of the General Counsel
Civil Aeronautics Board
1825 Connecticut Avenue, N.W.
Washington, D.C. 20428
(202) 673–5442
For consumer complaints:
Consumer Assistance Section
Bureau of Consumer Protection
Civil Aeronautics Board
1825 Connecticut Avenue, N.W.
Washington, D.C. 20428
(202) 673–6047

Commodity Futures Trading Commission (CFTC)

Units That Issue Regulations

CFTC regulations are issued by the CFTC itself.

Functions

The CFTC is an independent regulatory agency that exercises rulemaking and enforcement powers over trading on 10 commodity exchanges offering futures contracts in a wide variety of commodities. The Commission's regulatory and enforcement programs are designed to prevent deliberate market distortions and manipulations, to ensure fair trade processes, to protect the financial integrity of the marketplace and the brokerage community, and to assure the rights of customers, while providing an additional forum for release of their legitimate grievances.

Public Participation Summary

The CFTC also administers a reparations procedure under which it can order a firm or person to pay damages to someone who proves damage by that person or firm caused by a violation of the Commodity Exchange Act, as amended, or of CFTC regulations. This procedure provides an alternative to arbitration or litigation for members of the public who believe they have been damaged by persons or companies registered with or required to be registered with the CFTC, including floor brokers, futures commission merchants, commodity trading advisors, commodity pool operators, and associated persons.

Funding and Technical Assistance

None.

Public Participation Documents

CFTC 101: Reparations
CFTC 102: Economic Purposes of Futures Trading
CFTC 103: Farmers, Futures and Grain Prices

Information Contact

For information concerning public participation or being included on the agency's public information mailing list, call or write:
Randell Moore, Director
Office of Public Information
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581
(202) 254–8630
For publications requests contact:
Irwin B. Johnson
Division of Economics and Education
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581
(202) 254–5273

CFTC's Consumer Hotline provides information concerning firms or persons dealing in commodity futures or similar instruments, such as options and leverage. The toll-free phone numbers are:
(800) 424–9838
Alaska, Hawaii: (800) 424–9707
Metro Washington, D.C. area: (202) 254–7837

Consumer Product Safety Commission (CPSC)

Units That Issue Regulations

The Commission votes on and issues all regulations from the Agency.

Functions

CPSC issues and enforces mandatory product safety standards, helps industry develop voluntary safety standards, and bans unsafe products when safety standards are not feasible. It also monitors recalls of defective products, informs and educates consumers about product hazards, conducts research and develops test methods, collects and publishes injury and hazard data, and promotes uniform product regulations of governmental units.

Public Participation Summary

CPSC established an Office of Public Participation (OPP) in January 1977, primarily to administer a funding program for public participants in agency proceedings.

The CPSC "Public Calendar," published weekly, provides information on meetings, hearings, Commission agendas, and proposed and final rules and regulations. It can be used to find out when the Commission is soliciting funding applications for participation in a proceeding. **Federal Register** Notices or proceedings would also provide this information.

Funding and Technical Assistance

CPSC provides reimbursement to selected participants in agency proceedings where public comments are invited on matters involving the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act. CPSC generally selects the proceedings in which there is opportunity for financial compensation of public participants.

Public Participation Documents

Information on the Commission's funding program and the Public Calendar are available from the Office of Public Participation or the Office of the Secretary.

Information Contact

Office of Public Participation

Consumer Product Safety Commission 37147
Information Contact 37147
Funding and Technical Assistance 37147
Public Participation Documents 37147
Public Participation Summary 37147
Functions 37147
Units That Issue Regulations 37147
Veterans Administration (VA) 37146
Information Contact 37146
Public Participation Documents 37146
Funding and Technical Assistance 37146
Public Participation Summary 37146
Functions 37146
Units That Issue Regulations 37146
United States International Trade Commission (USITC) 37146
Information Contact 37146
Public Participation Documents 37146
Funding and Technical Assistance 37146
Public Participation Summary 37146
Functions 37146
Units That Issue Regulations 37146
Small Business Administration (SBA) 37146
Information Contact 37146
Public Participation Documents 37146
Funding and Technical Assistance 37146
Public Participation Summary 37146
Functions 37146
Units That Issue Regulations 37146

Civil Aeronautics Board (CAB) 37147
Information Contact: 37147
Public Participation Documents 37147
Funding and Technical Assistance 37147
Public Participation Summary 37147
Units That Issue Regulations: 37147
Commodity Futures Trading Commission (CFTC) 37147
Units That Issue Regulations 37147
Functions 37147
Public Participation Summary 37147
Funding and Technical Assistance 37147
Public Participation Documents 37147
Information Contact 37147
Consumer Product Safety Commission (CPSC) 37147
Units That Issue Regulations 37147
Functions 37147
Public Participation Summary 37147
Funding and Technical Assistance 37147
Public Participation Documents 37147
Information Contact 37147

Consumer Product Safety Commission
1111 Eighteenth Street, N.W.
Washington, D.C. 20207
(202) 254–6241
or
Office of the Secretary
Same address as above
(202) 634–7700

For general information about the Commission's activities call toll-free: (800) 638–8326; Maryland residents only call: (800) 492–8363; Alaska, Hawaii, Virgin Islands and Puerto Rico: (800) 638–8333.

A teletype for the deaf is available from 8:30 a.m. to 5:00 p.m., Monday-Friday for those who call these numbers.

Federal Communications Commission (FCC)

Units That Issue Regulations

The FCC's seven-member Commission issues and approves all agency regulations.

Functions

The FCC regulates both interstate and U.S. foreign radio, television, wire, cable, and satellite communications.

Public Participation Summary

The FCC publishes a "Sunshine Agenda" prior to each open FCC meeting that provides brief summaries of each item scheduled for discussion.

The FCC's Consumer Assistance Office (CAO) conducts public participation workshops in various locations across the country. These sessions teach members of the public how to participate in FCC rulemaking proceedings.

CAO also publishes *Feedback*, a plain English, consumer-oriented summary of major FCC proposals, and *Actions Alert*, a weekly bulletin reminding consumers of major pending actions at the FCC.

Funding and Technical Assistance

The FCC is considering the creation of a program to fund public participation. At this time, the FCC does not have such a program.

Public Participation Documents

You can obtain the following documents on public participation as well as other publications about the agency from the FCC's Consumer Assistance Office free of charge.

"A Guide to Open Meetings"
"The Public and Broadcasting: A Procedure Manual"
"How FCC Rules are Made"
"FCC Information Seekers Guide"
"FCC Feedback"
"FCC Actions Alert"

Information Contact

Erika Ziebarth Jones, Acting Chief
Consumer Assistance Office
Federal Communications Commission
1919 M Street, N.W., Room 258
Washington, D.C. 20554
(202) 632–7000

Call the Consumer Assistance Office for information on receiving its mailing lists for Feedback and Actions Alert.

The CAO operates a special phone for the hearing impaired 8:00 A.M. to 5:30 P.M., Monday–Friday: (202) 632–6669

For a recorded list of FCC press releases telephone (202) 632–0002 (the recording is changed twice daily).

Federal Deposit Insurance Corporation (FDIC)

Units That Issue Regulations

FDIC's Board of Directors issues regulations for the agency.

Functions

FDIC administers a Federal insurance program for the deposits in banks belonging to the Federal Reserve System and in State banks and U.S. branches of foreign banks that apply and qualify for FDIC insurance. FDIC also regulates, at the Federal level, FDIC-insured State-chartered banks that are not members of the Federal Reserve System and State-licensed branches of foreign banks.

Public Participation Summary

Under Section 553 of the Administrative Procedure Act, FDIC is required to provide general notice of, and permit public participation in, its rulemaking activities, except for interpretative rules; or rules on FDIC organization, practice, or procedure; or when the notice and public participation are impracticable, unnecessary, or contrary to the public interest. Public participation generally occurs through the submission of written data, views, or arguments. However, the FDIC Board of Directors may on occasion authorize interested persons to present their views orally. Under FDIC rulemaking procedures, the public comment period for all published proposed rules is at least 60 days, unless for good cause, such as unnecessary delay or harm to the public interest, the FDIC Board of Directors determines that a shorter period is necessary. When FDIC does not provide public notice of, and the opportunity for public participation in, its rulemaking activities or when the agency does not provide a public comment period of at least 60 days, the FDIC Board of Directors will publish its reasons for not doing so in the **Federal Register** notice for the regulation.

Funding and Technical Assistance

Consideration is given on a case-by-case basis. Requests should be directed to the Executive Secretary listed below under "Information Contact."

Public Participation Documents

An FDIC Policy Statement, "Development and Review of FDIC Rules and Regulations," outlines procedures used by FDIC during the development and review of its regulations. Copies can be obtained from the Information Office listed below.

Information Contact

For information on public participation and on funding:
Hoyle L. Robinson, Executive Secretary
Office of the Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
(202) 389–4425

For publications requests:
Information Office
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
(202) 389–4221

Federal Election Commission (FEC)

Units That Issue Regulations

All regulations issued by the Federal Election Commission are approved by affirmative vote of at least four Commissioners. The Office of General Counsel (OGC) drafts regulations for Commission approval. The other functional divisions of the Commission such as Audit, Reports Analysis and Public Disclosure, may make recommendations on new regulations to OGC. No office of the Commission has authority to issue regulations without such approval.

Regulations promulgated under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431, et. seq.), and chapters 95 and 96 of the Internal Revenue Code of 1954 (Title 26, United States Code) must be transmitted to Congress prior to final prescription. If neither House of Congress disapproves the proposed regulation within 30 legislative days after transmittal, it may be precribed by the Commission. (See, 2 U.S.C. § 438(a)(8), 26 U.S.C. §§ 9009(c), 9039(c).)

Functions

The Federal Election Commission administers, formulates policy, and seeks to obtain compliance with respect

to the Federal Election Campaign Act of 1971, as amended, and chapters 95 and 96 of the Internal Revenue Code of 1954. Its functions include administering the Federal campaign finance disclosure requirements, contribution and expenditure limitations prohibitions on certain contributions to Federal Candidates, and public financing of Presidential nominating conventions and elections.

Public Participation Summary

The Federal Election Commission has no statutory authority for special public participation programs. Regulations are issued under the Administrative Procedure Act and public comments are invited pursuant to ANPRMs and NPRMs published in the **Federal Register**. Information on pending regulatory activities is also published in the Commission's monthly newsletter, the FEC *Record*.

Funding and Technical Assistance

None.

Public Participation Documents

Information on pending regulatory activities, as well as pending advisory opinions, recent enforcement actions and litigation, is published in the Commission's monthly newsletter, the FEC *Record*. The *Record* is distributed free of charge by the Commission's Public Information Office (see Information Contact below).

Information Contact

Dr. Gary Greenhalgh, Assistant Staff Director for Public Information
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
(202) 523–4068
Outside the Washington, D.C. metro area phone (800) 424–9530

Federal Energy Regulatory Commission (FERC)

Units That Issue Regulations

There are no administrative units within the Federal Energy Regulatory Commission that have the authority to issue regulations. The full Commission votes on and issues all FERC regulations.

Functions

FERC is an independent five-member Commission within the Department of Energy (DOE). As the successor to the former Federal Power Commission, FERC sets rates and charges for transporting and selling natural gas, for transmitting and selling electricity, and for licensing hydroelectric power projects. FERC also decides whether to exercise independent jurisdiction in many DOE regulatory policies.

Public Participation Summary

FERC often holds public hearings and informal public conferences in Washington, D.C., and other regions of the country on major rulemaking proposals. These hearings and conferences generally are presided over by a member of the Commission and are announced in the **Federal Register**.

Also, after a proposed rule appears in the **Federal Register** the public has 45 days in which to submit written comments on the proposal. The Commission requires 14 copies of written comments, but in special circumstances the Commission may waive that requirement.

Funding and Technical Assistance

In spite of the Commission's efforts to obtain compensation for public participation, the Congress wrote an absolute restriction on public participation funding into the FERC's FY 1980 appropriation bill.

Public Participation Documents

While the Commission does not have any publications specifically on public participation, it does maintain several mailing lists designed to disseminate widely free information on its activities and ongoing proceedings. These mailing services are as follows:

- Department of Energy Weekly Announcements—a weekly compilation of all news releases issued by FERC and DOE.
- RU Mailing List—all FERC orders in rulemaking dockets.
- NGPA Mailing List—Natural Gas Policy Act releases, notices, rulemakings.
- Mailing List for Consumer Organizations—Commission Announcement notices, etc., that are of interest to consumer organizations.
- Incremental Pricing Mailing List—Incremental Pricing, notices and rulemakings.

Lists of all publications and special reports issued by the FERC can also be obtained from the Division of Public Information within the Office of Congressional and Public Affairs. The Division of Public Information plans to issue in the near future a guide to public information available at the FERC.

Information Contact

For more information on FERC's public participation program call or write:
Office of the Secretary
Federal Energy Regulatory Commission
825 North Capitol Street N.E., Room 9310
Washington, D.C. 20426
(202) 357–8400
Office of Congressional and Public Affairs
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426
(202) 357–8373

For further information on public participation funding at the FERC:
Kenneth S. Levine
Director, Office of Congressional and Public Affairs
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426
(202) 357–8373

The FERC Division of Public Information within the Office of Congressional and Public Affairs also maintains a daily recorded message listing all orders and notices issued by the Commission. The message is changed at 10:00 a.m. and 3:00 p.m. each day; call (202) 357–8555.

Federal Home Loan Bank Board (FHLBB)

Units That Issue Regulations

Office of General Counsel, Regulations Division

Functions

The Federal Home Loan Bank Board is an independent regulatory agency headed by a three-member board of directors. Members are appointed by the President, with the advice and consent of the Senate, for four-year terms. The Chairman is designated by the President and is the chief executive officer of the Board.

The members of the Board comprise the Board of Directors of the Federal Home Loan Mortgage Corporation, which was created by Title III of the Emergency Home Finance Act of 1970 to develop a secondary market for mortgage loans. The Board also supervises the operations of the Federal Home Loan Banks, and directs the operations of the Federal Savings and Loan Insurance Corporation (FSLIC). The FSLIC insures the accounts of all federally chartered savings and loans, and of other building and loan, savings and loan, and homestead associations, and cooperative banks that are eligible for insurance and whose applications have been approved by FSLIC. Finally, the Board supervises and regulates all savings and loans and other similar

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institutions doing business in Washington, D.C.

Public Participation Summary

After notice of a proposed amendment or rule is published in the **Federal Register**, interested persons may participate in the regulatory process by sending written data, views, or arguments to the Secretary to the Board. Members of the public may also petition the Board to issue, amend, or repeal any amendment or rule by sending a petition to the Secretary to the Board.

The Board generally does not hold hearings on proposed regulations or amendments. However, if hearings are held, they are open to the public. Similarly, the public may attend open Board meetings. Notice of these meetings is published in the **Federal Register** and posted in the lobby of the Board's headquarters at 1700 G Street, NW., Washington, D.C.

Funding and Technical Assistance

None

Public Participation Documents

Information on public participation in Board meetings, hearings, and other parts of the regulatory process, summarized above under the heading, "Public Participation summary," may be found in 12 CFR §§ 505b and 508. Further information on procedures, forms, and other aspects of the Board's operations is available to the public at the Board's headquarters and at the offices of the Federal Home Loan Banks.

Information Contact

Warren J. Dunn
Communications Office
Federal Home Loan Bank Board
1700 G Street, NW.
Washington, D.C. 20552
(202) 377–6677

Interested persons may write or phone the above office to be placed on a general public information mailing list to receive press and statistical releases. Other information published by the Board and available to the public, listed in 12 CFR 505.3, includes copies of the Board's Annual Report, the Federal Home Loan Bank Board Journal, as well as statutory and regulatory material relating to the Board's operations.

Federal Maritime Commission (FMC)

Units That Issue Regulations

There are no units within the Federal Maritime Commission that have authority to issue regulations. All regulations are issued by the Commission as a whole.

Functions

FMC is an independent regulatory agency primarily responsible for administering Federal statutes concerned with the regulation of ocean shipping in the U.S. foreign commerce and the U.S. domestic offshore commerce.

Public Participation Summary

Shippers and receivers of cargo in the U.S. ocean commerce are the FMC's real consumers. Because the general public is not usually directly concerned with ocean freight rates and practices, the Commission's public participation activities are somewhat limited. While interested parties may and do participate in the rulemaking proceedings, comments from the general public are rarely received. However, in addition to requesting written comments from the shipping public on proposed rules, the Commission, at times, conducts informal public discussions in various cities throughout the country to solicit comments on issues to be addressed in proposed rules. Comments obtained through such public discussions become part of the rulemaking record. FMC has a public reference room and a dockets room in Washington, D.C., where the public can review files on agreements, tariffs, and legal proceedings. The eight Commission field offices also have public reference areas. Call one of the persons listed under "Information Contact" for the field office nearest you if it is not listed in your telephone directory.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

Francis C. Hurney, Secretary
Federal Maritime Commission
1100 L Street, N.W., Room 11101
Washington, D.C. 20573
(202) 523–5725
or
Otto J. Kirse, Assistant Managing Director for Consumer Affairs
Federal Maritime Commission
1100 L Street, N.W., Room 12411
Washington, D.C. 20573
(202) 523–5800

Federal Mine Safety and Health Review Commission (FMSHRC)

Units That Issue Regulations

With the exception of certain administrative matters, the agency does not engage in the formal promulgation of regulations; the primary function of FMSHRC is to adjudicate.

Functions

Congress created FMSHRC as an independent agency to adjudicate disputes under the Mine Safety and Health Act of 1977.

Public Participation Summary

Section 105(c) of the Act (30 U.S.C. § 815(c)) contains a Congressional mandate for legal representation by the Federal government for miners and their representatives in private disputes brought before FMSHRC against mine operators because of alleged discrimination in safety and health matters. Congress also provided that when the Solicitor of the Department of Labor does not provide legal representation, a miner or representative who wins the dispute can recoup costs, including attorney fees, from the mine operator.

Funding and Technical Assistance

The provision by Congress for a miner or his representative to receive legal representation by the Federal government or to recoup costs can be found at Title 30, § 815(c) of the United States Code.

There is no additional provision or procedure for funding of public participation at this time.

Public Participation Documents

The Rules of Procedure for cases tried before FMSHRC are available from FMSHRC or can be found in Title 29, Part 2700 of the Code of Federal Regulations.

FMSHRC also is considering the publication of a pamphlet explaining how the Commission operates.

Information Contact

Executive Director
Federal Mine Safety and Health Review Commission
1730 K Street, N.W., Sixth Floor
Washington, D.C. 20006
(202) 653–5625

Federal Reserve System (FRS)

Units That Issue Regulations

Board of Governors of the Federal Reserve System.

Functions

The primary responsibility of the Federal Reserve System is the conduct of monetary policy which affects the availability of money and credit. It exercises supervisory and regulatory authority over member banks and all bank holding companies. It also acts as the fiscal agent for the U.S. Treasury and has responsibility for implementing numerous consumer laws, such as Truth in Lending.

Public Participation Summary

Depending upon the nature of the proposed regulation and the interests of the affected sector, the Federal Reserve Board (FRB) utilizes a variety of outreach procedures, including publishing an ANPRM that may suggest specific issues on which comments should be focused. FRS may also choose to schedule an informal public hearing or directly solicit views from interested persons or groups.

The Board's Regulations B and Z, which implement the Equal Credit Opportunity and Truth in Lending Acts, provide for special public participation in matters related to the Acts. If the FRB receives a request for public comment on an official staff interpretation of these regulations before the effective date is suspended, the FRB will republish the proposed staff interpretation for public comment. Public participation is also invited through the Board's Consumer Advisory Council. The Council generally meets for a day and one-half four times a year and about ten new members each year are chosen from the public. The Council's agenda is published preceding each meeting. Written public comments on proposed topics and public attendance at meetings is encouraged.

Funding and Technical Assistance

None

Public Participation Documents

The Federal Reserve has prepared a special pamphlet entitled "Government in the Sunshine" that provides a guide to meetings of the Board of Governors. More formal information on Rules of Procedure, 12 CFR 262 and Rules Regarding Public Observation of Meetings, 12 CFR 261B is available through the Publications Office of the Board.

In the Consumer area, information on the Consumer Advisory Council can be found in Rules of Organization and procedure of the Consumer Advisory Council, 12 CFR 267.

Procedures for Issuing Official Staff Interpretations of Regulations B and Z, 12 CFR 202.1(d), 226.1(d) is available through the Publications Office.

Information Contact

Joseph R. Coyne, Assistant to the Board
Federal Reserve Board
Washington, D.C. 20551
(202) 452–3204

To include your name on the agency's general public information mailing list or to obtain copies of the public participation documents listed above call or write:

Publications
Federal Reserve Board
Washington, D.C. 20551
(202) 452–3244

Federal Trade Commission (FTC)

Units That Issue Regulations

Bureau of Consumer Protection
Bureau of Competition

Functions

The Commission's functions are aimed at promoting competition and fair and honest dealing in the economy. It seeks to remove market restrictions that drive up prices and limit the supply of goods and services. It also seeks to protect consumers by ensuring that commercial information available to consumers is accurate and complete.

Public Participation Summary

Section 18(h) of the FTC Act authorizes the Commission to reimburse persons who participate in its rulemaking proceedings for the costs of that participation if they could not otherwise afford to participate effectively, and if their participation is necessary in the proceeding. The program is administered in the Office of the General Counsel by the Special Assistant for Public Participation, with all funding determinations made by the General Counsel.

To date, nearly 70 groups and individuals representing citizens' and small business interests have been reimbursed for their costs of participating in FTC rulemaking proceedings. The program is intended to improve the rulemaking process by ensuring that all points of view are heard through effective presentations.

An important part of the public participation in the rulemaking program is an affirmative outreach effort. This includes two special features: first, workshops to explain the rulemaking procedures and how to participate effectively; second, seminars to small business and consumer interests that are likely to be concerned with particular rulemakings to inform them of the availability of public participation funding.

Funding and Technical Assistance

Interested persons, whether they represent a consumer or a small business point of view, can be reimbursed for their costs of participation in rulemaking proceedings if they meet the statutory criteria. The Special Assistant for Public Participation, listed under "Information Contact," provides assistance in the preparation of reimbursement applications and answers questions regarding the status of rulemaking proceedings. The Commission is unable to provide other assistance to participants.

Public Participation Documents

Staff Guidelines: "The Public Participation in Rulemaking Program: Rulemaking Proceedings and Reimbursement for Costs of Participation."

These Guidelines are intended to assist persons unfamiliar with FTC activities who are seeking reimbursement for their costs of participation in FTC rulemakings. Information is provided on the nature of FTC rulemaking proceedings, types of public participation possible at each stage of these proceedings, and the statutory standards for reimbursement. The Guidelines also explain the financial requirements for reimbursement recipients and include application forms with step-by-step instructions.

Information Contact

For information on general public participation and funding please call or write:

Bonnie Naradzay, Special Assistant for Public Participation
Office of the General Counsel
Federal Trade Commission
Washington, D.C. 20580
(202) 523–3796

Interstate Commerce Commission (ICC)

Units That Issue Regulations

All regulations are issued by the Commission. Staff units responsible for preparing regulations for the Commission's approval are:
Bureau of Accounts
Bureau of Operations
Bureau of Traffic
Office of Policy and Analysis
Office of Proceedings

Functions

The ICC was created in 1887. It regulates railroads, trucking companies, bus lines, freight forwarders, and water carriers. The Commission is entrusted with ensuring the "development, coordination and preservation of a transportation system that meets the transportation needs of the United States." In regulating the modes of transportation subject to its jurisdiction,

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the Commission must carry out a transportation policy which has as its goals: (1) to recognize and preserve the inherent advantage of each mode of transportation; (2) to promote safe, adequate, economical, and efficient transportation; (3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers; (4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices; (5) to cooperate with each State and the officials of each State on transportation matters; and (6) to encourage fair wages and working conditions in the transportation industry.

Public Participation Summary

The Commission's Office of Special Counsel assists the Commission in determining the public interest in its proceedings. The Special Counsel contributes to the public interest record in Commission proceedings by intervening as a party and by conducting outreach activities to encourage and facilitate direct public participation. Complaints and suggestions from the public are used by the Special Counsel to formulate a position reflecting the public interest in a proceeding. The Commission sometimes holds informal hearings in cities across the Nation to solicit public comment either before opening a rulemaking proceeding or before taking final action in a rulemaking proceeding. Staff of the Special Counsel are available to assist the public in participating in these hearings.

Staff of the Small Business Assistance Office are also available to help small business interests present their viewpoints in Commission proceedings.

Funding and Technical Assistance

No funding is available, but, as discussed above, the Office of Special Counsel and the Small Business Assistance Office offer technical assistance in some Commission proceedings.

Public Participation Documents

"Informal Rulemaking Procedures," NPRM, 43 FR 27732, June 26, 1978; Notice of Final Rules, 44 FR 42558, July 19, 1979.

"Improving Commission Regulations," Notice of Proposed Policy Statement, 43 FR 27729, June 26, 1978; Notice of Final Policy Statement, 44 FR 42563, July 19, 1979.

Information Contact

For information on public interest issues in agency proceedings call or write:

Edward J. Schack, Special Counsel
Office of Special Counsel
Interstate Commerce Commission
12th St. and Constitution Ave., N.W.
Washington, D.C. 20423
(202) 275–7411

or

Bernard Gaillard, Director
Small Business Assistance Office
Interstate Commerce Commission
12th St. and Constitution Ave., N.W.
Washington, D.C. 20423
(202) 275–7597

To include your name on the agency's general public information list call or write:

Interstate Commerce Commission
Office of Communications
12th St. and Constitution Ave., N.W.
Washington, D.C. 20423
(202) 275–7252

The Commission operates a toll-free consumer hotline: (800) 424–9312. Consumers may use the hotline if they have complaints about any carrier subject to the Commission's jurisdiction. The hotline is manned from 8:30 to 5:00 weekdays and is answered by a recording at other times. Callers can leave their name and number on the recording device, and a staff member will return their call.

To reach the Commission's Spanish-speaking coordinator call (202) 275–7574.

National Labor Relations Board (NLRB)

Units That Issue Regulations

The Board functions in a quasi-judicial manner in processing unfair labor practice charges and representation cases. Although serving as precedent and, in this sense, as guidelines to the labor-management community as a whole, the Board's decisions and orders, strictly speaking, are applicable only to the parties involved. Accordingly, because the NLRB does not normally use rulemaking procedures for the purpose of issuing rules and regulations, the NLRB has no regulatory units.

Functions

The NLRB has two basic functions. They are (1) to determine, through secret ballot elections, the free choice of employees whether or not they wish to be represented by a union for collective bargaining purposes; and (2) to prevent and remedy unfair labor practices by either employers or unions which adversely affect employees' rights to self-organization and collective bargaining.

Public Participation Summary

Although opportunities for public participation in NLRB decisions are normally limited, the Board has taken certain steps that it hopes will facilitate, to the extent possible, participation by the public in agency procedures:

(1) Public Information Program: Effective July 27, 1979, the Board's 33 Regional Offices inaugurated a new public information program designed to enhance the public's understanding of the scope and function of the National Labor Relations Act and the NLRB's role in administering it. The new program resulted from a study that indicated that improved planning and scheduling of information officer assignments, expanded training in the performance of such duties, and the assignment of more experienced Board agents to this function would enable members of the public with grievances which come under Board jurisdiction to receive the agency's assistance sooner than in the past, at the same time that those with grievances not covered by the Act would be directed to the appropriate government agency if any, for resolution of their complaints. The agency has launched a training program for information officers that, coupled with public information brochures and a change in the case assignment process, will give priority to the information officer program.

(2) Decentralization of the Administrative Law Judges' Division: In an attempt to expedite the processing of unfair labor practice charges, the Board has recently decentralized the Administrative Law Judges' Division (previously headquartered in Washington and San Francisco) by opening additional offices in New York City and Atlanta, Georgia.

Funding and Technical Assistance

The NLRB does not offer funding or technical assistance.

Public Participation Documents

"A Guide to Basic Law and Procedures Under the National Labor Relations Act". As a result of experience indicating that there is still a lack of basic information about the National Labor Relations Act, the NLRB has sought to meet this demand by setting forth in this pamphlet the basic law under the Act in a nontechnical way, so that those who may be affected by it, including the general public, can better understand what their rights and obligations are.

This guide is available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at a charge of $2.20.

Information Contact

Thomas W. Miller, Jr., Director
Division of Information
National Labor Relations Board
1717 Pennsylvania Avenue, N.W.,
Room 710
Washington, D.C. 20570
(202) 632–4950

The Division of Information also maintains several mailing lists that include the following: 1. Weekly Summary of NLRB Cases; 2. Monthly Election Reports; 3. New Releases. Write the above "Information Contact" if you wish to be placed on any of these lists.

Nuclear Regulatory Commission (NRC)

Units That Issue Regulations

Except as delegated to the Executive Director for Operations, the authority to issue regulations rests with the Commission.

Under 10 CFR 1.40(d) the Executive Director for Operations has been delegated authority to issue amendments to the Commission's regulations which are corrective, minor, or nonpolicy in nature, and do not substantially modify existing regulations. The Executive Director for Operations also may issue amendments to regulations in final form, if no significant adverse comments or questions have been received on the proposed rule change.

Under 10 CFR 1.40(o), the Executive Director has been delegated authority to deny petitions for rulemaking of a minor or nonpolicy nature, where the grounds for denial do not substantially modify an existing precedent.

Under 10 CFR 2.802(f), the Executive Director for Operations also has been delegated authority to return to a petitioner any proposed petition which is incomplete and does not meet the requirements of 10 CFR 2.802(c) dealing with the specificity of petitions for rulemaking.

Functions

The NRC was established by the Energy Reorganization Act of 1974, as amended, P.L. 93–438, 88 Stat. 1233 (42 U.S.C. §§ 5801 *et seq.*). This Act abolished the Atomic Energy Commission and, by § 201, transferred to the Nuclear Regulatory Commission all the licensing and related regulatory functions assigned to the Atomic Energy Commission by the Atomic Energy Act of 1954, as amended, P.L. 83–703, 68 Stat. 919 (42 U.S.C. §§ 2011 *et seq.*).

The NRC regulates civilian nuclear activities to protect the public health and safety, national security, and the quality of the environment, as well as to ensure that the public and private sectors obey the antitrust laws.

Public Participation Summary

NRC has taken steps to enhance both the accessibility and quality of public participation in its rulemaking activities. These steps include:

- Making available to the public, at the start of each Commission meeting, any staff papers discussed in open meetings, and placing copies of such papers in the Public Document Room;
- Publishing agenda of petitions for rulemaking and proposed rules and noticing the availability of the agenda in the **Federal Register**;
- Publishing quarterly a status summary report called the "Green Book" that lists, among other things, regulations under development by the Office of Standards Development;
- Publishing ANPRMs on major actions;
- Making available to the public, at the time the Commission considers a final rule, an analysis of comments on the proposed rule and a discussion of their resolution;
- Preparing and making available to the public a cost/benefit analysis or environmental impact statement on major rules; and
- Holding public hearings or meetings on rulemaking actions of particular interest and importance.

Funding and Technical Assistance

In NRC's budget request to Congress for FY 1981, NRC has included funds for public participation in its rulemaking process. The NRC also encourages prospective petitioners to meet with the staff prior to filing a petition for rulemaking. Those meetings can help expedite the rulemaking process, result in greater understanding of NRC's licensing requirements, or present alternatives to a petitioner for obtaining the petitioner's objectives.

Public Participation Documents.

The "NRC Manual" and other elements of the NRC's Management Directives System contain NRC's organization, policies, procedures, assignments of responsibility, and delegations of authority. Copies of the Manual are available for public inspection and copying at the NRC Public Document Room and and at each of NRC's Regional Offices.

The NRC's Annual Report, for sale by the Superintendent of Documents, Government Printing Office, includes a section which discusses provisions in NRC regulations for formal participation by the public in rulemaking, licensing, and other proceedings.

The "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2, pertains to the conduct of Commission proceedings, including the opportunities for public participation.

NRC's procedures for public participation in agency rulemaking are set forth in Subpart H, Rule Making, of NRC's Rules of Practice (10 CFR Part 2).

Information Contact

For information concerning the status of proposed rules or petitions for rulemaking, to set up meetings with the NRC staff regarding proposed petitions, or for other information concerning NRC's rulemaking activities, call or write:

Ms. Betty L. Wagman, Acting Chief,
Rules and Procedures Branch
Division of Rules and Records
U.S. Nuclear Regulatory Commission,
Room 1713 MNBB
Washington, D.C. 20555
(301) 492–7086

Address rulemaking petitions to:
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Chief, Docketing & Service Section

Copies of all petitions are available for public review at:
NRC Public Document Room
1717 H Street, N.W.
Washington, D.C. 20555

Information concerning the agency's public information mailing list can be obtained from:
Mr. Steve Scott, Chief,
Documents Management Branch
Division of Technical Information and Document Control
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(301) 492–8585

On a trial basis, the NRC has established an automatic telephone answering service for current information concerning the scheduling of Commission meetings. The telephone number is (202) 634–1498. Further details on Commission meetings are available from the staff of the Office of the Secretary by telephoning (202) 634–1410 on weekdays between 8:15 a.m. and 5:00 p.m.

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Occupational Safety and Health Review Commission (OSHRC)

Units That Issue Regulations

The Review Commission does not issue regulations, but does issue rules of procedure that govern its administrative proceedings.

Functions

The Review Commission is an independent quasi-judicial agency created by Congress to adjudicate contested enforcement actions arising under the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651–678.

Public Participation Summary

No program.

Funding and Technical Assistance

None.

Public Participation Documents

"A Guide to Procedures of the Occupational Safety and Health Review Commission," (also available in Spanish), is a nontechnical explanation of procedures before the Commission.

"OSHRC: The Federal Job Safety and Health Court"

"Simplified Proceedings—An Experimental, Alternative Procedure to Resolve Simple Cases Before the Occupational Safety and Health Review Commission" is a brief explanation of the new simplified procedures.

These are available free from the Office of Information at the address below.

Information Contact

Public Information Officer
Occupational Safety and Health Review Commission
1825 K Street, N.W., Room 701
Washington, D.C. 20006
(202) 634–7948

Postal Rate Commission (PRC)

Units That Issue Regulations

The Commission as a whole issues all decisions, which are forwarded, in accordance with 39 U.S.C. § 3624, to the Governors of the Postal Service for final action. The Governors, under varying requirements, may approve, allow under protest, reject, or modify a Commission decision.

According to 39 U.S.C. § 3603, the Commission may change its rules of procedure without approval of the Governors of the Postal Service. The procedure for any changes must be in accordance with 5 U.S.C. chapters 5 and 7.

Functions

The Postal Rate Commission is an independent Federal regulatory agency composed of five Commissioners appointed by the President, with the advice and consent of the Senate. The Commission, acting upon requests from the U.S. Postal Service or on its own initiative, recommends, to the Governors of the Postal Service, changes in postal rates, mail classification, and services offered. The Commission also has appellate authority to review Postal Service determinations, and to close or consolidate post offices.

Public Participation Summary

PRC's "Rules of Practice and Procedure" govern all proceedings before the Commission. They are complementary to the Administrative Procedure Act.

PRC's Officer of the Commission (OOC) represents the interests of the general public in Commission proceedings. The agency's *ex parte* rule forbids the OOC and the staff assigned to that office from having any discussion with the Commission or its advisory staff on the issues in the proceedings. This assures no prejudgment exists when the Commission is deciding a case. The OOC is listed below under "Information Contact."

In addition to providing for participation by persons wishing to become parties or limited intervenors in Commission proceedings, the Commission's rules permit any person to file an informal statement of views with the Commission. These statements are open to public inspection (39 CFR § 3001.19b).

Funding and Technical Assistance

None

Public Participation Documents

PRC's "Rules of Practice and Procedure" govern all proceedings before the Commission in addition to the laws contained in the Administrative Procedure Act. These rules can be found at 39 CFR §§ 3001.1–3001.116.

Information Contact

Any person interested in participating in any Commission proceeding may contact:

David Harris, Secretary and Chief Administrative Officer
Postal Rate Commission
2000 L Street, N.W., Room 500
Washington, D.C. 20268
(202) 254–3880

General public interest issues can be discussed with:

Stephen Sharfman, Officer of the Commission
Postal Rate Commission
2000 L Street, N.W., Room 500
Washington, D.C. 20268
(202) 254–3840

Documents filed in the various cases are available from:

PRC Docket Room
2000 L Street, N.W., Room 500
Washington, D.C. 20268
(202) 254–3800

The Commission issues a free biweekly "Docket Summary" which lists and describes the significant documents that have been filed with or issued by the Commission. To be put on the mailing list, contact:

Dennis Watson, Public Information Officer
Postal Rate Commission
2000 L Street, N.W., Room 500
Washington, D.C. 20268
(202) 254–5614

Securities and Exchange Commission (SEC)

Units That Issue Regulations

All regulations are issued by the Commission as a whole. However, proposed regulations may be suggested to the Commission by any staff division or autonomous office. The principal staff units with direct responsibility for proposing regulations are:

Division of Corporate Finance
Division of Corporate Regulation
Division of Investment Management
Division of Market Regulation
Office of Chief Accountant

Functions

The Commission is responsible for overseeing the operations of the Nation's securities trading markets. It has direct responsibility for regulation of those engaged in trading securities or selling them to the public, such as stockbrokers, persons who trade securities on the floors of exchanges, investment advisers, mutual fund operators, and others. The Commission also administers the "full disclosure system" which assures that publicly owned companies disclose publicly all material information regarding their operations. In addition, the Commission has responsibilities relating to public utility holding companies and to bankruptcies of public corporations.

Public Participation Summary

The Commission's rulemaking process is open to public participation in accordance with the Administrative Procedure Act and, in addition, certain specific provisions of the Federal securities laws. Notable provisions are at 5 U.S.C. § 553 and 15 U.S.C. § 78s. In general, the Commission publishes

NPRMs in the Federal Register, the "SEC Docket" and the "SEC News Digest," and provides interested persons an opportunity to submit written data, views, and arguments regarding the proposed rules. Further, the Commission, in certain instances, mails copies of proposed rules directly to interested persons in order to encourage public participation in the comment process. Comments are kept in a public file that is available for reference at the Commission's public reference room at 1100 L Street, N.W., Washington, D.C. 20549.

Funding and Technical Assistance

None.

Public Participation Documents

A brochure, entitled "SEC Publications," lists other material published by the Commission, and is available from the Publications Section listed below.

Notice of rule proposals as well as rule adoptions, schedules of open Commission meetings, and many other announcements of interest to the public are published each day in the "SEC News Digest," which is also available by subscription from the Superintendent of Documents, at a cost of $100 per year.

In addition to publication in the Federal Register, all rule proposals issued by the Commission are published in the "SEC Docket," which is available by subscription at a cost of $79 per year from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Information Contact

Copies of specific rule proposals or corporate disclosure documents may be obtained by writing to:

Public Reference Section
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20509

General inquiries or questions about the availability of above-listed documents may be addressed to:

Office of Public Affairs
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549
(202) 272–2650 or (202) 523–5360

Comments on rule proposals should be directed to:

George Fitzsimmons
Secretary to the Commission
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549

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APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

This appendix provides information about those regulations that appeared as entries in the November, 1979 edition of the Calendar of Federal Regulations but are not repeated in this May, 1980 edition. Many of the entries from last edition do repeat in this edition because the agencies are still developing those regulations; however, some entries do not repeat.

For example, a regulation which an agency was developing in November may have gone final, or the agency may have withdrawn it or taken some other action that made it inappropriate to include in this edition of the Calendar. This appendix notes the actions the agencies have taken on such regulations.

This appendix includes the page number on which the regulation appeared in the Federal Register edition of the November, 1979 Calendar to help the reader locate specific information.

We also note any significant word changes in the titles of the regulations to help the reader locate entries that have been retitled and appear as entries in both editions of the Calendar.

The appendix is organized alphabetically by agency, unit within the agency, and then by title of the regulation.

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
USDA-FNS	Regulation by the Secretary of Agriculture of Foods Sold on School Premises in Competition with the National School Lunch Program and the School Breakfast Program	68263	Final Rule -- 45 FR 6758 1/29/80
DOC-MARAD	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in World Wide Service; Essential Service Requirement	68338	Final Rule -- 5/80; exact citation not available at time of this publication

APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOC-NOAA	Regulations Implementing a Preliminary Fishery Management Plan for Pacific Billfish and Oceanic Sharks under the Fishery Conservation Management Act of 1976, as Amended	68213	Final Rule -- 45 FR 14581 3/6/80
DOE-ERA	Incentives for Refinery Investment	68224	Change of Title for this Edition -- Incentives to Refine Lower Quality Crude Oil
DOE-ERA	Natural Gas Curtailment Priorities and Related Issues	68225	Change of Title for this Edition -- Natural Gas Curtailment Priorities for Interstate Pipelines
DOE-RA	Proposed Outer Continental Shelf (OCS) Bidding Systems Regulations	68228	Final Rule -- 45 FR 9536 2/12/80
DOI-FWS	Endangered Species Act, §4, Regulations for Listing Endangered and Threatened Wildlife and Plants	68230	Final Rule -- 45 FR 13010 2/27/80
DOI-HCRS	Rules and Regulations Pertaining to the Urban Park and Recreation Recovery Program	68231	Final Rule issued for Eligibility (36 CFR Part 1228 Appendix A and B)
DOJ-BOP	Non-discrimination Towards Inmates	68310	Final Rule -- 45 FR 23366 4/4/80

APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOJ-INS	Replacement of Alien Registration Receipt Cards -- Requirement for Single Fingerprint and Personal Appearance	68311	Final Rule -- 5/80; exact citation not available at time of this publication
DOJ-LEAA	Equal Service Program Guidelines	68312	Change of Title for this Edition -- Equal Service Evaluation Guidelines
DOL-ESA	Proposed Amendment to the Sex Discrimination Guidelines Governing Insurance and other Employee Benefit Plans	68313	Change of Title for this Edition -- Sex Discrimination Guidelines--Employee Benefits
DOL-OSHA	Chemical Warning Systems (Chemical Labeling)	68278	Change of Title for this Edition -- Chemical Substance Identification (Labeling)
DOL-OSHA	Safety and Health Regulations for Construction Activities in Tunnels and Shafts	68282	Change of Title for this Edition -- Safety and Health Regulations for Construction Underground Operations-Tunnels, Shafts and Related Work Areas
DOL-OSHA	Safety Standard for Walking and Working Surfaces in General Industry	68283	Change of Title for this Edition -- General Industry Standard for Walking and Working Surfaces, and Construction Safety Standard for Ladders and Scaffolding, and Floor and Wall Openings, and Stairways

APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOL-OSHA	Standard for Occupational Exposures to Hexavalent Chromium	68284	Change of Title for this Edition -- Standard for Occupational Exposure to Chromium
DOT-FHWA	Interstate Maintenance Guidelines	68341	Final Rule -- 45 ER 20791 3/31/80
DOT-NHTSA	Fuel Economy Standards for Model Years 1982-85 Light Trucks	68234	Change of Title for this Edition -- Fuel Economy Standards for Model Year 1983-85 Light Trucks
TREAS-ATF	Partial Ingredient Labeling of Wine, Distilled Spirits, and Malt Beverages	68324	Final Rule -- 5/80; exact citation not available at time of this publication
TREAS-ATF	Revision of the Distilled Spirits Tax System	68325	Change of Title for this Edition -- Implementation of the Distilled Spirits Tax Revision Act of 1979
EPA-OANR	Environmental Standard for Inactive Uranium Mill Tailings	68290	Change of Title for this Edition -- Remedial Action Standards for Inactive Uranium Processing Sites
EPA-OANR	Gaseous Emission Regulations for 1983 and Later Model Year Heavy-Duty Vehicles	68235	Final Rule -- 45 FR 4136 1/21/80

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APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
EPA-OANR	Gaseous Emission Regulations for 1985 and Later Model Year Heavy-Duty Vehicles	68236	Change of Title for this Edition -- Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Truck and Heavy Duty Engines
EPA-OANR	Listing of Coke Oven Emissions as a Hazardous Air Pollutant and Development of Emission Limitations	68238	EPA is preparing a health risk assessment to determine if coke oven emissions should be listed as a hazardous air pollutant
EPA-OANR	National Emission Standards for Hazardous Air Pollutants -- Benzene	68239	Benzene has been listed as a hazardous air pollutant. The individual emission standards currently under development do not meet the agency's criteria for inclusion in the Calendar, and should not have been included in the previous Calendar
EPA-OANR	Noise Emission Standard for Newly Manufactured Motorcycles	68240	Final Rule -- May or June; exact citation not available at the time of this publication
EPA-OANR	Noise Emission Standard for Newly Manufactured Wheel and Crawler Tractors	68241	EPA does not expect to take further action on this rule until early 1982

APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
EPA-OANR	Particulate Regulations for Light-Duty Diesel Vehicles	68242	Final Rule -- 45 FR 14496 3/5/80
EPA-OPTS	Rules and Notice Forms for Premanufacture Notification of New Chemical Substances	68294	Change of Title for this Edition -- Premanufacture Notification Requirements and Review Procedures
EPA-OPTS	Standards and Rules for Testing of Chemical Substances and Mixtures	68297	Change of Title for this Edition -- Test Rule for Chemical Substances and Mixtures -- Chloromethane and Chlorinated Benzenes
EPA-ORD	Fuels and Fuel Additives Registration	68250	Change of Title for this Edition -- Fuels and Fuel Additives; change of office within EPA from ORD to OANR-OMSAPC
EEOC	Recordkeeping Regulations, Extending the Length of Time Certain Records, Already Required to be Kept, Should be Kept	68316	Agency is reviewing and awaiting outcome of study on costs
NCUA	Organizing a Federal Credit Union	68259	Final Rule -- 45 FR 8280 2/7/80

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APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
FERC	Regulations Concerning Sales of Electric Power Between Qualifying Cogeneration and Small Power Production Facilities and Electric Utilities, and Exemption of such Facilities from Regulation Under §§201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA)	68253	Final regulations under §201 of PURPA issued on March 13, 1980, at 45 FR 17959, 3/20/80 (Docket No. 79-54) Final regulations under §210 of PURPA issued on February 19, 1980, at 45 FR 12214, 2/25/80 (Docket No. RM79-55)
FERC	Regulations to Implement the Second Stage of Incremental Pricing under the Natural Gas Policy Act	68256	The Phase II rule was transmitted by the Commission to Congress May 6, 1980. Pursuant to §202(c) of the NGPA, Congress can disapprove the rule by a one-House veto within 30 working days after its submission Congress has not taken final action on this rule at the time of this publication.
FERC	Valuation of Common Carrier Pipelines	68257	The Commission has decided that in lieu of a rulemaking proceeding, it will instead determine the issues representing the establishment of rates or charges for the transportation of oil by interstate pipelines and the valuation of any such pipeline on a case by case basis. The lead ratemaking cases presently before the Commission are the

APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
			Williams Pipeline Company proceeding (Docket No. OR79-1) and the Trans Alaska Pipeline System (TAPS) proceeding (Docket No. OR78-1)
FHLBB	Monitoring Fair Lending Practices	68260	Final Regulations adopted by Board on 5/5/80
FHLBB	Proposed Amendments on Outside Borrowing	68261	Public Comment period closed; under consideration by Board
FHLBB	Washington, D.C.-Md.-Va. SMSA Branching	68261	"On Hold" pending release of the McFadden Study (See entry in 11/28/79 Calendar)
FMC	Amendment to Financial Reports by Common Carriers by Water in the Domestic Offshore Trades	68349	Final Rule -- 45 FR 3272 1/17/80
FMC	Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States	68351	Final Rule -- 45 FR 12792 2/27/80
FMC	Filing of Agreements by Common Carriers and other Persons Subject to the Shipping Act of 1916	68352	Withdrawn from active consideration by FMC
FMC	Surcharges Under Dual Rate Contracts on Less than Ninety Days' Notice	68353	Withdrawn from active consideration by FMC
FTC	Mobile Homes Sales and Service Trade Regulations Rule	68330	Change of Title for this Edition -- Proposed Trade Regulation Rule on Mobile Home Sales and Service

APPENDIX III: STATUS OF REGULATIONS FROM NOVEMBER, 1979 EDITION

AGENCY	TITLE OF REGULATION	FR 11/28/79 PAGE NO.	ACTIVITY SINCE LAST EDITION
FTC	Proposed Trade Regulation Rule (TRR) on Standards and Certification	68331	Please see note at beginning of FTC entries in Chapter 6, Trade Practices
FTC	Rulemaking on Children's Advertising	68334	Please see note at beginning of FTC entries in Chapter 6, Trade Practices
ICC	Western Coal Investigation -- Guidelines for Railroad Rate Structure	68357	None; removed from Calendar because it is an adjudicatory proceeding
NRC	Decommissioning and Site Reclamation of Uranium and Thorium Mills	68307	Deleted from Calendar because economic impact appears to be substantially less than $100 million per year
PRC	Postal Rate Commission Docket MC79-2, to consider a request of the USPS for the establishment of an Express Mail Metro Service Subclass	68358	Hearings completed; Commission decision to be issued soon
PRC	Postal Rate Commission Docket MC79-3, instituted by the Commission pursuant to 39 U.S.C. §3623(b), to hear evidence on the preferential treatment, commonly referred to as "red tag" treatment, afforded certain time-value publications sent as second-class mail	68360	Change of Title for this Edition -- Postal Rate Commission Docket MC79-3 (Red Tag)

APPENDIX IV: PUBLICATION DATES FOR AGENCY REGULATORY AGENDAS

This appendix lists publication dates for the semiannual regulatory agendas that agencies prepare in response to Executive Order 12044, Improving Government Regulations. It provides the dates of each agency's last published semiannual agenda and the FEDERAL REGISTER citation to enable the public to gain quick access to the list of all significant regulations the agency is considering or reviewing. The appendix also lists the date the agency expects to publish their next agenda.

All executive agencies, and those independent agencies that voluntarily choose to comply, publish these agendas. The agendas describe, at a minimum, the regulations they are considering, the need for and the legal basis of the action being taken, the status of the regulations previously listed on the agenda, and an agency contact.

The semiannual agendas list all regulations the agencies consider to be "significant." The Calendar describes only the most important of these significant regulations.

The Regulatory Council and the Office of Management and Budget are exploring the possibility of coordinating the publication dates of the Calendar of Federal Regulations and the semiannual agency agendas. Doing so would provide, twice a year, a comprehensive picture of regulations being developed by the agencies. We welcome your comments on this idea.

APPENDIX IV: PUBLICATION DATES FOR AGENCY REGULATORY AGENDAS

Name of Agency	Publication Date of Last Agenda	Federal Register Citation	Publication Date of Next Agenda
Executive Agencies			
Administrative Conference of the U.S.	Not applicable	–	–
Department of Agriculture	November 15, 1979	44 FR 65862	May 15, 1980
Department of Commerce	September 18, 1979	44 FR 54166	May 28, 1980
Department of Energy	April 29, 1980	45 FR 28688	Unknown at this time
Department of Health, Education and Welfare	December 14, 1979	44 FR 72728	June 13, 1980
Department of Housing and Urban Development	February 5, 1980	45 FR 7978	August 1980
Department of Interior	January 31, 1980	45 FR 7106	July 31, 1980
Department of the Justice:			
Attorney General	February 1, 1980	45 FR 7268	July 31, 1980
Bureau of Prisons	March 6, 1980	45 FR 14596	July 31, 1980
Civil Rights Division	April 17, 1980	45 FR 26098	July 31, 1980
Justice Assistance, Research, and Statistics	January 31, 1980	45 FR 7113	July 31, 1980
Immigration and Naturalization Service	February 1, 1980	45 FR 7265	July 31, 1980
Department of Labor	November 13, 1979	44 FR 65566	May 1980
Department of Transportation	February 28, 1980	45 FR 13312	August 25, 1980
Department of the Treasury:			
Alcohol, Tobacco and Firearms	February 15, 1980	45 FR 10367	August 1, 1980
Comptroller of the Currency	February 13, 1980	45 FR 9743	August 1, 1980
Customs Service	February 15, 1980	45 FR 10360	August 1, 1980
Environmental Protection Agency	March 14, 1980	45 FR 16832	June 16, 1980
Equal Employment Opportunity Commission	February 14, 1980	45 FR 9948	July 30, 1980
General Services Administration	November 30, 1979	44 FR 68869	May 30, 1980
National Credit Union Administration	December 19, 1979	44 FR 75180	June 30, 1980
Small Business Administration	February 4, 1980	45 FR 7853	August 1980
United States International Trade Commission	Not applicable	–	–
Veterans Administration	December 18, 1979	44 FR 74858	June 18, 1980
Independent Regulatory Agencies			
Civil Aeronautics Board	November 9, 1979	44 FR 65104	May 1980
Commodity Futures Trading Commission	January 23, 1979	44 FR 4752	Unknown at this time
Consumer Product Safety Commission	Not known at present	–	–
Federal Communications Commission	May 6, 1980	45 FR 30051	November 5, 1980
Federal Deposit Insurance Corporation	March 26, 1980	45 FR 20496	September 1980
Federal Election Commission	Not applicable	–	–
Federal Energy Regulatory Commission	Not applicable	–	–
Federal Home Loan Bank Board	May 12, 1980	45 FR 31119	October 1980
Federal Maritime Commission	Not applicable	–	–
Federal Mine Safety and Health Review Commission	Not applicable	–	–
Federal Reserve System	February 4, 1980	45 FR 7361	August 4, 1980
Federal Trade Commission	August 1, 1979	44 FR 45177	August 1, 1980
Interstate Commerce Commission	July 19, 1979	44 FR 42561	May 1980
National Labor Relations Board	Not applicable	–	–
Nuclear Regulatory Commission	Not applicable	–	–
Occupational Safety and Health Review Commission	Not applicable	–	–
Postal Rate Commission	Not applicable	–	–
Securities and Exchange Commission	September 10, 1979	44 FR 52810	June 1980

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APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

This appendix provides information about existing regulations the agencies are reviewing pursuant to their internal review procedures or to Executive Order 12044, Improving Government Regulations. All executive agencies, and those independent agencies that voluntarily choose to comply with E.O. 12044 must periodically review their existing regulations to determine whether the regulations are still achieving their intended goals effectively.

In some cases, Calendar entries describe regulatory actions that the agencies initiated as a result of this review process. Because these regulations appear in the text, this appendix does not list such actions.

The index is organized alphabetically by agency, by unit within the agency, and then by the title of the regulation.

For guidance on how to get further information on these regulations, contact the "Information Contact" in Appendix II: "Public Participation in the Federal Regulatory Process."

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
USDA-FmHA	Guaranteed Loan Programs - General	7 CFR 1980-A	7/81	12/81
USDA-FS	Timber Management Planning	36 CFR 221.3	10/80	4/81
USDA-FSQS	Standards and Labeling of Meat and Poultry Products	9 CFR Parts 312,316, 317, 319, and 381	9/79	7/80
DOC-ITA	Export Administration Regulations	15 CFR Parts 368-399	Ongoing	5/81
DOC-MARAD	Nation Shipping Authority (NSA) - Shipping Operations	32A CFR Chapter 18, Sub Chapter A. Review of 26 regulations in Parts 1801-1886	Spring 1980	Winter 1980

APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOC-MARAD	Operating Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Carrying Grain to the USSR	46 CFR Part 294	Summer 1980	Spring 1981
DOC-MARAD	Operating Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Service	46 CFR Part 252	Ongoing	Winter 1980
DOC-MARAD	Operating Differential Subsidy (ODS) Rates for Liner Vessels--New Part (Procedures now published in a manual. These will be revised and published in regulation form.)	---	Ongoing	Fall 1980
DOI	None at this time. Department is currently conducting a survey that will be available in June.	---	--	--
DOJ-CRD	Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs	28 CFR 42.401-415	1/80	5/80
DOL-ESA	Black Lung Benefits: Requirements for Coal Mine Operators Insurance	20 CFR 726	Ongoing	--
DOL-ESA	Criteria for Determining Whether State Workers' Compensation Laws Provide Adequate Compensation for Pneumoconioses	20 CFR 722	Ongoing	--
DOL-ESA	Labor Standards for Federal Service Contracts	29 CFR 4	Ongoing	--

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APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOL-ESA	Labor Standards Provisions, Davis-Bacon and Related Acts	29 CFR 1, 3, 5	Ongoing	--
DOL-ESA	Office of Federal Contract Compliance Programs	41 CFR 60-1, 60-2, 60-3, 60-4, 60-20, 60-30, 60-60, 60-250, 60-741	Ongoing	--
DOL-ETA	Extended Benefits for Unemployment Insurance Claimants	20 CFR 615	Ongoing	--
DOL-ETA	Labor Certification Process	20 CFR 656	Ongoing	--
DOL-ETA	Migrant and Seasonal Farm Workers	20 CFR 689	Ongoing	--
DOL-LMSA	Revision of Certain Annual Information Return/Reports	29 CFR 2520	Ongoing	--
DOL-MSHA	Civil Penalties	30 CFR 100	Ongoing	--
DOL-MSHA	Respirable Dust Standard for Surface Coal Mines	30 CFR 71	Ongoing	--
DOL-MSHA	Respirable Dust Standard for Underground Coal Mines	30 CFR 70	Ongoing	--
DOL-MSHA	Underground Coal Mine Safety Standards	30 CFR 75	Ongoing	--
DOL-OSHA	Conveyors	29 CFR 1910.186	Ongoing	--

APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOL-OSHA	Electrical	29 CFR 1910 Subpart S	Ongoing	--
DOL-OSHA	Fire Protection	29 CFR 1910 Subpart L	Ongoing	--
DOL-OSHA	Laboratory Accreditation	29 CFR 1907	Ongoing	--
DOL-OSHA	MBOCA	29 CFR 1910.94 (a)	Ongoing	--
DOL-OSHA	Nickel Standard	29 CFR 1910.94 (a)	Ongoing	--
DOL-OSHA	Safety and Health Regulation for Marine Terminal Facilities	29 CFR 1918 Subparts M-S	Ongoing	--
DOL-OSHA	Shiprepairing, shipbuilding, shipbreaking	29 CFR 1915, 1916, 1917	Ongoing	--
DOL-OSHA	Tunnelling	29 CFR 1926	Ongoing	--
DOT-FAA	Light Transport Airplane - Airworthiness Review	49 CFR 571.213	Ongoing	5/80
DOT-NHTSA	Exterior Protection	49 CFR 471.215 and 49 CFR Part 581	Ongoing	8/80
DOT-NHTSA	Occupant Protection	49 CFR 571.208	Ongoing	Unknown
TREAS-ATF	Definition of "Engaged in the Business"	27 CFR 178	11/79	1/81

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APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
TREAS-ATF	Recodification of Explosive Regulations	27 CFR 181	1/80	12/80
TREAS-ATF	Recodification of Wine Regulations	27 CFR 240, 231, 170	5/79	7/81
TREAS-ATF	Records Requirement for Cigarette Distributors	27 CFR 296	1/80	5/80
TREAS-ATF	Sales of Firearms at Gun Shows	27 CFR 178	2/80	3/81
TREAS-OCC	Fiduciary Powers of National Banks and Collective Investment Funds	12 CFR 9	1/80	10/31/80
TREAS-OCC	Minimum Security Devices	12 CFR 21	5/80	12/31/80
TREAS-OCC	Securities Exchange Act Disclosure Rules	12 CFR 11	6/80	12/13/81
EEOC-OPI	Recordkeeping regulations, extending the length of time certain records, already required to be kept, should be retained	29 CFR 1602	4/80	6/80
NCUA	Insurance Activities of Federal Credit Unions	12 CFR 721.1	12/79	12/80
NCUA	Lending Policies of Federal Credit Unions	12 CFR 701.21-1 through 701. 21-6	12/79	7/81
SBA	Disaster Loans	13 CFR 123	5/80	9/80
CPSC	Safety Standard for Swimming Pool Slides	16 CFR 1207		thru FY81

APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
CPSC	Standard for the Flammability of Mattresses (and mattress pads) (FF 4-72)	16 CFR 1632		thru FY81
FERC	Coinsurance of Service Under PURPA §206	18 CFR 294.101	4/1/80	10/80
FERC	Maximum Lawful Prices for Pipeline Distributor or Affiliate Production	18 CFR 270.203	12/1/78	6/9/80
FERC	First Sales, Resales, Btu Content, and Commingling Limitations	18 CFR 270.2	12/1/80	6/19/80
FHLBB	Forward Commitments	12 CFR 563.17-3	Ongoing	--
FHLBB	Futures Transactions	12 CFR 545.29	Ongoing	--
FMC	Temporary Tariff Filings	46 CFR 536	Ongoing	12/80
FRS	Regulation B--Equal Credit Opportunity	12 CFR 202	4/79	9/80
FRS	Regulation D--Reserves of Member Banks	12 CFR 204	5/80	8/80
FRS	Regulation F--Securities of State Members	12 CFR 206	12/79	8/80
FRS	Regulation G--Securities Credit by Persons Other than Banks, Brokers or Dealers	12 CFR 207	6/79	12/80
FRS	Regulation J--Collection of Checks and Other Items and Transfer of Funds	12 CFR 210	6/79	6/80

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APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
FRS	Regulation K--International Banking Operations	12 CFR 211	3/80	7/80
FRS	Regulation T--Credit by Brokers and Dealers	12 CFR 220	6/79	12/80
FRS	Regulation U--Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks	12 CFR 221	6/79	12/80
FRS	Regulation X--Rules Governing Borrowers Who Obtain Securities Credit	12 CFR 221	6/79	12/80
FRS	Regulation Y--Bank Holding Companies	12 CFR 225	9/78	12/80
FRS	Regulation Z--Truth in Lending	12 CFR 226	9/79	1/81
FTC	Cooling Off Period for Door to Door Sales	16 CFR 429	11/79	1/81
FTC	Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures	16 CFR 436	11/79	6/81
FTC	Retail Food Store Advertising and Marketing Practices	16 CFR 424	1/77	9/80

APPENDIX V: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
ICC	Rules of Practice [Legislation is presently pending in Congress which would change significantly the Interstate Commerce Act. Assuming that final legislation is enacted sometime soon after 6/1/80, the Commission will be conducting a number of major rulemaking proceedings during the summer of 1980 which will result in the overhaul of regulations governing motor carrier entry and railroad and motor carrier ratemaking.]	49 CFR 1100	Fall	2/81
PRC	Rules Applicable to Requests for Changes in Rates or Fees: Failure to Comply	39 CFR 3001.56	2/13/80	6/80
SEC	Guides for Preparation and Filing of Registration Statements Under the Securities Act of 1933 and Guides for Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934	17 CFR 231.4936	12/79	6/80
SEC	Regulation S-X	17 CFR 219	1/80	6/80
SEC	Investment Advisers Act Study	17 CFR 275 et seq.	12/78	Currently Unkonwn
SEC	Disclosure Study -- Review of Disclosure Requirements Under the Securities Act of 1933 and Investment Company Act of 1940	17 CFR 270 et seq.	3/79	Currently Unknown

[FR Doc. 80-16369 Filed 5-29-80; 8:45 am]
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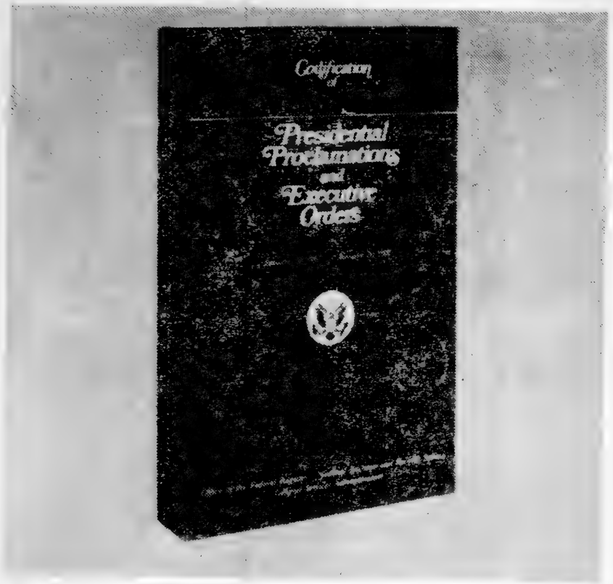

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List of CFR Sections Affected

June 1980

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of Titles 28–41*

CONTAINING:

TITLES 1–16
Changes Jan. 2, 1980
through June 30, 1980

TITLES 17–27
Changes April 1, 1980
through June 30, 1980

TITLES 28–41
*Changes July 2, 1979
through June 30, 1980

TITLES 42–50
Changes Oct. 1, 1979
through June 30, 1980

PARALLEL TABLE OF U.S.C.–C.F.R.

LSA—LIST OF CFR SECTIONS AFFECTED

The LIST OF CFR SECTIONS AFFECTED is designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult this LIST OF CFR SECTIONS AFFECTED for any changes, additions, or deletions published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing at the front of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Cite a page reference from this publication as 44 FR for 1979 page numbers. Example: Page 60024 cite as 44 FR 60024.

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There is no single annual issue of the LIST OF CFR SECTIONS AFFECTED. Four ANNUAL ISSUES must be saved: the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

A table is included after Title 50 which contains references to the U.S. Code sections cited as authority for CFR regulations added or revised since July 1, 1979.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the inclusive page numbers and corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR INDEX and finding aids to the entire Code of Federal Regulations, is revised semi-annually as of January 1 and July 1 each year.

INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Ernest J. Galdi, Acting Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

(Comprising a complete CFR set)

Title	Price	Revision Date
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3 (Compilation of 1978 Presidential documents and Parts 100 and 101)	6.00	Jan. 1, 1979
4	5.50	Jan. 1, 1979
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(Parts 1200–1499)	7.00	Jan. 1, 1980
(Parts 1500–1899)	6.50	Jan. 1, 1980
(Parts 1500–2799)	10.00	Jan. 1, 1979
(Parts 2800–2851	5.50	Jan. 1, 1978*
(Parts 2852)	6.00	Jan. 1, 1979
(Part 2853–End)	6.00	Jan. 1, 1980
8	5.50	Jan. 1, 1980
9 (Parts 1–199)	7.00	Jan. 1, 1980
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11	4.75	April 1, 1980
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27	11.00	April 1, 1979
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28	6.50	July 1, 1979
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Title	Price	Revision Date
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(Part 400–End)	8.00	Oct. 1, 1979
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(Part 1000–End)	9.00	Oct. 1, 1979
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46 (Parts 1–29)	4.25	Oct. 1, 1979
(Parts 30–40)	4.50	Oct. 1, 1979
(Parts 41–69)	6.50	Oct. 1, 1979
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(Parts 90–109)	4.75	Oct. 1, 1979
(Parts 110–139)	4.25	Oct. 1, 1979
(Parts 140–155)	5.50	Oct. 1, 1979
(Parts 156–165)	5.50	Oct. 1, 1979
(Parts 166–199)	5.25	Oct. 1, 1979
(Part 200–End)	8.50	Oct. 1, 1979
47 (Parts 0–19)	6.50	Oct. 1, 1979
(Parts 20–69)	8.00	Oct. 1, 1979
(Parts 70–79)	7.00	Oct. 1, 1979
(Part 80–End), 48 (48 Reserved)	8.00	Oct. 1, 1979
49 (Parts 1–99)	4.75	Oct. 1, 1979
(Parts 100–177)	7.00	Oct. 1, 1979
(Parts 178–199)	7.00	Oct. 1, 1979
(Parts 200–399)	7.00	Oct. 1, 1979
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(Part 1300–End)	6.00	Oct. 1, 1979
50	8.00	Oct. 1, 1979
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Federal Register—What it is and how to use it	2.40	1978
List of Sections Affected, 1949–1963	13.50	1966

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TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

Page

3 Authority citation revised 2639
3.4 (b) (3) revised 2639

Chapter II—Office of the Federal Register

51 Incorporation by reference approvals 44090

Chapter III—Administrative Conference of the United States

302.2 (a) existing text designated as (a) (1); (a) (2) added; (d) revised 2307
305.79–5 Added 2307
305.79–6 Added 2308
305.79–7 Added 2309
310.6 Added 2310

Chapter IV—Miscellaneous Agencies

415 Redesignated as 22 CFR Part 1301 17137
416 Redesignated as 22 CFR Part 1302 17137
445 Removed 2001
465 Removed 37397

Title 1—*Proposed Rules:*

1—22 (Ch. I) 13715, 16183
305 ..... 23703, 27451
482 6791

TITLE 3—THE PRESIDENT

Proclamations

3279 Amended by Proc. 4744 22864
Amended by Proc. 4766 41899
4334 Amended by Proc. 4720 7771
4463 Amended by Proc. 4720 7771
4466 Amended by Proc. 4720 7771
4534 *See* Proc. 4726 12369
4539 Amended by Proc. 4720 7771
4667 *See* Proc. 4750 26019
4707 Amended by EO 12204 20740
4710 757
4711 1587
4712 2835
4713 3561
4714 3875
4715 4335
4716 5659
4717 6079
4718 6773
4719 6915
4720 7771
4721 8277
4722 10749
4723 11111
4724 11457
4725 11459
4726 12369
4727 13429
4728 14001
4729 14003
4730 14831
4731 15503
4732 16159
4733 16161
4734 16163
4735 16453
4736 16997
4737 17937
4738 18901
4739 18903
4740 21199
4741 21201
4742 21607
4743 22009
4744 22864
Amended by Proc. 4748 25371
Amended by Proc. 4751 27905
Revoked by Proc. 4766 41899
4745 24851
4746 24853
4747 25037
4748 25371
4749 25787
4750 26019
4751 27905
4752 27907
4753 28701
4754 29555
4755 30059
4756 30415
4757 31695
4758 31927
4759 32655
4760 33945
4761 33947
4762 39237
Revoked by Proc. 4766 41899
4763 41119
4764 41621
4765 41895
4766 41899
4767 42235

Executive Orders

Page

11269 Amended by EO 12188 989
11476 Amended by EO 12198 16932
11539 Amended by EO 12188 989
11609 Amended by EO 12215 36043
11651 Amended by EO 12188 989
11703 Amended by EO 12188 989
11713 Revoked by EO 12215 36043
11807 Revoked by EO 12196 12769
11835 *See* EO 12198 16932
11846 Amended by EO 12188 989
11858 Amended by EO 12188 989
11888 Amended by EO 12204 20740
11958 Amended by EO 12210 26313
12018 *See* EO 12198 16932
12078 Amended by EO 12219 41897
12088 *See* EO 12217 41623
12096 Revoked by EO 12188 989
12153 Amended by EO 12189 3559
12154 Amended by EO 12199 16441
12169 Amended by EO 12213 29781
12165 Amended by EO 12200 16443
12172 Amended by EO 12206 24101
12173 Amended by EO 12203 20451
12187 3
Amended by EO 12209 26311
12188 989
12189 3559
12190 7773
12191 7997
12192 9727
12193 9885
12194 12209
12195 12373
12196 12769
12197 14833
12198 16932
12199 16441
12200 16443
12201 17123
12202 17939
12203 20451
12204 20740
12205 24099
Amended by EO 12211 26685
12206 24101
12207 25373
12208 25789
12209 26311
12210 26313
12211 26685
12212 29557
12213 29781
12214 29783
12215 36043
12216 41619
12217 41623
12218 41625
12219 41897

Administrative Orders

Memorandums

December 14, 1979 (Amended by EO 12188) 989
December 27, 1979 1
January 2, 1980 759
January 16, 1980 3559
March 24, 1980 19543

Presidential Determinations

No. 73–10 of January 2, 1973 Amended by Presidential Determination No. 80–12 of March 3, 1980 16995
Amended by Prseidential Determination No. 80–14 of March 13, 1980 19211
No. 80–9 of December 20, 1979 1585
No. 80–10 of January 24, 1980 9251
No. 80–11 of January 28, 1980 8539
No. 80–12 of March 3, 1980 16995
No. 80–13 of March 10, 1980 19209
No. 80–14 of March 13, 1980 19211
No. 80–15 of April 2, 1980 26017
No. 80–16 of April 14, 1980 28079
Amended by Presidential Determination No. 80–18 of May 2, 1980 29787
No. 80–17 of May 1, 1980 29785
No. 80–18 of May 2, 1980 29787
No. 80–19 of May 28, 1980 37681

Reorganization Plans

No. 1 of 1980 40561

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office

31 Nomenclature change 22873
33 Nomenclature change 22873
34 Nomenclature change 22873

Chapter III—Cost Accounting Standards Board

403 Interpretation 13721
404.40 (b) (1) revised 13723

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 4, Chapter III—Continued

	Page
404.60 (a)(1) introductory text, (i), and (ii), and (2) amended	13723
404.80 Existing text designated as (a); (b) added	13723
418 Added	31932

Title 4—*Proposed Rules:*

21	18940
331	8677
332	8677
351	8677
404	48
417	43202
418	25067
421	1038

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management

24 Revised	4337
4.3 Amended	4337
5 Revised	4337
175 Revised	995
213.3102 (hh) revised	36347
213.3109 (f)(1) revised	36347
(d)(1) revised	36348
213.3116 (k) added	35305
(b)(7), and (d)(4) and (5) removed; (b)(12), and (k)(2) and (3) added	36348
(e)(2) revised	36349
213.3148 (f) added	36347
213.3191 (d) added	41627
213.3202 (j) added	10751
(k) added	16455
Introductory text revised; undesignated paragraph following (e) removed; (f) and (g) added	17125
(f) and (g) effective date corrected	22873
(k) revised	38023
213.3204 Added	38024
213.3206 (d) added	38023
213.3254 Added	38024
213.3272 (a) revised	38023
213.3282 (b)(5) revised	38024
213.3302 Added	26315
213.3318 (a)(3) correctly designated; republication	5
213.3337 (i) correctly designated	3565
213.3354 (i) correctly designated; republication	5
300.103 (c) interpretation	29530
315.601 Revised	10305
315.607 Revised	43365
315.801 (a)(7) revised	43365
316.402 (b)(2) revised	43365
317 Revised	8541
317.302 (a)(1)(ix) and undesignated paragraph revised	19213
317.303 (a) revised	19213
334.103 Redesignated as 334.104; new 334.103 added	996
334.104 Redesignated as 334.105; new 334.104 redesignated from 334.103	996
334.105 Redesignated as 334.106; new 334.105 redesignated from 334.104	996
334.106 Redesignated as 334.107 and (d) added; new 334.106 redesignated from 334.105	996
334.107 Redesignated as 334.108; new 334.107 redesignated from 334.106 and (d) added	996
334.108 Redesignated from 334.107	996
335.102 (g) added	24855
337.102 Added	18365
351.201 (h) added	24856
351.203 (e) removed; (f) through (i) redesignated as (e) through (h) and revised	28301
351.404 Revised	29264
351.405 Added	29264
351.501 Revised	28301
351.504 Revised	29264
351.704 Revised	41628
351.804 Revised	41628
410.503 Revised	18365
410.510 Added	40963
432.201 (c)(3)(x) through (xiii) redesignated as (c)(3)(xi) through (xiv); new (c)(3)(x) added	24856
432.205 Invalid	9253
Revised	13431
432.206 Invalid	9253
531.203 (b)(2) revised	27909
540.110 Correctly revised	1591
620 Interim appendix and appendix A heading removed	16461
630.301 Added	1592
733.124 (b) amended	1593, 14005, 27909

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

	Page
737 Revised	7406
Note corrected	9253
737.33 (a) amended; interim	8545
752.401 (c)(8) through (14) redesignated as (c)(9) through (15); new (c)(8) added	24856
771 Republished	9
771.206 (b) introductory text corrected	4338
(c)(1)(vii) through (xii) redesignated as (c)(1)(viii) through (xiii); new (c)(1)(vii) added	24856
831.108 Correctly designated	2837
Effective date corrected	4338
831.109 Revised	23632
831.110 (a) revised	23633
831.201 (a)(17) added	24856
831.903 (d) added	996
831.904 (c) added	996
831.1203 (a) revised; final	23633
831.1204 (c) revised; final	23633
831.1205 Revised	23633
831.1206 Revised; final	23633
831.1301 Revised; final	23634
831.1302 Revised; final	23634
831.1303 Revised; final	23634
831.1304 Revised; final	23634
831.1305 Revised	23634
831.1306 Revised	23634
831.1401 Revised; final	23635
831.1402 Revised; final	23635
831.1403 Revised; final	23635
831.1404 Revised	23635
831.1405 Revised; final	23635
831.1406 Revised; final	23635
831.1407 Revised; final	23635
831.1601—831.1605 (Subpart P) Revised	23635
831.1701—831.1711 (Subpart Q) Added	14836
870.205 Revised	23636
870.206 Removed	23636
871.206 Revised	23636
871.207 Removed	23636
890.103 Revised; final	23637
890.104 Revised	23637
890.105 Removed; new 890.105 redesignated from 890.106	23637
890.106 Redesignated as 890.105; new 890.106 redesignated from 189.107	23637
890.107 Redesignated as 890.106; new 890.107 redesignated from 189.108	23637
890.108 Redesignated as 890.107	23637
890.701—890.702 (Subpart G) Added; interim	12376
891.105 Revised; final	23637
891.106 Revised	23637
891.107 Removed	23637
891.401 Revised	30611
900.204 (h)(2) and (3) nomenclature change correction	3565

Chapter II—Merit Systems Protection Board

1201 Appendix II amended	6537, 34861
1251 Authority citation correctly added	2837
1252 Authority citation correctly added	2837
1253 Authority citation correctly added	2837
1254 Authority citation correctly added	2837
1255 Authority citation correctly added	2837
1260 Authority citation correctly added	2837
1261 Authority citation corrected	2837, 10305

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel

Chapter XIV Revised	3486
2400 (Subchapter A and Part) Revised	3487
2411—2415 (Subchapter B) Revised	3488
2411 Revised	3488
2412 Revised	3491
2413 Revised	3494
2414 Revised	3495
2415 Revised	3496
2420—2429 (Subchapter C) Revised	3497
2420 Revised	3497
2421 Revised	3497
2422 Revised	3497
2423 Revised	3506
2424 Revised	3511
2424.6 (b) corrected	8933
2424.7 (c) corrected	8933
2425 Revised	3513
2426 Revised	3513

Title 5, Chapter XIV—Continued

2427 Revised ... 3516
2428 Revised ... 3516
2429 Revised ... 3516
2429.1 (a) corrected ... 8933
2470—2471 (Subchapter D) Revised ... 3520
2470 Revised ... 3520
2471 Revised ... 3520
Chapter XIV Appendix A amended; interim ... 761
Appendix A revised ... 3522
Appendix B revised ... 3523
Appendix A corrected ... 8933
Appendix A amended ... 36349

Chapter XV—Office of Administration, Executive Office of the President

Chapter established ... 20453
2500 Redesignated from 32 CFR Part 2500 ... 20453
Designation corrected ... 22873
2504 Added ... 41121

Title 5—*Proposed Rules:*

1—1001 (Ch. I) ... 37610
213 ... 36416
330 ... 39277
335 ... 1040
351 ... 1040, 7818, 8630, 31379, 33640
352 ... 37452
410 ... 2327, 6114, 24899
412 ... 29300
432 ... 1040
511 ... 34895
532 ... 31382
536 ... 40990
550 ... 7263, 31379
591 ... 36416
720 ... 38061
733 ... 6114
734 ... 19502
752 ... 1040
771 ... 1040
831 ... 1041, 16493, 22953
1320 ... 2586
2424 ... 25067
2502 ... 26714
2504 ... 22049

TITLE 6—ECONOMIC STABILIZATION

Chapter VII—Council on Wage and Price Stability

705 Form PAY-1 (Actual) added ... 966
Implementation guide added ... 3217
Interpretations ... 3247, 4339, 5297, 6537, 14840, 20453, 21260, 36048, 37397, 42589
Form PM-1 proposed ... 6985
Interpretations corrected ... 21609
Form PAY-1 revised ... 41305
705.3 Revised ... 21259
705.4 (a)(1) amended ... 3216
705.10—705.22 (Subpart B) Revised; interim ... 17126
705.12 (b) revised ... 42589
705.43 (d) revised ... 21260
705.44 Revised ... 3216
(e) revised ... 21260
705.48 Added; interim ... 1816
Added; final ... 14838
705.49 Added; interim ... 1817
(a)(4)(i) amended ... 3217
Added; final ... 14838
705.50 Added; interim ... 1817
(a)(2)(i) and (c)(4)(ii) corrected ... 7535
Added; final ... 14839
705.51 Revised ... 38335
705.64 (b) revised ... 6537
705.79 Revised ... 38335
705 Appendix amended; interim ... 4339
706 Form PAY-1 (Actual) added ... 966
Interpretations ... 3247, 5297
Interpretations corrected ... 21609
Form PM-1 added ... 31936
Form PAY-1 revised ... 41305
706.21 (b) revised; interim ... 18366
706.22 (a) revised; interim ... 18366
706.24 Added; interim ... 14840
706.25 Added; interim ... 14840
706.26 Correctly added; interim ... 17128, 21609
706.31 (a) and (c) revised; interim ... 14940
(a) revised; interim ... 18366
(c) corrected ... 21609
706.32 Revised; interim ... 17128
Corrected ... 21609
707 Form PAY-1 (Actual) added ... 966
Interpretations ... 5297
Form PM-1 proposed ... 6985
Form PM-1 added ... 31936
Form PAY-1 revised ... 41305
707.11 Added; interim ... 14841
(c) corrected ... 21609
707.33 Revised; interim ... 17128
707.39 Added; interim ... 14841
707.40 Added; interim ... 17128
(c) corrected ... 21609
707.50 (Subpart E) Added; interim ... 17129

Title 6—*Proposed Rules:*

701—707 (Ch. VII) ... 30445

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

1.1—1.16 (Subpart A) Appendix A amended ... 27435
1.160—1.175 (Subpart I) Added ... 6587
2.4 Revised ... 10751
2.5 (b) amended ... 10751
2.13—2.29 (Subpart C) Heading
2.17 (b)(20) added ... 43366
revised ... 10751
2.25 (e)(9)(xiv) revised; (e)(9)(xv) and (xix) removed ... 21610
(c)(2) and (d)(1) revised; (e)(11) added ... 31697
2.27 (a)(11) and (12) added ... 12211
2.29 Heading and introductory text revised ... 10751
2.33 Revised ... 31697
2.34 Revised ... 31698
2.39 (a)(62) added ... 33589
2.51 (a)(20) added ... 43366
2.58 (a)(6) corrected ... 1411
2.63 Revised ... 25039, 30417
2.75 (a)(19) added ... 21610
(a)(4)(ii) and (15)(ii) revised ... 31698
2.77 (a)(2) revised ... 31698
2.78 (a)(9)(xiv) and (a)(13) revised; (a)(9)(xv) and (xix) removed ... 21610
(a)(15) added ... 31698
2.84 (a)(11) and (12) added ... 12211
2.96 (Subpart M) Added ... 10751
6.25 (d)(4) corrected ... 33589
6.26 (a)(3) and (6) corrected ... 33589
6.40—6.44 (Subpart) Added ... 9883
6 Appendix 2 corrected ... 33589
10 Revised ... 37175
12 Added ... 6023
16.1—16.5 (Subpart A) Removed ... 7999
20.2 Revised ... 8562
20.3 Revised ... 8562
20.4 (a) revised ... 8562
20.4 (h) amended ... 24104
20.6 (a) introductory text and (e) amended; (d) introductory text revised ... 8562
(a) and (g) amended; (c)(5), (6), and (7), (e), (i), (j), and (k) revised ... 24104
(b) and (k)(2) amended ... 24439
20.7 Amended ... 8562, 2440
20.10 Revised ... 8562
20.11 (a) amended ... 8562
20 Appendix I amended ... 24440
25.17 (a) revised ... 23401
25.18 Revised ... 30417

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

26 Removed; Subpart B regulations transferred in part to Part 810 ... 15873
27.93 Amended ... 762
27.94 (a) amended ... 762
101.89 Revised ... 6775
102.2 (u) revised ... 5661
102.18 (d) revised ... 5661
102.44 Revised ... 5661
102.65 (a)(9) revised ... 5662
102.77 Revised ... 5662
102.78 Revised ... 5662
102.80—102.85 Revised ... 5662
102.86—102.95 Removed ... 5662
102.99 Revised ... 6775
103.78 Revised ... 6775
104.72 Revised ... 6775
106.80 Revised ... 6776
107.81 Revised ... 6776
108.73 Revised ... 6776
111.84 Revised ... 6776

Chapter II—Food and Nutrition Service, Department of Agriculture

210.2 (u) added ... 998
(h-1) through (h-7) redesigned as (h-2) through (h-8); (c-3), (c-4), and new (h-1) added ... 6770
Technical correction ... 14005
210.10 Revised ... 32514
210.13 (b) amended ... 7228
210.15b Revised ... 6771
210.19b Removed ... 32514

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 7, Chapter II—Continued

Page

210.20 Redesignated as 210.21; new 210.20 added 999
Technical correction 14005
210.21 Redesignated from 210.20 999
220.2 (c–1), (c–2), and (i–1) added 6771
220.11 (a) amended 7228
220.12 Revised 6771
220 Appendix B added 6772
225.1 Amended 1846
225.2 (n) amended; (s) and (x) revised 1846
225.4 (h) amended; (k) added 1846
225.5 (q)(6) removed; (b)(11) and (aa) added; (c), (k)(2), and (q)(2) amended 1846
(aa) corrected 8562
225.6 (a)(1), (10), (12), and (19) revised 1847
225.7 (e) and (g) revised 1847
225.9 (a)(1) and (7) revised; (k) amended 1848
225.10 (a)(1)(iii), (2)(iv), and (3)(iv) revised 1848
225.13 (f) amended 1848
(a) amended 7228
226 Revised 4970
Appendix added 10752
226.29 (j) corrected 17129
227.30 (b–1) added; interim 14842
227.37 (c) added; interim 14842
230 Nomenclature changes 33593
230.2 (e) and (v) removed; (n–1), (n–2), (cc–1), and (cc–2) added; (h), (i), (u), (x), (dd), and (ee) revised 33593
230.4 Revised 33594
230.7 (a) revised 33594
230.8 Existing text designated as (a) and amended; (b) through (e) added 33594
230.9 (d) added 33595
230.12 (i) added 33595
230.13 (b) revised 33595
230.16 (a), (b)(3)(iii) introductory text, and (c) revised; (b)(2), (3) heading and introductory text amended; (b)(3)(i) and (4) removed; (b)(5) redesignated as new (b)(4) 33595
235.4 (b–1) comment time extended 1041
(b) introductory text and (c) revised; (b–1) and (b)(3) redesignated as (b)(3) and new (4); (b)(2) and new (3) amended; new (b)(4) revised; interim 3566
235.6 (a–1) comment time extended 1041
(a–1) and (c) amended; interim 3566
235.7 (c) added 8563
245.12 Added; final 1000
246 Determination 20458
247 Revised; interim 15067
271.2 Amended 15897, 23291
271.7 Revised 22005
Republished 22880
272.1 (g)(4) added 2609
(g)(8), (9) and (12) added 7215
(g)(8), (9), and (12) republished 7237
(g)(14) added 12767
(g)(11) added 15898
(g)(3) revised 22006
(g)(3) republished 22882
(g)(15) added 23291
(g)(17) added 27431
272.5 Added 2610
272.6 (b)(8) revised 7216
(b)(8) republished 7237
273.1 (e)(3) added; (f)(2) revised 23291
273.2 (f)(1)(v) added; (f)(9)(i) and (l)(4)(i) revised 7216
(f)(l)(v), (9)(i), and (l)(4)(i) republished 7238
(l)(3)(ii) revised 23292
(f)(5)(ii) amended; (f)(8) and (k) added 27432
273.3 Amended 2613
273.6 Redesignated as 273.20; new 273.6 added 7217
Republished 7238
273.7 (l) added 27434
273.8 (e)(11)(viii), (ix), and (x) added 12767
273.9 (b)(3) revised 7218
(b)(3) republished 7239
(c)(10)(v) revised; (c)(10)(ix) and (x) added 12767
(a)(1), (d)(7) and (8), and Appendix A revised; (a)(2) amended; emergency 40094
273.10 (e)(1)(ii) and (2)(ii) revised; (f)(3)(iv) added 7218

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

(e)(1)(ii), (2)(ii), and (f)(3)(iv) republished 7239
(e)(2)(ii) amended; (e)(2)(iii) revised 22006
(e)(2)(ii) amended and (e)(2)(iii) republished 22882
(e)(4)(ii) revised; emergency 40094
273.11 (c) introductory text revised; (c)(5)(iii) added 7218
(c) introductory text and (5)(iii) republished 7240
(e)(1) amended; (e)(2), (5), and (7) revised; (f) redesignated as (g); new (f) added 23292
273.12 (e)(3) revised 7218
(e)(3) republished 7240
273.13 (b)(11) added 7219
(b)(11) republished 7240
(b)(12) added 23293
273.16 (a), (d) introductory text and (9)(ii), and (e)(3) revised; (e)(4) added 7219
(a), (d) introductory text, (9)(ii), (e)(3) and (4) republished 7240
273.18 (c)(2), (d), (e), and (f) revised; (c)(3) and (4) removed 7220
(c)(2), (d), (e), (f)(1) and (2) republished 7241
273.20 Redesignated from 273.6 7217
274.2 (e)(2) and (f)(6) amended 22007
(e)(2) and (f)(6) amendments republished 22882
274.3 (f)(6) amended 22007
(f)(6) amendment republished 22882
274.10 (d) amended 23293
275.1—275.4 (Subpart A) Added 15898
275.5—275.9 (Subpart B) Added 15900
275.6 (b)(1)(ii) designation correctly added 23637
275.7 (b)(1)(i) corrected 23638
275.9 (d)(2) corrected 25375
275.11 (b)(2) amended 15898
275.13 (b)(2)(ii) amended 15898
275.15 (Subpart D) Added 15909
275.16—275.19 (Subpart E) Added 15909
275.20—275.23 (Subpart F) Added 15911
Heading correctly added 23638
275.25 (Subpart G) Added 15912

Page

278.1 (e) revised; (f) through (l) redesignated as (g) through (m); new (f) added 23293
278.2 (g) revised 23294
282.10 Effectiveness extended 40094
283.4 (e)(2) revised 14006
283.5 (m) revised 14006

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

301.45—301.45–10 (Subpart) Revised 15510
Hearing date corrected 21260
301.45–2a (a) corrected 24856
301.45–2c Revised 43367
301.45—301.45–10 (Subpart) Appendix corrected 24856–24858
301.52–2a Revised 43368
301.80–2a Amended 38025, 38033
318.13–1 (i) revised; (o) added 42242
318.13–2 (b) amended 42242
319.37—319.37–14 (Subpart) Revised 31585
319.37 (a) corrected 35305
319.37–2 (a) table corrected 35305
319.37–5 (d) and (e) corrected 35305
319.37–6 (c) corrected 35305
319.37–7 (a) table corrected 35305
354.2 Table amended 18367
371 Added 8564

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

410 Technical corrections 25791
417 Appendix B corrected 9887
418 Appendix B corrected 9887, 29001
419 Appendix B corrected 29001
421.7 (d) corrected 29002
428 Appendix B corrected 9887
432 Appendix B corrected 9888
433 Appendix B corrected 9888
434 Appendix B corrected 9889
435 Appendix B corrected 9889

Chapter VI—Soil Conservation Service, Department of Agriculture

600.2 Revised 30061
600.3 Revised 30061
600.4—600.8 Revised 30062

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 7—Continued

Page

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

700 Added 14009
711.3 (f) revised 37398
722.558—722.564 (Subpart) Heading revised 2310
722.558 Revised 18368
722.559 Revised 18368
722.560 Revised 18368
722.564 Revised 2310
723.1—723.2 Undesignated center heading revised 8571
723.1 Revised 8571
723.2 Revised 8571
723.11—723.12 Undesignated center heading revised 8571
723.11 Revised 8571
723.12 Revised 8572
723.21 Revised 40095
723.51—723.66 (Subpart) Revised 10306
724.2—724.7 Undesignated center heading revised 8575
724.5 Revised 8575
724.12—724.17 Undesignated center heading revised 8575
724.12 Revised 8575
724.13 Revised 8576
724.14 Revised 8576
724.15 Revised 8577
724.16 Revised 8577
724.17 Revised 8577
724.21 Revised 40096
724.88 Technical correction 1001
725.3 Revised 40097
725.72 (c)(4)(i) revised 13431
725.92 (b) revised 40097
726.1 Undesignated center heading and section revised 8579
726.11—726.21 Undesignated center heading revised 8579
726.11 Revised 8579
726.21 Revised 40096
726.86 (c) revised 42242
729.3 (ll)(1) revised 6082
(j) and (ll)(2)(i) revised 34862
729.15 (a) revised 34862
729.30 (b), (d), (g)(1), and (j) revised 34862
729.32 (e) revised 34863
729.46 (d) added 6082
Revised 34863
729.47 (a)(1) revised 6082
729.53 Added 34863
730.1502—730.1504 (Subpart) Revised 18369
781.4 Revised 7776
781.5 Added 7776
795.8 (c) revised 10311
(c) corrected 11795
799 Revised 32313

Chapter VIII—Federal Grain Inspection Service, Department of Agriculture

Chapter established 15810
800 Added 15810
801 Added 15860
802 Added 15862
810 Added; redesignated in part from 26.201—26.905 (Subpart B) 15872
Authority citation revised 15873

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

904 Added 20047
905 Limitation of handling 6592, 8000, 12773, 24440, 27739, 35306
907 Limitation of handling 762, 2001, 3249, 5663, 6917, 8279, 9889, 9890, 11461, 13043, 14199, 14531, 16165, 17943, 20045, 22011, 24442, 26021, 27740, 29002, 30418, 31699, 31953, 34257, 36048
908 Limitation of handling 14199, 14532, 16166, 17944, 20046, 22012, 23638, 24442, 26022, 27740, 29003, 30419, 31953, 34258, 36049, 37801, 38339, 39789, 41389, 43151
909 Removed 20053
910 Limitation of handling 1001, 2311, 3567, 6083, 7243, 8580, 10312, 11795, 12774, 13432, 14842, 16462, 18370, 20460, 22883, 24858, 26316, 27910, 29265, 30612, 32308, 34864, 36349, 37683, 38034, 40098, 41628, 43369
910.180 (d) revised; (e) added 42243
911 Limitation of handling 27911, 39855

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

913.160 Added 40565
915 Limitation of handling 36350
916 Limitation of handling 32309
917 Limitation of handling 32310, 33596
918 Limitation of handling 29003, 36049
922 Limitation of handling 42590
923 Limitation of handling 38034
925 Added 40566
928 Limitation of handling 18370, 23639, 26943, 29559
944 Limitation of handling 27911, 36352, 39855
946 Limitation of handling 42591
947 Referendum 15919
Referendum determination 37179
953 Limitation of handling 31045, 36354
959 Limitation of handling 7244
971 Limitation of handling 11
971.5 Amended 41390
971.20 Revised 41390
971.23 (f) added 41391
971.27 Revised 41391
971.28 Revised 41391
971.31 (a) revised 41391
971.42 (a) and (b) amended 41391
971.43 (a)(2) amended 41391
971.48 Amended 41391
979 Limitation of handling 24106
981.329 (a) revised 19213
982.466 Revised 28081
984.225 Added 1593
985 Added 25040
985.1—985.74 (Subpart) Heading added 41901
985.300 (Subpart) Added 41901
989.233 Revised; eff. through 7–31–80 3878
989.401 (a)(1) and (b) revised 11462
991.139 Suspended through 7–31–83 41902
991.218 Added 24441

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

1000.3 (c)(1) removed; (c)(3) amended 7777
1004 Effective date suspensions 39239
1004.61 Revised 23402
1004.71 (b)(2) revised 23402
1004.72 Revised 23402
1004.73 (a)(2) revised 23403
1004.75 (b) revised 23403
1004.76 (b)(5) revised 23403
1004.78 Added 23403
1004.120 (b), (c) and (d) revised 23403
1004.121 (b) introductory text, (2), (3), and (4), and (c) revised; (e) and (f) added 23403
1032.61 (e) amended; (f) through (j) removed 23404
1036.31 (a) introductory text revised 36355
1036.32 (a) introductory text and (c) introductory text revised 36355
1036.61 Revised 36355
1036.70 (a) revised 36356
1036.71 (a) through (d) revised 36356
1036.72 Added 36356
1036.73 (a) through (d) revised 36356
1036.76 (b)(4) amended 36357
1036.78 Revised 36357
1036.85 Introductory text amended 36357
1036.86 Revised 36357
1036.120 (b), (c), and (d) revised 36357
1036.121 (b) introductory text, (2), and (3) revised; (e) and (f) added 36358
1050.61 (e) amended; (f) through (j) removed 23404
1062.61 (f) through (j) removed; (l) amended 23404
1064.7 (b) revised; (d)(6) amended 3878
1064.13 (c) revised 3879
1068.73 (a)(4) suspended through 4–30–81 23405
1071 Effective date suspensions 43369
1073 Effective date suspensions 43369
1097 Effective date suspensions 43369
1102 Effective date suspensions 43369
1104 Effective date suspensions 43369
1106 Effective date suspensions 43369
1108 Effective date suspensions 43369
1120 Effective date suspensions 43369
1124 Effective date suspensions 29559, 34865
1126 Effective date suspensions 43369
1132 Effective date suspensions 43369
1133.7 (d) revised 2640
1133.9 (f) amended 2640
1133.13 (c) revised 2640

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 7, Chapter X—Continued

Page

1133.30 Introductory text amended ---- 2640
1133.31 Introductory text amended ---- 2640
1133.32 (a), (c), and (d) amended ---- 2640
1133.62 Introductory text amended ---- 2640
1133.71 Introductory text and (c) amended ---- 2640
1133.72 Amended ---- 2640
1133.73 (b) amended; (c) and (d) revised ---- 2640
1133.85 Amended ---- 2641
1133.86 (b) and (c) amended ---- 2641
1138 Effective date suspensions ---- 43369

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

1207.408 Removed ---- 41392
1207.409 Added ---- 41392
1280 Referendum voters list ---- 9891
1280.101—1280.172 (Subpart) Classification corrected to-Proposed Rules ---- 2641
Added ---- 32573

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

1421.4 (f) revised ---- 31699
1421.91 (a)(2) revised ---- 26308
1421.290a Correctly designated from 1421.291 ---- 11795
1421.290b Correctly designated from 1421.292 ---- 11795
1421.291 Correctly designated as 1421.290a ---- 11795
1421.292 Correctly designated as 1421.290b ---- 11795
1421.630—1421.644 (Subpart) Added ---- 3024
1421.640 (d) revised ---- 20460
1421.641 (a) revised ---- 20460, 26309
1421.643 Revised ---- 35801
1421.644 Revised ---- 20461
1425.5 (e) and (f) revised ---- 31700
1425.7 (c) revised ---- 31700
1425.11 Revised ---- 31700
1425.13 (d) introductory text revised ---- 31701
1425.17 (b) revised ---- 31701
1425.21 (b) redesignated as (c); new (b) added ---- 31701
1430.282 (a)(1), (b)(1) and (2) revised ---- 30421
1435.5 (b) redesignated as (b)(1); (b)(2) added ---- 33598
1438.1636—1438.1645 (Subpart) Revised ---- 39493
1446.5 (a)(9) revised ---- 24443
1446.8 Introductory text revised; (c), (d), and (e) added ---- 24443
1446.9 (d), (i), and (j)(5) and (6) revised ---- 24444
1446.31—1446.36 (Subpart) Revised ---- 11464
1464.1—1464.10 (Subpart A) Revised ---- 9253
1464.2 (a) corrected ---- 26687
1464.3 Corrected ---- 26687
1464.7 (a)(1) corrected ---- 26687
1464.16 Revised ---- 32311
1472.1503 (c) added ---- 24859
1472.1505 (d) added ---- 24859
1472.1521 (d) added ---- 24859
1472.1546 (c) added ---- 24859
1474.4 Revised ---- 42244
1474.5 Revised ---- 42245
1474.6 Revised ---- 42245
1474.8 Revised ---- 42246

Chapter XVII—Rural Electrification Administration, Department of Agriculture

1701 Appendix A amended ---- 4340, 6601, 9258, 13432, 22883, 32312, 37399, 40098, 40963

Chapter XVIII—Farmers Home Administration, Department of Agriculture

1804 Removed ---- 39793
1809.11—1809.16 (Subpart B) Redesignated as 1922 and revised ---- 2641
1821 Removed ---- 39793
1822.9 (a) amended ---- 39793
1822.81—1822.98 (Subpart D) Exhibit O amended ---- 39793
1822.84 (a)(4)(iii) amended ---- 2642
1822.85 (o)(3) amended ---- 39793

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

1822.88 (t) amended ---- 39793
1822.90 (a) amended (c)(1) and (2), (d)(1), and (l)(1) amended ---- 39793
1822.267 (e) amended ---- 39793
1822.310 Amended ---- 39794
1843.10 (a) removed; (b) amended ---- 1594
1861.61—1861.63 (Subpart D) Removed ---- 43152
1872.3 (d)(3)(iii) amended ---- 39794
1872.4 (d)(2) amended ---- 39794
1890t.2 (a)(1)(i) revised ---- 3249
1900.101—1900.102 (Subpart C) Heading revised ---- 8934
1900.101 (a) removed; (b) and (c) redesignated as (a) and (b) ---- 8934
1900.103 Removed ---- 8934
1901.711 (d)(2) amended ---- 39794
1904.303 Revised ---- 10312
1922 Redesignated from 1809.11—1809.16 (Subpart B) and revised ---- 2641
1924.1—1924.13 (Subpart A) Added ---- 39794
1924.58 (b)(3) revised ---- 14017
1924.257 (a)(3) revised ---- 15919
1924.262 Amended ---- 39794
1933.412 Amended ---- 39794
1941.1—1941.50 (Subpart A) Exhibit A amended ---- 16166
Exhibit B added ---- 43371
1941.4 (g) amended ---- 43371
1941.96 (b) revised ---- 16166
1942.18 (c)(2) amended ---- 39794
1943.16 (b) introductory text and (1), (c) and (f) revised; (b)(3) added ---- 27912
1943.19 (f) added ---- 27912
1943.23 (g)(4) added ---- 27912
1943.24 (b)(1)(iv) added ---- 27912
1943.26 Amended ---- 39794
1943.32 (a)(13) added ---- 27912
1943.66 (a)(10) added ---- 27912
1943.69 (b)(1)(iv) added ---- 27912
1943.73 (g)(4) added ---- 27912
1943.76 Amended ---- 39794
1943.126 Amended ---- 39794
1944.151—1944.182 (Subpart D) Exhibits A–2 and A–3 amended ---- 39794
1944.169 (b), (c)(1), and (i)(1) amended ---- 39794
1944.157 (a)(7)(iii) amended ---- 2642
1944.551—1944.559 (Subpart L) Comment time extended ---- 1411
1945.1—1945.45 (Subpart A) Revised ---- 9850
1945.51—1945.92 (Subpart B) Revised ---- 9856
Temporary approval by OMB ---- 9880
1945.75 Amended ---- 39794
1945.102 Revised ---- 29266, 35783
1945.104 (a)(1) revised ---- 29266
(a)(4) revised ---- 35783
1945.105 Revised ---- 35783
1945.112 (c) through (g) redesignated as (d) through (h); (b) introductory text and (1) and new (e) revised; new (c) added ---- 35784
1945.114 Amended ---- 39794
1945.116 (a)(3) through (14) redesignated as (a)(4) through (15); (a)(2), new (14), and (b)(3) revised; new (a)(3) added ---- 35785
1945.117 (d)(1) revised ---- 9880
(a)(5) revised ---- 35786
1945.118 (b)(1)(i) and (b)(2) revised ---- 35786
1945.120 (b)(7)(iii) revised ---- 35786
1945.136 Revised ---- 35786
1948.53 (t) revised ---- 26943
1950 Added ---- 43152
1960 Added ---- 27913
1980.170 Temporary suspension ---- 9880
1980.302 (a) revised ---- 41629
1980.330 (h)(1) revised ---- 41629
1980.502 Revised ---- 29266
1980.504 (a) revised ---- 29266
1980.515 (d) revised ---- 29266
1980.518 (e) revised ---- 29266
1980.520 (c)(2) revised ---- 29266
2006 Removed ---- 7246

Chapter XXVIII—Food Safety and Quality Service, Department of Agriculture

2851.1210—2851.1223 (Subpart) Interpretation implementation delayed ---- 27915
2852.631—2852.644 (Subpart Revised ---- 4340
2852.2610 (a)(1)(iii) and (b)(1)(iii) amended ---- 4345
2853.31 Added ---- 19214
2858.2601—2858.2611 (Subpart O) Revised ---- 26946

60-145 O - 80 - 2

Title 7, Chapter XXVIII—Continued

Page

2858.2608 Correctly added 27435
Correction republished 27916
2858.2609 Correctly added 27435
Correction republished 27916
2858.2610 Correctly added 27435
Correction republished 27916
2859.160 (d) and (e) revised 23640
2859.161 Added 23641
2859.411 (c)(1) revised 23641
2859.500 (o) revised 23641
2859.532 (a) revised 23641
2859.950 (a) revised 23641
2880.1—2880.21 (Subpart) Revised (temporary) 31692

Chapter XXIX—Office of Energy, Department of Agriculture

2900.2 (e) added 27745
2900.3 Amended 5298

Chapter XXXI—Office of Environmental Quality

3100 Notification of permit procedures under new law 13433
Authority citation revised 41583
3100.36 Added 41583

Title 7—*Proposed Rules*:

0—25a (Subtitle A) 13718, 32192
6 ..... 33640, 33642
26—202 (Ch. I) 13718
27—202 (Ch. I) 32192
28 ..... 21261, 26340
29 30080
210—295 (Ch. II) 32192
210 ..... 1041, 3592, 43422
220 43422
235 1041
246 ..... 8876, 9304
250 42303
272 20704
273 ..... 3593, 20704
274 35335
300—371 (Ch. III) 13718, 32192
301 ..... 1615, 8630, 8654
401—414 (Ch. IV) 13718, 29056, 32192
401 29056
403 43771
408 43776
411 41640
414 25073
415 25068
422 28726
427 30445
437 29056
438 43783

Page

500—510 (Ch. V) 13718, 32192
600—663 (Ch. VI) 13718, 32192
700—799 (Ch. VII) 32192
701—799 (Ch. VII) 13718
725 39277
760 ..... 24899, 31393, 37452
781 6115
799 16493
800 32284
810 30446
900—999 ((Ch. IX) 12797, 13718, 20109, 32192
907 1621
908 29063
910 ..... 35829, 42313
911 31726
913 30638
915 ..... 29843, 33643
916 ..... 38386, 41962
917 ..... 38062, 38387
921 42313
923 42625
924 42314
925 26967
928 43789
930 38063
944 ..... 29843, 31726, 33643
945 42626
946 28732
953 29846
971 ..... 9010, 24489, 32319
979 1887
982 ..... 12259, 18378, 42315
985 ..... 1888, 13096, 14868
989 4358
991 ..... 15555, 30446
999 ..... 24167, 39507
1000—1139 (Ch. X) 13718, 32192
1001 3593
1002 ..... 3593, 32321
1004 ..... 3593, 12811, 34898
1006 ..... 3593, 12821, 40606
1007 ..... 3593, 12821, 40606
1011 ..... 3593, 9942, 11503, 14218
1012 3593
1013 3593
1030 3593
1032 ..... 3593, 14867
1033 3593
1036 ..... 3593, 18013, 24167, 30638
1040 ..... 3593, 14047
1044 3593
1046 3593
1049 3593
1050 ..... 3593, 14867
1062 ..... 3593, 14867
1064 ..... 1908, 3593
1065 3593
1068 ..... 3593, 14049
1071 ..... 3593, 28734, 30447
1073 ..... 3593, 28734, 30447
1075 3593
1076 ..... 3593, 12823

Page

1079 3593
1093 35168
1094 3593
1096 3593
1097 ..... 3593, 20888, 24492, 30447
1098 3593
1099 3593
1102 ..... 3593, 20888, 24492, 30447
1104 ..... 3593, 28734, 30447
1106 ..... 3593, 28734, 30447
1108 ..... 3593, 20888, 24492, 30447
1120 ..... 3593, 30447
1124 ..... 3593, 6810, 20490, 25407
1125 3593
1126 ..... 3593, 28734, 30447
1131 3593
1132 ..... 3593, 28734, 30447
1133 3593
1134 3593
1135 3593
1136 3593
1137 3593
1138 ..... 3593, 30447
1139 3593
1205—1280 (Ch. XI) 13718, 32192
1207 31118
1260 25078
1280 2657
1300 (Ch. XII) 13718, 32192
1402—1496 (Ch. XIV) 13718, 29302, 32192
1421 1042
1425 24492
1427 ..... 5307, 23449
1434 9943
1446 28148
1464 ..... 12826, 27944
1493 37854
1520 (Ch. XV) 13718, 32192
1610 (Ch. XVI) 13718, 32192
1700—1701 (Ch. XVII) 13718, 32192
1701 ..... 2848, 4358, 7819, 10356, 12442, 13470, 14047, 14868, 16496, 20490, 20491, 24900, 24901, 26340, 29847, 34898, 37454, 38064, 41646
1802—2045 (Ch. XVIII) 13718, 32192
1804 30364
1822 10240
1930 30364
1941 6792
1944 ..... 10240, 30364
1945 12827
1951 27453
1980 ..... 12827, 14049, 41647
2101 (Ch. XXI) 13718, 32192
2400 (Ch. XXIV) 13718, 32192
2507 (Ch. XXV) 13718, 32192
2610—2620 (Ch. XXVI) 13718, 32192
2710 (Ch. XXVII) 13718, 32192
2842—2880 (Ch. XXVIII) 10810, 13718, 32192, 36417
2842 38064
2851 8637

Page

2852 ..... 1046, 10356, 18378, 27944
2853 1049
2856 35345
2859 ..... 13471, 30980
2890 11815
2900—2901 (Ch. XXIX) 13718, 32192
2900 ..... 20898, 25408

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

3.1 (a)(1) revised 9893
100.4 (c)(2) amended 13434
101.3 Nomenclature change 32657
103.1 (o)(1) amended 32657
103.2 (b)(1) amended 32657
103.7 (b)(1) amended 33950
204.1 (a) amended 19545
204.2 (b) amended 32657
(c)(3) and (5) amended 41392
207 Added; interim 37393
208 Added; interim 37394
209 Added; interim 37395
211.1 (b)(1) revised; (b)(2) amended 30062
(b)(3) amended 30063
(c) amended 32657
211.3 Nomenclature change 32657
211.5 (a), (b), and (d) amended 32657
212.1 (a) amended 19215
(e)(1) amended 24849
212.6 (d) revised 11114
(a) amended 19545
214.1 (c) amended 26015
214.2 (j)(1), (2), and (3) amended 23641
(h)(11) amended 24859
(h)(2)(iv) revised 25793
223.1 Nomenclature change 32657
223a.4 Nomenclature change 32657
231.2 (a) amended 32657
235.1 (f)(1)(iii), (iv), and (g) amended 19545
235.10 (c) revised 16462
238.3 (b) amended 20461, 40965
238.4 Amended 10313, 20462, 38340, 40965
238.4 Amended 10313, 20462
239.2 (a) amended 29243
242.5 (a)(2) amended 27917
242.17 (a) and (c) amended 41393

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 8, Chapter I—Continued

Page

242.22 Amended ... 30063
Corrected ... 35802
244.1 Amended ... 27917
245.1 (d) amended ... 26015
(d)(2) revised ... 26947
(d) and (h) amended ... 37396
245.2 (c) and (e) amended ... 32657
245.4 Revised ... 37396
246.9 Nomenclature change ... 32657
247.14 Amended ... 32657
248.2 Amended ... 26015
248.3 (b) amended ... 23641
249.2 Amended ... 32657
251.1 (c) and (d) amended ... 32658
264.1 (a) and (b) amended; (c) revised ... 32658
282.1 Revised ... 6777
292a.1 Revised ... 43681
292a.2 Amended ... 43681
299.1 Amended ... 6777, 32658
299.2 (c) added ... 6777
Heading corrected ... 21611
299.3 Revised ... 6777
299.4 Revised ... 6777
334.16 (a) revised ... 10313
336.16 Amended ... 10313
341.1 (a) and (b) revised ... 10313
343b.11 (a) amended ... 38340
499.1 Amended ... 6778

Chapter II—Office of Alien Property, Department of Justice

Chapter II removed ... 7778
501—510 Removed ... 7778

Title 8—*Proposed Rules:*

1—499 (Ch. I) ... 7265
109 ... 19563
211 ... 29848
214 ... 17590, 29848

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

3.12 (a)(4) introductory text amended; (a)(4)(i), (ii), and (iii) added ... 37618
50.1 (q) added ... 32287
50.3 Revised ... 32287
50.6 Heading and introductory text revised; (c) added ... 32287
50.7 Heading revised; (a) heading added ... 32287
(a) and (b) amended ... 32288
50.8 Revised ... 32288
50.9 Revised ... 32288
50.14 (b) revised ... 32288
51.1 (cc), (dd), and (ee) and footnote 3 added ... 43678
51.3 (a) and footnotes 4 through 6 revised ... 43679
51.5 (b) amended ... 24860
51.6 (c) revised ... 40966
Footnotes 3 and 4 redesignated as 7 and 8 ... 43680
75.7 (a)(1)(iv)(Q) and (R) added ... 1002
(a)(1)(iv)(E) revised ... 2837
(a)(1)(x)(C) revised ... 8580
(b)(1)(i)(A) revised; (b)(1)(iii) added ... 26316
78.20 (b) amended ... 7246
(a) and (b) amended ... 14843
(b) amended ... 29267, 38036
78.21 (b) amended ... 7246
(a) and (b) amended ... 14843, 29267
(b) amended ... 38036
78.22 (b) amended ... 29267, 38036
79.2 Revised ... 6083
83.2 Introductory text and (d) revised ... 40099
82.3 (a)(2) removed ... 2311
(a) introductory text amended; (a)(1) added ... 26317
(a)(1) removed; introductory text and (a)(2) revised ... 30613
91.3 (a)(1) revised ... 12376
92.1 (j)(2)(vi) and (v) added ... 2839
(r) revised; (v) and (w) added ... 36358
92.2 (i)(2)(iii)(C) and (iv) revised ... 1004
(b) amended; (j) added ... 2839
(c)(2) redesignated as (c)(2)(i) and amended; (c)(2)(ii) added; (c)(3)(ii) amended ... 10753
92.3 (e) and (f) redesignated as (f) and (g); (a), (b) and (c) revised; new (e) added ... 11796
92.4 (a)(5), (6), and (7) added ... 1005
(a)(5)(ii) amended ... 10314
(a)(4) amended ... 10754
(a)(5)(ii) amended ... 24860

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

92.17 Amended ... 1005
92.20 (c)(1) amended; (c)(2) through (6) redesignated as (c)(3) through (7) and amended; new (c)(2) added ... 36358
92.24 (a) amended ... 8581
92.25 (b) revised ... 8581
92.31 (a) revised ... 14018
92.33 (a) amended ... 14018
92.34 Removed; (a) and (c) redesignated as 92.35 (a) and 92.39 (b) and revised ... 14018
92.34 (c) correctly reinstated ... 26318
92.35 (a), (b), and (c) redesignated as (b), (c), and (d); new (a) redesignated from 92.34 (a) and revised; new (b) amended ... 14018
92.39 Revised; (b) redesignated from 92.34 (c) ... 14018
(b) correctly removed ... 26318
92.40 Revised ... 14019
92.41 (a)(2) and (c) amended; footnote 15 added ... 7779
(a)(2) amended ... 11797
(b)(7) revised; (c) amended ... 29269
(a)(2) amended ... 38037
94.6 (b)(5) and (d)(4) added ... 29270
113.86 Heading and (c)(1), (2), and (3) revised ... 40100
113.87 Heading and (c)(1), (2), and (3) revised ... 40100
113.88 Heading and (c)(1), (2), and (3) revised ... 40100
113.89 Heading and (c)(1), (2) and (3) revised ... 40100
113.91 Heading and (c)(1) and (2) revised ... 40100
113.92 (c)(1) and (2) revised ... 40100
113.93 Heading and (c)(1) and (2) revised ... 40101
113.94 Heading and (c) introductory text, (1), and (2) revised ... 40101
145.10 (i) added ... 10315
145.14 (b)(4) added ... 10315
145.23 (c)(1)(ii) introductory text and (*a*), and (e)(1)(ii) revised ... 10315
145.33 (c)(1)(ii) introductory text and (*a*), and (e)(1)(ii) revised ... 10316
145.44 (c) added ... 10316
145.52 (b) added ... 10316
147.43 (a) introductory text, (b), and (c) revised ... 10316
147.45 Amended ... 10317

Chapter II—Agricultural Marketing Service (Packers and Stockyards), Department of Agriculture

204.2 (e)(2) revised ... 14532
204.3 (d)(1) and (2) revised; (d)(4) removed; (d)(5) redesignated as (d)(4) ... 14532

Chapter III—Food Safety and Quality Service, Meat and Poultry Inspection, Department of Agriculture

303.1 (d)(2)(iii) revised ... 27922
309.16 (a) amended; (c) added; interim ... 26949
318.7 (c)(4) table amended ... 10318
319.140 Amended ... 10318
319.180 (e) amended ... 10318
319.181 Amended ... 10318
319.281 (a)(2) amended ... 10318
331.2 Table amended ... 24861
381.10 (d)(2)(iii) revised ... 27922
381.36 Review and response to comments ... 10319
(c) comment response ... 27917
381.76 Comment response ... 27917
381.147 (f)(3) table amended ... 10318

Title 9—*Proposed Rules:*

1—166 (Ch. I) ... 32192
1 ... 36427
2 ... 36427
3 ... 15880, 36427
50 ... 1622
51 ... 18394, 26341
73 ... 14050, 26341
83 ... 22954, 38071
92 ... 2849, 10359, 26342, 29302
113 ... 4359
201—204 (Ch. II) ... 32192
201 ... 21168
203 ... 21168
301—381 (Ch. III) ... 10810, 32192
303 ... 2328
307 ... 8662
308 ... 13471, 30980
317 ... 12442
318 ... 43425
320 ... 19258

Title 9—*Proposed Rules*—Continued

	Page
325	40129
381	2328, 8662, 12442, 13471, 30980
Ch. IV	32192

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission

	Page
0.735–28 Revised	26022
0 Annexes B and C removed	26023
1 Nomenclature change	14200
2 Nomenclature change	14200
2.4 (d) revised	14200
2.202 (a) introductory text and (f) revised	3250
4 Authority citation revised	14535
4.1 Revised	14535
4.1a Added	14535
4.2 Revised	14535
4.3 (l) revised	14535
(j) revised	18905
4.11—4.93 (Subpart A) Heading added; nomenclature change	14535
4.47 Revised	14535
4.101—4.233 (Subpart B) Added	14535
4 Appendix amended	14539
9.14b (d) revised	9729
9.95 (n) added	17129
20 Nomenclature change	14200
20.3 (a) (18) revised	14200
20.403 (d) added	13435
20 Appendix D amended	18905
21 Comment review	9893
25 Added	14481
30 Nomenclature changes	14200
30.4 (a–1) revised	14200
(u) revised	18905
30.34 (g) added	41394
32.26 (b) (10) revised	38342
32.29 (b) revised	38342
34.32 (l) added	2312
35.14 (b) (4) revised	41394
35.41 Added	31704
35.42 Added	31704
(a) corrected	39829
35.43 Added	31704
35.44 Added	31705
35.45 Added	31705
40 Nomenclature changes	14200
40.4 (b–1) revised	14200
(j) revised	18905
40.2a Removed	12377
40.26 (b) (2) removed; (b) (1) redesignated as (b) and amended	12377
50 Nomenclature changes	14200
Interim policy statement	40101
50.2 (w) revised	14200
(s) revised	18905
50.70—50.71 Undesignated center heading revised	13435
50.71 (e) added	30615
50.72 Added	13435
50 Appendix F amended	14201
55.4 (g) revised	18905
70 Nomenclature changes	14201
70.4 (a–1) revised	14201
(n) revised	18905
71.5 (a) revised	20462
71.7 (b) introductory text revised	20463
73 Nomenclature changes	14201
Appendix D amended	37410
73.1 (a) (2) (i) introductory text revised	10328
(b) (5) revised	37408
73.2 (q) revised	14201
73.36 (c) (2) amended	14201
73.37 Revised	37408
73.67 (c) (1) and (2) revised	19215
73.72 Amended	37410
95 Added	14483
95.39 (c) (2) amended	37410
110.2 (rr) revised	18906
110.13 Removed	18371
110.22 Added	18371
110.23 Revised	18372
110.24 Revised	18372
110.25 Revised	18372
110.26 Revised	18372
110.27 Revised	18372
110.28 Added	18372
110.40 (b) revised	11114
110.44 (a) (1) (iii) revised	18372
140.3 (g) amended; (l) added	14201
140.92 Amended	37410
140.93 Amended	37410
140.94 Amended	37410
140.95 Amended	37410
140.107 Amended	37410
140.108 Amended	37410
150 Nomenclature change	14201
150.3 (j) revised	18906
150.15 (a) (7) removed	12377

Chapter II—Department of Energy

	Page
Chapter II Interpretations indexes	10321
Interpretations	13044, 21203, 25375, 33951, 42248
205.12 (a) (3) revised; (a) (10) added	37684
205.162 Revised	37684
205.80—205.86 (Subpart F) Appendix A added	5664
210.62 (a) revised	36361
(d) revised	40106
211.25 (c) policy statement	12
211.51 Amended	6919
211.62 Amended	6921, 21205
211.63 (d) (1) (iii) revised	21208
211.65 (c) (2) (ii) revised	21198
211.67 (a) (3) and (d) (4) revised	6921
(e) (4) removed; (e) (5) redesignated as (e) (4)	22013
211.103 (a) revised	6919
211 Appendix (Special Rule No. 9) amended	6919
212.59 Added	21208
212.74 (d) and (e) added	9534
212.77 Appendix amended	14844, 38039
212.78 (c) amended	40107
212.83 (c) (2) (iii) (E) amended; interim	1583
(h) (2) (iv) (A) revised	28304
(c) (2) (iii) (E) amended	29550
(c) (1) (i) (C) revised	39240
(h) (3) (iii) added	40106
(h) (2) (iv) (A) revised	41903
212.92 Amended	29551
Revised	40106
212.93 (b) (1) (iv) added; (e) revised	1584
(e) (1) (ii) revised	28304
(a) (1), (2), and (4), (b) introductory text, (e) introductory text, (1), and (3) revised; (a) (5) and (b) (1) (v) added	29551
(a) (3) revised	36053
(a) (2) and (4), and (b) (1) (v) revised	39241
(e) (1) (ii) revised	41903
212.131 (a) (4) revised	21209
375—390 (Subchapter C) Added	9530
375 Added	9530
375.004 Amended	9539
376 Added	9539
376.110 (a) (4) added	36800
390 Added	36800
391 Added	9532
430.2 Amended	43363
430.44 (c), (d), and (e) correctly designated	13436
436.10—436.23 (Subpart A) Added	5624
440 Revised; interim	13035
445 Added	10226
Forms CS–189–P, CS–189–C, and CS–189–S added	12973
445 Form CS–189–P corrected	37685
445.14 (b) 1980 compliance dates	10233
445.25 1980 compliance dates	10233
445.36 1980 compliance dates	10233
470 Revised	8928
475 Revised	9544
477 Added; interim	8494
490.35 Heading, (a), (b) introductory text and (d) revised; (b) (5) and (c) amended; (b) (6) redesignated as (b) (7); new (b) (6) added	13050
500 Revised	38280
501.1—501.14 (Subpart A) Revised	38286
501.20—501.23 (Subpart B) Removed	38289
501.30—501.35 (Subpart C) Revised	38289
501.40—501.41 (Subpart D) Revised	38291
501.56 Revised	38291
501.60—501.69 (Subpart F) Revised	38292
501.100—501.103 (Subpart G) Revised	38294
501.120—501.124 (Subpart H) Revised	38295
501.130—501.134 (Subpart I) Revised	38295
501.140—501.143 (Subpart J) Revised	38296
501.160—501.167 (Subpart K) Revised	38296
501.180—501.183 (Subpart L) Revised	38297
501.190—501.192 (Subpart M) Revised	38298
502 Removed	38299
503 Heading revised	38308
503.1—503.3 (Subpart A) Revised	38309

Title 10, Chapter II—Continued

Page
503.4—503.16 (Subpart B) Revised ... 38309
503.20—503.25 (Subpart C) Revised ... 38312
503.30 Revised ... 38314
503.31—503.33 Revised ... 38315
503.34 Revised ... 38316
503.35 Revised ... 38317
503.36 Revised ... 38317
503.38 Revised ... 38318
503.39 Revised ... 38319
503.40 Revised ... 38319
503.41 Revised ... 38320
503.42 Revised ... 38321
503.43 Added ... 38322
504.12 Removed ... 40967
505.1—505.2 (Subpart A) Removed ... 38322
505.3—505.9 (Subpart B) Removed ... 38322
505.10—505.15 (Subpart C) Removed ... 38322
505.20—505.26 Removed ... 38322
505.28 Removed ... 38322
505.29 Removed ... 38322
505.31 Removed ... 38322
506.12 Removed ... 40967
507 Removed ... 38299
507.5 Filing deadlines deferred ... 6084
507.6 Filing deadlines deferred ... 6084
507.7 Filing deadlines deferred ... 6084
516.11 (d) revised ... 35208
516.43 Revised ... 35208
516.44 (b) revised ... 35209
516.46 Revised ... 35209
570 Added (effective pending congressional review) ... 41346
(Subchapter F) Correctly added (effective pending congressional review) ... 43154
RULINGS:
1980–1 ... 24862
1980–2 ... 42246

Chapter III—Department of Energy

703.200—703.203 Removed ... 36053
714 Redesignated as 1014 and revised ... 7768
782 Added ... 26950
796 Added ... 15473
797 Added ... 3543
798 Added ... 31607

Chapter X—Department of Energy (general provisions)

Page
1014 Redesignated from 714 and revised ... 7768
1023.200—1023.203 (Subpart B) Added ... 36053
1024 Added ... 29764
1040 Added ... 40515

Title 10—*Proposed Rules:*

2 ... 3594, 5308, 13739, 20491, 26071, 34279, 35345
19 ... 15184, 19564, 21261
20 ... 18023, 20493, 26072, 26717, 31118
30 ... 13739, 15184
34 ... 39856
40 ... 13739, 14589, 15184
50 ... 2330, 2669, 3056, 3913, 6793, 10360, 13739, 15184, 20491, 34279, 36082
51 ... 3056, 13739, 24168
60 ... 31393
61 ... 13104
70 ... 1625, 13739, 15184, 15936
71 ... 15184, 39519
73 ... 1625, 2657, 11503, 15937
110 ... 13739
140 ... 26973
150 ... 15184
170 ... 20899
202—661 (Ch. II) ... 27964, 28686, 30448
205 ... 20109, 25780, 32322
210 ... 34846, 43202
211 ... 799, 3060, 6951, 28148, 29770, 31682, 32003, 33643, 34008, 34846, 36090, 36427, 37697, 40078, 42222
212 ... 799, 3060, 8025, 12444, 14235, 27767, 29553, 32003, 34846, 37697, 42222, 43202, 44236
376 ... 8662, 10360, 13473, 35830
390 ... 8662, 10360, 13473
420 ... 19263
430 ... 1298, 2632, 5602, 6116, 14188, 14529, 43976, 44086
435 ... 4359, 12830, 25097, 27964
436 ... 7498
440 ... 17159
455 ... 26717, 39856
456 ... 33643
461 ... 24092, 31408
474 ... 34008, 39520
477 ... 8309, 8502, 14235, 15938, 24517, 34015
486 ... 32560
490 ... 35788, 36428
503 ... 42190
504 ... 42190

Page
506 ... 42190
516 ... 10746
622 ... 41649
624 ... 41649
703—871 (Ch. III) ... 27964, 28686, 30448
1000—1023 (Ch. X) ... 27964, 28686, 30448
1000 ... 27948
1008 ... 35764
1024 ... 8920
1050 ... 17560

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission

1.1 (c) corrected ... 21209
1.14 (a) corrected ... 21209
3.2 (a)(1) corrected ... 21209
4.1 (b) and (e) revised; (f) added ... 31291
4.3 (b) and (c) removed; (a) designation removed ... 31291
4.4 (a)(3) revised; (a)(10) through (15) added ... 31291
(b) through (e) redesignated as (c) through (f); new (b) added ... 31292
4.7 (a) and (b) revised ... 31292
4.9 Revised ... 31292
5 Added ... 31293
100 Revised (effective pending congressional review) ... 15094
Effective date confirmed ... 21211
100.5 (e)(5) added (effective pending congressional review ... 34867
100.7 (a)(1)(i)(B), (ii) and (c) corrected ... 21209
(b)(21) effective date confirmed ... 21210
Designation corrected ... 23642
100.8 (b)(23) effective date confirmed ... 21210
Designation corrected ... 23642
(b)(15) and (21)(i) amended (effective pending congressional review) ... 43387
101 Revised (effective pending congressional review) ... 15103
Effective date confirmed ... 21211
101.1 (a) corrected ... 21209
102 Revised (effective pending congressional review) ... 15104
Effective date confirmed ... 21211
102.3 (a) corrected ... 21209
102.5 (a)(2) corrected ... 21209
102.14 (c) corrected ... 21209
103 Revised (effective pending congressional review) ... 15108
Effective date confirmed ... 21211
104 Revised (effective pending congressional review) ... 15108
Effective date confirmed ... 21211
104.2 (e)(3) corrected ... 21209
104.3 (d), (e)(3), (f), (g), and (h) corrected; (j) correctly added ... 21209
105 Revised (effective pending congressional review) ... 15116
Effective date confirmed ... 21211
106.1 (c)(3) added (effective pending congressional review) ... 15117
(e) corrected ... 21209
(c)(3) effective date confirmed ... 21211
106.2 (a) revised (effective pending congressional review) ... 15117
(a) effective date confirmed ... 21211
106.3 (d) revised (effective pending congressional review) ... 15117
(d) effective date confirmed ... 21211
(a) amended (effective pending congressional review) ... 43387
106.4 (a) and (b) corrected ... 21209
108 Revised (effective pending congressional review) ... 15117
Effective date confirmed ... 21211
108.4 Corrected ... 21209
109 Revised (effective pending congressional review) ... 15118
Effective date confirmed ... 21211
110.1 (i)(1) and (2) corrected ... 21210
110.2 (b) revised (effective pending congressional review) ... 15119
(b) corrected ... 21210
(b) effective date confirmed ... 21211
110.3 (a)(1)(i) corrected ... 21210
110.5 (d) added (effective pending congressional review) ... 34867
110.6 (c)(4) introductory text and (i) revised (effective pending congressional review) ... 15119
(c)(4) introductory text and (i) effective date confirmed ... 21211
110.7 (c)(2) revised; (c)(3) removed (effective pending congressional review) ... 15119
(c)(2) effective date confirmed ... 21211
(b)(5) correctly removed ... 27435
(a)(6) added (effective pending congressional review) ... 43387

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 11, Chapter I—Continued

Page

110.8 (c)(2) corrected ... 21210
110.11 (a)(1) and (2) revised; (c) removed (effective pending congressional review) ... 15119
(a)(1) and (2) effective date confirmed ... 21211
110.12 (a) and (b)(5) revised; (b)(6) added (effective pending congressional review) ... 15120
(a), (b)(5) and (6) effective date confirmed ... 21211
110.13 Effective date confirmed ... 21210
110.14 Added (effective pending congressional review) ... 34867
111 Revised (effective pending congressional review) ... 15120
Effective date confirmed ... 21211
111.8 (c) corrected ... 21210
112 Revised (effective pending congressional review) ... 15123
Effective date confirmed ... 21211
113 Revised (effective pending congressional review) ... 15124
Effective date confirmed ... 21211
114.1 (a)(2)(v) revised (effective pending congressional review) ... 15125
(a)(1), (2)(vi), (vii), and (ix) corrected ... 21210
(a)(2)(v) effective date confirmed ... 21211
114.3 (b) corrected ... 21210
114.4 (e) effective date confirmed ... 21210
114.5 (e)(2)(i) corrected ... 21210
114.6 (c)(3), (d) introductory text, (2)(ii), and (3)(i) and (ii) revised (effective pending congressional review) ... 15125
(c)(3) and (d) introductory text, (2)(ii), (3)(i) and (ii) effective date confirmed ... 21211
114.9 (a)(2), (b)(2) and (d) corrected ... 21210
114.12 (a) corrected ... 21210
115.1 (a) corrected ... 21210
9001—9007 (Subchapter E) Added (effective pending congressional review) ... 43378
9001 Added effective pending congressional review) ... 43378

Page

9002 Added (effective pending congressional review) ... 43378
9003 Added (effective pending congressional review) ... 43379
9004 Added (effective pending congressional review) ... 43383
9005 Added (effective pending congressional review) ... 43385
9006 Added (effective pending congressional review) ... 43385
9007 Added (effective pending congressional review) ... 43386
9008.2 (e) corrected ... 21210
9008.3 (a) amended (effective pending congressional review) ... 15126
(a) effective date confirmed ... 21211
9008.6 (b)(3) corrected ... 21210
9008.7 (a)(3) corrected ... 21210
9008.8 (a)(4) corrected ... 21210
9032.4 Corrected ... 21210
9032.9 (a) effective date confirmed ... 9559
9033.1 (c) effective date confirmed ... 9559
(c) corrected ... 21210
9033.2 (b) and (f) effective date confirmed ... 9559
9033.3 Effective date confirmed ... 9559
9033.4 Effective date confirmed ... 9559
9033.5 Effective date confirmed ... 9559
9033.6 Effective date confirmed ... 9559
9033.7 Effective date confirmed ... 9559
9033.8 Effective date confirmed ... 9559
9033.9 Effective date confirmed ... 9559
(a) corrected ... 21210
Revised (effective pending congressional review) ... 25379
9034.1 (a), (c), and (d) effective date confirmed ... 9559
9034.3 (d) corrected ... 21210
9034.4 (b), (d), and (h) effective date confirmed ... 9559
9034.5 (a)(1) effective date confirmed ... 9559
9035.1 Effective date confirmed ... 9559
9036.2 (a)(3) corrected ... 21210, 23642

Title 11—*Proposed Rules:*

100—115 (Subchapter A) ... 5546
100 ... 13766
110 ... 13766
140—146 (Subchapter D) ... 5546, 32003
9001 ... 32003
9002 ... 32003
9003 ... 32003

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

9004 ... 32003
9005 ... 32003
9006 ... 32003
9007 ... 32003
9008 ... 5546
9009 ... 32003
9031—9038 (Subchapter G) ... 5546

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury

1 Rulings ... 8934
4.1a (a) and (b) revised ... 18906
4.11 (b)(4) revised ... 13
4.13 (a) amended ... 13, 14
16 Revised ... 11116
18 Revised ... 16
23 Revised ... 14
26 Revised ... 24391

Chapter II—Federal Reserve System

201.1 Revised ... 19220
201.51 Revised ... 12774, 40108, 41629
201.52 Revised ... 12774, 40108, 41629
201.53 Revised ... 12775, 40108, 41630
202 Staff interpretations ... 16999
202.1104 Suspended ... 3567
Technical correction ... 9259
204.0 Added ... 19220
204.1 (b) and (g) amended; (k) and (l) added ... 19220
204.2 (b) revised ... 19220
204.3 (e) and (f) revised ... 19220
204.5 (f)(1) introductory text and (2) introductory text revised; (f)(3) added ... 17925
(a) introductory text and (e) amended; (d) revised ... 19220
(f) revised ... 37411
(f)(3)(i)(B_1) corrected ... 39495
204.120 Added ... 28305
205.2 Heading revised; (g) amended; (m) added ... 8263
205.4 (c) and (d) redesignated as (b) and (c) ... 8263
205.5 (a)(3) revised ... 8263
205.7 (a) introductory text revised ... 8263
205.8 (a) amended ... 8264

Page

205.9 Added ... 8264
(b)(1)(iv) amended; (b)(3) revised; (f), (g), and footnote 4a added ... 25383
(a)(3) footnote 3 revised ... 31706
205.10 (a) added ... 8265
205.11 Added ... 8265
205.13 (b)(2)(i) amended; (b)(4) and (c)(2) revised ... 8266
205.14 Added ... 8266
205 Appendix A amended ... 8267
207 OTC margin stock list ... 24107
211.4 (d) revised ... 19221
212 Revised ... 24389
217.0 (c) revised; (d) added ... 19221
217.1 (h) added ... 17927
(i) and (j) added ... 19221
217.4 (d) temporarily suspended in part ... 36054, 37686, 41124
217.7 (g) revised ... 13469
(h) added ... 17927
220 OTC margin stock list ... 24107
220.3 (b)(1)(i) and (ii), (e), and (g)(3) amended; (f) revised; (d)(5) and (i) suspension rescinded ... 15920, 40969
220.4 (c)(6) revised; (c)(7) and (h)(2) amended ... 15920
(g) revised ... 40967
221 OTC margin stock list ... 24107
224 OTC margin stock list ... 24107
225.139 (c)(4) added; footnote 4 removed; footnotes 5 through 7 redesignated as footnotes 4 through 6 ... 8280
(c)(4) corrected ... 11125
226.3 (e) amended ... 33599
226.5 (a) heading and introductory text, (b) and (c) corrected; effective date clarified ... 4345
(b)(1) amended ... 4345
226.8 (r) and (s) effective date clarified ... 4345
(n) correctly removed ... 33599, 35802
226.9 (g)(6) removal stayed ... 14539, 33600
226.40 Revised ... 4345
226.502 Correctly removed; effective date clarified ... 4345
226.503 Removal effective date clarified ... 4345
226.505 Removal effective date clarified ... 4345
Designation corrected ... 8000

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 12, Chapter II—Continued

Page

226.904 Removal stayed ... 14539, 33600
226 Staff interpretations ... 3879, 9259, 10329
Staff interpretation withdrawn ... 13051
Staff interpretation republished and effective date suspended ... 13436
Staff interpretation removal stayed ... 14539, 33600
Staff interpretations republished and effective date suspended ... 20771
229 Added ... 17929
229.2 (b) revised ... 24843
229.3 (a) revised ... 24843
229.4 (a) revised ... 24843
(a) amended ... 37413
229.6 Added ... 24445
(a) and (b)(1) revised ... 26319
229.11—229.15 (Subpart B) Added ... 17931
Revised ... 23644
229.14 (a)(1) and (b) amended ... 37415
229.21—229.25 (Subpart C) Added ... 17934
229.24 Revised ... 37414
(b)(1)(ii) corrected ... 39495
229.31—229.35 (Subpart D) Added ... 22884
229.33 Revised ... 37412
229.34 Revised ... 37412
265.1a (c) amended ... 34869
265.2 (f)(48) added ... 24448

Chapter III—Federal Deposit Insurance Corporation

303.11 (a)(14) and (15) added ... 30617
304 Revised ... 22885
304.4 (a)(2), (b)(1) and (2) corrected ... 8940
307 Revised ... 13724
309.4 (b)(4) revised ... 31294
327.3 Revised ... 13725
328.1 Amended ... 23645
328.2 (c)(11) amended ... 23645
329.1 (g) added ... 18373
329.6 (b)(6) amended ... 14202
(b)(7) added ... 18373
329.7 (b)(10) amended ... 14202
329.10 (b)(5) added ... 8939
Footnote 17 amended ... 13726
330.1 (c)(2) amended ... 23645
330.2 Introductory text, (a), (b), and (c) amended ... 23645
330.3 (a) and (b) amended ... 23646
330.4 Amended ... 23646
330.5 (a) amended ... 23646
330.6 Amended ... 23646
330.8 (a)(1), (5), and (b) amended ... 23646
330.9 (c), (d), and (e) amended ... 23646
330.10 Amended ... 23646
331.1 (d) amended ... 23646
341.2 (a) amended ... 37179
341.10 Removed ... 37179
343.3 (e) amended ... 37179
343.10 Removed ... 37179
343.11 Removed ... 37179
344.5 (a) and (c) revised ... 12777
(c)(1) and (2) corrected ... 16167
344.6 (d) revised ... 12777
344.7 (a) revised ... 12777
348 Revised ... 24394
349 Authority citation corrected ... 1594
349.2 (b) corrected ... 8940

Chapter V—Federal Home Loan Bank Board

522.6 Revised ... 40109
523.11 (a) revised ... 21211
524.9 Revised ... 31046
525.13 Amended ... 1849
526.3 (a)(4)(ii) revised ... 14019
526.8 Introductory text and (c) amended ... 1853
526.10 Removed ... 36367
528.1 (d) added ... 31956
528.6 (d) and (e) revised ... 31957
531.1 (f) added ... 36367
(a) amended ... 40109
533 Added ... 24446
544.2 (d) revised ... 36367
545.4 (b) amended ... 24447
545.4–1 (a)(3) amended ... 1853
(c) added ... 14447
545.4–2 (a) through (k) removed; new (a) through (f) added; (l) through (s) redesignated as (g) through (n) ... 24447
545.6–2 (a)(2)(iii)(A) and (3)(ii)(A) amended ... 1849
(c) amended ... 31051
545.6–4a Added ... 24111
545.6–9 Revised ... 1852
545.6–14 Added ... 31051

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

545.8–7 (a)(1)(ii) and (3)(i) amended ... 1849
545.14 Revised ... 31048
Effective date corrected ... 32288
545.14–1 Revised ... 31050
Effective date corrected ... 32288
545.14–2 Revised ... 31050
Effective date corrected ... 32288
545.14–3 Removed ... 31050
Effective date corrected ... 32288
545.14–4 Removed ... 31050
Effective date corrected ... 32288
545.14–5 Removed ... 31050
Effective date corrected ... 32288
545.15 Revised ... 31050
Effective date corrected ... 32288
545.16 Revised ... 31050
Effective date corrected ... 32288
545.16–1 Added ... 31050
Effective date corrected ... 32288
545.24 Revised ... 36367
555.18 (d) added ... 24447
561.6 Nomenclature change ... 26024
561.8 Amended ... 36372
561.15 (b) amended ... 31051
561.17 (a) amended ... 31051
561.24a Removed ... 36367
563.3–3 (i)(1) amended ... 36368
563.4 Revised ... 36368
563.6 Revised ... 36368
563.7–3 Amended ... 1853
563.8 Revised ... 36368
563.8–1 Revised ... 36369
563.8–2 Removed ... 36370
563.8–3 Added ... 36370
563.9–3 (b) revised ... 1852
563f Revised ... 24397
564.2 (c)(2) amended ... 26024
564.3 (a), (b), and (c) amended ... 26024
564.4 (a) and (b) amended ... 26024
564.5 Amended ... 26024
564.6 Nomenclature change ... 26024
564.7 Nomenclature change ... 26024
564.8 (a)(1) through (4) removed; new (a)(1) added; (a)(5) redesignated as new (a)(2); (b) amended ... 26024
564.9 (c), (d), and (e) amended ... 26024
564.10 Amended ... 26024
564 Appendix revised ... 26024
590 (Subchapter G and part) Added; expires 3–31–80 ... 1854
Added; eff. 4–1–80 ... 24113
590.2 (b) revised ... 7536
(b)(6)(ii) and (g) corrected ... 28306
(c) through (h) correctly designated ... 38342
590.3 (b)(3) corrected ... 28306
590.4 (b)(3) corrected ... 28306
Revised ... 43686
590 Appendix A added ... 2840
Appendix A amended ... 6166, 8000
Appendix A technical correction ... 13437
Appendix A amended ... 15921

Chapter VI—Farm Credit Administration

600.4 (a) through (d) revised; (e) removed ... 1594
600.5 (a), (b), and (c) introductory text revised ... 1594
605 Added ... 39495
614.4015 Added ... 39496
614.4110 Revised ... 9894
614.4200 (e) revised ... 9894
615.5495 (b) revised ... 1595
618.8150 (f) revised ... 10328
618.8160 (f) revised ... 10329

Chapter VII—National Credit Union Administration

Chapter VII Policy statement ... 12211
Interpretations and policy statements ... 32290, 32292
701.1 Revised ... 8285
701.2 (d)(3) removed; (d)(4) redesignated as (d)(3) ... 8285
701.14 (c) removed; (d) redesignated as (c) ... 8285
701.21–1 (c), (d), and (e) redesignated as (d), (e), and (f); (b) and new (f) amended; new (c) added ... 22891
701.21–3 (b)(3) amended ... 22891
701.21–6 (a)(14) and (c)(4) removed; (c)(5) and (6) redesignated as (c)(4) and (5); new (c)(4) amended ... 22891
701.31 (d)(1)(i), (ii) amended; (d)(3) poster revised ... 26688
701.35 (g)(2) and (3) revised ... 13438
(c)(2) redesignated as (c)(2)(i); (c)(2)(ii) added; (c)(3)(ii) revised ... 34870
(g)(2), (3) and (5) revised ... 39242

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 12, Chapter VII—Continued

Page

701.37 Redesignated as 701.37–1; (a) amended; (e) revised 41904
701.37–1 Redesignated from 701.37; (a) amended; (e) revised 41904
701.37–2 Added 41904
701.38 Revised 29271
704 Interpretation 14203
705 Added 15171
711 Revised 24399
720.2 (a), (b)(1), (2), and (8) revised; (b)(3) through (7) amended; (b)(9) redesignated as (b)(10); new (b)(9) and (d) added 18
720.6 (a)(1) and (c)(2) amended 20
720.7 (a)(1), (c)(1) and (2) amended 19
720.20 (b) amended 19
720.21 (a) and (b) amended 20
720.22 (a) amended 19
720.24 (a) and (b)(3) amended 19
720.26 (a) amended 19
720.27 (a) and (c) amended 19
720.37 Amended 20
720.40—720.49 (Subpart C) Added 17565
722 Added 17568
745 Nomenclature change 35803

Chapter XII—Depository Institutions Deregulation Committee

Chapter established 31706
1201 Added 31706
1202 Added 32289
1203 Added 31708
1204 Added 31711
1204.102 Added 31712
1204.103 Added 37802
Revised 40110
1204.104 Added 37804
1204.105 Added 37804
1204.106 Added 37804

Title 12—*Proposed Rules:*

1—28 (Ch. I) 9743
1 6407
7 ..... 8025, 40613
17 25078
201—294 (Ch. II) 7591
201 40130
204 38388
205 8268
210 7819
211 ..... 30081, 30082, 41153
226 ..... 29702, 33644, 41437
226 ..... 29702, 33644
301—343 (Ch. III) 20496
308 22954
327 13768
341 10802
343 10802
500—589 (Ch. V) 31119
523 31727
534 43430
543 40132
545 ..... 1425, 4360, 24178, 31727
552 40132
556 31121
561 ..... 4360, 4361, 12831
563 ..... 1916, 4361, 12831, 31408, 31409
590 ..... 31122, 35347
600—619 (Ch. VI) 20900
614 9944
618 39507
700—760 (Ch. VII) 20497, 35346, 41438
700 6795
701 ..... 6795, 15939, 26073, 39279, 42628
720 7596
725 6795
742 6795
1204 ..... 32323, 38072

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

101.1—101.3–1 Correction to 44 FR 76757 2002
101.2–5 Amended 43387
101.2–7 Amended 43387
101.2–7a Revised 43387
101.2–7d Added 43387
101.2–7e Added 43388
101.3–1 (b)(2) revised; (d)(12) through (14) redesignated as (d)(13) through (15); new (d)(12) added 43388
101.3–2 Amended 15923, 21611
101.10—101.10–27 Correctly removed 2202
107.203 (b)(2)(iii) revised 2312
107.301 (c) revised 25794
111 Nomenclature change 39497
111.2 Revised 6406
111.3 Amended 6406, 39497
111.4 (e) revised 6406
Revised 39497

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

111.7 (c) revised 6406
111.8 (c) revised 6406
120.3 (b)(1)(iii) and (iv) revised 20054
121.3–8 (c)(2)(i) revised 2841
121.3–9 (c) republished; program guidelines 22951
122.5 Technical correction 2313
123.5 (a)(1)(i) amended; (c)(3) added 10754
130.6 Revised 1412

Chapter III—Economic Development Administration, Department of Commerce

305.43 (a)(3) removed; interim 15174
305.43 (c) added; interim 39243
305.45 Revised; interim 39243
305.65 (a) revised; (d) added; interim 39244
309.3 (f) removed; interim 21612

Chapter IV—Chrysler Corporation Loan Guarantee Board

Chapter established 8941
400 Added 8941
400.7 (g) added; interim 8943
400.8 Added 28703

Title 13—*Proposed Rules:*

101—131 (Ch. I) 7553, 30338
107 ..... 3917, 14868
108 31410
111 ..... 6631, 14869
120 37454
121 ..... 7555, 15442, 16197, 18026, 21262, 21649, 23704, 26974, 33645
124 22971
301—318 (Ch. III) 37972
304 30320
305 30320
306 30320
307 30320
308 30320
315 30320
500—590 (Ch. V) 37972

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

11.25 (b)(2)(ii) revised; (b)(2)(iii) and (iv) added 35307
11.49 (b)(2) removed 38346
13.5 (b)(2) and (k) amended 35307
13.19 (b) amended 20773
13.27 (a) amended 20773
21 Special FAA Reg. 41 corrected 25047
21.3 (a), (b), (d)(1) introductory text, (2), and (e)(3)(ii) through (v) revised; (e)(3)(vi) and (f) added 38346
21.305 (b) revised 38347
21.601–21.621 (Subpart O) Added 38346
23 Special FAA Reg. 41 corrected 25047
23.853 (b) removed; (c) revised 7755
25.785 (g) and (h) revised; (i) amended; (j) and (k) added 7755
25.787 (b) amended 7755
25.793 Added 7755
25.819 Added 41593
(c) corrected 43154
25.832 Added 3883
25.853 (c), (d), and (e) revised; (f) removed 7755
25.1411 (a)(2) revised 41593
25.1413 (c) amended 7755
25.1415 (d) amended 38348
27.853 (c) revised 7755
29.853 (c) revised 7756
29.1415 (d) amended 38348
36 Special FAA Reg. 41 corrected 25047
37 Removed 38348
39.13 ..... 763, 1412–1414, 2002–2010, 2647–2649, 3251–3253, 3256, 3884, 3885, 5667–5670, 6353, 6922, 6923, 7536–7539, 8286, 8944, 8946–8953, 10755, 10756, 11465, 12212, 12213, 13053, 13054, 14540–14542, 15175, 16167, 16168, 17002, 17945–17947, 18908–18911, 20055–20057, 20775, 20778–20782, 24448, 24455, 25047–25054, 26030–26032, 26690, 26691, 28082, 28083, 29004–29008, 29561–29563, 30422, 31052, 32660, 34258, 34260, 34261, 35308–35310, 35312, 35313, 37180, 37181, 37806, 37809–37811, 38349–38351, 39830–39833, 40571, 41395–41398, 41905, 41906, 43154–43158, 43688, 43691–43695, 43697
Technical correction 3253, 11465
Corrected .. 10755, 14542, 35307, 36054

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 14, Chapter I—Continued

	Page
47.51 Added	20773
61.23 (b)(1) amended	18911
(b)(1) effective date postponed	27746
61.77 Added	5671
61.157 (e) added	44183
63.23 Added	5672
63.42 Heading revised	5673
65.31 Heading revised; (a) and (b) amended; (c) added	18911
(c) effective date postponed	27746
65.33 (d) revised	18911
(d) effective date postponed	27746
71 Republished	301
71.103	6357
71.105	41910
71.107	41911
71.109	41911
71.123	764, 5674, 6355, 6358, 10757, 13727, 17947, 17949, 17950, 25055, 29564, 31973, 31974, 32661, 38352, 41912, 41913, 43160
Corrected	23406, 39836
71.125	31975, 41911
71.127	5674
71.151	2014, 10757, 10758, 30424, 31974, 41913
71.163	17948
71.171	2011, 2012, 6355, 6356, 8287, 13055, 16168, 17003, 20058, 20783, 27746, 26034, 26691, 31055, 32662, 32667, 34262, 34263, 41908, 43159
Corrected	34263
71.181	765, 2011–2013, 2649, 3257, 3885–3887, 5673, 5674, 6354–6356, 6358–6360, 8287, 11466, 13055, 13727, 13728, 14543, 16169, 16170, 17004, 17005, 17948, 18912–18914, 20058, 20059, 20784, 24455, 24456, 25055, 26033, 26034, 27746, 27747, 29009, 29010, 29564, 30422, 30423, 31054–31057, 31971–31973, 31976, 32662–32667, 34261–34263, 36055–36058, 37812, 39836, 40572, 41400, 41401, 41906–41909, 43159, 43698, 43699
Corrected	14544, 30423, 32667, 39836, 39837
71.203	6355, 31976
71.211	41910
71.401	18336
73 Republished	676
73.23	30424
73.25	2014
73.31	17951, 28084
73.34	3888
73.38	31974
73.44	31977
Corrected	38352
73.51	10758, 41913
Corrected	765, 5675
75 Republished	731
75.100	14545, 17951, 22014, 43160
91 Special FAA Reg. 21 amended	1414
Special FAA Reg. 41 corrected	25047
91.52 (b)(1) through (4) and (d)(2) amended	38348
91.59 Added	43162
91.200 Added	7756
91.308 (b)(1), (c)(3)(x) and (5) amended	6923
95	13057, 25057, 41915
97.21—97.35	766, 2017, 5676, 8288, 11467, 14546, 17952, 24457, 26692, 29565, 31978, 37182, 39837, 43700
121 Special FAA Reg. 36 amended; effective date extended to 1–23–82	5677
Special FAA Reg. 41 corrected	25047
Interpretation procedures	30425
121.1 (f) added	43162
121.177 (b) amended	41593
121.220 Added	3883
121.311 Heading and (e) revised; (f) through (j) added	7756
(j)(2) revised	31058
121.317 (b) redesignated as (c); new (b) added	41593
121.318 (b)(2) revised	41593
(b)(2) corrected	43154
121.321 Removed	7756
121.339 (a)(4) amended	38348
121.353 (b) amended	38348
121.391 (d) amended	41593
121.407 (c) added	44183
121.434 (e) and (f) amended	41593
121.443 Revised	41594
(b)(8) corrected	43154
121.445 Revised	41594
121.447 Removed	41594
121.563 Revised	41594
121.574 (a)(4) amended	41594
121.583 (a)(4)(iii) revised	41594
121.585 (b) amended; (e) added	13060
121.589 Revised	41594
121.619 (a) introductory text amended; (a)(1) and (2) revised	41594

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

	Page
121.621 (a)(1) revised; (a)(2) amended	41594
121.691 Removed	41595
121.693 Heading and (e) revised; introductory text amended	41595
121 Appendix E amended	41595
Appendix H added	44183
127 Special FAA Reg. 36 amended; effective date extended to 1–23–82	5677
127.1 Existing text designated as (a); (b) added	43162
127.103 (b) amended	38348
127.115 Existing text designated as (a); (b) added	41595
127.226 Added	41595
135 Special FAA Reg. 36 amended; effective date extended to 1–23–82	5677
Special FAA Reg. 41 corrected	25047
135.1 (b)(10) revised	41362
135.167 (b) amended	38348
135.244 Added	7248
Republished	7541
135.105 (a) revised	7248
(a) republished	7542
139 Special FAA Reg. 41 corrected	25047
145 Special FAA Reg. 36 amended; effective date extended to 1–23–82	5677
152.1—152.11 (Subpart A) Revised	34784
152.1 Introductory text revised; (e) added	10188
152.7 (a)(1)(i) and undesignated text following (iii) revised	10188
152.101—152.119 (Subpart B) Revised	34786
152.203—152.213 (Subpart C) Revised	34789
152.301—152.325 (Subpart D) Revised	34791
152.401—152.425 (Subpart E) Added	10188
152.407 Compliance pending OMB approval	10192
152.411 (c)(1) and (2) compliance pending OMB approval	10192
152.415 Compliance pending OMB approval	10192
152.417 (b) compliance pending OMB approval	10192
152.501—152.509 (Subpart F) Added	34792
152 Appendixes A through D revised	34793
159 Technical correction	40572
159.35 Revised	21215
Republished	22018
159.91 Revised	35320
159.93 Added	35320
159.94 Added	35321
183.11 (c) revised	32669
183.29 (a) through (h) amended; (i) added	32669
183.31 Revised	1416

Chapter II—Civil Aeronautics Board

	Page
204 Added	42599
207.11 (b)(1) amended	40574
207.40 (e) added	40574
208.6 (b)(1) revised	40574
208.210 (e) added	40575
212.8 (a)(1)(i) revised	2313
(b)(1) revised	40575
212.40 (e) added	40575
214.7 (b)(8) amended	40575
214.30 (e) added	40575
214.40 Heading revised	2313
221 Note added	5298
Heading revised	20064
221.160 (a) revised	20064
221.165 (d)(4) revised	24115
221.190 (b)(5) and (6) added; (c) removed	20064
221.191 (e) and (f) added	20064
223.21 Revised	8955
228 Petition denied	14204
231 Note added	31059
249 Note revised	31059
Note corrected	37812
250.8 Revised	30064
250.10 Revised	30064
250 CAB Form 251 revised	30065
297 Effective date confirmed	7542
300.3 (b)(4) added	20065
302.4 (f)(1) revised	34264
302.15 (b) amended	26035
304 Removed	26035
312 Revised	16136
315 Added; interim	23648
323.3 (a), (b)(1) introductory text, (ii), and (iii), and (b)(2) revised	20070
323.4 (a)(4)(i) and (iii) revised	20070
323.7 (a)(6), (7), (b)(5), and (6) revised; (c) added	20070

60-145 O - 80 - 3

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 14, Chapter II—Continued

Page

323.8 (a)(1) and (2) revised ... 20070
323.9 (b)(5) removed; (b)(7) revised; (c) added ... 20070
323.14 (b) revised ... 20071
374a.4 (a)(3) and (5)(ii) revised ... 25796
380.2 Amended ... 1856
380.18a Added ... 1856
380.28 (a)(4) added ... 1856
380.31 (b), (c), and (e) revised ... 1856
380.32 (s) revised; (y) added ... 1857
380.33 (a)(5) added ... 1857
(c) and (e) revised ... 32670
385.2 Amended ... 26035
385.13 (u) introductory text revised ... 1857
385.14 Revised ... 2018, 6924
385.16 Heading and introductory text revised; (s) added ... 9260
385.17 (i) added ... 21612
385.22 (f) added ... 30066
385.23 (c) and (d) added ... 16139
387.4 (c) and (d) revised ... 26036
399.30 Redesignated as 399.38; new 399.30 added ... 24118
399.31 Revised ... 24118
(a) republished; (d) revised ... 42255
399.32 Revised ... 24119, 40973
399.33 Request for comments ... 2018
Revised ... 24119
(c) revised ... 40974
399.35 Added ... 20071
Revised ... 40974
399.36 Added ... 36062
399.37 Added ... 24119
(a) revised ... 42255
399.38 Redesignated from 399.30 ... 24118
399.30—399.44 (Subpart C) Example added ... 24119

Chapter V—National Aeronautics and Space Administration

1203.202 (e), (f), and (g) revised ... 3888
1203.604 (d)(2)(i) revised ... 3888
1203.800 (c) revised ... 43388
1207.735-700—1207.735-704 (Subpart G) Added ... 5298
1209.100—1209.104 (Subpart 1209.1) Revised ... 1006
1214.301 (g) added ... 8001
1214.303 Revised ... 8001
1214.700—1214.704 (Subpart 1214.7) Added ... 14845

Page

1241.20—1231.234 (Subpart 1241.2) Added ... 23407
1241.20 Correctly redesignated as 1241.196 ... 35321
1241.21 Correctly redesignated as 1241.197 ... 35321
1241.22 Correctly redesignated as 1241.198 ... 35321
1241.23 Correctly redesignated as 1241.199 ... 35321
1241.24 Correctly redesignated as 1241.200 ... 35321
1241.196 Correctly redesignated from 1241.20 ... 35321
1241.197 Correctly redesignated from 1241.21 ... 35321
1241.198 Correctly redesignated from 1241.22 ... 35321
1241.199 Correctly redesignated from 1241.23 ... 35321
1241.200 Correctly redesignated from 1241.24 ... 35321

Title 14—*Proposed Rules:*

1—199 (Ch. I) ... 799, 3316, 9944, 10802, 11504, 11506, 12260, 13312, 14590, 17019, 20113, 25350, 26717, 26718, 31125, 32700, 38073, 41439, 41962
1 ... 14802, 43202
23 ... 13106
27 ... 43202
29 ... 43202
33 ... 43202
39 ... 2657, 5741, 6407, 6953, 7555, 7557, 7558, 9945, 10803, 11506, 11507, 13109, 13771, 18026, 18941–18943, 18945, 20901, 24493, 25079, 26075, 26078, 26769–26771, 28149, 30448, 32011, 36091, 37221, 37222, 38402, 38403, 40615, 43790–43792
43 ... 43202
45 ... 43202
47 ... 34286
49 ... 34286
61 ... 3324,43202
71 ... 2048–2051, 2658–2661, 3325–3329, 3918–3922, 6408–6414, 7558, 7559, 8309–8311, 9946, 9947, 10804–10806, 11507–11510, 12260, 13110–13113, 13772–13778, 14590–14594, 15187, 16197–16200, 18027–18029, 20114, 20115, 20901–20906, 22052, 23457, 23465, 24494–24498, 25079, 26079–26082, 27771–27774, 28150, 28151, 29063, 30449–30451, 31128–31131, 32702–32705, 34289, 34290, 35348, 36092, 36093, 37858, 38404–38407, 39857, 40616, 41449, 41965–41969

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

73 ... 2051, 5744, 13113, 14590, 14595, 24498
75 ... 5746, 10807, 28153, 30452, 30453
91 ... 13114, 14802, 43202, 43203
93 ... 4314, 11510, 11511
107 ... 1427, 3329
108 ... 1427, 3329
121 ... 1427, 3324, 3329, 14802, 27775, 29064, 41596, 43202
123 ... 27775
127 ... 27775, 29064, 43202
129 ... 1427, 3329
133 ... 43202
135 ... 1427, 3329, 27775, 29064, 43202
137 ... 3316
139 ... 39857
152 ... 26091, 30398
159 ... 2661, 4314, 11511, 20424
199 ... 26091, 30398
205 ... 7566, 14062
207 ... 2331, 26083
208 ... 2331, 7566, 26083
211 ... 26084
212 ... 2331, 26083
214 ... 26083
215 ... 26084
221 ... 25817, 28342, 31411, 34291, 42317
222 ... 42318
223 ... 1918
225 ... 1918
249 ... 2331
250 ... 25817, 28342, 30086, 31413, 42317
252 ... 26976
255 ... 25817, 28342, 42317, 42629
291 ... 7566
298 ... 7566, 25817, 28342, 42317
323 ... 20116
374a ... 25824
380 ... 26084
385 ... 26084, 31411, 42318
399 ... 3505, 9747, 19263, 24178, 40994
1201—1260 (Ch. V) ... 10808, 23465
1252 ... 40994

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

7a.4 (l) added ... 26694
7b.4 (e) added ... 26694
7c.4 (f) added ... 26694
10 Revised ... 41402

Chapter I—Bureau of the Census, Department of Commerce

30.7 (d) revised ... 29567

Chapter III—International Trade Administration, Department of Commerce

Page

Chapter III Technical correction ... 1595
302.2 (d) removed; (e) through (j) redesignated as (d) through (i) ... 767
302.12 (a) amended; (b) and (c) revised ... 767
303.2 (a)(14) revised; (b)(2) amended ... 8958
303.3 Introductory text amended ... 8958
303.4 (b)(7) added; undesignated text following (b) amended ... 8958
303.5 (a)(1), (2) and (3), and (b)(4) amended; (a)(5) added ... 8958
303.6 (e) amended ... 8959
303.7 (c) and (d) revised ... 8959
303.8 (b) amended ... 8959
303.9 (a) introductory text, (1), and (2) revised ... 8959
303.10 Revised ... 8959
303.11 (e) added ... 8959
315 Removed; regulations transferred to Part 615 ... 42214
368—399 (Subchapter B) Nomenclature change ... 27923
368.1 (a)(2)(i)(c) and (ii) revised ... 40576
369.3 (d)(1) and (2) republished; (d)(3) and (4) added; (d) examples amended ... 24863
369 Supplement No. 3 added ... 29010
370 Supplement No. 1 amended ... 27923, 37184
371.2 (c)(11) and (12) amended; (c)(13) added; interim ... 21614
371.4 (a)(2) revised; interim ... 1597
371.5 (a) revised; interim ... 43139
371.7 (a) revised; interim ... 1597
371.9 (a)(1) and (a)(2) introductory text revised; (b)(1), (3), and (4) removed; interim ... 1597
(a)(2) introductory text corrected ... 6362
(a)(1) corrected ... 6537

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 15, Chapter III—Continued

Page

371.10 (a)(1) and (a)(2) introductory text revised; (b)(1) removed; interim 1597
(a)(2) introductory text corrected 6362
371.11 (b)(4) and (5) revised; (b)(6) and (7) removed; interim 1598
371.15 (b) revised; interim 1598
371.18 (a)(1) revised; interim 1598
371.19 (a) introductory text and (b)(1) introductory text revised; interim 1598
373.2 (c)(2)(iv)(b) and (f)(1) revised; interim 43139
373.3 (a)(2) revised; interim 1598, 37416
(d)(3)(ii)(d) revised; interim 43140
373.7 Nomenclature changes; interim 37416
(d)(1)(iv)(b)(5) revised; interim 43140
373.8 (a)(2) and (c)(1) amended; interim 37416
373 Supplement No. 1 amended; interim 1598
Supplement No. 3 amended; interim 37416
Supplement No. 1 revised; interim 43140
374.3 (c)(1)(ii) amended; interim 37416
374.5 Nomenclature changes; interim 37416
375.1 Amended; interim 43142
375.2 (e)(2) amended; interim 43142
376.5 Added; interim 1884
(c), (d)(2) and (3), and (e)(2) revised; (j) through (l) added; interim 8291
376.7 Revised; interim 43142
376.14 (a) revised; interim 1598
376.15 Added; interim 37416
376 Supplement No. 1 added; interim 1885
Supplement No. 1 revised; interim 8291
Supplements No. 2 and 3 added; interim 8292
Supplements No. 1, 2, and 3 headings revised; interim 37417
377.7 Added; interim 21619
377.8 Added; interim 1009
377.9 Added; interim 1010

Page

377 Supplement No. 4 added; interim 21622
378 Revised; interim 43142
379.4 (g) added; interim 21614
(f)(2)(ii)(e) amended; footnotes 6 and 8 revised; footnote added 37184
(b) heading and introductory text revised; (f) amended; interim 37417
(c)(5), (7), and (8) and (f)(1)(i)(o), (p), and (q) revised; (c)(9) added; interim 43145
379.5 (e)(1)(vii) and (2) amended; footnote 2 revised; footnote added 37184
Nomenclature change; interim 37417
379.6 Nomenclature change; interim 37417
379.8 Nomenclature change; interim 37417
379 Supplement No. 1 amended 20071
385.1 Revised; interim 1598, 43145
385.2 (c) added; interim 1599
(d) added; interim 21614
(e) added; interim 24459
(f) added; interim 30618
385.4 (a) introductory text revised; (a)(7) through (9), (d), and (e) added; interim 1599
(d) corrected 6362
(d) revised; interim 33956
(f) added; interim 37417
385 Supplement No. 1 amended; interim 29569
Supplement No. 1 revised; interim 43012
386.6 (d)(2)(i)(b) and (3) and footnote 6 revised 37184
386.7 (a) revised; interim 1886, 8292
390.6 Added; interim 3029
399.1 Amended; interim 1599, 1886, 8292, 8294, 21615, 21622, 24459, 29569, 30618, 37418
Corrected 6362, 6537
Revised; interim 43056
399.2 Amended; interim 8294, 24459, 37418, 43145

Chapter V—United States Metric Board

502.203 Correctly designated as 502.303 29271

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Page

502.303 Correctly designated from 502.203 29271
502.502 (a)(3) amended 29271
502.1201—502.1202 (Subpart L) Added 29271
502.1301—502.1310 (Subpart M) Added 29272
503 Added 29273

Chapter VI—Bureau of Industrial Economics, Department of Commerce

Chapter established 42214
615 Added; regulations transferred from Part 315 42214

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce

911 Revised 43701
931.140—931.152 (Subpart L) Added 4309

Chapter XX—Office of the United States Trade Representative

Chapter XX Heading revised and nomenclature change 12214
2006 Revised 34871

Chapter XXIII—National Telecommunications and Information Administration, Department of Commerce

2301 Filing time extended 7780
2301.4 (c)(4) added 1991
2301.33 (a) amended 1991
(b) revised 8582
2301.37 Revised 8583

Title 15—*Proposed Rules:*

0—17 (Subtitle A) 35832
17a 41153
19 37374
20—90 (Ch. I) 37972
200—275 (Ch. II) 37972
301—399 (Ch. III) 37972
377 25034, 27948
802—807 (Ch. VIII) 37972
806 1049, 14063
934 43205
935 13474
936 20907, 33649
937 33645
938 39507, 39511
1200—1202 (Ch. XII) 37972

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Page

0.9 Revised 36340
Corrected 39244
0.15 Redesignated as 0.16; new 0.15 added 36341
0.16 Redesignated as 0.17; new 0.16 redesignated from 0.15 36341
0.17 Redesignated as 0.18; new 0.17 redesignated from 0.16 36341
0.18 Redesignated as 0.19; new 0.18 redesignated from 0.17 36341
0.19 Redesignated from 0.18 36341
1.13 (c)(1) and (2) redesignated as (c)(2) and (3); new (c)(2)(vi) removed; new (c)(2)(vii), (viii), and (ix) redesignated as (c)(2)(vi), (vii), and (viii); new (c)(1), (4), (5), and (6) added 36341
(d)(6), (f), (g), and (h) revised 36341
(d)(6) correctly designated; (h) corrected 39244
1.18 (a) revised 36341
2.4 Revised 36341
2.5 Revised 36341
2.6 Revised 36341
2.7 Revised 36342
(a) corrected 39244
2.8 (b) and (c) revised 36342
2.8A (a) revised 36342
2.9 (a), (b)(2), and (4) revised 36343
(a) corrected 39244
2.10 Revised 36343
2.11 (a) revised 36343
(a) corrected 39244
2.12 (a) and (b) revised 36343
2.13 (b)(1) revised 36343
(b)(1) corrected 39244
2.15 (a) revised 36343
2.16 Added 36343
2.51 Amended 21623
Revised 36344
3.72 (b)(1) revised 21623
4.2 (a) revised 36344
4.4 (a)(2) revised 36344
4.9 (b)(22) revised 36344
4.10 (a) introductory text, (2), and (8) revised; (a)(9) and (d) added 36344

CHANGES JANUARY 2 THROUGH JUNE 30, 1980

Title 16, Chapter I—Continued

Page

4.11 (b) and (c) revised; (d) added ---- 36345
4.12 Redesignated as 4.16; new 4.12 added ---- 36345
(a) corrected ---- 39244
4.16 Redesignated from 4.12 ---- 36345
13 Amended ---- 1011, 1857, 8294, 8583, 8959, 9894, 9895, 13060, 14020, 17953, 17954, 20463, 22018, 22020, 22021, 24122, 29010, 31712, 31979, 36062, 36372, 37686, 38039, 38352, 43388
Corrected ---- 14204
255.0 Amended ---- 3872
255.1 Added ---- 3872
255.2 Added ---- 3872
255.5 Added ---- 3873
305 Policy statement ---- 40974
305.4 (d) petition for partial stay of compliance granted ---- 43162
305 Appendixes A1 through G revised ---- 13998
Appendixes A1 through G3 correctly revised ---- 19520
Appendixes D1, G1, and G3 corrected ---- 26036
438 Effective date stayed ---- 1012
460.6 Proposed stay of effective date; request for comments ---- 37675
460.10 Proposed stay in part of effective date; request for comments ---- 37675
460.18 Proposed stay in part of effective date; request for comments ---- 37675
460.19 Proposed stay in part of effective date; request for comments ---- 37675

Page

460 Appendix B proposed stay in part of effective date; request for comments ---- 37675
803 Appendix amended ---- 14206
Interpretation ---- 21216

Chapter II—Consumer Product Safety Commission

1015.15 (b) and (c) revised ---- 22022
1015.17 Introductory text, (a) and (b) amended ---- 22023
1025 Revised ---- 29215
1026 Removed ---- 27924
1205 Petition denied ---- 26334
1209 Petition denied ---- 26333
1508 Figure 1 revised; CFR correction ---- 37419
1702 Revised ---- 13064

Title 16—*Proposed Rules:*

0—901 (Ch. I) ---- 10810, 17019, 18946, 22972
3 ---- 16496
13 ---- 8663, 11135, 11137, 12261, 13115, 14218, 14221, 14224, 14226, 14870, 14880, 15941, 21649, 23486, 24901, 26344, 27777, 27949, 28154, 28158, 28342, 28754, 30650, 31416, 34291, 34293, 34296, 35832, 36428, 39864, 41650
419 ---- 4363, 12832, 16497, 24499
436 ---- 26347, 26356
437 ---- 23705, 24499, 27453
439 ---- 3060, 41156
450 ---- 12444
454 ---- 4363
705 ---- 37386
1212 ---- 3762
1307 ---- 25409
1405 ---- 39434
1512 ---- 32705, 35348
1700 ---- 17593

CHANGES APRIL 1 THROUGH JUNE 30, 1980

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission

Page

1.41 Interpretation ---- 34873
15.00 Heading and (a) revised; introductory text removed ---- 30429
(a)(2) corrected ---- 31713
15.05 Added ---- 30429
(a), (b), and (d) corrected ---- 31713
145 Nomenclature changes ---- 26953
145.0 Added ---- 26953
145.2 Introductory text revised ---- 26953
145.5 (c) revised ---- 26953
145.6 Revised ---- 26953
145.7 (a), (b), and (c) revised; (f) amended ---- 26954
145.9b (b) revised; (d) amended ---- 26954
146 Nomenclature change ---- 26954
146.2 (c) revised ---- 26954
146.5 (f) amended ---- 26954
146.9 (c) amended ---- 26955
146.11 (b) amended ---- 26955
146 Appendix A amended ---- 26955
147.2 (f) amended; (g) added ---- 26955
147.3 (b)(3) amended ---- 26955
147.5 Nomenclature change ---- 26955
147.6 Nomenclature change ---- 26955
147.8 (a) and (b)(1) amended ---- 26955
147.9 (b) amended ---- 26955

Chapter II—Securities and Exchange Commission

200.735–1—200.735–18 (Subpart M) revised ---- 36064
200.735–3 (b)(6)(iii) and footnote 7 corrected ---- 40975
200.735–4 Footnote 11 and (b)(6)(vi)(B) corrected ---- 40975
200.735–6 Corrected ---- 40975
200.735–11 Footnote 25 corrected ---- 40975
210.3–18 (k) introductory text revised ---- 27749
230.148 (b)(1) corrected ---- 29275
239.16b Form S–8 revised ---- 23656
239.26 Form S–7 amended ---- 23652
240.12b–25 Revised ---- 23652
240.12f–1 (a)(5) revised; (a)(6) added ---- 36076
240.12f–3 (a)(8) revised; (a)(9) added ---- 36076

Page

240.15c3–3 (i) revised ---- 37688
240.16a–11 Added ---- 33958
240.17a–5 (b)(1), (3), (4), and (5) revised ---- 39840
240.17a–19 Revised ---- 39841
240.19c–3 Added ---- 41134
241 Interpretative releases ---- 36374, 41920
249.308 Form 8–K amended ---- 23653
249.311 Form 11–K amended ---- 23660
249.322 Revised ---- 23653
249.635 Revised ---- 39841
256.421 Revised ---- 41135
270.6c–4(T) Added ---- 28212
276 Interpretative releases ---- 34876

Title 17—*Proposed Rules:*

1 ---- 22974, 42324, 42633
12 ---- 42324
16 ---- 39280
21 ---- 31731, 36094
140 ---- 42324
201 ---- 24499
210 ---- 24499
211 ---- 40134
229 ---- 23470, 24499, 31733, 40134
230 ---- 23470, 24499, 24500, 26366, 29849, 42642
231 ---- 24499
239 ---- 24499, 24500, 26366, 33650
240 ---- 23470, 24499, 24504, 27781, 29853, 30454, 31418, 31733, 40134, 40145, 41156
241 ---- 24499
249 ---- 24499, 33650, 40134, 40145
250 ---- 23470
270 ---- 23470, 29067, 38047
274 ---- 24500, 26366
275 ---- 25080

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy

0 Removed ---- 21224
1.1 (a) through (e) removed; (f) introductory text revised; (f)(23) amended ---- 21224
1.3a Removed ---- 21224
1.28 Revised ---- 31060
1.31 (b)(1) revised ---- 28085
1.36 (a) and (c)(14) amended ---- 21224
1.38 (a)(2)(i), (ii), and (iii) removed ---- 21224

CHANGES APRIL 1 THROUGH JUNE 30, 1980

Title 18, Chapter I—Continued

Page

1.40 (a)(2) (i), (ii), and (iii) removed ... 21224
1.41 (a)(3)(i)(A), (B) and (C) removed ... 21224
Technical correction ... 27924
Hearing cancelled ... 38354
1.42 (j) technical correction ... 27924
Hearing cancelled ... 38354
1.101—1.102 (Subpart A) Added ... 21224
2.1 (a)(1)(xi) (F) and (G) amended ... 21224
3.1—3.3 Removed ... 21224
3.4 Introductory text, (a), (b), (c), and (d) introductory text and (1) through (13) removed; (d)(14) redesignated as (a) ... 21224
3.5 Removed; (a) through (i) redesignated as 375.302—375.310 ... 21224
(i)(1) technical correction ... 27924
Hearing cancelled ... 38354
3.6 Removed ... 21224
3.7 Removed ... 21224
3.8 (b) and (j) amended ... 21224
3.100—3.101 Removed ... 21224
3.103 Amended ... 21224
3.104—3.108 Removed ... 21224
3.111—3.120 Undesignated center heading and sections removed ... 21224
3.131—3.143 Undesignated center heading and sections removed ... 21224
3.142 Removal confirmed ... 33600
3.161—3.171 Undesignated center heading and sections removed ... 21224
3.181—3.186 Undesignated center heading and sections removed ... 21224
4 Heading and authority citation revised ... 28090
4.90—4.94 (Subpart J) Added ... 28090
35.23 Added ... 31300
46 Heading and authority citation revised ... 23418
46.2 Revised ... 23418
46.4 Added ... 23418
46.5 Added ... 23418
46.6 Added ... 23419
141.21 Removed ... 30068
141.25 Revised ... 21625
141.27 Removed ... 30068

Page

141.28 Removed ... 30068
141.53 Removed ... 37420
141.54 Removed ... 37420
141.56 Removed ... 37420
141.58 Removed ... 38355
154.38 (d)(4)(ii) amended ... 28097
(h) revised ... 29015
157.101 (b)(1) amended ... 21225
250 Filing requirements suspended ... 33601
260 Filing requirements suspended ... 33601
260.3 Revised ... 21625
260.12 Revised ... 37816
260.13 Removed ... 30068
270.101 (a) revised ... 28097
(a) tables I and II revised ... 29571
270.102 (b)(14) added ... 28098
(c) table III revised ... 29573
270.207 Added ... 28098
271 Clarification ... 24123
271.701—271.705 (Subpart G) Comment time extended ... 28100
Hearing ... 37185
271.701 Revised ... 28098
271.702 (a) removed ... 28098
271.703 (a) removed ... 28098
271.704 Removed ... 28098
271.901—271.904 (Subpart I) Rehearing applications denied ... 36076
272 Clarification ... 24123
Revised ... 28098
273.102 (a)(1) amended ... 28098
273.202 (a) and (d)(1)(i) revised ... 28098
(b)(2) revised ... 30068
273.203 (a) revised ... 28099
273.204 (a) revised ... 28099
(a)(2) comment time extended ... 28100
Hearing ... 37185
273.302 (f) and (g) amended ... 28099
274.205 (a) through (d) revised ... 28099
(e) comment time extended ... 28100
(e) hearing ... 37185
274.208 (b) added ... 24125
(c) added ... 35323
281.216 Added; interim ... 39498
282 Order ... 29573, 37186
282.101 Revised (effective pending congressional review) ... 31643
282.102 (a) revised (effective pending congressional review) ... 31643
282.103 (e) revised; (l) added (effective pending congressional review) ... 31643

CHANGES APRIL 1 THROUGH JUNE 30, 1980

Page

282.201 Revised (effective pending congressional review) ... 31643
282.202 (f) and (g) added ... 31982
282.203 Introductory text, (a) introductory text, (1), and (2) and (b) through (e) redesignated as (a) introductory text, (a)(1) introductory text, (i), and (ii) and (2) through (5); new (a) introductory text revised; (b) added (effective pending congressional review) ... 31643
(a) revised ... 31983
Introductory text and (b) revised (effective pending congressional review) ... 33603
282.204 Removed (effective pending congressional review) ... 31643
(c)(2), (d)(1), (2)(i) and (ii), (3), and (7) revised ... 31983
(d)(3)(ii), (5)(ii), and (6) amended ... 31987
(c)(2), and (d)(2)(i)(B) and (ii)(B), (7)(i)(A) and (B) revised ... 36375
282.206 (a) amended (effective pending congressional review) ... 31643
282.207 (a) amended (effective pending congressional review) ... 31643
Revised ... 31987
282.208 Added (effective pending congressional review) ... 31643
282.215 Added (effective pending congressional review) ... 31643
282.401 Amended (effective pending congressional review) ... 31644
282.402 (c) revised (effective pending congressional review) ... 31303
Nomenclature change (effective pending congressional review) ... 31644
282.403 Nomenclature change (effective pending congressional review) ... 31644
282.404 (a) amended; interim ... 22892
Hearing ... 22952
(b)(2) amended (effective pending congressional review) ... 31303

Page

Nomenclature change (effective pending congressional review) ... 31644
282.405 Nomenclature change (effective pending congressional review) ... 31644
282.501 (c) introductory text and (2) amended; (c)(3) and (d) revised (effective pending congressional review) ... 31644
282.503 (a)(2)(ii) and (c) amended; (b) revised (effective pending congressional review) ... 31645
282.504 (a), (c)(1), (3), and (4), (d)(2), (3)(ii) amended; (c)(1)(iii) added; (c)(2) revised (effective pending congressional review) ... 31646
(c)(2)(ii)(A) and (B) amended ... 31988
282.506 Revised (effective pending congressional review) ... 31646
282.601 (c) revised (effective pending congressional review) ... 31647
282.602 (a) revised (effective pending congressional review) ... 31647
282.603 (a) revised (effective pending congressional review) ... 31647
284.201 (e) revised; interim ... 34265
284.208 (c) (2) and (4)(ii) amended ... 21225
(c)(2) amended; interim ... 34265
292 Intent to prepare EIS ... 23662
Conferences ... 38040
292.201—292.207 (Subpart B) Rehearing application extension of time denied ... 26955
292.202 (j) revised ... 33964
292.203 (c)(3) and (4) added ... 33964
292.204 (b)(1)(i) revised ... 33964
292.207(b)(6) added ... 33603
292.302 (a) and (b) corrected ... 24126
292.601 (b)(1) revised ... 33964
294.101 (a)(1), (2), and (4) amended ... 23684
375—376 (Subchapter W) added ... 21217
375 Added ... 21217

Title 18, Chapter I—Continued

	Page
375.302 Redesignated from 3.5 (a)	21224
Introductory text revised; (1) through (13) and (13)(i) and (ii), (14) through (22) and (22)(i) and (ii) redesignated as (a) through (m) and (m)(1) and (2), (n) through (v) and (v)(1) and (2)	21225
375.303 Redesignated from 3.5 (b)	21224
Introductory text revised; (1) through (5), (5)(i) and (ii), (6) and (6)(i) through (vi) and (7) redesignated as (a) through (e), (e)(1) and (2), (f) and (f)(1) through (6) and (g)	21225
375.304 Redesignated from 3.5 (c)	21224
Amended	21225
375.305 Redesignated from 3.5 (d)	21224
Introductory text revised; (1), (2) and (3) redesignated as (a), (b) and (c)	21225
375.306 Redesignated from 3.5 (e)	21224
Introductory text revised; (1) through (9) redesignated as (a) through (i)	21225
375.307 Redesignated from 3.5 (f)	21224
Introductory text revised; (1), (1)(i) through (v), (v)(A) and (v)(B), (vi) through (x), (2), (2)(i), (ii), (iii), (3) through (6), (6)(i) and (ii), (7) through (10) redesignated as (a), (a)(1) through (5), (5)(i) and (ii), (a)(6) through (10), (b), (b)(1), (2) and (3), (c) through (f), (f)(1) and (2), (g) through (j); (b)(3) amended	21225
(k) and (l) added	26695
375.308 Redesignated from 3.5 (g)	21224
Introductory text revised; (1) through (26), (26)(i), (ii) and (26)(ii)(A), (B), (C) and (27) through (37) redesignated as (a) through (z), (z)(1), (2) and (z)(2)(i), (ii), (iii) and (aa) through (kk)	21225
375.309 Redesignated from 3.5 (h)	21224
Introductory text revised; (1) through (4) redesignated as (a) through (d)	21225
375.310 Redesignated from 3.5 (i)	21224
Introductory text revised; (1) redesignated as (a)	21225
376 Added	21222

Chapter III—Delaware River Basin Commission

410.1 Amended	22893

Chapter VI—Water Resources Council

701.53 (b) revised	24460
713.313 Table corrected	24865
713.409 (c) corrected	24864
713.1203 (b) revised	24864
713.2009 (h)(1) corrected	24864

Chapter XIII—Tennessee Valley Authority

1307 Added	22895
Title 18—*Proposed Rules:*	
0—294 (Ch. I)	31743
1	36094
2	22053, 31744, 36094
3	41608
3c	36094
12	41608
141	36428
260	36428
270	28345, 35348
271	28345, 31744, 41449, 41450
273	31418
281	39283
282	22110, 22974, 25825, 38080, 40617
284	34299, 34302, 41450, 41452
294	28162
701—713 (Ch. VI)	26718
710	25302
711	25302
713	25302
714	25302
716	25302

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury

4.12 Revised	36383
4.93 (b)(1) and (2) amended	38355
6.3a Added; interim	29247
22 Determination	39244
54 Revised	38041
103.7 Amended	40975
113.14 (q) notification of impending removal	35803
144.37 (e) amended	36383
151.28 Amended	36384
151.41—151.47 (Subpart C) Revised	36384
153 Notification of impending removal	35803
159.21 (a) amended	36386
159.41 Notification of impending amendment	35803
159.47 Notification of impending amendment	35803
159.58 Notification of impending addition	35803
171.23 Added	40975

Chapter II—United States International Trade Commission

200.735–124—200.735–126 (Subpart D) Added	31988
210.54 Revised	28704

Chapter III—International Trade Administration, Department of Commerce

353 Annex I amended	23685, 24127, 24128, 30619, 39498
355 Annex III correctly amended	23046, 27749
Annex III amended	23686, 33964
Technical correction	30619
Title 19—*Proposed Rules:*	
210	24192
211	24192

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

	Page
348 Redesignated from 370	28314
350 (new Subchapter D and part) Added	28314
360 (Subchapter F) Redesignated from 396 (Subchapter E) and heading revised	28315
363 Added	28315
370 Redesignated as 348	28314
375 (Subchapter H) Redesignated from 395 (Subchapter D)	28314
395 (Subchapter D) Redesignated as 375 (Subchapter H)	28314
396 (Subchapter E) Redesignated as 360 (Subchapter F) and heading revised	28315

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

404.101—404.146 (Subpart B) Revised	25384
404.141 (c)(1) corrected	41931
404.1058 (a)(2) corrected	25060
404.1083 (d) corrected designated	25060
404.1325 (f) corrected	22023

Chapter V—Employment and Training Administration, Department of Labor

651.6 Amended	39457
651.7 Revised	39457
653.100—653.113 (Subpart B) Revised	39459
653.500—653.503 (Subpart F) Added	39466
654.400 (b) corrected	22901
654.409 (c) corected	22901
658 Revised	39468
675 Revised	33852
676 Revised	33861
677 Revised	33893
678 Revised	33901
679 Revised	33903
680 Revised	33908
Title 20—*Proposed Rules:*	
1—71 (Ch. I)	37648
401—450 (Ch. III)	40356

Title 20—*Proposed Rules*—Con.

	Page
404	39309, 42647
416	26719, 27782, 35838, 41453, 43218
501 (Ch. IV)	37648
601—689 (Ch. V)	37648
655	24902, 29854
675	23296, 24903
676	23296, 24903, 33922
677	23296, 24903, 33922
678	23296, 24903, 33922
679	23296, 24903, 33922
701—727 (Ch. VI)	37648
801—802 (Ch. VII)	37648

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

	Page
Chapter I Cross reference to 9 CFR 309.16 (a) and (c)	26949, 26955
Nomenclature change	40976
Cross reference to DEA rules	42264
Cross reference corrected	43389
2.125 (d) revised; (e)(7) and (8) added	22902
5.1 (a)(24) added	27924
5.25 (a) revised	27924
5.31 Added	32552
5.100 Revised	22902
5.115 Revised	22903
14.100 Corrected	21226
(b)(1)(ii) removed	28316
(b)(1)(ii) added	41630
50 Added; eff. 6-1-81	36390
58.113 (b) removed	24865
58.195 (c) amended	24865
81.1 (b) table effective date confirmed	22904
(g) amended	42256
81.10 (b) removal effective date confirmed	22904
81.25 Effective date confirmed	22904
81.27 (b) amended	42256
81.32 Effective date confirmed	22904
101.9 (h)(11) added	37422
101.17 (d) added	22913
(d)(1) and (2) corrected	29275
102.33 Added; eff. 7-1-81	39250
103.3—103.5 (Subpart A) Confirmed	37424
145.180 (a)(1) revised; eff. 7-1-81	43391
(b) revised; eff. 7-1-81; compliance 8-26-80	43392
146.110 Removed	39251
146.111 Removed	39251
146.114 Effective date 7-1-81 confirmed; compliance 3-7-80	43394
146.115 Removed	39251
146.125	39251
146.130 Removed	39251
146.133 Removed	39251
155.3 (Subpart A) Added; eff. 7-1-81; compliance 8-26-80	43398
155.120 (b)(3) revised; eff. 7-1-81; compliance 8-26-80	43398
155.130 (b)(4) and (c)(2) revised; eff. 7-1-81; compliance 8-26-80	43398
155.170 Revised; eff. 7-1-81; compliance 8-26-80	43398
155.172 Revised; eff. 7-1-81; compliance 8-26-80	43399
155.190 (b)(3) revised; (c)(2) redesignated as (c)(3); new (c)(2) added; eff. 7-1-81; compliance 8-26-80	43400
172.515 (b) amended	22915
175.300 (b)(3) (xxxi) amended	39252
176.170 (a)(5) amended	28317
177.1315 Added	39252
177.1330 Revised	22916
178.1010 (b)(7) and (c)(5) revised	25389
182.90 Amended	22915
182.1295 Removed	22915
184.1230 (a) corrected	26319
184.1295 Added	22915
186.1316 Added	22915
186.1756 Added	22915
201.1 Revised	25775
201.59 Added	32552
201.100 (e) effective date stayed to 4-10-81	25777
207 Revised	38043
207.20 (a) revised	25776
(a) corrected	32293
207.26 Revised	25777
250.107 Removed	31303
310.525 Added	43401
314.8 (a)(6)(ii) revised	25777
429.40 (a) revised	40111
431.1 (a) revised	40111
436.32 (h) added	22921
440.13a (b)(3) revised	22921

	Page
440.41a (b)(3) revised	22921
440.74a (b)(3) revised	22921
440.80a (b)(3) revised	22922
440.81a (b)(3) revised	22922
440.241 (b)(3) revised	22922
440.274b (b)(3) revised	22922
440.274c (b)(3) revised	22922
440.280b (b)(3) revised	22922
440.281b (b)(3) revised	22922
440.1080a (b)(3) revised	22922
440.1081a (b)(3) revised	22922
442.140c Added	22919
444.40 Removed; effective date confirmed	42256
444.540a Removed; effective date confirmed	42256
510.310 Revised	42261
510.600 (c)(1) and (2) amended	22923, 24866, 27925, 37425, 38048, 41631, 42262
514.50 (a) revised	40111
520.704 (c)(1) through (4) amended; footnote 1 added	22920
Footnote 1 effective date corrected	27925
520.1760 (c)(3) added	31304
520.2480 (d) correctly designated	33604
520.2645 Removed	32294
522.234 (b) amended	29789
522.246 Added	29276
522.740 (d)(5) added	43402
522.1881 (c)(1) through (5) amended; footnote 1 added	37425
522.1885 (c)(1) through (4) amended; footnote 1 added	29790
522.2480 (d)(1), (2)(i), (ii), and (iii), and (3) amended; footnote 1 added	26956
524.1580 Redesignated as 524.1580a; new 524.1580 added	43402
524.1580a Redesignated from 524.1580	43402
524.1580b Added	43402
524.1580c Added	43402
540.173a (c)(3)(i) through (iv) amended; footnote 1 added	43403
540.173b (c)(3)(i), (ii), (iii), and (iv) amended; footnote 1 added	29276
540.255c (c)(2) revised	22923
540.274b (c)(1)(iii)(*a*), (*b*), and (*c*) amended	32294
548.314b (a) and (c)(2) revised	27925
556.460 Amended	42263
558.295 Added	41631
558.415 (d) revised; (f)(4) added	42263
558.625 (b)(66) added	22923
(b)(7) revised	23686
(b)(67) added	24866
(b)(69) added	37425
(b)(23) revised; (b)(68) added	38049
(b)(70) added	42262
(b)(25) revised	42263
561.55 Amended	28318
561.98 Existing text designated as (a); (b) through (d) added	26696
561.197 (a) amended	21227
Revised	27926
561.385 Revised	32295
561.395 Revised	41933
573.120 (b)(1) revised	38049
573.530 Added	22920
589 Added	28319
610.53 (a) table amended	32299
640.22 (a) revised	27927
640.32 (a) revised	27927
660.100—660.105 (Subpart K) added	32299
861.1 (c) corrected	23686
1000.60 Added	40978
1020.30 (b)(50) and (n) revised	27928
1020.31 (d)(2)(ii) revised	27928
1020.32 (d)(4) added	27928

Chapter II—Drug Enforcement Administration, Department of Justice

	Page
Chapter II Policy statement	24128, 40576
1308.12 (f) comment response	26696
1308.14 (f)(1) removed; (f)(2) redesignated as (f)(1); (b)(2) added	42264
1308.24 (i) table amended	41934

Title 21—*Proposed Rules:*

	Page
1—1250 (Ch. I)	40356
70	32324
73	26977
103	40153
105	41652
109	30984
110	30984
163	28348, 40999
182	29304, 32324
184	20304, 32324
225	30984
226	30984

Title 21—*Proposed Rules*—Continued

	Page
310	37455
320	22974
330	31422, 41653
331	35349
346	35576
349	30002
355	33650
500	30984
509	30984
561	25098, 41157
589	28349, 40999
601	25652
606	28359
610	22975, 27952, 28359
630	25652
640	22975, 27952, 28358, 28359, 40999
680	29305
866	27204, 27211–27358
1030	29307, 40999
1304	24198
1306	21652, 24198, 24199

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

41.6 (e)(1) amended	24849
41.124 (d)(1) amended	39499
46.8 Added	24436
51.73 Revised	30619
143 Added	31713
Technical correction	34877

Chapter II—Agency for International Development, International Development Cooperation Agency

208 Republished	9293, 37688

Title 22—*Proposed Rules:*

6	37456
6a	37456
51	34302
171	37456

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

663 Revised	29018

Title 23—*Proposed Rules:*

420	30398
450	26091, 30398
625	34302, 40062, 41600
628	24505
630	30398
645	26280
646	40062
655	40062, 41600
658	26091
1204	26091, 30398

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development

111 Added	31881
115.11 Revised	24866

Chapter II—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development

200.933 Incorporation by reference	27750
201.4 (a) revised	23687, 36393
201.540 (a) revised	23687, 36393
201.1511 (a)(1) revised	23687, 36393
203 Heading revised	33966
Heading effective date corrected	34879
203.12 Removed; interim	30602
203.17 (c)(2) and (d) revised; (e) added; interim	29278
203.20 (a) revised	23687, 29277, 36393
(a)(2) revised	41936
203.27 (a)(1) removed; (a)(3) introductory text and (v) revised; (a)(3)(vi) added; interim	30602
(a)(2)(ii) and (4)(ii) revised	33966
(a)(2)(ii) and (4)(ii) effective date corrected	34879
203.28 (f) added	33966
(f) effective date corrected	34879
203.43 (b)(5) revised; (j) removed; iterim	30602
203.43c (h)(3) revised; interim	29278
(a) revised	33966
(a) effective date corrected	34879
203.44—203.45 Undesignated center heading removed	33966
Effective date corrected	34879

	Page
203.44 (c) removed; (d) revised; interim	30603
203.45 (e) revised	33966
(e) effective date corrected	34879
203.46 Added; interim	36840
203.50—203.102 Undesignated center heading removed	33966
Effective date corrected	34879
203.50 Revised	33966
Effective date corrected	34879
203.51—203.102 Removed	33967
Effective date corrected	34879
203.60 Removed; interim	30603
203.74 (a) revised	23687, 29277, 36393
203.100 (a) removed; (c) introductory text and (5) revised; (c)(6) added; interim	30603
203.318 Revised	31716
203.431 Revised	27929
203.432 Revised	27929
203.440—203.495 Undesignated center heading revised	33967
Effective date corrected	34879
203.441 Revised	33967
Effective date corrected	34879
203.459 Revised	31716
203.477 (c) added	33967
(c) effective date corrected	34879
203.489 Revised	27929
203.491 Revised	27929
203.500 Revised	29574
204.1 Amended; interim	30603
Amended	33967
Effective date corrected	34879
204.4 Revised; interim	30603
204.281 Revised	31716
205.50 Revised	26697
207.7 (a) revised	36394
207.33 (b)(1) and (2) revised	42604
213.1 (n) revised	33967
(n) effective date corrected	34879
213.10 (a) revised	36394
213.39 Revised	33967
Effective date corrected	34879
213.510 (b) revised; interim	29278
213.511 (a) revised	23687, 29277, 36394
213.530 (c) removed; (d) revised; interim	30603
219.101 Revised; interim	34878
(a) and (b) redesignated as (c) and (d); new (a) added; interim	34878
219.115 Revised; interim	34878
219.120 Revised; interim	34878
219.125 (c) added; interim	34878
219.140 Added; interim	34878
220.1 (a) amended; interim	30603
220.2 Removed; interim	30603
220.50 Removed; interim	30603
220.100 Revised	33967
Effective date corrected	34879
220.101 Revised	33967
Effective date corrected	34879
220.102 Revised	33968
Effective date corrected	34879
220.103 Revised	33968
Effective date corrected	34879
220.104 Revised	33968
Effective date corrected	34879
220.105 Revised	33968
Effective date corrected	34879
220.106 Revised	33968
Effective date corrected	34879
220.107 Revised	33968
Effective date corrected	34879
220.108 Revised	33968
Effective date corrected	34879
220.502 (b) revised	38356
220.576 (a) revised	36394
221.40 Revised; interim	29278
221.60 (d) removed; interim	30603
221.65 (c) removed; interim	30603
221.518 (a) revised	36395
221.560b Added	31897
227.535 Revised; interim	29278
227.550 Revised; interim	29278
232.1 (i), (j), and (k) revised	36396
232.29 (a) revised	36395
234.13 Removed; interim	30603
234.25 (b) and (c)(2) introductory text and (3) revised; interim	29278
234.29 (a) revised	23687, 29277, 36394
(a)(2) revised	41936
234.48 (a)(2) introductory text and (v) revised; (a)(2)(vi) added; interim	30603
234.70 (c) removed; (d) revised; interim	30603
234.76 Added; interim	36841
235.1 Amended; interim	30603
235.7 Removed; interim	30604
235.15 (a)(8) added	33969
(a)(8) effective date corrected	34879
235.22 (c)(2) and (d)(2) revised; interim	29278
235.45 (b) removed; interim	30604
236.15 (a) revised	36395
240.1 Revised	33969
Effective date corrected	34879

CHANGES APRIL 1 THROUGH JUNE 30, 1980

Title 24, Chapter II—Continued

Page

240.16 Added 33969
Effective date corrected 34879
240.251 (a) revised 33969
(a) effective date corrected 34879
241.75 Revised 36395
242.33 (a) revised 36395
244.45 (a) revised 36395
275 Removed 29279

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development

300.11 (c) amended 41631
390.50—390.51 (Subpart D) Redesignated as 390.60—390.61 (Subpart E) and revised; new 390.50—390.54 (Subpart D) added 40558
390.60—390.61 (Subpart E) Redesignated from 390.50—390.51 (Subpart D) and revised 40559

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development

510.52 Added 24805
510.113 Removed 24805
570.107 Revised 27383
570.409 Removed 27385
570.909 (e)(2) revised; interim 42605

Chapter VIII—Low-Income Housing, Department of Housing and Urban Development

803.101—803.103 (Subpart A) Schedule B revised 23420
811.201—811.211 (Subpart B) Added 41383
841 Appendix A amended 29279, 34266, 40870
865.301—865.310 (Subpart C) Added 30347
865.408 (b) revised 30349
865.501—865.504 (Subpart E) Added; interim 41936
868.17 Added; interim 30350

Page

885.420 (b) revised; (d) added; interim 31990
888.101—888.103 (Subpart A) Schedule B revised 23422
Schedule A note added; interim rule 40112
880.201 Corrected 22923

Chapter IX—Office of Interstate Land Sales Registration, Department of Housing and Urban Development

1710.1 Revised 40479
1710.2 Revised 40480
1710.3 Added 40480
1710.4 Added 40480
1710.5 Revised 40480
1710.6 Added 40481
1710.7 Added 40481
1710.8 Revised 40481
1710.9 Revised 40481
1710.10 Revised 40481
1710.11 Revised 40482
1710.12 Revised 40482
1710.13 Revised 40484
1710.14 Revised 40486
1710.15 Added 40486
1710.16 Revised 40487
1710.17 Added 40488
1710.18 Revised 40488
1710.22 (a)(2) revised 40488
1710.52 Removed 40488
1710.54 Removed 40488
1710.56 Removed 40488
1710.58 Removed 40488
1710.59 Removed 40488
1710.102 (k) revised 40488
1710.103 Added 40489
1710.105 Revised 40489
1710.114 (a)(1) and (2), (b)(1), and (c)(1) revised 40489
1710.208 (c)(4) revised 40489
1710.209 (c)(1) revised 40489
(f)(3) revised 40490
1710.212 (b) and (e)(3) revised 40490
1710.219 Revised 40490
1710.400 Removed 40491
1710.500—1710.559 (Subpart C) Added 40491
1715 Revised 40496
1720.236 Added 40499
1720.237 Added 40499
1720.238 Added 40499
1720.239 Added 40500
1730 Added 40500

CHANGES APRIL 1 THROUGH JUNE 30, 1980

Chapter XX—Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development

Page

3280.808 (a) interpretation 29539
3282.8 (g) interpretation 26906

Title 24—*Proposed Rules:*

111 27454
115 ..... 37697, 40999
203 ..... 26978, 29855
204 ..... 26978, 29855, 38410, 41158
207 42687
215 31132
220 26978
221 ..... 27784, 41158
222 41158
234 ..... 26978, 29855
235 ..... 26978, 41158
241 ..... 27784, 30352
570 ..... 40155, 40954
571 30455
279 28298
510 ..... *24808
570 ..... 24044, 25827, 26979, 27785, 30328, 30329, 31262, 33660
571 30455
600 ..... 26980, 27786, 30330
846 43218
865 33651
868 27786
869 43793
885 24903
888 40155
890 35776
3280 26908

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

11.1 (a)(30) added 29790
221.12 Removed 37688
221.13 Removed 37688
221.13a Removed 37688
221.13b Removed 37688
221.13c Removed 37688
221.13d 37688
221.13e Removed 37688
221.38 Removed 27436
221.39 Removed 27436
221.40 Removed 27436

Page

256.40—256.50 (Subpart D) Revised; interim; eff. 4-23-80 to 1-1-81 28101
Comment time extended 41632

Chapter III—Indian Claims Commission

Chapter removed 22924
500 Removed 22924
503 Removed 22924
504 Removed 22924

Chapter IV—Navajo and Hopi Indian Relocation Commission

700.5 (q) revised 41410
700.8 Revised 25390

Title 25—*Proposed Rules:*

55b 30302
171 24200
172 29070
177 24200
182 24200
231 43219
251 ..... 27953, 42332
258 43431

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

1.120-3 Added 28320
1.191-1 Added 38051
1.191-2 Added 38053
1.191-3 Added 38055
1.410(a)-1 (b)(7) and (8) redesignated as (b)(8) and (9); new (b)(7) added 40980
1.410(a)-4 (b)(1) amended 40980
1.410(a)-5 (a) amended 40980
1.410(a)-7 Added 40980
1.411(a)-5 (b)(1)(iii) and (2) amended 40985
1.411(a)-6 (c)(1)(iii) amended 40985
1.412(b)-5 Added 40113
1.501(c)(2)-1 (a) revised 33972
(c)(13) Removed 33972
(c)(13)-1 Revised 33972
1.513-5 Added 33970
1.514(c)-1 (f) amended 33973
1.528-1—1.528-10 Undesignated center heading added 26321
1.528-1 Added 26321
1.528-2 Added 26321

60-145 O - 80 - 4

Title 26, Chapter I—Continued

		Page
1.528–3	Added	26321
1.528–4	Added	26322
	(c) corrected	34879
1.528–5	Added	26322
1.528–6	Added	26322
1.528–7	Added	26323
1.528–8	Added	26323
1.528–9	Added	26323
1.528–10	Added	26324
1.642(f)–1	Revised	38055
1.954–2	(d)(3)(i) revised; (d)(3)(iii), (iv), and (v) and (4) added	42607
1.1402(c)–3	(a) amended	24129
7.0	Removed	26324
7.191–1	Removed	38056
31.3121(d)–1	(a)(1) amended	24129
31.3506–1	Added	24129
31.6302(c)–1	(a)(1)(i), (ii), and (iv) revised	39501
150	Added	23387
150.4995–1	(a) revised	27931
150.4995–2	(a) and (c) revised	27931
150.4995–3	(a)(1) introductory text revised	27931
150.6050C–1	(b) introductory text and (f) revised	27932
301.6103(p)(7)–1	Added	26325
301.9001	Added	33974
301.9001–1	Added	33975
301.9001–2	Added	33976
301.9001–3	Added	33976
403.50	Revised	27932

Title 26—*Proposed Rules:*

	Page
1—601 (Ch. I)	36430
1.0–1—1.169	24205, 27454, 28360, 28365, 28758
1.170—1.300	24205, 28758, 34303, 36431, 39512, 42688
1.301—1.400	24205, 28365, 39512, 42688
1.401—1.500	24201, 24205, 28365, 29308, 39512, 39869, 42688
1.501—1.640	24205, 28360
1.641—1.850	24200, 24205, 39512, 42688
1.851—1.1200	24205, 26981
1.1201—end	24203, 24205, 24207, 26092, 28365, 34017, 39512, 42688
3	24205
14	26092
31	24207
48	29309, 38411, 38412
51	23400, 27953, 34899
53	24205
301	24207

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury

		Page
4.10	Amended	40544
4.32	(a) introductory text and (4) revised; (c) redesignated as (d) and revised; new (c) added	40544
4.37a	Added	40544
4.38	(b) revised	40545
4.39	(a)(7) revised	40546
4.40	Revised	40546
4.50	Revised	40546
4.64	(a)(8) revised	40547
5.11	Amended	40547
5.22	(i) revised	40547
5.32	(b)(4) removed; (b)(5) through (7) redesignated as (b)(4) through (6); (c) redesignated as (d); new (c) added	40547
5.33	(a), (b), (c) and (f) revised	40548
5.39	(b) removed; (c) redesignated as (b) and revised	40548
5.39a	Added	40548
5.51	Revised	40549
5.55	Revised	40550
7.10	Amended	40550
7.20	(a), (b), and (c)(1) revised	40550
7.22	(c) added	40551
7.27a	Added	40551
7.28	(a), (b), (c), and (e) revised	40552
7.29	Footnote 1 removed; (a)(5) revised	40552
7.31	Revised	40552
7.41	Revised	40553
7.50	Revised	40553
9.22	Added	41633
13.71—13.72	(Subpart F) Added; temporary regulation	26957
19.63a	Added; temporary regulation	41842
19.245	Revised; temporary regulation	33977
19.505	(a) revised; temporary regulation	41842
19.931—19.999	(Subpart Y) Added; temporary regulation	41842
179.34	Revised	33978
179.42	Revised	33979
194.104	Revised	33979
194.106	Revised	33979
194.110	(b) revised	33980
194.124	Revised	33980
197.28	Revised	33980
245.76	Revised	33980
250.44	Revised	33980
250.210	Revised	33981
251.30	Revised	33981
252.332	Revised	33981

Title 27—*Proposed Rules:*

	Page
4	22977
19	38258, 41850
70	38258
178	26982, 33651
181	33651
240	38258
245	38258
250	38258
270	38258, 38271
275	38258, 38271

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

Page

Chapter I Authority delegation *28321
0.1 Amended *12416, 31061
Revised *43702
0.15 (b)(3) revised 57926
0.17 Revised 77157
0.19 (a) and (b) revised 58908
(a)(6) added 77157
(a)(6) redesignated as (a)(5) *43703
0.33a—0.33c (Subpart F–1) Added *13729
0.37—0.38 (Subpart G–1) Added *31061
0.39—0.39e (Subpart G–2) Revised *27754
0.40—0.41 (Subpart H) Appendix added 54045
0.45 (b) revised; (i) added 40498
0.50 (a) amended 43468
(h) added 46272
(a) introductory text amended *39841
0.51 (b) revised 46272
0.50—0.52 (Subpart J) Appendix amended 53080
Appendix corrected 54046
0.53—0.54b (Subpart J–1) Removed *12416
0.55 (f) revised 54045
0.57 Amended *34269
0.55—0.64–2 (Subpart K) Appendix amended *6541
0.64–2 Added *6541
0.75 Nomenclature changes *43703
0.76 (r) and (v) nomenclature changes *43703
0.85 (k) removed *22023
0.89a Added *22023
0.131 Revised 43468
0.138 Revised *34268
0.138a Removed *34268
0.142 (c) revised 69927
0.147 Amended *43703
0.160—0.172 (Subpart Y) Appendix amended *20799
0.196 Revised *43703
2.2 (b) correctly restored to prior status 38459
2.11 (e) revised *6381
2.13 (c) revised *6381
2.14 (a)(2)(ii) revised; (b)(2)(iv) added 55004
2.17 (a) revised; interim 58508
(a) revised; final *6380
(a) revised *33604
2.20 Implementation procedures *6379
Definitions amended *6379
2.21 Implementation procedures *6379
2.23 (d) revised *33605
2.25 (b) revised; interim 58508
(b) revised; interim *6380
2.26 Revised; interim 58508
(a), (b), and (c) revised *6380
2.40 (a)(11) revised 59528
2.47 Revised *12239
2.60 Added 55004
(d) corrected 59527
9.4 Nomenclature change 48675
9.7 Nomenclature change 48675
14.2 Revised *2650
16.2 Nomenclature changes *43703
16.5 (e) removed; (f) redesignated as (e) *20800
16.6 (d) removed *20800
(b)(3) revised *43703
16.7 (a) revised *43703
16.23 (b)(1) amended *5301
16.21—16.26 (Subpart B) Appendix amended 59904
Appendix amended *5301
16.40 Nomenclature change *43703
16.41 (a) and (b)(3) nomenclature changes *43703
16.52 (a) nomenclature changes *43703
16.71 (c) and (d) added *32670
16.76 (a)(1), (c)(1), (e), and (f)(1) nomenclature changes *43703
16.85 Nomenclature changes *43703
16.91 (k) and (l) removed; (m) through (t) redesignated as (k) through (r); (c), (d) introductory text, (e), (f) introductory text, new (m) and new (n) introductory text revised 54046
16.96 Revised *5301
16.100 (a), (b), and (c) removed; (d) and (e) redesignated as (a) and (b) *6780
20 Nomenclature change; eff. 7–15–80 *40114
20.3 (c) amended; eff. 7–15–80 *40114
32.24 Revised *16180
32 Appendix added *16181
42 Incorporation by reference approval *44090

Note: Symbol (*) refers to 1980 page numbers

Page

42.2 (a) nomenclature changes *43703
42.3 Added 77157
42.112 (c) appendix amended *43703
42.201—42.215 (Subpart D) Revised *28705
42.303 (b) nomenclature changes *43703
42.501—42.540 (Subpart G) Added; eff. 7–3–80 *37622
43.2 (b) removed *39841
45.735–7 Revised *26326
45.735–7a Added *31717
45.735–12 (d)(3) revised *29574
45.735–22 (c)(2)(vi) amended *43703
50.1 Removed 57927
50.13 (c) revised 57927
50.14 Interpretation *29530
50.18 Added *20800
55 Appendix amended 43719
58 Added; interim *2316
60.3 (a)(3) amended 46459

Chapter III—Federal Prison Industries, Department of Justice

301.17 (f) revised 59905

Chapter V—Bureau of Prisons, Department of Justice

513 Added *44228
522.20—522.21 (Subpart C) Added *44229
527.20 (Subpart C) Added *23365
540 Revised *44229
542 Added 62250
542.13 (b) revised 76726
544.10 (Subpart B) Added *33939
544.30—544.34 (Subpart D) Added *33939
544.80—544.82 (Subpart I) Added 62251
546 Added *33940
549.60—549.66 (Subpart E) Added *23365
550.10 (Subpart B) Added *33940
551.90 (Subpart I) Added *23366
552 Added *33941
570 Added *44234
571.10—571.12 (Subpart B) Added *44234
572 Added *23366
572.30—572.31 (Subpart D) Added *33941

Title 28—*Proposed Rules:*

Page

0—57 (Ch. I) 43751, 45295
*7118, 7268, 26098
2 58528
16 58920, 58921
*7820
18 *43436
22 *40156
23 *40156
31 *2808
42 53179, 54950, 67179, 76303
*32710, 33652, 41001
51 *18890
62 *40159
500—571 (Ch. V) *8666, 14596
513 62252
524 *33942
544 76727
546 76727
549 62252
551 62252
552 *23367

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

13 Removed 49673
14 Revised 57398
24 Added *1836
40.2 (i) revised 72588
40.20 (a)(2) amended *14186
(a)(2) authority citation correctly added *34879
40.43 (e) revised 75628
40.51 (p)(1)(vii) through (xii), (4), and (5) added 35325
(p)(1)(xi)(A) corrected *40985
40.202 (a) introductory text revised 72588
40.210 (a) amended 72588
42 Added *39489
56 Technical amendments *29280
56.51 (a) and (c) revised; (b) and (d) redesignated as (e) and (f); new (b) and (d) added *27416
56.63 (a) and introductory text of (b) revised; (b)(2) through (7) redesignated as (b)(3) through (8); new (b)(2) added; new (b)(3) revised *27416
56.65 (a) revised *27417
56.68 (a)(5) and (6) revised; (b) and (c) redesignated as (c) and (d); new (b) added *27417

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 29, Subtitle A—Continued

	Page
56.77 (a) revised	*27417
89.19 (b)(3)(i) corrected	48201

Chapter I—National Labor Relations Board

102.30 (c) revised	*37425
102.111 (a) revised	*37426

Chapter II—Office of the Assistant Secretary for Labor-Management Relations, Department of Labor

201 Removed	*15157
202 Removed	*15157
203 Removed	*15157
204 Removed	*15157
205 Removed	*15157
206 Removed	*15157
207 Added	*15157
207.20 (a) corrected	*28322
208 Added	*15158
Authority citation corrected	*28322
208.29 Corrected	*28322
208.35 Corrected	*28322
208.58 Corrected	*28322
208.61 Corrected	*28322
209 Added	*15165
Authority citation corrected	*28322

Chapter IV—Office of Labor-Management Standards Enforcement, Department of Labor

402 Incorporation by reference approval	*44090
403 Incorporation by reference approval	*44090
404 Incorporation by reference approval	*44090
405 Incorporation by reference approval	*44090
406 Incorporation by reference approval	*44090
408 Incorporation by reference approval	*44090
409 Incorporation by reference approval	*44090

Chapter V—Wage and Hour Division, Department of Labor

511.4 Revised	*6092
526 Incorporation by reference	*44090
570 Incorporation by reference approval	*44090
697.1 (a), (b), (c), (d), (e)(1), (f), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l), (m), and (n) revised	*40601
(a) through (d), (e)(1), (f), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l), (m), and (n) revised	*40986
697.3 Revised	*40602, 40987
775.2 Revised	75629
775.3 Revised	75630
775.4 Added	75630
850 Removed; regulations transferred to Part 1627	38459

Chapter XII—Federal Mediation and Conciliation Service

1420 Added	42683
1440 Added	*28107

Chapter XIV—Equal Employment Opportunity Commission

1600 Revised	47516
1601.70 Revised	*33606
1601.71 Revised	*33606
1601.72 Removed	*33606
1601.73 Removed	*33606
1601.74 Revised	47058, 48971, 53507, 75630
Designation denied	*1876
Revised	*7542
1602 Form EEO-4 amended	*41136
1604 Appendix amended (temporary)	58073
1604.11 Added; interim	*25025
1607 Interpretation	*29530
1610.4 (b)(6) and (c) revised; eff. in part 9-1-80	*40603
1610.6 Revised; eff. in part 9-1-80	*40604
1610.7 Revised; eff. in part 9-1-80	*40604
1610.8 Revised; eff. in part 9-1-80	*40604
1610.9 Revised; eff. in part 9-1-80	*40604
1610.10 (a) and introductory text of (b) revised; eff. in part 9-1-80	*40605
1610.11 Revised; eff. in part 9-1-80	*40605
1610.13 Revised; eff. in part 9-1-80	*40605

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

	Page
1610.14 Revised; eff. in part 9-1-80	*40605
1610.17 (f) redesignated as (g); new (f) added; eff. in part 9-1-80	*40605
1610.21 Removed	*40605
1613 Comment time extended	*25796, 36396
1613.213 (a) revised; interim	*24131
1613.216 (c) added; interim	40499
(c) corrected	45623
(c) interim staff report	*29
1613.217 (a) revised; interim	*24131
1613.221 (c) revised; (d) redesignated as (e) and revised; new (d) added; interim	*24132
1613.231 (a)(3) revised; interim	*24132
1613.232 Corrected	*780
1613.233 (a) revised; interim	*24132
1613.271 (c) added; interim	*24132
1613.281 Revised; interim	*24133
1613.602 (c) revised; interim	*24133
1613.609 (c) revised; interim	*24133
1613.612 (a) through (c) redesignated as (a)(1) through (a)(3); (d) redesignated as (b); new (c) and (d) added; interim	*24133
1613.614 (a) revised; interim	*24133
1613.631 (a) and (b) revised; interim	*24133
1613.641 (a) amended; interim	*24133
1613.709 (c) added	*41634
1613.801—1613.806 (Subpart H) Added; interim	50541
1625 Added	66799
Technical correction	*43704
1627 Added; regulations transferred from Part 850	38459
Technical correction	*43704
1627.1 (c) added	66797
1627.17 Added	66797

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

	Page
1910 Incorporation by reference approval	*44090
1910.20 Revised; eff. 8-21-80	*35277
1910.177 Added	*6713
1910.217 (b)(8)(iv), (d)(3), (5), and (9)(i) corrected	*8594
1910.423 (c)(5) and (6) correctly designated; CFR correction	*41634
1910.440 (b)(2) and (4) revised; eff. 8-21-80	*35281
1910.1000 Table Z-1 partial stay of effective date rescinded	41427
1910.1001 (i)(2) and (j)(6)(ii) revised; eff. 8-21-80	*35281
1910.1003 (g)(2)(ii) revised; eff. 8-21-80	*35281
1910.1004 (g)(2)(ii) revised; eff. 8-21-80	*35281
1910.1006 (g)(2)(ii) revised; eff. 8-21-80	*35281
1910.1007 (g)(2)(ii) revised; eff. 8-21-80	*35281
1910.1008 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1009 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1010 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1011 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1012 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1013 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1014 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1015 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1016 (g)(2)(ii) revised; eff. 8-21-80	*35282
1910.1017 (m)(2) introductory text and (3) revised; (m)(4), (5), and (6) removed; eff. 8-21-80	*35282
1910.1018 (q)(3)(ii) revised; (q)(3)(iii) removed; (q)(4)(iv) added; appendix A amended; eff. 8-21-80	*35282
1910.1025 (a)(2) revised	50338
Appendixes A, B, and C added	60981
Appendixes A, B, and C corrected	68828
(n)(4)(ii) revised; (n)(4)(iii) removed; (n)(5)(iv) added; eff. 8-21-80	*35283
1910.1028 (l)(3)(ii) revised; (l)(3)(iii) and (iv) removed; (l)(4)(iv) added; appendix A amended; eff. 8-21-80	*35283
1910.1029 (m)(3)(ii) revised; (m)(3)(iii) and (iv) removed; (m(4)(iv) added	*35283

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 29, Chapter XVII—Continued

Page

1910.1043 (e)(3)(iii), (f)(2)(vi), and (m) revised ... *12417
(k)(3)(ii) revised; (k)(3)(iii) and (iv) removed; (k)(4)(iv) added; eff. 8-21-80 ... *35283
1910.1044 (p)(3)(ii) revised; (p)(3)(iii) and (iv) removed; (p)(4)(iv) added; eff. 8-21-80 ... *35283
1910.1045 (q)(4)(ii) revised; (q)(4)(iii) removed; (q)(5)(iv) added; appendix A amended; eff. 8-21-80 ... *35283
1910.1046 (h)(2)(ii) revised; (h)(3)(iv) added; eff. 8-21-80 ... *35283
1913 Added; eff. 8-21-80 ... *35294
1915 Incorporation by reference approval ... *44090
1916 Incorporation by reference approval ... *44090
1917 Incorporation by reference approval ... *44090
1918 Incorporation by reference approval ... *44090
1926 Incorporation by reference approval ... *44090
1928 Incorporation by reference approval ... *44090
1952.115 Added ... *11814
1952.125 Added ... *6543
1952.152 Authority citation corrected ... 74819
1952.175 Heading revised; (c) added ... *8594
1952.214 Heading revised; (p) added ... *10337
1952.234 (b) revised; (c) through (j) added ... *8596
Heading revised; (k) added ... *8598
1952.240—1952.244 (Subpart R) Alaska plan supplements approved ... *10334
1952.245 Added ... *11804
1952.254 (i) added ... 76783
1952.255 Added ... 76783
1952.310—1952.314 (Subpart Y) Hawaii plan supplements approved ... *6542
1952.380—1952.383 (Subpart FF) Puerto Rico plan supplements approved ... *10337
1952.384 Added ... 41429
1977 Authority citation corrected ... 74819
1990 Added ... *5282
Technical correction ... *15527

Page

1990.106 (b)(2) corrected ... *43405
1990.143 Introductory text corrected ... *43405
1990.151 (q)(3)(ii) revised; (q)(3)(iii) removed; (q)(4)(iv) added; eff. 8-21-80 ... *35284
Heading, (b), (c)(1)(i) and (ii), (4), (d)(1), (e)(1)(i), (4), (g)(1)(ii), (h)(1), (i)(1)(ii), (k)(1) and (2), (m) introductory text, (2)(ii) and (3) corrected ... *43405
(n)(1)(i), (2) introductory text, (i) and (ii), (3)(i) and (ii), (5)(iii), (6)(i)(B), (o)(1)(i), and (ii) note corrected ... *43405
(o)(1)(ii)(F) note removed; (p)(2)(i) and (iii), (3)(i), (q)(1)(ii)(A) and (D), (2)(ii)(A) and (C), (3)(ii), (r)(2)(ii)(C), and Appendixes A, B, and C corrected; (p) note, (q)(4)(iv) and note added; (q)(3)(iii) removed ... *43406
1990.152 (q)(3)(i) and (ii) revised; (q)(3)(iii) removed; eff. 8-21-80 ... *35284
Heading, (a)(2) introductory text and (iii), (b), (c)(2) introductory text, (i), and (ii), (d) introductory text, (e)(1)(i), (3), (g)(1)(i) note, (2)(i), and (h)(2)(i) corrected ... *43406
(k)(2) correctly added; (n)(1)(i), (2) introductory text, (i), and (ii) corrected ... *43406
(n)(3), (4), (5)(iii), (6)(i)(A), and (o)(1)(i) corrected; (n)(5)(iv) and (v) redesignated as (n)(5)(v) and (vi); new (n)(5)(iv) and (p) correctly added ... *43407
(q)(2)(ii)(A) and (C), 3)(i) and (ii), (r)(2)(ii)(C), and appendixes corrected; (q)(3)(iii) removed ... *43407

Chapter XX—Occupational Safety and Health Review Commission

2200.11 Revised ... 70111
2200.30 Revised ... 70111
2200.50 Redesignated as 2200.-100a and revised ... 70111

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

2200.51 (a) revised ... 70111
2200.75 Revised ... 70111
2200.91a Redesignated as 2200.-92 ... 70111
2200.92 Redesignated as 2200.94; new 2200.92 redesignated from 2200.91a ... 70111
2200.93 Redesignated as 2200.95; new 2200.93 added ... 70111
2200.94 Redesignated from 2200.-92 ... 70111
2200.95 Redesignated from 2200.-93 ... 70111
2200.100 Revised ... 70112
2200.100a Redesignated from 2200.50 and revised ... 70111
2200.200—2200.211 (Subpart M) Added ... 70112

Chapter XXV—Pension and Welfare Benefit Programs Office, Department of Labor

2520.102-1 Revised ... *15529
2520.104-5 Revised ... *14030
2520.104-6 Revised ... *14031
2520.104-22 Revised ... *15529
(c) added ... *27933
2520.104-28 Revised ... *14032
2520.104-47 Added ... *14034
2520.104-48 Added ... *24869
2520.104-49 Added; interim ... *25406
2520.104a-2 (b) revised ... *15529
2520.104a-7 Revised ... *14032
2520.104b-2 (a)(3) revised ... *14032
2520.104b-4 Revised ... *14032
2530.200b-9 Removed ... *40987

Chapter XXVI—Pension Benefit Guaranty Corporation

2610 Appendix B amended ... 42180, 58909
Appendix B amended ... *2027, 21228, 43164
2618 Added ... 42185
2618.51 Corrected ... 47059
2618.58 (c) corrected ... 47059
2620 Added ... *12778
2620.3 (a)(3) corrected ... *14211

Chapter XXVII—Federal Mine Safety and Health Review Commission

2700.20 (a) corrected ... 41178
2700.36 (c) corrected ... 41178

Page

2700.54 Heading, (a)(2) and (6) corrected ... 41178
2700.55 (a) corrected ... 41178
2700.58 (b) and (d) corrected ... 41178
2700.61 Corrected ... 41178
2700.72 (a) corrected ... 41178
2700.74 (a) corrected ... 41178
2702 Added ... *33607
2703 Added ... 57348

Title 29—*Proposed Rules:*

0—99 (Subtitle A) ... 50357, 65566
... *37648
1 ... 77026
... *10374, 21263
4 ... 77036
... *2350, 10375, 21263, 34899, 42332
5 ... 77080
... *10375, 21264
6 ... *27400
8 ... *27410
9 ... *1642
11 ... 69675
29 ... *15571, 25410
32 ... *1392
40 ... *14070
42 ... *2528
89 ... *19530
201—215 (Ch. II) ... 50357, 50558, 65566
... *37648
401—486 (Ch. IV) ... 50357, 65566
... *37648
403 ... *7525
505-870 (Ch. V) ... 50357, 65566
... *37648
524 ... 38910
525 ... 38910
575 ... *15168, 17160
1400—1430 (Ch. XII) ... 40354, 55906
(Ch. XII) ... *29590
1405 ... *24507
1425 ... *21264
1440 ... 43292, 65407
1600—1613 (Ch. XIV) ... 44890
... *6956, 9948
1600 ... 55907
1601 ... 42721, 48987, 53540, 65082, 68857
1603 ... *7514, 16501, 36431
1605 ... 53706
1613 ... 54733
... *38083, 43794
1615 ... 68482
1616 ... 59914
1625 ... 68858
1901—1999 (Ch. XVII) ... 50357, 65566
... *37648
1903 ... *33652
1904 ... 59560, 65082
1910 ... 48274, 55274, 60333, 64095, 66621
... *10375, 10732, 21265, 22977, 26366, 40166, 41012

Note: Symbol (*) refers to 1980 page numbers

Title 29—*Proposed Rules*—Continued

	Page
1918	*10732, 21265
1926	48275, 59561
	*10732, 19266, 21265, 22977, 41015
1928	*10732, 21265, 35298
1999	69675
2200	70195
2509—2560 (Ch. XXV)	50357, 65566
	*37648
2520	55205
2550	50363, 50367, 61618, 62316, 74858
	*7521, 38084
2601–2618 (Ch. XXVI)	75405
2601–2620 (Ch. XXVI)	*41653
2604	43404
2610	*38415
2613	*34899
2700	*17596
2702	*18034

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor

	Page
11 Incorporation by reference approval	*44090
11.3 (ee) revised	*24004
28 Incorporation by reference approval	*44090
29 Incorporation by reference approval	*44090
40 Authority citation corrected	52826
41 Authority citation corrected	52826
43 Authority citation corrected	52826
44 Authority citation corrected	52826
46 Authority citation corrected	52827
48 Authority citation corrected	52827
50.20 (a) amended	52828
50.20–6 Introductory text designated as (a) introductory text and revised; (a) heading and (b) heading removed; (b) introductory text revised; nomenclature change	52828
55 Authority citation revised	48535
Incorporation by reference approval	*44090
55.2 Amended	48541
55.3 Amended	48514
55.4 Amended	48515
55.5 Amended	48515
55.6 Amended	48515, 48541, 53703
55.7 Amended	48515
55.8 Amended	48516
55.9 Amended	48516
55.10 Amended	48516
55.11 Amended	48516
55.12 Amended	48517
55.13 Amended	48517
Corrected	68828
55.14 Amended	48518
Corrected	68828
55.15 Amended	48518
55.16 Amended	48518
55.18 Amended	48519
Corrected	68828
55.19 Amended	48519
Corrected	50571, 68828
56 Authority citation revised	48535
Incorporation by reference approval	*44090
56.2 Amended	48542
56.3 Amended	48520
56.4 Amended	48520
56.5 Amended	48521
56.6 Amended	48521, 48543, 53703
56.7 Amended	48521, 53703
56.8 Amended	48522
56.9 Amended	48522
56.10 Amended	48522
56.11 Amended	48522
56.12 Amended	48523
56.13 Amended	48523
Corrected	68828
56.14 Amended	48524
56.15 Amended	48524
56.16 Amended	48524
56.18 Amended	48525
56.19 Amended	48525
Corrected	50571, 68828
56.20 Amended	48526
57 Authority citation revised	48535
Incorporation by reference approval	*44090
57.2 Amended	48544
57.3 Amended	48526
57.4 Amended; eff. 11–12–80 in part	48527
Corrected	68828
57.5 Amended	48528
Corrected	50571, 68828, 68829
CFR correction	*32300
57.6 Amended	48529, 48544
Corrected	68829
57.7 Amended	48529
57.8 Amended	48529
57.9 Amended	48530
57.10 Amended	48530
57.11 Amended	48530
Corrected	68828
57.12 Amended	48531
57.13 Amended	48532
Corrected	68828
57.14 Amended	48532
57.15 Amended	48533
57.16 Amended	48533
57.18 Amended	48533
57.19 Amended	48534
57.20 Amended	48535
57.21 Amended	48535
57.21–28 Correctly reinstated	44156
57.21–29 Correctly reinstated	44156
70 Authority citation corrected	52827
Incorporation by reference approval	*44090
70.1—70.2 (Subpart A) Revised; eff. in part 11–1–80	*24000
70.100—70.101 (Subpart B) Revised; eff. 11–1–80	*24001
70.201—70.220 (Subpart C) Revised; eff. 11–1–80	*24001
70.400—70.400–3 (Subpart E) Revised; eff. 11–1–80	*24004
71 Incorporation by reference approval	*44090
71.2 (n) revised	*24004
75 Authority citation corrected	52827
Incorporation by reference approval	*44090
75.2 (k) revised	*24004
75.316–1 (b)(2), (3), and (4) redesignated as (b)(3), (4), and (5); new (b)(2) added; eff. 11–1–80	*24005
77 Authority citation corrected	52827
Incorporation by reference approval	*44090
90.2 (g) revised	*24004
100 Authority citation corrected	52827

Chapter II—Geological Survey, Department of the Interior

	Page
211.2 Amended	*41410
(c) note added	*41411
211.10 (e)(4) revised	*5534
211.77 (d) revised	*5534
223.2 Note added	*41411
225.2 (c) note added	*41411
225a.2 (d) note added	*41411
226.2 (m) note added	*41411
231.2 (c) note added	*41411
241.4 Note added	*41411
250.1—250.33 Revised	61892
250.2 (tt) through (ggg) added	*15143
(d), (w), (y), (bb), (cc), (ii), and (qq) corrected	*20464
(hhh) through (iii) added	*29285
(hhh) through (lll) correctly designated	*37818
250.4 (a) corrected	*20464
250.11 (a)(6) correctly added; (b) corrected	*20464
250.12 (d)(1), (e), and (g) corrected	*20464
250.18 (c) corrected	*20464
250.19 Corrected	*20464
250.21 (b) corrected	*20464
250.30 (b) corrected	*20464
250.34 Revised	53693
250.34–1 Revised	53693
(a)(1) introductory text, (ii), and (v), (6)(ii), (b)(3), (g), and (k) corrected	*20464
250.34–2 Revised	53695
(a)(1)(ii), (3)(i) and (ii), (6)(ii), (c)(3)(i), (h), (i)(2), and (n) corrected	*20465
(n) corrected	*37818
250.34–3 Revised	53698
(a)(4) and (b)(4) added	*15143
250.34–4 Revised	53700
250.35—250.96 Revised	61892
250.36 (a) corrected	*20465
250.37 (a) corrected	*20465
250.38 (a) corrected	*20465
250.41 (a)(1) corrected	*20465
250.45 (a)(1) corrected	*20465
250.50 Correctly reinstated	*20465
Revised	*29285
250.51 Correctly reinstated	*20465
Revised	*29286
250.51–1 Added	*29286
250.51–2 Added	*29286
250.52 Revised	*29286
250.57 Added	*15144
Model approval and request for comments	*37816
250.57–1 Added	*15144
Model approval and request for comments	*37816
250.57–2 Added	*15145
Model approval and request for comments	*37816
250.71 (b) corrected	*20465
(b) correctly designated	*37818
250.80–1 (d) corrected	*20465
(d) corrected	*37818

Title 30, Chapter II—Continued

Page

250.80–2 (a)(2)(i) introductory text and (D) corrected *20465
(a)(2)(i)(D) and (5) and (6) correctly designated *37818
250.93 (d) corrected *20465
250.97 Removed 61892
250.100 Removed 61892
251 Revised *6344
252 Revised 46408
270.2 (c) note added *41411
271.2 (m) note added *41411

Chapter VI—Bureau of Mines, Department of the Interior

601.10 (c)(1) revised 69927
601 Appendix revised 69927

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior

Chapter VII Corrections 53509
700 Incorporation by reference approval *44090
700.4 (a)(2) corrected 49684
700.5 Corrected 49684
Amended *8240
700.11 (f) corrected 49684
Temporarily suspended in part 67942
700 Effective date amended in part; Note added 53742
701.1 (b)(3) corrected 49685
(b)(3) revised 77445
701.5 Corrected 49685
701.11 Temporarily suspended in part 58873, 67942
(b) revised; (c) removed; (d) and (e) redesignated as (c) and (d) and revised; (f) redesignated as (e) 77446
707 Effective date amended in part; Note added 53742
715.17 (a)(1) partially suspended 77451
(e)(2) and (3) introductory texts and (e)(4) and (8) amended; (e)(2)(i) and (ii), (e)(3)(i), (ii), (iii) and (iv) removed 77451
(e)(4) and (8) correctly designated *6913
715.200 Added *26000
(c) added; eff. 7–10–80 ..... *39447
717.17 (a)(3)(i) suspended in part 77452
(e)(2) and (3) introductory texts and (e)(4) and (8) amended; e)(2)(i), (ii) and (iii), and (e)(3)(i), (ii), (iii) and (iv) removed 77452
722.14 Revised *2628
722.15 Revised *2628
725.12 (h)(2) amended *34880
730 Effective date amended in part; Note added 53742
730.12 (a) amended *33927
731 Effective date amended in part; Note added 53742
731.12 (a) revised; (e) added 60969
(a) corrected; (e) correctly designated as (d) 75143
(d) removed *33927
732 Effective date amended in part; Note added 53742
732.11 (d) amended *33927
732.12 (a)(1) amended 75303
(a) introductory text and (3), (b) introductory text and (2) amended *33927
733 Effective date amended in part; Note added 53742
735.11 (c) removed *2804
735.15 (a)(3) added *2804
736.4 (a) corrected 49685
741.4 (b) and (d) corrected 49685
741.11 (a) temporarily suspended in part 58873
(a) revised; (c) removed; (d) redesignated as (c) and revised; (e) redesignated as (d) 77446
741.13 (c)(1) corrected 49685
741.14 (e) corrected 49685
741.17 Introductory text corrected 49685
741.19 (a) introductory text and (b) corrected 49685
741.21 (a)(4)(i) and (iii) corrected 49685
741 Effective date amended in part; Note added 53742
742.17 Corrected 49685
742 Effective date amended in part; Note added 53742
744.11 (a) and (c) corrected 49685
745.1 Corrected 49685
745.2 Corrected 49685
745.11 (b)(5) and (d) corrected 49685

Note: Symbol (*) refers to 1980 page numbers

Page

745 Effective date amended in part; Note added 53742
761.1 Revised 77446
761.4 (a)(1) and (a)(2) introductory text revised 77446
(a), (b)(2), (c), (e), (f)(1) introductory text, and (f)(2) revised 77447
761.5 Temporarily suspended in part 67942
(a)(2)(ii) revised 77447
761.11 Temporarily suspended in part 67942
761.12 (h) corrected 49685
Temporarily suspended in part 67942
761 Effective date amended in part; Note added 53742
762.5 Corrected 49685
764 Effective date amended in part; Note added 53742
769.3 Corrected 49685
769.4 (a) corrected 49685
769.7 (b) and (c) revised; (d) added 77447
769.14 (g)(2) corrected 49685
(i) revised 77447
769.17 (d) revised 77447
769 Effective date amended in part 53742
Note added 53743
770—795 (Subchapter G) Heading corrected 49685
771.21 (b)(2) and (3) corrected 49685
771 Effective date amended in part 53742
Note added 53743
776 Effective date amended in part 53742
Note added 53743
Technical correction 57927
778.16 (b) corrected 66195
778 Effective date amended in part 53742
Note added 53743
779.24 (i) corrected 49685
779 Effective date amended in part 53742
Note added 53743
780 Heading corrected 49685
780.14 (c)(2) corrected 49685
780.23 (a) corrected 49686
780 Effective date amended in part 53742
Note added 53743
782 Effective date amended in part 53742
Note added 53743
783.14 (a)(1) suspended 77455
783.24 (g) and (i) corrected 49686
783.27 (d)(1) corrected 49686
783 Effective date amended in part 53742
Note added 53743
784.13 (a) corrected 49686
784.20 Corrected 49686
784.23 (b)(10) corrected 49686
784 Effective date amended in part 53742
Note added 53743
785 Incorporation by reference approval *44090
785.13 (a) corrected 49686
785.17 (a) and (b)(3) suspended 77455
(b)(1)(i) amended *8240
785.18 (d)(8) corrected 49686
785.19 (e)(3)(i)(B) amended *8240
785 Effective date amended in part 53742
Note added 53743
786.5 Temporarily suspended in part 67943
786.17 (a)(2) corrected 49686
786.19 (c) corrected 49686
786.21 (a)(1) introductory text and (i), (a)(2)(i) introductory text and (A), and (ii) corrected 49686
(a)(2)(i) corrected 53509
786.27 Introductory text and (b)(2) corrected 49686
786 Effective date amended in part 53742
Note added 53743
788.12 (b)(2) corrected 66195
788.14 (b)(2) corrected 66195
788 Effective date amended in part 53742
Note added 53743
800 Effective date amended in part 53742
Note added 53743
805.13 Temporarily suspended in part 67943
805.14 (b) corrected 49686
805 Effective date amended in part 53742
Note added 53743
806.11 (b)(4)(iii)(C) corrected 49686
806.12 Temporarily suspended in part 67943

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 30, Chapter VII—Continued

Page

806 Effective date amended in part ... 53742
Note added ... 53743
807.11 (a) introductory text corrected ... 49686
807 Effective date amended in part ... 53742
Note added ... 53744
808.12 Temporarily suspended in part ... 67943
815.11 (a) and (b) corrected ... 49686
816 Incorporation by reference approval ... *44090
816.11 (f)(3) corrected ... 49686
816.14 Corrected ... 49686
816.42 (b) (1) and (2) suspended in part ... 77452
816.43 (f)(1) corrected ... *26001
816.46 (b), (c), (d), and (h) suspended in part ... 77452
816.49 (a)(5) corrected ... 49686
(a)(5) amended ... *8240
(c) corrected ... *26001
816.55 (b) introductory text corrected ... 49686
816.61 (c) corrected ... 49686
816.65 (e)(2) corrected ... 49686, 53509
(e)(2) amended ... *8240
816.83 (a) suspended ... 77455
816.85 (c)(2) amended ... *8240
816.97 (d)(2) corrected ... *37818
816.103 Temporarily suspended in part ... 67943
816.112 (b) and (c) corrected ... 49686
816.116 (b)(2)(i) and (3) corrected ... 49686
816.117 (b)(4) corrected ... *26001
816.133 (c) introductory text corrected ... 49686
816.152 (d)(6) corrected ... *26001
816.153 (c)(1)(iii) corrected ... 49687
816.200 Added ... *26000
(c) added; eff. 7-10-80 ... *39447
816 Effective date amended in part ... 53742
Note added ... 53744
817 Incorporation by reference approval ... *44090
817.42 (b) (1) and (2) suspended in part ... 77453
817.43 (f)(1) corrected ... *26001
817.46 (b) and (c) suspended in part ... 77453
(d) and (h) correctly amended ... *6913

Page

817.49 (a)(5) amended ... *8240
(c) corrected ... *26001
817.52 (a)(1) suspended ... 77455
817.55 (c) corrected ... 49687, 53509
817.61 (c) corrected ... 49687
817.65 (e)(1) table corrected ... 49687
(e)(2) amended ... *8240
817.83 (a) suspended ... 77455
817.85 (c)(2) amended ... *8240
817.103 Temporarily suspended in part ... 67943
817.112 (a) corrected ... 49687
817.116 (b)(1) introductory text, (2)(i), and (3)(i) corrected ... 49687
817.117 (b)(4) corrected ... *26001
817.152 (d)(6) corrected ... *26001
817.153 (c)(1)(iii) corrected ... 49687
817.200 Added ... *26000
(c) added; eff. 7-10-80 ... *39447
817 Effective date amended in part ... 53742
Note added ... 53744
820 Incorporation by reference approval ... *44090
820.11 (d) amended ... *8240
822 Effective date amended in part ... 53742
Note added ... 53744
823.14 (c) suspended ... 77455
823.15 (c) introductory text corrected ... 49687
824.11 (a)(7) corrected ... 49687, 53509
826 Effective date amended in part ... 53742
Note added ... 53744
840—845 (Subchapter L) Heading correctly added ... 49687
840 Effective date amended in part ... 53742
Note added ... 53744
843.14 Heading and (b) corrected ... 49687
843.15 (a), (b), and (g) revised; (h) added ... *2629
843 Effective date amended in part ... 53742
Note added ... 53744
845 Effective date amended in part ... 53742
Note added ... 53744
870 FES available ... *17987
872.11 (b)(5)(vi) revised ... 67057
872 Note added ... 60286
FES available ... *17987
874 FES available ... *17987

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

877 Note added ... 60286
FES available ... *17987
879 Note added ... 60286
FES available ... *17987
882 Note added ... 60286
FES available ... *17987
884 Note added ... 60286
FES available ... *17987
886 Note added ... 60286
FES available ... *17987
888 FES available ... *17987
926 Added (conditional) ... *21560
943 Added; temporary and conditional ... *13008
943.10 Revised ... *41137
943.11 Removed ... *41137
943.20 Added ... *41940

Title 30—*Proposed Rules:*

1—100 (Ch. I) ... 50357, 65566 ... *37648
19 ... *32557
45 ... 47746, 53540
55 ... *19267, 38087
56 ... *19267, 38087
57 ... *19267, 38087
70 ... *24008, 31426, 39310
71 ... *24009, 31426, 39310, 42333
90 ... *24017, 31426, 39310, 42333
110 ... 52258
200—290 (Ch. II) ... 42701 ... *7106, 13127
211 ... 54493, 26924 ... *32715
250 ... 40355, 47109, 60109, 70196 ... *15147, 29309
601—651 (Ch. VI) ... 42701 ... *7106
601 ... 55210
700—890 (Ch. VII) ... 42701, 52098, 55322, 60226, 60228, 65601 ... *7106
700—943 (Ch. VII) ... 13780, 14230, 14598, 14599, 14881, 14883, 15189, 15190, 15575, 15776, 15578, 15580, 15581, 15583, 15584, 15947, 15948, 18987, 24210, 26368, 27953-27955, 28164, 28165, 28167-28169, 28366-28369, 29072,29309-298311, 29355, 32328, 34907, 37223, 37697, 38068, 40619, 41158, 41160, 41162, 41164, 41456, 41969, 41972, 41973, 41976, 41977, 41979, 41981, 41654, 41656, 43220, 43221, 43223, 43225
700 ... *8241, 42333
701 ... 56272 ... *8241, 42333
705 ... 52098
715 ... 77456 ... *32331, 40166
716 ... 61312 ... *25992, 30651, 32331, 39448, 40166
717 ... 77456
722 ... 48720, 55909 ... *5540
723 ... *5540
732 ... 60233
741 ... 56272
761 ... *8241
780 ... *41166
783 ... *25990
785 ... *25992, 39448
786 ... *8241
800 ... *6028, 43437
801 ... *6028, 43437
805 ... *6028, 43437
806 ... *6028, 43437
807 ... *6028, 43437
808 ... *6028, 43437
816 ... 77456 ... *8241, 25990, 32331, 40166
817 ... 77456 ... *8241, 25990, 32331, 40166
826 ... *32331, 40166
843 ... 48720, 55909 ... *5540
845 ... *5540
870 ... 63737, 65407 ... *2805
872 ... 52698, 63737, 65407 ... *2805
874 ... 63737, 65407 ... *2805
877 ... 63737, 65407 ... *2805
879 ... 63737, 65407 ... *2805
882 ... 63737, 65407 ... *2805
884 ... 63737, 65407 ... *2805, 41659
886 ... 63737, 65407 ... *2805, 30382
888 ... 63737, 65407 ... *2805
924 ... *19268
926 ... *41659
943 ... *28765
950 ... *20930

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

1.36 Amended ... 42189
Amended ... *13455
8.35 Revised ... 47059
8.41 Revised ... 47060
13.2 Amended ... *30621

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 31, Subtitle A—Continued

		Page
13.3	Revised	*30621
13.4	Revised	*30621
13.5	Revised	*30622
13.6	Revised	*30622
13.7	(a) revised	*30622
13.8	Added	*30622
13	Appendixes I and II revised; Appendixes I(F) and II(F) added	*30622
15	Added	*39842
51.53	Interpretation	*29530
51.101	Interpretation	*8297

Chapter I—Monetary Offices, Department of the Treasury

103.22	Revised	*37820
103.25	(a) revised	*37820
103.26	Revised	*37820

Chapter II—Fiscal Service, Department of the Treasury

202.1	Amended	53066
202.2	Revised	53066
202.3	(a) and (b)(1)(i) revised	53066
202.4	Revised	53067
202.6	(e)(1) revised	53067
202.7	Revised	53067
211.1	(a) revised	51568
240.5	Revised	*1021
240.8	Revised	*1021
	(a)(5) revised	*5698
	(a)(1) through (5) redesignated as (b) through (f); new (c)(1) revised	*7260
240.9	(a)(1) revised	*1022
240.10	(a) revised	*1022
240.12	(d) revised	*1022
315.91	Interpretation	*41137
316	Notice of interest rate increase	69286
	Termination of sales	77158
	Revised	*21880
	Appendix correctly added	*28712
317	Revised	75058
321.5	(c) designation corrected	69286
332	Notice of interest rate increase	69286
	Termination of sales	77158
	Revised	*4230
339	Termination of sales	77158
342	Notice of interest rate increase	69286
342.2a	Revised	*21988
342.7	Text amended; footnote 4 redesignated as 6 and revised	*21988
	Designation corrected	*32301
342	Tables 1 through 8 revised; tables 9 through 14 added	*21989
350.8	Revised	*3261
350.14	(a) revised	*3261
350.16	(a) revised	*3261
351	Added	72826
352	Added	72832
353	Added	76441
353.91	Interpretation	*41137

Chapter V—Office of Foreign Assets Control, Department of the Treasury

500	Extension of certain authorities (*see* Presidential determination 9–12–79)	53153
500.201	(d) revised	*7224
500.204	(a)(1) amended	*7224
500.206	Added	*7224
500.328	Amended	*7224
500.538	Removed	*7224
500.541	Removed	*7224
500.546	Removed	*7224
500.547	Removed	*7225
500.555	Removed	*7225
500.557	(a) introductory text amended; (a)(3) redesignated as (a)(2)	*7225
500.558	Amended	*7225
500.559	Amended	*7225
500.610	Removed	*7225
505	Extension of certain authorities (*see* Presidential determination 9–12–79)	53153
515	Extension of certain authorities (*see* Presidential determination 9–12–79)	53153
515.322	Authority citation correctly added	38843
515.415	Added	*32671
515.563	Authority citation correctly added	38843
520	Extension of certain authorities (*see* Presidential determination 9–12–79)	53153

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

		Page
530.101	(Subpart A) Removed	74841
530.201—530.202	(Subpart B) Removed	74841
530.301—530.313	(Subpart C) Removed	74841
530.401	Removed	74841
530.403—530.410	Removed	74841
530.501—530.523	(Subpart E) Removed	74841
530.801—530.809	(Subpart H) Removed	74841
535	Added	65956
535.201	Revised	*24432
535.203	(f) added	*24432
535.204	Added	*26940
535.206	Added	*24432
	(a)(4) added	*26940
535.207	Added	*24433
535.208	Added	*24433
	(c) added	*26940
535.209	Added	*26940
	(a)(1) and (b) corrected	*37688
535.308	Added	*24433
535.310	Added	75352
535.312	Added	75352
535.316	Added	66832
535.317	Added	66832
535.318	Added	66832
535.320	Added	66590
	Revised	66832
535.321	Added	66833
535.331	Added	*24433
535.401	Added	*24433
535.402	Added	*24433
535.403	Added	*24433
535.413	(Subpart D) Added	66833
535.414	Added	67617
535.415	Added	67617
535.416	Added	69287
	(d) and (e) revised	75353
535.417	Added	69287
	Removed	75352
535.418	Added	75353
535.419	Added	76784
	(e) added	*24433
535.420	Added	76784
535.421	Added	*24433
535.422	Added	*24434
535.423	Added	*24434
535.424	Added	*24434
535.425	Added	*24434
535.426	Added	*29287
535.427	Added	*29287
535.428	Added	*29287
535.429	Added	*29288
535.430	Added	*29288
535.431	Added	*29288
535.432	Added	*37679
535.502	Added	66833
	Heading revised; (c) added	75353
535.503	Added	66833
535.504	Added	67617
	(d) added	69650
535.508	Added	66590
535.528	Added	*29288
535.531	Revised	75352
535.533	Added	66590
	Removed	*24434
535.550	Added	*29288
535.562	Added	*26940
	(c) added	*29288
535.563	Added	*26941
	(d) and (e) added	*29288
535.566	Added	66833
535.567	Added	69287
	Revised	75354
535.568	Added	69287
	Revised	75354
	(h) revised; (i) added	*1877
535.569	Added	*1877
535.572	Added	*24434
535.574	Added	*24434
535.575	Added	*29288
535.576	Added	*29288
535.577	Added	*29288
535.578	Added	*29288
535.601—535.602	(Subpart F) Added	75354
535.603	Added	*29289
535.615	Added	*24408
535.616	Added	*24408
535.801—535.805	(Subpart H) Added	66833
535.806	Added	75353
535.902	Added	65988
535.903	Added	66591
	Removed	*24434
535.904	Added	66591

Title 31—*Proposed Rules:*

0—13 (Subtitle A)	45326
1	52850
14	*17160
51	45340, 77856
103	52258
202—350 (Ch. II)	55910, 59246
202—353 (Ch. II)	*20501, 25827
240	53090
315	*43658
350	49478, 72187
401—409 (Ch. IV)	*10377

60-145 O - 80 - 5

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Page

1–39 (Subchapter A) Amendments to 1976 DAR CFR volumns 77158
Policy directives *30623, 31028, 31034, 31035
51.1 (a) and (b) revised 56328
51.4 (b) heading, introductory text, (1) introductory text, (iii) and (v) revised 56328
51.5 (a) and (b)(1) revised 56328
51.6 Revised 56328
65 Revised *3906
69 Revised *10338
Technical correction *14549
70.1 (a)(4) revised 76486
70.5 (a)(2) and (b)(8)(vi) revised 76486
100 Revised 51568
101 Revised 53160
Authority citation revised *41138
Technical correction *42608
151 Revised *20465
156 Revised *19227
157 Revised *17988
158 Added 47332
164 Revised *20470
166.11 Revised 75631
168 Revised 47768
169 Revised *17138
169a Revised *22924
199.8 (b)(107) removed; (b)(22) through (106) redesignated as (b)(23) through (107); new (b)(22) added 58709
Technical correction 61345
(b)(176) removed; (b)(177) through (180) redesignated as (b)(176) through (179) *43408
199.10 (b)(5)(x) and (g)(4) removed; (b)(5)(xi) and (g)(5) through (78) redesignated as (b)(5)(x) and (g)(4) through (77); (c)(2)(ix) amended; (e)(14) added *14035
Guidelines *19228
(c)(2)(xii) and (d)(3)(iv) policy statements *28322
(e)(2)(ii) revised; (e)(8)(ii)(c) and (v)(k) through (q) redesignated as (e)(8)(ii)(d) and (v)(l) through (r); new (e)(8)(ii)(c) and (v)(k) added; (g)(24) removed; (g)(25) through (78) redesignated as (g)(23) through (76) *43408
199.12 (c)(3)(iii)(d) redesignated as (c)(3)(iii)(e); new (c)(3)(iii)(d) added; new (c)(3)(iii)(e)(3) removed; new (c)(3)(iii)(e)(4) through (7) redesignated as new (c)(3)(iii)(e)(3) through (6) 58709
199.14 (d)(3) correctly reinstated *28714
(b)(3)(v) and note added; (b)(11) and (f) removed; (b)(12) and (g) through (j) redesignated as (b)(11) and (f) through (i) *43408
205 Added 51571
Authority citation revised *41138
Technical correction *42608
209 Revised *17574
211 Revised 50598
214 Revised 46842
230 Revised 70460
230.7 Correctly designated 74819
231.5 (a)(1), (3) and (4), (b)(1) introductory text and (v), (2) introductory text and (3) introductory text revised 56329
238 Revised *21229
286 Revised *28323
286b.11 Revised; eff. 7-28-80 ..... *43409
293 Removed *41138
294 Added *17576
360 Technical correction 47335
360.8 (x) added 47932
368 Added *19547
369 Added *34880
370 Added *34880
371 Added *34881
372 Added *34882

Chapter V—Department of the Army

505.9 Amended 46459
513 Revised 55857
536 Revised *6544
536.9 (b)(6) correctly added *39253
536.79—536.87 Undesignated center heading removed 76784
536.79—536.84 Removed 76784
536.84–1 Removed 76784
536.86 Removed 76784

Page

536.87 Removed 76784
538 Added 76784
542 Revised 51219
553.15a Effective date confirmed *27755
555 Added *32302
562 Revised 51221
562.6 (c) corrected *9262
562.8 Added *39502
579 Removed 61178
581.2 Appendix C amended *17991
581.3 (h)(5) added *17990
625 Added 63099
630 Added; interim *6566
Added; final *25060
633 (Subchapter I and Part) Added 44156
655 Added *26958

Chapter VI—Department of the Navy

701.6 (c) amended *8598
701.7 (c)(1), and (2)(i) and (ii) amended *8599
701.8 (a) amended *8599
701.9 (d)(1), (2)(ii), and (3) amended *8599
701.40 (c)(1)(a), (b), and (c) redesignated as (c)(1)(i), (ii), and (iii) *8599
701.56 (a)(4)(i) amended *8599
701.57 (b) introductory text and (c)(2) amended *8599
701.121 Revised 46272
701.123 (e) and (l) revised 46272
706 Authority citation revised *43165
706.1 (d) and (f) amended *43165
706.2 Tables amended 55336, 56930, 57401, 67114
Tables amended *17580
31117, 32672, 41412, 41413
Heading amended *43165
706.3 Table amended *32672
715 Removed 42190
716.10 (b)(1) amended *43165
720.2 (a) and (b)(1) amended *8599
720.3 (b) amended *8599
720.4 Amended *8599
720.5 Amended *8599
720.8 (b)(1) and (d) amended *8599
720.15 (b) amended *8599
720.20 (c)(3) and (d)(1) amended *8599
720.21 Amended *8599
720.31 Revised *8599
722.3 (b)(2) amended *8599
724 Revised 66802
Appendixes A through E added 76486
728.93 (b)(2)(a) through (n) redesignated as (b)(2)(i) through (xiv) *8599
730.51 (m) amended *8600
730.73 (c)(10) amended *8600
730.75 (m) amended *8600
733 Added 42190
734 Added 42193
737.32–304 Amended *8600
750.1 (a) amended *8600
750.24 (a)(1), (3), and (4) amended *8600
750.36 (c)(10) amended *8600
750.52 (e) amended *8600
750.55 (d)(5) amended *8600
750.73 (b) amended *8600
755.3 (a) amended *8600
755.5 (a) amended *8600
757.8 (1) through (5) redesignated as (a) through (e) *8600
770.25—770.31 (Subpart C) Added 76279

Chapter VII—Department of the Air Force

801 Revised *3030
802 Added 55563
806b Authority citation corrected 66816
810 Removed 45623
811 Revised *17991
811a Revised *32301
812 Revised 71825
813 Revised 71828
813a Removed 45624
818 Revised *9898
819a Revised *14848
819b Redesignated as 841 ..... *43410
820 Removed *18374
841 Removed *12780
Redesignated from 819b *43410
845 Revised 75633
846 Removed *12780
853 Added 60090
860 Revised 69288
866 Removed *26037
879 Removed 47540
880.0—880.24 (Subpart A) Revised *31113
881 Added 64075
885.3 (a)(4) revised *19231

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 32, Chapter VII—Continued

Page

885.7 (d) revised *19231
885.14 Amended *19231
885.17a Added *19231
885.20 Amended *19231
888.2 (d)(2)(iv) amended *26037
888.4 (b), (d)(1) introductory text, (2), (3)(i), and (4)(ii) revised *26037
888.5 (d) revised *26037
888.12 (a)(6) removed *26037
888a Removed *39502
888f Removed *15175
888h Revised 74820
889 Revised *25060
901 Revised 56930
903 Revised 47929
907 Removed *39503
909 Revised *6381
940 Removed 45624
953 Revised *23423
Heading corrected *26958
988 Added 54479

Chapter XII—Defense Logistics Agency

1201.325–50 Heading and text amended 52199
1214.305–2 Amended 52199
1214.307 Added 52199
1216.850 Revised 52199
1230.805–1 (b) and (c) redesignated as (c) and (d); new (b) added 52199
1289 Added 38461
1290 Added 55859

Chapter XVI—Selective Service System

1611 Removed (effectiveness pending) *40577
1612 Removed (effectiveness pending) *40577
1613 Removed (effectiveness pending) *40577
1615 Added (effectiveness pending) *40577
1617 Removed (effectiveness pending) *40578
1619 Removed (effectiveness pending) *40578
1621.2 Removed (effectiveness pending) *40578

Page

1621.3 Removed (effectiveness pending) *40578

Chapter XVII—Selective Service System (Clemency Program)

Chapter removed *21634
1700 Removed *21634

Chapter XVIII—Defense Civil Preparedness Agency, Department of Defense

Chapter XVIII Removed and regulations transferred to 44 CFR Chapter I, Subchapter E 56173
1800 Redesignated as 44 CFR Part 310 and amended 56173
Corrected 62517
1801 Redesignated as 44 CFR Part 301 56173
1803 Redesignated as 44 CFR Part 303 56173
1804 Redesignated as 44 CFR Part 304 56173
1806 Redesignated as 44 CFR Part 306 56173
1807 Redesignated as 44 CFR Part 302 56173
1808 Redesignated as 44 CFR Part 308 56173
1809 Redesignated as 44 CFR Part 305 56173
1810 Removed 39390
1811 Redesignated as 44 CFR Part 307 56173
1812 Redesignated as 44 CFR Part 309 56173
1813 Removed 56173
1814 Removed 56173

Chapter XIX—Central Intelligence Agency

1900.49 (c) added *6781

Chapter XX—Information Security Oversight Office

2002 Added *19551

Chapter XXIV—Office of Science and Technology Policy

Chapter established 51577
2400 Added 51577

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Chapter XXV—Executive Office of the President, Office of Administration

Page

Chapter established 50039
Chapter removed *20453
2500 Added 50039
Redesignated as 5 CFR Part 2500 ..... *20453

Chapter XXVI—Board for International Broadcasting

Chapter established 64077
Chapter removed *17137
2600 Added 64077
Redesignated as 22 CFR Part 1303 ..... *17137

Chapter XXVII—Office for Micronesian Status Negotiations

Chapter established 51574
Corrected 51990
2700 Added (incorrectly designated as 2400) 51574
Corrected 51990

Chapter XXVIII—Office of the Vice President of the United States

Chapter established 66591
2800 Added 66591

Title 32—*Proposed Rules:*

1–367 (Ch. I) 68862, 76303, 76306
..... *6801
1—368 (Ch. I) *36432
41 46296
56 58750
65 50616
143 ..... *43438
169 65601
169a 65601
169b 65601
199 62295
286b *29590
288 ..... *10377
501—657 (Ch. V) 68862
..... *36432
513 45967
651 ..... *1086
700—770 (Ch. VI) 68862
..... *36432
701 38910
800—1030 (Ch. VII) 68862
..... *36432
892 ..... *18405
953 45193

Page

989 44118
1611 ..... *40621
1612 ..... *40621
1613 ..... *40621
1615 ..... *40621
1617 ..... *40621
1619 ..... *40621
1621 ..... *40621
1807 42568
1900 65780
..... *29855
2002 71842
2600 55910

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Federal Preparedness Agency, General Services Administration

Page

106 Revised *8601
134 Revised *34885

Chapter VI—International Trade Administration, Department of Commerce

Chapter heading revised *30
621 Schedule II amended; interim *13072
651 Schedule I amended; interim *13072

Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

1864 Revised 54698

Title 32A—*Proposed Rules:*

166 71845
601—662 (Ch. VI) 48976, 54166, 66846
..... *37972
651 ..... *16202, 34304
663 ..... *16202, 34304

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

Chapter I Nomenclature change *43704
1.05–1 (c) revised; (g) and (h) added 51585

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 33, Chapter I—Continued

	Page
3.85–20 (b) revised	70720
67 Incorporation by reference approval	*44090
80.38 Cross reference note amended	*43704
82.125 Revised	*15176
82.130 Revised	*15176
82.135 Heading and (a) revised	*15176
82.748 (b) revised	69298
90.41 Cross reference note amended	*43704
100 Temporary regulation	*31991
100.35–501 Added (temporary)	*30431
100.35–1302 Added (temporary)	*41941
100.35–1304 Added (temporary)	*41940
109.01 (b) revised	51585
109.05 (a) and (b) revised	51585
109.10 Revised	51585
110.74a Added	*32673
110.77a Added	*32673
110.80b Added	50040
110.83a Added	*32674
110.85 Revised	*32674
110.126a Note added	*10760
110.127 (e)(2) removed	60091
110.132 (a)(2) revised	*10761
110.208 (a)(2), (b)(1), and (2) removed	50040
110.210 (a)(2) and (b)(3) removed; eff. 7–28–80	*43166
110.214 Revised	*30432
110.224 (d)(1) note revised	*20801
(a)(3) revised	*34269
110.240 (a)(2) revised	*32673
110.245 (a)(1) revised	50040
117.175 (c) revised; (d) note removed	*35326
117.220 (q) added	54481
117.225 (f)(1–d) and (1–e) added	59234
(f)(18) revised	*15176
117.245 (i)(6–b) added	54481
(j)(32) added	*6932
117.290 Revised; eff. 7–21–80	*41413
117.349a Added	*9903
117.355 (a)(1) revised	45925
Revised; eff. 7–21–80	*41414
117.356 Removed	*41941
117.433 Revised	66196
117.552 Revised	*29020
117.555 Cross reference note amended	*43704
117.560 (f)(21) and (22) added	47932
(f)(27) revised; (f)(28) through (31) removed	*14550
117.620 Correctly removed	65750, 73020
117.705b Heading and (b) revised; eff. 7–14–80	*39846
117.711 Revised	*14550
(c)(1) and (2) corrected	*20802
117.712 (i)(3) revised	*8980
(f) added; eff. 7–9–80	*39846
117.810 (f)(7) revised	47335
124 Removed; interim	63675
126.05 (b) revised; interim	63675
126.10 Added; interim	63675
126.27 (b)(7) revised; (b)(8) removed; interim	63676
127 Temporary security zones list	*1419
127.369 Added (temporary)	57092
127.370 Added (temporary)	57927
127.708 Added (temporary)	44491
127.1701 Removed	*6933
147.05–11.01—147.05–11.02 (Subpart 147.05) Added	49453
147.05–11.01 Revised	57928
(b) and (c) revised	*37187
147.05–11.02 Removed	57928
147.05–11.03 Added	73021
Removed	*26698
147.05–11.04 Added	*26698
149 Incorporation by reference approval	*44090
150 Incorporation by reference approval	*44090
154 Heading revised	*7169
Incorporation by reference approval	*44090
154.100—154.120 (Subpart A) Revised	*7169
154.300—154.325 (Subpart B) Revised	*7171
154.500—154.570 (Subpart C) Revised	*7172
154.560 (e) corrected	*43705
154.700 Revised	*7173
154.740 Revised	*7173
154.750 Revised	*7173
154.760 Removed	*7174
154.770 Removed	*7174
154.780 Removed	*7174
155 Heading revised	*7174
Incorporation by reference approval	*44090
155.100—155.110 (Subpart A) Revised	*7174
155.310—155.410 (Subpart B) Heading revised	*7174
155.310 Revised	*7174
155.320 Revised	*7175
155.440 Revised	*7175
155.470 Revised	*7175
155.480 Removed	*7175
155.720—155.820 Revised	*7175
155.785 (d) corrected	*43705
155 Appendix A revised	*7176
156 Revised	*7177
157 Incorporation by reference approval	*44090
157.01 Revised; interim	66516
Revised; final	*43706
157.03 (k), (n), and (v) revised; (bb) through (hh) added; interim	66517
(k), (n), and (v) revised; (bb) through (hh) added; final	*43706
157.06 Added; interim	66517
Added; final	*43706
157.08—157.24 (Subpart B) Heading revised; interim	66517
Heading revised; final	*43707
157.08 (f) and (g) added; interim	66517
(f) and (g) added; final	*43707
157.10 Added; interim	66517
Added; final	*43707
157.10a Added; interim	66518
Added; final	*43707
157.11 (d), (e), and (f) added; interim	66518
(d) introductory text corrected; (d), (e), and (f) effective date corrected to 6–1–81	76510
Effective date note removed	*43704
(d), (e), and (f) added; eff. 6–1–81	*43708
157.15 (b)(1) revised; interim	66519
Effective date note removed	*43704
(b)(1) revised; final	*43708
157.17 Effective date note removed	*43704
157.24 (c) revised; interim	66519
(c) revised; final	*43708
157.26 Added; interim	66519
Added; final	*43708
157.35 Revised; interim	66519
Revised; final	*43708
157.100—157.172 (Subpart D) Added; interim	66519
Added; final	*43709
157.128 (e) corrected	76510
157.138 (b)(2) corrected	76510
157.155 (a)(12) corrected	76510
157.160 (a)(1) corrected	76510
157.200—157.228 (Subpart E) Added; interim	66525
Added; final	*43714
157 Appendixes C and D added; interim	66527
Appendixes C and D added; final	*43716
159 Incorporation by reference approval	*44090
160 Revised	62892
161.1—161.15 (Subpart A)—Added; interim	63676
161.380 Revised	70720
161.402 (b)(1), (2), and (3)(i) revised	47933
161.501—161.583 Undesignated center heading added	45383
Effective date postponed	55005
161.501—161.511 Undesignated center heading added	45383
Undesignated center heading effective date postponed	55005
161.501 Added	45383
Effective date postponed	55005
161.503 Added	45383
Effective date postponed	55005
161.504 Added	45383
Effective date postponed	55005
161.505 Added	45383
Effective date postponed	55005
161.506 Added	45383
Effective date postponed	55005
161.507 Added	45383
Effective date postponed	55005
161.509 Added	45383
Effective date postponed	55005
161.511 Added	45384
Effective date postponed	55005
161.520—161.532 Undesignated center heading added	45384
Undesignated center heading effective date postponed	55005
161.520 Added	45384
Effective date postponed	55005
161.522 Added	45384
Effective date postponed	55005
161.524 Added	45384
Effective date postponed	55005
161.526 Added	45384
Effective date postponed	55005
161.528 Added	45384
Effective date postponed	55005

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 33, Chapter I—Continued

	Page
161.530 Added	45384
Effective date postponed	55005
161.532 Added	45384
Effective date postponed	55005
161.536—161.542 Undesignated center heading added	45384
Undesignated center heading effective date postponed	55005
161.536 Added	45384
Effective date postponed	55005
161.537 Added	48384
Effective date postponed	55005
161.538 Added	45384
Effective date postponed	55005
161.539 Added	45384
Effective date postponed	55005
161.540 Added	48384
Effective date postponed	55005
161.542 Added	45385
Effective date postponed	55005
161.570—161.575 Undesignated center heading added	45385
Undesignated center heading effective date postponed	55005
161.570 Added	45385
Effective date postponed	55005
161.572 Added	45385
Effective date postponed	55005
161.573 Added	45385
Effective date postponed	55005
161.574 Added	45385
Effective date postponed	55005
161.575 Added	45385
Effective date postponed	55005
161.580—161.583 Undesignated center heading added	45385
Undesignated center heading effective date postponed	55005
161.580 Added	45385
Effective date postponed	55005
161.581 Added	45385
Effective date postponed	55005
161.582 Added	45385
Effective date postponed	55005
161.583 Added	45386
Effective date postponed	55005
162.75 (b)(5)(vi) added; eff. 7-28-80	*43167
164 Authority citation revised	66530
Incorporation by reference approval	*44090
164.01 Revised	66530
164.02 Added	66530
164.25 Revised	*18925
164.30 Amended; final; eff. in part 6-1-80 and 6-1-82	*2027
164.35 (i) revised	*18925
164.39 Added	66530
164.41 Added; final; eff. in part 6-1-80 and 6-1-82	*2027
164.53 (b) revised; interim	63676
(b) amended; final; eff. in part 6-1-80 and 6-1-82	*2028
165 Temporary safety zones list	*1419
165.100 Added (temporary)	*30439
165.101 Added (temporary)	*30439
165.102 Added (temporary)	*30436
165.103 Added (temporary)	*30437
165.104 Added (temporary)	*30437
165.105 Added (temporary)	*30437
165.205 Added (temporary)	45925
165.206 Added (temporary)	44492
165.304 Added (temporary)	38470
165.309 Added (temporary)	57929
165.311 Added (temporary)	*41941
165.510 Added	53745
165.520 Added (temporary)	38470
165.521 Added (temporary)	47933
165.522 Added (temporary)	*7543, 29020
165.707 Added (temporary)	44492
165.709 Added (temporary)	47336
165.710 Added (temporary)	47336
165.711 Added; exp. 6-1-81	61958
165.801 Added (temporary)	57929
165.802 Added (temporary)	61959
165.949 Added (temporary)	51586
165.1101 Added; eff. 7-28-80	*43166
165.1200 Added (temporary)	41178
165.1303 Added (temporary)	*37187
165.1701 Added	*6933
174.13 Revised	42195
174.14 Added	42195
174.19 (a)(15) removed; (e) added	42195
174.105 Revised	42195
174.106 Added	42195
175 Authority citation revised; eff. 1-1-81	73024
175.101—175.140 (Subpart C) Added; eff. 1-1-81	73024
175.201 (Subpart D) Added; eff. 8-1-80	73027
183 Incorporation by reference approval	*44090
183.23 Revised; eff. 8-1-80	*2029
183.25 Revised; eff. 8-1-80	*2029
183.27 Revised; eff. 8-1-80	*2030
183.39 Revised; eff. 8-1-80	*2030
183.41 Revised; eff. 8-1-80	*2030
183.43 Revised; eff. 8-1-80	*2031
183.112 (a) corrected	47934
183.114 Table designation corrected	47934
183.222 (a) corrected	47934
183.322 (a) corrected	47934
183.455 (b) revised	63524
(b) correctly revised	68466
183.601—183.630 (Subpart K) Added; eff. 8-1-80	73027
183.630 (a) introductory text and (1) corrected	*7544

Chapter II—Corps of Engineers, Department of the Army

	Page
Chapter II Table of contents note added	*32305
204.175 (b)(1) and (3) revised; (b)(5) removed	*13072
204.230 (a) revised	69298
206.5 Removed	65977
206.15 Removed	65977
206.20 Removed	65977
206.25 Removed	65977
206.30 Removed	65977
206.35 Removed	65977
206.40 Text revised	65978
206.45 Revised	65978
206.46 Removed	65977
206.47 Revised	65980
206.50 Revised	65980
206.55 Removed	65977
206.60 Revised	65985
206.75 Removed	65977
206.80 Removed	65977
206.85 Removed	65977
206.90 Removed	65978
206.93 Republished	65985
206.95 Removed	65978
207.167 (b)(2) revised	*27755
207.173 Removed; new 207.173 redesignated from 207.173a and revised	*2317
207.173a Redesignated as 207.173 and revised	*2317
207.184 Revised	42968
207.420 (b)(1), (4)(i) introductory text and (a), (10)(i), (17), and (18) revised; (b)(11) removed	67657
Technical correction	69650
207.750 (e) revised	*24460
(p) added	*31062
208.19 Authority citation added	44157
209.135 (d)(11) revised	51587
(d)(11) corrected	54047, 55865
209.340 Revised	50338
222.6 Revised	43469
222.8 Added	55336
(h)(3), (m)(2), and (3) revised; appendix D amended	*18925
236 Added	*28714

Title 33—*Proposed Rules:*

	Page
1—183 (Ch. I)	54499
	*2052, 12260, 13127, 13312
82	64843
100	*23472
110	41245, 51614
	*10810–10815, 12266, 20982, 25081, 27786, 29593, 41458, 41981
117	45969, 61978, 68488, 72188
	*9951, 13781, 14600, 14601, 15192, 16203, 20983, 23473, 24508, 25082, 29593, 29594, 31132, 34305, 35349–35351, 39871, 43226
128	*40621
140	*29072
141	*29072
142	*29072
143	*29072
144	*29072
145	*29072
146	*29072
147	*29072
148	*10172
150	69305
	*10172
157	*29087, 34306
158	72188, 76565
	*6956
160	69306
161	47349
	*9011
164	51620, 51622
	*11790
165	*25081
175	*22110, 24509
181	*18987
183	*18987, 38417, 38418
200—393 (Ch. II)	68862
	*36432
204	66213
207	53179, 55394, 75407
	*1919, 9296
210	*19202
222	41246
232	61308
235	*39412
325	*22112
396	*27678
401—403 (Ch. IV)	*12260, 13312

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Note: Symbol (*) refers to 1980 page numbers

TITLE 34—GOVERNMENT MANAGEMENT

(Prior to October 19, 1979)

Page

Title vacated and reserved 60286

Chapter I—Office of Management and Budget

Chapter removed 60286
1 Redesignated as 5 CFR Part 1310 (Subchapter B) 60286

TITLE 34—EDUCATION

(After May 9, 1980)

Title established *30803

Subtitle A—Office of the Secretary, Department of Education

Subtitle established *30803
4 Added *30803
5 Added *30803
5b Added *30808
5b.1 (b) corrected *37426
5b Appendix B corrected *37426
6 Added *30814
7 Added *30814
8 Added *30815
10 Added *30816
11 Added *30817
12 Added *30820
15 Added *30825
17 Added *30833
30 Added *30834
35 Added *30834
50 Added *30836
63 Added *30837
64 Added *30838
67 Added *30841
73 Added *30841
73.735–1207 (b) (1) (ii) corrected *37426
74 Added *30856
99 Added *30911

Chapter I—Office for Civil Rights

Chapter established *30918
100 Added *30918
100 Appendix B corrected *37426
101 Added *30931
104 Added *30936
Incorporation by reference approval *44090
104.23 (c) note corrected *37426
106 Added *30955
106.2 (b) corrected *37426

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

1 Removed 75308
3 Revised 75308
5 Removed 75308
7 Heading revised 75308
7.1 (b) through (f) revised 75308
7.5 (c) (2) revised 75308
7.6 (d) and (g) revised 75308
7.9 Revised 75308
9 Revised 75309
9.4 (a) through (e) and (f) introductory text revised 55865
9.5 (d) revised 55866
Technical correction 77161
9.11 Technical correction 77161
10 Revised 75312
10.8 (c) revised 55866
10.9 (a) through (d) revised 55866
51 Authority citation revised 75317
51.181 (Subpart C) Removed 75317
53 Removed 75317
57 Removed 75317
59 Removed 75317
60 Revised 75317
61 Authority citation revised 75324
61.1—61.5 (Subpart A) Removed 75324
61.39 Removed 75324
61.70 Removed 75324
61.96 Removed 75324
61.131 Removed 75324
61.319 Removed 75324
61.331—61.335 (Subpart G) Removed 75324
61.351—61.364 (Subpart H) Removed; regulations transferred to 9.31—9.39 (Subpart B) 75324
61.365 Removed 75324
61.401 (Subpart J) Removed 75324
63 Removed 75324
65 Removed 75324
67 Revised 75324
69 Removed 75329
70 Authority citation revised 75329
101 Authority citation revised 75329
101.3 Revised 75329
101.14 Removed 75329
103 Authority citation revised 75329

Page

103.42 Removed 75329
105 Authority citation revised 75329
105.7 Removed 75329
107 Authority citation revised 75329
107.7 Removed 75329
109 Authority citation revised 75329
109.8 Removed 75329
111 Authority citation revised 75329
111.2 (a) revised 75329
111.221 (Subpart F) Removed 75329
113 Authority citation revised 75329
113.181 (Subpart E) Removed 75329
115 Authority citation revised 75329
115.2 (a) (1), (2), and (3) revised 75329
117 Authority citation revised 75329
117.7 Removed 75329
119 Authority citation revised 75329
119.251 (Subpart G) Removed 75329
121 Authority citation revised 75330
121.191 (Subpart D) Removed 75329
123 Authority citation revised 75330
123.12 Removed 75330
125 Authority citation revised 75330
125.5 Removed 75330
127 Removed 75330
133 Authority citation revised 75330
133.1 (a), (b), and (c) revised 56918
Revised 75330
135 Authority citation revised 75330
201 Authority citation revised 75330
201.1 Removed 75330
201.2 Removed 75330
251 Authority citation revised 75330
253 Authority citation revised 75330
253.8 (a) amended; (h) added 56693
(b) (14) added *7788
253.131 (b) amended 56693
253.134 Existing text designated as (a); (b) added 56693
253.154 Revised 50837

Title 35—*Proposed Rules:*

9 68868
133 57941

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior

7.20 (b) added 44493
7.23 (b), (c), and (d) added *32233
(e) and (f) added *32236
7.29 (c) added 44157
7.45 (e) through (h) added *10353
(h) correctly added *14854
(f) (17) corrected *22024
7.86 Added 45128
28 Revised *3265
50.52 Added; interim 56936
51 Added 62895
60 Redesignated as 1202 64406
61 Redesignated as 1201 ..... *30623
63 Redesignated as 1204 ..... *28716
67 Redesignated as 1208 ..... *34886

Chapter II—Forest Service, Department of Agriculture

216 Added *29291
219 Added 53976
Technical correction 54294
Record of decision 65587
222.1—222.11 (Subpart A) Authority citation revised 61345
222.1 (b) (7) and (21) introductory text revised; (b) (20) amended 61345
222.2 (b) revised 61346
222.3 (c) (1) amended 61345
222.6 (a) amended 61345
222.10 (a) amended 61345
222.11 (a) and (b) amended 61345
222.20—222.36 (Subpart B) Revised *24135
223.1 (e) (3) revised 73029
223.5 (b) revised 73029
223.7 Revised 73029
223.9 (c) introductory text CFR correction 45925
223.10 Revised 73029
251.1 Removed; eff. 7–7–80 ..... *38327
251.2 Removed; eff. 7–7–80 ..... *38327
251.3 Removed; eff. 7–7–80 ..... *38327
251.4—251.4a Undesignated center heading revised; eff. 7–7–80 ..... *38327
251.6 Removed; eff. 7–7–80 ..... *38327
251.8 Removed; eff. 7–7–80 ..... *38327
251.50—251.64 Undesignated center heading revised; eff. 7–7–80 ..... *38327
251.50 Revised; eff. 7–7–80 ..... *38327
251.51 Revised; eff. 7–7–80 ..... *38327
251.52 Revised; eff. 7–7–80 ..... *38328
251.53 Revised; eff. 7–7–80 ..... *38328
(k) corrected; eff. 7–7–80 ..... *43167

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 36, Chapter II—Continued

Page

251.54 Revised; eff. 7–7–80 ..... *38328
(e)(1)(iv)(E) corrected; eff. 7–7–80 ..... *43167
251.55 Revised; eff. 7–7–80 ..... *38330
251.56 Revised; eff. 7–7–80 ..... *38330
251.57 Revised; eff. 7–7–80 ..... *38332
251.58 Removed; eff. 7–7–80 ..... *38332
251.61—251.64 Revised; eff. 7–7–80 ..... *38333
251.65 Removed; eff. 7–7–80 ..... *38333
251.59 Revised; eff. 7–7–80 ..... *38332
251.60 Revised; eff. 7–7–80 ..... *38332
(i)(1), (2), and (3) correctly designated; eff. 7–7–80 ..... *43167

Chapter VI—American Revolution Bicentennial Administration

Chapter removed 64407
601—606 Removed 64407

Chapter VIII—Advisory Council on Historic Preservation

Page

805 Added *4353

Chapter IX—Pennsylvania Avenue Development Corporation

905.735–102 Amended *15927
907 Added; interim 45926
920 Added; interim *34752
Technical corrections *38056
922 Added; interim 51587
923 Added; interim *12781

Chapter XI—Architectural and Transportation Barriers Compliance Board

1120 Added; interim *42609
1151.3 Added *43718
1152 Added 52200

Chapter XII—Heritage Conservation and Recreation Service, Department of the Interior

1201 Redesignated from 61 ..... *30623
Technical correction *34886
1201.1 (a), (c), and (d) revised; interim *30624
1201.2 Revised; interim *30624
1201.3 Revised; interim *30625

Page

1201.4 (b), (c), (d), (e), and (g)(1), (2), and (3) revised; (g)(4) added; interim *30625
1201.5 (e) revised; interim *30626
1201.6 (g) revised; interim *30626
1202 Redesignated from 60 64406
1202.12 (c) through (f) revised; (g) removed; interim 64407
Technical correction 65066
(g) added *4355
(c) through (g) revised, (h) and (i) added *25797
1202.13; Revised; interim 64408
Technical correction 65066
Revised *25798
1204 Redesignated from 63 ..... *28716
1205 Added; interim 74826
1208 Redesignated from 67 ..... *34886
1212 Added; interim 66599
Comment time extended *14854
1215 Notification of impending addition *5302
1226 Redesignated from 43 CFR Part 31 ..... *780
1227.9 Revised *43168
1228.1—1228.3 (Subpart A) Added; interim 47021
1228.10—1228.17 (Subpart B) Added; interim 39344
(Subpart B) Added; final *15457
1228.30—1228.48 (Subpart C) Added; interim 47022
1228.50—1228.65 (Subpart D) Added; interim 47025
1228 Appendixes A and B added; final 58091

Title 36—*Proposed Rules:*

1—67 (Ch. I) 42701
..... *7106, 30414
7 ..... 53541, 67441
..... *14601, 31752, 34759
50 ..... *29856
200—295 (Ch. II) 65862
..... *13718, 32192
222 ..... 40355, 46480, 49479, 61618
..... *1108
223 44555
..... *30652
261 47110
312—330 (Ch. III) *36432
805 40653
901–923 (Ch. IX) 56954, 58528
..... *34017
1150 ..... *28970
1190 ..... *12168
1204 ..... *34909

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

1207—1228 (Ch. XII) 42701
..... *7106
1207 ..... *30378
1208 ..... *34910
1213 ..... 45417, 51829
1215 ..... *17622
1227 ..... *3924

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter II—Copyright Office, Library of Congress

201.15 Revised *13073
201.23 Added *41414

Chapter III—Copyright Royalty Tribunal

301.22 (c) revised 53161
302.2 Revised 60727
302.5 Removed 60727
302.6 Revised 60727
302.7 Revised *26959
304.3 (a) and (d) amended 45130
304.4 (a) amended 45130
304.5 (c) amended 45130
304.6 (c)(1) and (2) amended 45130
(c)(2) corrected 50041
304.7 (b)(1), (2), (3) and (4) amended 45130
304.8 (b)(1) revised 45131

Title 37—*Proposed Rules:*

1—102 (Ch. I) 37972, 48976, 54166
201 ..... 47550, 52260, 73123
202 ..... 47555, 62913, 69977
302 ..... *14884

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

1.891—1.897 Undesignated center heading added 55172
1.891 Added 55172
1.892 Added 55172
1.893 Added 55172
1.894 Added 55172
1.895 Added 55172
1.896 Added 55172
1.897 Added 55172
1.955—1.970 Undesignated center heading revised 59905
1.955 Revised 59905

Page

1.956 (a) introductory text and (1)(i) revised; (b) amended; authority citation added 59905
1.957 Revised 59906
1.958 Revised 59906
1.959 Revised 59906
1.960 Revised 59906
1.962 Introductory text revised; (b) amended; authority citation added 59906
1.963 (b) revised; authority citation added 59906
1.963a (b) and (e) revised; authority citation added 59906
1.964 (c) amended; authority citation added 59907
1.966 (a) and (b) introductory text amended; authority citation added 59907
1.967 (c) revised; authority citation added 59907
1.968 Removed 59907
1.969 Revised 59907
1.970 Revised 59907
3.1 (d)(2) amended; (u) through (x) added 45931
3.2 Introductory text added; (a) amended 45931
3.3 Revised 45931
3.12 (d)(5) revised *2318
3.16 Amended 45932
3.17 Amended 45932
3.21 Revised 45932
3.23 Added 45933
(a) and (c) revised *31718
3.24 Added 45933
(b) and (c) revised *31718
3.25 Added 45934
Introductory text, (a), (c), (d), (e), and (f) revised *31719
3.26 Added 45934
Revised *31719
3.27 Added 45934
3.28 Added 45935
Cross reference revised *31719
3.29 Added 45935
3.30 Added 45935
3.57 (a)(1), (c)(1) and (3) amended; (d) added 45935
(a), (b), and (c) revised *1878
(c) introductory text revised; (e) added *25391
3.59 (a) amended 45935
3.60 Added 45935

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 38, Chapter I—Continued

	Page
3.250—3.263 Undesignated heading added	45935
3.252 (a) revised	45935
3.262 (e)(1), (2), (4), and (g)(1) heading amended; (b)(2) revised	45936
(b)(2) revised	*31719
3.263 (d) and cross reference amended	45936
3.270 Added	45936
3.271—3.277 Undesignated center heading added	45936
3.271 Added	45936
3.272 Added	45936
3.273 Added	45937
3.274 Added	45938
3.275 Added	45938
3.276 Added	45938
3.277 Added	45938
3.310 Revised	50340
3.350 (a) introductory text, (f)(1)(i) and (iii), (2)(i) and (iii), and (5), and (h) revised	*25392
3.351 Revised	45939
3.450 (a)(1)(i) and (g) amended; (a)(1)(ii), (2), (c), and (e) revised; (h) removed	45939
3.451 Revised	45940
3.400 (v) heading amended	*34886
3.401 (a) revised; (f) amended	*34886
3.402 Revised	*34887
3.403 Introductory text amended	*34887
3.404 Revised	*34887
3.452 (a) and (c) revised	45940
3.454 Introductory text, (b) and (c) revised; (a) amended; (d) added	45940
3.458 (b), (c), (e), (f)(1), (2), and (g) amended	45940
3.459 (a) and (b) amended	45940
3.460 Introductory text amended; revised; (c) added	45940
3.501 (i)(2) revised	45941
3.551 (a) through (d) revised; (f) amended	45941
(a) and (b) amended; (b) heading and (c) heading revised	*35327
3.552 (e) and (j) revised	45941
(g) revised	*25393
3.556 Amended	45942
3.656 (a) introductory text and (d) revised	45942
3.657 Heading and text amended	45942
3.660 (a)(1) and (2), (b) introductory text and (2), (c) and (d) revised	45942
3.661 (a)(2) amended	45942
3.662 Removed	45942
3.666 (a) introductory text, (b) introductory text, (1) and (2), (c), (d)(1) and (2) amended; (a)(2) revised	45943
3.700 (a)(3) amended; (a)(4) added; (b)(1) and (2) revised	45943
3.701 (a) revised	45943
3.702 (b) amended	45943
3.708 (a)(3) and (b)(1) amended	45943
3.711 Revised	45943
3.712 Added	45943
3.713 Added	45944
3.850 (a)(1)(ii) and (2) amended	*27436
3.851 Amended	*27436
3.852 (b) introductory text revised; (b)(2) amended	*27436
3.955 Removed	45944
3.956 Removed	45944
3.960 Added	45944
3.961 Added	45944
3.962 Added	45944
3.1601 (a)(2) introductory text and (b) introductory text revised	58710
3.1604 (c) heading revised; (d) added	58710
3.1612 Added	58711
3.1612 (e)(2)(ii) revised	*11806
4.132 Amended	*26327
8.77 (b)(1) amended	*9732
8.79 Amended	*9732
8.80 Amended	*9732
8.80c Amended	*9732
8.81 Amended	*9732
14.620 Undesignated center heading and section removed	*21243
17.30 (k), (l), (m), (n), (p), and (u) revised; (v) and (w) added	*6934
17.31 (b)(3) revised	*6934
(b)(7) added	*43169
17.32 (a)(2) and (c) amended	*6935
17.33 (a) amended	*6935

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

	Page
17.34 Undesignated center heading and section added	*6935
17.36 (b)(1) amended	*6935
17.37 (a) and (b) amended	*6935
17.38 (a)(1) and (2), and (b)(1) and (2) amended; (c)(2) revised	*6935
17.47 (c)(3)(vii) and (viii) amended; (d) revised; (e) removed; (f) redesignated as (e) and revised	*6935
17.48 Heading, (a)(1), (b), and (c)(2) revised; (a)(2), (d) introductory text, and (f) amended	*6936
17.49 (a)(3)(iii)(*a*) and (*b*) revised; note amended	*6936
17.50 Amended	*6936
17.50b (a) and (c) amended; introductory text and (i) revised	*6936
17.51 (a)(1) amended; (b)(1) and (3) revised	*6936
17.53 Revised	*6937
17.54 (a) revised; (b) and (c) amended	*6937
17.57—17.58 Undesignated center heading added	*39847
17.57 Added	*39847
(d) corrected	*41942
17.58 Added	*39847
17.60 Introductory text, (e), (f), and (h) revised; (j) added; (c) amended	*6937
17.60a Amended	*6937
17.60d (a) amended	*6937
17.60f Added	*6937
17.60g Added	*6937
17.60h Added	*6938
17.96 Amended	*6938
17.98 Revised	*6938
17.99 Amended	*6938
17.100 Introductory text, (a), (c), (d), (e), (f) and (k) revised; (g)(3) added; (h)(1) and (1) amended	*6938
17.101 (b) amended	*6938
17.119—17.119a Undesignated center heading added	*6939
17.119a Added	*6939
17.123b Redesignated as 17.123c and revised; new 123b added	*6939
17.123c Redesignated from 17.123b and revised	*6939
17.155 (a), (b), and (f) amended; (c) revised	*6939
17.161 (b) amended	*6939
17.165—17.167 Undesignated center heading revised	*6939
17.165 Introductory text revised; (c) and (d) amended	*6939
17.165a Amended	*6939
17.165b Amended	*6939
17.165c Revised	*6939
17.165d Added	*6939
17.166 Revised	*6939
17.166a Revised	*6939
17.166b Revised	*6940
17.166c Revised	*6940
17.166d Amended	*6940
17.170—17.177 Undesignated center heading and note revised	*38357
17.170—17.173 Revised	*38357
17.174—17.176 Revised	*38358
17.177 Added	*38358
17.170—17.177 Appendix A revised; Appendix B removed	*38368
17.180—17.184 Removed	*38369
17.210 (d) added	*6940
17.212 Amended	*6940
17.220 Amended	*6940
21.133 Revised	62493
21.145 (a) revised	62493
21.201 (j)(1) and (2) revised; (j)(5) amended	62493
21.1021 Cross reference revised	62494
21.1032 (d) added	62494
21.1041 (a)(3), and (d) introductory text and (2) revised	62494
21.1042 (a) and (b) revised	62494
21.1043 Added	62494
21.1045 (a)(2) and (b)(2) revised; (h) and (i) added	62495
21.3032 (c) added	62495
21.3045 Amended	62495
21.3046 Introductory text and (c) introductory text revised; (c)(3) amended; (d) added	62495
21.3300 (c) revised	62496
21.3333 (a) and (b) revised	62496
21.4008 Amended	*31062
21.4100 Revised	62496
21.4102 (b) heading and section amended	62496
21.4106 (a)(3) heading amended	62496
21.4130 Introductory text and (b)(2) revised	62496

Note: Symbol (*) refers to 1980 page numbers

Title 38, Chapter I—Continued

Page

21.4133 Added 62496
Revised *31062
21.4134 Revised *31062
21.4135 (f), (j), and (k) revised *31063
21.4136 (a) and (c) revised 62496
21.4137 (f) amended; (a) revised 62497
21.4138 Cross reference removed 62497
21.4145 (a) revised 62497
21.4146 (f) added 62498
21.4153 (c)(4) authority citation amended; (c)(3) revised 62498
21.4154 Added 62498
21.4201 Revised 62498
21.4203 (a) revised 62501
(c) and (d) revised; (e) and (f)(2) amended; (h) added *43171
21.4206 (a) and (c) revised; (d) added 62501
21.4207 (e) revised *31063
21.4236 (c) and (d) revised 62501
21.4250 (a) introductory text 54707
21.4251 (a)(1) amended; (a)(6) and (f) revised; (h) and cross reference added 62501
(e) revised *43170
21.4252 (k) added *31063
21.4266 (c) cross reference added; (c)(2) introductory text revised 62503
21.4277 Cross reference note added *43172
36.4276 (b) revised *38056
36.4313 (b) revised *38056
21.4501 (a) and (b) revised *17996
21.4502 (b)(1) and (4) revised; (b)(6) removed; (c) added 62507
21.4503 (b)(2), (3) and (4) revised 62508
21.4504 (a)(4) revised 62508
(a)(3) revised *17996
21.4505 Redesignated as 21.4507 and revised; new 21.4505 added 62508
21.4506 Revised 62508
21.4507 Redesignated from 21.4505 and revised 62510
21.5001—21.5500 (Subpart G) Added *31
36 Incorporation by reference approval *44090

Page

36.4212 (a) introductory text, (2) and (3) revised 56330
(a) introductory text, (1) and (3) revised 58508, 61178
(a)(2) and (3) revised 62510
(a) revised *10340, 14035
(a) revised *24139, 26960
(a)(1) and (3) revised *34270
36.4221 (d) added *21243
36.4275 Heading revised; (f) added *31064
36.4301 (i), (aa) and (ff) amended; (hh) revised 47337
(jj) added *20472
36.4311 (a) revised 56330, 62510
(a) revised *10341, 14036
Revised *20472
(a) revised *23688, 29293, 34271
36.4312 (d)(1)(vi) amended 47338
36.4315 Revised *31065
36.4316 (a) revised *31065
36.4318 (a) amended *31065
36.4319 (b) and (c) amended *31065
36.4342 (d) added *21243
36.4350 (b)(5)(iii) amended 47338
36.4356 Added 47338
36.4357 Added 47339
36.4358 Revised 47339
36.4359 Added 47340
36.4360 Added 47341
36.4360a Added 47342
36.4362 Amended 47343
36.4501 (p) added *20472
36.4503 (a) revised 56330, 62510
(a) revised *10341, 14036, 20472, 23688, 29293, 34271
36.4515 (b)(5)(iii) amended *20472
36.4516 (b) revised; (c) amended *20472
36.4519 (a)(5) added *20473
36.4520 (d) added *21243
36.4600 (c)(3) and (11) amended; (c)(15) added *31065
39 Added; interim 55867

Title 38—*Proposed Rules:*

0—39 (Ch. I) 74858
..... *41169
1 ..... *18406
3 ..... 46891, 51829, 58758, 61210, 68489
..... *6416, 6957, 9297
8 65995
14 50864
..... *22978

Note: Symbol (*) refers to 1980 page numbers

Page

17 42234
..... *3061, 5348, 6957, 7268, 14071, 22979, 30392
21 - 61619, 65083, 65996, 66623, 67179, 67181
..... *803, 2667, 5350, 13128, 18989, 21653, 41661
26 48281
36 ..... 50864, 65997
..... *3330, 3926, 25411, 30370

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service

10 Incorporation by reference approval *44090
10.1 Amended; incorporation by reference 50837, 53081
10.3 Amended; incorporation by reference 40066, 44844, 65986
Corrected 46460
Amended; incorporation by reference *8298, 41139
Revised *40115
111 Revised 39852
PSM redesignated as DMM and revised 39746
Incorporation by reference approval *44090
111.3 DMM amendments described 41778, 43720, 52830, 58509, 60730, 70720
DMM amendments described *15531, 26699, 28331, 34271, 42615
PSM temporary classification change and interim regulations expiration *32305
Revised *40115
DMM amendments described; eff. 7-3-80 ..... *37427
DMM amendments described; eff. 10-1-80 ..... *42617
221.3 (a), (b), and (c) amended *43718
221.4 (a) and (b) amended *43718
221.5 (c) amended; (d)(1)(iii) through (ix) revised *43718
221.7 Amended *43718
224.1 (c) introductory text and (5) revised *43718
224.3 (a) and introductory text of (b) revised; (b)(4) amended; (b)(5) and (6) added *43718
224.4 (c)(2) revised *43719

Page

224.10 Revised *43719
224.11 Added *43719
224.12 Heading added *43719
233.2 (c)(5) and (f)(7) added 49690
233.3 Revised *1613
233.4 Added 39161
242 Heading revised 39854
242.1 Removed 39854
243.1 Removed 39854
243.2 (g) amended; (a) revised 39854
247 Removed 39855
248 Removed 39855
257 Removed 39855
258 Removed 39855
261—268 Undesignated center heading revised 51223
261.2 (b) revised 51223
261.3 (c) removed 51223
261.4 (a) revised 51223
262.1 Revised 51223
262.2 (a)(3) and (4) revised 51223
262.4 Revised 51223
262.6 Revised 51224
262.7 Revised 51224
264.1 Revised 51224
264.2 Revised 51224
264.3 Revised 51224
264.4 Revised 51224
267.2 Revised 51224
267.5 Added 51224
(c)(1)(iv) through (vii) and (e)(3)(i) and (ii) redesignated as (c)(1)(v) through (viii) and (e)(3)(ii) and (iii); new (c)(1)(iv) and (e)(3)(i) added; (c)(1)(ii) revised *30069
310.1 (a)(1), (7)(iii) and (vii), (b), and (c) revised; (a)(7)(viii) through (xii), and (g) added 52833
(a)(7)(vi) revised *3034
310.3 (a), (b)(1) and (2), and (c) revised 52834
320.2 Revised 52834
320.3 Heading revised; (a) and (b) amended 52835
320.4 Added 52835
320.5 Added 52835
320.6 Added 52835
320.6 Redesignated as 320.9; new 320.6 added 61181
320.9 Redesignated from 320.6 61181
601 Incorporation by reference approval *44090

Note: Symbol (*) refers to 1980 page numbers

60-145 O - 80 - 6

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 39, Chapter I—Continued

	Page
601.105 Table amended	55173, 71413, 76786
Table amended	*9733
775 Revised	63525
912.2 Revised	*43719
912.3 Revised	*43720
912.4 Revised	*43720
912.5 Heading revised; existing text designated as (a); (b) added	*43720
912.6 Heading revised	*43720
912.8 Revised	*43720
912.11 Revised	*43720
912.12 Revised	*43720
912.13 Removed; new 912.13 redesignated from 912.14	*43720
912.14 Redesignated as 912.13; new 912.14 redesignated from 912.15 and revised	*43720
912.15 Redesignated as 912.14	*43720
927 Revised	*12418
952.5 Revised	61959
952.7 Revised	61959
952.8 (a) revised; (b) amended; (c) added	61959
(b) corrected	65399
952.9 (a) revised; (c) amended	61960
952.10 (d) revised	61960
952.11 (b) revised	61960
(a) corrected	65399
952.12 (a) amended	61960
952.17 (b)(10) added	61960
952.18 (a) revised	61960
952.21 (a), (b), (f), and (g) revised; (h), (i), and (j) added	61960
(b) corrected	65399
952.22 (a) revised; (b) amended	61961
952.23 (a) amended	61961
952.25 (e) and (g) amended	61961
952.26 Revised	61961
952.28 Nomenclature change	61961
952.29 Nomenclature change	61961
952.30 Nomenclature change	61961
952.33 Nomenclature change	61961
Title 39—Proposed Rules:	
10	40899, 44893, 47556, 76825
	*42683
111	44895, 47959, 49702, 61383, 61384
	*9011, 14605, 17164, 20118, 26982, 26983, 38419
310	40076, 40899
	*1427, 6801
320	40076, 40899
	*1427, 6801
775	52262
927	69682
3000—3003 (Ch. III)	*34309
3001	53545, 54734, 60757
	*11139, 14885

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

	Page
1.7 (b)(7) revised	41778
1.25 (c) amended	41778
(c) corrected	45131
1.33 (a) amended	41778
6 Revised	64177
22 Revised	*24363
35.910–10 (c) table technical correction	39339
35.910–11 Added	*16486
35.915 (a)(1)(iv) technical correction	39339
35.920–3 (b)(5) and (c)(2) effective date in part corrected to 10–1–79	39339
35.925–15 Effective date corrected	39340
35.925–18 (b) effective date corrected to 10–1–79	39340
35.928–1 (f) designation reserved effective date corrected	39340
35.930–1 (a)(1) effective date corrected to 10–1–79	39340
35.936–13 (c) technical correction	39340
35.945 (g) technical correction	39340
35.900—35.970 (Subpart E) Appendixes C–2 and E effective date corrected in part	39340
35.1600—35.1650–6 (Subpart H) Added	*7792
51.18 (j) and (k) added	*31312
51.24 Stayed in part	*7801
51.322 (a)(1) and (b)(1) revised	65070
51 Appendix S stayed in part	*31307
Appendix S amended	*31311
52 Policy statement	71780
State implementation plan documents availability	*29293, 39503
Incorporation by reference approval	*44090
52.21 Stayed in part	*7801

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

	Page
52.24 Added	38473
Technical correction	42195
Stayed in part	*31307
(e) added	*31312
52.50 (c)(20) added	67379
(c)(20) amended; (c)(21) added	*37431
52.53 Revised	67379
Revised	*37431
52.54 Revised	67379
52.58 Added	67380
Removed	37431
52.120 (c)(18)(i), (ii), and (iv) amended	73034
52.121 Revised	*7544
52.125 (e)(3) correctly designated as (f)(3); (g) introductory text added	73034
52.130 (a) and (c)(1) revised	*7545
52.170 (c) (7) and (8) added	*6571
52.171 Table amended	*6571
52.172 Revised	*6571
52.173 Added	*6571
52.174 Added	*6571
52.176 Revised	*6571
52.177 Revised	*6572
52.220 (c)(44)(vi) and (45)(iii) added	44499
(c)(37)(v)(B) added	70141
(c)(24)(viii)(B) and (42)(ii)(B) added	*27758
(c)(42)(xxii) added	*27760
(c)(47) added	*30626
(c)(53) and (54) added	*35804
(c)(41)(ii)(C) added	*35805
(c)(24)(xi), (25)(vi), and (31)(vii)(C) added	*35807
(c)(39)(ii)(E), (iii)(E), (iv)(E), (42)(i)(C), (xiii)(C), and (xiv)(B) added; eff. 7–3–80	*37429
(c)(24)(vii)(C) and (25)(i)(D) added	*37690
52.226 (b)(3)(iii) and (iv) added	70141
52.233 (k) added	*3271
52.269 (b)(1)(ii)(C) and (D) added	70141
52.273 (a)(3)(x) added	70141
52.274 (a) revised; (e), (f) and (g) added	*27758
(a)(3), (h) and (i) added	*27760
(a)(5) and (6) added	*35804
(a)(7), (l), (m), and (n) added	*35805
(a)(4), (j), and (k) added	*35807
(a)(8), (9), (10), and (11), (o), and (p) added; eff. 7–3–80	*37429
(a)(12), (13), (q), (r), (s), and (t) added	*37690
52.320 (c)(11) through (16) added	57409
(c)(11) through (16) correctly designated	*43411
52.321 Table amended	57409
52.322 (c), (d), and (e) added	57409
52.323 Revised	57410
52.324 (c) added	57410
(c) revised	*16488
(c) effective date stayed to 5–2–80	*21635
52.325 Revised	57410
52.327 Added	57410
Revised	*7802, 16488
Effective date stayed to 5–2–80	*21635
52.328 Revised	57410
Revised	*7802, 16488
Effective date stayed to 5–2–80	*21635
52.329 Revised	57410
Revised	*7802
52.330 Added	57411
Revised	*7803
52.370 (c)(10) added	44499
52.420 (c)(11) added	44497
(c)(13) added	*14558
52.422 Revised	*14558
52.427 Added	*14559
52.428 Table revised	*14559
52.433 Added	*14559
52.470 (c)(13) added	*1025
(c)(16) added	*13731
52.520 (c)(19) added	*13456
(c)(18) added	*17143
52.522 Revised	*17143
52.523 Revised	*17143
52.527 Added	*17144
52.528 (b) added	*17144
52.532 Correctly added	*2033, 28112
52.570 (c)(17) added	54050
(c)(18) added	*782
(c)(19) added	*781
(c)(17) revised	*5701
52.572 Revised	54050
52.573 Added	54050
52 575 Revised	54050
Revised	*5701
52.577 Added	54050
Revised	*5701
52.620 (c)(11) added	46274

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 40, Chapter I—Continued

	Page
52.672 (d) added	44498
(d) corrected	53161
52.676 (a)(2) and (b) revised; (b) Appendix A added	72120
Footnotes 9 and 10 corrected	*1419
52.720—52.738 (Subpart O) Technical correction	*42284
52.720 (c)(14) added	70140
(c)(15) added	*783
(c)(16) through (21) added	*11493
52.721 Table amended	*11493
52.722 Revised	*11493
52.723 Added	*11493
52.724 Added	*11493
52.725 Added	*11493
(c) revised	*27757
52.726 Added	*11494
52.727 Revised	*11494
52.728 Added	*11494
52.729 (b) added	*11494
52.736 Revised	*11495
52.737 Added	*11494
52.820 (c)(27), (28), and (29) added	*14567
52.822 Revised	*14567
52.823 Added	*14567
52.824 Revised	*14567
52.826 Added	*14567
52.827 Revised	*14568
52.829 Added	*14568
52.830 Removed	*14568
52.920 (c)(12) added	*6102
52.922 Revised	*6102
52.923 Revised	*6102
52.926 Revised	*6102
52.930 Added	*6102
52.970 (c)(15) through (19) added	*9909
52.971 Amended	*9909
52.972 Revised	*9909
52.973 Added	*9909
52.976 (c) added	*9909
52.979 Revised	*9910
52.1020 (c)(9) designation corrected	38843
(c)(10) added	*6786
(c)(11) added	*10774
52.1021 Amended	*10774
52.1022 Revised	*10774
52.1024 Revised	*10774
52.1025 (e) added	*10775
52.1026 Revised	*10775
52.1027 Added	*10775
52.1029 Revised	*6786
52.1070 (c)(25) added	70143
(c)(26) added	*17145
(c)(29) added	*23424
(c)(30) added	*27935
52.1120 (c)(24) added	41180
(c)(25) and (26) added	*2043
(c)(25) and (26) conditional approval continued	*32674
(c)(28) added	*35804
(c)(24) amended; (c)(27) and (28) added	*40988
52.1122 (c) added	*2043
(c) conditional approval continued	*32674
52.1123 Revised	*2043
Conditional approval continued	*32674
52.1124 (c) added	*2043
(c) conditional approval continued	*32674
52.1126 (c) revised	41180
(b), (c), (d), and (f) amended	56696
52.1127 Revised	*2043
Conditional approval continued	*32674
52.1129 (b) added	*2044
(b) conditional approval continued	*32674
52.1131 Added	*2044
Conditional approval continued	*32674
52.1166 Added	*2044
Conditional approval continued	*32674
52.1170 (c)(14) and (15) corrected	*17997
(c)(16) through (20) added	*29801
(c)(21) through (25) added	*37192
(c)(26) added	*37196
52.1171 Table amended	*29801
52.1172 Revised	*29801
52.1173 Added	*29802
52.1174 Added	*29802
(b) revised	*37192
52.1175 (e) table amended	75638
Technical correction	*11495
52.1176 (c), (d), and (e) removed	*29802
52.1177 Revised	*29802, 37196
52.1180 (c) added	*8299
52.1220 (c)(13) added	50601
(c)(14) added	72117
(c)(15) added	*40581
52.1223 Revised	72118
Revised	*40581

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

	Page
52.1226 Revised	72118
Revised	*40581
52.1235 Added	50601
52.1270 (c)(11) added	*2032
52.1272 Revised	*2032
52.1273 Revised	*2032
52.1280 (c) added	*34272
52.1320 (c)(13), (14), and (15) added	*17146
(c)(15) added	*24153
(c)(18) added	*30630
(c)(17) added; eff. 7–16–80	*40578
52.1323 Amended	*24153, 30630
52.1324 (c) added	*24153
(c)(1)(A), (B), (C) introductory text, (*1*), (2), (3), (D), and (E) redesignated as (c)(1)(i), (ii), (iii) introductory text, (A), (B), and (C), (iv), and (v); (c)(1)(vi) added	*30630
52.1331 Heading revised; (b), (c), and (d) added	*24153
52.1332 Table and note revised	*24154
52.1335 (a) table amended	72116
(a) table corrected	*4355
(a) table amended; eff. 7–16–80	*40578
52.1370 (c)(6) added	51977
(c)(7) added	*2036
(c)(7) revised; (c)(8) added	*14043
52.1371 Amended	*14043
52.1372 Revised	*2036
52.1375 Revised	*2036, 14043
52.1376 (c) added	*14043
52.1380 Added	*14044
52.1384 Added	*14044
52.1385 Added	*14044
52.1386 Added	*14044
52.1470 (c)(15) added	*7545
(c)(13) added	*8011
52.1471 Revised	*7545
52.1476 (b) added	*8011
52.1520 (c)(12) added	*24876
(c)(12) amended; (c)(13) and (14) added	*41943
52.1521 Table amended	*24876
52.1522 Revised	*24876
52.1523 Revised	*24876
Table footnote f revised	*41943
52.1525 Revised	*24876
52.1527 Added	*24876
52.1529 (a) revised	*24876
52.1530 Added	*24876
52.1531 Added	*41943
52.1570 (c)(21) correctly designated	38471
(c)(22) and (23) added	*15540
(c)(24) added	*24140
(c)(25) added	*30070
52.1572 Revised	*15541
52.1573 Revised	*15541
52.1580 Revised	*15541
52.1581 Added	*15542
(b)(3) removed	*24140
(c) removed	*30070
52.1582 Heading and (c) revised; (d) added	*15542
52.1601 (b) corrected	38471
52.1620 (c)(11) through (15) added	*24468
52.1621 Table amended	*24468
52.1622 Revised	*24468
52.1624 (a)(1) removed; (a)(2) redesignated as (a)(1); (b) revised; (c) and (d) added	*24468
52.1625 Revised	*24468
52.1628 Revised	*24468
52.1630 Revised	*24468
52.1631 Revised	*24469
52.1635 Added	*24469
52.1670 (c)(40) through (44) added	*7811
(c)(45) added	*14561
(c)(40) through (44); conditional approval continued	*15177
(c)(51) added	*27756
(c)(44) undesignated paragraphs designated as (c)(44)(i), (ii)(A) through (H), (iii) through (viii); (c)(44)(xvi) and (xviii) and (46) through (50) added	*33992
52.1672 Revised	*7811
Conditional approval continued	*15177
52.1672 Revised	*33993
52.1673 Revised	*7812
Conditional approval continued	*15177
Revised	*33993
52.1674 Added	*7812
Conditional approval continued	*15177
(a)(1), (d)(2) and (3) revised	*21634
(a) introductory text and (2) and (d) introductory text revised; (e) and (f) added	*33993

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 40, Chapter I—Continued

	Page
52.1682 Revised	*7812
Conditional approval continued	*15177
Table amended	*33994
52.1770 (c)(20) added	*2033
(c)(21) added	*26043
52.1772 Revised	*26043
52.1773 Revised	*26043
52.1776 Added	*2033
(b) added	*26043
52.1780 Added	*26043
52.1820 (c)(10) correctly revised	63103, 75635
52.1829 Correctly revised	63103, 75635
52.1875 (a) table footnote f revised	47770
(a) table footnote f amended	69931
52.1881 (b)(12)(iv) and (v) introductory text, (16)(i), (32)(ii), (34)(xii) and (xiii), (35)(v), (39)(iv)(D), (viii)(F), and (xiv), (40)(vii), (58)(vi) and (ix), and (60)(iii) revised; (b)(23)(xxi), (38)(ix), (58)(x), and (65)(i) added; (b)(60)(iv) removed	47770
(b)(2)(iii), (59)(iii), (iv), (vi) through (ix), (xi), and (xii) revised; (b)(59)(xiv) removed; (b)(59)(xv) through (xxi) added	69932
(b)(60)(iii)(C) corrected	*3907
(b)(35)(vi) and (vii) and (38)(iii) and (iv) revised	*42283
52.1882 (b)(1), (3), and (6) revised; (c) and (d) added	47772
(e) added	69933
(b)(7) added	*1024
(b)(7) revised	*30069
52.1920 (c)(14) added	*9741
52.1921 Table amended	*9741
52.1922 Revised	*9741
52.1923 Added	*9741
52.1924 Revised	*9741
52.1925 Revised	*9741
52.1930 Added	*9741
52.1932 Revised	*9741
52.1970 (c)(26) added	*26330
(c)(26) through (30) added	*42278
52.1971 Table amended	*42278
52.1972 Amended	*42278
52.1973 Revised	*42278
52.1981 (d) added	44498
(d) corrected	53161
(b) and (c) added	*42279
52.1982 Added	*42279
52.1985 Added	*42279
52.2020 (c)(17) added	41431
(c)(20) added	46467
(c)(21) added	73032
Technical correction	*5303
(c)(22) through (32) added	*33627
52.2021 Table amended	*33627
52.2022 (c), (d), and (e) added	*33627
52.2023 (e), (f), and (g) added	*33627
52.2034 Revised	*33627
52.2037 Revised	*33628
52.2040 Removed	*33628
52.2044 Removed	*33628
52.2045 Removed	*33628
52.2046 Removed	*33628
52.2047 Removed	*33628
52.2048 Removed	*33628
52.2052 Removed	*33628
52.2055 (c) added	*33628
52.2059 Added	*33628
52.2120 (c)(10) added	54708
(c)(11) added	*6575
52.2122 Revised	*6575
52.2126 Added	*6575
52.2127 Added	*6576
52.2128 Revised	*6576
52.2170 (c)(5) added	44495
(c)(6) added	46846
(c)(6) effective date added	54708
52.2172 Revised	44495
52.2174 Revised	44495
52.2175 Revised	44495
52.2220 (c)(31) added	*2034
(c)(30) added	*8008
(c)(32) added	*27758
52.2222 Revised	*8008
52.2225 Added	*8008
52.2226 (b) added	*2034
Introductory text added	*8009
52.2230 Revised	*8009
52.2270 (c)(16) added	55005
(c)(18) and (19) added	74831
(c)(17) correctly designated; (c)(20) through (23) added	*19244
52.2271 Table amended	*19244
52.2272 (b) added	74832
(b) revised	*19244
52.2273 Revised	*19244

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

	Page
52.2275 (d) and (e) added	55006
Heading revised; (a) and (b) removed; new (a) added; (c) through (e) redesignated as (b) through (d)	*19244
State implementation plan supplementary information	39255
52.2276 Added	*19245
52.2279 Revised	*19245
52.2284 Removed	*19245
52.2287 Removed	*19245
52.2288 Removed	*19245
52.2290 Removed	74832
52.2291 Added	*19245
State implementation plan supplementary information	39255
52.2299 Revised	*19245
52.2320 (c)(6) added	*10765
52.2322 (g) added	*10765
52.2323 Revised	*10765
52.2324 Added	*10765
52.2325 (a) revised	*10765
52.2326 Removed	*10765
52.2331 Revised	*10765
52.2370 (c)(9) added	*6784
(c)(10) added	*10781
52.2371 Table amended	*10782
52.2372 Revised	*10782
52.2375 Revised	*10782
52.2377 Revised	*10782
52.2380 Revised	*6784
52.2382 Added	*10782
52.2420 (c)(25) added	73033
(c)(13) through (16) and (19) correctly designated and republished	*6941
(c)(26) added	*6942
52.2425 Added	*6942
52.2426 Added	*6942
52.2470 (c)(16) through (21) added	*37835
52.2471 Table amended	*37836
52.2472 (b) added	44498
(b) corrected	53161
(c) and (d) added	*37836
52.2473 Revised	*37836
52.2475 (b) added	*37836
52.2478 Revised	*37836
52.2479 Added	*37836
52.2484 Revised	*37837
52.2487 Revised	*37837
52.2488 Revised	*37837
52.2522 (b) added	*39255
52.2570 (c)(12) added	68830
(c)(13) added	*2322
52.2571 Table amended	*2322
52.2572 Revised	*2322
52.2577 Revised	*2322
52.2582 Added	68830
52.2620 (c)(11) added	38475
(c)(11) revised	51979
(c)(11) correctly designated	*43411
52.2622 Revised	38475
52.2627 Revised	38475
52.2630 Revised	51979
52.2670 (c)(2) added	*14560
52.2770 (c)(10) added	*29294
55.250 (Subpart L) Redesignated from 55.570 (Subpart L)	72593
55.350—55.351 (Subpart Q) Redesignated from 55.820—55.821 (Subpart Q)	72593
55.370—55.372 (Subpart R) Redesignated from 55.870—55.872 (Subpart R)	72593
55.470 (Subpart W) Added	67987
55.550—55.551 (Subpart AA) Redesignated from 55.1320—55.1321 (Subpart AA)	72593
55.570 (Subpart L) Redesignated as 55.250 (Subpart L)	72593
55.710 (Subpart II) Redesignated from 55.1770 (Subpart II)	72593
55.820—55.821 (Subpart Q) Redesignated as 55.350—55.351 (Subpart Q)	72593
55.870—55.872 (Subpart R) Redesignated as 55.370—55.372 (Subpart R)	72593
55.972 Added	*41415
55.1320—55.1321 (Subpart AA) Redesignated as 55.550—55.551 (Subpart AA)	72593
55.1770 (Subpart II) Redesignated as 55.710 (Subpart II)	72593
57 Added; eff. 7-24-80	*42536
58 Appendixes A, B, D, E, and G corrected (corrections removed at 72589)	65066
Appendixes A, B, C, and G corrected	65070
Appendixes A, B, D, E, and G corrected	72589
60.2 Revised	55173
Amended	*5617
60.4 (b)(V) revised	69299
(b)(I) revised	70466
(b)(OO) revised	*3035
60.7 (a)(4) amended	*5617

Note: Symbol (*) refers to 1980 page numbers

Title 40, Chapter I—Continued

Page

60.8 (d) and (f) petition denied *8210
60.11 (a) revised *23379
60.14 (a) and (e)(4) amended; (d) removed; (g) revised *5617
60.16 Added 49225
60.25 (e) revised 65071
60.40 (d) petition denied *8210
60.40a—60.49a (Subpart Da) Petition denied *8210
60.42 (b) added 76787
(b)(2) added *36077
60.45 (g)(1)(i) added 76787
(g)(1)(ii) added *36077
60.90—60.93 (Subpart I) Standards review 51225
60.100 (a) revised 61543
60.101 (m) removed 61543
60.110—60.113 (Subpart K) Heading revised *23379
60.110 (c)(1) and (2) revised *23379
60.110a—60.115a (Subpart Ka) Added *23379
60.111 (b) and (c) revised *23379
60.112 Heading revised *23379
60.113 Revised *23379
60.190—60.195 (Subpart S) Authority citation added *44206
60.190 (a) revised *44206
60.191 Revised *44207
60.192 Revised *44207
60.193 Revised *44207
60.194 Revised *44207
60.195 Revised *44207
60.330—60.335 (Subpart GG) Added 52798
60 Appendix A amended 52801
Petition denied *8210
Appendix A amended *41852, 44208
61.02 Revised 55174
61.04 (b)(KK) added 65400
(b)(V) revised *13074
62 Incorporation by reference approval *44090
62.350—62.353 (Subpart C) Added 76281
62.1600—62.1625 (Subpart H) Added 54052
62.1850 (Subpart I) Added *43412
62.2100 (Subpart J) Added *43412
62.4620—62.4623 (Subpart T) Added 54053
62.4850 (Subpart U) Added 54052

Page

62.5100 (Subpart V) Added *43412
62.5350 (Subpart W) Added 54052
62.7350—62.7375 (Subpart EE) Added 54052
62.7600 (Subpart FF) Added 41180
62.8100 (Subpart HH) Added 41180
62.9350—62.9351 (Subpart MM) Added 76281
62.9600 (Subpart NN) Added *43412
62.9850—62.9875 (Subpart OO) Added 54052
62.11350—62.11375 (Subpart UU) Added 54052
62.11600 (Subpart VV) Added *43412
62.11850 (Subpart WW) Added 76281
62.12100 (Subpart XX) Added *43412
62.13100 (Subpart BBB) Added 41180
62.13101 Undesignated center heading and section added *37432
62.13350 (Subpart CCC) Added 41181
62.13351 Undesignated center heading and section added *37432
65.90 Table amended *10342
65.110 Table amended *14569
65.192 Table amended 53747
65.201 Table amended 48676, 48677
65.211 Table amended 48202, 48678, 48679
65.231 Table amended 51980
65.350 Table amended 41782
65.391 Table amended 68830
65.382 Table amended 54057
65.400 Table amended 44501, 46275, 47063, 48679, 53749, 67659
Table amended *4356, 5304, 10345
65.401 Table amended 38476, 38477, 38478, 44500, 46275, 47540, 48203, 48204, 54054–54056, 54482
65.402 Table amended 61962
65.431 Table amended *10341
65.432 Table amended 56698
65.451 Table amended *3035
65.480 Table amended 52207
65.491 Table amended 63103
65.511 Table amended 47061, 47062
65.530 Table amended 61183
65.531 Table amended 41780, 59528, 61184
65.532 Table amended 41779, 41781
65.551 Table amended 68832, 68833
65.552 Table amended 68831
80 Enforcement policy 77161
80.2 (p), (q), and (r) added 46277
Technical correction 47541

Page

80.20 (a)(5) and (b) added 46277
Technical correction 47541
(a)(1)(ii) amended; (a)(6) through (10) added 53146
(a)(1) and (4)(v) suspension clarification 62897
(a)(7) revised *14855, 37198
80.301—80.332 (Subpart D) removed *24363
80.303 (t) and (u) added 39391
80.304 Heading revised; (f) added 39391
81 Heading revised 42685
81.80 Revised *7545
81.268 Added *7545
81.300—81.356 (Subpart C) Clarification of tables 50098, 54057
81.301 Amended 41782
Table revised *39257
81.303 Amended 53083, 54295
81.305 Amended 53082, 65751, 65987, 76787
81.306 Amended 64078, 67380
81.310 Amended 63105
81.311 Revised 70143
81.312 Amended 53084
81.314 Amended *6787
Corrected *42284
81.316 Amended *14574
81.318 Amended 41783, 63105
81.320 Amended *10775
81.321 Amended *21244, 24470
81.322 Amended *2044
Amendment conditional approval continued *32674
81.323 Amended *27936
81.326 Amended *22931
Corrected *27761
81.329 Amended *30071, 35327
81.330 Amended *24877
81.333 Amended 70467
81.334 Amended 48680
81.336 Amended 57930
Amended *8012
81.338 Amended *2045
81.339 Amended *9264, 19555
81.341 Amended *6576
81.343 Amended 63105
Corrected *28337
81.344 Amended *25064
81.346 Amended *10782
81.347 Amended *43413
81.348 Amended 68834
81.400—81.437 (Subpart D) Added 69124

81.417 Table corrected *6103
81.428 Table corrected *6103
85 Heading revised *34806
85.1701—85.1709 (Subpart R) Authority citation revised *13733
85.1702 (a)(5) amended *13733
85.1703 Heading and (a) amended *13733
85.1704 Revised *13733
85.1705 (a), (c), and (d)(3) amended *13733
85.1708 (a) and (b) amended *13733
85.1709 Amended 61962
85.1803 Note added *36398
85.1807 (a)(6)(ii), (b)(1)(i), and (c)(2) amended 61962
85.1801—85.1807 (Subpart S) Appendix A added *36398
85.1906 (a) amended 61962
85.2101—85.2111 (Subpart V) Added; eff. 7-21-80 *34839
85.2201—85.2218 (Subpart W) Added *34806
86 Petition denied *41943
86.077-2 (a) revised; eff. 1-1-84 *4149
86.078-3 (a) amended; eff. 1-1-84 *4149
86.080-12 Added *26045
86.081-1 Added *20403
(d) added *44191
86.081-2 Added *20404
Added *44191
86.081-5 Petitions denied *10783
86.081-8 (a)(1) revised 47884, 53408, 69416
(a)(1) revised *5512, 7138
Revised *14504
(a)(1)(ii) revised *17914
(d) and (e) added *20404
(a)(1)(iii) revised *34718
(a)(1)(ii) revised; eff. 7-14-80 *40030
86.081-9 Revised *14505
(d) and (e) added *20404
86.081-13 Added *44191
86.081-21 Petitions denied *10783
(a) revised *20404
(b)(1)(ii)(A)(1) revised *31720
86.081-22 Petitions denied *10783
(e)(1)(i) and (f) revised *31720
86.081-24 Added *44191
86.081-26 Added *44195
86.081-28 Added *20404
(a)(4) revised; (a)(5) added *44197
86.081-29 Petitions denied *10783
86.081-30 Added *20405
86.081-35 Added *20409

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 40, Chapter I—Continued

Page

86.082–8 Added *14505
(a)(1)(ii) revised; eff. 7–14–80 ..... *40030
86.082–9 Added *14505
86.082–22 Petitions denied *10783
(e)(1)(i) revised *31721
86.082–28 Added *14506
86.084–2 Added; eff. 1–1–84 ..... *4150
86.084–4 Added; eff. 1–1–84 ..... *4150
86.084–5 Added; eff. 1–1–84 ..... *4150
86.084–10 Added; eff. 1–1–84 ..... *4151
86.084–11 Added; eff. 1–1–84 ..... *4151
86.084–21 Added; eff. 1–1–84 ..... *4151
86.084–22 Added; eff. 1–1–84 ..... *4152
86.084–23 Added; eff. 1–1–84 ..... *4154
86.084–24 Added; eff. 1–1–84 ..... *4154
(a)(8), (9) and (10), and (h) added; (g)(1) revised *44197
86.084–25 Added; eff. 1–1–84 ..... *4157
86.084–26 Added; eff. 1–1–84 ..... *4159
(a)(4) revised *44198
86.084–27 Added; eff. 1–1–84 ..... *4161
86.084–28 Added; eff. 1–1–84 ..... *4161
(a)(4) revised; (a)(5) added *44198
86.084–29 Added; eff. 1–1–84 ..... *4162
86.084–30 Added; eff. 1–1–84 ..... *4164
86.084–35 Added; eff. 1–1–84 ..... *4168
86.084–38 Added; eff. 1–1–84 ..... *4169
86.084–39 Added; eff. 1–1–84 ..... *4169
86.085–8 Added *14505
86.085–9 Added *14506
86.085–11 Added; eff. 1–1–84 ..... *4170
86.085–28 Added *14507
86.102 Revised *14508
86.103 Revised *14508
86.104 Redesignated from 86.104–78 ..... *14508
86.104–78 Redesignated as 86.–104 ..... *14508
86.105 Redesignated from 86.–105–78; (a) amended *14508
86.105–78 Redesignated as 86.–105; (a) amended *14508
86.106–82 Added *14508
86.109–82 Added *14509
86.110–82 Added *14509
86.111–82 Added *14513
86.112–82 Added *14515
86.116–82 Added *14515
86.120–82 Added *14515
86.121–82 Added *14516
86.127–82 Added *14516
86.132–82 Added *14516
86.135–82 Added *14517

Page

86.136–82 Added *14517
86.137–82 Added *14518
86.139–82 Added *14519
86.140–82 Added *14520
86.142–82 Added *14523
86.145–82 Added *14523
86.416–80 (d) and (e) added *26045
86.420–78 (b)(11) and (d)(12) removed 48205
86.601 Petitions denied *10783
86.605 (e) amended 61962
(a)(1)(iii)(E) added *14524
86.608 (b) petitions denied *10783
(a) revised *14524
86.609 (a) revised *14524
86.610 (a) revised *14525
86.611 (c) revised *14525
86.613 (c)(1) and (e)(2) amended 61962
86.1001–84—86.1014–84 (Subpart K) Added *4170
86.1301–84—86.1344–84 (Subpart N) Added; eff. 1–1–84 ..... *4181
86.1501–84—86.1544–84 (Subpart P) Added; eff. 1–1–84 ..... *4224
86 Appendix I amended; eff. 1–1–84 ..... *4214
Appendix X added; eff. 1–1–84 ..... *4180
Appendices IX and X amended *14525
87.2 Amended *1421
87.31 (c) revised 64267
87.40—87.42 (Subpart E) Removed *1421
87.50—87.52 (Subpart F) Removed *1421
87.60 Introductory text and (b) revised *1421
87.63 Removed *1421
87.64 (c)(1)(ii)(e) revised *1421
87.65 (e)(7) removed; (e)(8) through (11) redesignated as (e)(7) through (10) *1421
87.90—87.100 (Subpart I) Removed *1421
100 Added *26048
116.4 Tables A and B amended 65400
Table A corrected 66602
117 Added (effective date pending in part) 50776
Partial suspension of effective date 53749
117.3 Table corrected 58712
Amended 65400
117.12 (d)(1) corrected (effective date pending in part) 58910
120.10 Added *9915

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

120.43 Added *21246
122 Revised; eff. in part 7–18–80 ..... *33418
Forms 1, 2b, 2c, and 3 available *33555
122.1 (a) revised *17147
122.5 (a) temporarily suspended in part *14576
122.10 (a) effective date stayed in part 47064
(a) effective date deferred and guidance document availability *17997
(a) technical correction *21635
(a) effective date deferred and guidance document comment time extended *29589, 41418
122.17 (f)(3) added; eff. 7–24–80 ..... *42512
122.18 (c)(4)(ii) revised; eff. 7–24–80 ..... *42511
122.37 (a) revised; eff. 7–24–80 ..... *42511
(b) removed; (c), (d), and (e) redesignated as (b), (c), and (d); new (c)(1) revised; eff. 7–24–80 ..... *42512
122.41 (e) amended; eff. 7–24–80 ..... *42512
123 Revised; eff. in part 7–18–80 ..... *33456
Forms 1, 2b, 2c, and 3 available *33555
123.12 (a) revised *17147
123.62 (b) suspended in part *16182
124 Revised; eff. in part 7–18–80 ..... *33484
Forms 1, 2b, 2c, and 3 available *33555
125 Interpretation 52207
Forms 1, 2b, 2c, and 3 available *33555
125.2 Revised; eff. in part 7–18–80 ..... *33512
125.3 (a) introductory text and (2), (b)(1) and (2), and (c)(1) revised; (c)(4) and (g) added; eff. in part 7–18–80 ..... *33512
125.30 (b) revised; eff. in part 7–18–80 ..... *33512
125.72 (f) revised; eff. in part 7–18–80 ..... *33513
125.92 Revised; eff. in part 7–18–80 ..... *33513
125.95 Revised; eff. in part 7–18–80 ..... *33513

Page

125.100—125.104 (Subpart K) Effective date stayed 47064
Effective date deferred and guidance document availability *17997
Technical correction *21635
Effective date deferred and guidance document comment time extended *29589, 41418
125.104 (c) revised; eff. in part 7–18–80 ..... *33513
141 Incorporation by reference approval *44090
141.2 (p) through (t) added; multiple effective dates 68641
(p) through (t) notification of responsibilities *41140
141.6 Revised; multiple effective dates 68641
Notification of responsibilities *41140
141.12 Introductory text revised; (c) added; multiple effective dates 68641
Introductory text and (c) notification of responsibilities *41140
141.24 Heading, (a) introductory text, and (b) revised; multiple effective dates 68641
Heading, (a) introductory text and (b) notification of responsibilities *41140
141.30 Added; multiple effective dates 68641
(e)(1) and undesignated paragraph and (f)(5) corrected *15545
(f)(4) corrected *15547
Notification of responsibilities *41140
141 Appendixes A, B, and C added 68642
143 Added; eff. 1–19–81 42198
146 Added; eff. 7–24–80 ..... *42500
162.5 (b)(6) redesignated as (b)(7); new (b)(6) added 63749
162.7 (d)(3)(vi) revised 63749
162.31 Table amended 45132
168 Removed *24363
172.20—172.26 (Subpart B) Added 41787
180 Chemical list corrected 51593
Incorporation by reference approval *44090
180.111 Table amended 38844

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 40, Chapter I—Continued

		Page
180.157	Revised	38845
180.169	Table amended	41181, 67117
180.198	Revised	*6104
180.207	Revised	*42619
180.220	(b) table amended	67116
180.225	Table amended	*26331
180.242	(a) table and (b) table amended	*3907
	(a) table amended	*4357
180.253	Table amended	38844, 47934, 67117
	Table amended	*39258
180.261	Table amended	*8981
	Effective date corrected	*17998
180.274	Revised	*29803
180.287	Added	70145
180.297	Revised	*32306
180.303	Table amended	*39504
180.320	Table amended	*33995
180.324	Revised	*41947
180.332	Table amended	45387
180.342	Table amended	59908, 67115
	Table amended	*9742, 17148
180.345	Heading and introductory text revised; table amended	*26049
180.352	Table corrected	*8012
180.364	Table amended	*21247
180.368	Table amended	*12786
180.382	Added	*15929
180.383	Added	*24877
180.384	Added	*27937
180.385	Added	*23425
180.386	Added	*28339
180.390	Added	75639
	Corrected	*17147
180.1001	(d) table amended	*15928
	(d) table corrected	*29802
	(d) table amended	*36399
180.1003	Revised	44845
180.1011	(a)(1) revised	*43721
180.1013	Existing text designated as (a); (b) added	*41419
180.1028	Revised	*22932
180.1041	Added	*31313
180.1042	Revised	*27762
180.1046	Added	*15928
180.1047	Added	*15929
192	Added; interim	*27367
201	Revised; eff. 1-15-84	*1263
204.57-8	(c) revised	54295
205.1—205.5-7	(Subpart A) Partial stay of effectiveness removed	45625
205.50—205.59	(Subpart B) Partial stay of effectiveness removed	45625
205.57-8	(c) revised	54296
205.58-1	Amended	67659
205.200—205.209	(Subpart F) Added; eff. 10-1-80 and 7-1-82	56533
205.201	(a)(10) removed; (a)(11) through (17) redesignated as (a)(10) through (16)	*30631
205.202	(b) amended	*30631
205.205-2	(b)(2), (c)(1)(ii)(A) and (iv) revised	*30631
205.205-4	(b)(3) introductory text revised; text following (b)(3)(iv) amended	*30631
205.207-6	(a) revised	*30631
205.208-4	Removed	*30631
205.200—205.209	(Subpart F) Appendix I amended	*30632
211	Added	56127
211.201—211.214	(Subpart B) Added	56139
211.204-1	(d) revised	*8275
211.204-2	Figure 1 amended	*8275
211.204-4	Introductory text and (b) amended	*8275
211.206-1	(b)(2) revised	*8275
211.206-2	Added	*8275
211.209	(a) introductory text revised	*8275
211.210-1	(a) introductory text revised	*8275
211.210-3	(f) introductory text revised	*8275
211.211	(b) amended	*8275
211.212-1	(c)(5) and (e)(3) revised	*8275
211.212-2	(a) and (e) revised	*8275
211.212-7	(a) and (c) revised	*8275
226	Removed	*24363
227	Interim guidelines	65751
228.12	(a) redesignated as (a) introductory text and amended; (a)(1) through (6) added; interim	*3055
231	Added	58082
	Technical correction	62283
256	Added	45079
256.64	(c) corrected	66196
257	Added	53460
257.2	Corrected	58910
257.3-1	(b)(1) corrected	54708
257.3-3	(c) corrected	54708
257.3-5	(c)(3) corrected	54708
257.3-6	(c)(4) corrected	54708
257.3-7	(a) corrected	54708
260	Added; eff. 8-26-80	*12724
	Revised; eff. 11-19-80	*33073
261	Added; eff. 11-19-80	*33119
262	Added; eff. 8-26-80	*12732
	Revised; eff. 11-19-80	*33142
263	Added; eff. 8-26-80	*12743
	Revised; eff. 11-19-80	*33151
264	Added; eff. 11-19-80	*33221
	Effective date added; technical correction	*34255
265	Added; eff. 11-19-80	*33232
	Effective date added; technical correction	34255
401.15	Added	44502
401.16	Added	44503
	Corrected	52685
402	Incorporation by reference approval	*44090
403	Compliance deadlines extended and interim guidance	*19556
403.13	Effective date stayed	*41420
405.13	Removed	50738
405.17	Added	50738
405.23	Redesignated as 405.27; heading revised; introductory text added	50738
405.27	Redesignated from 405.23; heading revised; introductory text added	50738
405.33	Redesignated as 405.37; heading and introductory text revised	50738
405.37	Redesignated from 405.33; heading and introductory text revised	50738
405.43	Redesignated as 405.47; heading and introductory text revised	50738
405.47	Redesignated from 405.43; heading and introductory text revised	50738
405.53	Redesignated as 405.57; heading and introductory text revised	50738
405.57	Redesignated from 405.53; heading and introductory text revised	50738
405.63	Removed	50738
405.67	Added	50738
405.73	Redesignated as 405.77; heading and introductory text revised	50738
405.77	Redesignated from 405.73; heading and introductory text revised	50738
405.83	Redesignated as 405.87; heading and introductory text revised	50738
405.87	Redesignated from 405.83; heading and introductory text revised	50738
405.93	Removed	50738
405.97	Added	50738
405.103	Removed	50738
405.107	Added	50739
405.113	Removed	50738
405.117	Added	50739
405.123	Redesignated as 405.127; heading and introductory text revised	50738
405.127	Redesignated from 405.123; heading and introductory text revised	50738
406.13	Redesignated as 406.17 and amended	50739
406.17	Redesignated from 406.13 and amended	50739
406.23	Redesignated as 406.27; heading and introductory text revised	50739
406.27	Redesignated from 406.23; heading and introductory text revised	50739
406.37	Added	50739
406.47	Added	50739
406.57	Added	50739
406.63	Redesignated as 406.67; heading and introductory text revised	50739
406.67	Redesignated from 406.63; heading and introductory text revised	50739
406.77	Added	50739
406.87	Added	50739
406.93	Redesignated as 406.97; heading and introductory text revised	50739
406.97	Redesignated from 406.93; heading and introductory text revised	50739
406.103	Redesignated as 406.107; heading and introductory text revised	50739

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 40, Chapter I—Continued

		Page
406.107	Redesignated from 406.103; heading and introductory text revised	50739
407.13	Removed	50740
407.17	Added	50740
407.23	Removed	50740
407.27	Added	50740
407.33	Redesignated as 407.37; heading and introductory text revised	50740
407.37	Redesignated from 407.33; heading and introductory text revised	50740
407.43	Removed	50740
407.47	Added	50740
407.53	Redesignated as 407.57; heading and introductory text revised	50740
407.57	Redesignated from 407.53; heading and introductory text revised	50740
408.13	Removed	50740
408.23	Removed	50740
408.33	Removed	50740
408.40	Suspended in part	*32676
408.43	Removed	50740
408.53	Removed	50740
408.60	Suspended in part	*32676
408.63	Removed	50740
408.73	Removed	50740
408.83	Removed	40740
408.90	Suspended in part	*32676
408.93	Removed	50740
408.103	Removed	50740
408.113	Removed	50740
408.123	Removed	50740
408.133	Removed	50740
408.142	(b) table amended	45946
408.143	Removed	50740
408.153	Removed	50740
408.162	(b)(1) suspended in part	*32676
408.165	(a)(1) suspended in part	*32676
408.172	(b)(1) suspended in part	*32676
408.175	(a)(1) suspended in part	*32676
408.183	Removed	50740
408.193	Removed	50740
408.202	(b)(1) suspended in part	*32676
408.205	(a)(1) suspended in part	*32676
408.213	Removed	50740
408.223	Removed	50740
408.233	Removed	50740
408.243	Removed	50740
408.253	Removed	50740
408.263	Removed	50740
408.273	Removed	50740
408.283	Removed	50740
408.292	(b)(1) suspended in part	*32676
408.295	(a)(1) suspended in part	*32676
408.303	Removed	50740
408.312	(b)(1) suspended in part	*32676
408.315	(a)(1) suspended in part	*32676
408.323	Removed	50740
408.333	Removed	50740
409.13	(a)(1) and (2) revised; (b) removed	50740
409.17	Added	50471
409.23	Removed	50741
409.27	Added	50471
409.33	Removed	50741
409.37	Added	50471
409.62	Revised	64080
410	Incorporation by reference approval	*44090
411.13	Revised	50741
411.17	Added	50741
411.23	Revised	50741
411.27	Added	50741
411.33	Redesignated as 411.37; heading and introductory text revised	50741
411.37	Redesignated from 411.33; heading and introductory text revised	50741
412.17	Added	50741
412.23	Removed	50742
413	Revised	52618
413.01	Corrected	*19246
413.03	(b) corrected	56330
	(b) corrected	*19246
413.12	Technical correction; note corrected	*19246
413.14	(d) corrected	56330
413.20	Corrected	56330
413.22	(a) through (d) corrected; (e) and (f) removed	56331
	Technical correction; note corrected	*19246
413.24	(e) corrected	56331

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

		Page
413.42	(a) through (d) corrected; (e) and (f) removed	56331
	Technical correction; note corrected	*19246
413.52	(a) through (d) corrected; (e) and (f) removed	56332
	Technical correction; note corrected	*19246
413.54	(d) corrected	56332
413.62	(a) through (d) corrected; (e) and (f) removed	56332
	Technical correction; note corrected	*19246
415	Incorporation by reference approval	*44090
415.12	Removed	*31992
415.13	Removed	*31992
415.15	Removed	*31992
418.13	(c) and (d) revised	50742
	(c) corrected	*37199
418.17	Added	50742
	(c) corrected	*37199
418.20	Revised; interim	64081
418.21	Revised; interim	64082
418.23	Revised; interim	64082
418.27	Added	50742
418.67	Added	50742
418.77	Added	50742
422.43	(c) and (d) revised	50742
422.47	Added	50743
422.53	(c) and (d) revised	50743
422.57	Added	50743
422.63	Revised	50744
422.67	Added	50744
423.40	Revised; eff. 7-17-80	*37432
423.41	(b) and (c) removed; (d) redesignated as (b); eff. 7-17-80	*37432
424.13	Revised	50744
424.17	Added	50744
424.23	Revised	50744
424.27	Added	50744
424.33	Revised	50745
424.37	Added	50745
424.43	Revised	50745
424.47	Added	50746
424.57	Added	50745
424.63	Revised	50745
424.67	Added	50746
424.73	Revised	50746
424.77	Added	50746
426.17	Added	50746
426.27	Added	50746
426.37	Added	50746
426.43	Redesignated as 426.47; heading and introductory text revised	50746
426.47	Redesignated from 426.43; heading and introductory text revised	50746
426.53	Table revised	50746
426.57	Added	50746
426.63	Removed	50746
426.67	Added	50746
426.73	Table revised	50746
426.77	Added	50746
426.83	Removed	50746
426.87	Added	50746
426.103	Removed	50746
426.107	Added	50746
426.113	Revised	50747
426.117	Added	50746
	Corrected	*37199
426.123	Revised	50747
426.127	Added	50746
	Corrected	*37199
426.133	Revised	50747
426.137	Added	50746
	Corrected	*37199
427.93	Revised	50747
427.97	Added	50747
430	Incorporation by reference approval	*44090
432.13	Removed	50747
432.17	Added	50748
	Corrected	*37199
432.23	Removed	50747
432.27	Added	50748
	Corrected	*37199
432.33	Removed	50747
432.37	Added	50748
	Corrected	*37199
432.43	Removed	50747
432.47	Added	50748
	Corrected	*37199
432.53	Redesignated as 432.57; heading and introductory text revised	50748
432.57	Redesignated from 432.53; heading and introductory text revised	50748
432.63	Revised	50748
432.67	Added	50749
432.73	Revised	50748
432.77	Added	50749
432.83	Revised	50748
432.87	Added	50749
432.93	Revised	50748
432.97	Added	50749
432.103	Revised	50748
432.107	Added	50748

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 40, Chapter I—Continued

Page

434.11 (i) revised *43414
434.22 (c) temporary suspension in part 39391, 64082
(c) revised 76791
434.25 (b) temporary suspension in part 39391, 64082
(b) revised 76791
434.32 (b) temporary suspension in part 39391, 64082
(b) revised 76791
434.35 (b) temporary suspension in part 39391, 64082
(b) revised 76791
434.42 (b) temporary suspension in part 39391, 64082
(b) revised 76791
434.45 (b) temporary suspension in part 39391, 64082
(b) revised 76791
436.22 (a)(1) table amended; (a)(2) removed; (a)(3) redesignated as (a)(2) and amended 76793
436.32 (a)(1) table amended; (a)(2) removed; (a)(3) redesignated as (a)(2) and amended 76793
440 Incorporation by reference approval *44090
600.207–77 Removed 46846
600.306–80 Added 57360
600.307–80 Added 57360
600.313–77 Removed 46846
600.315–77 Removed 46846
600.315–78 (a)(1)(iv) revised 43721
600.510–80 (a)(3) and (b)(2)(iii) and (vi) republished; (d) and (e) correctly removed 60287
600.513–80 Added 57361
600.601–77—600.613–77 (Subpart G) Removed 46846
710.1 (c) revised *18375
712 Removed; regulations transferred to 762 ..... *43721
761 Incorporation by reference approval *44090
761.10 (f)(1)(iii) added 54297
(b)(2)(iii)(B) and (iv)(B) revised; (b)(2)(v) and (vi) added *20475
762 Revised *43721
762.11 (a)(3) and (b)(3) added 54298
(a)(3) and (b)(3) technical correction 55572
762.12 (a)(3) and (b)(3) added 54298
(a)(3) and (b)(3) technical correction 55572
762.13 (c) added 54298
(c) technical correction 55572
762.22 Added 54298
(a) technical correction 55572
(b) added 54299
775 Added *15547, 15599
Comment time shortened and hearing *26331, 26386
Added; final *32686

Chapter V—Council on Environmental Quality

1500 Request for comments *28339
1501 Request for comments *28339
1502 Request for comments *28339
1503 Request for comments *28339
1504 Request for comments *28339
1505 Request for comments *28339
1506 Request for comments *28339
1507 Request for comments *28339
1508 Request for comments *28339
1510 Revised *17837

Title 40—*Proposed Rules:*

1—762 (Ch. I) 40900, 43755, 54676, 55322, 63552, 65601, 65612, 69978
..... *52, 3316, 13476
1—775 (Ch. I) *16332, *26722, 44106
6 68776
30 ..... *23706
35 ..... 38575, 60335
..... *30374
40 56955
50 ..... 47959, 56730
..... *6958, 6959
51 ..... 40359, 42722, 46481, 51924, 54069, 55395, 56957, 57107, 65084, 67675, 69116, 77199
..... *6120, 6802, 21590, 30088, 34762, 37466
52 ..... 38578, 38580, 38581, 38583, 38587, 38912, 39234, 39480, 39484, 39485, 40078, 40360, 40361, 40655, 40901, 41253, 41254, 41258, 41264, 41488, 41836, 42242, 42246, 42722, 42726, 43298, 43302, 43306, 43490, 43495, 43756, 44555, 44556, 44564, 44904, 44907, 44908, 44912, 45194, 45203, 45204, 45210, 45420, 45647, 46481, 46482, 46892–46895, 47350, 47557, 47559, 47777, 47959, 48988, 49702, 50066, 50371, 50619, 50620, 51830, 51924, 52263, 52271, 53183, 53761, 54069, 54070, 54500, 54734, 55210, 55395, 55396, 55602, 56716, 56717, 56721,

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564, 60339, 60758, 61055, 61211, 61384, 61978, 62296, 63114, 64439, 65084, 65408, 65613, 65614, 65781, 65790, 65791, 66214, 67182, 67674, 67675, 69683–69685, 70486, 70754, 70776, 71847, 72199, 72614, 72615, 74861, 75187, 75671, 76307, 76308, 76311, 76827
..... *52, 1108, 1429, 1643, 2054, 2351, 3331, 3333, 3603, 3928, 3929, 4365, 6121, 6417, 6802, 6804, 7821, 8027, 8313, 8669, 8670, 9012, 9749, 9750, 9752, 9953, 10378, 10815, 10817, 11855, 12266, 13132, 14072, 14606, 14885, 14886, 15192, 15586, 15591, 16207, 16502–16504, 17043, 17044, 17048, 18035, 18407, 19277, 19278, 19566, 19570, 20119, 20122, 20432, 21266, 21271, 21282, 21290, 21292, 21297, 21590, 22981, 22982, 22987, 23473, 24509, 25087, 25093, 26101, 26368, 26721, 26983, 27454, 27456, 27787, 27957, 28170, 28371, 28380, 29312, 29313, 29595, 29596, 29864, 30089, 30090, 30456, 30654, 30655, 32333, 32337, 32743, 33656, 34018, 34917–34921, 35839–35841, 37224, 37699, 38419, 39310, 40167, 40169, 40623, 41016, 41018, 41983, 42335, 42338–42340, 42689, 43228–43231, 43440, 43794
55 ..... 56721, 58759
58 ..... *21301, 28170, 43232
59 ..... *21590
60 ..... 43152, 47778, 54072, 54970, 57792, 58602, 60759, 60761, 62914, 67934, 67938, 75408
..... *2790, 3333, 7758, 11444, 13991, 21302, 26304, 26910, 39766
61 ..... 58642, 58662, 61620, 70196
..... *6960, 13476, 25828, 26660, 34315
62 ..... 57118, 57948
..... *3334
65 ..... 38603, 44572, 47111, 47960, 51830, 54322, 54507, 55396, 60109, 60110, 62543, 65410, 65411, 65615, 66624, 66849, 67183, 69685, 71436
..... *22987, 26902, 28171
80 ..... *14899, 37225
81 ..... 38585, 38587, 39486, 40078, 40901, 41489, 42726, 45210, 45650, 45970, 47778, 48285, 48723, 49703, 52263, 52850, 53546, 53547, 54500, 55602, 57942, 58758, 58922, 60341, 61384, 62545, 65791, 66850, 69685, 70486
..... *1647, 3333, 6418, 7582, 8670, 9012, 11140, 13476, 14072, 14886, 17044, 17596, 20432, 20501, 24510, 27957, 28171, 28767, 30091, 34020, 41018
85 ..... 46686, 62915
..... *6960
86 ..... 40784, 46296, 47113
..... *5988, 6012, 9753, 14079, 27788, 27958, 28922, 36437, 38422
87 ..... 41837, 66850
..... *6962
112 ..... *33814, 40174
116 50783
117 50783
120 ..... 39486, 45651, 57428, 59565, 67442
122 ..... 40905, 50780, 56957
..... *26984
123 ..... 40905, 49275
..... *6752, 26984
124 40905
..... *26984
125 ..... *9548, 14231, 21303
136 ..... 69464, 75028
..... *6958, 15950
141 42246
146 ..... 40532, 40905, 52851
162 ..... 45218, 46303, 46414, 54508, 55019, 57429, 61621, 76311
..... *26370, 38087, 39311, 39848
163 ..... *26373, 27958
167 ..... *29597
169 75188
..... *27790, 29597, 41024
172 43322
173 ..... *40175
180 ..... 49276, 53183, 54510, 66216, 66217, 70777
..... *2058, 2351, 2352, 3938, 7821, 7822, 12855, 18990, 19282, 20122, 25100, 27958, 28172, 29597, 32338, 32744, 36438, 36439, 37700, 40175, 41171
192 ..... *27370, 41459
201 ..... 54222, 63552, 72615
228 ..... *36099
230 ..... 54222, 63552, 72615
250 ..... 49277, 49278, 49402, 54323, 56724, 58923, 67445, 76827
..... *2059, 9755, 14232
257 ..... 53465, 65615
258 ..... *30095
261 ..... *33136
264 ..... *33260
265 ..... *33260, 33280
401 ..... *803, 6632, 21655, 26734
403 62260
..... *3063, 12445
410 ..... 62204, 69687
..... *53, 806

Note: Symbol (*) refers to 1980 page numbers

60-145 O - 80 - 7

Title 40—*Proposed Rules*—Continued

Page

414 ..... 47113, 55400
416 ..... 47113, 55400
419 75926
..... *11141, 14900, 26721
425 ..... 38746, 55401, 69688
..... *53, 14607, 24211
428 75016
429 62810
..... *53
430 ..... *15952
446 ..... *912, 8028, 23707
447 ..... *928, 8026, 16208
454 68710
..... *53, 3335, 3604
540 ..... *806
600 57362
702 ..... *43148
707 ..... 56856, 60763
710 60763
712 ..... *13646, 23473, 26386, 28172, 28176
713 ..... 59106, 64844, 67183
716 77470
..... *16209, 17597
720 59764
761 ..... *25828
775 ..... *26386
761 ..... 42727, 66851, 68489
..... *14232, 30989
763 ..... 60061, 73127
770 44054
771 44054
772 44054
774 ..... 54284, 67183
..... *6632
775 ..... *15592, 26386
1500—1517 (Ch. V) *1429
1500 39236
1510 39236

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

Chapter 1 Policy directives *30633, 31028, 31034, 31035
1-1.318 Revised *10789
1-1.318-1 Revised *10789
1-1.318-2 Revised *10789
1-1.318-3 Added *10789
1-1.318-4 Added *10789
1-1.318-5 Added *10790
1-1.318-6 Added *10790
1-1.318-7 Added *10790
1-1.318-8 Added *10790
1-1.322 Removed *10790
1-1.328 Added *10790

Page

1-1.713-2 (d) revised *8602
1-2.406-4 Revised *10791
1-3.605-2 (b)(1) revised *10791
1-3.807-2 (d) added *8602
1-3.807-3 (d)(4) revised *8602
1-4.410-5 (a)(9) revised; (a)(12) removed *10791
1-7.102-12 Revised *10791
1-7.102-22 Removed *10792
1-7.202-34 Removed *10792
1-7.302-32 Removed *10792
1-7.402-35 Removed *10792
1-7.602-6 Revised *10792
1-7.602-35 Removed *10792
1-15.205-6 (a)(1) and (5), (d), (f), and (g) revised; (k) added *10787
1-15.300—1-15.303 (Subpart 1-15.3) Revised *3297
1-15.303 Cir. No. A-21 corrected *39848
1-15.800—1-15.809-5 (Subpart 1-15.8) Removed *3311
1-16.101 (c) revised *10792
1-16.401 (a)(2) and (h) revised *10792
1-16.404 (d) removed *10792
1-16.701 (b) revised *10792
1-16.703 (c) removed *10793
1-1—1-30 (Chapter 1 Appendix) Temporary reg. 50 added 38478
Temporary reg. 51 added 41431
Temporary reg. 46 amended 52208
Temporary reg. 52 added 60995
Temporary reg. 43 removed *10787
Temporary reg. 49 amended *13734
Temporary reg. 45 amended *13735
Temporary reg. 53 added *23688
Temporary reg. 48 amended *27762
Temporary reg. 50, sup. 1 added *28716
Temporary reg. 50, sup. 2 added *35809
Temporary reg. 54 added *35814
Temporary reg. 55 added *35815
Temporary reg. 54 corrected *39504

Chapter 3—Department of Health, Education, and Welfare

3-1.327 Added *15177
3-1.327-1 Added *15177
3-1.327-4 Added *15178
(b) revised; (c) amended *31721
3-1.327-5 Added *15178
(a) amended *31721
3-1.356 Added *25395

Note: Symbol (*) refers to 1980 page numbers

Page

3-1.357 Added *32307
3-1.358 Added *36400
3-1.5301—3-1.5304 (Subpart 3-1.53) Removed *25393
3-2.403—3-2.407-8 (Subpart 3-2.4) Nomenclature change *25393
3-2.406-4 (d) and (e) redesignated as (b) and (d); new (b) amended *25393
3-2.407-8 (c)(2) amended; (3) added *25393
3-3.200—3-3.215 (Subpart 3-3.2) Revised *25394
3-3.303-52 (a)(7) removed; (a)(8) redesignated as (a)(7) *15547
3-3.405-5 (c) revised *15547
3-3.802-50 Removed *7546
3-3.5300—3-3.5309 (Subpart 3-3.53) Added *7546
3-4.906—3-4.913 (Subpart 3-4.9) Added *33995
3-4.5100 Amended *37693
3-4.5101 (c) revised *37693
3-4.5200—3-4.5203-4 (Subpart 3-4.52) Removed *33995
3-7.5026 Added *25396
3-7.5027 Added *32307
3-7.5028 Added *36400
3-16.5112 Revised *5702
3-26 Removed 55006
3-55 Removed *5702
3-56.301 (a) rescinded 44845

Chapter 3—*Proposed Rules:*

3-1—3-57 (Ch. 3) *24211
3-1 ..... 63115, 67183, 67185
3-4 ..... *20983
3-7 ..... 63115, 67185

Chapter 4—Department of Agriculture

4-1.713 Republished *11129
4-1.713-1 Added *11129
4-1.713-2 Revised *11129
4-1.713-50 Added *11130
4-1.1300—4-1.1302-4 (Subpart 4-1.13) Revised *11130
4-12.800—4-12.810 (Subpart 4-12.8) Revised *20475
4-16.804—4-16.804-5 (Subpart 4-16.8) Removed *20476

Chapter 4—*Proposed Rules:*

4-1—4-50 (Ch. 4) 65832
..... *32192

Chapter 5—General Services Administration

Page

5-1.600—5-1.607 (Subpart 5-1.6) Added *15548
5-1.710—5.1.710-53 (Subpart 5-1.7) Added *29575
5-1.1205-2 (Subpart 5-1.12) Added *29574

Chapter 5A—Office of Acquisition Policy, General Services Administration

5A-1.352-2 (c), (e), (f) introductory text and (3) revised; (d) amended *17581
5A-1.602—5A-1.605 (Subpart 5A-1.6) Removed *15550
5A-1.1205-2 (c) removed *29575
5A-2.201-73 Revised *17581
5A-2.407-84 (c)(1) through (7) and (d) heading, and (1) through (4) and (e) revised *17582
5A-3.202 (b) revised *17582
5A-16.950-1171 Revised *17582
5A-73.217-4 (a) amended; (b) revised *30633

Chapter 5B—Office of Acquisition Policy, General Services Administration

5B-1.318 Revised *29576
5B-1.318-1 Removed *29576
5B-1.371 Added *29576
5B-1.600—5B-1.607-52 (Subpart 5B-1.6) Removed *15550
5B-2.202-80 Removed *29576
5B-2.203-2 (a) revised *29576
5B-7.601 Removed *29576
5B-7.601-70 Removed *29576
5B-7.602-70 Revised *29576
5B-16.401 Revised *29577
5B-16.402 Revised *29577
5B-16.402-1 Revised *29577
5B-16.402-2 Revised *29577
5B-16.402-3 Revised *29577
5B-16.901-19B Removed *29577
5B-16.950-1085 Removed *29577

Chapter 7—Agency for International Development, International Development Cooperation Agency

Chapter 7 Heading revised *13074
7-7.5001-9 (b)(1)(i) and (iv) revised 39162

Note: Symbol (*) refers to 1980 page numbers

Title 41, Chapter 7—Continued

	Page
7-7.5001-19 Revised	39162
7-7.5002-4 Revised	39163
7-7.5401-5 Revised	39163
7-7.5401-23 Revised	39163
7-7.5402-11 Added	39164
7-7.5501-8 (b)(1)(i) and (iii) and (3)(ii) revised	39164
7-7.5501-18 Revised	39164
7-7.5502-16 Revised	39165
7-13 Removed	39165

Chapter 8—Veterans Administration

8-1.302-1 (a), (c), and (d) revised	*13075
8-3.203 (c) added	*16183
8-3.204 (e) introductory text, (5), and (f)(2) amended; (g) revised	*16183
8-3.602 Revised	*14044
8-3.603-2 Introductory text and (a) revised	*14044
8-3.604-6 Revised	*14044
8-3.605-3 (a) revised; (d) added	*14045
8-3.607-50 Revised	*14045
8-3.705 Revised	*7813
8-3.801-2 (b) revised	*7813
8-3.801-3 Revised	*7813
8-3.805-1 Removed	*7813
8-3.807-3 Heading, (b), (c) and (d) introductory text revised	*7813
8-3.809 Revised	*7814
8-3.813 Revised	*7814
8-4.605 Removed	*13075
8-4.1050 (b) revised	59529
8-4.1051 Added	59529
8-4.5102 (b) and (c) and footnote 1 revised	59529
8-4.5104 Revised	59529
8-4.5200—8-4.5205 (Subpart 8-4.52) Added	*16183
8-4.5300—8-4.5303 (Subpart 8-4.53) Added	*16184
8.4 Appendixes A and B added	*16184
8-5.5001 Revised	*7814
8-5.5002 (c) revised	*7814
8-5.5003 Added	*7814
8-7.150-23 Amended	*15930
8-7.650-14 (a) and (b) amended	*14045
8-7.650-21 Amended	*15930
8-8.206 Revised	*7814
8-8.207 Revised	*7815
8-8.211-1 Revised	*7815
8-8.211-2 (a) and (b) revised	*7815
8-11.203 Revised	*9266
8-11.250 Heading revised	*9266
8-11.250-1 Revised	*9266
8-11.250-2 (e) revised	*9266
8-11.250-3 Revised	*9266
8-11.250-4 (a) revised	*9266
8-11.251 Added	*9266
8-11.501 Added	*9266
8-11.502 Added	*9267
8-11.502-1 Removed	*9267
8-11.502-2 Added	*9267
8-18.202 Amended	*14045
8-18.203-1 Removed	*14045
8-52.106 (b) revised	*13075
8-75.101 (a) revised	*3036
8-75.201-1 Removed	*3036
8-75.201-6 Revised	*3036
8-75.201-7 Revised	*3036
8-75.201-9 Added	*3036
8-75.201-12 (a) revised	*3036
8-75.201-13 (a), (b), (c), and (d) revised	*3036
8-75.201-16 Revised	*3037
8-76 Added	*8981

Chapter 8—*Proposed Rules:*

8-4	*28767
8-7	61396, 68491
8-18	68491

Chapter 9—Department of Energy

9-1.700—9-1.751 (Subpart 9-1.7) Added	*24377
9-1.800 Added	*24379
9-1.804 Added	*24379
9-1.805 Added	*24379
9-1.807 Revised	*24379
9-1.1300—9-.1310 (Subpart 9-1.13) Added	*24379
9-1.5407 Amended	*24380
9-3.404-50 (a) removed	*24380
9-3.603-2 Added	*24379
9-7.103-51 Revised	*942
9-7.103-57 Added	*24379
9-7.203-21 Added	*942
9-7.203-58 Added	*24379
9-7.303-7 Added	*942
9-7.303-57 Added	*24379
9-7.402-25 Added	*942
9-7.403-50 Redesignated from 9-7.403-70	*24381
9-7.403-51 Redesignated from 9-7.403-71	*24381
9-7.403-52 Redesignated from 9-7.403-72	*24381
9-7.403-53 Redesignated from 9-7.403-73	*24381
9-7.403-54 Redesignated from 9-7.403-74	*24381
9-7.403-55 Added	*24379
9-7.403-70 Redesignated as 9-7.403-50	*24381
9-7.403-71 Redesignated as 9-7.403-51	*24381
9-7.403-72 Redesignated as 9-7.403-52	*24381
9-7.403-73 Redesignated as 9-7.403-53	*24381
9-7.403-74 Redesignated as 9-7.403-54	*24381
9-7.603-60 Added	*943
9-7.603-60 Added	*24380
9-7.703.52 Added	*24380
9-7.803-56 Added	*24380
9-16.5002-1 Appendix B amended	*24380
9-16.804-4 Revised	*24380
9-50.104 Added	*24380
9-50.303 (c)(1) amended	*24381
9-50.304 (c)(2)(iv) added	*24381
9-50.704-48 Removed	*24381
9-50.1002-1 Amended	*24381
9-50.1003-1 Amended	*24381

Chapter 9—*Proposed Rules:*

9-1	67330
9-3	67330
9-7	57119
9-16	67330
9-50	67330

Chapter 12—Department of Transportation

12-60 Revised	43721

Chapter 12—*Proposed Rules:*

12-1—12-99 (Ch. 12)	*12260, 13312

Chapter 14—Department of the Interior

14-1.006-1 Revised; eff. 7-11-80	*39505
14-1.006-2 Revised; eff. 7-11-80	*39505
14-1.008 (c) introductory text revised; eff. 7-11-80	*39505
14-1.009-2 Revised; eff. 7-11-80	*39505
14-1.010 Revised; eff. 7-1-80	*39505
14-1.205 Revised; eff. 7-11-80	*39505
14-1.206 Revised; eff. 7-11-80	*39505
14-1.354 Added	62513
Effective date corrected	63529
14-1.701-50 Revised; eff. 7-11-80	*39505
14-2.201 Removed; eff. 7-11-80	*39506
14-2.201-50 Removed; eff. 7-11-80	*39506
14-3.150 (f)(1) and (2) revised; (f)(3) added; eff. 7-11-80	*39506
14-7.650-6 Removed	62514
Removal effective date corrected	63529
14-7.5002 Added	62514
Effective date corrected	63529
14-7.5003 Added	62514
Effective date corrected	63529
14-10.451 (f) removed; (h) revised; (i) added	*17007

Chapter 14—*Proposed Rules:*

14-3	*27793

Chapter 14H—Bureau of Indian Affairs, Department of the Interior

Chapter 14H—*Proposed Rules:*

14H-1—14H-70 (Ch. 14H)	42701
	*7106

Chapter 14R—Office of Saline Water, Department of the Interior

14R-9 Revised	*31066

Chapter 14R—*Proposed Rules:*

14R-9 (Ch. 14R)	42701
	*7106
14R-9	39201

Chapter 15—Environmental Protection Agency

15-7.150-5 Added	65588

Chapter 18—National Aeronautics and Space Administration

Chapter 18 Policy directives	*30633, 31028, 31034, 31035
1.113-1 (a) revised	41184
1.116 Added	*43740
1.304-2 (b)(1) revised	*43732
1.309-3 (c) removed	48209
1.314—1.314-4 Revised	*43740
1.330 (c)(3) and (4) revised	41184
1.332-3 (c) amended	41184
1.701-1 (d)(17) added	41185
(a)(1) amended	*43732

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 41, Chapter 18—Continued

	Page
1.703 (b) introductory text revised	*43732
1.704–3 Amended	*43732
1.705–4 Revised	*43734
1.705–5 (c)(2)(H)(ii) revised	41185
(c)(2) amended	*43723
(c)(1) amended	*43734
1.706–1 Revised	*43735
1.706–3 Amended	*43735
1.2302–1 Amended	41185
1.5403 Revised	*43724
1.5404 Revised	*43724
2.201 Revised	41186
2.201–1 Revised	41187
3 Table of contents amended	*43742
3.213–4 Revised	41185
3.402 (a)(1) amended	*43742
3.404–3 (c) and (d) revised; (e) added	*43742
3.405–6 (c)(2) amended	*43744
3.500—3.501 (Subpart 5) Revised	41190
3.501 (b)(3) and (c) amended	*43724
3.801–2 (c) amended	*43744
3.801–5 (a) and (b)(1)(D) revised; (b)(2), (9), (10) and (12) amended	*43744
3.806 (b) amended	*43745
3.807—3.807–12 Revised	*43745
3.809 (d)(iii)(C) revised	*43753
3.811 (a) amended	*43753
3.812 Amended	*43753
3.854–3 (a) and (b) amended	41185
3.1203 (a) revised	*43724
3.1204–1 Revised	*43724
(a)(i) amended	*43753
3.1204–2 Revised	*43725
3.1208 (a) amended; (c) revised	41185
(a) amended	*43725
3.1210 (c) revised	*43725
3.1213 (a) revised	*43726
3.1300–1 (b) revised	48212
3.1300–7 (a) amended	*43753
4.401–4.403 (Subpart 4) Removed	*43736
4.900—4.915 (Subpart 9) Added	*43736
4.5200—4.5206 (Subpart 52) Revised	48209
5.501 (b) revised	48211
5.503 (b)(ii) and (iii) revised	48211
5.902–1 (b)(ii) and (iii) revised	48211
5.1002–1 (d) amended	48211
5.1002–2 Revised	48211
6.206 Revised	48211
7 Table of contents amended	*43753
7.103–2 Amended	*43753
7.103–12 Revised	*43741
7.104–24 Revised	*43729
7.104–28 Added	*43753
7.104–41 Revised	*43754
7.104–42 Revised	*43754
7.104–43 Added	*43755
7.104–45 (b) amended	48212
(b) and (c) amended	*43729
7.104–54 Amended	*43739
7.104–55 (a)(2) revised; (b) amended	*43729
7.104–60 Revised	48212
7.104–96 Added	48212
7.106–1 Amended	*43756
7.106–2 Amended	*43756
7.106–3 Amended	*43756
7.106–4 Amended	*43756
7.108–1 Clause date amended; (d)(4), (g)(1), (2), (4), and (5) revised	48212
Amended	*43756
7.108–2 Clause date amended; (d)(5), (i)(1), (2), (4), and (5) revised	48213
Amended	*43756
7.109–2 (b) amended	48213
(b) amended	*43756
7.109–3 (b) amended	48214
(b) amended	*43756
7.203–2 Amended	*43756
7.203–4 (a) and (b) amended	48214
(c)(5)(iv) amended; (c)(8) and (9) added	*43729
7.203–21 Revised	*43730
7.203–30 Added	48214
7.204–33 (a) amended	48215
(a) and (b) amended	*43730
7.303–35 Added	48215
7.303–60 Revised	48215
7.303–91 Added	48215
7.304–1 Amended	*43756
7.350–22 Added	48215
7.402–31 Added	48215
7.403–44 Added	48215
7.404–1 Amended	*43756
7.451–3 Revised	*43730
7.451–25 Revised	*43730
7.451–31 Added	48215
7.452–53 Amended	41185
7.453–1 Amended	*43756
7.460–3 Revised	*43730
7.460–23 Added	48215
7.607–5 Revised	*43741
7.702–60 Added	48215
7.703–51 Added	48215
7.704–39 Added	48215
7.706–27 Added	48215
7.901–2 Amended	*43756
8.206 (c)(xv) amended	*43757
8.702 (a) amended	41185
10.103–1 (a) amended	41185
10.103–2 (a) amended	41185
13.119 Removed	*43730
13.201 (a) designation added	41185
13.202 (a)(v)(A) revised	41185
13.202–2 (d) revised	41185
13.212–1 Amended	*43757
13.408 Heading and (b) revised; (c) and (d) added	41185
13.702 Revised	*43730
(b) introductory text revised	*43757
13.703 Revised	*43730
Amended	*43739
13.706 Revised	*43730
13.707 Revised	*43730
13.709 Revised	*43730
13.710 Amended	41186
Revised	*43730
15 Table of contents revised	*43730
15.203 (e) revised	48215
15.204 (c) amended	*43757
15.205–6 (f) through (k) revised	48215
15.205–9 (b) through (h) redesignated as (c) through (i); new (b) and (j) added	48216
15.205–16 (a)(2)(iii), (iv), and (v) redesignated as (a)(2)(iv), (v), and (vi); new (a)(2)(iii) added	48216
15.205–22 (e)(i) and (ii) revised	*43757
15.205–32 Revised	48217
15.205–34 Revised	48217
15.205–41 (a)(iii), (iv), and (v) revised	48217
15.205–48 (a), (b)(4), and (c)(2) revised; (b)(3) amended	48218
15.206 Revised	48218
16 Table of contents amended	*43757
16.001 (a) and (b) amended	*43739
(c) amended	*43757
16.202—16.202–3 Revised	*43757
20.203–4 Revised	48211
20.401–1 (b) amended	48211
20.604 (d)(xxxv) and (xxxvi) Added	48218
20.903 Revised	48219
20.904 Revised	48219
20.1000—20.1007 (Subpart 10) Added	48219
20.5004 (a) amended	41186
20.5105 (b) amended	41186
23 Table of contents amended	*43757
23.106 (b) and (c) amended	41186
23.150 Revised	41186
23.202 (b)(ii) amended; (d) added	*43757
23.203 (a)(ii) amended	*43757
1—52 (Chapter 18) Appendix J amended	41186
Supplement 2 amended	*43731
Appendixes B and C amended	*43739
Appendix E amended	*43757
20—52 (Vol. III) PRD 77–3 removed	41181
PRD 78–14 added	41181
PRD 78–15 added	41182
PRD 79–2 added	48205

Chapter 24—Department of Housing and Urban Development

Chapter 24—*Proposed Rules:*	
24–1	71438
	*1109

Chapter 25—National Science Foundation

Chapter 25—*Proposed Rules:*	
25–1—25–50 (Ch. 25)	56367
	*39871

Chapter 28—Department of Justice

28–1.205 (a)(1) amended	61346
28–1.404–50 (a)(1) amended	61346
28–1.404–51 (c) amended	61346
28–1.405 Amended	61346

Chapter 29—Department of Labor

29–70 Added	42923
Authority citation corrected	48972
29–70.101 (g)(3) corrected	48972
29–70.102 (a) corrected	48972
29–70.200 (a)(1) and (2) corrected	48972
29–70.202b–3 Corrected	48972
29–70.207–2 (e) heading corrected	48972
29–70.208–2 (c) corrected	48972
29–70.210–2 (b)(2) corrected	48972

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Note: Symbol (*) refers to 1980 page numbers

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 41, Chapter 29—Continued

Page

29–70.214–4 (a)(1) introductory text corrected ... 48972
(c) corrected ... 48973
29–70.214a Introductory text, (a)(5), (b)(5), (11), and (22) corrected ... 48973
29–70.215–2 (c) corrected ... 48973
29–70.216–4 (a)(1) corrected ... 48973
29–70.216–5 (b)(2)(iii) corrected ... 48973
29–70.216–6 (f)(1)(vi) corrected ... 48973
29–70.216–8 (c)(1)(i), (3)(i), and (d)(5) corrected ... 48973
29–70.216a–1 (b) corrected ... 48973

Chapter 44—Federal Emergency Management Agency

Chapter established; interim ... 70424
44–1 Added; interim ... 70424
44–2 Added; interim ... 70429
44–3 Added; interim ... 70432
44–4 Added; interim ... 70437
44–7 Added; interim ... 70437
44–11 Added; interim ... 70444
44–13 Added; interim ... 70444
44–15 Added; interim ... 70445
44–16 Added; interim ... 70446
44–30 Added; interim ... 70446

Chapter 50—Public Contracts, Department of Labor

50–204 Incorporation by reference approval ... *44090

Chapter 51—Committee for Purchase from the Blind and Severely Handicapped

51–3.2 (j) and (k) revised ... *10345
51–3.6 Added ... *10345
51–4.2 (a)(3), (b), and (c) redesignated as (b), (c), and (d) and revised ... *10345
(c) corrected ... *16488
51–4.3 (a)(4), (7), and (8) revised ... *10345

Chapter 51—*Proposed Rules:*

51–1—51–8 (ch. 51) ... 69308
51–3 ... 55911
51–4 ... 55911

Chapter 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor

Page

60–1.26 (a)(2) revised ... *9272
60–1.33 Added ... 77002
60–1.34 Added ... 77002
60–2.14 Redesignated as 60–2.15; new 60–2.14 added ... 77003
60–2.15 Redesignated from 60–2.14 ... 77003
60–3 Interpretation ... *29530
60–30.5 (a) revised ... 49691
60–30.31—60–30.37 Undesignated center heading and sections added ... 77003
60–250.2 Amended ... *9272
60–250.29 (b)(1) revised ... 49691
60–741 Incorporation by reference approval ... *44090
60–741.2 Amended ... *9272
60–741.29 (b)(1) revised ... 49691

Chapter 60—*Proposed Rules:*

60–1 ... 77006
... *4954, 11856
60–2 ... 77006
... *11856
60–4 ... 52283
60–20 ... 77006
... *7514, 11856, 16501, 36431
60–30 ... 77006
... *11856
60–50 ... 77006
... *11856
60–60 ... 77006
... *11856
60–250 ... 77006
... *11856
60–741 ... 77006
... *11856

Chapter 101—Federal Property Management Regulations

101–7 Incorporation by reference approval ... *44090
101–1—101–7 (Subchapter A Appendix) Temporary reg. A–13 added ... 59192
Temporary reg. A–11 amended; effectiveness expires in part 12–31–80 ... *27437
Temporary reg. A–11 corrected ... *29294

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

Temporary reg. A–14 added ... *31314
Temporary reg. A–11 corrected ... *37199, 37433
101–11.102–6 Revised ... *5705
101–11.401 Revised ... *5705
101–11.401–1—101–11.401–5 Removed ... *5705
101–11.402 Added ... *5705
101–11.403 Revised ... *5705
101–11.403–1 Revised ... *5705
101–11.403–2 Revised ... *5705
101–11.403–3—101–11.403–4 Removed ... *5705
101–11.404 Revised ... *5705
101–11.404–1 Revised ... *5705
(a)(1) corrected ... *37433
101–11.404–2 Revised ... *5706
101–11.404–3 Added ... *5707
101–11.405—101–11.405–5 Added ... *5707
101–11.406—101–11.406–6 Revised ... *5707
101–11.406—101–11.406–9 Revised ... *5707
101–11.406–7—101–11.406–9 Revised ... *5708
101–11.407—101–11.409–3 Revised ... *5709
101–11.409–4—101–11.410–2 Revised ... *5710
101–11.410–3—101–11.410–7 Revised ... *5711
101–11.410–8 Revised ... *5712
101–11.412—101–11.412–2 Revised ... *5712
101–11.412–3 Revised ... *5713
101–11.412–4 Removed ... *5712
101–11.1304 (b)(1) revised ... 60740
101–11.4930–282 Added ... 60740
101–11—101–13 (Subchapter B Appendix) Temporary reg. B–5 added ... 56699
Temporary reg. B–3 amended ... *6104
101–17.001 Revised ... *37200
101–17.002 Revised ... *37200
101–17.003–33 Added ... *37203
101–17.003–34 Added ... *37203
101–17.003–35 Added ... *37203
101–17.003–36 Added ... *37203
101–17.101 (a), (b)(1) and (4) revised ... *37203
101–17.101–1c Removed ... *37203
101–17.102–1 (b) revised ... *37203
101–17.4700—101–17.4702 (Subpart 101–17.47 Added ... *37203
101–18.001 Revised ... *37206

Page

101–18.100 (d) revised; (f) and (g) removed ... *37206
101–19.001 Revised ... *37206
101–19.002 (a) revised; (b) removed ... *37206
101–19.100 (c)(1), (2), (f)(1) and (4) revised ... *37206
101–19.607 Revised ... 39393
101–19.4902 (b) revised ... 39393
101–19.4902–2974 Revised ... 39393
101–19.4902–2974A Added ... 39393
101–20.103 Revised ... *22932
101–20.105 Introductory text and (a) revised ... *29932
101–20.500 Revised ... 49453, 60995
101–20.501 Revised ... 49453
101–20.502 Revised ... 49453
101–20.503–1 Revised ... 49454
101–20.503–3 Added ... 49454
101–20.504–1 Revised ... 49454, 60995
101–20.504–2 Revised ... 60995
101–20.504–3 Added ... 60996
101–20.504–4 Added ... 60996
101–20.504–5 Added ... 60996
101–21.401 Revised ... *22933
101–21.604 (h) added ... *22933
101–17—101–21 (Subchapter D Appendix) Temporary reg. D–65 added ... 53162
101–25.114 Added ... *41947
101–25.501–3 Revised ... *41948
101–26.102–4 Revised ... *41947
101–26.107 Added ... 47935
(a) introductory text, (1)(iii) and (v), and (2)(ii) and (iii) revised ... *17008
101–26.304 Revised ... *27764
101–26.401 (c) added ... *31992
101–26.401–4 (f) added ... 55872
101–26.803–1 (a) introductory text revised ... *31315
101–27.502 Introductory text and (a) revised ... 39393
101–27.503–2 Revised ... 39394
101–27.505 (b) revised ... 39394
101–28.308 Added ... *17008
101–28.308–1 Added ... *17008
101–28.308–2 Added ... *17008
101–28.308–3 Added ... *17008
101–28.308–4 Added ... *17008
101–28.308–5 Added ... *17009
101–28.308–6 Added ... *17009
101–28.308–7 Added ... *17009
101–29.302 Revised ... 58910
101–29.303 Added ... 58910

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Title 41, Chapter 101—Continued

Page

101–25—101–34 (Subchapter E Appendix) Temporary reg. E–184 added ... 50340
Temporary reg. E–68 added ... 59530
Temporary reg. E–59 expiration date extended ... 60740
Temporary reg. E–47, Supp. 6 added; Supp. 5 removed ... 61963
Temporary reg. E–69 added ... *9267
101–36.1304–20 Added ... *43415
101–36.1304–21 Added ... *43416
101–36.1304–22 Added ... *43416
101–36.1304–23 Added ... *43416
101–36.1305–1 (a), (c) introductory text, (1), and (3) through (7) revised; (b) and (d) amended ... 50342
(c)(3) through (7) redesignated as (c)(4) through (8) and revised; new (c)(3) added; (d) amended ... *6789
101–36.1307–1 (b) revised ... 50343
(b) revised ... *43417
101–35—101–37 (Subchapter F Appendix) Temporary reg. F–491 added ... 50838
Temporary reg. F–492 added ... 62515
Temporary reg. F–493 added ... *3271
Temporary reg. F–494 added ... *15178
Temporary reg. F–491 amended; expiration date extended ... *19557
Temporary reg. F–495 added ... *31313
101–38—101–41 (Subchapter G Appendix) Temporary reg. G–144 added ... 50341
Temporary reg. G–38, Supp. 1 added ... 61963
Temporary reg. G–42 added ... 74832
101–42.100 Added ... *27764
101–42.101 (c) revised; (d) added ... *27764
101–42.102 (d) removed ... *27764
101–42.102–1 Revised ... *27764
101–42.102–2 Revised ... *27765
101–42.102–3 Revised ... *27765
101–42.102–4 Added ... *27765
101–42.103 Removed ... *27765
101–42.301–1 Revised ... *36399
101–42.4800—101–42.4802 (Subpart 101–42.48) Removed ... *36399
101–42.4900—101–42.4901–291 Subpart 101–42.49) Added ... *36399

Page

101–43.000 Revised ... 55376
101–43.311–1 Revised ... *28113
101–43.311–2 Revised ... 55376
101–43.315–3 (b) revised ... *28113
101–43.315–5 (a)(1) revised ... *36077
101–43.320 (b)(2)(iv) and (h) revised ... 55376
101–43.4801 (c) revised; (d) table amended ... 55377
(a)(1) and (d) revised; (e) and (f) added ... *28113
(a)(2) revised ... *36077
101–43.4901–120–1 (d) revised ... 55377
(f) through (i) revised ... *28117
101–44.205 (j)(4) introductory text revised ... *36077
101–45.105–3 (b) revised ... *38369
101–45.304–3 Revised ... *38369
101–45.4901–114 Revised ... *37693
101–45.4901–114E Revised ... *37693
101–45.4901–126 Revised ... *37694
101–46.301 Revised ... 55377
101–46.400–1 Revised ... 55378
101–47.301–5 Removed ... *10793
101–47.4903 Removed ... *10793
101–48.101–4 (b) revised ... 42202
101–49 Added ... 53750
101–42—101–49 (Subchapter H Appendix) Temporary reg. H–21 added ... *7260

Chapter 101—*Proposed Rules:*
101–1—101–49 (Ch. 101) ... 68869
... *36440
101–6 ... 62298, 66852
101–11 ... 41490
... *32012
101–19 ... *8028
101–20 ... 72200
... *10379
101–36 ... 46305, 47359
101–39 ... 65411
101–40 ... 59247
101–47 ... 50865

Chapter 105—General Services Administration

105–54.104 (a) revised ... 65071
105–54.201 Revised ... 65071
105–54.202 Revised ... 65071
105–54.203–1 (a) revised ... 65071
105–54.301–4 (b) revised ... 65072
105–54.303 (b) and (i) revised ... 65072

CHANGES JULY 2, 1979 THROUGH JUNE 30, 1980

Page

105–54.304 (b) introductory text, (2) introductory text, (i) and (ii), and (c) revised ... 65072
105–54.401 (d) introductory text and (1) revised ... 65072
105–61.101–4 Revised ... *8603
105–61.102–7 Added ... *8603
105–61.302–1 Revised ... *29577
105–61.5101–3 (e) revised ... *28340
105–61.5101–7 (d), (f), (g), (h), and (k) revised ... *28340
105–61.5201 (c)(8) revised ... *28340
105–61.5205 (a), (c), and (e) revised ... *28340
105–61.5206 (a) through (i) revised ... *28340
Corrected ... *39258
105–61.5208 Revised ... *28341
105–62 Revised ... 64805
105–63.104 Revised ... *14856
105–63.400—105–63.407 (Subpart 105–63.4) Revised ... *14857
105–65.203–2 (a) revised ... 51594
105–735 Revised ... *9273

Chapter 105—*Proposed Rules:*

Page

105–1—105–735 (Ch. 105) ... *36440
105–61 ... *14073
105–735 ... *36441

Chapter 109—Department of Energy

109–1.100–50 (d) revised ... *944
109–1.106 (b) revised; (c) and (d) added ... *944
109–35 Republished; CFR correction ... *16488
109–40 Republished; CFR correction ... *16489
109–60 (Subchapter K and part) Added ... *944

Chapter 109—*Proposed Rules:*
109–1 ... 57121
109–60 ... 57121

Chapter 114—Department of the Interior

114–35 Removed ... 49454

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

Page

23.1—23.13 (Subpart A) Revised *12790
36.226 (a) corrected 69933
50.301—50.310 (Subpart C) Authority citation revised 61598
50.303 Amended 61598
50.305 Removed 61598
50.306 Amended 61598
50.307 Amended 61598
50.309 Amended 61598
50.601—50.606 (Subpart F) Added 65073
52 Revised *12240
52.4 (a) introductory text through (3) correctly designated as introductory text and (a) through (c); new (a) and (b) corrected *20096
52.5 (a) corrected *20096
52.6 (a) and (c) corrected *20096
52.8 Corrected *20096
52.9 Corrected *20096
52a Revised *12242
52a.4 (b) corrected *20096
52a.6 (a) corrected *20096
52a.8 Corrected *20096
52b Revised *12243
52b.8 Introductory text, (i), and (j) corrected *20096
52b.9 (a) corrected *20096
52b.11 Introductory text corrected *20096
52c Revised *12246
52c.3 (a)(4) corrected *20096
52c.5 (a) introductory text corrected *20096
52c.6 (b) corrected *20096
52c.7 Corrected *20096
52d Revised *12247
52d.2 (f) corrected *20096
52d.8 Corrected *20097
52e Revised *12249
52e.1 (a) corrected *20097
52e.8 Corrected *20097
52h.1 Revised *35328
52h.3 (b) revised *35328
52h.5 (c) revised *35328
52h.10 (c) revised *35328
54a.102 (d) and (e) removed *31094
54a.103 Removed *31094
54a.104 Removed *31094
54a.106 Removed *31094
54a.107 Added *31094
54a.205 (b), (c)(2), (3), (4), and (6) removed *31094
54a.207 (c) revised *31094
54a.213 Revised *31094
54a.215 (c) and (g) removed *31095
54a.301—54a.306 (Subpart C) Added *8529
54a.403 (b) removed *31095
54a.404 (a), (c), (p), (q), and (u) amended; (d) and (e) removed *31095
54a.405 (b), (c), and (d) revised *31095
54a.406 Revised *31095
54a.407 Removed *31095
54a.408 Removed *31095
54a.504 (a) amended *31095
54a.506 (b), (c), and (d) revised *31095
54a.507 (a) amended; (b) revised *31095
54a.508 Removed *31095
54a.509 Removed *31095
57.705 (b) revised *41420
57.2601—57.2619 (Subpart AA) Added; interim *29804
57.2801—57.2810 (Subpart CC) Revised *40583
Technical correction *41948
57.3105 (h) and (i) amended 56938
59.1—59.13 (Subpart A) Revised *37436
59a Revised *12250
59a.36 Corrected *20097
59a.37 Introductory text *20097
66 Revised *1822
66.111 (c)(3) corrected *9742
66.204 (b)(6) corrected *9742
66.205 (b) corrected *9742
66.207 Corrected *9742
71.102 Revised 58912
71.154 Revised *12253
74.10 (d) removed *26960
85 Authority citation revised *2652
85.1 Revised *2652
85.2 Revised *2652
85.3 Revised *2653
85.3–1 Added *2653
85.4 Revised *2653
85.5 Revised *2653
85.7 (a), (b), and (c) amended *2653
85.10 Amended *2653
85.11 (a) revised *2653
(d) amended; (e) revised *2654

Note: Symbol (*) refers to 1980 page numbers

Page

85.12 Revised *2654
85a Authority citation revised *2654
85a.1 (a) revised *2654
85a.2 Introductory text, (a), (d), and (l) revised; (j) through (m) added *2654
85a.3 (a) amended *2654
85a.4 (a)(1) and (3) revised; (a)(2), (b) and (c) amended; (a)(4) added *2654
85a.5 (b)(1) and (e) amended *2654
85a.7 Amended *2654
110 Interpretations *28654
Document classification corrected *31721
110.401 Revised *6059
110.402 Revised *6059
110.404 (f) introductory text amended; (f)(4) revised *6059
110.405 (b)(1) and (2) revised; (b)(4) amended *6059
110.501—110.508 (Subpart E) Heading amended *6060
110.502 (a) revised; (d) added *6060
110.503 (b) amended *6060
110.505 (b) amended *6060
110.1001—110.1016 (Subpart J) Added; interim *24352
122.501—122.508 (Subpart F) Added 71769
123.601—123.608 (Subpart G) Added 71771

Chapter IV—Health Care Financing Administration, Department of Health, Education, and Welfare

405.153 (c) revised 67382
405.332 Heading and (a) revised 68468
405.440 Added 60289
405.456 Added 67382
405.482 (a) republished and uniform implementation *15552
Technical correction *18927
(a) implementation pending *41635
405.483 Republished; uniform implementation *15552
Technical correction *18927
Implementation pending *41635
405.601 Revised 60290
Revised *22936
Removed *42179
405.602—405.626 Removed; regulations transferred to part 489 ..... *22936

Page

405.651—405.656 Removed; regulations transferred to Part 421 ..... *42179
405.658 Revised 67382
405.659 Revised 67382
405.660 Removed; regulations transferred to Part 421 ..... *42179
405.662 Removed; regulations transferred to Part 421 ..... *42179
405.663 Removed; regulation transferred to Part 421 ..... *42179
405.670—405.673 Removed; regulations transferred to Part 421 ..... *42179
405.675—405.678 Removed; regulations transferred to Part 421 ..... *42179
405.691 Added 60290
405.1028 (k) and (l) revised *20802
405.1505 (m) added *26703
405.1668 Added *26703
405.1672 (e) and (f) added *26703
405.1680 Revised *26704
405.1681 Added *26704
405.1682 Added *26705
405.2140 (a)(4) and (6) removed *24839
405.2425 Revised *13075
420.204 (a) and (b) corrected *30634
421 Added *42179
430—456 (Subchapter C) Nomenclature changes; authority citations amended *24882
430.0 (b)(2) revised *24882
431.52 (b)(3) revised *24882
431.230 (a) revised *24882
431.250 (b) revised *24882
431.503 (i) revised; (j) and (k) removed *24882
431.521 (a)(2) revised *24882
431.565 Undesignated center heading revised *24882
431.610 (g)(3)(ii) revised *24883
431.801 Heading, (a), and (c) revised *6331
Policy statement *6326
431.802 Added *6331
Policy statement *6326
432.10 (c)(1) removed *24883
433.34 (c), (d)(1), (2) and (3), (e), and (f)(1) and (4) revised *24883
433.112 (b)(2) and (6) revised *14213
433.113 Revised *14213
433.115 Added *14214

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 42, Chapter IV—Continued

Page

433.135—433.154 (Subpart D) Revised *8984
435.4 Amended *24883
435.112 (b) revised *24883
435.121 (a), (b)(2), and (c)(2) revised *24883
435.134 (b) revised *24883
435.211 Revised *24884
435.223 (a) revised *24884
435.231 Section heading revised *24884
435.321 (b)(1) revised *24884
435.600—435.604 (Subpart G) Heading revised *8986
435.600 Revised *8986
435.604 Added *8986
435.722 Section heading revised *24884
435.723 (d) revised *24884
435.725 (a) revised *24884
435.731 Revised *24884
435.732 Revised *24884
435.733 Revised *24884
435.811 Revised *24885
435.812 (a) revised; (c) added *24885
435.813 Removed *24885
435.814 (a) revised; (c) added *24885
435.815 Removed *24886
435.816 Revised *24886
435.831 Introductory text, (a), (b), (c)(2), and (d) revised *24886
435.832 Revised *24886
435.845 (e) revised *24886
435.905 (a) introductory text revised *24887
435.911 (c) revised *24887
435.919 (b) revised *24887
435.1004 (a) revised *24887
435.1006 Revised *24887
436.3 Amended *24887
436.116 (b) revised *24887
436.211 Revised *24887
436.212 (a) revised *24887
436.600—436.604 (Subpart G) Heading revised *8986
436.600 Revised *8986
436.604 Added *8987
436.811 Revised *24887
436.812 Section heading, introductory text, and (b) revised *24887
436.813 Removed *24887
436.831 Introductory text, (a), (b), (c)(2), and (d) revised *24887
436.832 Revised *24888
436.1003 Revised *24888
440.70 (b) revised *24888
440.100 (a) revised *24888
440.110 (c)(1) revised *24888
440.170 (b) introductory text and (2)(ii), and (f) introductory text revised *24889
440.210 Revised *24889
440.250 (e) and (f) revised *24889
441.10 (e) revised *24889
441.15 Introductory text revised *24889
441.60 Revised *24889
441.200 Revised 61598
441.204 Removed 61598
441.205 Amended 61598
442.12 Revised *22936
442.13 Added *22936
442.14 Added *22936
442.441 (d) revised *24889
442.499 (b) revised *24889
447.15 Revised *24889
447.52 (c) added *24889
447.277 (d) removed *30635
447.315 Revised *11807
447.316 (a) revised *11807
447.331 (a) revised *24889
447.341 (c) revised *24889
455.202 (a) revised *11438
455.300 (i)(2) removed; (i)(1)(i) through (viii) redesignated as (i)(1) through (8); new (i)(6) and (7), and (j)(3) amended *13076
(j)(1) revised; (j)(2) heading, (i) and (ii) removed; (j)(2)(iii) redesignated as (j)(2); (k) added *13076
456.601 Revised 56337
456.611 (c) added 56337
456.650—456.657 (Subpart J) Added 56338
462.6 (c)(2) revised *30635
462.11 Revised *30635
462.12 Revised *30635
462.13 (b) removed *30635
462.14 Revised *30635
463.1 Revised *11810
463.2 (e)(3) and (4) revised *11810
463.30—463.37 (Subpart D) Added *11810
474 Added *11438
489 Added *22937

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 42—*Proposed Rules:*

Page

2—124 (Ch. I) 72728, *40356
2 *53
4 66852
31 75672
32 75672
35 75672
36 *8314
51g *9755
52h *5351
55 *16209
55a *9298
59a 66852
63 66852
64 66852
72 66853
74 58923, 61059, *2353, 25412, 26387, 27456
85 69689
85a 69689
86 *16209
87 *16209
121 60342
122 75408, *12174, 20026, 24511
123 75408, *12174, 20026, 24511
301—306 (Ch. III) 72728, *40356
400 *17894
401 *17894
402 *17894
403 *17894
404 *17894
405—481 (Ch. IV) 72728
405—489 (Ch. IV) *36100, 40050, 40356
405 58923, 61059, *2353, 6633, 9953, 10382, 13477, 13940, 14900, 16505, 20985, 25412, 25829, 26387, 27456, 29535, 30655, 36443, 37858, 41794
408 *36443
409 *36443
431 *22988
433 *17894
435 66855
436 66855
440 *13940, 29535, 36443
441 *37858
442 *14900, 16505
447 *37466, 39872, 41661
455 75673, *43441
456 *13940, 29535
460 73128, *21657
481 *41794
482 *13940, 29535, 41794

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

Page

3 Notification of permit procedures under new law *5302, 13433, 13456
4.413 Amended *5714
7.4 (a)(4) revised *24471
20 Appendixes C through G revised *11402
29.3 (f) added *1026
31 Redesignated as 36 CFR Part 1226 *783
34 Added *31104

Chapter I—Water and Power Resources Service, Department of the Interior

Chapter heading revised 71828
401 Removed *1878
403 Authority citation and source note revised *1879
403.5 Amended *1879
403.11 Introductory text and undesignated paragraph following (e) amended *1879
406 Authority citation revised *1879

Chapter II—Bureau of Land Management, Department of the Interior

Interim management policy and guidelines 72014
Interim management policy and guidelines corrected *3037
1780 Revised *8177
1821.2–1 (a) amended (temporary) 59530
(a) revised *20476
2610 Added *34232
2653.9 (c) waiver *31110
2710 Revised *39418
2730 Removed *39420
2750 Removed *39420
2760.0–3—2760.0–6 (Subpart 2760) Removed *39420
2761.1—2761.3 (Subpart 2761) Removed *39420
2762.1—2762.9 (Subpart 2762) Removed *39420
2763.0–3—2763.8 (Subpart 2763) Removed *39420

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 43, Chapter II—Continued

	Page
2766.1 (Subpart 2766) Removed	*39420
2802.1–2 (a)(11) and (12) removed	58137
2880 Heading revised	58129
2880.0–3—2880.0–7 (Subpart 2880) Added	58129
2881.1—2881.3 (Subpart 2881) Revised	58129
2882.0–3 (Subpart 2882) Redesignated as 2887.0–3 (Subpart 2887) and revised	58129
2882.1—2882.4 (Subpart 2882) Added	58129
2882.2–2 (a) and (b) amended	*34887
2882.2–3 (a) amended	*34888
2882.2–4 (e) amended	*34888
2883.1—2883.8 (Subpart 2883) Added	58129
2884.1 (Subpart 2884) Added	58129
2887.0–3 (Subpart 2887) Redesignated from 2882.0–3 (Subpart 2882) and revised	58129
3041.0–1—3041.8 (Subpart 3041) Correctly removed	56340
3100.0–5 (b) and (d) revised	*35160
3100.5–3 Revised	*35161
3101.1–1 Revised	*35161
3101.1–5 (c)(3)(iii) revised	*35161
3101.2–1 Revised	*35161
3102.1 Revised	*35161
3102.2 Revised	*35161
3102.2–1 Revised	*35161
3102.2–2 Revised	*35161
3102.2–3 Revised	*35162
3102.2–4 Revised	*35162
3102.2–5 Revised	*35162
3102.2–6 Revised	*35162
3102.2–7 Revised	*35162
3102.2–8 Redesignated from 3102.8 and nomenclature change; (a)(2) and (b)(2) amended	*35162
3102.2–9 Redesignated from 3102.9 and amended	*35162
3102.3 Revised	*35162
3102.4—3102.7 Removed	*35162
3102.8 Redesignated as 3102.2–8 and nomenclature change; (a)(2) and (b)(2) amended	*35162
3102.9 Redesignated as 3102.2–9 and amended	*35162
3103.1–1 Revised	*35162
3103.2–1 (a) revised	*35162
3103.3–8 Revised	*18375
3106.2–2 Heading and (a) revised	*30057
3108.1—3108.3 (Subpart 3108) Heading revised	*35163
3108.2–2 Removed	*35163
3108.2–3 Removed	*35163
3108.3 Revised	*35163
3110 Suspended in part	64085
3110.1–3 Revised	*35163
3110.1–4 (b) revised	*8885, 35163
3110.1–6 (b) revised	*35163
3111.1–1 (e)(2) removed; (e)(3), (4), and (5) redesignated as (e)(2), (3), and (4)	*35163
3112.1—3112.7 (Subpart 3112) Revised	*35163
3112.2–1 (a)(5) added	*8885
3120.1–4 Amended	*35166
3400.4 (a) corrected	56339
3420.2–3 (e)(3)(i)(B) corrected	56339
3420.3–2 (k) corrected	56340
3420.4–2 (d) corrected	56340
3430.3–2 (c) introductory text corrected	56340
3432.1 (b) corrected	56340
3437.1–1 (b)(2) corrected	56340
3472.1 Correctly redesignated as 3472.1–1; new 3472.1 correctly added	56340
3472.1–1 Correctly redesignated as 3472.1–2; new 3472.1–1 correctly redesignated from 3472.1	56340
3472.1–2 Correctly redesignated as 3472.1–3; new 3472.1–2 correctly redesignated from 3472.1–1	56340
3472.1–3 Correctly redesignated from 3472.1–2	56340
3474.2 Corrected	56340
3501.2–3 (a)(1) corrected	56340
3502.1–1 (c) correctly removed	56340
3502.2 Correctly revised	56340
3502.2–1 Correctly removed	56340
3502.2–2 Correctly removed	56340
3502.9–1 Correctly removed	56340
3503.3–2 (b) revised	*36035
3564.6 Corrected	56340
3566.2 Corrected	56340
3802.0–1—3802.6 (Subpart 3802) Added; interim	*13974
4700.0–5 (d) revised; (n) through (r) added	76985
4700.0–6 (c) and (d) added	76985
4730.1 Revised	76985
4740.1—4740.5 (Subpart 4740) Revised	76985
4760.2 (e) revised; (f) redesignated as (p); new (f) through (o) added	76987
9260 Added	*31276

Public Land Orders

726 Revoked by PLO 5695	*7816
995 Revoked in part by PLO 5692	*7815
2136 Amended by PLO 5715	*21248
2214 Amended by PLO 5729	*38369
2595 Amended by PLO 5715	*21248
4520 Revoked by PLO 5685	66196
5309 Amended by PLO 5724	*31993
5653 Revoked in part by PLO 5716	*24890
5654 Revoked in part by PLO 5716	*24890
5680 Corrected by PLO 5686	66816
Corrected by PLO 5713	*20097
5684	61346
5685	66196
5686	66816
5687	67383
5688	70467
5689	73034
5690	74836
5691	73035
5692	*7815
5693	*7815
5694	*7815
5695	*7816
5696	*9565
Corrected	*12255
5697	*9578
5698	*9587
5699	*9593
5700	*9604
Corrected	*12255
5701	*9623
5702	*9632
5703	*9640
5704	*9649
5705	*9663
5706	*9668
5707	*9674
5708	*9691
5709	*9699
5710	*9704
5711	*9716
5712	*11132
Corrected by PLO 5717	*25064
5713	*20097
5714	*20097
5715	*21248
5716	*24890
Corrected by PLO 5725	*31722
5717	*25064
5718	*25064
5719	*29021
5720	*31315
5721	*29295
5722	*31316
5723	*31722
5724	*31993
Corrected	*35818
5725	*31722
5726	*37439
5727	*37439
Corrected	*40115
5728	*37838
5729	*38369
5730	*41421

Title 43—*Proposed Rules:*

1—33 (Subtitle A)	*7106
4	57948, 68870
	*35351
9	*31284
17	*976, 24074
34	59096, 64095
35	*31040
230—430 (Ch. I)	*7106
428	*17165
1720—9230 (Ch. II)	*7106
1780	58622
1880	*6054
2090	69868
2091	*41860
2200	*41860
2210	*41860
2220	*41860
2230	*41860
2240	*41860
2250	*41860
2260	*41860
2270	*41860
2300	69868
2310	69868
2320	69868
2340	69868
2350	69868
2650	*30606
2710	61880
2730	61880
2750	61880
2760	61880
2800	58106
2920	*31284
3110	58638
3210	67598
3211	67598
3500	*13787

Note: Symbol (*) refers to 1980 page numbers

60-145 O - 80 - 8

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Note: Symbol (*) refers to 1980 page numbers

Title 43—*Proposed Rules*—Continued

Page
3800 ..... *13788, 13956, 27456, 28380, 31143, 41024
8340 ..... *8672
8350 ..... *14607
9230 ..... 60764, 76828
..... *15876

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency

Page
2 Added *41421
3 Revised 75062
3.100—3.125 (Subpart E) Added *17148
5.3 (d) and (e) revised *1421
5.26 (a) revised *1422
5.46 (a) revised *1422
5.54 (a) revised *1422
5.55 (e) revised *1422
5.59 Nomenclature change *1422
5.82 Amended *1422
5 Appendix A added *1422
6.2 (n) and (o) revised *17152
6.10 Revised *17152
6.33 (b) revised *17152
6.53 (c) revised *17152
6.55 (a) revised *17152
6.70 (a) and (b) amended; (d) added *17152
6.80 Amended *17152
6.85 Revised *17152
9 Added 76513
10 Added *41142
11 Added; interim 73036
Added; final *15930
55—84 (Subchapter B) Nomenclature changes corrected 62517
55.1 (t) revised; interim 64083
(t) revised; final *13457
55.2 (e) and (f) added; interim 64083
(e) and (f) added, final; (e) amended *13457
55.3 (d) added; interim 64083
(d) added; final *13457
55.4 (a) amended; (d) revised; interim 64084
(a) amended; (d) revised; final *13457
55.5 (b) revised; interim 64084
(b) revised; final *13457

Page
55.7 (b) and (c)(2) revised; (c)(4) and (5) added; interim 64084
(b) and (c)(2) revised; (c)(4), (5), and (6) added; final *13457
(c)(4) revised *13457
55.8 Removed; interim 64084
Removed; final *13457
55.9 (a) revised 64084
(a) revised; final *13457
55.12 Revised; interim 64085
Revised; final *13547
61.13 (c) corrected 62517
61 Appendix B corrected 62517
64.6 Table amended 56355, 57093, 57094, 61000, 61001, 61185, 61186, 63530, 64808, 65753, 68835, 68836, 71831, 71832, 72595, 72596, 76794, 77162
Table amended *3578, 6577, 6579, 6580, 8604, 10346, 12422, 13458, 16185, 16190, 20477, 22941, 26050, 28118, 28119, 28121, 31317, 36401, 37207, 41147, 42290, 42291, 42301
Table corrected *26331
65.3 Table amended 61004, 66603, 71835
Table amended *2323, 6582, 16188, 22943, 29022, 39260
65.4 Table revised 61005, 67127
Table amended; interim 67129, 76797
Table amended; interim *12420, 18376, 28123
Table amended *36078
Table amended; interim *37694
65.6 Revised 57095, 75640
Table amended 57095, 75640
Revised *12421, 26051, 31318
Table amended *12421, 26052, 31318
65.7 Table revised 61027
Table amended 63531, 68840, 76796
Table amended *3580, 9916, 17999 27937, 37442, 41149
65.8 Table revised 61033
Table amended 68840, 76797
Table amended *17998, 32001
67 Flood elevation determinations 56367, 56701, 63531, 63533, 63535, 64422, 65074, 68841, 68844, 70469, 72164, 75641, 76282
Flood elevation determinations *2655, 5714, 5719, 8013, 8989, 9917, 12424, 12438, 13460, 15931, 20803, 20816, 22024, 22028, 27938–27943, 28124, 28127, 29578, 31993, 31994, 32000, 36403, 37209, 43188

Page
Flood elevation determinations corrected *15930, 25798, 37209, 37210, 43417
70 Map amendments 72178–72180, 75643–75645
Map amendments *6383–6399, 8605–8624, 15933, 29807–29830, 30071–30076, 38370–38380, 41948, 41949
76 Added; interim *32688
80.4 Revised *41950
80.5 (b)(12) revised *41951
80.6 Amended *41951
81.2 (a)(2) and (c) revised *41951
81.7 (b) amended; (c) revised *41951
81.10 Revised *41951
82.31 (f) revised *41951
83.5 Introductory text revised; (a) removed; (b) and (c) redesignated as (a) and (b); new (a) amended *41951
(a) amended *41952
83.24 (d) added *41952
83.25 Revised *41952
83.25a Revised 41956
150.3 (a)(2) corrected 62517
200 Nomenclature changes 62516
201 Nomenclature changes 62516
205 Nomenclature changes 62516
205.34—205.38 Removed 71793
205.45 (e)(1) corrected 62517
205.46 (c)(3) and (d) corrected 62517
205.47 Nomenclature changes corrected 62517
205.48 (k) corrected 62517
205.51 Nomenclature changes corrected 62517
205.56 Removed 71790
205.61—205.64 (Subpart E) Removed *37440
205.65—205.74 (Subpart F) Removed 71794
205.80—205.83 (Subpart H) Redesignated as 205.150—205.153 (Subpart I) and revised *26053
205.90—205.97 (Subpart F) Added 71790
205.100—205.104 (Subpart G) Added 71793
205.150—205.153 (Subpart I) Redesignated from 205.80—205.83 (Subpart H) and revised *26053
205.200—205.209 (Subpart J) Added 71794
205.250—205.253 (Subpart K) Added *37440

Page
205.400—205.411 (Subpart M) Added 64809
206 Added 75576
300 Added *13464
301.2 (e) corrected 62517
305.2 (b) and (d) corrected 62517
307.1 (a) corrected 62517
310 Corrected 62517
311 Added *43200

Title 44—*Proposed Rules:*

10 70197
60 ..... *14902
67 ..... 56957, 57429, 57430, 57432, 69342, 61059, 61073, 63117–63120, 63553, 63557, 64096, 64444, 64451, 64460, 64466, 64472, 65093, 65102, 65104, 66857, 67186, 68000, 70497, 70498, 70778, 70781, 70782, 70784, 70791, 73130, 75675, 76322
..... *3604 3608, 3614, 3616, 3617, 5351, 5352, 5356, 5780, 6804–6809, 6962, 8672, 9033–9035, 12445, 13132–13135, 13481, 15209–15212, 15214, 15215, 15222, 15223, 15225, 17166, 18036, 18038, 18039, 22114, 22116, 22988, 22994, 25830–25834, 26389, 27959–27963, 29090, 29313–29319, 29321–29323, 29598, 31133, 31427, 31438, 31754–31765, 32339, 34923, 37226, 37227, 37861, 39312–39315, 40624, 40625, 42340, 42691, 42692, 42705, 43233, 43234
80 ..... *20123
81 ..... *20123
82 ..... *20123
83 ..... *20123
205 ..... 61211, 63058, 75408
300 61211
350 ..... *42341

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

1 Added 61598
3 Revised *41820
55 Removed 58912
61 Removed 58912
71 Revised; eff. in part 4–1–81 ..... *17881
74 Republished *22576
74.20 Revised *37667
Effective date corrected *38380
74.24 (c) removed *37667
Effective date corrected *38380

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45—Subtitle A—Continued

Page

74.25 Amended *37667
Effective date corrected *38380
74.60—74.62 (Subpart H) Heading revised *35328
74.60 Revised *35329
74.61 Heading and (h) revised *35329
74.62 Added *35329
Corrected *36415
74.96 Revised *37667
Effective date corrected *38380
74.160—74.164 (Subpart P) Revised *37667
Effective date corrected *38380
74.164 (b) corrected *38380
74.170 Revised *34273
74.171 Revised *34273
74.172 Revised *34273
74.175 (a) revised *34273
74 Appendixes C and D removed *34274
Appendixes G and H added *37668
Effective date and text corrected *38380
80 Interpretations 58510
Technical correction 59908
82 Removed 58912
86 Policy interpretation 71413
90 Effective date confirmed 61964
95.605 Amended *10794
95.611 (a) amended *10794
95.612 Added *10794
95.613 Amended *10794
95.615 Amended *10794
95.617 (b) revised *10794
95.619 Amended *10794
95.633 Added *10794

Chapter I—Office of Education, Department of Health, Education, and Welfare

100 Removed (effective pending congressional review) *22497
100a Revised (effective pending congressional review) *22497
100a.1 Table amended (effective pending congressional review) *28669
100a.170 (c) table amended *28669
100b Revised (effective pending congressional review) *22517
100b.125—100b.135 Undesignated center heading added (effective pending congressional review) *22649

Page

100b.125 Added (effective pending congressional review) *22649
100b.126 Added (effective pending congressional review) *22650
100b.127 Added (effective pending congressional review) *22650
100b.128 Added (effective pending congressional review) *22650
100b.129 Added (effective pending congressional review) *22650
100b.130 Added (effective pending congressional review) *22651
100b.131 Added (effective pending congressional review) *22651
100b.132 Added (effective pending congressional review) *22651
100b.133 Added (effective pending congressional review) *22651
100b.134 Added (effective pending congressional review) *22651
100b.135 Added (effective pending congressional review) *22652
100c Revised (effective pending congressional review) *22528
100c.1 Heading revised; (c) amended *37442
100d Removed (effective pending congressional review *22530
Added (effective pending congressional review) *22635
104.117 Added (effective pending congressional review) *30636
104.118 Added (effective pending congressional review) *30636
104.119 Added (effective pending congressional review) *30636
104.141 (d) revised (effective pending congressional review) *22530
104.3 Revised (effective pending congressional review) *22530
104.171 (a) and (h) removed (effective pending congressional review) *22530
104.263 Removed (effective pending congressional review) *22530
104.271 (a), (c), and (d) removed (effective pending congressional review) *22530
104.289 Removed (effective pending congressional review) *22530
104.291 Removed (effective pending congressional review) *22530
104.292 Removed (effective pending congressional review) *22530

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

104.301 (a) and (b) removed; (c) and (d) revised (effective pending congressional review) *22530
104.533 (c) removed (effective pending congressional review) *22530
104.553 Removed (effective pending congressional review) *22530
104.612 (b) removed (effective pending congressional review) *22530
104.634 Removed (effective pending congressional review) *22530
104.803 (b) removed (effective pending congressional review *22530
105.4 Revised (effective pending congressional review) *22530
105.5 Removed (effective pending congressional review) *22530
105.106 Removed (effective pending congressional review *22530
105.107 Removed (effective pending congressional review *22530
105.109 (a) revised (effective pending congressional review) *22530
105.204 Revised (effective pending congressional review) *22530
105.206 Amended (effective pending congressional review) *22531
105.209 Removed (effective pending congressional review) *22530
105.210 Removed (effective pending congressional review) *22530
105.506 (c), (d), and (e) removed (effective pending congressional review) *22530
105.507 Removed (effective pending congressional review) *22530
105.604 (a) revised; (b) and (e) removed (effective pending congressional review) *22531
105.605 (a) removed (effective pending congressional review) *22530
105.614 (a), (c)(4), and (e) removed (effective pending congressional review) *22530
105.624 (a), (c), and (d) removed (effective pending congressional review) *22530
105.625 Removed (effective pending congressional review) *22530

Page

105 Appendix A amended (effective pending congressional review) *22530
107 Removed (effective pending congressional review) *22531
116.7 (a) revised (effective pending congressional review) 59152
116a.32 Added (effective pending congressional review) *22656
116a.33 Added (effective pending congressional review) *22656
116a.34 Added (effective pending congressional review) *22656
116a.35 Added (effective pending congressional review) *22656
116a.36 Added (effective pending congressional review) *22656
116a.37 Added (effective pending congressional review) *22657
116a.38 Added (effective pending congressional review) *22657
116a.39 Added (effective pending congressional review) *22657
116a.50—116a.57 (Subpart F) Added (effective pending congressional review) 59153
116b.2 Revised (effective pending congressional review) *22531
116b.10 Removed (effective pending congressional review) *22531
116b.11 Removed (effective pending congressional review) *22531
116b.13 (a), (b), and (f) removed (effective pending congressional review) *22531
116b.23 (b) removed (effective pending congressional review) *22531
116b.32 (b) removed (effective pending congressional review) *22531
116b.60 (a) and (b)(3) removed (effective pending congressional review) *22531
116c.1 (b) revised (effective pending congressional review) *22531
116c.3 (b) removed (effective pending congressional review) *22531
116c.13 (a) removed (effective pending congressional review) *22531
116d Revised (effective pending congressional review) *22662
119 Revised (effective pending congressional review) *22683

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter I—Continued

Page

120 Added (effective pending congressional review) *22685
121a.3 Introductory text revised (effective pending congressional review) *22531
121a.8 (a) removed (effective pending congressional review) *22531
121a.15 Removed (effective pending congressional review) *22531
121a.112 Removed (effective pending congressional review) *22531
121a.113 Removed (effective pending congressional review) *22531
121a.114 Removed (effective pending congressional review) *22531
121a.120 Removed (effective pending congressional review) *22531
121a.135 Removed (effective pending congressional review) *22531
121a.142 Removed (effective pending congressional review) *22531
121a.143 Removed (effective pending congressional review) *22531
121a.150 Removed (effective pending congressional review) *22531
121a.181 Removed (effective pending congressional review) *22531
121a.183 (b) removed (effective pending congressional review) *22531
121a.190 (a) removed (effective pending congressional review) *22531
121a.191 Removed (effective pending congressional review) *22531
121a.193 (a) and (b) removed (effective pending congressional review) *22531
121a.228 Removed (effective pending congressional review) *22531
121a.232 Removed (effective pending congressional review) *22531

Page

121a.233 Removed (effective pending congressional review) *22531
121a.234 Removed (effective pending congressional review) *22531
121a.236 Removed (effective pending congressional review) *22531
121a.239 Removed (effective pending congressional review) *22531
121a.386 Removed (effective pending congressional review) *22531
121a.450 Revised (effective pending congressional review) *22531
121a.451 Revised (effective pending congressional review) *22531
121a.452 (b) removed (effective pending congressional review) *22531
121a.453—121a.460 Removed (effective pending congressional review) *22531
121a.581 Removed (effective pending congressional review) *22531
121a.582 Removed (effective pending congressional review) *22531
121a.583 Removed (effective pending congressional review) *22531
121a.590 Removed (effective pending congressional review) *22531
121a.591 Removed (effective pending congressional review) *22531
121a.592 Removed effective pending congressional review) *22531
121a.593 Removed (effective pending congressional review) *22531
121a.601 Removed (effective pending congressional review) *22531
121a.602 Removed (effective pending congressional review) *22531
121a.750 (a) revised (effective pending congressional review) *7551

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

121a.751 (a)(1) and (b) revised (effective pending congressional review) *7551
121b.1 (b) removed (effective pending congressional review) *22532
121b.5 Added (effective pending congressional review) *22532
121b.13 (a) removed (effective pending congressional review) *22532
121c.1 (b) removed (effective pending congressional review) *22532
121c.10 (b) and (c) removed (effective pending congressional review) *22532
121c.34 (b) removed (effective pending congressional review) *22532
121c.4 Added *22532
121d.1 (b) removed (effective pending congressional review) *22532
121d.17 Amended (effective pending congressional review) *22532
121d.31 (b) removed (effective pending congressional review) *22532
121d.40 (b) removed (effective pending congressional review) *22532
121d.52 (a) removed (effective pending congressional review) *22532
121d.54 Removed (effective pending congressional review) *22532
121e.1 (b) removed (effective pending congressional review) *22532
121e.5 Removed (effective pending congressional review) *22532
121e.1–1 Added (effective pending congressional review) *22532
121f.1 (b) removed (effective pending congressional review) *22532
121f.5 (d)(1) removed (effective pending congressional review) *22532
121f.22 (b) removed (effective pending congressional review) *22532
121f.6–1 Added (effective pending congressional review) *22532

Page

121g.1 (b) removed (effective pending congressional review) *22532
121g.5 Added (effective pending congressional review) *22532
121h.1 (b) removed *22533
121h.1–1 Added (effective pending congressional review) *22533
121h.9 Removed (effective pending congressional review) *22533
121h Appendix amended (effective pending congressional review) *22533
121i.1 (b) removed (effective pending congressional review) *22533
121i.7 Added (effective pending congressional review) *22533
121i.89 Removed (effective pending congressional review) *22533
121i.90 Removed (effective pending congressional review) *22533
121i.119 Removed (effective pending congressional review) *22533
121i.120 Removed (effective pending congressional review) *22533
121k.1 (b) removed (effective pending congressional review) *22533
121k.5 Added (effective pending congressional review) *22533
121k.15 Introductory text revised; (f) and (g) removed (effective pending congressional review) *22533
121k.16 (f) revised (effective pending congressional review) *22533
121k.19 (c) removed (effective pending congressional review) *22533
121m.2 Revised (effective pending congressional review) *22533
121m.9 Removed (effective pending congressional review) *22533
121m.10 Removed (effective pending congressional review) *22533
122a Added (effective pending congressional review) *6047
123 Revised (effective pending congressional review) *23211
123.1 (d)(2) heading corrected *35818

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter I—Continued

Page

123.2 (b)(3) and (g) heading corrected *35818
123.40 (c)(1) corrected *35818
123a Added (effective pending congressional review) *23214
Table of contents corrected *35818
123a.10 (c)(3) corrected *35818
123a.30 (b)(3) corrected *35818
123b Added (effective pending congressional review) *23218
123c Added (effective pending congressional review) *23219
123d Added (effective pending congressional review) *23220
123d.30 (f)(1) corrected *35818
123e Added (effective pending congressional review) *23222
123e.32 (c) corrected *35818
123f Added (effective pending congressional review) *23224
123g Heading added (effective pending congressional review) *23225
123h Added (effective pending congressional review) *23225
123i Added (effective pending congressional review) *23227
130.2 Revised (effective pending congressional review) *22533
130.3 (a) amended (effective pending congressional review) *22533
130.16 (b)(2) removed (effective pending congressional review) *22533
130.30 Removed (effective pending congressional review) *22533
130.32 (b) removed (effective pending congressional review) *22533
130.41 Removed (effective pending congressional review) *22533
131.4 (a) and (b) removed (effective pending congressional review) *22533
131.5 Revised (effective pending congressional review) *22534
132.1–1 Added (effective pending congressional review) *22534
132.21 Removed (effective pending congressional review) *22534
132.37 Removed (effective pending congressional review) *22534
133.4 Revised (effective pending congressional review) *22534
133.6 Removed (effective pending congressional review) *22534
133.9 Removed (effective pending congressional review) *22534
134 Interpretation (effective pending congressional review) *7261
Revised (effective pending congressional review) *23603
Technical correction *26960
134a Interpretation (effective pending congressional review) *7261
Removed (effective pending congressional review) *23603
134b Interpretation (effective pending congressional review) *7261
Removed (effective pending congressional review) *23603
136.01 (b) removed (effective pending congressional review) *22534
136.02–1 Added (effective pending congressional review) *22534
136.03 Amended (effective pending congressional review) *22534
136.05 (a)(2) and (4), (b), (c), and (d) removed (effective pending congressional review) *22534
136.08 (b) and (c) removed (effective pending congressional review) *22534
136.10 Removed (effective pending congressional review) *22534
137.1 (b) removed (effective pending congressional review) *22534
137.2 Amended (effective pending congressional review) *22534
137.2–1 Added (effective pending congressional review) *22534
137.5 (c) added (effective pending congressional review) *22534
137.6 (a) introductory text, (5), and (6) and (c) revised; (a)(1) and (b) removed (effective pending congressional review) *22534
137.7 Removed (effective pending congressional review) *22534
137.8 Removed (effective pending congressional review) *22534
137.9 (b) revised (effective pending congressional review) *22534

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

146.3 Revised (effective pending congressional review) *22535
146.15 Removed (effective pending congressional review) *22535
146.16 (a) removed (effective pending congressional review) *22535
146.17 Removed (effective pending congressional review) *22535
146.25 Removed (effective pending congressional review) *22535
146.26 (a) removed (effective pending congressional review) *22535
146.27 Removed (effective pending congressional review) *22535
146.37 Revised (effective pending congressional review) *13735
146.53 Removed (effective pending congressional review) *22535
146a.1 (b) removed (effective pending congressional review) *22535
146a.4 (b)(2) removed (effective pending congressional review) *22535
146a.5 (a) removed (effective pending congressional review) *22535
146a.2–1 Added (effective pending congressional review) *22535
146a.6 (b) revised *22535
148.1 (b) removed (effective pending congressional review) *22535
148.2 Amended (effective pending congressional review) *22535
148.5 Added (effective pending congressional review) *22535
148.12 (a) revised (effective pending congressional review) *22535
148.22 (a) revised (effective pending congressional review) *22535
148.32 (a), (b) introductory text and (2) revised; (d) removed (effective pending congressional review) *22535
148.36 (b) introductory text revised (effective pending congressional review) *22535
148.37 (2) removed (effective pending congressional review) *22535
148.42 (b) introductory text, (2), and (3) revised; (d) removed (effective pending congressional review) *22535
148.46 (a) introductory text revised *22535
148.51 (a) and (b) removed (effective pending congressional review) *22535
148.55 (a) removed (effective pending congressional review) *22535
148 Appendix amended (effective pending congressional review) *22535
149.2 Amended (effective pending congressional review) *22536
150 Added (effective pending congressional review) 42285
154.1 (b) removed (effective pending congressional review) *22536
154.1–1 Added (effective pending congressional review) *22536
154.2 Amended (effective pending congressional review) *22536
154.3 (a)(2) removed (effective pending congressional review) *22536
154.5 (a) introductory text revised; (a)(3) through (6), (b), and (c) removed (effective pending congressional review) *22536
154.11 (c) removed (effective pending congressional review) *22536
155.1 (b) removed (effective pending congressional review) *22536
155.1–1 Added (effective pending congressional review) *22536
155.2 (f) removed (effective pending congressional review) *22536
155.5 (e)(3) revised; (e)(4) removed (effective pending congressional review) *22536
155.6 (b) removed (effective pending congressional review) *22536
155.7 (a)(2)(iv), (3)(iii), (iv), (4), and (b) removed (effective pending congressional review *22536

Note: Symbol (*) refers to 1980 page numbers

Title 45, Chapter I—Continued

Page

155.9 (a)(3) revised; (a)(4) and (5) removed (effective pending congressional review) ... *22536
155.11 (a) introductory text revised; (b)(1) and (c) removed (effective pending congressional review) ... *22536
155.12 Removed (effective pending congressional review) ... *22536
155.14 Introductory text revised (effective pending congressional review) ... *22536
155.15 Introductory text revised (effective pending congressional review ... *22536
156 Removed (effective pending congressional review) ... *22536
157.1 (b) removed (effective pending congressional review) ... *22536
157.1–1 Added (effective pending congressional review) ... *22536
157.2 (m) removed (effective pending congressional review) ... *22536
157.4 (b) and (c) removed (effective pending congressional review) ... *22536
157.5 (a) introductory text and (3)(vi) revised; (a)(2)(iii), (3)(i) and (vii), (4), and (b) removed (effective pending congressional review) ... *22537
157.7 (a)(5) and (b)(7) removed; (b)(6) revised (effective pending congressional review) ... *22537
157.11 (a) introductory text revised; (b)(2) and (c) removed (effective pending congressional review) ... *22537
157.12 Removed (effective pending congressional review) ... *22536
157.14 Introductory text revised (effective pending congressional review) ... *22537
157.15 Introductory text revised (effective pending congressional review) ... *22537
158.2 Amended (effective pending congressional review) ... *22537
158.4 Added (effective pending congressional review) ... *22537

Page

158.12 (d) removed (effective pending congressional review) ... *22537
158.13 (b) removed (effective pending congressional review) ... *22537
158.24 (a) removed (effective pending congressional review) ... *22537
158.29 Removed (effective pending congressional review) ... *22537
158.30 Removed (effective pending congressional review) ... *22537
158.43 Removed (effective pending congressional review) ... *22537
158.64 Amended (effective pending congressional review) ... *22537
158.66 Removed (effective pending congressional review) ... *22537
158.84 Revised (effective pending congressional review) ... *22537
158.85 Removed (effective pending congressional review) ... *22537
159.1 (b) removed (effective pending congressional review) ... *22537
159.1–1 Added (effective pending congressional review) ... *22537
159.2 (j) removed (effective pending congressional review) ... *22537
159.5 (b) removed (effective pending congressional review) ... *22537
159.6 (a) introductory text revised; (a)(2)(iii), (3)(iii) and (iv), (4), and (b) removed (effective pending congressional review) ... *22537
159.9 (b)(6) revised; (b)(7) and (8) removed (effective pending congressional review) ... *22538
159.11 (a) introductory text revised; (b)(5) and (c) removed (effective pending congressional review) ... *22538
159.12 Removed (effective pending congressional review) ... *22537
159.14 Introductory text revised (effective pending congressional review) ... *22538
159.15 Introductory text revised (effective pending congressional review) ... * 22538
160b Removed (effective pending congressional review) ... *22694

Page

160c Removed (effective pending congressional review) ... *22702
160d Removed (effective pending congressional review) ... *22538
160e Redesignated as 161e and revised (effective pending congressional review) ... *22760
160f Revised (effective pending congressional review) ... *22737
160g Redesignated as 161c and revised (effective pending congressional review) ... *22745
161 Added (effective pending congressional review) ... 60024
161.3 Amended (effective pending congressional review) ... *22538
161.4 Revised (effective pending congressional review) ... *22538
161.41 Amended (effective pending congressional review) ... *22538
161a Added (effective pending congressional review) ... 60027
Redesignated as 161b and revised (effective pending congressional review) ... *22753
161a.3 (b) removed (effective pending congressional review) ... *22538
161b Redesignated from 161a and revised (effective pending congressional review) ... *22753
161c Redesignated from 160g and revised (effective pending congressional review) ... *22745
161e Redesignated from 160e and revised (effective pending congressional review) ... *22760
161f Added (effective pending congressional review) ... *22765
161g Added (effective pending congressional review) ... *27883
161h Redesignated from 183 and revised (effective pending congressional review) ... *22770
161i Added (effective pending congressional review) ... *27392
161m Added (effective pending congressional review) ... *23204
Technical correction ... *28341
162 Revised (effective pending congressional review) ... *34211
162a Added (effective pending congressional review) ... *34212
162b Added (effective pending congressional review) ... *34214

Page

162c Added (effective pending congressional review) ... *34216
163 Added (effective pending congressional review) ... *22702
163a Added (effective pending congressional review) ... *22705
163b Added (effective pending congressional review) ... *22706
163c Added (effective pending congressional review) ... *22708
163c.40 (b) corrected ... *29588
163d Added (effective pending congressional review) ... *22711
164 Heading revised (effective pending congressional review) ... *22538
164.01 (b) removed (effective pending congressional review) ... *22538
164.01–1 Added (effective pending congressional review) ... *22538
164.02 Revised (effective pending congressional review) ... *22538
164.03 Amended (effective pending congressional review) ... *22538
164.04 (a) amended (effective pending congressional review) ... *22538
164.05 (a) and (c) removed; (b) amended (effective pending congressional review) ... *22538
164.06 Removed (effective pending congressional review) ... *22538
164.07 (a), (b), and (c) amended (effective pending congressional review) ... *22538
164.08 Removed (effective pending congressional review) ... *22538
164.09 Removed (effective pending congressional review) ... *22538
166 Revised (effective pending congressional review) ... *22777
166a Added (effective pending congressional review) ... *22778
166b Added (effective pending congressional review ... *22783
166c Added (effective pending congressional review) ... *22785
168 Heading revised (effective pending congressional review) ... *42576
168.12 (a) revised; (b)(3) added (effective pending congressional review) ... *42576

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter I—Coninued

Page

168.14 Removed (effective 11–8–79 pending congressional review) *42576
Added (effective 7–1–80 pending congressional review) *42576
168.15 (f)(1) revised (effective pending congressional review) *42577
168.18 (a) revised (effective pending congressional review) *42577
168.21 Revised (effective pending congressional review) *42577
168.72 Amended (effective pending congressional review) *22538
169.2 Amended (effective pending congressional review) *22538
169.5 Revised (effective pending congressional review) *22539
169.22 (b)(2)(ii) and (iii) removed (effective pending congressional review) *22538
169.32 (b) introductory text and (3) removed; (b)(1) and (2) redesignated as (b) and (c) (effective pending congressional review) *22539
169.41 Revised (effective pending congressional review) *22539
169.51 Amended (effective pending congressional review) *22538
169.54 (c) removed (effective pending congressional review) *22538
170 Added (effective pending congressional review) *28669
172.1 (b) removed (effective pending congressional review) *22539
172.3 Amended (effective pending congressional review) *22539
172.4 Added (effective pending congressional review) *22539
172.30 (a) revised (effective pending congressional review) *22539
172.110 Removed (effective pending congressional review) *22539
172.112 (b) removed (effective pending congressional review) *22539
172.127 Removed (effective pending congressional review) *22539
172.128 Removed (effective pending congressional review) *22539

Page

172.132 (e) and (f) removed (effective pending congressional review) *22539
172.134 Removed (effective pending congressional review) *22539
172.135 (b) removed (effective pending congressional review) *22539
172.136 Removed (effective pending congressional review) *22539
172.137 Removed (effective pending congressional review) *22539
173.2 Removed (effective pending congressional review) *22539
173.9 Added (effective pending congressional review) *22539
173.13 (a), (b), (d), and (e) removed (effective pending congressional review) *22539
173.14—173.19 Removed (effective pending congressional review) *22539
173.21 (a)(2) and (b) removed (effective pending congressional review) *22539
173.39 Added (effective pending congressional review) *22539
173.44 Revised (effective pending congressional review) *22539
173.46 Removed (effective pending congressional review) *22539
174 Annual publication of table 56938
174.2 Amended (effective pending congressional review) *22539, 28993
174.2a Introductory text revised; (e) and (f) added (effective pending congressional review) *42578
174.2b (b)(4) revised (effective pending congressional review) *42578
174.4 Revised (effective pending congressional review) *16418
174.6 Revised (effective pending congressional review) *16418
174.6a Added (effective pending congressional review) *16425
174.16 (i) revised (effective pending congressional review) *42578
174 Appendix E added (effective pending congressional review) *42578
175 Annual publication of table 56938

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

175.2 Amended (effective pending congressional review) *22539, 28993
175.2a Introductory text revised; (e) and (f) added (effective pending congressional review) *42579
175.2b Introductory text and (b)(4) revised (effective pending congressional review) *42579
175.4 Revised (effective pending congressional review) *16425
175.6 Revised (effective pending congressional review) *16426
175.9 (b)(1) revised (effective pending congressional review) *42579
175.16 (d) revised (effective pending congressional review) *42579
175 Appendix C added (effective pending congressional review) *42579
176 Annual publication of table 56938
176.2 Amended (effective pending congressional review) *22540, 28993
176.2a Introductory text revised; (e) and (f) added (effective pending congressional review) *42580
176.2b (b)(4) revised (effective pending congressional review) *42580
176.4 Revised (effective pending congressional review) *16432
176.6 Revised (effective pending congressional review) *16432
176.16 (h) revised (effective pending congressional review) *42580
176 Appendix B added (effective pending congressional review) *42580
177.1 (q) removed (effective pending congressional review) *22540
177.200 Amended (effective pending congressional review) *42580
177.201 (a)(1)(ii) revised (effective pending congressional review) *42580
177.203 Revised (effective pending congressional review) *42580

Page

177.401 (b)(5)(ii)(A) and (7)(ii) revised (effective pending congressional review) *42581
177.407 (b)(2)(ii)(A) revised (effective pending congressional review) *42581
177.509 (g)(4)(i) revised; (4)(iii) added (effective pending congressional review) *42581
177.513 (b)(2)(i) revised (effective pending congressional review) *42581
177.516 (a)(1)(ii)(A) revised (effective pending congressional review) *42581
177.601 (b)(2) and (3) revised (effective pending congressional review) *42581
177.603 Removed (effective pending congressional review) *42581
177.607 (g) removed; (f) revised (effective pending congressional review) *42581
177.611 (b)(1)(i) revised (effective pending congressional review) *42581
178.7 (a) removed (effective pending congressional review) *22540
178a.1 (b) removed (effective pending congressional review) *22540
178a.1–1 Added (effective pending congressional review) *22540
178a.2 Amended (effective pending congressional review) *22540
178a.7 Removed (effective pending congressional review) *22540
178a.10 Removed (effective pending congressional review) *22540
179.3 (i) removed (effective pending congressional review) *22540
179.4 (c) removed (effective pending congressional review) *22540
179.20 Added (effective pending congressional review) *22540
179.23 (c) removed (effective pending congressional review) *22540
179.25 (c) and (d) removed (effective pending congressional review) *22540

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter I—Continued

Page

179.27 Removed (effective pending congressional review) ... *22540
179.28 Removed (effective pending congressional review) ... *22540
179.50 (a) revised (effective pending congressional review) ... *36080
179.51 (a) and (b) revised (effective pending congressional review) ... *36080
179.53 (a) revised (effective pending congressional review) ... *22540
180.01 Revised (effective pending congressional review) ... *22540
180.02 Revised (effective pending congressional review) ... *22540
180.03 Amended (effective pending congressional review) ... *22540
180.16 Removed (effective pending congressional review) ... *22540
180.20 (c) removed (effective pending congressional review) ... *22540
180.34 Removed (effective pending congressional review) ... *22540
180.54 Removed (effective pending congressional review) ... *22540
180.57 (b) removed (effective pending congressional review) ... *22540
180.63 Removed (effective pending congressional review) ... *22540
180.65 (b) removed (effective pending congressional review) ... *22540
180.73 (b)(3), (5), and (6) removed (effective pending congressional review) ... *22540
182.4 Revised (effective pending congressional review) ... *22540
182.5 Removed (effective pending congressional review) ... *22540
182.6 Removed (effective pending congressional review) ... *22540
182.13 Removed (effective pending congressional review) ... *22540
182.18 (a)(3) and (b) removed (effective pending congressional review) ... *22540
182.19 (a), (c), (d), and (e) removed (effective pending congressional review) ... *22540
182.34 Removed (effective pending congressional review) ... *22540

Page

(a) revised; (b) and (c) redesignated as (d) and (e); new (b) and (c) added (effective pending congressional review) ... *22803
182a.1 (d) removed (effective pending congressional review) ... *22541
182a.1–1 Added (effective pending congressional review) ... *22541
182a.2 (e) and (f) removed (effective pending congressional review) ... *22541
182a.13 (a), (c)(2) and (3) removed; (d) revised (effective pending congressional review) ... *22541
182a.23 (a) removed (effective pending congressional review) ... *22541
182a.24 (a) introductory text revised; (b) removed (effective pending congressional review) ... *22541
183 Redesignated as 161h and revised (effective pending congressional review) ... *22770
184 Revised (effective pending congressional review) ... *24041
185 Revised (effective pending congressional review) ... *32591
185a Added; interim (effective pending congressional approval) ... 67386
Removed (effective pending congressional review) ... *32591
186 Revised (effective pending congressional review) ... *34153
186a Added (effective pending congressional review) ... *34156
186b Added (effective pending congressional review) ... *34160
186c Added (effective pending congressional review) ... *34163
186d Added (effective pending congressional review) ... *34165
186e Added (effective pending congressional review) ... *34166
186f Added (effective pending congressional review) ... *34168
186g Added (effective pending congressional review) ... *34170
186h Added (effective pending congressional review) ... *34172
186i Added (effective pending congressional review) ... *34174

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

186j Added (effective pending congressional review) ... *34176
186k Added (effective pending congressional review) ... *34177
186l Added (effective pending congressional review) ... *34179
187 Revised (effective pending congressional review) ... *34180
188 Removed (effective pending congressional review) ... *34182
189.1 Amended (effective pending congressional review) ... *22541
189.1–1 Added (effective pending congressional review) ... *22541
189.4 Removed (effective pending congressional review) ... *22541
189.21 (a) removed; (b) introductory text revised; (b)(3) removed (effective pending congressional review) ... *22541
189.22 Revised (effective pending congressional review) ... *22541
189.31—189.35 Removed (effective pending congressional review) ... *22541
190.2 Amended (effective pending congressional review) ... *22541, 42582
190.2a (a)(2)(iv), (e), and (f) revised; (g) added (effective pending congressional review) ... *42582
190.3 Introductory text revised; (e) and (f) added (effective pending congressional review) ... *42583
190.31—190.39 (Subpart C) Revised (effective pending congressional review) ... *28987
190.34a Revised (effective 7–1–80 pending congressional review) ... *42587
190.41—190.48 (Subpart D) Revised (effective pending congressional review) ... *28991
190.64 (c) revised (effective pending congressional review) ... *42583
190.65 Revised (effective pending congressional review) ... *42583
190.79 Revised (effective pending congressional review) ... *42583
190 Appendix A added (effective pending congressional review) ... *42583

Page

191.10 Revised (effective pending congressional review) ... *22541
191.12 (c), (f) through (j), and (m) removed (effective pending congressional review) ... *22541
191.25 (b) removed (effective pending congressional review) ... *22541
191.31 Introductory text, (a), (c)(1)(i) and (iii) revised; (b), (c)(1)(ii), and (v) through (x), and (c)(3) removed (effective pending congressional review) ... *22541
191.32 Revised (effective pending congressional review) ... *22542
191.34 Removed (effective pending congressional review) ... *22541
191.35 (a) removed (effective pending congressional review) ... *22541
191.36 Removed (effective pending congressional review) ... *22541
191.44 Introductory text and (b)(1)(i) revised; (a), (b)(1)(ii), (iii), and (v) through (ix), and (b)(2) removed (effective pending congressional review) ... *22542
191.46 Removed (effective pending congressional review) ... *22541
191.47 Removed (effective pending congressional review) ... *22541
191.48 Removed (effective pending congressional review) ... *22541
192.1–1 Added (effective pending congressional review) ... *22542
192.2 Amended (effective pending congressional review) ... *22542
192.3 (b), (c), (g), and (i) removed (effective pending congressional review) ... *22542
192.10 (b) removed (effective pending congressional review ... *22542
192.11 Removed (effective pending congressional review) ... *22542
192.12 Removed (effective pending congressional review) ... *22542
193 Revised (effective pending congressional review ... *26917
194.1 Amended (effective pending congressional review) ... *22542
194.2 Revised (effective pending congressional review) ... *22542

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter I—Continued

Page

194.5 (a) and (c) removed (effective pending congressional review) *22542
194.7 (c) and (d) removed (effective pending congressional review *22542
194.20 Added (effective pending congressional review) *22542
194.27 (a) revised (effective pending congressional review) *36080
195 Added (effective pending congressional review) *22694
195a Added (effective pending congressional review) *22696
195b Added (effective pending congressional review) 22697
196.1–1 Added (effective pending congressional review) *22542
196.7 (a) revised (effective pending congressional review) ... *36080
197.1 (a) removed (effective pending congressional review *22542
197.1–1 Added (effective pending congressional review) *22542
197.2 Amended (effective pending congressional review) ... *22542
197.7 Removed (effective pending congressional review) *22542
197.8 (a)(1), (2), (3), (6), and (b) removed (effective pending congressional review) *22542
197.9 Introductory text amended; (a)(4) and (5)(ii) removed (effective pending congressional review) *22542
198.1 (a) removed (effective pending congressional review) 22542
198.1–1 Added (effective pending congressional review) ... *22542
198.4 (a)(2) and (b)(3) removed (effective pending congressional review) *22542
198.6 Introductory text amended; (c) removed (effective pending congressional review *22542
198.8 Removed (effective pending congressional review) *22542
199a.3 Revised (effective pending congressional review) *22543

Chapter II—Office of Family Assistance (Assistance Programs), Department of Health, Education, and Welfare

Page

205.10 (a)(4), (5), and (6)(i) revised *20480
205.41 Heading, (a)(1), (d)(1), and (f) revised; (a)(3) added *6333
Policy statement *6326
205.42 Added *6333
Policy statement *6326
205.43 Added 67422
205.50 (a)(2)(i)(B) and (3) revised 75146
205.51 Added 75147
205.56 Added 75147
205.57 Added 75147
205.58 Added 75147
205.60 (a)(1) amended; (a)(2) redesignated as (a)(3); new (a)(2) added 75147
205.200 Introductory text added; (a) revised *25398
205.202 Introductory text added; (a) introductory text revised *29833
206.10 (a)(5) revised 75147
220.21 (b) revised 61599
222 Authority citation revised ... 61600
222.59 (b)(1) revised 61600
224.51 (a) and (c) revised; (b) and (d) redesignated as (e) and (f); new (b) and (d) added *27422
224.63 (a) and introductory text of (b) revised; (b)(2) through (7) redesignated as (b)(3) through (8); new (b)(2) added; new (b)(3) revised ... *27422
224.65 (a) revised *27423
224.68 (a)(5) and (6) revised; (b) and (c) redesignated as (c) and (d); new (b) added ... *26423
224.77 (a) revised *27423
228 Authority citation revised ... 61600
228.70 Introductory text revised *13468
228.92 Revised 61600
233.40 Revised *26962
234.60 Heading, (a)(1) through (4), (7), (9), (10)(ii) and (11)(i), and (b) revised *20480
235.50 Added *25398
235.60—235.66 Added *29833
260 Added; interim *36821

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health, Education, and Welfare

Page

302.35 (c)(1) revised *8987
302.50 (e) added *8987
302.80 Added *8987
304.20 (a)(4) revised *41428
304.21 Effective 7–1–75 56939
304.23 (g) added *8987
306 Added *8987

Chapter V—Foreign Claims Settlement Commission of the United States

531.5 (b) and (g) revised 59908

Chapter VI—National Science Foundation

601 Added *1422
640 Revised *40

Chapter VII—Commission on Civil Rights

701 Revised 75148
701.1 Designation corrected 76798
702 Authority citation revised ... 75149
702.1 (g) revised 75149
702.4 (g) revised 75149
702.4 (a) and (f) revised 75149
702.6 (b) introductory text, (c), (d), (e), and (h) revised 75150
702.7 (a) and (c) revised 75150
702.8 (b) and (c) revised 75150
Designation corrected 76798
702.9 Revised 75150
702.14 (b) and (c) revised 75150
702.16 Revised 75150
702.17 Revised 75150
702.18 (a)(1) and (3) revised ... 75151
702.51 Nomenclature change 75151
702.54 Nomenclature change 75151
702.56 Nomenclature change 75151
703 Authority citation revised ... 75151
703.1 Revised 75151
703.2 (a) and (b) revised 75151
703.4 Revised 75151
703.5 Revised 75151
703.6 Revised 75151
703.7 Revised 75151
703.8 Revised 75151
703.9 Revised 75152

Page

704 Authority citation revised ... 75152
704.1 Nomenclature change 75152
704.2 Amended 75152
704.3 Revised 75152
705 Redesignated as Part 706 and revised; new Part 705 redesignated from Part 706 and authority citation revised 75152
Nomenclature change 75152
705.4 (b) revised 75152
706 Redesignated as Part 705 and authority citation revised; new Part 706 redesignated from Part 705 and revised ... 75152

Chapter VIII—Office of Personnel Management

801 Appendix A amended .. *7262, 33629

Chapter X—Community Services Administration

1010 Revised 70145
1010.1—1010.13 (Subpart 1010.1) Heading and designation revised 56549
1012 Removed 56549
1026.1–1—1026–6 (Subpart 1026.1) Heading and designation revised 56549
1050.57 (d) added 56549
1050.80–1—1050.80–3 (Subpart I) Heading revised 56549
1050.80–3 (c)(1)(iii) added 61347
1050.80–1—1050.80–3 (Subpart I) Attachment B added 61347
1050.130–1—1050.130–11 (Subpart O) Added *8299
1050.130–8 (a)(1)(ii) and (iv) and (c) introductory text corrected *25064
1050.130–11 (c)(2) corrected ... *25065
1050.160–1—1050.160–10 (Subpart P) Added *28137
1060.1–1—1060.1–3 (Subpart 1060.1) Heading and designation revised 56549
1060.2–1—1060.2–2 (Subpart 1060.2) Heading and designation revised 56549
1060.2–1 Revised *26712
1060.2–2 (c)(2) clarification ... 69299
Revised *26712

Note: Symbol (*) refers to 1980 page numbers

60-145 O - 80 - 9

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter X—Continued

Page

1060.3-1—1060.3-2 (Subpart 1060.3) Heading and designation revised 56549
1060.4-1—1060.4-7 Subpart 1060.4) Heading revised 56549
1060.5-1—1060.5-3 (Subpart) Removed 56549
1061 Heading revised 56548
1061.1-1—1061.1-12 (Subpart) Removed 56549
1061.2-1—1061.2-5 (Subpart) Removed 56549
1061.3-1—1061.3-3 (Subpart) Removed 56549
1061.4-1—1061.4-9 (Subpart 1061.4) Added 56549
1061.12-1—1061.12-7 (Subpart 1061.12) Heading and designation revised 56549
1061.20-1—1061.20-10 (Subpart 1061.20) Heading and designation revised 56549
1061.20-6 Revised *10795
1061.20-7 Revised *10795
1061.30-1—1061.30-14 (Subpart 1061.30) Heading and designation revised 56549
1061.31-1—1061.31-6 (Subpart 1061.31) Heading and designation revised 56549
1061.40-1—1061.40-9 (Subpart) Removed 56549
1061.50-1—1061.50-13 (Subpart 1061.50) Heading and designation revised 56549
Notice of impending revision *32690
Revised *33789
1061.51-1—1061.51-15 (Subpart) Removed 56549
1061.52-1—1061.52-9 (Subpart) Former subpart removed 56549
1061.52-1—1061.52-17 (Subpart 1061.52) New heading and designation revised 56549
1061.60-1—1061.60-11 (Subpart) Removed 56549
1061.70-1—1061.70-16 (Subpart 1061.70) Revised 58876
1061.70-2 Revised 75646
Republished 76524
1061.70-7 (a)(1)(ii), (2) introductory text, (3), and (b) revised; (a)(4) and (5) added 75646

Page

(a)(1)(ii), (2) introductory text, (3), (4), (5), and (b) republished 76524
(b) corrected *8303
1061.70-8 (a), (b), and (d) revised 75646
(a), (b), and (d) republished 76525
1061.70-9 (a), (b), and (c) revised 75646
(a), (b), and (c) republished 76525
(a) and (b) corrected *8303
1061.70-10 Revised 75647
Republished 76525
1061.70-13 (c) corrected *8303
1062 Heading revised 56548
1063 Added 56552
1063.131-3 (a)(3) and (b) amended; (c) revised *28137
1067.2) Heading and designation revised 56556
(a) revised *39850
1064 Added 56555
1067.2-1—1067.2-5 (Subpart
1067.3-1—1067.3-3 (Subpart 1067.3) Removed 56557
1067.5-1—1067.5-3 (Subpart 1067.5) Heading and designation revised 56556
Appendix C added *39849
1067.6-1—1067.6-4 (Subpart 1067.6) Heading and designation revised 56557
Revised 67424
1067.6-2 (b) corrected 77163
1067.7-1—1067.7-3 (Subpart 1067.7) Heading and designation revised 56557
1067.9-1—1067.9-6 (Subpart 1067.9) Added 56557
1067.10-1—1067.10-7 (Subpart 1067.10) Heading and designation devised 56557
1067.30-1—1067.30-5 (Subpart 1067.30) Heading and designation revised 56557
1067.40-1—1067.40-5 (Subpart 1067.40) Heading and designation revised 56557
1067.40-3 (g) redesignated as (h); new (g) added *39850
1067.41-1—1067.41-3 (Subpart 1067.41) Heading and designation revised 56557
1067.41-1 Revised 61348
1067.41-2 Revised 61348

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

1067.41-1—1067.41-3 (Subpart) Appendixes A and B revised 61348
1067.42-1—1067.42-3 (Subpart 1067.42) Added 56558
1067.43-1—1067.43-3 (Subpart 1067.43) Added 56558
1067.50-1—1067.50-6 (Subpart 1067.50) Heading and designation revised 56557
Revised 64815
1067.51-1—1067.51-4 (Subpart 1067.51) Added 56559
1067.60-1—1067.60-2 (Subpart 1067.60) Heading and designation revised 56557
1067.61-1—1067.61-2 (Subpart 1067.61) Heading and designation revised 56557
1067.80-1—1067.80-11 (Subpart 1067.80) Added 56559
1068.3-1—1068.3-10 (Subpart 1068.3) Heading and designation revised 56566
1068.4-1—1068.4-7 (Subpart 1068.4) Heading and designation revised 56566
1068.5-1—1068.5-6 (Subpart 1068.5) Heading and designation revised 56566
1068.6-1—1068.6-4 (Subpart 1068.6) Heading and designation revised 56566
1068.8-1—1068.8-4 (Subpart 1068.8) Heading and designation revised 56566
1068.20-1—1068.20-5 (Subpart 1068.20) Heading and designation revised 56566
1068.21-1—1068.21-3 (Subpart) Heading removed 56568
1068.22-6 (Subpart) Removed 56566
1068.30-1—1068.30-4 (Subpart 1068.30) Heading and designation revised 56566
1068.40-1—1068.40-3 (Subpart 1068.40) Added 56566
1068.41-1—1068.41-3 (Subpart 1068.41) Added 56566
1068.42-1—1068.42-10 (Subpart 1068.42) Added 56568
1068.43-1—1068.43-7 (Subpart 1068.43) Added 56572
1069.1-1—1069.1-8 (Subpart 1069.1) Heading and designation revised 56573

Page

1069.2-1—1069.2-4 (Subpart 1069.2) Heading and designation revised 56573
1069.3-1—1069.3-6 (Subpart 1069.3) Heading and designation revised 56573
1069.4-1—1069.4-5 (Subpart 1069.4) Heading and designation revised 56573
1069.4-3 (e) and (f) revised; exp. 12-31-80 *41957
1069.4-4 (b) revised 64836
(b) revised; (d) added; exp. 12-31-80 *41957
1069.6-1—1069.6-3 (Subpart 1069.6) Heading and designation revised 56573
1069.7-1—1069.7-3 (Subpart 1069.7) Heading and designation revised 56573
1069.8-1—1069.8-8 (Subpart 1069.8) Heading and designation revised 56573
1069.9-1—1069.9-6 (Subpart 1069.9) Heading and designation revised 56573
1069.20-1—1069.20-12 (Subpart 1069.20) Added 56573
1069.21-1—1069.21-11 (Subpart 1069.21) Added 56576
1069.22-1—1069.22-9 (Subpart 1069.22) Added 56578
1069.24-1—1069.24-8 (Subpart 1069.24) Added 56580
1069.25-1—1069.25-9 (Subpart 1069.25) Added 56582
1069.26-1—1069.26-7 (Subpart 1069.26) Added 56583
1069.27-1—1069.27-4 (Subpart 1069.27) Added 56584
1069.28-1—1069.28-4 (Subpart 1069.28) Added 56584
1069.29-1—1069.29-8 (Subpart 1069.29) Added 56585
Removed *28137
1069.30-1—1069.30-4 (Subpart 1069.30) Added 56586
1070.1-1—1070.1-6 (Subpart 1070.1) Heading and designation revised 56586
1070.2-1—1070.2-5 (Subpart 1070.2) Heading and designation revised 56586
1070.4-1—1070.4-3 (Subpart 1070.4) Heading and designation revised 56586

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 45, Chapter X—Continued

Page

1071 Removed *8303
1075.1–1—1075.1–11 (Subpart 1075.1) Heading and designation revised 56586
1076 Cross reference added *15182
1076.5–1—1076.5–11 (Subpart 1076.5) Heading and designation revised 56586
1076.10–1—1076.10–5 (Subpart 1076.10) Heading and designation revised 56586
1076.20–1—1076.20–4 (Subpart 1076.20) Heading and designation revised 56586
1076.30–1—1076.30–4 (Subpart 1076.30) Heading and designation revised 56586
1076.40–1—1076.40–4 (Subpart 1076.40) Heading and designation revised 56586
1076.41–1—1076.41–6 (Subpart 1076.41) Added 56586
1078 Removed 56549

Chapter XII—ACTION

1211 Revised *39271

Chapter XIII—Office of Human Development Services, Department of Health, Education, and Welfare

1320 Removed *21147
1321 Revised *21147
1324 Removed *21147
1326 Removed *21147

Chapter XIV—National Institute of Education, Department of Health, Education, and Welfare

1400.1 Revised (effective pending congressional review) *22543
1400.2 Revised (effective pending congressional review) *22543
1400.3 (b) removed (effective pending congressional review *22543
1400.4 Removed (effective pending congressional review) *22543
1400.5 Removed (effective pending congressional review) *22543
1403.1 Removed (effective pending congressional review) *22543
1403.2 Revised (effective pending congressional review) *22543

Page

1403.4 Removed (effective pending congressional review) *22543
1403.5 Removed (effective pending congressional review) *22543
1403.7 Removed (effective pending congressional review) *22543
1403.9 Removed (effective pending congressional review) *22543
1403.10 (a) removed (effective pending congressional review) *22543
1403.11 Removed (effective pending congressional review) *22543
1403.13 Removed (effective pending congressional review) *22543
1403.15 Removed (effective pending congressional review) *22543
1405 Removed (effective pending congressional review) *22543
1407 Removed (effective pending congressional review) *22543
1409 Removed (effective pending congressional review) *22543
1410.1 Removed (effective pending congressional review) *22543
1410.2 Removed (effective pending congressional review) *22543
1410.3 Removed effective pending congressional review) *22543
1410.7 Revised (effective pending congressional review) *22543
1410.10 Removed (effective pending congressional review) *22543
1010.14 Removed (effective pending congressional review) *22543
1410.15 Removed (effective pending congressional review) *22543
1410.16 Removed (effective pending congressional review) *22543
1410.19 Removed (effective pending congressional review) *22543
1410.21 Removed (effective pending congressional review) *22543
1412 Removed (effective pending congressional review) *22543
1414 Removed (effective pending congressional review) *22543
1415 Removed (effective pending congressional review) *22543
1417 Removed (effective pending congressional review) *22543
1419 Removed (effective pending congressional review) *22543
1420 Removed (effective pending congressional review) *22543

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

1422 Removed (effective pending congressional review) *22543
1424 Removed (effective pending congressional review) *22543
1430.1 Revised (effective pending congressional review) *22544
1430.4 (b) removed (effective pending congressional review) *22544
1430.6 (g) removed (effective pending congressional review) *22544
1430.9 Removed (effective pending congressional review) *22544
1430.11 Removed (effective pending congressional review) *22544
1430.12 (a), (b), (c), and (d) (1) and (2) removed; (d) introductory text revised (effective pending congressional review) *22544
1430.13 Removed (effective pending congressional review) *22544
1450.1 Revised (effective pending congressional review) *22544
1450.4 Amended (effective pending congressional review) *22544
1450.5 (a) (1), (b), and (c) revised; (a) (2) removal (effective pending congressional review) *22544
1450.6 (a) and (b) revised (effective pending congressional review) *22544
1450.7 (b) amended (effective pending congressional review) *22544
1450.8 Removed (effective pending congressional review) *22544
1451.1 Revised (effective pending congressional review) *22545
1451.4 (a) removed; (b) amended (effective pending congressional review) *22545
1451.7 Removed (effective pending congressional review) *22545
1451.8 Removed (effective pending congressional review) 22545
1460.1 Revised (effective pending congressional review) *22545
1460.3 Amended (effective pending congressional review) *22545
1460.4 (c), (f), and (h) revised; (a), (d) (3), (e), and (g) removed (effective pending congressional review) *22545

Page

1460.5 (b) (1) revised; (b) (2) removed (effective pending congressional review) *22545
1470.1 Revised (effective pending congressional review) *22545
1470.4 (a) removed; (b) amended (effective pending congressional review) *22545
1470.7 (a), (b) (1) and (2), and (c) (2), (3), and (4) removed (effective pending congressional review) *22545
1470.8 Removed (effective pending congressional review) *22545
1480.1 Revised (effective pending congressional review) *22545
1480.4 (b) removed (effective pending congressional review) *22545
1480.8 (a), (b) (2) (i) (A), (b) (4) introductory text and (vii) revised; (b) (3), (4) (i), (ii), (iii), (vi), (x), and (d) removed (effective pending congressional review) *22545
1480.10 Removed (effective pending congressional review) *22545
1490.1 Revised (effective pending congressional review) *22546
1490.4 (b) removed (effective pending congressional review) *22546
1490.7 Removed (effective pending congressional review) *22546
1490.9 Removed (effective pending congressional review) *22546
1495.1 Revised (effective pending congressional review) *22546
1495.7 (b) removed (effective pending congressional review) *22546
1495.9 (a), (b), and (c) revised (effective pending congressional review) *22546
1495.10 (b), (c), and (d) removed (effective pending congressional review) *22546
1495.12 Removed (effective pending congressional review) *22546
1495 Appendixes A, B, and C amended (effective pending congressional review) *22546

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

TITLE 45—Continued

Chapter XV—Fund for the Improvement of Postsecondary Education, Department of Health, Education, and Welfare

Page

1501.2 Revised (effective pending congressional review) ... *22546
1501.3 Amended (effective pending congressional review) ... *22546
1501.5 Amended (effective pending congressional review) ... *22546
1501.6 Revised (effective pending congressional review) ... *26706
1501.8 Revised (effective pending congressional review) ... *26706
1501.9 Added (effective pending congressional review) ... *26706
1501.10 (c) introductory text, (d) introductory text and (2) revised; (a), (b), (d)(4), (e), (f), (g), and (i) removed (effective pending congressional review) ... *22547
(d) introductory text revised (effective pending congressional review) ... *26706
1501.11 Removed (effective pending congressional review) ... *22546

Chapter XVI—Legal Services Corporation

1611 Appendix A revised ... *36415
1624 Authority citation corrected ... 58712

Chapter XXI—Commission of Fine Arts

Chapter established ... 67050
2101 Added ... 67050
2102 Added ... 67051
2103 Added ... 67053

Title 45—*Proposed Rules*:

1—99 (Subtitle A) ... 72728
... *40356
3 ... 75415
8 ... *2353
17 ... *10820
63 ... *37700
64 ... *5648
86 ... 66626
87 ... 75676
... *14233
100—2103 (Subtitle B) ... 72728
... *40356

Page

100a ... *21303, 30386
100b ... *21303, 30386, 39708
104 ... *28288
105 ... *22806, 28288
116 ... *6809, 39712
116a ... *6809, 39712
121d ... *22806
121e ... *22806
121f ... *22806
121h ... *22806
121i ... 75024
121k ... *22806
123 ... *12273
131 ... *22806
132 ... *22806
133 ... *22806
136 ... *22806
146 ... *22806
146a ... *22806
148 ... *22806
150 ... *10821
151 ... *24070
154 ... *22806
155 ... *22806
157 ... *22806
158 ... *22806
159 ... *22806
161 ... *16142
161n ... *8314
164 ... *22806
169 ... *22806
172 ... *22806
173 ... *22806
174 ... 70652
175 ... 70652
176 ... 70652
179 ... *7582, 22806
182 ... *22806
182a ... *22806
185 ... *25028
191 ... *22806
194 ... *7582, 22806
196 ... *7582
197 ... *22806
198 ... *22806
206 ... *43235
232 ... *8316, 12857
233 ... *8316, 12857, 20132, 43235
234 ... 56389
236 ... 56389
302 ... *8316, 12857
305 ... *12857
400 ... *35359
405 ... 63120
600–670 (Ch. VI) ... 56387
... *18991, 39871
617 ... 57127
1005—1078 (Ch. X) ... 60764, 65412
... *30457
1011 ... 60764
1050 ... *37867
1060 ... *3335, 9960

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

1061 ... *11032, 16214, 35363
1067 ... *13782
1068 ... *35363
1069 ... *31133, 32745
1070 ... *35366
1075 ... *35363
1076 ... *26102
1100—1160 (Ch. XI) ... 56389
... *23473
1152 ... 56725, 63120
1171 ... *41661
1172 ... 57130
1201—1232 (Ch. XII) ... *1430
1205 ... 60110
1210 ... 65999
1211 ... 66003
1300 ... *23474, 26390
1328 ... 70064
1336 ... *39316
1340 ... *35794
1361 ... 68564
1362 ... 68564
1363 ... 68564
1385 ... *31006
1386 ... *31006
1387 ... *31006
1480 ... *21657
1496 ... 61622
... *13135
1501 ... 64097

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

2.75–10 Revised ... 73043
2.75–17 (a) revised ... 73043
4.11–10 Revised ... *2046
4.11–10 Effective date corrected ... *8989
5.17–1 Revised ... *2046
Effective date corrected ... *8989
5.17–5 Removed ... *2046
Effective date of removal corrected ... *8989
12.02–24 Added ... 70155
14 Revised ... 70155
15 Removed ... 70158
16 Removed ... 70158
25.40–1 (a) revised; (d) and (e) added ... 73047
(a) corrected ... *7551
26.03–1 Added ... *11109
26.03–2 Added ... *11109
30.01–5 (e)(2) added ... 66501
(h) added; interim ... *23427
(h) comment time and effective date corrected ... *25065

Page

30.30–1—30.30–11 (Subpart 30.30) Added; interim ... *23427
Comment time and effective date corrected ... *25065
31.15–5 (b) removed ... *18000
31.15–6 Removed ... *18000
32.53–1 Revised ... 66501
32.53–3 Added ... 66502
33.37–1—33.37–15 (Subpart 33.37) Added ... *24476
Effective date corrected ... *29588
33.37–5 (d) introductory text corrected ... *29588
34.05–5 (a)(2) amended ... 66502
34.10–10 (e), (n), and (e–1) compliance date postponed in part to 2–12–81 ... *22040
34.10–90 (a)(7), (10) through (13), and (b)(1) and (2) compliance date postponed in part to 2–12–81 ... *22040
34.20–1 (c) added ... 66502
35.01–50 (f)(2) and (g) amended ... *18000
35.10–6 Added ... *24476
Effective date corrected ... *29588
35.30–1 (d) removed ... *18000
35.30–50 Added ... *24476
Effective date corrected ... *29588
35.30–55 Added ... *24476
Effective date corrected ... *29588
35.35–1 (b) removed ... *18000
35.40–40 (a) revised ... *24476
(a) effective date corrected ... *29588
56.50–85 (a)(5) revised ... *26712
57.06–4 (f)(2) figure and (g) figure correctly designated ... *10796
66.05–1 Table amended ... *9931, 38385
Table corrected ... *41429
67.19–7 Removed ... 68469
67.19–9 Revised ... 68469
67.19–11 (b) removed ... 68469
67.19–13 Revised ... 68469
67.63–7 Removed ... 68469
67.65–9 Removed ... 68469
71.25–15 (b) added ... *24476
(b) effective date corrected ... *29588
75.40–25 Revised ... *24476
Effective date corrected ... *29588
75.41–1—75.41–10 (Subpart 75.41) Added ... *24476
Effective date corrected ... *29588
75.41–5 (e) introductory text corrected ... *29588
76.10–10 (g), (j), (j–1) and (j–2) compliance date postponed in part to 2–12–81 ... *22040

Note: Symbol (*) refers to 1980 page numbers

Title 46, Chapter I—Continued

	Page
76.10–90 (a)(1), (6), and (7) compliance date postponed in part to 2–12–81	*22040
78.13–5 (a)(4)(ii) revised	*24477
(a)(4)(ii) effective date corrected	*29588
78.17–50 (b)(5) revised	*11110
78.17–52 Added	*24477
Effective date corrected	*29588
78.47–47 (a) revised; (b) added	*24477
(a) and (b) effective date corrected	*29588
78.47–51 Added	*24477
Effective date corrected	*29588
78.47–65 Revised	*24477
Effective date corrected	*29588
78.87–1—78.87–10 (Subpart 78.87) Added	*24477
Effective date corrected	*29588
91.25–15 (b) added	*24477
(b) effective date corrected	*29588
94.41–1—94.41–10 (Subpart 94.41) Added	*24477
Effective date corrected	*29588
94.41–5 (d) corrected	*29588
95.10–10 (g), (i), (i–1), and (i–2) compliance date postponed in part to 2–12–81	*22040
95.10–90 (a)(1), (5), and (6) compliance date postponed in part to 2–12–81	*22040
97.13–10 (a)(4)(ii) revised	*24478
(a)(4)(ii) effective date corrected	*29588
97.15–37 Added	*24478
Effective date corrected	*29588
97.37–43 Heading and (a) revised	*24478
Heading and (a) effective date corrected	*29588
97.85–1—97.85–10 (Subpart 97.85) Added	*24478
Effective date corrected	*29588
148.04–23 Revised	*31110
151.05–1 (Subpart 151.05) Table amended	69300
151.50–60 Added	69300
153.12 Table 1 amended	69300
153.1060 Added	69300
154.3 Corrected	59234
154.5 (c)(i) and (ii) correctly redesignated as (c)(1) and (2)	59234
154.230 (h) corrected	59234
154.801 (c)(3) corrected	59234
154.804 (a)(3)(ii) corrected	59234
154.1110 (h) corrected	59234
154.1735 (b)(2)(iii) corrected	59234
154.1800—154.1872 (Subpart E) Table 4 corrected	59234
159—164 (Subchapter Q) Heading revised	73043
159 Added	73043
160.021–1—160.021–9 (Subpart 160.021) Revised	73060
160.022–1—160.022–9 (Subpart 160.022) Revised	73067
160.023–1—160.023–9 (Subpart 160.023) Revised	73070
160.024–1—160.024–9 (Subpart 160.024) Revised	73071
160.028–2—160.028–9 (Subpart 160.028) Revised	73078
160.031–1—160.031–9 (Subpart 160.031) Revised	73080
160.036–1—160.036–9 (Subpart 160.036) Revised	73081
160.037–1—160.037–9 (Subpart 160.037) Revised	73085
160.040–1—160.040–9 (Subpart 160.040) Revised	73089
160.057–1—160.057–9 (Subpart 160.057) Revised	73091
160.066–1—160.066–18 (Subpart 160.066) Added	73050
160.071–1—160.071–25 (Subpart 160.071) Added	*24478
Effective date corrected	*29588
160.072–1—160.072–9 (Subpart 160.072) Added	73054
161.013–1—161.013–15 (Subpart 161.013) Added	73054
162.027–2 Compliance date postponed in part to 2–12–81	*22040
162.027–3 (a)(1), (b) introductory text, (c), (d) compliance date postponed in part to 2–12–81	*22040
162.027–4 (a) compliance date postponed in part to 2–12–81	*22040
162.027–5 Compliance date postponed in part to 2–12–81	*22040
162.027–6 (a) and (b) compliance date postponed in part to 2–12–81	*22040
167.45–5 (c)(1) and (h) compliance date postponed in part to 2–12–81	*22040

	Page
167.45–40 (c), (c–1), and (c–2) compliance date postponed in part to 2–12–81	*22040
185.25–1 (c) and (d) added	*11110
(d) correctly designated	*13736
187.05–15 (a) revised	72131
189.25–15 (b) added	*24487
(b) effective date corrected	*29588
192.41–1—192.41–10 (Subpart 192.41) Added	*24487
Effective date corrected	*29588
192.41–5 (d) introductory text corrected	*29588
193.10–90 (a)(2), (4), and (5) compliance date postponed in part to 2–12–81	*22040
196.15–37 Added	*24487
Effective date corrected	*29588
196.37–43 Heading and (a) revised	*24487
Heading and (a) effective date corrected	*29588
196.90–1—196.90–10 (Subpart 196.90) Added	*24487
Effective date corrected	*29588
Chapter II—Maritime Administration, Department of Commerce	
221.14 Revised	*21635
252.3 (f) amended; (s) removed; (t), (u), and (v) redesignated as (s), (t), and (u)	*30442
252.21 Revised	*30442
252.22 (d) and (e) revised	*8024
252.23 Removed	*30443
252.24 (a)(3)(v) and (vi) removed	*30443
252.31 (f)(2)(ii) revised; (f)(2)(iii) removed	*8024
252.40 (d) and (e) removed; (f) redesignated as (d); new (d)(1) amended	*30443
252.41 (b)(1)(ix) and (x) removed; (b)(1)(xi) redesignated as (b)(1)(ix); schedules E and F removed	*30443
283 Revised	*37445
308.6 Revised	*22041
308.7 Amended	*22042
308.101 Amended	*22042
308.106 Amended	*22042
308.107 Amended	*22042
308.201 Amended	*22042
308.206 Amended	*22042
308.207 Amended	*22042
308.301 Amended	*22042
308.305 Amended	*22042
308.509 (b) amended	*22042
308.510 (b) amended	*22042
308.522 Amended	*22042
308.528 Amended	*22042
308.529 Amended	*22042
308.549 Amended	*22042
308.553 Revised	*22042
310.58 (c) revised	69301
Chapter III—Coast Guard (Great Lakes Pilotage), Department of Transportation	
401.110 (a)(12), (13), (14) and (15) revised	64837
401.200 (b) removed	64837
401.210 (a)(1) and (5) revised	64837
401.211 (b), (c), (d) and (e) revised	64837
401.220 (b) and (d) revised	64837
401.320 (b) revised	64838
401.400 (b) revised	*13077
401.405 Revised	*13077
401.410 (a) revised	*13077
(a) corrected	*14576
401.420 Revised	*13077
401.427 Revised	*13078
401.428 Revised	*13078
402.220 (a) revised	64838
Chapter IV—Federal Maritime Commission	
502.67 (g) amended	62898
Revised	*43759
502.72 Revised	60998
502.227 (a) amended	62898
502.261 Revised	*1880
Technical correction	*2325
503.51—503.59e (Subpart F) Revised	57411
(Subpart F) Technical correction	70721
504 Removed	67661
505 Revised	67661
509 Removed	62283
512 Revised (effective pending GAO approval)	*3290
GAO clearance correctly added	*20482
512.2 (e), (f)(1)(iv), (j), and (o) corrected	*20482

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 46, Chapter IV—Continued

Page

512.6 (a)(2), (b)(2) heading, (i), (ii), and (iii), (4) heading, (i), and (ii), and (7) and (d)(1) corrected *20482
514 Added (effective pending GAO review) *3313
Effective date confirmed; GAO clearance added *20483
514.6 (c)(2)(i) corrected *20483
525 Added *25802
527.4 Revised *37695
530.9 Removed *25802
530.12 Added *31722
531.2 (j) through (x) redesignated as (l) through (z); (c) amended *18928
(j) and (k) added *18927
531.3 (l) amended *18928
531.6 (m)(1) amended *18928
531.10 (b) introductory text revised; (c) through (f) redesignated as (d) through (g); new (c) added *18928
531.11 (g)(3) revised *18928
531.13 (a) revised; (c)(1) amended *18928
536.1 (a)(6) added *19246
536.4 (e) amended *38057
536.5 (c)(2) amended *12794
540.9 (j) revised; Form FMC–131 amended; eff. 2–20–81 *23429
547 Added *34000
552 Added *12795
552.5 (a) corrected *16190

Title 46—*Proposed Rules:*

1—196 (Ch. I) 64844
*12260, 13127, 13312
4 69308, 76327
*2052
26 69308, 76327
30—40 (Subch. D) *16438
30 *23475, 25083
33 69311
*35366
35 69308, 76327
*18040
42 70791
*5780
44 *26722
56 *1431
61 62915, 66219
66 57137
76 69308, 76327
93 70791
*5780
94 69311
*35366
97 69308, 76327
109 69308, 76327
110 *13982
111 *13982
113 *13982
148 *13138
150 *20132
151—154a (Subch. O) *16438
151 *20132, 23475, 25083
153 *20132
154 *20132
160 *22116
167 69308, 76327
185 69308, 76327
192 69311
196 69308, 76327
201—391 (Ch. II) *37972
251 *30410
254 65616
276 *29610
283 58928
355 58928
401—403 (Ch. III) *12260, 13312
401 *1431
500—551 (Ch. IV) *6122
500—552 (Ch. IV) *37703
502 *18991
508 72616
510 70795
*17029
512 65417
514 65417
522 *35368
524 *35368
525 *11514
527 *15229
531 *41024
536 *23708, 29323, 31139, 35369, 41024, 42721
537 *18994
538 *23708, 29323, 31139
540 62546
541 *27457
547 68870

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

0.5 (b)(7) revised 70471
0.15 (i) revised 70471
0.21 (h) revised; (i) redesignated as (j) and republished; new (i) added *25400
0.31 Revised *28718
0.32 Revised *28718
0.33 Removed *28718
0.34 Removed *28718
0.35 Removed *28718

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

0.36 Removed *28718
0.38 Removed *28718
0.42 Revised *16191
0.71 Revised *13078
0.72 Revised *13078
0.73—0.81 Removed *13078
0.84 Revised *29835
0.85—0.90 Removed *29835
0.91 Introductory text correctly revised *16192, 25398
Introductory text revised *25399
0.92 Revised *16192
0.93—0.102 Removed *16192
0.114 (g) added *11133
0.121 (c) amended 77167
(a) amended *19558
0.131 Introductory text revised *25399
0.152 (d) amended *39850
0.251 (e) added 60294
0.271 Added *10347
0.281 (b)(2) revised 60294
(b)(6) revised *42621
0.291 (d) removed; (e) through (h) redesignated as (d) through (g) *6105
(e) through (i) correctly redesignated as (d) through (h) *22945
(a)(1) revised *25399
(e) revised *31723
0.301 Revised *25399
0.333 Revised *25399
0.335 Added *25399
0.351 (d) amended 76295
0.371 (j) added 60294
0.434 Introductory text and (a) through (e) revised; (e) and (f) added *41151
0.442 Correctly designated 57096
Amended 70471
0.423 Amended 70471
0.443 Amended 70471
Corrected 76525
0.457 (f)(1) amended *39850
0.465 (d)(1) amended 70472
(d)(1) corrected 76525
0.556 (a) and (c)(2)(ii) amended *39850
0.557 (a) amended *39850
0.605 (b), (c)(1), (d) (1) and (3) amended 70472
1.104 (b) and (d) revised 60294
1.106 (b), (c), (d), and (k) revised 60294
1.115 (g), (h), and (i) revised 60295
1.401 (e) added *42621

Page.

1.405 (d) revised *42621
1.924 (b)(2)(iv) revised 69302
1.926 (b)(5) revised 69302
1.951 (d) removed 69302
1.1404 (g)(6) revised; (g)(13) removed *17014
2.106 Table amended 58717
2.303 (c) added 62284
2.601 Revised *33629
2.602 Revised *33629
2.603 Revised *33629
2.805 Existing text designated as (a); (b) added 59542
(a) designation and (b) removed *24164
2.806 Added *24164
5.67 (d) added 77167
13.61 Introductory text, (a)(1), (b)(1), (d)(1), (g)(1), (h)(1) and (f)(3) through (7) removed; (a)(2), (b)(2), (d)(2), (f)(2), (g)(3), and (h)(3) revised; (f)(8) redesignated as (f)(3) 66819
13.62 (c) revised; (d) added 66820
15.4 (n) through (p) added 59542
(n), (o), and (p) revised; (q) and (r) added *24164
15.66 (d) added 66822
15.801—15.838 (Subpart J) Added 59543
15.801 (c) added *24165
15.805 Added *24165
15.812 Revised *24165
15.814 Revised *24165
15.816 Revised *24165
15.818 Revised *24166
15.832 Revised *24166
15.834 Revised *24166
15.836 Revised *24166
15.838 (c) added *24166
18.271—18.275 (Subpart I) Technical correction 56700
18.277 Added 70474
19.735–101 Amended *39850
19.735–102 (g) amended *39850, 39851
19.735–104 (b) introductory text, (2), (5), (6), and (c) amended *39850
(a) introductory text, (1), and (2) amended *39851
19.735–105 (a) and (e) amended *39850
19.735–201 Amended *39851
19.735–203 (c) amended *39851
19.735–301 Amended *39851

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 47, Chapter I—Continued

	Page
19.735–401 Amended	*39850
19.735–402 Amended	*39851
19.735–410 Amended	*39851
21 Revised	60534
21.13 (f)(1) revised	*17587
21.113 (c) added	77167
22 Added; regulations transferred in part from Part 21	60572
Filing date for formal agreements	*35329
22.2 Designation corrected	63105
22.9 (c) introductory text, (1)(2), (e) and (f) revised	*25804
22.15 (i)(3) revised	*25804
22.113 (c) added	77167
22.207 (a), (b) and (c) revised; (d) removed	*25804
22.500 Revised	*25805
22.501 (l)(8) introductory text, (iii) and (iv), (l)(9)(i) and (ii), and (l)(10)(i) and (iii) revised; (l)(9)(iii) through (vii) added	*29031
22.514 Revised	*25805
23.20 (e) added	77167
25 Policy statement	65753
Corrected	67663
25.203 (h) added	77167
31.100:3 (a) revised	65763
61 Report and order	*19247
61.32 Revised	66824
61.33 (c) added	66825
61.34 Removed	66825
61.72 Revised	57097
63.01 (h)(3) revised	*3051
(h)(3) corrected	*6585
63.54—63.57 Undesignated center heading added	75163
63.54 Heading revised	75163
63.55 Revised	75163
63.60 (a)(1), (2), and (c) revised; (a)(3) and (d) through (h) removed	*3051
(a)(1) and (2) and (c) corrected; (a)(3) and (d) through (h) correctly removed	*6585
63.62 (c) correctly removed; (f) corrected	*6585
63.63 (a) introductory text corrected	*6585
63.64 Heading revised	*3051
Heading corrected	*6585
63.66 Revised	*3051
Correctly revised	*6585
63.67 Removed	*3051
Correctly removed	*6585
63.68 Removed	*3051
Correctly removed	*6585
63.90 Revised	*3051
Correctly revised	*6585
63.91 Removed	*3051
Correctly removed	*6585
63.502 Removed	*3051
Correctly removed	*6585
63.503 Removed	*3051
Correctly removed	*6585
63.505 Removed	*3051
Reinstated and corrected	*6586
63.506 Removed	*3051
Correctly removed	*6585
63.507 Removed	*3051
Correctly removed	*6585
64.202—64.298 (Subpart B) Removed	*3052
Correctly removed	*6586
64.401—64.402 (Subpart D) Appendix A revised	*26057
Appendix A technical correction	*32001
64.602 Revised	75163
64.702 (Subpart G) Revised	*31364
Effective date deferred	*41429
Comment time extended	*42622
64.702 Petition page requirement waived	*40116
68.1—68.3 (Subpart A) Revised	*20841
68.2 (a) revised; (d) added	66830
68.100 Revised	*20853
68.104 Revised	*20853
68.106 Revised	*20853
68.222 Added	*20853
68.300—68.314 (Subpart D) Revised	*20853
73 Index revised	58725
73.14 (v) added	66820
73.21 (a)(2)(ii) revised	*43186
73.25 (a)(1) and (2) revised; (a)(3), (4), and (5), and Note 1 removed; Notes 2 through 5 redesignated as Notes 1 through 4; new Note 1 revised	*43186
73.30 Revised	69934
73.31 Revised	69934
73.35 (b) revised	*26061
73.36 Revised	58731
73.37 (e)(2)(iii) amended; (e)(2)(iv) and (v) added	*43186

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

	Page
73.40 Heading revised; note removed	65764
73.45 (c) amended; (d) removed	*28141
73.50 Heading revised	65764
(a) revised	*26062
73.52 Revised	58731
73.53 (a)(2) revised	65764
73.54 Heading and (e)(6) revised	*26062
73.55 Revised	58731
73.57 (g) revised	58731
73.59 Revised	58731
73.62 Added	58731
73.67 (a)(3) revised	58731
(c)(1) revised	65764
73.68 (a) introductory text (c) revised; (f) added	58731
73.69 (a) revised	*26062
73.93 (e)(3) amended	58731
(d), (e) introductory text and (1), and (h) introductory text revised	66820
(c), (e)(3), and (h)(3) revised; (j) note removed; (k) added	*26062
73.99 Revised	*26062
73.122 Revised	65764
73.124 Revised	65764
73.126 Revised	65764
73.139 Revised	58720
73.140 (c)(2) removed	*28141
73.157 Headnote and (a) revised	*6401
73.182 (f) revised	*26063
(a)(1)(i), (2), (i), and (o) revised; (v) table amended	*43186
73.189 (b)(9) revised	*26064
73.202 (b) table amended	57098, 58719, 58724, 60097, 60741, 62285, 62286, 64409, 67664, 67665, 67667–67669, 70474, 74837, 74838, 77164
(b) table amended	*1881, 5305, 5306, 6106, 6943, 6944, 12439, 12796, 13080, 13082, 14215, 14216, 16193, 17015, 17587, 17588, 21637, 21638, 23438–23440, 25400, 25401, 25807, 25808, 26708, 28718–28720, 29836–29838, 29840, 34889, 37211, 37839, 43761
(b) table amended; eff. 6–1–82	*3909
(b) table corrected	*38057
73.207 Heading revised	65764
73.210 Revised	69934
73.240 (a)(3) added	*26064
73.241 Revised	58720
Redesignated as 73.231	65764
73.242 Revised	*26064
73.265 (c), (d) introductory text, (1), and (4) revised; (d)(2) removed; (i) added	*26064
73.266 Added	58731
73.267 Revised	58731
(c)(3)(i) and (iii) revised	*28141
73.268 Revised	58732
73.269 Revised	58732
73.276 Revised	*28141
73.278 Revised	58732
73.288 Redesignated from 73.299 and revised	65764
73.291 Redesignated from 73.300	65764
73.292 Revised	65764
73.295 (d) revised	*26064
73.296 Revised	65764
73.299 Redesignated as 73.288 and revised; new 73.299 redesignated from 73.301 and revised	65764
73.300 Redesignated as 73.291	65764
73.301 Redesignated as 73.299 and revised	65764
73.313 (d)(1) amended	65764
73.317 Heading revised	65764
73.332 (d)(6) note removed	65764
Heading and (a) revised	*26064
73.333 Heading revised	*28141
73.340 (c)(2) removed	*28141
73.501 (b) amended	*28141
73.503 (d) amended	65764
73.504 (a) table amended	*3910, 10348, 11134
73.507 Heading revised	65764
73.508 (b) amended	*28141
73.531 Added	*26064
73.540 (c)(2) removed	*28141
73.561 (b)(1) and (d) amended	65764
73.565 (c), (d) introductory text, (1), and (4) revised; (d)(2) removed; (j) added	*26064
(a) amended	*28141
73.566 Added	58732
73.567 Revised	58732
73.568 Revised	58732
73.569 Revised	58732
73.572 Redesignated as 73.574	65764
73.573 Redesignated as 73.575	65764
Added	*28141
73.574 Redesignated as 73.576; new 73.574 redesignated from 73.572	65764
73.575 Redesignated from 73.573	65764
73.576 Redesignated from 73.574	65764
73.578 Added	58732

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 47, Chapter I—Continued

		Page
73.591	Redesignated from 73.598	65764
73.592	Redesignated as 73.596; new 73.592 added	65764
73.595	(d) revised	*26065
73.596	Redesignated as 73.597; new 73.596 redesignated from 73.592	65764
73.597	Redesignated as 73.598; new 73.597 redesignated from 73.596	65764
73.598	Redesignated as 73.591; new 73.598 redesignated from 73.597	65764
73.606	(b) table amended	58723, 58913, 67665, 67666, 67668
	(b) table amended	*2846, 3912, 6945, 10349, 13081
73.610	Heading revised	65765
73.613	Revised	69934
73.627	Revised	58732
73.633	Revised	65765
73.636	(a)(3) added	*26065
73.641	Heading revised	65765
73.642	(a)(3) revised	60096
	Heading revised	65765
73.643	Heading revised	65765
73.644	Heading revised	65765
73.656	Revised	65765
73.659	Revised	58720
73.661	Revised	66820
	(b)(3) revised; (f) added	*26065
73.663	Added	58732
73.664	Revised	65765
73.668	Revised	58733
73.676	(f)(5) Note removed	58733, 65765
73.682	(a)(5) revised	*28141
73.685	(a), (f)(3), and (h)(1) amended	*26065
73.687	(b)(7) revised	58733
	Heading revised	65765
	(b)(4) revised; (f) removed	*28141
73.689	Revised	58732
73.691	(a) revised	*26065
73.692	Removed	*26065
73.694	Heading and (a) revised	*26065
73.710	Revised	58733
73.711	Revised	58733
73.751	Heading revised	65765
73.753	Heading revised	65765
73.756	Heading revised	65765
73.759	Heading revised	65765
73.762	Revised	58733
73.763	Revised	58733
73.765	Heading revised	65765
73.767	Revised	58733
73.768	Revised	58733
73.769	Revised	58734
73.783	Revised	*26065
73.784	Revised	*26065
73.785	Revised	*26065
73.790	Revised	65765
73.961	(c) revised	*26065
73.1020	(a)(16) revised	*28141
73.1030	(c) added	77167
73.1120	Added	69934
73.1125	Added	69935
73.1130	Added	69935
73.1150	Added	58720
73.1201	(b)(2) revised	*41151
73.1207	(a)(3) added; (b) and (c) revised	*26065
73.1211	(c) and (d) revised; note removed	*6401
73.1213	(a) amended	*28141
73.1226	(a)(1) added	*41151
73.1515	Added	58734
73.1520	(c) revised	*6401
73.1545	Added	58734
73.1545	(b)(1) corrected	64408
73.1550	(d)(2) revised	58734
73.1560	Added	58734
	(c) corrected	75384
73.1570	Added	58735
73.1615	Added	*6401
73.1620	(a), (b), (d), and (f) revised	*6401
73.1635	Added	*6402
73.1668	Added	*26066
73.1675	(a) revised	*26066
73.1810	(b)(4)(iii) and (f)(4)(iii) revised	*6402
73.1820	(a)(2)(ii) revised	58735
73.1840	Revised	*41151
73.1850	(b)(7) added	*41152
73.1940	(d) revised	*26066
	(d) amended	*28141
73.3500	Amended	58720
73.3517	Introductory text revised	*41152
73.3526	(f) revised	*6402
	(a)(11)(v) revised	*23435
	Comment and reply comment dates	*35818
	(a) and (e) revised; (a)(13) added	*41152
73.3527	(h) revised	*6402
	(c)(1)(v) revised	*23435
	(a) introductory text and (g) introductory text revised; (a)(8) added	*26066
	(a) introductory text and (g) introductory text revised; (a)(8) added	*41152
73.3538	(a)(5), (6), and (7) revised	69935
73.3542	(b), (d), and (e) revised	*6402
73.3544	(b)(1) removed; (c) added	*20483
73.3547	Revised	66821
73.3569	Removed	*43187
73.3580	(g) amended	65765
	(b) and (g)(1)(ii)(B) revised	*6402
73.3615	(d)(2) revised	*6403
73.4021	Added	58720
73.4060	Revised	58720
73.4070	(a) amended	*28141
73.4090	Amended	*28142
73.4093	Added	*6403
73.4094	Added	*6403
73.4097	Added	*6403
73.4101	Added	*6403
73.4102	Added	*6403
73.4126	Added	*6403
73.4135	Amended	*28142
73.4157	Added	*6403
73.4170	Amended	*28142
73.4225	Revised	58720
73.4270	Revised	*6403
73.4280	Added	58720
73.4372	Added	*6403
74.12	Revised	58735
	(d) added	77167
74.15	Heading and (d)(14) revised	*28142
74.21	Heading revised	65765
74.401	(a)(6) amended	*28142
74.402	(e) note removed	65765
74.451	(a) revised	*28142
74.462	(e) note removed	65765
74.464	Note removed	65765
74.482	(d) revised	*26067
74.533	(b)(1) and (5) removed; (b)(4) revised	*26067
74.581	Revised	*26067
74.582	(a) introductory text revised	*26067
74.681	Revised	*26067
74.731	(f) revised	*37842
74.751	Heading, (b)(1), and (c) revised	*26067
74.951	Revised	*26068
74.966	(a) revised	66822
	(b) introductory text revised	*28142
74.970	(b) revised	*26068
74.1201	(a) revised	*37842
74.1231	(f) and (g) revised	*37842
74.1251	Heading and (b)(1) revised; (c) removed	*26068
76.64	Added	*31723
76.67	Appendices A and B removed	*23440
76.311	(g) amended	*6403
76.403	Amended	*6404
78	FCC Form 327 instructions amended	*13084
78.18	(e), (f), and (i) corrected; (j) correctly removed	*41959
78.19	(f) added	77167
81.31	(c) added	77167
81.132	(a)(2)(iii) added	*41637
81.133	(a) table amended	*27766
81.304	(a) table amended; (b)(7) added	*41637
83.24	Heading and (b) introductory text revised; (c) added	58717
	Heading corrected	61600
83.38	(d) revised; footnote 1 removed	62284
83.132	(a)(5)(iii) and (iv) revised	58717
83.133	(a) table amended	58717
83.134	(k) added	58717
83.137	(j) added	58717
83.146	Added	58717
83.202	(c) revised	60742
83.224	(b) revised	73097
83.254	Added	58718
83.339	(a)(1) revised	*8990
83.351	(a) table amended; (b)(75) revised	64409
83.359	(a) table amended	58718
83.367	(a)(1) revised	*8990
83.472	(b) revised; (c) added	58736
83.514	(d) revised	60742
83.557	(a)(4), (e), and (f) revised; (a)(8) added	58736
83.615	(a)(2) revised	66831
87.31	(d) added	77167
87.183	(m) revised	59547
	(g) revised	64410
	(cc) revised	73099
87.195	(c) revised	64410
87.201	(a) revised	64410
	(c) amended	73099
87.403	(b) revised	64410
87.441	(d) added	64410
87.455	(b)(2) revised	*6946

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 47, Chapter I—Continued

Page

90.3 (k), (l), and (m) corrected; (n) correctly added ... 57098
90.7 Amended ... 67124
Corrected ... *43418
90.17 (c)(11) revised ... *13087
(d)(4) and (e) corrected ... *43418
90.19 (c) corrected ... 57098
90.21 (d)(4) corrected ... *43418
90.37 (b) corrected ... *43418
90.43 (a) correctly designated ... *43418
90.51 (a) corrected ... 67118
90.53 (a) table corrected ... 57099, 67118
(a) table amended; (b)(26) added ... *13087
(a) table corrected ... *43418
90.55 Revised ... *13087
Introductory text amended ... *28721
Corrected ... *43418
90.63 (d)(5) corrected ... 67118
90.65 (b) table amended; (c)(37), (38), (39), and (40) added ... *29298
(b) table and (c)(39) corrected ... *43417
90.67 (b) table amended; (c)(30), (31), (32), and (33) added ... *29298
(b) table corrected ... *30637, 43418
90.73 (c) table corrected ... 67118, 9283
(c) table amended; (d)(29) through (33) added ... *29298
(d)(30) corrected ... *43418
90.75 (c) table corrected ... *9283
(d)(4) revised ... *16193
90.79 (c) table amended; (d)(21) and (22) added ... *29299
90.93 (d)(3) corrected ... 67118
90.103 (c)(22) corrected ... *43418
90.119 (c) corrected ... 67118
90.135 (a)(5) corrected ... 57099
90.173 (i) corrected ... *43419
90.175 (a)(1) corrected ... 57099
(d)(4) and (10) correctly designated as (e)(4) and (10) ... 67118
90.177 (d) added ... 77167
Designation corrected ... *4357
90.207 (b) corrected ... *9284, 43419
90.209 (c) introductory text, (f), and (g) revised ... 70162
(c) introductory text corrected ... *6586
90.211 (h) revised ... 70163
(h) corrected ... *6587
90.213 Table corrected ... 57099

Page

90.239 (c)(3)(i) corrected ... 57099
(c)(2) corrected ... *43419
90.242 (a)(1) and (5) corrected ... 67118
90.257 (a)(1) table corrected ... *43419
90.261 (c) table corrected ... 57099, 67118
(c) table corrected ... *43419
90.311 Introductory text correctly designated as (a) introductory text ... 67118
(a) correctly designated; tables corrected ... *43419
90.365 (b)(2) through (5) revised ... 58741
Petitions denied ... 59234
90.377 (b) revised ... 58742
Petitions denied ... 59234
(b) table 1 corrected ... *43419
90.429 (d)(1) corrected ... 67118
90.460 Added ... 67124
90.461 (c)(3) corrected ... 67118
(c)(5) revised ... 67124
90.463 (a) corrected ... 67118
90.463 (e)(2) revised ... 67125
90.471—90.475 Undesignated center heading added ... 67124
90.471 Revised ... 67125
90.473 Revised ... 67125
90.475 Heading, (a) introductory text, and (2) revised ... 67125
90.476—90.487 Undesignated center heading added ... 67125
90.476 Added ... 67125
90.477 (e) removed ... 67125
90.483 (c)(4) revised ... 67125
90.487 (c) corrected ... 57099
90.527 (c) introductory text correctly designated as (1) ... 67118
90.555 (b) table corrected ... 67118
94.5 Revised ... 69302
94.25 (i) added ... 77167
94.61 (b) table footnote 15 revised ... 69302
95.3 (a) revised ... *42623
95.15 (a) introductory text and (1) revised; (a)(8) added ... *42623
95.17 (f) added ... 77167
(e) added ... *42624
95.35 (a)(1) revised ... *42624
95.73 (a) revised ... *42624
95.401 CB Rule 23 amended ... 67126
95.617 (c)(1) introductory text revised; (c)(1–a) added ... 70163
95.619 (e) revised ... 70163
97.13 (e) removed ... 58742
97.25 (d) removed; (e) redesignated as (d) ... *6107

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

97.37 Existing text designated as (a); (b) added ... *40118
97.40 (a) revised ... 73100
97.41 Redesignated as 97.42; new 97.41 added ... 73100
97.42 Redesignated as 97.43 and revised; new 97.42 redesignated from 97.41 ... 73100
(d) added ... 77167
Designation corrected ... *4357
97.43 Redesignated as 97.44; new 97.43 redesignated from 97.42 and revised ... 73100
97.44 Redesignated from 97.43 ... 73100
97.47 (c) removed ... 58742
97.59 Revised ... 58743
97.65 (c) revised ... *40117
97.69 Revised ... *8992
97.82 Revised ... 73101
97.171 Existing text designated as (a); (b) added ... *40118
99.11 (i) added ... 77167

Title 47—*Proposed Rules:*

0—99 (Ch. I) ... 61979
... *26723, 30052, 33657, 33662, 41986, 43441
0 ... 57636, 62305, 67445, 73130
... *3064
1 ... 59568, 76565
... *3335, 3349
2 ... 61214, 67191, 74862
... *2060, 3064, 3349, 6967, 7583, 10384, 13477, 14074, 14902, 17042, 21306, 21661, 25412, 25844, 29323, 32013, 37237, 42347, 42724
15 ... 59570, 60112
... *14233, 23478, 42347, 43442
21 ... 58929, 61214, 67191, 74862
... *2859, 10384, 29323, 29335, 29350, 42724
22 ... *2859, 12446, 14074, 14075, 21306, 32013, 32025, 37237
31 ... 64440
33 ... 64440
42 ... 64440
... *9020
43 ... 61214, 64440, 67192
61 ... 61216, 67445, 73130
... *3064, 3353, 10385, 13139, 16214, 19278, 24212, 29865
63 ... 59578, 67445, 73130
... *2066, 3064, 20142, 26724
64 ... 63558
67 ... *4365, 24212, 34315, 41459
68 ... *37704

Page

73 ... 57138, 57636, 58762–58764, 59568, 59579, 59580, 61230, 62306, 62307, 62917, 64441, 67680, 70201, 73131, 75418–75421, 75683
... *1919–1923, 1976, 2067, 3070, 3071, 3939–3941, 5358, 5359, 6122, 6124, 6126, 6419, 6633, 6967, 6968, 6970–6973, 8029, 8673, 8674, 9021–9025, 9755, 12448–12451, 12453, 12454, 12456, 12457, 12459, 13144, 13146, 13147–13150, 13152, 14076, 14078, 15229, 16215–16217, 16219, 16222, 17043, 17597, 17598, 17600, 17602, 19279, 19574–19576, 20142, 20985, 21661, 23478–23480, 23482, 23483, 24213, 24214, 25414, 26390, 27784, 28768–28771, 28773–28775, 28777, 28778, 29865, 29867, 29868, 29870–29872, 30094, 30656–30658, 31139, 32028–32030, 32745, 34931, 34933–34938, 35370, 37238–37240, 37242–37246, 37468, 37868, 37869, 40176, 40180–40182, 40184, 40186, 40626, 41171, 42725, 42727, 42729, 42746–42749, 42751–42753, 43810–43813
74 ... *29323, 29350, 40187, 42724
76 ... 58766
... *3071, 9021, 17167, 19578, 28780, 43814
81 ... 58581, 66857
... *3064, 6967, 13477, 17042, 17611, 21661, 27795, 28781
83 ... *1924, 3064, 6967, 7269, 13477, 17042, 17611, 19583, 21661
87 ... 61214, 67191, 74862
... *10384, 25415, 31765, 40188
90 ... 61214, 64442, 67191, 69689, 70498, 74862, 76566
... *2067 3086, 3349, 7269, 7583, 10384, 14902, 25412, 25844, 37237, 42724
94 ... *2060, 2069, 27457, 29323, 29350, 42724
95 ... 67192
... *10606
97 ... 64442, 70499
... *2071, 25418, 40192
99 ... *7583

TITLE 48

Chapter I—Office of Federal Procurement Policy, Office of Management and Budget

Title 48—*Proposed Rules:*

Ch. I ... 76828
3 ... *43236
4 ... *29612
7 ... *43236

Note: Symbol (*) refers to 1980 page numbers

60-145 O - 80 - 10

Title 48—*Proposed Rules*—Con.

Page
8 ---------- 68872
---------- *15954
15 ---------- *15954, 26984
17 ---------- 68872
31 ---------- 68872
42 ---------- *15954
45 ---------- 62311
48 ---------- *43236
49 ---------- *21306
52 ---------- *9302

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

1.46 (t) revised ---------- *2655
(n)(13) added ---------- *8993
1.47 (d) amended ---------- *783
1.48 (d) removed ---------- *14576
1.49 (f) removed ---------- *14576
1.53 Introductory text amended; (a)(5) and (b)(3) revised ---------- *14576
Technical correction ---------- *16194
1.59 (o) added ---------- 70164
(b)(8) revised ---------- 26068
1 Appendix A amended ---------- *14577
7 Appendix G revised ---------- 65765
10 Revised ---------- *8993
23 Added ---------- *21184
Effective date corrected ---------- *23441
27.81—27.107 (Subpart E) Intent to prepare EIS ---------- *11495
71.10 Revised ---------- *25065
71.10a Added; regulations transferred from 71.11(b) ---------- *25065
71.11 Revised ---------- *25065

Chapter I—Research and Special Programs Administration, Department of Transportation

106 Appendix A amended ---------- *14577
107.101—107.123 (Subpart B) Appendix B amended ---------- *13090
Appendixes A and B amended ---------- *32691
171 Compliance date amended and hearing ---------- *43761
171.1 Revised; eff. 11-20-80 ---------- *34586
171.2 (a) and (b) revised; eff. 11-20-80 ---------- *34586
171.3 Added; eff. 11-20-80 ---------- *34586
171.7 (d)(9) revised ---------- 70722
(d)(17) revised ---------- *13092
(c)(27) and (28), (d)(5)(ix), (20), (21) and (22) added; eff. 11-20-80 ---------- *34587

Page
171.8 Amended; eff. 11-20-80 ---------- *34587
Amended ---------- *35332
171.12 (b) revised; eff. 11-20-80 ---------- *34587
171.15 (a) and (b) amended; eff. 11-20-80 ---------- *34587
171.16 (a) designated as (a) introductory text and amended; (a)(1) and (2) added; eff. 11-20-80 ---------- 34587
171.17 Added; eff. 11-20-80 ---------- *34587
171.20 Added ---------- *32692
172 Heading amended; eff. 11-20-80 ---------- *34588
Compliance date amended and hearing ---------- *43761
172.100 (f), (g) introductory text and (2) revised; (g)(3) removed ---------- *13090
172.100 Removed; eff. 11-20-80 ---------- *34588
172.101—172.102 (Subpart B) Heading amended; eff. 11-20-80 ---------- *34588
172.101 Table amended ---------- 60099, 70723
Table corrected ---------- 72131
Table amended ---------- *13090
Revised; eff. 11-20-80 ---------- *34588
172.102 Added; eff. 11-20-80 ---------- *34647
172.101—172.102 (Subpart B) Appendix A added; eff. 11-20-80 ---------- *34685
172.200 (b) introductory text revised; (c) added; eff. 11-20-80 ---------- *34697
172.201 (a)(1)(ii) and (iii), (4) introductory text and (i) revised; eff. 11-20-80 ---------- *34697
172.202 (a) introductory text, (1), (2), and (3), (b), and (c) revised; (d) added; eff. 11-20-80 ---------- *34697
172.203 (c) removed ---------- 70730
(c), (j) and (k) added; (d)(1)(ii), (e) and (i)(2) revised; eff. 11-20-80 ---------- *34697
172.204 (a) note and (b)(1) introductory text revised; eff. 11-20-80 ---------- *34698
172.205 Added; eff. 11-20-80 ---------- *34698
172.300 Revised; eff. 11-20-80 ---------- *34698
172.312 (a) introductory text revised; (d) and (e) aded ---------- *13090
172.316 (a) introductory text and (c) revised; (a)(7) added; eff. 11-20-80 ---------- *34699
172.324 Added; eff. 11-20-80 ---------- *34699

Page
172.326 (a) and (b) revised; (d) and (e) added; eff. 11-20-80 ---------- *34699
172.328 (a), (b) and (e) revised; (f) added; eff. 11-20-80 ---------- *34699
172.330 Revised; eff. 11-20-80 ---------- 34699
172.332 Added; eff. 11-20-80 ---------- *34700
172.334 Added; eff. 11-20-80 ---------- *34700
172.336 Added; eff. 11-20-80 ---------- *34700
172.338 Added; eff. 11-20-80 ---------- *34701
172.400 (a) and (b)(3) amended; (d) added; eff. 11-20-80 ---------- *34701
172.402 (a)(5) through (10) added; eff. 11-20-80 ---------- *34701
172.407 (h) revised; eff. 11-20-80 ---------- *34701
172.503 Added; eff. 11-20-80 ---------- 34701
172.504 (a) table 2 revised; (d) added; eff. 11-20-80 ---------- *34701
172.519 (d) and (f) revised; eff. 11-20-80 ---------- *34702
173 Compliance date amended and hearing ---------- *43761
173.2 Heading and (a) introductory text revised; (a)(16) added; eff. 11-20-80 ---------- *34702
173.3 (c) revised ---------- 60100
(c) revised ---------- *5738
173.21 Revised; eff. 11-20-80 ---------- *34702
173.28 (h)(1) removed ---------- *32692
Heading, (h), and (n) revised; (i) and (j) removed; (p) added; eff. 11-20-80 ---------- *34702
173.29 (a) revised; (b), (c), and (e) removed; (d) and (f) redesignated as (b) and (c); eff. 11-20-80 ---------- *34702
173.31 (d)(4) table footnote 1 revised ---------- *32692
173.32 (b)(3) revised ---------- *32692
173.34 (c)(3)(i), (g)(4)(ii) introductory text, (i) introductory text, (i)(4)(i), and (l) introductory text revised ---------- *32693
173.51 Revised; eff. 11-20-80 ---------- *34703
173.53 (g) introductory text and (1) revised; (g)(2) redesignated as (g)(3); new (g)(2) added; notes 1 through 5 moved to end of section; note 5 revised; note 6 added ---------- 70730
(h) introductory text and (1), and (j) revised ---------- *32693
173.56 (a), (c), and (d) revised ---------- *32693
173.57 (a) revised ---------- *32693
173.65 (h) introductory text revised ---------- *32693

Page
173.66 Revised ---------- 70730
173.67 Removed ---------- 70731
173.68 Revised ---------- 70731
173.79 (a)(2) and (c) revised ---------- *32694
173.86 (b) revised ---------- *32694
173.87 Revised ---------- 70731
173.88 (g) revised ---------- *32694
173.92 (a)(4) and (c) revised ---------- *32694
173.93 (b)(2) added ---------- 60100
173.94 (a) introductory text and (b) revised ---------- *32694
173.95 (a)(2), (b), and (c) revised ---------- *32694
173.100 (bb) amended; (gg) and (hh) added ---------- 70731
(p), (r)(11), (u), (x) introductory text, (y), (aa), and (ee) revised; (r) introductory text amended ---------- *32694
173.102 (a)(2) revised ---------- *32695
173.103 Revised ---------- 70731
173.118 (b) amended ---------- *13090
173.118a (a) and (b)(1), (2), (3) and (5) revised; eff. 11-20-80 ---------- *34703
173.119 (m)(14) revised ---------- 60100
173.120 (c) revised ---------- *32695
173.124 (a)(1) and (2) revised ---------- *32695
173.151a (a)(3) revised; eff. 11-20-80 ---------- *34703
173.154 (a)(9) revised; (a)(21) added ---------- 60100
(a)(20 amended; eff. 11-20-80 ---------- *34703
173.157 (a)(5), (b)(2) and (3) revised ---------- 60100
173.162 (h) revised ---------- *32695
173.178 (a)(5) added ---------- 60100
173.179 Added; eff. 11-20-80 ---------- *34703
173.182 (a) and (b) amended; eff. 11-20-80 ---------- *34703
173.197a Revised ---------- *32696
173.202 (a)(4) amended ---------- 60100
(a)(1) revised ---------- *32696
173.206 (f) added ---------- 60100
173.217 Heading and (a) introductory text amended; (b) redesignated as (c); new (b) added; eff. 11-20-80 ---------- *34703
173.218 (a)(1) revised ---------- *32696
173.225 (a)(1) revised ---------- *32696
173.237 (a)(2) removed ---------- *32696
173.238 (a) revised ---------- *32696
173.245 (a)(32) revised ---------- 60100
(a)(25) revised ---------- *32696
173.247 (a)(9) revised; (a)(12) amended ---------- 60101

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 49, Chapter I—Continued

	Page
173.247a (a)(3) amended	60101
173.248 (a)(6) amended	60101
173.249 (a)(6) amended	60101
173.250a (a)(2) amended	60101
173.252 (a)(4) amended	60101
(g)(1) revised	*32696
173.253 (a)(6) amended	60101
173.254 (a)(5) amended	60101
173.255 (a)(5) amended	60101
173.256 (a)(7) revised	60101
(a)(3) revised	*32696
173.257 (a)(4) amended	60101
173.260 (g) revised	*32696
173.262 (a)(11) and (b)(4) amended	60101
173.263 (a)(10) amended	60101
173.266 (f)(2) revised	*32697
173.267 (a)(7) amended	60101
173.268 (b)(3) amended	60101
(f)(4) revised	*32697
173.269 (b) revised	*32697
173.272 (i)(21), (25), and (28) amended	60101
(i)(18) revised	*32697
173.273 (a)(5) amended	60102
173.276 (a)(6) amended	60102
173.280 (a)(8) amended	60102
173.289 (a)(4) amended	60102
173.292 (a)(2) amended	60102
173.294 (a)(3) amended	60102
173.295 (a)(9) and (10) amended	60102
173.296 (a)(2) amended	60102
173.297 (a)(1) amended	60102
173.300 (b)(1) revised	*32697
173.305 (c)(1) revised	*32697
173.306 (d)(1) revised	*32697
173.307 (a)(2) revised	*13090
173.315 (i)(12) revised	*32697
173.332 (d) revised	*32697
173.333 (a)(2) revised	*32698
173.336 (a)(3) and (4) revised	*32698
173.346 (a)(20) revised	60102
173.352 Heading and (a) introductory text revised; eff. 11–20–80	*34703
173.364 (a) introductory text revised; eff. 11–20–80	*34704
173.366 (a)(3) revised	*32698
173.370 (a)(13) revised	*32698
173.385 (b) and (c) revised	*32698
173.389 (e) revised; eff. 11–20–80	*34704
173.393 (q) and (r) added	*20101
173.500 (a) and note revised; (a)(1) through (4) redesignated as (b)(1) through (4); (b) introductory text and (5) added; eff. 11–20–80	*34704
173.505 (a) introductory text revised; eff. 11–20–80	*34704
173.510 (a)(1) revised; (a)(5) added; eff. 11–20–80	*34704
173.615 (a) revised	*13090
173.906 Revised	*13090
173.1300 (Subpart O) Added; eff. 11–20–80	*34704
174 Compliance date amended and hearing	*43761
174.24 (b) revised; eff. 11–20–80	*34704
174.25 (b)(6) added; (c) amended; eff. 11–20–80	*34704
174.45 Revised; eff. 11–20–80	*34704
174.48 (b) revised	60102
174.61 (b) revised	*32698
174.81 (a) table amended; (a) table footnotes a and e revised	70732
(a) table Note 5 revised	*32698
174.101 (h) amended; (m) removed	70732
(h) corrected	72131
174.106 (a) and (b) revised	70732
174.115 (a) revised	70732
175.1 Revised	*35332
175.5 Revised	*35332
175.10 (a)(2)(x) revised; (a)(13) and (14) added	*13090
(a)(12)(ii) and (v) revised	*32691
175.25 Added	*13091
175.30 Heading, (a) introductory text and (1), (b) and (c) revised; (d) added	*13091
175.31 Added	*35332
175.33 Introductory text and (a) through (c) redesignated as (a) introductory text and (a)(1) through (3); new (a) introductory text revised	*13091
175.45 (a) introductory text revised	*32691
175.75 (a)(3) revised	*20101
175.85 (b) amended	*6946
(f) added	*13091
(d) amended	*20101
(b) revised; (c) redesignated as (g); new (c) added	*35332
175.305 (a)(4) revised	*13091

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

	Page
175.310 (c)(4)(iii) removed; (e) revised	*13091
175.320 (a) table amended	70732
(b)(8) revised	*13091
(b)(5) and (7) revised	*32691
175.700 Revised	*20101
175.701 Added	*20102
175.702 Added	*20102
175.703 Added	*20102
175.710 Removed	*20102
176 Compliance date amended and hearing	*43761
176.9 (a) introductory text revised	70732
176.11 (e) revised; (f) added; eff. 11–20–80	*34704
176.48 (b) revised; eff. 11–20–80	*34705
176.83 (a) table 1 amended	70732
176.105 (d) amended	70732
176.177 (c) and (e) revised	70732
177 Compliance date amended and hearing	*43761
177.807 Revised; eff. 11–20–80	*34705
177.821 (f) revised	*32698
177.835 (g) introductory text, (2)(i) and (m) revised	70733
177.838 (g) revised	*32698
177.848 (a) table amended; (a) table footnotes a and e revised	70733
(a) table Note 5 revised	*32699
177.854 (c)(2) revised	60102
177.870 (d) revised	70733
178.1–9 (a) and (d) introductory text revised	66197
178.1–10 Heading, (a) introductory text and (2) revised; (a)(3), (4), and (5) removed	66197
178.4–8 (a), (d) introductory text, and (g) revised	66198
178.5–9 (a) and (d) introductory text revised	66198
178.6–7 Removed	66198
178.6–10 (a) and (d) introductory text	66198
178.13–3 (a) amended	66198
178.13–4 (a)(1) revised	66198
178.14–8 (a) and (d) introductory text revised	66198
178.16–13 (a)(3) amended	60102
178.21–3 (a) note 1 revised	66198
178.24–2 (a) note 1 revised	66198
178.27–1 (a) note 1 revised	66198
178.59–16 (a) and (b) amended	66198
178.59–21 Removed	66198
178.60–20 (a) and (b) amended	66198
178.80–7 (a) table footnote 1 revised	66198
178.80–9 (d) amended	66198
178.80–14 (a) revised	66198
178.81–7 (a) table footnote 1 revised	66199
178.81–9 (e) revised	66199
178.81–14 (a) revised	66199
178.82–7 (a) table footnote 1 revised	66199
178.82–9 (c) revised; (d) amended	66199
178.82–14 (a) revised	66199
178.83–7 (a) table footnote 1 revised	66199
178.83–9 (e) revised	66199
178.83–14 (a) revised	66199
178.84–7 (a) table footnote 1 revised	66199
178.84–14 (a) revised	66199
178.85–13 (a) revised	66199
178.87–7 (a) table footnote 1 revised	66199
178.87–13 (a)(3) revised	66200
178.87–14 (a) revised	66200
178.88–6 (a) table footnote 1 revised	66200
178.88–8 (e) revised	66200
178.88–13 (a) revised	66200
178.89–5 (c) revised	66200
178.89–12 (a) revised	66200
178.90–6 (a) table footnote 1 revised	66200
178.90–8 (e) revised	66200
178.90–13 (a) revised	66200
178.91–7 (a) table footnote 1 revised	66200
178.91–14 (a) revised	66200
178.92–9 (a) revised	66200
178.97–12 (a) revised	66200
178.98–12 (a) revised	66200
178.99–12 (a) revised	66201
178.101–12 (a) revised	66201
178.107–12 (a) revised	66201
178.108–12 (a) revised	66201
178.109–7 (a) revised	66201
178.109–12 (a) revised	66201
178.110–11 (a) revised	66201
178.115–8 (c) revised; (d) amended	66201
178.115–13 (a) revised	66201
178.116–8 (d) revised	66201
178.116–13 (a) revised	66201
178.117–14 (a) revised	66202

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 49, Chapter I—Continued

Page

178.118–8 (b) amended; (c) (1) revised ... 66202
178.118–13 (a) revised ... 66202
178.119–13 (a) revised ... 66202
178.131–6 (a) table footnote 2 revised ... 66202
178.132–7 (a) revised ... 66202
178.133–6 (b) (1) revised ... 66202
178.136–7 (a) revised ... 66202
178.182–2 (d) removed ... 66202
178.182–3 (b) added ... 66202
178.205–37 (d) revised ... 66202
178.211–3 (a) (1) (v) revised ... 66202
178.214–8 (a) amended ... 66202
178.218–8 Removed ... 66202
178.224–3 Removed ... 66203
178.236–2 (e) introductory text revised ... 66203
178.237–2 (e) introductory text revised ... 66203
178.238–2 (e) introductory text revised ... 66203
178.239–2 (e) introductory text revised ... 66203
178.255–8 (a) revised ... 66203
178.252–1 (b) revised ... 60102
178.318 Heading amended ... 70733
178.318–1 (a) amended ... 70733
178.318–2 (a) and (b) amended ... 70733
190 Added ... *20413
192.81 (a) effective date stayed in part 7–1–80 ... 57100
192.283 Effective date stayed to 7–1–80 ... 57100
Revised ... *9935
192.285 Effective date stayed to 7–1–80 ... 57100
Revised ... *9935
192.287 Effective date stayed to 7–1–80 ... 57100
192.465 (a) revised ... 75384
(a) revised ... *23441
192.711 (b) amended ... *3272
192 Appendix A effective date stayed in part to 7–1–80 ... 57100
193 Added; eff. in part 3–15–80 ... *9203
195.401 (c) revised ... 70166
195.402 (c) (4), (5), (8), and (9), and (d) (2) revised; (c) (14) removed; eff. in part 7–15–81 ... 70166

Chapter II—Federal Railroad Administration, Department of Transportation

Page

213.5 (d) added ... 56342
215 Revised ... 77340
215.5 (e) revised ... *26710
215.9 (d) added ... *26710
215.11 Revised ... *26710
215.13 Revised ... *26710
215.115 (b) (1) (B) and (2) (B) revised ... *26711
215.121 (d) revised ... *26711
215.305 (b) revised ... *26711
215 Appendix D added ... *26711
220 Appendix C added ... *30444
223 Added ... 77352
229 Added ... *21109
229.23 (c) revised ... *39852
230 Revised ... *21109
231.1 Note revised ... 73102

Chapter III—Federal Highway Administration, Department of Transportation

301.60 (d) (1) (iv), (v), (2) (i), and (e) (5) revised ... 59239
395.8 (t) (1) revised ... *22044
(t) (4) revised ... *28142
395.9 (v) (1) revised ... *22044
(x) added ... *28142
396 Effective date stayed to 4–1–80 ... 76526
396.13 Revised ... 76526
399 Effective date postponed to 9–1–82 ... 70721

Chapter IV—Coast Guard, Department of Transportation

450 Revised ... *37213
451 Revised ... *37214
452 Revised ... *37216
453 Revised ... *37217

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

501.8 (c) revised ... 76295
510 Revised ... *29042
510.2 (a) corrected ... *32001
531.5 (b) (7) revised ... *5739
(b) (3) revised ... *9938
533.5 (a) table revised ... *20878

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

554 Added ... *10797
567.7 (a) introductory text amended ... *18929
568.8 Revised ... *18929
570.8 (a) revised ... 68470
571 Petition denied ... *41959
571.108 Amended ... 75386
Amended ... *13736
Corrected ... *14578
571.109 Appendix A corrected ... 65766
Appendix A amended ... 73102
Appendix A amended ... *10799, 35333
571.115 Amended ... *12257
571.121 Corrected ... 57100
Amended ... *38382
571.127 Amended ... *6405
Revised; eff. in part 9–1–81 ... *40593
571.201 Amended; eff. 9–1–81 ... 68475
571.203 Amended; eff. 9–1–81 ... 68475
571.204 Amended; eff. 9–1–81 ... 68475
Technical correction ... *7551
571.208 Amended ... *20103
571.209 Revised ... 72139
Amended; effective date of standard stayed to 1–1–81 ... *29048
571.212 Amended ... *22046
571.213 Amended ... 72147
Revised ... 72147
Amended; effective date of standard stayed to 1–1–81 ... *29047
571.214 Amended ... *17018
571.218 Amended ... *15181
571.219 Amended ... *22046
572.1 (c) (2) corrected ... *43353
572.4 (c) added ... 76530
572.5 Amended; incorporation by reference ... *40596
572.7 (b) amended ... *40596
572.15 Amended; incorporation by reference ... *40596
572.15—572.21 (Subpart C) Added ... 76530
572.17 (b) corrected ... *43353
572.21 (c) corrected ... *43353
572.25 (Subpart D) Added ... 76533
575.104 (d) (1) (i) (B) and figure 2 revised ... 68477
Figure 2 corrected ... *6947
Interpretation ... *23441
(c) revised ... 23443
580.4 (f) (1) revised; (f) (3) removed ... *784

Chapter VI—Urban Mass Transportation Administration, Department of Transportation

Page

601.20 (Subpart C) Revised ... 65766
635 Added ... *26300
Heading correctly added ... *30444
635.7 Comment time extended ... *32699
671.26 (f) (3) (i) revised ... *10801

Chapter VIII—National Transportation Safety Board

800.6 (a) revised ... *36080
(a) corrected ... *37842
801 Appendix revised ... 56341
Appendix corrected ... 57930
806 Added ... *20104

Chapter X—Interstate Commerce Commission

Chapter X Policy statement ... 60296
Policy statement; effective date clarified ... *5306
1001.1 (d) revised ... *3583
1001.2 Revised ... *3583
1002.2 (a) interpretation ... 62517
1008.2 (e) revised ... 66832
1008.9 (a) revised ... 66832
1011.5 (c) revised ... *3583
(b) (2) revised ... *5739
(e) added ... *28143
1011.6 (j) added ... 58514
(g) (3) added ... 60295
(l) added ... *3583
(a) heading and (2) revised ... *5739
(a) through (d) revised ... *11812
1013 Added ... 59909
1014 Correctly added ... *20105, 22945
Supplemental information ... *28147
1021.3 Revised ... *31374
1022.4 Revised ... *31374
1022.5 Revised ... *31374
1022.6 Revised ... *31375
1022.7 Revised ... *31375
1033.136 Removed ... 68852
1033.1084 Removed ... 61184
1033.1182 Removed ... 63105
Removed ... *6790
1033.1210 Removed ... *27442
1033.1231 (f) revised ... *27444
1033.1247 (d) revised ... *27445
1033.1272 (e) revised ... *41961
1033.1280 Removed ... *27443
1033.1288 Removed ... *42286

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 49, Chapter X—Continued

		Page
1033.1289	(f) revised	*26965, 36415
1033.1290	Removed	*785
1033.1294	Removed	69302
1033.1301	Removed	*27442
1033.1305	Removed	*6790
1033.1312	Removed	*43
1033.1313	Removed	*43
1033.1316	Removed	*42287
1033.1321	(d) revised	*41433
1033.1323	Revised	71828
1033.1324	Removed	*42
1033.1327	Removed	61964
1033.1329	Removed	72159
1033.1331	Removed	*27443
1033.1337	Removed	*42
1033.1339	Removed	*23445
1033.1341	Removed	72160, 72598
1033.1342	Removed	*26 65
1033.1343	Removed	*27445
1033.1345	Revised	65075
1033.1350	Removed	*785
1033.1351	(g) revised	*26965
1033.1363	Removed	*26966
1033.1371	Removed	64410
1033.1373	(e) revised	*26963
1033.1377	Removed	*8304
1033.1379	Removed	*27442
1033.1380	(e) revised	*29054, 38059
1033.1381	Revised	*41638
1033.1382	Removed	68852
1033.1383	Removed	*4357
1033.1384	Removed	68852
1033.1385	(f) revised	*27445
1033.1386	(e) revised	*785, 15181
1033.1387	Removed	*14862
1033.1389	(g) revised	*14863, 37843
1033.1390	Petitions denied	61964
1033.1392	(e) revised	*26964
	Removed	*37219
1033.1394	Removed	*39275
1033.1395	Petitions denied	61964
1033.1395	Removed	*37220
1033.1396	Removed	58914
1033.1397	Removed	*27441
1033.1398	Added	56350
	Revised	70733
	Revised	*14580
1033.1399	Added	56940
	Revised	*23698
	(h) revised	*29841
1033.1399	Removed	*42287
1033.1400	Added	58914
	(e) revised	*23694
1033.1401	Added	60999
	(e) revised	70477
	(e) revised	*14863
1033.1402	Added	62287
	(e) revised	70477
	(e) revised	*14864
1033.1403	Added	62288
	(e) revised	70476
	(e) revised	*14864
1033.1404	Added	62287
	Removed	65767
1033.1405	Added	62899
1033.1407	Added	65401
	(e) revised	70476
	(e) revised	*14865
1033.1408	Added	67989
	(e) revised	70475
	(e) revised	*14865
1033.1409	Added	72159
	(e) revised	70476
	(e) revised	*14861
1033.1410	Added	70477
	(e) revised	70475
	(e) revised	*14862
1033.1412	Added	71829
	(e) revised	*14861
1033.1413	Added	71830
	(e) revised	*14863
1033.1414	Added	72597
	Introductory text correctly designated as (a)	75164
1033.1416	Added	75165
	(e) revised	*14864
1033.1417	Added	*1882
	Removed	*8304
1033.1418	Added	*1882
	(e) revised	23444, 41960
1033.1419	Added	*2326
	(e) revised	*8306
1033.1420	Added	*2656
1033.1421	Added	*2656
	(e) revised	*14862
1033.1422	Added	*8305
1033.1423	Added	*6947
1033.1424	Added	*8304
1033.1425	Added	*7552
	(f) revised	*29841
1033.1426	Added	*13737
1033.1426	Removed	*42287
1033.1427	Added	*13738
1033.1427	Removed	*42288
1033.1428	Added	*13736
1033.1428	Removed	*42288
1033.1429	Added	*18001
	Revised	*18000, 23696, 23697, 24893
	(h) revised	*29049

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

		Page
1033.1430	Added	*15553
	Revised	*23699, 29049
1033.1431	Added	*16491
	Revised	*23444, 29051
1033.1432	Added	*18002
	Revised	*23693, 24894, 26963
	(h) revised	*29052
1033.1433	Added	*18003
	Revised	*23695
	(i) revised	*29052
1033.1434	Added	*18004
	Revised	*24895
	(h) revised	*29052
1033.1435	Added	*18004
	Revised	*23701, 26331, 37845, 40599
1033.1436	Added	*21248
	Revised	*24892
1033.1437	Added	*21643
	Supplemental orders	*34003
1033.1437	(1)(a) and (9) revised	*38058, 39853
1033.1438	Added	*20879
1033.1439	Added	*21253
	Revised	*21254, 21255, 24890
1033.1440	Added	*21251
	Revised	*23446, 37844
	Removed	*41432
1033.1441	Added	*20878
1033.1442	Added	*20880
1033.1443	Added	*20882
1033.1444	Added	*21252
1033.1445	Added	*20886
	Revised	*24896
1033.1446	Added	*20881
	Revised	*23692
1033.1447	Added	*20884
1033.1448	Added	*23445
	Revised	*21249
	Corrected	*25810
1033.1448	(i) revised	*38059
	Removed	*41432
1033.1449	Added	*20885
	Corrected	*24487
	Revised	*29050
1033.1449	Revised	*37843
	Removed	*41432
1033.1450	Added	*21252
	Revised	*23447
1033.1451	Added	*20883
1033.1452	Added	*24891
1033.1451	Revised	*23700, 25402, 25812, 27443
1033.1453	Added	*21645
	Supplemental orders	*31111, 31375, 34276
1033.1454	Added	*21250
	Revised	*29053
1033.1455	Added	*24897
1033.1456	Added	*21641
	Supplemental orders	*31111, 31375, 34276
1033.1457	Added	*23697
	(i) revised	*29054
1033.1458	Added	*23690
1033.1459	Added	*23691
1033.1460	Added	*24895
1033.1461	Added	*23702
1033.1462	Added	*22947
	Supplemental orders	*31111
1033.1463	Added	*23694
1033.1463	Removed	*42288
1033.1464	Added	*25811
1033.1464	(h) revised	*38059
1033.1465	Added	*25813
1033.1466	Added	*25403
1033.1467	Added	*26964
1033.1467	Revised	*42289
1033.1468	Added	*31112
1033.1469	Added	*31724
1033.1470	Added	*31724
1033.1471	Added	*34276
1033.1472	Added	*36081
1033.1473	Added	*38382
	Appeal denied	*40596
	Revised	*40597, 41430, 43764
1033.1474	Added	*41638
	Revised	*43767
1033.1475	Added	*41960
1033.1476	Added	*42290
1034.1344	Revised	65075
1036.2	Revised	*17155
1039.11	Added	*20484
1041.22	(a) revised	*37219
1043.4	(b) revised	70175
	Effective date corrected	74838
	(b) effective date stayed	*12796
1045B	Added	70174
	Effective date corrected	74838
	Effective date stayed	*12796
1046	Revised	70175
	Effective date corrected	74838
	Effective date stayed	*12796
1047.25	Corrected	*22948
1047.40	(b)(1) and (2) redesignated as (b)(2) and (3); new (b)(1) added	65590
1047.40	(b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added	*39854
1048.10	(c) revised	*28341
1057.12	(d) revised	*13092

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 49, Chapter X—Continued

Page

1057.26 Removed *13092
1062.4 Added *3587
1064.1 Revised 65987
Effective date stayed *3912
Comment time extended *16492
1100.9 Interpretation *26069
1100.10 Interpretation *26069
1100.11 Interpretation *26069
1100.22a Added 58514
1100.40 (d), (e), (g), and (h) revised *5739
1100.200 Revised *5740
1100.225 (a) and (b) revised 58515
Heading, (a), (b), and (f) revised *3583
1111.1—1111.4 Designated as Subpart A; Subpart A heading added *6108
1111.20—1111.26 (Subpart B) Added *6108
1112.9 (b) redesignated as (c); new (b) added 75386
1121.11 (c) revised *18008
1121.23 (c) introductory text amended *18008
1121.30 (a)(1) and (2) revised *18008
1121.37 (a)(3) revised *18008
1121.60—1121.63 (Subpart F) Added 73106
1124 Removed *14216
1125.2 Amended *19560
1125.5 (a) revised *27447
1125.7 (b) and (j) revised *19560
(n)(5) added *27447
1125.8 (e) added *27449
1127.1 Amended *45
1127.3 (d)(2) and (3) revised *45
1127.5 (a) introductory text and (b) revised *45
1127.7 (a), (b), (c), and (f)(1)(ii) revised; (e) table amended; (e) table footnotes 2, 3, and 4 added *46
(f)(3)(vii) revised *20107
1127.8 Revised *47
1127.9 Revised *47
1127 Appendix III footnote 1 revised *47
1131.2 (a) and (b) revised *3583
(d) and Note revised *3584
1131.3 (a) and (c)(2) revised *3584
1131.4 (a)(1), (b) introductory text, and (c) revised *3585
(c)(1)(ii) revised *31375

Page

1131.6 Revised *3585
1131a.2 (a) and (b) revised *3585
(a) revised *31375
1131a.3 (a) and (b) revised *3586
1131a.4 (a)(1) and (b) introductory text revised *3586
1131a.5 Revised *3586
1201 (Subpart A) Amended 65402, 67426
Amended *19561
Corrected *31110
1202 Removed *19561
1204 Amended 72161
1240.1 (d) revised 65402
(e) added *19561
1240.3 (Subpart C) Removed *19561
1241.11 Amended 65402
1241.12 (a) amended 65402
1241.21 Removed *19561
1241.61 (a) revised 62518
1241.62 Removed 62518
1241.70 Revised *28144
Form C-1 added *28145
1241.71 Removed *28144
1243.4 Remived; eff. 1-1-81 ..... *34278
1243 Form QL&D-R&M schedule B removed *34278
1247 Removed *11813
1249 Form M-3 revised *3588
1249.12 Revised 70479
1249.15 Removed; eff. 1-1-81 ..... *34278
1249 Form QL&D-R&M schedule B removed *34278
1252.1 Removed 70480
1252.2 Removed 70480
1252.3 Removed 70480
1252.4 Removed 70480
1307 (e) authority citation added 57413
1310.15 (f) authority citation added 57413
1322.1 Authority citation corrected 57930

Title 49—*Proposed Rules:*

29 ..... 60946, 61396
71 ..... *38423, 43238
101—195 (Ch. I) *12260, 13153, 13312
110 58767
127 60771
171 ..... 60771, 67467
..... *9960, 40627
172 ..... 58767, 60771, 65020, 66219
..... *18994, 25083
173 ..... 58767, 60112, 60771, 65020, 67476
..... *7140, 9960, 14609, 18994, 25083, 32030, 34316

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

174 60771
175 60771
176 60771
177 60771
..... *7140, 14609, 25083, 32030, 34316
178 60112
..... *9960, 18994, 25083
179 ..... *25083
189 58767
192 ..... 65792, 68491, 68493, 72201
..... *13783, 16226, 20142, 22118
193 ..... *9920
195 57952
..... *8323, 13783, 16226, 16230, 20142
209—268 (Ch. II) *12260, 13312
213 64844
258 ..... *26091, 30398
260 ..... *26091, 30398
266 ..... *30398
301—398 (Ch. III) *12260, 13312
325 ..... *22120
385 67193
391 ..... *39872
420—453 (Ch. IV) *12260, 13312
450 68495
451 68495
452 68495
453 68495
501—590 (Ch. V) *12260, 13155, 13312
531 ..... *24511
533 77199
..... *35403
571 ..... 60113, 60120, 60771, 68501, 70204, 77210, 77224
..... *807, 8324, 13785, 19004, 24515, 29102, 35405, 41468
571 ..... *41468
572 ..... *43355
575 56389
..... *807, 35408, 37870
601—660 (Ch. VI) *12260, 13312
613 ..... *26091
622 59438
640 ..... *9244, 22121
641 ..... *13994
662 66213
666 62918
840 ..... *14609
941 ..... *11141
1000-1332 (Ch. X) 57139, 64845, 65420
..... *1434, 2354, 6634, 6974, 9962, 22273, 28381, 39316, 39317
1001 64846
..... *1434
1011 64846
..... *1434
1033 ..... *32745, 41469, 43446
1034 ..... *9027
1036 ..... 59581, 71848
..... *28380

Page

1041 ..... 71438, 75188
..... *19280, 25419
1045 ..... *31140
1047 67476
..... *13478, 13479, 39874
1048 ..... *34316
1056 ..... 63121, 75194
..... *31766, 39519
1057 ..... *13159, 26399, 27796, 34020
1060 71849
..... *6127
1063 60122
1082 71849
..... *6127
1090 61074
1100—1151 (Ch. X, Subch. B) *26395
1100 ..... 64846, 69693, 76327
..... *1434, 10386, 28176, 39317
1102 ..... 29103, 36460, 42754
1104 76327
1108 ..... *15236, 24904
1109 ..... *3353, 11142, 14234
1111 66626
1120A *19585
1125 ..... 71851, 75188, 75190, 76328
..... *19588
1127 ..... *55
1131 64846
..... *1434
1131a 64846
..... *1434
1136 ..... *2871
1201 62312
..... *809, 19588
1241 62312
..... *809
1248 ..... *13480
1249 ..... *3618
1254 ..... *31767
1262 ..... *30659
1270 ..... *29104
1271 ..... *29104
1272 ..... *29104
1273 ..... *29104
1274 ..... *29104
1275 ..... *29104
1276 ..... *29104
1277 ..... *29104
1278 ..... *29104
1279 ..... *29104
1300 ..... 60122, 73132
1301 ..... 61981, 63121, 64851
..... *56
1303 ..... 60122, 73132
1304 ..... 60122, 73132
1306 ..... 60122, 73132
1307 ..... 60122, 73132
..... *21662
1308 ..... 60122, 73132
1309 60122
1310 ..... 60122, 73132
..... *21662
1312 ..... 60122, 73132

Note: Symbol (*) refers to 1980 page numbers

Title 49—*Proposed Rules*—Continued

Page
1320 ---------- *31766, 39519
1321 ---------- *31766, 39519
1322 ---------- *31766, 39519
1323 ---------- *31766, 39519
1324 ---------- *31766, 39519

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior

12 Revised ---------- *17864
12.2 (e) corrected ---------- *31725
12.6 (a) corrected ---------- *31725
13.12 (b) table amended ---------- 59083
17.11 (i) table amended ---------- 59084, 69208, 70677, 75076
(a) through (h) revised ---------- *13020
(i) table amended ---------- *18010, 21833, 24090, 27713, 28722
Revised ---------- *33768
(h) table amended; emergency eff. 5–28–80 to 1–23–81 ---------- *35823
17.12 (i) table amended ---------- 56863, 58868, 58870
(i) table effective date corrected and technical correction ---------- 60103
(i) table amendment effective date stayed to 2–22–80 ---------- 61351
(i) table amended ---------- 61556, 61558, 61786, 61788, 61911, 61913, 61917, 61920, 61924, 61927, 61929, 62246, 62469, 62471, 62474, 64247, 64250, 64252, 64733, 64738, 64740, 64743, 64746, 65005
(i) table amendment effective date postponed to 4–7–80 ---------- 75165
(a) through (h) revised ---------- *13021
(i) table amendment; effective date 4–7–80 ---------- *18929
Revised ---------- *33780
17.13 Removed ---------- *13021
17.42 (a) revised ---------- 59084
(b)(1)(iv) and (2)(ii) removed ---------- *17589
17.94 Added ---------- *13021
17.95 (a) amended ---------- 69208
Introductory text removed; (a) through (e) amended ---------- *13021
(c) amended ---------- *21833
(e) amended; emergency eff. 5–28–80 to 1–23–81 ---------- *35823
17.96 Introductory text removed; (a) amended ---------- *13021
17.100—17.107 (Subpart J) Added ---------- 60964
20 Frameworks ---------- *43419
20.108 Revised ---------- *37849
21.29 (k) amended ---------- *25066
23.23 Revised ---------- 22850
26.33 Amended ---------- *16194
26.34 Amended ---------- 72162, 74839, 77168, 77169
Comment time extended ---------- *3053
Amended ---------- *8307, 11813, 21256, 22047, 25813, 27450, 30077, 35826
26.37 Added; interim ---------- *14194
32.11 Amended ---------- 61969
32.12 Amended ---------- 59910, 61966, 61967, 61970, 63106
Amended ---------- *34892, 35828
32.21 Amended ---------- 61969
32.22 Amended ---------- 56940, 61966
Amended ---------- *34893
32.31 Amended ---------- 61969
Amended ---------- *35828
32.32 Amended ---------- 56941, 61966, 67670
Amended ---------- *3053, 7817, 34893
33.4 Amended ---------- 61969
Amended ---------- *35828
33.5 Amended ---------- 59911, 62899, 74841, 75387–75391, 77172, 77174
Amended ---------- *1027, 2046, 3589, 6948, 8307, 9939, 13093, 14866, 16195, 18011, 20485, 29842, 34893
Corrected ---------- *18377
70 Revised ---------- *28723

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

216 Determination ---------- 57100
Temporary regulation ---------- *7262
Determination ---------- *9284, 13094
227.4 Amended ---------- *29055
230 Temporary regulation ---------- 59911
Removed ---------- *11134
Reinstated (correction) ---------- *22949
Temporary regulation ---------- *37451
230.10 (b) revised ---------- *20488
230.70—230.77 Undesignated center heading revised ---------- *20488

Page
230.70 Revised ---------- *20488
230.71 Revised ---------- *20488
230.72 (f) revised ---------- 59911
Revised ---------- *20488
230.73 Revised ---------- *20488
230.74 (c) redesignated as (d); new (c) added ---------- 59911
Revised ---------- *20488
230.75 Revised ---------- *20489
230.76 Revised ---------- *20489
230.77 Revised ---------- *20489
255.7 Redesignated as 255.8; new 255.7 added ---------- *37853
255.8 Redesignated as 255.9; new 255.8 redesignated from 255.7 ---------- *37853
255.9 Redesignated as 255.10; new 255.9 redesignated from 255.8 ---------- *37853
255.10 Redesignated from 255.9 ---------- *37853
258.5 Revised ---------- 61970
258.20—258.30 (Subpart C) added ---------- 61547
258.22 (g) revised ---------- *17018
260.70 (b)(1) through (3) revised ---------- *39276
285 Temporary regulation ---------- 62900
Temporary regulation ---------- *25814
285.1 Amended ---------- *40122
285.20—285.33 (Subpart B) Revised ---------- *40123
296 Added ---------- *6069
Appendix 1 corrected ---------- *19256

Chapter III—International Regulatory Agencies (Fishing and Whaling)

301 Revised ---------- *34889
351.30 Added ---------- 76536
351.34 (a)(1)(iii) amended; (a)(4) and tables 1 and 2 revised ---------- 76536
351.35 Revised ---------- 76539
351.36 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2); new (a)(1) revised ---------- 76539
351.38 Revised ---------- 76539
351.51 (a) amended ---------- 76539
351.72 Amended ---------- 76539
351.75 Redesignated as 351.76; new 351.75 added ---------- 76539
351.76 Redesignated from 351.75 ---------- 76539
371 Revised ---------- *43768

Chapter IV—Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations

Page.
401—402 (Subchapter A) Heading added; final ---------- *23357
402.05 Removed ---------- *13022
424 Added ---------- *13022
450—453 (Subchapter C) Added; final ---------- *23357
450 Added; final ---------- *23357
451 Added ---------- *8627
452 Added; final ---------- *23359
453 Added; final ---------- *23361

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

Page
Chapter VI PMP amendments ---------- *1029
603 Added; interim ---------- 70481
Comment time extended ---------- *3590
611 FMP implementation ---------- *11498
611.3 Effective in part 5–1–80 ---------- *14582
Effective date stayed in part to 7–1–80 ---------- *37695
611.4 (b) table II amended ---------- *31378
611.8 (d) added ---------- *15182
611.9 Appendix I amended ---------- 64421
(d)(4) and (e)(1) revised; appendix IV amended ---------- 65590
Appendix I amended ---------- *6405, 14046
Appendixes I and II amended ---------- *14587
Appendix II amended ---------- *15935
Appendix I amended ---------- *34007
611.20 (c) table I amended ---------- 57102, 64418
(a) and (b) amended; (c) table removed; (c) revised ---------- 76541
Appendix I added ---------- 76542
Appendix I amended ---------- *1037, 9941, 14588, 34005, 41434
611.21 Existing text designated as (a); (b) added ---------- 76297
611.22 (a)(1) revised ---------- 76297
(a)(2) and (3)(iii) amended; (b) revised; (d) removed ---------- 76298

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 50, Chapter VI—Continued

Page

611.50 (b)(3) revised ... 76541
(b)(4)(ii) amended ... *14046
611.60 (b)(2) revised ... 76541
611.70 (b)(1) table I revised ... 57102
Revised ... *34005
611.80 (b)(1) amended; (b)(2) revised; (b)(4) removed; (b)(5) redesignated as (b)(4) ... 76541
(a) and (b)(3) amended ... *14587
611.81 Added ... *14585
611.91 (b)(2) amended ... 76542
Effective date extended to 10-31-80 ... *786
611.92 (a)(3) and (b)(1) revised ... 64418
(b)(2)(i)(D) added; (c) text designated as (c)(1); (c)(2) added ... 64420
(b) table I revised ... *6950, 28147, 41436
611.93 (b)(2) amended ... 76542
Revised ... *1033
(e) revised ... *15935
611.94 (b)(2) amended ... 76542
611.95 Added ... *1035
621 Revised ... *18932
621.2 (d) added ... *10350
651 Temporary regulation ... *25403
Appendix B revised ... *25404
651.22 (e) revised; (f) added; emergency ... *22950
(e) and (f) emergency regulation extended ... *32699
651.24 (d)(2) revised; emergency ... *22950
(d)(2) emergency regulation extended ... *32699
652 Temporary regulation ... 73108
Revised ... *788
Temporary regulation ... *9939, 26966, 33637
652.7 (a)(1) revised (temporary) ... 56942, 60103
653 Temporary regulation ... 56701
653.21 (a)(1) and (2) and (b)(1) and (2) revised ... 56700
655 Added ... 77176
Temporary regulation ... *19561
655.1 (b) amended; eff. to 5-15-80 ... *21647
(b) effective date extended ... *32001
655.2 Amended; eff. to 5-15-80 ... *21647
Effective date extended ... *32001
655.3 (a) revised; eff. to 5-15-80 ... *21647
(a) effective date extended ... *32001

Page

655.4 (a), (c)(2)(vi) through (ix), (3), (g), and (i) revised; (c)(1) amended; eff. to 5-15-80 ... *21647
(a), (c)(1), (c)(2)(vi) through (ix), (3), (g), and (i) effective date extended ... *32001
655.5 (a)(1)(i), (3), and (b) revised; eff. to 5-15-80 ... *21647
(a)(1)(i), (3), and (b) effective date extended ... *32001
655.6 (a) amended; (b)(2) revised; (b)(3) removed; eff. to 5-15-80 ... *21648
(a), (b)(2) and (3) effective date extended ... *32001
655.7 (c), (f), and (i) amended; eff. to 5-15-80 ... *21648
(c), (f), and (i) effective date extended ... *32001
655.21 (a) revised; (b) redesignated as (c); new (b) added; eff. to 5-15-80 ... *21648
(a), (b), and (c) effective date extended ... *32001
655.22 Heading revised; text removed; eff. to 5-15-80 ... *21648
Heading effective date extended ... *32001
655.23 (a), (b), and (c) introductory text revised; eff. to 5-15-80 ... *21648
(a), (b), and (c) introductory text effective date extended ... *32001
656 Added ... *11498
656.1 (b) amended ... *21258
(b) effective date extended ... *32002
656.2 Amended ... *21258
Effective date extended ... *32002
656.4 (a) and (c)(2)(vii) revised ... *21258
(a) and (c)(2)(vii) effective date extended ... *32002
656.5 (a)(1)(i), (3), and (b) revised ... *21258
(a)(1)(i), (3), and (b) effective date extended ... *32002
656.6 (a) and (b)(2) amended ... *21258
(a) and (b)(2) effective date extended ... *32002
656.7 (c), (e), (f), and (i) revised ... *21258
(c), (e), (f), and (i) effective date extended ... *32002

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Page

656.8 (b)(2) and (c)(4) amended ... *21258
(b)(2) and (c)(4) effective date extended ... *32002
656.21 (a) revised; (b) redesignated as (c) and amended; new (b) added ... *21259
(a), (b), and (c) effective date extended ... *32002
656.22 Heading revised; text removed ... *21259
Heading effective date extended ... *32002
656.23 (b) revised; (c) amended ... *21259
(b) and (c) effective date extended ... *32002
661 Revised; emergency ... *29258
Emergency regulation extended ... *41961
671.21 (a) amended ... *786
671.26 (a)(2)(i) amended ... *1614
(f)(3)(i) revised ... *13468
(f)(3)(i)(D) and (E) added ... *14217
(f)(3)(i)(F) and (G) added ... *20108
(c) and (f)(3)(ii) revised ... *25816
(f)(2)(iv) revised ... *31113
672 FMP amended ... 64412, 64421
PMP amended ... *9940
672.5 Revised ... 64416
672.20 (a) and (c) revised ... 64417
(a) table I revised ... *6950, 28147, 41435
674.4 (a)(5) amended; emergency eff. 5-1 to 6-15-80 (amendments removed at *30444) ... *28724
(a)(5) amended; emergency eff. 5-15 to 6-29-80 ... *33639
674.21 (a)(1) and (2) and (c) revised; (d) added; emergency eff. 5-1 to 6-15-80 (amendments removed at *30444) ... *28724
(a)(1) and (2) and (c) revised; (d) added; emegency eff. 5-15 to 6-29-80 ... *33639
674.24 (a)(2)(ii) added; emergency eff. 5-1 to 6-15-80 (amendments removed at *30444) ... *28725
(a)(2)(ii) and (iii) added; emergency eff. 5-15 to 6-29-80 ... *33639

Page

674 Figure 1 revised; emergency eff. 5-1 to 6-15-80 (amendments removed at *30444) ... *28724
Figure 1 revised; emergency eff. 5-15 to 6-29-80 ... *33639

Chapter VIII—Endangered Species Scientific Authority

810 Annex B added ... 59094

Title 50—*Proposed Rules:*

1—96 (Ch. I) ... 76299
... *7106, 8675
4 ... 61231
13 ... *809
17 ... 55618, 63474, 67902, 70680, 70796, 73133
... *5782, 8029, 8030, 10386, 13786, 14608, 15241, 17888, 19004, 19007, 19853, 19857, 19860, 19864, 20502, 20503, 24004, 27457, 27723, 29370, 29371, 29373, 31446, 31447, 32348, 32350, 35410, 36038, 36332, 40958, 41172, 41322, 41326, 43358
20 ... *9028, 13630
22 ... *809
23 ... *1110, 23370, 32353, 33842, 34025, 34317
32 ... 63123, 70210
33 ... 70210
91 ... *39317
107 ... *2616
210—296 (Ch. II) ... *37972
216 ... 67194
... *10552, 14909, 15955, 23002, 29375, 41173
222 ... *39875
223 ... *39875
224 ... *39875
225 ... *39875
226 ... *39875
230 ... *4366
251 ... *2636
255 ... *2636
259 ... *2636
263 ... *35844
264 ... *35844
277 ... *39875
285 ... 57140
... *16506
401—453 (Ch. IV) ... *7106
410 ... 64097
601—680 (Ch. VI) ... 63558, 65616
... *14909, 25844, 37972
601 ... *3618, 13481, 26402
602 ... *8686, 15600
611 ... 59257, 59582, 61982, 66356, 72204, 76566
... *56, 2354, 8030, 20143, 20986, 21307, 22121, 22144, 25421, 25845, 36460, 39876

Note: Symbol (*) refers to 1980 page numbers

CHANGES OCTOBER 1, 1979 THROUGH JUNE 30, 1980

Title 50—*Proposed Rules*—Continued

	Page
621	76829
651	69312, 71440
	*1112, 8030, 41986
652	60129, 65372, 68872, 70503
653	*15955
655	*12461, 22121
656	*22144
657	75684
	*21307
661	64443
	*6127, 18409, 20505, 37870
662	67195, 68501
671	61982
	*25421
674	62547
	*34020
675	66356
676	61983, 66859, 68001
	*3619, 41987
680	*8327, 9303, 12460, 15601
691	*8328
810	*34025

Note: Symbol (*) refers to 1980 page numbers

Additions to Table 1, July 1979 through June 1980

This table lists the sections of the U.S. Code and U.S. Statutes at Large and Presidential documents which are being added to Table 1 as a result of authority citations carried in the *Federal Register* from July 1979 through June 1980. Recent legislation is carried by public law number.

Table 1 is in the CFR Index and finding aids revised as of July 1, 1979.

In order to determine the *Federal Register* page numbers of the parallel CFR citations, consult the List of CFR Sections Affected above.

U.S. Code:	CFR
1 U.S.C.:	
133	32 Part 151
2 U.S.C.:	
431	11 Parts 100, 104, 109, 110, 114
431 note	11 Part 104
432	11 Parts 101, 102, 103, 104, 105, 113, 114
433	11 Part 102
434	11 Parts 104, 108, 109
437d	11 Part 111
437f	11 Parts 5, 112
437g	11 Parts 5, 111
438	11 Part 5
439	11 Part 108
439a	11 Part 113
441a	11 Parts 110, 113
441b	11 Parts 100, 110, 114
441d	11 Parts 102, 109, 110
441e	11 Part 110
441f	11 Part 110
441g	11 Part 110
441h	11 Part 110
441i	11 Part 110
453	11 Part 108
5 U.S.C.	
22	32 Parts 157, 238
463	22 Part 43a
465	22 Part 43a
500 et seq	18 Parts 1, 284
552	5 Parts 1206, 2411
	6 Part 702
	7 Part 3010
	12 Parts 264b, 1202
	13 Part 400
	22 Part 1201
	24 Part 4103
	33 Part 161
	34 Part 5
	36 Part 1120
	44 Parts 2, 5, 310
	45 Parts 100c, 704
	49 Parts 601, 1041, 1045A, 1045B, 1046, 1103, 1121
552a	1 Part 485
	5 Parts 1261, 2412, 2504

5 U.S.C.—Continued	CFR
552a (Continued)	29 Part 1913
	6 Part 703
	22 Parts 1202, 1301
	34 Part 5b
	44 Parts 3, 6
	45 Part 705
552b	12 Parts 720, 1203
	24 Part 4102
553	10 Part 375
	18 Parts 1, 2, 3, 157, 284, 375, 376
	21 Part 650
	49 Parts 1014, 1041, 1045A, 1045B, 1046, 1103, 1111, 1121, 1131a, 1241
558	49 Parts 1045A, 1045B, 1046
559	49 Parts 1011, 1041, 1045A, 1045B, 1946, 1103, 1310
702	21 Part 650
703	21 Part 650
704	21 Part 650
1101 note	5 Parts 1—1001
1103	5 Part 110
	45 Part 801
1104	5 Parts 250, 930
1206	5 Parts 1250, 1252, 1255
1302	5 Parts 293, 359
1989	7 Part 1902
2102	5 Part 212
2103	5 Part 213
2303	28 Part 0
3111	5 Part 308
3132	5 Part 214
3301	5 Part 2400
3391 note	38 Part 1
3392	38 Part 1
3401 et seq	5 Part 340
3401 note	22 Part 506
3402	22 Part 506
3503	5 Part 351
4101 et seq	5 Part 410
4305	5 Parts 430, 432
5335	5 Part 930
5364	5 Parts 337, 410
5372	5 Part 930
5385	5 Part 534

60-145 O - 80 - 11

5 U.S.C.—Continued	CFR
5401—5405	5 Part 540
5723	5 Part 572
5948	5 Part 595
6101 note	5 Part 620
7105	29 Part 208
7111	29 Part 208
7119	5 Parts 2470, 2471
7120	29 Parts 207—209
7134	5 Parts 2414, 2421–2429, 2470, 2471, Ch. XVI App. A and B 29 Parts 207—209
7201	28 Parts 0, 42
7301	5 Parts 771, 2400
7342	12 Part 264b 41 Part 101–49
7701 et seq	5 Parts 151, 300, 302, 315, 330, 351, 352, 353, 531, 550, 731, 733, 754, 930
8913	5 Part 891
App	7 Part 2 14 Parts 212, 214 29 Part 2620 44 Part 3
App. 1	45 Part 2102
App. I et seq	34 Part 11
6 U.S.C.:	
6	27 Part 19
7	27 Part 19
15	27 Part 19
7 U.S.C.:	
4a	17 Parts 1, 140
9	17 Part 10
12	17 Part 142
12a	17 Part 10
71 et seq	7 Parts 800–802, 810
136	40 Part 162
136 et seq	29 Part 1440
150dd—150ff	7 Part 319
150dd	7 Part 301
155	7 Part 319
157	7 Part 319
164a	7 Part 319
291	7 Part 1
292	7 Part 1
428c note	7 Part 795
429	9 Parts 145, 147
601—674	7 Parts 904, 925, 966, 985
805	7 Part 729
806	7 Part 729
1312	7 Part 725
1314c	7 Part 726
1314e	7 Parts 723, 724
1359 note	7 Parts 729, 1446
1361	40 Part 22
1421	7 Parts 724, 726
1425	7 Part 1464

7 U.S.C.—Continued	CFR
1447 et seq	7 Part 1435
1506	7 Parts 419, 420, 421, 423–429, 431–436
1516	7 Parts 6, 419, 420, 421, 423–429, 431–436
1622	7 Part 2858
1624	7 Part 2858
1707a	7 Part 1491
1813	7 Parts 724, 726
1824	7 Parts 724, 726
1836	7 Parts 724, 726
1889	7 Parts 1822, 1872, 1901, 1924, 1933, 1942–1945, 1951
1901—1906	9 Part 313
1939	7 Parts 1941, 2024
1980	7 Part 1960
1989	7 Part 1944
2011—2027	7 Parts 275, 277
2050c	29 Part 40
2131—2156	9 Part 3
2243	34 Part 5
3401 et seq	7 Part 1280
3501	7 Part 781
8 U.S.C.:	
1101	8 Parts 207, 208, 209 45 Parts 166, 174
1104	22 Part 7
1151	8 Part 207
1157	8 Part 207
1158	8 Part 208
1159	8 Parts 209, 245
1182	8 Part 207 34 Part 50
1184	8 Parts 245, 248
1201	8 Parts 101, 103, 204, 211, 223, 223a, 231, 245, 246, 247, 249, 251, 299
1255	8 Parts 214, 248 45 Part 166c
1258	8 Parts 214, 245
1301—1305	8 Parts 101, 103, 204, 211, 223, 223a, 231, 245, 246, 247, 249, 251, 299
1503	22 Part 7
1521 note	8 Part 207
2047	29 Part 40
10 U.S.C.:	
125	32 Part 368
133	32 Parts 205, 369–372
510	32 Part 100
511	32 Parts 100, 101
593	32 Part 100
597	32 Part 100
651	32 Part 100
673a	32 Part 101
801—940	32 Part 630
939	32 Part 536
2031	32 Part 542

10 U.S.C.—Continued	CFR
2735—2737	32 Part 536
3012	32 Parts 633, 655
3036	32 Part 555
4954	45 Part 2101
5031	32 Parts 701, 730, 733, 737
7430	15 Part 370
8012	32 Parts 802, 841, 853, 988 207, 213, 220, 235, 240
11 U.S.C.:	
1170	49 Part 1121
12 U.S.C.:	
1 et seq	12 Part 27
24	12 Part 12
92a	12 Part 12
161	12 Part 27
248	12 Part 264b
264	42 Part 71
481	12 Part 27
601 et seq	12 Part 211
1425	12 Part 563
1425b	12 Parts 531, 556
1430	12 Parts 525, 533, 545, 555
1437	12 Parts 505c, 509a, 533
1464	12 Parts 509a, 525, 526, 533
1701	24 Part 221
1701 et seq	24 Part 203
1701z–1	24 Part 221
1709	24 Parts 204, 213, 220, 221, 227, 234, 235, 240
1709–1	24 Part 201
1715	24 Parts 204, 207, 213, 220, 235, 240
1715b	24 Parts 204, 226, 227
1715n	24 Part 207
1715z–10	24 Parts 203, 234
1725	12 Parts 509a, 544, 545, 547, 548, 549, 551, 555, 556, 701
1726	12 Parts 509a, 544, 545, 547, 548, 549, 551, 555, 556
1729	12 Parts 541, 543–545, 547–549, 551, 552, 555, 556
1730	12 Parts 509a, 544, 545, 547, 548, 549, 551, 555, 556
1731	12 Part 509a
1745	12 Part 705
1749aa et seq	24 Part 205
1753	12 Part 701
1754	12 Part 701
1757	12 Part 703
1758	12 Parts 701, 705
1759	12 Parts 701, 705
1761	12 Part 704
1762	12 Parts 700, 704, 742
1766	12 Parts 705, 722
1789	12 Part 722

12 U.S.C.—Continued	CFR
1795f	12 Part 720
1817	12 Parts 23, 215, 344, 349
1818	12 Parts 27, 344
1819	12 Parts 344, 349
1832	12 Parts 526, 545, 563
1844	12 Part 211
1901—1909	12 Part 229
1904 note	6 Part 707
1972	12 Parts 23, 215, 349
3101 et seq	12 Part 28
3201 et seq	12 Parts 26, 212, 563f, 711
3207	12 Parts 303, 348
3401 et seq	32 Part 294
3501 et seq	12 Part 1201
3535	24 Part 201
14 U.S.C:	
633	33 Part 161
1655	33 Part 147
1766	12 Parts 26, 212, 348, 563f, 741, 742
1781	12 Part 742
1786	12 Part 701
1789	12 Parts 26, 212, 348, 563f, 711, 742, 747
1795—1795f	12 Part 725
1795	12 Parts 741, 747
1815	12 Part 346
1817	12 Parts 344, 346
1818	12 Part 344
1819	12 Parts 344, 346
1820	12 Part 346
3103	12 Part 346
3104	12 Part 346
3108	12 Part 346
3201 et seq	12 Parts 26, 212, 348, 563f, 711
3209	12 Parts 26, 212, 348, 563f, 711
3415	12 Part 219
15 U.S.C.:	
16	28 Part 50
41 et seq	16 Part 460
45	16 Parts 1, 2, 3, 460, 1025
52	16 Part 13
77s	17 Part 259
77sss	17 Part 259
77ttt	17 Parts 230, 240
78c	17 Parts 230, 249, 250, 260
78w	12 Part 220 17 Parts 200, 201, 259
78ee	17 Part 240
78–3	17 Part 240
79t	17 Part 259
80a–37	17 Part 259
80b–11	17 Part 259
205a—205k	15 Parts 502, 503
631—644	43 Part 3420
631	13 Part 125
631 et seq	43 Part 3420

15 U.S.C.—Continued	CFR
634	13 Parts 108, 130, 131
712—717	18 Parts 154, 270–274
714	7 Part 1474
714c	7 Part 1491
717—717w	18 Parts 3, 141, 260, 273, 274, 281
717	18 Part 275
717 et seq	18 Parts 201, 272, 282, 375
719	43 Part 34
751 et seq	10 Part 570
753	10 Part 212
757	10 Part 212
761 et seq	10 Part 490
764	10 Part 445
766	10 Part 445
772	10 Part 445
787 et seq	10 Parts 205, 570
791—798	18 Part 290
791 et seq	18 Part 292
1392	49 Parts 192, 554
1398	49 Part 554
1397	49 Part 554
1401	49 Part 554
1403	49 Part 554
1407	49 Parts 192, 554
1410a	49 Part 554
1411—1418	49 Part 554
1601 et seq	12 Part 701
1657	49 Part 531
1673	20 Parts 350, 363
1691	12 Part 202
1691 et seq	12 Part 27
1693 et seq	12 Parts 533, 545, 555
1718	24 Part 1730
1901 et seq	40 Part 600
1914	47 Part 510
1944	47 Part 510
1990	49 Part 501
1990d	47 Part 510
2001 et seq	40 Part 600
2005	47 Part 510
	49 Part 501
2051	16 Part 1404
2063	16 Part 1209
2065	16 Part 1209
2076	16 Parts 1025, 1404
2082	16 Part 1404
2210	44 Part 151
2214	44 Part 150
2218	44 Part 151
2310	16 Part 13
2401 et seq	15 Parts 371, 373, 376, 385, 399
2501 et seq	10 Part 476
2605	40 Part 775
2607	40 Part 762
2615	40 Part 22
2622	29 Part 24

15 U.S.C.—Continued	CFR
3301—3432	18 Parts 1, 3, 141, 154, 260, 270, 271, 272, 273, 274, 275, 281
3301 et seq	7 Part 2900
	18 Parts 157, 201, 270–272, 274, 281, 282, 284, 292
7101 et seq	18 Parts 281, 284
7170	18 Parts 35, 154, 270, 273, 284
16 U.S.C.:	
1 et seq	36 Part 7
3 et seq	36 Part 51
20 et seq	36 Part 51
284	18 Part 1
433	43 Part 9260
460*l*–6a	43 Part 9260
460cc–2	36 Part 7
461 et seq	36 Parts 1205, 1212
462	36 Parts 1202, 1204
470—470t	36 Part 1202
470	36 Parts 805, 1204
470 et seq	36 Part 1201
470–1	36 Part 1208
470a	36 Part 1202
470f	7 Part 3100
590p	7 Parts 724, 726
668—668b	50 Part 12
668dd	50 Parts 12, 70
668dd et seq	50 Part 26
670g—670n	43 Part 9260
690d	50 Part 32
698l	36 Part 7
706—707	50 Part 12
712	50 Part 12
718f	50 Part 12
742 et seq	50 Part 26
772—772j	50 Part 301
775	10 Part 1040
791 et seq	18 Part 1
792—823c	18 Parts 2, 4, 16, 46, 131, 290
792—828c	18 Parts 3, 4, 35, 141, 260
792 et seq	18 Parts 290, 292
825h	18 Parts 35, 154, 270, 273, 284
831—831dd	18 Part 1307
852d	50 Part 12
951—961	50 Part 280
1241—1249	43 Part 9260
1331 et seq	43 Part 9260
1371	50 Part 17
1372	50 Part 17
1374	50 Part 17
1375—1377	50 Part 12
1375	50 Part 17
1382	50 Part 17
1451 et seq	30 Parts 250, 251
1531—1543	50 Part 13
1531 et seq	50 Parts 424, 450, 451, 452, 453
1540	50 Part 12

16 U.S.C.—Continued	CFR
1604	36 Part 219
1612	36 Part 216
1613	36 Part 219
1801—1882	50 Part 621
1801 et seq	50 Parts 285, 655, 656
1853	50 Part 603
2001—2645	18 Part 290
2501—2514	36 Part 1228
2504	36 Part 1228
2506	36 Part 1228
2601—2645	18 Parts 2, 4, 16, 46, 131, 290
2601 et seq	10 Parts 460, 461, 463
	18 Part 292
2701	10 Part 797
5801	36 Part 222
17 U.S.C.:	
710	37 Part 201
18 U.S.C.:	
13	32 Part 1290
207	14 Part 1207
	19 Part 200
	22 Parts 525, 710
	29 Part 2620
	31 Part 15
208	16 Part 5
245	24 Part 115
285	44 Part 3
551	36 Part 222
799	14 Part 1214
1001	44 Part 3
1693—1699	39 Part 320
1724	39 Part 320
1804	49 Part 192
1851—1853	43 Part 9260
1854	43 Part 9260
2071	44 Part 3
2073	44 Part 3
2344	27 Part 72
2601—2645	18 Part 46
3401	32 Part 1290
	43 Part 9260
3402	32 Part 1290
4001	28 Parts 513, 522, 527, 542, 546, 552, 570, 572
4042	28 Parts 513, 522, 527, 542, 546, 552, 570, 572
4081	28 Parts 513, 522, 527, 542, 546, 552, 570, 572
4082	28 Parts 513, 522, 527, 542, 546, 552, 570, 572
4126	28 Part 546
5015	28 Parts 513, 527, 542, 544, 546, 552, 570, 571, 572
5039	28 Part 513, 522, 527, 542, 546, 552, 570, 571, 572
6002	14 Part 13
6004	14 Part 13
Ch. 40	27 Part 181

19 U.S.C.:	CFR
66	19 Part 54
81c	27 Part 19
1202	15 Part 615
1202 note	7 Part 6
1303	19 Part 207
1311	27 Part 19
1332	19 Part 207
1602—1624	50 Part 12
1671—1677	19 Part 207
1673e	19 Part 353
2031	15 Part 615
2416	15 Part 2006
2582	19 Part 207
20 U.S.C.:	
241aa—241ff	45 Part 186a
241bb	45 Parts 186b–186d
241dd	45 Part 186b
421—429	45 Part 174
640	45 Part 114
821	45 Part 119
881	45 Parts 119, 120
887	45 Part 163b
887e	45 Parts 100a, 161c
961—968	34 Part 64
1005a	45 Part 173
1055	45 Parts 170, 174
1070a	45 Part 190
1070b—1070b–3	45 Part 176
1070b	45 Part 176
1070b et seq	45 Part 174
1070c et seq	45 Part 174
1071 et seq	45 Part 176
1071—1087–4	45 Part 177
1077	45 Part 177
1078	45 Part 177
1080	45 Part 177
1082	45 Part 177
1083	45 Part 177
1085	45 Parts 175, 177
1087–2	34 Part 67
1087aa—1087ff	45 Part 174
1088	45 Parts 174, 177
1088a	45 Part 177
1088b	45 Part 174
1088b–3	45 Part 174
1088f	45 Parts 174, 177
1088f–1	45 Part 177
1088g	45 Parts 174, 190
1132a—1132e–1	45 Part 170
1136—1136b	45 Part 150
1141	45 Parts 170, 174
1142a	45 Part 170
1201—1211c	45 Parts 166, 166a 166b, 166c
1201 et seq	45 Part 166
1202	45 Parts 186, 186h
1211a	45 Parts 186, 186h–186l
1211b note	45 Part 122a
1221	45 Part 166
1221–3	45 Part 100a

20 U.S.C.—Continued	CFR
1221e–3	45 Parts 100c, 104, 105, 116b, 119, 121a–121d, 121f–121i, 121k, 121m, 122a, 123, 130–133, 137, 146, 146a, 148, 150, 154, 155, 157, 158, 159, 161a, 161c, 161f, 161g, 161h, 161l, 161m, 162–162c, 164, 166b, 166c, 169, 172–176, 178a, 179, 180, 182a, 185, 185a, 189, 191, 192, 194, 195a, 195b, 196, 197, 198, 199a, 1400, 1430, 1450, 1451, 1460, 1480, 1490, 1495, 1501
1221h	45 Part 186
1223–3	45 Part 121e
1225	45 Part 119
1226c	45 Parts 100a, 100b
1230	34 Part 99
1231	45 Part 100a
1231a	45 Parts 100a, 100b
1231b–2	45 Part 100b
1231c	45 Part 100a
1231d	45 Part 122a
1231g	45 Part 100b
1232	45 Parts 161f, 161h, 170, 195
1232–1	45 Parts 119, 134, 166a
1232c	45 Parts 122a, 134, 161m, 174
1232d	45 Parts 120, 122a
1232e	45 Parts 109b, 116d, 120, 122a
1232f	45 Parts 100a, 100b
1232g	34 Part 99
1232h	45 Parts 100a, 100b
1234	45 Parts 100b, 100d
1234a	45 Part 100d
1234b	45 Parts 100d, 116d
1234c	45 Parts 100d, 116d
1234d	45 Part 100d
1255	45 Part 120
1271b note	45 Part 122a
1401	45 Part 161c
1405	34 Part 104
1412	45 Part 134
1413	45 Part 134
1416	45 Part 134
1418	45 Part 121a
1681	10 Part 1040 34 Part 106
1682	34 Part 106
1686	34 Part 106
1831	45 Part 119
2301 et seq	45 Parts 161, 161a
2502	45 Part 161
2505	45 Part 161a
2601—2614	45 Parts 161, 161a
2722	45 Part 116a
2734	45 Part 116d
2735	45 Part 116d
2761—2763	45 Part 116d
2761	45 Part 120
2791	45 Part 116d
2792	45 Part 116d

20 U.S.C.—Continued	CFR
2811	45 Part 116d
2815	45 Part 116d
2821	45 Part 116d
2822	45 Part 116d
2824	45 Part 116d
2832	45 Parts 100d, 116d
2836	45 Part 116d
2844	45 Parts 116d, 120
2881—2922	45 Parts 162–162c
2890	45 Part 100b
2942	45 Parts 161b, 161c, 161e, 161f, 161g, 161h, 161m, 193
2943	45 Part 193
2951—2953	45 Part 161b
2961	45 Part 161c
2962	45 Part 161c
2981—2986	45 Part 161e
2991—2992	45 Part 161f
3001—3003	45 Part 161g
3001	45 Part 161c
3002	45 Part 161c
3011—3018	45 Part 161h
3041	45 Part 193
3051—3057	45 Part 161l
3062	45 Part 161m
3064	45 Part 120
3081 et seq	45 Part 134
3081	45 Part 134
3083	45 Part 134
3084	45 Parts 119, 120, 134
3086	45 Parts 134, 195, 195b
3101	45 Part 134
3102	45 Part 134
3111	45 Part 134
3112	45 Part 134
3121	45 Part 134
3122	45 Part 134
3141—3150	45 Part 120
3141	45 Parts 116d, 134
3142	45 Part 116d
3147	45 Part 116d
3149	45 Part 134
3150	45 Part 116d
3161—3164	45 Part 119
3161	45 Part 134
3191—3207	45 Parts 185, 185a
3191 et seq	45 Parts 185, 185a
3221—3261	45 Parts 123, 123a–123i
3281	45 Parts 163, 163a 163b, 163c, 163d
3282	45 Part 163
3283	45 Parts 163, 163a
3284	45 Part 163a
3286	45 Part 163
3287	45 Parts 163, 163a, 163b
3288	45 Part 163a
3289	45 Parts 163b, 163c, 163d

20 U.S.C.—Continued	CFR
3290	45 Part 163c
3292	45 Part 163d
3295	45 Parts 163b, 163c
3311—3318	45 Parts 195, 195a, 195b
3331—3332	45 Parts 162–162c
3341—3348	45 Part 160f
3361—3367	45 Part 184
3381	45 Parts 123, 161b, 161m, 185, 186, 195
3385	45 Parts 186, 186e–186g
3385a	45 Parts 186, 186g
3385b	45 Part 187
3386	45 Parts 195b, 163b
3401 et seq	34 Parts 4, 5, 5b, 6–8, 10–12, 15, 17, 30, 35, 50, 63, 64, 67, 73, 74, 99, 100, 101, 104, 106
3507	45 Part 185
5952	45 Part 161b
21 U.S.C.:	
34a	40 Part 180
71 et seq	9 Part 313
114	9 Part 51
134b	9 Part 51
321	21 Parts 182, 589, 650, 660
331	21 Part 812
342	21 Part 589
346	40 Part 180 21 Part 50
346a	40 Part 180
348	21 Parts 50, 589
351	21 Parts 812, 861
352	21 Parts 5, 50, 650, 660, 812, 861
353	21 Parts 5, 50
355	21 Parts 5, 50, 601, 610, 650
356	21 Parts 5, 50
357—360b	21 Parts 431, 514
357	21 Parts 5, 50, 429
360	21 Parts 20, 50, 520, 522, 809, 812
360b	21 Parts 429, 446
360c—360f	21 Part 50
360c	21 Parts 809, 861, 870, 882
360d	21 Parts 809, 861
360h—360j	21 Part 50
371	21 Parts 50, 175, 431, 589, 610, 650, 660, 812, 861
372	21 Parts 16, 20, 809, 812
374	21 Parts 809, 812
376	21 Part 50
381	21 Parts 50, 809, 812
457	9 Parts 318, 319, 381
460	9 Part 381
463	9 Parts 318, 319
464	9 Part 381
601 et seq	9 Part 313
603	9 Part 309
604	9 Part 309
607	9 Parts, 318, 319, 381

21 U.S.C.—Continued	CFR
621	9 Parts 317, 318
661	9 Part 303
701	21 Parts 870, 882
22 U.S.C.:	
211a	22 Part 7
842	22 Part 17
1061	22 Part 17
2151u	22 Part 202
2356	10 Part 782
2357	32 Part 555
2381	22 Parts 212, 1201, 1202
2421	32 Part 555
2451 et seq	34 Part 50
2506	5 Parts 315, 316
2601	45 Part 166
2658	22 Parts 17, 143
2873	22 Part 1300
23 U.S.C.	
104	23 Part 172
109	23 Part 635
114	23 Part 172
116	23 Part 635
119	23 Part 635
209	23 Part 667
307	23 Part 172
315	23 Parts 172, 667
402	23 Part 172
25 U.S.C.:	
2	25 Parts 23, 43a, 55a, 261
9	25 Parts 23, 43a, 55a, 261
450 et seq	25 Parts 271–277
450e	45 Part 186
452—456	25 Part 273
490	7 Part 1950
640c–1	25 Part 32b
1815	25 Part 32b
1952	25 Part 13
2006	25 Part 31b
2008	25 Part 31h
2010	25 Part 31a
2011	25 Part 31g
2013	25 Part 31a
2015	25 Part 31g
26 U.S.C.:	
120	26 Part 1
217	26 Part 1
263	36 Part 5a
466	26 Part 5
936	26 Parts 1, 7
4992	26 Part 150
4993	26 Part 150
4995	26 Part 150
4996	26 Part 150
4997	26 Part 150
5001	27 Part 19
5004	27 Part 19
5005	27 Part 19
5006	27 Part 19

26 U.S.C.—Continued	CFR
5008	27 Part 19
5041	27 Part 19
5043	27 Part 19
5061	27 Part 19
5062	27 Part 19
5066	27 Part 19
5101	27 Part 19
5103	27 Part 19
5111	27 Part 19
5113	27 Part 19
5171	27 Parts 19, 170
5172	27 Parts 19, 231
5173	27 Part 19
5175	27 Part 19
5176	27 Part 19
5178	27 Parts 19, 231
5179	27 Part 19
5180	27 Part 19
5181	27 Part 19
5201	27 Part 19
5202	27 Part 19
5203	27 Part 19
5204	27 Parts 13, 19
5205	27 Parts 19, 170
5206	27 Part 19
5207	27 Parts 13, 19
5211	27 Parts 13, 19
5212	27 Part 19
5213	27 Part 19
5214	27 Part 19
5215	27 Part 19
5221	27 Part 19
5222	27 Part 19
5223	27 Part 19
5231	27 Part 19
5232	27 Parts 19, 250
5235	27 Part 19
5236	27 Part 19
5241	27 Part 19
5242	27 Part 19
5243	27 Part 19
5271	27 Part 19
5273	27 Part 19
5301	27 Part 19
5311	27 Part 19
5312	27 Part 19
5314	27 Part 19
5362	27 Part 19
5370	27 Part 19
5373	27 Part 19
5505	27 Part 19
5551	27 Part 19
5552	27 Part 19
5554	27 Part 19
5555	27 Part 19
5559	27 Part 19
5561	27 Part 19
5562	27 Part 19
5601	27 Part 19

26 U.S.C.—Continued	CFR
5612	27 Part 19
5682	27 Part 19
6001	26 Part 31
6011	26 Part 31
6050C	26 Part 150
6065	27 Part 19
6109	27 Part 19
6402	46 Part 150
6420	26 Part 140
6427	26 Part 140
6676	27 Part 19
7510	27 Part 19
7805	26 Parts 5a, 23, 140 27 Parts 13, 19 46 Part 150
9002	11 Part 9002
9003	11 Part 9003
9004	11 Part 9004
9005	11 Part 9005
9006	11 Part 9006
9007	11 Part 9007
9008	11 Part 9008
9009	11 Parts 9001–9007
27 U.S.C.:	
202	27 Part 2
203	27 Part 1
204	27 Part 1
205	27 Parts 4–9
206	27 Part 3
28 U.S.C.:	
509	28 Parts 58, 513, 527, 542, 546, 549, 552, 570, 572
510	28 Parts 58, 513, 522, 527, 546, 549, 552, 570, 572
586	28 Parts 0, 58
1346	32 Part 536
1498	10 Part 782
1746	45 Parts 174, 175, 176, 177, 190
2401	32 Part 536
2402	32 Part 536
2672	10 Part 1014 34 Part 35 44 Part 11
29 U.S.C.:	
49 et seq	20 Part 653 29 Parts 42 41 Part 29–70
49k	20 Part 654
158	29 Part 1420
171	29 Part 1420
173	29 Part 1420
174	29 Part 1420
183	29 Part 1420
201 et seq	29 Part 42
626	29 Part 1627
651 et seq	29 Part 42 41 Part 29–70
653	29 Part 1990

29 U.S.C.—Continued	CFR
655	29 Part 1990
657	29 Parts 1913, 1990
706	10 Part 4 28 Part 42 34 Part 104 41 Parts 60–1, 60–250
712	45 Part 1361
793	41 Parts 60–1, 60–250, 60–741
794	10 Parts 4, 1040 14 Part 1251 18 Part 1307 28 Part 42 34 Part 104
794a	29 Part 1613
795	41 Part 29–70
801 et seq	20 Parts 675–680, 684, 685, 688 29 Part 42 41 Part 29–70
1302	29 Part 2618
1341	29 Part 2610
1655	14 Part 159
30 U.S.C.:	
181 et seq	43 Parts 3400–3470
201	43 Parts 3410, 3420, 3430, 9260
208	34 Part 3440
351—358	43 Part 3430
351—359	43 Parts 3400, 3420, 3450, 3460, 3470
503	30 Part 926
521—531	43 Parts 3400, 3420, 3430, 3450, 3460
801 et seq	29 Part 2702 41 Part 29–70
801 note	30 Parts 40, 41, 43, 100
804	30 Part 40
811	30 Parts 11, 40, 44, 48, 55, 56, 57, 70, 71, 75, 90
813	30 Parts 40, 41, 43, 70
814	30 Part 40
815	29 Part 2703 30 Parts 40, 100
817	30 Part 40
819	30 Parts 40, 41
820	30 Part 100
823	29 Part 2703
825	30 Parts 40, 48
862	30 Part 40
865	30 Part 40
872	30 Part 40
901 et seq	20 Part 718
902	20 Part 718
925	20 Part 718
932	20 Part 718
934	20 Part 718
936	20 Part 718
945	20 Part 718

30 U.S.C.—Continued	CFR
953	30 Part 46
954	30 Part 40
957	30 Parts 40, 41, 43, 44, 46, 100 42 Parts 85, 85a
961	30 Parts 44, 70
1141 et seq	10 Part 790
1201 et seq	43 Parts 3400, 3420, 3430, 3450, 3460
1211	30 Part 722
1251	30 Part 722
1252	30 Parts 715, 816, 817
1253	30 Part 943
1254	30 Part 715
1258	30 Part 715
1265	30 Parts 715, 817
1266	30 Parts 715, 816
1271	30 Part 722
1272	43 Part 3460
31 U.S.C.:	
126	31 Part 211
200	45 Part 122a
483a	11 Part 5 20 Part 901
492c	32 Part 538
686	32 Part 555
738a	31 Part 353
753	31 Part 352
754b	31 Part 352
757c	31 Parts 351, 352, 353
32 U.S.C.:	
302	32 Part 100
502	32 Part 101
33 U.S.C.:	
180	33 Part 1
182	32 Parts 701, 720, 722, 728, 730, 737, 750, 755, 757
258	33 Part 1
322	33 Part 1
471	33 Parts 1, 165
499	33 Parts 1, 109
503	33 Part 209
901 et seq	20 Part 718
1121 et seq	15 Part 918
1221	33 Parts 126, 161
1221 et seq	33 Part 164
1223	33 Part 161
1225	33 Parts 110, 127
1231	33 Parts 3, 160, 161, 165
1251	40 Parts 116, 117
1251 et seq	40 Part 117
1318	40 Part 413
1319	40 Part 413
1321	33 Parts 154, 156 40 Part 1510
1322	40 Part 413
1325	40 Part 413

33 U.S.C.—Continued	CFR
1341	40 Part 413
1344	40 Part 231
1345	40 Part 257
1361	40 Part 100
1367	29 Part 24
1369	40 Part 100
1415	40 Part 22
1601—1608	32 Part 706
1605	32 Parts 701, 720, 722, 728, 730, 737, 750, 755, 757
35 U.S.C.:	
183	10 Part 782
36 U.S.C.:	
124	45 Part 2101
37 U.S.C.:	
101	32 Part 733
401	32 Part 733
403	32 Part 733
704	37 Part 201
38 U.S.C.:	
101	38 Part 3 45 Part 174
111	38 Part 21
521	38 Part 3
612A	38 Part 17
906	38 Part 3
1008	38 Part 39
1601	38 Part 21
1602	38 Part 21
1621	38 Part 21
1622	38 Part 21
1623	38 Part 21
1624	38 Part 21
1625	38 Part 21
1631	38 Part 21
1632	38 Part 21
1641	38 Part 21
1695	38 Part 21
1696	38 Part 21
1770	38 Part 21
1771	38 Part 21
1773	38 Part 21
1775	38 Part 21
1776	38 Part 21
1777	38 Part 21
1778	38 Part 21
1779	38 Part 21
1780	38 Part 21
1784	38 Part 21
1785	38 Part 21
1788	38 Part 21
1789	38 Part 21
1790	38 Part 21
1791	38 Part 21
1796	38 Part 21
1798	38 Part 21
1820	38 Part 36

38 U.S.C.—Continued	CFR
1996	38 Part 21
2012	41 Parts 60–1, 60–741
3010	38 Part 3
5005	38 Part 17
5031	38 Part 17
5033	38 Part 17
5034	38 Part 17
5035	38 Part 17
5036	38 Part 17
5037	38 Part 17
39 U.S.C.:	
101	39 Part 233
403	39 Part 10
410	39 Part 10
411	39 Part 233
601—606	39 Part 320
1005	5 Part 871
2012	20 Part 653
2601	39 Part 927
3001—3011	39 Part 10
3201—3218	39 Part 10
3403—3405	35 Part 10
3601	35 Part 10
3621	39 Part 10
3623	39 Part 111
4001	39 Part 111
40 U.S.C.:	
72	45 Parts 2101, 2103
104	45 Parts 2101, 2103
106	45 Parts 2101, 2103
121	45 Parts 2101, 2103
461 et seq	24 Part 600
484	34 Part 12
485	41 Part 101–25
486	41 Parts 101–49, 105–735, 109–40 45 Part 3
875	36 Parts 907, 920, 922, 923
304l	41 Part 101–48
7101—7352	18 Part 2
41 U.S.C.:	
501—509	10 Part 1024
601	41 Part 12–60
42 U.S.C.:	
145b	24 Part 510
216	42 Parts 50, 51g, 59
254f	42 Part 23
255	42 Part 51e
262	21 Part 50
263b—263n	21 Part 50
263f	21 Part 1000
285	42 Parts 52b, 52d
286a	42 Part 52b
287c	42 Part 52e
300 et seq	40 Part 146
300a–21	42 Part 59
300f et seq	40 Parts 122–125
300g–1	40 Part 143
300j–9	29 Part 24
300l–2	42 Part 122

42 U.S.C.—Continued	CFR
300u–2	42 Part 51g
302	45 Parts 205, 235
303	45 Parts 205, 235
431	20 Part 404
433	20 Part 404
501 et seq	41 Part 29–70
602	45 Parts 205, 206, 234, 235
603	45 Parts 205, 234, 235
606	45 Part 234
607	45 Part 205
611	45 Parts 205, 206
659	20 Parts 350, 363 32 Part 734
661	20 Parts 350, 363
662	20 Parts 350, 363
710 et seq	18 Part 154
1101 et seq	41 Part 29–70
1202	45 Parts 205, 235
1203	45 Parts 205, 235
1302	20 Part 416 42 Parts 421, 474, 489 45 Parts 228, 306
1306	45 Parts 205, 206
1320a–3	42 Parts 51a, 420, 455 45 Part 228
1320a–5	42 Parts 420, 455 45 Part 228
1320c–4	42 Part 447
1320c–6	42 Part 474
1320c–9	42 Part 474
1321 et seq	41 Part 29–70
1352	45 Parts 205, 235
1353	45 Parts 205, 235
1382	45 Parts 205, 235
1332c	20 Part 416
1383	45 Parts 205, 235
1395	42 Part 421
1395h	42 Part 421
1395u	42 Part 421
1395x	42 Parts 420, 421
1395cc	42 Parts 442, 489
1395hh	42 Part 421
1396	42 Part 433
1396a	42 Parts 433, 435, 436 45 Parts 302, 304, 306
1396b	42 Parts 433, 435, 436, 447, 455, 456 45 Parts 302, 304, 306
1396k	42 Parts 433, 435, 436 45 Parts 302, 304, 306
1397a	45 Part 71
1408	24 Part 888
1410	24 Part 888
1421b	24 Part 888
1437 et seq	24 Part 865
1437c	24 Part 803
1437f	24 Part 882
1452b	24 Part 570

42 U.S.C.—Continued	CFR
1480	7 Parts 1902, 1922, 1945, 2024
1701 et seq	10 Part 440
1771	7 Part 226
1771 note	7 Part 210
1772	7 Part 225
1776	7 Parts 220, 226, 235
1776a	7 Parts 210, 220, 225
1857 et seq	40 Parts 124, 125
1962—1962d–5	18 Part 701
1962a–2	18 Part 713
1973cc–13	39 Parts 10, 111
1973cc–14	39 Parts 10, 111
1975—1975c	45 Part 705
1975—1975e	45 Part 706
1981	12 Part 701
2000d	10 Part 1040 34 Part 100 45 Part 122a
2000d–1	7 Part 245 14 Part 379 34 Part 100 45 Part 185
2000d–2	34 Part 100 45 Part 1010
2000d–3	34 Part 100
2000d–5	34 Part 100
2000e–16	29 Part 1613
2014e	10 Parts 40, 150
2021	10 Parts 4, 40
2022	40 Part 192
2035	10 Part 0
2073	10 Parts 73, 150
2111	10 Parts 40, 150
2113	10 Parts 40, 150
2114	10 Parts 40, 150
2133	10 Part 50
2135	10 Parts 2, 50
2139a	15 Parts 371, 373, 375, 376, 378, 379, 385, 399
2165	10 Parts 25, 95
2201	10 Parts 4, 25, 95, 782 41 Part 109–40
2201b	10 Parts 40, 150
2223	10 Part 782
2451 et seq	14 Parts 1214, 1216
2455	14 Part 1214
2751—2756	45 Parts 174, 175
2837	45 Part 1010
2942	7 Part 1924 45 Parts 1063, 1064
2943	45 Part 1010
2971c	45 Part 1010
2974	45 Part 1067
2981	12 Part 705
2985	12 Part 795
2996	45 Part 1624
3011 et seq	41 Part 29–70
3204	13 Part 540

42 U.S.C.—Continued	CFR
3535	24 Parts 41, 50, 51, 108, 226, 870, 884, 1715, 1730
	44 Parts 200, 201, 205
3538	24 Part 570
3601—3707	10 Part 1040
3601—3610	12 Part 701
3601	24 Part 111
3601 et seq	12 Part 27
4001—4128	44 Parts 61, 62, 64–67, 70
4001 et seq	44 Part 76
4151 et seq	24 Part 41
4153	24 Part 41
4221—4225	32 Part 555
4252	45 Part 100a
4321	32 Part 214
	36 Part 907
4321 et seq	7 Part 3100
	10 Part 1021
	12 Part 408
	14 Part 1216
	18 Part 707
	30 Part 251
	43 Part 3400
	44 Part 10
	50 Part 530
4331—4335	32 Part 214
4332	46 Part 547
4332 et seq	30 Part 250
4341—4347	32 Part 214
4371 et seq	14 Part 1216
	45 Part 640
4601 et seq	49 Part 25
4633	34 Part 15
4907	40 Part 211
4909	40 Part 211
4910	40 Part 211
4912	40 Part 211
5055	45 Part 177
5101 et seq	22 Part 143
5131	44 Part 300
5176	44 Part 205
5184	44 Part 205
5187	44 Part 205
5201	44 Parts 205, 206, 300
5481	10 Part 110
5672	28 Part 42
5817	10 Part 782
5831	10 Part 73
5841	10 Parts 0, 4, 25, 95
5846	10 Part 34
5851	29 Part 24
5891	10 Part 1040
5918	10 Part 798
5919	10 Parts 796, 798
6101	10 Part 1040
6201 et seq	10 Parts 490, 570
6212	15 Parts 370, 371

42 U.S.C.—Continued	CFR
6262	10 Part 490
6341—6346	10 Part 445
6361	10 Part 436
6361 et seq	10 Part 436
6611	47 Parts 201, 202
6801 et seq	10 Part 460
6870	10 Part 1040
6901 et seq	40 Parts 122–125
6905	40 Parts 260, 261, 264, 265
6907	40 Part 257
6912	40 Parts 260, 261, 262, 263, 264, 265
6921—6925	40 Part 262
6921—6930	40 Part 260
6921	40 Part 261
6922—6925	40 Part 263
6922	40 Part 261
6924	40 Parts 264, 265
6928	40 Part 22
6942	40 Part 256
6943	40 Part 256
6971	29 Part 24
6974	40 Part 260
7061	40 Part 85
7101—7352	18 Parts 1, 2, 3, 4, 16, 35, 46, 131, 141, 157, 260, 270, 271, 273, 281, 284, 375, 376
7101	10 Part 1040
7101 et seq	10 Parts 376, 390, 456, 460, 461, 463, 476, 490, 503, 506, 515, 516, 570, 790, 797, 1024
	18 Parts 2, 35, 201, 271, 274, 277, 282, 284, 292
	41 Part 9–1
	43 Parts 3400, 3420, 3430, 3450
7107–7352	18 Parts 1, 3, 274
7107 et seq	18 Parts 1, 3, 270, 271, 272, 273, 274, 275, 284, 294, 375
7112	10 Part 595
7151	10 Parts 212, 445
7152	10 Parts 375, 376, 390, 391
7153	10 Parts 375, 376, 391
7154	10 Part 375
7155	49 Part 1204
7158	10 Part 445
7171	18 Part 275
7172	49 Part 1204
7191	10 Parts 477, 595
7254	10 Parts 212, 375, 376, 391, 436, 595, 798, 1014
	41 Parts 9–7, 109–1, 109–60
7254 et seq	10 Part 796
7261	10 Part 782
7295	49 Part 1204
7401—7642	40 Part 52

42 U.S.C.—Continued	CFR
7401	40 Part 81
7401 et seq	23 Part 770
	40 Parts 51, 52
7410	40 Parts 57, 81
7411	40 Part 62
7413	40 Part 55
7414	40 Part 57
7419	40 Parts 52, 57
7423	40 Part 52
7471	40 Part 52
7491	40 Part 81
7501	40 Part 86
7502	40 Part 52
7522	40 Part 85
7524	40 Part 86
7541	40 Part 85
7545	40 Parts 22, 80, 85
7550	40 Part 85
7571	40 Part 87
7601	40 Parts 57, 80, 87
7602	40 Part 80
7609	14 Part 1216
	45 Part 640
7619	40 Parts 51, 60
7622	29 Part 24
7801	40 Part 81
7879	41 Part 14R–9
8101 et seq	24 Parts 4100, 4101, 4104
8103	24 Parts, 4102, 4103
8123	24 Part 3610
8241	10 Part 436
8301 et seq	10 Parts 503, 515, 516
8391 et seq	10 Part 506
8501	10 Part 477
8511 et seq	10 Part 477
8612	45 Part 260
43 U.S.C.:	
190	36 Part 222
315	43 Part 9260
315 et seq	43 Part 9260
451—451K	43 Part 406
641	43 Part 2610
869 et seq	43 Parts 2740, 2910
1061—1064	43 Part 9260
1201	43 Part 9260
1331	10 Part 376
1331 et seq	10 Parts 376, 390
	30 Part 252
1333	33 Part 209
1334	10 Part 391
	43 Part 9260
1335	10 Part 391
1337	10 Parts 376, 390, 391
1457	25 Parts 55a, 256
1701 et seq	43 Parts 1780, 3400, 3420, 3430, 3450, 3460, 9260
1713	43 Part 2710

43 U.S.C.—Continued	CFR
1714	50 Part 26
1721	43 Parts 2540, 2740, 9180
1732	43 Part 3800
1733	43 Parts 3800, 9260
1782	43 Part 3800
1740	43 Parts 1600, 2540, 2710, 2740, 9180
1761—1771	36 Part 251
1841 et seq	50 Part 296
1901	36 Part 222
1901 et seq	43 Part 1780
44 U.S.C.:	
262	21 Parts 5, 201
1505	1 Part 3
45 U.S.C.:	
22	49 Parts 229, 230
23	49 Part 229
28	49 Part 229
34	49 Parts 229, 230
228j	20 Part 375
231f	20 Parts 350, 363
343	49 Part 229
355	20 Part 348
362	20 Parts 348, 350, 363, 375
431	49 Part 223
918	20 Part 397
46 U.S.C.:	
216	46 Parts 401 402
526p	46 Parts 33, 94, 167
390b	46 Parts 25, 33, 35, 94, 97, 108, 109, 192, 196
391a	46 Parts 25, 75, 94, 159, 167, 180, 192
481	46 Parts 25, 159
526p	46 Parts 33, 94, 167
814	46 Part 525
817	46 Part 514
820	46 Parts 514, 552
821	46 Parts 502, 530
831	46 Part 505
833a	46 Part 525
841	46 Parts 512, 514, 547, 552
841a	46 Part 525
843	46 Parts 512, 514
844	46 Part 514
845	46 Part 514
847	46 Part 514
1271 et seq	50 Part 255
1454	46 Parts 26, 33, 35, 75, 78, 94, 97, 108, 109, 161, 164, 167, 180, 185, 192, 196
1455	33 Parts 175, 183
	46 Part 25
1488	46 Parts 33, 35, 75, 78, 94, 97, 108, 109, 161, 164, 167, 180, 185, 192, 196

47 U.S.C.:	CFR
151	47 Parts 61, 63, 67, 68
152	47 Parts 2, 61, 63, 64, 67, 68
153	47 Part 2
154	47 Parts 22, 76
155	47 Parts 68, 76
201–205	47 Parts 61, 63, 64, 67
208	47 Parts 61, 63, 64, 67
215	47 Parts 61, 63, 64, 67
218	47 Parts 61, 63, 67
301	47 Part 2
303	47 Parts 22, 68
307	47 Part 2
309	47 Part 2
313	47 Parts 61, 63, 64, 67
314	47 Parts 61, 63, 64, 67
315	47 Part 2
317	47 Part 2
390	34 Part 63
403	47 Parts 61, 63, 64, 67
404	47 Parts 61, 63, 64, 67
410	47 Parts 61, 63, 64, 67
602	47 Parts 61, 63, 64, 67
48 U.S.C.:	
1469	45 Part 100b
1469a	42 Part 50 45 Parts 100b, 161
49 U.S.C.:	
15	18 Parts 35, 154, 270, 273, 284
101—119	49 Part 1064
304	49 Part 399
348	14 Part 71
762	49 Part 267
794	45 Part 1624
825h	18 Parts 35, 154, 270, 273, 284
1301	14 Part 298
1302	14 Parts 203, 312
1324	14 Parts 203, 204, 270, 297, 315, 324, 325, 379, 387, 398
1324 note	14 Part 387
1342	14 Part 13
1344	14 Parts 21, 25, 29, 91, 127, 135
1345	14 Part 71
1353	14 Part 39
1354	14 Part 71
1355	14 Parts 25, 127, 137
1356	14 Part 121
1357	14 Parts 109, 121, 129 39 Part 927
1359	14 Part 159
1371	14 Parts 203, 204, 207, 208, 298, 300
1372	14 Part 380
1377	14 Parts 204, 250, 315, 324
1378	14 Parts 299, 315
1381	14 Part 221a

49 U.S.C.—Continued	CFR
1386	14 Parts 211, 297
1389	14 Parts 204, 270, 300, 324, 325, 379, 398
1421	14 Parts 109, 135
1423	14 Part 135
1424	14 Parts 11, 121, 135
1425	14 Parts 11, 121
1430	14 Part 137
1482	14 Part 13
1485	14 Parts 109, 121, 191
1489	14 Part 13
1490	14 Part 315
1502	14 Part 380
1509	9 Part 91
1510	14 Parts 71, 75
1604	49 Part 635
1611	46 Part 66
1655	14 Parts 39, 137 33 Parts 161, 165 46 Parts 25, 33, 35, 75, 78, 94, 97, 159, 161, 164, 167, 180, 185, 192, 196, 402 49 Parts 229, 301, 396, 399
1657	14 Parts 199, 525
1671 et seq	49 Part 193
1672	49 Part 190
1677	49 Part 190
1679	49 Part 190
1679b	49 Part 190
1680	49 Part 190
1681	49 Part 190
1692	49 Part 192
1720	14 Part 152
1727	14 Part 13
1730	14 Part 13
1804	46 Parts 151, 153 49 Part 190
1903	49 Parts 800, 806
2002	49 Part 190
2006	49 Part 190
2007	49 Part 190
2008	49 Part 190
2009	49 Part 190
2010	49 Part 190
10101	49 Parts 1045A, 1045B, 1046
10304	49 Parts 1011, 1100
10305	49 Parts 1011, 1100
10321	49 Parts 1011, 1014, 1041, 1045A, 1045B, 1046, 1047, 1057, 1111, 1131, 1131a, 1241, 1307, 1310
10362	49 Part 1125
10704	49 Parts 1307, 1310
10762	49 Parts 1011, 1100
10903—10906	49 Part 1121
10903 et seq	49 Part 1121
10921	49 Parts 1045A, 1045B, 1046
10924	49 Parts 1045A, 1045B, 1046

49 U.S.C.—Continued	CFR
10925	49 Parts 1045A, 1045B, 1046
10927	49 Parts 1045A, 1045B, 1046
10930	49 Part 1062
11107	49 Part 1057
11125	49 Part 1033
50 U.S.C.:	
191	33 Part 165
198	46 Parts 25, 108, 109, 180, 185, 192, 196
401	32 Part 368 47 Parts 201, 202
781 et seq	32 Part 156
1433	10 Part 1023
1701—1706	31 Part 535
1701—1708	31 Part 535
App. 2061	47 Parts 201, 202
App. 2061 et seq	32A Part 106
App. 2168	4 Parts 418, 420
App. 2210	32 Part 733
App. 2251—2297	44 Parts 301, 308, 309, 310
App. 2251	47 Parts 201, 202
App. 2251 et seq	44 Part 311
App. 2253	44 Parts 302, 303, 306, 308
App. 2281	44 Part 308
App. 2284	44 Part 306
App. 2401 et seq	15 Parts 368–379, 385–390, 399
App. 2406	7 Part 20
U.S. Statutes at Large:	
7 Stat.:	
491	25 Part 256
59 Stat.:	
463	21 Parts 431, 514
64 Stat.:	
1245—1257	44 Part 304
1273	46 Part 308
72 Stat.:	
1799—1801	44 Parts 305, 308
1799	44 Parts 301, 302, 303, 306, 309
75 Stat.:	
840	46 Part 308
76A Stat.:	
39	35 Part 67
46	35 Parts 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 123
80 Stat.:	
383	7 Part 26
81 Stat.:	
584	9 Part 309
588	9 Part 309
592	9 Part 309
593	9 Part 309
84 Stat:	
204	36 Part 805
1026	46 Part 283
1036	46 Part 308

85 Stat.:	CFR
619	12 Parts 600, 601, 602, 605, 611, 615, 616
620	12 Parts 600, 601, 602, 605, 611, 615, 616
621	12 Parts 600, 601, 602, 605, 611, 615, 616
87 Stat:	
139	36 Part 805
342	12 Parts 526, 563
456	22 Part 1302
88 Stat.:	
476	44 Parts 80–83
484	34 Part 106
633	24 Parts 236, 570
1417	35 Part 9
1855	34 Part 106
1862	34 Part 106
89 Stat.:	
795	34 Part 104
871	40 Part 600
1057	32 Part 806b
90 Stat.:	
145	36 Part 1226
1083—1092	43 Part 3400
1241	45 Part 702
1320	36 Part 805
1519	36 Part 1208
2723	32 Part 1900
91 Stat.:	
157	32 Part 734
565	10 Part 436
565 et seq	10 Part 477
577	10 Part 1023
1354	35 Parts 205, 234
1433	38 Part 17
1561	45 Parts 205, 206
92 Stat.:	CFR
86	10 Part 790
429	7 Part 1945
865 et seq	17 Part 155
877	17 Part 31
888	19 Part 142
1073	21 Part 10
1091	21 Part 10
1301	36 Part 223
1774	19 Part 54
1824	28 Part 45
2073—2075	43 Part 3400
2248–2249	45 Part 119
2363	45 Part 122a
2405	15 Part 2301
2865	26 Part 5
2955	28 Part 42 29 Part 1613
3117	18 Part 294
3256	40 Part 600
3275	10 Part 436

92 Stat.—Continued CFR

3281 ... 10 Part 436
3350 ... 18 Part 375
3397 ... 7 Part 2901
3467 ... 36 Part 805
3603 et seq ... 7 Part 246
3610 ... 7 Part 226

93 Stat.:

76 ... 19 Part 200
148 ... 19 Parts 353, 355
452 ... 35 Parts 3, 253
455 ... 35 Part 7
456—490 ... 35 Part 70
456 ... 35 Part 9
457 ... 35 Part 9
461 et seq ... 35 Parts 251, 253
465 ... 35 Part 253
481 ... 35 Part 67
487 ... 35 Parts 115, 117
489 ... 35 Parts 133, 135
492 ... 35 Parts 9, 51, 61, 101, 103, 105, 107, 109, 111, 113, 119, 121, 123, 125
493 ... 35 Part 121
494 ... 35 Part 201
757 et seq ... 10 Part 477
821 ... 7 Part 700
835 ... 7 Part 700

94 Stat.:

161 ... 12 Part 590

Public Laws:

95–24 ... 24 Part 220
95–30 ... 32 Part 734
95–39 ... 10 Part 470
95–43 ... 45 Part 170
95–59 ... 42 Part 456
95–62 ... 38 Part 17
95–70 ... 10 Parts 205, 211, 212, 570
95–75 ... 32 Parts 701, 706, 720, 722, 728, 730, 737, 750, 755, 757
33 Part 82
95–83 ... 42 Part 51e
95–87 ... 30 Parts 211, 715, 731, 816, 817, 926
95–89 ... 13 Part 131
95–91 ... 10 Parts 1, 2, 20, 30, 40, 50, 70, 73, 140, 150, 205, 211, 212, 375, 376, 390, 391, 430, 436, 445, 456, 460, 461, 463, 470, 475, 476, 477, 500, 501, 503, 506, 515, 570, 595, 790, 796, 797, 798, 1014, 1023, 1024, 1040
18 Parts 1, 2, 35, 154, 270, 271, 273, 284, 292
40 Part 80
41 Parts 9–1, 9–3, 9–7, 9–16, 9–50, 109–1, 109–60
95–93 ... 20 Parts 680, 685

Public Laws—Continued CFR

95–95 ... 40 Parts 51, 52, 57, 81
95–105 ... 41 Part 101–49
95–113 ... 7 Parts 25, 26, 800–802, 810, 1280
95–115 ... 28 Part 42
95–121 ... 6 Parts 705, 706, 707
95–126 ... 32 Part 724
95–128 ... 12 Part 528
24 Part 570
95–134 ... 42 Part 50
45 Part 100b
95–142 ... 42 Parts 51a, 405, 420, 421, 431, 455, 456, 463
45 Part 228
95–145 ... 45 Part 166c
95–156 ... 7 Part 795
95–158 ... 18 Parts 2, 271
95–164 ... 29 Part 2703
30 Parts 11, 40, 41, 43, 44, 46, 48, 55, 56, 57, 70, 71, 75, 77, 90, 100
95–165 ... 29 Part 2702
95–166 ... 7 Parts 210, 220, 225, 227, 230, 235
95–171 ... 26 Parts 1, 31
45 Parts 205, 234
95–190 ... 40 Parts 122–125, 146
95–202 ... 32 Part 881
38 Parts 17, 21
95–207 ... 45 Parts 161, 161a
95–216 ... 45 Parts 205, 206
95–217 ... 40 Parts 122–125, 413
95–224 ... 10 Part 1024
36 Part 222
95–238 ... 10 Parts 475, 476, 790, 798
95–239 ... 20 Part 725
95–242 ... 10 Part 110
15 Parts 371, 373, 375, 376, 378, 379, 385, 399
95–319 ... 16 Parts 1209, 1404
95–334 ... 7 Parts 2, 1945, 1951, 1980
95–354 ... 50 Part 603
95–369 ... 12 Parts 28, 307, 346
95–372 ... 10 Parts 376, 390, 391
15 Part 931
30 Parts 250, 252
43 Part 20
50 Part 296
95–376 ... 50 Part 285
95–390 ... 5 Part 620
95–396 ... 29 Part 1440
95–405 ... 17 Parts 1, 31
95–410 ... 19 Parts 4, 10, 11, 24, 127, 132, 141–144, 151, 158, 159, 172, 173
27 Part 72

Public Laws—Continued CFR

95–417 ... 8 Parts 334, 336, 341
95–426 ... 22 Parts 51, 515
41 Part 101–49
95–437 ... 5 Parts 340, 890
95–448 ... 21 Part 10
95–452 ... 7 Part 2
15 Part 4b
41 Part 8–76
95–454 ... 5 Parts 177, 179, 180, 213, 250, 308, 317, 359, 511, 540, 591, 720, 831, 870, 871, 890, 891, 900, 930, 1001
28 Part 0
95–455 ... 46 Parts 401, 402
95–458 ... 26 Part 140
95–460 ... 7 Part 781
95–465 ... 36 Part 223
95–471 ... 25 Part 32b
95–474 ... 33 Parts 127, 160, 161, 164, 165
46 Part 30
95–475 ... 46 Part 514
95–476 ... 38 Parts 3, 21, 36
95–478 ... 29 Part 89
95–479 ... 41 Part 8–4
95–480 ... 45 Parts 134, 134a, 134b
95–494 ... 5 Part 752
95–504 ... 14 Parts 199, 203, 399
95–507 ... 13 Parts 107, 121, 125
41 Ch. 1 App.
41 Parts 4–1, 8–4, 9–1, 9–3, 9–7, 9–16, 9–50
95–508 ... 19 Part 54
95–509 ... 10 Part 212
95–521 ... 5 Parts 737, 2415
14 Part 1207
19 Part 200
28 Part 45
29 Part 2620
44 Part 3
45 Part 706
95–523 ... 40 Parts 122–125
95–524 ... 20 Parts 675–680, 684, 685, 688
95–532 ... 15 Part 922
95–547 ... 32 Part 199
95–557 ... 7 Part 1951
24 Parts 240, 570, 4100–4104
95–559 ... 42 Part 110
95–561 ... 25 Parts 31a, 31b, 31g, 31h, 273
45 Parts 100d, 116a, 116d, 119, 120, 122a, 123, 123a–123i, 134, 134a, 134b, 160f, 161, 161b, 161c, 161e, 161f, 161h, 161l, 161m, 162–162c, 163, 163a, 163b, 163c, 163d, 166, 166a, 166b, 166c, 184, 185, 186a, 193, 195, 195a, 195b
95–562 ... 7 Part 46

Public Laws—Continued CFR

95–563 ... 10 Part 1023
14 Parts 1209, 1241
41 Ch. 1 App.
41 Part 12–60
95–567 ... 15 Part 2301
95–575 ... 27 Part 72
95–576 ... 40 Parts 117, 122–125
95–588 ... 38 Part 3
95–598 ... 7 Part 1962
28 Part 0
95–599 ... 23 Part 663
95–600 ... 26 Part 601
95–602 ... 18 Part 1307
28 Part 42
29 Part 1613
36 Part 1151
45 Part 1388
95–604 ... 10 Part 4
40 Part 192
95–607 ... 49 Part 266
95–608 ... 25 Parts 13, 23
95–609 ... 40 Parts 122–125
95–617 ... 10 Parts 460, 461, 463, 797
18 Parts 2, 3, 292, 294
95–618 ... 27 Part 19
95–619 ... 10 Parts 211, 212, 430, 436, 440, 445, 456, 600
16 Part 305
95–620 ... 7 Part 1948
10 Parts 211, 212, 500, 501, 503, 506, 515
95–621 ... 7 Parts 2900, 1901
10 Parts 211, 212
18 Parts 1, 2, 3, 35, 201, 270, 271, 273, 274, 275, 277, 282, 284, 292, 375
95–622 ... 21 Part 5
42 Parts 52h, 66
95–623 ... 42 Part 66
95–625 ... 36 Parts 28, 1228
95–626 ... 42 Parts 51b, 59
95–627 ... 7 Parts 220, 225, 226, 230, 235, 246
95–630 ... 12 Parts 23, 26, 205, 212, 307, 348, 349, 533, 555, 563f, 545, 711, 720, 722
95–631 ... 16 Part 1105
96–10 ... 6 Parts 705, 706, 707
96–22 ... 38 Part 3
96–25 ... 46 Parts 505, 536, 552
96–28 ... 5 Part 737
19 Part 200
28 Part 45
96–30 ... 10 Parts 211, 212
96–31 ... 7 Part 729
96–32 ... 42 Part 51b
96–38 ... 7 Parts 210, 220, 225, 226, 235
45 Part 205

60-145 O - 80 - 12

Public Laws—Continued	CFR
96–39	7 Part 6 15 Part 2006 19 Parts 353, 355 27 Parts 5, 13, 19, 170, 173, 194–197, 200, 211, 213, 231, 240, 250–252
96–46	45 Part 134
96–49	45 Part 150
96–58	7 Parts 271, 272, 273, 274, 278
96–68	28 Ch. I
96–70	5 Part 213 35 Parts 3, 7, 9, 51, 61, 67, 70, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 133, 135, 201, 251, 253 10 Parts 95, 140 41 Ch. 101
96–72	7 Parts 20, 1421 15 Parts 368–379, 385–390, 399
96–74	31 Part 13
96–86	42 Parts 50, 441 45 Parts 220, 222, 228
96–88	34 Parts 4, 5, 5b, 6–8, 10–12, 15, 17, 30, 35, 50, 63, 64, 67, 73, 74, 99, 100, 101, 104, 106
96–95	36 Part 1215
96–101	20 Part 397 49 Parts 1111, 1121
96–102	10 Parts 477, 490, 570
96–106	10 Parts 40, 150
96–108	7 Parts 225, 235, 700
96–123	12 Part 705 42 Part 431 45 Parts 122a, 205
96–126	7 Parts 272, 273 10 Part 798 32 Part 70
96–128	38 Part 3
96–129	49 Parts 1, 106
96–131	46 Parts 12, 14
96–153	7 Part 1924 7 Part 1904 24 Parts 207, 213, 220, 221, 231, 234, 236, 1710, 1715, 1720, 1730
96–154	32 Part 630
96–156	5 Part 891
96–157	28 Parts 20, 42
96–161	12 Parts 526, 545, 563, 590
96–185	13 Part 400
96–187	11 Parts 5, 100—115, 9008
96–193	14 Part 159
96–195	46 Part 308
96–220	7 Parts 1945, 1980
96–221	12 Parts 204, 226, 561, 564, 590, 745, 1201, 1204

Public Laws—Continued	CFR
96–223	26 Part 150 27 Part 19 45 Part 260
96–234	7 Part 1421
96–249	7 Parts 273, 282
96–252	16 Parts 0, 1, 2, 4
96–254	49 Part 1033
Proclamations:	
1733	36 Part 7
2330	36 Part 7
Executive Orders:	
1259	45 Parts 2101, 2103
1862	45 Parts 2101, 2103
3254	45 Part 2101
3524	45 Parts 2101, 2103
9830	5 Parts 293, 771
10096	7 Part 2
10173	33 Part 165
10469	22 Part 202
10789	10 Parts 1023, 1024
10794	5 Part 315
10865	10 Parts 25, 95
10897	22 Part 17
10952	44 Parts 301, 302, 303, 304, 305, 306, 308, 310
11157	32 Part 733
11222	5 Parts 771, 2415 22 Part 1001 29 Part 1600 32 Part 1289 34 Part 73 36 Part 1152 44 Part 3 45 Part 360
11246	41 Parts 60–250, 60–741
11295	22 Part 7
11375	41 Parts 60–1, 60–30, 60–250, 60–741
11490	32A Part 106
11514	7 Part 3100 14 Parts 91, 1216 32 Part 214 44 Part 10
11593	7 Part 3100 36 Parts 805, 1204
11625	41 Part 4–1
11735	33 Parts 154, 155, 156 40 Parts 116, 117, 1510
11749	44 Parts 200, 201
11758	41 Parts 60–1, 60–250
11764	45 Part 1010
11790	10 Parts 445, 490, 570
11795	44 Part 310
11912	10 Parts 436, 570 15 Part 370
11914	14 Part 1251
11964	32 Parts 701, 720, 722, 728, 730, 737, 750, 755, 757

Executive Orders—Continued	CFR
11988	7 Part 650 23 Part 650 44 Part 9
11990	7 Part 650 44 Part 9
11991	7 Parts 799, 3100 14 Part 1216 44 Part 10 45 Part 640 18 Part 707
12009	10 Parts 375, 376, 390, 391, 445, 490, 503, 506, 515, 595 18 Parts 1, 2, 3, 35, 46, 141, 154, 157, 260, 272, 277, 284, 290, 292, 294, 375, 376 49 Part 1204
12038	10 Part 570
12044	14 Part 399 44 Part 1
12065	5 Parts 175, 1312 7 Part 10 10 Parts 25, 95 12 Parts 403, 505c 15 Part 2008 17 Part 200 22 Part 1303 29 Part 14 32 Parts 158, 2002, 2400, 2500, 2600, 2700, 2800 35 Part 60 41 Part 105–62 45 Part 601 46 Part 503 49 Parts 806, 1280 50 Part 540
12092	6 Part 707
12106	29 Part 1613
12107	5 Parts 5, 293, 2400 32 Part 1289
12109	5 Part 595
12114	7 Part 3100 12 Part 409 14 Part 1216
12127	44 Parts 2, 5, 6, 9, 10, 11, 55–84, 150, 205, 301, 305, 307

Executive Orders—Continued	CFR
12137	5 Parts 315, 316
12138	41 Part 4–1
12148	32A Parts 106, 134 44 Parts 2, 55–84, 150, 205, 300, 301, 305, 307, 311
12161	6 Parts 705, 706, 707
12170	31 Part 535
12173	35 Parts 3, 9, 51, 61, 67, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 133, 135, 251, 253
12183	14 Part 91 15 Parts 368, 370, 385, 386
12201	12 Part 229
12205	31 Part 535
12211	22 Part 51 31 Part 535
12214	15 Parts 371, 373–376, 378, 379, 385, 386, 399
Reorganization Plans:	
1947 Plan No. 3	12 Parts 505c, 509a, 528, 541, 544, 547, 548, 549, 551, 552, 556
1950 Plan No. 3	25 Parts 55a, 256 41 Part 14R–9 43 Part 1780
1950 Plan No. 6	20 Part 718
1950 Plan No. 21	46 Part 283
1950 Plan No. 26	31 Part 8
1953 Plan No. 1	20 Part 404
1953 Plan No. 2	9 Part 204
1958 Plan No. 1	44 Parts 301, 302, 305, 306, 308, 309
1961 Plan No. 7	46 Part 283
1970 Plan No. 4	15 Part 950
1978 Plan No. 1	29 Parts 1613, 1627
1978 Plan No. 2	5 Parts 177, 179, 180, 213, 511, 620, 720, 831, 870, 871, 890, 891, 900, 1001, 1250, 1252, 1254, 1255
1978 Plan No. 3	32A Part 134 44 Parts 2, 5, 6, 9, 10, 11, 55, 76, 80–83, 311
1979 Plan No. 3	44 Parts 55–84, 150, 205, 301, 305, 307
1979 Plan No. 4	50 Part 255

Removals from Table 1, July 1979 through June 1980

This table lists the sections of the U.S. Code and U.S. Statutes at Large and Presidential documents which are being removed from Table 1 as a result of CFR Part removals cited in the *Federal Register* from July 1979 through June 1980.

In order to determine the *Federal Register* page numbers of these citations, consult the List of CFR Sections Affected above.

U.S. Code:	CFR
2 U.S.C.	
437d	11 Parts 107, 120, 121, 122, 123, 124, 125
438	11 Part 107
5 U.S.C.:	
303	5 Part 1270
552	1 Part 480 5 Parts 295, 1272, 2401, 2412 32 Parts 293, 813a, 1800, 1813 36 Part 603 45 Part 100
552a	1 Parts 415, 445, 465 5 Part 1273 45 Part 706
1003	49 Part 1082
1205	5 Parts 1251, 1253, 1260, 1270
1206	5 Parts 1270, 1271
1207	5 Part 1260
1302	5 Part 772
3301	5 Parts 772, 2410, 2411, 2413, 2470, 2471
3302	5 Part 772
5115	5 Part 772
5388	5 Part 772
7151	5 Part 772
7154	5 Part 772
7301	5 Parts 2410, 2411, 2413, 2470, 2471
7512	5 Part 772
7701	5 Part 772
8347	5 Part 772
6 U.S.C.:	
6	27 Part 201
7	27 Part 201
15	27 Part 201
7 U.S.C.:	
136	40 Part 168
136t	40 Part 168
429	9 Parts 445, 447
601—674	7 Part 909
621	9 Parts 390, 391
1854	7 Part 16
1989	7 Parts 1803, 1804
8 U.S.C.:	
1101	35 Part 3 45 Part 144
10 U.S.C.:	CFR
3012	32 Part 579
5031	32 Part 715
8012	32 Parts 810, 813a, 819b, 820, 841, 846, 866, 879, 888a, 888f, 907, 940
8634	32 Part 820
8635	32 Part 820
12 U.S.C.:	
1464	12 Parts 542, 550
1725	12 Part 566
1726	12 Part 566
1730	12 Part 566
1766	12 Parts 715, 722
1819	12 Parts 301, 305, 306, 325
15 U.S.C.:	
634	13 Parts 126, 127
640	13 Part 126
644	13 Part 127
714b	7 Part 1424
2069	16 Part 1026
2210	45 Part 2010
2214	45 Part 2000
2218	45 Parts 2010, 2012
2605	40 Part 712
2607	40 Part 712
16 U.S.C.:	
462	36 Parts 60, 63
470	36 Part 63
470 et seq	36 Part 61
470–1	36 Part 67
470a	36 Part 60
916a–1	50 Part 230
916j	50 Part 230
18 U.S.C.:	
201—209	32 Part 579
207	8 Part 505
281	8 Part 505
283	8 Part 505
284	8 Part 505
421—429	45 Part 144
926	27 Parts 186, 201
1070a	45 Part 144
1070b et seq	45 Part 144
1071—1087–4	45 Part 144
1087–1	45 Part 144
1087aa—1087ff	45 Part 144
1088	45 Part 144
1088b	45 Part 144
1088b–3	45 Part 144
1088f	45 Part 144

18 U.S.C.—Continued	CFR
1088g	45 Part 144
1141	45 Part 144
1221—1222	45 Part 61
1222	45 Part 61
19 U.S.C.:	
81c	27 Part 201
1202	15 Part 315
2031	15 Part 315
20 U.S.C.:	
79	35 Part 5
123	45 Part 160b
246	45 Part 156
443	45 Part 134a
787d note	45 Part 160e
823	45 Part 134a
843	45 Part 134b
862	45 Part 134b
863	45 Part 134b
865	45 Part 134b
866	45 Part 134b
867	45 Part 134b
881	45 Parts 160b, 160g
887d	45 Part 160e
887d note	45 Part 160e
887e	45 Part 100d
1202	45 Part 188
1211a	45 Part 188
1221	45 Part 160c
1221c	45 Parts 100, 160c
1221e	45 Parts 1405, 1407, 1409, 1412, 1414, 1415, 1417, 1419, 1420, 1422, 1424
1221e–3	45 Parts 160c, 160e, 160g, 161a, 185a
1221h	45 Part 188
1231	45 Part 160b
1231d	45 Part 160g
1232	45 Part 183
1232c	45 Parts 160b, 160c
1401	45 Parts 160d, 160g
1531—1536	45 Part 183
1801	45 Parts 134a, 134b
1803	45 Part 134a
1821	45 Part 134a
1831	45 Part 134b
1832	45 Part 134b
1851—1853	45 Part 160d
1851	45 Part 160b
1861	45 Part 160e
1863	45 Part 160b
1864	45 Part 160c
1865	45 Part 160d
1867	45 Part 160g
2301 et seq	45 Part 161a
2505	45 Part 161a
2601—2614	45 Part 161a
3191—3207	45 Part 185a
3191 et seq	45 Part 185a

21 U.S.C.:	CFR
188j	35 Part 65
22 U.S.C.:	
287c	15 Part 11
1382	8 Parts 501, 503, 504, 505
1631	8 Part 502
1631—1641q	8 Parts 501, 503, 504, 505
2381	41 Part 7–13
2778	27 Parts 186, 201
23 U.S.C.:	
315	23 Part 170
25 U.S.C.:	
450e	45 Part 188
26 U.S.C.:	
4735	35 Part 65
5001	27 Part 201
5002	27 Parts 170, 201
5004	27 Part 201
5005	27 Part 201
5006	27 Part 201
5008	27 Part 201
5009	27 Part 201
5021	27 Part 201
5022	27 Part 201
5023	27 Part 201
5024	27 Part 201
5025	27 Part 201
5026	27 Part 201
5061	27 Part 201
5066	27 Part 201
5081	27 Part 201
5082	27 Part 201
5114	27 Part 201
5132	27 Part 201
5142	27 Part 201
5143	27 Part 201
5171	27 Part 201
5172	27 Part 201
5173	27 Part 201
5174	27 Part 201
5175	27 Part 201
5176	27 Part 201
5179	27 Part 201
5180	27 Part 201
5201	27 Part 201
5202	27 Parts 186, 201
5203	27 Part 201
5204	27 Parts 186, 201
5205	27 Part 201
5206	27 Part 201
5211	27 Parts 186, 201
5212	27 Part 201
5213	27 Part 201
5214	27 Part 201
5221	27 Part 201
5222	27 Part 201
5223	27 Part 201
5231	27 Part 201
5232	27 Part 201

26 U.S.C.—Continued	CFR
5233	27 Part 201
5234	27 Part 201
5235	27 Part 201
5241	27 Part 201
5242	27 Part 201
5243	27 Part 201
5251	27 Part 201
5271	27 Part 201
5282	27 Part 201
5301	27 Part 201
5311	27 Part 201
5314	27 Part 201
5363	27 Part 201
5368	27 Part 201
5370	27 Part 201
5373	27 Part 201
5386	27 Part 201
5388	27 Part 201
5391	27 Part 201
5505	27 Part 201
5522	27 Part 201
5551	27 Part 201
5555	27 Part 201
5559	27 Part 201
5601	27 Part 201
5612	27 Part 201
6011	27 Part 201
6061	27 Part 201
6065	27 Part 201
6109	27 Part 201
6311	27 Part 201
6402	27 Part 201
6676	27 Part 201
6805	27 Part 201
7011	27 Part 201
7102	27 Part 201
7510	27 Part 201
7805	26 Part 37 27 Parts 186, 201
9009	11 Parts 120, 121, 122, 123, 124, 125
27 U.S.C.:	
205	27 Parts 186, 201
2672	10 Part 714
29 U.S.C.:	
49k	20 Part 620
211	29 Part 850
626	29 Part 850
483A	32 Part 810
31 U.S.C.:	
952	46 Part 504
33 U.S.C.:	
3	32 Part 940
1221	33 Part 164
1224	33 Part 164
1415	40 Part 226
1417	40 Part 226
1418	40 Part 226

37 U.S.C.	CFR
101	32 Part 715
401	32 Part 715
403	32 Part 715
702	32 Part 715
1001	32 Part 715
38 U.S.C.:	
101	45 Part 144
39 U.S.C.:	
101	39 Part 247
401	39 Parts 247, 248, 257, 258
403	39 Part 247
404	39 Parts 247, 248, 257, 258
40 U.S.C.:	
246	45 Part 55
442	7 Part 1804
486	41 Parts 3–26, 3–55, 114–35
1480	7 Parts 1803, 1804
2000d–1	36 Part 601
2751—2756	45 Part 144
2826	45 Part 1078
2942	7 Parts 1803, 1833 45 Part 1012
3535	24 Parts 2200, 2201, 2205
4001—4128	24 Parts 1911, 1912, 1914–1917, 1920
4231 et seq	29 Part 13
4332	10 Part 711
4831	42 Part 90
5815	10 Part 711
42 U.S.C.:	
1857f–9	40 Part 87
1857g	40 Part 87
2942	45 Part 1071
3001 et seq	45 Parts 1320, 1324, 1326
3041—3041e	45 Part 1326
3045 et seq	45 Part 1324
3535	24 Part 275
7101 et seq	10 Parts 502, 507
8301 et seq	10 Parts 502, 507
43 U.S.C.:	
161	43 Part 401
279	43 Part 401
280	43 Part 401
281	43 Part 401
282	43 Part 401
283	43 Part 401
391	43 Part 401
419	43 Part 401
433	43 Part 401
434	43 Part 406
448	43 Part 406
465	43 Part 401
544	43 Part 406
617h	43 Part 401
682	43 Part 2750
682a	43 Part 2730
1201	43 Part 2750

44 U.S.C.:	CFR
1506	1 Part 3
45 U.S.C.:	
228j	20 Part 395
355	20 Part 370
362	20 Parts 370, 395
641	49 Part 1124
762	49 Part 267
46 U.S.C.:	CFR
375	46 Part 16
416	46 Part 16
599	46 Part 15
689	46 Part 16
1114	46 Part 293
49 U.S.C.:	
12	49 Parts 1202, 1247
20	49 Parts 1202, 1247
303	49 Part 1082
304	49 Parts 1082, 1202
913	49 Part 1202
1003	49 Part 1082
1012	49 Part 1202
1323	14 Part 304
1324	14 Part 304
1324 note	14 Part 304
1354	14 Part 37
1421	14 Part 37
1423	14 Part 37
1424	14 Part 37
1654	49 Part 267
1655	14 Part 37 46 Parts 15, 16
50 U.S.C.:	
797	32 Part 940
App. 1–40	8 Part 502
App. 5	8 Parts 501, 503, 504, 505, 507, 510
App. 451 et seq	32 Parts 1611, 1612, 1619
App. 460	32 Parts 1613, 1617
App. 2061 et seq	13 Part 126
App. 2210	32 Part 715
App. 2251—2297	32 Parts 1800, 1801, 1808, 1810, 1812, 1813, 1814
App. 2253	32 Parts 1803, 1806–1808
App. 2281	32 Part 1808
App. 2284	32 Part 1806
U.S. Statutes at Large:	
64 Stat.:	
1245—1257	32 Part 1804
66 Stat.:	
166	35 Part 3
69A Stat:	
41	35 Part 69
72 Stat.:	
1799—1801	32 Parts 1808, 1809
1799	32 Parts 1801, 1803, 1806, 1807, 1810, 1812

75 Stat.:	CFR
837	14 Part 304
76A Stat:	
7	35 Parts 3, 5, 121
8	35 Part 3
10	35 Part 70
11	35 Part 70
16	35 Part 253
19	35 Parts 251, 253
25	35 Part 5
27	35 Parts 133, 135
29	35 Parts 51, 53
30	35 Part 57
32	35 Parts 59, 127
36	35 Parts 61, 125
46	35 Parts 125, 133
47	35 Part 121
48	35 Parts 121, 127
49	35 Part 36
51	35 Part 201
83 Stat.:	
108—115	45 Part 1320
86 Stat.:	
88—95	45 Parts 1320, 1324
87 Stat.:	
30—57	45 Part 1320
49—51	45 Part 1326
56—57	45 Part 1324
456	1 Part 416
697	36 Part 601
699	36 Parts 605, 606
700	36 Part 604
702	36 Part 601
762	36 Part 601
88 Stat.:	
357—358	45 Parts 1320, 1324
90 Stat.:	
145	43 Part 31
1519	36 Part 67
91 Stat.:	
582—583	18 Part 0
585–586	18 Part 0
590	18 Part 0
606	18 Part 0
Executive Orders:	
7676	35 Part 1
9193	8 Part 501–505, 507, 510
9567	8 Part 505
9725	8 Parts 501–505
9788	8 Parts 501–505
9989	8 Parts 501, 503–505, 507
10254	8 Parts 501–505
10493	13 Part 126
10577	5 Part 772
10644	8 Parts 501–505
10952	32 Parts 1800, 1801, 1803, 1804, 1806–1810, 1814
11157	32 Part 715

Executive Orders—Continued	CFR
11222	32 Part 579 36 Part 602 45 Parts 396, 705
11246	45 Part 82
11322	15 Part 11
11419	15 Part 11
11478	5 Part 772
11491	5 Parts 772, 2401, 2410–2413, 2470, 2471 29 Parts 201–206
11539	7 Part 16
11593	36 Part 63
11616	5 Parts 2411, 2413, 2470, 2471 29 Parts 201–206
11636	5 Parts 2411, 2413, 2470, 2471 29 Parts 201–206
11652	35 Part 60
11749	24 Parts 2200, 2201
11790	10 Parts 208, 570
11795	32 Part 1800
11838	5 Parts 2411, 2413, 2471 29 Parts 201–206
11912	10 Part 570
12009	10 Parts 502, 507, 570
12044	45 Part 2012
12065	32 Part 2600
12127	24 Parts 1914, 1915, 1931
Reorganization Plans:	
1947 Plan No. 3	12 Parts 542, 550, 566
1958 Plan No. 1	32 Parts 1801, 1806–1810, 1812
1961 Plan No. 3	14 Part 304
1978 Plan No. 2	5 Part 1270

1979

Pages	*Date*
38437–38816	July 2
38817–39150	3
39151–39370	5
39371–40050	6
40051–40274	9
40275–40490	10
40491–40626	11
40627–40872	12
40873–41164	13
41165–41420	16
41421–41758	17
41759–42148	18
42149–42652	19
42653–42956	20
42957–43238	23
43239–43452	24
43453–43710	25
43711–44134	26
44135–44460	27
44461–44810	30
44811–45114	31
45115–45358	Aug. 1
45359–45586	2
45587–45916	3
45917–46248	6
46249–46426	7
46427–46776	8
46777–47028	9
47029–47262	10
47263–47522	13
47523–47754	14
47756–47914	15
47915–48140	16
48141–48642	17
48643–48948	20
48949–49234	21
49235–49414	22
49415–49640	23
49641–50026	24
50027–50322	27
50323–50572	28
50573–50802	29
50803–51176	30
51177-51548	31
51549–51794	Sept. 4
51795–51964	5
51965–52158	6
52159–52668	7
52669–52822	10
52823–53068	11
53069–53148	12
53149–53484	13
53485–53710	14
53711–54030	17
54031–54290	18
54291–54446	19
54447–54680	20
54681–54976	Sept. 21
54977–55120	24
55121–55326	25
55327–55548	26
55549–55786	27
55787–56304	28
56305–56662	Oct. 1
56663–56918	2
56919–57064	3
57065–57378	4
57379–57906	5
57907–58492	9
58493–58670	10
58671–58888	11
58889–59194	12
59195–59488	15
59489–59894	16
59895–60068	17
60069–60250	18
60251–60700	19
60701–60970	22
60971–61156	23
61157–61318	24
61319–61558	25
61559–61934	26
61935–62276	29
62277–62474	30
62475–62878	31
62879–63076	Nov. 1
63077–63508	2
63509–64058	5
64059–64396	6
64397–64780	7
64781–65024	8
65025–65378	9
65379–65580	13
65581–65728	14
65729–65958	15
65959–66174	16
66175–66562	19
66563–66778	20
66779–67070	21
67071–67342	23
67343–67618	26
67619–67944	27
67945–68430	28
68431–68794	29
68795–69270	30
69271–69608	Dec. 3
69609–69916	4
69917–70114	5
70115–70448	6
70449–70700	7
70701–71398	10
71399–71804	11
71805–72068	12
72069–72568	13
72569–73000	14

Pages	Date
73001–74780	Dec. 17
74781–75090	18
75091–75354	19
75355–75614	20
75615–76262	21
76263–76476	26
76477–76746	27
76747–77124	28
77125–77498	31

1980

Pages	Date
1–756	Jan. 2
757–988	3
989–1410	4
1411–1584	7
1585–1848	8
1849–2000	9
2001–2306	10
2307–2638	11
2639–2834	14
2835–3022	15
3023–3248	16
3249–3556	17
3557–3874	18
3875–4334	21
4335–5296	22
5297–5658	23
5659–6078	24
6079–6352	25
6353–6536	28
6537–6772	29
6773–6914	30
6915–7226	31
7227–7534	Feb. 1
7535–7770	4
7771–7996	5
7997–8276	6
8277–8538	7
8539–8932	8
8933–9250	11
9251–9726	12
9727–9886	13
9887–10304	14
10305–10748	15
10749–11110	19
11111–11456	20
11457–11794	21
11795–12208	22
12209–12368	25
12369–12768	26
12769–13042	27
13043–13428	28
13429–13720	29
13721–14000	Mar. 3
14001–14198	4
14199–14530	5
14531–14830	6
14831–15170	7
15171–15502	10
15503–15918	Mar. 11
15919–16158	12
16159–16440	13
16441–16994	14
16995–17122	17
17123–17564	18
17565–17936	19
17937–18364	20
18365–18900	21
18901–19208	24
19209–19542	25
19543–20044	26
20045–20450	27
20451–20770	28
20771–21198	31
21199–21606	Apr. 1
21607–22008	2
22009–22872	3
22873–23400	4
23401–23630	7
23631–24098	8
24099–24438	9
24439–24850	10
24851–25036	11
25037–25370	14
25371–25786	15
25787–26016	16
26017–26310	17
26311–26684	18
26685–26942	21
26943–27434	22
27435–27738	23
27739–27904	24
27905–28078	25
28079–28300	28
28301–28700	29
28701–29000	30
29001–29262	May 1
29263–29554	2
29555–29780	5
29781–30058	6
30059–30414	7
30415–30610	8
30611–31044	9
31045–31290	12
31291–31694	13
31695–31926	14
31927–32286	15
32287–32654	16
32655–33588	19
33589–33944	20
33945–34256	21
34257–34860	22
34861–35304	23
35305–35800	27
35801–36042	28
36043–36346	29

Pages	Date
36347–37174	May 30
37175–37396	June 2
37397–37680	3
37681–37800	4
37801–38022	5
38023–38334	6
38335–39236	9
39237–39492	10
39493–39788	11
39789–40092	12
40093–40560	13
40561–40962	June 16
40963–41118	17
41119–41388	18
41389–41618	19
41619–41894	20
41895–42234	23
42235–42588	24
42589–43150	25
43151–43364	26
43365–43680	27
43681–44244	30

V
4
5

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6-2-80
Vol. 45 No. 107
Pages 37175-37396

federal register

Monday
June 2, 1980

Highlights

37374 **Federal Voluntary Standards** Commerce/Sec'y proposes procedures for listing voluntary standards bodies eligible for Federal Agency support; comments by 8–1–80 (Part III of this issue)

37386 **Consumer Products—Warranties** FTC publishes recommended final rule on reasonable duties under full warranty and solicits comment on questions regarding possible effects on manufacturers, distributors, warranty service representatives and consumers; comment by 8–1–80 (Part IV of this issue)

37360 **Motor Vehicle Pollution** EPA issues applications for waiver of effective date of 1981 Model Year carbon monoxide emission standard for light-duty vehicles and engines (Part II of this issue)

37225 **Air Pollution Control** EPA issues final rules and proposes alternative actions regarding controls applicable to gasoline refiners and lead phase-down regulations; effective 5–22–80; comments by 7–2–80

37322 **Decorations, Medals, Awards** DOT/FHA gives notice of availability of Biennial Awards Program guidelines to provide recognition of and incentives for highway improvements accomplished by State or local agencies

37392 **Alien** Justice/INS issues interim provisions for refugee and asylum procedures (Part V of this issue)

CONTINUED INSIDE

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Highlights

37175 **Classified Information** USDA/Sec'y issues final rule relating to classification, declassification and safeguarding of national security information; effective 6-2-80

37179 **Securities** FDIC issues final rules for elimination of information contained on existing reporting forms; effective 6-2-80

37185 **Energy** DOE/FERC issues incremental pricing acquisition cost threshold prices; effective 6-1-80

37324 **Imports** Treasury/Customs gives notice of charge of practice in according duty-free treatment to watches and watch movements

37212 **Cargo Containers** DOT/CG amends safety approval regulations; effective 7-2-80

37183 **Exports—Hungary** Commerce/ITA issues interim rule that shifts to less restricted level of control, effective 6-2-80; comments by 8-1-80

37260 **Petroleum Allocation** DOE/ERA announces March 1980 entitlement notice for domestic crude oil allocation program

37254 **Privacy Act Documents** DOD

37327 **Sunshine Act Meetings**

Separate Parts of This Issue

37360 **Part II, EPA**
37374 **Part III, Commerce/Sec'y**
37386 **Part IV, FTC**
37392 **Part V, Justice/INS**

Contents

Federal Register
Vol. 45, No. 107
Monday, June 2, 1980

Agricultural Marketing Service
RULES
37178 Potatoes (Irish) grown in Calif. and Oreg.

Agriculture Department
See also Agricultural Marketing Service; Science and Education Administration.
RULES
37175 National security information program; implementation

Alcohol, Tobacco and Firearms Bureau
NOTICES
Meetings:
37323 Explosives Tagging Advisory Committee

Arts and Humanities, National Foundation
NOTICES
Meetings:
37311 Media Arts Panel
37311 Museum Advisory Panel

Center for Disease Control
NOTICES
Meetings:
37302 Programs and Policies Advisory Committee (Ad Hoc)

Civil Aeronautics Board
NOTICES
37247, 37248 All-cargo air service certificate applications (2 documents)
37247 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
37248 Denver-Grand Junction show cause proceeding
37248 Former large irregular air service investigation (2 documents)
37248 Trans World Airlines, Inc.; discount fare advertising enforcement proceeding
37327 Meetings; Sunshine Act (2 documents)

Coast Guard
RULES
37212 Cargo containers; safety approval
Safety zones:
37187 Columbia River, Mile 67-70, Longview, Wash.
37186 Platform GRACE; Outer Continental Shelf structure off Southern California
NOTICES
Bridges, highway; proposed construction:
37321 Mississippi River, Gramercy-Wallace, St. James, and St. John the Baptist Parishes, La.; hearing
Meetings:
37321 Ship Structure Committee

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
PROPOSED RULES
37373 Voluntary standards, Federal participation in development and use; procedures for listing and delisting voluntary standards bodies and for voluntary dispute resolution service

Customs Service
NOTICES
Instruments of international traffic:
37323 Steel slings for transportation of steel products
37324 Watches and watch movements; tariff treatment; administrative rulings

Defense Department
See Engineers Corps; Navy Department.

Depository Institutions Deregulation Committee
NOTICES
37327 Meetings; Sunshine Act

Economic Regulatory Administration
NOTICES
Consent orders:
37259 Olympic Gas & Oil Co.
Crude oil, domestic; allocation program, 1980; entitlement notices:
37260 March
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
37257 Florida Power Corp.
Remedial orders:
37259 Hassie Hunt Exploration Co.
37259 H. H. Gungoll & Associates
37259 Richardson Ayres Jobber, Inc.
37259 Ward, L. O.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office Energy Department; Nuclear Energy Office, Energy Department.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
37255 International Atomic Energy Agency
37255 Japan et al.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
37253 Cordova, Alaska; hydropower project
37252 Mekoryuk, Alaska; small boat harbor/bank stabilization project

37252 Scammon Bay, Alaska; hydropower project
37253 Tenakee Springs, Alaska; small hydropower project

Environmental Protection Agency
RULES
Air programs; fuel and fuel additives:
37197 Gasoline refiners; lead phase-down; revocation of unleaded gasoline production requirements for April–June quarter
Air quality implementation plans; approval and promulgation; various States, etc.:
37188, 37192 Michigan (2 documents)
Water pollution; effluent guidelines for point source categories:
37198 Best conventional pollutant control technology; corrections
PROPOSED RULES
Air programs; fuel and fuel additives:
37225 Gasoline refiners; lead phase-down, unleaded gasoline production requirements
Air quality implementation plans; approval and promulgation; various States, etc.:
37224 Kansas
NOTICES
Air pollution control; new motor vehicles and engines:
37360 Carbon monoxide emission standards, light duty vehicles; 1981 model year; applications for waiver of effective date
Environmental statements; availability, etc.:
37274 Agency statements; weekly receipts
Pesticides; emergency exemption applications:
37282 Fenvalerate
Pesticides; tolerances in animal feeds and human food:
37281 Shell Chemical Co.; correction
Toxic and hazardous substances control:
37283 Premanufacture exemption applications
37278, 37280 Premanufacture notices receipts (2 documents)

Federal Aviation Administration
RULES
Airworthiness directives:
37179 British Aerospace
37181 Government Aircraft Factories
37180 Societe Nationale Industrielle Aerospatiale
37181 Standard instrument approach procedures
PROPOSED RULES
Airworthiness directives:
37222 Lockheed; extension of time
37221, 37222 McDonnell Douglas; extension of time (3 documents)
NOTICES
37321 Exemption petitions; summary and disposition

Federal Communications Commission
RULES
Radio stations; table of assignments:
37211 New York
37210 Texas
PROPOSED RULES
Common carrier services:
37237 Cellular mobile communications system; band use; inquiry; reply comments filing deadline
Frequency allocations and radio treaty matters:
37237 Non-Government radiolocation use; frequency assignment; extension of time
Radio broadcast stations; table of assignments:
37238 California
37239 Missouri
37239 North Carolina
37240, 37242, 37243 Pennsylvania (3 documents)
37244 Texas
37245 Utah and Wyoming; extension of time
Television broadcasting:
37246 Children's programming and advertising practices; extension of time
NOTICES
37284 AM broadcast applications accepted for filing and notification of cut-off date (2 documents)
Hearings, etc.:
37286 Colgon FM Communications Corp. et al.
37284 Concho Communications et al.
37288 Liberty Broadcasting Co. Inc. et al.
37287 MicroMedia et al.
37290 RTC Broadcasting Corp. et al.
37291 Shasta Broadcasting, Inc., et al.
37293 Star Communications, Inc., et al.
37294 Tri-Parish Broadcasting Co., Inc., et al.
37327 Meetings; Sunshine Act (2 documents)
37286 Television broadcast applications accepted for filing and notification of cut-off date; correction
37290 Television broadcast applications accepted for filing and notification of cut-off date; republication

Federal Deposit Insurance Corporation
RULES
Securities of insured State nonmember banks and transfer agents registration:
37179 Reporting forms; information elimination

Federal Emergency Management Agency
RULES
Flood elevation determinations:
37208 Ohio et al.
37209, 37210 Wisconsin; corrections (2 documents)
Flood insurance; communities eligible for sale:
37207 Alabama et al.
PROPOSED RULES
Flood elevation determinations:
37227 Arkansas et al.
37226 Massachusetts
37226 Texas

Federal Energy Regulatory Commission
RULES
Natural Gas policy Act of 1978:
37185 High-cost natural gas produced from tight formations; interim rule; hearing
Natural Gas Policy Act of 1978:
37185 Incremental pricing; acquisition cost threshold (June 1980)

Federal Highway Administration
NOTICES
37322 Biennial awards program; general guidelines availability

Environmental statements; availability, etc.:
37322 Jefferson County, Ark.; intent to prepare

Federal Maritime Commission
NOTICES
37327 Meetings; Sunshine Act

Federal Railroad Administration
NOTICES
Meetings:
37323 Minority Business Resource Center Advisory Committee

Federal Reserve System
NOTICES
Applications, etc.:
37295 Dallas Bancshares, Inc.
37295 F & O, Inc.
37296 First Schaumburg Bancorporation, Inc.
37296 Northstar Bancorporation, Inc.

Federal Trade Commission
PROPOSED RULES
37386 Warranties, full; reasonable duties; publication of recommended final rule for comment

Fish and Wildlife Service
NOTICES
37303 Endangered and threatened species permits; applications (3 documents)

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
37249 Pennsylvania

General Services Administration
See also Public Buildings Service.
RULES
Property management:
37199 Travel regulations; mileage reimbursement rate for privately owned automobile use, high rate geographical areas, air travel, etc.; temporary; correction

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operation; development and production plans:
37304 Texaco, Inc.

Health, Education, and Welfare Department
See Health and Human Services Department

Health and Human Services Department
See also Center for Disease Control; National Institutes of Health.
NOTICES
37303 Nuclear weapons testing, effects on health; report availability

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
37270 Cases filed
37271, 37274 Decisions and orders (2 documents)

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
37304 New York

Immigration and Naturalization Service
RULES
37392 Aliens and nationality; refugee and asylum procedures

Interior Department
See Fish and Wildlife Service; Geological Survey; Heritage Conservation and Recreation Service; Land Management Bureau; Surface Mining Office.

International Trade Administration
RULES
Export licensing:
37183 Hungary; transfer to country group W; interim rule and request for comments
NOTICES
Meetings:
37249 President's Export Council, Subgroup of Subcommittee on Export Administration

Interstate Commerce Commission
RULES
Motor carriers:
37218 Air terminal zones service; operating rights authorization
Railroad car service orders; various companies:
37219, 37220 Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (2 documents)
NOTICES
Motor carriers:
37309 Fuel costs recovery, expedited procedures
37308 Mount St. Helens eruption emergency; temporary transportation facilities for Pacific Northwest
Petitions filed:
37310 Marketing Corp. of America; distribution of promotional coupons
37309 Railroad car service rules, mandatory; exemptions
Railroad operation, acquisition, construction, etc.:
37309 Burlington Northern, Inc.

Justice Department
See also Immigration and Naturalization Service; Parole Commission.
NOTICES
Meetings:
37311 Circuit Judge Nominating Commission, U.S.

Land Management Bureau
NOTICES
Applications, etc.:
37305 Idaho
Coal leases, exploration licenses, etc.:
37306 Colorado
Outer Continental Shelf; oil and gas lease sales:
37297 Qualified joint bidders; list
Wilderness areas; characteristics, inventories, etc.:
37304 Alaska Natural Gas Transportation System route; nonwilderness assessment
37306 Idaho; meeting change due to Mount St. Helens volcanic eruption

Management and Budget Office
NOTICES
37314 Agency forms under review
Improving Government regulations
37314 Semiannual agenda for directives; publication delay

National Credit Union Administration
NOTICES
37328 Meetings; Sunshine Act

National Institutes of Health
NOTICES
Meetings:
37302 Bladder and Prostatic Cancer Review Committee; cancellation
37302 General Clinical Research Centers Committee
37302 Large Bowel and Pancreatic Cancer Review Committee; cancellation
37302 Monoclonal antibodies, use in endocrine research; conference
37303 Research Resources National Advisory Council; time change

National Oceanic and Atmospheric Administration
NOTICES
Environmental statements; availability, etc.:
37252 Looe Key National Marine Sanctuary, Fla.; hearings
37251 Mississippi Coastal Management Program; hearing
37251 Narragansett Bay Estuarine Sanctuary, R.I.; hearing
37252 Northern Marianas Coastal Management Program; hearing
Meetings:
37250 New England Fishery Management Council
37250 Pacific Fishery Management Council
37251 South Atlantic Fishery Management Council

Navy Department
NOTICES
37254 Privacy Act; systems of records

Nuclear Energy Office, Energy Department
NOTICES
37256 Nuclear proliferation and civilian nuclear power, nonproliferation alternative systems assessment program; report availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
37312 Commonwealth Edison Co.
37312 Dairyland Power Cooperative
37312 Potomac Electric Power Co.
37312 Virginia Electric & Power Co.
37313 Wyoming Mineral Corp.
Meetings:
37311 Reactor Safeguards Advisory Committee

Parole Commission
NOTICES
37328 Meetings; Sunshine Act

Public Buildings Service
RULES
37199 Federal space management

Science and Education Administration
NOTICES
Meetings:
37247 Food and Agricultural Sciences Joint Council

Securities and Exchange Commission
NOTICES
Hearings, etc.:
37316 American Electric Power Co.
37317 Den Danske Bank
37328 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
37319 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
37320 Heller Capital Services, Inc.
37320 Korean Capital Corp.
37320 S&S Venture Associates, Ltd.
Disaster areas:
37319 Florida
37320 Kansas
Small business investment companies:
37320 Maximum annual cost of money to small business concerns; Federal Financing Bank rate

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States:
37223 Mississippi; hearing and inquiry
NOTICES
Coal mining and reclamation plans:
37307 Carter Mining Co.
37307 Coastal States Energy Co., et al.
37306 Wyoming Fuels Co.

Tennessee Valley Authority
NOTICES
37328 Meetings; Sunshine Act

Trade Representative, Office of United States
NOTICES
Import quotas:
37326 Synthetic fibers from United Kingdom; withdrawal or modification of concessions; clarification and extension of time

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service.

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Science and Education Administration—
37247 Joint Council on Food and Agricultural Sciences Executive Committee, 6–11–80

COMMERCE DEPARTMENT
International Trade Administration—
37249 President's Export Council, Subgroup of Subcommittee on Export Administration
National Oceanic and Atmospheric Administration—
37250 New England Fishery Management Council's Scientific and Statistical Committee, 6–18–80
37250 Pacific Fishery Management Council, Scientific and Statistical Committee, Groundfish Subpanel and Budget Subcommittee, 7–7 through 7–10–80
37251 South Atlantic Fishery Management Council, 6–24 through 6–26–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Disease Control Center—
37302 Policies Advisory Committee, 8–27 through 8–29–80
National Institutes of Health—
37302 Arthritis, Metabolism and Digestive Diseases National Institute, Use of Monoclonal Antibodies in Endocrine Research, 6–30 and 7–1–80
37302 General Clinical Research Centers Committee, Division of Research Resources, 6–29 and 6–30–80

NATIONAL ENDOWMENT FOR THE ARTS
37311 Media Arts Panel to the National Council on the Arts, 6–2 and 6–3–80
37311 Museum Panel to the National Council on the Arts, 6–17 and 6–18–80

NUCLEAR REGULATORY COMMISSION
37311 Reactor Safeguards Advisory Committee, Subcommittee on Metal Components, 6–17 and 6–18–80

TRANSPORTATION DEPARTMENT
Coast Guard—
37321 Ship Structure Committee, 6–19–80
Federal Railroad Administration—
37323 Minority Business Resource Center Advisory Committee, 6–17–80

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau—
37323 Explosives Tagging Advisory Committee, 6–25–80

CHANGED MEEETINGS

HEALTH AND HUMAN SERVICES DEPARTMENT
National Institutes of Health—
37303 National Advisory Research Resources Council, 5–29 and 5–30–80

CANCELLED MEETINGS

HEALTH AND HUMAN SERVICES DEPARTMENT
National Institutes of Health—
37302 Large Bowel Subcommittee of the Large Bowel and Pancreatic Cancer Review Committee, 6–5 and 6–6–80
37302 Prostatic Subcommittee of the Bladder and Prostatic Cancer Review Committee, 6–2–80

RESCHEDULED MEETING

INTERIOR DEPARTMENT
Land Management Bureau—
37306 Wilderness Intensive Inventory, rescheduled from 5–22–80 to 6–5–80

HEARINGS

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
37252 Draft Environmental Impact Statement on Looe Key National Marine Sanctuary, 6–17 and 6–18–80
37251 Draft Environmental Impact Statement on Mississippi Coastal Management Program, 6–16–80
37251 Draft Environmental Impact Statement on Narragansett Bay Estuarine Sanctuary, 6–25–80
37252 Draft Environmental Impact Statement on Northern Marianas Coastal Management Program, 6–30–80

INTERIOR DEPARTMENT
Surface Mining Office—
37223 Resubmitted Mississippi Permanent Regulatory Program, 6–17–80

TRANSPORTATION DEPARTMENT
Coast Guard—
37321 Proposed Mississippi River Bridge, Gramercy-Wallace, St. James and St. John the Baptist Parishes, Louisiana, 7–1–80

V 45 J E 2 8 0 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
10.....37175
947.....37178

8 CFR
207.....37392
208.....37392
209.....37392
245.....37392

12 CFR
341.....37179
343.....37179

14 CFR
39 (2 documents).....37179–37181
97.....37181

Proposed Rules:
39 (4 documents).....37221, 37222

15 CFR
370.....37183
379.....37183
386.....37183

Proposed Rules:
19.....37374

16 CFR

Proposed Rules:
705.....37386

18 CFR
271.....37185
282.....37185

30 CFR

Proposed Rules:
Ch. VII.....37223

33 CFR
147.....37186
165.....37187

40 CFR
52 (2 documents).....37188, 37192
80.....37197
418.....37198
426.....37198
432.....37198

Proposed Rules:
52.....37224
80.....37225

41 CFR
Ch. 101.....37199
101–17.....37199
101–18.....37199
101–19.....37199

44 CFR
64.....37207
67 (3 documents).....37208–37210

Proposed Rules:
67 (3 documents).....37226, 37227

47 CFR
73 (2 documents).....37210

Proposed Rules:
2 (2 documents).....37237
22.....37237
73 (9 documents).....37238–37246
90.....37237

49 CFR
450.....37212
451.....37212
452.....37212
453.....37212
1033 (2 documents).....37219, 37220
1041.....37218

Rules and Regulations

Federal Register
Vol. 45, No. 107
Monday, June 2, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 10

Classification, Declassification and Safeguarding of Classified Information

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: These regulations implement the provisions of Executive Order 12065 (June 28, 1978, 43 FR 28949) and the Information Security Oversight Office Directive (43 FR 46280 October 5, 1978) relating to the classification, downgrading, declassification, and safeguarding of national security information. The Order increases openness in Government by limiting the classification of documents and by accelerating the declassification of other documents, while providing protection against unauthorized disclosure of information which requires protection in the interest of national security.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: William R. Nolan Jr., Assistant Chief for Security, Office of Personnel, Department of Agriculture, Washington, DC 20250 (202) 447–7654.

SUPPLEMENTARY INFORMATION: Since this rule relates to internal agency management, in accordance with section 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal Agency management it is exempt from the provisions of Executive Order 12044, "Improving Government Regulations." These regulations have been submitted to the Information Security Oversight Office.

Accordingly, 7 CFR Part 10 is revised to read as follows:

PART 10—CLASSIFICATION, DECLASSIFICATION AND SAFEGUARDING OF CLASSIFIED INFORMATION

Sec.
10.1 Definitions.
10.2 Authority to classify.
10.3 Derivative classification.
10.4 Declassification.
10.5 Systematic review declassification guidelines.
10.6 Systematic review procedures.
10.7 Mandatory review for USDA originally classified documents.
10.8 Mandatory review for derivatively classified documents.
10.9 Appeals.
10.10 Challenges to classification.
10.11 Schedule of fees.
10.12 Downgrading

Authority: Executive Order 12065 (43 FR 28949, June 28, 1978) as implemented by Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978).

§ 10.1 Definitions.

(a) "Order" means Executive Order 12065.

(b) "USDA Agency" means a major line or program unit of the Department headed by an Administrator or equivalent who reports to the Secretary, Deputy Secretary, Under Secretary, Assistant Secretary, or Group Director.

(c) "Agency" includes any executive department, military department, intelligence agency, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(d) "USDA Agency Head" means the Administrator or the chief Executive Officer of a USDA agency in the Department.

(e) "Original classification" means the initial determination by a United States Government employee, who has or had original classification authority pursuant to the Order or predecessor Orders, that information owned by, produced for or by, or under the control of the United States Government requires protection against unauthorized disclosure and is so designated.

(f) "Derivative classification" means that information used in a new document is in substance the same information currently classified in a source document. The extracted information used in the new document must be classified at the same level as in the source document.

§ 10.2 Authority to classify.

(a) USDA officials do not have original classification authority for information or material that is created within the Department.

(b) Should a USDA employee originate information believed to require original classification, the information shall be protected in the manner prescribed by the Order and the appropriate internal procedures formulated by the Department Security Officer and published in a Department manual concerning the safeguarding of classified information. The Department Security Officer shall transmit the document to the agency which has appropriate subject matter interest and original classification authority. The Order provides that the agency shall decide within thirty (30) days whether to classify the information. When it is not clear which agency should receive the information, it shall be sent to the Director of the Information Security Oversight Office for a determination.

§ 10.3 Derivative classification.

(a) *Responsibility.* (1) Derivative application of classification markings is the responsibility of those USDA employees who incorporate, paraphrase, restate, or generate in new form, information which is already classified or those who apply markings in accordance with guidance from an authorized classifier. Employees who apply derivative classifications should determine whether their paraphrasing, restating or summarizing of classified information has removed all or part of the basis for classification, in which case the document may be assigned a lower classification, or may be issued in unclassified form.

(2) Employees who apply derivative classification markings shall:

(i) Respect original classification decisions;

(ii) Verify the information's current level of classification so far as practicable before applying the markings; and

(iii) Carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings.

Where checks with the original classification authority of a source document result in no change in the classification of the source document, the new document shall be marked accordingly.

(b) *Marking derivatively classified documents.* (1) Paper copies of derivatively classified documents shall be marked at the time of preparation as follows:

(i) The classification authority shall be shown on a "classified by" line, e.g. "classified by (insert identity of classification guide)" or "classified by (insert identity of original classification)." If the classification is derived from more than one source, the single phrase "multiple sources" may be shown, provided that identification of each such source is maintained with the file or record copy of the document.

(ii) The date and identity of the office originating the derivatively classified document shall be shown on the document.

(iii) Dates or events for declassification or review shall be carried forward from the source material or classification guide and shown on a "declassify on" or "review for declassification on" line. If the declassification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied to the new information.

(iv) One of the three classification designations (Top Secret, Secret, or Confidential), shall be stamped at both the top and bottom of each page containing classified information.

(v) Documents derivatively classified for more than six (6) years shall be marked with the identity by title of the Top Secret classification authority who authorized the prolonged classification of the source document. The derivatively classified document shall reflect the reason for prolonging the classification as stated on the source document. These markings shall be shown as "Extended by (insert name or title of position or Top Secret classification authority)" and "Reason for extension: (State reason or applicable reference)."

(2) Derivatively classified documents that contain or reveal information that is subject to special dissemination and reproduction limitations authorized by Section 4 of the Order shall be marked clearly so as to alert the user of the restrictions.

(3) Any additional markings appearing on the source documents shall be carried forward to the new documents when appropriate.

(4) Overall and page markings of documents. The overall classification of a derivatively classified document shall be marked, stamped, or permanently affixed at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page of a classified document shall be marked or stamped at the top and bottom either according to the highest overall classification of the content of the page, including the designation "unclassified" when appropriate, or according to the highest overall classification of the document. The classification marking of the page shall not supersede the classification marking or portions of the page marked with lower levels of classification.

(5) Mandatory portion marking (i) The writer of a derivatively classified document shall identify the level of classification of each classified portion of a document (including subjects and titles), and those portions that are not classified. This action, known as portion marking, shall be accomplished by placing a parenthetical designator immediately preceding the text that it governs. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used for this purpose. Each portion of a classified document need not be separately marked if all portions are classified at the same level provided a statement to that effect is included in the document.

(ii) Marking foreign government information. Except in those cases where such markings would reveal intelligence information, foreign government information incorporated in United States documents shall, whenever practical, be identified in such manner as to assure that the foreign government information is not declassified prematurely or made accessible to nationals of a third country without consent of the originator. Documents classified by a foreign government or an international organization of governments will, if the foreign classification is not in English, be marked with the equivalent U.S. classification.

(c) *Prohibitive markings or classification.* (1) Only the designations "Top Secret," "Secret" or "Confidential" as prescribed by the Order may be used to identify classified information. Markings such as "For Official Use Only" and "Limited Official Use" shall not be used for that purpose. Terms such as "Conference" or "Agency" may not be used in conjunction with the derivative classification designations; e.g., "Agency Confidential" or "Conference Confidential."

(2) Derivative classification shall not be used to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization or Agency; or to restrain competition.

(3) No document originated on or after December 1, 1978, shall be derivatively classified after a USDA Agency has received a request for the document under the Freedom of Information Act or the mandatory review provisions of the Order unless such classification is consistent with the provisions of the Order, and is authorized by both the USDA Agency Head and the Department Security Officer.

§ 10.4 Declassification.

(a) Declassification of information shall be given emphasis comparable to that accorded classification. Information classified pursuant to the Order and prior orders shall be declassified as early as national security considerations permit in order to preserve the effectiveness of information which no longer requires classification protection. Decisions concerning declassification shall be based on the loss of sensitivity of the information with the passage of time or on the occurrence of an event which permits declassification. When information is reviewed for declassification pursuant to the Order or the Freedom of Information Act, it shall be declassified unless the declassification authority established pursuant to Paragraph (b) of this section determines that the information continues to meet the classification requirements prescribed in the Order despite the passage of time.

(b) The authority to downgrade and declassify national security information originally classified within USDA shall be exercised as follows:

(1) By the Secretary of Agriculture; Deputy Secretary; Under Secretary for International Affairs and Commodity Programs; each Assistant Secretary; Director of Economics, Policy Analysis and Budget, each Deputy Under Secretary, Deputy Assistant Secretary or Deputy Director of Economics, Policy Analysis and Budget within the Office of the Secretary with respect to all information over which their respective offices exercise jurisdiction.

(2) By the USDA official who authorized the original classification if that official is still serving in the same position, by a successor, or by a designated supervisory official of either.

(3) By the Department Security Officer or official at the division chief level as a result of their professional knowledge of the subject matter as it relates to the national security.

§ 10.5 Systematic review declassification guidelines.

(a) The Department Security Officer shall prepare and keep current such guidelines as are acquired by the Order for the downgrading and declassification of USDA-originated material that is twenty (20) years old or older.

(b) When new guidelines become necessary, they shall state specific limited categories of information which, due to their national security sensitivity, should not be declassified automatically, but should be reviewed to determine whether continued protection beyond twenty (20) years is needed. Such guidelines shall be authorized for use by the Archivist of the United States and with the approval of the Secretary of Agriculture, for any USDA Agency having custody of the information covered by the guidelines. All information, except foreign government information, not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of twenty (20) years from the date of original classification. Copies of declassification guidelines promulgated by this Department shall be provided to the Information Security Oversight Office.

(c) Only the Secretary of Agriculture may extend classification of information originally classified in the past within USDA beyond twenty (20) years utilizing the procedures to be established by an implementing directive. This authority may not be delegated. When classification is extended beyond twenty (20) years, a date not to exceed ten (10) years later shall be set for declassification or the next review. That date and the action specified shall be marked on the document. Subsequent reviews for declassification shall be set at no more than ten (10) year intervals unless a longer interval has been authorized by the Director of the Information Security Oversight Office upon specific request of the Secretary of Agriculture.

(d) Foreign government information. Foreign government information shall be exempt from automatic declassification and the twenty (20) year systematic review. Unless declassified earlier, such information shall be reviewed for declassification thirty (30) years from its date of original classification. Following consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned, the Secretary of Agriculture will issue by December 1, 1981, guidelines for the systematic review of thirty (30) year old foreign government information of primary concern to this Department. The Department Security Officer shall coordinate administrative functions necessary to effect review of these guidelines by the Secretary of Agriculture at least once every two (2) years. If, after applying the guidelines to thirty (30) year old foreign government information, the reviewer determines that continued classification is necessary, a date for declassification or for review no more than ten (10) years later shall be set. That action and date shall be marked on the document. Subsequent review dates shall be set at no more than ten (10) year intervals. A copy of these guidelines and any revisions thereto shall be furnished to the Information Security Oversight Office. Upon request, the Department of State is available to provide advice and assistance as is necessary to effect foreign government coordination of the guidelines.

§ 10.6 Systematic review procedures.

Information originally classified within USDA shall be reviewed for declassification as it becomes twenty (20) years old. Transition to systematic review at twenty (20) years shall be implemented as rapidly as practicable and shall be completed by December 1, 1988.

§ 10.7 Mandatory review for USDA originally classified documents.

(a) USDA originally classified documents, upon request from a member of the public, a Government employee or from agencies to declassify and release such documents under the provisions of the Order, shall be reviewed by the Department Security Officer and the USDA Agency responsible for the original classification in accordance with the procedures of this section.

(b) Information originally classified within USDA ten (10) years old or older is subject to mandatory review for declassification in accordance with procedures developed by the Archivist of the United States which provide for consultation with the Department in matters of primary subject interest to USDA.

(c) Requests for mandatory review of classified information shall be submitted in accordance with the following:

(1) Requests originating within USDA shall be submitted directly to the Department Security Officer for review and a declassification determination.

(2) Requests from a member of the public or other agencies may direct requests for mandatory review of classified information under the Order to the Department Security Officer, Office of Personnel, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250. The Security Officer shall, in turn, refer the request to the appropriate USDA Agency Head for action.

(d) Requests for declassification review and release of information shall be processed in accordance with the provisions of this Section, subject to the following conditions:

(1) The request is in writing and reasonably describes the information sought with sufficient particularity to enable the USDA Agency to identify it.

(2) The USDA Agency shall notify the requester if the request does not identify sufficiently the information sought. The requester shall then be given an opportunity to provide additional information to describe the information with particularity enabling identification of the requested material.

(3) If within thirty (30) days after the notification is mailed the requester does not describe the information sought with sufficient particularity, the USDA Agency shall notify the requester why no action shall be taken on the request.

(4) If the request requires the rendering of services for which fees may be charged pursuant to 31 U.S.C. 438a, the requester shall be so notified before the service is rendered.

(e) Requests that meet the foregoing requirements for processing shall be processed as follows:

(1) The USDA Agency shall immediately acknowledge receipt of the request in writing.

(2) The USDA Agency shall make a determination within thirty (30) days or shall explain to the requester why additional time is necessary, but such extension shall not exceed thirty (30) days.

(3) If the information has been determined to have been properly classified and therefore not subject to release, the requester shall be given a statement as to the reasons for its continued classification status and a notice of the right to appeal the determination to the Director of Personnel, Office of Personnel (include name, title, and address), and that such an appeal must be submitted within sixty (60) days in order to be considered.

(4) If no determination has been made at the end of sixty (60) days from receipt of the request for review, the requester may appeal to the Director of Personnel, Office of Personnel, for a determination.

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(5)(i) When a USDA Agency receives a request for declassification of information in a document which is in the custody of the UDSA Agency which was classified by another agency, the USDA Agency shall refer the request to the classifying agency together with a copy of the document containing the information requested when practicable, and shall notify the requester of the referral and that a response will be sent to the requester by the agency which was sent the referral.

(ii) When a USDA Agency receives such a referral, it shall process the request in accordance with the requirements of this section, respond directly to the requester and, if so requested, shall notify the referring agency of the determination made on the request.

(6) Requests for declassification submitted under provisions of the Freedom of Information Act shall be processed under that Act.

(f) Except as provided hereinafter, requests for mandatory review for the declasssification of classified documents that contain foreign government information shall be processed and acted upon in accordance with these regulations. The USDA Agency receiving the request, if it initially received the foreign government information shall determine whether the foreign government information in the document may be declassified and released in accordance with Department guidelines, consulting with agencies of subject matter interest as necessary. If the USDA Agency receiving the request did not initially receive the information, it shall return the information to the Department Security Officer who shall forward the information to the appropriate agency for its action. In those cases where available policy or guidelines do not apply, consultation with the foreign originator, through appropriate channels may be advisable prior to final action on the request.

(g) Requests made to the Administrator of the General Services Administration for declassification of classified documents originated within USDA but in the possession and control of the Administrator of General Services Administation pursuant to 44 U.S.C. 2107 or 2107 note, shall be referred by the Administrator to the Department Security Officer for processing and for direct response to the requester.

(h) No USDA Agency in possession of a classified document may, in a response to a request for the document under the Freedom of Information Act or the mandatory review provisions of the Order, refuse to confirm the existence or nonexistence of the document, unless the fact of its existence or nonexistence would itself be classifiable under the criteria set forth in the Order.

§ 10.8 Mandatory review for derivatively classified documents.

(a) Requests for mandatory review for USDA derivatively classified documents shall be processed by the Department Security Officer under the following procedures.

(1) The Department Security Officer shall contact the agency responsible for originally classifying the source document for a declassification determination.

(2) If the agency determines that the originally classified document has been declassified, the Department Security Officer shall so mark the USDA derivatively classified document and release it to the requester.

(3) If the originally classified document will not be declassified, the Department Security Officer shall so notify the requester.

§ 10.9 Appeals.

(a) Appeals from denial of declassification and release of information shall be directed to the Director of Personnel, Office of Personnel, Administration Building, U.S. Departent of Agriculture, Washington, D.C. 20250. The Director of Personnel shall act as chairperson of a Department review committee consisting of the Director of Personnel, the Department Security Officer and a representative of the Office of the General Council, the appropriate USDA Agency Head, and the head of the unit subordinate to the USDA Agency Head, who has a working knowledge of the information under consideration. The committee shall determine whether all or part of the information should be declassified and released.

(b) Appeals shall be reviewed and decided within thirty (30) days of their receipt as follows:

(1) If the documents are declassified in their entirety, the Department Security Officer shall forward the documents to the requester.

(2)(i) If the documents are not declassified and released in their entirety, the Director of Personnel shall forward a letter of denial to the requester notifying the requester of the decision and a statement of justification for the denial.

(ii) If the decision of the committee is to declassify and release a portion of the documents, the Director of Personnel shall forward a letter of partial denial to the requester. The letter shall include a statement of justification for the partial denial. Those portions of the documents which have been declassified shall be forwarded to the requester.

§ 10.10 Challenges to classification.

USDA employees having reasonable cause to believe that a document is classified unnecessarily, improperly, or for an inappropriate period of time, are encouraged to question or to challenge such classification. The employee should submit a memorandum giving the reasons to support such a challenge to the agency which originated the classification of the information, and/or may follow the procedures set forth in §§ 10.7 or 10.8.

§ 10.11 Schedule of fees.

There will normally be no fees charged for mandatory review of classified material for declassification purposes. Fees for making copies of records available shall be in accordance with the provisions of the Department's Fee Schedule, 7 CFR Part 1, Appendix A.

§ 10.12 Downgrading.

(a) Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders.

(b) Classified information that is not marked for automatic downgrading may be assigned to a lower classification designation by the originator or by an official authorized to declassify the same information. Notice of the downgrading shall be provided to known holders of the information.

May 22, 1980.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 80-16284 Filed 5-30-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 947

Irish Potatoes Grown in Certain Counties in Calif. and Oreg.; Findings and Determinations With Respect to the Continuation of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to continuation of the amended marketing agreement and order regulating potatoes grown in certain counties in Oregon and California. A referendum was conducted among potato growers April 1–17, 1980, to ascertain if they favor termination of this regulatory program. The vote in that referendum shows that the required majority of such growers do not favor termination.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter (202) 447–2615. A final impact statement may also be obtained from Mr. Porter.

SUPPLEMENTARY INFORMATION: *Findings.* A notice was published in the **Federal Register** on March 12, 1980 (45 FR 15919), directing that a referendum be conducted among Oregon-California potato growers to ascertain if such growers favor termination of the marketing agreement and Order No. 947, both as amended (7 CFR Part 947). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Consistent with such notice, a referendum was conducted among growers who were engaged, in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County, in the production of potatoes for market during the representative period determined to be July 1, 1978, through June 30, 1979. The referendum period was April 1 through April 17, 1980.

Upon the basis of the results of the referendum, it is hereby found and determined that the termination of the marketing agreement and order is not favored by a majority of producers who produced more than 50 percent of the potatoes produced for market during the representative period as required by the act.

Dated: May 22, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 80-16582 Filed 5-30-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 341 and 343

Registration of Transfer Agents and Insured State Nonmember Banks Which are Municipal Securities Dealers; Elimination of Information Contained on Existing Forms

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rules.

SUMMARY: As part of its regulatory reform program for improving the quality of its regulations, FDIC amends Parts 341 and 343 of its regulations. The amendments delete as unnecessary Sections 341.10, 343.10, and 343.11. These sections utilize approximately 18 pages to outline the instructions and data format contained on certain securities reporting forms that are issued by FDIC to insured State nonmember banks. Appropriate sentences have been added to Sections 341.2(a) and 343.3(e) to indicate that the forms can be obtained from FDIC.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429 (202) 389–4237.

SUPPLEMENTARY INFORMATION: On February 19, 1980, FDIC published for public comment a proposal to delete as unnecessary Sections 341.10, 343.10, and 343.11. During the comment period, which ended on April 21, 1980, FDIC received no comments regarding the proposal.

The amendments will not have any effect on the competitive status or the recordkeeping and reporting requirements of an insured bank. Thus, no cost/benefit analysis was undertaken.

Since the amendments will not affect the operations of insured banks, the FDIC Board of Directors has concluded that a delayed effective date for the amendments is unnecessary.

Accordingly, under Section 9 of the Federal Deposit Insurance Act (12 U.S.C. § 1819), the FDIC Board of Directors amends Parts 341 and 343 of Title 12 of the Code of Federal Regulations as follows:

§ 341.2 [Amended]

1. Part 341 is amended by adding at the end of § 341.2(a) a sentence that reads: "Form TA–1 (Form for Registration as a Transfer Agent) can be obtained from the Trust Section of the FDIC in Washington, D.C."

§ 341.10 [Reserved]

2. Part 341 is amended by deleting and reserving § 341.10.

§ 343.3(e) [Amended]

3. Part 343 is amended by adding a sentence at the end of § 343.3(e) that reads:

"Forms MSD–4 and MSD–5 can be obtained from the FDIC regional office for the area in which the bank is located."

§§ 343.10 and 343.11 [Reserved]

4. Part 343 is amended by deleting and reserving §§ 343.10 and 343.11.

By order of the Board of Directors May 27, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-16816 Filed 5-30-80; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 20383; Amdt. 39-3789]

Airworthiness Directives; British Aerospace, HS/DH/BH-125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) that requires repetitive inspection and rework or replacement as necessary of the nose landing gear drag stay assembly on HS/DH/BH 125 airplanes, all series. The AD is prompted by several reports of cracking of the bridge casting at the radius of the cut-out for the drag stay upper arm. Failure of the bridge casting could result in inability to extend or retract the landing gear, or possible nose landing gear collapse on landing.

DATES: Effective June 16, 1980; compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: British Aerospace, Inc., U.S.A. Spares Department, 13850 McClearan Road, Herndon, Virginia 22070.

A copy of the service bulletin is contained in the Rules Docket, Rm 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30, or C. Christie, Chief, Technical Analysis Branch, AWS–110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Telephone: 202–426–8374.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the bridge casting of the nose landing gear drag stay assembly on British Aerospace Inc. (formerly Hawker Siddeley Aviation, Ltd.) Models HS/DH/BH 125 airplanes. Failure of this component could result in disablement of the landing gear

retraction system and possible nose landing gear collapse on landing.

Since this condition is likely to exist or develop on other airplanes of the same type design, the AD requires repetitive inspection and rework or replacement as necessary of the affected component to prevent failure of the nose landing gear.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace Inc. (formerly Hawker Siddeley Aviation, Ltd.) Applies to Models HS/DH/BH 125 airplanes, all series, certificated in all categories.

Compliance is required as indicated.

To detect and correct cracks in the bridge casting of the nose landing gear drag stay assembly and prevent possible nose landing gear collapse, accomplish the following:

(a) Upon the accumulation of 2,000 landings on the bridge casting or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 600 landings on the bridge casting from the last inspection, or once a year, whichever occurs first, inspect and rework or replace as necessary the bridge casting, P/N 25UN49A, in accordance with Section 2A, "Accomplishment Instructions" of British Aerospace Service Bulletin 32-184, dated August 10, 1978 (Revision 1) or an FAA-approved equivalent.

(b) Prior to the installation of modified bridge casting P/N 25UN49AD held as spares or in store, accomplish the inspection and rework specified in paragraph (a) of this AD.

Note.—British Aerospace Modification 252677 introduces a new production standard of bridge casting P/N 25UN49AD, which incorporates "radiusing," polishing, and special surface treatment of the bridge area.

(c) For modified bridge castings, P/N 25UN49AD, continue to inspect in accordance with paragraph 2.A., "Accomplishment Instructions," of British Aerospace Service Bulletin 32-184, dated August 10, 1978 (Revision 1) or an FAA-approved equivalent.

(d) For purposes of complying with the AD, for airplanes for which no records exist that indicate the number of landings the bridge casting has accumulated, the number of landings may be estimated by using the total airplane time in service in hours on a 1-to-1 ratio.

(e) Upon request of the operator, an FAA maintenance inspector may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the increased inspection interval requested for that operator.

This amendment becomes effective June 16, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C. on May 23, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-16825 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 20384; Amdt. 39-3790]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale Model SA-330 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Societe Nationale Industrielle Aerospatiale Model SA-330 series helicopters by individual telegrams. The AD requires repetitive inspections of the tail rotor blade skin for cracks, and replacement as necessary, of the tail rotor blade to prevent loss of directional control of the helicopter.

DATES: Effective June 2, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram issued April 6, 1979, which contained this amendment.

Compliance schedule—as prescribed in the body of the AD.

ADDRESS: The applicable service bulletin may be obtained from: Societe Nationale Industrielle Aerospatiale (SNIAS), 37, blvd. de Montmorency, 75781 Paris Cedex 16, France.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D.C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Christie, Chief, Technical Standards Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: On April 6, 1979, a telegraphic airworthiness directive was issued and made effective immediately as to all known U.S. operators of Societe Nationale Industrielle Aerospatiale Model SA-330 series helicopters. The AD required repetitive inspections of the tail rotor blade skin for cracks, and replacement as necessary, to prevent failure of the tail rotor blade which could result in the loss of directional control of the helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the AD effective immediately to all known U.S. owners and operators of Societe Nationale Industrielle Aerospatiale Model SA-330 series helicopters by individual telegrams issued April 6, 1979. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The telegraphic AD inadvertently referenced the Service Bulletin as No. 05.29 when it should have been No. 05.59. This document makes the necessary change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS)—Applies to Model SA-330 series helicopters, certified in all categories, with tail rotor blades P/N 330.12.0000 all dash numbers, P/N 330.12.0005 all dash numbers, or P/N 330.12.0006 all dash numbers installed.

To prevent failure of the tail rotor blades, accomplish the following:

(a) Within the next five hours time in service after the effective date of this AD or before further flight following the last flight of the day after the effective date of this AD, whichever occurs sooner, and thereafter at intervals not to exceed five hours time in service from the last inspection, and before further flight following the last flight of each day, inspect the tail rotor blade skin in the root area of all tail rotor blades for cracks by visual means in accordance with Aerospatiale Service Bulletin No. 05.59, dated March 23, 1979, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(b) If, during any inspection required by this AD, any cracks are found, before further flight, remove the cracked blade from service and replace with a serviceable part of the same part number, or a serviceable interchangeable tail rotor blade as defined by Section 5.11 of the Aerospatiale Model SA-330 series helicopters Maintenance Manual, Chapter 65.21 or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, and continue to inspect in accordance with paragraph (a) of this AD.

This amendment becomes effective June 2, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram issued April 6, 1979, which contained this amendment.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on May 23, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-16826 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 20382; Amdt. 39-3788]

Airworthiness Directives; Government Aircraft Factories Nomad Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a modification program to remove certain AGS-2050 pop rivets and replace them with structural rivets in the wing, rudder, aileron, flap and landing gear pod structures on Government Aircraft Factories (GAF) of Australia Models N22B and N24A airplanes. This AD is necessary to prevent possible loss of structural rigidity and strength of primary airframe structure by ensuring fastener integrity. Looseness or failure of these rivets can affect the airworthiness of the aircraft.

DATE: Effective June 16, 1980; compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The manufacturer's applicable alert service bulletin may be obtained from Government Aircraft Factories, 226 Lorimer Street, Port Melbourne, 3207 Vic., Australia. The document may also be examined at the Federal Aviation Administration, Pacific-Asia Region, Engineering and Manfacturing District Office, 300 Ala Moana Blvd., Room 7321, Honolulu, Hawaii 96850, and Rules Docket, Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C., 20591.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC-210, Federal Aviation Administration, Pacific-Asia Region, P.O. Box 50109, Honolulu, Hawaii 96850, Telephone: (808) 546-8650/546-8658, or C. Christie, Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 426-8374.

SUPPLEMENTARY INFORMATION: The FAA has received Malfunction or Defect Reports concerning loose rivets in the primary and vertical fin structure (skin to spar attachments) of Government Aircraft Factories (GAF) Nomad Models N22B and N24A aircraft. These fasteners are of the pop rivet design. GAF Nomad Service Bulletin No. NMD-51-1 dated November 30, 1979, covers the installation of improved fasteners in the wing, rudder, aileron, flap and landing gear pot structures. The FAA has determined that the pop rivets are unsatisfactory for primary structural application in these areas and must be replaced by acceptable fasteners. Since loosness or failure of these rivets can affect the airworthiness of the aircraft, an AD is being issued which requires the replacement of certain AGS-2050 fasteners throughout the airframe structure on the Government Aircraft Factories of Australia Models N22B and N24A airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Government Aircraft Factories (GAF).

Applies to Models N22B (Serial Nos. N22B-5 and up) and N24B (Serial Nos. N24-42 and up), certificated in all categories.

Compliance required as indicated. To ensure fastener integrity and prevent possible loss of structural rigidity and strength of primary airframe structure, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, replace existing AGS-2050 rivets in the wing, rudder, aileron, flap and landing gear pod structures with improved structural rivets in accordance with the instructions contained in GAF Nomad Service Bulletin No. NMD-51-1 dated November 30, 1979, or an FAA-approved equivalent.

(b) Aircraft may be flown in accordance with FAR § 21.197 and FAR § 21.199 to a location where the modification can be accomplished.

(c) For purposes of complying with this AD, and FAA-approved equivalent must be approved by the Chief, Engineering and Manufacturing District Office, FAA, Pacific-Asia Region, Honolulu, Hawaii.

Note.—All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request from the Government Aircraft Factories, 226 Lorimer Street, Port Melbourne, 3207 Vic., Australia. These documents may also be examined at the FAA, Engineering and Manufacturing District Office, 300 Ala Moana Blvd., Room 7321, Honolulu, Hawaii 96850, and Rules Docket, Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591.

This amendment becomes effective June 16, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C. on May 23, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-16618 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 20368; Amdt. No. 1165]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 522(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedures identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date of at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.25 VOR-VOR/DME SIAPs identified as follows:

. . . Effective July 10, 1980.

St. Johns, AZ—St. Johns Muni, VOR/DME–A, Original
Orlando, FL–Herndon, VOR Rwy 13, Amdt. 11
Orlando, FL–Herndon, VOR Rwy 31, Amdt. 11
Augusta, GA—Daniel Field, VOR–B, Amdt. 12
LaGrange, GA—Callaway, VOR Rwy 13, Amdt. 11
East St. Louis, IL—Bi-State Parks, VOR/DME–A, Amdt. 6
Huntington, IN—Huntington Muni, VOR–A, Amdt. 2
Kokomo, IN—Kokomo Muni, VOR Rwy 23, Amdt. 14
Winchester, IN—Randolph County, VOR–A, Amdt. 2
Sioux City, IA—Sioux City Muni, VOR/DME or TACAN Rwy 13, Amdt. 16
Sioux City, IA—Sioux City Muni, VOR Rwy 31, (TAC), Amdt. 24
Bowling Green, KY—Bowling Green-Warren County, VOR/DME Rwy 21, Amdt. 2
Elizabethtown, KY—Ben Floyd Field, VOR–A, Amdt. 4
Elizabethtown, KY—Ben Floyd Field, VOR/DME–A, Amdt. 1, cancelled
Marshall, MI—Brooks Field, VOR Rwy 28, Amdt. 5
Petersburg, MI—Lada, VOR–A, Amdt. 2
Buffalo, MN—Buffalo Muni, VOR–B, Original
Fairmont, MN—Fairmont Muni, VOR Rwy 13, Amdt. 3
Fairmont, MN—Fairmont Muni, VOR/DME Rwy 13, Original
Fairmont, MN—Fairmont Muni, VOR/DME Rwy 31, Original
Fairmont, MN—Fairmont Muni, VOR Rwy 31, Amdt. 6
Cabool, Mo—Cabool Memorial, VOR/DME Rwy 21, Original
Tekamah, NE—Tekamah, VOR Rwy 32, Original
Concord, NH—Concord Muni, VOR Rwy 12, Original
Manitowoc, WI—Manitowoc County, VOR Rwy 17, Amdt. 8
Manitowoc, WI—Manitowoc County, VOR Rwy 35, Amdt. 7
Sheboygan, WI—Sheboygan County Memorial, VOR Rwy 3, Amdt. 2
Sheboygan, WI—Sheboygan County Memorial, VOR Rwy 21, Amdt. 3
Houston, TX—Lakeside, VOR–A, Amdt. 3
Houston, TX—Lakeside, VOR–B, Original
Richland, WA—Richland, VOR Rwy 25, Admt. 3
Richland, WA—Richland, VOR/DME–A, Admt. 2

. . . Effective May 16, 1980.

Springfield, MN—Springfield Muni, VOR/DME Rwy 13, Amdt. 2

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

. . . Effective July 10, 1980.

Orlando, FL—Herndon, LOC BC Rwy 25, Amdt. 13

Chicago, IL—Chicago Midway, LOC Rwy 31L, Amdt. 7
Seymour, IN—Freeman Muni, LOC Rwy 4, Original
Sioux City, IA—Sioux City Muni, LOC Rwy 13, Amdt. 1
New York, NY—LaGuardia, LOC BC Rwy 31, Amdt. 8, cancelled
Greensboro, NC—Greensboro-High Point-Winston Salem Regional, LOC BC Rwy 5, Amdt. 2, cancelled
Cleveland, OH—Burke Lakefront, LOC Rwy 24R, Amdt. 4
Middletown, OH—Hook Field Muni, LOC Rwy 23, Amdt. 5
Newport News, VA—Patrick Henry Intl, LOC BC Rwy 25, Amdt. 9
Richland, WA—Richland, LOC Rwy 19, Amdt. 2

. . . Effective June 12, 1980.

Great Bend, KS—Great Bend Muni, LOC Rwy 35, Amdt. 1
Boston, MA—General Edward Lawrence Logan Intl, LOC Rwy 22L, Original, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . Effective June 10, 1980.

Chicago, IL—Chicago Midway, NDB Rwy 31L, Amdt. 6
Logansport, IN—Logansport Muni, NDB Rwy 9, Original
Seymour, IN—Freeman Muni, NDB Rwy 4, Original
Seymour, IN—Freeman Muni, NDB Rwy 22, Amdt. 5, cancelled
Seymour, IN—Freeman Muni, NDB Rwy 31, Amdt. 6, cancelled
Winchester, IN—Randolph County, NDB Rwy 25, Original
Sioux City, IA—Sioux City Muni, NDB Rwy 13, Amdt. 14
Sioux City, IA—Sioux City Muni, NDB Rwy 31, Amdt. 22
Falls City, NE—Brenner Field, NDB–A, Amdt. 1
Orlando, FL—Herndon, NDB Rwy 7, Amdt. 11
Cleveland, OH—Burke Lakefront, NDB Rwy 24R, Amdt. 3
Dayton, OH—Dayton General Arpt South, NDB Rwy 9, Amdt. 3
Lebanon, OH—Lebanon-Warren County, NDB–A, Amdt. 1
Middletown, OH—Hook Field Muni, NDB Rwy 5, Amdt. 10
Middletown, OH—Hook Field Muni, NDB Rwy 23, Amdt. 5
Wooster, OH—Wayne County, NDB Rwy 27, Amdt. 2
Greeneville, TN—Greeneville Muni, NDB Rwy 5, Amdt. 3
Newport, VT—Newport State, NDB–A, Original
Newport, VT—Newport State, NDB Rwy 23, Amdt. 5, cancelled
Oconto, WI—Oconto Muni, NDB Rwy 11, Amdt. 2
Sheboygan, WI—Sheboygan County Memorial, NDB Rwy 21, Amdt. 4
Houston, TX—Lakeside, NDB Rwy 15, Amdt. 1
Richland, WA—Richland, NDB Rwy 19, Amdt. 2

Note.—The FAA published an amendment in Docket No. 20297; Amdt No. 1163 to Part 97 of the Federal Aviation Regulations (Vol 45, No. 88 page 29566, dated May 5, 1980) under section 97.27, effective June 12, 1980, which is hereby amended as follows: Shreveport, LA—Shreveport Regional, NDB Rwy 14, Amdt 17, change effective date to August 21, 1980.

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

. . . Effective July 10, 1980.

Orlando, FL—Herndon, ILS Rwy 7, Amdt. 15
Kokomo, IN—Kokomo Muni, ILS Rwy 23, Amdt. 1
Sioux City, IA—Sioux City Muni, ILS Rwy 31, Amdt. 22
Greensboro, NC—Greensboro-High Point-Winston Salem Regional, ILS Rwy 5, Original
Knoxville, TN—McGhee Tyson, ILS Rwy 4L, Amdt. 3

. . . Effective June 12, 1980.

Boston, MA—General Edward Lawrence Logan International, ILS Rwy 22L, Original

Note.—The FAA published an amendment in Docket No. 20297; Amdt No. 1163 to part 97 of the Federal Aviation Regulations (Vol 45, No. 88 Page 29566, dated May 5, 1980) under section 97.29, effective June 12, 1980, which is hereby amended as follows: Shreveport, LA—Shreveport Regional, ILS Rwy 14, Amdt 19 and Shreveport, LA—Shreveport Regional, ILS Rwy 32, Amdt 2, change effective date to August 21, 1980.

5. By amending § 97.31 RADAR SIAPs identified as follows:

Note.—The FAA published an amendment in Docket No. 20297; Amdt No. 1163 to part 97 of the Federal Aviation Regulations (Vol 45, No. 88 page 29566, dated May 5, 1980) under section 97.31, effective June 12, 1980, which is hereby amended as follows: Shreveport, LA—Shreveport Regional Radar–1, Amdt 2, change effective date to August 21, 1980.

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . Effective July 10, 1980.

Sioux City, IA—Sioux City Muni, RNAV Rwy 17, Amdt. 2
Sioux City, IA—Sioux City Muni, RNAV Rwy 35, Amdt. 5
Houston, TX—Lakeside, RNAV Rwy 15, Amdt. 1
Houston, TX—Lakeside, RNAV Rwy 33, Original

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

Issued in Washington, D.C. on May 23, 1980.

John S. Kern,

Acting Chief, Aircraft Programs Division.

[FR Doc. 80–16817 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 370, 379 and 386

Revision of Control Status for Hungary

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the *Export Administration Regulations* by removing Hungary from Country Group Y and placing it in Country Group W. Conditions within Hungary, and relations between Hungary and the United States, have improved sufficiently to justify this shift to a less restricted level of control.

DATES: This rule is effective June 2, 1980, but may be further revised in light of any comments received. Comments must be received by the Department by August 1, 1980.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, 9–30, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Room 1617M, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Telephone: (202) 377–5247 or 377–4811.

SUPPLEMENTARY INFORMATION:

Background

In January 1978, the United States returned the Crown of St. Stephen to the Hungarian people after holding it for 33 years. In July 1978, the U.S.-Hungarian Trade Agreement entered into force. This Agreement accords reciprocal most-favored nation tariff treatment to each country's products. The Hungarian Government follows relatively relaxed domestic policies, and it continues to deal with most emigration problems promptly and constructively.

Hungary is one of the 35 nations which in August of 1975 signed the Helsinki Final Act, the objectives of which include:

- Security in Europe;
- Facilitation of trade;
- Cooperation in scientific, technological and environmental considerations;
- Freedom of movement;
- Reunification of the family; and
- Facilitation of educational and cultural exchanges.

Hungary's general performance in implementing the provisions of the Helsinki Final Act has been forthcoming, particularly with respect to questions of trade facilitation, emigration, and freedom of travel.

Substance of Regulatory Changes

After taking into account the above factors, as well as Hungary's present and potential relationship to the U.S., its present and potential relationship to countries friendly or hostile to the United States, and its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy, the Secretary, after consultation with concerned agencies, has determined under section 5(b) of the Export Administration Act of 1979 that Hungary should be removed from Country Group Y and placed in Country Group W. Country Group Y now includes the "Soviet Bloc" countries (*i.e.* Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Latvia, Lithuania, Mongolian People's Republic, and the U.S.S.R.) plus Laos. Country Group W now includes Poland and Hungary.

One result of this new level of control is that General License *RCS* is now available for exports to Hungary. This general license permits export of fuel, equipment and supplies to U.S. or Canadian vessels, aircraft, airline installations or agents located in Group W countries, but would deny similar treatment to Group Y destinations.

In addition, under the provisions of § 386.3(k), an exporter who does not know at what port the shipment will be unloaded may designate optional ports of unlading on the Shipper's Export Declaration, including those of Country Group W. This option is not available for Country Group Y destinations.

Finally, with respect to certain destination control statements for general license shipments, Hungary, as a Country Group W destination, is no longer included in the term "Soviet Bloc," as it was when it was in Country Group Y. If the export requires a validated license for Hungary, then Hungary shall be included in the destination control statement.

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 et seq.) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218–7 (44 FR 2082, January 9, 1979) and the International Trade Administration Administrative Instruction 1–6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close August 1, 1980. No comments received after the close of the comment period will be accepted or considered by the Department in the development of final regulations. Public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are amended as follows:

[Supplement No. 1 to Part 370 amended.]

1. Supplement No. 1 to Part 370 is amended by deleting "Hungary" from the Country Group Y listing, and inserting "Hungary" in the Country Group W listing.

§§ 379.4 and 379.5 [Amended]

2. a. The second footnote to § 379.4(f)(1) and the footnote to § 379.4(f)(2)(i)(a) are revised to read as set forth following 2c below.

b. A footnote following the phrase "Country Group P, Q, W" is added to §§ 379.4(f)(2)(ii)(a) and 379.5(e)(1)(vii) as set forth following 2c below.

c. The second footnote reference (footnote 2) to § 379.5(e)(2) is transferred to appear following "W" in the phrase "Country Group P, Q, W," and the footnote is revised to read as set forth below:

Effective April 26, 1971, Country Group W no longer included Romania. Assurances executed prior to April 26, 1971, and referring to Country Group W continue to apply to Romania as well as Poland. Effective June 2, 1980, Hungary was added to Country Group W, which at that time included only Poland. Assurances executed prior to June 2, 1980 and referring to Country Group Y continue to apply to Hungary. Assurances executed on or after June 2, 1980 and referring to Country Group W apply to Hungary as well as Poland.

3. Section 386.6(d) is amended by revising paragraph (d)(2)(i)(*b*), paragraph (d)(3) and footnote 6 to read as set forth below:

§ 386.6 Destination control statements.

* * * * *

(d) * * *
(2) * * *
(i) * * *

(*b*) The following shall be entered in the last space: "any destination except the Soviet Bloc,[6] Laos, the People's Republic of China, North Korea, Vietnam, Cambodia, or Cuba, unless otherwise authorized by the United States."

If the export requires a validated license for Poland, Hungary or Romania, these countries shall be included. If the export does *not* require a validated license for a country on the prohibited list, that country may be deleted.

* * * * *

(3) Statement 3. "United States law prohibits disposition of these commodities to the Soviet Bloc,[6] Laos, the People's Republic of China, North Korea, Vietnam, Cambodia, or Cuba unless otherwise authorized by the United States." Statement 3 permits distribution or resale to any country in the world other than those specifically excepted in the statement. If an export to an excepted country does *not* require a validated license, that country may be deleted. If an export to Poland, Hungary, or Romania requires a validated license, these countries should be added to the prohibited destinations listed.

* * * * *

(Sec. 4, 5, 13, 15, Pub. L. 96–72, 93 Stat. 503, to be codified at 50 U.S.C. App. § 2401 *et seq.*; E.O. 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10–3, 45 FR 6141 (January 25, 1980); and Department Organization Order 41–1, 45 FR 11862 (February 22, 1980))

Dated: May 27, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–16552 Filed 5–28–80; 12:01 pm]

BILLING CODE 3510–25–M

[6] As defined in the destination control statement, the term "Soviet Bloc" means all countries in Country Group Y, except Laos, Poland, Hungary, Romania, and Yugoslavia are not Y countries.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76]

Regulations Covering High-Cost Natural Gas Produced From Tight Formations; Public Hearing

May 29, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of public hearing.

SUMMARY: On February 28, 1980 (45 FR 13414), the Federal Energy Regulatory Commission (Commission) issued an interim rule implementing section 107(b) and (c)(5) of the Natural Gas Policy Act of 1978 (NGPA) by providing an incentive price for certain natural gas produced from tight formations. The Commission also requested further comment on the interim rule. The Commission stated that it intended to hold a public hearing before promulgating final regulations. Notice is hereby given that a hearing will be held in Washington, D.C., on Tuesday, June 10, 1980. The exact time and location is set forth below.

DATES: Requests to participate by June 6, 1980. Hearing to be held on June 10, 1980 at 10 a.m.

ADDRESSES: Send requests to participate to: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

The hearing will be held at: Federal Energy Regulatory Commission, Hearing Room A, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8400.

or

June G. Perin, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100–D, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8473.

SUPPLEMENTARY INFORMATION: The hearings will be held for the purpose of receiving oral comments on the Commission's interim rule implementing section 107 (b) and (c)(5) of the Natural Gas Policy Act of 1978 (NGPA) by providing an incentive price for certain natural gas produced from tight formations.

Requests to participate in the hearing should reference Docket No. RM79–76, and should indicate the amount of time required for the oral presentation, and the telephone number at which the person making the presentation can be reached. Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Division of Public Information, Office of Congressional and Public Affairs, one day before the hearing and will be available at the site of the hearing on the morning it is convened.

Members of the hearing panel will be designated by the Chairman of the Commission. The Chairman or any Commissioner, may, at any time, participate in the hearing as a member of the panel. The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons making statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available through the Commission's Division of Public Information, Office of Congressional and Public Affairs.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16610 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–85–M

18 CFR Part 282

[Docket No. RM79–14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

May 27, 1980.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer

Regulation, the incremental pricing acquisition cost threshold prices for the month of June 1980, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Table I.—*Incremental Pricing Acquisition Cost Threshold Prices*

	January	February	March	April	May	June
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040

[FR Doc. 80-16643 Filed 5-30-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CCGD11-79-05r]

Establishment of Safety Zones Around Structures Being Constructed on the Outer Continental Shelf

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final rule.

SUMMARY: This document amends an emergency OCS safety zone established around Platform GRACE. The regulations for that safety zone had previously prohibited all general vessel traffic from navigating within the safety zone. The regulations were later amended to allow the entry of vessels under 200 Gross Tons. The public was invited to comment on the appropriateness of allowing vessels of this size to freely navigate within the safety zone. Based on public input, the regulation is being further amended and the restriction parameter will be the vessel's Length-Over-All (LOA) vice Gross Tonnage.

EFFECTIVE DATE: This amendment to the Platform GRACE safety zone regulations is effective May 23, 1980.

FOR FURTHER INFORMATION CONTACT: Lt. Jan E. Terveen, Project Manager, Marine Safety Division (OCS), Eleventh Coast Guard District, Union Bank Building, Suite 917, 400 Oceangate, Long Beach, California 90822, Telephone: (213) 590-2301.

SUPPLEMENTARY INFORMATION:

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Robin A. Wendt, Project Manager, Eleventh Coast Guard District Hearing Officer, and Lieutenant Commander Ronald S. Matthew, Project Counsel, Eleventh Coast Guard District Legal Office.

On July 17, 1979, the Commander, Eleventh Coast Guard District established an emergency OCS safety zone around the installation site of Platform GRACE and them around Platform GRACE itself. There was not adequate time to allow for establishment of an OCS safety zone under the formal rulemaking process, i.e., a notice of proposed rulemaking, public comment and then publication of a final rule. The District Commander had determined a safety zone around Platform GRACE was necessary to promote the safety of life and property on the structure, its appurtenances and attending vessels and in the adjacent waters during the installation and construction periods. Further, it was determined that without a safety zone, an imminent danger would exist.

The installation process of a platform is critical and requires great precision and coordination. It also presents a safety hazard if vessels are allowed to navigate too near the installation site. Thus the regulations for Platform GRACE during its installation phase excluded all vessel traffic except those vessels involved in the installation of the structure and authorized by the structure operator, or any other vessel authorized by the Commander, Eleventh Coast Guard District.

On August 23, 1979, the District Commander amended the Platform GRACE safety zone regulation. The restriction on vessel entry into the safety zone was relaxed to allow vessels under 200 gross tons to navigate within the safety zone. Since there was no longer any interference hazard to installation operations, the District Commander's primary concern was collision and damage potential to the structure. After careful consideration it was determined that vessels under 200 gross tons without a tow did not pose immediate hazards either to the structure or to themselves by navigating in the safety zone. Nonetheless, the District Commander invited public comment on this amendment. (See 44 FR 49452 and 44 FR 57927 for further details)

One comment was received relative to this amendment. The commenter first indicated the safety zone was both unjustified and unnecessary and amounted to over-regulation. He further suggested rescinding the safety zone. The District Commander disagrees with this issue. Platform GRACE is by far the closest structure to the Santa Barbara Channel Traffic Separation Scheme (SBC TSS), lying within 2.2 nautical miles of it. The SBC TSS accommodates significant marine traffic. Further, Platform GRACE lies between the SBC TSS and the Carpinteria offshore tanker mooring. Thus, it is appropriate to exclude larger vessels from the waters close to the structure as they have the potential for inflicting heavy damage to the structure and do operate in the vicinity of the structure.

The same commentor indicated that using Gross Tonnage as a description of vessel size is inappropriate. Vessels with the same gross tonnage can be radically different in size. Gross tonnage is a measure of a vessel's internal volume, not necessarily external size or mass. Different methods of measurement of various countries and different types of vessel spaces which are excluded from the gross tonnage measurement make it a very inconsistent measure of size. The District Commander agrees with the issue and adopts the commentor's recommendation of using length as that descriptive vessel factor which best indicates size. The primary concern is to not allow a vessel inside the safety zone that is large enough to damage the structure. After careful consideration, 100 feet Length-Over-All (LOA) was selected as the cutoff point. A 100 foot LOA vessel roughly corresponds in *most* cases to a 200 gross ton vessel. Thus navigation within the Platform GRACE safety zone will be limited to: (1) Vessels under 100 LOA without a tow, (2) vessels directly involved in the construction of Platform GRACE, (3) vessels which normally attend Platform GRACE, and (4) vessels authorized by the Commander, Eleventh Coast Guard District.

In consideration of the foregoing, Title 33, Code of Federal Regulations, Part 147 is amended as follows:

1. Section 147.05—11.01(b) and (c) are revised to read as follows:

§ 147.05—11.01 Platform GRACE safety zone, Santa Barbara Channel.

(a) * * *

(b) *Regulations.* No vessel may enter or remain in this safety zone except the following: (1) Vessels under 100 feet length-over-all without a tow, (2) vessels directly involved in the construction of platform GRACE, (3) vessels which normally attend platform GRACE, or (4) vessels authorized by the Commander, Eleventh Coast Guard District.

(c) *Effective Date.* This safety zone and its related regulations, as modified are effective on and after May 23, 1980.

(Sec. 633, 63 Stat. 545, Sec. 4(e)(1), 67 Stat. 463, sec. 6(b)(1), 80 Stat. 938; 14 U.S.C. 633; 43 U.S.C. 1333(e)(1), 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 147.01, in conformance with paragraphs 2, 3, 6 and 7 of Article 5, Convention on the Continental Shelf [TIAS 5578] and Article 2, Convention on the High Seas (TIAS 5200))

Dated: May 14, 1980.

H. W. Parker,

District Commander.

[FR Doc. 80-16663 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CCGD13-80-04]

Columbia River, Mile 67-70, Longview, Washington; Safety Zone Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations established a safety zone on the Columbia River between mile 67 and mile 70 for all water-borne traffic. The Coast Guard has determined this safety zone is required for the protection of vessels dredging in the zone and for vessels transiting this area. The special regulations for this safety zone will minimize hazards in transiting the zone. The Coast Guard invites comments on this regulation.

EFFECTIVE DATE: The amendment is effective beginning at 2400 PDT May 22, 1980 and will terminate when cancelled by the Captain of the Port, Portland, Oregon.

ADDRESSES: Comments should be mailed to: USCG Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

FOR FURTHER INFORMATION CONTACT: LCDR Harry Dudley, Chief Port Operations Department, Telephone Number (503) 221-6328, FTS 423-6328, or LT Hugh N. Johnston, Chief Investigations Department, Telephone Number (503) 221-6334, FTS 423-6334, Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

SUPPLEMENTARY INFORMATION: This safety zone is imposed as a result of the volcanic eruption of Mt. St. Helens on May 18, 1980, which caused tremendous flooding of the Toutle and Cowlitz Rivers in Southwest Washington. The resulting flooding caused silt to be deposited in a 3 mile area at the point where the Cowlitz River meets the Columbia River near Longview, Washington. The navigable channel of the Columbia River, which prior to the volcanic activity was dredged to forty feet, now has a minimum depth of 19 feet within approximately 3 miles beginning at approximately mile 67 and extending to mile 70. The volume of silt is estimated at 10 million cubic yards. This deposit of silt has consequently caused numerous deep draft vessels to be trapped in the Port of Portland, Portland, Oregon and Vancouver, Washington. In addition there are numerous vessels waiting at the mouth of the Columbia River for eventual transit to Portland, OR, Vancouver, WA, and Kalama, WA. The economy of Northwest Oregon and Southwest Washington is dependent on the rapid opening of the navigable channel to water borne commerce. The Captain of the Port, Portland, Oregon, in consultation with the other Government agencies, including the U.S. Army Corps of Engineers, State and local officials, vessel's agents/owners and the Columbia River Pilots Association developed this rule, which will allow minimum interference with foreign and domestic commerce but at the same time allow for dredging operations by the U.S. Army Corps of Engineers to continue in order that the advertized channel depth of forty feet can be restored to normal as soon as practical.

This amendment is issued without publication of a notice of proposed rulemaking, and this amendment is effective less than 30 days from the date of publication because public procedures on this amendment are impractical due to the emergency nature of the situation and there is not sufficient time to allow for public comment. Although this safety zone is published as a final rule, public comment is nevertheless desirable to ensure that the requirements concerning this safety zone are workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the address stated above. Commenters should include their names and addresses, identify the docket numbers for this safety zone (CCGD13-80-04), and give their reasons for the comments. Based upon comments received, this regulation may be revised.

DRAFTING INFORMATION: The principal person involved in the drafting of this document is LT Hugh N. Johnston, Chief, Investigations Department and Project Attorney, Marine Safety Office, Portland, Oregon.

In consideration of the above, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.1303 to read as follows:

§ 165.1303 Columbia River, Mile 67 Through Mile 70, Longview, Washington.

(a) The following area is a safety zone—the Columbia River Mile 67 through Mile 70, including the original channel and the waters on either side of the channel to shoreline. This zone is effective 24 hours per day beginning at 2400 PDT on 22 May and will continue in effect until cancelled.

(b) The following Special Regulations apply to DEEP DRAFT VESSELS (i.e. those vessels which must remain in the navigable channel because of their draft) entering the safety zone—

(1) TRANSIT through the above safety zone is limited to those hours and maximum drafts which are established by the Captain of the Port, Portland, Oregon. The times established for transit will be modified as necessary and will be based upon the optimium river condjtions, including tide, flow rate, and gauge, the needs of domestic and foreign commerce, weather including visibility, the progress of dredging operations, and the degree of interference that transit has on the dredging operations.

(2) Upbound and downbound vessels will not be allowed to transit through the zone at the same time.

(3) Individuals desiring to transit deep draft vessels through the zone shall obtain information concerning the periods during which the zone will be open on a particular day, the maximum draft permitted and the allocation of this time between upbound and downbound vessels by calling the Captain of the Port, Portland, Oregon at (503) 221-6342.

(4) Individuals desiring to transit deep draft vessels through the zone shall give the Captain of the Port, Portland, Oregon, 24 hour advance notice (including the name of vessel, the anticipated draft and the date of desired transit of the zone).

(5) Vessels approaching the zone shall communicate directly with the dredging vessels on scene via channel 13 as far in advance as possible in order that arrangements may be made for a safe passage.

(c) The following special regulations apply to SHALLOW DRAFT VESSELS (i.e. those vessels which because of their draft need not remain in the navigable channel in order to make a safe transit through this zone) entering the zone—

(1) Transit through the safety zone is not limited to particular hours, however, transit shall be made utilizing that area of the Columbia River which is to the *South* (i.e. Oregon side) of the original 40 foot channel except as provided in paragraphs (c) (2) and (3) of this section.

(2) Shallow draft vessels which desire to use the original channel shall comply with all regulations that apply to deep draft vessels and in addition shall take on a state or federally licensed pilot.

(3) Vessels entering or departing the zone from the Cowlitz River or Carrolls Channel shall remain to the north (i.e. Washington side) of the original 40 foot channel and shall not proceed east of the western tip of Cottonwood Island while north of the original channel.

(4) Vessels approaching the zone shall communicate directly with the dredging vessels on scene via channel 13 as far in advance as possible in order that arrangements may be made for a safe passage through the safety zone.

(5) Individuals desiring to transit the safety zone with shallow draft vessels shall contact the Captain of the Port, Portland, Oregon at (503) 221–6342 in order that they are aware of the operating conditions and times of allowable transit for deep draft vessels. Shallow draft vessels are encouraged but not required to avoid transit in the safety zone during the period of use by deep draft vessels.

(d) The following Special Regulations apply to ALL VESSELS entering the safety zone regardless of their draft—

(1) Vessels which because their steering or propulsion systems are not designed to operate safely *under* a minimum draft may be required to have a tug escort while in the safety zone.

(2) No vessel may anchor within the safety zone unless, in the opinion of the Master or Pilot, further transit is considered unsafe. In that event the Captain of the Port, Portland, Oregon shall be notified immediately.

(3) Recreational vessels may not use the zone except to transit and in no case shall they enter or cross the dredged channel within the zone.

(92 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4))

Dated: May 22, 1980.

G. K. Greiner, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, USCG Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

[FR Doc. 80-16661 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1504-3]

Approval and Promulgation of Michigan Implementation Plan—Carbon Monoxide and Ozone

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On April 14, 1980 (45 FR 25087) USEPA proposed approval of and invited public comment on the ozone attainment demonstrations and transportation control plans (TCPs) for Flint, Lansing and Grand Rapids, the TCPs for the Detroit urban area, and the control strategy for rural ozone nonattainment areas. The State responded to that notice on May 12, 1980. No other public comments were received. Based on its review and the State's response, USEPA takes final rulemaking action today on these portions of the Michigan SIP.

EFFECTIVE DATE: This final rulemaking becomes effective May 23, 1980.

ADDRESSES: Copies of these SIP revisions, public comments on the Notice of Proposed Rulemaking (45 FR 25087), and USEPA's evaluation and response to comments are available for inspection at the following addresses:

United States Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6038

SUPPLEMENTARY INFORMATION:

General Information

On March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (Act) as amended, USEPA designated certain areas in each State as not meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone. These areas are delineated at 40 CFR Part 81. Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standard as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions that date may be extended to no later than December 31, 1987, for ozone and/or carbon monoxide.

On April 25, 1979, the State of Michigan submitted to USEPA a portion of its revised State Implementation Plan (SIP). The attainment plan for ozone was submitted to USEPA on July 25, 1979. USEPA discussed these revisions in the August 13, 1979 **Federal Register** (44 FR 47350). At that time USEPA indicated that a Supplemental Notice of Proposed Rulemaking would be published to discuss USEPA's review of the proposed action on the ozone attainment demonstrations and transportation control plans (TCPs).

On October 12, 1979, the State responded to the August 13, 1979 Notice of Proposed Rulemaking (44 FR 47350). Additionally, on October 26, 1979, November 8, 1979, and on December 26, 1979, the State submitted additions and amendments to the ozone and carbon monoxide portions of its revised SIP. USEPA announced receipt and availability of these additional materials in the March 14, 1980 **Federal Register** (45 FR 16504). On April 14, 1980 (45 FR 25087), USEPA proposed approval of the ozone attainment demonstrations and TCPs for the Flint, Lansing and Grand Rapids urban areas and proposed approval of the TCPs for the Detroit urban area. Also in that notice, USEPA proposed approval of the ozone control strategy for rural ozone nonattainment areas. On May 12, 1980, the State responded to the April 14, 1980, Notice of Proposed Rulemaking. No other public comments were received. In this Notice, USEPA takes final rulemaking action to approve the ozone attainment demonstrations and TCPs for the Flint, Lansing and Grand Rapids urban areas, and to approve the TCPs for the Detroit urban area. USEPA also takes final action in this notice on the ozone control strategy for rural ozone nonattainment areas. USEPA has determined that good cause exists for making these revisions immediately effective. By making this final rulemaking immediately effective, some of the restrictions on industrial

growth contained in section 110(a)(2)(I) of the Clean Air Act will be lifted from the State of Michigan. These restrictions have been imposed for failure to have a SIP which meets the requirements of Part D after the final date for SIP approval specified in the Act. USEPA has determined that a major portion of the Michigan SIP meets the requirements of Part D. Therefore, it would be contrary to the public interest to continue the restrictions on industrial growth in all nonattainment areas for thirty days after the publication of this notice.

The proposed revisions to the Michigan SIP apply to those urbanized areas of Michigan that have not demonstrated attainment of the National Ambient Air Quality Standards (NAAQS) for ozone and/or carbon monoxide. As required by the Act, the purpose of these revisions is to implement measures for controlling the emissions of these pollutants in nonattainment areas and to demonstrate that these measures will provide for attainment of the standard as expeditiously as practicable, but not later than December 31, 1982 for the primary standards; or under certain conditions by December 31, 1987.

The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372), and are not reiterated in this notice. Supplements to the April 4, 1979, notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182).

Requirements for Transportation Control Plans and Demonstrations of Attainment

The transportation control plans for the four urban areas identify transportation strategies that will reduce mobile source hydrocarbon emissions and demonstrate attainment of the ozone standard by December 31, 1982 for Grand Rapids, Lansing and Flint, and by December 31, 1987 for Detroit. The Detroit plan also includes transportation measures to reduce emissions of carbon monoxide, and to demonstrate attainment of the carbon monoxide standards in portions of Wayne, Oakland and Macomb Counties by December 31, 1987. USEPA has evaluated the transportation control plans and the attainment demonstrations using the requirements for an approvable nonattainment area SIP which appeared in the April 4, 1979 **Federal Register** (44 FR 20372), the "USEPA-USDOT Guideline for Air Quality-Transportation Plans" and the Office of Transportation and Land Use Policy "Checklist for Transportation SIPs." A summary of these requirements was published in the April 14, 1980 Notice of Proposed Rulemaking (45 FR 25087).

USEPA has reviewed the transportation control plans and attainment demonstrations for each of the four urban areas, and has determined that they satisfy the above referenced requirements. Therefore, USEPA approves the transportation control plans and the ozone attainment demonstrations for the Flint, Grand Rapids and Lansing urban areas, the transportation control plans for the Detroit urban area. USEPA also takes final action in this notice on the ozone control strategy for the 24 rural ozone nonattainment counties in Michigan. USEPA proposed approval of the carbon monoxide and ozone attainment demonstrations for the Detroit urban area in the April 14, 1980 **Federal Register** (45 FR 25093), and final action to approve these SIP revisions appears elsewhere in today's **Federal Register** notice.

Transportation Control Plans and Attainment Demonstrations for Carbon Monoxide and Ozone

On December 26, 1979, the State of Michigan submitted Transportation Control Plans (TCPs) for the Grand Rapids, Lansing, Flint and Detroit urban areas. In each area the designated lead local agency, in conjunction with the Michigan Department of Natural Resources (MDNR) and the Michigan Department of Transportation (MDOT), developed the control strategy. The Grand Rapids TCP was developed by the Grand Rapids and Environs Transportation Study (GRETS) Technical and Policy Committee; the Lansing TCP was developed by the Tri-County Regional Planning Commission (TCRPC); the Flint TCP was developed by the Genesee-Lapeer-Siawassee Region V Planning and Development Commission (GLSRPDC) Executive Committee; and the Detroit TCP was developed by the Southeast Michigan Council of Governments (SEMCOG). Each of these agencies has been designated pursuant to section 174 of the Clean Air Act as the lead local agency for coordinating, developing, and implementing control measures in the plan.

The local plans were adopted in Grand Rapids on October 31, 1979 (Technical Committee) and November 7, 1979 (Policy Committee); Lansing on November 28, 1979; in Flint on November 21, 1979; and in Detroit on November 30, 1979.

Each of the TCPs contains measures designed to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide. The plans for Grand Rapids, Lansing, and Flint demonstrate attainment of the ozone standards by December 31, 1982. The plans for the Detroit urban area, consisting of Wayne, Monroe, Washtenaw, Livingston, Oakland, Macomb and St. Clair Counties, demonstrate that attainment of the ozone standard cannot be achieved by December 31, 1982, despite the implementation of all reasonably available control measures. Therefore, the State of Michigan has requested a five year extension under Section 172(a)(2) of the Clean Air Act for those counties. The plans also demonstrate that portions of Wayne, Oakland, and Macomb Counties cannot attain the carbon monoxide NAAQS by December 31, 1982, despite the implementation of all reasonably available control measures. The State of Michigan has requested a five year extension for these areas as well.

As part of the control strategy, the State submitted revised regulations for controlling hydrocarbon emissions from stationary sources, transportation control plans and, for the Detroit urban area which requested a five year extension for attainment of the carbon monoxide and ozone NAAQS, a vehicle inspection and maintenance (I/M) program. USEPA approved the State's hydrocarbon control strategy for stationary sources in the May 6, 1980 **Federal Register** (45 FR 29790). USEPA proposed approval of the carbon monoxide and ozone attainment demonstrations and I/M program for the Detroit urban area in the April 14, 1980 **Federal Register** (45 FR 25093), and final approval of these revisions appears elsewhere in today's **Federal Register** notice.

In the August 13, 1979 **Federal Register** (44 FR 47350) USEPA proposed approval on two portions of the Michigan transportation SIP revisions:

(1) A description of the program planning process which described the steps involved in the identification, evaluation, selection, adoption and implementation of specific transportation control strategies.

(2) An identification of the estimated financial resources necessary to carry out the process.

No public comments were received addressing these points; therefore, USEPA approves the description of the program planning process and the identification of the necessary financial resources.

The following section of the notice discusses the attainment demonstrations and transportation control plans for each of the urban areas, the State's response, if any, and USEPA's final rulemaking action.

Flint Urban Area

USEPA proposed approval of the ozone attainment demonstration and transportation control plans for the Flint urban area in the April 14, 1980, **Federal Register** (45 FR 25087). The control strategy, as developed by the Genesee-Lapeer-Shiawassee Region V Planning and Development Commission, Executive Committee (GLSRPDC), in conjunction with the Michigan Department of Natural Resources (MDNR) and the Michigan Department of Transportation (MDOT), demonstrates attainment of the ozone NAAQS by December 1982. The hydrocarbon emission reductions are predicted as the result of the Federal Motor Vehicle Control Program (FMVCP) and the implementation of controls on stationary sources. USEPA approved the hydrocarbon control strategy for stationary sources in the May 6, 1980 **Federal Register** (45 FR 29790). The transportation control measures are designed to yield further reductions of hydrocarbon emission levels.

In the April 14, 1980, **Federal Register** notice (45 FR 25087) USEPA proposed approval of the initial emission reduction targets identified by the Genesee County Metropolitan Alliance and the GLSRPDC Executive Committee. These organizations resolved to seek Reasonable Available Control Measures to achieve reductions in hydrocarbon emissions from mobile sources of between one-half of one percent and one percent between 1977 and 1982.

Also in the April 14, 1980, **Federal Register** (45 FR 25087), USEPA proposed approval of the transportation control plans for the Flint urban area, which include representative strategies already adopted and to be implemented between 1979 and 1982. Specific projects, implementors and expected emission reductions associated with the projects were discussed in that notice (45 FR 25087).

USEPA has reviewed the transportation control plans and ozone attainment demonstration developed for the Flint urban area, and finds that they satisfy all of the requirements previously described for an approvable nonattainment area SIP. No comments on these revisions were received. Therefore, USEPA approves all portions of the transportation control plans and the ozone attainment demonstration for the Flint urban area.

Lansing Urban Area

USEPA proposed approval of the ozone attainment demonstration and transportation control plans for the Lansing urban area in the April 14, 1980, **Federal Register** (45 FR 25087). The control strategy, as developed by the Tri-County Regional Planning Commission (TCRPC) in conjunction with MDNR and MDOT, demonstrates attainment of the ozone NAAQS by December 1982. The hydrocarbon emission reductions are predicted as the result of the Federal Motor Vehicle Control Program (FMVCP) and the implementation of controls on stationary sources. USEPA approved the hydrocarbon control strategy for stationary sources in the May 6, 1980, **Federal Register** (45 FR 29790). The transportation control measures are designed to yield further reductions of hydrocarbon emission levels.

In the April 14, 1980, **Federal Register** (45 FR 25087) USEPA proposed approval of the initial emission reduction targets identified by the TCRPC for the Lansing urban area. The Commission resolved to seek Reasonable Available Control Measures to achieve reductions in hydrocarbon emissions from mobile sources of between one-half of one percent and one percent between 1977 and 1982.

Also in the April 14, 1980, **Federal Register** (45 FR 25087) USEPA proposed approval of the transportation control plans for the Lansing urban area, which include representative strategies already adopted and to be implemented between 1977 and 1982. Specific projects, implementors and expected emission reduction associated with the projects were discussed in that notice (45 FR 25087).

USEPA has reviewed the transportation control plans and ozone attainment demonstrations developed for the Lansing urban area, and finds that they satisfy all of the nine requirements previously described for an approvable nonattainment area SIP. No comments on these revisions were received. Therefore, USEPA approves all portions of the transportation control plans and the ozone attainment demonstration for the Lansing urban area as part of the federally approved Michigan SIP.

Grand Rapids

USEPA proposed approval of the ozone attainment demonstration and transportation control plans for the Grand Rapids urban area in the April 14, 1980, **Federal Register** (45 FR 25087). The control strategy, as developed by the Grand Rapids and Environ Transportation Study (GRETS) Technical Committee and the GRETS Policy Committee, in conjunction with the MDNR and MDOT, demonstrates attainment of the ozone NAAQS by December 1982. The hydrocarbon emission reductions are predicted as result of the Federal Motor Vehicle Control Program (FMVCP) and the implementation of controls on stationary sources. USEPA approved the hydrocarbon control strategy in the May 6, 1980, **Federal Register** (45 FR 29790). The transportation control measures are designed to yield further reductions of hydrocarbon emission levels.

In the April 14, 1980 **Federal Register** (45 FR 25087), USEPA proposed approval of the initial emission reduction targets identified by the GRETS Technical and GRETS Policy Committees. The Committees resolved to establish and commit to an initial hydrocarbon emission reduction target of one-half of one percent to one percent by 1982.

Also in the April 14, 1980 **Federal Register** (45 FR 25087), USEPA proposed approval of the transportation control plans for the Grand Rapids urban area, which include representative control strategies already adoped and to be implemented between 1979 and 1982. Specific projects, implementors and expected emission reductions associated with the projects were discussed in that notice (45 FR 25087).

USEPA has reviewed the control strategy and ozone attainment demonstration developed for the Grand Rapids urban area, and finds that they satisfy all of the requirements previously described for an approvable nonattainment area SIP. No comments on these revisions were received. Therefore, USEPA approves all portions of the transportation control plans and the ozone attainment demonstration for the Grand Rapids urban area as part of the federally approved Michigan SIP.

Detroit Urban Area

USEPA proposed approval of the transportation control plans for the Detroit urban area in the April 14, 1980, **Federal Register** (45 FR 25087). The control strategy, developed by the Southeast Michigan Council of Governments (SEMCOG), in conjunction with MDNR and MDOT, does not demonstrate attainment of the carbon monoxide or ozone NAAQS by December 1982, despite the application of all reasonably available control measures. Therefore, the State of Michigan has requested a five year extension until December 31, 1987 for demonstrating attainment of the carbon monoxide and ozone NAAQS. USEPA proposed approval of the carbon monoxide and ozone attainment demonstrations for the Detroit urban area, as well the State's proposed I/M program, in the April 14, 1980, **Federal Register** (45 FR 25093). Final action to approve these revisions appears elsewhere in today's **Federal Register** notice.

Reductions in emissions in the Detroit urban area will be achieved through the implementation of controls on hydrocarbon emissions from stationary sources, the use of the Federal Motor Vehicle Control Program (FMVCP), additional Transportation Control Measures and a Vehicle Inspection/Maintenance (I/M) program. USEPA approved the hydrocarbon control strategy for stationary sources in the May 6, 1980, **Federal Register** (45 FR 29790). Final action on the State's I/M program will be published in a separate **Federal Register** notice.

The completed transportation portion of the Detroit plan contained a description of how the analysis of emission control strategies will be undertaken and a schedule for the study, adoption and implementation of control strategies, including strategies to improve mass transit ridership and meet basic transportation needs. The April 14, 1980, **Federal Register** (45 FR 25087) includes a description of the detailed work program for the transportation air quality planning activities SEMCOG will undertake and a schedule for the study and adoption of these transportation air quality measures.

USEPA has evaluated the schedule and the description of the analytical procedures to be used in the evaluation of transportation measures, and finds that they satisfy section 172(b)(2) of the Clean Air Act which requires that all reasonable transportation measures be evaluated and considered for implementation.

Also, in the April 14, 1980, **Federal Register** (45 FR 25087), USEPA proposed approval of the initial emission reduction targets identified by the Executive Committee of SEMCOG. The Committee resolved to achieve, through transportation improvements, the following emission reduction targets:

Pollutant	Percentage	
	1982	1987
Hydrocarbon	2.0	3.0
Carbon monoxide	2.5	4.0

The transportation portion of the Detroit plan as described in the April 14, 1980, **Federal Register** (45 FR 25087) identified Transportation Systems Management (TSM) strategies, schedules for implementation, responsible agencies and estimates of emission reduction for these projects.

USEPA has reviewed the control strategy developed for the Detroit urban area, and finds that it satisfies all of the requirements for an approvable nonattainment area SIP. No comments on these revisions were received. Therefore, USEPA approves all portions of the transportation control plans for the Detroit urban area, as part of the federally approved Michigan SIP.

USEPA proposed approval of the carbon monoxide and ozone demonstrations of attainment for Detroit in the April 14, 1980, **Federal Register** (45 FR 25093). Final action on these revisions will be published in a separate **Federal Register** notice.

Ozone Control Strategy for Rural Nonattainment Areas

In the April 14, 1980, **Federal Register** (45 FR 25087), USEPA proposed approval of the ozone control strategy for twenty-four counties in the State of Michigan designated as nonattainment for ozone. These counties are Marquette, Muskegon, Gratiot, Midland, Saginaw, Bay, Tuscola, Huron, Sanilac, Ottawa, Ionia, Shiawassee, Lapeer, Allegan, Barry, Van Buren, Kalamazoo, Calhoun, Jackson, Berrien, Cass, Branch, Hillsdale and Lenawee Counties.

State Comment: In Michigan's response of May 12, 1980, the State noted that USEPA had included only twenty-four of the rural ozone nonattainment counties. The notice should have included Montcalm and St. Joseph Counties, for a total of twenty-six rural ozone nonattainment counties.

USEPA Response: Montcalm and St. Joseph Counties were inadvertently omitted from the April 14, 1980 notice (45 FR 25087). These counties also meet the requirements for an approvable ozone SIP for rural nonattainment areas as described in the April 4, 1979 **Federal Register** (44 FR 20372). Therefore, USEPA approves the ozone control strategy for Montcalm and St. Joseph Counties as revisions to the Michigan ozone SIP.

State Comment: In the April 14, 1980 **Federal Register** notice (45 FR 25087). USEPA did not address the transportation control plan for the Niles area, a portion of the South Bend urbanized area.

USEPA Response: USEPA is taking no action at this time on the transportation control plan for the Michigan portion of the South Bend urbanized area. The control strategy for this area will be addressed in a future **Federal Register** notice, taking into account the requirements for a demonstration of attainment in interstate nonattainment areas.

USEPA proposed approval of Berrien and Cass counties as rural ozone nonattainment areas in the April 14, 1980 **Federal Register**. Final action today, however, approves only the nonurbanized portions of those counties. Action on the Michigan portion of the South Bend urbanized area, as defined by the U.S. Bureau of Census, (1970), will be discussed in a separate **Federal Register** notice.

USEPA Final Determination: No other comments on these revision were received. Therefore, USEPA takes final action to approve the ozone control strategy for Marquette, Muskegon, Gratiot, Midland, Saginaw, Bay, Tuscola, Huron, Sanilac, Ottawa, Ionia, Shiawassee, Lapeer, Allegan, Barry, Van Buren, Kalamazoo, Calhoun, Jackson, Branch, Hillsdale, Lenawee, Montcalm and St. Joseph Counties. In addition, USEPA approves the ozone control strategy for the nonurbanized portions of Berrien and Cass Counties.

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadline required by section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dates under section 110(a)(2)(A) will be referenced in a footnote to the charts. Sources subject to plan requirements and deadlines established under section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supercede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by

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Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.

(123 Cong. Rec., H 11958, daily ed. November 1, 1977.)

To implement fully Congress' intention that sources remain subject to preexisting plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, USEPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a State makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a State will be reviewed and acted upon USEPA as a SIP revision. In addition, as discussed in the April 4, 1979 **Federal Register** (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels proposed regulations, "specialized." I have reviewed this and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110(a), 172 and 301(a) Clean Air Act, as amended (42 U.S.C. § 7410(a), 7502, 7601(a)))

Dated: May 23, 1980.

Douglas Costle,

Administrator.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1170(c) is amended by adding paragraphs (21) through (25) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(21) On July 25, 1979, the State submitted the official ozone attainment plan as part of the State Implementation Plan.

(22) On October 26, 1979, the State submitted comments and revisions to the transportation plans and vehicle inspection/maintenance portions of the State Implementation Plan for ozone in response to USEPA's notice of proposed rulemaking (45 FR 47350).

(23) On November 8, 1979, the State submitted revisions to the ozone attainment plan.

(24) On December 26, 1979, the State submitted comments and additional information from the lead local agencies on the transportation control plans for the Flint, Lansing, Grand Rapids and Detroit urban areas.

(25) On May 12, 1980, the State submitted corrections and comments in response to USEPA's notice of proposed rulemaking (45 FR 25087).

2. Section 52.1174(b) is revised as follows:

§ 58.1174 Control strategy: Ozone.

(b) Part D—No Action—USEPA takes no action on the adequacy of transportation control plans or demonstration of attainment for the Michigan portion of the South Bend, Indiana urbanized area.

[FR Doc. 80-16593 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1504-5]

Approval and Promulgation of Michigan State Implementation Plan Carbon Monoxide and Ozone

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: On April 14, 1980 (45 FR 25093), USEPA proposed approval and conditional approval of the ozone and carbon monoxide attainment demonstrations and the vehicle inspection and maintenance (I/M) program for the Detroit urban area and invited public comment. On May 12, 1980, the State responded to USEPA's Notice of Proposed Rulemaking. Based on its review of the State's response and the public comments received, USEPA takes final rulemaking action today to approve the carbon monoxide and ozone demonstrations of attainment and the I/M program for the Detroit urban area.

EFFECTIVE DATE: This final rulemaking becomes effective May 23, 1980.

ADDRESSES: Copies of the SIP revisions, public comments on the Supplemental Notice of Proposed Rulemaking (45 FR 25093), and USEPA's evaluation and response to comments are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On March 3, 1978, (43 FR 9862) and October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (Act) as amended, USEPA designated certain areas in each State as not meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone. Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standard as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions that date may be extended to no later than December 31, 1987, for ozone and/or carbon monoxide.

The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979, (44 FR 20372). Supplements to the April 4, 1979, notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 53761) and November 23, 1979 (44 FR 67182), discussing, among other things, additional criteria for SIP approval.

On April 25, 1979, the State of Michigan submitted plans for all of the designated ozone and/or carbon monoxide nonattainment areas in the State. The plans consisted of a hydrocarbon control strategy for stationary sources, transportation control plans (TCPs) and an I/M program. The State submitted its ozone plan on July 25, 1979. These submittals were discussed in the August 13, 1979 **Federal Register** (44 FR 47350). This notice identified deficiencies in the plans, but deferred rulemaking on the >I/M plan. On October 12, 1979, the State responded to USEPA's notice of proposed rulemaking. Additionally, on October 26, 1979, November 8, 1979, December 26, 1979 and March 20, 1980, the State submitted clarifications and amendments to the ozone SIP and vehicle I/M program. On April 3, 1980, the Michigan legislature passed an I/M bill, which was signed by Lieutenant Governor James Brickley on April 7, 1980 and formally submitted to USEPA on May 12, 1980. The State submitted a letter clarifying the I/M implementation schedule to USEPA on May 21, 1980.

USEPA approved the hydrocarbon control strategy for stationary sources in the May 6, 1980, **Federal Register** (45 FR 29790). USEPA proposed approval of the ozone attainment demonstrations and the transportation control plans for the Flint, Lansing and Grand Rapids urban areas, and the transportation control plans for the Detroit urban area in the April 14, 1980 **Federal Register** (45 FR 25087). Also in the April 14, 1980 notice, USEPA also proposed approval of the Michigan Part D ozone SIP for twenty-four rural ozone nonattainment counties in Michigan. Final action to approve these revisions will be published elsewhere in today's **Federal Register.** This notice takes final action on the carbon monoxide and ozone attainment demonstrations and the vehicle I/M program for the Detroit urban area.

USEPA has determined that good cause exists for making these revisions immediately effective. By making this final rulemaking immediately effective, some of the restrictions on industrial growth contained in section 110(a)(2)(I) of the Clean Air Act will be lifted from the State of Michigan. These restrictions are imposed for failure to have a State Implementation Plan which meets the requirements of Part D of the Act after the final date for SIP approval specified in the Act. USEPA has determined that a major portion of the Michigan State Implementation Plan meets the requirements of Part D. Therefore, it would be contrary to the public interest to continue the restrictions on industrial growth in all nonattainment areas for thirty days after the publication of this notice.

Vehicle Inspection and Maintenance

The State of Michigan has demonstrated that attainment of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone in the Detroit urban area is not possible by December 31, 1982, despite the implementation of all reasonable emission control measures. Therefore, the State requested an extension until December 31, 1987 to demonstrate attainment of the carbon monoxide and ozone NAAQS for the Detroit area.

For areas granted such an extension, one of the requirements of section 172(b)(11) of the Act is a schedule for implementation of an I/M program. On April 25, 1979, the Governor of Michigan requested an extension until December 1987 to demonstrate attainment of the carbon monoxide and ozone NAAQS, and submitted the State's proposal for a vehicle I/M program for the Detroit area.

In the April 14, 1980 **Federal Register** (45 FR 25093), USEPA published a Supplemental Notice of Proposed Rulemaking on the proposed I/M program for the Detroit urban area and proposed approval and conditional approval of the Detroit I/M program. That notice contained a summary of the requirements for an approvable I/M program, a description of Michigan's proposal for the Detroit urban area. Also at that time, USEPA proposed rulemaking approval of the carbon monoxide and ozone attainment demonstrations for the Detroit urban area, and invited public comment on these revisions.

The State responded to USEPA's Supplemental Notice of Proposed Rulemaking on May 12, 1980, and submitted clarifications to the I/M implementation schedule on May 21, 1980. One other public comment was received. On May 7, 1980, a public interest group submitted comments in response to USEPA's Supplemental Notice of Proposed Rulemaking (45 FR 25093). Two of these comments are addressed in the following section; remaining comments will be discussed elsewhere in this notice.

Public Comment: The proposed rulemaking states that the Michigan I/M legislation is applicable only to Metropolitan Detroit. While there is no doubt about Detroit being the focus of the legislation, it is inaccurate to assume that other areas of the State will not also be subject to I/M. This possibility should be noted in USEPA's final rulemaking.

USEPA Response: USEPA agrees with the commentor. While under the Clean Air Act the I/M program is now required only in the Detroit urbanized area, the Michigan legislation contains a provision which requires an I/M program in any area projected for nonattainment beyond 1982.

Public Comment: The USEPA should require two additional dates in the Michigan I/M implementation schedule. The State should specify a date for the geographic designation of the metropolitan Detroit area. Also, Michigan should include a date for legislative adoption of the administrative rules.

USEPA Response: Section 6 of House Bill 5367 requires that the Michigan Department of Natural Resources (DNR) promulgate rules determining which areas will be subject to the I/M program. The revised I/M implementation schedule submitted by the State on May 12, 1980 commits the State to promulgating rules by January 1981. USEPA accepts this item of the schedule as a commitment by the State to officially promulgate *all* rules by January 1981. This would include not only the rules which detail the program (to be promulgated by the Secretary of State in concurrence with the Department of Transportation) but also the rules which specify the affected areas (to be promulgated by the MDNR). USEPA interprets "officially promulgated" to mean that the rules will have completed all necessary State procedural requirements including legislative approval or adoption and will be in effect by the scheduled date. Therefore, USEPA concludes that an additional milestone is not necessary, and that the State has identified the timeframe within which a determination will be made on which areas will require I/M.

The following section of the notice discusses those areas of the plan which meet the criteria for an approved SIP, the deficiencies in the Michigan plan cited by USEPA in the April 14, 1980, **Federal Register** (45 FR 25093), the State's response to that notice, public comments received and USEPA's final determination and rulemaking action.

(1) In the April 14, 1980 Notice of Proposed Rulemaking (45 FR 25093), USEPA proposed approval of the State's commitment to implement and enforce the I/M program, as contained in the Governor's letter of March 20, 1980.

State Response: None.

Public Comment: None.

USEPA Final Determination: USEPA approves the State of Michigan's commitment to implement and enforce

an I/M program in the Detroit urban area.

(2) In the April 14, 1980, **Federal Register** (45 FR 25093), USEPA proposed approval of Michigan's legal authority to implement and enforce an I/M program if the State submitted the bill signed by the Governor, prior to USEPA's final rulemaking.

State Response: House Bill No. 5367 and House Bill 5368 were signed by the Lieutenant Governor on April 7, 1980. On May 12, 1980 the State of Michigan formally submitted this legislation to USEPA as certification of the State's legal authority to implement and enforce an I/M program.

Public Comment: The notice did not correctly describe the legislation in two ways. First, there were two bills: House Bill 5367 was the basic I/M legislation and House Bill 5368 prohibits registration of noncomplying vehicles in affected areas. Second, the bulk of the administrative rules process is to be done not simply by the Department of State, but by the Department of State with the concurrence of the Department of Transportation. These points ought to be noted in USEPA's final rulemaking.

USEPA Final Determination: USEPA approves the Michigan I/M legislation (House Bill 5367 and House Bill 5368) as representing adequate legal authority as required by sections 172(b)(7) and 172(b)(10) of the Act. House Bill 5367 provides the authority for the State to implement and enforce an I/M program. House Bill 5368 revises the Michigan State Motor Vehicle Code to prohibit the registration of noncomplying vehicles.

USEPA recognizes that the Michigan Department of Transportation will actively assist the Department of State in the rulemaking process.

(3) In the August 13, 1979, **Federal Register** (44 FR 47350), USEPA noted deficiencies in the Michigan I/M implementation schedule. The State submitted revisions to the schedule on March 20, 1980. USEPA discussed the March 20, 1980 submittal in the April 14, 1980 Supplemental Notice of Proposed Rulemaking (45 FR 25093). At that time, USEPA proposed to approve Michigan's I/M implementation schedule if, prior to final rulemaking, the State revised its I/M implementation schedule to be consistent with EPA policy and the State's legal authority. Alternatively, USEPA proposed to conditionally approve Michigan's I/M schedule if these deficiencies were corrected on a schedule negotiated between the State and USEPA.

State Response: On May 12, 1980, the State submitted a revised I/M implementation schedule: The MDNR submitted to USEPA a letter clarifying the schedule on May 21, 1980. The revised schedule includes the following dates:

Centralized Option

Date and Activity

January 1981—Rules officially promulgated including cut points
March 1, 1981—Development and issuance of RFP's including contract provisions covering testing and quality control, and emission analyzer requirements
March 1981—Information to garages of the I/M program and the equipment and staffing requirements needed to participate in the repair of failed vehicles
April 1981—Initiation of mechanics training program; Award to contractors
October 1981—Initiation of public information program; designed to be a long-term program, including free and paid newspaper advertisements, T.V. and radio spots, and assorted brochures; Initiation of construction of facilities
June 1982—Completion of construction of facilities and delivery of equipment
July 1982—Hiring and training of inspectors and complaint investigators
October 1982—Initiation of mandatory inspection and maintenance for all persons required to register vehicles on and after January 1, 1983

Decentralized Options

Date and Activity

January 1981—Rules officially promulgated including testing station licensing requirements, equipment specifications, cut points, etc.
February 1981—Notification to garages of program requirements; application forms mailed
March 1981—Public information campaign instituted; designed to be a long-term program, including free and paid newspaper advertisements, T.V. and radio spots, and assorted brochures
April 1981—Mechanic training program initiated
May 1981—First group of complaint investigators and inspectors hired and trained
June 1981—Inspection station licensing begins
October 1981—First registration forms indicating the need for inspections forwarded to vehicle owners in the affected area
October 1981—Initiation of mandatory inspection and maintenance for all persons required to register vehicles on and after January 1, 1982.

Public Comment: Michigan's legislation, which requires that the I/M program be in effect by a time specified by USEPA, should be interpreted to require implementation by the end of 1981 if the program is decentralized and the end of 1982 if it is centralized. On that basis the State's schedule as submitted to USEPA is not adequate. USEPA should require revised implementation schedules with appropriate dates for centralized, decentralized and combination options.

USEPA Final Determination: USEPA finds that the State's revised schedule of May 12, 1980 contains the necessary implementation milestones for either a centralized or decentralized program and provides for implementation dates consistent with the State's legal authority and USEPA guidance. Therefore, USEPA approves the Michigan schedule for the implementation of an I/M program for the Detroit urban area. USEPA has no reason to believe that a combined program will be adopted by the State, and so does not require a schedule for such a program to be submitted.

(4) In the April 14, 1980, **Federal Register** (45 FR 25093), USEPA stated that the State must demonstrate that an I/M program with a 20 percent stringency factor, consistent with the provisions of the State's legal authority, will achieve a 25 percent emission reduction.

State Response: In response to USEPA's notice of proposed rulemaking, mobile source emission data was generated by SEMCOG for the 7-county southeast Michigan area for carbon monoxide and non-methane hydrocarbons. An I/M program starting in 1981 for 1972 and newer vehicles, including mechanics training, shows a 49.4% reduction for carbon monoxide and a 37.1% reduction for hydrocarbons by 1987, with a 20% stringency factor. The effects of the exemptions and waivers were analyzed, discussed and estimated. Considering these, the estimated program effectiveness, taking the low-income and the $50.00 exclusions into account is 47.3% carbon monoxide and 35.5% hydrocarbons at a 20% stringency level program starting in 1981. If the program started in 1982 the effectiveness would be 45.8% for carbon monoxide and 34.0% for hydrocarbons.

The State maintains that the Michigan legislation provides for a program that will comply with the USEPA's policy requirements concerning emission reductions. Further, in the May 12, 1980 response, the State of Michigan commits itself to obtain a 25% emission reduction by the end of 1987 from the I/M program.

Public Comment: USEPA should conditionally approve this part of the submittal on a schedule negotiated with the State because the scope of at least one of the exemptions (financial hardship) will be determined in the rules process. Information developed during the legislative process suggests that the number of persons will not be high, and thus, there should ultimately be no problem with the stringency factor.

USEPA Final Determination: USEPA accepts the technical analysis conducted by the State which considered program stringency, old vehicle exemption, medicaid exemption, $50 repair cost waiver and mechanics training. USEPA agrees with the conclusion that at least a 25% reduction in light duty vehicle exhaust carbon monoxide and hydrocarbon emissions will be achieved by the Michigan I/M program in 1987.

USEPA does not anticipate that the magnitude of the hardship exemption will be so large as to prevent the State from demonstrating a 25% reduction, since the demonstrated effectiveness significantly exceeds the required reduction. Further, the State has submitted a written commitment to program effectiveness. USEPA, therefore, does not find it necessary to conditionally approve the SIP. USEPA concludes that the Michigan plan meets the requirements of section 172(b)(2) of the Clean Air Act as amended.

(5) In the April 14, 1980, Supplemental Notice of Proposed Rulemaking, USEPA proposed approval of the State's financial and resource commitment if the State demonstrates that the inspection fee, as prescribed by the legal authority, will be sufficient to cover the cost of the program. Alternatively, the State must commit itself to provide any additional resources necessary to implement and enforce the I/M program.

State Response: The State references Section 7(i) of House Bill 5367, which authorizes the State to establish a fee, and Section 21 which specifies a fee ceiling of $10.00. In addition, the State references a report prepared for Michigan under contract which indicated that the inspection could be conducted for a fee which ranges from $5.32 to $7.04, depending on program type. These cost analyses included initial implementation costs prior to program operation, and are therefore reflected in the inspection fee. These include administration, bid preparation and evaluation, quality control and other miscellaneous costs. Finally, the State has indicated that additional cost analyses will be conducted, and the State will set a fee to cover the cost of the program as a part of the rulemaking process.

Public Comment: The State should demonstrate adequate financial resources to establish and implement the I/M programs, including funding for the start-up of the program.

USEPA Final Determination: Michigan has the authority to set a fee which will cover all costs associated with the I/M program. Further, the State has indicated that this fee will be based on the results of additional costing analyses, and will be set as part of the rulemaking process. USEPA accepts this as a commitment of resources. Therefore, USEPA has determined that the Michigan I/M plan meets the requirements of Section 172(b)(7) of the Clean Air Act.

Carbon Monoxide and Ozone Attainment Demonstrations

In the April 14, 1980, **Federal Register** (45 FR 25093), USEPA discussed the carbon monoxide and ozone attainment demonstrations for the Detroit urban area, and proposed approval of these revisions to the Michigan SIP. The State requested a five year extension, until December 31, 1987 for demonstrating attainment of the carbon monoxide National Ambient Air Quality Standard (NAAQS) for portions of Wayne, Oakland and Macomb Counties. The State has also requested an extension until December 31, 1987, for demonstrating attainment of the ozone NAAQS in Wayne, Monroe, Washtenaw, Livingston, Oakland, Macomb and St. Clair Counties. These nonattainment areas are delineated at 40 CFR Part 81.

For those areas which are unable to demonstrate attainment of the carbon monoxide and/or ozone NAAQS by December 31, 1982, despite the application of all reasonably available control measures, section 172(a)(2) of the Clean Air Act requires the SIP to provide for the attainment of the national primary standard for the pollutants as expeditiously as practicable, but not later than December 31, 1987.

Those areas granted an extension until December 31, 1987, are required to implement certain additional measures. These additional measures, delineated at section 172(b)(11) of the Act, are: 1) a schedule for the development, adoption, and implementation of a vehicle emissions control inspection and maintenance I/M program, 2) the establishment of a program for the analysis of alternatives for those sources proposing to locate in the area, and 3) the identification of other measures necessary to provide for attainment of the NAAQS by December 31, 1987.

The schedule for implementation of an I/M program is discussed elsewhere in this notice, and the program for the analysis of alternatives is contained in the State's New Source Review (NSR) program for those sources proposing to locate in the area. USEPA approved the NSR program in the May 6, 1980, **Federal Register** (45 FR 29097).

Emission reductions will be achieved through the implementation of control's on hydrocarbon emissions from stationary sources, the use of the Federal Motor Vehicle Control Program (FMVCP), additional Transportation Systems Management (TSM) programs and a Vehicle Inspection/Maintenance (I/M) program. The Transportation Control Plans (TCPs) for the Detroit area will be addressed in a separate **Federal Register** notice.

The State of Michigan used the linear rollback approach (LRA) to determine the required carbon monoxide and ozone emission reductions. The projected carbon monoxide emissions in nonattainment areas and the anticipated reductions for 1982 and 1987 indicate that the required emission attainment level will not be achieved by 1982. However, the data compiled by SEMCOG shows that reasonable further progress will be achieved through 1982, and attainment of the standard is predicted prior to 1987. The projected hydrocarbon emissions in nonattainment areas and the anticipated reductions for 1982 and 1987 indicate that the required emission attainment level will not be achieved by 1982. However, the data indicated that reasonable further progress will be achieved through 1982, and attainment of the ozone NAAQS is predicted no later than 1987.

USEPA Final Determination: USEPA reviewed the carbon monoxide and ozone control strategies for the Detroit urban area, and proposed approval of these revisions to the Michigan SIP in the April 14, 1980, **Federal Register** (45 FR 25093). No public comments were received. Therefore, USEPA approves the carbon monoxide and ozone attainment demonstrations for the Detroit urban area.

USEPA Final Rulemaking Action

USEPA takes final rulemaking action today to approve the carbon monoxide and ozone attainment demonstrations and the vehicle inspection/maintenance program for the Detroit urban urea.

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment-area where a revised plan provides for attainment by the deadline required by section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dated under section 110(a)(2)(A) will be referenced in a footnote to the charts. Sources subject to plan requirements and deadlines established under section

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110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supercede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act make clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement fully Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even through a section 172 plan revision with a latter attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a State makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a State will be reviewed and acted upon by USEPA as SIP revision. In addition, as discussed in the April 4, 1979 **Federal Register** (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels proposed regulations, "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110(a), 172 and 301(a) of the Clean Air Act, as amended. (42 U.S.C. § 7410(a), 7502, 7601(a)).)

Dated: May 23, 1980.

Douglas Costle,

Administrator.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52, is amended as follows:

1. Section 52.1170(c) is amended by adding paragraph (26) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(26) On March 20, 1980, the State submitted commitments and additional revisions to the Inspection/Maintenance program for the Detroit urban area.

2. Section 52.1177 is revised as follows:

§ 52.1177 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect information presented in Michigan's plan, except where noted.

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
South Bend-Elkhart-Benton Harbor Interstate (AQCR 82):							
a. Primary/Secondary Nonattainment Areas	a	f	a	a	c	c	d
b. Remainder of AQCR	c	c	c	c	c	c	d
Central Michigan Intrastate (AQCR 122):							
a. Primary/Secondary	d	f	d	a	c	d	d
b. Remainder of AQCR	c	c	c	c	c	c	b
Metropolitan Detroit-Port Huron Intrastate (AQCR 123):							
a. Primary/Secondary	d	f	a	c	c	e	e
b. Remainder of AQCR	c	c	c	c	c	c	b
Metropolitan Toledo Interstate (AQCR 124):							
a. Primary/Secondary	a	f	a	c	c	c	a
b. Remainder of AQCR	c	c	c	c	c	c	b
South Central Michigan Intrastate (AQCR 125):							
a. Primary/Secondary	d	f	d	a	c	c	e
b. Remainder of AQCR	c	c	c	c	c	c	b
Upper Michigan Intrastate (AQCR 126):							
a. Primary/Secondary	c	f	c	c	c	c	d
b. Remainder of AQCR	c	c	c	c	c	c	b

Note.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable. These dates may be changed through revisions to the SIP by the State.

Note.—Sources subject to the plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR § 52.727.

Note.—For actual nonattainment designations, refer to 40 CFR Part 81.

a. July 1975.
b. Air quality levels presently below primary standards or area is unclassified.
c. Air quality levels presently below secondary standards or area is unclassified.
d. December 31, 1982.
e. December 31, 1987.
f. July 31, 1985.

[FR Doc. 80-16632 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 80

[FRL 1502-6]

Controls Applicable To Gasoline Refiners; Lead Phase-down Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the lead phase-down regulations (40 CFR 80.20) by revoking the unleaded gasoline production requirements associated with the optional 0.8 gram per gallon (gpg) standard for the quarter beginning April 1, 1980, and ending June 30, 1980. The requirements applicable to the quarter beginning July 1, 1980, will remain in effect unless altered as discussed in a Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**. This requirement is being revoked because it appears that adequate supplies of unleaded gasoline will be available for the current quarter without the imposition of an unleaded gasoline production requirements.

DATES: The revocation of the unleaded gasoline production requirement is effective May 22, 1980.

ADDRESS: Public Docket: Copies of information relative to this rule are available for public inspection at the Central Docket Section (Docket EN-80-4), Environmental Protection Agency, room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and are available for review between the hours of 8:00 A.M. and 4:00 P.M. As provided in 40 CFR Part 2. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Robert Summerhayes, Fuels Section, Field Operations and Support Division (EN-397), 401 M Street, S.W., Washington, D.C. 20460 at (202) 472-9367.

SUPPLEMENTARY INFORMATION: On September 12, 1979, EPA published amended regulations which relaxed for one year the lead phase-down standard of 0.5 gpg effective October 1, 1979, to 0.8 gpg conditioned upon an increase in quarterly unleaded gasoline production of six percentage points over the previous year, or an unleaded gasoline production of at least 45% of total gasoline (44 FR 53144). EPA relaxed the lead standard to enable refiners to produce more total gasoline. The unleaded gasoline production requirement was included to insure that sufficient supplies of unleaded gasoline would be produced to help protect against increased fuel switching due to shortages of gasoline, particularly unleaded gasoline. Alternatively, refiners were provided the option of complying with the 0.5 gpg requirement on October 1, 1979, as originally promulgated, in which case they would not be required to produce a minimum percentage of unleaded gasoline.

The 6%/45% unleaded gasoline production percentages were based on the historical growth of unleaded gasoline demand. But EPA noted in the preamble of the September 1979 amendments that it would "continue to monitor unleaded gasoline demand," and stated that "if demand does not grow by at least the historical rate, EPA will take appropriate actions to avoid the unnecessary overproduction of unleaded gasoline."

During January and February 1980, EPA received reports indicating that demand did not continue to increase at the historical rate and that some overproduction of unleaded gasoline occurred during the October-December 1979 quarter and the first part of the January-March 1980 quarter. Some refiners reported unusual difficulties in trading excess unleaded gasoline for leaded gasoline. EPA has also noted that cargo trading differentials on the inter-refinery spot market, which normally reflect a two to three cent per gallon premium for unleaded gasoline, dropped to zero cents per gallon in some areas. In one particular area the cargo trading differential fell to minus one and one-half cents per gallon; that represents a one and one-half cent premium for leaded gasoline over unleaded gasoline. Recent unleaded gasoline sales showed a smaller than six percentage points increase in unleaded gasoline demand during 1979 and early 1980. This reduction in the historical growth rate of unleaded gasoline has been attributed to both the declining sales of new unleaded vehicles and the trend towards the use of smaller, more fuel efficient cars. Based on this information, EPA concluded that adequate supplies of unleaded gasoline (relative to leaded) would be available for the January-March 1980 quarter without the imposition of the 6%/45% production requirement.

In order to avoid the unnecessary loss of energy caused by the overproduction of unleaded gasoline EPA revoked the unleaded gasoline production requirement for the January-March 1980 quarter (45 FR 14854) and proposed four alternatives for amending the requirements for the subsequent quarters. The possible alternatives included, but were not limited to: (1) no change; (2) adjust the 6%/45% production requirement to more accurately reflect the increased demand for unleaded gasoline each quarter over the corresponding quarter in 1979; (3) revoke the unleaded production requirements for the second and third quarters of calendar year 1980; or, (4) link a modification or revocation of the 6%/45% requirements to an indicator, such as retail price differential or the ratio of unleaded sales to unleaded refinery output. EPA solicited comments from interested parties concerning which of the proposed alternatives would be most effective.

The revocation of the unleaded gasoline requirements has allowed the unleaded/leaded gasoline balance to readjust towards historical levels. Indicative of this is that cargo trading differentials between unleaded and leaded grades are climbing back to about 0.5 to 1.0 cents per gallon. A 2 cents per gallon differential, which reflects the normally higher cost of unleaded production, would signal a return to equilibrium. Department of Energy reports show that inventories of crude oil and motor gasoline are currently very large and have recently registered historically high levels; at the same time, gasoline production rates are low. Consumer demand for gasoline products has slackened considerably; down 8.2% in March of 1980 as compared to the previous March according to the American Petroleum Institute. The possibility of a serious disruption of retail gasoline supplies during the short term is reduced greatly when crude oil and gasoline inventories are high. While complete assurance is not possible, it appears that adequate supplies of unleaded gasoline will be available for the current quarter without the imposition of an unleaded gasoline production requirement.

Because of EPA's desire to avoid any unnecessary loss of energy from the overproduction of unleaded gasoline, the lead phase-down regulations are being amended to remove the production requirement for the April–June 1980 quarter. The production requirement is being eliminated for only the current quarter since EPA does not yet have enough data to appropriately assess the demand and supply for the quarter beginning July 1, 1980. (See: "Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations: Notice of Proposed Rulemaking," elsewhere in this issue of the **Federal Register**.)

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Because this rule relieves a restriction on the regulated industry, EPA is publishing this amendment as a final rule effective immediately, pursuant to the exemptions in 5 USC 553(d). Since this rule results in a relaxation of an existing regulatory control, EPA has determined that this document does not contain a major action requiring an Economic Impact Analysis under Executive Orders 11821, 11949, 12044, and section 317 of the Clean Air Act, as amended.

Summary of Comments Received

The following is a summary of public comments on each of the proposed alternatives:

1. Keep present requirements in place.

Most commenters stated that the requirements are unnecessary and that market demand will adequately determine the percent of unleaded gasoline that needs to be produced. They further stated that continuing the requirements will result in marketplace dislocations similar to those that occurred during the January–March 1980 quarter. EPA notes that the factors which are believed to have caused a reduction in the growth rate of unleaded gasoline have not changed significantly since the revocation of the January to March quarter requirements. Sales of new cars, which require unleaded gasoline and generally replace leaded vehicles, are down 15.4% for domestic manufacturers and 8.6% overall for the January–March 1980 quarter compared to the January–March 1979 quarter. Import sales in the same period have increased 17.5%. The product mix of cars that are being sold has shifted towards smaller, more fuel efficient vehicles which replace older, leaded vehicles but use fewer gallons of fuel. Therefore, EPA believes that the continuation of the 8%/45% requirements would be inappropriate in light of these changes and the dislocations produced in the market during the January through March 1980 quarter.

2. Adjust the requirements to an intermediate figure.

Most commenters stated that if some requirement for unleaded gasoline production is imposed, then a reduction in the magnitude of the requirement should be made. They argue, however, that revising the estimate of the unleaded gasoline growth rate would be difficult because of continuing changes in driving habits caused by escalating gasoline prices. Some gasoline producers reported the projected growth in unleaded gasoline demand for their markets. The estimates for the current quarter ranged from a low of 4 percentage points for one refiner to a high of 5.8 percentage points for another. As a result, lowering the requirements to 5 or 5.5 percentage points could still cause market disruption but, perhaps, of a smaller magnitude.

EPA understands the difficulty in precisely revising the estimate of unleaded market share growth and has determined that adjusting the unleaded production requirements to some intermediate value is not practicable this time. However, we will continue to study this problem in anticipation of actions to be taken for the July–September 1980 quarter.

3. Revoke the unleaded requirements.

Twenty-five of twenty-eight commenters identified this option as their preferred approach. Some commenters noted that the refining industry has more than sufficient capacity to produce unleaded gasoline and that the existing two cent per gallon cost pass-through rule provided by the Department of Energy provides a sufficient incentive to use that capacity. A couple of commenters stated that sufficient volumes of unleaded gasoline would be available as long as crude supplies are not significantly interrupted.

An analysis of such factors as world-wide crude production levels, domestic crude oil and motor gasoline stocks, and product prices indicates that domestic supplies of gasoline should be adequate for the remainder of this quarter. Since the unleaded production requirements are unnecessary when adequate supplies of unleaded gasoline are available and since refiners have the capability of and incentive to produce the market split of unleaded gasoline if adequate crude supplies are available, EPA will revoke the unleaded requirements for the April–June 1980 quarter. The requirements applicable to the quarter beginning July 1, 1980, will remain in effect unless altered as discussed in a Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**.

4. Link a modification of the requirements to an indicator, such as retail price differential or the ratio of unleaded sales to unleaded refinery output.

Virtually all commenters who addressed this option stated that any such modifications would be very complicated and would be subject to the large lag time needed for data collection. They state that a number of refiners would be deterred from participating in the program. Therefore, EPA has rejected this option.

Dated: May 22, 1980.

Douglas M. Costle,

Administrator.

Accordingly, notice is hereby given that 40 CFR Part 80 is amended as follows:

1. In section 80.20, by amending paragraph (a)(7) to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

(a) * * *

(7) In the manufacture of gasoline, no gasoline refiner who has submitted a valid registration form for refineries in accordance with paragraph (a)(6) of this section, shall, in aggregate, at those registered refineries, produce unleaded gasoline as a percentage of total gasoline for the quarters beginning October 1, 1979 and July 1, 1980, or for either of these quarters for which a valid registration form has been submitted, that is less than that percentage in the comparable quarters beginning October 1, 1978 and July 1, 1979, plus six (6) percentage points unless the production of unleaded gasoline as a percentage of total gasoline produced by the refiner in aggregate at registered refineries is greater than 45%.

Authority: Sections 211, 301, Clean Air Act, as amended, 42 USC 7545, 7601.

[FR Doc. 80-16584 Filed 5-30-80; 8:45 am]

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40 CFR Parts 418, 426 and 432

[FRL 1504-4]

Best Conventional Pollutant Control Technology and Reasonableness of Existing Effluent Limitation Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Corrections.

SUMMARY: EPA corrects several typographical and editorial errors which affect the clarity of the final regulations relating to "best conventional pollutant control technology." These regulations were published in the **Federal Register** on August 29, 1979 at 44 FR 50732.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Hartnell, Office of Analysis and Evaluation (WH-586), EPA, 401 M Street S.W., Washington, D.C. 20460, (202) 755-2484.

SUPPLEMENTARY INFORMATION: FR Doc. 79-26619, published August 29, 1979, contained several typographical errors which do not affect the determinations of reasonableness but do affect the clarity of the final rules. Those errors are corrected as follows:

§ 418.13(c) [Corrected]

1. Page 50742, column number 1, § 418.13(c) describing the Best Available Technology Economically Achievable (BAT) limitations for the Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category is corrected to remove the waiver of the TSS limitation for calcium sulfate storage pile runoff facilities since the TSS limit no longer exists for BAT. Therefore, the wording following the table which starts "The total suspended . . ." and end with ". . . set forth in this paragraph." is deleted.

§ 418.17 [Corrected]

2. Page 50742, column number 2, § 418.17(c) describing the Best Conventional Pollutant Control Technology (BCT) limitations for the Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category is corrected to replace the words ". . . this paragraph" at the end of this section with ". . . 418.13(c)".

Part 426 [Corrected]

3. Page 50746, column number 3, amendment number 4 describing the BCT limitations for Part 426, Glass Manufacturing Point Source Category, is corrected to replace the lines in the "Section Designation" table starting with "Television picture tube" with the following:

Subcategory	Section Designation (40 CFR)
Television picture tube envelope manufacturing	426.117
Incandescent lamp envelope manufacturing	426.127
Hand pressed and blown glass manufacturing	426.137

Part 432 [Corrected]

4. Page 50748, column number 1, amendment number 2 describing the BCT limitations for part 432, Meat Products Point Source Category is corrected to replace the table describing the effluent limitations with the following:

Effluent Characteristic	Effluent Limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range of 6.0 to 9.0

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-16594 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

41 CFR Ch. 101

[FPMR Temp. Reg. A-11, Supp. 9]

Changes to Federal Travel Regulations

Correction

In FR Doc. 80-12512, appearing at page 27436 in the issue of Wednesday, April 23, 1980, the following changes should be made:

1. In column two on page 27439, the next to last line should have read, "a taxicab under 1-2.3c, payment on a".

2. In the first column of the table on page 27440, the first complete word in the third line of the entry "for District of Columbia" should have read "of".

3. In the third column of the table on page 27440, the second line under the entry "Pennsylvania" should have read, "Harrisburg"

BILLING CODE 1505-01-M

Public Buildings Service

41 CFR Parts 101-17, 101-18, 101-19

[FPMR Amendment D-76]

Federal Space Management

AGENCY: General Services Administration, Public Buildings Service.

ACTION: Final rule.

SUMMARY: This regulation incorporates appropriate procedures for the planning, acquisition, utilization, and management of Federal space facilities. These revisions are necessary to implement Executive Order 12072, dated August 16, 1978, and the joint memorandum of the Executive Office of the President and the Office of Management and Budget dated March 9, 1979.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: James G. Whitlock, Assistant Commissioner for Space Management, Public Buildings Service (202-566-1025).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. However, its provisions represent a strengthening of emphasis in GSA's facility siting policies. Specifically, the regulation:

1. Restates and reaffirms GSA's commitment to giving primary consideration to locating Federal activities in central business areas;

2. Establishes a limited number of specific circumstances that justify noncentral business area locations;

3. Establishes a procedure for conducting cost/benefit analyses on proposed relocations of Federal activities into central business areas;

4. Recognizes that in urban areas with more than one city, Federal activities should be located in the most distressed central city;

5. Establishes the framework for close coordination with local elected officials to ensure that Federal activities are housed in a manner consistent with local development objectives;

6. Recognizes the application of the Rural Development Act of 1972 to the facility program; provides for central business area locations to encourage development, redevelopment, and growth of rural areas; and codifies an agreement between GSA and the U.S. Department of Agriculture;

7. Formalizes procedures for GSA review of space actions of other Federal agencies that are not in compliance with EO 12072 and the revised Federal Property Management Regulations; and

8. Defines the terms "urban areas," "central business areas," "rural areas," and "central cities."

In developing the proposed rules, GSA obtained the advice and guidance of the Interagency Coordinating Council, created by Executive Order 12075, the Department of Housing and Urban Development, the Executive Office of the President, the National League of Cities, and the Center for National Policy Review.

These regulations were published in the **Federal Register** as proposed rules on March 29, 1979 (44 FR 18705), for a 60-day public commenting period. At the request of various Members of Congress and other interested individuals, the commenting period was extended to July 13, 1979. Approximately 200 written comments were received from Members of Congress; Federal, State, and local agencies; local governments; public interest groups; trade associations; and private citizens. During and subsequent to the commenting period, GSA officials testified on the proposed regulations at two congressional hearings on the implementation of the urban policy. In addition, GSA officials participated in numerous meetings with individual Members of Congress and public interest groups.

This regulation is made after consideration of all comments received. Simultaneously with the publication of

the proposed regulation in March 1979, GSA instructed its regional offices to follow its provisions as interim guidelines pending final publication. GSA headquarters staff has monitored regional implementation to assess the impact of the regulation on the regional operations. On the basis of that study and on the comments received, GSA has refined its procedures in this final rulemaking.

The refinements incorporated in the regulations include:

1. Clarification that the requirements for strict adherence to locations in central business areas apply to the location of Federal activities in urban areas;

2. Codification of an agreement reached between GSA and the U.S. Department of Agriculture concerning the location of USDA activities in rural areas;

3. Incorporation of a procedure for conducting cost/benefit analyses to assess the cost effectiveness of proposed relocations of Federal activities from noncentral business area into central business area sites;

4. Requirement for the approval of the GSA Regional Administrator of any decision to locate a Federal activity in other than a central business area of an urban area;

5. Acknowledgement of the unique characteristics of the Federal presence in the National Capital Region and a provision for implementing the regulations in conjunction with regional development plans prepared by the National Capital Planning Commission;

6. Codification of an agreement between GSA and the U.S. Postal Service concerning implementation of the urban policy for Postal Service activities; and

7. Restructure of procedures for compliance with the March 9, 1979, joint memorandum from the Executive Office of the President and the Office of Management and Budget to all agencies concerning GSA's review of agency space actions for conformance with the urban policy.

Many comments were received from suburban and rural interests in opposition to regulatory preference for the location of Federal activities in the central business areas of central cities of urban areas. Executive Order 12072 and particularly section 1–103 of the order requires first consideration be given to centralized community business areas and, therefore, it was not feasible to eliminate preference for central business areas of central cities and, at the same time, remain in compliance with the Executive order.

Inasmuch as these final regulations have incorporated procedural refinements that reflect comments received, it was determined to be unnecessary to reissue the regulation for comment.

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

1. The table of contents for Part 101–17 is amended by adding new entries for §§ 101–17.003–33—101–17.003–36, new Subpart 101–17.47, consisting of §§ 101–17.4700, 101–17.4701, and 101–17.4702, and by deleting the entry § 101–17–101–1c as follows:

* * * * *

Sec.

101–17.003–33 Urban area.
101–17.003–34 Central business areas..
101–17.003–35 Central city.
101–17.003–36 Rural area.
101–17.101–1c (Deleted).

Subparts 101–17.6—101–17.46 (Reserved)

Subpart 101–17.47—Exhibits

101–17.4700 Scope of subpart.
101–17.4701 Memorandum of understanding between the U.S. Department of Agriculture and the General Services Administration concerning the location of Federal facilities.
101–17.4702 Memorandum of agreement between the General Services Administration and the U.S. Postal Service for implementing the President's urban policy.

2. Section 101–17.001 is revised to read as follows:

§ 101–17.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Act of July 1, 1898 (40 U.S.C. 285); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.); the Rural Development Act of 1972 (86 Stat. 674); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201–4244; 40 U.S.C. 531–535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); and the National Environmental Policy Act of 1969, as amended.

3. Section 101–17.002 is revised to read as follows:

§ 101–17.002 Basic policy.

GSA will acquire and use federally owned and leased office buildings and space located in the United States and will issue standards and criteria for the use of this space. GSA will assign and reassign this space to Federal agencies and certain non-Federal organizations. GSA has oversight responsibility for Federal agency compliance with Executive Order 12072, including space acquisition in urban areas accomplished under authority other than the Federal Property and Administrative Services Act of 1949, as amended. As required by section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383, as amended by section 601 of the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 1322(b)), it is the responsibility of each agency to determine which of its new offices should be located in rural areas. When it is determined that agency space needs require an urban location, GSA and other Federal agencies shall be governed by the following policies for the assignment, reassignment, and use of buildings and space.

(a) Federal facilities and Federal use of space in urban areas shall serve to strengthen the Nation's cities and to make them attractive places to live and work. Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities.

(b) Serious consideration shall be given to the impact that a location or relocation will have on improving the social, economic, environmental, and cultural conditions of the communities in an urban area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of cities in urban areas and shall enhance and support the employment and economic base of these cities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maxmum socioeconomic benefits from these actions.

(c) In meeting space needs in urban areas:

(1) First consideration shall be given to a centralized business area and adjacent areas of similar character in the central city of Standard Metropolitan Statistical Areas (SMSA) defined by the Department of Commerce publication (Government Printing Office Stock Number 041–001–00101–8), including other specific areas of a city recommended by the elected chief executive officer of the local government or a designee, except where this type of consideration is otherwise prohibited. Space needs will be met outside the central business area of a central city of an SMSA only when one of the following circumstances exist:

(i) The service area of an activity is limited to a clearly defined sector of a city or a suburban or rural community, as is the case with satellite or branch offices; or where onsite activities are involved, such as inspection and/or maintenance operations at border stations, airports, seaports, or other similar activities;

(ii) Immediate compliance is not possible due to existing leasing commitments in areas outside the central business area (CBA). In these cases, plans for the future compliance shall be made; i.e., the activity shall be relocated to the central business area upon expiration of the lease;

(iii) The proposed facility or the activity's use of a facility is not in compliance with local land use or zoning ordinances; or

(iv) The elected chief executive officer of the local government or a designee advises the agency that an activity or facility should be located in an area of the central city other than the CBA.

(2) If location outside the central business area of the central city is required, preference shall be given to location within the central city.

(3) If location outside the central city is required, preference shall be given to locations in the central business area of noncentral cities.

(4) If location outside an SMSA is required, preference shall be given to central business area of non-SMSA cities.

(d) Decisions to relocate activities from existing noncentral business area locations into the central business area shall take into consideration an analysis of the comparative costs in relationship to the anticipated benefits of the proposed relocation. These cost/benefit analysis shall compare the costs of relocation into the central business area to the costs of alternative locations that would be delineated were there no plans to relocate the activity into the central business area. In conducting cost/benefit analyses the following steps shall be followed:

(1) An estimate of the comparative costs of a central business area location versus the costs of non-CBA locations shall be made, including an analysis of:

(i) The estimated annual per-square-foot market rent for comparable space in the central business area versus similar estimated market rents for delineated noncentral business area locations under consideration, plus

(ii) The estimated per-square-foot costs of duplicating permanent special-type alterations (such as laboratory or ADP space) amortized over the term of the lease and all renewal options; plus

(iii) The estimated per-square-foot cost of relocating offices to the various alternative locations, including the central business area amortized over the term of the lease and all renewal options, and

(iv) The estimated per-square-foot cost of residential relocation of employees, eligible for relocation under the Federal Travel Regulations (FPMR 101–7), who will likely apply for relocation. (These costs also will be amortized over the term of the lease and all renewal options.)

(2) The sum of the cost factors listed in paragraph (d)(1) of this section shall be computed for each alternative location considered, including the central business area location. If the annual per-square-foot cost of locating into the central business area does not exceed by a margin of 15 percent of the per-square-foot cost of those alternative locations outside the central business area, relocation shall be accomplished without further study.

(3) When the per-square-foot costs of relocating an activity into the central business area exceeds by a margin of 15 percent the costs per square foot of the alternative noncentral business area locations, further study shall be conducted to identify anticipated intangible benefits to the Government and the urban area involved by relocating into the central business area. The assistance and advice of the local government may be solicited during this phase of analysis. This phase of analysis shall include, as appropriate, but not be limited to the identification of all benefits accruing to the Government and the local community as follows:

(i) The influence a relocation will have on any established plan of the city to develop or redevelop the central business area. This factor shall include consideration of the extent to which the plan has been or will be implemented locally through Federal financial assistance and other positive commitments by the local community and an assessment of the prospects for success of the plan;

(ii) The impact of the proposed action on the affected office space rental markets;

(iii) The extent to which the accessibility of low and moderate income housing on a nondiscrimination basis and nondiscrimination in the sale and rental of residential housing for Federal employees will be improved;

(iv) The extent to which the accessibility of the central business area location to all segments of the population of the community served will be improved;

(v) The availability of parking and public transportation for employees and visitors to the central business area location; and

(vi) All other identified benefits particularly applicable to the local situation.

(4) Data gathered in paragraphs (d)(1) and (d)(3) of this section shall be used to reach a final decision on a proposed relocation into a central business area.

(5) In communities in which it is determined there is the potential for substantial relocations of agencies into the central business area over a medium ranged period of time (3 to 5 years), the GSA regional office may conduct a cost/benefit analysis on the cumulative impact of relocating agencies into the central business area over the planning period rather than on a case-by-case basis. These analyses will be conducted as described above. Any action taken during the planning period consistent with the conclusions of the cost/benefit analysis will not require an individual analysis. Periodic reviews of long-range cost/benefit analyses will be made as appropriate.

(e) Whenever the regional Public Buildings Service determines that it is impractical to locate a Federal activity consistent with the policy of paragraph (c)(1) of this section, it must obtain approval by the Regional Administrator of a waiver of the policy for the particular space action. These waivers may be granted for temporary periods because of local real estate market conditions or permanently, but must be based on documented facts, such as cost/benefit analyses described in paragraph (d) of this section.

(f) In SMSA's with more than one central city, or in urban areas with more than one city, GSA may make new space assignments in the central business area of the most distressed city. In addition, consideration may be given to meeting space needs in other than central cities when the following conditions exist: (1) A city in an SMSA is not a central city but has over 50,000 population and (2) the level of distress in that city is determined by the Secretary of Housing and Urban Development to be equal to or greater than any of the central cities.

(g) Consistent with the policies cited in paragraphs (a), (b), (c), (d), and (f) of this section, consideration shall be given to the following criteria in meeting Federal space needs in urban areas:

(1) Impact on economic development and employment opportunities in the urban area, including use of human, natural, cultural, and community

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resources with the objective of targeting distressed areas:

(2) Compatibility of the site with State, regional, or local development, redevelopment, or conservation objectives;

(3) Conformity with the activities and objectives of other Federal agencies;

(4) Availability of adequate low- and moderate-income housing on a nondiscriminatory basis for employees and nondiscrimination in the sale and rental of housing; and

(5) Availability of adequate public transportation and parking and accessibility to the public.

(h) The presence of the Federal Government in the National Capital Region is such that the distribution of Federal installations has been and will continue to be a major influence in the extent and character of development. In the interest of order and economy, and in view of the special nature of the National Capital Region, these policies shall be applied in the National Capital Region in conjunction with regional policies on development and distribution of Federal employment established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1952, as amended.

(i) Consistent with the policies cited in paragraphs (a), (b), (c), (d), and (f) of this section, alternative sources will be considered in meeting Federal space needs in urban areas in the following order:

(1) Availability of existing federally controlled facilities. Maximum use will be made of the facilities that, in the judgment of the Administrator of General Services, are adequate or economically adaptable to meeting the space needs of executive agencies;

(2) Use of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507);

(3) Acquisition or use of existing privately owned facilities; and

(4) Construction of new facilities.

(j) Site selection and space assignment shall take into account:

(1) The management needs for consolidation of agencies or activities in common or adjacent space to improve management and administration and effect economies; and

(2) The efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance of safe and healthful working conditions for employees.

(k) To the maximum extent feasible, GSA will maintain continuous liaison with the elected chief executive officer of local government or a designee to obtain advice and consultation with respect to space assignment, acquisition, and construction activities in the community. To establish the framework for consultation on space actions, GSA will seek agreements with local governments, which shall:

(1) Establish acceptable geographic boundaries of the central business area;

(2) Identify areas of the city outside the central business area targeted for development or redevelopment that would benefit from the stimulus of the location of Federal space;

(3) Define the types and sizes of GSA projects of interest to local government;

(4) Establish appropriate timing for notifying local officials of a GSA project;

(5) Advise local officials of the availability of data on GSA plans and programs, and agree upon the exchange of planning information with local officials;

(6) Identify appropriate timing for periodic reviews of the agreement to ensure it is providing maximum consultation; and

(7) Include other appropriate information.

(l) Federal facilities and Federal use of space in rural areas shall serve to strengthen the Nation's rural communities. Federal space shall encourage growth and economic development and redevelopment in rural areas. Consistent with the provisions of section 601(b) of the Rural Development Act of 1972 (86 Stat. 674), each agency shall give first priority to meeting Federal space needs in rural areas.

(m) In meeting space needs in rural areas:

(1) First consideration shall be given to the central business area of incorporated jurisdictions, including adjacent areas of similar character and specific areas recommended by local officials, except where this type of consideration is prohibited.

(2) Serious consideration shall be given to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in a rural area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of communities in rural areas, as well as enhance and support the employment and economic base of these communities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maximum socioeconomic benefits from these actions.

(3) In rural areas with more than one incorporated jurisdiction, space assignments shall be made in the most distressed jurisdiction.

(4) Space needs shall be met outside the central business area only when one of the exceptions contained in paragraphs (c)(1) (i), (ii), (iii), or (iv) of this section apply or in the case of county level field offices of USDA when the program requirements and needs of their clientele preclude locations in the central business area. The assignment and acquisition of facilities and space to house the activities of the U.S. Department of Agriculture are further defined in the USDA/GSA agreement in § 101–17–4701.

(n) Consistent with the policies cited in paragraphs (l) and (m) of this section, the site selection criteria contained in paragraph (j) of this section, and the alternative space acquisition methods contained in paragraph (i) of this section shall be considered. In addition, consultation with local officials in rural areas shall be consistent with the requirements of paragraph (k) of this section.

(o) In accordance with the joint White House/Office of Management and Budget memorandum, dated March 9, 1979, heads of executive agencies that acquire or use federally owned or leased space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, shall notify the appropriate GSA Regional Administrator before taking an irreversible action to acquire or use space when this action is inconsistent with the basic policies of paragraphs (a), (b), (c), (d), (f), (g), (h), (i), (j), (k), (l), (m), and (n) of this section.

(1) Notification shall include the:

(i) Description of the nature of the activity to be housed, type and amount of space involved, and number of employees to be housed;

(ii) Discussion and analysis of alternatives studies;

(iii) Documentation of advice received from local government;

(iv) Copy of the environmental assessment of the proposed action; and

(v) Citation of any statutory restrictions that preclude compliance with the above-referenced paragraphs of this section.

(2) Within 30 calendar days of receipt of the agency notification, the Regional Administrator shall notify the agency head in writing of concurrence with the proposed action. If the Regional Administrator does not concur with the proposed action, the Regional Administrator shall explain any objections in writing to the agency. The Administrator of General Services will notify the Director of the Office of Management and Budget of the basis for nonconcurrence.

4. Section 101–17.003 is amended by adding four subsections as follows:

§ 101–17.003 Definition of terms.

* * * * *

§ 101–17.003–33 Urban area.

"Urban area" means any Standard Metropolitan Statistical Area (SMSA) as defined by the Department of Commerce and any non-SMSA that meets one of the following criteria:

(a) A geographical area within the jurisdiction of any incorporated city, town, borough, village, or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants.

(b) That portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or

(c) That portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: The Intergovernmental Cooperation Act of 1968, 40 U.S.C 535.)

§ 101–17.003–34 Central business areas.

"Central business areas" means those areas within a central city in an SMSA or any non-SMSA that encompass the community's principal business and commercial activities, and the immediate fringes thereof, as geographically defined in consultation with local elected officials.

§ 101–17.003–35 Central city.

"Central city" means any city whose name appears in the title of an SMSA. Criteria for determining SMSA titles are established by the Department of Commerce.

§ 101–17.003–36 Rural area.

"Rural area" means any area that (a) is within a city or town if the city or town has a population of less than 10,000 or (b) is not within the outer boundaries of a city or town if the city or town has a population of 50,000 or more and if the adjacent urbanized and urbanizing areas have a population density of more than 100 square mile.

Subpart 101–17.1—Assignment of Space

5. Section 101–17.101 is amended by revising paragraphs (a), (b)(1), and (b)(4) to read as follows:

§ 101–17.101 Requests for space.

(a) Except as provided in § 101–17.101–2, Federal agencies shall satisfy their space needs by submitting a Standard Form 81, Request for Space, to the GSA regional office responsible for the geographic area in which the space is required. A listing of GSA regional offices and the areas they service is shown in § 101–17.4801.

(b) * * *

(1) Cooperate with and assist the Administrator of General Services in carrying out the Administrator's responsibilities with respect to buildings and space, recognizing the requirement that primary consideration be given to locating within the central business area in urban areas.

* * * * *

(4) Review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be accomplished elsewhere in the Nation without excessive costs or significant loss of efficiency.

§ 101–17.101–1c [Deleted]

6. Section 101–17.101–1c is deleted as follows:

7. Section 101–17.102–1(b) is revised to read as follows:

§ 101–17.102–1 Assignment by GSA.

* * * * *

(b) GSA may, in accordance with policies and directives prescribed by the President, including Executive Order 12072 of August 16, 1978 (43 FR 36869), under sections 205(a) and 210(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a) and 490(e)), and after consultation with the agencies affected, assign or reassign space of any executive agencies after determining that the assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

8. Subpart 101–17.47 is added to read as follows:

Subparts 101–17.6—101–17.46 [Reserved]

Subpart 101–17.47—Exhibits

§ 101–17.4700 Scope of subpart.

This Subpart 101–17.47 illustrates information referred to in the text of Part 101–17 but not suitable for inclusion elsewhere in that part.

§ 101–17.4701 Memorandum of understanding between the U.S. Department of Agriculture and the General Services Administration concerning the location of Federal facilities.

Memorandum of Understanding Between U.S. Department of Agriculture and General Services Administration Concerning the Location of Federal Facilities

Purpose. The purpose of this Memorandum of Understanding is to provide an effective arrangement whereby the Department of Agriculture and the General Services Administration will cooperate to implement the National Urban Policy. This memorandum requires that in urban areas and incorporated rural communities, offices and facilities of the Department will be located in central business areas whenever such location is consistent with program requirements.

1. The President's March 27, 1978, message on urban policy included a directive to the General Services Administration to retain Federal facilities in urban areas and to put new ones there.

2. On August 16, 1978, the President signed Executive Order 12072, "Federal Space Management" which requires the location of Federal facilities in such a manner as to strengthen the Nation's cities, and mandates that in urban areas first consideration be given to locating Federal facilities in the central business area or adjacent areas of similar character.

3. The Secretary of Agriculture recognizes the significant role the Department can play and the need to assist the Administrator of General Services in carrying out the requirements of Executive Order 12072.

4. The Rural Development Act of 1972, as amended, requires that consideration be given to locating Federal facilities in rural areas. The new Executive Order on Federal Space Management is consistent with the requirements of the Rural Development Act because it concerns the location of agencies subsequent to considering the requirements of the Act.

5. It is the policy of the Department of Agriculture to house within the same building (colocate) the county level offices of the Agricultureal Stabilization and Conservation Service, Cooperative Extension Service, Federal Crop Insurance Corporation, Farmers Home Administration, and Soil Conservation Service, as well as local offices of other Agriculture agencies delivering services at that level. The General Services Administration supports this policy.

6. The Department of Agriculture and the General Services Administration agree that:

a. The program and mission requirements of the agencies of the Department permit most of their offices and facilities above the county level to function suitably in the central business area of the urban areas where they are located. This includes all regional and state offices, certain research facilities, and all agencies whose operations are not affected in the delivery of services by location.

b. First consideration will be given to housing county level field offices in federally controlled space in the central business area of urban areas and incorporated rural communities. However, in cases where federally controlled space is available it must be economically adaptable to meet Agriculture needs in a timely manner (including the total needs for colocated facilities). Otherwise, the primary locational consideration shall be the program requirements of the agencies and accessibility for their clientele. In such instances, the outskirts of the cities and towns are more appropriate for these activities. Additionally, central business district locations are often not suitable for Forest Service District Ranger offices and other offices with special program needs for specific locations, such as plant, grain, animal, meat inspectors, and certain research facilities, or cooperative functions with state and local governments.

7. Therefore, this agreement will govern the acquisition of space by the General Services Administration for the Department of Agriculture, and the Department using its own or delegated leasing authority.

When a variance from this agreement is requested by either agency it shall be the responsibility of the requesting agency to present a compelling and fully substantiated case.

8. The terms "urban area" and "central business area" are used in accordance with the definitions in the Federal Property Management Regulations.

9. This agreement and guidelines shall remain in effect until cancelled by one or both parties on ninety days notice.

10. The parties to this Memorandum of Understanding agree to meet and review this agreement for effectiveness after the conclusion of one year.

Jim Williams,

Acting Secretary of Agriculture.

Dated: October 25, 1979.

R. G. Freeman III.

Administrator of General Services.

Dated: December 29, 1979.

Guidelines in Support of Memorandum of Understanding Between U.S. Department of Agriculture and General Services Administration Concerning the Location of Federal Facilities

The Memorandum of Understanding will permit the Department to support GSA in implementing Executive Order 12072, particularly the requirement to locate Federal facilities in the central business area of communities, while at the same time recognizing the location requirements of certain special facilities and the county level field service offices. This will assist the Department in its colocation policy for county level offices and other local offices of Agriculture agencies delivering service at that level. The objectives of this policy are to:

Provide better service to clients through one stop access and improved office coverage

Increase public participation in conservation and stabilization through increased exposure to the full range of available programs

Disseminate information to more prospective users by directing the clients of one agency to the services of another

Improve the cooperation of Federal, State, and county program administration

Achieve administrative economies

Enable closer coordination of Agriculture county level programs at the delivery point

To achieve these goals, the support of GSA is required by treating these offices as a single unit in leasing actions when requested by the Department.

Because of the differences in the ways in which the involved agencies are required by statute to procure and manage space, accommodations in leasing arrangements and charges are necessary to permit maximum colocation. For example, space for Cooperative Extension Service (CES) is provided or funded by the county government. In cases where CES cannot locate in Federal space, and the Department does not have delegated leasing authority, GSA should, consistent with the Federal Procurement Regulations and the Federal Property Management Regulations, lease space from or through the county in order to permit colocation.

For similar cases in which Agriculture county offices are working through cooperative efforts with State and county counterparts (e.g. Conservation Districts, State Forestry Offices, County Planning Boards, Representative Committees), and the Department does not have delegated leasing authority, GSA should, consistent with the Federal Procurement Regulations and the Federal Property Management Regulations, acquire space to permit the Agriculture offices to be located with these State and local groups.

Agriculture county level office programs are largely service oriented and depend on voluntary public participation for their effectiveness in achieving key national objectives of resource conservation, economic stabilization, and rural development. It is necessary that GSA recognize that location, provision, maintenance, and accessibility of county office facilities have a direct and significant impact on achieving this mission and must be administered accordingly.

Consistent with the Rural Development Act of 1972, as amended, the new Executive Order on Federal Space Management will not be used as a basis for moving Agriculture offices from rural to urban communities.

All Agriculture regional offices, State offices, and certain research facilities, and all agencies whose operations are not affected by location will be located in the central business area of the community in which they are located whenever such location is consistent with program requirements. Exceptions will be considered only on a case-by-case basis where application of this policy represents clearly demonstrable and quantifiable inhibitions to the delivery of program services.

First consideration will be given to housing county level field offices in federally controlled space in the central business district of the community. Exceptions, in addition to lack of sufficient economically adaptable space, must be based on clearly demonstrable inadequacies, such as inadequate parking for clientele, prohibition of trucks and other commercial vehicles on the streets leading to the building, location of the building in a community outside the area being served, failure to meet the handicapped requirements, unsafe or unhealthful working conditions.

§ 101-17.4702 Memorandum of agreement between the General Services Administration and the U.S. Postal Service for implementing the President's urban policy.

Agreement Between the General Services Administration and the U.S. Postal Service for Implementing the President's Urban Policy

GSA—USPS Urban Policy Memorandum of Agreement

Whereas the United States Postal Service, hereafter called USPS, and the General Services Administration, hereafter called GSA, share common goals and common needs in carrying out their missions and in implementing the President's urban policy by locating facilities in Central Business Areas (CBA)of Urban Areas (UA), and,

Whereas for the purpose of this agreement a UA means any Standard Metropolitan Statistical Area (SMSA) as defined by the Department of Commerce. An area which is not an SMSA is classified as an urban area if it is one of the following: (1) a geographical area within the jurisdiction of any incorporated city, town, borough, village or other unit of general local government, except county or parish, having a population of ten thousand or more inhabitants; (2) that portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government but has a population density equal to or exceeding one thousand five hundred inhabitants per square mile; and (3) that portion of any geographical area having a population density equal to or exceeding one thousand five hundred inhabitants per square mile and situated adjacent to the boundary of any incorporated unit general local government which has a population of ten thousand or more inhabitants; and CBA means those areas within a central city in an SMSA or those areas within any non-SMSA urban area which emcompass the community's principal business and commercial activities, and the immediate fringes thereof, as geographically defined in consultation with local officials. A central city means any city whose name appears in the title of an SMSA, and

Whereas GSA and USPS believe that the public welfare can be better served by increased cooperation between the two agencies, and,

Whereas the existing agreement does not cover all areas of agreement and cooperation necessary to promote those goals and needs which are desirable between the two agencies.

Now therefore, USPS and GSA agree to the following principles:

I. In order to better attain the goals of Executive Order 12072, Federal Space

Management, and the President's Urban Policy, USPS and GSA agree to take steps to improve coordination of planning activities for new facilities in urban areas, including the following:

A. In planning to construct a facility in a community, USPS and GSA will give preference to locating such facilities in the CBA unless the program requirements of the activities to be housed dictate that the facility be located elsewhere in the urban area.

B. As early as possible in the planning of a project to be satisfied by new construction in a CBA, the planning agency shall notify the other agency of the proposed project. If both USPS and GSA agree that a joint project is economically beneficial, then a determination will immediately be made as to which agency will be responsible for the planning; the basis for this determination will be occupancy in excess of 55% of the proposed space, i.e., unless USPS will occupy over 55% of the net rentable area, GSA will be the owner agency. Regardless of which agency is the owner agency, the tenant agency will guarantee occupancy of the space planned for that agency for a minumum period of 10 years, unless another period of time is mutually agreed upon by both agencies.

(1) General Services Administration. (a) *Projects requiring Congressional approval.* Lease construction projects having an annual net rent of $500,000 or more or Federal construction and repair and alteration projects having a total project cost of $500,000 or more require approval of a prospectus or a Report of Building Project Survey by the Public Works Committees of the Congress.

When such a project is in the preparation stage, GSA's regional office will notify the appropriate USPS regional office that it is contemplating a project in the CBA. If USPS has a long range space requirement that could be satisfied in the CBA, it will advise GSA's regional office so that space may be included in planning the proposed project. When GSA's Central Office submits the prospectus for the proposed project to the Office of Management and Budget for approval and subsequently to the Public Works committees of the Congress for authorization, copies of the prospectus will be funished to the USPS Headquarters office and the appropriate USPS regional office. At any time during the planning and approval process that USPS determines it does not have a requirement for space, the USPS Headquarters office will advise the GSA Central Office of this requirement change. Prior to commencing with the design of the building, the GSA regional office will obtain the final space requirements from the USPS regional office along with a firm commitment to occupy the space for a minimum period of 10 years, or any other time that is mutually agreed upon between the two agencies.

(b) *Projects Not Requiring Congressional approval.* When GSA plans a project not requiring Congressional approval and to be located in the CBA, GSA's regional office will notify the appropriate USPS regional office. If USPS has a long range space need that could be satisfied in the CBA, it will advise GSA's regional office so that space may be included in the proposed project. Prior to GSA soliciting offers requesting firm proposals to lease the required space, the GSA regional office will obtain the final space requirements from the USPS regional office along with a firm commitment to occupy the space for a minimum period of 10 years or as may be mutually agreed upon between the appropriate regional offices of the USPS and GSA.

(2) *United States Postal Service.* (a) Within seven days after approval of the USPS five year budget plan, the Postal Service will provide GSA with a list of approved projects. If GSA wishes to participate in any of the planned projects, GSA will advise USPS of its interest in participation within 90 days after notification by USPS, give an estimate of the amount and type of space required, and will commence necessary studies to develop firm space needs.

When GSA indicates an interest in participation, the USPS region which has the responsibility for planning activities shall then coordinate space planning activities with the appropriate GSA Region so that an adequately sized site is acquired for the facility. Prior to commencement of design of the building, GSA shall furnish final space requirements to the USPS and a firm commitment to occupy the space for a minimum period of ten years or any other term that may be mutually agreed upon by both agencies.

(b) During the USPS planning phase of the project the contact point for GSA within the Postal Service will be the Director, Real Estate and Buildings Department, for the USPS region responsible for the planning.

After approval and authorization of funding by the USPS for the project, the USPS point of contact shall remain the same, unless the project has been determined to be a major USPS facility. In such cases the Commissioner, Public Buildings Service at GSA will be notified that the new point of contact will be the Assistant Postmaster General, Real Estate and Buildings Department, United States Postal Service.

C. Both agencies recognize that decisions to occupy space are based on an expected period of occupany. Delays in the planning, approval, funding and start of design phases of a project could alter these decisions. It is therefore agreed that both parties will provide an expected date that space will be available at the time of initial project notifications. Project delays occurring at any time from initial notification through start of design will be reported to the tenant agency and may be cause for cancellation of any commitment to occupy space.

D. When USPS or GSA has control over a site in the UA which is needed by the other agency for a project, the agencies agree to make such sites available to each other to the maximum extent practicable and possible under laws and regulations governing each agency, i.e., one agency acquiring a site by transfer from the other through the land bank or GSA obtaining an assignable option from USPS for a lease construction project.

II. When GSA or USPS seeks leased space, available space in both agencies' inventories shall be considered before any advertisement for privately owned space. If the available space is not acceptable to the acquiring agency then the acquiring agency shall advise the holding agency and allow the holding agency sufficient time to accommodate the acquiring agency's objection, provided the mission need of the tenant agency will not be adversely affected by the delay. If the space would be suitable with alterations which would normally be the responsibility of the owner agency, but the owner agency does not have funds to make those alterations, then the tenant agency may fund the alterations. In such cases, the rent charged the tenant shall be based upon the condition of the space prior to the alterations and the space will not be subject to preemption by the owner agency for a period of 10 years or such other time to which the two agencies shall agree. In any case the period shall be not less than three years.

In the case of renting, the acquiring agency shall guarantee to the holding agency continued occupancy of a period sufficient to amortize construction costs whenever extensive repairs and remodeling are required. Repairs and alterations shall be made in accordance with existing agreements.

III. It is recognized that both agencies have a vested interest in conserving energy Therefore, to ensure that both agencies benefit from the experience and technology of the other, it is agreed that each agency will furnish to the other reports, studies, research, and development data in the field of energy conservation once this information is accepted by the contracting agency. Additionally, internal policies and procedures relating to energy conservation shall be exchanged as they are issued.

IV. Both agencies recognize the National interest in preserving historic buildings, each having several hundred designated historic properties in its inventory. In order to conserve our Nation's cultural heritage it is agreed that as early as possible in the planning process each agency will notify the other as to its need to vacate an historic building so that the other may give proper consideration to acquiring and utilizing such property.

V. It is recognized by both agencies that improved communications between USPS and GSA will benefit not only both agencies, but also all Federal agencies, local jurisdictions, and the general welfare. Many of the misundertandings result from problems and situations which are not covered in the present agreement between the two agencies (dated August 1974). Therefore, it is agreed that the existing agreement shall be amended and approved by both agencies no later than June 30, 1979. It is also agreed that the Commissioner of the Public Buildings Service of GSA and the Assistant Postmaster General, Real Estate and Buildings Department of the United States Postal Service, shall meet annually in September to review the continuing working relationship of the agencies. Such meetings will commence in September 1979.

It is also agreed that the terms of the agreement between GSA and USPS shall be equally binding on both agencies, internal regulations of either agency notwithstanding. In order to maintain continuity and coordination with respect to this agreement,

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there will be a single point of contact within each agency for all matters pertaining to the relationship between GSA and USPS. That contact shall, in turn, be responsible for coordinating within his respective agency. At GSA, the point of contact will be the Assistant Commissioner for Space Management, Public Buildings Service. At USPS, the point of contact shall be the Director, Office of Real Estate. The point of contact for exchange of project requirements, as specified by sections I and II of this agreement, at the regional level are as follows: the GSA contact shall be the Director, Space Management Division, Public Buildings Service, and the USPS contact shall be the General Manager, Real Estate Division.

VI. Upon signing this memorandum of cooperation agreement, GSA and USPS shall issue appropriate instructions to the field implementing this agreement. The agreement will become effective 90 days after it is signed to allow each agency time to issue the proper implementing instruction.

Jay Solomon,
Administrator.

Dated: March 21, 1979.

William F. Bolger,
Postmaster General.

Dated: March 23, 1979.

PART 101-18—ACQUISITION OF REAL PROPERTY

9. Section 101-18.001 is revised to read as follows:

§ 101-18.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 and 490); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601.615), 73 Stat. 479; Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201–4244; 40 U.S.C. 531–535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894; the Rural Development Act of 1972, 86 Stat. 657, as amended; and OMB Circular A-95 (41 FR 2052).

Subpart 101-18.1—Acquisition by Lease

10. Section 101-18.100 is amended by revising paragraph (d) and deleting paragraphs (f) and (g) to read as follows:

§ 101-18.100 Basic policy.

* * * * *

(d) When considering aquisition or when acquiring space by lease, the policies contained in § 101-17.002 regarding determination of the location of Federal facilities shall be strictly adhered to.

* * * * *

(f) (Deleted)

(g) (Deleted)

PART 101-19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

11. Section 101-19.001 is revised to read as follows:

§ 101-19.001 Authority.

This Part 101-19 implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Public Buildings Act of 1959 (40 U.S.C. 601-615 as amended); Pub. L. 90-480, 82 Stat. 718, as amended (42 U.S.C. 4151-4156); the Clean Air Act (42 U.S.C. 1857-1858); the Federal Water Pollution Control Act (33 U.S.C. 1151-1175); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244, 40 U.S.C. 531-535); Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects (Office of Management and Budget Circular A-95 Revised); section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383 as amended by section 601 of the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 1322(b)); Executive Order 12088 (3 CFR 829 (1971-1975 compilation)); Executive Order 11724 (3 CFR 777 (1971-1975 compilation)); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

12. Section 101-19.002 is amended to revise paragraph (a) and to reserve paragraph (b) as follows:

§ 101-19.002 Basic policy.

(a) In the process of developing building projects, the policies contained in § 101-17.002 regarding the determination of the location of Federal facilities shall be strictly adhered to.

(b) (Reserved)

* * * * *

Subpart 101-19.1—General

13. Section 101-19.100 is amended by revising paragraphs (c)(1), (c)(2), (f)(1), and (f)(4) to read as follows:

§ 101-19.100 Intergovernmental consultation on Federal projects.

* * * * *

(c) * * *

(1) **The GSA Regional Administrator will notify the planning agencies at least 30 calendar days before the initiation of any survey conducted for the purpose of preparing a prospectus or Report of Building Project Survey for submittal to the Congress. Notifications of less than 30 calendar days are authorized only in emergency situations. The notification will specify the approximate date(s) on which the survey will be conducted and will request that the GSA Regional Administrator be provided as soon as practicable all pertinent planning and development information that will be considered in connection with the space plan for the community. This information will include city, county, State, and regional plans for land use and development; use of community development funds; neighborhood revitalization; mass transit; highways; flood control; and air, water, solid waste, and other relevant environmental data.**

(2) Within 30 calendar days following the approval of a proposed action by the Congress, the GSA Regional Administrator will inform the previously notified planning agencies of the results of the survey. Particular reference will be made to the need, if any, for a new Federal building within a 10-year period or a major lease consolidation which could result in new commercial construction in the community. The letter will request that the GSA Regional Administrator be informed of all changes or refinements in the planning information initially provided, and set forth the following minimum data relative to the proposed Federal project:

(i) Area or city in which the project will be located;

(ii) Type of building (office building, post office, courthouse, etc.);

(iii) Approximate size of building;

(iv) Specific site location requirements;

(v) Estimated building population; and

(vi) Estimated total project cost.

* * * * *

(f) * * *

(1) GSA will transmit copies of the draft environmental statement, prepared in accordance with the provisions of the National Environmental Policy Act of 1969, as amended, and the regulations of the Council on Environmental Quality to the Environmental Protection Agency, and to the Governor of the State, the U.S. Senators of the State, and the U.S. Representative from the congressional district of the State where the project will be located.

* * * * *

(4) Copies of the final environmental statement will be transmitted to the Environmental Protection Agency and to those persons who submitted substantive comments on the draft statement or requested copies of the final statement. Unless waived by EPA, no irreversible or irretrievable action shall be taken on a project until 30 calendar days after submission of the final statement to EPA.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: May 27, 1980.

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 80-16592 Filed 5-30-80; 8:45 am]

BILLING CODE 6820-23-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5829]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal Subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	De Kalb	Fort Payne, city of	010067A	May 1, 1980, suspension withdrawn	Nov. 1, 1974
Do	Butler	Greenville, city of	010329A	do	Oct. 8, 1976
Do	De Kalb	Rainsville, city of	010368A	do	Mar. 12, 1976
Arizona	Gila				
Do	do	Miami, town of	040030B	do	June 28, 1974 and Apr 23, 1976.
Colorado	Summit	Silverthorne, town of	080201A	do	July 25, 1975
Connecticut	Hartford	South Windsor, town of	090036B	do	Aug. 16, 1974 and July 9, 1976
Florida	Calhoun	Blountstown, city of	120060B	do	May 24, 1974 and Jan 9, 1976.
Georgia	Gwinnett	Norcross, city of	130101B	do	May 24, 1974 and Mar 5 1976
Idaho	Bannock	Pocatello, city of	160012B	do	Mar. 1, 1974 and Aug 13, 1976
Illinois	Will	New Lenox, village of	170706B	do	May 24, 1974 and May 14, 1976
Indiana	Madison	Chesterfield, town of	180151B	do	Dec. 17, 1974 and Sept 24, 1976
Do	Lake	Schererville, town of	180142B	do	Nov. 30, 1973 and Oct 31, 1975
Minnesota	Hennepin	Edina, city of	270160B	do	Feb. 1, 1974 and July 25, 1975
Do	Morrison	Little Falls, city of	270299B	do	June 21, 1974.
New Hampshire	Hillborough	Greenfield, town of	330209A	do	Apr. 4, 1975
Do	do	Milford, town of	330096B	do	Mar. 22, 1974 and June 18, 1976
Do	do	Peterborough, town of	330101A	do	Nov. 12, 1976
New Jersey	Middlesex	North Brunswick, township of	340271B	do	June 28, 1975.
New York	Saratoga	Waterford, village of	360735A	do	Mar. 29, 1974.
North Carolina	Gaston	Unincorporated areas	370099B	do	Nov. 29, 1974 and July 14, 1976.
Do	Iredell	Mooresville, town of	370314A	do	Apr. 25, 1975.
Do	Davidson	Unincorporated areas	370307B	do	June 17, 1977
Do	Gaston	Mount Holly, city of	370102C	do	Jan. 9, 1974 and June 25, 1976
North Dakota	Walsh	Forest River, city of	380136A	do	Nov. 22, 1974
Ohio	Fairfield	Lancaster, city of	390161B	do	May 17, 1974.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Oklahoma	Kay	Blackwell, city of	400078B	do	Feb. 1, 1974 and Apr. 9, 1976.
Pennsylvania	Columbia	Bloomsburg, town of	420339B	do	Feb. 22, 1974 and Oct. 15, 1976.
Do	Beaver	Bridgewater Borough of	420106B	do	Feb. 22, 1974 and April 9, 1976.
Do	Wyoming	Eaton, township of	420909B	do	Jan. 9, 1974 and Nov. 26, 1976.
South Carolina	Anderson	Belton, city of	450015B	do	May 24, 1974.
Do	Lexington	Cayce, city of	450131B	do	May 31, 1974 and Apr. 30, 1976.
Do	do	Irmo, town of	450133C	do	May 17, 1974 and Apr. 30, 1976.
Do	do	Lexington, town of	450134B	do	June 7, 1974 and Dec. 10, 1976.
Do	do	Springdale, town of	450138C	do	June 28, 1974 and July 30, 1976.
Utah	Emery	Castle Dale, city of	490059B	do	Jan. 10, 1978.
Virginia	Franklin	Rocky Mount, town of	510291A	do	Jan. 17, 1975.
Do	Warren	Unincorporated areas	510166A	do	July 19, 1974.
Washington	Pierce	Buckley, city of	530139B	do	Aug. 16, 1974 and Jan. 2, 1976.
Do	Lewis	Chehalis, city of	530104B	do	June 7, 1974 and Sept. 24, 1976.
Do	King	Issaquah, city of	530079B	do	Feb. 8, 1974 and Feb. 25, 1977.
West Virginia	Marshall	Benwood, city of	540108B	do	Apr. 5, 1974 and Apr. 23, 1976.
New York	St. Lawrence	Richville, village of	361467	May 1, 1980, emergency	Jan. 10, 1975.
North Dakota	Traill	Greenfield, township of	38064—New	do	
Tennessee	Wayne	Clifton, city of	470200	May 2, 1980, emergency	Sept. 17, 1976.
Iowa	Plymouth	Unincorporated areas	190899A	May 6, 1980, emergency	Oct. 25, 1977.
Texas	Fort Bend	Cities Municipal Utility District, city of	481566—New	do	
Mississippi	Lawrence	Newhebron, town of	280317	May 5, 1980, emergency	Nov. 3, 1978.
Washington	Skamania	Unincorporated areas	530160	do	
Pennsylvania	Beaver	Ambridge, borough of	420102B	Jan. 14, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended, May 7, 1980, reinstated.	Feb. 22, 1974 and May 28, 1976.
Do	Lycoming	Muncy, township of	421847A	May 9, 1980, emergency	Dec. 20, 1974 and July 30, 1976.
Illinois	Sangamon	Auburn, city of	170944	May 13, 1980, emergency.	Mar. 2, 1979.
New York	Greene	Jewett, town of	361114	do	Dec. 23, 1977.
Texas	McLennan	Lorena, city of	480928B	May 14, 1980, emergency, May 14, 1980, regular.	June 21, 1977.
Pennsylvania	Bradford	Athens, township of	420976B	Jan. 30, 1974, emergency, Apr. 1, 1980, regular, Apr. 1, 1980, suspended, May 8, 1980, reinstated.	June 28, 1974 and July 16, 1976.
Mississippi	Pike	Unincorporated areas	280278A	May 13, 1980, emergency.	June 10, 1977.
Do	Lamar	Purvis, town of	280318	May 14, 1980, emergency.	Nov. 3, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16476 Filed 5-30-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free (800) 424–9080), Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67 (presently also appearing at its former Title 24, Chapter X, Part 1917 of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-base) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Ohio	Franklin, City, Warren County (Docket No. FI-4077).	Great Miami River	Downstream Corporate Limits	*671
			Baxter Road (Extended)	*675
			Chicago & Northwestern Railroad (Upstream)	*678
			Park Avenue (Upstream)	*681
			Bryant Avenue (Extended)	*682
			Upstream Corporate Limits	*684
		Clear Creek	Confluence with Great Miami River	*671
			Baxter Road (Upstream)	*673
			Chicago & Northwestern Railroad (Upstream)	*679
			Union Road	*684
			Confluence of Beam Ditch	*686
			State Route 123 (Upstream)	*690
			Interstate 75 (Downstream)	*696
			Interstate 75 (Upstream)	[redacted]
			Private Driveway 5,920 feet upstream of I-75 (Upstream)	*710
			Upstream Corporate Limits	*714
		Greens Run	Confluence with Tommy's Run	*702
			Interstate 75 Culvert Outlet	*719
			Interstate 75 Culvert Inlet	*725
			State Route 123 (Upstream)	*730
			Beal Road Culvert Inlet	*733
			Private Driveway 211 feet upstream of Beal Road (Upstream)	*733
		Beam Ditch	Confluence with Clear Creek	[redacted]
			State Route 123 (Upstream)	*692
			4th Street (Upstream)	*707
			Thomas Drive (Extended)	*717
			Martha Road Culvert Outlet	*724
			Moore Drive Culvert Inlet	*735
	Maps are available at the City Hall, 35 East Fourth Street, Franklin, Ohio.			
Texas	Hunter Creek Village, City, Harris County (Docket No. FEMA-5723)	Buffalo Bayou	Downstream Corporate Limits	*59
			Voss Road	*62
			Upstream Corporate Limits	*63
	Maps are available at the Hunters Creek Village Mayor's Office, Houston, Texas.			
Texas	Village of Lakeway, Travis County (FI-4105).	Lake Travis	Entire Shoreline	*716
		Hurst Creek	Upstream of Lohmann Crossing Road	*750
			Upstream of Lakeway Drive	*765
			Downstream of World Tennis Boulevard	*778
	Maps are available at City Hall, 1204 Lakeway Drive, Lakeway, Texas 78734			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator (44 FR 20963))

Issued: May 9, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16471 Filed 5-30-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR PART 67

[Docket No. FEMA-5729]

National Flood Insurance Program; Final Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction to final rule for the City of Ripon, Fond Du Lac County, Wisconsin.

SUMMARY: In order to correctly reflect the base (100-year) flood elevations as they appear on the Flood Insurance Study and Rate Map for the City of Ripon, Fond Du Lac County, Wisconsin, the final notice of flood elevation determination should be amended for specific locations as follows:

Source of flooding	Location	Elevation in feet (NGVD)
Silver Creek	Just downstream Eureka St.	904
	Just upstream Eureka St.	911

The other locations and elevations listed for the community are correct as published.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii, call Toll Free Line (800) 424–9080) Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the correction to the Notice of final determinations of base (100-year) flood elevations for selected locations in the City of Ripon, Fond Du Lac County, Wisconsin, previously published at 45 FR 20629 on March 31, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)). 42 U.S.C. 4001–4128, and 44 CFR Part 67 (presently also appearing at its former Title 24, Chapter X, Part 1917).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: May 12, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-16474 Filed 5-30-80; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5729]

National Flood Insurance Program; Final Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction to final rule for the Unincorporated Areas of Sauk County, Wisconsin.

SUMMARY: In order to correctly reflect the base (100-year) flood elevations as they appear on the Flood Insurance Study and Rate Map for the Unincorporated Areas of Sauk County, Wisconsin, the final notice of flood elevation determination should be amended for specific locations as follows:

Source of flooding	Location	Elevation in feet (NGVD)
Baraboo River	Just upstream of State Highway 33.	806
	Just downstream of State Highway 113.	815
Honey Creek	About .33 mile upstream of County Highway C.	770
Otter Creek	Approximately 800 feet upstream of River Rd.	747
East Branch Honey Creek.	About 1.9 miles downstream of Denzer Rd.	778
	Just upstream of Denzer Rd..	792

The other locations and elevations listed for the community are correct as published.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080) Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

EFFECTIVE DATE: June 2, 1980.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of final determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Sauk County, Wisconsin, previously published at 45 FR 28135 on April 28, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67 (presently also appearing at its former Title 24, Chapter X, Part 1917).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: May 12, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-16475 Filed 5-30-80; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-340; RM-3508; RM-3605]

FM Broadcast Station in Malakoff, Tex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Malakoff, Texas, in response to a petition filed by Edd L. Routt. The proposed channel could provide Malakoff with its first local aural broadcast service and would be available for use at Athens, Texas.

EFFECTIVE DATE: July 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:
In the matter of amendment of § 73.202(b). Table of Assignments FM Broadcast Stations. (Malakoff, Texas), BC Docket No. 79–340, RM–3508, RM–3605.

Report and Order—Proceeding Terminated

Adopted: May 19, 1980.
Released: May 23, 1980.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 45 FR 1920, adopted December 19, 1979, proposing the assignment of FM Channel 240A to Malakoff, Texas, at the request of Edd L. Routt ("petitioner"). Supporting comments were filed by the Mayors of Malakoff, Tool and Gun Barrel City, Texas. A counterproposal was accepted from the Athens Mayor and Chamber of Commerce stating that Ken Jones d/b/a Terrell Radio ("Terrell"), licensee of Station KTLR–FM, Terrell, Texas, seeks assignment of the same channel to Athens, Texas. Comments to both proposals were submitted by Capital Cities Communications, Inc. ("Capital Cities"), licensee of FM Station KSCS, Fort Worth, Texas. Comments in support of the Athens proposal were filed by Seven Seals Broadcasting Corp. ("Seven Seals"), stating it would apply for the channel, if assigned. The proposals are mutually exclusive because the communities of Malakoff and Athens are only about 16 kilometers (10 miles) apart, whereas 105 kilometers (65 miles) is required.

2. The counterproposal of Terrell was subsequently withdrawn by the Mayor and President of the Chamber of Commerce of Athens. In addition, the interest expressed by Seven Seals was conditionally withdrawn on the basis that it is willing to use a non-commercial educational frequency for its proposed religous format station. Thus, it appears that there remains no party who has give an adequate commitment to apply for the proposed Athens channel assignment. Nevertheless, if Channel 240A is assigned to Malakoff, it could be applied for at Athens under the 10-mile rule (Section 73.203(b) of the Commission's Rules).

3. Malakoff (pop. 2,045)[1] in Henderson County, is located approximately 108 kilometers (67 miles) southeast of Dallas, Texas. It has no local aural broadcast service.

4. Petitioner has submitted persuasive information with respect to Malakoff and its need for a first local aural broadcast service.

5. Capital Cities states it has no objection to the assignment of the proposed channel to either Malakoff or Athens, provided there is no shortspacing to its station at Fort Worth (KSCS(FM)). A restriction of 4 kilometers (2.4 miles) had been indicated in the *Notice* and will be imposed herein.

6. The Commission believes it would be in the public interest to assign Channel 240A to Malakoff, Texas. Athens already has local aural service (a daytime-only AM station (KBUD)), whereas the proposed Malakoff assignment would provide for a first local aural service to that community. However, even though assigned to Malakoff, the channel would be available for use under the provisions of § 73.203(b) of the Commission's rules (10-mile rule). As indicated before, a transmitter site restriction of 4 kilometers (2.4 miles) southeast of Malakoff will be necessary to comply with the minimum distance separation requirements.

7. Accordingly, it is ordered, that effective July 3, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the community listed below as follows:

City and Channel No.
Malakoff, Texas—24A

8. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))
Federal Communications Commission.

Henry L. Baumann,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-16623 Filed 5-30-80; 8:45 am]
BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 79-268; RM-3418]

FM Broadcast Station in Ticonderoga, N.Y.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Ticonderoga, New York, as a first FM assignment, in response to a petition filed by Motsinger Communications, Inc. The proposed channel could be used to provide a first fulltime local aural broadcast service to Ticonderoga.

EFFECTIVE DATE: July 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:
In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ticonderoga, New York), BC Docket No. 79–268, RM–3418.

Report and Order—Proceeding Terminated

Adopted: May 16, 1980.
Released: May 23, 1980.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 44 FR 62306, in response to a petition filed by Motsinger Communications, Inc. ("petitioner"), licensee of daytime-only AM Station WIPS, Ticonderoga, New York, proposing the assignment of FM Channel 280A to Ticonderoga. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Ticonderoga (pop. 5,830)[1], in Essex County (pop. 34,631), is located approximately 134 kilometers (83 miles) north of Albany, New York. It is served locally be daytime-only AM Station WIPS, licensed to petitioner.

3. Petitioner states that Ticonderoga is the largest community in Essex County with much of the economy based on tourism, recreation and paper manufacturing. Petitioner has submitted persuasive information with respect to Ticonderoga and its need for a first FM assignment.

4. The Canadian Government has given its concurrence in the proposed assignment of Channel 280A to Ticonderoga, New York.

5. We have given careful consideration to the proposal and believe that Channel 280A should be assigned to Ticonderoga, New York. Interest has been shown for its use and the assignment would provide the community with its first fulltime local broadcast service.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. In view of the foregoing, it is ordered, that effective July 3, 1980, § 73.202(b) of the Commission's rules, the FM Table of Assignments, as a regards Ticonderoga, New York, is amended to read as follows:

City and Channel No.
Ticonderoga, New York—280A

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

Federal Communications Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Henry L. Baumann,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-16624 Filed 5-30-80; 8:45 am]
BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Coast Guard

49 CFR Parts 450, 451, 452, 453

[CGD 79-027]

Safety Approval of Cargo Containers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The U.S. Coast Guard has amended its Safety Approval of Cargo Container regulations to incorporate public comments and international discussion. Among several other changes, this final rule makes the following amendments to the existing regulations: (1) It allows persons or organizations to whom an approval authority is delegated in any contracting State to obtain a delegation as an approval authority for the United States on a reciprocal basis. (2) It expands and standardizes the information required to be submitted by an owner or manufacturer to an approved authority. (3) It adds alternative approval of new containers by design type.

EFFECTIVE DATE: These regulations are effective July 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Hochman, Cargo and Hazardous Materials Division (G-MHM-2), Room 1406, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, 202-426-1577.

SUPPLEMENTARY INFORMATION: On November 29, 1979, the U.S. Coast Guard published a Proposed Rule, Safety Approval of Cargo Containers, Docket CGD 79-027 (44 FR 68495), that proposed to amend the established domestic administrative machinery for the approval of freight containers which are subject to the requirements of the International Convention for Safe Containers (CSC), 1972. The existing regulations were published on April 20, 1978 (43 FR 16946). The background and basis for the regulations was discussed in that rulemaking. U.S. owned containers are subject to the requirements of the CSC when they enter the jurisdiction of contracting parties. The CSC came into force on September 6, 1977, for the first ten contracting parties and on January 3, 1979, for the United States. As of January 14, 1980, twenty-five nations had either ratified or acceded to the CSC. Interested persons were invited to give their views prior to the closing date, December 31, 1979.

Drafting Information

The principal drafters of this document are Charles H. Hochman, Project Manager, Office of Merchant Marine Safety and Michael N. Mervin, Project Counsel, Office of Chief Counsel.

Discussion of Major Comments

In addition to the comments received from the public, discussions at the 19th through 21st sessions of the Intergovernmental Maritime Consultative Organization (IMCO) Containers and Cargoes Subcommittee and the 1st session of the Economic Commission for Europe (ECE) Group of Experts on Combined Transport have developed a set of harmonized interpretation and implementation procedures agreed upon by all the contracting parties of the CSC. It is anticipated that these harmonized interpretation and implementation procedures will be used by all future contracting States when they develop their national regulations.

One comment suggested a change to § 450.5, General requirements and applicability. The proposed change would incorporate a cross-reference to the Materials Transportation Bureau of the Department of Transportation proposed rulemaking on Intermodal Portable Tanks. This cross-reference would inform persons or organizations who use intermodal portable tanks of the requirements of the CSC. The Coast Guard cannot accept this recommendation because it is not appropriate to reference proposed rulemakings in a final rule. However, the requirements of the CSC will be contained in the appropriate sections of the Intermodal Portable Tank specifications when they are published as a final rule.

Two comments objected to the addition of § 450.11(e) dealing with the approval of foreign persons or organizations to act as approval authorities for the United States. Both contended that the addition of this provision would not benefit U.S. container owners or manufacturers. In addition, it was suggested that this provision would greatly increase the administrative burden on the Coast Guard. The Coast Guard has studied these comments and concluded that the approval of containers would be facilitated if classification societies or other organizations approved by one contracting party were authorized to act for other contracting parties under arrangements acceptable to the parties involved. The approval of existing containers is becoming more important as the end of the five (5) year period for obtaining approval for existing containers approaches. The five (5) year period ends on September 6, 1982. The approval of foreign persons or organizations to act as approval authorities for the United States will not place an increased administrative burden on the Coast Guard. For these reasons, these suggestions were not adopted. However, in an attempt to ensure that applications from U.S. citizens or organizations are directed to the proper foreign agency an additional sentence has been added to section § 450.11(e). This sentence requires the name and address of the agency to which applications for delegation as an approval authority must be submitted by U.S. organizations.

One comment suggested a change to § 450.12, Criteria for selection of Approval Authorities. The proposed change would authorize any person or organization that has the capability in terms of personnel and equipment to perform the needed tasks of testing and approving containers. The Coast Guard does not agree. It is the view of the U.S. as well as all other contracting parties to the CSC that all organizations appointed as approval authorities must be free from undue influence by container owners, operators, manufacturers, lessors, repairers, and others who may have a vested interest in obtaining container approval in addition to being technically capable. This does not prevent any owner from performing the required periodic examinations required by the CSC and 49 CFR Part 452.

One comment suggested a change to section § 451.12, Application for approval by design type. This change would require written assurance from the manufacturer required by section § 451.12(a)(5) to be signed by an officer of the company. This comment was rejected because not every officer of the company has the legal authority to sign for a manufacturing corporation.

One comment suggested an amendment to section § 451.25, Required Information, paragraph (d). The comment stated that in the cases where a container changes ownership and the new owner changes the container number, it may not be practicable to add the new owners number on line 3 of the safety approval plate and retain legibility on line 3 of the plate. It was suggested that in those cases where the new owner's number cannot legibly be marked on line 3 of the safety approval plate that the owner be authorized to put a new safety approval plate on the freight container while retaining all the information that was included on the original plate in their files. The suggestion was accepted and section § 451.25(d) has been amended to reflect this change.

One comment suggested a change to section § 452.1, Periodic examination required. The proposed change would waive the 24 month examination requirement for intermodal portable tanks carrying hazardous materials. This suggestion cannot be accepted since it would require an amendment to Annex 1, Regulation 2 of the International Convention for Safe Containers.

This final rule has been evaluated in accordance with DOT Regulatory Policies and Procedures 44 FR 1133 (February 26, 1979). The changes will have no impact on the regulated industry because they modify the requirements without increasing them. A copy of the final evaluation is available for review in Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. between the hours of 7:00 a.m. and 5:00 p.m. Monday through Thursday, except holidays.

In consideration of the foregoing 49 CFR Parts 450-453 are revised as follows:

SUBCHAPTER B—SAFETY APPROVAL OF CARGO CONTAINERS

Part
450 General.
451 Testing and approval of containers.
452 Periodic examination of containers.
453 Control and enforcement.

SUBCHAPTER B—SAFETY APPROVAL OF CARGO CONTAINERS

PART 450—GENERAL

Subpart A—General Provisions

Sec.
450.1 Purpose.
450.3 Definitions.
450.5 General requirements and applicability.

Subpart B—Procedures for Delegation to Approval Authorities

450.11 Application for delegation of authority.
450.12 Criteria for selection of Approval Authorities.
450.13 Granting of delegation.
450.14 Conditions of delegation.
450.15 Termination of delegation.
450.16 Withdrawal of delegation.

Authority: Sec. 4, 91 Stat 1475, 46 U.S.C. 1503, 49 CFR 1.46(n).

Subpart A—General Provisions

§ 450.1 Purpose.

This subchapter establishes requirements and procedures for safety approval and periodic examination of cargo containers used in international transport, as defined in the International Safe Container Act.

§ 450.3 Definitions.

(a) In this subchapter: (1) "Approval Authority" means a delegate of the Commandant authorized to approve containers within the terms of the convention, the International Safe Container Act and this subchapter.

(2) "Container" means an article of transport equipment:

(i) Of a permanent character and suitable for a repeated use.

(ii) Specially design to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading.

(iii) Designed to be secured and readily handled, having corner fittings for these purposes.

(iv) Of a size that the area enclosed by the four outer bottom corners is either—

(A) At least 14 sq.m. (150 sq.ft.), or

(B) At least 7 sq.m. (75 sq.ft.) if it has top corner fittings. The term "container" includes neither vehicles nor packaging; however, containers when carried on chassis are included.

(3) "Convention" means the International Convention for Safe Containers (CSC) done at Geneva, December 2, 1972 and ratified by the United States on January 3, 1978.

(4) "District Commander" means the Coast Guard officer designated by the Commandant to command a Coast Guard District.

§ 450.5 General requirements and applicability.

(a) Every owner of a new or existing container used or offered for movement in international transport shall have the container approved in accordance with the procedures established by the Administration of any contracting party to the convention, except that existing containers need not be approved until September 6, 1982.

(b) Every owner of an approved container used or offered for movement in international transport who—

(1) is domiciled in the United States and has the head office in the United States, or

(2) is domiciled in a country which is not a contracting party to the convention but has the principal office in the United States, shall have the container periodically examined in accordance with Part 452 of this subchapter.

(c) Every owner of an approved container used or offered for movement in international transport who—

(1) is domiciled in the United States but has the principal office in the jurisdiction of another contracting party to the convention, or

(2) is domiciled in the jurisdiction of another contracting party to the convention but has the principal office in the United States, but elects to have the container examined in accordance with the procedures prescribed by the United States, shall conform to Part 452 of this subchapter.

(d) Every owner of an approved container used or offered for movement in international transport who is neither domiciled in nor has the principal office in the jurisdiction of a contracting party to the convention, but elects to have the container examined in accordance with procedures prescribed by the United States, shall conform to Part 452 of this subchapter.

Subpart B—Procedure for Delegation to Approval Authorities

§ 450.11 Application for delegation of authority.

(a) Any person or organization seeking delegation of authority to act as an Approval Authority may apply to the Commandant, (G-MHM), United States Coast Guard, Washington, D.C. 20593. Each application must be signed and certified by the applicant or, if the applicant is an organization, by an authorized officer of the organization. A list of delegated approval authorities may be obtained from the Commandant (G-MHM).

(b) The application must include the following information: (1) Name and address, including place of incorporation, if a corporation.

(2) A description of the organization, including the ownership, managerial structure, organizational components and directly affiliated agencies and their functions utilized for supporting technical services.

(3) A listing of the basic technical services offered.

(4) A general description of the geographic area served.

(5) A general description of the clients being served or intended to be served.

(6) A description of the types of work performed by the applicant in the past, noting the amount and extent of such work performed within the previous three years.

(7) A description of the personnel to be utilized, indicating general background and qualifications, particularly for the surveyors to be involved in the actual witnessing of tests.

(8) A description of its means of assuring continued competence of its personnel.

(9) A detailed schedule of the fees proposed to be charged for the approval service.

(10) Evidence of financial stability.

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(11) At least three business references who will furnish information regarding work performed by the applicant.

(12) A statement that the Coast Guard may inspect the applicant's facilities and records of approvals under the convention and these regulations.

(c) The application may contain any additional information the applicant deems to be pertinent.

(d) The applicant must furnish any additional information to evaluate the applicant's qualifications, if requested by the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard.

(e) Applications from foreign nationals or organizations must contain an affidavit stating that the agency responsible for implementing the Convention in their country has delegated to the applicant an approval authority, and that it also delegates similar authority to United States citizens or organizations having delegations from the United States. The affidavit must also contain the name and address of the agency to which U.S. citizens or organizations must apply for delegation as an approval authority.

§ 450.12 Criteria for selection of Approval Authorities.

(a) The Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard selects persons or organizations in accordance with the following criteria:

(1) The person or organization is independent of manufacturers and owners in that:

(i) It has sufficient breadth of interest or activity, so that the loss or award of a specific contract to approve containers would not be a substantial factor in the financial well-being of the organization.

(ii) The employment status of the personnel of the organization is free from influence or control of manufacturers, owners, operators or lessors of containers.

(2) The person or organization has demonstrated the ability to competently carry out the procedures required for approval.

(3) The person or organization has an acceptable degree of financial security.

§ 450.13 Granting of delegation.

(a) The Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard acts on applications for delegation within 60 days of receipt.

(b) If an applicant for delegation does not provide sufficient information with regard to all the criteria for delegation, the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard denies the application. A denial of an application on this basis is without prejudice to the submission of a new or amended application.

(c) If an applicant satisfies all the criteria for delegation the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard sends the applicant a letter of delegation, and assigns to the Approval Authority an alphabetic Approval Authority identification code.

(d) If an applicant fails to satisfy all the criteria for delegation, the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard gives the applicant written notice of denial of his application. The notice contains all the reasons for the denial. The applicant may contest the denial by submitting additional oral or written evidence in support of its qualifications. Upon review of the evidence, the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard notifies the applicant of the final decision.

§ 450.14 Conditions of delegation.

(a) The following conditions are part of every delegation: (1) The Appoval Authority shall use only testing equipment that it has determined by inspection to be suitable for the purpose.

(2) All approval numbers issued by the Approval Authority must contain the identification code, assigned to the Approval Authority by the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard.

(3) Each Approval Authority shall maintain the following records for a period of at least 15 years from the date of approval. (When the Approval Authority's delegation is withdrawn before such time, the records relating to the approvals issued within the prior 15 years must be turned over to the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard):

(i) Each notice of approval issued.

(ii) A copy of the application and final approved drawings (if applicable) to which each approval refers.

(iii) The manufacturer's serial numbers and the owner's identification numbers of all containers covered by each approval.

(4) Each Approval Authority shall establish and make available to the public a schedule of fees for the approval services performed under these regulations. The fees must not be disproportionate to the costs (including transportation expense, if any) actually incurred.

(5) The Approval Authority shall grant the Coast Guard the right to inspect records and shall cooperate in the conduct of such inspections.

(6) The Approval Authority shall comply with any other term or condition stated in its letter of delegation.

§ 450.15 Termination of delegation.

(a) An Approval Authority may voluntarily terminate its delegation by giving written notice of its intent to the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard. This notice must contain the date on which the termination is to be effective.

§ 450.16 Withdrawal of delegation.

(a) The Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard withdraws a delegation if: (1) It is determined that the application for delegation contained a material misrepresentation.

(2) An Approval Authority fails to comply with a condition of delegation.

(3) An Approval Authority is incompetent.

(b) When a delegation is withdrawn, the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard gives to the Approval Authority:

(1) Written notice of the facts or conduct believed to warrant the withdrawal.

(2) Opportunity to submit oral or written evidence.

(3) Opportunity to demonstrate or achieve compliance with the applicable requirement.

PART 451—TESTING AND APPROVAL OF CONTAINERS

Subpart A—Approval of Existing Containers

Sec.

451.1 Application for Approval.
451.3 Action by Approval Authority.
451.5 Resubmission or appeal.
451.7 Alternative approval of existing containers.

Subpart B—Approval of New Containers

451.11 Application for approval-general.
451.12 Application for approval by design type.
451.13 Action by Approval Authority-approval be design type.
451.14 Alternative approval of new containers by design type.
451.15 Application for individual approval.
451.16 Action by Approval Authority-individual approval.
451.18 Review of denials of approval.

Subpart C—Safety Approval Plate

Sec.

451.21 Safety approval plate required.
451.23 Plate specifications.
451.25 Required information.

Authority: Sec. 4, 91 Stat. 1475, 46 U.S.C. 1503, 49 CFR 1.46(n).

Subpart A—Approval of Existing Containers

§ 451.1 Application for approval.

(a) Any owner of an existing container may apply for approval to the Commandant (G–MHM), United States Coast Guard, Washington, D.C. 20593 or to any Approval Authority.

(b) Each application must include the following for each container:

(1) Date and place of manufacture.

(2) Manufacturer's identification number, if available.

(3) Maximum operating gross weight capacity.

(4) Allowable stacking weight for 1.8G (1.8 x Gross weight in kilograms or pounds).

Note.—This value is the total load the container is designed to support when subjected to a vertical acceleration of 1.8G.

(5) A statement that the owner possesses documentary evidence that—

(i) Container of this type has been safely used in marine or inland transport for a period of at least two years; or

(ii) The container was manufactured to a design type which had been tested and found to comply with the technical conditions set out in Annex II to the convention with the exception of those technical conditions relating to the end-wall and side-wall strength tests; or

(iii) The container was constructed to standards that were equivalent to the technical conditions set out in Annex II to the convention with the exception of those technical conditions relating to end-wall and side-wall strength tests.

(6) A certification by the owner, or, if the owner is a corporation, partnership or unincorporated association, by a person authorized to make such statements for the organization, that the information provided in the application is true and correct.

§ 451.3 Action by approval authority.

(a) The Approval Authority (or the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard, if the application was submitted to the Coast Guard) issues to the owner a notice of approval or notifies the owner in writing that approval is denied, setting forth the deficiencies causing denial. Notification of approval entitles the owner to affix a safety approval plate to each container after an examination of each container concerned has been carried out in accordance with Part 452 of this subchapter. In the case of an application submitted to the Coast Guard, the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard acts on the application within 30 days of receipt of the application.

§ 451.5 Resubmission or appeal.

(a) Upon receipt of a denial of approval for certain containers, an owner may correct the noted deficiencies and resubmit the application without prejudice.

(b) An applicant aggrieved by a decision of an approval authority may obtain review of the decision by the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard. The decision of the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard is a final agency action.

§ 451.7 Alternative approval of existing containers.

(a) Existing containers that do not qualify for approval under this subpart may be presented for approval under the provisions of Subpart B of this part. For such containers, the requirements of Subpart B of this part relating to the end and sidewall strength tests do not apply. Upon showing that the containers have performed satisfactorily in service, the applicant may omit the presentation of drawings and testing, other than the lifting and floor strength test, if permitted by the approval authority.

Subpart B—Approval of New Containers

§ 451.11 Application for approval-general.

(a) An owner of a new container, or a manufacturer acting on behalf of an owner, may apply for approval to any approval authority.

§ 451.12 Application for approval by design type.

(a) For approval of new containers by design type, each application must include the following:

(1) Engineering drawings and plans showing platform, end framing, welds and hardware, connections of cross-members, top and bottom rails, roof bows, detailed subassemblies of major structural components and attachments, and any other plans and drawings required by the approval authority.

(2) Design and material specifications including type and size of materials. Material specifications of the safety approval plate must also be given.

(3) The manufacturer's identification number assigned to each container in the type series.

(4) The identification code assigned to each container in the series by the owner, lessee, of bailee responsible for maintenance.

(5) The written assurance from the manufacturer, that the manufacturer will:

(i) Produce to the approval authority such containers as the approval authority may wish to examine;

(ii) Advise the approval authority of any change in the design or specification and await its approval before affixing the Safety Approval Plate to the container;

(iii) Affix the Safety Approval Plate to each container in the design type and to no others;

(iv) Keep a record of containers manufactured to the approved design type containing at least the manufacturer's identification numbers, date of delivery, and names and addresses of customers to whom the containers are delivered; and

(v) Supply to the approval authority the information contained in paragraphs (a)(3) and (4) of this section if not available at the time of original application.

(6) A statement as to whether this design type has been examined by any approval authority previously and judged unacceptable. Affirmative statements must be documented with the name of the approving authority, the reason for nonacceptance, and the nature of modifications made to the design type.

§ 451.13 Action by approval authority-approval by design type.

(a) The approval authority arranges with the manufacturer, with notification to the owner, to witness the prototype tests required by the convention, and to examine any number of containers that the approval authority considers appropriate. Upon witnessing successful completion of prototype tests and examination of several containers the approval authority issues to the owner, a notice of approval which authorizes the attachment of safety approval plates to the containers. Absence of individual inspections will not relieve the manufacturer of any responsibility to maintain proper quality control. If a prototype container fails to pass the tests, the approval authority may require testing of as many further representative containers as necessary to ensure the adequacy of the design.

§ 451.14 Alternative approval of new containers by design type.

(a) New containers manufactured before June 16, 1978 without being approved under the preceding section may be approved by submission to an approval authority of an application corresponding to that required under § 451.1(b) for existing containers. All new containers so approved must have safety approval plates affixed and receive their first periodic examination in accordance with the procedures prescribed in § 452.3 not more than five years after their date of manufacture.

§ 451.15 Application for individual approval.

(a) For approval of new containers by individual approval, each application must include the following:

(1) The manufacturer's identification number.

(2) The identification code of the owner, lessee, or bailee responsible for maintenance of the container.

§ 451.16 Action by approval authority-individual approval.

(a) The approval authority arranges with the manufacturer or owner to witness testing in accordance with Annex II to the convention. Upon witnessing successful completion of the tests, the approval authority issues to the owner a notice of approval that authorizes the attachment of a safety approval plate.

§ 451.18 Review of denials of approval.

(a) An applicant aggrieved by a decision of an approval authority may obtain review of the decision by the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard. The decision of the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard is a final agency action.

Subpart C—Safety Approval Plate

§ 451.21 Safety approval plate required.

(a) The safety approval plate must be supplied by the owner or manufacturer.

§ 451.23 Plate specifications.

(a) The safety approval plate must be of the size and in the format specified in the appendix to Annex I to the convention.

(b) The safety approval plate must be:

(1) Designed to withstand and remain legible after a 15 minute exposure to a medium intensity fire producing a temperature of 1,000°F (540°C), when mounted on the specified material of construction of the container.

(2) Designed to resist the corrosive effects of its environment, both at sea and ashore, so as to remain legible for the working life of the container.

(3) Designed to have a legible life expectancy equal to or greater than the life expectancy of the container to which the plate is affixed.

§ 451.25 Required information.

(a) The safety approval number appearing on line 1 of the safety approval plate must be of the form "USA/(approval number, which includes the approval authority identification code)/(year in which approval was granted)."

(b) The date upon which approval was granted must be the same for all containers of a design-type or type-series covered by one notice of approval.

(c) The safety approval number must be the same for all containers of a design-type or type-series covered by one notice of approval.

(d) The owner's International Organization for Standardization (ISO) alpha numeric identification numbers may be used in place of the manufacturer's identification numbers on line 3 of the safety approval plate. If owner's identification numbers are used and the manufacturer's are available, the owner shall keep records correlating the owner's identification numbers used with the manufacturer's number. If a container marked with owner's identification numbers changes ownership, and the owner's identification number is changed as a result, the new owner must add the new owner's identification number, following the original owner's identification number on line 3 of the safety approval plate. In the event that the new owner's identification number cannot be legibly added to line 3 of the safety approval plate following the original owner's identification number, the new owner is authorized to put a new safety approval plate on the freight container provided that all the information contained on the original safety approval plate is retained in the owners files.

PART 452—PERIODIC EXAMINATION OF CONTAINERS

Sec.

452.1 Periodic examination required.
452.3 Elements of periodic examinations.
452.5 Examinations made in conjunction with other inspections.

Authority: Sec. 4, 91 Stat. 1475, 46 U.S.C. 1503, 49 CFR 1.46(n).

§ 452.1 Periodic examination required.

(a) Each owner of an approved container subject to this part shall examine the container or have it examined in accordance with the procedures prescribed in § 452.3 at intervals of not more than 24 months, except that for containers approved as new containers the interval from the date of manufacture to the date of the first examination must not exceed five years. For containers approved, examined and plated as existing containers before September 6, 1982, the first re-examination must be carried out in accordance with the following schedule:

Date of initial plating	First re-examination
Before September 30, 1979	Before March 1, 1983
Between October 1, 1979 and September 30, 1980	Before September 1, 1983
Between October 1, 1980 and September 30, 1981	Before March 1, 1984.
Between October 1, 1981 and September 6, 1982.	Before September 1, 1984.

(b) Upon completion of an examination required by this part, the owner shall mark on the safety approval plate, or on the container itself as close as practicable to the safety approval plate, the month and year before which the container must next be examined. The marking may be by a decal, sticker, stencil, or other means so long as it is capable of remaining legible for at least 24 months. Affixing such a marking to a container that has not been examined in accordance with § 452.3 constitutes a misrepresentation in a matter within the jurisdiction of an agency of the United States, and makes the owner punishable under 18 U.S.C. 1001.

(c) The owner of containers subject to this part shall have those containers examined in accordance with the program prescribed in this part regardless of whether the examinations are performed within or outside the United States.

§ 452.3 Elements of periodic examinations.

(a) Periodic examinations required by § 452.1 must conform to the following minimum requirements:

(1) Each examination must include a detailed visual inspection for defects such as cracks, failures, corrosion, missing or deteriorated fasteners, and any other safety related deficiency or damage which could place any person in danger. Any such deficiencies disclosed by the examination must be corrected by the owner before the container is continued in service.

(2) Each examination must take into account the particular characteristics of various kinds (types) of containers and materials of construction.

(3) Each examination must be performed by qualified personnel, trained and experienced in the detection of container structural damage.

(4) The examinations must be scheduled so as to allow adequate time for thorough performance.

(5) Each examination must apply owner established or industry accepted pass/fail criteria to determine whether a container has any deficiency that must be remedied before the container is returned to service.

(b) Examinations must be documented, and the records retained by the owner, until the next examination is completed and recorded. The records must include in addition to identification of the container, a record of the date of last examination and a means of identifying the examiner. The records must be maintained in an office under the control of the owner and be made available for inspection by the Coast Guard upon demand. If the original records are maintained outside the United States, its territories or possessions, supplementary records must be available in written or data processing form to be produced on demand of the Commandant or his representative.

§ 452.5 Examinations made in conjunction with other inspections.

(a) Periodic examinations may be made in conjunction with or as part of routine change-of-custody inspections, or in any other manner convenient to the owner so long as the examinations conform to the requirements of § 452.3.

PART 453—CONTROL AND ENFORCEMENT

Sec.

453.1 Unsafe and noncomplying containers subject to detention or control.
453.3 Detention orders and other orders.
453.5 Termination of detention orders and other orders.
453.7 Appeal provisions.

Authority: Sec. 4, 91 Stat. 1475, 46 U.S.C. 1503, 49 CFR 1.46(n).

§ 453.1 Unsafe and noncomplying containers subject to detention or control.

(a) Any container used in or offered for movement in international transport which does not have a valid safety approval plate attached to it is subject to detention or other control by a District Commander or Captain of the Port. However, upon receipt of evidence that a container which does not have a valid safety approval plate attached to it meets the standards of the convention, the District Commander or Captain of the Port may authorize limited movement of such container, under conditions he deems appropriate. This paragraph becomes effective on January 3, 1979, for new containers and on September 6, 1982, for existing containers.

(b) If a District Commander or Captain of the Port finds that a container used in or offered for movement in international transport, even though it has a valid safety approval plate attached to it, is in a condition that creates an obvious risk to safety, he issues a detention order causing the container to be removed from service until it is restored to a safe condition. In addition to removing a container from transport, a detention order may require any special handling, including unloading prior to movement, necessary to ensure safety.

(c) If a District Commander or Captain of the Port finds that a container used or offered for movement in international transport has not been timely examined, the District Commander or Captain of the Port affixes to the container, at a place on the container where it will be readily noticeable to anyone loading or unloading the container, a mark or tag indicating that the container must be examined before being reloaded and again used in international transport. The mark or tag affixed by the District Commander or Captain of the Port indicates the place and the date on which it was affixed, and is capable of remaining legible and in place for at least 12 months. Such mark or tag must not be removed until the container is examined in accordance with § 452.3 of this subchapter. If a District Commander or Captain of the Port finds that container marked or tagged as provided for in this paragraph was reloaded and used or offered for movement in international transport without having been examined, the District Commander or Captain of the Port issues a detention order causing the container to be removed from service until it is brought into compliance.

§ 453.3 Detention orders and other orders.

(a) The terms of any detention order or other order issued under § 453.1, to the maximum extent practicable, make provisions to avoid loss or damage to cargo.

(b) Written notice of any detention order or other order issued under § 453.1 is given immediately to the terminal operator, stevedore, or other person having actual control over the container involved. Prompt notification is also given to the owner of the container, or his agent. The notification identifies the container involved, its location, and describes the condition which gave rise to the order.

§ 453.5 Termination of detention orders and other orders.

(a) When a container, which is the subject of a detention order or other order, is restored to a safe condition or otherwise brought into compliance, it must be examined in accordance with § 452.3 and a new re-examination date marked on the container in accordance with § 452.1(b) of this subchapter.

(b) The owner or the owner's agent shall notify the District Commander or Captain of the Port who issue the order, in writing, that the container has been brought into compliance. Upon giving such notice, the owner, or his agent, may return the container to service.

§ 453.7 Appeal provisions.

(a) The owner, his agent, or the custodian of a container subject to a detention order or other order may petition the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard to review that order.

(b) The Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard requires independent surveys to determine the extent of deficiencies, if necessary. Upon completion of his review, including review of the results of any required independent surveys, the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard affirms, sets aside, or modifies the order.

(c) The owner of a container is liable for any costs incident to a petition for review including any independent surveys, and for any other costs incident to or resulting from detention or other control of a container.

(d) Unless otherwise determined by the Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard, a detention order or other order remains in effect pending the outcome of any petition or appeal of that order.

(e) The Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, U.S. Coast Guard acts on all appeals within ten days of receipt.

Dated: May 21, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-16662 Filed 5-30-80; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1041

[No. MC-C-3437 (Sub-No. 7)]

Petition To Amend Interpretation of Operating Rights Authorizing Service at Designated Airports

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: We are amending 49 CFR 1041.22(a) to permit motor carriers holding authority to provide service at a named airport in the transportation of freight having a prior or subsequent movement by air to provide service also at all points located within the air terminal zone of the airport.

DATE: This amendment of 49 CFR 1041.22(a) shall be effective July 2, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph B. O'Malley, Jr., 202–275–7928, or Donald J. Shaw, Jr., 202–275–7972.

SUPPLEMENTARY INFORMATION: On October 3, 1978, Pinto Trucking Service, Inc., a motor common carrier specializing in the transportation of air freight between airports, asked us to amend our regulations. Pinto believes that motor carriers with authority to serve specific airports should be able to serve any point within the air terminal zones of those airports. Notice of the filing of the petition was published in the **Federal Register** on October 24, 1978 (43 FR 49601). The Commission invited comments from all interested parties.

After reviewing the initial comments, we instituted this proceeding to consider amending the regulation in the manner described above. Notice of proposed rulemaking was published in the **Federal Register** on November 26, 1979 (44 FR 67476). In the notice we indicated our belief that allowing line-haul air freight motor carriers broader service opportunities could have potentially important benefits for the air freight shipping public. We also noted the possibility that these potential benefits could be outweighed by harmful effects on existing services.

To supplement the record and focus the issues, we solicited additional comments from the shipping public and the air freight industry. The deadline for comments was January 25, 1980, although we have considered comments received as late as February 22, 1980.

For the reasons discussed below, we are persuaded that our proposal should be adopted.

Background

Prior to the adoption of the current regulation in No. MC–C–3437 (Sub-No. 4), *Interpretation of Rights—Designated Airports*, 110 M.C.C. 597 (1969), airport-to-airport operating authorities were interpreted to permit service only within the physical boundaries of the airports. The present regulation (49 CFR 1041.22(a)) was adopted in 1969 in recognition of the fact that airport congestion had forced some air carriers to construct freight terminals outside those physical boundaries. The purpose behind the regulation was simply to permit motor carriers with airport-to-airport authority to serve those nearby terminals, and thus be restored to their former service positions.

In recent years the volume of freight transported by air has grown significantly. Technological advances have produced aircraft which have larger load capacities, fly faster, and cover greater distances than before. Containerization of traffic has reduced handling and thus lowered the cost of air transportation. This in turn has stimulated air freight transportation.

Air freight service is usually in effect an intermodal surface-air transportation service with three component elements: (1) Air carriage, (2) surface carriage, and (3) ground handling. Shippers pay a premium rate to ship their goods by air, because that method is faster than ground transportation. Thus, the choice of air transportation involves a trade-off between costs and speed.

For purposes of air cargo transportation, airports are divided in the trade into two types, a few large "hub" airports, and a greater number of smaller "feeder" airports. This informal division is made to account for a number of circumstances. For example, an airport may lack the capability of handling the large all-cargo aircraft involved in the transportation of large containers. In other cases, the air carrier simply may not have the lift capacity at a given airport for expeditious movement of the freight involved. Often it is necessary for the air carrier to feed this traffic to the hub airport by line-haul motor carrier as a substitute for air movement. The traffic then moves by air from the hub airport. Some motor carriers, such as Pinto, specialize in this inter-airport traffic and operate large equipment fleets with roller-bed trailers for handling container freight.

Under the current regulation, carriers with airport-to-airport authority cannot serve the actual shipper or consignee, and pickup and delivery of the shipment is performed by another carrier. Where a prior movement by air is involved, the airport-to-airport carrier picks up the freight at the facilities of the air carrier at the hub airport for delivery to the air carrier at the feeder airport. The freight is then tendered once again by the air carrier to another motor carrier for final delivery. Where a subsequent movement by air is involved, the situation is the same, only in reverse.

Discussion and conclusions

As a general principle, we strongly encourage the removal of impediments to the performance of efficient and economical transportation; we also support competition among the various modes of transportation and approaches which create the potential for improved service. In furtherance of those aims, we believe that the proposed amendment to our regulations should be adopted. Although the comments received were not voluminous in number, their logic is compelling.

Allowing airport-to-airport motor carriers to serve the shipper or consignee on the surface portion of air-freight transportation will in appropriate circumstances eliminate an unnecessary step in the movement of property. Adoption of the proposal would reduce the circuity of present routings; save fuel, equipment, and labor costs; minimize shipping delays; simplify billing procedures; lower shipping charges; reduce airport congestion; stimulate containerization, and, in general, create opportunities for an overall improvement in service to air freight shippers.

Those opposing the amendment generally fear diversion of traffic they currently handle through increased competition for that traffic. In the context of applications for new operating authority, we have given traffic diversion a reduced importance as a factor for our consideration. We have repeatedly stressed that competition is usually in the public interest and explained that harm to an existing carrier becomes significant only when that harm will also result in harm to the public interest. See *G.R.M., Inc., Ext.—Automobiles from California*, 137 M.C.C. 919 (1980).

The same rationale applies here, and adoption of the proposal will be consistent with our current entry policy expressed in Ex Parte No. MC–121, *Policy Statement on Motor Carrier Regulation*, and *Liberty Trucking Co., Ext.—General Commodities*, 131 M.C.C. 573 (1979). Our fundamental approach is to open opportunities for all carriers by encouraging innovation. Here, if traffic is lost by exiting carriers, it will be because amendment of the regulation has created more attractive service options for air-freight shippers. Motor carriers and airlines will lose traffic only if shippers find that the advantages described above become a reality. Should traffic be lost, the airlines will of course be free to develop new service alternatives to regain the traffic. We point out in this connection that a significant portion of the airport pickup and delivery carriers opposing the amendment—namely, those carriers operating wholly within the air terminal area pursuant to the incidental-to-air exemption (49 U.S.C. 10526(a)(8)—has recently been the recipient of expanded service opportunities through our expansion of the air terminal areas in *Motor Transp. of Property Incidental to Air*, 131 M.C.C. 87 (1978).

The traffic involved is air freight, and adoption of this proposal will be consistent with the determination of Congress in 1977 that the transportation of air freight should take place in a less regulated environment.[1] While we appreciate that Congress has not, as yet, deregulated the transportation of air freight by motor carriers, we nonetheless believe that our liberalization of the operating conditions under which motor carriers transport air freight comports with the thrust of the Congressional direction. The Senate has recently acted favorably on a measure much broader in scope than that now before us.[2]

If that measure is, in the end, enacted into law, our action here will be unnecessary. Nevertheless, the record in this proceeding is already complete, and amending the regulation will allow this potentially valuable service to begin at the earliest opportunity.

Findings

We find that the regulation at 49 CFR 1041.22(a) should be amended as set forth below so that authority to serve a designated airport in the transportation of freight having a prior or subsequent movement by air will also allow service at all points within the air terminal zone of that airport.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Accordingly, 49 CFR 1041.22(a) is amended to read as follows:

§ 1041.22 Operating authority to serve a particular airport, construction.

(a) a certificate or permit issued to a motor carrier of property pursuant to 49 U.S.C. 10521 et seq. authorizing service at a named airport shall be construed as authorizing service in the transportation of freight having a prior or subsequent movement by air at all points or places located within the air terminal zone (as described in § 1047.40 of this chapter) of the airport authorized to be served by the motor carrier.

(49 U.S.C. 10321, and 5 U.S.C. 552, 553, and 559)

Dated: May 19, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford dissented with a separate expression. Commissioner Gilliam not participating.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, Dissenting:

This decision will alter considerably the nature of the operations performed by these inter-airport motor carriers. They will no longer provide substituted service exclusively for the airlines. Instead, they will now compete with both existing line-haul motor carriers and the airlines themselves. No public demand or need has been demonstrated for so broadly construing these certificates.

Appendix

Parties filing representations in this proceeding.

Motor Carrier Interests:
Air Cargo Terminals, Inc.
Armellini Express Lines, Inc.
Air Freight Motor Carriers Conference
Bluebonnet Express, Inc.
Carolina Cartage Company, Inc.
Central Penn Air Service, Inc.
Dayton Air Freight, Inc.
Pinto Trucking Service, Inc.
Texas Tex-Pack Express, Inc.
T.I.M.E.–DC, Inc.
Van's Auto & Air Express, Inc.
Wenham Transportation, Inc.

Air Carriers Interests:
Air France, North and Central American Division Joint statement on behalf of 14 airlines:
(1) Air New England
(2) Air Wisconsin
(3) Air Canada
(4) Alaska Airlines, Inc.
(5) Allegheny Airlines, Inc.
(6) American Airlines, Inc.
(7) Delta Airlines, Inc.
(8) Eastern Airlines, Inc.
(9) Frontier Airlines, Inc.
(10) National Airlines, Inc.
(11) North Central Airlines, Inc.
(12) Texas International Airlines, Inc.
(13) Trans World Airlines, Inc.
(14) Western Airlines, Inc.

Air Freight Forwarders:
Fritz Air Freight
Vector Air Express, Inc.

Shippers:
Eli Lilly and Company

Government Agencies:
Department of Justice, Antitrust Division

[1] 49 U.S.C. 1388.
[2] S.2245, 96th Cong., 2d Sess. 7(b)(1980).

Civil Aeronautics Board
[FR Doc. 80-16855 Filed 5-30-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1390–A]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.; Service Order

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1390–A.

SUMMARY: Service Order 1390 grants Milwaukee Road temporary authority to operate over tracks of the Consolidated Rail Corporation in Illinois in lieu of its own tracks which were badly deteriorated. In a recent decision, the Interstate Commerce Commission provided Milwaukee Road with the authority to abandon its lines in this area and with permanent authority to operate over lines of ConRail. The authority granted by Temporary Service Order 1390 is therefore no longer needed and that order is vacated effective May 27, 1980.

EFFECTIVE DATE: 11:59 p.m., May 27, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

Decided: May 27, 1980.

Upon further consideration of Service Order No. 1390, (44 FR 45278), and good cause appearing therefor:

It is ordered: § 1033.1390 Corrected Second Revised Service Order No. 1390 (Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Consolidated Rail Corporation) is vacated effective 11:59 p.m., May 27, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-16719 Filed 5-30-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1395-A]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Indiana Harbor Belt Railroad Co.; Service Order

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1395-A.

SUMMARY: Service Order 1395 grants Milwaukee Road temporary authority to operate over tracks of the Indiana Harbor Belt Railroad Company in Indiana in lieu of its own tracks which were badly deteriorated. In a recent decision, the Interstate Commerce Commission provided Milwaukee Road with the authority to abandon its lines in this area and with permanent authority to operate over the lines of Indiana Harbor Belt Railroad Company. The authority granted by Temporary Service Order 1395 is therefore no longer needed and that order is vacated effective May 27, 1980.

EFFECTIVE DATE: 11:59 p.m., May 27, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

Decided: May 27, 1980.

Upon further consideration of Service Order No. 1395 (44 FR 51607), and good cause appearing therefor:

It is ordered, § 1033.1395 Service Order No. 1395-A (Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Indiana Harbor Belt Railroad Company) is vacated effective 11:59 p.m., May 27, 1980.

This action is taken under the authority of (49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-16720 Filed 5-30-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 107
Monday, June 2, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-WE-12-AD]

McDonnell Douglas Model DC-8 Series Airplanes; Airworthiness Directives; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of extending comment period on notice of proposed rulemaking.

SUMMARY: This notice extends the time period in which comments may be submitted in response to a proposed airworthiness directive (AD), published in the **Federal Register** at 45 FR 18942, March 24, 1980. In response to a request for extension, the FAA has determined that an extension is needed to develop additional data regarding the source of the unsafe condition and to allow additional time for operator maintenance management personnel to comment.

DATES: Comments must be received on or before June 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) was published in the **Federal Register** at 45 FR 18942. The proposed AD would require removal from service of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California.

The Air Transport Association of America (ATA) submitted comments on behalf of airline operators of DC-8 airplanes requesting an extension of the comment period of June 15, 1980 in order to generate logistics, operational, and safety comments. The ATA indicated that this extension of time was necessary because certain detailed records which would have expedited the necessary comments were not required by the FARs and are not available, thus requiring an alternate and time consuming solution.

The FAA believes that there is a need for additional time for comments. The time is needed to allow the petitioner or the affected airlines to provide data and ascertain the availability of adequate alternative repair facilities.

Accordingly, I find that the petitioner has shown substantive interest in the proposed rule, that good cause exists for the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.85), the time within which comments on NPRM, Docket No. 80-WE-12-AD will be received is extended to June 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on May 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-16598 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-11-AD]

McDonnell Douglas Model DC-9 Series Airplanes; Airworthiness Directives; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of extending comment period on notice of proposed rulemaking.

SUMMARY: This notice extends the time period in which comments may be submitted in response to a proposed airworthiness directive (AD), published in the **Federal Register** at 45 FR 18943, March 24, 1980. In response to a request for extension, the FAA has determined that an extension is needed to develop additional data regarding the source of the unsafe condition and to allow additional time for operator maintenance management personnel to comment.

DATES: Comments must be received on or before June 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P. O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) was published in the **Federal Register** at 45 FR 18943. The proposed AD would require removal from service of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California.

The Air Transport Association of America (ATA) submitted comments on behalf of airline operators of DC-9 airplanes requesting an extension of the comment period to June 15, 1980 in order to generate logistics, operational, and safety comments. The ATA indicated that this extension of time was necessary because certain detailed records which would have expedited the necessary comments were not requred by the FARs and are not available, thus requiring an alternate and time consuming solution.

The FAA believes that there is a need for additional time for comments. The time is needed to allow the petitioner or the affected airlines to provide data and ascertain the availability of adequate alternative repair facilities.

Accordingly, I find that the petitioner has shown substantive interest in the proposed rule, that good cause exists for

the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.85), the time within which comments on NPRM, Docket No. 80–WE–11–AD will be received is extended to June 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant prepartion of a regulatory evaluation.

Issued in Los Angeles, Calif., on May 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80–16399 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–WE–9–AD]

Lockheed Model L–1011 Series Airplanes; Airworthiness Directives; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of extending comment period on notice of proposed rulemaking.

SUMMARY: This notice extends the time period in which comments may be submitted in response to a proposed airworthiness directive (AD), published in the **Federal Register** at 45 FR 18941, March 24, 1980. In response to a request for extension, the FAA has determined that an extension is needed to develop additional data regarding the source of the unsafe condition and to allow additional time for operator maintenance management personnel to comment.

DATES: Comments must be received on or before June 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) was published in the **Federal Register** at 45 FR 18941. The proposed AD would require removal from service of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California.

The Air Transport Association of America (ATA) submitted comments on behalf of airline operators of L–1011 airplanes requesting an extension of the comment period to June 15, 1980 in order to generate logistics, operational, and safety comments. The ATA indicated that this extension of time was necessary because certain detailed records which would have expedited the necessary comments were not required by the FARs and are not available, thus requiring an alternate and time consuming solution.

The FAA believes that there is a need for additional time for comments. The time is needed to allow the petitioner or the affected airlines to provide data and ascertain the availability of adequate alternative repair facilities.

Accordingly, I find that the petitioner has shown substantive interest in the proposed rule, that good cause exists for the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.85), the time within which comments on NPRM, Docket No. 80–WE–9–AD will be received is extended to June 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on May 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80–16600 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–WE–10–AD]

McDonnell Douglas Model DC–10 Series Airplanes; Airworthiness Directives; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of extending comment period on notice of proposed rulemaking.

SUMMARY: This notice extends the time period in which comments may be submitted in response to a proposed airworthiness directive (AD), published in the **Federal Register** at 45 FR 18945, March 24, 1980. In response to a request for extension, the FAA has determined that an extension is needed to develop additional data regarding the source of the unsafe condition and to allow additional time for operator maintenance management personnel to comment.

DATES: Comments must be received on or before June 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) was published in the **Federal Register** at 45 FR 18945. The proposed AD would require removal from service of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California.

The Air Transport Association of America (ATA) submitted comments on behalf of airline operators of DC–10 airplanes requesting an extension of the comment period to June 15, 1980 in order to generate logistics, operational, and safety comments. The ATA indicated that this extension of time was necessary because certain detailed records which would have expedited the necessary comments were not required by the FARs and are not available, thus requiring an alternate and time consuming solution.

The FAA believes that there is a need for additional time for comments. The time is needed to allow the petitioner or the affected airlines to provide data and ascertain the availability of adequate alternative repair facilities.

Accordingly, I find that the petitioner has shown substantive interest in the proposed rule, that good cause exists for the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.85), the time within which comments on NPRM, Docket No. 80–WE–10–AD will be received is extended to June 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note: The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on May 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80–16601 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Hearing and Public Comment Period on the Resubmitted Mississippi Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed Rule: Notice of Receipt of Permanent Program Resubmission; Schedule for Public Hearing and Public Comment Period.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Mississippi regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which have been resubmitted by the state and which were not previously approved by the Secretary of the Interior.

This notice sets forth the times and locations that the Mississippi program is available for public inspections; the date when and location where OSM will hold a public hearing on the resubmission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the portions of the Mississippi program not previously approved by the Secretary of the Interior will be held at 7:30 p.m. on June 17, 1980, at the address listed below. Written comments, data, or other relevant information may be submitted to supplement, or in lieu of, an oral presentation at the hearing. Comments from members of the public must be received on or before the close of business on June 20, 1980, in order to be considered in the Secretary's decision on those elements of the proposed Mississippi program which he did not approve in his initial decision on the proposed program.

ADDRESSES: The public hearing will be held at Holiday Inn South, U.S. 45 South at I–20, Meridian, Mississippi. Written comments should be sent to Mr. David C. Short, Regional Director, Office of Surface Mining, Department of the Interior, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902, or may be hand delivered to the Regional Office.

Copies of the full text of the proposed program, a listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region II Office and the Office of the State Regulatory Authority listed below, Monday, through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902.

Bureau of Geology and Energy Resources, Department of Natural Resources, 2525 N. West Street, Jackson, Mississippi 37216

A copy of this notice along with a copy of the Mississippi state statutes and regulations regarding the proposed Mississippi regulatory program has been placed on file and is available for inspection in the library of the Office of the Federal Register, Room 8301, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Davis, Office of Surface Mining, Reclamation, and Enforcement, Department of the Interior, Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902. Telephone: (615) 637–8060.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the State of Mississippi submitted to OSM a proposed state regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328), the Regional Director published notification of receipt of the program submission in the August 10, 1979, **Federal Register** (44 FR 49313) and in newspapers of general circulation within the state. In accordance with that announcement, public comments were solicited and a public meeting was held on September 18, 1979, on the issue of the program's completeness.

On October 9, 1979, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be incomplete (44 FR 61266) in accordance with the Federal Act and regulations, as required by 30 CFR 731.14(c).

On November 14, 1979, the Mississippi Department of Natural Resources submitted an amendment to its program submission to make the submission complete. The August 2 program submission and this amendment constituted the entire submission upon which the Secretary made his initial decision.

A public hearing on the Mississippi submission was held on December 20, 1980, in Meridian, Mississippi, by the Regional Director, after due notice in the **Federal Register** (44 FR 71798) and the newspapers of general circulation within the state. The public comment period ended December 26, 1980.

Throughout the period beginning with the submission of the program, the Secretary and OSM had frequent contact with the staff of the Mississippi Department of Natural Resources. Minutes or notes of the discussions were placed in the Administrative Record and made available for public review and comment. Several draft changes were received by the Regional Office after the November 14 amendment, but the draft materials were not part of the program submission and did not form the basis for the Secretary's partial approval of the program submission. The full chronology of the events leading to the Secretary's initial decision is contained in the **Federal Register** notice of the partial approval by the Secretary (45 FR 20930), published on March 25, 1980.

That notice also contained the Secretary's findings, detailed explanations of those findings and the Secretary's decision, which approved and disapproved specific parts of the Mississippi program. No part of the Mississippi program which was approved was the subject of discussions at which new information was presented that might have influenced the

decision to approve after the public comment period closed. Discussions relating to parts of the program which were disapproved are in the Administrative Record and will be subject to public comment during the public comment period announced herein.

In accordance with the procedures set forth in 30 CFR 732.13(f), the State of Mississippi had 60 days for the date of publication of the Secretary's partial approval decision in which to submit a revised program for consideration. The state submitted its revised program for consideration on May 27, 1980. Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that those portions of the programs which were not approved in the Secretary's initial decision now be approved or disapproved or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326–15327). For further details, refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the State of Mississippi will have primary jurisdiction for the regulation of surface coal mining and reclamation and coal exploration on non-federal or non-Indian lands in Mississippi. If the revised program is approved, the Secretary and the Governor may also enter into a Cooperative Agreement governing regulation of these activities on federal lands in Mississippi. Such an agreement would be the subject of a separate rulemaking and **Federal Register** notice. If the revised program is disapproved, a federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Mississippi. To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM had established Subchapter T of 30 CFR, Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Mississippi's will be found in 30 CFR Part 924 once Mississippi's resubmission has been approved or disapproved.

At the public hearing, parties wishing to comment on the proposed program will be asked to register on the speaker's agenda. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.
2. Based on the number in attendance, each participant may be limited to 10 minutes.
3. Participants will be called in the order in which they register.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Interested members of the public are encouraged to read the Secretary's partial approval of the initial Mississippi program submission (45 FR 20930), published on March 31, 1980. That document contains detailed findings and explanations relating to the parts of the initial submission which were specifically approved and disapproved. Unless a change has been made to a part of the program previously approved, the Secretary will only consider comments relating to those portions previously disapproved or to any new portions of the program first appearing in the resubmission.

Set forth below is a summary of the contents of the resubmission:

1. Enacted regulations under the Mississippi Surface Coal Mining and Reclamation Act.
2. An order adopting the regulations by the Mississippi Commission on Natural Resources.
3. Designation of the Regulatory Authority by the Governor.
4. Descriptions of the organization of the Regulatory Authority.
5. Descriptions of the Proposed systems for:
   a. Permitting
   b. Permit application fees
   c. Performance bonds and liability insurance
   d. Inspection and monitoring
   e. Enforcing the administrative, civil and criminal sanctions State laws and regulations
   f. Administering and enforcing the permanent program performance standards
   g. Assessing and collecting civil penalties
   h. Issuing public notices and holding public hearings
   i. Coordinating issuance of permits with other agencies
   j. Consultation with other agencies regarding environmental, historic, cultural and archeological resources
   k. Designating lands unsuitable for mining
   l. Training, examining and certifying blasters
   m. Providing for public participation
   6. Summary of staffing requirements
   7. Description of staffing adequacy
   8. Description of the use of other professional and technical personnel
   9. Budget information
   10. Available physical resources

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Mississippi program. Under section 702(d) of SMCRA (30 U.S.C. section 1292(d)) approval does not constitute a major action within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1979 (42 U.S.C. 4332).

Dated: May 27, 1980.

David C. Short,

Regional Director.

[FR Doc. 80-16368 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1504-2]

Approval and Promulgation of Implementation Plans: Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: The State of Kansas has submitted a draft State Implementation Plan (SIP) revision consisting of the Kansas Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) regulations to fulfill the requirements of the Clean Air Act Amendments of 1977. Interested persons are invited to examine the Kansas SIP revision and submit comments on it. A notice of proposed rulemaking describing the revision will be published in the **Federal Register** at a later date.

The period for submittal of comments will extend for 30 days after publication of the proposed rulemaking.

ADDRESSES: Comments should be sent to David Doyle, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The Kansas submission may be examined during normal business hours at the above address and also at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: David Doyle, 816–374–3791, (FTS) 758–3791.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act as amended in 1977 requires that states revise their SIPs to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) in areas which have been designated as nonattainment. The State of Kansas has submitted as draft SIP revision in response to requirements of the Clean Air Act.

The purpose of this notice is to announce that the revision has been submitted and is available for public inspection. The public is encouraged to submit written comments on it. A description of the draft revision and proposed EPA action on the draft revision will be published in the **Federal Register** as part of a notice of proposed rulemaking at a later date.

(42 U.S.C. 7410)

Dated: May 20, 1980.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 80-16585 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 80

[FRL-1502-5]

Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: EPA proposes several possible alternative actions regarding the unleaded gasoline production requirements associated with the optional 0.8 gram per gallon (gpg) lead standard in the lead phase-down regulations for the quarter of fiscal year 1980 beginning July 1, 1980. The possible alternatives include, but are not limited to: (1) no change; (2) adjust the 6%/45% production requirement to more accurately reflect the increased demand for unleaded gasoline each quarter over the corresponding quarter in 1979; or, (3) revoke the unleaded gasoline production requirements for the quarter beginning July 1, 1980. The requirements applicable to the quarter beginning April 1, 1980 have been revoked as discussed in a Final Rule published elsewhere in this issue of the **Federal Register**.

DATES: Comments on these possible future actions must be received on or before July 2, 1980. If requested, a public hearing will be held.

ADDRESSES: Send comments to Docket Number EN–80–11, at the Central Docket Section (A–130), Environmental Protection Agency, 401 M Street, S.W. 20460. Comments should be identified with the docket number. Comments will be available for public inspection at the Central Docket Section (Docket No. EN–80–11), Room 2903B, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., from 8:00 A.M. to 4:00 P.M. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying service.

FOR FURTHER INFORMATION CONTACT: Robert Summerhayes, Fuels Section, Field Operations and Support Division (EN–397), 401 M Street, S.W., Washington, D.C. 20460 at (202) 472–9367.

SUPPLEMENTARY INFORMATION: On September 12, 1979, EPA published amended regulations which relaxed for one year the lead phasedown standard of 0.5 gpg effective October 1, 1979, to 0.8 gpg conditioned upon an increase in quarterly unleaded gasoline production of six percentage points over the previous year, or an unleaded gasoline production of at least 45% of total gasoline. EPA relaxed the lead standard to enable refiners to produce more total gasoline. The unleaded gasoline production requirement was included to insure that sufficient supplies of unleaded gasoline would be produced to help protect against increased fuel switching due to shortages of gasoline, particularly unleaded gasoline. Alternatively, refiners were provided the option of complying with the 0.5 gpg requirement on October 1, 1979, as originally promulgated, in which case they would not be required to produce a minimum percentage of unleaded gasoline.

The 6%/45% unleaded gasoline production percentages were based on the historical growth of unleaded gasoline demand. But EPA noted in the preamble of the September 1979 amendments that it would "continue to monitor unleaded gasoline demand," and stated that "if demand does not grow by at least the historical rate, EPA will take appropriate actions to avoid the unnecessary overproduction of unleaded gasoline." During January and February 1980, EPA received reports indicating that demand did not continue to increase at the historical rate and that some overproduction of unleaded gasoline occurred during the October–December 1979 quarter and the first part of the January–March quarter. Some refiners reported unusual difficulties in trading excess unleaded gasoline for leaded gasoline. EPA also noted that cargo trading differentials on the inter-refinery spot market, which normally reflect a two to three cent per gallon premium for unleaded gasoline, dropped to zero cents per gallon in some areas. In one particular area, the cargo trading differential fell to minus one and one-half cents per gallon; that represents a one and one-half cent premium for leaded gasoline over unleaded. Recent unleaded gasoline sales show a smaller than six percentage points increase in unleaded gasoline demand during 1979 and 1980. This reduction in the historical growth rate of unleaded gasoline has been attributed to both the declining sales of new unleaded vehicles and the trend towards the use of smaller, more fuel efficient cars. Using this information, EPA concluded that adequate supplies of unleaded gasoline would be available for the January–March 1980 quarter without the imposition of the 6%/45% production requirement. In order to avoid the unnecessary loss of energy caused by the overproduction of unleaded gasoline EPA revoked the unleaded gasoline production requirement for the January–March 1980 quarter (45 FR 14854) and proposed four alternatives for amending the requirements for the subsequent quarters. (45 FR 14899).

After reviewing comments to the four alternatives and studying the crude oil and motor gasoline supply situation, EPA has revoked the 6%/45% production requirements for the April–June 1980 quarter. (See: "Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations: Final Rule," elsewhere in this issue of the **Federal Register**.) The production requirement is being eliminated only for the current quarter, since EPA does not yet have enough data to appropriately assess the demand and supply for the July–September 1980 quarter. For that reason, EPA solicits comments on various options available to the Agency to assure adequate supplies of unleaded gasoline. Three

possible actions include: (1) leaving the regulation unchanged for the remaining quarter; (2) adjusting the production percentages to more accurately reflect the growth in demand for unleaded gasoline, for example, but not limited to, 5.5%/43% or 5%/42%; or (3) completely eliminating the unleaded gasoline production requirement. EPA requests comments on these or any other options which would assure an adequate supply of unleaded gasoline. EPA's revocation of the 6%/45% production requirement for the April–June1980 quarter is based in part on comments submitted in response to the request in 45 FR 14899. As EPA is now considering options for the July–September 1980 quarter, it is seeking new information which specifically pertains to inventories, production, demand estimates, etc. for the July–September 1980 quarter. Comments of a general nature that were submitted in the earlier comment period (in response to 45 FR 14899) will be automatically considered and need not be resubmitted.

(Sec. 211, 301, Clean Air Act, as amended, 42 U.S.C. 7545, 7601)

Dated: May 22, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-16518 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5827]

National Flood Insurance Program; Proposed Base Flood Elevations for the City of Bedford, Tarrant County, Tex.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed floodway and base flood elevations on Sulphur Branch through Mayfair Hills Addition in Bedford, Texas.

The proposed floodway and base flood elevations will be the basis for the flood plain management measures on Sulphur Branch in Bedford, if finalized.

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the proposed base flood elevations will be available for review upon request.

Send comments to: The Honorable L. Don Dodson, Mayor, City of Bedford, 2300 Forest Ridge Drive, Bedford, Texas 76021.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 or (800) 424–8873.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed floodway and base flood elevations (100-year flood) for the City of Bedford in accordance with Section 110 of the Flood Disaster Protections Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67 (presently appearing at its former Section 24 CFR Part 1917). These base flood elevations, together with the flood plain management measures required by Section 60.3 (presently appearing at its former § 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed floodway on Sulphur Branch through Mayfair Hills Addition is located generally just outside the channel banks of the improved stream.

The proposed base flood elevations are as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sulphur Branch	Downstream limit of Mayfair Hills Addition Subdivision.	561
	Upstream of Shady Lane	563
	Upstream limit of Mayfair Hills Addition Subdivision.	564

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: May 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16472 Filed 5-30-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5826]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (in Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-yard) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter X § 1917.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 (formerly § 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances

that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Massachusetts	Barnstable, Town, Barnstable County.	Cape Cod Bay	Coastline	*11
		Nantucket Sound	Mashpee/Barnstable Corporate Limits	*11
			Barnstable/Yarmouth Corporate Limits	*10
			Certain areas of the community are subject to flood with velocity (wave action). See maps for areas affected by Zones V3, V9, V10, V11	

Maps available for review at the Barnstable Town Engineer's Office, Town Hall.

Send comments to Mr. Edwin Taylor, Chairman of the Board of Selectmen of Barnstable, Town Hall, Hyannis, Massachusetts 02601.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: May 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16473 Filed 5-30-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5828]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (in Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a) (presently appearing at its former Title 24, Chapter X, § 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 60.3 (formerly § 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Arkansas	City of Rogers, Benton County	Turtle Creek	Just upstream of Walnut Street (U.S. Highway 71)	*1,266
			Just upstream of Dixieland Road	*1,306
			Just upstream of North 12th Place	*1,322
		Blossomway Creek	Approximately 100 feet upstream of south 13th Street	*1,312
			Approximately 120 feet downstream of Arkansas State Highway 94	*1,332
		Turtle Creek Tributary	Just downstream of Dixieland Road	*1,312
		South Fork, Prairie Creek	Just downstream of Arkansas State Highway 12	*1,140
			Just upstream of Arkansas State Highway 12	*1,146
			Just upstream of Lake Atalanta Road	*1,160

Maps available at City Hall, 212 West Elm, Rogers, Arkansas 72756.

Send comments to Mayor Jack Cole or Skipp Gregory, Councilman, 212 West Elm, Rogers, Arkansas 72756.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V), Crete, Will County	Goose Creek	Approximately 2,250 feet downstreatm of Douglas Lane	*686
			Just downstream of Douglas Lane	*695
			Just upstream of Douglas Lane	*698
			Just upstream of Rohe Lane	*702
			Just upstream of Highway 1 (Main Street)	*707
			Just upstream of Benton Street	*712
			Just upstream of Missouri Pacific Railroad	*714
			Just upstream of Lumber Street	*716
			Just upstream of Exchange Street	*718
			Just downstream from footbridge near Sangamon Street	*721
			Just upstream from footbridge near Sangamon Street	*726
			Approximately 1,350 feet upstream from Sangamon Street at the western corporate limit.	*727

Maps available at the Village President's Office, Village Hall, 524 Exchange Street, Crete, Illinois.

Send comments to Mr. Ronald Christopher, Village President, Village of Crete, Village Hall, 524 Exchange Street, Crete, Illinois 60417.

Illinois	(V), East Carondelet, St. Clair County.	Mississippi River	About 2,400 feet downstream Davis Street	*421
			About 840 feet upstream State Street	*422
		Shallow Flooding (Local Ponding).	Areas south of Illinois Central and Gulf Railroad	*403
			Areas north of Illinois Central and Gulf Railroad	*406

Maps available at Village Clerk's Office, Village Hall, 7th and State Streets, East Carondelet, Illinois.

Send comments to Mr. Samuel Yerby, Village President, Village of East Carondelet, Village Hall, 7th and State Streets, East Carondelet, Illinois 62240 to the attention of Stella Schmid, Village Clerk

Illinois	(V), Green Oaks, Lake County	Tributary No. 1	About 2400 feet downstream of Guerin Road	*663
			At the downstream corporate limit	*677
			Just upstream of Guerin Road	*680
			Just upstream of Heathercliff Road	*683
			At the upstream corporate limit	*685
		Tributary No. 2	Just upstream of Guerin Road	*664
			About 1700 feet upstream of Guerin Road	*670
			At the upstream corporate limit	*678

Maps available at Oak Grove Junior High School, Green Oaks, Illinois.

Send comments to Mr. Bruce Boyke, Village President, Village of Green Oaks, P.O. Box 383, Libertyville, Illinois 60048 to the attention of Mr. Gerald Estes, Building and Planning Commissioner

Illinois	(V), Kildeer, Lake County	South Branch of Indian Creek	At the downstream corporate limits	*749
			Just upstream of private road	*753
		Buffalo Creek	Just downstream of State Route 22, east of Krueger Road	*755
			At the downstream corporate limit	*735
			Just upstream of Andover Road	*749
			Just downstream of Cuba Road	*763
		Tributary to Buffalo Creek	At the corporate limits, just downstream of Quentin Road	*780
			About 1500 feet downstream of Middleton Drive	*740
			Just upstream of Valley Road	*748
			Just upstream of Buffalo Run	*753
			About 650 feet upstream of Buffalo Run	*755
		South Fork Tributary to Buffalo Creek.	At the corporate limits, just downstram of Cuba Road	*787
			About 300 feet downsteam of Quentin Road	*772
			Just upstream of Quentin Road	*777

Maps available at Village President's Office, 22049 Chestnut Ridge Road, Kildeer, Illinois.

Send comments to Ms. Ruth S. Flynn, Village President, Village of Kildeer, Village Hall, 22049 Chestnut Ridge Road, (P.O. Lake Zurich, Illinois), Kildeer, Illinois 60047.

Illinois	(V), Long Grove, Lake County	Indian Creek	At the downstream corporate limit	*684
			Just downstream of Oakwood Road	*697
			About 180 feet downstream of Diamond Lake Road	*708
			About 4150 feet upstream of Diamond Lake Road	*718
			At the upstream corporate limit	*729
		South Branch Indian Creek	Just upstream of State Route 22	*692
			Just downstream of State Route 83	*696
			Just upstream of McHenry Road	*723
			At the upstream corporate limit (about 1.0 mile upstream of McHenry Road).	*747
		Tributary to South Branch Indian Creek.	Mouth at South Branch Indian Creek	*710
			Just downstream from State Route 22	*711
			About 150 feet upstream of State Route 22	*714
			About 2600 feet upstream of State Route 22	*723
		Buffalo Creek	At the downstream corporate limits	*699
			About 1200 feet downstream of Long Grove Road	*722
			About 900 feet upstream of the confluence of Tributary to Buffalo Creek.	*732
			About 3800 feet upstream of confluence of the Tributary to Buffalo Creek.	*735
		Tributary to Buffalo Creek	About 200 feet upstream of confluence with Buffalo Creek	*731
			Just downstream of Woodland Drive	*735
			At upstream corporate limits	*740

Maps available at Village Administrator's Office, Village Hall, Route No. 2, Box 286A, Long Grove, Illinois.

Send comments to Mr. Robert P. Coffin, Village President, Village of Long Grove, Village Hall, Route No. 2, Box 286A, (P.O. Lake Zurich, Illinois), Long Grove, Illinois 60047 to the attention of Mr. Cal Doughty, Village Administrator.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(V), Tower Lake, Lake County	Tower Lakes, Creek	At the downstream corporate limits	*737
			Just downstream of Tower Lake Dam	*740
			Just upstream of Tower Lake Dam	*749
			Just downstream of Tower Lake Inlet	*749
			Just downstream of Kelsey Road	*755
		Lake Barrington Drain	At the confluence with Tower Lake Creek	*738
			About 150 feet downstream of Kelsey Road	*753
			Just downstream of Kelsey Road	*757
		Timber Lake Drain	At the confluence with Tower Lake Creek	*749
			Just downstream of State Route 59	*750

Maps available at Village President's Office, Village Hall, 105 South Drive, Tower Lakes, Illinois.

Send comments to Mr. George H. Simmons, Jr., Village President, Village of Tower Lakes, Village Hall, 105 South Drive, (P.O. Barrington, Illinois), Tower Lakes, Illinois 60010

Indiana	(C), Noblesville, Hamilton County	White River	Southern extraterritorial jurisdiction	*740
			Just upstream from State Highway 234	*755
			Just upstream from Norfolk & Western Railway	*763
			At upstream extraterritonal jurisdiction	*776
		Cicero Creek	At confluence with White River	*757
			Just upstream from State Highway 32	*762
			Just upstream from State Highway 38	*766
			At spillway outlet	*772
		Sand Creek	Just upstream from confluence with Mud Creek	*784
			Just upstream from upstream crossing of Cumberland Road	*791
			Just upstream from East 121st Street	*800
			Just upstream from East 131st Street	*809
			Just upstream from East 136th Street	*813
			Just upstream from Brooks School Avenue	*815
			Approximately 0.45 mile upstream from Brooks School Avenue	*818
		Mud Creek	Just upstream from East 96th Street	*780
			Just upstream from East 106th Street	*784
			Just upstream from Klepper School Road	*792
			Just upstream from East 116th Street	*801
			Approximately 1.40 miles upstream from Brooks School Avenue	*812
		Stony Creek	Just upstream from confluence with White River	*756
			Just upstream from Cumberland Road	*759
			Just upstream from State Highway 38	*774
			Just downstream from East 186th Street	*781
		Fall Creek	Just upstream from Geist Reservoir	*789
			Just upstream from Fionda Road	*790
			Approximately 0.5 mile upstream from Fionda Road	*795
		Hinkle Creek	Just downstream from State Highway 238	*798
			Just upstream from Morse Reservoir	*813
			Just downstream from East 216th Street	*830

Maps available at Department of Planning, City Hall, Noblesville, Indiana.

Send comments to Honorable Patricia Logan, Mayor, City of Noblesville, Municipal Building, 50 South 8th Street, Noblesville, Indiana 46060

Indiana	(Uninc.), Tippecanoe County	Wabash River	Just downstream confluence of Jordon Creek	*526
			Just downstream County Road 775 East	*538
		Wildcat Creek	About 1000 feet downstream State Highway 25	*536
			Just upstream Peters Mill Road	*551
			Mouth of South Fork Wildcat Creek	*559
		North Fork Wildcat Creek	Mouth of South Fork Wildcat Creek	*559
			Just upstream County Road 725 East	*582
			Just downstream Wolf Road	*596
		Burnett Creek	About 750 feet downstream Burnett Road	*525
			Just downstream Prophets Rock Road	*562
			About 1000 feet upstream State Highway 225	*587
			Approximately 1000 feet upstream State Highway 43	*606
		South Fork Wildcat Creek	At mouth at Wildcat Creek	*559
			Just downstream State Highway 26	*583
			Just upstream County Road 200 South	*611
			Just downstream State Highway 38	*624
		Middle Fork Wildcat Creek	About 750 feet downstream State Highway 26	*583
			Just downstream County Road 900 East	*619
		Wea Creek	Just downstream Lilly Road	*531
			About 200 feet downstream Norfolk and Western Railway	*541
			Just downstream State Highway 25	*548
			Just upstream State Highway 25	*550
			Just downstream U.S. Route 231 and State Highway 43	*588
			Just downstream County Road 100 East	*618
			About 200 feet downstream County Road 150 East	*624
		Elliott Ditch	About 1100 feet downstream Romney Road	*573
			Just upstream County Road 50 East	*613
			Just downstream County Road 150 East	*637
			Just downstream County Road 250 East	*642
		Little Wea Creek	About 400 feet upstream mouth	*557
			Just downstream Louisville and Nashville Railroad	*599
			Just downstream of County Road 175 West	*610
			Just upstream County Road 500 South	*623
			Just upstream County Road 625 South	*645
			Just downstream Louisville and Nashville Railroad	*674

Maps available at Tippecanoe County Area Plan Commission Office, Tippecanoe County Courthouse, 20 North 3rd Street, Lafayette, Indiana.

V 45 J E 2 8 0 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Send comments to Mr. Jim Hawley, Interim Director, Tippecanoe County Area Plan Commission, Tippecanoe County, Tippecanoe County Courthouse, 20 North 3rd Street, Lafayette, Indiana 47901.				
Iowa	(C), Vinton, Benton County	Cedar River	At confluence of Mud Creek	*779
			Just downstream of State Route 101	*783
			About 4500 feet upstream of State Route 101	*785
		Hinkle Creek	Just upstream of Chicago, Rock Island and Pacific Railroad	*784
			Just upstream of U.S. Route 218	*787
		Mud Creek	At upstream corporate limits	*789
			Mouth at Cedar River	*779
		Tributary to Mud Creek	About 2450 feet upstream of 13th Street	*779
			Mouth at Mud Creek	*779
			Just downstream of Old Shellsburg Road	*785
			Just upstream of Old Shellsburg Road	*787
			Just upstream of 2nd Avenue	*799
			Just downstream of C Avenue	*805
			Just upstream of C Avenue	*810
			Just downstream of U.S. Route 218	*811
Maps available at City Hall, 501 First Avenue, Vinton, Iowa				
Send comments to Honorable William Strong, Mayor, City of Vinton, 501 First Avenue, Vinton, Iowa 52349 to the attention of Mr. V. E. Blanc, City Coordinator.				
Iowa	(C), Waverly, Bremer County	Cedar River	About 2.5 miles downstream of Third Street, southeast	*905
			Southeast corporate limits	*908
			Just upstream of Third Street, southeast	*910
			Upstream side of dam, 265 feet upstream of Bremer Avenue	*915
			Just upstream of Horton Road	*918
			Northern corporate limits	*920
		Dry Run Creek	At mouth	*910
			Just downstream of Fourth Avenue, southwest	*911
			Just upstream of Second Avenue, southwest	*913
			Just upstream of West Bremer Avenue	*914
			1300 feet upstream of Second Avenue, northwest	*916
			Just upstream of Twelfth Street, northwest	*920
		Unnamed Creek	At mouth	*910
			Eastern corporate limits	*910
Maps available at City Hall, Waverly, Iowa.				
Send comments to Honorable Charles Wickham, Mayor, City of Waverly, P.O. Box 616, Waverly, Iowa 50677 to the attention of Mr. Michael Schneider, City Administrator.				
Kansas	(Uninc.), Butler County	Walnut River	Downstream county boundary	*1,174
			About 900 feet upstream of Douglass Road West	*1,190
			Confluence of Whitewater River	*1,222
			Just downstream of County Road 616	*1,240
			Just downstream of Haverhill Road North	*1,254
			At confluence with West Branch Walnut River	*1,282
		Four Mile Creek	About 1500 feet downstream of El Dorado Lake Dam	*1,290
			Confluence with Walnut River	*1,207
			Just downstream of Santa Fe Lake Road	*1,225
			Just upstream of County Road 624	*1,252
			Just downstream of Rose Hill Road	*1,283
		Brookhaven Creek	Confluence of Brookhaven Creek	*1,290
			Downstream county boundary	*1,290
			580 feet upstream of upstream county boundary	*1,295
		Eight Mile Creek	Just downstream of County Road 646	*1,178
			Just upstream of Douglass Road West	*1,199
			Just upstream of County Road 638	*1,229
			Just upstream of County Road 634	*1,261
			Just upstream of Rose Hill Road	*1,294
			Just downstream of 159th Street East	*1,319
		Republican Creek	Confluence with Four Mile Creek	*1,261
			Just upstream of County Road 622	*1,272
			Just upstream of County Road 618	*1,307
			About 300 feet downstream of Interstate 35	*1,331
		Whitewater River	Just upstream of Pleasant Road	*1,226
			Just upstream of County Road 612	*1,243
			Just upstream of Missouri Pacific Railroad	*1,262
			About 1.0 mile upstream of State Highway 254	*1,264
		Dry Creek	Confluence with Whitewater River	*1,228
			Just upstream of U.S. Highway 54	*1,231
			Just downstream of Santa Fe Lake Road	*1,260
			About 2,100 feet upstream of Santa Fe Lake Road	*1,274
		West Branch Walnut River	About 3,300 feet downstream of Atchison, Topeka and Santa Fe Railway	*1,269
			Just upstream of Interstate 35	*1,313
			Just upstream of County Road 588	*1,345
			Just downstream of County Road 585	*1,358
		Bird Creek	Confluence with Walnut River	*1,286
			Just upstream of Missouri Pacific Railroad	*1,300
			Just upstream of U.S. Highway 54	*1,358
			Just downstream of County Road 604	*1,383
		Elm Creek	Mouth at Whitewater River	*1,231
			Just downstream of Augusta Street	*1,233
Maps available at Butler County Courthouse, County Engineer's Office, El Dorado, Kansas.				
Send comments to Mr. John Cameron, Chairman of the County Commissioners, Butler County, Butler County Courthouse, EL Dorado, Kansas 67042.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kansas	(C), Lawrence, Douglas County	Kansas River	Downstream corporate limits	*820
			Just upstream of Second Street	*826
			Just upstream of Kansas Turnpike	*831
			Upstream corporate limits	*837
		Wakarusa River	Just upstream of Haskell Avenue	*825
			Just upstream of Louisiana Street	829
			Just upstream of U.S. Highway 59	*830
			About 1.2 miles upstream of confluence of Yankee Tank Creek	*833
		Hidden Valley Tributary	Downstream corporate limits	*833
			Upstream corporate limits at County Road	*834
		Quail Creek	Downstream corporate limits	*833
			Just upstream of Brush Creek Drive	*840
			Just upstream of 23rd Street	*849
			Just upstream of Quail Creek Drive	*871
			Just upstream of Alvamar Golf Course Bridge	*878
		East Branch Yankee Tank Creek	About 1,250 feet upstream of Alvamar Golf Course Bridge	*885
			Downstream corporate limits at Kasold Drive	*834
			About 3,350 feet upstream of Kasold Drive	*845
			Just upstream of Clinton Parkway	*851
			About 3,500 feet upstream of Clinton Parkway	*870
			Just upstream of 15th Street	*886
		KLWN Tributary	Downstream corporate limits	*831
			About 900 feet downstream of 31st Street	*835
			Just upstream of 31st Street	*843
			About 2,300 feet upstream of 31st Street	*863
		Naismith Creek	Downstream corporate limits	*829
			Just upstream of 27th Street	*836
			Just downstream of 23rd Street	*849
			About 240 feet upstream of 23rd Street	*855
			About 300 feet upstream of 21st Street	*864
		Belle Haven Tributary	Downstream corporate limits	*829
			Just upstream of 29th Terrace	*829
			Just upstream of 27th Terrace	*836
			About 400 feet upstream of 27th Terrace	*838
		Broken Arrow Tributary	About 2,900 feet downstream of 27th Street	*827
			Just upstream of 27th Street	*838
			About 1,350 feet upstream of 27th Street	*846
		Haskell Tributary	Downstream corporate limits	*826
			About 2,000 feet upstream of corporate limits	*828
			About 2,950 feet upstream fo corporate limits	*838
		ATSF Tributary	Downstream corporate limits	*826
			Just upstream of Haskell Avenue	*827
			Just upstream of 15th Street	*834
			About 1,000 feet upstream of Learnard Avenue	*861
		Deerfield Tributary	Downstream corporate limits at Peterson Road	*876
			Just upstream of Princeton Boulevard	*882
			About 250 feet upstream of Princeton Boulevard	*886
		Country Club—Hope Plaza Tributary	Mouth at Kansas River	*831
			About 1.0 mile upstream of mouth at Kansas River	*834
		Maple Grove Drainage	About 350 feet downstream of 9th Street	*819
			Just upstream of Kansas Turnpike	*822
			2,600 feet upstream of Kansas Turnpike	*823
		Brook Street Tributary	At confluence with ATSF Tributary	*827
			Just upstream of 13th Street	*830
			Just upstream of Brook Street	*833
			Just upstream of 15th Street	*841
			About 940 feet upstream of 15th Street	*845
Maps available at City Hall, 910 Massachusetts Street, Lawrence, Kansas.				
Send comments to Mr. Buford Watson, City Manager, City of Lawrence, City Hall, Planning Department, 910 Massachusetts Street, Lawrence, Kansas 66044.				
Louisiana	Village of Mermentau, Acadia Parish	Mermentau River	Just downstream of U.S. Highway 90	*14
		Unnamed Tributary to Mermentau River (Backwater from Mermentau River).	Just upstream of 13th Street	*14
Maps available at Mermentau Post Office, First Street, P.O. Box 213, Mermentau, Louisiana 70556.				
Send comments to Mayor Daniel Duhon or Wilfred Guidry, Postmaster, East Highway 90, P.O. Box 213, Mermentau, Louisiana 70556.				
Louisiana	Village of Morse, Acadia Parish	Morse Lateral	Just downstream of Jackson Avenue (Louisiana Highway 91)	*11
			Just upstream of Louisiana Highway 92	*14
Maps available at Mayor's Office, Highway 91, Morse, Louisiana 79631.				
Send comments to Mayor Shirley Abshire or Curby Boudreaux, Mayor Pro-Tem, Highway 91, P.O. Box 36, Morse, Louisiana 70559.				
Louisiana	City of Rayne, Acadia Parish	Bella Avenue Canal (Shallow Flooding)	Just upstream of Jefferson Davis Avenue	*30
			Just upstream of Southern Pacific Railroad	*30
Maps available at City Hall, 301 East Louisiana Avenue, P.O. Box 69, Rayne, Louisiana 70578.				
Send comments to Mayor Ralph States or Vincent L. Chappvis, Mayor Pro-Tem, 301 East Louisiana Avenue, Rayne, Louisiana 70578.				
Louisiana	Town of Walker, Livingston Parish	Dumplin Creek	Just upstream of Aydell Street	*42
			Just upstream of Brannon Street	*47
			Approximately 500 feet upstream of Field Road	*49

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Dumplin Creek Tributary	Just upstream of Travis Street	*45
			Just upstream of East Railroad Avenue	*47
			Just downstream of Northern Corporate Limits	*49
		Middle Colyell Creek	Just upstream of U.S. Highway 190	*46
			Approximately 950 feet upstream of Old Corbin Road	*48
		Middle Colyell Tributary (Backwater from West Colyell Creek)	Just upstream of Interstate Highway 12	*36
			Approximately 500 feet upstream of Pleasant Ridge Drive	*38
		West Colyell Creek	Approximately 200 feet upstream of Interstate Highway 12	*36
			Approximately 200 feet upstream of U.S. Highway 190	*43
			Approximately 200 feet downstream of Illinois Central Gulf Railroad	*45
		West Colyell Tributary	Just upstream of Oak Drive	*39
			Just downstream of U.S. Highway 190	*45

Maps available at Town Hall, Highway 190, Walker, Louisiana 70785.

Send comments to Mayor H. H. Forbes, Jr. Mr. Arthur Israel, Mayor Pro-Tem, Town Hall, P.O. Box 217, Walker, Louisiana 70785.

Maryland	Hancock, Town, Washington County.	Potomac River	Downstream Corporate Limits	*430
			Upstream Corporate Limits	*432
		Little Tonoloway Creek	Confluence with Potomac River	*432
			Upstream Corporate Limits	*432

Maps available at the Town Hall, Hancock, Maryland.

Send comments to Honorable David W. Sowers, Jr., c/o Mr. Alfred Martin, Town Manager, 116 West High Street, Hancock, Maryland 21750.

Massachusetts	Mashpee (Town), Barnstable County.	Nantucket Sound	Intersection of Monomoscoy Road and Mariner Lane	*11
			Intersection of Mizzenmast and Waterline Drive	*11
			Intersection of Kim Path and Uncle Henry's Road	*11

Maps available at Town Offices, Route 130, Mashpee, Massachusetts.

Send comments to Mr. Kevin O'Connell, Town Offices, Route 130, Mashpee, Massachusetts 02649.

Michigan	(Chtr. Twp.), Delta, Eaton Country	Grand River	At the western corporate limit	*803
			At the eastern corporate limit (north of Saginaw Highway)	*817
			At the eastern corporate limit (south of Saginaw Highway)	*838
			At the sourthern corporate limit	*840
		Miller Creek	At the mouth at Grand River	*808
			Just downstream of Philwood Drive	*824
			Just upstream of West Saginaw Highway	*835
			Just downstream of Saint Joe Highway	*844
		Moon and Hamilton County Drain.	At the mouth at Grand River	*812
			About 3100 feet upstream of Willow Street	*819
			Just upstream of Saint Joe Highway	*838
			Just upstream of Mount Hope Highway	*855
			Just upstream of Interstate 96 (about 1300 feet downstream of Millet Highway)	*868
			About 3800 feet upstream of Millet Highway	*872
		Proposed Branch 2	At the confluence with Moon and Hamilton Drain	*841
			Just upstream of Mount Hope Highway	*860
			Just downstream of Millet Highway	*864

Maps available at the Delta Township Hall—Planning Department, 7710 W. Saginaw Street, Lansing, Michigan.

Send comments to Mr. Ivan Loatens, Township Supervisor, Charter Township of Delta, 7710 W. Saginaw Street, Lansing, Michigan 48917.

Michigan	(Twp), Plymouth, Wayne County	Tonquish Creek	Just upstream of Joy Road	*693
			Just downstream of Ann Arbor Road	*698
			Just upstream of Sheldon road	*737
			Just upstream of Beacon Hill Drive	*766
			About 50 feet upstream of North Territorial Road	*775
		South Branch Tonquish Creek	Just upstream of Sheldon Road	*717
			Just upstream of Jo Ann Lane	*723
			Just upstream of Canton Center Road	*739
			About 40 feet upstream of Ann Arbor Trail	*761
		Johnson Drain	Just upstream of Five Mile Road	*835
			Upstream corporate limits	*844

Maps available at Township Hall, 42350 Ann Arbor, Plymouth, Michigan.

Send comments to Mr. Thomas G. Notevart, Township Supervisor, Township of Plymouth, Township Hall, 42350 Ann Arbor, Plymouth, Michigan 48170.

Minnesota	(C), Fridley, Anoka County	Mississippi River	At the downstream corporate limit	*813
			At the upstream corporate limit	*824
		Rice Creek	Mouth at Mississippi River	*820
			Just downstream of East River Road	*820
			Just upstream of Locke Lake Dam and service road	*825
			Just downstream of Burlington Northern Railroad	*825
			About 170 feet upstream of Burlington Northern Railroad	*828
			About 80 feet downstream of Unnversity Avenue	*828
			About 80 feet upstream of University Avenue	*833
			About 4600 feet upstream of University Avenue	*835

Maps available at City Hall, 6431 University Avenue, Fridley, Minnesota.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)

Send comments to Honorable William Nee, Mayor, City of Fridley, City Hall, 6431 University Avenue, Fridley, Minnesota 55432.

Minnesota	(C), Glyndon, Clay County	Unnamed Creek	Just upstream of U.S. Highway 10	*916
			Just downstream of County Highway 72	*921

Maps available at City Hall, Glydon, Minnesota.

Send comments to Honorable Dennis Wahl, Mayor, City of Glyndon, P.O. Box 223, Glyndon, Minnesota 56547 to the attention of Mr. Dennis Johnson, City Clerk.

Minnesota	(C), Milaca, Mille Lacs County	Rum River	At downstream corporate limit	*1,041
			About 6800 feet upstream of dam	*1,058

Maps available at City Hall, 145 South Central, Milaca, Minnesota.

Send comments to Honorable Joseph Anfinnson, Mayor, City of Milaca, City Hall, 145 South Central, Milaca, Minnesota 56353.

Minnesota	(C), Randall, Morrison County	Little Elk River	Downstream corporate limits	*1,165
			Just downstream of Minnesota Avenue	*1,168
			Just upstream of State Highway 115	*1,174
			Just upstream of Third Street	*1,175
			Just upstream of Route 6	*1,177
			Northern corporate limits	*1,178
		South Branch, Little Elk River	Downstream of Burlington Northern Railroad	*1,170
			Approximately 100 feet downstream of U.S. Highway 10	*1,171
			Just downstream of State Route 6 at the western corporate limits	*1,174

Maps available at City Hall, Main Street, Randall, Minnesota.

Send comments to Honorable Erwin Wise, Mayor, City of Randall, City Hall, Main Street, Randall, Minnesota 56475 to the attention of Mr. Leonard Drew, Deputy Clerk.

Minnesota	(C), St. Francis, Anoka County	Rum River	About 2,000 feet upstream of downstream corporate limits	*891
			At upstream corporate limits	*906
		Seelye Brook	About 700 feet upstream of downstream corporate limits	*891
			About 700 feet downstream of Bndgestone Road	*895
			About 800 feet upstream of Bridgestone Road	*899
			At upstream corporate limits	*905
		East Seelye Brook	At confluence with Seelye Brook	*894
			Just upstream Ambassador Boulevard N W	*899
			Just upstream private drive	*902

Maps available at the Office of the Planning Director, City Hall, St. Francis, Minnesota.

Send comments to Honorable P. H. Braastd, Mayor, City of St. Francis, City Hall, St. Francis, Minnesota 55070

New Jersey	Mount Laurel (Township), Burlington County.	South Branch Pennsauken Creek	100 feet upstream from center of New Jersey Turnpike	*45
		North Branch Pennsauken Creek	100 feet upstream from center of Interstate 295	*22
			100 feet upstream from center of Church Street	*28
			100 feet upstream from center of Union Mills Road	*36
		Evesboro Tributary	100 feet upstream from center of Church Street	*29
			100 feet upstream from center of Academy Drive	*62
		Ramblewood Tributary	Intersection of tributary and center of golf course bridge	*25
		Strawbridge Lake Tributary	100 feet upwtream from center of Hooten Road	*27
		Hooten Road Tributary	100 feet upstream from center of Hooten Road	*26
		Parkers Creek	Intersection of creek and center of Creek Road	*11
			100 feet upstream from center of New Jersey Turnpike	*14
			100 feet upstream from center of New Jersey Highway 38	*19
			Intersection of creek and center of Union Mills Road	*19
		Hartford Road Tributary	At upstream opening of culvert under Larchmont Boulevard	*38
		Delaware River	Intersection of Rancocas Creek and center of New Jersey Turnpike	*11
			At confluence of Masons Creek with South Branch Rancocas Creek	*11
		Masons Creek	Intersection of Creek and New Jersey Hoghway 38	*12

Maps available at 100 North Laurel Road, Mount Laurel, New Jersey.

Send comments to the Honorable Joseph P. Massari, 100 North Laurel Road, Mount Laurel, New Jersey 08054

Oklahoma	Town of Glenpool, Tulsa County	Coal Creek	Just upstream of 126th Street	*654
			Just upstream of 141st Street	*689
			Just downstream of 151st Street	*705
		Coal Creek Tributary "A"	Approximately 150 feet upstream of 121st Street	*644
			Just downstream of Elwood Avenue	*673
		Coal Creek Tributary "B"	Just upstream of 126th Street	*664
			Approximately 100 feet downstream of South Elwood Avenue	*679
		Posey Creek	Just upstream of South Peoria Avenue	*690
			Just upstream of South 15th Street	*702

Maps available at Town Hall, 14522 South Broadway, Glenpool, Oklahoma 74033

Send comments to Mayor Scott Wilmott or Mr. Roger Miner, City Manager, 14522 Broadway, P.O. Box 129, Glenpool, Oklahoma 74033.

Pennsylvania	East Pikeland, Township, Chester County	Schuylkill River	Downstream Corporate Limits	*110
			Upstream Corporate Limits	*113
		French Creek	State Routes 23 and 724	*117
			Upstream side of Rapps Dam	*127
			Seven Stars Road (Upstream side)	*148
			Upstream Corporate Limits	*149

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pickering Creek	Downstream Corporate Limits	*204
			250' upstream of Merlin Road	*213
			Upstream side of Pickering Road	*228
			Upstream Corporate Limits	*232

Maps available at the East Pikeland Township Building, Rapps Dam Road and at the Office of the City Engineer, 222 North Walnut Street, West Chester, Pennsylvania.

Send comments to Mr. John F. Yeager, Chairman of the East Pikeland Board of Supervisors, Western Road, Phoenixville, Pennsylvania 19460.

Pennsylvania	Ephrata, Borough, Lancaster County	Cocalico Creek	Downstream Corporate Limits	*326
			250' downstream of State Route 272	*329
			Old Mill Road Upstream	*330
			South Oak Street Upstream	*338
			West Main Street Upstream	*341
			3rd Street (Extended)	*344
			Upstream Corporate Limits	*351

Maps available at the Borough Hall, Ephrata, Pennsylvania.

Send comments to Mr. Carl Fuehrer, Borough Manager of Ephrata, 114 East Main Street, Ephrata, Pennsylvania 17522.

Pennsylvania	Fairmount, Township, Luzerne County	Huntington Creek	Downstream Corporate Limits	*815
			Legislative Route 40067 (Upstream side)	*824
			Confluence at Rittenhouse, approximately 4,000' upstream of Legislative Route 40067.	*839
			Approximately 7,200' upstream of Legislative Route 40076	*858
			Confluence of Phillips Creek	*886
			Upstream Corporate Limits	*895
		Kitchen Creek	Downstream Corporate Limits	*818
			Legislative Route 40057	*844
			Approximately 2,000' upstream of Legislative Route 40057	*864
		Phillips Creek	Confluence with Huntington Creek	*886
			T-620 (Upstream side)	*889
			Approximately 1,500' upstream of T-620	*920

Maps available at the residence of Lois J. Bowka, Fairmount Township Secretary, R. D.,1, Benton, Pennsylvania.

Send comments to Mr. Stanley D. Keller, Chairman of the Fairmount Board of Supervisors, R. D. 1, Benton, Pennsylvania 17814.

Pennsylvania	Fawn, Township, York County	Muddy Creek	Upstream side of State Route 425 Bridge	*303
			3,000' upstream of State Route 425 Bridge	*308
			Upstream side of Bridgeton Road Bridge	*314
		South Branch Muddy Creek	100' upstream of confluence with Muddy Creek	*370
			1,500' upstream of confluence with Muddy Creek	*375
			2,500' upstream of confluence with Muddy Creek	*380
			Upstream side of Muddy Creek Road (Township Route 630) Bridge	*386
			2,000' upstream of Muddy Creek Road (Township Route 630) Bridge	*391
			4,000' upstream of Muddy Creek Road (Township Route 630) Bridge	*398
			7,500' upstream of Muddy Creek Road (Township Route 630) Bridge	*411
			Upstream side of Muddy Creek Road (Township Route 633) Bridge	*418
		Bald Eagle Creek	Upstream side of State Road 425 Bridge	*306
			1,500' upstream of State Route 425 Bridge	*313
			2,500' upstream of State Route 425 Bridge	*319
			3,500' upstream of State Route 425 Bridge	*324
			1,000' downstream of Gamble Road Bridge	*331
			250' downstream of Gamble Road Bridge	*336
			Upstream side of Gamble Road Bridge	*340
			1,500' upstream of Gamble Road Bridge	*348
			1,500' downstream of Jones Road Bridge	*355
			500' downstream of Jones road Bridge	*362
			Upstream side of Jones Road Bridge	*366
			800' upstream of Jones Road Bridge	*373
			1,600' upstream of Jones Road Bridge	*381

Maps available at the Cedar Valley Grocery Store, Gatchelville, Pennsylvania.

Send comments to Mr. Eugene D. Scott, Chairman of the Fawn Baord of Supervisors, New Park, Pennsylvania 17352.

Pennsylvania	Felton, Borough, York County	North Branch Muddy Creek	Upstream Corporate Limits	*544
			Downsream side of Church Street Bridge	*536
			Downstream side of Water Street Bridge	*533
			Downstream Corporate Limits	*530
		Pine Run	Upstream Corporate Limits	*552
			Upstream side Moul Avenue Bridge	*540
		Tributary to North Branch Muddy Creek.	Upstream Corporate Limits	*548
			Upstream of L. R. 66100 Bridge	*543

Maps available at the residence of Kathryn S. Shultz, Borough Secretary, Corner of Main and Church Streets, Felton, Pennsylvania.

Send comments to Mr. Darwin M. Gruver, Council President of Felton, R. D. 2, Felton, Pennsylvania 17322.

Pennsylvania	Franklin, Township, Luzerne County.	Sutton Creek	Downstream Corporate Limits	*846
			Approximately 1,400' upstream of Corporate Limits	*859
			Approximately 200' downstream of L. R. 40052 (Extended)	*867
			Approximately 900' upstream of L. R. 40052 (Extended)	*872
			Approximately 1,800' upstream of L. R. 40052 (Extended)	*884
			850' downstream of Private Road off County Road No. 10, 4,100' upstream from L. R. 40052.	*902

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Private Road off County Road No. 10, 4,100' upstream from L. R. 40052	*918
			Upstream side of Private Road off County Road No. 10, 5,800' upstream from L. R. 40052.	*929
			100' downstream of T-782	*946
			80' upstream of T-782	*952
			Downstream of County Road No. 10	*956
			Approximately 500' upstream of County Road No. 10	*970
			Approximately 1,170' upstream of County Road No. 10	*985
			Downstream side of L. R. 40122	*1,004
			Upstream side of L. R. 40122	*1,009
			Approximately 550' upstream of L. R. 40122	*1,018
			Approximately 900' upstream of L. R. 40122	*1,025
			Downstream side of T-784	*1,037
			Upstream side of T-784	*1,045
		Cider Run	Approximately 280' downstream of County Road No. 10	*867
			Upstream side of County Road No. 10	*878
			Approximately 900' upstream of County Road No. 10	*888
			Approximately 2,000' upstream of County Road No. 10	*910
			Approximately 3,300' upstream of County Road No. 10	*931
			Approximately 1,200' downstream of L. R. 40052	*942
			Approximately 350' downstream of L. R. 40052	*963
			Downstream side of L. R. 40052	*971
			Upstream side of L. R. 40052	*973

Maps available at the Franklin Township Garage, Municipal Road, Orange, Pennsylvania.

Send comments to Mr. William Meade, Chairman of the Franklin Board of Supervisors, R.D. 3, Box 181-A, Dallas, Pennsylvania 18612.

Pennsylvania	Huntington, Township, Luzerne County	Huntington Creek	Downstream Corporate Limits	*700
			Southdale Schoolhouse Road (Extended) Upstream	*703
			Township Route 470 downstream (Extended)	*710
			Everetts Corner Road (Downstream side)	*720
			Legislative Route 40075 (Downstream side)	*730
			Dug Road (Upstream side)	*743
			Dam (Upstream side)	*759
			Upstream of State Route 239	*768
			Papermill Dam (Upstream side)	*771
			Koons Dam (Upstream side)	*777
			Williams Road	*786
			Lundevist Road (Upstream side)	*796
			Confluence of Kitchen Creek	*811
			Upstream Corporate Limits	*814
		Pine Creek	Downstream Corporate Limits	*715
			Hollow Road (Upstream side)	*726
			Corporate Limits (Approximately 4,300' downstream of State Route 239).	*758
			State Route 239 (Downstream side)	*773
			Town Hill Road (Downstream side)	*787
			Legislative Route 40164 (Extended)	*803
			Legislative Route 40080 (Upstream side)	*815
			Hess Hollow Road	*835
			Upstream Corporate Limits	*842

Maps available at the Huntington Township Municipal Building, Shickshinny, Pennsylvania.

Send comments to Mr. George J. Beresky, Jr., Chairman of the Huntington Board of Supervisors, Township Municipal Building, R.D. 3, Shickshinny, Pennsylvania 18655.

Pennsylvania	Limerick, Township, Montgomery County	Schuylkill River	Downstream Corporate Limits	*118
			Upstream Vincent Dam	*124
			Upstream Conrail	*128
			Upstream Corporate Limits	*129
		Mingo Creek	Corporate Limits	*150
			Upstream Royersford Road	*163
			Confluence of Tributary No. 1 to Mingo Creek	*164
			3,000' upstream Reifsnyder Road	*180
			Upstream Linfield Road	*198
			1,000' upstream Linfield Road	*200
		Tributary No. 1 to Mingo Creek	Confluence with Mingo Creek	*164
			Upstream Dam	*171
			Downstream Country Club Road	*189
			100' upstream Country Club Road	*194
		Lodal Creek	Corporate Limits	*204
			Upstream Graterford Road	*216
			750' upstream Graterford Road	*220

Maps available at the Limerick Township Building.

Send comments to Mr. Christian B. Oesterle, Chairman of the Limerick Board of Supervisors, c/o Mrs. Barbara Bowman, 646 West Ridge Pike, Limerick, Pennsylvania 19468

Pennsylvania	Miller, Township, Perry County	Juniata River	Downstream Corporate Limits	*370
			Confluence of White Run	*375
			Approximately 2,700 feet downstream of Upper Bailey Road extended	*380
			Approximately 8,560 feet upstream of Upper Bailey Road extended	*385
			Upstream Corporate Limits	*390

Maps available at the Election House, Route 849, Duncannon, Pennsylvania.

Send comments to Mr. John D. Fahnestock, Chairman of the Miller Board of Supervisors, Box 92, R.D. 2, Newport, Pennsylvania 17074.

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Pennsylvania	New Columbus, Borough, Luzerne County	Pine Creek	Downstream Corporate Limits	*717
			Legislative Route 40077 Upstream	*719
			Hollow Road Upstream	*726
			Private Lane (Extended)	*731
			Legislative Route 40078/Academy Street	*755
			Upstream Corporate Limits	*757
	Maps available at Jack Frantz Barbershop, New Columbus Cornefs.			
	Send comments to Mr. Bernard Kocher, Council President of New Columbus, R.D. 1, Stillwater, Pennsylvania 17878.			
Pennsylvania	North Towanda, Township, Bradford County	Susquehanna River	Downstream Corporate Limits	*723
			Upstream Corporate Limits	*729
		Sugar Creek	Confluence with Susquehanna River	*727
			Upstream side of U.S. Route 220	*741
			Corporate Limits (Township of Towanda)	*764
			Downstream side Township Route 545	*796
			Downstream side of U.S. Route 6	*833
			Upstream Corporate Limits	*837
	Maps available at the North Towanda Township Building, R.D. 1, Towanda, Pennsylvania.			
	Send comments to Mr. Richard Crowell, Chairman of the North Towanda Board of Supervisors, R.D. 1, Box 75B, Towanda, Pennsylvania 18848.			
Pennsylvania	Springfield, Township, York County.	East Branch Cordorus Creek	500' downstream of Ore Road	*518
			100' upstream of Ore Road	*520
			100' downstream of Ridge View Road	*527
			70' upstream of Gravdon Road	*548
			75' downstream of Seaks Run Road	*559
			75' upstream of Seaks Run Road	*564
	Maps available at the Springfield Township Building, Seven Valleys, Pennsylvania.			
	Send comments to Mr. E. Lamar Lehman, Chairman of the Springfield Board of Supervisors, R.F.D. 2, Seven Valleys, Pennsylvania 17360.			
South Carolina	Town of McClellanville, Charleston County.	Atlantic Ocean (Backwater Flooding along Jeremy Creek and Intracoastal Waterway).	Entire community	*12
	Maps available at Town of Office, Pinkney Street, McClellanville, South Carolina 29458.			
	Send comments to Mayor Rutledge B. Leland, III or Ms. Prisvilla Parkers, Town Clerk, P.O. Box 181, McClellanville, South Carolina 29458.			
Texas	Unincorporated Areas of Collin County.	Cottonwood Creek East Fork	Just upstream of U.S. Fale County Road	*504
		Rush Creek	Just upstream of County Road	*454
			Just upstream of Old State Highway 78	*498
		Franklin Branch	Just downstream of U.S. Highway 380	*590
		Unnamed Tributary to Wilson Creek.	Just downstream of State Highway 3038 (Old Rock Hill Road)	*601
		Rutherford Branch	Just upstream of FM 2478	*643
		Wilson Creek (Main Stream)	Just upstream of U.S. Highway 380	*601
			Just upstream of FM 2478	*637
		Stream 5813	Just downstream of City of Plano corporate limits (Approximately 400 feet downstream of Atchison Topeka & Santa Fe Railway).	*685
		Tributary to Rowlett Creek	Just downstream of City of Frisco Corporate Limits	*684
		White Rock Creek East	Just upstream of FM 3286	*491
			Just upstream of Winningkoff Road	*524
		Reid Branch	Approximately 120 feet downstream of westernmost corporate limits of the Town of Lucas (approximately 2300 feet upstream of the County Road within the Town of Lucas).	*553
		Muddy Creek downstream	Just upstream of St. Louis and Southern Railway	*499
		Muddy Creek upstream	Approximately 200' upstream of County Road (Highway 2514 extended) within the Town of Lucas.	*548
		Muddy Creek Tributary 1	Approximately 150 feet upstream of FM 544	*510
		Muddy Creek Tributary 2	Just upstream of Asphalt Road	*571
		Stream 5814	Just downstream of the City of Plano Corporate Limits	*678
		Rowlett Creek	Just upstream of State Highway 121	*640
		Tributary to Rowlett Creek	Just upstream of State Highway 720	*668
		Cottonwood Creek	Just upstream of State Highway 121	*676
		White Rock Creek-west	Approximately 200 feet downstream of Atchison, Topeka and Santa Fe Railway	*609
		Rush Creek Tributary	Just upstream of Old State Highway 78 Westbound	*509
		Camp Creek	Just upstream of State Highway 205	*445
	Maps available at Mr. Jimmy Hones, Collin County Courthouse, 2nd Floor, 200 McDonald Street, McKinney, Texas 75069.			
	Send comments to Judge Nathan E. White, Collin County Courthouse, 6th Floor, 200 McDonald Street, McKinney, Texas 75069			
Texas	City of Jacksonville, Cherokee County.	Ragsdale Creek	Approximately 200 feet upstream of Loop HWY 456	*384
			Approximately 100 feet downstream of Canada Street	*415
			At Fort Worth Street (O'Keefe Road)	*451
			Just upstream of Beaumont Street	*476

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Ragsdale Branch	Just upstream of Willow Creek Drive	*463
			Approximately 120 feet upstream of Burma Road (Downstream Crossing).	*505
		Gum Creek	At southern corporate limits	*440
			Approximately 60 feet upstream of Bridge Street	*468
			Approximately 30 feet upstream of Sunset Avenue	*486
			Approximately 150 feet feet downstream of Patton Street	*510
	Maps available at City Clerk's Office, 301 East Commerce Street, P.O. Box 1390, Jacksonville, Texas 75766			
	Send comments to Mayor Philip Pavletich or James Marshall, City Manager, 301 East Commerce Street, P.O. Box 1390, Jacksonville, Texas 75766.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: May 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16469 Filed 5-30-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22

Inquiry Into The Use of Bands 825–845 MHz and 870–890 MHz for Cellular Communications Systems; Order Setting Date for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: FCC sets dates for filing reply comments in Common Carrier Docket 79–318, regarding cellular communications systems.

DATES: Reply comments are due by July 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael D. Sullivan, Common Carrier Bureau, (202) 632–6450.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry into the use of the Bands 825–845 MHz and 870–890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems, CC Docket No. 79–318.

Order

Adopted: May 16, 1980.

Released: May 19, 1980.

1. The Commission, in its *Notice of Inquiry and Notice of Proposed Rulemaking* in this Docket, 45 FR 2859, left the date for filing reply comments open, to be set after the comments had been filed. Over forty participants had filed comments by May 1, 1980.

2. Accordingly, it is ordered, that reply comments in this proceeding shall be filed on or before July 3, 1980.

3. The Secretary shall cause this *Order* to be published in the **Federal Register.**

James K. Smith,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-16638 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2, 90

[Gen. Do. No. 80-135; RM-3378]

Permitting the Continued Assignment of Frequencies in the 420–450 MHz Band for Non-Government Radiolocation; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: An extension of two months in which to file comments in General Docket 80–135, has been requested. Because time is of the essence in this matter to permit manufacturers and users to plan their activities, a two-week extension has been granted.

DATES: Comments must be received by June 2, 1980, and Reply Comments by June 16, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sam Tropea/Office of Science & Technology (202) 632–6350.

In the matter of revision of parts 2 and 90 of the Commission's rules and regulations to permit the continued assignment of frequencies in the 420–450 MHz band for non-Government radiolocation, General Docket No. 80–135, RM–3378. See 45 FR 25412, April 15, 1980.

Adopted: May 16, 1980.

Released: May 19, 1980.

1. A Notice of Proposed Rule Making was released in the above-captioned matter of April 8, 1980. The deadline for comments was May 16, 1980. On May 8, 1980, the American Radio Relay League, Inc. (ARRL) requested a two (2) month extension within which to file comments. ARRL indicates that the additional time is needed to disseminate the substance of this proceeding to its members through its monthly journal, *QST*, giving interested amateurs a chance to contact ARRL headquarters before comments are filed.

2. Del Norte Technology, Inc. (Del Norte) filed an Opposition to the extension of time requested by ARRL. Del Norte states that the present cut-off date for non-Government radio-location usage in the 420–450 MHz band, January 1, 1981, makes timing of this proceeding critical if manufacturers and users operating in this band are to have reasonable notice as to whether continued operation will be permitted. Del Norte contends that the requested two-month extension will unreasonably compress the Commission's time for appropriate consideration and practically eliminate any opportunity for manufacturers and users to plan their activities based upon the Commission action.

3. It appears from the exhibit submitted by Del Norte that ARRL in the May 1980 issue of *QST* has already asked its members to comment by the May 16 deadline. Thus, we believe that an additional two-month extension is

unnecessary. In addition, time is of the essence in this matter, and it is critical in view of the January 1, 1981, cut-off date that this proceeding be terminated as expeditiously as possible. However, to allow ARRL an opportunity to assemble responses to the *QST* notification and file its comments, a two-week extension will be granted.

4. Accordingly, an extension of time to June 2, 1980, for filing of Comments and June 16, 1980, for filing of Reply Comments is hereby ordered pursuant to the authority granted by § 0.241(d) of the Commission's rules.

S. J. Lukasik,
Chief Scientist.

[FR Doc. 80-16637 Filed 5-30-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-235; RM-3414]

FM Broadcast Station in Indio, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second Class A FM channel to Indio, California, in response to a petition filed by Gilberto P. Esquivel. The proposed channel could provide the community with a second FM broadcast service.

DATES: Comments must be filed on or before July 18, 1980, and reply comments must be filed on or before August 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1980.

Released: May 23, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* (a) A petition for rule making [1] was filed by Gilberto P. Esquivel ("petitioner"), proposing the assignment of FM Channel 224A to Indio, California, as a second FM channel. No responses to the petition have been filed.

(b) The channel can be assigned in compliance with the minimum distance separation requirements, provided the transmitter site is located approximately 1.6 kilometers (1 mile) southeast of the community.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data:* (a) *Location:* Indio, in Riverside County, is located approximately 192 kilometers (120 miles) east of Los Angeles, California.

(b) *Population:* Indio—14,459 [2]; Riverside County—459,074.

(c) *Local Aural Broadcast Service:* Indio is served locally by fulltime AM Station KRCQ and FM Station KCMS (Channel 276A).

3. *Economic Considerations:* Petitioner asserts that, according to the 1978 Special Census, Indio has a population of 20,500, and claims that 40% of Indio's population is of Spanish descent. He points out that Indio is known throughout the country as the date capital of the world. Petitioner states that there is a great need for radio service for the Spanish population. He adds that the proposed station will have a 100% Spanish format, thus increasing the diversity of viewpoints as well as increasing the training and employment opportunities of the minority group.

4. *Preclusion Study:* A preclusion study indicates that the assignment of Channel 224A to Indio, California, would cause preclusion to three communities with populations greater than 1,000. Of these, only Eagle Mountain, California (pop. 2,453), has no AM station or FM assignment.

5. Since Indio is located within 318 kilometers (199 miles) of the Mexican border, the proposed assignment of Channel 224A to Indio, California, requires coordination with the Mexican Government before it can be adopted.

6. In light of the above, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to Indio, California:

City	Channel No.	
	Present	Proposed
Indio, Calif	276A	224A, 276A

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 18, 1980, and reply comments on or before August 7, 1980.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,
Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5 (d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-16630 Filed 5-30-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-215; RM-3360]

FM Broadcast Station in Owensville, Mo.; Proposed Changes in Table of Assignments; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein denies a request to reassign Channel 265A from Sullivan, Missouri, to Owensville, Missouri, and the Commission's proposal to assign Channel 237A to Owensville. The Sullivan channel has been applied for and there are no other substitute channels available. Although an alternative channel is available to Owensville (Channel 237A) petitioner has failed to state an interest in its use due to a site limitation.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1980.

Released: May 23, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making*, 44 FR 53552, released September 5, 1979, proposing the assignment of Channel 237A to Owensville, Missouri, as its first FM assignment. Comments have been received from petitioner, Gerald W. Hertlein, who originally requested that Channel 265A be deleted from Sullivan, Missouri, and be reassigned to Owensville, Missouri. Several letters are included from Owensville residents supporting a new station.

2. The *Notice* proposed to assign Channel 237A to Owensville instead of the requested Channel 265A so that both communities could have a channel assignment and an opportunity for local service. Since the issuance of the *Notice* an application has been filed for the construction of an FM station on Channel 265A at Sullivan by Four Rivers Broadcasting Co. (File No. 790625AH). Our staff has undertaken a search for an alternate channel to substitute at Sullivan but found none to be available. Petitioner states that since the proposed Channel 237A requires a transmitter site restriction of 10.8 kilometers (6.7 miles), it could not provide an adequate signal to all of Gasconade County, and, in particular, Herman, Missouri, approximately 48 kilometers (30 miles) north of Owensville. Petitioner would only affirm an interest in Channel 265A, if assigned to Owensville.

3. In view of the fact that an application is pending on the Sullivan channel, and no other channels are available as a replacement there, we would not favor deletion of an FM assignment without replacement where both communities could receive a channel. While Owensville could be assigned Channel 237A as proposed, petitioner has failed to make a commitment in applying for the channel. Further, petitioner has failed to provide a comparative basis for our concluding that Owensville should be favored for the assignment of Channel 265A over Sullivan which is a larger community (Sullivan (pop. 5,100) [1], Owensville (pop. 2,416)). Therefore, we shall deny petitioner's request to reassign Channel 265A from Sullivan to Owensville. However, we would be willing to entertain a request for a Channel 237A assignment to Owensville if an interest in applying for the channel is expressed.

4. Accordingly, the petition of Gerald W. Hertlein for the reassignment of Channel 265A from Sullivan to Owensville, Missouri, and the Commission's proposal to assign Channel 237A to Owensville, Missouri, Are denied.

5. It is ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-16628 Filed 5-30-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-237; RM-3361]

FM Broadcast Station in Wilson, N.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Wilson, North Carolina, in response to a petition filed by BBC Broadcasting Corp. Petitioner is willing to operate a Class A channel in competition with the already present Class B FM station in the community.

DATES: comments must be filed on or before July 18, 1980, and reply comments must be filed on or before August 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1980.

Released: May 23, 1980.

By the Chief, Policy and Rules Division.

[1] Population data are taken from the 1970 U.S. Census.

1. *Petitioner, Proposal, Comments:* (a) A petition for rule making[1] was filed by BBC Broadcasting Corp. ("petitioner"), proposing the assignment of FM Channel 257A to Wilson, North Carolina, as that community's second FM assingment.

(b) The channel can be assigned to Wilson, provided the transmitter site is located approximately 8.9 kilometers (5.2 miles) west of the community.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data:* (a) *Location:* Wilson, seat of Wilson County, is located approximately 61 kilometers (38 miles) east of Raleigh, North Carolina.

(b) *Population:* Wilson—29,347;[2] Wilson County—57,600.

(c) *Local Aural Broadcast Service:* Wilson is served locally by fulltime AM Station WGTM, daytime-only AM Stations WLLY and WVOY, and FM Station WXXY (Channel 291).

3. *Economic Considerations:* Petitioner states that the economy of Wilson consists primarily of agricultural products, with the most widely known product being tobacco. It notes that Wilson is the world's largest tobacco processing center.

4. A preclusion study indicates that in addition to small areas on co-Channel 257A where no communities with 1,000 or more population exist, there is a small precluded area on Channel 258. Three communities with populations of 1,000 or greater are located in the precluded area. Only one affected community, Harkers Island, North Carolina (pop. 1,633), has no FM assignments.

5. The assignment of Channel 257A to Wilson would result in intermixing a Class A channel with a Class B channel (291). The Commission has a policy of permitting such intermixture where, as here, no other Class B channel is available for assignment and the petitioner is willing to apply for the Class A channel despite the unfavorable competitive situation. *Yakima, Wash.*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Fla.*, 45 F.C.C. 2d 142, 145 (1974).

6. In light of the foregoing information and the fact that the proposed assignment would provide the community an opportunity to develop a second local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to Wilson, North Carolina, as follows:

City	Channel No.	
	Present	Proposed
Wilson, North Carolina	291	257A, 291

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 18, 1980, and reply comments on or before August 7, 1980.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-16629 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on April 16, 1979, Report No. 1172.

[2] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

[BC Docket No. 80-238; RM-3419]

FM Broadcast Stations in Bradford, Kane and Warren, Pa.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Warren, Pennsylvania, and the substitution of a Class A channel for another for another Class A channel in Kane and Bradford, Pennsylvania, in response to a petition filed by God's Station, Inc. The proposed channel at Warren could provide that community with its second local FM broadcast service.

DATES: Comments must be filed on or before July 18, 1980, and reply comments must be filed on or before August 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1980.

Released: May 27, 1980.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making [1] filed by God's Station, Inc. ("petitioner"), which seeks the assignment of Channel 276A to Warren, Pennsylvania. In order to make the assignment, the petitioner also requests that Channel 280A be substituted for Channel 276A (unoccupied and unapplied for) at Kane, Pennsylvania, and Channel 252A for Channel 280A (application pending)[2] at Brandford, Pennsylvania. No responses to the petition have been filed.

2. Warren (pop. 12,998),[3] seat of Warren County (pop. 47,682), is located approximately 80 kilometers (50 miles) southeast of Erie, Pennsylvania. It is served locally by daytime-only AM Station WNAE and FM Station WRRD (Channel 222).

3. Petitioner states there is a need for a second competitive FM channel in a community the size of Warren. In support of its petition, petitioner has submitted demographic and economic data with respect to Warren in order to show the need for an additional FM assignment.

4. Channel 276A could be assigned to Warren, provided the transmitter site is located 12 kilometers (7.35 miles) northeast of the community and the required substitutions are made.

5. *Preclusion:* Assignment of Channel 276A to Warren would result in preclusion only on co-Channel 276A. All adjacent channels are already precluded by existing assignments. Five communities[4] with populations greater than 1,000 are located in the precluded area. However, they are already precluded from an assignment on Channel 276A by the present assignment of this channel at Kane. However, Smethport (pop. 1,883) would experience new preclusion if the proposed substitution of Channel 252A at Kane is made. Petitioner should indicate whether an alternate channel is available for assignment to Smethport.

6. The assignment of Channel 276A to Warren would result in intermixing a Class A channel with a Class B channel (222). The Commission has a policy permitting such intermixture where, as it appears here, no other Class B channel is available for assignment and petitioner is willing to apply for a Class A channel in spite of the competitive situation. *Yakima, Wash.*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Fla.*, 45 F.C.C. 2d 142, 145 (1974).

7. Since Warren, Kane and Bradford are located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignments to these communities require coordination with the Canadian Government.

8. Since the proposed channel for Warren could provide the community with an opportunity to develop a second FM broadcast service and substitute Class A channels are available for assignment to Kane and Bradford, Pennsylvania, we believe consideration of the proposals described above, is warranted.

9. Accordingly, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to the following communities:

City	Channel No.	
	Present	Proposed
Bradford, Pennsylvania	280A	252A
Kane, Pennsylvania	276A	280A
Warren, Pennsylvania	222	222, 276A

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before July 18, 1980, and reply comments on or before August 7, 1980.

12. It is ordered, That the Secretary of the Commission shall send a copy of this *Notice* by certified mail return receipt requested to Quaker Radio Corporation, P.O. Box 108-B, Foxberry Drive, Getzville, New York 14068, the applicant affected in this proceeding.

13. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] Channel 280A at Bradford, Pennsylvania, has been applied for by Quaker Radio Corporation (File No. 800201).

[3] Population figures are taken from the 1970 U.S. Census.

[4] *Pennsylvania:* Sheffield (1,564), Kane (5,001), Mt. Jewett (1,060), Smethport (1,883), and Port Allegheny (2,703).

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served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-16633 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-233; RM-3436]

FM Broadcast Station in Lewistown, Pa.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Lewistown, Pennsylvania, in response to a petition filed by Central Pennsylvania Broadcasting Company. The proposed channel would provide the community with a second FM broadcast service.

DATE: Comments must be filed on or before July 18, 1980, and reply comments must be filed on or before August 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1980.

Released: May 23, 1980.

By the Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments:* (a) *Notice of Proposed Rule Making* is given concerning the assignment of FM Channel 288A to Lewistown, Pennsylvania, in response to a peition[1] filed by Central Pennsylvania Broadcasting Company ("petitioner"), licensee of AM Station WKVA, Lewistown, Pennsylvania.[2]

(b) Channel 288A can be assigned to Lewistown in compliance with the minimum distance separation requirements, provided the transmitter site is located approximately 5 kilometers (3 miles) northwest of Lewistown.

2. *Community Data:*

(a) *Location:* Lewistown, seat of Mifflin County, is located approximately 200 kilometers (125 miles) east of Pittsburgh, Pennsylvania.

(b) *Population:* Lewistown—11,098;[3] Mifflin County—45,268.

(c) *Local Aural Broadcast Service:* Lewistown is served locally by fulltime AM Stations WKVA and WMRF, and FM Station WMRF (Channel 240A).

3. *Economic Considerations:* Petitioner asserts that Lewistown and Mifflin County are undergoing a period of regrowth and redevelopment. It notes that new industries have been attracted to the area, thus resulting in more jobs, housing and continued economic development. Petitioner states that because of Lewistown's potential for future growth, it is deserving of a second FM assignment. Petitioner has submitted demographic data in an effort to show the need for a second FM assignment.

4. A preclusion study for the assignment of channel 288A to Lewistown indicates no new preclusion to any community with a population greater than 1,000. Petitioner states that the assignment of a Class A channel to Lewistown would provide a second FM service to 57,500 persons in a 1,692 square kilometer (661 square miles) area. However, it appears that petitioner failed to take into account other stations providing a signal of 60 dBu or greater within the 60 dBu contour of the proposed station, reducing these service figures substantially.

5. Since Lewistown is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of channel 288A to Lewistown, Pennsylvania, requires coordination with the Canadian Government.

6. In view of the foregoing information and the fact that the proposed assignment could afford Lewistown with an opportunity to develop a second FM broadcast service, the commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to Lewistown, Pennsylvania, as follows:

City	Channel No.	
	Present	Proposed
Lewistown, Pa.	240A	240A, 288A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 18, 1980, and reply comments on or before August 7, 1980.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures wil govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (see § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D. C.

[FR Doc. 80-16632 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[BC Docket No. 80-234; RM-3434]

FM Broadcast Station in Mifflintown, Pa.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Mifflintown, Pennsylvania, in response to a petition filed by the Mifflintown Broadcasters Association. The proposed channel would provide for a first local aural broadcast service to the community.

DATES: Comments must be filed on or before July 18, 1980, and reply comments must be filed on or before August 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1980.

Released: May 27, 1980.

By the Chief, Policy and Rules Division: 1. *Petitioner, Proposal, Comments:* (a) A petition for rule making[1] was filed by Mifflintown Broadcasters Association ("petitioner"), proposing the assignment of Channel 296A to Mifflintown, Pennsylvania, as its first FM assignment.[2] An opposition was filed by Central Pennsylvania Broadcasting Company ("Central"), licensee of AM Station WKVA, Lewiston, Pennsylvania.

(b) The channel can be assigned in conformity with the minimum distance separation requirements.

2. *Community Data:* (a) *location:* Mifflintown, seat of Juniata County, is located approximately 216 kilometers (135 miles) east of Pittsburgh, Pennsylvania. (b) *Population:* Mifflintown—828,[3] Juniata County—16,712. (c) *Local Aural Broadcast Service:* None.

3. *Economic Considerations:* Petitioner states that Mifflintown is a steadily growing area with many business establishments. Petitioner has submitted sufficient demographic information in order to demonstrate the need for a first MF assignment to Mifflintown.

4. Central raised questions concerning the entity of Mifflintown Broadcasters Association since it has not been incorporated under the laws of Pennsylvania and asserts that establishemnt of the bona fides of the alleged entity should be a prerequisite to further consideration of the merits to assign Channel 296A to Mifflintown. Central also contends that petitoner has a burden to show that Mifflintown, in view of its size, has socio-economic activity sufficient to support and maintain a broadcast service. It adds that petitioner failed to submit a preclusion study which is allegedly required for assignment of a new FM channel to a community.

5. In response, petitioner states that Central mistakenly presumed that petitioner implied a formally functioning corporation presently active in the State of Pennsylvania. Petitioner asserts that it is, and has been, an unincorporated association subject to the laws of the State of Pennsylvania and has clearly established its intent to operate a functioning corporation for the filing of an application for an FM facility to serve Juniata and Mifflin Counties. It contends that the bona fides of the individuals involved with Mifflintown has no direct bearing on the requested proposed assignment.

6. The questions raised by Central as to the bona fides of petitioner and as to Mifflintown's ability to support a radio station are matters which are generally raised and resolved at the application stage. We will, therefore, not discuss them here. We also point out that a preclusions study is not required for the assignment of a first Class A channel to a community. See *Policy Statement*, 8 F.C.C. 2d 79 (1967).

7. Since Mifflintown is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 296A to Mifflintown, Pennsylvania, requires coordination with the Canadian Government.

8. In view of the apparent need for a first local aural broadcast service in Mifflintown, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Mifflintown, Pennsylvania		296A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before July 18, 1980, and reply comments on or before August 7, 1980.

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] Petitioner had requested that Channel 296A be assigned to Lewistown. However, that petition conflicts with a proposal to assign channel 296A to Mifflintown, Pennsylvania. To avoid the conflict, we have determined that Channel 288A can be assigned to Lewistown instead.

[3] Population figures are taken from the 1970 U.S. Census.

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] A mutually exclusive petition for the assignment of Channel 296A at Lewiston, Pennsylvania, has been modified by us to specify Channel 288A in order to avoid the conflict.

[3] Population figures are taken from the 1970 U.S. Census.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, It is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-16635 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-236; RM-3481]

FM Broadcast Stations in Cameron and Temple, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Temple, Texas, as a second FM assignment, and the substitution of one Class A for another Class A channel at Cameron, Texas, in response to a petition filed by Pyle Communications, Inc. The proposed second Class A channel would provide for an additional FM broadcasert service to Temple.

DATES: Comments must be filed on or before July 18, 1980, and reply comments must be filed on or before August 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1980.

Released: May 23, 1980.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making [1] filed by Pyle Communications, Inc. ("petitioner"), licensee of Stations KIKM(AM) and KIKM-FM, Sherman, Texas, which seeks, the assignment of Channel 269A to Temple, Texas, as a second FM assignment to that community. In order to accomplish this, it would be necessary to substitute Channel 288A for Channel 269A at Cameron, Texas, on which there is an application pending.[2]

2. Temple (pop. 33,431),[3] in Bell County (pop. 124,483), is located approximately 192 kilometers (120 miles) south of Dallas, Texas. It is served locally by fulltime AM Station KTEM, and FM Station KPLE (Channel 285A).

3. Petitioner states that, according to the Temple Chamber of Commerce, it is estimated that Temple's population will reach 52,000 in 1980. It asserts that, while agriculture continues to play a large role in the economy of Temple, that economy is daily becoming more diversified. Petitioner has submitted demographic and economic information in order to demonstrate the need for a second FM assignment in Temple.

4. Petitioner's engineering statement indicates that Channel 269A can be assigned to Temple provided Channel 288A is substituted for Channel 269A at Cameron. It notes that while the site specified in the pending application for Channel 269A at Cameron would be short-spaced on Channel 288A, the city of Cameron itself would not, and possible site locations are closer to Cameron.

5. *Preclusion Considerations:* A preclusion study shows that if Channel 269A is assigned to Temple, and assuming the transmitter is located in the center of the city, no new preclusion would be caused to any community with a population greater than 1,000. Assignment of Channel 288A to Cameron, assuming its transmitter is located in the center of the city, would cause preclusion to seven communities with populations greater than 1,000. Of these, four (Rosebud (1,597), Hearne (4,982), Calvert (2,072) and Goldthwaite (1,693)), have no AM stations or FM assignments. Petitioner states that Channel 232A is available for assignment to Rosebud, Hearne and Calvert, and Channel 289 is available for assignment to Goldthwaite, provided the transmitter is located approximately 3 kilometers (2 miles) west of the community.

6. In light of the foregoing information and the fact that the proposed assignment would provide the growing community of Temple with a second local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to the listed communities, as follows:

City	Channel No.	
	Present	Proposed
Cameron, Texas	269A	288A
Temple, Texas	285A	269A, 285A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 18, and reply comments on or before August 7, 1980.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

10. It is ordered, That the Secretary of the Commission shall send a copy of this Notice by certified mail return receipt requested to Bruce Lawson Enterprises d/b/a Cameron-Rockdale Broadcasting Company, 1506 O'Kelley, Rockdale, Texas 76567, the applicant affected in this proceeding.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, It is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-16631 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-95; RM-3117; RM-3165; RM-3204]

FM Broadcast Stations in Bountiful, Centerville, and West Jordan, Utah, and Rock Springs, Wyo.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving the proposed assignment of FM channels to Bountiful, Centerville and West Jordan, Utah, and Rock Springs, Wyoming, in response to a request filed by General Broadcasting, Inc. The extended time is needed to prepare additional engineering information.

DATE: Reply comments must be filed on or before June 2, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR ADDITIONAL INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 20, 1980.

Released: May 22, 1980.

By the Chief, Policy and Rules Division:

1. On March 5, 1980, the Commission adopted a *Notice of Proposed Rule Making*, 45 FR 17600, concerning proposed FM channel assignments to Bountiful, Centerville and West Jordan, Utah, and Rock Springs, Wyoming. The date for filing reply comments is presently May 27, 1980.

2. On May 15, 1980, counsel for General Broadcasting, Inc., filed a request seeking extension of time for filing reply comments to and including June 2, 1980. Counsel states that the time is necessary in order to prepare additional engineering information and other affidavits which will address issues raised by other parties. Counsel adds that all other parties in the proceeding have agreed to the requested extension of time.

3. Since the Commission believes it would be in the public interest to have all material available to it in arriving at a decision in this matter, we are granting the additional time requested.

4. Accordingly, it is ordered, that the above request for an extension of time filed by General Broadcasting, Inc., is granted and the date for filing reply comments extended to and including June 2, 1980.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-16636 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 19142]

Children's Television Programming and Advertising Practices; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken extends the time for filing comments in general docket 19142, Children's Television Programming and Advertising Practices, from June 2, 1980 to June 16, 1980. The Public Broadcasting Service states that the extension is necessary due to unforeseen demands on the time of its legal staff because of unexpected litigation.

DATE: Comments must be filed on or before June 16, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Susan C. Greene, Broadcast Bureau (202) 653–7586.

SUPPLEMENTARY INFORMATION:

Order Granting Motion for Extension of Time to File Comments

Adopted: May 20, 1980;

Released: May 21, 1980.

By the Chief, Policy and Rules Division:

In the Matter of Children's Television Programming and Advertising Practices.

1. On May 16, 1980, the Commission received a Motion for Extension of Time to file comments in the above captioned matter from the Public Broadcasting Service (PBS). Petitioner requests that the date for filing comments be extended two weeks, from June 2, 1980, to June 16, 1980.

2. PBS bases its request for this extension on the unforeseen demands on the time of its legal staff caused by the telecast of "Death of a Princess." PBS lists several other impending commitments as further justification for the extension, including pending litigation arising from the telecast of the program "Death of a Princess," and its participation in an appeal of the Kennedy for President Committee of an FCC ruling which has been granted an expedited hearing before the Court of Appeals.

3. In consideration of the number and complexity of issues inherent in this rule making, and the Commission's interest in obtaining a full and complete record, the petition of PBS will be granted. Because a substantial period of time has been allowed for filing reply comments, that date will not be extended.

4. Accordingly, it is ordered, That the date for filing comments is extended to June 16, 1980. The date for filing reply comments remains August 1, 1980.

5. This action is taken pursuant to authority found in Section 4(i) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–16685 Filed 5–30–80; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register

Vol. 45, No. 107

Monday, June 2, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Joint Council on Food and Agricultural Sciences, Executive Committee

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.

Date: June 11, 1980.

Time and Place: 8:30 a.m.–4:00 p.m., Room 336–A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review agenda items and prepare for July 14–18 joint meeting of the Joint Council and the National Agricultural Research and Extension Users Advisory Board; assess progress in setting into place the organizational structure for planning and coordination; discuss the role of the Joint Council in evaluation and other priority areas.

Contact Person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C. this 27th day of May 1980.

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80–16644 Filed 5–30–80; 8:45 am]

BILLING CODE 3410–03–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended May 23, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Decription
May 20, 1980	38200	Evergreen International Airlines, Inc., c/o Richard P. Taylor, Steptoe & Johnson, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036 Application of Evergreen International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Baltimore, Maryland, and the terminal point Cleveland, Ohio. Conforming Applications and Answers are due by June 17, 1980.
May 23, 1980	38216	Yukon Air Service, Inc. d/b/a Air North, c/o Michael J. Roberts, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036 Application of Yukon Air Service, Inc. d/b/a Air North pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing it to engage in interstate air transportation of persons, property and mail on a permissive basis, as follows Between, to and among the terminal point Allakaket, Alaska, the intermediate points Anaktuvuk Pass, Arctic Village, Beaver, Bettles, Birch Creek, Central, Chalkyitsik, Circle, Eagle, Fairbanks, Fort Yukon, Galena, Hughes, Huslia, Kaktovik (Barter Island), Manley Hot Springs, McGrath, Minchumina, Minto, Nenana, Rampart, Ruby, Stevens Village, Tenana, Umiat and the terminal point Venetie Conforming Applications and Answers may be filed by June 20, 1980.
May 23, 1980	38218	Pan American World Airways, Inc., c/o John P. McCaffrey, Verner, Liipfert, Bernhard and McPherson, Suite 1000, 1660 L Street, N.W., Washington, D.C. 20036 Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of an amended certificate of public convenience and necessity for Route 132, authorizing it to engage in foreign air transportation of persons, property, and mail to the United Arab Emirates. Answers may be filed by June 11, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–16648 Filed 5–30–80; 8:45 am]

BILLING CODE 6320–01–M

Application for an all-Cargo Air Service Certificate

May 27, 1980.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 38040, from Global International Airways Corp., Air World Center, 10920 Ambassador Drive, Kansas City, MO 64153 for an all-cargo air service certificate to provide domestic cargo transportation.

V 45 J E 2 8 0 UMI

Under the provisions of section 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the **Federal Register**. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act of the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-16650 Filed 5-30-80; 8:45 am]

BILLING CODE 6320-01-M

Application for an All-Cargo Air Service Certificate

May 23, 1980.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 38149, from Providence Air Charter, Inc., Building 61-Wasp Street, Davisville, Rhode Island 02854 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of section 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the **Federal Register**. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-16651 Filed 5-30-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 32493, 32494]

Applications of Central American International, Inc.; Former Large Irregular Air Service Investigation; Notice of Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on June 17, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned.

Dated at Washington, D.C., May 27, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-16652 Filed 5-30-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37009]

Trans World Airlines, Inc., Discount Fare Advertising Enforcement Proceeding; Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on May 28, 1980 (45 FR 27460, April 23, 1980) is hereby postponed indefinitely.

Dated at Washington, D.C., May 27, 1980.

William H. Dapper,

Administrative Law Judge.

[FR Doc. 80-16653 Filed 5-30-80; 8:45 am]

BILLING CODE 6320-01-M

Denver-Grand Junction Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-5-180, Denver-Grand Junction Show Cause Proceeding, Docket 38225.

SUMMARY: The board is instituting the *Denver-Grand Junction Show-Cause Proceeding* and is proposing to grant unrestricted authority in the Denver-Grand Junction market to Continental and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of the order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 30, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the objections.

Additional Data: All would-be applicants are directed to file (a) illustrative service proposals, and (b) an estimate of fuel to be consumed in the first year no later than June 13, 1980.

ADDRESSES: Objections and additional data should be filed in Docket 38225, which we have entitled the *Denver-Grand Junction Show-Cause Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Continental Air Lines, Colorado Dept. of Highways, Aviation Transportation Section; Airport Manager, Stapleton International Airport, Denver Colorado; Airport Manager, Walker Field, Grand Junction, Colorado; and the mayors of Denver and Grand Junction.

FOR FURTHER INFORMATION CONTACT: Donna M. Stright, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, (202) 673-5215.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-5-180 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-5-180 to that address.

By the Bureau of Domestic Aviation: May 27, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-16649 Filed 5-30-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 32413, 33361]

Application of Standard Airways; Former Large Irregular Air Service Investigation; Reassignment of Proceeding

This proceeding, insofar as it involves the application of Standard Airways, Docket 32413, has been reassigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to Judge Yoder.

Dated at Washington, D.C., May 28, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-16654 Filed 5-30-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 9-80]

Foreign-Trade Zone No. 35, Philadelphia, Pa.; Application for Expansion

Notice is hereby given that the Philadelphia Port Corporation, grantee of Foreign-Trade Zone No. 35 in Philadelphia, has applied to the Foreign-Trade Zones Board (the Board) for authority to expand its zone to include an 82-acre parcel in the southwestern portion of the City of Philadelphia, near the Philadelphia International Airport and within the Philadelphia Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 27, 1980. The applicant is authorized to apply for foreign-trade zone sites under Pennsylvania State Act No. 126 (Pub. L. 291), approved June 10, 1935.

Foreign-Trade Zone No. 35 was authorized by the Board on March 24, 1978 (Board Order No. 128). It consists of warehouse and open storage areas at Pier 78 South, Pier 78 South-Annex Buildings (1, 2, and 3), and Pier 98 South-Annex, all on the Delaware River Waterfront within the City of Philadelphia. The grantee leases the approved zone areas from the City, and the Delaware Valley Foreign-Trade Zone Inc. (DVFTZ) is the designated zone operator. DVFTZ is presently developing the Pier 78 South facilities as a warehousing center, and the 24-acre open area at Pier 98 South is reserved for construction of a manufacturing plant for a single user.

The application for expansion seeks zone status for an 82-acre parcel within the 1140-acre Philadelphia Interport Business Complex, a land-bank project of the Philadelphia Industrial Development Commission (PIDC). The zone would be within the Eastwick Industrial Park portion of the complex, with PIDC making land available to the zone operator as needed under a "reservation acquisition" agreement. Initial zone operations within the expanded area would include a public warehousing and export packaging facilitiy, a facility for producing mica paper for electronic capacitors, and a production plant for injection molding devices.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; John Noon, Director, Inspection and Control Division, U.S. Customs Service, Region III, 40 S. Gay Street, Baltimore, Maryland 21202; and Colonel James G. Ton, District Engineer, U.S. Army Engineer District Philadelphia, U.S. Customs House, 2nd and Chestnut Street, Philadelphia, Pa. 19106.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 13, 1980.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Federal Building, Room 9448, 600 Arch Street, Philadelphia, Pennsylvania 19106.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets, N.W., Washington, D.C. 20230

Dated: May 27, 1980.

John J. Da Ponte, Jr.,

Executive Secretary Foreign-Trade Zones Board.

[FR Doc. 80-16553 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Subgroup of the Subcommittee on Export Administration of the President's Export Council; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of a subgroup of the Subcommittee on Export Administration of the President's Export Council (PEC) will he held on Tuesday, June 17, 1980, at 2:00 p.m., in Room 1626 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On April 5, 1979, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1980, of the Subcommittee, pursuant to the provisions of Executive Order 11753, as amended and extended by Executive Orders 11827, 11948, and 12110. Executive Order 12131 of May 4, 1979, which reconstituted the President's Export Council and revoked Executive Order 11753, provides that nothing in Executive order 12131 shall be deemed to require new charters for subcommittees of the Council which were current immediately to the issuance of Executive Order 12131.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The subgroup of the Subcommittee will meet only in Executive Session to discuss matters properly classified under Exectuive Order 11652 or 12065, dealing with the U.S. and COCOM control program developments and strategic criteria related thereto.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 13, 1979, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Subcommittee on Export Administration of the President's Export Council is hereby published.

Copies of the minutes of the meeting will be available by calling Mrs. Jan Grover, Office of Export Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-322-4188). For further information, contact Mrs. Jan Grover, either in writing or by telephone, at the address or number shown above.

Dated: May 30, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration.

Department of Commerce Office of the Assistant Secretary for Administration Subcommittee on Export Administration President's Export Council

Notice of Determination

The Subcommittee on Export Administration was established by the Secretary of Commerce as a subordinate committee of the President's Export Council, pursuant to Section 3 of the Executive Order 11753, to advise the Department of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended, which has been superseded by the Export Administration Act of 1979, that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security or foreign policy reasons.

The Subcommittee's activities are conducted in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)), and the Office of Management and Budget Circular A–63 (Revised), "Advisory Committee Management," effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion of the agenda of the meeting of the committee is concerned with matters listed in Section 552b(c) of Title 5 of the United States Code. Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

A Notice of Determination authorizing the closing of Subcommittee meetings, or portions thereof, dealing with security classified matters, was approved for meetings up to December 31, 1979.

In order to provide advice to the Department under the terms of its charter, the Subcommittee will hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meeting will include discussions of the commodities and technical data subject to the COCOM control list, of the foreign availability of controlled commodities and technical data, and of other specific matters regarding export administration, much of the information relating to which is now or will be properly classified for national defense or foreign policy reasons, pursuant to Executive Orders 11652 or 12065. In order for the Subcommittee to provide required advice to the U.S. Government, it will be necessary to provide the Subcommittee with such classified material. Therefore, the meetings or portions thereof of the Subcommittee that will involve discussions of matters which are specifically authorized under criteria established by Executive Order 11652 or 12065 to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified pursuant to such Executive Orders, must be closed to the public. Meetings or portions of meetings not involving properly classified information will be open to the public.

Accordingly, I hereby determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that those meetings or portions thereof of the Subcommittee dealing with the aforementioned classified materials shall be exempt, for the period January 1, 1980, to December 31, 1980 from the provisions of Section 10 (a)(1) and (a)(3) of the Federal Advisory Committee Act, relating to open meetings and public participation therein, because the Subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining meetings or portions thereof will be open to the public.

Dated: December 13, 1979.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

Dated: December 10, 1979.

Alfred Meisner,

Assistant General Counsel for Administration.

[FR Doc. 80-1884 Filed 5-30-80; 12:13 pm]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established a Scientific and Statistical Committee, which will meet to discuss draft fishery management plan for Atlantic scallops; groundfish; market study proposal for lobster, as well as other business.

DATES: The meeting will convene on Wednesday, June 18, 1980, at 9 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Maine Department of Marine Resources Fishery Research Laboratory, West Boothbay Harbor, Maine.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway (Route One), Saugus, Massachusetts 01906. Telephone: (617) 231–0422.

Dated: May 28, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16667 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Scientific and Statistical Committee, Groundfish Subpanel, and Budget Subcommittee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Scientific and Statistical Committee, and a Groundfish Subpanel to assist in carrying out its responsibilities. The Council's Budget Subcommittee will also meet.

DATES: July 7–10, 1980.

ADDRESS: The Council, Groundfish Subpanel, and Budget Subcommittee meetings will take place at the Travelodge, 9750 Airport Boulevard, Los Angeles, California. The Scientific and Statistical Committee meeting will be held at the Southwest Fisheries Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6362.

Meeting Agendas follow:

Scientific and Statistical Committee (SSC)—(open meeting) July 7–8, 1980, (9 a.m. to 5 p.m., on July 7; 8 a.m. to 5 p.m. on July 8).

Agenda: Discuss Groundfish and other fishery management plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m., on July 7, and conduct other Committee business.

Groundfish Subpanel—(open meeting) July 8, 1980 (9 a.m. to 5 p.m.).

Agenda: Review of Groundfish FMP.

Council Budget Subcommittee—(open meeting) July 9, 1980 (7 p.m. to 9 p.m.).

Agenda: Discuss the Council's FY 81 budget.

Council—(open meeting) July 9–10, 1980 (10 a.m. to 5 p.m. on July 9; 8 a.m. to 5 p.m., on July 10).

Agenda: Open Session—Review of Groundfish and other FMP's, conduct other fishery management business, and hold a public comment period beginning at 4 p.m., on July 9, 1980.

Council—(closed meeting) July 9, 1980 (8 a.m. to 10 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members, SSC members and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on February 1, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (6), as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce). All other portions of the meeting will be open to the public.

Dated: May 28, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16665 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review status of Snapper-Grouper Fishery Management Plan (FMP); discuss the Billfish FMP; update other ongoing FMP activities; review FY 81 budget submission and other management and administrative matters as necessary.

DATES: The meeting will convene on Tuesday, June 24, 1980, at approximately 1:30 p.m., and will adjourn on Thursday, June 26, 1980, at approximately 12 noon. The meetings are open to the public.

ADDRESS: The meetings will take place at the Council Headquarters, One Southpark Circle, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407. Telephone: (803) 571–4366.

Dated: May 28, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16666 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-22-M

Public Hearings on Draft Environmental Impact Statement

Notice is hereby give that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Narragansett Bay Estuarine Sanctuary.

The Hearing will be held on June 25th at the following location:

June 25, 1980—7:30 p.m.

Portsmouth Town Hall, Planning Board Room, 2200 East Main Road, Portsmouth, RI 02871.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Narragansett Bay Estuarine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on July 7, 1980.

As part of the procedures leading toward approval of the Narragansett Bay Estuarine Sanctuary a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: May 28, 1980.

Donald W. Fowler,

Acting Deputy, Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-16656 Filed 5-30-80; 8:45 am]

BILLING CODE: 3510-08-M

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Mississippi Coastal Management Program.

The Hearing will be held on June 16th at the following location:

June 16, 1980—7:30 p.m.

Harrision County Courthouse, 2nd Floor Meeting Room, 1801 23rd Avenue, Gulfport, MS.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Mississippi Coastal Management Program are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on July 1, 1980.

As part of the procedures leading toward approval of the Mississippi Coastal Management Program a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: May 28, 1980.

Donald W. Fowler,

Acting Deputy, Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-16657 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-08-M

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Northern Marianas Coastal Management Program.

The Hearing will be held on June 30th at the following location:

June 30, 1980—7:30 p.m.

Nauru Government Building, Saipan.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Northern Marianas Coastal Management Program are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on July 7, 1980.

As part of the procedures leading toward approval of the Northern Marianas Coastal Management Program a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZ prior to the deadline will be included in the FEIS.

Dated: May 28, 1980.

Donald W. Fowler,

Acting Deputy Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-16658 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-08-M

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administrtion (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Looe Key National Marine Sanctuary.

Hearings will be held on June 17th and 18th at the following locations:

June 17, 1980—7:00 p.m.

University of Miami, Rosenstiel School of Marine and Atmospheric Sciences, Doherty Auditorium, 4600 Rickenbacker Causeway, Miami, Florida.

June 18, 1980—1:00 p.m.

Key West High School Auditorium, 2100 Flager Avenue, Key West, Florida.

June 18, 1980—7:00 p.m.

Big Pine Key Youth Center, Driftwood Street, Big Pine Key, Florida.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Looe Key National Marine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on July 15, 1980.

As part of the procedures leading toward approval of the Looe Key National Marine Sanctuary a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: May 28, 1980.

Donald W. Fowler,

Acting Deputy, Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-16659 Filed 5-30-80; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project at Scammon Bay, Alaska

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed action is to determine the feasibility of a small hydroelecteic project on an unnamed spring fed creek near Scammon Bay, Alaska.

2. Two alternatives are being considered for the unnamed creek, differing only in the diversion dam location. One would have a 300 foot head and the other a 500 foot head. The 300 foot head plan would produce 170 kilowatts (KW) while the 500 foot head plan would develop 285 KW. The 300 foot head would require 2,300 feet of 16 inch diameter penstock while the 500 foot head scheme would require 4,200 feet of 16 inch diameter penstock. Either alternative would meet the peak demand for power.

3. A public meeting in Scammon Bay is scheduled for June 1980, at which time the Corps of Engineers will outline potential project plans and gather public input. Coordination has been initiated with U.S. Fish and Wildlife Service in accordance with the Fish and Wildlife Coordination Act of 1956 and coordination with other State and Federal agencies will occur May 1980, through the State of Alaska clearinghouse.

a. Significant issues which will be analyzed in the DEIS include project impacts on the fish, wildlife, and archaeological resources and the effects of the socio-economic structure of Scammon Bay.

b. During actual studies, other agencies may express an interest in providing input. Federal, State, and local agencies will be asked to review the study results.

4. A scoping meeting is not expected to be held; however, coordination meetings with Federal, State, and local agencies have been held and future meetings are ancitipated.

5. The draft report is expected to be available for public review in the third quarter of FY 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 21, 1980.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-16530 Filed 5-30-80; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Harbor/Bank Stabilization Project at Mekoryuk, Alaska

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed action is to investigate the feasibility of the construction of two breakwaters and a gabion revetment to curtail bank erosion and provide protection for the existing small boat beaching operation at Mekoryuk, Alaska.

2. Two, 150 foot breakwaters requiring 12,000 cubic yards each of gravel and armor rock are proposed to be constructed on either side of the existing boat beaching area in Shoal Bay. The breakwaters would offer protection to the boat beaching operation and erosion protection from waves generated within Shoal Bay and the Bering Sea. The gabion revetment would require approximately 1100 yards of rock and fill material to protect 200 feet of shoreline which has receeded over 100 feet in the last six years. At the present time all of Nunivak Island, including the city of Mekoryuk, is located in a national wildlife refuge. Appropriate permits will have to be obtained from the U.S. Fish and Wildlife Service prior to any construction or quarring operation. The city has been selected for withdrawal under the Alaska Land Settlement Act; however, refuge permits may still be required.

3. A public workshop has been scheduled in June 1980 at Mekoryuk, at which time the Corps of Engineers will present the proposed alternatives and gather public input. Coordination has been initiated with U.S. Fish and Wildlife Service under the Fish and Wildlife Coordination Act of 1956. Coordination with other concerned resource agencies will be developed.

a. Significant issues which will be analyzed in the DEIS include project impacts on fish and wildlife resources, effects on the socio-economic structure of Mekoryuk, and the construction on a Federal Wildlife Reserve.

B. During the actual studies, other agencies may express an interest in providing input. Federal, State, and local agencies and private individuals will be asked to review the study results.

4. A scoping meeting has not been conducted to date; however, a meeting will be held in the near future.

5. The draft report is expected to be available for public review in the first quarter of FY 1982.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 21, 1980.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-16529 Filed 5-30-80; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Small Hydropower Project at Tenakee Springs, Alaska

AGENCY: The U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The proposed action is to determine the feasibility for the construction of a small hydroelectric project near Tenakee Springs, Alaska. Two drainage basins are being considered, Indian River and Harley Creek.

2. The Indian River alternative would require a 5 foot by 120 foot concrete diversion dam. The exact dam location has yet to be identified and the length of the 3 foot diameter penstock is undertermined. The rated capacity of this alternative is approximately 700 kilowatts (KW).

Harley Creek is located 4 miles east of Tenakee Springs. The concrete diversion dam would be 5 feet by 45 feet and a 2.75 foot diameter penstock would transport the diverted water 3,400 feet to the proposed powerhouse located near Tenakee Inlet. This alternative has a rated capacity of 325 KW would exceed the present peak demand.

3. A public meeting is scheduled for June 1980, at which the Corps of Engineers will gather public input and inform the residents of Tenakee Springs on the potential plans. Coordination with U.S. Fish and Wildlife Service has been initiated in compliance with the Fish and Wildlife Coordination Act of 1956. Coordination with other State and Federal agencies is scheduled for May 1980 through the State of Alaska Clearinghouse.

a. Significant issues which will be analyzed in the DEIS include project impacts on the fish and wildlife resources.

b. During the actual studies, other agencies or individuals may express an interest in providing input. Federal, State, and local agencies will be asked to review the study results.

4. A scoping meeting is not expected to be held; however, coordination meetings with Federal, State, and local agencies have been held and future meetings are anticipated.

5. The draft report is expected to be available for public review in the fourth quarter of FY 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 21, 1980.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-16532 Filed 5-30-80; 8:45 am]

BILLING CODE 3710-NL-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project at Cordova, Alaska

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The proposed action is to determine the engineering, environmental, and economic feasibility of three potential hydroelectric sites near Cordova, Alaska. The study would consist of survey, hydrological, foundations and materials, environmental and cultural resources studies, the results would be used to design the project(s) and prepare mitigation measures.

a. Crater Lake is located approximately 2.75 miles northeast of Cordova. The proposed project would affect lands belonging to the Eyak Native Corporation and state-owned land withdrawn by the city of Cordova. Development would consist of a lake tap utilizing a concrete diversion dam 5 feet high and 15 feet long. A 4,800 foot penstock of 18 inch pipe would lead to a powerhouse on Orca Inlet. The rated capacity of this project would be 458 kilowatts (KW) and would not meet Cordova's present peak demand of 3,130 KW.

b. Humpback Creek is located 6 miles northeast of Cordova. Lands affected by this project belong to the Eyak Native Corporation and the Chugach National Forest. Development would consist of a run-of-the-river project utilizing a concrete diversion dam 5 feet high and 30 feet long, a 6,625 foot flume, and a 700 foot penstock of 30 inch pipe leading to a powerhouse approximately 1/4 mile from Orca Inlet. The rated capacity of this project would be 1,010 KW.

c. Power Creek is located 8 miles northeast of Cordova on lands belonging to the Chugach National Forest. There

are two alternatives associated with this project. A run-of-the-river project utilizing a 10 foot concrete diversion dam near mile 3.2 on Power Creek with a tunnel, pipeline and penstock leading to a powerhouse approximately 3/4 miles from Eyak Lake. The rated capacity of this alternative would be 5,000 KW; however, this is not firm energy and would not meet Cordova's demand during the winter months. A storage reservoir is also being studied which could produce 10,000 KW of firm energy. Due to foundation considerations, location and size of the proposed dam and reservior have not been identified.

2. A public meeting was held in Cordova on 26 March 1980 in which the Corps of Engineers informed the public of its potential plans and gathered public input. Coordination has been initiated with concerned State and Federal agencies under the Fish and Wildlife Coordination Act of 1956. No other agencies or citizens have demonstrated interest in participating in the preparations of the Environmental Impact Statement.

a. Significant issues which will be analyzed in the DEIS include project impacts on the fishery resources of Humpback Creek and Power Creek.

b. During the actual studies, other agencies may express an interest in providing input. Federal, State, and local agencies and the general public will be asked to review the study results.

3. The draft report is expected to be available for public review in the third quarter of fiscal year 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: May 21, 1980.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-16531 Filed 5-30-80; 8:45 am]

BILLING CODE 3710-NL-M

Marine Corps

Privacy Act of 1974, Deletion and Amendment to Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps).

ACTION: Notice of deletion and amendment to systems of records.

SUMMARY: The U.S. Marine Corps proposes to amend one system of records and delete one system of records subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below, followed by the system published in its entirety, as amended.

DATES: The system shall be amended as proposed without further notice on June 30, 1980, unless comments are received on or before June 30, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the record system notices.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202-694-1122.

SUPPLEMENTARY INFORMATION: The Marine Corps' record systems notices as prescribed by the Privacy Act of 1974, Public Law 93-579 (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR Doc 79-36297 (44 FR 68946) November 30, 1979
FR Doc (44 FR 74495) December 17, 1979
FR Doc 80-4470 (45 FR 9316) February 12, 1980
FR Doc 80-5182 (45 FR 10840) February 19, 1980
FR Doc 80-5420 (45 FR 11523) February 21, 1980
FR Doc 80-6233 (45 FR 13182) February 28, 1980
FR Doc 80-15426 (45 FR 33677) May 20, 1980.

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

Dated: May 28, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

Amendment

MIS00001

SYSTEM NAME:

Personnel Management Subsystem Resource Control System (44 FR 74518) Dec. 17, 1979.

CHANGES:

SYSTEM LOCATION:

Delete the last sentence and substitute: "See organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Mailing Addresses."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the entry and substitute: "File contains name, rank/grade, MOS, billet description, training, skills, T/O line numbers, date of next fitness report/performance rating, and position description number."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entire entry and substitute: "Blanket "routine uses" identified in the annual republication of Marine Corps systems of records in the Federal Register apply to this system of records.

Headquarters, U.S. Marine Corps and Marine Corps commands, activities and organizations—To officials and employees at the data processing installations in the performance of official duties for the purposes of managing, planning, and administrative control."

NOTIFICATION PROCEDURE:

Delete the last sentence in the paragraph and substitute: "See the organizational elements of the U.S. Marine Corps listed in the Directory of the Department of the Navy Mailing Addresses."

RECORD ACCESS PROCEDURES:

In the second sentence, delete the words "Navy Standard Distribution List" and substitute "Directory of the Department of the Navy Mailing Addresses."

RECORD SOURCE CATEGORIES:

Delete the entry and substitute: "The individual concerned, the individual's commanding officer, or other staff elements of Headquarters, Marine Corps."

MIS00001

SYSTEM NAME:

Personal Management Subsystem, Resource Control System.

SYSTEM LOCATION:

Primary System—The Commandant of the Marine Corps, (Code CC), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

Decentrailized Segments: The data processing activities to which the individual is attached. See organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Mailing Addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marine Corps officers, enlisted, and civilian personnel at commands with data processing installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name, rank/grade, MOS, billet description, training skills, T/O line numbers, date of next fitness report/performance rating, and position description number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Blanket "routine uses" identified in the annual republication of Marine Corps systems of records in the Federal Register apply to this system of records.

Headquarters, U.S. Marine Corps and Marine Corps commands, activities and organizations—To officials and employees at the data processing installations in the performance of official duties for the purposes of managing, planning, and administrative control.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape or disk.

RETRIEVABILITY:

By a key number assigned to an individual.

SAFEGUARDS:

Restricted access to areas where maintained.

SYSTEM MANAGER(S) AND ADDRESS:

The Commandant of the Marine Corps (Code CC), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Information may be obtained from the command to which an individual is assigned for duty. See the organizational elements of the U.S. Marine Corps listed in the Directory of the Department of the Navy Mailing Addresses.

RECORD ACCESS PROCEDURES:

Written requests from individuals should be addressed to the commanding officer of the activity to which the individual is attached. Installation addresses are as reported in the Directory of the Department of the Navy Mailing Addresses.

Written requests should include name and social security number. Personal visits may be made to the installation in question during any normal workday between the hours of 8:00 a.m.-4:30 p.m. For personal visits, the individual should have valid personal identification.

CONTESTING RECORD PROCEDURES:

The Marine Corps rules for contesting contents and appealing initial determinations may be obtained from the sysmanager.

RECORD SOURCE CATEGORIES:

The individual concerned, the individual's commanding officer, or other staff elements of Headquarters, Marine Corps.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Deletion

MFD00008

SYSTEM NAME:

Civilian Labor Projection, Operations and Maintenance, MC Budget Report (Job Procedure 5576) (44 FR 74505) December 17, 1979.

REASON:

This system has been discontinued.

[FR Doc. 80-16549 Filed 5-30-80; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements Between Government of United States of America and the International Atomic Energy Agency

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency.

The subsequent arrangements to be carried out under the above mentioned agreement involve conversion of Long Term, Fixed Commitment Uranium Enrichment contracts to the new Adjustable, Fixed Commitment contracts at the customers option.

Contract No.	Customer	Facility
ME-100.	National Institute for Nuclear Energy (INEN) and the Federal Electric Commission (CFE) of Mexico.	Laguna Verde-1.
ME-101.	National Institute for Nuclear Energy (INEN) and the Federal Electric Commission (CFE) of Mexico.	Laguna Verde-2.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that conversion of these contracts to the Adjustable, Fixed Commitment contract form will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than June 17, 1980.

Dated: May 27, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-16697 Filed 5-30-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Under Agreements for Cooperation Between Government of the United States of America and Governments of Japan et al.

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreements for Cooperation between the Government of the United States of America and the Governments of Japan, Korea, the Philippines, Spain, Sweden, and Switzerland, the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency, and as authorized by the Taiwan Relations Act of 1979 (Pub. L 96-8).

The subsequent arrangements to be carried out under the above mentioned agreements and as authorized by the Taiwan Relations Act involve the approval of contractual arrangements under which the U.S. Department of Energy, if requested, will consent to the assignments of portions of various uranium enrichment services contracts held by U.S. utilities involving separative work units as shown in the table below:

	Facility	Separative work units
Taiwan	Kousheng-1	125,516
Taiwan	Kousheng-2	134,472
Taiwan	Nuclear Unit 5	12,030
Taiwan	Nuclear Unit 6	13,576
Japan	Hamoka-2	172,230
Japan	Chuba-5	500,000
Japan	Hokaido-1	600,000
Japan	Tokai No. 2	34,903
Japan	Tsuruga No. 2	429,269
Japan	Kansai N-4	600,000
Japan	Kansai N-5	600,000
Japan	Genkai-2	24,285
Japan	Sanda-1	500,000
Japan	Ikata-1	6,719
Japan	Ikata-2	23,943
Japan	Fukushima No. 1, Unit 5	143,635
Japan	Fukushima No. 1, Unit 4	239,973
Japan	Fukushima No. 1, Unit 6	370,172
Japan	Fukushima No. 2, Unit 1	46,986
Japan	Fukushima No. 2, Unit 2	202,957
Japan	Tokyo No. 10	221,790
Japan	Tokyo No. 11	221,790
Japan	Tokyo No. 12	700,000
Japan	Tokyo No. 14	700,000
Korea	Kori-1	52,475
Korea	Kori-2	169,892
Korea	Kori-3	4,515
Korea	Korea No. 7	9,999
Korea	Korea No. 8	45,233
Korea	Korea No. 9	45,233
Mexico (IAEA)	Laguna Verde 1	140,697
Mexico (IAEA)	Laguna Verde 2	30,387
Philippines	Unit No. 1	112,557
Spain	Almarez 1	22,236
Spain	Almarez 2	23,343

	Facility	Separative work units
Spain	Confrentes 1	19,916
Spain	Lemoniz 1	23,343
Spain	Lemoniz 2	19,109
Spain	ASCO–1	22,186
Spain	ASCO–2	22,821
Sweden	Ringhals–3	34,235
Sweden	Ringhals–4	32,429
Sweden	Forsmark 2	28,854
Sweden	Forsmark 2	28,120
Sweden	Forsmark 3	23,482
Switzerland	Liebstadt	185,504
Switzerland	Graben	600,000
Switzerland	Gosgen	155,000
Yugoslavia (IAEA)	KRSKO–1	26,023

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into these subsequent arrangements will not be inimical to the common defense and security. These transactions would be governed by the limits, contained in the Agreements for Cooperation, for the supply of enriched uranium.

These subsequent arrangements will take effect no sooner than June 17, 1980.

Dated: May 27, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80–16698 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

Office of the Assistant Secretary for Nuclear Energy

Nuclear Proliferation and Civilian Nuclear Power; Report of the Nonproliferation Alternative Systems Assessment Program

AGENCY: Department of Energy.

ACTION: Release of final report.

EFFECTIVE DATE: June 2, 1980.

SUMMARY: The goal of the Nonproliferation Alternative Systems Assessment Program (NASAP) study was to provide recommendations for the development and deployment of more proliferation-resistant civilian nuclear power systems and institutions in light of nuclear energy needs. In addition, NASAP has supported, through its technical studies and analyses, U.S. participation in the International Nuclear Fuel Cycle Evaluation studies.

The NASAP report concludes that nuclear power systems can be made more proliferation resistant. All nuclear fuel cycles would entail varying degrees of proliferation risk. However, the Light-Water Reactor (LWR) fuel cycle which discharges spent fuel to interim storage involves no weapons-usable material in any part of the fuel cycle. It is a more proliferation-resistant fuel cycle than those which use highly enriched uranium or pure plutonium.

Differences in proliferation risk can be reduced by the introduction of combinations of technical and institutional measures rather than by technical measures alone. Some of these measures would be: Wider acceptance of international safeguards on all civilian nuclear activities and wider acceptance of existing nonproliferation treaties; adherence to export controls and guidelines adopted by each of the nuclear supplier nations; cooperative arrangements to perform breeder reactor R&D only when the need is clear and then under international auspices; and limiting research reactor material to enrichment levels that minimize the presence of weapons-usable material.

A major theme of the NASAP report is that U.S. policy should continue to be directed toward establishing a nonproliferation regime which recognizes the need for security of energy supply.

To enhance security of supply and nonproliferation effectiveness, existing international arrangements must be improved and new ones established on a cooperative basis. In this area, NASAP made the following major observations: New enrichment capacity should be under effective multinational or international auspices; improved institutional arrangements for spent-fuel storage and disposal services should be pursued; the U.S. should continue to urge others to refrain from developing reprocessing capability until it is clearly needed. However, where reprocessing occurs, there would be less proliferation risk if services were to be provided by a few large facilities, if safeguards were to be strengthened at all bulk-handling facilities, and if services were to be supplied based on fast-breeder and advanced reactor R&D needs where there exist both economic and technical justifications; and the U.S. should seek to ensure that an international plutonium-management regime operates under effective and credible nonproliferation norms.

The nuclear systems examined by the study ranged from those currently in use throughout the world to others that have not yet progressed beyond the conceptual stage. They were examined not only from the standpoint of proliferation risk, but also in terms of their efficiency of resource use, cost, and safety and environmental characteristics. These elements, along with the commitments that would have to be undertaken in performing the research, development and demonstration of the systems, were summarized in an assessment of commercial potential.

Consistent with the report's theme of both assuring supply and strengthening the nonproliferation regime, recommendations for research, development and demonstration were provided:

- Support for developing and improving safeguards technology;
- Improving fuel utilization efficiency of today's LWRs by 1990, and developing still more resource efficient light-water fuel for commercial adoption by 2000;
- Completing the National Uranium Resource Evaluation Program by 1985 and continuing research and development of uranium discovery and extraction methods;
- Demonstrating low enriched uranium fuel for use in research reactors as compared to today's use of high enriched uranium fuel; 20–45% U-235 enriched fuel by 1982, less than 20% U-235 enriched fuel by 1984;
- Continuing with the development of the Liquid Metal Fast Breeder Reactor (LMFBR) so that it could be commercially available, if needed, by about 2010 to 2020 while postponing the decision to start or defer a demonstration project until after the completion of the Conceptual Design Study;
- Continuing planned commitments to expand domestic enrichment capacity, improving the performance of existing technology and demonstrating the technical and economic performance of Advanced Isotopic Separation processes;
- Continuing development and completing the Light Water Breeder Reactor proof-of-breeding demonstration in Shippingport;
- Demonstrating designs to improve the proliferation resistance of reprocessing in pilot facilities in the fast breeder program;
- Assessing unique markets such as for process heat and for use in water scarce regions for the High Temperature Gas-Cooled Reactor; and
- Investigating high burnup fuel technology for the Fast Mixed-Spectrum Reactor.

The 10-volume NASAP report, consisting of an Executive Summary, a Program Summary, and eight supporting technical volumes, was prepared by the Division of Nuclear Alternative Systems assessment within the Office of the Assistant Secretary for Nuclear Energy.

SUPPLEMENTARY INFORMATION:

I. Public Participation

The period for general public comment began on December 17, 1979,

with an announcement in the **Federal Register**, news releases, and direct mailings to 17,000 people who had indicated prior interest in nuclear-related matters to the Department of Energy (DOE). The comment period continued through February 15, 1980. The announcement invited the public to request free copies of the report, to attend a public meeting with DOE officials in Washington, DC, on January 17, 1980, and to submit written comments within the 60-day comment period.

In response to this announcement, the public requested over 6,500 copies of the NASAP Executive Summary and Volume I, the Program Summary, and over 700 copies of each of the technical volumes, II through IX. More than 100 people attended the public meeting, and 75 people wrote to NASAP or spoke at the public meeting to express their views. Those who commented included, in roughly equal proportion, private individuals; representatives from industry; and representatives from non-industry organizations including Federal and State agencies, national laboratories, universities, and public interest groups. Comments ranged from one- to two-page letters to 20- and 30-page discussions. Though few in number, the letters raised a much larger number of substantive issues. The comments discussed not only the major assessment areas, but also the scope and emphasis of the report.

Many individuals took the opportunity to comment on issues related peripherally to the main program emphasis. Among these issues, that raised most often was the general energy situation within the U.S. The large majority of these individuals felt strongly that the Government should place greater emphasis on increased reliance on domestic energy sources, including nuclear, to help reduce our dependence on foreign petroleum supplies. Several others noted also that some foreign nations are committed to the increased use of nuclear power in order to reduce their dependence on petroleum imports.

Presenting the counter-argument, some asserted that nuclear power should be eliminated in favor of alternative energy sources, such as solar.

A number of letters agreed with the conclusions of the NASAP report and approved of its recommendations for research and development. An equal number of letters disagreed with the conclusions and recommendations. A few called the necessity of the NASAP program and report into question. Of these, some believed that the need for nuclear energy is so great that it outweighs any consideration of the risks of proliferation that might cause delays in its development. Others believed that the risks of proliferation are so great that they require a cessation of all nuclear power programs.

One-third of the letters expressed concern about NASAP's approach and methods of assessing fuel cycles and facilities. Some were concerned that a quantitative index of proliferation resistance had not been developed or that proliferation routes other than that of civilian nuclear power systems were not evaluated. Others were concerned about the adequacy of the economic analyses, the absence of any consideration of the ultimate impact of the Three Mile Island accident, and perceived over-optimism about the future of coal, solar, and other nonnuclear energy resources as sources of power.

Two-thirds of the letters discussed various aspects of reactors and fuel cycles. One-half of these letters dealt with the LMFBR. While many letters noted the need for the LMFBR to be available in case uranium resources for the LWR prove to be inadequate to meet demand, several stated that the dates projected by NASAP for introducing the breeder reactor were too late. Some letters dealt with perceived over-optimism concerning LWR retrofit improvements, and others dealt with cost estimates of reprocessing.

Assessments of other fuel cycles and systems received little attention except from those few strongly committed or vigorously opposed to a particular concept. Comments regarding particular systems and fuel cycles came predominantly from the nuclear industry, which is familiar with the technology and which has an understandable concern for the way the report treats various systems. Some letters criticized NASAP's assessment of a particular nuclear power fuel cycle or system by stating that it was treated inadequately or inconsistently. The letters claimed that these shortcomings resulted in an overly pessimistic conclusion about the system's proliferation resistance, technical feasibility, nuclear safety, or commercial potential.

II. Preparation of the Final NASAP Report

NASAP has responded to the public comments in two ways: first, many minor changes were made in the final report; second, major comments, grouped where possible, were paraphrased to formulate statements of issues or questions; replies were developed and are reported in the appendix to the Executive Summary of the final NASAP report.

Part I of the appendix addresses issus or questions about the purpose, scope, emphasis, and implementation of the report's conclusions and recommendations, as well as the adequacy of public participation. Part II is concerned with comments about the assumptions and methodology used by NASAP and reflected in its draft report. Part III considers comments about proliferation risk, especially differences among fuel cycles, and measures proposed—both technical and institutional—to increase proliferation resistance. Part IV addresses a number of issues and questions about the technical conclusions of the assessments.

Report Availability:

The complete 10-volume NASAP report, including:

Executive Summary.
Volume I: Program Summary.
Volume II: Proliferation Resistance.
Volume III: Resources and Fuel Cycle Facilities.
Volume IV: Commercial Potential.
Volume V: Economics and Systems Analysis.
Volume VI: Safety and Environmental Considerations for Licensing.
Volume VII: International Perspectives.
Volume VIII: Advanced Concepts.
Volume IX: Reactor and Fuel Cycle Descriptions.

Will be available after June 15, 1980, for purchase through the: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401.

FOR FURTHER INFORMATION CONTACT: Dr. Hugh Kendrick, Acting Director, Division of Nuclear Alternative Systems Assessment, NE–50, Mail Stop B–107, U.S. Department of Energy, Washington, DC 20545.

Issued in Washington, D.C., on May 29, 1980.

George W. Cunningham,

Assistant Secretary for Nuclear Energy.

[FR Doc. 80–16784 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Case No. 51007–0636–21, 22, 23, 24–22; Docket No. ERA–FC–80–008]

Florida Power Corp.

AGENCY: Economic Regulatory Administratio, Department of Energy

ACTION: Notice of availability of tentative Staff determination.

SUMMARY: On June 14, 1979, Florida Power Corporation (FPC) petitioned the

Economic Regulatory Administration (ERA) of the Department of Energy for four permanent peakload powerplant exemptions from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibit the use of petroleum or natural gas in new powerplants. FPC plans to install four 63,000 KW oil-fired combustion turbine units (Suwannee River Peaking Units CT–1, CT–2, CT–3, CT–4) and certifies that each of these units will be operated solely as peakload powerplants and will be operated only to meet peakload demand for the life of the plants. ERA accepted the petitions relating to the use of petroleum on October 12, 1979, and published notice of its acceptance in the **Federal Register** on October 22, 1979 (44 FR 60789). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended December 6, 1979, No comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Determination recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to FPC. A copy of the Tentative Staff Determination is available from the Office of Public Information at the address listed below.

DOE's Office of Environment has determined that granting of the requested permanent exemption would not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et. seq.* Therefore, no environmental impact statement or environmental assessment is required.

DATES: Written comments on the Tentative Staff Determination are due on or before June 16, 1980.

ERA will issue a final order granting or denying the petitions for the peakload powerplant exemptions from the prohibitions of the Act within six months after the public comment period has expired unless ERA extends such period. Notice of any extention will be published in the **Federal Register** together with a statement of the reasons for such extension.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW, Washington, D.C. 20461. Docket Number ERA–FC–80–008 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B–110, Washington, D.C. 20461; phone (202) 653–4055.

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, D.C. 20461; phone (202) 653–3659.

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, D.C. 20585; phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Florida Power Corporation (FPC) plans to install four 63,000 KW oil-fired combustion turbine units to be called Suwannee River Peaking Units CT–1, CT–2, CT–3, and CT–4 at its Suwannee Station site in Suwannee County, Florida. Based upon estimates by FPC for the 1980–1990 period, the new units are expected to consume approximately 171,000 barrels of low sulfur distillate oil per year (467 bbls/day). Suwannee CT–1, CT–2, and CT–3 are scheduled for commerical operation in October 1980. CT–4 is scheduled for commerical operation in May 1981.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Act. FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

A prepetition conference was held in Washington, D.C., at FPC's request on June 8, 1979. On June 14, 1979, FPC petitioned ERA for four permanent peakload powerplant exemptions from the prohibitions of the Act to use oil in each of the proposed units.

FPC submitted a sworn statement as Exhibit A to each of the four petitions signed by Mr. Ned B. Spake, Vice President, Environment and New Technology Branch, of FPC as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Spake certifies that each of the oil-fired combustion turbines (Suwannee CT–1 through CT–4) will be operated solely as peakload powerplants and will be operated only to meet peakload demand for the life of each plant. He also certified that the maximum design capacity of each unit is 63,000 KW and that the maximum generation that each unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 94,500,000 Kwh.

FPC also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

Staff Determination

On the basis of FPC's sworn statements and the information provided, the staff recommends that ERA grant the requested peakload powerplant exemptions.

On the basis of the Department of Energy's (DOE) independent analysis of environmental information submitted by FPC, DOE has concluded that no significant environmental impacts will occur as a result of the granting of these exemptions.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon information submitted by FPC and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the four requested peakload powerplant exemptions should, pursuant to Section 214(a) of the Act, be on the following conditions:

A. FPC shall not produce more than 94,500,000 Kwh during any 12-month period with any of the proposed units, Suwannee CT–1 through CT–4. FPC shall limit operation of each of the proposed units to peakload hours which on FPC's system are 7:00 am to 10:00 am and 4:00 pm to 8:00 pm Monday–Friday, in the winter months December through March, and 10:00 am to 10:00 pm, Monday–Friday, in the summer months June through September. FPC shall notify ERA of significant changes in its load pattern which require a modification in peakload hours.

B. FPC shall comply with the reporting requirements set forth in 10 CFR Part 503.41(e). In addition, whenever FPC operates any or all of the proposed units, Suwannee CT–1 through CT–4, in non-specified peakload hours (hours not specified in condition A above), FPC shall report annually the reason(s) for such operation.

C. This order shall not take effect until August 1, 1980.

Issued in Washington, D.C., on May 24, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–16544 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

H.H. Gungoll & Associates; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to H. H. Gungoll & Associates. This Proposed Remedial Order charges Gungoll with pricing violations in the amount of $81,126.62, connected with the sale of crude oil and condensate at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period September 1, 1973 through December 31, 1976, in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7745. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 19th day of May, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 80–16546 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

L. O. Ward; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to L. O. Ward., P.O. Box 1187, Enid, Oklahoma 73701. This Proposed Remedial Order charges Ward with pricing violations in the amount of $259,726.21, relative to Ward's sale of certain domestic crude oil at free market and upper tier prices which the firm characterized as "stripper well' crude oil during the period September 1, 1973 through December 31, 1976.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (211) 767–7745. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 19th day of May, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 80–16548 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

Richardson Ayres Jobber, Inc., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Richardson Ayres Jobber, Inc., Alexandria, Louisiana 71306. This Proposed Remedial Order charges Richardson Ayres with pricing violations in the amount of $159,374.68, connected with the resale of motor gasoline and diesel fuel during the time period November 1, 1973, through April 30, 1974, in the State of Louisiana.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, 2626 W. Mockingbird Lane, Dallas, Texas 75235, phone 214/767–7745. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 19th day of May, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80–16547 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

Hassie Hunt Exploration Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Hassie Hunt Exploration Company. This Proposed Remedial Order charges Hassie Hunt with pricing violations in the amount of $90,364.08, connected with the sale of crude oil and condensate at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through December 31, 1975, in the State of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7745. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Dallas, Texas, on the 23rd day of May, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 80–16671 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

Olympic Gas and Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: April 24, 1980.

COMMENTS BY: July 2, 1980.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816–374–5932.

SUPPLEMENTARY INFORMATION: On April 17, 1980, the Office of Enforcement of the ERA executed a Consent Order with Olympic Gas and Oil Company, Granite City, Illinois. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and

interest, becomes effective upon its execution.

I. The Consent Order

Olympic Gas and Oil Company, with its home office located in Granite City, Illinois, is a firm engaged in the marketing of Motor Gasoline to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Olympic, the Office of Enforcement, ERA, and Olympic Gas and Oil Company, entered into a Consent Order.

The Consent Order encompasses Olympic's sale of covered products during the period March, 1979 through July, 1979.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions or procedural aspects of this Consent Order.

You should send your comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816–374–5932.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Olympic Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on July 2, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 28th day of April 1980.

Dated: April 23, 1980.

William B. Miller,

District Manager of Enforcement.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel.

[FR Doc. 80-16672 Filed 5-30-80; 8:45 am]

BILLING CODE 6450-01-M

Domestic Crude Oil Allocation Program; Entitlement Notice for March 1980

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: March 1980 entitlement notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for March 1980.

DATES: Payments for entitlements required to be purchased under this notice must be made by May 31, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by June 10, 1980.

FOR FURTHER INFORMATION CONTACT:

David Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128I, Washington, D.C. 20461 (202) 653–3873.

Jeffrey Stoermer (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585 (202) 252–6911.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for March 1980 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4), the national domestic crude oil supply ratio for March 1980 is calculated to be .200022.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of March 1980, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .699623 of a barrel of deemed old oil.

The issuance of entitlements for the month of March 1980 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of March 1980 is hereby fixed at $25.26 which is the exact differential as reported for the month of March between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of March 1980 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of March 1980 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of March 1980 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the Appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

Pursuant to a Stipulation of Settlement and Dismissal and Order of Dismissal entered in an action styled *Manatee Energy Co.* v. *DOE*, Civil Action No. TCA 80–0716 (N.D. Fla., April 7, 1980), Manatee Energy Co. is excused in this notice from that portion of its entitlements purchase obligations for October, 1979 representing a value of $4,791,618.00 (189,692 entitlements). Manatee's remaining purchase obligations for October, 1979 total $669,997.50 (26,524 entitlements).

Also pursuant to the same Stipulation, Manatee is being issued, in this notice, entitlements based on a portion of its crude oil runs to stills and on the small refiner bias, for October, 1979, in the value of $669,997.50 (26,524 entitlements).

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA Par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the March 1980 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its March 1980 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d)(6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of March 1980, imports of residual fuel oil eligible for entitlements issuances totaled 22,403,044 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil	2,648,811	26°
California upper tier crude oil	3,341,239	28°

The total number of entitlements required to be purchased and sold under this notice is 19,701,899.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for March 1980, the pricing composition and weighted average costs thereof are as follows:

	Volumes in thousands of B/D	Weighted average cost	Percent of total volumes*
Lower tier	1,442	[illegible]	9.9
Upper tier	2,375	14.57	16.2
Exempt domestic			
Alaskan	1,522	24.32	10.4
Heavy and market tier	946	31.52	6.5
Naval petroleum reserve	98	34.33	.7
Newly-discovered	318	38.96	2.2
Stripper	1,717	34.03	11.7
Tertiary	97	31.99	1.
Total domestic	8,435	$22.07	57.7
Imported	6,187	$33.42	42.3
Total uncontrolled (exempt domestic and imported)	10,805	$32.24	73.9
Total reported crude oil receipts	14,623	$26.88	
Total reported crude oil runs to stills	14,400		

*Volumes may not total 100% due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for March 1980 must be made by May 31, 1980.

On or prior to June 10, 1980, each firm which is required to purchase or sell entitlements for the month of March 1980 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of March. The monthly transaction report forms for the month of March have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by May 31, 1980 are requested to contact the ERA at (202) 653–3873 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to May 31, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before July 2, 1980.

Issued in Washington, D.C., on May 28, 1980.

Hazel R. Rollins,

Administrator.

BILLING CODE 6450-01-M

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
MARCH 1980

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
-CONSOLED-SALES	-41,135	0	0	0	0	0	41,135 1/
A-JOHNSON	0	85,521	0	15,138	0	0	85,521
AOM	0	13,129	0	0	0	0	13,129
AKRON-OHIO	0	1,903	0	0	0	0	1,903
ALLIED	31,596	50,751	0	0	0	0	19,155
AMER-AGRI-FUELS	0	409	0	0	0	0	409
AMER-PETROFINA	251,780	857,568	0	0	0	0	605,789
AMERADA-HESS	1,723,152	3,467,768	0	192,515	0	0	1,744,616
AMERICAN-CAN-CO	0	136	0	0	0	0	136
AMES-IOWA	0	687	0	0	0	0	687
AMOCO	9,493,238	4,722,244	0	0	0	4,771,994	0
ANCHOR	0	24,978	0	0	0	0	24,978
APEX	0	24,246	0	24,246	0	0	24,246
ARCO	3,171,494	4,685,115	0	0	4,666	0	1,513,621
ARIZONA	68,538	28,403	0	0	2,015	41,135 1/	0
ARIZONA-CHEM	0	2,953	0	0	0	0	2,953
ASAMERA	97,475	103,316	0	0	0	0	5,841
ASHLAND	1,040,803	2,129,250	0	0	0	0	1,088,447
BAYOU	5,891	18,491	0	0	0	0	12,600
BEACON	154,916	86,397	0	0	6,044	68,519	0
BELCHER	0	112,124	0	112,124	0	0	112,124
BRUIN	36,997	41,215	0	0	0	0	54,218
C&H	0	230	0	0	0	0	230
CADENCE-CHEM	0	1,844	0	0	0	0	1,844
CALCASIEU	-199	47,127	0	0	0	0	47,326
CALUMET	19,014	16,812	0	0	0	7,202	0
CANAL	80,971	52,751	0	0	0	28,220	0
CARBONIT	6,922	55,942	0	0	0	0	49,020
CARIBOU	74,737	58,711	15,973 4/5/	0	0	15,026	0
CASTLE	0	33,226	0	33,226	0	0	33,226
CENTRAL	0	27,877	0	27,877	0	0	27,877
CHAMPLIN	899,742	1,186,054	0	0	27,266	0	289,312
CHARTER	170,269	215,567	0	21,634	0	0	45,298
CHARTER-BAHAMAS	0	252,506	0	252,506	0	0	252,506

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
CHEVRON	6,007,084	7,112,198	0	11,528	39,463	0	1,105,114
CIBRO	0	175,680	13,283 4/	55,583	0	0	175,680
CITGO	1,439,144	1,564,848	0	0	0	0	125,704
CITY-OF-SEWARD	0	5	0	0	0	0	5
CLAIBORNE	84,775	31,158	0	0	0	53,617	0
CLARK	351,677	671,697	0	0	0	0	320,020
COASTAL	176,445	1,138,214	0	81,703	0	0	961,769
COASTAL-PETRO	0	33,249	0	0	0	0	33,249
COLONIAL	0	18,193	0	18,193	0	0	18,193
COLUMBUS-OHIO	0	126	0	0	0	0	126
CONOCO	2,451,948	2,023,038	0	0	11,309	428,910	0
CONSUMERS-POWER	0	32,269	0	32,269	0	0	32,269
COPANO	455	49,799	0	0	0	0	49,344
CORAL	0	77,001	0	0	0	0	77,001
CORCO	0	509,870	-7,413 5/	251,018	0	0	509,870
CRA-FARMLAND	249,364	425,611	0	0	0	0	176,247
CROSS	33,516	52,469	0	0	0	0	18,953
CROWN	353,296	495,549	0	0	0	0	142,253
CRYSTAL-OIL	135,213	87,781	0	0	0	47,432	0
CRYSTAL-REF	0	19,311	0	0	0	0	19,311
DELTA	215,216	293,405	0	0	0	0	78,189
DEMENNO	0	40,915	0	0	0	0	40,915
DETROIT-RO	0	36,205	0	36,205	0	0	36,205
DESC	0	21,770	0	21,770	0	0	21,770
DIAMOND	479,058	372,382	0	0	0	106,676	0
DILLMAN	0	94	0	0	0	0	94
DORCHESTER	12,864	141,716	0	0	0	0	128,852
DOW	45,830	33,922	0	0	0	11,908	0
E-SEABOARD	0	47,767	0	47,767	0	0	47,767
EAST-BAY-MUD	0	278	0	0	0	0	278
ECO	11,678	43,757	0	0	770	0	32,079
EDDY	32,012	23,847	0	0	0	8,165	0
ELGIN-IL	0	12	0	0	0	0	12
ENERGY-COOP	47,447	572,764	0	0	0	0	525,317

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
ENGELHARD	0	17,516	0	17,516	0	0	17,516
EPGON	185	35,796	0	0	0	0	35,611
ERICKSON	12,156	77,346	0	0	0	0	65,190
ESSEX-UNION	0	282	0	0	0	0	282
EVANGELINE	38,258	14,768	0	0	0	23,490	0
EXXON	9,774,403	7,815,199	0	214,344	0	1,955,204	0
EZ-SERVE	6,447	20,211	0	0	0	0	13,764
FARMERS-UN	135,169	215,618	0	0	0	0	80,449
FLETCHER	140,962	106,831	0	0	44	33,131	0
FLINT	2,860	4,924	0	0	0	0	2,064
FRIENDSWOOD	50,249	41,018	0	0	0	9,231	0
FUNDING	57,203	37,382	0	0	0	19,911	0
GARY	214,710	105,341	31,553 4/	0	0	109,369	0
GETTY	1,417,411	1,458,931	-16,168 4/	0	9,913	0	41,520
GETTY-SYN	0	1,727	0	0	0	0	1,727
GIANT	6,841	28,121	0	0	0	0	21,280
GIBSON	0	21,065	0	0	0	0	21,065
GLACIER-PARK	98,157	29,509	0	0	0	68,248	0
GLADIEUX	33,328	59,447	0	0	0	0	26,119
GOLDEN-EAGLE	0	49,143	0	0	0	0	49,143
GOLDKING	143,003	101,236	0	0	0	41,767	0
GOOD-HOPE	21,199	417,546	0	0	0	0	396,347
GUAM	0	160,589	0	0	0	0	160,589
GULF	6,909,224	5,240,040	0	20,958	12,900	1,669,184	0
GULF-ENERGY	0	12,688	0	0	0	0	12,688
GULF-STS	141,985	59,671	0	0	0	82,314	0
HARRISBURG-PA	0	2,979	0	0	0	0	2,979
HEALTH-CARE	0	79	0	0	0	0	79
HTRI	0	371,881	0	0	0	0	371,881
HOWELL	561,971	207,497	0	0	0	354,374	0
HRR	0	1,905	0	0	0	0	1,905
HUDSON-OIL	34,255	123,894	0	0	0	0	89,639
HUNT	260,650	181,486	0	0	0	79,164	0
HUNTWAY	5,721	47,793	16,764 5/	0	237	0	42,072

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
HUSKY	260,842	274,956	0 2/	0	0	0	14,114
INDEPENDENT-REF	0	67,384	0	0	0	0	67,384
INDIANA-FARM	24,702	131,084	0	0	0	0	106,382
INDUST-FUEL	59,588	24,882	0	0	0	34,706	0
INTER-PETRO	0	45,965	0	45,965	0	0	45,965
INTER-PROCESS	28,097	89,756	0	0	0	0	61,659
KENCO	54,705	19,161	0	0	0	35,544	0
KENTUCKY	15,986	20,480	13,508 4/	0	0	0	4,494
KERR	139,006	129,808	0	0	2,824	7,198	0
KERR-MCGEE	908,853	557,291	0	0	0	351,602	0
KOCH	732,293	646,175	0	29,885	0	86,118	0
LA-COUNTY	0	4,069	0	0	0	0	4,069
LAGLORIA	345,498	277,816	0	0	0	67,682	0
LAKE-CHARLES	17,431	64,212	0	0	0	0	46,781
LAKESIDE	-21,054	24,195	0	0	0	0	45,249
LAKETON	28,061	81,429	40,908 5/	0	0	0	53,368
LITTLE-AMER	943,419	527,067	0	0	0	416,352	0
LOS-ANGELES-CA	0	2,703	0	0	0	0	2,703
LOUISIANA-LAND	456,198	244,425	0	0	0	211,773	0
MACMILLAN	25,196	97,519	0	0	1,198	0	72,733
MADISON-CHATHAM	0	2	0	0	0	0	2
MADISON-CITY-WI	0	488	0	0	0	0	488
MADISON-WI	0	156	0	0	0	0	156
MALLARD	32,729	22,529	0	0	0	9,800	0
MARATHON	3,931,702	2,670,802	0	0	0	1,261,900	0
MARION	16,790	85,273	0	0	0	0	68,493
MARLEX	3,821	70,760	0	0	247	0	66,939
METROPOLITAN	0	125,777	0	125,777	0	0	125,777
MID-AMER	1,070	20,542	0	0	0	0	19,472
MIDWEST-SOLV	0	1,199	0	0	0	0	1,199
MILWAUKEE-WI	0	621	0	0	0	0	621
MOBIL	5,185,505	4,723,966	0	20,489	-30,505	461,539	0
MOBILE-BAY	1,689	42,504	0	0	0	0	40,815
MONOCO	0	12,848	0	12,848	0	0	12,848

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND CORRECT.	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
MONSANTO	425,922	207,010	0	0	0	218,912	0
MORRISON	19,930	4,339	0	0	0	15,591	0
MOUNTAINEER	3,706	1,475	0	0	0	2,231	0
MSDGC	0	9,801	0	0	0	0	9,801
MT-AIRY	122,799	88,669	0	0	0	34,130	0
MURPHY	1,011,104	618,285	0	0	0	392,819	0
N-AMER-PETRO	67,428	76,344	0	0	217	0	8,916
NASHVILLE-TENN	0	3,326	0	0	0	0	3,326
NATL-COOP	156,501	269,913	0	0	0	0	113,412
NAVAJO	330,307	230,499	36,0765/	0	0	99,808	0
NEVADA	158	18,511	0	0	0	0	18,353
NEW-EDGINGTON	108,572	105,877	0	0	9,717	2,695	0
NEW-ENGL-POWER	0	41,512	0	41,512	0	0	41,512
NEWHALL	17,199	87,231	0	0	1,062	0	70,032
NORTHEAST-PETRO	0	98,480	0	98,480	0	0	98,480
NORTHLAND	38,732	38,732	27,9275/	0	0	0	0
NORTHVILLE	0	3,566	0	3,566	0	0	3,566
NY-SANITATION	0	7,301	0	0	0	0	7,301
OKC	8,525	156,434	0	0	0	0	147,909
OKLA-REF	45,351	95,079	0	0	0	0	49,728
ORANGE-COUNTY	0	1,656	0	0	0	0	1,656
OSCEOLA-AR	0	221	0	0	0	0	221
OXNARD	0	17,137	0	0	0	0	17,137
PEERLESS	0	55,261	0	0	0	0	55,261
PENNZOIL	505,909	334,196	7,7064/	0	0	171,713	0
PEORIA-IL	0	300	0	0	0	0	300
PESTER	219,303	147,735	0	0	0	71,568	0
PHILADELPHIA-PA	0	1,138	0	0	0	0	1,138
PHILLIPS	2,222,020	1,645,196	0	0	0	576,824	0
PHILLIPS-PR	0	185,015	0	185,015	0	0	185,015
PIONEER	56,752	33,879	0	0	0	22,873	0
PLACID	434,050	229,510	0	0	0	204,540	0
PLATEAU	153,024	120,171	0	0	0	32,853	0
PORT	122	2,903	0	0	0	0	2,781

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND CORRECT.	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
POWERINE	71,209	168,546	0	0	4,458	0	97,337
PRIDE	-14,465	186,051	0	0	0	0	200,516
QUAD	0	33,012	0	0	0	0	33,012
QUAKER-ST	15,464	153,590	0	0	0	0	138,126
QUITMAN	0	50,682	0	0	0	0	50,682
RACINE-WASTE-UT	0	59	0	0	0	0	59
RAHWAY	0	141	0	0	0	0	141
RANCHO-REF	234	26,476	0	0	0	0	26,242
RESCO	0	7,156	0	0	0	0	7,156
ROAR-OIL	2,758	11,237	0	0	167	0	8,479
ROCK-ISLAND	149,269	232,246	0	0	0	0	82,277
SABER-TEX	28,219	116,554	0	0	0	0	88,335
SABRE-CAL	-4,716	36,011	0	0	-564	0	40,727
SALEM-VA	0	446	0	0	0	0	446
SAN-JOAQUIN	0	63,214	0	0	0	0	63,214
SCALLOP	0	183,058	0	183,058	0	0	183,058
SCANCIL	0	96,988	0	96,988	0	0	96,988
SCHULZE	4,234	2,547	0	0	0	1,687	0
SEAVIEW	0	191,869	0	0	0	0	191,869
SECTOR	44,299	21,135	0	0	0	23,164	0
SEMINOLE	10,656	79,264	0	0	0	0	68,608
SENTRY	0	48,336	0	0	0	0	48,336
SHELL	7,998,312	5,297,702	0	0	14,514	2,700,610	0
SHEPHERD	2,047	32,035	0	0	0	0	29,988
SIGMOR	12,517	125,002	0	0	0	0	112,485
SILVER-EAGLE	1,081	1,055	0	0	0	26	0
SLAPCO	108,614	59,419	0	0	0	49,195	0
SMRSA	0	29	0	0	0	0	29
SO-HAMPTON	35,699	75,920	0	0	0	0	40,221
SOHIO	1,030,958	2,876,496	0	0	0	0	1,845,538
SOMERSET	29,175	22,039	0	0	0	7,136	0
SOUND	0	55,382	0	0	0	0	55,382
SOUTHERN-UNION	162,901	211,189	0	0	0	0	48,288
SOUTHLAND	139,505	136,509	18,1305/	0	0	2,996	0

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	********** REQUIRED TO BUY	********** REQUIRED TO SELL
SOUTHWESTERN	12,129	6,271	1,203 5/	0	0	5,858	0
SPRAGUE	0	48,500	0	48,500	0	0	48,500
SUNLAND	2,981	67,314	0	0	37	0	64,333
SUNOCO	3,430,941	2,875,665	399 4/	24,871	0	556,276	0
T&S	2,436	0	0	0	0	2,436	0
TARRICONE	0	29,282	0	29,282	0	0	29,282
TENNECO	1,301,943	584,562	0	0	2,853	717,381	0
TESORO	239,308	387,146	0	0	0	0	147,838
TEXACO	6,289,087	5,755,213	0	174,615	9,138	533,874	0
TEXAS-AMERICAN	6,129	52,118	0	0	0	0	45,989
TEXAS-ASPH	32,318	6,317	0	0	0	25,001	0
TEXAS-CITY	540,820	585,065	0	0	0	0	44,245
THAGARD	33,962	48,211	0	0	1,172	0	14,249
THORN-CREEK	0	89	0	0	0	0	89
THRIFTWAY	47,494	27,110	0	0	0	20,384	0
THUNDERBIRD	39,397	39,259	0	0	0	138	0
TIPPERARY	58,443	36,907	0	0	0	21,536	0
TONKAWA	18,977	65,035	0	0	0	0	46,058
TOSCO	928,705	1,008,592	0	0	20,790	0	79,877
TOTAL-PETROLEUM	53,112	526,556	0	0	0	0	473,444
UCC-CARIBE	0	109,131	0	109,131	0	0	109,131
UNI-REF	0	59,777	0	0	0	0	59,777
UNION-CARBIDE	0	46,425	0	46,425	0	0	46,425
UNION-OIL	2,359,358	2,240,778	0	0	14,741	119,180	0
UNTD-REF	107,914	263,867	0	0	0	0	156,053
US-OIL	13,219	44,307	0	0	859	0	31,089
USA-PETROCHEM	42,212	148,049	0	0	1,086	0	105,837
VAL-VERDE	1,133	3,952	0	0	0	0	2,819
VICKERS	87,197	322,746	0	0	0	0	235,549
VICKSBURG	6,198	37,850	0	0	0	0	31,652
WALLER	0	6,001	0	6,001	0	0	6,001
WARRIOR	35,269	38,541	19,540 5/	0	0	0	3,272
WATSON	0	949	0	0	0	0	949
WEST-COAST	4,107	33,680	0	0	216	0	29,573

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	********** REQUIRED TO BUY	********** REQUIRED TO SELL
WEST-MONMOUTH	0	40	0	0	0	0	40
WESTERN	0	75,319	0	0	0	0	75,319
WINSTON	48,326	103,918	0	0	0	0	55,592
WIREBACK	0	219	0	0	0	0	219
WITCO	33,504	116,722	0	0	1,204	0	83,218
WYATT	0	15,194	0	15,194	0	0	15,194
WYOMING	0	67,504	0	0	0	0	67,504
YETTER	0	595	0	0	0	0	595
YOUNG	30,347	50,758	29,508 5/	0	0	0	20,411
TOTAL	94,257,326	94,257,326	247,653	2,785,712	170,091	19,613,840	19,613,840

1/ See discussion in Notice.

2/ This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court"s Judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), remanded 582 F.2d 644 (TECA, August 10, 1978).

3/ This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA, Civ. Action No. 4-75-268 (N.D.Tex., filed October 31, 1975).

4/ Correction of prior month.

5/ Exception from Office of Hearings and Appeals.

[FR Doc. 80-16725 Filed 5-30-80; 8:45 am]
BILLING CODE 6450-01-C

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Office of Hearings and Appeals

Cases Filed; Week of May 9, 1980 Through May 16, 1980

Notice is hereby given that during the week of May 9, 1980 through May 16, 1980 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 27,1980.

Date	Name and location of applicant	Case No.	Type of submission
Apr 5, 1980	Research Fuels, Inc., Dallas, Texas	BEA-0355	Appeal of an Assignment Order. If granted: The March 26, 1979, Assignment Order issued to Cities Services Company by the Economic Regulatory Administration, Region 5, regarding Cities Services Company's Supply obligations to Oasis Petro Energy Corporation would be modified.
May 9, 1980	Witco Chemical Corp., Arlington, Virginia	BEA-0351	Appeal of an Entitlements Notice. If granted: The June 1980 Entitlements Notice would be modified with respect to Witco Chemical Corporation entitlements purchase obligations.
May 12, 1980	Charmaster Products, Inc., Grand Rapids, Minnesota	BEE-1144	Exception from the Energy Conservation Program for Consumer Products. If granted: Charmaster Products, Inc., would receive an exception from the provisions of 10 CFR 430 and would not be required to perform the energy efficiency test procedures applicable to its furnaces.
May 12, 1980	Chevron U.S.A., Inc., Washington, D.C	BED-0087 and BEJ-0087	Motion for Discovery and Protective Order. If granted: Discovery would be granted to Chevron U.S.A., Inc. and Chevron and Gladieux Refinery, Inc. (Gladieux) would enter into a Protective Order regarding the release of proprietary information to Chevron in connection with Gladieux's Application for Exception (Case No. BEE-1133).
May 12, 1980	Earl's Downtown Standard, St. Louis, Missouri	BRW-0050	Remedial Order Finalization. If granted: The December 20, 1979 Proposed Remedial Order issued to Earl's Downtown Standard by the Economic Regulatory Administration, Central District, would be issued as a final Remedial Order.
May 12, 1980	J-W Operating Company, Dallas, Texas	BEE-1139	Price Exception. If granted: J-W Operating Company would be permitted to sell the crude oil produced from the Sheep Point Field, State of Wyoming Lease Nos. 66-17899 and 66-17899A located in Park County, Wyoming, at upper tier ceiling prices.
May 12, 1980	Phil's Clark, Chicago, Illinois	BRW-0051	Remedial Order Finalization. If granted: The March 12, 1980 Proposed Remedial Order issued to Phil's Clark by the Economic Regulatory Administration, Central District, would be issued as a final Remedial Order.
May 12, 1980	Spag's Ashland, Clarksburg, West Virginia	BRW-0052	Remedial Order Finalization. If granted: The January 2, 1980 Proposed Remedial Order issued to Spag's Ashland by the Northeast District of the Economic Regulatory Administration would be issued as a final Remedial Order.
May 12, 1980	Sun Oil Co. of Pennsylvania, Philadelphia, Pennsylvania.	BSG-0021	Petition for Special Redress. If granted: Sun Oil Company of Pennsylvania would receive special redress from the provisions of 10 CFR 211.65 regarding the Buy/Sell allocations for Commonwealth Oil Refining Company and A. Johnson.
May 13, 1980	Belco Petroleum Corp., Houston, Texas	BXE-1143	Extension of the relief granted in *Belco Petroleum Corp.*, — DOE Par. ——— (November 28, 1979). If granted: Belco Petroleum Corp. would continue to sell the crude oil produced from the White River Unit "B", located in Uintah County, Utah, at market prices.
May 13, 1980	Dow Chemical USA, Freeport, Texas	BEN-0285	Request for Interim Order. If granted: Dow Chemical USA would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-0285).
May 13, 1980	Naph-Sol Refining Co., Inc., Washington, D.C	BEE-1145	Allocation Exception. If granted: Naph-Sol Refining Co., Inc. would receive an exception from the provisions of 10 CFR 211 which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
May 13, 1980	Science Management Corp., Landover, Maryland	BFA-0354	Appeal of an Information Request Denial. If granted: The May 1, 1980 Information Request Denial issued by Office of Procurement Operations would be rescinded and Science Management Corp. would receive access to the Technical Approach Section of CALCULON Corp's proposal.
May 14, 1980	Amerada Hess Corp., New York, New York	BEN-0034	Interim Order. If granted: Amerada Hess Corp. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-1098).
May 15, 1980	City of Long Beach, California, Long Beach, California.	BXE-1149	Extension of Relief Granted in *City of Long Beach*, — DOE Par. ——— (December 21, 1979). If granted: The City of Long Beach would be permitted to continue to sell the crude oil produced from the Wilmington Oil Field, located in Los Angeles County, California at upper tier ceiling prices.
May 15, 1980	Hogan & Hartson, Washington, D.C	BFA-0356	Appeal of an Information Request Denial. If granted: The January 7, 1980 Information Request denial issued by the Office of Petroleum Price Regulations and Emergency Planning of the Economic Regulatory Administration would be rescinded and Hogan & Hartson would receive access to DOE information relating to crude oil reseller inventory practices and certification requirements.
May 15, 1980	Office of Special Council—Coastal Corp., Washington, D.C.	BFF-0005	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, Part 205, in connection with the January 11, 1980 consent order issued to Coral Petroleum, Inc.
May 15, 1980	Pennzoil Producing Co., Houston, Texas	BXE-1148	Extension of Relief granted in *Pennzoil Producing Company*, — DOE Par. ——— (March 11, 1980). If granted: Pennzoil Producing Co. would be permitted to continue to sell the crude oil produced from the McGraw-Stevens Waterfold Unit, located in Tinsley Field, Miss., at market and upper tier ceiling prices.
May 15, 1980	Thunderbird Resources, Inc., Washington, D.C	BED-0059	Motion for Discovery. If granted: Discovery would be granted to Thunderbird Resources, Inc. in connection with the Statement of Objections submitted in response to the April 15, 1980 Proposed Decision and Order (Case No. BEE-0628) issued to ICG Vista Petroleum, Inc.
May 16, 1980	Cornell Oil Corp., Washington, D.C	BEE-1151	Price Exception. If granted: Cornell Oil Corp. would be permitted to adjust the Cornell Unit, located in the Wasson Field in Yoakum County, Texas, base production control level in accordance with 212.76 and certify the Unit's incremental tertiary production, as determined in Cornell's certification, pursuant to 212.78.

Date	Name and location of applicant	Case No.	Type of submission
May 16, 1980	Hogan & Hartson, Washington, D.C	BFA-0357	Appeal of an Information Request Denial. If granted: The April 16, 1980 Information Request Denial issued by the Division of FOI and Privacy Acts Activities would be rescinded and Hogan & Hartson would receive access to omitted portions of Paragraphs 4.405.03, .04, .05 of the Economic Regulatory Administration Enforcement Manual.
May 16, 1980	Mineral Production & Development, Inc., McAllen, Texas.	BEE-1150	Price Exception (Section 212.73). If granted: Mineral Production & Development, Inc. would be permitted to sell the condensate produced from the Evans #1 Well, located in Pharr County, Texas, at market prices.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

(Week of May 9, 1980 to May 16, 1980)

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No. and date	State.
Dick's 66 Service	BEE-1138, 5/9/80	Iowa.
Doug's Dix/Northline Mobil.	BEE-1140, 5/13/80	Mich.
Habhab Brothers Service.	BEE-1141, 5/13/80	Mich.
Central Battery Service	BEE-1142, 5/13/80	Md.
Union Oil (North Olmstead, Ohio).	BEE-1146, 5/14/80	Ill.
Benedict's Mobil	BEE-1147, 5/15/80	Pa.

Notices of Objection Received

(Week of May 9 to May 16, 1980)

Date	Name and Location of Applicant	Case No.
5/9/80	Red Bluff Mobil Service, Pasadena, Calif.	BXE-0283
5/9/80	McDowell Oil Company, Marion, N.C.	DEE-7080
5/9/80	Auto Row Texaco, Honolulu, Hawaii	DXE-8233
5/12/80	Petrolics, Inc., Tex	BEE-0266
5/9/80	C & L Service, Taneytown, Md	BEO-1182
5/12/80	Texas Gas Exploration Corp., Washington, D.C.	DEE-2118
5/12/80	Getty Refining & Marketing Co., Kansas City, Mo.	BEO-1185
5/12/80	Anthony's Beach Gulf Service, Ft. Lauderdale, Fla.	BEO-1183
5/12/80	Larry's Standard Service,	BEO-1189
5/15/80	Western Oil of Nebraska, Inc., Washington, D.C.	BEE-0472
5/14/80	James Tidwell Chevron, Nipomo, Calif.	BXE-0699

[FR Doc. 80-16670 Filed 5-30-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of April 14 Through April 18, 1980

Notice is hereby given that during the week of April 14 through April 18, 1980, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissals.

Appeals

Patricia A. Barnes, McLean, Va., BFA-0284, freedom of information

Patricia A. Barnes filed an Appeal from a denial by the DOE Inspector General of a request for information which she had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemption 6 should be released to the public and that other documents should be reviewed by the Inspector General for possible release. In addition, the DOE found that one document should be withheld from release pursuant to Exemption 5. The Decision and Order identified three types of privacy interests associated with investigatory materials.

Cities Service Company, Tulsa, Okla., DEA-0440; DEA-0443; DEA-0444, motor gasoline

Cities Service Company filed Appeals from three Orders for the Redirection of Product issued to the firm by the DOE Office of Petroleum Operations. In considering the Appeals, the DOE determined that the Redirection Orders were not supported by the requisite factual findings. Cities Service's Appeals were therefore granted.

Gulfport Oil Company, Houston, Tex., BFA-0281, freedom of information

Gulfport Oil Company filed an Appeal from a denial by the Manager of the DOE Southwest District of Enforcement of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the District Manager had failed adequately to justify the withholding of documents responsive to one portion of Gulfport's request and had neglected to search for documents responsive to the remainder of the request. The Appeal was therefore remanded to the District Manager.

Marathon Oil Company, Findlay, Ohio; Publix Oil Company, Inc., Morristown, Tenn., BEA-0299; BES-0299; BST-0299; BED-0299; motor gasoline

Marathon Oil Company filed an Appeal, an Application for Stay, and an Application for Temporary Stay of an Assignment Order issued by ERA Region IV on February 19, 1980, assigning the firm to supply Publix Oil Company with 65,572,475 gallons of motor gasoline per year. Publix filed a Motion for Discovery in connection with Marathon's Appeal. In considering the Appeal, the DOE determined that the Assignment Order had been issued because Publix, due to price and transportation problems, was experiencing difficulties in utilizing its base period supplier's product. The DOE determined that the ERA had exceeded the scope of its authority in issuing the February 19 Order on these grounds and therefore concluded that the Marathon Appeal should be granted. The DOE dismissed Marathon's Stay and Temporary Stay requests as moot. Because the other contentions raised by Marathon did not form the basis for the DOE's decision to grant the firm's Appeal, the DOE determined that it was unnecessary for Publix to have an opportunity to respond to those contentions. Accordingly, the Publix Motion for Discovery was denied.

Mobil Oil Corporation, Washington, D.C., DEA-0235; DEA-0387; DEA-0589; BEA-0035, crude oil

Mobil Oil Corporation filed Appeals of four Orders that were issued by the Economic Regulatory Administration and incorporated into Allocation Notices issued under the Canadian Crude Oil Allocation Program (CAP). In its Appeals, Mobil contended that the ERA should have redesignated a Pine Bend, Minnesota, refinery operated by Koch Refining Company and a St. Paul Park, Minnesota, refinery operated by Ashland Oil, Inc. as second priority refineries for the allocation quarters commencing October 1, 1978, April 1, 1979, July 1, 1979, and October 1, 1979. In considering the Appeals, the DOE found that the refineries were capable of replacing at least 75 percent of their base period runs to stills with non-Canadian crude oil. Accordingly, the DOE concluded that the ERA had erred in failing to redesignate the Minnesota refineries as second priority refineries. The Mobil Appeals were therefore granted. However, the DOE determined that the effect of the Decision should be stayed pending a decision on the appropriate remedy to be implemented.

Several important issues were decided in the Decision and Order. The DOE concluded that the ERA does not have the statutory or regulatory authority to consider equitable factors in determining the priority status of a refinery under the CAP. The DOE also held that "current access" to crude oil under the CAP should be determined by examining the entire time period covered by an allocation notice on an average daily basis. Finally, the DOE concluded that if a refinery has the capability to store barged crude oil at facilities that are reasonably accessible to its unloading docks, then barged deliveries of crude oil should be considered in determining

the refinery's access to supplies of non-Canadian crude oil.

National Treasury Employees Union, Washington, D.C., BFA–0270, freedom of information

National Treasury Employees Union filed an Appeal from a partial denial by the DOE's Director of Personnel of a request for documents concerning the filling of two positions in the DOE's Office of the Controller. In considering the Appeal, the DOE determined that the Director of Personnel should release those portions of the requested information which had been withheld pursuant to Exemption 6 but which were necessary to permit the aggrieved applicant to measure his application and qualifications against those of the successful applicants for the two positions.

Requests for Exception

C&H Gas and Oil, Maury City, Tenn., DEE–8221, motor gasoline

C&H Gas and Oil filed an Application for Exception in which it sought to terminate its base period supplier/purchaser relationship and to be assigned a new, lower-priced supplier of motor gasoline. In considering the C&H request, the DOE found that the firm's average cost per gallon for motor gasoline was only $.028 higher than the average cost per gallon paid by its competitors. The DOE concluded that this was not a significant price disparity. Accordingly, the C&H Application for Exception was denied.

D. Gilliam Production Company, El Dorado, Ark., BEE–0412, crude oil

D. Gilliam Production Company filed an Application for Exception from the provisions of 10 CFR § 212.79 in which the firm sought to classify the crude oil produced from the Cook-Gilliam Lease as newly discovered crude oil. In considering the request, the DOE determined that the firm had not demonstrated that it lacked an economic incentive to operate the property under the existing ceiling price levels. Accordingly, exception relief was denied.

Eagle's Chevron Service, West Yellowstone, Mont., DEE–7233, motor gasoline

Eagle's Chevron Service filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that any hardship which it was experiencing was primarily attributable to the DOE allocation regulations. Accordingly, exception relief was denied. The principal issue discussed in the Decision and Order was the firm's failure to weigh the effect of the updating of the motor gasoline base period upon its plan to purchase and install self-service equipment.

Foeman Shelton Distributor, Inc., Morganfield, Ky., DEE–8268, gasohol

Foeman Shelton Distributor, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its allocation of unleaded gasoline for the purpose of blending and marketing gasohol. In considering the request, the DOE found that exception relief was necessary to enable the firm to meet the strong demand for gasohol in its market area. Accordingly, exception relief was granted.

Gordon E. Farotte, Gilroy, Calif., BEO–1082, motor gasoline

Gordon E. Farotte filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a greater burden than other firms which were unable to obtain as much motor gasoline as they desired. Accordingly, exception relief was denied.

Joe W. Puckett, Hartselle, Ala., BEO–0395, Motor Gasoline

Joe W. Puckett filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Puckett had failed to demonstrate that a significant alteration had occurred in the firm's business practices subsequent to the new base period for motor gasoline allocation. The DOE further found that Puckett had not demonstrated that the firm's financial position was being adversely affected by the DOE allocation regulations. Accordingly, the exception request was denied.

Malone Oil Company, Memphis, Tenn. DEE–3019 Motor Gasoline

Malone Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, on behalf of itself and 14 retail outlets which it supplies. In the Application, the firm sought an increase in its base period allocation of motor gasoline and a partial reassignment to a lower-price supplier. In considering the request, the DOE found that the price which the firm was paying for moter gasoline was not significantly higher than that being paid by its competitiors. However, the DOE also determined that two of the outlets supplied by Malone qualified for an increase in their base period allocations of motor gasoline, because the operator of those outlets had made capital investments subsequent to the base period. Accordingly exception relief was granted in part.

Mickey's Anchor, Dudley, Mass. BEE–0277 Motor Gasoline

Mickey's Anchor filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought the permanent assignment of a new, lower-priced base period supplier of motor gasoline. On January 7, 1980, the DOE issued a Proposed Decision and Order which reassigned one-third of the firm's gasoline entitlement to a new supplier. In considering the Statement of Objections filed by Mickey's, the DOE found that as a result of the firm's high acquisition cost of motor gasoline, Mickey's would incur a severe financial hardship in the absence of exception relief reassigning its entire gasoline entitlement to a new supplier. Accordingly, such exception relief was granted. An important issue discussed in the decision and Order is when the assignment of a new supplier should be made permanent, rather than temporary.

Midway Super Service Garage, Wyckoff, N.J., BEO–0194, motor gasoline

Midway Super Service Garage filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that the firm had not made a capital investment with the intention of substantially expanding its sales of motor gasoline. Accordingly, exception relief was denied.

Mike Rose Oil Company, Trenton, Tenn., DEE–2733, motor gasoline

Mike Rose Oil Company filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that prior to the updating of the base period, the firm had made a capital investment with the expectation of increasing its sales of motor gasoline. The DOE further found that in the absence of exception relief, the firm would be unable to realize the benefits of that investment and would experience a financial hardship. The DOE therefore proposed to grant exception relief restoring the firm to the 1972 base period purchase level upon which it had relied in making its investment. The firm objected to this relief, claiming that heavy rainfalls had caused its sales to be unusually low during one month of 1972. The DOE determined that this circumstance did not distort the reliability of the 1972 base period as a relatively normal period of business operations for the firm. Accordingly, the proposed level of exception relief was granted in a final order.

Streeter Oil Company, Cherry Valley, Ill., BEO–0329, motor gasoline

Streeter Oil Company filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the firm sought an increase in the base period allocation of motor gasoline of a retail outlet which it owns. In considering the request, the DOE found that the outlet had failed to pursue pricing and operating practices which could have enhanced the profitability of its motor gasoline sales. The DOE further determined that when all of the firm's petroleum-related operations were considered, Streeter was not experiencing a financial hardship. Accordingly, exception relief was denied.

Triad Oil Company, San Francisco, Calif., DEE–3873, motor gasoline

Triad Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing either a serious financial hardship or a gross inequity as a result of DOE regulations. Accordingly, exception relief was denied.

Request for Temporary Exception

Kerr-McGee Corporation, Oklahoma City, Okla., BEL–1010, gasohol

Kerr-McGee Corporation filed an Application for Temporary Exception from the provisions of 10 CFR, Part 212, in which the firm sought to test market gasohol as a separate category and grade of motor gasoline for cost pass-through purposes. The firm also requested temporary exception relief from the provisions of 10 CFR, Part 211, permitting it to exclude the alcohol component of its gasohol blend from the calculation of its allocable supply of motor gasoline. In considering the request, the DOE found that temporary exception relief was necessary in order to mitigate disincentives to Kerr-McGee's establishment of a gasohol test marketing program. Accordingly, temporary exception relief was granted.

Request for Stay

Aztex Energy Company, Knoxville, Tenn., BES–0065; BST–0004, motor gasoline

Aztex Energy Company filed an Application for Stay and for Temporary Stay of a Temporary Assignment Order which the ERA Region IV Office of Petroleum Operations (OPO) issued on March 21, 1980, pursuant to the provisions of 10 CFR § 205.39. The OPO Order temporarily replaced Atex as a base period supplier of Sexton Oil Company. In considering the Application for Temporary Stay, the DOE determined that Aztex had not substantiated its claim that it would incur an irreparable injury unless a temporary stay were granted. The temporary stay request was therefore denied. However, the DOE found that the OPO lacked the authority to terminate a base period supply relationship and to assign a new supplier to a firm in the absence of a three-party agreement involving the purchaser, the base period supplier, and the assigned supplier. In addition, the DOE determined that the March 21 Order did not contain adequate factual findings. Consequently, the DOE concluded that there was a substantial likelihood that Aztex's Appeal of the Temporary Assignment Order would be granted. The stay request was therefore granted.

Motions for Discovery

Commonwealth Oil Refining Company, Inc., San Antonio, Tex., BED–0024; BEJ–0024, crude oil

Commonwealth Oil Refining Company, Inc., (Corco) filed a Motion for Discovery and Protective Order in connection with an Application for Exception and related Applications filed by the firm. In its Motion, Corco requests that Texaco Inc. be required to provide Corco with information about Texaco's crude oil supplies and sales, as well as undeleted copies of all documents which Texaco has submitted or will submit in these proceedings. In considering the Motion for Discovery, the DOE determined that the information concerning Texaco's crude oil activities was relevant to certain general contentions which Texaco raised in opposition to the Applications filed by Corco. Accordingly, this portion of the Motion for Discovery was granted. The DOE also determined that the only document submitted by Texaco but not already available to Corco was a submission that does not relate to Texaco's opposition to Corco's Applications. Discovery was therefore denied with respect to confidential portions of that document. Finally, the DOE denied the portion of the Corco Motion dealing with future Texaco submissions, because Corco had failed to identify the particular information which it sought or the reasons why the firm needed that information.

South Central Bell Telephone Company, New Orleans, La., BED–0050, motor gasoline

South Central Bell Telephone Company filed a Motion for Evidentiary Proceeding in connection with its Statement of Objections to a Proposed Decision and Order that was issued to the firm on February 11, 1980. In considering the request, the DOE determined that South Central Bell had not specified what factual issues were in dispute, what information was necessary to resolve those issues, or from whom additional information was required. The DOE therefore concluded that the South Central Bell Motion did not fulfill the requirements of 10 CFR § 205.64(c). Accordingly, the Motion was denied.

Supplemental Orders

Crown Central Petroleum Corporation; Middletown, N.J., BEX–0044; Crown Central Petroleum Corporation; E. Patchogue, N.J., BEX–0045; Kentel Realty Corporation; Middletown, N.J., BEX—0046, motor gasoline

The Northeast Regional Center of the DOE Office of Hearings and Appeals issued an Order remanding three assignment orders which the ERA region II Office of Petroleum Operations has issued to Crown Central Petroleum Corporation and Kentel Realty Corporation. However, ERA Region II informed the Northeast Regional Center that it did not intend to comply with the terms of that Order. The DOE found that ERA Region II's refusal to comply with the Order was without justification. Accordingly, the DOE remanded the matter to the Administrator of the Economic Regulatory Administration.

Midwest Solvents Company, Atchison, Kans., BEX—0037, gasohol

Midwest Solvents Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an allocation of unleaded gasoline to be used to denature alcohol for use in the production of gasohol. On December 27, 1979, the DOE issued a Proposed Decision and Order tentatively granting Midwest's request. The Proposed Decision and Order was issued as a final Decision and Order on March 12, 1980. In a Supplemental Order, the DOE considered a Statement of Objections to the December 27, 1979 Proposed Decision and Order which Gulf Oil Corporation had filed on February 12, 1980. The DOE determined that the March 12, 1980 Decision and Order granting Midwest's Application for Exception did not require modification. Accordingly, the exception relief granted in the Decision and Order was affirmed.

Interim Order

The following firm was granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Location, and Case Number

Getty Refining and Marketing Company, Tulsa, Oklahoma, BEN–0022.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in increases in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Location, and Case Number

Duffy's Car Wash, Newport, KY, DEE–4940.
Kimberly Gas Mart, Kimberly, ID, DEE–2291
Route Messengers of Pennsylvania, Philadelphia, PA, BEO–0229.

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in increases in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Location, and Case Number

Belcher Exxon, Belcher, LA, BEO–0773.
Sessum's Grocery, Hosston, LA, BEO–1112.
Chevron U.S.A. Inc., San Francisco, CA, BEO–1080.
Chronister Oil Co. d/b/a Lincoln Land Oil Company, Springfield, IL, BEO–0614.

Company Name, Location, and Case Number

Don Nelson Texaco, Dallas, TX, BEO–0799.
Lakeshore Auto Center, Muskegon, MI, BEO–0577.
Staatsburg Auto, Staatsburg, NY, BEO–1044.
Tank's I–80 Standard, Omaha, NE, BEO–0368.
Tri-Ton, Inc., Doraville, GA, BEO–0478.
William K. Avants, Oklahoma City, OK, BEO–0754.
Phoenix Sand & Rock, Inc., Phoenix, AZ, BEO–0543.
Northtown Amoco, Spokane, WA, BEO–0501.
Peterson Mobil Service, Two Rivers, WI, BEO–0594.
Juanita Shell, Kirkland, WA, BEO–0654.
Lankford's 66 Service, Memphis, TN, BEO–1055.
Gulf Oil Company, Houston, TX, BEO–0086.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name, Case Number

Big Bend Truck Plaza, DRO–0032.
Christensen Oil Co., Inc., DEE–4578, DES–4578.
Don's Jiffy Store, DEE–7500.
Doolittle Oil Co., Inc., BEE–0951.
Consumer Energy Council of America, BSG–0019.
Miller & Chevalier, BFA–0291.
American Service Station, BEE–0511.
Chevron U.S.A. Inc., DEH–5462.
Glass-Lined Water Heater Co., DEE–5817.
McKinney Oil Company, DEE–2572, DES–2572, DST–2572.
Vantage Petroleum Corp., DES–7988, DST–7988.
Vinings Oil Company, BEE–0383.
Autotronic Systems, DEE–2397, DES–2397.

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Cooper & Brain, Inc., DRO–0104, DRD–0104, DRH–0104.
Edwards Producing Co., Inc., BRO–0178.
Lyon Oil Company, DEE–6149.
Sav'n Sam's Fernley Exxon, DEE–7032.
Sav-O-Mat, Inc., BSG–0014.
Yellow Cab Company, DEE–7536.
Gas Appliance Manufacturers Assoc., BEE–0153.
San Francisco Petroleum Company, DEE–3217.
Virginia City Station, DEE–7586.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 27, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 80–18668 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; May 5 Through May 9, 1980

Notice is hereby given that during the period May 5 through May 9, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, Between the hours of 1:00 p.m. and 5:00 p.m., e.d.t, except federal holidays.

May 27, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Heath Oil Co., Winchester, Tenn., gasohol, BEE–0733.

Heath Oil Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211. The exception request, if granted, would permit Heath to purchase 300,000 gallons of motor gasoline per month over and above its base period allocation in order to commence a gasohol production and marketing program. On May 9, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Huntway Refining Co., Encino, Calif., crude oil, BEE–0329.

Huntway Refining Company filed an Application for Exception from the provisions of 10 C.F.R. 211.67 (the Entitlements Program). The exception request, if granted, would relieve Huntway of its obligation to purchase entitlements for the old crude oil which the firm purchased to establish a starting inventory. On May 8, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request should be granted.

Start Oil Co., Stockton, Calif., gasohol, BEE–0780.

Start Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would permit Start to receive an allocation of unleaded motor gasoline for the purpose of producing and marketing gasohol. On May 8, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

W. E. Schroeder, Houston, Tex., crude oil, BXE–1076.

W. E. Schroeder (Schroeder) filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the J. B. Ferguson Lease for the benefit of the working interest owners at upper tier ceiling prices. On May 8, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Warrior Asphalt Co. of Alabama, Inc., Tuscaloosa, Ala., crude oil, DEX–0093.

In accordance with Decisions and Orders issued to Warrior Asphalt Company of Alabama, Inc. which granted the firm exception relief from the provisions of 10 C.F.R. 211.67 (the Entitlements Program) the firm submitted actual financial data for its 1978 fiscal year ended March 31, 1978. On May 7, 1980 after reviewing the level of exception relief granted to Warrior under the applicable standards, the DOE issued a Proposed Decision and Order which determined that Warrior should purchase $541,229 of entitlements.

Western Oil of Nebraska, Inc., Grand Island, Nebr., gasohol, BEE–0472.

Western Oil of Nebraska, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would increase the firm's allocation of motor gasoline so that it could blend and sell gasohol and regohol. On May 9, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving The Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Murry Oil Co., DXE–5898, Ash Grove, MO.

Petitions Involving The Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Bale Oil Co., DEE–3422, DEE–6886, DEE–6890, Horse Cave, KY.
McDonald Lumber Co., DEE–3279, Green Bay, WI.
Par Mar Oil Co., DEE–5047, Marietta, OH.
Sharpstown Texaco, DEE–5152, Houston, TX.
Walters Distributing Co., DEE–3582, DEE–6713, Marshall, MI.

[FR Doc. 80–18673 Filed 5–30–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1505–4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104) U.S. Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of May 19, 1980 to May 23, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from May 30, 1980 and will end on July 14, 1980. The 30-day review period for final EIS's as calculated from May 30, 1980 will end on June 30, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558–8270.

For further information contact: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 H Street, SW., Washington, DC 20460, (202) 245–3006.

SUMMARY OF NOTICE. On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of May 19, 1980 to May 23, 1980 the 30-day review period will be calculated from May 30, 1980. The review period will end on June 30, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of May 19, 1980 to May 23, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: May 28, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Appendix I—EIS's Filed With EPA During the Week of May 19 Through 23, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Draft

Cheyenne Stage II Water Diversion, Medicine Bow National Forest, Albany and Carbon Counties, Wyo., May 20: Proposed is the approval of a permit for water development in conjunction with the Cheyenne Stage II Water Diversion plan to be located in the Medicine Bow National Forest, Albany and Carbon Counties, Wyoming. The plan would: (1) expand the collection area in the Sierra Madre Mountains southwest of Encampment, (2) collect water out of Douglas Creek and Lake Creek drainages near Keystone, and (3) require installation of pipe for collection and transmission of water. In addition to no action, six alternatives consider site and design options. (USDA–FS–DEIS–02–06–80–02.) (EIS Order No. 800391.)

Soil Conservation Service

Final

Hoyle Creek Watershed Protection/Flood Prevention, Major County, Okla., May 20: Proposed is a watershed protection and flood prevention plan for the Hoyle Creek watershed in Major County, Oklahoma. The plan will include: (1) conservation land treatment, (2) one floodwater retarding structure, (3) 1.45 miles of channel work, and (4) 0.66 miles of dike system. The channel work involves enlargement, realignment, and extension of an ephemeral stream. Four alternatives are considered. Comments made by: DOI, HEW, EPA, State and local agencies. (EIS Order No. 800387.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

Draft

Spinny Lobster Fishery, FMP, Puerto Rico and the Territory of the Virgin Islands, May 22: Proposed is a fishery management plan for the Spinny Lobster Fishery located in the marine water extending offshore of the Commonwealth of Puerto Rico and the Territory of the Virgin Islands, to the outer limits of the U.S. fishery conservation zone. The plan would provide regulatory controls on size and sex of lobsters to be harvested, gear restrictions, data collection and the establishment of certain sanctuaries. The alternatives consider: no action, less restrictive management, and more restrictive management. (EIS Order No. 800303.)

Final supplement

Atlantic Mackerel Fishery FMP, Amendment 1 (FS–1), Atlantic, May 22: This statement supplements a final EIS, No. 80572, filed 5–26–78 concerning the Atlantic Mackerel Fishery Management Plan. Proposed is amendment No. 1 to the FMP which would extend the FMP beyond the end of fishing year 1979–1980 (March 31, 1980) and incorporate necessary changes to quotas and other provisions: The alternatives consider: (1) no action, (2) continue the current FMP through fishing year 1980, (3) continue the FMP without time limit, (4) continue the FMP without changes to 04 and quotas, and (5) revise objective 4. Comments made by: DOT, EPA, groups. (EIS Order No. 800393.)

Final supplement

Atlantic Squid FMP, Amendment No. 1 (FS–1), Atlantic Ocean, May 22: Proposed is amendment No. 1 to the Atlantic Squid Fishery Management Plan. The amendment would extend the FMP beyond the end of fishing year 1979–1980 and incorporate necessary changes to quotas and other provisions. The alternatives considered are: (1) No action, (2) continue the FMP for fishing year 1980, (3) continue the FMP without time limits with no other changes, (4) provide a reserve for Illex and Loligo, (5) increase

optimum yields, (6) reduce optimum yields, (7) combine the squid and butterfish FMPs, and (8) combine objectives 5 and 7 into a new objective 8 and designate the current objective 8 as objective 7. Comments made by: DOT, EPA, groups. (EIS Order No. 800392.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forestal Bldg., Washington, DC 20585, (202) 252–4600.

Draft

Solvent Refined Coal-II Demonstration Project, Monongalia County, W. Va., April 23: Proposed is the solvent Refined Coal-II Demonstration Project. This project would involve the construction and operation of a 6,000 tons of coal per stream day (tpsd) capacity facility at Fort Martin in Monongalia County, W. Va. The facility would convert high-sulfur coal into a low-sulfur, low-ash primary liquid fuel product secondary gaseous and liquid fuel products, and by-product sulfur, ammonia, and tar acids. A goal of the demonstration program is to facilitate the construction and operation of a 30,000 tpsd commercial facility. (DOE/EIS–0069–D). (EIS order No. 800400.)

Final

U.S. Spent Fuel Policy, April 23: Proposed is the US Spent Fuel Policy as provided for under the Spent Nuclear Fuel Act of 1979. Under this policy US utilities would be given the opportunity to deliver spent nuclear power reactor fuel to the US Government in exchange for payment of a fee. The US Government would also be prepared to accept a limited amount of spent fuel from foreign sources when such action would contribute to meeting US nonproliferation goals. This statement finalizes four draft EIS's: 1) No. 780942, filed 8–29–78 and No. 781311, filed 12–6–78 concerning Storage of US Fuel; 2) No. 781310, filed 12–6–78 concerning Storage of Foreign Fuel; and 3) No. 781309 concerning Charge for Fuel Storage (DOE/EIS–0015). Comments Made by: HEW, DOI, EPA, NRC, TVA, DOC. (EIS order No. 800401).

Contact: Mr. Gordon C. Facer, Acting Director, Division of Safety, Environmental, and Emergency Actions, Office of Military Application, US Department of Energy, Washington, D.C. 20545.

Rocky Flats Plant Site, Continuation, Jefferson County, Colo, April 19: This statement assesses the potential cumulative environmental impacts associated with current site activities and plant operation at Rocky Mountain Plant Site in Golden, Jefferson County, Colorado. The site, which encompasses 6,550 acres, is primarily used for metal fabrication, assembly, and chemical processing for the nuclear weapons program. The alternatives consider: 1) no change, 2) completion of changes currently underway, and 3) termination. Other potential actions are considered regarding: 1) plutonium-contaminated soil, 2) structural integrity of buildings, 3) land acquisition, and 4) surface water control. (DOE/EIS–0064). Comments made by: USDA, HEW, AHP, DOT, CIA, NRC, DOC, EPA, State and local agencies, groups, individuals, and businesses. (EIS order No. 800384.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2716.

Final

NE El Paso Wastewater Treatment Facilities, El Paso County, Tex., April 23: Proposed is the awarding of funding for the construction and operation of wastewater treatment facilities for northeast El Paso, El Paso County, Texas. The first alternative would involve construction of a secondary treatment plant and pipeline to the Rio Grande River. Some effluent could be used by golf courses and a second pipeline could be built to deliver treated water to a power plant. The second alternative would involve construction of a plant to meet all existing and proposed drinking water standards. Most of the reclaimed water would be injected into the Hueco Bolson. Comments made by: DOI, HUD, COE, USDA, AHP, State and local agencies, groups, and individuals. (EIS Order No. 800403.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410 (202) 755–6300.

Draft

Alturas de Rio Grande Residential Development, Puerto Rico, May 23: Proposed is the issuance of HUD home mortgage insurance for the Alturas de Rio Grande development in Rio Grande, Puerto Rico. The development would encompass 113 cuerdas and will contain 715 residential units. (EIS Order No. 800398.)

Final

Bloomington Planned Unit Development, Tampa Hillsborough County, Fla., May 20: Proposed is the issuance of HUD home mortgage insurance for the Bloomingdale Planned Unit Development located in Tampa, Hillsborough County, Florida. When completed, the subdivision, which encompasses approximately 1,958 acres, is expected to consist of approximately 6,727 dwelling units. (HUD–RO4–EIS–78–01). Comments made by: USDA, HEW, EPA, DOT, DOI, DOC, DLAB, GSA, USAF, COE, VA, State Groups and Local Agencies. (EIS Order No. 800389.)

Section 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

South University Industrial Park, UDAG, Bernalillo County, N. Mex., May 23: Proposed is the awarding of a UDAG for the South University Industrial Park in the City of Albuquerque, Bernalillo County, New Mexico. The grant would be used for the construction of municipal water and sanitary sewer lines and a roadway facility to serve the 375 acre industrial park. (EIS Order No. 800404.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th & Constitution Ave., N.W., Washington, D.C. 20423 (202) 275–7656.

Final

C&NW Coal Line Project, ICC Proceedings Several Counties, May 23: Proposed are a group of related railroad projects for the transport of coal from Converse and Campbell Counties, Wyoming to points of consumption in the south-central and north-central States, and Texas and Florida. The draft EIS, No. 790752, filed July 20, 1979, was prepared by the Federal Railroad Administration with the Interstate Commerce Commission and Corps of Engineers as cooperating agencies. It has been adopted and issued by the ICC as its final EIS in conjunction with two pending ICC proceedings. (Finance Docket Nos. 28934F and 29066F). Comments Made by: USDA, HEW, DOI, EPA, State and Local Agencies, Individuals and Businesses. (EIS Order No. 800407.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Draft

Mountain Valley/Sevier River Grazing Mgmt. several counties in Utah, May 22: Proposed is a grazing management program for the Sevier River Resource Area, within the Mountain Valley Planning Area, located in Piute, Sevier, Sanpete and Wayne Counties, Utah. The area encompasses approximately 499,972 acres. The alternatives under consideration are: (1) optimize nonlivestock resources, (2) optimize livestock grazing, (3) rangeland management recommendation, (4) eliminate livestock grazing, (5) continuation of present management, and (6) adjust spring livestock use. (DES–80–36). (EIS Order No. 800396.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590 (202) 426–4357.

Urban Mass Transportation Administration

Draft

City of Miami Downtown People Mover, Dade County, Fla., May 23: Proposed is the construction of the City of Miami Downtown People Mover in Dade County, Florida. The people mover is a automated transit system that would operate on a double guideway approximately 1.9 miles long in a fully elevated loop configuration around the central business district. The DPM and its complementary surface transit elements (buses and open air tram) would distribute riders from the rapid transit line to the major activity centers in downtown Miami in addition to providing internal downtown distribution. (EIS Order No. 800399.)

Federal Highway Administration

Draft

City of Fayetteville CBD Loop, Hay St. to US 31, Cumberland County, N.C., May 19: Proposed is the completion of construction of the Fayetteville CBD Loop between Hay Street and the vicinity of Eastern Boulevard/US 301 along with improvements to Robeson Street and Old Wilmington Road in the City of Fayetteville, Cumberland County, North Carolina. Completion would connect the northern terminus with the existing section of the Loop at Hay Street and extend to the south and east to a southern terminus at relocated NC–87. Just south of US 301, a distance of approximately 2.3 miles. The alternatives to consider: (1) no build, (2) postponement, (3) mass transportation, and (4) low capital improvement. (FHWA–NC–EIS–79–04–D). (EIS Order No. 800386.)

Final

I–40 Extension, Raleigh to I–95, Wake and Johnston Counties, N.C., May 23: Proposed is the construction of an extension of I–40 from Raleigh Beltline to I–95 near Benson in Wake and Johnston Counties, North Carolina. The facility will have four lanes except between Raleigh Beltline and US 70 where six lanes are proposed, full access control, and be approximately 27 miles in length. The draft EIS for the project also addressed a facility continuing from I–95 to Wilmington. This final EIS only addresses the portion from Raleigh to I–95. (FHWA–NC–EIS–77–07–F).

Comments made by: DOT, DOT-USDA, COE, EPA, HEW, State and local agencies. (EIS Order No. 800402.)

Final

Chattanooga Valley Road, GA–193, Walker County, Ga, May 22: Proposed is the upgrading of GA–193, Chattanooga Valley Road, form near its intersection with Nickajack Road northerly to a point south of the Georgia-Tennessee State Line located in Walker County, Georgia. The design of the improved facility will be a four lane urban type highway constructed on a variable width of 68–150 feet of right-of-way. Several alternative designs including a no-build option have been addressed. (FHWA–GA–EIS–78–05–F). Comments made by: DOI, FERC, HUD, HEW, USDA, EPA, COE, DOT, (EIS Order No. 800394.)

US 30/Lower Columbia River Hwy., Scappoose Section, Columbia and Multnomah Counties, Oreg. May 20: Proposed is the upgrading of the Scappoose section of US 30/Lower Columbia River Highway located in the City of Scappoose, Columbia County;, Oregon. Reconstruction involves upgrading to four-lanes between the southeren end of the divided highway and the present four-lane section south of the county line, revampment of the present 4-lane divided section, and placement of a turning median. Other alternatives consider: (1) construction of either a west or east side bypass, and (2) no build (FHWA–OR–EIS–77–01–F). Comments made by: DOI, EPA, DOT, COE, State agencies. (EIS Order No. 800388.)

Walnut Street Bridge Replacement, Hamilton County, Tenn., May 20: Proposed is the construction and replacement of the Walnut Street Bridge over the Tennessee River in Chattanooga, Hamilton County, Tennessee. Other proposed actions include closing Georgia Avenue between 6th Street and Lookout Street. The alternatives to consider: 1) construction of a bridge at the existing location, and 2) a bridge from Walnut Street (existing location) to Tremont Street. (FHWA–TN–EIS–78–1–F.) Comments made by: HUD, HEW, EPA, DOT, DOI, TVA, AHP, State and local agencies, groups, individuals and businesses. (EIS Order No. 800390.)

I–81 Improvements, I–77 North/South Junctions, Wythe County, Va., May 23: This proposal concerns the construction of approximately 9 miles of interstate highway in Wythe County, Virginia. This project will complete the last segments of both I–81 and I–77 and will extend from the existing south I–81/I–77 interchange near Wytheville, to the north I–81/I–77 interchange near Fort Chiswell, which is presently under construction. The project when completed will provide a six lane, controlled access interstate highway. Alternatives include: (1) no-build, (2) upgrading of Route 11, and (3) five alternatives for partial relocation. (FHWA–VA–EIS–78–01–F). Comments made by: DOT, EPA, DOI, USDA, State and local agencies. (EIS Order No. 800397.)

U.S. Coast Guard

Draft

Mississippi River Bridge, Gramercy to Wallace, St. James and St. John Baptist parishes, La., May 22: Proposed is the construction of the Mississippi River Bridge between the Cities of Gramercy in St. James Parish and Wallace in St. John the Baptist Parish, Louisiana. The bridge would be four lanes with uncontrolled access approaches connecting LA–3127 on the West Bank and US–61 on the East Bank. Four construction and 3 non-construction alternatives are considered. (EIS Order No. 800395.)

EIS's Filed During the Week of May 19 through 23, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Atlantic		FSupple	Atlantic Squid FMP, Amendment #1, (FS–1)	800392	May 22, 1980	DOC
		FSupple	Atlantic Mackerel Fishery FMP, amendment #1 (FS–1).	800393	May 22, 1980	DOC
Colorado	Jefferson	Final	Rocky Flats Plant Site, Continuation	800384	May 19, 1980	DOE
Florida	Dade	Draft	City of Miami Downtown People Mover	800399	May 23, 1980	DOT
	Hillsborough	Final	Bloomington Planned Unit Development, Tampa	800389	May 20, 1980	HUD
Georgia	Walker	Final	Chattanooga Valley Road, GA–193	800394	May 22, 1980	DOT
Louisiana	St. John Baptist	Draft	Mississippi River Bridge, Gramercy to Wallace	800395	May 22, 1980	DOT
	St. James	Draft	Mississippi River Bridge, Gramercy to Wallace	800395	May 22, 1980	DOT
New Mexico	Bernalillo	Draft	South University Industrial Park, UDAG	800404	May 23, 1980	HUD
North Carolina	Cumberland	Draft	City of Fayetteville CBD Loop, Hay St. to U.S. 31	800386	May 19, 1980	DOT
	Johston	Draft	I–40 Extension, Raleigh to I–95	800402	May 23, 1980	DOT
	Wake	Draft	I–40 Extension, Raleigh to I–95	800402	May 23, 1980	DOT
Oklahoma	Major	Final	Hoyle Creek Watershed Protection/Flood Prevention.	800387	May 20, 1980	USDA
Oregon	Columbia	Final	U.S. 30/Lower Columbia River Hwy., Scappoose Section.	800388	May 20, 1980	DOT
	Multnomah	Final	U.S. 30/Lower Columbia River Hwy., Scappoose Section.	800388	May 20, 1980	DOT
Policy		Final	U.S. Spent Fuel Policy	800401	May 25, 1980	DOE
Puerto Rico		Draft	Alturas De Rio Grande Residential Development	800398	May 23, 1980	HUD
		Draft	Spinny Lobster Fishery, FMP	800303	May 22, 1980	DOC
Several		Final	C&NW Coal Line Project, ICC Proceedings	800396	May 23, 1980	ICC
Tennessee	Hamilton	Final	Walnut Street Bridge Replacement	800390	May 20, 1980	DOT
Texas	El Paso	Final	NE El Paso Wastewater Treatment Facilities	800403	May 23, 1980	EPA
Utah	Several	Draft	Mountain Valley/Sevier River Grazing Mgmt	800396	May 22, 1980	DOI
Virgin Islands		Draft	Spinny Lobster Fishery, FMP	800303	May 22, 1980	DOC
Virginia	Wythe	Final	I–81 Improvements, I–77 North-South Junctions	800397	May 23, 1980	DOT
West Virginia	Monongalia	Draft	Solvent Refined Coal—II Demonstration Project	800400	May 23, 1980	DOE
Wyoming	Albany	Draft	Cheyenne Stage II Water Diversion, Medicine Bow NF.	800391	May 20, 1980	USDA
	Carbon	Draft	Cheyenne Stage II Water Diversion, Medicine Bow NF.	800391	May 20, 1980	USDA

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37278 Federal Register / Vol. 45, No. 107 / Monday, June 2, 1980 / Notices

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/ extension	Date review terminates
US DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.	Cheyenne Stage II Water Diversion, Medicine Bow NF, Albany and Carbon Counties, Wyoming.	Draft 800391	June 2, 1980 (see app. I).	Extension	July 21, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.	Galveston Fire and Explosion Hazards Assessment, Deep Water Port Problem.	May 19, 1980	800385
	Big Creek Flood Protection Project, Cuyahoga County, Cleveland, Ohio.	May 23, 1980	800405
	Apalachicola, Chattahoochee, and Flint Rivers Operation and Maintenance, Alabama, Florida, Georgia.	May 23, 1980	800406

Appehdix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
None				

[FR Doc. 80–16864 Filed 5–30–80; 8:45 am]
BILLING CODE 6560–01–M

[FRL 1505–1; OPP–51068]

Certain Company Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by July 13, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Mr. Kirk Maconaughey, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before July 13, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51068]" and the PMN number "PMN 80–102". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: May 27, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN 80-102.

Close of Review Period. August 12, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: 5-[6-(3-substituted phenylamino)-4-chloro-(1,3,5-triazin-2-yl)-amino]-3-(3-substituted-2-hydroxy-5-sulfophenylazo)-4-hydroxy-naphthalene-2,7-disulfonic acid, copper complex, salt.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Dye.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Solubility: >10% in water (ambient temperature).
Physical form: Aqueous solution.
Specific gravity: 1.08

Toxicity Data.

Acute oral LD_{50} (rat): >5.0 g/kg body weight (bw).
Primary dermal irritation (rabbit): Negative.
Eye irritation (rabbit): Negative.

Exposure. Manufacturer's site. Exposure will not exceed 72 manhours per year during the first three years of manufacture.

User's site. Workers are expected to be exposed 2–3 hours per day during a typical dyeing operation. The substance is projected to be used by customers on an average of two days per week.

Consumer. Fiber reactive dyestuffs, by the nature of their chemistry, form a covalent bond with the cellulose fiber making the color an integral part of the fiber (fabric). A "soap-off" procedures removes any dyestuff not fixed to the fabric during the dyeing operation. Exposure of consumers to free dyestuff is expected to be nonexistent.

Environmental Release/Disposal. Manufacturer's site. The raw materials are completely reacted and there are no by-products produced. After standardization, the aqueous solution is packaged. Small quantities of wash water would be sent to a waste water treatment plant as a result of clean-up operations after a batch is made. There is nothing released to the atmosphere or sent to solid waste dumps.

User's site. During dyeing operations, the cloth is mechanically handled, so workers do not come in direct contact. This dye does not vaporize during drying operations and so is not released to the atmosphere. Water used in

V 45 J E 2 8 0 UMI

washing operation is released to the sewer.

[FR Doc. 80-16602 Filed 5-30-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1504-8; OPTS-51067]

Certain Companies; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by: PMN 80-99, July 6, 1980, PMN 80-100, July 6, 1980, PMN 80-101, July 6, 1980,

ADDRESS COMMENTS TO: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT:

Notice Manager, PMN No., and Telephone

Ms. Ann Radosevich, 80-99, 202-426-2601.
Mr. Robert Smith, 80-100, 80-101, 202-426-8815.

MAIL ADDRESS FOR NOTICE MANAGERS: Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the date shown under "DATES" for each specific PMN, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51067]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: May 27, 1980.

John P. De Kany,

Deputy Assistant Administrator for Chemical Control.

PMN 80-99

Close of Review Period. August 5, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Hydroxy functional acrylic.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential.

Production Estimates. Claimed confidential.

Physical/Chemical Properties:

Boiling point—181°F.
Vapor pressure at 68°F—33 mm Hg.
Vapor density—2.07.
Solubility in water—100%.
Specific gravity—0.789.
Appearance and odor—Colorless and mobile liquid. Unpleasant odor.

Toxicity Data:

LD_{50} oral (rat)—4.0 gm/kg.
LD_{50} dermal (rabbit)—16.4 gm/kg.
LD_{50} (rat)—>16,000 ppm; 8 hours.

Exposure.

Activity	Exposure route	Maximum No. Exposed	Maximum duration Hr/Da	Maximum duration Da/yr	Concentration Average	Concentration Peak
Manufacturer's site:						
Manufacture	Weighup/drumming	II	2	6	10-100 ppm.	10-100 ppm
Processing Users' site:	Reactor use	II	8	6	1-10 ppm.	10-100 ppm
Use	Loading, cleaning	1-2	1-2	100	1-10 ppm.	10-100 ppm
Disposal	After cleaning	1	0.1	10	0-1 ppm	10-100 ppm

Physical state of substance to which workers may be exposed to the substance: Gas, fume, or liquid.

Environmental Release/Disposal:

Manufacturing—

Media—Amount/Duration of Chemical Release (kg/yr).

Air—Less than 10.

Air from plant workplace environment is vented out through baghouse and filtered.

Land—Less than 10.

Only the sludge from the multi-level sewage interceptor would be involved, which involves pumping to barrels for incineration or burial in approved landfill.

Water—10-100.

After treatment by interceptor (settling), tank cleaning on aqueous products go to sewage treatment offsite. 1982-1983 is planned zero effluent target date for onsite treatment.

PMN 80-100

Close of Review Period. August 5, 1980.

Manufacturer's Identity. Claimed confidential. The submitter's 3-digit SIC Code is 285 and has total annual sales over $500,000,000. The submitter intends to produce the new chemical substance at a plant in the Pacific region of the country.

Specific Chemical Identity. Dimethyl 1,4-benzenedicarboxylate, polymer with 1,6-hexanediol, 2,2-dimethyl-1,3-propanediol, 1,3-benzene dicarboxylic acid, and 1,6-hexanedioic acid.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Specific use was claimed confidential.

The substances will be used in an open use. Its release to the environment is not available at this time as the usage volume cannot yet be determined. Use will involve exposure for chemical industry employees more than once per week with a very low potential for contact. The use will also involve exposure for non-chemical industry employees frequently during working hours and very low potential for contact. There will be release to the environment as an industrial loss to the air.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Molecular weight—1300.

Exposure. Exposure to polymer is unlikely and would occur only through accidental spill. Occupational exposure to monomers could occur. Production will occur for 100 days per year with the plant operating for 12 hours per day.

Use will involve exposure for chemical industry employees more than once per week with a low potential for contact. It also will involve chemical industry employees frequently during working hours and very low potential for contact.

Environmental Release/Disposal. Release to the environment is not available since usage volume cannot be determined. There will be release to the environment as an industrial loss to the air.

PMN 80-101

Close of Review Period. August 5, 1980.

Manufacturer's Identity. Claimed confidential. The submitter's 3-digit SIC Code is 285 and has total annual sales over $500,000,000. The submitter intends to produce the new chemical substance at a plant in the Pacific region of the country.

Specific Chemical Identity. 1, 3-Isobenzofurandione, Polymer with 1, 6-hexanediol, 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-hydroxymethyl-1-1,3-propanediol, and 2,2-dimethyl-3-hydroxypropyl-2,2-dimethyl-3-hydroxypropionate.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Specific use was claimed confidential.

The substance will be used in an open use. Its release to the environment is not available at this time as the usage volume cannot be determined. Use will involve exposure for chemical industry employees more than once per week with a very low potential for contact. The use will also involve exposure for non-chemical industry employees frequently during working hours and very low potential for contact. There will be release to the environment as an industrial loss to the air.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Molecular weight—500.

Exposure. Exposure to polymer is unlikely and would occur only through accidental spill. Occupational exposure to monomers could occur. Production will occur for 80 days per year with the plant operating for 12 hours per day.

Use will involve exposure to chemical industry employees more than once per week with a very low potential for contact. It also will involve exposure to non-chemical industry employees frequently during working hours and very low potential for contact.

Environmental Release/Disposal. Release to the environment is not available since usage volume cannot be determined. There will be release to the environment as an industrial loss to the air.

[FR Doc. 80-16603 Filed 5-30-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1504-7; PF-184A]

Filing of Pesticide Petition; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects a notice that appeared on page 30683 in the **Federal Register** of May 9, 1980 (FR Doc. 80-14373).

EFFECTIVE DATE: Effective on June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Rita E. Johnson, Federal Register Section (TS-793), Chemical Information Division, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-14373 appearing at page 30683, May 9, 1980, Petition No. "PP 9F2254", three commodities and their parts per million were omitted. The commodities and their parts per million are corrected to read:

Commodity	Parts per million
Peanuts	0.02
Potatoes	0.02
Soybean	0.05

Dated: May 27, 1980.

Herbert Harrison,

Acting Director, Registration Divisions, Office of Pestcide Programs.

[FR Doc. 80-16619 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1505-3; [OPP-180421]

Michigan Department of Agriculture; Specific Exemption To Use Fenvalerate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use fenvalerate (Pydrin 2.4 E. C.) to control the pear psylla on a maximum of 4,000 acres of pear orchards that are interplanted with apple trees throughout Michigan. This exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption ends on June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Rm. E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, pear psylla, requiring constant control, is present in all pear orchards in Michigan. The adults overwinter in bark crevices or under leaves on the ground and start in early spring to lay pear-shaped yellow eggs around the buds. These hatch in two weeks into wingless nymphs which become adults in one month. There are normally three to five generations in a season. Summer eggs are laid on leaves or petioles. The nymphs cluster at axils and on undersides of leaves secreting their honeydew. The secretion covers foliage and fruits; sooty mold growing in this scars and blackens the fruit. There can be partial defoliation, loss of vigor, and abnormal buds. The fruit is made unsightly and unfit for fresh market sale, the Applicant claims. According to the Applicant, processors will not buy russeted fruit because of the problems in peeling and/or contamination of the end product. Pear psylla is also the only known vector of the mycoplasma-induced disease called "Pear Decline" which results in reduced vigor of trees, diminished yields, and death of trees. According to the Applicant, no cultural or biological control methods are effective for control of pear psylla. The Applicant indicates that use of fenvalerate (cyano (3-phenoxyphenyl)methyl-4-chloroalpha-(1-methylethyl) benzeneacetate) is necessary to reduce pear psylla densities to a level where in the summer they can be controlled with registered chemicals such as BAAM. The Applicant further states that use of fenvalerate should reduce the need for frequent applications of other materials next summer. The Applicant estimates that without adequate control of pear psylla the pear crop, which in 1978 was valued at $3,165,000, could be devasted in two years.

The Applicant proposed to use Pydrin 2.4 E.C., manufactured by Shell Chemical Co., on up to 4,000 acres of pear orchards that are interplanted with apple trees throughout the State. A maximum of 3,200 pounds of the active ingredient fenvalerate will be applied by ground and aerial equipment.

EPA has determined that this use of fenvalerate should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears. Secondary residues in meat, fat, and meat byproducts should not exceed 0.02 ppm since the cover crops grown in treated orchards are not to be fed to livestock. EPA has judged these residue levels to be adequate to protect the public health. EPA has also determined that this program should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) an outbreak of pear psylla has occurred; (b) there is no effective pesticide presently registered and available for use to control the pear psylla in Michigan; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed in insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Pydrin 2.4 E.C., EPA Reg. No. 201-401, may be applied at a rate of up to 0.4 pound active ingredient fenvalerate per acre per application. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of two applications may be made during the dormant to the pre-bloom stages of pear tree development. A maximum of 3,200 pounds active ingredient may be applied;

3. Applications may be made with ground equipment or by aircraft;

4. Spray mixture volumes of 3-20 gallons of water will be applied by aircraft and 3-400 gallons with ground equipment;

5. A maximum of 4,000 acres may be treated;

6. Pear orchards that are interplanted with apple trees may be treated as specified above, provided applications are made prior to the bloom stage of development of both apple and pear trees;

7. All applications will be limited to commercial pear-growing areas;

8. All applications will be made by State-certified private or commercial applicators;

9. Precautions will be taken to avoid spray drift to non-target areas;

10. Pydrin is extremely toxic to fish and aquatic invertebrates. It must be applied with care in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

11. Fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method	Aerial and mist blower			
Application rate (lb. actve ingredient)	0.05	0.1	0.2	0.4
Freshwater (distance in feet)	1969	3344	5200	5200

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

12. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. The pesticide may not be applied or allowed to drift to weeds or crops in bloom if bees are visiting the treatment area. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

13. Apples and pears with residue levels of fenvalerate that do not exceed 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

14. The feeding or grazing of orchard cover crops shall be prohibited;

15. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

16. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1980; and

17. The EPA shall be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption.

(Sec. 18, as amended, 92 Stat. 819; (7 U.S.C. 136))

Dated: May 23, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-16621 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1505-2; OPTS-59025]

Rohm and Haas Co.; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the **Federal Register**. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by June 30, 1980. Persons should submit written comments on the application no later than June 17, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M. St. SW, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. Rick Green, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before June 17, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59025]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: May 27, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

TM 80-25.

Close of Review Period. June 30, 1980.

Manufacturer's Identity. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105.

Specific Chemical Identity. Claimed confidential. Generic name provided: Hydroxymethylheteromonocycle.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application. *Use.* Intermediate for agricultural pesticide. Total estimated import for test marketing purposes is 1,500 kilograms (kg).

Physical/Chemical Properties: Melting point, 188–190°C (decomposition); Boiling point, Unknown; pKa in water, 5.0; Water solubility, 1.9 g/100 g at 25°C; Vapor pressure, Extremely low at room temperature.

Toxicity Data: Acute oral LD_{50} (rat), 5.1 g/kg; Acute dermal LD_{50} (rabbit), >5.0 g/kg; Ames test, Negative; Skin irritation (rabbit), Slightly irritating; Eye irritation (rabbit), Severely irritating.

Exposure.

Activity	Exposure route	Maximum No. Exposed	Maximum duration Hr/Da	Maximum duration Da/Yr	Concentration Average	Concentration Peak
Processing	Potential skin and eye contact	3	1	7		

Environmental Release/Disposal. The only release of the substance to the environment would result from an accidental spill.

[FR Doc. 80-16620 Filed 5-30-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATION COMMISSION

[Report No. A-14]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: May 22, 1980.

Cut-Off Date: July 2, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after July 2, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 2, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the office of the Commission in Washington, D.C., not later than the close of business on July 2, 1980. Petitions to deny any application on this list must be on file with the Commission not later than the close of business on July 2, 1980.

Federal Communications Commission.

William J. Tricarico
Secretary.

Appendix

BP–790709AF—KLIX, Twin Falls, Idaho, Sawtooth Radio Corp., Has: 1310 kHz, 1 kW, 5 kW–LS, DA–N, U. Req: 1310 kHz, 2.5 kW, 5 kW–LS, DA–N, U.

BP–790725AB—WCRL, Oneonta, Alabama, Blout County Broadcasting Service, Has: 1570 kHz, 1 kW,D. Req: 1570 kHz, 2.5 kW,D.

BP–790727AI—WNIA, Cheektowaga, New York, Niagara Broadcasting System, Has: 1230 kHz, 250 W, 500 W–LS,U, Req: 1230 kHz, 250 W, 1 kW–LS,U.

BP–790801AE—WCCC, Hartford, Connecticut, Greater Hartford Communications Corp., Has: 1290 kHz, 500 W, D, Req: 1290 kHz, 5 kW, DA–D.

BP–790807AH—(New), Coushatta, Louisiana, James G. Bethard, Req: 950 kHz, 500W, DA–D.

BP–790823AD—WLIC, Adamsville, Tennessee, Dixie Communications, Inc. of Tennessee, Has: 1540 kHz, 250W,D, Req: 1540 kHz, 2.5 kW, DA–D.

BP–790917AD—(New), Monticello, Maine, Weiner Broadcasting Company, Req: 710 kHz, 2.5 kW,D.

[FR Doc. 80-16579 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-2]

AM Broadcast Application Accepted for Filing and Notification of Cut-Off Date

Released: May 22, 1980.

Cut-Off Date: June 30, 1980.

Notice is hereby given that the following applications are accepted for filing. Because they are in conflict with applications previously accepted for filing and listed as subject to cut-off dates for conflicting applications, no application which would be in conflict with these applications will be accepted for filing.

Petitions to deny these applications and minor amendments thereto must be on file with the Commission not later than the close of business on June 30, 1980. The applications previously accepted for filing and in conflict with these applications may also be amended as a matter of right not later than the close of business on June 30, 1980.

Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's rules.

BP–790815AG (new), Solvang, California, Robert T. Mindte and R. Gary Talbott d.b.a. Newport Broadcasting Company, Req: 1550 kHz, 500 W, Day.

BP–800312AH (new), Raleigh, North Carolina, educational Information Corporation, Req: 570 kHz, 500 W, Day.

BP–800505AE (new), Raleigh, North Carolina, interstate Broadcasting System, Inc., req: 570 kHz, 500 W, Day.

BP–800505AF (new), Raleigh, North Carolina, special Market Media, Inc., req: 570 kHz, 500 W, Day.

BP–800505AG (new), Raleigh, North Carolina, Capital Area Broadcasting Company, Inc., Req: 570 kHz, 500 W, Day.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-16577 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-216, File No. 20780-CD-P-(2)-79; and CC Docket No. 80-217, File No. 21281-CD-P-(3)-79]

Arnold Anderson d.b.a. Concho Communications; and Mobile Phone of Texas, Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: May 7, 1980.

Released: May 19, 1980.

In re applications of Arnold Anderson d.b.a. Concho Communications. For a Construction Permit to establish a new two-way station to operate on frequencies 152.06 and 152.15 MHz in the Domestic Public Land Mobile Radio Service at Stephenville, Texas, and Mobile Phone of Texas, Inc. For a Construction Permit to establish a new two-way station to operate on frequencies 152.06, 454.225 and 459.225 MHz in the Domestic Public Land Mobile Radio Service at Huckabay, Texas.

By the Chief, Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority is the application of Arnold Anderson d.b.a. Concho Communications (Concho), File No. 20780–CD–P–(2)–79, for a Construction Permit to establish a new two-way station to operate on frequencies 152.06 and 152.15 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Stephenville, Texas,[1] and the application of Mobile Phone of Texas, Inc. (Mobile Phone), File No. 21281–CD–P–(3)–79, for a Construction Permit to establish a new two-way station to operate on frequencies 152.06, 454.225 and 459.225 MHz in the DPLMRS at Huckabay, Texas.[2] Because both of these applications seek to operate on frequency 152.06 MHZ in the same general area, they are electrically

[1] The associated mobile frequencies are 158.52 and 158.61 MHz.

[2] The associated mobile frequency for 152.06 MHz is 158.52 MHz. Frequencies 454.225 and 459.225 MHz are for the control and repeater frequencies.

mutually exclusive in that regard. In addition, Mobile Phone has filed a Petition to Deny the Concho application. A Petition to Dismiss or Deny that application has also been filed by Page-A-Fone Corporation (Page-A-Fone), license of DPLMRS station KFL902. Responsive pleadings have been filed.

2. Because the requests in these applications for frequency 152.06 MHz are electrically mutually exclusive, a comparative hearing will be held to determine which applicant would better serve the public interest and should be authorized to operate on frequency 152.06 MHz. *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

3. The petitions raise the following issues for our consideration: (a) whether Concho has demonstrated sufficient need for the proposed facilities; and (b) whether the facilities proposed by Concho would cause co-channel electrical harmful interference to Page-A-Fone station KFL902.

4. *Need.* Concho, in its application, stated that it surveyed the area and found a need for 52 mobile telephone units (two-way and 21 pagers (one-way). The number of prospective subscribers was broken down into businesses and occupations. Mobile Phone argues that this need showing is insufficient because Concho has failed to sufficiently describe the manner in which the survey was conducted and that it is not apparent whether the prospective users were informed of the nature, extent, and cost of service when surveyed. In an amendment to its applications, Concho informed us that it described the nature, extent and cost of service during the survey interviews and included a copy of the survey form. Mobile Phone in reply argues that the survey results still are inaccurate. It contends that the survey form indicates that service will extend approximately 20 miles from the center of Stephenville while the protected reliable service range, the 37 dBu contour, extends in some directions only 12 miles from Stephenville.[3] Even though the applicant's proposed 37 dBu contour does not extend the 20 miles indicated in all directions, the radio signal does not stop at the 37 dBu contour. Acceptable radio service sometimes extends far beyond that point. From a review of the data submitted, we find that Concho has shown substantial unsatisfied need for service under the guidelines of *NewYork Telephone Company*, 47 FCC 2d 488, *recon. denied*, 49 FCCa 2d 264 (1974), *aff'd sub nom. Pocket Phone Broadcast Service* v. *FCC*, 538 F.2d 447 (D.C. Cir. 1976).

5. Mobile Phone further argues that, even if the survey results could be considered valid in all respects, Concho has still not shown a need for two two-way channels. Concho, in its amended application, set forth revised need survey results which indicate a need for 80 mobile telephone units and 66 pagers. Although it is impossible to predict with certainty what proportion of those surveyed who expressed a desire for the proposed service will actually subscribe, these survey results indicate loading of an order warranting a grant of two channels. Accordingly, we find that Concho submitted a sufficient need showing for the requested channels.

6. *Co-channel Electrical Harmful Interference.* Page-A-Fone argues that the Concho application should be dismissed as defective because, if granted, it would cause co-channel electrical harmful interference to Page-A-Fone's station KFL902 at Caddo, Texas, operating on frequency 152.15 MHz. Concho in reply states that there would be no interference because of the range of hills between its proposed station and the Page-A-Fone station. The Concho application proposes a DB–264 antenna with a gain of a minus 2 dB in the direction of the Page-A-Fone station. Page-A-Fone, in its petition, incorrectly used an antenna pattern for a DB–224E antenna with a gain of 0.9 dB in the direction of the Page-A-Fone station and therefore found that interference would exist. Our engineers have computed the ratio of the desired-to-undesired signals at the reliable service area contour of Page-A-Fone, employing the correct value of antenna gain. The computations, performed in accordance with criteria required by Section 22.504 of the Rules, show that there will be no co-channel electrical harmful interference to Page-A-Fone's station.

7. In the view of the foregoing, pursuant to Section 309 of the Communications Act of 1934, as amended, we find these applicants to be legally, technically, financially and otherwise qualified to construct and operate the proposed facilities. We further find that a grant of the request in the Concho application for facilities to operate on frequency 152.15 MHz will serve the public interest, convenience, and necessity. Accordingly, It is ordered, that the Petition to Deny filed by Mobile Phone of Texas, Inc., in File No. 20780–CD–P–(2)–79, is denied, that the Petition to Dismiss or Deny filed by Page-A-Fone Corporation, in File No. 20780–CD–P–(2)–79, is denied, that the application of Arnold Anderson d/b/a Concho Communcations, File No. 20780–CD–P–(2)–79, is granted in part, to the extent that the request for a Construction Permit to operate on frequency 152.15 MHz is granted, and that the request in the application of Arnold Anderson d/b/a/ Concho Communications for a Construction Permit to operate on frequency 152.06 MHz, File No. 20780–CD–P–(2)–79, and the application of Mobile Phone of Texas, Inc., File No. 21281–CD–P–(3)–79, are designated for hearing in a consolidated proceeding, pursuant to Section 309 of the Communications Act of 1934, as amended, upon the following issues: (a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto; (b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective dBu contours, based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[4] and to determine the need for the proposed services in said area; and (c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

8. It is further ordered, that the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

9. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

10. It is further ordered, that the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

[3] Section 22504 of the Commission's Rules, 47 C.F.R. 22.504, defines reliable service contours. Service within the reliable service area is expected to achieve at least 90 percent reliability. The commission protects the reliable service area from co-channel electrical harmful interference.

[4] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 37 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 152–162 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours (F50,50) for the facilities involved in this proceeding.

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11. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James K. Smith,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-16576 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

TV Broadcast Application Accepted for Filing and Notification of Cut-Off Date; Erratum

Released: May 22, 1980.

Correction to *TV Broadcast Application Accepted For Filing and Notification of Cut-Off Date* Public Notice (Report No. A-9, released May 1, 1980, Mimeo #30952), published in the **Federal Register** May 6, 1980, 45 FR 29885.

In the above referenced Public Notice ("cut-off list"), the Commission gave notification of the acceptance for filing and "cut-off" date for the applications listed therein. The following application was listed as a major change which was subject to the "cut-off" procedures:

BMPET-791001KS, KYNE-TV, Omaha, Nebraska, Nebraska ETV Commission. Channel 26. Change ERP Vis. to 520 kW; change HAAT to 425.3 feet.

The applicant has shown that the proposed change would be a minor change and not a major change as originally indicated in the application.

Accordingly, the above entry is deleted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-16580 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-222, File No. BPH-10,273; and BC Docket No. 80-223, File No. BPH-10,275]

Colgon FM Communications Corp. and Redding FM Communications, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 9, 1980.

Released: May 22, 1980.

In re Applications of Colgon FM Communications Corporation, Redding, California, Req: 104.3 MHz, Channel 282, 25 kW (H&V), 3,580 feet; and Redding FM Communications, Inc., Redding, California, Req: 104.3 MHz, Channel 282, 25 kW (H&V), 3,580 feet.

For construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) the above-captioned mutually exclusive applications of Colgon FM Communications Corporation (Colgon), and Redding FM Communications, Inc. (Redding), (ii) petitions to specify issues filed by both parties, and (iii) related pleadings thereto.[1]

2. *Colgon.* Analysis of the financial data submitted by Colgon reveals that $52,884.25 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment purchase	$4,395.00
Equipment down payment	1,435.00
Equipment payments with interest (three months)	2,077.50
Miscellaneous	28,600.00
Operating costs (three months)	16,376.75
Total	52,884.25

Colgon has an option, for $900, to acquire automation equipment from Castle Communication Corporation for an additional $8,100, the first payment of which is due one year after the exercise of the option. Because the option expired on December 31, 1979, and has not, to our knowledge, been renewed or extended, there is a question as to what effect this may have on Colgon's financing. Colgn plans to finance construction and operation with the following funds: $12,250 new capital from the purchase of 2,450 shares by Carl McConnell and $12,750 from the purchase of 2,550 shares by Colgon Communications Corporation (CCC). Additionally, McConnell and CCC jointly agree to loan $100,000 to Colgon. Colgon's balance sheet also shows prepaid legal and organizational costs of $4,000 and the aforementioned prepaid option of $900. McConnell is qualified to meet his commitments of $12,250 for the stock subscription. On the other hand, CCC's balance sheet shows net liquid assets of $2,057.93, an amount insufficient to meet its commitment of $12,750 in stock subscriptions. Moreover, the "joint" loan agreement for $100,000 fails to specify the division of the obligation between McConnell and CCC. While McConnell's net liquid assets are sufficient to meet the entire $100,000 loan, CCC's net liquid assets, $2,057.93, would not allow CCC to contribute more than a small percentage. Thus, Colgon has total available funds of only $19,207. Therefore, a limited financial issue will be specified.

3. *Redding.* Analysis of the financial data submitted by Redding, as amended, reveals that at least $69,535 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$30,746.53
Land	2,500.00
Miscellaneous	16,203.47
Operating Costs (three months)	20,085.00
Total	69,535.00

Redding plans to finance construction and operation with the following funds: net liquid assets of $44,681 as shown by Redding's balance sheet, as amended; a $1,500 loan from an individual; and a $100,000 loan from the North Valley Bank, 90 percent guaranteed by the Small Business Administration. Subtracting $4,800 for 3 monthly payments, $95,200 will be available to the applicant from the bank loan. While recent amendments have shown the applicant's satisfaction of many of the conditions required by SBA before disbursing the loan, and an extension of the guarantee until September 18, 1980, Redding has not given or committed itself to give SBA "a properly perfected Security Interest in First Lien" covering all machinery, equipment, furniture and fixtures, as required by collateral conditions (c) of the SBA Guaranty Authorization. Accordingly, an issue will be required to determine the source and availability of funding above the $46,181 indicated. Therefore, a limited financial issue will be specified.

4. Section 73.2080 of the Commission's Rules require that applicants proposing a staff of 5 or more full time station employees must complete and file an equal employment opportunity program, Section VI of FCC Form 301, including a statement detailing the applicant's hiring and promotion policies. Redding proposes seven station employees which, in the absence of any evidence to the contrary, are assumed to be full time but has not filed Section VI of Form 301 nor a statement detailing proposed hiring and promotion practices. An issue regarding this matter will, therefore, be specified.

5. *Other Matters.* Colgon petitioned to dismiss Redding's application as untimely on the grounds that Redding had filed a major amendment subsequent to its cut-off date, August 2, 1976, necessitating the assignment of a new file number. While Redding, in fact, filed no major amendment subsequent to its cut-off date, a series of amendments filed by Redding in response to the requirements of the Commission's *Report and Order* in the matter of *Amendment of Sections 73.333 and 73.699, Field Strength Curves for FM and TV Broadcast Stations* FCC 75-636, June 27, 1975, when taken as a whole constitutes a major change as defined by Section 1.573(b) of the Commission's Rules and and necessitated the assignment of a new file number to Redding by the Commission. Under the Commission Rule then in effect, Section 1.522(a)(2), . . . "mutually exclusive broadcast applications may be amended as a matter of right within 30 days after the cut-off date specified for the last filed application." The last filed application was Colgon's and its cut-off date was February 14, 1977. Since all of Redding's amendments which constituted the major change were filed well before thirty days after Colgon's cut-off date, the amendments were timely filed. Accordingly, Colgon's petition will be denied.

6. Subsequent to the time that amendments as of right could be filed, Redding amended its application a number of times. Two of these amendments, filed February 15, 1979 and July 5, 1979, were formally opposed by Colgon. Redding's February 15 amendment dealt with qualifying issues which had been raised by Colgon's Motion to Specify Issues filed January 15, 1979. Colgon's Opposition to these amendments alleges that no good cause was shown to "avoid the effects of the Motion to Specify Issues." Redding's amendment of July 5 also dealt with a qualifying issue while Colgon's Opposition again argued no showing of good cause on Redding's part. Neither of Redding's amendments improved its comparative position vis-a-vis Colgon, and all of the amended information was directed at Redding's qualifications. Moreover, the raising of a question in a petition to designate issues, in a comparative case, constitutes good cause for an appropriate pre-designation amendment (accompanied by a petition for leave to amend) filed with the applicant's oppositions to the petition. *Rose Broadcasting Corp.*, 68 FCC 2d 1242, 43 RR 2d 1317 (1978). Since Redding's February 15 amendment was filed concurrently with its opposition on that date, and its subsequent July 5 amendment merely confirms a fact stated in the previous amendment, we find good cause for acceptance of Redding's amendments.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) The source and availability of additional funds over and above the $46,181 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine whether Redding has complied with Section 73.2080 of the Commission's Rules.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

9. It is further ordered, That the petitions for leave to amend by Colgon FM Communications Corporation and Redding FM Communications, Inc. are granted, Colgon's Petition to Dismiss is denied, and the corresponding amendments are accepted.

10. It is further ordered, That, to avail itself of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing, (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-16573 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] These applications were subject to the amendment and predesignation issue pleadings procedures of former Sections 1.522 and 1.584 of the Commission's Rules, and the parties filed numerous issue and amendment pleadings. However, pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications: Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by the parties in issue pleadings have been considered herein only to the extent they relate to issues specifically included in this order. Accordingly, an opportunity to raise any allegations contained in the issue pleadings which have not been discussed herein will be afforded the parties post designation pursuant to Section 1.229.

[BC Docket No. 80-220, File No. BPH-11194; and BC Docket No. 80-221, File No. BPH-781023AO]

MicroMedia and Carnette Broadcasting, Inc.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 9, 1980.

Released: May 19, 1980.

In re-applications of Don Pierson, Grey Pierson, and Ann Pierson d.b.a. MicroMedia, Eastland, Texas, Req: 96.7 MHz, Channel 244, 3 kW (H&V), 275'; and Carnette Broadcasting, Inc., Eastland, Texas, Req: 96.7 MHz, Channel 244, 3kW (H&V), 171'.

For construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delgated authority, has under consideration the above-captioned mutually exclusive applications of Don Pierson, Grey Pierson and Ann Pierson, d.b.a. MicroMedia (MicroMedia) and Carnette Broadcasting, Inc. (Carnette).

2. *MicroMedia. Analysis of the financial portion of MicroMedia's application reveals that it will require $32,722.74 to construct its proposed facility and operate for three months, without revenue, itemized as follows:*

Equipment down payment	$16,111.59
Equipment payments with interest (five months)	1,611.15
legal fees	1,500.00
Miscellaneous	4,500.00
Three months operating costs	9,000.00
Total	32,722.74

To meet this requirement, MicroMedia intends to rely on new capital in the amount of $80,000 and deferred equipment credit of $36,570.34. However, the balance sheet submitted by Don Pierson in support of this commitment failed to segregate current liabilities from long-term liabilities. Accordingly, we must assume that all liabilities shown are current. These liabilities exceed liquid and current assets, and no funds can be found to be available from this source. Moreover, MicroMedia's equipment cost quotation does not contain a statement of willingness to extend deferred credit to the applicant. Accordingly, a general financial issue will be specified against MicroMedia.

3. MicroMedia has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). It is unclear whether those ascertained as community leaders were, in fact, leaders rather than merely members of the significant groups within the community. Accordingly, a general ascertainment

issue will be specified against MicroMedia.

4. *Carnette.* Analysis of the financial portion of Carnette's application reveals that Carnette will require $10,812.50 to construct its proposed facility and operate for three months without revenue, itemized as follows:

Equipment	$4,500.00
Legal fees	1,500.00
Other	2,960.00
Three months operating costs	1,862.50
Total	10,812.50

To meet this requirement, Carnette intends to rely on the following sources:

Existing capital	$11,776.51
Profits from Station KERC-AM	2,500.00
Stockholder loans:	
Joe Willis	$4,000
Charles Maddax	3,200
E. F. Abercrombie, Jr.	3,200
Robert Rachnig	3,200
Royce Hall	3,200
Don A. Goff	3,200

Balance sheets or financial statements for two of the stockholders (Maddux and Abercrombie) have not been submitted to the Commission. Of the four remaining, none have shown that they have sufficient net liquid assets to meet their commitments to the applicant. As a result, funds cannot be found available from this source. With respect to the existing capital, the balance sheet submitted by the applicant does not indicate whether the accounts receivable have been aged and certified as collectable within 90 days by an accountant in accordance with Paragraph 4(b), Section III, of Form 301. As a result, Carnette's current liabilities exceed current assets, and funds cannot be found available from this source. Since the applicant has shown only $2,500 in profits from existing operations to meet a requirement of $10,812.50, a limited financial issue will be specified against Carnette.

5. *Other matters.* MicroMedia proposes independent programming while Carnette proposes to duplicate some of the programming of its commonly owned station, KERC(AM). Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived form the proposed duplication which would offset its inefficiency. *Jones T. Sudbury,* 8 FCC 2d 360, 10 RR 2d 114 (1967).

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether MicroMedia is financially qualified to construct and operate the proposed station.

2. To determine the efforts made by MicroMedia to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.

3. To determine whether Carnette has available funds in excess of $2,500 indicated and, in light thereof, whether it is financially qualified to construct and operate the proposed station.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.22(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs, Chief,

Broadcast Facilities Division.

[FR Doc. 80-16570 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-229, File No. BPH-10,493; and BC Docket No. 80-230, File No. BPH-10,665]

Liberty Broadcasting Co., Inc. and Hinesville Broadcasting Corp.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 9, 1980.

Released: May 21, 1980.

In re applications of Liberty Broadcasting Company Inc., Hinesville, Georgia. Req: 92.1 MHz, Channel 221, 3 kW (H&V), 300 feet; and Hinesville Broadcasting Corporation, Hinesville, Georgia. Req: 92.1 MHz, Channel 221, 3 kW (H&V), 300 feet.

For construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, by Liberty Broadcasting Company, Inc. (Liberty) and Hinesville Broadcasting Corporation (Hinesville) and related pleadings.[1]

2. *Liberty.* Analysis of the financial data submitted by Liberty reveals that $51,220 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$36,345
Buildings	1,000
Miscellaneous	7,500
Operating Costs (3 months)	6,375
Total	51,220

Liberty plans to finance construction and operation with the following funds: (i) a loan of up to $20,000 by E. D. Steele, Jr., the president of the applicant; (ii) a $50,000 loan from the First Bank of Savannah; (iii) a $50,000 bank loan from The Hinesville Bank; (iv) $10,000 in estimated profits from Liberty station WGML; and (v) $37,200 in first-year advertising commitments. The balance sheet submitted on behalf of E. D. Steel, Jr. does not show net liquid assets of an amount to meet his commitment of $20,000, and, because liabilities have not been segregated into long and short term, it is impossible to determine the amount of net liquid assets that can be relied upon. It does not appear that Liberty can rely on the $100,000 in bank loans. Both bank commitment letters state that each bank "would favorably consider a loan" of $50,000 to the applicant. While the Commission does not require a contractually binding bank commitment it does require a "reasonable assurance of the availability of the . . . loan." *Gainesville Media Inc.,* 59 FCC 2d 388, 37 RR 2d 178 (Rev. Bd., 1976). But a financial issue has been added where the bank letter appeared to be nothing more than an expression of interest in possibly making such a loan at some later date under circumstances and conditions to be determined at that time. *RKO General, Inc.,* 48 FCC 2d 397, 30 RR 2d 1691 (Rev. Bd., 1974). Neither bank letter appears to be more than such an expression of interest in possibly making such a loan. Liberty cannot rely on the advertising commitments since the Commission, in its *Public Notice, New Financial Qualifications for Aural Broadcast Applicants,* released August 2, 1978, requires applicants to demonstrate the ability to construct and operate the facility for three months, without relying upon advertising or other revenues to meet these costs. In addition, in response to Hinesville's pleadings, Liberty concedes that an additional $1,750 would be required in its three month operating budget, thus increasing initial construction and operating costs to $52,970. Furthermore, the effect of an undisclosed $131,452 corporate note to First Bank of Savannah, though the terms are unknown, is an additional liability to Liberty. The $10,000 in WGML's estimated profits are inadequate to meet Liberty's proposed costs. Therefore, a limited financial issue will be specified.

3. Hinesville alleges, with documentation, that Liberty failed to disclose a corporate obligation under a promissory note, dated May 21, 1976, to First Bank of Savannah in the amount of $131,452.00. This appears to be a violation of the requirements of Section III, paragraph 2(a) of Form 301 and Section 73.3514(a) of the Rules.[2] The allegation of misrepresentation by non-disclosure has not been answered by Liberty and thus must stand unrefuted. Therefore, a misrepresentation issue will be specified.

4. *Hinesville.* Analysis of the financial data submitted by Hinesville reveals that $57,687 will be required to construct and operate for three months, itemized as follows:

Equipment down payment	$15,787
Equipment payments (4 months)	4,460
Miscellaneous	18,600
Operating Expenses (3 months)	18,840
Total	57,687

Hinesville plans to finance construction and operation with the following funds: (i) $29 in cash; (ii) $6,026 pre-paid organization expenses; (iii) a loan of $30,000 from the Hinesville Bank, (iv) a $15,000 stock subscription from E. Lloyd Kilday, Jr.; (v) a $5,000 stock subscription from Carl E. Johnson and (vi) a $5,000 stock subscription from Booker T. Borley. Since applicant's balance sheet is not dated as required by Section III, paragraph 2(a) of FCC Form 301, the $6,055 depicted by the balance sheet cannot be relied upon. Applicant can only rely on $55,000 in financing, an amount inadequate to meet proposed costs of $57,687. Therefore, we will specify a limited financial issue against Hinesville.

5. Hinesville proposes independent programming while Liberty proposes to duplicate some of the programming of its commonly owned station, WGML. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inefficiency. *Jones T. Sudbury,* 8 FCC 2d 360, 10 RR 2d 114 (1967).

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to Liberty:

(a) the source and availability of additional funds over and above the $10,000 indicated; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether Liberty misrepresented its financial status by concealing a $131,452 corporate obligation to the First Bank of Savannah and, if so, the effect thereof on the applicant's basic and/or comparative qualifications.

3. To determine with respect to Hinesville:

(a) the source and availability of additional funds over and above the $55,000 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

8. It is further ordered, That the petitions for leave to amend by Hinesville Broadcasting Corporation are granted, and the corresponding amendments are accepted.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-16574 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Liberty's application was tendered on April 12, 1977 and Hinesville's was tendered for filing on July 22, 1977. Accordingly, the amendment and predesignation issue pleadings procedures of former Sections 1.522 and 1.584 of the Commission's Rules were applicable and the parties filed numerous issue and amendment pleadings. However, pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contended Broadcast Applications; Amendments of Part 1 of the Commission's Rules,* 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by the parties in issues pleadings have been considered herein only to the extent they relate to qualifications issues specifically included in this order. Accordingly, an opportunity to raise any allegations contained in the issue pleadings which have not been discussed herein will be afforded the parties post designation pursuant to Section 1.229.

[2] Section 73.3514(a) states that "each application shall include all information called for by the particular form on which the application is required to be filed, unless the information called for is inapplicable, in which case this fact shall be indicated."

[Report No. A-4 (R)]

Republication of TV Cut-Off List A-4, Released November 26, 1979

Released: May 27, 1980.

New Cut-Off Date: July 14, 1980.

On November 26, 1979, the Commission released a Public Notice entitled *TV Broadcast Applications Accepted For Filing and Notification of Cut-Off Date* (Report No. A-4, Mimeo No. 23620), giving notice that the applications listed therein would be "cut off" as of the close of business on January 18, 1980. This document was published in the **Federal Register** on December 3, 1979, 44 Fed. Reg. 69366, but the **Federal Register** published only the notice portion and did not publish the list of applications subject thereto. Since such publication was insufficient legal notice to the public, it is now necessary to republish the notice in the **Federal Register**, together with the list of applications, and to set a new cut-off date.

Accordingly, notice is hereby given that the applications listed in the attached appendix were accepted for filing on November 26, 1979. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 14, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the office of the Commission in Washington, D.C. no later than July 14, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on July 14, 1980. Questions concerning this list may be directed to Mr. Gordon Oppenheimer, telephone (202) 632-6357.

Report No. A-4 (R)

BPCT-4042 (new), Washington, D.C., Washington Christian TV Outreach, Inc., Channel 14. ERP: Vis. 505 kW; HAAT:470 feet.

BPCT-790814KE (new), Melbourne, Florida, Southern Broadcasting Corporation, Channel 43. ERP: Vis 1759 kW; HAAT: 1009 feet.

BPET-790808KE (new), Manistee, Michigan, Grand Valley and Ferris State Colleges Channel 21. ERP: Vis. 1405 kW; HAAT: 1189 feet.

BPCT-790727KF (new), Springfield, Missouri, Christian Center of the Ozarks, Channel 33. ERP: Vis. 579 kW; HAAT: 1634 feet.

BPCT-790813KG (new), Riverhead, New York, Life Broadcasting Network, Inc., Channel 55. ERP: Vis. 5000 kW; HAAT: 695 feet.

BPCT-790717KH (new), Rawlins, Wyoming, Rawlins Broadcasting Corporation, Channel 11. ERP: Vis. 6.14 kW; HAAT: −13 feet.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-16366 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-227, File No. BPH-10991; and BC Docket No. 80-228, File No. BPH-780831AD]

RTC Broadcasting Corp. and Palm Springs Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 9, 1980.

Released: May 21, 1980.

In re applications of RTC Broadcasting Corporation, Palm Springs, California, Req: 106.1 MHz, Channel 291, 50 kW (H&V), 326'; and Palm Springs Broadcasting Company, Plam Springs, California, Req: 106.1 MHz, Channel 291, 50 kW (H&V), 145'. For construction permit for a new FM station.

1. The Commission, by its Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of RTC Broadcasting Corporation (RTC), and Palm Springs Broadcasting Company (PSBC).[1]

2. *RTC.* According to an amendment filed June 15, 1978, Nathaniel Montague had subscribed to 49% of the corporation's stock thereby reducing Ms. Casalen's subscription from 100% to 51%. This directly contravenes Section V of RTC's Articles of Incorporation which specifically requires that the stock of the corporation cannot be held by more than one person. Accordingly, a legal issue will be specified against RTC.

3. The commitment letter of November 10, 1978 from Lyon Financial Corporation for a loan to RTC of up to $100,000 expired by its own terms on or about November 10, 1979. As a result, a new loan commitment letter is required. Accordingly, a financial issue will be specified.

4. *PSBC.* Analysis of the financial portion of PSBC's application, including amendments, reveals that PSBC will require $123,186 to operate for three months, without revenue, itemized as follows:

Equipment	$83,600
Buildings	6,000
Miscellaneous	28,750
Three months operating costs	24,836
Total	$123,186

[1] A Petition to Dismiss was filed and subsequently withdrawn by RTC against PSBC.

To meet this financial requirement, PSBC states that it has available a bank loan of $100,000, existing capital in the amount of $1,000, and deferred credit from an equipment supplier. PSBC has failed to submit documentation from the proposed equipment supplier showing that deferred credit is available. The equipment letter must state the price of equipment and the terms of the deferred credit. The applicant has shown $101,000 to meet a requirement of $123,186. Accordingly, a limited financial issue will be specified against PSBC.

5. PSBC has failed to substantially comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Although Hispanic Americans comprise 8.55% of the population of Palm Springs, the applicant has not interviewed a single Hispanic American community leader. Thus, a limited ascertainment issue will be specified against PSBC.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of lmV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, It Is Ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether RTC is legally qualified to construct the proposed station.

2. To determine whether RTC has funds available to it from Lyon Financial Corporation or other source(s) to construct and operate the proposed station and in light thereof, whether it is financially qualified.

3. To determine whether PSBC has available funds in excess of the $100,000 indicated and, in light thereof, whether it is financially qualified to construct and operate the proposed station.

4. To determine whether PSBC interviewed leaders of Hispanic American groups in connection with its ascertainment effort.

5. To determine which of proposals would, on a comparative basis, better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, either, of the applications, should be granted.

9. It is further ordered, That the petitions for leave to amend filed by RTC and PSBC are granted and the corresponding amendments are accepted.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is futher ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-16571 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-224, File No. BPH-10640; BC Docket No. 80-225, File No. BPH-11115; and BC Docket No. 80-226, File No. BPH-11112]

Shasta Broadcasting, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 9, 1980.

Released: May 23, 1980.

In re applications of Shasta Broadcasting, Inc., Anderson, California, Req: 94.3 MHz Channel 232 3 kW (H&V) 113'; Jancur, Inc., Anderson, California, Req: 94.3 MHz, Channel 232 3 kW (H&V) 267'; and Mountain Valley Broadcasting, Inc., Anderson, California; Req: 94.3 MHz, Channel 232 3 kW (H&V) 191'.

For construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Shasta Broadcasting, Inc. (Shasta), Jancur Inc. (Jancur), and Mountain Valley Broadcasting, Inc. (Mountain Valley), and an informal objection filed by Steven Fuss against Mountain Valley.

2. *Shasta.* Shasta's ascertainment of Anderson, California is not in substantial compliance with the *Primer on Ascertaiment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Shasta's survey of community leaders is deficient in that representative leaders of the following groups were not consulted in compliance with Questions and Answers 4 and 20: the elderly, agriculture, labor and minorities (specifically American Indians). Shasta indicated that labor leaders were not consulted because Anderson's work force is not union organized. This does not excuse Shasta's failure to ascertain the needs of labor. According to Question and Answer 13(a), "groups with the greatest problems may be least organized . . . Therefore, additional efforts may be necessary to identify their leaders so as to better establish a dialogue with such groups and better ascertain their problems." Question and Answer 6 of the Primer requires an applicant to ascertain the problems of major communities which are outside the city of license and which applicant undertakes to serve. Question and Answer 7 provides that ascertainment in such communities may consist of consultations with leaders who can be expected to have a broad overview of community problems. Shasta indicated that it intends to serve Shasta County and the city of Redding, but did not consult any leaders of those communities. In light of the above-mentioned deficiences, a limited ascertainment issue will be specified against Shasta.

3. Shasta states in its application that it will require seven employees to operate the proposed station, but does not specify whether these employees will be full time or part time. Section VI of Form 301 and Section 73.2080 of the Rules require that an Equal Employment Opportunity Plan detailing the applicant's hiring and promotion policies be submitted if there will be five or more full time station employees. Shasta did not submit such a statement. Accordingly, an issue will be specified.

4. *Jancur.* Analysis of the financial portion of Jancur's application, including amendments, reveals that Jancur will require $44,728.06 to construct its proposed facility and operate for three months, without revenue, itemized as follows:

Equipment	$2,490.00
Equipment lease (5 months plus last month security)	11,829.72
Bank loan (5 months)	[1] 1,041.67
Jannson loan repayment (5 months)	1,041.67
Land	150.00
Building	4,850.00
Miscellaneous	6,500.00
Operating expenses	[2] 16,825.00
Total	44,728.06

To meet these requirements, Jancur states that it has available a loan of $25,000 from David and Kerstin M. Jannson, a loan of $25,000 from United California Bank, a loan of $25,000 from Timothy and Lana Curtin, and existing capital in the amount of $5,000. The balance sheet submitted by the Jannsons indicates that only $17,737.49 is available in net current liquid assets to meet a commitment of $25,000. The bank commitment letter from United California Bank expired by its own terms on or about January 26, 1980. The commitment of the Curtins to lend Jancur $25,000 was not supported by a personal balance sheet separating current and long term assets and liabilities. See Section III, Paragraph 2(a) of FCC Form 301. Therefore, funds are not presently available from the source. However, existing capital in the amount of $5,000 is presently available. Thus, Jancur has shown only $22,737.49 available to meet a requirement of $44,728.06. Accordingly, a limited financial issue will be specified against Jancur.

5. Jancur's ascertainment survey is not in substantial compliance with the *Primer*. Community leaders of minority groups in the city of license were not ascertained. As a result, a limited ascertainment issue will be specified against Jancur.

6. *Mountain Valley.* Our records do not indicate that local notice of the filing of Mountain Valley's application was give in accordance with Section 73.3580 of the Commission's Rules. To remedy this deficiency, Mountain Valley will be required to given public local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

7. Analysis of the financial portion of Mountain Valley's application, including amendments, reveals that Mountain Valley will require $82,000 to construct its proposed facility and operate for three months, without revenue, itemized as follows:

Equipment	$59,000
Building	2,000
Legal costs	1,000
Miscellaneous	2,000
Three Months Operating costs	18,000
Total	$82,000

To meet these requirements, Mountain Valley intends to reply on existing capital of $3,000, loans in the form of stock subscriptions from Robb Cheal and John Bach in the amount of $68,000 each, and advertising revenues in the amount of $15,000. No agreements are on file from the stockholders who have agreed to loan the applicant $68,000 each. Applicants can no longer rely on potential advertising revenue to finance the construction and three-month operation of radio stations. *New Financial Qualifications Standards for Aural Broadcast Applicants*, 69 FCC 2d 407, 43 RR 2d 1101 (1979); *Amber Productions, Inc.*, FCC 79–549, released October 10, 1979.[2] Thus, funds cannot be found to be available from this source. Thus, Mountain Valley has shown only $3,000 available to meet a commitment of $82,000. Accordingly, a limited financial issue will be specified against Mountain Valley.

8. Mountain Valley has failed to substantially comply with the *Primer*. The applicant did not submit an ethnic/minority breakdown of Anderson according to Question and Answer 9. The applicant did not specify (1) the dates of the community leader survey, and (2) the names and positions of those who conducted the community leader survey, according to Questions and Answers 2, 11(a) and 22. Furthermore, Mountain Valley did not state (1) the dates of the general public suvery, (2) if the survey was conducted in a manner which assured that a random sample of the population was contacted, and (3) whether the general public survey was conducted by principals, employees, or prospective employees of the applicant or by a professional research or survey service according to Questions and Answers 11(b), 12, 13(b), 14, 15, 17, and 19. Accordingly, a limited ascertainment issue will be specified against Mountain Valley.

9. *Other Matters.* Mr. Steven Fuss petitioned the Commission in an informal objection[3] to reject the Mountain Valley application because its principals do not possess the requisite character qualifications to be Commission licensees.

10. *Robb Cheal.* According to Fuss, Robb Cheal loaned petitioner $50,000 while petitioner was a 50% stockholder of North Valley Radio, Inc. (NVR), licensee of KNVR(FM), Paradise, California. Thereafter, in October 1977, Cheal filed suit in Superior Court of the State of California for the County of Butte claiming to be in oral partnership with NVR and seeking dissolution of the partnerhip, fraud of partner, and the appointment of a receiver. The Court appointed Willaim Huddy, Reciever Pendente Lite on November 4, 1977, and on February 24, 1978, the Commission granted an involuntary assignment of the license to Huddy. Petitioner maintains that Cheal was not a partner of NVR, but merely a creditor of the corporation. Notwithstanding, petitioner alleges that since Cheal stated in his complaint that he was in partnship with NVR, he violated Section 310(d) of the Communications Act by not applying to the Commission for transfer of control.

11. Cheal did not file an opposition to Fuss' petition. However, our examination of the affairs of KNVR–FM reveals that: (i) no written partnership agreement existed between Messrs. Fuss and Cheal; (ii) Cheal by his own admission did not share in the profits and/or losses of NVR; (iii) Cheal did not participate in the management of the station; (iv) Cheal by his own admission was a newcomer to the broadcast industry and relied on Fuss' expertise in the field and (v) KNVR–FM is presently owned by Paradise Broadcasting, Inc. (Paradise) of which Robb Cheal is the sole principal. The Commission granted that assignment on October 23, 1979.[4] Both Fuss and Cheal agree that approximately $50,000 was owed to Cheal by Fuss and/or NVR.[5] Based on the foregoing it is highly doubtful that Cheal was, in fact, a partner of Fuss or NVR. Cheal's assertion that he was engaged in a partnership with Fuss and/or NVR is not dispositive of the issue. The weight of the evidence indicated that Robb Cheal was merely a creditor of the corporation as the petitioner himself states. Accordingly, no transfer of control took place in violation of Section 310(d) of the Act. Finally, based on a complete record of the transaction discussed above, the Commission found Cheal in possession of the requisite qualifications to be a Commission licensee since he currently is the sole principal of Paradise Broadcasting, Inc., the current licensee of KNVR–FM. Accordingly, an issue will not be specified against Robb Cheal.

12. *John Bach.* Fuss alleges that Bach misrepresented his actual financial position to the Commission. In his financial statements Bach states that there exists an unsatisfied judgment against him in the amount of $109,000 plus interest obtained by his former law partner, Robert K. Stone.[6] Attached to Fuss' objection in an incomplete copy of the case of *Stone* v. *Bach*, 80 Cal. App. 3d 442 (1978).[7] On motion, the California Court of Appeals dismissed Bach's appeal, and upheld the contempt citation given by the trial court for Bach's failure to deposit into a specified account all partnership receipts in his possession, and his refusal to be sworn for examination as a judgment debtor. The trial court ordered Bach to deposit partnership monies collected by him ($257,463 including interest) into a bank account or to pay Stone one-half directly. ($128,731.50 plus interest).

13. A substantial question of fact exists as to how much is actually owed to Stone by Bach and if Bach did, in fact, misrepresent his financial position to the Commission in his financial statement. As a result, an issue with respect thereto will be specified.

14. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

15. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

16. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Shasta:

(a) Whether the applicant interviewed leaders of the elderly, agriculture, labor, and minorities in connection with its ascertainment effort,

[2] Fuss filed what he termed a petition to reject; however, since he filed subsequent to the cut-off date, we shall treat it as an informal objection.

[4] Mr. Huddy remained receiver until February 20, 1979, when Daniel S. Tenter Sr. was appointed receiver in his place. The assignment to Mr. Tenter was approved by the Commission on May 25, 1979.

[5] A copy of a September 7, 1977, installment note attached to the complaint filed in Superior Court for Butte County states that $48,076.99 is due and owing from NVR to Robb Cheal. See Exhibit A, Petition.

[6] See Financial Statement of John Bach, Exhibit 4, Mountain Valley Application.

[7] See Petition, Exhibit B.

(b) Whether the applicant has interviewed leaders of Shasta County and Redding, California.

(2) To determine whether Shasta has complied with Section 73.2080 of the Rules.

(3) To determine, with respect to Jancur, the availability of funds in addition to the $22,737 indicated, and, in light thereof, whether Jancur is financially qualified to construct and operate the proposed station.

(4) To determine whether Jancur interviewed leaders of minorities in connection with its ascertainment effort.

(5) To determine, with respect to Mountain Valley, the availability of funds in addition to the $3,000 indicated, and, in light thereof, whether Mountain Valley is financially qualified to construct and operate the proposed station.

(6) To determine, with respect to the efforts of Mountain Valley to ascertain the needs of its proposed service area:

(a) Whether the applicant submitted a compositional study of the city of license;

(b) Whether the community leader survey was conducted by principals, management level employees, or prospective management level employees;

(c) The dates that the applicant's community leader survey was conducted;

(d) Whether the applicant stated the dates of the general public survey; whether it was conducted in a manner which assured a random sample of the population was contacted; and whether the public survey was conducted by principals, employees or prospective employees of the applicant or by a professional research or survey service.

(7) To determine whether John Bach misrepresented his financial status in Section III of Mountain Valley's application, and if so, the effect thereof on the applicants basic and/or comparative qualifications.

(8) To determine, which of the proposals would, on a comparative basis, best serve the public interest.

(9) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which if any, of the applications should be granted.

17. It is further ordered, That, Mountain Valley publish local notice of the filing of its application with the Commission in accordance with Section 73.3580 of the Rules and file a statement of publication with the presiding Administrative Law Judge.

18. It is further ordered, That the petition to reject is dismissed as procedurally defective, but when considered as an informal objection is granted to extent indicated above and is denied in all other respects.

19. It is further ordered, That Steven Fuss is made a party to the proceeding.

20. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

21. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-16572 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80–218, File No. 20088–CD–P–80 and CC Docket No. 80–219, File No. 20714–CD–P–80]

Star Communications, Inc. and General Communication Systems, Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: May 7, 1980.

Released: May 16, 1980.

By the Chief, Common Carrier Bureau:

In re applications of Star Communications, Inc. For a construction Permit to establish one-way paging facilities to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at Independence, Kansas; and General Communication System, Inc. For a Construction Permit to establish one-way paging facilities to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at Caffeyville, Kansas.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority is the application of Star Communications, Inc., File No. 20088–CP–80, for a construction Permit to establish a new one-way station to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at Independence, Kansas, and the application of General Communication System, Inc., File No. 20714–CP–80, for a Construction Permit to establish a new one-way station to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at Coffeyville, Kansas. These applications are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the above-referenced application of Star Communications, Inc., File No. 20088–CD–P–80, and the application of General Communication Systems, Inc., File No. 20714–CD–P–80, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 43 dBu contours, based upon the standards set forth in Section 22.504(a) of the commission's Rules,* and to determine the need for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

*Section 22.504(a) of the Commission's Rules and Regulations describes a field strength countour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours (F50,50) for the facilities involved in this proceeding.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James K. Smith,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-16569 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[BC 31657, File No. BPH-11123; and BC Docket No. 80-231, File No. BPH-780828AC; and BC Docket No. 80-232, File No. BPH-780831AO

Tri-Parish Broadcasting Co., Inc. et. al. Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: May 5, 1980.

Released: May 21, 1980.

By the Chief, Broadcast Bureau.

In re Applications of Tri-Parish Broadcasting Co., Inc., Eunice, Louisiana, Req: 105.5 MHz, channel No. 288, 3 KW (H & V), 136 feet; and Acadiana Broadcasting Co., Inc., Eunice, Louisiana, Req: 105.5 MHz, Channel No. 288 3 kW (H & V), 300 feet; and Eunice Broadcasting Inc., Eunice, Louisiana, Req: 105.5 MHz, Channel No. 288 3 kW (H & V), 300 feet. For construction permits for a new FM station.

1. The Commission has under consideration the above-captioned mutually exclusive applications.

2. *Tri-Parish Broadcasting Co., Inc. (Tri-Parish).* Tri-Parish originally filed an application to construct and operate a new FM station in Eunice, Louisiana in April, 1975. As originally proposed, the station would operate with an effective radiated power of 3 kW. Analysis of the application revealed that a grant of the construction permit would be a violation of the Commission's duopoly rule, Section 73.240(a)(1), because the primary service contour of the proposed facility would overlap with the primary service (1.0 mV/m) contour of FM station KVPI, Ville Platte, Louisiana, licensed to Ville Platte Broadcasting Company, Inc. (Ville Platte). Tri-Parish and Ville Platte have substantial common ownership.[1]

3. Tri-Parish thereupon amended its application to reflect a new proposal to operate with an effective radiated power of 200 watts. The primary service contours of the proposed facility under this new proposal would not overlap with that of KVPI, and therefore, the application was cured of its conflict with Section 73.240(a)(1). However, because Tri-Parish proposed to operate at 200 watts ERP, a question was raised concerning the efficiency of the proposal, and the Commission designated Tri-Parish's application for hearing to determine whether the proposal represented an efficient use of the channel within the meaning of Section 307(b) of the Communications Act of 1934, as amended. *In Re Application of Tri-Parish Broadcasting Co., Inc.*, 65 F.C.C. 2d 244 (1977).

4. On September 14, 1977, Tri-Parish filed a petition with the Administrative Law Judge assigned to its case to have the amendment changing the proposed operation to 200 watts dismissed, and to have the application once again reflect the original 3 kW ERP proposal. Tri-Parish stated that it would approach the problem of duopoly by formally requesting a waiver of the duopoly rule. On September 27, 1977, Tri-Parish's petition was granted. Tri-Parish's application was removed from the hearing docket and returned to the processing line. A new file number and a new cut-off date were assigned.[2]

5. In its waiver request, Tri-Parish asserts that the same criteria the Commission has used in the past in considering multiple ownership situations should apply here. Tri-Parish notes such criteria as first local FM service, improved nighttime coverage, the economic separation of the cities involved, the separate operation of the stations, a minimal overlap affecting only a small number of persons, and an already existing diversity of opinion in the signals that currently reach Eunice. However, to consider all these factors would be a back door method of returning to a case-by-case consideration of multiple ownership and would negate the very reason the Commission established fixed standards. The Commission has stated that "The duopoly rules embody considerations of fundamental policy . . . Experience with twenty years of *ad hoc* determination in this area demonstrates that the *ad hoc* method does not permit a fully effective translation of this policy into accomplished fact. . . . The . . . result is, often, that the importance of an extensive overlap situation is obscured in a welter of competing factors and the principle that adequate separation is to be maintained between commonly owned stations disappears in the process." *Report and Order, Docket, No. 14711*, 45 F.C.C. 1476, 1479 (1964).

6. Tri-Parish is on firmer ground, however, when it states that the Commission recognizes that the public interest will on occasion justify the granting of a waiver, *Supra*, at p. 1479, n. 12, and the Commission has specifically mentioned in the analogous situation of regional concentration of control that in the case where "much needed service to the public is not being provided and there are no applicants other than the licensee of existing stations in the area," the grant of a waiver would be appropriate. *First Report and Order*, Docket No. 20548, 63 FCC 2d 824, 829, 40 RR 2d 23, 29 (1977). Tri-Parish stresses in its waiver request that the Commission is indeed faced here with a situation in which if Tri-Parish does not build the station, the facility will not be built at all. However, when the new cut-off date was established, two parties filed in competition with the Tri-Parish application: Acadiana Broadcasting Co., Inc. (Acadiana), and Eunice Broadcasting, Inc. (Eunice). Therefore, we are not confronted with a choice between a facility built by Tri-Parish and no facility at all. Accordingly, Tri-Parish's request for waiver of Section 73.240(a)(1) is denied, and Tri-Parish's application is, by this Order, dismissed for patent violation of the rules pursuant to Section 73.3564(b).

7. *Eunice.* The six men who are stockholders in Eunice Broadcasting, Inc. have chosen to form two separate entities to effectuate their plan to finance the construction of a new FM station in Eunice, Louisiana. The first entity is Eunice Broadcasting, Inc., a corporation, and the applicant in this proceeding. The second entity is a partnership composed of the six men who are stockholders in Eunice. The stockholders have elected to form a partnership for the purpose of purchasing equipment. The partnership will lease the equipment it buys to the corporation for $11,911 a year, for a period of ten years.

8. An analysis of the financial plan of Eunice reveals certain deficiencies. First, Eunice has submitted an incomplete estimate of its expected costs of construction. Of the figures it has supplied, the following can be stated:

Lease of equipment (five months)	$4,962.92
Miscellaneous	15,000.00
Operating Expenses (three months)	26,325.00
Total	$46,287.92

Missing, however, are Eunice's estimates for the cost of leasing tower space and studio space. (Eunice states it will lease tower space from J. B. Tanner, and studio space from Roger Harris at "normal commercial terms that are the best available.")

9. Secondly, Eunice plans to finance its construction and operation through stock subscriptions totalling only $30,000, a figure which does not meet its estimated costs. Eunice states, "(A)11 stockholders will provide funds for operation if needed in excess of capital contributions." However, no loan agreement between the stockholders and the corporation is provided, nor is there any statement signed by the stockholders supporting Eunice's statement. Eunice's statement is therefore insufficient to reasonably assure the Commission that it can secure loans from its stockholders for expenses beyond $30,000.

10. Finally, it has not been demonstrated that the stockholders of Eunice are financially able to subscribe to Eunice's stock. Eunice has submitted the balance sheets of its six stockholders. An analysis of their balance sheets must include factoring in their commitment to contribute $100,500 to the partnership which will buy the equipment which Eunice will lease. Only one stockholder, Alex Chachere, has demonstrated that he is able to contribute to both the corporation and the partnership. The other stockholders have not. This is due in part to the fact that not all assets on the balance sheets were shown to be readily available, or, in some instances, the liabilities were not shown, or not segregated between current and long-term liabilities. Therefore, Eunice has not shown that any funds are available to it for construction and operation of its proposed facility other than Mr. Chachere's commitment of $7500. A financial issue will be specified.

11. In Eunice's demographic study of Eunice, Louisiana, it reports that 21.7 percent of Eunice's population is non-white. However, no person in Eunice's survey of community leaders of Eunice is identified as a leader of the black community. A limited ascertainment issue will be specified.

12. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

13. Except as indicated by the issues specified below, Acadiana and Eunice are qualified to construct and operate as proposed. However, since the proposals are mutally exclusive, they must be designated for hearing in a consolidated proceeding on the issues.

14. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of Acadiana and Eunice are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Eunice has available to it additional funds over and above the $7500 indicated, and whether Eunice is financially qualified to construct and operate the proposed station.

2. To determine whether Eunice interviewed leaders of the black community in connection with its ascertainment effort.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

15. It is further ordered, That the application of Tri-Parish Broadcasting Co., Inc. is dismissed.

16. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, Acadiana and Eunice, shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-16575 Filed 5-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] The stockholders of Tri-Parish own 85% of Ville Platte.

[2] Tri-Parish also requested relief from the Commission's multiple ownership rules regarding regional concentration of control, or a ruling that the concentration rules do not apply to Tri-Parish. Since our original concern was the duopoly question, and disposal of that question would moot Tri-Parish's other pleadings, we need not reach a conclusion regarding regional concentration of control.

FEDERAL RESERVE SYSTEM

Dallas Bancshares, Inc.; Formation of Bank Holding Company

Dallas Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Dallas, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16560 Filed 5-30-80; 8:45 am]

BILLING CODE 6210-01-M

F and O, Inc.; Formation of Bank Holding Company

F and O, Inc., Montgomery, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84.1 percent of the voting shares of First National Bank of Montgomery, Montgomery, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

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Board of Governors of the Federal Reserve System, May 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16558 Filed 5-30-80; 8:45 am]

BILLING CODE 6210-01-M

First Schaumburg Bancorporation, Inc.; Formation of Bank Holding Company

First Schaumburg Bancorporation, Inc., Schaumburg, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Heritage Bank of Schaumburg, Schaumburg, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16557 Filed 5-30-80; 8:45 am]

BILLING CODE 6210-01-M

Northstar Bancorporation, Inc.; Proposed Acquisition of Mithun Enterprises, Inc.

Northstar Bancorporation, Inc., Wayzata, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mithun Enterprises, Inc., Minneapolis, Minnesota.

Applicant states that the proposed subsidiary would engage in the general insurance activities. These activities would be performed from offices of Applicant's subsidiary in Wayzata, Minnesota, and the geographic area to be served is Wayzata, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 23, 1980.

Board of Governors of the Federal Reserve System, May 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16559 Filed 5-30-80; 8:45 am]

BILLING CODE 6210-01-M

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Qualified Joint Bidders
Outer Continental Shelf (OCS)

As a convenience to the public, and pursuant to his authority under 43 CFR 3316, the Director of the Bureau of Land Management hereby publishes a list of all persons who have timely filed a sworn statement of production in accordance with 43 CFR 3316.3-2(a). These statements have qualified the filers to bid jointly at OCS oil and gas lease sales during the bidding period of May 1, 1980, through October 31, 1980. This publication is not required by law or regulations. It includes the names of all possible bidders whose statements have been received in this office by the date this notice was prepared.

The following persons or companies have filed sworn statements of production as required by 43 CFR 3316.3-2(a) attesting to average daily production not in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products during the production period of July 1, 1979, through December 31, 1979.

A.G. Hill
AGT Exploration Corp.
Al-Aquitaine Exploration, Ltd.
Allied Chemical Corporation
AIMINEX U.S.A., Inc.
Amerada Hess Corporation
American Natural Gas Production Company
Amoco Production Company
Anadarko Production Company
Apache Corporation
Arrowhead Propane Corporation
Asamera Oil (U.S.) Inc.

Atlantic Distributors Exploration Co.
Atlantic Richfield Company
Brooklyn Union Gas Company
C & K Marine Production Company
C & K Offshore Company
C & K Petroleum, Inc.
Cabot Corporation
Cambridge Royalty Company
CANADIAN SUPERIOR OIL (U.S.) LTD.
CanDel Oil Corporation
CanDel Oil (U.S.) Inc.
CanDel Oil (Texas Offshore) Inc.
Caroline Hunt Schoellkopf
Caroline Hunt Trust Estate
Case-Pomeroy Oil Corporation
Central Hudson Gas & Electric Corporation
Challenger Minerals, Inc.
Champlin Petroleum Company
Cities Service Company
CNG Producing Company
Columbia Gas Development Corporation
Conex, Inc.
Conoco, Inc.
Consolidated Edison Company of New York, Inc.
Cook Inlet Region, Inc.
Coquina Oil Corporation
Corning Natural Gas Corporation
Corpus Christi Exploration Company
Corpus Christie Oil and Gas Company
Cotton Petroleum Corporation
Crown Central Petroleum Corporation
DEPCO, Inc.
Diamond Shamrock Corporation
Dow Chemical Company
Eason Oil Company
Ecee, Inc.
Elf Aquitaine, Inc.
Elizabethtown Gas Company
El Paso Exploration Company
El Paso Natural Gas Company
Emmet C. Wilson
Energy Development Corporation
Energy Reserves Group, Inc.
Energy Resources Corporation
Enserch Exploration, Inc
Enterprise Resources, Incorporated
Entex Petroleum, Inc.
Exchange Oil and Gas Corporation
Exeter Exploration Company

Felmont Oil Corporation
Florida Exploration Company
Fluor Oil and Gas Corporation
Forest Oil Corporation
Four M Properties, Ltd.
Freeport Oil Company
Freeport Petroleum Company
Fuel Resources Inc.
Furth Oil Co.
General American Oil Company of Texas
Getty Oil Company
Greenbrier Operating Co.
Hamilton Brothers Oil Company
Hamilton Brothers Oil and Gas Corporation
Haroldson L. Hunt Jr. Trust Estate
Hassie Hunt Exploration Company
Hassie Hunt, Incorporated
Hassie Hunt Trust
H.C. Price Co.
Hematite Petroleum (U.S.A.) Inc.
Highland Resources, Inc.
Houston Oil & Minerals Corporation
Hudbay Exploration, Inc.
Hunt Energy Corporation
Hunt Industries
Hunt Investment Corporation
Hunt Oil Company
Hunt Petroleum Corporation
Husky Oil Company
H.W. Bass & Sons, Inc.
ICI Delaware Inc.
Idemitsu Alaska Oil Development Corp.
Idemitsu Oil Denver Corp.
Inexco Oil Company
Impkemix Inc.
Jenny Oil Company
Kerr-McGee Corporation
Knob Hill Oil & Gas Company, Inc.
Koch Industries, Inc.
Ladd Petroleum Corporation
Lamar Hunt
Lamar Hunt Trust Estate
Laurence A. McNeil
Longhorn Oil & Gas Company
Long Island Lighting Company
Louisiana Land and Exploration Company (The)
Louisiana Land Offshore Exploration Company, Inc.
Marathon Oil Company

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Merrimack Valley Exploration Corporation
Mesa Petroleum Co.
Mitchell Energy Corporation
Mitchell Energy Offshore Corporation
Mono Power Company
Monsanto Company
Murphy Oil Corporation
N.B. Hunt
National Exploration Company
National Fuel Gas Distribution Corporation
NATRESCO INCORPORATED
National Gas Corporation of California
Nelson Bunker Hunt Trust Estate
New England Energy Incorporated
Newmont Oil Company
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
NICOR Exploration Company
Nortex Gas & Oil Company
North Oil Inc.
Northern Michigan Exploration Company
Northern Natural Gas Company
Northwestern Mutual Life Insurance Company
Ocean Oil & Gas Company
Ocean Production Company
Ogle Development Corporation
Ogle Petroleum Inc.
Orange and Rockland Utilities, Inc.
P. R. Rutherford as Independent Executor of the Estate of Betty T. Rutherford, Deceased
PanCandian Petroleum Company
Pan Eastern Exploration Company
PAN ENERGY Resources, Inc.
Paul R. Haas
Pel-Tex Exploration Company, Inc.
Pelto Oil Company
Pennzoil Company
Pennzoil Oil & Gas, Inc.
Pennzoil Producing Company
Phillips Petroleum Company
Pinto, Inc.
Pioneer Production Corporation
Placid Oil Company
Pogo Producing Company
Propel Energy Company
Prosper Energy Corporation
Pursue Energy Corporation
Pursue Offshore, Inc.
Quintana Offshore, Inc.

Reading & Bates Petroleum Co.
Resource Production, Inc.
Rhode Island Development and Exploration Company
Rio Bravo Oil Co., Inc.
Robert E. Glaze
Rochester Gas and Electric Corporation
Rosewood Corporation, (The)
Rowan Petroleum, Inc.
Roy M. Huffington, Inc.
Rutherford Oil Corporation
Rutherford Partnership (The)
Sabine Production Company
Salomon Brothers International, Inc.
Samedan Oil Corporation
Santa Fe Energy Company
Santa Fe Minerals, Inc.
Shore Oil Corporation
Seneca Resources Corporation
SONAT Exploration Company
Southland Royalty Company
Strata Energy Inc.
Strong Corporation
St. Joe Petroleum (U.S.) Corporation
St. Lawrence Gas Company, Inc.
Sun Oil Company (Delaware)
SUPERIOR OIL COMPANY (The)
Syracuse Suburban Gas Company, Inc.
Supron Energy Corporation
Tenneco Exploration, Ltd.
Tenneco Exploration, II, Ltd.
Tenneco OCS Company, Inc.
Tenneco OCS Limited Partnership
Tenneco Offshore Company, Inc.
Tenneco Oil Company
Terra Resources, Inc.
Tesoro Petroleum Corporation
Texas Eastern Exploration Co.
Texas Gas Exploration Corporation
Texasgulf, Inc.
Texas Pacific Oil Company, Inc.
Texas Production Company
Total Petroleum, Inc.
Transco Exploration Company
TransOcean Oil, Inc.
Union Oil Company of California
Vsea, Inc.
W.H. Hunt
Weeks Petroleum Corporation
William Herbert Hunt Trust Estate
Williams Exploration Company
Zapata Exploration Company

In addition, Statements of Production have been received from twelve companies which provided a daily average of 1.6 million barrels or more of crude oil, natural gas and liquified petroleum products during the previous mentioned production period and therefore are restricted from bidding jointly with each other during the bidding period of May 1, 1980, through October 31, 1980.

This list appeared in the **Federal Register** on Monday, April 21, 1980, at 45 FR 26827.

Ed Hastey,
Associate Director, Bureau of Land Management.
May 23, 1980.

[FR Doc. 80-16634 Filed 5-30-80; 8:45 am]
BILLING CODE 4310-84-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center For Disease Control

Center for Disease Control Programs and Policies Advisory Committee (Ad Hoc); Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Center for Disease Control (CDC) announces the following committee meeting:

Name: CDC Programs and Policies Advisory Committee (Ad Hoc).
Dates: August 27–29, 1980.
Place: Room B–19, Building 3, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.
Time: 8:30 a.m.
Type of Meeting: Open.
Contact Person: Ms. Susan Toal, Executive Secretary of Committee, Bureau of Training, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Phone: AC/404 262–6683; FTS: 236–6683.
Purpose: The CDC Programs and Policies Advisory Committee (Ad Hoc) will evaluate CDC's progress in implementing its recommendations and, based on the results of their evaluation, make recommendations to the Secretary, the Assistant Secretary for Health, and the Director, CDC, pertaining to future direction, programs, and policies for CDC.
Agenda: The Committee will evaluate documented evidence of CDC's progress in implementing its recommendations, and will develop additional suggestions based on this evaluation and their own experience, insight, and expertise.
Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson, and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 22, 1980.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 80–16678 Filed 5–30–80; 8:45 am.]

BILLING CODE 4110–86–M

National Institutes of Health

Cancellation of Large Bowel Subcommittee of the Large Bowel and Pancreatic Cancer Review Committee

Notice is hereby given of the cancellation of the meeting of the Large Bowel Subcommittee of the Large Bowel and Pancreatic Cancer Review Committee, National Cancer Institute, National Institutes of Health, June 5–6, 1980, which was published in the Federal Register on May 9, 1980 (43 FR 30697). For further information, please contact Dr. Vincent J. Cairoli, Executive Secretary, Westwood Building, Room 855, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7194).

Dated: May 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–16542 Filed 5–30–80; 8:45 am]

BILLING CODE 4110–08–M

Cancellation of Prostatic Subcommittee of the Bladder and Prostatic Cancer Review Committee

Notice is hereby given of the cancellation of the meeting of the Prostatic Subcommittee of the Bladder and Prostatic Cancer Review Committee, National Cancer Institute, National Institutes of Health, June 2, 1980, which was published in the Federal Register on May 9, 1980 (45 FR 30697). For further information, please contact Dr. Andrew Chiarodo, Executive Secretary, Westwood Building, Room 853, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7194).

Dated: May 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–16541 Filed 5–30–80; 8:45 am]

BILLING CODE 4110–08–M

Conference Notice; Use of Monoclonal Antibodies in Endocrine Research

Notice is hereby given of a Conference, Use of Monoclonal Antibodies in Endocrine Research, sponsored by the National Institute of Arthritis, Metabolism, and Digestive Diseases, June 30–July 1, 1980, National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland 20205. Further information about the Conference and the exact times may be obtained from Dr. Robert A. Tolman, Endocrinology Research Program Director, NIAMDD, NIH, Westwood Building Room 620, Bethesda, Maryland 20205, 301–496–7504.

A recently completed evaluation of research needs in endocrinology and metabolism recommended broadened provision of resources analogous to, but beyond the scope of, those currently provided by the National Pituitary Agency, including well standardized uniform reagents for the establishment of radioimmunoassays.

The tentative agenda includes (1) methods—how monoclonal antibodies are produced, techniques, pitfalls; (2) successful users in related fields of research and how used in research; (3) uses of monocolonal antibodies in endocrinology, present and future.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health)

Dated: May 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–16539 Filed 5–30–80; 8:45 am]

BILLING CODE 4110–08–M

General Clinical Research Centers Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, June 29–30, and July 1, 1980, in Conference Room 10, Building 31–C, 9000 Rockville Pike, Bethesda, Maryland 20205.

The meeting will be open to the public on July 1, 1980, from 8:00 a.m. to approximately 9:30 a.m., to discuss administrative matters and program plans. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 29, 1980 from 6:30 p.m. until recess and on June 30, 1980, from 8:00 a.m. to recess and from approximately 9:30 a.m. to adjournment on July 1, 1980, for the review, discussion, and evaluations of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B13, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5545 will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Building 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, National Institutes of Health)

Dated: May 16, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–16543 Filed 5–30–80; 8:45 am]

BILLING CODE 4110–08–M

National Advisory Research Resources Council; Agenda Change

Notice is hereby given of a change in the Agenda of the meeting of the National Advisory Research Resources Council, May 29/30, 1980, in Conference Room 10, Bldg. 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, which was published in the Federal Register April 29, 1980 (45 FR 28505).

The meeting was to have convened on May 30, 1980, at 8:30 a.m. in closed session, but has changed to convene in open session on this day from 8:30 a.m. to approximately 9:15 a.m. for a report by a member of the Council on the Director's Advisory Committee Meeting of May 13–14, and the National Commission on Research Report on Accountability. The meeting will then convene from approximately 9:15 a.m. to adjournment in closed session for the review, discussion and evaluation of individual grant applications.

(Catalog of Federal Domestic Assistance Program Nos. 13.306; 13.333; 13.337; 13.371; 13.375; National Institutes of Health.)

Dated: May 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–16540 Filed 5–30–80; 8:45 am]

BILLING CODE 4110–08–M

Office of the Secretary

Availability of Report, "Effects of Nuclear Weapons Testing on Health" and "Archives," Department of Health and Human Services

AGENCY: Office of the Secretary.

SUMMARY: At a press conference on February 27, 1979, the Secretary, HEW, instructed the Director, National Institutes of Health to create a Panel of Experts to review HEW archives and documents on human and environmental exposure to ionizing radiation resulting from atmospheric testing of nuclear weapons. The experts were to search the archives for documents bearing on possible health effects of such testing, analyze any documents identified, recommend research needs or opportunities identified by this review, and report their findings to the Secretary.

Notice is hereby given that the report, "Effects of Nuclear Weapons Testing on Health" is now available. Requests for copies should be directed to: Dr. Victor H. Zeve, National Institutes of Health, Building 31, Room 10A–48, Bethesda, Maryland 20205; phone: (301) 496–9326.

The archives analyzed by the Panel of Experts can be examined by the public in microfilm facsimiles. Access can be arranged by contacting: Mr. J. Arthur Lazell, 5600 Fishers Lane, Rockville, Maryland 20857; phone: (301) 443–4690.

Dated: May 23, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80–16551 Filed 5–30–80; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: George Allen, Director, The Game Bird Preservation Center, 1155 E. 4780 South, Salt Lake City, UT 84117.

The applicant requests a permit to import 3 pair of Palawan peacock pheasants *(Polyplectron emphanum)* from Dr. K. C. Searle, 604–608 Gloucester Tower, Pedder St., Hong Kong, for propagation purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–7083. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before July 2, 1980. Please refer to the file number when submitting comments.

Dated: May 28, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–16681 Filed 5–30–80; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

Applicant: Columbus Zoo, 9990 Riverside Drive, Powell, OH 43065.

The applicant requests a permit to buy in interstate commerce, one male and two female captive-bred cheetahs (*Acinonyx jubatus*) from Jeanette Williams Bale, RR #1, P.O. Box 981, Venice, FL 33595 for propagation purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–7068. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before July 2, 1980. Please refer to the file number when submitting comments.

Dated: May 23, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–16683 Filed 5–30–80; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

Applicant: Richard Philibosian, Box 1878, Frederiksted, St. Croix, V.I. 00840.

The applicant requests a permit to take, capture and toe clip up to 30 St. Croix Ground lizards (*Ameiva polops*) from Protestant Cay, St. Croix and release on Ruth Island, St. Croix, for the purpose of enhancement of survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-7065. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before July 2, 1980. Please refer to the file number when submitting comments.

Dated: May 23, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-16582 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco, Inc., has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3147, Block 26, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 22, 1980.

Lowell G. Hammons,

conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16528 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 28, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Serve, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by June 17, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

New York

New York County

New York, *Rice, Isaac L., Mansion (Villa Julia)* 346 W. 89th St.

[FR Doc. 80-16554 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

Alaska; Final Decisions on the Nonwilderness Assessment of the Alaska Gas Transportation System Route, Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the final nonwilderness decisions on nine assessment segments. The assessment is required at this time to quickly identify those public lands currently under the administration of the Bureau of Land Management (BLM) that clearly do not have wilderness characteristics to expedite processing of applications in connection with the Alaska Natural Gas Transportation System and the application pending for the Golden Valley powerline right-of-way. Special permission from the Bureau Director has been granted to accelerate this nonwilderness assessment ahead of the planned wilderness review of public lands in Alaska.

SUPPLEMENTARY INFORMATION: On April 4, 1980, the proposed decision on the nonwilderness assessment was published in the **Federal Register,** pages 23071 and 23072, and distribution of the decision document was made. A total of twelve public meetings were held in Alaska to provide additional information regarding the assessment and to receive any comments. Notice of the scheduled public meetings was published in local Alaska news media.

During the 30-day comment period a total of twenty-six written and oral comments were received. All public comments have been recorded, analyzed, and evaluated for permanent reference. The public was encouraged to comment specifically on whether the information gathered was correct and whether the criteria were correctly applied to determine the existence or value of wilderness characteristics. The analysis of the comments received reveals that only one indicated a need for changing the acreage listed in the proposed decision.

Two comments received related to an objection to BLM classification of lands prior to conveyances under the Alaska Native Claims Settlement Act. The action proposed is not a classification of land but merely a determination of whether or not the lands being assessed meet the criteria set out in the Wilderness Act of 1964. The Department of the Interior Solicitor has issued a finding that public lands for which BLM has (long term or interim) surface management responsibility are subject to wilderness review with the exception of (1) lands located on the Outer Continental Shelf, (2) lands held for the benefit of Indians, Aleuts, and Eskimos, (3) lands validly selected by the State of Alaska whether or not tentatively approved. As pointed out in the proposed decision, "Neither the wilderness assessment nor its results will prevent or delay any conveyance from being issued." By way of clarification, this is to ensure that once interim conveyance is issued the lands are no longer considered to be public lands and thus findings and determinations of this assessment will no longer apply. The policy of requiring an applicant to secure letters of non-objection from holders of Native selections continues during BLM interim management. The results of this nonwilderness assessment does not relieve BLM of the requirements of the provisions of the National Environmental Policy Act including the preparation of environmental assessment records for all applications for land-use authorizations, nor does it establish or designate a specific corridor for rights-of-way.

One comment received indicates that the former Tetlin Indian Reservation has good hunting and fishing and that the opportunity for solitude is outstanding. We agree that hunting and fishing are good and that there are probably areas within the former Tetlin Indian Reservation which offer outstanding opportunities for solitude. This Reservation is scheduled to be transferred to private ownership sometime during the summer of 1980. Due to this comment we have reexamined the lands within the assessment area involving the former Reservation and changes have been made which adjust the boundary of the lands found to clearly lack wilderness characteristics. This change will reduce the total acreage of nonwilderness from 67,000 acres to 42,000 acres. The area adjusted lies south of the Alaska Highway where due to the level topography and available vegetation screening, it offers greater opportunity for solitude.

A comment was made supporting the efforts BLM made to encourage public participation during the assessment process, but also indicated a failure to advise the public prior to issuance of the proposed decision of the inclusion of the Golden Valley powerline. While information on this particular segment was not included in the earlier material made available, it was discussed at all public meetings held in Alaska.

As a result of other comments, the final decision includes reference to assessment of public land tracts less than 5,000 acres in size; to rehabilitation potential; to the fact that it is the *excessive* aircraft usage which lowers solitude below outstanding rather than just occasional flights; and that despite the fact lands are dropped from the Interim Management restrictions of Section 603(c) of the Federal Land Policy and Management Act of 1976, applications for land-use authorizations will still require an environmental assessment of impact upon adjacent lands.

The decision for each assessment segment is considered individually one separately from the decision for every other assessment segment. These decisions will become effective thirty days from the date of this notice, unless timely appeals are filed. Any person adversely affected by this decision may appeal by following the normal administrative procedures (43 CFR Part 4) for appeals to the Interior Board of Land Appeals. My final decision is as follows:

1. A total of approximately 1,474,000 acres of public lands and islands as identified on the official maps located in the Alaska State Office have been found to lack wilderness characteristics and are to be dropped from further consideration under the wilderness review process and released from the constraints of interim management as specified in Section 603(c) of the Federal Land Policy and Management Act of 1976.

2. All other public lands may be subject to wilderness review at a later date and will be managed in accordance with the interim management provisions.

3. Any lands which are presently included in applications for transfer out of Federal ownership, which for some reason are not transferred and which are located within the assessment area, are considered to be covered the same as other nonwilderness public lands and are no longer subject to the provisions of Section 603 of the Federal Land Policy and Management Act of 1976.

The following provides a further breakdown of the above totals by assessment segment:

Summary Nonwilderness Assessment Final Decision

[Statistical Breakdown]

Segment and subsegment name and number	Segment acreage			
	Total assessment segment	Public lands requiring review	Public lands subject to inventory at later date	Public lands removed from further wilderness review and IMP requirements
Coast—01	445,000	[illegible]	[illegible]	[illegible]
Sagavanirktok—02	512,000	512,000	187,000	325,000
Atgun—03	526,000	526,000	305,000	223,000
Prospect—04	555,000	551,300	249,000	302,300
Yukon—05	725,000	[illegible],300	191,300	497,000
Fairbanks—06	956,000	[illegible]	[illegible]	[illegible]
Dot Lake—07	503,000	3,840	3,840	[illegible]
Macomb Plateau—07—01		(3,840)	(3,840)	(0)
Tetlin—08	501,000	85,800	43,800	42,000
Tetlin Indian Reservation—08—01		(72,800)	(30,800)	(42,000)
Ladue River—08—02		(13,000)	(13,000)	(0)
Round totals	4,725,000	2,369,000	980,000	1,389,000
Donnelly—09	181,000	113,000	28,000	[illegible]
Grand total	4,906,000	2,482,000	1,008,000	1,474,000

The official maps showing the precise boundaries are on file in the Alaska State Office, 701 C Street, Anchorage, Alaska 99513. Copies of these maps will also be on file at the Fairbanks District Office, North Post of Fort Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707 and at the Fortymile Resource Area Headquarters, P.O. Box 307, Tok, Alaska 99780.

Curtis V. McVee,

State Director.

[FR Doc. 80-16534 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-16440]

Idaho, Notice of Application

May 23, 1980.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Chevron Pipe Line Company filed an application for a right-of-way to construct a Cathodic Protection Unit across the following described Federal Lands:

Boise Meridian, Idaho

T. 3 S., R. 7 E.,
Sec. 28, NE¼

This Cathodic Protection Unit is a necessary and proper appurtenance of their petroleum products pipeline granted under I-0602.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and, if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address

and send them to the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 80-16533 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 30061]

Invitation to Participate in Coal Exploration License; Application of Mobil Oil Corporation

May 23, 1980.

Members of the public are hereby invited to participate with Mobil Oil Corporation in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Moffat and Rio Blanco Counties, Colorado:

T. 3 N., R. 93 W., 6th P.M.
Sec. 5: Lots 1, 2, S½NE¼, SE¼
Sec. 7: Lots 4, 5, 6, 9, 10, NE¼NE¼, S½NE¼, SE¼
Sec. 8: All
Sec. 17: All
Sec. 18: Lots 1 thru 6, E½, E½W½ (All)
Sec. 19: Lots 1 thru 4, E½, E½W¼ (All)
Sec. 20: N½, SW¼, N½SE¼, SW¼SE¼
Sec. 21: Lots 1, 3, 5, 7, 10, N½, N½SW¼, NW¼SE¼
Sec. 28: Lots 2, 4 thru 8, 12, 13, 15
Sec. 29: Lots 2, 3, 5, 8

Containing 4,554.08 Acres, more or less.

Any party electing to participate in this proposed program must send written notice of that election to the Bureau of Land Management and Mobil Oil Corporation directed to the following persons at the addresses indicated:

Leader, Craig Team, Branch of Adjudication, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

Mr. John W. Blumer, Mobil Oil Corporation, Energy Minerals Division, U.S. P.O. Box 5444, Terminal Annex, Denver, CO 80217.

Such written notice must be received by the above indicated persons at the addresses.

A copy of the exploration plan, as submitted by Mobil Oil Corporation, is available for public review during normal business hours in the following office, under Serial No. C-30061: Colorado State Office, Bureau of Land Management, Room 701, Colorado State Bank Building, 1600 Broadway, Denver, Colorado.

The exploration plan and lands to be included in the exploration license, if issued, are subject to the approval of the U.S. Geological Survey and the Bureau of Land Management, both agencies of the Department of the Interior.

The foregoing notice is published in the **Federal Register** pursuant to 43 CFR 3410.2-1(d)(1), 43 FR 42584 at 42614 (No. 140, July 19, 1979).

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 80-16535 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Wilderness Intensive Inventory Meeting Change

Due to transportation complications associated with the Mount St. Helens volcanic eruption, the wilderness public informational meeting originally scheduled for May 22, 1980 in St. Maries, Idaho, has been rescheduled for June 5, 1980, to begin at 7:30 P.M., in the Federal Building Conference Room, St. Maries, Idaho.

Dated: May 21, 1980.

Rex D. Colton,

Chief, Division of Resources.

[FR Doc. 80-16527 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

[Federal Coal Lease No. C-27931]

Availability for Public Review of a Coal Mining and Reclamation Plan for a Surface Coal Mine Proposed by Wyoming Fuels Co. for the Canadian Strip Mine, Jackson County, Colo.

May 21, 1980.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability of Proposed Coal Mining and Reclamation Plan for Public Review.

SUMMARY: Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has received an application from Wyoming Fuels Company to mine Federal coal at the Canadian Strip Mine. A brief description of the location and some associated rights of way follows:

Location of Lands To Be Affected

Applicant: The Wyoming Fuels Company.
Mine Name: Canadian Strip Mine, State: Colorado.
Township, Range, Section:
T. 8 N., R. 78 W., 6th P.M.,
Sec. 2: SW¼.
Sec. 10: NE¼ NE¼.
Sec. 11: W½ NW¼.

Office of Surface Mining Reference No. CO-0017

The Canadian Strip proposed mine is a reopening and extension of the Sigma Mine which had operated since 1973, and ceased operation in March, 1980. The Sigma Mine is an existing, non-operating mine located approximately 12 miles east of the town of Walden. In 1979, the Sigma Mine produced 97,000 tons of coal.

The Wyoming Fuels Company has proposed to reopen and continue mining into an emergency Federal lease issued in March, 1980. The Federal lease covers approximatley 100 acres of which 43 acres would be disturbed by mining activities. The total mine plan area, including the Sigma Mine and the emergency lease area would be approximately 200 acres. About 170,000 tons per year would be mined for about 2 years. The method of mining would be by open pit haulback method, using trucks and shovels for overburden material. The non-Federal land presently permitted by the State includes existing structures—office, shop and crushing plant. No new facilities would be located on Federal lands except for three portable light plants.

The mining and reclamation plan has been determined to be sufficiently complete and this notice is issued to inform the public of the availability of the plan for review. The Office of Surface Mining will prepare a technical analysis (TA) to determine whether the proposed plan meets the requirements of SMCRA and an environmental assessment (EA) which will evaluate the impacts of actions the Department of Interior may take on the plan. During the analytical review, it is possible that OSM will request additional information from the company. Any further information obtained would also be available for public review.

No action with respect to approval of the plan shall be taken by the Regional Director before July 2, 1980. Prior to making a final decision on this plan, the Office of Surface Mining will issue a Notice of Pending decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

This plan is available for public review at the Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado and at the Department of Natural Resources, State of Colorado, 23 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203. Comments on the proposed mine plan application may be addressed to the Regional Director, Office of Surface Mining, at the above address.

FOR FURTHER INFORMATION CONTACT:
Dane Bickley or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

R. H. Hagen,

Acting Regional Director.

[FR Doc. 80-16677 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-05-M

[Federal Coal Lease No. W-49644 and a Portion of Federal Coal Lease No. W-3397]

Availability for Public Review of a Coal Mining and Reclamation Plan for a Surface Coal Mine Proposed by Carter Mining Co. for the Caballo Mine, Campbell County, Wyo.

May 20, 1980.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability of proposed coal mining and reclamation plan for public review.

SUMMARY: Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has received an application from Carter Mining Company to mine Federal coal at the Caballo Mine. A brief description of the location follows:

Location of Lands to be Affected

Applicant: The Carter Mining Company.
Mine Name: Caballo Mine.
State: Wyoming.
Township, Range, Section:

T 48 N, R 70 W, 6th PM, Campbell County, Wyoming	Acres
Section 7: All	640
Section 18: Lots 1, 2, 3, 4, NE/4, E/2W/2	480
T 48 N, R 71 W, 6th PM, Campbell County, Wyoming	
Section 8: SE/4SE/4	40
Section 9: S/2SW/4, SW/4SE/4	120
Section 10: SE/4SW/4, S/2SE/4	120
Section 11: All	640
Section 12: All	640
Section 13: N/2, N/2S/2	480
Section 14: N/2, N/2S/2, SW/4SW/4	520
Section 15: E/2, E/2NW/4, Pt. E/2SW/4	465
Section 17: E/2E/2	160
Section 20: NE/4NE/4	40
Section 21: SE/4NW/4, E/2SW/4, SE/4, S/2NE/4	360
Section 22: S/2, S/2NW/4, Pt. NE/4NW/4, Pt. NE/4	510
Section 23: NW/4NW/4, Pt. SW/4NW/4, Pt. NW/4SW/4, S/2SW/4, SW/4SE/4	207
Section 26: NW/4, E/2NE/4, SE/4NE/4, N/2S/2	440
Section 27: N/2, N/2S/2	480
Section 28: NE/4, N-2SE/4, E/2NW/4, NE/4SW/4	360
Total Acres	6,702

Office of Surface Mining Reference No. WY 0013

The Caballo Mine is an existing mine located approximately 17 miles southeast of Gillette, Wyoming. Mining operations are currently conducted on 3,338 acres of State and fee coal land, under Wyoming State Permit No. 433. Mining began in late 1978 and the coal production has been approximately 8 million tons per year.

Carter Mining Company has proposed a continuous mining pit operation from the present mining operation on privately-owned coal to state leased coal through a section of Federally leased coal (from 1982–2016). The proposed plan involves mining Federally leased coal which is overlain by private surface (owned by Carter Mining Company). This leased land consists of approximately 6,702 acres of which 2,960 acres would be mined and 255 acres would be used for a railroad loop and plant facilities. Coal production from this Federal acreage would be about 11.5 million tons annually.

With the addition of the Federally leased land, the total mine plan area would be 10,040 acres (fee, State, and Federal land). Of this total area, 6,600 acres would be disturbed or affected by mine operations, and a total of 463 million tons of coal would be extracted over 44 years. Coal would be shipped out via unit trains.

Existing facilities at the mine site that would be utilized for the expansion of operations are two silos, a railroad loop and spurs, a warehouse, and an office. The proposed plan includes construction of two additional silos, a reservoir and a diversion system.

The mining and reclamation plan has been determined to be sufficiently complete and this notice is issued to inform the public of the availability of the plan for review. The Office of Surface Mining will prepare a technical analysis (TA) to determine whether the proposed plan meets the requirements of SMCRA and an environmental assessment (EA) which will evaluate the impacts of actions the Department of the Interior may take on the plan. During the analytical review, it is possible that OSM will request additional information from the company. Any further information obtained would also be available for public review.

No action with respect to approval of the plan shall be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability in the **Federal Register**, on or before July 2, 1980. Prior to making a final decision on this plan, the Office of Surface Mining will issue a Notice of Pending decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

This plan is available for public review at the Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado and at the Department of Environmental Quality (DEQ), State of Wyoming, 401 19th St., Cheyenne, Wyoming. Comments on the proposed mine plan application may be addressed to the Regional Director, Office of Surface Mining, at the above address.

FOR FURTHER INFORMATION CONTACT:
Mark Humphrey or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Donald A. Crane,

Regional Director.

[FR Doc. 80-16676 Filed 5-30-80; 8:45 am]

BILLING CODE 4310-05-M

[Federal Lease Nos. U-020305, U-044076, U-0142235, U-0147570, U-073120]

Coastal States Energy Co. and Getty Oil Corp., Skyline Mine, Carbon and Emery Counties, Utah; Pending Decision To Approve Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve underground coal mining and reclamation plan with stipulations.

SUMMARY: Pursuant to Section 1506.6 of Title 40 and § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Coastal States Energy Company and Getty Oil Corporation's Skyline mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of Coastal States Energy Company and Getty Oil Corporation's application was published in the **Federal Register** on April 11, 1980, 45 FR No. 72, p. 24927.

Location of Lands To Be Affected by Mining

Applicant: Coastal States Energy Company and Getty Oil Corporation.
Mine name: Skyline.
State: Utah.
Counties: Carbon and Emery.
Township, range, section: T. 13 S., R. 6 E., Sections 10, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35.
Office of Surface Mining Reference No. Ut–0003.

The proposed mine is located approximately 22 miles northwest of Price, Utah and approximately four miles southwest of Scofield, Utah. The proposed plan involves multiseam, underground mining of Federal coal almost entirely overlain by Federally owned surface (Manti La Sal National Forest) which is administered by the U.S. Forest Service. The Federal coal lease area is 6,400 acres of which 76 acres of surface would be disturbed by mining. Approximately five million tons/year would be mined for 30 years. Coal would be conveyed to a train load-out facility at the mouth of Eccles Canyon for transportation to coal markets.

The U.S. Geological Survey evaluated impacts that could occur from the proposed Skyline Mine (formally the McKinnon Mines Nos. 1 and 2) in its final regional and site specific environmental impact statement (EIS), *Development of Coal Resources in Central Utah* (1979). Based on a revised mining and reclamation plan submitted to OSM to fulfill the requirements of the Surface Mining Control and Reclamation Act of 1977, OSM has prepared a technical analysis and environmental assessment. From its analyses, OSM has determined that no significant impacts would occur that have not already been evaluated in the *Development of Coal Resources in Central Utah* EIS.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of Coastal States Energy Company and Getty Oil Corporation's mining and reclamation plan for the Skyline Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the Permanent Regulatory Program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on Coastal States Energy Company and Getty Oil Corporation's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application not later than 2 months after the effective date of the Utah State program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Secretary's decision will be based on the recommendation of OSM, the U.S. Forest Service, the U.S. Geological Survey, the Utah Division of Oil, Gas, and Mining, and any public comments received on or before June 23, 1980.

DATES: All requests for a public meeting must be made on or before June 22, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: John Nadolski or John Hardaway Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Paul L. Reeves,
Deputy Director.

[FR Doc. 80–16850 Filed 5–30–80; 8:45 am]
BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–64 General Temporary Order No. 21]

Decision

Decided: May 20, 1980.

There is an emergency resulting from the eruption of Mount St. Helens affecting a number of the Nation's carriers in the Pacific Northwest which are unable to transport property and passengers.

There exists an immediate and urgent need for carrier service to supplement temporarily the transportation facilities of the Nation for the movement of property and passengers to and from the Pacific Northwest. For purposes of this decision, Pacific Northwest is defined as the States of Washington, Oregon, Idaho, Montana and Wyoming.

To meet this need the Commission will provide a more flexible method for the processing of applications for temporary authority to render the required motor service.

It is ordered:

Pursuant to 49 U.S.C. 10928, all persons who shall apply to any regional operations director, assistant regional operations director, district supervisor, or their designees, of the Commission's Office of Consumer Protection are granted temporary authority to transport property or passengers in interstate or foreign commerce, by motor vehicle for a period of not more than 30 days to the extent and scope that any of the above designated officials certify that there is an immediate and urgent need for service.

Special procedures to expedite the filing and processing of these applications will be used.

This grant of temporary authority is conditioned upon compliance with applicable requirements concerning tariff and schedule publications, evidence of security for the protection of the public, and designation of agents for service of process, and further conditioned upon such tariffs and schedules quoting rates, fares, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized.

Service performed under temporary authority granted pursuant to this order shall in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in 49 U.S.C. 10922 and 49 U.S.C. 10923.

Temporary authority granted pursuant to this order shall expire as of the first midnight after the issuance of an order by this Commission revoking General Temporary Order No. 21, except as to property or passengers, the transportation of which began prior to that time.

This order shall become effective May 20, 1980.

Notice of this order shall be given to motor carriers, rail carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, and Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Chairman Gaskins and Commissioner Trantum absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–16566 Filed 5–30–80; 8:45 am]
BILLING CODE 7035–01–M

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

May 19, 1980 ..... 112.5¢

	Transportation performed by—			
	Owner operator [1] (1)	Other [2] (2)	Bus carrier (3)	UPS (4)
Average percent: Fuel expenses (including taxes) of total revenue..	16.9	2.9	6.3	3.3
Percent surcharge developed.....	13.0	2.2	4.9	[3] 2.1
Percent surcharge allowed.....	13.0	2.2	4.9	[4] 1.3

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent)
[4] The developed surcharge figure is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80–16565 Filed 5–30–80; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 241; Seventh Revised Exemption 141]

Aberdeen and Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

To all Railroads

It appearing, That the railroads named herein own numerous plain gondola cars less than 61-ft.; that under present conditions, there are surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, 61-ft. in length, described in the Official Railway Equipment Register, ICC–RER No. 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB," which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP–CWP&S
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Louisiana Midland Railway Company
Reporting Marks: LOAM
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
*Octoraro Railway, Inc.
Reporting Marks: OCTR

Effective May 15, 1980 and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 15, 1980.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 80–16562 Filed 5–30–80; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 29328]

Decision; Burlington Northern Inc.—Purchase (Portion)—Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Application Accepted For Consideration.

SUMMARY: The Commission is accepting for consideration the application of Burlington Northern Inc. to purchase certain properties of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company located in the States of WA, ID, MT, ND, SD, MN, and WI. The Commission is also setting a schedule for the proceeding, so that a final decision on the application may be issued within 90 days.

DATES: This decision shall be effective on the date it is served.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275–7245.

SUPPLEMENTAL INFORMATION: Burlington Northern Inc. (BN) filed an application on May 15, 1980, under Section 5(b) of the Milwaukee Railroad Restructuring Act, Pub. L. 96–101, 93 Stat. 736 (1979), for authority to purchase certain properties of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company (Milwaukee) located in WA, ID, MT, ND, SD, MN, and WI. The application will be handled under the rules adopted in Ex Parte 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 ICC 623 (1980), 49 CFR § 1111.20 *et seq.* This application is filed pursuant to Order No. 295 of the bankruptcy court, dated March 18, 1980.

The properties sought to be purchased are:

1. Trackage, right-of-way and other properties of the Washington, Idaho & Montana Railway Company between Palouse, WA and Bovill, ID (48 miles)

*Addition.

2. Easement of .48 miles over Milwaukee trackage at Deer Lodge, MT

3. Right-of-way lands, excluding trackage, between Bonner and Missoula, MT, and between Bearmouth and Drummond, MT

4. Milwaukee trackage and rights-of-way:

Sieler-Moses Lake, WA (18 miles)
Bellingham, WA (5 miles)
Strandell-Sumas, WA (9 miles)
Hampton-Lynden, WA (5 miles)
Spokane, WA-Coeur D'Alene, ID (7 miles)
Warden-Othello, WA, Main Line (15 miles)
Warden-Othello, WA (Tiflis-Marcellus Branch) (.8 miles)
Maple Valley-Shoqualmie Falls, WA (27 miles)
Bonner, MT (1 mile)
Missoula, MT and Schilling, MT (1.75 miles)
Newcomb-Butte, MT (6 miles)
Easton-Cedar Falls, WA (37 miles)
Everett, WA (3 miles)
Choteau-Fairfield, MT (18 miles)
Emerson Jct.—Vaughn, MT (8 miles)
Great Falls, MT (7 miles)
Lewistown-Geraldine, MT (75 miles)
Moore-Lewistown, MT (19 miles)
Lewistown-Heath, MT (10 miles)
Linton, ND (1 mile)
Edgeley, ND (1.5 miles)
Ellendale, ND (1 mile)
Fargo, ND (38 miles)
Wahpeton, ND (2 miles)
Pipestone, MN (5 miles)
Crawford-Prairie du Chien, WI (2 miles)
Wentworth-Madison, SD (9 miles)

We have received the application and found it to be complete. It contains the information required by our regulations, except for those items we specifically waived by decision served May 12, 1980.

The bankruptcy court has directed us to act on the application within 90 days after the filing is complete. Because the Montana Railway Company may file an application to acquire part of the properties sought by BN, as stated in our decision served April 18, 1980 in Finance Docket No. 29303, *Montana Railway Company*, the following schedule will apply to the proceeding.

June 12, 1980—Complete application of Montana Railway Company must be filed.
July 2, 1980—Verified comments of the public, the Secretary of Transportation, and the Attorney General of the United States must be filed.
July 22, 1980—Replies of BN-Milwaukee and Montana, to each other's applications and to public and Government comments must be filed. *No other or further replies will be entertained.*

It is ordered: 1. The application in Finance Docket No. 29328 is accepted for consideration.

2. The parties shall comply with all provisions as stated above.

3. This decision is effective on the date served. Dated: May 22, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-16584 Filed 5-30-80; 8:45 am]

BILLING CODE 7035-01-M

[No. 37384]

Marketing Corporation of America—Petition for Declaratory Order—Distribution of Promotional Coupons

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Petition for Declaratory Order.

SUMMARY: Petitioner, a distribution of manufacturers' coupons, seeks a ruling that statutory provisions and related rules enforced by the ICC do not prohibit arrangements with household goods carriers to distribute these coupons. It is the Commission's opinion at this point that the plan does not violate 49 U.S.C. §§ 10761(a), 11903(a), 11904(b)(1), or 49 CFR § 1104.2(d).

DATES: Written comments are due by June 2, 1980.

ADDRESS: Send an original and 15 copies (if possible) of comments to: Interstate Commerce Commission, Office of Proceedings, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall—(202) 275-7693.

SUPPLEMENTARY INFORMATION: Petitioner (MCA) distributes manufacturers' coupon offers to consumers. Through these coupons, manufacturers promote the sale of their products by offering consumers the opportunity to save money if they purchase these products. The coupon offers take two forms: (a) the "cents off" coupon which would offer the consumer a specified amount off the retail price of a named product; or (b) the "refund" coupon which invites the consumer, after the purchase of a named item, to send the coupon and proof of purchase directly to the manufacturer of the item, whereupon the manufacturer would refund to the consumer a specified portion of the purchase price paid.

MCA, at its own expense, will assemble coupon packets and make them available to all household goods carriers interested in participating in the program. The carrier will deliver one packet to each household after the carrier has completed the move for that household. The household will not know it is to receive a packet until it is delivered.

Carriers will not be charged a fee for participation in the program. MCA proposes to reimburse carriers for their costs in distributing the packets so that involvement in the program is cost-free to the carrier. However, no carrier will be given any other compensation or commission for its participation in the program. Thus, the program will not be a source of profit for any carrier. The packets will not contain any offers which would relate to the services performed by carriers.

MCA asserts that the consumer would benefit from this program in two ways. First, the packets will place an entire group of offers in the hands of the consumer rather than requiring the conumer to collect such offers one-by-one from other sources. Second, the packets will be made available after the consumer has moved into a new location and is likely to be shopping for many of the items for which coupons will be made available.

MCA has identified several prior Commission and court cases which might be read as prohibiting its plan, e.g., *Practices of Motor Common Carriers of Household Goods*, 126 M.C.C. 130 (1976); *Union Pacific R. Co. v. U.S.*, 313 U.S. 450 (1941). It believes these cases are distinguishable and, thus, are not a bar to its proposal.

MCA also notes that it has discussed its proposal with our Bureau of Operations. The Bureau concluded that the plan was lawful if the value of the coupons did not exceed $25.00.[1] MCA objects to this limitation and disagrees with the Bureau's analysis.

The petition demonstrates the existence of a controversy resolvable under 5 U.S.C. § 554(e). The issues presented are: (1) whether the distribution of manufacturers' coupons affects the rate charged for transportation services and, thus, constitutes a "rebate" under 49 U.S.C. section 11904(b)(1), or violates the intent of 49 U.S.C. sections 10761(a) or 11903(a); (2) whether 49 CFR 1004.2(d) is applicable and if so, whether coupon packets offering manufacturers' discounts have "substantial intrinsic value;" and (3) whether it is necessary to require the carriers to note participation in this plan in their tariffs.

It is our present analysis that the distribution of manufacturers' discount coupon offers via household goods carriers does not violate these provisions. The program does not appear to have any impact on *transportation* rates or services. The

[1] The Bureau also set forth other conditions which have been met in the plan described in MCA's petition.

discount coupon constitutes a promise by the manufacturer to pay the consumer a fixed amount. It does not relate to the carrier's relationship to the shipper and therefore would not be a rebate as that term is used in § 11904(b)(1), nor does it appear to violate the intent of the tariff publication provisions of section 10761(a). The plan is available equally to all household goods movers and, thus, to all their customers. Accordingly, we do not believe 49 CFR 1004.2(d) is applicable. The carrier here would act merely as a conduit between MCA and the consumer.

Interested persons are invited to comment. While we do not believe this is a significant action affecting adversely the quality of the human environment or conservation of energy resources, comments on this issue are also welcome.

This notice of declaratory order is issued under the authority of 5 U.S.C. section 554(e), and 40 U.S.C. sections 10101, 10321, and 10521.

Decided: May 22, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-108583 Filed 5-30-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

United States Circuit Judge Nominating Commission Seventh Circuit Panel; Meeting

The Seventh Circuit Panel of the United States Circuit Judge Nominating Commission (Chairman: Justin A. Stanley) will hold its next meeting on Wednesday, June 18, 1980, in Room 2781 of the Federal Building, 219 South Dearborn Street, Chicago, Illinois at 10:30 AM. The meeting will be devoted to a discussion of applicants and will be closed to the public pursuant to P.L. 92-463, Section 10(d) as amended. [CF 5 U.S.C. 552b(c)(6)].

Phillip B. Cover,

Committee Management Control Officer.

[FR Doc. 80-16607 Filed 5-30-80; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Panel; Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Museum Panel to the National Council on the Arts will be held June 17, 1980 from 9:00 a.m.-5:30 p.m. and June 18, 1980 from 9:00 a.m.-5:30 p.m., in Room 1422, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 17, 1980 from 9:00 a.m.-5:30 p.m. for the discussion of Policy.

The remaining sessions of this meeting on June 18, 1980 from 9:00 a.m.-5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 522b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: May 22, 1980.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 80-16606 Filed 5-30-80; 8:45 am]

BILLING CODE: 7537-01-M

Media Arts Panel (AFI); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (AFI) to the National Council on the Arts will be held June 2, 1980 from 9:00 a.m.-5:30 p.m. and June 3, 1980 from 9:00 a.m.-5:30 p.m., in the 12th Floor Screening Room of the Columbia Plaza Office Building, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-16302 Filed 5-30-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold a meeting on June 17-18, 1980 in room 1046, 1717 H St. NW, Washington, DC 20555. Notice of this meeting was published May 15, 1980.

In accordance with the procedures outlined in the Federal Register on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday and Wednesday, June 17-18, 1980, 8:30 a.m. until the conclusion of business each day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding pertinent portions of the NRC research program for the ACRS annual reports to NRC and Congress.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and

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budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities and to protect proprietary information. See 5 U.S.C. 552b(c)(9)(B) and 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EDT.

May 23, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-16288 Filed 5-30-80; 10:02 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295, 50-304]

Commonwealth Edison Co. (Zion Station, Units 1 and 2); Argument Order

May 23, 1980.

This Board will hear oral argument in this case at *10:00 a.m. on Tuesday, July 1, 1980,* in the *NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East West Highway, Bethesda, Maryland.* Each side will be allowed one hour for agrument. Intervenor-appellant, the State of Illinois, may reserve a portion of its allotted time for rebuttal. The applicant and staff shall divide their time equally unless we are advised that they have agreed on some other arrangement.

It is so ordered.

For the Appeal Board.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-16590 Filed 5-30-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409 (FTOL Proceeding)]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Order

May 23, 1980.

The prehearing conference announced in our Memorandum and Order Setting Prehearing Conference, dated May 21, 1980, will commence at 8:30 a.m. on Thursday, June 19, 1980, in Room 308, Cartwright Center, University of Wisconsin at La Crosse, La Crosse, Wisconsin 54601. The conference will consider various matters covered by 10 CFR § 2.752, as well as the manner in which the parties propose to respond to the questions or areas of inquiry set forth in the May 21, 1980 Memorandum and Order. No oral limited appearance statements will be taken. The Board will endeavor to adjourn the conference by 3:00 p.m. on June 19.

It is so ordered.

Dated at Bethesda, Maryland this 23rd day of May 1980.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman.

[FR Doc. 80-16588 Filed 5-30-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-448, 50-449]

Potomac Electric Power Co., (Douglas Point Nuclear Generating Station, Units 1 and 2); Order Terminating the Proceeding

On May 8, 1980, Potomac Electric Power Company notified the Director of Nuclear Reactor Regulation that it's application for an early site review is withdrawn.

On May 14, 1980, counsel for the utility requested the Licensing Board to issue an order terminating the proceeding. The proceeding is terminated.

It is so ordered.

Dated at Bethesda, Maryland this 27th day of May 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-16591 Filed 5-30-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. NPF-4 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 1 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment corrects an administrative error presently existing in the Technical Specifications regarding the maximum response time expected from the onset of a detected degraded offsite power system until the emergency diesel generator is supplying power to the emergency buses.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action see (1) the application for the amendment dated January 8, 1980; (2) Amendment No. 18 to Facility Operating License No. NPF-4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 18th day of May, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 80-16589 Filed 5-30-80; 8:45 am]

BILLING CODE: 7590-01-M

[Docket No. 40-8502]

Wyoming Mineral Corp.; Irigaray Uranium Solution Mining Project; Order Modifying License (Effective Immediately) and Terminating Show Cause Order

I

Wyoming Mineral Corporation, owner-operator of the Irigaray Uranium Solution Mining Project in Johnson County, Wyoming, was issued Source Material License No. SUA-1341 on November 17, 1978, authorizing uranium recovery from a maximum of 20 hectares (50 acres) of well field by in-situ solution mining of uranium ore bodies.

II

On April 21, 1980, based on evidence of uncontrolled vertical excursions of lixiviant resulting from operations at the Irigaray site, the Director of the Office of Nuclear Material Safety and Safeguards issued a Show Cause Order directing the Licensee to show cause why the license should not be modified to (1) immediately suspend introduction of lixiviant refortified with ammonia into any injection wells; (2) continue to operate by recycling unrefortified lixiviant; (3) continue activities involving removing contamination produced by shallow zone excursions; and (4) commence restoration and decommissioning of the site. That order was stated to be immediately effective pending further order of the Commission. The Licensee filed an answer to the order to show cause on May 12, 1980.

III

On May 7, 1980, at a meeting with NRC staff and a staff consultant, representatives of the Licensee presented preliminary geological information and water quality analyses obtained as a result of diagnostic well drilling. On May 19, 1980, the Licensee submitted its interpretation of the available geological data and the results of water quality analyses obtained from wells drilled specifically to determine the extent of contamination (submittal dated May 16, 1980). The diagnostic program conducted by the Licensee has shown that the lixiviant and pollutants in the short term are being confined laterally to the well field vicinity. However, further analysis is necessary to determine whether there may be migration from the well field areas in the future. Therefore, it is necessary to continue and provide additional monitoring to ascertain that the lixiviant remains confined laterally in the well field area. In addition, due to the lack of definition of the site hydrogeology, aquifer pumping tests need to be performed to evaluate the extent and direction of any lixiviant and pollutant movement. It is also necessary to remove the contamination produced by the past uncontrolled shallow zone excursion in the various well fields.

IV

In view of the above, the public interest, including the environment, justifies termination of the Show Cause Order of April 21, 1980, and requires the imposition of additional requirements as a condition of resumption of operation.

V

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2, 40, and 51, it is hereby ordered that:

A. The April 21, 1980 Order to Show Cause is terminated.

B. Source material License No. SUA-1341 is modified, effective immediately, as follows:

(1) The following conditions shall apply to the production of uranium from the ore zone of the previously mined well fields (units 1 through 5).

(a) Sodium carbonate/sodium bicarbonate solution is used as the lixiviant.

(b) The Licensee shall monitor chloride in all of the existing diagnostic wells listed in Tables 2, 3, and 4 of the Licensee's submittal dated May 16, 1980. In addition, the Licensee shall drill two additional wells: one into the "Unit 1, shallow, silty sand," located at approximately 1,175,800N and 819,000E and one into the upper water table aquifer (as referenced in Table 4), located at approximately 1,176,200N and 819,800E, and monitor these wells for chloride. Sampling for chloride shall be performed every other week. If the chloride concentration in any well is determined to be as much as 10 mg/l higher than the value reported for that well in Tables 2, 3, or 4 of the Licensee's submittal dated May 16, 1980, or in the case of the above specified additional monitor wells, 10 mg/l higher than the initial chloride values (initial values for the two wells shall be reported to the NRC as soon as the data are obtained), the well shall be resampled and tested for chloride within 24 hours of first noting the elevated chloride condition. If the second sample still shows elevated chloride concentrations, the Licensee shall report the condition to the uranium Recovery Licensing Branch by telephone within 24 hours (301-427-4103) and confirm this in writing.

(c) To better define the hydrogeology of the permitted area and to aid in removing the contamination produced by the uncontrolled shallow zone excursion in the various well fields, the Licensee shall conduct aquifer pumping tests; details to be agreed upon by NRC and the Licensee.

(d) The Licensee shall not initiate production of uranium from any other well field until authorized by the NRC.

(2) The Licensee shall continue its efforts to remove the contamination produced by the uncontrolled shallow zone excursions in the various well fields.

(3) Within 90 days from the date of this order, the Licensee shall demonstrate that control and restoration are achievable by:

(a) Defining in detail the hydrostratigraphy of the permited area (30 acres) by state of the art hydrostratigraphic analysis, and

(b) By determining if a confining layer is present for containment, and developing a monitoring program in association with it, or by presenting a plan to control excursions by hydraulic methods, or otherwise.

State of the art as referred to in paragraph (3)(a) above, includes but is not limited to, obtaining geophysical logs on uncased holes for purposes of defining the hydrostratigraphy. Geophysical logging should include but not be limited to:

1. Gamma Log
2. Neutron Log
3. Density Log
4. Caliper Log

Logs must be interpreted so as to define hydrostratigraphic units so that valid hydrostratigraphic cross sections can be drawn from ground surface to the bottom of the ore body. Such cross sections can be used to identify and delineate confining beds and to identify horizons wherein monitor wells can be installed.

Continued operation in the long term in the licensed area (50 acres) may be authorized by further order of the Commission depending upon and subsequent to Commission review and evaluation of the data submitted pursuant to this condition.

IV

The Licensee may, within twenty days of the date of this Order, file a written answer to this Order under oath or affirmation. The Licensee or any other person whose interest may be affected by this Order may request a hearing within twenty days of the date of the Order. Any request for a hearing will not stay the immediate effectiveness of this order. Any request for a hearing

should be submitted to the Director, Office of Nuclear Material Safety and Safeguards, Washington, D.C., 20555 with a copy to the Executive legal Director at the same address. If a hearing is requested by a person whose interest may be affected by this Order, the Commission will issue an Order designating the time and place for such hearing.

In the event a hearing is held, the issues to be considered at such hearing shall be:

(1) Whether the facts stated in Part II and III of this order provide an adequate basis for the actions ordered.

(2) Whether this order should be sustained.

Dated at Silver Spring, Maryland this 23rd day of May, 1980.

For the Nuclear Regulatory Commission.

J. B. Martin,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 80-16587 Filed 5-30-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Delay in Publication of Semi-Annual Agenda

May 28, 1980.

AGENCY: Office of Management and Budget.

ACTION: Delay in publication of semi-annual agenda.

SUMMARY: The publication of OMB's semi-annual agenda of upcoming actions on OMB's directives was to be published in the **Federal Register** June 2, 1980. Delays have caused this date to slip to June 16, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. David R. Leuthold, Budget and Management Officer, Room 5208, New Executive Office Building, Washington, D.C. 20503, (202) 395-7250.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-16647 Filed 5-30-80; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

May 28, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to filled out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Agricultural Marketing Service
Application for inspection under the Agricultural Marketing Act of 1946
IN-201
On occasion
Rice and commodity processing plants, 24,000 responses; 2,000 hours
Charles A. Ellett, 395-7340

Animal and Plant Health Inspection Service
9 CFR 11—Horse protection regulations
VS 19-7
On occasion
Horse industry organizations or associations, 2,835 responses; 803 hours
Charles A. Ellett, 395-7340

Economics, Statistics, and Cooperatives Service
Filbert objective yield—Oregon
Annually
Filbert Growers, 406 responses; 99 hours
Office of Federal Statistical Policy and Standard, 673-7974

Reinstatements

Food and Nutrition Service
Regulations (7 CFR 250) donation of food commodities for use in U.S.
FNS-51
On occasion
State distribution agencies for child nutrition programs, 2,154 response; 10,039 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

National Bureau of Standards
Evaluation instrument for "the marketplace"
NBS-1152
Single time
State and local weights and measures officials, 600 responses; 100 hours
William T. Adams, 395-4814

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Departmental and other
MIL-STD-1543 (USAF) reliability program requirements for space and missile system
On occasion
Aerospace defense contractor, 275 responses; 33,000 hours
Kenneth B. Allen, 395-3785

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Secondary prevention with adult patients in primary care settings
On occasion
Patients and clinicians, 1,440 responses; 1,070 hours
Richard Eisinger, 395-6880

Office of Human Development
Annual State WIN plan, worksheets 1-6 and signature page
Annually
State WIN programs (ES and welfare agencies), 54 responses; 1,080 hours
Barbara F. Young, 395-6880

Social Security Administration
Financial status report
SSA-4217
On occasion
Agen. of Sts and terri rep. ener. assist paymt and cost of EAP, 324 responses; 1,296 hours
Barbara F. Young, 395-6880

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Housing Production and Mortgage Credit
Mortgage record change
HUD-92080
On Occasion
HUD approved mortgages, 780,000 responses; 195,000 hours
Richard Sheppard, 395-6880

Housing Production and Mortgage Credit
Requisition for disbursement of section 202 loan funds
HUD-92403-EH
On occasion
Borrow entities, 3,600 responses; 1,800 hours
Richard Sheppard, 395-6880

Extensions

Housing Production and Mortgage Credit
Mortgagee's application for property appraisal and commitment for mortgage insurance under the NHA
FHA-2800
On occasion
Homeowners through mortgage bankers, 600,000 responses; 147,500 hours
Richard Sheppard, 395-6880

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343-6716

New Forms

National Park Service
Bryce Canyon NP/Alton visitor survey
Single time
Park visitors, 6,500 responses; 5,500 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523-6341

New Forms

Employment and Training Administration
Unemployment spells questionnaire
ETA-24
Single time
Recipients of unemployment insurance, 2,800 responses; 700 hours
Arnold Strasser, 395-6880

Revisions

Bureau of Labor Statistics
Supplementary data system
BLS 99
Annually
State workers' compensation agencies, 36 responses; 395,200 hours
Arnold Strasser, 395-6880

Employment Standards Administration
Application for self-insurance
CM-920
Annually
Coal mine operators seeking to be self-insurers, 100 responses; 800 hours
Arnold Strasser, 395-6880

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

Revisions

Coast Guard
Application for class 1 aids to navigation on artificial islands and fixed structures
CG-4143
On occasion
Off-shore exploration companies, 1,200 responses; 600 hours
Susan B. Geiger, 395-7340

Reinstatements

Coast Guard
Application of owner for and notice of award of official number and signal letters (for vessels)
CG-1320
On occasion
Vessel owners or agents, 40,000 responses; 10,000 hours
Susan B. Geiger, 395-7340

Coast Guard
Satisfaction of mortgage (of vessel) 1363
On occasion
Lending institutions, 26,000 responses; 8,667 hours
Susan B. Geiger, 395-7340

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Clearance Officer—Jacquelin Brent—632-3858

Revisions

Request for registration for political risk investment insurance
OPIC 50 and 52
On occasion
Businesses and individual investors, 875 responses; 1,050 hours
Phillip T. Balazs, 395-4814

ACTION

Agency Clearance Officer—James B. Lancaster—254-3172

Revisions

SCP demonstration project impact evaluation questionnaires
Annually
Partic. in SCP demos and those on waiting list to participate, 811 responses; 584 hours
Arnold Strasser, 395-6880

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Clearance Officer—Linwood A. Rhodes—632-0084

Revisions

Title II, Pub. L. 480 commodities—annual estimate of requirements—FY 19...
AID 1550-3

Annually
Private voluntary agencies, 75 responses; 1,875 hours
Phillip T. Balazs, 395–4814

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Paul Elston—755–2744

New Forms

Urban environment directory questionnaire
Single time
Non-profit organization 2,500 throughout the U.S., 850 responses; 425 hours
Edward H. Clarke, 395–7340

Architect/engineer (A/E) level of effort study
Single time
Consulting engineering firms, 300 responses; 1,200 hours
Edward H. Clarke, 395–7340

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Paul Elston—755–2744

Revisions

Laboratory performance evaluation
Other (see SF–83)
Laboratories providing data for EPA, 16,000 responses; 32,000 hours
Edward H. Clarke, 395–7340

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—254–9515

Reinstatements

Notice of interest in applying for Federal disaster assistance
On occasion
Local governments in disaster areas, 5,000 responses; 1,250 hours
Edward C. Springer, 395–4814

DCPA program status report
FEMA 70–13
Annually
Regional plans and preparedness specialists assisted by State, 5,656 responses; 1,400 hours
Edward C. Springer, 395–4814

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—357–7811

New Forms

Improvement of the external product evaluation system
On occasion
Individual, 3,500 responses; 584 hours
Marsha D. Traynham, 395–7340

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

New Forms

Task environment survey (I) and (II)
OPM–21–80
On occasion
Const. clients, Fed. St. and loc. offic. and mem. of OS bodies, 850 responses; 200 hours
Edward H. Clarke, 395–7340

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

Supplement to application for widow(er)'s insurance annuity
AA–17B
On occasion
Disabled widows and widowers, 400 responses; 67 hours
Barbara F. Young, 395–6880

Contributions and support
G–134
On occasion
Applicants for RRA benefit, 100 responses; 25 hours
Barbara F. Young, 395–6880

Application for lump-sum death payment and annuities unpaid at death
AA–21
On occasion
Applicant for RRA benefits, 15,000 responses; 7,500 hours
Barbara F. Young, 395–6880

Supplemental report of service or compensation (by employer for periods subsequent to those already filed)
UI–41
On occasion
Railroad employers, 5,000 responses; 833 hours
Barbara F. Young, 395–6880

Jim J. Tozzi,

Assistant Director for Regulatory and Information Policy.

[FR Doc. 80–16669 Filed 5–30–80; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21592; 70–6126]

American Electric Power Co.; Proposed Issuance and Sale of Common Stock to Trustee for Employees Savings Plan

May 27, 1980.

In the matter of American Electric Power Company, 2 Broadway, New York, New York 10004.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and (7) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction.

By orders dated April 25, 1978 and April 27, 1979 (HCAR Nos. 20516 and 21022), AEP was authorized to issue and sell, from time to time through June 30, 1980, up to 1,000,000 shares of authorized unissued common stock, par value $6.50, to Bankers Trust Company, the Trustee for the AEP Employees Savings Plan ("Savings Plan"). Through May 2, 1980, a total of 647,200 of such shares had been sold to the Trustee for a total price of $12,529,231, leaving a balance of 352,800 shares.

The Savings Plan is a defined contribution, individual account plan, under which a participant's benefits are based solely upon the amount contributed to his account and any income and gains or losses which may be allocated to it. The Savings Plan meets the requirements of the Employer Retirement Income Security Act of 1974 ("ERISA") and qualifies under Section 401(a) of the Internal Revenue Code. Any employee who has attained age 20 and been employed one year with one or more of AEP's subsidiaries ("Employers") is eligible to participate, except employees covered by the National Bituminous Coal Wage Agreement and employees who are covered by collective bargaining agreements if their Employer and their union have not agreed that their collective bargaining unit is to be covered by the Savings Plan. A participant may contribute to the Savings Plan, through regular payroll deductions, from 1% to 10% of his regular compensation, may change the rate of his contribution not more than twice in a 12-month period and may suspend his contribution for a minimum of three months. Each Employer contributes to the Savings Plan each month on behalf of each employee participant an amount equal to 50% of such participant's contribution up to 6% of his regular compensation (subject to applicable maximum contributions under ERISA) in each calendar year.

The monthly contributions made by participants and Employers are remitted to the Trustee, and credited to the individual accounts of participants. Each participant's contribution is invested by the Trustee, as directed by the participant, in one, or in equal portions in any two or all, of the following three funds: (a) the AEP Stock Fund, which consists entirely of shares of AEP common stock; (b) the Equity Fund, which consists of an index fund of common stocks selected by the Trustee (and may include shares of AEP common stock); or (c) the Fixed Income Fund, the contributions to which are invested by the Trustee pursuant to a contract with the Equitable Life Assurance Society of the United States ("Equitable") under which contract Equitable guarantees repayment of principal amounts invested with it and interest at an effective annual rate of 7.85% through December 31, 1987. Employer contributions on behalf of participants are invested entirely in the AEP Stock Fund. Participants' contributions are fully vested at all times. Employer contributions become vested at the earlier of (a) the end of the third year following the year for which the contributions were made, or (b) the participant's retirement, permanent and total disability, death or termination of employment after age 60 in certain cases.

Participants, while employed, may elect to receive a distribution of all or a portion of the value of the vested contributions credited to their accounts by either (i) during November of each year, commencing with November 1981, electing to receive a distribution of the value of all contributions to his account for the third calendar year preceding the year in which the election is made, such distribution to be made in cash and shares of AEP common stock or entirely in cash, and such election not resulting in any for feiture or other penalty; or (ii) electing to withdraw, once in any twelve-month period, the value of all or part of the contributions credited to his account that have vested, such distribution to be made entirely in cash, and such election resulting in a full or partial suspension of the participant's right to contribute to the Savings Plan for periods up to nine months. Upon the retirement (or other termination of employment) or death of a participant, the entire vested amount in his account is distributed to him or his designated beneficiaries, in cash and shares of stock, or entirely in cash if the distributee so elects.

The administrative expenses of the Savings Plan are paid by the Employers. Direct charges and expenses arising from the purchase or sale of securities for the funds are paid by the Trustee from the funds involved. The price to the Trustee of such shares on any date of sale will be the average of the high and low sale prices of AEP's common stock on the New York Stock Exchange on such date (determined after the close of trading for the day), but in no event less than the par value thereof).

By post-effective amendment, AEP requests that it be authorized to issue and sell to the Trustee for the Savings Plan, through June 30, 1981, up to an additional 500,000 shares of its authorized unissued common stock, $6.50 par value, plus the unsold balance of the shares previously authorized but not heretofore issued and sold.

AEP requests an exemption from the competitive bidding requirements of Rule 50 under the Act for such issuance and sale pursuant to Rule 50(a)(5).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,250. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 19, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–16639 Filed 5–30–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11188; 812–4616]

Den Danske Bank; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From All Provisions of the Act

May 23, 1980.

In the matter of Den Danske Bank af 1871 Aktieselskab, c/o H. Rodgin Cohen, Esq., Sullivan & Cromwell, 125 Broad Street New York, New York 10004.

Notice is hereby given that Den Danske Bank af 1871 Aktieselskab ("Applicant") filed an application on February 21, 1980, and amendments thereto on May 9, 1980 and May 20, 1980, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that as of December 31, 1979, it was the largest commercial bank in Denmark and the third largest privately held bank in Scandinavia. Applicant's shares are held by an estimated 25,000 investors and are listed on the Copenhagen stock exchange. As of December 31, 1979, its total assets, deposits and capital funds amounted to approximately $5.9 billion, $5 billion and $540 million, respectively. Applicant's net profit for 1979 was $62.8 million. Applicant, which was chartered in 1871, presently has approximately 290 branches in Denmark, and its non-Danish interests include one subsidiary, one branch, two representative offices and seven affiliated banks. In the United States Applicant has one representative office and one affiliated bank, both located in New York. The principal office of Applicant is located at 12, Holmens Kanal, Copenhagen, Denmark.

Applicant's principal business activities are the receipt of deposits and making of loans. Other business activities of Applicant include fiduciary activities, foreign exchange and

underwriting. As of December 31, 1979, Applicant's loans, debt instruments, and cash on hand and balances with other banks consisted of approximately 49%, 16%, and 24% of its total assets, respectively. As of that date, deposits represented approximately 66% of Applicant's liabilities.

Applicant is organized and regulated under the Commercial Banks and Savings Banks Act of 2nd April, 1974 ("Bank Act") and is supervised by the Inspectorate of Commercial Banks and Savings Banks ("Inspectorate"), under the auspices of the Danish Ministry of Commerce. Among other things, the Bank Act regulates net capital and liquidity requirements and diversification tests for commercial banks such as Applicant. Applicant is required to provide the Inspectorate with monthly balance sheets and annual financial statements, audited by at least two auditors, one of whom is a government-authorized public accountant. Applicant submits that the Inspectorate conducts regular examinations of commercial banks, which are required to make such reports to the Inspectorate as it requires.

Applicant proposes to issue and sell unsecured prime quality commercial paper denominated in United States dollars to a United States commercial paper dealer which will then reoffer the commercial paper in minimum denominations of $100,000 to institutional investors and other persons who normally purchase commercial paper. The notes will provide Applicant with an alternative source of supply of United States dollars which will supplement United States dollars it currently obtains in the Eurodollar market. Applicant does not currently intend to sell the commercial paper in the United States in excess of an aggregate of $100 million at any one time outstanding.

Applicant plans to sell the notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance upon an opinion of its special counsel in the United States that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by Section 3(a)(3) of that act. Applicant will not proceed with the proposed offering until it has received such opinion of special counsel. Applicant does not request Commission review or approval of the opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant represents that the presently proposed issue of securities and all future issues of securities will have received, prior to issuance, one of the three highest investment grades from at least one nationally recognized statistical rating organization, and that its United States counsel will have certified that such rating has been received. The notes will rank *pari passu* among themselves, equally with all other unsecured indebtedness of Applicant, including liabilities to depositors, and superior to Applicant's equity securities and subordinated debt.

Applicant undertakes to ensure that, prior to purchase, the dealer will provide each offeree of the notes with a memorandum which briefly describes the business of Applicant, and with Applicant's most recent publicly available fiscal year-end balance sheet and income statement, audited in such manner as is customarily done for Applicant by Danish auditors. The memorandum will describe material differences, if any, between the accounting principles applied by Applicant in the preparation of such financial statements and generally accepted accounting principles as employed by banks in the United States. The memorandum and financial statements will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States, and will be updated promptly to reflect material changes in Applicant's financial condition. In the future, Applicant may offer other debt securities, such as bankers' acceptances and letters of credit, for sale in the United States, and any such future offerings will be accompanied by disclosure documents at least as comprehensive in their description of Applicant, its business and its financial condition as the documents to be used in the presently proposed offering (but, in any event, no less comprehensive than required by applicable federal and state law). Applicant undertakes to ensure that each offeree of such securities will be provided with such disclosure documents. Any such future offerings will be made with due regard to the provisions of Rule 146 and the doctrine of integration referred to in various releases and no-action letters made public by the Commission. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertakings regarding disclosure documents.

Applicant will appoint a bank in the United States, the Commission, or some other person in the United States which normally acts in such capacity, to accept service of process in any state or federal court action based on the commercial paper it proposes to issue instituted by a holder of a note. Applicant will expressly accept the jurisdiction of any state or federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid by Applicant. Applicant will similarly consent to jurisdiction and appoint a United States agent to accept service of process in any action based on any other offerings of debt securities that it may make in the United States.

Section 3(a)(3) of the Act defines the term investment company to mean any issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and case items) on an unconsolidated basis." Applicant states that there is uncertainty whether it would be considered an investment company as defined under the Act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant argues that, as a Danish commercial bank, it is subject to extensive regulation by Danish banking law which affords sufficient protection to investors. Applicant asserts further that it is significantly different from the type of institutions that Congress intended the Act to regulate. Applicant states that an exemption pursuant to Section 6(c) of the Act would benefit institutional and other investors, since otherwise they would be precluded from purchasing Applicant's commercial paper. Applicant concludes that granting an exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 17, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16640 Filed 5-30-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16846; SR-Phlx-79-13]

Philadelphia Stock Exchange, Inc.; Filing of Amendment to Proposed Rule Change and Order Approving Proposed Rule Change

May 27, 1980.

In the matter of Philadelphia Stock Exchange, Inc. 17th Street and Stock Exchange Place Philaldelphia, PA 19103.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 19, 1980, the Philadelphia Stock Exchange Inc. ("Phlx") filed with the Commission copies of an amendment to a proposed rule change previously filed with the Commission.[1] The text of proposed Rule 1059, as amended, is set forth below. *Italics* indicate new language.

Rule 1059. Cabinet trading shall be available for each series of options open for trading on the Exchange under the following terms and conditions:

(i) Trading shall be conducted in accordance with other Exchange Rules except as otherwise provided herein or unless the context otherwise requires.

(ii) The specialist registered in each class of option contracts shall supervise the operation of the cabinet for that class.

(iii) Only closing limit orders at a price of $1 per option contract may be placed in the cabinet.

(iv) All orders placed in the cabinet shall be assigned priority based upon the sequence in which such orders are received by the specialist.

(c) All bids and offers must be submitted to the specialist in writing, and the specialist shall effect all cabinet transactions by matching such orders placed with him.

(vi) Orders may be placed in the cabinet for customer and firm accounts and for the accounts of specialists and Registered Options Traders, but only in connection with closing transactions.

(vii) Specialists and Registered Options Traders shall not be subject to the requirements of Rule 1014 in respect of orders placed pursuant to this Rule. The provisions of Rule 1033(b) and (c), Rule 1034 and Rule 1038 shall not apply to orders placed in the cabinet. Cabinet transactions shall not be reported on the ticker.

(viii) All cabinet transactions shall be reported to the Exchange following the close each business day.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR–Phlx 79–13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of an amendment thereof, in that the proposed rule change, as amended, reduces to writing, for the first time, the procedures for cabinet trading on the Phlx. In addition, the Phlx procedures are substantially identical to the procedures set forth in Rule 959 of the American Stock Exchange, Inc.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16641 Filed 5-30-80; 8:45 am]

Billing Code 8010-01-M

[1] Notice of the original filing was published in Securities Exchange Act Release No. 34–16464 (January 3, 1980) 45 FR 2131. No comments were received.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1843]

Florida; Declaration of Disaster Loan Area

Dade County, Florida, constitutes a disaster area as a result of damage caused by riots and widespread civil disorder that led to serious looting, arson and vandalism involving an extensive number of business premises, many suffering considerable physical damage to real property and the loss of all merchandise, beginning on or about May 17, 1980. Therefore, this declaration is a result of riots and civil disorder in Dade County, Florida. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 21, 1980, and for economic injury until the close of business on February 23, 1981, at: Small Business Administration, District Office, 2222 Ponce DeLeon Blvd., 5th Floor, Coral Gables, Florida 33134 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

V 45 2 J E 2 8 0 UMI

Dated: May 22, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16609 Filed 5-30-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1842]

Kansas; Declaration of Disaster Loan Area

The following 4 counties and adjacent counties within the State of Kansas constitute a disaster area as a result of natural disaster as indicated:

County, Natural Disaster(s), and Date(s)

Cheyenne, Snow and high winds, March 27, 1980 to April 2, 1980.
Rawlins, Snow and high winds, March 27, 1980 to April 3, 1980.
Sherman, Snow and high winds, March 27, 1980 to April 3, 1980.
Wallace, Snow and high winds, March 27, 1980 to April 7, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 21, 1980, and for economic injury until the close of business on February 20, 1981, at: Small Business Administration, District Office, Main Place Building, 110 East Waterman Street, Wichita, Kansas 67202; or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 22, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16608 Filed 5-30-80; 8:45 am]

BILLING CODE 8025-01-M

Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supercede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of P.L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective June 1, 1980, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 10.725% per annum.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 80-16610 Filed 5-30-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0383]

S&S Venture Associates, Ltd.; Issuance of a License To Operate as a Small Business Investment Company

On December 21, 1979, a Notice was published in the **Federal Register** (44 FR 75759) stating that S&S Venture Associates, Ltd., 352 Seventh Avenue, New York, New York 10001, had filed an application with the Small business Administration pursuant to Section 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business January 7, 1980, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on April 25, 1980, issued License No. 02/02-0383 to S&S Venture Associates, Ltd., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: May 19, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-16611 Filed 5-30-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5378]

Korean Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On April 10, 1980, a notice was published in the **Federal Register** (45 FR 24749) stating that Korean Capital Corp., located at 36 West 35th Street, New York, New York 10001, has filed an application with the Small business Administration pursuant to 13 CFR 107.102 (1980) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business April 25, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 02/02-5378 to Korean Capital Corp. on May 9, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: May 23, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-16612 Filed 5-30-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-0401]

Heller Capital Services, Inc.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*) has been filed by Heller Capital Services, Inc. (Applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

J. Allen Kerr, 200 Park Ave., New York, NY 10017; President, Treasurer and Director.
Jack A. Prizzi, 200 Park Ave., New York, NY 10017; Executive Vice President and Director.
Bruce A. Mier, 200 Park Ave., New York, NY 10017; Vice President.
Charles A. Brizzolara, 105 West Adams St., Chicago, IL 60603; Secretary
Franklin A. Cole, 105 West Adams St., Chicago, IL 60603; Director.
Heller Interstate, Inc., 105 West Adams St., Chicago, IL 60603; 100% Stockholders.

Heller Interstate, Inc. is a wholly-owned subsidiary of Walter E. Heller International Corporation, 105 West Adams St., Chicago, IL 60603. There are no direct or indirect shareholders owning in excess of ten percent (10%) of the common and preferred stock of Walter E. Heller International Corporation.

The Applicant, a Delaware corporation, with its principal place of business at 200 Park Avenue, New York, New York 10017, will begin operations with $2,015,000 of paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally from its headquarters in the city of New York, but will consider investment opportunities from other areas of the United States.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 23, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-16613 Filed 5-30-80; 8:45 am.]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-067]

Proposed Mississippi River Bridge, Gramercy-Wallace, St. James and St. John the Baptist Parishes, La.; Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Eighth Coast Guard District on Tuesday, July 1, 1980, at 1:00 p.m., in the Wallace Elementary School on LA 18 at Wallace, Louisiana. The purpose of the hearing is to consider the permit application from the Louisiana Department of Transportation and Development for the proposed Mississippi River Bridge at mile 146.0.

The hearing will provide an opportunity for interested parties to express their views on this application to construct a truss-span bridge and uncontrolled access approaches, extending from LA 3127 on the West Bank to US 61 on the East Bank, for a distance of 6.14 miles. Primary reason for the project is to greatly increase the safety of cross-river travel by eliminating the passenger/vehicular ferries currently operating on this reach of the river.

Three alignment alternates are being considered, two downstream and one upstream. These alternatives are located at Reserve-Edgard, mile 137.5; Garyville-Columbia, mile 140.8; and, Paulina-Vacherie, mile 148.1. Each would involve a bridge and approaches similar to the proposed alignment. Other alternatives being considered are no build, removal of the existing ferry service, and mass transit system over existing bridges in the area.

The Draft Environmental Impact Statement (DEIS) on the project, advertised by the Environmental Protection Agency in the **Federal Register** of May 30, 1980, will form the basis for the public hearing. As lead agency, the Coast Guard prepared the DEIS in compliance with the provisions of the National Environmental Policy Act of 1969 (Public Law 91-190), as implemented by the Council on Environmental Quality Regulations (40 CFR, Part 1500). The U.S. Army Corps of Engineers is a cooperating agency.

The public hearing will be informal. Those wishing to make oral statements should notify the Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, Room 1310, New Orleans, Louisiana 70130, by June 24, 1980. Speakers are encouraged to provide written copies of their oral statements to the chairman at the time of the hearing. Those wishing to make written comments only may submit these comments at the time of the hearing, or to the Bridge Administration Branch, Eighth Coast Guard District, through July 14, 1980.

A transcript of the hearing, as well as written comments received outside of the hearing, will be available for public review at the Eighth Coast Guard District, at the address given above. Copies of the DEIS also may be obtained by writing this address.

All comments, oral or written, will be considered before a final determination is made on the permit application by the Commandant, U.S. Coast Guard, Washington, D.C. 20593.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10))

Peter J. Rots,

Acting Chief, Office of Navigation.

[FR Doc. 80-16679 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-14-M

[CGD 80-066]

Ship Structure Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Committee to be held Thursday, June 19, 1980 at 9:00 a.m. in Room 3101, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. The agenda for this meeting is as follows:

(a) Review the current program and operations of the Committee, and

(b) Consider and establish the future research program of the Committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2205 not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: May 27, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-16680 Filed 5-30-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-80-16]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 23, 1980.

ADDRESSES: Send comments on any petition in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426–3644.

Paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 23, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
18855	Helicopter Association of America	14 CFR §§ 135.99, 135.159, 135.173, 135.181, 135.223.	Amendment of Exemption No. 2695 to extend the expiration date. These partial exemptions allow relief pending formal rulemaking action.
19825	World Aerobatics, Inc.	14 CFR various sections	Amendment to Exemption No. 2496 to allow performances by foreign pilots and airplanes in airshow demonstration flights that are scheduled as part of the World Aerobatic Championships to be held at Oskosh, Wisconsin, August 17–30, 1980.
20370	Transamerica Airlines and World Airways	14 CFR § 121.693(e)	To allow operations to be conducted without listing all passengers on the load manifest carried in the aircraft.
20371	W. F. Probst Co.	14 CFR § 61.58(c)	To allow petitioner's pilots to perform all the required maneuvers for a 24 month check in a FAA approved BAC–111 Visual Flight Simulator.
20372	Alaska Aeronautical Industries, Inc.	14 CFR § 91.33(b) (11)	To allow petitioner's air taxi flights to be operated beyond the power-off gliding distance of shore without approved flotation gear readily available to each occupant.
20373	Sierra Academy of Aeronautics	14 CFR §§ 141.35(b)(4) and 141 35(d)(4)(i).	To permit Mr. Robert Penix to be designated the chief flight instructor for Sierra Academy's helicopter training courses without meeting the requirement of having given 100 hours of flight instruction within the preceding year in the category of aircraft used in the course.
20374	Lake Wales Air Services, Inc.	14 CFR § 141.27(c)(2)	To permit them to obtain a provisional pilot school certificate in less than 180 days after the date of their previously expired certificate.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20172	Star Aviation (Star Airways)	14 CFR § 135.181	To allow petitioner to operate their aircraft using the drift down provisions of § 121.201(b) instead of the requirements of § 135.181. Withdrawn Apr. 7, 1980

[FR Doc. 80–16627 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Biennial Awards Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) is providing notice of the availability of general guidelines for an FHWA Biennial Awards Program to provide recognition to, and offer incentives for, outstanding highway and highway-related improvements accomplished by State or local agencies, or freeway or toll authorities.

FOR FURTHER INFORMATION CONTACT: Mr. Merrill Deskins, Landscape Branch, Highway Design Division, 202–426–0314, or Ms. Marguerite L. Price, Office of the Chief Counsel, 202–426–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA has conducted an Annual Awards Program designed to provide recognition to and offer incentives for outstanding highway and highway-related improvements accomplished by State or local agencies, or freeway or toll authorities. This program has existed for approximately 10 years and, beginning this year, the program will be conducted on a biennial basis.

The FHWA has issued Federal-Aid Highway Program Manual 6–2–5–3, Biennial Awards Program, dated May 12, 1980, to enhance public awareness and participation in the program and to set forth the general guidelines which govern the administration of the program. Specific guidelines for individual awards programs vary and are established and published at the time the program is announced.

Persons interested in receiving a copy of these general guidelines may contact Mr. Merrill Deskins at the above address.

Issued on: May 21, 1980.

Richard D. Morgan,

Associate Administrator for Engineering and Traffic Operations, Federal Highway Administration.

[FR Doc. 80–16380 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Jefferson County, Ark.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Jefferson County, Arkansas.

FOR FURTHER INFORMATION CONTACT: E. C. Lydick, District Engineer, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas 72201, Telephone: (501) 378–5309; or Robert E. Tyler, Senior Environmental Scientist, Environmental Division, Arkansas State Highway and Transportation Department, P.O. Box 2261, Little Rock, Arkansas 72203, Telephone: (501) 569–2281.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department, will prepare an environmental impact statement (EIS) on a proposal to construct a freeway to serve western, southern, and central Pine Bluff, Jefferson County, Arkansas. The Pine Bluff Study Area is projected to have a population of 95,482 by the year 2000. Most of the growth is expected to occur in White Hall and to the south and west of Pine Bluff. The industrial parks and port to the northwest and northeast of Pine Bluff; the major commercial centers downtown, on U.S. 65B, on S.H. 15, and on U.S. 79; and the existing and projected locations of residential land, create a pattern of frequent crosstown trips within Pine Bluff. The existing street system is inadequate to handle expected traffic and U.S. 65 is the only east-west through route in the area.

Alternates to be considered are: (1) the "Do-Nothing" Alternate where no improvements are made to existing streets and highways, and new routes are constructed as development dictates; (2) the "Reconstruction of Existing Streets" Alternate—bringing the street and highway system up to the standards presented in the city and county master street plans; (3) the "New Location" Alternate—a future facility that can carry anticipated traffic at a reasonable level of service (more than one alignment on the southern part of the city will be studied); and (4) a mass transit alternate.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state and local agencies, and to provide organizations and citizens who have previously expressed interest in this proposal. Listening sessions conducted in a mobile field office will be conducted in Pine Bluff between May and June of 1980. In addition, a public hearing will be held. Public notice will be given of the time and place of the listening sessions and public hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: May 22, 1980.

Edward A. Wueste,

Acting Division Administrator, Little Rock, Arkansas.

[FR Doc. 80–16378 Filed 5–30–80; 8:45 am]

BILLING CODE 4510–22–M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463); (5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held June 17, 1980, at 10:00 a.m. until 1:00 p.m. at the Department of Transportation, 400 7th Street, S.W., Conference Room 4436, Washington, D.C. 20590. The agenda for the meeting is as follows:

—Status report on Procurements, Business Development and Financial Assistance Program and Local Outreach Center Program.

—MBRC Thrust for the '80's Overview.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on May 28, 1980.

Miles S. Washington, Jr.,

Acting Director, Minority Business Resource Center.

[FR Doc. 80–16537 Filed 5–30–80; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 80–7]

Advisory Committee on Explosives Tagging; Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I § 10(a)(2)), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on June 25, 1980, at the Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC, room 5041, beginning at 9:30 a.m. (EDT).

The Advisory Committee will discuss detailed proprietary, scientific, and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of 5 U.S.C. § 552b(c)(4). Accordingly, the meeting of the Advisory Committee will, under authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. I § 10(d)), not be open to the public.

All communications regarding this meeting of the Advisory Committee should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Attention: Mr. James K. Syverson, Committee Manager, room 4211.

Signed: May 22, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80–16556 Filed 5–30–80; 8:45 am]

BILLING CODE 4810–31–M

Customs Service

[T.D. 80–145]

Instruments of International Traffic; Certain Steel Slings Used for the Transportation of Steel Products Designated as Instruments of International Traffic

It has been established to the satisfaction of the U.S. Customs Service that steel slings composed of steel cables 10 to 15 feet long with a swedged eye on each end and having permanent identifying markings, and which are designed to hold steel products during their transportation, are substantial, are suitable for and capable of repeated use, and are used in significant numbers in international traffic.

Under the authority of section 10.41a(a)(1), Customs Regulations, I hereby designate the above-described steel slings as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)), while they are used to hold steel products together from the time of manufacture until the products reach their point of unlading or ultimate destination in the United States, provided the slings are distinguished readily from similar slings not so used by permanently affixed plates or tags with appropriate markings. These slings may be released under the procedures set forth in section 10.41a, Customs Regulations.

Customs Service Decision 79-235 states that the same steel slings are not classifiable as instruments of international traffic if used solely to lade and unlade steel pipes. That decision is distinguishable because the steel slings to which this decision applies are to be used to hold steel products during the transportation of the products in international traffic. (104257) (BOR-7-07).

Dated: May 20, 1980.

Alfred G. Schalle,

Director, Carriers, Drawback and Bonds Division.

[FR Doc. 80-16561 Filed 5-30-80; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 80-146]

Watches and Watch Movements; Tariff Treatment Under General Headnote 3(a), Tariff Schedules of the United States; Change of Practice

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Change of practice.

SUMMARY: This document gives notice that the Customs Service has reviewed the current practice of according duty-free treatment to watches and wtach movements pursuant to General Headnote 3(a), Tariff Schedules of the United States (TSUS). The Customs Service has ruled that certain watches and watch movements assembled in the insular possessions from foreign watch subassemblies and parts satisfy the General Headnote 3(a), TSUS, requirement of having been "manufactured or produced" in the insular possessions. Watches and watch movements which do not qualify for tariff treatment under General Headnote 3(a), TSUS, are dutiable pursuant to Subpart E, Part 2, Schedule 7, TSUS.

The Customs Service also had ruled that watch movements which are cased in the possessions are not considered as single entities, but rather are constructively separated for the purpose of determining whether the movement and the watch case have each been subjected to a level of processing in the insular possessions which would bring the duty-free provision of General Headnote 3(a) into operation.

The long-standing practice of the Customs Service is changed in this area in that certain objective measures are established, where none previously existed, by which it can be determined whether a watch or watch movement has become a production or manufacture of the insular possessions. Further, the practice of considering the movement and case separately is changed and watches will be regarded in a unitary fashion, thus making it possible for a cased watch movement to be entered as an entirety.

DATES: This change of practice will be effective with respect to merchandise entering the Customs Territory of the United States on or before the 90th day following publication of this notice in the **Federal Register**, expect that it is effective on publication with respect to the change of practice regarding the casing the watch movements.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

Background

Under a uniform and established practice, the Customs Service accords duty-free treatment to importations of certain watches and watch movements from the insular possessions, pursuant to General Headnote 3(a), TSUS.

General Headnote 3(a), TSUS

Under General Headnote 3(a), TSUS, watches and watch movements imported from an insular possession may enter the Customs territory of the United States free of duty if they:

(1) Are manufactured or produced in the possession;

(2) Do not contain foreign materials which represent more than 70 percent of their total value; and

(3) Come directly to the Customs territory of the United States from the possession.

In order to satisfy the "manufactured or produced" requirements of General Headnote 3(a), TSUS, a new and different article of commerce must result from the operations performed in the insular possession.

The insular possessions include the Virgin Islands, American Samoa, and Guam. The Customs territory of the United States includes the 50 states, the District of Columbia, and Puerto Rico.

General Headnote 3(a), TSUS, embodies a legislative intent to promote the growth of the economies of the insular possessions by stimulating the development of light industry, such as watch assembly. (S. Rept. No. 94-273, 94th Cong., 1st sess. (1975), reprinted in 1975 United States Code Cong. Ad. News at 884, et seq.).

Because of concern that the legislative intent was not being given full effect, a notice was published in the December 11, 1978, **Federal Register** (43 FR 57921) stating that the Customs Service was considering a change in the practice of affording duty-free entry to watches and watch movements imported from the insular possessions. Of particular concern were so-called "low labor" watches and watch movements which were subjected to minimal assembly processes in the possessions. The threshold question was whether a product or manufacture of the possessions resulted from the limited assembly operations.

Comments were received and considered and on September 17, 1979, a proposed change of practice was published in the **Federal Register** (44 FR 53759), wherein the comments were summarized and a framework for watch assembly requirements was presented. The purpose of the outlined formula presented was to provide the basis for establishment of objective measures, by which the sufficiency of assembly operations could be gauged in light of the Congressional intent behind General Headnote 3(a), TSUS.

Discussion of Comments

The Customs Service has recevied fifteen (15) submissions commenting upon the September 17, 1979, **Federal Register** notice. The commenters generally support any effort on the part of Customs to further the legislative intent. Some commenters give wholehearted endorsement to the program as it appeared in the **Federal Register** notice. The majority, however, indicate that if the Customs Service instituted a change, the requirements would have to be much more detailed and extensively explained than the rather attenuated outline which was published for comment. Nine of the commenters state full support for any move to treat a cased movement as a single entity for tariff purposes. The remaining commenters do not address the cased movement issue. Finally, several of them urge watch assembly

alternatives in the form of substitute operations which would require the same or even an increased degree of labor input in the possessions as contemplated in the formula outlined in the September 17, 1979, publication, but which would lend a certain flexibility to the requirements. This would be especially helpful to assemblers in the possessions who receive component parts in configurations which may not conform to the Customs guidelines. By using the guidelines, it will be determined whether a particular watch or watch movement is a manufacture or production of the possessions.

In responding to the comments, we wish to make it clear that the need for detailed requirements is recognized, and we believe that the guidelines which follow will adequately address the need perceived by the commenters. On the matter of substitute assembly operations, we too believe that the inclusion of such a provision would help create a more flexible program, especially for assemblers whose suppliers provide them with component parts in configuration which do not conform to the guidelines set forth. We recognize that parts suppliers provide components to assemblers in a multitude of configurations. We believe that providing for assembly alternatives will make it less burdensome for parties to conform to the new standards without major changes in shipment practices.

CHANGE OF PRACTICE

The Customs Service will be guided by the following objective measures in determining whether a watch movement assembled in the insular possessions has been subjected to a sufficient process of manufacture:

A. For conventional balance wheel and hairspring watch movements, of the following four major assembly operations, no fewer than two must be performed in the insular possessions as set forth below, with the exception that alternative assembly operations may be permitted as indicated:

1. Assembly of escapement from:
a. Balance Assembly consisting of:
(1) Balance Subassembly (fully pre-assembled is acceptable),
(2) Balance cock screws.
b. Escapement subassembly consisting of:
(1) Pallet,
(2) Pallet cock,
(3) Pallet cock screws.
2. Assembly of gear train from:
(1) Third wheel,
(2) Fourth wheel,
(3) Center wheel,
(4) Train wheel bridge,
(5) Escape wheel,
(6) Bridge screws.
3. Assembly of winding and setting mechanism from:
(1) Winding stem,
(2) Winding pinion,
(3) Setting lever,
(4) Clutch lever (yoke),
(5) Setting lever spring,
(6) Clutch wheel,
(7) Setting wheel,
(8) Setting lever screw,
(9) Minute-wheel or minute pinion.
4. Assembly of barrel mechanism from:
a. Barrel subassembly consisting of:
(1) Barrel,
(2) Barrel arbor,
(3) Mainspring,
(4) Barrel cover.
b. Barrel bridge subassembly consisting of:
(1) Barrel bridge,
(2) Crown wheel,
(3) Crown wheel ring,
(4) Crown wheel screw,
(5) Click,
(6) Click spring,
(7) Ratchet wheel,
(8) Ratchet wheel screw,
(9) Barrel bridge screw(s).
c. Joining barrel and barrel bridge subassemblies.

Alternative assembly operations

As an alternative to completion of two of the four major operations listed above, an assembler may choose to complete one such operation, and in addition complete a minimum of two of the following operations as a substitute for one major operation; provided, however, that no manufacturing process shall be deemed sufficient if, in the judgment of the appropriate Customs officer, it does not involve processing in the insular possessions at a level at least equal to that entailed in the completion of two of the four major assembly operations listed above. The alternative operations are:

1. Dialing and handing completed from:
(1) Dial,
(2) Minute hand,
(3) Hour hand,
(4) Hour wheel,
(5) Hour wheel washer,
(6) Dial screws.
2. Automatic mechanism assembly completed from:
(a) Automatic mechanism subassembly consisting of:
(1) Framework,
(2) Framework screw,
(3) Stop click,
(4) Stop click screw,
(5) Reduction gear,
(6) Transmission wheel,
(7) Pinion,
(8) Bridge,
(9) Bridge screw,
(b) Combining subassembly "a" with:
(1) Oscillating weight,
(2) Gib,
(3) Gib screw.
3. Day/Date Calendar Assembly completed from:
a. Calendar plate subassembly consisting of:
(1) Date jumper,
(2) Date jumper spring,
(3) Date dial guard,
(4) Date dial guard screws,
(5) Day jumper,
(6) Day jumper screw,
(7) Day jumper spring,
(8) Date dial.
b. Combining subassembly "a" with:
(1) Day/date driving wheel,
(2) Day star with disc,
(3) Calendar plate screws.
4. Possibly casing (see below.)

B. For electronic quartz watch movements (analog) of the following major assembly operations, no fewer than two must be performed in the insular possessions as set forth below, with the exception that alternative assembly operations may be permitted as indicated.

Further, if assembly of the power source is performed as one of the major assembly operations, one alternative assembly operation must be performed in addition to the two major assembly steps undertaken. Alternative operations are designated after the following description of the four major assembly operations.

1. Assembly of coil support and circuit from:
(1) Circuit (fully pre-assembled is acceptable),
(2) Coil support screws.
2. Assembly of train from:
(1) Center tube,
(2) Rotor,
(3) Train wheels,
(4) Train wheel bridge seats,
(5) Stop lever,
(6) Train wheel bridge,
(7) Train bridge screws.
3. Assembly of function control, dial-side train assembly, and setting mechanism from:
(1) Minute wheel,
(2) Hour wheel,
(3) Setting wheel,
(4) Minute train cover,
(5) Minute train cover screws,
(6) Yoke setting lever,
(7) Yoke spring,
(8) Setting lever jumper,
(9) Setting lever screws.
4. Assembly of power source from:
(1) Battery,
(2) Bridle,
(3) Bridle screw(s).

Alternative assembly operations

As an alternative to completion of two of the four major operations listed above for analog quartz watch movements, an assembler may choose to complete only one such operation and, in addition thereto, complete two of the operations which follow as a substitute for one major operation. Provided, however, that no manufacturing process shall be deemed sufficient if, in the judgment of

the appropriate Customs officer, it does not involve processing in the insular possessions at a level at least equal to that entailed in the completion of two of the four major assembly operations listed above. However, assembly of the power source will not be permitted to constitute the sole major assembly operation employed. The alternative assembly operations are:

(1) Dialing and handing (completed as for conventional watch movements).
(2) Day/Date calendar assembly (completed as for conventional watch movements).
(3) Possibly casing (see below).

Casing of watch movements (conventional and analog)

The Customs Service will regard cased watch movements (watches) from the insular possessions as single entities for tariff purposes. The watch, viewed in a unitary fashion, must meet the General Headnote 3(a), TSUS, criteria for duty-free entry as detailed earlier in this document. Watch movements which meet the assembly criteria set forth above may be placed in watch cases which arrive in the insular possessions in any degree of preassembly, or if the watch case is assembled in the insular possessions from at least seven discrete components, the case assembly process will be regarded as an additional alternative assembly step which may be freely substituted for major assembly operations, subject only to the same limitations which apply to the other alternative steps.

Drafting information:

The principal author of this notice was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Federal agencies as well as other offices of the U.S. Customs Service participated in developing this notice both on matters of substance and style.

R. E. Chasen,
Commissioner of Customs.

Approved: May 8, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 80-16615 Filed 5-30-80; 8:45 am]
BILLING CODE 4810-22-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Clarification of Notice of Items Under Consideration for Withdrawal of Concessions

The Tuesday, May 13, 1980 **Federal Register** Notice (45 FR 31557) listed items under consideration for withdrawal or suspension of concessions to restore the balance of obligations following the imposition of quotas on certain imports of synthetic fibers into the United Kingdom. That notice made reference to the earlier notice of hearings (45 FR 18548) on the same subject. This notice is intended to clarify that the withdrawal or suspension of concessions or other obligations under consideration by the U.S. is with respect to United Kingdom or European Community trade.

The deadline for receiving comments on the list of items under consideration is extended to June 13, 1980.

Please submit comments in 20 copies to Carolyn Frank, Office of the United States Trade Representative, Room 735, 1800 G Street, N.W., Washington, D.C. 20506, telephone (202) 395-7210.

Ann Hughes,
Chairman, Trade Policy Staff Committee.

[FR Doc. 80-16605 Filed 5-30-80; 8:45 am]
BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 107
Monday, June 2, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Depository Institutions Deregulation Committee	3
Federal Communications Commission	4, 5
Federal Maritime Commission	6
National Credit Union Administration	7
Parole Commission	8
Securities and Exchange Commission	9
Tennessee Valley Authority	10

1

[M-282 Amdt. 2, May 28, 1980]

CIVIL AERONAUTICS BOARD.

Notification of items.

TIME AND DATE: Changed from 9:30 a.m. to 1 p.m., May 29, 1980.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428

SUBJECT: 18a. Docket 36863, notice of Western Air Lines to terminate service at Sheridan, Wyoming (BDA, OCCR).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1075-80 5-29-80; 3:51 pm]
BILLING CODE 6320-01-M

2

[M-282 Amdt. 1, May 27, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of items.

TIME AND DATE: 9:30 a.m., May 29, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428

SUBJECT: 12a. Docket 37938, Application by American Airlines for exemption to pay Denied Boarding Compensation with free/reduced-rate transportation (BDA, OGC, OEA).

12b. Docket 38067, Application by Provincetown-Boston Airlines, Inc. for exemption to file joint commuter-commuter fares tariffs (BDA).

27a. Dockets 34847, 35011, and 36920, Applications of Transamerica, World, and Northwest for U.S.-Ireland certificate authority; amendments to certificates of Pan American (Route 132) and Trans World Airlines (Route 147) (BIA, OGC, BALJ).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1067-80 5-28-80; 4:55 pm]
BILLING CODE 6320-01-M

3

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to Federal Register on May 27, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3 p.m., Wednesday, May 28, 1980.

CHANGES IN THE MEETING: Addition of the following open item(s) to the meeting: Proposed extension of the comment period on the proposal to ban premiums paid to depositors.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board of Governors of the Federal Reserve System (202) 452-3204.

Dated: May 29, 1980.

Normand R. V. Bernard,
Executive Secretary of the Committee.

[S-1073-80 Filed 5-29-80; 11:09 am]
BILLING CODE 6210-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, June 4, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting following the special open meeting which commences at 2 p.m.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

General—1—Further Reorganization of the Broadcast Bureau.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 28, 1980.

[S-1069-80 Filed 5-29-80; 10:54 am]
BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, June 4, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item number, and Subject

Broadcast—1—*Title:* Second Further Notice of Propose Rule Making in Docket 21474—Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395. *Summary:* The Commission will consider issuance of a Second Further Notice of Proposed Rule Making in Docket 21474. The proceeding deals with EEO reporting and filing requirements of broadcast applicants and licensees. The item proposes modifications in this area.

Broadcast—2—*Title:* Revision of Applications for Renewal of Notice of Proposed Rule Making License of Commercial and Noncommercial AM, FM and Television Licensees. *Summary:* The Commission will consider a Broadcast Bureau proposal for revision of broadcast license renewal forms and processes.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 28, 1980.

[S-1070-80 Filed 5-29-80; 10:54 am]
BILLING CODE 6712-01-M

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 35966, May 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., June 4, 1980.

CHANGES IN THE MEETING: Time of meeting changed from 2 p.m. to 10 a.m. on June 4, 1980. Addition of the following item to the open session: 5. Docket No. 80-15: Rules of Practice and Procedure Proceedings Under the Intercoastal Shipping Act—Consideration of comments received in

response to notice of proposed rulemaking.

[S-1066-80 Filed 5-28-80; 4:52 pm]

BILLING CODE 6730-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, June 5, 1980.

PLACE: 7th floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Litigation referral to Department of Justice regarding applicability of California Sales Tax to Federal credit unions.
3. Proposed amendments to Pub. L. 95-630—Financial Institutions Regulatory & Interest Rate Control Act of 1978.
4. Group purchasing activities.
5. The collection and processing of semiannual financial and statistical data from all federally insured credit unions.
6. Report on actions taken under delegations of authority.
7. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1068-80 Filed 5-29-80; 10:16 am]

BILLING CODE 7535-01-M

8

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining Offices at Washington, D.C. Headquarters).

TIME AND DATE: 9:30 a.m., Thursday, May 29, 1980.

PLACE: Room 826A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Analyst (202) 724-3094.

[S-1072-80 Filed 5-29-80; 10:56 am]

BILLING CODE 4410-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washingtn, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, May 27, 1980.

CHANGES IN THE MEETING: Deletion. The following item was not considered at a closed meeting scheduled on Wednesday, May 28, 1980, following the 10 a.m. open meeting—Formal order of investigation.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Friedman determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272-2178.

May 28, 1980.

[S-1071-80 Filed 5-29-80; 10:55 am]

BILLING CODE 8010-01-M

10

[Meeting No. 1243]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m. e.d.t., Thursday, June 5, 1980.

PLACE: Conference room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

Old Business

1. Final rate review.

New Business

A—Project Authorizations

1. No. 3513—Replacement of superheater outlet pendant elements and reheater outlet pendant elements in John Sevier Steam Plant Units 1-4.

B—Purchase Awards

1. Req. No. 826432—Gas ducts for Johnsonville Steam Plant.
2. Req. No. 171227—Participation contract for spare parts for TVA's nuclear plants.
3. Req. No. 602211—Rehabilitation of existing intake flume at Ocoee Hydro Plant No. 2.
4. Amendment to Contracts 68C60-91934 and 71C62-54114-1 with Westinghouse Electric Corporation for nuclear steam supply systems for Sequoyah and Watts Bar Nuclear Plants.
5. Rejection of bids received in response to Invitation 52 for coal for Paradise Steam Plant.
6. Coal procurement—Emergency purchases for Widows Creek Steam Plant Units 1-6.

C—Power Items

1. Adoption of supplemental resolution authorizing 1980 Series C Power Bonds.
2. Resolution authorizing the Chairman and other Executive Officers to take further action relating to issuance and sale of 1980 Series C Power Bonds.
3. Deed and bill of sale conveying to the city of Paris, Tennessee, a 5.86-mile section of TVA's Paris-McKenzie 69-kV Transmission Line.
4. New power contract with Diamond Shamrock Corporation, Sheffield, Alabama.
5. Letter agreement with Cities Service Company, Copperhill, Tennessee, for firm power contract demand reduction and standby power termination.
6. New cogeneration agreement among the city of Elizabethton, Tennessee, North American Rayon Corporation, and TVA.
7. New power contract with Huntsville, Alabama.

D—Personnel Items

*1. Change of status for Douglas Warren Hulme from Assistant to the Comptroller to Assistant Comptroller, Division of Finance, Office of Management Services, Knoxville, Tennessee.

*2. Change of status for Eugene Stephens, Chief, Retirement Services Branch, Division of Finance, Office of Management Services, Knoxville, Tennessee.

*3. Change of status for Alvin R. Brown from Area Construction Manager to Assistant to the Director, Division of Power Construction, Office of Power, Chattanooga, Tennessee.

*4. Change of status for Henry M. Crine, Jr., Chief, Management Services Staff, Office of Power, Chattanooga, Tennessee.

*5. Change of status for Glenn E. Clark from Assistant Power Plant Superintendent to Power Plant Superintendent, Division of Fossil and Hydro Power, Office of Power, Colbert Steam Plant, Tuscumbia, Alabama.

*6. Change of status for James A. McMahon from Assistant Director of Power Utilization, to Manager, Power Contracts, Division of Energy, Utilization and Distributor Relations, Office of Power, Chattanooga, Tennessee.

*7. Change of status for Doyle B. Bowen from Design Project Manager to Project Manager, Thermal Plants Design Project, Division of Engineering Design, Office of Engineering Design and Construction, Knoxville, Tennessee.

*8. Change of status for Stanley Kesler, Jr., Chief, Mechanical Engineering and Design Branch, Division of Engineering Design, Office of Engineering Design and Construction, Knoxville, Tennessee.

9. Renewal of consulting contract with John M. Kellberg, Knoxville, Tennessee, for consultation on major hydro projects and engineering problems associated with thermal power plants, requested by the Office of Engineering Design and Construction.

10. Renewal of consulting contract with Gordon F. Palm & Associates, Inc., Lakeland, Florida, for services in connection with studies related to the production of wet-process phosphoric acid, requested by the Office of Agricultural and Chemical Development.

11. Renewal of consulting contract with Stanley D. Wilson, Seattle, Washington, for consultation services in connection with geotechnic and foundation engineering, requested by the Office of Engineering Design and Construction.

12. Amendment to consulting contract with Dr. Uri Marinov, Jerusalem, Israel, for technical advice and counseling concerning various aspects of TVA's environmental programs, requested by the Office of Natural Resources.

13. Amendment to personal services contract with Scientific Systems Services, Incorporated, Melbourne, Florida, for services and software programming in connection with the computer project at Bellefonte Nuclear Plant, requested by the Office of Engineering Design and Construction.

14. Resolution authorizing payment of moving and other expenses for new hires in certain occupations.

E—Real Property Transactions

1. Resolution designating approximately 20 acres of land acquired for the Indian Creek Flood Relief Project in Oliver Springs, Tennessee, as surplus and for sale at public auction—Tract XOSFP-5.
2. Rescission of Board resolution designating 6.34 acres of Nickajack Reservoir land and appurtenant easement in Marion County, Tennessee, as surplus and for sale at public auction—Tracts XNJR-13 and XNJR-14.
3. Resolution relating to abandonment of road easement rights and designation of land as surplus and for sale at public auction affecting 6.52 acres of land located in Dyer County, Tennessee—Tracts FOSS-2, FOSS-3, and FOSS-4.
4. Filing of condemnation suits.

F—Unclassified

*1. Settlement of litigation brought by Marion F. Boatwright, Herbert D. Deavours, and William R. Tucker against TVA for damages allegedly resulting from a fire at Widows Creek Steam Plant.
2. Revised TVA Code relating to classified information.
3. Revised TVA Code relating to flood control.
4. Agreement with Benton, Kentucky, for Floodplain Relocation Project.

*Approved by individual Board members. This would give formal ratification to the Board's action.

DATED: May 29, 1980.

CONTACT PERSON FOR MORE INFORMATION:

Craven Crowell, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-1074-80 Filed 5-29-80; 3:41 pm]

BILLING CODE 8120-01-M

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federal register

Monday
June 2, 1980

Part II

Environmental Protection Agency

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Fifth Consolidated Decision of the Administrator

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1498-5]

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Fifth Consolidated Decision of the Administrator

I. Introduction

This is the fifth consolidated decision I have issued under Section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (gpm) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As the introductions to the previous consolidated decisions explain, section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later model year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, however, included a new provision allowing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 model year.[3] However, these amendments require the Administrator to promulgate standards for vehicles granted waiver applications which do not permit CO emissions over 7.0 gpm.[4]

In response to waiver applications, EPA already has held three sets of public hearings and issued four consolidated decisions pursuant to section 202(b)(5)(A).[5] In those decisions, I denied waivers for certain engine families either because I determined that effective control technology [6] was available contrary to the requirement of section 202(b)(5)(C)(iii) of the Act or because the applicant failed to provide sufficient information to establish that effective control technology was not available. Furthermore, the applicants failed to establish that considerations of costs, driveability, or fuel economy gave me a basis for reaching a different conclusion. I granted the waiver applications covering the remaining engine families after determining for each of those families that the requisite technology was not available and that the application met each of the statutory criteria for receiving a waiver.

From January 8 through February 8, 1980, EPA received waiver applications from Renault, Peugeot, Ford and GM.[7] Specifically, Peugeot and Ford submitted new applications, while GM and Renault requested waivers for engine families denied waivers in the first (GM) [8] and second (Renault) [9] consolidated decisions. EPA held hearings on these applications on February 12, 1980.[10]

This decision will address only the waiver requests from Renault and Peugeot on the basis of previously offered and recently provided information from these manufacturers and from other sources.[11] I will address the waiver requests by Ford and GM in a separate decision which I will issue shortly.

II. Summary of Decision

I am denying waiver requests covering the following engine families for the model years specified:

Waiver Applications Denied

Manufacturer	Model year denied	Engine family
Renault	1981, 1982	85 CID
Peugeot	1981, 1982	174 CID

Neither Renault nor Peugeot established that effective control technology is not available to enable these engine families to meet the statutory CO standard by the 1981 model year. Instead, the information in the record at this time indicates that such technology is available for Renault's 85 CID engine family. Peugeot has failed to provide information sufficient to establish that effective control technology is not available for its 174 CID engine family for the model years in question. Considerations of costs, driveability, or fuel economy, whether viewed separately or cumulatively, do not give me a basis for altering my determinations regarding the availability of technology for these engine families.

While these engine families may meet some, or all, of the remaining statutory criteria for receiving waivers, my determinations regarding available technology, considering costs, driveability, and fuel economy, preclude me from granting waivers covering these two engine families.

III. Discussion

A. Availability of Technology

The decisions I have made here on whether to grant or deny the requested waivers again turn primarily on whether technology is available to enable an engine family covered by one of these waiver applications to meet the 3.4 gpm CO standard in the 1981 model year. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into consideration costs, driveability, and fuel economy. Even if the Administrator determines that an applicant has met this burden, section 202(b)(5)(C)(iv) requires the Administrator to consider whether NAS studies or other information indicate that technology is available, considering costs, driveability, and fuel economy, before granting a waiver request.

As was the case in the previous consolidated CO waiver decisions, this consolidated decision relies on information contained in the waiver applications and other information found in the public record.[12]

To support contentions that effective control technology is not available, the waiver applicants have provided both descriptions of the systems they have been considering in trying to attain the 3.4 gpm CO emission standard and emission test results they have measured from vehicles incorporating those systems. I also have reviewed data from emission tests performed on vehicles for the purpose of receiving certification for the 1980 and 1981 model years. This additional information, as well as other information available to me, fails to establish that the requisite technology, considering costs, driveability, and fuel economy, is not available for the engine families in question.

As part of my assessment of technology, section 202(b)(5)(C)(iv) of the Act requires that I consider the results of NAS studies and investigations [13] conducted under section 202(c) of the Act regarding available technolgoy, processes, or other alternatives. For the reasons discussed in my earlier consolidated waiver decisions, the findings of the available NAS studies do not contradict my assessment regarding the availability of technology for these two engine families.[14]

1. Renault

Renault requested reconsideration of the December 3, 1979, decision denying its application for a CO waiver for the 85 CID engine family for the 1981 and 1982 model years.[15] I denied Renault's previous waiver request because I concluded that Renault failed to establish that effective emission control technology is not available. My decision was based on the technical analysis which indicated that this engine family as described by Renault could meet the 3.4 CO standard with the addition of a clean-up oxidation catalyst with a switched-air system. I also determined that Renault had failed to establish that space constraints would preclude the addition of those components on its vehicles.

On January 10, 1980, Renault reapplied for a waiver of the 3.4 gpm CO standard for the 85 CID engine family for the 1981 and 1982 model years. As part of its current application, Renault submitted additional emission test data and further technical information. Renault reasserted that this information establishes that it is unable physically to incorporate the clean-up oxidation catalyst with switched-air system in an optimized location in vehicles employing its 85 CID engine family due to space restrictions and lead time requirements.[16]

Renault further contended that in my previous decision I overestimated the emission improvement factor developed in that decision to predict the emissions improvements which addition of these components would achieve. Renault thus claims that this information ultimately establishes the unavailability of effective control technology to enable this engine family to meet the 3.4 gpm CO standard.[17] In addition, Renault expressed concern over whether its current 1981 system, without the additional components, could meet its own design goals for emissions in order to ensure successful Selective Enforcement Audit (SEA) testing at the 40% Acceptable Quality Level (AQL).[18]

I have determined that Renault has failed to establish that effective emission control technology, considering costs, driveability, and fuel economy, is not available to enable its 85 CID engine family to meet the 3.4 gpm CO standard for the 1981 and 1982 model years. In reaching this decision, I have concluded on the basis of new information not available for my original decision that this engine family is capable of meeting the 3.4 gpm CO standard without the addition of any components or adjustments to the available 1981 engine-emission control system.[19]

Appendix A applies a "modified" Monte Carlo statistical simulation technique to certification emission data from Renault's 85 CID certification vehicle. This modified statistical simulation technique is similar to the simulation technique used in previous suspension and waiver decisions to project the likelihood that a given engine family will be capable of certifying to applicable emission standards.[20] That technique included consideration of certain variabilities in projecting the likelihood of successful certification on the basis of emission data from pre-production development vehicles.[21]

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[1] The preceding decisions were published as follows: 44 FR 53376 (September 13, 1979); 44 FR 66417 (December 3, 1979); 45 FR 7122 (January 31, 1980); 45 FR 17914 (March 19, 1980).

[2] Regulations were promulgated on August 15, 1979, setting a CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.081–8(a)(1)(ii), 43 FR 37972. This standard requires at least a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(C) of the Act provides, in part: The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) all good faith efforts have been made to meet the standards established by this subsection;

(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii) to meet such standards.

[4] As noted in previous decisions, Section 202(b)(5) of the Act requires that I make a separate assessment for each vehicle model covered by a waiver request. 44 FR 53376 (September 13, 1979), 44 FR 66416 (December 3, 1979), 45 FR 7122 (January 31, 1980). Thus, these earlier consolidated decisions have included separate decisions for individual engine families. As in the previous decisions, I have distinguished among engine families primarily on the basis of engine displacement. See footnote 17, second consolidated decision, 44 FR 66416, 66418 (December 3, 1979).

[5] I announced the fourth decision, in response to a consolidated waiver application by Chrysler, separately from the decision on applications by other manufacturers considered at the third hearing. EPA has included in the record for this decision testimony received at these three hearings, as well as all other information considered in deciding these three groups of waiver applications, in EPA Public Dockets EN–79–4, EN–79–17, and EN–79–19, respectively.

[6] As was the case in the earlier consolidated decisions, I am using the term "technology" in this decision to encompass the statutory language "technology, processes, operating methods, or other alternatives" included as part of section 202(b)(5)(C)(iii) of the Act.

[7] Respectively, Regie Nationale Des Usines Renault; Automobiles Peugeot; Ford Motor Company and General Motors Corporation.

[8] 44 FR 53376 (September 13, 1979).

[9] 44 FR 66416, 66419, (December 3, 1979).

[10] The transcript from this hearing is located in EPA Public Docket EN–80–1. This decision uses the following abbreviations:

R. Reapp.—Renault Petition for Reconsideration, dated January 8, 1980.

P. App.—Peugeot Application for Waiver, dated January 14, 1980.

[11] See the discussion on my consideration of other sources of information in the previous waiver decisions, e.g. section III(B)(1)(C), 44 FR 66416, 66422 (Dec. 3, 1979).

[12] Much of this information was gathered for and included in the record for the previous consolidated CO waiver decisions. See EPA Public Dockets EN–79–4, EN–79–17, and EN–79–19. Those records have been incorporated by reference into the record for this fifth consolidated decision, EPA Public Docket EN–80–1.

[13] Report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences, dated November 1974. See also discussions of the applicability of NAS studies in previous CO waiver decisions; e.g., 44 FR at 53376, 53386 (September 13, 1979) and 44 FR at 66416, 66423, 66428 (December 3, 1979).

[14] See, e.g., 44 FR 53376, 53386 (September 13, 1979), 44 FR 66416, 66428 (December 3, 1979).

[15] 44 FR 66416 (December 3, 1979).

[16] R. Reapp., p. 1–2. February 12, 1980 Transcript, p. 12.

[17] February 12, 1980 Transcript, p. 13–16.

[18] February 12, 1980 Transcript, p. 13. The Selective Enforcement Audit (SEA) program applies the Federal Test Procedure to a representative sample of production vehicles from a particular specified vehicle configuration selected from a particular assembly plant in order to determine whether the production vehicles of that configuration are meeting Federal emission requirements. The "Acceptable Quality Level" (AQL) is the maximum percentage of a configuration's total production vehicle population which could fail to meet Federal emission requirements before that configuration will incur more than a five-percent likelihood of failing an SEA. See 41 FR 31474 (July 28, 1976) and 44 FR 66416 (Dec. 3, 1979).

[19] Cf. My previous denial of a waiver request for this engine family, 44 FR 66416, 66426 (Dec. 3, 1979). See also App. A, section V.

[20] The Monte Carlo simulation technique used in these previous decisions is discussed more fully in the following:

Appendix B, Technical Appendix to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.

Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emissions Standards, July 30, 1973.

Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emissions Standards, March 5, 1975.

38 FR 10317, 10323 (April 26, 1973).

44 FR 53376, 53380 (Sept. 13, 1979).

44 FR 66416, 66421 (Dec. 3, 1979).

45 FR 7122, 7123 (Jan. 31, 1980).

[21] The statistical treatment of the data examined in EPA methodology in previous decisions used a technique employed by Central Motors in Volume III, Appendix 27, of its March 5, 1973 submission. EPA used the Monte Carlo technique to calculate the expected distribution of emission results that would occur if an experiment (in this case, testing a vehicle up to 50,000 miles) were to be repeated. The EPA methodology considers three types of variability when making such calculations: (1) Car-to-car variability; (2) test-to-test variability; and (3) variability in deterioration rate of emissions performance.

Footnotes continued on next page

However, because data from actual certification "durability" vehicles are now available for the 1981 model year 85 CID engine family, certain terms which in previous decisions had been incorporated in the Monte Carlo simulation to account for variabilities in emissions performance are no longer relevant.[22] EPA has therefore modified the Monte Carlo simulation technique used in earlier decisions by eliminating those variabilities which are no longer applicable when evaluating actual certification emissions data.[23] This modified Monte Carlo technique, when applied to the actual certification emissions data, is a better indicator of an engine family's capability to meet emission standards in certification.

Even with no improvement factors for additions to the emissions control systems, this modified Monto Carlo analysis indicates with a high degree of statistical confidence that Renault's 85 CID engine family is capable of certification at the 3.4 gpm CO standard for the 1981 and 1982 model years. This modified Monte Carlo analysis thus gives me a basis for determining that effective emissions control technology is available.[24]

In addition to the modified Monte Carlo analysis, EPA also used available certification test results to anticipate the ability of Renault's 85 CID Engine family to complete certification testing successfully through 50,000 miles by applying a least-squares straight-line fit to the emission data.[25] This method, which EPA uses as part of its certification program to determine compliance with emission standards, supports the conclusion reached above using the modified Monte Carol simulation.[26] Thus, with a significant portion of the durability certification testing complete, the least-square straight-line fit of the available certification data indicates that this engine family most likely will pass certification at a level comfortably below the 3.4 gpm CO standard.[27]

I also have considered Renault's contention that production vehicles of this engine family may fail future Selective Enforcement Audit (SEA) requirements even though the engine family may pass certification.[28] Renault provided information regarding the formulation of the emission target levels it sets for its prototype vehicles to afford what it deems to be adequate assurance that its vehicles will be likely to meet Federal emission requirements for vehicles in actual production and use.[29]

Application of this formula to the 1981 model year emission standards produces a low-mileage CO emission target slightly below the low-mileage emission levels Renault achieved for its 85 CID engine family in certification and on some of its development vehicles.[30] However, comparison of Renault's emission design targets and certification test results for previous model years indicates that Renault has actually chosen to produce vehicles which exceeded these earlier emission design targets by margins comparable to the margins present here. Thus Renault has failed to establish that it will be unable to produce this engine family in compliance with a 3.4 gpm CO standard because of the possible inability of its production vehicles to meet SEA requirements as evidenced by its failure

Footnotes continued from last page

Car-to-car variability results from the fact that two vehicles, built as identically as possible, can produce different emissions levels.

Back-to-back tests on the same car can produce different measured emissions values.

Vehicles that are nominally the same can, if run to 50,000 miles, experience different rates in deterioration of emissions performance.

The Monte Carlo technique accounts for these variabilities in projecting the likelihood of successful certification. See Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973, pp. 38–44.

[22] In order to determine conformity with Federal emission standards, EPA requires emissions testing of a prototype "durability vehicle" at approximately 5,000-mile intervals while that vehicle accumulates 50,000 miles. 40 C.F.R. § 86.080–26(a)(4) (1978). Where these data are available for an engine family, car-to-car, test-to-test, and deterioration rate variabilities no longer need be taken into account in projecting the likely measured emissions of actual certification tests. For further explanation, see App. A, section III.

[23] The "modified" Monte Carlo technique, which this decision employs for Renault's 85 CID engine family, still takes into account some emissions performance variabilities that could occur in completing certification testing for this engine family over extended mileage. Specifically, the analysis accounts for car-to-car, test-to-test, and deterioration factor variabilities that could occur while Renault completes testing on its certification vehicle through 50,000 miles. This decision includes analysis of emissions data through 40,000 miles. See App. A, section III, V.

[24] This engine family marginally fails the Monte Carolo analysis as applied in previous decisions, but passes the more accurate modified Monte Carlo technique applied to the certification emission data available here. See note 23, supra and App. A., section III, V.

[25] 40 CFR 86.079–28(a)(4)(7)(B). EPA uses the least-squares method to interpolate emission results in order to fit a straight line to the scattered 5,000-mile interval emission data points of a certification durability vehicle in determining whether or not that vehicle has met the emission requirements of the certification program.

[26] App. A, section V.

[27] Although the least-square method is an interpolative rather than a predictive methodology, it does accurately reflect emissions performance through the 40,000 miles of testing already completed. App. A, section V. See also discussion of certification results used in previous decisions, 44 FR 69416, 69426 (Dec. 3, 1979), and note 35, 45 FR 7122, 7125 (Jan. 31, 1980). Appendix A also applies the same Monte Carlo technique as used in previous decisions with the addition of a factor for emissions improvement for a start-oxidation catalyst on Renault's open-loop oxidation catalyst system. With the addition of these components, which may be available for the 1982 model year, the "standard" Monte Carlo simulation predicts that the 85 CID engine family could meet the 3.4 gpm CO standard. Renault established that these improvements are not available for the 1981 model year due to lead-time constraints. App. A, section V. A factor for a clean-up oxidation catalyst with switched-air to be used with Renault's closed-loop three-way catalyst system was also developed for this engine family in the second consolidated decision, 44 FR 69416, 69444 (Dec. 3, 1979). Renault failed to establish that space constraints precluded the addition of these components. However, Renault did establish that because of lead-time considerations Renault could not incorporate these components in the 85 CID engine family until the 1982 model year. App. A, section V. Because of the newly-available certification data, however, I no longer need to rely on this factor in determining whether effective CO control technology is available for this engine family.

[28] February 12, 1980 Transcript, pp. 12–16. See also 44 FR 69416, 69427 (Dec. 3, 1979) for a discussion of manufacturers design targets.

[29] R. App. Sept. 1979, Supplemental Submission, section V.

[30] The formula Renault uses to calculate emission test data targets is shown below (see R. App. p. 4.1 of additional submission September 24, 1979):

Emission Standard

Engineering Goal = D. F./K − δ map

K is a "coefficient which takes account of the difference in average emissions and the variability between 0-mile production vehicles and 4000 mile development vehicles" (i.e., a coefficient accounting for prototype-to-production slippage). R. App., September 1979, Supplemental submission p. 4.1. EPA assumed a K value of 1.3 based upon Renault's own approximation. Id. at 4.2. The DF is the deterioration factor developed from emission "durability" testing, and σ map is the standard deviation corresponding to the variability of emission results of 4000-mile development vehicles.

Renault Emission Goals Compared to Results

Certification testing 1981	4000 mile HC goal/HC results	4000 mile CO goal/CO results	4000 mile NO_x goal/NO_x results
		2.6***/2.6	
09/05/79	0.30/0.18	5.24/0.84	1.45/1.37
11/01/79	0.24/0.19	5.90/4.74	0.67/0.31
06/30/78	1.15/1.13**	11.1/11.5*	1.54/1.68*
08/10/78	1.09/0.25	8.27/2.1	1.15/1.05**
10/23/78	1.09/0.39	8.27/3.8	1.54/1.37
10/23/78B	1.09/0.35	8.27/3.1	1.54/1.32
01/10/78	1.13/1.33*	11.4/10.5	1.54/1.64*
07/10/78	1.13/1.35*	11.4/10.7	1.54/1.69*
02/24/78	0.93/0.29	11.3/2.8	1.26/1.04

The above table uses low-mileage emission test results and estimated design targets based on deterioration factors from Renault's applications for certification for the 85 CID engine family which Renault produced in the 1979, 1980, and 1981 model years. All values are calculated using the Renault formula without δ map. However, EPA also considered the representative "system variability" δ map values from various Renault emission control systems (R. App. Sept. 1979, section V) as listed below. Use of any δ map value in the engineering goal calculation serves only to lower the engineering goal.

Model	810R	810RC	1980 49-state	Three-way catalyst + feedback carburetor
HC	0.10	0.033	0.03	0.035
CO	1.2	0.3	0.3	0.45
NO_x	0.16	0.2	0.2	0.10

*Indicates examples where test results exceeded design targets. For example, for the CO values taken from certification testing dated 6/30/78, the CO certification test results exceed the engineering goal of 11.1 by 0.4 gpm. If any value for δ map was included, the CO test results would exceed the engineering goal by an even greater amount.

**Indicates examples where test results exceed design targets when subtracting EPA assigned average δ map values calculated from the above δ map figures (i.e., when the average δ map value is subtracted from the goal in each column).

***EPA interpolated.

to meet these design targets in certification testing.[31]

Consideration of costs, driveability, or fuel economy offers no basis for altering my conclusion that Renault has failed to establish that effective emissions control technology is not available for its 85 CID engine family. Since the engine family/emissions control system for which Renault has requested this waiver is the same system which is currently projected to pass 1981 certification at the 3.4 gpm CO level, Renault has not demonstrated any cost, driveability or fuel economy differentials between a system it plans to use under a 7.0 gpm CO standard and one targeted to meet the 3.4 gpm CO standard.[32]

2. Peugeot

Peugeot applied for a waiver to a CO standard of 5.5 gpm for its 174 CID engine family for the 1981 and 1982 model years. In support of this application, Peugeot provided some emission test data and other information regarding space constraints of alternative emissions control systems. Peugeot contended that its "prime" system, employing fuel injection, was unavailable for those model years because of space limitations and lead time problems both related to Peugeot's ability to incorporate the closed-loop fuel injection system on the 174 CID engine family.[33] As a result, Peugeot claimed that the best emissions control system available for this engine family was its 1980 dual feedback carburetor system with minor improvements to the choke and some other components.[34] Peugeot also contended that this current 1981 system was incapable of meeting its own design targets.

However, Peugeot has not provided any durability emission data on this engine family as Peugeot plans to use it in its 1981 model year vehicles.[35] As I stated in the Guidelines for Waiver Applications [36] and in previous waiver decisions,[37] the manufacturer must provide sufficient emission data to permit me to assess adequately the durability of its emission control capabilities to meet Federal emission standards for the 1981 and 1982 model years through the use of the Monte Carlo statistical simulation employed in past decisions.

Instead, the only data Peugeot provided were low-mileage development data, which indicate compliance with the 3.4 gpm CO standard at that low mileage, and give me no basis for concluding that this engine family cannot continue to meet this standard in certification or in production. The only information Peugeot provided on the likely emissions durability characteristics of the 1981 engine family was the "deterioration factor" (DF) from its 1980 predecessor, which indicates no projected CO emissions control deterioration over the 50,000 mile statutory engine life.[38]

EPA applied the standard Monte Carlo simulation to Peugeot's low-mileage data by projecting from Peugeot's 1980 DF the additional data points required to perform this analysis. This statistical simulation accounts for test-to-test, car-to-car, and DF variability in conservatively analyzing Peugeot's ability to certify. The Monte Carlo simulation performed with Peugeot's low-mileage emissions data, even without hypothesizing any technological improvements, provided no indication that this engine family is not capable of meeting the 3.4 gpm CO standard.[39]

Peugeot has also failed to establish that it would be unable to produce this model even though this engine family did not meet Peugeot's design targets. Peugeot calculated its design targets for a 3.4 gpm CO standard on the basis of a mean emission variation derived from 1979 and earlier model year production vehicles designed to meet a 15 gpm CO standard.[40] Peugeot has not established that the variation based upon production vehicles designed to meet the 15 gpm CO standard would be as great for production vehicles designed to meet a 3.4 gpm CO standard. Nor did Peugeot support the mean value which it employed for this standard variation by providing emission data on the individual production vehicles from previous model years which it used to calculate that mean value.[41]

Considerations of costs, driveability, or fuel economy offer no basis for altering my conclusion that Peugeot has failed to establish that effective emissions control technology is not available for its 174 CID engine family.[42] Peugeot did not raise driveability or fuel economy as issues and did not provide any information to support claims based upon these factors. In addition, Peugeot has not established any cost differential between the system covered by this waiver request for a 5.5 gpm interim CO standard and a system it would need to meet the 3.4 gpm CO standard because Peuget claims that it has no system available to meet the 3.4 gpm CO standard in the 1981 and 1982 model years. I am, therefore, unable to determine that effective emissions control technology, considering costs, driveability and fuel economy, is unavailable for Peugeot's 174 CID engine family for the 1981 and 1982 model years.

B. Protection of Public Health

According to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which applicants failed to establish the unavailability of effective control technology (considering costs, driveability, and fuel economy) meet any of the remaining statutory criteria in order for me to deny these applications. The Act requires me to deny waiver applications where an applicant has failed to meet any one of the criteria, regardless of whether such applicant could meet the remaining criteria. Nevertheless, I will address these issues briefly in the course of discussing the remaining criteria as I have done in the four previous waiver decisions.

Section 202(b)(5)(C) of the Act states that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine family receiving the waiver.[43]

While waiving the 1981 and 1982 statutory CO standards for either of the engine families here arguably would not significantly affect the public health, noticeable increases in ambient CO

[31] For the 1981 model year, EPA estimates a CO design target of 2.8 gpm and 4000-mile interpolated certification results of 2.6 gpm CO.

[32] App. A, sections VI, VII, VIII.

[33] P. App. pp. 8, 25. February 12, 1980, Transcripts pp. 58–59, 64–66.

[34] February 12, 1980 Transcript, p. 60. See also Appendix A, section V.

[35] February 12, 1980 Transcript, pp. 70–73. See also App. A, section V.

[36] 43 FR 47272, 47276 (October 13, 1978).

[37] See 44 FR 53376, 53385 (September 13, 1979), 44 FR 69416, 69427 (December 3, 1979), and 45 FR 7122, 7123, (January 31, 1980).

[38] February 12, 1980 Transcript, pp. 71–73.

[39] The requirements for Monte Carlo analysis are stated in the Guidelines for Applications, 43 FR 47272, 47276, (Oct. 13, 1978). In fact, the low-mileage data Peugeot did supply indicated a good possibility that this engine family could meet a 3.4 gpm CO standard in the 1981 model year. See App. A, section V. Low-mileage data are as a rule insufficient to support granting a waiver except where a manufacturer is eligible for and has received an assigned DF. Cf. my decision regarding Lotus' CO waiver requests, 45 FR 7122, 7125 (Jan 31, 1980).

[40] P. App., Appendix I (section 5).

[41] Cf. 44 FR 53384 (September 13, 1979) (addressing concerns similar to Peugeot's which other CO waiver applicants have raised).

[42] App A, sections VI, VII, and VIII.

[43] These criteria are found in section 202(b)(5)(C) of the Act. For discussion regarding these criteria in earlier waiver decisions, see 44 FR 53376, 53378 (September 13, 1979) and 44 FR 69416, 69420 (December 3, 1979), 45 FR 7122, 7126 (January 31, 1980).

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levels could result from granting waivers industry-wide.[44] In light of the fact that industry-wide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry consisting of engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available (presuming these families also meet the remaining statutory criteria).[45]

C. Essential to the Public Interest or to the Public Health and Welfare

Before I may grant a waiver request, section 202(b)(5)(C)(i) of the Act requires that I determine that granting the waiver is essential to the public interest or the public health and welfare.[46]

I have determined that it is not essential to the public interest to grant waivers to the Renault and Peugeot engine families where the applicants have failed to establish that these engine families are incapable of meeting a 3.4 gpm CO standard or are likely to incur significant costs (or driveability or fuel economy penalties) in meeting that standard. Neither Renault nor Peugeot has established that the costs (or other penalties) involved are so substantial as to present a significant risk to the waiver applicant's ability to produce and competitively market vehicles of that engine family, or vehicles generally.[47]

D. Good Faith

In order for me to grant a waiver to any applicant, section 202(b)(5)(C)(ii) of the Act [48] requires that I determine that the applicant in question has made all good faith efforts to meet the established emission standards. As a result, I have examined information regarding each applicant's previous and projected efforts toward meeting a 3.4 gpm CO emission standard for the engine families in question.

Each of the waiver applicants has provided information to support the contention that it has acted in good faith in trying to meet the 3.4 gpm CO standard. There is not sufficient information in the record currently to support a determination that either of the applicants has failed to meet the Act's good faith criterion in developing emission control technology to meet the 3.4 gpm CO standard.

However, the progress Peugeot has made in developing a closed-loop fuel injection system has not proceeded as quickly as I normally would expect. Peugeot stated at the public hearing that it believes it needs this fuel injection system to meet a 3.4 gpm CO standard and has been aware of the problems in incorporating this system since 1977,[49] yet still feels it cannot complete development and adaptation of that system before the 1983 model year. However, since I have denied Peugeot's waiver request on the grounds that Peugeot has failed to establish the effective emissions control technology is unavailable, I need not reach a final determination regarding whether Peugeot has met the good faith criterion of the Act.[50]

E. Risks in Determining Available Technology

In *International Harvester Co. v. Ruckelshaus,*[51] the United States Court of Appeals for the District of Columbia Circuit reviewed the administrator's decision to deny manufacturers' request for a one-year suspension (from 1975 to 1976) of the effective date of the statutory hydrocarbon (HC) and CO standards mandated by the 1970 version of the Act. The court stated, among other things, that the Administrator should have considered the risks associated with the possibility of erroneously granting or denying those requests. The court indicated that the Administrator should balance the economic costs (in terms of jobs and misallocated resources) possibly associated with an erroneous denial versus the possible environmental benefits lost through an erroneous grant. Even though the health risks associated with erroneous grants in the proceedings at hand may not be great, the risks associated with erroneous denials (which do not involve health considerations) also are limited significantly. My findings that technology is available for an engine family to meet certification testing requirements are based on conservative projections.[52] The move from today's state of technology to the technology required to achieve the 3.4 CO standard does not require any substantial shift to untried emission control methods. Furthermore, an incorrect determination here would have the potential to adversely affect the production of only one engine family, as opposed to the ability of the industry as a whole to produce cars for the public generally. In light of these counter-balancing risks, and in light of Congress' expressed intent to afford a statutory waiver only in exceptional circumstances rather than on an across-the-board basis,[53] I have concluded that it is appropriate to deny waiver applications insofar as they cover engine families for which the manufacturer has failed to establish that effective control technology, considering costs, driveability, and fuel economy, is not available.

IV. Conclusion

I have determined for Renault's 85 CID engine family that effective control technology is available to meet a 3.4 gpm CO standard by the 1981 model year, even after considering costs, driveability and fuel economy. In addition, I have determined that Peugeot has failed to provide information sufficient to establish that such technology, considering costs, driveability, and fuel economy, is not available for its 174 CID engine family in the 1981 and 1982 years. Therefore, I must deny the waiver requests for these two engine families.

Dated: May 14, 1980.

Douglas M. Costle,

Administrator.

[44] Each of these applicants argued that granting a waiver to each of these engine families would have an insignificant impact especially considering total projected sales. For further discussion concerning these contentions see the first decision, 44 FR 53376, 53381, and Appendix B at 44 FR 53402–53407 (September 13, 1979).

[45] I discussed the ambient air quality effect of granting CO waivers in each Appendix B in two previous decisions, 44 FR 53376, 53402–53407 (September 13, 1979) and 44 FR 69416, 69456–69462 (December 3, 1979).

[46] Previous decisions discussed more fully the public interest and public health and welfare effects of engine families denied waivers. 44 FR 53387, 44 FR 69429 (September 13, 1979 and December 3, 1979).

[47] This point was discussed in the public interest analysis section in previous decisions regarding engine families denied waivers. 44 FR 53376, 53385 (September 13, 1979) and 44 FR 69416, 69430 (December 3, 1979), 45 FR 7122, (January 31, 1980), 45 FR 7914 (March 19, 1980). Appendix A contains a closer examination of these issues. App. A, section V–IX.

[48] 42 U.S.C. 7521(b)(5)(C)(ii).

[49] February 12, 1980 Transcript, at p. 90. Cf. App. A, sections V, IX. In addition, Peugeot supplied emission data from only sixteen tests, all low-mileage, on its 1981 system. Lack of development testing of this system could be considered as another indication of the sufficiency of good faith development effort to meet the 3.4 gpm CO emission standard.

[50] The sufficiency of good faith development efforts would continue to be an issue in the event that a manufacturer should reapply for a waiver, as would the other statutory criteria. See note 61, 44 FR 69417, 69424 (December 3, 1979).

[51] 478 F.2d 615 (D.C. Cir. 1973). For further discussion of this case, see 44 FR 53376, 53388 (Sept. 13, 1979).

[52] See section III(A)(1), supra. See also App. A, sections III, V. Although the Monte Carlo technique employed here differs slightly from that used in previous decisions, this "modified" Monte Carlo produces a more accurate projection of likelihood of successful certification while still maintaining conservative variabilities where necessary. See the discussion in section III(A)(2). See also, App. A, section III, V.

[53] See also discussion of the *International Harvester* case in two previous decisions, 44 FR 53376, 53387 (September 13, 1979), 44 FR 69416, 69429 and 69430 (December 3, 1979). In my fourth consolidated decision I based my decisions to grant waivers due to potential risks on two factors: (1) The severity of the adverse economic consequences which could occur as the result of an erroneous denial and; (2) the likelihood that a denial, in fact, will turn out to be ill-founded. 45 FR 17914, 17917 (March 19, 1980). Neither Renault nor Peugeot has established that factors such as these contradict my findings here.

Appendix A—Summary of Technological Capability

Contents

I. Introduction.
II. Summary of Technological Capability.
III. Statistical Treatment of the Data.
IV. Factors.
V. Discussion of Individual Manufacturer's Technical Capability.
VI. Cost Analysis.
VII. Driveability.
VIII. Fuel Economy.
IX. Lead Time Considerations.
X. References.

I. Introduction

The exhaust emission standards for 1981 and later model year light-duty vehicles are currently 0.41 gram per mile HC, 3.4 grams per mile CO, and 1.0 gram per mile NOx. Section 202(b)(5)(A) of the Clean air Act, as amended, 42 U.S.C. 7521(b)(5)(A) provides the opportunity for manufacturers to request a waiver of the 3.4 grams per mile CO standard to 7.0 grams per mile during model years 1981 and 1982.

The applicants being considered in this document are Peugeot and Renault. This is the fourth group of CO waiver applications that have been considered by EPA. This is the second time that a waiver request has been considered by EPA from Renault. General Motors has again requested a waiver for one of their engines, and Ford has requested waivers for two of their engines. The Ford and General Motors requests will be discussed in a later document.

This appendix deals with the technological capability of Peugeot and renault to meet the 1981 and 1982 CO standard of 3.4 grams per mile. This appendix relies on three previous technical appendixes, particularly for discussion of the Monte Carlo simulation utilized in this analysis. These appendixes are:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.

2. Appendix A, Technical Appendix, to the Decision of the Administrator In re : Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.

3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

As indicated in Section 202(b)(5)(c)(iii), the technological feasibility determination is based on the consideration of technological capability, cost, driveability, and fuel economy. This appendix contains discussion of each of the above topics.

II. Summary of Technological Capability

Tables II–1 and II–2 summarize the capability of the applicant manufacturers to meet the 1981 and 1982 emission standards. The standards considered in these tables are 0.41 HC, 3.4 CO, 1.0 NOx.

A guide to the summary tables is as follows. The first column lists egine displacement. The "as received" column refers to the emission data submitted by the manufacturer. "Improvements" refer to the projected technological improvements (factors) applied to the data submitted by the manufacturer.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's established technological analysis as referred to in EPA's published CO waiver guidelines. The applicants have known for about six years what sort of data is necessary for EPA to make a determination under its established methodology whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in one case there was a lack of useable data for vehicles using a specific engine. This effectively precluded EPA from making a pass/fail determination for those vehicles through the established methodology. In these cases the vehicles using these engines are called "no data" and no pass/fail determination was made.

Table II–1.—*Applicant: Peugeot*

Engine	Pass as received?	Pass with improvement?
174 CID	No data	N/A*

Table II–2.—*Applicant: Renault*

Engine	Pass as received?	Pass with improvement?
85 CID	Yes	N/A

* N/A means not applicable or that no hardware improvement factors were applied to these vehicles.

III. Statistical Treatment of the Data

No changes have been made in the standard Monte Carlo methodology since its last use in a technical appendix. This methodology has been discussed in three previous technical appendixes:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.

2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.

3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

A new Monte Carlo simulation has been developed to handle a new situation which has arisen in this waiver proceeding. The new situation is that the Administrator must make a discision to grant or deny waivers based on actual certification vehicles with less than complete mileage accumulation for a given model year which is also a year for which a waiver has been requested. Specifically, the circumstance is that Renault has a 1981 model year durability vehicle (vehicle 785) in EPA certification. Car 785 has currently accumulated over 40,000 of the mandatory 50,000 miles of durability mileage accumulation. Based on all current emission data points, the vehicle meets the 1981 emission standards. Based on the least-squares-fit straight line through all current data, the vehicle is projected to pass the 1981–1982 standards. Based on the standard Monte Carlo methodology, the vehicle is projected to marginally fail CO emissions.

The situation brought about by Renault vehicle 785 has not arisen in previous waiver decisions. If the Renault vehicle had completed the 50,000 miles at the projected emission levels, the waiver would have probably been denied. And if the Renault vehicle were a prototype development vehicle instead of an actual 1981 certification vehicle, the vehicle would clearly be considered to fail as in previous decisions.

The Monte Carlo is used to predict the probabilities of an untested certification vehicle passing the emission standards based on the test data from a prototype durability vehicle of identical construction. Car-to-car variability, test-to-test variability, and deterioration factor variability are applied to the prototype vehice data. Use of the standard Monte Carlo methodology in the case of the Renault certification vehicle would be inappropriate to determine the probability of passing certification because the three variabilities would be applied to vehicle

results for which there is no real life variability; i.e., the first 40,000 miles of data are actual certification data and will be used precisely as they exist to determine pass/fail in certification.

Because of the inappropriateness of the standard Monte Carlo for predicting the certification results of actual certification vehicles, a modified version of the Monte Carlo was developed such that the predictive methodology could be validly applied to certification vehicles.

In the standard Monte Carlo program, the following steps take place:

1. A d.f. value and a 50,000 mile intercept are calculated from the actual vehicle data and are input into the program.
2. The Monte Carlo program calculates the 4,000 mile intercept.
3. A random 4,000 mile point is selected from the normal distribution of car-to-car variability centered around the calculated 4,000 mile point.
4. A new d.f. line is fitted through the randomly selected 4,000 mile point. This new or second d.f. line is an increment of the actual d.f. line. This increment is randomly selected from the d.f. variability distribution.
5. From the adjusted d.f. line, which passes through the adjusted 4,000 mile point, temporary points are then calculated at mileage increments of 5,000, 10,000, and 15,000, etc. Final values for these points are then chosen by randomly applying test-to-test variability to the temporary emission values.
6. A d.f., a 4,000 mile intercept, and a 50,000 mile intercept are calculated from the data points generated in step five.
7. The preceding steps are repeated 100 times.

In the Modified Mont Carlo for Certification Vehicles, the variability distributions for car-to-car, d.f. and test-to-test variabilities are not applied to actual certification test points. The variabilities are only used for the projected test points.

In the Modified Monte Carlo for Certification Vehicles, the following steps take place:

1. A d.f. value and a 50,000 mile intercept are calculated from the actual certification data and are input into the program.
2. The Monte Carlo program calculates the first projected test point beyond the actual test points.
3. A random value is selected for the first projected data point. For instance, if certification test data includes the 40,000 mile test point, the first projected point would be the 45,000 mile point. The value for the first projected point is randomly selected by applying car-to-car variability should not exist because there is no change in vehicles, this portion of the calculation adds conservatism to the analysis.
4. A new d.f. line is fitted through the randomly selected value for the first projected point. This new or second d.f. line is calculated by adding or subtracting a d.f. increment to the original d.f. line. This increment is also picked at random, from the d.f. variability distribution.
5. From the adjusted d.f. line, which passes through the adjusted value for the first projected data point, points are picked at 5,000 mile increments of up to 50,000 miles. Values are also projected for before and after scheduled mainatenance test points. The values for these data points are randomly selected from the test-to-test variability distribution.
6. A d.f., a 4,000 mile intercept, and a 50,000 mile intercept are calculated from all the data points, both actual and projected.
7. The preceding steps are repeated *1000* times.

In the Modified Monte Carlo for Certification Vehicles, it should be apparent, from the preceding explanation, that the variability distributions for car-to-car, d.f. and test-to-test variabilities are only used in conjunction with the projected data points, and not with acutal certification test points. The values of the variabilities are identical to those used in the standard Monte Carlo. Also the modified Monte Carlo is used only to analyze incomplete 1981 model year certification vehicles.

IV. Factors

With respect to the vehicle emission data submitted by the manufacturers for EPA analysis, vehicles are often run and tested over durability mileage accumulation schedules without using the best technology that is available to the manufacturer for certification in the 1981 or 1982 model years. There are many reasons why this occurs. First, such technology may have simply not been available in quantity when fleets of vehicles began mileage accumulation. Second, all vehicles submitted for EPA staff analysis may not have been specifically designed for the 1981 and 1982 Federal emission standards. Also the manufacturer may wish to maintain some technologies (with known durability) in reserve if their low mileage testing indicates that such technology may not be needed for compliance with the target emission standards. In addition, technology may not appear on durability vehicles because the manufacturer has made a decision that the technology would be too costly for production vehicles.

To account for the fact that the applicants did not in all cases conduct durability testing with the most effective emission control hardware, factors have been applied to some of the emission data submitted by the manufacturers to simulate the addition of more effective systems. Due to substantial lead time problems for implementation of new or additional technology by the 1981 model year, these factors have been applied only for currently known hardware that can be implemented in 1981 or 1982 certification and production. These improvements have been basically limited to additional catalyst (i.e., the addition of oxidation catalyst in some cases), the addition of air injection, and additional catalyst noble metal loadings. Other improvements in hardware were considered if the manufacturer indicated that they were available for 1981 or 1982.

The factors that have been applied to the data are dimensionless numbers that represent the improvement in emission performance that is predicted for the more effective simulated emission control technology. The factors are derived from data that reflect the emission performance of a vehicle with and without the more effective technology. For example a factor for CO of 0.90 indicates that a 10% reduction in CO is projected for the use of the more effective technology. In addition, when there are several different sources for the same improvement, EPA uses a conservative estimate of that projected factor, i.e., a factor greater in absolute value than that indicated by most of the data.

Other factors which were developed, but generally not used in the following analysis include factors for:

- Warm up catalysts for 3W catalyst or 3W+OC systems
- Deletion of power enrichment
- Use of insulated or dual-walled exhaust pipes
- Use of exhaust port liners
- Use of throttle body fuel injection
- Use of multiple point fuel injection
- High energy ignition

Although the deletion of power enrichment and the use of insulated or dual-walled exhaust pipes were considered feasible for 1981, they were generally not used. Therefore, through these additional techniques, the manufacturers may have some additional cushion for certification over and above the factors used in EPA's analysis. Use of the other items was not considered possible for most manufacturers for most engine families before the 1982 model year.

Oxidation Start Catalyst Factor

The available CO control technology includes light-off or start catalysts. Start catalysts are small in size, have low thermal inertia and are mounted close to the engine. This combination of factors leads to rapid light-off for the start catalyst, which tends to lower HC and CO emissions. The data used to develop the oxidation start catalyst factor [11 at 4-14]* are shown in Table IV-1. This factor was used on Renault durability vehicle 785.

Table IV-1.—*Start Catalyst Effect*

	HC	CO	NO_x
	0.48	0.38	1.01
	0.62	0.45	1.00
	0.70	0.66	1.00
	0.90	0.01	0.98
	0.57	0.46	0.90
	0.68	0.72	1.20
Average factor as calculated	0.6	0.6	1.0
Factor as used in Monte Carlo	.7	.7	1.0

*The notation [W at Y] means the reference is reference number W from section V of this document at page number Y.

a. Peugeot

Peugeot has applied for a CO waiver for their 174 CID V-6 engine. Peugeot stated that their first choice emission control system for meeting the 1981-1982 standards includes: CL-EFI/3W/OC/Swt. AIR with one oxygen sensor for each exhaust manifold, also referred to as "stereo" oxygen sensors.

According to Peugeot, an electronic fuel injection system with stereo oxygen sensors will not be available until the 1983 model year. Because of the claimed unavailability of the preferred system, Peugeot's first choice system for the 1981-1982 model years was changed to include: FBC/3W/OC/Swt. AIR/EGR. This system also includes stereo oxygen sensors. This first choice system differs from their 1980 emission control system in three ways: (a) increased air flow in the AIR system, (b) an improved automatic choke, and (c) stoichiometry is maintained at full load.

Table V-1 lists the vehicles included in Peugeot's waiver application. To aid in distingusihing between vehicles which were submitted with the same vehicle number, EPA added a suffix. The vehicles included in Appendixes 3 and 5 of reference 3 have the three improvements listed above [12 at 1]. The standard Monte Carlo methodology was used for all the Peugeot vehicles included in the Monte Carlo analysis.

V. Discussion of Individual Manufacturer's Technical Capability

This section will discuss all vehicles which (1) were submitted by each of the two applicants (2) also are acceptable for input into the Monte Carlo simulation. Accpetable for input means (1) that the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components and (2) that a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

Details of the pass/fail determinations in section II are also presented here. To pass the 1981 and 1982 emission standard (of 0.41 HC, 3.4 CO, 1.0 NO_x), the probabilities of passing each individual pollutant must be greater than or equal to 80%. If the probability of passing only HC, for example, is less than or equal to 79%, the vehicle fails—even if the probabilities for CO and NOx greatly exceed the 80% cutpoint.

Due to the limited time for analysis, a pass/fail analysis is provided only for emission standards of 0.41 HC, 3.4 CO and 1.0 NO_x. Analysis of the capability of the vehicles to meet the standard of 0.41 HC, 7.0 CO, 1.0 NO_x was not conducted. Consequently, vehicles designed for a 7.0 CO standard are included in the following discussions of vehicles which were acceptable for entry into the computer analysis, but are not discussed with respect to compliance at 7.0 CO.

In order that the Monte Carlo analysis not be cluttered with hundreds of failing vehicles utilizing inappropriate technology, prior certification vehicles are not considered in this analysis except in special cases where a manufacturer's ability to comply with the 1981 and 1982 emissions standards is directly affected. It is not surprising that the durability vehicles from past certification would fail to achieve the 3.4 CO standard for two reasons. First, the 3.4 CO standard represents a substantial reduction in CO from prior model year standards. And second, major changes in technology are being planned for introduction in 1981 by most vehicle manufacturers to achieve the more stringent standards.

If a manufacturer's prime (prime means the system most capable of achieving the 1981 standards) 1981 emission control system has been tested in prior certification (generally 1980), these data are included in the analysis.

Table V-1.—*Vehicles in Peugot's Waiver Application*

Engine displacement in [1]	Emission control system	Vehicle No.	Entered in Monte Carlo?	If not entered in Monte Carlo, why?	Reference
163	3w/OC	638308	Yes		2 at A.1.1.
163	FBC-3W/OC/IEP*/Swt. AIR	6500992	Yes		2 at A.2.1.
174	FBC/3W/OC/Swt. AIR	6578006-A	No	<20,000 miles	2 at A.2.1.
174	FBC/3W/OC/Swt. AIR/IEP/EGR	6546867-A	No	<20,000 miles	2 at A.2.3.
174	FBC/3W/OC/Swt. AIR/IEP	6579514	Yes	<20,000 miles	2 at A.2.4.
174	FBC/3W/OC/Swt. AIR/IEP	6578006-B	No	<20,000 miles	2 at A.2.5.
174	FBC/3W/OC/Swt. AIR/IEP/EGR	6576867-B	No	<20,000 miles	2 at A.2.6.
174	FBC/3W/OC/Swt. AIR	6578006-C	No	<20,000 miles	2 at A.2.7.
174	FBC/3W/OC/Swt. AIR	6803218	Yes	<20,000 miles	2 at A.2.8.
174	FBC/3W/OC/EGR/Swt. AIR	851	No	<20,000 miles	3 at App. 3.
174	FBC/3W/OC/EGR/Swt. AIR	968	No	<20,000 miles	3 at App. 3.
174	FBC/3W/OC/EGR/Swt. AIR	204	No	<20,000 miles	3 at App. 3.
174	FBC/3W/OC/EGR/Swt. AIR	644-A	No	<20,000 miles	3 at App. 3.
174	FBC/3W/OC/Swt. AIR	134-A	No	<20,000 miles	3 at App. 4.
174	FBC/3W/OC/Swt. AIR	134-B	No	<20,000 miles	3 at App. 4.
174	FBC/3W/OC/EGR/Swt. AIR	851-A	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	851-B	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	851-C	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	644-B	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	644-C	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	644-D	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	644-E	No	<20,000 miles	3 at App. 5.
174	FBC/3W/OC/EGR/Swt. AIR	644-F	No	<20,000 miles	3 at App. 5.

* IEP is an abbreviation for insulated exhaust pipes.

Pass/Fail Analysis for the Peugeot 174 CID Engine

Peugeot was deemed to be a "no data" case for the 174 CID engine because they failed to run any durability vehicles which were targeted for the 1981–1982 standards. For this reason, useable data was not available to analyze through EPA's established methodology.

Peugeot stated that their reason [1 at 71 to 74] for not running a 1981 durability vehicle was because even if the 1980 durability vehicle deterioration factor (d.f.) for CO of 1.0 were applied to their 4,000 mile results [2 at 28] for vehicles which included the three improvements listed previously, their calculations indicate that they would not be able to meet a 3.4 CO standard. Their argument continues that since the 1980 CO d.f. of 1.0 could not be improved upon, there is no reason to start a 1981 durability vehicle.

Table V-2.—*Typical 4000 mile results for Peugeot vehicles with 1981 improvements*

Transmission	HC	CO	NO_x	MPG
Automatic	0.22	2.5	0.43	18
Manual	0.27	2.2	0.40	18

In response to Peugeot's argument, a Monte Carlo analysis of Peugeot's 4,000 mile results for vehicles with their 1981 control system was conducted. This analysis predicted that Peugeot would pass the 1981–1982 standards when used with the 1980 durability vehicle's d.f.'s. It is emphasized that this analysis was conducted only for the purpose of refuting Peugeot's argument. This analysis is not sufficient for granting a CO waiver when it is based on an analysis of the type of low mileage data Peugeot submitted, unless the manufacturer has received an EPA assigned d.f. Peugeot did not meet these requirements for the 1980 model year.

Table V-3 lists the Monte Carlo results for Peugeot's vehicles.

Table V-3.—*Monte Carlo Results for Peugeot vehicles*

Vehicle No.	Emission control system	Probability of pass		
		HC	CO	NO_x
638308	3W/OC	86	0	99
6500992	FBC/3W/OC/IEP/Swt. AIR	83	0	0
6579514	FBC/3W/OC/Swt. AIR/IEP	86	0	0
6603218	FBC/3W/OC/Swt. AIR	99	0	100
AVG–A	FBC/3W/OC/Swt. AIR/EGR	100	88	100
AVG–M	FBC/3W/OC/Swt. AIR/	97	98	100

Vehicles AVG–M and AVG–A are EPA designated vehicle numbers which represent Peugeot's 4,000 mile results [2 at 28] for vehicles with the three improvements for 1981. Peugeot gave separate results for vehicles with automatic and manual transmissions and are distinguished by the A and M suffixes. EPA applied the 1980 Peugeot certification durability vehicle d.f.'s of 1.0 for HC and CO and 1.47 for NO_x. The other vehicles in Table V–1 were not considered for the following reasons: (1) Vehicle 638308 did not include feedback carburetion or switched AIR. (2) Vehicles 6500992, 6579514 and 6603218 did not include exhaust gas recirculation or the three improvements for 1981. Feedback carburetion, switched AIR, and EGR are all included in Peugeot's first choice system for use in 1981 and 1982.

In order for the Monte Carlo simulation to function properly, at least four test points are required. A feature of the computer program requires at least one of these points not to fall on the straight line between the 4,000 mile point and the 50,000 mile point. The 50,000 mile point was calculated by multiplying the 4,000 mile test point by the aforementioned d.f.'s. In order to generate two more test points, the 4,000 and 50,000 mile emission levels were averaged and the result was input as the 26,000 mile and 28,000 mile test points.

Two situations arose which required further manipulation for the program to run properly.

1. In cases where the third decimal place of the "4000–50,000 average" was a 5, the value for the 26,000 mile point was rounded down to two decimal places and the value for the 28,000 mile point was rounded up to two decimal places. This rounding procedure was used to maintain a straight line between the 4000 mile and 50,000 mile test points.

2. Where the 4000 and the 50,000 mile test points were equal (d.f. = 1), a simple average of these would obviously place the 26,000 and 28,000 mile points on the straight line between the 4000 and 50,000 mile points. Because the program will not run with all four points on this line, 0.01 was subtracted from the "4,000–50,000 average" for the 26,000 mile point. For the 28,000 mile point, 0.01 was added to the average. The respective addition and subtraction of 0.01 allows the straight line between the 4K and 50K points to be maintained.

These manipulations were necessary to allow the program to run. Part II of the Monte Carlo results (Deterioration Factor Calculations) indicate a slight error in the d.f. calculations which was caused by rounding to only two decimal places for the three generated test points. The EPA technical staff judged that the errors created by these procedures did not affect the pass/fail situation of the simulated Peugot vehicles.

The results indicate that vehicles AVG–M and AVG–A pass the Monte Carlo simulation. Therefore, the EPA technical staff rejects Peugot's arguments for not running a 1981 durability vehicle.

In conclusion, because Peugot failed to submit durability data on their 1981 emission control system for a conclusive Monte Carlo analysis, the 174 CID engine is considered to be a "no data" case. The data which Peugeot did submit was not sufficient to establish that technology is not available to enable Peugeot to certify their 174 CID engine in 1981.

Renault

Renault has submitted their second CO waiver application for their 85 CID Le Car engine. Renault's previous waiver request was denied because this engine passed the Monte Carlo analysis with hardware improvement factors for a clean up oxidation catalyst with a switched AIR system. In applying this factor, the EPA technical staff assumed that Renault would be able to optimize the location of the oxidation catalyst. This decision was made, despite Renault's claims to the contrary,

because Renault failed to substantiate that the catalyst location could not be changed. Renault has reapplied for a CO waiver in an attempt to substantiate that they could not meet the 3.4 CO standard. The vehicles included in Renault's waiver application are listed in Table V–4 below.

Table V-4.—*Vehicles in Renault's Waiver Application*

VIN	Emission control system	Entered in Monte Carlo	If not entered in Monte Carlo, why?	References
540	EGR/3W/OC/Swt. AIR/FBC	Yes		4 at 3–5
711	EGR/3W/OC/Swt. AIR/FBC	Yes		4 at 3–6
TP 29	EGR/3W/FBC	Yes		4 at 3–8 & 3–9
692	Control system varied	No	220,000 miles	4 at 3–13
PS 80	Control system varied	No	20,000 miles	4 at 3–14
785	EGR/OC/AIR	Yes		45 at enclosure

As shown in Table V–4, Renault submitted data on three different control systems.

These include:

1. EGR/3W/OC/Swt. AIR/FBC
2. EGR/3W/FBC
3. EGR/OC/AIR

Pass/Fail Analysis for the Renault 85 CID Le Car Engine

Based on the results of 1981 certification durability vehicle 785, the 85 CID Le Car engine is projected to pass without hardware improvements. Vehicle 785 was equipped with an EGR/OC/AIR control system.

In their original waiver request, Renault claimed that their dual catalyst control system was their first choice system for meeting a 3.4 CO standard. In the interim, however, Renault started their 1981 certification durability vehicle (VIN 785) equipped with an EGR/OC/AIR emission control system. The actual test results for this vehicle are listed in table V–5.

Table V-5.—*Test results for vehicle #785*

Miles	Emission Results HC	CO	NO_x	MPG
16	0.146	2.20	0.62	25.9
4,769	0.268	2.81	0.77	28.4
10,068	0.216	2.84	0.72	28.7
12,546	0.245	2.74	0.74	27.8
12,565	0.270	2.72	0.68	26.9
15,136	0.246	2.83	0.67	27.7
20,175	0.255	2.82	0.69	27.0
25,064	0.251	2.89	0.70	28.0
25,088	0.253	2.82	0.67	27.6
30,173	0.258	2.93	0.76	27.6
34,798	0.290	3.06	0.73	26.1
37,586	0.253	2.78	0.67	26.4
37,605	0.249	2.80	0.71	29.0
40,155	0.277	2.84	0.78	27.8
Extrapolated results*				
4,000	0.25	2.78	0.71	
50,000	0.27	2.90	0.72	

* Based on less than full 50,000 mile durability.

Table V-6.—*Monte Carlo results of Renault Le Car*

VIN	Control system	Probability of Pass HC	CO	NO_x	Comments
540	EGR/3W/OC/Swt. AIR/FBC	81	10	21	
711	EGR/3W/OC/Swt. AIR/FBC	97	98	98	
TP 29	EGR/3W/FBC	98	0	100	
785	EGR/OC/AIR	97	78	98	1981 Cert. vehicle.
785*	EGR/OC/AIR	100	98	100	1981 Cert. vehicle.
785–OSC	EGR/OC/AIR	100	98	98	Factors for an oxidation start catalyst.

*Probabilities calculated with the Modified Monte Carlo for Certification Vehicles, as opposed to the standard Monte Carlo analysis.

As discussed in Section III, car-to-car variability, and deterioration factor variability are applied to development vehicle data. While this is appropriate for predicting a manufacturer's ability to certify on the basis of development vehicle data, it is not appropriate to predict the results of an actual certification vehicle. The Monte Carlo program was modified to reflect the fact that actual certification test results are not subject to variability. The Monte Carlo results (Table V–6) show that vehicle 785 passes using the "Modified Monte Carlo for Certification Vehicles." Also, Table V–5 shows that the extrapolated emission values are well below the 1981–82 standards.

Vehicle 785–OSC, which is the EPA designated VIN for vehicle 785 with a hardware improvement factor for an oxidation start catalyst, also passes the Monte Carlo. Because this can not be considered a certification vehicle because of the factor applied, the standard Monte Carlo methodology was used. The EPA technical staff does not consider the addition of a start catalyst to be feasible until the 1982 model year.

Although vehicles 540, 711, and TP 29 all fail the Monte Carlo simulation, these vehicles include control systems which differ from vehicles 785 and 785–OSC. These control systems are listed in Table V–6.

Renault also has other options for the 1982 model year. With factors for a clean up oxidation catalyst, vehicle TP 29 was projected to pass in the CO Waiver Decision of May 3, 1979. As mentioned previously, in applying this factor, the EPA technical staff assumed that Renault would be able to optimize the location of the oxidation catalyst. This decision was made, despite Renault's claims to the contrary, because Renault failed to substantiate that the catalyst location could not be changed.

In their new application, Renault has substantiated that two of the three possible locations for the clean up oxidation catalyst are no feasible considering lead time constraints. However, it appears that an oxidizing catalyst substrate could be added to their present three way catalyst container. The technical staff does not agree with Renault's claim that a dual bed catalyst cannot be installed in place of their single bed three way catalyst in the fenderwell location. Measurements indicate [4 at Drawings 1 and 3] that there is substantial clearance in which to extend the length of the catalyst container. In this way, the location of the clean up oxidation catalyst would be optimized.

Due to lead time constraints, the dual bed catalyst option could not be considered until the 1982 model year. Other options for the 1982 model year include such things as an oxidation catalyst mounted where the three way catalyst is now located for faster light-off, or adding an air pump to their three way catalyst system for ported AIR on startup. Also, Table V–6 shows that

vehicle 785 passes the Monte Carlo analysis with factors for an oxidation catalyst.

In summary, the 85 CID engine is projected to pass without hardware improvements, based on the modified Monte Carlo results of vehicle 785.

VI. Cost Analysis

EPA Cost Estimates

The costing methodology used here is essentially the same as that used in the three previous CO waiver decisions [7], [8 at 53400], [9 at 69450], [10 at 7133]. Additional responses to the EPA subpeona of August 8, 1979 enabled EPA to further revise cost estimates of certain emission control devices, notably monolithic three-way and oxidation catalysts. The subpeona requested prices that suppliers charge the automobile manufacturers for emission control devices or systems.

Table VI–1 presents EPA estimates of cost to the consumer of compliance with 3.4 vs 7.0 CO (due to lead time problems for certain emission control devices, separate estimates are often necessary for 1981 and 1982). The changes in cost were calculated by individual engine size. These changes are based on the differences in emission control hardware between a) systems targeted to meet 7.0 CO, as described by each manufacturer in their applications and b) systems judged capable by EPA of meeting 3.4 CO, based on Monte Carlo results or successful 1980 or 1981 certification of similar vehicles. Cars which passed the Monte Carlo often need improved emission control hardware to do so, and in such cases these technological improvements are all costed in.

As shown in Table VI–1, EPA did not find an increase in cost for Renault's 85 CID engine to achieve 3.4 CO in 1981 or 1982. This is due to the fact that the system Renault has designated as their 7.0 CO system is the same as the system which is currently projected to pass 1981 certification.

Peugeot's 174 CID engine also displays no cost differential between 3.4 and 7.0 CO because the cost issue does not arise for engine sizes which are labeled "no data" or "fail" in the Monte Carlo analysis. In any event, Peugeot has not established that the system it would use to meet a 3.4 CO standard in 1981 needs to be any different than the system for which it has requested a waiver.

Table VI–1.—*EPA estimate—cost of compliance with 3.4 CO*

Manufacturer	CID	4 vs 7.0 CO in 1980 dollars	
		1981	*1982*
Renault	85	0	0
Peugeot	174	0 (no data)	0 (no data)

Manufacturers' Cost Estimates

Table VI–2 presents the manufacturers' estimates of cost to the consumer of compliance with the 3.4 CO standard over cost of meeting 7.0 CO. Renault claimed that they could not achieve 3.4 CO with any system and therefore did not differentiate between 3.4 and 7.0 systems. A cost of "0" dollars for Renault signifies that they did not specify different control systems to meet 3.4 CO and 7.0 CO. Peugeot specified a system which is targeted to meet 3.4 CO in 1983 but did not specify a cost of compliance with the 3.4 CO standard.

Table VI–2.—*Manufacturers' cost estimates*

Manufacturer	CID	Cost of compliance 3.4 CO vs. 7.0 CO
Renault	85	0
Peugeot	174	(1)

[1] Not provided.

VII. Driveability

The technological feasibility of meeting the 1981–1982 standards is, in part, determined by the applicants ability to maintain acceptable driveability while attaining these standards.

Peugeot and Renault, while maintaining that they are incapable of meeting the 1981–1982 standards, have not indicated that waviers would be necessary to maintain acceptable driveability. Renault stated [1 at 22] the driveability for their EGR/OC/AIR control systems was "tolerable" but these tests were run "in the normal temperature range" and there have "been very, very few tests". No data was submitted. Peugeot provided driveability comments for some of their low mileage vehicles. In some cases Peugeot indicated that the engine stalls at idle or on acceleration, and for others they indicated that the driveability was acceptable. Peugeot did not say that driveability would be unacceptable, and indicated that they did not have a formal driveability test procedure. Therefore, driveability is not one of the determining factors in assessing the ability of Peugeot and Renault to comply with a 3.4 g/mi CO standard.

VIII. Fuel Economy

Renault

Renault did not claim any fuel economy loss in going from 7.0 to 3.4 CO. However, they did comment that with either their three way or duel catalyst configuration, the fuel economy results are roughly the same [1 at 18]. Renault has not submitted sufficient data at the 3.4 CO level, therefore, an extensive fuel economy comparison between the two levels is not feasible at this time.

The data supplied by Renault, indicates that all three of their systems have an almost certain probability of meeting CAFE for the model years for which they are requesting a waiver. Vehicle 785, using the oxidation catalyst system, had higher 4K and average durability fuel economy [5 at enclosure] than vehicles using the three way and dual catalyst systems [4 at 3–5, 3–6]. Vehicle 785 is also the vehicle which was projected to pass the 0.41 HC, 3.4 CO, 1.0 NO_x standard. It is therefore, the opinion of the EPA technical staff, that fuel economy is not an issue for Renault in meeting 3.4 CO.

Peugeot

Peugeot did not claim any fuel economy penalty in going from 7.0 to 3.4 CO. Peugeot, like Renault, failed to provide sufficient data necessary to extensively evaluate the fuel economy differences at the two levels. [1 at 100]. The technical staff has no choice but to conclude that fuel economy is not an issue for Peugeot in meeting 3.4 CO.

IX. Lead Time

a. *Renault*—For 1981, Renault plans to use an oxidation catalyst system, with exhaust gas recirculation and air injection if granted a waiver on the 85 CID engine. Representatives from Renault testified at the February 12, 1980 hearing that there would not be any lead time problems associated with using their oxidation catalyst system in 1981 [1 at 44]. The only time necessary, they said, was two or three months for carburetor calibration. This system which is already developed and being used on production vehicles, is the same system as that of durability vehicle 785. EPA has projected that vehicle 785 will pass 1981 certification.

Renault has several other options available to them for the 1982 model year. One possibility could be to increase the length of their three way catalyst container in the wheel housing. Measurements indicate than an oxidizing substrate could be added to the lengthened container in order to optomize the location of the oxidation catalyst in an effort to meet the 3.4 CO standard. Renault representatives testified that in their judgment, a heat shield is necessary for this catalyst location, based on temperature measurements in this configuration on a production California Le Car [1 at 26] [13 at I.1]. The EPA staff concludes that sufficient space is available for a heat shield in front of the lengthened catalyst, thought the temperature data supplied does not conclusively indicate a need for one.

Another alternative would be the addition of a start-up oxidation catalyst to Renault's oxidation catalyst system. At the hearing of February 12, 1980, representatives from Renault indicated that there should be enough room for light-off catalysts with their oxidation catalyst system, but that there is not enough lead time available to use them in 1981 [1 at 36]. Renault stated in their follow-up submission that under the most favorable conditions, retail sales could not begin before March 1982, and that this date is not acceptable for the introduction of a 1982 model [13 at III.2]. EPA is not convinced that the lead time necessary for the production of these oxidizing start catalysts will exclude the 1982 model year as a possible starting date.

References

1. Transcript of Proceedings—United States Environmental Protection Agency—In the Matter of: Public Hearing on Application for Waiver of the 1981–1982 CO Emission Standard For Light Duty Vehicles, Acme Reporting Company, February 12, 1980.
2. Peugeot Application For Waiver of 1981 and 1982 Carbon Monoxide Emission Standard, December 1979.
3. Letter and Enclosure to Mr. Charles Freed (Office of Mobile Source and Noise Enforcement of EPA) from Mr. Richard H. Lucki (Automobiles Peugeot) dated February 26, 1980.
4. Petition for Reconsideration of Renault's Application for Waiver of the 1981 and 1982 Carbon Monoxide Emission Standard For the Renault Le Car, January 10, 1980.
5. Letter and Enclosures to Mr. W. Pidgeon (Emission Control Technology Division of E.P.A.) from Ms. Connie Ludwig (Renault, U.S.A.), dated April 9, 1980.
6. *Renault Application for Waiver of 1981 and 1982 Carbon Monoxide Emisison Sandard*, September, 1979.
7. Leroy H. Lindgren, *Cost Estimations For Emission Control Related Component—Systems and Cost Methodology Description*, EPA Publication #460/3–78–002, March 1978.
8. **Federal Register**, Vol. 44, No. 179, September 13, 1979.
9. **Federal Register**, Vol. 44, No. 233, December 3, 1979.
10. **Federal Register**, Vol. 45, No. 22, January 31, 1980.

11. Automobile Emission Control—The Current Status and Development Trends as of March, 1976, EPA Emission Control Technology Division, Technology Assessment and Evaluation Branch, dated April 1976.
12. Letter and Enclosure to Mr. Charles Freed (Office of Mobile Source Enforcement of EPA) from Mr. Richard Lucki (Automobile Peugeot) dated March 21, 1980.
13. Letter and Enclusure to Mr. William Pidgeon (Emission Control Technology Division of EPA) from Connie M. Ludwig (Certification Program Manger, Renault U.S.A.), dated February 27, 1980.

[FR Doc. 80–15714 Filed 5–30–80; 8:45 am]

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June 2, 1980

Part III

Department of Commerce

Office of the Secretary

Implementation of Federal Voluntary Standards Policy; Proposed Procedures for Listing Voluntary Standards Bodies Eligible for Federal Agency Support and Participation, and for a Department Sponsored Voluntary Dispute Resolution Service for Procedural Complaints Against Listed Voluntary Standards Bodies

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 19

Implementation of Federal Voluntary Standards Policy; Proposed Procedures for Listing Voluntary Standards Bodies Eligible for Federal Agency Support and Participation, and for a Department Sponsored Voluntary Dispute Resolution Service for Procedural Complaints Against Listed Voluntary Standards Bodies

AGENCY: Assistant Secretary for Productivity, Technology and Innovation, Commerce.

ACTION: Proposed procedures.

SUMMARY: Under the provisions of Circular A-119 issued by the Office of Management and Budget on January 17, 1980, entitled, "Federal Participation in the Development and Use of Voluntary Standards," the Department is proposing procedures required by the Circular to implement the policy relating to Federal agency participation in and support of voluntary standards organizations. The Secretary, through this notice, is requesting comments on the proposed procedures for listing and delisting voluntary standards bodies and their standards-developing groups and on the proposed procedures for a voluntary dispute resolution service for the rapid handling of procedural complaints by interested parties against voluntary standards bodies listed by the Department.

DATES: Written comments are due on or before August 1, 1980. All comments should be submitted in four copies.

ADDRESS: Comments should be mailed to Dr. Jordan J. Baruch, Assistant Secretary for Productivity, Technology and Innovation, Room 3864, U.S. Department of Commerce, Washington, D.C. 20230; or delivered to Room 3864, Main Commerce Building, 14th Street between Constitution and Pennsylvania Avenues, N.W., between 8:30 and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3221; or Mr. Donald R. Mackay, Office of Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4562.

SUPPLEMENTARY INFORMATION:

Background

The Office of Management and Budget issued Circular A-119 on January 17, 1980, entitled "Federal Participation in the Development and Use of Voluntary Standards" (45 F.R. 4326, January 21, 1980). This Circular establishes policy guidance governing executive branch participation in voluntary standards activities and encourages the use of acceptable voluntary standards in the Federal procurement process. The Circular encourages Federal agencies to support and paticipate in the activities of those standards bodies which adhere to specified due process and other basic criteria.

The OMB Circular assigns to the Department of Commerce responsibility for the administration of specified provisions of the Circular and the responsibility for coordinating the executive branch implementation of the policies established by the Circular. In particular, the Circular, in subsections 7a(1)(b) and 7a(2) and (3), provides for the establishment of procedures for the listing of voluntary standards bodies which comply with the due process and other basic criteria cited in the Circular. The Circular, in subsections 7a(1)(b) and 7a(6), also provides for the establishment of procedures for a department-sponsored voluntary dispute resolution service for the handling of procedural complaints against a listed voluntary standards body.

Policy

The OMB Circular emphasizes Federal policy of relying on voluntary standards with respect to Federal procurement whenever feasible and consistent with law and regulation. The OMB Circular establishes a policy encouraging the participation of Federal agencies and their representatives in voluntary standards bodies which conduct their standards activities in accordance with specified due process and other critieria and which are listed by the Department of Commerce after certifying that they comply with all of the due process and other critiera established in the Circular.

The Proposed Procedures

Subpart A of Part 19 is proposed to establish procedures by which voluntary standards bodies and their standards-developing groups can be listed by the Secretary of Commerce. This subpart 1) describes the steps to be taken by the standards bodies and groups in applying for listing, 2) identifies the due process and other criteria which such bodies and groups must follow, 3) describes the steps to be taken by the Department of Commerce in processing requests for listing, 4) establishes procedures for delisting organizations which are subsequently found, upon specific challenge, not to be complying with all of the specified criteria, and 5) provides for the reapplication for listing of bodies or groups which have been delisted.

The procedures proposed by the Department of Commerce allow a voluntary standards body to apply for listing for itself and all of its standards-developing groups or to apply for listing either alone or in conjunction with some of its standards-developing groups provided that the body and the identified standards-developing groups comply with the prescribed due process and other basic criteria. A voluntary standards body has to be listed in order to have its standards-developing groups listed. If the standards body is not listed, Federal agencies will be prohibited from participating in the activities of any of its boards, councils, committees, or standards-developing groups, and will be prohibited from providing any type of financial, administrative, technical, or other support to that body or its groups.

The proposed Subpart A also provides for the voluntary as well as the involuntary termination of listing by a voluntary standards body or of any of its groups. The removal of the name of any body or group will automatically terminate the involvement of Federal agency representatives in the standards activities of those bodies or groups and, further, will terminate any Federal support being provided to those bodies or groups.

Subpart B of Part 19 proposes procedures for a voluntary dispute resolution service for the timely settlement of complaints pertaining to the procedural aspects of actions or lack of actions on standards by listed voluntary standards bodies.

The proposed procedures require as a precondition to invoking the service, that a complainant must have exhausted all available sources of remedy from within the voluntary standards body. Also, both the complainant and the respondent must agree to use the service and to accept the determinations by the service as the sole and final administrative review by the executive branch of the Federal Government.

Under the proposed dispute resolution service, the Department will: (1) consider the processing pursuant to these procedures of all bona fide procedural complaints against listed voluntary standards bodies which are received from interested parties and which, in the opinion of the department, appear to be capable of resolution in the public interest under these procedures; (2) provide in the first instance for informal conciliation efforts wherein all parties agree to discuss the complaint together with a representative of the department, seek to identify and clarify the specific issues under disagreement, and discuss those issues openly in an attempt informally to arrive at a mutually acceptable resolution; (3) provide for mediation services, in cases where conciliation fails; (4) publicize the facts and results of appropriate cases processed under these procedures; and (5) monitor any follow-up action taken by the complainant and/or the respondent voluntary standards body pursuant to these procedures, for the primary purpose of assessing the effectiveness of the service.

The Department will accept complaints only against voluntary standards bodies or standards-developing groups thereof which are listed by the Secretary under the Department of Commerce's "Procedures for Listing and Delisting Voluntary Standards Bodies and Their Standards-Developing Groups" (15 CFR Part 19, Subpart A).

Additional Information

In preparing these proposed procedures, discussions were held with representatives of the following organizations (listed alphabetically):

Aerospace Industries Association; Air-Conditioning and Refrigeration Institute; American Chemical Society; American Gas Association; American Gear Manufacturers Association; American Institute of Aeronautics and Astronautics; American National Standards Institute; American Nuclear Society; American Petroleum Institute; American Public Health Association; American Society for Testing and Materials; American Society of Agricultural Engineers; American Society of Heating, Refrigerating, and Air-Conditioning Engineers; American Society of Mechanical Engineers; American Water Works Association; Association for the Advancement of Medical Instrumentation; Association of Home Appliance Manufacturers; Composite Can and Tube Institute; Computer and Business Equipment Manufacturers Association; Consumers Union; Electronic Industries Association; Gas Appliance Manufacturers Association; Industrial Heating Equipment Association; Institute of Electrical and Electronics Engineers; International Brotherhood of Electrical Workers; National Consumers League; National Council on Fair Standards; National Electrical Manufacturers Association; National Fire Protection Association; Office of the Special Assistant to the President for Consumer Affairs; Production Systems for Architects and Engineers (AIA); Rubber Manufacturers Association; Society of Automotive Engineers; Society of the Plastics Industry; Steel Joist Institute; Underwriters Laboratories; and Vacuum Cleaner Manufacturers Association.

As the representatives of the organizations identified above were advised at the informal meetings, their participation in those meetings was not to be construed as any form of endorsement of the proposed procedures by the individuals involved or by the organizations they represented.

The Department has chosen to publish these proposed procedures for the purpose of soliciting public comment and is allowing sixty (60) days from the date of this publication for the submission of those comments. A public docket will be available for examination by interested persons at the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce.

Dated: May 27, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology, Innovation.

It is proposed to amend Subtitle A of Title 15, Code of Federal Regulations, by adding Part 19 as follows:

PART 19—FEDERAL INTERACTION WITH VOLUNTARY STANDARDS BODIES

Subpart A—Procedures for Listing and Delisting Voluntary Standards Bodies and Their Standards-Developing Groups

Sec.
19.1 Purpose
19.2 Goal of Procedures
19.3 Coverage
19.4 Definitions
19.5 Effective Date
19.6 Listing Requirements
19.7 Listing Process
19.8 Delisting Process
19.9 Voluntary Termination of Listing
19.10 Reapplication
19.11–19.20 [Reserved]

Subpart B—Procedures for a Voluntary Dispute Resolution Service for the Rapid Handling of Procedural Complaints by Interested Parties Against Voluntary Standards Bodies Listed by the Department of Commerce

19.21 Purpose
19.22 Objective of Procedures
19.23 Definition
19.24 Precondition to Submitting Complaint
19.25 Limitation
19.26 Submitting a Complaint
19.27 Action Upon Receipt of Complaint
19.28 Responsibility of Complainant and Respondent if a Complaint is Accepted by the Department
19.29 Investigation/Conciliation
19.30 Mediation
19.31 Publications and Records
19.32 Technical Referee Service
19.33–19.40 [Reserved]

Authority: Section 7 of the Office of Management and Budget Circular A-119, issued pursuant to Section 6 of Pub. L. 93-400 (41 U.S.C. 405).

Subpart A—Procedures for Listing and Delisting Voluntary Standards Bodies and Their Standards-Developing Groups

§ 19.1 Purpose.

(a) The purpose of this subpart is to establish procedures for the Development and maintenance by the Secretary of Commerce of a list of voluntary standards bodies in which Federal executive agencies may participate and provide support. To be considered for listing, and to remain listed, voluntary standards bodies and their standards-developing groups must adhere to certain due process and other basic criteria. These criteria are specified in Section 6c of the Office of Management and Budget Circular A-119 of January 17, 1980, entitled, "Federal Participation in the Development and Use of Voluntary Standards" (45 FR 4326, January 21, 1980). These criteria are also described in § 19.6(b).

(b) Nothing in these procedures shall be interpreted as providing any party with an opportunity to unreasonably delay, inhibit, or otherwise interfere with the normal and lawful process of voluntary standardization, or any action available under the law with respect to any matter involving the establishment or use of voluntary standards.

§ 19.2 Goal of procedures.

The Secretary has been directed by paragraphs 7a (2) and (3) of Circular A-119 to prepare and implement these procedures. The goal of these procedures is to strengthen the private sector voluntary standards system by providing Federal agency participation in and support of voluntary standards programs and by encouraging Federal agency reliance on the standards developed by that system.

§ 19.3 Coverage.

As specified in Section 3 of Circular A-119, the procedures of this subpart apply to all executive agency participation in U.S. domestic voluntary standards activities including the development of U.S. positions relating to international voluntary standards activities. The procedures do not apply to direct participation in multinational

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organizations, including regional and international organizations, which develop and issue international standards, in accordance with Section 6 of Circular A–119. (For the purposes of these procedures, building code organizations are not considered to be voluntary standards bodies if either of the following criteria is met: (1) the voting membership of the building code organization is composed entirely of government officials; or (2) the building code organization references or adopts voluntary standards developed and issued by other organizations and does not itself develop standards.)

§ 19.4 Definitions.

As used in this subpart:

(a) *Executive agency* (hereinafter referred to as "agency" or "Federal agency") means an executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the Federal Government, including a regulatory commission or board, and also the municipal government of the District of Columbia. It does not include the legislative or judicial branches of the Federal Government.

(b) *Standard* means a prescribed set of rules, conditions, or requirements concerned with: the definition of terms; classification of components; delineation of procedures; specification of materials, performance, design, or operations; or measurement of quality and quantity in describing materials, products, systems, services, or practices.

(c) *Voluntary standards* are established generally by private sector bodies and are available for use by any person or organization, private or governmental. The term includes what are commonly referred to as "industry standards" as well as "consensus standards" but does not include professional standards of personal conduct, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

(d) *Voluntary standards bodies* are nongovernmental bodies which are broadly based, multi-membered organizations including, for example, nonprofit organizations, industry associations, and professional and/or technical societies which develop, establish, or coordinate voluntary standards.

(e) *Standards-developing groups* are committees, boards, or any other principal subdivisions of voluntary standards bodies, established by such bodies for the purpose of developing, revising, or reviewing standards and which are bound by the procedures of those bodies. (In the case of a voluntary standards organization that is completely autonomous, operates under its own procedures, and accepts responsibility for enforcing compliance with its procedural requirements as well as the responsibility for assuring the technical adequacy of its standards, such an organization will be considered as both a voluntary standards body and a standards-developing group, at the request of the organization. For the purpose of these procedures, such organizations will meet all of the due process and other criteria established herein.)

(f) *Department* means the Department of Commerce.

(g) *Secretary* means the Secretary of Commerce of the Secretary's designee.

(h) *Federal agency participation in listed voluntary standards bodies* means the direct and formal involvement in the standards development process and the provision for support to that process in terms of: (1) direct financial support such as grants, sustaining membership, and contracts; (2) administrative support such as travel costs, hosting of meetings, and secretarial functions; (3) technicall support such as cooperative testing for standards evaluation and participation of agency personnel in the activities of standards-developing groups; and (4) joint planning with voluntary standards bodies to facilitate a coordinated effort in resolving priority standardization problems.

(i) *Consumer* means a user of the products or services for which a standard is developed who is not currently engaged in the manufacture or distribution of the same, or involved in the development, issuance, or enforcement of government regulations related to the same.

(j) *Person* means associations, companies, corporations, institutions, partnerships, societies, firms, government agencies at the Federal, State, and local level, and individuals.

§ 19.5 Effective date.

This subpart shall become effective thirty (30) days after the date of publication of the final procedures in the **Federal Register**. The Secretary will publish the first **Federal Register** notice of listed bodies and their listed groups within four months after the effective date of this subpart. Federal agencies will not participate in or otherwise support (as defined in 19.4(h) above) any voluntary standards body or standards-developing group which is not listed (unless such participation is otherwise specifically mandated by law), beginning ninety (90) days after the Secretary publishes the first **Federal Register** notice which identifies listed voluntary standards bodies and their listed standards-developing groups, and as prescribed by Section 7(b)(2)(a) of Circular A–119. A voluntary standards body which submits its application and certification within sixty (60) days immediately following the effective date of these procedures will be considered for inclusion in the first list issued by the Secretary.

§ 19.6 Listing requirements.

(a) Any voluntary standards body which wishes to be listed must apply for listing and certify in writing to the Secretary that it complies with all of the due process and other basic criteria identified in paragraph (b) of this section. This certification must contain a statement that the standards body conducts its standards activities entirely in accordance with its published procedures. Requests to be listed, and accompanying certifications, shall be signed by a person who, in the normal course of the requestor's business, has the authority to make binding statements on the requestor's behalf. Requests shall be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230.

(1) *Category A. Listing.* For this category, all of the voluntary standards-developing groups of a voluntary standards body must meet the due process and other basic criteria identified in paragraph (b) of this section. In applying for Category A listing the voluntary standards body must, if it has standards-developing groups, state that all of those groups comply with such criteria, and must provide a list of all such groups. New standards-developing groups formed after the initial listing (under Category A) of a voluntary standards body by the Department must be reported to the Department by the standards body concerned as complying with the criteria in paragraph (b) of this section. In a Category A listing, the voluntary standards body and all of its standards-developing groups (if any) will be listed.

Voluntary standards bodies listed in Category A will be eligible for the types of Federal support described in paragraph (h) of § 19.4. Federal agency representatives will be able to participate in the activities of the committees, boards and councils of those voluntary standards bodies listed in Category A as well as in the activities of the standards-developing groups of those bodies.

(2) *Category B. Listing.* This category allows for situations in which a voluntary standards body wishes to have only some of its voluntary standards-developing groups listed. Since not all of the groups are listed, the voluntary standards body itself cannot be listed except in conjunction with a particular standards-developing group thereof. In Category B listing, the name of the voluntary standards body and the name of the standards-developing groups to be listed are identified together. For example, if the "Acme Standards-Developing Body" has five standards-developing groups, but wishes that only the groups on 'widgets' and 'gidgets' should be listed, that body would apply for listing as follows:

(i) Acme Standards Body/Standards-Developing Group on 'Widgets'

(ii) Acme Standards Body/Standards-Developing Group on 'Gidgets'

An effect of this type of listing is that while Federal agencies may participate in and otherwise render support to the two listed groups (on 'widgets' and 'gidgets'), they may participate in and render support to the Acme Standards Body itself only insofar as that participation and support relate to the standards activities of the two groups. Accordingly, Federal agencies may not participate, for example, on the Board of Directors (or similar governing or advisory unit) of the Acme Voluntary Standards Body itself, since some of its standards-developing groups are not listed. In such cases, Federal agencies should endeavor to provide financial and other support directly to the listed groups. If for procedural or administrative reasons this is not possible, Federal agencies should only provide support to the standards body with the understanding that such contributions are to be expended directly on matters related to these two listed groups.

(b) The following due process and other basic criteria shall be adhered to by listed voluntary standards bodies and the listed standards-developing groups of those bodies:

(1) Voluntary standards bodies shall provide adequate public notice of standards meetings and other standards activities (e.g. regional conferences) sponsored or conducted by the bodies or their standards-developing groups. Such notices shall be provided in an appropriate and timely fashion and should include a clear and meaningful description of the purpose of the meeting or activity. The media used for those notices shall be selected or devised to reach persons reasonably expected to have an interest in the subject including, for example: consumers; small business representatives; manufacturers; labor; suppliers; distributors; testing laboratories; industrial, institutional, and other users; environmental and conservation groups; Federal agency officials; and State and local regulatory, procurement and code officials. The notice shall also identify the name, address, and telephone number of a contact person or office in the voluntary standards body who/which will be able to provide, upon request, further information on the meeting or activity.

(2) Voluntary standards bodies shall provide adequate public notice in an appropriate and timely fashion of the initiation, final review, adoption or approval of all new and revised voluntary standards, and of the proposed withdrawal of voluntary standards through media characterized in paragraph (b)(1) of this section. Such notice must describe clearly the purpose and scope of the relevant standards.

As required in paragraph (b)(1) of this section, the standards body reasonably must assure itself that the public notice will reach interested persons in an appropriate and timely fashion and will identify a contact person or office in the standards body. The same media, publications and format should be used for notices having the same or similar scope or impact.

(3) Voluntary standards bodies shall conduct open standards meetings, and shall ensure that the opportunity for attendance at these meetings and participation in related standards activities is available to interested persons. Voluntary standards bodies shall provide, at a minimum, an opportunity to all interested persons to participate in standards activities through the submission of written comments relating to the initiation, development, approval, review, revision, or withdrawal of standards. All such written comments received by a voluntary standards body should be acknowledged and transmitted to the appropriate standards-developing group for due consideration. Unreasonable restrictions on membership in standards-developing groups by means of requirements for professional or technical qualifications, or of trade requirements, or of unreasonable fees, or of other such restrictions must be avoided.

(4) Voluntary standards bodies shall assure that decisions reached in their standards development activities represent substantial agreement of those who participated in the process, after a concerted effort to resolve objections, and that such agreements are reached by the participants in accordance with the published procedures of the voluntary standards body and the judgment of the appropriate official(s) duly appointed by that body. Such agreements shall be reached by more than a sample majority, although they do not necessarily require unanimity.

(5) Voluntary standards bodies shall provide prompt consideration of the views and concerns expressed in writing by all interested parties to the voluntary standards body, including proposals for new or revised standards.

(6) Voluntary standards bodies shall provide or otherwise make available one or more adequate and impartial mechanisms for handling documented substantive and procedural complaints and appeals for use by interested parties. As an alternative, this requirement will be satisfied by a provision for ready access to such complaint/appeal mechanisms operated by an organization other than the one against which the complaint or appeal is lodged, provided that such mechanisms meet the requirements of this paragraph (§ 19.6(b)(6)).

(7) Voluntary standards bodies shall assure that appropriate records, in sufficient detail to enable one subsequently to review and understand what transpired, are made and maintained in the case of: formal discussions; decisions; standards and drafts of standards; technical or other rationale for critical requirements of standards (including test methods); complaints/appeals and their resolution; meeting minutes and balloting results. All such records must be retained in accordancc with published procedures and be readily accessible to all interested persons on a timely and reasonable basis. Retention of records for at least five (5) years after a standard is approved, reviewed, revised, or withdrawn, normally would be considered reasonable. The "rationale" referred to above should be prepared during the standards development process to document the decisions relating to (i) the need for the standard, (ii) the scope of the standard (including any limits or exclusions), (iii) the critical requirements established in the standard, and (iv) the test methods selected to determine conformance or non-conformance.

(8) Voluntary standards bodies shall publish a disclaimer clearly indicating that participation in any of their activities by Federal agency representatives does not constitute the endorsement by the Federal Government or any of its agencies of the bodies or the standards which they

develop. The disclaimer shall either: (i) be in the form of an official policy declaration by the standards bodies prominently set forth in their published official procedures; or (ii) be in the form of an official policy declaration by the standards bodies in any standards literature which they publish that mentions involvement or participation of Federal agency personnel in standards development, approval, or review activities. A voluntary standard or other document which includes a list of its developers and identifies Federal agency representation must include this disclaimer.

(9) Voluntary standards bodies shall publish their official procedures regarding their standards activities, and make those procedures available to interested parties on a reasonable basis.

(10) Voluntary standards bodies shall ensure that their voluntary standards and their standards development procedures are periodically reviewed and revised, as necessary, and that participation in the review process is available to all interested persons in accordance with the other relevant due process and other criteria contained in paragraph (b) of this section. A review of each standard by an appropriate committee or other unit of the standards bodies should be initiated at least once every five years. If a voluntary standards body provides for the withdrawal of a standard under procedures that cause the automatic termination of standards which are five years old or older and are not either revised or reaffirmed, the standards body shall provide adequate public notice of the imminent termination in accordance with the requirements in paragraph (b)(2) of this section.

(11) Voluntary standards bodies shall give preference to the use of performance criteria, measurable by examination or testing, in standards development when such criteria may reasonably be used in lieu of design, materials, or construction criteria. For purposes of demonstrating compliance with this requirement, as a minimum, the published operating procedures of the voluntary standards body should contain a statement to the effect that "preference will be given to the use of performance criteria, measurable by examination or testing, in standards development when such criteria may reasonably be used in lieu of design, materials, or construction criteria."

(c) In applying to the Secretary for a Category A listing, a voluntary standards body must certify that it and all of its standards-developing groups meet the due process and other basic criteria identified above in paragraph (b) of this section and shall include with its application its official operating procedures, as published pursuant to paragraph (b)(9) of this section. In applying for a Cagetory B listing a voluntary standards body must certify that all of its identified standards-developing groups for which it seeks listing meet the due process and other basic criteria identified above in paragraph (b) of this section and shall include with its application its official operating procedures. In applying for a Category A or B listing, the voluntary standards body should, in order to assist the Secretary in reviewing the application, list the paragraph or section numbers of its published operating procedures which correspond to each of the numbered paragraphs in paragraph (b) of this section.

(d) The voluntary standards body shall transmit to the Department copies of all subsequent changes in its official procedures as soon as they have been approved by the body.

(e) The Secretary will provide, upon request or when he otherwise detemines it to be necessary and appropriate, guidance as to whether specific procedural requirements of voluntary standards bodies or their standards-developing groups will meet the due process and other criteria established in paragraph (b) of this section. Such guidance with be published through notices in the **Federal Register**, either in full, or in summary form. If published in summary form, the notice will specify the manner in which persons may obtain copies of the full guidance provided.

§ 19.7 Listing process.

(a) The Department will review the published operating procedures submitted by the voluntary standards body and the Secretary will determine whether such procedures demonstrate compliance with the due process and other basic criteria of paragraph (b) of § 19.6. If a voluntary standards body certifies that it does conform to the criteria set forth in paragraph (b) of § 19.6, the Secretary will list it unless, upon review of the operating procedures submitted by the body, it is clear that the body does not conform.

(b) The Secretary will notify the applicant of a proposed denial of the listing application. That notice will state the specific reasons for the proposed denial.

(1) A voluntary standards body may request reconsideration of its application for listing by submitting such request within thirty (30) days of receipt of the Secretary's notice of a proposed denial of the listing application. Such request for reconsideration shall be accompanied by a detailed statement of the reasons for reconsideration. If upon reconsideration, the determination to deny the applicant's request for listing is unchanged, or if reconsideration is not requested, the proposed denial shall become final thirty (30) days after the issuance of a denial decision to the voluntary standards body, provided that the body does not request a hearing within the thirty (30) day period.

(2) If, however, the voluntary standards body requests a hearing within the thirty (30) day period following the issuance of the denial decision, a hearing under 5 U.S.C. 556 (the section of the Administrative Procedure Act which establishes requirements for formal hearings conducted by a Federal Administrative Law Judge) will be ordered and the decision on the proposed denial shall be stayed pending the outcome of that hearing. A request for such a hearing shall be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. In the event of such a request, the Secretary will designate an Administrative Law Judge to conduct proceedings under 5 U.S.C. 556. Following the conclusion of the Administrative Law Judge's proceedings, and upon receipt of his recommendations, the Secretary will render a written decision and will notify the standards body of that decision.

(3) A voluntary standards body may, within thirty (30) days of receipt of a notice of a proposed denial of the listing application, submit to the Secretary draft amendments to their procedures in an effort to conform to the requirements of paragraph (b) of § 19.6. If the Secretary finds that the draft amendments will meet the requirements of paragraph (b) of § 19.6, the Secretary will notify the voluntary standards body and will stay further action on the proposed denial of the listing application. Upon receipt of the amended procedures, as approved and published by the voluntary standards body, the Secretary will reconsider the application for listing and, if the amended procedures are found to conform to the requirements of paragraph (b) of § 19.6, the Secretary will proceed to list the standards body.

(4) If upon receipt of the draft amended procedures, the Secretary finds that the subject procedures still do not conform to the requirements of paragraph (b) § 19.6, the Secretary will notify the applicant of a proposed denial of the listing application with a statement of the reasons therefore. Within thirty (30) days of the notice of a proposed denial, the voluntary standards body may request a consultation with the Secretary for the purpose of developing specific amendments to their procedures that will conform to the requirements of paragraph (b) of § 19.6. If the parties involved in such consultation determine that acceptable amendments cannot be developed, the voluntary standards body may request reconsideration under paragraph (b)(1) of this section. If the consultation results in the development of an amendment acceptable to the Secretary, the Secretary will reconsider the application for listing and, if the amended procedures, as approved and published by the voluntary standards body, are found to conform to the requirements of paragraph (b) of § 19.6, the Secretary will proceed to list the standards body.

(5) If the proposed amendment does not conform to the requirements of paragraph (b) of § 19.6, and no consultation is requested within thirty (30) days of receipt of a notice of a proposed denial, and no request for reconsideration is filed within the same thirty (30) day period, the denial will become final thirty (30) days after the issuance of a denial decision to the voluntary standards body. The voluntary standards body may, at any time thereafter, reapply for listing under the provisions of § 19.10.

(c) The Secretary will list those voluntary standards bodies and those standards-developing groups for which the certification and the published operating procedures provide evidence of compliance with the criteria contained in paragraph (b) of § 19.6. The Secretary will inform in writing all those voluntary standards bodies which have been listed. The operating procedures and any other evidence submitted by the standards bodies on which the decisions are made to list the bodies and groups will be available in the Department for public inspection.

(d) The Secretary, within approximately four months after the effective date of these Procedures, will publish in the **Federal Register** a notice which identifies the listed voluntary standards bodies and the listed standards-developing groups. Subsequent listings will be published on a quarterly basis for approximately two years, and semiannually thereafter in accordance with § 19.11. Such notices will identify a specific location in the Department where interested persons may inspect the self-certification statements, the published operating procedures, and any other information or materials submitted in connection with the applications for listing. In addition, within one week after the listing of a voluntary standards body, the Secretary will transmit a notice to all members of the Interagency Committee on Standards Policy for transmittal to the heads of their agencies identifying the names of the listed voluntary standards bodies and their listed standards-developing groups. The Secretary will also transmit such information to any other agencies which indicate a desire to be informed.

(e) Voluntary standards bodies and their standards-developing groups which are listed by the Secretary of Commerce will be eligible for the types of Federal support defined in paragraph (h) of § 19.4. However, the extent of such support will be subject to the limitation that the granting of Federal support to a voluntary standards activity shall be limited to that which is clearly in furtherance of an agency's mission and responsibility and is compatible with the agency's priorities and budget limitations. Normally, the total amount of Federal support given shall be no greater than that of all non-Federal participants in that activity except where it is in the direct and predominant interest of the Federal Government to develop a needed standard or revision thereto, and such development appears unlikely to occur in the absence of such Federal support.

§ 19.8 Delisting process.

(a) Any interested person may petition the Secretery to remove a voluntary standards body or one or more of its listed standards-developing groups from the list. Such a petition shall be in writing and shall cite the specific criteria in paragraph (b) of § 19.6 which the petitioner believes have not been met by the body or groups. As a precondition for a petition to delist, the petitioner shall have exhausted all remedies available within the voluntary standards body regarding the subject matter of the petition. All available supporting documentation and other relevant information shall be provided in support of the petition. To the extent possible, the petition should also provide the names, employment addresses, and employment telephone numbers of all parties materially involved. Such petitions must be based on actions or inactions that occurred after the date that the voluntary standards body (or a group thereof) is listed by the Secretary. Any such petition should be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. In addition, the Secretary may initiate investigations, on the basis of information received either from Federal agencies or from other sources, which subsequently may lead to delisting actions pursuant to the procedures of this subpart. If the petition is directed to a procedural matter, the Secretary may find it appropriate to advise the petitioner of the existence of the Department's dispute resolution service described in subpart B of this Part 19.

(b) The Secretary will evaluate and act as expeditiously as possible on all petitions for delisting. The Secretary may request additional information, may consult with the Department of Justice and the Federal Trade Commission in evaluating such petitions, and will notify the petitioner in writing of the decision reached, after due consideration whether to process the petition, and the reasons therefor. The Secretary may, upon finding it appropriate to do so, request all records from a voluntary standards body that are pertinent to the review of a petition for delisting.

(c) If the Secretary determines that the petition warrants investigation, the Secretary will as soon as possible inform, in writing, the voluntary standards body concerned of the nature of the petition. Thereafter, the Secretary will arrange for an investigation and notify the voluntary standards body of its scope. If the Secretary determines that the petition warrants no further action, the Secretary will so inform the petitioner in writing, and the reasons therefor. That determination shall constitute the final review by the Department, unless the petitioner elects within thirty (30) days after receipt of the Secretary's notification to request Departmental reconsideration of that decision by writing to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. The decision of the Secretary on this request shall constitute the final adminsitrative review of the executive branch of the Federal Government. (See also § 19.23 of Subpart B.) This decision would not prohibit other Federal agencies from taking separate legal actions under their statutory authorities.

(d) If the investigation pursuant to paragraph (c) of this section indicates non-compliance with any of the due process and other basic criteria cited in paragraph (b) of § 19.6, the Secretary will provide the voluntary standards body concerned with (1) a statement indicating the precise nature of the alleged non-compliance, and (2) a copy of the petition and the identity and location of all documents, materials, and other related information submitted with

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the petition or received or developed thereafter.

(e) Following receipt of the information provided by the Secretary in accordance with paragraph (d) of this section, the standards body concerned shall have sixty (60) days in which to respond to the statement of alleged non-compliance. If the standards body fails to respond in the sixty (60) day period, or if the Secretary determines that the response received is not persuasive, the Secretary will issue, in writing, to that body and concurrently to the petitioner, a Preliminary Finding of Non-Compliance with the specified due process and other basic criteria identified in paragraph (b) of § 19.6. This Preliminary Finding of Non-Compliance will include a description of the corrective action(s) that must be taken by the body or standards-developing group concerned in order to qualify for withdrawal of the Preliminary Finding of Non-Compliance by the Secretary.

(f) If the standards body concerned does not provide, within sixty (60) days following receipt of the notification of Preliminary Finding of Non-Compliance, adequate evidence that the prescribed corrective action identified in the Preliminary Finding of Non-Compliance has been taken by that body, or if the Secretary deems that the corrective action taken is insufficient, the Secretary will issue a Final Finding of Non-Compliance to the body concerned, and concurrently to the petitioner, if no hearing has been requested under paragraph (g) of this section. The notification of Final Finding of Non-Compliance shall constitute notification of the Department's decision to delist the body or standards-developing group thereof. Removal of a standards-developing group of a voluntary standards body will not in itself constitute cause for the removal from the list of any other groups of that body or of the body itself, but will result in a change in the listing of a Category A organization to a Category B organization.

(g) The Secretary will refrain from issuing a Final Finding of Non-Compliance if the organization concerned requests a hearing under the provisions of 5 U.S.C. 556 within thirty (30) days following receipt of the notification of Preliminary Finding of Non-Compliance. A request for a hearing should be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. In the event of such a request, an Administrative Law Judge will be designated by the Secretary to conduct a proceeding under 5 U.S.C. 556 and to recommend a decision. At that point in time, the petitioner will be provided with copies of all papers filed subsequent to the receipt of the petition for delisting for the purpose of participating in the hearing at the invitation of the Administrative Law Judge. Further action on the Preliminary Finding of Non-Compliance shall be stayed pending the outcome of that proceeding. The decision of the Secretary following the proceeding will be in writing, will be sent to the organization concerned and to the petitioner, and will constitute the final administrative action of the executive branch of Federal Government.

(h) The Secretary will publish in the **Federal Register** within thirty (30) days of the decision to issue a Final Finding of Non-Compliance and delisting notification, a notice of such a finding and shall, within one week of such delisting action, similarly notify in writing the members of the Interagency Committee on Standards Policy for transmittal to the heads of their agencies, and any other Federal agencies which indicate a desire to be notified, as well as the standards body and the petitioner. The delisting action resulting from the Final Finding of Non-Compliance will become effective thirty (30) days after the publication of the notice in the **Federal Register**. Such **Federal Register** notice and notification to Federal agencies will include a statement to the effect that all Federal executive agencies and their representatives shall cease, as of the effective date of the delisting action, any and all participation in or the furnishing of any other form of support to the delisted body or group thereof, unless such participation is otherwise required by law.

(i) The delisting of a voluntary standards body or a standards-developing group because of the issuance of a Final Finding of Non-Compliance against it under paragraph (f) of this section will lead to early termination of all Federal agency support of that voluntary standards body or group. If the body itself is delisted, such termination will include cessation of all participation of Federal agencies in the standards and standards-related activities of all boards, councils and standards development committees and groups of that body.

(j) In order to facilitate termination of existing Federal agency contracts and grants with, or the provision of other support by the Federal agencies to, delisted voluntary standards bodies and groups, Federal agencies should ensure that future contracts, grants or other arrangements involving standards and standards-related matters, bearing upon relations between the agencies and voluntary standards bodies contains a provision which clearly entitles the Federal agency to terminate "for cause" (in contrast to termination "for the convenience of the government") any contract, grant, or other arrangement with a voluntary standards body or group which, during the life of the contract, grant, or arrangement becomes and remains delisted by the Department.

§ 19.9 Voluntary termination of listing.

A voluntary standards body may have its name removed from the list upon its request in writing to the Secretary. Removal of the name of the voluntary standards body shall result automatically in removal of all standards-developing groups of that body from the list, without prejudice. In the event that a voluntary standards body desires to have removed from the list any of its standards-developing groups, it may have such groups removed without prejudice upon written notification to the Secretary. The **Federal Register** notice of such delisting action and the Department's notice of such action to Federal agencies will state that the delisting action resulted from a voluntary termination of listing status.

§ 19.10 Reapplication.

If the Department denies an application for listing, or delists a voluntary standards body (or group thereof), or if the name of a voluntary standards body or any standards-developing group is removed from the Department's list as a result of a request for voluntary termination of such listing, that body may reapply for listing at any time, with the provision that such reapplications shall not be accepted or acted upon by the Department more than once in a period of twelve (12) consecutive months. Such re-application must conform to the relevant parts of §§ 19.6 and 19.7 and be responsive to the reasons given by the Secretary for denying the earlier application or to the corrective actions identified pursuant to paragraph (e) of § 19.8, or should indicate, as appropriate, whether the previous delisting action by the Department resulted from a voluntary termination of listing status.

§§ 19.11–19.20 [Reserved]

Subpart B—Procedures for a Voluntary Dispute Resolution Service for the Rapid Handling of Procedural Complaints by Interested Parties Against Voluntary Standards Bodies Listed by the Department of Commerce

§ 19.21 Purpose.

(a) The purpose of this subpart is to establish procedures for the operation of a Department of Commerce-sponsored voluntary dispute resolution service regarding procedural complaints by interested parties against voluntary standards bodies, as specified in OMB Circular A–119 ("Federal Participation in the Development and Use of Voluntary Standards," issued January 17, 1980 (45 F.R. 4326, January 21, 1980). This dispute resolution service is designed to implement that Circular's section 7a(6) which requires the Secretary of Commerce to:

> "Establish a program which shall make available a department-sponsored voluntary dispute resolution service for the rapid handling of procedural complaints by interested parties against listed voluntary standards bodies. As a precondition to invoking that service, a complainant must seek relief from, and have exhausted all available sources of remedy within, the affected voluntary standards body. Such a service shall have, among its requirements, the agreement of both complainant and respondent to use the service and their consent to accept the determinations of the service as the sole and final administrative review by the executive branch."

(b) Nothing in these procedures shall be interpreted as providing any party with an opportunity to unreasonably delay, inhibit, or otherwise interfere with the normal and lawful process of voluntary standardization, or any action available under the law with regard to any matter involving the establishment or use of the voluntary standards.

(c) These procedures will not be used to resolve any complaints which are based upon the provisions in Section 441 of the Trade Agreements Act of 1979.

§ 19.22 Objective of procedures.

(a) The objective of these dispute resolution service procedures is to facilitate the timely resolution of complaints pertaining to procedural errors allegedly committed by listed voluntary standards bodies.

§ 19.23 Definitions.

(a) *Department* means the U.S. Department of Commerce.

(b) *Secretary* means the Secretary of Commerce or the Secretary's designee.

(c) *Interested party* means an individual, government agency, association, company, corporation, firm, partnership, or other organization named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party to a proceeding under these procedures, due to allegations of procedural error(s) having been committed.

(d) *Complainant* means an interested party as defined in paragraph (c) of this section who has submitted a complaint to the Secretary under these procedures.

(e) *Standard* means a prescribed set of rules, conditions, or requirements concerned with: the definition of terms; classification of components; delineation of procedures; specification of materials, performance, design, or operations; or measurement of quality and quantity in describing materials, products, systems, services or practices.

(f) *Voluntary standards* are established generally by private sector bodies and are available for use by any person or organization, private or governmental. The term includes what are commonly referred to as "industry standards" as well as "consensus standards" but does not include professional standards of personal conduct, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

(g) *Voluntary standards bodies* means nongovernmental bodies which are broadly-based, multi-membered organizations, including, for example, nonprofit organizations, industry associations, and professional and/or technical societies which develop, establish, or coordinate voluntary standards.

(h) *Standards-developing groups* means committees, boards, or any other principal subdivision of voluntary standards bodies, established by such bodies for the purpose of developing, revising, or reviewing standards and which are bound by the procedures of those bodies.

(i) *Procedural complaint* refers to a complaint which relates to the procedural aspects of the standards development and/or review and/or approval process. It excludes complaints relating to substantive aspects of a standard such as, for example, the level of performance selected by the standards developing group for a particular component. Accordingly, a procedural complaint means a complaint that alleges denial of any of the due process and other basic criteria of Section 6c of the Circular or of paragraph (b) of § 19.6 of the Department of Commerce's "Procedures for Listing and Delisting Voluntary Standards Bodies and Their Groups" (15 C.F.R. Part 19, Subpart A) in the development, review, or approval of standards or refusal to develop new or revised standards as well as a complaint that alleges denial of any other standards development and/or review and/or approval procedure established by the voluntary standards body or group concerned.

(j) *Circular* means OMB Circular A–119 entitled "Federal Participation in the Development and Use of Voluntary Standards," dated January 17, 1980 and effective on that date.

(k) *List or listed* means a compilation of voluntary standards bodies and standards-developing groups thereof which have been accepted by the Secretary as complying with the due process and other basic criteria cited in Section 6c of the Circular and of the Department of Commerce's "Procedures for Listing and Delisting Voluntary Standards Bodies and Their Groups" (15 C.F.R. Part 19, Subpart A).

(l) *Sole and final administrative review by the executive branch* means that once a complaint has been processed under this subpart no Federal executive branch agency shall have any obligation to give any further administrative review to that complaint, except as otherwise may be provided by law. The term should not be interpreted to affect any subsequent judicial or quasi-judicial review of the complaint or review for law enforcement purposes as, for example, by a court of law or by the Federal Trade Commission or the Department of Justice. Additionally, this term should not be interpreted as preventing the Department from considering a petition for delisting under § 19.8 of subpart A. Nor should this term be interpreted as obligating any party to implement any recommendations made by the representative of the Secretary (pursuant to the conciliation process) or the mediator, if any, under these procedures.

(m) *Due process and other basic criteria* has reference to requirements described in section 6c of the Circular, as supplemented by paragraph (b) of § 19.6 of the Department's "Procedures for Listing and Delisting Voluntary Standards Bodies and Their Groups" (15 CFR, Part 19, Subpart A).

(n) *Final action* with respect to the development of voluntary standards means the concluding step in the development and approval of such standards by the voluntary standards body in accordance with the published procedures of that body. Final action

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with respect to the approval or disapproval of a request for a new or revised standard means the final decision by the voluntary standards body on such a request.

§ 19.24 Precondition to submitting complaint.

Prior to submitting a complaint under these procedures, the complainant must have sought relief from and have exhausted all remedies available within the concerned voluntary standards body.

§ 19.25 Limitation.

The Department will not process any complaint where the final action on the provisions in question was taken by the voluntary standards body concerned before the effective date of these procedures.

§ 19.26 Submitting a complaint.

(a) Any interested party may request the Department to process a procedural complaint under this subpart. Such a request must be written and sent to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. All requests shall:

(1) identify the standard(s), proposed standard(s), and the procedures of the voluntary standards body involved;

(2) describe fully the nature of the complaint including, to the extent known, the positions of any other parties in interest who are or may become, directly or indirectly, affected by the matter which is the subject of the complaint. In such cases the complainant shall, where possible, provide the name, employment address, standards group affiliation, and employment telephone number of each such party;

(3) describe fully any previous attempts made to resolve the complaint, including appeals within the voluntary standards body, and the results of those attempts;

(4) describe in as specific terms as possible the consequences to the complainant of the non-resolution of the complaint to complainant's satisfaction;

(5) indicate agreement to accept the determination by the dispute resolution service as the sole and final administrative review of the complaint by the executive branch; and

(6) provide any other available and pertinent supporing information.

(b) In addition to taking action under § 19.27 the Secretary will determine whether the complaint warrants investigation under the provisions for delisting in paragraph (a) § 19.8 of subpart A.

§ 19.27 Action upon receipt of complaint.

(a) The Secretary will evaluate the complaint together with the supporting information received. The Secretary will seek information regarding the complaint from the voluntary standards body involved and will solicit the agreement of that body, as well as the complainant, to use this dispute resolution service and to accept the determination by that service as the sole and final administrative review of the complaint by the executive branch. If either party does not agree to utilize the dispute resolution service, there shall be no further action taken by the Department.

(b) The Secretary may request additional information, if needed, from the involved parties.

(c) When in the opinion of the Secretary the complainant's submission of information required by § 19.26 is complete, the Secretary may: (1) determine that the complaint merits processing under these procedures, or (2) decline to accept the complaint, in which case the Secretary shall indicate in writing to the complainant the reasons for so declining. Such declinations may be expected to occur in cases, for example: where, in the judgement of the Secretary based on the information submitted and obtained, it is unlikely that processing under these procedures will make a significant contribution to the successful resolution of the complaint; where the complaint is not "procedural' within the scope of this service; where the voluntary standards body concerned refuses to agree to use the service or to consent to accept the determinations by the service as the sole and final administrative review by the executive branch; or where, in the discretion of the Secretary, the subject of the complaint is a matter which should be directed to the Department of Justice or the Federal Trade Commission. The complainant may resubmit a complaint to the Department of Commerce if, after directing it to the Department of Justice or the Federal Trade Commission, such agencies decide not to take any action. In the event of a declination by the Secretary to accept a complaint, the complainant may make a written request for departmental reconsideration to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230, within 30 (thirty) days of receipt of the declination. The decision of the Secretary on such a request shall be final.

(d) A complainant whose complaint was not accepted by the Department may resubmit the complaint for processing by the Department whenever the complainant has new information or evidence of a significant nature. In resubmitting the complaint, the complainant must clearly identify the nature of the new information or evidence and how it relates to the reasons previously given for not accepting the complaint.

(e) If the Department accepts a complaint for processing under these procedures, the Secretary will so inform the complainant and the respondent voluntary standards body in writing. The Secretary may request copies of any relevant records, including the appeal record, from the voluntary standards body concerned. The Secretary's letters to the complainant and respondent standards body concerned will indicate that the dispute resolution service involves a two step procedure. The first step consists of an informal investigation/conciliation process as set forth in § 19.29 of these procedures. If this investigation/conciliation process is unsuccessful and if both the complainant and voluntary standards body agree, a mediator or mediation panel may be appointed in accordance with § 19.30 of these procedures, as the second and final step of this procedure.

§ 19.28 Responsibilities of complainant and respondent if a complaint is accepted by the Department.

If the Department accepts a complaint for processing under these procedures, the complainant and the respondent voluntary standards body shall: (a) cooperate fully and in good faith with the Department, the mediator (if any), and other parties involved to reach a mutually acceptable resolution of the complaint in a timely fashion; (b) provide, upon request by the Secretary, additional and available pertinent data or other information, except that there shall be no requirement to furnish proprietary information; (c) promptly inform the Department or mediator, as appropriate, regarding pertinent events or actions taken by the complainant or the voluntary standards body concerned which occur during the processing by the dispute resolution service but which occur without the Department's direct involvement or knowledge, and (d) inform the Department, upon request, of any action taken pursuant to recommendations, if any, of the Secretary made under this service.

§ 19.29 Investigation/conciliation.

(a) If the Department accepts a complaint under these procedures, the Secretary will designate a qualified representative who shall perform investigation and conciliation functions, including consultations with the complainant, the respondent voluntary standards body, and any other parties involved in an effort to clarify the areas of disagreement, and attempt to effect a mutually acceptable resolution of such areas within a two-month period following the representative's appointment. The Secretary's representative may seek assistance from any appropriate source. Such assistance, if any, may be provided on a reimbursable basis.

(b) At any appropriate point in the investigation/conciliation process the Secretary's representative may make recommendations to the party(ies) which appear to reflect a reasonable resolution of any or all of the areas of disagreement. The parties involved should consider those recommendations in good faith.

(c) If the parties reach a mutually acceptable agreement during the conciliation process, the Secretary's representative will record the specific nature of that agreement and will transmit copies of that record to the parties involved. If no agreement is reached, or if a partial conciliation is reached, the representative will record such results, including any issues which remain in disagreement, and will transmit a copy of that record to the parties. Copies of all documents prepared in these proceedings will, without unreasonable delay, be filed with the Secretary.

(d) In the event that the investigation/conciliation effort does not resolve all areas of disagreement, the representative, in transmitting the copy of the investigation/conciliation record to the parties, will inform the parties of their prerogative of requesting a mediator or mediation panel under these procedures.

§ 19.30 Mediation.

(a) If pursuant to paragraph (d) of § 19.29, both parties indicate to the Secretary in writing that they desire a mediator or mediation panel, and if the Secretary believes that mediation may resolve the areas of disagreement, the Secretary may appoint a mediator or mediation panel in a further attempt to resolve the complaint. Selection of a mediator or mediation panel may be accomplished in consultation with the Federal Mediation and Conciliation Service. The mediator(s) so appointed may be an employee(s) of the Federal Mediation and Conciliation Service, another Federal agency, individuals from the private sector, or other source, but shall not be employees of the Department of Commerce. The services of the mediator(s) may be subject to contract, which may include provisions for necessary clerical and other support costs. An effort will be made by the Secretary to secure a mediator(s) who will be acceptable to the parties involved and who will avoid the appearance of a "conflict of interest" situation with respect to the subject matter and the parties involved in the dispute.

(b) The Secretary will provide the mediator(s) with the record of the investigation/conciliation process which shall identify all remaining areas of disagreement, including the positions of the parties on each such remaining area, and will transmit or otherwise make available to the mediator(s) all other available information pertinent to the resolution of the identified areas of disagreement. The Secretary's letter of appointment will also specify a target date for the completion of mediation; such date generally will be not more than three months from the date of the appointment of the mediator(s).

(c) At the start of the mediation process, the mediator(s) will encourage the parties to agree in advance to be bound by the agreements reached during the mediation process. If such agreement from the parties is forthcoming, the mediator(s) will record such agreement and shall inform the Secretary accordingly.

(d) The mediator(s) will endeavor forthwith and within the designated time frame to facilitate a mutually acceptable resolution of the remaining areas of disagreement identified by the Secretary. In so doing, the mediator(s) may hold meetings, may communicate with each party on an individual or group basis, and may utilize any other reasonable lawful means, including technical assistance, to resolve the areas of disagreement. Such technical assistance may be provided on a reimbursable basis.

(e) The Secretary may, for good and sufficient reasons, grant one extension of time for completion of mediation pursuant to the written request by the mediator(s). Such a request shall specify the reasons for the requested extension. Any extension generally shall be limited to a maximum of two months.

(f) If, during the mediation process, the parties reach agreement on all the areas of disagreement identified by the Secretary, the mediator(s) will record the nature of the agreement for each area, have each party sign and date the agreement, and will transmit copies of that record to the Secretary and to the parties.

(g) If the time period (including any extension provided) for mediation expires with one or more areas of disagreement still remaining, the mediator(s) will terminate the mediation process and will record the areas of agreement (if any). With regard to each of the remaining areas of disagreement, the mediator(s) will record the specific nature of such disagreement and make a factual report of the mediation process. The report will be transmitted by the mediator(s) to the Secretary and to the parties involved. The report will not contain any information which was submitted to the mediator in confidence.

(h) Upon receipt of the report from the mediator(s), the Secretary, in appropriate cases, may develop and transmit to the involved parties recommendations to resolve the areas of disagreement. Such recommendations may include the submission of the unresolved issues on areas of disagreement to arbitration.

§ 19.31 Publication and records.

(a) The Secretary will cause to be published in the **Federal Register**, at least annually, a summary of each of the cases processed under these procedures, including any recommendations made by the Secretary to resolve any remaining issues, unless the parties in any case agree in writing that the dispute has been amicably resolved to their mutual satisfaction, and that agreement is filed with the Secretary.

(b) The Secretary will keep a record of each complaint received, including the action taken, if any, by the parties as a result of this dispute resolution service.

§ 19.32 Technical referee service.

Nothing in these procedures shall be construed to inhibit any party from directly seeking, on its own initiative and at any time, the technical referee services of the National Bureau of Standards regarding methods of measurement, test results, and interpretation of test results in accordance with Title 15, CFR, Part 200.103.

§§ 19.33–19.40 [Reserved]

[FR Doc. 80-16684 Filed 5-30-80; 8:45 am]
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Part IV

Federal Trade Commission

Reasonable Duties Under a Full Warranty; Publication of Recommended Final Rule and Notice of Opportunity to File Written Comments

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FEDERAL TRADE COMMISSION

16 CFR Part 705

Reasonable Duties Under a Full Warranty

AGENCY: Federal Trade Commission.

ACTION: Publication of Recommended Final Rule and Notice of Opportunity to File Written Comments.

SUMMARY: On August 3, 1977, the Commission published a proposed rule applicable to "full" warranties to define certain duties which are not reasonable within the meaning of Section 104(b)(1) of the Magnuson-Moss Warranty Act. The proposal was intended to provide guidance to warrantors offering full warranties regarding unreasonable conditions which may not be imposed as a precondition to obtaining warranty performance after a consumer product malfunctions.

The following final rule proposal recommended to the Commission by the staff incorporate several substantive changes. The changes have been drafted in response to testimony and written comments received during the rulemaking proceeding.

The Commission has not considered or adopted staff's final rule proposal. The Commission has determined, in response to staff's recommendation, to seek written comment on staff's entire proposal before proceeding with further consideration of this matter. Staff also solicits comment on a separate series of additional questions regarding possible effects on manufacturers (warrantors), distributors, warranty service representatives and consumers in the event the staff's recommended final rule is adopted by the Commission.

DATES: Written comments on the substance of the recommended final rule as well as responses to the question posed herein will be accepted for a period of 60 days, until August 1, 1980.

ADDRESSES: Written comments should be addressed to James P. Greenan, Presiding Officer (GP), Federal Trade Commission, Washington, D.C. 20580, 202–724–1045.

FOR FURTHER INFORMATION CONTACT: Edwin F. Dosek, Attorney, Bureau of Consumer Protection (PR), Federal Trade Commission, Washington, D.C. 20580, 202–523–3510.

SUPPLEMENTARY INFORMATION: On August 3, 1977, the Commission published in the **Federal Register** (42 FR 39223) a Notice of Inquiry and Proposed Rule in accordance with the provisions of the Magnuson-Moss Warranty Act, Pub. L. 93–637 (15 U.S.C. 2304). Section 104(b)(1) of the Act authorizes the Federal Trade Commission to make rules defining what is an unreasonable duty when imposed by a warrantor on a consumer as a condition of securing a remedy under a full warranty of any consumer product which malfunctions, is defective, or does not conform to the written warranty.

The proposed rule covered the following issues: (1) The cost of returning consumer products for warranty service; (2) the safety of returning consumer products for warranty service; (3) warranty registration requirements; (4) service of built-in consumer products; (5) repackaging consumer products for return for warranty service; (6) return of consumer products to authorized dealers; (7) methods which consumers may use for notification of warrantors of defects; and (8) the time in which consumers must notify warrantors of defects.

Following publication of the Notice of Inquiry and Proposed Rule, written comments, including data, views or arguments on any issue of fact, law or policy, which may have some bearing upon the proposed rule were received until September 30, 1977. In addition, a total of 14 days of public hearings were held in Chicago, Illinois, Los Angeles, California, and Washington, D.C. At the close of public hearings on December 13, 1977, the Presiding Officer authorized the filing of written rebuttal submissions until January 31, 1978. All written comments, rebuttal statements and transcripts of testimony have been made a part of the public record of the proceeding, (public record No. 215–58).

A report, setting forth a summary of the record was prepared by the Presiding Officer assigned to the proceeding. In addition, a report containing an analysis of the record and setting forth recommendations has been prepared by the staff.

In order to assist interested persons in preparing comments on the staff's recommended final rule, the Commission has directed that the Report of the Presiding Officer, dated August 1, 1978 and the Staff Report, dated March, 1980, be placed on the public record and copies of these two documents made available for general distribution.

Because the staff has recommended several substantive changes in the proposed rule, the Commission has determined that additional written comment on the recommended final rule is appropriate prior to final consideration of this matter. In addition, the analysis of the public record in the proceeding to date has raised a series of questions regarding the possible effects of any rule on manufacturers and others to which staff seeks public comment and response.

It is proposed to add a new Part 705 to 16 CFR as follows:

Section A. Recommended Final rule

Reasonable Duties Under a Full Warranty 16 CFR Part 705

Sec.

705.1 General.
705.2 Return of products.
705.3 Built-in products.
705.4 Mailing and shipping.
705.5 Original packaging.
705.6 Return to selling dealer.
705.7 Proof of warranty eligibility.
705.8 Method and content notice.
705.9 Time for giving notice.
Appendix to the Rule.
1. Standard of Reasonableness Test.
2. Format for Substantiation by Research.

§ 705.1 General.

(a) *What this Rule Does.* This rule states what you may and may NOT require a consumer to do under a "full warranty." A "full warranty" is a warranty that meets the Federal Minimum Standards in Section 104 of the Warranty Act. You may NOT say or imply in the warranty document that consumers have to do anything described as unreasonable in this rule or lose their warranty rights under a full warranty. To do so would be a violation of Sections 104(b)(1) of the Warranty Act, and as provided in Section 110(b) of the Warranty Act, a violation of Section 5(a)(1) of the Federal Trade Commission Act.

(b) *Duties Covered by the Rule.* A "duty" means any condition that requires a consumer to do something to qualify for or obtain warranty service. The duties which are prohibited in this rule are unreasonable duties and may NOT be imposed upon consumers under a full warranty. The listed duties are only the most common ones in use. Other duties imposed on consumers under a full warranty would be illegal if unreasonable. You may use the analysis described in the appendix to this rule to decide if the duty or condition is reasonable and so allowed in a full warranty.

(c) *Who Must Comply with this Rule.* Any warrantor that gives or offers a full warranty covered by this rule is responsible for complying with it.

"You" when used in this rule, means the responsible warrantor.

(d) *Definitions.* The definitions given below are the same as those used in the Warranty Act. They are reprinted here for convenience. In this rule, "product" means "consumer product" and "warranty" means "written warranty."

Other definitions appear in the section in which they are needed.

"Act" means the Magnuson-Moss Warranty Act, 15 U.S.C. 2301–2312.

"Consumer" means a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty applicable to the product, and any other person who is entitled by the terms of such warranty or under applicable State law to enforce against the warrantor the obligations of the warranty.

"Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

"Remedy" means whichever of the following actions the warrantor elects:

(A) Repair,

(B) Replacement, or

(C) Refund;

except that the warrantor may not elect refund unless (i) the warrantor is unable to provide replacement, and repair is not commercially practicable or cannot be timely made, or (ii) the consumer is willing to accept such refund.

"Warrantor" means any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty.

"Written warranty" means—

(A) Any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship, and affirms or promise that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time; or

(B) Any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

§ 705.2 Return of products.

(a) You may NOT require a consumer to return any product to a warranty service point for warranty service unless you are able to establish the reasonableness of your requirement. Evidence to support the reasonableness of your requirement to return a warranted product for warranty service may be obtained by use of the substantiation by research format in the appendix to this rule.

(b) You may require a consumer to return a product without prior research, but you must be able to support the reasonableness of your requirement if it is challenged.

(c) You may rely on the research of another organization on the same or physically similar product. However, the research relied upon must be adequate as defined in the appendix to this rule.

(d) The research methodology and results must be retained by you for as long as you rely on them, and may be offered in any administrative, judicial or informal dispute settlement proceeding in which the reasonableness of your request is challenged.

(e) "Warranty service" means any repair, replacement, refund or other action that you or your agent must perform under your warranty.

(f) "Warranty service point" is the place of business of any service agent named to perform warranty service.

(g) You may NOT require a consumer to return a vehicle or boat for warranty service if it is inoperable due to the defect covered by the warranty and it cannot be returned to a warranty service point without unreasonable risk of additional damage or danger to persons.

§ 705.3 Built-in products.

(a) You may NOT require a consumer to remove, return for warranty service, or install a built-in product after warranty service unless you can show, if called upon to do so, that the requirement is reasonable following the substantiation by research format in the appendix to this rule. You may use the applicable provisions of § 705.2 of this rule to help you comply with this section.

(b) "Built-in product" means any product that is attached, fastened, or installed in or on real or personal property. For purposes of this rule, "built-in product" does not include any product attached by plug or hose or connected by screws, bolts, nails or other fasteners that can be easily removed and replaced without causing damage to surrounding areas; or any product made to be free standing but attached, fastened or installed in or on real or personal property by the consumer by choice.

§ 705.4 Mailing and shipping.

(a) You may NOT require a consumer to pay for mailing or shipping of a product, including insurance, to or from a warranty service point. But you may ask consumers to pay for mailing or shipping and insurance first and reimburse them later. In this case, reimbursement must be made no later than the time the product is returned to the consumer. Refer to CFR 701.3 for terms that must be included in your written warranty.

(b) If you require the product to be mailed or shipped to a warranty service point, any risk of loss is yours, unless the consumer does not follow your instructions to obtain insurance.

(c) You do not have to pay consumer costs of travel to and from a post office or other shipping point.

(d) You may NOT require a consumer to carry back instead of mailing or shipping a warranted product to a warranty service point. But you may ask a consumer to use a specific available method of mailing or shipping a product to a warranty service point.

(e) You may NOT require a consumer to seek your permission before mailing or shipping a product to a warranty service point. But you may include a list of warranty service points in your warranty and require a consumer to mail or ship a product for warranty service to the closest warranty service point.

(f) You may NOT require a consumer to mail a product that is not mailable under U.S. Postal Service regulations, see, e.g., U.S. Postal Service Manual, Chapter 1, Part 123 and 124.

§ 705.5 Original packaging.

You may NOT require a consumer to return a product for warranty service in its original packaging. But you may provide packaging as needed or include instructions on how properly to package a product that is mailed or shipped to a warranty service point. The risk of loss from any damage caused by failure to follow packaging instructions is on the consumer.

§ 705.6 Return to selling dealer.

You may NOT require a consumer to obtain warranty service from the selling or the installing dealer only, unless you maintain no other warranty service point. You must permit a consumer to obtain warranty service from any warranty service point you maintain.

§ 705.7 Proof of warranty eligibility.

You may require a consumer to prove that a product is covered by a warranty. But you may NOT require a consumer to return a warranty registration card, warranty service card or any other card to make the warranty effective. You may suggest that one way a consumer can

prove warranty eligibility is by the return of an optional warranty registration card. See also 16 CFR 701.4

§ 705.8 Method and content of notice.

You may NOT require a consumer to give you notice of a defect in writing. A consumer can notify you of a defect by telephone, in person, or in any other reasonable way.

You may require a consumer to describe the way a product failed or is defective, but you may NOT require a consumer to explain specifically the nature or origin of the defect.

§ 705.9 Time for giving notice.

You may NOT require a consumer to give notice of a defect prior to the expiration of the warranty period.

Appendix to the Rule

1. *Standard of Reasonableness.*

To determine whether a duty not considered in this rule is reasonable to impose under a full warranty, use the following test which has several parts to be applied in sequence:

a. *Does the warrantor have a legitimate interest related to the warranty in imposing the duty?* If the answer is no, further inquiry is not required; the duty is unreasonable and cannot be imposed. If, however, the response is yes, i.e., there is a legitimate warrantor interest in imposing the duty in question, a second inquiry must be made.

b. *Does the duty tend to discourage warranty claims?* If the duty does not tend to discourage such claims, it is reasonable and may be imposed. If the answer is yes, a third inquiry must be made.

c. *Is there a less burdensome alternative duty which is at least as efficient for the warrantor yet does not tend to discourage warranty claims?* If the answer is yes, then the less burdensome alternative is reasonable. If the answer is still no, the final step in the sequence must be taken.

d. Where reasonableness is not resolved by one of the previous steps, i.e., where there is almost an equilibrium of interest, warrantor to consumer, reasonableness is to be decided by examining the effect imposition of the duty would have on warranty system efficiency, and on the legislative intent of the Warranty Act; and by balancing the degree of inefficiency that would occur if the duty is prohibited against any impediment caused by imposition of the duty under a full warranty.

2. *Substantiation by Research.*

Sections 705.2 and 705.3 provide that you must be able to establish the reasonableness of any requirement to return a product to a warranty service point for warranty service. Section 705.3 provides further that you must be able to establish the reasonableness of a requirement to remove and re-install a built-in product. Such evidence may be obtained by use of some or all of the following: consumer research, scientific tests, company sales and service records, or any other method or source generally accepted in the field of marketing research as reliable and valid for the purpose of this rule.

a. Consumer research or scientific tests, to be considered adequate to establish the reasonableness of a duty to return a product to a warranty service point for warranty service, should meet the following criteria:

(1) The product or object of the research should be the product concerned, or some object physically similar in weight and handling characteristics.

(2) The consumers included in the research should be reasonably representative of the consumers of the product concerned. Depending on the product, an appropriate population may be the warrantor's customers for that product or type of product, customers generally for the type of product, or the general public.

(3) The research should be designed and conducted in a competent, reliable and unbiased manner which would be judged technically correct by professional marketing researchers.

b. In general, evidence of either one of the following facts will be sufficient to establish a presumption of reasonableness; however, other facts may be used to preclude a finding of reasonableness in particular cases.

(1) You may show that the product's weight and handling characteristics are such that 75% of an appropriate population would consider it reasonable to return the product. (If the product is a built-in, the establishment of this fact alone will not be sufficient). The methodology of the NBS Study may be used to determine whether subjects consider it reasonable to return the product. If your product is similar in handling characteristics to a box used in that study, or is easier to carry then that box, if the population used in that study is reasonably appropriate for your product, and if the conditions of return assumed in that study are appropriate, then you may rely on the results of that study. (For example, a return duty would probably be reasonable for a product that could be readily held in two hands, that would likely be returned by an average group of females, and that weighed less than 28.3 pounds. On the other hand, if the product were to be returned by an average group of males, it could weigh up to 40.4 pounds.)

(2) Alternatively, you may show that 75% of an appropriate population actually carries the product away from the point of purchase; or carries the product to a service point when non-warranty service or repair is needed; or carries the product in normal use; or installs a built-in product; or removes a built-in product and carries it to a service point when service or repair is needed.

c. You may rely on the research of another organization on the same or physically similar product so long as the research relied upon is adequate, and meets the criteria outlined in 2.a above.

Section B. Additional Questions

While interested persons are invited to address any issues of fact, law or policy which they feel may have bearing upon the recommended final rule, listed below is a series of questions relating to the possible effects on warrantors and others that may result as a consequence of the Commission acting to adopt the staff's recommended final rule. These questions are intended to supplement information already contained in the public record of this proceeding and to assist the Commission in its consideration of the staff's recommended final rule:

1. What will be the additional costs of compliance with this rule, if any, for warrantors who give a full warranty?

2. The proposed rule provided for a specified weight limit of 35 pounds to guide warrantors and consumers on the question of "reasonableness" in relation to the matter of portability of consumer products. The recomended final rule (§ 705.2) proposes, instead, that a warrantor may not require a consumer to return any product to a warranty service point for service unless the warrantor is able to establish the reasonableness of the return requirement. A warrantor, if challenged, may substantiate by research the reasonableness of an return requirement. Does the recommended final rule give warrantors sufficient guidance relating to the establishment of any return requirement in a full warranty?

3. Is the proposed standard of reasonableness set forth in § 705.2 of the recommended final rule stated in a clear and understandable manner? Can the proposed standard be applied to all situations which may be expected to arise involving the return of products under a full warranty?

4. Is the proposal to permit substantiation by research (set forth in Appendix 2) stated in language which is sufficiently clear, understandable and unambiguous? What difficulties, if any, may arise in the application of the substantiation by research method of establishing the reasonableness of a consumer duty?

5. Section 705.3(b) of the recommended final rule sets forth a definition of built-in products. What problems, if any, may arise for manufacturers (warrantors), distributors, warranty service representatives and consumer if the proposed definition for built-in products is adopted by the Commission?

6. Are consumers frequently refused warranty service when they move to a new area of the country and attempt to obtain repairs from a local dealer for a product under full warranty?

7. Will § 705.6 of the recommended final rule encourage consumers to buy from the least expensive dealer in their shopping area in the expectation that other dealers, charging more expensive prices for the product under warranty, will have superior service departments and will provide warranty repairs?

8. Will dealers who have not originally sold a product, but from whom warranty service is requested by consumers, be reimbursed by manufacturers for the full costs of performing such warranty service? If not, will the proposed rule discourage reimbursed by manufacturers for the full costs of performing such warranty service? If not, will the proposed rule discourage such dealers from providing high quality warranty service?

9. Are there alternatives to the proposal set forth in § 705.6 that would provide consumers with an adequate choice of warranty service points but would not require every authorized dealer to honor warranty requests from consumers who bought from a competing retailer?

10. What are the anticipated economic effects on small businesses and consumers if the recommended final rule is adopted by the Commission?

11. Some manufacturers have expressed interest in offering full warranties, but hesitated to do so until the Commission specified unreasonable or prohibited duties. How would the rule affect the decision by warrantors to offer a full warranty?

12. Which duties addressed by the rule are now widely imposed by warrantors? Are these duties widely enforced when consumers seek warranty service?

Section C. Written Comments

All interested persons are notified that they may submit written data, views or arguments on any issue of fact, law, or policy which may have some bearing upon the final rule being recommended by the staff. Responses to the questions set forth herein are also invited. Staff particularly welcomes receipt of any evidence reflecting specific experience which you presently have available, in support of your views, arguments or responses. Washington, D.C. 20580 on or before August 1, 1980. To assure consideration comments should be identified as "Full Warranty Duties Comments" and submitted, when possible and not burdensome, in three copies.

Issued: April 25, 1980.

By the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-16674 Filed 5-30-80; 8:45 am]

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Part V

Department of Justice

Immigration and Naturalization Service

Refugee and Asylum Procedures

DEPARTMENT OF JUSTICE

8 CFR Parts 207, 208, 209, and 245

Immigration and Naturalization Service

Aliens and Nationality; Refugee and Asylum Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim regulations with requests for comments.

SUMMARY: On March 17, 1980 the President signed into law the Refugee Act of 1980. These interim regulations implement Title II of the Refugee Act. They contain the procedures for the admission of refugees into the United States, the grant of asylum to aliens seeking to enter or remain in the United States, and for the adjustment of status to permanent resident of refugees and asylees.

DATES: Effective date: June 1, 1980. Comment date: Written comments will be considered if received no later than July 31, 1980.

ADDRESS: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:
For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3048.

FOR SPECIFIC INFORMATION:
Asylum Procedures, Deputy Assistant Commissioner, Adjudications, Harry J. Klajbor, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone (202) 633–3229
Admission of Refugees, Director, Refugee and Parole, John G. Rebsamen, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone: (202) 633–2361

SUPPLEMENTARY INFORMATION:

Admission of Refugees

The interim regulations on the admission of refugees are contained in 8 CFR 207. Any alien who believes him/herself to be eligible for admission to the United States as a refugee and who is within one of the groups designated by the President to be of special humanitarian concern may apply overseas with the INS Officer in Charge in the area in which the alien is located. There is provision for the admission of the refugee's spouse and children as well.

Any alien who is firmly resettled in a third country is not eligible for admission as a refugee. If the applicant is qualified for admission to the United States as an immediate relative of a United States citizen or a special immigrant, he/she will not be processed for admission as a refugee unless to do so would be in the public interest. If it appears that the applicant could be admitted to the United States as an immigrant by means other than as an immediate relative or as a refugee he/she will be advised, but not required, to seek admission by that other process.

The applicant must appear in person for questioning, unless under 14 year of age, and must submit to a medical examination. In addition, an assurance of housing and employment for one year and transportation to the U.S. destination must also be obtained before refugee status is granted. If the alien needs a waiver of inadmissibility, an application is made to the Officer in Charge who will conduct whatever investigation is necessary. No appeal is provided from a denial of a waiver.

Waiting lists will be maintained according to the date an application is received. The Attorney General, however, may select refugees for admission from these lists in other than chronological order for reasons which best support the policies and interests of the United States. Each time refugee status is approved, a number will be deducted from the number authorized by the President for the particular group. The approval of an application for admission as a refugee is valid for four months.

Asylum in the United States

Asylum procedures are set out in section 208 of the interim regulations. The District Director will consider all applications for asylum with the exception of an application filed after the alien has been placed in exclusion or deportation proceedings. In such a case only the immigration judge will consider the application. An application denied by the District Director may be renewed in exclusion or deportation proceedings before an immigration judge. The burden is on the applicant to show that he is eligible. Each applicant will be interviewed; the District Director will then request an advisory opinion from the Bureau of Human Rights and Humanitarian Affairs (BHRHA) at the Department of State. The immigration judge will not request a new advisory opinion if there already is an opinion from BHRHA in the case unless he determines that changed or special circumstances require an updated report. In the request the District Director will state his evaluation of the case and his assessment of the applicant's credibility. If the BHRHA opinion is not received within 45 days, and no additional time is requested by State, the District Director will decide the case without the opinion.

The application will be denied if the alien does not come within the definition of refugee under the Act, is firmly resettled in a third country, or is within one of the undesirable groups described in section 243(h) of the Act, e.g., having been convicted of a serious crime, constitutes a danger to the United States. In addition, the application may be denied in the exercise of discretion if there is an outstanding offer of resettlement by a third nation and resettlement is in the public interest. Asylum status may be terminated for the same grounds or if there are changed circumstances in the asylee's country which eliminates the need for asylum. Authorization to work in six month increments may be granted in the discretion of the District Director in non-frivolous cases.

Applicants at land border ports, with limited exceptions, must await a decision in Canada or Mexico. Crewmen will be detained on board the vessel pending action on the application, unless the atmosphere on board is not conducive to an interview.

Persons granted asylum will be interviewed after one year to determine their continuing need for asylum and their eligibility for adjustment to permanent resident status.

Adjustment to Permanent Resident

Section 209 contains the procedures for adjustment to lawful permanent resident alien status by refugees and asylees. Notice will be sent to all refugees and asylees after one year to report for an interview. Providing the refugee is admissible, he/she will be adjusted to lawful permanent resident alien status. An admissible asylee who continues to qualify as a refugee, that is, there are no changed circumstances in the home country eliminating the need for asylum, may also be adjusted, provided there is a number available. Under the Refugee Act, up to 5,000 numbers per year may be made available for adjusting asylees. A denial of adjustment may not be appealed, but the application may be renewed in deportation or exclusion proceedings before an immigration judge. Pending applications for adjustment by aliens who were eligible under the proviso to section 203(a)(7) will be considered for adjustment as asylees.

Pursuant to 5 U.S.C. § 553(d)(3), these amendments are made effective immediately for good cause in order to give timely effect to Title II of the Refugee Act.

All interested persons are invited to submit comments. After the comments and the experience under the interim regulations have been evaluated, final regulations will be promulgated.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended by adding new Parts 207, 208, and 209 and by amending Part 245 as follows:

PART 207—ADMISSION OF REFUGEES

Sec.
207.1 Eligibility.
207.2 Application processing.
207.3 Inadmissible applicants.
207.4 Approved applications.
207.5 Waiting lists and priority of handling.
207.6 Control of approved refugee numbers.
207.7 Action at time of arrival in United States.

Authority: Secs. 101, 201, 207, 212; 94 Stat. 102, 103; 8 U.S.C. 11001, 1151, 1157, 1182, 1521 note.

§ 207.1 Eligibility.

(a) *Presidential Designation.* At the commencement of each fiscal year the President, after appropriate consultation with Congress, shall determine the numerical allocation of admissions under this chapter among specific refugee groups of special humanitarian concern to the United States. Any alien believing himself/herself to be included within one of the groups of special humanitarian concern as designated by the President and to fall within the terms of "refugee" as described by Section 101(a)(42) of the Act, may make application for admission into the United States under this chapter by filing Form I–590 with the overseas INS Officer-in-Charge exercising jurisdiction over the area in which the applicant is located.

(b) *Firmly Resettled.* Any applicant who has become firmly resettled in a foreign country is not eligible for the granting of refugee status under this chapter. A refugee is considered to be "firmly resettled" if he has been offered resident status, citizenship, or some other type of permanent resettlement by another nation and has travelled to and entered that nation as a consequence of his flight from persecution, unless the refugee establishes, to the satisfaction of the United States Government officer reviewing the case, that the conditions of his residence in that nation have been so substantially and consciously restricted by the authorities of that country that he has not in fact been resettled. In making this determination, the officer shall consider, in light of the conditions under which other residents of the country live, the type of housing, whether permanent or temporary, made available to the refugee, the types and extent of employment available to the refugee, and the extent to which the refugee has received permission to hold property and to enjoy other rights and privileges (such as travel documentation, education, public relief, or naturalization) available to others resident in the country.

(c) *Immediate Relatives and Special Immigrants.* An applicant for refugee status who is qualified as an immediate relative or special immigrant will not be processed as a refugee unless to do so would be in the public interest. Such an alien shall be advised concerning the steps to be taken to secure an immediate relative or special immigrant visa and will be furnished the proper petition forms for transmission to any prospective petitioners. An applicant who appears to be eligible for classification under Sections 203(a) (1), (2), (3), (4), (5), (6), or (7) of the Act, and for whom a visa number is currently available, shall be advised, but not required to seek such classification.

(d) *Spouse and Children.* The spouse or child of any refugee who qualifies for admission shall, if not otherwise entitled to admission, and if not a person described in the second sentence of Section 101(a)(42), be entitled to the same status as such refugee if accompanying, or following to join such refugee and if the spouse or child is otherwise admissible under the Act. The entry of such spouse or child into the United States shall be charged against the numerical limitation under which the refugee's entry is charged.

§ 207.2 Application processing.

A separate form I–590 is required of each individual seeking admission under these provisions. Each applicant who has reached his 14th birthday must also submit a properly executed and signed Form G–325c and Form FD–258 fingerprint chart.

(a) *Hearing.* Each applicant under this paragraph shall appear in person before an immigration officer and, excepting a child under 14 years of age, shall, prior to the adjudication of his application, be interrogated under oath concerning his eligibility for admission to the United States as a refugee.

(b) *Medical Examination and Sponsorship.* All applicants under this chapter shall be required to submit to a medical examination as provided by Sections 221(d) and 235 of the Immigration and Nationality Act. Regugee status will not be authorized until assurances of employment and housing in the United States for a period of 1 year are presented and until assurances of transportation from the applicant's place of abode to the point of final destination in the United States have been provided.

§ 207.3 Inadmissible applicants.

Refugees found to be inadmissible on grounds arising out of Sections 212(a)(27), (29), (33), or so much of (23) as relates to trafficking in narcotics, are not eligible for a waiver of such provisions under this chapter. The provisions of Sections 212(a)(14), (15), (20), (21), (25), and (32) are statutorily declared not to be applicable to refugees. All other grounds of excludability arising out of Section 212(a) of the Act may be waived at the discretion of the Attorney General. Application for such waiver may be made by filing Form I–602 with the Officer-in-Charge before whom the refugee's Form I–590 is pending. The burden of proof is upon the applicant to show that such waiver should be granted for humanitarian purposes, to assure family unity, or in the public interest. The Officer-in-Charge will cause such investigation as is necessary to establish the facts and circumstances in the case upon which to base his decision. The applicant shall be notified in writing of the decision, and, if the application is denied, the reasons why. No appeal shall lie from a denial of a waiver by the Officer-in-Charge.

§ 207.4 Approved application.

The approval of an application by an Officer-in-Charge outside the United States authorizes the District Director of the port of entry to conditionally admit the applicant as a refugee upon his/her arrival at such port within 4 months after the date of approval of the Form I–590.

§ 207.5 Waiting lists and priority of handling.

Waiting lists will be maintained for each designated refugee group of special humanitarian concern, and each applicant upon acceptance of his application for filing by INS will be registered on the appropriate list in the chronological order of application receipt. The date so registered will be considered a priority date for purposes of case control. The Attorney General may select such refugees or groups of refugees from these lists in a manner that will best support the policies and interests of the United States. In so doing, appropriate criteria for the selection of refugees and the assignment of processing priorities as is deemed

advisable by the Attorney General may be adopted for each designated refugee group. These criteria will be based on such considerations as reunification of family, close association with the United States, compelling humanitarian considerations, and public interest factors. The granting of priorities as described is at the discretion of the Attorney General.

§ 207.6 Control of approved refugee numbers.

A current numerical accounting of approved refugees shall be maintained for each special group designated by the President. As refugee status is authorized for each applicant, a number will be deducted from the appropriate group so that information will be immediately available indicating how many refugee numbers remain available for issuance.

§ 207.7 Action at time of arrival in United States.

Upon arrival, every refugee 14 years of age or older shall execute Form I–592. For the purposes of adjustment of status under Section 209(a)(1), the one year period shall commence on the date of the applicant's entry as a refugee into the United States.

PART 208—ASYLUM PROCEDURES

Sec.

208.1 Jurisdiction.
208.2 Application.
208.3 Filing application.
208.4 Employment authorization.
208.5 Burden of proof.
208.6 Appearance.
208.7 Advisory opinions from BHRHA.
208.8 Decision by district director.
208.9 Renewal of asylum request.
208.10 Asylum request in exclusion or deportation proceedings.
208.11 Asylum requests after completion of exclusion or deportation hearing.
208.12 Leal liability of asylees.
208.13 Definition of country of habitual residence.
208.14 Termination of asylum status.
208.15 Expulsion of former asylees.

Authority: Secs. 101, 208, 94 Stat. 105; 8 U.S.C. 1101, 1158.

§ 208.1 Jurisdiction.

Jurisdiction over any request for asylum made by an applicant for admission at a port of entry shall lie with the district director having jurisdiction over that port of entry. Jurisdiction over any request for asylum made by an alien in the United States shall lie with the district director having jurisdiction over the applicant's residence, except that jurisdiction over an asylum request made by an alien after he/she has been placed under exclusion proceedings pursuant to 8 CFR 236.2, or served an order to show cause pursuant to 8 CFR 242.1, shall lie with the immigration judge.

§ 208.2 Application.

Application for political asylum shall be made on Form I–589, "Request for Asylum in the United States." The applicant's spouse and children as defined in sections 101(b)(1) (A), (B), (C), (D) and (E) of the Act, may be included in the application. Each application shall be accompanied by a completed Form G–325A and an FD–258 fingerprint chart for every individual included in the application who is fourteen years of age or older.

§ 208.3 Filing the application.

(a) *With the district director.* The asylum application shall be filed in triplicate with the district director when the applicant:

(1) Is seeking admission to the United States, or;

(2) Is in the United States, regardless of his/her status, and has not been placed under exclusion proceedings or served an order to show cause.

(b) *With the immigration judge.* Asylum requests made after the institution of exclusion or deportation proceedings shall be filed in quadruplicate with the docket clerk of the immigration court. Such asylum requests shall also be considered as requests for withholding exclusion or deportation pursuant to section 243(h) of the Act.

§ 208.4 Employment authorization.

Upon the filing of a non-frivolous I–589, the district director may, in his discretion, grant a request by the applicant for employment authorization.

§ 208.5 Burden of proof.

The burden is on the asylum applicant to establish that he/she is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of the country of such person's nationality or, in the case of a person having no nationality, the country in which such person habitually resided, because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

§ 208.6 Appearance.

The applicant shall be examined in person by an immigration officer or judge prior to adjudication of the asylum application. The personal appearance of any children included in the application may be waived by the district director or immigration judge.

§ 208.7 Advisory opinions from the Bureau of Human Rights and Humanitarian Affairs.

Upon receipt of Form I–589, the district director shall in all cases request an advisory opinion from the Bureau of Human Rights and Humanitarian Affairs (BHRHA) of the Department of State. The immigration judge shall request BHRHA advisory opinions as prescribed in paragraph 208.10(b) of this chapter.

§ 208.8 Decision by the district director.

(a) *Discretion.* The district director may approve or deny the asylum application in the exercise of discretion.

(b) *Writing.* The decision of the district director shall be in writing.

(c) *Appeal.* No appeal shall lie from the decision of the district director.

(d) *Decision based on BHRHA opinion.* If the decision is based in whole or in part on a BHRHA opinion, the opinion is to be made a part of the record of proceeding unless it is classified under Executive Order No. 12065 (3 CFR 190, June 28, 1978). If the BHRHA opinion is included in the record, the applicant shall be given an opportunity to inspect, explain, and rebut the opinion, as prescribed in § 103.2(b)(2) of this chapter.

(e) *Approval.* When an I–589 is approved, asylum status shall be granted for a period of one year from the date of approval.

(1) *Annual interview of asylee.* Every asylee shall be interviewed annually to determine continuing eligibility for asylum and eligibility for adjustment of status.

(2) *Extension of asylum status.* If after the annual interview it is determined that an alien is still eligible for asylum, but does not wish or is ineligible to adjust status under any section of the Act, his/her asylum status may be extended for one year.

(f) *Denial.*

(1) *General.* The district director shall deny a request for asylum or extension of asylum status if it is determined that the alien:

(i) Is not a refugee within the meaning of section 101(a)(42) of the Act;

(ii) Has been firmly resettled in a foreign country;

(iii) That the alien ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular group, or political opinion;

(iv) The alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(v) There are serious reasons for considering that the alien has committed a serious non-political crime outside the United States prior to the arrival of the alien in the United States; or

(vi) There are reasonable grounds for regarding the alien as a danger to the security of the United States.

(2) *Discretion.* Among other grounds, the district director may deny a request for asylum or extension of asylum status in the exercise of discretion if it is determined that there is an outstanding offer of resettlement by a third nation where the applicant will not be subject to persecution and the applicant's resettlement in a third nation is in the public interest.

(3) *Applicant for admission.* If an asylum request by an applicant for admission is denied, he/she shall be expeditiously placed under exclusion proceedings, unless the applicant elects to withdraw the application for admission.

(4) *Applicant in the United States.* If a request for asylum or extension of asylum by an alien in the United States is denied, the district director may in his discretion, grant voluntary departure pursuant to O.I. 242.10, or commence deportation proceedings pursuant to 8 CFR 242.1.

§ 208.9 Renewal of asylum request.

Where an application for asylum is denied by the district director, the applicant may renew his/her request for asylum before an immigration judge in exclusion or deportation proceedings.

§ 208.10 Asylum requests in exclusion or deportation proceedings.

(a) *Application.* A request for asylum made in exclusion or deportation proceedings shall be made on Form I–589.

(b) *BHRHA advisory opinion.* When the asylum request is filed, the hearing shall be adjourned for the purpose of requesting an advisory opinion from BHRHA. The immigration judge shall not request such opinion if an opinion has been received in connection with an application under paragraph 208.7 of this part, unless he finds, in his discretion, that circumstances have changed so substantially since the first opinion was provided that a second referral would materially aid in adjudication of the asylum request. The BHRHA opinion, unless classified under Executive Order No. 12065, shall be made part of the record, and the applicant given an opportunity to inspect, explain, and rebut it.

(c) *Record and non-record evidence.* Both the applicant and the Service may present evidence for the record in the exclusion or deportation proceedings. Additionally, the Service may present non-record evidence to be considered by the immigration judge, provided such information is classified under Executive Order No. 12065. When the immigration judge receives non-record evidence, the applicant shall be informed as to whether the character of the evidence concerns political, social or other conditions in a specified country, or personally relates to the applicant.

(d) *Disclosure of non-record evidence.* The immigration judge may disclose to the asylum applicant the non-record evidence, or any part thereof, to the extent that he believes he can do so and still safeguard the information and its source. The applicant shall be provided opportunity to rebut any evidence so disclosed. A decision based in whole or in part on non-record evidence shall state that such evidence is material to the decision.

(e) *Approval.* When the immigration judge grants asylum, it shall be for a period of one year.

(f) *Denial.* When the immigration judge denies asylum, the exclusion or deportation proceedings shall be reinstituted.

§ 208.11 Asylum requests after completion of exclusion or deportation hearing.

An alien may request that an exclusion or deportation proceeding be reopened pursuant to 8 CFR 103.5 or 8 CFR 242.22 respectively, on the basis of a request for asylum. Such request must reasonably explain the failure to request asylum prior to the completion of the exclusion or deportation proceeding. If the alien fails to do so, the asylum claim shall be considered frivolous, absent any evidence to the contrary. Nothing in this part, however, shall be construed to prevent an alien from requesting relief under section 243(h) during exclusion or deportation proceedings.

§ 208.12 Legal liability of asylees.

A grant of asylum status in no way exempts an alien from any liability under civil or criminal proceedings by any department, bureau or agency of any federal, state or local government.

§ 208.13 Definition of country of habitual residence.

The term "country of habitual residence" means the customary, usual, or regular place of abode.

§ 208.14 Definition of firm resettlement.

An alien is considered to be "firmly resettled" if he was offered resident status, citizenship, or some other type of permanent resettlement by another nation and travelled to and entered that nation as a consequence of his flight from persecution, unless the refugee establishes, to the satisfaction of the United States Government officer reviewing the case, that the conditions of his residence in that nation were so substantially and consciously restricted by the authority of the country of asylum/refuge that he was not in fact resettled. In making this determination, the officer shall consider, in light of the conditions under which other residents of the country live, the type of housing, whether permanent or temporary, made available to the refugee, the types and extent of employment available to the refugee, and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges (such as travel documentation, education, public relief, or naturalization) available to others resident in the country.

§ 208.15 Termination of asylum status.

(a) *Ground.* (1) Changed circumstances in the asylee's country of nationality, or last habitual residence if he/she has no nationality, eliminates the need for asylum, or;

(2) The asylee poses a danger to the security of the United States, or because of conviction of a serious crime poses a danger to the community, as described in part 208.8(f)(iv) of this chapter, or;

(3) It appears that the alien was not in fact eligible for asylum for any reason specified in 208.8(f).

(b) *By district director.* The district director may terminate asylum status granted under § 208.8(e). Prior to termination, the alien shall be given written notice of the intent to rescind asylum status, including the reason(s) therefor, and provided an opportunity to present evidence tending to establish that he/she is still a refugee within the meaning of section 101(a)(42), and/or does not pose a danger to either the security of the United States or the community. If it is subsequently determined, notwithstanding any evidence presented to the contrary, the alien is no longer a refugee, he/she shall be given written notice of termination of asylum status.

(c) *By immigration judge or Board of Immigration Appeals.* The immigration judge or Board of Immigration Appeals may reopen a case pursuant to Parts 3.2 or 242.22 of this chapter for the purpose of terminating asylum status granted under Part 208.10.

§ 208.16 Expulsion of former asylees.

Once an alien's asylum status is terminated as specified in § 208.15 of this part, the alien, unless eligible for other immigration benefits for which he/she makes application, shall be placed under:

(a) Deportation proceedings if he/she was in the United States at the time asylum status was granted, or;

(b) Exclusion proceedings if he/she was an applicant for admission to the United States at the time asylum status was granted.

PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

Sec

209.1 Admission for permanent residence after one year.

V 4 5 J E 2 8 0 UMI

Sec.
209.2 Adjustment of aliens granted asylum.

Authority: Secs. 101, 209, 94 Stat. 105; 8 U.S.C. 1101, 1159.

§ 209.1 Admission as permanent resident after one year.

(a) *Eligibility.* Any alien whose entry into the United States as a refugee pursuant to section 207 has not been terminated, shall be required to appear before an immigration officer one year after entry in order to determine his/her admissibility in accordance with sections 235, 236, and 237 of the Act. The applicant shall be interrogated under oath and a determination of admissibility made. If the applicant is determined to be admissible, he/she shall be inspected and admitted for lawful permanent residence. If the applicant is determined to be inadmissible, he/she shall be informed that he/she may renew the request for adjustment in proceeding under section 236.

(b) *Processing Application.* (1) One year after arrival in the United States, a refugee entrant shall be notified on Form I–594 to appear for examination by a primary inspector. Concurrent with the preparation of Form I–594, Form I–181 shall be completed except for date and place accorded permanent residence and signature blocks.

(2) By interrogation of the applicant under oath and examination of his file, a determination of eligibility for permanent residence shall be made in the normal primary inspection manner. Since section 207 of the Act requires that the alien must have been in the United States for at least one year, further inspections shall be postponed until the alien shall have completed one year physical presence in the United States. If the refugee entrant has had the required amount of physical presence, Form FD–258 and Form G–325A shall be processed in accordance with O.I. 105.10(b). Unless there were medical grounds for exclusion at the time of arrival, a USPHS medical examination shall not be required.

(3) If the alien is found admissible after inspection in accordance with section 207, he shall be issued Forms I–551 and I–357 upon conclusion of the interview, and the Form G–325 check shall be completed on a post audit basis. If a positive response to the G–325 check is subsequently received, appropriate action shall be taken promptly.

§ 209.2 Adjustment of status of aliens granted asylum.

(a) *Eligibility.* An alien who has been granted asylum in the United States may be given adjustment of status to that of an alien lawfully admitted for permanent residence in the discretion of the Attorney General, provided the alien (a) applies for such adjustment, (b) has been physically present in the United States for at least one year after having been granted asylum, (c) continues to be a refugee within the meaning of section 101(a)(42)(A) of the Act, or the spouse or child of such refugee, (d) has not been firmly resettled in any foreign country, (e) is admissible to the United States as an immigrant under the Act at the time of examination for adjustment without regard to paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a), which paragraphs shall not be applicable, and (f) has a refugee number available under section 207(a) of the Act.

(b) *Inadmissible aliens.* An applicant who is inadmissible to the United States under section 212(a) of the Act, may under section 209(c) have the grounds of inadmissibility waived by the Attorney General (except for those under paragraphs (27), (29), (33), and so much of (23) as relates to trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. An application for such waiver may be filed, without fee, concurrently with the application for adjustment. An applicant for adjustment who has had the status of an exchange alien or of a nonimmigrant under section 101(a)(15)(J) of the Act, and who thereby became subject to the foreign residence requirement of section 212(e) of the Act, shall not be eligible for adjustment unless the applicant has complied with the foreign residence requirement or has been granted a waiver thereof.

(c) *Application.* An application for the benefits of section 209(b) of the Act shall be filed, without fee, on Form I–485 with the District Director having jurisdiction over the applicant's place of residence. A separate application shall be filed by each alien, and if the alien has reached the age of 14 years, it shall be accompanied by a completed Biographic Form G–325A and Fingerprint Card, Form FD–258. It must also be supported by evidence that the applicant has been granted asylum and has thereafter been physically present in the United States for at least one year. After an alien has been served with an order to show cause or placed under exclusion proceedings, the application shall be made and considered only in proceedings under section 242 or 235 of the Act.

(d) *Medical examination.* Upon acceptance of the application, the applicant shall be required to submit to an examination by a selected civil surgeon, whose report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record. Any applicant certified under paragraph (1), (2), (3), (4), or (5) of section 212(a) of the Act may appeal to a Board of Medical Officers of the U.S. Public Health Service as provided in section 234 of the Act and Part 235 of this chapter.

(e) *Interview.* Each applicant for adjustment of status under this Part shall be interviewed by an immigration officer. The interview may be waived in the case of a child under the age of 14.

(f) *Decision.* The applicant shall be notified of the decision, and, if the application is denied, of the reasons therefor. No appeal shall lie from the denial of an application by the District Director but such denial shall be without prejudice to the alien's right to renew the application in proceedings under Part 242 or 236 of this chapter. If the application is approved, the District Director shall record the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

§ 245.1 [Amended]

1. 8 CFR 245.1(d) is amended by deleting the last sentence.

2. 8 CFR 245.1(h) is amended by substituting "one year" for "two years" in the second sentence.

§ 245.4 [Amended]

3. 8 CFR 245.4 is amended to read as follows:

(a) *Adjustment of status of aliens within the proviso to Section 203(a)(7) of the Act.* The proviso to Section 203(a)(7) of the Act was repealed by the Refugee Act of 1980, effective April 1, 1980. Adjustment thereunder is therefore no longer possible. However, any properly filed adjustment application under that proviso pending on March 31, 1980, may be adjudicated as an application under Section 209(b) of the Act and Part 209 of this chapter, and may be approved if it satisfies all of the conditions of that Section and Part. For this purpose, the applicant found to be a refugee within the meaning of Section 101(a)(42)(A) of the Act (or the spouse or child of such refugee), who had not earlier been granted asylum, may be deemed to have been granted asylum as of the date the adjustment application was filed.

(b) *Adjustment of Status of Aliens under Section 209(b) of the Act.* For the regulation affecting adjustment of aliens under this section of the Act, see Part 209 of the chapter.

* * * * *

(Secs. 103, 209, 245; Stat. 105; 8 U.S.C. 1103, 1159, 1255)

Effective date: June 1, 1980.

Dated: May 30, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-16875 Filed 5-30-80; 11:41 am]

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FEDERAL REGISTER PAGES AND DATES, JUNE

37175–37396.....2

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
June 2	June 17	July 2	July 17	August 1	September 2
June 3	June 18	July 3	July 18	August 4	September 2
June 4	June 19	July 7	July 21	August 4	September 2
June 5	June 20	July 7	July 21	August 4	September 3
June 6	June 23	July 7	July 21	August 5	September 4
June 9	June 24	July 9	July 24	August 8	September 8
June 10	June 25	July 10	July 25	August 11	September 8
June 11	June 26	July 11	July 28	August 11	September 9
June 12	June 27	July 14	July 28	August 11	September 10
June 13	June 30	July 14	July 28	August 12	September 11
June 16	July 1	July 16	July 31	August 15	September 15
June 17	July 2	July 17	August 1	August 18	September 15
June 18	July 3	July 18	August 4	August 18	September 16
June 19	July 7	July 21	August 4	August 18	September 17
June 20	July 7	July 21	August 4	August 19	September 18
June 23	July 8	July 23	August 7	August 22	September 22
June 24	July 9	July 24	August 8	August 25	September 22
June 25	July 10	July 25	August 11	August 25	September 23
June 26	July 11	July 28	August 11	August 25	September 24
June 27	July 14	July 28	August 11	August 26	September 25
June 30	July 15	July 30	August 14	August 29	September 29

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This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

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01-399	5.50
21 Parts:	
200-299	5.50
600-799	5.00
800-1299	5.50

CFR Unit (Rev. as of July 1, 1979):

28	6.50
29 Parts:	
0-499	8.00
500-1899	9.00
1900-1919	11.00
1920-end	7.50
30	13.00
31	8.50
32 Parts:	
1-39 (Vol. I)	8.50
1-39 (Vol. II)	11.00
1-39 (Vol. III)	8.50
40-399	8.50
400-699	8.50
700-799	7.50
800-999	7.50
1000-end	6.00
32A	5.50
33 Parts:	
1-199	8.50
200-end	7.00
34/35 (Rev. 12/31/79)	6.00
36	7.00
37	5.50
38	9.00
39	6.00
40 Parts:	
0-49	6.50
50-59	12.00
60-80	6.50
81-99	7.00
100-399	8.00
400-end	12.00
41 Chapters:	
1-2	9.00
3-6	7.50
7	4.00
8	4.00
9	7.00
10-17	6.50
18 (Pts. 1-52 SUPP.)	3.00
19-100	6.00
101-end	12.00
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1-399	8.00
400-end	8.00
43 Parts:	
1-999	5.50
1000-end	9.00
44	5.50
45 Parts:	
1-99	6.50
100-149	7.00
150-199	7.00
200-499	5.00
500-1199	7.00
1200-end	6.50
46 Parts:	
1-29	4.25
30-40	4.50
41-69	6.50
70-89	4.75
90-109	4.75
110-139	4.25
140-155	5.50
156-165	5.50
166-199	5.25
200-end	8.50
47 Parts:	
0-19	6.50
20-69	8.00
70-79	7.00
80-end	8.00
48 [Reserved]	
49 Parts:	
1-99	4.75
100-177	7.00
178-199	7.00
200-399	7.00
400-999	7.00
1000-1199	7.00
1200-1299	9.00
1300-end	6.00
50	8.00

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department
AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department
BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department
AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department
DOE Energy Department
APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS—Health and Human Services Department
ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department
CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department
BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department
DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department
BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration

OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department
FSGB Foreign Service Grievance Board

DOT Transportation Department
CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department
ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies
AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID—Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

V 45 J E 2 8 0 UMI

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

29270 5–2–80 / Provisions for importation of carcasses, parts, or products

Forest Service—

29289 5–2–80 / Procedures for involving the public in the formulation of standards, criteria, and guidelines that apply to Forest Service programs

DEFENSE DEPARTMENT

Engineers Corps, Army Department—

31062 5–12–80 / Operational restricted zone in the vicinity of the naval Undersea Warfare Engineering Station, Indian Island Annex, Ammunition Pier, Port Townsend, Puget Sound, Wash.

FEDERAL COMMUNICATIONS COMMISSION

28720 4–30–80 / FM broadcast station in Bandera, Tex.; Changes made in table of assignments

FEDERAL COMMUNICATIONS COMMISSION

28718 4–30–80 / FM broadcast stations in Clinton and Bald Knob, Ark.; Changes made in table of assignments

28719 4–30–80 / FM broadcast station in Moriah, N.Y.; Changes made in table of assignments

28718 4–30–80 / FM broadcast station in Steelville, Mo.; Changes made in table of assignments

29023 5–1–80 / Public mobile radio service; availability of land mobile channels in 470–512 MHz band in 13 urbanized areas in U.S.

27765 4–24–80 / Stations on land in the Maritime Services and Alaska—public fixed stations; expansion of authorized bandwidth for coastal radio telegraph station transmitters

FEDERAL RESERVE SYSTEM

15920 3–12–80 / Credit by brokers and dealers; time for payment in general and cash accounts and extension of time requests received through the mail.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

29279 5–2–80 / Revocation of low-rent public housing provision

List of Public Laws

Last Listing May 30, 1980.

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2648 / Pub. L. 96–253 To authorize appropriations for the Federal Election Commission for fiscal year 1981. (May 29, 1980; 94 Stat. 398) Price $1.

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6-3-80
Vol. 45 No. 108
Pages 37397-37680

federal register

Tuesday
June 3, 1980

Highlights

37666 **Grant Programs** HHS amends rules regarding standards governing procurements made by governmental recipients of Federal grants and subgrants; effective 6–3–80 (Part VII of this issue)

37530 **Grant Programs—Social Programs** HHS/HDSO announces availability of funds for Advocacy Model Program Demonstration Grants; apply by 8–4–80

37433 **Grant Programs—Social Programs** HHS/PHS authorized the Secretary to administer program of grants for family planning services projects; effective 6–3–80

37636 **Government Employees** OPM issues policy agenda identifying areas of concern and key policy issues; comments by 9–2–80 (Part V of this issue)

37620 **Public Assistance Programs** Justice establishes procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance; effective 7–3–80 (Part IV of this issue)

37415 **Exports** Commerce/ITA revises policy on exports to Afghanistan; effective 6–3–80, comments by 8–4–80

CONTINUED INSIDE

V 45 J E 3 80 UMI

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

37616 **Animals** USDA/APHIS issues standards for humane handling, care, treatment, and transportation of dogs and cats; effective 7–18–80 (Part III of this issue)

37571 **Postal Service** PS invites comments on plan to implement nine-digit ZIP Code system; comments by 7–3–80

37427 **Postal Service** PS issues rules permitting extension of city delivery service; effective 7–3–80

37426 **Postal Service** PS amends rules to include electronic meters in postage meter specifications; effective 7–3–80

37399 **Nuclear Materials** NRC amends interim rule for physical protection of irradiated reactor fuel (spent fuel) in transit; effective 7–3–80

37413 **Credit** FRS amends consumer credit restraint rules to reduce special deposit requirement; effective 7–24–80

37412 **Credit** FRS amends rules regarding reports under special credit restraint program; effective 5–27–80

37414 **Credit** FRS adopts rules regarding short term financial entermediaties; effective for seven-day maintenance period beginning 6–30–80, for the computation period beginning 6–16–80

37616, 37648 **Improving Government Regulations** Labor/Sec'y and OPM publish Semiannual Agendas of regulations; (Parts II and VI of this issue)

37679 **Iranian Assets Control Treasury** Office of Foreign Assets Control clarifies all travel-related transactions by persons subject to jurisdiction of the United States; effective 5–30–80 (Part IX of this issue)

37570 **Privacy Act Documents**

37397, 37570 **National Commission on the International Year of the Child, 1979 (2 documents)**

37577 **Sunshine Act Meetings**

Separate Parts of this Issue

37610 **Part II, OPM**
37616 **Part III, USDA/APHIS**
37620 **Part IV, Justice**
37636 **Part V, OPM**
37648 **Part VI, Labor/Sec'y**
37666 **Part VII, HHS**
37674 **Part VIII, FTC**
37679 **Part IX, Treasury/Office of Foreign Assets Control**

Contents

Federal Register
Vol. 45, No. 108
Tuesday, June 3, 1980

Agency for International Development
NOTICES
Authority delegations:
37558 South Pacific, Regional Representative; contracting functions

Agricultural Stabilization and Conservation Service
RULES
37398 Marketing quota review; definition of "quota"
PROPOSED RULES
Indemnity payment programs:
37453 Beekeeper

Agriculture Department
See Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Rural Electrification Administration.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
37523 June

Animal and Plant Health Inspection Service
RULES
Animal welfare:
37616 Dogs and cats; handling, care, treatment, and transportation standards; ventilation requirements

Army Department
NOTICES
Environmental statements; availability, etc.:
37472 Fort Carson, Colo.; training land acquisition

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
37472 Procurement list, 1980; additions and deletions; correction

Canada and United States-International Joint Commission
NOTICES
37558 Lake Erie ice boom; extension of order of approval; hearings

Child, International Year of the, 1979, National Commission
RULES
37397 Privacy Act; implementation; CFR Part removal and Commission termination
NOTICES
37570 Privacy Act; systems of records; revocation and transfer

Civil Aeronautics Board
NOTICES
37470 All-cargo air service certificate applications Hearings, etc.:
37471 Coleman Air Transport Corp. service suspensions enforcement proceeding
37471 Commuter Airlines, Inc.; enforcement proceedings; postponement
37471 Lone Star Airways, Inc., fitness investigation (2 documents)
37471 Trans-Panama, S.A.

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; Maritime Administration; National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
RULES
37418 Baby cribs, full-size; correction

Defense Department
See also Army Department; Engineers Corps.
NOTICES
Meetings:
37474 Science Board task forces

Education Department
RULES
37442 Direct grant programs, State-administered programs, etc. (EDGAR); technical amendments
37426 Establishment and transfer of functions; correction
NOTICES
Meetings:
37474 Bilingual Education National Advisory Council

Employment and Training Administration
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda. See entry under Labor Department.

Employment Standards Administration
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda. See entry under Labor Department.

Energy Department
See Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Western Area Power Administration.

Engineering Corps
NOTICES
Environmental statements; availability, etc.:
37474 Coosa River Navigation Project, Montgomery and Gadsden, Ala.
37472 Dry Creek Dam and Channel Improvements, Sonoma County, Calif.
37473 Krebs Lake, Pascagoula, Miss.; navigation channel

Environmental Protection Agency
RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
37431 Puerto Rico and Virgin Islands
Air quality implementation plans; approval and promulgation; various States, etc.:
37430 Alabama
37428 California
Water pollution; effluent guidelines for point source categories:
37432 Electric power plants, steam; reinstatement of coal pile pollutant discharge limitations
PROPOSED RULES
Air quality implementation plans; preparation, adoption, and submittal:
37466 Prevention of significant air quality deterioration for hydrocarbons, carbon monoxide, nitrogen oxides, ozone, and lead (PSD Set II); advance notice; meeting
NOTICES
Toxic and hazardous substances control:
37520 Premanufacturing notification requirements; test marketing exemption approval

Federal Communications Commission
PROPOSED RULES
Radio broadcasting:
37468 FM allocation changes to allow additional channel assignments; and procedures and policies governing petitions to amend table of assignments; extension of time
Radio stations; table of assignments:
37468 Oregon; extension of time
NOTICES
37577 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Disaster assistance:
37440 Flood insurance requirements; redesignation, clarification, update, etc.
Flood insurance; special hazard areas:
37442 Colorado et al.

Federal Energy Regulatory Commission
RULES
Electric utilities:
37420 Statements and reports (schedules); discontinuance of FPC forms
NOTICES
Hearings, etc.:
37475, 37508 Alabama-Tennessee Natural Gas Co. (2 documents)
37475 Amoco Production Co.
37508 ANR Storage Co.
37476 Arkansas Oklahoma Gas Co.
37476 Bettis, Boyle & Stovall
37477 Collinsville Co.
37509 Colorado Interstate Gas Co.
37510 Columbia Gas Transmission Corp. et al.
37510 Consolidated Gas Supply Corp.
37511 El Paso Natural Gas Co.
37503 Florida Gas Transmission Co. (2 documents)
37504 Gas Gathering Corp.
37511 Granite State Gas Transmission, Inc.
37511 Great Lakes Gas Transmission Co.
37504 Hawaii Department of Land and Natural Resources
37505 Iowa Electric Light & Power Co.
37512 Iowa Power & Light Co.
37505 Montana Power Co. (2 documents)
37506 Mountain Fuel Supply Co.
37507 Panhandle Eastern Pipe Line Co. (2 documents)
37506 Panhandle Eastern Pipe Line Co. et al.
37512 Power Systems Engineering, Inc., et al.
37513 Raton Natural Gas Co.
37513 Shell Oil Co.
37514 Sierra Pacific Power Co.
37514 South Georgia Natural Gas Co. et al.
37514-37515 Transcontinental Gas Pipe Line Corp. (4 documents)
37516 United Gas Pipe Line Co.
37517 Upper Peninsula Generating Co.
37516 Upper Peninsula Power Co.
37517 Western Area Power Administration
Natural Gas Policy Act of 1978:
37477, 37491 Jurisdictional agency determinations (2 documents)

Federal Home Loan Bank Board
NOTICES
37577 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
37522 Agreements filed, etc.
Freight forwarder licenses:
37522 Pietravalle, Horace L., et al.

Federal Mine Safety and Health Review Commission
NOTICES
37577 Meetings; Sunshine Act

Federal Reserve System
RULES
Credit restraint:
37413 Consumer credit; special deposit requirement reduction
37413 Nonmember commercial banks; special deposit ratio decrease
37412 Reporting requirements; reduction
37414 Short term financial intermediaries; special deposit ratio decrease
Reserves of member banks (Regulation D):
37410 Marginal reserve requirements; ratio decrease, etc.
NOTICES
Applications, etc.:
37522 Patriot Bancorporation

Federal Trade Commission
RULES
37674 Home insulation; labeling and advertising; proposed stay of final rule

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
37425 Prednisolone acetate aqueous suspension, sterile
37424 Tylosin

Food for human consumption:
37422 Quality standards for foods with no identity standards; response to comments and confirmation of effective date
Food labeling:
37420 Dairy products; nutrition labeling exemption
PROPOSED RULES
Human drugs:
37455 Progestational drug products; patient labeling requirements; exemption for oral dosage forms used for advanced cancer treatment
NOTICES
37524 Fish sticks, cakes, and crab cakes (frozen); recommended microbiological quality standards
Food additives, petitions filed or withdrawn:
37524 British Cellophane Ltd.
37524 Calgon Corp. (2 documents)
Human drugs:
37526 Transentine-phenobarbital tablets; approval withdrawn

Foreign Assets Control Office
RULES
37679 Iranian assets control; travel related services

Foreign Claims Settlement Commission
NOTICES
37577 Meetings; Sunshine Act

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
37471 Maryland

General Services Administration
See also National Archives and Records Service.
RULES
Property management:
37432 Travel regulations; mileage reimbursement rate for privately owned automobile use, high rate geographical areas, air travel, etc.; temporary; correction
NOTICES
Environmental statements; availability, etc.:
37523 Smithsonian Institution's South Quadrangle Development Project, Washington, D.C.; scoping meeting and intent to prepare

Geological Survey
NOTICES
Coal resource areas:
37533 Wyoming
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
37533 Gulf Oil Corp.
37533 Gulf Oil Exploration & Production Co.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; National Institutes of Health; Public Health Service.
RULES
Grants, administration:
37666 Procurement by grantees and subgrantees

Health Care Financing Administration
PROPOSED RULES
Medicaid:
37466 Common Medicaid-Medicare audit requirements for hospitals
NOTICES
Medicare:
37527 Respiratory therapy services; schedule of guidelines

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
37517 Cases filed

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
37533 Alaska et al.

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
37530 Advocacy model program demonstration projects

Interior Department
See Geological Survey; Heritage Conservation and Recreation Service Land Management Bureau; National Park Service.

Internal Revenue Service
NOTICES
Authority delegations:
37575 Deputy Commissioner et al.; approving payment of travel and transportation of new appointees to first duty post

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
RULES
Export licensing:
37415 Afghanistan; commodity and technical data restrictions; applicability of policy and controls for U.S.S.R.; interim

International Trade Commission
NOTICES
37577 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
37553 Fuel costs recovery, expedited procedures
37537 Permanent authority applications
37557 Permanent authority applications; correction
37553 Temporary authority applications
37555 Transportation of Government traffic; special certificate letter
Petitions filed:
37554 Union Pacific Railroad Co. et al.
Railroad operation, acquisition, construction, etc.:
37536 Missouri Pacific Railroad Co.

V 45 J E 3 8 0 UMI

Justice Department
RULES
Nondiscrimination:
37620 Handicapped in federally assisted programs

Labor Department
See also Mine Safety and Health Administration; Occupational Safety and Health Administration.
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda.
NOTICES
Adjustment assistance:
37560 A&W Products Co., Inc.
37560 Berkshire Maid Garment Manufacturing Corp.
37561 Goodyear Tire & Rubber Co.
37561 Harmon Colors et al.
37567 Keystone Group
37567 Pioneer Fuel, Inc.
37568 WSC Corp.
Meetings:
37568 Steel Tripartite Advisory Committee

Labor Management Services Administration
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda. See entry under Labor Department.

Land Management Bureau
RULES
Public land orders:
37438 California
37439 Nevada
NOTICES
Management framework plans; review and supplement:
37532 North Dakota

Legal Services Corporation
NOTICES
37568 Grants and contracts; applications

Maritime Administration
RULES
37442 Conservative Dividend Policy (CDP); dividend declaration standards and payment requirements
NOTICES
Trustees; applicants approved, disapproved, etc.:
37472 Exchange National Bank of Tampa

Mine Safety and Health Administration
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda. See entry under Labor Department.
NOTICES
Petitions for mandatory safety standard modifications:
37558 Rio Blanco Oil Shale Co.

National Aeronautics and Space Administration
NOTICES
Meetings:
37570 Aeronautics Advisory Committee
37569, 37570 Space and Terrestrial Applications Advisory Committee (2 documents)
37569 Space Science Advisory Committee
37569, 37570 Space Systems and Technology Advisory Committee (2 documents)

National Archives and Records Service
RULES
Records management:
37433 Disposition of and procedures for transferral to Federal records centers; correction

National Capital Planning Commission
NOTICES
Environmental statements; availability, etc.:
37523 Smithsonian Institution's South Quadrangle Development Project, Washington, D.C.; scoping meeting and intent to prepare

National Credit Union Administration
NOTICES
37578 Meetings; Sunshine Act

National Institutes of Health
NOTICES
Meetings:
37531 Cancer Institute, National
37532 Transplantation Biology and Immunology Committee; cancellation

National Labor Relations Board
RULES
37425 Service of process and papers; use of certified and registered mail

National Oceanic and Atmospheric Administration
RULES
Whaling:
37451 Bowhead whales, taking by Indians, Aleuts, or Eskimos for subsistence purposes; fishery closure

National Park Service
NOTICES
Concession permits, etc.:
37535 George Washington Memorial Parkway
Meetings:
37535 Cuyahoga Valley National Recreation Area Advisory Commission
37535 Indiana Dunes National Lakeshore Advisory Commission
37536 Upper Delaware Citizens Advisory Council

National Transportation Safety Board
NOTICES
37578 Meetings; Sunshine Act

Nuclear Regulatory Commission
RULES
37410 Panama Canal Zone; deletion of references
Plants and materials; physical protection:
37399 Irradiated reactor fuel in transit
NOTICES
37578 Meetings; Sunshine Act

Occupational Safety and Health Administration
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda. See entry under Labor Department.

NOTICES
Variance applications:
37559 United States Metals Refining Co.
37560 Work injury report surveys

Pension and Welfare Benefit Programs Office
PROPOSED RULES
Improving Government regulations:
37648 Regulatory agenda. See entry under Labor Department.

Personnel Management Office
PROPOSED RULES
Improving Government regulations:
37610 Regulatory agenda
37452 Reemployment rights; individuals separated from Federal employment for specified period of service with American Institute in Taiwan
NOTICES
37636 Policy agenda; inquiry

Postal Rate Commission
NOTICES
37571 Electronic mail classification proposal; E-COM forms of acceptance

Postal Service
RULES
Domestic Mail Manual:
37427 City delivery service, extension of
37426 Electronic postage meters
NOTICES
37571 ZIP code system, nine-digit; inquiry

Public Health Service
RULES
Grants:
37433 Family planning services
NOTICES
Meetings; advisory committees:
37532 June

Railroad Retirement Board
NOTICES
37578 Meetings; Sunshine Act

Rural Electrification Administration
RULES
Telephone borrowers:
37399 Polyethylene raw material (Bulletin 345–21)
PROPOSED RULES
Telephone borrowers:
37454 Expanded dielectric coaxial cable (Bulletin 345–84)
NOTICES
Environmental statements; availability, etc.:
37470 McKenzie Electric Cooperative, Inc.
Loan guarantees, proposed:
37470 Big Rivers Electric Corp.

Securities and Exchange Commission
NOTICES
37578 Meetings; Sunshine Act

Small Business Administration
PROPOSED RULES
Business loan policy:
37454 Interest computation, standard method
NOTICES
Applications, etc.:
37575 Broward Venture Capital Corp.
Disaster areas:
37575 Nebraska
Meetings; advisory councils:
37575 Wisconsin

State Department
PROPOSED RULES
37456 Freedom of Information and Privacy Acts; implementation; ethics in Government provisions

Treasury Department
See Internal Revenue Service.

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
37576 Albuquerque, N. Mex.; clinical services addition

Wage and Price Stability Council
RULES
37397 Pay standard; questions and answers
NOTICES
Meetings:
37472 Price Advisory Committee

Western Area Power Administration
NOTICES
37520 Pick-Sloan Missouri Basin program; post-1985 marketing plan; public information forums and inquiry

MEETINGS ANNOUNCED IN THIS ISSUE

COUNCIL ON WAGE AND PRICE STABILITY
37472 Price Advisory Committee, 6–11–80

DEFENSE DEPARTMENT
Office of the Secretary—
37474 Defense Science Board Task Force on Anti-Tactical Missiles, 6–24 and 6–25–80

EDUCATION DEPARTMENT
37474 National Advisory Council on Billingual Education, 6–24 and 6–25–80

ENERGY DEPARTMENT
Western Area Power Administration—
37520 Public forums on development of post-1985 marketing plans for Eastern Division, Pick-Sloan Missouri Basin Program, 6–25, 6–26, and 6–27–80

ENVIRONMENTAL PROTECTION AGENCY
37466 Proposed prevention of significant deterioration for carbon monoxide, hydrocarbons, nitrogen oxides, ozone, and lead, 7–1–80

GENERAL SERVICES ADMINISTRATION AND NATIONAL CAPITAL PLANNING COMMISSION
37523 Environmental Impact Statement for Smithsonian Institution's South Quadrangle Development Project, 6–11–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
37523 Prevention, Education, and Information Working Group, 6–23–80
National Institutes of Health—
37531 National Cancer Institute, 7–14 through 7–16–80
Public Health Service—
37532 National Toxicology Program, Board of Scientific Counselors, 6–27 and 6–28–80

INTERIOR DEPARTMENT
Land Management Bureau—
37532 West-Central North Dakota Management Framework Plan, 6–16 through 6–19–80
National Park Service—
37535 Cuyahoga Valley National Recreation Area Advisory Commission, 6–19–80
37535 Indiana Dunes National Lakeshore Advisory Commission, 6–20–80
37536 Upper Delaware Citizens Advisory Council, 6–27–80

LABOR DEPARTMENT
Office of the Secretary—
37568 Steel Tripartite Advisory Committee, 6–18–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
37570 NASA Advisory Council, Aeronautics Advisory Committee, 6–27–80
37569 NASA Advisory Council, Space Science Advisory Committee, 6–25 through 6–27–80
37569, 37570 NASA Advisory Council, Space Systems and Technology Advisory Committee, 6–23, 6–24 and 6–25–80, (2 documents)
37569, 37570 NASA Advisory Council, Space and Terrestrial Applications Advisory Committee, 6–23, 6–24 and 6–25–80, (2 documents)

SMALL BUSINESS ADMINISTRATION
37575 Region V Advisory Council, 6–25–80

CANCELLED MEETING

HEALTH AND HUMAN SERVICES
National Institute of Health—
37532 National Institute of Allergy and Infectious Diseases, Transplantation Biology and Immunology Committee, 6–3–80

HEARINGS

COMMERCE DEPARTMENT
Foreign-Trade Zones Board—
37471 Proposed foreign-trade zone for Prince George's County, MD, 6–25–80

INTERIOR DEPARTMENT
Land Management Bureau—
37532 West-Central North Dakota Management Frame Work Plan, 7–22–80

INTERNATIONAL JOINT COMMISSION
37558 Lake Erie Ice Boom, extension of order of approval, 7–9 and 7–10–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

1 CFR
465 37397

5 CFR
Proposed Rules:
Ch. I 37610
352 37451

6 CFR
705 37397

7 CFR
711 37398
1701 37399
Proposed Rules:
760 37453
1701 37454

9 CFR
3 37616

10 CFR
73 37399
95 37410
140 37410

12 CFR
204 37410
229 (4 documents) 37412–37415

13 CFR
Proposed Rules:
120 37454

15 CFR
373 37415
374 37415
376 37415
379 37415
385 37415
399 37415

16 CFR
460 37674
1508 37418

18 CFR
141 37420

20 CFR
Proposed Rules:
Ch. I 37648
Ch. IV 37648
Ch. V 37648
Ch. VI 37648
Ch. VII 37648

21 CFR
101 37420
103 37422
510 37424
522 37425
558 37424
Proposed Rules:
310 37455

22 CFR
Proposed Rules:
6 37456
6f 37456
171 37456

28 CFR
42 37620

29 CFR
102 37425
Proposed Rules:
Subtitle A 37648
Ch. II 37648
Ch. IV 37648
Ch. V 37648
Ch. XVII 37648
Ch. XXV 37648

30 CFR
Proposed Rules:
Ch. I 37648

31 CFR
535 37679

34 CFR
5b 37426
30 37426
73 37426
100 37426
104 37426
106 37426

39 CFR
111 (2 documents) 37426–37427

40 CFR
52 (2 documents) 37428–37430
62 37431
423 37432
Proposed Rules:
51 37466

41 CFR
Ch. 101 37432
101–11 37433

42 CFR
59 37433
Proposed Rules:
447 37466

43 CFR
Public Land Orders:
5726 37438
5727 37439

44 CFR
65 37442
205 37440

45 CFR
74 37666
100c 37442

46 CFR
283 37442

47 CFR
Proposed Rules:
73 (2 documents) 37468

50 CFR
230 37451

V
4
5
J
E
3
8
0
UMI

Rules and Regulations

Federal Register
Vol. 45, No. 108
Tuesday, June 3, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

1 CFR Part 465

Privacy Act of 1974 Regulations; Termination

AGENCY: National Commission on the International Year of the Child, 1979.
ACTION: Final rule.

SUMMARY: The National Commission on the International Year of the Child, 1979 has terminated by compliance with Pub.L. 95–561, which created the Commission.

EFFECTIVE DATE: April 30, 1980.
FOR FURTHER INFORMATION CONTACT: Dennis G. Condie, (202) 472–9058.
SUPPLEMENTARY INFORMATION: Commission hereby removes Part 465 from 1 CFR.

Dated: April 30, 1980.
Barbara P. Pomeroy,
Executive Director.

[FR Doc. 80–16710 Filed 6–2–80; 8:45 am]
BILLING CODE 6820–49–M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflationary Pay and Price Standards; Questions and Answers on the Pay Standard

AGENCY: Council on Wage and Price Stability.
ACTION: Questions and Answers on the Pay Standard for the Second Program Year.

SUMMARY: On March 18, 1980, the Council issued the interim final pay standard and accompanying changes to Parts 705, 706, and 707 (45 FR 17125). On March 28, 1980, the Council issued Questions and Answers to clarify and interpret the pay standard (45 FR 20453). The attached Questions and Answers are likewise intended to clarify or interpret the pay standard. Specifically, they further describe when and how the Council should be notified of pay-rate increases above 8.5 percent; whether companies may change pay computation methods during the program year; under what conditions pay-rate increases may be made retroactive to October 1, 1979; and whether the low-wage exemption is available for employee units whose average pay rate has increased because of new hires and/or departures. The Council will publish Questions and Answers on a regular basis as questions of general application arise under the Pay and Price Standards, the Procedural Rules, or the published Questions and Answers.

EFFECTIVE DATE: June 3, 1980.
ADDRESS: Written comments and/or questions should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.
FOR FURTHER INFORMATION CONTACT:
Office of Pay Monitoring, Lucretia Tanner: 456–7180. Homer Jack: 456–7180.
Office of General Counsel, Daniel Duff: 456–6210. Jane Campana: 456–6210.

Issued in Washington, D.C. May 29, 1980.
R. Robert Russell,
Director, Council on Wage and Price Stability.

Questions and Answers

II. Pay Standard

Q1. In the first program year the Council, on a case-by-case basis, permitted a number of companies to change pay computation methods for particular employee units during the program year. Under the second-year pay standard, may a company change its pay computation methods during the program year?

A1. No. Once a method is chosen for a particular unit, it should not be changed later in the second program year to another method.

Q2. If pay-rate increases attributable exclusively to carryover from the first program year cause an employee unit to exceed 8.5 percent, should the Council be notified under § 705.10?

A2. No, not if the amount above 8.5 percent is based solely on carryover from the first program year.

Q3. If a compliance unit has filed a PAY–1 Form with the Council that shows a second-year pay-rate increase above 8.5 percent, must it also notify the Council of this increase under § 705.10?

A3. No.

Q4. If a company implements a pay plan above 8.5 percent, but expects that the employee unit's chargeable pay-rate increase will not exceed 8.5 percent (because of expected turnover, slippage, exclusions, etc.), must the Council be notified of the increase under § 705.10?

A4. No. But if at a later date revised estimates of slippage, turnover, exclusions, etc., indicate that the chargeable pay-rate increase will be above 8.5 percent, the Council should at that time be notified.

Q5. Under § 705.10, how promptly should companies notify the Council of pay-rate increases above 8.5 percent?

A5. Notification is expected within 15 days of the ratification of a collective-bargaining agreement. For nonrepresented units, notification is expected within 15 days of a company decision to implement a pay plan that it expects will provide chargeable pay-rate increases above 8.5 percent.

Q6. Has the Council issued a special form to be used for notification of increases above 8.5 percent?

A6. No special forms will be issued for this purpose. However, companies may use the existing Form PAY–1 for the cost analysis data requested.

Q7. What increases are available to collective-bargaining units under contracts negotiated in the first program year that are reopened during the second program year?

A7. Increases granted under collective-bargaining contracts that are reopened during the second program year must not be above the 7.5-to-9.5-percent range, absent an exception, whether the reopener is scheduled or nonscheduled. Such increases may, however, be made retroactive to October 1, 1979. Consider, for example, a contract effective July 1, 1979, that provided pay increases of 8 percent the first year and 6 percent the second. After the second year standard was promulgated, the employee unit could receive an increase of 1.5 percent (the difference between 9.5 percent from the second year standard and the 8 percent

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already provided for in the first program year) retroactive to October 1, 1979. In addition, on July 1, 1980, the anniversary date of the contract, the unit could receive up to 9.5 percent.

Q8. The Council has provided that pay-rate increases within the second-year standard may be made retroactive to October 1, 1979. May such retroactive increases be included in the calculation of the base period pay rate?

A8. No. The base quarter ends before October 1, 1979, so that such increases would not be included in the calculation of most base period pay rates. So too, for those annual pay plans and collective-bargaining agreements (see previous question) that are not coextensive with the Council's second program year (October 1, 1979, through September 30, 1980), the base period pay rate should be calculated without regard to the retroactive increases permitted under the second-year pay standard.

Q9. If new hires and/or departures raises the average wage rate of an employee unit from $5.35 or less during the third quarter of 1979 to more than $5.35 after October 1, 1979, is the unit still exempt in the second program year?

A9. Yes.

[FR Doc. 80-16766 Filed 6-2-80; 8:45 am]
BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 711

[Amdt. 9]

Marketing Quota Review Regulations

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment defines the term "quota" to include marketing quota penalties, farm marketing quota, farm poundage quota, farm preliminary yield, and farm yield among the determinations which may be appealed to a marketing quota review committee under the regulations set forth in this Part. This amendment is needed to unify in one administrative proceeding, appeals from determinations concerning various factors which pertain to the establishment of a farmer's farm marketing quota and to the imposition of farm marketing quota penalties. Implementation of this rule will avoid duplication of review, unnecessary delay and expense to farmers who appeal determinations regarding their farm marketing quota, and to this Department.

EFFECTIVE DATE: This rule shall become effective May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Production Adjustment Division, Agricultural Stabilization and Conservation Service, Room 3635—South Building, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7935.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been determined to be exempt from these requirements. Jeffress A. Wells, Director, Production Adjustment Division made this determination because this action is procedural only and does not affect substantive rights of persons affected by this rule.

Before enactment of this amendment producers of extra long staple cotton, peanuts, and tobacco who decided to appeal the determination of their farm marketing quota and who also wished to appeal the assessment of marketing quota penalties were faced with having to proceed before two separate administrative tribunals even though common issues of law and fact were presented in each case. For instance, a farmer who decided to appeal a determination of the actual production for the farm would bring that appeal before a statutorily created marketing quota review committee as provided in regulations codified at 7 CFR Part 711. Although marketing quota penalties may be assessed against the farmer because of a failure to account for production and disposition of the crop, the farmer would have to appeal the assessment of penalties in such case to a separate administrative tribunal under procedures set forth at 7 CFR Part 780 even though the assessment necessarily involved a determination of the actual production for the farm. In other situations, farmers were faced with having to appeal before federal district courts determinations of marketing quota review committees while at the same time challenging the assessment of related marketing quota penalties before administrative components of this Department. In both proceedings, the same issues of fact and of law were at issue.

This amendment will enable farmers to appeal in one administrative proceeding determinations of the various factors which affect the establishment of their farm marketing quota, including the assessment of marketing quota penalties. Immediate implementation of this rule will benefit farmers by eliminating avoidable delay and expense caused by duplicate administrative appeals, and will provide for better program administration.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

Final Rule

Accordingly, 7 CFR Part 711 is amended by revising paragraph (f) to read as follows:

§ 711.3 Definitions.

* * * * *

(f) *Quota.* Quota means the farm marketing quota established under the Act for a farm during a year in which quotas are approved in the national referendum for extra long staple cotton, peanuts, or tobacco, including any of the following matters:

(1) Farm acreage allotment, farm marketing quota, or farm poundage quota. (Included are allotment and quota determinations involving violations; lease and transfer; release and reapportionment; over and undermarketings; and eminent domain transactions).

(2) Farm preliminary yield, farm normal yield and farm yield.

(3) Determination of the land constituting the farm for which a farm acreage allotment or farm poundage quota is established.

(4) Acreage planted to the commodity on the farm.

(5) Actual production for the farm.

(6) Farm marketing excess (acres or pounds), and

(7) Marketing quota penalties, including, but not limited to, assessments for marketing quota violations involving false identification, failure to account for production and disposition, and failure to file a report or filing a false report.

* * * * *

(Secs. 301, 363–368, 371, 374, 375, 379, 52 Stat. 38 as amended, 63–64, as amended, 66, as amended; (7 U.S.C. 1301, 1363–1368, 1375).

Signed at Washington, D.C., on May 23, 1980.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-16597 Filed 6-2-80; 8:45 am]
BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide a revision of REA Bulletin 345–21, REA Specification PE–200 for Polyethylene Raw Material, dated January 1969. The specification was revised because the requirements were outdated with respect to the recent advancements in raw material technology. This action will assure that REA borrowers receive the best, most cost-effective materials available.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). The final action has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria.

The last revision of REA's Specification for Polyethylene Raw Material was dated January 1969. Since that time there have been significant changes in raw material technology and testing techniques. Thus, there was a need to incorporate these changes in the specifications to assure that REA borrowers receive the best, most cost-effective materials available. A notice of Proposed Rulemaking was published in the **Federal Register** on February 26, 1980. However, no public comments were received in response to the notice.

Dated: May 27, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80-16660 Filed 6-2-80; 8:45 am]
BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Physical Protection of Irradiated Reactor Fuel in Transit

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Effective amendments to interim final rule.

SUMMARY: The Commission is amending its interim rule for the physical protection of irradiated reactor fuel (spent fuel) in transit which was issued on June 15, 1979. The interim rule and a related guidance document designated NUREG–0561 were issued in effective form without the benefit of public comment. Public comments were, however, solicited on both the interim regulation and the guidance document. This notice summarizes the comments, gives the Commission response to each, and sets forth the interim amended rule in final form.

EFFECTIVE DATE: July 3, 1980.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the record keeping requirement of § 73.37(b)(5) becomes effective, unless advised to the contrary, will be 75 days following publication in the **Federal Register.** This time period reflects inclusion of the 45 days which the General Accounting Office is allowed for its review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: Mr. L. J. Evans, Jr., Chief, Regulatory Improvements Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards. The telephone number is (301) 427–4181.

SUPPLEMENTARY INFORMATION: On June 15, 1979, the U.S. Nuclear Regulatory Commission amended 10 CFR Part 73 of its regulations to provide immediately effective interim requirements for the protection of spent fuel in transit. Concurrently, the NRC issued a guidance document (NUREG–0561) to assist licensees in carrying out the requirements. Both the amendment and the guidance document were published without benefit of public comment in the interest of the public health and safety. At the time of publication, the public was invited to submit its views and comments. After reviewing comments received from the public, and after taking into account the experience gained during the several months that the amendments have been effective, the Commission has decided to make a number of changes to the amendments and to NUREG–0561. All references to specific sections of the regulation refer to the June 15, 1979 version of the regulation, unless otherwise specified.

A. Following is a summary of changes to the amendments. These changes were, or course, accompanied by appropriate changes to NUREG–0561.

(1) *Small quantity shipments.* Some comments suggest that the scope of the rule should be revised to specify for spent fuel a threshold quantity below which protection requirements would not apply. The Commission agrees with this suggestion and has modified § 73.1(b)(5) and § 73.37(a) to set the threshold level at 100 grams in net weight of irradiated fuel (i.e., uranium, plutonium and associated fission products) exclusive of cladding or other structural or packaging material; thus shipments of spent fuel in quantities below 100 grams need not be protected. It is believed that the 100 gram threshold is in the public interest inasmuch as it would simplify the transport of small quantities, such as those made in connection with spent fuel research activities. The calculated average radiological consequences of successful sabotage of a shipment of 100 grams of spent fuel even in a heavily populated environment are negligible.

The language of § 73.1(b)(5) and § 73.37(a) has also been changed to clarify which shipments are covered by the amendments. Shipments of material which are exempt from the requirements of § 73.30 through § 73.36 on the basis of the external radiation dose rate associated with such shipments, are now referred to in the regulations directly in terms of their dose rate, rather than in terms of their exemption from another rule. The guidance will clarify that the dose rate measurement in the case of smaller shipments, which may involve multiple packaging, should refer to the arrangement of shipment packages which results in the highest measurable external dose rate. This should eliminate any ambiguity which may arise from the possibility that the highest measurable dose rate for a grouping of several different packages comprising a single shipment may depend on the particular arrangement and orientation of the packages within the transport vehicle.

(2) *Transit through heavily populated areas.* Some comments suggest that the NRC modify its current embargo of

shipments through heavily populated areas. These comments contend that truck shipments should not be required to depart from interstate highways, even in heavily populated areas. Some of these comments further contend that interstate highways are safer and faster than alternative routes, that police response time is faster along interstate than secondary routes, that hijacked shipments would be easier to locate on interstates, and that interstates offer saboteurs less advantage of protracted concealment. Comments noted that prior to the issuance of the regulation, routes were being chosen to avoid heavily populated areas and to minimize shipment time. Some comments contend that shipments protected by armed escorts as outlined in the guidance document should be permitted to transit heavily populated areas.

Other comments suggest that NRC continue to strengthen its current embargo on spent fuel transit through heavily populated areas. They ask that the "where practicable" exception in 10 CFR 73.37(a)(3) be eliminated. They also ask that the guidance document be modified to eliminate extra driving time as a basis for exception, unless there are overriding safety and safeguards considerations. Some comments suggest that the NRC emphasize the use of routes through areas of low population density.

The NRC considered two alternative protection strategies. Under the first alternative, shipments would be planned to avoid heavily populated areas where practicable. Preliminary analysis indicated that most spent fuel shipments would move by road and suggested that avoidance of heavily populated areas is generally practicable. This alternative became the basis for the rule issued on June 15, 1979. The chief benefit of this alternative is that it takes advantage of the fact that sabotage of spent fuel must take place in a heavily populated area if the serious consequences discussed in a Sandia Report (SAND 77–1927) are to be obtained. The necessary conditions for successful sabotage would thus entail the adversary gaining control over the shipment, moving it to a heavily populated area, and then placing and detonating the necessary explosive charge. It is believed that the measures set forth in the June 15, 1979 regulation are capable of interrupting this sequence of events. The principal disadvantage of this protection strategy stems from the fact that the highway system is designed to connect population centers, and therefore major highways pass near or through the population centers. Avoidance of heavily populated areas leads to the use of secondary roads. Compared with interstate highways, these secondary roads are characterized by a higher likelihood of conventional traffic accident, by longer times in transit, by less frequent patrolling by the local law enforcement agency (LLEA), and by lengthened response times in the event that LLEA assistance is requested.

Under the second alternative, shipments would be permitted to transit heavily populated areas under armed escort. The significant advantages and disadvantages of the first alternative are interchanged in the second alternative. In the second alternative, highways are the best available, the likelihood of a conventional traffic accident is reduced, total travel time for the shipment is reduced, the roads are more frequently patrolled by the LLEA, and the LLEA response time in the event of a call for assistance is reduced. On the other hand, spent fuel would be within heavily populated areas on a planned basis some of the time, thus satisfying one of the necessary conditions for successful sabotage with potentially serious consequences.

The Commission has decided that there is no clear advantage of the one alternative strategy over the other. Accordingly, the rule has been revised to allow either protection strategy to be used. The revised provisions make it clear that either (i) avoidance of heavily populated areas, or (ii) passage through heavily populated areas on approved routes employing additional protective measures, which are delineated in § 73.37(c)(1), (d)(1), and (e)(1), are acceptable routing alternatives. The Commission retains its earlier position that interstate highways should be used whenever possible.

(3) *Performance objectives.* Some comments suggest that the NRC should provide criteria and guidelines for the use of force for the protection of spent fuel shipments. Another comment suggests that the regulation and guidance be modified to clarify whether escorts have the duty to defend spent fuel shipments or merely to detect and report threats to the shipment. The amendments have been modified to include a new section, now designated as § 73.37(a), which provides performance objectives to be achieved by the physical protection system for spent fuel shipments. These performance objectives do not specifically address the issue of the degree of force escorts are to use in protecting shipments, but indicate the general level of protection that is to be provided by the entire physical protection system. Within heavily populated areas, armed escorts are expected to carry out their assigned duties, including implementation of emergency procedures in case of attack, under the same legal umbrella extended all other private guards (or law enforcement personnel, in the case LLEA personnel are employed as escorts).

(4) *Clarification of certain terms.* Some comments request that certain troublesome phrases in the regulation be clarified. With respect to § 73.37(a)(3), which requires that "the route is planned to avoid, where practicable, heavily populated areas," comments request that the phrase "where practicable" be clarified. In § 73.37(d), which requires that "* * * if it is not possible to avoid heavily populated areas, the Commission may require, depending on individual circumstances of the shipment, additional protective measures," comments request that the phrases "not possible" and "additional protective measures" be clarified. The requirements have been revised and the troublesome phrases have been eliminated or clarified.

(5) *Calls for assistance.* Some comments present the concern that the rule does not require that escorts communicate directly with the LLEA in the event that LLEA assistance is required. The Commission agrees with this concern. The regulation has been modified to explicitly require that escorts communicate directly with the LLEA in the event LLEA assistance is required.

(6) *Road shipments:* Immobilization. Some comments are concerned with the safety consequences of immobilization and that inadvertent operation of the immobilization device could lead to a serious accident. Some comments suggest that immobilization of both the tractor and the trailer (rather than the tractor or trailer) should be provided. Some comments suggest that the method of immobilization should be specified and approved by the NRC rather than allowing the method to be specified by the licensee. Other comments suggest the NRC analysts consider strengthening the immobilization requirement while simultaneously reducing the number of escort personnel required. Finally, one comment suggests that LLEA's along the route should be familiarized with the immobilization technique in the event that the need should arise to move a vehicle following activation of the immobilization device.

The NRC is concerned with the possible safety consequences of immobilization. The method of immobilization proposed by the licensee was intended to be reviewed by the NRC for its safety implications. The regulation has been modified to specifically require that the method of immobilization be approved by the NRC prior to the making of shipments. The intent of the regulation and the related guidance is to assure that, when operated, the immobilization device will delay movement of the spent fuel shipment for at least one-half hour. The immobilization provision is essentially a performance requirement that can be complied with by immobilizing the trailer or the tractor or both. The guidance has been reviewed and appears to be clear on this point.

It is also intended that the licensee should have the opportunity to use his ingenuity and skill in determining how to best accomplish the immobilization. Accordingly, the particular method of immobilization required has not been specified.

The staff recognizes that a licensee might develop alternative methods of immobilization. The staff will evaluate any proposed method of protection and will approve the proposal if it provides adequate protection against sabotage occurring in heavily populated areas.

The staff believes that it would be self defeating to familiarize a large number of individuals with the immobilization technique, with a view toward constructive use of this information in the event that the need should arise to move a vehicle following immobilization. Instead, the guidance document has been revised to suggest that the possible need for traffic control following operation of the immobilization device should be considered by the licensee when preparing the operating procedures for the shipment.

(7) *Road shipments: Training.* Some comments suggest a significant expansion of the driver and escort training program. Some of these comments suggest that the training curriculum should include training in anti-sabotage and in initial response to spills of radioactive material. Some comments suggest that clarification of the level of proficiency needed to satisfy the training curriculum of Appendix D should be provided. One comment contends that some of the topics in Appendix D are superfluous. Another comment suggests that the training curriculum in Appendix D should apply to drivers as well as escorts. One comment suggests that the training program should emphasize safe driving techniques.

The driver and escort training requirements have been reviewed and the regulations and guidance have been adjusted accordingly. The revised amendments include specific requirements for familiarization of the driver and LLEA personnel with certain safeguards procedures, and inclusion of a weapons training and qualifications program for escorts who are armed. The Commission has decided that the training requirements, as revised, are consistent with the duties and responsibilities of the drivers and escorts.

(8) *Rail shipments: Route restrictions.* Some comments content that rail transport is penalized, compared with truck transport, through the lack of realistic alternative routes. The regulation has been modified to permit transport through heavily populated areas. One effect of that change is to eliminate the need for alternative rail routes which avoid heavily populated areas.

(9) *Rail shipments: Stops:* Some comments ask that the regulation and guidance pertaining to planned rail stops be modified to allow for the crew changes that take place every 100–200 miles. The comments also point out that rail shipment planners cannot meet the current stop criteria, which would permit stops only for refueling and provisions. These suggestions were adopted and the regulation and guidance document have been modified accordingly.

(10) *Shipments by sea.* Some comments suggest that the rule be expanded to include requirements for the protection of spent fuel aboard ships and boats. A review of the rule as published June 15, 1979, will show that § 73.1(b)(5), § 73.37(a), and § 73.37(d) apply to shipments independent of the mode of transport. However, in the interest of clarity, the rule has been revised to include a new section specifically addressing the protection of spent fuel shipments aboard vessels. New guidance has been added to NUREG–0561, accordingly.

(11) *Written log.* The original version of NUREG–0561 contained a chapter describing a written log to be kept by shipment escorts during the course of a spent fuel shipment. The purpose of this log was to provide a durable record of the circumstances surrounding a given shipment, to support inspection and enforcement functions of the NRC, and form the basis for any further regulatory actions regarding spent fuel shipments, in general. It was determined that this guidance needed to be given a firm regulatory basis by specifically requiring the maintenance of a written log in the regulations. These requirements are comparable to the recordkeeping requirements of § 73.70, which cover shipments of other types of special nuclear material.

(12) *Communications center.* The amendments published on June 15, 1979, included requirements for calls by escorts to a "designated location," for purposes of monitoring the spent fuel shipment. Further details regarding the duties of personnel at this designated location were included in the guidance document, NUREG–0561. It was determined that further detail regarding this safeguards function would be desirable so as to give the detailed guidance included in NUREG–0561 a firm regulatory basis. The facility at the designated location has been termed the "communications center," and is now described in the regulation.

B. In some instances, the comments showed a need for modification of the guidance document alone. Following is a summary of those changes:

(1) *Definition of heavily populated areas.* A number of comments suggest that the definition of a heavily populated area be modified in various ways to permit more areas to qualify. Some point out that the present definition causes certain cities to be excluded from the list of heavily populated areas provided in the guidance document even though they have populations or population densities greater than some of those which were included. These anomalies were explained to arise from failures to take into account the combined populations of contiguous cities in the same urbanized area and the total populations of urbanized areas. Other comments suggested that areas with large temporary populations such as colleges be included although their permanent populations would not otherwise qualify the areas as heavily populated areas. Some comments suggested that specific cities be added to the list of heavily populated areas.

Reconsideration of the bases for defining heavily populated areas has led to a broader definition which is included in the revised guidance document. Accordingly, the number of urbanized areas listed as heavily populated areas is increased to approximately 180.

The NRC would like to take temporary population centers into account in determining whether an area qualifies as a heavily populated area. However, there are no readily available census figures upon which the NRC presently can base such determinations. Therefore, the NRC invites officials of temporary population centers to submit, to the NRC, information in support of including that area in the list of heavily populated areas.

V 45 J E 3 8 0 UMI

This same mechanism will be used to assist in the continuous updating of the list relative to those areas meeting the population criteria.

(2) *Road shipments: Criteria for selection of highways.* Some comments suggest that NRC guidance should include a prioritizing or ordering of the various highway types (interstate, 4 lane, 2 lane marked, 2 lane unmarked, etc.) to aid licensees in the selection of alternative routes. One comment suggests that routes used in the past for spent fuel shipments, including routes used for military spent fuel shipments, should be approved automatically. The suggestion to prioritize route highway-types was adopted and the guidance in NUREG–0561 has been amended to include suitable criteria. Routes used for spent fuel shipments prior to the issuance of the interim rule, however, will not be automatically approved inasmuch as those routes, like all other proposed routes, must meet current criteria before approval.

(3) *Road shipments: Criteria for detours.* Some comments express concerns about detours from pre-planned routes. Some of these comments ask that the guidance document be modified to provide better criteria for determining when detours are appropriate. These comments also suggest that the NRC, rather than the licensee, should produce the guidelines. Some comments are concerned that once a shipment is en route, implementation of the detour procedures set forth in the guidance document might not be possible. Some comments suggest that LLEA's should be notified at the outset of each unplanned detour. In response to these suggestions, the guidance document has been modified to set forth some new guidelines to be followed in detour situations. However, except for the obvious instance of where a shipment is being escorted by LLEA personnel, it is believed that the LLEA need not be notified of each detour inasmuch as the agency is not expected to do anything differently as a result of a detour.

(4) *Rail shipments: Advance notification.* Comments indicate that not all of the required advance notification data can be provided in advance of a rail shipment; among these data are routing, specification of stops, and cask serial numbers. Some comments contend that some of the information specified in the guidance document may be irrelevant to rail shipments. These suggestions were generally adopted. The guidance document has been modified to clarify advance notification requirements for rail shipments.

(5) *Rail shipments: Unanticipated route changes.* Some comments suggest that the rule and the guidance should be modified to allow for the unanticipated route changes that sometimes occur in rail transport. This suggestion was adopted by modifying the guidance document.

C. The Commission also received a number of comments and suggestions which were considered but which did not lead to changes to the amendments or to NUREG–0561. Following is a discussion of those comments:

(1) *Justification for the rule.* Some comments contend that the NRC has not provided proper or sufficient basis for the new regulation.

(a) Some comments ask that the NRC not modify its regulations on the basis of unproven information in draft form, such as the Sandia report. The Commission has decided that there is an adequate basis for interim requirements for the protection of spent fuel shipments. The NRC continually reexamines the adequacy of its regulations for the protection of the public health and safety against deliberate acts. Part of this reexamination consists of studies and research projects. One of these studies, conducted by Sandia Laboratories and published in draft form in May 1978 as SAND–77–1927, concluded that serious public health consequences could result in the event of successful sabotage of a spent fuel shipment in a heavily populated area. Although a later draft Sandia report predicts less serious consequences, a significant degree of uncertainty remains that can only be resolved by further study. The Commission is currently pursuing a research effort to resolve these issues. While awaiting the results of this research the Commission believes that it is prudent to retain these requirements on an interim basis. When the final research results are analyzed the NRC will either modify, continue, or rescind 10 CFR 73.37, whichever is appropriate, based on those results.

(b) Other comments point out that the NRC should regulate on the basis of risk, a concept wherein risk equals the product of the consequences of an event, such as sabotage, and the probability of the event. Inasmuch as the NRC has no basis to specify an identifiable threat, some comments conclude that the probability of sabotage is insufficient to justify a legitimate concern.

NRC has not pursued quantitative risk studies for safeguards because of extreme difficulty in adequately quantifying the various factors contributing to risk. This view was expressed in the Reactor Safety Study (WASH 1400) and sustained by the Lewis panel's peer review of that document. The Lewis Panel Report (NUREG/CR–0400) states: "The risk from sabotage was not calculated in the Reactor Safety Study. The omission was deliberate, and proper, because it was recognized that the probability of sabotage of a nuclear power plant cannot be estimated with any confidence." Similarly, estimates of the probability of successful sabotage of spent fuel shipments cannot be made with any confidence.

In their report (NUREG/CR–0400) the Lewis panel points out that, even with "realistic" risk estimates, further conservatisms must be incorporated in the regulatory process. In the absence of "realistic" risk estimates, it is even more important to incorporate conservatisms in regulatory decision making. This is the approach taken in safeguards.

We know of no attempts to sabotage spent fuel shipments in a manner leading to a significant radiological release. But we have conservatively assumed that such a sabotage act might be attempted. Furthermore, we have tried to determine, logically and systematically, the characteristics of persons who might attempt to perpetrate such crimes. The results of our threat characterization work have been published as NUREG–0459, *Generic Adversary Characteristics Summary Report.*

Another factor in making a determination concerning the probability of successful sabotage is the reaction of spent fuel to sabotage. It is generally agreed among analysts that the serious consequences discussed in the Sandia report could result only if sabotage is carried out in or near a heavily populated area and only if some of the normally solid spend fuel contained in a massive, durable cask is somehow released as respirable particles. It is further agreed among analysts that the only credible way to carry out such sabotage is through the skillful use of explosives. The reaction of spent fuel and spend fuel casks to explosive sabotage is subject to large uncertainty. A research program is being carried out to improve our understanding, but the program will likely not yield useful results for approximately one year.

The Commission frequently uses the concept of risk in its deliberations concerning the need for new regulations and did so in this case. The Commission found that the likelihood of successful sabotage is uncertain inasmuch as the existence of a credible adversary organization cannot be ruled out and the response of spent fuel and spent fuel casks to credible explosive sabotage is

subject to large uncertainty. With respect to consequences, it appears that the release of a small fraction of the inventory of a spent fuel casks as respirable particles could produce serious consequences in a heavily populated area. On this basis the Commission has decided to generally let stand these requirements designed to protect spent fuel shipments against sabotage in heavily populated areas on an interim basis. The need for permanent requirements will be reconsidered when the results of the research program become available.

(c) with respect to the Sandia report, the staff notes that the latest draft of the report projects sabotage consequences less serious than are set forth in the May 1978 draft, and cited by the NRC as the basis for the rule. Another comment points out that even the consequences set forth in the May 1978 Sandia Draft, are not that much more serious than those of a severe accident, the risk of which the NRC appears to be willing to accept.

As mentioned above, a later draft of the Sandia report issued during September 1979, estimates less serious consequences than the May 1978 version, partly because the May version assumed larger amounts of material released as a result of sabotage. In view of the continuing uncertainities concerning the release fraction, the Commission has decided it is purdent to, in the interim, protect spent fuel in-transit.

(d) Other comments point out that Department of Energy (DOE) analysts have concluded that the rule is premature and inappropriate. The comments also point out that DOE does not require protection of spent fuel shipments for which it is responsible.

The Commission notes that the DOE and the NRC have access to the same information and that DOE has decided not to require protection for the spent fuel shipments for which it is responsible. Despite the policy of NRC and DOE to have comparable requirements for the protection of nuclear materials, the Commission accepts the fact that from time to time reasonable administrators will differ temporarily on the difficult question of what constitutes adequate safeguards. Both agencies are developing additional information on the issues and are coordinating with one another. It is believed that the differences in positions of the two agencies are temporary and will be resolved as new information, such as that from the research program discussed above, becomes available.

(e) Other comments argue that adequate protection is provided by the durable containers in which spent fuel shipments are made.

The Commission agrees that the massive, durable casks in which spent fuel shipments are made provide a high degree of protection against many kinds of sabotage, including explosive sabotage. However, in view of the uncertainties in predicting the response of spent fuel and spent fuel casks to explosives, the Commission believes that it is no longer purdent to depend upon cask design alone to protect against sabotage in heavily populated areas. Accordingly, until additional information can be developed to resolve some of the present uncertainties concerning the response of spend fuel to explosives, the Commission has decided that spent fuel shipments should be protected as specified in 10 CFR 73.37, as modified.

(f) Some comments question the need for significant, costly protection measures for rail casks. They point out that rail casks are more substantial than truck casks and that according to Sandia, successful sabotage entails even more explosives and skill than for truck casks. The comments further point out that there is no record of hijacking trains, and therefore the movement of a hijacked train from a low population area to a high population area seems quite remote. Comments also point out that protection measures for rail shipments in heavily populated areas already include frequent surveillance by railroad police and are therefore adequate.

The referenced Sandia Report indicates that similar uncertainties apply to possible explosives attacks on both road and rail shipments. Even though rail shipments would most likely require a higher level of adversary resources for successful sabotage, such sabotage is considered possible for both road and rail modes. The Sandia Report states in particular that attacks on rail casks using shaped charges is possible since the requisite materials can be carried by men on foot. Moreover, the likelihood that available rail routes would include passages through heavily populated areas diminishes the importance of the consideration that it would be more difficult for an adversary to illicitly move a hijacked train from a less densely populated area to a heavily populated area. Protection for rail shipments, therefore, is still required.

(2) *Adequacy of protection requirements.* Some comments state that protection of spent fuel shipments under the interim rule is not adequate against terrorist action. These comments argue that protection equivalent to that already given strategic special nuclear materials is needed.

Some comments suggest that NRC should require licensees to justify all spent fuel shipments by considering all possible alternatives to the making of shipments.

One of the most frequent comments favored an embargo of spent fuel shipments until a permanent storage facility is established. Thereafter, spent fuel shipments would be permitted only to that facility.

Some comments contend that the additional measures required for movements through heavily populated areas are too weak to deter or to provide protection against successful sabotage; these comments ask that the regulation be modified to indicate additional safeguards and list them in detail.

One comment suggests that for any given heavily populated area the protection measures required should be similar for all shipments, rather than allowing various options for each shipment.

The Commission considered a number of sets of measures for the protection of spent fuel shipments. One of these sets of measures would have provided that spent fuel shipments would be protected equivalently to shipments of formula quantities of strategic special nuclear material (SSNM), which must also be protected against theft. However, 10 CFR 73.6 of the Commission's physical protection rules for SSNM specifically exempts spent fuel which is not readily separable and which has a total external dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding. Such materials possess intrinsic protection against theft and are not readily usable to fabricate nuclear explosives. Nevertheless, the Commission considers it prudent to require some additional measures to protect spent fuel against radiological sabotage.

Shippers of spent fuel must submit route information and security plans to the NRC for authorization to carry out the shipment. The NRC thus has the opportunity to review the shipper's plan for the shipment and to assure that he has considered alternatives to the making of the shipment.

The Commission reaffirms its judgment that spent fuel can be shipped safely without constituting unreasonable risk to the health and safety of the public. Accordingly, the Commission does not believe that it is necessary to prohibit spent fuel shipments until a permanent storage facility is established.

V 45 J E 3 8 0 UMI

Some requirements of the regulation, particularly regarding transiting urbanized areas, have been changed considerably in this later version. Given these changes, the Commission has decided that the protection level required reasonably protects the public against risk from sabotage of spent fuel shipments. The escort force has the capability to call for assistance and in a heavily populated area, local law enforcement authorities could be on the scene within minutes. Within a heavily populated area, the escort force is armed and therefore has the potential to prevent sabotage until local authorities arrive.

The Commission is seeking adequate protection for shipments which must pass through heavily populated areas. In the Commission's view, an adequate level of protection can be provided by either private guards or law enforcement personnel.

(3) *Liability limits.* One comment suggests that no shipments of spent fuel should be permitted unless the shipper carries private liability insurance without limit. Other comments favor informing the public of the liability limits currently in force for shipments.

The Commission has not at the present time extended indemnity coverage to spent fuel shipments on a generic basis. However, spent fuel shipments are indemnified while in the course of transportation to or from an indemnified facility (principally nuclear reactors). Indemnity coverage for spent fuel shipments to or from reactors terminates at the point at which transportation ends.

The provisions of Section 170 of the Atomic Energy Act of 1954, as amended, require production and utilization facility licensees, i.e., reactors and reprocessing plants to have and maintain financial protection (e.g., nuclear liability insurance) to cover public liability claims resulting from a nuclear incident. The Commission is also directed to enter into protection and indemnify the licensee for up to $500 million in excess of that financial protection.

The indemnity protection afforded the public for accidents arising during transportation is derived from the coverage provided under the insurance policies maintained by licensees of reactors and reprocessing plants and in the indemnity agreements executed by these licensees with the Commission. The coverage under the policies and indemnity agreements incorporated the so-called "omnibus" provisions of the Price-Anderson Act. Under the "omnibus" coverage liability protection extends not only to the liability of the licensee, but also to any other person who may be liable, such as a transporter. However, there would be no Price-Anderson Act protection (or limit on liability) under facility licensees' insurance policies and indemnity agreements once a shipment was highjacked and placed beyond the control of the transporter. Extension of the Price-Anderson Act protection to cover incidents occurring after a shipment has been highjacked is beyond the scope of this rulemaking.

(4) *ALARA implications.* One comment suggests that the implications of the rule with respect to the Commission policy of maintaining radiation exposure levels as low as reasonably achievable (ALARA) should be examined.

The Commission has not at the present time extended indemnity coverage to spent fuel shipments on a generic basis. However, spent fuel shipments are accidents involving radioactive material shipments are sufficiently small to allow continued shipments by all modes. Because transportation conducted under present regulations provides adequate safety to the public, the staff concludes that no immediate changes to the regulations are needed at this time. This determination is partly based on the conclusion in NUREG–0170 that the average radiation dose to the population at risk from normal transportation is a small fraction of the limits recommended for members of the general public from all sources of radiation other than natural and medical sources and is a small fraction of natural background dose.

The staff has examined the ALARA implications of the rule for the specific case of spent fuel shipments by truck. Calculations indicate that routine exposure from shipments routed around cities would likely be about 30% higher than the small but calculable routine exposure for similar shipments routed through cities. The Commission considers that this difference in such small routine exposures is not a significant health factor and therefore not to be considered a significant factor in the choice of routing.

(5) *Transportation mode.* Some comments suggest that the scope of the rule should be expanded to require licensees to examine alternative transportation modes for shipments.

The Commission agrees that alternative modes of transportation should be considered during the development of a program for the protection of spent fuel shipments against sabotage. The characteristics of alternative modes have been considered in the revised rule and suitable measures have been developed for road, rail and water transport. Accordingly, a licensee may choose the mode of transportation for his shipment on the basis of considerations other than safeguards.

(6) *High level waste.* Some comments suggest that the scope of the rule should provide requirements for the protection of high level waste shipments.

No licensed shipments of high level waste are presently being made. Only a few facilities currently possess high level waste. Shipments of the waste from a facility at which it now resides to another facility would involve the amendment of one or more licenses. At that time, appropriate requirements would be issued.

(7) *Test reactor fuel shipments.* Comments suggest that the staff consider relaxing protection requirements for test reactor spent fuel in recognition of the fact that it contains no free radioactive gases.

The revised rule has not been modified to reduce the protection requirements for test reactor spent fuel. Fission gases would account for only a tiny fraction of the calculated health effects. Solid, respirable material would account for most of the health effects.

(8) *Distinction between guidance documents and regulations.* Public comments on both the amendments published in the **Federal Register** and the supporting guidance document (NUREG–0561) were received. Some comments apparently mistake the guidance document for a regulation and therefore conclude that the supposed regulation is too loosely worded. Other comments apparently reflect only the regulatory amendments and suggest that the amendments alone are worded too loosely to be effective.

Following is a discussion of the distinction between regulations and guidance documents. Regulations set forth legal requirements that licenses must follow. The NRC is empowered to inspect against and enforce the provisions of its regulations. Regulations without exception carry the approval of the Commission. Guidance documents, on the other hand, can be prepared and issued by the staff. The documents are not legally binding upon licensees. The primary purposes of the guidance documents are: (1) To describe and make available to the public the intent and scope of application of the regulatory provisions, (2) in some cases, to provide alternative methods that are normally acceptable to the NRC staff for implementing specific parts of the Commission's regulations, (3) in some cases, to delineate techniques used by

the staff in evaluating specific problems, and (4) to provide guidance to applicants concerning certain information needed by the staff in its review of applications for permits and licenses. Guidance documents are not intended as substitutes for regulations and, therefore, compliance with guidance documents is not required.

(9) *Licensee costs.* Some comments contend that the cost estimates developed by the staff are too low. One comment suggests that the cost for truck transportation would be at least double that estimated by the NRC staff and probably much higher. Another comment states that truck transportation cost is approximately double that estimated by the staff even before the cost of safeguards required by the rule are added in. One comment places cost in the range of twenty million dollars per year by assuming ten thousand shipments per year circa 1985. Comments argue that staff estimates of rail costs are in even greater error than staff estimates of truck costs; these comments conclude that rail shipments must be made in special trains in order to satisfy the rule and that, therefore, the cost of each rail shipment will be in the range of twenty to forty thousand dollars.

With respect to truck shipments, our latest information indicates that as many as 500 shipments might occur during calendar year 1980. The number of possible shipments is currently limited by the number of shipment casks available. Even if new casks were quickly manufactured, allowing the number of shipments to double, the Commission notes that the interim rule is designed to be in effect only until about mid CY81, and therefore, believes that the high cost estimates stemming from protection of large numbers of spent fuel shipments circa 1985 are not appropriate or relevant. With respect to rail shipment costs, the Commission disagrees with the contention that special trains are needed to meet the requirements for rail shipments, and therefore, rejects the high cost estimates which are based on the use of special trains.

(10) *Cost-benefit study.* Some comments suggest that the NRC should provide a cost benefit analysis in support of the regulation. Comments also suggest that the requirements of the rule should be clearly defined and should be cost effective. They argue that regulations must be cost effective in order to be meaningful and must avoid being arbitrary or capricious or an abuse of discretion. Some comments suggest that the rule is not cost effective in its present form.

This interim rule is expected to be in effect for a year or two. Recent figures indicate that if the maximum number of potential shipments occur, the requirements may result in a cost of about five hundred thousand dollars per year, distributed over a number of licensees. The addition of protection measures for spent fuel shipments does not have a significant effect on the environment. After taking into account the cost, the duration, and the absence of significant impact on the environment, the Commission has decided that a detailed cost-benefit study is not needed for this interim rule. Although a detailed cost-benefit study was not performed, the general costs and benefits resulting from this rule have been reviewed, as have the potential consequences of sabotage of spent fuel shipments to the public health and safety. A decision has been made that the benefits from reducing the probability of occurrence and potential consequences of spent fuel shipment sabotage justify the cost of the requirements. A detailed cost-benefit study will be prepared in support of any permanent rule that is issued.

(11) *Preemption.* Some comments urge that the NRC preempt state and local restrictions on spent fuel shipments. Some comments seek to preempt those state and local ordinances in conflict which would ban or otherwise restrict shipments or which would require rerouting of shipments over secondary roads, with an attendant increase in safety hazard.

Some comments argue that preemption would lead to a more responsible national policy concerning uniformity of spent fuel transport regulations. Some comments favoring preemption suggest that the NRC should take into account state and local concerns when drafting federal regulations. One comment suggests that NRC eliminate from its rule references to local ordinances as a basis for rerouting shipments; this comment concludes that a local community should not be able to prevent the use of a route acceptable to the NRC. One comment suggests that the regulations make clear that local ordinances with the NRC rule would be preempted.

Other comments took the opposite view of preemption. These comments declare that local communities have the right to be more restrictive than the NRC in the regulation of spent fuel shipments which they perceive as threatening their safety.

To date, the NRC has contested a local ordinance that regulates the transport of nuclear materials only once (United States v. New York City (S.D.M.V. No. 76 Civ. 273)). In this case NRC, ERDA (now DOE) and DOT sought a judgment declaring a New York Health Code provision to be inconsistent with the Federal Statutory scheme for transportation of nuclear materials. On January 30, 1976, a United States request for a preliminary injunction barring enforcement of the local ordinance was denied.

On August 17, 1978, the Materials Transportation Bureau of the DOT published an advance notice of proposed rulemaking (43 FR 36492) dealing with the subject of highway routing of radioactive materials. On October 26, 1978, the DOT published a notice (43 FR 50006) of its intention to hold a public hearing on this subject in Washington, D.C., on November 29, 1978. On January 31, 1980 the DOT published for public comment a proposed rule dealing with the highway transportation (including Federal routing requirements) of radioactive material. The DOT has expressed its intention to publish a final rule on this subject by the end of 1980.

Where state law is consistent with new Federal regulations promulgated under the Hazardous Materials Transportation Act (HMTA) or where the state in a legitimate exercise of its police power imposes general, non-radiological constraints (e.g., speed limits, load limits) on all truck transportation, the Commission does not presently contemplate actions to preempt the enforcement of these laws. However, the Commission reserves judgment on whether it may become necessary to seek such preemptive action in a limited way (e.g., where specific route considerations are at issue) prior to the time the DOT regulations become effective. Once the DOT regulations on this subject become effective, there appears a strong possibility that inconsistent state and local rules may be preempted on a broader basis.

(12) *Information on routes and schedules.* Some comments suggest that the NRC adopt a liberal policy concerning the information on routes and schedules that would be made public. These comments suggest that route information should be published in the **Federal Register**; subsequently the NRC should hold public hearings (or provide some other means for public input) on routes. These comments further suggest that NRC should contact state and local authorities before granting a route approval. Some comments conclude that a local

V 45 J E 3 8 0 UMI

population has better knowledge of routes than could be developed by NRC surveillance teams, thereby allowing the defects and advantages of alternate routes to be more adequately considered. Comments suggest that the state and local authorities should be notified of details of routes. Comments also suggest that state and local authorities should be notified in advance of the schedule of each shipment. Some comments suggest that state and local authorities should take steps to have emergency response and law enforcement organizations alerted and on duty at the time spent fuel shipments are made.

Other comments suggest that the NRC should adopt a conservative policy with respect to information on routes and schedules. These comments suggest that NRC withhold information on routes and schedules, pointing out that information certified by the NRC would be valuable to potential saboteurs. The comments also point out that it is a principle of security that sensitive information should be restricted to the minimum number of people. These comments conclude that the NRC should restrict dissemination of route and schedule information to a limited number of elected and appointed state and local officials who should be requested or required to avoid making the information public.

Current staff policy concerning information on routes and schedules is to generally withhold this information from public disclosure. However, in one recent specific instance, the Commission decided that information on staff-approved routes should not be withheld. It noted, however, that the decision was case-specific and should not be considered a precedent.

(13) *Consolidated notice.* Some comments note the proliferation of local ordinances requiring advance notice and ask that the NRC establish in its rule such that only the NRC need be notified. The NRC could then notify state and local agencies as it deems necessary.

Adoption of this suggestion would imply that the NRC rule preempts local ordinances calling for advance notification of shipments. As was noted earlier, the NRC has not yet contested local ordinances that regulate the transportation of spent fuel. Although this suggestion will not be adopted at this time, it will be re-evaluated when DOT routing rules go into effect.

(14) *Need for comprehensive study.* One comment suggests that a comprehensive study of ports of entry for import of spent fuel shipments and subsequent routes is needed; the proposed principal criteria for selection of a port or route would be to affect the least population in event of sabotage.

In consideration of the Commission's revised position relative to avoidance of heavily populated areas; i.e., that passage through a heavily populated area, on approved routes, when supported by additional measures such as armed escorts, is acceptable, the Commission does not regard ports-of-entry as a particular problem area with respect to routing. Ports that are also listed as heavily populated areas will require the additional protection.

(15) *Expansion of response capabilities.* Some comments propose a significant expansion of capabilities for responding to accidents or sabotage. These comments suggest that all emergency response units in all communities along the route submit response plans to the NRC for approval. Some comments suggest that all emergency response units in all communities along the route submit response plans to the NRC for approval. Some comments suggest that these response units should be required to conduct drills. Other comments proposed that LLEA personnel along the route be trained to deal with radiological releases. Some comments suggested that the shipper should provide an escort capable of handling all emergency situations. Some comments also suggest that the NRC should help to develop these various emergency response units. Some comments suggest that the shipper should be responsible for the preparation of emergency plans, while others suggest that the NRC shoud be responsible. Some comments ask that provisions be made for local governments to approve licensee emergency response procedures and emergency plans.

These suggestions appear to be prompted, at least in part, by the provisions of 10 CFR 73.37(a)(6) which require a licensee to develop procedures for coping with threats and safeguard emergencies. As is noted in NUREG–0561, the purpose of this requirement is to provide for the development of a plan to be used by drivers, escorts, licensee personnel and other individuals involved in a shipment in case of threats, attempted sabotage, or other events that jeopardize the security of a shipment. The larger question of emergency plans, emergency preparedness, emergency response and the like are judged to be beyond the scope of these interm safeguards requirements. Recent staff views on these questions are available in *NUREG–0535—Review and Assessment of Package Requirements (Yellow Cake) and Emergency Response to Transportation Accidents.*

(16) *Arrangements with LLEA: Clarity and feasibility.* Some comments request that the NRC clarify its description of what constitutes acceptable arrangements, who must be contacted, and whether the arrangement or contact with the LLEA must be documented. One comment suggests that the licensee's responsibility with respect to this requirement be limited to maintaining an up-to-date list of telephone numbers and contacts in LLEAs.

One comment points out that the case of transcontinental shipment, a very large number of LLEAs would have jurisdiction along the route and that contacting all of them would not be feasible.

Under current practice, the NRC staff makes the initial contacts and arrangements with LLEAs as part of the approval process. Accordingly, the concerns set forth in the comment do not appear to be justified since the relevant burdens have been assumed by the NRC staff.

(17) *Arrangements with LLEA: Information security concerns.* Some comments suggest that coordination with LLEAs along the route would be tantamount to annoucing the route and would therefore be contrary to good information security practice.

During the coordination process, the NRC staff informs LLEAs of the importance of protection of spent fuel and asks that the agency not disclose sensitive information, such as routes, that would be helpful to a saboteur. The agencies have generally been cooperative. Accordingly, NRC practices were not changed as a result of the suggestion.

(18) *LLEA capabilities.* One commenter notes his experience which suggests that LLEAs in heavily populated areas are unwilling or unable to provide the additional protection suggested by the NRC for shipments through heavily populated areas.

NRC staff experience is at variance with the experience of this commenter. Staff experience is that LLEAs have been very cooperative in assisting in the protection of shipments of nuclear materials. Also the rule allows for private armed escorts, instead of LLEA personnel, to be used to protect shipments. For these reasons, no changes were made in the regulation or the guidance as a result of this comment.

(19) *Road shipments: Alternative routes.* Some comments suggest that NRC route approval policy should include approval of a reasonable number of alternative routes. The comments suggest that the approvals remain valid indefinitely.

Current staff policy is to approve a number of alternative routes. The actual number of routes that can be approved is, of course, limited. Once a route is approved, the approval would remain valid until new information suggests that the approval should be withdrawn.

(20) *Road shipments: Rush-hour concern.* One comment suggests that in the event of routing through a heavily populated area, the scheduling should be planned so as to avoid the local rush hour traffic.

The staff performs route surveys, including route surveys through heavily populated areas, and makes arrangements with LLEAs along the route of the shipments for their response to an emergency or a call for assistance. Rush-hour concerns are taken into account during this planning.

(21) *Road shipments: Route planning.* Some comments contend that the information given in the guidance document and in the related reference documents does not provide detail sufficient to distinguish and select highway routes.

The staff agrees with the comments, but notes that the Census Bureau data supplemented by local road maps jointly provide a sufficient basis for route selection. Furthermore, the revised rule allows greater use of interstate highways, which should make route selection easier. Accordingly, no changes were made in the regulation or guidance as a result of this comment.

(22) *Road shipments: Drivers.* Some comments suggest that the NRC should confer more closely with the DOT inasmuch as it appears that some driver requirements imposed by NRC are in conflict with DOT requirements. One comment suggests that 10 CFR 73.37(b)(1) be modified to specify two trained drivers rather than one. Comments suggest that in view of the potential consequences from accidents, drivers should operate spent fuel shipment vehicles in the safest and most reassuring way in order to instill public confidence.

With respect to the coordination suggestion, the staff notes that in accordance with the terms of a Memorandum of Understanding, the latest version of which was published in the **Federal Register** on July 2, 1979, the NRC and DOT have agreed to advise and consult with one another before either issues a new regulation. This procedure was followed before issuance of this regulation. The DOT review did not reveal any conflicts between DOT regulations and the NRC interim regulation. The suggestion that the requirements of 10 CFR 73.37(b)(1) be modified to make explicit that two properly trained truck drivers satisfy the requirement was not adopted because the original phrasing already permits that option. The suggestion that two truck drivers rather than one should be required was not adopted because there appears to be no adequate safeguards justification. The provision is allowed to stand because it allows greater flexibility for the licensee in designing his security arrangements and it does not sacrifice the effectiveness of protection arrangements.

The NRC agrees with the comment that shipment vehicles should be operated safely. However, the rule was not changed because the subject of safe driving is not within the scope of this physical protection rule change proceeding.

(23) *Road shipments: Escorts.* Some comments suggest that the regulation should be changed to always require an escort vehicle to accompany the shipment vehicle; other comments contend that an escort vehicle is undesirable because it increases the likelihood of an accident. Some comments are concerned that the duties assigned to drivers and escorts in the regulation and guidance would overwhelm the drivers and escorts for shipments longer than one day. One comment proposes that the NRC should license escorts and test them annually. Finally, some comments suggest that more than one escort might be needed for extended stopovers.

The Commission has decided that the current level of protection, which permits a single vehicle system to be used outside of heavily populated areas, is adequate. In addition, a second escort or other added safeguards measures are required for transiting urban areas. The Commission has also decided that the duties of the drivers and escorts are straight-forward; that the training program as revised (Appendix D of 10 CFR Part 73) is adequate. With respect to the size of the escort force, the regulation specifies the number, capabilites, and duties of personnel who are to be on duty at any one time; it is the obligation and responsibility of the licensee to provide a force size sufficient to provide for relief and rest periods.

(24) *Road shipments: Call-in schedule.* Some comments contend that the two-hour call-in schedule required by 10 CFR 73.37(b)(2) is not practicable; they argue that carrying out the requirements would violate DOT regulations by disturbing the co-driver's rest period on long trips. The comments suggest that an eight-hour call-in schedule would be more appropriate. Comments also point out that the two-hour call-in schedule (if carried our) would require extra stops for telephone calls, thereby making the shipment vulnerable to sabotage.

The two-hour call-in schedule has been reviewed with DOT. Representatives of DOT found nothing in the requirement that was unsafe for a lone driver to carry out while driving or that was in conflict with DOT regulations. Accordingly, the two-hour call-in requirement is allowed to stand. The Commission reaffirms its judgment that the benefits from two-hour call-ins justify the additional risk of those instances where the vehicle must be stopped and the call-in done by conventional telephone.

(25) *Road shipments: Citizens band (CB) radio.* Some comments suggest that there is no assurance that CB contacts can be made, and therefore the requirement for CB radio in the shipment vehicle is superfluous. Other comments note that the designated control location is not required to be equipped with a CB radio and ask that the NRC reconsider whether a potential saboteur could gain advantage from this situation.

A requirement for CB radio is included in recognition of the fact that CB radio offers an inexpensive back-up to the primary communication system.

It is true that there is no guarantee that a CB contact can be established in the event that there is a need to call for assistance. On the other hand, the adversary is faced with a back-up communications system that he can neither ignore nor readily defeat. The CB requirement is included because it, in some measure, reduces an adversary's likelihood of success. Also, CB radio is useful for communication among the escort vehicles and shipment vehicle and can be used in most heavily populated areas to contact the LLEA. However, because the transmission range of CB radio is short compared with the likely distance that shipments will be transported, there is no requirement for a CB radio to be installed in the control location.

(26) *Rail shipments: Special trains.* Some comments urge the use of special trains to transport spent fuel rail casks. These comments contend that special trains have the following advantages: The requirements of 10 CFR 73.37(c) are difficult for regular trains but can be handled readily by special trains. Special train speeds are lower and can be tailored to circumstances. Special trains are shorter than regular trains with the advantage that "burying" the shipment car under other cars in the event of an accident is less likely; this

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feature, the comments argue, would be very significant in the event of a fire. A special train offers better observation of the shipment car. Most railroad accidents occur in rail yards and special trains spend less time in rail yards than do regular trains. Special trains have priority in use of track over regular trains. Regular trains could conceivably carry spent fuel together with other hazardous material, such as explosives or inflammables, in different cars of the same train; this situation would not occur with a special train.

Special routing is possible to avoid rail yards and heavily populated areas. Finally, the probability of certain classes of train accidents, such as brake failure or railroad crossing accidents, is lower because special trains are shorter than regular trains.

Other comments take the opposite view and suggest that the use of regular trains for spent fuel shipments is entirely satisfactory for the following reasons: The likelihood of hijacking a regular train from a low population to a high population area is remote in the extreme. Special trains have no particular advantage in avoiding high population areas. Special trains, as now proposed, would be stopped to yield right-of-way to regular trains.

NRC approval of alternative routes would provide adequate response to the uncertainties of weather, rail damage, and other uncontrollable influences.

A regular train in a rail yard would be under surveillance by the escort and the railroad police. Special trains have no advantage in communications; moreover, rail traffic controllers always know the approximate location of their trains.

Needed protection requirements for rail shipments can be met by regular trains. Accordingly, the suggestion that the regulations be modified to require the use of special trains was rejected.

(27) *Rail shipments: Arrangements with LLEA.* Some comments suggest that arrangements with LLEAs are needed only when a shipment car is stopped in a rail yard. This suggestion was not adopted because it would be inconsistent with the fundamental protection measure that an escort should always be present with a spent fuel shipment and that escort should be able to request and obtain assistance from the LLEA independent of the location of the shipment.

(28) *Rail shipments: Escorts.* Some comments contend that escorts are not needed when a train is moving. Other comments point out that more than one escort will be needed to provide surveillance during extended stopovers and that special lighting might be needed for effective surveillance. One comment points out that no existing spent fuel rail cask car provides for an escort within the car, as is implied by the guidance document and the regulation. Finally, some comments request that the NRC consider speed restrictions for spent fuel shipments and reconsider its decision not to require surveillance while the train is moving—particularly while the train is moving very slowly.

One of the fundamental protection measures is that an escort should always be present near the shipment, independent of the location of the train and independent of whether the train is moving. Accordingly, the suggestion that an escort is not needed while the train is moving was rejected.

One intent of the requirement is that a stopped shipment car always be under observation; it is the responsibility of the licensee to provide an escort force sufficiently large to meet that intent.

The object of the observation requirement is the early detection of circumstances that threaten deliberate damage to the shipment in a heavily populated area. Lighting in heavily populated areas is expected to be sufficient for this purpose.

With respect to the comment concerning the escort in the same rail car with the spent fuel cask, the guidance document was written so as not to preclude the escort from riding in a rail car containing a spent fuel cask. The staff had in mind a small cask in which slightly greater than exempted quantities of spent fuel might be shipped rather than a typical rail cask containing up to ten fuel assemblies.

The Commission has recognized the need for surveillance capabilities while trains are moving, and has reflected this in the regulation.

(29) *Rail shipments: Strengthening of requirements proposed.* One comment asserts that spent fuel shipments by road are inherently unsafe and that shipments should be made by rail. The comment contends that current capabilities for the safety and protection of rail shipments are inadequate and identifies numerous areas where he believes improvements are needed.

The Commission disagrees with the view that spent fuel shipments by road are inherently unsafe. The comment does not provide an adequate justification for the extreme measures proposed pertaining to rail shipments. The Commission has no new information to modify its current view that spent fuel shipments can be moved safely on the existing rail system. Accordingly, no changes were made to the regulation or the guidance as a result of this comment.

The following modifications to the rule have been coordinated with the Department of Transportation in accordance with the Memorandum of Understanding between NRC and DOT that was published in the **Federal Register** on July 2, 1979. The Department of Transportation has determined that the NRC rule is not in conflict with current DOT regulations.

These amendments to the interim final rule are being published in effective form subject to codification. In the **Federal Register** notice issuing the interim final rule (44 FR 34466), comments were requested on the rule even though it was published in effective form. It is those comments received that have led to the amendments being made here. It is as if comments had been received on a proposed rule. Accordingly, the Commission for good cause finds that further notice and public procedure is unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 73, are published as a document subject to codification.

1. Section 73.1 of 10 CFR Part 73 is amended by revising paragraph (b)(5) to read as follows:

§ 73.1 Purpose and Scope.

* * * * *

(b) *Scope.* * * *

(5) This part also applies to the shipment of irradiated reactor fuel in quantities that in a single shipment both exceed 100 grams in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, and have a total radiation dose in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding.

2. Section 73.37 of 10 CFR Part 73 is revised to read as follows:

§ 73.37 Requirements for physical protection of irradiated reactor fuel in transit.

(a) *Performance objectives.* (1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a quantity of irradiated reactor fuel in excess of 100 grams in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any

accessible surface without intervening shielding, shall establish and maintain, or make arrangements for, and assure the proper implementation of, a physical protection system for shipments of such material that will achieve the following objectives:

(i) Minimize the possibilities for radiological sabotage of spent fuel shipments, especially within heavily populated areas; and

(ii) Facilitate the location and recovery of spent fuel shipments that may have come under the control of unauthorized persons.

(2) To achieve these objectives, the physical protection shall:

(i) Provide for early detection and assessment of attempts to gain unauthorized access to, or control over, spent fuel shipments;

(ii) Provide for notification to the appropriate response forces of any spent fuel shipment sabotage attempts; and

(iii) Impede attempts at radiological sabotage or spent fuel shipments within heavily populated areas, or attempts to illicitly move such shipments into heavily populated areas, until response forces arrive.

(b) *General requirements.* To achieve the performance objectives of paragraph (a) of this section, a physical protection system established and maintained, or arranged for, by the licensee shall:

(1) Provide for notification of the Nuclear Regulatory Commission in advance of each shipment, in accordance with § 73.72 of this part.

(2) Include procedures for coping with circumstances that threaten deliberate damage to a spent fuel shipment and with other safeguards emergencies.

(3) Include instructions for each escort that, upon detection of the abnormal presence of unauthorized persons, vehicles or vessels in the vicinity of a spent fuel shipment, or upon detection of a deliberately induced situation that has the potential for damaging a spent fuel shipment, the escort will:

(i) Determine whether or not a threat exists;

(ii) Assess the extent of the threat, if any;

(iii) Inform local law enforcement agencies of the threat and request assistance; and

(iv) Implement the procedures developed in accordance with paragraph (b)(2) of this section.

(4) Include a communications center at a designated location, which will be staffed continuously by at least one individual who will monitor the progress of the spent fuel shipment and will notify the appropriate agencies in the event a safeguards emergency should arise.

(5) Provide for maintenance of a written log by the escorts and communications center personnel, for each spent fuel shipment, which will include information describing the shipment and significant events that occur during the shipment, and will be available for review by authorized NRC personnel for a period of at least 1 year following completion of the shipment.

(6) Provide that arrangements have been made with local law enforcement agencies along the routes of road and rail shipments, and at U.S. ports where vessels carrying spent fuel shipments are docked, for their response to an emergency or a call for assistance.

(7) Provide for advance approval by the NRC of the routes used for road and rail shipments of spent fuel, and of any U.S. ports where vessels carrying spent fuel shipments are scheduled to stop.

(8) Provide that shipments are planned so that scheduled intermediate stops are avoided to the extent practicable.

(9) Provide that at least one escort maintains visual surveillance of the shipment during periods when the shipment vehicle is stopped, or the shipment vessel is docked.

(10) Provide that escorts (other than members of local law enforcement agencies, or ship's officers serving as unarmed escorts) have successfully completed the training required by Appendix D of this part.

(11) Provide that shipment escorts make calls to the communications center at least every 2 hours to advise of the status of the shipment for road and rail shipments, and for sea shipments while shipment vessels are docked at U.S. ports.

(c) *Shipments by road.* In addition to the provisions of paragraph (b), the physical protection system for any portion of a spent fuel shipment that is by road shall provide that:

(1) A transport vehicle within a heavily populated area is:

(i) Occupied by at least two individuals, one of whom serves as escort, and escorted by an armed member of the local law enforcement agency in a mobile unit of such agency; or

(ii) Led by a separate vehicle occupied by at least one armed escort, and trailed by a third vehicle occupied by at least one armed escort.

(2) A transport vehicle not within any heavily populated area is:

(i) Occupied by at least one driver and one other individual who serves as escort; or

(ii) Occupied by a driver and escorted by a separate vehicle occupied by at least two escorts; or

(iii) Escorted as set forth in paragraph (c)(1) of this section.

(3) Escorts have the capability of communicating with the communications center, local law enforcement agencies, and one another, through the use of:

(i) A citizens band (CB) radio available in the transport vehicle and in each escort vehicle;

(ii) A radiotelephone or other NRC-approved equivalent means of two-way voice communications available in the transport vehicle or in an escort vehicle committed to travel the entire route; and

(iii) Citizens band (CB) radio and normal local law enforcement agency radio communications in any local law enforcement agency mobile units used for escort purposes.

(4) The transport is equipped with NRC-approved features that permit immobilization of the cab or cargo-carrying portion of the vehicle.

(5) The transport vehicle driver has been familiarized with, and is capable of implementing, transport vehicle immobilization, communications, and other security procedures.

(d) *Shipments by rail.* In addition to the provisions of paragraph (b), the physical protection system for any portion of a spent fuel shipment that is by rail shall provide that:

(1) A shipment car within a heavily populated area is accompanied by two armed escorts (who may be members of a local law enforcement agency), at least one of whom is stationed at a location on the train that will permit observation of the shipment car while in motion.

(2) A shipment car not within any heavily populated area is accompanied by at least one escort stationed at a location on the train that will permit observation of the shipment car while in motion.

(3) Escorts have the capability of communicating with the communications center and local law enforcement agencies through the use of a radiotelephone, or other NRC-approved equivalent means of two-way voice communications, which shall be available on the train.

(e) *Shipments by sea.* In addition to the provisions of paragraph (b), the physical protection system for any portion of a spent fuel shipment that is by sea shall provide that:

(1) A shipment vessel, while docked at a U.S. port within a heavily populated area, is protected by:

(i) Two armed escorts stationed on board the shipment vessel, or stationed on the dock at a location that will permit observation of the shipment vessel; or

(ii) A member of a local law enforcement agency, equipped with normal LLEA radio communications, who is stationed on board the shipment vessel, or on the dock at a location that will permit observation of the shipment vessel.

(2) A shipment vessel, while within U.S. territorial waters, or while docked at a U.S. port not within a heavily populated area, is accompanied by an escort, who may be an officer of the shipment vessel's crew, who will assure that the shipment is unloaded only as authorized by the licensee.

(3) Escorts have the capability of communicating with the communications center and local law enforcement agencies through the use of a radiotelephone, or other NRC-approved equivalent means of two-way voice communications.

Appendix D of 10 CFR Part 73 [Amended]

3. Appendix D of 10 CFR Part 73 is amended by adding a paragraph at the end, as follows:

* * * * *

The licensee is also required to assure that armed individuals serving as shipment escorts, other than members of local law enforcement agencies, have completed a weapons training and qualifications program equivalent to that required of guards, as described in III and IV of Appendix B of this part, to assure that each such individual is fully qualified to use weapons assigned him.

§ 73.72 [Amended]

4. The first sentence of § 73.72 is amended by adding the phrase "or spent fuel required to be protected under the provisions of § 73.37," after the words "special nuclear material of moderate strategic significance".

(Secs. 53, 161b, 161i, Pub. L. 83–703, 68 Stat. 930, 948, 949; Sec. 201, Pub. L. 93–438, 88 Stat. 1242–1243 (42 U.S.C. 2073, 2201, 5841))

Dated at Washington, D.C. this 27th day of May, 1980.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-16645 Filed 6-2-80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 95 and 140

Deletion of Reference to Panama Canal Zone; Minor Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is deleting references to the Panama Canal Zone in Parts 95 and 140 of its regulations. This action was taken in regard to all other parts of the Commission's regulations on March 24, 1980 (45 FR 18905). Parts 95 and 140 were inadvertently excluded from that previous action. These minor amendments reflect the provisions of the Panama Canal Treaty of 1977 and the recently enacted Panama Canal Defense Act of 1979. Under the Act and the Treaty, the U.S. Government relinquished jurisdiction over the Panama Canal Zone to the Republic of Panama. These amendments revise portions of the Commission's regulations to reflect the revised status of the Canal Zone.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: Under the Panama Canal Treaty of 1977, the territory of the former Panama Canal Zone became subject to the jurisdiction of the Republic of Panama on October 1, 1979. The Treaty, and the recently enacted Panama Canal Defense Act of 1979 (P.L. 96–70) passed on September 27, 1979, supersede all previous legislation. Thus, all references in the Atomic Energy Act to the Canal Zone as being jurisdictionally part of the United States are no longer valid. Therefore, the Nuclear Regulatory Commission is deleting references to the Canal Zone from Parts 95 and 140 of its regulations in Title 10, Chapter 1 of the Code of Federal Regulations.

Since these amendments are corrective and relate solely to minor procedural matters, notice of proposed rulemaking and public procedure thereon are unnecessary and good cause exists to make the amendments effective upon publication in the **Federal Register.**

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 95 and 140 are published as a document subject to codification.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

1. The second sentence of paragraph (c)(2) of § 95.39 is revised to read as follows:

§ 95.39 External transmission of documents and material.

* * * * *

(c) Methods of Transportation

* * * * *

(2) * * * First Class, express, or certified mail may be used in transmission of Confidential documents to Puerto Rico or any United States territory or possession.

* * * * *

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

§ § 140.92–140.95, 140.107, 140.108[Amended]

1. Part 140 is amended by revising the definition of "United States" wherever it appears, namely in each of the following sections:

a. § 140.92, Article I, paragraph 10
b. § 140.93, Article I, paragraph 10
c. § 140.94, Article I, paragraph 9
d. § 140.95, Article I, paragraph 9
e. § 140.107, Article I, paragraph 9
f. § 140.108, Article I, paragraph 9

The defining sentence is revised to read as follows:

"United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Bethesda, Maryland, this 22d day of May 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-16675 Filed 6-2-80; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0304]

Member Banks; Marginal Reserve Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On October 6, 1979, the Board of Governors amended Regulation D to establish an 8 per cent marginal reserve requirement on the amount by which the total of managed liabilities of member banks (and Edge and Agreement Corporations) and certain United States branches and agencies of foreign banks exceeds the amount of an institution's base of managed liabilities. On March 14, 1980, the Board acted to increase the marginal reserve requirement ratio from 8 to 10 per cent and to reduce an institution's managed liabilities base by the greater of 7 per cent or by the amount of reduction in an institution's gross loans to non-United States residents and balances due from foreign offices of other institutions. Based upon an evaluation of recent banking and other credit data, the Board has determined to decrease the marginal reserve requirement ratio to 5 per cent and, generally, to increase the managed liabilities base of an institution by 7½ per cent.

EFFECTIVE DATE: This action is effective for marginal reserves required to be maintained during the seven-day period beginning June 12, 1980, against total marginal managed liabilities outstanding during the seven-day period beginning May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), or Paul S. Pilecki, Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On October 6, 1979, the Board of Governors amended Regulation D (12 CFR Part 204) to impose a marginal reserve requirement of 8 per cent on the amount by which the total managed liabilities of member banks (and Edge and Agreement Corporations) and United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of $1 billion exceeds the amount of the institution's managed liabilities outstanding during the base period (September 13–26, 1979) or $100 million, whichever is greater (44 FR 60071).

On March 14, 1980, the Board acted to increase the marginal reserve ratio to 10 per cent and to adjust the base of managed liabilities (45 FR 17924). Managed liabilities include the total of (1) time deposits in denominations of $100,000 or more with original maturities of less than one year; (2) Federal funds borrowings with original maturities of less than one year from U.S. offices of depository institutions not required to maintain Federal reserves and from U.S. government agencies; (3) repurchase agreements with original maturities of less than one year on U.S. government and agency securities entered into with parties other than institutions required to maintain Federal reserves; and (4) Eurodollar borrowings from foreign banking offices, asset sales to related foreign offices and member bank foreign office loans to U.S. residents. The purposes of these actions were to better control the expansion of bank credit, help curb speculative excesses in financial, foreign exchange and commodity markets and thereby serve to dampen inflationary forces.

Based upon an evaluation of recent banking and other credit data, the Board has determined to decrease the marginal reserve requirement ratio to 5 per cent. This reduction will take place for the reserve maintenance period beginning on Thursday, June 12, 1980. In addition, the Board has determined to adjust the base amount of managed liabilities for institutions subject to the marginal reserve requirement program. For the reserve computation period beginning May 29, 1980, if an institution was a net borrower of managed liabilities during the fourteen-day period ending September 26, 1979, its managed liabilities base shall be the lesser of its managed liabilities base for the reserve computation week ending May 21, 1980, as reported on line 8 of Form FR 2414d, multiplied times 1.075 or its daily average total managed liabilities during the fourteen-day period ending September 26, 1979. For example, if an institution has a reported managed liabilities base for the computation period ending May 21, 1980, of $100 million, its new base would be $107.5 million (107.5 per cent times $100 million). However, if such institution's daily average total managed liabilities for the fourteen-day period ending September 26, 1979, was $105 million, then the new managed liabilities base of such institution would be $105 million, because the managed liabilities base cannot be increased above the September amount.

The managed liabilities base will continue to be reduced in computation periods after May 28, 1980, by the amount by which the institution's daily average of gross loans to non-United States residents and gross balances due from foreign offices of other institutions during the statement week is lower than the lowest daily average amount of such loans and balances outstanding during any statement week for the period from March 6, 1980 to May 28, 1980. The base for an institution that was a net borrower of managed liabilities during the base period (September 13–26, 1979), will not be reduced below $100 million. The base will not change for an institution that was a net lender of managed liabilities during the period September 13–26, 1979.

In order to achieve the objectives of this action more quickly, the Board for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to this action is impracticable and contrary to the public interest.

These actions are taken pursuant to the Board's authority under sections 19, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601 *et seq.*) and under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

Effective June 12, 1980, § 204.5(f) of Regulation D (12 CFR 204.5) is revised as follows:

§ 204.5 Reserve requirements.

* * * * *

(f) *Marginal Reserve Requirements.*—(1) *Member banks.* A member bank shall maintain a daily average reserve balance against its time deposits equal to 5 per cent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day reserve maintenance period exceeds the member bank's managed liabilities base as determined in accordance with subparagraph (3) of this paragraph.

(2) *United States branches and agencies of foreign banks.* A United States branch or agency of a foreign bank with total worldwide consolidated bank assets in excess of $1 billion shall maintain a daily average reserve balance against its liabilities equal to 5 per cent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day reserve maintenance period exceeds the institution's managed liabilities base as determined in accordance with subparagraph (3) of this paragraph.

(3) *Managed liabilities base.* During the seven-day reserve computation period beginning May 29, 1980, and during each seven-day reserve computation period thereafter, the managed liabilities base of a member bank or a family of United States branches and agencies of a foreign bank ("family") shall be determined as follows:

(i) For a member bank or family that, on a daily average basis, is a net borrower of total managed liabilities during the fourteen-day base period ending September 26, 1979, its managed liabilities base shall be the lesser of the reported managed liabilities base for the reserve computation period ending May 21, 1980, (Form FR 2414d, line 8) multiplied times 1.075, or the daily average of its total managed liabilities during the fourteen-day period ending September 26, 1979. For each computation period beginning after May

28, 1980, the managed liabilities base of a member bank or family shall be reduced during the computation period by the amount by which its lowest daily average of

(A) Gross loans to non-United States residents [18] and

(B) Gross balances due from foreign offices of other institutions [19] or institutions, the time deposits of which are exempt from the rate limitations of Regulation Q pursuant to § 217.3(g) thereof,[20]

Outstanding during any computation period begining after May 28, 1980, is lower than the lowest daily average amount of such loans and balances outstanding during any computation period between March 6, 1980, and May 28, 1980. The amount representing such difference shall be rounded to the next lowest multiple of $2 million. In no event will the managed liabilities base for an institution that was a net borrower of managed liabilities during the fourteen-day base period ending September 26, 1979, be less than $100 million.

(ii) For a member bank or family that, on a daily average basis, is a net lender of total managed liabilities during the fourteen-day base period ending September 26, 1979, its managed liabilities base shall be the sum of its daily average negative total managed liabilities and $100 million.

By order of the Board of Governors of the Federal Reserve System, May 27, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16770 Filed 6-2-80; 8:45 am]

BILLING CODE 6210-01-M

[18] A United States resident is: (a) Any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

[19] Any banking office located outside the States of the United States and the District of Columbia of a bank organized under domestic or foreign law.

[20] A foreign central bank, or any international organization of which the United States is a member, such as the International Bank for Reconstruction and Development (World Bank), International Monetary Fund, Inter-American Development Bank, and other foreign international, or supranational entities exempt from interest rate limitations under § 217.3(g)(3) of Regulation Q (12 CFR 217.3(g)(3)).

12 CFR Part 229

[Docket No. R-0303]

Reports Under Special Credit Restraint Program

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, under its Special Credit Restraint Program issued on March 14, 1980, the Board has amended its regulation to enable it to reduce the reporting burden on U.S. commercial banks, and U.S. branches and agencies of foreign banks, finance companies, U.S. bank holding companies, and to discontinue the reporting requirements for large corporate borrowers.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Bronwen Mason, Senior Attorney (202/452–3564) Legal Division, or Eleanor J. Stockwell, Senior Deputy Associate Director (202/452–3651), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On March 14, 1980, the Board announced a Special Credit Restraint Program designed to encourage lenders and borrowers, in their individual credit decisions, to take specific account of the overall aims and quantitative objectives of the Federal Reserve in restraining growth in money and credit generally. While compliance with the Program guidelines is on a voluntary basis, the Board instituted a reporting program, as authorized by section 1–104 of Executive Order 12201, to monitor developments in the credit markets and compliance with the Program. Under this reporting program the affected lenders were required to provide data periodically concerning types and amounts of outstanding loans and selected corporations were required to provide data on certain types of borrowing. (45 FR 22883.)

Based on an evaluation of recent banking and credit data, on May 22, 1980, the Board announced that it would reduce the reporting burden on U.S. commercial banks, U.S. branches and agencies of foreign banks, finance companies, and U.S. bank holding companies, which should now file reports on a bimonthly basis. In addition, the Board stated that it would discontinue reports by large corporate borrowers. The first quarterly report for intermediate size banks due in June, will be simplified, and the need for subsequent reports will be evaluated after that checkpoint is passed.

In order to achieve the objectives of this action more quickly the Board for good cause has determined that the notice and public procedure provisions of 5 U.S.C. 553(b) with regard to this action are not in the public interest, and will not be followed.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201 the Board has revised §§ 229.33 and 229.34 of Subpart D of its Credit Restraint Regulation (12 CFR Part 229) to read as follows:

Subpart D—Reports Under Special Credit Restraint Program

§ 229.33 Reports by Large Lenders.

(a) *Large commercial banks.* Each U.S. commercial bank having U.S. consolidated assets of $1 billion or more shall file such reports on its activities as may be required by the Board from time to time on forms prescribed by the Board in accordance with the instructions thereto.

(b) *U.S. agencies and branches of foreign banks.* Each family of U.S. offices of a foreign bank having worldwide banking assets of more than $1 billion monthly shall file such reports on its activities as may be required by the Board from time to time on forms prescribed by the Board in accordance with the instructions thereto.

(c) *U.S. bank holding companies.* Each U.S. bank holding company with U.S. consolidated financial assets of $1 billion or more shall file such reports on its activities as may be required by the Board from time to time on forms prescribed by the Board in accordance with the instructions thereto.

(d) *U.S. finance companies.* Each U.S. finance company with total business receivables outstanding (that is, all loans excluding those made for personal, family or household uses) of $1 billion or more shall file such reports on its activities as may be required by the Board from time to time on forms prescribed by the Board in accordance with the instructions thereto.

§ 229.34 Reports by Intermediate-Sized Commercial Banks.

Each U.S. commercial bank with U.S. consolidated assets of $300 million or more but less than $1 billion shall file such reports on its activities as may be required by the Board from time to time on forms prescribed by the Board in

accordance with the instructions thereto.

Board of Governors of the Federal Reserve System, effective May 27, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16769 Filed 6-2-80; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 229

[Docket No. R-0300]

Consumer Credit; Maintenance of Special Deposit

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: On March 14, 1980, the Board adopted a consumer credit restraint program (12 CFR Part 229, Subpart A; 45 FR 17927, March 19, 1980) that requires certain creditors that extend certain types of consumer credit to maintain a special deposit with the Federal Reserve equal to 15% of the amount by which the creditor's outstanding covered credit during a month exceeds the creditor's base. The purpose of the program was to curb inflationary pressures in the economy by restraining the growth of consumer credit covered by the regulation through the imposition of the special deposit requirement. Recent trends in the growth of consumer credit indicate that modification of the Board's consumer credit regulation would be appropriate. The Board has therefore amended its consumer credit restraint regulation to reduce the special deposit requirement to an amount equal to 7½% of the amount by which a creditor's outstanding covered credit during a month exceeds its base.

EFFECTIVE DATE: July 24, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Mannion, Deputy General Counsel (202/452–3274); Gilbert T. Schwartz, Assistant General Counsel (202/452–3625); or Margaret L. Egginton, Attorney (202/452–3786); Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In adopting its consumer credit restraint regulation, pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board adopted 15% of a creditor's increase in covered credit as the required special deposit amount because the Board regarded that amount as appropriate to restrain the growth of covered credit. Since adoption of the regulation in mid-March, trends in consumer credit have led the Board to conclude that a reduction in the ratio to be applied in determining the special deposit requirement is appropriate. Beginning with the special deposit for the month of June, 1980, which must be held during the period beginning July 24, 1980, the amount of the special deposit will be equal to 7½% of the amount by which the creditor's outstanding covered credit during the month exceeds the creditor's base.

The Board believes that it is in the public interest to reduce the burden of its credit restraint program, while maintaining its effectiveness, as promptly as possible, and that publication of this rule for comment would not serve a useful purpose. The Board therefore for good cause finds that the notice and public procedure provisions of 5 U.S.C. 553(b) with regard to this action are unnecessary and contrary to the public interest.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1901), as implemented by Executive Order 12201, the Board hereby amends 12 CFR Part 229, Subpart A, effective July 24, 1980, by substituting the number "7½" for the number "15," so that the first sentence of § 229.4(a) reads as set forth below:

§ 229.4 Maintenance of special deposit.

(a) Each covered creditor shall hold a non-interest bearing special deposit equal to 7½ percent of the amount by which the average amount of its covered credit outstanding during the month exceeds its base.

* * * * *

By order of the Board of Governors of the Federal Reserve System, effective May 22, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16768 Filed 6-2-80; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 229

[Docket No. R-0302]

Nonmember Commercial Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201 the Board adopted provisions on March 14, 1980, requiring commercial banks that are not members of the Federal Reserve System to maintain a non-interest bearing special deposit with the Federal Reserve equal to 10 per cent of the amount by which the total of managed liabilities of those banks exceeds the amount of such managed liabilities outstanding during a base period. Based upon an evaluation of recent banking and credit data, the Board has determined to decrease the special deposit ratio from 10 per cent to 5 per cent and increase, generally, an institution's managed liabilities base.

EFFECTIVE DATE: This amendment will be effective for the special deposit required to be maintained by nonmember commercial banks for the sevenday period beginning June 12, 1980, for the computation period beginning May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Paul S. Pilecki, Attorney (202/452–3281), or Daniel L. Rhoads, Attorney (202/452–3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On March 14, 1980, the Board adopted this Subpart pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201 (45 FR 17932). This Subpart requires commercial banks that are not members of the Federal Reserve System to maintain a special non-interest bearing deposit with the Federal Reserve equal to 10 per cent of the total by which managed liabilities of the nonmember bank exceeded the amount of such managed liabilities outstanding during a base period. Additionally, this subpart requires a covered bank that was a net borrower of managed liabilities during the fourteen-day base period ending March 12, 1980, to reduce its base by an adjustment for the reduction in its foreign lending from domestic offices. The adjustment for any given computation period is based on the difference between the sum of its gross loans to non-United States residents and gross balances due from foreign offices of other institutions, and the lowest gross total of such lending for any computation week beginning after March 19, 1980. That difference is then rounded down to the largest lower multiple of $2 million and subtracted from the daily averge of managed liabilities for the base period. This Subpart does not apply to United States branches and agencies of foreign banks with total world-wide consolidated bank assets in excess of $1 billion that are subject to the Board's marginal reserve requirements (12 CFR 204.5(f)). Other United States branches and agencies of foreign banks are subject to this Subpart.

Based upon an evaluation of recent banking and credit data, the Board has determined to decrease the special deposit ratio for banks subject to this Subpart from 10 per cent to 5 per cent. The new 5 per cent deposit ratio will be effective for special deposits required to be maintained for the seven-day period beginning June 12, 1980. The corresponding computation period is the seven-day period beginning May 29, 1980.

The Board has also determined to allow certain covered banks to make a one-time only increase in their managed liabilities base. For a covered bank that was a net borrower of managed liabilities in excess of $100 million on a daily average basis during the fourteen-day period ending March 12, 1980, its managed liabilities base will be increased by 7-½ per cent. The new base will be determined by multiplying the bank's base reported on line 8 of form F.R. 241 2d for the computation period beginning May 15, 1980, by 1.075. However, a bank that was a net borrower of managed liabilities during the fourteen-day period ending March 12, 1980, whose base on March 12, 1980, was $100 million may not increase its base.

The managed liabilities base will continue to be reduced in computation periods after May 28, 1980, by the amount by which the bank's daily average of gross loans to non-United States residents and gross balances due from foreign offices of other institutions during the statement week is lower than the lowest daily average amount of such loans and balances outstanding during the base period or any statement week for the period from March 13, 1980 to May 28, 1980. The base for an institution that was a net borrower of managed liabilities during the base period (February 28—March 12, 1980) will not be reduced below $100 million.

The base will not change for a bank that was a net lender of managed liabilities during the period February 28—March 12, 1980.

In order to achieve the objectives of this action more quickly, the Board for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are impracticable and contrary to the public interest.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1909), the Board hereby amends Subpart C of its Credit Restraint regulation by revising § 229.24 (12 CFR Part 229) effective June 12, 1980, to read as follows:

§ 229.24 Maintenance of Special Deposit.

(a) During the seven-day maintenance period beginning June 12, 1980, and each deposit maintenance period thereafter, each covered bank shall maintain a non-interest bearing special deposit equal to 5 per cent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day maintenance period exceeds its managed liabilities base as determined in accordance with paragraph (b) of this section.

(b) *Managed liabilities base.* During the seven-day deposit computation period beginning May 29, 1980, and during each seven-day deposit computation period thereafter, the managed liabilities base of a covered bank shall be determined as follows:

(1) For a covered bank that, on a daily average basis, was a net borrower of total managed liabilities during the fourteen-day base period ending March 12, 1980, its base for the computation period beginning May 29, 1980, shall be equal to its base reported for the computation period beginning May 15, 1980 (as reported on line 8 of form F.R. 2412d) multiplied by 1.075. However, a covered bank whose base has never exceeded $100 million shall not multiply its base by 1.075. The managed liabilities base of a covered bank shall be reduced by the amount by which its lowest daily average of

(i) Gross loans to non-United States residents [3] and

(ii) Gross balances due from foreign offices of other institutions [4] or institutions the time deposits of which are exempt from the rate limitations of Regulation Q pursuant to § 217.3(g) thereof,[5] outstanding during any computation period beginning after May 28, 1980, is lower than the lowest daily average amount of such loans and balances outstanding during the base period or any computation period between March 13, 1980 and May 28, 1980. The amount of the reduction shall be rounded down to the largest lower multiple of $2 million. However, in no event will the managed liabilities base for a covered bank that was a net borrower of managed liabilities during the fourteen-day base period ending March 12, 1980, be less than $100 million.

(2) For a covered bank that, on a daily average basis, is a net lender of total managed liabilities during the fourteen-day base period ending March 12, 1980, its managed liabilities base shall be the sum of its daily average negative total managed liabilities and $100 million.

By order of the Board of Governors of the Federal Reserve System, May 27, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16787 Filed 6-2-80; 8:45 am]

BILLING CODE 6210-01-M

[3] A United States resident is: (a) Any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

[4] Any banking office located outside the States of the United States and the District of Columbia of a bank organized under domestic or foreign law.

[5] A foreign central bank, or any international organization, of which the United States is a member, such as the International Bank for Reconstruction and Development (World Bank), International Monetary Fund, Inter-American Development Bank, and other foreign international, or supranational entities exempt from interest rate limitations under § 217.3(g)(3) of Regulation Q (12 CFR 217.3(g)(3)).

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12 CFR Part 229

[Docket No. R-0301]

Short Term Financial Intermediaries

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: On March 14, 1980, the Board adopted this Subpart pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201 to restrain the expansion of short term credit through money market funds and other similar creditors. This Subpart subsequently was amended on March 28, 1980. Based upon an evaluation of recent credit data, the Board has determined to decrease the special deposit ratio from 15 per cent to 7½ per cent for creditors subject to this Subpart.

EFFECTIVE DATE: This action is effective for special deposits required to be maintained during the seven-day maintenance period beginning June 30, 1980, for the computation period beginning June 16, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), or Daniel L. Rhoads, Attorney (202/452–3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On March 14, 1980, the Board adopted this Subpart pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201 to restrain the expansion of short term credit through money market funds and similar creditors (45 FR 17930). This Subpart subsequently was amended by the Board on March 28, 1980 (45 FR 23642). Based upon an evaluation of current credit data, the Board has determined to decrease the special deposit ratio from 15 per cent to 7½ per cent for all creditors covered by this Subpart. The decreased ratio will be effective for special deposits required to be maintained during the maintenance period beginning June 30, 1980, for the computation period beginning June 16, 1980.

In order to achieve the objectives of this action more quickly, the Board for good cause finds that the notice and public procedure provisions of 5 U.S.C. § 553(b) with regard to these actions are impracticable and contrary to the public interest.

Pursuant to its authority under the Credit Control Act (12 U.S.C. 1901–1909) the Board hereby amends Subpart B of its Credit Restraint regulation (12 CFR Part 229) effective June 30, 1980, as follows:

1. In section 229.14(a)(1), by striking "15" and inserting in its place "7½".

2. In section 229.14(b), by striking "15" and inserting in its place "7½".

By order of the Board of Governors of the Federal Reserve System, May 23, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16686 Filed 6-2-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373, 374, 376, 379, 385, and 399

Revision of Policy on Exports to Afghanistan

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Interim Rule With Request for Comments.

SUMMARY: The Export Administration Regulations are revised to reflect new policies on exports to Afghanistan in view of the increased risk of diversion to the USSR.

DATES: These regulatory changes are effective June 3, 1980. Comments must be received by August 4, 1980.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Room 1617M, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: 202/377–5247 or 377–4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

Since the Soviet invasion of Afghanistan, applications for licenses to export to Afghanistan have been reviewed on the assumption that commodities and technical data sent to Afghanistan will be available to the U.S.S.R. In order to assure a case-by-case review of the full range of exports subject to controls to the U.S.S.R., this revision extends to exports to Afghanistan validated license requirements that are virtually identical to those applicable to the U.S.S.R. This licensing control will permit a case-by-case review of exports to assure that such exports are not intended to benefit the U.S.S.R. The purpose of this action is not to deny commodities or technical data to Afghanistan but to implement more effectively those national security and foreign policy controls already in existence with regard to the U.S.S.R. In general, the licensing policy for applications subject to national security controls will be to approve such applications to Afghanistan only if they would be approved for the U.S.S.R. The licensing policy for applications subject to foreign policy controls will be to approve such exports if they are for the civilian economy of Afghanistan. Part 385 is revised to reflect this policy. In addition, Parts 373 and 379 are revised to provide that special licensing procedures and exports of technical data are restricted for Afghanistan to the same extent as they are for the U.S.S.R. Exporters are cautioned that this change substantially limits use of General License *GTDR* for exports of technical data to Afghanistan. Exporters of certain technical data to other destinations must now include Afghanistan in written assurances required from recipients of such data. Part 374 is revised so that reexports to Afghanistan are subject to the same supporting documentation and validity period requirements as those to the U.S.S.R. The General License provisions, other than GTDR, are not revised by these regulations. However, certain CCL entries that require a validated license for exports to the U.S.S.R. are revised to require also a validated license for Afghanistan. Commodities in such CCL entries may no longer be shipped under General License. Part 376 is revised to establish validated license procedures for export to Afghanistan of agricultural commodities removed from general license by these revisions.

The extension of U.S.S.R. licensing requirements to Afghanistan involves commodities and technical data controlled for national security and foreign policy reasons under Sections 5 and 6 of the Export Administration Act of 1979, respectively. The statutory basis for the extension of such controls to Afghanistan parallels that of the U.S.S.R. controls. Accordingly, the determinations and conclusions required under sections 5 and 6 with respect to the U.S.S.R. will also apply to Afghanistan.

Saving Clause

Shipments of any commodity removed from general license as a result of these revisions that were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to (effective date) may be exported under the previous general license up to and including (48 hours later). Any such shipment not exported before (48 hours) may not be shipped without specific authorization from the Office of Export Administration. There is no saving clause applicable to technical data removed from General License *GTDR*.

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*) exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218–7 (44 FR 2082, January 9, 1979) and the Industry and Trade Administration Administrative Instruction 1–6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in

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developing final regulations. The period for submission of comments will close (60 days following publication). No comments received after the close of the comment period will be accepted or considered by the Department in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 373—SPECIAL LICENSING PROCEDURES

1. Part 373 is revised to:

a. Amend § 373.3(a)(2) to read:

§ 373.3 [Amended]

(a) * * *

(2) All countries in Country Group V except Afghanistan.

* * * * *

§ 373.7 [Amended]

b. Amend § 373.7 to insert "and Afghanistan" after "Country Groups P, Q, W, and Y" each time it appears; to insert "or Afghanistan" after "Country Group P, Q, W, or Y" or "Country Group P, Q, W, or Y destination" as appropriate, each time they appear; and to insert "except Afghanistan" after "V" each time it appears;

§ 373.8 [Amended]

c. Amend § 373.8(a)(2) to add "or Afghanistan" following "Country Group P, Q, S, W, Y, or Z"; *and*

d. Amend § 373.8(c)(1) to add "or Afghanistan" following "Group P, Q, S, W, Y, or Z country";

Supplement No. 3 [Amended]

e. Delete "Afghanistan" from Supplement No. 3 to Part 373.

PART 374—REEXPORTS

2. Part 374 is amended to:

§ 374.3 [Amended]

a. Add "Afghanistan" at the beginning of the country listing in § 374.3(c)(1)(ii);

§ 374.5 [Amended]

b. Add "or Afghanistan" after "Country Group P, Q, W, Y, or Z" both times it appears in § 374.5.

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

3. Part 376 is revised to:

a. Establish a new § 376.15 as follows:

§ 376.15 Exports or Reexports of Agricultural Commodities to Afghanistan

(a) Scope

This section sets forth the policies and procedures applicable to exports and reexports to Afghanistan of U.S.-origin agricultural commodities and products (hereinafter referred to as "agricultural commodities").

(b) Licensing Policy

Applications for validated licenses to export or requests to reexport to Afghanistan commodities listed in Supplements No. 2 and 3 to Part 376 will be considered for approval provided it is established to the satisfaction of the Office of Export Administration that the export is destined to and will be used by the Afghan civilian economy, that it would not be significant in helping the U.S.S.R. to avoid or mitigate the effects of the restrictions on the export of agricultural commodities to the U.S.S.R., and that it would not otherwise be inconsistent with the foreign policy interest or the purposes of these controls. Among the factors that will be considered in making these determinations are the following:

(1) Whether the commodity and quantity are consistent with prior U.S.-Afghanistan trade patterns;

(2) The identity and general nature of activity of the end user;

(3) The stated end-use and appropriateness of that end-use for the particular commodity;

(4) Whether the shipment is likely to be diverted to another end-use and, if it were, whether such diversion would undermine the intent of the restrictions on the export of such commodities to the U.S.S.R.

Decisions on these applications will be made on a case-by-case basis in consultation with other appropriate Federal agencies.

(c) Documentation

An application for a validated license to export an agricultural commodity from the United States to Afghanistan must be submitted on Form ITA–622P, Application for Export License, and be accompanied by the documentation listed below. An application for an authorization to reexport to Afghanistan a U.S.-origin agricultural commodity previously exported from the United States must be submitted on Form ITA–699P, Request to Dispose of Commodities or Technical Data Previously Exported, and be accompanied by the documentation listed below.

(1) A certified copy or a photocopy of the export sales contract; and

(2) An affidavit signed by an authorized representative of the exporter stating the number of separate shipments of the commodities listed on the application, the approximate quantity of each shipment, and the aggregate quantity of all such shipments made by the exporter to Afghanistan during the period October 1, 1977–September 30, 1979.

(d) Method of Submission

Applications filed under this section may be hand-carried to Room 1623, Main Commerce Building, 14th and E Streets N.W., Washington, D.C., during normal business hours or mailed to the Office of Export Administration, Room 1617M, Main Commerce Building, 14th and E Streets N.W., Washington, D.C. 20230.

(e) Validity Period

All licenses and reexport authorizations for agricultural commodities to Afghanistan issued under this section will expire no later than 90 days from the date of issuance.

(f) Shipping Tolerance

A shipping tolerance of 5 percent is allowed over the unshipped balance remaining on a validated export license or reexport authorization for the shipment of an agricultural commodity to Afghanistan under the provisions of this section. (See also § 386.7 for a fuller discussion of shipping tolerance, including examples.)

* * * * *

(g) Submission to Office of Export Administration of Copy of Shipper's Export Declaration Covering Shipments to Afghanistan of Agricultural Commodities Listed in Supplement No. 1

When exporting from the U.S. to Afghanistan one or more of the agricultural commodities listed in Supplement No. 1 to this Part 376, exporters are required to mail a copy of the Shipper's Export Declaration filed with the exporting carrier (or the Post Office if shipment is made by mail), within 48 hours of filing the original Declaration at the port of export, to the following address:

Office of Export Administration
ATTENTION: Short Supply Division
P.O. Box 7138
Ben Franklin Station
Washington, D.C. 20230

Note.—See Part 386 of the Export Administration Regulations for provisions relating to the filing of Shipper's Export Declarations.

(h) Reporting of Diversions or Reexports

Should an exporter or other person involved in an export or reexport transaction involving a U.S.-origin agricultural commodity to Afghanistan at any time gain knowledge that a shipment, or any portion thereof, of a commodity listed in Supplements No. 1, 2, or 3 to this Part 376, has been or will be diverted or reexported to the U.S.S.R. or that a commodity listed in Supplements No. 2 or 3 has been or will be consumed in Afghanistan by Soviet or Afghanistan military or paramilitary forces, the exporter or such other person should immediately advise the Office of Export Administration (Attention: Short Supply Division) in writing of such actual or intended diversion, reexport, or consumption by the military (see Part 387). In urgent cases, such as when the intended diversion or reexport has not yet taken place, the exporter shall notify the Short Supply Division by telephone. (202–377–3984) and shall follow up such telephonic report by a full report in writing.

(i) Recordkeeping

Exporters are reminded that the recordkeeping requirements of § 387.11 of these regulations are applicable to both exports and reexports to Afghanistan of the agricultural commodities listed in Supplement No. 1 to this Part 376.

b. Amend the headings for Supplements No. 1, 2, and 3 read as follows:

* * * * *

Supplement No. 1 To Part 376

Agricultural Commodities and Products[1] Exported to the U.S.S.R. and Afghanistan That Require the Filing of Shipper's Export Declarations

* * * * *

Supplement No. 2 to Part 376

Agricultural Commodities and Products [1] Subject to Validated Licensing to the U.S.S.R. the Export Of Which is Restricted (See § 376.5)

and

Agricultural Commodities and Products [1] Subject to Validated Licensing to Afghanistan—Applications Considered Under § 376.15

* * * * *

Supplement No. 3 to Part 376

Agricultural Commodities and Products[1] Subject to Validated Licensing to the U.S.S.R. and Afghanistan—Applications Considered under §§ 376.5 or 376.15 [2]

* * * * *

PART 379—TECHNICAL DATA

4. Part 379 is amended to:

a. Revise the heading and opening sentence of § 379.4(b) to read:

§ 379.4 [Amended]

* * * * *

(b) Restrictions Applicable to Country Groups P, Q, W, and Y and Afghanistan. No technical data may be exported under this general license to Country Groups P, Q, W, or Y or to Afghanistan, except:

* * * * *

§ 379.4 [Amended]

§ 379.5 [Amended]

§ 379.6 [Amended]

§ 379.8 [Amended]

b. Add "or Afghanistan" after "P, Q, W, Y, or Z" and after "P, Q, W, or Y" each time they appear in §§ 379.4(f), 379.5, 379.6, and 379.8;

c. Add "(except Afghanistan)" after "S, T, or V" each time it appears in § 379.6.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

5. Section 385.4 is amended by adding a new (f) as follows:

§ 385.4 Country Group V

* * * * *

(f) Afghanistan

The Soviet military presence in Afghanistan requires special attention to exports because of the likelihood that commodities or technical data entering Afghanistan will be available to the U.S.S.R. Accordingly, the validated licensing requirements for the U.S.S.R. extend to shipments to Afghanistan. The purpose of this action is not to deny commodities or technical data to Afghanistan but to implement more effectively those national security and foreign policy controls already in existence with regard to the U.S.S.R. Accordingly, the statutory bases for controlling such shipments to Afghanistan parallel those for the U.S.S.R. With regard to applications for shipments subject to national security controls, the general policy is to deny such applications if they would be denied if destined for the U.S.S.R. Further, foreign policy controls in effect for shipments to the U.S.S.R. of agricultural commodities (wheat and corn are subject also to national security controls), phosphates, and oil and gas exploration and production equipment are extended to Afghanistan as a means of preventing diversion. The general policy is to approve applications for such shipments when intended for use to meet the needs of the civilian Afghan economy and such shipments are otherwise consistent with U.S. foreign policy interests. Criteria to be considered in determining whether a shipment is intended for the civilian economy include a comparison of the proposed shipment with historic trade with Afghanistan and the end-uses of a shipment. (See § 376.15 for special requirements for applications to export agricultural commodities to Afghanistan.)

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

6. The Commodity Control List (incorporated by reference at 15 CFR 399.1) is revised as follows:

V 45 J E 3 8 0 UMI

§ 399.1 [Amended]

a. The "Validated License Required" column for entries 6098, 6191, 6390, 6391, 6598, 6779, 6794, and 4994 is amended to read "SZ, Afghanistan and the U.S.S.R.";

b. The "Validated License Required" column for entries 5091, 5391, 5406, 5431, 5485, 5510, 5565, 5568, 5585, 5595, 5596, and 5799 is amended to read "PQSWYZ and Afghanistan".

§ 399.2 [Amended]

7. The heading for and first sentence under Interpretation 27 (incorporated by reference at 15 CFR 399.2) are revised to read:

Interpretation 27: Phosphate Materials Subject to Validated Licensing to the U.S.S.R. and Afghanistan

The commodities described below are included in ECCN 6794 F and are subject to the policy set forth in §§ 385.2(e) and 385.4(f)

* * * * *

(Sections 4, 5, 6, 13, 15, Pub. L. 96–72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401 et seq.; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10–3, 45 FR 6141 (January 25, 1980); Department Organization Order 41–1, 45 FR 11862 (February 22, 1980))

Dated: May 27, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-16609 Filed 6-2-80; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1508

Full-Size Baby Crib Regulation; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Correction to final rule.

SUMMARY: The Commission is correcting the diagram (figure 1) that accompanies the full-size baby crib regulation because it contains incorrect dimensions. That regulation was codified as 16 CFR Part 1508 and was published as FR Doc. 73–24687, November 21, 1973.

DATE: The correction becomes effective on June 3, 1980.

FOR FURTHER INFORMATION CONTACT: John Preston, Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6604.

SUPPLEMENTARY INFORMATION: Since issuing its full-size baby crib regulation (16 CFR Part 1508), the Commission has discovered errors in the figure 1 diagram that accompanies it. Two of the dimensions for the Crib Slat Loading Wedge in the figure are stated incorrectly.

Rather than correcting the dimensions of the existing diagram (figure 1), the Commission has decided to substitute a new diagram that is a better representation of the loading wedge. This substitute diagram is the one that accompanies the Commission's non-full-size baby crib regulation. Both diagrams are representations of the same loading wedge, and it will avoid confusion to use the same diagram for both regulations. Since the substitution of the new diagram does not change the test procedure for full-size baby cribs, there is no need for public notice or comment on it. Under the Administrative Procedure Act (5 U.S.C. 553(b)), the Commission "for good cause finds . . . that notice and public procedure" are unnecessary.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (q)(1)(A), (s); 3(e)(1), 74 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission corrects Figure 1 of 16 CFR Part 1508 by substituting for Figure 1 the diagram shown below.

EFFECTIVE DATE: June 3, 1980.

Dated: May 29, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

BILLING CODE 6355-01-M

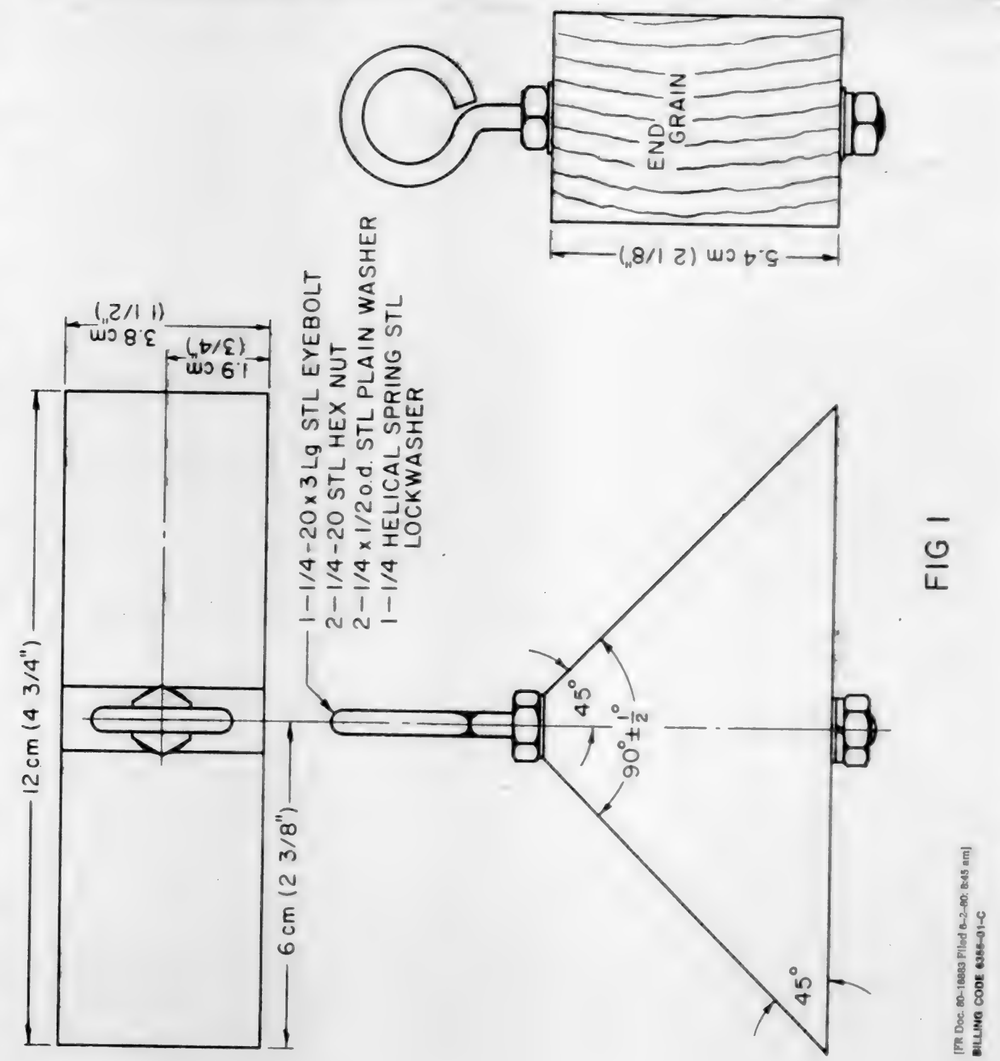

FIG 1

V 45 J E 3 80 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM80-61]

Statements and Reports (Schedules); Order Discontinuing Reporting Requirements

Issued: May 28, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby discontinues FPC Form No. 12B (18 CFR 141.53), Form No. 12C (18 CFR 141.54), Form No. 12E–2 (18 CFR 141.56), and Form No. 12F (18 CFR 141.57), which require various reports and information on the generation of electricity. These forms are eliminated because the Commission no longer needs the data reported thereon to carry out its regulatory responsibilities.

EFFECTIVE DATES: May 28, 1980, for elimination of Form Nos. 12B, 12C and 12F; October 1, 1980, for elimination of Form No. 12E–2.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lewis, Federal Energy Regulatory Commission, Office of Electric Power Regulation, 825 N. Capitol Street, N.E., Mail Stop 300RB, Washington, D.C. 20426 (202) 376–9227.

SUPPLEMENTARY INFORMATION:

I. Background and Summary

The Federal Energy Regulatory Commission (Commission) by this rule eliminates from its regulations the following Federal Power Commission (FPC) forms: Form No. 12B, "Industrial Electric Generating Capacity (detailed information)" (18 CFR 141.53); Form No. 12C, "Industrial Electric Generating Capacity (limited information)" (18 CFR 141.54); Form No. 12E–2, "Supplemental Power Statement" (18 CFR 141.56); and Form No 12F, "Power Line Construction Data" (18 CFR 141.57).

Form No. 12B requires detailed information concerning electric generating equipment owned or operated by industrial establishments. This information is not currently being collected by this Commission or the Energy Information Administration (EIA).

Form No. 12C requires information concerning the net generation of electric energy and the installed nameplate capacity of industrial plants. Information required by this form is currently being collected by EIA.

Form No. 12E–2 requires information on monthly energy, capability and peak load data, near-term summer/winter capability and peak load data, long-term plans with respect to generating units and transmission lines, and long-term forecasts on energy and peak load. Information required by this form is currently being collected by EIA.

Form No. 12F requires information concerning power lines and generating plants. Information required by this form is currently being collected by the EIA.

The forms were devised by the Federal Power Commission (FPC) (the Commission's predecessor agency) pursuant to the authority granted in sections 301, 309 and 311 of the Federal Power Act.[1] The authority under section 311 was transferred to the Secretary of Energy pursuant to section 301(b) of the Department of Energy Organization Act [2] (42 U.S.C. 7101, *et seq.*). The Secretary in turn delegated this authority to the Economic Regulatory Administration (ERA) (Department of Energy Delegation Order No. 0204–4 (10 CFR 1001.1)), and to the Commission to the extent necessary to perform its other functions (Delegation Order No. 0204–1, 42 FR 55637 (October 18, 1977)). The Commission has determined, however, that the data required by Form Nos. 12 B, 12C, 12E–2 and 12F are not central enough to its functions to justify continued collection of the data by this Commission. In view of this, the Commission is hereby eliminating from its regulations those sections which provide for the Commission's collection of the information pursuant to those forms.

II. Effective Date

The ERA, which is responsible for utilizing the information from Form Nos. 12B, 12C, 12E–2 and 12F, has determined that the collection of data from Form No. 12E–2 is necessary to the performance of its statutory responsibilities. The Commission will, therefore, delay until October 1, 1980, the effective date for elimination of Form No. 12E–2 so that ERA may have sufficient time to obtain approval from the Office of Management and Budget for the future collection of these data.

[1] Form Nos. 12B and 12F were established under FPC Order No. 141 (Form No. 12F was amended by Order Nos. 372 and 527); Form 12C was established by Order No. 559; and Form No. 12E–2 was established by Order No. 544.

[2] Section 301(b) provides that powers vested in the FPC under the FPA and the natural Gas Act (NGA) (15 U.S.C. 717) which were not transferred to the Commission by Title IV of the DOE Act are vested in the Secretary.

The elimination of the other forms, Form Nos. 12B, 12C and 12F simply amends the Commission's regulations to reflect that the Commission no longer requires the information gathered from these forms. For this reason, the requirement to report information pursuant to these forms will be eliminated May 28, 1980.

The Commission accordingly finds that notice and public procedure are unnecessary pursuant to 5 U.S.C. § 553(b), and that there is good cause under 5 U.S.C. § 553(d) to make the amendments in this rulemaking effective as provided.

(Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; Federal Power Act, as amended, 16 U.S.C. 792, *et seq.*; Department of Energy Delegation Order 0204–1, 42 FR 55637 (October 18, 1977); Department of Energy Delegation Order 0204–4 (10 CFR 1001.1))

For the foregoing reasons, Title 18 of the Code of Regulations is amended in Part 141 as provided below, effective as set forth above.

By the Commission.

Lois D. Cashell,

Acting Secretary.

§§ 141.53 and 141.54 [Deleted]

1. Sections 141.53 and 141.54 are deleted in their entirety.

§ 141.56 [Deleted]

2. Section 141.56 is deleted in its entirety.

[FR Doc. 80–16825 Filed 6–2–80; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 76P–0470]

Food and Labeling; Nutrition Labeling Exemption for Certain Dairy Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food labeling regulations for certain dairy products. This rule is based on a proposal published in response to a petition submitted by the Milk Industry Foundation. This rule permits the labels of certain milks, creams, milk products, and cream products to provide a fat content declaration in the ingredient statement without also providing complete nutrition information as set forth in 21 CFR 101.9.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 4, 1977 (42 FR 6834), the agency proposed to amend § 1.17 (21 CFR 1.17), to permit the labels of dairy products listed in 21 CFR 1.1c(a)(7)(i) to bear a declaration of the milkfat content without also bearing the nutrition labeling otherwise required by 21 CFR 1.17. Sections 1.17 and 1.1c were subsequently recodified as § 101.9 (21 CFR 101.9) and § 1.24 (21 CFR 1.24), respectively. The proposal was published in response to a petition submitted by the Milk Industry Foundation (MIF), Washington, DC. As grounds in support of the proposal, the petitioner states that an inequitable situation exists regarding at least two States' labeling requirements for dairy products. The petitioner points out that laws in these States, established prior to the Federal requirement for nutrition labeling, require a declaration of milkfat content on virtually all dairy foods and that therefore, in order to comply with the provisions of § 1.17, full nutrition labeling is required.

The petitioner asserts that a statement of milk fat content has been used historically to identify and differentiate many dairy products and that such a declaration is more a statement of identity than a statement of nutrition information. The petitioner concludes that "conveying product identification information in an ingredient statement was never intended to be a nutrient claim" and cites that exemptions afforded by § 1.17(h)(6) and (h)(7) in support of this proposition: Section 1.17 (h)(6) applies to a nutrient(s) included in a food solely for technological purposes; § 1.17(h)(7) applies to a standardized food containing an added nutrient(s) and included in another food as a component. Both exemptions allow declaration in the ingredient statement without providing full nutrition labeling so long as neither the nutrient(s) nor the component is otherwise referred to on the label or in labeling or in advertising.

Eighteen comments were received in response to the proposal. There were 14 comments from consumers and consumer organizations, 3 from industry, and 1 from a local government agency. Eleven comments opposed the proposal, and four comments supported it. Two others agreed with the intent of the proposal, but suggested specific modifications, and one comment was not applicable to the proposal.

1. Several comments opposing the proposed amendment said that nutrition labeling is a source of valuable information and should be required for all dairy products. One comment said that nutrition labeling would enable consumers to know what they are getting. Another said that nutrition labeling would enable consumers to intelligently plan a healthy diet.

The agency recognizes that nutrition labeling provides valuable information. However, it appears many of those commenting are not aware that its use is essentially voluntary.

Nutrition labeling is required for a food only when a nutrient(s) is added or a nutrition claim is made. Although a declaration of fat content is generally considered to be a nutrition claim, the agency believes that, for products covered by this regulation, the fat content declaration is only intended to provide product identification information that is needed to facilitate value comparison. The agency therefore believes that an exemption should be granted for the dairy products covered by this regulation when a fat content declaration appears only in the ingredient statement.

2. Two comments suggested that the fat content statement should be allowed to appear some place other than in the ingredient statement. One of these comments suggested that a fat declaration in the ingredient statement would not be compatible with its State law, which requires a minimum percentage of the milkfat content to be shown on the container.

The petitioner submitted copies of excerpts from the regulations of States that require a declaration of the fat content on the labels of dairy products. The language in these excerpts did not specify the exact location on the label where the declaration is to appear. The exemption provided by the present regulation applies only when the fat content declaration appears in the ingredient statement on the information panel of specified dairy products. If the fat content statement appears on the lable other than in the ingredient statement, full nutrition labeling is still required by § 101.9, regardless of the reason for the statement's location. The agency believes that locating the fat content declaration outside the ingredient statement would give it undue prominence and be misleading to consumers unless accompanied by complete nutrition labeling. It should be noted that although certain products such as 2 percent low-fat milk and cottage cheese provide a prominent statement of fat content, they also are required to provide complete nutrition labeling.

3. One comment said the exemption should not be permitted because a fat content statement on the label has weight control connotations and in the absence of specific nutrition information may be misleading.

The agency recognizes that the fat content declaration may be of special interest to people who are concerned about the calories contributed by fat in foods, and that they could be misled. However, the agency does not believe that consumers will be misled by the declaration of fat content as permitted by this regulation. The allowed percentage fat content declaration is limited in how it may appear on the label; it is to be listed without prominence in the ingredient statement. Any reference to this declaration in other labeling or advertising could indicate an intent to make it a nutrition claim and thus trigger the requirement for full nutrition labeling.

4. One comment suggested that, for the products covered by the proposal, nutrition labeling is an unnecessary expense that would be passed on to consumers.

Although this regulation will permit covered dairy products to avoid nutrition labeling while providing fat content information, the agency still encourages the use of nutrition labeling on these products. The agency believes that nutrition labeling is beneficial to consumers and will be worth the relatively small added expense, even when the product's nutritional properties are generally well known.

However, the agency also believes that for the subject dairy products a declaration of fat content is useful information apart from nutrition considerations and should not alone trigger a requirement for full nutrition labeling under § 101.9. Fat content is one means of identifying certain dairy products in at least two States. Furthermore, although reduction or absence of milk fat is today often thought of as a selling point, historically high milkfat content has been considered indicative of value for many products and probably still connotes value to many consumers.

5. One comment contended that butter should be required to bear a percentage declaration of the fat content and should not be required to bear full nutrition labeling.

A requirement for butter to bear a percentage declaration of its fat content is not within the scope of the regulation. The proposal covered only milks, creams, milk products and cream products listed in § 1.24 (21 CFR 1.24).

Neither these products nor butter are required to bear nutrition labeling in accordance with § 101.9 unless optional nutrients are added or nutritional claims are made. The amendment permits, but does not require, dairy products listed in § 1.24 to bear a percentage fat content declaration, heretofore generally considered a nutrition claim, without complete nutrition labeling.

6. One comment said that a percentage declaration of the milkfat content appearing in the ingredient declaration of a label does not represent the actual percentage of fat in the product because of the dilution factors caused by the addition of other ingredients.

The agency advises that a fat percentage declaration on the label of these foods is required to be an accurate representation of the actual fat in the food.

Having considered the petitioner's request and the comments received in response to the proposal, the agency has determined that the exemption to the nutrition labeling regulation should be permitted as proposed.

Since publication of this proposal, the Food and Drug Administration, the Department of Agriculture, and the Federal Trade Commission jointly published a notice of public hearing in the **Federal Register** of June 9, 1978 (43 FR 25296) and solicited testimony and written comments to determine what information consumers want to appear in the labeling of foods. Those public hearings were concluded in October 1978, and the agency received approximately ten thousand written responses. The agency has examined this final rule in relation to these food labeling proceedings, including the advance notice of proposed rulemaking published in the **Federal Register** of December 21, 1979 (44 FR 75990), and the agency considers this final rule to be consistent with consumers views and with the tentative position stated in the notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated tc the Commissioner of Food and Drugs (21 CFR 5.1), § 101.9 is amended by adding new paragraph (h)(11), to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(h) * * *

(11) A percentage declaration of the fat (milkfat, butterfat) content appearing only in the ingredient statement on the label of a food listed in § 1.24(a)(7)(i) of this chapter does not constitute a "nutrition claim or information" within the meaning of paragraph (a) of this section if:

(i) The declaration appears on the information panel (for requirements for information panels, see § 101.2) with no greater prominence than any other printed matter appearing on the panel, and in a type size no larger than the minimum type size required by § 101.105(i) for the declaration of net quantity of contents, and

(ii) The declaration is not required by other regulations in this chapter.

* * * * *

Effective date. This amendment is effective June 3, 1980.

(Secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))

Dated: May 27, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16731 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 103

[Docket No. 76N-0217]

Quality Standards for Foods With No Identity Standards; Summary of Comments and Responses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document summarizes and responds to the comments received in response to the amendment and confirmation of the effective date of regulations relating to standards of quality for foods for which there are no standards of identity.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 23, 1972 (37 FR 20038), a notice of proposed rulemaking set forth under Subpart A of 21 CFR Part 103 (previously 21 CFR Part 11, recodification published in the **Federal Register** of June 15, 1976 (41 FR 24262)) proposed general principles for the establishment of quality standards for foods.

The notice also contained, under Subpart B of Part 103, proposed microbiological quality standards for frozen ready-to-eat banana, coconut, chocolate, or lemon cream-type pies (§ 103.23, previously § 11.5) and food-grade gelatin (§ 103.29, previously § 11.6). The regulations adopting the proposals with changes were published in the **Federal Register** of August 2, 1973 to become effective on February 4, 1974, unless the Subpart B regulations were stayed by objections filed within 30 days. Written objections and requests for a hearing were filed against the general principles of Subpart A as well as against the Subpart B regulations, although the Subpart B regulations were stayed pending further consideration, a notice was published in the **Federal Register** of August 9, 1976 (41 FR 33249) which amended and confirmed the adoption of Subpart A. The notice also invited interested persons to comment on points not previously addressed or discussed, because the apparent confusion about the status of Subpart A may have kept some persons from submitting detailed comments on it prior to that notice. Subpart A was further amended when the final rule for bottled water was published in the **Federal Register** of March 6, 1979 (44 FR 12169). This amendment incorporated into § 103.5 (21 CFR 103.5) a reference to the current food manufacturing regulation for bottled water in Part 129.

Five written comments were received in response to the August 9, 1976 notice confirming Subpart A. All comments raised opposition to various portions of this regulation. Three were received from trade associations, one was from a food manufacturer, and another was from a food chemist. None of the comments raised issues that had not already been addressed in earlier **Federal Register** documents. No changes in the regulation are justified by these most recent comments.

The following is a summary of the comments received and the agency's responses to these comments:

1. One comment stated that the agency needs to show statutory authority for it to categorize microbial levels as reflecting the "quality" rather than the "condition" of a food.

In paragraph 3 of the preamble to the August 9, 1976 notice amending and confirming Subpart A (41 FR 33250) and in paragraph 8 of the August 2, 1973 final regulation (38 FR 20727), the Food and Drug Administration (FDA) stated that the concept of quality embraced in FDA standards of quality includes some elements of the term "condition" as defined by U.S. Department of Agriculture (USDA) regulations. However, the Agricultural Marketing Act authorizes the development of standards of quality, condition, quantity, grade, and packaging; whereas, the Federal Food, Drug, and Cosmetic Act (the act) authorizes only standards of identity, quality, and fill of container.

Section 401 of the act does not define the word "quality" and does not contain the word "condition." The agency has concluded that microbial levels are properly categorized under the act as reflecting the "quality" as well as the "condition" of a food.

2. Another comment objected to the language in § 103.5(a) "that microbial levels * * * are indicative of the quality of raw materials."

The agency acknowledged in both paragraph 2 of the preamble to the August 2, 1973 regulation and paragraph 2 of the August 9, 1976 notice that it is not unusual for the manufacturing process to reduce the level of microorganisms present in the finished food from the microbial level present in raw materials. However, this acknowledgment does not conflict with the statement in § 103.5(a) that microbial levels "are indicative of the quality of the raw materials and ingredients, the degree of quality control used in the manufacture, processing, and packing, and the conditions of distribution and storage."

This statement does not imply that the microbial level is necessarily due to any one of the factors listed in the statement. The microbial level, that is, the microbiological quality, of a food may be influenced by all the factors listed in § 103.5(a).

3. Four of the five comments received suggested that the regulation cite the specific need for the various microbiological standards. These comments questioned whether Subpart A would promote honesty and fair dealing in the interest of the consumer.

The agency stated in paragraph 1 of the August 9, 1976 notice that each microbial standard of quality will provide consumers with information on the microbial level of a specific food. The consumer will be informed whether a food exceeds the microbial limits of the standard and will thereby be given the choice of buying a food on that basis.

4. One comment argued that the term "contains excessive bacteria" would mislead consumers about the safety of the product, that it is an emotionally charged term which implies a safety concern, and, further, that the alternative general statement for the labeling of a substandard food does not contribute to informing the consumer of the nature of a deviation.

In paragraph 6 of the preamble to the August 2, 1973 regulation and paragraph 4 of the preamble to the August 9, 1976 notice, the agency stated that Subpart A does not provide that foods meeting established microbial quality standards are necessarily safe for all purposes, nor does the regulation authorize a representation of safety on the label. The agency recognizes that a declaration of substandard quality will carry a negative connotation and will likely reduce the value of products so labeled, but the suggestion that the consumer will be misled about safety is without merit. A general statement of substandard quality is permitted as an alternative precisely because the presence of excessive bacteria does not necessarily constitute a safety concern.

5. Several of the comments questioned whether adequate sampling and analytical criteria for determining microbiological quality have been provided. These comments argued for specific provisions for sampling in the distribution system.

The agency addressed this issue in paragraph 8 of the August 9, 1976 preamble notice, and in paragraph 14 of the preamble to the August 2, 1973 regulation, explaining that sampling during the manufacturing process is exclusively the responsibility of the manufacturer because the final standard will apply only to the finished food. Subpart A does not impose any sampling or testing requirements. However, everyone handling a food before retail sale is responsible for maintaining its microbiological quality. The agency concludes that because a microbiological quality standard will be continuously applicable to the finished food up to the point of retail sale, the designation of specific sampling points in the distribution system ordinarily will be unnecessary. Microbiological standards promulgated in the future may set forth more specific compliance requirements for individual products.

6. One comment cited the likely burden of the "relabeling" provision of § 103.5(b) that makes the regulation applicable to the entire chain of food distribution.

In paragraph 5 of the preamble to the August 2, 1973 regulation and paragraph 5 of the preamble to the August 9, 1976 notice, the agency stated that in some instances compliance with the regulation may require the complete relabeling and/or repacking of the product.

However, the agency advises that this is not a sufficient basis for nullifying the consumer's right to have substandard quality food labeled as such, regardless of what point in the manufacturing, distributing, or retailing sequence the food falls below standard quality. Where relabeling is required under the provision of Subpart A and when the relabeling is undertaken by a person other than the one whose name appears on the label as the manufacturer, packer, or distributor, it shall be the policy of FDA to permit modification of the original label only when the original manufacturer, packer, or distributor agrees to the manner of such relabeling. Otherwise, completely new labels will be required.

7. Another comment stated that the distributor rather than the manufacturer is to blame for the presence of substandard food in the market.

The agency responded to this comment in paragraph 5 of the preamble to the August 2, 1973 regulation and paragraph 6 of the preamble to the August 9, 1976 notice by pointing out that FDA has always had authority to take legal action against a product found to be adulterated or misbranded irrespective of who is responsible for the illegal condition of the food. The consumer rightly expects the quality of food to be adequately and continuously maintained through the point of retail sale. Regulatory action can and will be taken against a product that is substandard in quality and which fails to bear the label statement of substandard quality, regardless of whether the product deterioration occurred during the manufacture or subsequently during distribution or retailing.

8. A comment suggested that microorganisms are desirable and necessary in some foods and objected that no reference was made to this in the regulation.

In paragraph 2 of the preamble to the August 9, 1976 notice and paragraph 7 of the preamble to the August 2, 1973 regulation, the agency acknowledged that certain microorganisms are deliberate, desirable ingredients in some foods and in such instances cannot be considered to reduce quality. The controlled use of microorganisms is useful and desirable to impart a particular flavor or other desirable characteristics to foods such as cheese and some other dairy products. Subpart A is not intended to effect any changes in current good manufacturing practices for controlled use of microorganisms, and microbiological quality standards will not be established that would prohibit the use of such desirable microorganisms.

9. A comment questioned the need for microbiological quality standards because the presence of microorganisms is not noticeable to the consumer and because they often pose no health hazard.

The agency answered this comment in paragraph 1 of the preamble of the August 9, 1976 notice and paragraph 2 of the August 2, 1973 regulation by noting that the courts have long recognized that

the proper scope of the act in regulating the quality of foods is not limited to factors which are organoleptically perceptible to the consumer. Indeed, those factors which a consumer cannot detect are perhaps most deserving of attention by FDA. The agency concludes that it is reasonable and in the interest of consumers to establish microbiological quality standards for foods so that the consumer may have some assurance, where such standards have been promulgated, that unreasonable levels of microorganisms do not exist in foods not labeled to that effect.

10. Several comments argued that Subpart A should have been issued under section 701(e) of the act, rather than section 701(a).

In the introductory paragraph to the August 9, 1976 notice, the agency discussed its statutory authority for issuing Subpart A under section 701(a) of the act. Section 701(a) of the act authorizes the adoption of regulations "for the efficient enforcement of the Act." Although individual quality standards issued under section 401 of the act must be adopted through the procedures prescribed by section 701(e), it is entirely appropriate for the agency to explain in regulations adopted under the general rulemaking authority of section 701(a) how it will formulate quality standards generally. Nonetheless, the present document is responding to comments to the August 9, 1976 confirmation of this regulation to answer those who thought that section 701(e) was applicable.

11. One comment suggested that the microbial content of foods is an element of sanitation rather than quality and that, consequently, microbial levels should be established as advisory guidelines under the current good manufacturing practice (GMP) regulations.

In paragraph 2 of the preamble to the August 9, 1976 notice and paragraph 4 of the preamble to the August 2, 1973 regulation, the agency concluded that microbiological quality standards should be promulgated separately from GMP regulations. The GMP regulations are promulgated for the efficient enforcement of the adulteration provisions of the act, while the microbiological quality standards are not based on adulteration. The GMP regulations are generally limited to manufacturing procedures and usually do not extend to distribution and retail sale. The consumer is entitled to be informed of excessive levels of microbial organisms regardless of whether they result from manufacturing, distribution, or retailing practices. Where the need and sufficient data and resources exist for the promulgation of a quality standard, it would not be in the interest of consumers to delay promulgation until an appropriate GMP could also be developed.

However, the agency has determined that the establishment of recommended microbiological quality standards rather than regulations for the purpose of evaluating microbiological quality of specific foods may be appropriate in some cases. A more thorough discussion of this approach along with the full text of recommended microbiological quality standards for frozen fish sticks, fish cakes, and crab cakes is provided in a separate notice published elsewhere in this issue of the **Federal Register**.

Accordingly, Subpart A (§§ 103.3 and 103.5) of Part 103 stands as amended and confirmed in the **Federal Register** notice of August 9, 1976 (41 FR 33249) and as amended in the **Federal Register** of March 6, 1979 (44 FR 12169).

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16701 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 510 and 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Old Monroe Elevator & Supply Co., Inc., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine feeds, and to add this firm to the list of approved NADA sponsors.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Old Monroe Elevator & Supply Co., Inc., Old Monroe, MO 63369, is the sponsor of an NADA (119-261) providing for safe and effective use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound. The premix is to be used for manufacture of complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this application relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this NADA has been authorized by Elanco. Approval of this application poses no increased human risk from exposure to tylosin residues because the drug is currently regulated for the conditions of use herein approved. Accordingly, under the Bureau of Veterinary Medicine's Supplemental Approval Policy, 42 FR 64367, approval of this NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of the safety and effectiveness data in NADA-12-491.

Old Monroe Elevator & Supply Co., Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m. Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and delegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Old Monroe Elevator & Supply Co., Inc., Old Monroe, MO 63369.	026948
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
026948.....	Old Monroe Elevator & Supply Co., Inc., Old Monroe, MO 63369.
* * * * *	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(69) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(69) To 026948: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This amendment is effective June 3, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 27, 1980.

Lester M. Crawford,

Director, Bureau of Veternary Medicine.

[FR Doc. 80-16730 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Acetate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulation for sterile prednisolone acetate aqueous suspension to indicate the conditions of use for which applications for approval of identical products need not include certain types of effectiveness data. These conditions of use were classified as effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. Approval may require submission of bioequivalence or similar data instead of effectiveness data required under 21 CFR 514.111. An earlier **Federal Register** publication reflected this product's compliance with conclusions of the review.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of April 12, 1969 (34 FR 6447). In that document, the Academy concluded, and FDA concurred, that the product was effective as an anti-inflammatory agent for use in certain animals.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that identical products could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, responded to the notice by submitting a supplemental NADA (10-312V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product as an anti-inflammatory agent in horses, dogs and cats. The supplemental application was approved by a regulation published in the **Federal Register** of May 30, 1973 (38 FR 14166). The regulation reflecting this approval established a new section for the drug in 21 CFR 135b.82, recodified at 21 CFR 522.1881. The new section did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate the conditions of use for which applications for approval of identical products need not include certain types of effectiveness data required by § 514.111(a)(5)(ii)(*a*)(*4*) of the new animal drug regulations. Approval of applications for such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1881 by adding after paragraph (c)(1), (2), (3), (4), and (5) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 522.1881 Sterile prednisolone acetate aqueous suspension.

* * * * *

(c) *Conditions of use.* (1) * * *[1]

(2) * * *[1]

(3) * * *[1]

(4) * * *[1]

(5) * * *[1]

Effective date. This regulation shall be effective June 3, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: May 27, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-16732 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

[1] These conditions are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules and Regulations, Series 8; Service of Process and Papers

AGENCY: National Labor Relations Board.

ACTION: Amendments to rules.

SUMMARY: These regulations amend the Agency's rules to permit the service of process and of documents by certified mail as well as by registered mail pursuant to H.R. 5673 enacted by Congress on May 21, 1980.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: George A. Leet, Associate Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570, Telephone: 254-9430.

SUPPLEMENTARY INFORMATION: Sections 102.30(c) and 102.111(a) are amended to reflect the change mandated by Congress.

Subsection (c) is to read as follows:

§ 102.30 Examination of witnesses; deposition.

* * * * *

(c) At the time and place specified in said order the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and his testimony shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless

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made at the examination. The officer shall not have power to rule upon any objections but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding or investigation. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two copies of said transcript, together with his certificate, in person or by registered or certified mail to the regional director or the administrative law judge, care of the chief administrative law judge in Washington, D.C., or the presiding judge, San Francisco, California, as the case may be.

Subsection (a) is revised to read as follows:

§ 102.111 Service of process and papers; proof of service.

* * * * *

(a) Charges, complaints and accompanying notices of hearing, final orders, administrative law judges' decisions, and subpenas of the Board, its member, agent, or agency, may be served personally or by registered or certified mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered or certified and mailed or when telegraphed as aforesaid shall be proof of service of the same.

* * * * *

Dated: Washington, D.C., May 29, 1980.

By Direction of the Board:

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[FR Doc. 80-16848 Filed 6-2-80; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF EDUCATION

34 CFR Parts 5b, 30, 73, 100, 104, and 106

Establishment of Title 34; Correction Notice

AGENCY: Department of Education.

ACTION: Correction of final regulation.

SUMMARY: This document corrects errors in the final regulations establishing Title 34 and recodifying regulations of the Department of Education in that title, published in the **Federal Register** on May 9, 1980 (45 FR 30802).

EFFECTIVE DATE: May 4, 1980.

FOR FURTHER INFORMATION CONTACT:
A. Neal Shedd, Department of Education (Room 2129), Washington, D.C. 20202, Telephone: (202) 245-7091.

SUPPLEMENTARY INFORMATION: Certain regulations of the former Department of Health, Education, and Welfare were recodified by the Department of Education (ED) in Title 34 on May 9, 1980. These regulations apply to ED as a matter of law under Section 505(a) of the Department of Education Organization Act. Technical errors in the recodification document are identified and corrected by this notice of correction.

§ 5b.1 [Corrected]

34 CFR 5b.1(b) is corrected by changing the definition from " 'Agency' means the Department of Health, Education and Welfare." to read " 'Agency' means the Department of Education."

5B—APPENDIX B [CORRECTED]

34 CFR 5b Appendix B is corrected by changing "HEW" in the title of the appendix to read "ED". The title of Appendix B is listed correctly in the Table of Sections.

§ 73.735-1207 [Corrected]

34 CFR 73.735-1207(b)(1)(ii) is corrected by inserting the word "the" between the words "before" and "Department" in the first sentence.

PART 100—APPENDIX B [CORRECTED]

34 CFR 100 Appendix B is corrected by changing the words "I. Scope and Coverage 1a. application of guidelines 1a. application of guidelines" to read "I. Scope and Coverage

A. Application of Guidelines"

§ 104.23 [Corrected]

34 CFR 104.23 is corrected by inserting the words "of the standards are" between the words "Copies" and "obtainable" in the sentence at the end of of the section.

§ 106.2 [Corrected]

34 CFR 106.2 (b) is corrected by changing the definition from " 'Department' means the Department of Health, Education, and Welfare" to read " 'Department' means the Department of Education."

(Department of Education Organization Act, Pub. L. 96-88, October 17, 1979 (20 U.S.C. 3401 *et seq.*))

Dated: May 28, 1980

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-16824 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-02-M

POSTAL SERVICE

39 CFR Part 111

Electronic Postage Meters

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The final rule would amend postal regulations to include electronic meters in postage meter specifications. Since their introduction in 1920, all postage meters have performed their computations mechanically. Although existing regulations contain sufficient criteria to approve any meter based on endurance tests, the use of solid state electronics in postage meters requires additional criteria to more adequately assure the construction of electronic meters which are accurate and which protect postal revenue.

The final regulations also establish requirements for authorized meter manufacturers and anyone who proposes to become a meter manufacturer. These requirements were developed with the cooperation of meter manufacturers in the course of the development and approval of an electronic meter for the F.M.E. Corporation. In making the requirements, many things were taken into consideration, including the effects of temperature, humidity, altitude, vibration and shock, and electrical and electrostatic conditions which may be anticipated in transportation, handling, storage, and industrial use.

EFFECTIVE DATE: July 3, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. F. E. Gardner, (202) 245-4529.

SUPPLEMENTARY INFORMATION: On February 11, 1980 the Postal Service published for comment in the **Federal Register** (45 FR 9011) proposed changes to 144.9 of the Domestic Mail Manual as described in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by March 27, 1980.

Pitney Bowes, the only commenter, pointed out a printing error that we also had noticed in the spelling of the word "nonvolatile". The commenter also suggested a revision of the second sentence of 144.92i(1) to permit the optional use of a battery for a solid state memory, since not all solid state memories require the use of a battery. We revised the proposal to adopt this suggestion.

The commenter also expressed his understanding, which is correct, that the requirement of 144.92i(4) that electronic meters must be resettable by postal employees, preferably without customized equipment, does not conflict with the Computerized Postage Meter Resetting System covered elsewhere in Part 144 of the Domestic Mail Manual.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following changes to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. (39 CFR 111.1).

PART 144—POSTAGE METERS AND METER STAMPS

1. In 144.911b and in the first sentence of 144.92, strike out the word "mechanical".

2. In 144.92c, add after the second sentence the following: "In electronic meters, the locking device must prevent printing if the amount that would be printed would reduce the descending register to less than zero."

3. In 144.92d, strike out the word "mechanism" in the first sentence and insert "meter" in lieu thereof; and strike out the word "mechanism" in the third and fifth sentences and insert "components" in lieu thereof.

4. In 144.92h, strike out the word "mechanism" and insert "meter" in lieu thereof.

5. In 144.93, renumber .931-.936 as .932-.937.

6. Add new 144.92i and 144.931 reading as follows:

144.92 Specifications.

* * * * *

i. In addition to the features and safeguards described in a-h above, electronic meters must:

(1) Have either nonvolatile ascending and descending registers or a solid state memory that stores the data for the ascending and descending registers. Solid state memories that rely on applied voltage for memory retention must be powered by batteries that have a minimum support life of five years from date of battery renewal with no external power applied, and that have sufficient redundancy to be self checking.

(2) Be able to display the amounts in both the ascending and the descending registers (not necessarily at the same time).

(3) Be able to display—free from accidental changes—the amount of postage that will be printed next.

(4) Be resettable by postal employees, preferably without customized equipment.

(5) Contain a fault detection device for computational security that will automatically lock out the meter and prevent printing of additional postage in the event of malfunction.

(6) Meet Postal Service test specifications contained in United States Postal Service Specification, Postage Meters, Electronic, USPS-M-942(RCD). Persons wishing to manufacture electronic postage meters may obtain a copy of this Postal Service test specification from U.S. Postal Service, Office of Mail Classification, Washington, D.C. 20260.

.93 Test Plans, Testing and Approval

.931 Test Plans

To receive Postal Service approval, a postage meter must be tested. Manufacturers of electronic meters must submit a detailed test plan to the Office of Mail Classification for approval at least 60 days prior to the conduct of the tests. The test plan must include tests which, if passed by a meter, prove compliance by the meter with all postal requirements. The test plan must list the parameters to be tested, test equipment, procedures, test sample sizes, and test data formats. Also, it must include detailed descriptions, specifications, design drawings, schematic diagrams and explanations of the purposes of all special test equipment and nonstandard or noncommercial instrumentation.

7. In 144.943, revise the first sentence to read as follows:

"During the process of fabricating parts and assembling postage meters, the manufacturer must exercise due care to prevent loss or theft of keys or of serially numbered postage printing dies or component parts (such as denomination printing dies, or auxiliary power supply and meter setting equipment for electronic meters) which might be used in some manner to defraud the Government of postal revenues."

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80-16726 Filed 6-2-80; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

Extension of City Delivery

AGENCY: Postal Service.

ACTION: Final Rule.

SUMMARY: This final rule will permit the extension of delivery service sooner than would otherwise be the case. One of the current prerequisites for the establishment or extension of city delivery service is that fifty percent of the building lots in the area to be served must be improved with houses or business places. Under the final rule the fifty percent requirement could be waived if local postal delivery managers find that there is a reasonable expectation that fifty percent of the building lots in the area to be served will be improved within twelve months and that delivery will be made by the use of cluster boxes or neighborhood box units.

This final rule could result in the provision of city delivery service to customers who might not otherwise become eligible. Once service had been extended under the final rule in a particular area, the service would be available to other customers as soon as they moved into the area.

Although under the final rule the Postal Service would incur delivery service expenditures and obligations sooner than would otherwise be the case, it is anticipated that adoption of this rule will ultimately lead to long-term cost savings by encouraging customer acceptance of an effective form of home delivery service which is less costly for the Postal Service to provide.

EFFECTIVE DATE: July 3, 1980.

FOR FURTHER INFORMATION CONTACT:
Charles R. Braun, (202) 245-4620.

SUPPLEMENTARY INFORMATION: On April 22, 1980, the Postal Service published for comment in the **Federal Register** (45 FR 26982) proposed changes to 155.12 of the Domestic Mail Manual as described in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by May 22, 1980. No comments were received.

Accordingly, the Postal Service hereby adopts, without change, the following revisions of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1.

PART 155—CITY DELIVERY

In 155.1 of the Domestic Mail Manual, amend .12 to read as follows:

155.1 *Requirements for Delivery Service*

* * * * *

.12 *Extensions.* In this part the word "extension" refers to the initiation of city delivery service in any areas which are not included in the boundaries of present delivery service, but which are part of a community for which city delivery service has already been established. The delivery service requirements for extensions are the same as those listed in 155.11 for establishments, except that:

a. 155.11a does not apply to extensions; and,

b. The applicability of 155.11b may be waived if:

(1) There is a reasonable expectation that the requirements of 155.11b will be met within 12 months, and

(2) Clusterboxes or neighborhood box units will be used for delivery.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2); 403(a); 403(b)(1); 404(a)(1); 1001(e)(1), (4), (5); 2010)

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80-18727 Filed 6-2-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1502-3]

Approval and Promulgation of Implementation Plans; Emergency Episodes; Southeast Desert Air Basin, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: The EPA takes final action to approve portions of the emergency episode regulations and promulgate additional regulations for the Southeast Desert Air Basin (SEDAB). No action is being taken on the remainder of those rules. This notice affects Imperial County and the desert portions of Riverside, Los Angeles, and San Bernardino Counties. Together, these approved and promulgated rules meet all the requirements of 40 CFR 51.16, Prevention of air pollution emergency episodes.

EFFECTIVE DATE: July 3, 1980.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief, Technical Analysis Section (A-4-3), Air Technical Branch, Air & Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: On March 27, 1980 (45 FR 20119) the EPA published a Notice of Proposed Rulemaking regarding air pollution emergency episode rules in the SEDAB. That notice proposed to approve certain portions of Regulation VI (Rules 601-614), Emergency Regulations, for the Imperial County Air Pollution Control District (APCD) and Regulation VII (Rules 701-715), Emergencies, for the desert portions of the Riverside, Los Angeles, and San Bernardino County APCD's. In addition, the notice proposed supplemental regulations to insure that the Districts' emergency episode plans conform to all the requirements of 40 CFR 51.16. The additional rules that are being promulgated in this action include the following subjects:

1. Particulate matter episode criteria levels.

2. A time schedule for the submittal and review of stationary source curtailment plans.

3. More specific requirements for the content of such plans.

The California Air Resources Board (ARB) submitted Rules 601-614 on November 4, 1977 to the EPA for the Imperial County APCD and Rules 701-715 on June 6, 1977 for the SEDAB portion of the Riverside, Los Angeles, and San Bernardino County APCD's, as revisions to the California State Implementation Plan (SIP). Revisions to Rule 701 for the Riverside County APCD and Rules 701, 702, 712, and 715 for the San Bernardino County APCD were submitted on November 4, 1977.

The EPA is taking no action on those portions of the regulations that refer to carbon monoxide or sulfur dioxide. For a more detailed discussion supporting the above actions, consult the March 27, 1980 Notice.

Public comments and requests for a public hearing were invited in the Notice of Proposed Rulemaking. In response to that Notice, two comment letters were received regarding the emergency episode rules of San Bernardino, Imperial, and Riverside Counties. The comments and EPA's responses are as follows:

Comment: The EPA's SIP actions should be based on the most recent rules of the San Bernardino County Desert Air Pollution Control District.

Response: The only rules upon which the EPA may take action are those submitted by the State as revisions to the SIP. The rules submitted on November 4, 1977 are the most recent emergency episode rules for this District submitted to the EPA by the ARB.

Comment: No action should be taken on the emergency episode rules of the Riverside County APCD because all of this county is now included in the South Coast Air Quality Management District (SCAQMD) and subject to rules previously approved by the EPA.

Response: Although the Riverside County APCD may have become part of the SCAQMD, that jurisdictional change has not been submitted to the EPA by the ARB as a revision to the SIP. Thus the EPA must continue to rely on the rules submitted by the ARB for the Riverside County APCD.

Comment: A revised standard for particulates (TSP), based on particle size and health effects, is needed for rural agricultural areas.

Response: The EPA is reviewing the health effects of particulate matter to determine if the current standard should be revised.

Comment: Curtailment of farming operations would "create a chaotic condition and economic disruption".

Response: EPA does not propose to curtail farming operations. The implementation of such measures would be at the discretion of the Air Pollution Control Board, the County Counsel, and the Emergency Action Committee of Imperial County.

Comment: Windblown dust from agricultural areas is visible to the public and "this in itself would provide notification and self-control for health purposes".

Response: The EPA requires official public announcement whenever any episode stage has been determined to exist (40 CFR 51.16). The purpose of this notification is to inform people with special health problems that precautions should be taken against exposure to high TSP levels.

Comment: Source curtailment plans would have an insignificant effect on lowering the particulate concentration during episodes.

Response: During the stagnant meteorological conditions associated with an episode, there is very little wind-blown dust and negligible diffusion of other non-traditional source emissions. Emissions from stationary sources, although normally a small part of the emission inventory, gain importance during these conditions. Thus, stationary sources curtailment plans will have a significant impact on mitigating short term air quality problems.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

The ARB has certified that the public hearing requirements of 40 CFR 51.4 have been met.

(Secs. 110, 301(a) of the Clean Air Act, as amended (42 U.S.C. § 7410 and 7601(a)))

Dated: May 27, 1980.

Douglas M. Costle,

Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(39)(ii)(E), (c)(39)(iii)(E), (c)(39)(iv)(E), (c)(42)(i)(C), (c)(42)(xiii)(C), and (c)(42)(xiv)(B) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(39) * * *

(ii) * * *

(E) Rules 703, 704 (except those portions that pertain to the criteria levels for carbon monoxide and sulfur dioxide), 705, 706, 707, 708, 709, 710, 711, 713, and 714.

* * * * *

(iii) * * *

(E) Rules 701, 702, 703, 704 (except those portions that pertain to the criteria levels for carbon monoxide and sulfur dioxide), 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, and 715.

* * * * *

(iv) * * *

(E) Rules 702, 703, 704 (except those portions that pertain to the criteria levels for carbon monoxide and sulfur dioxide), 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, and 715.

* * * * *

(42) * * *

(i) * * *

(C) Rules 601, 602 (except those portions that pertain to the criteria levels for carbon monoxide and sulfur dioxide), 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, and 614.

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(xiii) * * *

(C) Rules 701, 702, 712, and 715.

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(xiv) * * *

(B) Rule 701.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(8), (a)(9), (a)(10), (a)(11), (o), and (p) as follows:

§ 52.274 California air pollution emergency plan.

(a) * * *

(8) Los Angeles County Air Pollution Control District.

(9) Riverside County Air Pollution Control District.

(10) San Bernardino County Desert Air Pollution Control District.

(11) Imperial County Air Pollution Control District.

* * * * *

(o) The requirements of this chapter are met in the Los Angeles County, San Bernardino County Desert, Riverside County, and Imperial County Air Pollution Control Districts with the following exceptions: (1) There is no time schedule to initiate the call for the submittal or the review of individual abatement plans from major stationary sources, as defined by section 169(1) of the Act; (2) the requirements for the content of the stationary source curtailment plans are not sufficiently specific to ensure that adequate plans are submitted; and (3) there are no episode criteria levels for particulate matter.

(p) *Regulation for prevention of air pollution emergency episodes—requirements for stationary source curtailment plans and particulate matter episodes.* (1) The requirements of this paragraph are applicable in the Los Angeles County, Riverside County, San Bernardino County Desert and Imperial County Air Pollution Control Districts.

(2) For the purposes of this regulation, the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ug/m^3" means micrograms per cubic meter.

(iii) "Major national holiday" means a holiday such as Christmas or New Year's Day.

(3) Stationary source curtailment plans shall be prepared by major stationary sources, as defined by section 169(1) of the Act:

(i) The plans required by this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board's Criteria for Approval of Air Pollution Emergency Abatement Plans (Executive Order G-63).

(B) The total number of employees at the facility during each work shift on a normal weekday and on a major national holiday.

(C) The amount of energy (gas, fuel oil, and electricity) used on a normal weekday and on a major national holiday.

(D) For first-stage episodes:

(*1*) The measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(*1*) The measures to curtail, as much as possible, equipment operations that emit air pollutants specific to the type of episode and, in the case of oxidant episodes, the equipment operations that emit hydrocarbons and nitrogen oxides.

(*2*) The measures to postpone operations which can be postponed until after the episode.

(F) For third-stage episodes:

(*1*) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in hydrocarbons, nitrogen oxides, and particulate matter emissions.

(*2*) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the hydrocarbons, nitrogen oxides and particulate matter emissions from such equipment.

(4) A copy of the stationary source curtailment plan approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(5) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed in subparagraph (3) of this paragraph shall submit a stationary source curtailment plan to the Administrator within 60 days after promulgation of final rulemaking.

(6) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator within 90 days.

(7) The owner or operator of any major stationary source required to submit a plan by this paragraph shall be notified by the Administrator within 30 days after the plan has been evaluated as to whether the plan has been approved or disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(8) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to:

Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco CA 94105.

(9) Any source that violates any requirement of this regulation shall be subject to enforcement action under section 113 of the Act.

(10) For the purposes of this regulation the following episode criteria shall apply to particulate matter episodes:

Pollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Particulate matter	24	375 μg/m³	625 μg/m³	875 μg/m³.

* * * * *

[FR Doc. 80-16783 Filed 6-2-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1505-5]

Approval and Promulgation of Implementation Plans; Alabama: 1979 Plan Revisions, Removal of Conditions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces final approval action on the State Implementation Plan (SIP) revisions which the Alabama Air Pollution Control Commission submitted pursuant to requirements of Part D, Title I of the Clean Air Act (CAA), as amended in 1977, with regard to particulate and ozone nonattainment areas. The revisions approved today correct two deficiencies noted in a conditional final approval announced in the November 26, 1979, **Federal Register** (44 FR 67375). The revisions were submitted on February 20, 1980, and amend the new source permitting requirements to require sources located outside nonattainment areas, but impacting those areas, and sources impacting secondary nonattainment areas, to undergo the more stringent permitting requirements specified in Section 173 of the Clean Air Act.

EPA has found that the deficiencies are adequately corrected by the revisions, and today approves them. This action renders the 1979 plan revisions for particulate and ozone fully approved, with no conditions, except for Morgan County. The State has requested redesignation of Morgan County to "unknown" (cannot be classified) based on four quarters of attainment data. This request will be dealt with in a separate **Federal Register** notice. It should be noted that the SO_2 plan revisions are undergoing separate approval procedures. The SO_2 plan revision was proposed for approval in the January 18, 1980, **Federal Register** (45 FR 3603). It should also be noted that the plan approved today does not contain measures to attain the particulate standards in Jefferson and Etowah Counties. The nonattainment designation for those areas was set aside by the Court of Appeals for the Fifth Circuit, and is being reproposed. The proposed designations appeared in the July 17, 1979, **Federal Register** (44 FR 41489).

DATE: These actions are effective June 3, 1980.

ADDRESSES: Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Pfaff, Air Programs Branch, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION:

Background

On April 19, 1979 the State of Alabama submitted SIP revisions, pursuant to Part D, Title I of the Clean Air Act, with regard to the following particulate and ozone nonattainment areas:

Total Suspended Particulate Matter (TSP) ((P) Primary, (S) Secondary Standards)

A. That portion of Jackson County surrounding the Tennessee Valley Authority's Widows Creek Plant (P)(S).

B. That portion of Mobile County within a section of downtown Mobile (P)(S).

C. A portion of Morgan County including portions of the City of Decatur (S).

Photochemical Oxidants (Ozone)

A. Jefferson County
B. Mobile County
C. Madison County
D. Morgan County
E. Russell County

Receipt of the Alabama revisions was first announced in the **Federal Register** of May 9, 1979 (44 FR 27183). In the July 19, 1979 **Federal Register** (44 FR 42242), EPA proposed conditional approval of the submitted revisions. Additional information requested by EPA was submitted on August 10, 1979. The materials submitted concerned clarification of issues addressed in the proposed conditional approval of July 19, 1979. In addition, the State requested in a separate letter on August 10, 1979, redesignation of the TSP nonattainment area in Morgan County to "unknown" (cannot be classified) based on four quarters of attainment data. This request will be dealt with in a separate **Federal Register** notice.

The Alabama revisions have been reviewed by EPA in light of the Clean Air Act Amendments of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4 (44 FR 20372), July 2 (44 FR 38583), August 28 (44 FR 50371), September 17 (44 FR 53716), and November 23 (44 FR 67182), 1979, and need not be repeated in detail here.

On November 26, 1979, EPA conditionally approved the SIP revisions for the above areas other than the Morgan County particulate nonattainment area (44 FR 67375). The conditions required that the State submit to EPA by February 15, 1980, amendments to the State permitting rules as discussed below (see General Discussion). The amendments were adopted February 13 and submitted to EPA on February 20, 1980.

General Discussion

The two deficiencies in the conditionally approved Alabama 1979 SIP revision, as noted in the November 26, 1979, **Federal Register** (44 FR 67375), accompanied by an explanation of the corrections submitted to EPA on February 20, 1980, are listed below.

1. The State will revise the applicability section of the permit requirements (16.3.2(c)) to apply to those sources significantly impacting a nonattainment area.

The revised regulation applies to sources significantly impacting a nonattainment area. A definition of "significant impact" is included which corresponds to EPA policy.

2. The State will remove the exemption under subparagraph 16.3.2.(d)(5) which exempts those sources impacting a secondary nonattainment area from certain permitting requirements specified in Section 173 of the Clean Air Act.

The referenced subparagraph has been deleted from the regulation.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as Alabama's, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978, and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by **Federal Register** notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Alabama plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

Action

Based on EPA's review of the February 20, 1980 submittal from the Alabama Air Pollution Control Commission and EPA's finding that the submittal fully corrects the deficiencies outlined in EPA's conditional approval of the Alabama SIP on November 26, 1979, EPA is deleting the conditions imposed on the November 26, 1979, approval of 1979 plan revisions submitted by Alabama. This action is effective immediately. The Administrator finds that good cause exists for making this action immediately effective in that the July 1, 1979, statutory deadline for approving Part D revisions is past; moreover, this rulemaking action imposes no additional burden on sources.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502).)

Dated: May 27, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart B—Alabama

1. In § 52.50 paragraph (c) is amended by deleting the second sentence of subparagraph (20), dealing with conditional approval, and by adding subparagraph (21) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(21) Revisions in permit regulations as follows: (i) Title of 16.3.2. is changed to "Permits to Construct in or near Nonattainment Areas;" (ii) a new subparagraph (9), "Significant Impact," is added to paragraph 16.3.2.(b); (iii) paragraph 16.3.2.(c) is revised; and (iv) subparagraph 16.3.2.(d)(5) is deleted; these revisions were adopted on February 13, 1980, and submitted on February 20, 1980, by the Alabama Air Pollution Control Commission to correct deficiencies in the Part D revisions given conditional approval by EPA on November 26, 1979.

2. Section 52.53 is revised to read as follows:

§ 52.53 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Alabama's plans for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

§ 52.58 [Revoked]

3. Section 52.58 is revoked.

[FR Doc. 80-16784 Filed 6-2-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 62

[FRL 1477-1]

Approval and Promulgation of State Plans for Designated Facilities; Emission Control of Existing Sulfuric Acid Plants

AGENCY: Environmental Protection Agency.

ACTION: Rule.

SUMMARY: Regulations promulgated under the provisions of Section 111(d) of the Clean Air Act as amended, require states to submit to the Environmental Protection Agency plans to control sulfuric acid mist emissions from existing sulfuric acid plants. Alternately, a state can submit to the Environmental Protection Agency a "negative declaration" which certifies that no existing sulfuric acid plants are located within the state's boundaries. In the January 17, 1980 **Federal Register** (45 FR 3334) the Environmental Protection Agency proposed approval of "negative declarations" submitted to it by the Commonwealth of Puerto Rico and the Territory of the Virgin Islands. The purpose of this **Federal Register** notice is to announce final approval of these "negative declarations" submitted by the Commonwealth of Puerto Rico and the Territory of the Virgin Islands.

DATES: This action becomes effective June 3, 1980.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act, as amended, and 40 CFR Part 60 require states to submit to the Environmental Protection Agency (EPA) plans to control emissions of designated pollutants from designated facilities. "Designated pollutants" are pollutants which are not included on a list published under the provisions of Section 108(a) or Section 112(b)(1)(A) of the Clean Air Act, but which are pollutants for which standards of performance for new sources have been established under Section 111(b) of the Clean Air Act. A "designated facility" is an existing facility which emits a designated pollutant and which would be subject to a new source performance standard for that pollutant if the facility were new. Alternately, as provided for in 40 CFR Part 62, a state can submit to EPA a "negative declaration" which certifies that no existing sulfuric acid plants are located within its boundaries.

On January 17, 1980 (45 FR 3334) EPA proposed in the **Federal Register** approval of "negative declarations" relating to sulfuric acid mist emissions from existing sulfuric acid plants for the Commonwealth of Puerto Rico and the Territory of the Virgin Islands. In the proposal, EPA invited the public to submit written comments on its intent to approve the negative declarations. EPA received no comment. Therefore, EPA is hereby promulgating its approval of the "negative declarations" as submitted by

the Commonwealth of Puerto Rico and the Territory of the Virgin Islands without change. Furthermore, this action is being made effective immediately as it poses no hardship on any source.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 111, 301(a), Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: May 28, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Part 62, Subchapter C, Chapter I, Title 40 of the Code of Federal Regulations is amended by adding §§ 62.13101 and 62.13351 as follows:

Subpart BBB—Puerto Rico

Sulfuric Acid Mist Emissions From Sulfuric Acid Plants

§ 62.13101 Identification of plan—Negative declaration.

The Commonwealth Environmental Quality Board submitted, on January 31, 1978, a letter certifying that there are no existing sulfuric acid plants in the Commonwealth subject to Part 62, Subpart A of this chapter.

Subpart CCC—Virgin Islands

Sulfuric Acid Mist Emissions From Sulfuric Acid Plants

§ 62.13351 Identification of plan—Negative declaration.

The Territory Department of Conservation and Cultural Affairs submitted, on November 8, 1977, a letter certifying that there are no existing sulfuric acid plants in the Territory subject to Part 62, Subpart A of this chapter.

[FR Doc. 80-16756 Filed 6-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 423

[FRL 1501-1]

Reinstatement of Coal Pile Pollutant Discharge Limitations at Electric Powerplants Under the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is reinstating pollutant discharge limitations for coal piles at electric power plants under the Clean Water Act. The limitations were issued in 1974 and vacated by court order in 1976.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this amendment shall be issued for purposes of judicial review at 1:00 p.m. eastern time on June 17, 1980. This amendment shall become effective on July 17, 1980.

FOR FURTHER INFORMATION CONTACT: John W. Lum or Teresa Wright, Effluent Guidelines Division (WH-552), EPA, 401 M Street, SW., Washington, D.C. 20460 (202) 426-4617.

SUPPLEMENTARY INFORMATION: On October 8, 1974, EPA promulgated effluent limitations guidelines under the Clean Water Act for the steam electric power generating industry. 39 FR 36198. These guidelines covered a wide variety of pollution discharges from power plants, and included a special subcategory of rainfall "runoff" controls. 40 CFR Part 423, Subpart D. This subcategory applied basically to three types of runoff sources at power plants: (1) Coal piles, (2) ash piles, and (3) construction sites.

On July 16, 1976, the Fourth Circuit Court of Appeals vacated several portions of EPA's power plant guidelines. *Appalachian Power v. Train*, 545 F. 2d 1351 (4th Cir. 1976). In its order, the Court vacated the runoff regulations in their entirety. 545 F. 2d at 1378.

In its discussion of the runoff regulations (545 F. 2d at 1372–75), however, the Court found no fault with the coal pile portions of the regulations. In fact, the power companies did not challenge the coal pile portions. Accordingly, EPA petitioned the Court on September 21, 1976 to reinstate the rainfall runoff regulations solely as they applied to coal piles. The power companies opposed EPA's request on the grounds that EPA was free to republish the coal pile portions without any further action from the Court because the Court had found no fault with the coal pile portions.

On November 17, 1976, the Court responded, in an unreported order, that "the relief sought by the Administrator may be supplied by him by reinstating such aspects of the standards affected in which the court found no deficiency, so long as such reinstatement is not inconsistent with our opinion and orders." Thus, while the Court declined to amend its order, it made clear that EPA was free to reinstate the coal pile portions administratively.

Since that time, power plants have generally consented to abide by the technically-vacated coal pile limitations. EPA has consequently not considered formal reinstatement a matter of priority.

EPA is now, however, preparing to propose major amendments to the existing steam electric guidelines in accordance with the 1977 Clean Water Act Amendments and the Consent Decree in *NRDC v. Train*, 8 ERC 2120, modified at 12 ERC 1833 (D.D.C. 1976, 1979). Before such a proposal is published, it would be appropriate to clarify precisely which portions of the area runoff regulations are now effective. Thus, consistent with the *Appalachian* orders of July 16 and November 17, 1976, EPA is today reinstating the coal pile portions of the regulations.

Because this rulemaking merely republishes a rule which the industry did not challenge and for which the Court found no fault, I find that proposal and public comment are unnecessary. In light of the utility companies' position on this matter, judicial review of today's action appears to be unlikely. In the event parties seek such review, however, EPA has specified above that the "two week deferral" contained in its new "racing" regulations (45 FR 26048, April 17, 1980) applies to this action.

(Secs. 301, 304, 501, Clean Water Act, 33 U.S.C. 1311, 1314, 1361)

Dated: May 27, 1980.

Douglas M. Costle,

Administrator.

§§ 423.40 and 423.41 [Amended]

1. 40 CFR 423.40 is amended to read as follows:

The provisions of this subpart are applicable to discharges resulting from runoff from coal piles at units subject to the limitations in Subparts A, B, or C of this part.

2. 40 CFR 423.41(b) is revoked.

3. 40 CFR 423.41(c) is revoked.

4. 40 CFR 423.41(d) is redesignated as 40 CFR 423.41(b).

[FR Doc. 80-16782 Filed 6-2-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A-11, Supp. 9]

Changes to Federal Travel Regulations; Corrections.

AGENCY: Transportation and Public Utilities Services, General Services Administration.

ACTION: Temporary regulation; Corrections.

SUMMARY: FPMR Temporary Regulation A-11, Supplement 9, published on April 23, 1980 (FR Doc. 80-12512), which amends the Federal Travel Regulations, is changed to (1) correct the spelling of "Pease AFB," that is included in the definition of Portsmouth/Newington, New Hamphsire, high rate geographical area, (2) correct the rate for Casper, Wyoming, and (3) add a change to paragraph 2-5.2.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis Hickman, Federal Travel Management Division (202-275-6144).

SUPPLEMENTARY INFORMATION: In FR Doc. 80-12512 appearing at page 27436 in the **Federal Register** of Wednesday, April 23, 1980, the following changes should be made:

1. On page 27440, under the heading "Designated high rate geographical areas," the Portsmouth/Newington definition is corrected to read as follows:

New Hampshire:

Portsmouth/Newington (all locations within the corporate limits of Portsmouth and Newington, including Pease AFB) (See also Kittery, ME.)

2. On page 27441, under the heading, "Designated high rate geographical areas," Casper, Wyoming, is corrected to read as follows:

Wyoming:

Casper.....$46

3. On page 27441, paragraph 2-5.2 is updated to bring paragraph b into conformance with the rest of the document as follows:

b. *Additional time in certain cases.* To the extent determined to be necessary, expenses as provided above may be allowed for a period not to exceed an additional 30 consecutive days while the employee and family are occupying temporary quarters if the employee is transferred either to or from Hawaii, Alaska, the territories and possessions, the commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979). The same considerations as expressed above are applicable in allowing any extension of the additional period.

* * * * *

Dated: May 28, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-16828 Filed 6-2-80; 8:45 am]

BILLING CODE 6820-AM-M

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41 CFR Part 101-11

[FPMR Amdt. B-44]

Records Management; Disposition of Federal Records; Correction

AGENCY: General Services Administration.

ACTION: Correction.

SUMMARY: This document corrects the text of FPMR Amendment B-44 concerning the disposition of Federal Records.

FOR FURTHER INFORMATION CONTACT: George N. Scaboo, Deputy Assistant Archivist for Federal Records Centers, Office of Federal Records Centers (202-724-1614).

In FR Doc. 80-2237 appearing at page 5704 in the **Federal Register** of January 24, 1980, the citation in the last line of paragraph (a)(1) of § 101-11.404-1 appearing on page 5706 is corrected to read § 101-11.406-8.

Dated: May 22, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-16765 Filed 6-2-80; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Grants for Family Planning Services

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The Public Health Service Act authorizes the Secretary of Health and Human Services to administer a program of grants for family planning services projects. This regulation amends the current rules in order to implement statutory amendments which require projects to: offer natural family planning methods, infertility services, and services to adolescents; assure that economic status not be a deterrent to receiving services; assure that local and regional entities participate in decisions to consolidate their projects and also have a voice in the ongoing decisionmaking of their consolidated grantees; and establish procedures for local review and approval of informational and educational materials.

EFFECTIVE DATE: June 3, 1980.

ADDRESSES: Written comments, preferably in triplicate, on those provisions incorporated in the final regulation which were not addressed in the Notice of Proposed Rulemaking (NPRM) due to subsequent statutory amendments, should be sent to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6-17, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received within 45 days of the date of publication of these regulations will be considered and will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. William White, Associate Bureau Director for Family Planning, Bureau of Community Health Services, Room 7-49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301 443-2430).

SUPPLEMENTARY INFORMATION: In September 1971, a regulation was published governing administration of project grants for family planning services which are authorized by section 1001 of title X of the Public Health Service Act (the Act) (42 U.S.C. 300). Amendments to title X enacted by Pub. L. 94-63 on July 29, 1975, added requirements for natural family planning services, participation of local and regional entities in consolidation decisions, and assurance that economic status not be a deterrent to receipt of services. A Notice of Intent (NOI) to Issue Proposed Rules, published on April 11, 1977 (42 FR 8947), discussed approaches to implementing these amendments, presented an additional issue involving removal of the waiver provision with respect to age discrimination, and invited public comment. The proposed changes to the regulation and discussions of comments received in response to the NOI were included in the NPRM published on September 19, 1978 (43 FR 42020).

Passage of Pub. L. 95-613 on November 8, 1978, further amended title X by adding specific provisions requiring projects to include infertility services and services to adolescents in the range of family planning services offered. Prior to the latest legislative changes, the statute (as amended by Pub. L. 94-63) authorized grants or contracts for voluntary family planning projects which "offer a broad range of acceptable and effective family planning

methods (including natural family planning methods)." Public Law 95–613 expanded this requirement to ". . . family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)." The regulation implements this statutory amendment by including these requirements in § 59.5(a)(1).

The new legislation also added a provision to assure that informational or educational materials developed or made available under title X projects are suitable for the family planning program's purposes and for the population or community for which they are intended. Grantees are required to establish broadly representative advisory committees to review and approve materials prior to distribution. To implement these requirements, a new subsection (§ 59.6) is added to the regulation. This section requires each project to establish an advisory committee of five to nine members who are broadly representative of the community, in such terms as race, religion, ethnicity, sex, age, educational level, cultural background and the standards of the population to be served. The committee is charged with assuring the factual correctness of the informational material and its acceptability to the community. The size of the committee (not less than five nor more than nine members) permits flexibility and was selected because it is a sufficient number of persons to carry out the requirement for broad representation, yet is small enough to act effectively and expeditiously in carrying out its functions; in order that the size limits not be unduly restrictive, however, the rule also includes a "good cause" waiver provision with respect to the number of advisory committee members.

As noted above, all provisions of these regulations are effective upon publication despite the fact that public comment was not requested upon those changes which implement the 1978 amendments. Those amendments do not have a major impact on the program and do not raise significant issues of policy. However, an additional period for public comment is being afforded on the provisions which reflect these amendments. Comments received by July 18, 1980 will be considered, and the regulation will be revised as warranted.

Summary of the Comments Received and the Department's Response

In response to the September 1978 NPRM, 35 comments were received from individuals, institutions, State entities, local organizations, and natural associations. The issues raised in these comments are discussed below:

1. Public Law 94–63 amended section 1006(c) of the Act to require that the Secretary define the term "low-income family" to ensure that economic status will not be a deterrent to participation in the programs assisted under title X. By statute, low-income individuals are the priority group to receive family planning services and may not be charged for these services. The present regulatory definition places "low income" at fixed dollar levels, for example, $5,000 annual income for a family of four. The legislative history of the amendment shows that it was intended that the levels be raised to dollar amounts which are more realistic in the current economy. The NPRM accordingly proposed to tie the income cutoff to an annually revised national standard or index. Specifically, "low income" was defined as 150 percent of the Community Services Administration (CSA) Income Poverty Guidelines. The NPRM further proposed that persons other than those from low-income families be charged in accordance with a schedule of discounts based on ability to pay, except that persons from families whose annual income exceeds 250 percent of the CSA Income Poverty Guidelines would receive no discount. Thus, 150 percent to 250 percent of the CSA Income Poverty Guidelines were the proposed parameters for the establishment of a sliding fee schedule.

A number of respondents objected to the proposed 150 percent-of-poverty-income level as the definition of "low income," and recommended that it be revised downward to 100 percent. The commenters state that funding levels have not even kept pace with inflation, much less with a proposed increase in the number of persons to be served without charge. They point out that setting the "low income" cutoff at 150 percent of poverty would therefore decrease the total number of persons who could be served in a program with limited funding. A further objection was that establishing the 150 percent income level would create administrative burdens and increased costs for local programs (such as community health centers) which are working to integrate family planning services with primary care, because it would mean administering a different fee scale in the same health care delivery system.

This recommendation has been accepted. The Secretary has decided to revise the low-income parameter to 100 percent of the CSA Income Poverty Guildelines, making it possible to collect partial fees from persons with incomes between 100 and 250 percent of the poverty level in accordance with their ability to pay. This change will permit the number of persons who can be served, in a program with limited funding, to be increased. The Secretary is retaining the 250 percent-of-poverty-income level as the outside parameter beyond which full charges must be made. (See § 59.5(a)(7) and § 59.5(a)(8).) The Department believes that this approach still assures that low-income persons receive priority and are not charged, yet it allows flexibility in administering the program so as to assure the economic viability of family planning projects. It is expected that the program will be administered in a manner to assure that individuals with incomes between 100 percent and 150 percent of the income poverty guide lines will not be deterred from participation in the family planning program. The reduction of "low income" from 150 percent to 100 percent of poverty is designed to permit the program to charge persons, with incomes at this level, who by their circumstances are able to pay for some portion of the cost of providing the services they receive. It must be recognized, however, that many individuals in this income range are not in a position to defray any portion of these costs, and the definition of "low income" in the final rule enables projects to take this into account. Thus, although the final rule permits charges to persons with annual incomes between 100 percent and 150 percent of poverty, it should be stressed that projects must implement this provision in a way which does not create barriers to the receipt of services.

2. The definition of "low-income family" provides that individuals whose families do not meet the established income cutoffs but who are otherwise unable to pay for family planning services receive service without charge. One comment supporting this concept urged that specific regulatory language be added to eliminate the possibility of any charge barriers to serving teenagers. Although the proposed rule contained requirements for the availability of services and the elimination of service barriers, it did not stress the provision of family planning services to teenages without charge as appropriate. The Department agrees with this comment, particularly in light of the recent statutory inclusion of specific language mandating services for adolescents. The final rule is thus amended (see § 59.2 for definition of "low-income family") to require consideration of unemancipated minors on the basis of their own

resources, as appropriate, when they wish to receive services on a confidential basis. However, parental knowledge of and support for such teenage involvement in the program may enhance the effectiveness of the services, and adolescents should be encouraged to consult with their parents, whenever it is judged by an appropriate clinic staff member to be feasible.

3. Public Law 94–63 amended section 1001(a) of the Public Health Service Act to require that the range of the family planning methods offered by the family planning projects include natural family planning methods. Twenty-seven comments were received regarding the provision of natural family planning services by title X projects. Although most of these supported the requirement for a broad range of family planning methods, ten comments urged that the regulation be amended to permit direct grant assistance to organizations which offer only natural family planning methods. This recommendation was rejected as contrary to the statute. The statute (as amended by Pub. L. 94–63) requires that family planning projects "shall offer a *broad range* (emphasis added) of acceptable and effective family planning methods (including natural family planning methods)." Therefore, grants cannot be made to entities which propose to offer only one method or a limited number of methods. It should be noted, however, that a facility or entity offering only natural family planning methods can receive assistance under title X by participating, as a provider of natural family planning services, in an otherwise approvable project which offers a broad range of services.

One additional comment recommended that the regulation mandate the provision of natural family planning services either on site or by referral if such services are requested by a patient who may be able to pay for medical services, but cannot obtain natural family planning services in that community. The regulation requires, consistent with the statute, that natural family planning services be made available by the project. (See § 59.5(a)(1).) Thus, where such services are not available otherwise locally, the project must provide them directly. Therefore, it is unnecessary to revise the regulation.

Several comments recommended inclusion of a definition of "natural family planning methods." This recommendation was not accepted. The statute requires that family planning methods supported under title X projects be acceptable and effective, and § 59.5(a)(1) implements this requirement with respect to natural family planning services (as well as other methods of family planning) by funding only those methods which are acceptable and effective. The National Institute for Child Health Development, Center for Population Research, uses funds appropriated under title X to conduct research to determine effective family planning methods. As research in the field of natural planning makes new information available, the Department will broaden its range of approvable natural family planning methods and notify the interested public to this effect. A regulatory definition of "natural family planning methods" therefore could be restrictive, and hence has not been adopted.

4. The requirement that projects provide medical services (e.g., a physician's examination, laboratory services, and referral to other medical facilities when indicated) was the subject of nineteen comments. Sixteen favored this requirement, but three opposed it as unnecessary in conjunction with the provision of natural family planning services. One of the purposes of the law is that comprehensive family planning services be offered, and these services include medical services. The Department recognizes that provision of effective natural family planning services must include counseling, with a particular focus and degree of intensiveness designed to teach use of natural family planning methods, as well as other social and ancillary services. However, medical services also are necessary to assure that abnormal conditions related to fertility planning are detected and that all risks and benefits are known to the individual and considered in the selection of an appropriate method. The requirement for a medical examination and other appropriate medical services with respect to the family planning methods (including natural family planning) offered by assisted projects is therefore retained.

5. Two comments addressed manpower competencies required in the delivery of natural family planning methods. One respondent recommended the inclusion of objective and performance-based competency standards for personnel providing instruction in natural family planning methods. Another comment included the suggestion that specific language regarding qualifications for natural family planning providers be added to the regulation in those subsections of the regulation which address training or experience requirements. These suggestions were not accepted because the regulation already provides that standards and qualifications be established for all personnel and for all facilities to be used by the project (§ 59.4(c)(3)). These standards and qualifications must be submitted as part of an application and are subject to approval during the review process. Qualifications for providers of specific methods of family planning are spelled out in program guidelines. Therefore, no change in this regard is made in the regulation.

6. Five comments recommended revision of data reporting requirements for natural family planning services so that more accurate data regarding current use of these methods would be available. Data reporting requirements are administratively imposed in accordance with departmental priorities, and the inclusion of specific data elements could impose undesirable inflexibility. Therefore, no change is made in the regulation.

7. Section 1001(b) of the Act, as amended, assures local and regional entities of the right to apply directly for title X grants, and requires the Secretary by regulation to "fully provide for and protect such right." The legislative history of section 1001(b) shows that the intent of this provision is to prevent "systematic" consolidation of grantees. The present regulation gives local and regional entities the right to apply directly for such assistance; the proposed rule required, in addition, appropriate documentation that local and regional entities have participated in consolidation decisions, to ensure that their concerns are considered. This latter provision is consistent with the legislative history of the amendment to section 1001(b), which indicated that the amendment was intended to assure local and regional entities of the right to participate in consolidation decisions which would affect their operations, as well as to assure potential and existing subgrantees of the right to participate in the ongoing decisionmaking of their respective consolidated grantees.

Several comments were received regarding the need for regulatory language to protect the rights of potential subgrantees. One comment suggested that the regulation provide that local entities receive copies of all rules or proposed rules; another comment requested a definition of "potential subgrantee." In response to these concerns, the provision for a waiver of the requirement (included in the proposed rule) has been dropped, so as to implement the amendment to

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section 1001(b) more effectively. Otherwise, the policies of the proposed rule have been retained unchanged.

One comment recommended that the regulation include a more specific monitoring procedure to assure subgrantee participation in decisionmaking. Because the regulation already requires applicants to document that entities which are potential subgrantees have been given an opportunity to participate in consolidation decisions, and describe how existing (or potential) subgrantees are to be given the opportunity to participate in the ongoing decisionmaking of their respective consolidated grantees (§ 59.5(a)(10), it is felt that a specific monitoring procedure in the regulation is unnecessary and would be unduly burdensome. Therefore, this suggestion was not adopted.

8. The present regulation requires that family planning services be available without discrimination on the basis of religion, creed, age, sex, number of pregnancies, or marital status except when grantees receive a waiver of this requirement for "good cause shown." One respondent stated that no State laws require parental consent prior to providing family planning services to minors and opposed the waiver provision on this basis. The recommendation to delete the waiver provision has been accepted, and the final regulation reflects this change. The Secretary believes that making the requirement nonwaivable is appropriate public policy and is consistent with the purpose of the Act to assist in making family planning services "readily available to *all* (emphasis added) persons desiring such services," Pub. L. 91–572, sec. 2(1). Moreover, it should be noted that no waiver is needed where refusal to serve minors is based on their inability to provide legally effective consent; in such case, denial of services is not based on parental-consent requirements and is not discrimination on the basis of age.

In addition to the above, extensive editorial changes have been made to the regulation. These changes have been made in accordance with the ongoing departmental effort to simplify and clarify departmental regulations.

Accordingly, the existing 42 CFR Part 59, Subpart A is revoked and a new Part 59, Subpart A is adopted as set forth below.

Dated: February 25, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: May 27, 1980.

Patricia Roberts Harris,

Secretary.

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

Subpart A—Project Grants for Family Planning Services

Sec.

59.1 To what programs do these regulations apply?
59.2 Definitions.
59.3 Who is eligible to apply for a family planning services grant?
59.4 How does one apply for a family planning services grant?
59.5 What requirements must be met by a family planning project?
59.6 What procedures apply to assure the suitability of informational and educational material?
59.7 What criteria will the Department of Health and Human Services (HHS) use to decide which family planning services projects to fund and in what amount?
59.8 How is a grant awarded?
59.9 For what purposes may grant funds be used?
59.10 What other HHS regulations apply to grants under this subpart?
59.11 Confidentiality.
59.12 Inventions or discoveries.
59.13 Additional conditions.

Authority: The provisions of this Subpart A are issued under sec. 6(c), 84 Stat. 1507, 42 U.S.C. 300a-4; sec. 6(c), 84 Stat. 1506, 42 U.S.C. 300.

Subpart A—Project Grants for Family Planning Services

§ 59.1 To what programs do these regulations apply?

The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children.

§ 59.2 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Family" means a social unit composed of one person, or two or more persons living together, as a household.

"Low income family" means a family whose total annual income does not exceed 100 percent of the most recent Community Services Administration Income Poverty Guidelines (45 CFR 1060.2). "Low-income family" also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources.

"Nonprofit," as applied to any private agency, institution, or organization, means that no part of the entity's net earnings benefit, or may lawfully benefit, any private shareholder or individual.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, Northern Marianas, or the Trust Territory of the Pacific Islands.

§ 59.3 Who is eligible to apply for a family planning services grant?

Any public or nonprofit private entity in a State may apply for a grant under this subpart.

§ 59.4 How does one apply for a family planning services grant?

(a) Application for a grant under this subpart shall be made on an authorized form.

(b) An individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of the grant, including the regulations of this subpart, must sign the application.

(c) The application shall contain—

(1) a description, satisfactory to the Secretary, of the project and how it will meet the requirements of this subpart;

(2) a budget and justification of the amount of grant funds requested;

(3) a description of the standards and qualifications which will be required for all personnel and for all facilities to be used by the project; and

(4) such other pertinent information as the Secretary may require.

§ 59.5 What requirements must be met by a family planning project?

(a) Each project supported under this part must:

(1) Provide a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including infertility services and services for adolescents). If an organization offers only a single method of family planning, such as natural family planning, it may

participate as part of a project as long as the entire project offers a broad range of family planning services.

(2) Provide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning. Acceptance of services must be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other service, assistance from or participation in any other program of the applicant.[2]

(3) Provide services in a manner which protects the dignity of the individual.

(4) Provide services without regard to religion, race, color, national origin, handicapping condition, age, sex, number of pregnancies, or marital status.

(5) Not provide abortions as a method of family planning.

(6) Provide that priority in the provision of services will be given to persons from low-income families.

(7) Provide that no charge will be made for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a Government agency) which is authorized to or is under legal obligation to pay this charge.

(8) Provide that charges will be made for services to persons other than those from low-income families in accordance with a schedule of discounts based on ability to pay, except that charges to persons from families whose annual income exceeds 250 percent of the levels set forth in the most recent CSA Income Poverty Guidelines (45 CFR 1060.2) will be made in accordance with a schedule of fees designed to recover the reasonable cost of providing services.

(9) If a third party (including a Government agency) is authorized or legally obligated to pay for services, all reasonable efforts must be made to obtain the third-party payment without application of any discounts. Where the cost of services is to be reimbursed under title XIX or title XX of the Social Security Act, a written agreement with the title XIX or title XX agency is required.

(10)(i) Provide that if an application relates to consolidation of service areas or health resources or would otherwise affect the operations of local or regional entities, the applicant must document that these entities have been given, to the maximum feasible extent, an opportunity to participate in the development of the application. Local and regional entities include existing or potential subgrantees which have previously provided or propose to provide family planning services to the area proposed to be served by the applicant.

(ii) Provide an opportunity for maximum participation by existing or potential subgrantees in the ongoing policy decisionmaking of the project.

(11) Provide for an Advisory Committee as required by § 59.6.

(b) In addition to the requirements of subsection (a) of this section, each project must meet each of the following requirements unless the Secretary determines that the project has established good cause for its omission. Each project must:

(1) Provide for medical services related to family planning (including physician's consultation, examination prescription, and continuing supervision, laboratory examination, contraceptive supplies) and necessary referral to other medical facilities when medically indicated, and provide for the effective usage of contraceptive devices and practices.

(2) Provide for social services related to family planning, including counseling, referral to and from other social and medical service agencies, and any ancillary services which may be necessary to facilitate clinic attendance.

(3) Provide for informational and educational programs designed to (i) achieve community understanding of the objectives of the program, (ii) inform the community of the availability of services, and (iii) promote continued participation in the project by persons to whom family planning services may be beneficial.

(4) Provide for orientation and inservice training for all project personnel.

(5) Provide services without the imposition of any durational residency requirement or requirement that the patient be referred by a physician.

(6) Provide that family planning medical services will be performed under the direction of a physician with special training or experience in family planning.

(7) Provide that all services purchased for project participants will be authorized by the project director or his designee on the project staff.

(8) Provide for coordination and use of referral arrangements with other providers of health care services, local health and welfare departments, hospitals, voluntary agencies, and health services projects supported by other Federal programs.

(9) Provide that if family planning services are provided by contract or other similar arrangements with actual providers of services, services will be provided in accordance with a plan which establishes rates and methods of payment for medical care. These payments must be made under agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to substantiate that these rates are reasonable and necessary.

(10) Provide, to the maximum feasible extent, an opportunity for participation in the development, implementation, and evaluation of the project by persons broadly representative of all significant elements of the population to be served, and by others in the community knowledgeable about the community's needs for family planning services.

§ 59.6 What procedures apply to assure the suitability of informational and educational material?

(a) A grant under this section may be made only upon assurances satisfactory to the Secretary that the project shall provide for the review and approval of informational and educational materials developed or made available under the project by an Advisory Committee prior to their distribution, to assure that the materials are suitable for the population or community to which they are to be made available and the purposes of title X of the Act. The project shall not disseminate any such materials which are not approved by the Advisory Committee.

(b) The Advisory Committee referred to in subsection (a) of this section shall be established as follows:

(1) *Size.* The Committee shall consist of no fewer than five but not more than nine members, except that this provision may be waived by the Secretary for good cause shown.

(2) *Composition.* The Committee shall include individuals broadly representative (in terms of demographic factors such as race, color, national origin, handicapped condition, sex, and age) of population or community for which the materials are intended.

(3) *Function.* In reviewing materials, the Advisory Committee shall:

[2] Section 205 of Pub. L. 94–63 states: "Any (1) officer or employee of the United States, (2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or (3) person who receives, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than $1,000 or imprisoned for not more than one year, or both."

(i) Consider the educational and cultural backgrounds of individuals to whom the materials are addressed;

(ii) Consider the standards of the population or community to be served with respect to such materials;

(iii) Review the content of the material to assure that the information is factually correct;

(iv) Determine whether the material is suitable for the population or community to which it is to be made available; and

(v) Establish a written record of its determinations.

§ 59.7 What criteria will Health and Human Services use to decide which family planning services projects to fund and in what amount?

(a) Within the limits of funds available for these purposes, the Secretary may award grants for the establishment and operation of those projects which will in the Department's judgment best promote the purposes of section 1001 of the Act, taking into account:

(1) The number of patients and, in particular, the number of low-income patients to be served;

(2) The extent to which family planning services are needed locally;

(3) The relative need of the applicant;

(4) The capacity of the applicant to make rapid and effective use of the Federal assistance;

(5) The adequacy of the applicant's facilities and staff;

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project; and

(7) The degree to which the project plan adequately provides for the requirements set forth in these regulations.

(b) The Secretary shall determine the amount of any award on the basis of his estimate of the sum necessary for the performance of the project. No grant may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project which was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.

(c) No grant may be made for an amount equal to 100 percent of the project's estimated costs.

§ 59.8 How is a grant awarded?

(a) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3 to 5 years.

(b) Generally the grant will initially be for 1 year and subsequent continuation awards will also be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 59.9 For what purpose may grant funds be used?

Any funds granted under this subpart shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

§ 59.10 What other HHS regulations apply to grants under this subpart?

Attention is drawn to the following HHS Department-wide regulations which apply to grants under this subpart. These include:

42 CFR Part 50—PHS Informal Grant Appeals Procedure
45 CFR Part 16—Department Grant Appeals Process
45 CFR Part 19—Limitation on Payments or Reimbursements for Drugs
45 CFR Part 74—Administration of Grants
45 CFR Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services' Implementation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and Procedures for Hearings Under Part 80
45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
45 CFR Part 90—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.
42 CFR Part 122, Subpart E—Health System Agency Reviews of Certain Proposed Uses of Federal Health Funds.

§ 59.11 Confidentiality.

All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

§ 59.12 Inventions or discoveries.

(a) A project grant award is subject to the regulations of HHS as set forth in 45 CFR Parts 6 and 8, as amended. These regulations shall apply to any activity of the project for which grant funds are used, whether the activity is part of an approved project or is an unexpected byproduct of that project.

(b) The grantee and the Secretary shall take appropriate measures to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the grant activity are aware of and comply with such obligations.

§ 59.13 Additional conditions.

The Secretary may, with respect to any grant, impose additional conditions prior to or at the time of any award, when in the Department's judgment these conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.

[FR Doc. 80-16733 Filed 6-2-80; 8:45 am]
BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5726

[S-229]

California; Withdrawal for Reclamation Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will withdraw approximately 1,515 acres of national forest land located within the Tahoe National Forest from the operation of the mining laws for the construction, operation, and maintenance of the Sug

Pine Dam and Reservoir, a Water and Power Resources Service project in Placer County, California.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior pursuant to Section 204 of the Act of October 21, 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from location and entry under the mining laws, (30 U.S.C. Ch. 2), and reserved for the Sugar Pine Dam and Reservoir project.

Tahoe National Forest

Sugar Pine Reservoir; Mount Diablo Meridian

T. 15 N., R. 10 E.,
Sec. 13, NE¼SE¼, S½NW¼SE¼, and S½SE¼;
Sec. 24, S½NW¼ and SW¼.
T. 15 N., R. 11 E.,
Sec. 18, lots 3 and 4, E½, S½SE¼NW¼, and E½SW¼;
Sec. 19, lots 1, 2, 5, 6, 7, and 8 (Iowa Hill 1, 2, 3, and 4), E½, and E½NW¼.

The area described aggregates 1,515.77 acres in Placer County, California.

2. Of the lands listed in paragraph 1, the following were reconveyed to the United States on February 27, 1932, with all minerals reserved to the Grantor for a 50-year period, at which time all minerals will vest in the United States.

T. 15 N., R. 11 E., M.D.M.,
Sec. 19, lots 1, 2, 5, 6, 7, and 8, E½, and E½NW¼.

Therefore, on February 27, 1982, subject to valid existing rights, the aforedescribed mineral estate is withdrawn from location and entry under the mining laws, (30 U.S.C. Ch. 2).

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of national forest lands under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 100 years from the date of this order.

Inquiries concerning the land should be addressed to the Bureau of Land Management, U.S. Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Guy R. Martin,
Assistant Secretary of the Interior.
May 27, 1980.

[FR Doc. 80-16738 Filed 6-2-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5727

[N-054565, N-6453]

Nevada; Withdrawal and Reservation of Lands: Extending the Eastern Boundary of the Toiyabe National Forest

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order adds 1,133 acres of public domain land and approximately 10,977 acres of patented land to the Toiyabe National Forest and deletes 87 acres of patented land.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751, 43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described land is subject to all laws and regulations of the Toiyabe National Forest. The land is segregated from all forms of appropriation under the public laws excluding the mining and mineral leasing laws:

Mount Diablo Meridian

T. 12 N., R. 19 E.,
Sec. 4, W½ of lots 1 and 2 of NE¼, NW¼SE¼;
Sec. 22, NW¼, N½SW¼, SE¼ (fractional);
Sec. 23, SW¼SW¼;
Sec. 26, lot 5.
T. 13 N., R. 19 E.,
Sec. 4, lots 1 and 2 of NE¼, SE¼;
Sec. 9, NE¼NE¼, W½NE¼, NW¼SE¼;
Sec. 15, SW¼;
Sec. 16, SE¼NE¼, E½SE¼;
Sec. 21, E½E½;
Sec. 22, NW¼;
Sec. 28, E½, S½SW¼;
Sec. 33, N½, SW¼, W½SE¼.
T. 14 N., R. 19 E.,
Sec. 3, all;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, SE¼;
Sec. 9, E½;
Sec. 10, N½;
Sec. 16, W½E½.
T. 15 N., R. 19 E.,
Sec. 2, lot 1 of NW¼, E½ of lot 2 of NW¼, SW¼;
Secs. 3, 4, 8, 9, those portions lying south and east of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line;
Sec. 10, all;
Sec. 11, W½;
Sec. 14, W½, exclusive of patented M.S. 38;
Sec. 15, exclusive of patented M.S. 38;
Sec. 16, all;
Sec. 17, NE¼, N½NW¼, that portion lying southeast of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line, NE¼SW¼, S½SW¼, SE¼;
Sec. 20, SW¼;
Sec. 21, S½SW¼;
Sec. 22, NE¼, S½;
Sec. 23, W½;
Sec. 27, all;
Sec. 28, SE¼;
Sec. 29, NE¼, N½NW¼;
Sec. 33, NE¼, NW¼SE¼;
Sec. 34, N½, N½SW¼, SE¼SW¼, SE¼.
T. 16 N., R. 19 E.,
Sec. 34, SE¼, that portion lying south and east of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line;
Sec. 35, SE¼SW¼, N½SW¼, SW¼SW¼, that part south of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line.

The areas described aggregate approximately 12,110 acres of public and patented lands in Ormsby and Douglas Counties. Of these lands, the following are public lands:

Mount Diablo Meridian

T. 12 N., R. 19 E.,
Sec. 23, SW¼SW¼;
Sec. 26, lot 5.
T. 13 N., R. 19 E.,
Sec. 15, SW¼;
Sec. 21, NE¼NE¼;
Sec. 22, NW¼.
T. 15 N., R. 19 E.,
Sec. 10, NE¼NE¼, S½SE¼;
Sec. 11, NW¼NW¼;
Sec. 14, W½NW¼, exclusive of patented M.S. 38, SW¼;
Sec. 15, NE¼NE¼, exclusive of patented M.S. 38, W½NE¼;
Sec. 27, W½NE¼.
T. 16 N., R. 19 E.,
Sec. 35, N½SW¼, SW¼SW¼, that part south of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line.

The areas described aggregate approximately 1,133 acres.

The following described patented land will be excluded from the Toiyabe National Forest and the boundary of said forest will be adjusted accordingly:

Mount Diablo Meridian

T. 12 N., R. 19 E.,
Sec. 9, E½NE¼.
T. 16 N., R. 19 E.,
Sec. 35, N½SE¼, that part lying north of hydrographic divide between Washoe Lake and Carson River being the old Washoe County line.

The areas described aggregate 87 acres in Douglas and Ormsby Counties.

Guy R. Martin,

Assistant Secretary of the Interior.

May 27, 1980.

[FR Doc. 80-16737 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-DR-205K]

Disaster Assistance: Flood Insurance Requirements

AGENCY: Federal Emergency Management Agency, Disaster Response and Recovery.

ACTION: Final rule.

SUMMARY: This rule redesignates the existing Subpart E of 44 CFR Part 205 as a new Subpart K, amends certain sections, and clarifies and updates FEMA policies concerning flood insurance requirements under Pub. L. 93–234 for disaster assistance under the Disaster Relief Act of 1974, Pub. L. 93–288. It describes requirements to obtain flood insurance placed on recipients from FEMA of financial assistance for acquisition or construction under that Act.

EFFECTIVE DATE: July 3, 1980.

FOR FURTHER INFORMATION CONTACT: Gene Morath, Office of Public Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472; Telephone: (202) 634–7835.

SUPPLEMENTARY INFORMATION: A notice issued in the **Federal Register** on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Chapter I, Federal Emergency Management Agency, with Subchapters A–E) indicated that Disaster Assistance would be Subchapter D, Parts 200–299. On September 28, 1979, FEMA published a Notice of Transfer and Redesignation that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200–2205 to 44 CFR Part 200 *et seq.* The regulations implementing the Disaster Relief Act of 1974, Pub. L. 93–288 (44 CFR Part 205), are in the process of reorganization and revision.

On November 1, 1979, the Associate Director for Disaster Response and Recovery Published in the **Federal Register** (44 FR 63070) a proposed rule to revise and recodify the material in the existing 44 CFR 205 Subpart E as a new Subpart K. The proposed rule incorporated material previously published in the FEMA Insurance Handbook for Public Assistance, 3300.13 and portions of the material have been revised to clarify existing policy and procedures. Comments were invited to December 31, 1979. In addition, copies were sent to each State official responsible for disaster operations.

Eight comments were received, including submissions from Minnesota, New York, and Pennsylvania. One State cited its experience with flooding disasters, pointing out that basing the flood insurance requirement for public assistance on the full insurable value of the property was unreasonable and counter production to its hazard mitigation efforts. It also questioned the excessive amount of contents coverage required as a condition for receiving Federal disaster assistance for publicly-owned buildings. Another State questioned why emergency work was not excluded, and also questioned the flood insurance requirement for structures located outside of the base floodplain (flood hazard area). The other State requested clarification as to what types of emergency work are subject to the flood insurance requirement. The remaining comments urged that the flood insurance requirement be based on the Federally funded project cost, and one suggested that flood insurance be required for damage restoration work in non-flooding disasters.

All of the above comments were considered carefully in developing the final rule. The October 12, 1977, amendment (Pub. L. 95–128) to the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) eliminated the original exemption for emergency work, and also eliminated the previous requirement for flood insurance for Federal financial assistance in non-flooding disasters. Section 314, Pub. L. 93–288, requires such hazard insurance as may be reasonably available, adequate, and necessary for assistance under Sections 402 and 419 of Pub. L. 93–288. As was indicated in the proposed rule, § 205.253(a)(4), in such cases flood insurance may be required under Pub. L. 93–288 for buildings located outside of the base floodplain under Subpart J of the regulations. (Subpart J—General Insurance Requirements—was published as a final rule on December 11, 1979, in 44 FR 71794). Regarding the amount of flood insurance coverage on buildings and contents, the guidelines published by the Federal Insurance Administration on February 17, 1978, (43 FR 7146) base the mandatory insurance requirement on the "project cost" as the administering Federal agency involved normally would construe it. In administering the Federal disaster public assistance program a "project" is synonymous with the Federal financial assistance for the cost of repairing or restoring a particular damaged public facility. Based on the comments received we have modified the regulation to base the requirement for mandatory flood insurance on the amount of the applicable Federal grant (project cost) for the structure. This will place the flood insurance requirement on the same basis as the hazard insurance required under Section 314, Pub. L. 93–288, as provided in Subpart J of these regulations. Emergency work is covered in Subpart E (Public Assistance) which was published as a proposed rule on November 1, 1979, (44 FR 63061). Consequently, it is not deemed necessary to provide further discussion in this subpart, except to point out that "emergency work" as used herein refers to any Federal financial assistance for acquisition or construction purposes.

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

The regulation is in consonance with the provision of the Executive Order dated November 16, 1979, and does not impose an unnecessary burden on the small business sector of the economy.

§§ 205.61—205.64 (Subpart E) [Deleted]

Accordingly, 44 CFR Part 205 of the Federal Disaster Assistance Regulations is revised by deleting Subpart E (§§ 205.61—205.64) and adding a new Subpart K (§§ 205.250—205.253) as follows:

Subpart K—Flood Insurance Requirements

Sec.

205.250 General.
205.251 Definitions.
205.252 Exclusions.
205.253 Applicability.

Authority: Sec. 601, Disaster Relief Act of 1974, as amended, Pub. L. 93–288, 88 Stat. 163 (42 U.S.C. 5201); Executive Order 12148 (44 FR 43239); and Delegation of Authority (44 FR 44792).

§ 205.250 General.

(a) The Flood Disaster Protection Act of 1973, Pub. L. 93–234, as amended, imposes certain restrictions on approval of Federal financial assistance for acquisition or construction purposes for use in any area defined by the Director, FEMA, as an area having special flood hazards. This subpart implements Pub. L. 93–234 as amended, except as specified in paragraph (b) of this section.

(b) Specific flood insurance requirements pertaining to Temporary Housing Assistance and Individual and Family Grants are contained in new Subpart D, §§ 205.52 and 205.54, respectively. To the extent this subpart is inconsistent with those sections, the more specific regulations in those sections apply.

§ 205.251 Definitions.

As used in this Subpart:

(a) "Building" means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on a foundation.

(b) "Community" means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native Village or organization which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

(c) "Federal financial assistance" means any loan or grant or other form of direct or indirect Federal financial assistance under the Act and these regulations which is not excluded under § 205.252.

(d) "Financial assistance for acquisition or construction purposes" means any form of Federal financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machines, equipment, fixtures, and furnishings contained or to be contained in them but shall exclude assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood).

(e) "National Flood Insurance Program" (NFIP) means the program authorized by 42 U.S.C. 4001–4128.

§ 205.252 Exclusions.

(a) The following categories of Federal disaster assistance are excluded from the provisions of the Flood Disaster Protection Act of 1973:

(1) Federal financial assistance on any State-owned property that is already covered by an adequate State policy or self-insurance approved by the Director, Federal Emergency Management Agency.

(2) Federal financial assistance under Title II of the Act.

§ 205.253 Applicability.

(a) Federal financial assistance for acquisition or construction purposes.

(1) FEMA shall not approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Director, FEMA, as an area having special flood hazards unless the community in which such area is situated is participating in the National Flood Insurance Program at the time of the approval. This prohibition applies only to communities which have been formally identified for at least one year as communities containing one or more areas having special flood hazards. The "time of approval" of financial assistance is the date on which the authorized FEMA official obligates Federal grant or loan funds. This subsection does not mandate a requirement for community participation in connection with damage resulting from a hazard other than flooding.

(2) FEMA shall not approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Director, FEMA, as an area having special flood hazards and in which the sale of flood insurance is available under the National Flood Insurance Program unless the building or mobile home and their contents to which the financial assistance relates are or will be covered by an adequate policy of insurance. As in § 205.253(a)(1) above, this subsection does not mandate a requirement for an insurance purchase in connection with damage resulting from a hazard other than flooding.

(i) As a condition for receiving a grant under the Act, an adequate flood insurance policy for a project involving emergency or permanent work shall be:

(A) The Standard Flood Insurance Policy (44 CFR Part 61, Appendix A) or one which complies with the criteria for the "Acceptance of Private Flood Insurance To Meet Statutory Requirement (43 FR 7147, at "D"); and

(B) Purchased and maintained to cover the insurable building and any contents to which the grant relates during the anticipated useful life of the project, as determined by the Regional Director, in an amount equal to the lesser of the project cost (less estimated land cost, if any) or the maximum available limits of flood insurance coverage under the National Flood Insurance Act of 1968.

(ii) For purposes of this paragraph (a)(2), the term "project" shall mean the construction, acquisition, restoration or repair of a building or a part thereof together with the repair, restoration or replacement of any personal property to which the financial assistance relates.

(3) In the case of subparagraph (1) or (2) of this paragraph, any building may become eligible for Federal financial assistance if the community concerned:

(i) Qualifies for and enters the NFIP within six months after the date of the Presidential declaration,

(ii) Obtains and maintains the necessary flood insurance, and

(iii) Provides FEMA with written evidence of that insurance.

(4) If the applicant replaces a building outside of the base floodplain, Federal financial assistance will not be denied for failure of the community to participate in the NFIP or to obtain/maintain flood insurance, unless required under Subpart J of these regulations by the Regional Director as a condition for disaster assistance under the Act.

(b) The Regional Director shall work closely with the Governor's Authorized Representative, and State and local governments, to ensure that the provisions of this subpart for special flood hazard areas are considered in the processing and approval of project applications. In addition, the Regional Director shall require compliance with the provisions of this subpart in issuing mission assignments for direct Federal assistance under Subpart H of these regulations whenever property subject to the provisions of the Flood Disaster Protection Act of 1973 is involved.

(c) For any State owned building not covered by an approved State policy or self-insurance, the Regional Director shall require proof of adequate flood insurance covering proposed disaster assistance eligible for reimbursement under the Act.

(d) In accordance with § 205.253(a)(1) and (2) above, the applicant shall make a commitment to continue flood insurance for the useful life of the project, as determined by the Regional Director. For those buildings on which the eligible applicant is delinquent on prior flood insurance commitments in previous disasters, the Regional Director shall suspend any future Federal financial assistance for acquisition or construction purposes until such delinquency is eliminated. In such cases, any assistance shall be reduced by the insurance settlement which would have been received had the required insurance coverage been maintained in force.

(e) When a State has been approved by the Director, FEMA, as a self-insurer prior to the declaration of a major disaster or an emergency, the Regional Director shall determine the amount of self-insurance applicable to any building

damaged by a major disaster and shall deduct such self-insurance coverage from the Federal grant for disaster assistance work.

(f) In administering this section, the Regional Director shall utilize current information from the Federal Insurance Administration to identify States having a satisfactory program of self-insurance, the communities eligible for flood insurance under the regular or emergency programs, flood hazard boundary maps, and flood insurance rate maps.

(Sec. 601, Disaster Relief Act of 1974, as amended, Pub. L. 93-288, 88 Stat. 163 (42 U.S.C. 5201); Executive Order 12148 (44 FR 43239); and Delegation of Authority (44 FR 44792))

Issued at Washington, D.C., May 27, 1980.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-16758 Filed 6-2-80; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 65

[Docket No. FEMA-5831]

Notice of Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurnace Administrator, after consultation with local officials of the communities listed below, has determined based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the forseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood Insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of coversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State, County, Community Name, and Date of Conversion to Regular Program.

State	County	Community name	Date of conversion to regular program
Colorado	Otero	City of Rocky Ford.	June 3, 1980.
Nebraska	Cass	Village of Greenwood.	June 3, 1980.
Ohio	Ottawa	Village of Clay Center.	June 20, 1980.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16760 Filed 6-2-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF EDUCATION

45 CFR Part 100c

Education Division General Administrative Regulations (EDGAR) Amendments

AGENCY: Department of Education.

ACTION: Final Amendments.

SUMMARY: This document makes technical amendments to the Education Division General Administrative Regulations (EDGAR) to revise the definitions of "Department" and "Secretary" to bring them up to date with the creation of the Department of Education on May 4, 1980.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd; (202) 245-7091.

Part 100c of Title 45 of the Code of Federal Regulations is amended as follows:

§ 100c.1 [Amended]

(1) The title of § 100c.1 is revised to read:

§ 100c.1 Definitions that apply to all programs.

* * * * *

(2) The definition of "Department" is revised to read: "Department" means the U.S. Department of Education.

* * * * *

(3) The definition of "Secretary" is revised to read:

"Secretary" means the U.S. Secretary of Education, or an official or employee of the Department acting for the Secretary under a delegation of authority.

Dated: May 28, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-16823 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 283

Dividend Policy for Operators Receiving Operating-Differential Subsidy

AGENCY: Maritime Administration, Commerce.

ACTION: Final Rule.

SUMMARY: The final amendment effectuated by this action adjusts the dividend requirements of 46 CFR Part 283 to reflect more appropriately the financial nature of the maritime industry and certain financial standards utilized by the Maritime Administration (MarAd) in other programs. As a result of this amendment, reliance on the working capital standard is deemphasized and a greater reliance is placed on long-term indictors of financial strength, such as the long-term debt to net worth ratio, net worth level and funds available for new construction and for other uses. In our opinion, the dividend policy as amended is less restrictive than the old policy. A lengthy calculation required for reporting purposes under the old policy has been eliminated, as well as the reporting requirement for operators not desiring to pay a dividend. In addition, the new policy will be easier to administer and less subjective in operation.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Office of the Secretary, Maritime Administration, Telephone: (202) 377-2188.

SUPPLEMENTARY INFORMATION: On July 18, 1979, the Maritime Administration (MarAd), published in the **Federal Register** a proposed rule (44 Fr 41854) to revise 46 CFR Part 283. Responses to the Notice were received on behalf of (1) Suwannee River Finance, Inc., Suwannee River SPA Finance, Inc. and Suwannee River Phosphate Finance, Inc. (Suwannee), (2) American President Lines, Ltd. (APL), (3) Moore McCormack Lines, Incorporated (MorMac), (4) Waterman Steamship Corporation (Waterman), (5) Delta Steamship Lines, Inc. (Delta), and (6) the Council of American Flag Ship Operators (CASO).

The present Conservative Dividend Policy applicable to operators of U.S.-flag vessels subsidized under Title VI of the Merchant Marine Act, 1936, as amended (the Act) (46 USC 1171 *et seq.*) contains two principal criteria. The operator must, after payment of a proposed dividend, meet a working capital test of one-half average voyage expenses and must also meet a funds available/funds required test whereby the operator's ability to fund for the replacement of existing vessels is considered. Operators are required to submit an annual report regardless of whether they desire to pay any dividends.

The present policy has been criticized for several reasons. The working capital standard is unnecessarily excessive since the industry is characterized by low amounts of inventory, in contrast to other industries where inventory constitutes a large portion of working capital. The calculation of the one-half average voyage expense standard is a long and tedious calculation not needed for any other purpose. The required annual report contains information duplicative of other required reports. Finally, from an administrative viewpoint, the funds required test has been applied with a greater degree of subjective interpretation than is desirable.

The proposed policy attempted to strike a reasonable balance between two divergent objectives. On one hand, MarAd expects in return for the payment of operating-differential subsidy that operators will retain sufficient capital to replace existing vessels at the end of their economic lives so as to fulfill the mandate of Section 101 of the Act to develop and maintain a U.S. merchant marine composed of the best-equipped, safest, and most suitable types of vessels. On the other hand, we recognize that it would be difficult or impossible to attract new capital to the industry without allowing for an adequate return on investment.

The new policy establishes two sets of criteria under the 40 percent rule and the 100 pecent rule. The 40 percent rule allows companies in good financial condition to pay some dividends while retaining 60 percent of their earnings for reinvestment in the industry. The retention of 60 percent of earnings should be adequate for replacement of existing assets and eliminates the need for meeting the funds required test under this rule. It provides for an adjustment to allow for the variability of yearly earnings associated with shipping company net income by applying the 40 percent against the prior three year pool of earnings, less dividends already paid during that period. The policy reflects the belief that if an operator were to experience a steep decline in earnings, evidenced by two successive loss years, as well as a loss in the immediate year, it should be precluded from paying a dividend.

Briefly, the criteria for eligibility under the 40 percent rule are as follows: If an operator, after payment of a proposed dividend has (1) working capital greater than $1, (2) long-term debt equal to or less than two times net worth, and (3) net worth above floor net worth, it may pay a dividend up to 40 percent of prior years' earnings, less any dividends that were paid in such years, unless there is an operating loss in the fiscal year to the date of proposed payment of dividend, as well as operating losses in the immediately preceding two years. Prior years' earnings means the aggregate income after tax for the three years immediately preceding the year in which the dividend is declared. An operator may include in prior years' earnings estimated net income after tax for the current fiscal year, provided that such amount is based upon actual net income after tax for the first nine months of the current year, and provided further, that if an operator includes estimated current income in its prior years' earnings computation, then it may also include only the immediately preceding two years' income in the prior years' earnings computation.

Briefly, the criteria under the 100 percent rule are as follows: If an operator, after payment of a proposed dividend, has (1) working capital of $1, (2) long-term debt equal to or less than net worth, (3) "funds available" greater than "funds required," and (4) net worth above floor net worth, then it may pay a dividend of up to 100 percent of retained earnings unless there is an operating loss in the fiscal year to the date of proposed payment of dividend, as well as operating losses in the immediately preceding two years.

If an operator cannot meet the requirements of the 100 percent rule, then it may pay dividends under the 40 percent rule. It is intended that the operator may pay dividends under the rule which allows it to pay the larger dividend.

If in any of the years included in the prior years' earnings calculation, dividends were paid under the 100 percent rule, those years' earnings and dividends may be excluded from the prior years' earnings calculation and then only the earnings and dividends associated with the remaining years of the three-year period may be used. This provision enables an operator to pay dividends under the 40 percent rule when in past years it has paid dividends under the 100 percent rule. The 100 percent rule is intended to allow operators in strong financial condition to pay out what they desire so long as they remain in strong financial condition. The 100 percent rule is to be applied against retained earnings without restriction as to earnings in any particular year, except where there has been an extended loss period.

All the comments received in response to the notice of proposed rulemaking were carefully considered and many suggestions were incorporated. It was apparent from the quality of the responses that despite the complexity of the regulation, each respondent understood the thrust of the proposed regulation and also understood our reasons for issuing the proposed regulation as we did. A detailed discussion of the principal comments, by issue and our response follows:

(1) Current Assets—

(a) *Net Unterminated Voyage Revenue*—The proposed policy required a deduction from current assets of net unterminated voyage revenue because

the expenses to be incurred on the voyage were not reflected in current liabilities. Waterman, MorMac, and CASO opposed this provision.

Suwannee stated that a provision should be made for those operators who use period accounting instead of voyage accounting. In this case we have agreed with the operators. Since revenue is received before expenses are incurred on a voyage, the operator retains as a current asset revenue that has not yet been earned. This revenue is available as working capital to pay bills as they become due and presumably an operator making consecutive voyages will continually receive revenue for the next voyage, thereby maintaining a positive balance of net unterminated voyage revenue.

(b) *Guaranteed receivables*—The proposed policy permitted the inclusion in working capital of receivables from affiliates if they arise in the ordinary course of business and are no older than 60 days. APL stated that accounts receivable of affiliates should be included in working capital if properly secured. We believe that questions of this kind can be addressed on a case by case basis and, if appropriate, a waiver of the existing requirements can be granted. In the final regulation, we have increased the time limit for affiliate receivables from 60 days to 120 days.

(c) *CCF Accruals*—The proposed policy provided that amounts set aside in a Capital Construction Fund (CCF) are deducted from working capital. CASO and APL stated that 50 percent of the deposits in excess of minimum required deposits should be included in working capital. We have reconsidered our original position on this issue and have modified the final regulation to permit the inclusion in working capital of accrued CCF deposits, to the extent not actually deposited, if the operator has met its prorated CCF minimum deposit schedule. Our decision reflects the fact that until funds are actually deposited, the operator can decide not to accelerate its CCF deposits. Therefore, funds not deposited would be available as working capital.

(2) *Current Liabilities*—The proposed policy provided that current liabilities would be increased by ½ of annual charter hire and other lease obligations (having a term of more than six months) not already shown on the operators' balance sheet. CASO and MorMac disputed the necessity of this requirement. We maintain that such adjustment is necessary to reflect the current portion of such leases on approximately the same basis as the current portion of long-term debt would be reflected on an operator's balance sheet if it owned the vessel instead of leasing it. If these leases are already reflected on an operator's balance sheet, then no increase to current liabilities is required. We have, however, reconsidered the duration of leases to be included, and the final regulation requires inclusion only of charters and leases having terms in excess of 12 months.

APL argued that the current portion of long-term debt should be excluded from current liabilities and reflected in the debt/equity ratio to reflect the ability of operators to borrow long-term funds for use as working capital to comply with the working capital requirement. We disagree with APL on this point and do not want to sanction the practice of too much reliance on long-term capital structure for working capital purposes. We believe that we have taken a major step in reducing the present working capital standard and the further steps proposed by APL are not advisable.

(3) *Long-Term Debt*—As defined in the proposed policy, long-term debt includes, with certain exceptions, guarantees of the debt of any other person. MorMac, CASO and APL argued against this position. In reviewing their arguments, we concluded that these contingent liabilities need not be reflected in the operator's financial statements for the purposes of this policy. Accordingly, this provision has been deleted from the final regulation.

APL argued that a distinction be recognized between senior and subordinated debt. We disagreed and concluded that no distinction was advisable since both levels of debt represent an obligation of the company funds.

All respondents except Suwannee argued that the proposed long-term debt to equity ratios were too restrictive and should be relaxed. However, we believe that the ratios that we proposed are in line with those of most firms listed on the major stock exchanges which are considered to be in good financial condition. Also we believe that these ratios are necessary to protect the Government's exposure on the Title XI debt incurred by the operators.

(4) *Capitalized Lease Obligations*—Where in the proposed policy we referred to "Deferred Lease Hire", we now refer to "Capitalized Lease Obligations" to avoid confusion as to whether the term actually denotes a liability account. The proposed policy provided that capitalized lease obligations were defined as the outstanding long-term portion of lease or charter hire (unless already on the operator's books) relating, to vessels, major equipment or facilities and that the Assistant Secretary shall determine which leases shall be included and the computation of such outstanding long-term portion.

CASO argued against the inclusion of capitalized lease obligations in long-term debt. Suwannee and APL stated that capitalized lease obligations should be calculated as ½ of the aggregate of outstanding lease or charter hire payments. In addition, Suwannee stated that there is no provision for submission of these leases for review by the Assistant Secretary.

We believe that certain operating leases which are now required by accounting standards to be reflected only in footnotes to financial statements must be reflected in the debt/equity ratio to accurately reflect an operator's long-term financial position. With the exact definition of capitalized lease obligations, review of these leases by the Assistant Secretary is not required.

Accordingly, in the final regulation capitalized lease obligations are defined as an amount (excluding amounts already included in long-term debt) equal to the sum of (1) the present value of all capital leases and (2) ½ of minimum rentals of all operating leases required to be reflected in the footnotes to the operator's financial statements with regard to shipping property.

(5) *Floor Net Worth*—The proposed policy provided that the operator's net worth floor would be set at the greater of 90 percent of the operator's existing net worth or 50 percent of the operator's long-term debt at December 31, 1978. All respondents except Suwannee protested inclusion of this provision. Basically, they argued that setting a net worth floor would unfairly discriminate against operators that have accumulated earnings in prior years and have voluntarily forgone dividend payments they might have made. We believe that the net worth floor is needed to provide the operator with a cushion for periods of economic downturn. However, the respondent's point about accumulated earnings is valid. The final regulation provides that an operator's floor net worth requirement may be reduced, with the consent of the Assistant Secretary, by an amount equivalent to amounts an operator was authorized to pay in dividends in the three years prior to the effective date of this amended regulation but chose to retain. The operator shall have the burden of demonstrating the validity of its calculation of the amounts that could have been paid out under the policy prior to the effective date of this amendment to the regulation. The net worth floor shall be the greater of 90 percent of the operator's existing net worth or 50 percent of the operator's long-term debt as of December 31, 1979, reduced where appropriate.

(6) *Prior Years' Earnings Computation*—The prior years' earnings computation was designed to allow operators to pay a stable dividend in the face of a gyrating earnings pattern. The proposed policy excluded extraordinary gains but not extraordinary losses from this calculation. Delta and CASO argued that prior years' earnings should include investment income and other income from whatever source derived. In the final regulation, extraordinary items are being allowed in the prior years' earnings computation, since such extraordinary items (both income and losses) affect the operators' ability to pay dividends.

Delta further argued that an operator is limited by the 40 percent rule retroactively if in one of the prior years included in the prior years' earnings computation it had paid dividends in excess of 40 percent, under the 100 percent rule. We believe this point to be valid. Accordingly, in the final regulation we have provided that if dividends were paid under the 100 percent rule during one or more of the three prior years included in the prior years' earnings computation, then the earnings and dividends attributed to that year or years may be excluded from the prior years' earnings computation.

(7) *Funds Required Calculation*—In the proposed policy the funds required calculation reflected adoption of the previous policy, but it would apply only to dividends under the 100 percent rule. No respondent objected to this provision. However, problems exist with this provision from an administrative viewpoint. Most replacement obligations in the current ODSA's do not state the precise number of vessels required to be constructed. Thus, the operator has a great deal of discretion in determining what its anticipated cost will be for replacement vessels, without the concurrence of the Maritime Administration. Accordingly, the final regulation provides that an operator must submit the basis for the estimate of vessel replacement costs for approval prior to the payment of dividends under the 100 percent rule.

(8) *Application of Policy*—The proposed policy provided that it would be applicable when effective for both new and existing operators. MorMac stated that operators should be allowed to remain under the present policy if they desired. Delta stated that the policy should be applicable only with consent of the operator. CASO stated that the operator should be allowed to elect to remain under the present policy until December 31, 1982. Suwanee stated that the policy should not apply at all to operators with no replacement obligation.

We believe that it would not be advisable to operate with two dividend policies in existence, even for a short period of time. We also believe that we have provided for the problems associated with a transition from the previous policy to the new policy. There is no legal requirement for the consent of operators under an ODSA to an amendment to applicable regulations. The regulation being amended is promulgated under Section 204(b) of the Act, which authorizes the Board to adopt all necessary rules and regulations to carry out the powers, duties and functions vested in it by the Act. Adoption of a new dividend policy is within the scope of the provisions of the ODSA's which provide that the ODSA's are subject to such rules and regulations which have been or which may be from time to time promulgated.

(9) *Reporting Requirements*—The proposed policy provided that operators declaring dividends must immediately submit a report containing information no older than 30 days. Also, even if no dividend is declared, the operator must submit a report within 90 days of the end of each calendar year.

CASO and Suwannee stated that the reporting requirement should be waived if an operator does not declare dividends. CASO and APL stated that they should be allowed to submit data older than 30 days when declaring a dividend.

In consonance with Presidential directives to reduce the reporting requirements of the Federal Government, we have concluded that annual reports will no longer be required of operators that do not declare dividends. However, we believe that a requirement that financial information be no less current than 30 days is appropriate since in evaluating whether to declare a dividend the board of directors of the operator requires current information. We believe that such information must be submitted in order for us to review the allowability of the dividend payment under provisions of the amended regulation.

This revision of Part 283 has been reviewed in accordance with Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), Department of Commerce Administrative Order 218-7, "Issuing Government Regulations" and the Maritime Administration implementing procedures, and a determination has been made that a regulatory analysis is not required.

Accordingly, Part 283 of Title 46, Code of Federal Regulations is revised in its entirety to read as follows:

PART 283—DIVIDEND POLICY FOR OPERATORS RECEIVING OPERATING-DIFFERENTIAL SUBSIDY

Sec.
283.1 Purpose.
283.2 Definitions.
283.3 Dividend Policy Criteria.
283.4 Alternate Standards.
283.5 Notification and Reporting Requirements.

Authority: Section 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1028); Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

§ 283.1 Purpose.

(a) The rules of this part establish requirements for the declaration and payment of cash dividends by operators receiving operating-differential subsidy (ODS) under Title VI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 *et seq.*) (Act). This part shall be applicable immediately unless otherwise provided for in the operators' operating-differential subsidy agreement (ODSA).

(b) One of the purposes of the Act is to foster the development and encourage the maintenance of the United States Merchant Marine. Subsidized operators are required to maintain the financial ability to assure adequate and timely reinvestment in the merchant marine. The policy contained herein takes into consideration the operators' contractual obligations to construct and acquire vessels, retire debt obligations secured by ship mortgages and maintain adequate working capital. However, this policy also takes into consideration the operators' need to attract new capital to the industry by paying dividends which are appropriate in light of the operators' earnings and long-range financial position.

§ 283.2 Definitions.

(a) *"Long-Term Debt"* means, as of any date, the total notes, bonds, debentures, equipment obligations and other evidence of indebtedness that would be included in Long-Term Debt in accordance with generally accepted accounting principles, less the balance of escrow fund deposits attributable to the principal of obligations guaranteed pursuant to Title XI of the Act, where deposits are required in accordance with § 298.33. Capitalized Lease Obligations shall be included, but

deferred income taxes shall not be included.

(b) *"Capitalized Lease Obligations"* means, as of any date, an amount (excluding amounts already included in Long-Term Debt) equal to the sum of (1) the present value of all capital leases, as defined and computed in accordance with the Financial Accounting Standards Board Statement No. 13, Accounting for Leases (FASB–13), and (2) ⅓ of the minimum rentals (less operating components such as insurance, maintenance, property taxes, etc.) of all operating leases, as defined and includable in footnotes to the financial statements in accordance with FASB–13, for shipping property, i.e., vessels, containers, barges, terminals and other similar property.

(c) *"Equity"* (net worth) means, as of any date, the total of paid-in-capital stock, paid-in-capital, retained earnings and all other amounts that would be included in Equity in accordance with generally accepted accounting principles, but adjustable as follows. The net worth shall be reduced to the extent that the net worth computation includes any receivables from an affiliate of the company or any stockholder, director, officer, or employee (or any member of the employee's family) of the company, or of an affiliate of the company, other than (1) reasonable advances to affiliated agents required for the normal operation of the company's vessels, or (2) current receivables arising out of the ordinary course of business, and which are not outstanding for more than 120 days.

(d) *"Floor Net Worth"* means net worth computed as follows: The net worth requirement for existing operators shall be initially set at the greater of 90 percent of the operator's existing net worth or 50 percent of the operator's long-term debt contained in its audited financial statements for the year ended December 31, 1979. A new operator's net worth requirement shall initially be set at the greater of 90 percent of existing net worth or 50 percent of the original long-term debt issued with respect to the operator's vessel(s).

(e) *"Adjusted Floor Net Worth"* means that the floor net worth requirement may be reduced with consent of the Assistant Secretary in an amount equivalent to amounts an operator could have paid in dividends under the previous policy set forth in this regulation prior to amendment in 1980, in the three years prior to the date of effectiveness of this policy, but chose not to pay out in dividends. The floor net worth requirement for both existing operators and new operators shall be further adjusted from time to time as follows: (1) the net worth requirement shall be increased by an amount equal to 50 percent of the original long-term debt to be issued with respect to new vessel construction (with respect to existing operators, new vessel construction contracts executed after December 31, 1979), and (2) the net worth requirements shall be decreased by an amount equal to 50 percent of the original long-term debt issued with respect to vessels which are removed from service or otherwise transferred or sold.

(f) *"Working Capital"* means the difference between current assets and current liabilities, both determined in accordance with generally accepted accounting principles, adjusted as follows:

(1) Current assets shall be reduced with respect to:

(i) Amounts in any Title XI Reserve Fund, pursuant to 46 CFR 298.35(e) or Capital Construction Fund (CCF) Security Amount prescribed by 46 CFR 298.35(f), that is being maintained pursuant to an agreement covering a vessel owned or leased by the company, or in another similar fund required under any other mortgage, indenture or other agreement to which the company is a party;

(ii) Any securities, obligations or evidences of indebtedness of an affiliate of the company or of any stockholder, director, officer or employee (or any member of the family of an employee of the company or of such affiliate), except (a) reasonable advances to affiliated agents required for the normal current operation of the company's vessels, or (b) receivables outstanding for not more than 120 days, arising out of the ordinary course of business.

(2) Current assets shall be increased with respect to CCF accruals (but not actual deposits), if the operator has first met its prorated CCF minimum deposit schedule.

(3) Current liabilities shall be increased by one-half of the annual payment of all charter hire and other lease obligations having a term of more than twelve months, other than charter hire and other lease obligations already included and reported as a current liability on the company's balance sheet.

(4) Current liabilities shall be decreased by amounts on deposit in a CCF which are available for the payment of current liabilities.

(g) *"Prior Years' Earnings"* means the aggregate net income after tax for the three years immediately preceding the year in which the dividend is declared. An operator may include in prior years' earnings estimated net operating income after tax for the current fiscal year if such amount is based upon actual net operating income after tax for the first nine months of the current year. If an operator includes estimated current income in its prior years' earnings computation, it may also include earnings for only the immediately preceding two years, rather than three years, in the computation of prior years' earnings.

(h) *"Funds Available"* shall mean the sum of:

(1) Amounts on deposit in any fund established pursuant to the Act plus accrued deposits, unless already included in working capital, (including interest thereon), less accrued withdrawals from any such fund;

(2) Gross book value, as shown on the operators' books of account, of subsidized vessels and related barges and containers, less accumulated depreciation;

(3) Progress payments made on subsidized vessels and related barges and containers undergoing construction, reconstruction, or reconditioning;

(4) Progress payments made on additional vessels and related barges and containers, if any, which the operator has agreed to construct or acquire pursuant to any contract entered into with the Assistant Secretary or the Maritime Subsidy Board (Board);

(5) Balance of trade-in allowances pursuant to § 510 of the Act;

(6) Capitalized Lease Obligations as defined in § 283.2(b); and

(7) Working capital as defined in § 283.2(f).

(i) "Funds Required" means the sum of:

(1) 25 percent of the total cost to the operator of (i) subsidized vessels under construction, reconstruction or reconditioning, (ii) additional vessels under construction, reconstruction or reconditioning pursuant to any contract entered into between the operator and the Assistant Secretary or the Board, and (iii) barges and containers under construction or under contract to purchase, and to be used as part of the complement of such vessels;

(2) 25 percent of the total cost to the operator, estimated at the time a cash dividend is to be declared, of (i) replacement of subsidized vessels required to be replaced under the current ODSA (which cost must be indicated whether or not the operator anticipates leasing replacement vessels), (ii) additional vessels which the operator has agreed to construct or acquire pursuant to any contract entered into with the Assistant Secretary or the Board, and (iii) barges and containers required as part of the complement of such vessels. In making this computation, the operator shall obtain the prior written agreement of the Maritime Subsidy Board as to number of replacement vessels, type and commercial characteristics, projected award date of construction contract, projected delivery dates, estimated total cost (current) and method used to determine such cost, intended area of operation, and identity of vessels to be replaced.

(3) Capitalized Lease Obligations as defined in § 283.2(b), excluding that portion of any such amount payable within one year; and

(4) Outstanding indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction or reconstruction of such vessels and related barges and containers.

§ 283.3 Dividend policy criteria.

(a) *In general.* A subsidized operator may pay cash dividends at any time it desires up to the amount set forth in paragraph (b) of this section. Dividends may be paid pursuant to paragraph (c) of this section, as provided therein. The written approval of the Assistant Secretary shall be obtained prior to any declaration of dividends by the operator, if the payment of dividends does not meet the criteria of either paragraphs (b) or (c) of this section. It is intended that dividend payments be permitted under the provisions of either paragraphs (b) or (c), whichever allows payment of the greatest amount of dividends. Nothing in this part shall alter restrictions on the payment of dividends which may affect the operator under any other agreements with the Assistant Secretary.

(b) *40 Percent Dividend Criteria*—If the operator is able to meet the criteria of this paragraph after declaration and payment of the proposed dividend, it may declare a dividend of up to 40 percent of prior years' earnings, less any dividends that were paid in such years, unless there is an operating loss in the fiscal year to the date of proposed payment of dividend, as well as operating losses in the immediately preceding two years. If in any of the years included in the prior years' earnings calculation dividends were paid under the 100 percent rule, those years' earnings and dividends may be excluded from the prior years' earnings calculation, and then only the earnings and dividends associated with the remaining years of the three year period may be used. This provision enables an operator to pay dividends under the 40 percent rule when in past years it has paid dividends under the 100 percent rule. The criteria which must be satisfied are as follows:

(1) *Working Capital*—Working Capital must equal or exceed one dollar.

(2) *Long-term Debt to Equity Ratio*—Long-Term Debt must not exceed two times equity. (The Assistant Secretary may modify this requirement during periods of vessel construction).

(3) *Net Worth Floor*—Net Worth must exceed the adjusted net worth floor as computed in § 283.2.

(c) An operator may declare a dividend in an amount up to 100 percent of retained earnings, unless there is an operating loss in the fiscal year to the date of proposed payment of dividend, as well as operating losses in the immediately preceding two years, if the following criteria are satisfied:

(1) *Working Capital*—Working Capital must equal or exceed one dollar.

(2) *Long-Term Debt to Equity Ratio*—Long-Term debt must not exceed Equity.

(3) *Net Worth Floor*—Net worth must exceed the Adjusted Net Worth floor as computed in § 283.2.

(4) *Funding for Replacement Vessels*—Funds available must exceed Funds Required, and the basis for Funds Required for replacement vessels must receive prior approval, as provided in § 283.2(i) herein.

§ 283.4 Alternate standards.

(a) The Assistant Secretary may waive or modify any of the financial terms or requirements otherwise applicable in Part 283, upon determining that other factors exist which make alternate terms or requirements appropriate. An example of such a situation would involve an operator that (1) has no replacement obligation and (2) has a guarantee of charter hire or other guarantees sufficient to cover capital costs. In such cases, the Government's interest may be sufficiently protected although the operator cannot meet the standard Part 283 requirements. Another example may be to include receivables otherwise excluded if they are properly guaranteed by an acceptable guarantor.

§ 283.5 Notification and reporting requirements.

(a) *Notice*—The operator shall give written notice of a dividend declaration to the Assistant Secretary immediately upon such declaration.

(b) *Reports*—The operator shall submit a report as described below whenever it declares a dividend or applies for approval under § 283.3 to declare a dividend as of the approximate date of such declaration or request. Such statements shall include information no less current than 30 days. If no dividends are declared during the calendar year, the operator is not required to submit a statement.

If the Maritime Administration determines that the operator was, for any reason, not qualified to pay the dividend, then the operator shall, in writing, request the approval of the Assistant Secretary for any subsequent dividend declaration. If such approval is then granted, the operator may follow the requirements of this Part 283 once again. The reports required by this Section shall be prepared in accordance with the definitions set forth in Section 283.2. A separate statement shall be submitted showing the adjustments made to working capital, long-term debt and net worth, and shall conform to the definitions of such items as contained herein. As appropriate, reports shall include the following:

(1) The ratio of debt to equity, floor net worth and prior years' earnings in the format set forth in Schedule A;

(2) The excess of "funds available" over "funds required" in the format as set forth in Schedule B;

(3) Working capital as set forth in Schedule C; and

(4) Other applicable limitations prescribed in any agreements between the operator and the Assistant Secretary affecting the payment of dividends.

(c) *Officials to whom notices and reports are to be directed.* Operators shall submit, in triplicate, all notices, reports and requests prescribed in this part to the Secretary, Maritime Administration, Washington, D.C. 20230, with a copy of such notice or request to the appropriate Maritime Administration Region Director.

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Schedule A

Ratio of Debt to Equity, Floor Net Worth, and Prior Years' Earnings

_____, 19__

_____
(Company)

Long-term debt $_____

Retained earnings $_____

Equity $_____

Ratio of Long-Term Debt to Equity _____

Adjusted Floor Net Worth as computed in accordance with §283.2 $_____

Prior years' earnings as defined in §283.2 $_____

_____
(Signature of Chief Financial Officer or other authorized officer)

Schedule B

Funds Available and Funds Required

_____ _____,19__
(Company)

I. FUNDS AVAILABLE

A. On deposit in statutory funds:

Capital construction fund	$_____	
Construction reserve fund	_____	
Construction and escrow funds	_____	
Plus accrued deposits to funds (or less accrued withdrawals from funds)	_____	$_____

B. Gross book value of vessels and related barges and containers employed in subsidized services:

Subsidized vessels	_____	
Related barges	_____	
Related containers	_____	
Less accumulated depreciation (_____)		_____

C. Progress payments made on subsidized vessels and related barges and containers undergoing construction, reconstruction or reconditioning _____

D. Progress payments made on additional vessels and related barges and containers agreed to be constructed or acquired _____

E. Balance of trade-in allowances (§510 of the Act) _____

F. Capitalized Lease Obligations as defined in §283.2(b) _____

G. Net Working Capital (from Schedule C) _____

TOTAL FUNDS AVAILABLE $_____

II. FUNDS REQUIRED

A. Cost of current commitments:

1. ODSA vessels under construction or reconstruction:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

2. Additional vessels under construction, reconstruction or reconditioning pursuant to a contract with the Assistant Secretary or the Board:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

3. Barges and containers under construction or contract to purchase:

Number of		Cost to Operator
Barges		$_____
Containers	$_____	$_____

25% of Cost to Operator $_____

B. Estimated cost of additional vessels (whether to be owned or leased):

1. Subsidized vessels to be replaced under ODSA:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

2. Additional vessels agreed to be constructed or acquired:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

3. Additional barges and containers required as the complement of vessels agreed to be constructed or acquired in items B1 and B2 above:

Number of		Cost to Operator
Barges		$_____
Containers	$_____	$_____

25% of Cost to Operator $_____

C. Outstanding indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction, or reconstruction of such vessels and related barges and containers: $_____

Schedule C

Determination of Working Capital
(As Defined in 46 CFR 283.2)

_____, 19__

_____
Company

A. CURRENT ASSETS:

Cash and marketable securities	$_____
Accounts receivable (current)	_____
Other current assets (specify)	_____
Total	$_____
Accrued deposits to CCF, (provided operator has met prorated deposit schedule)	$_____
Other adjustments (specify)	_____
	$_____

B. CURRENT LIABILITIES:

Current liabilities	$_____
Add one-half annual charter hire (if not included above)	_____
Less current liabilities for which payment is available from CCF deposits	_____
Other adjustments (specify)	_____
	$_____

C. WORKING CAPITAL:

Current assets less current liabilities	$_____

(Signature of Chief Financial Officer or other authorized officer)

D. The present value of Capitalized Lease Obligations as defined in §283.2(b), excluding that portion of any such amount payable within one year:

$_____

TOTAL FUNDS REQUIRED: $_____

III. EXCESS FUNDS (DEFICIENCY OF FUNDS) $_____

_____
(Signature of Chief Financial Officer or other authorized officer)

BILLING CODE 3510-15-C

(Section 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1026); Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973))

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS))

By order of the Maritime Subsidy Board.

Dated: May 28, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-16868 Filed 6-2-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of Closing.

SUMMARY: This notice is filed pursuant to 50 CFR 230.74(c), which allows the Assistant Administrator of Fisheries of the National Marine Fisheries Service to close the bowhead whaling season when the quota has been reached by those villages.

EFFECTIVE DATE: This notice becomes effective May 29, 1980.

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: (202) 634-7287.

SUPPLEMENTARY INFORMATION: On May 28, 1980, the National Marine Fisheries Service determined that Barrow struck its 16th whale of the 1980 calendar season, bringing the total of entire bowhead whales landed and struck by Alaskan Eskimos for the calendar year 1980 to 15 and 26, respectively. Inasmuch as the quota for calendar year 1980 is 18 landed or 26 struck, whichever occurs first, the 1980 bowhead quota has now been reached.

Pursuant to regulations promulgated at 50 CFR 230.74(c) (45 FR 20486), I am announcing the closure of the bowhead whale fishery for the calendar year 1980. This action is necessary inasmuch as the bowhead quota has reached 15 landed and 26 struck, thus meeting the IWC quota of 18 landed or 26 struck, whichever occurs first.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16754 Filed 5-29-80; 1:42 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 108
Tuesday, June 3, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 352

Reemployment Rights Under Taiwan Relations Act

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Pursuant to the Taiwan Relations Act, and Executive Order 12143, Maintaining Unofficial Relations with the People in Taiwan, the Office of Personnel Managment is proposing regulations to provide reemployment rights to individuals separated from Federal employment for a specified period of service with the American Institute in Taiwan. These regulations, prepared in consultation with the Department of State, are intended to define the scope of the reemployment rights and to prescribe the conditions under which they may be exercised.

DATE: Comment date: Written comments on both format and content will be considered if received no later than August 4, 1980.

ADDRESS: Send or deliver written comments to Chief, Office of Policy Analysis and Development, Room 6526, Staffing Services, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Maribeth Zankowski, (202) 632–6817.

SUPPLEMENTARY INFORMATION: These regulations will be supplemented by further guidance developed by the Office of Personnel Management and issued through the Federal Personnel Manual System. Coverage under the United States Civil Service Retirement System and continuation of Federal group life insurance and health benefits coverage, while not proper matter for inclusion in these regulations, will also be covered in the FPM guidance. The Department of State is responsible for issuing regulations governing Foreign Service personnel.

Office of Personnel Management
Beverly M. Jones,
Issuance Systems Manager

Accordingly, the Office of Personnel Management is proposing to add Subpart H to Part 352, Title 5, Code of Federal Regulations, to read as follows:

PART 352—REEMPLOYMENT RIGHTS

* * * * *

Subpart H—Reemployment Rights Under the Taiwan Relations Act

Sec.
352.801 Purpose.
352.802 Definitions.
352.803 Basic entitlement to reemployment rights on leaving Federal employment.
352.804 Maximum period of entitlement to reemployment.
352.805 Position to which entitled on reemployment.
352.806 Consideration for promotion.
352.807 Return to Federal employment.
352.808 Appeals.

Authority: 22 U.S.C. 3310, E.O. 12143, 44 FR 37191.

Subpart H—Reemployment Rights Under the Taiwan Relations Act

§ 352.801 Purpose.

This subpart governs reemployment rights authorized by section 11(a)(1) and (2) of the Taiwan Relations Act (Pub. L. 96–8) after service in the American Institute in Taiwan (AIT) under the Act.

§ 352.802 Definitions.

For the purposes of this subpart:
"Act" refers to Taiwan Relations Act (Pub. L. 96–8);
"Competitive area" is the same as defined in § 351.402 of this title;
"Institute" means the American Institute in Taiwan.
"Specified period of service" shall be a period of not more than 6 years;

§ 352.803 Basic entitlement to reemployment rights on leaving Federal employment.

(a) This subpart applies to all executive agencies as defined in section 105 of title 5, United States Code, the U.S. Postal Service, the Postal Rate Commission, and to the employees thereof, and to those positions of the legislative and judicial branches of the Federal Government having positions in the competitive civil service and the employees occupying those positions.

(b) The agency must give employees entitled to reemployment rights under this subpart written notice of these rights at the time of their separation.

(c) *Employees entitled.* The following employees or former employees are granted reemployment rights subject to the conditions of this subpart, if they leave their Federal employment to be employed on the date of incorporation of AIT or within 30 calendar days following separation from their agency by the Institute for a specified period of service.

(1) An employee serving in a competitive position under a career or career-conditional appointment;

(2) A non-temporary excepted service employee; or

(3) An employee serving under a career appointment in the Senior Executive Service.

(4) An employee serving in a career executive assignment under Part 305 of this chapter.

(d) *Employees not entitled.* The following employees are not entitled to reemployment rights under this subpart:

(1) An employee who has received a notice of involuntary separation because of reduction in force, or other cause, not directly related to employment with the Institute under the Act;

(2) an employee whose resignation has been accepted for reasons other than to accept employment with the Institute under this subpart; or

(3) An employee serving under a Schedule C excepted appointment.

(4) An employee serving in a limited executive assignment or a noncareer executive assignment under Part 305 of this chapter.

(5) An employee serving under a noncareer, limited emergency, or limited term appointment in the Senior Executive Service.

§ 352.804 Maximum period of entitlement to reemployment.

Entitlement to reemployment terminates at the end of 6 years and 30 days, following the date employment commences in the Institute unless exercised or otherwise terminated before that time as provided in this subpart.

§ 352.805 Position to which entitled on reemployment.

(a) *Basic position entitlement.* (1) On reemployment, an employee is entitled to be appointed to a position in the employee's former or successor agency in the following order:

(i) To the position last held in the former agency:

(A) If that position has been identified for transfer to a different agency, reemployment rights must be exercised with the gaining agency.

(B) If that position has been reclassified, the employee should be placed in the reclassified position;

(ii) A position in the same competitive level; or

(iii) Another position for which otherwise qualified at the same grade or level and in the same competitive area.

(2) *The employing agency determines under paragraph (a)(1) of this section the position to which the employee is entitled.* Reduction-in-force procedures shall be applied when necessary in determining the position to which the employee has a right. In applying reduction-in-force procedures, the applicant shall be considered an employee of the agency.

(3) *Extending the area.* Responsibility for reemploying an applicant is agencywide. If the applicant is not placed under paragraph (a)(1) of this section, the agency must extend reemployment rights, based on the employee's availability, for assignment outside the competitive area. The employee is entitled to a position, for which qualified and eligible, at the same grade or level as the position last held in the agency. Where necessary, reduction-in-force procedures shall be applied in determining the position to which the employee has a right. The applicant shall be considered an employee for the purpose of applying the reduction-in-force procedures.

(b) *Employee option.* Before the competitive area is extended under paragraph (a)(3) of this section, an employee who cannot be placed under paragraph (a)(1) of this section in the same competitive area at the grade or level as the position last held is entitled, if the employee elects to reemployment in a position at a lower grade or level identified under the same conditions and procedures as paragraph (a)(1) of this section.

(c) *Agency option.* At any stage in the process, the agency has the option to satisfy the employee's right to reemployment by offering a vacant position which, under reduction-in-force regulations, is in accord with the employee's rights. Also, with the employee's consent, right to reemployment can be met by placement in a vacant position, for which the employee is qualified according to agency determination, and available, outside the organizational or geographic area of entitlement, either at the appropriate grade or at a grade other than the one to which entitled.

(d) *Basic position entitlement in the Senior Executive Service.* (1) On reemployment, an employee (who meets the requirements to Section 803(c)(3)) is entitled to be given a career appointment in the Senior Executive Service in the employee's former or successor agency.

(2) The employee may be assigned to any position in the Senior Executive Service for which he/she meets the qualifications requirements.

(3) The employee may elect to accept reemployment in a position outside the Senior Executive Service. Such placement would be subject to the provisions of §§ 352.805(b) and 352.805(c).

§ 352.806 Return to Federal employment.

(a) *Conditions.* Reemployment rights may be exercised only under the following conditions. The employees must apply in writing to their former or successor agency:

(1) No less than 30 calendar days before completion of the specified period of service with the Institute; or

(2) No more than 30 calendar days after involuntary separation from the Institute; or

(3) No more than 30 calendar days after separation based on personal hardship or other special circumstances with the consent of Institute and former employing agency.

(b) An agency must act on the former employee's request for reemployment within 30 calendar days of receipt thereof. The agency must provide the employee with a written notice stating the agency's decision whether to reemploy and the position being offered, if the employee is to be reemployed.

(c) *Termination of reemployment rights.* A former employee's entitlement to reemployment terminates for:

(1) Failure to apply, except for good cause shown, for reemployment within the time limits stated in paragraph (a) of this section;

(2) Resignation from the Institute without the consent of the Institute or the former employing agency; or

(3) Failure to accept, within 15 workdays of receipt thereof, an offer of reemployment under § 352.803 which is determined by the employing agency or by Merit Systems Protection Board (MSPB) on appeal to be a proper offer of reemployment.

§ 352.807 Appeals.

(a) *Right of appeal.* If an employee considers that he/she has been improperly denied reemployment to which the employee considers he/she is entitled under this subpart, the employee may appeal to the MSPB.

(b) *Time limit on appeals.* An appeal under this section must be submitted within 20 calendar days of denial of reemployment rights. The MSPB may extend this time limit on a showing by an employee that circumstances beyond the employee's control prevented him/her from filing an appeal on a timely basis.

(c) *Finality of MSPB decision.* The MSPB shall make the final decision on an employee's reemployment rights under this subpart.

(22 U.S.C. 3310, E.O. 12143)

[FR Doc. 80-16805 Filed 6-2-80; 8:45 am]
BILLING CODE: 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 760

Beekeeper Indemnity Payment Program (1978–81)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Stabilization and Conservation Service proposes that a basis for the payment of claims filed after June 15, 1979, under the Beekeeper Indemnity Payment Program be established. This action is taken because sufficient funds have not been appropriated to pay in full all claims filed after June 15, 1979. This notice invites comments on the proposed rule.

DATES: Comments must be received on or before July 18, 1980.

ADDRESS: Send comments to Director, Emergency and Indemnity Programs Division, ASCS, USDA, P.O. Box 2415, Room 4095 South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, 4702 South Building, Washington, D.C. 20013, (202) 447–7997.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977, 91 Stat. 921, 7 U.S.C. 284, extended the authority of the Secretary to conduct the Beekeeper Indemnity Payment Program through September 30, 1981. On July 14, 1978, the Department published final regulations (43 FR 3026) to govern the conduct of the program through September 30, 1981. It is not mandatory that the program be conducted.

The proposed 1980 budget for the Department of Agriculture contained no funding for the Beekeeper Indemnity Payment Program. On June 15, 1979, the

Beekeeper Indemnity Payment Program Regulations were amended to provide that the payment of claims filed after that date would be conditioned upon the availability of funds. Claims for 1978 losses, approved for approximately $2.0 million, were unpaid because of the lack of funds. The Agriculture Appropriations Act for Fiscal Year 1980 authorized $2.89 million for the Beekeeper Indemnity Payment Program. Approximately $2.0 million of that amount was used to pay approved claims for 1978 losses which had not been paid. Approximately $40,000 was expended to pay claims filed prior to June 15, 1979. The remaining balance of approximately $900,000 is not enough to pay the remainder of claims filed after June 15, 1979 which are estimated to total $4.5 million. It is proposed to pay the remaining claims on the basis of earliest filing date. However, consideration could also be given to other methods, such as, using available funds to pay claims on a pro rata basis. Comments are solicited on this proposal or on any alternative proposals for payment of such claims.

The public is invited to submit written comments regarding the proposed rule to the Director, Emergency and Indemnity Programs Division, ASCS, USDA, Room 4095, South Building, Washington, D.C. 20013. Persons submitting comments should include their name and address and give reasons for the comments. Copies of all written comments received will be available for review by interested persons in Room 4095, South Building, USDA, during regular business hours.

This proposal is being published under emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum 1955, without a full 60-day comment period. I have determined that an emergency situation exists which warrants the expediting of payments to beekeepers to compensate them for losses. Accordingly, a comment period of less than 60 days is warranted and public comments must be received by July 18, 1980 in order to be assured of consideration.

Proposed Rule

The Department proposes to amend 7 CFR 760.119 to read as follows:

§ 760.119 Availability of funds.

Payment of indemnity claims filed after June 15, 1979, is contingent upon availability of funds to the Department to pay such claims. To the extent that funds are available, claims filed after such date will be paid on the basis of earliest filing date.

Note.—This change in regulations has been determined not to be significant under the USDA criteria implementing Executive Order 12044 "Improving Government Regulations." An approved impact analysis which includes options on methods to be used in payment of claims is available from the Emergency and Indemnity Programs Division, Room 4095, South Building, ASCS, USDA, Washington, D.C. 20013.

Signed at Washington, D.C. on May 23, 1980.

John W. Goodwin,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-16759 Filed 6-2-80; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Proposed REA Bulletin 345-84, REA Specification for Expanded Dielectric Coaxial Cable

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue a new REA Bulletin 345-84 to present PE-84, REA Specification for Expanded Dielectric Coaxial Cable. With REA's assumption of responsibility for a program to expand rural CATV, it becomes necessary to develop minimum acceptable performance criteria for products such as this cable to be purchased with loan funds. Issuance of PE-84 should assure that coaxial cables purchased for the systems of REA borrowers are suitable for their intended purpose.

DATE: Public comments must be received by REA no later than August 4, 1980.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3827. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing it is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA proposes to issue REA Bulletin 345-84, REA Specification for Expanded Dielectric Coaxial Cable, PE-84. This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified not significant.

Copies of the draft bulletin are available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: May 27, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80-16596 Filed 6-2-80; 8:45 am]

BILLING CODE 3410-25-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Small Business Loan Policy Proposed Amendment to Part 120, SBA Rules and Regulations

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration is proposing an amendment to its loan policy to require that a standard method of interest computation be utilized on all loans in which the Agency participates on an immediate or guarantee basis. The revision is designed to enhance communication among lending institutions, borrowers and SBA. Use of a common interest basis will simplify loan audit and allow for reduced timeframes in purchased transactions.

DATE: Written comments are to be submitted on or before August 4, 1980.

ADDRESS: Send all comments to: John E. Lagos, Accounting Operations Division, Small Business Administration, 1441 L Street, N.W., Room 400, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: John E. Lagos, Telephone (202) 653-6506.

SUPPLEMENTARY INFORMATION: The policy of this Agency has been to allow financial institutions to use any method of interest calculation legally acceptable in their local on participating loans during the period they serviced such loans. The policy has not allowed us to achieve efficiencies that would be possible with a standardized method. A standardized interest method would allow for an automated auditing process, or at least a simplified manual calculating. Communication between participants and the Agency would be enhanced through the use of a common interest calculation basis, and processing of guaranty purchases would be expedited as audit time would be reduced.

The degree of success of our secondary market could well depend on the adoption of a standardized interest computation basis. Increased complexities attendant to the responsibilities imposed on the designated Fiscal Transfer Agent (FTA) require effective interest computation information communication between the three parties responsible for applications on the loan accounts. The FTA is required to furnish statements of account as well as transaction information and must maintain the holders' accounts. Brokers look to FTA in determining cash flow information prior and subsequent to purchase of guaranteed interest on loans. Lenders occasionally make mistakes in application of payments. In such instances, the FTA must contact the financial organization for application data, request adjustment, etc. This delays remittances to holders and violates timely remittance requirements of agreements. Our FTA strongly supports standardization of interest computation to afford greater effectiveness and efficiency in operation.

Pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), Section 120.3(b)(2)(ii) of 13 CFR is proposed to be amended as follows:

§ 120.3 [Amended]

(b) * * *

(2) * * *

(ii) Subject to approval of SBA, a participating lending institution may establish such rate of interest on guaranteed loans, and on its share of immediate participation loans, as may be legal and reasonable, subject to the maximum acceptable interest rate under subdivision (iv) of this subparagraph hereof. Computation of interest shall be on a 360-day year basis, each month considered as 30 days. Principal times annual interest rate times number of days principal is outstanding from last payment or disbursement on file divided by 360 will give the interest for that payment. Interest is subtracted from the repayment and the balance is applied to reduce the principal.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-16870 Filed 6-2-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

Labeling Requirements for Patient Labeling for Progestational Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the new drug regulation that requires patient labeling for progestational drug products to exempt oral dosage forms that are labeled solely for the treatment of advanced cancer. This action is taken in response to a petition form a drug manufacturer.

DATE: Comments must be submitted on or before August 4, 1980.

ADDRESS: Submit comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD. 20857.

FOR FURTHER INFORMATION CONTACT: Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION:

In the **Federal Register** of October 13, 1978 (43 FR 47178), the Food and Drug Administration (FDA) published a final regulation (21 CFR 310.516) to require patient labeling for progestational drug products. The regulation was prompted by reports linking sex hormones (including progestagens) with an increased risk of malformations in children exposed in utero to the hormones. The regulation is intended to ensure the safe and effective use of progestational drugs by providing consumers with written information about the risks associated with their use during the early stages of pregnancy.

The regulation not only specifies the kind of information and warnings to be included in the patient labeling, but also states how the labeling is to be made available to the patient. In general, the regulation requires that whenever a progestational drug product is either administered or dispensed, the patient must be provided with the patient labeling. For injectable drug products, however, the requirement is somewhat different: the regulation requires that each package of injectable drug products bear "instructions to the practioner administering the drug to give one patient-labeling piece to each premenopausal woman, except those in whom childbearing is impossible, receiving the drug" (21 CFR 310.516(e)(3)). The effect of this provision is to confine the applicability of the regulation for injectable drug products to those women in whom childbearing is possible, and to avoid application of the regulation to that part of the patient population for whom the information contained in the labeling would be of no relevance, that is, women not able to bear children. The current regulation, howevever, does not have a similar limit for noninjectable dosage forms. Thus, when a noninjectable drug product is dispensed or administered, the regulation requires that the patient be provided with patient labeling, regardless of the patient's ability to bear children.

The agency has received a petition form Mead Johnson and Company, a manufacturer of a progestational drug product, asking that the regulation be amended to exclude from the patient labeling distribution requirements progestational products labeled solely for the treatment of malignant disease. The petition suggests that exempting from the labeling requirement progestational drugs administered to women in whom childbearing is not possible takes "into account" the use of particular injectable progestational drug products as palliatives in the treatment of advanced cancers. The petition suggests that if this rationale is used to justify special treatment of the injectable dosage forms, the same logic should be applied to oral dosage forms, the same logic should be applied to oral dosage forms that are labeled solely for malignant disease.

The petition contends that "it is unnecessarily cruel to inform a woman of childbearing potential under treatment for advanced carcinoma * * * by the impersonal instrument of a patient package insert that the fetus she may be carrying may be damaged by the drug she is taking for her own survival." The petition argues that when progestational drug products are prescribed for conditions as serious as cancer, "it is morally clear and ethically essential that information about the drug be communicated directly to the patient by her physician in a carefully tailored counseling session in which the patient's interest is of primary concern." On the basis of these observations, Mead Johnson asks that the progestational drug product patient-labeling regulation not require the distribution of progestational drug product patient labeling to patients receiving a progestational drug product labeled solely for treatment of malignant

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disease. A copy of the petition has been placed on file in the office of the Hearing Clerk, FDA.

The agency has carefully considered the petition and has tentatively concluded that the patient-labeling final regulation for progestational drug products should be amended to exempt oral dosage forms labeled solely for treatment of advanced cancer. This tentative conclusion is based on the agency's view that the information in progestational patient labeling is not relevant to the concerns of the patient population that is treated for advanced cancer with these drug products. Both the patient-labeling regulation and the guideline patient-labeling text (drafted to meet the requirements of the regulation) were designed to address the needs of women with childbearing potential; both the regulation and guideline deal exclusively with the risks of in utero exposure to progestational agents. However, the agency notes that most patients with advanced cancer of the breast or endometrium are postmenopausal and therefore unable to bear children. Moreover, women who are premenopausal will likely have been sterilized before being treated with progestational drug products. In these cases, furthermore, the administration of large doses of progestagens will suppress the pituitary and act as a contraceptive. It is therefore unlikely that there exists a patient population of premenopausal women with advanced cancer, being treated with oral progestational agents, who are fertile. Under these circumstances a regulation to require the preparation and distribution of patient labeling for these products indicated solely for treatment of advanced cancer appears unjustified.

If in the rulemaking it becomes apparent that there is a significant patient population who receive oral progestational drug products for the treatment of advanced cancer, and who are able to bear children (and would therefore be appropriate recipients of the progestational patient labeling), the agency will reconsider this proposal.

The agency proposes that the final rule based on this proposal be effective 60 days after the final rule is published in the **Federal Register**. On and after that date oral dosage forms of progestational drug products whose approved labeling is limited to treatment of advanced cancer would no longer have to be shipped or dispensed with patient labeling.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Accordingly, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502(a), 503(a), 505, 701(a), 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321, 352(a), 353(a), 355, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 310 be amended in § 310.516 by revising paragraph (e)(4) and redesignating it as (e)(5) and adding new paragraph (e)(4), to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

* * * * *

(e) * * *

(4) This section does not apply to oral dosage forms labeled solely for the treatment of advanced cancer.

(5) Any progestational drug product, except as noted in paragraph (d) and (e)(4) of this section, that is not labeled as required by this section and is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce, is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act. However, a progestational drug product in the possession of a wholesaler or retailer before December 12, 1978, is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after that date to obtain such labeling with the product. The requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

* * * * *

Interested persons may, on or before August 4, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 27, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16720 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

22 CFR Parts 6, 6a, and 171

[Document No. SD–154]

Regulations Concerning the Freedom of Information and Privacy Acts

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to revise its regulations on the Freedom of Information Act, (as amended), and the Privacy Act, and add new regulations covering the access provisions of the Ethics in Government Act, Pub. L. 95–521, and Executive Order 12065. The proposed revisions and amendments incorporate the substance of the regulations on the Freedom of Information Act (22 CFR Part 6) and the Privacy Act (22 CFR Part 6a). The proposed regulations serve as a single unified source for the Department's policies and procedures regarding public access to official information and records.

DATE: Written comments must be received by July 14, 1980.

ADDRESS: Comments should be addressed to Mr. Frank M. Machak, Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Frank M. Machak, (202) 632–3411.

SUPPLEMENTARY INFORMATION: Increased significance has been attached to openness in Government by the Administration and the Congress, as well as greater interest focused on access to official records by members of the general public and the news media. The proposed regulations reflect the Department's renewed commitment to its responsibility in this area by providing a single authoritative source for the rules and procedures governing

access to information under the Freedom of Information Act, as amended (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), Executive Order 12065, and the Ethics in Government Act (Pub. L. 95–521). These regulations, as well as the Departmental reorganization which led to their formulation, are designed to assist the public by clarifying and facilitating the processing of all types of requests for Department of State records.

The revisions and amendments to the proposed Freedom of Information Act and Privacy Act rules incorporate the substance of 22 CFR Part 6 and 22 CFR Part 6a, respectively, which will be superseded upon the adoption of these proposed regulations.

The new rules pertaining to Executive Order 12065 govern access to records covered by that Order and supplement the Interagency Classification Review Committee Directive (32 CFR Chapter XX) and the Department's Security Information Regulations (22 CFR Part 9).

The new proposed rules pertaining to the Ethics in Government Act govern access to Financial Disclosure Reports for Executive Branch Personnel pursuant to Section 205 of that Act.

It is proposed to amend 22 CFR as follows:

1. Part 6, Freedom of Information Policy and Procedures (§§ 6.1—6.16) is revoked.

2. Part 6a, Privacy Act Policies and Procedures (§§ 6a.1—6a.11) is revoked.

3. A new Part 171 is added to read as set forth below.

SUBCHAPTER R—ACCESS TO INFORMATION

PART 171—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Subpart A—General Policy and Provisions

Sec.
171.1 Availability of information.
171.2 Requests for information.
171.3 Public reading room.
171.4 Extension of time limits.
171.5 Archival records.
171.6 Fees-general.

Subpart B—Freedom of Information Provisions

171.10 Definitions.
171.11 Exemptions.
171.12 Time limits.
171.13 Fees.

Subpart C—Executive Order 12065 Provisions

171.20 Definitions.
171.21 Identifying information.
171.22 Access to records.
171.23 Determination in disputed cases.
171.24 Challenges to classification.
171.25 Former Presidential appointees.
171.26 Exemptions.

Subpart D—Privacy Provisions

Sec.
171.30 Definitions.
171.31 Identifying information.
171.32 Exemptions.
171.33 Time limits.
171.34 Access to records.
171.35 Requests for amending records.

Subpart E—Ethics in Government Provisions

171.40 Covered employees.
171.41 Identifying information.
171.42 Time limits.
171.43 Access to, and use of, reports.

Subpart F—Denial Procedures

171.50 Denials of access or of amendment.

Subpart G—Appeals Procedures

171.60 Appeal of denial of access to records.
171.61 Appeal of refusal to amend records.

Subpart H—Other Agency Material

171.70 Referral.
171.71 Concurrence.

Authority: Section 3 of the Administrative Procedure Act, as amended (Pub. L. 89–478, 80 Stat. 250); the Freedom of Information Act, as amended (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); Executive Order 12065; and the Ethics in Government Act of 1978 (Pub. L. 95–521).

Subpart A—General Policy and Procedures

§ 171.1 Availability of information.

(a) Unclassified information, documents, and forms which have previously been provided to the public as part of the normal services of the Department of State will continue to be made available on the same basis as before. Any Departmental officer who receives a request for records through normal channels of contact with the public, media, or the Congress which would not normally be made available shall advise the requester that the request will be referred to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, for processing under the appropriate statute or executive order as provided in these regulations.

(b) All identifiable records of the Department of State shall be made available to the public upon compliance with the procedures established in this Subchapter, except to the extent that a determination is made to withhold a record in accordance with an appropriate exemption as provided herein.

§ 171.2 Requests for information.

(a) Requests for identifiable records in accordance with this subchapter may be made by the public in person during regular business hours from the Department of State, 2201 C Street, N.W., Washington, D.C. where the receptionist will refer the requester to the proper office for service and the necessary forms for making a request.

(b) Requests by mail and referrals from other agencies should be addressed to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, Washington, D.C. 20520, who will coordinate action as specified in this request. In addition, requests may be directed to the Department's field offices and overseas posts; routine, unclassified, administrative records may be released to the individual if it is determined that such release is authorized. Any unfilled request shall be submitted to the Information and Privacy Coordinator. Individuals are urged to clearly indicate on their requests the statute under which they are requesting access to information; this notation will facilitate the processing of the request by the Department.

(c) While every effort is made to guarantee the greatest possible access to all requesters, regardless of the specific statute under which the information is requested, the following guidance is provided for individuals in requesting records:

(1) Freedom of Information Act. Requests for documents concerning the general activities of government and of the Department of State in particular (see Subpart B).

(2) E. O. 12065. Requests for mandatory review and declassification of Department records and requests for access by former Presidential appointees (see Subpart C).

(3) Privacy Act. Requests from U.S. citizens or resident aliens for records pertaining to themselves and maintained by the Department under the individual's name (see Subpart D).

(4) Ethics in Government Act. Requests for the financial Disclosure Statements of Department Employees covered by this Act (see Subpart E).

(d) The burden of adequately identifying the record so requested lies with the requester. Individuals may seek assistance regarding any facet of their requests from the Information and Privacy Coordinator.

§ 171.3 Public reading room.

A public reading room or area where records may be made available is located in the Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The receptionist will refer the applicant to the proper room. All those statutes, regulations, and guidelines pertaining to access to information required to be

made available to the public shall be located in the reading room. Fees will not be charged for access by the public to this room or the indexes and regulations contained therein, but fees, in accordance with § 171.6, will be charged for furnishing copies thereof. Persons desiring to utilize their own portable copying equipment should request approval in advance from the Information and Privacy Coordinator. Any arrangements for the use of such equipment must be consistent with security regulations of the Department of State and are subject to the availability of personnel to monitor such copying.

§ 171.4 Extension of time limits.

While every effort is made to meet the time limits cited in each section of this Subchapter, unusual circumstances may arise which would necessitate the extension of these time limits. Extensions shall be granted in those instances where it is necessary, in order to guarantee proper processing of the request, to:

(a) Search for an collect the requested records from overseas posts or other establishments that are separate from the office processing the request;

(b) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) Consult with another agency having a substantial interest in the determination of the request or among two or more components of the Department of State having substantial subject matter interest therein. Such consultation shall be conducted with all practicable speed. In such instances the requester shall be given written notification by the Information and Privacy Coordinator of the extension of the time limit and the reason for such extension.

§ 171.5 Archival records.

The Department ordinarily transfers custody of records as soon as practicable after they become twenty (20) years old to the National Archives and Records Service. These records are generally transferred in large blocks defined by years and/or major subject categories. Correspondence regarding access to these records should be addressed to the Chief, Diplomatic Branch, Civil Records Divisions, National Archives and Record Service, Washington, D.C. 20400.

§ 171.6 Fees-general.

(a) The Department will charge a fee of $.10 per page for copies of documents which are identified by an individual and reporduced at the individual's request for retention, except that there will be no charge for requests involving costs of $1.00 or less.

(b) Remittances shall be in the form of either a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remittance shall be made payable to the order of the Treasurer of the United States and delivered or mailed to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The Department will assume no responsibility for cash sent by mail.

(c) A receipt for fees paid will be given only upon request.

(d) See section 171.13 for additional fees chargeable for Freedom of Information requests.

Subpart B—Freedom of Information Provisions

§ 171.10 Definitions.

As used in this Subpart, the following definitions shall apply:

(a) The term "identifiable" means, in the context of a request for a record, a description which enables a professional employee of the Department who is familiar with the subject area of the request to locate the record with a reasonable amount of effort. Such a description, if possible, should include date, format, subject matter, country concerned, office of mission originating or receiving the record, and the name of any person to whom the record is known to relate.

(b) The term "record" includes all books, papers, maps, photographs, or other documentary material, or copies thereof, regardless of physical form or characteristics, made in or receiving by the Department of State (including Foreign Service posts abroad) and preserved as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Department or the Foreign Service. It does not inlcude copies of the records of other Government agencies (except those which have been expressly placed under the control of the Department of State upon termination of another agency), foreign government, international organizations, or non-governmental entities unless they evidence organization, functions, policies, decisions, procedures, operations, or activities of the Department of State. It does not include records not already in existence which would need to be created specifically to meet a request. It does not include records in the Berlin Document Center.

(c) The term "agency" includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

§ 171.11 Exemptions.

(a) The following categories of records maintained by the Department of State may be exempted from disclosure:

(1) Records specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such executive order.

(2) Records related solely to the internal personnel rules and practices of an agency.

(3) Records specifically exempted from disclosure by statute. Included in this category are records relating to the officers and employees of the Foreign Service, including efficiency records (Sec. 612 of the Foreign Service Act of 1946, as amended, 22 U.S.C. 986), the records of the Department of State or of diplomatic and consular officers of the United States pertaining to the issuance or refusal of visas or permits to enter the United States (Sec. 222(f), of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1202(f)), "Restricted Data" under section 224 of the Atomic Energy Act (42 U.S.C. 2274), records of expenditures certified under 22 U.S.C. 2671 and 31 U.S.C. 107, and records subject to section 102(d) of the National Security Act of 1947 (61 Stat. 498).

(4) Records of trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Records which are inter-agency or intra-agency memorandums, letters, telegrams, or airgrams which would not be available by law to a party other than an agency in litigation with the agency.

(6) Records such as personnel and medical files and similar files the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (i) Interfere with enforcement proceedings; (ii) deprive a person of a right to a fair trial or an impartial adjudication; (iii) constitute an unwarranted invasion of personal privacy; (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (v) disclose investigative techniques and procedures; or (vi) endanger the life or physical safety of law enforcement personnel.

(8) Records contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under paragraph (a) of this section. Normally a portion of a record shall be considered reasonably segregable when segregation can produce an intelligible record which is not distorted out of context and does not contradict the record being withheld.

§ 171.12 Time limits.

Whenever possible, the Department will furnish the requested records within 10 days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the request by the Information and Privacy Coordinator, except as cited in § 171.4 of this subchapter.

§ 171.13 Fees.

(a) In addition to fees cited in § 171.6, the following specific fees shall be applicable with respect to services rendered to members of the public under this Subpart:

(1) Search for records, per hour or fraction thereof after the first hour: (i) Professional, $12.00; (ii) Clerical, $7.00.

(2) Certification of each record as a true copy, $1.00.

(3) Certification of each record as a true copy under official seal, $3.00.

(4) Duplication of architectural photographs and drawings, $2.00.

(5) Computerized records:

(i) When there is an existing print-out from the computer which permits copying the print-out, the material will be made available at 10¢ per page.

(ii) When there is not an existing print-out of information disclosable under the Freedom of Information Act, a print-out shall be made provided the applicant pays the costs to the Department as hereinafter stated.

(iii) When the record is maintained in the computerized Central Foreign Policy Records, fees, including research personnel and computer service time, shall be $13.50 per half hour.

(iv) Where another system is involved, the computer service charge shall be based upon the particular types of computer and associated equipment and the amounts of time such pieces of equipment are actually utilized. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present or make available the output of computers based upon the prevailing levels of costs to Government organizaions and upon the type and amount of such supplies and materials that are used.

(v) When there is not an existing computer program to generate the information requested, fees shall include the cost of such programming in addition to those outlined in paragraph (a) (5) (iii) and (iv) of this section. It should be noted that the Freedom of Information Act does not require the creation of records and in view of the heavy workloads of the computers used by the Department, such a service cannot ordinarily be offered to the public.

(6) If records requested under this Subpart are stored elsewhere than the headquarters of the Department of State at 2201 C Street, NW, Washington, D.C., the special costs of returning such records to the headquarters shall be included in the search costs. These costs will be computed at the actual cost of transportation of either a person or the requested record between the place where the record is stored and Department headquarters when, for time or other reasons, it is not feasible to rely on Government mail service or diplomatic pouch.

(7) When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or size or type thereof, the Information and Privacy Coordinator is authorized to establish an appropriate fee, pursuant to the criteria established in Office of Management and Budget Circular No. A-25, entitled "User Charges."

(b) Fees must be paid in full prior to release of requested documents.

(c) Where it is anticipated that the fees chargeable under this Subpart will amount to more than $50 and the requester has not indicated in advance her/his willingness to pay fees as high as an anticipated, the requester shall be promptly notified of the amount of the anticipated fees or such portion thereof as can readily be estimated. in appropriate cases, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable Departmental personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Department until a reply is received from the requester.

(d) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the Department determines that a record which has been requested, but which is exempt from disclosure under this Subpart, is to be withheld.

(e) Waiver or reduction of any fee provided for in this Subpart may be made upon a determination by the Chief of the Information Access Branch. The Department may waive or reduce fees in the following instances:

(1) When the search and copying fees total less than $25.

(2) When the records are requested by a State or local government, an intergovernmental agency, a foreign government, a public international organization, or an agency thereof, and the records are for purposes that are in the public interest and will promote the objectives of the act and of the Department.

(3) When it is determined, upon petition submitted by the requester, that waiver or reduction of the fee is in the public interest because furnishing the information in the records requested can be considered as primarily benefiting the general public. Any such petition shall specify the intended purpose to which the requested records will be put, and any other relevant factors in order to show how the information can be expected to benefit a large section of society, and not primarily, one special interest group, however prominent. A fee waiver will not be granted if the requester is to benefit financially, directly or indirectly, from the disclosure of the record.

(4) When it is determined, based upon a petition therefor, that the requester is indigent, that the request for records has a strong public interest justification, and that agency resources permit a waiver of fee. A person is deemed to be indigent if she/he does not have income or resources sufficient to pay the fees involved.

(5) When the release of records is necessary to the requester to obtain financial benefits to which she/he is entitled by law.

(6) When the record is requested for compelling circumstances affecting the health or safety of an individual.

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(7) When the requested records are ordered to be produced in a court of competent jurisdiction.

The Department will not generally waive the cost for reproduction of those documents which the requester wishes to retain, except as provided under paragrph (1) of this section.

The Department will not waive fees for requesters (persons or organizations) from whom unpaid fees remain due to the Department for another information access request.

(f)(1) The Department's decision to refuse to waive or reduce fees as requested under paragraph (e) of this section may be appealed to the Information and Privacy Coordinator, Room 1239, Department of State, 2201 C Street, NW, Washington, D.C. 20520. Appeals should contain as much information and documentation as possible to support the request for a waiver or reduction of fees.

(2) Appeals will be reviewed by the Information and Privacy Coordinator who may consult with other officials of the Department, as appropriate. The requester will be notified within thirty working days from the date on which the Department received the appeal.

Subpart C—Executive Order 12065 provisions

§ 171.20 Definitions.

As used in this Subpart, the following definitions shall apply:

(a) The term "agency" means federal agency including department, agency, commission, etc., as defined in 5 U.S.C. 552(e).

(b) The term "classification" refers to the determination that certain information requires protection against unauthorized disclosure in the interest of national security, coupled with the designation of the level of classification: Top Secret, Secret or Confidential.

(c) The term "classification authority" means the authority vested in an official of an agency to orginally classify information or material which is determined by that official to require protection against unauthorized disclosure in the interest of national security. It is also the authority to prolong classification.

(d) The term "classified information" means information or material, herein collectively termed information, that is owned by, produced for or by, or under the control of the United States Government, and that has been determined pursuant to Executive Order 12065, prior orders, or other orders or statutes, to require protection against unauthorized disclosure, coupled with the designation of the level of classification.

(e) The term "declassification" refers to the determination that particular classified information no longer requires protection against unauthorized disclosure in the interest of national secrurity. Such determination shall be by specific action or automatically after the lapse of a requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

(f) The term "document" has the meaning of "record" as set forth in § 171.10(b).

(g) The term "foreign government information" is: (1) Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence, or (2) Information, requiring confidentiality, produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments. A written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record of the joint arrrangement.

(h) The term "Presidential appointees" includes former officials of the Department of State or other U.S. Government agencies who held policy positions and were appointed by the President, by and with the advice and consent of the Senate, at the level of Ambassador, Assistant Secretary of State, or above. It does not include Foreign Service Officers as a class or persons who merely received assignment commissions as Foreign Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers and employees.

§ 171.21 Identifying information.

For the request to be processed, it must describe the material sufficiently to enable a professional employee of the Department who is familiar with the subject area of the request to locate the record with a reasonable amount of effort. Whenever a request does not reasonably describe the information, the requester shall be notified that unless additional information is provided, or the scope of the request is narrowed, no further action will be taken.

§ 171.22 Access to records.

All classified information except as noted in § 171.23, shall be subject to review for declassification upon request of a member of the public, a government employee, or an agency.

(a) A request for declassification under the Order shall be acted upon within 60 days from the date on which the request reaches the appropriate receiving office.

(b) Subject to paragraph (f) of this section, when it receives a request, the Department, if it is the originating agency, shall determine whether the information or any reasonably segregable portion of it no longer requires protection. If so, the Department shall promptly make such information available to the requester, unless withholding it is otherwise warranted under applicable law.

(c) When the Department receives a request for information in a document which is in its custody, but which was classified by another agency, it shall refer the request to the appropriate agency for review. The Department shall also notify the requester of the referral unless the association of the reviewing agency with the information requires protection in the interest of national security. The reviewing agency shall respond directly to the requester and shall notify the Department of its determination.

(d) During the transition period allowed by Executive Order 12065 from declassification at 30 years to declassification at 20 years, all requests for classified United States Government originated information over 30 years old not previously declassified and transferred to the Archives will be processed according to paragraphs (b) and (c) of this section.

(e) In response to a request for a classified document in its possession, the Department may not refuse to confirm the existence or non-existence of the document unless the fact of its existence or non-existence would itself be classifiable.

(f) In the case of requests for documents containing foreign government information, the Department, if it is also the agency which initially received the foreign government information, shall determine whether the foreign government information in the document may be declassified and released in accordance with policies or guidelines, consulting with other interested agencies as necessary. If the Department is not the agency which received the foreign government information, it shall refer the request to the original receiving agency, which shall take action on the request.

(g) In considering requests for mandatory review, the Department may decline to review again any request for material which has been reviewed within one year and denied, except as teh request constitutes an appeal under Subpart G of this Subchapter.

§ 171.23 Determination in disputed cases.

(a) Information that continues to meet the legal requirements for classification under Section 1-3 of the Order at the time of review for declassification is presumed to require continued protection and may be withheld from disclosure under the Order and Section (b)(1) of the Freedom of Information Act. However, as stated in Section 3-303 of the Order, it is government policy to consider the public interest in disclosure when information is reviewed for declassification. In some cases, the need to protect information that continues to meet the requirements of classification may be outweighed by the public interest in disclosure of information. When such a question arises, the authority reviewing the information shall refer the question to the relevant Top Secret authority in the Department of State to make a policy determination whether the public interest in disclosure outweighs the damage to the national security that might reasonably be expected from the disclosure. In making such determination, that authority shall respect the intent of the Order to protect foreign government information and confidential foreign sources. That authority shall also consult with other officials in the agency as the circumstances warrant.

(b) In the Department of State, if such a case is appealed by the requester of the information after receiving a notice of denial, the case shall be referred to the Appeals Review Panels in accordance with the Department's appeal procedures. If the Panel should decide that the case raises a question as to whether the need to protect information that continues to meet the requirements of classification is outweighed by the public interest in disclosure, the question shall be referred to a principal officer for determination.

§ 171.24 Challenges to classification.

(a) A government employee, who has reasonable cause to believe that a document is classified unnecessarily, improperly, or for an inappropriate period of time, is encouraged to and shall have the right to challenge such classification.

(b) The challenger shall prepare a statement giving the reasons to support such a challenge, and may submit a request to the office or bureau of origin for a review of the document under the mandatory declassification procedures of the agency, expect that the agency shall reach a determination in 30 days instead of 60 days. If the reviewing office or bureau agrees with the challenger, rectifying changes shall be made on the face of the document. The office of the record holder and other holders should be notified of the changes to the extent practicable. If the reviewing office disagrees with the challenger, the challenger may appeal within 60 days to the Chairman of the Appeals Review Panels, who shall obtain a decision from one of the Panels, within 30 days of receipt of the appeal.

(c) If the challenger wishes to remain anonymous, an officer designated by the chairman of the Appeals Review Panels shall act as the challenger's agent.

§ 171.25 Former Presidential appointees.

(a) Former Presidential appointees may have access to those documents (classified and unclassified) they oiginated, reviewed, or signed only while serving as Presidential appointees. Requests should be submitted in writing to the Information and Privacy Coordinator and should include a general description of the records and the time period covered by the request. Access shall be granted under the following conditions:

(1) The Department must first determine that granting access to the requested material is consistent with the interests of national security;

(2) The former Presidential appointee must agree in writing to safeguard the information from unauthorized disclosure;

(3) The former Presidential appointee must submit a statement authorizing the Department to review any notes and manuscripts to determine that they contain no classified information;

(4) The information may not be further disseminated without the express permission of the Department;

(5) If the former Presidential appointee uses a research assistant, this person must also meet all of the above conditions. Such a personal assistant must be working for the former Presidential appointee and not gathering information for publication on her or his own.

(b) If the access requested by former Presidential appointees requires services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requester shall be so notified and the fees may be charged pursuant to that Act; the requester shall be so notified and the fees may be imposed.

§ 171.26 Exemptions.

(a) Information less than 10 years old which was originated by the President, by the White House staff, or by committees or commissions appointed by the President, or by other action on behalf of the President, is exempted from mandatory review for declassification. Requests for mandatory review of information more than 10 years old of the origin described shall be processed in accordance with procedures developed by the Archivist of the United States. These procedures will provide for consultation with agencies having primary subject matter interest, who will provide the Archivist their recommendations as to the disposition of the request. Any decision by the Archivist may be appealed to the Directpr of the Information Security Oversight Office. Agencies with primary subject matter interest will be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever comes first.

(b) The Freedom of Information and Privacy Acts exemptions and any other exemptions under applicable law may be invoked by the Department to deny material on grounds other than classification.

Subpart D—Privacy Provisions

§ 171.30 Definitions.

As used in this Subpart, the following definitions shall apply:

(a) The term "Department" means the Department of State, its offices, bureaus, divisions, field offices, and its overseas posts.

(b) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) The term "maintain" includes maintain, collect, use or disseminate.

(d) The term "record" means any item, collection, or grouping of information about an individual that is maintained by the Department, including, but not limited to education, financial transactions, medical history, and criminal or employment history that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph.

(e) The term "system of records" means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying

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number, symbol, or other identifying particular assigned to an individual.

(f) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided in 13 U.S.C. 8.

(g) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(h) The term "amend" means to make any correction to any portion of the record which the individual believes is not accurate, relevant, timely, or complete.

(i) The term "personnel record" means any personal information maintained in a system of records as defined in paragraph (e) of this section that is needed for personnel management programs or processes such as staffing, employee development, retirement, grievances, and appeals.

Rules and procedures promulgated by the Office of Personnel Management under the Privacy Act for personal records for which it has responsibility will be followed by the Department with regard to such records except when inconsistent with provisions of the Foreign Service Act.

§ 171.31 Identifying information.

All requests for access to a record or records must reasonably describe the system of records and the individual's record within the system in sufficient detail to permit identification of the requested record(s). System names, descriptions, and the identifying information required for each system are published in the Department's public notice of systems of records appearing in the **Federal Register**. As a minimum, requests should include the individual's full name (maiden name, if appropriate), present mailing address (including zip code), date and place of birth, and other information helpful in identifying the record. Helpful data includes circumstances which give the individual reason to believe that the Department of State maintains records under her/his name, as well as the approximate time period of the records. This information will facilitate the timely search of record systems and assist the Department in locating those records which actually pertain to the individual requester. In certain instances, it may be necessary for the Department to request additional information from the requester, either to ensure a full search or to ensure that a record retrieved does in fact pertain to the individual.

§ 171.32 Exemptions.

Portions of systems of records maintained by the Department are authorized to be exempted from a limited number of provisions of the Privacy Act. In utilizing these exemptions, however, the Department contemplates exempting only those portions of systems necessary for the proper functioning of the Department and which are consistent with the Privacy Act and these regulations. The following exemptions are authorized under 5 U.S.C. 552a(j) and (k):

(a) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and in fact, properly classified pursuant to such Executive Order (k)(1);

(b) Investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2): Provided, however, that if any individual is denied any right, privilege, or benefit for which she or he would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the regulations, under an implied promise that the identity of the souce would be held in confidence (k)(2);

(c) Records maintained in connection with providing protective services to the President of the United States or other individuals, pursuant to 18 U.S.C. 3056 and 22 U.S.C. 2666 (k)(3);

(d) Records required by statute to be maintained and used solely as statistical records (k)(4);

(e) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, nominations or referrals to international organizations, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of these regulations, under an implied promise that the identity of the source would be held in confidence (k)(5);

(f) Testing or examination material used solely to determine individual qualification for appointment or promotion to the Federal service which would compromise the objectivity or fairness of the testing or examinations process if disclosed (k)(6); or

(g) Evaluation material used to determine potential of an individual for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of these regulations, under an implied promise that the identity of the source would be held in confidence (k)(7); or

(h) Records originated by another agency when that agency has determined that the record is exempt under 5 U.S.C. 52a (j). Also, pursuant to Section (j)(2) of the Act, records compiled by the Special Assignment Staff, the Command Center, and the Passport and Visa Fraud Branch of the Office of Security may be exempted from the requirements of any part of the Act except subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent necessary to assure the effective completion of the investigative and judicial processes.

(i) Portions of the following systems of records are exempted under 5 U.S.C 552a(j) to the extent authorized and determined by the agency originating the records. The names of the systems correspond to those published in the **Federal Register** by the Department.

System Name: STATE DEPT.
Consular Service and Assistance Records. STATE–5.
Coordinator for Combatting Terrorism Records. STATE–6.
External Research Records. STATE–10.
Extradition Records. STATE–11.
Intelligence and Research Records. STATE–15.
International Organizations Records. STATE–17.
Law of the Sea Records. STATE–19.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–36.
Visa Records. STATE–39.
Munitions Control Records. STATE–42.

(j) Portions of the following systems of records are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (3)(4), (G), (H), and (I), and (f). The names of the systems correspond to those published in the **Federal Register** by the Department.

(1) Exempt under 5 U.S.C. 552a(k)(1). The reason for invoking the exemption is to protect the material required to be kept secret in the interest of national defense and foreign policy.

Board of Appellate Review Records. STATE–2.
Consular Service and Assistance Records. STATE–5.
Coordinator for Combatting Terrorism Records. STATE–6.
External Research Records. STATE–10.
Extradition Records. STATE–11.
Foreign Assistance Inspection Records. STATE–48.
Intelligence and Research Records. STATE–15.
International Organizations Records. STATE–17.
Law of the Sea Records. STATE–19.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–36.
Visa Records. STATE–39.
Berlin Document Center. STATE–41.
Munitions Control Records. STATE–42.

(2) Exempt under 5 U.S.C. 552(a)(k)(2). The reasons for invoking the exemptions are to prevent individuals the subject of investigation from frustrating the investigatory process, to insure the integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided; and to protect the confidentiality of sources of information.

Board of Appellate Review Records. STATE–2.
Consular Service and Assistance Records. STATE–5.
Coordinator for Combatting Terrorism Records. STATE–6.
Extradition Records. STATE–11.
Foreign Assistance Inspection Records. STATE–48.
Intelligence and Research Records. STATE–15.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–39.
Visa Records. STATE–39.
Munitions Control Records. STATE–42.

(3) Exempt under 5 U.S.C. 552(a)(k)(3). The reason for invoking this exemption is to preclude impairment of the Department's effective performance in carrying out its lawful protective responsibilities under 18 U.S.C. 3056 and 22 U.S.C. 1666.

Consular Service and Assistance Records. STATE–5.
Extradition Records. STATE–11.
Intelligence and Research Records. STATE–15.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–36.
Visa Records. STATE–39.

(4) Exempt under 5 U.S.C. 552a(k)(4). The reason for invoking this exemption is to avoid needless consideration of records which are used solely for statistical purposes and from which no individual determinations are made.

Foreign Service Institute Records. STATE–14.
Personnel Payroll Records. STATE–30.
Personnel Records. STATE–31.

(5) Exempt under 5 U.S.C. 552a(k)(5). The reasons for invoking this exemption are to insure the proper functioning of the investigatory process, to insure effective determination of stability, eligibility and qualification for employment and to protect the confidentiality of sources of information.

Board of the Foreign Service Records. STATE–3.
Equal Employment Opportunity Records. STATE–9.
Foreign Assistance Inspection Records. STATE–48.
Foreign Service Grievance Board Records. STATE–13.
Legal Adviser Personnel Records. STATE–20.
Overseas Records. STATE–25.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personnel Records. STATE–31.
Security Records. STATE–36.
Senior Personnel Appointment Records. STATE–47.

(6) Exempt under 5 U.S.C. 552(k)(6). The reasons for invoking this exemption are to prevent the compromise of testing or evaluation material used solely to determine individual qualifications for employment or promotion, and to avoid giving unfair advantage to individuals by virtue of their having access to such material.

Foreign Service Institute Records. STATE–14.
Personnel Records. STATE–31.

(7) Exempt under 5 U.S.C. 552a(k)(7). The reason for invoking this exemption is to prevent access to such material maintained from time to time by the Department in connection with various military personnel exchange programs.

Overseas Records. STATE–25.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Personnel Records. STATE–31.

(k) Portions of certain documents in the following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j) and (k) from subsections (c)(3) and (4); (d); (e)(4), (G), (H), and (f) of 5 U.S.C. 552a.

Public Affairs Records. STATE–35.
Privacy Act Requests Records. STATE–40.

§ 171.33 Time limits.

Whenever possible, the Department will acknowledge the request within 10 days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the request and furnish the requester information as soon as possible thereafter.

§ 171.34 Access to records.

(a) *Verification of personal identity.* The Department will require reasonable identification of individuals to assure that records are disclosed only to the proper person(s).

(1) *Access in person.* When access to a record is granted in person, the Department will require a verification of identity by the individual; employee identification card, driver's license, medicare card, annuitant identification, or passport are examples of acceptable identification.

(2) *Access by mail.* For individuals who seek access by mail, the Department will require verification of identity; comparison of signature of the requester and those in the record, if any, will be used to determine identity.

(3) *Statement verifying identity.* If an individual can provide no suitable documents for identification or a signature is not on record, the Department will require a signed statement from the individual asserting her or his identity and stipulating that the individual understands that knowingly or willingly seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000.

(b) *Sensitive records.* In certain cases where the Department determines that the requested record is of sufficient sensitivity, it may require the individual

to furnish a signed notarized statement verifying the requester's identity. The Department will inform the individual at the time the record is retrieved whether or not such a statement is necessary.

(c) *Accompanying individual.* If, when exercising physical access to a record, the requester is accompanied by any other person, the Department will require the requester to sign a statement authorizing disclosure of the contents of record in the presence of the accompanying individual.

(d) *Authorized representatives or designees.* When an individual wishes to authorize another person or persons access to her or his records other than as provided in paragraph (e) of this section, the individual shall submit a signed, notarized statement authorizing and consenting to access by a designated person or persons.

(e) *Guardians.* The parent(s) of any minor, or the legal guardian of an individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act for and on behalf of said individual upon presentation of appropriate documentation of such relationship.

(f) *Medical records.* If, in the judgment of the Deputy Assistant Secretary of State for Medical Services or her/his designee, the release of medical information directly to the requester could have an adverse on the requester, the aforementioned officer will attempt to arrange an acceptable alternative in granting access to such record(s). This will normally involve the release of such information to a doctor named by the requester.

(g) *Records relating to civil actions or proceedings.* The requirements of this section do not entitle an individual to the right of access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 171.35 Requests for amending records.

(a) An individual has the right to request that the Department amend a record pertaining to her or him which the individual believes is not accurate, relevant, timely, or complete. At the time the Department grants access to a record it will also furnish guidelines for requesting amendments to the record. These guidelines will also be available in the public reading room in the Department of State, Washington, D.C. between 10 a.m. and 4 p.m. Monday through Friday, except for legal public holidays, or may be obtained by writing the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Department of State, Room 1239, Washington, D.C. 20520.

(b) Requests for amending records must be in writing and mailed or delivered to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Department of State, Rom 1239, Washington, D.C. 20520, who will coordinate the review of the request to amend a record with the appropriate office(s). The Department will require verification of personal identity as provided § 154.5(c)(3) of these regulations before it will initiate action to amend a record to ensure that the requester is not deliberately or inadvertently seeking to change records about other persons. Such requests should contain, as a minimum, identifying information needed to locate the record, a brief description of the items of information to be amended, and the nature of the requested amendment. The requester should submit as much documentation, arguments or other data as seems warranted to support her/his request for amendment.

(c) All requests for amendments to records will be acknowledged within 10 days (excluding Saturdays, Sundays, and legal public holidays). Whenever possible all requests for amendments to records will be reviewed within 10 days (exluding Saturdays, Sundays, and legal public holidays) of their receipt by the Office responsible for the record, and the requester will be advised of the results of the review. In those cases where the review cannot be completed within 10 days, the requester will be so advised and informed when the review will be completed. Except in unusual circumstances, this review will be completed no later than 30 days (excluding Saturdays, Sundays, and legal public holidays) after receipt of the request to amend a record.

(d) In reviewing a record in response to a request to amend, the Department shall determine whether the record is relevant and necessary to accomplish a purpose of the agency and shall incorporate the criteria of accuracy, relevance, timeliness, and completeness of the record in that review.

(e) If the office responsible for the record agrees with an individual's request to amend a record, it shall:

(1) Advise the individual in writing;

(2) Amend the record accordingly; and

(3) If an accounting of disclosure has been made, advise all previous recipients of the record of the amendment and its substance.

(f) If the office responsible for the record, after an initial review of a request to amend a record disagrees with all or any portion of the requested amendment, an officer at the Deputy Assistant Secretary level or equivalent, shall:

(1) Advise the individual of its refusal and the reasons for it; and

(2) Inform the individual that she or he may request a further review in accordance with Subpart G.

Subpart E—Ethics in Government Provisions

§ 171.40 Covered employees.

(a) Officers and employees, including special government employees, whose positions are classified at grades GS–16 and above or at any equivalent rate under another pay schedule;

(b) Officers or employees in a position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16;

(c) Employees in the excepted service in positions which are of a confidential or policy-making nature unless an employee or groups of employees are exempted by the Director of the Office of Government Ethics;

(d) The designated agency official who acts as the Department's Ethics Officer; and

(e) Individuals who are nominated for positions requiring Senate confirmation by the President but who are *not* subsequently confirmed by the Senate.

§ 171.41 Identifying information.

(a) The name and/or position title of the Department of State official who is subject of the request,

(b) The time period covered by the report requested, and

(c) Completion of an Ethics Request Form.

§ 171.42 Time limits.

(a) Reports shall be made available to the public within fifteen (15) days after receipt by the Department.

(b) Reports shall be retained by the Department and made available to the public for a period of six (6) years. The exceptions are those reports which are filed by individuals who are nominated for office by the President and are not confirmed by the Senate; those reports will be retained and made available for a one-year period.

§ 171.43 Access to, and use of, reports.

The Attorney General is authorized to bring a civil action against any person who obtains or uses a financial disclosure report:

(a) for any unlawful purpose;

(b) for any commercial purpose, other than for news or community dissemination to the general public;

(c) for determining or establishing the credit rating of any individual; or

(d) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

The court may assess a civil penalty not to exceed $5.000 against any person who obtains or uses the reports for these prohibited purposes; an additional remedy as available under statutory or common law may also be assessed at the discretion of the court.

Subpart F—Denial Procedures

§ 171.50 Denials of accoss or of amendment.

The decision to deny an individual access to records, or to deny an amendment request under Privacy Act provisions shall be made by: (a) the Department official of a rank not below the Deputy Assistant Secretary or equivalent level who is responsible for the system of records involved, (b) the Deputy Assistant Secretary for the Classification/Declassification Center, or her/his designees, (c) the Director/Deputy Director of Mandatory Review and the Director of Systematic Review in A/CDC, and (d) officials designated by the Under Secretary for Management/Chairman of the Oversight Committee for E.O. 12065. When an authorized official denies access to a record or portion thereof, the official will advise the individual in writing of the denial and the specific reasons therefor. The denial letter will also advise the individual of her/his right to seek administrative review of the Department's decision.

Subpart G—Appeals Procedures

§ 171.60 Appeal of denial of access to records.

(a) Review of an initial denial of access to a record under the Freedom of Information Act (5 USC 552), the Privacy Act of 1974 (5 USC 552a), or Executive Order 12065 may be requested by the individual who submitted the initial request for access. The request for review (hereinafter referred to as the appeal) must be in writing and should be sent by certified mail to the Assistant Secretary for Public Affairs, Chairman, Appeals Review Panels, Department of State, 2201 C street, N.W., Washington, D.C. 20520. The appeal should be received within 60 days of the date of receipt by the appellant of the Department's refusal to grant access to a record in whole or in part.

(b) The time for decision on the appeal begins on the date the appeal is received by the Chairman, Appeals Review Panels. The appeal of a denial of access to records shall include any documentation, information and statements to support the individual's request for access and to refute the use of the exemption(s) cited in the Department's justification concerning the denial of access.

(c) The Chairman of the Appeals Panels or her/his designee and at least two other members chosen by her/him from a list of senior officers designated for this purpose by the various bureaus of the Department shall constitute a panel to consider and decide the appeal. There shall be a written record of the reasons for the final determination. The final determination will be made within 30 working days for Executive Order and Privacy Act appeals, and within 20 working days (excluding Saturdays, Sundays, and holidays) for FOIA appeals. For good cause shown, the Chairman of the Appeals Review Panels may extend such determination beyond the 30-day period in Privacy Act cases.

(d) The Chairman shall then notify the requester in writing of the panel's decision to grant access and of the Department's regulations concerning access.

(e) When the final decision of the Panel is to refuse to grant an individual access to a record, the Chairman of the Panel shall advise the individual in writing:

(1) of the refusal to grant the appeal and the reasons therefor including the exemptions of the Freedom of Information Act, the Privacy Act of 1974, and/or Executive Order 12065 under which access is denied;

(2) of her/his right to seek judicial review of the Department's decision, where applicable.

§ 171.61 Appeal of refusal to amend records.

(a) Review of an initial refusal to amend a record under the Privacy Act of 1974 may be requested by the individual who submitted the initial request for amendment. The review (hereinafter referred to as the appeal) should be requested in writing within 60 days of the date the individual is informed of the Department's refusal to amend a record in whole or in part. The appeal must be in writing and should be sent by certified mail to the Assistant Secretary for Public Affairs, Chairman, Appeals Review Panels, Department of State, 2201 C Street, N.W. Washington, D.C. 20520.

(b) The time for decision on the appeal begins on the date the appeal is received by the Chairman, Appeals Review Panels. The appeal should include any documentation, information or statements advanced for the amendment of the record.

(c) The Chairman of the Appeals Review Panels and two other members of the Panels designated by him shall constitute a panel to consider and decide the appeal; there shall be a written record of the reasons for the final determination. The final determination will be made within 30 days (excluding Saturdays, Sundays, and legal public holidays), unless for good cause shown, the Chairman of the Appeals Review Panels extends such determination beyond the 30-day period.

(d) When the final determination is that the record should be amended in accordance with the individual's request, the Chairman of the Appeals Review Panels shall direct the office responsible for the record to comply. A responsible official of the Department shall then:

(1) Amend the records as directed;

(2) If any accounting of the disclosure has been made, advise all previous recipients of the record of the amendment and its substance;

(3) So advise the individual in writing.

(e) When the final decision is that the request of the individual to amend the record is refused, the Chairman of the Panels shall advise the individual:

(1) Of the refusal and the reasons for it;

(2) Of her and his right to file a concise statement of the reasons for disagreeing with the decision of the Department;

(3) Of the procedures for filing the statement of disagreement;

(4) That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the Department, a brief statement by the Department summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained; and

(6) Of her/his right to seek judicial review of the Department's refusal to amend the record.

(f) When the final determination is to refuse to amend a record and the individual has filed a statement under paragraph (e) of this section, the Department will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use, or disclose it. When information that is the subject of a statement of dispute filed by an individual is subsequently disclosed, the Department will note that the information is disputed and provide a copy of the individual's statement. The Department may also include a brief

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summary of the reasons for not making a correction when disclosing disputed information. Such statements will normally be limited to the reasons given to the individual for not amending the record. Copies of the Department's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by the individual under these regulations.

Subpart H—Other Agency Material

§ 171.70 Referral.

While processing a request for access, the Department may locate in its files documents originated by other Federal agencies. The Department shall refer the documents to the originating agency for review and possible declassification and release to the requester. The originating agency is then responsible for contacting the requester directly concerning the release of the material and for notifying the Department of its determination. The Department of State will notify the requester of the referral unless the association of the reviewing agency with the information requires protection in the interest of national security.

§ 171.71 Concurrence.

While processing a request for access, the Department may locate Department of State documents containing information originated by or of substantive interest to other Federal agencies. The Department shall refer these documents or portions thereof to the originating or interested agency for review, possible declassification and concurrence regarding the documents' release. The other agency will then return the documents to the Department so that it may contact the requester regarding the material.

Dated: May 13, 1980.

Ben H. Read,

Under Secretary for Management.

[FR Doc. 80-16879 Filed 6-2-80; 8:45 am]

BILLING CODE 4710-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL 5056; Docket No. A-79-34]

Prevention of Significant Deterioration for Carbon Monoxide, Hydrocarbons, Nitrogen Oxides, Ozone, and Lead (PSD Set II); Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Public meeting on advanced notice of proposed rulemaking.

SUMMARY: This document announces a public meeting to receive comments on the PSD Set II advanced notice of proposed rulemaking, published in the **Federal Register** on May 7, 1980 at 45 FR 30088.

DATE: EPA will hold the meeting on July 1, 1980. See Supplementary Information for additional information.

ADDRESS: The meeting will take place at the Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, D.C. 20024 in the Pierre Suite on the 11th floor. The meeting will start at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Mayer, Environmental Engineer, Control Programs Development Division (MD-15), Environmental Protection Agency, Research Triangle Park, N.C. 27711. Telephone: (919) 541-5497.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency has initiated efforts to develop regulations for the prevention of significant deterioration for Set II pollutants (carbon monoxide, hydrocarbons, nitrogen oxides, ozone and lead). As a first step in this rulemaking process, an Advanced Notice of Proposed Rulemaking for PSD Set II was published in the **Federal Register** on May 7, 1980 at 45 FR 30088. To ensure fuller public participation in this matter, EPA is holding a public meeting before proposing regulations.

Persons wishing to make oral presentations at the public meeting should provide notice of such intent to Ms. Nancy Mayer by June 24, 1980. Speakers with a prepared statement should provide three copies to the meeting director before the presentation. Oral presenters should limit their presentations to 20 minutes; extra time will be allowed at the discretion of the meeting director. Anyone who does not schedule a time, but desires to speak at the meeting should register at the beginning of the meeting with Ms. Mayer. The meeting director will schedule these presenters as time permits.

Because of the scheduling of the public meeting EPA has extended the public comment period on the ANPRM until July 31. An official recorder will prepare a verbatim transcript of the meeting. Copies of this transcript as well as relevant written materials will be available to the public in Docket No. A-79-34, Central Docket Section (A-130), U.S. Environmental Protection Agency, Room 2902, 401 M Street, SW., Washington, D.C. 20460.

Dated: May 27, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-16787 Filed 6-2-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

Medicaid Program; Common Medicaid-Medicare Audit Requirements for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would amend Medicaid regulations to prohibit Federal matching of State costs for hospital reimbursement audit activities that duplicate Medicare audit activities. Most hospitals that participate in both Medicare and Medicaid are reimbursed using the same reimbursement method. When Medicare audits a hospital, we believe the audit information should be available to Medicaid agencies and that we should not pay States to collect the same information again. If States need information not routinely obtained in Medicare audits, they may arrange for expanded Medicare audits, or do their own audits, and receive Federal matching for the *additional* cost under either arrangement.

DATES: Closing date for receipt of comments: August 4, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

Please refer to File Code BPO-6-P. Agencies and organizations are requested to submit comments in duplicate.

Beginning two weeks from today, the public may review the comments on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. Comments will be available in Room 309G of the Department's offices at 200 Independence Avenue, S.W., Washington, D.C. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Don Novitski, 301-594-9063.

SUPPLEMENTARY INFORMATION:

Background

With few exceptions, Medicaid and Medicare use the same principles of reimbursement for hospital care. (See Medicare regulations at 42 CFR 405.402 through 405.455, and Medicaid regulations at 42 CFR 447.261 and 447.262.) This use of the same principles of reimbursement makes audit information requirements under the two programs similar.

For reimbursement under Medicare or Medicaid, a hospital files a cost report with the appropriate program. The Medicaid agency usually requires submittal of the Medicare cost report, often with supplementary Medicaid-specific information. The intermediary for Medicare, or the State or its fiscal agent for Medicaid, conducts an in-house desk review of the cost report. The purpose of the desk review is to determine the acceptability of the cost report, the need for a field audit and, if a field audit is needed, the scope of the audit. If no field audit is required, final settlement of the cost report is made and the hospital is notified of the reimbursement amount. If, based on the desk review determination, a field audit is necessary, final settlement does not take place until after the audit is performed. In case of a subsequent review or hearing resulting in modifications to the original findings, a payment adjustment is made.

Under the Medicare program's reimbursement system, intermediaries routinely audit hospital cost reports, while Medicaid audit activities vary in type and frequency from State to State. To avoid duplicate Medicare and Medicaid audits, we encouraged States to enter into "common audit" agreements with Medicare intermediaries. About 37 States did so. Under these agreements, the intermediary performed the audit and shared the information with the State; the State paid an appropriate part of the cost. Recent information reveals that the non-cost sharing States do not significantly duplicate Medicare audits. They delay their cost settlements until the Medicare intermediary settles with the hospitals, then request the Medicare audit report from the hospital or from the Medicare intermediary, under the Freedom of Information Act. When the audit report is received, the State uses it in its cost settlement with the hospital.

Problems With Present Arrangement

The General Accounting Office has criticized the lack of full audit data exchange between Medicare and Medicaid (GAO report HRD-78-158, January 9, 1979). Under current arrangements, non-cost sharing States may not know that subsequent adjustments to the Medicare cost settlements have taken place, and, therefore, they do not request them. Further, Medicare information may not be forwarded to non-cost sharing States as soon as it is available, which delays State cost settlements. Several States have recently terminated their cost sharing agreements with Medicare, since the Medicare audit reports and cost settlement information can be obtained from hospitals, under the Freedom of Information Act, or under regulations at 20 CFR 422.435, Release of title XVIII information to the public (see § 422.435(c)); however, for the reasons cited, these are not fully reliable procedures for timely and complete information.

Exchange of Audit Information

One of our objectives is to simplify administration of the Medicare and Medicaid programs. One way of achieving this is to promote routine exchange of hospital audit data.

Therefore, effective October 1, 1979, Medicare intermediaries are making hospital cost report settlement data routinely available free of charge to Medicaid agencies. The available information includes copies of all medicare hospital cost reports, desk review determinations, audit reports, notices of program reimbursement issued upon settlement of the cost report, and any subsequent adjustments from, for example, quality assurance reviews or hearings. Where common audit agreements are in effect, Medicaid agencies will reciprocate by providing Medicare intermediaries with any audit information that may be pertinent to the Medicare program.

Several benefits accrue from the free flow of hospital cost report information. Medicaid agencies now engaged in cost-sharing agreements with Medicare will realize savings by receiving Medicare audit data free of charge. Routine data exchange will accelerate Medicaid agency and intermediary receipt of audit information. Over- or underpayments to hospitals shoud be resolved more rapidly, resulting in a more accurate reimbursement system. Provider relations should improve as a result of decrease in the total amount of audit activity under the two programs, where Medicaid agencies have been duplicating Medicare intermediary activity.

Common Audit Agreements

While we have not mandated that States enter into common audit agreements, we nevertheless believe that common audit agreements between States and intermediaries are a sound administrative practice. The parties, with the assistance of our regional office staff, would negotiate agreements, describing the method of exchange and any incremental efforts that may be requested by the States.

If the State wishes to audit providers not being audited by the intermediary or wishes a more in-depth review than Medicare needs, the State and the intermediary may agree that the intermediary will perform the additional work for a negotiated fee. The State may also do its own additional audit work if preferred. However, the State obtains the additional audit information, Federal financial participation (FFP) will be available in expenditures for this work in Medicare audit activity is not duplicated.

States may request information from the HCFA regional office on its evaluations of intermediary audits. These evaluations are done on a routine, sample basis. States may also request FFP in expenditures for a reasonable amount of audit activity for quality assurance purposes.

The use of common audit agreements for sharing of hospital audit information by Medicaid agencies and Medicare intermediaries will facilitate the timely exchange of appropriate information between the parties.

Statutory Authority

Under section 1903(a)(7) of the Social Security Act, FFP is available in Medicaid agency expenditures found necessary by the Secretary for proper and efficient administration of the State plan. This includes expenditures for State audits of hospitals. We consider this limitation of FFP necessary for proper and efficient administration, because it will prevent duplicate Medicare and Medicaid expenditures for hospital audits.

Related Bills in Congress

Three bills are pending in Congress that would mandate some form of coordinated audit in hospitals. The bills are broader in scope than these regulations in that they would require coordinated audits by the Medicare, Medicaid, and Maternal and Child Health programs. The regulations and the bills also differ in emphasis. The regulations would prevent duplicate Medicare and Medicaid expenditures for audits and the bills are intended to prevent duplication of audit effort among the three programs. The bills also would extend current regulatory authority for Medicaid by enabling the Secretary to require States, via the State plan, to take positive action to coordinate audits and audit findings with Medicare and the Maternal and

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Child Health program.

42 CFR Part 447, Subpart B is amended as follows:

1. 42 CFR 447.200 is revised by adding a sentence to the end of the section to read as follows:

Subpart B—Payment Methods: General Provisions

§ 447.200 Basis and purpose.

(a) This subpart prescribes State plan requirements for setting payment rates to implement, in part, section 1902(a)(30) of the Act, which requires that payments for services do not exceed reasonable charges consistent with efficiency, economy, and quality of care.

(b) It also prescribes limitations on FFP in expenditures for certain agency activities, under the authority of section 1903(a)(7) of the Act. That section provides tha FFP is available in expenditures found necesary by the Secretary for proper and efficient administration of the State plan.

2. 42 CFR 477.202 is revised by coding the existing regulatory language as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 447.202 Audits.

(a) The Medicaid agency must assure appropriate audit of records if payment is based on costs of services or on a fee plus cost of materials.

(b) *FFP for hospital audits.*

(1) FFP is not available in expenditures for agency field audits of hospital cost reports that duplicate Medicare intermediary field audits of those reports.

(2) FFP is available in expenditures for agency field audits of hospital cost reports that are additional to Medicare audit activities, whether the additional activities are performed by the agency or by the Medicare intermediary at the agency's request.

(Sections 1102 and 1903(a)(7) of the Social Security Act (42 U.S.C. 1302 and 1396b))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 31, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 20, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-16822 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-122; RM-3320]

FM Broadcast Station in Ashland, Oreg.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of an FM channel to Ashland, Oregon, in respone to a request filed by A-Train Radio. The additional time is needed so that engineering information can be submitted.

DATES: Comments must be filed on or before June 20, 1980, and reply comments must be filed on or before July 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 21, 1980.

Released: May 27, 1980.

By the Chief, Policy and Rules Division.

1. On March 13, 1980, the Commission adopted a notice of proposed rule making, 45 Fed. Reg. 23483, concerning the above-entitled proceeding. The date for filing comments was May 19, 1980. The date for filing reply comments is presently June 9, 1980.

2. On May 16, 1980, counsel for A-Train Radio (proponent in this proceeding) filed a request seeking an extension of time for filing comments to and including June 20, 1980. Counsel states that the Commission, in the notice, requested comments on the question of preclusion to several communities as a result of the proposed FM assignment to Ashland, Oregon. Counsel states that proponent's consulting engineer has been unable, due to the press of other commitments, to complete this showing.

3. Section 1.46 of the Commission's rules states that extension requests must be filed seven days in advance of the deadline date. However, since the engineering information requested by the Commission would be beneficial in arriving at a decision in this proceeding, it would be in the public interest to grant the requested additional time in which to file comments. Also, as a result it is necessary to extend the reply comment date.

4. Accordingly, it is ordered, That the dates for filing comments and reply comments in BC Docket No. 80-122 are extended to and including June 20, and July 7, 1980, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-16735 Filed 6-2-80; 8:45 am]

BILLING CODE: 6712-01-M

47 CFR Part 73

[BC Docket No. 80-90; RM-2587; RM-3226; RM-3367; BC Docket No. 80-130]

Modification of FM Broadcast Station Rules To Increase the Availability of Commercial FM Broadcast Assignments; Amending Policies and Procedures for the FM Table of Assignments, Section 73.202 of the Commission's Rules; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in two interrelated proceedings concerning the availability of additional FM frequencies and modification of the procedures used in assigning such channels.

DATE: Comments must be filed on or before October 1, 1980, and reply comments must be filed on or before December 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20544.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 22, 1980.

Released: May 27, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it two motions to extend the time for filing comments and reply comments to the *notice of proposed rule making* in BC Docket No. 80-90, released March 14, 1980, 45 Fed. Reg. 17602, and to the *notice of inquiry and notice of proposed rule making* in BC Docket 80-130, released April 16, 1980, 45 Fed. Reg. 26390. The Association for Broadcast Engineering Standards, Inc. ("ABES") requests that the time for submitting comments in BC Docket No. 80-90 be extended from June 13, 1980, to October 1, 1980, and for reply comments from August 13, 1980, to December 1, 1980. The National Association of Broadcasters ("NAB") seeks additional time for the filing of pleadings in BC Docket 80-90 and BC Docket 80-130 to the dates specified by ABES. The present deadlines in BC Docket 80-130 for filing comments is May 27, 1980, and for reply comments is June 11, 1980. Supporting comments to the ABES request were received from the American Broadcasting Companies, Inc. ("ABC").

2. ABES states it is presently undertaking a study of the likely impact of the proposed rule changes by selecting typical markets, studying the potential for new FM services (including the possibility of interference to existing services) and then quantifying the gains and losses by area and population. The ABES Technical Committee estimates that the study will take at least another three months. ABES further states that it is aware of other similar studies in progress, some of which it is participating in, which will also require time beyond the present comment deadline.

3. ABC states in support that it has retained an engineering consultant to prepare an analysis of the consequences of the Commission's proposal in BC Docket 80-90, which will also require additional time beyond the comment limitation.

4. NAB agrees with ABES as to the need for comprehensive comments and indicates that it also intends to prepare in-depth engineering and policy related studies bearing on both docketed proceedings.

5. We requested, in the notice of proposed rule making in BC Docket 80-90 at paragraph 20, the submission of comments which would reflect results from comprehensive studies of the effects of our proposals as they relate to the merits of adding more classes of channels. We are pleased to know that various studies of this type are underway and we will look forward to receiving the results. While we originally provided a three-month period for comments, we recognize that the studies now in progress will take additional time and in order to facilitate the submission of the results we shall grant the extension for filing comments as requested to October 1, 1980, and for reply comments to December 1, 1980. In addition, because the other proceeding (BC Docket 80-130) is interrelated in some respects and the studies underway may produce results which can be of help to us in resolving that proceeding, we are also willing to extend the comment deadline in that case to the same dates—October 1, and December 1, 1980. We expect that this additional time will be sufficient and therefore do not anticipate the need for any future extensions.

6. Accordingly, it is ordered, That the dates for filing comments and reply comments in Dockets 80-90 and 80-130 are extended to and including October 1, 1980, and December 1, 1980, respectively.

7. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-16736 Filed 6-3-80; 8:45 am]

BILLING CODE 6712-01-M

V 45 J E 3 80 UMI

Notices

Federal Register
Vol. 45, No. 108
Tuesday, June 3, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Big Rivers Electric Corp., Henderson, Ky.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $929,000,000 to Big Rivers Electric Corporation (Big Rivers), of Henderson, Kentucky. These loan funds will be used to finance a project consisting of generation facilities (880 MW nameplate rating), approximately 64 miles of 345 kV transmission line and 86 miles of 161 kV transmission line, and terminal facilities necessary to connect into Big Rivers existing facilities.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. William H. Thorpe, Manager, Big Rivers Electric Corporation, P.O. Box 24, Henderson, Kentucky 42420.

In order to be considered, proposals must be submitted on or before July 3, 1980, to Mr. Thorpe. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Big Rivers and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 27th day of May 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 80-16842 Filed 6-2-80; 8:45 a.m.]
BILLING CODE 3410-15-M

McKenzie Electric Cooperative., Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare an environmental impact statement in connection with a proposed insured loan by REA for McKenzie Electric Cooperative, Inc. (MECI), of Watford City, North Dakota. The proposed insured loan will assist MECI in constructing 104.6 km (65 miles) of 115 kV transmission line and associated substation facilities.

The 115 kV transmission line will be built between the Charlie Creek Substation located in McKenzie County, North Dakota and the East Sidney Substation in Richland County, Montana. Associated substation facilities include the construction of five new distribution substations and the expansion of one existing substation. MECI has prepared a Borrower's Environmental Report concerning the proposed project. An Environmental Assessment was prepared by REA.

Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the project are adequately considered in the MECI and REA Environmental Assessments.

REA's independent evaluation of the proposed project leads it to conclude that its proposed financial assistance for this project does not represent a major Federal Action that will significantly affect the quality of the human environment.

Based on this independent evaluation, the REA Environmental Assessment, and a review of MECI's Borrower's Environmental Report, a Finding of No Significant Impact was reached in accordance with Sections IV.B and IV.D.1 of REA Bulletin 20–21; 320–21, Part I.

Various alternatives to the proposed transmission line and substations were reviewed by MECI and REA. The alternatives include no action, use of existing facilities and alternative corridors. The most viable alternative to deliver power to all existing and future loads of MECI in McKenzie County is the proposed project.

Copies of REA's Finding of No Significant Impact, REA's Environmental Assessment and MECI's Borrower's Environmental Report may be reviewed in the Office of the Director, Distribution Systems Division, Room 3306, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250 and at the office of the cooperative, McKenzie Electric Cooperative, Inc., P.O. Box 649, Watford City, North Dakota 58854.

Dated at Washington, D.C., this 28th day of May, 1980.

Joseph Vellone,
Acting Administrator, Rural Electrification Administration

[FR Doc. 80-16853 Filed 6-2-80; 8:45am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 37352]

Circle Airfreight Corp.; Application for an All-Cargo Air Service Certificate

May 28, 1980.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 37352, from Circle Airfreight Corp., 545 Sansome Street, San Francisco, California 94111 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before June 24, 1980. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position

taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-16818 Filed 6-2-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38191]

Coleman Air Transport Corp., Service Suspensions, Enforcement Proceeding; Assignment of Proceeding

This proceeding is hereby assigned to Chief Administrative Law Judge Joseph J. Saunders. Future communications should be addressed to him.

Dated at Washington, D.C., May 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-16816 Filed 6-2-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 35936]

Commuter Airlines, Inc., Enforcement Proceeding; Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that, at the request of the Bureau of Consumer Protection and with the concurrence of all parties, the hearing in the above-entitled proceeding, which was assigned to be held on June 3, 1980 (45 FR 25109, April 14, 1980), is postponed until further notice.

Dated at Washington, D.C., May 29, 1980.

Elias C. Rodriguez,
Administrative Law Judge.

[FR Doc. 80-16813 Filed 6-2-80; 8:45 a.m.]
BILLING CODE 6320-01-M

[Docket 38185]

Lone Star Airways, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Chief Administrative Law Judge Joseph J. Saunders. Future communications should be addressed to him.

Dated at Washington, D.C., May 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-16814 Filed 6-2-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38185]

Lone Star Airways, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 13, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., May 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-16815 Filed 6-2-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 34141]

Trans-Panama, S.A.; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to Judge Rodriguez.

Dated at Washington, D.C., May 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-16817 Filed 6-2-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 10-80]

Proposed Foreign-Trade Zone, Prince George's County, Md.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by Prince George's County, a political subdivision of the State of Maryland, requesting authority to establish a general-purpose foreign-trade zone within the County and adjacent to the Washington, D.C. Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 27, 1980. The applicant is authorized to make this proposal under Section 467(a) of Article 23, Chapter 579, Maryland Acts of 1978.

The proposal calls for the establishment of a 77.5 acre general-purpose zone within the County-owned 1,281 acre Collington Center industrial park located immediately south of the City of Bowie at the intersection of U.S. Route 301 and Maryland 214 (Central Avenue) in Prince George's County. Development of the zone would be undertaken by the applicant which proposes to construct a 50,000 square foot multi-purpose structure as the zone's first facility. Additional buildings, including built-to-suit structures, would be constructed as required.

The application contains economic data and information concerning the need for a zone in the County. Several firms have indicated their intention to use the requested zone area for warehousing, distribution, assembly and light manufacturing activities involving such products as telecommunications test equipment, fiberglass marine items, wearing apparel, safety and security equipment, high pressure valves and compressors, and drive shafts.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; John Noon, Director, Inspection and Control Division, U.S. Customs Service, Region III, 40 S. Gay Street, Baltimore, Maryland 21202; and Colonel James W. Peck, District Engineer, U.S. Army Engineer District Baltimore, P.O. Box 1715, Baltimore, Maryland 21203.

As part of its investigation, the Examiners Committee will hold a public hearing on June 25, 1980, beginning at 10:00 a.m., in the Council Hearing Room (First Floor), County Administration Building, 14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland. The purpose of the hearing is to help inform interested parties about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377–2862) by June 18, 1980. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the executive secretary, at any time from the date of this notice through July 25, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Department of Program Planning and Economic Dev., Prince George's County Admin. Bldg., Room 4174, 14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20870.
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886–B, 14th & E Streets, N.W., Washington, D.C. 20230.

Dated: May 28, 1980.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 80-16860 Filed 6-2-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

The Exchange National Bank of Tampa; Approval of Applicant as Trustee

Notice was given in the Federal Register that on August 10, 1971, The Exchange National Bank of Tampa was approved as a trustee pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30.

The Exchange National Bank of Tampa and The Exchange Bank of Temple Terrace were merged effective December 1, 1979, under the charter and title of "Exchange Bank and Trust Company of Florida".

Notice is hereby given that the merged bank, Exchange Bank and Trust Company of Florida, with offices at 610 Florida Avenue, Tampa, Florida 33602 has been approved as a trustee pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30.

Dated: May 28, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-16854 Filed 6-2-80; 8:45 a.m.]

BILLING CODE 3510-15-M

COUNCIL ON WAGE AND PRICE STABILITY

Price Advisory Committee; Meeting

Authority of Committee: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Price Advisory Committee will meet on June 11, 1980, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20503.

Future meetings of the Price Advisory Committee have been tentatively scheduled for the second Wednesday of every month. The meeting dates will be formally announced as soon as a room has been reserved.

Purpose of the Meeting: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

Public Participation: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456–6756.

Dated: May 29, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-16741 Filed 6-2-80; 8:45 am]

BILLING CODE 3175-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

Correction

In FR Doc. 80–15847 appearing at page 34949 in the issue for Friday, May 23, 1980, third column, second line under *"Class 7510,"* "7110" should read "7510".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Possible Land Acquisition for Fort Carson, Colo.; Filing of Environmental Impact Statement

The Army, on May 30, 1980, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning possible acquisition of training land for Fort Carson, Colorado.

The DEIS addresses possible alternatives for satisfying a shortage of maneuver training land for Fort Carson. The Army had announced on December 20, 1978, that a significant requirement for additional training land at Fort Carson had been identified in an approved study. To satisfy this requirement would require from 60,000 to 245,000 acres depending primarily upon the quality and location of the land and environmental enhancement measures suggested due to soil type and vegetative cover.

A draft Analysis of Alternatives Study identified two parcels of land as reasonable solutions to the training land shortfall. The parcels are the Huerfano River parcel located south of Pueblo, Colorado and about 65 miles southeast of Fort Carson and the Pinon Canyon parcel located midway between La Junta and Trinidad, Colorado and about 100 miles southeast of Fort Carson. The possible environmental and socio-economic impacts of acquiring either of the parcels are analyzed in the DEIS.

Copies of the statement have been furnished to appropriate Federal, State, and local agencies. In addition, copies may be examined in public libraries, city and county offices in Southeastern Colorado. In the Washington area, copies may be seen during normal duty hours (8:00 a.m. to 4:30 p.m., Mondays through Fridays), in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434. Interested organizations and individuals may obtain copies for the cost of reproduction from the Commander, 4th Infantry Division (Mechanized) and Fort Carson, ATTN: AFZC–FE–EQ, Building 304, Fort Carson, CO 80913, telephone: (303) 579–4828.

Public meetings on the DEIS will be held at Trinidad, Walsenburg, La Junta, Pueblo, and Colorado Springs, Colorado. Comments on the DEIS will be accepted until July 21, 1980. Comments should be directed to Commander, 4th Infantry Division (Mechanized) and Fort Carson, ATTN: AFZC–FE–EQ, Building 304, Fort Carson, CO 80913.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 80-16687 Filed 6-2-80; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Dry Creek Dam and Channel Improvements

Intent to prepare a Draft Environmental Impact Statement (DEIS) for the Dry Creek Dam and Channel Improvements, also known as Warm Springs Dam and Lake Sonoma, Sonoma County, California, in relation to the implementation of Consultation recommendations on the Lake Sonoma Master Plan to conserve the endangered Peregrine falcon in accordance with Section 7(a) of the Endangered Species Act and amendments.

AGENCY: U.S. Army Corps of Engineers, Department of the Army (CE); U.S. Fish and Wildlife Service, Department of the Interior (FWS).

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. The following measures are to be considered:

a. Rancheria Creek Critical Habitat Zone (CHZ):

(1) Diversion of Rockpile Road prior to entry into the CHZ. Abandonment of the remainder of Rockpile Road through the CHZ as a county public road, which requires cooperation of the County.

(2) Construction of a bridge connecting the west end of Kelly Road to the peninsula between Cherry Creek and Yorty Creek with a road then connecting to the new Hot Springs Road. Abandonment of Rockpile Road beyond the project boundary, which requires cooperation of the County.

(3) Establishment of a ferry system in lieu of a bridge to accomplish No. 2 above.

(4) Realignment of Rockpile Road within the CHZ. Acquisition in fee of the CHZ to prevent development. Implementation of an annual monitoring program and management plan for the CHZ. In lieu of fee acquisition, purchase of development rights of the CHZ can be substituted.

b. Dry Creek CHZ:

(1) Elimination of the borrow site from the CHZ.

(2) Continuation of the annual monitoring program of the area.

(3) Establishment of a management zone in which all project activities are eliminated except those expressly for the conservation of the falcons.

(4) Acquisition of all lands in fee not currently owned by the Corps in T.11N., R.11W., Sections 33, 34, 35 and 36, and T.10N., R.11W., Section 1, 2, 3 and 4. Implementation of a managment plan specifically for the falcon. In lieu of fee purchase, acquisition of development rights of the CHZ can be substituted.

(5) Prohibiting shooting or rock climbing at any time in the CHZ.

c. Upper Dry Creek Candidate Zone:

(1) Elimination of public use of The Upper Dry Creek arm beyond the confluence with Cherry Creek to include elimination of all public facilities, abandonment of Hot Springs Road as a county public road beyond The Cherry Creek bridge, and eliminating boating from this arm.

(2) Purchase all lands in T.11N., R.12W., Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30. Implementation of an annual monitoring program and a management plan specifically for the falcons. In lieu of full purchase, acquisition of development rights to all sections above can be substituted.

d. Summary—One of the following should be implemented to avoid jeopoardy:

(1) Implement: a) one of the four measures provided for the Rancheria Creek CHZ; b) all of the conditions listed for the Dry Creek CHZ; and c) one of the two measures provided for the Upper Dry Creek candidate zone; or

(2) Do not fill the reservoir higher than approximately the 330-foot contour so that the existing Hot Springs Road and Kelly Road can remain unchanged in character and use patterns. At no time in the future allow the county to upgrade or expand Hot Springs Road across Corps property beyond necessary maintenance. Eliminate all recreational plans for the northern Lake Section (all those reached by the proposed new Hot Springs Road). Reduce recreation intensity in the southern Lake Section (all recreation planned south of Dry Creek CHZ) to a level that the reduced reservoir will support. Implement all conditions listed for the Dry Creek CHZ. Abandon Rockpile Road as a county public road beyond the project boundary, which requires cooperation of the County.

e. All measures shall be assessed and a final array of alternative actions shall be presented in the DEIS.

2. In summary, this action resulted from the public review of the Draft Master Plan prepared for the Warm Springs Dam and Lake Sonoma project in December 1978. On February 13, 1979, the U.S. Fish and Wildlife Service requested that Section 7(a) consultation be initiated. Consultation was initiated by the Corps of Engineers on February 20, 1979. The biological opinion was rendered on May 29, 1979 in which significant issues were identified. These issues included secondary development, trespass, traffic related disturbances, and habitat degradation.

The U.S. Fish and Wildlife Service is responsible as a cooperating agency for preparing and furnishing technical information about the endangered American peregrine falcon, detailed descriptions of alternative plans formulated in the biological opinion, and to participate in the preparation of the EIS.

3. A scoping meeting was held on August 29, 1979 with the U.S. Fish and Wildlife Service, California Department of Fish and Game and San Francisco District, Corps of Engineers participating. Prior to this time various opportunities to identify significant issues were furnished during the preparation and review of the Draft Master Plan between July 1978 and July 1979, including public workshops, letter comments and meetings with interested parties.

4. It is expected that the DEIS will be available to the public by early November 1980.

5. Questions about the proposed action and DEIS can be directed to Mr. Les Tong, U.S. Army Corps of Engineers, SPNED–ED, 211 Main Street, Room 809, San Francisco, California 94105.

Dated: May 26, 1980.

John M. Adsit,

Colonel, CE, District Engineer.

[FR Doc. 80-16801 Filed 6-2-80; 8:45 am]

BILLING CODE 3710-FS-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Navigation Channel Study in Krebs Lake at Pascagoula, Miss.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY:

1. *Proposed Action:* The proposed action is to prepare a DEIS to assist in determining whether or not to provide a navigation Channel in Krebs Lake at Pascagoula, Mississippi. Several channel and dredged material disposal alternatives are under consideration.

2. *Alternatives:* The alternatives involve structural modifications to the Krebs Lake area. For each channel size considered, a hydraulic dredge would be utilized during both construction and maintenance operations. Diked disposal area alternatives consider both upland and marsh creation sites. No action is also being considered.

3. *Scoping Process:*

a. The Public Involvement Program began in 1977 to discuss navigation problems with local interests. A public meeting workshop was held on 6 May 1980 to define the objectives of the study, review alternatives, and answer questions from local citizens.

b. Significant issues analyzed in the DEIS are: (1) channel sizes, and (2) dredged material disposal alternatives.

4. *Scoping Meeting:* No additional scoping meetings are scheduled due to the advanced state of the DEIS and the Detailed Project Report.

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5. *DEIS Preparation:* It is estimated that the DEIS will be available to the Public in June 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Ken Sims, PD–ES, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: May 9, 1980.

By authority of the Secretary of the Army:

George A. Bailey,

Colonel, U.S. Army, Director, Administrative Management, TAGO.

[FR Doc. 80–16798 Filed 6–2–80; 8:45 am]

BILLING CODE: 3710–CR–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Authorized Coosa River Navigation Project Between Montgomery and Gadsden, Ala.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY:

1. *Proposed Action.* The proposed action is to prepare a DEIS to evaluate the environmental impact of the Coosa River Navigation Project. The project involves construction of navigation locks at the existing Alabama Power Company dams on the river as well as some channel dredging and realignment, and relocation of utilities and bridges. The DEIS will include an evaluation of the environmental impact of induced development associated with the project.

2. *Alternatives:* The following basic transportation related alternatives will be evaluated:

a. No Action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Authorized navigation project including induced development.

c. Railroads.

d. Highways.

e. Pipelines.

f. Other transportation methods or combination of methods.

3. *Scoping Process:*

a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 Federal Register, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS will be determined through the scoping process.

b. Coordination with the U.S. Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *Scoping Meeting:* A Scoping Meeting will be held; however, the time, date, and location have not been scheduled.

5. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in the fall of 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Henry Malec, PD–ES, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: May 12, 1980.

By authority of the Secretary of the Army:

George A. Bailey,

Colonel, U.S. Army, Director, Administrative Management, TAGO.

[FR Doc. 80–16799 Filed 6–2–80; 8:45 am]

BILLING CODE 3710–CR–M

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles; Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 24–25 June 1980 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 24–25 June 1980 the Defense Science Board Task Force on ATM will review the potential enemy development of new ballistic and cruise missiles and propose and evaluate options for countering such threats.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 29, 1980.

[FR Doc. 80–16712 Filed 6–2–80; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: June 24 and 25, 1980, 9:00 a.m. to 5:00 p.m.

ADDRESS: June 24 and 25, 1980, Full Council meetings will be held at the Health and Human Services Building (HEW-North) 330 Independence Avenue, S.W., Room 4131, Washington, DC. For further information contact: Gloria Becerra, Office of Bilingual Education and Minority Languages Affairs, Reporters Building, Room 421, Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202, (202–447–9227).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242) to advise the Secretary of the Department of Education concerning matters arising in the admininstration of the Bilingual Education Act.

The meetings on June 24 and 25, 1980 will be open to the public beginning at 9:00 a.m.

June 24, 1980: A meeting of the Full Council on the following subjects is scheduled from 9:00 a.m. until 5:00 p.m. The proposed agenda includes the following:

Business Meeting

a. Call to Order.
b. Approval of Minutes.
c. Chairperson's Report.
d. Committee Reports.
e. Ad Hoc Reports.

11:00–12:30—OBEMLA Director's Report.

a. OBEMLA Resources.
b. Refugee Task Force.
c. Report of SEA Funding.
d. Report of Fellowship Funding.
e. New Coordination and Policy Functions.
f. Status of the OBEMLA Transition.
g. Proposed Organizational Structure of OBEMLA.
h. Update of Part C Research.

1:30–2:30—Title I/Title VII Task Force Report—John Staehle.

Report from National Advisory Council on the Educationally Disadvantaged (Title I)—Ms. Alice Baum, Executive Director and representatives of the Council.

2:30–3:00—Institute for Educational Leadership (IEL) Report on Capacity Building—Liz Reisner.

3:00–4:00—Review of Annual Report—Juan Gutierrez.

4:00–4:30—NACBE Budget Report.

June 25, 1980: The proposed agenda includes the following:

9:00–9:45—Report from the Division of Vocational and Technical Education—Thaine McCormick, Director.

9:45–10:45—Report from the Organization of American States (OAS)—Michael Alleyne, Deputy Director, Department of Educational Affairs.

11:00–12:30—f. Old Business
—Action Items
—Report on Asian Conference—Atsuko Brewer
—ID Photos—Rm. G320D—(HEWN).

1:30–2:30—Report from the Agency for International Development (AID)—David Sprague, Acting Director, Office of Education, Development Support Bureau.

2:30–3:00—Report from Special Education and Rehabilitative Services Programs—Edwin Martin, Assistant Secretary, ED.

3:00–4:30—g. New Business—Action Items—Agenda.
h. Public Participation.
i. Adjournment.

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the Full Council, of said records has been obtained. These records will be available in Room 421, Reporters Building, 300 7th Street, S.W., Washington, DC. Written requests for such reports should be sent to 400 Maryland Avenue, S.W., Reporters Building, Room 421, Washington, DC 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, DC on May 28, 1980.

Josue M. Gonzalez,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 80–16691 Filed 6–2–80; 8:45 am]

BILLING CODE 4110–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP80–363]

Alabama-Tennessee Natural Gas Co.; Application

May 27, 1980.

Take notice that on May 7, 1980,[1] Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama 35630, filed in Docket No. CP80–363 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the order issued in Docket No. CP78–352 on November 20, 1978, it has constructed 17.7 miles of 8⅝-inch pipeline from the Tatum's Camp Field in Lamar County, Mississippi, to a point of interconnection with the Delta-Portland pipelines of the Tennessee Gas Pipeline Company, a Division of Tenneco Inc. near its Valve 535 in Forrest County, Mississippi. Additionally, it is stated that a processing plant was also constructed. The capacity of these facilities is approximately 20,000 Mcf per day which is not being fully utilized at this time, it is said.

Applicant states that Amoco has a working interest in the same wells from which Applicant obtains its natural gas in Lamar County, Mississippi.

Pursuant to an agreement between Applicant and Amoco dated May 5, 1980, Applicant proposes to transport Amoco's gas from the tailgate of the processing plant in Lamar County to an interconnection to be installed on the pipelines of Applicant and United Pipe Gas Line Company (United) in Lamar County. Such gas would be delivered by Applicant to United for Amoco's account, it is said. Additionally, it is stated that the sales and transportation service would be on a best-efforts basis.

Applicant asserts that the only additional facility required to effect this proposal would be a meter station between the pipelines of Applicant and United which would be installed by United.

Applicant states that the term of the transportation agreement with Amoco is for five years from the date of first delivery and from year to year thereafter.

It is further asserted that the transportation charge for the natural gas delivered shall be $0.185 per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16773 Filed 6–2–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. GP80–99]

Amoco Production Co.; Petition for Declaratory Order

May 27, 1980.

Take notice that on May 19, 1980, Amoco Production Company (Amoco) filed a petition for a declaratory order pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR § 1.7) Amoco requests that it be authorized to collect the "post-1974 gas" vintage rate for gas produced from a planned sidetrack redrilling operation.

More particularly, Amoco plans to produce approximately 2.99 Bcf of otherwise unrecoverable gas reserves by sidetracking from an existing unproductive well bore from a point just below the lowest depth of well casing to a new completion location in a previously penetrated reservoir. Amoco does not intend to "mill out" any of the

[1] The application was initially tendered for filing on May 7, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until May 9, 1980; thus, the filing was not completed until the latter date.

existing well's casing, but rather to begin the sidetrack drilling from a point below where the steel casing strings end.

Amoco requests clarification from the Commission regarding whether the "milling" of the original well casing is an essential prerequisite for the establishment of the commencement of sidetrack operations as the "spud-date" for the new well. If Amoco would be authorized to only collect the rates for the vintage of the existing causing was made, Amoco asserts it would be faced with significant added drilling expense, with no operational or engineering benefit.

The gas to be produced is from Amoco's interest in West Delta Block 35, Offshore Louisiana, Federal Domain. This gas is committed to Tennessee Gas Pipeline Co. (TGP) under Gas Purchase and Sales Agreement dated September 27, 1971. Amoco has not yet submitted its proposed drilling plan to the USGS for its approval.

Amoco states that this proposed sidetrack operation cannot be economically drilled unless the gas produced therefrom qualifies from the maximum lawful price for "post-1974 gas", instead of being held to the vintage applicable to the "spud-date" of the original well.

Any person desiring to be heard or to make any protests with reference to said petition to amend should on or before June 26, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16774 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-364]

Arkansas Oklahoma Gas Co.; Application

May 27, 1980.

Take notice that on May 13, 1980, Arkansas Oklahoma Gas Company (Applicant), P. O. Box 2406, Fort Smith, Arkansas 72902, filed in Docket No. CP80-364 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's regulations for a certificate of public convenience and necessity for blanket authorization to render transportation services for other interstate pipeline companies for terms to up to two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. Applicant states that it would comply with Section 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdicition conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16775 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RI80-9]

Bettis, Boyle and Stovall; Application for Special Relief

May 27, 1980.

Take notice that on March 11, 1980 Bettis, Boyle and Stovall (Applicant) filed an application for special relief pursuant to § 271.1105 of the Commission's rules (18 CFR 271.1105), seeking a rate increase for its gas produced from seven wells located in the Chess Field, Willacy County, Texas and sold to Tennessee Gas Pipeline Company.

Currently, the maximum lawful price which Applicant may charge for its gas under the Natural Gas Policy Act, without reference to applicable contracts rights, is $.669 per MMBtu. Applicant is now seeking to sell the subject gas at a rate of $2.10198 per MMBtu; Applicant states that this rate would provide the necessary revenue for reworking the wells. Presently, no gas is being sold from the subject wells. Applicant states further that with extensive workovers an appreciable amount of gas is recoverable from these wells. Lastly, Applicant asserts that if the requested special relief is not granted, then the wells will have to be plugged and the lease will be abandoned for salvage.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16790 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-18]

Collinsville Co.; Petition for Declaratory Order

May 27, 1980.

Take notice that on February 29, 1980, the Collinsville Company (Petitioner) filed a petition pursuant to 18 C.F.R. § 1.7(c)(1979) requesting that the Commission issue an order determining its jurisdiction over the Petitioner's existing hydroelectric generating site. The project is located on the Farmington River in Hartford County, Connecticut. Correspondence concerning the petition should be addressed to: Mr. Thomas M. Perry, President, The Collinsville Company, P. O. Box 2, Collinsville, Connecticut 06022.

Petitioner intends to make repairs to an existing dam and generating station. The project would utilize existing water rights and would operate run-of-the-river. Power generated at the project would be sold to Northeast Utilities Service Company.

As described in the petition, the project would consist of an existing 16-foot high, 400-foot long, cut granite, block dam and a powerhouse with seven turbine/generator units with a total rated capacity of 1,000 kW.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 7, 1980. The Commission's address is: 825 North Capitol Street, N. E., Washington, D. C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16776 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[No. 210]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued May 28, 1980.

The Federal Energy Regulatory Commission received notices from the Jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-33811/03543
2. 35-073-22126-0000
3. 103 000 000
4. Cummings Oil Co
5. Conley #1-15
6. Loyal East
7. Kingfisher OK
8. 72.0 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co

1. 80-33812/03192
2. 35-007-00000-0000
3. 108 000 000
4. Mobil Oil Corp
5. Gustin #2
6. Logan SW
7. Beaver OK
8. 1.9 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33813/02986
2. 35-025-35114-0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Jermyn #1-19
6. Keyes
7. Cimarron OK
8. 3.0 million cubic feet
9. May 15, 1980
10. Colorado Interstate Gas Co Colo Interstate Gas Co Colo Interstate Gas Co

1. 80-33814/01886
2. 35-093-21293-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Weathers #1
6. Ringwood
7. Major OK
8. 139.9 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric

1. 80-33815/03661
2. 35-043-21699-0000
3. 103 000 000
4. Arco Oil and Gas Co
5. George Grauser #2
6. Sooner Trend
7. Garfield OK
8. 36.5 million cubic feet
9. May 15, 1980
10. Exxon Corp

1. 80-33816/00766
2. 35-153-20868-0000
3. 103 000 000
4. American Public Energy Co
5. Grounds No 1
6. Dombey (undesignated)
7. Texas County OK
8. .0 million cubic feet
9. May 15, 1980
10. Western Gas Interstate Co

1. 80-33817/01395
2. 35-081-20544-0000
3. 102 000 000
4. Parkford Petroleum Inc
5. Kernke No 1
6. NW Agra Field
7. Lincoln OK
8. 24.0 million cubic feet
9. May 15, 1980
10. Colorado Gas Compression Inc

1. 80-33818/01397
2. 35-081-20579-0000
3. 102 000 000
4. Parkford Petroleum Inc
5. Testerman No 1
6. NW Agra Field
7. Lincoln OK
8. 25.0 million cubic feet
9. May 15, 1980
10. Colorado Gas Compression Inc

1. 80-33819/03504
2. 35-007-00000-0000
3. 108 000 000
4. Crown Central Petroleum Corp
5. Ellis No 1-26
6. South Six Mile
7. Beaver OK
8. 9.0 million cubic feet
9. May 15, 1980
10. Northern Natural Gas Co

1. 80-33820/03505
2. 35-133-00000-0000
3. 108 000 000
4. Lindell M Koontz
5. Adwan #1-03396
6. Seminole
7. Seminole OK
8. 11.0 million cubic feet
9. May 15, 1980
10. Atlantic Richfield

1. 80-33821/02493
2. 35-017-20741-0000
3. 103 000 000
4. Walker & Withrow Inc
5. McLain A #13-1
6. N W Richland 13
7. Canadian OK
8. 55.0 million cubic feet
9. May 15, 1980
10. Public Service

1. 80-33822/02494
2. 35-017-20694-0000
3. 103 000 000
4. Walker & Withrow Inc
5. McLain #24-1
6. N W Richland
7. Canadian OK
8. 60.0 million cubic feet
9. May 15, 1980
10. Delhi

1. 80-33823/02487
2. 35-017-20740-0000

3. 103 000 000
4. Walker & Withrow Inc
5. McLain B #13-1
6. N W Richland 13
7. Canadian OK
8. 15.0 million cubic feet
9. May 15, 1980
10. Public Service
1. 80-33824/02486
2. 35-017-20773-0000
3. 103 000 000
4. Walker & Withrow Inc
5. Weidemann #25-1 B
6. N W Richland
7. Canadian OK
8. .0 million cubic feet
9. May 15, 1980
10. Delhi
1. 80-33825/02473
2. 35-017-20987-0000
3. 103 000 000
4. Walker & Withrow
5. Weber #7-1
6. Yukon
7. Canadian OK
8. 60.0 million cubic feet
9. May 15, 1980
10. Delhi Gas Pipeline
1. 80-33826/03703
2. 35-149-20058-0000
3. 103 000 000
4. Enserch Exploration Inc
5. R G Johnson No 1
6. Burns Flat
7. Washita OK
8. 182.0 million cubic feet
9. May 15, 1980
10. Natural Gas Pipeline Co of America
1. 80-33827/01392
2. 35-081-00000-0000
3. 102 000 000
4. Parkford Petroleum Inc
5. Riley No 1
6. NW Agra Field
7. Lincoln OK
8. 10.0 million cubic feet
9. May 15, 1980
10. Colorado Gas Compression Inc
1. 80-33828/01394
2. 35-081-00000-0000
3. 102 000 000
4. Parkford Petroleum Inc
5. McKeown No 2
6. NW Agra Field
7. Lincoln OK
8. 1.8 million cubic feet
9. May 15, 1980
10. Colorado Gas Compression Inc
1. 80-33829/01389
2. 35-081-00000-0000
3. 102 000 000
4. Parkford Petroleum Inc
5. Testerman No 2
6. NW Agra Field
7. Lincoln OK
8. 28.0 million cubic feet
9. May 15, 1980
10. Colorado Gas Compression Inc
1. 80-33830/02479
2. 35-017-20926-0000
3. 103 000 000
4. Walker & Withrow Inc
5. Mach #12-1
6. Yukon
7. Canadian OK
8. 60.0 million cubic feet
9. May 15, 1980
10. Delhi Gas Pipeline Corp
1. 80-33831/02482
2. 35-017-20693-0000
3. 103 000 000
4. Walker & Withrow Inc
5. Simpson #30-1
6. N W Richland
7. Canadian OK
8. 90.0 million cubic feet
9. May 15, 1980
10. Delhi Gas Pipeline Corp
1. 80-33832/02478
2. 35-017-20739-0000
3. 103 000 000
4. Walker & Withrow Inc
5. Towe #6-1
6. Yukon
7. Canadian County OK
8. 40.0 million cubic feet
9. May 15, 1980
10. Conoco Delhi
1. 80-33833/01168
2. 35-151-35304-0000
3. 108 000 000
4. Texaco Inc
5. Nellie Olson O/A Unit No D 1
6. Waynoka NE
7. Wood OK
8. 4.4 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co
1. 80-33834/03690
2. 35-093-21616-0000
3. 103 000 000
4. Clark Resources Inc
5. Birchall-Dierksen #28-1
6. Sooner Trend
7. Major OK
8. 115.0 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co
1. 80-33835/03689
2. 35-093-21629-0000
3. 103 000 000
4. Clark Resources Inc
5. Birchall-Little #28-1
6. Sooner Trend
7. Major OK
8. 192.6 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co
1. 80-33836/03688
2. 35-903-21656-0000
3. 103 000 000
4. Clark Resources Inc
5. Buford #35-1
6. Sooner Trend
7. Major OK
8. 125.3 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co
1. 80-33837/03487
2. 35-085-00000-0000
3. 108 000 000
4. Lincoln Rock Corp
5. Daube #2
6. Northeast Marietta
7. Love OK
8. 9.4 million cubic feet
9. May 15, 1980
10. Cimarron Transmission Co
1. 80-33838/03697
2. 35-107-00000-0000
3. 108 000 000
4. Pemex Inc
5. Carlton #1
6. East Bearden
7. Okfuskee OK
8. 5.6 million cubic feet
9. May 15, 1980
10. Transok P L Co
1. 80-33839/03694
2. 35-107-00000-0000
3. 108 000 000
4. Pemex Inc
5. Palmer #1
6. East Bearden
7. Okfuskee OK
8. 2.7 million cubic feet
9. May 15, 1980
10. Transok Pipeline Co
1. 80-33840/03602
2. 35-139-00000-0000
3. 108 000 000
4. Edwin L Cox
5. Jarvis #1
6. Guymon-Hugoton Gas Field
7. Texas OK
8. 20.0 million cubic feet
9. May 15, 1980
10. Northern Natural Gas Co
1. 80-33841/03427
2. 35-047-21478-0000
3. 103 000 000
4. Helke Exploration Co
5. Krumrei No 1
6. N E Enid
7. Garfield OK
8. 91.7 million cubic feet
9. May 15, 1980
10. Union Texas Petroluem Co
1. 80-33842/03486
2. 35-093-00000-0000
3. 103 000 000
4. Warren Drilling Co
5. Sproul #2
6.
7. Major County OK
8. 125.0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co
1. 80-33843/03539
2. 35-007-21499-0000
3. 103 000 000
4. Arco Oil and Gas Co
5. Bell #1-4
6. Mocane Gas Area
7. Beaver OK
8. 36.0 million cubic feet
9. May 15, 1980
10. Northern Natural Gas Co
1. 80-33844/06598
2. 35-061-20272-0000
3. 103 000 000
4. Jim L Hanna
5. Wagnon Field #1
6. North Russellville
7. Haskell OK
8. 180.0 million cubic feet
9. May 15, 1980
10. Arkansas Louisiana Gas Co
1. 80-33845/03401
2. 35-061-20272-0000
3. 103 000 000
4. Jim L Hanna
5. Wagnon Field No 1
6. North Russellville

7. Haskell OK
8. 180.0 million cubic feet
9. May 15, 1980
10. Arkansas Louisiana Gas Co
1. 80-33846/01877
2. 35-093-21323-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Lingo #1
6. Ringwood
7. Major OK
8. 28.1 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33847/01888
2. 35-093-21492-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Clark #1
6. Ringwood
7. Major OK
8. 4.6 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33848/01881
2. 35-093-21338-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Huston #2
6. Ringwood
7. Major OK
8. .0 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33849/01891
2. 35-093-21281-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Kisamore #1
6. Ringwood
7. Major OK
8. 92.0 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33850/01885
2. 35-093-21486-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Schmidt #1
6. Ringwood
7. Major OK
8. 46.8 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33851/01892
2. 35-093-21510-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Elmer #1
6. Ringwood
7. Major OK
8. 0. million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33852/01884
2. 35-093-21250-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Harman #1
6. Ringwood
7. Major OK
8. 10.9 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33853/01882
2. 35-093-21275-0000
3. 108 000 000
4. Arkansas Western Production Co
5. Obrate #1
6. Ringwood
7. Major OK
8. 6.5 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33854/01879
2. 35-093-21479-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Jones #1
6. Ringwood
7. Major OK
8. 18.9 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33855/01890
2. 35-093-21493-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Pecha #1
6. Ringwood
7. Major OK
8. .0 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33856/01893
2. 35-093-21269-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Bergdall #1
6. Ringwood
7. Major OK
8. 14.6 million cubic feet
9. May 15, 1980
10. Oklahoma Gas & Electric
1. 80-33857/01345
2. 35-079-20251-0000
3. 103 000 000
4. Reserve Oil Inc
5. Tolbert 21-1C
6. Kinta
7. Leflore OK
8. 365.0 million cubic feet
9. May 15, 1980
10. Arkansas Louisiana Gas Co
1. 80-33858/03613
2. 35-129-20078-0000
3. 108 000 000
4. Universal Resources Corp
5. Kirbie #1-36
6. Peek S
7. Roger Mills OK
8. 1.2 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co
1. 80-33859/01304
2. 35-007-35996-0000
3. 108 000 000
4. Gulf Oil Corp
5. Koran #1
6. Laverne
7. Beaver OK
8. 14.0 million cubic feet
9. May 15, 1980
10. Transwestern Pipeline Co
1. 80-33860/03422
2. 35-093-21520-0000
3. 103 000 000
4. Helke Exploration Co
5. Hagele No 1
6. Ringwood
7. Major OK
8. 75.0 million cubic feet
9. May 15, 1980
10. Union Texas Petroleum
1. 80-33861/03598
2. 35-047-20901-0000
3. 108 000 000
4. Arco Oil & Gas Co
5. Ruth Dierksen #2
6. Sooner Trend
7. Garfield OK
8. 5.1 million cubic feet
9. May 15, 1980
10. Exxon Co USA
1. 80-33862/03403
2. 35-612-02670-0000
3. 103 000 000
4. Jim L Hanna
5. Wagnon Hill #1
6. Kinta
7. Haskell OK
8. 235.0 million cubic feet
9. May 15, 1980
10. Arkansas Louisiana Gas Co
1. 80-33863/03402
2. 35-061-20267-0000
3. 103 000 000
4. Jim L Hanna
5. Wagnon Hill #1
6. Kinta
7. Haskell OK
8. 235.0 million cubic feet
9. May 15, 1980
10. Arkansas Louisiana Gas Co
1. 80-33864/03591
2. 35-073-00000-0000
3. 108 000 000
4. Arco Oil & Gas Co
5. J J Vaverka #2
6. Sooner Trend
7. Kingfisher OK
8. 5.4 million cubic feet
9. May 15, 1980
10. Panhandle Eastern Pipe Line Co
1. 80-33865/03595
2. 35-047-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Jerry Milacek #1
6. Sooner Trend
7. Garfield OK
8. .0 million cubic feet
9. May 15, 1980
10. Exxon Co Inc Oklahoma Natural Gas Co
1. 80-33866/03051
2. 35-137-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Doyle 15-10
6. Doyle
7. Stephens OK
8. 1.3 million cubic feet
9. May 15, 1980
10. Aminoil USA Inc.
1. 80-33867/01894
2. 35-093-21308-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Buller #1
6. Ringwood
7. Major OK
8. .0 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric
1. 80-33868/03597

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2. 35-047-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Juanita Cornish #1
6. Sooner Trend
7. Garfield OK
8. 1.5 million cubic feet
9. May 15, 1980
10. Exxon Company USA, Oklahoma Natural Gas

1. 80-33869/03599
2. 35-047-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Henry Wiens Estate #1
6. Sooner Trend
7. Garfield OK
8. 4.4 million cubic feet
9. May 15, 1980
10. Panhandle Eastern Pipe Line Co, Oklahoma Nat Gas Co

1. 80-33870/03481
2. 35-093-00000-0000
3. 103 000 000
4. Warren Drilling Co
5. Neufeld #1
6. Okeene Northwest
7. Major OK
8. 80.0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33871/01878
2. 35-093-21324-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Huston #1
6. Ringwood
7. Major OK
8. .0 million cubic feet
9. May 15, 1980
10. Okla Gas & Electric

1. 80-33872/03631
2. 35-047-21831-0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Roger Hays No 2
6. Enid Northeast
7. Garfield OK
8. .0 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co

1. 80-33873/03627
2. 35-017-02112-0000
3. 103 000 000
4. Moran Exploration Inc
5. Sasseen No 1
6. West Yukon
7. Canadian OK
8. .0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33874/03528
2. 35-047-21411-0000
3. 103 000 000
4. J L Thomas Engineering Inc
5. Baker #1
6. Sooner Trend
7. Garfield OK
8. 69.0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33875/03146
2. 35-093-00000-0000
3. 103 000 000
4. Hamm Production Co
5. Jantz #2
6. Chaney Dell
7. Major OK
8. 48.0 million cubic feet
9. May 15, 1980
10. Union Texas Petroleum

1. 80-33876/03719
2. 35-071-00000-0000
3. 108 000 000
4. Summit Energy Inc
5. Sindelar No 8
6. Dilworth
7. Kay County OK
8. 12.0 million cubic feet
9. May 15, 1980
10. Eufaula Enterprises Inc

1. 80-33877/03718
2. 35-071-00000-0000
3. 108 000 000
4. Summit Energy Inc
5. Sindelar No 6
6. Dilworth
7. Kay County
8. 12.0 million cubic feet
9. May 15, 1980
10. Eufaula Enterprises Inc

1. 80-33878/03681
2. 35-009-20283-0000
3. 103 000 000
4. Union Oil Company of Calif
5. Mayfield Unit #1-34
6. N E Mayfield
7. Beckham OK
8. 60.0 million cubic feet
9. May 15, 1980
10. El Paso Natural Gas Co

1. 80-33879/03679
2. 35-007-21628-0000
3. 103 000 000
4. Elder & Vaughn
5. Simmons #1
6. Mocane
7. Beaver OK
8. 30.0 million cubic feet
9. May 15, 1980
10. Northern Natural Gas Co

1. 80-33880/03675
2. 35-151-20914-0000
3. 103 000 000
4. Sovereign Exploration Co
5. Sovereign #1 Busse (Mississippi)
6. Unallocated
7. Woods OK
8. 50.0 million cubic feet
9. May 15, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-33881/03663
2. 35-003-20676-0000
3. 103 000 000
4. Petroleum Resources Co
5. Smith-Weigand No 1
6. SW Cherokee
7. Alfalfa OK
8. 255.5 million cubic feet
9. May 15, 1980
10. Aminoil USA Inc

1. 80-33882/03633
2. 35-047-21797-0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Maxey-Shaklee No 2
6. Enid NE
7. Garfield OK
8. .0 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co

1. 80-33883/03632
2. 35-047-21800-0000
3. 103 000 000
4. Ladd Petroleum Corp
5. Shaklee No 2
6. Enid Northeast
7. Garfield OK
8. .0 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co

1. 80-33884/03625
2. 35-017-21174-0000
3. 103 000 000
4. Moran Exploration Inc
5. Repecka #1
6. Yukon
7. Canadian OK
8. .0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33885/03626
2. 35-017-21141-0000
3. 103 000 000
4. Moran Exploration Inc
5. Porter #1
6. West Yukon
7. Canadian OK
8. .0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33886/03623
2. 35-017-21140-0000
3. 103 000 000
4. Moran Exploration Inc
5. Warren #1
6. North Yukon
7. Canadian OK
8. .0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33887/03692
2. 35-053-00000-0000
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Conrad No 1
6. Eureka
7. Grant OK
8. 3.5 million cubic feet
9. May 15, 1980
10. Cities Service Gas Co

1. 80-33888/03622
2. 35-007-21582-0000
3. 103 000 000
4. J M Huber Corp
5. Hunt Light No 2
6. Light
7. Beaver OK
8. 145.0 million cubic feet
9. May 15, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-33889/03621
2. 35-025-20321-0000
3. 103 000 000
4. Shell Oil Co
5. Ferguson B 2-27
6. Keyes Dome
7. Cimarron OK
8. 40.0 million cubic feet
9. May 15, 1980
10. Colorado Interstate Gas Co

1. 80-33890/03620
2. 35-007-21493-0000
3. 103 000 000

4. Shell Oil Co
5. Thorne 2-32
6. Mocane Laverne
7. Beaver OK
8. 20.0 million cubic feet
9. May 15, 1980
10. El Paso Natural Gas Co

1. 80-33891/03619
2. 35-139-00000-0000
3. 103 000 000
4. American Public Energy Co
5. H C Hitch #1
6. Guymon South
7. Texas OK
8. 90.0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co, Panhandle Eastern P L Co

1. 80-33892/03601
2. 35-053-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Matthews Gas Unit #1
6. Wakita Trend
7. Grant OK
8. 18.0 million cubic feet
9. May 15, 1980
10. Sun Gas Co

1. 80-33893/03542
2. 35-017-21227-0000
3. 103 000 000
4. Universal Resources Corp
5. Merveldt #5-35
6. Piedmont West
7. Canadian OK
8. 75.0 million cubic feet
9. May 15, 1980
10.

1. 80-33894/03538
2. 35-073-22151-0000
3. 108 000 000
4. Volcan Energy Corp
5. Stebens #1
6. N W Loyal
7. Kingfisher OK
8. 70.0 million cubic feet
9. May 15, 1980
10. Phillips

1. 80-33895/02726
2. 35-109-00000-0000
3. 103 000 000
4. Wilbur R White
5. Fuzzell A
6. Oklahoma City
7. Oklahoma OK
8. 12.0 million cubic feet
9. May 15, 1980
10. Cities Service Co

1. 80-33896/03662
2. 35-093-21576-0000
3. 103 000 000
4. Shar-Alan Oil Co
5. Cornelsen #1
6. North Fairview
7. Major OK
8. 130.0 million cubic feet
9. May 15, 1980
10. Phillips Petroleum Co

1. 80-33897/03637
2. 35-119-20941-0000
3. 103 000 000
4. Altman Operating Co
5. Spyres #1
6. Ingalls
7. Payne OK
8. 13.0 million cubic feet
9. May 15, 1980
10. Colorado Gas Compression Inc

1. 80-33898/03637
2. 35-119-20941-0000
3. 103 000 000
4. Petroleum Inc
5. Chain Unit #1
6. NW Oakwood
7. Dewey OK
8. 500.0 million cubic feet
9. May 15, 1980
10. Dehli Gas Pipeline Corp

1. 80-33899/03720
2. 35-137-0000—0000
3. 108 000 000
4. Kirkpatrick Oil Co
5. Cox #1
6. Velma
7. Stephens OK
8. 5.5 million cubic feet
9. May 15, 1980
10. Getty Oil Co

1. 80-34097/03629
2. 35-011-20742-0000
3. 108 000 000 Denied
4. St Joe Petroleum (US) Corp
5. McPherson #1
6.
7. Blaine OK
8. 65.0 million cubic feet
9. May 14, 1980
10. Oklahoma Gas & Electric Co

1. 80-34098/03134
2. 35-119-20879-0000
3. 103 000 000
4. Philco Petroleum Corp
5. Hilbert #1
6. Ingalls
7. Payne OK
8. .0 million cubic feet
9. May 14, 1980
10. Colorado Gas Compression Inc

1. 80-34099/03131
2. 35-019-00000-0000
3. 108 000 000
4. Arco Oil & Gas Co
5. John D Dougherty #3
6. Sho-Vel-Tum
7. Carter OK
8. 7.5 million cubic feet
9. May 14, 1980
10. Aminoil USA Inc

1. 80-34100/03130
2. 35-019-00000-0000
3. 108 000 000
4. Arco Oil & Gas Co
5. John D Dougherty #4
6. Sho-Vel-Tum
7. Carter OK
8. 4.5 million cubic feet
9. May 14, 1980
10. Aminoil USA Inc

1. 80-34101/03709
2. 35-003-0000-0000
3. 103 000 000
4. Maguire Oil Co
5. Kirkendall-Elliott #2
6. Chaney Dell
7. Alfalfa OK
8. 9.0 million cubic feet
9. May 14, 1980
10. Panhandle Eastern Pipeline Co

1. 80-34102/03772
2. 35-131-20655-0000
3. 103 000 000
4. Doak Oil Inc
5. Frasier B No 1
6.
7. Rogers OK
8. 27.0 million cubic feet
9. May 14, 1980
10. Diamond S. Gas Systems Inc

1. 80-34103/03773
2. 35-131-20656-0000
3. 103 000 000
4. Doak Oil Inc
5. Frasier A No 1
6.
7. Rogers OK
8. 110.0 million cubic feet
9. May 14, 1980
10. Diamond S Gas Systems Inc

1. 80-34104/03617
2. 35-151-20944-0000
3. 103 000 000
4. Arkansas Western Production Co
5. Hofer #1
6. NW Oakdale
7. Woods OK
8. 150.0 million cubic feet
9. May 14, 1980
10. Panhandle Eastern Pipeline Co

1. 80-34105/03618
2. 35-053-20527-0000
3. 103 000 000
4. Wil-Mc Oil Corp
5. Mitchell #1
6. S Wakita
7. Grant OK
8. 72.0 million cubic feet
9. May 14, 1980
10. Sun Gas Co

1. 80-34106/03656
2. 35-017-21236-0000
3. 103 000 000
4. Calvert Drilling Co
5. Treece #1
6. N Piedmont
7. Canadian OK
8. 4.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-34107/03658
2. 35-083-21055-0000
3. 103 000 000
4. Calvert Drilling Co
5. Edith #1
6. West Edmond
7. Logan OK
8. 33.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co

1. 80-34108/03669
2. 35-007-21556-0000
3. 103 000 000
4. Arco Oil & Gas Co
5. O H Weeks #2
6. Laverne
7. Beaver OK
8. 109.5 million cubic feet
9. May 14, 1980
10. Michigan Wisconsin Pipe Line Co

1. 80-34109/01880
2. 35-093-21288-0000
3. 108 000 000 Denied
4. Arkansas Western Production Co
5. #1 Maphet
6. Ringwood

7. Major OK
8. 20.8 million cubic feet
9. May 14, 1980
10. Oklahoma Gas & Elec Co
1. 80–34110/03535
2. 35–007–21635–0000
3. 103 000 000
4. Follett Operating Co
5. Luckie #1
6. Mocane-Laverne
7. Beaver OK
8. 450.0 million cubic feet
9. May 14, 1980
10. Panhandle Eastern Pipeline Co
1. 80–34111/02254
2. 35–059–00000–0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Buffalo #16–62
6.
7. Harper OK
8. 120.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–34112/03686
2. 35–073–22159–0000
3. 103 000 000
4. Harper Oil Co
5. Droke #1
6. Sooner Trend
7. Kingfisher OK
8. 18.0 million cubic feet
9. May 14, 1980
10. Phillips Petroleum Co
1. 80–34113/03713
2. 35–019–21859–0000
3. 103 000 000
4. Jones & Pellow Oil Co
5. Brimer #21–1
6.
7. Carter OK
8. 16.0 million cubic feet
9. May 14, 1980
10. Aminoil USA Inc
1. 80–34114/03503
2. 35–007–00000–0000
3. 108 000 000
4. An-Son Corp
5. Eades #1
6. Eades #1
7. Beaver OK
8. 7.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–34115/03684
2. 35–073–22161–0000
3. 103 000 000
4. Dick Bogert Inc
5. Dixon #1
6. Reeding
7. Kingfisher OK
8. 100.0 million cubic feet
9. May 14, 1980
10. Conoco Inc
1. 80–34116/03660
2. 35–083–21030–0000
3. 103 000 000
4. Calvert Drilling Co
5. Buttram #1
6. West Edmond
7. Logan OK
8. 80.0 million cubic feet
9. May 14, 1980
10. Cities Service Gas Co
1. 80–34117/03659
2. 35–083–21055–0000
3. 103 000 000
4. Calvert Drilling Co
5. Knight #1
6. West Edmond
7. Logan OK
8. 65.0 million cubic feet
9. May 14, 1980
10. Cities Service Gas Co
1. 80–34118/03721
2. 35–007–21636–0000
3. 103 000 000
4. H & L Operating Co
5. West #1
6. Camrick Gas Area
7. Beaver OK
8. 120.0 million cubic feet
9. May 14, 1980
10. Northern Natural Gas Co
1. 80–34119/03722
2. 35–121–20606–0000
3. 103 000 000
4. Supron Energy Corp
5. Turney 31–2
6. Atoka D
7. Pittsburg OK
8. 972.0 million cubic feet
9. May 14, 1980
10. Arkansas Louisiana Gas Co
1. 80–34120/03680
2. 35–009–20289–0000
3. 103 000 000
4. Union Oil Co of Louisiana
5. Mayfield Unit #109
6. N E Mayfield
7. Beckham OK
8. .0 million cubic feet
9. May 14, 1980
10.
1. 80–34121/03670
2. 35–139–21207–0000
3. 103 000 000
4. Anadarko Production Co
5. Heintz E No 1
6. North Richland Center
7. Texas OK
8. 277.0 million cubic feet
9. May 14, 1980
10. Panhandle Eastern Pipe Line Co
1. 80–34122/03474
2. 35–073–22088–0000
3. 103 000 000
4. Classen Oil and Gas Co
5. Rose Hoskins 073
6. Sooner Trend
7. Kingfisher OK
8. 1623.0 million cubic feet
9. May 14, 1980
10. Conoco Inc

U.S. Geological Survey, Metairie, La.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34123/GO–1285
2. 17–702–40542–00D2–0
3. 102 000 000
4. Chevron USA Inc
5. OCS–G–2555 #6–D
6. West Cameron
7. 555
8. 113.0 million cubic feet
9. May 13, 1980
10. Natural Gas Pipeline Co of America

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–33925/COA–5269–79
2. 05–067–06236–0000–0
3. 103 000 000
4. Arco Oil & Gas Co
5. Southern Ute 13–3 32–6
6. Ignacio Blanco (MV)
7. La Plata, Co
8. 260.0 million cubic feet
9. May 12, 1980
10. Western Slope Gas Co
1. 80–33984/COA–5138–79
2. 05–067–05145–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. NWCH 32–10 #14
6. Ignacio Mesaverde
7. La Plata, Co
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–33985/COA–5136–79
2. 05–067–05026–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. NWCH 32–10 #5
6. Ignacio Blanco MV
7. La Plata, Co
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–33986/COA–5134–79
2. 05–067–00000–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Bondad 34–10 #7
6. Ignacio Blanco MV
7. La Plata, Co
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–33989/COA–5133–79
2. 05–067–05111–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Northwest Cedar Hill 32–10 #13
6. Ignacio Blanco Mesaverde
7. La Plata, Co
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–33995/COA–5207–79
2. 05–067–05593–0000–0
3. 108 000 000
4. El Paso Exploration Co
5. Bondad 33–9 36 #21
6. Ignacio Blanco-Mesaverde Gas

7. La Plata, Co
8. 16.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–33900/NM–5153–79
2. 30–015–22095–0000–0
3. 103 000 000
4. General American Oil Co of Texas
5. Arnold E No 4
6. Fren
7. Eddy, NM
8. 2.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co
1. 80–33901/NM–5152–79
2. 30–015–22900–0000–0
3. 103 000 000
4. David Fasken
5. Fasken-Shell Federal Comm No 5
6. Cemetery (Morrow)
7. Eddy, NM
8. 146.0 million cubic feet
9. May 12, 1980
10. Natural Gas Pipeline Co of America
1. 80–33902/NM–5160–79
2. 30–045–23517–0000–0
3. 103 000 000
4. Tenneco Oil Co
5. Hughes A #4
6. Basin Dakota
7. San Juan, NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–33903/NM–5152–79
2. 30–039–21970–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Klein #26
6. Basin Dakota
7. Rio Arriba, NM
8. 100.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–33904/NM–5293–79
2. 30–045–07615–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Manley No 1
6. Fulcher Kutz-Pictured Cliffs
7. San Juan, NM
8. 19.0 million cubic feet
9. May 12, 1980
10. Southern Union Gas Co
1. 80–33905/NM–5292–79
2. 30–039–06328–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Lowe No 3
6. Tapacito-Pictured Cliffs
7. Rio Arriba, NM
8. 17.0 million cubic feet
9. May 12, 1980
10. Gas Company of New Mexico
1. 80–33906/NM–5291–79
2. 30–045–05652–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Sanger No 1
6. Ballard-Pictured Cliffs
7. San Juan, NM
8. 1.3 million cubic feet
9. May 12, 1980
10. Gas Company of New Mexico
1. 80–33907/NM–5290–79
2. 30–045–10310–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Nance No 1
6. Basin-Dakota
7. San Juan, NM
8. 18.0 million cubic feet
9. May 12, 1980
10. Southern Union Gas Co
1. 80–33908/NM–5288–79
2. 30–045–05782–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Consolidated-Hale No 1
6. Basin-Dakota & Ballard-Pictured Cliffs
7. San Juan, NM
8. 12.0 million cubic feet
9. May 12, 1980
10. Gas Company of New Mexico
1. 80–33909/NM–5287–79
2. 30–045–05483–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Navajo No 3
6. Basin-Dakota
7. San Juan NM
8. 12.0 million cubic feet
9. May 12, 1980
10. Gas Company of New Mexico
1. 80–33910/NM–5280–79
2. 30–039–22103–0000–0
3. 103 000 000
4. Schalk Development Co
5. Schalk 31–2 #
6. Pictured Cliffs
7. Rio Arriba County NM
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corporation
1. 80–33911/NM–5279–79
2. 30–045–23693–0000–0
3. 103 000 000
4. J Gregory Merrion & Robert L Bayles
5. Pete #1
6. WAW Fruitland Pictured Cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Company
1. 80–33912/NM–5278–79
2. 30–045–23595–0000–0
3. 103 000 000
4. J Gregory Merrion & Robert L Bayles
5. Southland #4
6. WAW Fruitland Pictured Cliffs
7. San Juan NM
8. 35.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Company
1. 80–33913/NM–0023–80
2. 30–045–23514–0000–0
3. 103 000 000
4. Tenneco Oil Co
5. Day #3
6. Basin Dakota
7. San Juan NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Company
1. 80–33914/NM–5289–79
2. 30–039–06551–0000–0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Lowe No 2
6. Tapacito—Pictured Cliffs
7. Rio Arriba NM
8. 18.0 million cubic feet
9. May 12, 1980
10. Gas Company of New Mexico
1. 80–33915/NM–0042–80
2. 30–015–60583–0000–0
3. 102 000 000
4. Yates Petroleum Corp
5. Thomas LN Federal No 1
6. Wildcat
7. Chaves County NM
8. .0 million cubic feet
9. May 12, 1980
10. 51. 80–33916/NM–0041–80
2. 30–015–60608–0000–0
3. 103 000 000
4. Yates Petroleum Corp
5. Five Mile Draw LX Federal Com No 1
6. Wildcat
7. Chaves County NM
8. .0 million cubic feet
9. May 12, 1980
10.
1. 80–33917/NM–0040–80
2. 30–015–60574–0000–0
3. 102 000 000
4. Yates Petroleum Corp
5. South Alkali LK Federal No #
6. Wildcat
7. Chaves County NM
8. .0 million cubic feet
9. May 12, 1980
10.
1. 80–33918/NM–5268–79
2. 30–045–08586–0000–0
3. 108 000 000
4. Amoco Production Co
5. Florence Gas Com B No 1
6. Basin-Dakota
7. San Juan NM
8. 20.6 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–33919/NM–5262–79
2. 30–025–00000–0000–0
3. 108 000 000
4. Conoco Inc
5. Vaughan A–12 No 1
6. NMFU—Jalmat Yates Gas
7. LEA NM
8. 10.3 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–33920/NM–5277–79
2. 30–045–23694–0000–0
3. 103 000 000
4. J Gregory Merrion & Robert L Bayles
5. HI Roll #1–R
6. WAW Fruitland Pictured Cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. May 12, 1980
10. Southwest Gas Corp
1. 80–33921/NM–5156–79
2. 30–039–21971–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Rincon Unit #108 A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–33922/NM–5157–79

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2. 30-039-21964-0000-0
3. 103 000 000
4. El Paso Natural Gas Co
5. Canyon Largo Unit #291
6. Basin Dakota
7. Rio Arriba NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33923/NM-5158-79
2. 30-045-23349-0000-0
3. 103 000 000
4. El Paso Natural Gas Co
5. Allison Unit #55
6. Blanco Mesaverde
7. San Juan NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33924/NM-5260-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Conoco Inc
5. Lockhart A-30 No 5
6. NMFU—Eumont Queen Gas
7. LEA NM
8. 17.7 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33926/NM-5271-79
2. 30-005-60531-0000-0
3. 102 000 000
4. McClellan Oil Corp
5. Penjack Federal No 1
6. Wildcat (ABO)
7. Chaves NM
8. 182.5 million cubic feet
9. May 12, 1980
10. Transwestern Pipeline Co
1. 80-33927/NM-5144-79
2. 30-045-22051-0000-0
3. 108 000 000
4. Dome Petroleum Corp
5. Fusselman Federal No 1
6. WAW—NIPP
7. San Juan NM
8. 18.5 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
Natural Gas Pipeline Co of America
1. 80-33928/NM-5145-79
2. 30-045-22052-0000-0
3. 108 000 000
4. Dome Petroleum Corp
5. Frew Federal No 1
6. WAW—NIPP
7. San Juan NM
8. 14.8 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
Natural Gas Pipeline Co of America
1. 80-33929/NM-5147-79
2. 30-045-22290-0000-0
3. 108 000 000
4. Mesa Petroleum Co
5. Bindel Federal Com #1
6. UND South Carlsbad (Morrow)
7. Eddy NM
8. 20.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33930/NM-5149-79
2. 30-045-23407-0000-0
3. 103 000 000
4. Southland Royalty Co
5. Lawson #4
6. Undesignated
7. San Juan NM
8. 25.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33931/NM-5154-79
2. 30-015-22090-0000-0
3. 103 000 000
4. General American Oil Company of Tex
5. Nunlee No 8
6. Square Lake
7. Eddy Lake NM
8. 4.7 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co
1. 80-33932/NM-5143-79
2. 30-015-22935-0000-0
3. 102 000 000
4. Yates Petroleum Corporation
5. Allison Co Federal No 2
6. Boyd Morrow
7. Eddy NM
8. .0 million cubic feet
9. May 12, 1980
10. Transwestern Pipeline Co
1. 80-33933/NM-5142-79
2. 30-045-23360-0000-0
3. 103 000 000
4. Tenneco Oil Co
5. Gooch #2
6. Basin Dakota
7. San Juan NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33934/NM-5141-79
2. 30-045-23489-0000-0
3. 103 000 000
4. Tenneco Oil Co
5. Hughes #3
6. Basin Dakota
7. San Juan NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33935/NM-0045-80
2. 30-039-22089-0000-0
3. 103 000 000
4. Amoco Production Co
5. Jicarilla Gas Com C Well #1
6. Basin Dakota
7. Rio Arriba NM
8. 105.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80-33936/NM-5236-79
2. 30-039-07433-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-7 Unit #23
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 14.2 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33937/NM-5237-79
2. 30-045-00000-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Mudge #21
6. Basin-Dakota Gas
7. San Juan NM
8. 8.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33938/NM-5238-79
2. 30-039-07866-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 30-6 Unit #34
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 10.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33939/NM-5239-79
2. 30-045-21409-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Huerfano Unit #258
6. Angels Peak-Gallup Gas
7. San Juan NM
8. 7.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33940/NM-0028-80
2. 30-015-22972-0000-0
3. 103 000 000
4. Yates Petroleum Corp
5. Scout EH Federal No 4
6. Undesignated
7. Eddy NM
8. .0 million cubic feet
9. May 12, 1980
10.
1. 80-33941/NM-0031-80
2. 30-045-09998-0000-0
3. 108 000 000
4. R & G Drilling Co
5. Lunt No 61
6. Basin Dakota
7. San Juan County NM
8. 21.2 million cubic feet
9. May 12, 1980
10. Southern Union Gathering Co
1. 80-33942/NM-0034-79
2. 30-039-05329-0000-0
3. 108 000 000
4. Amerada Hess Corp
5. J Apache B No 13
6. Otero
7. Rio Arriba NM
8. 1.7 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33943/NM-0035-80
2. 30-039-05641-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Canyon Largo Unit #111
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 2.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
Southern Union Gathering Co
1. 80-33944/NM-0037-80
2. 30-039-20837-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 27-4 Unit #94
6. Basin-Dakota
7. Rio Arriba NM
8. 15.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33945/NM-0006-79

2. 30-045-21679-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Schumacher #13
6. Knickerbocker Buttes-Gallup Oil
7. San Juan NM
8. 11.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33946/NM-0010-80
2. 30-039-06671-0000-0
3. 108 000 000
4. El Paso Exploration Co
5. Jicarilla 119 N #3
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 5.8 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80-33947/NM-0016-80
2. 30-039-20827-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 27-4 Unit #88
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 19.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33948/NM-0017-80
2. 30-039-07432-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-5 Unit #31
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 21.5 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33949/NM-0026-80
2. 30-045-07200-0000-0
3. 108 000 000
4. R & G Drilling Co
5. Schlosser No 26
6. Kutz Fruitland
7. San Juan NM
8. 21.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33950/NM-5231-79
2. 30-045-13312-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Quitzau #11
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 16.4 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33951/NM-5249-79
2. 30-015-60594-0000-0
3. 102 000 000
4. Yates Petroleum Corp
5. Duncan LH Federal No 1-Y
6. ABO
7. Chaves NM
8. .0 million cubic feet
9. May 12, 1980
10.
1. 80-33952/NM-5251-79
2. 30-025-26355-0000-0
3. 103 000 000
4. Amoco Production Co
5. South Mattix Unit Fed #37
6. Und Fowler Drinkard
7. Lea NM
8. 30.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33953/NM-5255-79
2. 30-039-22104-0000-0
3. 103 000 000
4. Arco Oil & Gas Co
5. Jicarilla Well #108 (Gallup)
6. W Lindrith
7. Rio Arriba NM
8. 109.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33954/NM-5255-79-B
2. 30-039-22104-0000-0
3. 103 000 000
4. Arco Oil & Gas Co
5. Jicarilla Well #108 (Dakota)
6. W Lindrith
7. Rio Arriba NM
8. 109.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33955/NM-5261-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Co
5. Alice Bolack #11
6. West Kutz Pictured Cliffs
7. San Juan NM
8. 16.3 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33956/NM-5240-79
2. 30-039-60085-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 27-5 Unit #12
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 16.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
Northwest Pipeline Corp
1. 80-33957/NM-5241-79
2. 30-039-20603-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-6 Unit #174
6. Blanco South-Pictured Cliffs
7. Rio Arriba NM
8. 16.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33958/NM-5242-79
2. 30-045-21157-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Turner #4
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 18.6 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33959/NM-5244-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Conoco Inc
5. Reed B No 8
6. NMFU-Eumont Yates 7 Rivers Queen
7. Lea NM
8. 16.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum
1. 80-33960/NM-5245-79
2. 30-025-24725-0000-0
3. 108 000 000
4. Conoco Inc
5. Pearsall Bx No 3
6. Baish-Maljamar-Pearsall
7. Lea NM
8. 6.1 million cubic feet
9. May 12, 1980
10. Transwestern Pipeline
1. 80-33961/NM-5247-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Conoco Inc
5. Langlie-Jack Unit No 4
6. NMFU-Langlie Mattix 7 Rivers Quee
7. Lea NM
8. .5 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33962/NM-5232-79
2. 30-045-21419-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Huerfano Unit NP #253
6. Angels Peak-Gallup Gas
7. San Juan NM
8. 7.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33963/NM-5233-79
2. 30-039-20187-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-5 Unit #81
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 8.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33964/NM-5234-79
2. 30-045-21397-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Huerfano Unit #68
6. Basin-Dakota Gas
7. San Juan NM
8. 9.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
Northwest Pipeline Corp
1. 80-33965/NM-5235-79
2. 30-039-60074-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-5 Unit #36
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 16.8 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33966/NM-5225-79
2. 30-039-07442-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-5 Unit #27
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 16.1 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80-33967/NM-5228-79
2. 30-045-21407-0000-0
3. 108 000 000
4. El Paso Natural Gas Co

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5. Huerfano Unit NP #248
6. Angels Peak-Gallup Gas
7. San Juan NM
8. 16.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33968/NM-5229-79
2. 30-039-06914-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 27-5 Unit #11
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 16.8 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
Northwest Pipeline Corp

1. 80-33969/NM-5230-79
2. 30-039-07263-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-7 Unit #11
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 17.5 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33970/NM-5118-79
2. 30-039-07898-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Juan 30-5 #8
6. Blanco
7. Rio Arriba NM
8. .5 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp

1. 80-33971/NM-5117-79
2. 30-039-20712-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Juan 29-5 Unit #68
6. Basin Dakota
7. Rio Arriba NM
8. 16.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp, El Paso Natural Gas Co

1. 80-33972/NM-5116-79
2. 30-039-05689-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #27
6. Gavalin Pictured Cliffs
7. Rio Arriba NM
8. 1.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp

1. 80-33973/NM-5124-79
2. 30-045-11000-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. SJ 32-8 #19
6. Blanco MV
7. San Juan NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33974/NM-5123-79
2. 30-045-11217-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Juan 32-8 #30
6. Blanco MV
7. San Juan NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33975/NM-5122-79
2. 30-045-11204-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Jan 32-7 Comm #2
6. Blanco MV
7. San Juan NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33976/NM-5119-79
2. 30-039-60034-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #14
6. Gavalin Pictured Cliffs
7. Rio Arriba NM
8. 11.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp

1. 80-33977/NM-5129-79
2. 30-045-21330-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Juan 32-7 NP #34
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33978/NM-5127-79
2. 30-045-21545-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Juan 32-7 #28
6. Blanco Mesaverde
7. San Juan NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33979/NM-5126-79
2. 30-039-07907-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Jan 31-6 #14
6. Blanco Mesaverde
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33980/NM-5125-79
2. 30-039-07964-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Rosa Unit #10
6. Blanco Mesaverde
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33981/NM-5131-79
2. 30-039-07355-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Indian L #2
6. Blanco MV
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp

1. 80-33982/NM-5130-79
2. 30-030-07963-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Rosa Unit #16
6. Blanco MV
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33983/NM-5139-79
2. 30-043-20429-0000-0
3. 102 000 000
4. Northwest Exploration Co
5. Natani #1
6. Wildcat Chacra
7. Sandoval NM
8. 18.0 million cubic feet
9. May 12, 1980
10.

1. 80-33987/NM-5204-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Conoco Inc
5. Lockhart B-13A No 3
6. NMFU-Blinebry Oil & Gas
7. Lea NM
8. 8.7 million cubic feet
9. May 12, 1980
10. Getty Oil Co

1. 80-33988/NM-5201-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Conoco Inc
5. Axi Apache J No 9
6. Axi Apache Area
7. Rio Arriba NM
8. 3.3 million cubic feet
9. May 12, 1980
10. Gas Company of New Mexico

1. 80-33990/NM-5132-79
2. 30-039-07570-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. San Juan 29-5 #39
6. Blanco MV
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co, Arapahoe Drilling Co, El Paso Natural Gas Co

1. 80-33991/NM-5200-79
2. 30-039-21503-0000-0
3. 108 000 000
4. Conoco Inc
5. Axi Apache D No 5
6. Axi Apache Area
7. Rio Arriba NM
8. 8.5 million cubic feet
9. May 12, 1980
10. Southern Union Gathering Co

1. 80-33992/NM-5199-79
2. 30-005-60311-0000-0
3. 108 000 000
4. Depco Inc
5. Toles Federal No 1
6. Buffalo Valley
7. Chaves NM
8. 11.0 million cubic feet
9. May 12, 1980
10. Transwestern Pipeline Co

1. 80-33993/NM-5198-79
2. 30-039-21864-0000-0
3. 103 000 000
4. El Paso Natural Gas Co
5. San Juan 28-5 Unit #90

6. Basin Dakota
7. Rio Arriba NM
8. 100.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33994/NM-5208-79
2. 30-045-13064-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Lackey B #18
6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 14.6 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33996/NM-5206-79
2. 30-045-09709-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Sullivan #1
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 9.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33997/NM-5205-79
2. 30-045-07019-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Bolack B #1
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 16.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33998/NM-5214-79
2. 30-045-07163-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Florance C #10
6. Basin-Dakota Gas
7. San Juan NM
8. 15.3 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-33999/NM-5128-79
2. 30-039-07525-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Indian A #2
6. Choza Mesa PC
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34000/NM-5213-79
2. 30-045-21408-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Ballard #17
6. Angels Peak-Gallup Gas
7. San Juan NM
8. 13.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34001/NM-5211-79
2. 30-045-21101-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Mudge #33
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 17.9 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34002/NM-5209-79
2. 30-039-07671-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 29-7 Unit #101
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34003/NM-5219-79
2. 30-045-21458-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Hubbell #13
6. Aztec-Fruitland Gas
7. San Juan NM
8. 15.3 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34004/NM-5218-79
2. 30-039-06430-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Jicarilla J #2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.7 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co, Northwest Pipeline Corp

1. 80-34005/NM5217-79
2. 30-045-20501-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Russell #8
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 16. 4 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34006/NM5140-79
2. 30-045-23492-0000-0
3. 103 000 000
4. Tenneco Oil Co
5. Hughes #4
6. Basin Dakota
7. San Juan NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34007/NM5223-79
2. 30-045-11955-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Storey B #1
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 11.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34008/NM5222-79
2. 30-045-21305-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Atlantic B #14
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 14.2 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34009/NM5221-79
2. 30-045-21149-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Hardie #9
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 13.5 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34010/NM5220-79
2. 30-039-06379-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Jicarilla F #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 17.9 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co, Northwest Pipeline Corp

1. 80-34011/NM4394-79
2. 30-039-06898-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-7 Unit #17
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 16.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34012/NM4305-79-1
2. 30-015-21524-0000-0
3. 108 000 000
4. Coquina Oil Corp
5. Wagner Federal #2
6. Avalon
7. Eddy NM
8. 21.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34013/NM4398-79
2. 30-039-20201-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 27-5 Unit #113
6. Basin-Dakota Gas
7. Rio Arriba County NM
8. 37.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co, Northwest Pipeline Corp

1. 80-34014/NM2438-79
2. 30-045-22425-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Schwerdtfeger 2A
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 1.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34015/NM4553-79
2. 30-045-20773-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Riddle B #6
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80-34016/NM4542-79
2. 30-005-60530-0000-0
3. 102 000 000
4. McClellan Oil Corp
5. McClellan Federal No 2
6. Sams Ranch (Grayburg)
7. Chaves NM

8. 73.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34017/NM4464–79
2. 30–039–20280–0001–0
3. 108 000 000
4. El Paso Natural Gas Co
5. Canyon Largo Unit #156
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 19.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34018/NM4727–79
2. 30–039–20649–0000–0
3. 108 000 000
4. Conoco Inc
5. Conoco 29–4 No 2
6. East San Juan-Campo Gallup
7. Rio Arriba NM
8. .0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Co
1. 80–34019/NM4674–79
2. 30–039–21872–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. San Juan 28–6 Unit #48A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 320.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34020/NM4558–79
2. 30–045–06400–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. Huerfanito Unit #56
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 18.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34021/NM4978–79
2. 30–025–00000–0000–0
3. 108 000 000
4. Conoco Inc
5. Hawk B–3 No 8
6. NMFU/Tubb Otl
7. Lea NM
8. 7.4 million cubic feet
9. May 12, 1980
10. Getty Oil Co
1. 80–34022/NM4977–79
2. 30–025–00000–0000–0
3. 108 000 000
4. Conoco Inc
5. North El Mar No 5
6. El Mar-El Mar Delaware
7. Lea NM
8. .1 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co
1. 80–34023/NM4976–79
2. 30–025–00000–0000–0
3. 108 000 000
4. Conoco Inc
5. Reed-Sanderson Unit No 4
6. NMFU-Eumont Yates 7 Rivers Queen
7. Lea NM
8. 9.8 million cubic feet
9. May 12, 1980
10. Warren Petroleum
1. 80–34024/NM5193–79
2. 30–039–22120–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Jicarilla 67 #19
6. Undesignated Pictured Cliffs
7. Rio Arriba NM
8. 60.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34025/NM5192–79
2. 30–015–60583–0000–0
3. 103 000 000
4. Yates Petroleum Corp
5. Thomas LN Federal No 1
6. Wildcat
7. Chaves County NM
8. .0 million cubic feet
9. May 12, 1980
10.
1. 80–34026/NM5191–79
2. 30–015–60594–0000–0
3. 103 000 000
4. Yates Petroleum Corp
5. Duncan LH Federal No 1–Y
6. Abo
7. Chaves NM
8. .0 million cubic feet
9. May 12, 1980
10.
1. 80–34027/NM5189–79
2. 30–045–23523–0000–0
3. 103 000 000
4. Southland Royalty Co
5. Wilmer Canyon #3
6. Undesignated Pictured Cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp.
1. 80–34028/NM5196–79
2. 30–045–23296–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Allison Unit #31
6. Basin Dakota
7. San Juan NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34029/NM5195–79
2. 30–045–23287–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Allison Unit #16A
6. Blanco Mesaverde
7. San Juan NM
8. 200.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34030/NM5194–79–A
2. 30–039–21974–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Rincon Unit #135A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34031/NM5194–79–B
2. 30–039–21974–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Rincon Unit #135A
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34032/NM5086–79
2. 30–039–21975–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Rincon Unit #88A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34033/NM5007–79
2. 30–045–23717–0000–0
3. 103 000 000
4. Hixon Development Co
5. Ka Da Pah No 1–R
6. Waw-Fruitland-PC
7. San Juan County NM
8. 73.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34034/NM5197–79–A
2. 30–045–23179–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Mudge #1A (MV)
6. Blanco Mesaverde
7. San Juan NM
8. 250.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34035/NM–5197–79–B
2. 30–045–23179–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Mudge #1A (PC)
6. Aztec Pictured Cliffs
7. San Juan NM
8. 40.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34036/NM–5090–79
2. 30–039–07430–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28–5 Unit #26
6. Blanco-Mexaverde Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34037/NM–5089–79
2. 30–039–21968–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Sanchez A #2
6. Basin Dakota
7. Rio Arriba NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34038/NM–5088–79
2. 30–039–21969–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. Vaughn #30
6. Basin Dakota
7. Rio Arriba NM
8. 40.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34039/NM–5087–79

2. 30–039–21943–0000–0
3. 103 000 000
4. El Paso Natural Gas Co
5. San Juan 28–7 Unit #198
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34040/NM–5101–79
2. 30–045–22071–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. Scott #20
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 21.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34041/NM–5100–79
2. 30–045–11314–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 32–9 Unit #27
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 18.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34042/NM–5093–0000–0
2. 30–045–20793–0000–0
3. 108 000 000
4. El Paso Natural Gas Company
5. Kelly B #2
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 19.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34043/NM–5112–79
2. 30–039–21093–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. SJ 28–7 Unit #242
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co, Northwest Pipeline Corp
1. 80–34044/NM–5107–79
2. 30–039–20511–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28–5 Unit #48
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 19.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34045/NM–5105–79
2. 30–045–20854–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. Sellers #7
6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34046/NM–5187–79
2. 30–039–06065–0000–0
3. 108 000 000
4. Amoco Production Co
5. Jicarilla Contract 146 #16
6. Otero-Chacra
7. Rio Arriba NM
8. 19.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34047/NM–5166–79
2. 30–045–21119–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. Huerfano Unit #232
6. Angels Peak-Gallup Gas
7. San Juan NM
8. 10.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34048/NM–5165–79
2. 30–045–23516–0000–0
3. 103 000 000
4. Tenneco Oil Co
5. Hughes A–5
6. Basin Dakota
7. San Juan NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34049/NM–5163–79
2. 30–045–23515–0000–0
3. 103 000 000
4. Tenneco Oil Co
5. Hughes A #3
6. Basin Dakota
7. San Juan NM
8. 500.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34050/NM–4980–79
2. 30–025–00000–0000–0
3. 108 000 000
4. Conoco Inc
5. Elliott B–20 No 1
6. NMFU-Langlie Mattix 7 Rivers Queen
7. Lea NM
8. 4.7 million cubic feet
9. May 12, 1980
10. Getty Oil Co
1. 80–34051/NM–03300–79
2. 30–039–00000–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #28
6. Gavilan
7. Rio Arriba NM
8. 6.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp, El Paso Natural Gas Co
1. 80–34052/NM–3299–79
2. 30–039–07928–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. SI 31–6 Unit #16
6. Blanco
7. Rio Arriba NM
8. 10.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp, El Paso Natural Gas Co
1. 80–34053/NM–0010–79–E
2. 30–045–22425–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. Schwerdtfeger 2A
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 1.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34054/NM–3596–79
2. 30–039–06020–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #17
6. Gavilan
7. Rio Arriba NM
8. 3.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–34055/NM–3697–79
2. 30–025–25612–0000–0
3. 103 000 000
4. Amoco Production Co
5. South Mattix Unit No 27
6. Fowler Upper Yeso
7. Lea NM
8. 300.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34056/NM–3602–79
2. 30–039–05795–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #28
6. Gavilan
7. Rio Arriba NM
8. 7.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–34057/NM–3599–79
2. 30–039–05927–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #23
6. Gavilan
7. Rio Arriba NM
8. 2.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp
1. 80–34058/NM–3916–79
2. 30–015–05884–0000–0
3. 108 000 000
4. Texaco Inc
5. Ed White Federal NCT–1 #1
6. Mason (Delaware) North Eddy
7. Eddy NM
8. 3.1 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co
1. 80–34059/NM–3301–79
2. 30–039–00000–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #15
6. Gavilan
7. Rio Arriba NM
8. 4.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp, El Paso Natural Gas Co
1. 80–34060/NM–03365–79
2. 30–045–22785–0000–0
3. 103 000 000
4. Amoco Production Co
5. Jaquez Gas Com C #1A
6. Blanco Mesaverde
7. San Juan NM
8. 183.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co
1. 80–34061/NM–3809–79

V 45 J E 3 8 0 UMI

2. 30–039–00000–0000–0
3. 108 000 000
4. Northwest Pipeline Corp
5. Federal #20
6. Gavilan
7. Rio Arriba NM
8. 16.0 million cubic feet
9. May 12, 1980
10. Northwest Pipeline Corp, El Paso Natural Gas Co

1. 80–34062/NM–3740–79
2. 30–025–00000–0000–0
3. 108 000 000
4. Warren Petroleum Co
5. South Penrose Skelly Unit 1 No 130
6. Penrose Skelly
7. Lea NM
8. 1.5 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34063/NM–3918–79
2. 30–025–22032–0000–0
3. 108 000 000
4. Texaco Inc Co
5. C C Fristoe B Fed NCT–2 No 12
6. Justis Blinebry
7. Lea NM
8. 14.3 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34064/NM–3917–79
2. 30–025–21689–0000–0
3. 108 000 000
4. Texaco Inc
5. C C Fristoe B NCT–1 Fed #2
6. Justis Blinebry
7. Lea NM
8. 7.6 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34065/NM–4146–79–2
2. 30–041–20463–0000–0
3. 103 000 000
4. Wolfson Oil Co
5. Mountain Federal No 3
6. Tomahawk San Andres
7. Roosevelt NM
8. 6.0 million cubic feet
9. May 12, 1980
10. Cities Service Co

1. 80–34066/NM–4183–79
2. 30–045–05816–0000–0
3. 108 000 000
4. El Paso Natural Gas C0
5. McConnell No 2
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 21.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34067/NM–4258–79
2. 30–045–08441–0000–0
3. 108 000 000
4. Beta Development Co
5. Hubbell Federal No 1
6. Basin Dakota
7. San Juan NM
8. 20.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34068/NM–4257–79
2. 30–045–07090–0000–0
3. 108 000 000
4. Beta Development Co
5. Blanco Wash Federal No 2
6. Basin Dakota
7. San Juan NM
8. 19.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34069/NM–4256–79
2. 30–045–06113–0000–0
3. 108 000 000
4. Beta Development Co
5. Mudge Federal No 5
6. Basin Dakota
7. San Juan NM
8. 13.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34070/NM–3991–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. TE&K No 2
6. Vandergriff Keys Queen
7. Eddy NM
8. 13.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34071/NM–3990–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. TE&K No 3
6. Vandergriff Keys Queen
7. Eddy NM
8. 13.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34072/NM–3989–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Berry A No 22
6. Red Lake Queen Gas
7. Eddy NM
8. 14.9 million cubic feet
9. May 12, 1980
10. Phillip Petroleum Co

1. 80–34073/NM–3988–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Berry B No 25
6. Red Lake Queen Gas
7. Eddy NM
8. 17.1 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34074/NM–4004–79
2. 30–015–21966–0000–0
3. 102 000 000
4. Monsanto Co
5. Albert Federal No 1
6. Cemetary (Morrow)
7. Eddy NM
8. 100.0 million cubic feet
9. May 12, 1980
10. Transwestern Pipeline Co

1. 80–34075/NM–4067–79–3
2. 30–039–21909–0000–0
3. 103 000 000
4. Jack A Cole
5. Apache Hills No 5
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 36.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34076/NM–4067–79–2
2. 30–039–21908–0000–0
3. 108 000 000
4. Jack A Cole
5. Apache Hills No 4
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34077/NM–4010–79
2. 30–015–21851–0000–0
3. 102 000 000
4. Monsanto Co
5. Foster Federal No 1
6. Morrow
7. Eddy NM
8. .0 million cubic feet
9. May 12, 1980
10. Transwestern Pipeline Co

1. 80–34078/NM–4106–79
2. 30–039–21601–0000–0
3. 108 000 000
4. Jack A Cole
5. Apache Hills No 2
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 9.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34079/NM–4067–79–4
2. 30–039–21907–0000–0
3. 103 000 000
4. Jack A Cole
5. Apache Hills No 6
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 54.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34080/NM–4170–79
2. 30–039–27192–0000–0
3. 108 000 000
4. El Paso Natural Gas Co
5. SJ 28–7 Unit No 34
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34081/NM–3978–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Berry A No 29
6. Red Lake Queen Gas
7. Eddy NM
8. 14.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34082/NM–3936–79
2. 30–025–21666–0000–0
3. 108 000 000
4. Texaco Inc
5. A H Blinebry Federal Nct–1 No 35
6. Drinkard
7. Lea NM
8. 4.8 million cubic feet
9. May 12, 1980
10. Getty Oil Co

1. 80–34083/NM–3932–79
2. 30–025–21102–0000–0
3. 108 000 000
4. Texaco Inc
5. A H. Blinebry Federal Nct–1 No 18

6. Blinebry
7. Lea Nm
8. 10.9 million cubic feet
9. May 12, 1980
10. Getty Oil Co

1. 80–34084/NM–3982–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Vandergriff No 7
6. Vandergriff Keys Queen
7. Eddy NM
8. 14.1 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34085/NM–3981–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Te&k No 1
6. Vendergriff Keys Queen
7. Eddy NM
8. 13.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34086/NM–3980–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Te&k No 8
6. Vendergriff Keys Queen
7. Eddy NM
8. 13.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34087/NM–3979–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Te&k No 9
6. Vendergriff Keys Queen
7. Eddy NM
8. 13.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34088/NM–3987–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Berry A #26
6. Red Lake Queen Gas
7. Eddy NM
8. 14.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34089/NM–3986–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Berry A #27
6. Red Lake Queen Gas
7. Eddy NM
8. 14.9 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34090/NM–3995–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Vendergriff No 10
6. Vendergriff Keys Queen
7. Eddy NM
8. 14.1 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34091/NM–3984–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Vendergriff No 11
6. Vendergriff Keys Queen
7. Eddy NM
8. 15.3 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34092/NM–3983–79
2. 30–015–00000–0000–0
3. 108 000 000
4. Latch Operations
5. Vendergriff #9
6. Vendergriff Keys Queen
7. Eddy NM
8. 14.1 million cubic feet
9. May 12, 1980
10. Phillips Petroleum Co

1. 80–34093/NM–3993–79
2. 30–041–20462–0000–0
3. 103 000 000
4. Wolfson Oil Co
5. Mountain Federal No 2
6. Tomahawk San Andres
7. Roosevelt NM
8. 6.0 million cubic feet
9. May 12, 1980
10. Cities Service Co

1. 80–34094/NM–3992–79
2. 30–041–20452–0000–0
3. 103 000 000
4. Wolfson Oil Co
5. Mountain Federal No 1
6. Tomahawk San Andres
7. Roosevelt NM
8. 6.0 million cubic feet
9. May 12, 1980
10. Cities Service Co

1. 80–34095/UA–5167–79–A
2. 43–037–30452–0000–0
3. 103 000 000
4. Superior Oil Co
5. McElmo Creek Unit S–11 (Ismay)
6. Greater Aneth
7. San Juan UT
8. 8.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34096/UA–5167–79–B
2. 43–037–30452–0000–0
3. 103 000 000
4. Superior Oil Co
5. McElmo Creek Unit S–11 (DC)
6. Great Aneth
7. San Juan UT
8. 8.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, filed a protest with the Commission on or before June 18, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16772 Filed 6–2–80; 8:45 am]

BILLING CODE 6450–85–M

[No. 211]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

May 29, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Arkansas Oil and Gas Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34124
2. 03–027–10671–0000
3. 103 000 000
4. Rustex Oil Inc
5. Harmon No 1
6. Kerlin
7. Columbia AR
8. 11.3 million cubic feet
9. May 13, 1980
10. Arkansas Louisiana Gas Co

1. 80–34125
2. 03–027–10625–0000
3. 103 000 000
4. Rustex Oil Inc
5. King No 1
6. Kerlin
7. Columbia AR
8. 7.3 million cubic feet
9. May 13, 1980
10.

1. 80–34126
2. 03–027–10642–0000
3. 103 000 000
4. Rustex Oil Inc
5. King No 2
6. Kerlin
7. Columbia AR
8. 10.2 million cubic feet
9. May 13, 1980
10.

1. 80–34127
2. 03–027–10646–0000
3. 103 000 000
4. Rustex Oil Inc
5. King No 3

6. Kerlin
7. Columbia AR
8. 9.1 million cubic feet
9. May 13, 1980
10. Arkansas Louisiana Gas Co

1. 80–34128
2. 03–027–10702–0000
3. 103 000 000
4. Rustex Oil Inc
5. King No 4
6. Kerlin
7. Columbia AR
8. 7.3 million cubic feet
9. May 13, 1980
10.

1. 80–34129
2. 03–027–10657–0000
3. 103 000 000
4. Rustex Oil Inc
5. Longino No 1
6. Kerlin
7. Columbia AR
8. 9.5 million cubic feet
9. May 13, 1980
10.

1. 80–34130
2. 03–027–10667–0000
3. 103 000 000
4. Rustex Oil Inc
5. Longino No 2
6. Kerlin
7. Columbia AR
8. 9.5 million cubic feet
9. May 13, 1980
10.

1. 80–34131
2. 03–027–10687–0000
3. 103 000 000
4. Rustex Oil Inc
5. Merritt No 1
6. Kerlin
7. Columbia AR
8. 11.7 million cubic feet
9. May 13, 1980
10.

1. 80–34132
2. 03–027–10693–0000
3. 103 000 000
4. Rustex Oil Inc
5. Merritt No 2
6. Kerlin
7. Columbia AR
8. 11.7 million cubic feet
9. May 13, 1980
10.

1. 80–34133
2. 03–027–10655–0000
3. 103 000 000
4. Rustex Oil Inc
5. Rowe No 1
6. Kerlin
7. Columbia AR
8. 12.8 million cubic feet
9. May 13, 1980
10.

1. 80–34134
2. 03–027–10551–0000
3. 103 000 000
4. Rustex Oil Inc
5. Nipper No 2
6. Dorcheat-Macedonia
7. Columbia AR
8. 27.3 million cubic feet
9. May 13, 1980
10. J–W Operating Co

1. 80–34135
2. 03–027–10552–0000
3. 103 000 000
4. Rustex Oil Inc
5. Chaffin Estate No 2
6. Dorcheat-Macedonia
7. Columbia AR
8. 45.7 million cubic feet
9. May 13, 1980
10. J–W Operating Co

1. 80–34136
2. 03–027–10542–0000
3. 103 000 000
4. Rustex Oil Inc
5. Couch No 1
6. Magnolia
7. Columbia AR
8. 18.2 million cubic feet
9. May 13, 1980
10. Arkansas Louisiana Gas Co

1. 80–34137
2. 03–027–10697–0000
3. 103 000 000
4. Rustex Oil Inc
5. Foster No 3
6. Magnolia
7. Columbia AR
8. 63.9 million cubic feet
9. May 13, 1980
10. Arkansas Louisiana Gas Co

1. 80–34138
2. 03–027–10513–0000
3. 103 000 000
4. Rustex Oil Inc
5. Garrett No 1
6. Magnolia
7. Columbia AR
8. 53.0 million cubic feet
9. May 13, 1980
10. Arkansas Louisiana Gas Co

1. 80–34139
2. 03–027–10555–0000
3. 103 000 000
4. Rustex Oil Inc
5. Garrett NO 2
6. Magnolia
7. Columbia AR
8. 54.7 million cubic feet
9. May 13, 1980
10. Arkansas Louisiana Gas Co

California Department of Conservation, Division of Oil and Gas

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchase(s)

1. 80–34351/80–2–0001
2. 04–111–20896–0000
3. 103 000 000
4. Conoco Inc
5. Grubb No 200
6. San Miguelito
7. Ventura CA
8. 40.2 million cubic feet
9. May 19, 1980
10. Pacific Lighting & Service Co

1. 80–34352/80–2–0002
2. 04–111–20884–0000
3. 103 000 000
4. Conoco Inc
5. Grubb No 203
6. San Miguelito
7. Ventura CA
8. 23.7 million cubic feet
9. May 19, 1980
10. Pacific Lighting & Service Co

1. 80–34353/80–2–0003
2. 04–111–20784–0000
3. 103 000 000
4. Conoco Inc
5. Grubb No 388
6. San Miguelito
7. Ventura CA
8. 2.7 million cubic feet
9. May 19, 1980
10. Pacific Lighting & Service Co

1. 80–34354/80–2–0004
2. 04–111–20785–0000
3. 103 000 000
4. Conoco Inc
5. Grubb No 369
6. San Miguelito
7. Ventura CA
8. 2.7 million cubic feet
9. May 19, 1980
10. Pacific Lighting & Service Co

1. 80–34355/80–2–0005
2. 04–111–20786–0000
3. 103 000 000
4. Conoco Inc
5. Grubb No 370
6. San Miguelito
7. Ventura CA
8. 43.8 million cubic feet
9. May 19, 1980
10. Pacific Lighting & Service Co

1. 80–34356/80–2–0006
2. 04–111–20880–0000
3. 103 000 000
4. Conoco Inc
5. Grubb No 566
6. San Miguelito
7. Ventura CA
8. 1.5 million cubic feet
9. May 19, 1980
10. Pacific Lighting & Service Co

Kansas Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchase(s)

1. 80–34350/ K–97–0356
2. 15–047–00000–0000
3. 108 000 000
4. Getty Oil Co
5. F H Barstow No 1
6. Edstaff
7. Edwards KS
8. 17.9 million cubic feet
9. May 19, 1980
10. Northern Natural Gas Co

Louisiana Office of Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA

4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchase(s)

1. 80–34306/80–194
2. 17–065–20045–0000
3. 102 000 000
4. Crystal Oil Co
5. Vu B Chicago Mill G #18
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34307/80–193
2. 17–065–20044–0000
3. 102 000 000
4. Crystal Oil Co
5. Vua Chicago Mill F #15
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34308/80–192
2. 17–065–20025–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill F 2
6. Buckshot Bayou
7. Madison LA
8. 44.1 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34309/80–191
2. 17–065–20024–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill 1
6. Buckshot Bayou
7. Madison LA
8. 44.1 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34310/80–190
2. 17–065–20040–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill
6. Buckshot Bayou
7. Madison LA
8. 44.1 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34311/80–308
2. 17–075–22585–0000
3. 102 000 000
4. Signal Petroleum
5. S/L 2028 #15D
6. Lake Washington
7. Plaquemines LA
8. 350.0 million cubic feet
9. May 15, 1980
10. Southern Natural Gas Co

1. 80–34312/80–307
2. 17–075–22585–0000
3. 102 000 000
4. Signal Petroleum
5. S/L 2028 #15
6. Lake Washington
7. Plaquemines LA
8. 350.0 million cubic feet
9. May 15, 1980
10. Southern Natural Gas Co

1. 80–34313/79–2499
2. 17–075–21487–0000
3. 102 000 000
4. Kirby Exploration Co
5. I M Weldon No 1
6. South Chegby
7. Lafourche Parish LA
8. 547.5 million cubic feet
9. May 15, 1980
10. Texas Gas Transmission Corp

1. 80–34314/80–195
2. 17–107–20308—0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill I 21
6. Buckshot Bayou
7. Tensas LA
8. 2.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34315/80–180
2. 17–099–20646–0000
3. 102 000 000
4. Getty Oil Co
5. Smedes Brothers No 17
6. St Martinville Field
7. St Martin LA
8. 292.0 million cubic feet
9. May 15, 1980
10. United Gas Pipeline Co

1. 80–34316/80–125
2. 17–727–20073–0000
3. 102 000 000
4. LGS Exploration Program
5. S L 6657 No 1
6. Chandeleur Sound Block 35
7. St Bernard LA
8. 360.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–34317/80–197
2. 17–700–20162–0000
3. 102 000 000
4. Williams Exploration Co
5. State Lease 7551 No 1
6. West Cameron Block 1
7. Offshore Cameron LA
8. 1825.0 million cubic feet
9. May 15, 1980
10. Louisiana Resources Co

1. 80–34318/80–171
2. 17–113–20928–0000
3. 102 000 000
4. Exxon Corp
5. Exxon Fee-Pecan Island No 80
6. Pecan Island
7. Vermilion LA
8. 4000.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Trans Corp

1. 80–34319/80–189
2. 17–065–20037–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill 11
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34320/80–188
2. 17–065–20035–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill 10
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34321/80–187
2. 17–065–20033–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill 9
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34322/80–186
2. 17–065–20029–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill 6
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34323/80–185
2. 17–065–20028–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill 5
6. Buckshot Bayou
7. Madison LA
8. 441.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34324/80–306
2. 17–045–20405–0000
3. 102 000 000
4. Tee Operating Co
5. J B Schwing C No 2
6. Iberia Field
7. Iberia Parish LA
8. .0 million cubic feet
9. May 15, 1980
10. United Gas Pipeline Co United Gas P L Co

1. 80–34325/80–128
2. 17–087–20129–0000
3. 102 000 000
4. Chevron USA Inc
5. S L 6646 #1
6. Rigolets
7. St Bernard LA
8. 29.2 million cubic feet
9. May 15, 1980
10. New Orleans Public Service Inc

1. 80–34326/80–131
2. 17–727–20050–0000
3. 102 000 000
4. McMoran Exploration Co
5. State Lease 6674 #1
6. Chandeleur Sound Block 58
7. St Bernard LA
8. 550.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipeline Corp

1. 80–34327/80–196
2. 17–107–20322–0000
3. 102 000 000
4. Crystal Oil Co
5. Chicago Mill No 20
6. Buckshot Bayou
7. Madison LA

V 45 3 80 J E UMI

8. 73.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp
1. 80–34328/80–170
2. 17–003–20170–0000
3. 102 000 000
4. Sun Oil Co
5. Vua Stout Kinder Canal Co No 6
6. Kinder
7. Allen LA
8. 293.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80–34329/80–136
2. 17–075–22584–0000
3. 102 000 000
4. Signal Petroleum
5. S/L 2028 #14
6. Lake Washington
7. Plaquemines LA
8. 228.0 million cubic feet
9. May 15, 1980
10. Southern Natural Gas Co
1. 80–34330/80–127
2. 17–087–20130–0000
3. 102 000 000
4. Chevron USA Inc
5. S L 6647 #1
6. Rigolets
7. St Bernard LA
8. 18.4 million cubic feet
9. May 15, 1980
10. New Orleans Public Service Inc
1. 80–34331/79–2310
2. 17–127–20689–0000
3. 102 000 000
4. Frank Spooner
5. La Pacific J No 3
6. Richland Creek
7. Winn LA
8. 90.0 million cubic feet
9. May 15, 1980
10. United Gas Pipeline Co
1. 80–34332/79–2311
2. 17–059–21590–0000
3. 102 000 000
4. Frank Spooner
5. La-Pacific M No 1
6. Richland Creek
7. LaSalle Parish LA
8. 100.0 million cubic feet
9. May 15, 1980
10. United Gas Pipeline Co
1. 80–34333/80–130
2. 17–727–20074–0000
3. 102 000 000
4. McMoran Exploration Co
5. State Lease 6674 #2
6. Chandeleur Sound Block 58
7. St Bernard LA
8. 550.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipeline Corp
1. 80–34334/80–129
2. 17–087–20171–0000
3. 102 000 000
4. Chevron USA Inc
5. S L 6651 #2
6. Rigolets
7. St Bernard LA
8. 30.9 million cubic feet
9. May 15, 1980
10. New Orleans Public Service Inc
1. 80–34335/79–2306
2. 17–053–20543–0000
3. 102 000 000
4. Clover Energy Corp
5. Racca 161168
6. Woodlawn
7. Jefferson Davis LA
8. 328.0 million cubic feet
9. May 15, 1980
10. United Gas Pipe Line Co
1. 80–34336/79–1676
2. 17–045–20526–0000
3. 102 000 000
4. Tee Operating Co
5. J B Schwing C #2
6. Iberia Field
7. Iberia Parish LA
8. 182.5 million cubic feet
9. May 15, 1980
10. United Gas Pipeline Co
1. 80–34337/80–124
2. 17–023–21127–0000
3. 102 000 000
4. Phillips Petroleum Co
5. SL 1170–1 Hog A #17
6. Hog Bayou
7. Offshore Cameron LA
8. 216.0 million cubic feet
9. May 15, 1980
10. Michigan Wisconsin Pipe Line Co
1. 80–34338/80–256
2. 17–075–22621–0000
3. 102 000 000
4. McAlester Fuel Co
5. State Lease 3942 #1
6. Garden Island Bay
7. Palquemines LA
8. 182.5 million cubic feet
9. May 15, 1980
10.
1. 80–34339/80–134
2. 17–705–20100–0000
3. 103 000 000
4. Exchange Oil & Gas Corp
5. S L 3624 No 5
6. Vermilion Block 16 Offshore
7. Vermilion LA
8. 1.8 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80–34340/80–135
2. 17–113–20854–0000
3. 102 000 000
4. Southport Exploration Inc
5. State Lease No 7701 No 1
6. West White Lake Field
7. Vermilion LA
8. 1058.5 million cubic feet
9. May 15, 1980
10. Louisiana Intrastate Gas Corp
1. 80–34341/80–164
2. 17–045–20592–0000
3. 102 000 000
4. Tee Operating Co
5. J B Schwing D No 6
6. Iberia Field
7. Iberia Parish LA
8. 72.0 million cubic feet
9. May 15, 1980
10. United Gas Pipeline Co
1. 80–34342/80–132
2. 17–727–20075–0000
3. 102 000 000
4. McMoran Exploration Co
5. State Lease 6678 #2
6. Chandeleur Sound Block 58
7. St Bernard LA
8. 560.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipeline Corp
1. 80–34343/80–133
2. 17–727–20068–0000
3. 102 000 000
4. McMoran Exploration Co
5. State Lease 6678 #1
6. Chandeleur Sound Block 58
7. St Bernard LA
8. 550.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipeline Corp
1. 80–34344/80–123
2. 17–093–20177–0000
3. 102 000 000
4. Columbia Gas Development Corp
5. Hawthorne #1
6. College Point-St James Field
7. St James Parish LA
8. 91.0 million cubic feet
9. May 15, 1980
10.

Mississippi Oil and Gas Board

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34142/30–80—11
2. 23–073–20186–0000
3. 103 000 000
4. Gulf Oil Corp
5. C V Cooper No 10
6. Baxterville
7. Lamar MS
8. 30.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co
1. 80–34143/29–80–11
2. 23–073–20179–0000
3. 103 000 000
4. Gulf Oil Corp
5. J M Andrew No 67
6. Baxterville
7. Lamar MS
8. 30.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co
1. 80–34144/27–80–11
2. 23–073–20183–0000
3. 103 000 000
4. Gulf Oil Corp
5. Johnathan Davis No 3
6. Baxterville
7. Lamar MS
8. 30.0 million cubic feet
9. May 14, 1980
10. United Gas Pipeline Co
1. 80–34145/28–80–224
2. 23–045–20019–0000
3. 103 000 000
4. Texas Pacific Oil Co Inc
5. M B Zengarling #1
6. Waveland (Mooringsport)
7. Hancock MS
8. 219.0 million cubic feet
9. May 14, 1980

10. Tennessee Gas Pipeline Co
1. 80–34146/35–80–11
2. 23–073–20175–0000
3. 103 000 000
4. Gulf Oil Corp
5. J M Andrew No 66
6. Baxterville
7. Lamar MS
8. 30.0 million cubic feet
9. May 14, 1980
10. United Gas Pipe Line Co
1. 80–34147/34–80–467
2. 23–091–20090–0000
3. 107 000 000
4. Tomlinson Interests Inc
5. Pitard & Porobil #1
6. E Morgantown
7. Marion MS
8. 1.9 million cubic feet
9. May 14, 1980
10. Transcontinental Gas Pipeline Corp
1. 80–34359/40–80–11
2. 23–073–20192–0000
3. 103 000 000
4. Gulf Oil Corp
5. 1 H Bass et al No 84
6. Baxterville
7. Lamar MS
8. 30.0 million cubic feet
9. May 15, 1980
10. United Gas Pipe Line Co
1. 80–34360/36–80–11
2. 23–073–20182–0000
3. 103 000 000
4. Gulf Oil Corp
5. J M Andrew No 71
6. Baxterville
7. Lamar MS
8. 30.0 million cubic feet
9. May 15, 1980
10. United Gas Pipe Line Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34357
2. 30–025–26148–0000
3. 103 000 000
4. Conoco Inc
5. State KN–12 No 5
6. Eumont Monument
7. Lea NM
8. 27.0 million cubic feet
9. May 16, 1980
10. El Paso Natural Gas Co
1. 80–34358
2. 30–025–26296–0000
3. 103 000 000
4. Conoco Inc
5. State KP–13 No 3
6. Eumont-Monument
7. Lea NM
8. 178.0 million cubic feet
9. May 16, 1980
10. Northern Natural Gas Co

New York Department of Environmental Conservation, Bureau of Mineral Resources

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34148/856
2. 31–013–13912–0000
3. 103 000 000
4. Oilmark & Co Inc
5. Wolff #1
6. Lake Shore
7. Chautauqua NY
8. 25.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34149/855
2. 31–013–13909–0000
3. 103 000 000
4. Oilmark & Co Inc
5. Ross #1
6. Lake Shore
7. Chautauqua NY
8. 20.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34150/854
2. 31–013–13911–0000
3. 103 000 000
4. Oilmark & Co Inc
5. Leone #2
6. Lake Shore
7. Chautauqua NY
8. 20.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34151/853
2. 31–013–13910–0000
3. 103 000 000
4. Oilmark & Co Inc
5. Leone #1
6. Lake Shore
7. Chautauqua NY
8. 10.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34152/850
2. 31–013–11794–0000
3. 108 000 000
4. Local Energy Inc
5. Abram #1
6. Lake Shore
7. Chautauque NY
8. 7.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34153/847
2. 31–029–12959–0000
3. 108 000 000
4. Local Energy Inc
5. Balcerzak #1
6. Lake Shore
7. Erie NY
8. 2.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34154/846
2. 31–029–13054–0000
3. 108 000 000
4. Local Energy Inc
5. Rudnick #1
6. Lake Shore
7. Erie NY
8. 3.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34155/845
2. 31–013–11831–0000
3. 108 000 000
4. Local Energy Inc
5. Calarco #1
6. Lake Shore
7. Chautauqua NY
8. 16.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34156/834
2. 31–013–11812–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Holmes #1
6. Lakeshore
7. Chautauqua NY
8. 15.3 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34157/833
2. 31–013–12404–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. A & M Makuch #1
6. Lakeshore
7. Chautauqua NY
8. 10.5 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34158/832
2. 31–013–12210–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. G & I Frost #1
6. Lakeshore
7. Chautauqua NY
8. 20.6 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34159/831
2. 31–013–12211–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. L & S Lesch #1
6. Lakeshore
7. Chautauqua NY
8. 16.1 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34160/830
2. 31–013–12215–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. K Pilarski #1
6. Lakeshore
7. Chautauqua NY
8. 16.3 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34161/829
2. 31–013–12477–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Rankin Unit #1
6. Lakeshore
7. Chautauqua NY

8. 20.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34162/829
2. 31–029–12970–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Emerling Unit #1
6. Concord
7. Erie NY
8. 16.8 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34163/828
2. 31–029–09823–0000
3. 108 000 000
4. Local Energy Inc
5. Johnston #1
6. Hamburg
7. Erie NY
8. 18.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34164/822
2. 31–013–11518–0000
3. 108 000 000
4. Local Energy Inc
5. Majka #1
6. Lakeshore
7. Chautauqua NY
8. 16.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Dist Corp
1. 80–34165/813
2. 31–013–14357–0000
3. 103 000 000
4. Envirogas Inc
5. E McCutchean #1
6. Lakeshore
7. Chautauqua NY
8. 18.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp
1. 80–34166/812
2. 31–013–14352–0000
3. 103 000 000
4. Envirogas Inc
5. G Laporte #2
6. Lakeshore
7. Chautauqua NY
8. 18.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp
1. 80–34167/810
2. 31–013–14319–0000
3. 103 000 000
4. Envirogas Inc
5. M White #1
6. Lakeshore
7. Chautauqua NY
8. .0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp
1. 80–34168/532
2. 31–013–11451–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. F Maggio #1
6. Lakeshore
7. Chautauqua NY
8. 7.2 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34169/531
2. 31–013–11511–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Purdy #2A
6. Lakeshore
7. Chautauqua NY
8. 2.5 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34170/530
2. 31–013–11448–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. E Jusko #1
6. Lakeshore
7. Chautauqua NY
8. 12.4 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34171/529
2. 31–013–11423–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. S Josko #1
6. Lakeshore
7. Chautauqua NY
8. 18.7 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34172/528
2. 31–013–11422–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. W Burgun #2
6. Lakeshore
7. Chautauqua NY
8. 7.2 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34173/527
2. 31–013–11401–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. S Kauski #1
6. Lakeshore
7. Chautauqua NY
8. 12.4 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34174/526
2. 31–013–11358–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. James Vinciguerra #1
6. Lakeshore
7. Chautauqua NY
8. 18.2 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34175/525
2. 31–013–113300–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Strychalski #1
6. Lakeshore
7. Chautauqua NY
8. 3.4 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34176/524
2. 31–013–11329–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. A Purdy #1
6. Lakeshore
7. Chautauqua NY
8. 1.5 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34177/523
2. 31–013–11310–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. A Harris #1
6. Lakeshore
7. Chautauqua NY
8. 6.9 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34178/522
2. 31–013–11309–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. A Jopek #1
6. Lakeshore
7. Chautauqua NY
8. 13.2 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34179/521
2. 31–013–11281–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Morse #2
6. Lakeshore
7. Chautauqua NY
8. 4.7 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34180/520
2. 31–013–11265–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Dudley Start #3
6. Lakeshore
7. Chautauqua NY
8. 3.6 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34181/518
2. 31–013–11178–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Oakes #1
6. Lakeshore
7. Chautauqua NY
8. 14.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34182/517
2. 31–013–11122–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Conti Brothers #5
6. Lakeshore
7. Chautauqua NY
8. 5.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34183/516
2. 31–013–11121–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Conti Brothers #4
6. Lakeshore
7. Chautauqua NY
8. 16.7 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34184/515

2. 31–013–11113–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Conti Brothers #3
6. Lakeshore
7. Chautauqua NY
8. 5.2 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34185/514
2. 31–013–11086–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. C & L Giambra #1
6. Lakeshore
7. Chautauqua NY
8. 2.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34186/513
2. 31–013–11085–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. R Boccolucci #1
6. Lakeshore
7. Chautauqua NY
8. 4.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34187/512
2. 31–013–11076–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Lesch William #2
6. Lakeshore
7. Chautauqua NY
8. 11.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34188/511
2. 31–013–11075–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Zuchowski Neil #1
6. Lakeshore
7. Chautauqua NY
8. 1.7 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34189/510
2. 31–013–11074–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Wilcox James #1
6. Lakeshore
7. Chautauqua NY
8. 4.2 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34190/509
2. 31–013–11052–0000
3. 108 000 000
4. Flint Oil & Gas Inc
5. Conti Brothers #2
6. Lakeshore
7. Chautauqua NY
8. 8.7 million cubic feet
9. May 14, 1980
10. National Fuel Gas
1. 80–34191/804
2. 31–013–14363–0000
3. 103 000 000
4. Envirogas Inc
5. J Orton #3
6. Lakeshore
7. Chautaugua NY
8. 18.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp
1. 80–34192/803
2. 31–013–14301–0000
3. 103 000 000
4. Envirogas Inc
5. A Nixon #3
6. Lakeshore
7. Chautauqua NY
8. 18.0 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp
1. 80–34193/802
2. 31–013–14313–0000
3. 103 000 000
4. Envirogas Inc
5. J Glasser #1
6. Lakeshore
7. Chautauqua NY
8. 1.8 million cubic feet
9. May 14, 1980
10. National Fuel Gas Supply Corp

Virginia Department of Labor and Industry, Division of Mines and Quarries

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34345
2. 45–051–20335–0030
3. 103 000 000
4. W E Elliott Trustee Acct 507
5. N D Howard et al No 1
6. Nora
7. Dickenson VA
8. 54.0 million cubic feet
9. May 8, 1980
10. Columbia Gas Transmission Corp

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34194
2. 47–021–01138–0000
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A–57
6. Center District
7. Gilmer WV
8. 2.2 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34195
2. 47–097–00792–0000
3. 108 000 000
4. Queen Gas Co
5. Marple No 2
6. Warren District
7. Upshur County WV
8. 1.1 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34196
2. 47–097–00737–0000
3. 108 000 000
4. Queen Gas Co
5. Marple #1
6. Warren District
7. Upshur WV
8. 3.2 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34197
2. 47–097–00625–0000
3. 108 000 000
4. Queen Gas Co
5. Stout No 2
6. Warren District
7. Upshur County WV
8. 74.8 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34198
2. 47–097–00840–0000
3. 108 000 000
4. Queen Gas Co
5. Hockenberry #1
6. Buckhannon District
7. Upshur WV
8. 9.3 million cubic feet
9. May 14, 1980
10. Columbia Gas Transmission Corp
1. 80–34199/A–182
2. 47–085–02547–0000
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A–182
6. Murphy District
7. Ritchie WV
8. 2.0 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34200/A–165
2. 47–085–02479–0000
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A–165
6. Murphy District
7. Ritchie WV
8. 2.0 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34201/A–110
2. 47–041–00816–0000
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A–110
6. Court House
7. Lewis WV
8. 1.6 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp
1. 80–34202/A–109
2. 47–041–00686–0000
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A–109
6. Court House
7. Lewis WV
8. 1.6 million cubic feet
9. May 14, 1980
10. Consolidated Gas Supply Corp

V 45 J E 3 80 UMI

1. 80–34203
2. 47–067–00490–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. M Richardson #1
6. Jefferson
7. Nicholas WV
8. 60.0 million cubic feet
9. May 14, 1980
10. Equitable Gas Co

1. 80–34204
2. 47–047–00792–0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp C–14
6. North Fork
7. McDowell WV
8. 55.0 million cubic feet
9. May 14, 1980
10.

1. 80–34205
2. 47–047–00791–0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land C–13
6. North Fork
7. McDowell WV
8. 55.0 million cubic feet
9. May 14, 1980
10.

1. 80–34206
2. 47–097–00796–0000
3. 108 000 000
4. Queen Gas Co
5. Wanless #1
6. Buckhannon District
7. Upshur WV
8. 6.5 million cubic feet
9. May 14, 1980
10. Columbia Gas Transmission Corp

1. 80–34207
2. 47–011–00808–0000
3. 108 000 000
4. Marval Gas Co
5. McKendree #1
6. Tylers Creek
7. Cabell WV
8. 3.1 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34208
2. 47–043–00204–0000
3. 108 000 000
4. Six Mile Gas Co
5. Darnell #1
6. Sheridan
7. Lincoln WV
8. 5.6 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34209
2. 47–043–00050–0000
3. 108 000 000
4. Sweetland Burns & Lockwood
5. Phoebe Reynolds #1
6. Carroll
7. Lincoln WV
8. 1.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34210
2. 47–043–00051–0000
3. 108 000 000
4. Sweetland Burns & Lockwood
5. Phoebe Reynolds #2
6. Carroll
7. Lincoln WV
8. 1.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34211
2. 47–043–00076–0000
3. 108 000 000
4. Sweetland Burns & Lockwood
5. H R Hoskinson #1
6. Carroll
7. Lincoln WV
8. 1.1 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34212
2. 47–043–00079–0000
3. 108 000 000
4. Sweetland Burns & Lockwood
5. H R Hoskinson #2
6. Carroll
7. Lincoln WV
8. 1.1 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34213
2. 47–043–00087–0000
3. 108 000 000
4. Sweetland Burns & Lockwood
5. Bd of Educ #1
6. Carroll
7. Lincoln WV
8. 1.1 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34214
2. 47–043–00042–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. Holbrook #3
6. Carroll
7. Lincoln WV
8. .7 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34215
2. 47–043–00259–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. McCallister #1
6. Sheridan
7. Lincoln WV
8. 1.2 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34216
2. 47–043–00299–0000
3. 108 000 000
4. Sweetland Land and Mineral Co
5. Cooper #1
6. Sheridan
7. Lincoln WV
8. 2.0 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34217
2. 47–011–00127–0000
3. 108 000 000
4. R N Adkins Trustee
5. C P Rousey #1
6. Trace Creek
7. Cabett WV
8. 4.9 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34218
2. 47–011–00269–0000
3. 108 000 000
4. R H Adkins Trustee
5. Irene Perry #1
6. Grant
7. Cabell WV
8. 1.4 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34219
2. 47–011–00265–0000
3. 108 000 000
4. R H Adkins Trustee
5. H C Boster #1
6. Grant
7. Cabell WV
8. 2.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34220
2. 47–011–00353–0000
3. 108 000 000
4. R H Adkins Trustee
5. Minerva Sidebottom #1
6. Grant
7. Cabell WV
8. 1.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34221
2. 47–011–00357–0000
3. 108 000 000
4. R H Adkins Trustee
5. U G Bledsoe #1
6. Grant
7. Cabell WV
8. 85.0 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34222
2. 47–011–00047–0000
3. 108 000 000
4. R H Adkins Agent
5. B L Perry #2
6. Trace Creek
7. Cabell WV
8. 1.8 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34223
2. 47–011–00320–0000
3. 108 000 000
4. R H Adkins Trustee
5. M A Wheeler #1
6. Grant
7. Cabell WV
8. 2.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34224
2. 47–011–00323–0000
3. 108 000 000
4. R H Adkins Trustee
5. J E Beckett #1
6. Grant
7. Cabell WV
8. 2.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34225
2. 47–011–00347–0000
3. 108 000 000
4. R H Adkins Trustee
5. Lyle Bledsoe #1
6. Grant
7. Cabell WV
8. 2.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34226
2. 47–011–00132–0000
3. 108 000 000
4. R H Adkins Trustee
5. Nando Johnson #1
6. Trace Creek
7. Cabell WV
8. 4.9 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34227
2. 47–011–00375–0000
3. 108 000 000
4. R H Adkins Trustee
5. Effie Carter Lacy #1
6. Grant
7. Cabell WV
8. .0 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34228
2. 47–011–00168–0000
3. 108 000 000
4. R H Adkins Trustee
5. R L Johnson #1
6. McComas
7. Cabell WV
8. 2.1 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34229
2. 47–033–00121–2000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. W G Allen 12293
6. West Virginia Other A–85772
7. Harrison WV
8. 14.0 million cubic feet
9. May 14, 1980
10. General System Purchasers

1. 80–34230
2. 47–033–01200–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. C M Lang 12312
6. West Virginia Other A–85772
7. Harrison WV
8. 14.0 million cubic feet
9. May 14, 1980
10. General System Purchasers

1. 80–34231
2. 47–011–00379–0000
3. 108 000 000
4. R H Adkins Trustee
5. Irene Perry #2
6. Grant
7. Cabell WV
8. 1.4 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34232
2. 47–011–00358–0000
3. 108 000 000
4. R H Adkins Agent
5. B L Perry #1
6. Trace Creek
7. Cabell WV
8. 1.8 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34233
2. 47–011–00284–0000
3. 108 000 000
4. R H Adkins Trustee
5. J L Stanley #1
6. Grant
7. Cabell WV
8. 2.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34234
2. 47–011–00312–0000
3. 108 000 000
4. R H Adkins Trustee
5. Jerusha Beckett #1
6. Grant
7. Cabell WV
8. 2.5 million cubic feet
9. May 14, 1980
10. Pennzoil Co

1. 80–34235
2. 47–001–00902–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. G D Young 12304
6. West Virginia Other A–85772
7. Barbour WV
8. 13.0 million cubic feet
9. May 14, 1980
10. General System Purchasers

1. 80–34236
2. 47–041–00487–0000
3. 108 000 000
4. Virginia Trimble
5. Alfred Well
6. Freeman Creek District
7. Lewis County WV
8. 3.9 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34237
2. 47–001–00097–0000
3. 108 000 000
4. Virginia Trimble
5. Ruskin Ward Well
6. Union District
7. Barbour WV
8. 4.1 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34238
2. 47–021–03499–0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Conner #2
6. Right Fork of Ellis
7. Gilmer WV
8. 30.0 million cubic feet
9. May 15, 1980
10. Carnegie Natural Gas Co

1. 80–34239
2. 47–109–00824–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp I–17
6. Barkers Ridge
7. Wyoming WV
8. 36.7 million cubic feet
9. May 15, 1980
10.

1. 80–34240
2. 47–109–00827–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp I–19
6. Barkers Ridge
7. Wyoming WV
8. 36.7 million cubic feet
9. May 15, 1980
10.

1. 80–34241
2. 47–109–00825–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp I–20
6. Barkers Ridge
7. Wyoming WV
8. 150.0 million cubic feet
9. May 15, 1980
10.

1. 80–34242
2. 47–109–00826–0000
3. 102 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp I–26
6. Barkers Ridge
7. Wyoming WV
8. 36.7 million cubic feet
9. May 15, 1980
10.

1. 80–34243
2. 47–005–00646–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #9
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34244
2. 47–035–01443–0000
3. 103 000 000
4. Devon Corp
5. George L Casto #923
6. Parchment
7. Jackson WV
8. 300.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34245/005123
2. 47–035–01432–0000
3. 103 000 000
4. Devon Corp
5. D L Morrison #868
6. Parchment
7. Jackson WV
8. 20.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34246
2. 47–035–01431–0000
3. 103 000 000
4. Devon Corp
5. Charles Bowles #866
6. Parchment
7. Jackson WV
8. 35.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34247
2. 47–035–01430–0000
3. 103 000 000
4. Devon Corp
5. Harold King #865
6. Parchment
7. Jackson WV
8. 35.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34248
2. 47–035–01429–0000
3. 103 000 000
4. Devon Corp
5. W W Woodard #867
6. Parchment
7. Jackson WV
8. 20.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34249
2. 47–097–00595–0000
3. 108 000 000
4. Virginia Trimble
5. Cutright Well
6. Warren District
7. Upshur County WV
8. 1.7 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34250
2. 47–097–00581–0000
3. 108 000 000
4. Virginia Trimble
5. J E Wagner #1
6. Warren District
7. Upshur County WV
8. 2.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34251
2. 47–041–00498–0000
3. 108 000 000
4. Virginia Trimble
5. Lee Bailey Well
6. Freemans Creek District
7. Lewis County WV
8. 3.3 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34252
2. 47–035–01441–0000
3. 108 000 000
4. Virginia Trimble
5. J E Wagner #1
6. Warren District
7. Upshur County WV
8. 2.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34253
2. 47–053–00157–0000
3. 103 000 000
4. Devon Corp
5. Lottie Barnett Hrs #913
6. Parchment
7. Mason WV
8. 12.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34254
2. 47–053–00156–0000
3. 103 000 000
4. Devon Corp
5. Erma Livingston #921
6. Parchment
7. Mason WV
8. 36.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34255/005123
2. 47–053–00154–0000
3. 103 000 000
4. Devon Corp
5. Nancy McDade #910
6. Parchment
7. Mason WV
8. 24.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34256
2. 47–053–00151–0000
3. 103 000 000
4. Devon Corp
5. Overt Pullins #909
6. Parchment
7. Mason WV
8. 24.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34257
2. 47–053–00150–0000
3. 103 000 000
4. Devon Corp
5. Belle Friese #918
6. Parchment
7. Mason WV
8. 27.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34258
2. 47–053–00148–0000
3. 103 000 000
4. Devon Corp
5. Belle Friese #917
6. Parchment
7. Mason WV
8. 27.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34259
2. 47–035–01454–0000
3. 103 000 000
4. Devon Corp
5. Walter Hunt Hrs #906
6. Parchment
7. Jackson WV
8. 18.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34260
2. 47–035–01445–0000
3. 103 000 000
4. Devon Corp
5. K M Click #922
6. Parchment
7. Jackson WV
8. 300.0 million cubic feet
9. May 15, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34261
2. 47–005–00627–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #5
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34262
2. 47–005–00628–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #8
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34263
2. 47–005–00637–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #11
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34264
2. 47–079–00861–0000
3. 108 000 000
4. Apalachian Exploration & Devel Inc
5. McLean Heirs A–4
6. Union
7. Putnam WV
8. 18.6 million cubic feet
9. May 15, 1980
10. Cabot Corp

1. 80–34265
2. 47–079–00868–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Putnam Land Co B–5
6. Union
7. Putnam WV
8. 11.0 million cubic feet
9. May 15, 1980
10. Cabot Corp

1. 80–34266
2. 47–079–00865–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Putnam Land Co B–3
6. Union
7. Putnam WV
8. 11.0 million cubic feet
9. May 15, 1980
10. Cabot Corp

1. 80–34267
2. 47–079–00904–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Putnam Land B–8
6. Union
7. Putnam WV
8. 14.4 million cubic feet
9. May 15, 1980
10. Cabot Corp

1. 80–34268
2. 47–005–00647–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #10
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34269
2. 47–005–00648–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #6
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34270
2. 47–005–00649–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #13A
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34271
2. 47–005–00662–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #7
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34272
2. 47–005–00601–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #1
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34273
2. 47–005–00606–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #2
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34274
2. 47–005–00607–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #3—015020
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34275
2. 47–005–00626–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Co #4
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34276
2. 47–013–02154–0000
3. 108 000 000
4. Francis E Cain
5. David Mathess Heirs #3
6. Sheridan
7. Calhoun WV
8. 2.2 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34277
2. 47–013–02120–0000
3. 108 000 000
4. Francis E Cain
5. David Mathess Heirs #2
6. Sheridan
7. Calhoun WV
8. 2.2 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34278
2. 47–041–21063–0000
3. 108 000 000
4. Glenn H Johnson
5. Wimer #1–TA
6. Collins Settlement
7. Lewis WV
8. 9.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34279
2. 47–107–00816–0000
3. 103 000 000
4. B & W Producers
5. Lincicone #1
6. Walker Field
7. Wood WV
8. 16.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34280
2. 47–107–00797–0000
3. 103 000 000
4. B & W Producers
5. Bunner #3
6. Walker Field
7. Wood WV
8. 7.3 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34281
2. 47–107–00785–0000
3. 103 000 000
4. B & W Producers
5. Bunner #4
6. Walker Field
7. Wood WV
8. 7.3 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34282
2. 47–102–00784–0000
3. 103 000 000
4. B & W Producers
5. Bunner #2
6. Walker Field
7. Wood WV
8. 7.3 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34283
2. 47–107–00773–0000
3. 103 000 000
4. B & W Producers
5. W L Roberts #1
6. Walker Field
7. Wood WV
8. 30.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34284
2. 47–102–00772–0000
3. 103 000 000
4. B & W Producers
5. Asa Bunner #1
6. Walker Field
7. Wood WV
8. 27.3 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34285
2. 47–102–00757–0000
3. 103 000 000
4. B & W Producers
5. Villers #3
6. Walker Field
7. Wood WV
8. 3.6 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34286
2. 47–073–00678–0000
3. 108 000 000
4. D B Grable
5. J E Bailey #3
6. Jefferson District
7. Pleasants County WV
8. 2.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34287
2. 47–073–00677–0000
3. 108 000 000
4. D B Grable
5. J E Bailey #2
6. Jefferson District
7. Pleasants County WV
8. 2.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34288
2. 47–109–00814–0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp I–13
6. Barkers Ridge
7. Wyoming WV
8. 188.6 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34289
2. 47–013–02344–0000
3. 108 000 000
4. Francis E Cain
5. James Roberts Oil & Gas #3
6. Lee District
7. Calhoun WV
8. 7.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34290
2. 47–013–02017–0000
3. 108 000 000
4. Francis E Cain
5. David Mathess Ceirs #1
6. Sheridan
7. Calhoun WV
8. 2.2 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34291
2. 47–017–02346–0000
3. 103 000 000
4. Industrial Gas Associates
5. Thompson No 1
6. Central District
7. Doddridge WV
8. 23.0 million cubic feet
9. May 15, 1980
10. Carnegie Natural Gas Co

1. 80–34292
2. 47–039–03403–0000
3. 103 000 000
4. Ashland Exploration Co Inc
5. Bedford Land No 13
6. Paint Creek Field
7. Kanawha WV
8. 219.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34293
2. 47–019–00392–0000
3. 103 000 000
4. Ashland Exploration Inc
5. Eastern Assoc Trans Corp #81
6. Paint Creek
7. Fayette WV
8. .0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34294
2. 47–073–20708–0000
3. 108 000 000
4. Energy Unlimited Inc
5. CA Janes #2
6. Grant
7. Pleasants WV
8. 9.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34295
2. 47–073–20700–0000
3. 108 000 000
4. Energy Unlimited Inc
5. Harness Heirs #1
6. Grant
7. Pleasants WV
8. 2.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34296
2. 47–017–02336–0000
3. 103 000 000
4. Allegheny Land & Mineral Co
5. A–810
6. Southwest District
7. Doddridge WV
8. .0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34297
2. 47–107–28120–0000
3. 108 000 000
4. Big Apple Oil & Gas Assoc
5. W H Kress #1
6. Branch of Stillwell Creek
7. Wood WV
8. 3.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34298
2. 47–013–02856–0000
3. 103 000 000
4. Lowell Sampson
5. Alfred Kelley #2
6.
7. Calhoun WV
8. 20.0 million cubic feet
9. May 15, 1980
10.

1. 80–34299
2. 47–011–20608–0000
3. 103 000 000
4. Spartan Gas Co
5. Clarence Davis #1
6. Grant District
7. Cabell WV
8. 14.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Inc

1. 80–34300
2. 47–013–01970–0000
3. 108 000 000
4. Francis E Cain
5. James Roberts Oil & Gas #2
6. Lee District
7. Calhoun WV
8. 78.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34301
2. 47–017–02356–0000
3. 103 000 000
4. Industrial Gas Associates
5. Shepherd No 1
6. Central District
7. Doddridge WV
8. 23.0 million cubic feet
9. May 15, 1980
10. Carnegie Natural Gas Co

1. 80–34302
2. 47–047–00354–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp #103
6. Sandy River
7. McDowell WV
8. 8.3 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34303
2. 47–047–00350–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp #101
6. Sandy River
7. McDowell WV
8. 15.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34304
2. 47–047–00309–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Pocahontas Land Corp #93
6. Sandy River
7. McDowell WV
8. 15.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

1. 80–34305
2. 47–013–01645–0000
3. 108 000 000
4. Francis E Cain
5. James Roberts Oil & Gas #1
6. Lee District
7. Calhoun WV
8. 78.0 million cubic feet
9. May 15, 1980
10. Consolidated Gas Supply Corp

U.S. Geological Survey, Metairie, LA.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34140/GO–1277
2. 17–720–40065–0000–0
3. 102 000 000
4. Kirby Exploration Co
5. OCSG 1107 No D–14D
6. West Delta
7. 134
8. 1.0 million cubic feet
9. May 14, 1980
10. Southern Natural Gas Co

1. 80–34141/GO–1274
2. 17–720–40057–0000–0
3. 102 000 000
4. Kirby Exploration Co
5. OCSG 1107 N0 D–9
6. West Delta
7. 134
8. 1.0 million cubic feet
9. May 14, 1980
10. Southern Natural Gas Co

1. 80–34362/GO–1316
2. 17–712–40166–00S1–0
3. 102 000 000
4. CNG Producing Co
5. D–9S1
6. Ship Shoal
7. 247
8. 1460.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. 80–34365/G9–1085
2. 17–703–40176–0000–0
3. 102 000 000
4. Sonat Exploration Co
5. G–3288 Well No A–3D
6. East Cameron
7. 46
8. 204.0 million cubic feet
9. May 15, 1980
10. Southern Natural Gas Co

1. 80–34366/GO–1269
2. 17–703–40199–0000–0
3. 102 000 000
4. Sonat Exploration Co
5. G–3288 No A–6
6. East Cameron
7. 46
8. 128.0 million cubic feet
9. May 15, 1980
10. Southern Natural Gas Co

1. 80–34367/GO–1317
2. 17–712–40166–00S2–0
3. 102 000 000
4. CNG Producing Co
5. D–9S2 (Alt)
6. Ship Shoal
7. 247
8. 1168.0 million cubic feet
9. May 15, 1980
10. Columbia Gas Transmission Corp

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–34346/GO–1306
2. 42–708–40079–0000–0
3. 102 000 000
4. Exxon Corp
5. OCS–G 3237 No A–3
6. High Island
7. 193
8. 3000.0 million cubic feet
9. May 12, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–34361/GO–1295
2. 42–711–40429–0000–0

3. 102 000 000
4. Aminoil Development Inc
5. OCS–G–2412 Well No A–13D
6. High Island
7. A–317
8. 2190.0 million cubic feet
9. May 15, 1980
10. Natural Gas Pipeline Co of America, Trunkline Gas Co, Panhandle Eastern Pipeline Co, Transcontinental Gas Pipeline Corp

1. 80–34363/GO–1294
2. 42–711–40429–0000–0
3. 102 000 000
4. Aminoil Development Inc
5. OCS–G–2412 No A–13
6. High Island
7. A–317
8. 2190.0 million cubic feet
9. May 15, 1980
10. Natural Gas Pipeline Co of America, Trunkline Gas Co, Panhandle Eastern Pipeline Co, Transcontinental Gas Pipeline Corp

1. 80–34364/G9–1195
2. 42–711–40400–0000–0
3. 102 000 000
4. Transocean Oil Inc
5. A–3–D
6. High Island East E A S E
7. A–283
8. 1825.0 million cubic feet
9. May 15, 1980
10. Transcontinental Gas Pipeline Corp

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C. /State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80–34347/NM–95–79–SA
2. 30–039–00000–0000–0
3. 108 000 000 Denied
4. Conoco Inc
5. Axi Apache N #1
6. Axi Apache Area
7. Rio Arriba NM
8. 10.2 million cubic feet
9. May 12, 1980
10. Gas Co of New Mexico (C–4787)

1. 80–34348/NM–0376–78–1
30–015–10260–0000–0
3. 103 000 000 Denied
4. Harvey E Yates Co
5. Gates Federal Deep #1
6.
7. Eddy NM
8. 50.0 million cubic feet
9. May 12, 1980
10. El Paso Natural Gas Co

1. 80–34349/NM–98–79–SA
2. 30–039–00000–0000–0
3. 108 000 000 Denied
4. Conoco Inc
5. Axi Apache N #8
6. Axi Apache Area
7. Rio Arriba NM
8. 13.6 million cubic feet
9. May 12, 1980
10. Gas Co of New Mexico

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 18, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16641 Filed 6–2–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–360]

Florida Gas Transmission Co.; Application

May 27, 1980.

Take notice that on May 12, 1980, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP80–360 an application pursuant to Section 7(c) of the Natural Gas Act, and Section 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to render transportation service for other interstate pipeline companies for terms of up to two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that transportation revenues received from service rendered pursuant to the proposed authorization would be treated according to its settlement agreement approved by the Commission in Docket No. RP79–16, *et al.*, rather than pursuant to Section 284.103(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in an subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–16777 Filed 6–2–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–361]

Florida Gas Transmission Co.; Application

May 27, 1980.

Take notice that on May 12, 1980, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP80–361 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an offshore pipeline and certain appurtenant facilities for the transportation of natural gas from Sabine Pass Blocks 10 and 17, offshore Texas and Louisiana, and for the reinforcement of a segment of Applicant's mainline in St. Landry Parish, Louisiana, all as more fully se forth in the application which is on file with the Commission and open to public inspection.

Applicant states it has executed a gas purchase contract with Shell Oil Company for the purchase of approximately 60 percent of the production from Sabine Pass Blocks 10 and 17, offshore Texas and Louisiana, and has entered into negotiations with

the holders of the remaining interests, which production has proved and probable reserves of 180,000,000 Mcf and proved, probable, and potential reserves of approximately 272,000,000 Mcf. Initial daily deliverability is currently estimated at 45,000 Mcf with 1984 deliverability estimated at 209,600 Mcf, it is stated. To transport the volumes of gas estimated to be available, Applicant proposes to construct, own, and operate:

(1) Approximately 41.4 miles of 22-inch pipeline from Sabine Pass Block 10 to a point of interconnection with Applicant's existing mainline facilities in Jefferson County, Texas.

(2) Meter stations on the production platforms in Blocks 10 and 17 and at an onshore point in Jefferson County, Texas.

(3) Approximately 5.0 miles of 26-inch pipeline which would reinforce Applicant's existing pipeline system in St. Landry Parish, Louisiana.

Applicant states that while the proposed facilities initially would be designed to transport all the reserves available from Blocks 10 and 17, the facilities may be expanded to accommodate additional volumes of gas as further exploration and development takes place in blocks in the vicinity of Blocks 10 and 17.

Applicant states the estimated cost of constructing the proposed facilities would be $33,229,000, which cost would be financed with internally generated funds and with long-term financing programs to the extent permanent financing would be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16778 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-13 (PGA80-2)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

May 28, 1980.

Take notice that Gas Gathering Corporation (GGC), on May 16, 1980 tendered for filing proposed changes in its FERC Gas Tariff providing for reduced charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would decrease the rate charged Transco by .21333 cents per Mcf from those rates presently in effect. The proposed changes are proposed to be made effective July 1, 1980. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to permit it to reduce the balance of its Unrecovered Purchased Gas Cost Account as of March 31, 1980, through a six-month surcharge.

A Copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16779 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-13]

State of Hawaii, Department of Land and Natural Resources; Petition for Declaratory Order

May 28, 1980.

Take notice that the State of Hawaii, Department of Land and Natural Resources filed on February 14, 1980, a petition for declaratory order [see the Commission's Regulations, 18 CFR § 1.7(c)(1979)]. Correspondence with the petitioner should be directed to: Mr. Susumu Ono, Chairman of the Board, Department of Land and Natural Resources, P.O. Box 621, Honolulu, Hawaii 96809.

Petitioner requests that the Commission determine its jurisdiction over hydroelectric facilities that the petitioner proposes to construct at the existing State-owned Molokai Irrigation System near the City of Kualapuu on Molokai Island, Maui County, Hawaii. Petitioner states that the powerplant will be sited at the end of a closed conduit located on state land and which discharges into a state-owned reservoir. Petitioner further states that the power generated by the project will be used only on the island of Molakai.

Anyone desiring to be heard or to make any protest about the petition should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 14, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The petition is on file with the Commission and is available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 80-16780 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL79-31]

Iowa Electric Light & Power Co.; Petition for Declaratory Order

May 27, 1980.

Take notice that on September 28, 1979, the Iowa Electric Light and Power Company ("Iowa Electric") filed a petition under the Federal Power Act, 16 U.S.C. 791(a)–825(r), for an order declaring that the Commission lacks jurisdiction over Iowa Electric's Iowa Falls and Maquoketa hydroelectric projects. Correspondence with Iowa Electric on this matter should be addressed to: Mr. Milton E. Carlson, Manager, Contracted Services, Iowa Electric Light and Power Company, P.O. Box 351, Cedar Rapids, Iowa 52406 and Steven G. Gerhart, Assistant General Counsel, Eva J. Cram, Attorney, Iowa Electric Light and Power Company, P.O. Box 351, Cedar Rapids, Iowa 52406.

The Maquoketa project is located in Jackson County, Iowa, one mile west of the city of Maquoketa on the Maquoketa River. The Maquoketa project consists of a 26 foot-high 650 foot-long concrete dam, a break-way spillway 60 feet long, an inlet section 40 feet long, an earthen dike 400 feet long with a concrete core, 5 floodgates, each 24 feet wide, and a powerhouse containing two generating units, each rated at 698 kW.

The Iowa Falls project is located in Hardin County, Iowa on the Iowa River at Iowa Falls. The project consists of a concrete dam, 220 feet-long and 26 feet high, and a powerhouse containing one generating unit rated at 540 kW.

In support of its petition, Iowa Electric (1) states that the projects were constructed prior to 1935 and no significant changes or alterations have been made to the projects since their original construction, (2) states that the relevant portions of both rivers have been classified under the River and Harbor Act of 1899, 33 U.S.C. § 403, by the Corps of Engineers as non-navigable, (3) states that no lands of the United States are affected by either project.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to itervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before July 11, 1980. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16781 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-410]

The Montana Power Co.; Agreement for Sale of Firm Energy

May 28, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on May 20, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with Puget Sound Power & Light Company ("Puget"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Puget.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdicational sales by $1,382,500.00 based upon energy delivered from January 4, 1980 through January 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of January 4, 1980 is proposed and waiver of the Commission's requirements is therefore requested.

A copy of this filing has been sent to the Puget Sound Power and Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16782 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-409]

The Montana Power Co.; Agreement for Sale of Firm Energy

May 28, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on May 20, 1979, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with Portland General Electric Company ("Portland"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Portland.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $1,382,500.00 based upon energy delivered from January 4, 1980 through January 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of January 4, 1980 is proposed and waiver of the Commission's requirements is therefore requested.

A copy of this filing has been mailed to the Portland General Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16783 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-78]

Mountain Fuel Supply Co., Amendment

May 27, 1980.

Take notice that on May 8, 1980, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-78 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application filed November 13, 1979, in the instant docket, so as to eliminate the competitive nature of Applicant's application, to change the proposed facilities to be constucted for the transportation of Northern Natural Gas Company's (Northern) Gas, to transport natural gas for Northern, and to withdraw the request for consolidation, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that the original application proposed an alternate method of transporting natural gas whereby Northwest Pipeline Corporation (Northwest) and Northern would receive the benefit of their natural gas acquisition efforts in the Overthrust area of southwest Wyoming at a significantly lower cost and with a substantial reduction in environmental impact from the proposals made by Northwest by application filed January 17, 1979, as supplemented November 26, 1979, in Docket No. CP79-150. Thus, Applicant seeks authority for the construction and operation of facilities for the transportation of up to 65,000 Mcf of gas per day for the account of Northern from the Painter Reservoir field as well as other fields. The construction of facilities and tranpsortation of gas would be pursuant to an agreement between Applicant and Northern dated April 10, 1980, it is asserted. Applicant states that the agreement provides for a 10.0-cent per Mcf gathering charge, based upon cost of service, an initial transportation charge of 14.0 cents per Mcf subject to change based upon changes in cost, and an exchange fee of 5.0 cents per Mcf when compression is required to effect delivery into the facilities of Colorado Interstate Gas Company. It is stated that all costs would be payable by Northern to Applicant and that Northern would reimburse Applicant for its proportionate share of compressor fuel.

Also pursuant to the agreement, Applicant proposes to construct:

(1) Approximately 24.8 miles of 16-inch pipeline from the Painter Reservoir Field to Applicant's main transmission lines located in Summit County, Utah. The estimated cost is $4,961,000.

(2) Approximately 3.6 miles of 12-inch pipeline lateral to connect Northern's Painter Reservoir gas supply to the Northern terminus of the proposed 16-inch pipeline. The estimated cost of the 12—inch lateral is $601,000.

Applicant states it would finance the cost of the proposed facilities with funds on hand, as supplemented by short-term borrowing if necessary.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirtements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16785 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-358]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

May 29, 1980.

Take notice that on May 9, 1980, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-358 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Authorization is sought, it is stated, to transport, on an interruptible basis, up to 20,000 Mcf of natural gas per day pursuant to a transportation contract dated May 8, 1980, between Applicants and Columbia Gas wherein Panhandle would receive the gas for Columbia Gas' account from Delhi Pipe Line Company (Delhi) at a point on Panhandle's system in Dewey County, Oklahoma. It is stated further that Columbia Gas is purchasing the gas from various wells in northwestern Oklahoma and has made arrangements for deliveries to be made to Panhandle by Delhi.

Applicants stated that they have agreed to transport and exchange said gas with redelivery by Trunkline to Columbia Gas at an existing interconnection between the facilities of Trunkline and Columbia Gulf Transmission Company at Centerville, Louisiana.

Applicants state that for this transportation service, the agreement provides that Columbia Gas would pay Panhandle 19.42 cents per Mcf received by Panhandle at the point of receipt, and Panhandle would pay Trunkline for its *pro rata* share of the transportation service from the amounts paid by Columbia Gas, with Panhandle retaining 6 percent of the volume received for fuel usage.

Applicants state that the term of this transportation service is ten years and from year to year thereafter.

It is asserted that the utilization of capacity in Applicants' existing facilities is the most efficient and economical means of transporting Columbia Gas' volumes.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practices and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice, pursuant that, to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16842 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-366]

Panhandle Eastern Pipe Line Co.; Application

May 29, 1980.

Take notice that on May 14, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP80-366 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the implementation of a delayed exchange, transportation and gas purchase and sales agreement (agreement) entered into between Applicant and Producer's Gas Company (PGC) dated July 10, 1979, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that PGC is the owner of a certain intrastate pipeline in northwestern Oklahoma and the sole customer served by PGC on this pipeline is Western Farmers Electric Cooperative (WFEC). PGC has found that during the months of January, February, July and August, it requires additional supplies of natural gas in order to meet the peak needs of WFEC, it is stated. Applicant also states that during other months of the year (March, April, November and December) PGC has volumes of natural gas available to its pipeline system in excess of the needs of WFEC.

The agreement, Applicant asserts, provides that during the months of January and February, Applicant would make available to PGC volumes of natural gas on a daily basis not to exceed 10,000 Mcf in order to assist PGC in meeting WFEC's peak needs. PGC would be limited to requesting natural gas during the two-month period to 10 days during January and 10 days during February, and Applicant would be obligated to make these deliveries to PGC only if in its sole judgment it can do so without reducing its deliveries of natural gas to its own customers, it is stated.

Applicant states that during the months of March and April, PGC would be required to redeliver to Applicant the thermal equivalent of the cumulative quantity of natural gas delivered by Applicant to PGC during the immediately preceding January and February. PGC would also be obligated during the months of March and April to make a volume of surplus gas available for sale to Applicant equal to 50 percent of the total volume Applicant made available to PGC by delayed exchange in the immediately preceeding January and February, it is stated.

Applicant states that during the months of July and August it would make available to PGC additional volumes of gas in the same manner as described above for the months of January and February. However, during the months of July and August, Applicant would make available up to a maximum of 20,000 Mcf of natural gas per day to PGC it is stated. During the months of November and December, PGC would redeliver a like volume to Applicant of what was provided to PGC during July and August and offer for sale to Applicant a volume equal to 50 percent of the volumes received by PGC from Applicant during the immediately preceding July and August, it is stated.

Applicant further states that pursuant to the agreement, PGC would sell and Applicant would purchase surplus volumes of natural gas available on PGC's pipeline system throughout the year at a price equal to PGC's system weighted acquisition cost per million btu during the month in which purchases would be made. Applicant would also pay PGC a transportation charge, it is stated. The agreement also grants Applicant the right to have any volumes which it may acquire transported by PGC through PGC's northwestern Oklahoma pipeline system, it is stated.

Applicant states the agreement is for a term of fifteen years from the date of initial delivery and from year to year thereafter.

It is further stated that the points of delivery and redelivery provided for by the agreement are existing points of interconnection between the pipeline facilities of Applicant and PGC. Applicant would utilize its budget-type authorization to construct and operate facilities to attach any new supplies of natural gas to PGC's system for the account of Applicant, it is stated.

With respect to the transportation segment of the agreement, Applicant further proposes to establish or abolish delivery points to PGC as the occasion arises, and to inform the Commission on an annual basis as to deliver points which have been established or deleted. Such filing would be submitted to the Commission pursuant to Part 154 of the Regulations, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16843 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-362]

Panhandle Eastern Pipe Line Co.; Application

May 28, 1980.

Take notice that on May 13, 1980, Panhandle Eastern Pipe Line Company (Applicant), 3000 Bissonnet, Houston, Texas 77001, filed in Docket No. CP80-362 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and

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necessity authorizing the construction and operation of the facilities necessary to establish two new delivery points to two of its existing resale customers, Town Gas Company (Town Gas) and Indiana Gas Company (Indiana Gas) and facilities required to institute 23 direct sales of natural gas to right-of-way grantors, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization for the following:

(1) Installation and operation of facilities required to make 23 direct sales of natural gas to the following right-of-way grantors or their successors in interest in the States of Texas, Oklahoma, Kansas, and Missouri for domestic, or irrigation fuel end-use:

Name of applicant	Points of delivery—county	End-use
1. Allen D. Binford	Kiowa, Kans.	Irrigation.
2. Gene Black	Seward, Kans.	Irrigation.
3. Jesse R. Bolin	Monteau, Mo.	Domestic.
4. L. Trent Burkdoll	Franklin, Kans.	Domestic.
5. Austell Burrus	Hutchinson, Tex.	Irrigation.
6. C. Delbert Crabtree	Johnson, Mo.	Domestic.
7. Lester D. Davis	Meade, Kans.	Domestic.
8. Martin L. Haskins	Major, Okla.	Domestic.
9. Dennis E. Hicks	Texas, Okla.	Domestic.
10. Arnold R. Jantzen	Major, Okla.	Domestic.
11. Melvin O. Lercher	Perris, Mo.	Domestic.
12. T. Reed Maxson	Johnson, Mo.	Domestic.
13. Dale McDaniel	Barber, Kans.	Domestic.
14. Elvin Meigs	Woodward, Okla.	Domestic.
15. Lavern C. Morris	Woods, Okla.	Domestic.
16. William Morrison	Callaway, Mo.	Domestic.
17. John H. Nightengale	Major, Okla.	Domestic.
18. Donald H. Parker	Major, Okla.	Domestic.
19. Nigel E. Perry	Dewey, Okla.	Domestic.
20. Victor H. Ricke	Barber, Kans.	Domestic.
21. Blaine Rikli	Garfield, Okla.	Domestic.
22. Ted H. Schoneboom	Audrain, Mo.	Domestic.
23. Jack L. Woods	Kingfisher, Okla.	Domestic.

(2) Establishment of one new delivery point to Town Gas, an existing distribution company customer in the state of Illinois in order that Town Gas may provide natural gas service for domestic end-use to Robert W. Personett, Atwood, Illinois, a right-of-grantor, and authority to construct and operate facilities required to establish said new delivery point.

(3) Establishment of one new delivery point to Indiana Gas an existing distribution company customer in the State of Indiana in order that Indiana Gas may provide natural gas service for domestic end-use to Gerald E. Holloway, Jonesboro, Indiana, a right-of-way grantor, and authority to construct and operate facilities required to establish said new delivery point.

Applicant proposes to make direct sales of natural gas to right-of-way grantors or their successors in interest for the segments of its pipeline system west of the Mississippi River, it is stated. Sales of natural gas to right-of-way grantors or their successors in interest on segments of Applicant's pipeline system situated east of the Mississippi River would be made through existing resale customers of Applicant, it is said. Of the 23 direct sales, three would be for irrigation fuel purposes it is said. Applicant estimates that each of the proposed irrigation fuel sales would involve an average of 3,750 Mcf of natural gas per year. Applicant states that the remaining 20 direct sales would involve the end-use of natural gas for domestic purposes. Applicant estimates the average volume of natural gas to be sold in these 20 transactions would be approximately 150 Mcf per year.

The total cost of the facilities proposed herein is estimated to be $19,650 which cost would be financed by cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-16786 Filed 6-2-80; 8:45 a.m.]

BILLING CODE 6450-85-M

[Docket No. RP80-2]

Alabama-Tennessee Natural Gas Co.; Tariff Filing

May 28, 1980.

On May 9, 1980, Alabama-Tennessee Natural Gas Company filed revised tariff sheets to be substituted for the same designated sheets previously filed:

Thirty-Second Revised Sheet No. 3-A
Fifth Revised Sheet No. 5
Fifth Revised Sheet No. 11
Fifth Revised Sheet No. 14

The above tariff sheets were submitted as effective no substantial changes in rates, but reflecting changes in form.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16833 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-83]

ANR Storage Co.; Filing of Revised Tariff Sheets

May 28, 1980.

Take notice that on May 15, 1980, ANR Storage Company (ANR) filed the following Revised Tariff Sheets:

Original Volume No. 2

First Revised Sheet No. 84
Third Revised Sheet No. 31
First Revised Sheet No. 31A
Second Revised Sheet No. 52
First Revised Sheet No. 52A
Third Revised Sheet No. 74
Second Revised Sheet No. 74A
Second Revised Sheet No. 96
First Revised Sheet No. 96A

The revised tariff sheets, ANR states, are filed pursuant to Commission order issued May 1, 1980, requiring the elimination of a short-term interest cost tracking provision. The proposed effective date of the revised tariff sheets is May 3, 1980.

ANR states that copies of the revised tariff sheets were mailed to its customers which received copies of the initial filing.

Any person desiring to comment on said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments should be filed on or before June 9, 1980. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16832 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-357]

Colorado Interstate Gas Co.; Application

May 29, 1980.

Take notice that on May 9, 1980, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-357 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the implementation of a settlement proposal which includes a curtailment plan and an index of entitlement protecting high-priority and essential agricultural users of natural gas, certain revisions to annual and peak day entitlements, and a rate shift among CIG's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that on August 8, 1979, CIG filed in Docket No. SA79-15 a request for a Staff Adjustment of certain of its obligations under Commission Order No. 29; namely, for a one-year extension of time to file the Index of Entitlements and requisite tariff sheets and for authority to operate under its existing interim curtailment plan during that period, the rationale for CIG's request being that it needed more time to compile and analyze data, to confer with its customers, and, if possible, to formulate a curtailment plan acceptable to all of CIG's customers.

CIG states further that by order issued in Docket No. SA79-15, CIG was granted the requested one-year time extension, authority to continue to operate under its interim curtailment plan, and was required to file revised tariff sheets and an Index of Entitlements effectuating § 281.204 of the Commission's Regulations under the Natural Gas Policy Act of 1978, by October 1, 1980, to be effective November 1, 1980.

Since the one-year time extension was granted, CIG states that it and its customers have avidly pursued a curtailment plan that would be mutually acceptable and equitable to all parties as well as meet the Order No. 29 mandated goal of providing maximum curtailment protection to high-priority and essential agricultural natural gas users.

In order to implement the negotiated settlement package previously described, CIG requests authority to:

(1) Implement the *pro forma* tariff sheets which contain a *pro rata* curtailment plan and Index of Entitlements.

(2) Reduce Natural Gas Pipleline Company of America's (NGPL) future daily firm volume entitlement from 210,000 Mcf to 170,000 Mcf during the months of December, January, and February.

(3) Reduce NGPL's rate by 5.31 cents per Mcf, or $1,742,800 per year, and to increase compensatorially the rates charged to CIG's other jurisdictional transmission system customers, all to be effective October 1, 1980.

(4) Reallocate the 40,000 Mcf per day of firm peak day gas relinquished by NGPL to certain existing transmission system customers.

(5) Make revisons to the annual entitlements of its existing customers, including NGPL.

(6) Make revisions to the service agreements of certain of its existing customers to change the maximum daily volume obligation at some delivery points.

(7) Change the delivery pressure at the Grimm Tap delivery point to Public Service Company of Colorado.

CIG states that the settlement proposal is the outcome of negotiations among CIG and its customers and must be considered in its entirety and that implementation of each element is essential to meet the terms of the agreement.

The combination of the curtailment plan and gas allocation changes allow maximum protection for essential agricultural and high-priority users as well as needed annual and peak day gas entitlement revisions, it is asserted.

CIG states that although Order No. 29 delineates the specific requirements of a pipeline's curtailment plan, Order No. 29 also anticipates the possibility that a pipeline company may submit, as a settlement, a curtailment plan that differs from the one set out therein.

CIG states further that the curtailment plan contained in Section 12 of the *pro forma* tariff sheets provides the maximum practicable protection for high-priority and essential agriculutural users attached to CIG's pipeline system; as such, it is submitted in settlement of the conditions of Order No. 29 and waiver is requested for those portions of Order No. 29 not specifically addressed by CIG's curtailment plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Naturl Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-16834 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-370]

Columbia Gas Transmission Corp. and Equitable Gas Co.; Application

May 29, 1980.

Take notice that on May 15, 1980, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP80-370 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that Columbia has locally purchased volumes of natural gas available in Braxton County, West Virginia, at a point which is remote from its existing pipeline system. It is also stated that Equitable has existing pipeline facilities in Braxton County, West Virginia, which are capable of accepting such gas volumes for redelivery to Columbia's pipeline system and that it has a need for higher pressure gas in the Buckhannon, West Virginia, portion of its pipeline system which Columbia has the capability of supplying.

Applicants state that in order to accommodate the needs of both companies they have entered into a transportation and exchange agreement dated October 12, 1979, the terms of which indicate the following:

(1) Columbia would deliver exchange gas volumes of up to a maximum of 1,000 Mcf per day at an interconnection to be established between Columbia and Equitable at a point mutually agreeable on Equitable's Line F-992 in Salt Lick District of Braxton County, West Virginia (Braxton Point).

(2) Columbia would deliver exchange gas volumes up to a maximum of 1,000 Mcf per day at an interconnection between Columbia's Line 8078 and Equitable's Line D-692 near Buckhannon, Upshur County, West Virginia (Buckhannon Point).

(3) Equitable would redeliver gas volumes equivalent to the volumes received from Columbia at the Braxton and Buckhannon points by reducing volumes which Columbia would deliver to Equitable at an existing interconnection in Wetzel County, West Virginia, known as Fallen Timber (Fallen Timber Point).

Applicants state that because the service to be rendered to each other would be of equivalent value, no charge would be made for such services except that:

(1) If the volumes delivered by Columbia to Equitable at the Buckhannon Point for Equitable's benefit exceed the volumes delivered by Columbia to Equitable at the Braxton Point for Columbia's benefit, Equitable would pay a charge for the transportation of such excess volumes from Fallen Timber to the Buckhannon Point which charge shall be equal to Columbia's average system transmission cost, exclusive of company use and unaccounted for gas, for all excess volumes delivered to Columbia.

(2) If the volumes delivered by Columbia to Equitable at the Braxton County Point for Columbia's benefit exceed the volumes delivered by Columbia to Equitable at Buckhannon Point for Equitable's benefit, Columbia would pay a charge for the transportation of such excess volumes from Braxton Point to the Fallen Timber Point which charge would be 15.5 cents per Mcf of such excess gas. This charge would be subject to adjustment for increases and reductions in average system transmission costs and the condition that Equitable would retain 5.0 percent of such excess gass for company use and unaccounted for gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16835 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[TA80-1-22 (PGA 80-2d)]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

May 28, 1980.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on May 20, 1980, tendered for filing Substitute Twentieth Revised Sheet No. 16 to its FERC Gas Tariff, Third Revised Volume No. 1. The revised tariff sheet is proposed to be effective June 1, 1980 in lieu of Twentieth Revised Sheet No. 16 filed May 9, 1980.

The substitute tariff sheet was filed to reflect the change in gas costs for a three-month period rather than a six-month period as included in the May 9, 1980 filing. The revision reflects a decrease of 22.05¢ per Dt from the rates shown on Nineteenth Revised Sheet No. 16.

Consolidated requests a waiver of the Commission's rules and regulations, specifically Section 154.22, Notice Requirements, and 154.38 and any other of the Rules and Regulations as may be deemed necessary in order to permit the rates shown on Substitute Twentieth Revised Sheet No. 16 to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to the taken, but will not serve to make protestants parties to the proceedings. Any persons weighing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16836 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC80-89]

El Paso Natural Gas Co.; Tariff Filing

May 28, 1980.

Take notice that on May 23, 1980, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, tendered for filing in Docket No. TC80-89 pursuant to Section 4(d) of the Natural Gas Act certain original and revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A. Such tariff sheets are identified in the appendix hereto and, if accepted for filing and permitted to become effective, will amend the General Terms and Conditions of El Paso's FERC Gas Tariff. The tendered sheets are available for public inspection.

El Paso states that the purpose of the subject tariff sheets is to amend certain of the provisions of El Paso's FERC Gas Tariff governing curtailments of deliveries to its interstate system customers so as to permit El Paso to sell and deliver, and its customers to request and receive, volumes of gas in excess of the customers' respective peak day entitlements as presently specified in the currently effective curtailment plan, on those days when the total supplies available for sale from El Paso's interstate system are equal to or exceed the volumes necessary to serve fully all customer requests up to such peak day entitlements and also meet El Paso's own storage injection needs. The tendered tariff sheets provide, in effect, that volumes actually received by any customer on such days shall not be considered in calculating unauthorized daily and seasonal overrun penalties to that customer.

El Paso states that the availability of natural gas supplies on a daily basis from all sources to its interstate system is now such that El Paso anticipates being able to serve fully all customer requirements up to peak day entitlement limitations on at least some and perhaps many days during the current summer season and on such days to have some excess gas available. In transmitting the revised tariff sheets, El Paso states that its interstate customers may not request or receive volumes of gas from El Paso which are in excess of peak day entitlements, even in circumstances where the customer, in fact, could use additional gas were it available and even though El Paso's delivery of such additional gas might otherwise be authorized by both contract and certificate. Thus, it is said, to the extent that supplies available to El Paso's interstate system exceed the aggregate of all customers' reported requirements up to peak day entitlements, El Paso, as a result of the peak day entitlements limitation on customer takes, may be required to turn back currently available gas supplies which at least some of its customers acutally need and could utilize and which El Paso is otherwise authorized to deliver to those customers.

El Paso requests, pursuant to § 154.51 of the Commission's Regulations, that waiver be granted of the notice requirements of Section 4(d) of the Natural Gas Act and § 154.22 of said regulations and that the tendered tariff sheets be permitted to become effective as of June 1, 1980. El Paso submits that the request for waiver of the notice requirement should be granted for the reasons that (i) El Paso will thereby be able at the earliest possible date to utilize effectively supplies of gas which are otherwise currently available and (ii) El Paso's customers will thereby be able to receive at the earliest possible date the otherwise currently available supplies of gas which those customers can efficiently utilize which, except for peak day entitlement limitations and daily and seasonal penalty provisions, El Paso is currently authorized to deliver to those customers and those customers are authorized to receive.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before June 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Appendix

El Paso Natural Gas Company

Original Volume No. 1

First Revised Sheet No. 63-I.
Original Sheet No. 63-I.1.
First Revised Sheet No. 67-D.7.
Fourth Revised Sheet No. 67-E.
Second Revised Sheet No. 67-F.
Original Sheet No. 67-F.1.

Third Revised Volume No. 2

First Revised Sheet No. 1-S.
Original Sheet No. 1-S.1.
Second Revised Sheet No. 1-T.
Second Revised Sheet No. 1-U.
First Revised Sheet No. 1-V.

Original Volume No. 2A

First Revised Sheet No. 13-MM.
Original Sheet No. 13-MM.1.
Second Revised Sheet No. 14-MM.
Second Revised Sheet No. 15-MM.
First Revised Sheet No. 16-MM.

[FR Doc. 80-16837 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-82]

Granite State Gas Transmission, Inc.; Informal Settlement Conference

May 28, 1980.

Take notice that on June 3, 1980, at 10 o'clock a.m. there will be an informal settlement conference of all interested persons in these proceedings. The meeting place for the conference will be at the offices of the Federal Energy Regulatory Commission, Room 8402, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16838 Filed 6-2-80; 8:45 a.m.]

BILLING CODE 6450-85-M

[Docket No. CP80-369]

Great Lakes Gas Transmission Co; Application

May 29, 1980.

Take notice that on May 15, 1980, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP80-369 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of up to 1,324,000 Mcf of natural gas per year to Natural Gas Pipeline

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Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by an application filed concurrently with the Economic Regulatory Commission (ERA) under Section 3 of the Natural Gas Act Applicant has requested authorization from the Administrator to import for resale in the United States, 1,324,000 Mcf of natural gas per year to be purchased from TransCanada PipeLines Limited (TransCanada) commencing with the first day of the month following the date on which all requisite Canadian and U.S. regulatory approvals have been received.

Applicant states further that the 1,324,000 Mcf is the volume of fuel gas which is expected to be saved due to Applicant's looping program for which Applicant received authorization by order issued May 17, 1979, in Docket No. CP79-157.

Applicant proposes herein to sell the 1,324,000 Mcf of annual fuel savings gas to Natural, its existing resale customer.

Applicant states that (1) the proposed sales can be rendered by means of existing facilities, (2) the rate of these sales would be the CQ rate under Applicant's FERC Gas Tariff, First Revised Volume No. 1 applicable to the existing service to Natural, (3) the gas would be delivered to Natural at a rate of 3,618 Mcf per day, and (4) the gas would be delivered by Applicant for the account of Natural to Michigan Wisconsin Pipe Line Company (Mich Wis) at an existing interconnection between the facilities of Applicant and Mich Wis near Crystal Falls, Michigan.

It is stated that a new service agreement dated April 23, 1980, has been entered into between Applicant and Natural which is similar to the existing service agreement between the two parties, except for the increase in contract quantity from the presently effective 162,013 Mcf per day to 165,631 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16839 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-377]

Iowa Power & Light Co.; Rate Schedule Filing

May 29, 1980.

The filing Company submits the following:

Take notice that Iowa Power and Light Company ("Iowa Power"), on May 7, 1980, tendered for filing proposed changes in Iowa Power and Light Company FERC Rate Schedule No. 53, which sets forth rates for wholesale electric service to Montezuma Municipal Light and Power ("City").

Proposed Supplement No. 14 to Rate Schedule No. 53 provides for a change in the floor price for emergency energy and power as well as a change in billing due dates and interest charges on late payment thereof. This change is needed for compliance with the rates shown in the Mid-Continent Area Power Pool Agreement.

Iowa Power requests that the Commission waive its prior notice requirements and accept Proposed Supplement No. 14 for filing with a retroactive effective date of April 16, 1980. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16840 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-6]

Power Systems Engineering, Inc. and Great Lakes Carbon Corp.; Applications for Commission Certification of Qualifying Status of a Cogeneration Facility

May 29, 1980.

On May 20, 1980, Power Systems Engineering, Inc. (Power Systems) and Great Lakes Carbon Corporation (Great Lakes) filed with the Federal Energy Regulatory Commission an application for certification of a facility as a qualifying bottoming-cycle cogeneration facility pursuant to § 292.207 of the Commission's rules.

Great Lakes owns and operates facilities in Port Arthur, Texas, for the calcining of petroleum coke to produce calcined coke by the combustion of volatile material in the petroleum coke in a atmosphere that is so low in oxygen that combustion of the carbon in the coke is retarded. Great Lakes states that it utilizes three large rotary kilns into each of which is fed petroleum coke and natural gas, the latter being used for start-up and flame control. Heat in the kilns is generated approximately 15 percent by the natural gas, 80 percent by the volatiles in the petroleum coke feed stock, and 5 percent by the combustion of a portion of the carbon in the petroleum coke. Hot flue gases are now exhausted to the atmosphere from each of the kilns at approximately 1800 to 2000° F. The total heat content of these flue gases is such that if they were flowed through waste heat boilers, about 660,000 pounds of steam per hour at 1250 psig. and 9500° F could be produced. Great Lakes states that production of this amount of steam from oil would require 3600 barrels of oil a day. The cogeneration facility is expected to save the equivalent of 700,000 barrels of oil per year.

Great Lakes states that it is the intent of Power Systems, either alone or as a general partner in a limited partnership, to construct (or have constructed for it), own and operate facilities which will utilize the waste heat from the calcining operation and convert i into electric power. To that end, Power Systems will construct at each kiln a waste heat recovery boiler and utilize the steam produced thereby to operate a condensing steam turbine-generator unit which will be capable of developing approximately 75,000 kilowatts of power.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 3, 1980 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16844 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-40 (PGA80-1)]

Raton Natural Gas Co.; Rate Change Filing

May 28, 1980.

Take notice that on May 14, 1980, Raton Natural Gas Company (Raton) tendered for filing Second Alternate Twenty-first Revised Sheet No. 3a to its FERC Gas Tariff Original Volume No. 1. An effective date of April 1, 1980, is proposed.

Raton states that the instant filing corrects an error in the current commodity gas cost adjustment amount set forth on the Alternate Twenty-first Revised Sheet No. 3a which was filed on May 5, 1980. The instant filing changes the commodity gas cost adjustment amount from 16.04¢ to 14.34¢.

Raton requests waiver of the Commission's Regulations to permit the filing to become effective coincidental with Colorado Interstate Gas Company's April 1, 1980, effective tariff change.

Raton further states that a copy of the filing has been served to its only customer and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16787 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI80-106]

Shell Oil Co.; Petition for Declaratory Order

May 29, 1980.

Take notice that on December 4, 1979 (supplemented on February 8, 1980), Shell Oil Company (Shell) petitioned the Commission pursuant to Sections 1.7(c) and 1.43 of the latter's Rules of Practice and Procedure (18 CFR 1.7(c) and 1.43), for a declaratory order disclaiming the Natural Gas Act (NGA) jurisdiction for certain sales of gas by Shell to El Paso Natural Gas Company (El Paso).

Shell entered into an October 28, 1974 Option Agreement by which El Paso could elect to purchase Shell's gas from certain acreage in Beckham and Washita Counties, Oklahoma. This agreement was in effect on November 8, 1978 and certain sales had been made from this acreage prior to that date. Sales from the Coy No. 2 well (the subject of the instant petition) had not commenced however, on or before, November 8, 1978.

Shell asks whether the Commission considers gas subject to an "option agreement" on November 8, 1978 to be committed or dedicated to interstate commerce as defined in the Natural Gas Policy Act (NGPA) subparagraph 2(18)(A)(ii) and as used in NGPA subsection 601(a). Shell submits that such gas should not be deemed to be committed or dedicated to interstate commerce. (Shell defines an "option agreement" as "any contract or agreement providing for the making of elections by one or both parties as a condition precedent to creation of a binding set of promises for the purchase and sale of natural gas for resale in interstate commerce." (Petition at 2).

Shell states that certainty in this area is imperative to avoid situations wherein a producer might sell gas at its peril for filing to comply with the certification requirements of the Natural Gas Act. Shell asserts that mere option agreements are not contracts which would "require" gas to be sold in interstate commerce within the meaning of the NGPA subparagraph 2(18)(A)(ii). Therefore, Shell opines, under subparagraphs 601(a)(1)(A) of the NGPA, NGA jurisdiction is lifted as of December 1, 1978. Consequently no obligation exists thereafter for a producer to obtain a certificate of public convenience and necessity for sales of such gas in interstate commerce.

Shell presents additional issues to be resolved, in the event that the Commission determines that gas subject to such option agreements remains under its NGA jurisdiction after December 1, 1978. Namely, first, must a producer who has petitioned a jurisdictional agency for a well-category determination under the provision set forth in NGPA subparagraph 601(a)(1)(B), request a certificate of public convenience and necessity for sale made during the pendancy of such well-category determinations? Second, if so, then is a certificate required for any first sale of gas made on and after the date the jurisdictional agency makes a final affirmative determination pursuant to NGPA subsection 503(c)? Shell asserts that both questions should be answered in the negative. Shell states that the Commission should not have a requirement that producers request simultaneous to a petition for a jurisdictional agency determination, a request for a NGA certificate. Such dual filing requirements, in Shell's opinion, would serve no purpose.

In a "Supplement to Petition For Declaratory Order, etc." filed on February 8, 1980, Shell stated that the Coy No. 2 well (the subject of this docket) had received a determination from the Oklahoma Corporation Commission that the well was a deep, high-cost well, within the meaning of 18 CFR 275.202(a), and was thereby removed from the NGA jurisdiction pursuant to NGPA 601(a)(1)(B). Nevertheless, Shell stated that the

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issues presented in its original petition remain unresolved causing continuing uncertainty in the industry.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 30, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rule of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16845 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-85]

Sierra Pacific Power Co.; Compliance Filing

May 28, 1980.

The filing Company submits the following:

Take notice that on May 19, 1980, Sierra Pacific Power Company (Sierra) submitted for filing a compliance report pursuant to the Commission's letter order of February 7, 1980 in the above-referenced proceeding.

Sierra submits that its Compliance Report shows monthly billing determinants and revenues under present and settlement rates, the monthly revenue refund, and the monthly interest computation.

A copy of this filing has been sent to the appropriate state commissions.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16789 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP61-5, *et al.*]

South Georgia Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

May 28, 1980.

Take notice that the pipelines listed in the Appendix hereby have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 11, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-16788 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP77-108]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

May 28, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 16, 1980 tendered for filing certain revised tariff sheets to be effective July 1, 1980.

Transco states that the purpose of this filing is to reflect an advance payment "tracking" rate reduction of 0.3¢ per dt in the commodity rate or delivery charge of Transco's sales and firm transportation rate schedules.

Transco also states that the rate reduction is being filed in accordance with Article VII of Transco's "Agreement as to Rates" in Docket No. RP77-108 and approved, along with Transco's "Supplemental Agreement as to Rates," by Commission letter order dated October 11, 1979. Article VII provides for adjustments to Transco's jurisdictional rates to give effect to inclusion in rate base of net increases or decreases in the amount of outstanding advance payments made by Transco provided such net increases or decreases result in an adjustment of 0.3¢ per dt when computed to the nearest one-tenth of one cent. The rate reduction proposed herein is occasioned by a decrease of $12,003,282 in the advance payment balance from the amount included in Transco's rates as of its most recent advance payment tracking reduction effective January 1, 1980.

The Company states that copies of the filing were served upon the Company's jurisdictional customers and interested State commissions and other parties in Docket No. RP77-108.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before June 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16791 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP76-136 and RP77-26]

Transcontinental Gas Pipe Line Corp.; Rate Change Filing

May 28, 1980.

Take notice that on May 14, 1980, Transcontinental Gas Pipe Line Corporation (Transco) filed Substitute Third Revised Substitute Tenth Revised Sheet No. 12 superseding Second Revised Substitute Tenth Revised Sheet No. 12 of its FERC Gas Tariff Second Revised Volume No. 1. The proposed effective date is November 1, 1978.

Transco states that the instant filing corrects a typographical error contained on Third Revised Substitute Tenth Revised Substitute Sheet No. 12 under the column "Charges per dt—Zone 3" for Credit to Reflect Curtailment of the ACQ rate schedule from 146.82¢ per dt to 145.82¢ per dt. Transco further states that the typographical error was not involved in Transco's billings or the determination of the amount of charging charges on unrecovered demand charge adjustments distributed to its customers on March 5, 1980.

Transco states that copies of the filing were mailed to the purchasers, State Commissions and interested parties which received copies of Third Revised Substitute Tenth Revised Substitute Sheet No. 12 which was filed on April 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date, Company, Docket No., Type Filing

May 2, 1980, South Georgia Natural Gas Company, RP61-5, Report.
May 9, 1980, Transcontinental Gas Pipe Line Corporation, RP63-3, Report.

[FR Doc. 80-16792 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-368]

Transcontinental Gas Pipe Line Corp.; Application

May 29, 1980.

Take notice that on May 15, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed on Docket No. CP80-368 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two gas supply facilities required to attach new gas supplies to its system, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate two gas supply facilities described as follows:

Location and Description

Port Hudson Field, East Baton Rouge Parish, Louisiana; 7.5 miles of 12-inch pipeline and meter station.
Big Point Field, St. Tammany Parish, Louisiana; 3.68 miles of 2-inch pipeline and manifold platform.

Applicant states that the proposed facilities would be necessary to attach needed gas to Applicant's system as soon as the subject gas fields are ready for production.

It is stated that the estimated cost of constructing the proposed facilities would be $2,930,000, which cost would be initially financed through short-term loans and available cash. Permanent financing would be undertaken as part of an overall long-term financing program at a later date, it is stated.

Applicant further states that no new sale or service is proposed by the current application and that the proposed facilities would not increase the delivery capacity of Applicant's main transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-16846 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP60-372]

Transcontinental Gas Pipe Line Corp., Application

May 29, 1980.

Take notice that on May 16, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-372 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas from Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to import up to 10,000,000 Mcf of natural gas per year, for a period beginning November 1, 1980, and ending April 30, 1993.

Applicant states it has entered into an agreement with Union Gas Limited (Union) of Chatham, Ontario, Canada, dated April 16, 1980, for the gas which would be imported. Transportation would be by means of existing pipeline facilities owned and operated by Panhandle Eastern Pipe Line Company (Panhandle) which are connected to Union's facilities at the international boundary near River Rouge, Michigan, it is stated. Panhandle would deliver, by displacement, equivalent quantities to Trunkline Gas Company (Trunkline) for Applicant's account at existing interconnections between the Panhandle and Trunkline systems, with delivery of the gas to Applicant to be made by displacement at an existing interconnection between Applicant and Trunkline at Ragley, Louisiana, it is stated.

Applicant asserts that Union would deliver 10,000 Mcf annually to Panhandle for Applicant's account. It is stated that up to 25,000 Mcf of gas per day would be delivered from April through December, with Applicant having the option to receive up to 30,000 Mcf of gas per day and Applicant would receive a base volume of 3,000 Mcf of gas per day during January through March, plus an amount equivalent to Union's receipt of synthetic gas, again with provision for Applicant to receive up to 30,000 Mcf of gas per day if agreed to by Union. Applicant states that it would be obligated to take or pay for 7,500,000 Mcf of gas during the period of

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April through December and 2,500,000 Mcf during the period of January through March if gas is tendered by Union. Any volumes paid for but not taken during each period could be recovered by Applicant in the next two succeeding periods, and any amounts paid but not so recovered would be refunded by Union, it is stated. It is further asserted that the contract provides that the price of the gas would be the then prevailing Canadian international border price.

Applicant further states that the cost of gas purchased from Union would be reflected in subsequent purchased gas adjustment filings by Applicant, and Applicant requests the Commission to approve specifically such method of recovery of purchased gas costs. Applicant also asserts that it would utilize existing pipeline facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-18847 Filed 6-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-359]

United Gas Pipe Line Co.; Application

May 28, 1980.

Take notice that on May 9, 1980, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-359 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline and appurtenant facilities to move new gas supplies to the interstate markets from Block A-443, High Island Area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United proposes to construct and operate approximately 5.3 miles of 10-inch pipeline extending from the herein proposed meter station to be constructed on the producer's platform in Block A-443, High Island Area, South Addition, to connect with the existing subsea tap located on the 30-inch West Leg of the High Island Offshore System (HIOS), at Block A-283, High Island Area, East Addition, South Extension, offshore Texas. Construction of the proposed pipeline and appurtenant facilities (A-443 line) is estimated to cost $3,726,000, to be financed from internally generated funds, it is stated.

United states that it is actively involved in negotiations with the Union Oil of California Company, Mobil Oil Exploration and Producing Southeast, Inc., and Diamond Shamrock Corporation to acquire the right to purchase their respective percentage interests in Block A-443.

It is stated that the proven reserves underlying the A-443 Field are estimated to be 19,600,000 Mcf and the proven plus potential reserves are estimated to be 20,400,000 Mcf, the average day deliverability from Block A-443 estimated to be 30,000 Mcf with deliveries from said block scheduled to commence in November, 1980.

The proposed A-443 Line is required to connect a new gas supply to HIOS, wherein United would utilize its capacity to move further the new gas supply onshore to interstate markets, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-18793 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-57]

Upper Peninsula Power Co.; Application

May 27, 1980.

Take notice that on May 19, 1980, Upper Peninsula Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204(a) of the Federal Power Act, to issue short-term notes of an aggregate principal amount of up to $9,000,000, with a final maturity date of not later than June 30, 1982. The Applicant is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. The Applicant is engaged in the electric utility business in a 4,460 square mile area in the Upper Peninsula of Michigan with a population of approximately 140,000.

The proceeds from the sale of the notes will be used, pending permanent financing, to finance the continuation of the Applicant's construction program, and the purchase of fuel supplies through June 30, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-18794 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-56]

Upper Peninsula Generating Co.; Application

May 27, 1980.

Take notice that on May 19, 1980, Upper Peninsula Generating Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204(a) of the Federal Power Act, to issue short-term notes and bankers' acceptances of an aggregate principal amount of up to $45,000,000, with a final maturity of not later than July 1, 1982. The Applicant is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. The Applicant is engaged in generation and transmission of electric energy for sale to its owners, Upper Peninsula Power Company and Cliffs Electric Service Company.

The proceeds from the sale of the notes and bankers' acceptances will be used for the purchase of coal supplies through July 1, 1982, and such construction expenditures at the Presque Isle Generating Station which are not funded by working capital.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-18795 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EF80-5041]

Western Area Power Administration; Filing

May 28, 1980.

The filing party submits the following:

Take notice that on May 19, 1980, the Assistant Secretary for Resource Applications of the Department of Energy (Assistant Secretary) did confirm and approve, on an interim basis effective June 16, 1980, Rate Schedules PD-F1, PD-T1, PD-T1, and PD-T3 for wholesale power and transmission service for the Western Area Power Administration's Parker-Davis Project. Said Rate Schedules were issued pursuant to the Assistant Secretary's Rate Order No. WAPA-3.

The rate schedules are submitted for confirmation and approval on a final basis pursuant to authority vested in the Commission by Delegation Order No. 0204-33. The Assistant Secretary suggests that the Commission approve the rates for a five-year period, ending June 30, 1985, with the understanding that the rates can be adjusted at an earlier date, if needed, to comply with cost recovery criteria.

The Assistant Secretary has also filed the Description of Record and Statements A through E covering Revenues, Investment, Replacements, Interest Expenses, and Operating Expenses.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before, June 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-18796 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Cases Filed Week of April 18 through April 25, 1980

Notice is hereby given that during the week of April 18, 1980 through April 25, 1980 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 27, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Apr. 18 through Apr. 25, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 18, 1980	A. Smith Bowman Distillery, Sunset Hills, VA	BEE-1096	Allocation Exception. If granted: A. Smith Bowman Distillery would receive an exception from the provisions of 10 CFR Part 211 that would increase the firm's allocation of unleaded motor gasoline for the purpose of blending gasohol.

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Apr 18 through Apr 25, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 18, 1980	Champlin Petroleum Company, Washington, DC	BEE-1095	Exception from the Entitlements Program. If granted: Champlin Petroleum Company would receive an exception from the provisions of the "single firm" rule and the Entitlements Program "runs credit" with respect to the expansion of its Wilmington, California, refinery
Apr. 18, 1980	Dobrovir, Oakes & Gebhardt, Washington, DC	BFA-0328	Appeal of an Information Request Denial. If granted: The April 8, 1980, Information Request Denial issued by the Department of Energy would be rescinded, and Dobrovir, Oakes & Gebhardt would receive access to DOE information concerning the June 15, 1978, announcement of a decision to allow the temporary export of residual fuel oil.
Apr. 18, 1980	Peerless Petrochemicals, Inc., Washington, DC	BEE, BEL-1094	Allocation Exception. If granted: Peerless Petrochemicals, Inc., would receive an exception and a temporary exception from the provisions of 10 CFR 211.65, which would modify its crude oil buy/sell obligations.
Apr. 18, 1980	Pride Refining, Inc./Marathon Oil, Abilene, TX	BEJ-0083	Protective Order. If granted: A Protective Order would be issued whereby Pride Refining, Inc., and Marathon Oil Co. would exchange confidential information in connection with Pride's application for Exception (Case No. BEE-0651).
Apr. 21, 1980	Amerada Hess Corporation, Washington, DC	BRD, BRH-[redacted]	Motion for Discovery and Evidentiary Hearing. If granted: Discovery would be granted to Amerada Hess Corporation and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the January 9, 1980, Proposed Order of Disallowance issued to the firm by the Office of Special Counsel.
Apr. 21, 1980	Arizona Fuels Corporation, Fredonia, AZ	BEX-0050	Supplemental Order. If granted: A supplemental order would be issued to Arizona Fuels Corporation whereby the exception relief previously granted would be rescinded or modified (Case No. DEE-2239).
Apr. 21, 1980	Bracewell and Patterson, Washington, DC	BFA-0330	Appeal of an Information Request Denial. If granted: The March 20, 1980, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Bracewell and Patterson would receive access to copies of certain audit guidelines related to crude oil resellers.
Apr. 21, 1980	Craft Petroleum, Jackson, MI	BEE-1099	Price Exception (Section 212.73). If granted: Craft Petroleum Company, Inc., would be permitted to sell the crude oil produced from the J. W. Richardson No. 3 Well located in Lincoln County, Mississippi, at market prices.
Apr. 21, 1980	Highway Oil, Inc., Topeka, KS	BEX-0049	Supplemental Order. If granted: A Supplemental Order would be issued to Highway Oil, Inc. which would order the firm to show why the exception relief granted to them should not be revoked.
Apr. 21, 1980	Marathon Oil Company, Findlay, OH	BRD, BRH-0983.	Motion for Discovery and Evidentiary Hearing. If granted: Discovery would be granted to Marathon Oil Company and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the January 9, 1980, Proposed Order of Disallowance issued to Marathon Oil Co. by the Office of Special Counsel.
Apr. 21, 1980	Miller & Chevalier, Washington, DC	BFA-0331	Appeal of an Information Request Denial. If granted: The March 20, 1980, Information Request Denial issued by the General Counsel for Interpretation and Rulings of the Department of Energy would be rescinded and Miller & Chevalier would receive access to DOE information concerning regulations and statutes: 10 CFR 212.1; 10 CFR 212.53; and the Emergency Petroleum Allocation Act of 1973.
Apr. 21, 1980	Murphy Oil Corporation, Washington, DC	BRD, BRH-0984.	Motion for Discovery and Evidentiary Hearing. If granted: Discovery would be granted to Murphy Oil Corporation and an evidentiary hearing would be convened in connection with the Statement of Objections submitted to the January 9, 1980, Proposed Order of Disallowance issued to the firm by the Office of Special Counsel.
Apr. 21, 1980	Otis Ainsworth, Washington, DC	BRD, BRH-0552.	Motion for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the November 15, 1979, Proposed Remedial Order issued to Otis Ainsworth.
Apr. 22, 1980	Eagle Oil Company, Waurika, OK	BEN-0026	Request for Interim Order. If granted: An Interim Order would be issued to Eagle Oil Company which would allow the firm to receive immediately the relief granted in Case No. BEE-0095, pending a final determination on a Statement of Objections.
Apr. 23, 1980	Crown Central Petroleum Corp., Baltimore, MD	BEA-0332	Appeal of an Entitlements Notice. If granted: The January 1980 Entitlements Notice issued by the Economic Regulatory Administration would be modified.
Apr. 23, 1980	Energy Cooperative, Inc., Washington, DC	BEA-0334	Appeal of an Entitlements Notice. If granted: The January Entitlements Notice issued by the Economic Regulatory Administration would be modified.
Apr. 23, 1980	Energy Unlimited, Lincoln, MA	BFA-0329	Appeal of Information Request Denial. If granted: The March 19, 1980, Information Request Denial issued by the Office of Energy Research would be rescinded, and Energy Unlimited would receive access to information related to Contract No. AT(29-1)789.
Apr. 23, 1980	International Processors, St. Rose, LA	BEA-0333	Appeal of an Entitlements Notice. If granted: The January 1980 Entitlements Notice issued by the Economic Regulatory Administration would be modified.
Apr. 24, 1980	Ashland Oil Corp., Washington, DC	BEA-0335	Appeal of an Entitlements Notice. If granted: The January Entitlements Notice issued by the Economic Regulatory Administration would be modified.
Apr. 24, 1980	Aztec Energy Company, Washington, DC	BED-1068	Motion for Discovery. If granted: Discovery would be granted to Aztec Energy Company in connection with an Application for Temporary Stay filed by the firm (Case No. BST-0004).
Apr. 24, 1980	Aztec Energy Company, Washington, DC	BEA-0336	Appeal of an Assignment Order. If granted: The March 21, 1980, Temporary Assignment Order issued to Murphy Oil Company and Cities Service Company by the Economic Regulatory Administration, Region IV, regarding Murphy's and Cities' supply obligations to Sexton Oil Company would be rescinded.
Apr. 24, 1980	Lebel Oil Corporation, Paramus, NJ	BSG-0020	Petition for Special Redress. If granted: Special Redress would be granted to Lebel Oil Corp. to allow the firm until April 28, 1980, to file a request for review of the March 26, 1980, subpoena issued to it by the Department of Energy.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Apr 18 through Apr 25, 1980]

Date	Name and location of applicant	Case No	Type of submission
Apr. 24, 1980	Plateau, Inc., Morristown, NJ	BES-1049	Request for Stay. If granted: Plateau, Inc., would receive a stay of its entitlements purchase obligations for the months of April through November 1980 pending a final determination on its Application for Exception (Case No. BEE-1049).
Apr. 24, 1980	Standard Oil Co. of Ohio, Cleveland, OH	BED-1075, BEJ-0085.	Motion for Discovery Protective Order. If granted: Discovery would be granted to Standard Oil Co. of Ohio (SOHIO) and a Protective Order would be entered into by SOHIO and the Ohio Independents for Survival (OIS) in connection with the Application for Exception filed by OIS (Case No. BEE-1075).
Apr. 25, 1980	Chessie Systems, Inc., Cleveland, OH	BEJ-0086	Motion for Protective Order. If granted: A Protective Order would be issued to Chessie Systems, Inc. (Chessie) whereby the firm would not be required to respond to the interrogatories served on its by six Ashland Oil Company suppliers (Ashland Oil Company, BEE-0373).
Apr. 25, 1980	Whitehead Oil Company, Lincoln, NE	BEA-0337	Appeal of an Assignment Order. If granted: The April 18, 1980, Assignment Order issued by the Economic Regulatory Administration, Region VII, regarding Hudson Refining Company, Inc.'s supply obligations to Whitehead Oil Company would be rescinded.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Apr. 18, 1980, to Apr. 25, 1980. If granted: the following firms would be granted relief which would increase their base period allocation for motor gasoline.]

Name	Case No. and date	State
K-Dell Auto Service	BEE-1097, 4/18/80	PA.
Amerada Hess Corporation	BEE-1098, BEL-1098, 4/21/80	NY
Union Oil Company	BEE-1100; BEE-1104, 4/21/80	CA.
Silco Oil Co.	BEE-1108, 4/22/80	MO.
Ray's Ocean Mobil Service	BEE-1106, 4/23/80	NJ.
12 Mile and Dequindre Mobil	BEE-1107, 4/23/80	MI.
Mclean Mobil Service	BEE-1105, 4/21/80	VA.
Asarco, Inc.	BEE-1111, 4/16/80	TN.
Al's Service Center	BEE-1110, 4/25/80	NJ.
Dave's Standard	BEE-1112, 4/23/80	MI.
Recreation Plus, Inc.	BEN-0024, 4/21/80	CA.
Kickapoo Oil Co., Inc.	BEX-0048, 4/21/80	WI.
Estrelita Estates Co.	BEN-0025, 4/21/80	CA.
Passport Marine	BEN-0027, 4/24/80	FL.
School Board of Sarasota Co.	BEE-1114, 4/23/80	FL.
Duncan Oil Co.	BEL-0049, 4/18/80	D.C.
Kimberly Gas Mart	BMR-0035, 4/24/80	ID.

Notices of Objection Received

[Week of Apr. 18 to Apr. 25, 1980]

Date	Name and location of applicant	Case No.
4/21/80	Terrytown Texaco Gretna, LA	BEO-1162
4/22/80	Robert C. Michel Co., Ambridge, PA	DEE-5808
4/22/80	Ed's Service Center, Inc., Cable, WS	DEE-6665
4/22/80	Belmont Mobil Service Belmont, MA	DEE-3350
4/23/80	Pennzoil Producing Co., Houston, Tx	BXE-0887
4/24/80	West Point Exxon, Ione, CA	DEE-6669
4/25/80	By-Rite Oil Company, Inc., Detroit, MI	BEE-0631
4/23/80	Como Oil Company, Duluth, MN	BEE-0584

Notices of Objection Received

[Week of Apr 18 to Apr 25, 1980]

Date	Name and location of applicant	Case No.
4/24/80	Cray Energy, Bellows Falls, VT	BEE-0816
4/23/80	General Telephone Co. of CA, Santa Monica, CA	BEO-1175
4/23/80	Johnny's Petroleum, Newbury Park, CA	DEE-5249

[FR Doc. 80-16699 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Eastern Division, Pick-Sloan Missouri Basin Program; Post-1985 Marketing Plan

AGENCY: Western Area Power Administration, U.S. Department of Energy.

ACTION: Announcement of public information forums and public comment forums on the development of post-1985 marketing plans for the Eastern Division, Pick-Sloan Missouri Basin Programs (potential future power resources will also be considered).

SUMMARY: The Western Area Power Administration (Western) has scheduled Public Information Forums in June 1980 to discuss development of post-1985 marketing plans for the Eastern Division, Pick-Sloan Missouri Basin Program. The Public Information Forums will provide interested parties an opportunity to participate in discussions concerning Western's proposals for post-1985 marketing of existing and potential power resources. Western's presentation will include proposals for marketing available resources. A brief description of the Eastern Division transmission system and hydro resources follows:

The Eastern Division, Pick-Sloan Missouri Basin Program, operates an integrated power system located in Montana (east of the Continental Divide), North Dakota, South Dakota, western Minnesota, western Iowa, and eastern Nebraska. The power system consists of over 7,300 circuit miles of high-voltage transmission line and 90 substations. In the Eastern Division, Western markets power to 230 preference customers from eight Federal powerplants on the Missouri River and the Big Horn River. Two powerplants, Yellowtail and Canyon Ferry in Montana, are operated by the Water and Power Resources Service (formerly the Bureau of Reclamation). The others, Fort Peck in Montana, Garrison in North Dakota, and Big Bend, Oahe, Fort Randall, and Gavins Point in South Dakota, are operated by the U.S. Army Corps of Engineers. The total installed capacity of the eight powerplants is 2,398 megawatts.

Public Comment Forums are expected to be held in late August 1980 to provide interested parties an opportunity to present oral and written comments

concerning the post-1985 marketing plan development. Interested parties are invited to submit written comments directly to Western's Billings Area Office and/or present written or oral views, data, and arguments at the Public Comment Forum.

DATES: The Public Information Forums will be held at the times and locations and on the dates shown below:

Date, City, Place, and Time

June 25, 1980, Sioux Falls, S. Dak., Downtown Holiday Inn; 9:30 a.m.
June 26, 1980, Fargo, N. Dak., Holiday Inn of Fargo; 9:30 a.m.
June 27, 1980, Billings, Mont., Northern Hotel; 9:30 a.m.

The dates, locations, and times of the Public Comment Forums will be announced later.

ADDRESS: Comments or requests for further information concerning the Public Information and Public Comment Forums should be directed to: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, U.S. Department of Energy, P.O. Box EGY, Billings, MT 59101, Telephone: (406) 657-6532.

Issued at Golden, Colorado, May 27, 1980.

Don W. Shinkle,

Assistant Administrator for Management Services.

[FR Doc. 80-16700 Filed 6-2-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1500-8; OPTS-59020]

Toxic Substances Control; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an exemption from the premanufacture notification requirements of Section 5 of the Toxic Substances Control Act (TSCA) for the test marketing of mono and di-formate salts of 2-((2-(dimethylamino)ethyl)methylamino)ethanol and formate salt of 2-(N,N-dimethylamino)ethanol. The manufacturer has requested confidentiality for its identity. The exemption is effective immediately, subject to the conditions listed below.

DATE: Written comments must be submitted by July 3, 1980.

ADDRESS: All comments should bear the identifying notation T80-18 and be addressed to Document Control Officer, Office of Toxic Substances [TS-793], EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ann Radosevich, Notice review Branch, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C., 20460 (202/426-2601).

SUPPLEMENTAL INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for a commercial purpose must submit a premanufacture notice (PMN) to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit such applicants to manufacture or process new chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. Under section 5(h)(6), immediately upon receipt of an exemption application, EPA must publish in the **Federal Register** notice of the receipt of such application. Section 5(h)(6) also provides that EPA must either approve or deny the application within 45 days of the Agency's receipt and must publish a notice of its decision in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On March 7, 1980, EPA received an application for an exemption from the requirements of section 5(a) and 5(b) of TSCA to manufacture certian new chemical substances for test marketing purposes. The applicant claimed its company identity to be confidential. The substances for which the exemption application was submitted are mono and di-formate salts of 2-((2-(dimethylamino)ethyl)methylamino)ethanol and formate salt of 2-(N,N-dimethylamino)ethanol. EPA subsequently identified another new substance formed coincidentally with the manufacture of these substances, the mono formate salt of bis(N,N-dimethylaminoethyl)ether.

Due to administrative error, EPA failed to publish in the **Federal Register** notice of receipt of the application. Therefore interested persons will have until July 3, 1980, to submit comments on this test marketing exemption.

In its application, the manufacturer stated that it intends to produce less than 15,000 pounds of the mixture containing the new substances. Test marketing will be conducted at one customer plant for use of the mixture as a catalyst for a confidential use. The manufacturer intends to begin the test marketing program by the end of 1980, for a period of up to one year.

The manufacturer stated that the new chemical substances are generated coincidentally with the production of the mixture and will not be isolated from the mixture for test marketing purposes. The entire composition is functional. There are no byproducts. Co-existing in the mixture will be mono and di-formate salts of:

Bis (N,N-dimethylaminoethyl) ether
2-((2-(dimethylamino)ethyl)methylamino)ethanol and the mono formate salt of:
2-(N,N-dimethylamino)ethanol.

The manufacturer stated that it will pump the raw materials for the mixture from drums into a closed reaction vessel. After several hours of mixing, the mixture containing the new substances will be transferred into drums. The manufacturer will wash the reaction vessel with an appropriate solvent or wash and wastes will be incinerated.

Three to five workers may be exposed to the substances during the manufacturing process. Worker exposure via inhalation, and skin and eye contact is possible during quality control and drumming operations. The manufacturer estimated that the maximum duration of exposure during manufacture will be four hours per day for six days. Plant workers will be protected with plastic or rubber gloves and boots.

The manufacturer estimated that eight to ten workers may be exposed to the mixture during the processing of the mixture into final products. Worker inhalation, dermal and eye exposures are possible during quality control and mixing operations. The manufacture estimated that the maximum duration of exposure during processing will be eight hours per day for up to 30 days. The manufacturer has supplied the processor a Material Safety Data Sheet on the mixture so that the processor can take proper precautions when handling the mixture. The manufacturer states that work practice procedures for handling the mixture call for workers to wear rubber aprons, plastic or rubber cuffed gloves, and face shields. In addition, an air-supplied respirator is available in enclosed spaces.

The manufacturer stated that there will be no release of the new substances into the environment during manufacture and use for test marketing purposes.

The manufacturer provided no toxicity test data on the individual chemical substances. Rather, because the manufacturer will not isolate the individual substances at any time during their existence as formate salts, it provided an acute toxicity profile on the total mixture. Following are the test results:

Acute Oral Toxicity, LD_{50}, 2800 mg/kg (in rats).
Acute Dermal Toxicity, LD_{50}, 1000 mg/kg (in rabbits)
Acute Inhalation Toxicity, LD_{50}, 20.1 mg/kg (in rats).

Characteristic of these types of amines and amine salts, these particular substances are severe primary skin irritants, are corrosive to the skin of rabbits, and are severe eye irritants. The manufacturer will apply to containers cautionary labeling in accord with ANSI standards and the DOT "corrosive" desgination.

EPA believes that the manufacturing process and the steps taken by the company to limit exposure to the new substances during manufacturing will provide adequate protection to workers involved with the production of the mixture. In addition, EPA believes that the product labeling, the Material Safety Data Sheet, and general work practice procedures will provide adequate protection to workers involved in the processing of the mixture. Finally, EPA believes that there will be no consumer or environmental exposure to the new substances during the test marketing of the mixture.

Based upon the anticipated exposure during manufacture and use for test marketing purposes, EPA concludes that the substances will not present any unreasonable risk of injury to health or the environment as a result of the test marketing activities described by the manufacturer. Therefore EPA approves this application for manufacture and use of these new chemical substances for test marketing purposes, subject to the following conditions:

1. This test marketing exemption is granted only to the applicant manufacturer.

2. This exemption is granted *only for the mono and di-formate salts of 2-((2-(dimethylamino)ethyl)methylamino)ethanol and formate salt of 2-(N,N-dimethylamino) ethanol. This exemption does not* include any additional new substances other than impurities or byproducts formed as a result of the manufacture of the mixture containing the mono and di-formate salts of 2-((2-(dimethyalmino)ethyl)methylamino)ethanol and formate salt of 2-((N,N dimethylamino) ethanol.

3. The applicant may sell the mixture containing these new substances only to the customer identified in the test marketing exemption. The applicant must maintain records of the date(s) of shipment(s) to that customer, and the quantity shipped in each shipment, and must make these records available to EPA upon request.

4. Each bill of lading that accompanies a shipment of the substance during the test marketing must state that the use of the sustance is restricted to that described to EPA in the test marketing exemption application.

5. The production volume of the mixture containing the new substances may not exceed 15,000 pounds, as described in the application.

The test marketing exemption is effective immediately. However, the public will have 30 days after pubication of this notice in the **Federal Register** (July 3, 1980), to submit comments on this test marketing exemption. EPA may revoke or otherwise amend this test marketing exemption if the Agency receives information that would lead the Agency to conclude that the test marketing of the mono and di-formate salts of 2-((2-(dimethylamino)ethyl)methylamino)ethan or the formate salt of 2-(N,N-dimethylamino)ethanol may present an unreasonable risk of injury to health or the environment.

Although EPA is approving this application, the Agency is concerned about the general failure of this manufacturer and of other test marketing applicants to provide sufficient information and data in exemption applications for EPA to make the required finding that the test marketing will not present any unreasonable risk of injury to health or the environment. In this instance the manufacturer did not provide to EPA the Material Safety Data Sheet it intends to provide to its customer. In response to request from EPA the manufacturer finally provided this information to the Agency near the end of the statutory 45-day review period. This late information enabled EPA to determine that the substance will not present any unreasonable risk during the manufacturing and use for marketing purposes. In the future the Agency may not be able to supplement information

missing from initial test marketing exemption applications. In these cases, EPA may decide to deny the applications, because to approve an application the Agency must make an *affirmative* finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Manufacturers must bear in mind that EPA is under servere time constraints to determine whether there is an adequate basis for making the statutory finding for approval of exemption applications. This in turn limits the degree to which EPA can search beyond the manufacturer's initial application for data or other information that may indicate a lack of unreasonable risk. This does not imply that the absence of data in the application itself will, taken alone, be the basis for a denial. However, if EPA has significant uncertainty concerning the risks presented by the test marketing activities due to a lack of data or information in the application the Agency will not approve the application.

Dated: May 27, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-16740 Filed 6-2-80; 8:45am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 23, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 57-116.

Filing Party: Robert B. Yoshitomi, Esquire, Lillick McHose & Charles, Attorneys for the Pacific Westbound Conference, Two Embarcadero Center, San Francisco, California 94111.

Subject: Agreement No. 57-116 amends the first paragraph of Article 12(a)(2) of the Pacific Westbound Conference by adding language which permits the Neutral Body employed by PWC to police other rate agreements and individual carriers in any trades, including PWC members, without violating its neutrality requirement.

Agreement No.: 5680-30.

Filing Party: Robert B. Yoshitomi, Esquire, Lillick McHose & Charles, Attorneys for the Pacific Straits Conference, Two Embarcadero Center, San Francisco, California 94111.

Subject: Agreement No. 5860 amends the first paragraph of Article 18(a)(2) of the Pacific Straits Conference by adding language which permits the Neutral Body employed by PSC to police other rate agreements and individual carriers in any trades, including PSC members, without violating its neutrality requirement.

Agreement No. 10261-7.

Filing party: Jeffrey F. Lawrence, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, NW.—Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 10261-7 amends Article 3 of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement to provide that the parties may by majority vote agree upon and file, cancel, or modify tariff provisions permitting, prohibiting or limiting substituted service by land between discharge (foreign) ports in the same country.

By Order of the Federal Maritime Commission.

Dated: May 28, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16851 Filed 6-2-80; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Horace L. Pietravalle, P.O. Box 24842, Tampa, Fl 33623.

Timely Air Freight Inc., (Ocean Div.), 28478 Highland Rd., Romulus, MI 48174. Officers: Charles M. Hall, President, June M. Hall, Secretary/Treasurer, Gus S. Rizzo, Vice President.

Cargo Express Custom Brokers, Inc., 145-60 157th Street, Jamaica, NY 11434. Officers: John W. Gebbie, Secretary, Richard R. Wohlrab, President, David Mah, Vice President, James Gallo, Vice President.

Meston and Brings, Inc., P.O. Box 3363, Seattle, WA 98114. Officers: Bruce S. Meston, President, Dan M. Brings, Vice President, Sam Shimabukuro, Operations Manager.

Transmarcom (USA) Inc. (a Texas Corporation), 1900 West Loop South, Houston, TX 77027. Officers: Frank van den Bossache, President/Treasurer/Director, Joseph A. Bond, Vice President/Secretary, Dean Fisher, Director, Marvin L. Readhimer, Director, Harry Wolfs, Director, Charles W. David, Assistant Vice President.

By the Federal Maritime Commission.

Dated: May 29, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16852 Filed 6-2-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Patriot Bancorporation; Formation of Bank Holding Company

Patriot Bancorporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less director's qualifying shares) of the voting shares of Brookline Trust Company, Brookline, Massachusetts, and the successor by merger to Harbor National Bank of Boston, Boston, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 23, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-16800 Filed 6-2-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

NATIONAL CAPITAL PLANNING COMMISSION

Intent To Prepare an Environmental Impact Statement and Notice of A Scoping Meeting for the Smithsonian Institution's South Quadrangle Development Project, Washington, D.C.

AGENCY: General Services Administration in cooperation with the National Capital Planning Commission.

ACTION: South quadrangle development project—construction of a 460,000 square foot structure.

PURPOSE: To provide space for museum programs including Freer Gallery of Art and new Asian Gallery, an Education Center, and the Museum of African Art.

FOR FURTHER INFORMATION CONTACT: Jerry R. Shiplett, Public Buildings Service (WPJ), General Services Administration, National Capital Region, Washington, D.C. 20407 (202) 472-1334.

SUMMARY: 1. Description of the Proposed Action: The proposed South Quadrangle Development Project consists of a 460,000 square foot structure principally underground housing museum programs, including the Freer Gallery of Art and new Asian Gallery, an Education Center, and the Museum of African Art. The proposed design also includes a small 13,000 square foot above-ground pavilion for each museum, and restoration of a garden setting.

The project site is located to the south of the original Smithsonian Building (Castle) and defined by the Freer Gallery of Art to the west, the Arts and Industries Building to the east and Independence Avenue to the south.

2. Description of Alternatives: The alternatives presently to be considered include, but are not limited to, the following:

a. The "no action" alternative allowing continued present use;

b. Evaluation of alternative sites;

c. Modification of the proposed design and concept.

3. Public Participation in the EIS Process: Full participation by interested Federal, state and local agencies, as well as, all other interested organizations and persons, is invited. The general public also is encouraged to participate.

An environmental assessment has been prepared, and the significant items to be discussed in the EIS presently include:

a. Potential effects on the hydrologic and subsurface conditions of the site, including the existing adjacent buildings;

b. Visual impact from 10th Street, Independence Avenue, the Mall and from within the proposed Garden;

c. Historic environment, including reference to Section 106 of the National Historic Preservation Act of 1966;

d. Effects on transportation and parking within the site and proximate area.

The environmental assessment and other information is available for review. For an appointment, contact Frank Gilmore, Smithsonian Institution, on (202) 381-6431.

4. Scoping: The General Services Administration in cooperation with the National Capital Planning Commission will sponsor a public meeting to determine the scope of the Draft EIS. This meeting will be held on Wednesday, June 11, 1980, from 7:30 P.M. to 8:30 P.M., at the Freer Gallery of Art auditorium. All interested parties are encouraged to attend and admittance will be from the south entrance on Independence Avenue. If you wish to comment and are unable to attend the scoping meeting, written comments will be accepted until June 25, 1980.

5. Timing: It is expected that the Draft EIS will be available for public review within three months.

6. Request for Copies of the Draft EIS: All interested persons or organizations are encouraged to submit their names and addresses to the person indicated above for inclusion on the distribution list for the Draft EIS.

May 23, 1980.

Edward H. Rickels,

Secretary.

[FR Doc. 80-16734 Filed 6-2-80; 8:45 am]

BILLING CODE 7520-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Prevention, Education, and Information Working Group; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of June 1980.

Prevention, Education, and Information Working Group, Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, June 23; 2:00 p.m.—Open, Conference Room 4033, Ben Franklin Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. Contact: Mr. Edward Sands, Room 14C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6295.

Purpose: The Prevention, Education, and Information Working Group: (1) reviews all Federal efforts in the areas of alcohol abuse and alcoholism prevention, education, and information, including such issues as advertising and labeling of alcoholic beverages, regulation to alcoholic beverages and social policy issues related to the above areas; (2) provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities; (3) seeks to coordinate and enhance alcohol abuse and alcoholism prevention, education, and information efforts among Federal agencies; and (4) prepares such reports and recommendations to the Interagency Committee as are necessary, in order to perform the above functions.

Agenda: The meeting will consist of a discussion of working group activities and the development of a Working Group work plan.

Substantive program information may be obtained from the contact person listed above. The NIAAA Public Affairs Office will furnish upon request summaries of the meeting and a roster of Committee members. Contact Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3306.

Dated: May 28, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-16702 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 80F-0169]

British Cellophane Ltd., Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: British Cellophane Ltd. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium *n*-alkyl sulfonate as an antistatic agent in polyolefin films intended to contact foods.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health and Human Services, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB3476) has been filed by British Cellophane Ltd., Bath Rd., Bridgewater, Somerset TA6 4PA, England, proposing that the food additive regulations be amended to provide for the safe use of sodium *n*-alkyl sulfonate as an antistatic agent in polyolefin film intended to contact food.

The potential environmental impact of this action is being reviewed. If the Food and Drug Administration (FDA) finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of FDA's finding of no significant impact and the evidence supporting that document will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 23, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-16694 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0149]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of copolymers of diallyldimethly ammonium chloride and acrylamide as a retention and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard that contact food.

FOR FUTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health and Human Services, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B3411) has been filed by Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230, proposing that Part 176 of the food additive regulations be amended to provide for the safe use of copolymers of diallyldimethyl ammonium chloride and acrylamide as a retention and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard that contact food.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the need of an environmental impact analysis report, and that no environmental impact statement is necessary.

Dated: May 23, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-16692 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0163]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane, as a slimicide in the manufacture of paper and paperboard intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0B3495) has been filed by Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230, proposing that § 176.300 *Slimicides* (21 CFR 176.300) be amended to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane as a slimicide in the manufacture of paper and paperboard intended for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that document will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 23, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-16693 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0081]

Frozen Fish Sticks, Frozen Fish Cakes, and Frozen Crab Cakes; Recommended Microbiological Quality Standards

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing recommended microbiological quality standards for frozen fish sticks, frozen fish cakes, and frozen crab cakes.

ADDRESSES: Written comments on the recommendations should be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: R. B. Read, Jr., Bureau of Foods (HFF-120), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1217.

SUPPLEMENTARY INFORMATION: FDA is for the first time issuing recommended microbiological quality standards for selected foods. Previously, FDA intended to promulgate such quality standards as food standard regulations under Subpart B of Part 103 (21 CFR Part 103). Part 103 quality standards are regulations intended to ensure that those foods prone to microbial growth or other quality defects maintain minimum standards of quality. At this time, however, FDA lacks sufficient resources to promulgate and enforce additional quality standard regulations under Part 103. Nonetheless, FDA remains convinced that the concept of microbiological quality standards is a valid one, one that should not be set aside because of a lack of resources at the Federal level. Thus, FDA is continuing those investigations into the microbiological quality of certain foods begun under the Part 103 quality standards program, and based upon those investigations will issue microbiological quality standards as recommendations or regulations as appropriate. FDA is encouraging the voluntary adoptions of these recommended microbiological quality standards by industry and by State authorities who may wish to incorporate the standards into State food regulations. This notice announces the availability of the first of FDA's recommended microbiological quality standards, those for frozen fish sticks, fish cakes and crab cakes.

Frozen fish sticks, fish cakes, and crab cakes are examples of foods susceptible to microbial contamination resulting from abuse in handling and for which the FDA conducted surveys to gather information related to microbiological quality. During the surveys, samples consisting of approximately 5 retail package units of each product were collected from stores in 32 standard metropolitan statistical areas (SMSA's) throughout the United States. Each unit of each product was analyzed for aerobic plate count, coliform organisms, *Escherichia coli*, and *Staphylococcus aureus*. Statistical evaluations of the data obtained from the sample analyses were used as a basis for establishing microbiological recommendations for fish sticks, fish cakes, and crab cakes (Refs. 2, 3, and 4). Because the levels of *Escherichia coli* and *Staphylococcus aureus* were found to be extremely low in the surveyed products, recommended limits were not established for these organisms.

Because the microbial population decreases when foods are held at or below freezing temperatures, the age of frozen foods and the conditions of storage are major factors affecting microbial populations of the foods. These factors have been considered in the recommended microbiological quality standards for frozen fish sticks, fish cakes, and crab cakes.

Additionally, because samples collected during the surveys were from retail stores rather than at the point of manufacture, it is appropriate that the recommended microbiological quality standards not be applicable to the products during or just after manufacture. For this reason, the recommendations do not apply to the frozen product until 30 days or more after manufacture. However, if the date of manufacture of the product cannot be found on package codes, markings, or by other appropriate means, the provisions of the guides should be applicable regardless of the date of manufacture.

The recommended microbiological quality standards for fish sticks, fish cakes, and crab cakes include the following elements:

1. *The number of randomly selected subsample units that constitute a sample.* The recommendations provide for a random sample of five subsamples considered representative of the lot or taken one from each of five shipping cases when the lot consists of five or more shipping cases.

2. *A quality level value which separates acceptable quality from the marginal quality range.* This value has been selected so that it exceeds the microbiological levels of at least 95 percent of the survey population with 99 percent confidence. The lot is acceptable if the subsample levels are at or below this value.

3. *A marginal range where the sample may be acceptable or unacceptable depending upon the number of subsamples that fall in this range.* A sampled lot of product is acceptable when a maximum of two subsamples are found with values in the marginal range. The lot is unacceptable when three or more subsamples are found with values in this range.

4. *A second quality level value which separates the marginal range from unacceptable levels.* This value has been selected so that it exceeds the microbiological levels of at least 99 percent of the survey population with 99 percent confidence. When one or more subsamples are found to exceed this level, the lot is unacceptable.

Under the recommended microbiological quality standards, individual lots would be found unacceptable if, upon analysis, either of two findings are made: (1) any one of the five subsamples exceeds the upper limit established for the marginal range, or (2) a given number of subsamples exceed specified values within the marginal range.

References

A copy of each reference is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

1. Baer, E. F., A. P. Duran, H. V. Leininger, R. B. Read, Jr., A. H. Schwab, and A. Swartzentruber, "Microbiological Quality of Frozen Breaded Fish and Shellfish Products," *Applied and Environmental Microbiology*, 31(3):337-341, March 1976.

2. FDA Memorandum, "Proposed Microbiological Quality Standards (MQS) for Fish Cakes, Fish Sticks, and Crab Cakes," October 28, 1976.

3. FDA Memorandum, "Survey Sample Rejection Rates Due to the Joint Application of APC and Coliform Proposed Standards," November 11, 1976.

4. FDA Memorandum, "Microbiological Quality Standards," October 18, 1976.

On the basis of the surveys and other available information, the agency has determined that it should recommend microbiological quality standards for frozen fish sticks, fish cakes, and crab cakes. These recommendations are now available. The agency encourages the States and industry and other interested parties to adopt these recommendations.

Because these are the first FDA recommendations for microbiological quality standards, the complete text is provided below. The agency anticipates that the text of future recommendations will not be made part of the notice of availability published in the **Federal Register**. The recommendations are as follows:

Recommended Microbiological Quality Standard

Frozen Fish Sticks

(a) For the purposes of this recommended microbiological quality standard the following definitions apply:

(1) A "frozen fish stick" is any frozen article designated in its label statement of identity as a fish stick and which consists of rectangular-shaped unglazed masses of cohering pieces of fish flesh cut from frozen fish blocks. Fish sticks usually are of uniform size and weight with the longest dimension being about three times the next largest dimension. Fish sticks are coated with a suitable batter and/or breading.

(2) A "sample of frozen fish sticks" is a collection of five subsamples (retail size packages) taken to be representative of the lot, provided that one subsample is taken from each of five different randomly chosen shipping cases when the lot consists of five or more shipping cases.

(b) When examined by the methods described in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), sections 46.037, 46.038, and 46.039, a sample of frozen fish sticks should meet the following recommended microbiological limits:

(1) Aerobic plate count should not exceed either:

(i) 85,000 per gram in three or more of the five subsamples examined or

(ii) 540,000 per gram in any of the five subsamples examined.

(2) Coliform count by Most Probable Number (MPN) should not exceed either:

(i) twenty-three (23) per gram in three or more of the five subsamples examined or

(ii) 230 per gram in any of the five subsamples examined.

(c) The provisions of this guide are not applicable to a lot of frozen fish sticks which has a date of manufacture less than 30 days prior to the date of the sample examination.

Recommended Microbiological Quality Standard

Frozen Fish Cakes

(a) For the purposes of this recommended microbiological quality standard the following definitions apply:

(1) A "frozen fish cake" is any frozen article designated by its label statement of identity as a fish cake and which is made from shredded fish flesh and non-fish flesh filler and binder ingredients.

(2) A "sample of frozen fish cakes" is a collection of five subsamples (retail size packages), taken to be representative of the lot, provided that one subsample is taken from each of five different randomly chosen shipping cases when the lot consists of five or more shipping cases.

(b) When examined by the methods described in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), sections 46.037, 46.038, and 46.039, a sample of frozen fish cakes should meet the following recommended microbiological limits:

(1) Aerobic plate count should not exceed either:

(i) 100,000 per gram in three or more of the five subsamples examined or

(ii) 1,000,000 per gram in any of the five subsamples examined.

(2) Coliform count by Most Probable Number (MPN) should not exceed either:

(i) 150 per gram in three or more of the five subsamples examined or

(ii) 1500 per gram in any of the five subsamples examined.

(c) The provisions of this guide are not applicable to a lot of frozen fish cakes which has a date of manufacture less than 30 days prior to the date of the sample examination.

Recommended Microbiological Quality Standard

Frozen Crab Cakes

(a) For the purposes of this recommended microbiological quality standard the following definitions apply:

(1) A "frozen crab cake" is any frozen article designated by its label statement of identity as a crab cake and which is made from shredded crabmeat and non-crabmeat flesh filler and binder ingredients.

(2) A "sample of frozen crab cakes" is a collection of five subsamples (retail size packages), taken to be representative of the lot, provided that one subsample is taken from each of five different randomly chosen shipping cases when the lot consists of five or more shipping cases.

(b) When examined by the methods described in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), sections 46.037, 46.038, and 46.039, a sample of frozen crab cakes should meet the following recommended microbiological limits:

(1) Aerobic plate count should not exceed either:

(i) 100,000 per gram in three or more of the five subsamples examined or

(ii) 1,000,000 per gram in any of the five subsamples examined.

(2) Coliform count by Most Probable Number (MPN) should not exceed either:

(i) 150 per gram in three or more of the five subsamples examined or

(ii) 1500 per gram in any of the five subsamples examined.

(c) The provisions of this guide are not applicable to a lot of frozen fish cakes which has a date of manufacture less than 30 days prior to the date of the sample examination.

Recommended microbiological quality standards for other foods may also be developed and, as they become available, other notices will issue. The establishment of the recommendations for fish sticks, fish cakes, and crab cakes or for any other foods does not prejudice the possibility of publishing at some future date other microbiological quality standards for fish sticks, fish cakes, crab cakes, or other foods.

Copies of the recommended microbiological quality standards for frozen fish sticks, fish cakes, and crab cakes and supportive data are available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests for single copies of the recommendations may be made in writing to the Food and Drug Administration, Bureau of Foods (HFF-120), Division of Microbiology, 200 C St., SW., Washington, DC 20204.

Interested persons may submit written comments on the recommendations to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857 (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document). Received comments will be incorporated into the public file on recommendations and may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16695 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0338; DESI 4681]

Combination Drug Product Containing Adiphenine Hydrochloride and Phenobarbital; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for Transentine-Phenobarbital Tablets (NDA 4-681). The basis of withdrawal is that the drug lacks substantial evidence of effectiveness for its labeled indications.

EFFECTIVE DATE: June 13, 1980.

ADDRESS: Requests for opinion of the applicability of this notice to a specific drug product should be identified with the reference number DESI 4681 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Carter, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of January 18, 1980 (45 FR 3669), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following new drug application. The proposed order was based on the lack of substantial evidence of effectiveness.

NDA 4-681; Transentine-Phenobarbital Tablets containing adiphenine hydrochloride and phenobarbital; previously marketed by Ciba Pharmaceutical Co., Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

Neither the holder of the new drug application nor any other person filed a written appearance of election as provided by the January 18, 1980 notice. The failure to file an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 4-681 and all amendments and supplements to it is withdrawn effective June 13, 1980.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: May 8, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-16538 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare Program; Schedules of Guidelines for Respiratory Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: This notice establishes schedules of salary equivalency guidelines for Medicare program reimbursement for the reasonable costs of respiratory therapy services furnished under an arrangement with a hospital or other institution. These schedules update the schedule of guidelines that was published in the **Federal Register** on October 6, 1978 (43 FR 46378) with respect to registered therapists and certified therapists. These schedules also include, for the first time, salary equivalency amounts calculated for respiratory therapists who are neither registered nor certified. These schedules are to be used by the Medicare program's fiscal intermediaries to determine the maximum hourly amount that the Medicare program will pay to a hospital or other institution for covered respiratory therapy services furnished under an arrangement. In addition, these guidelines would also apply, where appropriate, to reimbursement under the Medicaid program as specified in 42 CFR 447.250 et seq. of the regulations.

EFFECTIVE DATE: The guideline amounts for certified therapists are applicable for respiratory therapy services furnished on or after October 1, 1979. The guideline amounts for registered therapists in the States of Arkansas, Connecticut, Georgia, Louisiana, Maine, Massachusetts, New Hampshire, New Mexico, New York, Oklahoma, Rhode Island, Texas, and Vermont are applicable for services furnished on or after August 1, 1980. The guideline amounts for registered therapists in all other States will be effective for respiratory therapy services furnished on or after October 1, 1979. The guideline amounts for nonregistered and noncertified therapists are applicable for services furnished on or after August 1, 1980.

FOR FURTHER INFORMATION CONTACT: William Goeller, (301) 597-1802.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(5) of the Social Security Act requires that HCFA establish criteria for determining the reasonable cost of services furnished by a therapist or supplier organization under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. These services include physical therapy, occupational therapy, speech therapy and other therapy services and services of other health specialists (other than physicians). The requirements of the statute are implemented by regulations at 42 CFR 405.432.

Under an arrangement, payment for covered services is made to the hospital or other institution (rather than to the therapist or supplier organization), and no financial liability falls on the patient or any other person. Medicare program reimbursement for these services may not exceed an amount equal to the prevailing salary that the hospital or other institution would normally incur in furnishing these services if it provided them directly, plus an allowance for fringe benefits and other expenses. Additional allowances for travel, equipment, supplies, and administrative responsibilities are also included as provided in 42 CFR 405.432.

The regulation provides that HCFA will issue guidelines setting maximum hourly amounts for therapy services furnished to Medicare beneficiaries under arrangements. These guidelines, with updates as necessary, apply only to the amount of reimbursement the Medicare program will make to a provider for respiratory therapy services obtained under an arrangement, and do not affect any agreements made between the provider and the therapist. Nor do they apply to services furnished by employees of a hospital or other institution. The cost of services furnished by such employees will continue to be evaluated under the Medicare program's reasonable cost provisions. (See 42 CFR 405.451)

The initial schedule of guidelines for respiratory therapy services was published in the **Federal Register** on October 6, 1978, and was effective for respiratory therapy services furnished by registered respiratory therapists and certified respiratory therapists (also known as certified respiratory therapy technicians) on or after December 1, 1978. The schedules of guidelines contained in this notice update the initial guidelines for registered and certified therapists, and include an initial schedule of guidelines for nonregistered and noncertified therapists.

Since publication of the initial schedule of guidelines for registered and certified therapists, we have recalculated the fringe benefit and expense factor elements of the schedules to increase the accuracy of the factor. The computation of the fringe benefit and expense factor, previously rounded to 50 percent of the prevailing salary amount, is not rounded now and is based on the most recent data available from the Bureau of Labor Statistics (BLS). We have updated this data through September 1979.

The October 6, 1978, guidelines included a delayed effective date, not to exceed one year from the date of publication, for those institutions that had entered into binding contracts prior to that date with respiratory therapists or respiratory therapy contracting organizations. (The majority of all providers that furnish respiratory therapy services under arrangements qualified for this exception.) Those institutions would have been subject to

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the October 1978 guidelines beginning October 7, 1979. In order to give those institutions the benefit of the updated guidelines, these guidelines for services of certified therapists, and for services of registered therapists in most States, will be effective for services furnished on or after October 1, 1979. Those providers not subject to binding contract exceptions, or whose exceptions did not cover the full year period, should contact their intermediaries if they have been adversely affected by the inaccuracies in the October 1978 guidelines. Adjustments will be made on a case-by-case basis, where appropriate, by recomputing the amount of the fringe benefit and expense factor included in the guidelines.

Regardless of the effect of the binding contract exception, HCFA believes that it is more appropriate to make the updated guidelines for registered respiratory therapy services in the States of Arkansas, Connecticut, Georgia, Louisiana, Maine, Massachusetts, New Hampshire, New Mexico, New York, Oklahoma, Rhode Island, Texas and Vermont effective for services furnished on or after August 1, 1980. This is because, as discussed below, certain of the guideline amounts for these services, based on updated 1978 Bureau of Labor Statistics (BLS) data, are lower than the amounts published in the **Federal Register** on October 6, 1978. For the period of time between December 1, 1978 and the effective date of those revised guidelines, payments for respiratory therapy services in these 13 States are subject to the guidlelines published in October 6, 1978.

Guidelines for Nonregistered and Noncertified Therapists

No schedule of guidelines pertaining to respiratory therapy services furnished by therapists other than registered and certified therapists was included in the guidelines that were published on October 6, 1978, because HCFA lacked information concerning other therapists. However, after the October 6 guidelines were published, we were advised by members of the respiratory therapy profession that there are many therapists who perform the same or similar tasks as those performed by registered and certified personnel, and that they bear similar professional responsibilities, although they have not been registered or certified. (For example, some may have applied for and are awaiting registration or certification, while others may not have taken the action necessary to achieve or retain credentialed status.) Therefore, we are now including a schedule of guidelines for therapists who are not registered or certified but who perform the same duties as those who are. These guidelines apply only to therapists and not to trainees or to aides.

The same methodology used to develop the guidelines for registered and certified therapists has been used to develop the guidelines for the nonregistered and noncertified therapists. These initial guidelines will apply prospectively. They will be effective for services furnished on or after August 1, 1980. Prior to this date, the cost of services furnished by nonregistered and noncertified therapists will continue to be evaluated under 42 CFR 405.432(c)(5). Under this provision, costs may not exceed what a prudent and cost-conscious buyer would pay for the services.

Binding Contract Exception

A hospital or other institution that has contracted with a therapist or other supplier organization to furnish therapy services may be granted an exception, as specified in 42 CFR 405.432(f)(1), from the application of the guidelines for nonregistered and noncertified therapists. This exception may be granted if the hospital or other institution has a binding contract in writing with the therapist or supplier organization which was entered into prior to the date the guidelines are published. The exception may be granted for the contract period, but not longer than one year from this date. During any binding contract exception period which may be granted, the cost of services furnished by nonregistered and noncertified therapists will be evaluated under 42 CFR 405.432(c)(5). Therapists under the guidelines published October 6, 1978, will be extended or renewed as a result of publication of this update.

Methodology for Determining Hourly Salary Equivalency and Standard Travel Allowance Amounts

1. *Data.* The guidelines are based on salary data of hospital personnel from the latest BLS triennial hospital wage survey, which was conducted in September, 1978. HCFA designated 10 geographic regions for grouping the data and developed a guideline amount for each State by using either the salary data directly from that State or by using a regional average.

The geographic regions are established in order that guidelines may be developed for States in which BLS does not conduct a survey. If BLS does not have wage surveys for a particular State, a regional average is determined. For example, one region is composed of Florida, Georgia, South Carolina, Alabama, and Mississippi. BLS has survey data from Miami and Atlanta. The guideline amount for Florida is based on data from the Miami survey, and the amount for Georgia is based on data from the Atlanta survey. For South Carolina, Alabama, and Mississippi, we apply a regional average, which is an average of the prevailing salaries in Miami and Atlanta.

Where data from more than one Standard Metropolitan Statistical Area (SMSA) is available in a State, a State average is determined. For example, the State averages in New York for certified therapists and for nonregistered and noncertified therapists were determined by using data compiled in Buffalo and New York City.

The salary data have been updated to account for inflation by using the most recently available figure for overall hospital wages as determined by BLS (BLS Employment and Earnings Bulletin line SIC–806 for September 1979). This figure was compared with the comparable figure for the month of the BLS triennial hospital wage survey (September 1978) to obtain an overall percentage increase. This percentage was then applied to the September 1978 respiratory therapy salary data. Using the updated 1978 data has resulted in certain of the guideline amounts for registered respiratory therapists being lower than the amounts which were published in the **Federal Register** on October 6, 1978. This is because the factor used to update the 1975 BLS data, which formed the basis of in certain of the guideline amounts for registered respiratory therapists being lower than the amounts which were published in the **Federal Register** on October 6, 1978. This is because the factor used to update the 1975 BLS data, which formed the basis of the initial guidelines for respiratory therapists, overestimated the rate of increase between 1975 and 1978.

2. *Prevailing salary.* The prevailing salary component of the guidelines is based on the 75th percentile of salary ranges paid to respiratory therapists employed full time by hospitals in each SMSA surveyed.

3. *Fringe benefit and expense factor.* The fringe benefit and expense factor is an amount which is added to the basic salary amounts obtained from the BLS data in order to take account of fringe benefits which are generally received by an employee therapist, such as vacation pay, insurance premiums, pension payments, etc., as well as overhead expenses that an individual not working as an employee might incur in furnishing services under arrangements.

The fringe benefit component of this factor was derived from an analysis of

BLS studies included in the series, "Employee Compensation in the Private Nonfarm Economy". BLS fringe benefit data has been used because of the large sample size on which the BLS studies are based, as well as the explicit direction of the Congress to use BLS data where feasible (p. 251, S. Rept. 92–1230). The last year for which BLS data on fringe benefits is available is 1976. In order to update the fringe benefit component, we applied the rate of increase in fringe benefits that occurred between 1972 and 1976, as indicated by the BLS data, to determine the amount of fringe benefits expressed as a percentage of basic wages and salaries for September 1979.

The expense component of the factor was developed from an analysis of data derived from trade journals and business organizations on the costs of maintaining an office. This data, expressed as a monthly amount for expenses, was updated through September 1979 and then converted to an hourly figure. This hourly figure was then divided by an overall average of respiratory therapist prevailing salaries at the 75th percentile to arrive at a percentage factor for expenses. Provider overhead expenses such as space, heat, light, etc., are not included in this factor since these costs are generally absorbed by the provider, even when therapy services are provided under arrangements.

Based on an analysis of the most recent data available, we calculated a fringe benefit and expense factor equal to 66.82 percent of the BLS salary amounts. This percentage figure is multiplied by the updated salary data for each State to arrive at a dollar figure, which is then added to the updated salary amounts.

4. *Standard travel allowance.* The guidelines include a standard travel allowance that compensates the therapist for his time in reaching the provider site. In each State, this allowance has been computed as one-half of the adjusted hourly salary equivalency amount, based on an estimated average travel time of one-half hour.

Schedule of Guidelines for Respiratory Therapy Services Furnished Under Arrangements.

Adjusted Hourly Salary Equivalency Amounts and Standards Travel Allowances for Registered Respiratory Therapists (Full Time, Regular Part Time).[1]

Effective for Services Furnished on or After October 1, 1979, except for those States marked with *. In those States, the effective date will be August 1, 1980.

(This schedule is not to be used for respiratory therapy aides or trainees.)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$11.60	$5.80
Alaska [1]	16.90	5.45
Arizona	13.60	6.80
*Arkansas	10.40	5.20
California	13.60	6.80
Colorado	11.90	5.95
*Connecticut	11.40	5.70
Delaware	13.10	6.55
District of Columbia	12.20	6.10
Florida	12.40	6.20
*Georgia	10.70	5.35
Hawaii [1]	15.60	7.80
Idaho	12.40	6.20
Illinois	11.70	5.85
Indiana	12.10	6.05
Iowa	11.90	5.95
Kansas	11.90	5.95
Kentucky	12.20	6.10
*Louisiana	10.40	5.20
*Maine	11.40	5.70
Maryland	12.20	6.10
*Massachusetts	11.40	5.70
Michigan	12.60	6.30
Minnesota	11.70	5.85
Mississippi	11.60	5.80
Missouri	12.10	6.05
Montana	11.90	5.95
Nebraska	11.90	5.95
Nevada	13.60	6.80
*New Hampshire	11.40	5.70
New Jersey	13.10	6.55
*New Mexico	10.40	5.20
*New York	13.70	6.85
North Carolina	12.20	6.10
North Dakota	11.90	5.95
Ohio	12.20	6.10
*Oklahoma	10.40	5.20
Oregon	12.40	6.20
Pennsylvania	12.40	6.20
*Rhode Island	11.40	5.70
South Carolina	11.60	5.80
South Dakota	11.90	5.95
Tennessee	12.20	6.10
*Texas	10.40	5.20
Utah	11.90	5.95
*Vermont	11.40	5.70
Virginia	12.20	6.10
Washington	12.40	6.20
West Virginia	12.20	6.10
Wisconsin	11.90	5.95
Wyoming	11.90	5.95

[1] Adjusted for 25 percent salary differential.
[2] Adjusted for 15 percent salary differential.

Schedule of Guidelines for Respiratory Therapy Services Furnished Under Arrangements.

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Certified Respiratory Therapists (Full Time, Regular Part Time).[1]

Effective for Services Furnished on or After October 1, 1979.

(This schedule is not to be used for respiratory therapy aides or trainees.)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$10.10	$5.05
Alaska [1]	16.20	8.10
Arizona	12.90	6.45
Arkansas	9.60	4.80
California	12.90	6.45
Colorado	10.20	5.10
Connecticut	10.70	5.35
Delaware	12.20	6.10
District of Columbia	11.40	5.70
Florida	11.20	5.60
Georgia	9.10	4.55
Hawaii [1]	14.90	7.45
Idaho	11.40	5.70
Illinois	11.40	5.70
Indiana	11.40	5.70
Iowa	10.40	5.20
Kansas	10.40	5.20
Kentucky	11.20	5.60
Louisiana	9.60	4.80
Maine	10.70	5.35
Maryland	11.10	5.55
Massachusetts	10.70	5.35
Michigan	11.60	5.80
Minnesota	10.20	5.10
Mississippi	10.10	5.05
Missouri	10.60	5.30
Montana	10.20	5.10
Nebraska	10.40	5.20
Nevada	12.90	6.45
New Hampshire	10.70	5.35
New Jersey	12.20	6.10
New Mexico	9.60	4.80
New York	12.60	6.30
North Carolina	11.20	5.60
North Dakota	10.20	5.10
Ohio	11.40	5.70
Oklahoma	9.60	4.80
Oregon	11.60	5.80
Pennsylvania	11.70	5.85
Rhode Island	10.70	5.35
South Carolina	10.10	5.05
South Dakota	10.20	5.10
Tennessee	11.20	5.60
Texas	9.60	4.80
Utah	10.20	5.10
Vermont	10.70	5.35
Virginia	11.20	5.60
Washington	11.10	5.55
West Virginia	11.20	5.60
Wisconsin	11.60	5.80
Wyoming	10.20	5.10

[1] Adjusted for 25 percent salary differential.
[2] Adjusted for 15 percent salary differential.

Schedule of Guidelines for Respiratory Therapy Services Furnished Under Arrangements.

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Nonregistered and Noncertified Respiratory Therapists (Full Time, Regular Part Time).[1]

Effective for Services Furnished on or after August 1, 1980.

(This schedule is not to be used for respiratory therapy aides or trainees.)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	9.30	$4.65
Alaska [1]	16.20	8.10

[1] A provider is considered to require services on a full-time or regular part-time basis if the total hours of service average 15 or more per week.

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	Adjusted hourly salary equivalency amount	Standard travel allowance
Arizona	12.90	6.45
Arkansas	8.10	4.05
California	12.90	6.45
Colorado	10.90	5.45
Connecticut	9.70	4.85
Delaware	10.90	5.45
District of Columbia	10.20	5.10
Florida	9.10	4.55
Georgia	8.70	4.35
Hawaii [1]	14.90	7.45
Idaho	10.40	5.20
Illinois	10.70	5.35
Indiana	10.60	5.30
Iowa	9.10	4.55
Kansas	9.10	4.55
Kentucky	10.20	5.10
Louisiana	8.10	4.05
Maine	9.70	4.85
Maryland	10.20	5.10
Massachusetts	9.70	4.85
Michigan	11.40	5.70
Minnesota	9.10	4.55
Mississippi	8.90	4.45
Missouri	9.10	4.55
Montana	10.90	5.45
Nebraska	9.10	4.55
Nevada	12.90	6.45
New Hampshire	9.70	4.85
New Jersey	10.90	5.45
New Mexico	8.10	4.05
New York	11.10	5.55
North Carolina	10.20	5.10
North Dakota	10.90	5.45
Ohio	10.10	5.05
Oklahoma	8.10	4.05
Oregon	11.10	5.55
Pennsylvania	10.60	5.30
Rhode Island	9.70	4.85
South Carolina	8.90	4.45
South Dakota	10.90	5.45
Tennessee	10.20	5.10
Texas	8.10	4.05
Utah	10.90	5.45
Vermont	9.70	4.85
Virginia	10.20	5.10
Washington	9.70	4.85
West Virginia	10.20	5.10
Wisconsin	10.10	5.05
Wyoming	10.90	5.45

[1] Adjusted for 25 percent salary differential.
[2] Adjusted for 15 percent salary differential.

(Sections 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act, 42 U.S.C. 1302, 1395f(b), 1395(a), 1395x(v)(5), 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance, and 13.774, Medicare-Supplementary Medical Insurance)

Dated: April 30, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 80-16811 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

[Program Announcement No. 13.647-ODV-803]

Advocacy Model Program Demonstration Projects

AGENCY: Office of Human Development Services/DHHS.

SUBJECT: Announcement of Availability of Grant Funds for Advocacy Model Program Demonstration Grants.

SUMMARY: The Administration for Children, Youth and Families, Office on Domestic Violence announces that applications are being accepted for grants under Section 1110 of the Social Security Act for Advocacy Model Program Demonstration Grants.

DATES: Closing date for receipt of applications is August 4, 1980.

Scope of Program Announcement

This program announcement covers the Advocacy Model Program Demonstration Grants to be funded in Fiscal Year 1980. Competition for grant awards in other Office on Domestic Violence demonstration projects has been announced separately in the **Federal Register.**

Program Purpose

The purpose of the demonstration projects is to develop model advocacy programs to assist battered women who are victims of domestic violence and their families in gaining access to services and support, and to demonstrate the effectiveness of this method of obtaining needed services for battered women.

Program Goals and Objectives

The goal of the projects is to demonstrate that advocacy program models can provide a mechanism by which existing resources can be more effectively used to address the needs of victims of domestic violence, and through which battered women can receive assistance and support in evaluating their short and long-term needs. The projects are aimed at demonstrating a method for obtaining needed services and support for battered women who do not seek or choose a shelter program, as part of an aftercare program for women who have left shelter programs, or for women and families in communities where shelter programs do not exist. The advocates will not deliver services per se, but will evaluate the specific needs of the battered woman and her children, and help them to obtain the assistance and services they require. Advocates will take referrals from agencies and other service organizations, as well as individual requests for assistance. These advocacy projects will be designed to demonstrate methods for facilitating provision of services, and it is understood that the Federal funds used for this project will not supplant existing funds presently used for similar purposes. Applications for projects should indicate that the proposed project is capable of achieving the following program objectives:

- To create a system of advocates who will, upon referral from agencies or service providers or requests from individual battered women, evaluate the needs of the battered woman and her family and assist her in gaining access to existing services and support to meet those needs.
- To work with the health, mental health, legal, police and social service providers and others who may initially see the battered woman or her family to increase their awareness and understanding of the problem and the likelihood of identification of the battered woman.
- To establish a referral protocol so that a battered woman, once identified, will be put in contact with the advocates.
- To work with community agencies and service providers to increase their responsiveness to and delivery of services for battered women and their families.
- To provide follow-up monitoring to determine whether the advocates have assisted the battered woman in meeting the service and support needs of her and her family and whether the service providers and agencies have responded appropriately.

Eligible Applicants

Any public or private non-profit organization may apply for a grant under this program including counties, cities, community action agencies, civic and voluntary organizations, hospitals, community health and mental health agencies, police departments, state and local service agencies and crisis care agencies.

Available Funds

The Office on Domestic Violence will award three new demonstration grants at a funding level of $100,000 each. The project period shall be for two years, assuming availability of second year funding. Continuation funding will be dependent upon satisfactory performance during the first year, as well as availability of funds.

Grantee Share of the Project

This project requires no cost-sharing or matching of federal funds.

The Application Process

Availability of Forms

Applications for a grant under the Advocacy Model Program Demonstration Projects must be submitted on standard forms provided for this purpose. Application kits which include these forms and other pertinent information may be obtained by writing to: Office of Domestic Violence, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013, Telephone: (202) 472-4205.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to: Department of Health and Human Services, Office of Human Development Services, Grants Management Branch, Room 345 F, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, Attn: Mary White.

A-95 Notification Process

Notice to A-95 state and area-wide clearinghouses is *not* required under this grant program.

Application Consideration

The Director of the Office of Planning, Research, and Evaluation determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement will be subjected to a competitive review and evlaution by qualified persons independent of the Administration for Children, Youth, and Families. The results of this review will assist the Director of the Office on Domestic Violence in considering competing applications. Unsuccessful applicants shall be notified in writing of this decision. Successful applicants will be notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Eligibility of Applicant Agency (20 points)—
- Understanding of the problem (5).
- Knowledge of the present level of services for battered women and their families in the community served by this project (5).
- Knowledge of and experience with service providers, agencies, and community organizations (5).
- Adequacy of facilities (5).

2. Staffing and Resources (20 points)—
- Knowledge of and experience with the range of agencies, services, and relevant organizations within the community to be served by this project (10).
- Adequacy of level of staffing and qualifications of proposed staff (5).
- Experience in program development, management; and coordination of services (5).

3. Methodology (40 points)—
- Appropriateness of program objectives for achieving goals and objectives of this project as defined in the program announcement (10).
- Thoroughness, soundness, and clarity of proposed methodology (10).
- Realism of approach for making project operational (10).
- Compatibility of work plan with program objectives (10).

4. Budget (10 points)—
- Reasonableness of estimated cost to government (5).
- Compatibility with work plan (5).

5. Evaluation Plan (10 points)—
- Adequacy and appropriateness of proposed evaluation for collecting and analyzing data on project goals and objectives (5).
- Extent to which evaluation tasks are distinguishable from program activites (5).

Closing Dates for Receipt of Applications

The closing date for receipt of applications is August 4, 1980.

Applications may be mailed or hand-delivered. Hand-delivered applications will be accepted during regular working hours of 9 a.m. to 5 p.m. The applications must be taken to Room 345-F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

Mailed applications will be considered to be received on time if: (1) the application is *received on or before the closing date* by the DHEW mail room in Washington, D.C., or (2) the application is *mailed* by registered or certified mail *not later than five days before the closing date,* as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service, unless the mailed application arrives too late to be considered by the independent review panel. Mailed applications must be addressed to: Department of Health and Human Services, Office of Human Development Services, Hubert H. Humphrey Building, Grants Management Branch, Room 345-F, Attn: Ms. Mary White, 200 Independence Avenue SW., Washington, D.C. 20201.

Applications may be submitted at any time prior to the closing date and applications received after the closing date will be returned to the applicant without being reviewed.

(Catalog of Federal Domestic Assistance Program No. 13.674—Social Services Research and Demonstration)

Dated: May 16, 1980.

R. E. Shute,

Acting Director, Office of Planning, Research and Evaluation.

Approved: May 29, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80-16817 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-92-M

National Institutes of Health

Role of Adjuvant Chemotherapy in Breast Cancer; Meeting

Notice is hereby given that the National Cancer Institute, assisted by the Office for Medical Applications of Research, National Institutes of Health, will hold a consensus development conference July 14-16, 1980, at the Masur Auditorium, Bldg. 10, NIH. Topic of the conference is the role of adjuvant chemotherapy in breast cancer. The meeting is open to any interested individuals and groups.

The conference will examine the concepts and results of adjuvant chemotherapy trials in breast cancer. One goal is to determine the role of these trials in current medical practice. Thus, emphasis will be given not only to the scientific validity of adjuvant therapy trials, but also to their impact on general medical practice.

Specific issues to be discussed include: Have clinical trials established the efficacy of adjuvant chemotherapy of breast cancer? Do the benefits of adjuvant chemotherapy clearly outweigh the risks? Should future adjuvant chemotherapy studies include hormonal manipulation? What is the role of adjuvant chemotherapy in Stage I patients? What is the role of adjuvant chemotherapy in postmenopausal patients?

Requests for technical information should be addressed to Dr. Daniel G. Haller, Head, Medicine Section, Clinical Investigations Branch, DCT, National Cancer Institute, Landow Bldg., 6C08, 7910 Woodmont Ave., Bethesda, MD 20205. Requests for administrative information should be sent to Ms. Yvonne Lewis, Prospect Associates, 11325 Seven Locks Rd., Potomac, MD 20854.

Dated: May 27, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-16722 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-08-M

Transplantation Biology and Immunology Committee; Amended Meeting

Notice is hereby given to cancel the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases, which was published in the **Federal Register** on Tuesday, April 29, 1980 (45 FR 80-12982).

The Committee was to meet June 3, 1980 at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: May 27, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-16721 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-85-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, June 27-28, 1980.

The meeting on June 27 will be held in Room 1331, Switzer Building (formerly HEW South Building), 330 C Street, S.W., Washington, D.C. This meeting will be open to the public from 9 a.m. until adjournment for the purpose of completing external peer review on technical reports of bioassays from the National Cancer Institute (NCI) Carcinogenesis Testing Program. Reviews will be conducted by the Technical Report Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts. Attendance by the public will be limited to space available.

The meeting on June 28 will be held in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9 a.m. to adjournment for the purpose of discussing and making recommendations on a permanent mechanism for external peer review of National Toxicology Program (NTP) technical reports and for hearing progress reports by the Chemical Nomination and Selection Subcommittee, the Report Review Subcommittee, and the Automated Data Processing Subcommittee. Attendance by the public will be limited to space available.

The NTP Director, Dr. David P. Rall, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541-3201, or FTS 629-3201, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Regarding technical report peer review, reports will be reviewed June 27 on the following chemicals (and routes of administration):

Chemical	*Route*
2,3,7,8-Tetrachlorodibenzo-p-dioxin	Skin paint
2,3,7,8-Tetrachlorodibenzo-p-dioxin	Gavage
Dibromochloropropane (DBCP)	Inhalation
1,2-Dibromoethane (EDB)	Inhalation
Cytembena	Intraperitoneal
Yellow 6	Dosed feed
Orange 10	Dosed feed
Butylbenzyl phthalate	Dosed feed
Di(2-ethylhexyl)adipate	Dosed feed
Caprolactam	Dosed feed

Dated: May 23, 1980.

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 80-16723 Filed 6-2-80; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

West-Central North Dakota Management Framework Plan; Invitation To Comment

May 19, 1980.

Notice is hereby given that the Dickinson District, Bureau of Land Management (BLM) invites public comments on the land use recommendations contained in the West-Central North Dakota Management Framework Plan (MFP). The comment period extends from June 3, 1980 through July 22, 1980.

Background standards and procedures for MFP preparation and review are contained in **Federal Register** Notice FR Vol. 44, No. 140 pp. 42584-42652 of July 19, 1979; FR Vol. 44, No. 153, pp. 46386-46401 of August 7, 1979 and FR Vol. 44, No. 233, pp. 69374-69378 of December 3, 1979. The standards for this review are also discussed in a final environmental statement describing the Secretary of Interior's preferred coal program and alternatives, which was released in April, 1979.

The subject area is within the Fort Union Coal Region and covers the following North Dakota counties: Stark, Dunn, Mercer, Oliver, and McLean, as well as a small portion of Billings County. The area is adjacent to the Little Missouri National Grasslands and the Fort Berthold Indian Reservation.

There are three types of recommendations contained in the plan. They address (1) the BLM-administered surface lands in the Lost Bridge Management Area, most of which are near or adjacent to the Little Missouri River; (2) the scattered, isolated tracts of BLM surface land in the rest of the planning area; and (3) the federal coal and oil and gas under private or state land or under land administered by another federal agency. In terms of the acres involved and the potential economic impact of the recommendations, coal is the most significant federal resource in the West-Central Planning Area.

The recommendations do not constitute final decisions to lease or not lease coal. Those decisions will be made later in the federal coal management process.

Any federal coal identified as acceptable for further consideration for leasing may be included in the Fort Union Coal Region activity plan and environmental impact statement. The Secretary of Interior has chosen December 1982 as a preliminary target date for leasing federal coal in this region.

The coal recommendations were developed after applying the Secretary's unsuitability criteria and after considering surface owner views and surface resource trade-offs.

The recommendations packet—containing narratives, tables, and maps—will be mailed to all known interested individuals; affected surface owners; industry and concerned citizen groups; and local, state, and federal government agencies on or about June 1, 1980.

The maps in the packet show the federal coal deposits in the planning area with a high to moderate potential for development, the areas within these deposits covered by some type of coal lease, and the areas where surface owners over federal coal (whose land is not covered by a private surface lease for coal mining) are opposed to federal coal leasing. Other maps depict the results of applying the unsuitability criteria as required by Federal Regulations [43 CFR 3461.3-1(a)(2)].

Open-house meetings will be held June 16-19 to give interested people the opportunity to discuss the plan recommendations with members of the BLM Dickinson District Office staff. The schedule for the meetings is as follows: June 16—City Hall, Dunn Center, ND; June 17—City Auditorium, Garrison, ND; June 18—City Hall, Hazen, ND; and June 19—Stark County Courthouse Auditorium, Dickinson, ND.

All meetings will have two sessions, from 3 to 5 p.m. and 7 to 9 p.m. The open-house, nonstructured approach will be used to allow members of the public to arrive and leave whenever it is most convenient for them. Basic planning maps and other informational material will be brought to the meetings and will be available for public inspection.

A formal public hearing has been set for 7:30 p.m., July 22, 1980, at the city hall in Hazen, ND for the purpose of accepting testimony from persons who feel that they could be adversely affected by the implementation of the recommendations contained in the plan.

The open-house meetings and the hearing will be publicized in the area through paid advertisements and news releases.

Persons wishing to ask questions, submit comments, or request the recommendations packet can contact the District Manager, Bureau of Land Management, 5th Floor of Pulver Hall (Dickinson State College Campus), P.O. Box 1229, Dickinson, North Dakota 58601; (701) 225-9148.

Charles E. Steele,

District Manager.

[FR Doc. 80-16690 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Known Recoverable Coal Resource Area; Hanna and Carbon Basins, Wyo.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (P.L. 94-377, August 4, 1976, as amended by P.L. 95-554, October 30, 1978), Federal lands within the State of Wyoming have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(50) Wyoming

Revised Hanna and Carbon Basins (Wyoming) Known Recoverable Coal Resource Area; January 25, 1980; 3,920 acres were added. Total area now classified for leasing is 242,577 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: May 20, 1980.

H. William Menard,

Director.

[FR Doc. 80-16688 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Corp.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Corporation, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3206, Block 63, Mississippi Canyon Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53785). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 23, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16711 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed supplemental development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1101, Block 117, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 23, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16803 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in

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the National Register were received by the Heritage Conservation and Recreation Service before May 23, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 18, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ALASKA

Anchorage Division

Anchorage vicinity, *Eklutna Power Plant (Anchorage Power and Light Company)* NE of Anchorage.

ARIZONA

Maricopa County

Tempe, *Tempe Hardware Building,* 520 S. Mill Ave.

Pima County

Tucson, *El Conquistador Water Tower,* Broadway and Randolph Way.

CALIFORNIA

Los Angeles County

Pasadena, *Stoutenburgh House,* 255 S. Marengo Ave.

Nevada County

Grass Valley, *Emmanuel Episcopal Church,* 245 S. Church St.
Nevada City, *Sargent, Aaron A., House,* 449 Broad St.

San Diego County

San Diego, *Grand-Horton Hotel,* 328 and 334 F St.

Santa Clara County

Palo Alto, *Pettigrew House.*
Santa Clara, *Lick, James, Mill,* 305 Montague Expwy.

GEORGIA

Whitfield County

Dalton, *Blunt, Ainsworth E., House,* 506 S. Thornton Ave.

ILLINOIS

DuPage County

Westmont, *Gregg, William L., House,* 115 S. Linden St.

KENTUCKY

Butler County

Woodbury, *U.S. Army Corps of Engineers Superintendent's House and Workmen's Office (Federal Hill)* Woodbury Park.

MINNESOTA

Blue Earth County

Blue Earth County Multiple Resource Area (Partial Inventory). This area includes:
Mankato, *North Front Street Commercial District,* 301—415 N. Front St.; Garden City, *First Baptist Church,* U .S. 169; Garden City vicinity, *Gail, James P., Octagon Farmhouse,* U. S. 169; Mankato, *Blue Earth County Courthouse,* Courthouse Sq.; *Brandrup, J. R., House,* 704 Byron; *Chapman, Charles, House,* 418 McCauley; *Cray, Lorin, House,* 603 S. 2nd St.; *Eberhart, Adolph O., House,* 228 Clark St.; *First Presbyterian Church,* Hickory and S. Broad Sts.; *Hubbard, R. D., House,* 606 S. Broad St. (preciously listed in the National Register); *Irving, William, House,* 320 Park Lane; *Jefferson, Adam, House,* Cleveland St.; *Mankato Public Library and Reading Room,* 120 S. Broad; *Old First National Bank of Mankato,* 229 S. Front St. (previously listed in the National Register); *Schmidt, Oscar, House,* 111 Park Lane; *Union Depot,* 112 Pike St.; Mankato vicinity, *Jones-Roberts Farmstead,* MN 68; *Kern Bridge,* SR 190; *Mankato Holstein Farm Barn,* SR 5; *Marsh Concrete Rainbow Arch Bridge,* SR 101; *Seppman Mill,* W of Mankato off MN 68 in Minneopa State Park (preveiously listed in the National Register); Mapleton, *Main Street Commercial Buildings,* Main St.; *Troendle, Lucas, House,* 2nd and Silver Sts.; Mapleton vicinity, *Sterling Church,* SR 151; ST. Clair vicinity, *Winnebago Agency House,* 1 mi. S of St. Clair on CR 138 (previously listed in the National Register).

MISSISSIPPI

Hinds County

Jackson, *Manship House,* 412 E. Fortification St.

OKLAHOMA

Haskell County

McCurtain vicinity, *Mine No. 2,* W of McCurtain.

Latimer County

Yanush vicinity, *Cupco Church, S of Yanush off OK 2.*

PENNSYLVANIA

Chester County

Dowingtown vicinity, *Lionville Historic District,* NE of Downingtown.

SOUTH DAKOTA

Hughes County

Pierre, *Brandhuber Ice Company Barn,* 419 S. Fort St.

TEXAS

Georgian Revival Buildings of Southern Methodist University Thematic Resources. Reference—see individual listings under Dallas County.

Dallas County

Dallas, *Clements Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 3200 Dyer St.
Dallas, *Dallas Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* (previously listed in the National Register).
Dallas, *Florence, Fred. Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 3330 University Blvd.
Dallas, *Hyer Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 6424 Hill Lane.
Dallas, *McFarlin Memorial Auditorium (Georgian Revival Buildings of Southern Methodist University Thematic resources)* 6405 Hillcrest Rd.
Dallas, *Ownby, Jordan C., Stadium (Georgain Revival Buildings of Southern Methodist University Thematic Resources)* 5900 Ownby Dr.
Dallas, *Patterson, Stanley, Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 3128 Dyer St.
Dallas, *Perkins Hall of Administration (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 6425 Hillcrest Rd.
Dallas, *Snider Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 3305 Dyer St.
Dallas, *Virginia Hall (Georgian Revival Buildings of Southern Methodist University Thematic Resources)* 3325 Dyer St.

San Jacinto County

Coldspring, *San Jacinto County Jail,* Slade and Loyd Sts.

UTAH

Davis County

Centerville, *Randall, Melvin Harley, House,* 390 E. Porter Lane.

Emery County

Cleveland vicinity, *Denver and Rio Grande Lime Kiln,* SE of Cleveland.
Green River vicinity, *Black Dragon Canyon Pictographs,* SW of Green River.

Grand County

Thompson vicinity, *Thompson Wash Rock Art District,* N of Thompson.

Salt Lake County

Salt Lake City, *Nelson-Beesley House,* 533 11th Ave.
Salt Lake City vicinity, *Mountain Dell Dam,* N of Salt Lake City.
Salt Lake City vicinity, *Wasatch Mountain Club Lodge,* SE of Salt Lake City.

San Juan County

Blanding vicinity, *Oljato Trading Post,* SW of Blanding.

Sevier County

Glenwood, *Wall, Joseph, Gristmill,* 355 S. 250 East St.
Redmond, *Redmond Hotel,* 15 E. Main St.
Richfield, Young Block, 3—17 S. Main St.
Salina, *Salina Hospital,* 330 W. Main St.
Sevier vicinity, *Sevier Ward Church,* E of Sevier off U.S. 89.

Tooele County

Knolls vicinity, *GAPA Launch Site and Blockhouse,* NE of Knolls.

Utah County

Goshen vicinity, *Old Goshen Site,* NW of Goshen.

Washington County

St. George, *Main Building of Dixie College,* 86 S. Main St.

VERMONT

Chittenden County

Jericho vicinity, *Snowflake Bentley House,* SE of Jericho on Nashville Rd.

Rutland County

Tinmouth, *Tinmouth Historic District,* VT 140 and SR 2.

Washington County

East Montpelier, *East Village Meetinghouse, U.S. 2 and U.S. 14.*
East Montpelier, *Union Meetinghouse,* Center Rd.

WISCONSIN

Barron County

Rice Lake, *Rice Lake Carnegie Library,* Main Messenger Sts.

Dane County

Brooklyn vicinity, *Eggleston Farmhouse,* E of Brooklyn on U.S. 14.

Milwaukee County

Greendale, *Trimborn Farm,* 8801 W. Grange Ave.

[FR Doc. 80-16555 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, as amended by Pub. L. 94–409, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning at 7:30 p.m., EDT, on Thursday, June 19, 1980, at Happy Days Center, located on State Route 303 (Streetsboro Road) one mile west of State Route 8, near Peninsula, Ohio. Parking is on the north side of Route 303 and a pedestrian tunnel leads to the building on the south side of the highway.

The Commission was established by Pub. L. 93–555, 88 Stat. 1788, 16 U.S.C. 460ff–4, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mrs. Roger Rossi
Mrs. George N. Seltzer
Ms. R. Robbie Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

Matters to be discussed at this meeting include a Committee Report on a proposal for a North American Indian Cultural Center and a discussion of the past and future role of the Advisory Commission.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone 216–650–4414.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Cuyahoga Valley National Recreation Area located at 501 West Streetsboro Road (State Route 303), two miles east of Peninsula, Ohio.

Dated: May 20, 1980.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 80-16829 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-70-M

George Washington Memorial Parkway; Reissuance of Notice of Intention To Negotiate a Concessions Permit

On December 14th, 1979, pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969, 16 U.S.C. 20), public notice was given that the Department of the Interior, through the Superintendent, George Washington Memorial Parkway, proposed to negotiate a concessions permit with Belle Haven Marina, Inc., authorizing it to continue to provide marina concessions facilities and services for the public at Belle Haven Marina in the city of Alexandria for a period of four (4) years from the date of execution. Due to inaccuracies in the land assignment and description of the existing concession provided to the public it is necessary to make the corrected information and requirements of the proposed permit available to the public.

Therefore, pursuant to the provisions of Section 5 of the Act of October 9, 1969 (79 Stat. 969, 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, George Washington Memorial Parkway, proposes to negotiate a concession permit with the Belle Haven Marina, Inc., authorizing it to continue to provide marina concession facilities and services for the public at the Belle Haven Marina in the city of Alexandria for a period of four (4) years from the date of execution. An assessment of the environmental impact of this proposed action has been made, and it has been determined that it will not significantly affect the quality of the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the office of the Superintendent.

The foregoing concessioner has performed his obligations to the satisfaction of the Superintendent under the existing permit and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Belle Haven Marina, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new permit and a preference in the award of the permit, if the offer of Belle Haven Marina, Inc., is substantially equal to others received.

The Superintendent is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before July 3, 1980.

Interested parties should contact the Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia 22101, telephone number 703–557–8990, for information as to the requirements of the proposed permit.

Don H. Castleberry,

Superintendent, George Washington Memorial Parkway.

[FR Doc. 80-16828 Filed 6-2-80; 8:45 am]

BILLING CODE 4310-70-M

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, as amended by Pub. L. 94–409, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held on Friday, June 20, 1980, at 10 a.m., CDT, at the Beverly Shores Administration Building, Broadway, Beverly Shores, Indiana.

The Commission was established by Pub. L. 89–761, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended, to meet and consult with the Secretary of the Interior on

matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Dr. Albert Sawyer (Chairman)
Lynton K. Caldwell
Anna R. Carlson
Neil P. Frankel
John A. Hillenbrand II
James L. Kintzele
William L. Lieber
Celia Nealon
Gail Pugh
John R. Schnurlein
Norman E. Tufford

Matters to be discussed at this meeting include:

1. Status of land acquistion and land acquisition plan.

2. Discussion of current plans to combat shoreline erosion at Mt. Baldy and Beverly Shores.

3. Continuation of discussions on evacuation measures necessary in the event of a toxic chemical or radioactive spill within the Lakeshore.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–928–7561.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: May 20, 1980.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 80–16830 Filed 6–2–80; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Citizens Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 P.M., June 27, 1980, at the Arlington Hotel, Narrowsburg, New York. The Advisory Council was established by Pub. L. 95–625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

This matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978.

2. New Business.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning the matters to be discussed. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John T. Hutzky, Area Manager, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12674, phone 914–253–3947.

Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River in Narrowsburg, NY.

Dated: May 23, 1980.

James W. Coleman, Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 80–16831 Filed 6–2–80; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29311]

Missouri Pacific Railroad Co.—Purchase (Portion)—Chicago, Rock Island & Pacific Railway Co., Debtor William M. Gibbons, Trustee) Between Haskell via Butterfield and Hot Springs, Ark., and Between Malvern and Butterfield, Ark.

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of the application of Missouri Pacific Railway Company (MOPAC) to purchase certain branch lines of Chicago, Rock Island and Pacific Railway Company, Debtor (William M. Gibbons, Trustee) (Rock Island). The application was filed pursuant to the Milwaukee Railroad Restructuring Act and Order No. 235 of the United States District Court for the northern District of Illinois, Eastern Division (Bankruptcy Court).

SUMMARY: The commission is accepting the application MOPAC filed to purchase certain branch lines of the Rock Island located in Arkansas. The Commission is also adopting an expedited procedure so that its report can be issued within 60 days as required by the Court.

DATES: This decision shall be effective on the date served by the Commission.

FOR FURTHER INFORMATION CONTACT: Richard Kelly, Interstate Commerce Commission, Section of Finance, Room 5417, 12th Constitution Ave., NW, Washington, D.C. 20423, (202) 275–7245.

SUPPLEMENTARY INFORMATION: MOPAC filed an application on May 19, 1980, under section 17 of the Milwaukee Railroad Restructuring Act, Pub. L. No. 96–101, 93 Stat. 736 (1979) for authority to purchase certain properties of Rock Island located in Arkansas. The application will be handled under the rules adopted in Ex Parte 282 (Sub-No. 4), *Aquisition Procedures For Lines of Railways In Reorganization,* 360 I.C.C. 623 (1980), 45 *Fed. Reg.* 6107 (1980), 49 CFR 1111.20 *et seq.*

The Commission's April 23, 1980, decision determined that MOPAC's acquisition would not constitute a major market extension. This application is filed pursuant to Order No. 235 of the Bankruptcy Court dated May 8, 1980.

The railroad branch lines together with the underlying land and right-of-way in Arkansas sought to be acquired extend from:

(1) Haskell in Saline County via Butterfield in Hot Springs County to Hot Springs in Garland County; and

(2) Malvern in Hot Springs County north to a connection with the line of railroad described in (1) at Butterfield in Hot Springs County.

The application is complete and is in compliance with the rules in Ex Parte No. 282 (Sub-No. 4). It is accepted. The Bankruptcy Court has directed the Commission to act on the application within 60 days following its filing. The application was filed on May 19, 1980, and a report must be submitted to the Bankruptcy Court by July 18, 1980. As a result of this requirement, the following time frames will apply to the proceeding.

May 19, 1980: Application filed.

June 13, 1980: Comments of interested parties complying with 49 CFR § 1111.25(c).

June 23, 1980: Replies complying with 49 CFR § 1111.25(d).

July 18, 1980: Transmittal of a report to the Bankruptcy Court.

Applicants' representatives, on whom pleadings should be served, are:

Mark M. Hennelly, 210 North 13th Street, St. Louis, MO 63103, (314) 622–0123.

Martin L. Cassell, 332 S. Michigan Avenue, Chicago, IL 60604, (312) 435–7916.

It is ordered:

1. The application in Finance Docket No. 29311 is accepted.

2. The parties shall comply with all provisions stated above.

3. This decision is effective on the date served.

Decided: May 23, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioner Stafford, Clapp, Trantum, Alexis and Gilliam. Vice Chairman Gresham not participating. Commissioners Trantum and Alexis absent and not participating

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16717 Filed 6–2–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protest (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the indentity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, resolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 11207 (Sub-534F), filed March 17, 1980. Applicant: DEATON, INC., 317 Ave. W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *glass, paper,* and *paper products,* between Selma, AL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE,

KS, OK, and TX. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 26396 (Sub-348F), filed March 11, 1980. Applicant: THE WAGGONERS TRUCKING, a corporation, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same address as applicant). Transporting (1) *chemicals* (except in bulk), and (2) *additives* used in petroleum and gas exploration (except in bulk), between points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities used by Van Waters and Rogers. (Hearing site: Denver, CO, or Billings, MT.)

MC 41116 (Sub-79F), filed March 17, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. *Contract carrier,* transporting (1) *paper and paper products* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Olinkraft, Inc., at Monroe and West Monroe, LA, on the one hand, and, on the other, points in TX, under continuing contract(s) with Olinkraft, Inc. (Hearing site: Baton Rouge or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 41406 (Sub-160F), filed March 17, 1980. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Drive, Merrillville, IN 46410. Representative: Wade H. Bourdon (same address as applicant). Transporting (1) *refractories,* and (2) *materials and supplies* used in the installation of refractories, and (3) *magnesite and magnesite products,* from Maple Grove and Bettsville, OH, to points in IL, IN, PA, NY, MI, NJ, NE, VA, WV, and MD. (Hearing site: Chicago, IL, or Cleveland, OH.)

MC 41406 (Sub-161F), filed March 17, 1980. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Dr., Merrillville, IN 46410. Representative: Wade H. Bourdon (same address as applicant). Transporting *oil well tubing,* from the facilities of Babcock & Wilcox Company, at or near Bryan, TX, to Harvey, LA. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 51146 (Sub-831F), filed March 14, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting (1) *fertilizer* (except in bulk), from Knox, IN, to points in CO, IL, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of fertilizer, in the reverse direction. (Hearing site: Chicago, IL.)

MC 51146 (Sub-832F), filed March 14, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of furniture, between Green Bay, WI, and Tupelo, MS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Green Bay or Milwaukee, WI.)

MC 51146 (Sub-836F), filed March 17, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of (a) appliances, (b) kitchen utensils, and (c) housewares, (except commodities in bulk), between West Bend, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 63417 (Sub-274F), filed March 19, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting *new furniture and furniture parts,* from Galax, VA, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Washington, DC.)

MC 95876 (Sub-343F), filed March 17, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). Transporting (1) *turbines, heat exchangers, feed water heaters, generators, engines, steam condensers, pumps, and electrical equipment,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), between the facilities of Westinghouse Electric Corporation (a) at or near Charlotte, NC, and Philadelphia, PA, and (b) in PA, on the one hand, and, on the other, points in MI, IN, IL, WI, MN, ND, SD, IA, NE, KS, MO, OK, TX, WY, MT, ID, OR, and WA. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 100666 (Sub-528F), filed March 14, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *composition board,* from the facilities of Abitibi Corporation in Wilkes County, NC, to those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Charlotte, NC.)

MC 110686 (Sub-63F), filed March 14, 1980. Applicant: McCORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherlund, 1150 Connecticut Ave. NW., Suite 400, Washington, DC 20036. Transporting (1) *water heaters, hot water storage tanks, household heating boilers, and solar collector equipment,* from Kankakee, IL, to points in CT, DE, MD, MA, NC, NJ, NY, PA, RI, SC, TN, VA, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 111037 (Sub-4F), filed February 28, 1980. Applicant: WARREN CITY LINES, INC., 34 Pennsylvania Ave., East Warren, PA 16365. Representative: S. Harrison Kahn, Suite 733, Investment Bldg., 1511 K St. NW., Washington, DC 20005. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip tours, in charter and special operations, beginning and ending at points in Erie, Venango, Crawford, Forest, McKean, Elk, and Warren Counties, PA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: PA.)

MC 114486 (Sub-3F), filed March 17, 1980. Applicant: A. F. JAMES d.b.a. A. F. JAMES TRUCK LINE, 107 Lelia St., Texarkana, TX 75501. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. *Contract carrier,* transporting (1) *loud speakers and electrical amplification systems,* (2) *component parts* for the commodities in (1) above, and (3) *materials* used in the distribution of the commodities in (1) above, between the facilities of Peavy Electronics Corporation at Meridian MS, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, LA, MS, NC, SC, TN, and TX, under continuing contract(s) with Peavy Electronics Corporation, of Meridian, MS. (Hearing site: Jackson, MS or New Orleans, LA.)

MC 114606 (Sub-14F), filed March 17, 1980. Applicant: S. F. DOUGLAS TRUCK LINE, INC., 587 SW. First St., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *sugar,* in packages, from East Grand Forks, Crookston, and Moorhead, MN, to Manawa, WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 116446 (Sub-9F), filed March 17, 1980. Applicant: J & R SCHUGEL TRUCKING, INC., 130 N. Water Street, New Ulm, MN 56073. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Contract carrier,* transporting *flour and flour products* (except commodities in bulk), from the facilities of International Multifoods Corporation at or near New Prague and New Ulm, MN, to points in AR, IL, IN, KS, MI, MO, NE, OH, OK and WI, under continuing contract(s) with International Multifoods Corporation of Minneapolis, MN. (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 119777 (Sub-463F), filed March 14, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *boards* and *wood products,* from Holly Hill, SC, to points in the United States (except AK and HI). (Hearing site: Columbia or Charleston, SC.)

MC 123056 (Sub-11F), filed March 11, 1980. Applicant: FREDONIA TRUCK LINE, INC., Hwy 96 and Jackson St., Fredonia, KS 66736. Representative: Laurel D. McClellan, 401 North Sixth, P.O. Box 478, Fredonia, KS 66736. *Contract carrier,* transporting (1)(a) *rice mill feed and cottonseed meal,* and (b) *rice bran* and *rice hulls* otherwise exempt from economic regulation pursuant to 49 U.S.C. § 10526(a)(6), in mixed loads with the commodities in (1)(a), from Parson, KS, to points in AR, MO (except St. Louis), OK, and TX (except Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties), (2) *hominy,* from Atchinson, Bonner Springs, and Parsons, KS, Cedar Rapids, IA, Kansas City, MO, and Crete and Lincoln, NE, to the destinations in (1) above, and (3) *cottonseed meal,* from Little Rock, AR, Sikeston and Kennett, MO, Altus, Clinton, and Oklahoma City, OK, and Lubbock, Sweetwater, Abilene, Quanah, Plain View, and Ft. Worth, TX, to Parsons, KS, under continuing contract(s) in (1), (2), and (3) with ConAgra, Inc., of Omaha, NE. (Hearing site: Wichita, KS, or Springfield, MO.)

Note.—Dual operations may be involved.

MC 128007 (Sub-120F), filed March 14, 1980. Applicant: HOFER, INC., 20th & 69 Bypass, P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Transporting *trace minerals* from points in Fremont County, CO, to points in KS, MO, and OK. (Hearing site: Denver, CO, or Kansas City, MO.)

MC 134387 (Sub-82F), filed January 2, 1980. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 1800 United California Bank Bldg., 707 Wilshire Blvd., Los Angeles, CA 90017. Transporting *household applicances,* and *materials and supplies* used in the manufacture and distribution of household appliances, from points in Davis County, UT, to points in AZ. (Hearing site: Los Angeles, CA.)

MC 140086 (Sub-8F), filed March 6, 1980. Applicant: DeLARIA TRANSPORT, INC., 327 Eighth Ave. Northwest, New Brighton, MN 55112. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St., Minneapolis, MIN 55402. Transporting *liquid sugar, corn syrup, and blends thereof,* in bulk, in tank vehicles, from Minneapolis, MN, to points in IA, MN, ND, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 140186 (Sub-44F), filed March 17, 1980. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: Davie A. Sutherland, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. Transporting *iron and steel articles,* from Milwaukee, WI, to points in CA, OR, and WA. (Hearing site: Portland, OR.)

MC 144827 (Sub-53F), filed March 17, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, 2877 Farrisview, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). Transporting (1) *wearing apparel, and materials* used in the manufacture of wearing apparel, (a) from Memphis, TN, to Burlington, NJ, and points in CA, (b) from Burlington, NJ, to Hamilton, AL, and Memphis, TN, (c) from Hamilton, AL, to Memphis, TN, and (d) between Memphis, TN, Arkadelphia, AR, and Paris, TX, and (2) *corrugated boxes,* from Garland, TX, to Memphis, TN, restricted in (1) and (2) to traffic originating at or destined to the facilities of Vassarette, a Division of Munsingwear. (Hearing site: Memphis, TN.)

MC 144927 (Sub-28F), filed March 11, 1980. Applicant: REMINGTON FREIGHT LINES, INC.,Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. Transporting *phonograph records, sound recorded tapes, and tape recorders,* from Ancora, Linden, and Westville, NJ, Indianapolis, IN, and Los Angeles, CA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145636 (Sub-15F), filed March 17, 1980. Applicant: BOB BRINK, INCORPORATED, 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, 128½ East Third St., Winona, MN 55987. Transporting *lighting fixtures,* from Winona, MN, to points in AZ, CA, CO, ID, IA, KS, MO, NE, NY, MN, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Winona or Minneapolis, MN.)

MC 145636 (Sub-16F), filed March 17, 1980. Applicant: BOB BRINK, INCORPORATED, 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, 128½ East Third St., Winona, MN 55987. Transporting *confectionery,* from Winona, MN, to points in CA. (Hearing site: Minneapolis or Winona, MN.)

MC 146616 (Sub-13F), filed March 11, 1980. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st St., Suite B, Tulsa, OK 74135. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth St., Tulsa, OK 74103. *Contract carrier,* transporting *gas engine coolers* and *parts and accessories* for gas engine coolers, between the facilities of Air-X-Changers at (a) Houston and Longview, TX, and (b) Port of Catoosa and Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Air-X-Changers, of Tulsa, OK. (Hearing site: Tulsa, OK.)

MC 146646 (Sub-83F), filed March 5, 1980. Applicant: BRISTOW TRUCKING COMPANY, a corporation, P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *metal shelving, tables, checkout counters, and display racks,* from the facilities of Maytex Manufacturing Company, at or near Terrell, TX, to points in IA, IL, MN, MI, MT, NC, MN, NY, OH, PA, and WY. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Dallas, TX, or Birmingham, AL.)

MC 147717 (Sub-2F), filed March 17, 1980. Applicant: S.M.D. INDUSTRIES, a Massachusetts corporation, 46 Skiff St., Hamden, CT 06517. Representative: Walter L. Weart, 548 Anita St., Des Plaines, IL 60016. Transporting (a) *electrical battery storage assemblies, batteries, battery parts, and chargers,*

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between the facilities of Gould, Inc., at or near (a) Kankakee and Bradley, IL, and (b) King of Prussia, PA, on the one hand, and, on the other, points in NJ, NY, CT, RI, MA, NH, VT, and ME, restricted to traffic originating at or destined to the named facilities, and (b) *circuit breakers and switches*, between the facilities of Echlin Mfg. Co., at or near Branford, CT, on the one hand, and, on the other, points in NY and PA, restricted to traffic originating at or destined to the named facilities. Condition: Carrier shall conduct its for-hire motor carrier activities and its other business activities independently and shall maintain separate records for each. (Hearing site: Boston, MA, or Hartford, CT.)

MC 147717 (Sub-3F), filed March 17, 1980. Applicant: S.M.D. INDUSTRIES, INC., 46 Skiff St., Hamden, CT 06517. Representative: Walter L. Weart, 548 Anita St., Des Plaines, IL 60016. Transporting *such commodities* as are dealt in by retail food and grocery houses (except commodities in bulk), from points in NY, NJ, PA, OH, IN, IL, MN, and WI, to the facilities of Purity Supreme Co., at or near N. Billerica, MA, restricted to traffic destined to the named facilities. Conditions: Carrier shall conduct its for-hire motor carrier activities and its other business activities independently and shall maintain separate records for each. (Hearing site: Boston, MA, or Hartford, CT.)

MC 149237 (Sub-2F), filed March 14, 1980. Applicant: WATSON TRUCKING CO., a corporation, 8412 Lou Court, Louisville, KY 40219. Representative: William P. Whitney, Jr., P.O. Box 19097, Louisville, KY 40219. *Contract carrier*, transporting *carpet*, from points in SC and GA, to points in KY and IN, under continuing contract(s) with Kinnaird & Francke Interiors, Inc., of Louisville, KY; Thoroughbred Carpet Distributors, Inc., d/b/a Kinnaird & Francke, of Lexington, KY; Kanco, Inc., d/b/a Kinnaird & Francke, of Bowling Green, KY; and Louisville Floor Covering Corp., Inc., d/b/a Stevens Floor Covering Co., of Louisville, KY. (Hearing site: Louisville, KY.)

MC 149386 (Sub-1F), filed January 20, 1980. Applicant: LIQUID SUGAR TRANSPORTATION CORPORATION, 1285 66th St., Oakland, CA 94609. Representative: Walter H. Walker III, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Contract carrier*, transporting (1) *liquid food grade sweeteners*, in bulk, and (2) *dry granulated food grade sweeteners*, between points in CA, OR, WA, ID, MT, UT, NV, AZ, NM, WY, CO, and TX, under continuing contract(s) with Liquid Sugars, Inc., of Oakland, CA. (Hearing site: San Francisco, CA.)

MC 150246 (Sub-1F), filed March 7, 1980. Applicant: BENTON TRUCKING SERVICE, INC., 13331 Inkster Rd., Livonia, MI 48150. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting (1) *frozen meats*, and (2) *frozen seafood* otherwise exempt from economic regulation pursuant to 49 U.S.C. § 10526(a)(6), in mixed loads with frozen meats, from Dublin, CA, to points in the Untied States (except AK, HI, and CA). (Hearing site: San Francisco, CA.)

MC 150267F, filed February 26, 1980. Applicant: McARDLE TRANSPORTATION, INC., Rt. 1, Hazel Green, WI 53811. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Illini Beef Packers, Inc., at or near (a) Joslin, IL, and (b) Davenport, IA, to points in AZ, CA, and NV. (Hearing site: Chicago, IL.)

Volume No. 172

Decided: April 18, 1980.

By the Commission Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 11207 (Sub-533F), filed March 12, 1980. Applicant: DEATON INC., 317 Ave. W., Post Office Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting (1) *plumbing fixtures*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Kohler Co. at or near Spartanburg, SC, on the one hand, and, on the other, those points in the US in and east of MI, IN, KY, TN, and MS. (Hearing site: Greenville, SC, or Washington, AL.)

MC 21866 (Sub-150F), filed March 11, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Barry D. Kleban, 1430 Land Title bldg., Philadelphia, PA 19110. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in the US (except AK and HI), to those points in PA in and south of Monroe, Carbon and Schuylkill Counties, PA, and in and east of Schuylkill, Berks and Chester Counties, PA, those in NJ, and New York, NY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 26396 (Sub-347F), filed February 26, 1980. Applicant: THE WAGGONERS TRUCKING, a corporation, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *starch*, (except in bulk), from Keokuk, IA to points in the US and east of ND, SD, NE, MO, AR and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of starch (except commodities in bulk), in the reverse direction. (Hearing site: Des Moines, IA, or Billings, MT.)

MC 59856 (Sub-877F), filed March 12, 1980. Applicant: SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, WY 82601. Representative: John R. Davidson, Rm 805, 1st Bank Bldg., Billings, MT 59101. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Casper, WY and St. Paul, MN from Casper over Interstate Hwy 25 and U.S. Hwy 87 to junction WY Hwy 387, then over WY Hwy 387 to junction WY Hwy 59, then over WY Hwy 59 to junction Interstate Hwy 90 at or near Gillette, WY, then over Interstate Hwy 90 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Interstate Hwy 35W, then over Interstate Hwy 35W to Minneapolis, then over Interstate Hwy 35E to St. Paul, and return over the same route, serving the intermediate points of Gillette, WY and Rapid City, SD. (Hearing site: Minneapolis, MN, or Casper, WY.)

Note.—Applicant states it intends to tack this authority with its existing authority at Casper, WY, Gillette, WY and Rapid City, SD.

MC 105007 (Sub-70F), filed March 14, 1980. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Ave., Albert Lea, MN 56007. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *iron and steel articles*, (1) from Chicago, IL, Middletown, OH and Pittsburgh, PA, to Grinnell, IA, Nicholasville, KY, Chillicothe, MO, St. Paul, MN and Milwaukee, WI, (2) from Middletown, OH, and Pittsburgh, PA, to Chicago and Dixon, IL, Frankfort, IN, Cresco and Oelwein, IA, and Kirksville, MO, (3) from Chicago, IL, to Frankfort, IN and Kirksville, MO, and (4) from Milwaukee, WI to Dixon, IL, Frankfort, IN, and Kirksville, MO. (Hearing site: Minneapolis, MN.)

MC 107576 (Sub-30F), filed March 11, 1980. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 SE. Water Ave., Portland, OR 97214. Representative: Ben D. Browning (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk in tank vehicles, and those requiring special equipment), between Seattle, WA, and Medford, OR over Interstate Hwy 5, serving the intermediate points of Tacoma, WA and Eugene, OR, and serving points in Jackson and Josephine Counties, OR as off-route points. (Hearing site: Portland, OR, or Seattle, WA.)

MC 110686 (Sub-64F), filed March 14, 1980. Applicant: McCORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherlund, 1150 Connecticut Ave. NW., Suite 400, Washington, DC 20036. Transporting (1) *water heaters, hot water storage tanks, and household heating boilers*, from McBee, SC, to those points in the US in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 113106 (Sub-91F), filed March 14, 1980. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005. Transporting *glass containers*, from Millville, NJ, to points in VA. (Hearing site: Washington, DC.)

MC 116947 (Sub-62F), filed March 10, 1980. Applicant: SCOTT TRANSFER CO., INC., 1190 Sylvan Rd., Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Roswell Rd. NE., Atlanta, GA 30342. Contract carrier, transporting *industrial cleaners, deodorizers, weed-killers, insecticides* and *materials and supplies*, used in the distribution of the named commodities, between points in DeKalb County, GA, on the one hand, and, on the other, points in OH, PA, IN, and IL, under continuing contract(s) with Oxford Chemicals, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA.)

Note.—Dual Operations may be involved.

MC 118846 (Sub-20F), filed March 14, 1980. Applicant: DALE JESSUP, INC., RR 1, Camby, IN 46113. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. Contract carrier, transporting *steel chain*, from the facilities of Diamond Chain Co., a division of Amsted Industries, at Indianapolis, IN, to points in GA, TX, CA, and AL, under continuing contract(s) with Diamond Chain Company, of Indianapolis, IN. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 118846 (Sub-21F), filed March 12, 1980. Applicant: DALE JESSUP, INC. RR #1, Camby, IN 46113. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract carrier*, transporting *animal and poultry feed* (except in bulk), from Decatur, IL, to points in AZ, CA, ID, MT, NV, OR, UT, and WA, under continuing contract(s) with A. E. Staley Mfg., Co., of Decatur, IL. (Hearing site: Indianapolis, IN or Washington, DC.)

MC 119777 (Sub-464F), filed March 14, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85, East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *paper and paper products*, from points in Camden County, GA, to points in the United States (except AK and HI). (Hearing site: Jacksonville, FL.)

MC 119777 (Sub-465F), filed March 12, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85, East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *insulated copper wire*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of insulated copper wire, between Houston, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 126276 (Sub-216F), filed January 25, 1980, previously noticed in the **Federal Register** issue of April 8, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. *Contract carrier*, transporting *containers, container closures, containers components and scrap material; and equipment and supplies used in the manufacture and distribution of containers* (except commodities in bulk and those commodities which because of size and weight require the use of special equipment), between points in the U.S. in and east of MT, WY, UT and NM, under continuing contract(s) with W. H. Hutchinson and National Can Corporation, Both of Chicago, IL, and Foster Forbes Glass, or Marion, IN. (Hearing site: Chicago, IL.)

Note.—The purpose of this republication is to notice all of the contracting shippers.

MC 136077 (Sub-18F), filed September 10, 1979. Applicant: REBER CORPORATION, 2216 Old Arch Rd., Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Bldg., 100 So. Broad St., Philadelphia, PA 19110. Transporting *fly ash*, in bulk, in pneumatic tank vehicles, between the facilities of National Mineral Corporation, at Westmoreland, Indiana, and Berks Counties, PA, and points in NY, CT, RI, and MA. (Hearing site: Philadelphia, PA.)

MC 136786 (Sub-216F), filed March 12, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *frozen fruits and frozen vegetables*, between the facilities used by Curtice-Burns, Inc., at or near Brockport and Holley, NY, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 136786 (Sub-217F), filed March 12, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *foodstuffs*, (except in bulk, in tank vehicles), from the facilities of Aunt Jane's Foods, Inc. at or near Croswell, MI to points in CT, VT, DE, IA, KS, MA, MD, ME, MO, NE, NH, NJ, NY, OK, PA, RI, TX, and DC. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 136877 (Sub-6F), filed March 13, 1980. Applicant: P & G MOTOR EXPRESS, INC., 601 Collinsville Ave., P.O. Box 485, East St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1)(a) *household cleaning, scouring, and washing compounds*, and (b) *containers* for the commodities in (1)(a), above, from the facilities of Purex Corporation, at St. Louis, MO, to points in IL; and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1)(a) and (1)(b) above, in the reverse direction. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 138157 (Sub-229F), filed March 14, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412.

Representative: Patrick E. Quinn (same address as applicant). Transporting (1) *paperboard products* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paperboard products, (except commodities in bulk), between Chattanooga, TN, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Southern Champion Tray Co. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-231F), filed March 17, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn P.O. Box 9596, Chattanooga, TN 37412. Transporting *such commodities* as are dealt in by paint, hardware, and home improvement center stores, between Bridgeview, IL, and Oakland, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-232F), filed March 17, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn P.O. Box 9596, Chattanooga, TN 37412. Transporting *plastic articles,* (except in bulk), from Indianapolis, IN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of W. R. Grace & Co. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 139457 (Sub-23F), filed February 25, 1980. Applicant: G. L. SKIDMORE d.b.a. SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Contract carrier,* transporting (1) *canned and preserved foodstuffs* and *canned and packaged animal food,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from the facilities of German Village Products, Inc., at or near Wauseon, OH, to Dallas and Paris, TX, under continuing contract(s) with German Village Products, Inc., of Napoleon, OH. (Hearing site: Dallas, TX, or Washington, DC.)

MC 143857 (Sub-1F), filed March 17, 1980. Applicant: VAN DE HOGEN CARTAGE LIMITED, 2590 Dougall Ave., Windsor, Ontario, Canada M8X 1T7. Representative: William J. Hirsch, Suite 1125, 43 Court St., Buffalo, NY 14202. Transporting (1) *building materials,* (2) *sand,* and (3) *lumber and lumber products,* between points in CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing site: Detroit, MI, or Buffalo, NY.)

Note.—Dual operations may be involved.

MC 144117 (Sub-64F), filed March 10, 1980. Applicant: T. L. C. LINES, INC., P.O. Box 1090, 1666 Fabrick Dr., Fenton, MO 63026. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *plastic articles, and rubber articles,* from the facilities of Entek Corporation of America, at Irving, TX, to points in AZ, CA, CO, FL, ID, IL, IN, KY, MI, MO, MT, NV, NJ, NM, NY, OH, OR, PA, UT, WA, WV, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Dallas, TX.)

MC 146616 (Sub-10F), filed March 4, 1980. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st St., Suite B, Tulsa, OK 74135. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East 4th St., Tulsa, OK 74103. *Contract carrier,* transporting (1) *structural steel,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of structural steel, between the facilities of Muskogee Iron Works, Inc., at Muskogee, OK, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Muskogee Iron Works, Inc., of Muskogee, OK. (Hearing site: Tulsa, OK.)

MC 146646 (Sub-84F), filed March 17, 1980. Applicant: BRISTOW TRUCKING COMPANY, a corporation, P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *containers and container ends,* from Salisbury, NC, and Bristol, VA, to the facilities of Shasta Beverages, at or near Birmingham, AL. Condition: Person or persons who appears to be engaged in common control between applicant and other regulated carrier must either file an application under 49 U.S.C. 11343(a) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Birmingham or Montgomery, AL.)

MC 146646 (Sub-85F), filed March 14, 1980. Applicant: BRISTOW TRUCKING COMPANY, a Corporation, P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *metal and metal articles* between points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities of Jim Walter Metals. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 US.C. 11343(A) of the Interstate Commerce Act,or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Tampa, FL, or Birmingham, AL.)

MC 147536 (Sub-21F), filed March 12, 1980. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). Transporting (1) *containers, container ends and closures,* (2) *such commodities* as are made or used by manufacturers and distributors of containers, when moving in mixed loads with containers, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk, in tank vehicles), between Ada and Muskogee, OK, and points in AZ, CA, CO, ID, MT, NV, MN, OR, UT, WA, and WY. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 147547 (Sub-2F), filed July 30, 1979. Applicant: R & D TRUCKING CO., INC., Church Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Transporting (1) *paper* and *paper products* and (2) *materials, equipment* and *supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) between points in and east of ND, SD, NC, KS, OK and TX, restricted to the transportation of traffic originating at or destined to facilities of Champion International Corporation. (Hearing site: Cincinnati, OH, or Washington, D.C.)

Note.—Dual operations may be involved.

MC 148457 (Sub-2F), filed March 17, 1980. Applicant: INTERIOR TRANSPORT, LTD., Box 7, Group 200, R.R. 2, Winnipeg, Manitoba, Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Contract carrier, transporting *stone products,* from ports of entry on the international boundary line between the United States and Canada in MN and ND to points in MN and ND, under continuing contract(s) with Steel Brothers of Canada, Ltd., of Winnipeg, Manitoba, Canada. (Hearing site: Minneapolis or St. Paul, MN.)

MC 148966 (Sub-1F), filed March 13, 1980. Applicant: DROTZMANN, INC., P.O. Box 10187, Yakima, WA 98909. Representative: James M. Hodge, 1980

Financial Center, Des Moines, IA 50309. Transporting *frozen bagels,* from the facilities of Abels Bagels, Inc., at Buffalo, NY, to points in CA, CO, IA, NE, NV, OR, UT and WA. (Hearing site: Buffalo, NY.)

MC 150307 (Sub-1F), filed March 4, 1980. Applicant: TIP TOP SERVICE, INC., 14412 State Rd. #530 NE., Arlington, WA 98223. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. Transporting (1) *building materials,* and (2) *lumber and lumber products,* between points in WA, OR, ID, and MT. (Hearing site: Seattle, WA.)

Volume No. 173

Decided: April 29, 1980.

By the Commission, Review Board No. 2, members Liberman, Eaton and Jensen.

MC 3246 (Sub-22F), filed March 17, 1980. Applicant: MATERSON TRANSFER CO., INC., 3000 Pennsylvania Avenue West, Warren, PA 16365. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. Transporting (1) *plastic articles and wire,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution on the commodities in (1) above (except commodities in bulk), between the facilities of G.T.E. Products Corporation, at Warren, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI and points in Chautauqua, Cattaraugus and Erie Counties, NY). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 11207 (Sub-537F), filed March 19, 1980. Applicant: DEATON, INC., 317 Avenue W., Post Office Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between West Blockton, AL, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, SC, TN, and TX, and (2) between Brent, AL, on the one hand, and, on the other, points in the United States (except AK and HI).

Note.—(Hearing site: Birmingham, AL or Washington, DC.)

MC 51146 (Sub-833F), filed March 17, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *materials, equipment, and supplies* used in the manufacture and assembly of motor vehicles, between the facilities of General Motors Corporation, at Janesville, WI, and points in IL, IN, MI, MO, NY, and OH. (Hearing site: Detroit, MI or Chicago, IL.)

MC 51146 (Sub-834F), filed March 17, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *such commodities* as are dealt in, or used by, manufacturers of porcelain products (except commodities in bulk), from Robbins, NC, Gleason, TN, Monticello, GA, Wedron, IL, Zanesville, OH, Custer, SD, and Edgar, FL, to the facilities of Wisconsin Porcelain Company, at or near Sun Prairie, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 95876 (Sub-342F), filed February 25, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby, (same address as applicant). Transporting (1) *roofing and sheeting,* and (2) *materials and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from Connersville, IN, Batavia, OH and Ambridge, PA, to those points in the US in and west of WI, IL, MO, AR, and LA (except AK and HI). (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 99136 (Sub-5F), filed March 7, 1980. Applicant: CHARLES C. TOWNE & SONS, INC., 25 Hampshire Road, P.O. Box 245, Methuen, MA 01844. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting (1) *book pages,* from Westford, MA, to Brattleboro, VT; (2) *pallets and skids,* from Brattleboro, VT, to Westford, MA; and (3) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA. Condition: Coincidental cancellation at carrier's written request, of its certificate of registration in MC–99136 (Sub-2). (Hearing site: Boston MA.)

MC 107006 (Sub-8F), filed March 19, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. *Contract carrier,* transporting (1) *fabricated reinforcing steel and welded wire mesh,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of fabricated steel (except commodities in bulk), between the facilities of Wolverine Re-Steel Fabricators, Inc., at or near New Hudson, MI, on the one hand, and, on the other, points in OH, IN, and KY, under continuing contract(s) with Wolverine Re-Steel Fabricators, Inc., of New Hudson, MI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 115826 (Sub-582F), filed March 13, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, those which, because of size and weight, require special equipment, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by W. W. Grainger, Inc. (Hearing site: Chicago, IL.)

MC 119777 (Sub-469F), filed March 12, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *pre-fabricated log homes,* and (2) *parts and accessories* used in the installation of pre-fabricated log homes, from points in Sevier County, TN, to points in the US (except AK and HI). (Hearing site: Knoxville, TN, or Atlanta, GA.)

MC 121377 (Sub-4F), filed March 13, 1980. Applicant: L D S TRUCK LINES, 2211 Wood St., Oakland, CA 94607. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. Transporting *general commodities* (except classes A and B explosives, automobiles, household goods as defined by the Commission and commodities in bulk), between points in CA. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of certificate of registration MC–121377 Sub 3. (Hearing site: San Francisco, CA.)

MC 121496 (Sub-45F), filed March 19, 1980. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Building, Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *chemicals,* in bulk, in tank vehicles, between the facilities of Virginia Chemicals Inc., at LeMoyne, AL, on the one hand, and, on the other, points in TX and LA. (Hearing site: Washington, DC.)

MC 128356 (Sub-14F), filed August 30, 1979, previously noticed in the FR issue of March 11, 1980. Applicant: DOWNINGTOWN TRAILER CARRIERS, INC., Boot Rd and Chestnut St., Downington, PA 19335.

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Representative: David N. Hofstein, 3 Parkway, 20th Floor, Philadelphia, PA 19102. Transporting (1) *commercial trailers* (except office trailers), trailer chassis, and containers in truckway service, and (2) *Parts*, including reusable shipping devices, for the commodities in (1) above, between the facilities of authorized Trailer Division of the Budd Company, including its authorized dealers and representatives, and points in the U.S. (except AK and HI). (Hearing site: Philadelphia, PA.)

Note.—The purpose of this republication is to correct the territorial and commodity descriptions.

MC 133656 (Sub-5F), filed October 1, 1979. Applicant: TOMBRO TRUCKING LIMITED, P.O. Box 757, Streetsville, Ontario, Canada L5M 202. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. In foreign commerce only, transporting *lumber and composition board*, between ports of entry on the international boundary line between the United States and Canada, at points in ME, VT, NY and MI, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, OH, PA, VT, VA, WV, and WI. Condition: Coincidental cancellation at applicant's written request of its certificate in MC-133656 Sub 4. (Hearing site: Buffalo, NY.)

MC 134286 (Sub-165F), filed March 13, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). Transporting *foodstuffs* (except in bulk), from the facilities of Freezer Queen Foods, Inc., at or near Buffalo, NY, to points in VA, GA, NC, TX and WV. (Hearing site: Denver, CO, or Sioux City, IA.)

MC 134806 (Sub-61F), filed September 26, 1979, previously noticed in the FR issue of March 25, 1980. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. *Contract carrier*, transporting *parts, supplies, and equipment* used in the manufacture of aircraft and aircraft sub-assemblies, and assemblies, from points in CA to points in CT, under continuing contract(s) with Sikorsky Aircraft Division, United Technologies Corporation, of Stratford, CT. (Hearing site: Boston, MA., or Washington, DC.)

Note.—The purpose of this republication is to correct the commodity description.

MC 135797 (Sub-321F), filed March 12, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of lawn and garden care products, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Lakeshore Equipment & Supply Co. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 135797 (Sub-322F), filed March 12, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting *wood shavings* (except in bulk), from Laramie, WY, to points in the U.S. (except AK and HI). (Hearing site: Sioux City, IA, or Washington, DC.)

MC 139006 (Sub-16F), filed March 19, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Transporting *glass containers*, from Lincoln, IL, to points in IA, IN, KY, MI, MO, and OH. (Hearing site: Louisville, KY.)

MC 139697 (Sub-7F), filed March 10, 1980. Applicant: WAGONER TRANSPORTATION COMPANY, INC., P.O. Box 2975, South Bend, IN 56680. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier*, transporting *trucks and vans*, in secondary movements, from the facilities of Pathfinder Equipment Company, at Warren, OH, to points in the US (except AK and HI), under continuing contract(s) with Pathfinder Equipment Company, of Warren, OH. (Hearing site: Los Angeles, CA.)

MC 140247 (Sub-6F), filed March 19, 1980. Applicant: ALLSTATE CHARTER LINES, INC., P.O. Box 9022, Fresno, CA 93790. Representative: John Paul Fischer, 256 Montgomery St., 5th Fl., San Francisco, CA 94104. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, between Visalia, Dinuba, Tulare, Goshen, and Hanford, CA, on the one hand, and, on the other, points in the U.S. (except AK, but excluding HI). (Hearing site: San Francisco, CA.)

MC 143866 (Sub-2F), filed March 13, 1980. Applicant: SOONER COACH LINES, INC., 11119–D East 56th St., Tulsa, OK 74145. Representative: Terrel B. DoRemus, 711 Thurston National Bldg., Tulsa, OK 74103. Transporting passengers and their baggage, in special or charter operations, between Tulsa, OK, on the one hand, and, on the other, points in CO and NM. (Hearing site: Oklahoma, TX.)

MC 144927 (Sub-29F), filed March 19, 1980. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, US 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting (1) *pulpboard*, from Piermont, NY, to Eaton, IN, (2) *printing paper* (except newsprint), from West Carrollton, OH, to points in CT, IL, IN, MD, MO, NJ, NY, PA, and VA, (2) *printed matter and paper* used in the manufacture of printed matter from Chicago, Elk Grove Village, Broadview, Itasca, Melrose Park, Peoria, Elgin, and Wood Dale, IL, Berne, IN, Rockville, MD, Kansas City, MO, Saddlebrook, NJ, and Berlin, New Berling, and Milwaukee, WI, to points in CA, WA, OR, and AZ, and those points in the U.S. in and east of MN, IA, MO, AR, and LA, (4) *finished books*, between points in NJ, NY, MA, and PA, (5) *printed matter, paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution of the above-named commodities, between Chicago, Dwight and Mattoon, IL, Crawfordsville, and Warsaw, IN, Willard, OH, Lancaster, PA, Old Saybrook, CT, Spartanburg, SC, Harrisonburg, VA, Glasgow, KY, and Gallatin, TN, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (6) such commodities as are dealt in by or used by printers, between Corinth, MS, Dresden, TN, Evans, GA, and Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 146927 (Sub-10F), filed March 18, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products (except commodities in bulk), between Palatka, FL, on the one hand, and, on the other, points in LA, MS, TX, AR, TN, AL, GA, and FL. (Hearing site: Washington, DC.)

MC 147227 (Sub-8F), filed March 11, 1980. Applicant: ATLANTIC MARKETING CARRIERS, INC., P.O. Box 493, Kingsburg, CA 93631. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and

those requiring special equipment), moving on bills of lading of shipper's associations as defined in 49 U.S.C. § 10526(5)(a) between Arlington, TX, on the one hand, and, on the other, points in CA, MA, FL, GA, MO, MI, IL, NY, and NJ, and (b) from points in Clinton and Essex Counties, NY, and points in MA and VT, to points in SD, WY, UT, WA, OR, NV, ID, NE, IA, AZ, NM, OK, NC, and SC. (Hearing site: Boston, MA.)

MC 147927 (Sub-2F), filed March 18, 1980. Applicant: GENE MYATT, d.b.a. GENE MYATT TRUCKING, Route 2, Lumberton, MS 39455. Representative: Kent F. Hudson, 202 Main St., P.O. Box 696, Purvis, MS 39475. Transporting *wood sugar molasses*, from the facilities of Masonite Corporation, at Laurel, MS, to points in LA, AL, FL, TN, AR, MO, and GA. (Hearing site: Hattiesburg or Biloxi, MS.)

MC 150176 (Sub-1F), filed March 17, 1980. Applicant: DE MASE TRUCKING CO., INC., 151 North Island Ave., Ramsey, NJ 07446. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *adhesives, waxes, and starch binders* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) above (except commodities in bulk), between the facilities of Malcolm Nichol & Co., Inc., at or near Lyndhurst, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 150356F, filed March 13, 1980. Applicant: J. E. HERRING MOTOR COMPANY, R.D. 6, P.O. Box 232, Somerset, PA 15501. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *wrecked, disabled and repossessed motor vehicles* (except trailers designed to be drawn by passenger automobiles), and (2) *replacement vehicles* for the commodities in (1) above, between points in Somerset County, PA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, ME, MD, MI, MO, MS, NJ, NY, NC, OH, OK, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Volume No. 174

Decided: April 25, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill.

MC 11207 (Sub-536F), filed March 19, 1980. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting (1) *pipe, fittings, valves, and hydrants;* (2) *parts, attachments, and accessories* for the commodities in (1) above; and (3) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) and (2) above (except commodities in bulk), between Coshocton, OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL or washington, DC.)

MC 21866 (Sub-153F), filed March 20, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Leonard A. Jaskiewicz, 1730 M St. NW., Suite 501, Washington, DC 20036. Transporting (1) *boilers, boiler parts, furnaces, furnace parts, radiators, radiator parts, air coolers, air cooler parts, and iron and steel castings*, and (2) *materials and supplies* used or useful in the manufacture and distribution of the commodities in (1) above between the facilities of Burnham Corporation and its subsidiaries in Lancaster County, PA, on the one hand, and, on the other, points in the US. (excluding AK and HI), restricted to traffic originating at or destined to the facilities of Burnham Corporation or its subsidiaries. (Hearing site: Washington, DC or Philadelphia, PA.)

MC 21866 (Sub-154F), filed March 27, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Barry D. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *paper and paper products, plastic and plastic products, aluminium and aluminium products*, and *materials, equipment and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities in bulk), between Dallas, TX, Painesville, OH, Cucamonga, CA, Peachtree City, GA, Quakertown, PA, and Niles, IL, on the one hand, and, on the other, points in the US. (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Fasson Division of Avery International. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 27817 (Sub-166F), filed March 17, 1980. Applicant: H. C. GABLER, INC., R.D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17201. Transporting *such commodities as are dealt in by grocery and food business houses* (except commodities in bulk), from points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, to the facilities of Belt's Wharf Warehouses, Inc., in Baltimore, MD. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 30837 (Sub-492F), filed December 20, 1979, and previously noticed in the **Federal Register** issue of March 27, 1980. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting over irregular routes, in foreign commerce only, *automobiles and trucks* in secondary movements, in truckaway service, from points of entry at Baltimore, MD, and Port Newark, NJ, to points in IL, CT, DE, IN, KY, MD, MA, MI, MN, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

Note.—This republication is to correctly reflect the territorial description.

MC 45736 (Sub-61F), filed March 20, 1980. Applicant: GUIGNARD FREIGHT LINES, INC., P.O. Box 26067, Charlotte, NC 28213. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, DC 20004. Transporting raw sugar, in bulk, from points in FL to Port Wentworth, GA. (Hearing site: Savannah, GA.)

MC 51146 (Sub-835F), filed March 17, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting (1) *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of the Drackett Company. (Hearing site: Cincinnati, OH, or Chicago, IL.)

MC 95876 (Sub-344F), filed March 20, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby, (same address as applicant). Transporting (1) *prefabricated metal building, knocked down, and parts for* the foregoing commodities, and (2) *materials, equipment and supplies* used in the manufacture, distribution and installation of commodities in (1) above, between Evansville, WI, on the one hand, and, on the other, points in the U.S. (except AK, HI, MN, ND, SD, IA,

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OH, PA, NY, MA, CT, RI, NH, VT and ME). (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 105566 (Sub-205F), filed August 10, 1979, and previously noticed in the **Federal Register** issue of March 5, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. Transporting (1) *printed matter,* and (2) *materials, equipment and supplies* (except commodities in bulk), used by printing companies, between Evans, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

Note.—This republication is to correctly reflect the territorial description.

MC 115496 (Sub-130F), filed March 21, 1980. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Hwy 23 South, Cochran, GA 31014. Representative: Ken Simons (address same as applicant). Transporting *roofing and roofing materials,* from Peachtree City, GA, to points in AL, AR, FL, KY, LA, MS and TN. (Hearing site: Atlanta, GA or Macon, GA.)

MC 115826 (Sub-583F), filed March 21, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *general commodities* (except foodstuffs and commodities in bulk), between points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to facilities used by Hexcel Corporation. (Hearing site: Denver, CO.)

MC 117786 (Sub-101F), filed March 24, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *such commodities as are used or dealt in by wholesale and retail grocery outlets,* from the facilities of Associated Grocers at Phoenix, AZ to points in NM. (Hearing site: Phoenix, AZ.)

MC 119777 (Sub-380F), filed June 5, 1979, previously noticed in the **Federal Register** issue of March 27, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L" Madisonville, KY 42431. Transporting (1) *construction forms, and construction form material,* and (2) *scaffolding, and scaffolding material,* between points in the U.S. (except AK and HI), restricted to the transportation of shipments originating at or destined to the facilities and jobsites of the Ceco Corporation, at Chicago, IL. (Hearing site: Chicago, IL.)

Note.—The purpose of this republication is to correctly state the restriction.

MC 119777 (Sub-405F), filed August 7, 1979, previously noticed in the **Federal Register** issue of March 5, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Box Drawer "L" Madisonville, KY 42431. Transporting (1) *lift trucks forklifts, materials handling equipment,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, restricted to the transportation of traffic originating at the facilities or suppliers of Levee Lift, Inc. (Hearing site: Evansville, IN, or Louisville, KY.)

Note.—This republication is to correctly reflect the above restriction.

MC 128577 (Sub-2F), filed March 20, 1980. Applicant: CLYDE'S CHARTER BUS SERVICE, INC., 301 Furnace Branch Rd., Glen Burnie, MD 21061. Representative: Jeremy Kahn, 1511 K St. NW., Suite 733 Investment Bldg., Washington, DC 20005. Transporting *passengers and their baggage,* in round trip charter and special operations, in sightseeing and pleasure tours, beginning and ending at Baltimore and Annapolis, MD, and points in that part of Anne Arundel County, MD, on and north of U.S. Hwy 50, and in that part of Howard County, MD, bounded in Interstate Hwy 95 from the Prince George's County-Howard County line to its intersection with MD Hwy 175, then over MD Hwy 175 to its intersection with U.S. Hwy 29, then over U.S. Hwy 29 to its intersection with Interstate Hwy 70, then over Interstate Hwy 70 to the Howard County-Baltimore County line, including all points on the described highways, and extending to points in the United States (including AK but excluding HI). (Hearing site: Baltimore, MD.)

MC 136647 (Sub-22F), filed September 13, 1979. Applicant: GREEN MOUNTAIN CARRIERS, INC., P.O. Box 1319, Albany, NY 12201. Representative: Gordon L. Sands (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift and Co., at Bradley, Chicago, Rochelle, and St. Charles, IL, Glenwood, Marshalltown, and Sioux City, IA, Cactus, TX, and Green Bay, WI, to points in CT, FL, GA, ME, MA, NJ, NY, PA, RI, and VT. (Hearing site: Albany, NY, or Washington, DC.)

MC 138157 (Sub-234F), filed March 20, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting *yarn, and materials, equipment and supplies* used in the manufacture, sale and distribution of yarn, between the facilities of Mid America Yarn Mills, Inc., at or near Yuma, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Oklahoma City, OK and Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138826 (Sub-7F), filed July 20, 1979, and previously noticed in the FR issue of March 7, 1980. Applicant: JERALD HEDRICK d.b.a. HEDRICK & SON TRUCKING, Rural Route No. 1, Warren, IN 46792. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *animal and poultry feed and feed ingredients,* between Lafayette, IN, on the one hand, and, on the other, points in MI, NY, OH, and PA. (Hearing site: Indianapolis, IN, or Chicago, IL.)

Note.—This republication is to correctly reflect the requested authority.

MC 138826 (Sub-8F), filed July 24, 1979, and previously noticed in the FR issue of March 18, 1980. Applicant: JERALD HEDRICK d.b.a. HEDRICK & SON TRUCKING, Rural Route No. 1, Warren, IN 46792. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *dry animal and poultry feed, feed ingredients and supplies,* (except in bulk and in tank vehicles), between Portland, IN, on the one hand, and, on the other, points in AR, AL, CT, DE, FL, GA, IL, IA, KY, LA, ME, MD, MA, MI, MN, MO, MS, NH, NJ, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing site: Indianapolis, IN, or Chicago, IL.)

Note.—This republication is to correctly reflect the requested authority.

MC 139587 (Sub-23F), filed October 15, 1979, and previously noticed in the FR issue of March 14, 1980. Applicant: BROWN REFRIGERATED EXPRESS, INC., 21st and Sidney, P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *malt beverages,* from St. Louis, MO to Frontenac, Arkansas City and Ft. Scott, KS. (Hearing site: Kansas City, MO.)

Note.—This republication is to correctly reflect the commodity description. Dual operations may be involved.

MC 140416 (Sub-2F), filed March 3, 1980. Applicant: BOOCHER TRUCKING, INC., R.R. #2, North Manchester, IN 46962. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract carrier,* transporting *feed and feed ingredients,* (a) between the facilities of Ralston Purina Company at or near Milford, IN, on the one hand, and, on the other, points in OH and MI, Bloomington and Mt. Pulaski, IL, and Louisville, KY, and (b) between the facilities of Ralston Purina Company at Lansing, MI, and Circleville, OH, on the one hand, and, on the other, points in IN, under continuing contract(s) with Ralston Purina Company of St. Louis, MO. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 143267 (Sub-101F), filed January 4, 1980, previously noticed in the FR issue of April 8, 1980, and republished this issue. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, DC 20006. Transporting (1) *metal buildings, prefabricated building parts,* and (2) *materials and accessories* used in the installation of the commodities in (1) above, from Cedartown and LaGrange, GA, Broadview, IL, Terre Haute, IN, Chetopa, KS, Oklahoma City, OK, Homer City, Milton and West Middlesex, PA, Houston, TX, and Waukesha, WI, to those points in the United States in and east of MI, WI, IA, MO, KS, OK, and TX. (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—The purpose of this republication is to correctly state the territorial description.

MC 143267 (Sub-107F), filed March 20, 1980. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, Esquire, 1156 15th St. N.W., Washington, DC 20005. Transporting *iron and steel articles,* from the facilities of The Madison River Terminal, Inc., at Madison, IN, to points in IL, IN, KY, MI and OH. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 147886 (Sub-9F), filed March 20, 1980. Applicant: A M & M, Inc., P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting *air conditioners, hot air furnaces, and air conditioning and hot air furance equipment, materials and supplies,* from Ft. Smith, AR, Milledgeville, GA, Garland, TX, Orlando, FL, and Jackson, Jonesville and Addison, MI, to points in the U.S. (except AK and HI). (Hearing site: Memphis, TN or Atlanta, GA.)

MC 148987 (Sub-2F), filed March 20, 1980. Applicant: W. C. CARRIERS, INC., P.O. Box 519, Bethany, OK 73008. Representative: Earl M. Walker (same address as applicant). *Contract* carrier, transporting *drilling fluid, drilling fluid additives and chemicals* used in the exploration, development and completion of oil and gas wells, (except commodities in bulk, in tank vehicles), between points in AR, AZ, CA, CO, KS, LA, MT, NE, ND, NM, NV, SD, TX, UT, WY, OK, WA, OR and ID, under continuing contract(s) with Moon Petro-Chem, Inc., of Oklahoma City, OK. (Hearing site: Oklahoma City and Tulsa, OK.)

Volume No. 177

Decided: May 14, 1980.

By the Commission, Review Board No. 2, members Eaton, Liberman, and Jensen.

MC 1824 (Sub-120F), filed March 12, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Bldg., 918 Sixteenth St. NW., Washington, DC 20006. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction U.S. Hwy 24 and U.S. Hwy 23, and Wooster, OH, from junction U.S. Hwys 24 and 23 over U.S. Hwy 23 to junction OH Hwy 25, then over OH Hwy 25 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction OH Hwy 15, then over OH Hwy 15 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Wooster, and return over the same route, serving all intermediate points, and serving all off-route points in Wood, Hancock, Seneca, Wyandot, Crawford, Richland, and Ashland Counties, OH. (Hearing site: Washington, DC.)

MC 14215 (Sub-85F), filed March 10, 1980. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *used carbon blocks and carbon dust,* in dump vehicles, from the facilities of Eastalco Aluminum Company, at or near Buckeystown, MD, to points in OH. (Hearing site: Washington, DC.)

MC 21694 (Sub-4F), filed March 17, 1980. Applicant: GERARD EXPRESS, INC., 2500 83rd St., North Bergen, NJ 07047. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *plastic granules,* from North Bergen, NJ, to Baltimore and Federalsburg, MD, Carbondale, PA, Winchester, VA, and points in Fairfield County, CT, and Berkshire County, MA. (Hearing site: New York, NY.)

MC 35334 (Sub-90F), filed March 17, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William J. Hanlon (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chicago, IL, and Louisville, KY: From Chicago over Interstate Hwy 55 to junction Interstate Hwy 294 at or near Chicago, IL, then over Interstate Hwy 294 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Louisville, and return over the same route, serving no intermediate points, and serving the junctions of Interstate Hwys 65 and 74, and Interstate Hwy 294 and U.S. Hwy 30 for purposes of joinder only, (2) between junction Interstate Hwy 65 and Interstate Hwy 74, and Cincinnati, OH, over Interstate Hwy 74, serving no intermediate points, and serving the junction of Interstate Hwys 65 and 74 for purposes of joinder only, and (3) between junction Interstate Hwy 294 and U.S. Hwy 30, and Columbus, OH: From junction Interstate Hwy 294 and U.S. Hwy 30 over U.S. Hwy 30 to junction U.S. Hwy 23, then over U.S. Hwy 23 to Columbus, and return over the same route, serving no intermediate points, and serving the junction of Interstate Hwy 294 and U.S. Hwy 30 for purposes of joinder only. (Hearing site: New York, NY, or Washington DC.)

Note.—(1) Applicant states it is currently authorized to serve the above points via the circuitous gateway of Sharon, PA. This application is intended to eliminate this gateway. (2) Applicant intends to tack this authority with its existing authority.

MC 61825 (Sub-128F), filed March 6, 1980. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting (1) *film and sheeting,* from the facilities of E. I. du Pont de Nemours & Co., at or near Clinton, IA, to points in CT, DE, FL, GA, MD, MA, NJ, NY, NC, OH, PA, RI, SC, VA, WV, and DC; and (2) *plastics* (except liquid), from the facilities of

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Chemplex Company, at or near Clinton, IA, to the destinations described in (1) above, restricted in (1) and (2) to traffic originating at the named facilities. (Hearing site: Washington, DC.)

MC 95084 (Sub-162F), filed March 10, 1980. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *water treatment equipment*, from Ames, IA, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and operation of the commodities in (1) above, between points in the U.S. (except AK and HI). (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 107295 (Sub-972F), filed March 10, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Todd A. Peterman (same address as applicant). Transporting (1) *prefabricated building parts* and *prefabricated building panels*, and (2) *accessories* for the commodities named in (1) above, from Bristol, CT, to points in the U.S. (except AK and HI). (Hearing site: Boston, MA.)

MC 107295 (Sub-976F), filed March 17, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Todd A. Peterman (same address as applicant). Transporting *insulation materials*, from Sedalia, MO, to points in NE, KS, OK, TX, LA, MS, AL, FL, GA, SC, PA, and MN. (Hearing site: Kansas City, Mo.)

MC 109064 (Sub-43F), filed March 13, 1980. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3301 E. Loop 820 South, P.O. Box 8367, Fort Worth, TX 76112. Representative: George C. Jackson (same address as applicant). Transporting *iron and steel articles*, from the facilities of Northwestern Steel and Wire Co., at Sterling and Rocky Falls, IL, to points in AR, CO, IA, KS, LA, MO, NE, OK, TX, ND, and SD. (Hearing site: Fort Worth, TX, or Davenport, IA.)

MC 109865 (Sub-16F), filed February 6, 1980, previously noticed in the **Federal Regester** issue of April 22, 1980.

Applicant: VALLEY TRANSPORTATION, INC., 516 Oxford Road, Oxford, CT 06483. Representative: L. C. Major, Jr., Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Transporting (1) *passengers* and *their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Hartford and New Haven, CT, and at points in Fairfield County, CT, and extending to points in FL, restricted to passengers having an immediately prior movement in a passenger automobile tendered to carrier for transportation or separate automobile transporters under the authority set forth in part (2), and (2) *passengers' automobiles*, in secondary movements, in truckaway service, between the points set forth in (1) above, restricted to automobiles tendered to carrier by those passengers moving under the authority set out in part (1) above. (Hearing site: Stamford, or Greenwich, CT.)

Note.—This republication indicates the correct territorial description.

MC 110325 (Sub-140F), filed March 11, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Shelby, Tuscaloosa, Jefferson, St. Clair, Blount, Walker, Cullman and Bibb Counties, AL, Bartow, Rockdale, Coweta, Fayette, Spalding, Heard, Cherokee, Burke, Jefferson, Hall, Forsyth, Fulton, Gwinnett, DeKalb, Cobb, Paulding, Haralson, Carroll, Douglas, Clayton, Henry, Columbia, McDuffie, Warren, Glascock and Richmond Counties, GA, and Anson, Union and Rockingham Counties, NC, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Birmingham, AL.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 110325 (Sub-141F), filed March 12, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Oneida, Oswego, Niagara, Erie, Cattaraugus, Orleans, Wyoming, Genesee, Chautauqua, Wayne, Ontario, Livingston, Tompkins, Seneca, Yates, and Monroe Counties, NY, as off-route points in connection with carrier's otherwise-authorized regular-route operations. (Hearing site: Buffalo or Syracuse, NY.)

MC 110325 (Sub-142F), filed March 14, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Sheboygan, Dodge, Washington, Ozaukee, Jefferson, Waukesha, Milwaukee, Walworth, Racine, and Kenosha Counties, WI, Whiteside, Lee, Rock Island, Henry, Bureau, Knox, Logan, Champaign, Vermillion, Monroe, St. Clair, Douglas, Edgar, Coles, Madison, and Clinton Counties, IL, Newton, Benton, Warren, Fountain, Putnam, Tippecanoe, Montgomery, Parke, and Vermillion Counties, IN, St. Charles, St. Louis, Franklin, Jefferson and Ste. Genevieve Counties, MO, Boone, Story, Marshall, Dallas, Polk, Jasper, Harrison, Shelby, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page Counties, IA, Burt, Dodge, Washington, Butler, Saunders, Douglas, Sarpy, Cass, Lancaster, Seward, Saline, and Otoe Counties, NE, and Sedgwick, Reno, and Harvey Counties, KS as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Danville, IL, Milwaukee, WI, Omaha, NE, and St. Louis, MO.)

MC 110325 (Sub-143F), filed March 17, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105 Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Grants and Milan, NM, as off-route points in connection with carrier's otherwise-authorized regular-route operations. (Hearing site: Albuquerque, NM.)

Note.—Applicant intends to tack this with unit its existing regular route authority.

MC 111045 (Sub-184F), filed March 17, 1980. Applicant: REDWING CARRIERS, INC., 8515 Palm River Rd., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). Transporting *chemicals*, in bulk, (1) between LeMoyne, AL, and Portsmouth, VA, and (2) from points in TX and LA, to LeMoyne, AL. (Hearing site: Mobile, AL.)

MC 111545 (Sub-301F), filed March 13, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May

(same address as above.) Transporting (1) *trailers* designed to be drawn by passenger automobiles, and (2) *buildings*, in sections, mounted on wheeled undercarriages, from Louisville, KY, to points in the U.S. (except AK and HI). (Hearing site: Louisville, KY.)

MC 114604 (Sub-113F), filed March 10, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. Transporting *malt beverages* (except in bulk), from Detroit, MI, to the facilities of Thomas Beverage Company, in Carroll, Clayton, Cobb, DeKalb, Douglas, Fulton,, Haralson, and Rockdale Counties, GA, restricted to traffic destined to the facilities of Thomas Beverage Company. (Hearing site: Atlanta, GA.)

MC 117165 (Sub-61F), filed March 11, 1980. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *lumber, fiberboard panelling*, and *composition board*, from Grand Rapids, MI to Indianapolis, IN. (Hearing site: Chicago, IL.)

MC 119315 (Sub-30F), filed March 10, 1980. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting (1) *cleaning products, scouring products, washing compounds, cloths, fabric sizing, textile softeners, and steel wool*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between Salem and Roanoke, VA, Bristol and Cornwell Heights, PA, New Castle, DE, Paterson, South Kearney, and Hackensack, NJ, and Etowah, TN, on the one hand, and, on the other, Toledo, London, and Columbus, OH, and Chicago, IL, restricted to traffic originating at or destined to the facilities of Purex Corporation. (Hearing site: Columbus, OH.)

MC 121664 (Sub-115F), filed March 13, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. Transporting *coil steel*, from Fairfield, AL, to St. Gabriel, LA, Bladenboro, NC, and Memphis, TN. (Hearing site: Birmingham, AL.)

MC 121664 (Sub-116F), filed March 13, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. Transporting *steel tubing*, from Union, MO, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Louis, MO_4 or Birmingham, AL.)

MC 129645 (Sub-79F), filed January 14, 1980, previously noticed in the FR on April 8, 1980. Applicant: SMEESTER BROS., INC., 1330 South Jackson St., Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting, *construction materials*, and *materials* and *supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), (1) between the facilities of The Celotex Corporation, at or near L'Anse, MI, on the one hand, and, on the other, points, in AZ, CA, CO, ID, MT, NV, ND, NM, OR, SD, TX, UT, WA, and WY, (2) between the facilities of The Celotex Corporation, at or near Texarkana, AR, on the one hand, and, on the other, points, in IA, KS, MI, MN, MO, NE, ND, OK, SD, and WI, and (3) between the facilities of The Celotex Corporation, at or near Fort Dodge, IA, on the one hand, and, on the other, points in MN, and WI. (Hearing site: Tampa, FL, or Little Rock, AR.)

Note.—This republication corrects part (3) in the destinations to show points in MN and WI, instead of MI and WI.

MC 129994 (Sub-42F), filed March 17, 1980. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Ave., Salt Lake City, UT 84107. Representative: Marilyn McNeil (same address as applicant). Transporting *lime* (except in bulk), from Dolomite, UT, to points in AZ, CA, CO, and NV. (Hearing site: Salt Lake City, UT, or Los Angeles, CA.)

MC 134134 (Sub-68F), filed March 13, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Ave., Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting *alcoholic beverages* and *wines*, (except in bulk, in tank vehicles), from the facilities of Heublein, Inc., at or near Hartford, CT, to points in MI, IN, KY, TN, WI, IL, MN, IA, MO, AR, ND, SD, NE, KS, OK, WY, and CO. (Hearing site: Hartford, CT, or Boston, MA.)

MC 134235 (Sub-28F), filed March 13, 1980. Applicant: KUHNLE BROTHERS, INC., P.O. Box 375, Newbury, OH 44065. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. Transporting (1) parts for unit drainage systems, and (2) *materials* used in the manufacture of unit drainage systems, from points in the U.S. (except AK and HI), to the facilities of Aco Drain, Incorporated, at or near Chardon, OH. (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 134404 (Sub-64F), filed March 8, 1980. applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier*, transporting (1) *cleaning products, toilet preparations*, and *foods* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of MT, WY, CO, and NM, under continuing contract(s) with The Drackett Products Company, division of Bristol Meyers Company, of Cincinnati, OH. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 135524 (Sub-116F), filed March 7, 1980. Applicant: G.F. TRUCKING CO., a corporation, P.O. box 229, 1028 West Rayen Ave., Youngston, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd. Youngstown, OH 44509. Transporting *cleaning, washing, buffing*, and *polishing compounds, textile softeners, lubricants, hypochloride solutions, deodorants, disinfectants*, and *paints* (except in bulk), between the facilities of Economics Laboratory, Inc., at Avenel, NJ, Joiliet, IL, Dallas, TX, San Jose and Los Angeles, CA, on the one hand and, on the other, points in the U.S. (except AK and HI). (Hearing site: Columbus, OH, or Minneapolis, MN.)

MC 136315 (Sub-114F), filed March 6, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1) (a) *air polution equipment*, and *metal fabrications* and (b) *accessories* for the commodities in (1)(a) above, from the facilities of Young Sales Corporation, St. Louis Blow Pipe Division, in Lauderdale County, MS, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture, fabrication, and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction, restricted to traffic originating at or destined to the named facilities. (Hearing site: Jackson, MS, or Washington, DC.)

Note.—Dual operations may be involved.

MC 136315 (Sub-116F), filed March 11, 1980. Applicant: OLEN BURRAGE

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TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, 236 East Capital St., Jackson, MS 39205. Transporting *building materials* (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Steel & Roof Structures Corporation. (Hearing site: Memphis, TN or Washington, DC.)

Note.—Dual operations may be involved.

MC 136635 (Sub-35F), filed March 13, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *metals,* and *equipment and supplies* used in the manufacture of metals (except commodities in bulk), between the facilities of Metal Service & Supply Co., at or near (a) Indianapolis, IN, and (b) Louisville, KY, on the one hand, and, on the other, Steubenville, Pittsburgh, and Allenport, PA, and points in IL, IN, KY, MI, and OH. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 138844 (Sub-16F), filed March 17, 1980. Applicant: TRANSGAS, INC., 95 East Merrimack St., Lowell, MA 01853. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. In foreign commerce only, transporting *liquid ethylene,* in bulk, in tank vehicles, from ports of entry on the international boundary line between the U.S. and Canada in MI and NY, to points in MI, NY, IA, IL, IN, OH, KY, PA, WV, DE, and NJ. (Hearing site: Detroit, MI, or Boston, MA.)

Note.—The certificate granted in this proceeding shall expire 5 years from the date of issuance.

MC 139495 (Sub-531F), filed March 12, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of McCroy Stores. (Hearing site: Washington, DC.)

MC 140024 (Sub-182F), filed March 10, 1980. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Don L. Bryce (same address as applicant). Transporting *bananas,* from Albany and New York, NY, Boston, MA, Newark, NJ, Philadelphia, PA, Wilmington, DE, Baltimore, MD, Norfolk, VA, and Charleston, SC to points in CO, NE, KS, MO, MN, IL, WI, MI, IN, OH, and PA. (Hearing site: Washington, D.C., or Philadelphia, PA.)

MC 140645 (Sub-16F), filed March 17, 1980. Applicant: UNITED TRUCKING, INC., 100 Stoffel Dr., Tallapoosa, GA 30176. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier,* transporting (1) *containers,* and *container ends,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between Arden, NC, on the one hand, and, on the other, points in AL, FL, GA, IN, IL, LA, MI, MD, MS, NJ, NY, OH, PA, SC, VA, and WV, under continuing contract(s) with Southern Can Company, of Tallapoosa, GA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 140665 (Sub-100F), filed February 22, 1980. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *meats, meat products* and *meat by-products,* and *articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in IA, KS, MO, and NE, to points in CA and NV. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 141804 (Sub-382F), filed February 26, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and frozen foods), between points in the U.S. (except AK and HI), restricted to traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8). (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-391F), filed March 13, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *footwear,* from points in King County, WA, to points in IN and GA. (Hearing site: Los Angeles, CA.)

MC 143775 (Sub-146F), filed March 10, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in KY and TN, to points in AZ, CA, ID, NV, OR, UT, and WA, restricted to traffic originating at or destined to the facilities used by Mid-South Shippers Association. (Hearing site: Nashville, TN, or Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 143775 (Sub-147F), filed March 11, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *metal wire and cable,* from Shrewsbury, MA, to points in CO, FL, OR, GA, and WA. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 145305 (Sub-2F), filed March 13, 1980. Applicant: BEVTRANS, INC., P.O. Box 778, Hartford, CT 06101. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. *Contract carrier,* transporting *such commodities* as are dealt in or used by producers and distributors of alcoholic beverages and wines, between the facilities of Heublein, Inc., at or near Hartford, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Heublein, Inc., of Hartford, CT. (Hearing site: New York, NY, or Washington, DC.)

MC 145305 (Sub-3F), filed March 13, 1980. Applicant: BEVTRANS, INC., P.O. Box 778, Hartford, CT 06101. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. *Contract carrier,* transporting *such commodities* as are dealt in or used by producers and distributors of alcoholic beverages and wines, between the facilities of Heublein, Inc., at or near Detroit, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Heublein, Inc., of Hartford, CT. (Hearing site: New York, NY, or Washington, DC.)

MC 145305 (Sub-4F), filed March 13, 1980. Applicant: BEVTRANS, INC., P.O. Box 778, Hartford, CT 06101. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. *Contract carrier,* transporting *such commodities* as are dealt in or used by producers and distributors of alcoholic beverages and wines, between the facilities of Heublein, Inc., in San Mateo and San Francisco Counties, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Heublein, Inc., of Hartford, CT. (Hearing site: New York, NY, or Washington, DC.)

MC 147074 (Sub–13F), filed March 6, 1980. Applicant: E Z FREIGHT LINES, a corporation, Gould & E. 46th St., Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *cast iron bars,* and *bronze bars,* between Newark, NJ, on the one hand, and, on the other, points in CT, IL, IN, MA, MI, NY, NC, OH, PA, SC, VA, and WV. (Hearing site: Newark, NJ.)

Note.—Dual operations may be involved.

MC 147474 (Sub-4F), filed March 13, 1980. Applicant: SOUTHWIRE COMPANY, a corporation, 126 Fertilla St., Carrollton, GA 30117. Representative: Theordore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, GA 30303. Transporting *plastic articles, copper rod, wire,* and *paint,* from Abingdon and Roanoke, VA, Houston and El Paso, TX, Cape Girardeau and St. Louis, MO, Forest City, NC, Frankfort and Ft. Wayne, IN, and Schenectady and Chatham, NY, to points in GA. (Hearing site: Atlanta, GA.)

MC 147524 (Sub-3F), filed March 11, 1980. Applicant: SINED LEASING, INC., 108 High St., Mt. Holly, NJ 08060. Representative: Frank L. Newburger III, 17th Floor, 1234 Market St., Philadelphia, PA 19107. *Contract carrier,* transporting *corn products,* from Clinton, IA, Lexington, NC, Frazier, PA, Chicago, IL, Montezuma, NY, to points in WI, IL, MI, IN, OH, PA, NY, NJ, CT, RI, MA, NH, VT, DE, MD, VA, WV, NC, SC, GA, KY, FL, TN, and DC, under continuing contract(s) with Clinton Corn Processing Company, of Clinton, IA. (Hearing site: Philadelphia or Harrisburg, PA.)

MC 147975 (Sub-2F), filed January 22, 1980. Applicant: IEGO TRANSPORTING SYSTEMS CORPORATION, 1975 Chariton St., No. 5, Los Angeles, CA 90034. Representative: Greg P. Stefflre, 700 South Flower St., Suite 1724, Los Angeles, CA 90017. *Contract carrier,* transporting (1) *meat, meat byproducts and animal food,* and (2) *materials* used in the manufacture of animal food (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at, near, or in (a) Birmingham, AL, (b) Odgen, UT, (c) Matoon, IL, (d) Columbus, OH, (e) Amarillo, TX, and (f) Los Angeles and Orange Counties, CA, on the one hand, and, on the other points in the U.S. (except AK and HI), under continuing contract(s) with Kal Kan Foods, Inc., of Los Angeles, CA. (Hearing site: Los Angeles, CA.)

MC 148464 (Sub-2F), filed March 6, 1980. Applicant: JACK HATT ENTERPRISES, INC., Fourth Ave. and Second St. East, P.O. Box 2141, Cedar Rapids, IA 52406. Representative: Richard P. Moore, 2720 First Ave. N.E., P.O. Box 1943, Cedar Rapids, IA 52406. *Contract carrier,* transporting *foam automotive parts,* from Iowa City, IA, to Lansing, Wayne, Niles, Detroit, Saline, and Wixom, MI, Norwood, Lorain, and Lordstown, OH, and Kansas City and St. Louis, MO, under continuing contract(s) with Sheller Globe Corporation, of Iowa City, IA. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 148985 (Sub-2F), filed March 6, 1980. Applicant: LUNDIN'S DRIVEBACK LIMITED, R.R. #1, Trenton, Ontario, Canada K8V 5P4. Representative: Alex J. Miller, P.O. Box 244, Bloomfield Hills, MI 48013. In foreign commerce only, transporting *buses,* in driveaway service, from ports of entry on the international boundary line between the U.S. and Canada, at Chamberlain and Thousand Island, NY, Detroit, MI, Pembina, ND, and Blaine, WA, to point in the U.S. (except AK and HI). (Hearing site: Detroit, MI, or Chicago, IL.)

MC 149164 (Sub-5F), filed May 7, 1980. Applicant: GENE'S, INC., 6475 Brookville-Salem Rd., Brookville, OH 45309. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting (1) *floor coverings,* and (2) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), between Chicago, IL, Salem, NJ, Dalton and Columbus, GA, and Fort Wayne, IN, on the one hand, and, on the other, Columbus and Cincinnati, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 150174 (Sub-3F), filed December 17, 1979. Applicant: HIVELY TRANSPORTATION, INC., 1100 Lafayette St., York, PA 17405. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting (1) *building materials* and *insulation materials,* (a) between the facilities of the CertainTeed Corporation, in (i) York County, PA, (ii) Erie County, OH, and (iii) Granville County, NC, and (b) from the facilities of the CertainTeed Corporation, in York County, PA, to points in DE, MD, NJ, NY, NC, OH, VA, WV, and DC, and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities in (i) above, in the reverse direction. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 150355F, filed March 17, 1980. Applicant: CLASSIC CITY MOVING AND STORAGE, INC., 120 Oneta St., Athens, GA 30601. Representative: T. James Brannon (same address as applicant). Transporting *used household goods,* between points in Barrow, Clarke, Elbert, Greene, Habersham, Hall, Hart, Jackson, Madison, Morgan, Oconee, Oglethorpe, Stephens and Wilks Counties, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, TN, and VA. (Hearing site: Athens or Atlanta, GA.)

Volume No. 179

Decided: May 1, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 5267 (Sub-20F), filed March 24, 1980. Applicant: ATWOOD TRUCK LINE, INC., 9151 Welby Road, Thornton, CO 80229. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *fly ash,* from points in Jefferson County, CO, to points in Kimball County, NE. (Hearing site: Denver, CO.)

MC 11207 (Sub-531F), filed March 13, 1980. Applicant: DEATON, INC., 317 Avenue W, Post Office box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting (1) *aluminum and aluminum products* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk, in tank vehicles) between the facilities of Alumax Inc. in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Charleston, SC or Washington, DC.)

MC 11207 (Sub-532F), filed March 13, 1980. Applicant: DEATON, INC., 317 Avenue W, Post Office Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *iron and steel articles* between Selma, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL, or Washington, DC.)

MC 11207 (Sub-538F), filed March 21, 1980. Applicant: DEATON, INC., 317 Avenue W, Post Office Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting (1) *pipe, fittings, valves, and hydrants,* (2) *parts, attachments, and accessories* for commodities in (1) above, and (3)

materials, equipment, and supplies used in the manufacture and distribution of commodities in (1) and (2) above (except commodities in bulk), between Columbia, MO, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Washington, DC.)

MC 42487 (Sub-984F), filed March 18, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Over regular routes transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment),* (1) Serving Oconomowoc, WI, as in intermediate point in connection with carrier's present authorized regular route operations over WI Hwy 16, (formerly U.S. Hwy 16) (2) between Waukesha and Oconomowoc, WI, serving no intermediate points: From Waukesha over U.S. Hwy 18 to junction WI Hwy 67, then over WI Hwy 67 to Oconomowoc, and return over the same route. (Hearing site: Milwaukee, WI, or Chicago, IL.)

Note.—Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will tack with present authority of Applicant at Waukesha, WI in MC 42487 Sub 578. Also, Oconomowoc, WI will be an intermediate point in connection with a present service route found in Docket No. MC 42487 Sub 578. Docket No. MC 42487 Sub 578, in turn, will be joined with other authorities of Applicant at common service points to permit service throughout the United States.

MC 51146 (Sub-837F), filed March 24, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *automotive parts and accessories,* from points in the U.S. (except AL and HI) to points in WI. (Hearing site: Green Bay, WI.)

MC 66886 (Sub-82F), filed March 20, 1980. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *lumber, lumber mill products, paneling, plywood, and building materials,* from the facilities of Galveston Wharves at or near Galveston, TX, to points in TX, NE, KS, OK and MO. (Hearing site: Dallas, TX.)

MC 111856 (Sub-12F), filed January 25, 1980. Applicant: CHOCTAW TRANSPORT, INC., 800 Bay Bridge Rd., Prichard, AL 36610. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Mobile and York, AL: from Mobile over U.S. Hwy 43 to junction AL Hwy 56, at or near Wagarville, AL, then over AL Hwy 56 to junction AL Hwy 17, at or near Chatam, AL, then over AL Hwy 17 to York, AL, and return over the same route, serving all intermediate points and serving as off-route points Bladon Springs, Franksville, Kenton, and St. Stephens, AL, (2) between Mobile and Chatam, AL: from Mobile over U.S. Hwy 45 to junction AL Hwy 17, at or near Deer Park, AL, then over AL Hwy 17 to Chatam, AL, and return over the same route, and (3) between Butler and Meridian, MS: from Butler over AL Hwy 10 to junction MS Hwy 19 at the AL-MS State line, then over MS Hwy 19 to Meridian, and return over the same route, serving all intermediate points, and serving the off-route points of Lisman and Riderwood, AL. Condition: The purpose of this application is to modify applicant's Certificate in MC–111856 by deleting the restriction which reads "Restriction: The service authorized herein is subject to the restriction that said carrier shall not transport traffic moving over the above-described routes between Mobile, AL, on the one hand, and, on the other, Meridian, MS.", therefore issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of Certificate MC–111856. (Hearing site: Mobile or Birmington, AL.)

MC 115496 (Sub-129F), filed March 21, 1980. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Ken L. Simons (same address as applicant). Transporting (1) *asphalt, building, and roofing materials, and (2) materials, equipment and supplies* used in the manufacture and distribution of the above named commodities (except iron and steel and commodities in bulk), between the facilities of CertainTeed Corp., at or near Savannah, GA, on the one hand, and, on the other, points in AL, FL, SC, and TN. (Hearing site: Atlanta or Macon, GA.)

MC 117786 (Sub-104F), filed March 13, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 850014. Transporting *alcoholic beverages* (except in bulk in tank vehicles), from points in CA, IL and AR to the facilities of McKesson Wine & Spirits Company in Denver, CO. (Hearing site: Phoenix, AZ.)

MC 121107 (Sub-23F), filed March 24, 1980. Applicant: PITT COUNTY TRANSPORTATION, INC., P.O. Box 207, Farmville, NC 27828. Representative: Harry J. Jordan, 1000 16th St., NW., Washington, DC 20036. Transporting (1) *newsprint,* from points in Laurens County, GA, to points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of newsprint, (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA, or Washington DC.)

MC 124887 (Sub-114F), filed March 13, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *iron and steel articles and pipe,* and (2) *material, equipment and supplies* used in the production of iron and steel articles and pipe, between Bay County, FL, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 128016 (Sub-10F), filed March 24, 1980. Applicant: BRUCE G. BESH, d.b.a. BRUCE G. BESH TRUCKING, 4101 Center Street, Cedar Falls, IA 50613. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402. *Contract carrier,* transporting *iron and steel articles and nonferrous articles* from Northbrook, IL, to points in IA, under continuing contract(s) with Fullerton Metals Company, of Northbrook, IL. (Hearing site: Waterloo, IL.)

MC 134197 (Sub-10F), filed March 21, 1980. Applicant: JACKSON AND JOHNSON, INC., Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 25 Curtice Park, Webster, NY 14580. Transporting *foodstuffs* (except in bulk), and *materials, supplies, and equipment* used in the distribution of the foregoing commodities, between the facilities of Lincoln Foods, Inc., at Lawrence, MA, on the one hand, and, on the other, points in NY. (Hearing site: Rochester or Buffalo, NY.)

Note.—Dual operations may be involved.

MC 134286 (Sub-166F), filed March 19, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). Transporting *ferrous sulfate, fertilizer, and feed grade* (except commodities in bulk), in vehicles equipped with mechanical refridgeration, from the facilities of Quality Chemicals, Ltd., at or near Baltimore, MD, to points in the U.S. (except AK, HI, IL, IA, MI, NE, KS, and OH). (Hearing site: Baltimore, MD, or Denver, CO.)

MC 134477 (Sub-408F), filed March 24, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *chemicals and tanning extracts* (except commodities in bulk), from points in CT, DE, ME, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and WV to Milwaukee, WI. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-409F), filed March 24, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *printing paper,* from Benton Harbor, MI to points in IL, IA, MN, MO, NE, ND, SD, and WI. (Hearing site: St. Paul, MN.)

MC 135007 (Sub-82F), filed March 24, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Contract carrier transporting *chemicals* (1) from points in the U.S. (except AK and HI) to the facilities of Thompson-Hayward Chemical Company at Omaha, NE, and (2) from points in TX to the facilities of Thompson-Hayward Chemical Company at Kansas City, KS, under continuing contract(s) with Thompson-Hayward Chemical Company of Kansas City, KS. (Hearing site: Kansas City, MO.)

MC 136786 (Sub-218F), filed March 24, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *foodstuffs* (except in bulk), from the facilities of M & M/Mars Snack-master Division in Albany, GA, to points in AZ, CA, CO, FL, GA, IL, IN, LA, MA, MD, MI, MN, MO, NC, NJ, OH, OR, PA, TN, TX, and UT. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 138157 (Sub-236F), filed March 24, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), from points in Los Angeles and San Diego Counties, CA, to points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at the facilities of Bostrum-Warren, Inc. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 150397F, filed March 14, 1980. Applicant: UNITED COACHES, INC., 4650 Market St., Philadelphia, PA 19139. Representative: Charles J. Williams, 1815 Front St., Schtch Plains, NJ 07076. Transporting *passengers and their baggage,* in charter operations, beginning and ending at Camden, NJ, Philadelphia, PA, and points in Delaware County, PA, and extending to points in the United States, (including AK but excluding HI). (Hearing site: Philadelphia, PA.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16561 Filed 6–2–80; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures or Recovery of Fuel Costs; Decision

Decided: May 28, 1980.

In our decisions of May 13 and 20, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.0 percent. Accordingly, we are authorizing that the 13-percent surcharge for this traffic remain in effect. All owner-operators are to receive compensation at this level. In addition, no change will be authorized in the 2.2-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, in the 4.9-percent surcharge for the bus carriers, or the 1.3-percent surcharge for United Parcel Service.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m. May 30, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Gilliam absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)

January 1, 1979 ..... 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

May 27, 1980 ..... 112.5¢

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1)	(2)	(3)	(4)
From transportation performed by owner-operators.	Other. (Apply to all truckload rated traffic).	Bus carriers... (Including less-than-truckload traffic).	UPS
16.9%	2.9%	6.3%	3.3%

Percent Surcharge Developed

13.0%	2.2%	4.9%	[1] 2.1%

Percent Surcharge Allowed

13.0%	2.2%	4.9%	[2] 1.3%

[1] The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge figure is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80–16718 Filed 6–2–80; 8:45 am]

BILLING CODE 7035–01–M

[Notice No. 36]

Motor Carrier Temporary Authority Applications

May 28, 1980.

Important Notice: The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use

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in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MC 147681 (Sub-9TA), (republication), filed December 19, 1979, previously notice in the FR issue of February 11, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. #2, West Middlesex, PA 16159. Representative: Henry M. Wick, 2310 Grant Bldg., Pittsburgh, PA 15219. Common carrier: *Aluminum and zinc alloy ingots,* between Maple Heights, OH on the one hand, and, on the other, points in IL, IN, KY, MI, NY, PA and TN, for 180 days. An uderlying ETA seeks 90 days authority.

Note.—The purpose of this republication is to reflect the type of carriage sought.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-16714 Filed 6-2-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 346 (Sub-4)]

Petition for Exemption From Regulation—Union Pacific Railroad Co. & Washington Public Power Supply System—Transportation of Nuclear Reactor Parts Over Grays Harbor Branch Line

AGENCY: Interstate Commerce Commission

ACTION: Notice of petition seeking exemption

SUMMARY: Petitioners, Union Pacific Railroad Company and the Washington Public Power Supply System, seek an exemption under 49 U.S.C. 10505 from all provisions of Subtitle IV of Title 49 of the United States Code, except the accounting and reporting requirements, for the transportation of six nuclear reactor components. Comments are sought especially on the appropriateness of using the exemption provisions of the statute if the same result may be obtained by contract between the parties.

DATES: Comments are due on or before July 3, 1980.

ADDRESS: Comments should be sent to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 275-7693.

SUPPLEMENTARY INFORMATION: Union Pacific is a class I railroad operating in the State of Washington, among other States. Washington Public Power, a public utility providing electricity in the Pacific Northwest, is planning to construct a nuclear power plant at Satsop, WA. The reactors would be manufactured in Tennessee and will move by water through the Panama Canal to the State of Washington. They will be transferred to the railroad at a dock owned by the utility on the Chehalis River, for the final part of the movement over the Union Pacific's 2.5-mile Grays Harbor branch line to the power plant.

The Grays Harbor branch is a light density line adequate for the normal needs of shippers located on it. The car weight limitation is 263,000 pounds. A stability study showed that the line would need to be improved to support the heavier shipments of nuclear reactor parts, which would range from 95 to 790 tons. This would be accomplished by reinforcing the subgrade earth on which the tracks rest, by laying new rail along the entire length of the branch line, and by replacing wooden ties where needed. The subgrade reinforcement would take 2 months and must be completed by September 15, 1980, based on a deadline established by the U.S. Army Corps of Engineers to protect spawning fish in the nearby river. The remainder of the project would require six months to complete, so that the shipments could move as scheduled in June and July 1981. It is estimated that the above-described improvements would cost between $2 and $3 million, which would be borne by the shipper. The railroad would continue to provide service to other shippers on the branch line.

Railroads subject to Subtitle IV of Title 49 of the United States Code must meet their common carrier obligations by providing non-discriminatory service upon reasonable demand, at just and reasonable rates. Nevertheless, by section 10505 of that subtitle, the Commission is given authority to exempt rail carrier transportation from those requirements, if the service involved is of limited scope. Furthermore, application of the exempted provisions of the above subtitle must not be necessary to carry out the national transportation policy, and must be found to cause an unreasonable burden and serve no useful purpose.

Petitioners point out that the transaction is of limited scope, involving only six specified movements for a single shipper. Petitioners allege that it will not contravene the national transportation policy because municipal corporations are already exempted from the proscription against discriminatory rates, and the shipper here is a municipal corporation in the State of Washington. As such, it has obtained rail transportation at free or reduced rates. Therefore, application of Subtitle IV to the instant situation is not required to carry out the Congressional mandate against discrimination.

Without an exemption, petitioners contend that this transaction would unreasonably burden them and serve no useful purpose. As a common carrier, the railroad arguably could not provide the specialized service required by this shipper. Petitioners state that common carriers are not under any duty to upgrade their tracks to handle shipments of extra size or weight. The expenditures necessary to improve the branch line would benefit only this particular shipper. Therefore, unless this transportation, including track improvement, can be negotiated contractually between the parties, the shipper will allegedly be forced to seek and alternative means of transportation to the disadvantage of both parties.

Furthermore, the value of the nuclear reactor shipments is estimated to be approximately $40 million, not including the special equipment which is required for this transportation. Based on 49 U.S.C. 11707 of this subtitle, petitioners contend that they cannot negotiate limitations on the railroad's liability for transporting these shipments, which provisions are for protection of shippers using ordinary rail common carrier service without an exemption.

It appears to us that section 11707 is not a bar to establishing rates based on limited liability, if that were the only matter for which the parties are seeking an exemption. That section states that a common carrier may limit its liability for loss or injury to property transported under 49 U.S.C. 10730. As pertinent, the latter section further provides that railroads under the jurisdiction of this Commission may be authorized to establish rates for the transportation of property, under which the liability of the carrier for the property is limited to a value determined by written agreement with the shipper. Further, contract rates may include provisions which vary

common carrier liability, obviating the need to seek prior approval for released rates.

As required by section 10505, we are instituting a proceeding for consideration of the proposed exemption, by publication of this notice in the Federal Register. Comments should address the matters discussed above, as well as any other relevant matters.

We are also seeking comments on use of the exemption provision here. While petitioners argue that exemption is necessary, it appears that a contract could produce the same results they seek.

Comments should also include discussion of what, if any, significant effect granted the proposed exemption would have on either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505, 5 U.S.C. 553)

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Decided: May 23, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-16716 Filed 6-2-80; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Government Traffic; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of general commodities, (except classes A and B explosives, radioactive materials, etiologic agents, shipments of secret materials, and weapons and ammunition which are designated sensitive by the United States Government), between points in the United States (including Alaska and Hawaii), restricted to the transportation of traffic handled for the United States Government or on behalf of the United States Government where the government contractor (consignee or consignor), is directly reimbursed by the government for the transportation costs, under the Commission's regulations (49 CFR 1062.4), pursuant to a general finding made in Ex Parte No. MC-107, *Government Traffic,* 131 M.C.C. 845 (1979).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before June 23, 1980. A copy must also be served upon applicant or its representative.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register,** subject to its tariff publication's effective date, or the filing of an effective tender pursuant to 49 U.S.C. 10721.

GT-377-80 (special certificate—Government traffic), filed April 28, 1980. Applicant: TANKSLEY TRANSFER CO., 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley, President (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979-80 edition).

GT-378-80 (special certificate—Government traffic), filed April 7, 1980. Applicant: DON LEE SMITH & GILBERT ERNEST SOMERA d.b.a. Somera, SMITH TRANSPORTATION, 1250 South Wilson Way, Stockton, CA 92505. Representative: Gilbert E. Somera (address same as applicant). Government agency involved: Internal Revenue Service, General Services Administration, Department of Defense.

GT-379-80 (special certificate—Government traffic), filed April 28, 1980. Applicant: OZARK MOTOR LINES, 27 West Illinois Ave., Memphis, TN 38106. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis TN 38137. Government agency involved: Department of Defense.

GT-380-80 (special certificate—Government traffic), filed April 25, 1980. Applicant: JOHN BUNNING TRANSFER CO. INC., Box 128, Rock Springs WY 82901. Representative: Truman A. Stockton, Jr. Attorney, 1650 Grant St. Bldg., Denver, CO 80203. Government agency involved: Department of Defense and General Services Administration.

GT-381-80 (special certificate—Government traffic), filed April 25, 1980. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, Newcastle, WY 82701. Representative: Truman A. Stockton, Jr. Attorney, 1650 Grant St. Bldg., Denver, CO 80203. Government agency involved: Department of Defense, General Services Administration.

GT-382-80 (special certificate—Government traffic), filed May 1, 1980. Applicant: INTERNATIONAL ARMORED SERVICE, INC., (a Rhode Island Corporation), 1828 Westminster St., Providence, RI 02909. Representative: Morris J. Levin, 1050 17th St. NW., Washington, D.C. 20036. Government agency involved: U.S. Mint, Department of Treasury, U.S. Postal Service, General Services Administration, Federal Reserve Board and Federal Reserve Banks, Department of Defense.

GT-383-80 (special certificate—Government traffic), filed May 1, 1980. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Ray V. Mitchell (address same as applicant). Government agency involved: Department of Defense, General Services Administration.

GT-384-80 (special certificate—Government traffic), filed May 2, 1980. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Wick, Vuono & Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Government agency involved: Agencies listed in U.S. Government Manual (1970-80 edition).

GT-385-80 (special certificate—Government traffic), filed May 2, 1980. Applicant: HAYNES TRUCKING COMPANY, Route 2, Box 102, Section, AL 35771. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Government agency involved: Department of Defense, General Services Administration, U.S. Corp. of Engineers.

GT-386-80 (special certificate—Government traffic), filed May 2, 1980. Applicant: MDI, INC., 6202 Concord Blvd. East, Inver Grove Heights, MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government agency involved: Departments of Agriculture, Defense, and General Services Administration.

GT-387-80 (special certificate—Government traffic), filed May 2, 1980. Applicant: TRUCKADYNE, INC., Route 16, Mendon, MA 01756. Representative: Joseph A. Reed, President (address same as applicant). Government agency involved: General Services Administration, Departments of Agriculture, Defense, Transportation, and Energy, Internal Revenue Service and U.S. Postal Service.

GT-388-80 (special certificate—Government traffic), filed May 2, 1980. Applicant: DAVID GRAHAM CO., P.O. Box 254, Levittown, PA 19059. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Government agency involved: Departments of Defense, Energy, Commerce, Agriculture, and Transportation, U.S. Postal Service, National Aeronautics and Space Administration, General Services Administration.

GT-389-80 (special certificate—Government traffic), filed May 2, 1980. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., P.O. Box 16404, Denver, CO 80216. Representative: Morris G. Cobb, P.O.

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Box 9050, Amarillo, TX 78189. Government agency involved: Agencies listed in U.S. Government Manual (1979–80) edition).

GT–390–80 (special certificate—Government traffic), filed May 2, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., Attorney (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–391–80 (special certificate—Government traffic), filed May 2, 1980. Applicant: THRASHER TRUCKING CO., P.O. Box 116, Monahans, TX 79756. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Government agency involved: Departments of Defense and Agriculture, Commodity Credit Corporation, Federal Aviation Authority, General Services Administration, National Aeronautics and Space Administration, Tennessee Valley Authority, U.S. Weather Bureau, Atomic Energy Commission.

GT–392–80 (Special certificate—Government traffic), filed May 1, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks, Vice President (address same as applicant). Government agency involved: Departments of Commerce and Agriculture, General Services Administration.

GT–393–80 (Special certificate—Government traffic), filed May 2, 1980. Applicant: ACADEMY VAN & STORAGE CO. INC., 2517 Alabama Ave., Norfolk, VA 23513. Representative: Steven H. Doucette, Vice President (address same as applicant). Government agency involved: Department of Defense.

GT–394–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: MAIN TRUCKING & RIGGING CO., INC., Wallace St., Elmwood Park, NJ 07407. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Government agency involved: Departments of Navy, Transportation, Army, Defense, Agriculture, and Energy, General Services Administration, National Aeronautics and Space Administration.

GT–395–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: BAY MOTOR EXPRESS, INC., 400 Corporate Drive, Mahwah, NJ 07430. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Government agency involved: Departments of Defense, Agriculture, Energy, Health Education and Welfare, Coast Guard, General Services Administration, National Aeronautics and Space Administration, Veterans Administration, Internal Revenue Service, Government Printing Office.

GT–396–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: BRYNWOOD TRANSFER, INC., 175 8th Ave. SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government agency involved: Departments of Defense, Agriculture, and General Services Administration.

GT–397–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Heights, MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government agency involved: Departments of Agriculture and Defense, General Services Administration.

GT–398–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: DIRECT VAN LINES, INC., 14720 Southlawn Lane, Rockville, MD 20850. Representative: Leonard E. Cook, V. President (address same as applicant). Government agency involved: Department of Defense, and General Services Administration.

GT–399–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: OSTERKAMP TRUCKING, INC., P.O. Box 5546, 764 North Cypress St., Orange, CA 92667. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202. Government agency involved: Departments of Defense, Commerce, and National Aeronautics and Space Administration.

GT–400–80 (Special certificate—Government traffic), filed May 5, 1980. Applicant: SEVERANCE TRUCK LINE, INC., P.O. Box 1630, Lake City, FL 32055. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–401–80 (special certificate—Government traffic), filed May 1, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Government agency involved: Department of Defense, General Services Administration, and U.S. Corps of Engineers.

GT–402–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: ROBBI D. WOOD, INC., P.O Box 125, Dolomite, AL 35061. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Government agency involved: Department of Defense, General Services Administration, and U.S. Corps of Engineers.

GT–403–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Ave., Akron, OH 44306. Representative: Paul A. Englehart, Pres., (same address as applicant). Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office.

GT–404–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: CALORE FREIGHT SYSTEMS, INC., Second Street, High Spire, PA 17034. Representative: Joseph M. Klements, Richardson and Tyler, 84 State St., Boston, MA 02109. Government agency involved: Department of Defense.

GT–405–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: H–K MOVING AND STORAGE CO., 3300 Second St. NW., Albuquerque, NM 87107. Representative: William J. Lucas, President (address same as applicant). Government agency involved: Departments of Defense, Health, Education, and Welfare, Energy, and Interior, General Services Administration, Veterans' Administration, Bureau of Indian Affairs.

GT–406–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: GOLDEN TRANSPORTATION, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: Mac R. Reber (same address as applicant). Government agency involved: Agencies listed in U.S., Government Manual (1979–80 edition).

GT–407–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: WARD TRUCKING CORP., Ward Tower Bldg., Altoona, PA 16603. Representative: United States Corp., 70 Pine St., New York, NY 10005. Government agency involved: Departments of Defense, Transportation, Treasury, General Services Administration, Internal Revenue Services, U.S. Government Printing Office, U.S. Postal Service, U.S. Coast Guard, Veterans Administration.

GT–408–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St. NW., Atlanta, GA 30301. Representative: Virgil H. Smith, Attorney, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Government agency involved: Departments of Defense and Agriculture, General Services Administration.

GT–409–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: VULCAN FREIGHT LINES, INC., P.O. Box 6223–A, Birmingham, AL 35217. Representative: John R. Frawley, Jr., Attorney, 5506 Crestwood Blvd., Birmingham, AL 35212. Government agency involved: General Services Administration, Departments of Defense and Interior, U.S. Surplus Property Office.

GT–410–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: COOK TRANSPORTS, INC., P.O. Box 6362–A, Birmingham, AL 35217. Representative: John R. Frawley, Jr., Attorney, 5506 Crestwood Blvd., Birmingham, AL 35212. Government agency involved: General Services Administration, Departments of Interior and Defense, U.S. Surplus Property Office

GT–411–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: Alan R. Wilson (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–412–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: D. P. BONHAM TRANSFER, INC., 318 South Adeline St., Bartlesville, OK 74003. Representative: Larry E. Gregg, Jandera and Gregg, P.O. Box 1979, Topeka, KS 66601. Government agency involved: Departments of Defense, Agriculture, Transportation, Energy, and Interior, and General Services Administration.

GT–413–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Attorney, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Government agency involved: Departments of Defense, Agriculture, and General Services Administration.

GT–414–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: BRINKS, INC., Thorndal Circle, Darien, CT 06820. Representative: Chandler L. van Orman, Esq., Wheeler & Wheeler, 1729 H St. NW., Washington, D.C. 20006. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–415–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Rd., Joliet, IL 60436. Government agency involved: Agenices listed in U.S. Government Manual (1979–80 edition).

GT–416–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th St., Winona, MN 55987. Representative: Gary Huntbatch (address same as applicant). Government agency involved: Departments of Agriculture, Defense, Education, Commodities Credit Corp, and General Services Administration.

GT–417–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner, Esq. (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–418–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: ERB TRANSPORTATION CO., INC., P.O. Box 65, Crozet, VA 22932. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. Government agency involved: Agenices listed in U.S. Government Manual (1979–80 edition).

GT–419–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–420–80 (special certificate—Government traffic), filed May 5, 1980. Applicant: O–J TRANSPORT COMPANY, 10290 Gratiot Ave., Detroit, MI 48213. Representative: John A. James, President. Government agency involved: General Services Administration, Department of Defense

GT–421–80 (special certificate—Government traffic), filed May 6, 1980. Applicant: FREDONIA EXPRESS, INC., 10065 Rte. 60, Fredonia N.Y. 14063. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–422–80 (special certificate—Government traffic), filed May 6, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: Michael V. Kaney, Vice Pres. (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–286–80* (special certificate—Government traffic), filed April 18, 1980. Applicant: IMPORT DEALERS SERVICE CORP., P.O. Box 16136, Long Beach, CA 90806. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–287–80 (special certificate—Government traffic), filed April 18, 1980. Applicant: J & D TRUCKING, INC., 2985 Meadow Ave., P.O. Box 1610, Fort Myers, FL 33902. Representative: William P. Jackson, Jr., 3426 N. Washington, Blvd., P.O. Box 1240, Arlington, VA 22201. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–288–80* (special certificate—Government traffic), filed April 18, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington, Blvd., P.O. Box 1240, Arlington, VA 22201. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16715 Filed 6–2–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In the issue of Thursday, April 17, 1980, on page 26145, in the first column, a document appeared correcting FR Doc. 80–6988 (*see* FR 14673, March 6, 1980).

In the paragraph designated (1.), in the third line, the number "874F" should be changed to read "847F".

BILLING CODE 1505–01–M

*Republished this issue to reflect Government agency to be served

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INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 5.20, 38.18, 99.14, and 112.10 (as Amended)]

Regional AID Representative in the South Pacific

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority Nos. 5, 38, and 99, Paragraph 1 of the Redelegation of Authority to the Regional A.I.D. Representative in the South Pacific, dated October 25, 1978, as amended November 22, 1978 is hereby further amended to read as follows:

"1. Authority to negotiate and execute loan and grant agreements and amendments thereto up to One Million United States Dollars ($1,000,000) with respect to Loans and Grants authorized under the Foreign Assistance Act of 1961, as amended (the "Act"), in accordance with the terms of the authorization of such Loan or Grant; grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with Foreign Governments, Foreign Government Agencies and International Organizations having membership consisting primarily of Foreign Governments;"

This amendment is effective immediately.

Except as hereby amended, the above cited delegations, as previously amended, remain in full force and effect.

Dated: February 28, 1980.

John H. Sullivan,

Assistant Administrator, Bureau for Asia.

[FR Doc. 80-16751 Filed 6-2-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL JOINT COMMISSION

[Docket No. 79]

Lake Erie Ice Boom; Request for Extension of Order of Approval

Notice is hereby given that the Internation Joint Commission will conduct a series of public hearings on Wednesday and Thursday, July 9 and 10, at times and places listed below in the matter of the application of the Power Authority of the State of New York and Ontario Hydro to the Commission for approval of the Extension for an indeterminate period of the provisions of the International Joint Commission Order of Approval date June 9, 1964, as extended May 29, 1968, October 3, 1969, and April 1, 1975.

The Commission's present Order of Approval authorizes the Power Entities to construct and maintain a boom in Lake Erie just upstream from the entrance of the Niagara River. The ice boom, constructed in 1964 with IJC approval, is placed across the entrance to the river at the beginning of the winter and removed in the spring. Its intention is to lessen the possibility of ice blocking the water intakes of the United States and Canadian hydroelectric plants downstream and reduce flood damages to shore property. However, concerns have been expressed that the ice boom may have adverse effects and requests for opportunities to be heard have been received from a number of concerned agencies and others. The Commission's Order of Approval for the Lake Erie Ice Boom expired on May 15, 1980.

The Commission, by Public Notice, advised those interested of receipt of the application from the Power Entities, and Statements in Response from those supporting or opposing the application in whole or in part were forwarded to the Applicants with the request that they address these statements by submitting formal Statement in Reply. The Commission is now in receipt of a number of Statements in Response and a formal Statement of Reply from the Applicants.

At the Hearings, opportunity will be given to anyone, either on his own behalf or in a representative capacity, to offer pertinent information which may assist the Commission in its inquiry. As a guideline, the Commission will limit to ten minutes the time allotted each witness. Written statements are not required. When a written statement is presented, thirty (30) copies should be provided, if possible, for distribution to the news media and for Commission purposes.

Copies of the Power Entities' letters of November 13 and November 14, 1979, the present Order of Approval, as amended, and other relevant documents are available upon request from the Secretaries of the Commission at the addresses listed below. Copies of the Power Entities' Statement Reply is available for inspection at the Buffalo Public Library, Lafayette Square.

Times and places of Hearing:

July 9, 1980—at 9:00 a.m., Council Chambers, City Hall, Niagara Falls, Ontario.

July 9, 1980—at 2:30 p.m., Buffalo & Erie County, Public Library, Lafayette Square, Buffalo, New York.

July 9, 1980—at 7:30 p.m., Buffalo & Erie County, Public Library, Lafayette Square, Buffalo, New York.

July 10, 1980—at 10:00 a.m., Town Hall, Hamburg, New York.

David A. LaRoche, Secretary, United States Section, International Joint Commission, 1717 H Street, N.W., Suite 203, Washington, D.C. 20440, Phone: (202) 632-2142

David G. Chance, Seretary, Canadian Section, International Joint Commission, 100 Metcalfe Street, 18th Floor, Ottawa, Ontario K1P 5M1 Phone: (613) 995-2984.

David A. LaRoche,

Secretary, United States Section, International Joint Commission.

May 23, 1980.

[FR Doc. 80-16713 Filed 6-2-80; 8:45 am]

BILLING CODE 4710-14-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-46-M]

Rio Blanco Oil Shale Co; Petition for Modification of Application of Mandatory Safety Standard

Rio Blanco Oil Shale Company, Dayton Commons, 9725 E. Hampden Avenue, Denver, Colorado 80231 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscuts intervals) to its Federal Oil Shale Lease Trace C-a located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner proposes to drive a single entry ramp to alleviate a spillage cleanup condition related to the skip loading operation. The ramp will be driven downward at sixteen percent grade for a distance of approximately 700 feet as a single heading.

2. High ventilation rates are planned to enable the use of diesel equipment in the face areas, and to maintain an acceptable mine atmosphere.

3. This ventilation plan will be extended to include the proposed ramp with air quantity exceeding the requirements for methane dilution and for diesel operation.

4. The quantity of fresh ventilation air coursed through the last open crosscut will be maintained in accordance with applicable requirements; ventilating air will be provided by an auxiliary fan and rigid steel tubing. Provisions have been made to vent the return air from the ramp heading directly to the mine return air circuit if required.

5. Upon completion of the ramp and subsequent sump and shaft clean out facilities, the ramp will serve as the return for the split of air ventilaitng the skip loading station and the shaft bottom area.

6. Petitioner states that the procedure outlined above will provide the same measure of safety as that afforded by

the standard and requests a modification of application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-16743 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administation

[V-80-3]

United States Metals Refining Co.; Application for Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of United States Metals Refining Co. for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1910.1018(g)(1)(i) concerning the utilization of engineering and work practice controls for limiting exposure to inorganic arsenic. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is June 3, 1980. The last date for interested persons to submit comments is July 3, 1980. The last date for affected employers and employees to request a hearing on the application is July 3, 1980.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health, Administration, U.S. Department of Labor, 200 Constitution Ave., N.W., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination at the above address, telephone 202-523-7144.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupation Safety and Health Administration, Building T3 Belle Mead GSA Depot, Belle Mead, New Jersey 08502.

Notice of Application

Notice is hereby given that United States Metals Refining Co., 400 Middlesex Avenue, Carteret, New Jersey 17008 has made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.1018(g)(1)(i) which require that engineering and work practice controls be utilized where feasible, to control exposure to inorganic arsenic.

The address of the place of employment that will be affected by application is as follows:

400 Middlesex Avenue,
Cartaret, New Jersey 07008.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to pettion the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is unable to comply with the requirements of § 1910.1018(g)(1)(i) by the date required by the standard.

The applicant states that the two segments of his operation that cannot meet the timetable required by the standard, for reasons to be delineated below, are the Sample Finishing Trailer in the Inventory Control Department and the Dore Furnace Charging Area in the Precious Metals Department.

The Sample Finishing Trailer is used for blending, screening, and crushing samples as a control for sampling related to the slimes operation (dust residues containing arsenic). The applicant had originally intended to consolidate all sampling operations but, due to a variety of reasons, has decided against it. Engineering improvements are presently being carried out and will include the installation of a small bag house and accompaning ventilation equipment in the trailer. Completion is set for August 1, 1980.

The applicant states that in the interim, employees will wear appropriate (powered air-purifying) respirators and will continue to utilize protective clothing and remain in the medical surveillance program.

The Dore Furnace is used for treating the slimes to recover any precious metals. The applicant states that the initial dust recovery system which was proposed was not considered adequate for all anticipated needs and, therefore, a new engineering study was initiated. A new dust/fume collecting system consisting of new hoods, additional ducting, and the expansion of an existing baghouse will be installed by October 1, 1980, to control fugitive emissions from the furnaces during charging and tapping. The applicant states that in the interim, the employees will wear appropriate (powered air-purifying) respirators and protective clothing, and continue in the medical surveillance program.

In both instances noted above, the use of powered air-purifying respirators of the type cited in the inorganic arsenic standard as approved for use in the presence of up to 10,000 micrograms of inorganic arsenic (as As) per cubic meter of air (10,000 ug/m^3), provides adequate protection for the employees. The actual exposure of these employees, as determined by the Belle Mead Area Office, was far below the approved level of these respirators.

The OSHA Belle Mead (New Jersey) Area Office is aware of the request made by United States Metals Refining Co. and, based upon their direct knowledge of the company and the situation, is in agreement with the granting of this order and with its terms.

Grant of Interim Order

It appears from the application for a temporary variance and interim order that, as required by section 6(b)(6)(A) of the Act, United States Metals Refining Co. is unable to comply with the requirements of 29 CFR 1910.1018(g)(1)(i) by the date required by the standard. It appears that the applicant is taking all available steps to safeguard its employees during the time needed to come into compliance with the standard. It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.10(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that United States Metals

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Refining Co. be, and it is hereby, authorized to conduct its sampling and recovery operations prior to coming into compliance with the requirements of 29 CFR 1910.1018(g)(1)(i), by complying with the following:

1. Each employee in the Sample Finishing Trailer and in the Dore Furnace Charging Area shall be provided with, and required to wear, powered air-purifying respirators approved for use in atmospheres containing not more than 10,000 micrograms of inorganic arsenic per cubic meter of air (10,000 ug/m³).

2. Each of the above noted employees will also continue to be provided with appropriate protective equipment and to be included in the medical surveillance program.

United States Metals Refining Co. shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This Interim Order shall remain in effect as follows:

For the Sample Finishing Trailer until August 1, 1980; and for the Dore Furnace Charging Area until October 1, 1980; or until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 29th day of May 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-16809 Filed 5-2-80; 8:45 am]

BILLING CODE 4510-26-M

Work Injury Report Surveys

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of work injury survey.

SUMMARY: OSHA has requested the Bureau of Labor Statistics to conduct four surveys in 1980. They are as follows: (1) Occupational injuries involving exposure to moving machinery or equipment and electrical current or hazardous materials while performing nonproduction activities, such as maintenance, repairing, etc.; (2) Occupational injuries due to overexertion; (3) Occupational injuries resulting in amputations; and (4) Use of personal protection involving hand injuries. Injured workers will be queried for causal factors associated with these injuries. The results of the surveys will assist OSHA in developing more effective safety standards, compliance programs and training activities to reduce injuries.

These are one-time surveys and will be initiated this summer and fall. About 3,000 responses are estimated and will require a total of approximately 500 hours to complete.

Copies of the proposed questionnaires will be sent to interested persons as they become available. BLS is requesting views and comments on the questionnaires and methodology. Please specify the survey questionnaire(s) you wish to review.

DATE: Written comments must be received within 30 days after receipt of questionnaire.

ADDRESS: Views and comments requested in this notice should be submitted to Office of Occupational Safety and Health Statistics, Attention: WIR Surveys, Bureau of Labor Statistics, U.S. Department of Labor, Room C4311, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Helen McDonald, Office of Occupational Safety and Health Statistics, Bureau of Labor Statistics, U.S. Department of Labor, Room C4311, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202-523-9286).

Signed at Washington, D.C., this 28th day of May 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-16810 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-6369]

A & W Products Co., Inc.; Negative Determination on Reconsideration

On March 28, 1980, the Department made an Affirmative Determination regarding Application for Reconsideration for workers and former workers of A & W Products Company, Inc., Port Jervis, New York. This determination was published in the **Federal Register** on April 11, 1980, (45 FR 24932).

The petitioners argue in their request for reconsideration that the initial survey conducted by the Department of the customers of A & W Products Company, Inc., was inadequate to support the determination that increases of imports of articles like or directly competitive with the school and office supplies produced at A & W Products Company had not contributed importantly to the separation of workers and to the decline in sales and production at the firm. On reconsideration, the Department conducted a second survey of the customers of A & W Products Company drawn from a list submitted by the petitioners. Of the customers surveyed, only one reported decreased purchases from A & W Products Company and increased purchases of imported articles like or directly competitive with the articles produced at A & W Products Company. This customer also increased purchases of such articles from other domestic suppliers by substantially greater amount.

As noted in the initial negative determination, and not disputed here by the petitioners, company imports were not a significant factor in the separation of workers and in the decline in sales and production at A & W Products Company.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the school and office supplies produced at A & W Products Company, Inc., did not contribute importantly to the separation of workers and to the decline in sales at that firm. The denial of eligibility to apply for adjustment assistance of the workers and former workers of A & W Products Company, Inc., Port Jervis, New York, therefore, it is affirmed.

Signed at Washington, D.C., this 27th day of May 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-16744 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8013]

Berkshire Maid Garment Manufacturing Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 19, 1980, in response to a worker petition received on May 1, 1980, which was filed on behalf of workers and former workers at Berkshire Maid Garment Manufacturing Corporation, Springfield, Massachusetts. The workers produce ladies' blouses, tops and skirts.

On April 15, 1980, a petition was filed on behalf of the same group of workers and an investigation was initiated on April 28, 1980 (TA-W-7794).

Since the identical group of workers is the subject of the ongoing investigation TA-W-7794, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 27th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-16745 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6820]

Goodyear Tire & Rubber Co.; Negative Determination Regarding Application for Reconsideration

By an application dated May 7, 1980, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Workers Adjustment Assistance in the case of workers and former workers of the Goodyear Tire and Rubber Company in Jackson, Michigan. The determination was published in the **Federal Register** on April 15, 1980. (45 FR 25552).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The United Rubber Workers claims that the Department placed excessive reliance on its customer survey without adequate recognition of the changing nature of the industry and market caused by their response to the import challenge. The union further claims that Goodyear Tire and Rubber Company imports a substantial amount of tires from its foreign subsidiaries and notes that in TA-W-5889, Goodyear Tire and Rubber Company, Los Angeles, California, the Department indicated that company imports of truck tires doubled in the first half of 1979 compared to the same period in 1978 and that company imports of truck tires as a percent of company production also increased in the first half of 1979 compared to the same period in 1978. The union claims that these relationships may have held for the entire year of 1979. The union does not contest that part of the determination relating to tires manufactured as original equipment for domestically-produced cars and trucks.

The Department's review indicated that the workers of Goodyear Tire and Rubber Company's Jackson, Michigan, plant were denied eligibility because they did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of customers which represented nearly half of the subjects firm's sales decline in 1979 showed that most customers either did not import or decreased their purchases of imported passenger car tires in 1979 compared to 1978. The survey further showed that most passenger car tire customers of Goodyear in the replacement market either increased their purchases of passenger car tires from Goodyear in 1979 compared to 1978 or if they had declining purchases from Goodyear, they either did not import or had declining import purchases. The few customers which had declining purchases from Goodyear and increased import purchases represented an insignificant percentage of the Jackson, Michigan, plant's 1979 production of passenger car tires.

The Department's survey of major truck tire customers indicated that most customers either did not import truck tires or increased their purchases from Goodyear. The Department's survey showed that most truck tire customers in the replacement market actually increased their purchases from Goodyear in the first nine months of 1979 compared to the same period in 1978. The few customers who purchased truck tires in the replacement market and decreased their purchases from Goodyear either did not import or decreased their import purchases.

In order for a worker group to be certified eligible by the Department for trade adjustment assistance, it must meet all three statutory criteria for group eligibility under Section 222 of the Trade Act including the "contributed importantly" test. Merely meeting the employment, production or sales, and increased import criteria without meeting the "contributed importantly" test are not enough for the Department to grant a worker group certification. The Department's survey of customers determines the "contributed importantly" test. The changing nature of the industry and market brought about, in part, by the import challenge is not enough by it self, to provide a basis for certification of the Jackson, Michigan, plant.

With respect to Goodyear Tire and Rubber Company's Los Angeles, California, plant, TA-W-5889, the Department found on reconsideration that company imports of truck tires nearly doubled in the first half of 1979 compared to the like period in 1978 and that company imports of truck tires as a percent of production increased in the first half of 1979 compared to the like period in 1978. However, during the investigation of Goodyear's Jackson, Michigan, plant, the Department found (1) that the subject plant produced mainly passenger car ties, (2) that the trend of company imports of truck tires over the last six months of 1979 was decreasing, not increasing, and (3) that the trend in company imports of truck tires as a percent of production over the last six months of 1979 was decreasing, not increasing. With respect to passenger car tires, company imports were significantly down in the last six months of 1979. The Department further found that truck tire production at the Jackson, Michigan, plant actually increased in 1979 compared to 1978 despite a production decline in the last six months of 1979 which is attributable to the large decline in the original equipment market for trucks, especially in the second half of 1979.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 23d day of May 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-16746 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to

an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 13, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 13, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Ajustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.No.	Articles produced
Harmon Colors (OCAW)	Haledon, N.J	5/13/80	5/7/80	TA-W-8,153	Paint pigment for auto industry.
General Electric Co., Precision Parts Division (IUE).	Springfield, N.J	5/13/80	5/7/80	TA-W-8,154	Cathode ray tubes and other electrical components
Georgia Pacific Corp., Chip & Saw Division (workers).	Woodland, Maine	5/7/80	5/1/80	TA-W-8,155	Build stude, wood chips, partial board materials
Eisenberg & Eisenberg (workers)	New York, N.Y	5/7/80	4/30/80	TA-W-8,156	Men's suits, sport coats, and slacks.
Dorby Casuals, Inc. (workers)	New York, N.Y	5/7/80	5/2/80	TA-W-8,157	Ladies' leather outerwear.
Domino Juniors, Inc. (workers)	New York, N.Y	5/7/80	4/30/80	TA-W-8,158	Men's and women's wool and rain coats.
Lattimore & Tessmer, Inc. (company)	Southfield, Mich	5/15/80	5/9/80	TA-W-8,159	Sheet metal prototype parts and low volume stampings.
GF Business Equipment, Cranlo, Division (UAW).	Rochester, Minn	5/6/80	4/29/80	TA-W-8,160	Cabs for agricultural equipment, metal cabinets for electrical equipment.
L & K Company, Inc. (company)	Shelby, N.C	5/7/80	4/30/80	TA-W-8,161	Ladies' sportswear.
Xylographics (company)	Shelby, N.C	5/7/80	4/30/80	TA-W-8,162	Ladies' sportswear.
L & K Sewing, Inc. (company)	Hickory, N.C	5/7/80	4/30/80	TA-W-8,163	Ladies' sportswear.
Gaftan Sportswear, Inc. (company)	Gaffney, S.C	5/7/80	4/30/80	TA-W-8,164	Ladies' sportswear.
Jonesville Manufacturing (company)	Jonesville, S.C	5/7/80	4/30/80	TA-W-8,165	Ladies' sportswear.
Mack Pattern Works, Inc. (Pattern Makers Association).	Detroit, Mich	5/8/80	5/5/80	TA-W-8,166	Pattern, metal and wood.
Collins & Aikman Corp. (workers)	Old Fort, N.C	5/13/80	5/9/80	TA-W-8,167	Auto carpets.
Collins & Aikman Corp., Albermarle Plant (workers).	Albermarle, N.C	5/13/80	5/9/80	TA-W-8,168	Textiles carpet fabrics and related items for automobiles.
Chatham Dress Co. (ILGWU)	Bridgeton, N.J	5/13/80	5/8/80	TA-W-8,169	Sportswear and dresses.
Chatham Dress Co. (ILGWU)	Salem, N.J	5/13/80	5/8/80	TA-W-8,170	Sportswear and dresses.
Chatham Dress Co. (ILGWU)	Elmer, N.J	5/13/80	5/8/80	TA-W-8,171	Sportswear and dresses.
L & I Sportswear, Inc. (workers)	New York, N.Y	5/9/80	5/1/80	TA-W-8,172	Leather jackets and sportswear.
Anwelt Corporation (workers)	Fitchburg, Mass	5/9/80	5/5/80	TA-W-8,173	Work shoes and boots.
S & W Milling & Salvage Company (workers)	Forks, Wash	5/1/80	4/11/80	TA-W-8,174	Cedar shakes.
Ex-Cello Corp., Manistee Operations (AIW)	Manistee, Mich	5/15/80	5/5/80	TA-W-8,175	Machinery used to menufacture auto parts.
Continential Plastics (General Industrial Employees Union).	Fraser, Mich	5/15/80	5/7/80	TA-W-8,176	Automotive parts.
Dana Corp., Materials Supply Division—Atlas Forge Plant (UAW).	Lansing, Mich	5/13/80	5/8/80	TA-W-8,177	Truck forgings.
Bethlehem Mines Corp., Cambria Division, (Mine No. 38) (UMWA).	Ebensburg, Pa	5/13/80	4/29/80	TA-W-8,178	Metallurgical coal.
Chemical Sealing Corporation (workers)	Kansas, City, Mo	5/6/80	4/29/80	TA-W-8,179	Sealants and adhesives.
Bethlehem Mines Corp., Cambria Division, (Mine No. 31 (UMWA).	Ebensburg, Pa	5/13/80	4/29/80	TA-W-8,180	Metallurgical coal.
Special Engineering Service, Inc. (workers)	Dearborn, Mich	5/6/80	4/30/80	TA-W-8,181	Engineering and design work of auto engines and other components
Standard Dyeing and Finishing Co. (ACTWU)	Paterson, N.J	5/6/80	5/1/80	TA-W-8,182	Dyeing and finishing broadwoven textiles.
Uniroyal, Inc., Maryville Industrial Plant (company).	Maryville, Mo	5/6/80	5/2/80	TA-W-8,183	Auto hoses.
Uniroyal, Inc., Kennett Industrial Plant (company).	Kennett, Mo	5/6/80	5/1/80	TA-W-8,184	Freon hoses, power steering, return hoses, air brake hoses, and textile wire textile truck hoses.
Uniroyal, Inc., Red Oak Industrial Plant (company).	Red Oak, Iowa	5/6/80	5/1/80	TA-W-8,185	Freon hoses, steam hoses, hydraulic hoses.
Emhart Corporation, Baily Division (UAW)	Hopkinsville, Ky	5/6/80	4/28/80	TA-W-8,186	Reaction injection molding.
Immont Corporation (ACTWU)	Toledo, Ohio	5/6/80	5/1/80	TA-W-8,187	Vinyl coated auto products
Textile Trim, Inc. (workers)	Fraser, Mich	5/6/80	4/30/80	TA-W-8,188	Processing of leather steering wheel covers.
Metal-Cote, Inc. (company)	Mount Clemens, Mich	5/15/80	5/13/80	TA-W-8,189	Metal stamping.
Allegheney Ludlum Steel Corp., Wallingford Strip Operations Plant (USWA).	Wallingford, Conn	5/15/80	5/9/80	TA-W-8,190	Stainless steel strip products.
Allegheney Ludlum Steel Corp., Wallingford Tubular Products Division (USWA).	Wallingford, Conn	5/15/80	5/9/80	TA-W-8,191	Stainless pipe and tubing.
H. M. Gammon Manufacturing Corp. (workers).	New York, N.Y	5/15/80	5/9/80	TA-W-8,192	Men's jackets
Borg Warner Corp., Warner Gear Division (workers).	Muncie, Ind	5/6/80	5/2/80	TA-W-8,193	Marine industrial, truck, and automotive transmission.
Robert R. Campbell, Inc. (workers)	Lansing, Mich	5/16/80	5/13/80	TA-W-8,194	Industrial press repair for the forging and metal stamping industry.
Kramer Jewelry (company)	New York, N.Y. (389 5th Ave.).	5/19/80	5/12/80	TA-W-8,195	Costume jewelry

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.No.	Articles produced
Kramer Jewelry (company)	New York, N.Y. (393 5th Ave.).	5/19/80	5/12/80	TA-W-8,196	Costume jewelry.
Ford Aerospace & Communications Corp. (IEU).	Connersville, Ind	5/13/80	5/9/80	TA-W-8,197	Air-conditioner components including compressors, truck radiators.
Pea Ridge Iron Ore Co., Inc. (company)	Sullivan, Mo	5/19/80	5/13/80	TA-W-8,198	Pelletized beneficiated iron ore.
Bendix Corporation (UAW)	Green Island, N.Y	5/5/80	4/29/80	TA-W-8,199	Brakes and brake linings for cars.
Lake Creek Enterprises (workers)	Forks, Wash	5/6/80	4/29/80	TA-W-8,200	Cedar shakes.
Capnce Footwear, Inc. (United Food & Commercial Workers).	Bridgeport, Conn	5/6/80	5/1/80	TA-W-8,201	Ladies' shoes and boots.
Mallory Times Co. (workers)	Camden, Tenn	5/6/80	5/1/80	TA-W-8,202	Solid state controls for dishwashers and other "white goods."
Motor Wheel Corp. (UAW)	Mendota, Ill	5/6/80	4/28/80	TA-W-8,203	Passenger car wheels, agriculture wheels.
Wallace Expanding Machine, Inc. (IAMAW)	Indianapolis, Ind	5/15/80	4/29/80	TA-W-8,204	Metal stamping of auto parts.
Braun Engineering Co. (workers)	Detroit, Mich	5/6/80	5/1/80	TA-W-8,205	Auto parts.
Cadillac Rubber & Plastics, Inc. (company)	Cadillac, Mich	5/8/80	5/2/80	TA-W-8,206	Synthetic rubber parts.
Manton Industries, Inc. (company)	Manton, Mich	5/8/80	5/2/80	TA-W-8,207	Light assembly for synthetic rubber parts.
Newbern Rubber, Inc. (company)	Newbern, Tenn	5/7/80	5/2/80	TA-W-8,208	Rubber and also light assembly.
Metal Fabricating Corp. (UAW)	Lawrenceburg, Tenn	5/8/80	5/1/80	TA-W-8,209	Rear sliding windows for trucks, etc.
B & H Shake Co., Inc. (workers)	Forks, Wash	5/8/80	5/5/80	TA-W-8,210	Cedar shakes.
Selmer Company (UAW)	Elkhart, Ind	5/8/80	5/1/80	TA-W-8,211	Band instruments.
Mitchell Corporation (workers)	Benzonia, Mich	5/8/80	5/5/80	TA-W-8,212	Interior auto trim.
Loehr Die & Mold Co. (workers)	Warren, Mich	5/8/80	5/29/80	TA-W-8,213	Die cast and plastic injection molds for auto industry.
General Plating Co. (USWA)	Detroit, Mich	5/8/80	5/5/80	TA-W-8,214	Nickel and chrome plating of auto parts.
General Die Casting Co., Die Cast Plant (UAW).	Oak Park, Mich	5/8/80	5/6/80	TA-W-8,215	Zinc die castings.
Ford Motor Company, General Offices, Automotive Assembly Division (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,216	Support facility.
Ford Motor Company, General Offices, Casting Division (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,217	Support facility.
Ford Motor Company, General Offices, Electrical and Electronics Division (company).	Rawsonville, Mich	5/20/80	5/15/80	TA-W-8,218	Support facility.
Ford Motor Company, General Offices, Engine Division (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,219	Support facility.
Ford Motor Company, General Offices, Metal Stamping Division (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,220	Support facility.
Ford Motor Company, General Offices, Plastics, Paint and Vinyl Division (company).	Mt. Clemens, Mich	5/20/80	5/15/80	TA-W-8,221	Support facility.
Ford Motor Company, General Offices, Transmission and Chassis Division (company).	Livonia, Mich	5/20/80	5/15/80	TA-W-8,222	Support facility.
Ford Motor Company, General Offices, Truck Operations (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,223	Support facility.
Ford Motor Company, General Offices, North American Automotive Operations Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,224	Support facility.
Ford Motor Company, Engineering, Product Design Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,225	Support facility.
Ford Motor Company, Engineering, Car Engineering Office (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,226	Support facility.
Ford Motor Company, Engineering, Overseas Product Engineering Office (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,227	Support facility.
Ford Motor Company, Engineering, Body and Electrical Product Engineering Office (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,228	Support facility.
Ford Motor Company, Engineering, Powertrain and Chassis Product Engineering Office (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,229	Support facility.
Ford Motor Company, Purchasing, Body and Assembly Purchasing (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,230	Support facility.
Ford Motor Company, Purchasing, Powertrain and Chassis Purchasing (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,231	Support facility.
Ford Motor Company, Public Affairs Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,232	Support facility.
Ford Motor Company, Corporate Staff, Personnel and Organization (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,233	Support facility.
Ford Motor Company, Engineering and Research Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,234	Support facility.
Ford Motor Company, Manufacturing Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,235	Support facility.
Ford Motor Company, Marketing Staff (company)	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,236	Support facility.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.No.	Articles produced
Ford Motor Company, Purchasing and Supply Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,237	Support facility.
Ford Motor Company, Environmental, Safety and Industry Affairs Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,238	Support facility.
Ford Motor Company, Finance Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,239	Support facility.
Ford Motor Company, Labor Relations Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,240	Support facility.
Ford Motor Company, Corporate Strategy and Analysis Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,241	Support facility.
Ford Motor Company, Personnel and Organization Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,242	Support facility.
Ford Motor Company, Sales, Operation Staff (company).	Detroit, Mich	5/20/80	5/15/80	TA-W-8,243	Support facility.
Ford Motor Company, Sales, Ford Division (company).	Detroit, Mich	5/20/80	5/15/80	TA-W-8,244	Support facility.
Ford Motor Company, Sales, Lincoln-Mercury, Divison (company).	Detroit, Mich	5/20/80	5/15/80	TA-W-8,245	Support facility.
Ford Motor Company, Sales, Ford Parts and Service Division (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,246	Support facility.
Ford Motor Company, Sales, Latin American Automotive Operations Staff (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,247	Support facility.
Ford Motor Company, Sales, Latin American Automotive Operations Export Division (company).	Newark, N.J	5/20/80	5/15/80	TA-W-8,248	Support facility.
Chemetron Corp., Tube Turns Division (IAMAW).	Louisville, Ky	5/14/80	5/8/80	TA-W-8,249	Carbon steel tubes, flange, pipe.
Apollo Clothes (ACTWU)	Philadelphia, Pa	5/14/80	5/12/80	TA-W-8,250	Men's clothing.
Mustang Clothes (ACTWU)	Philadelphia, Pa	5/14/80	5/12/80	TA-W-8,251	Men's suits and sport coats.
McGraw Edison, Air Comfort Division (workers).	Albion, Mich	5/15/80	5/1/80	TA-W-8,252	Room air conditioners, humidifiers, dehumidifiers.
M.N.P. Manufacturing Corp. (workers)	Utica, Mich	5/13/80	5/5/80	TA-W-8,253	Automotive fasteners.
Steel & Wire Corp. (workers)	Utica, Mich	5/13/80	5/5/80	TA-W-8,254	Automotive fasteners.
Steel & Wire Fabricating (workers)	Utica, Mich	5/13/80	5/5/80	TA-W-8,255	Automotive fasteners.
Utica Washers, Inc. (workers)	Utica, Mich	5/13/80	5/5/80	TA-W-8,256	Automotive fasteners.
Highland Bolt & Nut Company (workers)	Utica, Mich	5/13/80	5/5/80	TA-W-8,257	Automotive fasteners.
Michigan Nut Products (company)	Utica, Mich	5/13/80	5/5/80	TA-W-8,258	Automotive fasteners.
A.P. Parts Company (Allied Workers of America).	Grand Haven, Mich	5/19/80	5/12/80	TA-W-8,259	Auto mufflers.
B. F. Goodrich Co (URW)	Woodburn, Ind	5/14/80	5/12/80	TA-W-8,260	Auto tires.
B. F. Goodrich Co (URW)	Miami, Okla	5/14/80	5/12/80	TA-W-8,261	Auto tires.
B. F. Goodrich Co (URW)	Oaks, Pa	5/14/80	5/12/80	TA-W-8,262	Auto tires.
B. F. Goodrich Co (URW)	Manon, Ohio	5/14/80	5/12/80	TA-W-8,263	Auto tires.
Stevens Paper Mill, Inc. (workers)	Windsor, Conn	4/23/80	4/16/80	TA-W-8,264	Capacitor paper and electrical board.
Chrysler Corporation Service and Parts Division (company).	Center Line, Mich	5/13/80	5/6/80	TA-W-8,265	Administration of support programs.
Modern Manufacturing Company (UAW)	Columbiaville, Mich	5/13/80	5/8/80	TA-W-8,266	Auto stampings and trim.
Kaiser Steel Corp., Fabricated Products Group (Boilermaker-Blacksmith).	Napa, Calif	5/14/80	5/14/80	TA-W-8,267	Fabricated steel structures.
Kaiser Steel Corp. (Boilermaker-Blacksmith)	Vallejo, Calif	5/14/80	5/14/80	TA-W-8,268	Fabricated steel products.
General Motors Corp., General Motors Parts Division (UAW)	Edina, Minn	5/13/80	4/29/80	TA-W-8,269	Distribution of service parts.
Borg & Beck (workers)	Sterling Heights, Mich	5/8/80	4/26/80	TA-W-8,270	Clutches, tar converters, damper units, slack adjusters, lock-ups, also clutch components.
Corduroy Rubber Company (company)	Grand Rapids, Mich	5/8/80	5/1/80	TA-W-8,271	Primary molded rubber parts for autos.
Quonset Shake (workers)	Port Angeles, Wash	5/8/80	4/25/80	TA-W-8,272	Shakes.
Southwestern Rail Products, Inc. (workers)	Wellington, Tex	5/8/80	5/5/80	TA-W-8,273	Railroad spikes.
Neapco (USWA)	Pottstown, Pa	5/8/80	4/29/80	TA-W-8,274	Replacement parts and new parts for autos.
Liberty Footwear, Inc. (workers)	Bedford, Pa	5/8/80	4/21/80	TA-W-8,275	Shoes.
Island Creek Coal Company, Donegan 10-A Mine (workers).	Craigsville, W. Va	5/8/80	4/21/80	TA-W-8,276	Metallurgical coal.
Arrow Metal Products Corp. (UAW)	Detroit, Mich	5/8/80	5/6/80	TA-W-8,277	Automotive parts and first operation blanks.
Revere Sugar Corp. (United Food & Commercial Workers).	Charlestown, Mass	4/28/80	4/21/80	TA-W-8,278	Cane sugar, refined sugar.
Revere Sugar Corp. (Teamsters)	Chicago, Ill	4/28/80	4/21/80	TA-W-8,279	Cane sugar, refined sugar.
Carter Automotive Products Corp. (UAW)	Lafayette, Tenn	5/8/80	4/30/80	TA-W-8,280	Automotive fuel pumps, automotive by-pass valves, heater control valves, electric fuel pumps
Manufacturer's Products Company (UAW)	Troy, Mich	5/8/80	5/6/80	TA-W-8,281	Gear shift selectors, muffler shields, accelerator pedals, form and weld gas tank straps, final assembly of parts.

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Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.No.	Articles produced
Manufacturer's Products Company (UAW)	Ferndale, Mich	5/8/80	5/6/80	TA-W-8,282	Gear shift selectors, muffler shields, accelerator pedals, form and weld gas tank straps, final assembly of parts.
United Wire & Supply Corp. (IAMAW)	Cranston, R.I.	5/8/80	5/2/80	TA-W-8,283	Non-ferrous tube, wire and braising alloys.
Keystone Resourses, Aluminum Division (workers).	Greensboro, Ga	5/8/80	5/5/80	TA-W-8,284	Secondary aluminum for automotive industry.
Lear Siegler, Inc. (UAW)	Morristown, Tenn	5/15/80	5/6/80	TA-W-8,285	Seat frames for cars and trucks.
Norse Industries, McIntosh Division (UAW)	Detroit, Mich	5/15/80	5/14/80	TA-W-8,286	Metal stampings for trucks and autos.
Drake Molding Corp. (workers)	Greenville, Mich	5/19/80	5/9/80	TA-W-8,287	Injection molded parts for auto industry.
Eagle-Picher, Ohio Rubber Division (URW)	Willoughby, Ohio	5/19/80	5/14/80	TA-W-8,288	Rubber mats for cars and trucks.
Timex Components, Inc. (company)	Somerset, N.J	5/19/80	5/16/80	TA-W-8,289	Liquid crystal displays for wrist watches.
Lynchburg Foundry Co., Lower Basin (workers).	Lynchburg, Va	5/15/80	5/12/80	TA-W-8,290	Cast-iron parts for auto industry.
Globe Union, Inc. (UAW)	Owosso, Mich	5/19/80	5/16/80	TA-W-8,291	Automotive storage batteries.
Sheffield Southern Steel Products, Inc. (USWA).	Lenoir, Tenn	5/19/80	5/14/80	TA-W-8,292	Slits, cut to length and rerolls flat rolled steel.
Darby Cedar Products (workers)	McCleary, Wash	5/13/80	5/9/80	TA-W-8,293	Cedar shakes and shingles.
Kean Manufacturing Company (UAW)	Dearborn Heights, Mich	5/14/80	5/8/80	TA-W-8,294	Nuts and bolts.
Co-Li Sportswear, Inc. (ILGWU)	Brooklyn, N.Y	4/28/80	4/23/80	TA-W-8,295	Ladies' slacks.
Bowling & Hildebrand Trucking (UMWA)	Raleigh County, W. Va	4/22/80	4/16/80	TA-W-8,296	Metallurgical coal.
Starboard Ind., Inc., Plant No. 1 (workers)	East Tawas, Mich	5/19/80	5/12/80	TA-W-8,297	Automotive trim components.
Starboard Ind., Inc., Plant No. 2 (workers)	Tawas City, Mich	5/19/80	5/12/80	TA-W-8,298	Assembly of trim components for autos.
Spartan Motors, Inc. (workers)	Charlotte, Mich	5/7/80	4/28/80	TA-W-8,299	Produces design and further develops existing manufactured components.
Lady Craft Manufacturing Company (ILGWU)	Philadelphia, Pa	5/7/80	5/1/80	TA-W-8,300	Ladies' coats and jackets.
Clifton Heights Sportswear (ILGWU)	Clifton Heights, Pa	5/7/80	5/1/80	TA-W-8,301	Ladies' apparel.
Anaconda, Inc., Wire and Cable Division (IBEW)	Muskegon, Mich	5/1/80	4/25/80	TA-W-8,302	Magnet wire.
Jenns B. Webb Co. (company)	Detroit, Mich	4/23/80	4/16/80	TA-W-8,303	Material handling equipment.
Brinton Knitting Mills incorporated (workers)	Fall River, Mass	5/21/80	5/16/80	TA-W-8,304	Women's sweater, knit dresses and sportswear.
Creek Chub Bait Co. (workers)	Garrett, Ind	4/15/80	4/9/80	TA-W-8,305	Artificial lure, sanding, wood turning.
Trio Sportswear of Dallas, Inc. (company)	Lewisville, Tex	4/23/80	4/16/80	TA-W-8,306	Ladies and women's clothes.
Trio Sportswear of Dallas, Inc. (Company)	Cooper, Tex	4/23/80	4/16/80	TA-W-8,307	Ladies and junior miss pants, shirts, suits, dresses, blouses.
Trio Sportswear of Dallas, Inc. (Company)	Van Alstyne, Tex	4/23/80	4/16/80	TA-W-8,308	Ladies and junior miss clothing.
Trio Sportswear of Dallas, Inc. (Company)	Itasca, Tex	4/23/80	4/16/80	TA-W-8,309	Ladies and junior miss clothing.
Microdot Inc., Elicon Corbin Division (IAM)	Corbin, Ky	4/28/80	4/22/80	TA-W-8,310	Electrical switches for automobiles.
Season Best, New York, N.Y (workers)	New York, N.Y	4/29/80	4/24/80	TA-W-8,311	Ladies coats, suits and rainwear.
H. Kenzer (workers)	New York, N.Y	4/29/80	4/24/80	TA-W-8,312	Ladies coats, suits, and rainwear.
Gane Fashions (workers)	New York, N.Y	4/29/80	4/24/80	TA-W-8,313	Ladies coats, suits, and rainwear.
Katherina Rennert (workers)	Brooklyn, N.Y	5/19/80	5/14/80	TA-W-8,314	Knitwear, sweater, tops, shorts.
True Form Foundations (ILGWU)	Darby, Pa	5/19/80	5/20/80	TA-W-8,315	Brassieres.
Nehalem Bay Shake and Shingle Co. (workers).	Clallam Bay, Wash	5/19/80	5/20/80	TA-W-8,316	Shakes and shingles.
Tra Dean Fashions Inc. (ILGWU)	Newark, N.J	4/29/80	5/12/80	TA-W-8,317	Ladies' and children's dresses.
Jola Enterprises (ILGWU)	Hazelton, Pa	5/19/80	5/6/80	TA-W-8,318	Ladies' dresses, sportswear, blouses.
Hoover Universal Inc. (IAM)	Troy, Mich	5/19/80	5/13/80	TA-W-8,319	Polyurethane foam (automotive seating).
TRW, Valve Division (workers)	Cleveland, Ohio	5/19/80	5/8/80	TA-W-8,320	Forged aluminum piston.
Bedford Products, Inc. (workers)	Mount Clemens, Mich	5/19/80	5/12/80	TA-W-8,321	Hardware for auto sun visor.
Ideal Toy Corporation (workers)	Holts, N.Y	5/19/80	5/12/80	TA-W-8,322	Toys.
Wilco U.S. Inc. (workers)	Port Salnac, Mich	5/19/80	5/13/80	TA-W-8,323	Brakes and transmission lines.
Joseph Catalano (ILGWU)	Brooklyn, N.Y	5/19/80	5/12/80	TA-W-8,324	Ladies coats and jackets.
Hamlin Steel Products, Incorporated (UAW)	Akron, Ohio	5/19/80	5/8/80	TA-W-8,325	Auto parts stamping.
Uniroyal, Inc., Building 146 (URW)	Port Clinton, Ohio	5/19/80	5/13/80	TA-W-8,326	Vinyl coated fabrics.
Unroyal, Inc., Building 320 (URW)	Port Clinton, Ohio	5/19/80	5/13/80	TA-W-8,327	Conveyer belting.
*Ganis & Models & Tools	Troy, Mich	5/9/80	5/8/80	TA-W-8,328	Die models and fixtures.
*Mechanical Services Inc	Fraser, Mich	5/9/80	5/8/80	TA-W-8,329	Die models and fixtures.
*Aiform Inc	Inkster, Mich	5/9/80	5/8/80	TA-W-8,330	Die models and fixtures.
*American Model	St. Clair Shores, Mich	5/9/80	5/8/80	TA-W-8,331	Models and patterns.
*Creative Industries	Detroit, Mich	5/9/80	5/8/80	TA-W-8,332	Wood dye models and plastic fixtures.
*Dyna-Quik	Sterling Heights, Mich	5/9/80	5/8/80	TA-W-8,333	Die models and patterns.
*Eifel Pattern & Model	Fraser, Mich	5/9/80	5/8/80	TA-W-8,334	Die models and patterns.
*Fairway Model & Mold	Mount Clemens, Mich	5/9/80	5/8/80	TA-W-8,335	Die models and patterns.
*Flag Pattern	Troy, Mich	5/9/80	5/8/80	TA-W-8,336	Die models and patterns.
*JAY ENN Corp	Troy, Mich	5/9/80	5/8/80	TA-W-8,337	Die models and patterns.
*Johnson Pattern & Model	Warren, Mich	5/9/80	5/8/80	TA-W-8,338	Die models and patterns.
*Pattern Associates	Troy, Mich	5/9/80	5/8/80	TA-W-8,339	Die models and patterns.
*Pattern Guild, Inc	Pontiac, Mich	5/9/80	5/8/80	TA-W-8,340	Die models and patterns.
*Rite Industrial Model	Berkley, Mich	5/9/80	5/8/80	TA-W-8,341	Die models and patterns.
*Trewcraft Corp	Troy, Mich	5/9/80	5/8/80	TA-W-8,342	Wood Die models and wood patterns.
Excel Pattern (PMM)	Dearborn, Mich	5/9/80	5/8/80	TA-W-8,343	Die models and patterns.
Formative Products Co. (PMM)	Troy, Mich	5/9/80	5/8/80	TA-W-8,344	Die models and patterns and molds.
Wolvenne Products Inc. (PMM)	Warren, Mich	5/9/80	5/8/80	TA-W-8,345	Die models and patterns.
Visioneenng Inc. (PMM)	Fraser, Mich	5/9/80	5/8/80	TA-W-8,346	Models and tooling aids.
Progressive Tool and Industnes Inc. (Workers)	Southfield, Mich	5/19/80	5/10/80	TA-W-8,347	Special machinery for automotive industry.
Star Tool & Die Works (workers)	Detroit, Mich	5/15/80	5/12/80	TA-W-8,348	Manufacturing of tools, die and stamping.
Ply Craft Inc. (company)	Lawrence, Mass	5/20/80	5/14/80	TA-W-8,349	Shoe bottoms and heels.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.No.	Articles produced
GEL, Inc. (company)	Livonia, Mich	5/20/80	5/13/80	TA-W-8,350	Turn signal lever assemblies and tilt lever.
Essex Group, Inc. (USWA)	Atlanta, Mich	5/6/80	4/30/80	TA-W-8,351	Auto parts (neutral switches, door lock motors, turn signals).
The General Tire and Rubber Company (workers).	Mount Vernon, Ill	5/6/80	5/1/80	TA-W-8,352	Tires.
Plastomer Corp. (UAW)	Livonia, Mich	5/15/80	5/9/80	TA-W-8,353	Urethane foam.
Reeves Brothers, Inc. Curon Division (workers).	Auburn, Ind	5/15/80	5/12/80	TA-W-8,354	Polyurethane foam headliners.
Dana Corporation Perfect Circle Division (union).	Tipton, Ind	5/15/80	5/8/80	TA-W-8,355	Piston rings.
Victor Business Products (workers)	Chicago, Ill	5/15/80	5/9/80	TA-W-8,356	Electronic cash registers and calculations.
Reynolds Metal Co. Reduction Plant (AWIU)	Listerhill, Ala	5/15/80	5/8/80	TA-W-8,357	Aluminum.
Sunshine Contracting Corp. (workers)	Passaic, N.J	5/19/80	5/13/80	TA-W-8,358	Clothing, ladies.
Artemis Shake (workers)	Clearwater, Wash	5/19/80	5/6/80	TA-W-8,359	Shakes.
Flexee, Incorporated (ILGWU)	Pittston, Pa	5/19/80	5/13/80	TA-W-8,360	Bras.
Estan Manufacturing Co. (ironworkers)	Madison Heights, Mich	5/19/80	5/5/80	TA-W-8,361	Oil level indicator for cars.
General Cable Corp. (USWA)	Warrenton, Mo	5/8/80	5/3/80	TA-W-8,362	Copper wire bars.
Peninocula Plywood (workers)	Port Angeles, Wash	5/19/80	5/8/80	TA-W-8,363	Red cedar plywood siding.
Austin-Asta Ltd. (ILGWU)	Middle Village, N.Y	5/19/80	5/6/80	TA-W-8,364	Raincoats, woolen coats, ladies.
Dana Corporation Spicer Axle Division (UAW)	Edgerton, Wis	5/19/80	5/7/80	TA-W-8,365	Front driving axles for 4-wheel drive vehicles.
International Shoe Co., Division of INTERCO (ACTWU).	St. Clair, Mo	5/6/80	4/29/80	TA-W-8,366	Heels, inscoles, outsoles.
Detroit Plastic Molding (UAW)	Detroit, Mich	5/6/80	5/2/80	TA-W-8,367	Plastic molded auto parts.
Detroit Plastic Molding (UAW)	Roseville, Mich	5/6/80	5/2/80	TA-W-8,368	Plastic molded auto parts.
Detroit Plastic Molding (UAW)	Sterling Heights, Mich	5/6/80	5/2/80	TA-W-8,369	Plastic molded auto parts.
Capac Manufacturing Co. (workers)	Capac, Mich	5/19/80	5/12/80	TA-W-8,370	Automotive parts.
C. J. Edwards Co., U.S. Plastics Division (company).	Mount Clements, Mich	5/19/80	5/13/80	TA-W-8,371	Plastic injection moldings.
Detroit Retinning Co. (company)	Detroit, Mich	5/19/80	5/8/80	TA-W-8,372	Plating, automotive trim, and fuel system parts.
Ceramic Elements, Inc. (company)	South Plainfield, N.J	5/19/80	5/13/80	TA-W-8,373	Core elements for automobile radios.
Belding Tool & Machine Corp. (company)	Belding, Mich	5/20/80	5/16/80	TA-W-8,374	Tooling, dies, fixtures for auto engine bearings.
Timex Corporation, Inc. (company)	Somerset, N.J	5/21/80	5/16/80	TA-W-8,375	Liquid crystal.
Mickeys Clan (company)	New York, N.Y	5/21/80	5/14/80	TA-W-8,376	Knitted sweaters.
Woldman Corp. (company)	Parsippany, N.J	5/21/80	5/15/80	TA-W-8,377	Precision miniature components.
Walway Company (company)	Southfield, Mo	5/21/80	5/17/80	TA-W-8,378	Metal stampings and assemblies.
Color Custom Compounding, Inc. (company)	Warren, Mich	5/21/80	5/16/80	TA-W-8,379	Plastic automotive injection and extruded parts.
E. I. Dupont Co. Newport plant (company)	Newport, Del	5/21/80	5/16/80	TA-W-8,380	Pigments for auto industries.
Englehard industries (company)	Huntsville, Ala	5/21/80	5/21/80	TA-W-8,381	Catalytic converters.
Turner Manufacturing Co. (company	Traverse City, Mich	5/21/80	5/13/80	TA-W-8,382	Automotive stamping and trim.
Bohn Aluminum & Brass Company (company)	Los Angeles, Calif	5/21/80	5/14/80	TA-W-8,383	Air conditioning and refrigeration.

* Petitions filed by Pattern and Model Makers' Association.

[FR Doc. 80-16747 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6822]

Keystone Group; Affirmative Determination Regarding Application for Reconsideration

On March 25, 1980, the petitioner applied for administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of the workers and former workers of the Keystone Group, Bartonville, Illinois. This determination was published in the **Federal Register** on March 18, 1980, (45 FR 17301).

The Department denied the workers of the Bartonville, Illinois, plant of Keystone Group eligibility to apply for adjustment assistance on the basis that increases of imports of carbon steel rods, billets, wire and wire products have not contributed importantly to the separation of workers and to the declines in sales or production at the Bartonville plant. In denying these workers, the Department cited three facts: (1) aggregate imports of carbon steel rods, wire and wire products declined absolutely and relative to domestic shipments during the January-September period of 1979 compared with the January-September period of 1978; (2) sales of steel rods and billets at the Bartonville plant measured in quantitiy and value increased in 1979 compared with 1978; and (3) the Bartonville plant began to recall workers in February, 1980 with workers separated before the recall already eligible to apply for adjustment assistance under a certification issued earlier by the Department (TA-W-2612). However, the petitioner argues in this request for reconsideration that the Department mistakenly considered the Bartonville plant a single production unit though more than one article is produced there. According to the petitioner, the Department should consider separately the workers in the steel mill operations, where production and employment have been stable and the workers in the wire mill, where there have been production and employment losses, in determining whether the group eligibility requirements have been met. The petitioner also submits that the Department should consider the history of the plant and the effect of imports over the long term rather than only the immediate circumstances at the Bartonville plant.

Conclusion

After review of the application, I conclude that this claim of the petitioner is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 15th day of April 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-16749 Filed 6-2-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7235]

Pioneer Fuel, Inc., Crab Orchard Tipple; Negative Determintation Regarding Application for Reconsideration

By letter of May 9, 1980, the petitioner requested administrative reconsideration of the Department of

Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing metallurgical coal at the Crab Orchard Tipple of Pioneer Fuel, Inc., Raleigh County, West Virginia. The determination was published in the **Federal Register** on May 9, 1980, (45 FR 30747).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner, in its application for reconsideration, claims that Pioneer Fuel, Inc., is affected by imports in the same way that Vecellio and Grogan's Sullivan #1 Mine is affected and that workers of the Sullivan Mine were earlier certified eligible for trade adjustment assistance (TA–W–5139).

The Department's review indicated that the workers at the Crab Orchard Tipple of Pioneer Fuel, Inc., Raleigh County, West Virginia, were denied eligibility because they did not meet the "contributed importantly" test of Section 222 of the Trade Act of 1974. The Department's survey showed that the major portion of the coal was sold in the export market while the remainder was sold to a domestic coal company which supplied metallurgical coal to domestic industrial users. The Department's survey revealed that none of that coal company's customers purchased imported metallurgical coal in 1978 or 1979 and that none of the customers increased their reliance on imported coke in 1979 compared to 1978. In a follow-up to the customer survey, the Department discovered that all of the the coal processed at the Crab Orchard Tipple was exported.

The Department also found that all of the metallurgical coal from Vecellio and Grogan's Sullivan #1 Mine and Sullivan #2 Mine, which closed in May, 1978, was shipped to the export market in 1978 and 1979 through the Crab Orchard Tipple of Pioneer Fuel. The Department further found that all of the metallurgical coal from Vecellio and Grogan's two Whitby Mines, which closed down indefinitely in April, 1979 was shipped to the export market in 1978 and 1979. The Department is, therefore, instituting investigations to determine whether to terminate the certifications issued to workers at Vecellio and Grogan's Whitby Strip Mine, TA–W–5137; Whitby Auger Mine, TA–W–5138; Sullivan #1 Mine, TA–W–5139; Sullivan #2 Mine, TA–W–5140; Mining Division Office, Beckley, West Virginia, TA–W–5140A; and the Mining Division Field Office, Stoco, West Virginia, TA–W–5140B.

The Department sees no validity in the petitioner's claim that because one of the workers, who on further investigation was found to be on Pioneer's payroll, had previously been ruled eligible for TRA benefits under TA–W–5139 that the Tipple workers covered by petition TA–W–7235 should now be considered eligible.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 23rd day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80–16748 Filed 6–2–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–7814]

WSC Corp., Wisconsin Steel Works; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 28, 1980 in response to a worker petition received on April 23, 1980 which was filed on behalf of workers at WSC Corporation, Wisconsin Steel Works, Chicago, Illionois. Workers at the plant produce steel bars and billets.

On March 28, 1980, a petition was filed on behalf of the same group of workers (TA–W–7526).

Since the identical group of workers is the subject of the ongoing investigation (TA–W–7526), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–16750 Filed 6–2–80; 8:45 am]

BILLING CODE 4510–28–M

Steel Tripartite Advisory Committee; Meeting

The Steel Tripartite Advisory Committee was established under the Federal Advisory Committee Act, 5 U.S.C. App. (1976) to advise the Secretary of Labor and Secretary of Commerce on international and domestic issues affecting the U.S. steel industry and labor.

Notice is hereby given that the Steel Tripartite Advisory Committee will meet at 2:00 P.M. on June 18, 1980, in the Secretary's Conference Room S–2508, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, D.C. 20210.

To be discussed are the reports of the five working groups established at the last meeting of the Steel Tripartite Advisory Committee on 1) modernization and capital formation, 2) technology research and development, 3) the environment, 4) community and labor adjustment assistance, and 5) international trade.

For additional information contact: Mr. Joseph S. Papovich, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210, telephone: (202) 523–6227/6201.

Official records of the meeting will be available for public inspection at S–5315, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of May 1980.

Dean K. Clowes,

Deputy Under Secretary for International Affairs, U.S. Department of Labor.

[FR Doc. 80–16742 Filed 6–2–80; 8:45 am]

BILLING CODE 4510–28–M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 29, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Assistance of North Dakota, Inc., in Bismarck, North Dakota, to serve Sioux County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill. 60604.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80–16797 Filed 6–2–80; 8:45 am]

BILLING CODE 6820–35–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80–45)]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The Ad Hoc Informal Advisory Subcommittee on Geodynamics and Geology of the NAC–STAAC will meet on June 24–25, 1980, at the NASA Goddard Space Flight Center, Room 205, Building 26, Greenbelt, Maryland 20771. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis and will be required to sign a visitor's register. The seating capacity of the meeting room is for about 40 persons.

This subcommittee, chaired by Dr. Michael Chinnery, is comprised of twelve members of the NAC–STAAC and will review and discuss the status of both the Geodynamics and Non-Renewable Resources Programs including various specific activities within these programs as indicated in the approved agenda below:

June 24, 1980

Time and Topic

9:00 a.m.—Chairperson's Remarks
9:30 a.m.—NASA Response to Subcommittee's Recommendation
10:30 a.m.—Non-Renewable Resources Program Status
11:15 a.m.—Astronaut Photography From Shuttle
1:30 p.m.—Geodynamics Program Status
2:15 p.m.—Southern California Deformation Measurements
2:45 p.m.—transportable Laser Ranging System
3:15 p.m.—Laser Systems Development and Operation
5:15 p.m.—Adjourn

June 25, 1980

Time and Topic

8:30 a.m.—Future Direction and Emphasis for Geodynamics and Geology
1:00 p.m.—Applications Data Service
1:30 p.m.—Subcommittee Discussions on Membership and Subcommittee Plans
3:00 p.m.—Adjourn

For further information regarding the meeting, please contact James P. Murphy, Acting Executive Secretary of the Subcommittee, NASA Headquarters, Washington, DC 20546, (202) 755–3848.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 28, 1980.

[FR Doc. 80–16703 Filed 6–2–80; 8:45 am]

BILLING CODE 7510–01–M

[Notice (80–46)]

NASA Advisory Council (NAC) Space Systems and Technology Advisory Committee (SSTAC); Meeting

The NAC Space Systems and Technology Advisory Committee will meet June 24–25, 1980, at the Sheraton Inn, 8727 Colesville Road, Silver Spring, Md. The room number will be posted in the lobby of the hotel. The meeting will be open to the public.

The Committee was established to advise NASA senior management through the NAC in the area of space/energy research and technology. The Chairperson is Mr. Robert L. Johnson. There are currently 44 members on the Committee. Following is the approved agenda for the meeting:

Agenda

June 24, 1980

Time and Topics

7:30 am—Registraton
8:00 am—Opening Remarks
8:30 am—Conflict of Interest Discussion
9:00 am—Review of Committee Activities
10:30 am—Overview of the NASA Energy Program Long-Range Plan
11:00 am—Review of the Office of Space Transportation Systems' Space Systems Engineering Long-Range Plan
1:00 pm—Overview of the NASA Space Technology Long-Range Plan
2:00 pm—Subcommittees Consideration of Long-Range Plan Elements and Potential New Initiatives
6:00 pm—Adjourn

June 25, 1980

Time and Topic

8:30 am—Continuation of Subcommittee Consideration of Long-Range Plan elements and Potential New Initiatives
12:30 pm—Reports by Subcommittee Chairpersons of Recommendations and Comments on NASA Space/Energy Long-Range Plan Elements
4:00 pm—Discussion
4:30 pm—Adjourn

For further information, contact Mr. C. Robert Nysmith, Executive Secretary of the Committee, Code R, NASA Headquarters, Washington, DC 20546, telephone 202/755–3238.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 28, 1980.

[FR Doc. 80–16704 Filed 6–2–80; 8:45 am]

BILLING CODE 7510–01–M

[Notice 80–47]

NASA Advisory Council (NAC) Space Science Advisory Committee; Meeting

The NAC Space Science Advisory Committee (SSAC) will meet at the National Aeronautics and Space Administration Headquarters on June 25–27, 1980. The meeting will be open to the public. The meeting will take place from 9:00 a.m.–5:30 p.m. on June 25; from 9:00 a.m.–5:00 p.m. on June 26; and from 9:00 a.m.–12:30 p.m. on June 27, 1980. The meeting will be held in Room 5026 (with a seating capacity of 60 persons including the Committee members and participants) in Federal Building 6, 400 Maryland Avenue SW, Washington, DC 20546.

The NAC Space Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Science programs. Topics under discussion at this meeting will include a status report and overview of the Space Science programs. The primary theme of the meeting will be the presentations of potential Fiscal Years '82 and '83 Office of Space Science (OSS) new start candidate missions will will take place on June 25 and 26. Included in these discussions will be the Venus Orbiter and Imaging Radar (VOIR), the Comet Halley flyby options, and the Origins of Plasmas in the Earth's Neighborhood (OPEN) missions. The status of the Galileo Mission, the International Solar Polar Mission (ISPM), and the Space Telescope will be discussed on the Morning of June 27.

June 25

9:00 a.m. Introduction and welcome, Hunten
9:30 a.m. Office of Space Science Status, Mutch
10:45 a.m. Solar Terrestrial—Open, Wiskerchen
1:15 p.m. Discussion
1:45 p.m. Advanced Technology and Development (ATD) Issues and Alternates, Martin
Einstein Explorer Gravity Probe–B (GPB), Advanced X-Ray Astronomy Facility (AXAF) Solar Probe, Everitt/Holt, Newton
3:45 p.m. Discussion and Writting Session
5:30 p.m. Adjourn

V 45 J E 3 0 UMI

June 26

9:00 a.m. Planetary Program—VOIR. Mills
11:00 a.m. Discussion
1:00 p.m. Planetary Program—Comet Options. Diaz
3:00 p.m. Discussion and Writing Session
5:00 p.m. Adjourn

June 27

9:00 a.m. Presentation and discussion of written materials
Overviews of New Start Candidates sent out to new members:
10:00 a.m. Galileo Status Report. Guastaferro
10:30 a.m. ISPM Status Report. Bohlin
11:00 a.m. Space Telescope Status Report. Burrowbridge
11:30 a.m. Discussion/Writing Session
12:30 p.m. Adjourn

For further information regarding this meeting, please contact Dr. Adrienne F. Timothy, Executive Secretary, Telephone 202/755–3653, National Aeronautics and Space Administration, Washington, DC 20546.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 28, 1980

[FR Doc. 80–16705 Filed 6–2–80; 8:45 am]

BILLING CODE 7510–01–M

[Notice 80–48]

NASA Advisory Council (NAC) Aeronautics Advisory Committee; Meeting

The informal Ad Hoc Advisory Subcommittee on Advanced Concept Demonstration Aircraft of the NAC AAC will meet on June 27, 1980 from 8:30 a.m. to 2:30 p.m., in Room 625, Federal Building 10B, NASA Headquarters, Washington, DC. The meeting will be open to the public up to the seating capacity of the room (approximately 45 persons including Subcommittee Members and participants).

The Subcommittee was established to evaluate the benefits of an Advanced Concept Demonstration Aircraft to support major improvements in subsonic aircraft for the year 2000 and beyond. The Chairperson is Dr. Robert C. Loewy and there are 9 members of the Subcommittee.

For further information contact Mr. C. Robert Nysmith, Executive Secretary of the AAC, Code R, NASA Headquarters, Washington, DC 20546 (202/755–3238).

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 28, 1980.

[FR Doc. 80–16706 Filed 6–2–80; 8:45 a.m.]

BILLING CODE 7510–01–M

[Notice 80–44]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The Ad Hoc Informal Advisory Subcommittee on Satellite Communications Applications of the NAC-STAAC will meet on June 23, 1980 from 9:00 a.m. to 4:30 p.m., at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, DC 20546. The meeting is open to the public. Members of the public will be admitted to the meeting at 9:00 a.m. on a first-come, first-served basis and will be required to sign a visitor's register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, comprised of twelve members including the Subcommittee Chairperson, Dr. John V. Harrington, will review the NASA Satellite Communications Program and related issues.

The approved agenda for the meeting is as follows:

Time and Topic

9:00 a.m. Introductory Remarks
9:15 a.m. Program Overview
10:00 a.m. Review of the 30/20 Ghz Communications Demonstration System
2:00 p.m. Review of the Experiment Program for the 30/20 GHz System
3:00 p.m. Mechanisms for Government/Industry Collaboration
3:30 p.m. General Discussion
4:30 p.m. Adjourn

For further information regarding the meeting, please contact Dr. S. H. Durrani, Communications Division, OSTA, NASA Headquarters, Washington, DC 20546, (202) 755–3591.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 28, 1980.

[FR Doc. 80–16707 Filed 6–2–80; 8:45 am]

BILLING CODE 7510–01–M

[Notice 80–43]

NASA Advisory Council (NAC) Space Systems and Technology Advisory Committee (SSTAC); Meeting

The Informal Advisory Subcommittee on Space Electronics of the NAC SSTAC will meet June 23, 1980, at the Sheraton Inn, Colesville Road, Silver Spring, MD. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including Subcommittee members and participants).

The Subcommittee was established to review and make recommendations on NASA research and technology programs in Space Electronics, which includes microelectronic devices, sensors, information systems, automation and guidance and control technology. The Chairperson is Dr. Edward Gerry and there are seven members on the Subcommittee. Following is the approved agenda for the meeting.

Agenda

June 23, 1980

8:30 a.m.—Introductory Remarks
9:30 a.m.—Overview Briefings of Current Programs
Elecronics
Data Systems
Sensor Systems
Communication Systems
Automation
Guidance and Control
2:30 p.m.—Special Report on a Systems Analyses Study of NASA End-to-End Data System (NEEDS)
3:30 p.m.—Subcommittee Discussion
5:00 p.m.—Adjourn

For futher information contact Dr. Herman A. Rediess, Executive Secretary of the Subcommittee, Code RTE–6, NASA Headquarters, Washington, DC 20546. Telephone 202/755–2243.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

May 28, 1980.

[FR Doc. 80–16708 Filed 6–2–80; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

Privacy Act of 1974; Revocation and Transfer of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a, the National Commission on the International Year of the Child, 1979, published in the **Federal Register** (43 FR 23660) notices of the existence of the following systems of records subject to the Privacy Act: IYC–1, Payroll Records; IYC–2, General Financial Records; and IYC–3, General Informal Personnel Files. The Commission terminated operations on April 30, 1980, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records:

IYC–1

SYSTEM NAME:

Payroll Records—National Commission on the International Year of the Child, 1979: to be retained by the General Services Administration, National Payroll Center, for use in concluding administrative operations of the Commission as part of GSA system of records, Defunct Agency Records, GSA/OAD–36.

IYC–2

SYSTEM NAME:

General Financial Records—National Commission on the International Year of the Child, 1979: to be retained by the External Services Branch, National Capital Region, for concluding administrative operations of the Commission as part of the GSA system of records, Defunct Agency Records, GSA/OAD–36.

IYC–3

SYSTEM NAME:

General Informal Personnel Files—National Commission on the International Year of the Child, 1979: to be destroyed.

Barbara P. Pomeroy,

Executive Director.

[FR Doc. 80–16709 Filed 6–2–80; 8:45 am]

BILLING CODE 5410–23–M

POSTAL RATE COMMISSION

[Docket No. MC80–1; Order No. 339]

E-COM Forms of Acceptance, 1980; Order Instituting Docket

May 27, 1980.

In our Opinion and Further Recommended Decision in *Electronic Mail Classification Proposal, 1978* (Docket No. MC78–3), issued on April 8, 1980, we responded to a number of issues raised by the Governors of the Postal Service in their Decision returning our original recommended decision for reconsideration. The Governors, in doing so, stated that they accepted the basic structure for electronic mail which we have recommended, but desired a number of modifications of a less fundamental character. Among these matters were two proposals for additional forms of acceptance for E–COM messages: submission of magnetic data tapes directly at the Serving Post Office (SPOs) at which E–COM messages are to be received from telecommunications carriers, processed, and printed; and transmission of E–COM messages into the SPOs through the privately-controlled telecommunications facilities of an E–COM user (rather than over the lines of common carrier).

Our original decision had provided for neither of these options, and had recommended [1] that E–COM messages be transmitted into the SPOs through authorized communications carriers.

We adhered to this requirement on reconsideration, not because we found the Governors' proposals lacking in potential merit, but because the record assembled in Docket MC78–3 contained no evidence which would have permitted us to recommend these additional forms of entry. "Both of these proposals," we said,

> are distinctly worthy of consideration, and it is in order to consider them promptly that we have decided to open the new docket referred to earlier. There is no reason why the "basic" system already recommended and accepted cannot by lauched while this inquiry is progressing. Inquiry is necessary, however, in order to make a recommendation based, as the statute requires, on an evidentiary record.[2]

Consequently, we stated that as to these two questions,

> we will shortly institute a new docket. As soon as the Postal Service is prepared to offer a proposal dealing with them, we will expeditiously enter upon the necessary hearings.[3]

We also observed that the new docket would not be a vehicle for the relitigation of issues raised and decided in Docket No. MC78–3.

This Order will serve to initiate the new docket referred to in our Further Recommended Decision. We recognize that it may be some time before the Postal Service can complete the preparation of the proposal we invited, but we do not believe that this need inhibit the creation of a procedural setting for the consideration of such a proposal. In essence, we are at this time providing official notice to interested parties that these matters will be considered by the Commission at such time as the Service is prepared to make a presentation concerning them.

By emphasizing the concept of a Postal Service proposal, we do not mean to imply that alternative proposals from other interested parties would not be given consideration. The normal Commission practice of considering such alternatives would apply in this case as much as in any other. However, since the idea of alternative forms of entry has originated with the Governors, we think that the proceedings will be more orderly and understandable if the Service initiates the discussion of concrete issues by submitting a proposal of its own. After that occurs, other parties will be accorded the customary opportunity to submit proposals of their own.

The Commission Orders:

(A) A docket is hereby instituted pursuant to 39 U.S.C. 3623(b) to consider the alternative forms of entry of E–COM messages requested by the Governors in their Decision of February 22, 1980, in Docket No. MC78–3.

(B) The scheduling of proceedings in this docket shall await the submission by the Postal Service of a Request for Recommended Decision concerning a change in the Domestic Mail Classification Schedule relative to the above-described alternative forms of entry.

By the Commission, Vice-Chairman Duffy and Commissioner O'Doherty abstaining.

David F. Harris,

Secretary.

[FR Doc. 80–16752 Filed 6–2–80; 8:45 am]

BILLING CODE 7715–01–M

[1] PRC Recommended Decision MC78–3, Attachment A, § 100.052.

[2] PRC Further Recommended Decision, p. 21. Pages 20–26 of our Opinion contain a full discussion of the two alternative forms of entry suggest some of the factual questions on which we found that evidentiary inquiry would be needed before a recommendation could be made.

[3] *Id.* at 3.

POSTAL SERVICE

Plan to Implement a Nine-Digit ZIP Code System

AGENCY: Postal Service.

ACTION: Notice and invitation for comments.

SUMMARY: This notice is designed to describe in detail the Postal Service's plan to expand the existing five-digit ZIP Code system to a nine-digit system in 1981. During this initial phase of the implementation of the nine-digit ZIP Code system, the Postal Service will assign a nine-digit ZIP Code number to every address in the United States and encourage all mailers to begin using these expanded ZIP Codes. During the next several years, the Postal Service plans to purchase and install advanced mechanization equipment which will be able to "read" the nine-digit ZIP Code on mail, identify each mail piece by its nine-digit ZIP Code and direct the mail to the delivery route of the addressee. It is anticipated that this new mechanized sortation system, when fully operational, will assist the Postal Service in continuing to provide good and efficient services at fair and reasonable rates, by allowing mail to be processed with increased economy and accuracy.

As soon as the new nine-digit ZIP Codes are assigned, all postal customers will be encouraged to begin using them on a voluntary basis. Use of the expanded ZIP Code may be required in

the future on some or all of that type mail which presently is required to bear the five-digit ZIP Code.

As part of the nine-digit ZIP Code system, the Postal Service will create a data base which will include the name and address of all business customers that qualify for individual nine-digit ZIP Codes. This data base will be made available to the public. Any affected business customer who does not wish to be included in the public list must so notify the Postal Service at the address shown below within sixty days from the publication of this document.

DATE: Comments must be received on or before July 3, 1980.

ADDRESS: Written comments should be sent or delivered to the Director, Office of ZIP Code Expansion, Room 6624, Research and Technology Group, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 6624, U.S. Postal Service Headquarters, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. E. T. Dewey, (202) 245–5019.

SUPPLEMENTARY INFORMATION: The following statement outlines the purpose of the nine-digit ZIP Code system and how it will work.

Postal Service Plan for a Nine-Digit ZIP Code System

Purpose

The Postal Service currently plans to begin implementation of the nine-digit ZIP Code system in early 1981. This modification of the present coding system will enable the Postal Service to continue to provide good and efficient services at fair and reasonable rates through increased economy and accuracy. The presence of the additional ZIP Code digits in addresses will enable the Postal Service to direct each such piece of mail, quickly and accurately, to the appropriate letter carrier simply by reference to the ZIP Code.

The present five-digit ZIP Code has enabled the Postal Service to realize significant improvements in mail processing by allowing sortation of mail to the appropriate post office, station or branch by reference to the ZIP Code. However, by itself it does not allow sortation to the appropriate letter carrier. Instead, mail must be directed to the proper carrier by clerks who are required to memorize the precise ranges of addresses delivered by each letter carrier. Additional complications are added to the existing system by the need to adjust the routes of carriers. The expanded ZIP Code can provide further economies in mail processing. These economies can be achieved through the acquisition of advanced mechanization which can sort letter mail into small segments for delivery, without the current need of extensive distribution of mail by memory.

Background

The ZIP Code program began in 1963. The cooperation of this country's mailers in the program (approximately 97% of the mail currently processed has a ZIP Code) has enabled the Postal Service to handle ever-increasing amounts of mail with a relatively stable labor force. For instance, during the last eight years, the annual volume of mail has increased from 86 billion to 100 billion pieces while the total workforce has decreased from 740,000 to 665,000 employees. This increase in productivity is the result of many actions. Two major factors have been the increased use of the present five-digit ZIP Code and increased use of mechanization in the mail distribution process.

The theory behind the ZIP Code is relatively simple. The first three digits of the current ZIP Code designate a major post office's total delivery area, while the last two digits designate specific delivery areas or points served by smaller associate post offices or by the stations and branches of the major post office. Thus, while the five-digit ZIP Code has been of great assistance in the processing of mail from the point of entry into the postal system to the office serving the area of the addressee, the present ZIP Code cannot identify geographical units with sufficient precision to direct mail to the letter carrier serving the addressee. This final mail processing task is performed by clerks who are réquired to memorize the addresses delivery by each letter carrier. Since a post office may have many delivery routes, this task is time-consuming with a potential for error. An added complication for this intricate system is the occasional need to adust the routes of letter carriers (e.g. due to changes in deliveries within the area served by the letter carrier). Such adjustments render prior address memory incorrect and create additional costs and requirements in memory training for those employees who direct mail to the appropriate delivery routes.

During the last ten years the Postal Service has studied the operational limitations of the five-digit ZIP Code, mail coding systems in other countries, and telephone industry approach to coding, and the requirements for an efficient processing system necessary to achieve significant cost benefits. As a result, it was determined that the addition of four numbers to existing ZIP Codes would provide the capability to sort mail into small segments within each delivery area and would eliminate or reduce the need for future geographical code changes or changes in memory knowledge.

In September 1978, a public announcement was issued by the Postal Service stating the intention to expand ZIP Codes to nine digits in 1981.

The first five digits of the expanded ZIP Code will be the same as the present five-digit ZIP Code assignments and will continue to designate delivery areas served by post offices, stations, or branches. The four add-on numbers will be separated from the first five numbers by a hypen, and will divide each of the current five-digit ZIP Code areas into two smaller types of geographical units: sectors and segments. Each existing five-digit area will contain a maximum of 100 sectors and each sector will contain a maximum of 100 segments. The first two numbers (from 00 to 99) of the add-on (the sixth and seventh digits of the nine-digit ZIP Code) will designate the sector number. Segments will be the basic geographical unit in the program.

Technology

The ability to direct mail to the appropriate letter carrier simply by reference to the ZIP Code will make possible additional economy, speed and accuracy in mail processing. These benefits can most readily be maximized through the planned use of advanced mechanization in mail processing. When this advanced mechanization is put into place, an Optical Character Reader (OCR) will read the nine-digit ZIP Code on letter mail, which has a typed or printed address, at the office where such mail first enters the postal system. A printer attached to the OCR will then print a machine readable representation of the ZIP Code, in bar code form, on the lower right hand corner of the envelope and the mail will then be directed to the postal facility serving the addressee. At this facility, the mail can be processed by a Bar Code Reader (BCR), which is a low cost, highly reliable automated distribution system. The BCR will direct the mail to the appropriate delivery route.

The New ZIP Code Configuration

When the decision was made to develop a ZIP Code which would provide the information necessary to sort mail to carriers, many ZIP Code configurations were considered. These ranged from completely revising the code to all alpha characters, to adding on numeric, alpha, or a combination of alpha and numeric characters at the end of the present ZIP Code. There are many benefits associated with expanding the code from the widely used and accepted five-digits base; hence it was determined that the additional part of the code would be appended to the present five-digit ZIP Code, and separated by a hyphen.

It was determined that adding four numeric characters to the existing five-digit ZIP Code offers the following advantages:

1. It provides 10,000 additional combinations, which are sufficent for all delivery zones and allow for growth within each zone.
2. Numeric add-on codes provide greater adaptability to present letter sorting machine keying and training procedures.
3. There is a greater potential, with fewer technical problems, for an OCR to read numeric rather than alpha characters.

Segments

A segment will be a portion of a five-digit delivery zone covered by one four-digit expanded code. Once established, it will be the smallest unit to which mechanized distribution will be provided. Segments will be the last two digits of the add-on numbers, and will range from 00 to 99.

A segment will be any one of the following:

1. One side of a street between intersections. This will be referred to as a block face.
2. Both sides of a street between intersections.
3. A firm, building, or a firm within a multi-firm building.
4. A floor or a group of floors within a building.
5. A neighborhood delivery and collection box unit.
6. A post office box or a group of boxes.
7. A wall box section of a post office box area.
8. A cluster of apartment boxes.
9. A cove or cul-de-sac.
10. One or more "hundred-block" ranges on a street which has no intersecting streets within a span of approximately 200 to 600 feet.
11. Any other delivery point or grouping indicated by sound management judgment.

A key requirement is that future carrier route adjustments will not split a segment between routes. Therefore, all delivery routes will be separated at a segment boundary, and such route adjustments as may be necessary will be made by transferring whole segments from one route to another.

Sectors

After all segments within a zone are identified, they will be grouped into sectors. Sectors will contain a maximum of 100 segments (00–99). Sectors will be the first two digits of the add-on code numbers.

Sector boundaries will be geographically identifiable, with the exception of sectors for box sections and for business reply and special codes.

Sector boundaries will not cross state or county lines. Sector numbers will be assigned so as to ensure that sufficient sectors remain to accommodiate growth within each five-digit ZIP Code delivery area.

Sectors in commerical zones will generally cover a smaller area than sectors in residential or mixed business and residential zones. The area covered by each sector will be determined by the number of business delivery points whose mail volume is sufficient to justify the assignment of an individual nine-digit ZIP Code. In some cases, this will mean that a sector will be completely contained within a single large building or within a single square block of a city.

In some cases the number of business customers qualifying for individual nine-digit ZIP Codes within a building or within a city block may be greater than the 100 codes (segments) available within a sector. When this occurs an additional sector will normally be overlaid on the original sector. This will make an additional 100 nine-digit codes available to the area. For example, if a building has 160 customers which qualify for an indivudual nine-digit ZIP Code, two sectors will be allocated to the building. In extremely large metropolitan areas, it may be necessary to overlay several sectors in a two or three block area. When sectors are overlaid, unassigned segment codes, which generally must be available in all sectors in event of future growth, will be available in at least one sector within the overlaid area.

Code Assignments for Business Customers

For the purpose of this program, the term "business customer" is defined as all non-residential delivery points which receive moderate volumes of machinable letter mail at a specified address. The definition includes standard business organizations, professional services, churches, schools, government, etc.

Moderate Daily Volume. In general, a four-digit add-on code will be assigned to business customers receiving moderate (10–50 pieces) daily volumes of letter size mail. Each post office will analyze the volume received by business customers and the delivery characteristics, and then determine what level of incoming mail volume will be required to qualify the customer to receive an individual code. The local post office will notify those customers who qualify.

Large Daily Volume. Business customers who receive large volumes of machinable letter mail may be provided the opportunity to obtain extra add-on codes. The local post office will notify those qualifying business customers regarding the availability of extra code assignments, as well as the procedures to obtain them. In some instances, business customers in areas of high code density may be provided the opportunity to utilize a new five-digit code number for their base in order to obtain a larger number of additional add-on codes.

The assignment of additional codes does not obligate the Postal Service to provide sortation to the additional codes. The value of the additional codes will be the opportunity for the business customer to establish an internal mail sortation system which utilizes the additional codes for staff or function identification. It will also provide the basis for mechanizing company mail room sortation activities utilizing the bar code placed on the letter during the postal service sortation process.

Large Volume Customers With Unique Five-Digit ZIP Code. Customers that presently have unique five-digit codes will be given the opportunity to request a series of add-on numbers for their internal sortation of mail. They will initially be assigned an add-on code of 0001. If they desire additional codes, these codes will be provided in sequence with the initial code assigned. The local post office will advise each customer having a unique five-digit ZIP Code of the procedure to obtain additional codes.

The assignment of additional codes to business customers with a unique five-digit ZIP Code does not obligate the Postal Service to provide sortation to the additional codes. The additional codes will be valuable for the opportunity they provide the business customer to establish an internal mail sortation system which utilizes the additional codes for staff or function identification. The additional codes will also provide the basis for mechanizing company mail room sortation activities utilizing the bar code placed on the letter during the postal service sortation process.

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Business Customer Listing in the Data Base. The name and delivery address of all customers that qualify for individual four-digit add-on codes and receive street delivery will be included in the data base. This information will be provided to the public in the form of computer tapes, microfilm, microfiche, print form, etc., unless a business customer specifically requests not to have its name included in postal listings. Only the primary nine-digit ZIP Code assigned to a business will be provided to the public. Additional codes which may be assigned will not be individually shown on the listings available to the public.

Any business customer which does not wish to have its business name and delivery address shown on the listings available for general customer directory use must give written notice, within sixty days of the publication of this notice, to the Director, Office of ZIP Code Expansion, Room 6624, Research and Technology Group, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, D.C. 20260. If the above notice is not given a business customer can, after the initial listing has been completed and notification of code assignment has been received, give written notice to the local postmaster to have the business name and delivery address removed from the directory.

Buildings and Apartments

For each building that is presently assigned a unique five-digit ZIP Code, individual four-digit add-on codes will be assigned to each business customer in the building whose mail volume warrants a unique code. Add-on codes will also be assigned to each floor or group of floors as appropriate.

For each large building that is not presently assigned a unique five-digit ZIP Code, individual codes will be assigned to each business customer in the building whose mail volume warrants an individual nine-digit ZIP Code. Additional codes for the building will be based on delivery requirements. For instance, if the delivery assignment is by elevator banks, a single nine-digit ZIP Code number may be assigned to the floors served by a given elevator bank. If the delivery assignment is by floors, nine-digit ZIP Codes will be assigned to individual floors or groups of floors.

Business customers that do not qualify for individual nine-digit ZIP Codes will use the nine-digit ZIP Code assigned to their building. If an individual nine-digit ZIP Code has not been assigned to the building, they will use the code assigned to the block face.

Small apartment buildings will be treated as single dwellings.

Apartment buildings with boxes grouped into banks will have codes assigned to each bank. If the boxes are not grouped into banks, then one or more codes will be assigned to the apartment building dependent on the location and number of addresses the carrier must serve in the building.

Lockbox Sections

If the lockbox section of a post office has a unique five-digit ZIP Code, the last four digits of each box number will normally be the last four number of the expanded ZIP Code. If the box number is less than four digits, sufficent zeros will precede the box number to make up a nine-digit ZIP Code. Alphabetical boxes will be assigned numerical codes.

If the lockbox section does not presently have a unique five-digit Code, nine-digit ZIP Codes will be assigned to individual boxes or to groups of boxes depending on the total number of boxes and the availability of four-digit add-on codes within the applicable five-digit delivery zone.

Rural Delivery

The segments along rural routes or contract delivery routes will usually consist of all of the boxes or the range of house numbers between each intersection. Numbers will be assigned to these segments in accordance with the present line of travel. A route adjustment which will necessitate the changing of a rural address from one rural route to another will constitute an address change, but the nine-digit ZIP Code will not change. However, if an area should be converted from rural delivery to city delivery, the nine-digit ZIP Code may be changed in order to assign segments for city delivery.

Portions of rural routes serving areas which have named streets and house numbers and are adjacent to city delivery areas will be divided into segments in the same manner as city delivery routes.

Individual nine-digit ZIP Codes will be assigned to firms, buildings, apartments, and post office boxes in rural areas under the same criteria outlined previously for city delivery.

General Delivery, Business Reply and Special Codes

The ZIP Code for general delivery mail will consist of the present five-digit ZIP Code followed by a hyhen and the number 9999.

All business reply mail permit holders will be assigned special nine-digit ZIP Codes to be used as part of their reply address which will consist of the present five-digit ZIP Code plus a four-digit add-on. The first two digits of the add-on portion (the sixth and seventh digits of the nine-digit ZIP Code) will be 98 or 99.

The general coding procedures applicable here will be:

9999—General Delivery.
9998—Postmaster.
9991 to 9997—Held for special assignment.
9990—Group of small volume business reply mailers.
9800 to 9989—Customers with sufficient business reply volume to qualify for individual nine-digit ZIP Codes (additional sectors will be used if the amount of business reply volume warrants).

Federal Government Mail

All federal government departments and many government agencies presently have unique five-digit ZIP Codes assigned for their official mail and will be assigned a four-digit add-on code of 0001 for each five-digit ZIP Code. Upon request, additional four-digit add-on codes will be assigned to offices, divisions and branches within each agency, as well as to domestic military bases and APO/FPO addresses.

The assignment of additional codes to governement departments and agencies does not obligate the Postal Service to provide sortation to these additional codes.

Schedule

February, 1981 is the planned date for the completion of the nine-digit coding of all delivery addresses in the United States. It is also planned to have the nine-digit ZIP Code data file ready for distribution to large mailers at that time. Notification to residential customers will follow the notification to business mailers and will commence in the Spring of 1981.

All mail users will be encouraged to voluntarily update their address files and begin using nine-digit ZIP Codes as quickly as possible. The Postal Service will provide directory assistance to customers. For example, computer tapes of the basic directory will be made available to mailers with computerized directories to update address records. In addition, directory assistance systems will be provided for use by individuals and small business mailers to obtain nine-digit ZIP Code information. Specific details concerning directory assistance will be available to the public at a future time.

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(39 U.S.C. 401, 403)

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80-16728 Filed 6-2-80; 8:45 am]

BILLING CODE 7710-12-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5192]

Broward Venture Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the Regulations (13 CFR 107.102 (1980)), under the name of Broward Venture Capital Corporation, 660 S. Federal Highway, Suite 300, Pompano Beach, Florida 33062 for a license to operate in the State of Florida as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.).

The officers and directors of the Applicant are as follows:

William H. Lackey, 21 River Valley Road, Little Rock, AR 72207
Sam Monk, 3031 N.E. 51st Street, Ft. Lauderdale, FL 33062
Woody Guy, 4821 N.E. 27th Avenue, Ft. Lauderdale, FL 33308
First National Financing & Leasing Corp.; 100 percent

The Applicant will begin operations with a capitalization of $500,000, which will be a source of equity capital and long-term loans for qualified small business concerns.

The Applicant will conduct its operations principally in the State of Florida.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Associate Administrator for Investment, Small Business Administration 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in the Pompano Beach, Florida area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 27, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-16866 Filed 6-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1841]

Nebraska; Declaration of Disaster Loan Area

Chase and Dundy Counties and adjacent Counties within the State of Nebraska constitute a disaster area as a result of natural disaster as indicated:

County and natural disaster(s)	Date(s)
Chase—Snow storms and high winds	3/27/80–4/4/80
Dundy—Blizzard, wet snow, and drifts reached height of 10 feet.	3/27/80–4/3/80

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 24, 1980, and for economic injury until the close of business on February 23, 1981, at: Small Business Administration, District Office, Empire State Building, 19th and Farnam Streets, Omaha, Nebraska 68102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 23, 1980.

H. A. Theiste,

Acting Administrator.

[FR Doc. 80-16867 Filed 6-2-80; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Madison, Wisconsin, will hold a public meeting from 9:30 until noon on Wednesday, June 25, 1980, in Room 213 of the Federal Center, 212 East Washington Avenue, Madison, Wisconsin, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Curtis A. Charter, District Director, U.S. Small Business Administration, 216 East Washington Avenue, Room 213, Madison, Wisconsin 53703–(608) 264–5267.

Dated: May 29, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 16865 Filed 6-2-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 19 (Rev. 8)]

Delegation of authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authorization for the Commissioner of Internal Revenue Service to approve payment of travel and transportation of new appointees to the first post of duty is redelegated to subordinate officials. The text of the delegation order appears below.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Brasher, RM:P:EE 1111 Constitution Ave., N.W., Room 706WB (202) 376–0530 (Not Toll Free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive which appeared in the **Federal Register** for Wednesday, November 8, 1978.

J. S. Henderson II,

Chief, Employment Branch, Personnel Division.

Date of issue: May 27, 1980.

Subject: Payment of Expenses Incident to Transfers or Appointments of Employees to New Official Stations, Vacation Leave Travel, and Similar Items.

1. This order delegates authority vested in the Commissioner of Internal Revenue by 5 USC 5723, Treasury Department Order No. 72 Revised, to authorize or approve the allowance and payment from Government funds of expenses allowable under Chapter 2, Relocation Allowances, of General Services Administration Federal Property Management Regulations Part 101–7, Federal Travel Regulations. The following officers may authorize or approve the incurrence of such

expenses, and related advances of funds, subject to the restrictions in the succeeding paragraphs of this order and pursuant to implementing regulations in Department of the Treasury Directives Manual Chapter TD 70, Section 02, as amended, and IRM 1763, Travel Handbook:

Deputy Commissioner.
Assistant to the Commissioner (Public Affairs).
Assistant to the Commissioner (Equal Opportunity).
Taxpayer Ombudsman.
Assistant Commissioners.
Chief Counsel.
Division Directors.
Director of International Operations.
Director, National Computer Center.
Fiscal Management Officer.
Regional Commissioners.
Regional Inspectors.
District Directors.
Service Center Directors.
Director, Data Center.

2. This delegation does not include the authority to agree to the payment of moving expenses by an office other than the gaining office in transfers between the Internal Revenue Service and another agency, department, bureau of the Department of the Treasury, etc.

3. This delegation does not include the authority to approve a period of service of less than two years, or to accept separation, without penalty, from service before the end of a year of service, with respect to employees serving outside the conterminous (contiguous 48 States and the District of Columbia) United States under circumstances requiring two years of service.

4. No redelegation of the above authority may be made except that:

(1) Regional Commissioners may redelegate, but not lower than to Branch Chiefs in the Regional Office.

(2) District Directors, Service Center Directors, and the Director, Data Center, may redelegate but not lower than to Division Chiefs. In streamlined districts this authority may not be redelegated below the District Director.

(3) The Chief Counsel may redelegate to a level not lower than Assistant Director, Administrative Services Division in the National Office or the District Counsel in the field.

5. The Director of International Operations and the Regional Commissioner, Western Region, may make determinations and authorizations in cases under their jurisdiction with respect to the transportation and emergency storage of privately-owned motor vehicles of Service employees appointed or transferred to posts of duty other than those located in the conterminous United States. The Fiscal Management Officer may make such determinations and authorizations with respect to all other Service employees appointed or transferred to posts of duty outside the conterminous United States. This authority may not be redelegated.

6. Except as provided in paragraph 7, the Regional Commissioners, Assistant Commissioners, Assistants to the Commissioner, Assistants to the Commissioner (Public Affairs) and (Equal Opportunity), the Taxpayer Ombudsman, and Chief Counsel may make determinations and authorizations in cases under their jurisdiction with respect to the payment of travel and transportation of new appointees to the first post of duty of positions designated shortage category by the Office of Personnel Management. This authority may be redelegated only to District Directors and to Division Directors in the National Office. The Chief Counsel may redelegate to a level not lower than Assistant Director, Administrative Services Division in the National Office.

7. Assistant Commissioners, Assistants to the Commissioner (Public Affairs) and (Equal Opportunity), the Taxpayer Ombudsman, and Chief Counsel are authorized to pay travel and transportation to first post of duty for clerical positions specified herein. Authorized officials will pay up to maximum amounts of $300 for recruits from within the conterminous United States and up to maximum amounts of $500 for recruits from outside the conterminous United States to occupy Clerk-Stenographer, GS-312-3/4/5 and Clerk-Typists, GS-322-2/3/4 positions in the National Office. Exceptions to these amounts may be requested on a case-by-case basis. This authority may be redelegated no lower than Division Directors or equivalent level supervisory position reporting directly to an Assistant Commissioner. Assistants to the Commissioner (Public Affairs) and (Equal Opportunity), and the Taxpayer Ombudsman may not redelegate this authority. The Chief Counsel may redelegate to a level not lower than Assistant Director, Administrative Services Division in the National Office.

8. Delegation Order No. 19 (Rev. 7), issued October 31, 1979, is superseded.

William E. Williams,

Acting Commissioner.

[FR Doc. 80-18849 Filed 6-2-80; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Clinical Services Addition, Veterans Administration Medical Center, Albuquerque, N. Mex.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential impacts that may occur as a result of the construction of a Clinical Addition/Nursing and Bed Building at the Veterans Administration Medical Center (VAMC) at Albuquerque, New Mexico.

The clinical services part of the bed building is planned to be about 209,499 gross square feet comprised of a basement plus four floors. The nursing bed section is estimated for 269,544 gross square feet comprised of a basement plus six floors. The total cost of construction, demolition and air conditioning will be in the range of 100 million dollars.

Development of the project would have impacts on the natural and human environments as it affects surface runoff, erosion, traffic circulation and parking, landscaping and visual impressions. Additionally, construction noise, fumes, dust and disruption of vehicular and pedestrian circulation will occur during construction.

Mitigating actions include: Onsite noise abatement measures; soil erosion and sedimentation controls; control of dust and fumes; planning to transplant existing small landscape material and additional landscaping, and compatible design.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (004A), Room 1027A, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: May 22, 1980.

By direction of the Administrator.

Maury S. Crallé, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-16753 Filed 6-2-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 103
Tuesday, June 3, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1
Federal Home Loan Bank Board	2
Federal Mine Safety and Health Review Commission	3
Foreign Claims Settlement Commission	4
International Trade Commission	5
National Credit Union Administration	6
National Tranportation Safety Board	6a
Nuclear Regulatory Commission	7
Securities and Exchange Commission	7a
U.S. Railroad Retirement Board	8

1

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Wednesday, June 4, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Closed Commission Meeting following the Special Open meeting which commences at 2 p.m.

CHANGES IN THE MEETING: Additional items to be considered:

Agenda, Item Number, and Subject

Hearing—1—Draft Order in the RKO General, Inc. (WOR-TV), New York, New York, comparative renewal proceeding (Docket Nos. 19991-2).
Hearing—2—Draft Order in the RKO General, Inc. (KHJ-TV), Los Angeles, California, comparative renewal proceeding (Docket NOs. 16679-80).
Hearing—3—Drat Decision in the RKO General, Inc. (WNAC-TV), Boston Massachusetts, comparative renewal proceeding (Docket Nos. 18759-18761).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Addition information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone (202) 254-7674.

Issued: May 30, 1980.

[S-1083-80 Filed 5-30-80; 3:10 pm]

BILLING CODE 6712-01-M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., June 6, 1980.

PLACE: 1700 G Street, N.W., Chairman's Conference Room, fifth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

To Be Considered Concurrently: Application for Limited Facility—First Federal Savings and Loan Association of DeFuniak Springs, DeFuniak Springs, Florida AND Permission to Organize a New Federal Association—Russell A. Cole, Jr., et al., Bonifay, Florida.
Travel Authorization—Federal Savings and Loan Advisory Council Agenda Committee Members.

No. 354, May 30, 1980.

[S-1079-80 Filed 5-30-80; 2:52 pm]

BILLING CODE 6720-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 29, 1980.

TIME AND DATE: 10 a.m., Monday, June 2, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Victor McCoy* v. *Crescent Coal Co.*, PIKE 77-71 (issues include timeliness of petition for review and propriety of default for failure to fully comply with prehearing requirements in circumstances of this case.)
2. *Secretary of Labor, MSHA* v. *Island Creek Coal Co.*, BARB 76-298-P, IBMA 77-27 (issues include appropriateness of amount of penalty assessed.)
3. *Secretary of Labor, MSHA* v. *C.C.C. Pompey Coal Co., Inc.*, PIKE 79-125-P (issues include whether operator violated 30 CFR § 75.400.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1082-80 Filed 5-30-80; 3:09 pm]

BILLING CODE 6820-12-M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION

[FCSC Meeting Notice No. 5-80]

Announcement in Regard to Commission Meetings and Hearings.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, June 4, 1980, 10:30 a.m.—Canceled.
Wednesday, June 11, 1980, 10:30 a.m.—Canceled.
Wednesday, June 18, 1980, 10:30 a.m.—Canceled.
Wednesday, June 25, 1980, 10:30 a.m.—Canceled.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W.; Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C., on May 28, 1980.

Francis T. Masterson,

Executive Director

[S-1080-80 Filed 5-30-80; 3:05 pm]

BILLING CODE 6770-01-M

5

[USITC SE-80-32]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, June 12, 1980.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.

4. Petitions and complaints, if necessary:
a. Shell brim hats (Docket No. 655).
5. Nonquota cheese from the EC (Inv. 701–TA–52 through –60 [Final])—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1077–80 Filed 5–30–80; 1:59 pm]
BILLING CODE 7020–02–M

6

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of meeting to be held with less than 7 days advance notice.

TIME AND DATE: 11 a.m., Friday, May 30, 1980.

PLACE: 1776 G Street NW., Washington, D.C., seventh floor board room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Consideration of Changes in the Restrictions on Dividend Rates Payable on Share Certificates.
The National Credit Union Administration notified interested parties by telephone of the time and place of the meeting as soon as the majority of the members of the Board voted to hold the meeting.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–1078–80 Filed 5–30–80; 2:14 pm]
BILLING CODE 7535–01–M

7

[NM–80–23]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, June 10, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first five items will be open to the public; the sixth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report*—Columbia Gas of Virginia, Inc., Natural Gas Explosion and Fire, Stanardsville, Virginia, October 24, 1979, and *Recommendations* to the American Gas Association, the Research and Special Programs Administration of the U.S. Department of Transportation, and the Columbia Gas of Virginia, Inc.
2. *Marine Accident Report*—Collision of Spanish freighter M/V POLA DE LENA with two Mississippi River Ferry Boats and Gretna Ferry Landing, February 3, 1979, and *Recommendation* to the U.S. Coast Guard.
3. *Aircraft Accident Report*—Butler Aircraft, Inc., Douglas DC–7, N4SW, Klamath Falls, Oregon, September 14, 1979.
4. *Letter* to the Materials Transportation Bureau, U.S. Department of Transportation, re NPRM Dkt, HM–164, highway routing of radioactive materials.
5. *Briefing* on the status of hazardous materials safety objective—Shipper Involvement in Hazardous Materials Transportation.
6. *Opinion and Order*—Petition of Byrom, Dkt. SM–2319; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–462–6022.

May 30, 1980.

[S–1085–80 Filed 5–30–80; 3:17 pm]
BILLING CODE 4910–58–M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 4, 5, and 6, 1980.

PLACE: Commissioners' Conference room, 1717 H Street N.W., Washington D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:
Wednesday, June 4:

10 a.m.

Discussion of Action Plan Policy Statement (approximately 2 hours, Open/closed status to be determined).

Thursday, June 5:

10 a.m.

Discussion of TMI Venting (Approximately 2 hours, public meeting).

2 p.m.

1. Affirmation Session (approxable 10 minutes, public meeting).
a. Standards for Content of Technical Specifications.
b. Proposed Rulemaking on Reactor Siting (postponed from May 29).
c. Cochran FOIA Appeals.
2. Time Reserved for Discussion and Vote on Affirmation Items (If required) (approximately fifteen minutes, public meeting).
3. Discussion of Management-Organization and Internal Personnel Matters (approximately 1½ hours closed—Exemption 2 & 6)(rescheduled from May 28).

Friday, June 6, room 1046:

1:30 p.m.

ACRS Meeting on Siting Evaluation Policy (appoximately 45 minutes, public meeting) (NRC Commissioners to attend).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,
Office of the Secretary.

[S–1081–80 Filed 5–30–80; 3:06 pm]
BILLING CODE 7590–01–M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of June 2, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Monday, June 2, 1980, at 2 p.m.

The Commission will meet with members of the Financial Accounting Standards Board with respect to conceptual framework and other matters. For further information, please contact Clarence Staubs (202) 272–2133.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 272–2178.

May 30, 1980.

[S–1084–80 Filed 5–30–80; 3:14 pm]
BILLING CODE 8010–01–M

10

U.S. RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, No. 105, p. 36258, Thursday, May 29, 1980.

TIME AND DATE: 9 a.m., June 5, 1980.

PLACE: Board's meting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois 60611.

CHANGE IN THE MEETING: Additional item to be considered at the portion of the meeting which will be closed to the public:

(C) Appeal from referee's denial of widow's insurance annuity, Opal Ragsdale.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920, FTS No. 387–4920.

[S–1076–80 Filed 5–30–80; 12:23 pm]
BILLING CODE 7905–01–M

V 45 J E 3 80 UMI

federal register

Tuesday
June 3, 1980

Part II

Office of Personnel Management

Improving Government Regulations; Semiannual Agenda of Regulations

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of Personnel Management.

ACTION: Semiannual Agenda of Regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for review or development during the 6-month period from July 1, 1980, through December 31, 1980. As a service to users, we have also included a compilation of significant regulations published from December 1, 1979, through May 31, 1980. (Excepted service appointing authorities are not included.)

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Office, Office of Planning and Evaluation, 202-254-7086.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Part 1 of Semiannual Agenda

[Regulations issued from Nov. 1, 1979 through May 20, 1980]

5 CFR Part and title	Date of publication	Type of action	Effective or comment date
315—Career and career-conditional employment; Presidential Management Interns; conversion.	Nov. 2, 1979	Final rule	Dec. 3, 1979.
315—Technical amendments (redesignated sections)	Nov. 2, 1979	Final rule	Nov. 2, 1979.
733—Political participation by Federal employees in local elections in Stafford County, VA.	Nov. 2, 1979	Final rule	Nov. 2, 1979.
177—Administrative claims under the Federal Tort Claims Act	Nov. 9, 1979	Final rule	Dec. 10, 1979.
293 and 297—Privacy Act; personnel records	Nov. 9, 1979	Final rule	Dec. 10, 1979
351—Reduction in Force; retention preference	Nov. 9, 1979	Final rule	Dec. 10, 1979.
531—Superior qualifications appointments under the Intergovernmental Personnel Act.	Nov. 9, 1979	Proposed rule	Jan. 8, 1980 (comments).
315—Career and career-conditional employment; conversion to competitive appointments for mentally and severely physically handicapped.	Nov. 20, 1979	Final rule	Dec. 20, 1979.
213 and 338—Employment in the excepted service; qualification requirements for children of civil service employees.	Nov. 20, 1979	Final rule	Nov. 15, 1979.
110—Posting OPM regulations in Federal agencies	Nov. 27, 1979	Final rule	Dec. 27, 1979.
620—Alternative work schedules experiments	Nov. 30, 1979	Final rule	Dec. 31, 1979 through Mar. 28, 1982.
890—Retired Federal Employees Health Benefits Plans	Nov. 30, 1979	Final rule	Dec. 31, 1979.
Improving Government regulations; semiannual agenda	Dec. 4, 1979	Proposed rule	
Notice; proposed Navy demonstration project on pay, performance appraisal, and position classification.	Dec. 4, 1979	Notice	Feb. 4, 1980 (comments).
871—Optional life insurance; cancellation of declination for Postal Service employees.	Dec. 7, 1979	Final rule	June 2, 1979.
213—Excepted service; identical or temporary Schedule C appointing authority for positions during Presidential transition, department or agency head change, or new department or agency creation.	Dec. 7, 1979	Proposed rule	Feb. 7, 1980 (comments).
737—Post Employment conflict of interest under the Ethics in Government Act; interim designation of senior employees.	Dec. 14, 1979	Interim rule	Effective: Dec. 14, 1979. Comments: Jan. 4, 1980.
212, 213, 214, and 317—Appointment, reassignment, transfer, and development in the SES; competitive and excepted service exclusion	Dec. 21, 1979	Interim rule	Effective: Dec. 21, 1979.
Notice of adoption of official seal	Dec. 21, 1979	Notice	Dec. 21, 1979
733—Political participation by Federal Employees in local elections in Manassas, VA.	Dec. 26, 1979	Proposed rule	Feb. 26, 1980 (comments).
351—Reduction in force; retention preference	Dec. 26, 1979	Proposed rule	Feb. 26, 1980 (comments).
771—Agency administrative grievance system	Dec. 31, 1979	Final rule	Dec. 31, 1979.
175—National security information program implementation; mandatory review of classified documents.	Jan. 4, 1980	Final rule	Jan. 4, 1980.
334—Temporary assignment of employees between Federal agencies and State governments, etc.	Jan. 4, 1980	Final rule	Feb. 4, 1980.
831—Retirement; law enforcement officers and firefighters	Jan. 4, 1980	Final rule	Feb. 4, 1980.
335, 351, 432, 752, and 771—Term promotions for positions of a project nature and in specialized fields.	Jan. 4, 1980	Proposed rule	Mar. 4, 1980. (comments).
831—Retirement; law enforcement officer and firefighter "experience" qualification determination.	Jan. 4, 1980	Proposed rule	Mar. 4, 1980 (comments).
630—Absence and leave; exception for SES appointees	Jan. 8, 1980	Final rule	Jan. 13, 1980
540—Merit pay system	Jan. 8, 1980	Final rule	Jan. 8, 1980
733—Political participation by Federal employees in local elections; exception for Manassas, VA.	Jan. 8, 1980	Final rule	Jan. 8, 1980.
410—Training; use of Government or non-Government facilities (OMB A-76 implementation).	Jan. 11, 1980	Proposed rule	Jan. 8, 1980.
Notice: List of career reserved and all other authorized SES positions.	Jan. 18, 1980	Notice	
Notice. List of SES executives in noncareer positions prior to conversion who received a career appointment.	Jan. 18, 1980	Notice	
2, 4, 5—Civil Service rules revised by E.O. 12107	Jan. 22, 1980	Final rule	Jan. 3, 1979.
733—Political participation by Federal employees in local elections; revocaton of exception for Shrewsbury Twp., NJ	Jan. 25, 1980	Proposed rule	Mar. 25, 1980 (comments).
410—Training; constraints on non-Government training	Jan. 25, 1980	Proposed rule	Mar. 25, 1980 (comments)
737—Post Employment Conflict of Interest	Feb. 1, 1980	Final rule	Mar. 3, 1980.
550—Pay Administration; back pay	Feb. 1, 1980	Proposed rule	Apr. 1, 1980 (comments).
351—Reduction in Force; using performance appraisal as a RIF retention factor	Feb. 5, 1980	Proposed rule	Apr. 7, 1980 (comments).
737—Post Employment conflict of interest; designation of senior employees	Feb. 8, 1980	Interim rule	Effective: Feb. 8, 1980 (comments: Feb. 20, 1980).
317—Senior Executive Service; appointment, reassignment, transfer and development.	Feb. 8, 1980	Final rule	Mar. 10, 1980.
351—Reduction in Force; retention preference; less than full-time employment programs.	Feb. 8, 1980	Proposed rule	Apr. 8, 1980 (comments).
Notice—Proposed Navy demonstration project on pay, performance appraisal, and position classification; comment date extended.	Feb. 8, 1980	Notice	Feb. 29, 1980 (comments).
Notice—Combined Federal Campaign fundraising manual; proposed revisions.	Feb. 12, 1980	Notice	Mar. 3, 1980 (comments).
315—Career and career-conditional employment; Canal Zone merit system.	Feb. 15, 1980	Final rule	Dec. 30, 1980.

Part 1 of Semiannual Agenda—Continued

[Regulations issued from Nov. 1, 1979 through May 20, 1980]

5 CFR Part and title	Date of publication	Type of action	Effective or comment date
213—Excepted service; appointing authority for SES candidate development programs.	Feb. 19, 1980	Final rule	Feb. 6, 1980
890—Federal employees health benefits; medically underserved areas	Feb. 26, 1980	Interim rule	Jan. 1, 1980
432—Reduction in grade and removal based on unacceptable performance	Feb. 29, 1980	Final rule	Feb. 29, 1980
Notice—Extension of time limit for comments on proposed changes to Combined Federal Campaign fundraising manual	Feb. 29, 1980	Notice	Mar. 24, 1980
733—Political participation by Federal employees in local elections; designations of Manassas Park, VA, as exception.	Mar. 4, 1980	Final rule	Mar. 4, 1980
Notice—List of SES career reserved and all other authorized service positions.	Mar. 4, 1980	Notice	
831—Retirement; apportionment from civil service retirement benefits.	Mar. 7, 1980	Final rule	Apr. 7, 1980
Notice—Annual review of advisory committees under Federal Advisory Committee Act.	Mar. 11, 1980	Notice	Apr. 1, 1980 (comments)
620—Alternative Work Schedules experiment; Final Master Plan revoked from 5 CFR.	Mar. 14, 1980	Final rule	Apr. 14, 1980
213—Excepted service appointing authority for individuals severely disadvantaged due to psychiatric disability.	Mar. 14, 1980	Final rule	Feb. 27, 1980
831—Retirement; exclusion from coverage of annuitants on temporary Presidential appointments	Mar. 14, 1980	Proposed rule	May 13, 1980 (comments)
213—Excepted service appointing authority for career-related work-study programs; Federal Junior Fellowship Program, and SSA pilot career-related work-study program.	Mar. 18, 1980	Final rule	Feb. 2, 1979
337 and 410—Examining system, and training; grade and pay retention provisions	Mar. 21, 1980	Final rule	Apr. 21, 1980
734—Executive personnel financial disclosure requirements under the Ethics in Government Act.	Mar. 25, 1980	Proposed rule	Mar. 27, 1980 (comments)
831—Retirement; disclosure of retirement information under the Privacy Act.	Apr. 4, 1980	Proposed rule	Mar. 3, 1980 (comments)
831, 870, 871, 890, and 891—Retirement, life insurance and health benefits programs; reconsideration procedures.	Apr. 8, 1980	Final rule	May 8, 1980
335, 351, 432, 752, and 771—Term promotions for positions of project nature and in specialized fields.	Apr. 11, 1980	Final rule	May 12, 1980
831—Retirement; exclusion of certain SES appointees	Apr. 11, 1980	Final rule	May 12, 1980
410—Training; prohibition of use of appropriated funds for training in non-Government facilities advocating overthrow of Government by force or violence	Apr. 11, 1980	Proposed rule	June 10, 1980 (comments)
Notice—Revision of Combined Federal Campaign fundraising manual.	Apr. 11, 1980	Notice	Apr. 11, 1980
213—Excepted service appointing authority for identical or temporary Schedule C appointments to positions during Presidential transition, department or agency head changes, or new department or agency creation	Apr. 18, 1980	Final rule	Apr. 18, 1980
Notice—Approval of Navy demonstration project on pay, performance appraisal, and position classification.	Apr. 18, 1980	Notice	Apr. 9, 1980 (approval date); July 10, 1980 (implementation date)
531—Pay administration for General Schedule apointments under the Intergovernmental Personnel Act.	Apr. 25, 1980	Final rule	May 27, 1980
733—Political participation by Federal employees in local elections; revocation of exemption for Shrewsbury, Twp., NJ	Apr. 25, 1980	Final rule	May 27, 1980
351—Reduction in Force; retention preference for supervisory or managerial employees in probationary period	Apr. 29, 1980	Final rule	May 29, 1980
300—Employment; Uniform Guidelines for Employee Selection Procedures; additional Q's and A's	May 2, 1980	Final rule	May 2, 1980
351—Reduction in force; use of performance appraisal systems for determining retention preference.	May 2, 1980	Final rule	May 2, 1980
412—Executive Development; SES candidate development programs	May 2, 1980	Proposed rule	July 1, 1980
891—Retired Federal employees health benefits programs; increase of Government contribution	May 9, 1980	Final rule	Jan. 1, 1980
351—Reduction in force; clarification of tansfer of function provisions.	May 13, 1980	Proposed rule	July 14, 1980 (comments)
532—Prevailing rate systems	May 13, 1980	Proposed rule	July 14, 1970 (comments)
550—Pay Administration (General); allotment of pay by civilian employees	May 13, 1980	Proposed rule	July 14, 1980 (comments)
351—Reduction in Force; retention standing of employees receiving military retired pay.	May 20, 1980	Proposed rule	July 21, 1980

Part 2 of Semiannual Agenda

[Regulations scheduled for review or development, June 1, through Dec. 31, 1980]

CFR or other authority	Title	Brief description	Knowledgeable official
5 CFR Parts 1 through 9	Civil Service Rules	In conjunction with an extensive revision of E.O. 9830 on Federal Personnel Administration, the Civil Service Rules will be eliminated as a separate body of regulation. Provisions of the Rules which must be retained will be incorporated in the revised Executive order or in civil service regulations. The regulatory changes should be accomplished within the next six months	Anne Kirby, (202) 632-6077
5 CFR Part 214	Senior Executive Service	Final regulations on definitions of types of appointments and coverage under the Senior Executive Service. (August 1980)	Neal Harwood, (202) 632-6820.
5 CFR Part 290	Civilian Personnel Reporting	Proposed new part will be developed to reflect revisions to those portions of E.O. 9830 prescribing regulations pertaining to civilian personnel and employment information to be reported by agencies to OPM Target date is December 31, 1980..	Stan Suser, (202) 632-6739

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Part 2 of Semiannual Agenda—Continued

[Regulations scheduled for review or development, June 1, through Dec. 31, 1980]

CFR or other authority	Title	Brief description	Knowledgeable official
5 CFR Part 293	Personnel Records and Files	Input from agencies is still being received and the proposed new subpart D dealing with the Employee Performance Folder will be proposed after June 1980.	William H. Lynch, (202) 254-9790, (202) 254-9793.
C CFR Part 297	Protection of Privacy in Personnel Records	Administrative changes are necessary as a result of changes to the numerical designation of several of the Office's Privacy Act systems of records for which exemptions have been claimed.	William H. Lynch, (202) 254-9790, (202) 254-9793.
5 CFR Part 305	Executive Assignment System	Revision of existing regulations to reflect changes in the Executive Assignment System resulting from the establishment of the Senior Executive Service as well as proposals to revise E.O. 9830 (2/24/47) and to eliminate the Civil Service Rules. (December 1980).	Ann Ugelow, (202) 632-6820.
5 CFR Part 307	Veterans Readjustment Appointments	Transfer of existing regs to Part 720	Marv Kossman, (202) 254-3058.
5 CFR Part 315	Career and Career Conditional Employment	Final rules on noncompetitive appointment of former Peace Corps personnel (early summer 1980).	Maribeth Zankowski, (202) 632-6817.
5 CFR 316.302	Term Employment	Transfer of existing regs on term appointments for veterans to Part 720.	Marv Kossman, (202) 254-3058.
5 CFR 316.402	Temporary Limited Employment	Transfer of existing regs on temporary limited appointments for veterans to Part 720.	Marv Kossman, (202) 254-3058.
5 CFR Part 317, Subpart F	Limited Emergency and Limited Term Appointments	Final regulations on the authorization and utilization of Limited Emergency and Limited Term appointments under the Senior Executive Service. (August 1980).	Neal Harwood, (202) 632-6820.
5 CFR Part 317, Subpart G	Reinstatement to Career Appointment	Proposed regulations to cover reinstatement to a career SES appointment following: (a) a voluntary separation from SES, or (b) a Presidential appointment. (September 1980)	Ann Ugelow, (202) 632-6820.
5 CFR Part 317, Subpart H	Career Appointees, Retention of SES provisions following a Presidential appointment	Proposed regulations to implement 5 U.S.C. 3392(c) regarding the right of career SES appointees to retain certain SES provisions while serving under a Presidential appointment, by and with the consent of the Senate. (August 1980)	Jack Vincent, (202) 632-6820.
5 CFR 390.504	Recruitment, Selection and Placement	Proposed rules on movement restriction on part-time employees employed under the direct hire program, to be published in June, 1980.	Ellen S. Russell, (202) 632-6817
5 CFR Part 334	Temporary assignment of employees between Federal agencies and State governments, etc	Proposed rulemaking on procedures for providing merit pay for IPA mobility assignees.	Ardrey Harris, (202) 632-5373.
5 CFR Part 351	Reduction in Force	Proposed rules on the effect of receipt of military retired pay on retention preference published in May 1980. Final rules will be published by September 1, 1980.	Ted Dow or Tom Glennon, (202) 632-4422
5 CFR Part 351	Reduction in Force	Proposed rules to clarify transfer of function provision published May 13, 1970. Final rules to be published before September 1, 1980.	Ted Dow or Tom Glennon, (202) 632-4422
5 CFR Part 351	Reduction in Force	Proposed rules to clarify reemployment priority list establishment and maintenance to be published in June 1980. Final rules to be published before September 1, 1980.	Ted Dow or Tom Glennon, (202) 632-4422
5 CFR Part 351	Reduction in Force	Proposed rules on clarification and revision of competitive levels for new managers and supervisors, merit pay employees, and other-than-full-time employees to be published in June 1980; final rules to be published by September 1, 1980.	Ted Dow or Tom Glennon, (202) 632-4422.
5 CFR Part 351	Reduction in Force	Final rules to clarify assignment rights of full-time employees to other-than-full-time positions to be published in June 1980.	Ted Dow or Tom Glennon, (202) 632-4422.
5 CFR 352.801	Reemployment Rights	Proposed rules on reemployment rights for certain personnel serving with the American Institute of Taiwan to be published in June 1980.	Maribeth Zankowski, (202) 632-6817.
5 CFR Part 359, Subpart J	Reduction in Force in the Senior Executive Service.	Regulations to establish procedures for taking reduction-in-force actions in the Senior Executive Service and to establish an appeal right to the Merit Systems Protection Board. Final regulations to be published by the end of 1980.	Neal Harwood, (202) 632-6820.
5 CFR 410.302	Training; Selection and Assignment of Trainees	Revised regulations governing selections for training leading to promotions or other employment decisions. Final regulations by August 31, 1980.	Constance Gurtian, (202) 653-6171.
5 CFR 410.503	Training; General Prohibitions on Training Through Non-Government Facilities.	Revised regulations to clarify requirement to consider already qualified employees before training in non-Government facilities.	Constance Gurtian, (202) 653-6171.
5 CFR 410.508 and 410.509	Training; Agreement to Continue in Service and Failure to Fulfill Agreement to Continue in service	Final regulations by August 31, 1980. Revised regulations to clarify procedures governing continued service agreements. Final regulations by July 15, 1980.	Constance Gurtian, (202) 653-6171.
5 CFR 410.601	Training; Determination of Necessary Expenses of Training	New regulation to standardize per diem for long-term training. Final regulations by September 30, 1980.	Michael Kurup, (202) 653-6171.
5 CFR Part 412	Executive Development	Final regulations to implement the executive development provisions of the CSRA, September 1, 1980. Additional provisions on management development programs, and material governing sabbaticals; proposed regulations by December 31, 1980.	Merle Junker, (202) 632-4661.
5 CFR Part 470	Personnel Research Programs and Demonstration Projects.	Add new Part 470 to implement programs for conducting R & D projects. Development continuing.	Donald Hill, (202) 632-6848.
5 CFR 511.601 through 511.703	Position Classification Reviews; effective dates of Position Classification Actions and Decisions.	Revisions to regulations to incorporate changes brought about by CSRA and Reorganization Plan #2. Revised processing requirements. Proposed regulations published in May 1980. Final regulations to be developed after comment period ends.	Frank T. Catenaccio, (202) 632-7744.
5 CFR Part 530	Special Salary Rate	Revised regulations. Note: Pay reform legislation, when enacted, will require extensive revision of regulations and program guidance	Richard J. Carney, (202) 632-6327.

Part 2 of Semiannual Agenda—Continued

[Regulations scheduled for review or development, June 1, through Dec. 31, 1980]

CFR or other authority	Title	Brief description	Knowledgeable official
5 CFR Parts 530 through 550	Civil Service Rules for Pay Administration	Revision of pay administration regulations where applicable for merit pay employees to be issued for comment in June 1980 and as final regulations by September 1980.	Eric Carroll, (202) 653-5990
5 CFR Parts 531 and 539	Determination of Rate of Basic Pay; Conversions between Pay Systems	Revised regulations to improve pay-setting policies when employees change to and from merit pay positions. Development continuing.	Betty Roth, (202) 632-4684
5 CFR Part 531, Subpart C	Pay Adjustments for Supervisors	Revised regulations on pay adjustments for merit pay supervisors of wage employees. Proposed regulations to be published early summer 1980	Betty Roth, (202) 632-4684
5 CFR Part 531, Subpart D	Within Grade Increases	Revised regulations to simplify and clarify procedures and standards for granting quality increases and withholding within-grade increases. Proposed regulations to be published by June 30, 1980.	Don Winstead, (202) 632-5530
5 CFR Part 532	Prevailing Rate Systems	Comprehensive new regulations for Federal Wage System. Proposed regulations published in May 1980; development of final regulations will begin by December 1980.	Windsor Eagan, (202) 632-5454
5 CFR Part 534, Subpart D	Setting Individual Basic Pay Under the Senior Executive Service.	Final regulations on reducing individual pay in the Senior Executive Service. (August 1980).	Jack Vincent, (202) 632-6820
5 CFR Part 536	Grade and Pay Retention	Proposed regulations to implement Title VIII of the Civil Service Reform Act of 1978 to be published in early summer 1980.	Larry Holman, (202) 632-5604
5 CFR Part 550	Pay Administration	Proposed revision on pay for irregular or intermittent duty involving physical hardship or hazard.	Richard J. Carney, (202) 632-6327
5 CFR Part 550, Subpart C	Pay Administration; Allotments and Assignments.	Proposed regulations to increase delegation of appropriate flexibility to agencies published in May 1980 Final rules to be published by August 15, 1980.	Mary Ann Mercer, (202) 632-4634
5 CFR Part 550, Subpart H	Pay Administration; Back Pay	Proposed regulations to implement section 702 of the Civil Service Reform Act of 1978 were published on February 1, 1980. Final rules to be published by June 30, 1980.	Don Winstead, (202) 632-5530
5 CFR Part 550, Subpart J	Pay Administration; Adjustments of Work Schedules for Religious Observances.	Proposed regulations to implement Title IV of the Federal Employees Flexible and Compressed Work Schedules Act of 1978 to be published by June 30, 1980	Dwight Brown, (202) 632-5530
5 CFR Part 551	Pay Administration under the Fair Labor Standards Act.	Proposed regulations to implement the Fair Labor Standards Act in the Federal Government to be published in early summer 1980.	Dwight Brown, (202) 632-5530
5 CFR Part 591	Allowances and Differentials	New regulations to be proposed on allowances for uniforms.	Richard J. Carney, (202) 632-6327
5 CFR Part 715	Voluntary Actions	Will be revised to cover distinctions between voluntary and involuntary cations. Proposed regulations by September 30, 1980.	Cynthia Field, (202) 254-8431
5 CFR Part 720	Federal Equal Opportunity Recruitment Program (FEORP).	A proposed new subpart C that pertains to the collection and maintenance of race and ethnicity data on Federal employees.	William H. Lynch, (202) 254-9790, (202) 254-9793
5 CFR Part 720, Subpart D	FEORP; Hispanic Employment Program	Proposed regs to implement expected revision of E.O 9830 establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979).	Diane Graham or Rocelliz Velez, (202) 632-[illegible]
5 CFR Part 720, Subpart E	FEORP; Selective Placement Program	Proposed regs to implement expected revision of E.O 9830 and to reinforce OPM's authority in this area following Reorganization Plan No. 1, (Oct. 1, 1979).	Diane Graham or Hedwig Oswald, (202) 632-4437
5 CFR Part 720, Subpart F	FEORP; Upward Mobility Program	Proposed regs to implement expected revision of E.O 9830 establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979).	Diane Graham or Curtestine Boardley, (202) 632-6258.
5 CFR Part 720, Subpart G	Veterans Employment Programs	Receipt of existing regs from Part 316 to coincide with the VEP's placement within the organization structure of OPM (Oct. 1, 1979).	Diane Graham or Marv Koesman, (202) 254-3058.
5 CFR Part 731	Suitability	Proposed revision to reflect reorganization of CSC and OPM policy of increased delegation of decisionmaking authority to agencies. Early summer 1980.	Bob Hubbard, (202) 632-6152
5 CFR Part 734	Executive Personnel Financial Disclosure Requirements.	Final regulations and procedures for the filing review and public availability of the financial disclosure reports filed under the Ethics in Government Act by top ranking personnel in the executive branch. Expected October 1, 1980.	Norman Smith, (202) 632-7642
5 CFR Part 737	Post Employment Conflict of Interest; designation of senior employees and separate components of agencies.	Supplementary designation of senior employees and separate components of agencies pursuant to Title V of the Ethics in Government Act. Expected August 1, 1980.	Gary Davis, (202) 632-7642
5 CFR Part 738	Designated agency officials and advisory opinions.	Proposed regulations for the duties and responsibilities of designated agency officials and for the rendering of advisory opinions by the Office of Government Ethics. Expected July 1, 1980	Jane Ley, (202) 632-7642

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Part 2 of Semiannual Agenda—Continued

[Regulations scheduled for review or development, June 1, through Dec. 31, 1980]

CFR or other authority	Title	Brief description	Knowledgeable official
5 CFR 754	Adverse Actions by the OPM	Will be revised to cover all disciplinary and non-disciplinary actions OPM can direct agencies to take. Proposed regulations by September 30, 1980.	Wilma Lehman, (202) 254-8431.
5 CFR Part 831	Retirement; Elimination of Age 70 Mandatory Retirement.	Proposed rules to implement Pub. L. 95-256. Development pending.	Jane Lohr, (202) 632-4634.
5 CFR Part 831	Retirement; disability retirement	Proposed regulations for publication by June 15, 1980, to amend disability retirement provisions.	John Ray, (202) 632-4684.
5 CFR Parts 831 and 339	Retirement; Disability Retirement on Application of an Agency; Medical Qualification Requirements.	Proposed regulations to eliminate certain problems in current fitness-for-duty examination procedures. Publication is scheduled for early summer 1980.	Gay Gardner (202) 632-4634.
5 CFR Part 831	Retirement; Early Retirement Coverage for Law Enforcement and Firefighter Personel Serving in Administrative Positions.	Proposed rules were published January 4, 1980, to delete the regulatory requirement that early retirement coverage attaches to an officer or firefighter only if experience is a basic qualification for filling the position. Final regulations to be published by June 30, 1980.	Jane Lohr, (202) 632-4634.
5 CFR Parts 831, 870, 871, and 890	Retirement; Retention of Benefits upon Employment by Indian Tribal Organizations.	Final regulations to be published by June 30, 1980, to provide for retention of CSR, FEHB, and FEGLI coverages for certain Federal employees who transfer to tribal organization employment.	Gay Gardner, (202) 632-4634.
5 CFR Part 890	FEHB; Conversion of Health Benefits Coverage.	Proposed regulations to be published by June 30, 1980, will order extension of time limit for conversion to private contract where timely conversion was prevented due to administrative error.	Gus Ghessie, (202) 632-4684.
5 CFR Part 890	FEHB; Continuation of Health Benefits Enrollment.	Proposed regulations to provide continued health benefits coverage for certain survivor annuitants to be published by September 30, 1980.	John Ray, (202) 632-4684.
5 CFR Part 890	FEHB Program; Benefits for Members of Medically Underserved Populations.	Interim regulations to implement Pub. L. 96-179 were published on February 26, 1980. Final regulations are to be developed after expiration of the comment period on April 28, 1980.	Bonnie Rose, (202) 254-9574.
5 CFR 900.700	Intergovernmental Personnel Act Programs	Final regulations which require nondiscrimination on the basis of handicap in Federal Assistance Programs administered by the Office of Personnel Management (implementing section 504 of the Rehabilitation Act of 1973).	Richard Romero, (202) 632-6274.
5 CFR 900.800	Intergovernmental Personnel Act Programs	Proposed regulations on nondiscrimination on the basis of age in programs or activities receiving Federal Financial Assistance from the Office of Personnel Management; to be published Nov. 1, 1980.	Richard Romero, (202) 632-7274.

[FR Doc. 80-16583 Filed 6-2-80; 8:45 am]
BILLING CODE 6325-01-M

V 45 J E 3 80 UMI

federal register

Tuesday
June 3, 1980

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

Ventilation Requirements of the Transportation Standards for Dogs and Cats

V 45 J E 3 80 UMI

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

Animal Welfare; Standards for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the ventilation requirements of the transportation standards for dogs and cats. The amendment increases the minimum amount of ventilation area required for shipping containers used to transport live dogs and cats in commerce. Revisions of the current transportation standards were proposed in the Federal Register (45 FR 15880–15881), March 11, 1980, as a result of various comments and petitions for reconsideration which were received by this Department. Comments and recommendations were received from animal welfare organizations, animal shippers, interested industry groups, and other interested individuals and groups. The Department has evaluated the comments and recommendations and has assessed the various aspects of ventilation in relation to the animals being shipped, the involved industries, and the public perception of the situation. On the basis of such evaluation, the Department has revised the standards which appear herein as final rulemaking.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7833. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Pursuant to the Animal Welfare Act Amendments of 1976, the Department published standards for the transportation of certain animals in commerce on June 21, 1977, and May 16, 1978, in the Federal Register (42 FR 31556–31571 and 43 FR 21160–21167) in order to assure that such animals were provided with humane care and treatment during transportation. Such standards are contained in Title 9 of the Code of Federal Regulations. The ventilation requirements in § 3.12 (9 CFR 3.12) state that primary enclosures (shipping containers) used to transport live dogs and cats shall be constructed in such a manner that there are ventilation openings located on two opposite walls which provide at least 16 percent ventilation per wall, or there are ventilation openings located on all four walls which provide at least 8 percent ventilation per wall, or there are ventilation openings located on three walls which provide at least 8 percent ventilation on two opposite walls and at least 50 percent ventilation on the third wall. Ventilation openings in the top of the animal shipping containers are not addressed since stacking of such containers during transportation is common practice and would effectively block such openings for ventilation purposes.

During fiscal year 1979, the National Committee on Animal Transport, the Society for Animal Protection Legislation, the American Society for the Prevention of Cruelty to Animals, and other interested persons petitioned the Department to reconsider its present standards and to increase the minimum ventilation requirements for shipping containers used to transport dogs and cats in commerce to 25 percent of the total area of the walls of the containers. The Department subsequently published a notice in the Federal Register (44 FR 33801), June 12, 1979, requesting opinions, comments, and data from the public regarding the adequacy or inadequacy of the present ventilation requirements for dog and cat shipping containers.

In response to this request, representatives of humane groups, animal shipping container manufacturers, pet animal dealers, zoological parks, air carriers, pet animal breeders and exhibitors, veterinarians, and members of the general public submitted comments. The Department reviewed and analyzed such comments and on March 11, 1980, a proposed amendment to the standards was published in the Federal Register (45 FR 15880–15881) where the major comments received by the Department were discussed.

The proposed amendment would have increased the minimum area of ventilation openings for containers used to transport dogs and cats in commerce during the period of April 1 through September 30 each year to 18 percent of the total surface area of the four walls of the container. A 45-day period, ending April 25, 1980, was allowed for public comment on the proposal.

One hundred thirty-one comments were received in response to the proposal within the comment period and all were given due consideration during the development of this final rule. An analysis of the 131 comments reveals that 55 supported the proposal, 66 opposed it, and 10 dealt with items not directly related to the issues of the proposal.

After review of the various comments received, and after an in-depth analysis of the issues involved in this matter, the Department decided to publish this final rule which increases the ventilation required in containers used to ship dogs and cats in interstate commerce. Based on data and other information contained in the comments, the Department has made certain changes in the proposed amendment of the ventilation standards to require that the total combined surface area of ventilation be at least 14 percent of the total combined surface area of all of the walls of the primary enclosure or shipping container. The following discussion summarizes the major concerns expressed in the comments received and the modifications in the rule.

The Need for Increased Ventilation

Many of the comments received by the Department maintained that increased ventilation is necessary to assure at least minimal humane conditions for animals in transit at any time of the year by providing some degree of comfort and safety. Many comments indicated that such increased ventilation is essential during the hot summer months. Concerned individuals who have observed shipments of animals at airports in containers with the lowest amount of ventilation permitted by the current standards have informed the Department that they have observed moisture buildup in these containers. Commenters noted that, on occasion, such moisture buildup and the conditions responsible for it resulted in an inability of the animals involved to maintain their normal body temperature and, in some instances, that animals have died because of inadequate ventilation. The Department recognizes that an insufficient amount of ventilation may not have been the only factor which contributed to the deaths of the animals. However, the information regarding moisture buildup and the reports of occasional deaths, along with other considerations discussed below, provide a basis to increase the amount of required ventilation. The required 14 percent ventilation is intended to provide adequate ventilation under normal handling and weather conditions and should also provide a margin of safety in cases of improper handling or exposure to unusually high temperatures.

The Need for Specific Standards

Some of the comments stated that the proposed amendment was vague. Some persons commented that the proposed rule (requiring 18 percent ventilation of the total surface area of the four sides of an animal container) could be subject to manipulation and inconsistent interpretation. The language of the proposed rule has therefore been modified to establish standards regarding ventilation required for two, three, or four sides of a container, as contained in the present rule, in order to assure that the objective of providing humane treatment for dogs and cats is not so undermined.

The Proposed Seasonal Requirement

The proposed rule would have increased the amount of ventilation required during warm weather months, i.e., April 1 through September 30. Based upon comments which were received regarding this limitation, the Department has concluded that such dual standard would be both impractical and costly and would not adequately fulfill the purpose of the proposed amendment. In some parts of the United States, warm weather prevails throughout the calendar year and therefore, comfort and safety of animals in transit can be best assured by establishing year-round requirements. The proposed rule has therefore been changed to provide for the applicability of the same ventilation standards throughout the year.

Cost of Compliance with the Rule

Numerous comments stated that the proposed increase in ventilation to 18 percent would eliminate or require major changes of nearly all existing dog and cat containers which are manufactured by the principal firms engaged in the production of such containers. This could result in great financial loss to those firms and to users of such containers. The Department has therefore reevaluated the proposed figure of 18 percent in light of these costs and the benefits from the use of that figure. Based upon the information currently available to it, the Department has concluded that the ventilation requirements contained in this final rule (an increase of present requirements) are adequate to assure humane treatment of animals during transportation.

In addition, they should not cause any undue hardship to a majority of manufacturers of animal shipping containers and members of the public who currently own such containers. A large portion of the shipping containers currently on the market comply with the requirements established by this final rule.

Many persons submitted comments that the majority of the "open fronted" containers now in use have adequate ventilation for year round use. The final rule contained herein permits the use of most of the "open fronted" containers currently on the market.

Present Ventilation is Adequate

A number of comments indicated that a great deal of experience in shipping thousands of animals without problems was sufficient reason to reject any increase in ventilation requirements. While the exact amount of distress or physical harm suffered by dogs and cats being transported on hot, humid days in shipping containers with minimum ventilation is not known, sufficient complaints have come to the attention of the Department to support the conclusion that containers in the lower ranges of permitted amounts of ventilation can contribute to discomfort, distress, or even the possible death of animals when high temperatures and high humidity are present.

Requests for Ventilation in Excess of the Proposed 18 Percent

Many comments, from both the opponents and proponents of the proposed rule, indicated that 18 percent ventilation is not sufficient to provide a humane environment for animals in transit. Such commenters stated that it would be desirable, or even necessary, to increase ventilation to 25 percent or more of the total surface area of the side walls of shipping containers. The Department does not have sufficient information at this time on which to conclude that such an increase in ventilation is warranted.

Scientific Data Necessary to Support Any Increase in Ventilation

Many persons who submitted comments remarked that no scientific data exists to support the need for increased ventilation and that any increase should be postponed until current scientific studies are completed. The Department recognizes that little experimental scientific data is available regarding ventilation requirements of animal shipping containers.

Studies are currently being conducted regarding the effects of heat, humidity, ventilation, and other factors on animals in transit. However, these studies are not complete and may not be conclusive as to precise requirements that should be generally applicable. The information available to the Department indicates that present ventilation requirements are not adequate to assure the humane treatment of animals in transit. Therefore, the Department has concluded that an amendment which increases ventilation requirements should not be postponed until the studies have been concluded. Such deferral of action could cause needless suffering of animals for an extended period of time.

Adoption of IATA Standards

Some comments suggested that ventilation standards recommended by the International Air Transport Association (IATA) be adopted. The final rule change will permit shipping containers that satisfy IATA standards. However, containers which comply minimally with the IATA standards provide less ventilation than that required by the amended rule. In addition, the IATA standard would prevent the use of containers which are currently on the market and which the Department considers adequate. Such a requirement would favor certain container manufacturers over others. For these reasons, the Department has decided against this suggestion.

Amendment not Based on Critical and Careful Evaluation of Data and Information Available

Some persons who commented protested that the Department is changing its standards on the basis of the number of comments which support or oppose the change and not on the opinion of qualified experts.

The Department has based the changes contained herein on its own knowledge and expertise regarding animal care as well as the experience it has gained through its administration and enforcement of the animal welfare program, on comments and opinions from the public, including persons expert in animal transportation, and on all other relevant information which has come to its attention. After considering and weighing all these factors, the Department determined that an increased amount of ventilation should be required, and that the increase contained in this rule will cause the least hardship to the affected industry and the public while providing humane travel conditions for dogs and cats.

Other comments

In addition to the comments already discussed, concern was expressed that an increase in the amount of ventilation openings would weaken the structure of shipping containers. Current regulations require that the structural strength of such containers must be sufficient to contain live animals and to withstand the normal rigors of transportation. Such regulations will stay in effect and changes in ventilation openings which make the container structurally unsafe will not be allowed.

Concern was also expressed that too much open area would cause increased exposure of animals to frightening conditions of transportation without providing the security of a closed area into which the animal may retreat. While it is not specifically required that containers be sufficiently closed to provide a feeling of security to the animals, the options available for ventilation of 2, 3, and 4 sides of containers will allow use of containers which satisfy this need.

Comments were made that openings be required in the top of containers to prevent heat buildup within the containers. The regulations do not prohibit ventilation openings in the top of containers but such openings have not been required (and will not be calculated toward meeting minimum ventilation standards) because such openings may be closed off by stacking of cargo.

Comments were also made that increased ventilation would expose animals to harmful drafts within aircraft holds. The conditions within aircraft holds and the manner in which the holds are ventilated and heated make problems from drafts unlikely. In addition, furred animals such as dogs and cats are not particularly susceptible to problems caused by drafts.

One comment stated that no change in ventilation was needed because the environmental temperature in all cargo areas and within aircraft is controlled. Because the standards have a broad application, there are places where the airflow may not be adequate. Also, the environment of some cargo holdings areas is not air conditioned. The Department wishes to ensure sufficient ventilation for "normal" conditions with a safety factor to guard against short term exposure to extreme conditions. A number of comments were received which addressed subjects not directly related to the issues of the proposal or suggested requirements beyond the authority of the Department. These included requests to extend the ventilation requirements to other warm blooded animals and to require that dogs and cats be carried in the passenger area of aircraft and require special cargo areas for animals. The Department will not address these comments at this time.

After due consideration of the comments received, the possible risk to the animals and the cost to the public and businesses involved, the Department has decided to publish this final rule which increases the required ventilation in shipping containers used to transport dogs and cats. As already explained, this rule is a modification of the proposal published in the **Federal Register** on March 11, 1980, (45 FR 15880–15881). Such modification is based on comments received from the public. The present ventilation standards for containers with openings on two, three, and four walls will be amended by this change to add a requirement that the total combined surface area of ventilation openings shall be at least 14 percent of the total combined surface area of all the walls of the primary enclosure or shipping container.

The result of this amendment is that all containers used for the commercial transportation of dogs and cats will be required to have at least 14 percent of the total wall surface devoted to ventilation regardless of the configuration of the openings on the walls. The current standards permit (in the case of certain rectangular containers with sides longer than the ends and openings on four walls) as little as 5.7 percent of the total surface area of the walls to be devoted to ventilation.

Accordingly, Part 3 of Title 9, Code of Federal Regulations, is amended in the following respects:

In § 3.12 that portion of paragraph (a) following the "(4)" and before the words *"Provided, however,"* is amended to read:

§ 3.12 Primary enclosures used to transport live dogs and cats.

(a) * * * except as provided in paragraph (h) of this section, such primary enclosures shall comply with one of the following requirements:

(i) There are ventilation openings located on two opposing walls of the primary enclosure and the ventilation openings on each of the two walls shall be at least 16 percent of the surface area of each such wall and the total combined surface area of the ventilation openings shall be at least 14 percent of the total combined surface area of all the walls of the primary enclosure, or

(ii) There are ventilation openings on three walls of the primary enclosure and the ventilation openings on two opposing walls shall be at least 8 percent of the total surface area of the two walls and the ventilation openings on the third wall of the primary enclosure shall be at least 50 percent of the total surface area of such wall and the total combined surface area of the ventilation openings shall be at least 14 percent of the total combined surface area of all the walls of the primary enclosure, or

(iii) There are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each of the four walls shall be at least 8 percent of the total surface of each wall and the total combined surface area of the ventilation openings shall be at least 14 percent of the total combined surface area of all the walls of the primary enclosure: * * *

(7 U.S.C. 2131–2156; 42 FR 31562, June 21, 1977, as amended by 43 FR 21162, May 16, 1978; 45 FR 15880, March 11, 1980)

In order to offer protection to dogs and cats being transported during the hot summer months, while giving persons transporting such animals time to acquire primary enclosures which are in compliance with these changes, this amendment will be effective 45 days after publication in the **Federal Register**.

It does not appear that further public participation in this rulemaking procedure would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provision in 5 U.S.C. 553 it is found upon good cause that further notice and other public procedure with respect to this amendment is impractical and unnecessary.

Done at Washington, D.C. this 29th day of May 1980.

R. I. Brown,

Acting Deputy Administraor, Veterinary Services.

[FR Doc. 80–16739 Filed 5–29–80; 12:48 pm]

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federal register

Tuesday
June 3, 1980

Part IV

Department of Justice

Attorney General

Nondiscrimination Based on Handicap in Federally Assisted Programs

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DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 42

Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This subpart establishes procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department of Justice. The subpart is designed to comply with section 504 of the Rehabilitation Act of 1973 as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons in programs receiving or benefitting from Federal financial assistance.

EFFECTIVE DATE: July 3, 1980.

FOR FURTHER INFORMATION CONTACT:
(1) For Federal assistance programs administered by the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Office of Justice Assistance, Research, and Statistics (OJARS), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP): Thomas J. Madden, General Counsel, Office of Justice Assistance, Research, and Statistics, telephone: 202/724–7792.

(2) For other Department of Justice Federal assistance programs: Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Telephone: (202) 633–2374.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Justice hereby adds Subpart G to Part 42 of the Department regulations to implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended by section 111(a) of the Rehabilitation Act Amendments of 1974 (29 U.S.C. 706) (Supp. V 1975), and section 120(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978) (hereinafter the Rehabilitation Act Amendments of 1978), with regard to Federal financial assistance administered by this Department. Section 504 provides, in pertinent part, that "no otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *."

The subpart is intended to insure that the Department's federally assisted programs and activities are operated without discrimination on the basis of handicap. The subpart defines and forbids acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from the Department. As employers, recipients are required to make reasonable accommodations to the handicaps of applicants and employees unless the accommodations would impose undue hardships on the operation of the recipients' programs. As providers of services, recipients are required (1) to make programs operating in existing facilities readily accessible to and usable by handicapped persons, (2) to insure that new facilities are constructed to be readily accessible to and usable by handicapped persons, and (3) to operate their programs in a manner which provides for the full and nondiscriminatory participation of eligible handicapped persons.

This rule is, in part, in response to Executive Order 11914 (41 FR 17871, April 28, 1976), which (1) delegates the coordination of government-wide enforcement of section 504 to the Department of Health, Education, and Welfare and (2) directs each Federal agency providing Federal financial assistance to "issue rules, regulations, and directives, consistent with the standards and procedures established by the Secretary of Health, Education and Welfare." The Secretary established such standards and procedures, effective January 13, 1978 (43 FR 2132, January 13, 1978) (hereinafter "guidelines"). The Department's rule is intended to be consistent with the HEW guidelines and the HEW section 504 rule (42 FR 22676 (May 4, 1977); 45 CFR 84.1 (1979)).

Executive Order 12044, 43 FR 12661 (March 24, 1978), whose objective is to improve government regulations, requires that "regulations shall be as simple and clear as possible." Following that standard, the subject departs, where appropriate, from the language (but not the substance) of the HEW section 504 rule where clarification appears desirable to give further guidance to applicants and recipients of Federal financial assistance administered by the Department. Although the wording may differ, the Department intends no substantive difference between its language and the corresponding language of the HEW section 504 rule and guidelines.

Executive Order 12044 also requires Executive branch agencies to prepare Regulatory Analyses for regulations that may have major economic consequences. The Order defines major economic consequences as (1) an annual effect on the economy of $100 million dollars or more (for example, compliance costs that exceed $100 million dollars) or a stricter requirement if the agency head so determines, or (2) major increases in costs or prices for individual industries, levels of government or geographic regions.

The Department's Notice of Proposed Rulemaking (44 FR 54950, September 21, 1979) requested public comment on the issue of compliance costs and asked for the submission of available cost studies regarding structural and nonstructural modifications to provide for the participation of handicapped persons in programs relevant to this subpart. The public comments received on the matter of costs did not change the Department's earlier view that the compliance costs would not result in major economic consequences within the meaning of Executive Order 12044 and that, accordingly, a Regulatory Analysis would be neither required nor advisable at this time. In the event the Department's experience in implementing this rule indicates that compliance costs exceed anticipated levels, the Department will again review the propriety of undertaking a regulatory analysis.

The anticipated costs of recipients of Department of Justice financial assistance appear to be concentrated in three areas: (1) The removal of architectural barriers; (2) the elimination of communications barriers; and (3) the making of reasonable accommodations to the handicapping conditions of otherwise qualified handicapped persons as employees of recipients.

Architectural Barriers. Structural changes for program accessibility are necessary primarily for persons with severe mobility-related handicaps—persons who cannot climb stairs or step over curbs, cannot open heavy doors, cannot travel without wheelchairs, and the like. Almost all these persons use wheelchairs or walkers. With respect to compliance costs associated with structural modifications, it is crucial to keep the following compliance standards in mind. First, under the requirements of the subpart, structural changes in existing facilities are required only where there is no other

feasible way to make the recipient's program accessible to handicapped persons. For existing facilities, the key requirement is not a barrier free environment, but program accessibility (see illustrative examples set forth in Appendix B, Section C, *infra.*). Second, not every existing facility or part of a facility in a program receiving Federal financial assistance from the Department must be accessible to handicapped persons. The subpart requires only that, when viewed in its entirety, the program is readily accessible to handicapped persons. Where physical access to buildings for handicapped persons requires the construction of ramps, HEW has found "after consultation with experts in the field, that outside ramps to buildings can be constructed quickly and at relatively low cost." 42 FR 22690 (May 4, 1977). Whether the simple installation of ramps and appropriate restroom facilities in buildings will suffice depends upon the design of the facility, the nature and location of the program, and the availability of nonstructural modifications to provide program accessibility.

As to new construction, the available evidence indicates that compliance costs directly attributable to this subpart may be modest for the following reasons.

First, all 50 States have architectural barriers statutes covering publicly funded buildings (where most DOJ recipients are located), while at least 22 States additionally cover privately funded public buildings. The statutes of all 50 States cover new construction, while 35 States also cover renovations and alterations.[1] Thus, since the issue is whether the proposed Department regulations will themselves cause a "major" economic impact, it is noteworthy that much of what is required by this subpart in terms of preventing architectural barriers to handicapped persons already is required by existing State law. Hence, to this extent the incremental Department impact on recipients would appear to be significantly reduced.

Second, this subpart requires that design or construction of new facilities, or alteration of existing facilities, conform with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI). (§ 42.522(b)). At least twenty-seven States have already adopted the ANSI standards in their codes.[2]

Third, the Architectural Barriers Act of 1968, as amended, 42 U.S.C.A. 4151 *et seq.*, requires that all buildings and facilities "financed in whole or in part by a grant or a loan made by the United States after August 12, 1968" are to be accessible to and usable by the physically handicapped, 42 U.S.C.A. 4151, "if the building or facility is subject to standards for design, construction or alteration issued under the law authorizing the grant or loan." 41 CFR 101–19.602(a)(3) (General Services Administration regulations). LEAA has construed the Architectural Barriers Act as covering all its Part E grants for construction of correctional institutions and facilities. See 42 U.S.C. 3750–3750d (Repealed Dec. 27, 1979 by Pub. L. 96–157, 93 Stat. 1167). The Justice System Improvement Act of 1979, Pub. L. 96–157, 93 Stat. 1167, prohibits LEAA from providing financial assistance to new construction programs (Sec. 404(c)(3)).

Finally, applicants for Department assistance may have previously received Federal financial assistance from other Federal agencies, thereby requiring their compliance with § 504 independent of this subpart. For example, LEAA has provided financial assistance to institutions of higher learning that also receive funds from HEW.[3] Also, a substantial portion of Federal revenue sharing money has been annually allocated by State and local units of government to public safety (*i.e.*, police and fire protection). The revenue sharing funds are provided under the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C.A. 1221 *et seq.*, which was amended in 1976 to make section 504 of the Rehabilitation Act applicable to programs funded with revenue sharing monies received by State and local units of government after January 1, 1977.

Communications Barriers. One obvious example of eliminating communications barriers would be the installation of teletypewriters (TTY's) in law enforcement and fire protection agencies to enable hearing and speaking impaired persons to communicate effectively with such agencies. The TTY is a telecommunications device that adapts the telephone to the needs of persons with hearing and speaking impairments. The cost of a TTY is relatively modest and would be even less so where a TTY is shared by a number of public agencies hooked up to a central TTY number.

The use of qualified interpreters in various settings (e.g., police interrogations, court proceedings, correctional rehabilitation programs) who are, when possible, certified by a recognized certification agency, is another important method of ameliorating the communications barriers experienced by speaking and hearing-impaired individuals. A recipient's need for an interpreter is usually not on a continuing basis, and the overall compliance cost would not be substantial.

Employment. The subpart prohibits discrimination in employment against handicapped persons by recipients of Department financial assistance and, further, requires that recipients make "reasonable accommodations" to the handicaps of otherwise qualified applicants or incumbent employees. A reasonable accommodation in a given employment situation depends upon many variables involving the recipient, the job, and the handicapped employee. The Department, like its recipients, will have to deal with this issue on a case-by-case basis. However, HEW's economic impact statement on the compliance costs of section 504 for its recipients concluded that "our analysis strongly suggests that in the large majority of cases enforcement of reasonable accommodation will not result in any significant cost increase for employers." 41 FR 20332 (May 17, 1976). There is nothing to suggest a different result for employers functioning in programs receiving financial assistance from the Department of Justice.

The Department programs covered by section 504 are set forth in Appendix A to this subpart. An analysis of the final rule is set forth in Appendix B.

II. Rulemaking History

On September 21, 1979 the Department published a Notice of Proposed Rulemaking setting forth proposed regulations for public comment (44 FR 54950). The initial 90-day comment period was extended until January 4, 1980 to provide for additional public participation. (44 FR 76303, December 26, 1979) On November 27, 1979 a public meeting was held in Washington, D.C. to hear oral testimony from interested persons on the proposed rule.

A total of more than 60 comments were received and have been analyzed. Both the written comments and the views expressed at the public meeting have illuminated the complex issues involved in implementing section 504 in an effective and workable fashion. The

[1] *Amicus*, pp. 46–47 July/August 1978, National Center for Law and the Handicapped.

[2] *Amicus, id.*

[3] Section 305 of the Education Organization Act (Pub. L. No. 96–88, 93 Stat. 688), effective October 17, 1979, transferred LEAA's student loan and grant programs to the new Department of Education.

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Department's response to the comments of interested parties and the explanation for significant changes in the proposed rule are set forth in the section-by-section analysis of the rule that appears as Appendix B to the rule. As that analysis explains, some provisions in the proposed rule have been eliminated as duplicative, unnecessary, or otherwise inappropriate; others have been shortened or clarified. The goal throughout has been to design a rule that preserves the essential elements of an effective program for ending discrimination, while avoiding the imposition of unnecessary or counterproductive administrative obligations on recipients.

In consideration of the foregoing, Part 42 of Title 28 of CFR is amended by adding a new Subpart G reading as set forth below.

Dated: May 16, 1980.

Benjamin R. Civiletti,

Attorney General.

Subpart G—Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914

General Provisions

Sec.

42.501 Purpose.
42.502 Application.
42.503 Discrimination prohibited.
42.504 Assurances required.
42.505 Administrative requirements for recipients.

Employment

42.510 Discrimination prohibited.
42.511 Reasonable accommodation.
42.512 Employment criteria.
42.513 Preemployment inquiries.

Program Accessibility

42.520 Discrimination prohibited.
42.521 Existing facilities.
42.522 New construction.

Procedures

42.530 Procedures.

Definitions

42.540 Definitions.

Appendix A: Federal financial assistance of the Department of Justice to which this subpart applies.

Appendix B: Analysis of Final Rule.

Appendix C: Department regulations under Title VI of the Civil Rights Act of 1964 (28 CFR 42.106–42.110) which apply to this subpart.

Appendix D: OJARS regulations under the Omnibus Crime Control and Safe Streets Act, as amended, which apply to this subpart (28 CFR §§ 42.205 and 42.206).

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); Sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706); Sec. 120(a), Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978); Executive Order 11914, April 28, 1976, and 45 CFR Part 85.

General Provisions

§ 42.501 Purpose.

The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in any program receiving Federal financial assistance.

§ 42.502 Application.

This subpart applies to each recipient of Federal financial assistance from the Department of Justice and to each program receiving or benefiting from such assistance. The requirements of this subpart do not apply to the ultimate beneficiaries of Federal financial assistance in the program receiving Federal financial assistance.

§ 42.503 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program receiving or benefiting from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient may not discriminate on the basis of handicap in the following ways directly or through contractual, licensing, or other arrangements under any program receiving Federal financial assistance:

(i) Deny a qualified handicapped person the opportunity accorded others to participate in the program receiving Federal financial assistance;

(ii) Deny a qualified handicapped person an equal opportunity to achieve the same benefits that others achieve in the program receiving Federal financial assistance;

(iii) Provide different or separate assistance to handicapped persons or classes of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons or classes of handicapped persons with assistance as effective as that provided to others;

(iv) Deny a qualified handicapped person an equal opportunity to participate in the program by providing services to the program;

(v) Deny a qualified handicapped person an opportunity to participate as a member of a planning or advisory body;

(vi) Permit the participation in the program of agencies, organizations or persons which discriminate against the handicapped beneficiaries in the recipient's program;

(vii) Intimidate or retaliate against any individual, whether handicapped or not, for the purpose of interfering with any right secured by section 504 or this subpart.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in any program receiving Federal financial assistance on the ground that other specialized programs for handicapped persons are available.

(3) A recipient may not, directly or through contractual, licensing, or other arrangements, utilize criteria or methods of administration that either purposely or in effect discriminate on the basis of handicap, defeat or substantially impair accomplishment of the objectives of the recipient's program with respect to handicapped persons, or perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(4) A recipient may not, in determining the location or design of a facility, make selections that either purposely or in effect discriminate on the basis of handicap or defeat or substantially impair the accomplishment of the objectives of the program with respect to handicapped persons.

(5) A recipient is prohibited from discriminating on the basis of handicap in a program operating without Federal financial assistance where such action would discriminate against the handicapped beneficiaries or participants in any program of the recipient receiving Federal financial assistance.

(6) Any program not otherwise receiving Federal financial assistance but using a facility provided with the aid of Federal financial assistance after the effective date of this subpart is prohibited from discriminating on the basis of handicap.

(c) The exclusion of nonhandicapped persons or specified classes of handicapped persons from programs limited by Federal statute or executive order to handicapped persons or a different class of handicapped persons is not prohibited by this subpart.

(d) Recipients shall administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall insure that communications with their applicants, employees and beneficiaries are effectively conveyed to those having impaired vision and hearing.

(f) A recipient that employs fifteen or more persons shall provide appropriate anxiliary aids to qualified handicapped persons with impaired sensory, manual, or speaking skills where a refusal to make such provision would discriminatorily impair or exclude the participation of such persons in a program receiving Federal financial assistance. Such auxiliary aids may include brailled and taped material, qualified interpreters, readers, and telephonic devices. Attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature are not required under this section. Departmental officials may require recipients employing fewer than fifteen persons to provide auxiliary aids when this would not significantly impair the ability of the recipient to provide its benefits or services.

(g) The enumeration of specific forms of prohibited discrimination in this subpart is not exhaustive but only illustrative.

§ 42.504 Assurances required.

(a) *Assurances.* Every application for Federal financial assistance covered by this subpart shall contain an assurance that the program will be conducted in compliance with the requirements of section 504 and this subpart. Each agency within the Department that provides Federal financial assistance shall specify the form of the foregoing assurance for each of its assistance programs and shall require applicants for Department financial assistance to obtain like assurances from subgrantees, contractors and subcontractors, transferees, successors in interest, and others connected with the program. Each Department agency shall specify the extent to which an applicant will be required to confirm that the assurances provided by secondary recipients are being honored. Each assurance shall include provisions giving notice that the United States has a right to seek judicial enforcement of section 504 and the assurance.

(b) *Assurances from government agencies.* Assurances from agencies of State and local governments shall extend to any other agency of the same governmental unit if the policies of the other agency will affect the program for which Federal financial assistance is requested.

(c) *Assurances from institutions.* The assurances required with respect to any institution or facility shall be applicable to the entire institution or facility.

(d) *Duration of obligation.* Where the Federal financial assistance is to provide or is in the form of real or personal property, the assurance will obligate the recipient and any transferee for the period during which the property is being used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provisions of similar benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(e) *Covenants.* With respect to any transfer of real property, the transfer document shall contain a covenant running with the land assuring nondiscrimination on the condition described in paragraph (d). Where the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant.

(f) *Remedies.* The failure to secure either an assurance or a sufficient assurance from a recipient shall not impair the right of the Department to enforce the requirements of section 504 and this subpart.

§ 42.505 Administrative requirements for recipients.

(a) *Remedial action.* If the Department finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this subpart, the recipient shall take the remedial action the Department considers necessary to overcome the effects of the discrimination. This may include remedial action with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred, and with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to the requirements of this subpart, to increase the participation of qualified handicapped persons in the recipient's program.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this subpart, evaluate and modify its policies and practices that do not meet the requirements of this subpart. During this process the recipient shall seek the advice and assistance of interested persons, including handicapped persons or organizations representing handicapped persons. During this period and thereafter the recipient shall take any necessary remedial steps to eliminate the effects of discrimination that resulted from adherence to these policies and practices.

(2) A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of $25,000 or more shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Department on request: (i) a list of the interested persons consulted, (ii) a description of areas examined and problems identified, and (iii) a description of modifications made and remedial steps taken.

(d) *Designation of responsible employee.* A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of $25,000 or more shall designate at least one person to coordinate compliance with this subpart.

(e) *Adoption of grievance procedures.* A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of $25,000 or more shall adopt grievance procedures that incorporate due process standards *(e.g.* adequate notice, fair hearing) and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this subpart. Such procedures need not be established with respect to complaints from applicants for employment. An employee may file a complaint with the Department without having first used the recipient's grievance procedures.

(f) *Notice.* (1) A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of more than $25,000 shall, on a continuing basis, notify participants, beneficiaries, applicants, employees and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this subpart. The notification shall state, where appropriate, that the recipient does not discriminate in its programs with respect to access, treatment or employment. The notification shall also include identification of the person responsible for coordinating compliance with this subpart and where to file section 504 complaints with the Department and, where applicable, with the recipient. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this subpart. Methods

of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(2) Recruitment materials or publications containing general information that a recipient makes available to participants, beneficiaries, applicants, or employees shall include a policy statement of nondiscrimination on the basis of handicap.

(g) The Department may require any recipient with fewer than fifty employees and receiving less than $25,000 in Federal financial assistance to comply with paragraphs (c)(2) and (d)–(f) of this section.

(h) The obligation to comply with this subpart is not affected by any State or local law or requirement or limited employment opportunities for handicapped persons in any occupation or profession.

Employment

§ 42.510 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall on the basis of handicap be subjected to discrimination in employment under any program receiving or benefiting from Federal financial assistance.

(2) A recipient shall make all decisions concerning employment under any program receiving Federal financial assistance in a manner which insures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this section. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs, and with civil service agencies in State or local units of government.

(b) *Specific activities.* The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and application processing;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(3) Pay and any other form of compensation and changes in compensation, including fringe benefits available by virtue of employment, whether or not administered by the recipient;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and selection for leaves of absence to pursue training;

(7) Employer-sponsored activities, including social or recreational programs; and

(8) Any other term, condition, or privilege of employment.

(c) In offering employment or promotions to handicapped individuals, recipients may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(d) A recipient's obligation to comply with this section is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 42.511 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate, based on the individual assessment of the applicant or employee, that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include making facilities used by employees readily accessible to and usable by handicapped persons, job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices (*e.g.*, telecommunication or other telephone devices), the provisions of readers or qualified interpreters, and other similar actions.

(c) Whether an accommodation would impose an undue hardship on the operation of a recipient's program depends upon a case-by-case analysis weighing factors that include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

A reasonable accommodation may require a recipient to bear more than an insignificant economic cost in making allowance for the handicap of a qualified applicant or employee and to accept minor inconvenience which does not bear on the ability of the handicapped individual to perform the essential duties of the job.

§ 42.512 Employment criteria.

(a) A recipient may not use any employment test or other selection criterion that tends to screen out handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that tend to screen out fewer handicapped persons are not shown by the appropriate Department officials to be available.

(b) A recipient shall administer tests using procedures (*e.g.*, auxiliary aids such as readers for visually-impaired persons or qualified sign language interpreters for hearing-impaired persons) that accommodate the special problems of handicapped persons to the fullest extent, consistent with the objectives of the test. When a test is administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results must accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 42.513 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 42.505(a) of this subpart, when a recipient is taking voluntary action to overcome the effects of conditions that

resulted in limited participation in its Federally assisted program or activity pursuant to § 42.505(b) of this subpart, or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary efforts;

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty. *Provided* That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this subpart.

(d) The applicant's medical record shall be collected and maintained on separate forms and kept confidential, except that the following persons may be informed:

(1) Supervisors and managers regarding restrictions on the work of handicapped persons and necessary accommodations;

(2) First aid and safety personnel if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act upon request for relevant information.

Program Accessibility

§ 42.520 Discrimination prohibited.

Recipients shall insure that no qualified handicapped person is denied the benefits of, excluded from participation in, or otherwise subjected to discimination under any program receiving Federal financial assistance because the recipient's facilities are inaccessible to or unusable by handicapped persons.

§ 42.521 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program to which this subpart applies so that the program, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This section does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Compliance procedures.* A recipient may comply with the requirement of paragraph (a) of this section through acquisition or redesign of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, delivery of services at alternate accessible sites, alteration of existing facilities, or any other method that results in making its program accessible to its program accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among methods for meeting the requirement of paragraph (a), a recipient shall give priority to those methods that offer programs to handicapped persons in the most integrated setting appropriate to obtain the full benefits of the program.

(c) *Small providers.* If a recipient with fewer than fifteen employees finds, after consultation with a handicapped person seeking its services, that there is no method of complying with § 42.521(a) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other available providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) within ninety days of the effective date of this subpart. However, where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible and shall be completed no later than three years from the effective date of this subpart. If structural changes to facilities are necessary, a recipient shall, within six months of the effective date of this subpart, develop a written plan setting forth the steps that will be taken to complete the changes together with a schedule for making the changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons and shall be made available for public inspection. The plan shall, at a mininum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify the steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to insure that interested persons, including mentally retarded persons or persons with impaired vision or hearing, special learning problems, or other disabilities, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 42.522 New construction.

(a) *Design and construction.* Each new facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such a manner that the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this subpart. Any alterations to existing facilities shall, to the maximum extent feasible, be made in an accessible manner. Any alterations to existing facilities shall, to the maximum extent feasible, be made in an accessible manner.

(b) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" published by the American National Standards Institute, Inc. (ANSI A 117.1–1961 (R1971)),[4] which is incorporated by reference in this subpart, shall constitute compliance with paragraph (a) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility is provided.

[4] Incorporation by reference provisions approved by the Director of the Federal Register on May 21, 1980. copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018. (212/354–3300). A copy is also on file at the Office of the Federal Register.

Procedures

§ 42.530 Procedures.

(a) The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 (28 CFR 42.106–42.110) apply to this subpart except that the provision contained in § 42.110(e) and § 42.108(c)(3) which requires the Attorney General's approval before the imposition of any sanction against a recipient does not apply to programs funded by LEAA, NIJ, BJS, OJARS and OJJDP. The applicable provisions contain requirements for compliance information (§ 42.106), conduct of investigations (§ 42.107), procedure for effecting compliance (§ 42.108), hearings (§ 42.109), and decisions and notices (§ 42.110). (See Appendix C).

(b) In the case of programs funded by LEAA, NIJ, BJS, OJARS and OJJDP, the timetables and standards for investigation of complaints and for the conduct of compliance reviews contained in § 42.205(c)(1)–(c)(3) and § 42.206 (c) and (d) are applicable to this subpart except that any finding of noncompliance shall be enforced as provided in paragraph (a) of this section. (See Appendix D).

(c) In the case of programs funded by LEAA, NIJ, BJS, OJARS and OJJDP, the refusal to provide requested information under paragraph (a) above and § 42.106 will be enforced pursuant to the provisions of section 803(a) of Title I of the Omnibus Crime Control and Safe Streets Act, as amended by the Justice System Improvement Act of 1979, Pub. L. 96–157, 93 Stat. 1167.

(d) For acts of discrimination occurring prior to the effective date of this subpart, the 180-day limitation period for filing of complaints (§ 42.107 of this Title) will apply from that date.

(e) The Department will investigate complaints alleging discrimination in violation of section 504 occurring prior to the effective date of this subpart where the language of the statute or HEW's interagency guidelines (43 FR 2132, January 13, 1978) implementing Executive Order 11914 (41 FR 17871, April 28, 1976) provided notice that the challenged policy or practice was unlawful.

Definitions

§ 42.540 Definitions.

As used in this subpart the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended (29 U.S.C. 701 *et seq.*).

(b) "Section 504" means section 504 of the Act (29 U.S.C. 794).

(c) "Department" means the Department of Justice.

(d) "LEAA" means the Law Enforcement Assistance Administration; "NIJ" means the National Institute of Justice; "BJS" means the Bureau of Justice Statistics; "OJARS" means the Office of Justice Assistance, Research and Statistics; "OJJDP" means Office of Juvenile Justice and Delinquency Prevention.

(e) "Recipient" means any State or unit of local goverment, any instrumentality of a State or unit of local government, any public or private agency, institution, organization, or other public or private entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(f) "Federal financial assistance" means any grant, cooperative agreement, loan, contract (other than a direct Federal procurement contract or a contract of insurance or guaranty), subgrant, contract under a grant or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel;

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government;

(4) Any other thing of value by way of grant, loan, contract or cooperative agreement.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(h) The term "program" means the operations of the agency or organizational unit of government receiving or substantially benefiting from the Federal assistance awarded, *e.g.*, a police department or department of corrections.

(i) "Ultimate beneficiary" is one among a class of persons who are entitled to benefit from, or otherwise participate in, programs receiving Federal financial assistance and to whom the protections of this subpart extend. The ultimate beneficiary class may be the general public or some narrower group of persons.

(j) "Benefit" includes provision of services, financial aid or disposition (*i.e.*, treatment, handling, decision, sentencing, confinement, or other prescription of conduct).

(k) "Handicapped Person". (1) "Handicapped person" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. (2) As used in this subpart the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; (B) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug and alcohol abuse.

(ii) "Major life activities" mean functions such as caring for one's self, performing manual tasks walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (k)(2)(i) of this section but is treated by a recipient as having such an impairment.

(l) "Qualified handicapped person" means: (1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; (2) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(m) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (k) of this section.

(n) "Drug abuse" means (1) the use of any drug or substance listed by the Department of Justice in 21 CFR 1308.11, under authority of the Controlled Substances Act, 21 U.S.C. 801, as a controlled substance unavailable for prescription because (i) the drug or substance has a high potential for abuse, (ii) the drug or other substance has no currently accepted medical use in treatment in the United States, (iii) there is a lack of accepted safety for use of the drug or other substance under medical supervision; (2) the misuse of any drug or substance listed by the Department of Justice in 21 CFR 1308.12–.15 under authority of the Controlled Substances Act as a controlled substance available for prescription. Examples of (1) include certain opiates and opiate derivatives (*e.g.*, heroin) and hallucinogenic substances (*e.g.*, marihuana, mescaline, peyote) and depressants (*e.g.*, methaqualone). Examples of (2) include opium, coca leaves, methadone, amphetamines and barbituates.

(o) "Alcohol abuse" includes alcoholism but also means any misuse of alcohol which demonstrably interferes with a person's health, interpersonal relations or working.

Appendix A—Federal Financial Assistance of the Department of Justice to Which this Subpart Applies

1. Assistance provided by LEAA, NIJ, BJS, OJARS and OJJDP under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Justice System Improvement Act of 1979, Pub. L. 96–157, 93 Stat. 1167, and the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended.

2. Assistance provided by the Federal Bureau of Investigation through its National Academy and law enforcement training activities and laboratory facilities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

3. Assistance provided by the Bureau of Prisons through its National Institute of Corrections for training programs under the Juvenile Justice and Delinquency Prevention Act, as amended, 18 U.S.C. 4351–4353.

4. Assistance provided by the Drug Enforcement Administration under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801 *et seq.*

5. Assistance provided by the Attorney General for antitrust enforcement under section 116 of the Crime Control Act of 1976, 42 U.S.C. 3739.[5]

6. Assistance provided by the Department under the Disputes Resolution Act, Pub. L. 96–190, 94 Stat. 17.

7. Assistance provided by the Department under the State and Local Drug Strike Force Grant Program, Pub. L. 96–68, Title II, 93 Stat. 419.

Appendix B—Analysis of Final Rule

A. General Provisions

This subpart prohibits discrimination on the basis of handicap in any program, activity or facility receiving Federal financial assistance (§ 42.501). Section 504 protects not only the ultimate beneficiaries of Federal assistance statutes (*e.g.*, students, prisoners, general public) as identified in the Federal grant statutes directly or by inference, but also nonbeneficiary participants (*e.g.*, employees working in the program receiving Federal financial assistance regardless of whether a primary objective of the Federal assistance includes providing employment opportunities). The subpart applies to all Federal assistance programs administered by the Department and requires all recipients of such assistance to comply with the requirements of the subpart (§ 42.502). The subpart not only applies to grants, contracts and cooperative agreements entered into after the effective date of the subpart, but also applies to any Federal financial assistance previously extended which continues at the time the subpart becomes effective.

The subpart sets forth a variety of illustrative examples to identify conduct which is unlawfully discriminatory and requirements to maintain Federally assisted programs free of unlawful discrimination (§ 42.503). Prohibited conduct includes arbitrary acts of exclusion or other invidious discrimination (§ 42.503(b)(1)(i)), refusal to provide specialized assistance to qualified handicapped persons (§ 42.503(b)(1)(ii)), refusal to permit qualified handicapped persons to participate in a Federal assistance program in providing services (*e.g.*, excluding qualified handicapped persons as contractors). The subpart also prohibits any agency, organization or person that discriminates against handicapped beneficiaries from participating in Federal assistance programs (§ 42.503(b)(1)(v)). A recipient may not discriminate against handicapped persons in its non-Federally funded programs if such action would discriminate against handicapped beneficiaries and participants in the recipient's Federally supported programs (§ 42.503(b)(5)). Further, no program conducted in a facility provided with Federal aid, after the effective date of section 504, can discriminate on the basis of handicap (§ 42.503(b)(6)). Also, a recipient may be required to provide auxiliary aids (*e.g.*, qualified interpreters for speaking and hearing-impaired persons, and readers for sight-impaired persons) under appropriate circumstances (§ 42.503(f)).

The primary thrust of these illustrative examples is to emphasize the Federal policy that qualified handicapped beneficiaries and participants (*e.g.*, employees) in Federally assisted programs are to be treated no differently than nonhandicapped beneficiaries and participants where such different treatment would materially impair the handicapped persons' ability to receive benefits or participate on an equal footing with non-handicapped persons. Thus "a recipient may not, directly or through contractual, licensing, or other arrangements, utilize criteria or methods of administration that either purposely or in effect discriminate on the basis of handicap" (§ 42.503(b)(3)). This provision gives notice that, ordinarily, a recipient's obligation under section 504 is broader than the mere avoidance of direct discrimination and encompasses an obligation to assure that second-tier recipients (*e.g.*, organizations receiving Federal financial assistance through the primary recipient) also adhere to the requirements of section 504. Accordingly, Criminal Justice Councils (CJC's) established under Part D of Title I of the Omnibus Crime Control and Safe Streets Act, as amended by the Justice System Improvement Act of 1979, have a continuing obligation to insure that second-tier recipients receiving Federal financial assistance through the SPA's comply with section 504 and this subpart. The subpart requires an applicant for Federal financial assistance to execute an assurance of compliance with section 504 and this subpart, and obtain similar assurances from second-tier recipients (§ 42.504(a)–(c)). This is a change from the proposed rule which gave an appropriate Department official discretion to determine the extent a primary recipient would be obligated to obtain assurances from secondary recipients. Some commentators believed the flexible standard in the proposed rule was unwarranted in view of the clear statutory responsibility of second-tier recipients to comply with section 504.

Under certain circumstances it may be necessary to obtain assurances not only from second-tier recipients but also from vendors of services participating in a program receiving Federal financial assistance where such services affect the ultimate beneficiaries (*e.g.*, community-based facilities operating under Federal assistance contracts to provide services to beneficiaries).

Assurances from State or local recipient government agencies shall extend to other agencies of the same governmental unit if the policies or practices of the other agency affect the Federal assistance program of the recipient agency (§ 42.504(b)). Assurances from institutions or facilities (*e.g.*, law enforcement agencies, prisons, court systems) shall cover the entire institution or facility (§ 42.504(c)).

The subpart specifies the duration of the recipient's section 504 obligation (§ 42.504(d)) and notes that the failure to secure an assurance from a recipient does not impair the right of the Department to enforce the requirements of section 504 and this subpart because a recipient's obligation is statutory as well as contractual (§ 42.504(f)).

[5] Congress has not appropriated funds for this program for Fiscal Year 1980 which ends September 30, 1980. The Department made its last grants under the program by September 30, 1979.

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Each recipient is required to evaluate and modify any of its policies which does not meet the requirements of the subpart (§ 42.505(c)(1)), and each recipient employing a minimum of fifty employees and receiving Federal financial assistance from the Department of $25,000 or more must maintain a record of the self-evaluation (§ 42.505(c)(2)), designate an employee to coordinate compliance with the subpart (§ 42.505(d)), adopt grievance procedures which incorporate due process standards (§ 42.505(e)) and provide notice on a continuing basis that it does not discriminate on the basis of handicap (§ 42.505(f)).

The HEW section 504 rule provides that any recipient employing fifteen or more persons is required to adopt these procedures (45 CFR 84.6(c)(2), 84.7, 84.8(a)). Some commentators expressed concern that the Department established a less encompassing procedural standard than HEW. The Department's numerical and monetary standard used in this subpart is identical to that used by LEAA, the Department's major grant agency, in its "Equal Employment Opportunity Program Guidelines" (28 CFR 42.301 *et seq.*) directed to its recipients and which requires the formulation, implementation and maintenance of a written equal employment opportunity program relating to employment practices affecting minority persons and women. It is appropriate that the Department maintain a consistent approach in ensuring the rights of the various categories of persons protected by Federal law. Further, it should be noted that the Department's action is consistent with the HEW guidelines for the development of Federal agency section 504 regulations which are substantially less exacting than the procedures adopted by the Department for its own programs. The guidelines impose no minimum numerical standard (45 CFR 85.5(b)). Finally, this subpart provides that "the Department may require any recipient with fewer than fifty employees and receiving less than $25,000 in Federal financial assistance to comply" with the procedural standards (§ 42.505(g)). Of course, recipients having fewer than fifty employees and receiving less than $25,000 in Department assistance are bound by section 504 and all the substantive and procedural requirements of this subpart which do not explicitly exempt such recipients.

The Department adopted one commentator's recommendation that notice be given in § 42.505(d) that employees may file complaints with the Department without having first used the recipients' grievance procedure mechanisms. Additionally, the notice requirements of § 42.505(f)(1) now provide examples of initial and continuing notification (*e.g.*, posters, magazines and memoranda). Further, a new requirement has been added to provide that all recipients must provide notice to the public on where to file section 504 complaints with the Department and, where applicable, with the recipient concerning the recipients' programs.

The subpart also provides that a recipient's obligation to comply with the subpart is not affected by inconsistent State and local laws or the limited employment opportunities for handicapped persons in any occupation or profession (§ 42.505(h)).

B. Employment

HEW has construed section 504 to prohibit employment discrimination against handicapped persons in all programs receiving Federal financial assistance. See HEW's section 504 regulations, 42 FR 22680 (May 4, 1977) and 45 CFR 84.11 (1978). Several courts have construed section 504 to cover employment discrimination. See, *e.g.*, *Duran* v. *City of Tampa*, 430 F. Supp. 75 (M.D. Fla. 1977), *Drennon* v. *Philadelphia General Hospital*, 428 F. Supp. 809 (E.D. Pa. 1977), *Granet* v. *Los Angeles Community College District*, No. CV 78–1823–ALS (Kx) (C.D. Cal., Dec. 29, 1978) (order granting dismissal). To date, two courts of appeals have taken a narrower view. *See* in *Trageser* v. *Libbie Rehabilitation Center, Inc.*, 590 F. 2d 87 (4th Cir. 1978), *cert. den.*, 442 U.S. 947 (1979); *Carmi* v. *Metropolitan St. Louis Sewer District*, No. 79–1325, — F. 2d — (8th Cir. May 6, 1980). In *Trageser* the court held that employment discrimination is prohibited by section 504 only to the extent that it is prohibited by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (1970). Title VI, which prohibits racial discrimination in programs receiving Federal financial assistance, covers employment discrimination only (1) "where a primary objective of the Federal financial assistance is to provide employment" (section 604 of Title VI, 42 U.S.C. 2000–3 (1970)), or (2) when the recipient's employment discrimination results in discrimination against the ultimate beneficiaries of the program receiving Federal financial assistance (see *Caulfield* v. *Board of Education*, 583 F. 2d 605 (2d Cir. 1978)). Neither of these factors was present in *Trageser*.

The court's decision appears to rest solely on the language of section 120(a) of the Rehabilitation Act Amendments of 1978, which provides that "the remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available" to persons aggrieved because of section 504 violations. Accordingly, "in the absence of legislative history to the contrary," the court held that section 120(a) of the Rehabilitation Act Amendments of 1978 incorporated the limitations of Title VI coverage as to employment discrimination. *Id.* at 89.

The court, in its analysis, did not focus on the remedial purpose of section 504 to provide broad protections to handicapped persons. Nor did the court consider the legislative histories of the Rehabilitation Act of 1973 and its subsequent amendments, which reflect the continuing congressional concern for the employment problems of handicapped persons. See, *e.g.*, S. Rep. No. 93–318, 93d Cong., 1st Sess. 18–19, 70 (1973); S. Rep. No. 93–319, 93d Cong., 1st Sess. 2, 8 (1973); H.R. Rep. No. 95–1149, 95th Cong., 2d Sess. 16, 18, 23–29, 34, 38, 42–43 (1978); S. Rep. No. 95–890, 95th Cong., 2d Sess. 8, 13, 20–21, 27, 36 (1978); H.R. Conf. Rep. No. 95–1780, 95th Cong., 2d Sess. 80–81, 94–96, 98, 102 (1978). Further, the legislative history of section 120(a), which apparently was not brought to the attention of the court, indicates that the provision was not intended to limit the scope of section 504, but was merely a legislative ratification of HEW's enforcement procedures under section 504.

Section 120(a) was originally a provision in S. 2600 (95th Cong., 2d Sess., section 118(a) (1978)), the Senate version of the Rehabilitation Amendments of 1978 reported by the Senate Committee on Human Resources on May 15, 1978. The Committee stated, with respect to section 120(a):

> It is the committee's understanding that the regulations promulgated by the Department of Health, Education, and Welfare with respect to procedures, remedies, and rights under section 504 conform with those promulgated under Title VI. Thus, *this amendment codifies existing practice as a specific statutory requirement.* (Sen. Rep. No. 95–890, 95th Cong., 2d Sess. 19 (1978).) (Emphasis added)

In view of the legislative history of the Rehabilitation Act of 1973 and its amendments, HEW's administrative construction, the remedial nature of section 504 and the legislative history of section 120(a), the Department believes that the employment practices of recipients of Federal financial assistance are covered by section 504 regardless of the purpose of the assistance, and the Department's proposed regulations reflect this view (§§ 42.510–42.513).[6] However, *Trageser* is the controlling rule for Maryland, North Carolina, South Carolina, Virginia and West Virginia, the five States comprising the Fourth Circuit; and *Cermi* is the controlling law for Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota, the seven States comprising the Eighth Circuit. Accordingly, the provisions of this subpart relating to employment will be enforced in the Fourth and Eighth Circuit States only where employment is a primary objective of the Federal financial assistance or where discrimination against employees affects the beneficiaries of the assistance.

It should be noted that § 42.510(e) of the proposed rule was deleted and is now incorporated in § 42.510(a)(3) of the final rule for the reason that § 42.510(e) was largely duplicative of § 42.510(a)(3). The subpart requires that recipients make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee. If a qualified handicapped applicant or employee is denied a job or is terminated, the burden is on the employer to show, based on the individual assessment of the applicant or employee, that the accommodation would impose an undue hardship on the operation of its program. The subpart suggests examples of reasonable accommodations (*e.g.*, job restructuring, modified work schedules, acquisition or modification of equipment or devices) (§ 42.511(b)) but recognizes that the determination of whether an accommodation presents an undue hardship depends on a case-by-case analysis weighing factors such as the overall size of the recipient's program with respect to the number of employees, number and type of facilities, and size of budget; the type of the recipient's operation, including the composition and structure of the recipient's workforce; and the nature and cost of the accommodation needed (§ 42.511(c)(1)–(5)). The Department believes that the fact that an accommodation's cost would be more than nominal does not by itself justify refusal of the accommodation.

[6] In *Cormi* v. *Metropolitan St. Louis Sewer District*, *supra*, the three-judge panel adopted the view of *Trageser*. At least one Federal district court has declined to follow the *Trageser* ruling. *See*, *Hart* v. *County of Alameda*, No. C–79–0091 WHO (N.D. Cal. Sept. 5, 1979).

The use of the "reasonable accommodation/undue hardship" standard in determining the issue of reasonable accommodation is drawn from the HEW section 504 rule (45 CFR 84.12(a), (c)) and represents a change from the language (but not the substance) of the Department's proposed rule. Some commentators believed the Department's departure from the HEW language in order to broaden the concept of reasonable accommodation resulted in weakening that standard. In the interest of eliminating this perception and to promote uniformity, the Department has adopted the HEW language.

The proposed rule places an obligation on the recipient to use job-related tests or other job-related selection criteria which screen out the fewest qualified handicapped persons and to "administer tests using procedures (*e.g.*, auxiliary aids such as readers for visually-impaired persons or qualified interpreters for hearing-impaired persons) which accommodate the special problems of handicapped persons to the fullest extent, consistent with the objectives of the test" (§ 42.512). Thus an oral test given to an applicant with a speech impediment would be improper where the essential functions of the job do not require clear speech. Where physical agility and visual acuity are necessary to perform the essential functions of a job, tests measuring those factors are permitted. To further clarify this obligation the Department has, at the recommendation of several commentators, added language to § 42.512 drawn from the HEW section 504 rule (see 45 CFR 84.13(b)) to the effect that tests are to measure job qualifications and not impaired sensory, manual, or speaking skills, except where those skills are the factors that the test purports to measure.

A recipient is prohibited from making pre-employment inquiry regarding an applicant's physical or mental handicaps except where the recipient is taking remedial or voluntary action under § 42.505(a) or (b) of this subpart, affirmative action under section 503 of the Act, or conducting a permissible pre-employment physical examination. Under such circumstances, response to the inquiries must be voluntary and certain safeguards (*e.g.*, confidentiality) must be maintained by the employer (§ 42.513(b)). Recipients may, of course, inquire about an applicant's ability to perform job-related functions. Accordingly, for example, questions regarding the ability to drive a car, shoot a gun, or work steadily over long periods of time or in situations of emergency or stress are proper questions for the job of police officer, while questions as to whether the applicant has epilepsy or a heart condition are not permitted. An employer may, of course, ask whether the applicant can perform a particular job without endangering the applicant or others. Further, an application form containing a checklist of diseases and conditions is not permitted. However, nothing in this subpart prohibits an employer from setting forth validated medical requirements in recruitment material. Medical examinations are permitted, after a conditional job offer has been made, if the examinations are administered to all entering employees in a nondiscriminatory manner and the results are treated on a confidential basis (§§ 42.513(a) and (b)). An applicant can only be considered to have failed a medical examination if the applicant's medical condition, even with reasonable accommodation, would prevent the applicant from performing the essential functions of the job.

The ban on pre-employment inquiry regarding physical or mental handicaps is required under the HEW standards for the development of Federal agency section 504 regulations. See 45 CFR 85.55, 43 FR 2132, 2138 (January 13, 1978). Its purpose is to insure that job decisions are not infected with non-job related considerations. For example, an applicant for the position of police officer completes the application process, the written examination, and the oral interview satisfactorily and is offered the position conditioned on the successful completion of a medical examination. The medical exam reveals that the applicant has a history of epilepsy. At this point the police department must make a decision whether the behavioral manifestations of the applicant's particular handicap would prevent the applicant from performing the essential functions of the job.

One virtue of this standard is that it makes it possible to determine whether the reason for not hiring a handicapped person is because of handicap. We also believe that legitimate purposes for obtaining such information are fulfilled as well at this later stage in the hiring process.

The misunderstanding of this section apparent in many comments makes it important to emphasize again that this provision does not prohibit taking job-related conditions into account in making employment decisions, nor does it preclude a recipient from obtaining information as to such conditions. It merely affects the time at which and the manner in which the information may be obtained. (HEW Final Rule, Implementation of Executive Order 11914, 43 FR 2132, 2135, January 13, 1978).

Of course, where pre-employment job-related questions disclose an inability to perform a job as a result of a handicap, a decision not to employ may be made on that basis. Where recipients conduct extensive background security checks for prospective employees, a conditional offer of employment could be made contingent upon successfully passing both a medical examination and background check. The medical examination could occur first and if the applicant did not pass it, there would be no need for the background check. The results of the medical examination must, of course, remain confidential and could not be given to the person conducting the background check.

C. Physical and Other Accessibility to Programs

The subpart prohibits the exclusion of qualified handicapped persons from Federally assisted programs because a recipient's facilities are not readily accessible or usable. The recipient is not required to have each of its existing facilities or every part of a facility accessible to and usable by handicapped persons. The requirement is that the program, when viewed in its entirety, must be readily accessible to and usable by handicapped persons. Structural changes may be unnecessary where other less costly or burdensome methods may be equally effective. Whatever method is chosen to meet physical accessibility and usability requirements, it is essential that Federally assisted programs be offered to qualified handicapped persons in the most integrated setting appropriate to obtain the full benefits of the program (§ 42.521(b)). (As used below, the term "accessibility" incorporates "usability."

Physical accessibility is probably the area of greatest concern to recipients because of the perceived economic cost associated with the elimination of such barriers. It has been HEW's experience that its recipients have erroneously exaggerated the actual cost of compliance due, in part, to a misunderstanding of the extent to which structural changes are required under section 504.[7] The following illustrations may serve to underscore the options available to recipients for moderating the costs of compliance while providing full program accessibility to qualified handicapped persons. These illustrations also serve to alert recipients that attaining program accessiblity need not involve the removal of all architectural barriers.

The examples which follow also set forth a number of situations in which recipients are required under this subpart to provide auxiliary aids (§ 42.503(f)) to remove communications barriers that prevent accessibility to Federally assisted programs. These examples are included as the result of a number of comments which recommended that the Department provide additional guidance in this area.

1. *Law Enforcement Agencies.* These agencies include municipal police departments, sheriffs' offices, state highway patrols, regional law enforcement agencies, campus police and fire protection agencies. Such agencies, as recipients of Department assistance, must make the programs they operate readily accessible to the handicapped beneficiaries of the programs (*e.g.*, the general public the law enforcement agency is required to serve). With respect to members of the general public who require police assistance, an initial question regarding program accessibility is, for example, whether a wheelchair user requires physical accessibility to the law enforcement agency to obtain the benefits of the agency's programs. Frequently, requests for assistance are initiated by telephone, and law enforcement assistance is often provided away from the agency's facility. Some law enforcement operations ordinarily require citizens to appear at the law enforcement agency's facility (*e.g.*, obtaining a gun license;

[7] *A Summary of Information On The Costs To All HEW Grantees of Achieving Program Accessibility Under Section 504 Of The Rehabilitation Act*, Office of the Secretary, Department of Health, Education and Welfare (July 11, 1979).

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viewing a line-up; examining physical evidence). However, with respect to wheelchair users or others having severe mobility-related handicaps, law enforcement agencies could accommodate the physical limitations of such persons by making home visits or visits to alternate accessible sites. Whether such special accommodations in all cases would enable those with severe mobility-related handicaps to participate effectively in the benefits of a law enforcement agency's programs would depend upon the nature of the benefit provided. While the subpart requires that services be provided in the most integrated setting appropriate, that standard has no apparent application where the service provided is essentially personal (one-on-one) rather than general (*e.g.*, educational programs).

Law enforcement agencies should provide for the availability of qualified interpreters (certified, where possible, by a recognized certification agency) to assist the agencies when dealing with hearing-impaired persons. Where the hearing-impaired person uses American Sign Language for communication, the term "qualified interpreter" would mean an interpreter skilled in communicating in American Sign Language. It is the responsibility of the law enforcement agency to determine whether the hearing impaired person uses American Sign Language or Signed English to communicate.

If a hearing-impaired person is arrested, the arresting officer's *Miranda*[8] warning should be communicated to the arrestee on a printed form approved for such use by the law enforcement agency where thee is no qualified interpreter immediately available and communication is otherwise inadequate. The form should also advise the arrestee that the law enforcement agency has an obligation under Federal law to offer an interpreter to the arrestee without cost and that the agency will defer interrogation pending the appearance of an interpreter.

Law enforcement agencies are also required to install TTY's or equivalent mechanisms (as the technology advances) to enable persons with hearing and speaking impairments to communicate effectively with such agencies. Law enforcement agencies may be hooked up to a central TTY number shared by a number of public agencies if experience shows that this procedure does not materially delay the transmittal of emergency communications to the agencies.

2. *Detention and Correctional Agencies and Facilities.* These agencies include jails, prisons, reformatories and training schools, work camps, reception and diagnostic centers, pre-release and work release facilities, and community-based facilities. Where local or State policy prohibits the detention or incarceration of wheelchair users, no structural modification to detention or correctional facilities to accommodate wheelchair users is required. Where there is no such exclusionary policy, structural modifications may be unnecessary where alternate accessible facilities are available (*e.g.*, short term detention in the prisoner's home or at a medical facility). Where local policy precludes alternate detention facilities, a detention agency would be required to make structural modifications to accommodate detainees or prisoners in wheelchairs. In such circumstances, however, not every detention facility of the agency would have to become accessible. Only a sufficient number of detention cells need be accessible to wheelchair users as can be reasonably expected to be detained based on the agency's prior experience. A different problem arises, however, when accessibility requirements are imposed on small, independently operated community based facilities used, for example, for the placement of juveniles in a home setting. A metropolitan area may have a number of such homes. Each such home receiving assistance from the Department with fewer than fifteen employees is not required to be accessible to handicapped persons as long as a sufficient number of homes are accessible in the service area. If a home, after consultation with the handicapped person concerned, determines that its facilities are not accessible to such person because of the person's handicapping condition, it is the responsibility of the home to locate an accessible home providing equivalent services (§ 42.522(c)).

All detention and correctional agencies must provide accessibility for handicapped visitors (*e.g.*, accessible visiting rooms, restrooms) since the prisoner's right to receive visitors is an element of the program administered by the agencies. Where a facility's visitation area is inaccessible to the handicapped, a detention or correctional agency has the option to (a) house the prisoner in a facility which is accessible to handicapped visitors, (b) move the prisoner to an alternate, accessible area either within or outside the facility for visits from wheelchair users, (c) make structural modifications to make the visitation area accessible. It should be kept in mind that the benefit provided is the right to visit rather than the right to visit in any particular area.

Facilities available to all inmates or detainees, such as classrooms, infirmary, laundry, dining areas, recreation areas, work areas, and chapels, must be readily accessible to any handicapped person who is confined to that facility. Beyond insuring the physical accessibility of facilities, detention and correctional agencies must insure that their programs and activities are accessible to handicapped persons. For example, correctional agencies should provide for the availability of qualified interpreters (certified, where possible, by a recognized certification agency) to enable hearing impaired inmates to participate on an equal basis with nonhandicapped inmates in the rehabilitation programs offered by the correctional agencies (*e.g.*, educational programs).

Correctional officials should take into account any handicaps which inmates may have in classifying them. In making housing and program assignments, such officials must be mindful of the vulnerability of some handicapped inmates to physical and other abuse by other inmates. The existence of a handicap alone should not, however, be the basis for segregation of such inmates in institutions or any part thereof where other arrangements can be made to satisfy safety, security and other needs of the handicapped inmate.

3. *Court Agencies.* These agencies include State and local court systems. Wheelchair users may participate in court trials as judges, jurors, plaintiffs, defendants, witnesses or be present as spectators. Full accessibility is required for such participants.

Where a county has but one courtroom situated on the third floor of a country courthouse having no elevator, and where one of the participants in a trial is a wheelchair user, the court has the following options: (a) moving the court, for the duration of the trial, to accessible quarters in or outside of the courthouse; (b) moving the court permanently to existing accessible quarters; or (c) making those structural modifications in the existing courtroom necessary to provide accessibility to the handicapped participant.

In a large court system, where there are numerous courtrooms, cases involving wheelchair users can be assigned to a courtroom that has been made fully accessible. There is no requirement that all courtrooms be made fully accessible, although it would appear that areas of all courtrooms set aside for the general public should be readily accessible to wheelchair users.

Court systems receiving Federal financial assistance shall provide for the availability of qualified interpreters for civil and criminal court proceedings involving persons with hearing or speaking impairments. (Where a recipient has an obligation to provide qualified interpreters under this subpart the recipient has the corresponding responsibility to pay for the services of the interpreter).

Where the courts provide specialized assistance with respect to court proceedings, the courts are required to insure that handicapped persons are able to participate in such assistance on an equal basis with nonhandicapped persons. For example, in cases where the courts appoint counsel for indigents, the courts under this subpart are also required to assign qualified interpreters (certified, where possible, by recognized certification agencies) in cases involving indigent defendants with hearing or speaking impairments to aid the communication between client and attorney. The availability of interpreting services to the indigent defendant would be required for all phases of the preparation and presentation of the defendant's case. The courts may establish some reasonable guidelines on the use of interpreter services that would not adversely affect the ability of the defendant and the defendant's attorney to develop and present the defendant's case. Caution should be exercised that the guidelines reflect the requirement of section 504 and this subpart that handicapped persons received access to programs receiving Federal financial assistance equal to that of nonhandicapped persons.

While handicapped participants in trials may require appropriate auxiliary aids depending on the nature of the handicap, courts would not be required to provide such aids to participants for purposes unconnected with the litigation process. For example,

[8] *Miranda* v. *Arizona*, 384 U.S. 436 (1966).

where medically necessary, a defendant with a severe heart condition would have the right to have a qualified attendant provided by the court during the defendant's appearance in court or elsewhere pursuant to an order of the court (*e.g.*, a subpoena), but not at the defendant's customary place of residence.

Court witnesses with hearing or speaking impairments have the right, independent of the rights of defendants, to have interpreters available to them for their testimony.

4. *Prosecution and Defense Agencies.* Prosecution agencies include State attorneys general and district, county and city attorneys. The programs administered by such agencies must be readily accessible to handicapped persons. As with other programs assisted by the Department, such agencies need not make structural changes in the facilities where there are feasible options (*e.g.*, home visits, delivery of services at alternate accessible sites) for providing the full benefits of the program to handicapped beneficiaries.

New facilities and altered portions of existing facilities must be designed and constructed in such manner as to make them readily accessible to handicapped persons if groundbreaking begins after the effective date of this subpart (§ 42.522). It is not necessary that all cells or housing units in new detention and correctional facilities be constructed to accommodate handicapped detainees or inmates. Only a sufficient percentage of the cells or housing units need be accessible and usable by handicapped persons as can reasonably be expected to be incarcerated based on the history of the handicapped detainee or inmate population in the recipient's jurisdiction. If there is a local or State policy not to incarcerate wheelchair users in its institutions, this subpart would not require creation of prison cells accessible to wheelchair users. If, however, a sufficient number of cells or housing units is not available at any particular time to house all handicapped inmates or detainees, it would be a violation of this subpart to place a handicapped person in a cell which is not accessible to such person. In such exceptional circumstances, assignment of aides to assist the handicapped person may suffice to make additional cells usable.

D. Southeastern Community College v. Davis, 442 U.S. 397 (1979).

This subpart requires that (1) employers make reasonable accommodation to the handicaps of qualified handicapped applicants or employees, and that (2) programs be readily accessible to and usable by qualified handicapped persons. These requirements must be read in the light of *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), where the Supreme Court first considered the reach of section 504 of the Rehabilitation Act.

Davis held that section 504 did not require the petitioner college to make fundamental alterations to its registered nurses' training program in order to accommodate the severe hearing loss of respondent who had applied for admission to the program as a student. The Court held that the respondent failed to meet the legitimate and necessary physical requirements of the program, established by petitioner, and, hence, was not qualified to participate in the program. The Court noted that the section 504 regulations of the Department of Health, Education, and Welfare (45 CFR § 84.3(k)(3) (1978)) reinforced the Court's conclusion that the respondent was not qualified to be a student in petitioner's training program. *Id.* at 406. Section 84.3(k)(3) of Title 45 provides that, as to postsecondary and vocational services, a "qualified handicapped person" means "a or participation in the recipient's educational program or activity." An explanatory note to the HEW regulations defines "technical standards" as "all nonacademic admissions criteria * * * essential to participation in the program in question." 45 CFR Part 84, App. A, at p. 405.

While the HEW section 504 regulations relating to postsecondary education require recipients to modify any academic requirements that might discriminate against qualified handicapped persons and, further, require the provision of educational "auxiliary aids" (*e.g.*, taped texts, interpreters, classroom equipment, readers in libraries) (45 CFR 84.44 (a), (d)) where necessary to avoid discrimination, the Court noted these regulatory provisions did not require fundamental programmatic and personal service adjustments needed by the respondent.

First, the Court noted that petitioner's training program required "the ability to understand speech without reliance on lipreading" to ensure "patient safety during the clinical phase of the program," and that the respondent would require the "close individual attention by a nursing instructor" in order to participate effectively in clinical work. *Id.* at 407, 409. However, the HEW regulation requiring auxiliary aids specifically excludes "attendants, individually prescribed devices, readers for personal use or other study, or other devices or services of a personal nature." 45 CFR 84.44(d)(2). Accordingly, in the Court's view, the law did not require the petitioner to provide respondent with an attendant nursing instructor since, in the context of a clinical program where each student would be required to deal individually with patients, this would have constituted "services of a personal nature." Hence the respondent could not qualify for the clinical segment of the training program and would be confined to taking academic courses only.

Second, academic "modifications" set forth in the HEW regulation include (but are not necessarily limited to):

changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted (45 CFR 84.44).

However, as the Court saw it, such required modifications did not encompass a curricular change which waived effective participation in a critical component of a degree program in registered nursing. "Whatever benefits respondent might realize from such a course of study, she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410.

While rejecting respondent's gloss on section 504 and HEW's implementing regulations, the Court inferentially upheld the HEW regulation mandating modification in admission criteria for qualified handicapped persons by noting that "situations may arise where a refusal to modify an existing program might become unreasonable and discriminatory." *Id.* at 412–13.

This subpart is consistent with the holding in *Davis* for it prohibits discrimination only against qualified handicapped persons in the Department's Federally assisted programs and activities. Section 42.540(1) defines "qualified handicapped persons" as follows:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.

(2) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

The critical consideration in determining whether a handicapped person qualifies for participation in a program or activity receiving assistance from the Department is whether a particular physical or mental ability is a necessary prerequisite for effective participation, or whether that ability is only said to be necessary because a recipient of Federal funds has not given adequate consideration to the ways in which stated requirements may be modified in order to permit participation by handicapped persons.

E. Procedures

The Department has adopted the Title VI complaint and enforcement procedures for use in implementing section 504 except that OJARS will not be required to obtain the Attorney General's approval before the imposition of any sanctions against a recipient. This is consistent with OJARS' practice in enforcing the civil rights provisions of the Omnibus Crime Control and Safe Streets Act, as amended by the Justice System Improvement Act of 1979, Pub. L. 96–157, sec. 815(c), 93 Stat. 1206.

In conformity with HEW's Policy Interpretations 1 and 2 (43 FR 18631 (May 1, 1978)), the 180-day time limitation for filing complaints (§ 42.107 of this Title) alleging discriminatory acts which occurred prior to the effective date of this subpart will not begin to run until that date (§ 42.530(d)). Further, the Department will investigate alleged discriminatory acts which occurred and ended prior to the effective day of this subpart where it is shown that the language of section 504 of HEW's interagency guidelines (43 FR 2132, January 13, 1978) implementing Executive Order 11914 (41 FR 17871, April 28, 1976) provided sufficient notice that the challanged activity was unlawful (§ 42.530(e)).

As to remedies, section 120(a) of the Rehabilitation Act Amendments of 1978 authorizes the payment of attorneys' fees to the prevailing party "in any action or proceeding to enforce or charge a violation of this title" (Title V). Accordingly, it is clear that there is a private right of action under section 504. "The availability of attorneys' fees should assist in vindicating private rights of action * * * arising under section * * *

504." Sen. Rep. No. 95-890, 95th Cong., 2d Sess. (1978). *Cf., Cannon* v. *University of Chicago*, 441 U.S. 677 (1979). Nothing in this subpart requires the referral of a complaint against a recipient to the Department for action as a legal prerequisite for filing a lawsuit against the recipient.

The term "recipient" (§ 42.540(e)) in LEAA programs includes State and local governments, Criminal Justice Councils, Local Offices, criminal justice coordinating councils, nonprofit institutions, contractors, under grants and any other recipient of LEAA funds. Recipients in Federal Bureau of Investigation programs include law enforcement agencies serving municipalities, counties or States. Recipients in Federal assistance programs of the National Institute of Corrections of the Bureau of Prisons include States, general units of local government, as well as public and private agencies, educational institutions and organizations and individuals involved in the development, implementation or operation of correctional programs and services. Recipients in Drug Enforcement Administration programs include State and local governments, officials of law enforement agencies and forensic laboratories. A recipient not only includes a primary recipient (*i.e.*, a recipient which receives Federal financial assistance from a Federal agency directly) but also a second-tier recipient (*i.e.*, a recipient which receives Federal financial assistance through the primary recipient). The term does not include the ultimate beneficiaries of the program (*i.e.*, those for whom the Federal financial assistance is designed to benefit).

The term "Federal financial assistance" (§ 42.540(f)) includes any arrangement by which the Department provides or makes available funds, property, services, or anything of value by way of grants, contracts, loans or cooperative agreements including subgrants and contracts under grants. It does not include licenses, for example, since licenses are not Federal assistance grants, contracts, loans or cooperative agreements. Nor does the term include direct Federal procurement contracts. Procurement contracts are generally used whenever the principal purpose of the transaction is the acquisition by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government. Federal assistance contracts, grants, loans and cooperative agreements are used whenever the principal purpose of the transaction is to accomplish a public purpose authorized by Federal statute.

A "program" (§ 42.540(h)) includes any activity or facility receiving Federal financial assistance whether such benefits are provided directly with the aid of Federal financial assistance or with the aid of any non-Federal assistance required to meet the conditions of Federal financial assistance. The term "program" includes activities where payments are made by a Federal agency to ultimate beneficiaries on condition of their participation in a program conducted by a recipient. The receipt of Federal financial assistance by, for example, a law enforcement agency or department of corrections, makes section 504 and this subpart applicable to all operations of the recipient agency or department although the Federal financial assistance may have been used in only certain of the activities or operations of the agency or department.

Drug and alcohol abuse are "physical or mental impairments" within the meaning of section 7(6) of the Rehabilitation Act of 1973, as amended. Accordingly, drug and alcohol abusers are handicapped under section 504 if their impairment substantially limits one of their major life activities (§ 42.540(k)(2)(i)(C)). "Drug abuse" in this subpart is defined as (1) the *use* of any drug or substance listed by the Department (21 CFR 1308.11) under authority of the Controlled Substances Act (21 U.S.C. 801), as a controlled substance unavailable for prescription, or (2) the *misuse* of any drug or substance listed by the Department (21 CFR 1308.12–15) as a controlled substance available for prescription. Examples of (1) include certain opiates and opiate derivatives (*e.g.*, heroin) and hallucinogenic substances (*e.g.*, marihuana, mescaline, peyote) and depressants (*e.g.*, methaqualone). Examples of (2) include opium, coca leaves, methadone, amphetamines and barbiturates.

While Congress did not specifically address the problems of drug and alcohol abuse in enacting section 504, the committees which considered the Rehabilitation Act of 1973 were made aware of HEW's long-standing practice of treating drug and alcohol abusers as eligible for rehabilitation services under the Vocational Rehabilitation Act. Further, Congress has expressed its concern regarding discrimination against drug and alcohol abusers by providing that a person may not be denied Federal civilian employment or a Federal license solely on the ground of prior drug abuse (Drug Abuse Office and Treatment Act of 1972, 21 U.S.C. 1101, 1180(c)(1) or prior alcohol abuse or alcoholism) (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, 42 U.S.C. 4541, 4561(c)(1)). These nondiscrimination provisions cover the employment practices of all Federal law enforcement agencies with the exception of the national security agencies (*i.e.*, the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency, and positions designated as sensitive in other agencies for purposes of national security). Of course, section 504 covers present drug and alcohol use as well (*e.g.*, legal methadone maintenance). An individual who is otherwise qualified could not be excluded, for example, from a job in a program receiving Federal financial assistance solely because the applicant's current drug or alcohol use is allegedly a handicapping condition, unless it is shown that such drug and alcohol use impairs the applicant's ability to perform the job in question.

In section 122(a)(6) of the Rehabilitation Act Amendments of 1978, Congress specifically provided that, with respect to employment covered by section 504, the term handicapped individual "does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others." This amendment, in effect, made no substantive change in section 504 protections because persons whose current use of drugs and alcohol resulted in such behavioral characteristics would have been disqualified for employment even prior to the amendment. But the amendment does under-score the fact that this subpart does not require employers or program administrators to ignore drug and alcohol abuse in making determinations whether a handicapped individual is qualified for employment or other participation in a Federal assistance program. The subpart holds only that handicapped persons, as well as others, should be assessed on the basis of their behavior. A recipient employer may consider for all applicants, including drug and alcohol abusers, past personnel records, absenteeism, disruptive, abusive or dangerous behavior, violations of the law or work rules, or unsatisfactory work performance. Where such factors are absent, the fact that an individual once abused drugs or alcohol does not permit an employer to assume that a danger to safety would result in employing the person.

This subpart does not preclude a recipient employer from rejecting a handicapped applicant for legitimate reasons other than his or her handicap. For example, a recipient employer is not required to hire as a law enforcement officer a drug abuser who continues to violate laws prohibiting the use, possession or sale of drugs if the rejection is based on the violation of the law and not the handicap.

In the case of past drug abuse, each case must be judged on its own merits. With respect to employment, employers may weigh the following:

(1) patterns of use;
(2) kind of drug used;
(3) for each kind of drug used, the date started and the last date used;
(4) circumstances at the start of drug use;
(5) circumstances at the time of discontinuance of drug use;
(6) nature of treatment and prognosis;
(7) social behavior and attitude since discontinuance of drug use;
(8) history of previous rehabilitation efforts.

Many of these same factors would be relevant in assessing the employability of those with records of past alcohol abuse.

Some commentators expressed concern that the Department's discussion of drug and alcohol abuse which accompanies the Department's proposed rule suggested that, unlike other handicapping conditions, the Department would permit pre-employment inquiry into drug and alcohol abuse. That preception is erroneous. Section 42.513 of this subpart generally prohibits a recipient's pre-employment inquiry regarding an applicant's physical or mental handicaps. The same standard is applicable to a recipient's inquiry regarding an applicant's current or past drug or alcohol use or abuse. A recipient, of course, may condition an offer of employment on the results of a medical examination given to all applicants. Once a recipient makes such a conditional offer, inquiry regarding

drug and alcohol use, like any other handicap, may be made as part of the medical examination. If the outcome of the medical examination results in the withdrawal of the offer of employment, it is clear that the reason for not hiring the applicant is because of handicap, real or perceived. Accordingly, the recipient would then be required to justify such action under the relevant provisions of this subpart.

Some commentators were concerned that inquiry into past drug abuse at any stage of the employment process would discourage persons with drug abuse backgrounds from seeking employment and would serve as a basis for employer rejection of such applicants. That possibility, of course, exists for all job applicants with handicapping conditions, and there is no basis for making an exception with respect to drug and alcohol abuse. Further, the listing of the above suggested factors which employers may weigh in this subpart regarding an applicant with a drug use or abuse background is not an attempt by the Department to single out this handicapping condition for more intensive scrutiny than other handicapping conditions, but only an effort to establish useful guidelines in determining the employability of an applicant with a drug use of abuse background. These are the same factors used by Federal agencies in implementing the nondiscrimination provision of the Drug Abuse Office and Treatment Act of 1972 which prohibits the denial of Federal civilian employment solely on the ground of prior drug abuse.

F. Request for Comments

In its Notice of Proposed Rulemaking the Department requested comment on certain issues (44 FR 54957–58). To the extent these matters are not already addressed in the above analysis, they remain under review by the Department.

Appendix C—Department Regulations Under Title VI of the Civil Rights Act of 1964 (28 CFR 42.106–42.110) Which Apply to This Subpart

§ 42.106 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall, to the fullest extent practicable, seek the cooperation of recipients in obtaining compliance with this subpart and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this subpart. In general, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient or subcontracts with any other person or group, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this subpart.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this subpart. Whenever any information required of a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution, or person fails or refuses to furnish that information, the recipient shall so certify in its report and set forth the efforts which it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this subpart and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this subpart. [Order No. 365–66, 31 FR 10265, July 29, 1966, as amended by Order No. 519–73, 38 FR 17955, July 5, 1973]

§ 42.107 Conduct of investigations

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this subpart.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this subpart may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

(c) *Investigations.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this subpart. The investigation should include, whenever appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this subpart, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 42.108.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or priviledge secured by section 601 of the Act or this subpart, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential except to the extent necessay to carry out the purpose of this subpart, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

[Order No. 368–66, 31 FR 10265, July 29, 1966, as amended by Order No. 519–73, 38 FR 17955, July 5, 1973]

§ 42.108 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this subpart and if the noncompliance or threatened noncompliance cannot be corrected by informal means, the responsible Department official may suspend or terminate, or refuse to grant or continue, Federal financial assistance, or use any other means authorized by law, to induce compliance with this subpart. Such other means include, but are not limited to, (1) appropriate proceedings brought by the Department to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractural undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with assurance requirement.* If an applicant or recipient fails or refuses to furnish an assurance required under § 42.105, or fails or refuses to comply with the provisions of the assurance it has furnished, or otherwise fails or refuses to comply with any requirement imposed by or pursuant to Title VI or this subpart, Federal financial assistance may be suspended, terminated, or refused in accordance with the procedures of Title VI and this subpart. The Department shall not be required to provide assistance in such a case during the pendency of administrative proceedings under this subpart, except that the Department will continue assistance during the pendency of such proceedings whenever such assistance is due and payable pursuant to a final commitment made or an application finally approved prior to the effective date of this subpart.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the

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record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this subpart, (3) the action has been approved by the Attorney General pursuant to § 42.110, and (4) the expiration of 30 days after the Attorney General has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found:

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Attorney General, and (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance.

§ 42.109 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 42.108(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. That notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for that action. The notice shall (1) fix a date, not less than 20 days after the date of such notice, within which the applicant or recipient may request that the responsible Department official schedule the matter for hearing or (2) advise the applicant or recipient that a hearing concerning the matter in question has been scheduled and advise the applicant or recipient of the place and time of that hearing. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing afforded by section 602 of the Act and § 42.108(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official, unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied whenever reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this subpart with respect to two or more programs to which this subpart applies, or noncompliance with this subpart and the regulations of one or more other Federal Departments or agencies issued under Title VI of the Act, the Attorney General may, by agreement with such other departments or agencies, whenever appropriate, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this subpart. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 42.110.

[Order No. 365–66, 31 FR 10265, July 29, 1966, as amended by Order No. 519–73, 38 FR 17955, July 5, 1973]

§ 42.110 Decisions and notices.

(a) *Decisions by person other than the responsible Department official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record, including his recommended findings and proposed decision to the responsible Department official for a final decision and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Whenever the initial decision is made by the hearing examiner, the applicant or recipient may, within 30 days of the mailing of such notice of initial decision, file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion, within 45 days after the initial decision, serve on the applicant or recipient a notice that he will review the decision. Upon filing of such exceptions, or of such notice of review, the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on the record or on review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing the applicant or recipient shall be given a reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on the record whenever a hearing is waived.* Whenever a hearing is waived pursuant to § 42.109(a), a decision shall be made by the responsible Department official on the record and a copy of such decision shall be given in writing to the applicant or recipient and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented and shall identify the requirement or requirements imposed by or pursuant to this subpart with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Attorney General.* Any final decision of a responsible Department official (other than the Attorney General) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this subpart or the Act, shall promptly be transmitted to the Attorney General who may approve such decision, vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, under the program involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this subpart including provisions designed to assure that

no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this subpart or to have otherwise failed to comply with this subpart unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this subpart.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing with a decision on the record, in accordance with rules of procedure issued by the responsible Department official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph are pending sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

[Order No. 365–66, 31 FR 10265 July 29, 1966, as amended by Order No. 519–73, 38 FR 17956, July 5, 1973]

Appendix D—OJARS' Regulations Under the Omnibus Crime Control and Safe Streets Act, as Amended Which Apply to This Subpart (28 CFR 42.205 and 42.206)

§ 42.205 Complaint investigation.

(a) The Administration shall investigate complaints that allege a violation of:

(1) Section 518(c)(1) of the Crime Control Act;

(2) Section 262(b) of the Juvenile Justice Act; or

(3) This subpart.

(b) No complaint will be investigated if it is received more than one year after the date of the alleged discrimination, unless the time for filing is extended by the Administrator for good cause shown.

(c) The Administration shall conduct investigations of complaints as follows:

(1) Within 21 days of receipt of a complaint the Administration shall:

(i) Ascertain whether it has jurisdiction under paragraphs (a) and (b) of this section;

(ii) If jurisdiction if found, notify the recipient alleged to be discriminating of its receipt of the complaint; and

(iii) Initiate the investigation.

(2) The investigation will ordinarily be initiated by a letter requesting data pertinent to the complaint and advising the recipient of:

(i) The nature of the complaint, and with the written consent of the complainant, the identity of the complainant.

(ii) The programs or activities affected by the complaint;

(iii) The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission, responding to, rebutting, or denying the allegations made in the complaint; and

(iv) The schedule under which the complaint will be investigated and a determination of compliance or noncompliance made.

Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SPA.

(3) Within 150 days or, where an onsite investigation is required, within 175 days after the initiation of the investigation, the Administration shall advise the complainant, the recipient, the chief executive(s) of the appropriate unit(s) of government, and the appropriate SPA, of:

(i) Its preliminary findings;

(ii) Where appropriate, its recommendations for compliance, and

(iii) If it is likely that satisfactory resolution of the complaint can be obtained, the opportunity to request the Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or noncompliance.

(4) If, within 30 days, the Administration's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Administrator for a determination of compliance or noncompliance. The determination shall be made no later than 14 days after the conclusion of the 30-day period. If the Administrator makes a determination of noncompliance with section 518(c) of the Crime Control Act, or section 262(b) of the Juvenile justice Act, the Administration shall institute administrative proceedings pursuant to § 42.210, et. seq.

(5) If the complainant or another party, other than the Attorney General, has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to LEAA, and, during LEAA's investigation, the trial of that suit would be in progress, LEAA will suspend its investigation and monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of discrimination within the meaning of § 42.210, the Administration will institute administrative proceedings pursuant to § 42.210, et seq.

(6) The time limits listed in paragraphs (c)(1) through (c)(5) of this section shall be appropriately adjusted where LEAA requests another Federal agency or another branch of the Department of justice to act on the complaint. LEAA will monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, LEAA will institute appropriate proceedings pursuant to this section.

§ 42.206 Compliance reviews.

(a) The Administration shall periodically conduct compliance reviews of selected recipients of LEAA assistance.

(b) The Administration shall seek to review those recipients which appear to have the most serious equal employment opportunity problems, or the greatest disparity in the delivery of services to the white and nonwhite, or male and female communities they serve. Selection for review shall be made on the basis of:

(1) The relative disparity between the percentage of minorities, or women, in the relevant labor market, and the percentage of minorities, or women employed by the recipient;

(2) The percentage of women and minorities in the population receiving project benefits;

(3) The number and nature of discrimination complaints filed against a recipient with LEAA or other Federal agencies;

(4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with the Administration against a recipient; and

(5) The amount of assistance provided to the recipient.

(c) Within 15 days after selection of a recipient for review, the Administration shall inform the recipient that it has been selected and will initiate the review. The review will ordinarily be initiated by a letter requesting data pertinent to the review and advising the recipient of:

(1) The practices to be reviewed;

(2) The programs or activities affected by the review;

(3) The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission responding to the Administration, explaining validating or otherwise addressing the practices under review; and

(4) The schedule under which the review will be conducted and a determination of compliance or non-compliance made.

Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SPA.

(d) Within 150 days or, where an onsite investigation is required within 175 days after the initiation of the review, the Administration shall advise the recipient, the chief executives of the appropriate unit(s) of government, and the appropriate SPA, of:

(1) Its preliminary findings;

(2) Where appropriate, its recommendations for compliance; and

(3) The opportunity to request the Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or non-compliance.

(e) If, within 30 days, the Administration's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Administrator for a determination of compliance or non-compliance. The determination shall be made no later than 14 days after the conclusion of the 30-day negotiation period. If the Administrator makes a determination of non-compliance with section 518(c) of the Crime Control Act, or section 262(b) of the Juvenile Justice Act, the Administration shall institute administrative proceedings pursuant to § 42.210, et seq.

[FR Doc. 80-15889 Filed 6-2-80; 8:45 am]

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Tuesday
June 3, 1980

Part V

Office of Personnel Management

Policy Agenda; Identifying Areas of Concern and Key Policy Issues

OFFICE OF PERSONNEL MANAGEMENT

Policy Agenda for the Office of Personnel Management

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This is the first Policy Agenda for the Office of Personnel Management (OPM). It identifies the areas of concern and key policy issues which, in OPM's opinion, are likely to confront the Federal civil service and OPM in the near future, as well as some issues covering a longer span of time.

COMMENT DATE: September 2, 1980. Comments received after this date will be retained for furute consideration.

ADDRESS: Send or deliver written comments to: Director, Office of Planning and Evaluation, Room 3305, Office of Personnel Management, 1900 E St., NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Robert K. Summers, 202–632–6593.

SUPPLEMENTARY INFORMATION: This is the first Policy Agenda for the Office of Personnel Management (OPM). It identifies the areas of concern and specific issues on which OPM plans to concentrate its policy analysis and development efforts and resources. Civil Service Reform Act initiatives are considered to be in the implementation stage and are therefore not a part of this Policy Agenda. The Agenda will be updated periodically to reflect the resolution of current issues and to add new issues.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

OPM gives notice of its Policy Agenda as follows:

Policy Agenda for the Office of Personnel Management

April 1980, Office of Personnel Management, Washington D.C. 20415.

Introduction

This is the first Policy Agenda for the Office of Personnel Management (OPM). It identifies the areas of concern and specific issues on which OPM plans to concentrate its policy analysis and development efforts and resources. Civil Service Reform Act initiatives are considered to be in the implementation stage and are therefore not a part of this Policy Agenda.

The original draft of this Agenda was circulated for comments in October 1979 to OPM executives, to Assistant Secretaries for Administration in six agencies, to ten agency Directors of Personnel, and to executive staff in the Office of Management and Budget, a total of 43 persons.

The draft was revised in accordance with comments received, and presented to OPM's Policy and Research Advisory Board. This Board, consisting of fourteen executive-level OPM officials, was established by the Director of OPM on November 1, 1979 to review and provide recommendations on major Federal personnel management issues. Between November 1979 and February 1980, this Board met four times to consider the draft Agenda. The Policy Agenda which follows reflects the judgement of the Board as to the key issues likely to confront the Federal civil service and OPM in the near future, as well as some issues covering a longer span of time.

The Agenda will be updated periodically to reflect the resolution of current issues and to add new issues. Staff support for the Policy Agenda is provided by OPM's Office of Planning and Evaluation.

The Policy Agenda is available to all interested parties. Comments and suggestions are welcome, and should be addressed to: Director, Office of Planning and Evaluation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415.

Table of Contents

Introduction
1. Area of Concern: Employee Benefits
1.1 Mobility
1.2 Health Care Costs
1.3 Early Retirement for Law Enforcement Officers, Firefighters and Air Traffic Controllers
1.4 Sick Leave
1.5 Disability Retirement System
1.6 Retirement System Costs
1.7 Civil Service Retirement/Social Security integration
1.8 Day Care Facilities
1.9 Employee-Tailored Benefits Packages
2. Area of Concern: Simplification of the System
2.1 Classification and Qualification Standards
2.2 Streamlined Staffing Procedures
2.3 Career-Conditional Employment
2.4 Personnel Investigations
2.5 Excepted Service
3. Area of Concern: Competence of the Workforce
3.1 Fitness-For-Duty Examinations
3.2 Employee Retraining
3.3 Selection of Supervisors and Managers
3.4 Effectiveness of Supervisors
3.5 Employee Counseling
3.6 Mid-Level Development Programs
4. Area of concern: Management Improvement
4.1 Technology and the Workforce
4.2 Tailored Personel Systems
4.3 Humanistic Management
4.4 Alternatives to Ceiling Control
4.5 Contracting Out
4.6 Overtime Policies
4.7 Productivity and Personnel Management
4.8 Grade Escalation
5. Area of concern: Labor-Management Relations
5.1 Improving the Labor-Management Relationship
6. Area of concern: Merit and Entitlement
6.1 Employment of Handicapped Individuals
6.2 Multiple Clientele Groups
6.3 Written Tests
7. Area of concern: Long-Range Policy Issues
7.1 - Workforce Planning
7.2 Future Role of Personnel Organization

1. Area of Concern: Employee Benefits

Employee benefits are a major Federal personnel management concern not only because of their very substantial expense, but also because of their effect on employee morale and productivity. Benefits are becoming increasingly important in the private sector and we can expect them to become more important in the public sector as well. OPM needs constantly to review its approach to employee benefits to determine if changes are necessary to satisfy both management objectives and employee needs.

Several areas of concern in the next few years can be identified now. The proposed Compensation Reform Act focuses renewed attention on the benefits portion of the total compensation package. Unions can be expected to pay even more attention to this area than they have in the past. The dollar equivalent value of various benefits will be hotly debated. As a supplement to the present across-the-board approach, consideration could be given to tailoring benefit packages to achieve specific management objectives such as the recruitment of particularly desirable individuals into the Senior Executive Service or the retention of specialists in hard-to-fill jobs. Whether the Civil Service Retirement System should be integrated with Social Security will be a major issue, as will improvements in early retirement, disability retirement, and funding of the retirement system.

Fruitful areas for research include employee-tailored benefit packages, relocation assistance, and health care costs. Other areas, such as day-care centers, have been fully researched, but policy decisions remain to be made. Other forms of benefits or incentives which may not technically be a part of the total compensation comparability formula will also become more important as expectations concerning the quality of working life rise. These will include relocation assistance for transferred employees, improvements in occupational safety and health, and increased opportunities for flexitime, compressed work schedules and part-time work. Union interest in influencing the scope of these and other benefits which affect the quality of work life can be expected to increase.

Following are some of the more significant policy issues in this area which have been identified at this time.

1.1 Mobility

Issue. What should the Federal Policy be with respect to employee mobility and relocation?

Background. The Cherry Hill Conference highlighted this issue as a major concern of agency managers. In recent years there has been an increasing reluctance on the part of employees, both public and private, to relocate for career advancement. Several factors influence this development, including the high cost of housing, disruption to family life, changed values with respect to achievement, and dual income families where relocation affects two jobs instead of one.

The Federal Government needs to determine whether changed attitudes towards mobility and relocation are having an adverse impact on mission accomplishment, and if so, what needs to be done to address the problem. In addition, current policies concerning reimbursement for house-hunting trips, shipping and moving expenses, temporary lodging, and payment for closing costs and lease-breaking need to be reviewed for continued relevance.

Activity Related To Issue: 1. Title: Joint OPM-GSA-OMB project to study employee mobility and relocation issue.

Estimated Completion Date: To be determined.

Current Status: Preliminary organizational stage.

2. President's Conference on Families, in which OPM will participate, may address stress on the family caused by our mobile society.

1.2 Health Care Costs

Issue. Should OPM do more to help contain health care costs of Federal employees without reducing the quality of protection?

Background. Health care costs have been growing faster than other costs in the economy. There are various proposals under consideration by Congress for containing health care costs for the general population. OPM has some leverage in containing health care costs for Federal employees through its administration of employee health plans. Suggestions to accomplish this include fostering greater competition between plans by making it easier for Federal employees to compare the benefits of different plans, a task which is not easily done now. Over 100 separate health insurance plans are available to civilian employees, and their benefits vary considerably.

OPM needs to define its role in the cost containment area and evaluate the sufficiency of current efforts to help contain Federal employees' health care costs. In 1978, the Federal Employees Health Benefits Program had receipts of $3.2 billion and payments of $3.0 billion.

Activity Related To Issue: Compensation Group to prepare policy options paper for Policy and Research Advisory Board consideration.

1.3 Early Retirement for Law Enforcement Officers, Firefighters, and Air Traffic Controllers

Issue. What legislative, regulatory, or administrative changes should be made in current policies which provide for the early retirement of law enforcement officers, firefighters, and air traffic controllers?

Background. Beginning on July 11, 1947, with the enactment of Pub. L. 80–168, the Congress passed a series of laws to provide special retirement benefits and early mandatory retirement for Federal law enforcement officers, firefighters, and air traffic controllers. The special retirement laws are based on the premise that the duties of the covered occupations generally are strenuous, arduous, and hazardous, and therefore their satisfactory performance requires youth and vigor. These laws provide approximately 55,000 Federal employees with special retirement benefits. In 1977, GAO released a report critical of the early retirement program for firefighters and law enforcement personnel. GAO said that covered employees are not retiring much earlier than employees under regular civil service retirement provisions, that coverage is being extended indiscriminately to persons whose jobs do not involve performing duties defined as duties of law enforcement or firefighter personnel per se, and that the program is too costly in light of the fact that it only marginally reduces the retirement age of firefighters and law enforcement personnel.

In 1977, the House Subcommittee on Compensation and Employee Benefits held hearings which raised additional questions concerning the early retirement program. As a result of these hearings, OPM has been reviewing the early retirement provisions for firefighters, law enforcement officers, and air traffic controllers in order to develop recommendations to Congress for improvements in the program.

Activity Related To Issue: Title: Task force on early retirement for firefighters, law enforcement officers, and air traffic controllers. Estimated Completion Date: Late 1980. Current Status: Several task force meetings have been held and additional ones are planned. The task force includes representatives from several agencies.

1.4 Sick Leave

Issue. Are there improvements which can be made to the present sick leave system?

Background. The present sick leave system has been criticized for perceived employee abuse and for costing too much money. Recommendations have been made for improving the system, but final decisions have yet to be made.

Activity Related To Issue. Compensation to prepare policy options paper for Policy and Research Advisory Board consideration.

1.5 Disability Retirement System

Issue. What improvements should be made to the present disability retirement system?

Background. The Civil Service disability retirement program has been criticized because the rate of disability retirement is higher than that experienced by Social Security, because of the relatively low rate of recovery from disability that has been experienced by the Civil Service disability retirement program, and because the disability roll has not been reduced through strict policing methods. OPM believes that improvements can be made in the system to overcome these administrative problems. Closely related issues are whether the basis and amounts of disability annuities are sufficient to sustain disabled retired employees.

Activity Related To Issue. 1. Title: Disability retirement study. Estimated Completion Date: Completed. Current Status: Comments received. Final staff report being prepared.

1.6 Retirement System Costs

Issue. What action should be taken to assure that the Civil Service Retirement system is fully funded?

Background. Annuity payments from the civil service retirement fund increased 279 percent from fiscal year 1970 to fiscal year 1978. Federal payments to the retirement fund increased about 400 percent over the same period ($11.1 billion in 1978). The unfunded liability of the fund grew by 240 percent (to a total of $180 billion) from fiscal year 1970 to fiscal year 1978.

The cost of benefits being earned by current Federal employees is not being fully funded because the present method of funding the retirement system does not give consideration to annuity cost-of-living adjustments. Ultimately, the Government must pay costs that employee contributions do not. When retirement costs are understated, the costs of Government operations and agency programs are also understated. Understatement of retirement costs may result in a tendency to adopt benefits which could jeopardize the affordability of the retirement system.

Activity Related to Issue: Title: Draft legislation to implement recommendations of the Board of Actuaries for improved funding of the Civil Service Retirement System. Estimated Completion Date: By end of FY 80.

Current Status: Preparation of draft legislation is in initial stages.

1.7 Civil Service Retirement/Social Security Integration

Issue. What should OPM's policy be with respect to proposals to integrate the Civil Service Retirement Fund and Social Security?

Background. The question has been raised as to whether there should be Social Security coverage for Federal employees and whether the Social Security and Federal Civil Service Retirement funds should be integrated. The Secretary of Health, Education, and Welfare has completed a study, as directed by Pub. L. 95–216, enacted December 20, 1977, of the feasibility and desirability of extending Social Security coverage to Federal employees, as well as to State and local Government employees and employees of non-profit organizations who are not now covered.

The DHEW study has been completed and was sent to the Congress on March 24, 1980. The study neither advocates nor opposes coverage of Federal employees by Social Security. Rather, it presents Congress with an analysis of the implications of continuing Federal employees outside the Social Security system, and of options for extending Social Security coverage to Federal employees by integrating the benefits provided by Social Security and Civil Service Retirement.

The Secretary of HEW wrote in transmitting the study group's report to Congress that the "Administration has taken no position on the Report and has no plans at this time to submit legislation regarding changes in Social Security coverage."

Activity Related to Issue: Compensation to prepare briefing for the Policy and Research Advisory Board on the HEW report, and alternatives for OPM policies.

1.8 Day Care Facilities

Issue. Should there be policy changes with respect to providing day care facilities for the children of Federal employees?

Background. One of the greatest impediments to full participation in employment faced by women is the lack of adequate day care facilities. The problem will become more severe as the percentage of working mothers increases during the next decade.

Activity Related to Issue: 1. Title: Draft legislation on Federal day care centers. Estimated Completion Date: Not yet determined. Current Status: Federal Womens' Program Office is preparing background and justification material, expected to be ready by end of April 1980.

2. Office of Affirmative Employment Programs to brief Policy and Research Advisory Board on issues and draft legislation.

1.9 Employee-Tailored Benefits Packages

Issue: What are the significant constraints and policy issues which need to be considered in evaluating whether or not employee-tailored benefits packages are appropriate to the Federal compensation system?

Background: There has been some experimentation in private industry with employee-tailored benefits packages. This concept permits individual employees to select, within a given dollar limit, the mix of pay, leave, insurance, health benefits, retirement benefits, and other compensation elements which best satisfies the employee's own individual needs. The total compensation cost to the employer remains essentially the same, but employees' total compensation needs are more satisfactorily met. In some cases packages could be tailored to meet specific management objectives such as recruitment or retention of desirable individuals or groups.

Activity Related to Issue: A Title VI research effort to assess the state-of-the-art concerning flexible benefits has tentatively been funded.

2. Area of Concern: Simplification of the System

For years there have been complaints that the Federal personnel system is too complicated, that there is too much paperwork, that systems are outmoded, and that the personnel process is generally unresponsive to management needs. To some extent the Civil Service Reform Act has addressed this problem through the requirement for more delegation of authority to agencies. This is a step in the direction of speeding up personnel case processing, but it can also mean simply a transfer of work from one agency to another and not a simplification of the way the work itself is actually done.

OPM needs to take the lead in restudying the basic objectives of such personnel systems as the classification system to see if there isn't a more efficient and effective way to achieve the basic objective than the way we are operating now. The Federal Government needs better ways to organize during times when there is a shrinking workforce and a rising workload. OPM needs to continually search for ways to simplify the administration of new CSRA initiatives such as streamlined disciplinary procedures.

Resources for carrying out the personnel management function are likely to remain scarce. More efficient ways to carry out personnel management responsibilities are needed if personnelists are to continue to be a responsible part of the management team.

Following are some of the more significant policy issues in this area which have been identified at this time.

2.1 Classification and Qualification Standards

Issue. What policy options are there to develop a more efficient and effective system for the classification and qualification needs of the Government?

Background. The Cherry Hill Conference highlighted this issue as a major concern of agency managers. Agency managers have expressed concerns regarding the need of eighteen different GS levels, the slowness of classification standards development, the difficulty in developing urgently needed standards as the system presently operates, the large amount of personnel and management time needed to run the system, and the general cumbersomeness of the system. While we need to improve and speed up the present system for standards development, we also need to look on a high priority basis at options for developing an entirely new approach to classification and qualification.

Activity Related to Issue: 1. Special government-wide task force being established to study the position classification system.

2. Results from the Navy demonstration project will have an impact on this issue.

2.2 Streamlined Staffing Procedures

Issue. Beyond the Model Staffing Plan, what additional actions can be taken to further streamline staffing procedures?

Background. Since enactment of the Civil Service Reform Act, OPM has taken several steps to streamline the appointment process. These steps include development of a Model Staffing Plan, testing of a special on-call employment plan for large industrial activities, approval of a plan to simplify recruitment in disaster areas, revision of merit promotion guidelines, and delegation of certain staffing authorities to agencies. However, room for additional improvements remains, including a procedure for measuring the efficiency and timeliness of Federal staffing procedures.

Activity Related to Issue: 1. Title: Implementation of Model Staffing System. Estimated Completion date: 1st quarter FY 82. Current status: On schedule.

2. Studies of the career-conditional appointment system probationary period, on-call appointment authority, term promotions, and reduction-in-force procedures are being conducted by Staffing Services.

3. OPE and Staffing Services to work together to devise a method for measuring the efficiency and timeliness of Federal staffing procedures. Prepare status report for Policy and Research Advisory Board consideration.

2.3 Career-Conditional Employment

Issue. What should the competitive appointment system consist of? How many kinds of appointments are really needed, and what should be their relationship to each other in terms of interchangeability, benefits, etc. Is a longer or shorter probationary period appropriate for certain kinds of jobs? At what point should an employee acquire career tenure and what should it mean?

Background. The career-conditional appointment system was created by E.O. 10577 in 1955. The system includes significant civil service concepts such as the initial probationary period, a 3-year conditional period, status, and tenure. The system was designed in response to restrictions on permanent appointment and size of workforce in the Whitten Amendment and to the conversion needs of hundreds of thousands of employees hired indefinitely during the Korean emergency. The career-conditional period today is essentially meaningless because the Whitten Amendment is no longer in effect, OMB counts career-conditional appointees against permanent ceiling, and individuals acquire competitive status upon completion of the initial one year probationary period. Also, with increased emphasis on performance based personnel actions throughout an employee's career, the career-conditional system seems to have little usefulness as an additional probationary period.

Activity Related to Issue: 1. Title: Career conditional employment system study. Estimated completion date: August 30, 1980, for Executive Order. Current Status: Research phase completed. Proposal for agency comment being developed.

2.4 Personnel Investigations

Issue. What policy options are there to the existing program of conducting full-field pre-appointment background investigations on applicants for Federal employment?

Background. The Federal Government administers an extensive and costly program of full-field pre-appointment personnel background investigations. The General Accounting Office has questioned whether the security and suitability determination goals of the program could not be met in some other more cost-efficient manner.

Activity Related To Issue: Title: Action plan to study the feasibility of implementing recommendations of the General Accounting Office in its Report FPCD 79–79, "Costs of Federal Personnel Security Investigations Could and Should be Cut." (Joint OPM and DOD study.)

Estimated Completion Date: October 3, 1980.

Current Status. On schedule per plan.

2.5 Excepted Service

Issue. Should the variety of excepted appointing authorities be regrouped and redefined in terms of what functions they now serve?

Background. The excepted service was originally created to accommodate positions of such a nature that the procedures for entering the competitive service could not or should not be used. Since then, a proliferation of separate authorities designed to accommodate people in special situations has minimized the differences between Schedules A, B, and C.

Activity Related To Issue: Staffing Services Group to prepare policy options paper for Policy Advisory and Research Board consideration.

3 Area of Concern: Competence of the Work Force

Workforce competence is a central theme of the Civil Service Reform Act. It is also a central theme in many complaints about big Government. To a large extent these complaints are unjustified. Nevertheless, the work of the U.S. Government is very complex and becoming even more complex each day. Particularly at the top management levels, the need for exceptional competence is greater today than ever before. The CSRA recognized this need through establishment of the Senior Executive Service. It also dealt with the larger area of competence through new requirements for merit pay and performance appraisal. Much remains to be done however to assure that the competence of the U.S. workforce remains at a high level.

Following are some of the more significant policy issues in this area which have been identified at this time.

3.1 Fitness-for-Duty Examinations

Issue. What is the proper role of fitness-for-duty examinations and what conditions should govern their use?

Background. When an employee is unable to perform the duties and responsibilities assigned because of medical or mental problems, the agency may order the employee to have a fitness-for-duty examination. It has been alleged that fitness-for-duty psychiatric exams have sometimes been motivated by disciplinary or retaliatory reasons rather than medical ones. Agencies may have used such tactics to get rid of employees without having to go through the regular adverse action and appeals procedures. In constructing safeguards against improper use of such examinations, however, the legitimate use of fitness-for-duty examinations to detect medical or mental problems that impair employees in their ability to do assigned work should be preserved.

Activity Related To Issue: 1. Title: Fitness-for-duty study. Estimated Completion Date: Study completed. Current Status: Proposed regulations being prepared.

3.2 Employee Retraining

Issue. What policy options should be considered in relation to the retraining of employees?

Background. A number of Federal employees receive early retirements each year under the provisions of various laws. This includes early retirements of law enforcement officers, fire fighters, air traffic controllers, and those affected by major reduction-in-force, major transfer of function, major reorganization, and disability. Suggestions have been made that the provisions of these laws should be reevaluated to determine whether some of these employees could and should be retrained for other useful work rather than receiving early retirement benefits.

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We also need to develop clearer personnel management policy on the use of retraining in situations such as obsolescence of jobs, poor job performance, remedial education, and mid-life career changes.

Activity Related To Issue: WED to prepare policy options paper for Policy Advisory and Research Board consideration.

3.3 Selection of Supervisors and Managers

Issue. How can pre-selection evaluation of applicants for supervisory and managerial jobs be improved to help assure selection of persons with the requisite competencies?

Background. Research findings suggest that supervisory and managerial effectiveness can be increased through better pre-selection screening. Research conducted by the American Telephone and Telegraph Company, for example, indicated that substantially increased screening efforts produced better first-line supervisors.

Activity Related To Issue: 1. Title: Executive and managerial competencies survey. Estimated Completion Date: September 30, 1980. Current Status: On schedule.

2. Title: Executive competencies critical incidents study. Estimated Completion Date: September 30, 1980. Current Status: On schedule.

3. Title: Workforce Effectiveness and Development Group Task Force on Supervisors. Estimated Completion Date: No completion date set. Current Status: Initial meetings held and data collected on current OPM efforts in the area. Issues and possible activities for task force involvement being identified.

4. Workforce Effectiveness and Development Group to develop state-of-the-art paper or research project.

3.4 Effectiveness of Supervisors

Issue. What more can be done to improve the effectiveness of first-line supervisors?

Background. For many years there have been repeated expressions of concern about the ability of first-line supervisors to perform their very difficult and critical role. In the past, there have been studies of the roles and problems of front-line supervisors, and some actions to improve their effectiveness have been taken, e.g., required supervisory training, merit pay under the Civil Service Reform Act, a new probationary period for supervisors, and a new magazine directed to them. However, it still appears that some first-line supervisors are not able to do the job at the level of effectiveness necessary for the success of many Government programs. Supervisors as a class continue to exhibit feelings of isolation from both the workers and the management chain above them. These and other problems at the first-line supervision level are susceptible to study and action.

Activity Related To Issue: Title: WED Task Force on Supervisors. Estimated Completion Date: No completion date set. Current Status: Initial meetings held and data collected on current OPM efforts in the area. Issues and possible activities for task force involvement being identified.

3.5 Employee Counseling

Issue. What should the Government's role be with respect to counseling employees?

Background. The Government has begun to do a good job in counseling employees with alcohol and drug-related problems, but more needs to be done in the counseling area to assure that employees are able to devote full time and attention to their work and thus be as productive as they can be.

For example, the so-called mid-life crisis has been written about extensively in recent years. There appears to be general agreement that each person experiences it, and that the outcome of this self-reassessment can cause profound changes in a person's life. It may be in the Government's self-interest as an employer to consider what constructive role it can play vis-a-vis employees at this stage of their lives. A retrained, reinvigorated employee with fresh new goals for the future should be much more productive than a disgruntled, depressed employee who perceives both himself and his job as being deadened.

Retirement counseling is also a largely unmet need when a Federal employee is coming to the end of a careeer of public service. Financial and legal counseling are examples of additional kinds of counseling needs now largely unmet.

Activity Related To Issue: 1. A Title VI research effort to evaluate the effectiveness and impact of employee counseling programs, and especially those aimed at alcohol and drug abuse, has been tentatively approved.

2. The Southwest Region has a training package being presented with NASA (Houston, Texas) to develop training courses to help employees cope with mid-career changes.

3. Workforce Effectiveness and Development Group to do a study of overall question of the need for various types of counseling for Federal employees, e.g., mid-life assessment, drugs, alcohol, Equal Employment Opportunity, retirement, financial, legal, etc., and preparation of an options paper for Policy and Research Advisory Board consideration.

3.6 Mid-Level Development Programs

Issue. What policy options are there to improve the development of mid-level managers to prepare them for senior assignments?

Background. Traditionally mid-level managers and/or journeyman level professionals have made up the talent pool from which the majority of senior level Government managers have been drawn. CSRA provides considerable flexibility, special avenues, and requirements for the development of senior managers. We now need to promote the development of mid-level managers and journeyman professionals. Of paramount importance, mid-level managers and journeyman professionals do not have the flexibility of moving across occupational lines, which results in narrow career development and a lack of the breadth required in senior positions.

Activity Related To Issue: 1. Executive Personnel and Management Development Group to prepare state-of-the-art paper for Policy and Research Advisory Board consideration.

4 Area of Concern: Management Improvement

One of the underlying principles of civil service reform is that personnel management is not an end in itself, but a powerful means to improve the performance, effectiveness, and productivity of Government programs of all types. OPM's new involvement in productivity improvement exemplifies the Administration's intention that Federal personnel management practices result in improvements in the delivery of services to the American public. Establishment of the President's Management Improvement Council within the Office of Personnel Management is another example of this interest. OPM is asserting a larger role in the area of Federal management practices than was true in the past.

The issue of contracting for services, for example, directly affects the size and functions of the Federal workforce. The impact of technology on the workforce is a major management concern in terms of obsolete jobs, retraining needs, job classification changes, and changed recruitment needs. Overtime work and pay policies need to be reviewed from the management, not just the pay, standpoint, to determine what management practices give rise to the use and abuse of overtime.

Ceiling controls administered by OMB have long been used to control the overall size of the Federal workforce, but complaints about adverse consequences resulting from the use of this technique continue to increase.

The fundamental underlying issue is to think about how Federal personnel management policies and practices either help or hinder Federal managers in the achievement of their program objectives. Personnel management policies and practices must be addressed in the context of mission accomplishment.

Following are some of the more significant policy issues in this area which have been identified at this time.

4.1 Technology and the Workforce

Issue. What more should be done to assure that modern methods, procedures, and technology are applied to Government operations as a means of increasing the productivity of the Federal workforce? If OPM takes initiatives in this area as the central personnel management agency in the Federal Government, what is the most appropriate manner of involving the major Federal unions in the process? How can employment of the handicapped be advanced through the use of new office technology?

Background. Great emphasis is currently being placed upon increasing the productivity of Government operations. Some Government operations are using methods, procedures, and equipment which are outmoded and inefficient. New methods and technology are being developed at a rapid pace and could be adapted for use by Government with resulting sigificant gains in productivity, effectiveness, and employment of the handicapped.

Activity Related To Issue: 1. GSA and OPM considering further implementation of office automation in Government and impact on Federal workforce: occupational changes, staffing levels, training needs, etc.

2. Workforce Effectiveness and Development Group to prepare policy options paper for Policy and Research Advisory Board consideration.

4.2 Tailored Personnel Systems

Issue. Should the many separate personnel systems for police forces and for police-type occupations within the Federal service be combined into fewer personnel systems? Should special personnel systems be tailored for professional employees? For other employee groups?

Background. Standard personnel programs and practices designed for civil service employees across-the-board do not always recognize the special needs and career patterns of members of special groups and professions within the Federal workforce. For example, within the Federal service there are numerous police forces and police-type occupations. These include Park Police (Interior), Airport Police (FAA), Aqueduct Police, Zoo Police (Smithsonian), Secret Service Uniformed Division (Treasury), Federal Protective Service (GSA), and others. They differ in many key respects, such as entry requirements, qualification standards, compensation plans, retirement systems, and others. These differences introduce administrative instability into personnel systems that relate to what are essentially similar kinds of jobs.

Federal firefighters, on the other hand, are predominantly covered by the General Schedule classification and pay system. However, because of applicable pay laws, the unusual nature of the work, and the way that work is organized, there are important management and pay problems (e.g., pay inversion between supervisory levels).

Activity Related To Issue: 1. Title: Study to develop special systems for protective occupations is on Compensation Group's projected FY 80–82 project list. Estimated Completion Date: Not yet determined. Current Status: Initial stages of consideration.

2. The Office of Planning and Evaluation to prepare policy options paper on tailored personnel systems for professional employees for Policy and Research Advisory Board consideration.

4.3 Humanistic Management

Issue. What policy options are there for more fully realizing human potential in the workplace as a means to increase both productivity and the quality of work life?

Background. One major underlying objective of the Civil Service Reform Act is to make the Federal workforce more productive and responsive to the public. The new provisions for merit pay, performance appraisal, and the Senior Executive Service are attempts to achieve this objective. However, legislation alone cannot fully tap the potential in the Federal workforce for improvements in personal performance and delivery of services to the public. Ways need to be found to identify and eliminate institutional barriers to creativity in the workplace, and to build organizational structures and work processes which allow employees to use their full potential in the workplace for the good of both themselves and the public they serve.

Activity Related To Issue: 1. Workforce Effectiveness and Development Group to prepare policy options paper for Policy and Research Advisory Board consideration.

2. OPM and the National Science Foundation are conducting, with the assistance of Title VI funds, a research project testing the use of organizational teams to improve productivity.

4.4 Alternatives to Ceiling Control

Issue. What alternatives to personnel ceilings could be used to control the size of the Federal workforce?

Background. The use of rigid personnel ceilings to control the size of the Federal workforce has contributed to the inability to hire needed new employees, excessive use of contracting-out, and other practices. The problems in managing Government programs and motivating the workforce that flow from rigid personnel ceilings have received a great deal of attention in congressional hearings, professional literature, and the popular press.

Activity Related To Issue: 1. Title: Full-Time Equivalency ceiling system study. Estimated Completion Date: May 1982. Status: On schedule per plan.

2. Title: Experimental part-time direct-hire program. Estimated Completion Date: Summer 1982. Status: Proposal for use of direct-hire authority for part-timers approved by the Director.

4.5 Contracting Out

Issue. What are the policy options with respect to the practice of contracting out?

Background. Since it began in the Eisenhower administration, the policy of contracting out to the private sector for the commercially available goods and services used by the Federal Government has been highly controversial. Federal unions view contracting out as a threat to the jobs of Federal employees. Private sector suppliers stress that the Government's business is not to be in business.

Currently, OMB Circular A–76 requires rigorous cost analyses and head-to-head competitive bidding on clearly specified work statements between agencies and private sector contractors. Where no overriding factors such as military necessity arise, lowest relative cost is the key factor in determining whether to contract out. OPM has a direct interest in the practice of contracting out because it affects such issues as Equal Employment Opportunity, the size of the Federal workforce, employment ceilings, labor-management relations, recruitment, and training.

The requirements for clearly defining agency work, capturing the true costs of performing it, and measuring the

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expected results, which are the heart of OMB's policies on contracting out, coincide with actions OPM is urging agencies to take to help improve productivity within the Federal government.

Activity Related To Issue: 1. Director Campbell recently testified before Congress on the personnel management implications of contracting out by the Federal Government.

2. OPM is asking agencies to report on contracts related to implementation of CSRA.

3. The Department of Defense Authorization Bill for 1980 included a specific requirement that DOD certify to Congress that before a contracting out cost comparison is made, the in-house operation will be reorganized to its most efficient pattern. Federal employee unions are backing this provision.

4. OPE to develop policy options paper for Policy and Research Advisory Board consideration.

4.6 Overtime Policies

Issue. What are the most appropriate uses of overtime work? How can overtime use be focused or limited to these instances?

Background. Emphasis on personnel ceilings rather than personnel costs, poor management practices, archaic laws, the granting of premium pay on an annualized basis, and other factors contribute to the use of overtime work. Some overtime is justifiable and unavoidable. The unwarranted use of overtime, however, is not only expensive, but results in lower productivity, since each unit of work produced has a higher unit cost. Human fatigue during overtime work also contributes to lower productivity, more errors, and increased safety risks.

Activity Related To Issue: 1. Title: Premium pay study. Estimated Completion Date: December 31, 1980 (Report to Director Campbell). Current Status: Draft report being prepared.

2. Title: GAO survey of Federal overtime practices. Estimated Completion Date: Unspecified. Current Status: Preliminary stages.

4.7 Productivity and Personnel Management

Issue. What role should personnelists play in relation to productivity and management improvement in the Federal service?

Background. In the 1950's the core of the personnel management job included staffing and placement work, position classification, and employee relations. During that era, employee training was added but the personnel traditionalists still have a hard time accepting it as part of the core of the profession. In the 1960's, labor relations was added to the job of the personnel profession. In the 1970's, Equal Employment Opportunity and affirmative action were added. In the 1980's it is likely that productivity will be added. The question is how this latter function can best be integrated with the other personnel management functions of the personnel profession as a whole, at the OPM level and in agencies of the Federal Government.

Activity Related To Issue: 1. Study of future role of the personnel office being conducted by Jeff Diamond for the Deputy Director. Draft expected in Spring 1980.

2. WED to develop policy options paper for Policy and Research Advisory Board consideration after review of Diamond study.

4.8 Grade Escalation

Issue. What should be done to identify and correct causes of grade escalation? What policy options are there in dealing with the phenomenon? What impact have grade control programs had in the past, and what lessons do they point to for the future?

Background. Position classifiers complain of management pressures upon them to assign higher grades to positions. Managers say they have little faith in the position classification process. Out of these clashes over position classification has come a continuing problem of grade escalation in the Government as a whole. In the past there have been periods of heightened concern about grade escalation, studies to identify the causes, and control measures such as the average grade program imposed by OMB.

Activity Related To Issue: 1. Navy demonstration project under Title VI, CSRA, attempts to lessen the pressure on the classification system by shifting to pay for performance and replacing the GS–5/18 grade structure with 5 broad pay categories.

2. Special government-wide task-force being established to study the position classification system.

5 Area of Concern: Labor-Management Relations

The effectiveness and efficiency of Government operations are influenced increasingly by labor management and employee relations. Collective bargaining in the Federal Government has evolved a great deal since 1962 when President Kennedy established the Federal Labor Management Program by Executive order. Since then, the number of nonpostal civilian Federal employees organized into bargaining units has increased from under 25,000 to over 1.2 million, or 60 percent of all nonpostal civilian Federal employees. Bargaining extends to matters which previously were subject only to unilateral management action. Through negotiation and consultation, a broad range of personnel policies and working conditions have come under bilateral decisionmaking. They include the scheduling of work hours, overtime and rest periods; leave administration; safety and health practices; training and promotion policies; and grievance and complaint handling. Pressure to expand these areas is certain to continue.

The Federal Labor Management Relations Program's primary intent is to promote the well-being of employees and the efficient administration of Government by establishing orderly and constructive relationships between labor organizations and management officials. The underlying assumption of the program is that employee-management relations can be improved by providing employees with an opportunity for greater participation in developing policies and procedures that affect their employment conditions while maintaining the public interest as the paramount consideration.

Following is one of the more significant policy issues in this area which has been identified at this time.

5.1 Improving the Labor-Management Relationship

Issue. To what extent is the labor relations system devised in Title VII of CSRA meeting its goals of enhancing employee well-being and Government efficiency and effectiveness? What is the proper mix of adversarial and cooperative relationships in the Federal labor-management relations program? What steps need to be taken to move Federal labor relations closer to the Congressional intent?

Background. The labor relations system enacted in CSRA draws its roots from the private sector model, with some important distinctions. These are primarily a narrower scope of bargaining, particularly with respect to significant economic issues, union security, and a prohibition on strikes. These exceptions recognize the special nature of government and the fact that the public interest is paramount, but they also remove or lessen part of the dynamics that makes private sector labor relations work. Employee organization and participation through labor unions are an accomplished fact, but the best means of achieving a good fit of the adversarial and cooperative nature of the Title VII system to the Federal system is not fully clear.

Activity Related To Issue: Office of Labor-Management Relations to prepare policy options paper for Policy and Research Advisory Board consideration.

6 Area of Concern: Merit and Entitlement

Pollster Daniel Yankelovich reports that about three-fourths of the nation's workforce has been overtaken by a psychology of entitlement-feeling that they deserve good jobs, a rising standard of living, plus a satisfying work experience. Carnegie-Mellon University economist Arnold Weber says that throughout the American workplace the 1980's will be a time of increased tension and potential conflict among the various groups in the labor force. Weber predicts that with women, minorities, handicapped workers, veterans and others seeking special attention in the workforce, a backlash against affirmative action will grow. Harvard University economist Richard B. Freeman says that workers age 25 to 44 will encounter fierce competition for promotions, coupled with substantial career disappointments. Director Campbell has spoken to this latter point in recent speeches.

In short, in the next few years we can expect increased claims for employment entitlements from a variety of groups and increased dissatisfaction when the perceived entitlements cannot always be realized. Unions stand to gain in membership and influence from this situation. There will be increased pressure on management to provide the training, career development assignments, and other forms of credentialism which will be perceived to be necessary for advancement and successful competition.

There will be increased pressure to accommodate the traditional principles of the merit system, e.g., open competition, selection based on qualifications for the work, advancement based on performance, and equal pay for equal work, to the claims of entitlement.

The larger number of well-qualified individuals available to fill mid level and high level positions may act to reduce the upward pressure on pay and benefits.

Following are some of the more significant policy issues in this area which have been identified at this time.

6.1 Employment of Handicapped Individuals

Issue. What policy options are there for ensuring reasonable accommodation in Federal employment to handicapped individuals?

Background. According to census reports, there were more than 11 million Americans who had a permanent work disability in 1970. With enactment of the Rehabilitation Act of 1973, as amended, and its provisions regarding affirmative action for the handicapped, and because of new technological, medical and rehabilitation developments, there is a growing number of handicapped persons entering the labor market and seeking Federal employment. The degree to which these individuals may be denied employment opportunities is unknown. In addition, the issue of what constitutes reasonable accommodation for these individuals is in no way settled.

Activity Related To Issue: 1. Office of Affirmative Employment Programs to develop policy options paper for Policy and Research Advisory Board consideration.

2. OPM will participate with HEW, using Title VI funds, to research ways of identifying and reducing the adverse impact of selection procedures with regard to handicapped individuals.

6.2 Multiple Clientele Groups

Issue. How should OPM prepare itself to respond to the needs of the several minority groups, women, handicapped, and aging workers?

Background. There is increasing recognition of the problems facing the several minority groups, women, handicapped, and aging workers on a national rather than a more localized basis. This is resulting in greater demands on the Federal Government to respond to their needs in terms of governmental services, recognition, and employment opportunities. This trend can be expected to continue. OPM needs to consider how it can best organize its affirmative employment program and resources to equitably address the needs of all affected groups.

Activity Related To Issue: Office of Affirmative Employment Programs to develop policy options paper for Policy and Research Advisory Board consideration.

6.3 Written Tests

Issue. What should be the future role of written tests vis-a-vis alternative selection procedures in the Federal employee selection process?

Background. Recent events have brought into question the future role of written tests in the selection process. For example, the Uniform Guidelines on Employee Selection Procedures emphasize that alternative selection procedures be used to eliminate the adverse impact of written tests. Also, recent attempts at the State level to enact so-called Truth-in-Testing laws could, if applied at the Federal level, make the development and administration of written tests prohibitively expensive.

Activity Related to Issue: 1. Title: Study of alternative approaches for conducting occupational analysis used in test, rating schedule, and standards development. Estimated Completion Date: 12/80. Current Status: Guidance issued. Outreach and training efforts underway.

2. A Title VI research effort to prepare a cluster of state-of-the-science papers relative to the efficacy of written tests, other selection instruments and combinations of selection instruments has tentatively been approved.

7. Area of Concern: Long-Range Policy Issues

There is a need to think about Federal workforce patterns and problems five to ten years in the future. Other Areas of Concern in this Policy Agenda deal with more immediate policy issues. The effects of personnel cutbacks, affirmative action, shorter workweeks, growth in part-time employment, a slower economy, an aging population, energy crises, and other significant forces need to be evaluated and planned for. What effect will they have on staffing, training, recruitment, labor-relations, and other personnel management programs? It is good business to try to know all it is possible to know about the future and to lay plans in the present for dealing with future contingencies.

7.1 Work Force Planning

Issue. How can the data needed to plan for future workforce requirements best be collected, analyzed, and used? What systems can OPM establish in Government to allow OPM and agencies to foresee and prepare for broad demographic and social changes that will affect employment markets in the future?

Background. We do not now have a good understanding of how changes in population and labor force variables such as age, sex, occupation, and education can affect the Federal workforce. Nor have we done much systematic analysis of how such variables as employee attitudes, changes in economic conditions (inflation, recession), legislation (energy, environment), or other large-scale social and economic shifts can affect the Federal workforce.

Activity Related to Issue: 1. A Title VI research effort on forecasting staffing needs and external labor markets has tentatively been approved.

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2. Title: GAO review: *Issues and Barriers to Effective Workforce Planning.* Estimated Completion Date: Unspecified. Current Status: Preliminary stages. GAO will study the impact of approximately 20 previous related GAO reports.

7.2 Future Role of Personnel Organization

Issue. What are the potential roles for political appointees, executives, managers and supervisors, the personnel staff, and other staff offices in the field of personnel management? Where should the personnel officer fit in the managerial team? How can the labor relations function best be carried out?

Background. Most personnel officers report to an individual with broader responsibilities for administration. Relatively few are considered part of the top management team of their agencies. The enactment of civil service reform and the creation of OPM are intended to accomplish dramatic changes, including changes in the role of personnel management. Involvement in labor-management relations, productivity, workforce effectiveness, executive and managerial development, quality of working life and accountability will help determine whether the personnel manager is a part of the management team. The issue might be stated better by addressing how the Federal personnel function is to be carried out, and what contribution should be expected from political leadership, operating line executives and managers, personnel managers and their staffs, and other staff offices. Not all Federal personnel managers should play the same role or operate in the same fashion.

Crucially important is the role, function, and organization of the personnel office in a workforce that is 60% organized. One-by-one agencies are splitting off labor-management relations from personnel since it cannot be handled adequately with aggressive unions under strong law when buried in the personnel function.

Activity Related to Issue: Study of the future role of personnel being conducted by Jeff Diamond at the direction of the Deputy Director. Draft expected in Spring 1980.

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federal register

Tuesday
June 3, 1980

Part VI

Department of Labor

Office of the Secretary

Improving Government Regulations; Semiannual Agenda

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chapters I, IV, V, VI, and VII; 29 CFR Subtitle A and Chapters II, IV, V, XVII and XXV; 30 CFR Chapter I

Improving Government Regulations; Semiannual Agenda

AGENCY: Department of Labor.

ACTION: Third Semiannual Agenda of Regulations Selected for Review or Development.

SUMMARY: In accordance with Executive Order 12044 and the Department of Labor Regulatory Reform Guidelines, this Document sets forth the Department's third semiannual agenda of regulations selected for review or development during the coming 6 month period.

DATES: This Agenda is applicable for the period from May 30, 1980 to November 30, 1980.

ADDRESS: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Room N2428, Washington, DC 20210, 202–523–8201.

FOR FURTHER INFORMATION CONTACT: Dr. Judy Sorum, Special Assistant to the Secretary, 200 Constitution Avenue NW, Room S2018, Washington, D.C. 20210, 202–523–9184, or Mark E. Solomons, Counsel for Special Legislative Projects, Department of Labor, 200 Constitution Avenue N.W., Room N2428, Washington, D.C. 20210, 202–523–8088.

SUPPLEMENTARY INFORMATION: Executive Order 12044 and the Department of Labor's Implementing Guidelines (44 FR 5570–5590) require the semiannual publication in the **Federal Register** of a complete Agenda of the significant regulations which will be considered, reviewed, or developed by the Department of Labor during the coming 6 month period. The Department's First Agenda was published on January 26, 1979 and was followed by a Supplemental Agenda on August 28, 1979. A Second Agenda was published on November 13, 1979. The Department's Third Semiannual Agenda of Regulations Selected for Review or Development is contained in this document.

This Third Agenda follows the same format as that of the Second Agenda. Each entry is identified by Agency, Title, and Code of Federal Regulations citation. Each entry contains a brief description of the regulation, states why the regulation is being reviewed or developed, and indicates whether the regulation is a "major" regulation for which a regulatory analysis may be required. Each entry also indicates the current status of the regulatory initiative, whether the regulation may be of special interest to small business, small organizations, or local governments, and each contains the name, address and telephone number of a knowledgeable agency official who may be contacted by any member of the public who has an interest in the regulation.

The small business or small orgnization interest indicator is a new feature of the Department's Agenda. In a Memorandum dated November 16, 1979 the President directed the heads of all Executive Departments to give special consideration to the burdens imposed on small business by agency regulation. The Department of Labor is committed to the success of this Presidential initiative and has already taken steps to improve communication with small businesses, aid small businesses in meeting regulatory requirements, reduce reporting and paperwork burdens on small businesses and, when authorized to so so by statute, tailor regulations to fit the size and nature of the regulated public. In keeping with these efforts, the Department also intends to amend its Regulatory Reform Guidelines before publication of the next Agenda to ensure that all agencies within the Department are aware of the special needs and problems of small businesses, small organizations and local governments. Through this change policymakers will be made better aware of the impact of regulations on small businesses and with this knowledge it should be possible to take the steps necessary to avoid unnecessary burdens which may result from some Departmental regulations.

The public is invited to offer suggestions on how the Department's Guidelines could be improved to ensure that small business, small organization and local government issues are fully considered in all Department of Labor rulemaking. Comments and suggestions should be submitted to one of the contact persons listed at the beginning of this preamble by July 31, 1980.

The Regulatory Reform process continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that improved regulatory management, more clearly written regulations, and in many instances, significantly less burdensome regulations are all attributable to our regulatory reform program.

Further improvement is certainly needed and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let Departmental officials know how our regulatory reform process can be further improved and, of course, to participate in the review or development of the regulations listed on the Agenda.

The Department of Labor's Fourth Semiannual Agenda will be published on or about November 30, 1980.

Index

Note.—Regulations which may be of special interest to small businesses, small organizations, or local governments are followed in this index with an asterisk (*).

1. Employment and Training Administration (ETA)—Extended Benefits for Unemployment Insurance Claimants.
2. ETA—Services for Veterans.
3. ETA—Labor Certification Process. *
4. ETA—Basic Services of the Employment Service System.
5. ETA—Employment Services Review of State Agency Compliance.
6. ETA—Unemployment Compensation for Federal Employees.
7. ETA—Unemployment Compensation for Ex-Servicemen.
8. ETA—Interstate Arrangement for Combined Wages.
9. ETA—Benefit Payment Promptness.
10. ETA—Transfers to State Accounts.
11. ETA—Nondiscrimination on the Basis of handicap. *
12. ETA—Nondiscrimination in Federally Assisted Programs. *
13. ETA—Special Programs.
14. ETA—Migrant and Seasonal Farmworkers. *
15. ETA—Pilot Program for the Handicapped.
16. ETA—Senior Community Service Employment.
17. ETA—Exemplary Rehabilitation Certificates.
18. ETA—Airline Employee Protection.
19. ETA—Trade Act Adjustment Assistance.
20. ETA—Extended Benefits.
21. ETA—Services for Veterans.
22. ETA—Adverse Effect Wage Rate. *
23. Occupational Safety and Health Administration (OSHA)—Fire Protection. *
24. OSHA—Confined Spaces.
25. OSHA—Laboratory Accreditation. *
26. OSHA—Wheel Rims. *
27. OSHA—Conveyors. *
28. OSHA—Flat Roofs. *
29. OSHA—Tunnels.
30. OSHA—Marine Terminals.
31. OSHA—Walking, Working Surface. *
32. OSHA—Ladders and Scaffolding.
33. OSHA—Diving. *
34. OSHA—Shipbuilding.
35. OSHA—Hazardous Materials. *
36. OSHA—Electrical. *
37. OSHA—Floor and Wall Openings. *
38. OSHA—Lockout/Tagout.
39. OSHA—Chromium.
40. OSHA—Cancer Policy.
41. OSHA—Pesticides. *

42. OSHA—Beryllium. *
43. OSHA—Employee Medical Records. *
44. OSHA—Noise. *
45. OSHA—Standards Completion. *
46. OSHA—Asbestos.
47. OSHA—Abrasive Blasting.
48. OSHA—Cadmium. *
49. OSHA—Nickel. *
50. OSHA—MBOCA.
51. OSHA—Chemical Hazards. *
52. OSHA—Federal Employees.
53. OSHA—Reporting.
54. OSHA—Grain Handling. *
55. OSHA—Lockout/Tagout. *
56. OSHA—Confined Spaces. *
57. Office of the Assistant Secretary for Administration and Management (OASAM)—Unsolicited Proposals.
58. OASAM—Debarred and Ineligible Bidders. *
59. OASAM—Grants and Agreements. *
60. OASAM—Grants and Agreements. *
61. OASAM—State Employment Security Grants.
62. Employment Standards Administration (ESA)—OFCCP. *
63. ESA—OFCCP. *
63A. ESA—Private Clubs.
64. ESA—OFCCP Program Requirements. *
65. ESA—OFCCP. *
66. ESA—Reproductive Hazards.
67. ESA—OFCCP—Fringe Benefits. *
68. ESA—OFCCP—Handicapped Workers. *
69. ESA—OFCCP—Documents.
70. ESA—Service Contracts. *
71. ESA—Davis-Bacon *
72. ESA—Farm Labor. *
73. ESA—Employment of Minors. *
74. ESA—Wage Payments. *
75. ESA—Overtime. *
76. ESA—FLS Records. *
77. ESA—Patient Workers in Hospitals. *
78. ESA—Agricultural Exemptions. *
79. ESA—Sheltered Workshops. *
80. ESA—National Endowment for the Arts.
81. ESA—Child Labor. *
82. ESA—Black Lung Disability Standards.
83. ESA—Black Lung State Criteria.
84. ESA—Coal Operator's Insurance. *
85. ESA—Discrimination Complaints Under the Black Lung Act.
86. ESA—Longshore Compensation. *
87. Mine Safety and Health Administration (MSHA)—Surface Mine Construction. *
88. MSHA—Underground Coal Mine Safety. *
89. MSHA—Respirable Dust Standard.
90. MSHA—Self Rescue Devices.
91. MSHA—Impoundments and Tailings Piles. *
92. MSHA—Surface Coal Mine Safety. *
93. MSHA—Respirable Dust-Underground Coal Mines. *
94. MSHA—Transfer of Miners. *
95. MSHA—Independent Contractors. *
96. MSHA—Mine Rescue Teams. *
97. MSHA—Construction Worker Training.
98. MSHA—Telephones.
99. MSHA—Pattern of Violations.
100. MSHA—Review of Metal and Nonmetal Standards. *
101. MSHA—Civil Penalties. *
102. MSHA—Miner Participation in Dust Sampling. *
103. MSHA—Labor-Management Services Administration (LMSA)—Labor Organization Reports.
104. LMSA—LMRDA Enforcement.
105. LMSA—Standards of Conduct.
106. LMSA—Financial Reports.
107. LMSA—Employee Protection Dispute Resolution.
108. LMSA—Redwood National Park.
109. LMSA—Public Health Services.
110. LMSA/ERISA—Suspension of Benefits.
111. LMSA/ERISA—Transitional Relief.
112. LMSA/ERISA—Benefit Reporting and Recordkeeping.
113. LMSA/ERISA—Plans Offering HMO Membership.
114. LMSA/ERISA—Reporting Exemptions.
115. LMSA/ERISA—Revision of Forms.
116. LMSA/ERISA—Insurance Company Financial Reports.
117. LMSA/ERISA—Compliance Oriented Returns. *
118. LMSA/ERISA—Ownership of Plan Assets.
119. LMSA/ERISA—Alternative Compliance/Reporting and Disclosure. *
120. LMSA/ERISA—Supplemental Pay.
121. LMSA/ERISA—Annual Report Forms.
122. LMSA/ERISA—Reporting—Certain Non-Model Pensions. *
123. LMSA/ERISA—Reporting—Short Plan Years.
124. LMSA/ERISA—Plan Assets and Establishment of Trust. *
125. LMSA/ERISA—Acquisition of Sale of Securities and Real Property.
126. LMSA/ERISA—Transitional Relief.

Department of Labor Third Semiannual Agenda

1. *Employment and Training Administration* (ETA)—20 CFR Part 615—Extended benefits for unemployment insurance claimants, including Federal employees and ex-servicemen.

This regulation will modify the currently used "trigger" for bringing the Extended Benefit Program into operation by excluding claims for extended benefits from the calculations. The purpose of this change is to improve the method by which the calculation of unemployment insurance indicator rates are made. Other technical and clarifying changes also will be made. A regulatory analysis was not required.

Status: A final regulation was published on January 3, 1980 and the entry is therefore removed from the Agenda.

Contact: Joe Hickey, Room 7310—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–7122.

2. *ETA*—20 CFR Part 653—Services for Veterans.

This regulation, which governs services provided to veterans by the State employment service agencies, and which establishes the fiscal year 1980 veteran's preference service levels used by the Department to monitor the State employment service agencies and ensures that veteran applicants receive priority treatment, must be reviewed annually. New veterans preference indicator levels must be established when necessary. A regulatory analysis is not required.

Status: The publication of a final regulation by June 1980 is anticipated.

Contact: Emmett McNulty, Room 8111—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6557.

3. *ETA*—20 CFR Part 656—Labor Certification Process for Permanent Employment of Aliens in the United States.

These regulations set forth the alien labor certification process in detail, describe the responsibilities of employers who wish to employ aliens on a permanent basis, and delineate the role of the public employment service in assisting employers in finding available U.S. workers. Technical changes are being considered in order to update and clarify these regulations. A regulatory analysis is not required. This rule may be of special interest to small business employers of alien labor.

Status: A notice of proposed rulemaking was published on January 22, 1980 and the publication of a final regulation by May 30, 1980 is anticipated.

Contact: Nandor Kertai, Room 8416, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376–6982.

4. *ETA*—20 CFR Part 653, Subparts A, and E—Basic Services of the Employment Service System, Support Services of the Employment Service System.

The purpose of these regulations is to clarify and simplify existing policies, procedures, and guidelines contained in the Employment Security manual and the field instructions governing basic services of the Employment Service System. The need for review of existing regulations and for the development of new regulations where only a manual existed, was determined in discussions involving both State and Federal agencies. The Employment Service Manual contains a complex assortment of directives and advisory material. It has evolved over a 30 year period and much of it is now out of date and incomplete. Recent court rulings have highlighted the need for the Employment Service to codify and clarify its regulations, policies and procedures. A regulatory analysis is not required.

Status: This regulation was published in proposed form in October, 1978 and the publication of a final regulation by June, 1980 is anticipated.

Contact: Edward A. Waters, Room 8018—Patrick Henry Building, 601 D

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Street, N.W., Washington, D.C. 20213, 202–376–6700.

5. *ETA*—20 CFR Part 658, Subpart G—Administrative Provisions governing the Employment Service; Review and Assessment of State Agency Compliance with Employment Service Regulations.

These regulations will serve to further clarify and simplify the many current policies, procedures, and guidelines contained in the Employment Security Manual, as well as field instructions governing the review and assessment of State agency compliance with employment service regulations. The need for review of existing regulations and the development of new regulations was determined in discussions involving both State and Federal agencies. The current Employment Service manual has evolved over a 30 year period and now much of it is out of date and incomplete. Recent court rulings have also highlighted the need to develop comprehensive regulations in this area. A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published on January 11, 1980 and the publication of a final rule by June, 1980 is anticipated.

Contact: Edward A. Waters, see item 4.

6. *ETA*—20 CFR Part 609—Unemployment Compensation for Federal Employees.

These regulations implement 5 U.S. Code 8501–8508, which sections provide a program of unemployment compensation for Federal employees administered by State Employment Security agencies. A review of the regulations is required because of amendments made to the law by Pub. L. 94–566. A regulatory analysis is not required.

Status: The publication of a proposed regulation by April 30, 1980 is anticipated.

Contact: Charles Reynolds, Room 7014—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6222.

7. *ETA*—20 CFR Part 614—Unemployment Compensation for Ex-Servicemen.

These regulations implement 5 U.S.C. 8521–8525, which provide a federally funded unemployment compensation program for certain ex-servicemen. The program is administered by State employment security agencies acting as agents of the United States. A review of the regulation is required because of amendments to the law made by Pub. L. 94–566. A regulatory analysis is not required.

Status: The publication of a proposed regulation by April 30, 1980 is anticipated.

Contact: Charles Reynolds, see item 6.

8. *ETA*—20 CFR Part 616—Interstate Arrangement for Combined Employment and Wages.

These regulations govern the ability of an unemployed worker with covered employment or wages in more than one State to combine all such employment and wages in a single State, in order to maximize entitlement to unemployment insurance benefits. These regulations will be reviewed in response to a request by the Interstate Conference of Employment Security Agencies, whose members have experienced certain difficulties with existing procedures. Other changes are also required by Pub. L. 94–566. A regulatory analysis is not required.

Status: A proposed regulation was published on February 5, 1980, and the publication of a final regulation by June 1, 1980 is anticipated.

Contact: Edwin Kerley, Room 7102—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–7105.

9. *ETA*—20 CFR Part 640—Standards for Benefit Payment Promptness—Unemployment Compensation.

These regulations establish standards for promptness in the payment of unemployment insurance benefits, set forth criteria States must attain to meet these standards, and corrective action to be taken when a State's performance falls below the criteria. Review of these regulations is necessary to add a standard of compliance to clarify the requirements for the prompt payment of unemployment compensation. Enforcement provisions will be revised to cover all aspects of conformity and compliance with the requirements on promptness of benefit payments. A regulatory analysis is not required.

Status: The publication of a proposed regulation by June 1, 1980 is anticipated.

Contact: Edwin Kerley, see item 8.

10. *ETA*—20 CFR Part 662—Transfers to State Accounts Under Section 903 of the Social Security Act (Reed Act).

These regulations describe the purposes for which Reed Act funds may be used and the administrative requirements which aply to their use. Review may be required to develop a clear and comprehensive set of requirements applicable to the use of Reed Act funds. A regulatory analysis is not required.

Status: The publication of a proposed regulation by November 1, 1980 is anticipated.

Contact: Edward H. Rowland, Room 4206—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6414.

11. *ETA*—29 CFR Part 32—Nondiscrimination on the Basis of a Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance.

The purpose of this regulation is to implement Section 504 of the Rehabilitation Act of 1973, as amended, with respect to programs and activities receiving Federal financial assistance from the Department of Labor. The development of this regulation is required by Section 504 of the Rehabilitation Act of 1973, Executive Order 11914, and Department of Health, Education, and Welfare regulations implementing Executive Order 11914. A regulatory analysis has been prepared. This regulation may be of special interest to small businesses and small governmental institutions.

Status: A proposed regulation was published on January 4, 1980. The publication of a final regulation by July 31, 1980 is anticipated.

Contact: Frederick A. Drayton, Room 1034—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6743.

12. *ETA*—29 CFR Part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor.

The purpose of this regulation is to amend the Department's regulations implementing Title VI of the Civil Rights Act of 1964, as amended, and to establish a single, comprehensive rule with uniform procedures for administration and enforcement of Title VI and all other nondiscrimination requirements applicable to programs receiving financial assistance from the Department, including the Age Discrimination Act of 1975, as amended, Title IX of the Education Amendments of 1972, as amended; and Section 132 of CETA; so that no person shall be excluded from participation in, denied the benefits of or otherwise subjected to discrimination under any such program on the basis of race, color, religion, sex, national origin, age or in the case of CETA participants, citizenship. The draft regulation has been submitted to the Department of Justice for review prior to publication in proposed form. The Department intends to consolidate its regulations under Section 504 of the Rehabilitation Act (see item 11) within this comprehensive regulation when it is published as a final rule. Except for the Section 504 regulations, a regulatory analysis is not required. This regulation may be of special interest to local governments.

Status: The publication of a proposed regulation by July 31, 1980 is anticipated.

Contact: Frederick A. Drayton, see item 11.

13. *ETA*—20 CFR Part 687—Special Programs and Activities Under Title III of the Comprehensive Employment and Training Act (CETA).

These regulations will replace the existing provision of 29 CFR Part 97, Subpart D, which governs special programms and activities under Section 301 of CETA. Review is required by amendments to CETA. A regulatory analysis is not required.

Status: The publication of a proposed regulation by June 30, 1980 is anticipated.

Contact: James M. Aaron, Room 6213—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376–6257.

14. *ETA*—20 CFR Part 689—Migrant and Other Seasonally Employed Farmworkers Program Under CETA.

These regulations replaced 29 CFR Part 97, Subpart C, which governs programs for migrant and seasonal farmworkers under Section 303 and other provisions of CETA. Review was required by amendments to CETA. A regulatory analysis was not required. These regulations may be of special interest to small businesses.

Status: A final regulation was published on May 25, 1979 and amendments to the final regulation were published on February 15, 1980. New Subparts F and G applying to programs for youth will be finalized by June 1, 1980.

Contact: Dan Cox, Room 6308—Patrick Henry Building; 601 D Street N.W., Washington, D.C. 20213, 202–376–7240.

15. *ETA*—Community Service Employment Pilot Program for Handicapped Individuals.

These regulations would govern the programs authorized under Title VI of the Comprehensive Rehabilitation Services Amendments of 1978. A regulatory analysis is not required.

Status: The Department continues to review this matter and is considering the development of regulations.

Contact: Paul Mayrand, Room 6122—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6233.

16. *ETA*—29 CFR Part 89—Senior Community Service Employment Program.

These regulations govern the Senior Community Service Employment Program under Title V of the Older Americans Act. Review is required by amendments to the enabling Act. A regulatory analysis is not required.

Status: A proposed regulation was published on March 25, 1980. The publication of a final regulation by November 1, 1980 is anticipated.

Contact: Paul Mayrand, see item 15.

17. *ETA*—29 CFR Part 26—Exemplary Rehabilitation Certificates for Ex-Servicemen.

These regulations describe the process by which certain ex-servicemen will be issued a certificate by the Secretary of Labor entitling the person to receive special counseling and job development assistance through the United States Employment Service. A review of the regulations will be undertaken as a part of an effort to determine the viability of the existing program and the appropriateness of any changes in the regulation. A regulatory analysis is not required.

Status: It has been determined that revisions are not required at this time. The regulation is, therefore, removed from the Agenda.

Contact: Dennis R. Wyant, Room 10100—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–7480.

18. *ETA*—Airline Employee Protection Program.

These regulations are being developed to implement the employee protection provisions of the Airline Deregulation Act (Pub. L. 95–504). The Department is required to develop these regulations in accordance with this new legislation. A regulatory analysis is not required.

Status: The publication of a final regulation by June 1, 1980 is anticipated.

Contact: Bob Gillham, Room 7306—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376–6715; or LMSA Contact: Lary Yud, Room S5639—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–6495.

19. *ETA*—29 CFR Part 91, Adjustment Assistance for Workers After Certification Under the Trade Act of 1974.

These regulations are required by Section 248 of the Trade Act of 1974 to implement provisions relating to individual entitlements to trade adjustment assistance for certain workers. A review of the regulations is underway to determine whether it is necessary to clarify existing provisions, correct errors and omissions, and update those sections relating to program administration. A regulatory analysis is not required.

Status: The publication of a proposed regulation by April 30, 1980 is anticipated.

Contact: Bob Gillham, Room 7306—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6715.

20. *ETA—20 CFR Part 615—Extended Benefits.* It is intended to amend the entitlement restriction rules to include a provision governing a between terms denial of benefits to certain school employees. It is expected that the new regulations will no longer require the Federal Government to reimburse 50 percent of the cost of sharable compensation and extended benefits paid to former employees of a state and its political subdivisions. Other technical and clarifying amendments will also be considered. A regulatory analysis is not required.

Status: The publication of a proposed regulation by June 30, 1980 is anticipated.

Contact: Edwin Kerley, see item 8.

21. *ETA*—20 CFR Part 653—Services For Veterans.

The Services for Veterans regulations will be revised to bring them into conformity with recent statutory amendments, eliminate unnecessary detail and make the regulation more easily understandable. A regulatory analysis is not required.

Status: The publication of a proposed regulation by May 1, 1980 is anticipated.

Contact: Fred Stallworth, Room 8118—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6221.

22. *ETA*—20 CFR 655.207—Adverse Effect Wage Rate Methodology.

This subpart contains regulations related to establishing Adverse Effect Wage Rates for the Temporary Employment of Aliens in Agriculture. This proposed regulation will establish a new methodology for computing and applying a wage rate offered by employers who request utilization of temporary alien workers in agriculture. The proposal will not impact on sheep-herding or logging activities. This regulation may be of special interest to small businesses.

Status: A regulatory analysis is not required. The publication of a proposed regulation by November 1, 1980 is anticipated.

Contact: David O. Williams, Room 8000, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202–376–6289.

23. *Occupational Safety and Health Administration (OSHA)*—29 CFR Part 1910, Subpart L—Fire Protection.

These regulations contain requirements for fire suppression equipment and fire protection systems. The existing subpart is being revised to simplify present requirements related to fire suppression equipment and fire protection systems and to require training for persons who are members of certain fire brigades. This regulation

may be of special interest to small businesses. A regulatory analysis is not required.

Status: The publication of a final regulation by May 30, 1980 is anticipated.

Contact: Thomas Seymour, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7216.

24. *OSHA*—29 CFR Part 1910, Standards for Work in Confined Spaces.

This standard will establish requirements for protection of workers who must enter and work in confined spaces with hazardous environments. This regulation is being developed because of an increasing number of fatalities and serious injuries from this type of work and the receipt of a NIOSH criteria document for the standard. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: An advance notice of proposed rulemaking was published on October 19, 1979. The publication of a proposed regulation by October 31, 1980 is anticipated. Public meetings on the advance notice of proposed rulemaking are scheduled for May, 1980.

Contact: Dr. Jerry Purswell, Room N3605, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8061.

25. *OSHA*—29 CFR Part 1907, Laboratory Accreditation.

This regulation establishes standards to accredit testing laboratories which certify that equipment used by workers meets OSHA standards. The regulation is being reviewed to improve existing procedures in this area. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of an advance notice of proposed rulemaking by November 30, 1980 is anticipated.

Contact: Dr. Jerry Purswell, see item 24.

26. *OSHA*—29 CFR 1910.177—Multi-piece Wheel Rims.

The regulation is a new addition to 29 CFR Part 1910, subpart N to govern the handling of multi-piece wheel rims. The regulation is needed to afford additional protection to affected workers who may be subject to serious hazards when multi-piece wheel rims explode while being assembled and disassembled. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: A final regulation was published on January 29, 1980. This item is therefore, removed from the Agenda.

Contact: Dr. Jerry Purswell, see item 24.

27. *OSHA*—29 CFR 1910.186—Conveyors.

This regulation will prescribe standards to protect employees from safety hazards encountered around conveyors. A new standard is needed to help control such hazards as limbs being caught in conveyors, falling while going over conveyors and objects falling from conveyors onto workers. An economic study has been performed. This regulation may be of special interest to small businesses.

Status: The publication of a final regulation by Sumer 1980 is anticipated.

Contact: Dr. Jerry Purswell, see item 24.

28. *OSHA*—29 CFR Part 1926, Subpart M—Perimeter Protection, Flat Roofs.

This proposed new standard would provide perimeter protection for employees working on flat roofs. A new regulation is required in response to recent court decisions and to the recommendations of a draft NIOSH study of the hazards in the roofing industry. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: A proposed regulation was published August 17, 1979 and the evaluation of public comments is now underway. The publication of a final regulation by June 30, 1980 is anticipated.

Contact: Allen E. Martin, Room N3457, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8161.

29. *OSHA*—29 CFR Part 1926—Subpart S—Tunnels.

These regulations prescribe safety and health standards to protect employees working in the construction of tunnels and shafts. The standard needs revision to bring coverage up to date with current technology and provide for improved monitoring of hazardous conditions. A regulatory analysis is not required.

Status: The publication of a proposed regulation by August 31, 1980 is anticipated.

Contact: Allen E. Martin, see item 28.

30. *OSHA*—29 CFR Part 1981a—Safety and Health Regulations for Marine Terminal Facilities.

These regulations will prescribe safety and health standards for employment in marine terminal facilities. New standards are now being developed as a result of a request from the industry, and in order to facilitate voluntary compliance and have more efficient enforcement in a high hazard industry. A regulatory analysis is not required.

Status: The publication of a proposed regulation by May 31, 1980 is anticipated.

Contact: Edward March, Room N3471, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202–523–7234.

31. *OSHA*—29 CFR Part 1910, Subpart d—Walking and Working Surfaces.

Subpart D contains safety requirements concerning falling and tripping hazards related to holes in floors, walls, platforms and ladders at the workplace. This subpart may be in need of revision to simplify language, bring requirements up to date with current technology and cover new types of work platforms. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by October 30, 1980 is anticipated.

Contact: Thomas Seymour, see item 23.

32. *OSHA*—29 CFR Part 1926, Subpart L, Ladders and Scaffolding.

This subpart contains standards to protect employees working on ladders and scaffolds. These regulations are being reviewed to coincide with the review of 29 CFR 1910, Subpart D, to simplify language, bring requirements up to date with current technology, and cover new types of work platforms. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by October 30, 1980 is anticipated.

Contact: Allan Martin, see item 28.

33. *OSHA*—29 CFR 1910.401—Commercial Diving Operations.

This regulation is being revised to reflect differences in hazards for scientific diving as compared to commercial diving. The rulemaking record for the current standard did not adequately treat these differences. For this reason the regulation will be reviewed at the request of the scientific diving community. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by June 30, 1980 is anticipated.

Contact: Dr. Jerry Purswell, see item 24.

34. *OSHA*—29 CFR Parts 1915, 1916 and 1917—Ship Repairing, Shipbuilding, Shipbreaking.

These regulations are being consolidated by administrative action into a single standard for all three activities in order to reduce overlapping provisions and produce a simplified

standard for three related activities. A regulatory analysis in not required.

Status: The publication of an administrative action by July 30, 1980 is anticipated.

Contact: Edward March, see item 30.

35. *OSHA*—29 CFR Part 1910, Subpart H—Hazardous Materials.

This subpart contains regulations for control of hazardous materials in the workplace which can cause fires and explosions and which may also produce acute health effects such as asphyxiation or chemical burns. The existing standard needs to be revised to encompass the continuing number of fires and explosions resulting in worker fatalities for which no standards exist. The need for a regulatory analysis is under study. This regulation may be of special interest to small business.

Status: An advance notice of proposed rulemaking on the hazardous materials in grain handling facilities was published on February 15, 1980. An advance notice of proposed rulemaking on other hazardous materials will be published by May 31, 1980.

Contact: Thomas Seymour, see item 23.

36. *OSHA*—29 CFR Part 1910, Subpart S—Electrical

This Subpart contains provisions related to the design and installation of electrical systems in public and private facilities. Subpart S requires revision to provide a significant simplification of the current regulations and to bring the existing regulations up to date with the current consensus standards and technology. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: A proposed regulation was published on September 26, 1979. A hearing is scheduled for May 6, 1980. The publication of a final regulation by July 31, 1980 is anticipated.

Contact: Sil Patti, Room N3510, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7207.

37. *OSHA*—29 CFR Part 1926, Subpart M—Floor and Wall Openings and Stairways.

This subpart contains standards to protect employees working around floor, roof, and wall openings and stairways. This subpart needs to be revised to coincide with the revision of 29 CFR Part 1910—Subpart D since similar material is treated. It is being revised to simplify language, bring requirements up-to-date with current technology and cover new types of work platforms. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by October 31, 1980 is anticipated.

Contact: Allan Martin, see item 28.

38. *OSHA*—29 CFR Part 1910—Lockout/Tagout Systems For Machines.

This standard will prescribe the requirements for locking out or otherwise insuring that employees are not injured while maintaining machines and equipment. A petition for a standard from the United Auto Workers and an increasing number of fatalities to workers from this hazard have highlighted the need for activity in this area. Recently completed analyses of data from OSHA fatality investigations as well as data supplied by others demonstrates a serious problem with worker exposure to electrical, mechanical and chemical hazards while maintaining or servicing equipment. These hazards produce electrocution, severe trauma from being caught in and between machine parts, chemical or thermal burns, and acute respiratory problems. The need for a regulatory analysis is under study.

Status: The publication of an advance notice of proposed rulemaking in May, 1980 is anticipated.

Contact: Dr. Jerry Purswell, see item 24.

39. *OSHA*—Occupational Exposure to Chromium.

OSHA is developing a standard for occupational exposure to chromium. The standard would include permissible exposure limits, and provisions for medical surveillance, exposure monitoring, methods of compliance, and employee training. The Agency is responding to a need to provide more effective protection of employees from the health hazards of chromium exposure. The potential hazards include skin ulceration, nasal septal perforation, and cancer. The need for a regulatory analysis is under study.

Status: The publication of a proposed regulation by November 30, 1980 is anticipated.

Contact: Bailus Walker, Room N3718, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7075.

40. *OSHA*—Identification, Classification, and Regulation of Toxic Substances Posing a Potential Carcinogenic Risk (Cancer Policy).

OSHA has published a standard for the regulation of potential carcinogens found in the occupational environment. The Agency is responding to a need to find a more expeditious means of evaluating data on potentially carcinogenic materials and for developing regulations to provide adequate employee protection from exposure to these substances. A regulatory analysis has been prepared.

Status: A final regulation was published on January 22, 1980. The entry is, therefore removed from the Agenda.

Contact: Bailus Walker, see item 29.

41. *OSHA*—29 CFR Part 1910, Subpart Z—Occupational Exposure to Pesticides.

OSHA is developing a generic standard to control occupational exposure to pesticides during the manufacturing and formulating processes. OSHA has determined that employees in the pesticide industry have an increased risk of illness due to their exposure to pesticides, and the agency has developed several alternative standards designed to reduce this risk. The standards include provisions relating to work practices, medical surveillance, employee training and respiratory protection. A regulatory analysis will be prepared. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by September 30, 1980 is anticipated.

Contact: Flo H. Ryer, Room N3663—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7175.

42. *OSHA*—29 CFR Part 1910—Occupational Exposure to Beryllium.

OSHA is developing a standard for occupational exposure to beryllium. The standard would include permissible exposure limits, and provisions for medical surveillance, exposure monitoring, methods of compliance, and employee training. The Agency is responding to a need to provide more effective protection of employees from the health hazards of beryllium exposure. The potential hazards include berylliosis (a disease of the lungs and other organs) and cancer. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a final regulation in the Spring of 1980 is anticipated.

Contact: Bailus Walker, see item 39.

43. *OSHA*—Access to Employee Exposure and Medical Records.

Employers which make or maintain exposure and medical records may be required to retain these records for a specified period of time ad make them available to employees, former employees, their designated representatives, and to OSHA and NIOSH. This proposed rule would implement OSHA's policy under the OSHAct that employees have the basic right to know information obtained by employers on the employees' exposure to workplace hazards and any

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consequent health effects on the employees. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a final regulation in the Spring of 1980 is anticipated.

Contact: Flo Ryer, see item 41.

44. *OSHA*—29 CFR Part 1910—Occupational Exposure to Noise.

OSHA is reviewing the record on the proposed noise standard that was issued in October, 1974, in light of the public hearings held during 1975 and 1976. Specific requirements for hearing conservation programs, methods of compliance, and permissible exposure limits are being reviewed and options analyzed. Steps are being taken to prepare an evaluation of the economic impact of the standard and various alternatives. This regulation may be of special interest to small businesses.

Status: The Agency has made considerable progress in analyzing the voluminous public record, and expects to issue a final regulation by October 1, 1980.

Contact: Bailus Walker, see item 39.

45. *OSHA*—29 CFR Part 1910, Subpart Z—Standards Completion Project.

The purpose of the project is to establish a general stndard on environmental monitoring of worker exposure to toxic chemicals, medical surveillance of exposed employees, employee training and recordkeeping. In addition, supplementary, substance-specific guidelines would be prepared for employer and employee use. The project covers the current list of chemicals for which OSHA has only permissible exposure limits. The Occupational Safety and Health Act of 1970 describes the above provisions as important elements of a comprehensive and effective program of industrial hygiene. Conclusion of this project is important to assuring that the intent of the Act is fulfilled. A regulatory analysis will be prepared. This regulation may be of special interest to small businesses.

Status: Alternative regulatory options are under study.

Contact: Flo Ryer, see item 41.

46. *OSHA*—29 CFR 1910.94(a)—Occupational Exposure Standards for Asbestos.

OSHA is considering revisions to its current asbestos standard. Revision might include changes to the permissible exposure limit and provisions for medical surveillance, monitoring, etc. New research on the health hazards of asbestos and concern for the adequacy of our current standard prompted our review. Asbestos is a major cause of occupationally related cancer. A regulatory analysis will be prepared.

Status: Staff analysis of the need for a new proposal is continuing. A decision on further rulemaking will be made in the near future.

Contact: Bailus Walker, see item 39.

47. *OSHA*—29 CFR Part 1910—Occupational Standard for Abrasive Blasting Operations.

OSHA is reviewing and considering modifications to the current standards for abrasive blasting. Information available to the Agency suggests that the current standards need to be revised to make them more effective in protecting abrasive blasters, and workers in the vicinity of abrasive blasting from the hazards inherent in the process, which include silicosis and other lung disorders. A regulatory analysis will be prepared. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by July, 1980 is anticipated.

Contact: Fayez Hanna, Room N3718, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7148.

48. *OSHA*—29 CFR Part 1910, Subpart Z—Occupational Exposure to Cadmium.

OSHA is considering revisions to amend its current permissible exposure limit for cadmium and add provisions for medical surveillance, exposure monitoring, etc. Research on the health effects of cadmium indicates that the current standard may not be adequately protective. Exposure to cadmium may cause kidney, liver, adrenal and other systemic damage as well as several types of cancer. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation in Fall, 1980 is anticipated.

Contact: Bailus Walker, see item 39.

49. *OSHA*—29 CFR Part 1910, Subpart Z—Occupational Exposure to Nickel.

OSHA is considering revisions to amend its current permissible exposure limit for nickel and add provisions for medical surveillance, environmental monitoring, etc. The National Institute for Occupational Safety and Health has published a summary of the toxic effects of nickel and recommendations for controlling occupational exposure to this substance. The NIOSH report, called a Criteria Document, indicated that OSHA's current standard for nickel may not be sufficiently protective. Exposure to nickel may increase the risk of lung and nasal cancer and also causes nasal septum perforation and dermatitis. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: Agency review of available data is underway. No action during the coming six months is anticipated.

Contact: Bailus Walker, see item 39.

50. *OSHA*—29 CFR Part 1910—Occupational Exposure to MBOCA.

OSHA is developing a standard for occupational exposure to MBOCA (4,4 methylene bis (2-chloroaniline)) which may include a permissible exposure limit and provisions for medical surveillance, environmental monitoring, methods of compliance, and employee training. An earlier standard for MBOCA was vacated for a procedural reason through judicial action. MBOCA has been found to increase the risk of liver and bladder cancer.

The need for a regulatory analysis is under study.

Status: The publication of a proposed regulation by September 30, 1980 is anticipated.

Contact: Bailus Walker, see item 39.

51. *OSHA*—Chemical Hazard Identification.

OSHA is developing a proposal to require employers to inform employees of the identities of hazardous chemicals in the workplace, by means of labels, lists, material safety data sheets, hazard warnings, and records preservation. Awareness of the chemical hazards to which they are exposed provides employees with the knowledge necessary for the individual to actively participate in the reduction or elimination of exposure to these harmful agents. A regulatory analysis will be prepared. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by August, 1980 is anticipated.

Contact: Flo Ryer, see item 41.

52. *OSHA*—29 CFR Part 1960—Safety and Health Provisions for Federal Employees.

The regulations and guidelines of Part 1960 are applicable only to Federal employees and constitute a framework for the occupational safety and health programs of the various Federal agencies. Modification of criteria for program evaluation and safety and health awards have been under development for inclusion in 29 CFR Part 1960. Additional sections of Part 1960 are being modified to conform to requirements of Executive Order 12196. No regulatory analysis is required.

Status: This regulation is applicable to Federal employees only and as such is not subject to the notice and comment procedure of the Administrative Procedure Act. The regulation is, therefore, removed from the Agenda.

Contact: Annie W. Asensio, Room N3423, Main Labor Building, 200

Constitution Avenue, NW, Washington, D.C. 20210, 202–523–8677.

53. *OSHA*—29 CFR 1904.8—Reporting of Fatality or Multiple Hospitalization Accidents.

OSHA is proposing to shorten the time for reporting fatality or multiple hospitalization accidents. Employers would now be required to report a fatality or multiple hospitalization accident within 8 hours. Reduction of the reporting time and prompt investigation of the accident by OSHA will assure a timely gathering of more useful information and more effective identification of the hazards involved. A regulatory analysis is not required.

Status: Public comments are being reviewed. No further action has yet been scheduled.

Contact: Kathleen A. Grosso, Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20210, 202–523–8137.

54. *OSHA*—29 CFR Part 1910—Occupational Exposures to Safety and Health Hazards in Grain Handling Facilities.

OSHA is considering the development of a standard to control occupational exposures to the safety and health hazards found in grain handling facilities. The safety hazards include fires and explosions which result when grain dust or processed grain (flour) is ignited. The health hazards include grain dust, pesticides and plant and animal matter associated with grain and dust. Exposures to these substances can result in various acute and chronic health effects including allergies, dermatitis, respiratory disease and cancer.

OSHA is seeking comments and information on the hazards associated with grain handling facilities. In addition to a request for written comments, informal public meetings were held in April 1980 to discuss this issue. The need of for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: A determination of the need for this regulation will be based on the evaluation of all information and comments received.

Contact: Flo Ryer (Health), see item 41, and Thomas Seymour (Safety), see item 23.

55. *OSHA*—29 CFR Part 1926—Lockout Tagout Systems.

There are a number of existing standards in 29 CFR Part 1926 concerning lockout and tagout. This regulation would be a separate section that would revise and clarify these rules, add new rules, and cross reference other applicable standards in 29 CFR Part 1926. These regulations are also being reviewed and coordinated to coincide with the action being considered for 29 CFR Part 1910 (See Agenda Item No. 38.).

There are three types of situations where lockout is necessary for hazard control. The first is locking out to prevent the movement of a piece of equipment. This most commonly involves electrically powered equipment, but does include hydraulic, pneumatic, steam and other power sources. Secondly, lockouts are used to prevent the generation of hazardous atmospheres. This include hazardous gases and extreme temperatures or pressures occurring in confined spaces. Third, lockouts are used to preclude exposure to electrical current. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: Publication of an advance notice of proposed rulemaking in May, 1980 is anticipated.

Contact: Allan Martin, see item 28.

56. *OSHA*—29 CFR Part 1926—Standards for Work in Confined Spaces.

Several existing paragraphs within Part 1926 address some of the hazards of confined or enclosed spaces which occur in construction. These existing requirements will be reviewed to coincide with proposed rulemaking planned for 29 CFR Part 1910 (See Agenda Item 24.) New paragraphs and cross references for construction will be placed within 29 CFR Part 1926.

This regulatory action is necessary because construction accident reports indicate that employees are being injured or killed because of oxygen deficient, toxic or flammable atmospheres found in confined spaces such as tanks, vats, vaults, pits and reactor vessels. These reports also indicate that rescue attempts into confined spaces are often unsuccessful and result in additional injuries and deaths. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: Publication of a notice of proposed rulemaking in November, 1980 is anticipated.

Contact: Allen Martin, see item 28.

57. *Office of the Assistant Secretary For Administration and Management (OASAM)*—41 CFR 29–4.9—Unsolicited Proposals.

This regulation governs unsolicited grant proposals received by the Department. New Federal procurement regulations require the Department to review these existing provisions. A regulatory analysis is not required.

Status: An evaluation of the need for this regulation has shown that it is not necessary. It is, therefore, removed from the Agenda.

Contact: Ted Goldberg, Room S1323—Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, 202–523–9147.

58. *OASAM*—49 CFR 29–1.6—Debarred, Suspended and Ineligible Bidders.

These regulations govern the exclusion of individuals and concerns from eligibility to receive Deparment of Labor contracts, on account of violations of applicable Federal laws and regulations. Current Departmental regulations on this subject need to be reviewed and updated. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by July 1, 1980 is anticipated.

Contact: Ted Goldberg, see item 57.

59. *OASAM*—41 CFR Part 29–70—Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds.

This regulation will amend 41 CFR Part 29–70 to add a new § 29–70.213, "Suspension and termination of grants and agreements, debarment." This section implements Attachment L to OMB Circular No. A–110 and the part of Attachment L to OMB Circular No. A–102 which deals with sanctions under grants. Section 29–70.213 includes the Federal standards which apply if a grant must be suspended or terminated; or if a grantee is debarred from eligibility to receive a Department of Labor grant. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by October 1, 1980 is anticipated.

Contact: Ted Goldberg, see item 57.

60. *OASAM*—41 CFR Part 29–70—Administrative Requirements Governing All Grants and Agreements by Which the Department of Labor Agencies Award Funds.

This regulation will amend 29 CFR 70.103, "Cost Principles," and 29 CFR 70.216, "Procurement standards; required provisions for recipient contracts." The amendment is needed to incorporate requirements of amended OMB Circulars which govern Federal standards and cost principles applicable to Federal financial assistance. The Office of Management and Budget recently published revised cost principles for educational institutions as OMB Circular No. A–21; and revised Attachment O to OMB Circular No. A–102 which amended "Federal Standards Governing State and Local grantee

procurement." A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a final regulation by October 1, 1980 is anticipated.

Contact: Ted Goldberg, see item 57.

62. *Employment Standards Administration* (ESA)—41 CFR Parts 60–1, 60–2, and 60–30. Office of Federal Contact Compliance Programs.

The regulatory changes published for comment in the **Federal Register** of March 20, 1979, deal with three distinct subjects related to prohibition of employment discrimination and to affirmative action by federal contractors under E.O. 11246: Conciliation agreements, annual reports by contractors, and expedited enforcement hearings. A regulatory analysis was not required. This regulation may be of special interest to small businesses.

Status: A final rule was published on December 28, 1979. This entry is, therefore, removed from the Agenda.

Contact: Kenneth Patton, Room C3324—Main Labor Building, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 523–9426.

63. *ESA*—41 CFR Parts 60–1, 60–2, 60–20, 60–30, 60–50, 60–60, 60–250 and 60–741. Office of Federal Contract Compliance Programs Coverage, Requirements, Prohibited Practices, and Guidelines.

This group of regulations contains OFCCP's rules covering obligations of Federal contractors and general enforcement provisions under E.O. 11246 (41 CFR Part 60–1), affirmative action program requirements (41 CFR Part 60–2), sex discrimination guidelines under E.O. 11246 (41 CFR Part 60–20), administrative hearing rules (41 CFR Part 60–30), religion and national origin discrimination guidelines (41 CFR Part 60–50), nonconstruction contractor evaluation procedures (41 CFR Part 60–60); affirmative action requirements and enforcement provisions under Section 402 of the Vietnam Era Veteran Readjustment Assistance Act (41 CFR Parts 60–1, 60–30, 60–250); and affirmative action requirements and enforcement provisions under Section 503 of the Rehabilitation Act of 1973 (41 CFR Parts 60–1, 60–30 and 60–471).

This group of regulations is in need of a comprehensive reorganization, simplification, and clarification. Although minor amendments and modifications have been made to OFCCP's regulations in recent years, there have been no extensive changes since 1974. Expanded program activities since that time, new and evolving policy issues, and past litigation make substantial revisions necessary. Additionally, the need to improve and shorten regulations in light of regulatory reform makes review of these regulations especially timely and worthwhile.

Some of the proposed changes to the regulations were published in the **Federal Register** on December 28, 1979. They address such issues as the degree to which labor unions have an interest or a role in the compliance review process, the processing of complaints of discrimination, the handling of a growing volume of preaward compliance review requests, preliminary enforcement procedures, aggregation of contracts to establish the $50,000 floor for coverage under the written affirmative action program requirement, the extension of affirmative action program requirements to the non-construction workforce of construction contractors, modification of maternity leave guidelines, and provisions which address the issue of sexual harassment in the workforce.

The December 28, 1979, proposal was supplemented by publication on February 22, 1980, of a proposed rule clarifying that Federal deposit or share insurance would not be terminated by the Department of Labor and that financial institutions would not be debarred from Federal deposit or share insurance based on violations of E.O. 11246, Section 503 of the Rehabilitation Act, or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act. With respect to Federal deposit or share insurance, the proposal provides for the following enforcement options: (1) Referral to the Department of Justice for injunctive relief; (2) referral to the appropriate Federal financial institution regulatory agency for action under the agency's procedures. Comments on both proposals were received until March 24, 1980.

On January 22, 1980, a proposal was published which would prohibit the payment or reimbursement by contractors of membership fees and other expenses for participation by their employees in a private club or organization which bars, restricts, or limits its membership on the basis of race, color, sex, religion, or national origin. The contractor, however, could refute such a violation should it establish that the membership of its employees in these clubs or organizations has no impact on the employees' opportunity for promotion, compensation, or other terms and conditions of employment. Public comments on this proposal were received until March 24, 1980. A regulatory analysis is not required. These regulations may be special interest to small businesses.

Status: A final rulemaking is anticipated for these items by July 31, 1980.

Contact: Kenneth Patton, see item 62.

Note.—Additional regulatory activities relating to 41 CFR Parts 60–2, 60–20, 60–250, and 60–741 are listed in items 64, 66, 67 and 68 of this Agenda.

63A. *ESA*—41 CFR Part 60–1—Payment of Membership Fees in Private Clubs and Organizations.

Status: This item has been combined with entry 63 and is, therefore, removed from the Agenda as a separate entry.

Contact: Kenneth Patton, see item 62.

64. *ESA*—41 CFR Part 60–2—Affirmative Action Requirements.

This regulation under Executive Order 11246 contains detailed information concerning the requirements of Affirmative Action Programs, including several types of analyses and goal setting procedures which must be part of such programs. Proposed changes will be published to achieve clarification and simplification. Further, the need to improve and shorten regulations in light of regulatory reform makes review of these regulations especially timely and worthwhile. A regulatory analysis is not required.

Status: The publication of a proposed regulation by August 15, 1980 is anticipated.

Contact: Kenneth G. Patton, see item 62.

65. *ESA*—41 CFR Part 60–4—Construction Contractors' Affirmative Action Requirements under Executive Order 11246, as amended.

Proposed nationwide minority employment goals under this regulation were published for public comment in the **Federal Register** on September 7, 1979. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a final rule by July 1, 1980, is anticipated.

Contact: Kenneth Patton, see item 62.

66. *ESA*—41 CFR Part 60–20—Exclusionary Employment Policies Involving Exposure to Reproductive Hazards.

On February 1, 1980, EEOC and OFCCP published jointly proposed guidelines under Title VII of the Civil Rights Act of 1964, as amended and E.O. 11246 involving exclusionary employment policies and practices related to exposure to alleged reproductive hazards. A correction was published in the **Federal Register** on March 14, 1980. A 120-day public comment period is applicable to this proposal. This proposal may be of significant interest to small businesses and organizations. The need for a regulatory analysis is under study.

Status: A final rulemaking is anticipated by November 1, 1980.

Contact: Kenneth Patton, see item 62.

67. *ESA*—41 CFR Part 60–20—Fringe Benefits.

A proposed change in a provision of the Sex Discrimination Guidelines contained in 41 CFR Part 60–20 concerns the treatment of fringe benefits. A proposal was published for public comment a August 25, 1978, indicating the unlawfulness of a differential in benefits based on differences between the cost to the employer of providing benefits to women as a group and the cost of providing benefits to men as a group, and of employees of one sex being required to make greater contributions from their wages than are employees of the opposite sex in order to receive equal benefits. The need for a regulatory analysis is under study.

Status: The publication of a final rule by November 1, 1980 is anticipated.

Contact: Kenneth Patton, see item 62.

68. *ESA*—41 CFR Part 60–741—Affirmative Action Obligations for Handicapped Workers. A proposal is under development to make the definition section of these regulations consistent with 1978 amendments to the Rehabilitation Act of 1973, and to comport these regulations with the Department's regulations implementing Section 504 of the Rehabilitation Act. (See item 11.) Conforming changes will ensure that government contractors covered by Section 503 of this Act who are also covered by Section 504 will be subject to consistent legal requirements concerning pre-employment physical examinations and reasonable accommodations. A regulatory analysis is not required. This regulation may be of special interest to small businesses and organizations.

Status: A proposal is expected to be published for public comment by June 30, 1980.

Contact: Kenneth Patton, see item 62.

69. *ESA*—41 CFR Part 60–40—Examination and Copying of OFCCP Documents.

These provisions cover the implementation of the Freedom of Information Act with respect to records of the OFCCP. Revisions are being developed to accommodate recent court decisions and advice received from the U.S. Department of Justice. A regulatory analysis is not required.

Status: The publication of a proposed regulation by July 31, 1980 is anticipated.

Contact: Kenneth Patton, see item 62.

70. *ESA*—29 CFR Part 4—Labor Standards for Federal Service Contracts.

These provisions contain regulations and interpretations governing the administration of the Service Contract Act, which requires certain contractors and subcontractors performing work under service contracts with the United States Government to observe prevailing wage and fringe benefit standards for the various classes of employees engaged in the performance of the contract. Since 1969, there has not been a thorough substantive updating and clarification of this regulation. Changes clarifications and revision are proposed to reflect and codify in the regulations the policies, rulings, and interpretations developed in the course of the Department's experience in administering and enforcing the Act over the years. A regulatory analysis is not required. These regulations may be of special interest to small businesses.

Status: A proposal was published on December 28, 1979. Publication of a final regulation is anticipated by September 1, 1980.

Contact: Dorothy P. Come, Room S3502—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8333.

71. *ESA*—29 CFR Parts 1, 3 and 5—Labor Standards Provisions, Davis-Bacon and Related Acts.

These provisions contain regulations and interpretations governing the issuance of prevailing wage and fringe benefits determinations and the administration of labor standards required to be included in federally-funded or assisted construction contracts under the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and responsibilities under the Copeland Anti-Kickback Act. Proposed revisions include modifications to wage determination procedures, changes to assure better coordination of enforcement by the contracting agencies, and changes to provide for more effective enforcement procedures. Also, changes, clarifications and revisions are proposed to reflect and codify in the regulations policies, rulings, and interpretations developed in the course of the Department's experience in administering and enforcing the Act over the years. A regulatory analysis is not required. These regulations may be of special interest to small businesses.

Status: The publication of a proposed Part 1 and Subpart A of Part 5 occurred on December 28, 1979. Publication of a final rule is anticipated by September 1, 1980. The publication of the remainder by August 15, 1980 is anticipated.

Contact: Dorothy P. Come, see item 70.

72. *ESA*—29 CFR Part 41—Interpretations of the Farm Labor Contractor Registration Act.

These regulations contain interpretations of the Farm Labor Contractor Registration Act, which requires farm labor contractors, their full-time or regular employees and users of migrant agricultural workers to observe certain rules regarding the recruiting, transporting, and housing of migrant workers. This Interpretative Bulletin has not been revised since the Act was significantly amended in 1974. Revisions are required to reflect the changes made in the statute and to provide clear interpretations regarding the administration of the law. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by September 30, 1980 is anticipated.

Contact: Solomon Sugarman, Room S3504—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7531.

73. *ESA*—29 CFR Part 570, Subpart C—Employment of Minors Between 14 and 16 Years of Age.

This regulation sets forth the periods and conditions for the employment of minors 14 and 15 years of age. This regulation is issued under Section 3(1) of the Fair Labor Standards Act. Revisions in the Regulations are needed in order to clarify its meaning and provide consistency in the application of its provisions. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

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Status: The publication of a proposed regulation by September 1, 1980 is anticipated.

Contact: Lucille C. Pinkett, Room S3002—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8412.

74. *ESA*—29 CFR Part 531—Wage Payments Under the Fair Labor Standards Act (FLSA).

This regulation defines the term "wage" under the FLSA and establishes criteria used in determining the "reasonable cost" and "fair value" of board, lodging and other facilities customarily furnished by an employer which may be counted toward an employee's wages in meeting the pay standards of the FLSA. The regulation must be updated to reflect changes in the tip credit and minimum wage provisions under the 1974 and 1977 amendments to the Act and to reflect interpretative rulings resulting from court decisions and policy decisions made by the Department in recent years. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by August 1, 1980 is anticipated.

Contact: Brooks Sipes, Room S3508—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7043.

75. *ESA*—29 CFR Part 778 Overtime Compensation.

This regulation implements and interprets the overtime and maximum hours provisions of the FLSA. Because of increases in the Federal minimum wage under the 1974 and 1977 amendments to the Act, arithmetic examples in this regulation are obsolete and need to be updated. In addition, a change is needed in order to clarify the computation of overtime pay in situations where employers pay for certain activities, such as eating lunch, which are not ordinarily regarded as hours worked. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by May 31, 1980 is anticipated.

Contact: Brooks Sipes, see item 74.

76. *ESA*—29 CFR Part 516—Records to be Kept By Employers (FLSA).

This regulation contains recordkeeping requirements applicable to all employers whose employees are covered by the FLSA. Certain sections of this regulation need to be deleted and a revision must be made to reflect the repeal of certain FLSA exemptions and modification of another exemption by the 1974 and 1977 amendments to the Act. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by May 31, 1980 is anticipated.

Contact: Brooks Sipes, see item 74.

77. *ESA*—29 CFR Part 529—Employment of Patient Workers in Hospitals and Institutions at Subminimum Wages.

This regulation sets forth the conditions under which certificates may be issued authorizing special minimum wage rates for patients performing work for the hospitals or institutions in which they reside, under Section 14 of the FLSA. These regulations were initially issued in 1975. Our administrative experience with the regulations reveals a need for providing standards for situations not adequately covered in the current regulation. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by September 1, 1980 is anticipated.

Contact: Arthur H. Korn, Room C4316, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202–523–8727.

78. *ESA*—29 CFR Part 780—Exemption Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects under the Fair Labor Standards Act.

This regulation discusses exemptions under various sections of the FLSA for certain employers engaged in agriculture or the processing of agricultural commodities. Review is required to reflect changes in exemptions brought about by the 1974 and 1977 amendments to the FLSA. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by September 1, 1980 is anticipated.

Contact: Brooks Sipes, see item 74.

79. *ESA*—29 CFR Part 525—Employment of Handicapped Clients in Sheltered Workshops.

This regulation sets forth the conditions under which special certificates can be issued providing for employment of handicapped persons at special minimum wage rates in sheltered workshops, under the Fair Labor Standards Act. These regulations were last comprehensively revised in 1967. Revisions are needed to resolve problems which have arisen and to simplify certain procedures in order to improve the administration of the program. A regulatory analysis is not required. This regulation may be of special interest to small business organizations, or local governments.

Status: The publication of a proposed regulation by September 30, 1980 is anticipated.

Contact: Arthur Korn, see item 77.

80. *ESA*—29 CFR Part 505—Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts.

The regulation sets forth procedures to carry out the provisions of Section 5(j) of the National Foundation on the Arts and Humanities Act of 1965 relating to labor standards requirements on projects or productions assisted by grants from the National Endowment for the Arts. The regulation must be updated to reflect the imposition of labor standards requirements with respect to all professional performers and related or supporting professional personnel employed on projects or productions financed in whole or in part under grants made by the National Endowment for the Humanities brought about by the 1976 Amendments to the National Foundation on the Arts and the Humanities Act of 1965. A regulatory analysis is not required.

Status: The publication of a proposed regulation by May 1, 1980 and a final regulation by September 1, 1980 is anticipated.

Contact: Brooks Sipes, see item 74.

81. *ESA*—29 CFR 570.61—Occupations Involving Slaughtering, Meat Packing, or Processing, or Rendering (Child Labor Hazardous Order No. 10) under the FLSA.

This Order prohibits the employment of minors 16 and 17 years of age in occupations involving slaughtering, meat packing or processing, or rendering.

A review of this order is needed to clarify its scope and to update it in light of various technological changes which have occurred in the affected industries since it was adopted. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by September 30, 1980 is anticipated.

Contact: Lucille Pinkett, see item 73.

82. *ESA*—20 CFR Part 718—Standards For Determining Coal Miner's Total Disability or Death Due to Pneumoconiosis.

ESA has finalized regulations establishing standards to be applied in determining whether a coal miner is or was totally disabled due to pneumoconiosis or died from pneumoconiosis and specifying procedures and requirements to be followed in conducting medical examinations and in administering various medical tests. Review and revision of Part 718 was required by the amendments made to the Black Lung Benefits Act by the Black Lung Benefits Reform Act of 1977. A regulatory analysis is not required.

Status: A final regulation was published on February 29, 1980. This entry is therefore, removed from the Agenda.

Contact: James Yocum, Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, 202–523–6692.

83. *ESA*—20 CFR Part 722—Criteria for Determining Whether State Workers' Compensation Laws Provide Adequate Coverage For Pneumoconiosis and Listing of Approved Laws.

These regulations established procedures and standards to be applied by the Secretary of Labor in determining whether a State workers' compensation law provides adequate coverage for death or disability due to pneumoconiosis. Review and revision of Part 722 is necessary because of the amendments to Section 421 of the Black Lung Benefits Act by the Black Lung Benefits Reform Act of 1977. A regulatory analysis is not required.

Status: The publication of a proposed regulation by November 1, 1980 is anticipated.

Contact: James Yocum, see item 82.

84. *ESA*—20 CFR Part 726—Black Lung Benefits: Requirements for Coal Mine Operators Insurance.

These rules govern the manner by which a coal mine operator shall fulfill its insurance obligations under the Black Lung Benefits Act, either by qualification as a self-insurer or by contracting with a commercial insurance company. Revision of Part 726 is necessary as a result of enactment of the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Revenue Act of 1977. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by November 1, 1980 is anticipated.

Contact: James Yocum, see item 82.

85. *ESA*—20 CFR Part 728. Procedures for Processing Discrimination Complaints Under Section 428 of the Black Lung Benefits Act.

Regulations are needed to implement Section 428 of the Black Lung Benefits Act, which prohibits coal mine operators from discharging or otherwise discriminating against any miner in their employ because such miner is suffering from pneumoconiosis. These regulations will reflect procedures set out in a December 1979 Memorandum of Understanding between the Mine Safety and Health Administration and the Employment Standards Administration of the Department. A regulatory analysis is not required.

Status: Publication of a proposal is anticipated by November 1, 1980.

Contact: James Yocum, see item 82.

86. *ESA*—20 CFR Parts 702, and 703—Longshoremen's and Harbor Workers' Compensation.

Revisions and additions to the Longshore Act regulations are being considered. These revisions would establish standards to permit employer groups to qualify as self-insurers under 20 CFR Part 703, would reflect and codify the Department's policies and procedures for handling second injury relief cases, modify procedures for requiring employers to pay additional compensation for failure to pay compensation without an award, and make other changes. A regulatory analysis is not required. These regulations may be of special interest to small businesses.

Status: The publication of proposed regulation by November 1, 1980 is anticipated.

Contact: Neil Montone, Room C4515, Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, 202–523–8721.

87. *Mine Safety and Health Administration*—30 CFR Part 110—Safety and Health Standards for Construction Work At All Surface Mines.

This regulation would set forth minimum safety and health requirements for construction workers at surface mines. Although MSHA has existing regulations which are applicable to construction at surface coal and metal/nonmetal mines, many of the requirements contained in this rulemaking will be new to the mining industry. Section 101(a)(8) of the Federal Mine Safety and Health Act of 1977 requires that the Secretary, to the extent practicable, promulgate separate standards applicable to mine construction activity on the surface. The need for a regulatory analysis is under study. These regulations may be of special interest to small businesses.

Status: An advance notice of proposed rulemaking was published in August, 1979, and the publication of a proposed regulation by September 30, 1980 is anticipated.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703–235–1910.

88. *MSHA*—30 CFR Part 75—Underground Coal Mine Safety Standards.

All safety standards applicable to underground coal mines are contained in 30 CFR Part 75. Prior to March 9, 1978, the effective date of the Federal Mine Safety and Health Act of 1977, there had been pre-proposal consultations with the coal industry with respect to changes in safety standards relating to suface coal mines. A regulatory analysis is not required. These regulations may be of special interest to small businesses.

Status: MSHA has determined not to take further action at this time. The item is therefore removed from the Agenda.

Contact: Frank White, see item 87.

89. *MSHA*—30 CFR Part 71—Respirable Dust Standard For Surface Coal Mines.

This is a health standard which sets forth the dust level and procedures for sampling respirable coal mine dust in surface coal mines. This proposed regulation would change the current sampling procedure and give miners a greater degree of participation in this program. The proposed sampling procedures and opportunity for miner participation are similar to the rules applicable to underground coal mines. A regulatory analysis is not required.

Status: A proposed regulation was published on April 8, 1980. Public hearings are scheduled for June 3 and 5, 1980.

Contact: Frank White, see item 87.

90. *MSHA*—30 CFR Part 57—Requirements To Provide Self-Contained (oxygen generating) Self Rescue Devices To Underground Metal and Non Metal Miners.

This regulation would require that all undeground metal and nonmetal miners be provided with self-contained (oxygen-generating) self-rescue devices. The current self-rescue devices available to underground metal and nonmetal miners are of a filter type, which do not generate oxygen, and hence the user must rely on the oxygen in the air. The new device, which does generate oxygen, will greatly increase a miner's chance of surviving a mine emergency in which irrespirable air is present. A regulatory analysis is not required.

Status: MSHA has decided to defer action on this regulation at this time for the following reason. On November 21, 1978, MSHA revised its self-rescue standards for underground coal mines to require the use, over a two year phase-in period, of self contained (oxygen-generating) self-rescue devices in underground coal mines. The coal mine regulations would, therefore, become fully effective on December 21, 1980. In the preamble to the final rule, MSHA informed the coal mining community

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that, during the two year phase-in period, it would conduct field tests involving the devices to examine in detail how the regulations would affect miners. It was generally felt that the experience gained by MSHA, miners and operators over the two year phase-in period would facilitate total implementation of the program in underground coal mines. Because this regulation concerns the use of these same devices in underground metal and nonmetal mines, MSHA believes that it would be beneficial to both the metal and nonmetal mining community and MSHA to wait until the field tests are completed with respect to the coal regulations. This item is, therefore, removed from the Agenda.

Contact: Frank White, see item 87.

91. *MSHA*—30 CFR Parts 55, 56 and 57—Requirements For Construction and Maintenance of Impoundments and Tailings Piles at Metal and Nonmetal Mines.

This regulation would set forth minimum safety standards for waste piles and impounding structures at metal and nonmetal mines. Improved standards governing waste dams at coal mines were developed following the dam failure at Buffalo Creek in 1972, which caused death and injury to many miners. These proposed standards, which would set forth requirements for new dam construction and upgrading of existing facilities at metal and non-metal mines, will help reduce the likelihood of dam failures occurring. Because of recent dam failures which include the potential for loss of life and damage to the environment, MSHA decided to develop improved standards for new and existing waste piles and dams. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of an advance notice of proposed rulemaking by July 1, 1980 is anticipated.

Contact: Frank White, see item 87.

92. *MSHA*—30 CFR Part 77—Surface Coal Mine Safety Standards.

This regulation includes mandatory safety standards for surface coal mines and surface areas of underground mines. This regulation was proposed in January, of 1977. MSHA is in the process of reviewing all of the comments and preparing a new proposal in light of the MSH Act. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a proposed regulation by June 30, 1980 is anticipated.

Contact: Frank White, see item 87.

93. *MSHA*—30 CFR Part 70—Respirable Dust Standards For Underground Coal Mines.

Rulemaking had begun on this regulation at the time of the transfer of MESA from the Department of Interior to the Department of Labor. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The regulation was finalized on April 8, 1980 and should significantly enhance the effectiveness of MSHA's dust control efforts. The effective date of rule is November 1, 1980.

Contact: Frank White, see item 87.

94. *MSHA*—30 CFR Part 90—Transfer of Miners.

These regulations contain procedures for the transfer of surface and underground coal miners with evidence of pneumoconiosis to low dust work areas in order to prevent further development of the disease. To improve the health environment of coal miners and for consistent enforcement, MSHA is revising all of its respirable dust regulations. This regulation will give miners both greater health and economic protections and it is expected that the regulation will encourage more miners to exercise their transfer rights. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: A proposed regulation was published on April 8, 1980. Public hearings are scheduled for June 3, and 5, 1980.

Contact: Frank White, see item 84.

95. *MSHA*—30 CFR Part 45—Regulations to Identify Independent Contractors as Mine Operators.

This regulation sets forth criteria and procedures for identifying independent contractors as mine operators. Once identified as operators, these independent contractors would be subject to the requiements of the Act, standards, and regulations. The proposed regulation was designed to enable MSHA to implement an enforcement policy consistent with the amended definition of "operator". Section 3(d) of the Federal Mine Safety and Health Act of 1977 amended the definition of "operator" to include "any independent contractor performing construction or services at a mine." A regulatory analysis is not required. This regulation may be of special interest to small business.

Status: A notice of proposed rulemaking was published in August, 1979 and the publication of a final regulation by May 30, 1980 is anticipated.

Contact: Frank White, see item 87.

96. *MSHA*—30 CFR Part 49—Mine Rescue Teams for all Underground Mines.

This regulation sets forth proposed requirements for insuring a mine rescue capability at all underground mines. Section 115(e) of the Federal Mine Safety and Health Act requires the Secretary to propose regulations requiring that mine rescue teams be available for rescue and recovery work at all underground mines.

A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: The publication of a final regulation by May 30, 1980 is anticipated.

Contact: Frank White, see item 87.

97. *MSHA*—30 CFR Part 48, Subpart C—Training Regulations for Construction Workers.

This regulation will set forth training and retraining requirements for construction workers on mine property. Section 115(d) of the MSH Act requires that the Secretary promulgate appropriate standards for safety and health training for mine construction workers. The need for a regulatory analysis is under study.

Status: During the course of the development of this regulation, MSHA has determined that it will be necessary to resolve certain issues with respect to the construction regulations before further action can be taken. This regulation is, therefore, removed from the Agenda.

Contact: Frank White, see item 87.

98. *MSHA*—30 CFR Part 23—Telephones and Signaling Devices.

This regulation would permit MSHA to approve telephones that are connected to the mine power system. Previously MSHA could approve only battery operated telephones. This amendment would conform the existing regulation to advances in technology. A regulatory analysis is not required.

Status: The publication of a proposed regulation by November 1, 1980 is anticipated.

Contact: Frank A. White, see item 87.

99. *MSHA*—Pattern of Violations.

Under the Federal Mine Safety and Health Act of 1977 MSHA can issue a "pattern of violations" notice to operators who have a pattern of violations which could have significantly and substantially contributed to the cause and effect of safety and health hazards in the mine. After receiving notice that a pattern of violations exists the operator may be subject to closure orders for subsequent, significant and substantial violations. These proposed regulations will set forth criteria for determining if a "pattern of violations" exists. A regulatory analysis is not required.

Status: The publication of a proposed document by July 30, 1980 is anticipated.

Contact: Frank A. White, see item 84.

100. *MSHA*—30 CFR Parts 55, 56 and 57—Review of Metal and Nonmetal Standards.

MSHA has decided to undertake a thorough review of the metal and nonmetal health and safety standards in order to update and uprade existing standards and to consider eliminating, consolidating, clarifying, simplifying and reorganizing provisions where appropriate. MSHA indicated its commitment to this effort in the preamble to the final rule converting the former metal and nonmetal advisory standards to mandatory standards. MSHA informed the metal and nonmetal mining community that it would conduct a study of all the metal and nonmetal standards to determine their applicability and effectiveness. To allow early public participation in this rulemaking project, MSHA has prepared an advance notice of proposed rulemaking soliciting input from the metal and nonmetal mining community concerning problems encountered in the application of the existing standards and requesting commenters to assist MSHA in prioritizing the standards for purposes of review and possible revision. The need for a regulatory analysis is under study. These regulations may be of special interest to small businesses.

Status: An advance notice of proposed rulemaking was published on March 25, 1980. The evaluation of public comments is now underway.

Contact: Frank A. White, see item 87.

101. *MSHA*—30 CFR Part 100—Civil Penalties.

The civil penalty regulations were promulgated on May 30, 1978. At that time, MSHA made a commitment to review them after one year to determine if changes were needed. In August 1979, MSHA initiated this review and invited all segments of the mining industry to comment on both the substance and the application of the regulations. In response to those comments, MSHA has determined that there is a need to amend the regulations in order to restructure the civil penalty system. A regulatory analysis is not required. These regulations may be of special interest to small businesses.

Status: The publication of an advance notice of proposed rulemaking by June 30, 1980 is anticipated.

Contact: Frank A. White, see item 87.

102. *MSHA*—30 CFR Part 70—Miner Participation in Respirable Dust Sampling Procedures.

This regulation would amend the coal dust regulations to permit miners' representatives to participate in the dust sampling process in underground coal mines. This issue was first raised in a significant way during the public hearings on revisions to the procedures for sampling respirable dust in underground coal mines. Officials, safety committee members, and rank and file members of the United Mine Workers of America were critical of how the sampling program was actually being implemented in the nation's mines. The participation of miners' representatives in the sampling procedures is intended to promote better cooperation between the coal mine operators and the miners whose health may be affected in order to improve the effectiveness of the respirable dust control program. A regulatory analysis is not required.

Status: A proposed regulation was published on April 8, 1980. Public hearings are scheduled for June 3 and 5, 1980.

Contact: Frank A. White, see item 87.

103. *Labor Management Services Administration (LMSA)*—29 CFR Parts 402 and 403—Labor Organization Reports.

Amendments under consideration would have required labor organizations to mail or directly supply to every member copies of certain reports filed under the Labor Management Reporting and Discolsure Act (LMRDA). This proposal was set forth in a petition received from nine union members represented by the Institute for Public Interest Representation of the Georgetown University Law Center. A regulatory analysis is not required.

Status: This proposal has been considered in light of comments received from the public in response to a proposed rule published on February 9, 1979. A decision has been made not to amend the regulation and notice to this effect will be published by June 30, 1980. This item is therefore removed from the Agenda.

Contact: Herbert Raskin, Room N5109—Main Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202–523–7373.

104. *LMSA*—29 CFR Part 452, Subpart J—Election Enforcement Provisions of the LMRDA.

A proposed regulatory statement to revise and update existing enforcement provisions of the interpretative bulletin on elections (29 CFR Part 452) has been prepared. A regulatory analysis is not required.

Status: The publication of a proposed regulation by June 30, 1980 is anticipated.

Contact: Herbert Raskin, see item 103.

105. *LMSA*—29 CFR Part 204—Standards of Conduct Regulations.

These regulations contain rules and procedures governing the standards of conduct prescribed for Federal employee organizations. Certain changes are required by the recently enacted Civil Service Reform Act. A regulatory analysis is not required.

Status: A final regulation was published on March 7, 1980. The item is, therefore, removed from the Agenda.

Contact: Herbert Raskin, see item 103.

106. *LMSA*—29 CFR Part 403—Labor Organization Financial Reports.

An amendment was under consideration to allow labor organizations with up to $100,000 total annual receipts to file annual financial reports on Form LM–3 (Short Form) rather than the more detailed LM–2. The present cut-off amount at the time was $30,000 total annual receipts. A regulatory analysis was not required. This item may be of special interest to small organizations.

Status: Final regulations were published on February 1, 1980. The item is, therefore, removed from the Agenda.

Contact: Herbert Raskin, see item 103.

107. *LMSA*—29 CFR Part 212—Dispute Resolution Procedures for Determination of Employee Protections.

These guidelines will be issued to provide information about the Department of Labor's procedures for making final and binding determinations in the resolution of disputes over employee protections arising under Section 13(c) of the Urban Mass Transportation Act of 1964, as amended, and under Section 405(b) of the Rail Passenger Service Act of 1970, as amended. These guidelines are necessary so that employees and representatives of employees and employers in the mass passenger transportation industry will know how disputes which are submitted to the Department for adjudication are processed. A regulatory analysis is not required.

Status: A regulatory analysis is not required. The publication of a proposed regulation by October 31, 1980 is anticipated.

Contact: Bruce Leet, Room N5639, Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210, (202) 523–6495.

108. *LMSA*—29 CFR 92.1—92.9—Redwood National Park Employee Protection Program.

These regulations are being developed to define the criteria which employees must meet to receive benefits under the Redwood National Park Expansion Act. A regulatory analysis is not required.

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Status: The publication of a final regulation by May 15, 1980 is anticipated.

Contact: Ron Glass, Room N5639—Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202–523–6495.

109. *LMSA*—29 CFR Part 225—Protective Arrangements Under Section 1642(c), Public Health Services Act.

President Carter signed the Health Planning and Resources Development Act of 1979 on October 4, 1979. Included in Title III of this legislation is a new HEW administered grant program designed to encourage and assist the discontinuance of unneeded hospital services.

Section 1642(c)(1) of the Act requires the certification of employee protective arrangements by the Secretary of Labor before the approval of grant applications by HEW. Section 1642(c)(2) states that "[t]he Secretary of Labor shall by regulation prescribe guidelines for arrangements for the protection of the interests of employees affected by the discontinuance of hospital services."

The Act requires the Secretary of Labor to certify that "fair and equitable arrangements have been made to protect the interests of employees affected by the discontinuance of services against a worsening of their positions with respect to their employment, including arrangements to preserve the rights of employees under collective bargaining agreements, continuation of collective bargaining rights consistent with the provisions of the National Labor Relations Act, reassignment of affected employees to other jobs, retraining programs, protecting pension, health benefits and fringe benefits of affected employees, and arranging adequate severance pay, if necessary." A regulatory analysis is not required.

Status: The publication of a proposed regulation by May 15, 1980 is anticipated.

Contact: Ron Glass, see item 108.

110. *LMSA/ERISA*—29 CFR 2530.203–3 Suspension of Benefits.

This regulation will describe the circumstances under which an employee pension benefit plan will be permitted to suspend the payment of benefits to a retiree under section 203(a)(3)(B) of The Employee Retirement Income Security Act (ERISA). Section 203(a)(3)(B) of ERISA directs the Secretary to prescribe such regulations as may be necessary to carry out the purposes of that provision, including regulations with respect to the meaning of the term "employed". A regulatory analysis is not required.

Status: A proposed regulation was published on December 19, 1978 and the publication of a final regulation by June 1, 1980 is anticipated.

Contact: Judith B. Kahn, Room N4461—Main Labor Building, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202–523–8430.

111. *LMSA/ERISA*—29 CFR 2550.414c–1, 2 and 3—Transitional Relief for Certain Loans, Leases, and Dispositions of Property Prior to June 30, 1984, under Sections 414(c)(1), (2) and (3) of ERISA.

These regulations, if adopted, will clarify the scope of transitional relief provided in section 414(c)(1), (2) and (3) of ERISA, which suspends until June 30, 1984 the application of the prohibited transaction provisions of sections 406 and 407(a) of ERISA to certain loans, leases, joint uses and dispositions of property between employee benefit plans and parties in interest. In part, these regulations will define certain terms and clarify certain conditions contained in section 414(c)(1), (2) and (3). These regulations may relieve the Department's administrative burden by reducing the number of applications for exemptions from the prohibited transaction provisions of ERISA. A regulatory analysis is not required.

Status: A proposed regulation was published in April, 1979 and the publication of a final regulation by June 30, 1980 is anticipated.

Contact: William J. Flanagan, Room C–4508—Main Labor Building, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202–523–7931.

112. *LMSA/ERISA*—29 CFR 2520. 105–1 through 2520.105–11 and 2530.209–1 through 2530.209–9—Individual Benefit Reporting and Recordkeeping.

These regulations will govern (1) reports that must be furnished to participants in pension plans and in some cases, to their beneficiaries regarding the benefits to which they are entitled, or may become entitled at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. These regulations, if adopted, would provide necessary guidance to employers maintaining pension plans and to the pension plan administrators for compliance with certain statutory reporting and recordkeeping requirements of ERISA. The need for a regulatory analysis is under study.

Status: A proposed regulation was published in February 1979 and the publication of a new proposed regulation by June 30, 1980 is anticipated.

Contact: Robert Doyle, Room N4472—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7901.

113. *LMSA/ERISA*—29 CFR 2520—Certain Exemptions For Plans Under Which Membership in a Health Maintenance Organization is Offered as a Benefit.

This regulation would provide exemptions from certain reporting and disclosure requirements, where application of those requirements might be duplicative in view of the Health Maintenance Organization Act of 1977. It will also provide that the grievance procedures which qualified HMOs are required to establish under the HMO Act with respect to benefits offered by the HMO will be deemed to satisfy the claims requirements of ERISA. The action taken is intended to harmonize the requirements of the two Acts and reduce unnecessary paperwork. A regulatory analysis is not required.

Status: A proposed regulation was published in June, 1979. Publication of a final regulation will depend upon coordination with the Department of Health and Human Services.

Contact: Robert Doyle, see item 112.

114. *LMSA/ERISA*—29 CFR 2520—Exemption From Reporting and Disclosure Requirements With Regard to Apprenticeship and Other Training Plans.

This regulation would amend an existing regulation, 29 CFR 2520.104–22, to provide an exemption from the reporting and disclosure requirements under Title I of ERISA for plans which provide solely apprenticeship training benefits, other training benefits or a combination of apprenticeship and other training benefits. The availability of the exemption for plans providing solely apprenticeship training would be conditioned on a plan administrator's filing a brief notice with the Department containing certain information about the plan, taking steps to see that the information contained in the notice is disclosed to certain employees of employers contributing to the plan, and making the notice available to those employees upon request. The Department believes that the relief offered by the proposed exemption is necessary to relieve certain apprenticeship and training plans of reporting and disclosure requirements that are particularly burdensome in light of the benefits obtained from such reporting and disclosure. A regulatory analysis is not required.

Status: A final regulation was published on March 11, 1980. The item is, therefore, removed from the Agenda.

Contact: Douglas Wham, Room C4508, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–9141.

115. *LMSA/ERISA*–Revision of Forms 5500, 5500–C, and 5500–K (Annual Return/Report Forms) and Schedule A (Insurance Information) Filed under ERISA.

Revisions of these forms would affect the reporting of certain commission information relating to the acquisition of insurance coverage by employee benefit plans. Specifically, item 3 of Schedule A, attached to the annual return/report form, would be revised to provide information in a manner that would be more useful to the Department and to participants and less burdensome to plans and insurance companies. In conjunction with these revisions, additional questions would be added to item 15 of Forms 5500, 5500–C, and 5500–K. The Department proposed revisions to item 3 of Schedule A and to item 15 of the Forms 5500, 5500–C, and 5500–K in light of public objections to certain aspects of the current reporting requirement. A regulatory analysis is not required.

Status: Final forms were published on March 4, 1980. The item is therefore, removed from the Agenda.

Contact: Wayland Coe, Room N4902–Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8474.

116. *LMSA/ERISA*–29 CFR Part 2520–Limited Exemption and Alternative Method of Compliance For Filing of Insurance Company Financial Reports.

This regulation would require that insurance company financial reports be filed with the Department only upon request, in lieu of the present statutory requirement that such reports be filed with the plan's annual report. The proposed regulation is part of the Department's effort to reduce the administrative and cost burdens imposed by the reporting and disclosure requirements of ERISA. Experience to date demonstrates that the infrequent need for information contained in financial reports of insurance companies does not justify a requirement that the reports be filed on an annual basis. A regulatory analysis is not required.

Status: A final regulation was published on March 4, 1980. The item is, therefore, removed from the Agenda.

Contact: Wayland Coe, see item 115.

117. *LMSA/ERISA*–29 CFR Part 2520–Revision of Certain Annual Information Return/Reports: Compliance Oriented Returns.

These form changes will effectuate a transition from annual to triennial filing of the annual return/report for certain plans under ERISA. The triennial return/reports would be filed by administrators of pension or welfare plans with fewer than 100 participants at the beginning of the plan year. Plans will file a Form 5500–R Registration Statement during the other two years. On May 10, 1978, a series of actions to reorganize and reform the regulation of employee benefit plans was announced at the White House. As a part of the reform, the IRS, DOL, and PBGC have these form changes under consideration as a substitution for the current system of annual reporting. A regulatory analysis is not required. This form change may be of special interest to small businesses.

Status: Proposed changes were published in June, 1979 and the date of publication of a final form will be determined in coordination with other Federal agencies.

Contact: John Christensen, Room N4472—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8377.

118. *LMSA/ERISA*—29 CFR Part 2550—Maintenance of Indicia of Ownership of Plan Assets Outside Jurisdiction of District Courts of the United States.

Revision of this regulation will clarify the conditions under which banks may maintain the indicia of ownership of certain plan assets in foreign entities under 29 CFR 2550.404(b). Public comments received from banks have requested clarification of this regulation. A regulatory analysis is not required.

Status: The publication of a proposed regulation by July 1, 1980 is anticipated.

Contact: Gloria E. Pollack, Room C4508—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8297.

119. *LMSA/ERISA*—Alternative Method of Compliance with the Reporting and Disclosure Requirements of ERISA for Certain Simplified Employee Pensions.

This regulation, if adopted, will provide an alternative method of compliance with the reporting and disclosure requirements of ERISA for simplified employee pensions (SEPs) established by use of Internal Revenue Service Form 5305–SEP (Model SEPs). The Secretary of Labor is authorized to prescribe such an alternative method of compliance by section 110(a) of ERISA. The regulation is intended to reduce the reporting and disclosure requirements for these Model SEPs. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: A final regulation was published on April 11, 1980. The item is, therefore, removed from the Agenda.

Contact: Timothy S. Smith, Room C4508—Main Labor Building, 200 Constitution Avenue, N.W., Washinton, D.C. 20210, 202–523–6855.

120. *LMSA/ERISA*—29 CFR Part 2510—Supplemental Pay.

A regulation to amend the existing regulation to clarify the circumstances under which an arrangement to make supplemental payments to employees will not be deemed an employee pension benefit plan under section 3(2) of ERISA.

Status: The development of this regulation is no longer under consideration by the Department. It is, therefore, removed from the Agenda.

Contact: Helene Benson, Room N4700—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8664.

121. *LMSA/ERISA*—29 CFR Part 2520—Revision of Annual Report Forms re: Master Trusts.

This forms revision would change the manner in which employee benefit plans' investments in master trusts are reported annually under ERISA. The contemplated revision would make reporting easier for plans with no loss of information available to either the Secretary of Labor or to plan participants. A regulatory analysis is not required.

Status: The publication of a proposed forms revision by July 1, 1980 is anticipated.

Contact: Miriam Freund, Room N4472, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7901.

122. *LMSA/ERISA*—29 CFR Part 2520—Alternative Method of Compliance With the Reporting and Disclosure Requirements of ERISA For Certain (Non-Model) Simplified Employee Pensions.

This regulation would provide an alternative method of compliance with the reporting and disclosure requirements of ERISA for certain simplified employee pensions (SEPs) other than Model SEPs. The Secretary of Labor is authorized to prescribe such an alternative method of compliance by section 110(a) of ERISA. The regulation is intended to reduce the reporting and disclosure requirements for these Non-Model SEPs. A regulatory analysis is not required. This regulation may be of special interest to small businesses.

Status: An interim regulation was published on April 15, 1980.

Contact: Timothy Smith, see item 119.

123. *LMSA/ERISA*—29 CFR Part 2520—Alternative Method of Compliance With the Reporting and Disclosure Requirements of ERISA in Report to Short Plan Years.

This regulation would provide an alternative method of compliance with the reporting and disclosure

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requirements of ERISA in respect to engaging independent qualified public accountants where short plan years are involved. The Secretary of Labor is authorized to prescribe such an alternative method of compliance by section 110(a) of ERISA. The intent of the regulation is to reduce the administrative burden for employee benefit plans. A regulatory analysis is not required.

Status: The publication of a proposed regulation by June 30, 1980 is anticipated.

Contact: John Christensen, see item 117.

124. *LMSA/ERISA*—29 CFR Part 2550—Definition of Plan Assets and Establishment of Trust.

This regulation would clarify what will be regarded as assets of an employee benefit plan under ERISA and would provide certain exemptions from the requirements that plan assets be held in trust. Clarification of the term "plan asset" is needed since it is a basic concept used, for example, in determining what property must be held in trust, and to what transactions the fiduciary responsibility provisions of ERISA would apply. In addition clarification was requested by commentators on a previously proposed regulation. The need for a regulatory analysis is under study. This regulation may be of special interest to small businesses.

Status: The publication of a final or reproposed regulation by September 1, 1980 is anticipated.

Contact: Robert R. Bitticks, Room C4508, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8620.

125. *LMSA/ERISA*—29 CFR 2550.408(e)—Statutory Exemption for Acquisition or Sale of Qualifying Employer Securities and for Acquisition, Sale, or Lease of Qualifying Employer Real Property.

A proposed regulation designed to interpret and clarify the statutory exemption set forth in section 408(e) of ERISA was published in the **Federal Register** on August 28, 1979 (44 FR 50367). The regulation will provide necessary guidance to employee benefit plans regarding the application of the prohibited transaction provisions of ERISA to acquisitions or sales of "qualifying employer securities" and to acquisitions, sales or leases of "qualifying employer real property" by plans. A regulatory analysis is not required.

Status: The publication of a final regulation by June 30, 1980 is anticipated.

Contact: Jay Neuman, Room C4508, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–9141.

126. *LMSA/ERISA*—29 CFR 2550.414(c)(5)—Transitional Relief for Certain Dispositions of Property Under Section 414(c)(5) of ERISA.

This proposed regulation would clarify the scope of the transitional relief provided in section 414(c)(5) of ERISA. The proposed regulation is designed to clarify the circumstances under which the prohibited transaction provisions contained in sections 406 and 407(a) of ERISA are inapplicable to certain sales, exchanges or other dispositions of property to a party in interest. A regulatory analysis is not required.

Status: The publication of a proposed regulation by August 1, 1980 is anticipated.

Contact: Gloria Pollack, see item 118.

Signed this 27th day of May 1979 at Washington, D.C.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80–16804 Filed 6–2–80; 8:45 am]

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federal register

Tuesday
June 3, 1980

Part VII

Department of Health and Human Services

Office of the Secretary

Procurements by Grantees and Subgrantees

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 74

Administration of Grants; Procurements by Grantees and Subgrantees

AGENCY: Department of Health and Human Services (HHS).
ACTION: Final rule.

SUMMARY: This amends HHS' Department-wide grants administration regulation to implement a recent revision by the Office of Management and Budget (OMB) of the standards governing procurements made by governmental recipients of Federal grants and subgrants—Attachment O to OMB Circular A–102. In the process, this changes the way HHS implements both this set of standards and also OMB's as yet unrevised set of standards for procurements made by nongovernmental recipients—Attachment O to OMB Circular A–110.

This also implements for HHS a recent OMB policy amendment on the timing of reimbursement to recipients for amounts they withhold from contractors to assure satisfactory completion of work.

EFFECTIVE DATE: July 3, 1980.

FOR FURTHER INFORMATION CONTACT: Matthias Lasker, Department of Health and Human Services, Room 513D, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, 202–245–7565.

SUPPLEMENTARY INFORMATION:

A. Procurement Standards

Action by OMB

On August 1, 1979, OMB revised its standards governing procurements by States, local governments, and Indian tribal governments under Federal grants and subgrants, Attachment O to OMB Circular A–102. The revision was published on August 15, 1979, at 44 FR 47874 and carried an effective date of October 1, 1979.

OMB had previously circulated the proposed revision to interest groups representing governments, to Federal agencies, and to contractor organizations. OMB also published the proposed revision in the **Federal Register** (43 FR 57201, December 6, 1978) and on January 16, 1979, held a public hearing on it.

The revision continues the Federal policy of minimum Federal intervention in the procurement operations of recipients. The most significant changes, in our view, are:

1. Prohibits Federal agencies from substituting their judgment for the judgment of the grantee unless the matter is primarily a Federal concern. By implication, prohibits grantees that award subgrants from substituting their judgment for that of the subgrantee, unless the matter is primarily a concern of the grantee or the Federal Government. (Like other Attachment O prohibitions, this prohibition does not prevent State grantees from exercising whatever control they would have over procurements by subgrantees were no subgrants involved.)

2. Creates a program for certifying recipient procurement system as meeting the standards in the attachment. If a recipient's systems is certified, prohibits awarding parties from imposing certain prior approval requirements on the recipient's individual procurements.

3. Limits awarding parties' authority to review protests against the recipient's selection of a contractor. OMB has stated that this is properly the responsibility of the recipient.

4. Prohibits any employee, officer, or agent of the recipient from participating in contractor selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved.

5. Expands the rules intended to promote the use of small and minority business firms by requiring specific affirmative actions. Requires similar affirmative actions in support of women's business enterprises and encourages recipients to procure goods and services from labor surplus areas.

6. Describes the methods of procurement that are permitted under grants and subgrants.

7. Requires some form of cost or price analysis in connection with every procurement action, including contract modifications.

8. Requires that contracts comply with State Energy Conservation Plans.

HHS' Implmentation

Until now, HHS has implemented Attachment O to OMB Circular A–102 (governing procurements under grants and subgrants to governments) and Attachment O to OMB Circular A–110 (governing procurements under grants and subgrants to institutions of higher education, hospitals and private nonprofit organizations) by paraphrasing and combining the text of the two attachments. HHS is changing this method of implementation for both attachments. These amendments require compliance with the attachments and place their texts in separate new appendices to 45 CFR 74, without paraphrasing.

Some explanations of how the attachments apply to HHS grants and subgrants are needed. We are providing these in the body of this part and in footnotes to the appended attachments. Thus, explanations added by HHS are clearly distinguished from the attachments themselves.

This implementation approach furthers OMB's goal of standardizing as much as possible the requirements Federal departments and agencies impose on recipient procurements. The approach should greatly benefit recipients receiving awards from other Federal departments and agencies as well as from HHS.

Recipients are cautioned that, if other terms of an HHS grant also include provisions on procurements, those provisions also apply and take precedence over those in this part. (See 45 CFR 74.4.)

Following are the principal explanations these amendments provide:

1. The amendments explain that the attachments apply, with limited exceptions, to all procurements supported by HHS grants that are subject to this part, even if charged only to required cost sharing or matching. OMB has told us that this is its intent.

2. The amendments explain that the attachments do not apply to transactions between governments or agencies or instrumentalities of governments. Many of the provisions in the attachments are inappropriate to these transactions, and OMB has told us that it does not intend the attachment to appy to them.

3. The amendments explain how OMB text that refers to Federal agencies and to grantees is to be "translated" in the case of subgrants.

4. Attachment O of OMB Circular A–110 inadvertently omits a requirement for retention of records by contractors. These amendments make the same records retention rule apply to contracts under that attachment that applies to contracts under Attachment O of OMB Circular A–102. The amendments also explain how the retention period is affected by an audit or other action involving the records. Finally, the amendments explain under what circumstances the records access and retention requirements apply to subcontracts. These additions and clarifications are consistent with OMB intent.

Because access to and retention of contractor records are treated in the OMB circular attachments, the currrent

rules on those topics in Subpart D are removed.

B. Payment Policy

Action by OMB

On October 5, 1979, at 44 FR 57855, OMB amended its policies governing payments under grants (and subgrants) to States, local governments, and Indian tribal governments—Attachment J to OMB Circular A–102. The amendment provides that, when awarding parties pay recipients by the reimbursement method, they are not to reimburse recipients for amounts that are withheld from contractors to assure satisfactory completion of work. The awarding parties are to pay the Federal share of these amounts when the recipients make final payment. The purpose of the amendment is to save interest costs incurred by the Federal Government in order to obtain funds to pay for these amounts.

Under the reimbursement method, recipients may base their payment requests on accrued costs rather than cash disbursements, and that is why the amendment is needed to achieve OMB's purpose. When the letter of credit or advances by Treasury check methods are used, drawdowns or payments are already required to coincide with the recipient's cash needs. Hence, a similar amendment for these payment methods is not needed.

The amendment is effective January 1, 1980, but grantor agencies are authorized to delay implementation to January 1, 1981, for recipients that must amend their laws to comply.

OMB had published the proposed amendment for comment in the **Federal Register** on October 16, 1978.

HHS' Implementation

HHS is implementing the amendments by adding the new rule without substantive change to 45 CFR Part 74, Subpart K, "Grant and Subgrant Payment Requirements." The added text includes a clarification OMB provided in its October 5 **Federal Register** notice making the amendment. To avoid confusion, we have also added text reaffirming the Federal policy of basing non-prescheduled Treasury check advances on estimated cash outlays, even if the recipient uses an accrual accounting system.

OMB intends to make the same amendment to its circular on grants to nongovernmental organizations—OMB Circular A–110. Accordingly, with OMB's approval, we are applying the new rule to all grants and subgrants subject to 45 CFR Part 74, those to nongovernmental organizations as well as those to governments.

As authorized by OMB, HHS is deferring implementation for some recipients. (See "Timing" below.)

C. Other Information

Timing. These amendments apply to grant and subgrant funding periods beginning on or after the effective date of the amendments. However, the revision of 45 CFR 74.96(b) does not apply until January 1, 1981, if the recipient is a State, local government, or Federally recognized Indian Tribal government and has to amend its laws in order to comply with that revision.

At its option, the recipient of a grant or subgrant which is active when these amendments take effect may apply them to that grant or subgrant for the remainder of the current funding period.

Effective date. These amendments merely require HHS components and HHS grantees and subgrantees to comply with already existing Government-wide policies and provide a few necessary explanations of those policies. For this reason, notice of proposed rulemaking and delay in effective date are considered unnecessary. These amendments are therefore effective on June 3, 1980.

Note.—The Department of Health and Human Services has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

Dated: May 27, 1980.

Patricia Roberts Harris,
Secretary of Health and Human Services.

Part 74 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 74.20 is revised to read as follows:

§ 74.20 Applicability.

(a) This subpart applies to all financial and programmatic records, supporting documents, statistical records, and other records of recipients, which are:

(1) Required to be maintained by the terms of an HHS grant, or

(2) Otherwise reasonably considered as pertinent to an HHS grant.

(b) This subpart does not apply to the records of contractors and subcontractors under grants and subgrants. For a requirement to place a provision concerning those records in certain kinds of contracts, see Subpart P and Appendices G and H of this part.

§ 74.24 [Amended]

2. Section 74.24 is amended by deleting and reserving paragraph (c).

§ 74.25 [Amended]

3. Section 74.25 is amended by deleting "or their contractors and subcontractors" from the last sentence.

4. Section 74.96 is revised to read as follows:

§ 74.96 Requesting advances or reimbursements.

(a) If advances are made by Treasury check and the advances are not prescheduled, the grantee shall submit its requests for payment monthly. Less frequent requests are not permitted because they would result in advances covering excessive periods of time. The grantee shall not request advances in excess of the Federal share of reasonable estimates of its outlays for the month covered. The grantee shall make these estimates on a cash basis, even if it uses an accrual accounting system.

(b) If payments are made through reimbursement by Treasury check:

(1) The grantee may submit its requests for reimbursement monthly and may submit them more often if authorized. The grantee will be paid as promptly as possible, ordinarily within 30 days after receipt of a proper request for reimbursement.

(2) The grantee shall not request reimbursement for the Federal share of amounts withheld from contractors to ensure satisfactory completion of work until after it makes those payments. To meet this requirement, a grantee with an accural accounting system need not convert to cash basis accounting. It may bill in general on an accrued cost basis, handling these retained amounts as adjustments in the billing system.

(c) The forms for requesting advances or reimbursements are identified in Subpart I of this part.

5. Subpart P is revised to read as follows:

Subpart P—Procurements by Grantees and Subgrantees

Sec.
74.160 What procurements are subject to this subpart?
74.161 What rules govern the procurements?
74.162 Must requests for OMB authorizations go through HHS' Office of Grants and Procurement (OGP)?
74.163 How do the rules apply to subgrants?
74.164 What clarifications are needed for the rule on access to contractor records?

Subpart P—Procurements by Grantees and Subgrantees

§ 74.160 What procurements are subject to this subpart?

(a) This subpart applies to recipient procurements of supplies, equipment, and services (including construction).

(b) This subpart applies if any part of the cost of the property or service being procured by a recipient is treated as a direct cost under a grant or subgrant and is either borne by grant funds or counted toward satisfying a cost-sharing or matching requirement of the Federal grant. However, for research grants subject to an institutional cost-sharing agreement (see § 74.50(b)), this subpart applies only if some part of the cost is borne by grant funds.

(c) This subpart does not apply to the acquisition of property or services by one government from another government or by one agency or instrumentality of a government from another agency or instrumentality of the same or another government.[1]

§ 74.161 What rules govern the procurements?

For procurements by governmental recipients, awarding parties and recipients shall comply with Attachment O, "Procurement Standards," of OMB Circular A–102. For procurements by nongovernmental recipients, awarding parties and recipients shall comply with Attachment O, "Procurement Standards," of OMB Circular A–110. The versions of the attachments that apply are those in effect on October 1, 1979. The texts of those versions are in Appendices G and H of this part.

§ 74.162 Must request for OMB authorizations go through HHS' Office of Grants and Procurement (OGP)?

Requests for the Office of Federal Procurement Policy approval or authorizations referred to in paragraphs 1.b, 1.c, and 14.j of the OMB Circular A–102 attachment must be submitted, through appropriate HHS granting agency channels, to OGP. If OGP concurs in the request, OGP sends it to the Office of Federal Procurement Policy of OMB.

§ 74.163 How do the rules apply to subgrants?

(a) The Attachments O of the OMB circulars apply to procurements under subgrants as well as grants, although written, for the most part, in terms of grants. Except as explained in paragraphs (b) and (c) of this section, in the case of a subgrant, text that applies to a Federal agency is to be construed as applying to the grantee awarding the subgrant and text that applies to a grantee is to be construed as applying to the recipient of the subgrant.

(b) In section 4 and paragraphs 14.d through 14.i of Attachment O of OMB Circular A–102 and in paragraphs 4.e through 4.j of Attachment O of OMB Circular A–110, the references to Federal agencies apply to Federal agencies even in the case of a subgrant.

(c) In paragraph 2.a of Attachment O of OMB Circular A–102, the reference to a Federal concern is to be construed, in the case of a subgrant, as referring to a concern of either the Federal Government or the grantee awarding the subgrant.

§ 74.164 What clarifications are needed for the rule on access to contractor records?

The Attachments O require recipients to include in specified kinds of contracts a provision for access to the contractor's records by the recipient and the Federal Government. The following applies to the provision:

(a) The provision must require the contractor to place the same provision in any subcontract which would have to have the provision were it awarded directly by the recipient.

(b) The provision must require retention of records for three years after final payment is made under the contract or subcontract and all pending matters are closed. The provision must also requires that, if an audit, litigation, or other action involving the records is started before the end of the three-year period, the records must be retained until all issues arising out of the action are resolved or until the end of the three-year period, whichever is later.

(c) In contracts and subcontracts under a subgrant, the provision must require that access to the records be provided to the grantee as well as the subgrantee and the Federal Government.

Appendices G and H [Added]

6. New appendices G and H are added, reading as follows:

Appendix G—Attachment O, "Procurement Standards," of OMB Circular A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments"

1. *Applicability.*

a. This Attachment establishes standards and guidelines for the procurement of supplies, equipment, construction, and services for Federal assistance programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive orders.

b. No additional procurement requirements or subordinate regulations shall be imposed upon grantees by Executive agencies unless specifically required by Federal law or Executive orders or authorized by the Administrator for Federal Procurement Policy. This prohibition is not applicable to payment conditions issued in accordance with Treasury Circular 1075, individual grantee requirements pursuant to section 10 of the basic circular [1] or the provisions of this or other OMB circulars.

c. Provisions of current subordinate requirements not conforming to this attachment shall be rescinded by grantor agencies unless approved by the Office of Federal Procurement Policy (OFPP).

2. *Grantee/Grantor Responsibility.*

a. These standards do not relieve the grantee of any contractual responsibilities under its contracts. The grantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant. These include but are not limited to: source evaluation, protests, disputes, and claims. Executive agencies shall not substitute their judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.

b. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements for Federal Assistance Programs conform to the standards set forth in this attachment and applicable Federal law.

3. *Grantee Procurement Improvement.*

Executive agencies awarding Federal grants or other assistance which require or allow for procurement by the recipients are encouraged to assist recipients in improving their procurement capabilities by providing them with technical assistance, training, publications, and other aid.

4. *Procurement System Reviews.*

a. Executive agencies are encouraged to perform reviews of their grantees' procurement systems if a continuing relationship with the grantee is anticipated or a substantial amount of the Federal assistance is to be used for procurement and review of individual contracts is anticipated. The purpose of the review shall be to determine: (1) whether a grantee's procurement system meets the standards prescribed by this Attachment or other criteria acceptable to the OFPP, such as provisions of the model procurement code for State and local government and (2) whether the grantee's procurement system should be certified by the reviewing agency. Such a review will also give an agency an opportunity to give technical assistance to a grantee to remedy its procurement system if it does not fully comply. In addition, such a review may provide a basis for deciding whether the grantee's contracts and related procurement documents should be subject to the grantor's prior approval, as provided by Section 6.

[1] Instrumentalities of a government include government institutions of higher education and government hospitals. However, those institutions and hospitals are not considered governmental organizations for the other purposes of this subpart. (See paragraph (c) of § 74.4, "Applicability of this part.")

[1] For HHS grants and subgrants, the requirements referred to are those issued under 45 CFR 74.7, "Special grant or subgrant conditions."

b. In conducting procurement system reviews, grantor agencies will evaluate a grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviewers will rely upon State or local evaluations and analyses performed by agencies or organizations independent of the grantee contracting activity.

c. When a Federal grantor agency completes a procurement review, it shall furnish a report to the grantee, with a copy to OFPP.

d. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.

e. Reviews shall be conducted in accordance with standards and guidelines approved or issued by OFPP.

f. The reviews authorized by Section 6 are waived if a grantee's procurement system is certified.

5. *Protest Procedures.*

Grantor agencies may develop an administrative procedure to handle complaints or protests regarding grantee contractor selection actions. The procedure shall be limited as follows:

a. No protest shall be accepted by the grantor agency until all administrative remedies at the grantee level have been exhausted.

b. Review is limited to:

(i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.

(ii) Violations of grantee's protest procedures or failure to review a complaint or protest.

6. *Grantor Review of Proposed Contracts.*

Federal grantor pre-award review and approval of the grantee's proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, is permitted only under the following circumstances:

a. The procurement is expected to exceed $10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

b. The procurement expected to exceed $10,000 specifies a "brand name" product; or

c. The grantee's procurement procedures or operation fails to comply with one or more significant aspects of this Attachment. The grantor agency shall notify the grantee in writing, with a copy of such notification to the OFPP.

7. *Code of Conduct.*

Grantees shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

a. the employee, officer or agent;

b. any member of his immediate family;

c. his or her partner; or

d. an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

8. *Procurement Procedures.*

The grantee shall establish procurement procedures which provide that proposed procurement action shall be reviewed by grantee officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or breaking out to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

9. *Contracting With Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms.*

a. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

(1) Including qualified small and minority businesses on solicitation lists.

(2) Assuring that small and minority businesses are solicited whenever they are potential sources.

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.[2]

[2] Additional advice and assistance regarding the use of small or minority businesses may be obtained from the following HHS components:

1. The Office of Facilities Engineering and its regional offices (for assistance in identifying minority-owned firms interested in performing construction, alteration, or renovation work).

(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above.

b. Grantees shall take similar appropriate affirmative action in support of women's business enterprises.

c. Grantees are encouraged to procure goods and services from labor surplus areas.

d. Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.

10. *Selection Procedures.*

a. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this attachment. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.

b. The grantee shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

(1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

(a) incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

(b) clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

11. *Method of Procurement.*

Procurement under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) competitive sealed bids (formal advertising);

2. The Office of Grants and Procurement.

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(c) competitive negotiation: (d) noncompetitive negotiation.

a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than $10,000. Grantees shall comply with State or local small purchase dollar limits under $10,000. If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

b. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:

(a) A complete, adequate and realistic specification or purchase description is available.

(b) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.

(c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(2) If formal advertising is used for a procurement under a grant, the following requirements shall apply:

(a) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

(b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(c) All bids shall be opened publicly at the time and place stated in the invitation for bids.

(d) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the Grantee indicates that such discounts are generally taken.

(e) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

c. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized. negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(1) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(2) The request for proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.

(3) The grantee shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

(4) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

(5) Grantees may utilize competitive negotiation procedures for procurement of Architectural/Engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

d. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(1) the item is available only from a single source;

(2) public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

(3) the Federal grantor agency authorizes noncompetitive negotiation; or

(4) after solicitation of a number of sources, competition is determined inadequate.

e. Additional innovative procurement methods may be used by Grantees with the approval of the Grantor Agency. A copy of such approval shall be sent to OFPP.

12. *Contract Pricing.*

The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

13. *Grantee Procurement Records.*

Grantees shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

14. *Contract Provisions.*

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal Law or the Grantor Agency.

a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. All contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

d. All contracts and subgrants for *construction* or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

e. When required by the Federal grant program legislation, all *construction* contracts in excess of $2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

f. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for *construction* contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

g. The contract shall include notice of grantor agency requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of grantor agency requirements and regulations pertaining to copyrights and rights in data.[3]

h. All negotiated contracts (except those awarded by small purchases procedures) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.[4]

i. Contracts, subcontracts, and subgrants of amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the U.S.E.P.A. Assistant Administrator for Enforcement (EN–329).

j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–165).

Grantor Agencies are permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

15. *Contract Administration.*

Grantees shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Appendix H—Attachment O, "Procurement Standards," of OMB Circular A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"

1. This attachment provides standards for use by recipients in establishing procedures for the procurement of supplies, equipment construction and other services with Federal funds.[1] These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. No additional procurement standards or requirements shall be imposed by the Federal sponsoring agencies upon recipients unless specifically required by Federal statute or executive orders.

2. The standards contained in this attachment do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to the Federal sponsoring agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

3. Recipients may use their own procurement policies and procedures. However, all recipients shall adhere to the standards set forth in paragraphs 3 and 4.

a. The recipient shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using Federal funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which Federal funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The recipients' officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary actions to be applied for violations of such standards by the recipients' officers, employees or agents.

b. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements.[2] Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

c. All recipients shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(1) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase, alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(3) Positive efforts shall be made by the recipients to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to

[3] HHS Department-wide provisions on inventions and patents arising out of activities assisted by a grant are in 45 CFR Parts 6 and 8. Department-wide provisions on copyrights under grants and subgrants are in 45 CFR Part 74, Subpart O. Other provisions on these topics or on rights to data may be in other terms of a grant. If any contract may give rise to works, inventions, patents, or data subject to any of these provisions, the recipient shall place a requirement in the contract for contractor and subcontractor compliance with the provisions. The recipient need not place requirements of this kind in all contracts.

[4] For clarification of paragraph 14.h as it applies to HHS grants and subgrants, see 45 CFR 74.164.

[1] For the applicability of this attachment under HHS grants and subgrants, see 45 CFR 74.160 and 74.161.

[2] HHS granting agencies have been authorized by OMB to waive this requirement for a particular procurement upon request of the recipient making the procurement.

compete for contracts utilizing Federal funds.[3]

(4) The type of procuring instruments used, e.g., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Contracts shall be made only with responsible contractors who possess the potentional ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(6) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 shall be subject to prior approval at the discretion of the Federal sponsoring agency.

(7) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(8) Procurement records and files for purchases in excess of $10,000 shall include the following:

(a) Basis for contractor selection;

(b) Justification for lack of competition when competitive bids or offers are not obtained;

(c) Basis for award cost or price.

(9) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

4. The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

a. Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. In all contracts for construction or facility improvement awarded for more than $100,000, recipients shall observe the bonding requirements provided in Attachment B to this circular.[4]

d. All contracts awarded by recipients and their contractors or subgrantees having a value of more than $10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60).

e. All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal sponsoring agency.

f. When required by the Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal sponsoring agency.

g. When applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

h. Contracts or agreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that directly concern public health, safety or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions and materials generated under the contract or agreement are subject to the regulations issued by the Federal sponsoring agency and the recipient. The contractor shall be advised as to the source of additional information regarding these matters.[5]

i. All negotiated contracts (except those of $10,000 or less) awarded by recipients shall include a provision to the effect that the recipient, the Federal sponsoring agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.[6]

j. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended. Violations shall be reported to the Federal sponsoring agency and the Regional Office of the Environmental Protection Agency.

* * * * *

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[3] Advice and assistance regarding the use of small or minority businesses may be obtained from the following organizations:

1. The Small Business Administration and its field offices.

2. The Office of Minority Business Enterprise, Department of Commerce.

3. The Community Services Administration.

4. The Office of Facilities engineering, HHS, and its regional offices (for assistance in identifying minority-owned firms interested in performing construction, alteration, or renovation work).

5. The Office of Grants and Procurement, HHS.

[4] For HHS grants and subgrants, the requirements referred to are those in 45 CFR 74.16.

[5] HHS Department-wide provisions on inventions arising out of activities assisted by a grant are in 45 CFR Parts 6 and 8. Department-wide provisions on copyrights arising under grants and subgrants are in 45 CFR Part 74, Subpart O. Other provisions on these topics and on rights to data may be in other terms of a grant. If any contract may give rise to works, inventions, patents or data subject to these provisions, the recipient shall place a requirement in the contract for contractor and subcontractor compliance with the provisions.

[6] For clarification of this requirement as it applies to HHS grants and subgrants, see 45 CFR 74.164.

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federal register

Tuesday
June 3, 1980

Part VIII

Federal Trade Commission

Labeling and Advertising of Home Insulation; Trade Regulation Rule

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FEDERAL TRADE COMMISSION

16 CFR Part 460

Labeling and Advertising of Home Insulation; Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment on proposed stay of final rule.

SUMMARY: The Federal Trade Commission proposes to stay temporarily the effective date of Section 460.6 of its trade regulation rule on labeling and advertising of home insulation (16 CFR Part 460), which requires that insulation R-values be determined by "representative thickness" testing. The Commission also proposes to stay §§ 460.10, 460.18, 460.19 and Appendix B of the rule—which prescribe requirements for insulation advertising—as they apply to television advertisements, pending the initiation and completion of further rulemaking proceedings concerning affirmative disclosure requirements for television advertisements.

DATES: Written comments regarding the Commission's proposal to stay § 460.6, and the requirements for television advertisements set forth in §§ 460.10, 460.18, 160.19 and Appendix B, will be accepted until July 3, 1980.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Proposed Partial Stay of Home Insulation Rule."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

Background. On August 31, 1979, the Commission promulgated a trade regulation rule on the labeling and advertising of home insulation (44 FR 50218). The Commission announced in that notice that the effective date of the rule would be November 30, 1979.

On November 7, 1979, the Commission announced its determination to delay the effective date until December 31, 1979 (44 FR 64402). Thereafter, on December 17, 1979, the Commission announced that the rule would not become effective before at least March 16, 1980 (44 FR 73017). That announcement was occasioned by Congressional action on November 16, 1979, which barred any trade regulation rules promulgated by the Commission after August 30, 1979, from becoming effective until March 16, 1980, unless an authorization for the Commission was enacted before that date. Through a series of additional continuing resolutions passed by the Congress since November 16, 1979, the restrictions on implementation of Commission trade regulation rules were extended through May 31, 1980.

The Commission's prior announcements postponing the effective date of the rule were also occasioned by the following series of events. On August 31, 1979, several members of the mineral wool insulation industry filed a petition for review of the rule in the United States Court of Appeals for the Tenth Circuit. *Johns-Manville Corporation v. Federal Trade Commission,* No. 79–1955 (10th Cir., filed Aug. 31, 1979). On September 28, 1979, these manufacturers also filed a petition with the Commission for a stay of the prepresentative thickness testing and television advertising disclosure provisions of the rule pending appeal. Following these filings, the Commission's staff became engaged in consultations with various parties, including industry representatives and the National Bureau of Standards (NBS), in an attempt to achieve a fair and workable resolution of the representative thickness testing issue. The stay of the rule which was announced by the Commission on November 7, 1979 was designed to provide the staff with an opportunity to complete the on-going consultations on representative thickness testing.

Following these consultations, NBS proposed an enforcement bulletin in which it recommended that manufacturers of mineral wool batts and blankets be allowed to test thin product samples until thick calibration samples, designed for representative thickness testing, are available from NBS. NBS made this recommendation after it consulted with interested industry members and reviewed available literature—including recent results of testing under the Department of Commerce's National Voluntary Laboratory Accreditation Program (NVLAP)—concerning the effects of thin-sample testing and the present feasibility of representative thickness testing of mineral wool batts and blankets. The NBS enforcement bulletin, related correspondence between NBS and the Commission, and other material relevant to representative thickness testing developed after the rulemaking record of this proceeding closed on September 22, 1978, have been placed on the record of this proposed stay proceeding and may be reviewed by the public. This other material includes, *inter alia,* technical information provided by the mineral wool manufacturers and other interested parties, relevant portions of the transcript of the Congressional hearings in which questions were raised concerning representative thickness testing, and correspondence between the Commission and members of the industry, the public, and the Congress relating to the issue of representative thickness testing.

Following this process of consultation on the representative thickness testing issue, the Commission and the mineral wool manufacturers agreed to ask the Tenth Circuit to remand the rule to the Commission. On January 4, 1980, the Court approved the joint stipulation of the mineral wool petitioners and the Commission, and remanded the rule to the Commission for further proceedings.

Under the Court's order remanding the rule, the Commission must reconsider issues relating to §§ 460.6, 460.10, 460.18, 460.19 and Appendix B of the rule. The Commission must provide all interested parties with notice and an opportunity for hearings, submissions, and presentations, including cross-examination and rebuttal, in accordance with §§ 1.7–1.20 of the Commission's Rules of Practice, concerning: (1) whether representative thickness testing of mineral wool batts and blankets is feasible at this time, absent standard calibration materials for such testing; (2) whether present thin-sample testing of mineral wool batts and blankets produces an unfair or deceptive overstatement of their claimed R-values; (3) the disclosure requirements of the rule as they apply to television advertising; and (4) such other matters as the Commission deems appropriate.

Representative Thickness Testing. With respect to the issue of representative thickness testing, the Court's order provides that the Commission can dispense with hearings, submissions, and presentations, including cross-examination and rebuttal, if it decides to allow testing of mineral wool batts and blankets pursuant to the enforcement bulletin issued by NBS, or according to similar procedures agreeable to petitioners. The NBS enforcement bulletin would allow testing of samples at 150 percent of the present one-inch NBS primary standards, or, for materials of 1.5 inch thickness or less, at the full thickness, until NBS has made available thick standard calibration samples designed for representative thickness testing. The National Bureau of Standards has recently reaffirmed to the Commission its commitment to make these thick standard calibration samples available by January of 1981.

The Commission has carefully considered NBS's findings and recommendations concerning the effects of thin-sample testing and the present feasibility of representative thickness testing. The Commission also has weighed the prospects for attempting to resolve the representative thickness testing issue through further rulemaking. Under the terms of the Court's remand order, the Commission may not implement the representative thickness testing requirement before NBS calibration materials are available without first conducting further rulemaking under the Commission's trade regulation rulemaking requirements [16 CFR 1.7–1.20] to consider both the effects of thin-sample testing and the feasibility of representative thickness testing in the absence of thick standard calibration materials. Despite the evidentiary basis for representative thickness testing found in the rulemaking record and relied upon by the Commission in promulgating a representative thickness testing requirement last August, it has become increasingly clear that the question of representative thickness testing raises extraordinarily complex, and controversial, technical and scientific issues. It also is clear that the insulation industry, the thermal testing community, and relevant governmental agencies are still conducting research in this area and cannot themselves yet agree on the essentially technical questions of the effects of thin-sample testing and the present feasibility of representative thickness testing. In these circumstances, the Commission is uncertain whether further rulemaking proceedings could satisfactorily resolve these issues. In addition, such rulemaking would be time-consuming and might not be completed before the time that standard calibration materials are available from NBS for representative thickness testing. In that event, further rulemaking would provide little, if any, benefit to the consuming public.

For these reasons, the Commission has tentatively decided not to propose further rulemaking on the representative thickness testing controversy at this time. Instead, the Commission is proposing that § 460.6 of the rule, which requires representative thickness testing, be stayed temporarily until standard calibration materials are available from NBS.

Although the remand order of the Court covers the testing requirements of the rule only as they apply to mineral wool batts and blankets, the Commission believes that, in the interests of fairness and uniformity, all products should be subject to the same standard. Therefore, the Commission proposes to stay § 460.6 on an industrywide basis (this action would be subject to the approval of the Court and technical modification of the remand order). During the period of the stay, testing of samples could be performed either at representative thickness or at the thickness(es) allowed under the test procedures referenced in § 460.5 of the rule. The Commission would rescind the stay when thick calibration samples designed for representative thickness testing became commercially available to the industry.

The Commission has determined that § 460.6 is severable under § 460.24 of the rule. Further, the Commission believes that it has the inherent discretion to issue a temporary stay of § 460.6 of the rule. However, the Commission also believes that it would benefit from the views of interested parties on whether a temporary stay of § 460.6 is in the public interest, before making a final decision on this proposed stay.

Television Advertising Disclosures. Sections 460.18 and 460.19 of the rule require, among other things, that insulation advertisers make certain affirmative disclosures in any advertisement or other promotional material which contains claims relating to R-value, price, thickness, product comparison, or energy savings. Section 460.10 of the rule requires that the prescribed affirmative disclosures be made clearly and conspicuously, and Appendix B defines the meaning of clear and conspicuous disclosure in the context of television advertisements.

The Tenth Circuit's order remanding the rule to the Commission requires the Commission to reopen the rulemaking record concerning the television advertising disclosure requirements. The Court's order states that the Commission must provide an opportunity for full hearings and presentations, including cross-examination and rebuttal, in the reopening of the rulemaking record. Therefore, in light of the remand order, the Commission proposes to conduct further rulemaking proceedings on the television advertising disclosure requirements of §§ 460.10, 460.18, 460.19 and Appendix B of the rule.

The Commission has determined that these requirements are severable under § 460.24 of the rule. Further, the Commission believes that it has the inherent discretion to issue a temporary stay of the television advertising requirements of §§ 460.10, 460.18, 460.19 and Appendix B of the rule, pending completion of the rulemaking proceedings. However, the Commission also believes that it would benefit from the views of interested parties before making a final decision on this proposed stay.

Public Comments on Proposed Stays. The Commission invites written public comments on its proposals to stay § 460.6, pending the availability of thick standard calibration samples, and to stay the television advertising disclosure requirements in §§ 460.10, 460.18, 460.19 and Appendix B of the rule, pending completion of further rulemaking proceedings. Upon review of the comments received, the Commission will determine whether to make the proposed stays effective. If the Commission decides to stay § 460.6 and the television advertising disclosure requirements in §§ 460.10, 460.18, 460.19 and Appendix B of the rule, it will make effective all other portions of the rule, following reasonable advance notice, if Congressional restrictions on implementation of pending Commission rules are not in effect at that time. In that event, the effective date will be published in the **Federal Register** with sufficient advance notice to all industry members who have compliance obligations under the rule.

By direction of the Commission

Carol M. Thomas,

Secretary.

[FR Doc. 80–16965 Filed 6–2–80; 8:45 am]

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federal register

Tuesday
June 3, 1980

Part IX

Department of the Treasury

Office of Foreign Assets Control

Iranian Assets Control Regulations; Travel-Related Services

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Travel-Related Services

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendment is to add new § 535.432, interpreting the prohibition in § 535.209(a). The need for the amendment is to make it clear that all travel-related transactions by any person subject to the jurisdiction of the United States in connection with travel to or within Iran by U.S. citizens or U.S. permanent resident aliens are prohibited. The effect of the amendment is that this clarification will be available in published form to all interested members of the public, such as airlines, travel agents, ticket agents and similar persons.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Acting Director, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, (202) 376–0395.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

31 CFR Part 535 is amended by the addition of § 535.432 as follows:

§ 535.432 Provision of travel-related services.

Transactions prohibited by § 535.209(a) include all transactions by airlines, shipping lines, travel agents, ticket agents and similar persons subject to the jurisdiction of the United States in connection with arranging travel to or within Iran by U.S. citizens or U.S. permanent resident aliens, unless such travel is authorized or licensed under the provisions of this part. Such prohibited transactions include, but are not limited to, arranging through transportation to Iran; selling passages aboard a foreign carrier providing service to Iran, whether or not originating in the United States; chartering an aircraft or vessel; or arranging accommodations, ground transportation or travel activities within Iran.

Dated: May 30, 1980.

Dennis M. O'Connell,
Acting Director.

Approved:

Richard J. Davis,
Assistant Secretary.

(Sec. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E. O. No. 12170, 44 FR 65729; E. O. No. 12205, 45 FR 24099; E. O. No. 12111, 45 FR 26685)

[FR Doc. 80-17049 Filed 6-2-80; 12:21 pm]

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Reader Aids

Federal Register

Vol. 45, No. 108

Tuesday, June 3, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
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202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

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523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JUNE

37175-37396.....2
37397-37680.....3

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
465.....37397

5 CFR
Proposed Rules
Ch. 1.....37610
352.....37452

6 CFR
705.....37397

7 CFR
10.....37175
711.....37398
947.....37178
1701.....37399
Proposed Rules
760.....37453
1701.....37454

8 CFR
207.....37392
208.....37392
209.....37392
245.....37392

9 CFR
3.....37616

10 CFR
73.....37399
95.....37410
140.....37410

12 CFR
204.....37410
229.....37412-37415
341.....37179
343.....37179

13 CFR
Proposed Rules
120.....37454

14 CFR
39.....37179-37181
97.....37181
Proposed Rules
39.....37221, 37222

15 CFR
370.....37183
373.....37415
374.....37415
376.....37415
379.....37183, 37435
385.....37415
386.....37183
399.....37415
Proposed Rules
19.....37374

16 CFR
460.....37674
1508.....37418
Proposed Rules
705.....37386

18 CFR
141.....37420
271.....37185
282.....37185

20 CFR
Proposed Rules
Ch. I.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. VI.....37648
Ch. VII.....37648

21 CFR
101.....37420
103.....37422
510.....37424
522.....37425
558.....37424
Proposed Rules
310.....37455

22 CFR
Proposed Rules
6.....37456
6f.....37456
171.....37456

28 CFR
42.....37620

29 CFR
102.....37425
Proposed Rules
Subtitle A.....37648
Ch. II.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. XVII.....37648
Ch. XXV.....37648

30 CFR
Proposed Rules
Ch. I.....37648
Ch. VII.....37223

31 CFR
535.....37679

33 CFR
147.....37186
165.....37187

34 CFR
5b.....37426

30.....37426
73.....37426
100.....37426
104.....37426
106.....37426

39 CFR

111.....37426–37427

40 CFR

52.....37188, 37192, 37428–37430
62.....37431
80.....37197
418.....37198
423.....37432
426.....37198
432.....37198

Proposed Rules

51.....37466
52.....37224
80.....37225

41 CFR

Ch. 101.....37199, 37432
101–11.....37433
101–17.....37199
101–18.....37199
101–19.....37199

42 CFR

59.....37433

Proposed Rules

447.....37466

43 CFR

Public Land Orders:

5726.....37438
5727.....37439

44 CFR

64.....37207
65.....37442
67.....37208–37209
205.....37440

Proposed Rules

67.....37226, 37227

45 CFR

74.....37666
100c.....37442

46 CFR

283.....37442

47 CFR

73.....37210

Proposed Rules

2.....37237
22.....37237
73.....37238–37246, 37468
90.....37237

49 CFR

450.....37212
451.....37212
452.....37212
453.....37212
1033.....37219, 37220
1041.....37218

50 CFR

230.....37451

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Last Listing June 2, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2253 / Pub. L. 96–254 To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes. (May 30, 1980; 94 Stat. 399) Price $1.50.

H.R. 6615 / Pub. L. 96–255 To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes. (May 30, 1980; 94 Stat. 420) Price $1.00.

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CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1980)

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[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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6-4-80
Vol. 45 No. 109
Pages 37681-37800

federal register

Wednesday
June 4, 1980

Highlights

37681 **Trade with Romania, Hungary, and People's Republic of China** Presidential determination

37700 **Grant Program** HHS/Sec'y publishes proposed rule deleting those portions that duplicate or conflict with HHS' departmentwide regulations on administration of grants; comments by 7-21-80

37785 **Federal Aid Programs** OMB issues notice of mandatory information requirements for program announcements

37687 **Securities** SEC issues regulations regarding customer protection dealing with reserves and custody of securities; effective 6-4-80

37704 **Telephone** FCC terminates inquiry concerning unsolicited telephone calls and use of the automatic dialer recorded message player

37685 **Interest** FRS has temporarily suspended the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors in the State of Washington and certain counties in the State of Idaho affected by the volcanic eruptions of Mount St. Helens; effective State of Washington 5-21-80, State of Idaho 5-22-80

CONTINUED INSIDE

Highlights

37681 **Trade with Romania, Hungary, and People's Republic of China** Presidential determination

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Contents

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

37693 **Advertising** HHS/Sec'y issues regulations regarding procurement of paid advertising; effective 6–4–80

37719 **Fuel** DOE publishes comments received on proposed evaluation of unsolicited application for high Btu coal gasification loan guarantee

37792 **Employment** SEC is proposing to establish continuing program to provide permanent part-time employment opportunities within all divisions; comments by 8–4–80

37715 **Minority Business** Commerce/MBDA solicits applicants for project serving the State of Michigan; apply by 8–1–80

37716 **Textiles** CITA announces import levels for certain cotton and man-made fiber textile products from the Dominican Republic; effective 6–1–80

37695 **Fishing Vessels** Commerce/NOAA permits for foreign vessels in the fishery conservation zone will be effective July 1, 1980 in the Pacific Billfish and Sharks fishery

37800 **Sunshine Act Meetings**

Contents

Federal Register
Vol. 45, No. 109
Wednesday, June 4, 1980

The President
ADMINISTRATIVE ORDERS
37681 Romania, Hungary, and People's Republic of China, trade with (Presidential Determination No. 80–19 of May 28, 1980)

Executives Agencies

Agency for International Development
RULES
37688 Suppliers of commodities and commodity-related services ineligible for AID financing
NOTICES
Meetings:
37780 Voluntary Foreign Aid Advisory Committee

Agricultural Marketing Service
RULES
37683 Lemons grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Forest Service; Soil Conservation Service.

Alcohol Fuels, National Commission
NOTICES
37785 Meetings (2 documents)

Army Department
See also Engineers Corps.
NOTICES
37717 Armed Forces Discharge Review/Corrections Boards reading room; document distribution and fees
Patent licenses, exclusive:
37716 E.I. Du Pont De Nemours & Co.

Civil Aeronautics Board
NOTICES
Hearings, etc.:
37714 Air Nauru
37714 Air Pacific Ltd.
37712 American Airlines, Inc.
37713 Northeast/Ohio Valley-Florida show-cause proceeding; multiple permissive awards for route authority at Sarasota

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
37715 Colorado
37715 Indiana
37800 Meetings; Sunshine Act

Commerce Department
See National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
37800 Meetings; Sunshine Act

Defense Department
See also Army Department; Engineers Corps.
NOTICES
Meetings:
37717 Electron Devices Advisory Group
37718 Women in Services Advisory Committee

Economic Regulatory Administration
RULES
Oil; administrative procedures and sanctions:
37683 Petitions for rulemaking; address change for filing purposes
PROPOSED RULES
Petroleum allocation and price regulations:
37697 Gasohol pricing and allocation; correction
NOTICES
Canadian allocation program:
37720 Crude oil, April through June
Consent orders:
37722 South Hampton Refining Co.
37724 U.S. Compressed Gas Co.
Environmental statements; availability, etc.:
37721 Deepwater Unit 8 Generating Station, Pennsville, N.J.; meeting
Natural gas; fuel oil displacement certification applications:
37723 Public Service Electric & Gas Co.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
37722 Brunswick Pulp & Paper Co.

Energy Department
See also Economic Regulatory Administration.
RULES
37685 Industrial energy conservation program; reporting forms; correction
NOTICES
37719 Alternative fuel demonstration facilities; high BTU coal gasification; Federal loan guarantees
Meetings:
37718 International Energy Agency Industry Advisory Board

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
37717 Minnesota River, Mankto-North Mankato-Le Hillier, Minn.; flood control

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
37689 California
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
37699 Colorado
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
37700 Oxalic acid

V 45 J E 4 8 0 UMI

NOTICES
Air quality implementation plans; approval and promulgation:
37729 Prevention of significant air quality deterioration (PSD); permit approvals
Meetings:
37727 State FIFRA Issues Research and Evaluation Group
Pesticide applicator certification and interim certification; State plans:
37725 Kentucky
Pesticide registration, cancellation, etc.:
37725 Blazer 2L and 2S
Pesticides; emergency exemption applications:
37726 Utah
Pesticides; experimental use permit applications:
37731 Nor-Am Agricultural Products, Inc.; correction
Pesticides; tolerances in animal feeds and human food:
37731 E. I. du Pont de Nemours & Co.
Toxic and hazardous substances control:
37727 Premanufacture notices receipts
37725 Premanufacture notices receipts; corrections

Federal Communications Commission
PROPOSED RULES
Common carrier services:
37704 Telephone calls, unsolicited; automatic dialer recorded message player use; inquiry termination
NOTICES
37732 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Emergency Management Agency
RULES
Flood insurance; special hazard areas:
37694 Mississippi et al.
NOTICES
Disaster and emergency areas:
37732 Idaho
37732 Louisiana
37733 New York
37733 Washington

Federal Maritime Commission
RULES
Shipper's requests and complaints:
37694 Reports; Filing frequency reduction
PROPOSED RULES
37703 Husbanding agreements; exemption from filing and approval requirements

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
37685 Early withdrawal penalty; temporary suspensions for Washington and portions of Idaho
NOTICES
Applications, etc.:
37734 American National Holding Co.
37734 Banco Gering Corp.
37734 Capital Bancshares, Inc.
37734 Central National Bancshares, Inc.
37735 First American Bancorp, Inc.
37735 First Duncanville Corp.
37735 First National Agency, Inc.
37736 First Poteau Corp.
37736 Holt County Investment Co.
37736 Key Banks, Inc.
37736 Mountain Banks, Ltd.
37736 National Commerce Corp.
37737 Peoples Bancorp, Inc.
37737 Raymondville Bancorp, Inc.
37737 SBT Corp.
37737 Welch Bancshares, Inc.
Federal Open Market Committee:
37734 Domestic policy directives
37800 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
37686 BOC International Ltd.
37686 Cadence Industries Corp. et al.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
37799 Lakeland Fire & Casualty Co.

Foreign Assets Control Office
RULES
37688 Iranian assets control regulations; correction

Forest Service
NOTICES
Environmental statements; availability, etc.:
37711 Chippewa National Forest, Minn.; land and resource management plan
37711 Fremont National Forest, Land and Resource Management Plan, Oreg.

General Services Administration
RULES
Property management:
37693 Personal property; sale, abandonment, or destruction; revised standard forms
NOTICES
Public utilities; hearings, etc.; proposed intervention;
37737 New York Public Service Commission

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
37739 McMoRan Offshore Exploration Co.
37739 Pennzoil Co.
37739 Superior Oil Co.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
RULES
Procurement:
37693 Advertising, paid; publicizing of grant announcements; applicability of regulation
PROPOSED RULES
37700 Grant programs administered by Office of Assistant Secretary for Planning and Evaluation; deletion of duplicated regulations

Housing and Urban Development Department
PROPOSED RULES
Fair housing:

37697 Recognition of substantially equivalent laws, three states and ten localities; transmittal to Congress

Indian Affairs Bureau
RULES
Irrigation projects; operation and maintenance charges:
37688 Crow Irrigation Project, Montana; deletion of unnecessary regulations
NOTICES
Irrigation projects; operation and maintenance charges:
37737 Crow Irrigation Project, Mont.

Interior Department
See Geological Survey; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office.

International Development Cooperation Agency
See Agency for International Development.

International Trade Commission
NOTICES
Import investigations:
37781 Anaerobic impregnating compositions and components
37781 Color television receivers and subassemblies
37784 Petrochemical industries in countries of northern portion of Western Hemisphere

Interstate Commerce Commission
NOTICES
Motor carriers:
37780 Permanent authority applications; corrections (3 documents)
37743 Temporary authority applications
37772 Transportation of Government traffic; special certificate letter

Land Management Bureau
NOTICES
Applications, etc.:
37738 Colorado
Coal leases, exploration licenses, etc.:
37738 Alabama
Wilderness areas; characteristics, inventories, etc.:
37738 Idaho

Management and Budget Office
NOTICES
37785 Federal assistance program announcements; mandatory information requirements; republication

Minority Business Development Agency
NOTICES
37715 Financial assistance application announcements

National Labor Relations Board
NOTICES
37800 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
37695 Foreign fishing; Pacific Ocean billfish, oceanic sharks, wahoo, and mahimahi; extension of time
NOTICES
Marine mammal permit applications, etc.:
37715 Hubbs-Sea World Research Inst.

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
37740 Lowell National Historical Park, Mass.

Nuclear Regulatory Commission
NOTICES
37800 Meetings; Sunshine Act

Oceans and Atmosphere, National Advisory Committee
NOTICES
37799 Meeting

Securities and Exchange Commission
RULES
37687 Customer protection; broker-dealer failure to make required reserve deposit; notification requirement to SIPC eliminated
NOTICES
Hearings, etc.:
37786 Atlantic Richfield Co.
37796 Midwest Stock Exchange, Inc.
37796 Philadelphia Stock Exchange
37797 Wilkie, Farr & Gallagher Pension Plan for Partners and Associates
37792 Part-time career employment for Federal employees; implementation
Self-regulatory organizations; proposed rule changes:
37787 Depository Trust Co.
37788, 37793 Midwest Stock Exchange, Inc. (2 documents)
37789, 33790 National Association of Securities Dealers, Inc. (2 documents)
37789 National Securities Clearing Corp.
37794 Pacific Stock Exchange Inc.
37795, 37796 Philadelphia Stock Exchange, Inc. (2 documents)

Small Business Administration
NOTICES
Disaster areas:
37798 Louisiana
37798 Mississippi
37798 Texas
37798 Washington

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
37712 Eutacutaches Creek Watershed, Miss.
Watershed planning assistance; authorization to local organizations:
37712 Kentucky
Watershed projects; deauthorization of funds:
37712 Sevenmile Creek Watershed, Ill.

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States:
37697 Wyoming; hearing

V 45 J E 4 8 0 UMI

V 45 J E 4

NOTICES
Coal mining and reclamation plans:
37743 Shell Oil Co.

Textile Agreements Implementation Committee
NOTICES
Cotton and man-made textiles:
37716 Dominican Republic

Treasury Department
See Fiscal Service; Foreign Assets Control Office.

MEETINGS ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
37715 Colorado Advisory Committee, 6–19–80

DEFENSE DEPARTMENT
Office of the Secretary—
37717 DOD Advisory Group on Electron Devices, 6–26 and 6–27–80

ENERGY DEPARTMENT
37718 International Energy Agency, Subcommittee C of the Industry Advisory Board, 6–11–80
Economic Regulatory Administration—
37721 Deepwater Unit 8 Generating Station, 7–8–80

ENVIRONMENTAL PROTECTION AGENCY
37727 State FIFRA issues Research and Evaluation Group (SFIREG), 7–9 and 7–10–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
Agency for International Development—
37780 Voluntary Foreign Aid Advisory Committee, 6–24 and 6–25–80

OCEANS AND ATMOSPHERE, NATIONAL ADVISORY COMMITTEE
37799 Meetings, 6–19 and 6–20–80

CHANGED MEETINGS

CIVIL RIGHTS COMMISSION
37715 Indiana Advisory Committee, location changed, 6–19 and 6–20–80

DEFENSE DEPARTMENT
Office of the Secretary—
37718 Defense Advisory Committee on Women in the Services (Dacowits), 6–22 and 6–23–80 changed to 6–29 and 6–30–80

HEARINGS

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office—
37697 Resubmitted Wyoming Permanent Regulatory Program, 6–19–80

NATIONAL ALCOHOL FUELS COMMISSION
37785 Long- and short-term potential for alcohol fuels, 6–18–80
37785 Long- and short-term potential for alcohol fuels, 6–19–80

CHANGED HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
37697 Gasohol Pricing and Allocation, 6–16–80, address change

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Presidential Determination:
No. 80–19 of May 28, 1980.....37681
7 CFR
910.....37683
10 CFR
205.....37683
445.....37685
Proposed Rules:
211.....37697
212.....37697
12 CFR
217.....37685
16 CFR
13 (2 documents).....37686
17 CFR
240.....37687
22 CFR
208.....37688
24 CFR
Proposed Rules:
115.....37697
25 CFR
221.....37688
30 CFR
Proposed Rules:
Ch. VII.....37697
31 CFR
535.....37688
40 CFR
52.....37689
Proposed Rules:
52.....37699
180.....37700
41 CFR
3–4.....37693
101–45.....37693
44 CFR
65.....37694
45 CFR
Proposed Rules:
63.....37700
46 CFR
527.....37694
Proposed Rules:
Ch. IV.....37703
47 CFR
Proposed Rules:
68.....37704
50 CFR
611.....37695

Federal Register
Vol. 45, No. 109
Wednesday, June 4, 1980

Presidential Documents

Title 3—

The President

Presidential Determination No. 80–19 of May 28, 1980

Determination Under Subsection 402 (d)(5) and (d)(5)(C) of the Trade Act of 1974—Continuation of Waiver Authority

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, (Public Law 93–618, January 3, 1975; 88 Stat. 1978) (hereinafter "the Act"), I determine, pursuant to Subsections 402 (d)(5) and (d)(5)(C) of the Act, that the further extension of the waiver authority granted by Subsection 402(c) of the Act will substantially promote the objectives of Section 402 of the Act. I further determine the continuation of the waivers applicable to the Socialist Republic of Romania, the Hungarian People's Republic and the People's Republic of China will substantially promote the objectives of Section 402 of the Act.

This determination shall be published in the **Federal Register**.

Jimmy Carter

THE WHITE HOUSE
Washington, May 28, 1980.

[FR Doc. 80–17102
Filed 6–2–80; 4:02 pm]
Billing code 3195–01–M

Rules and Regulations

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Rules and Regulations

Federal Register
Vol. 45, No. 109
Wednesday, June 4, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 253, Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market during the period May 25–31, 1980. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The amendment is effective for the period May 25–31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 29, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports continue good order business for lemons.

It is further found that there is insufficient time between the date when information became available upon which this amendment is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and this amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been appraised of such provision and the effective time.

Paragraph (a) of § 910.553 Lemon Regulation 253 (45 FR 34863) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period May 25, 1980, through May 31, 1980, is established at 300,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 30, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-16906 Filed 6-3-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-80-15]

Administrative Procedures and Sanctions; Petitions for Rulemaking; Change of Address

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends the procedural regulations set forth at 10 CFR Part 205 to provide that certain petitions for rulemaking hereafter shall be filed with the Economic Regulatory Administration, Washington, D.C. and copies sent to the Office of General Counsel. Previously, the provisions of Part 205 have directed that all petitions for rulemaking relating to Parts 209 through 214 of Chapter II, 10 CFR shall be filed with the Office of General Counsel. This rule will require that petitions for rulemaking relating to the regulatory programs administered by the ERA including, but not limited to, those set forth in Parts 210, 211, 212, 213 and 214 shall be filed directly with the ERA and copies sent to the Office of General Counsel. Petitions for rulemaking relating to Part 209 and all other petitions not relating to programs administered by the ERA shall continue to be filed with the Office of General Counsel.

DATES: Effective date is June 4, 1980.

FOR FURTHER INFORMATION CONTACT:

C. Eric Hager (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, N.W., Room 7202H, Washington, D.C. 20461 (202) 653–7074
William Funk or Christopher M. Was (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6736 or 252–6744

SUPPLEMENTARY INFORMATION:

I. Amendments Adopted.
II. Procedural requirements.

I. Amendments Adopted

Since their promulgation in January 1974 by the predecessor Federal Energy Office, the administrative procedures governing our programs have appeared at Part 205, *Administrative Procedures and Sanctions.* Section 205.1 of the general provisions specifies that the procedural requirements of Part 205 apply to all proceedings instituted in accordance with Parts 209 through 214 of Chapter II of 10 CFR. Section 205.162 thereof has provided that petitions for rulemaking shall be filed with the Office of General Counsel. The address for filing such petitions with the General Counsel has been specified by cross

reference to the general address provisions set forth at § 205.12.

In order to improve the procedures by which petitions for rulemaking relating to ERA functions are received and processed, we have determined to amend §§ 205.12 and 205.162 to specify that petitions for rulemaking that deal with the regulatory programs administered by ERA, including the price and allocation regulations (Parts 210, 211, and 212), the oil import regulations (Part 213), and the Canadian crude oil allocation regulations (Part 214) shall hereafter be filed with the Economic Regulatory Administration, Washington, D.C. office. Petitioners will also be required to file a copy of the petition or request for rulemaking with the Office of General Counsel.

A new § 205.12(a)(10) shall specify the address for filing a petition for rulemaking with ERA as follows: Economic Regulatory Administration, Attn: Assistant Administrator for Regulations and Emergency Planning (labeled as "Petition for Rulemaking"), 2000 M Street, N.W., Washington, D.C. 20461.

Section 205.12(a)(3) of the regulations shall be amended to specify the address for filing documents with the Office of General Counsel as follows: Office of General Counsel, U.S. Department of Energy, Attn: (Name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), 1000 Independence Avenue SW., Washington, D.C. 20585.

Pursuant to revised section 205.162, petitions for rulemaking are to be addressed to the Deputy General Counsel for Regulations.

II. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOEOA), we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has determined that it will not significantly affect any functions within the Commission's jurisdiction.

B. Section 501 of the DOE Act

Under section 501(c)(1) of the DOEOA we are not bound by the procedural requirements set forth in subsections (b) through (d) if it is determined that rule does not involve any substantial issues of fact or law and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or business.

These amendments to the procedural regulations are technical in nature. We have determined that the amendments do not raise substantial issues of fact or law, are not likely to have a substantial impact on the Nation's economy and are not likely to have a substantial impact on large numbers of individuals or businesses. Therefore, the amendments shall be promulgated in accordance with section 553 of Title 5, United States Code.

C. Section 553 of the Administrative Procedure Act

The notice and comment requirements set forth in section 553 of the Administrative Procedure Act (APA) are not applicable to rules of agency organization, procedure or practice. Inasmuch as these amendments establish procedural requirements applicable to agency proceedings, advance notice and opportunity for public comment is not required.

D. Executive Order 12044.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires that agencies publish all proposed "significant" regulations for advance public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant.

DOE's procedures for implementing the Executive Order are set forth in DOE Order 2030.1 (44 FR 1032, January 3, 1979). It has been determined that these regulatory amendments are not significant because they are not expected to affect important policy concerns and are not expected to be the object of much public interest. Furthermore, the guidelines set forth in DOE Order 2030.1 cite as an example of a nonsignificant regulation amendments to the regulations determined to be exempt from the APA procedural requirements.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 205 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below effective on June 4, 1980.

Issued in Washington, D.C., May 28, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

10 CFR Part 205 is amended as follows:

1. Section 205.12(a) is amended by revising § 205.12(a)(3) and adding a new § 205.12(a)(10) to read as follows:

§ 205.12 Addresses for filing documents with the [DOE].

(a) * * *

(3) Documents to be filed with the Office of General Counsel, as provided in this part or otherwise, shall be addressed as follows: Office of the General Counsel, U.S. Department of Energy, Attn: (name of person to receive document, if known, and labeling as specified in § 205.9(c)), 1000 Independence Avenue, Washington, D.C. 20585.

* * * * *

(10) Petitions for rulemaking to be filed with the Economic Regulatory Administration National Office shall be addressed as follows: Economic Regulatory Administration, Attn: Assistant Administrator for Regulations and Emergency Planning (labeled as "Petition for Rulemaking,") 2000 M Street, N.W., Washington, D.C. 20461.

* * * * *

2. Section 205.162 is revised to read as follows:

§ 205.162 Where to file.

All comments filed in connection with a rulemaking shall be submitted in accordance with the instructions in the Notice of Proposed Rulemaking. Petitions for rulemaking relating to the functions of the Economic Regulatory Administration (ERA) including, but not limited to, those administered under Parts 210, 211, 212, 213, and 214 of 10 CFR shall be filed with the Economic Regulatory Administration National Office at the address provided in § 205.12 and addressed to the attention of the Assistant Administrator for Regulations and Emergency Planning. Copies of all petitions for rulemaking filed with ERA shall also be filed with Office of General Counsel at the address indicated in § 205.12, addressed to the attention of the Deputy General Counsel for Regulations. Any other petition or request shall be filed with the Office of General Counsel at the address indicated in § 205.12, addressed to the attention of the Deputy General Counsel for Regulations.

[FR Doc. 80–16937 Filed 6–3–80; 8:45 am]

BILLING CODE 6450–01–M

10 CFR Part 445

Industrial Energy Conservation Program; Correction to Plant Reporting Form (CS–189–P)

AGENCY: Department of Energy.

ACTION: Notice of correction to plant reporting form.

SUMMARY: The Department of Energy (DOE) is announcing a technical correction to its plant reporting form (CS–189–P) which is used for the collection of data on industrial energy efficiency under DOE's Industrial Energy Conservation Program (10 CFR Part 445). DOE is correcting the electricity conversion factor for Standard Industrial Classification (SIC) code 30—Rubber and Miscellaneous Plastics—from 3,412 British thermal units (Btu's) per kilowatt-hour (Kwh) to 10,000 Btu's per Kwh. While DOE is correcting only Form CS–189–P, the revised conversion factor will affect the aggregation of plant-level data on Form CS–189–C and the aggregation of corporate-level data on Form CS–189–S for identified corporations and DOE-approved third party sponsors, respectively, in SIC code 30.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2371

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Room 1E258, Washington, D.C. 20585 (202) 252–9516

SUPPLEMENTARY INFORMATION: On February 27, 1980, the Department of Energy (DOE) published in the **Federal Register** (45 FR 12970–96) Forms CS–189–P, CS–189–C, and CS–189–S for the collection of plant, corporate, and sponsor data, respectively, on industrial energy efficiency, pursuant to its regulations governing the Industrial Energy Conservation Program (10 CFR Part 445, 45 FR 10194, February 14, 1980). DOE prepared these forms as required by section 375 of the Energy Policy and Conservation Act (42 U.S.C. 6345), as amended by section 601 of the National Energy Conservation Policy Act (Pub. L. 95–619).

Instruction "K" to Form CS–189–P, the plant reporting form, sets forth, among other things, the conversion factor to be used in determining energy consumption for electricity usage. In particular, the instructions specify that plants reporting in Standard Industrial Classification (SIC) codes 28 and 29 must use an electricity conversion factor of 10,000 British thermal units (Btu's) per kilowatt-hour (Kwh) while plants reporting in all other major energy-consuming industries (i.e., SIC codes 20–27, 30–39) must use an electricity conversion factor of 3,412 Btu's per Kwh. In the **Federal Register** preamble accompanying the publication of the forms, DOE stated that the specification of these conversion factors was a policy decision consistent with the conversion factors used in the development of industrial energy efficiency improvement targets by the Federal Energy Administration (FEA), the predecessor to DOE.

In specifying the conversion factors for electricity, DOE inadvertently overlooked a timely comment filed in response to the review of the forms by the Office of Management and Budget. This comment described a longstanding voluntary energy efficiency improvement target and reporting program in SIC code 30—Rubber and Miscellaneous Plastics. Under this program, a third party sponsor has voluntarily reported data since 1977, to FEA and DOE, on the progress made by corporate members in SIC code 30 toward a voluntary energy efficiency improvement target. Both the voluntary energy efficiency improvement target and the voluntary reporting program in SIC code 30 have used an electricity conversion factor of 10,000 Btu's per Kwh. In accordance with DOE's policy decision, discussed above, to maintain consistency with existing energy efficiency improvement targets, DOE is revising the first two lines of the conversion factor table in instruction "K" to Form CS–189–P to read as follows:

Energy source	Conversion factor (Btu's per energy unit)
Electricity, except for SIC codes 28, 29 and 30 (per kilowatt-hour)	3,412
Electricity, for SIC codes 28, 29 and 30 (per kilowatt-hour)	10,000

While this correction applies only to Form CS–189–P, it affects the data that will be used by both corporations and DOE-approved third party sponsors in SIC code 30 in completing Forms CS–189–C and 189–S, respectively. Accordingly, DOE is notifying all identified corporations and DOE-approved third party sponsors in SIC code 30 of this correction to Form CS–189–P. No other identified corporations or third party sponsors will be affected.

Issued in Washington, D.C., May 28, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80–17004 Filed 6–3–80; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–0305]

Interest on Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors in the State of Washington and certain counties in the State of Idaho affected by the volcanic eruptions of Mount St. Helens.

EFFECTIVE DATE: For the State of Washington, May 21, 1980, and for the affected counties in the State of Idaho, May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3711).

SUPPLEMENTARY INFORMATION: On May 21, 1980, and May 22, 1980, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated respectively, the State of Washington and the Idaho counties of Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, and Shoshone, major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has

occurred. The President's designations enable victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of the volcanic eruptions of Mount St. Helens. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to May 21, 1980, for the State of Washington, and to May 22, 1980, for the eight listed counties in the State of Idaho, and will remain in effect until 12 midnight November 30, 1980.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within the geographic area of the State of Washington and the Idaho counties of Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce and Shoshone which have been officially designated major disaster areas by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the State of Washington and the designated counties of Idaho directly affected by the severe damage and destruction occasioned by the volcanic eruptions of Mount St. Helens, good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), May 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-16993 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

[1] Effective July 1, 1979, § 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forfeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion thereof, are paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed the current ceiling rate for a savings deposit under § 217.7 and the depositor shall forfeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with consent of the depositor.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 8955]

BOC International Limited, f.k.a. the British Oxygen Co., etc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order reopens the proceeding and dismisses the complaint issued on February 26, 1974 charging a London, England manufacturer of industrial gases with violating the Federal Trade Commission Act, and Section 7 of the Clayton Act.

DATES: Complaint issued on Feb. 26, 1974. Dismissal order issued May 14, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: In the Matter of BOC International Limited, formerly known as The British Oxygen Company Limited, BOC Financial Corporation, BOC Holdings, Limited, British Oxygen Investments Limited, and Airco, Incorporated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[1] For order issued in disposition of this proceeding, see 41 FR 753; 86 F.T.C. 1241.

The Order Reopening Proceeding and Dismissing Complaint is as follows:

Upon the joint motion of the parties, this matter was withdrawn from adjudication for settlement purposes by an Order of the Commission issued on March 21, 1980. Having considered the proposed settlement reached between the staff of the Commission and the respondents, the Commission determined not to accept the settlement and to dismiss the Complaint. Accordingly,

It is ordered that the proceeding be, and it hereby is, reopened.

It is further ordered that the Complaint in Docket No. 8955 be, and it hereby is, dismissed.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-17002 Filed 6-3-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-1918]

Cadence Industries Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens and modifies an order to cease and desist issued on May 13, 1971, substituting the name Cadence Industries Corporation for Perfect Film & Chemical Corporation and replaces paragraph 21 of the order with a new paragraph in keeping with orders issued against their competitors and the fact that some magazine publishers do not accept short-term subscriptions transferred from the lists of discontinued publications.

DATES: Decision issued May 13, 1971. Modifying Order issued May 12, 1980.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Arthur B. Patrizio, Washington, D.C., 20580. (202) 254-3499.

SUPPLEMENTARY INFORMATION: In the Matter of Cadence Industries Corporation, a corporation, Perfect Subscription Company, a corporation, and Keystone Readers' Service, Inc., a corporation. Codification under 16 CFR Part 13, appearing at 36 FR 11912, remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Modifying Cease and Desist Order is as follows:

In their request filed on January 22, 1980, the respondents petitioned the Commission, pursuant to Section 2.51 of its Rules of Practice, to reopen the proceedings and modify the order of May 13, 1971, entered in Docket Number C-1918. Respondents ask that the name Cadence Industries Corporation be substituted for Perfect Film & Chemical Corporation and that numbered paragraph 21 of the order be modified. The paragraph in question reads as follows:

21. Substituting, requesting substitution or permitting substitution, except at the request of the customer, at any time during the collection period of the contract, of any magazine or publication for any magazine or publication covered by the contract without first providing the subscriber an option in writing, as stated in the subscription contract, to reduce his future payments by the pro rata portion of the remaining payments due on the cancelled magazine or other publication; provided, that respondents may offer to those subscribers with paid-in-full contracts an option to either lengthen already existing subscriptions or to select from among all of respondent's then currently offered magazines or publications, a magazine or publication as a substitute for the remaining period of the subscription.

In support of their request, respondents state that the name of Perfect Film & Chemical Corporation was duly changed to Cadence Industries Corporation on October 22, 1970, by filing said change with the Secretary of State of Delaware. Respondents have also advanced a number of considerations intended to show changed conditions of fact since the order was issued and to show that the public interest will best be served by granting their request. They allege that they cannot fully comply with paragraph 21 of the order because certain magazine publishers will not accept short term subscriptions transferred from the lists of discontinued publications. They point out that the proviso in paragraph 21 requires that they offer to subscribers with paid-in-full contracts the option to choose any magazine from among all their currently offered magazines or publications, and that, therefore, they are unable to execute a subscriber's choice, if it happens to be a magazine of a publisher that does not accept short term subscriptions. They also point out that no similar proviso is to be found in the orders the Commission has issued against their competitors and they cite that as a competitive disadvantage. Finally, they claim that the requested modification will serve the public interest by enabling them to better serve their subscribers in offering them as possible substitutions, only magazines of publishers that accept short term subscriptions.

Having considered the request, the Commission has concluded that it should be granted and that the modification will safeguard the public interest. Therefore,

It is ordered, that (1) the name Cadence Industries Corporation be substituted for Perfect Film & Chemical Corporation in the style of this docket and throughout the Order, where it appears; and that (2) numbered paragraph 21 of the order quoted above, be replaced by the following new paragraph:

21. Cancelling a subscription contract for any reason other than a breach by the subscriber without either arranging for the delivery of publication already paid for or promptly refunding money on a pro rata basis for all undelivered issues of publications for which payment has been made in advance; and in the event of the discontinuance of publication, or other unavailability, of any magazines subscribed for, at any time during the life of the contract, failing to offer the subscriber the right to substitute one or more magazines or other publications, or the extension of subscription periods of magazines already selected.

It is further ordered that the foregoing modifications shall become effective upon service of this order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-17001 Filed 6-3-80; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16847]

Rule 15c3-3—Customer Protection—Reserves and Custody of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending paragraph (i) of Rule 15c3-3 (17 CFR 240.15c3-3) to eliminate the requirement that the Securities Investor Protection Corporation ("SIPC") be notified of a broker's or dealer's failure to make a required deposit to his Reserve Bank Account or Special Account. Since the time the requirement to notify SIPC was instituted, the Commission and the self-regulatory organizations have established more comprehensive surveillance and reporting procedures. Due to these changes, SIPC has stated it no longer requires such notification. The elimination of the necessity to notify SIPC is intended to reduce reporting burdens on brokers and dealers.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT: JoAnn Zuercher, 202-272-2368.

SUPPLEMENTARY INFORMATION: Paragraph (i) of Rule 15c3-3 presently provides that should a broker or dealer fail to make a deposit in his Reserve Bank Account or Special Account, as required by the Rule, he must immediately notify by telegram the Commission, SIPC and the regulatory authority which examines the broker or dealer as to financial responsibility and promptly thereafter confirm the notification in writing.

When Rule 15c3-3 was being developed, SIPC was in its formative stage and was concentrating on developing procedures necessary to carry out its responsibilities under the Securities Investor Protection Act. However, because since that time the Commission and the self-regulatory organizations have established more comprehensive surveillance and reporting procedures, SIPC has informed the Commission that it no longer has the same urgency with respect to receipt of these notifications. Further, with a view to reducing reporting burdens on brokers and dealers, wherever advisable, SIPC has concluded that the need for telegraphic notification does not justify the burden of the reporting requirement.

Accordingly, the Commission is hereby eliminating the requirement that SIPC be notified by telegram and sent confirmation in writing of the failure on the part of a broker or dealer to make a deposit as required by Rule 15c3-3 to his reserve bank account or special account. However, it should be noted that this amendment does not affect any other reporting provision in the Rule. Thus the Commission and the relevant self-regulatory organization must continue to be notified by telegram of any such failure and such notification must continue to be confirmed in writing.

In view of the foregoing, the Commission finds that it is unnecessary to publish the above described action for notice and public comment. Under the Administrative Procedure Act, 5 U.S.C. Section 553, the amendment described in the Text of the Amendments will be effective upon publication in the **Federal Register.**

Statutory Basis and Competitive Considerations

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly Sections 3 and 15(c)(3) thereof (15 U.S.C. 78c and 78o), hereby deletes a portion of paragraph (i) of Rule 15c3–3 (17 CFR 240.15c3–3(i)) as set forth below.

The Commission finds that the amendment will not impose any burden on competition.

Text of Amendments

Accordingly, 17 CFR Part 240 is amended by revising paragraph (i) of § 240.15c3–3 to read as follows:

§ 240.15c3–3 Customer protection—reserves and custody of securities.

* * * * *

(i) *Notification in the event of failure to make a required deposit.* If a broker or dealer shall fail to make in his reserve bank account or special account a deposit, as required by this section, the broker or dealer shall by telegram immediately notify the Commission and the regulatory authority for the broker or dealer, which examines such broker or dealer as to financial responsibility and shall promptly thereafter confirm such notification in writing.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

May 28, 1980.

[FR Doc. 80–17009 Filed 6–3–80; 8:45 am]

BILLING CODE 8010–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 208

[AID Regulation 8]

Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This regulation governing exclusion of suppliers of commodities and of commodity-related services from eligibility for A.I.D. financing was published without change in the **Federal Register** on February 12, 1980 (45 FR 9293) for public comment in accordance with the Agency's plan to periodically review existing regulations.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen O'Hara, Office of Commodity Management, Agency for International Development, Washington, D.C. 20523, telephone (703) 235–2173.

No comments were received. Therefore, the regulation as published on February 12, 1980 is final.

Dated: May 27, 1980.

Donald G. MacDonald,

Assistant Administrator for Program and Management Services.

[FR Doc. 80–16828 Filed 6–3–80; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 221

Operations and Maintenance Charges; Deletion of Unnecessary Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This document removes regulations related to the operation and maintenance charges on the Irrigation Districts, Crow Irrigation Project, Crow Agency, Montana. This action is necessary to reflect amendments providing the Officer-in-Charge with greater flexibility in the day-to-day operation of the Project. The action taken will affect a fair market level of return for the economic benefit of the lessors of the land.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT: Norris M. Cole, Telephone (406) 638–2671.

SUPPLEMENTARY INFORMATION: In the June 14, 1977, **Federal Register** (42 FR 30361) there was published a notice of final rule on new general regulations governing the operation and maintenance of Indian Irrigation projects. The revision consolidated the regulations for all Indian Irrigation Projects in a new Part 191 of Title 25 of the Code of Federal Regulations. The updated regulations provided for the Area Director to publish the annual operation and maintenance rates and related information by general notice document in the **Federal Register**, and as new rates are announced the corresponding sections in Part 221 of Title 25 of the Code of Federal Regulations would be deleted. The latest notice of water charges and related information on the Irrigation Project shall be published as general notice in the **Federal Register** on the same date as this Final Rule.

Therefore, 25 CFR Part 221 is amended by deleting the following sections: Crow Irrigation Project, Montana: Sections 221.12, 221.13, 221.13a, 221.13b, 221.13c, 221.13d and 221.13e.

Date: May 19, 1980.

John Hill,

Acting Superintendent, Crow Indian Agency.

[FR Doc. 80–16990 Filed 6–3–80; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Correction.

SUMMARY: This correction document corrects two typographical errors in FR Doc. 80–12365, published in the **Federal Register** on April 21, 1980 (45 FR 26940).

EFFECTIVE DATE: April 17, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Acting Director, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, (202) 376–0395.

In FR Doc. 80–12365, appearing at pages 26940 through 26941 in the **Federal Register** of April 21, 1980, an extra word, "other", was inadvertently included in the fourth line of § 535.209(a)(1), and the words "to" and "travel or" were omitted from the end of the third line of § 535.209(b). As corrected § 535.209(a)(1) and (b) should read as follows:

§ 535.209 Transactions incident to travel and maintenance of U.S. nationals in Iran prohibited.

(a) * * *

(1) Any direct or indirect payment or transaction (including any transfer, other dealing in, or use of property) either to, by, on behalf of, or otherwise involving, any foreign country or any national thereof, which is incident to travel to, or travel or maintenance within Iran of any individual who is a U.S. citizen or U.S. permanent resident alien.

(b) The prohibitions of paragraph (a) of this section do not apply to transactions incident to travel to or travel or maintenance within Iran of individuals who are citizens of Iran.

* * * * *

Dated: May 30, 1980.

Dennis M. O'Connell,

Acting Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 80–17000 Filed 6–3–80; 8:45 am]

BILLING CODE 4810–25–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1504–1]

Approval and Promulgation of Implementation Plans; Emergency Episodes; Fresno and Kern Counties, Calif.

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve portions of the emergency episode rules of the Fresno County and Kern County Air Pollution Control Districts (FCAPCD and KCAPCD), to take no action on part of the rules, and to promulgate additional regulations. As described in the March 11, 1980 Notice of Proposed Rulemaking (45 FR 15586), the effect of this action is to provide air pollution emergency episode rules which meet all the requirements of 40 CFR 51.16, Prevention of air pollution emergency episodes.

EFFECTIVE DATE: July 7, 1980.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief (A–4–3), Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 556–2002.

SUPPLEMENTARY INFORMATION: This rulemaking arose out of litigation in *California Lung Association et al.* v. *Costle*, Civil No. 75–1044–WPG, and is required under the Modification of Joint Stipulation of Settlement and Order Modifying Findings of Fact and Conclusions of Law, signed in August 1979 by the counsels for the Administrator and for the California Lung Association, which stated that the EPA would have to review and approve or promulgate regulations for 12 Air Pollution Control Districts. This final rulemaking and the documents associated with it satisfy in part the Settlement between the EPA and the California Lung Association. (For a more detailed description of the litigation, see 4 FR 30118.)

On March 11, 1980 (45 FR 15586) the EPA published a Notice of Proposed Rulemaking concerning air pollution emergency episode rules of the FCAPCD and the KCAPCD. That notice proposed to approve certain portions of the two Districts' Regulation VI (Rules 601–615), take no action on other portions, and promulgate additional rules to correct deficiencies in the Districts' emergency episode rules.

The rules being acted upon in this notice are as follows: KCAPCD Regultion VI (Rules 601–615), submitted to the EPA by the California Air Resources Board (ARB) on July 19, 1974, and FCAPCD Regulation VI (Rules 601–615), submitted by the ARB on October 23, 1974, as revisions to the State Implementation Plan. The ARB has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The March 11, 1980 Notice invited public comments on the proposed rulemaking. One comment letter was received, which recommended that stationary sources in the Southeast Desert Air Basin (SEDAB) portion of Kern County not be required to submit episode plans. This recommendation was based on four points, which are discussed below.

(1) *Comment:* Sources in the SEDAB portion of Kern County contribute a small percentage of the total county-wide NO_x and TSP emissions.

EPA Response: In Priority I areas, such as the San Joaquin Valley Air Basin *and* the SEDAB (for TSP), curtailment plans are required under 40 CFR 51.16 for all major stationary sources (those emitting 100 tons or more per year), regardless of the percentage contribution to county-wide emissions. Such plans, however, will be implemented based upon the source/receptor relationship, and as a result only those sources which contribute to a particular episode will be required to implement their abatement plans.

(2) *Comment:* Sources in the SEDAB portion of Kern County do not appear to cause or contribute to violations of the NAAQS within their air basin, nor are there any receptor areas for emissions for these sources.

EPA Response: Violations of the NAAQS have been recorded in the SEDAB. Since all sources in the Basin share the same air, especially during stagnation conditions, major stationary sources, such as those in Kern County, must be assumed to have contributed to those violations. An example of a receptor area would be the community of Mojave.

(3) *Comment:* Curtailment plans would be of little use in the absence of ambient air quality monitoring stations as no emergency episode levels could be predicted.

EPA Response: Ambient air quality monitoring for TSP is currently being performed at Mojave, Boron, and China Lake, all in the SEDAB portion of Kern County. These monitors are capable of detecting emergency episode levels and can be used for predictions

(4) *Comment:* Regulations on the preparation of implementation plans do not appear to require the submittal of curtailment plans by sources in the SEDAB portion of Kern County.

EPA Response: The Technical Support Document, upon which this comment was based, erroneously indicated that sources in the SEDAB portion of Kern County are required by 40 CFR 51.16(g) to submit curtailment plans. That paragraph pertains to Priority II areas and should not have been cited for Kern County, all of which is Priority I for TSP, as stated in 40 CFR 52.221, in the Evaluation Report, and in the Notice of Proposed Rulemaking. Thus the authority cited should be § 51.16(b), which requires specification of adequate emission control actions to be taken at each stage.

As described in the March 11, 1980 Notice, the FCAPCD and KCAPCD emergency episode rules fulfill, in part, the requirements of 40 CFR 51.16 and are therefore being approved, except for those portions pertaining to sulfur dioxide or to 12-hour carbon monoxide criteria levels, which portions are not being acted upon.

Also as described in that Notice, additional rules are being promulgated by the EPA so that all requirements of 40 CFR 51.16 are met, including 4- and 8-hour carbon monoxide criteria levels, episode actions applicable to those levels, 24-hour particulate matter criteria levels, episode actions applicable to those levels (Priority I plan), a lower Stage 3 oxidant criterion level, mandatory emission control actions for Stage 2 and Stage 3 episodes, a time schedule for submittal and review of abatement plans for major stationary sources, more specific criteria for content of abatement plans, and traffic abatement plans from large traffic-generating establishments.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: May 29, 1980.

(a) *Regulation for prevention of air*

weekday and on a major national

Dated: May 29, 1980.

Douglas M. Costle,

Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(vii)(C) and (c)(25)(i)(D) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(vii) * * *

(C) Rules 601–615, except those portions pertaining to sulfur dioxide and the 12-hour carbon monoxide criteria levels.

* * * * *

(25) * * *

(i) * * *

(D) Rules 601–615, except those portions pertaining to sulfur dioxide and the 12-hour carbon monoxide criteria levels.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(12), (a)(13), (q), (r), (s), and (t) as follows:

§ 52.274 California air pollution emergency plan.

(a) * * *

(12) Fresno County Air Pollution Control District.

(13) Kern County Air Pollution Control District.

* * * * *

(q) The requirements of § 51.16 of this Chapter are met in the Fresno County Air Pollution Control District, with the following exceptions: there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for carbon monoxide episodes based on 4- and 8-hour averaging times, or for particulate matter emergency episodes based on 24-hour averaging times; there is no time schedule to initiate the call for the submittal of individual abatement plans; the requirements for the content of the abatement plans are not sufficiently specific to ensure the adequate plans are submitted; there are no provisions for requiring abatement plans from operations which attract large numbers of motor vehicles with their related emissions; the Stage 3 photochemical oxidants (ozone) criterion level equals the Federal significant harm level; there are no provisions for adequate mandatory emission control actions.

(r) *Regulation for prevention of air pollution emergency episodes—4- and 8-hour carbon monoxide criteria levels, mandatory emission control actions, preplanned abatement strategies, and a Priority I particulate matter emergency episode contingency plan.*

(1) The requirements of this paragraph are applicable in the Fresno County Air Pollution Control District.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ppm" means parts per million by volume.

(iii) "$\mu g/m^3$" means micrograms per cubic meter.

(iv) "Major national holiday" means a holiday such as Christmas or New Year's Day.

(3) For the purposes of this regulation, the following episode criteria shall apply to carbon monoxide episodes:

Pollutant	Averaging time (hours)	Stage 1 (ppm)	Stage 2 (ppm)	Stage 3 (ppm)
Carbon monoxide....	4	25	45	[illegible]
	8	15	30	40

(4) The provisions of the Fresno County Air Pollution Control District's Regulation VI, as submitted on October 23, 1974, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(5) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental establishments in Fresno County as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental stationary source which can be expected to emit 100 tons or more per year of carbon monoxide, hydrocarbons, or particulate matter shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaminants in such activity:

(ii) The plans required by subparagraph (5)(i) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board's "Criteria for Approval of Air Pollution Emergency Abatement Plans" (Executive Order G–63).

(B) The total number of employees at the facility during each shift on a normal weekday and on a major national holiday.

(C) The amount of energy (gas, fuel oil, and electricity) used on a normal weekday and on a major national holiday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(1) The measures to curtail, as much as possible, equipment operations that emit air pollutants specific to the type of episode and, in the case of oxidant episodes, the equipment operations that emit hydrocarbons or nitrogen oxides.

(2) The measures to postpone operations which can be postponed until after the episode.

(F) For third-stage episodes:

(1) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in carbon monoxide, hydrocarbons, nitrogen oxides, and particulate matter emissions.

(2) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the carbon monoxide, hydrocarbons, nitrogen oxides, and particulate matter emissions from such equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity employing more than 100 persons per shift at any one business address shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use.

(iv) The plans required by subparagraph (5)(iii) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board's "Criteria for Approval of Air Pollution Emergency Abatement Plans" (Executive Order G–63).

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(1) By the company on company business on a normal weekday and a major national holdiay.

(2) By employees commuting between home and the place of business on a normal weekday and a major national holiday.

(3) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(6) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(7) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed in subparagraph (5) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(8) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons, carbon monoxide, or particulate matter greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons, carbon monoxide, or particulate matter greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(9) The owner or operator of any industrial, business, governmental or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator within 30 days after the plan has been evaluated as to whether the plan has been approved or disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(10) Any source that violates any requirement of this regulation shall be subject to enforcement action under section 113 of the Act.

(11) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to: Regional Administrator, ATTN: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A–4–3), Environmental Protection Agency, 215 Fremont Street, San Franscisco, CA 94105.

(12) For the purposes of this regulation the following episode criteria shall apply to particulate matter episodes and Stage 3 photochemical oxidants episodes:

Pollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Particulate matter	24	375 $\mu g/m^3$	625 $\mu g/m^3$	875 $\mu g/m^3$
Photochemical oxidants	1			0.5 ppm

(13) The Fresno County Air Pollution Control District's Regulation VI, as submitted on October 23, 1974, relating to episodes for carbon monoxide and photochemical oxidants averaged over 1 hour, shall apply to particular matter episodes averaged over 24 hours, except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(14) The Administrator shall insure that the following actions will be taken in the source and receptor areas on the declaration of a Stage 1, Stage 2 or Stage 3 episode:

(i) For a Stage 1 or Stage 2 episode:

(A) Persons operating any facility or activity named in subparagraph (5) of this paragraph shall implement the appropriate plans submitted in accordance with subparagraph (5) of the declared Stage 1 or Stage 2 episode for the appropriate air contaminant(s).

(ii) For a Stage 3 episode:

(A) The general public, schools, industrial, business, commercial, and governmental activities throughout Fresno County shall operate as though the day were a major national holiday.

(s) The requirements of § 51.16 of this Chapter are met in the Kern County Air Pollution Control District, with the following exceptions: there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for carbon monoxide episodes based on 4- and 8-hour averaging times, or for particulate matter emergency episodes based on 24-hour averaging times; there is no time schedule to initiate the call for the submittal of individual abatement plans; the requirements for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted; there are no provisions for requiring abatement plans from operations which attract large numbers of motor vehicles with their related emissions; the Stage 3 photochemical oxidants criterion level equals the Federal significant harm level; there are no provisions for adequate mandatory emission control actions.

(t) *Regulation for prevention of air pollution emergency episodes—4- and 8-hour carbon monoxide criteria levels, mandatory emission control actions, preplanned abatement strategies, and a Priority I particulate matter emergency episode contingency plan.*

(1) The requirements of this paragraph are applicable in the Kern County Air Pollution Control District.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ppm" means parts per million by volume.

(iii) "$\mu g/m^3$" means micrograms per cubic meter.

(iv) "Major national holiday" means a holiday such as Christmas or New Year's Day.

(3) For the purposes of this regulation the following episode criteria shall apply to carbon monoxide episodes:

Pollutant	Averaging time (hours)	Stage 1 (ppm)	Stage 2 (ppm)	Stage 3 (ppm)
Carbon monoxide..	4	25	45	[illegible]
	8	15	30	40

(4) The provisions of the Kern County Air Pollution Control District's Regulation VI, as submitted on July 19, 1974, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(5) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental establishments in Kern County as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental stationary source which can be expected to emit 100 tons or more per year of carbon monoxide,

nitrogen oxides, hydrocarbons, or particulate matter shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaminants in such activity:

(ii) The plans required by subparagraph (5)(i) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board's "Criteria for Approval of Air Pollution Emergency Abatement Plans" (Executive Order G–63).

(B) The total number of employees at the facility during each shift on a normal weekday and on a major national holiday.

(C) The amount of energy (gas, fuel oil, and electricity) used on a normal weekday and on a major national holiday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(1) The measures to curtail, as much as possible, equipment operations that emit air pollutants specific to the type of episode and, in the case of oxidant episodes, the equipment operations that emit hydrocarbons or nitrogen oxides.

(2) The measures to postpone operations which can be postponed until after the episode.

(3) For fossil fuel-fired combustion sources, including electric utilities, with a heat input greater than 50 million BTU per hour, the measure to burn natural gas.

(4) For electric utilities, the measures, in addition to those in subparagraph (E)*(3)*, to:

(i) Shift oil-burning power generation to non-source areas to the maximum extent consistent with the public health, safety, and welfare.

(5) For refineries, mineral processing plants, and chemical plants, the measures to be taken to reduce emissions by 20 percent by curtailing equipment operations that emit air pollutants specific to the type of episode and, in the case of oxidant episodes, the equipment operations that emit hydrocarbons or nitrogen oxides, without jeopardizing the public welfare, health, or safety, without causing an increase in the emissions of other air contaminants, without damaging equipment, and without reducing production by more than 20 percent.

(6) The measures in subparagraph (5)(ii)(D) of this paragraph.

(F) For third-stage episodes:

(1) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in carbon monoxide, hydrocarbons, nitrogen oxides, and particulate matter emissions.

(2) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the carbon monoxide, hydrocarbons, nitrogen oxides, and particulate matter emissions from such equipment.

(3) The measures for chemical plants, petroleum refineries, and mineral processing plants to reduce emissions by 33 percent by curtailing equipment operations that emit air pollutants specific to the type of episode and, in the case of oxidant episodes, the equipment operations that emit hydrocarbons or nitrogen oxides, without damaging the equipment or increasing the emissions of other air contaminants.

(4) The measures described in subparagraph (5)(ii)(E) of this paragraph.

(5) The measures for stationary sources (other than petroleum refineries, chemical plants, and mineral processing plants) which emit 100 tons or more per year of air contaminants to eliminate emissions specific to the type of episode and, in the case of oxidant episodes, the measures to eliminate hydrocarbons and nitrogen oxides by starting no new batches, by ceasing feed of new materials, and by phasing down as rapidly as possible without damage to the equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity employing more than 100 persons per shift at any one business address shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use.

(iv) The plans required by subparagraph (5) (iii) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board's "Criteria for Approval of Air Pollution Emergency Abatement Plans" (Executive Order G–63).

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(1) By the company on company business on a normal weekday and a major national holiday.

(2) By employees commuting between home and the place of business on a normal weekday and a major national holiday.

(3) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(6) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(7) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed in subparagraph (5) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(8) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons, nitrogen oxides, carbon monoxide, or particulate matter greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons, nitrogen oxides, carbon monoxide, or particulate matter greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(9) The owner or operator of any industrial, business, governmental, or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator within 30 days after the plan has been evaluated, as to whether the plan has been approved or disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of disapproval.

(10) Any source that violates any requirement of this regulation shall be subject to enforcement action under section 113 of the Act.

(11) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to: Regional Administrator, ATTN: Air and Harardous Materials Division, Air Technical Branch, Technical Analysis Section (A–4–3), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

(12) For the purposes of this regulation, the following episode criteria shall apply to particulate matter episodes and Stage 3 photochemical oxidants episodes:

Pollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Particulate matter	24	375 μg/m³	625 μg/m³	875 μg/m³
Photochemical oxidants	1			0.5 ppm

(13) The Kern County Air Pollution Control District's Regulation VI, as submitted on July 19, 1974, relating to episodes for carbon monoxide and photochemical oxidants averaged over 1 hour, shall apply to particulate matter episodes averaged over 24 hours, except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(14) The Administrator shall insure that the following actions will be taken in the source and receptor areas on the declaration of a Stage 1, Stage 2, or Stage 3 episode:

(i) For a Stage 1 or Stage 2 episode:

(A) Persons operating any facility or activity named in subparagraph (5) of this paragraph shall implement the appropriate plans submitted in accordance with subparagraph (5) of the declared Stage 1 or Stage 2 episode for the appropriate air contaminants.

(ii) For a Stage 3 episode:

(A) The general public, schools, industrial, business, commercial, and governmental activities throughout Kern County shall operate as though the day were a major national holiday.

[FR Doc. 80–17006 Filed 6–3–80; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3–4

Procurement of Paid Advertising

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending 41 CFR Chapter 3 by adding two provisions to Subpart 3–4.51, Procurement of Paid Advertising, of Part 3–4, Special Types and Methods of Procurement.

These additions would clarify the Subpart by providing for the publicizing of grant announcements by paid advertising and stating that the regulation does not apply in those instances where specific legislation permits or requires the publication of notices to the public.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. C. M. Lord, Office of Procurement Policy, Office of Grants and Procurement, OASMB–OS, HHS, Washington, D.C. 20201 (202–245–8791).

SUPPLEMENTARY INFORMATION: It is the general policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the amendments are minor additions to the regulations which will clarify Subpart 3–4.51, the public rulemaking process was deemed unnecessary in this instance. The provisions of these amendments are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Date: May 29, 1980.

Murray N. Weinstein,

Acting Deputy Assistant Secretary for Grants and Procurement.

Subpart 3–4.51, Procurement of Paid Advertising, of Part 3–4, Special Types and Methods of Procurement, is amended as follows:

(1) Section 3–4.5100, *Scope of subpart:* is amended by adding the following sentence to the end.

§ 3–4.5100 Scope of subpart.

* * * This subpart is not applicable in those instances where specific legislation permits or requires the publishing of public notices.

(2) In § 3–4.5101, *Policies and procedures,* paragraph (c) is revised to read as follows:

§ 3–4.5101 Policies and procedures.

* * * * *

(c) Paid advertisements shall be limited to the publication of essential details of grant announcements, requests for proposals and invitations for bids including those for the sale of personal property, and for the recruitment of employees.

[FR Doc. 80–16908 Filed 6–3–80; 8:45 am]

BILLING CODE 4110–12–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–45

[FPMR Amendment H–124]

Sale, Abandonment, or Destruction of Personal Property; Revised Editions of Standard Forms

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides current illustrations of revised Standard forms.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles U. Benner, Director, Sales Division (703–557–3699).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order No. 12044.

1. Section 101–45.4901–114 is revised to illustrate the May 1978 edition of Standard Form 114, Sale of Government Property—Bid and Award.

§ 101–45.4901–114 Standard Form 114, Sale of Government Property—Bid and Award

Note.—The form illustrated in this § 101–45.4901–114 is filed with the original document and does not appear in this volume.

2. Section 101–45.4901–114E is revised to illustrate the July 1978 edition of Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.

§ 101–45.4901–114E Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.

Note.—The form illustrated in this § 101–45.4901–114E is filed with the original document and does not appear in this volume.

3. Section 101-45.4901-126 is revised to illustrate the July 1978 edition of Standard Form 126, Report of Personal Property for Sale.

§ 101-45.4901-126 Standard Form 126, Report of Personal Property for Sale.

Note.—The form illustrated in § 101-45.4901-126 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: May 22, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-17007 Filed 6-3-80; 8:45 am]

BILLING CODE 6820-96-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5834]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4 (presently appearing also at its former Section 24 CFR 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing also at its former Section 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing also at its former Section 24 CFR Part 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Mississippi	Tunica	Tunica, town of	*The Tunica Times Democrat*, May 24 and May 31, 1979.	Hon. Ellis E. Koonce, Mayor, Town of Tunica, Box 395, Tunica, Miss. 38676.	Apr. 25, 1980	280196C
Virginia	Campbell	Altavista, town of	*Altavista Journal*, Apr. 11 and Apr. 18, 1979.	Mr. Stanley L. Goldsmith, Town Manager, 510 Seventh Street, Altavista, Va. 24517.	Apr. 11, 1980	510029 0001-0003C

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16964 Filed 6-3-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 527

[General Order 14, Admt. 6; Docket No. 80-11]

Shippers' Request and Complaints

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This amends the Commission's regulations by reducing the frequency of filing reports of Shipper's Requests and Complaints from quarterly to annually.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: This proceedings was instituted by notice of proposed rulemaking published in the **Federal Register** on March 10, 1980, (45 FR 15229) to amend § 527.4 of the Commission's regulations (General Order 14, 46 CFR 527.4), reducing the frequency of filing of reports of shippers requests and complaints from a quarterly to an annual basis. The proposal provides that by January 31 of each year, each conference and each other body with rate-fixing authority under an approved agreement shall file with the Commission a report covering all shippers' requests and complaints received during the preceding calender year or pending at the beginning of such calendar year.

By way of background, section 15 of the Shipping Act, 1916 (the Act), requires that the Commission shall disapprove any such agreement [conference or ratemaking] after notice and hearing, on a finding of failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints. Section 527.4 of Title 46, Code of Federal Regulations, presently requires the quarterly filing of reports of shippers' requests and complaints by each conference and ratemaking agreement. Two party ratemaking agreements are required to file only an annual report.

An annual submittal will reduce the workload of the regulated parties. During the fiscal year from October 1978 through September 1979, 349 such reports were received at the Commission. If reported on an annual basis only, 87 reports would have been prepared and filed for the above period and the reporting and carry over of "pending" complaints reduced by three-fourths.

Comments from interested parties were invited with respect to the proposed rule. A total of 8 comments were filed on behalf of 39 representative commentators, all conferences and rate agreements.

Position of the Commentators

Twenty seven of the commentators were in total agreement with the rule change as proposed. They all emphasized that the change will significantly reduce the workload of their staffs as well as the Commission's staff and in no way hamper the promptness with which shippers' requests and complants are handled by them and that the Commission's regulatory responsibility to oversee would not be affected.

The twelve other commentators generally stated that the proposed rule change had no particular significance to them in that the number of complaints requires them to maintain a continuous procedure of clerical recording for eventual dispatch to the Commission and that the proposed reporting schedule did not change this. It was pointed out that the proposal will not appreciably reduce the volume of material required to be shown by a conference to establish that it maintains reasonable procedurers for processing shippers' request and complaints. However, they did say they had no objections to the proposed regulation change.

The Commission has considered all of the filed comments in this rulemaking proceeding and has determined it appropriate to reduce the reporting requirements set forth under § 527.4 from a quarterly requirement to an annual requirement.

Enactment of the regulation will do no disservice to the promptness with which shippers' requests and complaints are dealt and will not hamper the Commission's regulatory responsibility to oversee this area. The relaxation of reporting requirements does not relieve carriers of their statutory duty to promptly and fairly hear shippers' requests and compliants.

Accordingly, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553, and sections 15, 21 and 43 of the Shipping Act, 1916, 46 U.S.C. 814, 820 and 841a, the Federal Maritime Commission hereby revises § 527.4 of Title 46 CFR (General Order 14) to read as follows:

§ 527.4 Reports.

By January 31 of each year, each conference and each other body with rate-fixing authority under an approved agreement shall file with the Commission a report covering all shippers' requests and complaints received during the preceding calendar year or pending at the beginning of such calendar year. The first such report shall be filed by January 31, 1981. All such reports shall include the following information for each request or complaint:

(a) Date request or complaint was received.

(b) Identity of the person or firm submitting the request or complaint.

(c) Nature of request or complaint, i.e., rate reduction, rate establishment, classification, overcharge, undercharge, measurement, etc.

(d) If final action was taken, date and nature thereof.

(e) If final action was not taken, an identification of the request or complaint as "pending."

(f) If denied, the reason.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16994 Filed 6-3-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Permits for Foreign Fishing Vessels

AGENCY: National Marine Fisheries Service (NOAA)/Commerce.

ACTION: Extension of permit requirements.

SUMMARY: Provisions of 50 CFR 611.3 requiring permits for foreign vessels fishing in the fishery conservation zone shall not be effective for vessels in the Pacific Billfish and Sharks fishery until July 1, 1980. The agent for Korean vessels has requested an extension of this period to allow time to translate the regulations into Korean and to transmit the permit forms to individual firms. The National Marine Fisheries Service is granting an extension and delaying the enforcement of the permit requirements for foreign vessels in the Pacific Billfish and Sharks Fishery until July 1, 1980.

EFFECTIVE DATE: Effective May 30, 1980, the permit requirements of § 611.3 are extended until July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Roland F. Smith, Acting Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W.,

V 45 E 4 8 0 UMI J

Washington, D.C. 20235 (202) 634–7432 or 653–5526.

SUPPLEMENTARY INFORMATION: Final regulations implementing the Pacific Billfish and Sharks (PBS) preliminary fishery management plan were published in the **Federal Register** on March 6, 1980 (45 FR 14581). Paragraph "a" of the preamble said, "To allow adequate time for Regional Fishery Management Council review and approval of permit requests and for installation of these permits aboard foreign vessels, section 611.3 will not apply until May 1, 1980."

The agent for Korean vessels has requested an extension of this period to allow more time to translate the regulations into Korean and to transmit the permit forms to individual firms. The National Marine Fisheries Service is granting an extension and delaying enforcement of the permit requirements for foreign vessels in the PBS fishery until July 1.

(16 U.S.C. 1801, *et seq.*)

Signed at Washington, D.C., this 27th day of May 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-16048 Filed 6-3-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 45, No. 109

Wednesday, June 4, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 212

[Docket No. ERA-R-80-11]

Gasohol Pricing and Allocation; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule; correction of address.

SUMMARY: On May 16, 1980, the Economic Regulatory Administration of the Department of Energy (DOE) issued a Notice of Proposed Rulemaking (45 FR 34846, May 22, 1980) which proposed alternative amendments to the Mandatory Petroleum Allocation and Price Regulations concerning the treatment of gasohol and unleaded gasoline used as blend stock in the production of gasohol. Three public hearings were announced in the Notice, to be held in Des Moines, Iowa, New Orleans, Louisiana, and Washington, D.C.

The address listed in the Notice to submit requests to speak at the Des Moines hearing was incorrectly listed as the Chicago Regional Office of DOE. The correct address for submitting requests to speak at the Des Moines hearing is listed below in the ADDRESSES section.

DATE: Requests to speak at the Des Moines hearing must still be submitted by 4:30 p.m., June 16, 1980.

ADDRESS: The correct address for submitting requests to speak at the Des Moines hearing is Department of Energy, Attn: June Heard, 324 East Eleventh Street, Kansas City, Missouri 64106 (816) 374–2971.

FOR FURTHER INFORMATION CONTACT:

Robert Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3757.

William Funk or Christopher M. Was (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6736 or 252–6744.

Issued in Washington, D.C., May 30, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-17037 Filed 6-3-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 115

[Docket No. R-80-818]

Recognition of Substantially Equivalent Fair Housing Laws; Three States and 10 Localities; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

This proposed rule would amend 24 CFR Section 115.11 to add three states and ten localities to the list of jurisdictions which HUD recognizes as having fair housing laws substantially equivalent to Title VIII of the Civil Rights Act of 1968.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 115—Recognition of Substantially Equivalent Fair Housing Laws—Three States and Ten Localities

This proposed rule would amend 24 CFR Section 115.11 to add three states and ten localities to the list of jurisdictions which HUD recognizes as having fair housing laws substantially equivalent to Title VIII of the Civil Rights Act of 1968.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., May 28, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-16836 Filed 6-3-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Public Hearing and Public Comment Period on the Resubmitted Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining and Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: notice of receipt of permanent program resubmission; schedule for public hearing and public comment period.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Wyoming regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which have been resubmitted by the State and which were not previously approved by the Secretary of the Interior.

This notice sets forth the times and locations that the Wyoming program is available for public inspection, the date when and location where OSM will hold a public hearing on the resubmission, the comment period during which interested persons may submit written comments and data on the proposed program, and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the portions of the Wyoming program not previously approved by the Secretary of the Interior will be held at 3:00 p.m. and reconvene at 7:30 p.m. on June 19, 1980, at the address listed below. Written comments, data, or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing. Comments from members of the public must be received on or before the close of business on June 24, 1980, in order to be considered in the Secretary's decision on those elements of the proposed Wyoming program which he did not approve in his initial decision on the proposed program.

ADDRESSES: The public hearing will be held in the Hitching Post Motor Inn 1700 West Lincoln Way, Cheyenne, Wyoming. Written comments should be sent to Mr. Donald A. Crane, Regional Director, Office of Surface Mining, Department of the Interior, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, or may be hand delivered to the Regional office.

Copies of the full text of the proposed program, a listing of scheduled public meetings, and copies of all written comments are available for review and copying at the OSM Region V Office and the central and field offices of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Brooks Towers, 1020 15th Street, Denver, Colorado 80202

Wyoming Land Quality Division, Department of Environmental Quality, Hathaway Building, Cheyenne, Wyoming 82002

Land Quality Division, 30 East Grinnel Street, Sheridan, Wyoming 82801

Land Quality Division, 933 Main Street, Lander, Wyoming 82520

A copy of this notice along with a copy of the Wyoming state statutes and regulations incorporated in the proposed Wyoming regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Officer, Office of Surface Mining Reclamation and Enforcement, Brooks Towers, 1020 15th Street, Denver, Colorado 80202. Telephone: (303) 837–4731.

SUPPLEMENTARY INFORMATION: On August 15, 1979, the state of Wyoming submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328), the Regional Director published notification of receipt of the program submission in the August 22, 1979, **Federal Register** (44 FR 49313) and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting was held on September 20, 1979, on the issue of the program's completeness.

On October 24, 1979, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be complete (44 FR 61266). The notice specified that the program submission was complete in accordance with the Federal Act and regulations, as required by 30 CFR 731.14(c).

On October 26, 1979, the Wyoming Department of Environmental Quality submitted an amendment to its program submission, containing a **Federal Register** notice and a letter relating to the Regional Director's finding of completeness. The August 15 program submission and this amendment constituted the entire submission upon which the Secretary made his initial decision.

A public hearing on the Wyoming submission was held on January 7, 1980, in Cheyenne, Wyoming by the Regional Director, after due notice in the **Federal Register** (44 FR 71798) and newspapers of general circulation within the State. The public comment period, originally scheduled to close on January 7, was extended to January 11, 1980.

Throughout the period beginning with the submission of the program, the Secretary and OSM had frequent contact with the Governor of Wyoming and the staff of the Wyoming Land Quality Division. Minutes or notes of the discussions were placed in the administrative record and made available for public review and comment. As a result of meetings held Janury 2–5 and January 7, 1980, which involved these officials, and informal drafts submitted on January 9 and January 17, 1980, the public comment period was extended from January 15, 1980, until January 21, 1980, to allow review and comment based on these meetings and materials. However, the draft materials were not part of the program submission and did not form the basis for the Secretary's partial approval of the program submission. The full chronology of the events leading to the Secretary's initial decision is contained in the **Federal Register** notice of the partial approval by the Secretary (45 FR 20930), published March 31, 1980.

That notice also contained the Secretary's findings, detailed explanations of those findings, and the Secretary's decision, which approved and disapproved specific parts of the Wyoming program. No part of the Wyoming program that was approved was the subject of discussions at which new information was presented which might have influenced the decision to approve after the public comment period closed. Discussions relating to parts of the program which were disapproved are in the administrative record and will be subject to public comment during the public comment period announced herein.

In accordance with the procedures set forth in 30 CFR 732.13(f), the state of Wyoming had 60 days from the date of publication of the Secretary's partial approval decision in which to submit a revised program for consideration. The State submitted its revised program on May 30, 1980. The public is now being afforded an opportunity to comment on the revised program both at the public hearing and through written comments during the comment period announced here. Subsequent to the public hearing and review of all comments, the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that those portions of the programs that were not approved in the Secretary's initial decision now be approved or disapproved or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12(d) and (e) (44 FR 15326–15327). For further details, refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

On May 16, 1980, the U.S. District Court for the District of Columbia issued a decision in *in re: permanent surface mining regulation litigation* (Civil Action No. 79–1144). That decision on those elements of a State Program which incorporate regulations either suspended by OSM or remanded by the Court. OSM will shortly issue a policy statement implementing this decision. The policy will be used in the evaluation

of those portions of State programs effected by the Court's Order. A copy of the Court's decisions in this case is available for inspection and copying in OSM's Region V office, identified above under "Addresses".

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the state of Wyoming will have primary jurisdiction for the regulation of surface coal mining and reclamation and coal exploration on non-Federal and non-Indian lands in Wyoming. If the revised program is approved, the Secretary and the Governor may also enter into a Cooperative Agreement governing regulation of these activities on Federal lands in Wyoming. Such an Agreement will be the subject of a separate rulemaking and **Federal Register** notice. If the revised program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Wyoming.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Wyoming will be found in 30 CFR Part 950 once Wyoming's relating to Wyoming will be found in 30 CFR Part 950 once Wyoming's resubmission has been approved or disapproved.

At the public hearing, parties wishing to comment on the proposed program will have opportunity to be listed on the speaker's agenda anytime prior to commencement of the hearing. Sign up for listing may be made either by writing the Regional Office or in person on or before the day of the hearing. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.

2. Each participant will be allowed 15 minutes.

3. Participants will be called in the order requests for testifying are received. A request for a specific time slot may not be honored unless approved in advance by the Regional Director.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Interested members of the public are encouraged to read the Secretary's partial approval of the initial Wyoming program submission (45 FR 20930), published on March 31, 1980. That document contains detailed findings and explanations relating to the parts of the initial submission which were specifically approved or disapproved, as well as a list of those parts approved and disapproved. Unless a change has been made to a part of the program previously approved, the Secretary will only consider comments relating to those portions previously disapproved or to any new portions of the program first appearing in the resubmission.

Set forth below is a summary of the contents of the proposed Wyoming program:

1. Certain sections of the Wyoming Environmental Quality Act.
2. Wyoming land quality rules and regulations.
3. Wyoming water quality rules and regulations.
4. Wyoming air quality standards and regulations.
5. Wyoming solid waste management regulations.
6. Wyoming State Engineer regulation and instructions.
7. Wyoming State Inspector of Mines rules relating to blaster certification.
8. Rules of practice and procedure, Wyoming DEQ.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Wyoming program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)), approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: May 30, 1980.

Donald A. Crane,

Regional Director.

[FR Doc. 80–17008 Filed 6–3–80; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1506–7]

Approval and Promulgation of State Implementation Plans; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On April 21, 1980, the Governor of Colorado submitted modifications to State Implementation Plan relating to data reporting requirements. EPA has reviewed the submittal and finds that it meets the requirements of Section 127 of the Clean Air Act.

EPA today is proposing to approve these public notification provisions and requests comments on this proposed action.

DATES: Comments due July 7, 1980.

ADDRESSES: Comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the materials submitted by the Governor of Colorado and comments received on this proposal may be examined during normal business hours at:

Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

SUPPLEMENTARY INFORMATION: Under the provisions of 40 CFR published in the May 10, 1979, **Federal Register** titled "Ambient Air Monitoring, Data Reporting, and Surveillance Provisions," Subpart 0–51.285, titled "Miscellaneous Plan Content Requirements—Public Notification" each State was required by March 1, 1980, to submit a plan revision that contained the following elements:

(A) Provisions to notify the public on a regular basis of instances or areas in which any primary standard was exceeded during any portion of the preceding calendar year;

(B) Provisions to advise the public of the health hazards associated with such an exceedance of a primary standard; and

(C) Provisions to increase public awareness of:

(1) Measures which can be taken to prevent a primary standard from being exceeded, and

(2) Ways in which the public can participate in regulatory and other efforts to improve air quality.

The Governor of Colorado submitted the currently published *Report to the Public*, which includes two volumes: Volume 1, Activity Summary and

Volume 2, Air Quality Data Report, to meet these requirements.

Additionally the Air Pollution Control Division (Denver) and the El Paso County Department of Health (Colorado Springs) currently issue an air pollution index which is designed to meet EPA specifications.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Sections 127 and 110 of the Clean Air Act as amended.

Dated: May 6, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-16940 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[OPP-300025; FRL 1507-5]

Oxalic Acid; Proposed Exemption From Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that ther inert ingredient (or occasionally active ingredient) oxalic acid in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by Monsanto Agricultural Products Co. This amendment would permit the registration of oxalic acid in pesticide formulations.

DATE: Comments must be received by July 7, 1980.

ADDRESS: Address comments to: Mr. John Shaughnessy, Process Coordination Branch (TS–767), Rm. E–229, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460 (202–426–9425).

FOR FURTHER INFORMATION CONTACT: Mr. John Shaughnessy at the above address.

SUPPLEMENTARY INFORMATION: At the request of Monsanto Agricultural Products Co., the Administration is proposing to amend 40 CFR 180.1001 by exempting oxalic acid, which is an inert (or occasionally active) ingredient, in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to the following types of ingredients (except when they have pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Firm	Bases for approval
Oxalic acid.....	Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166.	Oxalic acid is a normal and natural constituent of the human diet. The proposed use is unlikely to significantly increase the amount of oxalic acid in the diet; the incremental risk involved in the proposed use is slight.

Based on the above information, available information on the chemistry of this substance, and review of its use, it has been found that, when used in accordance with good agricultural practice, oxalic acid is useful and does not pose a hazard to the environment. It is concluded therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains oxalic acid, may request on or before July 7, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "OPP–300025". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS–767), Room E–229, EPA, 401 M St., SW, Washington, DC 20460 from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: May 28, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

It is proposed that Part 180, Subpart D, § 180.1001 be amended by alphabetically inserting "Oxalic acid * * *" in the table in paragraph (c) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * * * *		
Oxalic acid.....	No more oxalic acid should be used than is necessary to chelate calcium and, in no case, should more than 2 pounds oxalic acid per acre be used.	Calcium chelating agent, hard water inhibitor.
* * * * *		

[FR Doc. 80-16941 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation

45 CFR Part 63

Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation

AGENCY: Office of the Assistant Secretary for Planning and Evaluation.

ACTION: Proposed rules.

SUMMARY: These amendments are proposed primarily for the purpose of deleting those portions of rules that duplicate or conflict with HHS' department wide regulations on Administration of Grants, 45 CFR Part 74. In addition, a number of other editorial changes are made deleting duplications, eliminating language no longer applicable, and generally improving text clarity. These regulations are classified as technical.

DATES: We accept comments until July 21, 1980.

ADDRESS: Send written comments to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Room 457F, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Dr. Jane R. Gold, (202) 245–1794.

SUPPLEMENTARY INFORMATION: These proposed revisions of 45 CFR Part 63 include deletion of all material relating to telecommunication grants. Telecommunication grants were transferred to the new Department of Education and therefore the requirements pertaining specifically to those grants are no longer relevant to these regulations.

Subparts B and C of these grant regulations contain provisions which duplicate provisions in 45 CFR Part 74. Since Part 74 applies to virtually all HHS grant programs we propose the deletion of those duplicate provisions from this part.

Dated: January 15, 1980.

John L. Palmer,

Assistant Secretary for Planning and Evaluation.

Approved: May 27, 1980.

Patricia Roberts Harris,

Secretary, Department of Health and Human Services.

We propose to revise Part 63 to read as follows:

PART 63—GRANT PROGRAMS ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Subpart A—General

Sec.

63.1 Scope.
63.2 Eligibile applicants.
63.3 Eligible activities.
63.4 Evaluation of applications.
63.5 Disposition of applications.
63.6 Other regulations.

Subpart B—Financial Provisions

63.16 Scope.
63.17 Funding process.
63.18 Obligation of Funds during the grant period.
63.19 Cost sharing.

Subpart C—Special Provisions

Sec.

63.30 Scope.
63.31 Data collection instruments.
63.32 Treatment of animals.
63.33 Principal investigators.
63.34 Dual compensation.
63.35 Fees to Federal employees.
63.36 Leasing facilities.
63.37 Publications.
63.38 Religious worship or instruction.

Authority: Sec. 1110, Social Security Act and (5 U.S.C. 301).

Subpart A—General

§ 63.1 Scope

(a) This part covers grants which the Assistant Secretary for Planning and Evaluation (Assistant Secretary) awards for planning, evaluation or policy research relating to programs of the Department of Health and Human Services. The Assistant Secretary awards grants under:

(1) Section 1110 of the Social Security Act;

(2) Any other authority for which he or she is delegated authority to conduct these types of grant activities

(b) This part does not apply to contracts which the Assistant Secretary awards. The regulations in Chapers 1 and 3 of Title 41 of the Code of Federal Regulations govern contracts.

(c) For more information, anyone may contact the Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, 200 independence Avenue, SW., Washington, D.C. 20201

§ 63.2 Eligible applicants.

Any public or nonprofit private agency, institution, or organization may apply for a grant under this part, unless there is a specific statutory limit on eligible applicants in the statute authorizing the grant.

§ 63.3 Eligible activities.

(a) The Assistant Secretary announces in the **Federal Register** the specific kinds of planning, evaluation or policy research activities for which grants may be awarded.

(b) The announcement indicates the specific program or subject matter area, and the type of planning, evaluation or policy research the Assistant Secretary proposes to support through grants, including:

(1) Planning, policy modeling or research utilization studies;

(2) Experiments;

(3) Demonstrations;

(4) Field investigations; or

(5) Statistical data collections or analyses.

§ 63.4 Evaluation of applications.

(a) *Review procedures.* All applications filed according to the requirements in the announcement are evaluated by the Assistant Secretary through officers, employees, consultants or experts the Assistant Secretary determines are qualified in the areas of research the office will fund. The evaluation criteria below may be altered and supplemented each fiscal year by program announcements published in the **Federal Register.**

(b) *Criteria for Evaluation.* Review of applications will include consideration of the following factors:

(1) Scientific merit and the significance of the project in relation to policy objectives;

(2) Feasibility of the project;

(3) Soundness of research design, statistical technique, and procedures and methodology;

(4) Theoretical and technical soundness of the proposed plan of operation including the extent to which:

(i) The objectives of the project are sharply defined, clearly stated and capable of being attained by proposed procedures;

(ii) Provisions are made to adequately evaluate whether the objectives are being accomplished; and

(iii) Appropriate provisions are made for inservice training connected with project services.

(5) Potential for using the results of the proposed project for similar purposes in other projects and programs;

(6) Whether the size, scope and duration of the project is sufficient to produce useful results;

(7) Adequacy of the qualifications and experience (including managerial) of personnel;

(8) Adequacy of facilities and resources;

(9) Reasonableness of estimated cost in relation to anticipated results; and

(10) Where the applicant has received an award from the Department of Health and Human Services before, the degree of compliance with the requirements of that previous award. Compliance shall be determined from past Federal evaluation, monitoring and audits, grantee reports required by the previous award, and other appropriate sources.

(c) In any case where the Assistant Secretary proposes to deny a grant based on the applicant's noncompliance with an earlier award, the Assistant Secretary does so only after giving the applicant sufficient notice and an opportunity to rebut the proposed reason for denial.

§ 63.5 Disposition of applications.

The Assistant Secretary will issue a notice of grant award or notify the

applicant in writing that the application has been disapproved or deferred.

§ 63.6 Other regulations.

Several other HHS regulations apply to grants under this part. These include:

45 CFR Part 16 Department grant appeals process
45 CFR Part 46 Protection of human subjects
45 CFR Part 74 Administration of grants
45 CFR Part 75 Informal grant appeals procedures (Indirect cost rates and other cost allocations)
45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Effectuation of Title VI or the Civil Rights Act of 1964
45 CFR Part 81 Practice and procedure for hearing under Part 80
45 CFR Part 84 Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 90 Nondiscrimination on the basis of age in Federally assisted programs.

Subpart B—Financial Provisions

§ 63.16 Scope.

This subpart sets forth financial provisions, which in addition to those in 45 CFR Part 74, apply to all grants awarded by the Assistant Secretary.

§ 63.17 Funding process.

(a) The initial notice of grant award specifies how long HEW intends to support the project without requiring the project to recompete for funds. This period, called the project period, will generally not exceed five years.

(b) Generally the grant will initially be for one year. A grantee must submit a separate application to have the support continued for each subsequent year. Continuation awards within the project period will be made provided the grantee has made satisfactory progress, funds are available, and HHS determines that continued funding is in the best interest of the Government.

(c) Upon written request from the grantee, the Assistant Secretary may extend the grant period without additional funds.

§ 63.18 Obligation of funds during the grant period.

(a) A grantee may only use grant funds for obligations it makes during the grant period.

(b) When obligations are made: The following table shows when a grantee makes obligations for various kinds of property and services.

If the obligation is for—	*Then the obligation is made—*
(1) Acquisition of real or personal property.	On the date the grantee makes a binding written commitment to acquire the property.
(2) Personal services by an employee of the grantee.	When the services are performed.
(3) Personal services by a contractor who is not an employee of the grantee.	On the date the grantee makes a binding written commitment to get the personal services.
(4) Performance of work other than personal services.	On the date grantee makes a binding written commitment to get the work.
(5) Public utility services.	When the grantee receives the services.
(6) Travel	When the grantee's peronnel take the travel.
(7) Rental of real or personal property.	When the grantee uses the property.
(8) A preaward cost that was properly approved by the appropriate official of the Office of the Assistant Secretary for Planning and Evaluation.	During the grant period.

§ 63.19 Cost sharing.

Unless required by Federal statute, cost sharing is not a requirement of projects supported by grants under this part. However, HHS' annual appropriation acts do customarily provide that grants from the appropriated funds may not be used to pay an amount equal to the entire cost of a research project.

Subpart C—Special Provisions

§ 63.30 Scope.

This subpart sets forth supplemental award provisions which apply to all grants awarded by the Assistant Secretary.

§ 63.31 Data collection instruments.

(a) *Definitions.* For the purposes of this section "Child" means an individual who, under the law of the jurisdiction in which the research is to be conducted, has not attained the age of consent to participate in research.

"Data-collection instruments" means tests, questionnaires, inventories, interview schedules or guides, rating scales and survey plans or any other forms which are used to collect information on substantially identical items from 10 or more respondents.

"Respondents" means individuals or organizations from whom information is collected.

(b) *Applicability.* This section does not apply to instruments which deal solely with (1) functions of technical proficiency, such as scholastic aptitude or school achievement, or (2) routine demographic information.

(c) *Protection of privacy.* (1) No project supported under this part may involve the use of data-collection instruments which constitute an invasion of privacy by making inquiries regarding matters like religion, sex, race or politics.

(2) A grantee that proposes to use a data-collection instrument shall include in the grant application an explanation of the safeguards that will be used to restrict the use and disclosure of the information obtained to purposes directly connected with the project. The safeguards must include provisions for the destruction of instruments when they are no longer needed for the purposes of the project.

(d) *Clearance of instruments.* Grantees will not be required to submit data-collection instruments to the Assistant Secretary or to get the approval of the Assistant Secretary for the use of these instruments, except where the notification of grant award specifically requires submission or approval.

(e) *Responsibility for collection of information.* A grantee shall not in any way represent or imply (either in a letter of transmittal, in the data gathering instruments themselves, or in any other manner) that the information is being collected by or for the Federal Government or any department, agency or instrumentality thereof. Basic responsibility for the study and the data-gathering instruments rests with the grantee.

(f) *Perental consent.* In the case of any survey using data-collection instruments in which children are involved as respondents, the grantee, in addition to observing the other requirements contained in this section and in Part 46 as appropriate, shall ensure that informed consent is obtained from the parents of each child before the use of the instruments. Exception: A waiver from the requirements of this paragraph for specific data-collection activities may be granted upon written request by the grantee and a determination by the Assistant Secretary that a waiver is necessary in order to fully carry out the purposes of the grant.

§ 63.32 Treatment of animals.

If animals are utilized in any project receiving assistance, the applicant for assistance shall provide assurances satisfactory to the Assistant Secretary that all animals will be provided with proper care and humane treatment; in accordance with the Animal Welfare Act (7 U.S.C. 2131 et seq.) and regulations set forth in 9 CFR 1,2,3,4.

§ 63.33 Principal investigators.

A grant under this part is subject to § 74.103(c) of this title prohibiting changes in key people without prior approval

§ 63.34 Dual compensation.

A grantee may not use its grant to pay a project staff member for time or work for which that staff member is compensated from any other source of funds.

§ 63.35 Fees to Federal employees.

The grantee shall not use funds from any sources to pay a fee to, or travel expenses of, employees of the Federal Government for lectures, attending program functions, or other activities in connection with the grant.

§ 63.36 Leasing facilities.

In the case of a project involving the leasing of a facility, the grantee shall demonstrate that it will have the right to occupy, to operate, and if necessary to maintain and improve the leased facility during the proposed period of the project.

§ 63.37 Publications.

Any publication or presentation resulting from or primarily related to Federal financial assistance under this part must contain an acknowledgement essentially as follows: The activity which is the subject of this report was supported in whole or in part by a grant from the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services. However, the opinions expressed herein do not necessarily reflect the position or policy of that Office and no official endorsement by that Office should be inferred.

§ 63.38 Religious worship or instruction.

Federal funds may not be used for the making of any payment for religious worship or instruction, or for the construction, operation or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious instruction.

[FR Doc. 80-16821 Filed 6-3-80; 8:45 am]
BILLING CODE 4110-12-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 80-36]

Exemption of Husbanding Agreements; Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Maritime Commission hereby proposes to exempt certain husbanding agreements from the filing and approval requirements of section 15 of the Shipping Act, 1916.

DATE: Comments (original and fifteen copies) due July 7, 1980.

ADDRESS COMMENTS AND INQUIRIES TO: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Maritime Commission is considering the promulgation of a rule to exempt certain husbanding agreements between persons subject to the Shipping Act, 1916, from the filing and approval requirements of section 15 of the Shipping Act, 1916, (46 U.S.C. 814).

Background

Husbanding agreements generally fall into two categories. The first consists of those agreements that deal with routine vessel operating activities in port such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, linehandlers; delivering mail; transmitting reports and requests from the Master to the owners/operators; arranging bunkers, stores, repairs, water, garbage disposal; assisting with passengers and crew matters; and related services. The second consists of those agreements which, in addition to the foregoing, also cover agency matters involving the solicitation and booking of cargoes, signing of contracts of affreightment and bills of lading.

The first category of husbanding agreements appears to have minimal competitive impact. These agreements are rarely protested, nor are they frequently made the subject of formal Commission proceedings to determine their approvability under the standards of the Shipping Act, 1916. However, the second category has a potential for competitive impact which requires a thorough analysis of the relationships between the parties involved.

While the current state of the law and Commission policy requires that the first category of husbanding agreements between persons subject to the Commission's jurisdiction be subjected to the full section 15 review process prior to the agreement's implementation, it is apparent that the resulting delay is not offset by any corresponding regulatory benefit under the Act, provided that such agreements do not preclude the agents from servicing other carriers.

Section 35 of the Shipping Act, 1916, (46 U.S.C. 833a) provides that the Commission, upon application or on its own motion, may by order or rule exempt any class of agreements between persons subject to the Act, or any specified activity of such persons from any requirement of the Act, where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce.

The rule proposed herein contemplates the exemption of the first category of husbanding agreements from the filing and approval requirements of section 15. The proposed exemption would not confer antitrust immunity. Section 15 approval consideration will, however, remain available to parties requesting it.

Based on the information presently before the Commission, this exemption would present no impairment to the Commission's effective regulation of the parties' activities under the exempted agreements, nor would it be unjustly discriminatory or detrimental to commerce.

Accordingly, pursuant to sections 15, 35 and 43 of the Shipping, Act, 1916 (46 U.S.C. 814, 833a and 841a), Title 46 CFR is hereby proposed to be amended by the addition of Part —— as follows:

PART ——

Sec.
——.1 Purpose and scope.
——.2 Definition.
——.3 Exemption.
——.4 Termination of approved husbanding agreements.
——.5 Compliance with the filing and approval requirements of Section 15.
——.6 Effective date.

Authority: Sections 15, 35 and 43; 46 U.S.C. 814, 833a and 841a.

——.1 Purpose and scope.

Section 15 of the Shipping Act, 1916, requires that certain agreements between persons subject to the Act be filed with and approved by the Commission prior to implementation. Section 35 of the Act provides that the Commission, upon application or on its own motion, may by order or rule exempt any class of agreements between persons subject to the Act, or any specified activity of such persons from any requirement of the Act, where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce. In the interests of minimizing unnecessary delay in the implementation of routine husbanding agreements between persons subject to the Act, this part

provides for the exemption from filing and approval of certain husbanding agreements. Any such agreements which qualify for the exemption under this part, will be required to be maintained at the agent's principal place of business, for the purpose of inspection by any interested party.

——.2 Definition.

As used in this part, husbanding agreements are agreements between persons subject to the Shipping Act, 1916, which agreements deal with routine vessel operating activities in port, such as notifying port officials of vessel arrivals and departures, ordering pilots, tugs, linehandlers, delivering mail, transmitting reports and requests from the Master to the owners/operators, passenger and crew matters, and services related to the above activities. The term does *not* include those agreements which provide for the solicitation or booking of cargoes, signing contracts or bills of lading and other related matters, nor does it include agreements that prohibit the agent from entering into similar agreements with other carriers.

——.3 Exemption.

Husbanding agreements between persons subject to the Act are hereby exempted from the filing and approval requirements of section 15.

——.4 Termination of approved husbanding agreements.

Husbanding agreements which have received section 15 approval shall continue to be approved for the duration of their term or until terminated by the parties. When such approved agreements are terminated by the parties, such parties shall immediately notify the Commission.

——.5 Compliance with the filing and approval requirements of Section 15.

Notwithstanding the provisions of this part, persons who desire approval of husbanding agreements may continue to submit such agreements to the Commission for section 15 consideration in accordance with ordinary filing procedures.

——.6 Effective date.

This Rule will become effective upon publication in the **Federal Register.**

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-16995 Filed 6-3-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 78-100; RM-2955; FCC 80-235]

Unsolicited Telephone Calls; Inquiry Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Termination of inquiry.

SUMMARY: This ruling terminates the Commission's inquiry concerning unsolicited telephone calls and use of the automatic dialer recorded message player. The Commission decided not to enact restrictions at the Federal level for a number of reasons. Under the present circumstances our jurisdiction is limited to regulation of interstate unsolicited telephone calls which appear to constitute approximately three percent of all unsolicited calls. Interstate use of the automatic dialer recorded message player also appears to be very limited at present. A general ban on telephone solicitation would raise serious constitutional difficulties, affect only the small percentage of calls which are interstate, and is questionable as a matter of policy. A ban on calls to subscribers who have indicated that they do not want to be called or time, place and manner restrictions at the Federal level are not warranted because of the small percentage of calls affected, the incentives for industry self-regulation, the present tariff language prohibiting abusive solicitation, the difficulty of effective enforcement and the cost of regulation.

DATES: Non-applicable.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, Policy & Program Planning Division, Common Carrier Bureau, (202) 632-6363.

Memorandum Opinion and Order

[See 43 FR 13589]

Adopted: April 24, 1980.

Released: May 22, 1980.

By the Commission:

1. On March 30, 1978, the Commission instituted an Inquiry concerning unsolicited telephone calls in response to a petition filed by Walter Baer and the Citizens Communication Center. *Unsolicited Telephone Calls*, CC Docket No. 78-100, 67 F.C.C. 2d 1384 (1978). The Commission's Notice of Inquiry requested information and views concerning the constitutional, jurisdictional, and policy issues involved in regulation of both automatically and manually dialed unsolicited telephone calls. To assist in focusing the responses of interested parties, the Notice set out a number of specific questions concerning (1) various aspects of the constitutional issues; (2) the jurisdiction of the Commission to regulate intrastate unsolicited telephone calls; (3) the extent and impact of unsolicited telephone calling; and (4) the feasibility of technological solutions.[1] Formal comments were filed in response to the Commission's Notice of Inquiry by more than 45 businesses, industry associations, telephone companies, and public interest groups as well as state and federal governmental entities.[2] Approximately 4,300 informal comments were also filed.[3]

2. Unsolicited telephone calls and the automatic dialer recorded message player, or ADRMP, have recently received attention in other regulatory forums as well, although they are not new phenomena.[4] Both the American Telephone and Telegraph Company and GTE Service Corporation state that ADRMPs have been available for over 15 years. Legislation known as the "Telephone Privacy Act" aimed at restricting unsolicited calls was introduced during the 1st Session of the 96th Congress by the Honorable Representatives Guyer and Aspin, H.R. 377 and H.R. 6047, but no hearings have been scheduled.[5] Many of the states have also considered the questions posed by such calls. Regulations for unsolicited telephone calling, in most cases designed to restrict use of the ADRMP, are in effect in a number of states including Alaska, California, Florida, Illinois, Hawaii, Maryland, Missouri, Nebraska, North Carolina,

[1] The Commission's Notice did not specifically seek information concerning intentional telephone harassment or fraud.

[2] Formal comments which were not filed in a timely fashion will be considered by the Commission since the delays involved were not substantial.

[3] This figure includes informal comments received in response to the Public Notice concerning Walter Baer's petition, letters received during the comment period set out in the Notice of Inquiry as well as material received thereafter.

[4] The California Public Utilities Commission investigated the question of unsolicited telephone calls over 15 years ago, rejecting the idea of a telephone directory symbol which would indicate whether the subscriber wished to receive commercial and charitable solicitations. *McDaniel v. Pacific Telephone and Telegraph Co.*, 60 PUR 3d 47 (1965).

[5] Legislation concerning unsolicited telephone calls was also introduced during the 95th Congress. H.R. 9505; H.R. 9506; H.R. 10032; H.R. 10033; H.R. 10904; H.R. 12218; H.R. 12219 and S. 2193. No action was taken on any of those bills.

Oregon, Texas, Washington and Wisconsin.[6]

3. Despite the attention which these questions have received, the Commission believes—for the reasons explained below—that it should refrain from regulating unsolicited telephone calls and ADRMP equipment at this time. In the present factual context, our jurisdiction is limited to regulation of interstate unsolicited telephone calls. Since it appears that only about three percent of all unsolicited telephone calls are interstate, regulatory action on our part would very likely affect only a small proportion of all unsolicited calls. Accordingly, we believe that these matters can best be dealt with by the individual states should they have problems in this regard. An outright ban on unsolicited telephone calls would also appear to violate constitutional requirements. The Commission considered, but ultimately rejected, less comprehensive regulatory approaches. Thus, a regulatory scheme permitting telephone subscribers to request that they not be contacted by a particular organization was rejected because of the jurisdictional limitations mentioned above, the cost of such regulation, and the difficulty of effective enforcement. We decided against time, place and manner restrictions on unsolicited telephone calls because of jurisdictional limitations and because there do not appear to be any widespread abuses at the interstate level which would be remedied by such restrictions. Finally, we decided not to propose restrictions on ADRMP equipment because ADRMPs do not appear to be in widespread interstate use and are not causing network congestion or other substantial problems at the present time.

I. Comments

A. Public Interest Groups, Governmental Organizations and Private Individuals

4. A number of private individuals, public interest groups, and government organizations supported federal regulation of unsolicited telephone calls. Walter Baer filed comments advocating (1) a prohibition on commercial advertising to subscribers who have indicated that they do not wish to be disturbed; (2) a requirement that automated calls be preceded by an announcement identifying themselves as such; and (3) special tariffs for telephone sales solicitations designed to fully reflect their costs. Mr. Baer also argued that a distinction should be made between commercial solicitations and those for political or other non-commercial purposes. The comments of the Georgetown Institute for Public Interest Representation focused on the constitutional issues. It took the position that a system prohibiting unsolicited calls to subscribers who have indicated that they do not want to receive them would be constitutional. It also argued that time-of-day or day-of-week restrictions on unsolicited calls would be lawful. The Institute suggested that the Commission avoid a regulatory scheme which distinguished between commercial and other types of unsolicited telephone calls because of the definitional problems involved, although it did not believe that differential treatment would necessarily be unconstitutional. The Institute also suggested that regulation of automated calls might be permissible even if other unsolicited calls were not restricted. The Department of Health, Education and Welfare Office of Consumer Affairs supported restrictions on unsolicited telephone calls designed to protect the privacy interests of residential telephone subscribers. Although HEW thought that such restrictions would be constitutional, it questioned the lawfulness of distinguishing between unsolicited commercial calls and those of a non-profit or political nature. The General Services Administration expressed concern that government agencies with blocks of contiguous telephone numbers would be particularly vulnerable to sequential dialing by ADRMPs and requested regulations designed to deal with this situation. the Federal Trade Commission (FTC) also supported regulation of unsolicited telephone calls, arguing that it was necessary to focus on the means of communication itself in order to prevent telephone fraud and harassment.[7] The Honorable Les Aspin filed comments supporting a prohibition on unsolicited calls to telephone subscribers who do not wish to receive them, but recommended an exemption for public opinion polls and other survey research. Regulation of all unsolicited telephone calls was advocated by the Massachusetts Executive Office of Consumer Affairs. The Wisconsin Department of Justic Office of Consumer Affairs, New York City Department of Consumer Affairs and the Virginia Citizens Consumer Foundation also favored regulation. The state of California and the California Public Utilities Commission filed comments reviewing their proceedings concerning ADRMP use and unsolicited calls to residential subscribers. Morey McDaniel also provided information concerning his 1964 suit against telephone solicitation before the California PUC. *See* note 4 *supra*. In addition, most of the approximately 4,300 informal comments favored regulation.

5. Other governmental organizations questioned the desirability of federal regulation concerning unsolicited telephone calls. The National Telecommunications and Information Administration (NTIA) stated that "[i]n light of the record established so far in this inquiry, we do not believe that . . . there is any basis for restrictive FCC action." In support of its position, NTIA stated that most telephone sales organizations appear to use "carefully trained and supervised personnel, place calls chiefly to targeted customer groups and make sure that they are conducted on a pleasant and courteous basis." Although NTIA recognized that manual telephone solicitation could raise privacy issues, it concluded that this concern did not indicate a need for federal intervention when balanced against the long established use of such telephone solicitation. NTIA also argued that restrictions on the ADRMP were not warranted since very few of them are presently in use. However, it suggested that the Commission continue to monitor these areas. Both the National Association of Regulatory Utility Commissioners and the Missouri Public Service Commission opposed unilateral federal action on jurisdictional grounds, stating that the Commission has no authority over local or intrastate unsolicited telephone calls. They also requested the convocation of a Federal-State Joint Board pursuant to Section 410 of the Communications Act to investigate these matters.

B. Telephone Sales Organizations

6. A large number of organizations involved in making unsolicited sales calls filed comments. Among these groups were the Magazine Publishers Association Inc., American Bankers Association, American Movers Conference, National Association of Life Underwriters, National Retail Merchants Association, American Newspaper Publishers Association, Army Times Publishing Company,

[6] Debt collection calls by collection agencies are regulated by the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (Supp. I 1977). It places certain time, place and manner restrictions on communications between debt collection agencies and consumers. 15 U.S.C. § 1692c(a) and § 1692d (Supp. I 1977), as well as allowing consumers to direct collection agencies to refrain from further communications with them subject to certain limited exceptions, 15 U.S.C. § 1692c(c) (Supp. I 1977).

[7] The FTC also suggested that debt collection calls be covered by any regulations concerning unsolicited telephone calls. The American Collectors Association opposed this idea.

American Council of Life Insurance, Health Insurance Association of America, Campaign Communications Institute of America, Inc., Olan Mills, Inc., Time Inc., Chamber of Commerce of the United States, American Retail Federation, National Association of Personnel Consultants, Independent Insurance Agents of America, Inc., American Automobile Association, The Trane Company, Telephone Credit Marketers Association, Direct Mail/Marketing Association, Inc., Direct Selling Association, Republic Distributors, Inc., Water Quality Association, and Pacesetter Building Systems, Inc. They generally opposed substantial restrictions on telephone solicitation.

7. These businesses and industry associations argued that government regulation was unnecessary since market incentives dictated that calls be made only to those likely to be interested, limited to reasonable hours, and conducted in an ethical and courteous fashion. Several businesses also stated that alternative advertising media were much less effective than telephone solicitation. Many of these organizations also questioned the constitutionality of substantial restrictions on unsolicited telephone calls. In particular, they argued that a complete ban on such calls would fail to satisfy the requirements of the First Amendment. A number of them questioned the constitutionality of a system prohibiting calls to telephone subscribers who do not wish to receive them, although several other groups thought such a system might be lawful. Many of these organizations also argued that regulations concerning unsolicited telephone calls could not lawfully distinguish between commercial calls and those made for charitable, political or survey purposes. Several groups contended that most forms of regulation would involve substantial definitional problems. In addition, a number of organizations questioned the statutory basis for Commission regulations concerning unsolicited telephone calls, arguing that Title II of the Communications Act is meant to regulate common carriers and contains only limited authority for restrictions on subscriber conduct. Despite these objections, a number of groups stated that they were not opposed to limited restrictions, such as a prohibition on calls to unlisted numbers or a requirement that ADRMPs release the line when the called party hangs up.

8. The telephone sales organizations differed somewhat in their views concerning the extent of Commission jurisdiction. Many groups took the position that the Commission's basic jurisdiction was limited to interstate and foreign communications, although several favored regulatory uniformity to eliminate confusion and the possibility of conflicting requirements. A few others argued that the Commission could pre-empt state regulations that were more restrictive than those in effect at the federal level. At least one company took the position that the Commission's jurisdiction to regulate unsolicited telephone calls was plenary and exclusive regardless of whether the call was interstate or intrastate.

C. Telephone Survey Research Organizations and Other Groups

9. The Council of American Survey Research Organizations, National Association of Broadcasters, Arbitron Company, and Control Data Corporation engage in unsolicited telephone calling for survey research purposes. These organizations took the position that such calls should be exempt from regulation since they are necessary to ensure representative population samples. They stated that prohibitions on calls to subscribers with unlisted numbers or those who have indicated a desire not to recieve unsolicited calls would produce serious distortions in the information gathered.

10. Aeronautical Radio, Inc. (ARINC) and the Air Transport Association (ATA) argued that calls by airlines to individuals who have requested information or made flight reservations should not be treated as unsolicited. They also urged the Commission to avoid a complete ban on the use of ADRMPs. In addition, ARINC, ATA, and the Computer and Business Equipment Manufacturers Association argued that use of the telephone for transmission of digital data between computers and terminals should not be covered by any regulations concerning unsolicited telephone calls.

D. ADRMP Equipment Manufacturers

11. A number of ADRMP equipment manufacturers—Dycon International, Inc., Dictaphone Corporation and Trans World Telephone Contact Limited—filed comments in this proceeding. Dycon and Trans World Telephone Contact stated that the extent of unsolicited telephone calling and associated problems have been greatly exaggerated. Dycon also argued that reasonable use of ADRMP equipment could be beneficial to society. These companies opposed a ban on reasonable telphone solicitation but in most cases did not object to limited forms of regulation such as a prohibition on calls to unlisted numbers, a requirement that the calling party release the line as soon as the called party hangs up, or a limitation on the number of times a caller can ring the subscriber's telephone. Both Dycon and Dictaphone took the position that restricting only unsolicited sales calls would be unconstitutional.

E. Telephone Companies

12. Comments were also filed by the American Telephone and Telegraph Company (AT&T), GTE Service Corporation (GTE) and the United States Independent Telephone Association (USITA). AT&T expressed concern with the subscriber's right of privacy but argued that reasonable business use of the telephone should not be impaired. It took the position that a complete ban on unsolicited telephone calls would be unconstitutional and expressed doubts concerning the lawfulness of a prohibiton on unsolicited calls to telephone subscribers who have not affirmatively indicated a desire to receive them. AT&T also questioned the lawfulness of treating unsolicited commercial telephone calls differently from those made for charitable, political or survey research purposes. It expressed the opinion that present controls had proved adequate so far, and urged that potential problems be dealt with by limited restrictions developed through meeting of Commission staff members, representatives of the telephone industry, consumer organizations, and telephone solicitation groups.[8]

13. The GTE Service Corporation suggested that the record in this proceeding did not demonstrate a need for regulation. If regulation was necessary, GTE favored limited restrictions such as a requirement that recorded messages be preceded by an announcement concerning the nature of the message and requesting permission to play it. GTE specifically opposed a prohibition on calls to subscribers who have indicated that they do not want to be disturbed on the gound that these programs would be ineffective and difficult to administer. They were also concerned that the telephone company would have to ensure the accuracy of any such system and enforce compliance. The United States Independent Telephone Association also argued that the information available to it did not indicate a need for regulation. USITA favored Congressional action assuming restrictions were necessary. However, it objected to any form of regulation which would require the telephone company to intercede in disputes between its customers.

[8] Among the restrictions AT&T proposed for consideration were (1) requirements that recorded messages be preceded by an announcement identifying the calling party and the nature of the call; (2) limitations on the time of day during which unsolicited calls could be made; (3) limitations on the number of call attempts to a given telephone number; and (4) technical specifications of ADRMPs.

14. AT&T, GTE and USITA took the position that the Commission's jurisidiction was limited to regulation of interstate unsolicited telephone calls and prescription of technical specifications for terminal equipment. They distinguished prescription of equipment specifications from regulation of customer use of equipment and services, arguing that intrastate and interstate use are separable and could be subject to different regulations.

II. Background

A. Extent and Characteristics of Unsolicited Telephone Calling

15. The information which we received in response to the Notice of Inquiry indicates that unsolicited telephone calls [9] are a limited but well established business practice. Newspapers and magazines frequently sell subscriptions by telephone. Various other products and services are offered directly to the consumer in the home. Businesses also use the telephone to contact prospective customers and arrange personal sales presentations. Political and charitable causes use the telephone to solicit contributions. Public opinion and marketing surveys are conducted by telephone. One source claims that approximately seven million unsolicited sales calls are completed each business day.[10] About 460,000 of the people called are said to respond positively, purchasing approximately 28 million dollars worth of goods and services.[11] Another source claims that 12 million call attempts are made by telephone sales personnel each working day.[12] Trans World Telephone Contact Limited, however, said that these figures appeared to be unrealistically high. The Campaign Communications Institute of America, Inc. (CCI), a large telephone sales organization, stated that it makes about 100,000 telephone sales calls each week. The other telephone sales and survey groups did not indicate the precise extent of their activities. In any event, the figures cited above represent a very modest proportion of the approximately 735 million local and long distance calls which are placed over Bell System telephone facilities each business day.

16. Further information concerning the extent of unsolicited telephone calling is contained in a survey conducted by the Field Research Corporation in California.[13] The average household covered by this study received 7.9 unsolicited telephone calls, not including misdialed calls, during the three month period involved. This figure included obscene, threatening, and crank calls as well as unsolicited sales, survey, or fund raising calls. Approximately 46 percent of the households contacted had not received any telephone sales calls during this time. An average of approximately 9.2 misdialed calls were also received by each household during the same period. Less than half of the approximately 4,000 informal comments supporting regulation referred to personal experience with unsolicited telephone calls.[14]

17. Although the ADRMP [15] has received a substantial amount of public attention, it does not appear to be in widespread use. NTIA estimated that fewer than one thousand ADRMPs were in operation.[16] Only 8.6 percent of the California households covered by the Field Research survey had received ADRMP calls. Many of the telephone sales and survey organizations participating in this proceeding also stated that they do not use ADRMPs at present and have no intention of doing so. Several specifically said that the ADRMP is not an effective means of telephone solicitation because it does not allow the interaction possible with a live presentation. A few organizations, however, indicated that they were using ADRMPs or considering them.

B. Subscriber Reaction to Unsolicited Telephone Calls

18. It is clear that certain subscribers find unsolicited telephone calls inconvenient and annoying.[17] As previously stated, the Commission received approximately 4,000 informal comments supporting regulation. The Bell System operating companies have also received about 2,000 to 3,000 complaints concerning unsolicited telephone calls each year.[18] A certain number of complaints were also filed with the state commissions. In a 1977 survey conducted by NARUC, the Maryland Commission said that it received 10 to 15 complaints per month. Minnesota reported receiving from 12 to 16 complaints each month. Three additional states reported receiving three to four complaints per month.

19. Other telephone subscribers do not react adversely to unsolicited calls, however. As previously indicated, a substantial number of people purchase the goods or services offered. One of the survey research organizations also stated that it is not unusual for political opinion poll calls to last as long as forty minutes, indicating that recipients are willing to cooperate in such efforts. Two surveys taken by Campaign Communications Institute clients also indicated a fairly positive response to telephone sales solicitation.[19] Many of the organizations involved in telephone solicitation also stated that they received few complaints. CCI stated that it averages only about one or two complaints per 100,000 calls. In addition, eight of the states responding to the NARUC survey said that they received one complaint or less each month. Sixteen states had not received any complaints.

[9] The term "unsolicited telephone call" does not have a precise, generally accepted definition. For the purposes of this discussion, it should be understood as referring to a business call from an organization with which the recipient has had minimal if any prior dealings. Unless otherwise indicated, this term does not refer to unwelcome personal calls or misdialed calls.

[10] Murray Roman, *Telephone Marketing* (McGraw-Hill: New York, 1976), *cited in* Comments filed by Walter Baer; Sylvia Porter, "Get the Maximum Benefit from Business Telephoning," *New York Post, cited in* Comments filed by Campaign Communications Institute of America, Inc.

[11] Sylvia Porter, "Get the Maximum Benefit from Business Telephoning," *New York Post, cited in* Comments filed by Campaign Communications Institute of America, Inc.

[12] Robert C. Steckel, *Profitable Sales Operations* (Arco: New York, 1976), *cited in* Reply Comments of National Telecommunications and Information Administration.

[13] "The California Public's Experience With and Attitude Toward Unsolicited Telephone Calls," Field Research Corporation, March 1978.

[14] The Commission's Notice of Inquiry did not specifically request that parties filing informal comments provide information on this point.

[15] An ADRMP contains two elements. The automatic dialer is programmed with telephone numbers to be contacted and the recorded message player presents a taped message when the telephone is answered. These elements can be used separately or in conjunction with one another. For the purposes of this discussion, the term "ADRMP equipment" includes recorded message players regardless of whether they are used with an automatic dialer.

[16] This estimate was based on a survey of ADRMP equipment manufacturers. However, NTIA noted that telephone answering machines can also be used to make recorded presentations over the telephone.

[17] Unsolicited telephone calls may also involve false and deceptive sales practices in certain instances.

[18] American Telephone and Telegraph Company Summary Statistics on Abusive Calling (1975, 1976, 1977, 1978 and 1979).

[19] In a 1976 survey, 90 per cent of those interviewed stated that the method of solicitation used was good and that the communicator was very polite. The second survey, which took place in 1978, found that 97 per cent of those interviewed felt that the CCI communicator was courteous. Over 71 per cent said that the call has given them a better understanding of the service offered.

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C. Special Concerns Related to ADRMP Use

20. There is also some concern that unsolicited telephone calls, particularly those originated by ADRMPs could create localized network congestion. A sufficient number of ADRMPs or human telephone solicitors calling numbers within one local exchange could theoretically cause central office congestion. However, no instances of such problems due to unsolicited telephone calls have been cited in this proceeding. AT&T and GTE, stated that they do not anticipate difficulty handling the increases in the general demand for telephone service and any specific increase in demand due to unsolicited calls. All three organizations said that they do not expect the ADRMP to have a significant adverse impact on the operation of the telephone network.

21. Use of ADRMPs also raises another concern which is not usually present in the case of manually dialed calls involving live presentations. An ADRMP used without a human monitor may continue to hold the called party's line until the recording has finished playing even though the called party has hung up. It does not appear that this problem occurs with a substantial degree of frequency, however. As indicated above, the ADRMP is not in widespread use. One of the ADRMP equipment manufacturers also said that virtually all ADRMPs are operated with a human monitor. In addition, it is important to recognize that this type of problem is experienced only in exchanges which are not equipped for automatic called-party disconnect. NTIA estimated that approximately 80 per cent of all telephone company central offices have this feature.

III. Discussion

22. Under Section 2 of the Communications Act of 1934 as amended, 47 U.S.C. 152 (1976), our jurisdiction is generally limited to interstate and foreign communication.[20] Although the Act does not "[sanction] any state regulation, formally restrictive only of intrastate communication, that in effect encroaches substantially upon the Commission's authority," we do not have jurisdiction "over local services, facilities and disputes that in their nature and effect are separable from and do not substantially affect the conduct or development of interstate communications." *North Carolina Utilities Commission* v. *Federal Communications Commission*, 537 F. 2d 787, 793 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976). Unlike terminal equipment which is normally used for both interstate and intrastate communications, interstate unsolicited telephone calls are clearly separable from those made within a single state or local exchange. Furthermore, as previously discussed, we find that neither ADRMP use nor unsolicited telephone calls in general presently have a significant impact on the use of the telephone network for interstate calling. Accordingly, in the present factual context, we must limit our consideration to regulation of unsolicited telephone calls that are interstate in nature. Should circumstances change, however, we might reach different conclusions concerning the extent of our jurisdiction.

23. It appears from the comments that a central controversy in the larger problem of telephone solicitation concerns use of the ADRMP. As already noted, however, there are relatively few such devices currently in operation. Moreover, most of the ADRMPs now in operation are very likely used for local, or at least intrastate calling. Since the obvious benefit of using an ADRMP for solicitation is the cost savings afforded, it seems logical to assume that these devices would not normally be used to make relatively expensive (as compared to local service) long distance, WATS or private line calls. Ninety-seven percent of all telephone calls are intrastate.[21] If this ratio is even approximated for ADRMP use, it would mean that only a tiny fraction of all ADRMP messages are interstate calls subject to our jurisdiction. Any action that this Commission could undertake would impact only a small fraction of the calls made by the relatively few ADRMPs now in use.

24. Under these circumstances, federal regulation would not appear to be warranted at this time. From the standpoint of our interstate jurisdiction, any problem raised by the use of ADRMPs, lies in their potential for abuse at some point in the future, if such use becomes widespread. We are certainly not there now. In our view, regulation in this area can best be handled by the individual states should they conclude that action is warranted.

25. We come then to the larger question of whether restrictions should be imposed on interstate telephone solicitation generally. A complete ban on unsolicited calling would raise serious constitutional difficulties. Plainly, any regulatory action by the Commission restricting use of the telephone to convey a particular type of message would have to satisfy the requirements of the First Amendment.[22] Although privately owned, the telephone network is devoted to public use. In contemporary American society, telephones are clearly the primary means of private communications between individuals who are not in proximity to one another. The ability to speak with others over the telephone would thus appear to be entitled to substantial protection.

26. A number of cases have applied First Amendment principles in the analogous areas of door-to-door solicitation and unsought commercial mail. In *Martin* v. *Struthers*, 319 U.S. 141 (1943), the Court held that a city ordinance which prohibited calling the occupants of a residence to the door for the purpose of distributing circulars or advertisements violated the First Amendment when applied to the distribution of religious leaflets. In its decision, the Court emphasized the importance of the "[f]reedom to distribute information to every citizen wherever he desires to receive it. . . ." *Id.* at 146. The Court distinguished the blanket prohibition contained in this ordinance from regulations outlawing solicitation of householders who have indicated that they do not wish to be disturbed. It stated that such regulations "[leave] the decision as to whether distributers of literature may lawfully call at a home where it belongs—with the homeowner himself." *Id.* at 148.

27. In *Hynes* v. *Mayor of Oradell*, 425 U.S. 610 (1976), the Court followed *Martin* v. *Struthers* and struck down a city ordinance requiring that those who wish to canvass or solicit from house to house for charitable or political purposes notify the police department. After reviewing prior cases, the Court determined that soliciting and canvassing from door to door were subject to reasonable regulation but that First Amendment concerns require that controls be drawn with "narrow specificity." *Id.* at 620. The ordinance in

[20] Section 2(a) states that "[t]he provisions of this chapter shall apply to all interstate and foreign communication by wire or radio. . . ." Section 2(b) provides, with certain exceptions not relevant here, that ". . . nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to . . . charges, classifications, practices, services, facilities or regulations for or in connection with intrastate communication service by wire or radio of any carrier. . . ." 47 U.S.C. 152(a) and (b) (1976).

[21] *Bell System Statistical Manual* (April 1979) at pp. 803 & 805; *Telerent Leasing Corp.*, 45 FCC 2d 204, 211 (1974), *aff'd sub nom. North Carolina Utilities Commission* v. *Federal Communications Commission*, 537 F. 2d 787 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976).

[22] The First Amendment provides, in pertinent part, "Congress shall make no law . . . abridging the freedom of speech. . . ." U.S. Const. Amend. I.

Hynes was found to be violative of this test because of "vagueness."

28. Subsequently, in a very recent case, *Village of Schaumberg* v. *Citizens for a Better Environment*, U.S. , 48 Law Week 4162 (February 20, 1980), the Court struck down an ordinance prohibiting solicitation by charities that spend more than one quarter of their receipts on salaries and administrative expenses. Although the Village claimed that its regulations were necessary to prevent fraudulent misrepresentations on the part of solicitors, the Court found that "[t]he Village's legitimate interest in preventing fraud can be better served by measures less intrusive than a direct prohibition on solicitation." *Id.* at 4166. The Court noted that:

> The Village may serve its legitimate interests, but it must do so by narrowly drawn regulations designed to serve those interests without unnecessarily interfering with First Amendment freedoms. *Hynes* v. *Mayor of Oradell, supra*, 425 U.S. at 620; *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765, 786 (1978). "Broad prophylactic rules in the area of free expression are suspect. Precision of regulation must be the touchstone. . . ." *NAACP* v. *Button*, 371 U.S. 415, 438 (1963) (citations omitted).

Id.

29. In *Lamont* v. *Postmaster General*, 381 U.S. 301 (1965), and *Rowan* v. *Post Office Department*, 397 U.S. 728 (1970), the Court considered First Amendment questions raised by communication through the mail. *Lamont* involved a statute providing for postal delivery of foreign communist propaganda only in response to a specific request by the addressee. This legislation was invalidated on the ground that the requirement of an affirmative request violated the addressee's First Amendment rights.

30. *Rowan* dealt with a statute which prohibited an advertiser from mailing additional material to an addressee who had indicated a desire not to receive such material and required that the advertiser delete the addressee's name from its mailing list. In upholding the statute, the Court made clear its reliance upon the fact that it was the householder and not the postmaster who determined what mail was provocative and should not be sent. The Court noted that:

> Both the absoluteness of the citizen's right under [the statute] and its finality are essential; what may not be provocative to one person may well be to another. In operative effect the power of the householder under the statute is unlimited. . . . Congress provided this sweeping power not only to protect privacy but to avoid possible constitutional questions that might arise from vesting the power to make any discretionary evaluation of the material in a governmental office.

Id at 737.

31. In our view, these cases stand for the general principle that the government may not broadly prohibit unrequested contacts with individuals in the privacy of the home absent an appropriate indication that the householder does not want to be disturbed. Thus, a complete ban on unsolicited calls or a prohibition on such calls to subscribers who have not affirmatively indicated a desire to receive them would probably be unlawful. *See* paragraph 35, *infra*.

32. Exempting calls made for political and charitable solicitation or survey research purposes from regulations applicable to commercial sales calls would also appear to raise serious constitutional questions in the absence of significant practical differences between unsolicited commercial and non-commercial calls. All solicitation calling—whether for charitable, political or business purposes—involves similar privacy implications. We have no information that subscribers would find an advertising message more offensive than a request for a charitable contribution or a political message or solicitation. As the Court noted in *Bates* v. *State Bar of Arizona*, 433 U.S. 350, 364 (1977), "the consumers' concern for the free flow of commercial speech may often be far keener than his concern for urgent political dialogue." The importance of commercial speech has been emphasized by the Court in *Bates* and a number of other recent Court decisions. For example in *Virginia Pharmacy Board* v. *Virginia Consumer Council* the Court stated that:

> Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information as to who is producing and selling what product, for what reason, and at what price. So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of commercial information is indispensable.[23]

425 U.S. 748, 765 (1976).

Although the extent of the differences between commercial and non-commercial speech have perhaps not yet been fully delineated,[24] differential treatment of protected speech based on content is usually prohibited. *Police Department* v. *Mosley*, 408 U.S. 92 (1972); *Niemotko* v. *Maryland*, 340 U.S. 268 (1951).

33. Any ban on telephone solicitation would also have to satisfy constitutional standards for clarity and specificity. *Hynes* v. *Mayor of Oradell*, 425 U.S. 610 (1976); *Grayned* v. *Rockford*, 408 U.S. 104 (1972). This would appear to present a rather difficult problem since the term "unsolicited telephone call" must be defined based on the prior relationship between the parties. For example, should a ban against solicitation precludes a caller from requesting a contribution on behalf of the called party's alma mater or a hospital where that person has been a patient? Should a ban on unsolicited telephone calls preclude a store from calling a long-time customer to inform him of a sale? Should it make any difference whether the person receiving the solicitation is acquainted with the caller? These and other similar definitional questions would accompany any ban and would no doubt embroil the Commission in difficult and perhaps unresolvable problems related to First Amendment concerns.

34. Even assuming that an outright ban on telephone solicitation would be constitutionally permissible, we would be reluctant to act in an area as sensitive as free speech absent the strongest kind of public interest showing. Such a showing has not been made in this proceeding. First, we are faced with the fact that our jurisdiction is limited. Any ban promulgated by this Commission would apply only to the small portion of unsolicited telephone calls which are interstate. Second, the comments in the proceeding reveal that although many people are annoyed by telephone solicitation, this is not a universal reaction. A substantial proportion of those receiving unsolicited telephone calls are apparently willing to cooperate in surveys or purchase the goods offered. *See* paras. 15, 18 & 19 *supra*.

35. The constitutional difficulties noted above might not apply if we merely sought to promulgate time, place or manner restrictions for unsolicited calls. We believe that such restrictions would be constitutional if they served a significant interest, left open ample alternative channels of communications, and could be justified without reference

[23] *See also, Carey* v. *Population Services International*, 431 U.S. 678 (1977); *Linmark Associates, Inc.* v. *Township of Willingboro*, 431 U.S. 85 (1977); *Bigelow* v. *Virginia*, 421 U.S. 809 (1975).

[24] For example, although it is clear that noncommercial speech is protected, the Court stated in *Bates* that the "overbreadth doctrine" would apply only weakly if at all in a commercial context. *Id.* at 380–81.

to the content of the speech involved, *Virginia Pharmacy Board* v. *Virginia Consumer Council*, 425 U.S. 748, 771 (1976). Regulation of this kind, however, appears unnecessary. An organization which is trying to sell something, obtain a contribution, or elicit information has an incentive to direct calls to those likely to be interested, limit calls to reasonable hours, and conduct them in an ethical and courteous manner.

36. Moreover, unreasonable interstate telephone solicitation practices can presently be dealt with through language contained in AT&T tariffs. AT&T tariff language prohibits "use of the service in such a manner as to interfere unreasonably with the use of the service by one or more other Customers." AT&T Tariff F.C.C. No. 263, Long Distance Message Telecommunications Service, Section 2.2.2(E); AT&T Tariff F.C.C. No. 259, Wide Area Telecommunications Service, Section 2.2.2(E). *See also*, AT&T "Procedures to Improve Customer Service—Annoyance Calls" (November 1, 1968, revised August 16, 1971). Although this language is not contained in AT&T's private line tariffs, this language or similar restrictions found in the local tariffs would apply to the use of private line service to access the switched network or distant local exchanges. We believe that these tariffs (which are concurred in by the independent telephone companies) are sufficient to handle any problem of solicitation in an improper or abusive manner.[25] We further note that Bell has represented in its comments that it fosters educational efforts designed to encourage adherence to reasonable telephone solicitation practices. Also, as discussed below, enforcement of regulations applicable only to interstate unsolicited telephone calls would be difficult.

37. It might be suggested that telephone subscribers be permitted to request that the telephone company notify a particular solicitor, or solicitors generally, that such subscriber is not to be called. A regulation of this kind, however, would be difficult to enforce and expensive to implement. The person called would not ordinarily be able to determine whether the solicitor was using the interstate telephone network or placing the call locally. Even if the recipient of an unsolicited telephone call could determine that the call was interstate, that person would not generally be able to determine or, perhaps even more important, to prove that subsequent calls were also interstate and thus violative of his instructions to the telephone company. Similarly, it might be difficult for the telephone company itself to verify whether the offending call was made over the interstate network[26] or even whether a solicitation was made. A prior notification system would also be likely to require substantial recordkeeping.

38. Here again, such an effort would appear unwarranted. The subscriber would not be protected against intrastate calls which, for reasons already described, would presumably make up the bulk of all unsolicited telephone calls. Thus, any privacy gained by the telephone user would be quite limited and, in our view, would clearly be outweighed by the complications and burdens inherent in administering any prior notification scheme.[27]

39. For the foregoing reasons, we find that the public interest would not be served by any Commission action at this time to subject telephone solicitation to federal regulatory constraints. In the present circumstances our jurisdiction is limited to regulation of interstate unsolicited telephone calls and ADRMP usage. Interstate use of the ADRMP is not widespread at this time and appears to pose no problem of harassment to subscribers or impairment of service subject to our jurisdiction. A general ban on telephone solicitation would raise serious constitutional difficulties, affect only the small percentage of unsolicited telephone calls which are interstate, and is, in any event, questionable as a matter of policy. Finally, it does not appear that a prior notification ban or time, place and manner restrictions at the federal level are warranted because of the small percentage of calls affected, the incentives for industry self-regulation, the present tariff language prohibiting abusive solicitation, the difficulty of effective enforcement and the cost of regulation.

40. Accordingly, it is ordered, that this proceeding be terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-16999 Filed 6-3-80; 8:45 am]

BILLING CODE 6712-01-M

[25] Any action undertaken by us in this area would have to operate through the enforcement of AT&T tariffs. Accordingly, the Commission appears to have a statutory mechanism for dealing with unsolicited telephone calls. The Commission's substantive regulatory authority is subject to jurisdictional limitations, however.

[26] Although billing records are kept for MTS calls, interstate solicitation to the extent it is undertaken, would very likely employ WATS or private line (FX, CCSA) facilities to reduce costs.

[27] We do not believe that it would be appropriate to require special interstate tariffs for unsolicited telephone calls for ADRMP usage. The costs to the telephone network for a particular message would appear to have no relation to the content of the message, the fact that it was unsolicited, or its placement through use of an ADRMP. There is no basis for charging a subscriber a different rate for an "unsolicited" MTS call than for any other MTS call since this service is usage sensitive; and no basis for charging a different rate for WATS or private line service based on whether such service is used in whole or in part to place unsolicited calls as the present record contains no evidence that the calling characteristics of organizations using these services to make unsolicited calls differ substantially from those of other subscribers who tend to have relatively heavy usage characteristics. To the extent that unsolicited telephone calling organizations generate large calling volumes, they pay for such usage in the same way as any other subscriber.

Notices

Federal Register
Vol. 45, No. 109
Wednesday, June 4, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Chippewa National Forest Land and Resource Management Plan; Beltrami, Cass and Itasca Counties, Minn.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on the proposed Land and Resource Management Plan for the Chippewa National Forest in Minnesota.

The plan is being prepared in accordance with requirements of the Secretary's regulations developed pursuant to the National Forest Management Act of 1976. It will propose management direction for the natural and human resources on the Chippewa National Forest.

The planning process will begin with identification of public issues, management concerns, and resource use and development opportunities. Planning criteria will be developed and data will be collected and analyzed to determine how the identified issues and concerns can be resolved. An assessment of the capability of the land to produce resource outputs and a determination of the public's future demands for these outputs will be made. Methods for resolving the identified public issues will be developed from this information and will be used to formulate alternatives.

Alternatives will display a range of resource outputs at several expenditure levels. Each alternative will represent a cost-effective combination of management practices which can best meet the objectives of the alternative. In addition, each identified major public issue will be addressed; each alternative will specify methods to restore renewable resources and a no-change alternative will be included.

A preferred alternative will be selected by ranking the alternatives according to their physical, biological, social, and economic effects. It will include the best combination of resource uses on the Forest and will also provide for a continuous monitoring and evaluation process.

A draft environmental impact statement will be released around February 1982. The final land and resource management plan and environmental impact statement will be released approximately 10 months later.

Public participation will be an integral part of the planning process. A response form, meetings, and other public involvement tools will be used to identify issues early in the planning process. Each public involvement activity will be announced through the news media and mailings to interested agencies, organizations, and individuals. In addition, a scoping session will be held in mid-1980 with County, State, and other Federal agencies to determine the scope and significant issues to be analyzed in depth in the environmental impact statement.

Steve Yurich, Regional Forester of the Eastern Region, is the responsible official, and James E. Brewer, Forest Supervisor of the Chippewa National Forest, is the person in charge of the project.

Further information about the planning process or written comments on this Notice of Intent should be directed to: Forest Supervisor, Chippewa National Forest, Rt. 1, Box 25, Cass Lake, MN 56633. Phone: (218) 335-2226.

James H. Freeman,

Director, Planning, Programming, Budgeting.

May 27, 1980.

[FR Doc. 80-16944 Filed 6-3-80; 8:45 am]

BILLING CODE 3410-11-M

Fremont National Forest Lake and Klamath Counties, Oregon; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Fremont National Forest Land and Resource Management Plan. This Forest Plan will be developed in accordance with direction established in the regulations for National Forest System Land and Resource Management Planning (36 CFR 219).

The Forest Plan will be responsive to public issues, management concerns, as well as resource use and development opportunities. A range of alternative proposals for the Forest Plan will be considered. One alternative will be a no-action alternative. Other alternatives will present different land and resource allocation possibilities along with a range of resource outputs and expenditure levels. Each alternative will be technically feasible and cost efficient.

Tentative public issues have been identified by the Forest Interdisciplinary Team. Sources for the issues include previous planning actions and public involvement activities. They will be presented to other Federal, State, and local agencies, and interested individuals for review and comment in May and June 1980. Participation will be in the form of cooperative interagency meetings, open public meetings, and through the use of response forms. The same agencies and interested public will be invited to participate in the scoping process which includes: (a) identification of issues to be addressed in the development of the Forest Plan; (b) identification of issues to be analyzed in depth; and, (c) elimination of insignificant issues. The scoping process will be conducted in September 1980 by the Forest Interdisciplinary Team. Cooperating agencies and the general public will be notified of the results. Comments will be requested.

Cooperating Federal, State, local agencies, and Indian tribes, as well as the general public, will be encouraged to participate throughout the planning process.

The Forest Supervisor will conduct public meetings during formulation of alternatives. The meetings are scheduled to occur during the summer of 1982. They will be held at various locations in the vicinity of the Fremont National Forest.

The draft Environmental Impact Statement is expected to be available for public review by July 1983. The final Environmental Impact Statement is scheduled to be completed in June 1984.

R. E. Worthington, Regional Forester, Pacific Northwest region, is the responsible official. Questions regarding

the proposed action and Environmental Impact Statement should be addressed to Sherman Radtke, Land Management Planning Staff Officer, Fremont National Forest, P.O. Box 551, Lakeview, Oregon 97630.

Written comments and suggestions concerning the Forest Plan should be directed to John Chambers, Forest Supervisor, Fremont National Forest, P.O. Box 551, Lakeview, Oregon 97630.

Donald H. Morton,

Acting Regional Forester.

May 27, 1980.

Soil Conservation Service

Chamberlain Branch Watershed, Ky.; Works Improvement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Authorization of Federal Assistance in the Installation of Works of Improvement.

FOR FURTHER INFORMATION CONTACT:
Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40505, telephone number (606) 233–2749.

Notice: Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1008) has been authorized for the Chamberlain Branch Watershed, Kentucky.

Dated: May 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904 Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008).

Joseph W. Haas,

Deputy Chief for Natural Resource Projects

[FR Doc. 80–16911 Filed 6–3–80; 8:45 am]

BILLING CODE: 3410–16–M

Eutacutaches Creek Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone number 601–960–4335.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an enviromental impact statement is not being prepared for the deauthorization of Federal funding of the Eutacutaches Creek Watershed, Rankin County, Mississippi.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of floodwater retarding structures and 14.7 miles of channel improvement.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone number 601–960–4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until August 4, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: May 23, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–16907 Filed 6–3–80; 8:45 am]

BILLING CODE 3410–16–M

Sevenmile Creek Watershed, Illinois

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT:
James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202–447–3587).

Notice

Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Sevenmile Creek Watershed project, White County, Illinois, effective on May 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–16908 Filed 6–3–80; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Order 80–5–200; Docket 37938]

American Airlines, Inc.; Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of May, 1980.

Application of American Airlines, Inc., for an exemption pursuant to Section 416(b) of the Federal Aviation Act of 1958, as amended.

By application filed March 27, 1980, American Airlines under Section 416(b) of the Act applied for an exemption from Section 403 and Part 221 of our Economic Regulations to the extent necessary to permit them to offer free or reduced-rate transportation to passengers who are involuntarily bumped from oversold flights and who are eligible for denied boarding compensation.[1]

In support of its application, AA states that during December, 1979, and January, 1980, a number of carriers filed exemption applications with us seeking permission to offer free or reduced-rate transportation in lieu of cash in settlement of passenger claims, at the option of the passenger. We responded with Order 80–2–155, which dismissed the applications because we had already granted carriers the exemption begin sought. Specifically, we stated,

Compensation, as the word is generally used, is by no means limited to the payment of money. Except for instances specifically covered by Board regulations, such as those covering involuntary bumping from oversold flights, airlines may make amends to dissatisfied customers by various means, including things like cash, new luggage, meal vouchers or free or reduced rate transportation. We are, however, denying these exemptions requests, not because we oppose what the carriers want to do, but because all carriers already have the authority to do it.[2]

While the above language clearly indicates that carriers may offer free or reduced-rate transportation in settling most passenger claims, AA states that it is unclear whether carriers can offer free or reduced-rate transportation to passengers eligible for denied boarding compensation under Part 250 of our Regulations. Under AA's proposal, eligible passengers would have the option of either accepting cash in accordance with Part 250 or free or reduced-rate transportation. AA further states that it would obviously need to offer transportation valued at an amount higher than the cash amount to make free or reduced-rate transportation an attractive alternative to the eligible passengers.

AA states that it believes that its application is entirely consistent with our previous actions in this matter. Our policy has been to give carriers sufficient flexibility to formulate innovative approaches in compensating eligible passengers. Extending this flexibility to Part 250 would not impinge upon the consumer protection goals of Part 250, since the passenger would have the option of accepting the cash amount prescribed by Part 250, or free or reduced-rate transportation. An additional benefit of offering free or reduced-rate transportation to eligible passengers is that it would result in considerable cost savings, according to AA. In 1979 alone AA states it paid out over $7.1 million in denied boarding compensation. Such cost savings would be a factor in analyzing the need for future fare increases.

No other comments in support of or in opposition to the application have been filed with the board.[3]

[1] AA did not request a waiver of Part 250, which as a technical matter is necessary to implement AA's request.

[2] Order 80–2–155, p. 2, citing Order 79–12–49.

[3] Relevant to AA's Application is a recent tariff filing by Eastern Air Lines, (issued March 18 for effectiveness May 17), where EA states that the passengers who volunteer to relinquish their seats will be given the option of one free round trip ticket via EA (see Note 3, Rule 245(B), ATP Passenger Rules Tariff CAB No. 352, Page 261).

Additionally, United Air Lines (for effectiveness February 1, 1980), and AA (for effectivenss May 2, 1980), Notes 1 and 2, Rule 245(B), *supra*, respectively, have filed new tariff provisions stating that, at the carriers' option, they will compensate the passenger who volunteers to relinquish confirmed space with a credit valid for the purchase of transportation, in lieu of monetary compensation.

A comparable provision filed by Braniff Airways, (Note 5, Rule 245(B), *supra*, for effectiveness June 13, 1980), was rejected by the Board's Tariff Division, primarily on the grounds that the "credit" would have applied only to passengers who involuntarily relinquished confirmed space, at variance with Part 250 of the Board's Regulations.

[4] American's proposal does not indicate whether the airline plans to impose any limitations on refundability, transferability, or period of validity of the transportation credits. We assume that the carrier will give passengers clear and timely notice of any such limitation it may impose.

We will grant AA's request for an exemption to enable it, and all other carriers, to offer pasengers eligible for denied boarding compensation the option of accepting either the monetary amount prescribed by Part 250 or free or reduced-rate transportation.

We perceive no reason why free or reduced-rate transportation for denied boarding compensation need be precluded. Expanding the options available to carriers and bumped passengers in resolving DBC disputes is clearly in line with our policy of reducing restrictive economic regulation. Granting the petition will not result in the diminution of passenger rights. Rather, it will provide an additional, wholly voluntary, option which from the passenger's standpoint may be more valuable than monetary compensation, and which may be cheaper for the carrier to provide. The additional option is consistent with the public interest. We have no reason to doubt that carriers will fully and fairly disclose to passengers that the new option is in addition to, rather than a substitute for, monetary compensation under Part 250. We would expect the carriers to disclose fully the specific amount of money it would be required to pay in denied boarding compensation, as well as the fact that the passenger may choose either the money or the transportation.[4]

Accordingly,

1. We approve the application of American Airlines, Inc. in Docket 37938 and grant the requested exemptions and waive Part 250 of the Board's Regulations to the extent necessary to permit all carriers to exchange free or reduced-rate transportation as compensation to those volunteering to relinquish their confirmed reserved space or in settlement of denied boarding compensation claims, *provided, however,* that appropriate provisions are filed in the carriers' tariffs and have become effective, *and further,* that such free or reduced-rate transportation be equal to or greater than the monetary compensation due the passenger, and provided that it is at the passenger's option; and

2. A copy of this order will be served on American Airlines, Inc., and all other certificate air carriers.

3. This order will be published in the **Federal Register.**

By the Civil Aeronautics Board: [5]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–16856 Filed 6–3–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–5–212; Docket 37442]

Additional Northeast/Ohio Valley—Florida Show-Cause Proceeding; Order Deferring Action

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of May, 1980.

By Order 80–4–127, April 16, 1980, we made final the tentative findings and conclusions contained in Order 80–1–81, January 14, 1980, to the extent that they involve the Orlando-Cincinnati/Columbus/Indianapolis and Tampa-Cincinnati markets, and deferred action on seven Sarasota markets.[1]

On April 21, 1980, the Whitfield-Ballentine-Manor Estates Airport Committee, Trailer Estates Noise Abatement Committee, and Tri-Par Estates Airport Committee, among others, filed a joint detailed formal objection in this proceeding on environmental grounds raising the basic question of whether there should be new route authority at Sarasota.[2] The Saratosa-Manatee Airport Authority filed an answer to the objection,[3] urging us to dismiss it.

We have determined that our responsibility under the National Environmental Policy Act of 1969 (NEPA) and the provisions of Part 312 of our Procedural Regulations, require that we undertake a careful review of the environmental factors bearing on increased route authority at Sarasota. We believe that the issues raised in the objection warrant a detailed analysis as set forth in section 312.16. Therefore, we have decided to defer action with respect to pending and future applications [4] for authority at Sarasota pending completion of an assessment of the possible environmental effects of granting increased authority at Sarasota. The staff has prepared a notice of our intention to perform the assessment and has invited comments which will be due

[5] All members concurred.

[1] Cincinnati, Indianapolis, Columbus, New York, Philadelphia, Washington, and Baltimore.

[2] The objection, which was quite lengthy, was accompanied by a request to utilize an abbreviated service list. We grant the request.

[3] The answer, which was filed late, was accompanied by a motion for leave to file an otherwise unauthorized document and a request to use an abbreviated service list. We grant the motion and request.

[4] Currently, there are no applications outstanding which contain active requests for Sarasota authority outside those being handled in this proceeding.

30 days after the notice is issued (a copy of the notice is attached). During the deferral period, we will consider individual route applications for authority at Sarasota only in extraordinary circumstances. It does not appear that such circumstances are presented by any of the applications now before us.

Accordingly,

1. We defer action in Docket 37442 as to the Sarasota-Cincinnati/Indianapolis/Columbus/New York/Philadelphia/Washington/Baltimore markets until further order of the Board;

2. We direct the staff to complete an environmental assessment as described above at Sarasota in accordance with the provisions of section 312.16 of our Procedural Regulations;

3. We grant the motion of the Sarasota-Manatee Airport Authority to file an otherwise unauthorized document;

4. We grant the requests of the Whitfield-Ballentine-Manor Estates Airport Committee, *et al.*, and the Sarasota-Manatee Airport Authority, to utilize abbreviated service lists; and

5. We will serve a copy of this order upon all parties to this proceeding.

We will publish this order in the Federal Register.

By the Civil Aeronautics Board: [5]

Phyllis T. Kaylor,

Secretary.

Multiple Permissive Awards for Route Authority at Sarasota; Preparation of Environmental Assessment

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Preparation of Environmental Assessment.

SUMMARY: This notice announces the Board's intention to prepare an environmental assessment pursuant to the provisions of section 312.16 of the Procedural Regulations. The purpose of the assessment will be to evaluate the environmental effects of increased authority at the Sarasota/Bradenton Airport, to determine whether an environmental impact statement should be prepared.

DATES: Comments will be due on July 7, 1980.

ADDRESS: Comments should be addressed to Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5198.

SUPPLEMENTARY INFORMATION: There are five applications for route authority between Sarasota/Bradenton and seven Northeast/Ohio Valley points. By Order 80–1–81, January 14, 1980, the Board proposed to grant the applications. On April 21, 1980, several groups of concerned residents of the area around the Sarasota/Bradenton Airport filed formal objections requesting a site-specific Environmental Impact Statement prior to the award of additional route authority at Sarasota. Our responsibility under the National Environmental Policy Act (NEPA) requires that we undertake a careful analysis of the environmental factors arising from increased route authority at Sarasota/Bradenton. The analysis will focus on whether the grant of multiple authority in this and possible future cases will substantially increase the scope of operations at the Sarasota/Bradenton Airport; and any other issues relevant to the analysis. We hereby invite comments on any of the issues listed, including the commentor's view on what the scope of the assessment should be. A comment that contains specific information on the potential environmental impact of any of the applications or of the proposed action granting multiple authority at Sarasota should include the source of the information, assumptions and justification for its use.

Interested persons may participate in the preparation of this assessment by submitting written data such as described above, or views and arguments to the address shown. Ten copies of such comments are requested but not required. All relevant material received by the date shown at the beginning of this notice will be considered in preparing the environmental assessment.

Dated: May 29, 1980.

Barbara A. Clark,

Director, Bureau of Domestic Aviation.

[FR Doc. 80–16957 Filed 6–3–80; 8:45 am]

BILLING CODE 6320–01–M

[5] All members concurred.

[Docket 35190; Order 80–5–214]

Application of Air Nauru

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 80–5–214.

SUMMARY: The Board proposes to approve the following application:

Applicant: Air Nauru.

Application Date: April 2, 1979; Docket: 35190.

Authority Sought: An amended foreign air carrier permit to engage in foreign air transportation of persons, property and mail between Nauru and Hong Kong via Ponape, Truk, Guam, Saipan, Palau, Taipei and Manila.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, not later than June 24, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, and the Department of State. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 35190, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Air Nauru, c/o Andrew T. A. Macdonald, Wilmer, Cutler, and Pickering, 1666 K Street, N.W., Washington, D.C 20006

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5878.

By the Civil Aeronautics Board: May 29, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–16958 Filed 6–3–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–5–213; Doc. 36485]

Application of Air Pacific Ltd., Docket 36485

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 80–5–213.

SUMMARY: The Board proposes to approve the following application:

Applicant: Air Pacific Limited.

Application Date: August 29, 1979; Docket: 36485.

Authority Sought: To renew and amend its foreign air carrier permit to continue its operations in the Pacific Islands and to extend operations on one route to Guam and Japan and on another to Honolulu, the mainland United States, and Canada.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than June 24, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Fiji in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 36485, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Air Pacific Limited, c/o Thomas J. Whalen, 1001 Connecticut Ave., N.W., Washington, D.C 20006

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION: Contact Frank Forman, Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5183.

By the Civil Aeronautics Board, May 29, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–16955 Filed 6–3–80; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee (SAC) of the Commission will convene at 7:30 pm and will end at 10:00 pm, on June 19, 1980, at the Executive Tower, 1405 Curtis Street, Room 1706, Denver, Colorado 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is planning and dicussion of future civil rights activities; final wrap-up on Energy Policy Handbook and student intern project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 28, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–16959 Filed 6–3–80; 8:45 am]

BILLING CODE 6335–01–M

Indiana Advisory Committee; Meeting Relocated

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S Commission on Civil Rights that a factfinding meeting of the Indiana Advisory Committee (SAC) of the Commission originally scheduled for June 19–20, 1980, in Indianapolis, Indiana (FR Doc. 80–16006 on page 35413) has been changed.

The meeting will now be held at the Public Assembly Room, City County Building, 2nd Floor Council Chambers, Indianapolis, Indiana 46204. The date and time will remain the same.

Dated at Washington, D.C., May 28, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–16960 Filed 6–3–80; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning September 1, 1980, within the State of Michigan. The cost of the project is estimated to be $436,112 and the Project Number is 05–60–01556–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide the services of a Business Development Center (BDC) to minority businesspersons and firms.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: Chicago Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 55 East Monroe Street, Suite 1440, Chicago, IL 60603.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of August 1, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Dated: May 28, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80–16871 Filed 6–3–80; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Hubbs-Sea World Research Institute; Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine mammals (50 CFR Part 216), Permit No. 225 issued to Hubbs-Sea World Research Inst., 1700 South Shores Road, Mission Bay, San

Diego, California 92109 on March 24, 1978 (43 FR 13602), is modified in the following manner:

Section B.1 is modified to read:

"The leopard seals to be imported shall be from Australian beached and stranded animals as described in the application or from New Zealand beached and stranded animals."

Section B.2 is modified to read:

"This Permit is valid with respect to the importation authorized herein until December 31, 1982."

This modification is effective as of May 29, 1980.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, Northwest, Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 29, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-17003 Filed 6-3-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Cotton and Man-Made Fiber Textile Products from the Dominican Republic, Effective on June 1, 1980

May 30, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile product, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period beginning on June 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979 between the Governments of the United States and the Dominican Republic established specific levels of restraint for Categories 340 (men's and boys' woven cotton shirts, 351 (cotton nightwear), 639 (women's, girls' and infants man-made fiber knit shirts and blouses), and 649 (man-made fiber brassieres) during the agreement year which begins on June 1, 1980 and extends through May 31, 1981. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, under the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in the Dominican Republic and exported during the twelve-month period which begins on June 1, 1980 and extends through May 31, 1981, in excess of the designated levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

May 30, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended December 15, 1977; pursuant to the bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 1, 1980, and for the twelve-month period extending through May 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 351, 639, and 648, produced or manufactured in the Dominican Republic, in excess of the following levels of restraint:

Category	Twelve-Month Level of Restraint
340	121,817 dozen.
351	286,113 dozen.
639	274,588 dozen.
649	1,392,750 dozen.

In carrying out this directive entries of textile products in the foregoing categories which have been exported to the United States prior to June 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on June 1, 1979 and extending through May 31, 1980. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 7 and 8, 1979, between the Governments of the United States and the Dominican Republic which provide, in part, that: (1) specific limits may be exceeded by designated percentages to account for swing; (2) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Dominican Republic with respect to imports of cotton and man-made fiber textile products from the Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-16983 Filed 6-3-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant Limited Exclusive Patent License; E. I. du Pont de Nemours & Co.

Pursuant to the provisions of Army Regulation 27-60, Chapter 10, the Department of the Army announces its intention to grant to E. I. du Pont de Nemours and Company, a corporation of the State of Delaware, a limited exclusive license under U.S. Patent Application Serial No. 3,699, filed January 16, 1979, entitled "Narcotic Antagonists in the Therapy of Shock", invented by John W. Holaday et al. and any patent issuing thereon.

This license will be granted unless an application for a nonexclusive license, submitted by a responsible applicant, is received by the Chief, Intellectual Property Division, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310, within 60 days of this notice, and it is determined, in accordance with the procedures set forth in Army Regulation 27-60, Chapter 10, that the applicant for such license has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period if granted a nonexclusive license or it is determined that a third party has presented written evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

For further information concerning this notice, contact: Mr. Werten F. W. Bellamy, Principal Licensing Officer, HQDA (DAJA-IP), Washington, D.C. 20310, telephone number (202) 695-3322.

William G. Gapcynski,

Chief, Intellectual Property Division, Office of the Judge Advocate General, Department of the Army.

May 23, 1980.

[FR Doc. 80-16952 Filed 6-3-80; 8:45 am]

BILLING CODE 3710-08-M

Armed Forces Discharge Review/ Correction Boards Reading Room Requests for Regulations/Documents Made Pursuant to DoDD 1332.28

In FR Doc. 77-30712, published in the **Federal Register** (42 FR 56147) on October 21, 1977, the Department of the Army announced the establishment of the Armed Forces Discharge Review/ Correction Boards Reading Room on the public concourse of the Pentagon. The Reading Room was established in accordance with the Stipulation of Dismissal in the lawsuit entitled *Urban Law Institute of Antioch College, Inc., et al. v. Secretary of Defense, et al.*

Notice is hereby given that the policy stated in 42 FR 56147 for the distribution of documents and assessment of fees by the Reading Room has been revised as follows:

a. An applicant for discharge review is entitled to directives and other documents relevant to the consideration of his application by the DRB. The Reading Room, located at the Pentagon Concourse, is the proper recipient of a request for such materials from an applicant or his designated counsel or representative.

b. The Reading Room will provide the following publications, upon request, without charge:

(1) Stipulation of Dismissal

(2) DoDD 1332.28

(3) Subject/Category Listing

(4) Decisional Documents of the DRBs (up to 25 each 30 days)

(5) Index (case-by-case determination)

c. Requests for regulations other than those described above will be referred to the discharge review board of the military department concerned and a notice of referral will be provided to the requester by the Reading Room.

d. The discharge review board concerned will, upon request, provide the following regulations/Documents, without charge:

(1) DRB regulation/instruction;

(2) Pertinent portion of the regulation or manual under which the applicant was discharged (both current version and version in effect at the time of discharge);

(3) Pertinent portion of other directives and documents relevant to the review of the applicant's discharge (case-by-case determination).

e. If a requested directive or document does not appear to be relevant to the review of the applicant's discharge, the DRB will so inform the requester. In addition, the requester will be advised by the DRB of two alternative means to obtain the requested material:

(1) By writing to the appropriate agency (using the name and address provided) from which the material can be obtained for a fee (unless the agency in question waives the fee).

(2) By providing specific information to the DRB demonstrating the relevancy of the requested material to the review of the applicant's discharge. If sufficient information is provided, the material will be provided free of charge.

f. The above procedures are effective immediately.

Francis X. Plant,

Deputy Assistant Secretary (DA Review Boards and Personnel Security).

[FR Doc. 80-16953 Filed 6-3-80; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent to Prepare Three Draft Supplements to the Final Environmental Impact Statement, Flood Control, Minnesota River, Minnesota, Mankato-North Mankato-Le Hillier; Proposed Alteration or Relocation of Bridges and Highway Approaches.

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Revision of availability date for the three Draft Supplements to the Final Environmental Impact Statement (FEIS).

SUMMARY: The following revision applies to the Notice of Intent published in the Wednesday, January 30, 1980 issue of the **Federal Register** (Vol. 45, No. 21, pp. 6828-6830):

"We estimate that the three Draft Supplements to the FEIS will be available to the public by the fourth quarter of Fiscal Year 1980 (July through September 1980)."

Dated: May 27, 1980.

William W. Badger,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-16943 Filed 6-3-80; 8:45 am]

BILLING CODE 3710-CY-M

Office of the Secretary Advisory Group on Electron Devices; Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 26-27 June 1980 at the Harry Diamond Labs, 2800 Powder Mill Road, Adelphi, Maryland 20783.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments proposed to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, § 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C.

§ 552b(c)(1)(1976), and that accordingly,

9. Opening of IAB meetings to the

7. Subcommittee "C" report, including:

§ 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 30, 1980.

[FR Doc. 80-16892 Filed 6-3-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Advisory Committee on Women in the Services (DACOWITS);

The 22–23 June 1980 dates for the Defense Advisory Committee on Women in the Services (DACOWITS) Executive Committee Meeting as published in the **Federal Register** (Volume 45, No. 104, Wednesday 28, May 1980, FR Doc. 80—p. 35853) have been changed to 29–30 June 1980. Times and places remain the same.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

May 30, 1980

[FR Doc. 80-16893 Filed 6-3-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on June 11, 1980, at the Instituto Di Aggiornamento E Formazione ENI, Villa Montecucco, Vilae Bruno Buozzi 14, 00040 Castelgandolfo (Rome), Italy, beginning at 10:00 a.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Disputes Settlement Center, including preparation of procedures.
5. Legal clearance:
   U.S. voluntary agreement.
   EC Commission interface with IEA.
6. Legal issues involved in simplified sharing system—less than 7 percent trigger.
7. Legal consequences of industry representation in National Emergency Sharing Organizations (NESO's) during test and emergency.
8. Role of the IAB in advising IEA, including stock policies.
9. Opening of IAB meetings to the public and making available transcripts of meetings to the public.
10. Future work program.

II. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on June 12, 1980, at the Instituto Di Aggiornamento E Formazione ENI, Villa Montecucco, Viale Bruno Buozzi 14, 00040 Castelgandolfo (Rome) Italy, beginning at 10:00 a.m. The agenda for the meeting is as follows:

1. Emergency data system, including:
   Country-by-Country data reporting survey;
   Simplified system for import monitoring (possible monthly Quarterly Oil Forecast);
   Streamlining of emergency data reporting requirements.
2. Emergency reserves, including:
   Implications of including naphtha and bunkers in emergency reserves;
   General cost considerations related to holding emergency reserves;
   Relationship of existing commercial stock levels to compulsory levels;
   Treatment of critical products;
   Optimum crude/product mix and accelerated production in crises;
   Minimum operating stocks by regions.
3. Implementation of speedy demand restraint measures after a trigger.
4. Third Allocation Systems Test (AST–3) Progress report.
5. New emergency mangement manual.
   Training requirements for AST–3 participants/new Reporting Companies. (Including status report on new Reporting Companies.)
7. Treatment of synthetic fuels.
8. Forward corrections vs. historical adjustments in emergency oil redistribution.

III. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on June 13, 1980, at the offices of Ente Nazionale Idrocarburi (ENI), Piazza Enrico Mattei 1, 00144 Rome, Italy, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. Communications to and from IEA and Reporting Companies.
3. Matters arising from record note of IAB meeting in April 17, 1980.
4. Report on and discussion of SEQ meeting of April 24, 1980.
5. Report by IEA on and discussion of Governing Board meeting of May 8–9, Ministerial meeting of May 21–22, and other recent developments.
6. Report by IEA on and discussion of worldwide supply situation following May and June questionaire "B" submissions and outlook for 1980.
7. Subcommittee "C" report, including:
   A. Legal clearances.
   (1) U.S. voluntary agreement.
   (2) EC Commission interface with IEA.
   (3) Clearances for AST–3.
   B. Other legal issues.
   (1) Industry representation on NESO's.
   (2) Role of the IAB in advising the IEA.
   (3) Simplified sharing system—less than 7% trigger.
   C. Dispute Settlement Centre, including preparation of procedures for arbitration.
   D. Pricing in an emergency.
   E. Opening of IAB meetings to the public and making available transcripts of meetings to the public.
   F. Future work program.
8. Subcommittee "A" report, including:
   A. Emergency Data System questions:
   (1) Survey of Participating Country data reporting procedures.
   (2) Simplified system for import monitoring.
   (3) Streamline of emergency data reporting requirements.
   B. Emergency reserves:
   (1) Implications of including naphtha and bunkers in emergency reserves.
   (2) General cost considerations related to holding additional emergency reserves.
   (3) Relationship of existing commercial stock levels to compulsory stocks.
   (4) Treatment of critical products.
   (5) Optimum crude/product mix and accelerated production in a crisis.
   (6) Minimum opeating stocks by regions.
   C. Training requirements.
   D. AST–3 preparations.
   E. Future work program.
9. ISAG Manager's report, including:
   A. ISAG staffing.
   B. AST–3 per diem expense allowance.
10. Future work program and meeting schedule.

As permitted by 10 CFR 209.32, the usual 7–day notice period has been shortened because the agendas only recently have been determined.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, a verbatim transcript of this meeting will be made; the transcript, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (41 FR 32691, August 5, 1976) and 22 CFR 9a.1–9a.8, will be available in the Reading Room of the Department of Energy, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Issued in Washington, D.C., May 28, 1980.

Craig S. Bamberger,

Acting Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80-16986 Filed 6-3-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Loan Guarantees for Alternative Fuel Demonstration Facilities

AGENCY: Department of Energy, Office of Resource Applications.

ACTION: Summary of Comments Received on Proposed Evaluation of Unsolicited Application for High Btu Coal Gasification Loan Guarantee and Notice of Decision.

On May 15, 1980 (45 FR 32037), the Department of Energy published a request for comments on its proposed evaluation of an unsolicited application for high Btu coal gasification loan guarantee. Four written comments and one telephone comment were received in response to this request. The comments were categorized and summarized as follows: Two comments opposed the Department of Energy's acceptance of an unsolicited application for the high Btu coal gasification loan guarantee. The general, thrust of these comments was that the Department should solicit competitive proposals. However, as stated in the request for comments, the Department of Energy believes that no other high Btu coal gasification project was currently able to offer a competitive proposal for a loan guarantee. The request for comments specifically requested that any other party proposing to construct a commercial scale high Btu gasification facility within a similar time period as that of the unsolicited proposal comment and notify the Department of Energy of any intention it may have to reply for a Federal loan guarantee. No comments were received from any party having knowledge of any competitive project nor did any party indicate an intention to apply for a Federal loan guarantee. Therefore, the Department of Energy continues to believe that there is no other high Btu coal gasification project which is able to compete at this time with the unsolicited proposal.

Two comments were received which endorsed the Department's acceptance of the unsolicited application and urged the Department to proceed as quickly as possible to make loan guarantees available for the development of synthetic fuel projects. These comments were generally considered by the Department to be supportive of the acceptance of the unsolicited application for the Great Plains Gasification Associates project and do not, in the opinion of the Department, need further interpretation.

A third area of comments addressed the environmental and community impacts of the proposed project and expressed concern that these impacts be appropriately evaluated. The decision by the Department of Energy to accept the unsolicited proposal for evaluation does not constitute an awared of a loan guarantee to the Great Plains project. This guarantee will not be issued until the Department completes a detailed evaluation of the application and determines that the application meets the requirements of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (Pub. L. 93–577), and the regulations implementing that statute (10 CFR part 796). In making this determination, the Department will evaluate the environmental and community impacts of the project. The Department is aware that a final environmental impact statement has been published for the Great Plains Gasification Associates project by the Department of the Interior. The Department will utilize this environmental impact statement in its evaluation and will appropriately evaluate and assess the community impacts of the project prior to making a decision on the application.

One comment suggested that an additional 30 days be allowed for further comments on the proposed action. The suggestion made by this comment has not been adopted because the Department of Energy believes that evaluation of the subject proposal must begin immediately if the Department is to have any possibility of issuing a guarantee or a commitment within sufficient time for the project to begin construction during the 1980 building season.

Finally, one comment addressed whether or not the project was eligible for a loan guarantee since the sponsors had evidenced their willingness to proceed with the proposed plant without a Federal guarantee and further questioned whether the project would begin construction during the 1980 building season as a result of the appeal of the Federal Energy Regulatory Commission's approval of the financing plan for the project. The appeal of the FERC ruling prevents the project from being financed at this time without a Federal loan guarantee. However, if the proposed Federal loan guarantee is timely issued, the project may begin construction during the 1980 building season. The issuance of such a guarantee may also result in a resolution of the pending appeal of the FERC ruling. The Department has further determined that complete financing is not presently available to the Great Plains Coal Gasification Project on both an interim and permanent basis even the FERC's approval of the financing plan. Therefore, the Department is of the opinion that the loan guarantee is necessary to encourage the financial participation of the private lending community and the financial eligibility requirements of the Department's authorization statute can be met.

Those comments which did not directly respond to the proposed action or which requested copies of Departmental documents instead of offering comments are not addressed in this summary.

After consideration of the comments received, both for and against the Department's acceptance for evaluation of the unsolicited application proposed by Great Plains Gasification Associates, the Department has determined that there were no objections which outweigh the significant national benefit that is perceived if the Great Plains Gasification Associates project begins construction as quickly as possible. Therefore, it is the decision of the Department of Energy that the unsolicited proposal for a loan guarantee for this project will be accepted for evaluation by the Department of Energy. This decision does not constitute a decision to issue a loan guarantee to the subject proposal. However, if the applicant meets all of the statutory and regulatory requirements for the issuance of a loan guarantee and if the Department's evaluation of the application indicates is meets the programmatic objectives of the alternative fuels demonstration program, a loan quarantee may be ultimately awarded to the subject proposal.

Issued in Washington, D.C. on May 29, 1980.

John C. Sawhill,

Deputy Secretary, U.S. Department of Energy.

[FR Doc. 80-16877 Filed 6-3-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the April 1, through June 30, 1980, Allocation Period

In accordance with the provisions of the Mandatory Candian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of June 1980.

Since October 1979, exports of crude oil from Canada have been authorized on a monthly basis instead of a quarterly basis. Consequently, the volumes listed in the allocation notice issued on March 31, 1980 (45 FR 23718, April 8, 1980), and the supplemental notice issued on April 18, 1980 (45 FR 28408, April 29, 1980), represented only volumes to be exported in April and May, respectively. This supplemental notice lists only Canadian crude oil volumes which will be exported in the month of June.

Redesignation of Priority Status

On April 17, 1980, the Department of Energy's Office of Hearings and Appeals (OHA) issued a Decision and Order with respect to appeals filed by the Mobil Oil Corporation from four allocation notices issued by ERA under the Candadian Crude Oil Allocation Program. *Mobil Oil Corporation*, Case Nos. DEA–0235, 0387, 0589, and BEA–0035. OHA concluded that:

On the basis of the data set forth above, we have determined that both Ashland and Koch have access to substantial quantities of non-Candian crude oil delivered by barge during eight months of the year. When pipelines are considered as well, the record indicates that Ashland and Koch had access to at least 193,765 B/D of non-Canadian crude oil by pipeline and barge during the fourth allocation quarters of 1978 and 1979, and 231,152 B/D of non-Canadian crude oil by pipeline and by barge during the second and third allocation quarters of 1979. [footnote omitted] These figures are substantially greater than the 108,398 B/D threshold level established in this proceeding to determine whether the two Minnesota refineries are eligible for first priority status under the CAP.

It is ERA's belief that the legal and factual determinations made by OHA with respect to the Ashland and Koch refineries' access to non-Canadian crude oil in the allocation periods specified above are equally applicable to future allocation periods. Accordingly, on May 16, 1980, Ashland and Koch were formally advised that ERA intended to redesignate the Ashland refinery at St. Paul Park, Minnesota, and the Koch refinery at Pine Bend, Minnesota, second priority refineries for the June 1980 Supplemental Allocation Notice and, with the possible exception of the first allocation quarter in each year, in every subsequent allocation quarter. With respect to the first allocation quarter of each year, ERA intended to make a determination of the refineries' priority status at a later time.

However, on May 15, 1980, at the request of Koch, the United States District Court for the District of Minnesota issued a Temporary Restraining Order, which was served on the Department of Energy on May 19, 1980. This Order restrains and enjoins ERA "from implementing reclassification of [Koch's] Pine Bend, Minnesota, refinery from first priority to second priority status under the regulations of the Canadian Allocation Program (10 CFR Part 214) pending a hearing and determination of the plaintiff's motion for a preliminary injunction."

On May 27, 1980, Ashland advised that the United States District Court for the District of Minnesota had also issued a Temporary Restraining Order restraining ERA from reclassifying the Ashland refinery at St. Paul Park, Minnesota.

In accordance with the requirements of these Temporary Restraining Orders, the Ashland and Koch refineries will remain first priority for the June 1980 Supplemental Allocation Notice.

Allocation of Canadian Light Crude Oil

The Canadian National Energy Board (NEB) has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States for the month of June 1980, and therefore subject to allocation under Part 214, will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Flying J, Inc. (formerly ICG Vista) Thunderbird refinery (second priority) at Cut Bank, Montana. Pursuant to 10 CFR 214.35, ERA will give effect to the operational constraint regarding the Thunderbird refinery in the issuance of Canadian crude oil rights for the month of June.

Allocation of Canadian Heavy Crude Oil

The NEB has advised ERA that the authorized export level for Canadian heavy crude oil for the month of June 1980 is 62,925 B/D. Ashland Oil Inc. advised ERA that it wished to reduce its nomination to 11,000 B/D for the months of May and June. Murphy Oil Corp., has advised ERA that it wishes to reduce its nomination to zero barrels for the month of June. Total Petroleum, Inc. has also advised ERA that it wishes to reduce its heavy crude oil nomination to zero barrels for the month of June. ERA has given effect to these changes in the nominations of Ashland, Murphy and Total in the allocations of heavy crude oil assigned for June.

In allocating heavy crude oil for June, ERA has used the procedures set forth in § 214.31(a)(3). Due to the relatively low export level for heavy crude oil for June, only first priority refineries are entitled to heavy crude oil allocations, pursuant to the first two steps specified in § 214.31(a)(3).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, for June 1980 to refiners and other firms nominating for heavy crude oil for the April–June allocation period is as follows:

Refiner/refinery	Priority	Base Period Volumes [1] Canadian Total	Base period Volumes [1] Canadian Heavy crude	Nomination	Allocation
Ashland-St. Paul Park, MN	I	44,707	4,803	[2]11,000	4,112
Koch-Pine Bend, MN	I	74,383	68,692	95,000	58,813
Marathon-Detroit, MI	II	10,301	142	8,637	0
Mobil-Detroit, MI	II	24,995	0	6,036	0
Mobil-Ferndale, WA	II	45,444	0	10,975	0
Mobil-Joliet, IL	II	14,606	12,474	12,989	0
Murphy-Superior, WI	I	25,825	5,372	[2]0	0
Sohio-Toledo, OH	II	29,162	0	10,000	0
Total-Alma, MI	II	9,727	6,707	[2]0	0
Union-Lemont, IL	II	11,711	0	20,000	0
Total Priority I					62,925
Total Priority II					0
Total I and II					62,925

[1] Base period volume for the purpose of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 29, 1979 (45 FR 1664, January 8, 1980).

[2] As revised.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 421.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(c)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills, consumed, or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before 30 days from the publication of this notice.

Issued in Washington, D.C. on May 29, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-16874 Filed 6-3-80; 8:45 am]

BILLING CODE 6450-01-M

Deepwater Unit 8 Generating Station; Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare environmental impact statement and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Proposed Prohibition Order for the Deepwater Unit 8 Generating Station. Deepwater is located in Pennsville, New Jersey, and is owned and operated by Atlantic City Electric Company. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in this unit. Subsequent operation of this unit would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting which will be held on July 8, 1980, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 10:00 a.m. and will continue until all persons wishing to speak have had an opportunity to do so. Persons who are unable to attend at this time and who wish the session to extend into the evening hours must submit a written request to Mr. Steven E. Ferguson (as described below) by June 24, 1980. An evening session will be conducted if sufficient interest warrants this.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3322, Washington, D.C. 20461, telephone (202) 653–3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–4600.

Date and Location of Scoping Meeting: July 8, 1980 at the Township of Pennsville Municipal Building, 90 North Broadway, Pennsville, New Jersey. Meeting will begin at 10:00 a.m. Written Comments Due: August 8, 1980

SUPPLEMENTARY INFORMATION: On January 2, 1980 (45 FR 72) the Economic Regulatory Administration (ERA) published in the **Federal Register** a proposed Prohibition Order for Unit 8 (73.5 MW) of the Deepwater Generating Station, located in Pennsville, New Jersey. The proposed order was issued pursuant to Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620). If finalized, the order would prohibit this unit from burning natural gas or petroleum as its primary energy source. The proposed prohibition order was based on ERA findings that this powerplant has, or previously had, the technical capability to use an alternate fuel (coal) as a primary energy source. This finding was based on the information that the powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Unit 8 of the Deepwater generating station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods of meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Deepwater generating station. If it appears that the environmental effects of conversions in proximity result in cumulative impacts.

DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the Public's views and suggestions in this area.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Deepwater Unit 8 from burning natural gas or petroleum as its primary energy source. The meeting on July 8, 1980, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will be recorded. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allotted approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by August 8, 1980. Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Library, Room 6A–152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the DEIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C.

Ruth C. Clusen,

Assistant Secretary for Environment.

May 28, 1980.

[FR Doc. 80–16878 Filed 6–3–80; 8:45 am]

BILLING CODE 6450–01–M

South Hampton Refining Co.; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500.000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On April 14, 1980, ERA published a notice of a Proposed Consent Order which was executed between South Hampton Refining Company and the ERA (45 FR 25114, April 14, 1980). With that notice, and in accordance with 10 CFR Section 205.199J, ERA invited interested persons to comment on the proposed Consent Order. Also, in that notice, and in accordance with 10 CFR 205.283, interested parties who believe that they have a claim to all or a portion of the refund were instructed to provide written notification to ERA.

Five parties submitted written notification of claim; no comments on the terms and conditions of the Consent Order were received. ERA has concluded that the Consent Order as executed between ERA and South Hampton Refining Company is an appropriate resolution of the compliance proceedings described in the notice published April 14, 1980, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on July 7, 1980.

Issued in Dallas, Texas, this 19th day of May 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administrtion.

[FR Doc. 80–16876 Filed 6–2–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–80–013; OFC Case No. 55141–0731–01–12]

Powerplant and Industrial Fuel Use Act of 1978; Acceptance of Petitions for Exemption

AGENCY: Economic Regulatory Administration Department, of Energy.

ACTION: Notice of acceptance of Petitions for exemption.

SUMMARY: On March 13, 1980, The Brunswick Pulp & Paper Company (Brunswick) filed petitions with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a planned new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibits the use of petroleum and natural gas as a primary energy source in certain new MFBI's. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 44 FR 28530 (May 15, 1979) and at 44 FR 28950 (May 17, 1979) (Interim Rules).

The MFBI for which the petition is filed is a new package boiler (package boiler) to be installed at Brunswick's manufacturing plant at Brunswick, Georgia. This unit has a design heat input rate of 198 million Btu's per hour and has a steam generating capacity of 150.000 pounds per hour. It will be capable of burning a mixture of hydrogen or No. 6 fuel oil either alternately or simultaneously.

Under § 505.28 of the Interim Rules, Brunswick has petitioned for a permanent fuel mixture exemption for this unit. Concurrent with this petition, Brunswick has petitioned for permanent emergency and scheduled equipment outage exemptions under § 505.29 and 505.31, respectively, of the Interim Rules.

FUA imposes statutory prohibitions against the use of natural gas or petroleum as a primary energy source by new MFBI's which consist of a boiler. ERA's decision in this matter will determine whether the proposed boiler will be granted a permanent exemption to use a mixture of hydrogen and No. 6 fuel oil, a permanent exemption for emergency purposes, and a permanent exemption to meet scheduled equipment outages.

ERA has determined that these petitions appear to contain the information needed to analyze and determine the merits of the petitions. A review of the petitions is provided in the SUPPLEMENTARY INFORMATION section that follows.

As provided for in § 701(c) and (d) of FUA and § 501.31 and 501.33 of the Interim Rules, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due by July 21, 1980. A request for a public hearing must also be made within this same 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3679.

James Renjilian, Office of the General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

William L. Webb, Office of Public Information, Department of Energy, Economic Regulatory Administration, 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 634–2170.

Anthony M. Vaitekunas, New MFBI Branch, Economic Regulatory Administration, 2000 M Street NW., Room 3126–B, Washington, D.C. 20461, Phone (202) 653–3645.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption to do so has been granted by ERA. Brunswick states that the steam generated will be used for process purposes, electric power generation purposes and as a partial backup for Brunswick's other boilers when scheduled and unschedutled boiler outages occur, approximately 26 days per year.

Section 505.28 of the Interim Rules provides for a permanent exemption from the prohibitions of FUA for certain fuel mixtures containing natural gas or petroleum. To qualify, a petitioner must demonstrate to the satisfaction of ERA that:

(1) It proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

In addressing these eligibility requirements, and the evidentiary requirements in § 505.78 (a)(1) and (c)(4), Brunswick states that the package boiler will be operated using only hydrogen on a regular basis at 16 percent capacity so that it will be readily available when needed and protected from corrosion during periods when it is not used at greater capacities. However, during higher capacity uses, such as outages, the package boiler will burn a fuel/oil mixture of 82 percent hydrogen gas and 18 percent No. 6 fuel oil as the primary energy source.

If the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources to be used in the installation.

Brunswick states that it will submit to the ERA an annual report certifying that the total amount of petroleum product that is proposed to be used in the boiler will not exceed 25 percent of the total annual Btu heat input to the boiler.

In accordance with Part 502 of the Interim Rules, in support of its petition, Brunswick has addressed the appropriate Fuels Decision Report (FDR) requirements including design specifications for the boiler for which this exemption is requested and an engineering assessment of the proportions of gas/oil needed to maintain operational reliability and a reasonable level of fuel efficiency.

To support its petition for an emergency purposes exemption, Brunswick states that it will operate the boiler for which this exemption is requested only in accordance with the definition of "Emergency" as stated in § 505.29 of the Interim Rules. Such emergency will occure with the unplanned shutdown of either No. 4 or No. 5 recovery boilers or, either No. 3 or No. 4 Power Boilers or, any boiler which may in the future replace one of these units.

Brunswick is requesting a permanent scheduled equipment outage exemption in accordance with § 505.31 of the Interim Rules because it anticipates a total 12 days of planned outages annually for the period covering 1981 through 1990.

ERA hereby gives notice that all three of Brunswick's petitions for a permanent exemption have been accepted as adequate for filing. ERA retains the right to request additional relevant information from Brunswick at any time during the pendency of these proceedings. As set forth in § 501.3(g) of the Interim Rules, the acceptance of these petitions by ERA does not constitute a determination that Brunswick is entitled to the exemptions requested.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C., Monday–Friday, 8:00 am–4:30 pm.

Issued in Washington, D.C., on May 24, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–16880 Filed 6–3–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–CERT–017]

Public Service Electric & Gas Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on April 17, 1980, Public Service Electric and Gas Company (Public Service), 80 Park Place, Newark, New Jersey 07101, filed an application for certification of an eligible use of natural gas to displace fuel oil at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearney in Kearney; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests certification is approximately 4 billion cubic feet. This volume is estimated to displace the use of approximately 602.000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 16.000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of

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the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (MMCF)	Estimated Oil Displacement (000 BBL) 0.3% sulfur No. 6 oil	0.2% sulfur No. 2 oil or 0.1% sulfur kerosene
1. Bergen Generating Station, Ridgefield, N.J.	1,776	276	
2. Essex Generating Station, Newark, N.J.	50		8
3. Hudson Generating Station, Jersey City, N.J.	1,544	237	
4. Kearny Generating Station, Kearny, N.J.			
5. Linden Generating Station, Linden, N.J.			
6. Sewaren Generating Station, Sewaren, N.J.	580	89	
7. Edison Generating Station, Edison, N.J.	50		8
8. Mercer Generating Station, Trenton, N.J.			
Totals	4,000	602	16

The eligible seller is the East Tennessee Natural Gas Company, P.O. Box 10245, Knoxville, Tennessee 37919. The gas would be transported by the Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001, and the Transcontinental Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before June 14, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on May 28, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-16887 Filed 6-3-80; 8:45 am]

BILLING CODE 6450-01-M

U.S. Compressed Gas Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for pubic comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: April 28, 1980.

COMMENTS BY: JULY 7, 1980.

ADDRESS: Send comments to: Edward F. Momorella, District Manager of Enforcement, Northeast District, Economic Regulatory Administration, 10th Floor 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT:

Edward F. Momorella, District Manager of Enforcement, Northeast District, Economic Regulatory Administration, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. 215-597-2633.

SUPPLEMENTARY INFORMATION: "On April 28, 1980, the Office of Enforcement of the ERA executed a Consent Order with U.S. Compressed Gas Company of King of Prussia, Pa. Under 10 CFR 205.199J(b), a Consent order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution."

I. The Consent Order

U.S. Compressed Gas Company, with its home office located in King of Prussia, Pa., is a firm engaged in the marketing of Propane, and is the subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of the audit of U.S. Compressed Gas Company, the Office of Enforcement, ERA, and U.S. Compressed Gas Company entered into a Compromise Consent Order, the significant terms of which are as follows:

1. The Consent order settles all issues involved in U.S. Compressed Gas Company sales of Propane during the period November 1, 1973 through September 30, 1976.

2. The ERA alleges that U.S. Compressed Gas Company sold Propane at prices in excess of those permitted under 10 CFR 212.93, as preceded by 6 CFR 150.359.

3. U.S. Compressed Gas Company in executing the Consent Order disputes that it has viloated any DOE Regulation. However, to avoid costly and time consuming litigation and without admitting it violated any statute or regulation and for purposes of settlement only agrees to refund $57,000 as specified in the Consent Order.

4. The provisions of 10 CFR 205.199J, including the pubication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, U.S. Compressed Gas Company agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1 above, the sum of $57,000 on or before April 1, 1982. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the dtermination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Enitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossiblity to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public, interest by an appropriate means such as payment

to the Treasury of the United States pursuant to 10 CFR 204.199I(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: the ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Edward F. Momorella, District Manager of Enforcement, 10th Floor, 1421 Cherry Street, Philadelphia, Pa. 19102. You may obtain a free copy of this Consent Order by writing to the same address or by calling 215-597-2633.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on U.S. Compressed Gas Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time on July 7, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Philadelphia, Pa., on the 15th day of May 1980.

Edward F. Momorella,

District Manager of Enforcement, Northeast District.

[FR Doc. 80-16886 Filed 6-3-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51053A; FRL 1506-5]

Certain Chemicals; Premanufacture Notices; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction notice.

SUMMARY: This notice corrects information on premanufacture notices published in the **Federal Register** of April 22, 1980 (45 FR 27006).

FOR FURTHER INFORMATION CONTACT:

Mr. Douglas Rehberg, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-426-8493.

SUPPLEMENTARY INFORMATION: In FR document 80-12303 of April 22, 1980 (45 FR 27006), EPA announced receipt of four premanufacture notices. Information on specific PMN's were either deleted or misspelled. Accordingly, corrections are being published.

PMN 80-69, appearing at page 27007, first column, the first sentence under "*Environmental Release/Disposal.* Manufacturer." should read, "Any spillage of the dry form of the dye or the formulation at the manufacturer's plant will be washed to the plant's sewer with large amounts of water."

PMN 80-70, appearing at page 27007, first column under "*Specific Chemical Identity.*", part of the generic named of the chemical substance is misspelled. "[(sulfonaphthayl). . . ." should read "[(sulfonaphthyl). . . .".

PMN 80-72, appearing at page 27007, third column under "*Use.*", the sentence should read, "This substance is the active component in a dye formulation for the coloration of textiles and paper."

Dated: May 28, 1980

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-16928 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-30157A; FRL 1507-2]

Rohm & Haas; Approval of Applications To Register Pesticide Products Containing New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces approval of two applications to register the pesticide products BLAZER 2L and BLAZER 2S containing the new active ingredient sodium salt of acifluorfen.

FOR FURTHER INFORMATION CONTACT:

Mr. James Stone, Acting Product Manager (PM 23), Office of Pesticide Programs, (TS-767), Room E-351, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, 202/755-1397.

SUPPLEMENTARY INFORMATION: On January 18, 1979, notice was given (44 FR 3774) that Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, had filed an application (EPA File Symbol 707-RUO & 707-RLN) with the EPA to register the pesticide products Blazer 2L and 2S, respectively, containing 20.4 percent and 21.4 percent, respectively, of the active ingredient sodium salt of acifluorfen (sodium 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate), which was not previously registered at the time of submission. Notice of this registration is given in accorance with 40 CFR 162.7(d)(2).

These applications were approved May 29, 1980. The products have been assigned the EPA Registration Nos. 707-149 (BLAZER 2L) and 707-150 (BLAZER 2S). BLAZER 2L and BLAZER 2S are classified for general use of postemergence application to soybeans to control susceptible weeds. A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of PM 23 at the above address. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of May 29, 1980. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA at the above address. Such requests should: (1) identity the product by name and registration number and (2) specify the data or information desired.

Dated: May 29, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-16900 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-42054B; FRL 1506-4]

Commonwealth of Kentucky Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide

Act (FIFRA), as amended (86 Stat. 973; 7

regulations of December 1, 1979, in the

1. Pydrin 2.4 E.C., EPA Reg. No. 201-

peeling and/or contamination of the end

12. Pears with residue levels of

Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to EPA for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section. This is a notice of extension of the contengency approval of such a plan for the Commonwealth of Kentucky.

DATE: This contingent approval is effective until June 30, 1980.

EFFECTIVE DATE: This contingent approval extension is effective immediately since a later effective date would be inconsistent with the public interest.

SUPPLEMENTARY INFORMATION: On May 7, 1979, notice was published in the **Federal Register** (44 FR 26791) of the intent of the Regional Administrator, EPA, Region IV, to approve, on a contingency basis, the Kentucky State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Kentucky State Plan). Contingent approval was requested by the Commonwealth of Kentucky pending promulgation of regulations pursuant to the Kentucky Pesticides Use and Application Act of 1972 and the Kentucky Pesticides Control Act of 1974.

Complete copies of the Kentucky State Plan were made available for public inspection at the Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30308; at the office of the Pesticides Section, Department for Natural Resources and Environmental Protection, Pine Hill Plaza, U.S. 60, Frankfort, Kentucky 40701; and at the Document Control Office (TS–793), Office of Pesticides and Toxic Substances, EPA Headquarters, Washington, D.C. 20460.

Contingent approval of the Plan was granted pending promulgation of final regulations for the enforcement of the Kentucky Acts. Notice of contingent approval was published in the **Federal Register** of August 20, 1979 (44 FR 48819).

Final regulations for the enforcement of the Kentucky Pesticide Control Act were published in the "Kentucky Administrative Record" on December 1, 1979. It was the intent of the Environmental Protection Agency to grant final approval to the Kentucky State Plan, but it was discovered that through administrative error, the final regulations as published in the "Kentucky Administrative Record" contained an error of omission. It is necessary therefore, to republish the regulations of December 1, 1979, in the "Kentucky Administrative Record" to include those paragraphs inadvertently omitted. As a result, the Commonwealth of Kentucky has requested an extension of the Kentucky Contingency Approval to June 30, 1980.

The agency finds that there is good cause for approving the request and hereby grants Kentucky an extension of the contingent approval of its State Plan, effective June 30, 1980.

Dated: May 16, 1980.

Rebecca W. Hanmer,

Regional Administrator, Region IV.

[FR Doc. 80-16896 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180419; FRL 1506-2]

Utah Department of Agriculture Specific Exemption To Use Fenvalerate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued a specific exemption to the Utah Department of Agriculture (hereafter referred to as the "Applicant") to use fenvalerate (Pydrin 2.4 E.C.) to control pear psylla on a maximum of 709 acres of pears in Utah. This exemption is issued under the Federal Insecticide, Fungicide and Rodenticide Act.

DATE: The specific exemption ends on June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, pear psylla, requiring constant control, is present in all pear orchards in Utah. The adults overwinter in bark crevices or under leaves on the ground and start in early spring to lay pear-shaped yellow eggs around the buds. These hatch in two weeks into wingless nymphs which become adults in one month. There are normally three to five generations in a season. Summer eggs are laid on leaves or petioles. The nymphs cluster at axils and on undersides of leaves secreting their honeydew. The secretion covers foliage and fruits; sooty mold growing in this scars and blackens the fruit. There can be partial defoliation, loss of vigor, and abnormal buds. The fruit is made unsightly and unfit for fresh market sale, the Applicant claims. According to the Applicant, processors will not buy russeted fruit because of the problems in peeling and/or contamination of the end product. Pear psylla is also the only known vector of the mycoplasma-induced disease called "Pear Decline" which results in reduced vigor of trees, diminished yields, and death of trees. According to the Applicant, no cultural or biological control methods are effective for control of pear psylla. The Applicant indicates that use of fenvalerate (cyano (3-phenoxyphenyl)methyl-4-chloroalpha-(1-methylethyl) benzeneacetate) is necessary to reduce pear psylla densities to a level where in the summer they can be controlled with registered chemicals such as BAAM. The Applicant further states that use of fenvalerate should reduce the need for frequent applications of other materials next summer. The Applicant estimates that without adequate control of pear psylla the pear industry, which in 1979 produced approximately $840,000, could be virtually eliminated in four to five years.

The Applicant proposed to use Pydrin 2.4 E.C., manufactured by Shell Chemical Co., on up to 709 acres of pears throughout the State. A maximum of 568 pounds of the active ingredient fenvalerate will be applied by ground equipment.

EPA has determined that this use of fenvalerate should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears. Secondary residues in meat, fat, and meat byproducts should not exceed 0.02 ppm since the cover crops grown in treated orchards are not to be fed to livestock. EPA has judged these residue levels to be adequate to protect the public health. EPA has also determined that this program should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) an outbreak of pear psylla has occurred; (2) there is no effective pesticide presently registered and available for use to control the pear psylla in Utah; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Pydrin 2.4 E.C., EPA Reg. No. 201–401, may be applied at a rate of up to 0.4 pound active ingredient per acre per application. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of two applications may be made during the dormant to the pre-bloom stages of pear tree development. A maximum of 568 pounds active ingredient may be applied;

3. Applications may be made with ground equipment;

4. Spray mixture volumes of 25–400 gallons of water will be applied;

5. A maximum of 709 acres may be treated;

6. All applications will be limited to commercial pear-growing areas;

7. All applications will be made by State-certified private or commercial applicators;

8. Precautions will be taken to avoid spray drift to nontarget areas;

9. Pydrin is extremely toxic to fish and aquatic invertebrates. It must be applied with care in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift. It must be kept our of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

10. Fenvalerate should not be applied any closer to fishbearing waters than indicated in the chart below:

Application Rate (Mist Blower) (Lbs. active ingredient)	.05	0.1	0.2	0.4
Freshwater (Distance in feet)	1969	3344	5200	5200

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills. It is recommended that pesticide applications be made when wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour;

11. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. The pesticide may not be applied or allowed to drift to weeds or crops in bloom if bees are visiting the treatment area. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Pears with residue levels of fenvalerate that do not exceed 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. The feeding or grazing of orchard cover crops shall be prohibited;

14. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

15. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1980; and

16. The EPA shall be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: May 27, 1980.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-16898 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-00119 FRL 1506-3]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG) held in: Room 3906–3908, Waterside Mall, 401 M Street, SW, Washington, DC.

The meeting will be open to the public.

DATE: Wednesday and Thursday, July 9 and 10, 1980, beginning at 8:30 a.m. both days and ending at noon on July 10.

FOR FURTHER INFORMATION CONTACT: Mr. P. H. Gray, Jr., Operations Division (TS–770–M), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–472–9400.

SUPPLEMENTARY INFORMATION: This is the sixth meeting of the full group. The tentative agenda thus far includes the following topics.

1. Action items from the March, 1980 meeting of SFIREG;
2. Regional reports;
3. Working Committee reports; and
4. Other topics which may arise.

Dated: May 28, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs

[FR Doc. 80-16897 Filed 6-3-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51069; FRL 1506-6]

Celanese Plastics & Specialties Co.; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by July 18, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Smith, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–8815.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10,

V 45 J E 4 8 0 UMI

1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Intgerested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity of use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treament, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that and extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before July 18, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51069]" and the specific PMN number "80–104". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: May 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN 80–104.

Close of Review Period. August 17, 1980.

Manufacturer's Identity. Celanese Plastics & Specialties Co., 1065 W. Hills St., Louisville, KY 40208.

Specific Chemical Identity. Claimed confidential. Generic name provided: Plymer of cyclo aliphatic diisocyanate, 2-oxohexamethyleneimine, hydroxy alkyl alkyl alkanediol.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. The substance will be used as protective coating resin.

Production estimates	Kilograms per year	
	Minimum	Maximum
First year	0	50,000
Second year	0	100,000
Third year	50,000	200,000

Physical/Chemical Properties

Viscosity—Z_5–Z_6
Percent Non-volatile—65.0
Red. viscosity—R–S at 55% in toluene
Wt./gal—8.76
Color—<1
Molecular weight—3,000–3,500
Solubility (polymer):
Water—Insoluble
Ketones—Soluble
Glycol ether—Soluble
Alcohols—Slightly Soluble
Toluene—Slightly Soluble

Toxicity Data. No data submitted for PMN substance.

Exposure.

Activity	Exposure route	Max. No. exposed	Max. duration Hr/Da	Da/Yr
Occupational Manufacturer's site	Skin	30	24	30

Workers will be directly exposed to the new chemical substance occasionally during sampling, drum filling, and clean-up operations. Plant procedures require use of impervious gloves to minimize skin contact.

Physical states of the substance to which workers may be exposed: Solid, aerosol, liquid, and solution.

Processor's site	Skin	30	8	150

Workers will be directly exposed to the new chemical substance in transfer operations into the system and in transfer of the products out of the system. Some contact during sampling operations is possible. During normal operations the contact in any functions is only incidental or accidental. Skin contact is minimized by the use of protective equipment during this operation.

Physical states of the substance to which workers may be exposed: Solid and liquid.

User's site	Skin	100	16	200

Workers are exposed to the finished coating containing the polymer during transfer and sampling operations. Exposure is accidental skin contact which is minimized by using protective equipment.

Physical states of the substance to which workers may be exposed: Aerosol, liquid, and solution.

Environmental Release/Disposal.

Manufacturer's site:
Media—Amount of Chemical Released (kg/yr)
Land—1,000–10,000
Composition of release materials: Filter solids containing polymer, solvents, and filter medium.
Processor's site:
Water—10–100
Land—100–1,000
Only release is accidental spill of mixture containing new chemical.
User's site:
Land—1,000–10,000
Material requiring disposal: Dirty filter medium.

[FR Doc. 80–16899 Filed 6–3–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1507–4; EPA 5–A–80–8A]

Amended Permit Determination to Indianapolis Power & Light, Patriot, Ind.

In the matter of the proceedings under Title 1, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), relating to Indianapolis Power & Light Company (IPL).

On March 29, 1977, IPL submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct the Patriot (formerly Mexico Bottom) Generating Station near Patriot, Indiana. The application was submitted pursuant to the regulations for PSD and was considered complete as of October 3, 1977. In this application, IPL projected its commencement of construction dates as follows: Unit 1—April 1981, Unit 2—April 1983 and Unit 3—April 1985.

U.S. EPA's subsequent denial of permission to construct on August 7, 1978 was ultimately reviewed by the United States Court of Appeals for the Seventh Circuit. The Court ordered U.S. EPA to review new data received from the Company and rule on the ability of the pollution control equipment proposed by the Company to meet the applicable emission limitations. Such a review was subsequently conducted by U.S. EPA and a preliminary approval was granted on August 23, 1979.

On September 20, 1979, U.S. EPA published notice of its preliminary decision in the *Vevay Reveille-Enterprise* and *Kentucky Post,* which also stated that all materials on which U.S. EPA has based its preliminary approval were available for inspection at the Switzerland County Library. This included IPL's March 29, 1977 application, which, in turn, contained the Company's projected construction dates. A public hearing on U.S. EPA's proposed action was held on October 18, 1979 in Vevay, Indiana. Although many comments were received by U.S. EPA during the public comment period and at the hearing, no issues were raised with regard to IPL's projected dates.

On December 14, 1979, after review and analysis of all materials submitted by IPL, the public record established at the hearing and written comments, U.S. EPA determined that the proposed new construction in Switzerland County, Indiana would be utilizing the best available control technology and that emissions from the proposed facility would not violate applicable air quailty increments of standards as required by Section 165 of the Act. As one of the conditions imposed on IPL in the permit, U.S. EPA stated that construction on the three units would have to be commenced as follows: Unit 1—by June 1981, Unit 2—by December 1982 and Unit 3—by June 1984. On January 10, 1980, U.S. EPA's final determination was published in the **Federal Register.** 45 FR 2095.

On March 4, 1980, IPL wrote a letter to U.S. EPA, Region V, objecting to the commencement of construction dates set forth in the permit. In this letter, IPL cited 40 CFR 52.21(s)(2) (June 19, 1978), which provides as follows:

> (2) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

In light of this regulatory language, IPL maintained that construction on the three proposed units need not commence until the following dates: Unit 1—by October 1982, Unit 2—by October 1984 and Unit 3—by October 1986. These dates are eighteen (18) months from the projected dates in IPL's original application.

As a result of 40 CFR 52.21(s)(2) (June 19, 1978), U.S. EPA has determined that the proposed units need not commence construction until the following dates: Unit 1—by June 1981, Unit 2—by October, 1984 and Unit 3—by October 1986. These dates thus incorporate the 18 month extension period permitted by the regulations. Other than this provision and a miner change in the reference to the recent judicial decision of *Alabama Power Co.* v. *Douglas M. Costle,* 13 ERC 1225 (D.C. Cir. 1979), no other modifications in the December 14, 1979 permit have been made. This includes U.S. EPA's reservation of its right to require more stringent Best Available Control Technology (BACT) at a future date for all unconstructed units at that date, if BACT has advanced from the control strategy imposed by the approval.

This approval to construct does not relieve IPL of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally appealable under Section 307(b)(1) of the Act. A petition for review may therefore be filed in the U.S. Court of Appeals of the Seventh Circuit by any appropriate party in accordance with Section 307(b)(1). Petitions for review must be filed sixty (60) days from the date of this notice.

For further information, contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353–2111.

Dated: May 21, 1980.

John McGuire,

Regional Administrator.

Region V.—Approval to Construct

[EPA–5–A–80–8A]

Authority

In the Matter of Indianapolis Power & Light Company (IPL) Patriot, Indiana; proceeding pursuant to the Clean Air Act, as amended.

1. The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 F.R. 26388, June 19, 1978) for the Prevention of Significant Deterioration of Air Quality (PSD). This is an amendment of the original approval to construct the Patriot Generating Station issued on December 14, 1979. (EPA–5–A–80–A).

Findings

2. The Indianapolis Power and Light Company (IPL) proposes to construct the Patriot (formerly Mexico Bottom) Generating Station consisting of three 650 MW coal-fired boilers near Patriot, in Switzerland County, Indiana. The site and impact area are designated Class II pursuant to Section 162 of the Act. Switzerland County has been designated attainment for all criteria pollutants pursuant to Section 107 of the Act (43 F.R. 8982, March 3, 1978).

3. IPL submitted application

boiler exhaust gases shall not exceed

3. IPL submitted application information, which U.S. EPA deemed complete on October 3, 1977. U.S. EPA issued preliminary approval on February 3, 1978, and a public hearing was held on April 20, 1978. Based on information presented at the hearing and in public comments, U.S. EPA disapproved construction of the plant on August 7, 1978. IPL appealed the denial. On May 21, 1979, the U.S. Court of Appeals for the Seventh Circuit remanded the matter to the U.S. EPA for decision of the air quality issue on the basis of the record established as of August 7, 1978 and for further proceedings on the matter of the scrubber design.

4. On July 13, and July 30, 1979, IPL supplemented its application with scrubber design information, pursuant to the court order.

5. On August 23, 1979, U.S. EPA granted preliminary approval of the proposed construction.

6. A public notice soliciting comments on the preliminary approval and offering the opportunity for a hearing was published by U.S. EPA on September 20, 1979, in the *Kentucky Post* and the *Vevay Reveille-Enterprise.*

7. On October 18, 1979, a hearing was held in the Switzerland County Court House for the purpose of gathering public comments on the preliminary approval of the Patriot Generating Station by U.S. EPA.

8. The comment period established by the notices of September 20, 1979, was open for receipt of written comment until October 25, 1979.

9. IPL was given the opportunity to respond to the public comment record and submitted their response to U.S. EPA on November 13, 1979.

10. The boilers at the Patriot Generating Station are subject to the requirements of 40 CFR Part 60, Subpart Da, Standards of Performance for Electric Utility Steam Generating Units (44 F.R. 33580, June 11, 1979).

11. After review and analysis of the materials on air quality in the record as of August 7, 1978, the scrubber design information submitted by IPL, the comments submitted in writing and at the public hearing and IPL's response to the public comment record, U.S. EPA finds that best available control technology will be employed at the Patriot Generating Station and the PSD increments and the National Ambient Air Quality Standards will not be violated.

Conditions

12. Particulate emissions from the boiler exhaust gases shall not exceed 0.03 lb./million BTU heat input.

13. Boiler exhaust gases shall not exhibit an opacity greater than 20 percent (6-minute average) except for one 6-minute period per hour of not more than 27 percent.

14. Nitrogen oxide emissions from the boiler exhaust gases shall not exceed 0.6 lb./million BTU heat input.

Conditions 12 through 14 represent applications of the best available control technology (BACT) as required by Section 165 of the Act.

15. Sulfur dioxide emissions from the boiler exhaust gases shall not exceed 0.55 lb./million BTU heat input.

16. The sulfur dioxide scrubber system shall be maintained at a minimum removal efficiency of 91 percent.

Conditions 15 through 16 are necessary to ensure that the Class II increments for sulfur dioxide are not exceeded. These conditions also satisfy the requirements for application of BACT to sulfur dioxide emissions.

17. Continuous emissions monitoring systems shall be installed, calibrated, operated and maintained in accordance with 40 CFR 60.47a for the following:

(a) opacity
(b) sulfur dioxide (inlet and exit)
(c) nitrogen oxides
(d) oxygen or carbon dioxide

The monitoring data and heat input for the reporting period shall be submitted to the Chief, Compliance Section, U.S. EPA in accordance with the provisions of 40 CFR 60.7.

18. A continuous ambient air monitoring network shall be installed, calibrated, operated, and maintained for the measurement of:

(a) wind speed
(b) wind direction
(c) ambient air temperature
(d) total suspended particulate
(e) sulfur dioxide

The monitoring shall be designed and sited in accordance with U.S. EPA monitoring guidelines and with the final design and operating procedures subject to review and approval by U.S. EPA.

This monitoring shall begin at least one year prior to the start-up of the first generating unit and shall continue for the life of the station or until U.S. EPA informs IPL that it may cease. The data shall be reported quarterly to the Chief, Compliance Section, U.S. EPA. The data to be reported is specified in AEROS Users Manual (EPA–450/2–76–029, OAQPS No. 1.2–039) and is to be coded onto the SAROAD Air Quality Data forms or on magnetic tape in SAROAD format.

19. IPL shall submit to U.S. EPA 30 days prior to initial start-up of the first boiler, a copy of detailed operation, maintenance and staff training procedures for air pollution control equipment.

20. No air pollution control equipment design parameters, boiler operating parameters, physical and dynamic stack parameters, or building parameters may be changed without prior written authorization of U.S. EPA. However, U.S. EPA reserves the right to require more stringent BACT at a future date for all unconstructed units at that date, if BACT has been advanced from the control stategy imposed by this approval.

Conditions 17 through 20 are necessary to ensure that on a continual and permanent basis, emissions from the Patriot Generating Station do not violate the Class II increments for particulate and sulfur dioxide and the emissions standards established in conditions 12 through 15.

21. To ensure that best available control technology is being implemented to minimize fugitive particulate emissions:

(a) Particulate emissions from coal unloading shall not exceed 10 percent opacity for the duration of the unloading operation.

(b) All coal conveyors except the belt conveyor along the stacker reclaimer track shall be completely enclosed.

(c) All transfer points shall be completely enclosed. This does not include transfer from the stack reclaimer to the stack out pile, barge unloader, and the belts along the stacker reclaimer track.

(d) Emissions from all transfer houses, surge bins, and storage silos shall be controlled by dust collectors.

(e) The coal piles shall be sprayed with a surfactant on a regular basis as needed to minimize fugitive dust.

(f) The bottom ash will be sluiced, dewatered, and sent to a solid waste processing area.

(g) The dry ash from the electrostatic precipitators will be pneumatically conveyed to a pair of fly ash storage silos with dust collectors. From the silos, the fly ash will be conveyed to the solid waste processing area.

Approval

22. Approval to construct the Patriot Generating Station is hereby granted to the Indianapolis Power and Light Company subject to the conditions expressed herein and consistent with the materials and data filed by the Company. Any departure from the conditions of this approval or the terms expressed in the data filed by the Company, must receive the prior written authorization of U.S. EPA.

23. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co. vs. Douglas M. Costle* (78–1006 and consolidated cases) which has significant impact on the U.S. EPA prevention of significant deterioration (PSD) program and approvals issued thereunder.

It is possible that the decision will require modification of the PSD regulations and could affect approvals issued under the existing programs. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the court decision.

24. This approval is effective immediately. This approval to construct shall become invalid if construction of Unit #1 is not commenced by June 14, 1981. The following construction guidelines shall be considered the projected and approved construction commencements dates pursuant to 40 CFR 52.21(s)(2). Construction of Unit #2 must commence with 18 months of April 1, 1983. Construction of Unit #3 must commence with 18 months of April 1, 1985. The Administrator may extend the time period for the construction of Unit #1 only upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA of the commencement of construction of each unit 5 days after construction is commenced.

25. This approval does not relieve IPL of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable Implementation Plan, as well as all other applicable Federal, State and local requirements.

26. A copy of this approval has been forwarded to the Switzerland County Public Library, Ferry Street, Vevay, Indiana.

Dated: April 15, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–16801 Filed 6–3–80; 8:45 am]

BILLING CODE 6560–01–M

[PP 9G2214/T245; FRL 1507–6]

Hexazinone; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolrances for the combined residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethyl-amino)-1,3,5,-triazine-2,4(1*H*,3*H*)-dione and its metabolites (calculated as hexazinone) in or on alfalfa (forage, hay) at 5 parts per million (ppm); bermuda and bahiagrass pastures at 10 ppm; in milk, meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep at 0.05 ppm; and the livers of cattle, goats, horses, hogs, and sheep at 0.1 ppm.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Stone, Acting Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202–755–1397.

SUPPLEMENTARY INFORMATION: E. I. du Pont de Nemours and Co., Wilmington, DE 19898, submitted a pesticide petition (PP 9G2214) to the EPA. This petition requested that a temporary tolerances be established for the combined residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethyl-amino)-1,3,5,-triazine-2,4(1*H*, 3*H*)-dione and its metabolites (calculated as hexazinone) in or on alfalfa (forage, hay) at 5 parts per million (ppm); bermuda and bahiagrass, pastures at 10 ppm; in milk, meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep at 0.05 ppm; and the livers of cattle, goats, horses, hogs, and sheep at 0.1 ppm.

This temporary tolerances are to permit the marketing of the above raw agricultural commodities treated in accordance with an experimental use permit concurrently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances would protect the public health. Therefore, the temporary tolerance has been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. E. I. du Pont must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances will expire May 5, 1982. Residues not in excess of these temporary tolerances remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and the temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561; (21 U.S.C. 346a(j)))

Dated: May 28, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–16902 Filed 6–3–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–50473A; FRL 1507–1]

Issuance of Experimental Use Permit; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction Notice.

SUMMARY: In the **Federal Register** of Friday, May 9, 1980 (45 FR 30686), information appeared pertaining to the issuance of an experimental use permit, No. 2139 EUP–23, to the Nor-Am Agricultural Products, Inc. In the 8th line some states were omitted. The 8th line should have read: "Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, South Carolina, and Texas."

FOR FURTHER INFORMATION CONTACT: James M. Stone, Acting Product Manager (PM) 23, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–1397.

Dated: May 28, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–16942 Filed 6–3–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1231]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

May 28, 1980.

Docket or RM No.	Rule No.	Subject	Date received
RM-2364	2, 21 and 81	Request amendment of Part 2 of the Commission's Rules Governing Frequency Allocations, Part 21 of the Commission's Rules Governing the Domestic Public Land Mobile Radio Service, and Part 81 of the Commission's Rules Governing Stations on Land in the Maritime Services, to Allocate to the latter two services TV Broadcast Channel 17 for Fixed Relay and Control Operation in the State of Hawaii. (Filed by Arthur Blooston & Gerard J. Duffy, Attorneys for RadioCall, Inc.).	May 19, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before June 19, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-16654 Filed 6-3-80; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-624-DR]

Idaho; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Idaho (FEMA-624-DR), dated May 22, 1980, and related determinations.

DATED: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, on May 22, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Idaho resulting from the volcanic eruption of Mount St. Helens beginning on May 18, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Idaho.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Robert C. Stevens of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Idaho to have been affected adversely by this declared major disaster.

For Public Assistance only, the Counties of:

Benewah	Kootenai
Bonner	Latah
Boundary	Nez Perce
Clearwater	Shoshone

Although the above counties are designated eligible for Public Assistance, the limited monies currently available in the President's Disaster Relief Fund preclude any approval of project applications or funding of mission assignments based on this designation until such time as sufficient additional funds become available.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,
Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-16687 Filed 6-3-80; 8:45 am]
BILLING CODE 6718-02-M

[FEMA-622-DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-622-DR), dated May 21, 1980, and related determinations.

DATED: May 21, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143) notice is hereby given that, in a letter of May 21, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning on or about May 15, 1980, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-280. I therefore declare that such a major disaster exists in the State of Louisiana.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Louisiana to have been affected adversely by this declared major disaster.

Acadia, Calcasieu, Jefferson Davis, LaFayette, Pointe Coupee and Vermilion Parishes for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,
Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-16685 Filed 6-3-80; 8:45 am]
BILLING CODE 6718-02-M

[FEMA-3080-EM]

New York; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of New York (FEMA-3080-EM), dated May 21, 1980, and related determinations.

DATED: May 21, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7845.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of May 21, 1980, the President declared an emergency as follows:

I have determined that the damage in certain areas of the State of New York resulting from the adverse impact of chemical wastes in the Love Canal waste landfill in the City of Niagara Falls, beginning on or about May 5, 1980, is of sufficient severity and magnitude to warrant an emergency declaration under Public Law 93-288. I therefore declare that such an emergency exists in the State of New York.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Ms. Rita Meyninger of the Federal Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared emergency.

The Love Canal area of Niagara County for assistance as follows:

In coordination with the State of New York, relocation assistance and temporary housing only for those families located in the Love Canal area.

The Love Canal area is defined as follows:

The Love Canal area is located totally within Niagara County and in both the City of Niagara Falls and the Town of Wheatfield. The portion within the City of Niagara Falls includes all property within the following boundaries: Starting at a point where 102nd Street intersects Buffalo Avenue and proceeding north along 102nd Street, as extended, to its intersection with Bergholtz Creek, thence proceeding west along the centerline of Bergholtz Creek to the point of its intersection with 93rd Street, as extended, thence southerly along 93rd Street, to include those properties along the west side of said street, as extended to its intersection with Buffalo Avenue, and thence easterly along the centerline of Buffalo Avenue to the point of beginning.

The portion within the Town of Wheatfield includes all property within the following boundaries: Starting at a point where 102nd Street intersects Frontier Avenue, thence proceeding easterly along Frontier Avenue, to include those properties on the south side of Frontier Avenue, to its intersection with 103rd Street, thence northerly along 103rd Street, to include those properties on the east side of 103rd Street, until its intersection with an unnamed street, and thence westerly along said unnamed street to its intersection with 102nd Street and thence southerly along the centerline of 102nd Street to the point of beginning.

No assistance is authorized for property acquisition or permanent housing.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,
Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-16688 Filed 6-3-80; 8:45 am]
BILLING CODE 6718-02-M

[FEMA-623-DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA-623-DR), dated May 21, 1980, and related determinations.

DATED: May 21, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of May 21, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Washington resulting from the volcanic eruption of Mount St. Helens beginning on May 18, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Washington.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Robert C. Stevens of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the entire area of the State of Washington to have been affected adversely by this declared major disaster and it is eligible for Individual Assistance and Public Assistance.

Although the State of Washington is designated eligible for Federal

emergency assistance, the limited monies currently available in the President's Disaster Relief Fund preclude any approval of project applications or funding of mission assignments based on this designation until such time as sufficient additional funds become available.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

[FR Doc. 80-16886 Filed 6-3-80; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

American National Holding Co.; Acquisition of Bank

American National Holding Company, Kalamazoo, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by consolidation to Ludington Bank and Trust Company, Ludington, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16967 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Banco Gering Corp.; Formation of Bank Holding Company

Banco Gering Corporation, Gering, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent, less directors' qualifying shares, of the voting shares of Bank of Gering, Gering, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16968 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Capital Bancshares, Inc.; Acquisition of Bank

Capital Bancshares, Inc., St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97.5 per cent or more of the voting shares of Bank or Purdin, Purdin, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16969 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Central National Bancshares, Inc.; Acquisition of Bank

Central National Bancshares, Inc., Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Spencer National Bank, Spencer, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the eivdence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16970 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of Apr. 22, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on April 22, 1980.[1]

The information reviewed at this meeting suggests that economic activity turned down in the latter part of the first quarter of 1980, although for the quarter as a whole real GNP expanded somewhat further and the rise in prices accelerated. Retail sales in real terms declined sharply in February and March, after having increased in January. In March industrial production and nonfarm payroll employment declined, and the unemployment rate edged up to 6.2 percent. Private housing starts declined throughout the first quarter, to a rate in March about two-fifths below that in the third quarter of last year. The rise in producer prices of finished goods and in consumer prices was considerably more rapid during the first three months of 1980 than in 1979. Over the first quarter, the rise in the index of average hourly earnings was somewhat above the rapid pace recorded in 1979.

[1]The Record of Policy Actions of the Committee for the meeting of April 22, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The strong demand for the dollar in exchange markets that began in mid-February persisted through early April. Some selling pressure developed in the second week of April as market participants reacted to indications that U.S. interest rates might have peaked, but the trade-weighted value of the dollar against major foreign currencies remained well above its level of early February. The U.S. foreign trade deficit rose further in February.

M-1A and M-1B, which had expanded sharply in February, contracted in March and early April; M-2 increased relatively little in March. From December to March, M-1A and M-1B grew at annual rates of about 4 percent and 4½ percent respectively, and M-2 grew at a rate of 7 percent. Expansion of commercial bank credit slowed substantially in March from the accelerated pace earlier in the year. Since mid-March, most market interest rates on balance have declined considerably.

Taking account of past and prospective economic developments, the Federal Open Market Committee seeks to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. At its meeting on February 4-5, 1980, the Committee agreed that these objectives would be furthered by growth of M-1A, M-1B, M-2, and M-3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6, 4 to 6½, 6 to 9 and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent.

In the short run, the Committee seeks expansion of reserve aggregates consistent with growth over the first half of 1980 at an annual rate of 4½ percent for M-1A and 5 percent for M-1B, or somewhat less, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 13 to 19 percent. The Committee believes that, to be consistent with this short-run policy, M-2 should grow at an annual rate of about 6¾ percent over the first half and that bank credit should grow in the months ahead at a pace compatible with growth over the year as a whole within the range agreed upon.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

On May 6, the Committee modified the domestic policy directive to reduce the lower limit of the range for the federal funds rate to 10½ percent.

By order of the Federal Open Market Committee, May 23, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-16966 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

First American Bancorp, Inc.; Formation of Bank Holding Company

First Bancorp, Inc., Stonewall, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First American Bank, Stonewall, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16971 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

First Duncanville Corp.; Formation of Bank Holding Company

First Duncanville Corporation, Duncanville, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Duncanville, Duncanville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16972 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

First National Agency, Inc.; Proposed Retention of Insurance Activities

First National Agency, Inc., Cimarron, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its general insurance activities in Cimarron, Kansas, a community with a population not exceeding 5000.

Applicant states that it would engage in the activities of a general insurance business, including the sale of credit, hail, fire and casualty, life, liability and health insurance. These activities would be performed from offices of Applicant in Cimarron, Kansas, and the geographic areas to be served are Cimarron and the surrounding area, including Gray County and portions of Ford and Finney Counties, Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at

The application may be inspected at

Banks, El Paso County, Colorado. The

Peoples Bancorp, Inc.; Acquisition of

Board of Governors of the Federal Reserve

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 27, 1980.

Board of Governors of the Federal Reserve System, May 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16973 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

First Poteau Corp.; Formation of Bank Holding Company

First Poteau Corporation, Poteau, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Poteau State Bank, Poteau, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16974 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Holt County Investment Co.; Formation of Bank Holding Company

Holt County Investment Company, St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent or more of the voting shares of Capital Bancshares, Inc., St. Joseph, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16975 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Key Banks, Inc.; Acquisition of Bank

Key Banks, Inc., Albany, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The Citizens National Bank and Trust Company, Wellsville, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16976 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Mountain Banks, Ltd.; Acquisition of Bank

Mountain Banks, Ltd., Denver, Colorado, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Chapel Hills National Banks, El Paso County, Colorado. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment n the application should submit views in writing to the Reserve Bank to be received not later than June 26, 1980. Any comment on an application tha requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16977 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

National Commerce Corp.; Formation of Bank Holding Company

National Commerce Corporation, Birmingham, Alabama, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to National Bank of Commerce of Birmingham, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16978 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancorp, Inc.; Acquisition of Bank

Peoples Bancorp, Inc., Marietta, Ohio, has applied for the Board's approval under section 3(a)(1) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The People's Banking and Trust Company, Marietta, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16979 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Raymondville Bancorp, Inc.; Formation of Bank Holding Company

Raymondville Bancorp, Inc., Harlingen, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.82 per cent or more of the voting shares of Raymondville Bank of Texas, Raymondville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve bank, to be received not later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16980 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

SBT Corp.; Acquisition of Bank

SBT Corporation, Savannah, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 90 percent or more of the voting shares of First National Bank and Trust Company, Vidalia, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16981 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

Welch Bancshares, Inc.; Formation of Bank Holding Company

Welch Bancshares, Inc., Welch, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Welch State Bank of Welch, Oklahoma, Welch, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-16982 Filed 6-3-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 123]

Consolidated Edison Co. of New York, Inc., New York Public Service Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the New York Public Service Commission concerning the application of the Consolidated Edison Company of New York, Inc., for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before July 7, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201((a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: May 22, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-16951 Filed 6-3-80; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges, Water Charges, and related information on the Crow Irrigation Project, Montana

This notice of operation and maintenance rates and related

information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DMB and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the Project Engineer and to the Superintendents by the Area Director in 10 BIAM 7.0, Sections 2.70–2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Crow Irrigation Project, Crow Agency, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. No comments were received during the 30-day comment period. In compliance with the above, the operation and maintenance charges for the lands under the Crow Irrigation Project, Montana, for the season of 1980 and subsequent years until further notice, are hereby fixed as follows:

Unit	Rate per acre
Two Leggins	[1]$5.18
Bozeman Trail	2.18
All Regular Units	4.60
All Units under Willow Creek Storage	0.20
Two Leggins Drainage	1.25

Or minimum of $20 per land owner

John Hill,

Acting Crown Indian Agency.

[FR Doc. 80-16991 Filed 6-3-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Bankhead Mining Co.; Application for Coal Exploration License; Invitation

United States Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Bankhead Mining Company, Inc., P.O. Box 1629, Jasper, Alabama 35501, has applied under serial number ES 24593 for an application for coal exploration license for lands in:

Township 17 South	Range 9 West
18	10
18	9
19	8
19	9

a total of approximately 17,000 acres in Tuscaloosa County, Alabama. The purpose of this notice is to afford other parties an opportunity, on a pro rata cost sharing basis, to participate in the approved exploration plan. Such parties are requested to be familiar with the Federal Coal Management Regulations (43 CFR 3400). Copies of these regulations are available at the Bureau of Land Management's Tuscaloosa Office. Any person who elects to participate in the exploration programs shall notify in writing the Eastern States Director at the above address, and the applicant on or before July 7, 1980.

Roger C. Hildebeidel,

Eastern States Director.

[FR Doc. 80-16850 Filed 6-3-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 30079]

Southwest Gathering Corp., Inc.; Pipeline Application

May 19, 1980.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Southwest Gathering Company, Inc., 1700 West Loop South, Suite 1100, Houston, Texas 77027, applied for a right-of-way for a 6⅝ inch o.d. natural gas pipeline, approximately 37 miles long, across the following public lands in Mesa and Delta Counties:

Sixth Principal Meridian, Colorado

T. 12 S., R. 97 W.,
  Tract 41, Lot 12
T. 13 S., R. 97 W.,
  Sec. 6: SE¼NE¼, SW¼
  Sec. 7: Lot 4, E½NW¼, NE¼SW¼
T. 13 S., R. 98 W.,
  Sec. 13: W½
  Sec. 14: Lot 3
  Sec. 23: Lot 1
  Sec. 35 : Lots 1, 2 and 3
  Sec. 36: W½SW¼
T. 14 S., R. 95 W.,
  Sec. 32: SE¼SW¼, S½SE¼
  Sec. 33: SE¼SE¼
  Sec. 34: W½SW¼
T. 14 S., R. 97 W.,
  Sec. 6: Lot 7
  Sec. 7: Lot 1, Lot 5, Lot 6, SW¼NE¼, E½NW¼
  Sec. 35: Lots 3 and 4
T. 14 S., R. 98 W.,
  Sec. 1: SE¼NE¼, E½NW¼, N½SE¼, SE¼SE¼
T. 15 S., R. 95 W.,
  Sec. 4: Lots 2 and 3
  Sec. 5: Lots 3 and 4
T. 15 S., R. 96 W.,
  Sec. 5: S½SW¼, SW¼SE¼
  Sec. 6: Lots 6 and 7, SE¼SW¼, S½SE¼
  Sec. 9: NW¼NE¼
T. 15 N., R. 97 W.,
  Sec. 1: Lot 4, S½NW¼, N½SE¼
  Sec. 2: Lot 1

Ute Principal Meridian, Colorado

T. 3 S., R. 2 E.,
  Sec. 12: SE¼NE¼, SE¼SW¼, N½SE¼
  Sec. 13: NW¼, SE¼
  Sec. 24: NE¼
T. 4 S., R. 3 W.,
  Sec. 3: SW¼
  Sec. 4: N½, SE¼
  Sec. 10: N½
  Sec. 11: S½NW¼, S½
  Sec. 13: W½
  Sec. 14: NE¼NE¼
  Sec. 24: E½NW¼, SE¼

The proposed trunk pipeline will enable the applicant to convey natural gas from the Marsh Unit Number One Well and proposed laterals to the Rocky Mountain Natural Gas trunk line in Section 34, T. 14 S., R. 96 W., 6th P.M. The purposes of this notice are: to inform the public that the Bureau of Land Management will supervise the preparation and production of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the District Manager, Montrose District Office, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81401, as promptly as possible after publication of this notice.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-16949 Filed 6-3-80; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Wilderness Intensive Inventory Proposed Decision

On August 10, 1979, the final decision for the Initial Wilderness Inventory indicated that the Jim Sage Unit, 23–1, located in the Burley, Idaho District clearly and obviously lacked wilderness values and was dropped from further wilderness inventory.

The above decision was appealed, resulting in the reissuance of the decision of February 8, 1980 showing a need to conduct intensive inventory in order to determine the presence of

wilderness characteristics on two parcels of land within the Jim Sage Unit.

This notice announces the results of the intensive inventory with parcel "a", 6,901 acres, and parcel "c", 7,010 acres both proposed as lacking in wilderness values. The release of this proposed decision initiates a 90-day comment period, from June 4, 1980 through September 2, 1980. Comments must be received by September 2 and should be specific to the wilderness characteristic criteria that were utilized during the intensive inventory: size, naturalness, opportunities for solitude or primitive and unconfined recreation, and supplemental values. Comments expressing opinions for or against wilderness, or related to other resource values or resource conflicts cannot be used by the BLM in wilderness inventory decisions. These types of comments will be solicited if the units move into the next step of the wilderness review-the study phase.

In order to better inform the Public of the proposed decision on the Jim Sage area, to discuss the BLM wilderness review, and to answer questions and obtain input on these units, an open house has been scheduled as follows.

June 25, 1980—12 Noon–8 p.m., Burley District Office.

District personnel will be available to answer questions concerning the Jim Sage inventory during this time period.

For further information contact:

Burley District Office, Bureau of Land Management, Route #3, Box 1, 200 South Oakley Highway, Burley, Idaho 83318.

Idaho State Office, Bureau of Land Management, 550 W. Fort Street, Boise, Idaho 83724.

Robert O. Buffington,

State Director.

May 27, 1980.

[FR Doc. 80 16904 Filed 6-3-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; McMoRan Offshore Exploration Co.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2545, Block 464, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 28, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16945 Filed 6-4-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4146, Block 9, Sabine Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, Open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 28, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16946 Filed 6-3-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Pennzoil Co.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Pennzoil Company, Unit Operator of the High Island Block A–351 Federal Unit, Agreement No. 14–08–0001–16930, submitted on May 19, 1980, a proposed Plan of Development/Production describing the activities it proposes to conduct on the High Island Block A–351 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, Open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December

13, 1979 (44 FR 53685). Those practices

13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 27, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-16947 Filed 6-3-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Lowell National Historical Park, Mass.; Boundary Change, Publication of Revised Boundary Map

Notice is given, pursuant to subsection 101(b) of the Act of June 5, 1978 (Pub. L. 95-290; 92 Stat. 290), that the boundary of the Lowell National Historical Park is hereby revised to include an additional 3.08 acres along the Northern Canal in Lowell, Massachusetts, at 220 Aiken Street, as depicted on the accompanying revised boundary map. As further required by the aforementioned Act, prior notice of this action has been given to the Congress of the United States, and consent to the revision has been obtained from the City Manager of Lowell, the City Council of the City of Lowell, and the Lowell Historic Preservation Commission.

Dated: May 7, 1980.

Richard L. Stanton,

Regional Director, North Atlantic Region.

BILLING CODE 4310-70-M

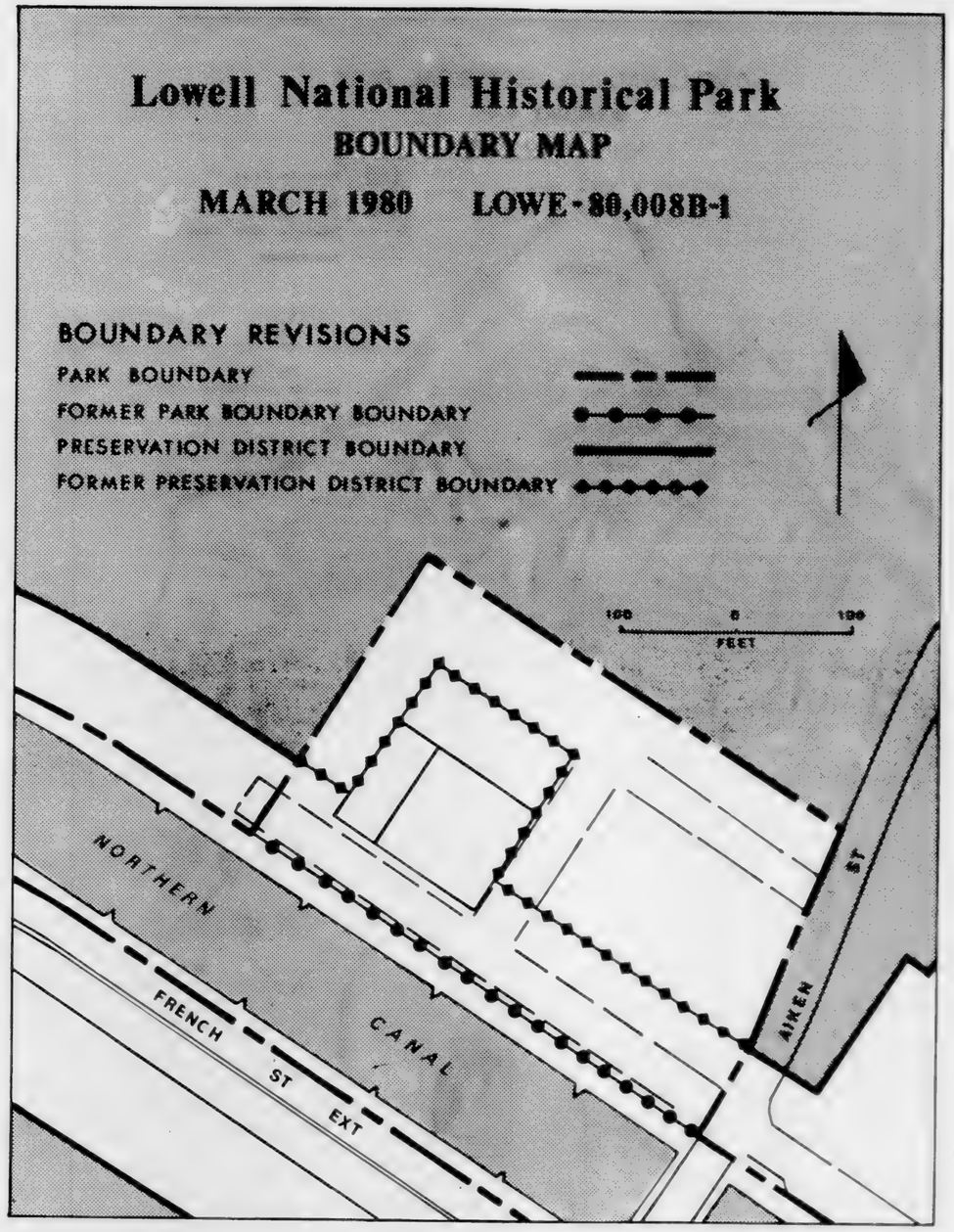

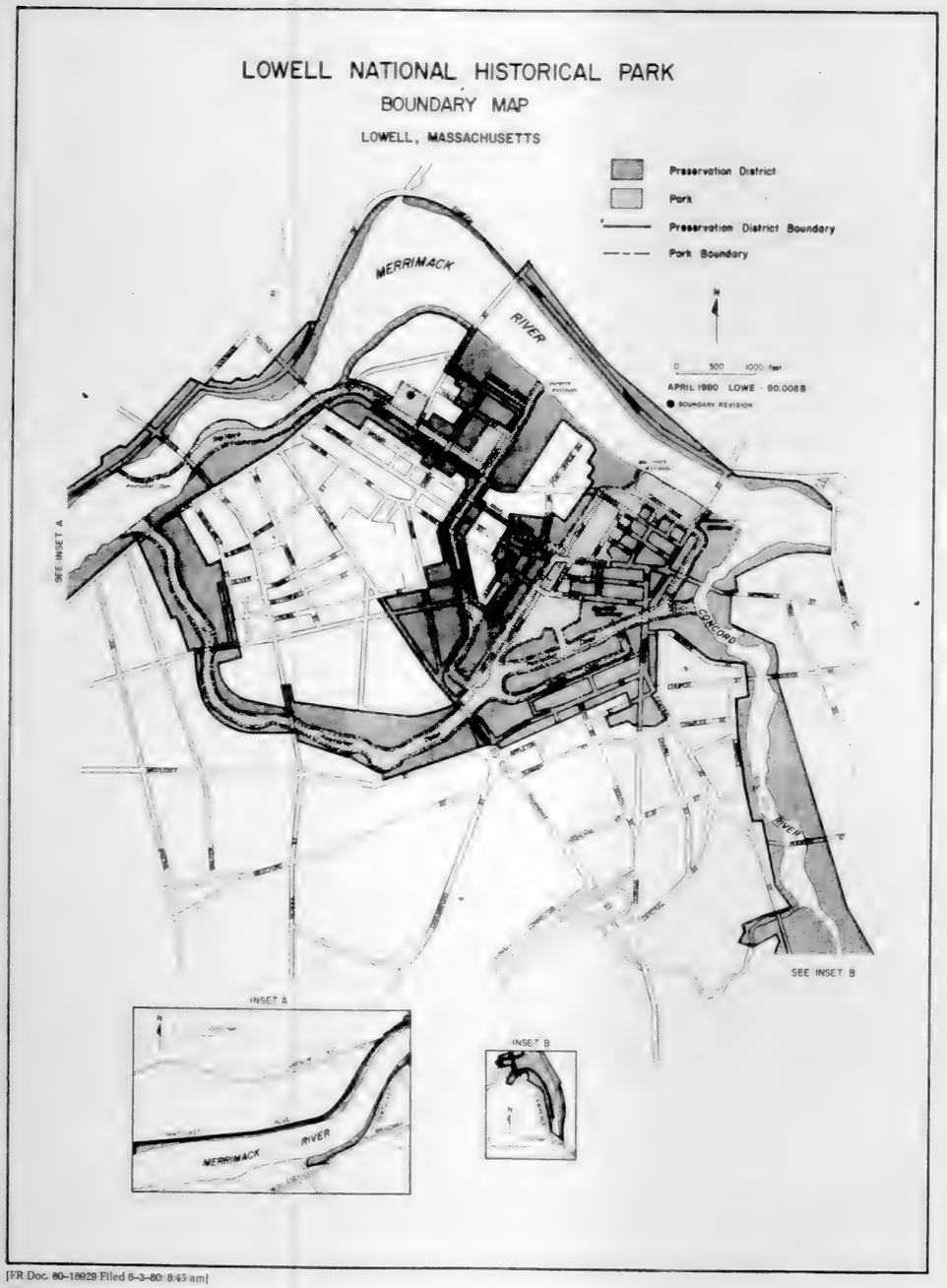

[FR Doc. 80-16929 Filed 6-3-80; 8:45 am]
BILLING CODE 4310-70-C

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. W-0325878]

Shell Oil Co.—Buckskin Mine, Campbell County, Wyo.; Pending Decision To Approve Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve surface coal mining and reclamation plan with stipulations.

SUMMARY: Pursuant to Section 1506.6 of Title 40 and Section 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Shell Oil Company's Buckskin mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of Shell Oil Company's application was published in the **Federal Register** on December 27, 1979, 44 FR No. 249, p. 76603.

Location of Lands to be Affected by Mining

Applicant: Shell Oil Company.
Mine name: Buckskin.
State: Wyoming.
County: Campbell.
Township, Range, Section: T. 52 N., R. 72 W., Sections 31, 32 and 33; T. 51 N, R. 72 W. Sections 4, 5, and 6.
Office of Surface Mining Reference No. Wy-0034.

The proposed mine is located about 11 miles northwest of Gillette along Highway 14–16. The mining and reclamation plan involves mining and associated disturbances of approximately 926 acres of the total mine plan area of 1,467 acres over approximately 19 years. The proposed operation will use shovels and front-end loaders to remove approximately 43 million tons of low-sulfur, subbituminous Federal coal. All of the 43 million tons of coal is committed under existing contracts. Shell plans to build a 7-mile railroad spur on the mine plan area that will connect with the Burlington Northern North Gillette rail line. Unit trains will cary the coal via Burlington Northern lines to Shell customers in Oklahoma, Wyoming, and Louisiana.

The U.S. Bureau of Land Management evaluated impacts that could occur from the proposed Buckskin Mine in its final regional and site specific Environmental Impact Statement (EIS), *Eastern Powder River Coal* (March 1979). Based on a revised mining and reclamation plan submitted to OSM to fulfill the requirements of the Surface Mining Control and Reclamation Act of 1977, OSM has prepared a technical analysis and an environmental assessment. From its analyses, OSM has determined that no significant impact would occur that have not already been evaluated in the *Eastern Powder River Coal* EIS.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of Shell Oil Company's mining and reclamation plan for the Buckskin Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the permanent regulatory program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on Shell Oil Company's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application no later than 2 months after the effective date of the Wyoming State program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Secretary's decison will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, and any public comments received on or before June 24, 1980.

DATES: All requests for a public meeting must be made on or before June 24, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The Technical Analysis, Environmental Assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Ron Naten or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Paul L. Reeves,
Acting Director.

[FR Doc. 16984 Filed 6-3-80; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Notice No. F-31]

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in region I. Send protests to Regional Authority Center, Interstate Commerce Commission, 150 Causway St., Rm. 501, Boston, MA 02114.

MC 127610 (Sub-1–1TA), filed May 23, 1980. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Crushed, granulated, ground, pulverized, or lump rock,* from West Paris, ME to points in CT, MA, NH, NY, RI, and VT, for 180 days. Supporting shipper: Russell E. Smith & Associates, 1116 Great Plain Avenue, Needham, MA 02192.

MC 119192 (Sub-1–1TA), filed May 22, 1980. Applicant: EASTERN DELIVERY SERVICE, INC., 80 Central Avenue, Bridgeport, CT 06607. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* over irregular routes, transporting such commodities as are dealt in by department stores, and *materials, supplies, and equipment* used in the conduct of such business (except in bulk), between Philadelphia, PA, on the one hand, and, on the other, points in NJ, NY, PA, DE, and CT. Supporting shipper(s): John Wanamaker, Philadelphia, 13th and Market Streets, Philadelphia, PA 19106.

MC 2880 (Sub-1–7TA), filed April 21, 1980. Republication—Originally published in **Federal Register** of May 6, 1980, Page 29898, Volume 45, No. 89. Applicant: NATIONAL FREIGHT, INC., 71 W. Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 W. Park Avenue, Vineland, NJ 08360. *Electric appliances and materials and supplies used in the manufacture thereof,* between the facilities of Hamilton Beach at Washington, NC; Clinton, NC; Farmville, NC; and Byesville, OH; and points in the United States, except AK and HI. Supporting shipper: Hamilton Beach, Division of Scovill, Inc. of Washington, NC 27889.

MC 145679 (Sub-1–3TA), filed May 23, 1980. Applicant: A &A TRANSPORT, INC., P.O. Box 569, Palmer, MA 01069. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Military equipment, materials and supplies,* restricted to traffic moving on freight forwarder bills of lading and to traffic having a subsequent movement by air or water. From Seattle, WA; Ogden, UT; Kelly AFB, TX, and Burbank, CA to North Brunswick, NJ. Supporting shipper: Nitler Forwarding, Inc., 436 U.S. Highway 130, North Brunswick, NJ 08902.

MC 111729 (Sub-1–6TA), filed May 22, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11042. Representative: Elizabeth L. Henoch (same address as applicant). *General Commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between points in Arizona, California and Nevada. *Restricted:* 1. Against the transporation of packages weighing more than 75 pounds. 2. Against the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor at one location, to one consignee at one location, in any one day. Supporting shippers: There are 181 supporting shippers.

MC 124004 (Sub-1–2TA), filed May 21, 1980. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871.. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Cleaning Compounds, liquid soap, bleach, ammonia, fabric softener, concentrated fabric softener, laundry detergent, dish detergent, and soap bubbles,* From Carlstadt, NJ, To points in GA, IL, IN, KY, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, and VA. Supporting shipper(s): Laundry Aids, Inc./Manhattan Products, Inc., 333 Starke Rd., Carlstadt, NJ 07072.

MC 145829 (Sub-1–5TA), filed May 21, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contact carrier:* irregular routes. *Zinc and Zinc Slabes, ingots, dross, residue, skimmings, ashes, and scrap, and containers used in the transportation of the said commodities,* Between East Liverpool, OH and Braddock, PA, on the one hand, and, on the other, points in the states of CT, DE, IL, IN, KY, MD, MI, NJ, NY, OH, PA, and WV. Supporting shipper(s): St. Joe Zinc Company, Division of St. Joe Minerals Corp., Two Oliver Plaza, Pittsburgh, PA 15222.

MC 142603 (Sub-1–4TA), filed May 21, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Robert W. Gardier, 100 E. Broad St., Columbus, OH 43215. Contract, irregular: *Aluminum oxide* (except in bulk), from Baltimore, MD to Grand Rapids, MI and Hampton, VA under continuing contract with Dependable Products, Inc. Supporting shipper: Dependable Products, Inc., 3660 Roger B. Chaffee Dr., Grand Rapids, MI 49508.

MC 150281 (Sub-1–1TA), filed March 12, 1980. Applicant: BANGOR PUNTA TRANSPORTATION, INC., One Greenwich Plaza, Greenwich, Connecticut 06830. Representative: Chandler L. van Orman, 1729 H. Street. N.W., Washington, D.C. 20006. Authority sought to operate as a *contract* carrier by motor vehicle, over irregular routes transporting: *Trailers, vans and motor homes, and their parts* in initial movements in truckaway service to points in the United States including Alaska (but excluding Hawaii) from Topeka, IN; Brainerd, MN; Tower City, PA; Emma, IN; Corcoran, CA; and Independence, KS, and *Trailers, vans and motor homes, and their parts, supplies, equipment and materials used in the manufacturing of trailers, vans and motor homes and their parts* between Topeka, IN; Brainerd, MN; Tower City, PA; Emma, IN; Corcoran, CA; and Independence, KS, and *Materials, supplies and equipment used in manufacturing, transportation or distribution of trailers, vans and motor homes, or their parts* from points in the United States including Alaska (but excluding Hawaii) to Topeka, IN; Brainerd, MN; Tower City, PA; Emma, IN; Corcoran, CA; and Independence, KS, and *Trailers, vans and motor homes, and their parts and supplies, equipment and materials used in the manufacture, transportation or distribution thereof* between points in the United States excluding Alaska and Hawaii on the one hand, and on the other, points on the United States/Canadian International boundary line located in New York and Michigan restricted to the transportation of shipments originating at, or destined to Ontario, Canada, and *Trailers, vans and motor homes, and their parts* between points in the United including Alaska (but excluding Hawaii), *restricted* to the transportation of shipments originating at, or destined to a Bangor Punta facility or dealer. *Restrictions:* Said operations are limited to transportation service to be performed under a continuing contract, or contracts, with Starcraft RV. Division of Bangor Punta Corporation. Supporting shipper: Starcraft-RV, Division of Bangor Punta Corp., West Ohio Street, Topeka, IN 46571.

MC 150281 (Sub-1–3TA), filed March 12, 1980. Applicant: BANGOR PUNTA TRANSPORTATION CORP., INC., 1 Greenwich Plaza, Greenwich, CT 06830. Representative: Chandler L. van Orman, 1729 H St., NW., Washington, DC 20006. *Contract,* irregular: *Boats, boat parts, supplies, equipment, and materials used in the manufacturing of boats and boat parts,* between Goshen, IN, Topeka, IN, Brainerd, MN, Tower City, PA, and Corcoran, CA; and *Boats and boat parts* from Goshen, IN, Topeka, IN, Brainerd, MN, Tower City, PA, and Corcoran, CA to points in the U.S. including AK (but excluding HI); and *Materials, supplies and equipment used in the manufacturing, transportation, or distribution of boats or boat parts* from points in the U.S. including AK (but excluding HI) to Goshen, IN, Topeka, IN, Brainerd, MN, Tower City, PA and Corcoran, CA; and *Boats and boat parts and supplies, equipment, and materials used in the manufacture, transportation, or distribution thereof* between points in the U.S. on the one hand, and, on the other, points on the US/CD International Boundary line located in NY and MI, restricted to the transportation of shipments originating at, or destined to Ontario, CD; and *Boats and boat parts* between points in the U.S., restricted to the transportation of shipments originating at, or destined to a Bangor Punta facility or dealer. *Restrictions:* Said operations are limited to transportation service to be performed under a continuing contract, or contracts, with Starcraft Marine, division of Bangor Punta Corporation. Supporting shipper: Starcraft Marine, division of Bangor Punta Corp., 2703 College Ave., Goshen, IN 46526.

MC 147841 (Sub-1–1TA), filed February 5, 1980. Applicant: CENTENNIAL TRUCK LINES, INC., 301 Broadway, Jersey City, NJ 07306. Representative: Thomas F. X. Foley, Artisan Way, Colt's Neck, NJ 07722. *Common,* Irregular: *Building materials,* between the facilities of Barclay Industries, Inc., at or near Lodi, NJ, on the one hand, and, on the other, Hartford, New Haven, Newington, and Wallington, CT, Baltimore, MD, Boston, Springfield, and Worcester, MA, Buffalo, Rochester, ALbany and Syracuse, NY, Akron, Cincinnati, Cleveland, Columbus, Toledo, OH, Harrisburg, Lancaster, Philadelphia, Pittsburg, PA, Richmond and Norfolk, VA. Supporting shipper: Barclay Industries, Inc., 65 Industrial Road, Lodi, NJ 07644.

MC 149233 (Sub-1–3TA), filed May 20, 1980. Applicant: EDGAR SERVICE COMPANY, INC., P.O. Box 562, Avon, MA 02322. Representative: Arthur T. Flynn, P.O. Box 562, Avon, MA 02322. *Such commodities as are dealt in by retail department stores,* between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Zayre Corp., at the named points. Supporting shipper: Zayre Corp., Route 6, Framingham, MA 01701.

MC 150767 (Sub-1–1TA), filed May 20, 1980. Applicant: SMITH & CALDWELL TRUCKING, INC., 404 Wayne Ave., Pine Beach, NJ 08741. Representative: Ronald I. Shapss, Esquire, 450 Seventh Ave., New York, NY 10001. *Contract carrier,* irregular: *Electronic equipment, electronic components, sound recording materials and devices, lawn materials and supplies, and printed material* between New York, NY and Los Angeles, CA, on the one hand, and, on the other, Los Angeles and San Francisco, CA, Atlanta, GA, Chicago, IL, Providence, RI, Houston, TX, Philadelphia, PA, Boston, MA, New York, NY, Seattle, WA, and Atlantic City, NJ. Under a continuing contract or contracts with Right O Way, Inc. Supporting shipper: Right O Way, Inc., Newark, NJ.

MC 138991 (Sub-1–1TA), filed May 20, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). *Contract carrier,* irregular routes, *foodstuffs* (except commodities in bulk), from the facilities owned or used by General Foods Corporation located at Jacksonsville, FL, to Chicago, IL and points in the commercial zone of Chicago, IL; Louisville, KY; Dedham, MA; Taylor, MI; Clifton, and Moonachie, NJ; Liverpool, NY; and Boardman, OH, under continuing contract(s) with General Foods Corporation. Supporting shipper: General Foods Corporation, 250 North St., White Plains, NY 10625.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 27817 (Sub-II–3TA), filed May 5, 1980. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. *Such merchandise as is dealt in by retail, wholesale and chain grocery and food business houses* (except in bulk), between the facilities of Dauphin Distribution Services Co., at or near Camp Hill, Merchanicsburg and Silver Spring Township, PA, on the one hand, and, on the other, CT, MA, RI, VT, NH, and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dauphin Distribution Services Co., P.O. Box 427, Camp Hill, PA 17011.

MC 108589 (Sub-II–4TA), filed May 2, 1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Common;* Regular: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cookeville, TN and Sparta, TN, and its commercial zone; from Cookeville, TN over TN Rte. 42 to Sparta, TN and return over the same route. With alternate route for operating convenience only: between Sparta, TN and Smithville, TN, serving the termini for purpose of joinder only. From Sparta, TN over U.S. Rte. 70 to Smithville, TN, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with existing authority and to interline with other carriers. Supporting shipper(s): There are 8 supporting shippers. Their statements may be examined at the ICC Regional Office in Philadelphia, PA.

MC 145870 (Sub II–4 TA), filed May 5, 1980. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001.*Iron oxide,* in bags, between points in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities used by Hoover Color Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hoover Color Corporation, P.O. Box 218, Hiwassee, VA 24347.

MC 150710 (Sub II–1TA), filed May 12, 1980. Applicant: LEBARNOLD, INC. 625 S. 5th Ave., Lebanon, Pa 17042. Representative: Richard A. Mehley, 1000 16th St., NW., Washington, DC 20036. *Contract,* irregular—*Merchandise dealt in, and supplies used by, retail shoe and clothing outlets,* between Camp Hill, (Cumberland County), Pa, and Mechanicsburg, (Cumberland County), Pa, and points in MD, DC, and those in VA on and east of US Hwy. #1, for 180 days. Under a continuing contract with Kinney Service Corp. An underlying ETA seeks 90 days authority. Supporting shipper: Kinney Service Corp., P.O. Box 2437, Harrisburg, Pa.

MC 69397 (Sub 2–2 TA), filed May 8, 1980. Applicant: JAMES H. HARTMAN & SONS INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Flat glass and glass glazing units,* from the facilities of or used by General Glass International Corp., at or near Jeannette, PA, New York, NY, and Charleston, SC to points in CT, DE, GA, IN, ME, MD, NH, NJ, NY, NC, OH, PA, SC, RI, TN, VA, WV, AND DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General Glass International Corp., 270 North Avenue, New Rochelle, NY 10801.

MC 69397 (Sub 2–1 TA), filed May 8, 1980. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer

B. Hill, Suite 805, 66 Eleventh St. NW., Washinton, DC 20001. (1) *Hardboard, particleboard, fiberboard, and composition board,* and (2) *materials, equipment and supplies used in the installation and distribution of the commodities in (1) above* (except commodities in bulk), from the facilities of or used by General Glass International Corp., at or near New York, NY, Philadelphia, PA, Baltimore, MD, Norfolk, VA, Wilmington, NC, Charleston, SC, and Savannah, GA to points in CT, DE, GA, IN, ME , MA, MD, NH, NJ, NY, NC, OH, PA, SC, RI, TN, VA, WV, AND DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: General Glass International Corp., 270 North Avenue, New Rochelle, NY 108801.

MC 108589 (Sub-II–6TA), filed May 7, 1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Common;* Regular; *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cookeville, TN and Carthage, TN, and its commercial zone, from Cookeville, TN over I-Hwy. 40 to junction TN Rte. 53, then over TN Rte. 53 to Carthage, TN and return over the same route, serving Pleasant Shade, TN as an off-route point. With alternate route for operating convenience only: Between Cookeville, TN over I-Hwy. 40 to junction TN Rte. 56, then over TN Rte. 56 to junction TN Rte. 85, then over TN Rte. 85 to Carthage, TN and return over the same route, serving Pleasant Shade, TN as an off-route point for 180 days. An underlying ETA seeks ninety days authority. Applicant seeks to tack the authority with existing authority and interline with other carriers at Cincinnati, OH; Knoxville and Nashville, TN and Louisville and Lexington, KY. Supporting shipper(s): There are 4 supporting shippers. Their statements may be reviewed at the ICC Philadelphia, PA office.

MC 2304 (Sub-II–1TA), filed May 5, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles,* from the facilities of The Universal Steel Co. at Cleveland, OH, to points in GA, NC, SC, and KY, for 180 days. Supporting shipper: The Universal Steel Co., 6600 Grant Ave., Cleveland, OH 44105.

MC 147463 (Sub-II–1TA), filed May 5, 1980. Applicant: R. M. GUINTHER, INC., R. D. #3, Box 81, Boyertown, PA 19512. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. *Specialty Chemicals and Metals,* from the plant of Kawecki-Berylco Industries, Inc., a division of Cabot Corporation, located in Colebrookdale Township, Berks County, and Douglass Township, Montgomery County, PA, to points in CT, DE, IN, MD, NJ, NY, and OH, and return. Supporting shipper: Kawecki-Berylco Industries, Inc., County Line Rd., Boyertown, PA 19512.

MC 116119 (Sub-II–1TA), filed May 1, 1980. Applicant: JOHN F. HARRIS, d.b.a. HOGAN'S TRANSFER & STORAGE CO., 1122 S. Davis Ave., Elkins, WV 26241. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Contract carrier:* irregular routes: *Vermiculite, barbeque base materials, charcoal, wood chips and lighter fluid, in containers, charcoal briquets, hickory chips, fireplace logs, sawdust, wax impregnated, and materials, supplies and equipment used in the production thereof, except commodities in bulk,* between Parsons and Ridgeley, WV; Fairless Hills, PA and Trenton, NJ, on the one hand, and, on the other, points in the U.S. in and east of the states of MN, IA, MO, AR, and LA, for the account of Kingsford Company, for 180 days. Supporting shipper: Kingsford Company, P.O. Box 1033, Louisville, KY 40202.

MC 143394 (Sub-II–4TA), filed May 1, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). *Contract:* Irregular: *Canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Pittsburgh, PA; Fremont and Toledo, OH; and Holland, MI, to points in AL, GA, LA, MS, and SC, restricted to traffic originating at the named facilities and destined to the named states for 180 days. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 44801 (Sub-II–1TA), filed May 2, 1980. Applicant: DICK HARRIS AND SON TRUCKING CO., INC., P.O. Box 10277, Lynchburg, VA 24506. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Such commodities as are produced or used by a printing plant* (except in bulk), between points in the United States except AK and HI and restricted to traffic from or to facilities utilized by R. R. Donnelley & Sons Company, for 180 days. Supporting shipper: R. R. Donnelley & Sons Company, 1400 Kratzer Road, Harrisonburg, VA 22801.

MC 115181 (Sub-II–1Ta), filed April 30, 1980. Applicant: HAROLD M. FELTY, INC., R.D. #1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. *Brick,* from Watsontown, PA, to points in NJ and New York City, NY, and return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Watsontown Brick Company, Box 68, Watsontown, PA 17777; Merritt Sales, P.O. Box 688, Flemington, NJ 08822.

MC 150544 (Sub-II–1TA), filed April 30, 1980. Applicant: FRED's TRUCKING, INC., R.D. #2, Cabot, PA 16023. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Building materials (excluding commodities in bulk)* having a prior movement by rail between points in PA on and west of U.S. Hwy 219, on the one hand, and, on the other, points in OH, PA, and WA, for 180 days. Supporting shipper(s): Freehling Lumber Co., Marwood, PA 16055; Penn Pacific Lumber, Inc., P.O.B. 18077, Pittsburgh, PA 15236.

MC 150790 (Sub-II–1TA), filed May 12, 1980. Applicant: ALLIANCE MOVING AND STORAGE, INC., 13150 Pavilion Lane, Fairfax, VA 22310. Representative: Jacob P. Billig, 2033 K St. NW., Washington, DC 20006. *Household goods (as defined in 49 CFR 1056.1)* between pts. in MD, VA and DC, on the one hand, and, on the other, pts. in the US, including AK and HI; and between pts. in VA, MD, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 9 supporting shippers. Their statements may be examined at the ICC Regional Office in Philadelphia, PA.

MC 146820 (Sub-II–1TA), filed May 8, 1980. Applicant: B & G TRUCKING, INC., P.O. Box 581, Worthington, OH 43085. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract;* irregular *(1) Hose; and (2) Equipment, materials and supplies used in the manufacture of the commodities in (1) except commodities in bulk)* between the facilities of Swan Hose Division Amerace Corporation at Bucyrus, OH, Elton, TN and Lexington, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Swan Hose Division Amerace Corp., 8929 Columbus Pike, P.O. Box 509, Worthington, OH 43085.

MC 126893 (Sub-II–1TA), filed May 8, 1980. Applicant: BALTIMORE-WASHINGTON EXPRESS SERVICE, INC., P.O. Box 4333, Baltimore, MD 21223. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Screen or screening,* from Hanover, PA and its commercial zone to San Diego, CA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Keystone Seneca Wire Cloth Co., Factory St., Hanover, PA 17331.

MC 63836 (Sub-II–1TA), filed May 8, 1980. Applicant: BOLUS MOTOR LINES, INC., 700 N. Keyser Ave., Scranton, PA 18508. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Bicarbonate of soda, washing compounds, cleaning compounds, and scouring compounds,* from the facilities of Church & Dwight Co., Inc., Old Fort, and Green Springs, Seneca County, OH to IN, WI, IA, IL, MO, AR, LA, MS, AL, TN, KY, GA, FL, NC, SC, VA, WV, PA MD, NY, CT, MA, VT, NH, ME, RI, MI, and DC, (2) *materials, supplies and equipment* used in the manufacture of such commodities, on return for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Church & Dwight Co., Inc., P.O Box 369, Piscataway, NJ 08854.

MC 2368 (Sub-II–4TA), filed May 8, 1980. Applicant: BRALLEY-WILLETT TANK LINES, INC., P.O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn (same as applicant). *Gasoline,* in bulk, in tank vehicles from Marcus Hook, PA to Richmond, Fairfax, and New Canton, VA, and Sophia, NC, Elyria, OH, and Baltimore and Temple Hill, MD, and their commercial zones. Supporting shipper: World Wide Racing Fuels, Inc., Box 500, New Canton, VA 23123.

MC 150764 (Sub-II–1TA), filed May 7, 1980. Applicant: CLIFFORD E. BROOKS, 1 Sugar St., Leipsic, OH 45856. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, Oh 43212. *Contract:* Irregular: *Fertilizer, feed and grain, except in bulk, in tank vehicles,* between the facilities of Moorhead Elevator, Inc. at or near Leipsic, OH, on the one hand, and on the other, points in IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Moorhead Elevator, Inc., Leipsic, OH.

MC 142559 (Sub-II–15TA), filed May 9, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. (1) *Containers, container ends,* and *closures,* (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of containers, container ends, and closures between all points in the U.S. (except AK and HI), restricted against the transportation of commodities in bulk, for 180 days. An underlying ETA seeks 90 days authority. There are 7 supporting shippers. Their statements may be examined at the Philadelphia office.

MC 110525 (Sub-II–5 TA), filed May 8, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Chemicals, in bulk, in tank vehicles,* from Baton Rouge, LA to Laredo, TX for furtherance to Mexico for 180 days. An underlying ETA seks 90 days authority. Supporting shipper: Exxon Chemical Co., U.S.A., P.O. Box 3272, Houston, TX 77001.

MC 110525 (Sub-II–6 TA), filed May 8, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Chlori-Alkali, chemical products, in bulk, in tank vehicles,* from: Brunswick, GA to FL, for 180 days. Supporting shipper: Linden Chemicals & Plastics, Inc., Raritan Plaza II—Raritan Center, Edison, NJ 08817.

MC 150776 (Sub-II–1TA), filed May 8, 1980. Applicant: ALFRED DANIELS, INC., Rt. 1, P.O. Box. 272–I, Jackson, OH 45640. Representative: Robert W. Gardier, Jr., 100 E. Broad St., Columbus, OH 43215. *Prepared foodstuffs, frozen or canned,* (1) between Jackson County, OH, on the one hand, and, on the other, Anaheim, CA; San Antonio, TX; Secaucus, NJ; and Tampa, FL; (2) between Fullerton, CA, and Lockport, NY; Plymouth, IN; and South Brunswick, NJ; (3) from Jackson County, OH, to points in the state of NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: RJR Foods, Inc., P.O. Box 3037, Winston-Salem, NC 27102.

MC 21623 (Sub-II–1 TA), filed May 7, 1980. Applicant: W.J. DILLNER TRANSFER CO., 2748 W. Liberty Ave., Pittsburgh, PA 15216. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. *Pulpboard,* in rolls, from Allegheny County, PA to points in Washington County, PA. Restricted to shipments having a prior movement by water. Supporting shipper(s): International Paper Company, 220 E. 42nd St., New York, NY 10017.

MC 144359 (Sub-II–1 TA), filed May 21, 1980. Applicant: DUNIGAN TRUCKING CO., 114½ W. Williams St., Delaware, OH 43015. Representative: Anthony M. Heald, 125 N. Sandusky St., Delaware, OH 43015. *Contract,* irregular: *Plastic medicine vials and plastic road markers,* from the facilities of I.T.L. Industries, Inc., at or near Newark, OH to points in NY, NJ, WV, PA, KY, TN, TX, IL, IN, NM, AZ, NC, SC, GA, MI, CT, MA, RI, FL, AR, and CA. An underlying ETA seeks 90 days authority. Supporting shipper: I.T.L. Industries, Inc., P.O. Box 877, Newark, OH 43055.

MC 31237 (Sub-II–1TA), filed May 21, 1980. Applicant: DIGNAN TRUCKING, INC., P.O. Box 7463, Baltimore, MD 21227. Representative: Frank B. Hand, Jr., Box C, Berryville, VA 22611. *General Commodities (except commodities of unusual value, commodities in bulk, Classes A and B explosives, household goods as defined by the Commission and commodities requiring special equipment),* between Baltimore, MD, on the one hand, and, on the other, pts. in MD and DE on and south of the Chesapeake and Delaware Canal, restricted to the transportation of shipments having a prior or subsequent movement by water. An underly ETA seeks 90 days authority. Supporting shipper(s): Anchor International, 17 Commerce St., Baltimore, MD 21202; Samuel Shapiro & Co. Inc., World Trade Center, Suite 525, Baltimore, MD 21202; John S. Connor, Inc., 33 S. Gay St., Baltimore, MD 21203; Hobelmann International, Inc., 1000 First National Bank Bldg., Baltimore, MD 21202.

MC 117574 (Sub-II–4TA), filed, May 21, 1980. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. *(1) Railway car wheels and locomotive wheels, iron or steel, and, on (2) materials and supplies used in connection with the manufacture and distribution of the items, in (1),* between the facilities owned or used by Abex Corp., Quemahoning, PA, on the one hand, and, on the other, pts. in the US (except AK and HI). Supporting shipper: Abex Corp., 530 5th Ave., New York, NY 10036.

MC 150019 (Sub-II–2TA), filed May 19, 1980. Applicant: EDWARD E. GARBER, d.b.a CUSTOM TRANSPORT, 6600 Sweet Air Lane, Sykesville, MD 21632. Representative: Chester A. Zyblut 366 Executive Bldg., 1030 15th St. NW., Wash., DC 20005. (1) *Flour, corn meal,* and products thereof from Ellicott City, MD to pts. AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX; and (2) *Materials and supplies used in the manufacture therof* from pts. in IL, IN, MI, OH and WI to Ellicott City, MD. An underlying ETA seeks 90 days authority. Supporting shipper: Wilkins Rogers, Inc., Ellicott City, MD 21043.

MC 119864 (Sub-II–3TA), filed May 19, 1980. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Rd., Perrysburg, OH 43551. Representative: Brad A. James (same address as applicant). *Such commodities as are dealt in or used by grocery, drug and food business houses* from the facilities of Miles Laboratories, Inc. in Elkhart, IN to Fostoria, OH. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle Ave., Elkhart, IN 46517.

MC 10216 (Sub-II–8TA), filed May 19, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as applicant).

MC 102616 (Sub-II–8TA), filed May 19, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd. Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Liquid Commodities, in bulk, in tank containers, having a prior or subsequent movement by water, in foreign commerce only,* between the facilities of Hoyer (USA), Inc. at the Ports of New York, NY; Norfolk, VA; and Baltimore, MD, on the one hand, and, on the other, pts. on the U.S. (except AK and HI). Supporting shipper: Hoyer (USA), Inc., 186 Tyler St., Port Newark, NJ 07114.

MC 138438 (Sub-II–12TA), filed May 19, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Lumber and treated plywood,* from the facilities of Hoover Universal located at or near Thomas, GA and Milford, VA, to all points in and east of OH, KY, TN and AL, for 180 days. Supporting shipper: Hoover Universal, Wood Preserving Division, Box 746, Thomas, GA 30824.

Note.—Dual operations may be involved.

MC 138438 (Sub-II–11TA), filed May 19, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Masonry and mortar cement, lime, and materials, equipment and supplies used in the manufacture and distribution thereof,* between Riverton, VA, and its commerical zone, on the one hand, and, on the other, all points in and east of WI, IA, MO, TN and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Riverton Corporation, Riverton, VA 22651.

Note.—Dual operations may be involved.

MC 94265 (Sub-II–11TA), filed May 16, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Rte. 460 W., Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs (except in bulk)* (a) from Sherman, TX to points in TN, GA, KY, VA, IL, MD, NY, NJ, and PA; and (b) from Humbolt, TN to points in IL and TX. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 26165, Dallas, TX 75266.

MC 150735 (Sub-II–1TA), filed May 19, 1980. Applicant: BESTWAY TRANSPORT CO., Rt. #2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 88 E. Broad St., Columbus, OH 43215. *Contract,* irregular; *meats, meat products, meat byproducts, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between the facilities of Haring Meats Delicatessen, Inc., in Richland County, OH, on the one hand, and, on the other, points in the United States (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Haring Meats Delicatessen, Inc., 1095 National Parkway Dr., Mansfield, OH 44906.

MC 138395 (Sub-2–1TA), filed May 21, 1980. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Printed matter and materials, equipment and supplies used in the manufacture, sale and distribution of printed matter* between the facilities of Middle Atlantic Printing Co., Inc., at or near Salisbury, MD, on the one hand, and, on the other, points in the U.S. in the east of WI, IL, KY, TN, and MS. Supporting shipper: Middle Atlantic Printing Co., Inc., 2015 Industrial Parkway, Salisbury, MD 21801.

MC 21866 (Sub-2–21TA), filed May 20, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512.. Representative: Alan Kahn, 1430 Land Title Building, Phila., PA 19110 *Spark plugs,* and *materials and supplies* used in the manufacture and distribution of spark plugs (except commodities in bulk), between the facilities of Champion Spark Plug Co. at Burlington, IA, Hellertown, PA and Toledo, OH, for 180 days. Supporting shipper(s): Champion Spark Plug Co., P.O. Box 910, Toledo, OH 43661.

MC 148986 (Sub-2–1TA), filed May 21, 1980. Applicant: PLYMOUTH TRANSPORT, INC., 2280 Butler Pike, Plymouth Meeting, PA 19462. Representative: Theordore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Scrap electric communications cable, in bulk, in dump trucks, for recycling purposes, the transporation of which cable is incidental to the excavation and removal thereof by Danella Construction Corp., a company under common control with applicant* from pts. in FL to Gaston, SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nassau Recycle Corp., P.O. Box 218, Gaston, SC 29053.

MC 107403 (Sub-II–23TA), filed May 22, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Wheat flour, in bulk, in tank vehicles,* from Barksdale, MD to pts. in PA, DE, NJ, NY, MD, CT and MA for 180 days. Supporting shipper(s): Ross Industries of Cargill Incorporated, P.O. Box 2696, Wichita, KS 67201.

MC 107403 (Sub-II–24TA), filed May 23, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Lead oxide, in bulk, in tank vehicles,* from Huguenot, Orange County, NY to Conshohocken, PA for 180 days. An underlying ETA for 90 days seeks authority. Supporting shipper(s): C&D Batteries, 3043 Walton Rd., Plymouth Meeting, PA 19462.

MC 145221 (Sub-2–1TA), filed May 22, 1980. Applicant: P.D.F. TRUCKING CO., Route 250 N., P.O. Box 398, Milan, OH 44846. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *Roofing, building, and insulating materials, and materials, equipment and supplies used in the manufacture, installation, and distribution of roofing, building and insulating materials* between the facilities of CertainTeed Corp. in Erie County, OH; York County, PA; and Granville County, NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Certain Teed Corp., P.O. Box 860, Valley Forge, PA 19482.

MC 146015 (Sub-II–11TA), filed May 23, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: E. J. Mumma, Jr. (same as applicant). *Contract;* irregular: *Glass,* from the plant site and storage facilities of Lamilite, Inc. at Saratoga Springs, NY on the one hand, and on the other, pts. in the US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lamilite Inc., Cady Hill Industrial Park, Saratoga Springs, NY 12866.

MC 107012 (Sub-II–34TA), filed May 22, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). (1) *video games, electronic games, video game cartridges, home computers, and home computer cartridges, and* (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above,* between the facilities of Atari Inc. at or near Sunnyvale, CA; Wheeling, IL; Edison, NJ; and El Paso, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Atari, Inc., 390 Caribbean Dr., Sunnyvale, CA 94086.

Note.—Common control may be involved.

MC 107012 (Sub-II–42TA), filed May 20, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *New furniture and tabletops* from Culpeper, VA to Pittsburgh, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Metro Manufacturing Co., Inc., P.O. Box 273, Culpeper, VA 22701.

Note.—Common control may be involved.

MC 123254 (Sub-II–2TA), filed May 21, 1980. Applicant: PITZER BROTHERS, INC., P.O. Box 633, Jeannette, PA 15644. Representative: Jeremy Kahn, Suite 733-Investment Bldg., 1511 K Street, N.W., Washington, DC 20005. *(1) Malt Beverages,* from the facilities of Jones Brewing Co. at or near Smithton, PA, to points in OH and WV; and *(2) used, empty malt beverage containers,* from points in OH and PA to the facilities of Jones Brewing at or near Smithton, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Jones Brewing Co., P.O. Box 746, Smithton, PA 15479.

MC 107403 (Sub-II–22TA), filed May 21, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Solvents, flammable, in bulk, in tank vehicles* from Bayonne, NJ to Amsterdam, Binghamton and Syracuse, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Solvents & Petroleum Services, Inc., 1405 Brewerton Rd., Syracuse, NY 13208.

MC 147759 (Sub-2–1TA), filed February 22, 1980. Applicant: CAPITAL CITIES COACH CO., INC., 8800 Yellow Brick Rd., Baltimore, MD 21237. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Common;* regular: *Passengers and their baggage and express and newspapers in the same vehicle with passengers* between Annapolis, MD, and Rehoboth Beach, DE: From Annapolis, MD over Rowe Blvd. to its junction with U.S. Hwy 50, then over U.S. Hwy 50 east to Ocean City, MD, then over MD Hwy 528 north to the MD-DE state line, then over DE Hwy 1 to Rehoboth Beach, DE, and return over the same route serving all intermediate points between Ocean City, MD, and Rehoboth Beach, DE. Restricted against any passenger or traffic whose entire transportation is between Annapolis, MD and any point in the state of DE, including Rehoboth Beach, DE. Applicant intends to tack authority sought herein with authority being purchased from Greyhound Lines, Inc., in docket number MC–FC–78261, and with MC–147759 and interline at Washington, DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 21 supporting shippers whose statements may be examined at the ICC regional office in Philadelphia, PA. The purpose of this re-publication is to reflect applicant's intent to tack and interline which was previously omitted in the first publication on March 17, 1980.

MC 143511 (Sub-II–1TA), filed May 22, 1980. Applicant: HARDINGER TRANSFER CO., INC., P.O. Box 521, Erie, PA 16512. Representative: Samuel J. Varo (same address as above). *Steel power boilers, steam generator equipment, stokers and water waste treatment parts and parts thereof,* between the facilities of Zurn Energy Division located at Erie, PA, on the one hand, and, on the other, points in that part of the U.S. in and east of KS, NE, ND, OK, SD, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zurn Industries, Inc., 1422 East Ave., Erie, PA 16503.

MC 150859 (Sub-II–1TA), filed May 20, 1980. Applicant: H & L HOUSEHOLD MOVERS, INC., 14674I Southlawn Lane, Rockville, MD 20850. Representative: Edward E. Harrison (same address as above). *Household goods,* as defined by the Commission, between points in MD, VA, and DC, on the one hand, and, on the other, points in U.S. (except AL and HA), for 180 days. Supporting shipper(s): U.S. Catholic Conference, 1312 Massachusetts Ave. NW., Washington, DC; Mrs. Cynthia M. Quaker, 7907 Bluebird Lane, Alexandria, VA 22306; Michael Sullivan, 17th and New York Ave., Chesapeake Beach, MD 20732; M. Lowenstein Corp., P.O. Box 10352, Rock Hill, SC 29730.

MC 56388 (Sub-II–3TA), filed May 19, 1980. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Sugar,* and/or blends thereof, in bulk, in tank or pneumatic vehicles from Baltimore, MD to points in DC, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amstar Corp., American Sugar Div., 1251 Avenue of the Americas, New York, NY 10020.

MC 112696 (Sub-II–1TA), filed May 8, 1980. Applicant: HARTMANS, INCORPORATED, P.O. Box 898, Harrisonburg, VA 22801. Representative: Lawrence E. Lindeman, 1032 Pennylvania Bldg., Pennsylvania Ave and 13th St. NW., Washington, DC 20004. *Printed matter and books, and materials and supplies used in the manufacture or distribution of printed matter and books (except commodities in bulk),* between the plantsite and storage facilities of R. R. Donnelley and Sons in Harrisonburg, VA, on the one hand, and, on the other, points in the United States in and east of TX, OK, KS, NE, SD, and ND, for 180 days. Supporting shipper: R. R. Donnelley and Sons Company, 1400 Kratzer Road, Harrisonburg, VA 22801.

MC 125335 (Sub-2–7TA), filed May 19, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Frozen foods,* from Barker, NY, to Vineland, NJ, for 180 days. Supporting shipper: Southland Frozen Foods, Inc., 305 East Ohio Street, Plant City, FL 33566.

MC 2304 (Sub-II–2TA), filed May 21, 1980. Applicant: THE KAPLAN TRUCKING CO., 2900 Chester Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. (1) *Springs and related parts thereof,* (a) from Columbia, TN to St. Louis, MO; Chicago, IL; Detroit, MI and points in KY, (b) from DuBois, PA to points in KY and TN; and (2) *springs and materials and supplies* used in the manufacture and installation of springs, (a) from Coalton, KY to DuBois, PA and Columbia, TN, (b) from McDonald, OH; Gary, IN; Chicago, IL; Detroit, MI and Buffalo, NY to points in TN, (c) from Morristown, IN to DuBois, PA and points in TN, for 180 days. Supporting shipper: Triangle Auto Spring Co., P.O. Box 425, Maloney Rd., DuBois, PA 15801.

MC 56244 (Sub-II–7TA), filed May 21, 1980. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. *Such commodities* as are dealt in by wholesale, retail and

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chain grocery and food business houses (except commodities in bulk), and (2) *materials, supplies and equipment* used in connection with or incidental to the conduct of such businesses (except commodities in bulk) between points in Adams, Cumberland, Dauphin, Franklin, and York Counties, PA, Shenandoah and Frederick Counties, VA, and Berkley and Jefferson Counties, WV, on the one hand, and, on the other, points in TN, restricted to the transportation of shipments originating at the indicated origins and destined to the indicated destinations for 180 days. Supporting shipper: There are six supporting shippers; their statements may be examined at the ICC regional office, Philadelphia, PA.

MC 125335 (Sub-2–6TA), filed May 19, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs* (except in bulk), from the facilities of American Home Foods, Division of American Home Products Corporation, located at or near Milton, PA, to points in AL, FL, GA, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Home Foods, Division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 150858 (Sub-II–1TA), filed May 20, 1980. Applicant: JOHN J. HEFFERNAN & SONS, INC., R.D. No. 2, W. Noblestown Rd., Carnegie, PA 16106. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Canned and preserved foodstuffs,* from facilities of Heinz USA, Division of H. J. Heinz Co., at Pittsburgh, PA to points in OH, IN, IL, MI, MD, NJ and NY, restricted to traffic originating at and destined to the above named origin and destinations; and restricted to transportation to be performed under a continuing contract with Heinz USA, Division of H. J. Heinz Co. of Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 146149 (Sub-II–2), filed May 19, 1980. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Glass containers* (1) from the plant site of the Chattanooga Glass Co. at Mt. Vernon, OH to points in IN and IL, and (2) from the plant site of the Chattanooga Glass Co. at Chattanooga, TN to points in NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Chattanooga Glass Co., 400 W. 45 St., Chattanooga, TN 37410.

MC 103826 (Sub-II–1TA), filed May 20, 1980. Applicant: R. O. HARRELL, INC., P.O.B. 97, South Boston, VA 24592. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Fly ash and bottom ash,* in bulk, from points in Person County, NC to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Monier Resources, Inc., 2708 Church St., Suite 6, Greensboro, NC 27405.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7520, Atlanta, GA 30357.

MC 143059 (Sub-3–6TA), filed May 12, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. *Insulating materials and machinery, equipment, materials and supplies used in the installation and production thereof,* between Pueble, CO and Fontana, CA, on the one hand, and, on the other, points in AZ and NM. Supporting shipper: Rockwood Industries, Inc., 7400 South Alton Ct., Englewood, CO.

MC 109708 (Sub-3–3TA), filed May 16, 1980. Applicant: INDIAN RIVER TRANSPORT COMPANY, INC., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Alcoholic beverages,* in bulk in tank vehicles from Silverton, OH to Plainfield, IL and from Peoria, IL to Philadelphia, PA. Supporting shipper: Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61651.

MC 115841 (Sub-3–7TA), filed May 15, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good, P.O. Box 22168, Knoxville, TN 37922. *Plastic articles, expanded and nonexpanded (except in bulk),* between points in the U.S. (Except AK and HI). Restricted to traffic originating at or destined to the facilities utilized by Amoco Foam Products Co. for 180 days. Supporting shipper: Amoco Foam Products Co., 2111 Powers Ferry Road, N.W., Atlanta, GA 30339.

MC 115654 (Sub-3–10TA), filed May 16, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings (same as above). *Such commodities as are dealt in by retail chain department stores,* from points in AL, GA, KY, MS, and TN to the facilities of Ayr-Way Stores, Inc. at Indianapolis, IN and its commercial zone. Supporting shipper: Ayr-Way Stores, Inc., 8250 Zionsville Road, Indianapolis, IN 46268.

MC 2934 (Sub-3–3TA), filed May 16, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, IN 46032. *New furniture, mattress and box springs, couch or lounge frames, steel or iron,* from Elizabeth, New Jersey to Janesville, Wisconsin. Supporting shipper: Simmons Company, Brunswick Avenue, Elizabeth, New Jersey 07207.

MC 148442 (Sub-3–1TA), filed May 16, 1980. Applicant: SOUTHEASTERN FOOD DISTRIBUTORS, INC., 607 10th Ave. North, Nashville, TN 37202. Representative: Lawson L. Turk, 607 10th Ave., N., P.O. Box 22275, Nashville, TN 37202. *Such commodities as are dealt in by wholesale, retail, and chain grocery houses* between the facilities of Southern States Distribution Inc. at or near Memphis, TN on the one hand, and, on the other, points in MS, MO, LA, GA, KY, FL, AR, and AL. Supporting shipper: Southern States Distribution, Inc., Memphis, TN.

MC 117416 (Sub-3–6TA), filed May 12, 1980. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Ave., NW, Knoxville, TN 37921. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Ave. NW., Washington, DC 20006. *Sodium silico aluminate; silica, other than silica sand; and sodium sulphate (except in bulk)* from the facilities of J. M. Huber Corporation at or near Etowah, TN to points in KY, IL, IN, MI, OH, and GA. Supporting shipper: J. M. Huber Corporation, Thornall, St., Edison, NJ 08817.

MC 150829 (Sub-3–1TA), filed May 16, 1980. Applicant: AMERICAN TRUCKING COMPANY, INC., Route 6, Birmingham Highway, Montgomery, AL 36105. Representative: John Chandler (same address as applicant) *Citrus products,* from points in FL on and North of FL Hwy 70 to Winn-Dixie Stores, Inc. warehouses, at Montgomery, AL; Atlanta, GA; Greenville, SC; Charlotte, Raleigh, NC; New Orleans, LA; Louisville, KY, and Fort Worth, TX. *Meat and meat products,* from Lorenz International, division of John Morrell Company, Inc., Montgomery, AL to Jacksonville, Miami, Orlando, Pensacola, Pompano Beach, Tampa, and Fort Lauderdale, FL.

MC 150832 (Sub-3–1TA), filed May 16, 1980. Applicant: THOMAS TRUCKING & LEASING, INC., Route 1, Raywick, KY 40060. Representative: John M. Nader,

1600 Citizens Plaza, Louisville, KY 40202. *Salt,* in bulk, in conveyor equipment, from the facilities of Cargill, Inc., at Clarksville, IN, to the facilities of Union Underwear Co. at Campbellsville, KY. Supporting shipper: Cargill, Inc.—Salt Division, P.O. Box 9300, Minneapolis, MN 55440.

MC 147911 (Sub-3–2TA), filed May 16, 1980. Applicant: TILFORD TRUCKING, INC., P.O. Box 34, Readyville, TN 37419. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Glues and Adhesives and materials, equipment and supplies used in the manufacture of same,* between the facilities of Tennessee Adhesives and Chemical Corp at or near Murfreesboro, TN, on the one hand, and, on the other, points in AL, GA, FL, and MS. Supporting shipper: Tennessee Adhesives and Chemical Corp., 114 Bridge Avenue, Murfreesboro, TN.

MC 136315 (Sub-3–2TA), filed May 16, 1980. Applicant: OLEN BURRAGE TRUCKING, Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 236 East Capital St., P.O. Box 22807, Jackson, MS 39205. *Iron and steel articles, wire rods in coils, unfinished material for further processing* from Beaumont, TX to the facilities of Davis-Walker Steel and Wire Corporation in Memphis, TN. Supporting shipper: Davis Walker Corporation, 6315 Bandini Blvd. Los Angeles, CA 90040.

MC 150426 (Sub-3–1TA), filed May 1t, 1980. Applicant: CHARLES DANIEL SHERRILL d.b.a. INDUSTRIAL BUS SERVICE, Route 10, Franklin, NC 28734. Representative: Charles Daniel Sherrill, Route 10, Franklin, NC 28734. *Passengers,* between Franklin, NC and Mountain City, GA. Supporting shipper: Burlington Mills, Mountain City, GA

MC 106074 (Sub-3–8TA), filed April 28, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221 S., Forest City, NC 38043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *New furniture and furnishing and furniture parts* (1) from points in AR, MS, and NC to points in CA, IL, IN, MI, MN, MO, NC, NY, OH, PA, VA, and Wi; and (2) from Vernon, CA to points in NC and VA. Supporting shipper: Wickes Furniture, 351 W. Dundee Rd., Wheeling, IL 60090.

MC 146894 (Sub-3–1TA), filed March 10, 1980. Applicant: GLEN DYER d.b.a. DYERS TRUCKING SERVICE, 1000 South Lawrence Street, Mobile, Alabama 36608. Representative: STEPHEN R. WINDOM, McDermott, Slepian, Windom & Reed, P.O. Drawer 2025, Mobile, Alabama 36601. *Sand Blasting Sand* from Mobile County, Alabama to all points in Florida, Mississippi and Louisiana. Supporting shipper: Radcliff Materials, Inc., P.O. Box 2068, Mobile, Alabama 36607.

MC 140902 (Sub-3–2TA), filed May 20, 1980. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, Florida 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract carrier:* irregular: *(1) Tires, tire parts, inner tube parts, and wheels, and (2) Equipment, materials and supplies used in the manufacture and distribution of the commodities in part (1) except commodities in bulk* between points in the state of California. (Note: Applicant intends to tack this authority with that currently held under MC 140902, Sub No. 6F). Supporting shipper: Firestone Tire & Rubber Company, 1200 Firestone Parkway, Akron, Ohio, 44317.

MC 14557 (Sub-3–4TA), filed May 21, 1980. Applicant: HUDSON TRANSPORTATION, INC., Post Office Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Beverages (except in bulk),* from the facilities of Kool Kick Corporation, at or near Highland City, FL, to points in AL, AR, GA, KY, LA, MD, MS, NJ, NY, NC, OK, PA, SC, TN, TX, VA, and DC. Supporting shipper: Kool Kick Corporation, Post Office Box 822, Highland City, FL 33846.

MC 143059 (Sub-3–10TA), filed May 21, 1980. Applicant: MERCER TRANSPORTATION, P.O. Box 35610, Louisville, KY 40232. Representative: Frederic J. Cowan, Jr., 1600 Citizens Plaza, Louisville, KY 40202. *Iron and steel articles* from the facilities of Century Tube, Inc at our near Pine Bluff, AR to points in CT, DE, IL, IN, ME, MA, MD, MI, MN, NH, NJ, NY, OH, PA, RI, VT, and WI. Supporting shipper: Century Tube, Inc., P.O. Box 7612, Pine Bluff, AR 71611.

MC 110410 (Sub-3–1TA), filed May 22, 1980. Applicant: BENTON BROS. FILM EXPRESS, INC., P.O. Box 54327, Atlanta, GA 30308. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Printed matter,* between points in FL those in GA on and south of U.S. Highway 278, on and east of U.S. Highway 19 between Atlanta, GA and its junction with U.S. Highway 319, and on and east of U.S. Highway 319 from its junction with U.S. Highway 19 to the GA–FL state line and Evans, GA. Note: In Sub 18, applicant matter authority between Atlanta, GA, on the one hand, and most of area here sought. The purpose of this application is to make that authority non-radial in nature. Supporting shipper(s): There are 16 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

MC 97394 (Sub-3–4TA), filed April 22, 1980. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 13303, Louisville, KY 40213. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Wheel balancing materials and equipment and supplies used in the manufacturing, sales and distribution of same,* between Bowling Green, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, MS, NC, OH, SC, TN, VA, and WV. Supporting Shipper(s): The Bada Company, 31–W North Access I–65 Exchange, Bowling Green, KY 42101.

MC 121081 (Sub-3–2TA), filed April 18, 1980. Republication—Orignially Published In **Federal Register** of April 23, 1980, Page 28834, Volume 45, No. 85. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Plastic containers,* (1) From the facilities of Sewell Plastics, Inc. at Charlotte, NC to points in GA, MD, PA, SC, TN, and VA. (2) From the facilities of Sewell Plastics, Inc. at Mauldin, SC to points in GA, NC, and TN. (3) From the facilities of Sewell Plastics, Inc. at or near Havre de Grace, MD and New Stanton, PA to points in NC, SC, and VA, and *Plastic container parts; equipment; and materials and supplies used in the distribution, production and sale of plastic containers,* (4) From points in GA, MD, NC, PA, SC, TN, and VA to the facilities of Sewell Plastics, Inc. at Charlotte, NC and Mauldin, SC. Supporting shipper: Sewell Plastics, Inc., P.O. 8051, Charlotte, NC 28208.

MC 121107 (Sub-3–1TA), filed March 25, 1980. Republication—originally published in **Federal Register** of April 23, 1980 Page 27552, Volume 45, No. 80. Applicant: PITT COUNTY TRANSPORTATION COMPANY, P.O. Box 207, Farmville, NC 27828. Representative: Harry J. Jordan, 1000—16th Street NW., Washington, DC 20036. *(1) Newsprint paper,* from Laurens County, GA to points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC; and *(2) Waste newspapers, cores and supplies, materials and equipment, excluding materials in bulk, used in the manufacture or distribution of newsprint,* from points in the states described in Item (1) to Laurens County, GA. Supporting Shipper(s): Southeast

Paper Manufacturing Company, P.O. Box 1169, Dublin, GA 31021.

MC 56679 (Sub-3-12TA), filed April 22, 1980. Republication—Orginally Published in **Federal Register** of May 7, 1980 Page 30154, Volume 45, No. 90. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30315. Representative: Leonard S. Cassell, P.O. Box 6985, Atlanta, GA 30310. *(1) Rovings or yarn, glass fibre; or strand, glass fibre, in continuous lengths or chopped; (2) Mineral wool (clay, rock, slag, or glass wool) batts, batting, blankets, sheets blocks or other,* (1) From the facilities of Johns-Manville at or near Winder, GA to points in AL, AR, FL (West of the Appalachicola River), LA, MS and (2) From the facilities of Johns-Manville at or near Etowah, TN to points in FL (West of the Appalachicola River), AL, MS and LA. Supporting shipper: Johns-Manville Sales Corp., P.O. Box 4487, Atlanta, GA 30202.

MC 141145 (Sub-3-2TA), filed April 23, 1980. Republication—Originally Published in **Federal Register** of April 7, 1980, Page 30153, volume 45, No. 90. Applicant: REYNOLDS & COMPANY, INC., One Railroad Avenue, P.O. Box 227, Waynesboro, GA 30830. Representative: Thomas L. Reynolds, Wood Valley Road, Waynesboro, GA 30830. *Lumber, forest products, bark, sawdust, wood chips and wood fuel,* from the facilities of the Forest Products Division, Kimberly-Clark Corporation at or near Waynesboro, GA to points in NC, SC and TN. Supporting shipper: Kimberly-Clark Corp., 1414 West Larsen Road, Neenah, WI 54956.

MC 145794 (Sub-3-1TA), filed April 24, 1980. Republication—Originally Published in **Federal Register** of April 7, 1980, Page 30153, Volume 45, No. 90. Applicant: ARDS TRUCKING COMPANY, INC., P.O. Box 362, Darlington, SC 29532. Representative: Martin S. Driggers, Sr., P.O. Box 519, Hartsville, SC 29550. *Plastic and plastic products, and wood and lumber and wood and lumber products,* between facilities of Sweetapple Plastics Corp. in Green Cty., GA and facilities of Darlington Veneer Co. in Darlington, Cty., SC, on the one hand, and, on the other, points in NC, VA, GA, WV, MD, DE, NJ, PA, NY, FL, AL, TN, KY, OH, IN, MO, SC, MS, LA, TX, AR, OK, KS, IL, DC, CT, RI, MA, WI, and MI. Supporting shipper(s): Sweetapple Plastics Corp., P.O. Box 38, Greensboro, GA 30642 and Darlington Veneer Company, P.O. Box 492, Darlington, SC 29532.

MC 143059 (Sub-3-8TA), filed May 20, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Non-ferrous metals (except in bulk),* from the facilities of ASARCO Incorporated or Federated Metals Corp., subsidiary of ASARCO Incorporated at St. Louis, MO; Cincinnati, OH; Chicago, IL and Memphis, TN to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, PA, TN, and WI. Supporting shipper: ASARCO incorporated, 611 Olive Street, Suite 1755, St. Louis, MO 63101.

MC 145760 (Sub-3-2TA), filed May 19, 1980. Applicant: JOHNSON TRANSPORTATION CO., 1327 Highway 13 North, Columbia, MS 39439. Representative: Fred W. Johnson, Jr., 236 East Capital St., P.O. Box 22807. *Brick and tile* from Plant City, FL to points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY. Supporting shipper: Florida Brick and Clay Co., Inc., P.O. Box 1656, Plant City, FL 33566.

MC 107002 (Sub-3-12TA), filed May 19, 1980. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: Larry M. Ford (same address as applicant). *Gasoline and diesel fuel,* from Baton Rouge, LA to points in Claiborne, Hinds and Yazoo Counties, MS. Supporting shipper: Harris Oil Company, Industrial Park, P.O. Box 388, Vicksburg, MS 39180.

MC 139017 (Sub-3-1TA), filed May 20, 1980. Applicant: HEAD ENTERPRISES, INC., Route 2, Box 88, Adairsville, GA 30103. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Cotton softener or soap* from Dalton, GA to Compton, CA. Supporting shipper: American Emulsions Co., Inc., P.O. Box 3787, Dalton, GA 30721.

MC 115162 (Sub-3-5TA), filed May 19, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *(1) Stoves and stove parts* from points in Henderson County, NC to points in the United States in and east of the states of ND, SD, NE, KS, OK, AND TX; and *(2) Materials, equipment and supplies used in the manufacture, sale and distribution of stoves and stove parts* (except commodities in bulk, in tank vehicles) from points in the United States in and east of the states of ND, SD, NE, KS, OK, and TX to points in Henderson County, NC. Supporting shipper: Bat Cave Stove Company, P.O. Box 42, Bat Cave, NC 28710.

MC 144303 (Sub-3-2TA), filed May 19, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. *Contract Carrier:* irregular: *Plastic products or materials, Sheet or Plate, NOI,* from Carson, CA and Louisville, KY to points in the United States in and east of MT, WY, CO AND NM. Supporting shipper: J.W. Carroll, Division of U.S. Industries, 22600 South Bonita Street, Carson, CA 90745.

MC 142626 (Sub-3-1TA), filed May 19, 1980. Applicant: BINGHAM LEASING CORPORATION, Box 466, Hwy. 45 North, Booneville, MS 38829. Representative: John Davidson, Box 1456 111 Highway 72 West, Corinth, MS 38834. (1) *New Furniture* Between MS and all points and places in the U.S. (restricted to new furniture) (2) *Foam rubber used in the manufacture of new furniture* from PA, NJ, MA to points and places in TN, GA, and MS (restricted to foam rubber used in the manufacture of new furniture). Supporting shippers: Belmont Furniture Mfg. Co., P.O. Box 168, Booneville, MS 38829. Perfect Cut Mfg. Co., Inc., Route 2, Booneville, MS 38829. C.F.I. Crestline Divn., P.O. Box H, Fulton, MS 38843. Sofisti-Caire Mfg. Co., P.O. Drawer C, Baldwyn, MS 38824. P. R. Davis Associates, 342 Stratfield Dr., Atlanta, GA 30319.

MC 146646 (Sub-3-9TA), filed May 19, 1980. Applicant: BRISTOW TRUCKING CO., INC.,P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *General Commodities in containers and empty containers* Between Mobile, AL and New Orleans, LA. Supporting shipper: Page & Jones, Inc., P.O. Drawer J., Mobile, AL 36601.

MC 145220 (Sub-3-1TA), filed May 19, 1980. Applicant: IREDELL MILK TRANSPORTATION, INC., Route 3, Box 368, Mooresville, NC 28115. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Fruit juice and fruit juice concentrate, in bulk, in tank vehicles,* from Westfield, NY to Sulphur Springs, TX. Supporting shipper: Ocean Spray Cranberries, Inc., Water St., Plymouth, MA 02360.

MC 150690 (Sub-3-1TA), filed May 19, 1980. Applicant: SEACOAST TRANSPORTATION CORPORATION, 1707 Frederica Plaza, St. Simons Island, GA 31522. Representative: Andrew A. Taylor, Taylor, Bishop and Lee, P.C., 777 Gloucester St., Suite 401, P.O. Box 1396, Brunswick, GA 31521. *Common carrier:* regular: *Passengers and their baggage* from Jekyll Island, St. Simons Island, Sea Island and Brunswick, GA all of which are located in Glynn County, GA to and from Jacksonville, Florida International Airport. There are 9 supporting shipper statements which may be examined at the ICC regional office in Atlanta, GA.

MC 144827 (Sub-3-2TA), filed May 19, 1980. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Insecticides, other than agricultural* from the facilities of Speer Products, Inc. at Memphis, TN to facilities of Zoecon, Inc. at Farmers Branch, TX, facilities of Ciba Geigy Corporation at Waco, TX, and facilities of Medical Specialities Company at Paris, TX. Supporting shipper: Speer Products, Inc., 4242 B. F. Goodrich Blvd., Memphis, TN 38118.

MC 146646 (Sub-3-10TA), filed May 19, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *(1) Office and household fixtures and furnishings, component parts thereof and (2) Equipment, materials and supplies used in the manufacturing of office and household fixtures and furnishings:* (1) From Springville, AL to points in the United States in and east of the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; (2) From points in the United States (except Alaska and Hawaii) to Springville, AL further restricted to traffic originating at or destined to the facilities of Triangle Pacific Corp. Supporting shipper: Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, Texas 75234.

MC 147027 (Sub-3-1TA), filed May 20, 1980. Applicant: REEVES' TRUCK LINES, Route 2, Honoraville, AL 36042. Representative: J. Douglas Harris and James D. Harris, Jr., Harris & Harris, P.A., 200 S. Lawrence Street, Montgomery, AL 36104. *Wood residuals, (such as but not limited to: Shavings, Chips, Sawdust, and Bark) Lumber and Lumber Products,* from the facilities of Union Camp Corporation at or near Saco, AL to all points and places in the states of FL, GA, and TN. Supporting shipper: Union Camp Corporation, Chapman, AL 36015.

MC 143059 (Sub-3-9TA), filed May 20, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Texas 76102. *(1) Plastic and plastic articles, and (2) materials and supplies used in the manufacture and installation of the commodities names in (1) above (except commodities in bulk, in tank vehicles),* between Haltom City, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Insulation Materials Corporation of American, 4325 Murry St., Haltom City, TX 76117.

MC 97394 (Sub-3-3TA), filed May 19, 1980. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 13303, Louisville, KY 40231. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Tires, tire tubes and such commodities as are dealt in by automotive parts stores,* between Bowling Green, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, MS, NC, OH, SC, TN, VA, and WV. Supporting shipper: Universal Cooperatives, 254 Dishman Lane, Bowling Green, KY 42101.

Note—Applicant intends to interline at Bowling Green, KY 42101.

MC 97394 (Sub-3-1TA), filed May 19, 1980. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 13303, Louisville, KY 40231. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *(1) Frit (glazing compound) Clay, Sand or Feldspar, crushed, ground or pulverized, Titanium Dioxide; Borax, Enamel Whitening Compound; Dry Earth Paint and Frit Additives: (2) Chemicals, materials and supplies used in the manufacturing of the named commodities in (1),* (1) from Plantsite of Ferro Corporation, Nashville, TN to Cleveland, OH, Connersville and Terre Haute, IN and Kankakee, IL and points in their commercial zone. (2) From Cleveland, OH, Connersville and Terre Haute, IN and Kankakee, IL and points in their commercial zone to Plantsite of Ferro Corporation, Nashville, TN. Suporting shipper(s): Ferro corporation, 20 Culvert, Nashville, TN 37210.

MC 128220 (Sub—3-1TA), filed May 19, 1980. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING COMPANY, P.O. Box 598, Burnside, KY 42519. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *(1) Charcoal, charcoal briquettes, vermiculite, hickory chips, fireplace logs, lighter fluid, and spices and sauces used in outdoor cooking, and (2) materials, equipment and supplies used in the manufacture, processing and distribution of the products in (1) above, and damaged, rejected, or returned shipments of the commodities in (1) and (2) above, and wooden pallets,* between all points in the United States (except AL and HI). Supporting shippers: The Kingsford Company, 1700 Commonwealth Bldg., P.O. Box 1033, Louisville, KY 40201 and Fox Constructors and Engineers, Inc., P.O. Box 1528, Dothan, AL 36302.

MC 112617 (Sub-3-6TA), filed May 20, 1980. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21385, Louisville, KY 40221. Representative: Larry W. Thompson (same address as address as applicant). *Printing ink and/or printing ink materials, viz: Color based and varnishes, in bulk, in tank vehicles,* from the plantsite of Flint Inc Corporation at New Albany, IN to the plantsite of Flint Inc Corporation at Spartanburg, SC. Supporting shipper: Flint Ink Corporation, 25111 Glendale, Detroit, MI 48239.

MC 143059 (Sub-3-7TA), filed May 20, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Such commodities as are dealt in by manufacturers of knocked down prefabricated buildings (except commodities in bulk and those requiring special equipment),* from Sacramento, CA, Elkhart, IN and Cleveland, OH to points in the United States (including AK, but excluding HI), restricted to the transportation of traffic originating at the facilities of Com-Struct International, Div. of Carlsberg Corp. or its vendors and destined to the facilities or erection sites of Com-Struct International, Div. of Carlsberg Corp. Supporting shipper: Con-Struct International, Div. of Carlsberg Corp., 8600 23rd Ave., Sacramento, CA 95826.

MC 143621 (Sub-3-12TA), filed May 20, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue, North, Nashville, TN 37219. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *Lumber,* (1) from points in AR, LA, and MS to Russellville, AL, and (2) from Russellville, AL to points in AR, FL, GA, IL, IN, KY, MS, MO, OH, PA, TN, TX and WI. Supporting shippers: Keith Lumber Company, Route 7, Russellville, AL 35653, and Bullington Lumber Company, P.O. Box E, Russellville, AL 35653.

MC 146402 (Sub-3-5TA), filed May 19, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (address same as applicant). *(1) Air conditioners, air conditioning and heating equipment and (2) Materials used in the manufacture and distribution of the commodities in (1) above,* from Effingham, IL to AL, AR, CT, DE, FL, GA, IA, IN, KY, LA, MD, MI, MN, MO, MS, NC, NJ, NY, OH, PA, RI, SC, TN, TX, VA, WI, WV and DC. Supporting shipper: Fedders Corporation, Woodbridge Avenue, Edison, NJ 08817.

MC 117956 (Sub-3–5TA), filed May 19, 1980. Applicant: SCOTT TRANSFER, INC., 920 Ashby Street, S.W., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *(1) Mechanic Creepers, and (2) Materials and Supplies used in the manufacture of Mechanic Creepers.* (1) From Westville, NJ to Greenwood, MS, St. Paul, MN, W. Jordan, UT, Memphis, TN, and Atlanta, GA and (2) From points in SC to Westville, NJ. Supporting shipper: P & B Manufacturing Corp., Frontage Rd. and Delsa Dr., westville, NJ 08093.

MC 107515 (Sub-3–22TA), filed May 19, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such merchandise as is dealt in or used by wholesale, retail and chain food business houses* from the facilities of Church's Fried Chicken, Inc. at or near San Antonio, TX to Montgomery, AL; Santa Ana, CA; Union City, CA; Jacksonville, FL; Atlanta, GA; Chicago, IL; Everett, MA; Jackson, MS; and Conkkin, NY. Supporting shipper: Church's Fried Chicken, Inc., 355 Spencer Lane, San Antonio, TX 78284.

MC 105813 (Sub-3–1TA), filed May 19, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 (S.W. 12th Street, P.O. Box 2009, Ocala, Florida 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Illinois 60601. *Alcoholic Liquors, materials, equipment and supplies used in the manufacture and distribution thereof (except in bulk in tank vehicles)* from Bardstown, KY to GA and FL. Supporting shippers: Barton Brands, Ltd., Bardstown, KY 40004 and "21" Brands, Inc., 75 Rockefeller Plaza, New York, NY 10019.

MC 2900 (Sub-3–7TA), filed May 19, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: R. E. Allish (same address as applicant). *Common Carrier:* Regular routes: *General commodities (except Classes A and B explosives, commodities in bulk, those of unusual value, those requiring special equipment, and household goods as defined by the Commission)* Serving the River Bend Power Station, St. Francisville, LA as an off-route point in connection with applicant's authorized regular routes. Supporting shippers: R. K. Jackson, Jr., Stone & Webster Engineering Corp., P.O. Box 2325, Boston, MS 02107; Edwin B. Smith, Gulf States Utilities Co., P.O. Drawer 2951, Beaumont, TX 77704.

MC 138157 (Sub-3–15TA), filed May 19, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d. b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *Plastic articles* (except in bulk), from Brooklyn, NY to points in and east of ND, SD, NE, KS, OK, and TX. Restricted: Restricted to traffic originating at the facilities of Admiral Plastics Corporaton. Supporting shipper: Admiral Plastics Corporation, 101–01 Avenue D, Brooklyn, NY 11236.

MC 144688 (Sub-3–10TA), filed May 19, 1980. Applicant: READY TRUCKING, INC., 2717 Campbell Blvd., Ellenwood, GA 30049. . Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, P.O. Box 81849, Lincoln, NE 68501. (1) *Household cleaning products, water purifying compounds and dry acids (except in bulk); and* (2) *Materials, equipment and supplies used in the manufacture, sale and distribution of the commodities listed in part (1) above (except in bulk).* Between the facilities of Purex Corporation, at or near Auburndale, FL, on the one hand, and, on the other, points in the states of AL, GA, and TN. Supporting shipper: Purex Corporation, 2400 Main Street, Carson, CA 90749.

MC 146646 (Sub-3–8TA), filed May 19, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *Industrial cleaners, Weed killers, Insecticides and related products manufactured and/or sold by Oxford Chemicals, Inc. at or near Chamblee, GA* between Chamblee, GA and Brisbane, CA; Camp Hill, PA; Charlotte, NC; Denver, CO; Hialeah, FL; Houston, TX; Indianapolis, IN; Keene, NH; Memphis, TN; Metairie, LA; Reno, NV. Supporting shipper: Oxford Chemcial Co., Inc., P.O. Box 80202, Atlanta, GA 30366.

MC 116254 (Sub-3–10TA), filed May 19, 1980. Applicant: CHEM–HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Para Nitrophenol, in bulk, in tank vehicles* from Anniston, AL to Luling, LA. Supporting shipper: Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, MO 63166.

MC 150573 (Sub-3–1TA), filed April 28, 1980. Applicant: BENJAMIN J. KENNEDY, d.b.a. BEN KENNEDY TRUCKING COMPANY, Weston Road, P.O. Box 13, Preston, GA 31824. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. *Agricultural lime, lime granulars, lime materials and landplaster, in bulk, in dump vehicles,* from Taylor, Hamilton, and Jackson Counties, FL and Lee County, AL to points in GA on and south of U.S. Hwy 80 between Columbus and Macon, GA, inclusive, and on and west of I–75 between Macon and the FL state line, inclusive. There are seven statements in support of this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 116300 (Sub-3–4TA), filed May 20, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Salt cake,* from Weeks Island, LA to points in AR. Supporting shipper: Morton Chemical Company, 2 N. Riverside Plaza, 15th Floor, Chicago, IL 60606.

MC 56679 (Sub-3–10TA), filed April 14, 1980. Republication—orginally published in **Federal Register** of April 30, 1980, page 28835, volume 45, No. 85. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same address as above). *General commodities,* with usual exceptions, (1) Between Gadsden, AL, and Atlanta, GA. (a) From Gadsden, AL, over U.S. Hwy 411 to the junction U.S. 411 and 41, then over U.S. 41 to Marietta, GA, then over Interstate Hwy 75 to Atlanta, (b) From Gadsden over U.S. 278 to Atlanta, GA. (2) Between Centre, AL, and Rome, GA. From Centre over AL Hwy 9 to the AL–GA state line, then over GA Hwy 20 to Rome. (3) Between Atlanta, GA, and Anniston, AL. From Atlanta over U.S. 78 to junction 78 and U.S. 431 then U.S. 431 to Anniston. (4) Beteen junction U.S. Hwy 431 and Interstate Hwy 20 and Atlanta, GA. From junction U.S. 431 and Interstate 20 over Interstate 20 to Atlanta, GA. (5) Between junction U.S. Hwy 29 and Interstate 85 at or near Opelika, AL, and Atlanta, GA. From junction U.S. 29 and 85 at or near Opelika, AL, over Interstate 59 to Atlanta, GA. (6) Between Chattanooga, TN, and Tuscaloosa, AL. From Chattanooga, TN, over U.S. Hwy 11 and/or interstate 59 to Tuscaloosa, AL. (7) Between Gadsden, AL, and Demopolis, AL. From Gadsden over U.S. 431 to Opelika, then over Interstate 85 to Montgomery, then over U.S. 80 to Demopolis. (8) Between Opelika, AL, and Mobile, AL. From Opelika over U.S. 280 to junction U.S. 31, then over U.S. 31 to Mobile. (9) Between Gadsden, AL, and Florence, AL. From Gadsden over U.S. 431 to Huntsville, then over U.S.

72A and/or U.S. 72 and U.S. 43 to Florence. (10) Between Florence, AL, and Mobile, AL. From Florence over U.S. 43 to Mobile. (11) Between Opelika, AL, and Mobile, AL. (a) From Opelika over U.S. 29 to junction U.S. 31 then over U.S. 31 to Mobile. (b) From Opelinka over Interstate 85 to junction Interstate 65, then over Interstate 65 to Mobile. Serving in connection with routes (1) through (11), all intermediate points in AL and GA; also, serving points in commercial zones of authorized points; and serving all points in AL as off-route points. Applicant requests authority to interline, and to tack this authority with its present and future regular routes. There are 66 supporting shipper statements which may be examined at the ICC Regional Complaint/Authority Center, Atlanta, GA.

MC 56799 (Sub-3–1TA), filed February 11, 1980. Republication—originally published in **Federal Register** of February 27, 1980, page 12925. Applicant: CLAXON TRUCK LINE, INC., P.O. Box 678, Frankfort, KY 40602. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Frankfort, KY, and Cincinnati, OH, over a regular route: From Frankfort, KY, over U.S. Hwy. 60 to junction with U.S. Hwy. 25 and/or I–75, then over U.S. Hwy. 25 and/or I–75, to Cincinnati, OH, and return over the same route, serving all intermediate points except those between the junction of U.S. Hwy. 25 and/or I–75 with KY Hwy. 32, and Cincinnati, OH. The authority sought herein will be tacked with applicant's existing authority and interlined at Cincinnati, OH, and Louisville, KY. There are 52 statements in support which may be examined at the I.C.C. Regional Complaint/Authority Center in Atlanta, GA.

MC 75840 (Sub-3–4TA), filed May 9, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Guy H. Postell, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *General Commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* 1: Between DE, MD, NJ, PA, VA, DC AND NY (only those points in that part of NY on and south of a line beginning at Oswego, NY, and extending along NY Hwy. 104 to Mexico, NY, thence along NY Hwy. 69 to Rome, NY, thence along NY Hwy. 49 to Utica, NY, thence along NY Hwy. 5 to Schenectady, NY, thence along NY Hwy. 7 to Troy, NY, and thence along NY Hwy. 2 to the NY-MA State line, on the one hand, and, on the other, TN (except points on, east and south of a line beginning at the GA-TN State line and extending along U.S. Hwy. 27 to junction US Hwy. 70, thence along US Hwy. 70 to Knoxville, TN, thence along US Hwy. 11W to the TN-VA State line, and Memphis, TN; AL (except Birmingham, AL, and points within 60 miles thereof, and Montgomery, AL), and, AR (points on and east of a line beginning at the AR-LA State line, and extending along US Hwy. 65 to Little Rock, AR, and thence along US Hwy. 67 to the AR-MO State line, except West Memphis, AR, points in Crittenden, St. Francis and Lee Counties, AR, south of US Hwy. 70 and on and east of AR Hwy. 1, and those in Phillips and Desha Counties, AR, lying east of the White River and north of the Arkansas River). 2: Between OH and WV, on the one hand, and, on the other, MS, New Orleans, LA, AL (except Birmingham, AL, and points within 65 miles thereof, Montgomery, AL, Florence, Al, and points within 25 miles thereof), AR (points on and east of a line beginning at the AR-LA State line, and extending along US Hwy. 65 to Little Rock, AR, and thence along US Hwy. 67 to the AR-MO State line, except West Memphis, AR, points in Crittenden, St. Francis, and Lee Counties, AR, south of US Hwy. 70 and on and east of AR Hwy. 1, and those in Phillips and Desha Counties, AR, lying east of the White River and north of the Arkansas River), and, TN (except points on, east and south of a line beginning at the GA-TN State line and extending along US Hwy. 27 to junction US Hwy. 70, thence along US Hwy. 70 to Knoxville, TN, thence along US Hwy. 11W to the TN-VA State line, and Memphis, TN. 3: Between NC, SC, GA (points north of US Hwy. 80 only), and TN (on and east of US Hwy. 27), on the one hand, and, on the other, AL (except Birmingham, AL, and points within 65 miles thereof, Montgomery, AL, Florence, AL, and points within 25 miles thereof), MS, New Orleans, LA, AR (points on and east of a line beginning at the AR-LA State line, and extending along US Hwy. 65 to Little Rock, AR, and thence along US Hwy. 67 to the AR-MO State line, except West Memphis, AR, points in Crittenden, St. Francis and Lee Counties, AR, south of US Hwy. 70 and on and east of AR Hwy. 1, and those in Phillips and Desha Counties, AR, lying east of the White River and north of the Arkansas River); II. Between TN (west of US Hwy. 27), on the one hand, and, on the other, MS, New Orleans, LA, GA (points north of US Hwy. 80 only), NC and SC.; III. Between MS, on the one hand, and, on the other, AL (except Birmingham, AL, and points within 65 miles thereof, Montgomery, AL, and Florence, AL, and points within 25 miles thereof; and, IV. Between TN (on and east of US Hwy. 27), on the one hand, and, on the other, GA. No shipper statements attached. Gateway elimination only to conserve fuel.

MC 143059 (Sub-3–5TA), filed May 12, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Texas 76102. *(1) Plastic pipe, fittings and accessories and (2) materials, equipment and supplies (except in bulk) used in the installation of commodities described in (1),* between Corsicana, TX on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Nipak, Inc., P.O. Box 2820, Dallas, TX 75221.

MC 2934 (Sub-3–2TA), filed May 8, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 300 East Fall Creek Parkway, Suite 403, Indianapolis, IN 46205. *Office furniture and related products,* from Warrensburg, MO, to points in AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, ME, MD, MI, MO, MS, NC, NH, NY, NJ, OH, OK, PA, RI, SC, TN, TX, VT, WI and WV. Supporting shipper: All Steel, Inc., Route 31, Aurora, IL 60507.

MC 126574 (Sub-3–3TA), filed May 9, 1980. Applicant: M. L. HATCHER PICKUP & DELIVERY SERVICES, INC., P.O. Box 7362, Greensboro, NC 27407. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Boxes, bottle carriers, bottles, cans, partitions, fillers and sheets, made from fibreboard, paper or pulpboard,* from the facilities of Mead Paper Company at Butner, NC; the facilities of Gaylord Container Division, Crown Zellerback Corp. at Raleigh, NC; and the facilities of St. Joe Paper Company at Charlotte, NC; to points in SC and VA. Supporting shippers: Mead Paper Company, P.O. Box 747, Burner, NC 27509; Gaylord Container Division, Crown Zellerback Corp., P.O. Box 17865, North Hills Station, Raleigh, NC 27619; St. Joe Paper Company, P.O. Box 7248, Charlotte, NC 28217.

MC 139207 (Sub-3–1TA), filed May 8, 1980. Applicant: McNABB–WADSWORTH TRUCKING CO., 305 S.

Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Absorbent materials (except in bulk) and materials, supplies and equipment used in the manufacture of same,* between the facilities of Anschutz Mineral Corp. at or near Ochlocknee, GA, on the one hand, and, on the other, points in NC, SC, TN, AL, LA, MS, VA, DC, WV, MD and KY. Supporting shipper: James Rogers, Anschutz Mineral Corp., P.O. Box 230, Ochlockness, GA 31773.

MC 150799 (Sub-3–1TA), filed May 9, 1980. Applicant: SPIVEY TRUCKING COMPANY, INC., Route 1, Box 32, Clio, AL 36017. Representative: Barnett Spivey (same address as applicant). *Lumber and lumber articles, wood, shavings, to include treated lumber and material, equipment and supplies used in the manufacture, production, or sale of lumber and lumber articles (except commodities in bulk, in tank vehicles),* between the plant site of Slawson Lumber Company and Southeast Wood Treating, Inc., at Louisville, AL to all points in LA, MS, TN, NC, SC, GA, FL, TX, and VA. Supporting shippers: Slawson Lumber Company, P.O. Box 97, Louisville, AL 36048; Southeast Wood Treating, Inc., P.O. Box 25, Louisville, AL 36048.

MC 146293 (Sub-3–12TA), filed May 9, 1980. Applicant: REGAL TRUCKING CO., INC., 95 Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Esq., 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. (1) *Paper and paper products* (except commodities in bulk) from the facilities of Gilman Paper Company at or near Hazelwood, MO to points in IL, IN, MI, MN, OH, OK, TX and WI; and (2) *Wooden pallets,* from points in IL, IN, MI, MN, OH, OK, TX and WI to the facilities of Gilman Paper Company at or near Hazelwood, MO. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558.

MC 2900 (Sub-3–4TA), filed May 12, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Air conditioners, heating, ice making, heat transfer and heat exchange machines or machinery, and radiator cores and parts and supplies used in the manufacture thereof* from plant site and warehouse facilities of McQuay-Perfex, Inc. at or near Spirit Lake, IA; Vinton, IA; Washington, IA; Louisville, KY; Faribault, MN; Milwaukee, WI; Berlin, WI; Grenada, MS; to points in the United States (except Alaska and Hawaii). Supporting shipper: McQuay-Perfex, Inc., 13600 Industrial Park Blvd., Minneapolis, MN 55440.

MC 109026 (Sub-3–1TA), filed May 12, 1980. Applicant: MANNING MOTOR EXPRESS, INC., P.O. Box 685, Glasgow, KY 42141. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Auto parts and materials used in their manufacture* between Glasgow, KY and its commerical zone, on the one hand, and, on the other, Detroit, MI and its commerical zone. Supporting shipper: Tyson Bearings, Hwy 90, Glasgow, KY 42141.

MC 110878 (Sub-3–4TA), filed May 12, 1980. Applicant: ARGO TRUCKING COMPANY, INC., P.O. Box 955, Elberton, GA 30635. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Marble, granite, limestone, and marble and granite products,* from points in GA and Gantt's Quarry, AL, to points in KY, IA, IL, IN, MI, NE, OH, TN, and WI. Supporting shippers: Georgia Marble Company, 2575 Cumberland Pkwy, NW, Atlanta, GA 30339; Moretti-Harrah Marble Company, Inc., P.O. Box 330, Sylacauga, AL 35150; Star Granite Company, P.O. Box 157, Elberton, GA 30635; Harmony Blue Granite Co., Inc., P.O. Box 958, Elberton, GA 30635; Ponderosa Granite Co., Inc., P.O. Box 518, Elberton, GA 30635.

MC 146402 (Sub-3–4TA), filed May 8, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (address same as applicant). *Wooden reels* from Yelm, Washington to Decatur, IL, DuQuoin, IL and Malvern, AR. Supporting shipper: Wood Fabricators, Inc., P.O. Box 325, Yelm, WA 98597.

MC 115654 (Sub-3–9TA), filed May 8, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings (same as above). *Meat and meat products,* from the facilities of Mar Meat Co., Inc. at New Orleans, LA. to points in AL, AR, GA, IL, IN, KY, MS, MI, OH, and TN. Supporting shipper: Mar Meat Co., Inc., Box 5498, Broadway Station, St. Louis, MO 63147.

MC 107409 (Sub-3–2TA), filed May 15, 1980. Applicant: RATLIFF & RATLIFF, INC., Rte. 16, Box 7, Lexington, NC 27292. Representative: John E. Gray, P.O. Box 1573, Lexington, NC 27292. *Tile and materials and supplies used in the application thereof,* from Mt. Gilead, NC to points in AL, AR, CT, DE, FL, GA, ME, MD, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WY, and DC. Supporting shipper: Mid-State Tile Co., Inc., P.O. Box 1777, Lexington, NC 27292.

MC 107409 (Sub-3–1TA), filed May 13, 1980. Applicant: RATLIFF & RATLIFF, INC., Rte 16, Box 7, Lexington, NC 27292. Representative: John E. Gray, P.O. Box 1573, Lexington, NC 27292. *Tile and materials and supplies used in the manufacture thereof,* from Lexington, NC to all points in the U.S. (except AK, AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, HI, OK, OR, SD, TX, UT, WA, and WY). Supporting shipper: Mid-State Tile Co., Inc., P.O. Box 1777, Lexington, NC 27292.

MC 115654 (Sub-3–8TA), filed May 13, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings (same as above). *Such commodities as are dealt in by wholesale and retail food chains, drug stores, hospitals, and cosmetic dealers, discount and variety stores, and grocery houses, (except in bulk),* (1) From Atlanta, GA and its commercial zone to points in AL, MS, and TN, and (2) From Atlanta, GA and its commercial zone to points in MS. Restricted in Part I above to traffic originating at the facilities of M & W Distribution Services, Inc., and in Part II above to traffic originating at the facilities of Bristol-Myers Company. Supporting shippers: M & W Distribution Services, Inc., 6085 Lagrange Blvd, P.O. Box 43004, Atlanta, GA 30336; Bristol-Myers Company, 5625 Fulton Industrial Blvd., Atlanta, Ga 30336.

MC 150743 (Sub-3–1TA), filed April 28, 1980. Applicant: TRANSOCEAN TRANSPORT, INC., 930 Hialeah Dr., Hialeah, FL 33010. Representative: Richard B. Austin, Esq., 320 Rochester Bldg., 8390 N.W. 53 Street. *Trailers and containers, within or without wheels, loaded or empty,* between points in Dade, Broward and Palm Beach counties, FL. Restricted to traffic having an immediately prior or subsequent movement by water in interstate or foreign commerce. Supporting shippers: Arubon Shipping, Inc., Miami, FL; N. Polanco, Inc., Miami, FL.

MC 140902 (Sub-3–1TA), filed May 9, 1980. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular: (1) *Such merchandise as are dealt in by wholesale, retail chain grocery houses and drug stores* from the facilities of Super X Drugs Corporation; at or near Melbourne, FL to points in the states of AL, FL, GA, IL, IN, KY, MS, NY, NC, OH, SC, TN, and WV. (2) *Materials, equipment and supplies used by wholesale, retail chain grocery houses and drug stores* from the states listed in

(1) above to the facilities of Super X Drugs Corporation, at or near Melbourne, FL. Supporting shipper: Super X Drugs Corporation, 1014 Vine Street, Cincinati, OH 45201.

MC 105782 (Sub-3–2TA), filed May 8, 1980. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844.. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 S. Orange Ave., Orlando, FL 32801. *Tile and such commodities dealt in and used by wholesale and retail stores,* from the facilities of American Olean Tile Co. located in Lansdale & Quakertown, PA, on the one hand, and on the other, points in GA and FL. Supporting shipper: Howard Neubert, American Olean Tile Co., 1000 Cannon Ave., Lansdale, PA 19446.

MC 114604 (Sub-3–5TA), filed May 13, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Frozen juice and frozen concentrates* (except in bulk), (1) from the facilities of Funshine Corporation at or near Spartanburg, SC to Atlanta, GA; Tampa, FL; New Orleans, LA; Memphis, TN; Dallas, TX; and Birmingham, AL; and (2) from Wauchula, FL; Brownsville, TX and Riverdale, NY to the facilities of Funshine Corporation at or near Spartanburg, SC. Supporting shipper: Funshine Corporation, P.O. Box 3064, Spartanburg, SC 29304.

MC 25798 (Sub-3–4TA), filed May 9, 1980. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, Post Office Box 1186, Auburndale, FL 33823. *Foodstuffs (except frozen)* from the facilities of the Pillsbury Company at Tucker, GA, to points in FL. Supporting shipper: The Pillsbury Company, 1100 North 4th Street, LeSuer, MN 56058.

MC 150816 (Sub-3–2TA), filed May 15, 1980. Applicant: HUGHES TRANSIT, INC., d.b.a. BLUEGRASS TOURS, P.O. Box 352, 1715 East Fourth Street, Owensboro, Kentucky 42301. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. *Passengers and their baggage* in the same vehicle, in special operations, beginning and ending at points within the Owensboro, KY Commercial Zone as defined by the Commission and extending to points within the United States, including AK but excluding HI. Supporting shipper: There are 232 statements of support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 65697 (Sub-3–1TA), filed May 15, 1980. Applicant: THEATERS SERVICE COMPANY, P.O. Box 1695, Atlanta, Georgia 30301. Representative: Paul W. Smith, P.O. Box 1695, Atlanta, Georgia 30301. *Common carrier:* regular: *General Commodities (Except Class A and B Explosives) Moving In Express Service:* 1. Between Spartanburg, SC, and the GA-SC Stateline; A. From Spartanburg, SC, over U.S. Highway 29 to the GA-SC Stateline; B. From Spartanburg, SC, over Interstate Highway 26 to Clinton, SC; thence SC Highway to the GA-SC Stateline; C. From Spartanburg, SC, over Interstate 85 to the GA-SC Stateline. 2. Between Greenville, SC, and GA-SC Stateline over U.S. Highway 123. 3. Between Greenville, SC, and Greenwood, SC, over U.S. Highway 25. 4. Between Greenville, SC, and Clinton, SC, over U.S. Highway 276. 5. Between Clinton, SC, and junction of U.S. Highway 76 and U.S. Highway 123 over U.S. Highway 76. 6. Between Spartanburg, SC, and junction of U.S. Highway 221 and SC Highway 72 over U.S. Highway 221. 7. Between Pickens, SC, and Hodges, SC, over U.S. 178. 8. Between Greenville, SC, and Westminster, SC, over SC Highway 183, and return over all the foregoing routes, as pertinent, serving all intermediate points in (1) through (8) above, inclusive. Applicant proposes to tack this authority with existing regular-route authority in MC 65697, Sub 52, and interline service at Nashville, Tennessee, and Vicksburg, Mississippi. Supporting shippers: There are 53 statements in support attached to this application, which may be examined at the I.C.C. Regional Office in Atlanta, Georgia.

MC 150816 (Sub-3–1TA), filed May 15, 1980. Applicant: HUGHES TRANSIT, INC., d.b.a. BLUEGRASS TOURS, P.O. Box 352, 1715 East Fourth Street, Owensboro, KY 42301. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. *Passengers and their baggage* in the same vehicle, in charter operations, beginning and ending at points within the Owensboro, KY Commercial Zone as defined by the Commission and extending to points within the United States, including AK but excluding HI. Supporting shipper: There are 89 statements of support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 146108 (Sub-3–2TA), filed May 15, 1980. Applicant: BIG T TRANSFER, INC., 1814 Gillett Ave., Louisville, KY 40216. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201. *Contract carrier:* irregular: (1) *Charcoal, Charcoal Briquettes, Fireplace Logs, and Wood Chips, and* (2) *Materials, Supplies, and Equipment used in the manufacture and distribution of the commodities in (1) above.* Between points in the U.S. except AK and HI, restricted to traffic originating at or destined to the facilities of The Kingsford Company, under a continuing contract with The Kingsford Company, Louisville, KY. Supporting shipper: The Kingsford Company, P.O. Box 1033, 1700 Commonwealth Building, Louisville, KY 40201.

MC 3581 (Sub-3–2TA), filed May 15, 1980. Applicant: THE MOTOR CONVOY, INC., Suite 107, 2175 Parklake Dr., NE., Atlanta, Ga 30345. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Automobiles, trucks and tractors* between points in AR, KY, LA, MS, MO, and TN. Supporting shipper: Ford Motor Company, P.O. Box 1529–B, NAAO Bldg., Dearborn, MI 48121.

MC 31389 (Sub-3–4TA), filed May 15, 1980. Applicant: McLEAN TRUCKING CO., 1920 West First Street, Winston-Salem, NC 37104. Representative: David F. Eshelman, Esquire, P.O. Box 213, Winston-Salem, NC 27102. *Common carrier:* regular: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):* Serving Dexter and New Madrid, MO, as intermediate and off-route points in conjunction with applicants' regular route operations. Supporting shipper: There are 9 statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

Note.—Applicant's subsidiary holds motor contract carrier authority in No. MC 147888 and therefore dual operations may be involved.

MC 149197 (Sub-3–1TA), filed May 15, 1980. Applicant: GARDNER TRUCKING CO., INC., 820 Avenue E., Pratt City, AL 35214. Representative: Gerard D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract carrier:* irregular: *building materials (except commodities in bulk),* between the facilities of Stephens Wholesale Building Supply Co., Inc. at points in AL on the one hand, and, on the other, all points in the U.S. in and east of the states of TX, OK, KS, NE, SD, and ND. Supporting shipper: Stephens Wholesale Building Supply Co., Inc., Birmingham, AL.

MC 146521 (Sub-3–2TA), filed May 15, 1980. Applicant: CLAXTON

TRANSPORT, INC., Route 3, Box 135, Hwy 53 and WI Hwy 95, from

located at or near Paragould, AR as an

TRANSPORT, INC., Route 3, Box 135, Wrightsville, Georgia 31096. Representative: Ronald K. Kolins, 420 International Square, 1875 Eye Street, N.W., Washington, D.C. 20006. *(1) Malt beverages and related advertising materials; and (2) Equipment, materials, and supplies used in the sale, manufacture and distribution of malt beverages,* (1) From Perrysburg, OH, to points in GA, NC and SC; *(2) From points in GA, NC and SC to Perrysburg, OH. Supporting shipper: Stroh Brewing Co., One Stroh Dr., Detroit, MI 48226.*

MC 2900 (Sub-3–5TA), filed May 15, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Common Carrier:* Regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission) (1) Between Omaha, NE and Joliet, IL over U.S. Hwy 6, (2) Between Ft. Dodge, IA and Chicago, IL over U.S. Hwy 20, (3) Between Mason City, IA and Iowa City, IA, from Mason City over U.S. Hwy 18 to junction U.S. 218, then over U.S. 218 to Iowa City and return over the same route, (4) Between Minneapolis, MN and Kansas City, MO, from Minneapolis over U.S. Hwy 65 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Kansas City, MO, (5) Between Ft. Dodge, IA and Chicago, IL, from Ft. Dodge over U.S. Hwy 169 to junction U.S. 30, then over U.S. Hwy 30 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Chicago and return over the same route, (6) Between Webster City, IA and Des Moines, IA over U.S. Hwy 69, (7) Betweenaterloo, IA and junction IA Hwy 330 and U.S. Hwy 65, from Waterloo over IA Hwy 57 to IA Hwy 14, then over IA Hwy 14 to junction IA Hwy 330, IA Hwy 330 to junction U.S. Hwy 65 and return over the same route, (8) Between Minneapolis, MN and Chicago, IL over U.S. Hwy 12, (9) Between Minneapolis, MN and Neillsville, WI over U.S. Hwy 10, (10) Between Cedar Rapids, IA and Maquoketa, IA, from Cedar Rapids over U.S. Hwy 151 to junction IA Hwy 64, then over IA Hwy 64 to Maquoketa and return over the same route, (11) Between Hudson, WI and Augusta, WI, from Hudson over WI Hwy 64 to Cornell, then over WI Hwy 27 to Augusta and return over the same route, (12) Between Broom, WI and Davenport, IA, from Broom over U.S. Hwy 53 to junction U.S. Hwy 61 then over U.S. Hwy 61 to Davenport and return over the same route, (13) Between Menomonie, WI and junction of U.S. Hwy 53 and WI Hwy 95, from Menomonie over WI Hwy 29 to Withee, then over WI Hwy 73 to Neillsville, then over WI Hwy 95 to junction U.S. Hwy 53 and return over the same route. (14) Between La Crosse, WI and Milwaukee, WI over U.S. Hwy 16, (15) Between the junction of WI Hwys 64 and 25 and the junction of WI Hwy 25 and U.S. Hwy 10 over WI Hwy 25, (16) Between the junction of WI Hwy 64 and U.S. Hwy 63 and junction U.S. Hwys 63 and 10 over U.S. Hwy 63, (17) Service in Routes (1) through (16) is authorized at: (a) all intermediate points in IA, (b) all intermediate and off-route points in WI in and west of St. Croix, Dunn, Chippewa, Clark, Jackson, Monroe and La Crosse Counties, and (c) all other points for the purpose of joinder only. There are 65 supporting shippers.

Note.—Applicant presently holds authority to serve all points in Iowa in MC–F–14095F (Lease Portion).

MC 31389 (Sub-3–3TA), filed May 15, 1980. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, Esquire, P.O. Box 213, Winston-Salem, NC 27102. *Regular routes, General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving Columbus, IN as an off-route point in conjunction with applicant's regular route operations. Supporting shipper: There are six statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant's subsidiary holds motor contract carrier authority in MC 147888 and therefore dual operations may be involved.

MC 121664 (Sub-3–16TA), filed May 15, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st Ave., S., Birmingham, AL 35233. *Poles, posts, piling, and crossties.* From Mobile, AL to points in and east of ND, SD, NE, CO, and NM. Supporting shipper: Alabama Wood Treating Corp., P.O. Box 310, Mobile, AL 36601.

MC 31389 (Sub-3–2TA), filed May 14, 1980. Applicant: MCLEAN TRUCKING CO., 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, Esquire, P.O. Box 213, Winston-Salem, NC 27102. *Common Carrier:* regular: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):* Serving the facilities of Arkla Industries, Inc. located at or near Paragould, AR as an off-route point in conjunction with applicant's regular route operations. Supporting shipper: Arkla Industries, Inc., 1600 Jones Rd., Paragould, AR 72450.

Note.—Applicant's subsidiary holds motor contract carrier authority in MC 147888 and therefore dual operations may be involved. Interlining is requested at all points in the U.S. (except AK and HI).

MC 124117 (Sub-3–2TA), filed May 9, 1980. Applicant: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Marie Freeman (same address as applicant). *Metal containers,* from the facilities of Hoover Universal at or near Dyersburg, TN to Albany, GA, St. Louis, MO, and Columbus, OH (and the commercial zones of each) Terrant County, TX, Stokes, Rockingham, Caswell, Forsyth, Gilford, and Almance Counties, NC. Supporting shippers: Hoover Universal, 1901 Sylvan Road, Dyersburg, TN 38024, Miller Brewing Company, 3939 E. Highland Blvd., Milwaukee, WI 53201.

MC 107478 (Sub-3–1TA), filed May 13, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., Post Office Box 2006, High Point, NC 27261. Representative: C. T. Harris, 506 Mayo Street, P.O. Box 999, Wilson, NC 27893. *(A) Agricultural machinery and Articles used in the farming or forestry industries and (B) Materials, supplies and accessories (except commodities in bulk) used in the manufacture and distribution of the commodities in (A) above.* Between points in Wilson County, NC on the one hand, and, on the other, points in the states of AL, DE, FL, IL, IN, IA, KY, LA, MD, MI, MS, OH, PA, TN, TX, VA, WV, and WI. Supporting shipper: Lely Corp., P.O. Box 1060, Wilson, NC 27893.

MC 107515 (Sub-3–19TA), filed May 13, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308 Forest Park, GA 30050. Representative: Alan E. Serby; Richard M. Tettelbaum, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *(1) Such commodities as are dealt in by wholesale and retail paint stores & (2) products used in the manufacture, sale and/or distribution of the commodities named in (1) above* from the facilities of The Sherwin-Williams Company located at or near Greensboro, NC to Chicago, IL; Cleveland, OH; Newark, NJ; Morrow, GA; and Dayton, OH. Supporting shipper: The Sherwin-Williams Company, 6795 South Main Street, Morrow, GA 30260.

MC 107515 (Sub-3–21TA), filed May 13, 1980. Applicant: REFRIGERATED

TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby; Richard M. Tettelbaum, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *(1) Such Commodities as are dealt in by wholesale & retail paint stores & (2) materials, equipment & supplies used in the manufacture, distribution & sale of the commodities in (1) above* from the facilities of the Sherwin-Williams Company at or near Morrow, GA to points in AL, FL, KY, NC, SC, TN, VA; Chicago, IL; Cleveland, OH; Newark, NJ; Bowling Green, KY; and Garland, TX. Supporting shipper: The Sherwin-Williams Company, 6795 South Main Street, Morrow, GA 30260.

MC 150336 (Sub-3–1TA), filed March 19, 1980. Applicant: WILLIAM A. PILSON, II, INC., 1010 Michigan Ave., Palm Harbor, FL 33563. Representative: David C. Venable, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Contract carrier:* irregular routes: *(1) Store fixtures and store equipment and (2) equipment, materials, and supplies used in the manufacture, distribution and sale of store fixtures and store equipment* (1) from Clearwater, FL to points in the U.S. (except AK and HI) and (2) from points in the U.S. (except AK and HI) to Clearwater, FL. Supporting shipper: Capital Construction Co., 1920 Sherwood, St., Clearwater, FL 33518.

MC 142483 (Sub-3–1TA), filed March 10, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, North Carolina 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, Virginia 22101. *Contract carrier:* irregular routes: *Glass fiber, roving and strand (except in bulk)* from the facilities of PPG Industries, Inc. at Charlotte, NC to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, and WY, restricted to shipments moving under continuing contract(s) with PPG Industries, Inc. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 145610 (Sub-3–2TA), filed March 19, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 576 Lake Mirror Rd., College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. *Printed matter* from Strasburg, VA to Anderson, Greenville, Spartanburg, Florence, Columbia, Charleston and Union, SC; and Asheville, Charlotte, Durham, Raleigh, Fayetteville, Greensboro, Rocky Mount, Wilmington, Wilson, Winston-Salem, New Bern and Elizabeth City, NC. Supporting shipper: Newsweek , Magazine, Inc., 444 Madison Ave., 16th Floor, New York, NY 10022.

MC 136363 (Sub-3–2TA), filed May 14, 1980. Applicant: J & P PROPERTIES, INC., P.O. Box 1146, Apopka, FL 32703. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. *Transformers, transformer parts, materials, and supplies used in the manufacture thereof* from the manufacturing facilities of RTE Corp. at Waukesha, WI to points in GA and FL. Supporting shipper: RTE Corp., 1210 S. Grandview Blvd., Waukesha, WI 53186.

MC 50388 (Sub-3–1TA), filed April 7, 1980. Republication—originally published in **Federal Register** of April 14, 1980 page 25174, volume 45, No. 73. Applicant: BOSS TRANSPORTATION CO., INC., 2511 Rosehaven, Germantown, TN 38138. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, TN 38103. *Confectionery and confectionery products,* except commodities in bulk, (1) From the facilities of Schrafft Candy Company at or near Boston and Woburn, MA and West Reading, PA to points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KY, LA, MA, MN, MI, MO, MS, NC, ND, NE, NY, OH, OK, PA, SC, TN, TX, UT, VA, and WI, except from Boston and Woburn, MA to points in MA and except from West Reading, PA to points in PA, and (2) From the facilities of Deran Confectionery Co., Inc. at or near Boston, MA to points in AZ, AR, CA, CO, ID, LA, MT, NV, NM, OK, OR, TX, UT, WA and WY.

The following applications were filed in Region 4. Send protests to: ICC, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 720 (Sub-4–3), filed May 14, 1980. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman, Director of Commerce, P.O. Box 227, Waupun, WI 53963. *Such commodities as are distributed by, dealt in, or used by wholesale, retail, and chain grocery stores and variety houses; such commodites as are manufactured, processed, distributed, dealt in, or used by food processing houses; paper and paper products; washing and cleaning supplies; toilet preparations, and pet food* from Chicago, IL and its commercial zone to: (1) points in that part of WI bounded by a line beginning at Fox Point, WI; thence westerly along WI Hwy. 100 to junction WI Hwy. 145; thence south along WI Hwy. 145 to junction US Hwy. 45; thence along US Hwy. 45 to the IL–WI state line; thence east along the IL–WI state line to Lake Michigan; thence north along the WI shore line of Lake Michigan to point of beginning; including points on the indicated portions of the highways specified. (2) points in that part of WI bounded by a line beginning at Marinette, WI; thence westerly along WI Hwy. 64 to junction WI Hwy. 55; thence south along WI Hwy. 55 to junction WI Hwy. 22; thence along WI Hwy. 22 to junction WI Hwy. 161; thence westerly along WI Hwy. 161 to junction US Hwy. 10; thence northwesterly along US Hwy. 10 to Stevens Point, WI; thence south along US Hwy. 51 to junction WI Hwy. 21; thence west along WI Hwy. 21 to junction US Hwy. 12; thence southeasterly along US Hwy. 12 to Madison, WI; thence along US Hwy. 14 to junction US Hwy. 51; thence along US Hwy. 51 to Janesville, WI; thence along US Hwy. 11 to junction US Hwy. 14; thence southeast along US Hwy. 14 to the IL–WI state line; thence west along the IL–WI state line to the Mississippi River; thence northerly along the IA–WI state line to the junction of the MN–WI state line; thence northerly along the MN–WI state line to Lake Superior; thence easterly along the WI shore line of Lake Superior to the MI–WI state line; thence southeastwardly along the MI–WI state line to point of beginning; including points on the indicated portions of the highways specified. Also including Madison, WI and Stevens Point, WI. Supporting shipper(s): Lithonia Lighting Company, division of National Service Industries, Inc., 1400 Lester Road, Conyers GA 30207; The Kingsford Company, 1700 Commonwealth Building, Louisville KY 40201; Rollex Corporation, 2001 Lunt Avenue, Elk Grove Village IL 60007; Cosmair, Inc., 495 Busse Road, Elk Grove Village, IL 60007; C.H.C. Tire and Auto Supply, Inc., 120 Fairbanks Street, Addison, IL 60101; Nabisco, Inc., East Hanover, NJ 07936; Bristol-Myers Co., P.O. Box 85280, Chicago, IL 60680.

MC 16567 (Sub-4–1TA), filed May 16, 1980. Applicant: J. L. SCHEFFLER TRANSPORT, INC., 1801 W. Fulton Street, Chicago, Il 60612. Representative: Anthony T. Thomas, 6017 Cermak Road, Cicero, IL 60650. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Brillion, Cedar Grove, Chilton, Elkhart Lake, Johnsonville, Kiel, New Holstein, Oostburg, Plymouth, Saint Anna, and Valders, WI as off-route points in connection with carrier's regular route operations to and from Sheboyan, WI. An underlying ETA seeks 90 days

authority. Applicant intends to tack at Sheboygan, WI and to interline at points in the Chicago, IL Commercial Zone. Supporting shipper(s): There are nine supporting shippers. Send protests to I.C.C., 219 South Dearborn Street, Room 1304, Chicago, IL 60604

MC 29555 (Sub-4–1TA), filed May 14, 1980. Applicant: BRIGGS TRANSPORTATION CO., N–400 Griggs-Midway Building, St. Paul, Minnesota 55104. Representative: Winston W. Hurd (same address). (1) *General commodities,* except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading serving Neillsville, WI, as an off-route point in connection with its regular route operating authority, Docket MC 29555. Neillsville is approximately 17 miles from Fairchild, WI, a service point of Briggs, and 50 miles from our Eau Claire, WI terminal. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nelson Muffler Division of Nelson, Ind., P.O. Box 428, Stoughton, WI 53589 and Nelson Filter Division, P.O. Box 280, Stoughton, WI 53589.

MC 48441 (Sub-4–1TA), filed May 15, 1980. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *General commodities* (except commodities of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), from the facilities of Federal Warehouse Co., at or near Peoria and East Peoria, IL, to points in IN, KY, MI, OH, and WI. An underlying ETA application has been filed. Supporting shipper: Federal Warehouse Co., 200 National Road, East Peoria, IL 61611.

MC 48441 (Sub-4–2TA), filed May 15, 1980. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, Suite 850, 666 Eleventh Street, NW., Washington, DC 20001. *Drugs, chemicals and toliet preparation* (except commodities in bulk), from the facilities of Miles Laboratories, Inc., at Elkhart, IN, to the facilities utilized by Federal Warehouse, at or near Peoria, IL. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46515.

MC 69833 (Sub-4–5TA), filed May 15, 1980. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW—6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). *Common,* regular, *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Robinson, IL as an off-route point in connection with carrier's presently authorized routes. Supporting shippers: William B. Parish, Dana Corporation, Churubusco, IN and Don McDaniel, Jr., L. S. Heath & Sons, Inc., Robinson, IL.

MC 70557 (Sub-4–3TA), filed May 16, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *(1) Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except commodities in bulk) and (2) Equipment, material and supplies (except commodities in bulk) used in the manufacture of* (1)—(a) between the facilities of The McCarty-Holman Co., Inc., located in FL and MS, and (b) From all points in the U.S. (Except AK and HI) to the facilities of The McCarty-Holman Co., Inc. in FL and MS. Restriction: Restricted to traffic destined to the facilities of The McCarty-Holman Co., Inc., located in FL and MS. Supporting shipper: The McCarty-Holman Company, Inc., Jackson, MS 39207.

MC 102817 (Sub-4–1TA), filed February 4, 1980. Applicant: PERKINS FURNITURE TRANSPORT, INC., P.O. Box 24335, Indianapolis, IN 46254. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *New furniture,* from Culpepper, VA to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI. Supporting shipper: Keller Manufacturing Co., Inc., P.O. Box, Corydon, IN 47112.

MC 106674 (Sub-4–15TA), filed May 14, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Non ferrous metals, and equipment, materials and supplies used in the manufacture and distribution of non ferrous metals,* between the facilities utilized by ASARCO Inc. and Federated Metals Corp, subsidiary of ASARCO Inc., located at or near Chicago and Hillsboro, IL; Cincinnati and Columbus, OH; St. Louis, MO; and Whiting, IN, on the one hand, and , on the other points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV, WI, and LA. Supporting shipper: ASARCO Incorporated, 611 Olive St, Suite 1755, St. Louis, MO 63101.

MC 106674 (Sub-4–16TA), filed May 14, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Printed Matter,* from Glasgow, KY to points, in AL, CT, GA, IL, IN, MA, MI, MO, NJ, NY, OH, PA, and TN. Supporting shipper: R. R. Donnelley & Sons Co., Donnelly Drive, Glasgow, Ky 42141.

MC 109633 (Sub-4–2TA), filed May 16, 1980. Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, Illinois 61361. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Illinois 60601. *Cleaning and Polishing Compounds,Textile Softeners, Disinfectants, Lubricants, Hypochlorite Solutions, Deodorants, Paints, Stains, Varnishes, Plastic Bags and Filters and Materials, Equipment and supplies used in the manufacture and distribution of the above named commodities* (except commodities in bulk) between San Jose and City of Industry, CA; Joliet, IL; Woodbridge, NJ and Garland, TX on the one hand, and on the other Points in the U.S. (except AK and HI). Restricted to the transportation of traffic originating at or destined to the facilities of Economics Laboratory, Inc. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, Minnesota 55102.

MC 115651 (Sub-4–5TA), filed May 16, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: E. STEPHEN HEISLEY, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Asphalt and asphalt products,* in bulk, in tank vehicles, from East Chicago, IN to points in WI. Supporting shipper: American Mexican Petroleum Corp., 123 N. Northwest Highway, Park Ridge, IL 60068.

MC 123272 (Sub-4–4TA), filed May 14, 1980. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Ground lime stone in bags and containers,* from the facilities of Thompson Weinman & Company at or near Cartersville, GA to points in IL, IA, MN, NE, and WI. Supporting shipper: Thompson Weinman & Company, P.O. Box 130, Cartersville, GA 30120.

MC 123294 (Sub-4–5TA), filed May 14, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Corrugated paper products,*

from the facilties of Akers Packaging Service, Inc., at Chicago, IL, to Lebanon, OH. Supportiang shipper: Akers Packaging Service, Inc., 1037 E. 87th St., Chicago, IL 60619. An underlying ETA seeks 90 days authority.

MC 129189 (Sub-4–1TA), filed May 16, 1980. Applicant: WING CARTAGE CO., 4141 George Place, Schiller Park, IL 60176. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Cement* from Milwakee, WI to points and places in IL. Supporting shipper: Medussa Cement Co., P.O. Box 5668, Cleveland, Ohio 44101.

MC 135539 (Sub-4–3TA), filed May 16, 1980. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, IN 47715. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Road W., Bradenton, FL 33507. *Contract;* irregular *parts, materials, accessories and supplies used in the manufacture or distribution of building insulation materials and building insulation materials,* except commodities in bulk, between the facilities of Apache Building Products at or near Belvidere, IL on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Apache Building Products, Belvidere, IL.

MC 136899 (Sub-4–5TA), filed May 15, 1980. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 637 Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. *Casting and foundry products* from the facilities of Schneider Fuel & Supply Co. at or near Richland Center, WI to points in IL, IN, IA, KY, MI, MN, MS, MO, OH, PA, and TN. Underlying ETA seeks 90 day authority. Supporting shipper: Schneider Fuel & Supply Co., P.O. Box 151 Richland Center, WI 53581.

MC 139482 (Sub-4–11TA), filed May 14, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. *Fertilizer compound, dry; ice melting compound, dry; and vermiculite other than crude,* from the facilities of Koos, Inc., at or near Kenosha, WI to all points in the U.S. (except AK and HI). Supporting shipper: Koos, Inc., 4500 13th Court, Kenosha, WI 53141.

MC 141781 (Sub-4–2TA), filed May 16, 1980. Applicant: LARSON TRANSFER AND STORAGE CO, INC., 10700 Lyndale Avenue South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. *Materials, equipment and supplies used in the manufacture, installation and sale of ranges and micro-wave ovens,* between Beaver Dam and Milwaukee, WI, on the one hand, and on the other, Minneapolis, MN. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, MN 55441.

MC 142449 (Sub-4–2TA), filed May 15, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *Soft drinks, containers,* and *materials and supplies used in the manufacture and distribution of said products,* between Goshen, La Porte and South Bend, IN on the one hand, and the Chicago, IL Commercial Zone, as defined, on the other. Supporting shipper: Coca-Cola Bottling Company, 205 Rumley Street, Box 367, La Porte, IN 46350.

MC 142449 (Sub-4–3TA), filed May 16, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *General commodities,* between points in IN and south of U.S. Hwy. 40, and between points in MI on and south of MI Hwy. 46, and points in the Chicago Commercial Zone, as defined. Restricted to shipments having a prior or subsequent movement by rail or water. Supporting shippers: Simplicity Pattern Co., Inc., 901 Wayne St., Niles, MI 49121; Berkel, Inc., Factory Street, La Porte, IN 46350; Missouri Pacific Railroad, 210 North 13th St., St. Louis, MO 63103; Clipper Express, 3401 West Pershing Avenue, Chicago, IL 60632; Illinois Central Gulf Railroad, 233 N. Michigan Avenue, Chicago, IL 60601.

MC 143501 (Sub-4–1TA), filed May 16, 1980. Applicant: R.G.C. CARGO CARRIERS, INC., P.O. Box 523, South Holland, IL 60473. Representative: James E. Savitz, Gimmel & Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Contract irregular; plastic material, viz., pellets, isophthalic acid and chemicals, N.O.I., in bags or boxes,* from Amoco Chemicals plant site near Joliet, IL, and Amoco Chemicals plant site in Willow Springs, IL, to points in CA, CT, FL, GA, MA, NJ, NY, OR, PA, TX, and WA. Underlying ETA seeks 90 days authority. Supporting shipper: Amoco Chemicals Corporation, 200 East Randolph Dr., Chicago, IL 60601.

MC 145577 (Sub-4–2TA), filed May 16, 1980. Applicant: GULLETT-GOULD, LTD., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus OH 43215. *(1) Air conditioners, furnaces and heating equipment and (2) parts, materials and supplies used in the manufacture, assembly and distribution of those commodities listed in (1) above,* from the facilities of Carrier Corp. and its divisions and subdivisions Carlisle Compressor Co., Carrier Air Conditioning Co., Carrier International Corp., and Carrier Transicold at or near Syracuse, NY to points in CA and Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authorty. Supporting shipper: Carrier Corporation, P.O. Box 4800, Syracuse, NY 13221.

MC 145664 (Sub-4–1TA), filed May 4, 1980. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth,. MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Bricks, blocks, slabs, titles and related articles,* from points in IA to Fort Francis, Pigeon River, and Sault Ste. Marie points on the International Boundary Line between the U.S. and Canada for furtherance to Canada restricted to the traffic of A. B. Cava Brick & Fireplace, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: A. B. Cava Brick & Fireplace, Inc., 596 Squier St., Thunder Bay, Ont. P7B4A8.

MC 146969 (Sub-4–4TA), filed May 15, 1980. Applicant: STAN KOCH & SONS TRUCKING, INC., 4901 Excelsior Boulevard, Minneapolis, Minnesota 55416. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. *Animal and poultry feed, pet food and feed ingredients* 1) from points in KY to points in IL, IN, MN, and WI; and 2) from Mankato, MN to points in IL, IN, KY, and WI. Supporting shipper: Hubbard Milling Company, 424 North Front, Mankato, Minnesota 56001.

MC 150103 (Sub-4–4TA), filed May 15, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington Street, Jefferson, Wisconsin 53549. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, Wisconsin 53703. *Contract:* Irregular. *Cotton fabric and cotton piece goods,* from points in NJ, GA, TN, NC, MS, SC, and MA to Chicago, IL. Restriction: Restricted to service to be performed under a continuing contract(s) with Loomcraft Textile Supply Co., Inc. Underlying ETA seeks 90 day authority. Supporting shipper: Loomcraft Textile Supply Co., Inc., 4892 N. Clark Street, Chicago, Illinois.

MC 150705 (Sub-4–1TA), filed May 16, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Contract* irregular: *Iron and steel articles,* between points in the

United States in and east of MN, IA, MO, OK, and TX, under continuing contracts with South Atlantic Steel, Inc. Supporting shipper: South Atlantic Steel, Inc., 1004 Bullard Court, Raleigh, NC 27609.

MC 150815 (Sub-4–1TA), filed May 15, 1980. Applicant: JACK FREW & SON TKG, INC., 651 E. Egan Rd., Egan, IL 61026. Representative: John W. Frew, Jr., (same as above). *Knock-down furniture and casegoods (no bulk products or tank vehicles),* between Rockford, IL; Phoenix, AZ, Los Angeles, CA and W. Palm Beach, FL. Supporting shipper: 3–W Distributors, Inc, 2520 Hartman St., Rockford, IL 61108.

MC 150815 (Sub-4–ITA), filed May 15, 1980. Applicant: JACK FREW & SON TKG, INC., 651 E. Egan Rd, Egan, IL 61026. Representative: John W. Frew, Jr. (same as above). *Knock-down furniture and casegoods (no bulk products or tank vehicles,* between Rockford, IL; Phoenix, AZ, Los Angeles, CA and W. Palm Beach, FL. Supporting shipper: 3-W Distributors, Inc, 2520 Hartman St., Rockford IL 61108.

MC 29555 (Sub-4–ITA), filed May 14, 1980. Applicant: BRIGGS TRANSPORTATION CO., N–400 Griggs-Midway Building, St. Paul, Minnesota 55104. Representative: Winston W. Hurd (same address). (1) *general commodities,* except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special eqpt. (except those requiring temperature control) and those injurious or contaminating to other lading serving Neillsville, Wisconsin as an off-route point in connection with its regular route operating authority, Docket MC 29555. Neillsville is approximately 17 miles from Fairchild, WI, a service point of Briggs, and 50 miles from our Eau Claire, WI terminal. An underlying ETA seeks 90 days authority. Supporting shippers: Nelson Muffler Division of Nelson, Ind., P.O. Box 428, Stoughton, WI 53589 and Nelson Filter Division, P.O. Box 280, Stoughton, WI 53589.

MC 145664 (Sub-4–ITA), filed May 14, 1980. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluthn, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Bricks, blocks, slabs, tiles and related articles,* from points in IA to Fort Francis, Pigeon River, and Sault Ste. Marie points on the International Boundary Line between the U.S. and Canada for furtherance to Canada restricted to the traffic of A. B. Cava Brick & Fireplace, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: A. B. Cava Brick & Fireplace, Inc., 596 Squier St., Thunder Bay, Ont. P7B4A8.

MC 106674 (Sub-4–15TA), filed May 14, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same addess as applicant). *Non ferrous metals, and equipment, materials and supplies used in the manufacture and distribution of non ferrous metals,* between the facilities utilized by ASARCO Incorp. and Federated Metals Corp., subsidiary of ASARCO Inc., located at or near Chicago and Hillsboro, IL; Cincinnati and Columbus, OH; St. Louis, MO; and Whiting, IN, on the one hand, and, on the other points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV, WI and LA. Supporting shipper: ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, MO 63101.

MC 106674 (Sub-4–16TA), filed May 14, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same addess as applicant). *Printed matter,* from Glasgow, KY to points in AL, CT, GA, IL, IN, MA, MI, MO, NJ, NY, OH, PA, and TN. Supporting shipper: R. R. Donnelley & Sons Co., Donnelly Drive, Glasgow, KY 42141.

MC 123294 (Sub-1–5TA), filed May 14, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Corrugated paper products,* from the facilities of Akers Packaging Service, Inc., at Chicago, IL, to Lebanon, OH. Supporting shipper: Akers Packaging Service, Inc., 1037 E. 87th St., Chicago, IL 60619. An underlying ETA seeks 90 days authority.

MC 102817 (Sub-4–1TA), filed February 4, 1980. Applicant: PERKINS FURNITURE TRANSPORT, INC., P.O. Box 24335, Indianapolis, IN 46254. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *New furniture,* from Culpepper, VA to points in IL, IN, IA, KS, KY, MI, MN MO, NE, OH and WI. Supporting shipper: Keller Manufacturing Co., Inc.; P.O. Box, Corydon, IN 47112.

MC 145577 (Sub-4–2TA), filed May 16, 1980. Applicant: GULLETT-GOULD, LTD., P.O. Box 406, Union CIty, IN 47390. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. *(1) Air conditioners, furnaces and heating equipment and (2) parts, materials and supplies used in the manufacture, assembly and distribution of those commodities listed in (1) above,* from the facilities of Carrier Corp. and its divisions and subdivisions Carlile Compressor Co., Carrier Air Conditioning Co., Carrier International Corp., and Carrier Transicold at or near Syracuse, NY to points in CA to Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Carrier Corporation, P.O. Box 4800, Syracuse, NY 13221.

MC 16567 (Sub-4–1TA), filed May 16, 1980. Applicant: J. L. SCHEFFLER TRANSPORT, INC., 1801 W. Fulton Street, Chicago, IL 60612. Representative: Anthony T. Thomas, 6017 Cermak Road, Cicero, IL 60650. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Brillion, Cedar Grove, Chilton, Elkhart Lake, Johnsonville, Kiel, New Holstein, Oostburg, Plymouth, Saint Anna, and Valders, WI as off-route points in connection with carrier's regular route operations to and from Sheboygan, WI. An underlying ETA seeks 90 days authority. Applicant intends to tack at Sheboygan, WI and to interline at points in the Chicago, IL Commercial Zone. Supporting shipper: There are 9 supporting shippers. Send protests to I.C.C., 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 141781 (Sub-4–2TA), filed May 16, 1980. Applicant: LARSON TRANSFER AND STORAGE CO., INC. 10700 Lyndale Avenue South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. *Materials, equipment and supplies used in the manufacture, installation and sale of ranges and micro-wave ovens,* between Beaver Dam and Milwaukee, WI, on the one hand, and, on the other, Minneapolis, MN. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, MN 55441.

MC 70557 (Sub-4–3TA), filed May 16, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. (1) *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except commodities in bulk)* and (2) *Equipment, material and supplies (except commodities in bulk) used in the manufacture of* (1)—(a) between the facilities of The McCarty-Holman Co., Inc., located in FL and MS, and (b) From

all points in the U.S. (Except AK and HI) to the facilities of The McCarty-Holman Co., Inc., in FL and MS. *Restriction:* Restricted to traffic destined to the facilities of The McCarty-Holman Co., Inc., located in FL and MS. Supporting shipper: The McCarty-Holman Company, Inc., Jackson, MS 39207.

MC 150705 (Sub-4–1TA), filed May 16, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Contract,* irregular: *Iron and steel articles,* between points in the United States in and east of MN, IA, MO, OK, and TX, under continuing contracts with South Atlantic Steel, Inc. Supporting shipper: South Atlantic Steel, Inc., 1004 Bullard Court, Raleigh, NC 27609.

MC 720 (Sub-4–3), filed May 14, 1980. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman, Director of Commerce, P.O. Box 227, Waupun, WI 53963. *Such commodities as are distributed by, dealt in, or used by wholesale, retail, and chain grocery stores and variety houses; such commodities as are manufactured, processed, distributed, dealt in, or used by food processing houses; paper and paper products; washing and cleaning supplies; toilet preparations, and pet food* from Chicago, IL and its' commercial zone to: (1) points in that part of WI bounded by a line beginning at Fox Point, WI; thence westerly along WI Hwy. 100 to junction WI Hwy. 145; thence south along WI Hwy. 145 to junction US Hwy. 45; thence along US Hwy 45 to the IL-WI state line; thence east along the IL-WI state line to Lake Michigan; thence north along the WI shore line of Lake Michigan to point of beginning; including points on the indicated portions of the highways specified. (2) points in that part of WI bounded by a line beginning at Marinette, WI; thence westerly along WI Hwy. 64 to junction WI Hwy. 55; thence south along WI Hwy. 55 to junction WI Hwy. 22; thence along WI Hwy. 22 to junction WI Hwy. 161; thence westerly along WI Hwy. 161 to junction US Hwy. 10; thence northwesterly along US Hwy. 10 to Stevens Point, WI; thence south along US Hwy. 51 to junction WI Hwy. 21; thence west along WI Hwy. 21 to junction US Hwy. 12; thence southeastwardly along US Hwy. 12 to Madison, WI; thence along US Hwy. 14 to junction US Hwy. 51; thence along US Hwy. 51 to Janesville, WI; thence along US Hwy. 11 to junction US Hwy. 14; thence southeast along US Hwy. 14 to the IL-WI state line; thence west along the IL-WI state line to the Mississippi River; thence northerly along the IA-WI state line to the junction of the MN-WI state line; thence northerly along the MN-WI state line to Lake Superior; thence easterly along the WI shore line of Lake Superior to the MI-WI state line; thence southeastwardly along the MI-WI state line to point of beginning; including points on the indicated portions of the highways specified. Also including Madison, WI and Stevens Point, WI. Supporting shippers: Lithonia Lighting Company, Division of National Service Industries, Inc., 1400 Lester Road, Conyers GA 30207; The Kingsford Company, 1700 Commonwealth Building, Louisville, KY 40201; Rollex Corporation, 2001 Lunt Avenue, Elk Grove Village IL 60007; Cosmair, Inc., 495 Busse Road, Elk Grove Village IL 60007; C.H.C. Tire and Auto Supply, Inc. 120 Fairbanks Street, Addison IL 60101; Nabisco, Inc., East Hanover NJ 07936; Bristol-Myers Co., P.O. Box 85280, Chicago, IL 60680.

MC 123272 (Sub-4–4TA), filed May 14, 1980. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Ground lime stone in bags and containers,* from the facilities of Thompson Weinman & Company at or near Cartersville, GA to points in IL, IA, MN, NE AND WI. Supporting shipper: Thompson Weinman & Company, P.O. Box 130, Cartersville, GA 30120.

MC 139482 (Sub-4–11TA), filed May 14, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877 New Ulm, MN 56073. *Fertilizer compound, dry; Ice melting compound, dry; and vermiculite other than crude,* from the facilities of Koos, Inc. at or near Kenosha, WI to all points in the U.S. (except AK and HI). Supporting shipper: Koos, Inc., 4500 13th Court, Kenosha, WI 53141.

MC 143501 (Sub-4–1TA), filed May 16, 1980. Applicant: R.G.C. CARGO CARRIERS, INC., P.O. Box 523, South Holland, IL 60473. Representative: James E. Savitz, Gimmel & Weiman, Suite 145, 4 Professional DR., Gaithersburg, MD 20760. *Contract,* irregular: *Plastic material, viz., pellets isophthalic acid and chemicals, N.O.I., in bags or boxes,* from Amoco Chemicals plant site near Joliet, IL, and Amoco Chemicals plant site in Willow Springs, IL, to points in CA, CT, FL, GA, MA, NJ, NY, OR, PA, TX, and WA. Underlying ETA seeks 90 days authority. Supporting shipper: Amoco Chemicals Corporation, 200 East Randolph Dr., Chicago, IL 60601.

MC 142449 (Sub-4–3TA), filed May 16, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *General commodities,* between points in IN on and south of U.S. Hwy. 40, and between points in MI on and south of MI Hwy. 46, and points in the Chicago Commerical Zone, as defined. Restricted to shipments having a prior or subsequent movement by rail or water. Supporting shippers: Simplicity Pattern Co., Inc., 901 Wayne St., Niles, MI 49121; Berkel, Inc., Factory Street, La Porte, IN 46350; Missouri Pacific Railroad, 210 North 13th St., St. Louis, MO 63103; Clipper Exxpress, 3401 West Pershing Avenue, Chicago, IL 60632; Illinois Central Gulf Railroad, 233 N. Michigan Avenue, Chicago, IL 60601.

MC 109633 (Sub-4–2TA), filed May 16, 1980. Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, Illinois 61361. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Illinois 60601. *Cleaning and Polishing Compounds, Textile Softeners, Disinfectants, Lubricants, Hypochlorite Solution, Deodorants, Paints, Stains, Varnishes, Plastic Bags and Filters and Materials, Equipment and Supplies used in the manufacture and distribution of the above named commodities* (except commodities in bulk) between San Jose and City of Industry, CA; Joliet, IL; Woodbridge, NJ and Garland, TX on the one hand, and on the other points in the U.S. (except AK and HI). Restricted to the transportation of traffic originating at or destined to the facilities of Economics Laboratory, Inc. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, Minnesota 55102.

MC 129189 (Sub-4–1TA), filed May 16, 1980. Applicant: WING CARTAGE CO., 4141 George Place, Schiller Part, IL 60176. Representative: Arnold L. Burke, 180 North La Salle Street, Chicago, IL 60601. *Cement* from Milwaukee, WI to points and places in IL. Supporting shipper(s): Medussa Cement Co., P.O. Box 5668, Cleveland, Ohio 44101.

MC 115651 (Sub-4–5TA), filed May 16, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Asphalt and asphalt products,* in bulk, in tank vehicles, from East Chicago, IN to points in WI. Supporting shipper: American Mexican Petroleum Corp., 123 N. Northwest Highway, Park Ridge, IL 60068.

MC 135539 (Sub-4–3TA), filed May 16, 1980. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, IN 47715. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Road W., Bradenton, FL 33507. *Contract;* irregular, *parts, materials, accessories and supplies used in the manufacture or distribution of building insulation materials and building insulation materials,* except commodities in bulk, between the facilities of Apache Building Products at or near Belvidere, IL on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Apache Building Products, Belvidere, IL.

MC 146969 (Sub-4–4TA), filed May 15, 1980. Applicant: STAN LOCH & SONS TRUCKING, INC., 4901 Excelsior Boulevard, Minneapolis, Minnesota, 55416. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. *Animal and poultry feed, pet food and feed ingredients* 1) from points in KY to points in IL, IN, MN, and WI; and 2) from Mankato, MN to points in IL, IN, KY and WI. Supporting shipper: Hubbard Milling Company, 424 North Front, Mankato, Minnesota 56001.

MC 69833 (Sub-4–5TA), filed May 15, 1980. Applicant: ASSOCIATED TRUCK LINES, INC. 200 Monroe Avenue, NW., 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). *Common,* regular, *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Robinson, IL as an off-route point in connection with carrier's presently authorized routes. Supporting shippers: William B. Parish, Dana Corporation, Churubusco, IN, and Don McDaniel, Jr., L. S. Heath & Sons, Inc., Robinson, IL.

MC 136899 (Sub-4–5TA), filed May 15, 1980. Applicant: HIGGINS TRANSPORTATION, LTD., P.O. Box 637, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. *Castings and foundry products* from the facilities of Schneider Fuel & Supply Co. at or near Richland Center, WI to points in IL, IN, IA, KY, MI, MN, MS, MO, OH, PA, and TN. Underlying ETA seeks 90 days authority. Supporting shipper: Schneider Fuel & Supply Co., P.O. Box 151, Richland Center, WI 53581.

MC 142449 (Sub-4–2TA), filed May 15, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *Soft drinks, containers,* and *materials and supplies used in the manufacture and distribution of said products,* between Goshen, La Porte and South Bend, In on the one hand, and the Chicago, IL Commercial Zone, as defined, on the other. Supporting shipper: Coca-Cola Bottling Company, 205 Rumley Street, Box 367, La Porte, In 46350.

MC 150103 (Sub-4–4TA), filed May 15, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington Street, Jefferson, Wisconsin 53549. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, Wisconsin 53703. *Contract:* irregular, *cotton fabric and cotton piece goods,* from points in NJ, GA, TN, NC, MS, SC, and MA to Chicago, IL. Restriction: Restricted to service to be performed under a continuing contract(s) with Loomcraft Textile Supply Co., Inc. Underlying ETA seeks 90 day authority. Supporting shipper: Loomcraft Textile Supply Co., Inc., 4892 N. Clark Street, Chicago, Illinois.

MC 48441 (Sub-4–2TA), filed May 15, 1980. Applicant: R.M.E., INC., P.O. box 418, Streator, IL 61364. Representative: Michael D. Bromley, Suite 850, 666 Eleventh Street, NW., Washington, DC 20001. *Drugs, chemicals and toilet preparations* (except commodities in bulk), from the facilities of Miles Laboratories, Inc., at Elkhart, IN, to the facilities utilized by Federal Warehouse, at or near Peoria, IL. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46515.

MC 48441 (Sub-4–1TA), filed May 15, 1980. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *General commodities* (except commodities of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), from the facilities of Federal Warehouse Co., at or near Peoria and East Peoria, IL, to points in IN, KY, MI, OH and WI. An underlying ETA application has been filed. Supporting shipper: Federal Warehouse Co., 200 National Road, East Peoria, IL 61611.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 989 (Sub-5–1TA), filed May 21, 1980. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Ed Copenhaver, 6785 E. 50th Ave., Commerce City, CO 80022. Phone: (303) 287–5519. *Insulation and insulating materials, and tools, materials, and supplies used in the installation of,* from Fruita, CO to points in the states of KS, NE, IA, IL, MO, OK, and TX, further restricted to the facilities of Pabco Divisions of Louisiana Pacific Corporation. Supporting shippers: Pabco Divison of Louisiana Pacific Corporation, Mr. James Phillips, Traffic Manager, 1110 16 Road, Fruita, CO 81521.

MC 30884 (Sub-5–1TA), filed May 19, 1980. Applicant: JACK COOPER TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, MO 64129. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 37137. Contract; Irregular. (1) *Motor vehicles, in initial movements, in truck-away and drive-away service,* from Kansas City, KS to all points in the United States, except AK and HI, under a continuing contract with General Motors Corporation. (2) *Motor vehicles, in truck-away and drive-away service,* between Kansas City, KS, on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper: General Motors Corp., 755 Big Beaver, Troy, MI.

MC 61440 (Sub-5–1TA), filed May 19, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Common,* Regular; *General Commodities (except commodities of unusual value, Class A & B explosives, Household Goods as defined by the Commission and Commodities requiring special equipment):* (1) Between Atlanta, GA and Birmingham, AL, as an alternate route for operating convenience only, serving no intermediate points: From Atlanta, GA over IH 20 to Birmingham, AL, and return over the same route serving no intermediate points. (2) Between Birmingham, AL and Dallas, TX as an alternate route for operating convenience only, serving the intermediate point of IH 20 and IH 50 near Meridian, MS for purpose of joinder only. From Birmingham, AL over IH 20 to Dallas, TX and return over the same route serving the intermediate point of IH 20 and IH 59 near Meridian, MS for purpose of joinder only. (3) From the Jct of IH 20 and IH 59 at or near Meridian, MS and Beaumont, TX, as an alternate route for operating convenience only, serving no intermediate points and serving the Jct of IH 20 and IH 59 near Meridian, MS as a point of joinder only. From Jct of IH 20 and IH 59 at or near Meridian, MS over IH 50 to the Jct of IH 59 and IH 10, then over IH 10 to Beaumont, TX and return over the same route serving no intermediate points and serving the Jct of IH 20 and IH 59 as a point of joinder only. The alternate routes sought herein are in connection with carrier's presently authorized regular route operations between Atlanta, GA and Birmingham, AL and Dallas and Beaumont, TX. Lee Way's present regular routes are via Atlanta, GA, Birmingham, AL, Nashville, TN, Memphis, TN, Oklahoma City, OK, Dallas, TX, Houston and Beaumont, TX. Supporting shipper: None. Fuel conservation and economic consideration are sole purpose for this application. Applicant intends to tack with existing authority and also interline.

MC 78947 (Sub-5–1TA), filed May 19, 1980. Applicant: ELLIOTT BROS. TRUCK LINE, INC., Dysart, Iowa 52224. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501, Telephone: 515–682–8154 or 515–682–3403. *(1) Agricultural implements, machinery and equipment, (2) Parts and accessories for the commodities in (1) above,* and *(3) Materials, equipment and supplies (except commodities in bulk), used in the manufacture, sale or distribution of the commodities in (1) and (2) above,* Between Cedar Falls, IA; Morton, IL and Binghamton, NY, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, ND, NY, PA, SD, TN, VA, WV and WI. Supporting shipper: Clay Equipment Corporation, 101 Lincoln Way, Cedar Falls, IA 50613.

MC 88368 (Sub-5–4TA), filed May 19, 1980. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Bar, kitchen and food service furniture, fixtures, furnishings, equipment and supplies (except foodstuffs), and accessories, materials and parts thereto (except in bulk, in tank vehicles),* from Bellwood, IL, Peru, IN, Kansas City and commercial zone, and St. Louis, MO, Cleves, Dayton, Eaton and Miamisburg, OH, Hudson and Oshkosh, WI to points in AR, CO, KY, MT, NE, NV, PA, SD, VA and WY. Supporting shipper: General Fixture Co., 22 Mead St., Dayton, OH 45402.

MC 98614 (Sub-5–3TA), filed May 21, 1980. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Petroleum and Petroleum Products, in bulk, in tank vehicles,* between points in KS on the one hand, and, on the other, Memphis, TN and its commercial zone. Supporting shipper: T. J. Terminals Corporation, P.O. Box 2775, Topeka, KS 66601.

MC 106398 (Sub-5–30TA), filed May 19, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Knocked down buildings, building sections and building and construction materials and equipment and adjunct accessories, parts and components,* between the facilities of Carrousel Homes of Colorado, Inc., located at Pueblo, CO on the one hand, and on the other, all points in the U.S. (except AK and HI). Supporting shipper: Carrousel Homes of Colorado, Inc., 2850 Metro Drive, Suite 526, Bloomington, MN 55420.

MC 107496 (Sub-5–15TA), filed May 16, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, Iowa 50309. *Salt cake, in bulk, in tank vehicles,* from Ft. Madison, IA to points in IL. Supporting shipper: Consolidated Packaging Corporation, 111 E. Wacker Drive, Chicago, IL 60601.

MC 107496 (Sub-5–16TA), filed May 21, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, Iowa 50309. *Petroleum lubricating oil, in bulk, in tank vehicles,* from Kansas City, MO to Cleveland, OH. Supporting shipper: Rutledge Oil Co., 951 N. Topping, Kansas City, MO.

MC 107496 (Sub-5–17TA), filed May 21, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Caustic soda, in bulk, in tank vehicles,* from Two Rivers, WI to points in the Upper Peninsula of WI. Supporting shipper(s): U.S. Oil Co., Inc., P.O. Box 25, Combined Locks, WI 54113.

MC 107496 (Sub-5–18TA), filed May 21, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Gypsum, in bulk, in tank vehicles,* from East Chicago, IN to points in MI, representative markets are Grand Rapids, Niles, Fennville, Lansing, Brighton. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606.

MC 108207 (Sub-5–11TA), filed May 21, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *New tires, tubes, and wheels,* from Natchez, MS; Memphis, TN; Freeport, IL; and Indianapolis, IN, to Dallas and Houston, TX. Supporting shipper(s): Southwest Tire & Supply, Inc., 300 Kiest Blvd., Dallas, TX 75224.

MC 109593 (Sub-5–2TA), filed May 21, 1980. Applicant: H. R. HILL, Box 875, Muskogee, OK 74401. Representative: Max G. Morgan, Morgan Brown & Schneider, P.O. Box 1540, Edmond, OK 73034. Contract; Irregular. *Canned and preserved foodstuff,* from the facilities of Heinz USA at Grand Prairie, TX to LA, AR, OK and NM. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 110581 (Sub-5–1TA), filed May 19, 1980. Applicant: G & H MOTOR FREIGHT LINES, INC., Greenfield, IA. Representative: Russell H. Wilson, 3639 Merle Hay Road, Suite 200, Des Moines, IA 50310. *Glass,* from Greenfield, IA, and Bayport and Minneapolis, MN, to points in the United States (except AK and HI). *Materials, equipment and supplies used in the manufacture and distribution of glass, (except commodities in bulk)* from points in the United States (except AK and HI). Supporting shipper(s): Cardinal Insulated Glass Co., Greenfield, IA.

MC 113908 (Sub-5–9TA), filed May 21, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Alcohol, Neutral Spirits, Distilled Spirits, in Bond: Denatured and Industrial Alcohol, in Bulk,* From Columbus, OH, and Merrimack NH, and their commercial zones thereof to Points in the United States in and east of the states of ND, SD, NE, KS, OK, TX, and Points in CA, CO, and WA. Supporting shipper: Chemical Interchange Co., 11 South Meramec Avenue—Suite 1104, St. Louis, MO 63105,

MC 114273 (Sub-5–9TA), filed May 19, 1980. Applicant: CRST Inc., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). *Small household electrical appliances, from* Asheboro, NC; Brockport, NY; and Allentown, PA to Columbus, OH; Broadview, IL; Laurel, MD and Lenexa, KS. Supporting shipper: General Electric Company, 1285 Boston Avenue, Bridgeport, CT 06602.

MC 117765 (Sub-5–6TA), filed May 22, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Adhesives, Building*

Materials, Paint and Paint Products

Materials, Paint and Paint Products (except liquid in bulk). From the facilities of the United States Gypsum Company, Dallas, TX to points in the state of OK. Supporting shipper: United States Gypsum Co., 101 S. Wacker Drive, Chicago, IL 60606.

MC 119741 (Sub-5–7TA), filed May 19, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Paper and paper products,* from the facilities of Gilman Paper Company at or near Hazelwood, MO to points in AL, AR, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558.

MC 119988 (Sub-5–14TA), filed May 19, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., Post Office Box 1384, Lufkin, TX 75901. Applicant's Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Commodities used by, manufactured by or distributed by International Paper Co. and its subsidiaries (except commodities in bulk in tank vehicles),* Betweeen the facilities of International Paper Co., on the one hand, and, on the other, points in the states in and east of ND, SD, NE, KS, OK, and TX. Restricted to traffic originating at or destined to International Paper Co. facilities. Supporting shipper: International Paper Company, 220 E. 42nd Street, New York, NY 10017.

MC 129378 (Sub-5–1TA), filed May 20, 1980. Applicant: JENNINGS TRUCKING SERVICE, INC., Rt. 1, Box 72, Gotebo, Oklahoma 73041. Representative: James L. Jennings, (same as above) (405) 639–2239. Contract; Irregular. *Rock in bulk* from Dolese Plant in Kiowa Co. to points in Dallam, Sherman, Hansford, Ochiltree Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collinsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Hardeman, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Wilbarger, Cochran, Hackley, Lubbock, Crosby, Dickens, King, Knox, Baylar Counties, TX. *Sand in bulk,* from Western Sand & Gravel in McLean, Texas to points in Woodward, Ellis, Roger Mills, and Beckam Counties, OK. *Gypsum in bulk* from U.S. Gypsum Plant in Watonga County, OK to points in Dallam, Sherman, Hansford, Ochiltree, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Danley, Collinsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Hardeman, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Wilbarger, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Knox, Baylar, Counties, TX. Supporting shippers: B & B Farm Industries, Box 638, Spearman, TX 79081; Wheeler Redi-Mix, Box 446, Wheeler, TX 79096; Lipham Construction Co. Inc., Drawer J, Aspermont, TX, 79502.

MC 133655 (Sub-5–8TA), filed May 19, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Bales, wire binding ties, iron or steel* between the facilities of St. Regis Corporation, at Cleveland, OH on the one hand, and, on the other, Dallas and Houston, TX. Supporting shipper: St. Regis Paper Company, 100 S. Wacker Drive, Room 1125, Chicago, IL 60606.

MC 134286 (Sub-5–10TA), filed May 19, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). *Plastic film (except in bulk),* from Boston, MA; New York, NY; and Winchester, VA, to the facilities of Central States Products Company at St. Louis, MO. Supporting shipper: Central States Products Company, 1277 Ambassador, St. Louis, MO 63132.

MC 135997 (Sub-5–1TA), filed May 19, 1980. Applicant: TEXAS TANK LEASING, INC., Route 5, Box 99, Conroe, Texas 77301. Representative: William D. Lynch, P.O. Box 912, Austin, Texas 78767. *Roofing, roofing materials, roofing products, roof insulation, insulating material, mineral wool, machinery, equipment or supplies used in the installation and manufacture of the foregoing commodities,* from the facilities of Owens-Corning Fiberglas Corporation in the states of AZ, AR, CO, KS, LA, MS, MO, NM, OK, TN, TX on the one hand and on the other hand, all points and places in the states of AZ, AR, CO, KS, LA, MS, MO, NM, OK, TN, TX. Service is restricted to transportation of flat bed trailers only. Supporting shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 136220 (Sub-5–5TA), filed May 19, 1980. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Decorative stone, in bulk,* from Des Moines and Farmington, NM; Ranger and Marble Falls, TX; Ottawa and Smith County, KS; St. Louis, MO; and Sheridan, AR to points in AL, AR, CO, KS, LA, MO, MS, NM, OK, TN, and TX. Supporting shipper: Old Dutch Materials, 350 Pfingstin Rd., Northbrook, IL 60062.

MC 138469 (Sub-5–13TA), filed May 21, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Attorney at Law, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Frozen foodstuffs,* from the facilities of United States Cold Storage at Dallas, TX or AR, LA and OK, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. Supporting shipper: United States Cold Storage, 5150 Pulaski, Dallas, TX 75247.

MC 139206 (Sub-5–4TA), filed May 19, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry, (same address as applicant). *Contract,* irregular. *Cleaning, deodorizing and freshening compounds, NOI, in drums,* from points in CA, OR, and WA, to the facilities of Chemtoc Co. of IL, at or near Champaign, IL, under a continuing contract or contracts with Chemtoc Co. of IL. Supporting shipper: Chemtoc Co. of IL, P.O. Box 1763, 513 W. Eureka St., Champaign, IL 61820.

MC 141364 (Sub-5–1TA), filed May 22, 1980. Applicant: AFFILIATED VAN LINES, INC., 2121 Washington Street, Box 204, Lawton, OK 73502. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203 (303) 839–5856. *Household goods as defined by the Commission,* between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WY, WY, and DC. There are 15 supporting shippers.

Note.—Applicant seeks to convert joint-line service to single-line service.

MC 144622 (Sub-5–33TA), filed May 21, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Canned and preserved foodstuffs* from the facilities of Heinz USA at or near Grand Prairie, TX to points in the states of LA, AR, OK, and NM, and in each case restricted to traffic originating at the named origins and destined to the named states. Supporting shipper: Heinz, USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 144678 (Sub-5–1TA), filed May 19, 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, Kansas 66210. Representative: Harold H. Clokey, American Freight System, Inc., 9393 West 110th Street, Overland Park, Kansas 66210. *Common;* Regular. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving points in DeKalb, Allen, Adams, Wells and Huntington Counties, IN as off-route points in connection with carrier's otherwise authorized regular-route service. There are 55 supporting shippers. Applicant intends to tack with existing authority. Applicant intends to interline. (This application for Temporary Authority is predicated, inter alia, upon the cessation of operations by Transport Motor Express, Fort Wayne, IN, with whom applicant maintained concurrence for interline traffic.)

MC 144858 (Sub-5–4TA), filed May 19, 1980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Alcoholic beverages (except in bulk).* from Reedley, St. Helena, Monterey, Sterling, and Modesto, CA; Jacksonville, FL; Owensboro and Louisville, KY; Lawrenceburg, IN; Plainfield, IL; Detroit, MI; New Orleans, LA; Houston, TX; and Miami, FL to the facilities of Barrett Hamilton, Inc., located at Little Rock, AR. Supporting shipper(s): Barrett Hamilton, Inc., 3801 West 65th, Little Rock, AR 72203.

MC 145904 (Sub-5–3TA), filed May 19, 1980. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, Iowa 50704. Representative: Roger D. Herman, P.O. Box 152, Waterloo Iowa 50704. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.)* Between St. Louis, MO and points in IA, IL, IN, KS, MI, MN, MO, NE, OH, SD, and WI, restricted to shipments originating at or destined to facilities utilized by Texstar Automotive Distribution Group. Supporting shipper: R. W. Linnenbom, Texstar Automotive Distribution Group, 9060 Latty Avenue, P.O. Box 5850, St. Louis, MO 63134.

MC 145950 (Sub-5–8TA), filed May 21, 1980. Applicant: BAYWOOD TRANSPORT, INC., Route 6, P.O. Box 2611, Waco, Texas 76706. Representative: Arthur Grimes, Route 6, P.O. Box 2611, Waco, Texas 76706. *Canned or preserved foodstuffs.* From the facilities of Heinz USA at or near Grand Prairie, TX to the states of LA, AR, OK, and NM. Supporting shipper: Heinz USA, P.O. Box 57, Pittsburgh, PA 15230.

MC 146717 (Sub-5–1TA), filed May 19, 1980. Applicant: JACK MYER AND BUDDY C. MOORE, d.b.a. MIDWEST VIKING, Johnson, NE 68378. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Titanium ingots and titanium ingot scrap materials.* Between the facilities of Howmet Turbine Components Corporation, at or near Reno, NV, on the one hand, and, on the other, points in Pittsburgh, Latrobe, New Kensington, and Washington, PA, Worcester, MA; Whitehall, MI, Milwaukee, WI, Los Angeles, CA; Buffalo, NY; and Albany, OR. Supporting shipper: Howmet Turbine Components Corporation, 14305 Mt. McClellan, Reno, Nevada 89506.

MC 148245 (Sub-5–1TA), filed May 20, 1980. Applicant: LOGAN MOTOR LINES INC., d.b.a. HENRY ANDERSEN OF TEXAS, INC., P.O. Box 1129, Stratford, TX 79084. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. *Meat, meat products, meat by-products and articles distributed by meat packing houses,* from the facilities of National Beef Packing Company located at or near Liberal, KS, to points in the U.S. restricted to traffic originating at the above-named origin. Supporting shipper: National Beef Packing Company, Liberal, KS 67901.

MC 149026 (Sub-5–4TA), filed May 20, 1980. Applicant: TRANS-STATES LINES, INC., P.O. Box 1486, Van Buren, AR 72956. Representative: Larry C. Price (address same as above). *Such commodities as are dealt in and used by manufacturers and distributors of alcoholic beverages (except commodities in bulk in tank vehicles),* between points in the United States (except AR and HI, on the one hand, and, on the other, Little Rock, AR. Supporting shipper: Barrett Hamilton, Inc., P.O. Box 2780, Little Rock, AR 72203; Strauss Distributors, Inc., P.O. box 9890, Little Rock, AR 72219; Little Rock Distributing Co., 7424 Lindsay Road, Little Rock, AR 72206.

MC 150483 (Sub-5–1TA), filed May 19, 1980. Applicant: WILSON TRUCKING COMPANY, INC., 6601 Universal Avenue, Kansas City, MO 64120. Representative: Eugene W. Hiatt, Hiatt, Crockett, Hiatt & Carpenter, Chartered, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603 phone (913) 232-7263. *Contract,* Ireg., *Household furniture, kitchen applicances, kitchen cabinets and household washers and dryers* from Kansas City, MO, to points in IA, AL, AR, CO, IL, IN, KS, KY, NE, NM, OH, OK, TN, TX and WI. Supporting shipper: Distributors, Inc., 1828 Walnut, Kansas City, MO 64108.

MC 150483 (Sub-5–2TA), filed May 19, 1980. Applicant: WILSON TRUCKING COMPANY, INC., 6601 Universal Avenue, Kansas City, MO 64120. Representative: Eugene W. Hiatt, Hiatt, Crockett, Hiatt & Carpenter, Chartered, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603 phone (913) 232-7263. Contract, Ireg., *Office paper products, office supplies and office furniture.* From Kansas City, MO, to points in IA, IL, KS, NE, MN. Supporting shipper: Business Essentials, Inc., 6601 Universal, Kansas City, MO 64120.

MC 150578 (Sub-5–5TA), filed May 21, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: S. Jackson Salasky, P.O. box 45538, Dallas, TX 75245. *Frozen finished bakery goods,* from San Antonio, TX, to CA, Phoenix, AZ, Atlanta, GA, Birmingham and Montgomery, AL, Denver, CO, Des Moines, IA, Kansas City, MO, Greenville, SC, Memphis, TN, Millard, NE, Mettaire, LA, Tampa and Jacksonville, FL, Springfield, IL, Raleigh and Hickory, NC, and Huntington, WV. Supporting shipper: Colonial Cake Co., Inc., P.O. box 18303, San Antonioa, TX 78218.

MC 150697 (Sub-5–1TA), filed May 19, 1980. Applicant: RONDELL FEWELL, Route #3, Pawnee, OK 74058. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Contract;* Irregular. *Livestock Feed and Feed Ingredients (except in tank vehicles)* From Emporia, Chanute, Fredonia, Kinsley, Oxford, Wellington and Wichita, KS to Pawnee, OK. Supporting shipper: Stockman's Mill & Grain, Inc., Post Office Box 340, Pawnee, OK 74058.

MC 150740 (Sub-5–2TA), filed May 19, 1980. Applicant: MOTRAN SERVICES, INC., 6816 Englewood, Raytown, MO 64133. Representative: Charles Dixon, 202 Kirkland, Liberty, MO 64068. *Contract;* Irregular. *Aluminum ventilation products, roof louvers, turbines and shutters, parts and accessories thereof,* from Jacksonville, AR on the one hand and to points in the United States on the other hand. Supporting shipper: Lomanco, Inc., P.O. Box 519, Jacksonville, AR 72076.

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MC 150851 (Sub-5-1TA), filed May 19, 1980. Applicant: J & E LITTER, INC., 901 S. Main, Hope, Arkansas 71801. Representative: M. D. Wood, 2500 McCain Boulevard, North Little Rock, AR 72116. Contract: Irregular. *Wood chips, bark, sawdust, and shavings* between the facilities of Hines Lumber Company at Hope, AR on the one hand, and, on the other, Texarkana, TX; Wright City, OK; Monroe, LA; Lilly, LA; Sinsboro, LA and their commercial zones. Supporting shipper: Hines Lumber Company, Hope, AR, 71801.

MC 150863 (Sub-5-1TA), filed May 21, 1980. Applicant: VALLEY MATERIALS TRANSPORT CO., INC., P.O. Box 1111, Harlingen, TX 78550. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Sugar, in bulk in dump vehicles,* from the facilities of Rio Grande Valley Sugar Growers, Inc. in Hidalgo County, TX, to Brownsville, TX. Supporting shipper: Marine Port Terminals, Inc., P.O. Box 1411, Brunswick, GA 31521.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 116544 (Sub-6-7TA), filed May 20, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Gelatin* between Sioux City, IA, on the one hand, and, on the other, points in the states of CA, FL, GA, IL, IN, MD, MA, MI, NJ, NY, OH, PA, SC and TX, for 180 days. Supporting shipper: Kind & Knox Gelatin, P.O. Box 725, Sioux City, IA 51102.

MC 136208 (Sub-6-3TA), filed May 19, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, CA 96097. Representative: Donald L. Smith (same as applicant). *General commodities* (except those of unusual value, class A & B explosives, and commodities in bulk) in containers or trailers restricted to the transportation of shipments having prior or subsequent movement by water, between Tacoma, WA, on the one hand, and on the other, points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Totem Ocean Express, Inc., P.O. Box 24908, Seattle, WA 98124.

MC 136208 (Sub-6-4TA), filed May 19, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, CA 96097. Representative: Donald L. Smith (same as applicant). *Paper bags, woven paper fabric bags, wrapping paper, equipment, materials and supplies,* (1) From the facilities of Chase Bag Co. at Hanford, CA and Portland, OR to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, and, (2) from points listed in (1) to the facilities of Chase Bag Co. at Hanford, CA and Portland, OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chase Bag Co., 814 Commerce Dr., Oak Brook, IL 60521.

MC 136208 (Sub-6-5TA), filed May 19, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, CA 96097. Representative: Donald L. Smith (same as applicant). *Storage racks and bins or hoppers,* from Lodi, CA to points in OR and WA for the account of Northern Steel & Building Supplies, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northern Steel & Building Supplies, 5501 1st Ave. So., Seattle, WA 98108.

MC 124679 (Sub-6-18TA), filed May 19, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same as applicant). *Disposable medical supplies, plastic pellets, plastic film sheeting* (1) from the facilities of Sorenson Research Corporation, Salt Lake City, UT to Philadelphia, PA, (2) From the facilities of Essics Manufacturing, Brooklyn, NY and Hooker Chemical, Burlington, NJ to Salt Lake City, UT for 180 days. Supporting shipper: Sorenson Research Corporation, 4387 Atherton Drive, Taylorsville, UT 84120.

Note.—Applicant holds motor contract carrier authority in number MC-128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 90 days authority.

MC 150712 (Sub-6-1TA), filed May 16, 1980. Applicant: EXPRESS TOURS UNLIMITED, P.O. Box 77267, San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Passengers and their baggage, in the same vehicle with passengers, in chart and special operations* beginning and ending at San Francisco, CA, and extending to points in NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are (7) supporting shippers. Their statements may be examined at the Regional Office listed.

MC 125433 (Sub-6-19TA), filed May 19, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Mobile home and recreational vehicle parts and accessories; motor vehicle parts and accessories; boat parts and accessories; construction materials;* and *plastic, metal and rubber articles and products,* between points in the United States (except AK and HI). Restricted to traffic originating at or destined to the facilities of Elixir Industries, for 180 days. Supporting shipper: Elixir Industries, 17925 S. Broadway, Gardena, CA 90248.

MC 141548 (Sub-6-10TA), filed May 16, 1980. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *Garnet sand and gravel products* from points in Benewah County, ID to points in and west of MI, PA, OH, IN, KY, MI, AR, and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Idaho Emerald Creek Garnet, Route 4, Box 4, Fernwood, ID 83830.

MC 145579 (Sub-6-3TA), filed May 19, 1980. Applicant: D. IRVIN TRANSPORT LIMITED, Box 8, Station T, Calgary, Alberta, Canada, T2H 2G7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Short-line farm machinery (except tractors and combines) and parts and attachments, and materials used in the manufacture of shortline farm machinery,* from Sac City, Oskaloosa, and Grinnell, IA; Hopkins, MN; Ashley and Bismarck, ND; Kohler, WI; Fort Collins, CO; Heston, KS; Chicago and Granite City, IL; Midland, PA; St. Louis, MO; and Fort Benton, MT, to Ports of Entry on the International Boundary Line between the United States and Canada in ND and MT, in foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kellough Brothers, Ltd., Box 119, Statler, AB, Canada TOC 2LO; Renn Sales, 12555, 127th Ave., Edmonton, AB, Canada T5L 3E5.

MC 128527 (Sub-6-8TA), filed May 19, 1980. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, #301, Dallas, Texas 57237. *Commodities dealt in by wholesale and retail appliance businesses,* from Los Angeles and the Los Angeles commercial zone, CA, to the facilities of Ryan Distributing at or near Salt Lake City, UT for 180 days. 90 days ETA filed. Supporting shipper: Ryan Distributing, 990 South 700 West, Salt Lake City, UT 84104.

MC 139892 (Sub-6-1TA), filed May 19, 1980. Applicant: M E TRANSFER AND STORAGE, INC., P.O. Box 1095, Moses Lake, WA 98837. Representative: Jack R. Davis, 1100 IBM Building, Seattle WA 98101. *Petroleum products in packages* from Moses Lake, WA to the OR counties of Hood River, Wasco, Crook, Jefferson, Dechutes, Wheeler, Gilliam, Sherman, Lake, Harney, Grant, Morrow, Umatilla, Union, Wallowa, Baker; and the ID counties of Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis and ID for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Schaeffer Mfg. Company, 102 Barton Street, St. Louis, MO 63104.

MC 150854 (Sub-6-1TA), filed May 19, 1980. Applicant: NORWALK TRANSFER AND STORAGE, INC., 13900 E. Rosecrans, Santa Fe Springs, CA 90670. Representative: Wayne Nogle (same as applicant). *Contract carrier,* Irregular route: *Cleaning compounds and related compounds and related articles,* between the facilities of Amway Corporation, located in Santa Ana, CA, and the points of Las Vegas, NV, and Phoenix and Tucson, AZ, for the account of Amway Corporation in Santa Ana, CA, for 180 days. Supporting shipper: Amway Corporation, 1800 E. Dyer Road, Santa Ana, CA 92705.

MC 147726 (Sub-6-1TA), filed May 19, 1980. Applicant: O'CONNELL ENTERPRISES, INC., 1247 Rio Glen Drive, Eugene, OR 97401. Representative: John G. McLaughlin, Suite 1440, 200 SW Market St., Portland, OR 97201. *Passengers and their baggage for special and charter tours,* between points in Lane County, OR, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, UT, ID, MT, WY and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 12 shippers. Their statements may be examined at the Regional office listed.

MC 150856 (Sub-6-1TA), filed May 19, 1980. Applicant: FRANKLIN PENNY, d.b.a. FRANKLIN PENNY TRUCKING, 2201 W. Walnut, Lodi, CA 95240. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. (1) *Tread rubber and retreading materials,* and (2) *retreading machinery and equipment,* from Muncie, IN, to points in CA, NY, OR, and WA, for 180 days. Supporting shipper: Tred-X West, 2004 Kenway Court, Lodi, CA 95240.

MC 52709 (Sub-6-8TA), filed May 19, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). (1) *Scrap paper,* from Boulder CO to Chandler, AZ; (2) *Fire retardant chemicals,* from Chandler, AZ to Superior, CO; (3) *Insulation,* from Superior, CO to Chandler and Phoenix, AZ; and (4) *Chemicals, NOI* (except in bulk) from Chandler and Phoenix, AZ to Fargo, ND and Chicago, IL, for 180 days. Supporting shipper: Superior Products, 2825 Marine St., Boulder, CO 80303.

MC 150855 (Sub-6-1TA), filed May 19, 1980. Applicant: RPM TRUCKING & HOTSHOT, INC., P.O. Box 2232, Rock Springs, WY 82901. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Machinery, equipment and supplies used in replacing, servicing and repair of (1) machinery, equipment, materials and supplies used in or in connection with the discovery, development, production refining manufacture, processing storage, transmission and distribution of natural gas, petroleum and geothermal energy, and their products and by-products, and (2) machinery, materials equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof,* between Rock Springs, Evanston, and Casper, WY on the one hand and on the other, points in ID, NV, UT, CO, NE, SD, ND, and MT, restricted against the transportation of complete drilling rigs, and further restricted against the transportation of drilling mud and drilling fluids, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are (5) shippers. Their statements may be examined at the Regional Office listed.

MC 142941 (Sub-6-6TA), filed May 19, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). (1) *Furniture, furniture parts and accessories* and (2) *materials and supplies* used in the manufacture of items in Part (1) (except commodities in bulk), from Los Angeles, CA and its commercial zone to points in AZ, for 180 days. Supporting shipper(s): United Foam Corporation, 4533 North 43rd Avenue, Phoenix, AZ 85031; and Pacific Manufacturing Company, 1121 West Hilton, Phoenix, AZ 85007.

MC 142941 (Sub-6-7TA), filed May 19, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). *Frozen juice concentrates* (except in bulk), from points in FL to AZ, CA and NV, for 180 days. Supporting shippers: Tooley & Sons, Inc., 119 E. Toole Avenue, Tucson, AZ and Frank Ziede Foods Company, 2512 E. Magnolia, Phoenix, AZ.

MC 142941 (Sub-6-8TA), filed May 19, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). *Cleaning Compounds, chemicals NOI, and related materials and supplies* (except commodities in bulk), from Dallas, TX and its commercial zone to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zep Manufacturing Company, 4400 W. Missouri, Glendale, AZ 85301.

MC 112989 (Sub-6-5TA), filed May 16, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Iron and steel articles,* from Chicago, IL to points in WA, OR and CA, for 180 days. Supporting shipper(s): Regal Tube Company, 7401 South Linder Ave., Chicago, IL 60638.

MC 150485 (Sub-6-2TA), filed May 19, 1980. Applicant: WESTSPAN HAULING, INC., 9122 South Tacoma Way, Tacoma, WA 98499. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract carrier,* Irregular routes: *mobile homes and portable buildings* and *equipment, materials and supplies used in the distibution and installation of mobile homes and portable buildings,* from the facilities of Lancer Homes, Inc., at Marysville, CA, to points in Or and WA, for the account of Lancer Homes, Inc., of Corona, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lancer Homes, Inc., 1128 E. Sixth Street, Corona, CA 91720.

MC 117786 (Sub-6-10TA), filed May 19, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Doors, door frames, parts, accessories, and materials and supplies used in the manufacture, distribution and sale of the named commodities,* between the facilities of Therma Tru Incorporated at Colorado Springs, CO on the one hand, and, on the other, points in the U.S., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Therma Tru Incorporated, 6275 Lakeshore Ct. Colorado Springs, CO.

MC 26739 (Sub-6-1TA), filed May 19, 1980. Applicant: ALFARM TRUCKLINES, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Lumber* from points in AL, AR, LA, MS and TX to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Marsh-Truman Lumber Company, 332 S. Michigan Avenue, Chicago, IL 60604.

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MC 149195 (Sub-6–6TA), filed May 21, 1980. Applicant: ARCADIAN MOTOR CARRIERS, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). *Electronic equipment and the parts, accessories, materials and supplies used in the manufacture or distribution of electronic equipment.* (Restricted to traffic originating at or consigned to the facilities of Atari, Inc.) Between: Sunnyvale, CA, El Paso, TX, Wheeling, IL, and Edison, NJ, on the one hand and on the other, points in the United States. For 180 days. Supporting shipper: Atari, Inc., 390 Caribbean Drive, Sunnyvale CA 94086.

MC 134387 (Sub-6–2TA), filed May 20, 1980. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Warren N. Grossman, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Containers and closures* from Abilene and Ft. Worth, TX to all points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Crown Cork & Seal, 9300 Ashton Road, Philadelphia, PA 19136.

MC 134387 (Sub-6–3TA), filed May 20, 1980. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Warren N. Grossman, 707 Wilshire Boulevard, 1800 United California Bank Building, Los Angeles, CA 90017. *Prepared foods* from Mesa, AZ, to Los Angeles, San Francisco, and Riverside Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rosarita Mexican Foods, 310 South Extension Road, Mesa, AZ 85201.

MC 115826 (Sub-6–10TA), filed May 19, 1980. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO. 80022. Representative: Howard Gore (same address as applicant). *Household electric appliances and equipment; oral hygiene appliances and equipment; hydrotherapy equipment; sink and shower fixtures; smoke alarms; food processing machines; filters; other commodities manufactured by manufacturers of the commodities named above; and materials, equipment and supplies used in the manufacture and distribution of the commodities named above,* between the facilities of Teledyne Water Pik, at or near, Columbus, OH., on the one hand, and, on the other points in the United States in and east of MS, TN, KY, IL and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Teledyne Water Pik, 1730 East Prospect, Ft. Collins, CO. 80525.

MC 115826 (Sub-6–11TA), filed May 21, 1980. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO. 80022. Representative: Howard Gore (same address as applicant). *Meat* from Redmond, OR. to Chicago and O'Hare International Airport, IL. for 180 days. Supporting shipper: Orio Meat Company, Post Office Box 644, Redmond, OR. An underlying ETA seeks 90 days authority.

MC 133708 (Sub-6–1TA), filed April 3, 1980. Applicant: FIKSE BROS., INC., 12647 E. South St., Cerritos, CA 90701. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Gypsum wallboard,* from the facilities of Domtar Gypsum America Inc. at Long Beach, CA to points in Coconino and Yavapai Counties, AZ, for 180 days. Supporting shipper: Domtar Gysum America Inc., 1221 Broadway, Oakland, CA 94612.

MC 146669 (Sub-6–1TA), filed May 19, 1980. Applicant: McDOUGALD OIL CO., INC., 459 Nichols Lane, P.O. Box 309, Moab, UT 84532. Representative: Dale E. Isley, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Contract carrier,* irregular route, *Petroleum in bulk,* from San Juan County, UT, to the facilities of Plateau, Inc., at or near Bloomfield, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Plateau, Inc., 4775 Indian School Road, Albuquerque, NM.

MC 147946 (Sub-6–1TA), filed May 19, 1980. Applicant: MIRMAN TRANSPORTATION, INC., 26249 Industrial Boulevard, Hayward, CA 94545. Representative: Donald McKay, Jr., 26249 Industrial Boulevard, Hayward, CA 94545. *General commodities (except explosives, blasting supplies and motor vehicles) in trailers, and empty trailers, having immediately prior or subsequent transportation by water.* Between Ports of Entry in CA, LA, OR, TX, and WA, on the one hand, and on the other, points in AZ, CA, CO, LA, MT, NM,. NV, OR, UT, WA, and WY. An underlying ETA seeks 90 days authority. Supporting shipper: Totem Ocean Trailer Express, P.O. Box 24908, Seattle, WA 98124.

MC 138732 (Sub-6–2TA), filed May 21, 1980. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, Orange, CA 92667. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, CA 94583. *Building and Construction Materials,* from the facilities of Celotex Building Products, Tracy, CA, to points in and west of MN, IA, MO, AR and LA, for 180 days. Supporting shipper: Jim Walter Corporation, 1500 North Dale Mabry, Tampa, FL 33622.

MC 52709 (Sub-6–9TA), filed May 20, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Flour (except in bulk),* from Ogden, UT to Burney, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Peavy Company, 220 W. 30 St., Ogden, UT 84401.

MC 128246 (Sub-6–5TA), filed May 20, 1980. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Foodstuffs, frozen* from Watsonville, CA to AZ, for 180 days. Supporting shipper: Green Giant Company, 1100 N. 4th Street, LeSueur, MN 56058.

MC 141804 (Sub-6–40TA), filed May 21, 1980. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Mud or compounds, gas or oilwell drilling, or gas or oilwell drilling mud treating compounds or additives,* in bags or barrels, between Houston, TX and Garden City, LA on one hand, and points in CA, MI, FL, OR, RI, and WA on the other, for 180 days. Supporting shipper: Geary Johnston, Transportation Analyst, IMCO Services, a division of Halliburton Co., 2400 West Loop South, Houston, TX 77027.

MC 143775 (Sub-6–14TA), filed May 21, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendate, AZ 85301. Representative: Michael R. Burke (same assress as applicant). (1) *Glass containers* and (2) *materials, equipment and supplies used in the manufacture and distribution of (1) above,* between the facilities of the Midland Glass Company at or near Cliffwood, NJ; Henryette, OK; Shakopee, MN, Terre Haute, IN; and Warner Robins, GA, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. Supporting shipper: B. Stein, Traffic Manager, Midland Glass Company, Inc., Cliffwood, NJ 07721.

MC 107456 (Sub-6–1TA), filed May 21, 1980. Applicant: HARRY L. YOUNG AND SONS, INC., 542 West Sixth South, Salt Lake City, UT 84104. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Iron and steel articles,* between points in the State of UT (where there is prior or subsequent movement interstate by rail), for 180 days. An underlying ETA seeks 90 days authority. Supporting

shipper: Nucor Corporation, Vulcraft Division, Norfolk, NE.

MC 42487 (Sub-6–18TA), filed May 21, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving the facilities of Colt Industries-Central Maloney Division, at or near Arcadia, FL, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. Applicant intends to tack the proposed authority, as an off-route point, with authority it acquired from Eastern Express, Inc., as authorized by the Commission in Docket No. MC–F–13295. This authority has been merged into Applicant, but the Commission has not yet issued a certificate in its name. This authority will, in turn, be tacked with other present authorities of Applicant at such points as Atlanta, GA and Jacksonville, FL, to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carrier at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): Colt Industries, P.O. Box 88, Pittsburgh, PA 15230.

MC 42487 (Sub-6–19TA), filed May 21, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular route: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment),* serving Greenville, TN as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will be tacked or joined with authority held by Applicant under Docket No. MC 42487 Sub 744 as an off-route point. Sub 744 in turn tacks with other present authorities at points such as Cincinnati, OH, Louisville, KY, Lexington, KY and Atlanta, GA, to permit Applicant to perform service throughout the United States. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): Keene Corp., Bohannon Avenue, Greenville, TN 37743; Huyck Formex Company, Austin Avenue, Greenville, TN 37743; Plus Mark, Inc., 325 Bohannon Avenue, Greenville, TN 37743; Metals Engineering Corp., P.O. Box 3005, Greenville, TN 37743.

MC 144606 (Sub-6–1TA), filed May 21, 1980. Applicant: DUNCAN SALES & LEASING CO., INC., 714 E. Baseline Road, Buckeye, AZ 85326. Representative: Andrew V. Baylor, 337 E. Elm Street, Phoenix, AZ 85012. (1) *Such merchandise as is dealt in* by wholesales, retail, chain grocery and food business houses and agricultural feed business houses and (2) *materials, equipment, ingredients and supplies* used in the development, manufacture, distribution and sale of the products in (1) above. Restricted in (1) and (2) above against shipments in bulk, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 107638 (Sub-6–1TA), filed May 22, 1980. Applicant: EVERGREEN TRAILS, INC. d.b.a. EVERGREEN TRAILWAYS, 666 Stewart Street, Seattle, WA 98101. Representative: Lawrence E. Lindeman, 425 13th Street, NW., Suite 1032, Washington, DC 20004. *Passengers and their baggage, in special operations,* (1) from points in Mason, Thurston, Pierce, Kitsap, Clallam, Jefferson, King, and Snohomish Counties, WA to points in the US (except HI); (2) from points in the US (except HI) to points in the counties enumerated in (1) above; restricted to passengers having a prior or subsequent movement to rail, air, or water; and (3) from points on the International Boundary Line between the United States and Canada located in WA to points in the US (except HI), and return, for 180 days. Supporting shippers: There are 9 shippers. Their statements may be examined at the Regional office listed.

MC 125996 (Sub-6–2TA), filed May 21, 1980. Applicant: GOLDEN TRANSPORTATION, INC., 2200 South 400 W., Salt Lake City, UT 84115. Representative: William J. Lawson (same address as applicant). *Frozen potato products,* from Connell and Moses Lake, WA; Nampa, ID and Hermiston, OR to Independence, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fast Food Merchandisers, Inc., 1233 N. Church St., Rocky Mount, NC 27801.

MC 48958 (Sub-6–3TA), filed May 22, 1980. Applicant: ILLINOIS–CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Pipe, sewer, agricultural, residential and commercial building type, and fittings, lubricants, adhesives, and related items,* from Pueblo, CO, and points within its commercial zone, to points in AZ, CA, KS, NE, NM, OK, TX, UT, and WY, for 180 days. An underlying ETA seeks 90 days' authority. Supporting shipper: Johns-Manville Corp., P.O. Box 854, Pueblo, CO 81002.

MC 139906 (Sub-6–21TA), filed May 21, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Wearing apparel* from the facilities of K-Mart Apparel Corp., at Alsip, IL to Des Moines, IA for 180 days. Supporting shipper: K-Mart Apparel Corp., 7373 West Side Ave., North Bergen, NJ 07047.

MC 134888 (Sub-6–1TA), filed May 22, 1980. Applicant: MOROSA BROS. TRANSPORTATION CO., 4800 Stine Rd., Bakersfield, CA 93309. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Crushed limestone,* from the facilities of Pluess-Staufer (CA), Inc. at or near Cushenbury, CA to points in AZ, for 180 days. Supporting shipper: Pluess-Staufer (CA), Inc., P.O. Box 825, Lucerne Valley, CA 92356.

MC 134006 (Sub-6–1TA), filed May 22, 1980. Applicant: PARKER & SON TRUCKING, INC., 4520 Maywood Avenue, Vernon, CA 90058. Representative: Richard Parker (same as applicant). *Malt Beverages* (except in bulk), from Phoenix, AZ, to Santa Rosa, Modesto, Merced, Stockton, and Sacramento, CA, for 180 days. Supporting shipper(s): High Life Distribution Co., Inc., P.O. Box LL, Santa Rosa, CA 94501; Bell Distributing Co., P.O. Box 15288, Sacramento, CA 95824; and B & W Distribution Co., 205 Spenker Avenue, Modesto, CA 95355.

MC 146907 (Sub-6–1TA), filed May 21, 1980. Applicant: PEBBLE HAULERS, INC., 2630 Delta Drive, Colorado Springs, CO 80910. Representative: Raymond M. Kelley, Esq., 450 Capitol Life Center, Denver, CO 80203. *Metal Bearing Ore,* from points in Socorro and Sierra Counties, NM to points in the states of AZ, CO, NV, UT, and El Paso County, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Silver King, P.O. Box 6394, Denver, CO 80206.

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MC 142935 (Sub-6–2TA), filed May 22, 1980. Applicant: PLASTIC EXPRESS 2999 La Jolla Street, Anaheim, CA 92806. Representative: Richard C. Celio, 2300 Camino del Sol, Fullerton, CA 92633. *Plastic articles, viz: flakes, granules, lumps, pellets and powder* from points in Nueces and Harris Counties, TX to points in CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Celanese Plastic & Speciality Company, 26 Main Street, Chatham, NJ 07928.

MC 148450 (Sub-6–1TA), filed May 21, 1980. Applicant: ROAD WEST FRESNO, INC., 5184 N. Motel Drive, Fresno, CA 93711. Representative: Teddy Bellamy (same as applicant). *Contract carrier,* irregular routes: *Snack foods,* (1) From: Corsicana, TX to: Fresno, CA. (2) From: Fresno, CA, to: Points in AZ, OR, NV, UT, ID, and WA, for 180 days. Supporting shipper: Tom's Foods, Claude Reevs, 2839 S. Cherry, Fresno, CA 93771.

MC 148450 (Sub-6–2TA), filed May 22, 1980. Applicant: ROAD WEST FRESNO, INC., 5185 N. Motel Dr., Fresno, CA 93711. Representative: Teddy Bellamy (same as applicant). *Contract carrier,* irregular routes: *Flavoring extracts, syrups, prepared foods, frozen fruit, and equipment, materials and supplies used in the stocking, preparation, merchandising, sale or operation of quick food outlets,* from: Clovis and Fresno, CA, to: Phoenix, Tucson, AZ; Denver, Colorado Springs, CO; Boise, Idaho Falls, Pocatello, Twin Falls, ID; Chicago, IL; Des Moines, IA; Kansas City, Lawrence, Topeka, KA; Minneapolis, St. Paul, MN; Kansas City, Springfield, MO; Lincoln, NE; Las Vegas, Reno, NV; Albuquerque, NM, Oklahoma City, Tulsa, OK; Eugene, Portland, Salem, OR; Abilene, Austin, Dallas, El Paso, Ft. Worth, Houston, Lubbock, San Antonio, TX; Cedar City, Logan, Nephi, Ogden, Salt Lake City, UT; Bellingham, Seattle, Spokane, Vancouver, WA; Milwuakee, WI; Wichita, KS; Omaha, NB; Santa Fe, NM; Yakima, WA; for the account of Lyons-Magnus and Wawonna Frozen Foods, for 180 days. Supporting shipper: Lyons-Magnus and Wawonna Frozen Foods, 3789 E. Alluvial Street, P.O. Box 646, Clovis, CA 93612.

MC 150727 (Sub-6–1TA), filed May 21, 1980. Applicant: JOE B. PAGE AND DOROTHY L. PAGE, d.b.a. SANDIA EXPRESS, 1120 1st St., NW., Albuquerque, NM 87107. Representative: Joe B. Page, 1714 Father Sky, NE., Albuquerque, NM 87112. *Internal combusion engine parts,* between Albuquerque, NM on the one hand; and San Diego, CA and Ontario, CA on the other; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General Electric Company Aircraft Engine Group, 336 Woodward Road SE, Albuquerque, NM 87022.

MC 26396 (Sub-6–25TA), filed May 21, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NB 68501. *Lignin pitch,* from points in Outagamie County, WI to points in OK, TX, LA, MS, AL, and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dresser Industries, Inc., P.O. Box 6504, Suite 2116, 601 Jefferson Street, Houston, TX 77005.

MC 148876 (Sub-6–1TA), filed May 12, 1980. Applicant: MAGNUM FREIGHT LINES, INC., 4841 Eastern Ave., Bell, CA 90201. Representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) moving on bills of lading issued by ABC-Trans National Transport, Inc., a freight forwarder as defined in Section 10102(8) of the Interstate Commerce Act, from points in TX, NM, NV, AZ, WA, and OR to points in CA; and, from points in CA to points in OR and WA, for 180 days. Supporting shipper: ABC-Trans National Transport, Inc., 2110 Alhambra, Los Angeles, CA 90031.

MC 150500 (Sub-6–1TA), filed March 19, 1980. Applicant: VINCE PROCOPIO d.b.a. PROCOPIO & SONS, Post Office Box 251, Newcastle, CA 95658. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract carrier,* irregular routes: *Used motor homes, motorized campers, camper vans, truck tractors and trucks, secondary movements in truckaway or driveaway service,* from Santa Fe Springs, CA and its commercial zone to points in AZ and NV, for 180 days. Supporting shipper: Jim Taylor, Owner, Jim Taylors Auto-Body, 8068 S. Westman, Santa Fe Springs, CA 90606.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-16805 Filed 6-3-80; 8:45 am]
BILLING CODE 7035-01-M

Transportation of Government Traffic; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportaiton of general commodities, (except classes A and B explosives, radioactive materials, etiologic agents, shipments of secret materials, and weapons and ammunition which are designated sensitive by the United States Government), between points in the United States (including Alaska and Hawaii), restricted to the transportation of traffic handled for the United States Government or on behalf of the United States Government where the government contractor (consignee or consignor), is directly reimbursed by the government for the transportation costs, under the Commission's regulations (49 CFR 1062.4), pursuant to a general finding made in Exparte No. MC–107, *Government Traffic,* 131 M.C.C. 845 (1979).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register,** subject to its tariff publication's effective date, or the filing of an effective tender pursuant to 49 U.S.C. 10721.

GT–423–80 (special certificate—government traffic), filed May 8, 1980. Applicant: BROOKS TRANSFER AND STORAGE CO., INC., 1301 North Boulevard, P.O. Box 6854, Richmond, VA 23230. Representative: C. Fair Brooks, III, President (address same as applicant). Government agency involved: Department of Defense, General Services Administration, General Accounting Office and Veterans Administration.

GT–424–80 (special certificate—government traffic), filed May 8, 1980. Applicant: MAJOR VAN LINES, INC., P.O. Box 467, Kearny, NJ 07032. Representative: Ernest Solomon, Vice President (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–425–80 (special certificate—government traffic), filed May 8, 1980. Applicant: CLYDE STEWART, d.b.a. STEWART AND SONS TRUCKING COMPANY, P.O. Box 493, Clarkedale, AR 72325. Representative: Clyde Stewart (address same as applicant). Government agency involved: Department of Defense.

GT–426–80 (special certificate—government traffic), filed May 8, 1980. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., N.W., Washington, DC 20036. Government agency involved: Department of Defense, General Services Administration.

GT–427–80 (special certificate—government traffic), filed May 9, 1980. Applicant: TRENCO, INCORPORATED, 2109 Marydale Avenue, P.O. Box 697, Williamsport, PA 17701. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–428–80 (special certificate—government traffic), filed May 9, 1980. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, IL 62025. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–429–80 (special certificate—government traffic), filed May 9, 1980. Applicant: NELSON'S EXPRESS, INC., 675 Market Street, Millersburg, PA 17061. Representative: J. Bruce Walter, Esquire, Rhoads, Sinon & Hendershot, 410 N. Third Street, P.O. Box 1146, Harrisburg, PA 17108. Government agency involved: Departments of Defense, Justice, and General Services Administration.

GT–430–80 (special certificate—government traffic), filed May 9, 1980. Applicant: LUTHER TRANSFER, INC., 1910 Eleventh Street, Portsmouth, OH 45662. Representative: Robert F. Luther (address same as applicant). Government agency involved: Department of Defense, U.S. Coast Guard, National Aeronautics and Space Administration, General Services Administration, Rickenbacker Air Force Base and Wright Patterson Air Force Base.

GT–431–80 (special certificate—government traffic), filed May 9, 1980. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (address same as applicant). Government agency involved: U.S. Government Manual (1979–80 edition) and Agencies listed at Page XII of the Federal Directory (1979 edition).

GT–432–80 (special certificate—government traffic), filed May 9, 1980. Applicant: LOGISTICS EXPRESS, INC., 1890 South Chris Lane, Anaheim, CA 92805. Representative: David P. Christianson of Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Government agency involved: Department of Defense—U.S. Army Transport Division, U.S. Air Force and Bureau of Mines.

GT–433–80 (special certificate—government traffic), filed May 9, 1980. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Government agency involved: General Services Administration, Department of Defense, U.S. Government Printing Office.

GT–434–80 (special certificate—government traffic), filed May 9, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: Richard H. Champlin (address same as applicant). Government agency involved: Departments of Defense, Agriculture, Commerce, Energy, Health, Education, and Welfare, Housing and Urban Development, Interior, Justice, Treasury and Transportation, Environmental Protection Agency, National Aeronautics and Space Administration, Tennessee Valley Authority, U.S. Postal Service and Veterans Administration.

GT–435–80 (special certificate—government traffic), filed May 9, 1980. Applicant: GEORGE HUSACK, President, GEORGE HUSACK, INC., 167 Locust Drive, Schnecksville, PA 18078. Representative: John W. Frame, ICC Practitioner, P.O. Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Government agency involved: Department of Defense, General Services Administration and Department of Agriculture.

GT–436–80 (special certificate—government traffic), filed May 9, 1980. Applicant: STERNLITE TRANSPORTATION COMPANY, Winsted, MN 55359. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government agency involved: Department of Agriculture, Department of Defense and General Services Administration.

GT–437–80 (special certificate—government traffic), filed May 9, 1980. Applicant: McKINLEY TRUCKING, INC., 3979 Crestview Drive, Salt Lake City, UT 84117. Representative: Theodore H. McKinley (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–438–80 (special certificate—government traffic), filed May 12, 1980. Applicant: ALLIED VAN LINES, INC., 25th Avenue and Roosevelt Rd., Broadview, IL 60153. Mailing address: P.O. Box 4403, Chicago, IL 60680. Representative: Joseph P. Tuohy, Commerce Attorney (same as mailing address). Government agency involved: Departments of Defense, Transportation, National Aeronautics and Space Administration, Department of Energy, and General Services Administration.

GT–439–80 (special certificate—government traffic), filed May 12, 1980. Applicant: BAILEY'S EXPRESS, INC., 2423 Kenilworth Avenue, Tuxedo, MD 20781. Representative: Edward N. Button, P.A., 580 Northern Avenue, Hagerstown, MD 21740. Government agency involved: U.S. Government Printing Office, General Services Administration, Veterans Administration, Department of Agriculture, Housing and Urban Development.

GT–440–80 (special certificate—government traffic), filed May 12, 1980. Applicant: VTS TRUCKING, 2676 Orange Avenue, Signal Hill, CA 90806. Representative: David P. Christianson, Knapp, Grossman & Marsh, 707 Wilshire Blvd., 1800 United California Bank Bldg., Los Angeles, CA 90017. Government agency involved: U.S. Naval Underwater Systems Center.

GT–441–80 (special certificate—government traffic), filed May 12, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (address same as applicant). Government agency involved: General Services Administration, U.S. Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–442–80 (special certificate—government traffic), filed May 13, 1980 Applicant: SOUTHWEST TRUCK SERVICE (a corporation), P.O. Box A.D., Watsonville, CA 95076. Representative: William F. King, Esquire, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–443–80 (special certificate—government traffic), filed May 13, 1980. Applicant: FERGUSON VAN LINES, INC., 3999 Erie Avenue, Cincinnati, OH 45208. Representative: David Earl Tinker, Esquire, 1000 Connecticut

Avenue, N.W., Suite 1200, Washington, DC 20036. Government agency involved: Department of Defense and General Services Administration.

GT–444–80 (special certificate—, government traffic), filed May 19, 1980. Applicant: NORBET TRUCKING CORP., 55 Passaic Avenue, Kearny, NJ 07032. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, DC 20001. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–445–80 (special certificate—government traffic), filed May 9, 1980. Applicant: GOTTRY CORPORATION, 999 Beahan Road, Rochester, NY 14624. Representative: Neil Hourihan, Vice-President of Transportation (address same as applicant). Government agency involved: Federal Aviation Administration and Department of Defense.

GT–446–80 (special certificate—government traffic), filed May 9, 1980. Applicant: CARL SCHAEFER, JR. TRUCK LINE, INC., 2600 Willowburn Ave., Dayton, OH 45426. Representative: Carl Schaefer, Jr., President, 321 Stuckhardt Ave., Trotwood, OH 45426. Government agency involved: Directorate of Storage and Transportation and Defense Electronic Supply Center.

GT–447–80 (special certificate—government traffic), filed May 12, 1980. Applicant: FANETTI TRANSPORT, INC., Route 2, 2024 21st Avenue, Bloomer, WI 54724. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government agency involved: Departments of Agriculture, and Defense and General Services Administration.

GT–448–80 (special certificate—government traffic), filed May 12, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Government agency involved: Departments of Defense, Agriculture, General Services Administration and U.S. Postal Service.

GT–449–80 (special certificate—government traffic), filed May 12, 1980. Applicant: AQUARIAN LINES, a partnership of T. G. and J. C. GARLAND, Route 1, Box 261, Van Alstyne, TX 75095. Representative: T. G. Garland (address same as applicant). Government agency involved: Department of Defense and General Services Administration.

GT–450–80 (special certificate—government traffic), filed May 12, 1980. Applicant: LoBIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Michael R. Werner, Esquire, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Government agency involved: Departments of Defense, Agriculture, Energy, Interior, and Health, Education and Welfare, General Services Administration, National Aeronautics and Space Administration, Veterans Administration, Internal Revenue Service, U.S. Government Printing Office and Coast Guard.

GT–451–80 (special certificate—government traffic), filed May 12, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William J. Hanlon, Esq., Vice President-General Counsel (address same as applicant). Government agency involved: Department of Defense and Transportation, General Services Administration.

GT–452–80 (special certificate—government traffic), filed May 12, 1980. Applicant: NEWMAN BROS. TRUCKING CO., 6559 Midway Rd., P.O. Box 18728, Fort Worth, TX 76118. Representative: A. William Brackett, 1108 Continental Life Bldg., Fort Worth, TX 76102. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–453–80 (special certificate—government traffic), filed May 12, 1980. Applicant: TRI-STATE TRANSPORTATION CO., INC., P.O. Box 498, Bellmawr, NJ 08031. Representative: Michael R. Warner, Esq., P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Government agency involved: Departments of Defense, Commerce, Agriculture, Energy, Interior and Health, Education, and Welfare, General Services Administration, National Aeronautics and Space Administration, U.S. Government Printing Office, Veterans Administration, Internal Revenue Service.

GT–454–80 (special certificate—government traffic), filed May 12, 1980. Applicant: C. H. HOOKER TRUCKING CO., 1475 Roanoke Ave., Uhrichsville, OH 44683. Representative: Boyd B. Ferris, Mulsoon, Pemberton, & Ferris, 50 W. Broad St., Columbus, OH 43215. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, National Railroad Passenger Service Corporation, U.S. Government Printing Office.

GT–455–80 (special certificate—government traffic), filed May 12, 1980. Applicant: AUTO CONVOY CO., 12200 Park Central Drive, P.O. Box 400300, Dallas, TX 75240. Representative: Eugene C. Ewald, Matheson, Bieneman, Parr, Schuler & Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. Government agency involved: General Services Administration, Department of Defense.

GT–456–80 (special certificate—government traffic), filed May 12, 1980. Applicant: STOOPS ECPRESS, INC., a corporation, 2239 Malibu Court, Anderson, IN 46101. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Government agency involved: Veterans Administration, U.S. Postal Service, General Services Administration, Departments of Defense, Energy, Health, Education, and Welfare, Housing and Urban Development, Interior, Agriculture, Commerce, Transportation and Treasury, U.S. Government Printing Office, National Aeronautics and Space Administration, and Nuclear Regulatory Commission.

GT–457–80 (special certificate—government traffic), filed May 13, 1980. Applicant: MC CORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherland, Esq., Fulbright & Jaworski, 1150 Connecticut Ave., N.W., Suite 400, Washington, D.C. 20036. Government agency involved: Departments of Defense and Agriculture, U.S. Postal Service, Army Corps of Engineers and General Services Administration.

GT–458–80 (special certificate—government traffic), filed May 13, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Rd., Toms River, NJ 08753. Representative: Jean R. Hecht, President (address same as applicant). Government agency involved: Agencies listed in the U.S. Government Manual (1979–80 edition).

GT–459–80 (special certificate—government traffic), filed May 14, 1980. Applicant: SABRE TRANSPORTATION, INC., P.O. 996, Bakersfield, CA 93302. Representative: M.F. Hoff, Executive V. President, 2800 Standard St., Bakersfield, CA 93308. Government agency involved: U.S. Navy.

GT–460–80 (special certificate—government traffic), filed May 14, 1980. Applicant: GARDNER TRUCKING CO., 820 Avenue E, Pratt City, AL 35214. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmington, AL 35203. Government agency involved: Department of Defense, General Services Administration.

GT–461–80 (special certificate—government traffic), filed May 14, 1980. Applicant: SAND MOUNTAIN AUTO AUCTION, INC., P.O. Drawer 638, Boaz, AL 35957. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmington, AL 35203. Government agency involved: Department of Defense, General Services Administration.

GT–462–80 (special certificate—government traffic), filed May 14, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005. Government agency involved: Departments of Defense, Agriculture, Energy and Interior, General Services Administration, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service and U.S. Government Printing Office.

GT–463–80 (special certificate—government traffic), filed May 14, 1980. Applicant: HENRY ANDERSEN OF TEXAS, INC., P.O. Box 1129, Stratford, TX 79084. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. N.W., Washington, D.C. 20005. Government agency involved: Departments of Defense, Agriculture, Energy, Interior; General Services Administration, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service and U.S. Government Printing Office.

GT–464–80 (special certificate—government traffic), filed May 14, 1980. Applicant: PUROLATOR ARMORED, INC., 255 Old New Brunswick Rd., Piscataway, NJ 08845. Representative: Peter A. Greene, 900 17th St. N.W., Washington, D.C. 20006. Government agency involved: Federal Reserve System, Departments of Agriculture and Treasury; General Services Administration.

GT–465–80 (special certificate—government traffic), filed May 14, 1980. Applicant: FLEET TRANSPORT CO., INC., 934 44th Ave., North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (address same as applicant). Government agency involved: Executive Agencies, Departments, Independent Establishments and government enumerated in the contents, pages V–VII, U.S. Government Manual 1979–80.

GT–466–80 (special certificate—government traffic), filed May 14, 1980. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary. 121 S. Main St., Taylor, PA 18517. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–467–80 (special certificate—government traffic), filed May 12, 1980. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., Esq., Bishop, Sweeney, Colvin & Johnson, 603 Frank Nelson Bldg., Birmingham, AL 35203. Government agency involved: Departments of Defense, Agriculture, Transportation, Energy, Interior, Treasury, Health, Education and Welfare, and Housing and Urban Development; General Services Administration, National Aeronautics and Space Administration, Veteran's Administration, National Railroad Passenger Service Corporation, Tennessee Valley Authority, U.S. Postal Service, U.S. Government Printing Office, Bureau of Reclamation and Mines, U.S. Supplies Property Office, Federal Prison Industries, Federal Maritime Commission, Nuclear Regulatory Commission.

GT–468–80 (special certificate—government traffic), filed May 12, 1980. Applicant: WILLIAM McCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Highway No. 1, Elizabeth, NJ 07201. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10001. Government agency involved: Department of Defense and General Services Administration.

GT–469–80 (special certificate—government traffic), filed May 12, 1980. Applicant: LACY'S EXPRESS, INC., P.O. Box 130, Pedricktown, NJ 08067. Representative: Michael R. Werner, Esq., P.O. 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Government agency involved: Departments of Defense, Agriculture, Energy, Interior, and Health, Education and Welfare; Coast Guard, General Services Administration, National Aeronautics and Space Administration, U.S. Government Printing Office, Veteran's Administration, Internal Revenue Service.

GT–470–80 (special certificate—government traffic), filed May 13, 1980. Applicant: BAYSE TRANSPORTATION SERVICE, INC., 2031 Industrial Drive, P.O. Box 1002, Salem, VA 24153. Representative: Blair P. Wakefield, Attorney, Suite 1001, 1st & Merchants National Bank Bldg., Norfolk, VA 23510. Government agency involved: Departments of Defense, Commerce, Health, Education and Welfare, Housing and Urban Development, Interior, and Transportation; General Services Administration, Internal Revenue Service, National Aeronautics and Space Administration, U.S. Army Corps of Engineers.

GT–471–80 (special certificate—government traffic), filed May 15, 1980. Applicant: OVERNITE TRANSPORTATION CO., Box 1216, Richmond, VA 23209. Representative: C. H. Swanson, Director of Traffic and Commerce (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–472–80 (special certificate—government traffic), filed May 6, 1980. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, CO 81002. Representative: Leslie R. Kehl, Attorney, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Government agency involved: Defense Fuel Supply Center.

GT–473–80 (special certificate—government traffic), filed May 6, 1980. Applicant: GBL TRANSPORT, INC., 300 Interstate North Parkway, Suite 327, Atlanta, GA 30339. Representative: Mark Ellison, Attorney, 300 Interstate North Parkway, Suite 329, Atlanta, GA 30339. Government agency involved: Department of Defense, General Services Administration, U.S. Coast Guard, and National Aeronautics and Space Administration.

GT–474–80 (special certificate—government traffic), filed May 7, 1980. Applicant: BEAVER TRANSPORT CO., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: Michael V. Kaney, Vice-President—Traffic (address same as applicant). Government agency involved: Departments of Defense, Agriculture, Transportation, Energy, and Interior; National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office and General Services Administration.

GT–475–80 (special certificate—government traffic), filed May 7, 1980. Applicant: BULK TRANSPORT COMPANY, 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: Michael V. Kaney, Vice-President—Traffic (address same as applicant). Government agency involved: Departments of Defense, Agriculture, Transportation, Energy, and Interior; National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–476–80 (special certificate—government traffic), filed May 7, 1980.

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Applicant: SUDDATH VAN LINES, INC., P.O. Box 6699, Jacksonville, FL 32205. Representative: Robert J. Gallagher, Esquire, 1000 Connecticut Ave., N.W., Washington, DC 20036. Government agency involved: Departments of Defense and U.S. Coast Guard.

GT–477–80 (special certificate—government traffic), filed May 7, 1980. Applicant: KANEY TRANSPORTATION INC., 7222 Cunningham Road, Rockford, IL 61105. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Government agency involved: Departments of Defense, Agriculture, Transportation, Energy, and Interior; and National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–478–80 (special certificate—government traffic), filed May 7, 1980. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, Esq., Baskin and Sears, 818 Connecticut Ave., N.W., Washington, DC 20006. Government agency involved: Department of Defense and General Services Administration.

GT–479–80 (special certificate—government traffic), filed May 7, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior; and National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office.

GT–480–80 (special certificate—government traffic), filed May 7, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1470 North Farnsworth Avenue, P.O. Box 1617, Aurora, IL 60507. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior; National Railroad Passenger Service Corp., Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office.

GT–481–80 (special certificate—government traffic), filed May 8, 1980. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 717 Seventeenth St., Suite 2600, Denver, CO 80202. Government agency involved: General Services Administration and Departments of Defense, Agriculture, Energy, and Interior.

GT–482–80 (special certificate—government traffic), filed May 8, 1980. Applicant: PERKINS MOTOR TRANSPORT, INC., 51 Lowry Ave. N., Minneapolis, MN 55411. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Government agency involved: Department of Defense and General Services Administration.

GT–483–80 (special certificate—government traffic), filed May 8, 1980. Applicant: C. H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, Utah 84041. Representative: Douglas W. Dredge, President (same address as applicant). Government agency involved: Military Traffic Management Command, Oakland Army Base.

GT–484–80 (special certificate—government traffic), filed May 8, 1980. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South 900 West, Salt Lake City, Utah 84104. Representative: Don L. Bryce, Traffic Mgr., 5565 E. 52nd Avenue, Commerce City, CO 80022. Government agency involved: Departments of Defense, General Services Administration, and U.S. Postal Service.

GT–485–80 (special certificate—government traffic), filed May 15, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (address same as applicant). Government agency involved: Departments of Defense, Interior, Education, and Agriculture; Commodity Credit Corporation, Federal Aviation Administration, General Services Administration, National Aeronautics and Space Administration, Tennessee Valley Authority, U.S. Postal Service, and Atomic Energy Commission.

GT–486–80 (special certificate—government traffic), filed May 15, 1980. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, Grefe & Sidney, 1980 Financial Center, Des Moines, IA 50309. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–487–80 (special certificate—government traffic), filed May 15, 1980. Applicant: TERRAIN TAMERS, INC., INTERSTATE TRANSPORT, P.O Box 1457, Roseburg, OR 97370. Representative: Thomas Y. Higashi, Attorney, 2075 S.W. First Avenue, Suite #2–N, Portland, OR 97201. Government agency involved: Department of Interior.

GT–488–80 (special certificate—government traffic), filed May 15, 1980. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Masillon Rd., Akron, OH 44313. Representative: Fred H. Daly, Esq., Hanna & Cullen, 2550 M St., N.W., Suite 475, Washington, D.C. 20037. Government agency involved: Department of Defense.

GT–489–80 (special certificate—government traffic), filed May 15, 1980. Applicant: THOMPSON VAN LINES, INC., 4066 South Four Mile Run Dr., Arlington, VA 22206. Representative: Robert L. Thompson, Esq., Steptoe & Johnson, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Government agency involved: Departments of Defense and Education; General Services Administration.

GT–490–80 (special certificate—government traffic), filed May 15, 1980. Applicant: MISSOURI PACIFIC TRUCK LINES, 210 N. 13th Street, St. Louis, MO 63103. Representative: Michael Thompson, attorney (address same as applicant). Government agency involved: Department of Defense and General Services Administration.

GT–491–80 (special certificate—government traffic), filed May 15, 1980. Applicant: MOHAWK VAN LINES, INC., 251–55 Jericho Turnpike, Bellerose, NY 11426. Representative: Mr. Dominic Nuzzi, President (address same as applicant). Government agency involved: Department of Defense, General Services Administration and U.S. Coast Guard.

GT–492–80 (special certificate—government traffic), filed May 15, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–493–80 (special certificate—government traffic), filed May 15, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown, P.O Box 1116, Wisconsin Rapids, WI 54494. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–494–80 (special certificate—government traffic), filed May 15, 1980. Applicant: M. P. I. CORPORATION, R.D. #6, Bridgeton, NJ 08302. Representative:

Michael R. Werner, Esq., P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Government agency involved: Departments of Defense, Agriculture, Energy, Interior and Health, Education and Welfare and U.S. Coast Guard, U.S. Corps of Engineers, General Services Administration, National Aeronautics and Space Administration, U.S. Government Printing Office, Veterans Administration, and Internal Revenue Service.

GT–495–80 (special certificate—government traffic), filed May 15, 1980. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 4500 East Liberty Ave., Vermillion, OH 44089. Representative: Boyd B. Ferris, Muldoon, Pemberton & Ferris, 50 West Broad St., Columbus, OH 43215. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy and Interior; Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, National Railroad Passenger Service Corporation, and U.S. Government Printing Office.

GT–496–80 (special certificate—government traffic), filed May 15, 1980. Applicant: K & B TRANSPORT, Inc., a Michigan corporation, 21533 Mound Rd., Warren, MI 48091. Representative: Alex J. Miller, Attorney, Fabrizio, Miller & Graham, P.C., P.O. Box 244, Bloomfield Hills, MI 48013. Government agency involved: General Services Administration, Department of Defense and U.S. Postal Department.

GT–497–80 (special certificate—government traffic), filed May 15, 1980. Applicant: BERT H. WASHINGTON, d.b.a. A–1 MERCHANTS TRUCKING CO., 13426 East Imperial Hwy. Santa Fe Springs, CA 90670. Representative: Brian S. Stern, Stern & Jones, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Government agency involved: Internal Revenue Service, Department of Defense, Environmental Protection Agency, General Services Administration.

GT–498–80 (special certificate—government traffic), filed May 15, 1980. Applicant: FRED PATTERSON TRUCKING, INC., 167–37 Porter Rd., Jamaica, NY 11434. Representative: Brian S. Stern, Stern & Jones, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Government agency involved: General Services Administration, Departments of Energy, Defense, Commerce, and Transportation.

GT–499–80 (special certificate—government traffic), filed May 15, 1980. Applicant: ALL-SEASONS ENTERPRISES, INC., 769 5th Ave., Brooklyn, NY 11232. Representative: Brian S. Stern, Stern & Jones, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Government agency involved: Department of Defense and General Services Administration.

GT–500–80 (special certificate—government traffic), filed May 16, 1980. Applicant: WALSH BROS., INC., 73 Brill St., Newark, NJ 07105. Representative: Robert B. Pepper, Forrest Park Bldg., 168 Woodbridge Ave., Highland Park, NJ 08904. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–501–80 (special certificate—government traffic), filed May 16, 1980. Applicant: ARTHUR R. ALTNOW, d.b.a. LODI TRUCK SERVICES, P.O. Box 111, 14900 North Cherokee Lane, Lodi, CA 95240. Representative: Raymond A. Greene, Jr., Handler, Baker, Greene & Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. Government agency involved: Department of Defense and General Services Administration.

GT–502–80 (special certificate—government traffic), filed May 16, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Chester G. Groebel, (address same as applicant). Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition.)

GT–503–80 (special certificate—government traffic), filed May 19, 1980. Applicant: ALLEN TRANSPORT CORP., P.O. Box 9702, Richmond, VA 23228. Representative: Richard J. Lee, Suite 1222, 700 Bldg., 700 East Main St., Richmond, VA 23219. Government agency involved: Agencies listed in the U.S. Government Manual (1979–80 edition).

GT–504–80 (special certificate—government traffic), filed May 19, 1980. Applicant: McALISTER TRUCKING CO. d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Government agency involved: Departments of Agriculture, Defense, Energy; General Services Administration, Tennessee Valley Authority, U.S. Government Printing Office and National Aeronautics and Space Administration.

GT–505–80 (special certificate—government traffic), filed May 19,1980. Applicant: TYSON TRUCK LINE, INC., 185 5th Ave. New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Government agency involved: Departments of Agriculture and Defense, and General Services Administration.

GT–506–80 (special certificate—government traffic), filed Maya 15, 1980. Applicant: R.G.C. CARGO CARRIERS, INC., P.O. Box 523, South Holland, IL 60473. Representative: Dean N. Wolfe, Gimmel & Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Government agency involved: Department of Defense.

GT–507–80 (special certificate—government traffic), filed May 22, 1980. Applicant: D–X TRUCKING, INC., 5660 Southwyck Blvd., Ste. P, Toledo, OH 43614. Representative: Michael M. Briley, Attorney, P.O. Box 2088, Toledo, OH 43603. Government agency involved: Departments of Defense, Agriculture, Housing and Urban Development, Health, Education and Welfare and General Services Administration.

GT–508–80 (special certificate—government traffic), filed May 22, 1980. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., V. President (address as applicant). Government agency involved: Defense Fuel Supply Center.

GT–509–80 (special certificate—government traffic), filed May 22, 1980. Applicant: VAN HANDEL TRANSIT, INC., Route 1, Kaumauna, WI 54130. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–510–80 (special certificate—government traffic), filed May 22, 1980. Applicant: ROLLO TRUCKING CORPORATION, INC., 295 Broadway, Keyport, NJ 07735. Representative: Morton E. Kiel, Attorney, Suite 1832, Two World Trade Center, New York, NY 10048. Government agency involved: Department of Defense.

GT–511–80 (special certificate—government traffic), filed May 22, 1980. Applicant: CORPENZA, INC., 310 Chestnut Ave., Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St., Washington, D.C. 20004. Government agency involved: Department of Defense and General Services Administration.

GT–512–80 (special certificate—government traffic), filed May 22, 1980. Applicant: RIMAR TRANSPORT, INC., 827 Ridgewood Ave., North Brunswick, NJ 08902. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. N.W., Washington, D.C. 20001. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation.

Applicant: ABC TRANSPORTATION

Energy, Interior; National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–513–80 (special certificate—government traffic), filed May 22, 1980. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Government agency involved: Departments of Agriculture, Defense, and Energy, General Services Administration, Tennessee Valley Authority, U.S. Government Printing Office, and National Aeronautics and Space Administration.

GT–514–80 (special certificate—government traffic), filed May 22, 1980. Applicant: SQUAW TRANSIT COMPANY, 6211 S. 49th West Ave., P.O. Box 9368, Tulsa, OK 74107. Representative: A. William Brackett, 1108 Continental Life Bldg., Fort Worth, TX 76102. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–515–80 (special certificate—government traffic), filed May 23, 1980. Applicant: J&P PROPERTIES, INC., P.O. Drawer 1146, Apopka, FL 32703. Representative: James Anton, 923 National Press Bldg., Washington, D.C. 20045. Government agency involved: Departments of Defense, Agriculture, Interior, State, Transportation, Commerce, Energy, and Treasury; General Services Administration, U.S. Postal Service, Commodity Credit Corporation, National Aeronautics and Space Administration, Atomic Energy Commission.

GT–516–80 (special certificate—government traffic), filed May 23, 1980. Applicant: UINTAH FREIGHTWAYS, 1030 S. Redwood Rd., Salt Lake City, UT 84104. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. Government agency involved: Departments of Agriculture, Defense, Commerce, Energy, Interior, Transportation, Treasury, General Services Administration, Bureau of Land Management, Bureau of Mines, Internal Revenue Service, U.S. Postal Service, Veterans Administration, Bureau of Reclamation.

GT–517–80 (special certificate—government traffic), filed May 23, 1980. Applicant: CHRISTIE RIGGING & TRUCKING CO., 182 Oakwood Dr., Glastonbury, CT 06033. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Government agency involved: Departments of Defense, Energy, Commerce, Agriculture, and Transportation, U.S. Postal Service, National Aeronautics and Space Administration and General Services Administration.

GT–518–80 (special certificate—government traffic), filed May 23, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (address same as applicant). Government agency involved: Departments of Defense, Energy, Agriculture, Commerce, Health, Education, and Welfare, Interior, and Treasury, General Services Administration, Tennessee Valley Authority, Nuclear Regulatory Commission, Federal Prison Industries, Veterans' Administration, U.S. Postal Service, U.S. Army Corps of Engineers, U.S. Coast Guard.

GT–519–80 (special certificate—government traffic), filed May 23, 1980. Applicant: MOTOR CARGO, 845 West Center, North Salt Lake, UT 84110. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. Government agency involved: Internal Revenue Service, Department of Defense, U.S. Postal Service, Government Printing Office, Forest Service, Department of Interior, Department of Transportation, Environmental Protection Agency.

GT–520–80 (special certificate—government traffic), filed May 23, 1980. Applicant: FLORIDA-EASTERN U.S. VAN LINES, INC., 215 Wood Street, Conshohocken PA 19428. Representative: Robert J. Gallagher, Esquire, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, DC 20036. Government agency involved: Department of Defense, Department of Transportation, General Services Administration.

GT–521–80 (special certificate—government traffic), filed May 23, 1980. Applicant: DeWITT TRANSFER & STORAGE CO., P.O. Box 82109, San Diego, CA 92138. Representative: Robert J. Gallagher, Esquire, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, D.C. 20036. Government agency involved: Department of Transportation, Department of Defense, General Services Administration.

GT–522–80 (special certificate—government traffic), filed May 23, 1980. Applicant: SWIFT ENTERPRISES, INC., 7901 4th Street, N., Suite 207, St. Petersburg, FL 33704. Representative: Robert J. Gallagher, Esquire, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, DC 20036. Government agency involved: Department of Defense, Department of Transportation, General Services Administration.

GT–523–80 (special certificate—government traffic), filed May 23, 1980. Applicant: SANTINI BROS., INC., 1405 Jerome Avenue, New York, NY 10452. Representative: Robert J. Gallagher, Esquire, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, DC 20036. Government agency involved: Department of Defense, Department of Transportation, General Services Administration.

GT–524–80 (special certificate—government traffic), filed May 23, 1980. Applicant: E. W. GRENON & SON, INC., 42 Tosca Drive, Stoughton, MA 02070. Representative: Robert J. Gallagher, Esquire, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, D.C. 20036. Government agency involved: Department of Transportation, Department of Defense, General Services Administration.

GT–525–80 (special certificate—government traffic), filed May 23, 1980. Applicant: PERISHABLE DELIVERIES, INC., 1520–1530 Beason Street, Baltimore, MD 21230. Representative: Charles E. Creager, Esquire, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Government agency involved: Department of Defense, Department of Agriculture, Department of Health, Education, and Welfare, General Services Administration.

GT–526–80 (special certificate—government traffic), filed May 23, 1980. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main Street, Ralston, NE 68127. Representative: Marvin Dudley (address same as applicant). Government agency involved: Department of Defense, General Services Administration.

GT–527–80 (special certificate—government traffic), filed May 23, 1980. Applicant: AMERICAN RED BALL TRANSIT, CO., INC., P.O. Box 1127, Indianapolis, IN 46206. Representative: A. E. Bates, Executive Vice President (address same as applicant). Government agency involved: Department of Defense, General Services Administration.

GT–528–80 (special certificate—government traffic), filed May 24, 1980. Applicant: ENGLUND EQUIPMENT CO., 740 Old Stage Road, Salinas, CA 93901. Representative: Michael S. Rubin, Esquire, Silver, Rosen, Fischer & Stecher, P.C., 256 Montgomery Street, Fifth Floor, San Francisco, CA 94104. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–529–80 (special certificate—government traffic), filed May 27, 1980.

Applicant: ABC TRANSPORTATION COMPANY, State Docks Road, Eufaula, AL 36027. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, U.S. Government Printing Office.

GT–530–80 (special certificate—government traffic), filed May 27, 1980. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–531–80 (special certificate—government traffic), filed May 27, 1980. Applicant: HARRINGTON TRUCKING, INC., P.O. Box 15771, 1769 Sitzmark Drive, Salt Lake City, UT 84115. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Government agency involved: Department of Defense.

GT–532–80 (special certificate—government traffic), filed May 27, 1980. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Government agency involved: Departments of Defense, Energy, Agriculture, Commerce, Interior, Treasury, Department of Health, Education, and Welfare, General Services Administration, Tennessee Valley Authority, Nuclear Regulatory Commission, Federal Prison Industries, U.S. Postal Service, Veterans Administration, U.S. Coast Guard.

GT–533–80 (special certificate—government traffic), filed May 27, 1980. Applicant: C. W. TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Representative: Thomas D. O'Connor, Vice President (address same as applicant). Government agency involved: Departments of Defense, Agriculture, Energy, Department of Health, Education, and Welfare, U.S. Coast Guard, General Services Administration, National Aeronautical and Space Administration, Veterans Administration, Internal Revenue Service, Government Printing Office.

GT–534–80 (special certificate—government traffic), filed May 27, 1980. Applicant: FRED SCHMIDGALL TRANSFER, INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall, Secretary (address same as applicant). Government agency involved: General Services Administration, Veterans Administration, Departments of Defense, Interior, and Agriculture; U.S. Postal Service, National Aeronautics and Space Administration, Federal Emergency Management Agency.

GT–535–80 (special certificate—government traffic), filed May 27, 1980. Applicant: MOORE VAN & STORAGE, INC., 2565 NE 33rd Street, P.O. Box 4089, Fort Worth, TX 76106. Representative: James W. Moore, President (address same as applicant). Government agency involved: Department of Defense and General Services Administration.

GT–536–80 (special certificate—government traffic), filed May 23, 1980. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Drive, Merrillville, IN 46410. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Government agency involved: General Services Administration, Departments of Defense, Agriculture, Transportation, Energy, and Interior; and National Railroad Passengers Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–537–80 (special certificate—government traffic), filed May 23, 1980. Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 16190, 4101 Fulton, Houston, TX 77022. Representative: Jesse H. Rose, Chief Executive Officer (address same as applicant). Government agency involved: Agencies listed in the U.S. Government Manual (1979–80 edition).

GT–538–80 (special certificate—government traffic), filed May 27, 1980. Applicant: WIEST TRUCKLINE, INC., 1305 6th Ave., SW., Jamestown, ND 58401. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55402. Government agency involved: Departments of Defense, Agriculture, Education, Treasury, Housing and Urban Development, Energy, Transportation, Labor, and Interior; General Services Administration, Commodity Credit Corporation, Federal Aviation Authority, National Aeronautics and Space Administration, Tennessee Valley Authority, United States Weather Bureau, Atomic Energy Commission, Bureau of Indian Affairs, U.S. Post Office Department, U.S. Coast Guard, Government Printing Office, Veterans Administration, Internal Revenue Service, Bureau of Mines, National Institute of Health, Nuclear Regulatory Commission, National Railroad Passenger Service Corporation, U.S. Forest Service.

GT–539–80 (special certificate—government traffic), filed May 27, 1980. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–540–80 (special certificate—government traffic), filed May 27, 1980. Applicant: BULLDOG HIWAY EXPRESS, P.O. Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Government agency involved: Department of Defense.

GT–541–80 (special certificate—government traffic), filed May 27, 1980. Applicant: MACON TRADING POST, INC., d.b.a. TRADING POST, P.O. Box 4032, Macon, GA 31208. Representative: Richard B. Hicks, Jr. (address same as applicant). Government agency involved: Department of Defense, U.S. Coast Guard and General Services Administration.

GT–542–80 (Special certificate—government traffic), filed May 22, 1980. Applicant: BARRETT MOVING & STORAGE, INC., 7100 Washington Ave. North, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Government agency involved: General Service Administration, and Department of Defense.

GT–543–80 (Special certificate—government traffic), filed May 27, 1980. Applicant: EARL'S MOVING & STORAGE CO., INC., 2062 Generals Hwy, P.O. Box 789, Annapolis, MD 21404. Representative: James J. Fratino (address same as applicant). Government agency involved: Department of Defense, and General Services Administration.

GT–544–80 (Special certificate—government traffic), filed May 23, 1980. Applicant: WALSH MESSENGER SERVICE, INC., 4 Third St., Garden City Park, NY 11040. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Government agency involved: U.S. Postal Service, Internal Revenue Service, Department of Defense, General Service Administration, and Government Printing Office.

GT–545–80 (Special certificate—government traffic), filed May 21, 1980.

Applicant: OLIVER BROWN

listed in U.S. Government Manual (1979–

Permanent Authority Decisions;

Agency for International Development,

pending a final determination by the

industry has utilized the period of

Applicant: OLIVER BROWN TRUCKING CO., INC., 700 So Ave., Middlesex, NJ 08846. Representative: M. Harrison Boyd, Harrison Boyd & Associates, 2550 M St. NW., Suite 300, Washington, DC 20037. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–546–80 (Special certificate—government traffic), filed May 21, 1980. Applicant: J. B. DAVIS TRANSFER & STORAGE, P.O. Box 1236, Plano, TX 75074. Representative: M. Harrison Boyd, Harrison Boyd & Associates, 2550 M St., NW., Sutie 300, Washington, DC 20037. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–547–80 (Special certificate—government traffic), filed May 21, 1980. Applicant: FLAGG BROTHERS MOVING & STORAGE, INC., 49 Mount Vernon Ave., Mount Vernon, NY 10550. Representative: M. Harrison Boyd, Harrison Boyd & Associates, 2550 M St. NW., Suite 300, Washington, DC 20037. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–548–80 (Special certificate—government traffic), filed May 21, 1980. Applicant: GROGAN BROS. MOVING & STORAGE, 1200 Hill Ave., Wilkinsburg, PA 15221. Representative: M. Harrison Boyd, Harrison Boyd Associates, 2550 M St. NW., Suite 300, Washington, DC 20037. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–549–80 (Special certificate—government traffic), filed May 21, 1980. Applicant: MULLEN'S TRANSFER & STORAGE, 1123 7th St. NW., Washington, D.C. 20001. Representative: M. Harrison Boyd, Harrison Boyd & Associates, 2550 M St. NW., Suite 300, Washington, DC 20037. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–550–80 (Special certificate—government traffic), filed May 21, 1980. Applicant: MARVIN C. RUTHERFORD, d.b.a. RUTHERFORD MOVERS, 10819 Superior Ave., Cleveland, OH 44106. Representative: M. Harrison Boyd, Harrison Boyd Associates, 2550 M St. NW., Suite 300, Washington, DC 20037. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–551–80 (Special certificate—government traffic), filed May 21, 1980. Applicant: V & P CARRIERS, INC., 669 Berriman St., Brooklyn, NY 11208. Representative: M. Harrison Boyd, Harrison Boyd Associates, 2550 M St. NW., Suite 300, Washington, DC 20037. Government agency involved: Agencies listed in U.S. Government Manual (1979–80 edition).

GT–552–80 (Special certificate—government traffic), filed May 27, 1980. Applicant: HILLDRUP TRANSFER & STORAGE CO., INC., P.O. Box 745, Fredericksburg, VA 22401. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. Government agency involved: Agencies listed in U.S. Government Manual.

GT–553–80 (Special certificate—government traffic), filed May 27, 1980. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Government agency involved: Department of Agriculture.

GT–554–80 (Special certificate—government traffic), filed May 29, 1980. Applicant: BILL JACKSON RIG CO., INC., 1813 S.E. 25th St., Oklahoma City, OK 73143. Representative: Paul Ross Jackson, Asst. Vice President (address same as applicant). Government agency involved: Departments of Defense and Energy.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–16894 Filed 6–3–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In the issue of Friday, May 9, 1980, in FR Doc. 80–14162 appearing at page 30723, make the following correction:

On page 30731, in the second column, in the fourth full paragraph, line one, "MC 40289 (Sub-355F)" should be changed to read "MC 40829 (Sub-355 F)".

BILLING CODE 1505–01–M

Permanent Authority Decision; Decision-Notice

Correction

In the issue of Tuesday, May 13, 1980, in FR Doc. 80–14517, appearing at page 31508, please make the following corrections:

1. On page 31514 in the third column, in the first full paragraph, line 17, the facility location "Oakland, CA" should read "Oakland, IA", and in line 20, the destination point "VE" should be "VT".

BILLING CODE 1505–01–M

Permanent Authority Decisions; Decision—Notice

Correction

In FR Doc. 80–9285 appearing at page 20175 in the issue for Thursday, March 27, 1980, on page 20227, in the second column, in the fourth full paragraph, the first line reads "MC 9368 (Sub-110F)" should be corrected to read "MC 49368 Sub-110F".

BILLING CODE 1505–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Public Law 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on June 24 and 25, 1980 (from 9:00 a.m. to 5:00 p.m.), at 1740 Massachusetts Avenue, N.W., Washington, D.C. (The School of Advanced International Studies of Johns Hopkins University).

The agenda will deal primarily with post-grant award aspects of the A.I.D. relationship with private and voluntary organizations. The meeting will seek to identify, examine, and attempt to resolve specific problems encountered by voluntary agencies in working with A.I.D. Special attention will be given to program implementation, monitoring, reporting, evaluation, and audit of A.I.D. financial grants. In addition, there will be a response by A.I.D. officials to the recommendations that resulted from the March meeting of the Advisory Committee. A presentation describing some proposed changes in the scope and process of registration of voluntary agencies will also be made.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202–632–0108, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Calvin H. Raullerson,

Assistant Administrator, Bureau for Private and Development Cooperation.

May 28, 1980.

[FR Doc. 80–16889 Filed 6–3–80; 8:45 am]

BILLING CODE 4710–02–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–71]

Certain Anaerobic Impregnating Compositions and Components Therefor; Commission Determination and Order

The United States International Trade Commission conducted an investigation under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) ("section 337") of unfair methods of competition and unfair acts in the unauthorized importation into the United States of certain components for anaerobic impregnating compositions allegedly covered by claims 1, 4, and 12 of U.S. Letters Patents 4,069,378, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. On May 15, 1980, the Commission determined that there is no violation of section 337 with respect to investigation No. 337–TA–71. This determination and order provides for the final disposition of the subject investigation by the Commission.

Determination

Having reviewed the record in this matter including (1) the submissions filed by the parties, (2) the transcripts of hearings held by the administrative law judge, (3) the recommended determination of the administrative law judge, and (4) complainant's exceptions to the recommended determination and appeals from interlocutory orders of the administrative law judge, the Commission, on May 15, 1980, determined that, with respect to investigation No. 337–TA–71, there is no violation of section 337 of the Tariff Act of 1930, as amended.

Order

Accordingly, it is hereby ordered—

1. That complainant's motion to amend the complaint to add allegations of infringement of U.S. Letters Patent 4,165,400 (Motion Docket No. 71–30) is denied as moot;

2. That complainant's motion to suspend investigation No. 337–TA–71 pending a final determination by the U.S. Patent and Trademark Office on a reissue application filed by complainant relating to U.S. Letters Patent 4,079,378 (Motion docket No. 71–33) is denied as moot;

3. That investigation No. 337–TA–71 is terminated as to all issues and all parties based on the Commission's determination that there is no violation of section 337 of the Tariff Act of 1930, as amended, because claims 1, 4, and 12 of U.S. Letters Patent 4,069,378 are invalid; and

4. That this determination and order be published in the **Federal Register** and that the determination and order, along with the Commission opinion in support thereof, be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, and the Federal Trade Commission.

By order of the Commission.

Issued: May 27, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–16862 Filed 6–3–80; 8:45 am]

BILLING CODE 7020–02–M

[Inv. No. TA–203–6]

Color Television Receivers and Subassemblies Thereof; Report to the President

May 16, 1980.

To the President: In accordance with section 203(i) of the Trade Act of 1974 (19 U.S.C. 2253(i)), the United States International Trade Commission herein reports the results of an investigation conducted under section 203(i)(3) of that act with respect to color television receivers and subassemblies thereof.

On the basis of the information obtained in this investigation, it is the unanimous judgment of the Commission* that termination of import relief presently in effect with respect to color television receivers, with the exception of quantitative restrictions on complete and incomplete receivers from Japan, will have an adverse economic effect on the domestic industry producing like or directly competitive products.

This judgment is based on various factors, including an assessment of the present health of the industry and the degree to which it has completed the process of adjustment to import competition. While it is clear that the industry has utilized the period of import relief to rationalize and modernize its manufacturing operations on an international scale, it is also likely that the success of these programs would be jeopardized if all relief were terminated. However, during the period of relief, Japan has dramatically altered its presence in the U.S. market by investing in domestic facilities for producing complete sets from subassemblies. Most Japanese producers are now part of the U.S. domestic industry. Thus, imports of Japanese sets no longer pose a serious concern to the domestic industry. In addition, major Taiwan-based exporters have commenced investing in production facilities for the assembly of television receivers in the United States. It may be that their quotes should be reviewed sooner if the process continues to the point that, like Japan, it is no longer a serious problem for the domestic-based industry.

The investigation was instituted on December 31, 1979, following receipt on December 17, 1979, of a petition for extension of relief filed on behalf of the industry concerned.

Public notice of the investigation and hearing were given by publishing the original notice in the **Federal Register** of January 9, 1980 (45 FR 1950). A public hearing in connection with the investigation was held on March 5 and 6, 1980, in Washington, D.C. All interested persons were afforded an opportunity to be present, to present evidence, and to be heard.

The information contained in this report was obtained from responses to the Commission's questionnaires, information presented at the public hearing, briefs submitted by interested parties, other Federal agencies, and the Commission's files.

Views of Vice Chairman Bill Alberger and Commissioners George M. Moore, Paula Stern, and Michael J. Calhoun

On the basis of the information obtained in this investigation, it is our judgment that termination of the import relief presently in effect with respect to color television receivers from Taiwan and Korea will have an adverse impact on the domestic industry producing such articles. However, it is our judgment that termination of the import relief presently in effect with respect to color television receivers from Japan will have little, if any, adverse impact on the domestic industry.[1]

*The Commission's judgment in this investigation reflects the views of Vice Chairman Alberger and Commissioners Moore, Stern, and Calhoun. Chairman Bedell did not participate.

[1] Presidential Proclamation No. 4634 (44 F.R. 5633 (1979)) set forth the import relief for those color television receivers, assembled or not assembled, finished or not finished and subassemblies thereof.

Footnotes continued on next page

The purpose of this investigation—and of these views—is to provide advice upon which the President can base his decision regarding the future of the import relief program. Although the Commission is limited to an advisory role,[2] [3] the Commission's investigation provides the only public opportunity for the interested parties to present their respective cases. In formulating its advice, the Commission must consider whether the industry is either still experiencing serious injury or has adjusted to import competition or both.[4] [5]

Transformation of the U.S. Industry

Today, the U.S. color television industry is substantially transformed from its position reviewed during the section 201 proceeding three years ago.[6] [7] Two developments have been primarily responsible for this transformation. First, a fundamental relocation of certain production operations is resulting in a new international division of labor. U.S. producers have transferred an increasingly large portion of their production of labor-intensive components to other countries in an effort to cut labor costs, and four major Japanese producers of color television receivers began assembly operations in the United States during the period of import relief, joining three already in place.[8] Second, the adoption of technological improvements is reducing total labor content of television receivers.

The international process of relocation began well before import relief went into effect in June 1977. The fact that Japanese firms began, before the onset of the orderly marketing agreements (OMA's), to relocate final assembly plants in the United States indicates that this transformation is, at least in part, a rationalization of production to minimize total costs and maximize efficiency. In their decisions on location of production facilities, both domestic and foreign firms in this market must trade off the increased transport costs of an overseas location against the lower wage rate prevailing in other countries. By discouraging imports of receivers while allowing entry for subassemblies, the import relief accorded by the OMA's has nurtured this process of change. The U.S. producers, both U.S.-owned and Japanese-owned, have thus ensured their long term viability. The workers, however, have clearly borne much of the burdens of the adjustment of the industry to changed conditions of competition. Aggregate employment in the domestic industry is now lower than at any time in the last decade.[9] As the analysis below notes, however, there are good indications that Korea, and possibly Taiwan, would not find it advantageous in the absence of OMA's to take part in this relocation of facilities, due in part to their significantly lower labor costs as compared to Japan.

Since the implementation of import relief, U.S. producers, both domestically owned and foreign owned, have made substantial investments in product development designed to reduce labor and other costs. Several producers have lowered costs by reducing the number of parts in the manufacture of certain components and have automated certain assembly procedures.[10] Capital expenditures have increased markedly, 62 percent during 1976–79.[11] This is clear evidence of their attempt to adapt to this changing international environment while under the protection of the OMA's.

Another indicator of the industry's adaptation is increased U.S. imports of incomplete color television receivers and subassemblies under TSUS item 807.00, which provides for the duty-free treatment of U.S. goods which have been exported to another country for further assembly or processing and are then returned to the United States. Such imports increased from $331 million in 1976 to $579 million in 1979, or by 75 percent.[12]

Despite these efforts, the U.S. color television industry, as newly reorganized, has not sufficiently established itself to the extent that it would not be adversely affected by unlimited competition from imports from

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Footnotes continued from last page

from Taiwan and Korea, provided for in TSUS items 685.11, 685.14, and 685.15 and embodied in items 923.74 through 923.83, inclusive. Presidential Proclamation No. 4511 (42 F.R. 32747 (1977)) set forth the import relief for such color television receivers from Japan, provided for in TSUS items 685.11, 685.14, and 685.15. The import relief presently in effect with respect to all three countries is scheduled to terminate June 30, 1980, unless extended by the President pursuant to section 203(h)(3) of the Trade Act of 1974 (Trade Act).

[2] The Commission's authority to conduct this investigation is based on receipt of a petition filed pursuant to section 203(i)(3) of the Trade Act, which provides: "Upon petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 is to terminate by reason of the expiration of the initial period therefor, the Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination."

Unlike investigations under section 203(i)(2), which are identical in nature to those conducted under section 203(i)(3) except that they are initiated in response to a request from the President or on the Commission's own motion, the statutory provisions for section 203(i)(3) investigations do not direct the Commission to advise the President as to the probable economic effect of the *extension, reduction,* or *termination* of import relief. Rather, the language of section 203(i)(3) limits the Commission's advice to the probable economic effect of the *termination* of import relief.

The determination to be made by the President and the criteria he is required to consider are set forth in section 203(i)(3), as amended by the Trade Agreements Act, which provides: "Any import relief provided pursuant to this section or section 351 and 352 of the Trade Expansion Act of 1962 may be extended by the President, at a level of relief no greater than the level in effect immediately before such extension, for up to one three-year period if the President determines, after taking into account the advice received from the Commission under subsection (i)(2) or (i)(3) and after taking into account the considerations described in section 202(c), that such extension is in the national interest."

For a complete discussion of the statutory framework of section 203 prior to the Trade Agreement Act of 1979, *See* Views of Commissioners Alberger and Stern, *Stainless Steel and Alloy Tool Steel*, Inv. No. TA-203-5 (1979), at pp. 4–6.

[3] Commissioner Stern points out that the Commission did not institute this investigation on its own motion under section 203(i)(2). Therefore, the Commission has framed its advice to address the question of termination. She points out that the data and analysis regarding these orderly marketing agreements (OMA's) can also be used to draw conclusions regarding their future modification.

[4] *Stainless Steel and Alloy Tool Steel*, Inv. No. TA-203-5 (1979) at p. 8.

[5] Under section 203(i)(4), the Commission must take into account the considerations set forth in section 202(c). These factors guided the President in his initial decision to grant relief, and they must be carefully analyzed in determining whether termination of relief is appropriate at this time. We concur with the analysis of these criteria which appears at pages A-43 through A-48 of *Color Television Receivers and Subassemblies Thereof: Report to the President on Investigation No. TA-203-6 * * *, 1980* (hereinafter referred to as Report).

[6] The Commission completed an investigation on the subject articles under section 201 of the Trade Act in March 1977 (investigation No. TA-201-19).

[7] One of the factors affecting this market during the period 1976–79 has been an outstanding antidumping finding against color television receivers from Japan. The U.S. Department of the Treasury determined on December 4, 1970, that Japanese television receivers were being sold in the United States at less than fair value. The Commission made its injury determination on March 4, 1971. From 1971–1977, Treasury was unsuccessful in its attempts to assess dumping charges on receivers imported during that period because it did not have the information required to compare prices of all Japanese home-market sets with all those exported to the United States. In March 1978, duties were assessed on all television imports from Japan during 1971–1977 and procedures were established so that future imports could be assessed more rapidly. On April 28, 1980, the U.S. Government announced an out-of-court settlement with the importers of these sets amounting to approximately $70 million. This settlement was enjoined on May 9, 1980, by the U.S. Court of Appeals for the D.C. Circuit as part of an appeal by the domestic industry.

[8] Report, at A-16–19.

[9] Report, at A-27 and D-13–15.

[10] Id., at A-15.

[11] Id., at A-32.

[12] Id., at D-2.

Taiwan and Korea. While most industry trends have been positive since the import relief under the OMA's took effect, steadily declining profitability indicates that the industry remains unhealthy.[13] Under present circumstances, a large influx of imports of color television receivers would jeopardize the adjustment efforts made to date. The continued success of many of these ongoing efforts is dependent on additional capital that may not be available if import relief is terminated at this time. Therefore, it is fair to conclude that the industry remains vulnerable to certain imports. We believe that import trends and other information developed during this investigation demonstrate a likelihood of increased imports from Taiwan and Korea, but not from Japan, if the OMA's were terminated.

Condition of the Industry

In assessing the current condition of the domestic color television industry, it is helpful to examine industry conditions prior to the Commission's finding of serious injury in 1977. U.S. production, domestic shipments, and exports increased from 1971 to 1973, but then dropped sharply during the recession of 1974–75. In 1976, production, shipments, and exports began to increase.[14] Capacity utilization followed a similar trend, increasing from 62 percent in 1971 to 82 percent in 1973,[15] and then declining to 60 percent in 1976.[16] The number of production and related workers declined steadily from 36,191 in 1971 to 26,957 in 1976.[17] Profits declined steadily, except for a sharp dip in 1975, from 8.7 percent in 1971 to 3.7 percent in 1976.[18] Profits continued to decline through 1979.

Since 1976, the U.S. color television industry has shown signs of recovery. U.S. production of color television receivers increased from 5.9 million sets in 1976 to a record 9.0 million sets in 1979, a 53 percent increase.[19] Domestic shipments increased from 5.7 million sets in 1976 to 8.7 million sets, also a record level, in 1979.[20] Exports during this period also increased to a record level—from 160,000 sets to 451,000 sets.[21] Capacity utilization increased from 60 percent in 1976 to 80 percent in 1979.[22] And end-of-period inventories of domestically-produced color television receivers declined from 532,000 sets in 1976 to 510,000 sets in 1979.[23] Assisting the industry to reach record levels was an 18 percent growth in apparent U.S. consumption during 1976–1979.[24]

Despite increasing net sales, U.S. producers' aggregate net operating profit declined steadily from $96.3 million in 1976 to $36.7 million in 1979, or by 60 percent. The ratio of net operating profit to net sales also declined without interruption during 1976–1979 from 3.7 percent to 1.1 percent.[25] This steady deterioration in the overall industry's profitability is not the result of particularly poor performance by a minority of firms, but is in fact representative of almost every producer.

Firms which entered into U.S. color television production for the first time during 1976–1979 experienced, on average, lower profitability than did the remainder of the industry because of their start-up costs. Even the more established firms witnessed steadily declining profits and profit margins far below the average recorded by all electricial and elctronic equipment manufacturers during 1976–1979.[26] It would be difficult to characterize an industry with such generally low profit levels as fully recovered.

During this period of low profits, new firms have entered the industry and established firms have exited. There are now fourteen producers in a highly price competitive industry. The Admiral Group and Andrea Radio Corporation ceased production of color television receivers in the United States during 1976–1979. GTE Sylvania purchased the "Philco" trademark in 1974, Matsushita Ltd. of Japan purchased the television production facilities of Motorola, Inc., and in 1976, Sanyo Electronics, Inc., of Japan purchased the television production facilities of Warwick Electronics, Inc.[27] This consolidation process indicates a worldwide adjustment to competitive conditions in this industry.[28]

Data on employment show a continuing decline in the number of production and related workers employed in the manufacture of color television receivers. The number of such workers declined by 17 percent from 29,957 in 1976 to 22,470 in 1979, while the number of manhours worked declined by a slightly lower percentage.[29] This decline in employment was stressed by the petitioner [30] and it is, of course, an important factor in evaluating the status of the industry. Employment is one of several factors to be considered in import relief cases.[31]

The decline in employment alone is not necessarily indicative of continuing injury to the U.S. color television industry as a whole. Much of the decline is attributable to increased usage by U.S. producers—both foreign and U.S. owned—of imported labor-intensive components, virtually all of which are manufactured by foreign subsidiaries.[32] For example, in foreign-owned U.S. facilities, 55 percent of the total value is added in the United States.[33] This development appears to be necessary if the U.S. industry is to remain competitive with foreign manufacturers in the long run.

The declining level of employment to a great extent demonstrates the adjustment of this industry to international conditions of competition, precisely the purpose of the 201 import relief accorded it in 1977. Congress intends such relief to be temporary, providing time for the industry to adjust to the import competition which it must face eventually. During its consideration of the Trade Act, the Senate Finance Committee noted:

> The "escape clause" is aimed at providing temporary relief for an industry suffering from serious injury, or the threat thereof, so that the industry will have sufficient time to adjust to the freer international competition. (S. Rept. at p. 119).

The House Ways and Means Committee provided similar guidance:

> These changes are consistent with the fundamental purpose of import relief under this title, namely to give additional time to permit a seriously injured domestic industry to adjust and to become competitive again under relief measures and, at the same time, to create incentives for the industry to adjust, if possible, to competitive conditions in the absence of long-term import restrictions (H. Rept. at p. 44).

In light of the temporary aspect of relief, the Commission's advice to the President must be made with a view toward the steps U.S. producers should be taking to achieve long-term competitiveness with imports

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[13] Id., at A-30–32.

[14] Id., at A-20, 22, and 25.

[15] Commission's Report to the President on Investigation No. TA-201-19, *Television Receivers, Color and Monochrome . . .*, USITC Publication 808, March 1977, p. A-32.

[16] Report, at A-25–26.

[17] Id., at A-27.

[18] Id., at D-18.

[19] Id., at A-20.

[20] Id., at A-22.

[21] Id., at A-25.

[22] Id., at A-26.

[23] Id., at A-26.

[24] Id., at D-6.

[25] Id., at D-18.

[26] Id., at D-19–22 and A-32.

[27] Id., at A-18–19.

[28] This trend seems to be international in scope, as American, European, and Japanese companies have been moving labor-intensive subassembly production to low-wage countries, smaller firms have been exiting or merging and larger firms have been internationalizing their entire production operations.

[29] Report, at A-27–28.

[30] See, for example, March 17 posthearing brief of petitioner.

[31] Supra n. 3 at 8–9.

[32] Report, at A-13.

[33] Id., at D-17.

Japan and the U.S. Industry

Termination of the quota on imports of

and Taiwan, would increase sharply

interested parties are invited concerning

TENTATIVE AGENDA: Invited exhi-

Japan and the U.S. Industry

We have concluded that there would be no adverse economic impact from termination of the OMA with Japan. While U.S. imports of complete receivers from Japan filled the quota in the first OMA year (July 1977–June 1978), such imports filled no more than 60 percent of the quota during the second OMA year (July 1978–June 1979) or the first half (July–December 1979) of the third OMA year.[34] In fact, U.S imports of complete receivers from Japan declined sharply from $462 million in 1976 to $129 million in 1979, or by 72 percent.[35] This decline has continued through the first quarter of 1980. One reason for the sharp drop was the initiation of color television production in the United States by five Japanese-owned firms during the period 1976–1979. Japanese producers, like U.S. based producers have relocated a substantial portion of their production in third countries, and this has reduced the need to export receivers to the United States.

In light of these recenft trends in Japanese exports to the United States and the commitment of Japanese producers to a relocation of their manufacturing facilities in the United States, it is unlikely that there would be substantial increases of imports absent the OMA with Japan. Furthermore, it appears that a substantial portion of Japanese capacity formerly devoted to color television receiver production is now being utilized in the manufacture of video tape recorders and other new products more profitable than televisions.[36]

U.S. imports of incomplete receivers from Japan, while coming close to quota levels throughout the OMA period, have been small in relation to imports of complete receivers from Japan.[37] Termination of the quota on imports of incomplete receivers from Japan would not have a serious adverse effect on the domestic industry.[38] Further, one of the primary reasons the quota was originally imposed on incomplete receivers was to avoid possible circumvention of the quota on complete receivers. Clearly, the termination of the OMA with Japan on complete receivers would make this protective measure unnecessary.

Taiwan, Korea, and the U.S. Industry

We have concluded that there would be an adverse economic impact from termination of the OMA with Taiwan and with Korea. Unlike the recent trend in U.S. imports of complete receivers from Japan, such imports from Taiwan and Korea have remained close to quota levels.[39] It is likely that termination of these restraints would lead to rapidly increasing levels of imports from these countries. Prior to restraints, imports from Taiwan and Korea were increasing rapidly. Both countries possess substantial excess color television capacity.[40] Korea, in fact, has no domestic market for color televisions. And the United States has traditionally been the largest and most open market for color televisions. Two producers from Taiwan have invested in production facilities for assembly in the United States (no producer from Korea had made such a step). Therefore, it may be advisable to review Taiwan's quotas if the process continues to the point that, like Japan, it is no longer a serious problem for the domestic-based industry.[41]

Conclusion

The domestic industry has not yet had sufficient time to adjust to import competition. Profits are very low, total imports have only declined for one year, and additional improvements in production are planned and will be implemented if relief continues. Termination of all restraints now in effect would adversely effect the domestic industry. Imports from Korea and Taiwan, would increase sharply and would retard the recovery process. Japanese producers having become part of the domestic industry are unlikely to resume massive imports.

By order of the Commission:

Issued: May 20, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-16961 Filed 6-3-80; 8:45 am]

BILLING CODE 7020-02-M

[34] Id., at A-6.

[35] Id., at D-3.

[36] According to a statement filed on behalf of the Electronic Industries Association of Japan in connection with the Commission's public hearing in this investigation, Japanese productive of video tape recorders equalled 47 percent of the value of color television production in 1979, compared to 8 percent in 1976.

[37] Report, at A-6.

[38] Commissioner Stern further points out that there is demand by Japanese producers on American soil for Japanese subassembly imports to be used in the final production of receivers. These foregin-owned domestic producers would be adversely affected if the quota prevented them from meeting demand for parts. Thesr procedures would probably procure such labor intensive subassemblies from off-shore suppliers, not U.S. suppliers, for the same reason of price that domestically-owned producers do. Moreover, since many imorted subassemblies not subject to the OMA require little additional labor to become "incompletes," it is unlikely that a shift in imports from subassemblies to incomplete receivers would have a significant effect on the domestic demand for labor.

[39] Report, at A-6.

[40] Id., at A-41–42.

[41] Commissioner Stern points out that if the OMA's with Taiwan and Korea are to be extended with respect to complete receivers, it is algo advisable to extend the quota on incomplete receivers to avoid quota circumvention. In the case of Korea, there is an additional argument for not releasing incomplete recievers from quota limitations. Available information indicates that the Korean industry possesses considerable excess picture tube capacity. Absent quota limitations, this would be an additional incentive for Korean producers to export large volumes of incomplete receivers containing picture tubes.

[332-109]

Study of the Petrochemical Industries in the Countries of the Northern Portion of the Western Hemisphere

AGENCY: United States International Trade Commission.

ACTION: Notice is hereby given that the United States International Trade Commission, following receipt on May 6, 1980, of a request from the United States Trade Representative at the direction of the President, has instituted an investigation under Section 332(g) of the Tariff Act of 1930 [19 U.S.C. 1332(g)] with respect to the petrochemical industries of the countries of the northern portion of the Western Hemisphere.

EFFECTIVE DATE: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Gersic or Dr. A. Jonnard, Energy and Chemicals Division, Office of Industries, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436 [(202) 523–0451 or (202) 523–0423, respectively].

SUPPLEMENTARY INFORMATION: Section 1104 of the Trade Agreements Act of 1979 (PL 96–39) directs the President to study the desirability of entering into trade agreements with countries in the northern portion of the Western Hemisphere to promote the economic growth of the United States and such countries and the mutual expansion of market opportunities and to report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate his findings and conclusions. The President's study will include, inter alia, an examination of the competitive opportunities and conditions of competition between such countries and the United States in petrochemicals. The Commission investigation will provide the information and facts for the President's deliberations on petrochemicals.

WRITTEN SUBMISSIONS: Since there will be no public hearing scheduled for this study, written submissions from interested parties are invited concerning any phase of the study. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than October 24, 1980. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

COMPLETION DATE: The Commission's plans to complete its study and report its findings to the United States Trade Representative not later than December 30, 1980.

Issued: May 27, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-16963 Filed 6-3-80; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL ALCOHOL FUELS COMMISSION

Hearing

AGENCY: National Alcohol Fuels Commission.

DATE: June 19, 1980.

TIME: 9:30 a.m. to 5:00 p.m.

PLACE: Room 2318, Rayburn House Office Building, Washington, D.C.

TYPE OF MEETING: Open Hearing.

CONTACT PERSON: Erick Kanter or Doug Durante, Office of Public Affairs.

WRITTEN STATEMENTS: Ste. 100, 412 1st Street, SE, Washington, D.C. (Accepted through June 19, 1980.)

PURPOSE OF COMMISSION: The National Alcohol Fuels Commission, composed of 19 members—6 from the Senate, 6 from the House of Representatives and 7 public members appointed by the President was established under Section 170 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass and coal to contribute to meeting the nation's energy needs. Its report is due by December 31, 1980 and is to be presented to the Congress and the President.

TENTATIVE AGENDA: Invited witnesses will present testimony to the Commission on issues affecting the near term production of alcohol fuels in the U.S.

Dated: May 30, 1980.

James M. Childress,

Executive Director.

[FR Doc. 80-17017 Filed 6-3-80; 8:45 am]

BILLING CODE 6820-AN-M

Open Meeting

AGENCY: National Alcohol Fuels Commission.

DATE: June 18, 1980.

TIME: 9:30 a.m. to 5:00 p.m.

PLACE: Room 1202, Dirksen Senate Office Building, Washington, D.C.

TYPE OF MEETING: Open hearing.

CONTACT PERSON: Erick Kanter or Doug Durante, Office of Public Affairs.

WRITTEN STATEMENTS: Ste. 100, 412 1st Street, SE, Washington, D.C. 20003. (Accepted through June 18, 1980.)

PURPOSE OF COMMISSION: The National Alcohol Fuels Commission, composed of 19 members—6 from the Senate, 6 from the House of Representatives and 7 public members appointed by the President was established under Section 170 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass and coal to contribute to meeting the nation's energy needs. Its report is due by December 31, 1980 and is to be presented to the Congress and the President.

TENTATIVE AGENDA: Invited witnesses will present testimony on issues affecting the near term production of alcohol fuels in the U.S.

Dated: May 30, 1980.

James M. Childress,

Executive Director.

[FR Doc. 80-17018 Filed 6-3-80; 8:45 am]

BILLING CODE 6820-AN-M

OFFICE OF MANAGEMENT AND BUDGET

Mandatory Information Requirements for Federal Assistance Program Announcements

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Information Requirements for Program Announcements.

SUMMARY: This notice contains information relating to the requirements for Federal assistance program announcements pursuant to Pub. L. 95–220, The Federal Program Information Act.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Brown, Branch Chief Federal Program Information Branch, Office of Management and Budget, 726 Jackson Place, NW., Room 6001, Washington, DC 20503, (202) 395–6182 concerning the Catalog of Federal Domestic Assistance (CFDA) and Tom Snyder, Senior Management Analyst, Intergovernmental Affairs, Federal Assistance Information Branch, (202) 395–6911 for OMB Circular No. A–95 coordination.

SUPPLEMENTARY INFORMATION: To enable the Director of the Office of Management and Budget (OMB) to carry out the responsibilities mandated by the Federal Program Information Act and to assist A–95 clearinghouses in the review process, notice is hereby given that all Federal assistance program announcements are required to contain the following information:

(1) The official program number and title as outlined by OMB Circular No. A–89.

(2) A statement as to the applicability of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and projects.

Federal assistance program announcements include, but are not limited to, entries published as Final Regulations and Amendments under the Rules and Regulations section and as notices of any kind pertaining to ongoing programs under the Notices section.

Federal program offices are advised to coordinate the required program number and title with their internatl agency representatives for the CFDA as prescribed by OMB Circular No. A–89 and, for A–95 applicability, with their agency A–95 representative.

Documents placed on public inspection at the Office of the Federal Register the day before publication will be subject to monitoring by the OMB in coordination with the Office of the Federal Register. If a Federal assistance program announcement does not contain this essential information OMB will request that the document be withdrawn from the publication process until the required information is included.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-15367 Filed 5-20-80; 8:45 am]

BILLING CODE 3110-01-M

V 45 J E 4 8 0 UMI

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-10369]

Atlantic Richfield Co.; Application and Opportunity for Hearing

May 28, 1980.

Notice is hereby given that Atlantic Richfield Company ("ARCO") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under three existing indentures, described below, including two of ARCO and one of ARCO Pipe Line Company and ARCO, as Guarantor, (collectively, the "ARCO Indentures"), each of which was heretofore qualified under the Act, and trusteeship by Chase under an existing Indenture described below of The Anaconda Company, a Delaware Corporation, which was heretofore qualified under the Act and in respect of the debentures issued under which ARCO has become a guarantor, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under the ARCO Indentures and under the Anaconda Indenture.

The ARCO Indentures are the following:

(i) *The 1963 Sinclair Indenture.* Chase, as Trustee, has entered into an Indenture dated as of December 15, 1963 as supplemented by a First Supplemental Indenture dated as of March 4, 1969 (the "1963 Sinclair Indenture") with Sinclair Oil Corporation (now ARCO) pursuant to which Sinclair Oil Corporation's 4.60% Sinking Fund Debentures Due December 15, 1988 were issued. These debentures are wholly unsecured. The debentures were registered under the Securities Act of 1933 (File No. 2-21893) and the 1963 Sinclair Indenture was qualified under the Act;

(ii) *The 1970 Atlantic Richfield Indenture.* Chase, as Trustee, has entered into an Indenture dated as of December 15, 1970 (the "1970 Atlantic Richfield Indenture") with ARCO pursuant to which ARCO's 7.70% Debentures Due December 15, 2000 were issued. These debentures are wholly unsecured. The debentures were registered under the Securities Act of 1933 (File No. 2-3888) and the 1970 Atlantic Richfield Indenture was qualified under the Act; and

(iii) *The 1975 ARCO Pipe Line Company Indenture.* Chase, as Trustee, has entered into an Indenture dated as of January 15, 1975 as supplemented by a First Supplemental Indenture dated as of October 1, 1976 and a Second Supplemental Indenture dated as of October 1, 1976 (the "1975 ARCO Pipe Line Company Indenture") with ARCO Pipe Line Company and ARCO pursuant to which ARCO Pipe Line Company's 8% Guaranteed Notes due January 15, 1982, ARCO Pipe Line Company's 7½% Guaranteed Notes Due October 1, 1982 and ARCO Pipe Line Company's 7¾% Guaranteed Notes Due October 1, 1986 were issued. These notes are fully guaranteed by ARCO. ARCO's guarantee is wholly unsecured. The notes were registered under the Securities Act of 1933 (File Nos. 2-52556, 2-57184) and the 1975 ARCO Pipe Line Company Indenture was qualified under the Act.

Chase, as Trustee, has entered into an Indenture dated as of December 1, 1968 as supplemented by a First Supplemental Indenture dated as of January 12, 1977 and a Second Supplemental Indenture dated as of January 12, 1977 (the "Anaconda Indenture") with The Anaconda Company, a Montana corporation ("Anaconda Montana") (to which The Anaconda Company, a Delaware corporation ("The Anaconda Company"), is successor by merger), pursuant to which The Anaconda Company's 6⅝% debentures due November 15, 1993 (the "Anaconda Debentures") were issued. The Anaconda Debentures were registered under the Securities Act of 1933 (File No. 2-30573) and the Anaconda Indenture was qualified under the Act.

Pursuant to a Plan and Agreement of Reorganization dated July 26, 1976 and Merger of January 12, 1977, the separate existence of Anaconda Montana ceased. All of the issued and outstanding capital stock of The Anaconda Company, the Delaware successor by merger to Anaconda Montana, is owned by ARCO.

On January 28, 1980, the Board of Directors of ARCO authorized the unconditional guarantee of the Anaconda Debentures by ARCO.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. The ARCO Indentures provide, with certain exceptions stated therein, that Chase shall be deemed to have a conflicting interest if it is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

Assuming the ARCO's guarantee of the Anaconda Company Debentures makes ARCO an "obligor" on the Anaconda Debentures, this application seeks a Commission finding that no material conflicts of interest with the ARCO Indentures are likely.

ARCO alleges that:

(1) It has outstanding $89,000,000 principal amount of its debentures due December 15, 1988, issued under the 1963 Sinclair Indenture executed by Sinclair Oil Corporation (now ARCO) and Chase as Trustee. The debentures issued pursuant to the 1963 Sinclair Indenture were registered under the Securities Act of 1933 (File No. 2-21893) and the 1963 Sinclair Indenture was qualified under the Act;

(2) ARCO has outstanding $100,000,000 principal amount of its debentures due December 15, 2000 issued under the 1970 Atlantic Richfield Indenture executed by ARCO and Chase, as Trustee. The debentures were registered under the Securities Act of 1933 (File No. 2-38888) and the 1970 Atlantic Richfield Indenture was qualified under the Act;

(3) ARCO Pipe Line Company, with ARCO as Guarantor, has outstanding under the 1975 ARCO Pipe Line Company Indenture executed by ARCO Pipe Line Company, with ARCO as Guarantor and Chase, as Trustee:

(a) $250,000,000 principal amount of its 8% guaranteed notes due January 15, 1982. These notes were registered under the Securities Act of 1933 (File No. 2-52556);

(b) $150,000,000 principal amount of its 7½% guaranteed notes due October 1, 1982. These notes were registered under the Securities Act of 1933 (File No. 2-57184); and

(c) $150,000,000 principal amount of its 7¾% guaranteed notes due October 1, 1986. These notes were registered under the Securities Act of 1933 (File No. 2-57184);

The 1975 ARCO Pipe Company Indenture was qualified under the Act;

(4) On January 12, 1977, the Anaconda Company, a Montana corporation ("Anaconda Montana"), merged into Anaconda Delaware Corporation, a Delaware corporation, which then merged into Atlantic Richfield Delaware Corporation, a Delaware corporation (which then changed its name to The Anaconda Company), pursuant to a Plan and Agreement of Reorganization dated July 26, 1976, between Anaconda Montana, Anaconda Delaware Corporation, ARCO, and Atlantic Richfield Delaware Corporation. At the time of the merger the separate existence of Anaconda Montana ceased. All of the issued and outstanding capital stock of The Anaconda Company, the Delaware successor by merger to Anaconda Montana, is owned by ARCO.

The Anaconda Company has outstanding $131,500,000 principal amount of the Anaconda Debentures (of which approximately $43 million principal amount is held by ARCO). The Anaconda Debentures were registered under the Securities Act of 1933 (File No. 2-30573) and the Anaconda Indenture was qualified under the Act;

The Anaconda Montana obligations with respect to the Anaconda Debentures have been assumed by The Anaconda Company, the successor by merger to Anaconda Montana;

Chase is Trustee under the Anaconda Indenture;

On January 28, 1980, the Board of Directors of ARCO authorized the unconditional guarantee of The Anaconda Debentures by ARCO;

(5) The ARCO Indentures and the Anaconda Indenture are wholly unsecured, and rank pari passu inter se. The only material differences between the indentures and the rights of the holders of the notes and debentures issued thereunder relate to aggregate principal amounts, dates of issued, maturity and interest payment dates, interest rates, redemption prices and procedures and sinking fund provisions;

(6) It is not the default under any of such Indentures;

(7) Neither the difference indicated above, nor any other provisions of the aforementioned indentures are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of any of the Debentureholders and Noteholders to disqualify The Chase Manhattan Bank (National Association) from acting as Trustee under any of the aforementioned indentures.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after June 24, 1980, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than June 23, 1980 at 5:30 P.M., Eastern Standard Time, in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, pursuant to delegated authority, by the Division of Corporation Finance.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-16920 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16836; File No. SR-DTC-80-2]

Depository Trust Co.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 15, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change

The Depository Trust Company's ("DTC") Participant Operating Procedures, dated January 1, 1977, Section R, Page 14, are hereby amended by deleting the following paragraph, effective June 1, 1980:

Special Considerations

Redemption proceeds of Government securities may be paid in Federal Funds upon request of Participants.

Currently Participants in this program receive such payments in Clearing House funds unless they choose to receive them in Federal Funds; most Participants do not choose Federal Funds. With this change, all redemption proceeds will be paid in Clearing House funds.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to achieve an equitable allocation of the costs of using DTC among its Participants by means of an administrative change in DTC's Government securities program—the withdrawal of an optional method of payment of redemption proceeds. The expensive manual exception processing heretofore provided to enable Federal Funds payments (same-day funds) by DTC rather than payment in Clearing House funds (next-day funds) of redemption proceeds of Government securities was justified in the past because the opportunity to earn interest from the overnight investment of the funds was important to certain Participants. During the six-month period from October 1979 through March 1980, a total of three DTC Participants elected the Federal Funds option, in 19, 20, and 28 redemptions respectively. The approaching implementation on June 1, 1980, of DTC's rule change SR-DTC-80-1, which provides for a monthly refund to participants pro rata of depository income from the overnight investment of cash dividend, interest, and reorganization payments to DTC (including redemption proceeds), removes the rationale for Federal Funds payments. A Participant's share of the DTC monthly refund will be the substantial equivalent of the interest the Participant could have received had it elected to receive payment in Federal Funds. The justification for the expensive manual exception processing needed to implement Federal Funds payments, the cost of which must be borne equally among all Participants, will then disappear and DTC is therefore withdrawing this option.

The proposed rule change relates to an equitable allocation of reasonable dues, fees and other charges among DTC's Participants because it obviates the need for expensive manual exception processing whose cost was spread among all DTC Participants while benefiting only a few.

Comments on the proposed rule change have not been solicited or received.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written

submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 25, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 23, 1980.

[FR Doc. 80-16822 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16845; File No. SR-MSE-80-10]

Midwest Stock Exchange, Inc.; Proposed Rule Change By Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 19, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of Proposed Rule Change

Article XXXIV, Rule 17 of the Midwest Stock Exchange ("MSE" or "Exchange") Rules would be amended as follows: (Additions are italicized; deletions are bracketed.)

ARTICLE XXXIV

Regulatory Status

Rule 17. No change in text.

. . . Interpretations and Policies:

.01 No change in text.

1. No change in text.

2. [A market maker is prohibited from receiving and a carrying firm is unable to grant exempt credit where the market maker has created or increased a position in his equity market maker account as a result of transactions on market places other than the MSE.] *Fifty percent (50%) of the quarterly share volume which creates or increases a position in a market maker account must result from transactions consummated on the MSE.*

3. No change in text.

The Exchange will consider written requests for exemptions from the preceding restrictions on a case by case basis. Requests for exemptions will only be considered provided facilitation of the equity market maker function will result. *.02 When requested by a floor broker, a market maker must accept and guarantee execution on all 100 share agency orders in accordance with the procedures set forth in Article XX. Rule 34 (the Best System).*

MSE's Statement of Basis and Purpose of the Proposed Rule Change

The current restriction which prohibits a market maker from creating or increasing a position in other markets has been counterproductive to the effectiveness of the Exchange's Market Maker program by restricting the ability of persons acting in that capacity from being able to fairly compete in a national market system environment. A market maker who anticipates either buying or selling demand on the MSE Floor is generally unable to adequately position himself to meet such demand, which for the most part is usually one-sided in a given issue, with the current restriction in place. By allowing a market maker to accumulate a position in another market which is unavailable to him on MSE, he will be better able to meet the obligations of his registration.

Although MSE market makers have always been required to quote competitive two-sided markets, they have not been required to guarantee executions based on the Exchange's "BEST System". The BEST System requires that a specialist execute all agency orders up to 399 shares based on the highest bid or lowest offer in existence on any of the ITS exchanges. The proposed rule change assigns additional responsibility to market makers to accommodate all 100 share agency orders presented to them based on the BEST System requirements. Given this additional responsibility, a regional market maker must be allowed to access other markets on a percentage of volume basis in order to fulfill his function and remain viable.

Finally, by requiring that 50% of all share volume which either creates or increases a position be executed on the MSE, each share of a position that a market maker accumulates in another market will result in the need for the market maker to quote business on the MSE in such a way as to transact future business on the MSE floor at least equal to what is done in another market. This factor lessens any possibility for potential abuses of exempt credit. The competitive need to quote markets in this way will also inevitably lead to the market maker adding to liquidity in the overall national market system.

In summary, we believe the new rule recognizes the realities of the National Market System in that it encourages trading between markets which should result in more overall depth and liquidity and enable our market makers to fairly and effectively compete for business.

MSE's Statement on Comments Received From Members Participants or Others on the Proposed Rule Change

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments on the proposed rule change.

MSE's Statement Concerning Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burdens on competition.

On or before July 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549.

Copies of all such filings with respect to the foregoing and of all written submissions, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 25, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 27, 1980.

[FR Doc. 80-16921 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-16841; File No. SR- NASD-80-1]

National Association of Securities Dealers, Inc.; Proposed Rule Change By Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on May 20, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

(All references are to sections in the proposed rule. Indicated text in original filing should be replaced with language found herein.)

Part I, Section (2)(d)(i), 3rd line only:

"with the Corporation as Limited Principal—Direct Participation Programs".

Part I, Section (2)(e)(iv), 4th line only:

"a [Registered *General Securities* Representative [.] *and also qualified pursuant to Part II, Section (2)(d) hereof as a Registered Options Representative."*

Part I, Section (2)(e)(v), 3rd line only:

"over any area of business activity not prescribed in Part I, Section [(1)(e)]"

Part II, Section (1)(b), 5th line only:

"business in securities who are engaged in the training of persons associated"

Part II, Section (2)(b)(ii), entire test:

"(ii) A person qualified solely as a Limited Representative—Investment Company and Variable Contracts Products shall not be qualified to function as a representative in any area not prescribed in Part I, Section 2(c)(i) a. hereof."

Part II, Section (2)(d), entire text:

[(4)] *(d) Registered Options Representative*—Each person associated with a member whose activities in the investment banking or securities business include the solicitation and/or sale of option contracts shall be required to be certified as a Registered Options Representative and to pass an appropriate certification examination for such or an equivalent examination acceptable to the Corporation. *Registered Options Representatives qualified in either put or call options shall not engage in both put and call option transactions until such time as they are qualified in both such options. Members shall be required to report to the Corporation the names of any associated persons certified as Registered Options Representatives pursuant to an examination approved by the Corporation. Registered Option Representatives must also be qualified with the Corporation as General Securities Representatives; provided, however,* Registered Options Representatives of members that are members of a national securities exchange which has standards of approval acceptable to the Corporation may be deemed to be approved by and certified with the Corporation, so long as such Representatives are approved by and registered with such exchange.

The NASD's Statement of Purpose of Proposed Rule Change Last three paragraphs are replaced by:

Former Part IV, "Persons Exempt from Registration," now Part III, has been amended to conform it stylistically to the outline format contained in the rest of Schedule C. In addition, it has been amended to state clearly that a member need not register those persons not actively engaged in the securities industry, but must register all securities personnel except floor traders.

Proposed Part VI is a new Part, designed to state the Association's procedure for transfer of registration from SECO program.

The Explanation by the Board of Governors regarding details of Qualification Examination is being deleted from the Schedule. The Association intends, however, to replace it with an up-to-date guide to Association services to assist members in the qualification and registration area.

The NASD's Statement of Basis Under the Act for Proposed Rule Change

(No amendment.)

Comments Received from Members, Participants or Others on Proposed Rule Change

(No amendment.)

The NASD's Statement on Burden on Competition

(No amendment.)

On and before July 9, 1980, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 18, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 23, 1980.

[FR Doc. 80-16838 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16837; File No. SR-NSCC-80-17]

National Securities Clearing Corp.; Proposed Rule Change by Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 12, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: Statement of the Terms of Substance of the Proposed Rule Change.

Amend National Securities Clearing Corporation SCC Division Rule 3 by adding a new Section 4 thereto as follows:

Section 4 The Corporation shall maintain a list of broker dealers on whose behalf Members have indicated they will act in clearing and settling trades. Members shall provide the Corporation with such information in accordance with the

procedures as may be adopted from time to

regulatory organization. All submissions

(i) the Corporation may suspend *or*

result of action or non-action [approved

written decision, which shall be

The NASD's Statement of Basis Under

procedures as may be adopted from time to time by the Corporation.

Amend National Securities Clearing Corporation SCC Division Procedures, Roman Numeral II, Section C, by adding a new paragraph No. 6 thereto, following the second unnumbered paragraph as follows:

T+1. As Of, Withhold and Demand As Of trade input, submitted by a Member, shall identify the major and minor side executing brokers and the major side Member. The minor side Member may also be submitted. If not submitted, the Corporation shall insert the proper information in accordance with the list maintained by the Corporation as provided for by Section 4 of Rule 3.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Under existing rules the Corporation is permitted to require additional trade and clearing information. The proposed rule changes delineate certain additional trade and clearing information which will be required in order to enable Members to more readily identify unmatched trades.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by providing Members with additional information which will enable them to more rapidly and easily identify and resolve uncompared trades.

No comments on the proposed rule change have been solicited or received.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 25, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 23, 1980.

[FR Doc. 80-16824 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-16842; File No. SR-NASD-80-8]

National Association of Securities Dealers, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 21, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed revisions to Schedule D under Section XVI of the By-Laws of the National Association of Securities Dealers, Inc., (new language is italicized; deleted language is bracketed. Material omitted by ellipses is unchanged).

II. Qualification for Authorized Securities

* * * * *

B.3. An eligible security shall not be authorized, and an authorized security shall be subject to suspension *or termination* of authorization, if:

* * * * * *

C.2. An eligible security shall not be authorized, and an authorized security shall be subject to suspension *or termination* of authorization, if:

* * * * * *

D. Suspension *or Termination* of Authorization of a Security and Exceptions *to Authorization Criteria*

1.*a.* [In addition,] *In* particular instances where the Corporation *finds* [deems] it [necessary and] appropriate [in order] to prevent fraudulent and manipulative acts and practices[,]; to promote just and equitable principles of trade[.]; *or* to protect investors or the public interest; [in fair and orderly markets, or to assure adequate trading interest and the likelihood of a competitive market,]:

(i) the Corporation may suspend *or terminate* the authorization of [a] *an otherwise authorized* security [and] *or* [(ii) the Corporation may make exceptions to the application of the criteria set forth in Sections B and C above, or] *((iii))(ii) the Corporation may* apply additional or more stringent criteria *for the authorization of particular securities.*

1.b. A finding or findings, as prescribed in (1)(a), above, shall be made by the Corporation prior to the suspension or termination of an otherwise authorized security, or the application of more stringent criteria.

[2. When the Corporation shall determine that an authorized security shall be subject to suspension of authorization under paragraphs B.3 or C.2 or shall not longer be eligible under paragraphs B.1, B.2 or C.1, whichever may apply and shall suspend the security's authorization, it shall so notify the issuer. A security which has been suspended may be treated as a security which had never been authorized and the Corporation may require compliance with the criteria for initial authorization before again authorizing the security.]

2. Should the Corporation determine that the authorization of security shall be suspended or terminated because of its noncompliance with the provisions of Sections B or C, or by the operation of paragraph D.1., it shall so notify the issuer prior to suspension or termination or as soon as practicable thereafter.

3. The Corporation may make exceptions to the application of the criteria contained in Sections B or C where it deems it appropriate.

4. A security which has been suspended shall be required, prior to reinclusion, to comply with the requirements for securities already authorized. A security which has been terminated shall be required, prior to reinclusion, to comply with the requirements of a security which has never been authorized.

[3.] *5.* In the case of any merger or consolidation involving at least one issuer of authorized securities, the securities issued to carry out the merger or consolidation may be promptly authorized if the conditions of paragraphs B.3 or C.2 *for securities which have already been authorized* shall have been met.

* * * * *

VI. Procedures on Aggrievements

It is the purpose of these procedures to provide [a hearing upon request and], where justified, redress for [members and other] persons aggrieved by operations of the NASDAQ System as a result of action or non-action [approved by the Board of Governors and where there is no adequate redress for the complainant from the operator of the System or any other person.] *by the Corporation, and to provide procedures for the handling of qualification matters pursuant to Part II, Section D of this Schedule.*

A. Form of [Complaint] *Application.* All [complaints] *applications* shall be in writing, [on a form to be supplied by the Board of Governors,] and *shall* specify in reasonable detail the source and nature of *and basis for the* [the aggrievement and the form of] redress requested. If the [complaint] *application* consists of several matters or items, each matter or item shall be stated separately. All [complaints] *applications* must be signed and shall be directed to the [Board] *Corporation.* [Counsel for the Corporation shall file a response to each complaint, in writing, within a reasonable time and send a copy thereof to the complainant.]

B. Request for Hearing. Upon request, [complainant] *applicant* shall be granted a hearing, after reasonable notice. In the absence of such request for a hearing, the [Board of Governors] *Corporation* may, in its discretion, have any [complaint] *application* set down for hearing[, if it deems such action necessary or appropriate.] *or consider the matter on the basis of the application and supporting documents.*

C. [Hearing] *Initial Consideration of Applications. All applications shall be considered by a committee designated by the Board of Governors.* [If a hearing is had pursuant to subparagraph B, above, it shall be held before a person or persons designated by the Board of Governors in a place reasonably convenient to complainant.] [Complainant] *The applicant* shall be entitled to be heard in person and by counsel and to submit any relevant matter which he may desire to present. [Counsel for the Corporation or other designated Corporation personnel may participate in such hearing and be entitled to submit any relevant matter which they may desire to present in response.] In any such proceeding a record shall be kept.

D. [Initial] Decision. Decisions on [complaints] *applications* shall be in writing and a copy sent by mail to the [complainant.] *applicant.* [Where there is no hearing, the decision shall be by a person or persons designated by the Board of Governors. Where there is a hearing, the decision shall be by the person or persons conducting the hearing.] *The committee may communicate its determination to the applicant prior to the issuance of a written decision, which shall be effective as of the time of such communication.* The written decision shall contain the reasons supporting the [decision maker's] *committee's* conclusions.

E. Review by Board. The [initial] decision shall be subject to review by the Board of Governors on its own motion within [thirty (30)] *forty five (45)* days after issuance *of the written decision.* Any such decision shall also be subject to review upon application of any person aggrieved thereby, filed within fifteen (15) days after issuance. The institution of a review, whether on application or on the initiative of the Board, shall not operate as a stay of the [rule, regulation, or action complained of.] *decision.*

F. Findings of Board on Review. Upon consideration of the record, and after such further hearings as [the Board of Governors] *it* shall order, [if the Board shall find that the initial decision is incompatible with the nature and purposes of the NASDAQ System, the Corporation's duties, rules and regulations, or applicable statutes and governmental regulations, the Board shall, in writing, modify, amend, or abrogate such decision or remand the matter for further finding and decision consistent with its instructions. Otherwise the Board shall affirm the initial decision.] *the Board shall affirm, deny, remand or modify the decision.* The Board shall set forth specific grounds upon which its determination is based.

G. Application to Commission for Review. In any case a [complainant] *person* feels aggrieved by any decision of[, or action taken by and/or approved by] the Board of Governors [in regulation to the NASDAQ System,] *taken pursuant to Section F* [and the statute permits appeal,] the [complainant] *person* may make application for review to the Securities and Exchange Commission in accordance with [Section 15A of] the Securities Exchange Act of 1934, as amended.

* * * * *

The NASD's Statement of Purpose of Proposed Rule Change

The proposed rule change will clarify the procedures to be followed in the handling of NASDAQ qualifications matters. The amendment does not constitute any substantive alteration of these procedures but rather more explicitly states the procedures followed.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

Section 15A(b)(8) of the Act provides that the rules of the Association must provide a fair procedure for the prohibition or limitation by the Association of any person with respect to access to services offered.

Comments Received from Members, Participants or Others on Proposed Rule Change

Article XVI of the Association's By-Laws does not require membership approval of changes to Schedule D. No comments were solicited or received regarding this proposed rule change.

The NASD's Statement on Burden on Competition

Since the proposed rule change does not involve substantive changes, the Association envisions no effects on competition.

On or before July 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 25, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 23, 1980.

[FR Doc. 80-16825 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

Part-Time Career Employment Program

AGENCY: Securities and Exchange Commission.

ACTION: Proposed implementation of the Federal Employees Part-time Career Employment Act of 1978.

SUMMARY: To implement the Federal Employees Part-time Career Employment Act of 1978, 5 U.S.C. 3401 et seq., the Securities and Exchange Commission is proposing establishment of a continuing program to provide permanent part-time employement opportunities within all divisions of the Commission.

In accordance with 5 U.S.C. 3406, the Securities and Exchange Commission is required to publish its instructions in proposed form and to provide an opportunity for interested parties to comment. After comments have been received and reviewed, the final instructions will be issued as Chapter 340 of the Securities and Exchange Commission Administrative Manual. Copies of Chapter 340 will be available to the public and can be obtained by written request to the address indicated below.

DATE: Comments must be received on or before August 4, 1980. The final instructions shall be effective on the date issued.

ADDRESSES: All comments should be directed in writing to James C. Foster, Director of Personnel, Office of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–836.

FOR FURTHER INFORMATION CONTACT: Irene D. Henrick (202–272–2512).

Part-time Career Employment Program:

I. General Provisions
II. Program Implementation
III. Part-time Employment Practices

I. General Provisions

A. Purpose.—These regulations implement the Federal Employees Part-Time Employment Act of 1978, 5 U.S.C. 3401 et seq., by establishing a continuing program to provide permanent part-time employment opportunities within the Securities and Exchange Commission.

B. Policy.—It is the policy of the Commission to provide permanent part-time employment opportunities to the maximum extent consistent with agency mission requirements and resources for positions in GS–1 through 15, for hourly paid blue collar positions, and any other career positions not exceeding a GS–15 equivalent. This policy recognizes the desirability of maximizing utilization of all available human resources, particularly those qualified individuals available for part-time employment, and represents an opportunity to acquire talented workers who might otherwise not be available to the Commission.

C. Definitions. 1. Part-time permanent employment is regularly scheduled work of from 16 to 32 hours a week in either the competitive or the excepted service in Tenure Group I or II. Employment on a temporary or intermittent basis is not included.

2. Tenure Group I includes employees in the competitive service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

3. Tenure Group II includes employees in the competitive service serving probation, career conditional employees, and career employees in obligated positions; it also includes employees in the excepted service serving a trial period whose tenure is indefinite solely because they occupy obligated positions, or whose tenure is equivalent to career conditional in the competitive service.

D. Scope.—The provisions herein are applicable to all Divisions, Offices and Regional Offices in the Commission. Within these regulations, the term "division" includes Offices and Regional Offices.

E. Exceptions. 1. These regulations do not apply to positions in the Senior Executive Service or positions at GS–16 (or equivalent) and above, nor do they apply to career part-time employees who were working on a permanent part-time basis on the effective date of the act (April 8, 1979) so long as they continue to work on a part-time basis, do not have a break in service or more than three days, or leave their part-time schedule on other than a temporary basis.

2. The Chairman or his designee may authorize such additional exceptions on an individual position basis as may be necessary for the Commission to carry out its mission. However, in no cases will exceptions be authorized to permit regular tours of duty of 33 to 39 hours per week for part-time employees. (This in no way prohibits the increase of a permanent part-time employee's actual hours above 32 hours per week for limited periods.)

F. Amendment.—These regulations may be supplemented or amended, as required, by the Chairman.

II. Program Implementation

A. Designation of Coordinators. 1. Commission Coordinator.—The Executive Director is hereby designated as the Commission Part-time Employment Coordinator and assigned the following responsibilities:

(a) Developing goals and timetables for part-time employment jointly with the divisions;

(b) Monitoring progress in expanding part-time opportunities and assisting the divisions as needed;

(c) Preparing consolidated reports on part-time employment as required;

(d) Assessing the program for Equal Employment Opportunity effectiveness; and

(e) Acting as Commission liaison with groups that indicate interest in promoting part-time employent opportunities and with special emphasis groups (handicapped, veterans, etc.).

2. Division Coordinators. Each division or office shall designate a Part-time Employment Coordinator who shall have overall responsibility for carrying out the division's Program as well as:

(a) Development and implementation of part-time permanent employment goals and timetables, coordinating with budget and ceiling control staff as necessary;

(b) Monitoring progress in expanding part-time permanent employment opportunities and preparing division reports for the Commission Coordinator;

(c) Obtaining regular input from Equal Employment Opportunity Officers and Hispanic Employment Program Managers to insure that goals and time-tables address specific needs for providing employment opportunities for minorities and women and to assess the effect of the division Part-time Employment Program on employment patterns and occupational concentration of minorities and women;

(d) Consulting with interested parties on special interest areas and maintaining liaison with groups that indicate interest in promoting part-time employment opportunities; and (e) Responding to requests for assistance and advice from within the division and keeping all employees informed on the basic rules covering part-time employment.

B. Part-time Employment Goals and Time-tables. 1. Each division or office shall set annual goals for both establishing and converting positions for part-time permanent employment, including a time-table with interim and final deadlines for achieving such goals. Goals for each fiscal year, beginning with FY 1980, must be established jointly with the Commission Coordinator by the end of the preceding fiscal year. Separate goals shall be established for newly established part-time career positions and for conversion of full-time career positions to part-time career positions.

2. When establishing goals and timetables, divisions shall consider the opportunities for: transition to retirement, increased employment of handicapped individuals, job sharing arrangements and retention of valuable employees.

These benefits must be weighed against the following criteria:

(a) Agency mission and occupational mix;

(b) Workload fluctuations;

(c) Size of work force, turnover rate, or employment trends;

(d) Affirmative action;

(e) Patterns of overtime utilization;

(f) Previous experience with part-time employment (including analysis of current part-time employment utilization);

(g) Personnel ceiling allowances and fiscal constraints; and

(h) Potential for improving service to the public.

C. Program Evaluation and Reporting. 1. The Part-time Career Employment Program will be subject to continuing review and evaluation by the Commission Program Coordinator.

2. Participating division reports as of March 31 and September 30 of each year shall be submitted to reach the Commission Coordinator no later than April 30 and October 31 respectively. These reports must include the division's progress in meeting its part-time permanent employment goals, indicating any impediments encountered and measures taken to overcome them, and must state specifically the extent to which part-time career employment opportunities have been extended to older persons, the handicapped, persons with family responsibilities and students. A copy of any pertinent division regulation or instruction issued during the reporting period shall be attached to each report.

3. The Commission Coordinator shall prepare and forward a consolidated report to the Office of Personnel Management by May 15 and November 15 of each year. This report will contain the same material required in division reports.

4. Reports will be required for the period from April 1 through September 30, 1979, indicating efforts and progress in increasing part-time career employment opportunities, even though goals and time-tables were not established for that period.

III. Part-time Employment Practices

A. Review of Vacant Positions.—Divisions are required to establish procedures providing for vacant positions covered by the Program to be reviewed for the feasibility of being filled on a part-time permanent employment basis. This review shall include consideration of criteria such as those used to establish goals and time-tables.

B. Establishment and Conversion of Part-time Career Positions. 1. Divisions are required to establish a sufficient number of new or converted part-time permanent positions to meet their established goals.

2. The Commission Coordinator shall develop procedures to permit employees to request and receive consideration to change from full-time to part-time schedules. Opportunities to voluntarily change from full-time employment shall be given whenever feasible. No full-time employee shall be required to accept part-time employment as a condition of continued employment.

3. No full-time position occupied by an employee shall be abolished solely for making the duties of the position available to be performed on a part-time permanenet employment basis.

C. Notifying the Public of Part-Time Vacanies. Federal Job Information announcements, position vacancy listings and other relevant means shall be utilized to inform the public of vacant part-time positions.

D. Benefits. Part-time permanent employees are eligible for Federal life insurance, health insurance and retirement benefits.

George A. Fitzsimmons,
Secretary.
May 28, 1980.

[FR Doc. 80-16827 Filed 6-3-80; 8:45 am]
BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–16857; File No. SR–MSE–80–5]

Midwest Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 2, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Article XXX, Rule 15 is hereby amended as follows: Additions in italics—[Deletions Bracketed]

Article XXX

Claims for Reports

Rule 15. [All claims for reports must be made not later than 10:30 A.M., the next morning. This shall not effect price adjustments.] *All claims for reports must be made timely as follows:*

a. All claims which involve erroneous comparisons must be made within 10 business days of the original trade date.

b. All claims relative to the omission of a report which was properly due must be made within 10 business days of the date the order should have been executed.

c. All claims relative to lack of comparison of a reported transaction must be made within five business days of the original trade.

d. In the event unusual circumstances exist, the Committee on Floor Procedure will rule as to the disposition of liability notwithstanding the lapsing of any of the above stated time periods.

Rules and Practices for Trading on the Midwest Stock Exchange, Incorporated

Except by specific agreement between brokers, the following interpretation of the rules shall prevail: 16. [Whenever an order left in the specialist's book is omitted from execution through an oversight on the part of the specialist firm, the maximum liability to the specialist will be the closing price on the 15th calendar day following the day on which the order deserved an execution.]

[The liability of the specialist will cease completely ninety days from the date the order should have been executed.]

To be added.

Statement of Basis and Purpose of Proposed Rule Change

The time period set forth within current Rule 15 of Article XXX does not take into consideration the fact that many member firms because of their geographical location, do not receive Clearing documents in sufficient time to make a determination that an expected report did not in fact occur. The Rule can also be interpreted to mean that a specialist's liability is opened in situations where he has given a report but for various reasons the trade fails to appear on the Clearing documents. In addition, Rule 16 of the Floor Practice Manual (Blue Book) has, since its adoption, proved cumbersome and difficult to interpret in most situations that have occurred to date.

The proposed Rule incorporates time periods which are fair for all parties involved to review their Clearing documents for omission of reports, erroneous comparisons, lack of

comparison, or other claims relative to a reported transaction. The incorporation

organization filed with the Securities and Exchange Commission a proposed

Copies of such filing will also be available for inspection and copying at

Third Offense—Third-time offenders

Regulation of the Board of

comparison, or other claims relative to a reported transaction. The incorporation of these time periods will greatly reduce the number of case by case rulings which have been necessary in the past.

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments.

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burden on competition.

By July 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549.

Copies of all such filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 25, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 29, 1980.

[FR Doc. 80-17010 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16855; File No. SR-PSE-80-07]

Pacific Stock Exchange Inc.; Proposed Rule Change by Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on May 27, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") proposes to amend Options Floor Procedure Advice B-5. This Floor Procedure Advice explains the performance obligations for Market Makers on the PSE Options Floor.[1]

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the amendment to Options Floor Procedure Advice B-5 is to inform Market Makers of the Options Appointment Committee's requirements for Market Maker attendance and to inform them as to the sanctions which may be imposed for failure to satisfy such attendance requirements. This Advice is also intended to establish procedures for Market Makers to follow in obtaining leaves of absence.

The proposed change is consistent with Section 6(b) (5) and (6) of the Act inasmuch as it provides for appropriate discipline for the failure of Market Makers to satisfy performance requirements established by the Exchange.

Comments have neither been solicited nor received from members, participants or others on the proposed rule changes.

The proposed rule change imposes no burden on competition.

By July 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 25, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 29, 1980.

PSE Options Floor Procedure Advice

Subject: *Attendance of Market Makers During the Trading Session*

While no rule specifically requires the *continuous* attendance of individual Market Makers during all trading sessions, it is obvious that neither their obligations under Section 79 of Rule VI, nor the requirements of the Exchange in the conduct of a continuous fair and orderly auction market, can be met unless an adequate number of Market Makers are available throughout each trading session. *In acknowledging the latter objectives, the Options Appointments Committee has established the policy for minimum attendance by Market Makers as is herein after described.*

Accordingly, the Exchange will, under the provisions of Section 67 of Rule VI which requires the Order Book Official to report any absence of prompt and satisfactory responses to requests for bids and/or offers that contribute to meeting the standards set forth in Section 79, further require that Order Book Officials maintain records indicating any continual or significant absence of individual Market Makers holding primary or supplemental appointments in the securities assigned to the Order Book Official's Post.

The record of such absences will be available to the Options Appointment Committee for its consideration in determining appointments, suspensions of appointments or terminations of appointments of Market Makers under the provisions on Section 75 of Rule VI.

A. *Market Maker Attendance Requirements:*

The Options Appointment Committee has established a policy whereby Market Makers must be in attenance at their primary post at least 50% of the trading days during a calendar quarter. Failure to do so may result in the following disciplinary actions:

First Offense—A Letter of Warning will be sent.

Second Offense—A minimum fine of $500 may be imposed.

[1] The text of Options Floor Procedure Advice B-5 is attached as Exhibit 1; italics indicate new language.

Third Offense—Third-time offenders may face a minimum fine of $1,000, and/or a suspension.

The Options Appointment Committee has also established a policy whereby Market Makers must be in attendance at their primary post for at least 50% of the opening rotations during a calendar quarter. Failure to do so may result in the following disciplinary actions:

First Offense—A Letter of Warning will be sent.

Second Offense—A minimum fine of $250 may be imposed.

Third Offense—Third-time offenders may face a minimum fine of $500.

Fourth Offense—A minimum fine of $1,000 may be imposed.

Additional Offenses—Additional offenses may result in a fine twice the amount of the fine assessed for the most recent prior violation.

The Options Floor Trading Committee could at its discretion recommend any of these penalties at any time, but for the sake of uniformity, deviations would occur only where aggravating or mitigating circumstances are present. If a Market Maker fails to comply with the Committee's decision and penalty imposed pursuant to the procedures set forth below, a formal complaint may be filed and severe penalties may result; in some instances, the member could be suspended.

In any case where a Market Maker is sought to be disciplined pursuant to this advice the Exchange shall bring specific charges, notify such Market Maker of, and give him an opportunity to defend against, such charges and keep a record. Any determination by the Exchange to impose a disciplinary sanction shall be supported by a statement setting forth:

1. Any act or practice in which such Market Maker has been found to have engaged, or which such Market Maker has been found to have omitted.

2. The specific provision of the rules of the Exchange which any such act or practice, or omission to act, is deemed to violate.

3. The sanction imposed and the reasons therefor.

B. Leaves of Absence:

Extended absences (in excess of two weeks) from the Trading Floor may impair a Market Maker's satisfaction of his obligations to be in attendance for 50% of the opening rotations and for 50% of the trading days in each calendar quarter (OM-77-29). In addition, an extended leave from the floor raises a question as to the Market Maker's entitlement to continued qualification for special treatment under certain provisions of the net capital and margin requirements (Rule 15c3-1 under the Securities Exchange Act of 1934; Regulation of the Board of Governors of the Federal Reserve).

In order to assure compliane with all applicable rules, regulations and guidelines, the Floor Trading and Options Appointment Committees provide the following procedures for granting leaves of absences to Market Makers:

1. Market Makers may request leaves of absence when they plan to be away from the Floor for periods in excess of two weeks during a calendar quarter.

2. Rquests for leaves of absence must be submitted in writing to the Surveillance Department, Pacific Stock Exchange, prior to the commencement of the intended leave.

3. While on leave, Market Makers will not be permitted to make opening transactions in PSE listed options through the use of a Floor Broker in their Market Maker accounts.

4. If a Maker on an extended leave of absence is primarily assigned to a closed post and a liquidity problem arises at that post, the Appointment Committee, in reviewing the situation may rescind the Market Maker's primary assignment in order to allow new capital into the post. A Market Maker so affected might then be reassigned to an open post, preferably his second or third choice on the "Request for Primary Assignment" form, and may reapply for assignment to the closed post upon his return.

5. A leave of absence, pursuant to these procedures, will not be included in calculations of the number of days a Market Maker is present on the Floor during a quarter. (Absences from the Floor for two weeks or less will be included when computing attendance percentages at the end of the quarter.

[FR Doc. 80-17012 Filed 6-3-80; 8:45 am]

BILLING 8010-01-M

[Release No. 16848, SR-Phlx-80-12]

Philadelphia Stock Exchange, Inc., Filing of Proposed Rule Change and Order Approving Proposed Rule Change

May 28, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on May 21, 1980, the Philadelphia Stock Exchange, Inc., ("Phlx") Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, filed with the Commission copies of a proposed rule change to implement the second phase of its puts expansion program.[1] During the second phase, which is scheduled to commence on May 30, 1980, Phlx intends to list and institute trading in up to nineteen new puts classes on underlying securities subject to call option tradingon the Phlx. Implementation of phase two will extend puts trading to all underlying securities on which calls currently are traded on the Phlx.

Interested persons are invited to submit written data, views and arguments concerning the submission within 30 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-80-12.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule changes is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission previously has stated that it perceive certain benefits with respect to the listing of both puts and calls on the same underlying security.[2] Phlx has indicated that the first phase of its puts expansion program has proceeded without any apparent adverse effect on the exchange's surveillance or operational capabilities or on member firm back office operations. In addition, Phlx has represented that its surveillance and operational capabilities and the back office capacity of its member firms are adequate to handle any increased

[1] The first phase of the Phlx's puts expansion program, during which Phlx added eleven new puts classes, was approved by the Commission on May 6, 1980, in Securities Exchange Release No. 16788.

[2] *See* Securities Exchange Act Release Nos. 16710 (March 26, 1980), and 16788 (May 6, 1980).

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volume that may result from the implementation of the second phase of its puts expansion program.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17015 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16854; File No. SR-Phlx-80-8]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on May 13, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes to amend Rule 950 and By-law 10-7 regarding arbitration of disputes between investors and member firms. The proposed amendment is primarily concerned with claims by investors in excess of $2,500.

Exchange's Statement of Basis and Purpose of Proposed Rule Change

Amended Rule 950 is being adopted to conform PHLX arbitration rules to the Uniform Arbitration Code developed by the Securities Industry Conference on Arbitration ("SICA"). The PHLX is one of ten self-regulatory organizations which are members of SICA. The purpose of the proposed rule change is to provide investors with a simple and inexpensive procedure for resolution of controversies with broker-dealers.

The proposed rule change is consistent with Sec. 6(b) of the Act in general, and furthers the objectives of Sec. 6(b)(5) of the Act, in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. It does so by providing improved uniform procedures for the arbitration of disputes involving members and member organizations of the Exchange.

Comments have neither been solicited nor received from members, participants or others on the proposed rule change.

Exchange's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

By July 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Scretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 25, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 29, 1980.

[FR Doc. 80-17014 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 28, 1980.

In the matter of application of the Midwest Stock Exchange, Inc. for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Northwest Energy Company (Utah), Common Stock, $1 Par Value (File No. 5544)

This security is listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before June 18, 1980 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17011 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 28, 1980.

In the matter of applications of the Philadelphia Stock Exchange for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Imperial Oil Ltd., Class A Convertible Common (File No. 7-5545).
Gulf Canada Ltd., Common Stock, No Par Value (File No. 7-5546).
Chieftain Development Co., Ltd., Common Stock $.50 Par Value (File No. 7-5547).
Canadian Marconi Company, Common Stock, $1 Par Value (File No. 7-5548).
East Utah Mining Company, Common Stock, $.10 Par Value (File No. 7-5549).
Columbia Chase Corporation, Common Stock, $.10 Par Value (File No. 7-5550).
Kaneb Services, Inc., Common Stock, No Par Value (File No. 7-5551).
AIC Photo, Incorporated, Common Stock, $1 Par Value (File No. 7-5552).

Anheuser Busch Companies Inc., Common Stock, $1 Par Value (File No. 7-5553).
Francana Oil & Gas Ltd., Common Stock, No Par Value (File No. 7-5554).
Penn Central Corporation, Series A Preference Stock, $20 Par Value (File No. 7-5555).
Penn Central Corporation, Series B Preference Stock, $20 Par Value (File No. 7-5556).
Sargent Industries, Inc., Common Stock, No Par Value (File No. 7-5557).
Western Mortgage Investors, Shares of Beneficial Interest, $1 Par Value (File No. 7-5558).
Yardney Electric Corporation, Common Stock, $.25 Par Value (File No. 7-5559).

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before June 18, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulaton, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17013 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6213; 18-73]

Willkie, Farr and Gallagher Pension Plan for Partners and Associates; Application

May 29, 1980.

In the matter of Willkie, Farr & Gallagher Pension Plan for Partners and Associates, One Citicorp Center, 153 East 53rd Street, New York, NY 10022 (18-73).

Notice is hereby given that Willkie, Farr & Gallagher (hereinafter the "Firm" or "Applicant"), a law firm organized as a partnership under the laws of the State of New York has, by letter dated February 29, 1980, filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Willkie, Farr & Gallagher Pension Plan for Partners and Associates (the "Plan"). All interested persons are referred to the application which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers the Firm's attorneys, of whom 48 partners and 50 associates were participants in the Plan as of January 1, 1980. In addition, 10 non-legal employees of the Firm are entitled to benefits under the Plan because they were participating in the Plan immediately prior to January 1, 1977, the effective date of an amendment to the Plan, and had an amount credited to their individual Firm contribution accounts on such date.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case partners, associates and certain vested employees of the Firm) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended, (the "Code"), and therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of corporate employers.

In relevant part, Section 3(a)(2) of the Act provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant states that the Plan was originally adopted as of January 1, 1974 and was most recently amended as of January 1, 1980. The Plan is subject to the Employee Retirement Income Act of 1974 ("ERISA") including the fiduciary responsibility and reporting and disclosure provisions of that statute. The Firm states that the Internal Revenue Service (the "IRS") has issued a determination letter to the effect that the Plan, as in effect through December 31, 1979, is a qualified plan under Section 401(a) of the Code. The Firm will seek a new determination letter from the IRS with respect to the qualification of the Plan, as amended, under Section 401(a) of the Code.

The Applicant submits that the Plan is not a master or prototype plan designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons.

The Plan has a mandatory Firm contribution feature and a voluntary participant contribution feature, both of which are based on a percentage of compensation. In general, the Firm's annual contribution on behalf of a participant who is a partner or associate may not exceed $7,500. In addition, each of such participants may elect to make voluntary contributions not in excess of 10% their annual earnings. The Firm makes no contribution on behalf of vested Employees as they are covered by another retirement plan of the Firm. Similarly, voluntary contributions cannot be made by the vested Employees.

The Firm represents that it exercises substantial administrative responsibility with respect to the Plan. Complete authority to control and manage the operation and administration of the Plan is possessed by the Firm's Pension Committee. The Plan is administered through a single trust with three of the Firm's partners acting as trustees (the "Trustees"). Under the Plan the Trustees have the power in their sole discretion to select appropriate investment media or investment managers for the Plan.

Applicant represents that the Plan is divided into two funds for investment purposes. The first fund is an "equity fund" managed by an investment adviser registered with the Commission under the Investment Advisers Act of 1940 and appointed by the Trustees. The second fund is a "fixed income fund." The Trustees have under consideration and expect to enter into a guaranteed investment contract (the "Contract") with a major insurance company (the "Insurer"), pursuant to which the assets of the fixed income fund will be invested in the Insurer's General Account, subject to certain limitations. Each participant may elect the fund or funds into which the Firm's contribution or any voluntary contributions will be invested.

The Firm represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan and has not made and does not intend to make any solicitations of voluntary contributions under the Plan. The Firm makes copies of the Plan available to Plan participants and furnishes each participant with other descriptive material and financial information relating to the Plan.

Applicant contends that the primary reason for denying a blanket exemption

orders a hearing upon request or upon

of Mississippi. All other information

Thursday and Friday, June 19-20, 1980

2 p.m.-3 p.m.—Plenary Session—Reports

Applicant contends that the primary reason for denying a blanket exemption to pension and profit-sharing plans covering self-employed persons was a concern on the part of Congress that such plans constitute complex investment vehicles, interests in which could be sold by sponsoring financial institutions to self-employed person who might not be sophisticated in the securities field or who might be unable to protect adequately their interests and those of their participating employees. However, Applicant urges that the plan covers its partners and associates who are themselves engaged in furnishing legal services of a type which necessarily involve financially sophisticated and complex matters and therefore are able to protect their interests adequately without the protection of the registration requirements of the Act. Applicant believes that the rigorous disclosure requirements of ERISA and the fiduciary standards and duties imposed thereunder are adequate to provide full protection to the participants.

Finally, Applicant maintains that the possible need for an exemptive order arises only because the Firm does business as a partnership. The Applicant believes that were it incorporated, its attorneys would not be self-employed persons and there would be no question as to the availability of the exemption.

The Firm concludes that, for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 23, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Firm at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following June 23, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17016 Filed 6-3-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1845]

Louisiana; Declaration of Disaster Loan Area

As a result of the President's Major disaster declaration, I find that the following 6 parishes: Acadia, Calcasieu, Jefferson Davis, Lafayette, Pointe Coupee, and Vermilion and adjacent parishes within the State of Louisiana, constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about May 15, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 21, 1980, and for economic injury until close of business on February 23, 1981, at:

Small Business Administration, District Office, Plaza Tower, 17th Floor, 1001 Howard Avenue, New Orleans, Louisiana 70113

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 23, 1980.

H. A. Theiste,

Acting Administrator.

[FR Doc. 80-17019 Filed 6-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1825; Amdt. No. 1]

Mississippi; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 29458) is amended in accordance with the President's declaration of April 19, 1980, to include Adams, George, Pike and Walthall Counties in the State of Mississippi. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties and adjacent counties within the State of Mississippi. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on June 19, 1980, and for economic injury until the close of business on January 19, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 2, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-17020 Filed 6-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1821; Amdt. No. 1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 29153) is amended by adding the following counties:

County, Natural Disaster(s) and Date(s)

Bastrop, Tornado Hail, Excessive Rain, 4/7/80.
Edwards, Drought, Hard Freeze, 7/1/79–4/10/80, 3/1/80.
Gillespie, Hard Freeze, 3/17/80.
Kinney, Drought, Hard Freeze, 7/1/79–4/1/80, 3/1/80.
Medina, Drought, Hard Freeze, 7/1/79–4/21/80, 4/13/80.
Starr, Drought, 4/1/79–4/10/80.

and adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on October, 22, 1980, and for economic injury until the close of business on January 22, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 7, 1980.

H. A. Theiste,

Acting Administator.

[FR Doc. 80-17021 Filed 6-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1844]

Washington; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the State of Washington constitutes a disaster area because of damage resulting from the volcanic eruption of Mount St. Helens beginning on May 18, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 22, 1980, and for economic injury until close of business on February 23, 1981, at:

Small Business Administration, District Office, Second Avenue, Federal Building, Room 1744, Seattle, Washington 98174.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59006)

Dated: May 27, 1980.

H. A. Theiste,

Acting Administrator.

[FR Doc. 80-17022 Filed 6-3-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 20]

Lakeland Fire and Casualty Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Lakeland Fire and Casualty Company, Minneapolis, Minnesota, under Sections 6 to 13 of Title 6 of the United States Code, as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1080.

The company was last listed as an acceptable surety on Federal bonds at 44 FR 38093 dated June 29, 1979.

With respect to any bonds currently in force with Lakeland Fire and Casualty Company bond-approving officers of the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, Telephone 202-5010.

Dated: May 22, 1960.

Gerald Murphy,

Acting Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-17005 Filed 6-3-80; 8:45 am]

BILLING CODE 4810-35-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Thursday and Friday, June 19–20, 1980, in Conference Room B100, Page Building 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from States and local governments, industry, science and other appropriate areas, was established by Congress by Public Law 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The Agenda contains the following topics:

June 19, 1980

9 a.m.–9:30 a.m.—Plenary Session—Opening Remarks.
9:30 a.m.–10:30 a.m.—Introduction to Remote Sensing from Satellites—Landsat Transition Plan.
10:30 a.m.–12 a.m.—Policy Prospectives—Robert A. Frosch, NASA Administrator.
12 noon–1 p.m.—Lunch.
1 p.m.–3 p.m.—Panel Discussion on Remote Sensing from Satellites: User Needs.
3 p.m.–4 p.m.—Presentation by NOAA Administrator, Richard A. Frank—Committee Management.
4 p.m.–5 p.m.—Steering Committee Meeting.
5 p.m.—Adjourn.

June 20, 1980

8:30 a.m.–9 a.m.—Closed Session—Discussion of candidates for membership of NACOA's proposed Independent Area Task Forces.
9 a.m.–12 noon—Weather and Climate Panel—Louis J. Battan; Topic: Support for Atmospheric Research Facilities—remote sensing facilities (other than satellites) Invited participants: David Atlas, NASA; Herbert Carlson, NSF; Gordon Little, NOAA; Robert Serafin, NCAR; Verner Soumi, University of Wisconsin.
10 a.m.–12 noon—Waste Management Panel—John Knauss; Topic: Radioactive Waste Disposal in the Oceans. Invited participants: W. E. Webber, EPA; Robert S. Dyer, EPA; Clifton E. Curtis, Center for Law & Social Policy; Ed Mainland, Dept. of State; Ed Olson, Dept. of State; Glen Boyer, Dept. of Energy.
12 noon–1 p.m.—Lunch.
1 p.m.–2 p.m.—Omnibus—Merchant Marine Bill: Consideration of Actions for NACOA.
2 p.m.–3 p.m.—Plenary Session—Reports from Panel Chairpersons and Discussion of Annual Report.
3 p.m.—Adjourn.

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

With respect to agenda item (6), the Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on June 2, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409, that the matters to be disclosed under this agenda item (6) should be exempt from the provisions of the Act relating to open meetings and public participation therein, because it will be considered within the purview of 5 U.S.C. 552b (c)(6); i.e., information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meeting will be open to the public.

A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5137, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–4217. For additional information on this meeting or a copy of the minutes which will be available 30 days thereafter for the open portions, please contact Mr. Steven N. Anastasion, Executive Director, National Advisory Committee on Oceans and Atmosphere, Room 436, Page Building No. 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone 202/653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-17187 Filed 6-3-80; 11:36 am]

BILLING CODE 3510-12-M

Sunshine Act Meetings

Sunshine Act Meetings

Federal Register
Vol. 45, No. 109
Wednesday, June 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2
Federal Reserve System	3
National Labor Relations Board	4
Nuclear Regulatory Commission	5

1

[M-282 Amdt 3, May 30, 1980]

CIVIL AERONAUTICS BOARD

Deletion of item from the May 29, 1980 meeting agenda.

TIME AND DATE: 1 p.m., May 29, 1980.

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 29. Recommendation for the Aviation Negotiations with Uruguay (BIA).

STATUS: Open (Item 1-28), closed (Item 29).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary (202) 673-5068.

[S-1090-80 Filed 6-2-80; 3:28 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, June 13, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[FR Doc. S-1087-80 Filed 6-2-80; 12:37 pm]

BILLING CODE 6351-01-M

3

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, June 9, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: May 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. S-1086-80 Filed 6-2-80; 11:17 am]

BILLING CODE 6210-01-M

4

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10:30 a.m., June 9, 1980.

PLACE: Board conference room, Sixth floor, 1717 Pennsylvania Avenue N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: SES performance appraisals.

CONTRACT PERSON FOR MORE INFORMATION: Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, telephone (202) 254-9430.

Dated: May 30, 1980.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-1088-80 Filed 6-2-80; 2:05 pm]

BILLING CODE 7545-01-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, May 30, 1980.

PLACE: Commissioner's conference room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

3:30 p.m.

Affirmation Session (approximately 5 minutes), public meeting.

Indian Point Revised Order (rescheduled from May 29).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should re-verify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

[S-1089-80 Filed 6-2-80; 2:44 am]

BILLING CODE 7590-01-M

Reader Aids

Federal Register
Vol. 45, No. 109
Wednesday, June 4, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO) "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JUNE

37175-37396	2
37397-37680	3
37681-37800	4

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
465 ... 37397

3 CFR
Administrative Orders:
Presidential Determination:
No. 80-19 of May 28, 1980 ... 37681

5 CFR
Proposed Rules
Ch. 1 ... 37610
352 ... 37452

6 CFR
705 ... 37397

7 CFR
10 ... 37175
711 ... 37398
910 ... 37683
947 ... 37178
1701 ... 37399
Proposed Rules
760 ... 37453
1701 ... 37454

8 CFR
207 ... 37392
208 ... 37392
209 ... 37392
245 ... 37392

9 CFR
3 ... 37616

10 CFR
73 ... 37399
95 ... 37410
140 ... 37410
205 ... 37683
445 ... 37685
Proposed Rules
211 ... 37697
212 ... 37697

12 CFR
204 ... 37410
217 ... 37685
229 ... 37412-37415
341 ... 37179
343 ... 37179

13 CFR
Proposed Rules
120 ... 37454

14 CFR
39 ... 37179-37181
97 ... 37181
Proposed Rules
39 ... 37221, 37222

15 CFR
370 ... 37183
373 ... 37415
374 ... 37415
376 ... 37415
379 ... 37183, 37435
385 ... 37415
386 ... 37183
399 ... 37415
Proposed Rules
19 ... 37374

16 CFR
13 ... 37686
460 ... 37674
1508 ... 37418
Proposed Rules
705 ... 37386

17 CFR
240 ... 37687

18 CFR
141 ... 37420
271 ... 37185
282 ... 37185

20 CFR
Proposed Rules
Ch. I ... 37648
Ch. IV ... 37648
Ch. V ... 37648
Ch. VI ... 37648
Ch. VII ... 37648

21 CFR
101 ... 37420
103 ... 37422
510 ... 37424
522 ... 37425
558 ... 37424
Proposed Rules
310 ... 37455

22 CFR
208 ... 37688
Proposed Rules
6 ... 37456
6f ... 37456
171 ... 37456

24 CFR
Proposed Rules
115 ... 37697

25 CFR
221 ... 37688

V 45 J E 4 8 0 UMI

28 CFR
42 37620

29 CFR
102 37425
Proposed Rules
Subtitle A 37648
Ch. II 37648
Ch. IV 37648
Ch. V 37648
Ch. XVII 37648
Ch. XXV 37648

30 CFR
Proposed Rules
Ch. I 37648
Ch. VII 37223, 37697

31 CFR
535 ..... 37679, 37688

33 CFR
147 37186
165 37187

34 CFR
5b 37426
30 37426
73 37426
100 37426
104 37426
106 37426

39 CFR
111 37426–37427

40 CFR
52 ..... 37188, 37192, 37428–37430, 37689
62 37431
80 37197
418 37198
423 37432
426 37198
432 37198
Proposed Rules
51 37466
52 ..... 37224, 37699
80 37225
180 37700

41 CFR
Ch. 101 ..... 37199, 37432
3–4 37693
101–11 37433
101–17 37199
101–18 37199
101–19 37199
101–45 37693

42 CFR
59 37433
Proposed Rules
447 37466

43 CFR
Public Land Orders:
5726 37438
5727 37439

44 CFR
64 37207
65 ..... 37442, 37694
67 37208–37209
205 37440
Proposed Rules
67 ..... 37226, 37227

45 CFR
74 37666
100c 37442
Proposed Rules
63 37700

46 CFR
283 37442
527 37694
Proposed Rules
Ch. IV 37703

47 CFR
73 37210
Proposed Rules
2 37237
22 37237
68 37704
73 ..... 37238–37246, 37468
90 37237

49 CFR
450 37212
451 37212
452 37212
453 37212
1033 ..... 37219, 37220
1041 37218

50 CFR
230 37451
611 37695

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

Deadline for Comments on Proposed Rules for the Week of June 8 through June 14, 1980

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

35829 5–28–80 / Lemons grown in Calif. and Ariz.; handling regulations; comments by 6–12–80

31118 5–12–80 / Potato Research and Promotion Plan; expenses and rate of assessment; comments by 6–12–80

Agricultural Stabilization and Conservation Service—

31393 5–13–80 / Beekeeper Indemnity Payment Program (1978–81); comments extended to 6–12–80

[*See also* 45 FR 24899, 4–11–80]

Commodity Credit Corporation—

24492 4–10–80 / Cooperative marketing associations; elibility requirements for price support; comments by 6–9–80

Federal Crop Insurance Corporation—

25068 4–14–80 / Forage production crop insurance regulations; comments by 6–13–80

25073 4–14–80 / Forage seeding crop insurance regulations; comments by 6–13–80

Office of the Secretary—

25408 4–15–80 / Natural Gas Policy Act of 1978; certification; addition of SIC 3412—metal shipping barrels, drums, kegs and pails (food related only) to list of essential agricultural uses; comments by 6–12–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

31112 5–12–80 / Commercial Tanner Crab Fishery off the coast of Alaska; amendment to Fishery Management Plan; comment on final regulations by 7–10–80

[*See also* 45 FR 25421, 4–15–80 and 45 FR 25815, 4–16–80]

EDUCATION DEPARTMENT

[*See* Health, Education, and Welfare Department.]

ENERGY DEPARTMENT

Economic Regulatory Administration—

31682 5–13–80 / Alternative amendments to the Mandatory Petroleum Allocation Regulations modifying treatment of Alaska North Slope (ANS) crude oil under the entitlement program; comments by 6–18–80

24092 4–8–80 / Financial assistance programs for State utility regulatory commissions and eligible nonregulated electric utilities; comments by 6–9–80

[*See also* 45 FR 31408, 5–13–80]

32322 5–16–80 / Reports on impending major electric utility system emergencies, customer load reductions and/or significant service interruptions in bulk electric power supply; comment period extended to 6–9–80

[*See also* 45 FR 20109, 3–27–80]

Federal Energy Regulatory Commission—

31744 5–14–80 / Procedures governing applications for special relief under Sections 104, 106 and 109 of the Natural Gas Policy Act of 1978; comments by 6–9–80

ENVIRONMENTAL PROTECTION AGENCY

30654 5–9–80 / Approval of revision to Ohio State Implementation Plan for sulfur dioxide; comments by 6–11–80

30456 5–8–80 / Maryland State implementation plan; proposed revisions; comments by 6–9–80

FEDERAL COMMUNICATIONS COMMISSION

26390 4–16–80 / Amendment of policies and procedures for amending FM table of assignments; reply comments by 6–11–80

25414 4–15–80 / Assignment of FM channels at Coeur D'Alene, Idaho; comments by 6–9–80

[*See also* 45 FR 12451, 2–26–80]

32025 5–15–80 / Domestic public land mobile radio service; one-way signaling on the 35 MHz frequency band; comments by 6–12–80

28773 4–30–80 / FM broadcast station in The Dalles, Oreg.;

28773 4–30–80 / FM broadcast station in The Dalles, Oreg.; Proposed changes in table of assignments; comments by 6–13–80

28775 4–30–80 / FM broadcast station in Manchester, Vt.; Proposed changes in table of assignments; comments by 6–13–80

17603 3–19–80 / Modification of FM broadcast station rules to increase the availability of commercial FM broadcast assignments; comments by 6–13–80

24212 4–9–80 / Private line rate structure and volume discount practices; Comments extended to 6–9–80

[*See also* 44 FR 61216, 10–24–79 and 45 FR 16214, 3–13–80]

16222 3–13–80 / Providing optimum conditions for utilization of New Jersey television channel assignments; inquiry; reply comments by 6–9–80

16219 3–13–80 / Television Broadcast Stations in Dover and Seaford, Del.; Asbury Park, Atlantic City, New Brunswick, Newton, Vineland, West Milford and Wildwood, N.J.; Kingston and Syracuse, N.Y.; and Bethlehem, Lebanon and State College, Pa.; Proposed Changes in Table of Assignments; reply comments by 6–9–80

28775 4–30–80 / Television broadcast stations in Lansing and Saginaw, Mich., Newark, Sandusky and Toledo, Ohio; Proposed changes in table of assignments; comments by 6–13–80

23478 4–7–80 / Television reciever performance; comments by 6–13–80

FEDERAL HOME LOAN BANK BOARD

31727 5–14–80 / Federal home loan bank system and Federal savings and loan system; reduction in reporting requirements; comments by 6–9–80

FEDERAL MEDIATION AND CONCILIATION SERVICE

24507 4–10–80 / Part-time employment for Federal employees; comments by 6–10–80

HEALTH AND HUMAN SERVICES DEPARTMENT

[*See* Health, Education and Welfare Department]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

24070 4–8–80 / Territorial Teacher Training Assistance Program; comments by 6–9–80

Food and Drug Administration—

9286 2–12–80 / Cholecy stokinetic drug products for over-the-counter human use; establishment of a monograph; reply comments by 6–11–80

Public Health Service—

24352 4–9–80 / Health maintenance organization loans and loan guarantees for acquisition and construction of ambulatory health care facilities; comments by 6–9–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of the Assistant Secretary—

24808 4–10–80 / Section 312 Rehabilitation Loan Program; comments by 6–9–80

Federal Housing Commissioner, Office of the Assistant Secretary—

30602 5–8–80 / Mortgage insurance; elimination of application fee; comments by 6–9–80

INTERIOR DEPARTMENT

Office of the Secretary—

24074 4–8–80 / Nondiscrimination on the basis of handicap in federally assisted programs; comments by 6–9–80

Surface Mining Reclamation and Enforcement Office—

32331 5–16–80 / Provisions to ensure uniform enforcement of interim and permanent program regulations governing multiple seam mining operations; comments by 6–12–80

30651 5–9–80 / Requirement that Pennsylvania comply with anthracite environmental protection provisions in effect on 8–3–77; comments by 6–9–80

INTERSTATE COMMERCE COMMISSION

28380 4–29–80 / Incentive per diem funds use; reply comments by 6–9–80

28381 4–29–80 / Railroad contract rates; change of policy; comments by 6–13–80

31767 5–14–80 / Remittance of demurrage charges by common carriers of property by rail; comments by 6–13–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

26366 4–18–80 / Proposed standard for occupational noise exposure; opportunity to comment on additional information; comments by 6–9–80

NUCLEAR REGULATORY COMMISSION

24168 4–9–80 / Licensing and regulatory policy and procedures for environmental protection; alternative site reviews; comments by 6–9–80

PERSONNEL MANAGEMENT OFFICE

24899 4–11–80 / Training in non-government facilities; procedural amendments; comments by 6–10–80

SECURITIES AND EXCHANGE COMMISSION

29853 5–6–80 / Stock Options; comments by 6–9–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

24505 4–10–80 / Skid resistant pavement surface design; comments by 6–9–80

Federal Highway Administration—

34302 5–22–80 / Design standards for highways; comments by 6–13–80

[*See also* 45 FR 34302, 5–12–80]

TREASURY DEPARTMENT

Comptroller of the Currency—

25078 4–14–80 / Nomination of candidates for election to national bank boards of directors; comments by 6–13–80

Internal Revenue Service—

24203 4–9–80 / Consolidated return regulations; comments by 6–9–80

24201 4–9–80 / Coordination of vesting and discrimination requirements for qualified plans; comments by 6–9–80

24205 4–9–80 / Holding period required for treatment of long-term capital gain or long-term capital loss; changes in terms relating to transactions in capital assets; comments by 6–9–80

26092 4–17–80 / Income tax; shareholder requirements relating to electing small business corporations; comments by 6–13–80

24207 4–9–80 / Withholding on certain individuals engaged in fishing; comments by 6–9–80

WAGE AND PRICE STABILITY COUNCIL

36047 5–29–80 / Anti-inflationary Standards; Questions and answers on gross-margin standard for utilities; amendment and additions; comments by 6–13–80

WATER RESOURCES COUNCIL

25302 4–14–80 / Principles, standards, and procedures for water resource planning; comments by 6–13–80

Deadlines for Comments on Proposed Rules for the Week of June 15 through June 21, 1980.

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

26340 4–18–80 / Cotton samplying regulations; comments by 6–17–80

24167 4–9–80 / Filbert imports; amendment to regulation; comments by 6–16–80

Animal and Plant Health Inspection Service—

26342 4–18–80 / Requirements for importation of horses; comments by 6–17–80

Foreign Agricultural Service—

33640 5–20–80 / Dairy products; "pricebreak" system elimination, quota shares allocation; comments by 6–20–80

CIVIL AERONAUTICS BOARD

26084 4–17–80 / Foreign charter operations; deregulation; comments by 6–16–80

31411 5–13–80 / New pre-filing tariff approval procedures for all U.S. certificated air carriers in domestic transportation so that fare reductions can be implemented within one day; comments by 6–19–80

25817 4–16–80 / Prescribed airline counter and ticket notices; comments by 6–16–80

26083 4–17–80 / Prorata and single entity charters; travel agent commissions and other matters; comments by 6–16–80

28342 4–29–80 / Revision and simplification of prescribed airline counter and ticket notices; comments by 6–16–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

25815 4–16–80 / Commercial tanner crab fishery off the Coast of Alaska amendment to Fishery Management Plan and final regulations; comments by 6–19–80

COMMUNITY SERVICES ADMINISTRATION

26102 4–17–80 / Rural Development Loan Fund Program: governing policies, comments by 6–16–80

DEPOSITORY INSTITUTIONS

Deregulation Committee—

32323 5–16–80 / Provisions relating to premiums, finders fees, and the payment of interest in merchandise; comments by 6–16–80

EDUCATION DEPARTMENT

[*See* Health, Education, and Welfare Department]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

31418 5–13–80 / Natural gas; interim, retroative and refund filing requirements; comments by 6–16–80

34264 5–22–80 / Transportation certificate for natural gas for the displacement of fuel oil; comments by 6–16–80

ENVIRONMENTAL PROTECTION AGENCY

32333 5–16–80 / Amendments to Youngstown, Ohio State Implementation plan; results of review; comments by 6–16–80

29589 5–5–80 / National Pollutant Discharge Elimination System Best Management Practices Guidance Document; comments by 6–19–80

[*See also* 44 FR 32955, 6–7–79; 44 FR 47063, 8–10–79, and 45 FR 17997, 3–20–80]

33656 5–20–80 / Pennsylvania nqnattainment area plan; comments by 6–19–80

26373 4–18–80 / Pesticide programs; "good laboratory practices" guidelines; comments by 6–17–80

26721 4–21–80 / Petroleum refining point source category effluent limitations guidelines, pretreatment standards and new source performance standards; comments by 6–19–80

32338 5–16–80 / Proposed exemption from requirement of a tolerance for 2, 2, 5-Trimethyl-3-Dichloroacetyl-1,3-Oxazolidine; comments by 6–16–80

34018 5–21–80 / Proposed revision of the Virginia State implementation plan; comments by 6–20–80

26910 4–21–80 / Review of standards of performance for new stationary sources; electric arc furances (steel industry); comments by 6–20–80

32337 5–16–80 / Review of revisions to Vermont State Implementation Plan; comments by 6–16–80

26304 4–17–80 / Secondary lead smelters; review of standards of performance for new stationary sources; comments by 6–16–80

26934 4–21–80 / Women's Business Enterprise Participation in EPA's Construction Grants Program; intent to issue policy guidance; comments by 6–20–80

FEDERAL COMMUNICATIONS COMMISSION

28779 4–30–80 / FM broadcast stations in Alameda and Albuquerque, N. Mex.; proposed changes in table of assignments; comments by 6–16–80

24213 4–9–80 / FM broadcast station in Allendale, S.C.; proposed changes in table of assignments; reply comments by 6–16–80

28771 4–30–80 / FM broadcast station in Eagle, Colo.; proposed changes in table of assignments; comments by 6–16–80

28777 4–30–80 / FM broadcast station in Falmouth, Mass.; proposed changes in table of assignments; comments by 6–16–80

28768 4–30–80 / FM broadcast stations in Lewisburg and Roncevert, W. Va.; proposed changes in table of assignments; comments by 6–16–80

24214 4–9–80 / FM broadcast station in Memphis, Mo.; proposed changes in table of assignments; reply comments by 6–16–80

29870 5–6–80 / FM broadcast station in Quincy, Calif.; proposed changes in table of assignments; comments by 6–16–80

28769 4–30–80 / FM broadcast stations in Rohnert Park and Sebastopol, Calif.; proposed changes in table of assignments; comments by 6–16–80

29871 5–6–80 / FM broadcast station in Stephenville, Tex.; proposed changes in table of assignments; comments by 6–16–80

29323 5–2–80 / Frequency allocation to the Instructional TV Fixed Service; Multipoint Distribution Service and private Operational fixed Microwave Service; comments by 6–16–80

28770 4–30–80 / Television broadcast stations in Santa Barbara, Calif.; proposed changes in table of assignment; comments by 6–16–80

FEDERAL RESERVE SYSTEM

33644 5–20–80 / Increased tolerance for annual percentage rates in irregular mortgage transactions; comments by 6–20–80

30081 5–7–80 / International banking operations; additional investments under general consent procedures; comments by 6–16–80

FEDERAL TRADE COMMISSION

26344 4–18–80 / Dancer-Fitzgerald—Sample, Inc.; consent agreement with analysis to aid public comment; comments by 6–20–80

HEALTH AND HUMAN SERVICES DEPARTMENT

[*See* Health, Education, and Welfare Department]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

17159 3–18–80 / Nitrates and nitrites in poultry products; proposed declaration that no prior sanction exists; comments by 6–18–80

Social Security Administration—

TRANSPORTATION DEPARTMENT

Patent and Trademark Office—

26500 4–29–80 / Allergy and Infectious Diseases, National

Social Security Administration—

26719 4–21–80 / Supplemental security income for the aged, blind, and disabled; interim assistance provisions; comments by 6–20–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development Office of the Secretary—

26981 4–22–80 / Comprehensive Planning and Assistance; Work-Study Program; rulemaking procedure; comments by 6–20–80

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary—

26908 4–21–80 / Mobile home construction and safety standards; comments by 6–20–80

INTERIOR DEPARTMENT

Geological Survey

29309 5–2–80 / Air quality provisions relating to oil and gas and sulfur operations in the Outer Continental Shelf; comment period extended to 6–20–80

[*See also* 45 FR 15147, Mar. 7, 1980]

Land Management Bureau—

27456 4–23–80 / Surface management and mining claims located on the public lands; comments extended to 6–16–80

[*See also* 45 FR 13597, 3–3–80]

27456 4–23–80 / Surface management of public lands under the U.S. Mining Laws; Draft environmental impact statement; comments extended to 6–16–80

[*See also* 45 FR 13788, 3–3–80 and 45 FR 28380, 4–29–80]

Surface Mining Reclamation and Enforcement Office—

32329 5–16–80 / Intent to develop Federal programs on surface coal mining reclamation and enforcement; comments by 6–16–80

INTERSTATE COMMERCE COMMISSION

29104 5–1–80 / Passes and free transportation for railroads, water carriers and motor carriers; elimination of regulation; comments by 6–16–80

LABOR DEPARTMENT

Pension and Welfare Benefit Programs Office—

25404 4–15–80 / Alternative method of compliance with reporting and disclosure requirements of Part 1 of Title 1 of the Employee Retirement Income Security Act of 1974 for certain simplified employee pensions; comments by 6–15–80

NATIONAL CREDIT UNION ADMINISTRATION

26073 4–17–80 / Classification of loans; deregulation; comments by 6–16–80

NUCLEAR REGULATORY COMMISSION

26071 4–17–80 / Metropolitan Area Planning Agency, Citizens Advisory Board; petition for rulemaking; comments by 6–16–80

26072 4–17–80 / Nuclear power operations; environmental radiation protection standards; comments by 6–16–80

18023 3–20–80 / Standards for protection against radiation; comments by 6–18–80

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

34752 5–22–80 / General guidelines and uniform standards for urban planning and design of development within the Pennsylvania Avenue development area; comments by 6–15–80

SECURITIES AND EXCHANGE PROGRAM

33650 5–20–80 / Ratio of earnings to fixed charges; concept release; comments by 6–15–80

TRANSPORTATION DEPARTMENT

Coast Guard—

29594 5–5–80 / Reynolds Channel, N.Y., drawbridge operation regulations; comments by 6–19–80

29593 5–5–80 / Shelburne Bay, Vt., special anchorage area; comments by 6–19–80

29593 5–5–80 / St. Croix River, Wis. and Minn.; drawbridge operation regulations; comments by 6–19–80

29087 5–1–80 / Tank vessels transferring Outer Continental Shelf oil; design and equipment standards; comments by 6–16–80

Federal Aviation Administration—

27775 4–24–80 / Crewmember clothing; flammability standards; comments by 6–16–80

Federal Highway Administration—

26280 4–17–80 / Accommodation of utilities; comments by 6–16–80

National Highway Traffic Safety Administration—

29102 5–1–80 / Federal motor vehicle safety standards; seat belt assemblies; comments by 6–16–80

Research and Special Programs Administration—

25083 4–14–80 / Shipment of hazardous materials; comments by 6–15–80

Urban Mass Transportation Administration—

32699 5–19–80 / Public hearing requirements for service and fare changes; comments by 6–20–80

Next Week's Meetings:

AGRICULTURE DEPARTMENT

Forest Service—

24518 4–10–80 / Uinta National Forest Grazing Advisory Board, Provo, Utah (Open), 4–30–80 changed to 6–13–80

[See 45 FR 26986; 4–22–80]

ARTS AND HUMANITIES, NATIONAL FOUNDATION

31241 5–12–80 / Humanities Panel, Washington, D.C. (closed), 6–12 and 6–13–80

34091 5–21–80 / Literature Panel, Durham, N.C. (partially open), 6–13 and 6–14–80

34091 5–21–80 / Special Projects Panel (Folk Arts), Washington, D.C. (closed), 6–12 through 6–14–80

34091 5–21–80 / Theatre Panel (Small Companies), Washington, D.C. (closed), 6–10 and 6–11–80

CIVIL RIGHTS COMMISSION

34028 5–21–80 / Kentucky Advisory Committee, Louisville, Ky. (open), 6–11–80

32749 5–19–80 / New Jersey Advisory Committee, New Brunswick, N.J. (open), 6–12–80

32749 5–19–80 / New York Advisory Committee, New York, N.Y. (open), 6–11–80

31148 5–12–80 / Virginia Advisory Committee, Arlington, Virginia, 6–9 and 6–10–80

COMMERCE DEPARTMENT

International Trade Administration—

34947 5–23–80 / Export promotion subcommittee of the President's Export Council, Washington, D.C. (open), 6–12–80

National Oceanic and Atmospheric Administration—

32362 5–16–80 / Mid-Atlantic Fishery Management Council, Hampton, Va. (open), 6–11–80

29383 5–2–80 / Pacific Fishery Management Council's Scientific and Statistical Committee and Groundfish Subpanel, Los Angeles, Calif. (partially open), 6–10 through 6–12–80

Patent and Trademark Office—

33677 5–20–80 / Trademark Affairs Public Advisory Committee, Washington, D.C. (open), 6–10–80

CONSUMER PRODUCT SAFETY COMMISSION

34950 5–23–80 / Product Safety Advisory Council, Washington, D.C. (open), 6–9–80

DEFENCE DEPARTMENT

34340 5–22–80 / ECM Task Force, Washington, D.C. (closed), 6–12 and 6–13–80

Air Force Department—

33677 5–20–80 / USAF Scientific Advisory Board, Ad Hoc Committee on the Air Force in Space, Los Angeles, Calif. (closed), 6–11 and 6–12–80

34034 5–21–80 / USAF Scientific Advisory Board, Tullahoma, Tenn. (open), 6–11–80

30668 5–9–80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 6–10–80

Office of the Secretary—

27809 4–24–80 / DOD Advisory Group on Electron Devices, New York, N.Y. (closed), 6–10–80

27973 4–25–80 / DOD Wage Committee, Washington, D.C. (closed), 6–10–80

EDUCATION DEPARTMENT

[*See also* Health, Education, and Welfare Department]

32363 5–16–80 / National Advisory Council on Adult Education, Washington, D.C. (open), 6–8 and 6–9–80

35854 5–28–80 / Vocational Education National Advisory Council, Columbus, Ohio (open), 6–13 and 6–14–80

ENERGY DEPARTMENT

34341 5–22–80 / National Petroleum Council, Washington, D.C. (open), 6–11–80

34341 5–22–80 / Unconventional Gas Sources National Petroleum Council Subcommittee, Washington, D.C. (open), 6–10–80

FEDERAL COMMUNICATIONS COMMISSION

35910 5–28–80 / Radio Technical Commission for Marine Services, Special Committee No. 75, Linthicum Heights, Md. (open), 6–12–80

FEDERAL MEDIATION AND CONCILIATION SERVICE

35419 5–27–80 / Arbitration Services Advisory Committee, Los Angeles, Calif. (open), 6–14–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

31492 5–13–80 / Meeting, Washington, D.C. (open), 6–12–80

FINE ARTS COMMISSION

64863 11–8–79 / Meeting, Washington, D.C. (open), 6–10–80

34337 5–22–80 / Meeting, Washington, D.C. (open), 6–10–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

[*See also* Education Department, and Health and Human Services Department]

Disease Control Center—

30137 5–7–80 / Safety and Occupational Health Study Section; Rockville, Md., 6–10 through 6–13–80

Facilities Engineering Office—

26818 4–30–80 / HEW/Navy Bethesda Cogeneration Project, Bethesda, Md., 6–11–80

National Institute of Education—

28206 4–28–80 / National Assessment of Educational Progress Assessment Policy Committee (open), Denver, Colorado, 6–13 and 6–14–80

National Institutes of Health—

28502 4–29–80 / Allergy and Clinical Immunology Research Committee, Bethesda, Md. (partially open), 6–9–80 and (closed), 6–10–80

28500 4–29–80 / Allergy and Infectious Diseases, National Institutes of Health, Bethesda, Md. (partially open), 6–12–80, and (closed) 6–13–80

28503 4–29–80 / Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, Bethesda, Md. (partially open), 6–9–80

30697 5–9–80 / National Cancer Institute review committees, various cities in Louisiana and Maryland (partially open), 6–9 through 6–12–80

30698 5–9–80 / National Diabetes Advisory Board, Bethesda, Md. (open), 6–11–80

Public Health Service—

26387 4–18–80 / Discussion of personnel standards for clinical laboratories, Atlanta, Ga., 6–9 through 6–11–80

31205 5–12–80 / Low yield cigarettes research needs, Bethesda, Md. (partially open), 6–9 and 6–10–80

HEALTH AND HUMAN SERVICES DEPARTMENT

[*See also*, Health, Education, and Welfare Department]

Alcohol, Drug Abuse, and Mental Health Administration—

34426 5–22–80 / Basic Psychopharmacology and Neuropsychology Research Review Committee, Silver Spring, Md. (open), 6–12 and 6–13–80

34426 5–22–80 / Cognition, Emotion, and Personality Research Review Committee, Washington, D.C. (open), 6–13 through 6–15–80

34426 5–22–80 / Community Processes and Social Policy Review Committee, Arlington, Va. (open), 6–11 through 6–13–80

34426 5–22–80 / Criminal and Violent Behavior Review Committee, Chevy Chase, Md. (open), 6–11 through 6–13–80

34425 5–22–80 / Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee, Rockville, Md. (open), 6–9 through 6–13–80

34425 5–22–80 / Drug Abuse Resource Development Review Committee, Rockville, Md. (open), 6–9 through 6–13–80

34425 5–22–80 / Epidemiologic and Services Research Review Committee, Bethesda, Md. (open), 6–9 through 6–12–80

33725 5–20–80 / Mental Health National Advisory Council, Rockville, Md. (partially open), 6–13–80

34426 5–22–80 / Mental Health Research Education Review Committee, Rockville, Md. (open), 6–11 through 6–14–80

34426 5–22–80 / Paraprofessional Education Review Committee, Rockville, Md. (open), 6–12 through 6–14–80

34425 5–22–80 / Psychopathology and Clinical Biology Research Review Committee, Rockville, Md. (open), 6–9 through 6–11–80

34426 5–22–80 / Treatment Development and Assessment Research Review Committee, Washington, D.C. (open), 6–12 and 6–13–80

Food and Drug Administration—

35014 5–23–80 / Discussion of research efforts sponsored by the agency's Bureau of Radiological Health in the area of biological effects and measurement of light sources, Rockville, Md. (open), 6–9 and 6–10–80

31497 5–13–80 / General Medical Devices Panel, General and Personal Use Devices Section, Silver Spring, Md. (open and closed), 6–16–80

31495 5–13–80 / Peripheral and Central Nervous System Drugs Advisory Committee, Rockville, Md. (open), 6–12 and 6–13–80

Health Resources Administration—

32777 5–19–80 / Implementation and Administration Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 6–12–80

32778 5–19–80 / National Council on Health Planning and Development, Washington, D.C. (open), 6–13–80

33748 5–20–80 / Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Biology and Eastern Equatorial

IMMIGRATION AND REFUGEE POLICY SELECT COMMISSION

DEADLINES FOR COMMENTS ON PROPOSED RULES

32778 5–19–80 / National Council on Health Planning and Development, Washington, D.C. (open), 6–13–80

32777 5–19–80 / National Guidelines, Goals, Priorities, and Standards Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 6–12–80

32777 5–19–80 / Technology and Productivity Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 6–12–80

National Institutes of Health—

32781 5–19–80 / Division of Research Grants, Various Study Sections (open and closed), 6–8 through 6–13–80

Office of the Assistant Secretary of Health—

34068 5–21–80 / Health Care Technology Study Section, Hyattsville, Md. (partially open), 6–9–80

Office of the Secretary—

33725 5–20–80 / Vital and Health Statistics National Committee, Subcommittee on Cooperative Health Statistics System, Washington, D.C., 6–9–80

INTERIOR DEPARTMENT

National Park Service—

30547 5–8–80 / Arizona Strip District Grazing Advisory Board, St. George, Utah (open), 6–10–80

30548 5–8–80 / Ely District-Nevada Grazing Advisory Board, Ely, Nev. (open), 6–11–80

30550 5–8–80 / Idaho Falls District Grazing Advisory Board, Idaho Falls, Idaho (open), 6–12–80

30543 5–8–80 / Oklahoma, Western Interior Regional Coal Team, Oklahoma City, Okla. (open), 6–10–80

Water and Power Resources Service—

35019 5–23–80 / Scoping meeting on environmental impact statement for Creston Steam electric Station, Creston, Wash., held at various cities in Washington (open), 6–10 through 6–12–80

JUSTICE DEPARTMENT

31835 5–14–80 / United States Circuit Judge Nominating Commission, Second Circuit Panel, New York, N.Y. (closed), 6–12 and 6–13–80

Attorney General—

33745 5–20–80 / Hispanic Advisory Committee to the Attorney General, Washington, D.C. (open), 6–9–80

Justice Assistance, Research, and Statistics Office—

35947 5–28–80 / Juvenile Justice and Delinquency Prevention National Advisory Committee, Washington, D.C. (open), 6–11 through 6–14–80

LABOR DEPARTMENT

Labor Statistics Bureau—

32439 5–16–80 / Labor Research Advisory Council Committees, Washington, D.C. (open), 6–10 through 6–12–80

Occupational Safety and Health Administration—

35454 5–27–80 / National Advisory Committee on Occupational Safety and Health; Full Committee Meeting and Subgroup Meeting, Washington, D.C. (open), 6–12 and 6–13–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

34091 5–21–80 / NASA Advisory Council, Woods Hole, Mass. (open), 6–9 through 6–14–80

NATIONAL SCIENCE FOUNDATION

30196 5–7–80 / Materials Research Advisory Committee, Solid State Physics Ad Hoc Oversight Subcommittee, Washington, D.C. (closed), 6–9 and 6–10–80

33749 5–20–80 / Mathematical and Computer Sciences Advisory Committee, Mathematical Sciences Subcommittee, Washington, D.C. (open), 6–10 and 6–11–80

33748 5–20–80 / Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Biology and Eastern Equatorial Dynamics Project, Washington, D.C. (closed), 6–9 and 6–10–80

33749 5–20–80 / Social Sciences Advisory Committee, Washington, D.C. (closed), 6–9 and 6–10–80

NUCLEAR REGULATORY COMMISSION

31554 5–13–80 / Advisory Committee for Screening of Licensing Board Candidates, Bethesda, Md. (closed), 6–13–80

PENSION POLICY, PRESIDENT'S COMMISSION

4488 1–22–80 / Meeting, Minneapolis, Minn. (open), 6–13–80

21067 3–31–80 / Meeting, Minneapolis, Minn. (open) 6–12–80 and Austin, Texas (open) 6–13–80

PRESIDENT'S EXPORT COUNCIL

34321 5–22–80 / GATT Subcommittee, Washington, D.C., (open), 6–10–80

RADIATION POLICY COUNCIL

35055 5–23–80 / Meeting of council members with public, Washington, D.C. (open), 6–11–80

SCIENCE AND TECHNOLOGY POLICY OFFICE

35054 5–23–80 / Intergovernmental Science, Engineering, and Technology Advisory Panel, Seattle, Wash. (open), 6–6–80

SMALL BUSINESS ADMINISTRATION

21433 4–1–80 / Region I (Boston, Mass.) Advisory Council Executive Board, Boston, Mass. (open), 6–11–80

29654 5–5–80 / Region II Advisory Council Executive Board, New York, N.Y. (open), 6–12–80

STATE DEPARTMENT

32155 5–15–80 / Fine Arts Committee, John Quincy Adams State Drawing Room (open), 6–9–80

Office of the Secretary—

35963 5–28–80 / Shipping/Coordinating Committee, Ocean Dumping Subcommittee, Washington, D.C. (open), 6–12–80

VETERANS ADMINISTRATION

31855 5–14–80 / Cooperative Studies Evaluation Committee, Washington, D.C. (partially open), 6–9–80

32157 5–15–80 / Station Committee on Educational Allowances, Des Moines, Iowa (open), 6–12–80

17714 3–19–80 / Wage Committee, Washington, D.C. (closed), 6–12–80

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

32321 5–16–80 / Proposed amendments to tentative marketing agreement and order, Albany, N.Y., 6–10–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

35851 5–28–80 / New Jersey Coastal Management Program; draft environmental impact statement:
Trenton, N.J., 6–11–80
Jersey City, N.J., 6–11–80
Camden, N.J., 6–12–80
Toms River, N.J., 6–12–80

DELAWARE RIVER BASIN COMMISSION

30105 5–7–80 / Groundwater protection, Southeast Pennsylvania:
Chalfont, Pa., 6–10
Lionville, Pa., 6–11–80

ENERGY DEPARTMENT

Office of the Secretary—

34008 5–21–80 / Electric and hybrid vehicle research, development, and demonstration program; equivalent petroleum-based fuel economy calculation, Washington, D.C., 6–10–80

35788 5–27–80 / Emergency building temperature restrictions, Washington, D.C., 6–12–80
[Corrected at 45 FR 36428, 5–30–80]

IMMIGRATION AND REFUGEE POLICY SELECT COMMISSION

31851 5–14–80 / Testimony from invited witnesses addressing issues related to cooperation between border nations; refugee and immigrant acculturation; legalization of undocumented/illegal aliens, and INS structure and procedures, San Francisco, Calif., 6–9–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

29373 5–2–80 / Proceeding on reproposal of critical habitat for California elderberry longhorn beetle, Davis, Calif., 6–12–80

29371 5–2–80 / Proceeding on reproposal of critical habitat for the delta-green ground beetle, Davis, Calif., 6–12–80

29370 5–2–80 / Proceeding on reproposal of critical habitat for Mojave rabbitbrush longhorn beetle, West Lancaster, Calif., 6–13–80

Surface Mining Reclamation and Enforcement Office—

32331 5–16–80 / Hearing on provisions to ensure uniform enforcement of interim and permanent program regulations governing multiple safe mining operations, Charleston, W. Va., 6–11–80

LIBRARY OF CONGRESS

Copyright Office—

27588 4–23–80 / Report of the Register of Copyrights on the rights of creators and the needs of users of works reproduced by certain libraries and archives, Washington, D.C., 6–11–80

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration—

32030 5–15–80 / Highway routing of radioactive materials, Boston, Mass., 6–11–80 and New York, N.Y., 6–13–80
[Corrected at 45 FR 34316, 5–22–80]

UNITED STATES TRADE REPRESENTATIVE OFFICE

35457 5–27–80 / Trade Policy Staff Committee, hearing on possible suspension of concessions on lead with regard to Mexico, Washington, D.C., 6–12–80

List of Public Laws

Last Listing June 3, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 7471 / Pub. L. 96–256 To extend the present public debt limit through June 5, 1980. (May 30, 1980; 94 Stat. 421) Price: $1.00.

H.R. 6081 / Pub. L. 96–257 Special Central American Assistance Act of 1979. (May 31, 1980; 94 Stat. 422) Price: $1.00.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

35818 5–28–80 / ED—Bilingual education program; correction to rule published 4–4–80, page 23208

36415 5–30–80 / HHS—Administration of grants; grantee and subgrantee audits; correction (See also 45 FR 35329, 5–27–80)

36386 5–30–80 / HHS/FDA—Protection of human subjects; prisoners used as subjects in research; effective 6–1–81

DEADLINES FOR COMMENTS ON PROPOSED RULES

36810 5–30–80 / HHS/SSA—Low Income Energy Assistance Program; grants to States; effective 5–30–80; comments by 6–30–80

APPLICATIONS DEADLINES

36465 5–30–80 / Commerce/MBDA—Financial assistance application announcement; San Diego, Calif.; apply by 6–19–80

36110 5–29–80 / ED—Bilingual education program; corrected to apply by 6–16–80
[Originally published at 45 FR 23236–23243, 4–4–80]

36109 5–29–80 / ED—Gifted and talented children's education program—Discretionary program for professional development projects; apply by 6–27–80

36110 5–29–80 / ED—State Post-Secondary Education Commission Program—intrastate planning; apply by 7–7–80

36469 5–30–80 / ED—Territorial Teacher Training Assistance Program; new projects for fiscal year 1980; apply by 7–14–80

35914 5–28–80 / HHS—Retirement policy study; apply by 8–15–80

36563 5–30–80 / Justice/NIJ—Probation and alternatives in Maryland; competitive research grant; apply by 7–25–80

MEETINGS

36468 5–30–80 / ED—National Advisory Council on Women's Educational Programs and the National Advisory Council on Vocational Education, Washington, D.C. (open), 6–16–80

36467 5–30–80 / ED—National Advisory Council on Women's Educational Programs, Washington, D.C. (open), 6–16 through 6–18–80

36523 5–30–80 / HEW/ADAMHA—Research Scientist Development Review Committee, Berkeley Springs, W. Va. (partially open), 6–18 through 6–20–80

36567 5–30–80 / NFAH—Expansion Arts Panel, Washington, D.C. (partially open), 6–17 through 6–19–80

36231 5–29–80 / NFAH—Humanities Panel, Washington, D.C. (closed), 6–16 through 6–24–80

35455 5–27–80 / NFAH—Media Arts Panel (Media Art Centers), Washington, D.C. (closed), 6–16 and 6–17–80

36568 5–30–80 / NSF—Ad Hoc Subcommittee for Review of Warm Core Rings, Washington, D.C. (closed), 6–19 and 6–20–80

36567 5–30–80 / NSF—Advisory Council Steering Committee, Washington, D.C. (open), 6–17–80

36576 5–30–80 / VA—Health Services Research and Development Merit Review Board, Washington, D.C. (partially open), 6–2 and 6–3–80

OTHER ITEMS OF INTEREST

35970 5–28–80 / Commerce/NTIA—Planning and construction of public telecommunications facilities; acceptance of applications

36079 5–29–80 / ED—Graduate and professional opportunities program; Public service education program; and domestic mining and mineral and mineral fuel conservation fellowships program

35855 5–28–80 / ED—Upward Bound and Special Services; increase in funds (See also 45 FR 11532, 2–21–80)

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_____	Title 21—Food and Drugs (Part 1300 to End)	$4.50	$_____
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6-5-80
Vol. 45 No. 110
Pages 37801-38022

federal register

Thursday
June 5, 1980

Highlights

37914 **Grants-Social Programs** Justice/BJS issues notices of solicitation for various projects (6 documents)

37818 **Financial Transactions** Treasury/Sec'y amends regulations governing individual currency transactions, reporting and recordkeeping; effective 7-7-80

37867 **Procurement** CSA amends rule governing standards for grantees; comments by 8-4-80

37847 **Hunting** Interior/FWS defines zones where use of non-toxic shot is required; effective 9-1-80

37852 **Fishing Vessels** Commerce/NOAA establishes procedures for Obligation Guarantee Program; effective 6-5-80

37801 **Banks, Banking** Depository Institutions Deregulation Committee adopts final rule concerning penalty for early withdrawal of time deposit funds; effective 6-2-80

37803 **Banks, Banking** Depository Institutions Deregulation Committee adopts final rule governing ceiling rates of interest payable on money market certificates and small saver certificates; effective dates vary

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

37854 **Exports** USDA/CCC proposes an Export Credit Guarantee Program; comments by 7–21–80

37858 **Medicare and Medicaid** HHS/HCFA proposes prohibition of use of Federal funds for certain unproven or ineffective drugs; comments by 8–4–80

37812 **Natural Gas** DOE/FERC issues order revising report of gas supply and requirements; effective 6–30–80

38972 **Improving Government Regulations** Commerce/Sec'y publishes semiannual agenda of regulations (Part II of this issue)

38014 **Medicare and Medicaid** HHS/HCFA issues schedule of limits on home health agency costs that may be reimbursed under Medicare program; effective 7–1–80 (Part III of this issue)

37888 **Privacy Act Documents** FEMA

37941 **Sunshine Act Meetings**

Separate Parts of This Issue

37972 **Part II, Commerce/Sec'y**
38014 **Part III, HHS/HCFA**

Contents

Federal Register
Vol. 45, No. 110
Thursday, June 5, 1980

Agricultural Marketing Service
RULES
37801 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Commodity Credit Corporation.
NOTICES
Perishable Agricultural Commodities Act and Packers and Stockyards Act:
37871 Interest rates awarded in reparation proceedings; policy change

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
37892 June; change

Army Department
See Engineers Corps.

Census Bureau
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

Civil Aeronautics Board
RULES
37812 Air carrier accounts, records and memoranda, preservation; recordkeeping requirements; GAO approval; correction
NOTICES
37871 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
37872 All American Aviation, Inc., et al.
37872 Central Zone-Caracas-Maracaibo Venezuela case
37871 International Air Transport Association
37872 Pennsylvania Commuter Airlines, Inc.

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
PROPOSED RULES
Improving Government regulations:
37972 Regulatory agenda

Commodity Credit Corporation
PROPOSED RULES
Export programs:
37854 International markets defaults by Foreign banks; export credit guarantee program

Commodity Futures Trading Commission
NOTICES
Futures contracts, proposed; availability:
37874 Chicago Board of Trade; publication and inquiry
37941 Meetings; Sunshine Act

Community Services Administration
PROPOSED RULES
Uniform standards:
37867 Grants procurement; separate business entities
NOTICES
Organization and functions:
37874 Senior Executive Service Performance Review Board

Customs Service
NOTICES
Tariff-rate quotas:
37940 Tuna fish

Defense Department
See Engineers Corps.

Depository Institutions Deregulation Committee
RULES
Interest on deposits:
37803 Money market certificates and small saver certificates; ceiling rates
37801 Time deposit funds; early withdrawal penalty

Economic Analysis Bureau
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

Economic Development Administration
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

Education Department
NOTICES
Meetings:
37875 Ethnic Heritage Studies National Advisory Council

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
Disallowance orders:
37876 Atlantic Richfield Co.
Remedial orders:
37877 Atlantic Richfield Co.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
37875 Duwamish Waterway on Elliott Bay, Seattle, Wash.; channel improvements

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
37821 Washington

NOTICES
Air pollutants; hazardous: National emission standards:
37886 Arsenic, inorganic; list addition
Environmental statements; availability, etc.:
37877 Agency statements; review and comment
Pesticide programs:
37884 Label improvement program
Toxic and hazardous substances control:
37886 Asbetos cement water pipes; rulemaking petition approved

Federal Aviation Administration
RULES
Airworthiness directives:
37805 Fokker
37810 Lockheed
37811 McDonnell Douglas
37809 Piper
37808 Sikorsky
37811 Transition areas
PROPOSED RULES
37858 Transition areas
NOTICES
Meetings:
37935 Air Traffic Procedures Advisory Committee

Federal Communications Commission
RULES
Radio and television broadcasting:
37839 Solicitations for contributions by VHF-TV translator stations, and emergency messages by TV and FM translators; processed terminated
Radio stations; table of assignments:
37838 Texas
PROPOSED RULES
Radio stations; table of assignments:
37868 California
37869 Nebraska
NOTICES
Hearings, etc.:
37888 Southwest Mobile Systems, Inc., et al.

Federal Deposit Insurance Corporation
NOTICES
37941- Meetings; Sunshine Act (4 documents)
37942

Federal Election Commission
NOTICES
37942 Meetings; Sunshine Act

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
37861 Alabama et al.
NOTICES
37888 Privacy Act; systems of records

Federal Energy Regulatory Commission
RULES
Natural gas companies:
37812 Gas supply and requirements report (Form No. 16); revision

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
37936 Bossier City, La.; intent to prepare
37936 Lane County, Oreg.; intent to prepare
37937 Marion County, Ind.; intent to prepare
37936 Richmond County, Ga.; intent to prepare

Federal Home Loan Bank Board
NOTICES
37942 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
37943 Meetings; Sunshine Act
Rate increases, etc.; investigations and hearings, etc.:
37891 Pacific Coast European Conference

Federal Railroad Administration
NOTICES
Loan guarantee applications:
37938 Regional Transportation authority
Petitions for exemptions, etc.:
37938 Chicago & North Western Transportation Co.
37937 North Country Railroad Co.

Federal Reserve System
NOTICES
Applications, etc.:
37892 Royal Bank of Canada

Federal Statistical Policy and Standards Office
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

Fish and Wildlife Service
RULES
Migratory bird hunting:
37847 Non-toxic shot zones
NOTICES
Environmental statements; availability, etc.:
37910 Alaska Peninsula National Wildlife Refuge et al.

Geological Survey
RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
37816 Air quality standards; approval and solicitation of air quality models
37817 Exploration, development and production plans, etc.; correction
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
37910 Second edition valve, flow stream used in subsea completions; equipment standard

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Health Care Financing Administration.
NOTICES
Meetings:
37893 Model Adoption Legislation and Procedures Advisory Panel

Health Care Financing Administration
PROPOSED RULES
Medicaid and Medicare:
37858 Drugs, less than effective; prohibition against payment
NOTICES
Medicaid and medicare:
38014 Home health agency costs per visit; schedule of limits

Heritage Conservation and Recreation Service
NOTICES
Environmental statements; availability, etc.:
37910 Alaska Wild and Scenic Rivers, etc.

Indian Affairs Bureau
NOTICES
37893 Indian tribes, acknowledgment of existence; petitions

Interior Department
See Fish and Wildlife Service; Geological Survey; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Office.

International Trade Administration
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.
NOTICES
Countervailing duty petitions and preliminary determinations:
37872 Textiles and textile mill products from Pakistan

International Trade Commission
NOTICES
Import investigations:
37913 Textiles and textile products of cotton from Pakistan

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
37845 Chicago, Rock Island & Pacific Railroad Co.; track use by various railroads
37844 El Dorado & Wesson Railroad Co.
37843 Norfolk & Western Railway Co.
37843 Transkentucky Transportation Railroad Co.
NOTICES
Motor carriers:
37911 Passenger broker "Tauck" conditions; proposed policy statement
37911 Permanent authority applications; correction
37911 Temporary authority applications; correction (2 documents)
37912 Temporary authority applications; special procedures

Justice Department
See also Justice Statistics Bureau; Parole Commission.
NOTICES
Meetings:
37913 Circuit Judge Nominating Commission, U.S.

Justice Statistics Bureau
NOTICES
Competitive research solicitation:
37915 Adult probation; statewide data collection
37915 Criminal justice, analysis of specific topics; statistical techniques and methods
37914 Criminal justice, Federal informational resources; State and local governments acessibility
37916 Criminal justice for future multi-state statistical programs
37914 Criminal justice, statistical analysis; State-level capability
37915 Offender based transaction statistics (OBTS) data; State-level collection

Land Management Bureau
RULES
Public land orders:
37837 Nevada
NOTICES
Applications, etc.:
37895 Wyoming
Meetings:
37893 Gulf of Mexico Regional Technical Working Group
Motor vehicles, off-road, etc.; area closures:
37894 Oregon
Outer Continental Shelf; oil and gas lease sales:
37895 Eastern Gulf of Alaska
Resource management plans:
37893 Powder River Resource Area, Mont.
Wilderness areas; characteristics, inventories, etc.:
37894 Utah
37894 Wyoming

Management and Budget Office
NOTICES
37923 Agency forms under review (USDA, Commerce, Defense, HHS)

Maritime Administration
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

Minority Business Development Agency
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

National Highway Traffic Safety Administration
PROPOSED RULES
Consumer information:
37870 Tire quality grading, uniform; metric tire testing and traction test procedures; correction
NOTICES
Meetings:
37938 Safety, Bumper, and Consumer Information Programs
Motor vehicle safety standards; exemption petitions, etc.:
37939 Spring Valley Dodge, Inc.; bus window retention and release

National Oceanic and Atmospheric Administration
RULES
Financial aid to fisheries:
37852 Fishing vessel obligation guarantee program procedures; advances
PROPOSED RULES
Fishery conservation and management:
37870 Caribbean Fishery Management Council; spiny lobster resources; hearings
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.
NOTICES
Marine mammal permit applications, etc.:
37874 Sea Lions Promotions, Ltd.; correction

National Transportation Safety Board
RULES
Organization, functions, and authority delegations:
37842 Air safety proceedings and merchant marine appeals submissions; address change; correction
NOTICES
37916 Accident reports, safety recommendations and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
37920 Alexandria Hospital
37922 Mississippi Power & Light Co.
37923 Mississippi Power & Light Co. et al.
37922 Omaha Public Power District
37922 Southern California Edison Co.
37923 Wisconsin Electric Power Co.
37921 Regulatory guides; issuance and availability (2 documents)

Parole Commission
NOTICES
37943 Meetings; Sunshine Act

Patent and Trademark Office
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Commerce Department.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
37930 Middle South Energy, Inc., et al.
37931 Middle South Utilities, Inc.
37943 Meetings; Sunshine Act (2 documents)
Self-regulatory organizations; proposed rule changes:
37927 Boston Stock Exchange, Inc., et al.
37928 Chicago Board Options Exchange, Inc., et al.

State Department
NOTICES
Fishing permits, applications:
37932 Japan et al.

Surface Mining Office
RULES
Surface coal mining and reclamation enforcement operations:
37818 Permanent regulatory program; correction

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Taffic Safety Administration; Urban Mass Transportation Administration.

Treasury Department
See also Customs Service.
RULES
Currency and Foreign transactions; Financial recordkeeping and reporting:
37818 Reports, timeliness, completeness, retention of copies, and exemption

Urban Mass Transportation Administration
NOTICES
Environmental statements; availability, etc.:
37939 Baltimore region, north corridor; transportation alternatives, analysis; meeting

Wage and Price Stability Council
NOTICES
Meetings:
37874 Pay Advisory Committee

World Hunger, Presidential Commission on
NOTICES
37927 Meetings

MEETINGS ANNOUNCED IN THIS ISSUE

EDUCATION DEPARTMENT
37875 Ethnic Heritage Studies National Advisory Council, 6–24, 6–25, and 6–26–80

HEALTH AND HUMAN SERVICES DEPARTMENT
37893 Model Adoption Legislation and Procedures Advisory Panel, 8–7 and 8–8–80

INTERIOR DEPARTMENT
Land Management Bureau—
37893 Intergovernmental Planning Program, Gulf of Mexico Regional Technical Working Group, 7–10–80

JUSTICE DEPARTMENT
37913 United States Circuit Judge Nominating Commission, Seventh Circuit Panel; 6–30, 7–1, and 7–2–80

PRESIDENTIAL COMMISSION ON WORLD HUNGER
37927 Meeting, 6–16–80

WAGE AND PRICE STABILITY COUNCIL
37874 Pay Advisory Committee, 6–18, 7–15, and 8–8–80

RESCHEDULED MEETING

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration—
37938 Safety, Bumper, and Consumer Information Programs, 7–16–80 rescheduled for 7–9–80, submit questions by 6–30–80

CHANGED MEETING

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
37892 Epidemiologic and Services Research Review Committee, 6–9–80, change in open hours

HEARINGS

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
37870 Caribbean Fishery Management Council, June and July hearings, comments by 7–14–80

INTERNATIONAL TRADE COMMISSION
37913 Textiles and textile products of cotton from Pakistan, 6–27–80

V 45 J E 5 8 0 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
908.....37801
Proposed Rules:
1493.....37854
12 CFR
1204 (2 documents).....37801–37803
13 CFR
Proposed Rules:
Ch. III.....37972
Ch. V.....37972
14 CFR
39 (5 documents).....37805–37811
71.....37811
249.....37812
Proposed Rules:
71.....37858
15 CFR
Proposed Rules:
Ch. I.....37972
Ch. II.....37972
Ch. III.....37972
Ch. VIII.....37972
Ch. XII.....37972
18 CFR
260.....37812
30 CFR
250 (2 documents).....37816–37817
816.....37818
31 CFR
103.....37818
32A CFR
Proposed Rules:
Ch. VI.....37972
37 CFR
Proposed Rules:
Ch. I.....37972
40 CFR
52.....37821
42 CFR
Proposed Rules:
405.....37858
441.....37858
43 CFR
Public Land Orders:
5728.....37837
44 CFR
Proposed Rules:
67.....37861
45 CFR
Proposed Rules:
1050.....37867
46 CFR
Proposed Rules:
Ch. II.....37972
47 CFR
73.....37838
74.....37839
Proposed Rules:
73 (2 documents).....37868–37869
49 CFR
800.....37842
1033 (4 documents).....37843–37845
Proposed Rules:
575.....37870
50 CFR
20.....37847
255.....37852
Proposed Rules:
Ch. II.....37972
Ch. VI.....37972
661.....37870

Rules and Regulations

Federal Register
Vol. 45, No. 110
Thursday, June 5, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 649]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia Oranges that may be shipped to market during the period June 6–June 12, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on June 3, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to be steady.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 908.949 is added as follows:

§ 908.949 Valencia orange regulation 649.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 6, 1980 through June 12, 1980, are established as follows:

(1) District 1: 376,000 cartons;

(2) District 2: 424,000 cartons;

(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: June 4, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-17323 Filed 6-4-80; 11:43 am]

BILLING CODE 3410-02-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D–0007]

Interest on Deposits

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("the Committee") has adopted a final rule concerning the penalty for early withdrawals of time deposit funds. The rule provides for a minimum required penalty of a forfeiture of an amount equal to three months of interest, at the nominal contract rate, on the funds withdrawn where the time deposit has an original maturity of one year or less and six months of interest, at the nominal contract rate, on the funds withdrawn where the time deposit has an original maturity of more than one year, regardless of the length of time the funds have remained on deposit. The rule applies to all commercial banks, mutual savings banks, and savings and loan associations subject to the authorities conferred by section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act and section 5B(a) of the Federal Home Loan Bank Act.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: John Hall, Attorney, Federal Home Loan Bank Board (202/377–6466), Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447–1632), F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation (202/389–4324), Anthony F. Cole, Senior Attorney, Federal Reserve Board (202/452–3612), or Allan Schott, Attorney-Advisor, Treasury Department (202/566–6798).

SUPPLEMENTARY INFORMATION: Under regulations of the Federal Reserve, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, adopted effective July 1, 1979, a depositor is required to forfeit at least three months of interest on funds withdrawn prior to maturity from a time deposit with an original maturity of one year or less and six months of interest on funds withdrawn prior to maturity from a time deposit with an original

maturity of more than one year. Where

penalty rule) at the time of withdrawal.

calculate the minimum penalty required

By order of the Committee, May 28, 1980.

EFFECTIVE DATE: The new ceiling rules

thrift institutions

maturity of more than one year. Where the funds withdrawn have remained on deposit for less than three months or six months, respectively, the depositor is required to forfeit all interest earned on the funds withdrawn. No reduction of principal is required, however, unless interest has already been paid to the depositor.

The present penalty rule has not served as an adequate deterrent to premature withdrawals of time deposit funds in the early weeks or months of deposit contracts, particularly when market rates are increasing. In this regard, uncertainty regarding the possible withdrawal of funds before the agreed upon maturity could be disruptive to a depository institution's loan and investment programs. The rule adopted by the Committee modifies the current penalty rules of the agencies to require a forfeiture of an amount equal to three months of interest on the funds withdrawn where the time deposit has an original maturity of one year or less and six months of interest on the funds withdrawn where the time deposit has an original maturity of more than one year, *regardless* of the length of time the funds have remained on deposit.

The rule also provides that the minimum required penalty is to be calculated on the basis of the nominal (simple interest) rate of interest being paid on the time deposit. Under the current regulatory interpretations of the agencies, where interest is being paid on a compounded basis, the amount of interest forfeited must be calculated on a compounded basis. Calculating the penalty on the basis of the nominal rate of interest is more beneficial to consumers, will simplify the calculation and administration of the early withdrawal penalty, and will facilitate disclosure of penalty amounts to customers. Examples of the application of the modified penalty rule follow.

Example 1

A $5,000 time deposit with a maturity of one year and earning interest at a rate of 6 per cent compounded continuously (using 365/360) is withdrawn two months (sixty days) after the date of deposit. Regardless of the method of compounding, accruing, or crediting of interest, the penalty is $75.00, an amount equal to three months of interest at the nominal contract rate on the funds withdrawn ($5,000 × .06/4=$75.00). Imposition of the penalty in this case requires a reduction of $24.75 in the principal amount requested to be withdrawn since the funds have earned only $50.25 (6 per cent compounded continuously on $5,000 for two months) (the penalty amount under the former penalty rule) at the time of withdrawal. If the deposit were withdrawn six months (182 days) after the date of deposit, the penalty also is $75.00. However, in this case, no reduction in principal is necessary unless the interest earned has been paid out or withdrawn from the account. The depositor's balance at the time of withdrawal, including accrued interest, would have been a maximum of $5,153.99 (including 6 per cent interest compounded continuously for six months) and at the time of withdrawal the depositor would receive from the institution $5,078.99 ($5,153.99 less $75.00). If the depositor had already received all of his earned interest from the institution prior to the early withdrawal, the depositor would receive $4,925.00 at the time of the withdrawal.

Example 2

A $5,000 time deposit with a maturity of four years earning interest at a rate of 7¼ per cent compounded continuously (using 365/360) is withdrawn three months (90 days) after the date of deposit. Regardless of the method of compounding, accruing, or crediting of interest, the penalty is $181.25, an amount equal to six months interest at the nominal contract rate on the funds withdrawn ($5,000 × .0725/2=$181.25). Imposition of the penalty in this case requires a reduction of $89.80 in the principal amount requested to be withdrawn since the funds have earned only $91.45 (7¼ per cent compounded continuously on $5,000 for three months) (the penalty amount under the former penalty rule) at the time of withdrawal. If the deposit were withdrawn three years after the date of deposit, the penalty also is $181.25. However, in this case, no reduction in principal is necessary unless the interest earned has been paid out or withdrawn from the account. The depositor's balance at the time of withdrawal, including accrued interest, would have been a maximum of $6,233.63 (including 7¼ per cent interest compounded continuously for three years) and at the time of withdrawal the depositor would receive from the institution $6,052.38 ($6,233.63 less $181.25). If the depositor had already received all of his earned interest from the institution prior to the early withdrawal, the depositor would receive $4,818.75 at the time of the withdrawal.

The new rule will apply to all time deposits entered into, or renewed or extended, on or after June 2, 1980. Time deposits entered into before June 2, 1980, will continue to be subject to the rules of the agencies adopted effective July 1, 1979. Depository institutions, however, with the depositor's consent, may calculate the minimum penalty required to be imposed on withdrawals from pre-existing time deposits on the basis of the nominal simple rate of interest paid on such deposits. The new rule does not affect other provisions of the agencies' early withdrawal penalty rules, such as the exceptions to application of the penalty in the event of the death or incompetence of a depositor.

This action was taken by the Committee in view of the increased number of early withdrawals of time deposits that have occurred and the adverse effects of such withdrawals on the costs of depository institutions and on their ability effectively to manage their liabilities. In view of these considerations and to facilitate the orderly administration of currently prescribed deposit interest rate regulations, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this action would be contrary to the public interest and that good cause exists for making this action effective in less than 30 days.

Pursuant to its authority under Title II of Pub. L. 96–221, 94 Stat. 142 (12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations and mutual savings banks, effective June 2, 1980, the Committee adopts a final rule as follows:

PART 1204—INTEREST ON DEPOSITS

§ 1204.103 Penalty for early withdrawals.

Where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to three months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit. Where a time deposit with an original maturity of more than one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

By order of the Committee, May 28, 1980.
Normand R. V. Bernard,
Executive Secretary of the Committee.

[FR Doc. 80-17117 Filed 6-4-80; 8:45 am]
BILLING CODE 6210-01-M

12 CFR Part 1204

[Docket No. D-0008]

Money Market Certificates and Small Saver Certificates; Interest on Deposits

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rules.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has adopted final rules concerning the ceiling rates of interest payable on the 26-week money market certificate (MMC) and on the 2½ year and longer small saver certificate (SSC). Under the rules adopted, the ceiling rate of interest payable on the MMC by all institutions (commercial banks, mutual savings banks, and savings and loan associations) will be at least one-quarter of one percent above the rate established for six-month United States Treasury bills and in no event will the ceiling rate drop below 7¾ percent. In addition, during the period May 29 through November 30, 1980, commercial banks may renew maturing MMCs with the same depositor at a rate of interest equal to the ceiling rate of interest payable on MMCs by mutual savings banks and savings and loan associations. The ceiling rate of interest payable by all institutions on the SSC has been increased by one-half of one percent and in no event will the ceiling rate drop below 9.25 percent for commercial banks and 9.50 percent for mutual savings banks and savings and loan associations. These actions will provide consumers with a higher rate of return on their savings and will improve the competitive position of depository institutions. The actions also will enhance the ability of small banks to serve the agricultural and small business needs of their communities, help thrift institutions to increase liquidity, and permit banks and savings institutions to better serve the nation's needs for financing home building and home ownership. The rules apply to all commercial banks, mutual savings banks, and savings and loan associations subject to the authorities conferred by section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act, and section 5B(a) of the Federal Home Loan Bank Act.

EFFECTIVE DATE: The new ceiling rules for MMCs are effective for MMCs issued beginning on June 5, 1980. The provision permitting commercial banks to renew maturing MMCs at the thirft ceiling rate is effective May 29, 1980. The new ceiling rules for SSCs are effective for SSCs issued beginning on June 2, 1980.

FOR FURTHER INFORMATION CONTACT: John Hall, Attorney, Federal Home Loan Bank Board (202/377–6466), Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447–1632), F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation (202/389–4324), Anthony F. Cole, Senior Attorney, Federal Reserve Board (202/452–3612), or Allan Schott, Attorney-Advisor, Treasury Department (202/566–6798).

SUPPLEMENTARY INFORMATION: Effective June 1, 1978, the Federal Reserve, the Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("FHLBB") promulgated regulations authorizing Federally insured commercial banks, mutual savings banks, and savings and loan associations to offer MMCs (nonnegotiable time deposits of $10,000 or more with maturities of 26 weeks) at a maximum rate of interest tied to the discount yield (auction average) on the most recently issued six-month United States Treasury bills. Under regulations of the agencies, the maximum rate of interest payable by commercial banks on MMCs is the Treasury bill discount rate. The maximum rate of interest payable by mutual savings banks and savings and loan associations on MMCs is one-quarter of one percent above the Treasury bill discount rate when that rate is less than 8¾ percent, 9 percent when the Treasury bill discount rate is between 8¾ percent and 9 percent, and the Treasury bill discount rate when that rate is above 9 percent. Thus, when the Treasury bill discount rate is 9 percent or higher, all institutions may pay interest on the MMC at the same ceiling rate. However, when the Treasury bill discount rate is between 8¾ percent and 9 percent, mutual savings banks and savings and loan associations may pay interest on MMCs at a ceiling rate of up to 25 basis points more than the rate payable by commercial banks, and when the discount rate is less than 8¾ percent, thrift institutions may pay 25 basis points more than the rate payable by commercial banks.

The rule adopted by the Committee establishes a new MMC ceiling rate for all institutions that is at least 25 basis points above the rate established (auction average on a discount basis) for six-month Treasury bills issued on or immediately prior to the date of deposit. The rule also establishes a minimum ceiling rate of 7¾ percent which all institutions will be authorized to pay regardless of the Treasury bill rate. Of course, an institution may pay less than the ceiling rate if it wishes to do so. When the Treasury bill rate is 8¾ percent or higher, both commercial banks and thrift institutions may pay interest at a ceiling rate of 25 basis points above the bill rate. A differential of up to 25 basis points on the ceiling rate payable by commercial banks and thrift institutions has been retained where the Treasury bill rate is more than 7¾ percent, but less than 8¾ percent. The new ceiling rates of interest payable are described in the table below. The new rule affects only the establishment of the ceiling rate payable on the MMC and the other provisions of the agencies' regulations, including the prohibition against compounding of interest on MMCs, are not affected by this rule. As in the past, the ceiling rates will continue to be established by the result of the weekly Treasury auction of six-month bills and will continue to be effective on the Thursday following the auction. The new ceiling rules will be effective for MMCs issued beginning on Thursday, June 5.

In view of the fact that commercial banks that are relatively large lenders in the mortgage and agricultural credit markets and which, especially in the agricultural credit market, tend to be quite small, have relied particularly heavily on MMCs, the Committee also has decided to permit commercial banks, during the next six months (May 29 through November 30, 1980) to renew maturing MMCs with the same depositor at a rate of interest equal to the ceiling rate of interest payable on MMCs by thrift institutions.

The following table illustrates the new ceiling rate schedule for MMCs:

Bill rate	Commercial bank ceiling	Thrift ceiling	Differential
8.75 and above	Bill rate + 25 basis points	Bill rate + 25 basis points	0
8.50 but less than 8.75	Bill rate + 25 basis points	9.00	0 to 25 basis points
7.50 but less than 8.50	Bill rate + 25 basis points	Bill rate + 50 basis points	25 basis points.
7.25 but less than 7.50	7.75	Bill rate + 50 basis points	25 basis points to 0
Below 7.25	7.75	7.75	0.

SSCs

Effective January 1, 1980, the Federal Reserve, FDIC and FHLBB promulgated regulations authorizing Federally insured commercial banks, mutual savings banks and savings and loan associations to offer SSCs (nonnegotiable time deposits with maturities of 2½ years or more) at a maximum rate of interest tied to the average 2½ year yield for United States Treasury securities as determined monthly by the United States Treasury. For thrift institutions (mutual savings banks and savings and loan associations), the ceiling rate of interest on SSCs is currently 50 basis points below the 2½ year Treasury rate or 12 per cent, whichever is lower. The ceiling rate for commercial banks is the lower of 75 basis points below the 2½ year Treasury rate or 11¾ per cent.

The rule adopted by the Committee establishes new SSC ceiling rates for all institutions that generally are 50 basis points higher than the current ceiling rates. The rule also establishes minimum ceiling rates of 9¼ percent for commercial banks and 9½ percent for thrift institutions, regardless of the average 2½ year Treasury rate. Under the new rule, the ceiling rate for thrift institutions will be the higher of the average 2½ year yield for Treasury securities, or 9½ percent. The ceiling rate for commercial banks will be the higher of the average 2½ year yield for Treasury securities less 25 basis points, or 9¼ percent. Of course, an institution may pay less than the ceiling rate if it chooses to do so. The cap of 12 percent (for thrift institutions) and 11¾ percent (for commercial banks) imposed on the SSC ceiling rate by the agencies effective February 27, 1980, will be retained. In no event, may a thrift institution or a commercial bank pay interest on an SSC at a rate in excess of 12 percent and 11¾ percent, respectively. As in the past, institutions will be permitted to compound interest on SSCs.

Under the current regulations of the agencies, the ceiling rate on the SSC is established monthly for new deposits based on the rate announced by the Treasury three business days before the beginning of each month. This rate is the average 2½ year yield for United States Treasury securities for the five business days preceding the last three business days of the month. Under the new rule, the ceiling rate will be established bi-weekly. The average 2½ year yield on United States Treasury securities will be announced by Treasury on Monday (based on the average 2½ year yield for the five business days ending on Monday) and the ceiling rates based on that rate will be effective for a two week period beginning on the following Thursday. If Monday is a holiday, the yield will be based on the five business days ending the preceding Friday and the ceiling rate will still be effective on the next Thursday. Although the ceiling rate will be determined bi-weekly, as in the past, the ceiling rate applicable to outstanding deposits will not change during the life of the deposit.

The new ceiling rules will be effective for SSCs issued beginning on Monday, June 2, 1980. Since the average 2½ year yield on Treasury securities, as announced by Treasury on Wednesday, May 28, is 9.05 percent, the ceiling rate effective June 2 will be 9½ percent for thrift institutions and 9¼ percent for commercial banks. This ceiling rate will remain in effect for SSCs issued through Wednesday, June 11. Thereafter, the new ceiling rate will be established bi-weekly each Monday (June 9, June 23, July 7, etc.) and will be effective the following Thursday (June 12, June 26, July 10, etc.). The new rule affects only the establishment of the ceiling rates payable on the SSC and other provisions of the agencies' regulations are not affected by this rule.

These actions were taken by the Committee in order to enable depository institutions to provide depositors with a higher rate of return and to improve the competitive position of depository institutions. In order to facilitate the accomplishment of these objectives as soon as possible, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to these actions would be contrary to the public interest and that good cause exists for making these actions effective in less than 30 days.

Pursuant to its authority under Title II of Pub. L. 96-221, 94 Stat. 142 (12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations, and mutual savings banks, the Committee amends Part 1204 (Interest on Deposits) by adding §§ 1204.104, 1204.105 and 1204.106 as follows:

1. Effective June 5, 1980:

§ 1204.104 26-Week money market time deposits of less than $100,000.

Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks, at a rate not to exceed the rates set forth below. Rounding any rate to the next higher rate is not permitted and interest may not be compounded during the term of this deposit.

Rate established (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit ("Bill Rate")—Maximum percent.

Commercial Banks

7.50 percent or below—7.75.
Above 7.50 percent—Bill rate plus one-quarter of one percent.

Mutual Savings Banks and Savings and Loan Associations

7.25 percent or below—7.75.
Above 7.25 percent, but below 8.50 percent—Bill rate plus one-half of one percent.
8.50 percent, but below 8.75 percent—9.
8.75 percent or above—Bill rate plus one-quarter of one percent.

2. Effective May 29, 1980:

§ 1204.105 26-Week money market time deposits of less than $100,000.

Notwithstanding any other limitations, during the period May 29, 1980 through November 30, 1980, a commercial bank may renew maturing 26-week money market certificates with the same depositor at a rate of interest equal to the ceiling rate of interest payable on such certificates by mutual savings banks and savings and loan associations.

3. Effective June 2, 1980:

§ 1204.106 Time deposits of less than $100,000 with maturities of 2½ years or more.

(a) Beginning on Thursday of every other week, a commercial bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more at a rate not to exceed the higher of one-quarter of one percent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury immediately prior to such Thursday, or 9.25 per cent. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. In no event shall the rate of interest paid exceed 11.75 per-cent.

(b) Beginning on Thursday of every other week, a mutual savings bank or savings and loan association may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more at a rate not to exceed the higher of the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury immediately prior to such Thursday, or 9.50 percent. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. In no event shall the rate of interest paid exceed 12.00 per-cent.

By order of the Committee, May 28, 1980.

Normand R. V. Bernard,

Executive Secretary of the Committee.

[FR Doc. 80-17116 Filed 6-4-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 18316, Amdt. 39-3792]

Fokker Model F-27 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which requires inspections, replacements, and modifications, as necessary, of certain components in Fokker-VFW b.v. Model F-27 airplanes. The AD is needed to detect and prevent certain unsafe conditions for which the foreign airworthiness authority of the country of manufacture has issued appropriate directives. The anticipated entry onto the FAA Registry of Fokker Model F-27 airplaines which are intended for operations in the United States necessitates AD action at this time to ensure that such aircraft possess at least the minimum level of safety required by the regulations.

DATES: Effective July 21, 1980.

Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from: Service Manager, Fokker-VFW International, b.v., P.O. Box 7600, Schiphol Oost, The Netherlands.

A copy of each of the service bulletins reference on this AD is contained in the rules docket for this amendment in Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Don C. Jacobsen, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30, or C. Christie, Chief, Technical Standards Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington D.C. 20591. Telephone (202) 426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations was published in the **Federal Register** at 43 FR 45376 on October 2, 1978, to require inspections, replacements and modifications of certain components on Fokker-VFW Model F-27 airplanes as necessary to prevent unsafe conditions. The actions proposed were based on notification by the Netherlands Civil Aviation Department (RLD), in accordance with existing provisions of a bilateral airworthiness agreement, of requirements which RLD had imposed upon Netherlands' manufactured and operated Fokker Model F-27 airplanes to correct unsafe conditions. The proposal was prompted by the anticipated entry onto the FAA Aircraft Registry of Fokker Model F-27 airplanes intended for operation in the United States.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Fokker-VFW provided extensive comments updating airplane serial numbers affected and correcting citations to applicable service bulletins. In this connection, paragraphs in this final rule numbered 2, 3, 10, 19, 20, 28, and 48 have been amended to reflect later service bulletin revisions which did not change the required AD accomplishment instructions, but did make other changes of a non-substantive nature. Citation to the later current service bulletins will facilitate obtaining reference material. Paragraphs 5, 11, 46 and 47 incorporate changes to correct serial number applicability, or service bulletin numbers or issue dates that were inadvertently cited in the notice. In paragraph 23, the service bulletin reference has been changed to include an amendment which requires use of an argon-arc welding process instead of a soldering process. The change is intended to eliminate corrosion that could lead to erroneous indication of airspeed and altitude. Paragraph 27 now incorporates revisions of the referenced service bulletin which corrects the procedures for drilling drain holes and corrects the serial numbers of affected airplanes. Paragraph 40 has been amended to reference a service bulletin revision which updates the compliance schedule to make it consistent with particular airplane wing configurations and inspection procedures. Paragraph 41 was amended to include a later revision of the service bulletin which requires inspection of the flanges of the attachment fittings as well as of the fittings themselves. Paragraph 43 deletes references to the F-27 maintenance schedule and inspection guide which are not equivalent to the F-27 directive contained in the referenced service bulletin. Paragraph 53 (item 55 in the notice) proposed compliance within the next 500 hours for specified airplanes. Based on recommendations of the manufacturer and the RLD, the FAA has determined that the compliance time may be increased to 1,000 hours time-in-service. The general compliance time applicable to the other requirements has been changed from 25 hours to 100 hours. The FAA has determined that this will have no adverse effect on safety and will ease the burden of compliance for some operators with some of the requirements of the AD. Finally, based on the comments, proposals numbered 40 and 50 have been withdrawn as unnecessary.

The manufacturer also commented on the language employed in certain items of the NPRM in describing the consequence of the unsafe condition, objecting in several instances to the NPRM's implication that catastrophe could result directly from the condition being addressed whereas, in fact, the stated consequence could only be caused by a progression of failures that might be initiated by the particular condition. The FAA agrees that certain items of the NPRM indicate the ultimate consequence whereas it may be more informative to identify the immediate consequence of the unsafe condition being addressed, and the AD has been revised accordingly. The RLD submitted a comment endorsing the views of the Netherlands manufacturer. Further comments purporting to be from a consultant to Fokker-VFW located in the United States recommended various wording and reference changes along the lines of those submitted by the manufacturer. All comments submitted have been fully considered in the making of this rule.

The FAA is aware of recent interest in F-27 airplanes by U.S. operators and the consequent possible entry of F-27 airplanes onto the U.S. registry. Under different circumstances at the time, such operators may not have been in position to respond timely to the notice published at 43 FR 45376. Accordingly, operators and other interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket,

800 Independence Avenue, SW.

the loss of electrical DC generator power in

(14) Applies to airplanes S/N 10105 through

800 Independence Avenue, SW., Washington, D.C. 20591. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit any comments they wish to make as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations [14 CFR 39.13] is amended by adding the following new airworthiness directive:

Fokker-VFW b.v. Applies to Model F-27 airplanes, all series, certificated in all categories.

Unless already accomplished, compliance is required within the next 100 hours time in service after the effective date of this AD, except as specifically provided in a numbered paragraph of this AD. However, airplanes may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed.

(1) Applies to airplanes S/N 10105 through 10110. To prevent jamming of the nose landing gear in the retracted position due to leakage of the shock absorber, install cam, P/N 27.1–5101–001–162, at Station 1400 in accordance with the Accomplishment Instructions of Fokker F-27 Modification No. 72, dated April 22, 1959.

(2) Applies to airplanes S/N 10105 through 10108. To prevent partial loss of electrical power capacity in flight due to inadequate attachment of bus bars on panels 1, 2, and 3, modify the bus bar attachment in accordance with the Accomplishment Instructions of Fokker F-27 Modification No. 71, Issue 2, dated September 30, 1959.

(3) Applies to airplanes S/N 10105 through 10119, except S/N 10115. To prevent failure of the nose gear steering system due to trapped air in the steering motor, install by-pass lines with non-return valves over the nosewheel steering circuit follow-up valve in accordance with Fokker Modification No. 86, Issue 2, dated September 14, 1959.

(4) Applies to airplanes S/N 10105 through 10110. To prevent loss of electrical DC generator power inflight as a consequence of a single failure resulting in inadequate grounding of generator master switches, replace the grounding cable serving both switches with two separate grounding cables for the port and starboard generator switches, respectively, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. J-14, Issue 2, dated October 1, 1959.

(5) Applies to airplanes S/N 10105 through 10110 and 10116, 10118 and 10119. To prevent the loss of electrical DC generator power in flight as a consequence of a single failure resulting in inadequate grounding of the generator control panel, install additional grounding provisions for generator control panels in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. J-19, Issue 2, dated October 1, 1959.

(6) Applies to airplanes S/N 10111 through 10114 and 10120 through 10122. To prevent jamming of an emergency door as a consequence of the guide rollers springing from the guide plates, enlarge the door rollers and strengthen the guide plants in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-22, dated October 21, 1959.

(7) Applies to airplanes S/N 10105 through 10122 and 10126 through 10135. To prevent unsatisfactory operation of the control systems for controlling engine power, elevator and rudder trim tabs, gust lock, emergency shut-off valves, and fuel crossfeed, reinforce the attachment of the control cable guide assemblies in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-23, dated November 30, 1959.

(8) Applies to airplanes S/N 10105 through 10122, 10127 through 10136, 10138, and 10139. To prevent cracks in the elevator main spar web, which could affect attachment of the elevator outer hinge, reinforce the elevator main spar at station 3979 in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-26, Issue 3, dated January 27, 1960.

(9) Applies to airplanes S/N 10105 through 10122 and 10126 through 10141. To prevent fatigue failure of engine control levels, install levers of improved design in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. F5, Issue 3, dated May 30, 1960.

(10) Applies to airplanes S/N 10105 through through 10122, 10126, 10127, 10131 through 10136, 10138, and 10139. To prevent damage to the flap limit switches due to overtravel, relocate the flap system limit switches in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. C-17, Issue 2, dated February 2, 1960.

(11) Applies to airplanes S/N 10109 through 10122 and 10127 through 10135. To prevent asymmetric extension of wing flaps due to certain failures of the mechancial drive system, modify the flap control system in accordance with the Accomplishment Instructions of Fokker F-27 Modification No. 74, Issue 2, dated March 4, 1960.

(12) Applies to airplanes S/N 10105 through 10122 and 10126 through 10140. To prevent reduced control due to play in pilot and copilot control wheels, modify the control wheel attachment provisions in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. C-18, dated February 3, 1960.

(13) Applies to airplanes S/N 10105 through 10122 and 10126 through 10141. To avoid internal short circuits in electrical connectors, replace the connectors with connectors of improved design in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. J-23, Issue 4, dated February 14, 1961.

(14) Applies to airplanes S/N 10105 through 10122 and 10126 through 10141 with elevators not reinforced in accordance with Fokker F-27 Service Bulletin No. B-76. To prevent failure of elevator hinge brackets, which could jeopardize control of the airplane, replace the elevator hinge brackets at Stations 3979 and 2460 in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-28, Issue 2, dated July 13, 1960.

(15) Applies to airplanes S/N 10105 through 10122 and 10126 through 10141, having elevators not reinforced in accordance with Fokker F-27 Service Bulletin No. B-76. To prevent cracks in the elevator main spar web, which could affect the elevator center hinge attachment, reinforce the elevator main spar at Station 2460 in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-27, Issue 2, dated July 13, 1960.

(16) Applies to airplanes S/N 10105 through 10122, 10126 through 10141, and 10143 through 10148. To prevent undue vibration stresses in propeller blades that could result in failure of a propeller blade in flight, restrict the engine idling speed to values above 7,000 rpm by revising the dial marking on the rpm indicators in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. N-3, dated April 11, 1960.

(17) Applies to airplanes S/N 10105 through 10148. To prevent failure of aileron hinge brackets, inspect the aileron hinge brackets, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-32, Issue 4, dated January 18, 1961.

(18) Applies to airplanes S/N 10105 through 10122, 10126 through 10141, 10143 through 10148, 10151, and 10153. To prevent a dormant electrical failure that could result in the inability to extend the landing gear following a single failure in the landing gear electrical control circuit, modify the landing gear electrical control circuit in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletins No. J-26, dated July 26, 1960.

(19) Applies to airplanes S/N 10105 through 10122 and 10126 through 10153. To prevent malfunction of the gust lock/engine interference system that possibly could result in takeoff with the flight controls locked, modify the gust lock system in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. F-9, Issue 2, dated November 24, 1960.

(20) Applies to airplanes S/N 10105 through 10179. To prevent blockage of the pitot-static system due to accumulation and freezing of water, which could cause erroneous indications of airspeed and altitude, modify the pitot-static system in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. N-7, Issue 2, dated May 19, 1961.

(21) Applies to airplanes S/N 10105 through 10188. To prevent deformation of the H.P.C. control lever rub plate, which could impair controllability by preventing feathering of the associated propeller, install a rub plate of improved design in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. F-11, Issue 2, dated November 27, 1961.

(22) Applies to all Fokker F-27 airplanes incorporating Fokker F-27 Service Bulletin No. H-10. To prevent malfunction of the engine water/methanol system due to malfunction of the non-return valve, P/N 27.1-8420-018-001, which could result in power deficiency during takeoff, dismantle and inspect the non-return valves, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. H-24, dated October 29, 1962.

(23) Applies to airplanes S/N 10105 through 10213. To prevent blockage of the pitot-static system due to the accumulation and freezing of water, which could cause erroneous indications of airspeed and altitude, modify the pitot-static system in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. N-19, dated December 20, 1962, and Amendment No. 1, dated July 15, 1964.

(24) Applies to airplanes S/N 10145 through 10223. To prevent unwanted propeller auto-feathering in flight due to ingress of moisture in electrical connectors V2609 and V2610, install electrical connectors of improved design in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. J-71, dated May 1, 1963.

(25) Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. G-7. To prevent failure of the propeller feathering system due to malfunction of the H.P.C. switches located on the engine firewall, inspect and test the switches, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. G-5, Issue 2, dated October 8, 1963.

(26) Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. B-146. To detect, arrest and to prevent possible internal corrosion of the failsafe steel tubular structures of the empennage, the wing flap track support assembly, and the engine mounts, conduct X-ray inspections, and rectify as appropriate, in accordance with Section A, Planning Information, and Section B, Accomplishment Instructions, of Fokker F-27 Service Bulletin No. B-146, dated July 26, 1963, including Amendment No. 1, dated July 30, 1964.

(27) Applies to airplanes up to and including S/N 10240. To prevent damage of flight control rods due to the accumulation of water and consequent corrosion or bursting due to freezing, inspect the flight control rods, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. C-61, Issue 3, dated October 30, 1964, as amended by Amendment No. 1, dated January 20, 1965, and Amendment No. 2, dated November 24, 1966.

(28) Applies to airplanes S/N 10105 through 10253. To prevent failure of the horizontal stabilizer spar web, inspect the front and rear spar areas for cracks and loose rivets between Station 227.5 LH and RH, rectify as appropriate, and apply structural reinforcement in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-150, dated June 18, 1964, and Amendment No. 1, dated January 26, 1965.

(29) Applies to airplanes S/N 10105 through 10274. To prevent fatigue failure of structure supporting the rudder trim tab contol brackets, which possibly could lead to flutter of the trim tab, replace bracket, P/N 27.1-3401-026-005, with a new bracket of improved design, and reinforce the bracket supporting structure, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-169, Issue 2, dated June 10, 1965.

(30) Applies to airplanes S/N 10105 through 10274. To prevent fatigue failure of structure supporting the elevator trim tab control brackets, which possibly could lead to flutter of the trim tab, replace bracket, P/N 27.1-3201-041-002, with a new bracket of improved design, and reinforce the bracket supporting structure in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. B-170, dated May 31, 1965.

(31) Applies to airplanes S/N 10249 through 10274 incorporating Fokker F-27 Service Bulletin No. I-26. To prevent failure of the brazed high-pressure tube assemblies, PNEU 370 and PNEU 371, of the pneumatic system (which operates the landing gear, brakes, and nose-wheel steering), modify the pneumatic system in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. I-30, dated July 30, 1965.

(32) Applies to airplanes S/N 10105 through 10293. To prevent jamming of nose gear doors due to deterioration of the door seals, which has resulted in failure to extend the nose gear, inspect the nose wheel door seals, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 53-67, (B-185), Revision 1, dated August 15, 1967.

(33) Applies to airplanes S/N 10105 through 10316. To prevent possible distortion of the horizontal stabilizer nose section, inspect the nose section for damaged sandwich structure, and the attachment angles on the front stabilizer spar for cracks and correct location, and rectify as appropriate, in accordance with the Accomplishment Instructions, Part II, of Fokker F-27 Service Bulletin No. 55-39, (B-204), Revision 3, dated May 15, 1967.

(34) Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. D-58. To prevent failure of the nose gear lock in the extended position due to failure of the light-alloy actuator piston, replace the light-alloy piston with a new stainless steel piston in accordance with the Accomplishment Instructions of Dunlop Service Bulletin No. 36-95, Revision 1, dated October 21, 1966.

(35) Applies to all Fokker F-27 airplanes not incorporating Dowty Rotol Accessory Gearbox Modification No. GB 2294. To prevent failure of an accessory gearbox due to failure of the input bevel gear, which could interrupt electrical and pneumatic power, incorporate an input bevel gear of improved design in accordance with Dowty Rotol Service Bulletin No. 83-291, Revision 2, dated October 1966, or Fokker F-27 Service Bulletin No. 83-12, (E-35), dated May 15, 1967.

(36) Applies to airplanes S/N 10105 through 10264 incorporating Graviner fire extinguisher top caps P/N A126. To prevent malfunction of the engine fire extinguishing systems due to material defects in the top caps, replace top caps, P/N A126, with caps of improved material, identified as P/N A126(2), in accordance with the Embodiment Instructions of Graviner Service Bulletin No. 26-A20, dated September 30, 1964.

(37) Applies to airplanes S/N 10162 through 10355 incorporating a cargo door. To prevent possible failure of the pneumatic system due to inadequate wall thickness of the pneumatic tube located between the main bottle and the pneumatic panel, replace the pneumatic tube, PNEU 341, with a new tube of increased wall thickness, PNEU 428, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 36-23, (I-33), dated October 2, 1967.

(38) Applies to airplanes S/N 10105 through 10350. To prevent failure of an accessory gearbox from mounting flexible link due to misalignment which could result in loss of power, inspect the flexible links of the gearbox front mountings, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 83-14, dated June 24, 1968.

(39) Applies to all Fokker F-27 airplanes with pneumatic systems incorporating Dunlop Dehydrator (bottle P/N ACM 16773), or Dunlop Oil & Watertrap (bottle P/N ACM 16772), manufactured prior to 1959. (Date of manufacture is marked on bottle). To prevent pneumatic system failure due to stress corrosion of pressurized bottles, replace bottles P/N ACM 16772 and P/N ACM 16773, manufactured prior to 1959 with serviceable bottles of the same part number but manufactured in 1959 or subsequent, in accordance with Dunlop Service Bulletin No. 36-187, Revision 3, dated July 27, 1970.

(40) Applies to all Fokker F-27 airplanes. To detect and repair cracks in the rabbet area of fuel tank access doors of the lower outer wing area, which possibly could reduce structural strength of the wing, inspect for cracks in the areas of the lower wing skin cut-outs of the fuel tank access doors, and rectify as appropriate, in accordance with the Compliance and Accomplishment Instructions of Fokker F-27 Service Bulletin No. 57-46, Revision 5, dated March 1, 1978.

(41) Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. 55-49. To detect and repair cracks and corrosion in fittings which attach the vertical stabilizer to the fuselage, inspect fittings for cracks and corrosion, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 55-48, Revision 2, dated February 7, 1977.

(42) Applies to all Fokker F-27 airplanes that are equipped with AiResearch aileron trim tab actuator (RH), P/N 525458, 540604-1, or 540604-2-1, but that do not incorporate Fokker F-27 Service Bulletin No. 27-105 or AiResearch Service Bulletin F27/20-12. To prevent malfunction of the RH aileron trim tab actuator due to failure of the actuator setscrew, which possibly could reduce the airplane's lateral trim capability, modify the RH aileron trim tab actuator in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 27-105, dated October 19, 1973.

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(43) Applies to all Fokker F-27 airplanes. To detect and repair corrosion and cracks in fittings which attach the rear spar of the horizontal stabilizer to the fuselage, inspect fittings for cracks and corrosion, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 55-50, dated March 22, 1974.

(44) Applies to airplanes S/N 10446 through 10504 incorporating passenger interior. To prevent unwanted unlatching of the hatrack service panels as the result of a hard landing which could cause consequent possible interference in an emergency evacuation situation, install panel fasteners of improved design in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 25-40, dated August 8, 1974.

(45) Applies to Fokker F-27 airplanes incorporating an engine mount P/N 27.1-8101-000-403 with a serial number between 590 and 725. To prevent failure of the engine mount due to use of improper material when manufactured; inspect the engine mount upper tubes for cracks adjacent to the welds, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 71-25, Revision 1, dated January 30, 1975.

(46) Applies to airplanes S/N 10105 through 10522. To prevent cable slippage from drum of aileron control due to inadequate flange on aileron cable drum, inspect cable drums, P/N 27.1-5133-002-702, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 27-109, Revision No. 1, dated October 4, 1976.

(47) Applies to airplanes S/N 10105 through 10516 incorporating aileron control rod P/N 27.1-1333-004. To prevent possible disconnection of an aileron control rod from the differential sector due to failure of the control rod bearing, install washers and bearings of improved design in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 27-110, Revision 1, dated February 16, 1976.

(48) Applies to airplanes S/N 10512 and below incorporating the large cargo door. To prevent unwanted opening of the large cargo door in flight due to wear and distortion, inspect the locking and signaling provisions, and rectify as appropriate, in accordance with Part I of the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 52-55, Revision 1, dated December 22, 1975, and reinforce the door stiffening profile in accordance with Part II of that Service Bulletin.

(49) Applies to airplanes S/N 10529, 10534, 10536 through 10541, having IPECO crew seats not incorporating IPECO Service Bulletin No. A001-25-2. To prevent unwanted movement of crew seats in flight due to wear of the track lock stopblock, incorporate track lock stopblocks of improved design in accordance with the Accomplishment Instructions, Part II, of Fokker F-27 Service Bulletin No. 25-43, dated September 6, 1976.

(50) Applies to airplanes S/N 10505 and 10507 through 10515. To prevent instability of the DC generator control system due to interaction with the static inverters, which could result in malfunction of required navigation and communication equipment, modify the AC lighting conversion system in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 24-63, dated October 11, 1976.

(51) Applies to airplanes S/N 10408 through 10510. To prevent loosening of the aileron stops due to improper design, which possibly could adversely affect aileron deflection and lateral control, modify the aileron stop installations in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No.27-112, dated October 18, 1976.

(52) Applies to airplanes S/N 10458 and below not incorporating Fokker F-27 Service Bulletin No. 36-26 (Dunlop Service Bulletin No. 36-156). To prevent possible failure of pneumatic system due to cracking of isolating valve bodies P/N ACM 16724 or ACM 26573, which could deprive the airplane of normal wheel braking and nosewheel steering, modify the isolating valve body in accordance with the Accomplishment Instructions Fokker F-27 Service Bulletin No. 36-26, dated June 13, 1977, or Dunlop Service Bulletin No. 36-156, Revision 4.

(53) Applies to all Fokker F-27 airplanes that have accumulated more than 10,000 flights. Compliance required within the next 1000 hours time in service after the effective date of this AD. To prevent possible fatigue cracks and loose rivets in the upper surface of the RH horizontal stabilizer torsion box, inspect the torsion box structure, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 55-53, dated October 3, 1977.

(54) Applies to airplanes S/N 10505 through 10521, 10525 through 10531, 10534 through 10557, 10559, and 10561 through 10564. To prevent loss of the main instrument panel fluorescent lighting system due to short circuiting, inspect the fluorescent lamps, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 33-24, dated January 30, 1978.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Service Manager, Fokker-VFW International, b.v., P.O. Box 7600, Schiphol Oost, the Netherlands. These documents may also be examined at the Federal Aviation Administration, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C. and at Brussels, Belgium.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89))

Note: The FAA has determined that this document involves a regulation which is not considered to be significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures [44 FR 11034: February 26, 1979].

Issued in Washington, D.C., on May 27, 1980.

M. C. Beard,

Director, Office of Airworthiness.

Note: The incorporation by reference provisions in this document were approved by the Director of the **Federal Register** on June 19, 1967.

[FR Doc. 80-16930 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80NE-09; Amdt. 39-3786]

Sikorsky S-76A Helicopters Certificated in All Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment to Airworthiness Directive (AD) 80-06-01, which was previously made effective as to all known operators of the Sikorsky S-76A helicopters certificated in all categories, by individual telegrams. The amended AD requires more stringent inspection time intervals and a change in the area of inspection. The amendment is needed because the FAA has determined that the inspection interval specified in the existing AD is inadequate based on results of a metallurgical examination of a cracked main transmission support beam and on engineering analyses.

DATES: Effective June 5, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram dated April 10, 1980.

Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Stephen J. Soltis, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3709, 45 FR 15174, AD 80-06-01, which required, on aircraft with more than 300 hours time in service, visual inspection for cracks in the main transmission support structure, at intervals not to exceed 30 hours time in service. Replacement of this component, prior to further flight, was also required if cracks were found. After issuing Amendment 39-3709, the FAA determined that more stringent inspection time intervals and a change in the area of inspection were required. This determination was based on metallurgical examination of a cracked main transmission support beam and engineering analyses. Therefore, as an interim action, on April 10, 1980, telegraphic AD T80NE-20 was issued and made effective immediately to all known United States operators of the Sikorsky S-76A helicopter. This telegraphic AD required that, on aircraft with more than 200 hours time in service, the main transmission support structure must be visually inspected prior to the next flight and at 10-hour intervals thereafter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately to all known United States operators of Sikorsky model S-76A helicopters by individual telegrams dated April 10, 1980.

Since a situation still exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Amendment 39-3709, 45 FR 15174, AD 80-06-01, as follows:

(1) By revising paragraph (1) to read:

"1. For aircraft with more than 200 hours time in service, compliance required at intervals not to exceed 10 hours time in service to prevent operation with a cracked main transmission support structure."

(2) By revising paragraph (a) to read:

"a. Remove the 76205-08001 main gearbox fairing assemblies to obtain access to the 76209-03001 -041 and -042 main transmission support structure fittings."

This amendment becomes effective June 5, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram dated April 10, 1980, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

Note: Due to the emergency nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In accordance with the DOT guidelines, a regulatory evaluation has been prepared and will be placed in the public docket for this action.

Issued in Burlington, Mass., on May 21, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-16932 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-SO-15; Amdt. No 39-3783]

Piper Aircraft Corp. Model PA-44-180; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the replacement of the nose landing gear downlock hook and bushing with an improved part on certain Piper Model PA-44-180 aircraft. The AD is needed to prevent failures of the downlock hook which could result in nose landing gear retractions during landing rollout and ground operations.

DATES: June 3, 1980.

Compliance required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable Piper Service Bulletin and Service Kit may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (A/C 707) 748-6711.

A copy of the Service Bulletin and Service Kit is also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of failures of the downlock hook which could result in nose landing gear retractions during landing rollout and ground operations on certain Piper PA-44-180 aircraft. This AD requires the replacement of the nose landing gear downlock hook and bushing with an improved part. Since this situation is likely to exist or develop on other aircraft of the same type design, an Airworthiness Directive is being issued which requires replacement of the nose landing gear downlock hook and bushing with an improved design on certain Piper PA-44-180 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation: Applies to Model PA-44-180, Serial Numbers 44-7995001 through 44-8095020, airplanes certificated in all categories.

Compliance is required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

To prevent nose landing gear retraction during landing rollout or ground operations, accomplish the following:

a. Replace the nose landing gear downlock hook and bushing in accordance with Piper Aircraft Corporation Service Bulletin No. 678, dated March 24, 1980, and Piper Service Kit No. 764-010V, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

b. Make appropriate maintenance record entry.

This amendment becomes effective June 3, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under

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the caption "FOR FURTHER INFORMATION

and 88/LAS-1B pertaining to the cargo

LAS-1B, dated February 21, 1980. Repair as

the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Ga., on May 20, 1980.

W. B. Rucker,

Acting Director, Southern Region.

[FR Doc. 80-16833 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-7-AD; Amdt. 39-3784]

Lockheed L-188 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective telegraphic Airworthiness Directive (AD) which requires repetitive inspections of the cargo door structure on certain Lockheed L-188 series airplanes, (modified by Supplemental Type Certificate). This amendment provides additional requirements including modification of the door warning circuit, installation of structural reinforcements and rigging. This amendment is needed to prevent rapid decompression and loss of cargo door.

DATES: Effective June 9, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed Aircraft Service Company, Ontario International Airport, Ontario, California 91761, P. O. Box 33.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P. O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Telegraphic AD Numbers T80WE-10 and T80WE-11 were issued on February 15 and 22, 1980 respectively, to require all Lockheed L-188 aircraft modified per STC Numbers SA1754WE, SA1831WE or SA2536WE to be operated unpressurized until accomplishment of an inspection per Lockheed Alert Bulletins 88/LAS-1A and 88/LAS-1B pertaining to the cargo door at the upper end of the door frames, at the door frame-to-loop attach holes, the upper attaching loops, and the lower sill.

Subsequent to the issuance of Telegraphic AD T80WE-11 the FAA has determined that certain preventable circuit failures will render the door warning system inoperative. The supplemental type certificate holder has developed and FAA approved modification of the circuitry which corrects this condition, and has also designed a door structural reinforcement providing a resolution of the original door failure problem. Both of these corrective actions are described in a Lockheed Aircraft Service Company Alert Service Bulletin 88/LAS-1C dated March 24, 1980. Therefore the FAA is superseding Telegraphic AD's T80WE-10 and T80WE-11 by the issuance of this AD which requires repetitive inspection of the cargo door when the aircraft is operated in pressurized mode, incorporation of door structural reinforcement which significantly extends the inspection intervals required by this AD, and modification of the door warning electrical circuit.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Lockheed-California Company: Applies to all Model L-188A and L-188C airplanes incorporating Supplemental Type Certificate SA1754WE or SA1831WE or SA2536WE, (cargo door modification), certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent rapid decompression, door warning failure or loss of cargo door, accomplish the following:

(a) Within 15 hours' time in service from the effective date of this AD except for those persons to whom it was made effective earlier by telegraphic AD T80WE-11 dated February 22, 1980, install a placard in plain view of the flight crew reading: "Pressurized Flight Prohibited", or:

(b) Inspect each cargo door and door sill by visual, magnetic particle, and dye penetrant methods per the instructions specified in paragraph B of Lockheed Alert Bulletin 88/LAS-1A, dated February 14, 1980, and per paragraph B of Lockheed Alert Bulletin 88/LAS-1B, dated February 21, 1980. Repair as required.

(c) The placard prohibiting pressurized flight may be removed after the accomplishment of paragraph (b) of this AD.

(d) For aircraft operated in the pressurized mode, prior to 1,000 hours' additional time in service since the last such inspection required by paragraph (b) of this AD, install cargo door structural reinforcements in accordance with Lockheed Aircraft Services Drawing 4036900 (No change), re-rig the cargo door per Lockheed Aircraft Services Drawing 4036982, Revision B, (after installation of reinforcements per Drawing 4036900), and inspect per paragraph C of Lockheed Alert Bulletin 88/LA5-1C dated March 24, 1980 within 5,000 hours' additional time in service since door modification and thereafter at intervals not to exceed 5,000 hours' time in service since the last such inspection.

(e) For aircraft operated either pressurized or unpressurized, prior to the accumulation of 1,000 hours' additional time in service from the effective date of this AD, rewire the cargo door warning light circuitry in accordance with Lockheed Aircraft Services Drawing 4036666, Revision D.

(f) For aircraft operated in the unpressurized mode, prior to the accumulation of 5,000 hours' additional time in service from the effective date of this AD, install cargo door structural reinforcements in accordance with Lockheed Aircraft Services Drawing 4036900 (No change), re-rig the cargo door per Lockheed Aircraft Services Drawing 4036982, Revision B, (after installation of reinforcements per Drawing 4036900), and inspect per paragraph C of Lockheed Alert Bulletin 88/LA5-1C dated March 24, 1980, within 5,000 hours' additional time in service since door modification and thereafter at intervals not to exceed 5,000 hours' time in service since the last such inspection.

(g) Alternative inspections, modifications of other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment supersedes Telegraphic AD T80WE-11 dated February 22, 1980.

This amendment becomes effective June 9, 1980.

(Secs. 313.(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, Calif., on May 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-16934 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-21-AD, Amdt. 39-3785]

McDonnell Douglas DC-6 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action supersedes an Airworthiness Directive (AD) which was previously made effective to known operators of McDonnell Douglas DC-6 aircraft by telegraphic message dated April 2, 1980. This AD is necessary because of cracks in the lower wing skin and stringer cracks which result in the loss of structural strength.

DATES: Effective June 9, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications and Training C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Kyle E. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Emergency telegraphic AD T80WE-18 was issued on April 2, 1980 to known operators of McDonnell Douglas DC-6, DC-6A, DC-6B, R6D and C-118 series aircraft. This AD was necessary because of reports of cracks in the lower wing skin, stringers and fittings which result in the loss of structural strength. AD T80WE-18 required external dye penetrant inspections and, if cracks were found, an extensive visual internal inspection.

Subsequent to the issuance of AD T80WE-18 the FAA has learned that the internal visual inspection may not detect all of the cracks. Therefore, the FAA is superseding AD T80WE-18 with this amendment to require an extensive X-ray, internal visual, and partial external dye penetrant inspections.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-6, DC-6A, DC-6B, R6D and C-118 series aircraft certificated in all categories, with 30,000 hours' or more total time in service.

Compliance required as indicated.

To prevent loss in strength capability of the wing due to lower wing fitting, stringer and skin cracks, accomplish the following:

(a) Within the next ten hours' time in service after the effective date of this AD, or within 25 hours' time in service from the last inspection conducted in accordance with this paragraph and thereafter at intervals not to exceed 25 hours' time in service, until inspected in accordance with paragraph (c), inspect by dye penetrant or equivalent the left and right hand wing lower surface six inches inboard and outboard of wing stations 96, 127, 138 and 179 from the front spar to the center spar.

(b) If cracks are found, before further flight,

(1) Accomplish the inspection required by paragraph (c), and

(2) Repair cracks in accordance with Douglas Structural Repair Manual or other repair data approved by the Chief, Aircraft Engineering Division, FAA Western Region, and

(3) At intervals not to exceed 500 hours' time in service from the last inspection in accordance with paragraph (c) repeat the inspections required by paragraph (c).

(c) Within 100 hours' time in service after the effective date of this AD, unless previously accomplished within the last 400 hours' time in service and thereafter at intervals not to exceed 500 hours' time in service from the last inspection required by this paragraph, using procedures approved by FAA Principal Maintenance Inspector,

(1) Inspect by X-ray, the left and right hand lower wing skin, stringers and fittings between wing station 60 to 130 and 167 to 185, from the front spar to the center spar, and

(2) Clean and visually inspect with a 4X magnification in the nacelle area internally between wing stations 130 and 167, from the front spar to the center spar, and

(3) Clean and inspect by dye penetrant or equivalent external skin surface six inches inboard and outboard of wing station 96, from the front spar to the center spar.

(4) Repair cracks prior to further flight in accordance with Douglas Structural Repair Manual or other repair data approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Within 72 hours after the inspections required by this AD, report in writing the results to the Chief, Aircraft Engineering Division, AWE-100 FAA Western Region giving the following information:

(1) Aircraft factory serial number and registration number.

(2) Flight hours at the time of the inspection.

(3) Landing or flight cycles, if available.

(4) Inspection method used.

(5) Crack description including length, wing station, stringer number, or fitting part number.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment supersedes emergency telegraphic AD T80WE-18.

This amendment becomes effective June 9, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, Calif., on May 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-16935 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-WA-7]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the New York, N.Y., transition area in order to redesignate two small portions of uncontrolled airspace as controlled airspace because of the inadvertant effect of a recent rulemaking. The intent of Airspace Docket No. 78-EA-60, published on March 20, 1980, was to eliminate duplication of airspace under the New York Modernizating Plan implemented in 1978. However, upon charting that action under the new description two small areas were no longer included in the controlled airspace. This action is taken to correct that omission.

EFFECTIVE DATE: June 5, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the New York Transition Area. On March 20, 1980, Airspace Docket No. 78-EA-60 (45 FR 17948), effective May 15, 1980, was published in the **Federal Register.** Inadvertently, we failed to amend the description of the New York Transition Area, which then overlaid, in part, the New Jersey transition area. Upon charting, two small areas of uncontrolled airspace appeared in the 1,200 foot floor. Therefore, in order to ensure air safety within the transition areas, it is necessary for the New York Transition Area to be amended immediately to restore those areas as controlled airspace and thereby conforming to the original intent of Airspace Docket No. 78-EA-60. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 445). Since this amendment is in the interest of public safety and under the circumstances presented, there is an immediate need for flight safety and security benefits of this minor modification to the airspace in the affected area. Accordingly, I find that notice and public procedure thereon are impractical and unnecessary and the good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective June 5, 1980, as follows:

Under New York, N.Y. "That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at Lat. 41°19'00"N., Long. 74°00'00"W., to Lat. 41°12'00"N., Long. 74°00'00"W., to Lat. 41°11'00"N., Long. 74°09'00"W., to Lat. 41°08'10"N., Long. 74°13'00"W., thence northwesterly along the boundary of the State of New Jersey to Lat. 41°17'45"N., Long. 74°33'15"W., to Lat. 41°19'00"N., Long. 74°33'00"W., to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at Lat. 40°30'00"N., Long. 73°36'00"W.; thence east along Lat. 40°30'00"N., to the northwest edge of V-139, thence southwest along the northwest edge of V-139 to Lat. 40°12'55"N., Long 73°19'00"W.; to Lat. 40°14'15"N., Long. 73°30'30"W., to Lat. 40°21'45"N., Long. 73°40'45"W., to Lat. 40°16'35"N., Long. 73°47'30"W.," is deleted and

"That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at Lat. 41°19'00"N., Long. 74°00'00"W., to Lat. 41°12'00"N., Long. 74°00'00"W., to Lat. 41°11'00"N., Long. 74°09'00"W., to Lat. 41°08'10"N., Long. 74°13'00"W., thence northwesterly along the boundary of the State of New Jersey to Lat. 41°17'45"N., Long. 74°33'15"W., to Lat. 41°19'00"N., Long. 74°33'00"W., to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at Lat. 40°30'00"N., Long. 73°36'00"W.; thence east along Lat. 40°30'00"N., to the northwest edge of V-139, thence southwest along the northwest edge of V-139 to Lat. 40°12'55"N., Long 73°19'00"W.;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 28, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-16803 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 249

[Reg. ER-1174, Amdt. No. 30 to Part 249]

Preservation of Air Carrier Accounts, Records and Memoranda; Approval by the General Accounting Office; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Erratum to final rule.

SUMMARY: This erratum corrects a final rule which gave notice that the General Accounting Office has approved the recordkeeping requirements contained in the regulations concerned with Preservation of Air Carrier Accounts, Records and Memoranda (45 FR 31059, May 12, 1980).

DATES: Adopted: April 30, 1980. Effective: April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

Erratum

In FR Doc. 80-14441 published at 45 FR 31059, May 12, 1980, the note incorrectly included three sections which have been deleted by the Board. The amendment should read:

Accordingly, the Civil Aeronautics Board amends Part 249 of its Economic Regulations (14 CFR 249) by revising the note at the end of Part 249 to read:

Note.—The recordkeeping requirements contained in sections 249.3, 249.7, 249.8, 249.9, 249.11, 249.12, and 249.13 have been approved by the U.S. General Accounting Office under B-180226 (R0295).

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-17098 Filed 6-4-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM80-20; Order No. 88]

Order Revising Report of Gas Supply and Requirements

May 30, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) revises Form No. 16, "Report of Gas Supply and Requirements" (18 CFR 260.12). The revisions reduce the number of schedules contained in the form, and change the format of the schedules and the instructions which accompany them. The changes in Form No. 16 reflect the results of an ongoing validation program to reduce reporting burdens placed on companies subject to Commission jurisdiction.

EFFECTIVE DATE: June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Schroeder, Office of Pipeline and Producer Regulation, Curtailment Branch, Room 7300-B, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8828.

Revision of FERC Form No. 16, Report of Gas Supply and Requirements

A. Background

Form No. 16 "Report of Gas Supply and Requirements" is submitted on a semiannual basis by natural gas companies making sales in interstate commerce pursuant to an order of the Federal Energy Regulatory Commission (Commission).[1] The form shows system-wide summary information of a pipeline's gas supplies, requirements and curtailments. The Commission uses the information from Form No. 16 to provide for emergency sales and certificates and to review curtailment plans and revisions.

On January 18, 1980, the Commission issued a Notice of Proposed Rulemaking to revise Form No. 16, "Report of Gas Supply and Requirements" 45 FR 5309 (January 23, 1980). This rulemaking amends the content, format and instructions of Form No. 16. It is part of the Commission's ongoing validation program, the purpose of which is to eliminate unnecessary reporting burdens on the industries regulated by the Commission. The rulemaking also revises the Form No. 16 definitions and data requests to conform to recent regulations which implement the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3422).

By that Notice, the Commission proposed to reduce the number of schedules which must be filed from ten to eight by revising the schedules and renumbering them so that Schedules 1 through 4 would depict 12 months of actual experience and Schedules 5 through 8 would depict corresponding data for 12 months of projected or anticipated data. Thus, the proposed list of new Schedules was as follows: Schedule No. 1 [2] (Summary of Actual Supply, Requirements and Net Deficiency or Surplus); Schedule No. 2 (Actual Sources of Supply Adjusted for Losses); Schedule No. 3 (Actual Storage Operations); Schedule No. 4 (Actual Deliveries, Requirements and Net Deficiency or Surplus by Customer); Schedule No. 5 (Summary of Projected Supply, Requirements and Net Deficiency or Surplus); Schedule No. 6 (Projected Sources of Supply Adjusted for Losses); Schedule No. 7 (Projected Storage Operations); Schedule 8 (Projected Deliveries, Requirements and Net Deficiency or Surplus by Customer).[3]

The Commission also proposed to consolidate, clarify and expand the instructions of Form No. 16 to provide respondents with better guidelines on general filing requirements, definitions, and line items on a schedule-by-schedule basis. Some important changes in the proposed instructions included: replacing the term "curtailment" with the phrase "net deficiency or surplus" of the pipeline (this would be the difference between "net available for market" [4] from the pipeline and "pipeline requirements"); the elimination of the requirement to report monthly volumes on an average daily basis; and the use of more subtotals to overcome past problems users have had with inconsistencies within and among schedules.

Finally, format changes were proposed to each respondent preparation and to facilitate both public and regulatory uses of the data. These changes included reserving certain columns of each schedule for the reporting of monthly volumes; assigning unique schedule numbers to overcome the present ambiguity of using the same schedule number for both actual and projected data; and reordering the schedules so that there would be a progression from highly aggregated data to supporting detail.

The Commission also proposed to amend those regulations which reference Form No. 16. Section 260.12(a) would be amended to designate Form No. 16 as "FERC Form No. 16." Section 260.12(b) would be revised to reflect the necessity of filing an original and six copies with the EIA. A new section 260.12(c) would be added to provide for waiver of filing for those companies which show that there is good reason for them not to file the form. This provision conforms to past Commission practice respecting the filing of Form No. 16.

B. Summary of Comments and Changes to Form No. 16

In response to the proposed rulemaking, the Commission received ten comments.[5] Of these, nine were natural gas pipelines which are required to file the form [6] and one was an industry association. The general reaction to the rulemaking was favorable. A number of changes were suggested by commenters, many of which have been incorporated into Form No. 16, as discussed below.

1. *General Comments.* In addition to their remarks on the specific schedules of Form No. 16, the commenters to the proposed rulemaking filed remarks in three general areas: (1) the timing of implementation of the revised Form No. 16 and subsequent filing dates; (2) the burden imposed by certain revisions to the form; and (3) technical changes.

a. *Filing Dates.* The Commission has designated September 30, 1980 as the filing date for the initial submittal of the revised Form No. 16.[7] The general instructions provide, as they did in the original Form No. 16, that subsequent filings will be due on April 30 and September 30 of each year so that the information in the form can be used by the Commission in planning for the heating season.

Pipelines which purchase gas from other pipelines argued that it is extremely difficult to get the information necessary to complete the form by the April 30 and September 30 deadlines, and that an additional 15 days is needed to report this data. Under these circumstances, the pipelines may apply for an extension in their filing period as provided in the Commission's regulations at 18 CFR 1.13.

b. *Burden.* Only two commenters claimed that the proposed form created a net additional reporting burden by the inclusion of new data requirements. The main objection related to the transportation of self-help gas and is addressed in detail later in this section.

One other complaint was that the schedule-by-schedule instruction in Form No. 16 for peak day information represented an unnecessary increase in the reporting burden. Several pipelines also stated that the proposed Form No. 16 required the same peak day information that is elicited in Form No. 2.[8]

The Commission believes that the peak day data supplied in Form No. 2 are less specific than those of Form No.

[1] Form No. 16 was initially promulgated in Order 489, Docket No. R-472, 38 Fed Reg. 23516 (August 31, 1973), 50 FPC 561 (1973), it was revised in Order 523, Docket No. R-472, —*Fed. Reg.* —(———, 1975), 53 FPC 352 (1975).

[2] The Schedules of Form No. 16 are identified by Roman numerals on the actual form. They are identified by Arabic numerals in this rulemaking.

[3] Form No. 16 is comprised of eight actual schedules. A ninth schedule was added in response to comments requesting additional space for footnotes to their responses.

[4] "Net available for market" has been changed to "net available for sale" pursuant to a request in the comments. *See* discussion at B(2)(a), *infra.*

[5] Arkansas Louisiana Gas Company, Columbia Gas Transmission Corporation, El Paso Natural Gas Company, Natural Gas Pipeline Company of America, Tennessee Gas Pipeline Company, Texas Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Northern Natural Gas Company, Southern Natural Gas Company, and Interstate Natural Gas Association.

[6] A total of 52 natural gas pipelines are now required to file FERC Form No. 16.

[7] Several commenters indicated that they could not file the new Form No. 16 by the proposed filing date of April 30, 1980. Therefore, the date was changed from April 30, 1980 to September 30, 1980. *See* "Notice of Change in Proposed Implementation Date," Docket No. RM80-20 (Mar. 20, 1980), 45 *Fed. Reg.* 19565 (Mar. 25, 1980).

[8] Form No. 2 is the "Annual Report for Natural Gas Companies (Class A and Class B)", 18 CFR 260.1

16; however, to reduce the respondent

It was suggested that transportations

approvals necessary to attach new gas

16; however, to reduce the respondent reporting burden while securing the most important data, all peak day information proposed for the new Form No. 16 as well as peak day data in the original Form No. 16 has been eliminated.

One comment claimed that Form No. 16 duplicates the information required in EIA Form No. 50, "Alternate Fuel Demand Due to Natural Gas Curtailment." While the Commission finds that a few items of information requested in Form No. 16 are similar to those of Form No. 50; Form No. 50 requires information from distributors which are based on gas supplies from the distributor's sources, including all different pipelines. Form No. 16 only gathers information from individual pipelines. Since it is difficult or impossible to segregate many of the data elements of the various pipelines included in Form No. 50, Form No. 16 will continue to be used to gather this information.

Several comments asserted that the additional data requests of lines 13, 14, and 15 of Schedules 1 and 5 concerning self-help gas transported to the respondents' customers [9] are too burdensome. Information is requested for certain exempted purchases, direct assignments or other purchases by the respondent pipeline's customers which are transported by that pipeline. Some respondent pipelines claimed that the requested information is difficult to obtain from their customers and that the Commission is in a better position to secure that information from customers.

The Commission finds that these exempted purchases and transportations of gas must be monitored in the context of overall supplies of the customers of a pipeline system. Form No. 16 is the only available form which provides monthly data on such transactions as compared to other pipeline supplies to their customers. The pipelines are in the best position to report this information from the customers since they have to record total deliveries to their customers. Because the Commission regulates the pipelines and not their customers, the Commission should look to the pipelines for the required information. Furthermore, this method of collecting customer information has been used successfully since 1973 by pipelines for Form No. 16 collections and is the most efficient way to link such transactions to particular pipelines. Of course, if no self-help information is available, no entry of such data can be made.

[9] The purpose of the requirement is to determine the extent to which a pipeline's customers are able to acquire supplemental gas supplies.

It was suggested that transportations for customers reported on lines 13, 14, and 15 which are less than 10 MMcf per month should be aggregated to reduce the reporting burden. The Commission has deleted the requirment to report individual transaction volumes to ease the burden and has done so for all transactions. It only requires that the buyer and seller of each transaction be identified.

c. *Technical Changes.* Some commenters stated that they would prefer to use a dekatherm basis instead of Mcf to reply to Form No. 16. The general instructions provide that dekatherms may be used if the pipeline supplies with the form a factor based on average heat content so that conversion may be made to Mcf.

Some commenters asserted that Form No. 16 provided insufficient space for reporting certain classes of data. A provision has been included whereby details may be filed in support of the summary data as attachments to Schedules 1 through 8. For the convenience of certain respondents, the Commission has included an instruction which permits pipelines to use a computerized format which follows the format of Form No. 16. However, total and subtotal line numbers should be identical to the original form.

Some commenters noted that the form required the reporting of company code numbers, without specifying the standard for which the codes would be used by respondents. The Commission has, therefore, amended the general instructions to provide that the pipelines use the publication, *Buyer/Seller Codes*, where possible.

Since some of the gas transported for customers is not actually delivered to them because the gas is lost or used as a compressor fuel by the pipeline, an instruction has been added to require that the respondent pipelines shall report only those transportation volumes actually delivered to the customers.

2. *Changes to Particular Schedules.*—a. *Schedules 1 and 5.* Several comments pointed out that more than one case docket may be associated with anticipated new gas suppplies reported on Schedules 1 and 5. The words "docket number" on Attachment I have, therfore, been changed to "docket numbers".

The Commission also adopted the suggestion that pipelines which discuss anticipated new supplies may use footnotes that indicate all regulatory approvals necessary to attach new gas sources.[10]

Another suggestion that has been adopted by the Commission was to change the line 10 ("Net Available for Sale") provision of the subtotals of "line 04 less line 09", to "line 04 plus line 09" since the line 09 figure may be either positive or negative.

One comment requested that a section be added to report adjustments such as hurricanes, pipeline breaks and cutbacks. Line 05 "(Loss of Supply") should be used to report such adjustments.

The suggestion has been adopted whereby reports of imbalances in the transportation of gas are included on line 07 which reports imbalances in exchanges of gas.[11]

Some comments suggested certain changes for line 11, which provides for the reporting of pipeline requirements currently utilized to allocate gas. The proposed instructions provided that pipelines may define their requirements based on: (1) a base period curtailment plan; (2) current contractual obligations; or (3) an actual survey of customers' requirements. They also suggested that all pipelines either use the same method of reporting, or that these choices should be modified. The Commission has decided to retain the three choices, with a modification to choice (c). Choice (c) now reads: "Actual survey or current estimate of customers' requirements."

Two comments expressed the opinion that customer storage activity should not be included on line 08 and that only storage volumes available as pipeline system supply should be reported there. One company explained that its storage operation is dual in nature: storage is dedicated for specific customer storage services as well as for system storage purposes. The comment stated that the inclusion of customer storage activity on line 08, as provided in the proposal, distorts the total amount of system supply and deficiency.[12] The Commission adopted the recommendation that the amount to be shown on line 08 shall be taken from a new line 05 on Schedules 3 and 7 ("Net

[10] The Commission had inadvertently omitted parentheses on lines 05 and 06 on which volumes that consistently reduce supply are reported. These have been added to the form.

[11] Gross transportation volumes are to be reported on lines 13 through 18—not included as supply on lines 01 through 10 (Pipeline Supply).

[12] During the summer, customers inject gas into their storage accounts rather than take actual physical delivery of the gas into their system. Therefore, a lesser supply than available is reflected, and this overstates the deficiency. During the winter, customers withdraw gas from their storage accounts and a greater supply than available is reflected, and this understates the deficiency.

Respondent Storage Activity"—line 03 minus line 04). Line 05 will thus reflect only that storage which is used by the respondent to augment its system supply.

It was also noted that if customer storage activity is not reported in line 08, the resulting amount shown on line 10 would, in fact, represent net supply available for sale to customers by the respondent. Line 10 has, therefore, been changed from "Net Available for Market" to "Net Available for Sale." A suggestion was also accepted to add two additional lines to show what gas is available for market in the customers' market area. As a result, existing line 12 ("(Deficiency) or Surplus"—line 10 minus line 11) was renumbered as line 12a, and the new lines 12b and 12c were respectively called "Net Customer Storage (Injection) or Withdrawal"—line 04, Schedule 3; and "Net Deliveries to Customers"—line 10 plus line 12b.

One respondent requested clarification of the type of volumes to be included in line 18, "Other Transportations Not Reported Elsewhere." Line 07 ("Exchange/ Transportation Gas Received or (Delivered)") contains only net volume differences in transportations; therefore, the gross transportation volumes for parties other than customers should be reported on line 18.

b. *Schedules 2 and 6.* One comment argued that the gas production data requested in Schedules 2 and 6 are the same as those required in Form No. 2. The two forms are not comparable since Form No. 16 requires information on a monthly basis and Form No. 2 is designed to collect data on an annual basis with no monthly breakdown except for storage. Also, unlike Form No. 16, Form No. 2 has no provisions to require the reporting of projected data, which is needed by the Commission in planning for anticipated problems which may result from inadequate gas supplies during the winter season. Supply and sales data on Form No. 2 are reported on a calendar year basis and cannot be related to the heating season as can the spring and fall reports of Form No. 16. Furthermore, the Form No. 2 data does not reflect a full storage cycle (April through March) as does Form No. 16. Finally, the field-by-field breakdown of Form No. 2 is currently under study by Commission staff for revision, so Form No. 16 will be the only form which collects this information.

One comment inquired whether the term "offshore production" meant state as well as Federal production. The Commission has clarified in the instructions the term to mean only Federal offshore production.

A request was made to clarify who is to report "imports" as that term is used in Schedules 2 and 6. The instructions have been amended in lines 10 to 13 to provide that imports should be reported by the pipeline company which receives the gas as a supply source, i.e., the pipeline-consumer.

Two comments claimed that the requirement in Schedules 2 and 6 to report sources of gas supply on a state-by-state basis would create an increased and unnecessary burden because source data are now reported by "pools" which often cross state lines. The Commission uses the state-by-state breakdown as a means to standardize the reporting of gas sources by the pipelines so as to allow comparisons and trend analyses of sources. A provision in the instructions has been added, to allow pipelines to make their reports by field and list all of the states wherein the field is located if they have fields that are not susceptible to segregation by state.

A request was made to clarify the term "contract volume" in Schedules 2 and 6 (line 02, and Attachment II), since some pipelines do not have monthly contracts. The instructions for line 02 have been changed to provide that the monthly contract volume should be the maximum volume allowed under the existing contract so that the 12-month total does not exceed the annual contract or the maximum annual volume that can be purchased from the pipeline supplier.

c. *Schedules 3 and 7.* The proposed instructions provided that "working gas in place on November 1 should reflect the actual level" of the preceding year and forecasted level for the projected year.

Pursuant to a request for clarification, the instructions have been amended to provide that working gas in place on November 1 should reflect the actual level at the November 1 date of the actual reporting period (Schedule 3) and the forecasted level at the November 1 date of the projected reporting period (Schedule 7).

One comment complained that working gas in place on November 1 of each year is already reported in Form No. 8 ("Underground Gas Storage Report") and therefore should not be reported again on Form No. 16. The Commission notes that, unlike Form No. 16, Form No. 8 data are not broken down by storage fields—a detail necessary to evaluate a pipeline's supply. Gas volumes belonging to pipelines other than the respondent and stored in the respondent's reservoirs are aggregated and cannot be identified with the pipleine owning such gas. The Commission will, therefore, continue to request the working gas in place data on Form No. 16.

One comment argued that the request for data on customer storage service (injections) and withdrawals is a burdensome new reporting requirement; and that the information (especially the projected Schedule 7 information) is not readily available to the pipelines. The Commission finds, however, that this request is not a new one. Line 03 of Schedule 3 of the old Form No. 16 required the same data. Furthermore, as operators of the storage fields, the pipelines must, of necessity, know their customers storage service volumes. They are in the best position to report such data to the Commission.

d. *Schedules 4 and 8.* Comments pointed out, correctly, that the term "direct" customers was used incorrectly in Instruction 1 of Schedules 4 and 8. "Direct" has, therefore, been removed. Sales to all customers of the reporting pipeline are broken down by interstate pipeline customers and non-pipeline customers. Those customers who use less than 100 MMcf per year may be aggregated by the appropriate state and customer categories.

One comment noted that, in the case of a surplus supply situation, total "deliveries" to customers (line 07 of Schedules 4 and 8) would not equate to "net deliveries to customers" (line 12c of Schedules 1 and 5); and that the total "net" difference between total "deliveries" and total "requirements" to all customers (line 09 of Schedules 4 and 8) would not equal "deficiency or surplus" plus "net customer storage (injection) or withdrawal" (line 12a plus line 12b of Schedules 1 and 5).

Because this situation could occur, an instruction has been added to footnote the reason for such differences. Also, the term "surplus" is removed from the titles of Schedules 4 and 8 since a supply surplus is not allocated to customers.

One commenter suggested that only those customers whose requirements are greater than 300 Mcf per day should be individually reported on Schedules 4 and 8. This suggestion is not acceptable because a standard based upon such requirements would not accomplish the goal of obtaining actual large volume uses. The Commission will, however, retain the 100 MMcf reporting limitation per year since it is based on customers' actual use of the gas and not merely upon their requirements. This 100 MMcf per year limitation insures that the actual large volumes of sales are reported by the customers.

C. Public Procedures and Effective Date

Public notice and an opportunity to participate in this rulemaking has been provided. The changes in this Order will be effective 30 days from the date of its issuance for reports to be filed on or before September 30, 1980.

(Natural Gas Act, as amended, 15 U.S.C. §§ 717–717w; Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352; E.O. 12009, 3 CFR 142 (1978))

For the foregoing reasons, Form No. 16 is revised by the Commission as set forth in the attachment to this Final Rule and Part 260 of Chapter I, Title 18 of the Code of Federal Regulations is amended by the Commission as set forth below, effective 30 days from the date of issuance.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 260.12 is amended to read as follows:

§ 260.12 FERC Form No. 16, report of gas supply and requirements.[1]

(a) *Prescription.* The form of Report of Gas Supply and Requirements, designated herein as FERC Form No. 16, is prescribed.

(b) *Filing requirements.*—(1) *Who must file.* Each natural gas pipeline company making sales in interstate commerce of natural gas for resale shall prepare and file with the Energy Information Administration an original and six copies of Report of Gas Supply and Requirements, FERC Form No. 16.

(2) *When to file.* Such reports shall be filed on or before April 30 and September 30 of each year.

(c) *Waiver.* Upon good cause being shown, the Commission will grant requests by any company for waiver of the requirement to file Form No. 16.

[FR Doc. 80-17050 Filed 6-4-80; 8:45 am]

BILLING CODE 6450-85-M

[1] FERC Form No. 16 filed with the Office of the Federal Register as part of the original document. Copies may be obtained from Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426.

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Approval and Solicitation of Air Quality Models.

SUMMARY: The Geological Survey (GS) approves the use of the Environmental Protection Agency (EPA) UNAMAP Single Source (CRSTER) Model and PTMTP Model in the air quality regulatory program outlined in 30 CFR 250.57 (Air Quality). The GS also solicits interested parties to develop and submit air quality models which are appropriate for Outer Continental Shelf (OCS) facility evaluations.

DATES: Air quality models approved June 2, 1980. Comments, etc., may be submitted at any time to the address shown below.

ADDRESS: Comments on this notice or letters of intent to submit air quality models should be sent to the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:
John Goll, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, (703) 860–7136 or FTS 928–7136.

SUPPLEMENTARY INFORMATION:

Background. On March 7, 1980, the GS published a rule establishing a regulatory program to implement section 5(a)(8) of the OCS Lands Act Amendments of 1978, Pub. L. 95–372, concerning the regulation of air emissions from oil and gas operations on the OCS (45 FR 15128, March 7, 1980). The regulations are designed to insure that emissions from OCS facilities do not cause significant effects on the onshore air quality of a State. They revised 30 CFR 250.2 and 250.34 and created a new section, 30 CFR 250.57.

The program is divided into three parts for each air pollutant. The first two parts are screening procedures to determine whether emissions of an air pollutant from an OCS facility would significantly affect the onshore air quality of a State. The third part, if necessary, determines what measures the lessee must take to mitigate the impact of the emissions of the air pollutant. Both parts two and three involve using air quality models to estimate onshore ambient air concentrations that result from OCS air emissions. In the information requirements for the environmental reports [30 CFR 250.34–3(a)(4)(ii)(B)(*1*) for exploration plans and 250.34–3(b)(4)(ii)(B)(*1*) for development/production plans], the rule states that "The model or models [used to determine the effect on the onshore air quality of emissions from each facility] must be approved for use by the Director [of the Geological Survey]."

The preamble to the rule recognized that no air quality model was available for regulatory use for overwater applications. To remedy this situation, the Department outlined a step-by-step process which should lead to the development of acceptable overwater models. First, the GS would review the list of the EPA-approved models and would select one or two, which lessees must use in the air quality program until other models are approved. Second, during the next year, these models would be adapted for overwater applications. Third, during the next 2 to 3 years, the Bureau of Land Management (BLM), Department of the Interior (DOI), would conduct actual field tests off the coast of southern California to develop diffusion coefficients for overwater conditions. These diffusion coefficients would be used to validate models, which the Director approves for use. Finally, the GS would establish a mechanism, similar to the one used by EPA, by which interested parties could recommend new models or adaptations to existing models to the GS. Such models would be subject to public review and comment as part of the GS review to determine whether they would be added to the list of approved models. This notice elaborates on steps 1 and 4.

Approval of Air Quality Models for OCS Evaluations. The GS has reviewed those air quality models made available by EPA in its UNAMAP series (EPA, User's Network for Applied Modeling of Air Pollution (UNAMAP), NTIS PB 229771, National Technical Information Service, Springfield, Virginia 22161). We have concluded that, of the UNAMAP models, the Single Source (CRSTER) Model and the PTMTP Model best apply to OCS single facility and multiple facility evaluations, respectively. Pursuant to authority delegated by the Director to the Deputy Division Chief, Offshore Minerals Regulation, the following models have been approved for OCS facility evaluations:

A. The Single Source (CRSTER) Model, with the following modifications made to the model:

1. All atmospheric stability conditions classified in the CRSTER-PREPROCESSOR subprogram as classes A and B will be assumed to be class C for use in the model. This is done by changing all 1's and 2's to 3's in the DATA LSTAB statement in the PREPROCESSOR subprogram. (For long overwater fetches, extremely unstable atmospheric dispersion conditions are unlikely.)

2. Onshore air quality impact will be based on the highest estimated onshore ambient air concentration for the area impacted, rather than the highest, second-highest concentration at any receptor. (The Guideline on Air Quality Models recommends using the highest estimated concentration when uncertainties exist in the meterological data and the modeling for the evaluation (EPA, Guideline on Air Quality Models, EPA–450/2–78–027, EPA, Research Triangle Park, North Carolina 27711, April 1978).)

B. The PTMTP Model, with similar modifications outlined in [A] for CRSTER, for OCS evaluations involving the combined effects of more than one facility. Lessees shall consult with the GS before using PTMTP for multifacility evaluations.

Lessees must use only these two models to evaluate OCS air emissions until other models are approved. *Submission of Models* discusses the approval method for other models.

Limitations of the Approved Models. We acknowledge that using these two models for evaluating the onshore air quality impact of OCS facilities may be questionable. The models were designed for onshore applications and land-based meteorological data. Shortcomings in the models include using plume growth coefficients designed for land rather than for water, neglecting changes in windspeed and air trajectories for the transition flow from water to land, and neglecting the influence of the coastal internal boundary layer, especially during periods when plume fumigation could occur.

We have assessed the impact of these limitations on our OCS evaluations and have determined that the modified models will not cause excessive under-predictions of onshore concentrations. We considered the OCS facility source characteristics and locations, overwater meteorological conditions, and the likely available meteorological data for use in the models. We also considered the comments on the use of EPA models for OCS applications received by the Department in the rulemaking for the regulations. Arguments were received that the EPA models, when applied to overwater conditions, were overly conservative or were not conservative enough (depending on the limitations evaluated by the commenters.) Finally, we considered the effects that the modifications to the models would have on the final concentration estimates. From these considerations, we concluded that the models could be used on a temporary basis.

The GS intends that these models (selected in step 1) will be used only for an interim period until we (by step 2), or others (by step 4), can develop an overwater model which will account for the diffusion and transport parameters of importance in overwater and coastal flow. The Department noted in the preamble that it considered that any deficiencies in the models were preferable to the controversies that would arise if all parties involved were allowed to pick different models to predict and analyze the onshore air quality impacts of offshore operations. Using the EPA models has benefits in that they are readily available and easy to understand and ensure that all parties know how concentrations were calculated. After future models are developed, we can compare easily the results of these models with those of newly developed models.

Future Model Development. As discussed in *Background,* the GS plans to develop an overwater air quality model. The GS will adapt the CRSTER or similar model for OCS applications in fiscal year 1981. Ultimately, the BLM field tests and any other tests available will be analyzed to validate the developed model and make adjustments as necessary. Based on the schedule of tracer diffusion tests by BLM and others, we foresee this completed by 1985.

Submission of Models. We strongly urge interested parties to develop and submit air quality models which they consider appropriate for OCS applications. We will review such models to determine whether they can be used in OCS evaluations. This review will not be part of an exploration or development/production plan review, but will be done separately. A submitted model will be open to public review and comment. One facet of this review may include review of the model by EPA for its technical merit, documentation, validation, and coding. The model must meet the six requirements outlined by EPA in its Notice on Guidelines on Air Quality Models (45 F.R. 20157, March 27, 1980). These requirements are:

1. The model must be computerized and functioning in a common Fortran language suitable for use on a variety of computer systems.

2. The model must be documented in a user's guide which identifies the mathematics of the model, data requirements, and program operating characteristics at a level of detail comparable to that available for currently recommended models, e.g., the Single Source (CRSTER) Model.

3. The model must be accompanied by a complete test data set, including input parameters and output results. The test data must be included in the user's guide, as well as provided in computer-readable form.

4. The model must be useful to typical users, e.g., State air pollution control agencies, for specific air quality control problems. Such users should be able to operate the computer program(s) from available documentation.

5. The model documentation must include a comparison with air quality data or with other well-established analytical techniques.

6. The developer must be willing to make the model available to users at reasonable cost or make it available for public access through the National Technical Information Service; the model cannot be proprietary.

We suggest that interested parties who comtemplate model development contact us to discuss its applications. Once work on a model is completed, formal submittal should consist of a magnetic tape containing the program source code for the model and the test data set written at 1600 bpi in EBCDIC, four copies of the user's guide, any related documentation concerning past applications and performance of the model, and a statement on what arrangements will be made for public access to the model.

Dated: May 30, 1980.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation Conservation Division, U.S. Geological Survey.

[FR Doc. 80-17051 Filed 6-4-80; 8:45 am]

BILLING CODE 4310-31-M

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Correction

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Correction of final rules.

SUMMARY: Editorial review of the published corrections of Final Rules which revised 30 CFR Part 250 effective December 13, 1979, identified printing and other errors that require correction. Those corrections of Final Rules were published March 28, 1980 (45 FR 20464). Issuance of these corrections identifies and incorporates into those Final Rules the language changes needed to accomplish the needed corrections of 30 CFR Part 250.

DATES: The corrections contained in this document are effective as of December 13, 1979.

FOR FURTHER INFORMATION CONTACT:
Gerald D. Rhodes, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, National Center—Mail Stop 640, Reston, Virginia 22092, (703) 860–7531.

Dated: May 30, 1980.

SUMMARY: This document corrects

customer's identity; (4) further limits a

Dated: May 30, 1980.

Charles P. Eddy,

Acting Assistant Secretary of the Interior.

The corrections to the Final Rule published March 28, 1980, 45 FR 20464, are corrected as follows:

The reference to modification of § 250.34–2(o), page 20465, first, column, should be corrected to refer to § 250.34–2(n). Section 250.34–2(o) should continue to read as published October 26, 1979. The correction should read:

"Section 250.34–2(n), the first sentence is clarified to read:

* * * * *

(n) In order to ensure that activities to be carried out under a proposed development and production plan and activities being carried out under an approved development and production plan are carried out in a safe and environmentally acceptable manner, the Director may authorize or direct the lessee to conduct geological, geophysical, or other surveys that the Director determines are necessary for evaluation of such activities."

* * * * *

The citation of § 250.71(6), in the middle column of page 20465, should be § 250.71(b).

* * * * *

The citation of § 250.80(d), in the middle column of page 20465, should be § 250.80–1(d).

* * * * *

The citation of § 250.80–2(a)(i)(D), in the middle column of page 20465, should be § 250.80–2(a)(2)(i)(D).

* * * * *

Subparagraphs (6) and (7) of § 250.80–2(a) as published October 26, 1979, FR Doc. 79–33235, 44 FR 61886, should be renumbered subparagraphs (5) and (6).

* * * * *

The addition of § 250.2, "Definitions," i.e., §§ 250.2(ggg), (hhh), (iii), (jjj), and (kkk) should be corrected to be paragraphs (hhh), (iii), (jjj), (kkk), and (lll), respectively.

[FR Doc. 80–17078 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–31–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 816

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Correction.

SUMMARY: This document corrects § 816.97 of the Permanent Regulatory Program published in the **Federal Register**, March 13, 1979, Part II, Book 3 of 3.

EFFECTIVE DATE: June 5, 1980.

ADDRESS: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. David R. Maneval, (202) 343–4264.

SUPPLEMENTARY INFORMATION: This document corrects an error that appeared in the March 13, 1979, Permanent Regulatory Program (Title 30, Code of Federal Regulations, 1979). The page number corresponds to the March 13, 1979, **Federal Register** document. The following instructions will aid the user in locating the referenced correction:

Page—indicates the page number that appears in the upper margin of the March 13, 1979, **Federal Register**

Section—indicates the Section and paragraph were the error occurred

Lines—indicates the number of lines down from the referenced Section

The following correction is made:

On page 15411, § 816.97(d)(2), line 4, "underpasses. No new barrier shall be" is corrected to read "underpasses or overpasses and construct the necessary passages. No new barrier shall be".

Dated: May 30, 1980.

Paul L. Reeves,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 80–17063 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Financial Recordkeeping and Reporting of Currency and Foreign Transactions

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the reporting of individual currency transactions in excess of $10,000 (IRS Form 4789, Currency Transaction Report). The amended regulation (1) requires a financial institution to file a report within 15 days after a transaction occurs; (2) requires the institution to retain a copy of the report for 5 years; (3) requires the institution to record more specific information concerning a customer's identity; (4) further limits a bank's authority to exempt transactions from the reporting requirement; and (5) requires a bank to make and retain a record of the authorization of such an exemption.

EFFECTIVE DATE: July 7, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement), 202–566–5630.

SUPPLEMENTAL INFORMATION: Treasury regulations (31 CFR Part 103) issued under the authority of the Currency and Foreign Transactions Reporting Act (Pub. L. 91–508, Title II, October 26, 1970) require that certain transactions involving currency be reported to the Secretary of the Treasury by financial institutions. A financial institution within the United States generally must file a Currency Transaction Report, IRS Form 4789, for each deposit, withdrawal or exchange of currency or other transaction which involves more than $10,000 in currency. Under current regulations, currency transactions with established customers in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned need not be reported provided that the financial institution makes a report listing such customers to the Secretary upon demand. Certain types of transactions with other financial institutions also need not be reported.

On September 9, 1979, there was published in the **Federal Register** a notice of proposed rulemaking to revise the regulations to require that (1) the reports be filed more timely; (2) more complete identification of the customer be furnished; (3) the financial institution be required to retain a copy of the report for five years; and (4) the exemption from the reporting requirement for transactions with an established customer maintaining a deposit relationship be limited to retail type businesses in the United States and that the location and character of the business be identified in the report of exempt customers furnished to Treasury. In addition, it was proposed that the exemption from reporting currency transactions with other financial institutions and foreign banks be removed in order to improve the Treasury Department's ability to obtain overall compliance with the regulations and alert the Department to unusual transnational movements of currency. The primary purpose of these changes would be to enhance the Department's capability to monitor and assure

compliance with the Currency and Foreign Transactions Reporting Act with regard to possible illegal or improperly reported flows of currency in the United States and abroad.

A total of 46 comments were received on this proposal. The more significant comments are summarized and discussed below.

Discussion of Major Comments

1. Many of the comments stated that no difficulty was anticipated in complying with the revisions. Some banks, while not anticipating any particular difficulty, felt that the proposed revisions were unnecessary, time consuming and costly. The comments indicate that a few banks in large metropolitan centers have a significant number of large transactions in currency. The vast majority of banks, however, do not appear to have a great many unusual currency transactions and, consequently, they will not be greatly affected by the change in reporting date or the information to be supplied.

2. In order to reduce unnecessary and unproductive reporting of routine currency transactions, banks have been able to exempt currency transactions with certain depositors where such transactions are customary and do not exceed amounts which the bank may reasonably conclude are commensurate with the conduct of the lawful, domestic business of that customer.

The proposed revision would have limited the exemption to an established depositor who is a U.S. resident and operates a retail type of establishment within the United States. A number of comments asked that the term "retail" be defined in the regulations and suggested that the exemption provision should include other types of businesses, as well as government agencies.

The final rule provides a definition of retail type of business and allows banks to also exempt currency transactions with state, local, or Federal government agencies where such transactions are customary and commensurate with the authorized activities of the agency. It is expected that those exemptions will be limited to retail type businesses that operate from commercial premises. Exemptions also may be granted when warranted for certain transactions of an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, theater, or a firm that regularly withdraws more than $10,000 in order to pay its employees in currency. Banks may apply to the Assistant Secretary (Enforcement and Operations) for additional authority to grant an exemption if the bank believes that specific circumstances warrant such authority. Requests should be addressed as follows:

Exemption Staff, Room 1134, Office of Enforcement and Operations, U.S. Treasury Department, Washington, D.C. 20220.

3. One comment asked about the identification requirements for the customer's name and address, questioning whether the bank would be expected to verify the authenticity of the documents presented by the customer for identification. Bankers and shopkeepers normally ask for identification when a stranger presents a bank check or traveler's check to be cashed or accepted as payment. The same guidelines will apply when recording or reporting an unusual currency transaction.

4. Another comment asked whether microfilm and microfiche reproductions of currency reports will be accepted for purposes of record retention. Compliance by banks with the requirements of the regulations is checked by bank examiners employed by the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Comptroller of the Currency. Savings and loan associations are checked by the Federal Home Loan Bank Board. In order for the bank examiner to determine that the regulations are being complied with, it is necessary that a copy of the report be available among the bank records. A microfilm or microfiche copy of the report is acceptable for this purpose.

5. One commenter asked whether the term other "domestic banks" used in the proposal would include savings and loan associations. It does. Section 103.11 of the regulations defines the term "bank" as including:

* * * * *

"(3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;"

Definitions contained in § 103.11 apply to each of the regulations in Part 103.

6. Another comment suggested that the proposal represents a potential invasion of a bank customer's reasonable expectation of privacy in his financial affairs. This is not so: reports are only required for unusual cash transactions involving more than $10,000 by individuals or by businesses that have not been exempted and, as a result, relatively few bank transactions are reported. Although commercial banks alone are estimated to have processed in excess of 30 billion transactions in 1979, only about 120,000 reports were filed, less than one for every 200,000 transactions.

In establishing the reporting requirements, Congress found that the reports can be highly useful in criminal, tax, and regulatory investigations. Experience has shown that, frequently, such transactions are indications of illegal activities.

7. Another comment opposed the requirement that intercorporate dealings be reported, such as those between foreign and domestic subsidiaries of financial institutions. However, the overwhelming majority of such transfers are made in the form of bookkeeping entries and are not reportable under the regulations. Information from the financial community and the Customs Service indicates that the number of physical transfers of large amounts of currency between related banking entities is relatively small. The additional information that will be provided as a result of the amended regulations is needed for law enforcement purposes. There is increasing evidence that large amounts of currency related to illegal activities is being smuggled out of the U.S. and deposited in banks in foreign countries to evade scrutiny by U.S. authorities. The additional reports concerning these currency shipments will substantially improve the Treasury Department's ability to detect questionable movements of currency.

8. A nonbank financial institution commented on the duplication in the reporting of currency transactions between banks and nonbank financial institutions that would result under the proposed amendment. The final regulation has been changed to exempt the nonbank financial institution from reporting such transactions. Banks, however, must report them.

9. One bank commented that as initially proposed, the regulations appeared to require banks to determine the nationality of a person presenting a currency transaction before accepting the transaction. Such a procedure could have placed an undue burden on the banking industry. Consequently, the amendment has been changed to make it clear that a bank is required to follow the identification procedure required for aliens only when a bank has reason to believe that the customer is an alien. If for example, when a banker requests a taxpayer identification number, the customer states that he does not have one because he is not a resident, the banker should request an official

document evidencing nationality or

transactions are not exempt from the

section should also indicate whether the

document evidencing nationality or residence.

Drafting Information

The principal authors of this document are William W. Nickerson, Deputy Assistant Secretary (Enforcement) and Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement). However, other personnel of the Office of Enforcement and Operations and the Office of the General Counsel participated in its development.

Authority and Issuance

Accordingly, the proposed regulations are being issued under the authority contained in the Currency and Foreign Transactions Reporting Act, 84 Stat. 1118, 31 U.S.C. 1051–1122, as follows:

Regulations

1. Section 103.22 of Part 103 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves a transaction in currency of more than $10,000. Such reports shall be made on forms prescribed by the Secretary and all information called for in the forms shall be furnished.

(b)(1) Except as otherwise directed in writing by the Assistant Secretary (Enforcement and Operations), this section shall not: (i) require reports of transactions with Federal Reserve Banks or Federal Home Loan banks; (ii) require reports of transactions between domestic banks; or (iii) require reports by nonbank financial institutions of transactions with commercial banks.

(2) Except as otherwise directed in writing by the Assistant Secretary (Enforcement and Operations), a bank may exempt from the reporting requirement of this section the following:

(i) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a retail type of business in the United States. For the purpose of this subsection, a retail type of business is a business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portion by currency, except that dealerships which provide automobiles, boats or airplanes are not included and their transactions are not exempt from the reporting requirement of this section.

(ii) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, or theater.

(iii) Deposits, or withdrawals, exchanges of currency or other payments and transfers by local or state governments, or the United States or any of its agencies or instrumentalities.

(iv) Withdrawals for payroll purposes from an existing account by an established depositor who is a United States resident and operates a firm that regularly withdraws more than $10,000 in order to pay its employees in currency.

(c) In each instance the transactions exempted under paragraph (b) of this section must be in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer, or in the case of transactions with a local or state government or the United States or any of its agencies or instrumentalities, in amounts which are customary and commensurate with the authorized activities of the agency or instrumentality. This section does not permit a bank to exempt its transactions with a nonbank financial institution.

(d) A bank may apply to the Secretary for additional authority to grant an exemption to the reporting requirement, not otherwise provided for under paragraph (b) of this section, if the bank believes that circumstances warrant such an exemption. Such requests should be addressed to:

Exemption Staff, Room 1134, Office of Enforcement and Operations, U.S. Treasury Department, Washington, D.C. 20220.

(e) A record of each exemption granted under paragraph (b) of this section and the reason therefor must be made at the time it is granted and all such exemptions must be kept in a centralized list. The record shall include the names and addresses of the banks referred to in paragraph (b)(1)(ii) of this section, as well as the name, address, business, taxpayer identification number, and account number of each depositor that has engaged in currency transactions which have not been reported because of the exemption provided in paragraph (b)(2) of this section. The record concerning the group of depositors exempted under the provisions of paragraph (b)(2) of this section should also indicate whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption. Upon the request of the Secretary, a bank shall provide a report containing the list of the bank's customers whose transactions have been exempted in accordance with the provisions of paragraph (b) of this section and such information as the Secretary may require. The exemptions may be reviewed by the Secretary who may require a bank to file the usual reports as prescribed in paragraph (a) of this section with respect to any customer whose transactions have been previously exempted.

(f) Reports required under paragraph (e) of this section must be mailed or otherwise delivered to the Secretary within 30 days after the bank receives the Secretary's request.

2. Paragraph (a) of § 103.25 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.25 Filing of reports.

(a) A report required to be filed by paragraph (a) of § 103.22 shall be filed within 15 days following the day on which the transaction occurred. The reports shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by the Secretary. All information called for in such forms shall be furnished. A copy of each report shall be retained by the financial institution for a period of five years from the date of the report.

* * * * *

3. Section 103.26 of Part 103, Code of Federal Regulations, as revised, reads as follows:

§ 103.26 Identification required.

Before effecting any transaction with respect to which a report is required under paragraph (a) of § 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity for whose or which account such transaction is to be effected. Verification of the identity of an individual who indicates that he is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence. Verification of identity in any other case may be by examination of a document normally acceptable as a means of identification when cashing checks, for example, a driver's license or a credit card. In each instance, the method used in verifying the identity of the customer shall be recorded on the report.

Dated: May 28, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-17187 Filed 6-4-80; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1507-3]

Approval and Promulgation of Implementation Plan; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this notice is to indicate final action on the Washington SIP by approving some portions; conditionally approving other portions; and taking no action at this time on certain other portions. In accordance with conditional approvals the State of Washington is required to submit to EPA additional materials to satisfy the various conditions no later than July 31, 1980. This plan revision was prepared by the State to meet the requirements of Part D (Plan Requirements for Non-Attainment Areas) of the Clean Air Act (hereafter referred to as the Act) as amended in 1977 (42 U.S.C. 1857 et seq.).

EFFECTIVE DATE: June 5, 1980.

FOR FURTHER INFORMATION CONTACT: Richard R. Thiel, P.E., Chief, Air Programs Branch, Region X M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No: (206) 442–1230, FTS 399–1230.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Background
III. Plan Review
A. General Regulations
1. New Source Review
2. Volatile Organic Compounds
3. Inspection and Maintenance
4. Other Regulations
5. Legal Authority
B. Non-Attainment Area Plans
1. Extension Requests
2. Carbon Monoxide and Ozone
a. Seattle-Tacoma
b. Spokane
c. Vancouver
d. Yakima
3. Total Suspended Particulate
a. Seattle-Tacoma
b. Vancouver
c. Spokane
d. Clarkston
4. Sulfur Dioxide
a. Tacoma
C. General Comments
IV. Additional SIP Requirements

I. Introduction

EPA finds that good cause exists for making the action taken in this notice immediately effective for the following reasons: (1) Implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden, and (2) EPA has a responsibility under the Clean Air Act to take final action on the position of the SIP which addresses Part D regulations by July 1, 1979 or as soon thereafter as possible.

On November 9, 1979, the Environmental Protection Agency (EPA) published in the **Federal Register** a notice of proposed rulemaking (44 FR 65084) which described the nature of the SIP revision, discussed certain provisions which, in the opinion of EPA, did not comply with the Act, and requested public comment.

As discussed in greater detail below, EPA has reviewed public comments received on the November 9, 1979, **Federal Register** proposal and is today taking the following action on each element of the plan:

1. Approval

(a) Yakima CO non-attainment area strategy;
(b) Extension of attainment date for CO and O_3 for Seattle-Tacoma non-attainment area; and
(c) Inspection and maintenance program;
(d) State Legal Authority;
(e) Miscellaneous regulatory provisions (Sensitive Areas: WAC 18–06).

2. Conditional Approval

(a) New Source Review (WAC 173–400);
(b) Volatile Organic Compounds (WAC 173–490);
(c) Other General Regulation Provisions (Combined Emissions: WAC 173–400–040; Source Test Procedures: WAC 173–400–120)3); No Burn Areas: WAC 173–425);
(d) Seattle-Tacoma CO non-attainment area strategy;
(e) Seattle-Tacoma O_3 non-attainment area strategy;
(f) Vancouver O_3 non-attainment area strategy; and
(g) Seattle-Tacoma, Vancouver, Spokane and Clarkston Primary TSP strategies.

3. No Final Action

(a) Tacoma SO_2 non-attainment area strategy;
(b) Spokane CO non-attainment area strategy;
(c) Kraft Pulp Mills: WAC 173–405*;
(d) Sulfite Pulp Mills: WAC 173–410*;
(e) Primary Aluminum Plants: WAC 18–52*; and
(f) Energy Facility Site Evaluation Council Regulations: WAC 463–39.*
(g) Miscellaneous regulatory provisions, Grass seed field burning: WAC 18–16; Input sulfur limitation: Puget Sound Air Pollution Control Agency (PSAPCA) Regulation I—Section 9.07(c).

In this notice the proposed Washington SIP is summarized, problems interfering with SIP approval are discussed, comments from the State and the public are presented, and EPA's responses to comments on its proposal are presented. In addition, the notice describes final action with regard to approval and conditional approval of the Washington SIP. It should be noted that only the requirements pertaining to Part D of the Act are discussed in this notice.

Following this introduction, the information in this notice is divided into two sections entitled, "Background" and "Plan Review." The "Background" section outlines the various events leading to the development of the Washington SIP in relation to the Part D requirements of the Act. The "Plan Review" portion is further divided into two major sub-sections. The first of these entitled "General Regulations," discusses the general regulatory portions of the SIP e.g., Volatile Organic Compounds (VOC), New Source Review (NSR), Inspection and Maintenance (I/M), etc. The second sub-section entitled "Non-Attainment Plans," provides a description of each Part D non-attainment plan element on a pollutant specific basis. Deficiencies, together with appropriate corrective actions which were proposed earlier, are summarized at the end of each topical discussion section. Further public comments pertaining to those deficiencies, proposed corrective actions and other concerns regarding the SIP are then summarized along with EPA's responses. Following the public comment section, final EPA action is then described for each deficiency noted as well as EPA final action regarding other major elements of the SIP.

II. Background

On March 3, 1978 (43 FR 8962), and September 11, 1978 (43 FR 40435), pursuant to the requirements of Section

*By separate **Federal Register** Notice EPA intends to propose action to be taken with regard to these specific regulated categories.

107 of the Act, EPA designated certain areas of the State of Washington as not attaining certain National Ambient Air Quality Standards (NAAQS). Part D of the Act requires states to revise their State Implementation Plans for all areas that have not attained the NAAQS. The Washington SIP revisions were developed and submitted to EPA to satisfy the requirements of the Act and are intended to update the present EPA approved SIP. The basic criteria for an approvable Part D SIP are summarized in a General Preamble published in the April 4, 1979, **Federal Register** (44 FR 20372) as supplemented in the **Federal Register** on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). These criteria are incorporated by reference and will not be restated here. Additional guidance was published in the "EPA/DOT Transportation Planning Guidelines" and the "Transportation SIP Checklist" and general requirements for all SIPs are found in EPA regulations in 40 CFR Part 51.

In accordance with Section 174 of the Act, primary responsibility for preparing transportation control plans leading to the attainment of carbon monoxide (CO) and ozone (O_3) standards was delegated by the Governor of the State of Washington to organizations of local elected officials. In the State of Washington these designated organizations are the Puget Sound Air Pollution Control Agency (PSAPCA) for the Seattle-Tacoma CO and O_3 non-attainment areas, the Spokane Regional Planning Conference (SRPC) for the Spokane CO non-attainment area, and the Clark County Regional Planning Conference (CCRPC) for the Vancouver O_3 non-attainment area. As a result of these designations, a description of responsibilities between the various state and local agencies involved in the planning process was developed.

The Governor also designated PSAPCA and SRPC responsible for total suspended particulate (TSP) plan development. The remaining control strategies for Port Angeles (TSP), Longview (TSP), Vancouver (TSP) and Yakima (CO) were the responsibility of the State Department of Ecology (DOE). In addition, the State, in accordance with legislation enacted in May 1979, was made responsible for the development of the motor vehicle inspection and maintenance program.

The locally prepared plans referred to above were submitted to DOE in November 1978 and combined with the State developed control strategies. Thereafter, following due notice, public hearings were held in December 1978.

After receiving and considering a multitude of comments from the public, industry and government, the DOE decided that major changes to portions of the draft SIP were necessary. Thus, a revised draft SIP was developed by DOE and submitted informally to EPA for comment in March 1979. The EPA's comments regarding the much revised SIP were informally transmitted to DOE at the time of the State's April 19, 1979 public hearing held for the purpose of taking comment on the revised State SIP. On April 26, 1979, the SIP was adopted by the DOE and thereafter formally submitted by Governor Ray to EPA on April 27, 1979.

During the time from April to November 1979, several meetings were held between EPA and the State, and numerous proposals exchanged in an effort to resolve the issues raised by EPA's March, 1979 comments. Thereafter, EPA proposed action on the revised Washington SIP in the **Federal Register** on November 9, 1979 (44 FR 65084).

On December 21 and 28, 1979, the State submitted comments in response to the issues raised in EPA's proposed rulemaking. These comments, together with others received from the Puget Sound Air Pollution Control Agency, the Western Oil and Gas Association, the Northwest Pulp and Paper Association, the Oregon Department of Environmental Quality, the Washington Lung Association, the U.S. Department of Housing and Urban Development, the Federal Highway Administration, the Puget Sound Citizens Committee for Air Quality and Transportation Control Planning, and several private citizens have been fully considered in the development of this final rulemaking.

III. Plan Review

This section is divided into two major sub-sections. The first, "General Regulations," briefly describes the regulatory portions of the plan generally applicable to non-attainment areas; e.g., Volatile Organic Compounds, New Source Review, Inspection and Maintenance, etc. and then discusses the deficiencies noted by EPA. The Section also incorporates the comments received as a result of the EPA "Notice of Proposed Rulemaking" and specifically describes the category of action which EPA is taking. The second sub-section, "Non-Attainment Area Plans" discusses each area pollutant-specific plan in terms of plan development, emission reduction required, control strategy proposed, deficiencies identified, corrective actions required, comments received and the final action taken by EPA.

A. General Regulations

1. *New Source Review (NSR).*—WAC 173–400–110—New Source Review, has in general, been satisfactorily revised to accommodate the requirements of Part D of the Act for all sources except those under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC). EPA is requesting, however, that the State revise its regulation to resolve certain remaining descrepancies between the proposed SIP and Part D requirements. These discrepancies, which are detailed below, are primarily associated with the failure of the SIP to properly regulate aluminum plants, pulp mills and energy related sources (e.g., power plants, refineries, etc.); additionally, the State must take corrective action regarding relaxed permit requirements for major sources and the exemption of certain size facilities from NSR requirements. EPA approves these regulatory provisions, except as otherwise noted, contingent upon the State taking the following corrective actions with regard to the identified deficiencies on or before July 31, 1980:

a. Variance Related Exemption.—
i. *Deficiency.* WAC 173–400–110(3)(a) exempts sources with approved variances from compliance with NSR procedures.

ii. *State Response.* The State intends to revise this section to eliminate the exemption.

iii. *Public Comment.* None.

iv. *EPA Action: CONDITIONAL APPROVAL.* The proposed State action will correct the deficiency.

b. Major Sources.—i. *Deficiency.* The definition of major source does not satisfy Section 302(j) of the Act in that *all* sources with a potential emission equal to or greater than 100 tons per year (TPY) of any pollutant are not required to undergo NSR. Also CO sources between one hundred (100) and one thousand (1000) tons per year are exempt from the NSR procedures.

ii. *State Response.* The State will revise the definition of "major source" to be consistent with Section 302(j) for all pollutants.

iii. *Public Comment.* None.

iv. *EPA Action: CONDITIONAL APPROVAL.* The proposed State action will correct the deficiency.

Note.—The EPA rulemaking in response to the *Alabama Power Co.* v. *Costle,* 13 ERC 1993 (D.C. Cir., Dec. 14, 1979) decision may affect the final disposition of this deficiency.

c. Permits to Operate.—i. *Deficiency.* WAC 173–400–110 at present does not satisfy the requirement of Section 173(3) of the Act that a permit to construct or operate a new source in a non-attainment area can only be issued if the other sources owned by the same company in that State are in compliance with the Act. In addition the SIP does not include procedures to implement and enforce "reasonable further progress" toward attainment as described in Section 173(1) in other parts of Section 173.

ii. *State Response.* The State indicates that WAC 173–400–110 will be revised to satisfy the requirement of Section 173(3) and that provisions to implement and enforce "reasonable further progress" will be added to the SIP.

iii. *Public Comment.* None.

iv. *EPA Action: CONDITIONAL APPROVAL.*

The action proposed by the State will correct the deficiency.

d. Temporary Sources.—i. *Deficiency.* WAC 173–400–110(10) exempts temporary sources (one year or less) from NSR, contrary to Section 173 of the Act.

ii. *State Response.* The State indicates that it feels the regulation is adequate and that a program has been established to ensure that emission requirements are met. Further the State agrees with EPA that the temporary source regulation applies only to *portable* sources which locate temporarily, and will revise the regulation accordingly.

iii. *Public Comment.* None.

iv. *EPA Action: CONDITIONAL APPROVAL.*

The action proposed by the State will correct the deficiency.

Note.—The EPA rulemaking in response to the *Alabama Power Co.* v. *Costle,* 13 ERC 1993 (D.C. Cir., Dec. 14, 1979) decision may affect the disposition of this deficiency.

e. Kraft Pulping Mills (WAC 173–405), Sulfite Pulping Mills (WAC 173–410) and Primary Aluminum Plants (WAC 18–52).—i. *Deficiency.* These regulations in the currently proposed SIP, do not meet the NSR requirements of Sections 172(b)(6) and 173 of the Act.

ii. *State Response.* The State has adopted revisions to the three regulations to correct the above deficiency.

iii. *Public Comment.* None.

iv. *EPA Action: NONE.* On April 1, 1980, the State submitted regulations, for the above referenced sources since the newly adopted regulations are currently under review, EPA will take separate action on these three regulations at a later date. In the meantime, and until EPA publishes final approval action, the limitations on new source growth remain in effect (Section 110(a)(2)(I)).

f. Energy Facility Site Evaluation Council (EFSEC) Regulations.—i. *Deficiency.* The regulations contain numerous deficiences which have been identified to EFSEC.

ii. *State Response.* The State DOE and EFSEC, have agreed to make the required changes in the regulations and to develop appropriate implementing procedures.

iii. *Public Comment:* None.

iv. *EPA Action: NONE.* Because the State has formally submitted only the EFSEC regulations and not the implementing procedures (the memorandum of agreement between DOE and EFSEC), EPA will take no final action at this time. When the State has provided EPA with a complete SIP revision package then EPA will take separate action on the EFSEC portion of the SIP. The absence of an EFSEC element in the SIP requires limitations on new source growth to remain in effect for energy sources in the State of Washington which are under EFSEC jurisdiction. (Section 110(a)(2)(I)).

2. *Volatile Organic Compounds (VOC).*—Sections 172(a)(2) and 172(b)(3) of the Act require sources of volatile organic compounds (VOC) to install, at a minimum, reasonably available control technology (RACT) in order to reduce emissions of these pollutants. EPA defines RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

EPA has developed Control Technology Guidelines (CTG) for the purpose of informing State and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. This information is designed to be useful to both control agencies and industry in defining appropriate RACT requirements for sources within the State.

Along with information each CTG contains recommendations to the States of what EPA calls the "presumptive norm" for RACT. This general statement of Agency policy is based on EPA's current evaluation of the capabilities and problems general to the industry. Where the State finds the presumptive norm applicable to an individual source or group of sources, EPA recommends that the State adopt requirements consistent with the presumptive norm level. The State may, if it chooses, require controls different from those identified in the CTG as long as: (1) The percentage of emission reduction from each category of sources varies insignificantly (within 5 percent of controlled emissions); or (2) documentation is provided that the regulations do, in fact, represent RACT for that source(s).

Ozone attainment strategies, as discussed in the April 4, 1979 General Preamble (44 FR 20372), must include control of specified VOC sources (i.e., those for which CTGs were published prior to January 1, 1978) to the RACT level. Where simplistic modeling techniques (rollback, Empirical Kinetic Modeling Approach (EKMA), or other methods less sophisticated than atmospheric dispersion modeling) are employed to demonstrate adequacy of the attainment strategy, control of all sources covered by the CTGs is required except in urban areas where standards are attained by 1982 and in rural areas under 200,000 population. The State of Washington used rollback as a "first cut" effort to determine the minimum emission reduction needed and is thus required to adopt RACT regulations for the eleven source categories for which CTGs have been published to date.

Again, as noted in the April 4, 1979 General Preamble, the minimum acceptable level of stationary source control for ozone SIPs, such as Washington, Includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 and commitments to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January (44 FR 20376). The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by **Federal Register** notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Washington plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

Deficiencies in Washington VOC Regulation WAC 173–490, are detailed below. EPA conditionally approves the VOC regulatory authority, contingent upon the State taking corrective action

by July 31, 1980 as indicated, in general

ii. *State Response.* The State

does not specify control requirements

by July 31, 1980 as indicated, in general, by the preceding discussion and as specifically set forth below:

a. *Cold Cleaning Degreasers.* WAC 173–490.

i. *Deficiency.* EPA guidance requires control of these sources which are exempted from the proposed State regulations.

ii. *State Response.* In their December 28, 1979 response the State disagreed with the requirement to regulate cold cleaning degreasers. They stated that emissions from these sources represent only 0.2 percent of the total VOC emissions for the non-attainment areas and that these emissions are contributed by approximately two thousand (2000) sources, making enforcement impractical, inefficient and very resource consumptive.

In April, 1980, the State agreed to thoroughly review the extent of the cold degreasers problem in non-attainment areas and adopt regulations by October 1, 1980 which would control emissions to within 5 percent of the presumptive norm level or provide justification that control to a different level is RACT.

iii. *Public Commment.* Commentors from PSAPCA, the Puget Sound Citizens Committee on Air Quality and Transportation Control Planning, the Washington Oil and Gas Association and one private citizen are opposed to regulation of this source due to the resources required for administration and implementation. PSAPCA also suggested that EPA provide an analysis of the resources necessary to implement the CTGs. In response, EPA will make available to the State information on resources necessary to implement a control program for cold degreasers as it is generated by other agencies who are implementing such a regulation.

iv. *EPA Action: Conditional Approval*—EPA will conditionally approve this portion of the SIP provided the State supplies by October 1, 1980 a detailed emission inventory showing the number of sources and their size and approximate VOC emissions from this category and adopts a regulation providing for control to within 5 percent of the presumptive norm level or justifies control to a different level as RACT.

b. *Petroleum Refineries.* WAC 173–490–040(1).

i. *Deficiency.* The State proposes exemption of refineries with a crude oil or feed stock capacity of less than nine thousand (9000) barrels per day, and waste water separators with a VOC emission less than twenty-five (25) tons per year, both of which are recommended by EPA guidance to be controlled.

ii. *State Response.* The State comments that two of the four refineries account for 99 percent of the total refinery emissions; therefore, satisfying the EPA guidance that the State regulation require control of 95 percent of the total VOC emissions from petroleum refineries.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—The information submitted by the State is incomplete and does not allow EPA to verify that emissions are, in fact, controlled within 5 percent of the presumptive norm.

c. *Bulk Gasoline Plants.* WAC 173–490–040(4)(e).

i. *Deficiency.* Contrary to EPA guidance this section does not contain specific provisions for controlling vapor leaks occurring during unloading of transport tanks.

ii. *State Response.* The State indicates that the word "transport" will be deleted from Section 4(e), thus correcting the application of the regulation to include unloading of any tank, including transport tanks.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—The action proposed by the State will correct the deficiency.

d. *Gasoline Dispensing Facilities.* WAC 173–490–040(5).

i. *Deficiency.* This section exempts gasoline dispensing facilities in major urban areas from the requirement of a vapor balance system on the basis of the throughput of the facility being less than 200,000 gallons per year instead of the 120,000 annual throughput level (10,000 gallons monthly) recommended by EPA. The State did not show that the 200,000 gallon throughput represented control within 5 percent of the presumptive norm level.

ii. *State Reponse.* The State provided cursory estimates indicating few facilities will be exempt using the State size cutoff for annual throughput.

iii. *Public Comments.* None.

iv. *EPA Action: Conditional Approval*—The State has provided a partial showing that controlled emissions will represent 95 percent of the level provided for in the CTG. Final approval is conditioned upon the State completing the inventory to show conclusively that all controlled emissions will be within 5 percent of the presumptive norm or the regulation will be revised to reflect the EPA recommended level or a showing will be made that the State level represent RACT.

e. *Surface Coating.* WAC 173–490–040(6).

i. *Deficiency.* This section exempts sources less than 100 tons per year and does not specify control requirements for flashoff areas which emit a significant portion of VOC in the surface coating process.

ii. *State Response.* The State indicates that their regulation will be revised to include flashoff areas. Further, the State has made a partial demonstration to show that one (1) source is responsible for 95 percent of the VOC emissions, thus satisfying the criterion of control within 5 percent of the level identified in the CTG.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—The addition of flash off areas to the section will satisfy that part of the EPA condition. The State will submit additional data showing that controlled emissions will be within 5 percent of the presumptive norm.

f. *Open Top Vapor Degreasers.* WAC 173–490–040(7).—i. *Deficiency.* Three major areas of the CTG are not adequately addressed. These three major areas are as follows: (1) Open top vapor degreasers with less than one square meter of vapor-air interface; (2) Power operated covers for open top vapor degreasers with a freeboard ratio greater than 0.75; and (3) Provisions for the disposal of waste solvent.

ii. *State Response.* The State indicates that the three areas of concern noted above will be corrected by a revision to the regulation.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—Action proposed by the State will correct the deficiency.

g. *Conveyorized Degreasers.* WAC 173–490–040(7).—i. *Deficiency.* This section does not require a "major control device" on conveyorized degreasers with greater than a two square meter air-vapor interface, and does not provide for the disposal of waste solvent, both of which are contrary to EPA guidance described in the CTG.

ii. *State Response.* The State indicates that the regulation will be corrected to require the appropriate control device and provide for waste solvent disposal.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—The actions proposed by the State will correct the deficiency.

h. *Cutback Asphalt.* WAC 173–490–040(9).—i. *Deficiency.* This section prohibits the use of cutback asphalt during June, July, August and September unless the temperature is below 50°F. There is no temperature related information justifying this time period for prohibited use, nor are methods provided for determining compliance with the temperature requirement.

ii. *State Response.* The State indicates that the time period for prohibited use is based on ozone violations occurring in those months. In addition, the State is developing a procedure to determine compliance with the temperature requirement.

iii. *Public Comment.* A private citizen suggests that cutback asphalt be banned for the entire year. EPA feels that since ozone violations are temperature related, banning cutback asphalt for the entire year would not cause further reductions in violations during those months of the year when the average monthly high temperatures is below 50°F.

iv. *EPA Action: Conditional Approval*—The action proposed by the State to satisfy the condition is partially adequate. Further information is necessary to verify that the average high temperature of 50°F is exceeded only during the months of June, July, August and September.

i. *Schedule of Control.* WAC 173–490–070.—i. *Deficiency.* This section ties all dates for control of regulated sources into EPA's acceptance of the regulation. This is approvable only if the word "acceptance" can be equated to the term "conditional approval."

Also, control schedules for some sources require compliance much later than the time frames recommended in the CTG and must be revised and made consistent with the CTG, or a deviation from guidance must be justified.

ii. *State Response.* The State agrees that the schedules of control will begin to run from the date of final conditional approval. As to the length of control schedules, the State has decided to revise the regulation so that all schedules for existing sources will be developed on a case-by-case basis within six months of EPA's acceptance of the regulation, and submitted to EPA for approval as SIP revisions. The effect of this revision would be to expand the coverage of the regulation to include new sources.

iii. *Public Comment.* Comments received from the Western Oil and Gas Association support the State's efforts to apply CTGs in a manner that accounts for economic considerations and specifically supports extended compliance schedules for small refineries.

iv. *EPA Action: Conditional Approval*—The State and EPA agree that terms "conditional approval" and "acceptance" have the same meaning with regard to initiation of compliance schedules. Also the action proposed by the State to revise their regulation regarding development and submission of control schedules will correct the deficiency.

j. *Exemption of Methyl Chloroform and Methylene Chloride.* The Washington regulations include exemptions for methyl chloroform and methylene chloride. The exemption is based on the fact that these compounds are photochemically unreactive and therefore do not play a significant role in ozone formation. Thus, the Washington, VOC regulation is approvable insofar as this exemption is concerned. However, both compounds may be subject to future regulation, not necessarily to meet the O_3 NAAQS, but because of evidence that they may be a direct health hazard.

i. *Notice.* The possibility of this direct health hazard is raised here for the purpose of providing notice to persons who may take advantage of the above noted exemptions. Such persons should be aware of the possibility of future controls regarding methyl chloroform and methylene chloride before any control equipment is modified based upon this exemption provision.

ii. *Public Comment.* One commentor felt that these two compounds should not be exempted due to their potential as a health hazard.

ii. *EPA Action.* EPA cannot require states to control these compounds as part of an O_3 SIP because they are not photochemically reactive. However, EPA is preparing regulations pursuant to other provisions of the Act which may control emissions of methyl chloroform and methylene chloride.

3. Inspection and Maintenance

A vehicle "Inspection and Maintenance" (I/M) program is a key element in both the O_3 and CO emission control strategies for the State of Washington. I/M refers to a program whereby motor vehicles receive periodic inspections to assess the efficiency of fuel combustion and functioning of their exhaust emission control systems. Vehicles which have excessive emissions must undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of non-complying vehicles is prohibited. This is most effectively accomplished by requiring proof of compliance to purchase license plates or before vehicle registration.

Section 172 of the Act requires that SIP revisions for non-attainment areas meet certain criteria. Extension up to 1987 may be granted for areas which do not demonstrate attainment of standards for O_3 or CO by the end of 1982, despite the implementation of reasonably available measures. However, as a condition to obtaining a post-1982 attainment date, the plan must not only meet the above referenced criteria, but "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *" (CAA 172(b)(11)(B)).

On February 24, 1978, EPA issued guidance on the general criteria for SIP approval including I/M. On July 17, 1978, the specific criteria for I/M SIP approval was issued. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking 44 FR 20373 at note 6. Though the July 17, 1978 guidance should be consulted for details, the key elements for I/M SIP approval are summarized below. Also included under each sub-heading is an evaluation of the State's compliance with these requirements.

• *Legal Authority.* To be acceptable, I/M legal authority must be adequate to implement and enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which established an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

The requirement for legal authority was satisfied by the Legislature's passage of H.B. 298, which Governor Ray subsequently signed on May 11, 1979. This legal authority was submitted by the State to EPA on December 21, 1979.

This newly enacted law directs the Washington Department of Ecology to administer a vehicle inspection program in areas where such a program is necessary to attain the air quality standards. The law also prohibits the Washington Department of Licensing from renewing vehicle licenses unless such vehicles have satisfied the requirements of the inspection program.

• *Commitment. Written evidence* is also required to establish that appropriate governmental bodies are

"committed to implement and enforce the appropriate elements of the plan." (Section 172(b)(10)). When an I/M program is based on general enabling legislation, commitments must be made by all agencies involved in implementation or enforcement. Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

The legal authority noted above defines the responsibilities of affected state agencies. As this responsibility is assigned by State law, no further commitments are required.

• *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7))

The Washington I/M program is designed to be self-supporting once mandatory inspections are initiated. The State Legislature in conjunction with passage of the I/M enabling legislation, authorized $500,000 in state funds to support program staffing and start-up costs until the mandatory phase is reached. In addition, EPA has committed $500,000 in Federal funds to assist the State in its start-up effort. These resources appear sufficient at this time to cover all program needs.

• *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan (Section 172(b)(11)(B)). Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.15(c).

The Washington DOE has established a detailed schedule for implementing the I/M program and is moving aggressively to stay on schedule. Key milestones in the schedule are summarized below:

1. Submit legal authority to EPA—Complete
2. Draft regulation for legislative approval—Complete
3. Hearing on regulation—Complete
4. Adoption of regulation—Complete
5. Submittal of regulation to EPA—Complete
6. Distribute Request for Proposals—Complete
7. Bid cutoff date—July 1, 1980
8. Initiate public education program—Aug 1, 1980
9. Contract(s) signed—Sept 15, 1980
10. Begin mechanic training program—Oct 1, 1980
11. Begin voluntary program—July 1, 1981
12. Begin mandatory program—Jan 2, 1982
13. Complete first I/M test cycle—Jan 2, 1983

The above schedule was developed subsequent to passage of the I/M enabling legislation and was submitted as part of the SIP on December 21, 1979. EPA considers the schedule acceptable and the condition to submit the I/M schedule as part of the SIP satisfied.

• *Program Effectiveness.* To be acceptable an I/M program must achieve the requisite 25 percent reductions in both hydrocarbon and carbon monoxide exhaust emission from passenger cars by the end of calendar year 1987. While this specific requirement is not explicitly in the Act, the Act does mandate "Implementation of all reasonably available control as expeditiously as practicable." Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating at about a 20 percent stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the programs.)

A mandatory I/M program may be implemented as late as December 31, 1982, and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982, and at 20 percent stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25 percent can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20 percent stringency factors, it is EPA policy to use a 25 percent emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

The statute mandating the Washington I/M program specifies that the DOE will develop test standards so that no more than 30 percent of all vehicles inspected will be required to undergo maintenance at a cost not to exceed $50.00. These limiting factors were developed to deal primarily with a CO problem, since O_3 analysis originally showed attainment by 1982. However, more recent modeling and analysis indicates that O_3 attainment will occur beyond 1982.

As stated in the proposal preliminary estimates indicated that while the 25 percent program effectiveness critieria could be achieved for CO, it would be extremely difficult to achieve the regional hydrocarbon (HC) emission reduction within the present limits. However, further analysis by EPA and the State have indicated that because of erroneous tabulation of the data for vehicle population, the preliminary estimate was incorrect. The reanalysis adequately demonstrates the 25 percent program effectiveness for both CO and HC. EPA therefore considers the conditions previously proposed to be unnecessary and finds that the I/M program meets the program effectiveness criteria.

The Washington I/M program will affect only two of the major urban areas of the State currently violating the air quality standards for transportation related pollutants; i.e., the greater Seattle-Tacoma metropolitan area and Vancouver. Emissions contributing areas for both have been defined prior to designing the specific I/M program.

The State Department of Licensing will notify each vehicle owner, who must have his car inspected, 90 days prior to expiration of that vehicle license. Inspections will be conducted by a private contractor chosen by the State on the basis of competitive bids. While the actual inspection fee will be determined by the bids received, state law limits the fee to a maximum of $10.00. Owners or lessees of fleets may be authorized by DOE to inspect their own vehicles provided they meet rigid quality assurance criteria.

All gasoline powered vehicles licensed for use on the State's highways will be required to undergo inspections except diesels, new cars before initial transfer of title, vehicles 15 years old or older, motorcycles, and farm vehicles. Vehicles failing the inspection must be repaired and reinspected. Vehicles failing the reinspection after repair may be issued a certificate of acceptance if the vehicle owner can demonstrate that he has spent at least $50.00 for parts and repairs solely devoted to meeting the emission standard. The DOE will also institute a comprehensive mechanic training program in cooperation with the service industry to upgrade mechanics' capabilities to adequately repair vehicles at minimum cost.

In summary, the State has made impressive progress to date in establishing a viable vehicle inspection/maintenance program. EPA considers the conditions proposed in the November 9, 1979 **Federal Register** to be satisfied as follows:

i. *Deficiencies* (Noted in the Proposed Rulemaking):

a. The SIP does not reflect the passage of I/M legislation.

b. The SIP does not include a detailed I/M program implementation schedule.

c. The SIP does not demonstrate the achievement of the required minimum level of effectiveness for both CO and HC.

d. The SIP does not commit to revising the legislation to provide for the required minimum level of effectiveness.

ii. *State Response:* a. The State submitted a copy of the I/M legislation and legal authority on December 21, 1979.

b. The State submitted a copy of the detailed I/M program implementation schedule on December 21, 1979.

c. After further consultation with the State's contractor, the State and EPA agree that the minimum level of effectiveness will be achieved by the I/M program.

d. This condition is no longer required in light of the revisions to the program effectiveness analysis.

iii. *Public Comment:* The Washington State Department of Transportation submitted comments expressing the same ideas as those of the State as discussed above.

iv. *EPA Action: Approval*—The State actions taken to correct the deficiencies are sufficient to satisfy all conditions relating to the I/M program.

4. *Other Regulations.* This subsection addresses a variety of important regulatory issues arising as a result of SIP revisions mandated by Part D of the Act. While many of the regulations discussed herein are incorporated in WAC 173-400, others are not easily categorized and are included in this sub-section for convenience. Certain of the regulations discussed in this Section are approvable as submitted and require no corrective action by the State. The approvable regulations are discussed here so that the public is provided notice of the requirements posed by these regulations. EPA's final action regarding these regulatory provisions is set out below. Any corrective action needed will be submitted to EPA by July 31, 1980.

a. *Combined Emissions.* WAC 173-400-040. i. *Deficiency.* Certain provisions of WAC 173-400 involve a seven percent oxygen (O_2) correction factor to be applied to "combustion emissions" in relation to enforcement of emission limitations [Sections 040(1)(b) and 040(6)(b)]. The application of the O_2 correction factor must be defined in terms applying it to emissions where combustion emission streams are combined with non-combustion emission streams. Also for purposes of determining compliance the regulation must include a definition of the method by which separate, applicable emission standards apply to separate emission streams combined in a single stack.

ii. *State Response.* The State indicates this deficiency will be corrected to deal with separate streams combined in one stack so that the most stringent emission requirement will apply to the combined stream, except in those instances where specific limits can be determined for each stream.

iii. *Public Comment:* None.

iv. *EPA Action: Conditional Approval*—The action proposed by the State will correct this deficiency.

b. *Source Test Procedures.* WAC 173-400-120(3). i. *Deficiency:* The SIP does not include source test procedures for each emission limitation or specific reference to a properly identified source test method which is submitted in conjunction with the revised SIP for the record. The reference would normally include the title, number (if the method is coded), and the date of the appropriate version of the method(s).

ii. *State Response.* The State agrees that source test procedures need to be a part of the SIP. Further, they will revise the SIP in Part IV—Applicable Regulations to include date referenced source test methods for each emission standard.

iii. *Public Comments.* None.

iv. *EPA Action: Conditional Approval*—The action proposed by the State will correct the deficiency.

c. *No Burn Areas.* WAC 173-425. i. *Deficiency.* The SIP does not contain a description of no burn areas which are integral to the TSP control strategies.

ii. *State Response.* The State indicates that the required boundary descriptions will be submitted.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—The action proposed by the State will correct the deficiency.

d. *Updating of Existing SIP Regulations.* The State has submitted a regulatory package which neither includes certain of the State regulations nor all the local agency regulations which are currently a part of the approved SIP. For the most part, the State regulations, as currently submitted for approval, provide an equivalent level of enforcement as applied to all control strategies in the State. (See 44 FR 20372—General Preamble for Part D SIPs for a discussion of continuity of enforcement between old and new SIP requirements.) However, for the following regulatory provisions, which are part of the currently approved SIP, EPA is taking no action until the State submits information demonstrating that these regulations are not necessary for attainment and maintenance of the NAAQS.

(1) *Sensitive Areas.* WAC 18-06. i. *Deficiency.* The new SIP no longer requires enforcement of this regulation, which contains 20 percent instead of 40 percent visible emission standards for wigwam burners in certain designated sensitive areas of the State and does not quantify the effect of this action on air quality.

ii. *State Response.* The State indicates that the few sources that are affected are located in rural attainment areas and that there will be negligible impact on air quality if WAC 18-06 is removed from the SIP.

iii. *Public Comment.* None.

iv. *EPA Action: Approval*—Because of the small number of sources involved and their location in rural attainment areas, EPA agrees with the State's contention that the impact of this action deleting this existing regulation will not impair attainment and maintenance of NAAQS.

(2) *Grass Seed Field Burning.* WAC 18-16. i. *Deficiency.* The proposed SIP does not include WAC 18-16. However, even though all the grass seed field burning takes place in attainment areas, there is no accompanying quantification of the air quality impact of this action.

ii. *State Response.* The State indicates that WAC 18-16 was deleted from the SIP because (a) it is a permitting procedure only and (b) WAC 173-425 (open burning) also provides control of agricultural open burning.

iii. *Public Comment.* None.

iv. *EPA Action: None*—Since WAC 173-425 specifically excludes control of grass seed field burning (Section 020), the condition is not satisfied. Unless it can be shown that the air quality impact of removing this control is insignificant, the existing SIP provision will remain in place. This is especially important in conjunction with the Spokane TSP non-attainment area.

(3) *Primary Aluminum Plants.* WAC 18-52. i. *Deficiency.* The proposed SIP does not include the currently approved opacity limitations of WAC 18-52-031(3) and does not provide a demonstration of effect on air quality.

ii. *State Response.* The State indicates that Part IV-A of the SIP "applicable Regulations" will be revised to include opacity limitations.

iii. *Public Comment.* None.

iv. *EPA Action: Conditional Approval*—The action proposed by the State will satisfy the condition.

(4) *PSAPCA Regulation I Section 9.07(c): 90 percent limitation on input sulfur.* i. *Deficiency.* Section 9.07(c) of PSAPCA Regulation I is being updated by WAC 173-400-040(6)(a) without a demonstration of equivalent stringency.

ii. *State Response.* The State implies that WAC 173-400-040(6)(a) is at least as stringent as PSAPCA Regulation I Section 9.07(c).

iii. *Public Comment.* The Puget Sound

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iii. *Public Comment.* The Puget Sound Citizens Committee opposes the substitution of WAC 173-400-040(6) for the PSAPCA Regulation I Section 9.07(c).

iv. *EPA Action: None*—EPA's calculations show that the PSAPCA regulation is 25 percent more stringent than the State regulation. Therefore, this part of the existing approved SIP will remain in place unless it is demonstrated that such additional control is not necessary for maintenance of sulfur dioxide (SO_2) standards and further, that the PSD increment will not be affected by less stringent controls.

e. *Indirect Source Regulation.* The Washington Indirect Source Regulation (WAC 18-24) was submitted November 21, 1974 and subsequently repealed by the State on June 26, 1975. Based upon a request from the State, EPA initially proposed to delete the program from the SIP on August 1, 1975 (40 FR 32347).

i. *Deficiency.* None.

ii. *State Response.* None.

iii. *Public Comment.* None.

iv. *EPA Action.* Section 110(a)(5)(A)(iii) of the Act, as amended, now allows the State to remove its indirect source regulations from the SIP so long as the State can demonstrate that NAAQS will be maintained in the absence of the State indirect source regulation.

Recently, the case of *Manchester Environmental Coalition* v. *United States Environmental Protection Agency*,—F.2d—(No. 79-4062, 2d Cir. dec. Dec. 6, 1979) was decided. That case involved EPA approval of a state's request to revoke its indirect source review program which was part of the State Implementation Plan (SIP). The Court held that before deciding whether to approve such a revocation EPA must consider whether revocation would render the SIP inadequate to attain and maintain the national ambient air quality standards.

The Court remanded the case back to the Agency with strong suggestion that the appropriate procedure for EPA to follow could be to consider the indirect source SIP revision in conjunction with the State's Part D submission. The Court further suggested that EPA approval in this manner would allow the State to revoke its indirect source regulation, while insuring that the revision meets the requirements of Section 110.

EPA proposed rulemaking on the Part D plan for attaining NAAQS in Washington on November 9, 1979 (44 FR 65084). The strategies for attaining the CO and O_3 standards were either found to meet the requirements of Part D and thus were approvable, or were found to have minor deficiencies and were conditionally approvable. Since EPA has proposed approval or conditional approval of the Part D plan for attainment and maintenance of the CO and O_3 standards, use of an additional strategy of indirect source review is not necessary to meet attainment requirements of the Clean Air Act. Based on its review, EPA concludes that revocation of the State's indirect source regulation would not render the SIP inadequate to attain or maintain those standards. Accordingly, EPA proposed to rescind WAC 18-24 as part of the November 9, 1979 rulemaking.

The substantive review process conducted by EPA with regard to the indirect source regulation was identical to the review conducted by EPA with regard to the Part D SIP. Thus, EPA has determined that there was no need to repropose deletion of the State indirect source regulations as the public has had an adequate opportunity to comment on the proposed revocation of the Washington indirect source review program.

There are no comments from the State or the public on this proposed action. Therefore, as final action, EPA is rescinding WAC 18-24 from the Washington SIP.

5. *Legal Authority.* The legal basis for the proposed Washington SIP is chapter 70.94 RCW entitled (Washington State) "Clean Air Act." The legal analysis of the State authority showed that this statute satisfied all requirements of the Federal Clean Air Act.

However, the Second Division of the Washington Court of Appeals in *Puget Sound Air Pollution Control Agency* v. *Kaiser Aluminum and Chemical Corporation*, No. 3396-II (January 29, 1980), found that for the purpose of civil enforcement action, that the Washington Clean Air Act required that a person "knowingly" violate the applicable emission limitation or pollution control standard. Thus, the Court held the challenged PSAPCA regulations were invalid and unenforceable because they went beyond the authority provided by the State Clean Air Act.

The implications of this ruling affected other local agency regulations as well as the regulatory program of the Department of Ecology (DOE). It was the opinion of EPA that this apparent deficiency in the State program legal authority placed a cloud on the enforceability of the proposed SIP and might jeopardize EPA's ability to approve the SIP.

As a result of EPA's stated concerns and in light of the potential imposition of economic limitations and restrictions on new source growth in the State of Washington, the State Legislature responded to the call for action. Senate Bill 2751 was introduced in the legislature. Its purpose was to strike the "knowingly" requirement from the State Clean Air Act. This legislation passed both houses and has been signed by the Governor and is submitted to EPA as a revision to the Washington legal authority.

Washington legal authority RCW 70.94.181 permits the granting of a variance to a source which may not be in compliance with the applicable regulations which are a part of the Federally approved SIP control strategy. This variance provision is acceptable insofar as non-criteria pollutants are concerned. However, as to emission limitations or other air quality controls regarding criteria pollutants, the variance provision is acceptable only in accordance with the following conditions. First, the variance must be submitted to EPA as a proposed revision to the SIP; and second, the variance shall not take effect for Federal purposes unless and until EPA takes final Agency action approving the variance as a proposed revision to the SIP.

The State must take any action necessary under Washington State law to insure that the existing and proposed state regulatory program is valid and enforceable under the amended State Clean Air act. The State must insure that the existing SIP requirements discussed in Section III(A)(4)(d) entitled "Updating Existing SIP Regulations," are valid and enforceable under the amended State Clean Air Act.

i. *Deficiency.* Described above.

ii. *State Response.* The Governor signed the bill into law on April 4, 1980 and the State has submitted the amended legislation as a revision to the SIP on May 1, 1980.

iii. *Public Comment.* None. On May 1, 1980 the State of Washington Department of Ecology submitted to EPA as a proposed revision to the Washington SIP substitute Senate Bill No. 2751. This bill was adopted by the Washington Legislature on March 13, 1980 and signed by Governor Ray on April 4, 1980. Pursuant to the Washington Constitution substitute Senate Bill No. 2751 (Chapter 175, Laws of 1980), will become effective on June 12, 1980.

The effect of this change is to, by legislative action, reverse the decision of *Puget Sound Air Pollution Control Agency* v. *Kaiser Aluminum and Chemical Corporation*, 25 Wn. App. 273 (1980). Section 2 of Chapter 175 amends the Washington Clean Air Act (RCW 70.94.040) to eliminate the reference to a "scienter" requirement in connection

with a person's culpability for causing air pollution.

This proposed SIP revision involves a legislative change which is totally consistent with the manner in which the Washington SIP has been administered over the course of the past eight years. Further, the court case which gave rise to the State legislature enactment was decided after the date of EPA's proposal of the Washington SIP (November 9, 1979, 44 FR 65084) and concerned the matter of state enforceability of the SIP. Therefore, the Administrator finds that there is good cause for today taking final action regarding the matter of the recent amendments to State emission standards.

iv. *EPA Action: Approval.* The State Clean Air Act has been amended to satisfy the deficiency.

B. Non-Attainment Area Plans

The non-attainment area plans will be discussed in groups categorized by pollutant. Each discussion will provide a brief description of the area, predicted attainment dates, extensions requested, control measures proposed, and any problems that will interfere with SIP approval.

In most non-attainment areas there are regional air pollution control authorities responsible for developing and implementing their own control strategy. The DOE, however, has elected to include State regulations in the SIP as the basis for non-attainment control strategy implementation, except where more stringent local regulations are needed for purposes of attainment and maintenance of NAAQS. (See 44 FR 20372—General Preamble for Part D SIPs for a discussion of continuity of enforcement between old and new SIP requirements.)

1. *Extension Requests.* a. CO/O_3: The State has requested and EPA approves, an extension of the 1982 CO and O_3 attainment dates for Seattle-Tacoma areas. An extension of the 1982 deadline for Vancouver is also approved due to that area's inclusion in the Portland/Vancouver interstate O_3 non-attainment area. The necessity of an extension for Spokane for CO is currently under review and will be the subject of a separate **Federal Register** notice in the near future. Specific deficiencies in each of the above areas' non-attainment plans are discussed in the area specific reviews that follow.

b. TSP (Secondary): Under Section 110(b) of the Act, the State requests an extension of the date for submittal of plans of the attainment secondary TSP standards. As required by 40 CFR 51.31, the State has demonstrated that attainment of the secondary standard will require emission reductions exceeding those which can be achieved through application of reasonably available control technology (RACT). After proposing approval of the State's request (44 FR 29499) and receiving no comments, EPA approved the extension on July 30, 1979 (44 FR 44497).

2. *Carbon Monoxide/Ozone.* a. *Seattle-Tacoma Area (CO and O_3).* (1) *Background.* The Seattle-Tacoma non-attainment area for CO and O_3 includes parts of three counties—King, Pierce, and Snohomish—and the major cities of Seattle and Tacoma. Actual air quality violations have been measured at several locations throughout the area. However, rather than identifying a number of small, "hot spot" non-attainment areas, a larger "management area" was designated non-attainment. This management area encompasses both the actual problem areas and the points from which the traffic creating the problem originates. For CO, this area extends north to Marysville, east to Issaquah, south to Spanaway and west to Puget Sound. The O_3 area is slightly larger.

The designated lead agency for this area is the Puget Sound Air Pollution Control Agency (PSAPCA). PSAPCA worked with the Puget Sound Council of Governments (which serves as the local Metropolitan Planning Organization), the Washington State Department of Transportation, the Federal Highway Administration, and the DOE in developing this plan. Public participation was provided through action by the Citizens Committee on Transportation Control Planning. This public group met nine times during the second half of 1978 to develop transportation control plan recommendations.

The control strategy for achieving the NAAQS in this area consists of measures to reduce emissions from both stationary (i.e., industrial) and transportation sources. Transportation sources typically account for over 90 percent of the CO emissions within this area and up to 60 percent of VOC emissions. This section discusses only the transportation control measures. For information on stationary source requirements, particularly as it relates to attainment of ozone standards, the reviewer should refer to the appropriate preceding sections on general regulations.

(2) *Emission Reduction Required.* For CO, the maximum hot spot emission reduction required is 50 percent in the Seattle central business district (CBD). Attainment of the NAAQS no earlier than 1984 is predicted by the use of EPA approved modeling techniques. The proposed CO control strategy is briefly discussed in the next section entitled, "Control Strategy."

For O_3, preliminary projections estimate only a 17 percent emission reduction will be necessary to ensure attainment of the one-hour O_3 standard by 1982. However, errors have been discovered in some of the rollback modeling assumptions utilized to make this projection. Since receipt of the SIP by EPA, the State has indicated the following: (1) Its intent to refine the O_3 modeling by the use of a more sophisticated model; and (2) its decision to apply the results of that model to the VOC strategy. This will be completed and submitted by July 31, 1980.

Because the data from this more sophisticated model will replace initial modeling projections, EPA is not requiring the State to correct the technical deficiencies noted in the initial analysis. This decision is intended to allow the State to devote maximum resources to upgrading its technical analysis. The more sophisticated model will, in all likelihood, project an attainment date well past 1982 and a consequent need for significantly greater VOC emission reductions to meet the O_3 standard. (It is anticipated that the I/M program can provide part of the VOC emission reductions needed.)

(3) *Control Strategy.* Carbon monoxide (CO), primarily a transportation-related pollutant, is to be controlled by the transportation measures outlined below. Ozone (O_3), on the other hand, is to be controlled by reducing VOC emissions from both transportation and stationary sources. The stationary source control measures have been previously outlined in the "Volatile Organic Compounds" section and will not be reiterated here.

The measures designed to reduce vehicle emissions operate generally in two ways: (a) By reducing vehicle usage; i.e., improved mass transit, carpooling, etc., or (b) by reducing the emissions from individual vehicles; i.e., inspection and maintenance, traffic flow improvements, etc. Both techniques are generally applicable to reducing both CO and O_3.

In general, the overall control strategy includes either implementation, or increased utilization, of the following transportation measures by 1982:

(1) Inspection and maintenance (See preceding discussion on this topic);
(2) Improved public transit;
(3) Exclusive bus and carpool lanes;
(4) Long range transit improvements;
(5) Park and ride and fringe parking lots;
(6) On-street parking controls;
(7) Traffic flow improvements;

(8) Area wide ride-sharing programs;
(9) Bicycle lanes and storage, pedestrian facilities; and
(10) Road pricing to discourage single occupancy autos.

In addition the following control measures will be evaluated by the State by July 1, 1980 as strategies for possible implementation by 1982:

(1) Flextime/staggered hours/4-day work week;
(2) Employer programs: ride sharing, transit usage;
(3) Restriction of parking supply in areas of high vehicular usage;
(4) Standardization of off-street parking rates to minimize vehicle cruising;
(5) Land use control to benefit air quality;
(6) Controls on extended vehicle idling;
(7) Accelerate current committed strategies; and
(8) Metro transition and Tacoma transit study.

(4) *Deficiencies/Comments/EPA Action.* i. *Deficiencies.* The deficiencies in the stationary source regulations applicable to the Seattle-Tacoma area have been previously discussed ("New Source Review" and "Volatile Organic Compound Regulation" sections of this notice) and will not be restated here. More sophisticated modeling and subsequent revision to the O_3 strategy are necessary. In addition to provisions for conducting alternative site analyses [Section 172(b)(11)(A)] are not included.

ii. *State Response.* The State agrees to add provisions for alternative site analysis and revise the O_3 analysis, in addition to completing the revisions to the stationary source regulations.

iii. *Public Comment.* PSAPCA requests guidance on alternative site analyses. EPA has not yet developed such guidance. It is assumed these analyses can be conducted in a manner as similar to environmental impact analyses. Western Oil and Gas Association suggests that rollback modeling as the basis of the O_3 strategy is adequate and that more sophisticated modeling is not needed. EPA analysis of the simple rollback technique indicates that it is conservative in estimating reductions required. EPA on November 14, 1979 published suggested modeling techniques based on area population (44 FR 65667).

iv. *EPA Action: Conditional Approval*—The actions proposed by the State will correct the deficiencies noted.

b. *Spokane Co.* (1) *Background.* The Spokane non-attainment area is confined to a small portion of the central business district (CBD) and major traffic corridors. The designated lead agency is the Spokane Regional Planning Conference (SRPC). The SRPC worked closely with the Spokane County Air Pollution Control Authority, the Washington Department of Transportation, the Federal Highway Administration and the DOE in developing this plan.

Citizen participation was realized through the citizen advisory committee and four public hearings. Involvement of elected officials occurred at both the city and county levels through their participation in public hearings and interdepartmental and advisory committees.

(2) *Emission Reduction.* The original attainment analysis was conducted using an EPA approved model and predicted attainment of the 8-hour standard by approximately 1982 through implementation of reasonably available control measures and without I/M. The total reduction required to achieve the standard is 57 percent. The initial emission reductions projected to result from the control strategy discussed below (approximately 59–68 percent by 1983) are felt by EPA to be excessive. The air quality analysis upon which this prediction was based is judged by EPA to be technically inadequate.

The SRPC revised the technical analysis in an attempt to correct these deficiences. The reanalysis was completed December 15, 1979. On December 18, 1979 a meeting was held with representatives from the State, Spokane and EPA and it was concluded that based on the reanalysis, and implementation of all the described transportation control measures, CO standards could be attained by 1982, without I/M. Subsequently, the City of Spokane failed to adopt an ordinance restricting parking. This was in conflict with the schedule for implementing necessary control measures that was submitted to EPA by the State on December 21, 1979. In addition, EPA has discovered further problems with the Spokane analysis, which seriously jeopardize the approvability of the TCP. Because of this EPA has not included the TCP development schedule in this notice.

(3) *Control Strategy.* Carbon monoxide (CO), primarily a transportation related pollutant, is to be controlled by the transportation measures outlined below. These measures may be revised as part of the new TCP being developed.

In order to reduce emissions from mobile sources two different approaches can be taken. The first approach is to reduce vehicle usage (e.g., miles traveled). The second approach is to reduce the emissions from individual vehicles (i.e., inspection and maintenance). Measures scheduled for implementation or already wholly or partially implemented include the following:

(1) Joint use of park and ride lots—1/1979
(2) Remote park and ride lots—1980
(3) Fringe parking lot program/shuttle bus service—1979
(4) On-street parking controls—1980 (rev. 12/79)
(5) Staggered work hours—1/1980
(6) Computerized synchronization of traffic controls—9/1979
(7) Major construction: North Foothill Drive—1982

Other measures to be evaluated by July 1, 1980 for possible implementation before 1983 include:

(8) Other traffic flow improvements—1979–1980
(9) Expanded marketing program for transit system—1979
(10) Downtown transit terminal—1979–1983
(11) Bus ridership incentive program—1/1979
(12) Employer program to encourage car and vanpooling and use of mass transit—1979
(13) Controls on extended vehicle idling—1979
(14) Fleet vehicle controls—1980
(15) Loading zone usage and other controls—1979
(16) Provision of "high occupancy" vehicle facilities—2/1979
(17) County enforcement of prohibitions on excessive emissions—1979
(18) Bikeways and provision of storage facilities for bicycles—1/1979
(19) Public awareness of air pollution—1/1979

(4) *Deficiencies/Comments/EPA Action:* i. *Deficiencies.* The Spokane TCP is currently being developed. The condition contained in the November 9, 1979 **Federal Register** proposal, regarding completion of a TCP reanalysis by December 15, 1979, has been satisfied. However, as mentioned previously, EPA has discovered additional problems with the emission reduction credits in the revised analysis and has serious doubts about Spokane's ability to attain the CO standard by December 31, 1982.

ii. *State Response.* The State has submitted a plan to develop and submit a revised TCP which will correct the deficiencies. However, as mentioned previously, the plan is not included as part of this action.

iii. *Public Comments.* None.

iv. *EPA Action: None*—EPA is preparing a detailed analysis of the TCP and will publish a final decision as a separate action. This will include a new TCP development schedule.

c. *Vancouver* (O_3). (1) *Background.* The Vancouver non-attainment area is part of the larger Vancouver, Washington-Portland, Oregon interstate non-attainment area. It includes the cities of Vancouver and Camas, both in Clark County.

The Vancouver O_3 plan was developed through the joint efforts of the Clark County Regional Planning Council (CCRPC) and the Portland Metropolitan Service District. The CCRPC is the designated lead agency for the Vancouver plan. Other agencies involved in the plan development include DOE, Southwest Air Pollution Control Authority, the Oregon Department of Environmental Quality, the Washington Highway Commission and the Federal Highway Administration.

Public and government official participation was realized through involvement of city and county officials and selected private citizens in the Air Quality Advisory Committee which met on a biweekly basis for several months prior to the public hearing for plan approval.

(2) *Emission Reduction.* Using an approved EPA modeling technique the initial air quality analysis indicates that a 50 percent reduction in 1977 VOC emissions will be needed to meet the 0.12 ppm Federal ozone standard. The exact attainment date has not been determined but will be identified as part of the correction of plan deficiencies which are scheduled to be submitted by July 31, 1980. Extension beyond 1982 is required.

(3) *Control Strategy.* Ozone is controlled by reducing emissions of VOC from both transportation and stationary sources. The stationary source control measures have been previously outlined in the "Volatile Organic Compounds" section and will not be reiterated here. The required emission reductions from mobile sources are to be derived from the Federal Motor Vehicle Emission Control Program and the following transportation control measures:

(1) Inspection and maintenance;
(2) Improved public transit;
(3) Exclusive bus and carpool lanes;
(4) Areawide carpool programs;
(5) Long-range transit improvements;
(6) Parking controls;
(7) Park and ride lots;
(8) Pedestrian malls;
(9) Employer programs to encourage carpooling and vanpooling;
(10) Traffic flow improvements;
(11) Bicycle program; and
(12) Expanded bus service on I–5 corridor.

It is important to note that the technical analysis applies to the entire Vancouver-Portland interstate area and that most of the above measures are to be implemented in Portland only.

(4) *Deficiencies/Comments/EPA Action:* i. *Deficiencies.* The Vancouver plan does not address several important provisions outlined in the EPA–DOT Air Quality—Transportation Planning Guidelines. Specifically, the plan does not include a Vancouver specifc inventory of VOC emissions with projections for 1982 and 1987; a clear definition of TCP development roles in terms of both stationary and mobile source responsibilities; a schedule for the comprehensive analysis of alternatives; identification of resources necessary to carry out the plan; evidence of adequate public and elected official participation in the plan development; provisions for progress reporting, a commitment to fund projects for the purpose of expanding and improving public transit; provisions for alterntive site analysis; adequate provisions for conducting NSR on VOC sources; and RACT requirements for VOC sources.

ii. *State Response: None.*

iii. *Public Comment.* On January 22, 1980, EPA received a letter from the CCRPC responsing to each of the above points. They stated that the 1977 VOC emissions inventory is complete and submitted a summary. The identification of roles for TCP development, a schedule for the comprehensive analysis of alternatives and the identification of resources necessary to carry out the plan are being developed in conjunction with CCRPC's first Unified Planning Work Program (UPWP) due in July 1980. Provisions for progress reporting will be described in terms of the periodic reporting required by the UPWP. It was stated that the State I/M schedule for program implementation (Submitted December 21, 1979) will apply to Vancouver.

iv. *EPA Action—Conditional Approval:* Many of the deficiencies noted above have not yet been corrected. Two major VOC control measures (I/M and VOC regulations for stationary sources) are in place. Selection of other transportation control measures has not been completed.

It is important to keep in mind that the Vancouver strategy is tied in closely with the Portland, Oregon, strategy. They both relate to the same non-attainment area. The Portland strategy has been submitted and was the subject of published proposed rulemaking January 21, 1980 (45 FR 3929). It was proposed to be conditionally approvable based on completing demonstration that the 25 percent program effectiveness criteria would be met. The same criteria applies to Vancouver and has been demonstrated as described earlier in this notice. EPA will conditionally approve the Vancouver O_3 attainment plan contingent upon the correction of all of the above identified deficiencies by July 31, 1980.

d. *Yakima Co.* (1) *Background.* The Yakima non-attainment area is confined to a fourteen square block area bounded by the following streets; Front, D, Third, and Walnut.

(2) *Emission Reduction.* The attainment analysis was conducted using a simple rollback modeling approach. The total reduction required to achieve the CO standard (28 percent) is predicted by 1982 based solely on the Federal Motor Vehicle Emission Control Program. Therefore, Yakima is projected to attain the CO standard prior to December 31, 1982.

(3) *Control Strategy.* The Federal Motor Vehicle Emission Control Program is projected to result in the required reduction in emissions necessary to attain the standard in a reasonable time frame. Additional measures include central business district (CBD) parking and traffic flow improvements. The establishment of a transportation planning process will insure that future air quality considerations are addressed on an annual basis.

(4) *Deficiencies/Comments/EPA Action: Approval*—There are no deficiencies in the Yakima strategy for attaining CO. Therefore, EPA approves the Yakima CO attainment plan with no conditions.

3. *Total Suspended Particulate.* Control strategies discussed in this section are designed to enable each non-attainment area to attain the *primary* NAAQS (75 $\mu g/m^3$) for total suspended particulate (TSP). Section 110(b) of the Act allows up to an 18-month extension in time for the development of a plan to attain the secondary 24-hour NAAQS of 150 $\mu g/m^3$. *Provided,* That the State can show that attainment of the secondary standard will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology (RACT). The State of Washington on April 4, 1979, requested such an extension based upon the determination that all existing sources were currently meeting the RACT requirement. EPA proposed to approve the extension request on May 21, 1979 (44 FR 29499), and, in the absence of any public opposition, gave final approval on July 30, 1979 (44 FR 44497).

Due to the potential promulgation of a new particulate matter standard in 1981, EPA has recently given the state and local agencies greater lattitude in determining when to require costly controls that may not be necessary to

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meet a revised standard. Although it now appears that most, if not all, of the proposed control strategies discussed in this section will still be required under a new standard, some cities may choose to defer actual implementation of the more costly strategies for contorl of non-traditional sources until future requirements are better defined.

a. *Seattle-Tacoma.* (1) *Background.* The designated area in Seattle for primary standard violations includes the north portion of the Duwamish River industrial area, and extends to the southern boundary of the central business district (CBD). The Tacoma non-attainment area for primary violations standards includes the Tideflats industrial area, the eastern portion of the CBD and the northern portion of South Tacoma Way corridor. Both of these areas are within the jurisdiction of the Puget Sound Air Pollution Control Agency (PSAPCA), the designated lead agency for TSP plan development.

(2) *Emission Reductions Required.* Based on rollback model calculations, emission reductions required to meet the primary annual NAAQS are as follows:

Seattle—33 percent
Tacoma—31 percent

These figures incorporate emissions growth estimates which were determined for each source classification.

(3) *Control Strategies.* The proposed control strategies are based on a proportional rollback model. EPA agrees that rollback will be acceptable as an interim approach with the understanding that dispersion modeling will be conducted in the future. Development of the required model is currently in progress.

Part IV–B of the SIP indicates that, in general, all stationary sources of TSP are employing RACT level control. Non-traditional sources of TSP are felt to be the major problem at this time. DOE intends, however, to conduct a review of sources on a case-by-case basis to determine if further controls on stationary sources are reasonable.

(4) *Defiencies/Comments/EPA Action:* i. *Deficiencies.* Deficiencies in the Seattle-Tacoma TSP must be corrected as follows:

(a) The text of SIP Section V–A, Chapter VII.—TSP Control Strategy must be rewritten to be internally consistent with SIP Section IV–B, the general discussion of the statewide TSP control strategy.

(b) By July 31, 1980 the State must submit at a minimum, to a schedule to examine control alternatives consistent with the following:

(1) Determine the nature and source of the TSP problem. Activities could include particle size monitoring and evaluation of potential control strategies in relation to attainment of a new particulate standard—12/1980
(2) Develop control strategy and obtain all legal commitments necessary to ensure attainment of NAAQS by statutory deadline of December 1982—7/1981
(3) Complete implementation of control strategy—~~12~~/1982

ii. *State Response.* The State indicates that the text will be revised for consistency and that the plan to determine the nature of the particulate problem will be submitted by the deadline.

iii. *Public Comment: None.*

iv. *EPA Action: Conditional Approval*—The actions proposed by the State will correct the deficiencies.

b. *Vancouver.* (1) *Background.* The designated area is confined to a small portion of the industrial port area covering about one square kilometer. The problem appears to be caused by a single point source, which is currently under compliance order issued by the Southwest Air Pollution Control Authority.

(2) *Emission Reductions Required.* The SIP discusses impact of emissions from the above source on air quality at the location of the monitor showing violation of NAAQS. An approximate 90 percent control of process emissions and 80 percent control of fugitive emissions from the subject source is expected from currently scheduled plant modifications. However, the SIP does not specifically define the emission reduction required nor does it contain the required enforcement orders.

(3) *Control Strategy.* An EPA approved model shows a 54 percent contribution to the ambient particulate concentration from the single point source previously discussed. EPA agrees that control of this source should result in attainment of at least the primary NAAQS. However, the reasonable further progress (RFP) information submitted by the State does not agree with emission inventory projections and does not demonstrate attainment.

(4) *Deficiencies/Comments/EPA Actions.* i. *Deficiencies.* The SIP lacks an emission inventory and RFP analysis which shows (a) an enforceable program for emission reductions to be achieved by the industrial source, and (b) emission increases that are expected to occur between 1977 and the attainment date as a result of areawide growth. The SIP also lacks an air quality analysis demonstrating compliance with Part D requirements and relating the emissions associated with the industrial source (see (1) above to the air quality levels at the non-attainment monitors.

ii. *State Response.* As a result of a meeting held by EPA with the State and the local air pollution control agency, the State agrees to revise the strategy to correct the deficiencies on or before July 1, 1980.

iii. *Public Comment.* Comments from an Oregon citizens group suggest that the Vancouver non-attainment should be expanded to include Hayden Island, Oregon. EPA is currently reviewing the air quality data and other information available and will propose such action separately if found to be appropriate. The Oregon DEQ suggested that the SIP did not provide for a compliance program leading to attainment of NAAQS. EPA agreed and has conditioned its approval accordingly.

iv. *EPA Action: Conditional Approval*—The actions proposed by the State will correct the deficiencies.

c. *Spokane.* (1) *Background.* The designated non-attainment area consists of a large portion of the CBD with an extension to the east to include a light industrial area. The plan was developed by the Spokane Regional Planning Council (lead agency) with considerable assistance from the Spokane County Air Pollution Control Authority.

(2) *Emission Reductions Required.* Proportional rollback modeling predicts a 51 percent reduction in emissions will be needed to attain the primary annual TSP standard. Much of the problem has been attributed to non-traditional sources—primarily unpaved roads and parking lots and resuspended dust from paved streets.

(3) *Control Strategy.* The SIP contains formal commitments to obtain needed reductions by the following actions:

(a) Paving roads;
(b) Paving parking lots;
(c) Sweeping and flushing streets;
(d) Increasing the no burning zone; and
(e) Continued application of RACT on point and fugitive sources.

Approximately 60 percent of the required emission reduction is to be achieved by the paving of roads. A majority of the remaining dust will be controlled by the paving of parking lots. The city adopted, by resolution, a schedule for completing the necessary street paving, in conjunction with interim dust palliative treatment for the streets. This was done with the understanding that such control measures were required for attainment of the primary standard by the 1982 statutory date.

Spokane has indicated that the strategy identified in the SIP is likely to be delayed until such time as EPA promulgates specific requirements for the control of non-traditional sources of particulate matter. This decision stems from the increased latitude recently given to local agencies regarding implementation of costly non-traditional TSP control strategies such as street paving. It also reflects the difficulty expected in establishing a street paving program.

Street paving in Spokane is accomplished through the formation of Local Improvement Districts (LID), normally initiated by petition by the property owners along the street. This requires the property owners to pay for the paving and thus may not be feasible. LIDs are formed by resolution (with the cost partially or wholly borne by the city) only when required. Since EPA's present posture is to proceed with caution regarding immediate implementation of an extensive program for street paving for attainment of ambient particulate standards, Spokane may be reluctant to retain their commitment to the schedule presently specified in the SIP.

(4) *Deficiencies/Comments/EPA Actions:* i. *Deficiencies.* (a) The text of Section V–B of the Washington SIP is not internally consistent with Section IV–B. The rollback calculations and required emission reductions are correct, but the supporting documentation needs to be modified to agree with the rollback analysis.

(b) By July 31, 1980 the State must commit, at a minimum, to a schedule to examine control alternatives consistent with the following:

(1) Determine the nature and source of the TSP problem. Activities could include particle size monitoring and evaluation of potential control strategies in relation to attainment of a new particulate standard—12/1980
(2) Develop control strategy and obtain all legal commitments necessary to ensure attainment of NAAQS by statutory deadline of December 1982—7/1981
(3) Complete implementation of control strategy—12/1982

ii. *State Response.* The State indicates that the described deficiencies will be corrected in accordance with the stated deadline.

ii. *Public Comments: None.*

iv. *EPA Action: Conditional Approval*—The action proposed by the State will correct the deficiencies.

d. *Clarkston.* (1) *Background.* The designated area is part of the Clarkston, Washington-Lewiston, Idaho Interstate non-attainment area. The Clarkston portion is defined by the city limits. Major contributors to the non-attainment problem are rural fugitive dust, unpaved roads and parking lots, and point and area sources located in Lewiston.

Clarkston, in light of its low population and lack of significant industrialization, would ordinarily qualify for attainment status under EPA's rural fugitive dust policy (in spite of TSP NAAQS violations). However, as Clarkston shares a small, confined air shed with more industrialized Lewiston, Idaho, area, the non-attainment designation is at this time applicable to both cities. EPA will review the Clarkston non-attainment status once the Idaho Department of Health and Welfare (IDHW) and the City of Lewiston complete a study currently underway to define the nature and source of the TSP problem in Lewiston.

(2) *Emission Reductions Required.* Rollback calculations identify the need for a 30 percent reduction in emissions in order to meet the primary standard of 75 $\mu g/m^3$.

(3) *Control Strategy.* Measures include: (a) Emission reductions from Lewiston sources, particularly the large kraft pulp mill.

(b) Application of RACT to fugitive dust sources in downtown Clarkston. A three-year plan for paving road shoulders and alleys, signed by the mayor, is indicative of this community's commitment to controlling sources located in their portion of the non-attainment area.

(4) *Deficiences/Comments/EPA Action:* i. *Deficiencies.* The current strategy does not demonstrate attainment and must be revaluated and modified, as necessary based upon the results of the joint IDHW/Lewiston TSP study currently in progress.

ii. *State Response.* The State indicated that the above condition will be satisfied in accordance with the deadline of July 31, 1980.

iii. *Public Comment: None.*

iv. *EPA Action: Conditional Approval*—The action proposed by the State will correct the deficiencies.

4. *Sulfur Dioxide.* a. *Tacoma.* The area designated March 3, 1978, is parabolic-shaped, extending approximately three and one-half (3½) miles south-southwest from the ASARCO Copper Smelter. Based on a stipulated agreement between EPA and ASARCO entered in the United States Court of Appeals for the Ninth Circuit, EPA proposed redesignation of this area to "unclassifiable" on August 6, 1979 (44 FR 45970) and approved this redesignation on November 20, 1979 (44 FR 68834). This redesignation is intended to defer the requirement for a Part D SIP revison until EPA completes rulemaking action under Section 123 of the Act. Therefore, EPA is not taking action at this time concerning the State-submitted Part D non-attainment SIP revision. The existing approved SIP will remain in effect.

C. *General Comments.* A number of comments were submitted which dealt with aspects of the SIP not presented as deficiencies. These comments or groups of similar comments, are discussed in the following paragraphs:

a. *Local Agency Regulations.* The Puget Sound Air Pollution Control Agency, the Olympic Air Pollution Control Authority, the Puget Sound Citizens Committee for Air Quality and Transportation Control Planning, the Washington Lung Association and one private citizen contended that all local agencies' regulations should remain as part of the SIP. They all agreed that because the local agencies are primarily responsible for enforcing the SIP, their regulations should be a part of it. EPA disagrees, in the where the State regulatory structure is as stringent as the local regulations it is adequate for the purpose of Federal enforcement of the SIP. EPA recognizes that where local regulations are more stringent than the State's and are necessary for attainment of maintenance of standards, they will be a part of the SIP.

b. *Application of RACT/BACT Requirements.* The Washington Lung Association commented that the application of the RACT requirements in the DOE regulations should be on a source category basis first, then on a case-by-case basis. The Northwest Pulp and Paper Association commented that the definitions of RACT and BACT are more stringent than those *recommended* by EPA. EPA has reviewed these applications of RACT and BACT in the context of the strategies developed by the state and find that they are at least as stringent EPA's definitions of applicability. EPA feels these concerns should be resolved between the commentors and the State.

c. *SO_2 Strategy and State SO_2 Regulations.* The Washington Lung Association commented on the State regulations for SO_2, the proposed Tacoma SO_2 strategy, and the regulations governing stack heights and dispersion techniques. Because EPA has redesignated the Tacoma area as "unclassifiable" (44 FR 68834), the comment concerning the strategy no longer applies. The stack height regulation is consistent with the requirements of the Act and until EPA promulgates Section 123 regulations, EPA will defer response to this comment. EPA's response to the comment on the adequacy of a volumetric SO_2 emission standard is two

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fold. First, as it applies to the copper smelter in Tacoma, the standard must be considered together with the requirements for tall stacks and dispersion techniques, which have yet to be promulgated by EPA. Second, for other major sources of SO_2 emissions, the standard appears to be an adequate limitation considering that SO_2 NAAQS are being attained in other areas of the State.

d. *Other Provisions of WAC–173–400.* The Northwest Pulp and Paper Association (Association) submitted copies of comments regarding construction of the various portions of the regulation. Identical comments were previously submitted by the Association at two previous State public hearings and were considered by the State prior to the State's submission of the SIP to EPA. EPA feels the remaining comments not already considered are not critical to this final rulemaking and are more appropriately a matter to be resolved between the Association and the State.

e. *Public Participation.* The Washington Lung Association commented that the commitment to public participation in the SIP was not strong enough. EPA encourages public and elected official involvement to the degree necessary to develop a SIP that *will* be implemented.

f. *National Comments.* One commentator submitted extensive comments which were requested to be considered part of the record for each state plan. Although some of the issues raised are not relevant to provisions in Washington's submission, EPA has placed its response to those comments in the Regional Office docket and in the Public Information Reference Unit in Washington, D.C. No further discussion of these comments or EPA's response will be provided in this notice.

IV. Additional SIP Requirements

EPA is taking final action to conditionally approve certain elements of Washington's plan. A discussion of conditional approval and its practical effect appears in a supplement to the General Preamble, 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53716 (September 17, 1979), and 44 FR 67182 (November 23, 1979). The conditional approval requires the State to submit additional materials by the deadlines previously proposed in 44 FR 65084. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the conditions are fully satisfied. After review is complete, a **Federal Register** notice will be published either approving or disapproving the State's action. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be placed in effect.

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth will be placed in effect or continue to be in effect.

* * * * *

The 1978 edition of 40 CFR Part 52 lists in the subpart for Washington the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each non-attainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Washington's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.

(123 Cong. Rec. H 11958. (November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing SIP requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendment to the Act. Moreover, EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.[1]

In addition, sources subject to pre-existing plan requirements may be relieved by complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made by EPA on a case-by-case basis.

* * * * *

It is important to note that the measures approved or conditionally approved in this final rulemaking are in addition to, and not in lieu of, existing SIP regulations. The present SIP emission control regulations remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, which may include assessment of noncompliance penalties.

There are two main exceptions to this rule. First, if a pre-existing control requirement is incompatible with a new, more stringent requirement, the State may exempt sources from compliance with the pre-existing regulations during the period when compliance with the existing requirement conflicts with achieving compliance with the new requirement. Any exemption granted

[1] *See* General Preamble for Proposed Rulemaking, 44 FR 20373–74 (April 4, 1979).

would be reviewed and acted on by EPA as a SIP revision. Second, an existing requirement can be relaxed or revoked if the revision will not interfere with attainment of standards.

* * * * *

Many SIPs contain provisions which allow one or more State air pollution official(s), at their discretion or under specified conditions, to grant certain changes or exemptions to SIP requirements. These State actions may be described as variances, equivalency determinations, orders, extensions, exemptions, exceptions, suspensions or something similar. For example, a SIP may specify that the installation and proper use of a certain type of control equipment is required, unless the director of the State agency, after fulfilling some procedural or substantive criteria, determines that another type of control equipment is equivalent to that specified. An additional example is a SIP provision which allows an exemption from the generally applicable emission limitation when conforming fuel is unavailable due to emergency circumstances. The most general type of discretionary authority provision in a SIP specifies that any source may apply for a variance from the applicable requirements and that a state agency official may grant such a request if certain procedural and substantive criteria are met.

In general, at the request of the State involved, EPA has in the past approved these procedures as part of the SIP. In some cases, the EPA approval states explicitly that State actions under the approved procedures must be submitted separately as SIP revisions in order to become part of the Federally approved, Federally enforceable SIP. In some other cases, EPA's approval has not addressed the question of whether separate submittals are required. The Agency wishes to clarify the effect of its approval of the procedures in order to distinguish the procedures themselves from specific actions taken in accordance with those procedures.

Any specific action taken by a State official, even if authorized under procedures approved by EPA, shall not modify the Federally approved SIP unless submitted to and approved by EPA as a separate revision to the SIP. (See 40 CFR 51.6(c)). Under 40 CFR 51.8, such SIP modifications do not replace EPA approved SIP provisions unless approved on a case-by-case basis by EPA as meeting the requirements of Section 110 of the Act and 40 CFR Part 51. The rule promulgated today clarifies the longstanding principle that substantive changes must be submitted and acted upon as SIP revision requests in order to have any effect on the Federally recognized, Federally enforceable requirements. Thus, while EPA may approve the procedures a State employs to modify the SIP, it does not thereby approve individual actions which may be taken under these procedures.

Section 110 of the Act imposes on the EPA Administrator a duty to exercise his independent judgment with regard to whether a SIP submittal is adequate to assure attainment and maintenance of the NAAQS. The Act and EPA regulations allow the States great flexibility to develop individually tailored approaches to air pollution control; however, the Administrator cannot fail to exercise his independent judgment on any SIP submitted for his approval. Provisions in SIP submittals which are essentially procedural or which allow the exercise of State discretion on substantive matters, such as emission limitation requirements, cannot be adequately evaluated since their effect on air quality cannot be determined until specific action is taken. (Rather than disapprove them in all cases, EPA will approve such provisions where they are not otherwise disapprovable under Section 110.) However, the air quality impacts of actions taken under these provisions must be evaluated by the Administrator before they can be recognized under Federal law.

It is not EPA's intention, however, that minor changes effected by a State official which do not change the substantive requirements applicable to one or more sources should be submitted as SIP revisions. Thus, the relocation of an ambient air quality monitor in accordance with Federal guidelines, for example, would not need to be reviewed for compliance with the Act.

In contrast, State construction permits which have been issued in accordance with SIP procedures approved by EPA as satisfying 40 CFR 51.18 and which satisfy the Emission Offset Interpretative Ruling, Part D of the Act, or EPA's prevention of significant deterioration regulations, are enforceable by EPA and do not require case-by-case approval by EPA. See 44 FR 3274 (January 16, 1979); and 40 CFR 52.21 and proposed changes at 44 FR 51924 (September 5, 1979).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Sections 110(a) and 172 of the Clean Air Act as amended (42 U.S.C. 7410(a) and 7502).

Dated: May 28, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart WW—Washington

1. In § 52.2470 paragraphs (c)(16)–(c)(21) are added as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(16) On April 27, 1979 the Governor submitted non-attainment area plans for all areas, except the Vancouver, Washington area, designated non-attainment as of September 11, 1979. This included a request for extension of attainment of carbon monoxide and ozone standards in the Seattle-Tacoma non-attainment area. The aluminum plant and pulp mill regulations submitted have since been revised by the State. Therefore, EPA will act on these regulations separately at a later date.

(17) On June 20, 1979, the Governor submitted the non-attainment plan for the Vancouver, Washington area and indicated a need for extension of the ozone attainment date beyond 1982.

(18) On August 17, 1979 the Governor submitted regulations for energy sources which are under the jurisdiction of the Energy Facility Site Evaluation council. These regulations and the program to implement them are incomplete and because of this EPA is taking no action at this time.

(19) On December 21, 1979 the Department of Ecology submitted the I/M legal authority and a detailed schedule to implement the I/M program. The State committed to submitting a revised transportation control plan for Spokane by May 1, 1980. However, because of unsettled negotiations concerning approval of the Spokane plan, EPA is taking no action at this time. Even though a plan has not been approved, reasonable progress is being made in that direction and, therefore, section 176 sanctions will not be imposed at this time.

(20) On December 21 and 28, 1979 the Department of Ecology submitted final comments on EPA's November 9, 1979 **Federal Register** proposal.

(21) On June 5, 1980 EPA removed

determined that language in the

valid and enforceable under the State

emission standards to gas streams

by case basis, instead of by

(21) On June 5, 1980 EPA removed WAC 18–24—"Indirect Source Review" from the SIP.

§ 52.2471 Classification of regions. [Amended]

2. Section 52.2471 is amended by changing the heading "photochemical oxidants" (hydrocarbon) to "ozone."

3. In § 52.2472, paragraphs (c) and (d) are added as follows:

§ 52.2472 Extensions.

* * * * *

(b) * * *

(c) The Administrator hereby extends to December 31, 1984 the attainment date for carbon monoxide in the Seattle-Tacoma non-attainment area (40 CFR 81.348).

(d) The Administrator hereby extends beyond December 31, 1982, but not to exceed December 31, 1987, the attainment date for ozone in the Seattle-Tacoma and Vancouver, Washington non-attainment areas (40 CFR 81.348).

4. Section 52.2473 is revised to read as follows:

§ 52.2473 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Washington's plan for the attainment and maintenance of National Standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan as identified in § 52.247 satisfies requirements of Part D, Title 1, of the Clean Air act as amended in 1977, except as noted in the following sections. Continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January. New source review permits pursuant to Section 173 of CAA will not be deemed valid by EPA unless the provisions of Section V of the emission offset interpretive rule published on January 16, 1979 (44 FR 3274) are met.

5. Section 52.2475 paragraph (b) is added as follows:

§ 52.2475 Legal authority.

* * * * *

(a) * * *

(b) As a result of a State appeals court ruling (January 29, 1980), EPA determined that language in the Washington Legal Authority specifically RCW 70.94.040, renders the Washington State and local air pollution control regulations unenforceable. The Washington State Legislature amended the defective language in the State law on March 13, 1980. The bill has been signed by the Governor and was submitted as a SIP revision on May 1, 1980. In addition, the State must take whatever action(s) necessary to ensure that both the existing SIP and the proposed SIP regulatory programs are valid and enforceable under the State Clean Air Act as amended. EPA is approving the State's legal authority as amended March 13, 1980.

6. Section 52.2478 is revised as follows:

§ 52.2478 Attainment dates for national standards.

The following table presents the latest dates by which the National Standards are to be attained. These dates reflect the information presented in Washington's plan.

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	1st*	2d**	1st*	2d**			
Eastern WA, North Idaho Interstate (WA portion) AQCR:							
1. Spokane area	f	h	b	b	b	f	b
2. Clarkston-Lewiston Interstate area (WA portion)	f	h	b	b	b	b	b
3. Remainder of AQCR Northern Washington Intrastate AQCR	a	e	b	b	b	b	b
Olympic-Northwest WA Intrastate:							
1. Port Angeles area	e	h	a	e	b	b	b
2. Remainder of AQCR	e	e	a	e	b	b	b
Portland Interstate AQCR (WA portion):							
1. Vancouver, WA area	f	h	c	e	b	b	i
2. Longview, WA area	e	h	e	e	b	b	b
3. Remainder of AQCR	e	e	e	e	b	b	b
Puget Sound Intrastate AQCR:							
1. Seattle-Tacoma area:							
a. Seattle (N. Duwamish) area	f	h	d	d	b	g	i
b. Seattle (S. Duwamish) area	c	h	d	d	b	g	i
c. Kent area	c	h	d	d	b	g	i
d. Auburn area	c	h	d	d	b	g	i
e. Tacoma area	f	h	d	d	b	g	i
f. Remainder Seattle-Tacoma area	c	h	d	d	b	g	i
2. Remainder of AQCR	c	e	d	d	b	k	j
South Central Washington Intrastate AQCR:							
1. Yakima area	e	e	b	b	b	f	b
2. Remainder of AQCR	e	e	b	b	b	b	b

* 1st = Primary.
** 2d = Secondary.
a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. December 1973.
d. January 1975.
e. July 1975.
f. December 31, 1982.
g. December 31, 1984.
h. 18 month extension granted for plan submission and identification of attainment date.
i. Attainment date extended beyond December 31, 1982, not to exceed December 31, 1987.
j. May 31, 1975.
k. May 31, 1976.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52.2478.

7. Section 52.2479 is added as follows:

§ 52.2479 Rules and Regulations.

(a) Part D—Conditional Approval. (1) WAC 173–400 is approved as satisfying Part D requirements provided that the State submits information by July 31, 1980 to satisfy the following conditions:

(i) The elimination of the provision to exempt sources with approval variances from New Source Review.

(ii) The correction of the definition of "source" to comply with Section 302(j) of the Act.

(iii) The addition of provisions to satisfy Section 173(3) of the Act—multiple sources under single ownership and procedures to implement and enforce the requirements of Section 173(1)–offsets.

(iv) Clarification of the application of the oxygen correction factor to non-combustion gas streams will be made. Also the application of different

emission standards to gas streams confined in a single stack will be made.

(v) The correction of provisions for portable sources which assure that Part D requirements will be met.

(vi) The identification of source test methods as a part of the SIP.

(2) WAC 173–490 Volatile Organic Compounds is approved as satisfying Part D requirements provided that the State submits information by July 31, 1980 to satisfy the following conditions:

(i) An inventory of cold cleaning degreasers will be completed and a regulation adopted by October 1, 1980, providing for control within 5 percent of the presumptive norm level or a justification that a different level represents RACT.

(ii) The level of control for petroleum refineries will be shown to be within five percent (5%) of the presumptive norm level or the regulation will be revised, or the State will demonstrate that this level represents RACT.

(iii) The bulk gasoline storage provision will be revised to include unloading of transport tanks.

(iv) The level of control for gasoline dispensing facilities will be shown to be within five percent (5%) of the presumptive norm level or the regulation will be revised to reflect the EPA recommended levels, or the State will demonstrate that its level represents RACT.

(v) The level of control for surface coating operations will include emissions from flashoff areas and will be shown to be within five percent (5%) of the presumptive norm level or the regulation will be revised or the State will demonstrate that this level represents RACT.

(vi) The requirements for open top vapor degreasers will be made consistent with CTG recommendations for those facilities which have less than one square meter of vapor-air interface and those with a free board ratio greater than 0.75. Provisions covering waste solvent disposal will also be added.

(vii) The requirements for conveyorized degreasers with greater than a two square meter air-vapor interface will be made consistent with the CTG recommendations. Also provisions for waste solvent disposal will be added.

(viii) Information relating the time period during which the average high temperature exceeds 50°F will be provided along with methodology for determining compliance with the 50°F temperature exemption.

(ix) The section requiring schedules for control for VOC sources will be revised to require negotiation of schedules for existing sources on a case-by-case basis, instead of by category. These schedules will then be submitted as SIP revisions within 6 months of final EPA acceptance of the regulations.

(3) WAC 173–425—NO BURN AREAS is approved as satisfying Part D requirements provided that the State submits by July 1, 1980 the boundary descriptions to satisfy the conditions.

8. Section 52.2484 is revised as follows:

§ 52.2484 Control Strategy: Ozone.

(a) Part D—Conditional Approval. (1) The Seattle-Tacoma plan is approved provided the State submits information by July 31, 1980 to satisfy the following conditions:

(i) The Plan provides for implementation of reasonably available control technology on existing sources of volatile organic compounds (see § 52.2479(a)(ii)).

(ii) Regulation WAC 173–400 (NSR) be revised so it is consistent with Section 173 of the Act.

(iii) The O_3 analysis is redone using more sophisticated modelling and the results applied to the O_3 strategy.

(iv) A Section 172(b)(11)(A) program is provided for.

(2) The Vancouver Plan is approved provided the State submits information by July 31, 1980 to satisfy the following conditions:

(i) The plan provides for implementation of reasonably available control technology on existing sources of volatile organic compounds (see § 52.2479(a)(ii)).

(ii) Regulation WAC 173–400 (NSR) be revised so it is consistent with Section 173 of the Act.

(iii) That a 1977 VOC emission inventory is completed with projections for 1982 and 1987;

(iv) That a clear definition of TCP development roles in terms of both stationary and mobile source responsibilities is included;

(v) That a schedule for the comprehensive analysis of alternatives is included;

(vi) That the resources necessary to carry out the plan are described;

(vii) That evidence of adequate public and elected official participation in the plan development is evident;

(viii) That provisions for progress reporting are included;

(ix) A commitment to fund projects for the purpose of expanding and improving public transit is made;

(x) That a Section 172(b)(11)(A) program is provided for.

9. Section 52.2487 is revised as follows:

§ 52.2487 Control Strategy: Carbon Monoxide.

(a) *Part D—Carbon Monoxide—Conditional Approval.* (1) The Seattle-Tacoma plan is approved provided the State submits information to satisfy the following condition by July 1, 1980:

(i) A Section 172(b)(11)(A) program is provided for.

10. Section 52.2488 is revised as follows:

§ 52.2488 Control Strategy: Total Suspended Particulates.

(a) *Part D—Conditional Approval.* (1) The Seattle (North Duwamish), Tacoma and Spokane plans are approved provided the State submits information by July 31, 1980 to satisfy the following conditions:

(i) Revision of the area specific strategies to be internally consistent with the general statewide strategy.

(ii) Commitment by July 31, 1980 to submit a plan for determining the nature and extent of the TSP problem, developing a control strategy obtaining legal commitments for its implementation and completing the implementation by December 31, 1982.

(2) The Vancouver plan is approved provided that the State submits information by July 31, 1980 to satisfy the following conditions:

(i) Revising the emission inventory and reasonable further progress analysis to demonstrate source emission reductions and general area wide growth.

(ii) Submitting an air quality analysis demonstrating attainment in conjunction with the updated emission inventory.

(3) The Clarkston plan is approved provided that the State submits information by July 31, 1980 to satisfy the following condition:

(1) Re-evaluation of the control strategy, and modification, if necessary, based on the results of the joint Idaho Department of Health and Welfare/City of Lewiston total suspended particulate study currently in progress.

[FR Doc. 80-17086 Filed 6-4-80; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5728

[N-25249]

Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 80

FEDERAL COMMUNICATIONS

("Clement") ³ First Heritage and Hill

SUMMARY: This order withdraws 80 acres of national forest lands from the mining laws to protect the Gatecliff and Triple "T" archeological sites in Nye County, Nevada.

EFFECTIVE DATE: June 5, 1980.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office 702–784–5703.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from entry or location under the mining laws (30 U.S.C., Ch. 2) and reserved as the Gatecliff and Triple "T" archeological sites:

Toiyabe National Forest

Mount Diablo Meridian

Gatecliff Site

T. 14 N., R. 46 E.,
Beginning at a point on Nevada Protraction Diagram No. 223, labeled "NPD, NYB 096 L" (identical with south section corner common to sections 31 and 32, T. 14 N., R. 47 E., MDM); thence North 89°55′ West 78.17 chains along the north line of T. 13 N., R. 47 E. to the northwest corner of said township; thence West 203.00 chains along the north township line of T. 13 N., R. 46 E. to the true place of beginning; thence South 10 chains; thence West 20 chains; thence North 20 chains; thence East 20 chains; thence South 10 chains to the true place of beginning, and consisting of 40 acres situated partly in the north portion of section 3, T. 13 N., R. 46 E., and partly in the south portion of section 34, T., 14 N., R. 46 E.

Triple "T"

T. 13 N., R. 45 E.,
Sec. 4, W½NE¼NW¼, E½NW¼NW¼.

The areas described aggregate approximately 80.00 acres in Nye County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,

Assistant Secretary of the Interior.

May 29, 1980.

[FR Doc. 80–17043 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79–178, RM–3160; RM–3357]

FM Broadcast Stations in Granbury and Burkburnett, Tex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order (Final rule).

SUMMARY: Action taken herein assigns Channel 284 to Burkburnett, Texas, and Channel 294 to Granbury, Texas, providing in each case a first local FM broadcast service for the community.

EFFECTIVE DATE: July 11, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: May 23, 1980.

Released: May 29, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Granbury and Burkburnett, Texas), BC Docket No. 79–178, RM–3160, RM–3357.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, adopted July 18, 1979, 44 FR 44192, proposing assignment of FM Channel 294 to Granbury, Texas, in response to a request by First Heritage Broadcasting Company ("First Heritage"). We have, in addition, a counter-proposal filed by Ted Hill ("Hill") for the assignment of either Channel 292A or Channel 293 to Burkburnett, Texas, as its first FM assignment. While the 292A and 294 requests do not conflict, the Channel 293 proposal for Burkburnett is mutually exclusive with the Channel 294 proposal for Granbury.[1] First Heritage, Granbury Radio Company ("GRC") and Debbie Smith ("Smith")[2] filed comments concerning the proposed Granbury assignment; William Clement ("Clement"),[3] First Heritage and Hill filed reply comments.

2. Granbury (pop. 2,473),[4] seat of Hood County (pop. 6,368), is located about 59 kilometers (35 miles) southwest of Fort Worth, Texas. The city holds, according to First Heritage, a leadership role in its area based primarily upon its proximity to the Commanche Park nuclear power facility, the location within and surrounding its boundaries of the popular Lake Granbury resort area, the designation of its town square as an historical site by the State of Texas and current plans to locate an industrial park within the city. An AM station presently under construction by GRC will provide the community with its first local aural service.

3. Burkburnett (pop. 9,230) is located in Wichita County (pop. 120,563), approximately 216 kilometers (135 miles) northwest of Dallas, Texas. Second in size only to the county seat of Wichita Falls, Burkburnett stands as an important commercial and business center in the area, according to Hill. At present, the community has no local aural service.

4. Comments filed in this proceeding fall into two general categories: (1) oppositions to the Granbury proposal and (2) arguments as to which of the two cities—Granbury or Burkburnett—is more deserving of a Class C assignment. To begin with the first area of concern, both GRC and Smith question the suitability of a Class C assignment for a community of Granbury's size, particularly in light of its proximity to Dallas and Fort Worth. As First Heritage points out, however, no Class A channel is available for use in Granbury, making a Class C channel the only choice for the community. And, even if a Class A channel were available. First Heritage's engineering showing, revised to reflect GRC's concerns [5], offers ample justification for a Class C assignment, notwithstanding the size of the actual community of license. In this regard, petitioner proposes a first FM service to 10,230 persons in a 1,697 square kilometer (663 square miles) area and a second FM service to 32,437 persons in a 2,734 square kilometer (1,068 square miles) area. Such coverage of heretofore unserved and underserved areas is by any standard significant.[6]

5. Turning to a Class C assignment for Burkburnett, Hill, like First Heritage, makes a strong case for his request. Not only is Burkburnett a community of significant size in the area, but petitioner plans a first FM service for 438 persons in a 153 square kilometer (60 square miles) area and a second FM service for 9,512 persons in a 706 square kilometer (276 square miles) area.

6. Given the merits of both Class C proposals, we have sought out and found a second Class C channel—Channel 284 [7]—which is available and can be assigned to Burkburnett without conflict to the Granbury proposal.[8] Hence, each community can have the Class C station it has shown to be warranted and a choice between the two need not be made.

7. As for the matter of preclusion, we see no difficulty with either proposed assignment. Other channels are available in all communities precluded by the proposed Burkburnett Channel 284 assignment; the same is true of the requested Granbury Channel 294 allocation.[9]

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective July 11, 1980, the FM Table of Assignments, § 73.202(b) of the rules, is amended with respect to the following communities:

City	Channel No.
Burkburnett, Texas	284
Granbury, Texas	294

9. It is further ordered, that the petition to strike reply comments filed by First Heritage Broadcasting Company, is denied.

10. It is further ordered, that this proceeding is terminated.

11. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–17099 Filed 6–4–80; 8:45 am]

BILLING CODE 6712–01–M

[1] The two communities are 195 kilometers (122 miles) apart instead of the 240 kilometers (150 miles) separation required by our rules for first adjacent Class C assignments.

[2] Contrary to First Heritage's contentions, Smith need not establish formal standing in order to file comments here.

[3] While more in the nature of original than reply comments, Clement's pleading is a timely response to our joining of the Hill counterproposal into this proceeding. Hence, we see no grounds for striking it as First Heritage requests.

[4] All population data are taken from the 1970 U.S. Census.

[5] First Heritage's original *Roanoke Rapids* study assumed maximum rather than reasonable facilities.

[6] Contrary to GRC's contentions, sites appropriate for a Channel 294 transmitter do exist. Any such site would have to be at least 10 kilometers (6 miles) southwest of the community.

[7] The Channel 284 assignment will require a site at least 27 kilometers (17 miles) west of the city.

[8] A pending request to assign Channel 285A to Lawton, Oklahoma, Dkt. 80–192, (RM–3472) has been modified to specify Channel 237A to avoid a conflict with this assignment.

[9] This includes Eastland and Comanche, Texas, two communities which GRC claims were missing in First Heritage's preclusion showing.

47 CFR Part 74

[BC Docket No. 78–252; RM–2739; RM–2740; FCC 80–166]

Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services; Origination of Solicitations for Contributions by VHF Translators and of Emergency Messages by TV and FM Translators

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein adopts rules permitting TV and FM translators to originate emergency warnings of imminent danger and VHF translators to originate material soliciting and acknowledging contributions to defray the costs of operating the translators. Such originations are limited to no more than 30 seconds per hour. UHF and FM translators are already permitted to originate similar solicitations and acknowledgements. The National Translator Association had petitioned the Commission to adopt such rules.

EFFECTIVE DATE: July 7, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and order (Proceeding Terminated) (43 FR 36891)

Adopted: March 27, 1980.

Released: May 28, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee absent.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, adopted August 8, 1978, inviting comments on two petitions for rule making filed by the National Translator Association ("NTA").[1] These petitions requested the Commission to amend its rules to permit VHF translator stations to originate transmissions soliciting and acknowledging contributions to defray their costs (RM–2739) and to permit both TV and FM translators to originate emergency warnings of imminent danger. In the *Notice of Proposed Rule Making*, the Commission proposed the amendment of Sections 74.731(f) and 74.1231(f) to permit such operation and, additionally, to permit the origination of other visual, as well as aural, materials by television translators.[2] Both supporting and opposing comments and reply comments were filed during the public comment period which followed adoption of the *Notice of Proposed Rule Making*.[3]

2. Because the comments supporting the proposed rules primarily follow the reasoning which the Commission set forth in its *Notice*, they will not be discussed in detail herein except where indicated. The opponents, however, raise several points that warrant discussion. Perhaps the most important point raised in opposition concerns the proposal to permit the origination of solicitations of contributions and the acknowledgment of such contributions. It is argued that Congress, in amending Section 318 of the Communications Act (47 U.S.C. § 318) did not intend to permit such use of translators. Section 318 requires a licensed operator for broadcast stations, but it excludes from this translators which are operated on an unattended basis. Prior to 1976, the translator exception in Section 318 of the Act was phrased in terms of stations engaged "solely" in the function of rebroadcasting the signal of other broadcast television stations. In 1976, the Section was changed to refer to stations engaged "primarily" in the rebroadcast of the signals of other TV stations, and to permit unattended operation of FM, as well as TV translators. (Pub. L. 94–335, approved July 1, 1976, 90 Stat. 794.) As we observed in the *Notice*, the change was made to permit the Commission to explore the possibility of authorizing

[1] Those petitions were accepted for filing and given the rule making numbers RM–2739 and RM–2740. Public Notice of the two petitions was given on August 17, 1976, Report No. 997.

[2] Under current Commission rules, both FM and UHF translators may originate transmissions soliciting and acknowledging contributions. Additionally, UHF translators have been permitted to originate emergency warnings. See, footnote 7, *infra*.

[3] Those filing comments were: the National Telecommunications and Information Administration ("NTIA"); the National Translator Association ("NTA"); a group of television licensees ("TV licensees"); the Association of Maximum Service Telecasters, Inc. ("MST"); the National Association of Broadcasters ("NAB"); American Broadcasting Companies, Inc. ("ABC"); the Teleprompter Corporation ("Teleprompter"); and the Washington State Association of Broadcasters ("WSAB"). Reply comments were filed by KHQ, Inc. ("KHQ"), WSAB, and NTA. The proposed rules were supported by NTIA, NTA, the TV licensees, MST, ABC, and to a more limited extent by WSAB, NAB and KHQ. They were opposed by Teleprompter and, to a limited extent, WSAB.

translators to originate limited amounts of local program and commercial material. In objecting to the proposed rules, those parties pointed out that the House Report issued in connection with the amendment of Section 318 stated that, "[t]he Committee is relying upon statements of the Commission that it will not allow the substitution of commercial advertising." H. Rep. No. 94–1261, 94th Cong., 2nd Sess., 3 (1976). Accordingly, it is argued, Congress did not intend to provide the Commission with permission to enact the subject rule because this would enable translators to acknowledge contributions, by, in effect, broadcasting the advertising messages of contributors.

3. Several commentators urge the Commission either to delete such permission or to state clearly that such messages may not be for profit. In support of its comments in this regard, WSAB chronicles what is alleged to be an abuse of the permission for solicitation and acknowledgment of contributions currently extended to UHF television translators. WSAB contends that commercial time is being sold on translators in Wenatchee, Washington, and elsewhere and that translator originated commercials are being substituted for those on the originating station. This, it argues, has an adverse effect upon broadcast radio services which cannot compete with the advertising rates offered by translator operators who do not have the program production and origination costs of other broadcasters. Television service also is said to suffer because the originating station has no control over the commercial substitutions by translators and as a result may be placed in an awkward situation with viewers attributing commercials aired by the translator to the originator even though they may be contrary to the advertising practices and voluntary restraints of the originating television station.

4. Further, the opponents assert that the proposed rules would encourage VHF translator development at the expense of UHF translators and also would accord preferential treatment to translators as a whole as compared with cable operators.[4] The proposal to permit emergency broadcast originations is objected to on the ground that there is no clear standard as to what would constitute an emergency, leaving the way open for abuse by the transmission of a significant number of non-emergency broadcasts. Emergency originations also are said to be likely to cause interference. Teleprompter requests that this Docket be incorporated into the Low-Power Television Inquiry, BC Docket 78–253[5], so that the translator industry can be studied with respect to its financial condition, the technical problems that allegedly would attend the "widespread" origination of programing by translators, and the appropriate role of translators.

5. *Solicitations and Acknowledgements of Contributions.* Many of the arguments raised by commentators opposing all or part of the proposal to permit limited VHF translator originations for the purpose of soliciting and acknowledging financial contributions are similar to those made earlier by the National Cable Television Association, Inc. ("NCTA"), and rejected by the Commission, when we adopted the *Notice of Proposed Rule Making* in this matter. These objections, when raised by other parties in the context of opposing that *Notice*, are no more persuasive at this time than they were when we proposed the subject rule amendments.

6. The limited authority to solicit and acknowledge contributions was designed to help defray the costs of translator operation. Financial problems, for example, do not appear to be limited to translators in the UHF band, even though they may vary in degree. It also is true, however, that financial viability may differ in degree as between various UHF translators or within the VHF translator "community." The Commission must be able to enact rules of general applicability if the administrative processes are to avoid grinding to a halt. Thus, granting VHF translators the ability to solicit contributions toward the defrayal of the costs of installing, operating and maintaining the translator, and to acknowledge such contributions, to the extent permitted, is warranted. Whether some, none, or all VHF translators avail themselves of this privilege remains to be seen. Our experience has been that most translators are "shoe string" operations that deserve to have this avenue open to them.

7. With respect to the argument that the Commission lacks financial reports on the economic health of translators and that we have not assessed the possibility of translator interference to, and competition with, other media, it should be noted that these matters are under consideration in the *Low Power Television Inquiry, supra.* The rule that we are adopting today is neither such a major rule revision nor does it rest upon such infirm support that it is necessary to await the outcome of the *Low Power Television Inquiry* before moving ahead in this proceeding. Furthermore, the fact that some translator operators currently may be operating in violation of our rules by using prohibited commercial substitution does not constitute a ground for our holding this proceeding in abeyance or for declining to adopt the subject rule. The substitution problem also is currently under examination in the *Low Power Television Inquiry.* Our rules concerning both interference and, inferentially, substitutions, are not changed by the rule that we are adopting hereby. That rule merely permits the origination of material soliciting or acknowledging financial contributions to defray the costs associated with the operation of a VHF translator. It does not permit harmful interference or the substitution of commercial material and it does not permit the sale of commercial time "for profit." Any current or potential violations of our rules regarding these practices can be addressed through specific complaints. While we do not condone these abuses, we do not see their relevancy to permitting the law-abiding VHF operator a reasonable opportunity to defray expenses, in the same manner as the UHF and FM operators have been permitted to do.[6]

8. The portion of the proposed rules that perhaps has caused the most controversy is the sentence which states that, "Such acknowledgments may include identification of the contributors, the size or nature of the contributions and *advertising messages of contributors."* (Emphasis supplied.) This language is consistent with the rule currently applicable to UHF and FM translators. Such acknowledgments, even where they consist of a contributor's advertisement, are of limited duration, and are permitted only in connection with contributions defraying operational costs (and hence may not be "for profit"). Such advertisements may be used solely as a method of acknowledging contributions made "toward the *defrayal of the costs*

[4] In this regard, Teleprompter argues that translators do not have the responsibilities of regular broadcast or cable operators, especially with respect to technical standards governing originations, and are relieved from various filing requirements applicable to broadcast and CATV operators. Moreover, the proposed rules are said to fail to protect cable subscribers from interference from translators and also are asserted to treat cable operators unfairly because they have been denied permission to carry certain emergency broadcasts, citing *CATV Carriage of Television Signals*, 62 F.C.C. 2d 190 (1976).

[5] *Notice of Inquiry*, 68 F.C.C. 2d 1525 (1978).

[6] Translator licensees are reminded that Section 317 of the Communications Act requires the announcement of commercial sponsorship, and that Section 315 of the Act applies in full to political advertising, *see* "Public Notice," FCC 76–936, October 8, 1976, 62 F.C.C. 2d 896.

of installing, operating and maintaining the translator. . . ." (Emphasis supplied.) It is clear from a reading of the legislative history of the amended Section 318 that Congress was concerned about commercial substitutions. On this point, the House Report accompanying the 1976 amendment is quite explicit:

> The Committee is relying upon statements of the Commission that it will not allow the substitution of commercial advertising. H.R. Rept. No. 94–1261, 94th Cong., 2d Sess. 3 (1976).

In this context, "substitution of commercial advertising" refers to the insertion of the translator's messages at the same time that the originating station's commercial advertising is being carried. This Commission understands that, as a general principle, commercial substitution is a practice that Congress intended to strongly discourage, if not outright proscribe. We are therefore putting translator operators on notice that commercial substitution, as a practice, will not be allowed. As with all of our rules and policies, we expect reasonable, good faith efforts, to comply with this stricture. We also recognize that, because of the technical, operational, and economic characteristics of translator service, ensuring perfect compliance with this requirement could undercut the primary purpose of the legislative amendment: to permit limited origination so that translators may "give their audiences access to local news and information of vital community interest . . . [and] meet the difficult problems of financial support for their operation and service." S. Rept. No. 94–919, 94th Cong., 2d Sess. 4 (1976); H. Rept. No. 94–1261, 94th Cong., 2d Sess. 3 (1976). Should issues as to translator compliance arise, the Commission will consider the particular facts and circumstances presented to determine whether reasonable measures have been taken to avoid the occurrence of commercial substitution. In particular, efforts by the translator to coordinate its insertions with the originating station's commercial schedule will be relevant to any question of reasonable, good faith compliance.

9. *Emergency Broadcasts.* Permitting TV and FM translator stations to originate broadcasts relating to emergency warnings of imminent danger is manifestly in the public interest.[7] No convincing argument to the contrary has been made. The phrase, "emergency warnings of imminent danger," is a standard sufficiently precise to adopt without further definition or embellishment. The adoption of a more precise standard would leave open the distinct possibility that some event, which legitimately could be classed as an emergency creating an imminent danger, inadvertently would be left out. Rather than run this risk, the Commission considers it preferable to authorize translator operators to have the flexibility to respond to such emergencies as they occur. We place our reliance upon the good faith discretion of our licensees guided by the clear language of the rule we are adopting today. Should abuses arise, we will not hesitate to deal with them. But when weighed in the balance, the mere possibility of such an abuse does not outweigh the obvious benefits to the public to be derived from permitting all television and FM translators to originate emergency messages.

10. Teleprompter's reliance upon *CATV Carriage of Television Signals, supra,* to support its position that the Commission is preferring translator operators over CATV operators by permitting the former to do what was prohibited in that case to the latter, is entirely misplaced. In *CATV Carriage of Television Signals, supra,* the Commission was faced with a petition for rule making which, if the proposed rule was adopted, would permit the cable carriage of any television or radio broadcast station on any or all of the channels of the cable system during periods of emergency. Such a rule would not involve the CATV system's origination of emergency warnings of an imminent danger. Rather it would permit the wholesale importation of the signals of stations which could be far removed from the CATV system's subscribers. Moreover, this importation would not even be limited to the emergency warning. Instead it would have had the effect of suspending the Commission's rules on the importation of distant signals, including emergency warnings, entertainment and nonentertainment programming, for the entire period of the emergency. Such a rule easily could have led to a situation in which a cable system, for instance, in Wyoming, could import all of the programming of any or all radio and television stations, for instance, in Atlanta, Georgia, day after day during a period of emergency created by a tornado, a hurricane, an air pollution alert or a civil disturbance of any sort. In short, the rejection of a proposed open-ended waiver of the signal carriage rules for cable has no applicability as precedent to the instant proposal to permit emergency warning originations by all TV and FM translators. The public interest demands that we adopt the proposed rules to enable all such translators to carry emergency warnings of imminent danger.

11. Finally, we have decided to make two minor modifications to the text of the rules that we had proposed in the initial *Notice of Proposed Rule Making.* First, we are here conforming the FM translator rules to the TV translator rules by deleting from the definition of an FM translator (Sec. 74.1201):

> * * * by means of direct frequency conversion and amplification of the incoming signals * * *.

This phrase would have precluded FM translator originations of any sort. Secondly we are deleting the requirement, for both FM and TV translators, that the type of originating equipment be reported in writing, in advance, to the Commission. The rules we adopt here are plain as to the types of equipment authorized to be used, and we can expect our licensees to comply with these limitations without any need to multiply reporting burdens upon them or processing demands upon the Commission's staff. This situation is to be contrasted with the policy regarding terrestrial relays for translators. In the latter case, we require both reporting of equipment and equipment type-acceptance. However, the assurance of quality relays relates to all or nearly all of the translator's output, because all of its rebroadcast material would be obtained by that relay. The need for oversight of equipment there has no applicability to the originations authorized today, which by rule can comprise only a *de minimis* part of the translator's broadcast service.

12. Authority for the adoption of the rules herein is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, and § 1.425 of the Commission's Rules.

13. Accordingly, *it is ordered,* That Part 74 of the Commission's Rules is amended as set forth below effective July 7, 1980.

14. *It is further ordered,* That the proceeding in BC Docket No. 78–252 *is terminated.*

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[7] UHF translators have been permitted to originate emergency warnings although such authority is not conferred by the present terms of Section 74.731(f) of the Commission's Rules. See, *Medallion Broadcasters, Inc.,* Public Notice 35783, July 1, 1975.

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Federal Communications Commission.[1]
William J. Tricarico,
Secretary.

Part 74 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 74.731(f) is amended to read as follows:

§ 74.731 Purpose and permissible service.

* * * * *

(f) A locally generated radio frequency signal similar to that of a TV broadcast station and modulated with visual and aural information may be connected to the input terminals of a television broadcast translator for the purpose of transmitting still photographs, slides and voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast. When transmitting originations concerning financial support, connection of the locally generated signals shall be made automatically either by means of a time-switch or upon receipt of a control signal from the TV station being rebroadcast designed to actuate the switching circuit. The switching device shall be so designed that the translator input circuit will be returned to the off-the-air signal within 30 seconds. The connection for emergency transmissions may be made manually. The apparatus used to generate the local signal which is used to modulate the translator must be capable of producing a visual or aural signal or both which will provide acceptable reception on television receivers designed for the transmission standards employed by TV broadcast stations. The visual and aural materials so transmitted shall be limited to emergency warnings of imminent danger and to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Accordingly, the originations concerning financial support are limited to 30 seconds no more than once an hour and to the solicitation of contributions toward defrayal of the costs of installing, operating and maintaining the translator or acknowledgments of financial support for those purposes. Such acknowledgments may include identification of the contributors, the size or nature of the contributions and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

[1] See attached Separate Statement of Chairman Ferris.

2. Section 74.1201(a) is amended to read as follows:

§ 74.1201 Definitions.

(a) *FM translator.* A station in the broadcasting service operated for the purpose of retransmitting the signals of an FM radio broadcast station or another FM broadcast translator station without significantly altering any characteristics of the incoming signal other than its frequency and amplitude, in order to provide FM broadcast service to the general public.

* * * * *

3. Section 74.1231 (f) and (g) are amended to read as follows:

§ 74.1231 Purpose and permissible service.

* * * * *

(f) A locally generated radio frequency signal similar to that of an FM broadcast station and modulated with aural information may be connected to the input terminals of an FM translator for the purpose of transmitting voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast. Connection of the locally generated signals shall be made automatically by means of a time-switch when transmitting originations concerning financial support. The connection for emergency transmissions may be made manually. The apparatus used to generate the local signal that is used to modulate the FM translator must be capable of producing an aural signal which will provide acceptable reception on FM receivers designed for the transmission standards employed by FM broadcast stations.

(g) The aural material transmitted as permitted in paragraph (f) of this Section shall be limited to emergency warnings of imminent danger and to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Accordingly, the originations concerning financial support are limited to 30 seconds no more than once an hour and to the solicitation of contributions toward defrayal of the costs of installation, operation, and maintenance of the translator or acknowledgments of financial support for those purposes. Such acknowledgments may include identification of the contributors, the size or nature of the contributions and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

* * * * *

Separate Statement of Charles D. Ferris, Chairman

Re: Television and FM Translators Fund Raising Solicitations and Emergency Warnings.

Today's rule modifications eliminate unnecessary differences among FM, VHF and UHF translator services. In doing so, the Commission takes another positive step to overcome the problems of isolation of rural Americans identified in the President's February, 1979 rural telecommunications proposal.

In order to promote continued viability of rural translators, we must assure operators reasonable means of attracting financial support. As a result of today's order, all classes of broadcast translator stations will be allowed to offer limited advertising time to contributors to their operation. Their rural viewers and listeners will also be able to receive emergency warnings of tornados, hurricanes and other natural disasters.

In the coming months we will consider further steps to lift restrictions on these stations so that they may more fully serve rural consumers, who often depend on translator broadcasts as their link with the rest of society.

[FR Doc. 80-17103 Filed 6-4-80; 8:45 am]
BILLING CODE 6712-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

Organization and Functions of the Board of Delegations and Authority

Correction

In the issue of Thursday, May 29, 1980, in FR Doc. 80-16345, appearing on page 36080, please make the following correction:

Under "§ 800.6 Formal and Informal Submissions" line 2, ". . . made in air safety on. . ." should be changed to read ". . . made in air safety or. . ."

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1389; Amdt. No. 2]

Transkentucky Transportation Railroad Co., Inc. Authorized To Operate Over Tracks Abandoned by Louisville and Nashville Railroad Co.

May 29, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1389.

SUMMARY: This order amends Service Order No. 1389, by extending the expiration date until 11:59 p.m., June 30, 1980, and is conditioned upon an appropriate filing for certification by the carrier by that date. Service Order No. 1389 permits the TTI to operate temporarily over tracks acquired from the L&N through acquisition.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275-7840.

Upon further consideration of Service Order No. 1389, and good cause appearing therefor:

§ 1033.1389 [Amended]

It is ordered: § 1033.1389 *Transkentucky Transportation Railroad Company, Inc. Authorized To Operate Over Tracks Abandoned by the Louisville and Nashville Railroad Company,* Service Order No. 1389 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

* * * * *

(g) *Expiration date.* The provisions of this order are extended until 11:59 p.m., June 30, 1980, pursuant to an appropriate filing for certification by that date, and shall expire unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-17084 Filed 6-4-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Third Rev. S.O. No. 1449]

Norfolk and Western Railway Co., Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Third Revised Service Order No. 1449.

SUMMARY: This order revises Second Revised Service Order No. 1449, by changing paragraph (a) to include an additional 1,000 feet of track connecting with the Chicago Regional Port District and Pullman Junction, in order to serve industries located east of Pullman Junction.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275-7840.

Decided May 29, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers of essential railroad service. The Norfolk and Western Railway Company (NW) connects with the RI and has consented to operate over its tracks in order to serve the industries located adjacent to those tracks, and to connect with the Chicago Regional Port District.

It is the opinion of the Commission that an emergency exists requiring the operation by NW over tracks formerly operated by RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1449 Third Revised Service Order No. 1449.

(a) Norfolk and Western Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, trustee). Norfolk and Western Railway Company (NW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District.

Temporary service authorized in this Order requires the continuation of any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers. These trackage rights extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, and will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) A similar application has been received from Illinois Central Gulf Railroad Company to operate portions of RI tracks herein indicated. The Railroad Service Board has reviewed these applications and considered the recommendations of the Department of Transportation, and has approved the application of the NW to conduct these temporary operations in the public interest as listed in paragraph (a). Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the NW over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via NW become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City

Terminal Railway Company, on transit

By the Commission, Railroad Service

Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, NW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if NW chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

*(h) *Effective date.* This order shall become effective at 11:59 p.m., May 31, 1980.

*(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-17066 Filed 6-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Second Rev. S.O. No. 1440]

El Dorado and Wesson Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Second Revised Service Order No. 1440.

SUMMARY: This order authorizes the El Dorado and Wesson Railroad Company (EDW) to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at El Dorado, Arkansas, for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: May 29, 1980.

The lines of the Chicago, Rock Island and Pacific Railroad Company (RI) at El Dorado, Arkansas are embargoed depriving shippers located at Catesville, Arkansas, of essential railroad service. The El Dorado and Wesson Railroad Company (EDW) connects with the RI at El Dorado and has consented to operate over these tracks in order to serve industries located adjacent to RI tracks.

It is the opinion of the Commission that an emergency exists requiring the operation of EDW trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1440 Second Revised Service Order No. 1440.

(a) *El Dorado and Wesson Railroad Company Authorized To operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, trustee).* El Dorado and Wesson Company (EDW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks.

*From El Dorado to Velsicol Plant at Catesville, Arkansas, a station 8 miles south of El Dorado.

(b) Application. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123 (b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the EDW over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via EDW become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, EDW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented By the Rail Labor Organizations operating through the*

*Changed.

Railway Labor Executives' Association" (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if EDW chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) Effective date. This order shall become effective at 11:59 p.m., May 31, 1980.

(i) Expiration date. The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-17065 Filed 6-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Second Rev. S.O. No. 1435]

Various Railroads Authorized To Use Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Second Revised Service Order No. 1435.

SUMMARY: Throughout the Chicago, Rock Island and Pacific Railroad Company (RI) rail network there are numerous locations where the RI and other railroads conduct joint operations by the use of RI owned tracks and/or facilities. The use of these tracks and/or facilities is essential to the continued operations of the other railroads.

Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI) as listed in Appendix A to this order.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980.

EXPIRATION DATE: 11:59 p.m., August 31, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: May 29, 1980.

Throughout the RI rail network there are numerous locations where the RI and other railroads conduct joint operations by the use of RI owned tracks and/or facilities. The use of these tracks and/or facilities is essential to the continued operations of the other railroads.

It appears that contract negotiations between the RI Trustee and the other affected railroads for the joint use of these RI tracks and/or facilities may not be consummated so as to provide for continued operations.

Without the use of these RI tracks and/or facilities, which heretofore had been jointly operated, the continued operations of other railroads will be interrupted or seriously impeded, with adverse effect on shippers and the interstate commerce over a large area of the United States.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct the operations, also identified in the attachment, using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days notice.

It is ordered,

§ 1033.1435 Second Revised Service Order No. 1435.

(a) *Various Railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI) as listed in Appendix A to this order.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service essential to their continued operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(d) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers, as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(e) It is recognized that there may be other carrier(s) and/or location(s), in addition to those listed in the Appendix, where the use of RI tracks and/or facilities is necessary. If such be the case, the affected railroad(s) should apply to the Railroad Service Board and furnish information setting out the applicant carrier's corporate name, trackage and/or facility involved, location, and all pertinent data relating to the necessity of the use of such track or facility. The Railroad Service Board will consider such applications for addition to Appendix A.

(f) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protection Agreement between Railroad Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (sometimes referred to as the Miami Accords and/or the 13 Principles). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if the carrier(s) chooses to exercise the authority granted by this decision, it/they shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(g) *Effective date.* This order shall become effective at 11:59 p.m., May 31, 1980.

(h) *Expiration date.* The provisions of

this order shall expire at 11:59 p.m.,

Service Division, as agent of the

the Commission at Washington, D.C.

DEPARTMENT OF INTERIOR

this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Service Order No. 1435—Appendix A

	Line No. and location to be operated	Railroads using	Rock Island functions to be performed
1	Rock Island Jct., IL, switches	C&O/B&O, CWP&S, CR, and CSL	Track maintenance.
2	To ICG connection Cottage Ave., Chicago, IL	CWP&S	Track maintenance.
3	Irondale Branch, Chicago, IL	CWP&S and CR	Track maintenance.
4	Chicago, IL Regional Port District Lake Calumet Harbor West Side	ICG, CR, and CSSB	Track maintenance.
5	Chicago (LaSalle St. Station) Joliet, IL	RTA	Dispatching performed as Des Moines, IA (Suburban train operations).
5a	Joliet, IL-16th and Clark Streets	ICG and RTA	Interlocking Towers.
6	Moline-East Moline, IL crossing signals	BN and DRI&NW	Highway crossing signal maintenance.
7	Rock Island, IL-28th St	BN	Switchtender handles crossing & BN switches.
8	West Davenport-Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (Automatic Block Signal).
9	Burlington-Medapolis, IA	BN	Track maintenance; dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10	Eddyville-Beacon, IA	CNW	Track maintenance.
11	Cedar Rapids, IA-4th St. trackage	ICG	Track maintenance.
12	Cedar Rapids, IA-9th Ave. crossing	CNW	Control of CNW–RI crossing and highway crossing signal maintenance.
13	Waterloo, IA-McKinley St. crossing signals	CNW	Highway crossing signal maintenance.
14	Iowa Jct.-Hollis, IL (Peoria Terminal Co.)	TP&W	Track maintenance; dispatching performed by Peoria yardmaster.
15	Des Moines (Easton Blvd.) West Des Moines, IA	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals-switches controlled at Short Line Tower (Automatic Block Signal).
16	Almena Jct.-CB&Q Jct. KS (Oronoque)	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches; (Automatic Block Signal).
17	Colorado Springs-Roswell Industrial District, CO	ATSF	Track maintenance.
18	Council Bluffs, IA–6th, 7th, 8th St. crossing signals	BN	Highway crossing signal maintenance.
18a	Council Bluffs, IA, vicinity BN of 124th Street	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19	Albert Lea-Glenville, MN	CNW–ICG	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
20	Glenville-MN-Manly, IA	CNW	Operator at Manly.
21	Inver Grove-South St. Paul, MN	CNW and SOO	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
22	Limon, CO	UP	Operator.
23	Polo-Airline Jct., MO	MILW	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction).
24	Atchison, KS-St. Joseph, MO	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK.
25	Wathena-Troy, KS	UP	Track and signal maintenance; dispatching at El Reno, OK.
26	Hennigton, KS-MP crossing interlocking	MP	Interlocking controlled by RI operator (Cannot be lined for MP and left unattended—signaling on MP cleared directionally).
27	Dodge City, KS	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge tract and bridge maintenance only (Line not in service at present).
28	Manon-Peabody, KS	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK, which controls CTC.
29	McAlester-Shawnee, OK	MKT	Track and signal maintenance; dispatching performed at El Reno.
30	Shawnee-Oklahoma City, OK	ATSF–MKT	Track and signal maintenance; dispatching performed at El Reno.
31	Oklahoma City "North Lines" Industrial Tracks	ATSF	Track maintenance.
32	Malvern-Hot Spring, AR	MP	Dispatching performed at El Reno, OK.
33	Fort Worth-Irving, TX	FWD and SLSF	Track and signal maintenance; dispatching performed at El Reno, OK, which controls CTC.
34	Irving-Dallas, TX	FWD and SLSF	Track and signal maintenance; dispatching performed at El Reno, OK, which controls CTC.
35	Dallas, TX Right of Way District (formerly Dallas Union Terminal)	MP, MKT, FWD, ATSF, SP, SSW, and SLSF	Track and signal maintenance; maintain and control operation from towers. Supervision and maintenance to be provided by Missouri Pacific Railroad Company.
36	Dalles, TX-Cadix St. Yard	L&A	Track maintenance.
37	Saginaw, TX	FWD AND ATSF	Track and signal maintenance; interlocking controls, switches, and signals.
38	Memphis, TN, Section "A" trackage (1,460 feet) owned by L&N.	ICG, L&N, and SOU	Track maintenance.
39	Briark-West Memphis, AR	SSE–MP	Track and signal maintenance; dispatching performed at El Reno, OK: CTC controlled from Kentucky St.
40	West Memphis-Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK ABS—Block signals operator at Brinkley.
41	Irving-Carrollton, TX	SLSF	Maintenance, dispatching (all functions performed by SLSF at present).
42	Iowa Falls, IA	ICG	Interlocking towers.
43	Rock Island Junction, AR to Hermitage, AR	WSR	Maintenance.
44	Thompson, NE	BN	Diamond crossing maintenance.
45	Beatrice, NE	BN	Diamond crossing maintenance.
46	Centerville, IA	BN	Interlocking plant maintenance and operation.
47	La Salle, IL	BN	Diamond crossing maintenance.
48	Ottawa, IL	BN	Interlocking plant maintenance.
49	Colona, IL	BN	Interlocking plant maintenance.
50	St. Joseph, MO	BN	Diamond crossing maintenance.

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DEPARTMENT OF INTERIOR

U.S. Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Regulations Describing Nontoxic Shot Zones for Waterfowl Hunting Seasons Occurring in 1980 or in January and February 1981

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule establishes areas in which non-toxic shot will be required for waterfowl hunting in hunting seasons occuring in 1980 or in January or February, 1981. When eaten by waterfowl, spent lead pellets have a toxic effect. The zones described in this final ruling are established to reduce the number of deaths to waterfowl as a result of eating spent lead pellets. The only approved non-toxic shot available at this time is steel shot.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert I. Smith, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: Research on the problem of lead poisoning in waterfowl has been conducted throughout most of this century. The complexities of the issue have been explored with conservationists, ammunition manufacturers, and State fish and game departments. For many years the Service has studied lead poisoning of waterfowl in cooperation with organizations representing a broad cross section of interests affected by and concerned with the problem.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the Service prepared a Final Environmental Statement (Use of Steel Shot for Hunting Waterfowl in the United States). This document was published in January 1976 and is available from the Service on request.

On March 20, 1976, the Secretary of the Interior announced a plan for the progressive implementation of steel shot. According to this plan, shotshells loaded with non-toxic shot were to be required for hunting waterfowl in designated areas of the Atlantic Flyway in 1976, in designated areas of the Mississippi Flyway in 1977, and in designated areas of the Central and Pacific Flyways in 1978.

On July 28, 1976, a final rule on the use of steel shot for waterfowl hunting was published in the **Federal Register** (41 FR 31386–89) and became effective August 27, 1976. On September 13, 1976, the Service published an amendment to 50 CFR 20.105(e) containing descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic Flyway in 1976 (41 FR 38772–38774).

On April 28, 1977, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic and Mississippi Flyways in hunting seasons commencing in 1977 (42 FR 21616–18). On February 28, 1978, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in portions of 32 States in 1978 (43 FR 8144–8149). However, appropriated funds for the Department of the Interior for fiscal year 1979 were restricted in their use by the following provision:

> No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

As a result of the above restriction placed on the implementation of the non-toxic shot regulations, nine of the 32 States having such regulations did not approve their implementation in part or in total. Where unapproved, the regulations were not enforced during the 1978–79 hunting season.

On July 17, 1979 the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in portions of 29 States in 1979 (44 FR 41461–67). Appropriated funds for the Department of the Interior were restricted by a provision identical to that of the previous year (H.R. 4930) and seven States did not approve enforcement of the regulations in part or in total. In States where unapproved the regulations were not enforced during the 1979–80 hunting season.

On February 11, 1980, a proposal to amend 50 CFR 20.108 was published in the **Federal Register** (45 FR 9028–9033). This publication contained proposed descriptions of areas in which non-toxic shot would be required for waterfowl hunting in hunting seasons commencing in 1980. This proposal contained descriptions of areas identical to those finalized in 1979.

Summary of Public Comment and Service Responses

Between February 11, 1980, and March 31, 1980, public comment on the proposed non-toxic shot zones for 1980 was received. Fifty-two letters were received. Included were letters from 16 State Fish and Game Departments. Among the 36 letters received from individuals or private organizations, 28 expressed opposition to the proposal, one was neutral, and seven supported the proposal. Three of the latter expressed the view that restrictions on lead shot should be applied to a much larger portion of the United States.

Objections to the proposal are listed below and are ranked according to the frequency mentioned.

1. Lead poisoning of waterfowl is not a serious problem.
2. The use of steel shot causes additional crippling of waterfowl.
3. Steel loads are not available in gauges other than 12-gauge.
4. The price of steel loads is unacceptably high.
5. Steel shot should be required throughout the United States for all waterfowl hunting.
6. Steel shot should be required on all National Wildlife Refuges.

The Service makes the following responses to the above-mentioned comments.

1. *Lead poisoning of waterfowl.* In 1976 the Service estimated that 1.6 to 2.4 million ducks would be lost to lead poisoning from a fall population of 100 million ducks. The Service believes that the above statement is reasonably accurate within the capability of current technology. This loss of waterfowl is serious and can be prevented.

2. *Performance of steel loads.* The primary objection to steel shot performance relates to the number of downed birds that are unretrieved. Some hunters have commented that the number of birds lost in this manner increases when steel shot is used. Tests comparing the ballistic performance of lead shot and steel shot have been conducted over the past ten years. These tests have not indicated that steel shot will cause excessive losses from crippling.

3. *Availability of steel shot loads in gauges other than 12-gauge.* The exception which allowed lead shot to be used in non-toxic shot zones provided it was used in gauges other than 12-gauge was in effect from 1976 through 1979. This exception for gauges other than 12-gauge terminates on August 31, 1980 (44 FR 2597–2599, January 12, 1979). The Service has received a letter from the Federal Cartridge Corporation indicating that non-toxic shot loads in 10 and 20 gauge as well as in 12-gauge will be produced and marketed in 1980. The Service does not believe that the lack of availability of steel shot in certain gauges would justify withdrawal of the proposed non-toxic shot zones for 1980.

4. *Price of steel loads.* In the fall of 1979 the retail prices of steel loads were recorded at several locations throughout the United States. The five most common steel loads averaged 29 percent higher in price than the five most common lead loads. This represented an increase of $2.54 per box of steel over the current price of lead loads. The Service does not believe that the added cost of steel shotshells represents a basis for withdrawal of the proposed non-toxic shot zones for 1980.

5. *Steel shot should be required throughout the United States for all waterfowl hunting.* Examination of waterfowl gizzards from numerous locations throughout the United States has indicated that the incidence of ingested shot in gizzards can be very low over relatively large areas. The objective of the non-toxic shot program is not to prevent all lead poisoning of waterfowl but to reduce the availability of lead shot to waterfowl in areas where the ingestion of spent pellets in occurring frequently and causing a serious lead poisoning problem.

6. *Steel shot should be required on all National Wildife Refuges.* On some National Wildlife Refuges decisions regarding steel shot have been delayed until studies can be conducted to determine the seriousness of the lead shot problem on the area in question.

Specific comments from State wildlife agencies or commissions are presented below along with responses of the Service.

Massachusetts. Based upon results of an investigation to determine the extent of lead shot ingestion by waterfowl in various parts of the State the Division of Fisheries and Game has requested that proposed zones for Barnstable County and Bristol County be removed.

Service response. Based upon information provided by the Division of Fisheries and Game the Service agrees with this request and has removed the zones proposed for Barnstable and Bristol Counties.

New York: Based on further investigations of shot ingestion by waterfowl, three changes in the proposed zones for New York were requested by the Division of Fish and Wildlife of the State of New York.

1. Reduce Long Island's south shore zone in Nassau County to the bays between Wantaugh Parkway and the New York City line.
2. Remove the portion of the Niagara River from the Peace Bridge to Lake Ontario.
3. Remove the remainder of the deep-water areas of Lake Ontario by deleting the area from the Salmon River to the mouth of the St. Lawrence River. This does not remove the Henderson and Black River Bays which are not deep-water areas. This removes all deep-water areas from the Niagara River to the mouth of the St. Lawrence.

Service response. The Service agrees with these changes requested by the State of New York and this final ruling has been modified to include them.

New Jersey. Based on studies conducted by the Division of Fish, Game, and Shellfisheries this State requested that the northern boundary of the proposed zones for the State be moved to the Shark River from its original position along Highway 36.

Service response. This requested change has been made in the final ruling.

Maryland. The Maryland Wildlife Administration notified the Service of studies being conducted and the results of these studies will be provided to the Service at a later date.

Service response. The Service will consider changes in the zones for Maryland when reports from the Maryland Wildlife Administration become available.

Minnesota. The Minnesota Department of Natural Resources requested that all of the Lac qui Parle goose hunting zone be included as a non-toxic shot zone. This area will be described in the 1980 waterfowl hunting regulations of the State of Minnesota as a non-toxic shot zone.

Service response. The Service will propose for public comment the Lac qui Parle goose hunting area as a non-toxic shot zone for waterfowl hunting seasons commencing after August 31, 1981.

Wisconsin. The Wisconsin Department of Natural Resources recommended that non-toxic shot be required throughout the Horicon and Central goose management area instead of being limited to water and land areas within 150 yards of the water. Also, the Department requested that Monroe County be added to the description of the Meadow Valley Wildlife Area.

Service response. Both requested changes were included in this final ruling. The proposed 150 yard zone adjacent to water, which is an option selected by several States, protects areas where ducks feed adjacent to goose hunting fields. The protection of geese from lead shot ingestion should include the use of non-toxic shot in all upland feeding areas of geese.

Illinois. The Illinois Department of Conservation requested that five of the ten zones proposed for Illinois be removed. The justification for this request relates to the fact that no documented cases of lead poisoning in waterfowl exist for the five areas.

Service response. Documented occurrences of lead poisoning in waterfowl are only one of several criteria used to identify where non-toxic shot should be used. The Service does not consider the absence of such records to be an adequate justification for withdrawal of the areas.

Ohio. The Ohio Division of Wildlife requested that the counties of Sandusky, Wayne, Holmes, and Cuyahoga be included as non-toxic shot zones in addition to the counties proposed by the Service. This recommendation is based upon a three-year study conducted by the Division.

Service response. The Service will propose for public comment the four additional counties in Ohio for hunting seasons commencing after August 31, 1981.

Missouri. A letter from the Missouri Department of Conservation indicated that the Missouri Conservation Commission voted to rescind the State regulation which corresponds to the ruling proposed by the Service for that State for 1980 (45 FR 9028–9033). The basis for this decision was not discussed in the letter.

Service response. The Service takes note of the action of the Missouri Conservation Commission but does not believe that an adequate justification for withdrawal of the proposed zones in Missouri has been presented. Consequently the non-toxic shot zones for Missouri for 1980 as described in 45 FR 9028–9033 are retained in this final rule.

Tennessee. The Tennessee Wildlife Resources Agency requested that the five management areas located within Benton County be removed as non-toxic shot zones. This request is based upon a three-year study in which the average incidence of shot in mallard gizzards taken from these areas was 4.6 percent.

Service response. The areas in Benton County are removed from this final ruling.

Louisiana. The Louisiana Department of Wildlife and Fisheries notified the Service that the Louisiana Wildlife and Fisheries Commission opposes the proposed non-toxic shot zones for Louisiana in 1980.

Service response: The zones proposed for Louisiana are withdrawn pending completion of studies to be conducted there.

Kansas. The Kansas Fish and Game Commission requested that an area in Barton County known as the inlet canal be excluded from the areas where steel shot is required. Little hunting of waterfowl occurs on this area.

Service response. The inlet canal area was excluded from the non-toxic shot requirement as requested.

Texas. The Texas Parks and Wildlife Department requested that the Sea Rim and McFaddin Marsh National Wildlife Refuges be identified by the Service as non-toxic shot zones.

Service response. These two National Wildlife Refuges will have waterfowl hunting programs in which non-toxic shot will be required in the 1980–81 hunting season.

Oregon. The Oregon Department of Fish and Wildlife expressed opposition to the proposed ruling for Oregon. Specifically, the Department objected to the zone on the Columbia River between the Interstate Bridge and the Bonneville Dam.

Service response. That portion of the Columbia River between the Interstate Bridge and the Bonneville Dam was removed from this final ruling. The area is subjected to relatively light hunting activity and does not appear to present a problem with respect to lead shot deposits.

Washington. The Washington Department of Game expressed opposition to the proposed zones for Washington. The Department does not believe that restricting the use of lead shot will result in any significant reduction in mortality to waterfowl. In addition, the Department expressed concern that a portion of the Columbia River upstream from the Interstate Bridge should not have been proposed.

Service response. The Service agrees with the Department regarding that portion of the Columbia River upstream from the Interstate 5 Bridge. That portion of the proposed zone has been removed from this final ruling. The Service does not agree with the Department with respect to the significance of lead shot ingestion by waterfowl.

Nevada. The Nevada Department of Wildlife expressed opposition to the proposed zone on the Stillwater Wildlife Management Area.

Service response. In the proposed zone 10 percent of the pintail gizzards and 21 percent of the redhead gizzards examined contained ingested lead shot. The Service believes these levels of ingested lead shot represent a significant problem to the health of waterfowl using the area, and the zone should be maintained.

OTHER INFORMATION: This final rule was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202–254–3207.

The Department of the Interior has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis. An Environmental Assessment was prepared and a finding of no significant impact was filed.

Accordingly, 50 CFR, Chapter I, Subchapter B, Subpart K is amended by removing the non-toxic shot zone descriptions for 1979 and replacing them with the following non-toxic shot zone descriptions for 1980.

Therefore § 20.108 is revised to read as follows:

§ 20.108 Non-toxic shot zones.

The areas described within the States indicated below are designated for the purpose of § 20.21(j) as non-toxic shot zones for waterfowl hunting seasons in 1980 and January and February 1981.

ATLANTIC FLYWAY

Connecticut

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford Point extending south to Stratford Point, north along Prospect Drive and Route 113 to Interstate 95, easterly along I–95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.
2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point Road and I–91, extending south along I–91 to Route 5, northerly along Route 5 to Sackett Point Road, and easterly along Sackett Point Road to I–91.

Delaware

All lakes, ponds, marshes, swamps, bays, rivers, and streams or within 150 yards thereof within the boundaries of the following areas:

1. Chesapeake and Delaware Canal State Wildlife Area.
2. Augustine State Wildlife Area.
3. Woodland Beach State Wildlife Area.
4. Little Creek State Wildlife Area.
5. Prime Hook State Wildlife Area.
6. Bombay Hook National Wildlife Refuge.
7. Prime Hook National Wildlife Refuge.
8. That southeast portion of the State of Delaware bounded on the east by the

Atlantic Ocean, bounded on the south by the Duxbury Beach to the west bank of the Green and continuing southward to the Maryland-

in these counties adjacent to the margins of Highway US–27 (Sec. 34, T24N, R4W); north 21 to Meinert Road (Sec. 4, T19N, R5W);

Atlantic Ocean, bounded on the south by the State of Maryland and bounded on the west and north by a line along Route 113 northwest from the Delaware-Maryland border to Route 24, thence northeast along Route 24 to Route 1, thence northwest along Route 1 to Route 9, thence northeast along Route 9 to Cape Henlopen Point.

Florida

In Oceola, Broward, Dade, Glade, and Leon Counties and on Lake Miccosukee, which lies in Leon County and the adjacent portions of Jefferson County. In that portion of Brevard County lying east of Interstate Highway 95, and on Orange Lake and Lochloosa Lake in Alachua County.

Maine

On the waters of the Kennebec River known as Merrymeeting Bay bounded as follows: from the high tension wires at Chops Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset, and Eastern Rivers and the Richmond-Dresden bridge on the Kennebec River, and within a 150-yard zone of land adjacent to the margins of these waters in the counties of Cumberland, Sagadahoc and Lincoln.

Maryland

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and Chesapeake Bay) in Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent and Cecil Counties and those portions of Harford, Baltimore, and the Anne Arundel Counties lying south and east of U.S. Route 1, and within a 150-yard zone of land in the above counties adjacent to the margins of such waters. During ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

Massachusetts

Essex County: *North Boundary*—Massachusetts–New Hampshire line (Salisbury). *West Boundary*—U.S. Route 1 from State line southward to juncture with 1A in Newburyport, southward on 1A through the towns of Newbury and Rowley to juncture with 133 in Rowley and further south along combined routes 133–1A through Ipswich. *South Boundary*—juncture of 133 and 1A in Ipswich east along Route 133 through Essex and Gloucester to juncture of 133 and Route 128 in Gloucester. East along 128 to west bank of Annisquam River. *East Boundary*—west bank of the Annisquam River north to Ipswich Bay continuing north along the shoreline at Ipswich Bay the Atlantic Ocean to New Hampshire–Massachusetts line.

Plymouth County: *North Boundary*—Route 139 from the west bank of Green Harbor River (Marshfield) west to juncture with Route 3A (Duxbury). *West and South Boundary*—Route 3A from juncture of 139 south along 3A through towns of Duxbury, Kingston and Plymouth to juncture with Rocky Hill Road in Plymouth. *East Boundary*—Line extending from juncture of Route 3A and Rocky Hill Road in Plymouth north to Plymouth Light House on Duxbury Beach and further north along ocean side of Duxbury Beach to the west bank of the Green Harbor River in Marshfield. Also—waters of the Wareham and Weweantic Rivers in the towns of Wareham and Marion and the marshes adjacent to these rivers and within a 150 yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

New Jersey

That portion of the State bounded on the north by The Shark River, on the west by the Garden State Parkway, on the south by the Cape May Canal, and on the east by the Atlantic Ocean.

New York

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and ocean waters) of that portion of New York west of Interstate Highway 81 and north of the New York State Thruway (Interstate Highway 90) and in those portions of Nassau County bounded on the south by the Long Island shoreline from the Wantaugh Parkway west to the Nassau County-New York City line; on the west by the Nassau County-New York City line northward from the Long Island shoreline to the Sunrise Highway (Route 27); on the north by the Sunrise Highway (Route 27) eastward to its junction with the Wantaugh Parkway; on the east by the Wantaugh Parkway southward to the Long Island shoreline and within a 150-yard zone of land in the above areas adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above and the waters of Lake Ontario, outside the barrier beach, from Tibbets Point in Jefferson County to the mouth of the Niagara River in Niagara County and the waters of the Niagara River from its mouth in Niagara County upstream to the Peace Bridge in the City of Buffalo are excluded from the non-toxic shot requirement. However, this exclusion does not include the Henderson Bay-Black River Bay area which shall continue to require non-toxic shot. The Henderson Bay-Black River Bay area is described as the area east of a line running from Snowshore Point on Henderson Harbor to Pillar Point on the southward portion of the Pillar Point Peninsula.

North Carolina

1. All waters (including sounds, lakes, ponds, marshes, swamps, rivers, and streams) of Currituck, Dare, and Pamlico Counties and within a 150-yard zone of land in these counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

2. The waters of the Cape Fear River and its tributaries in New Hanover and Brunswick Counties and a 150-yard zone of land adjacent to the waters of this river and its tributaries in these two counties.

Pennsylvania

Crawford County, Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties, and the waters of the Susquehana River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehana River that are described above.

Rhode Island

That portion of Washington County lying south and east of U.S. Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

South Carolina

Georgetown, Colleton, Charleston, and Beaufort Counties.

Virginia

All waters and a 150-yard zone of land adjacent to these waters in the City of Virginia Beach and in an area between the York River and the James River bounded on the north by U.S. Highway 60, on the west by Highway 155, and on the south by Highway 5.

MISSISSIPPI FLYWAY

Illinois

Carlyle Lake and Wildlife Management Areas, Oakwood Bottoms, Sangchris Lake, Mermet Lake, Rice Lake, Union County Public Shooting Area, Horseshoe Lake (Alexander County) Public Shooting Area, Sanganois, Glades, and Stump Lake.

Indiana

1. On all waters of Lake, Porter, LaPorte, Newton, Jasper, Starke, Elkhart, Kosciusko, LaGrange, Steuben, and Posey Counties and within 150-yard Zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. Within the boundaries of the following State-owned or State-operated properties: Jasper-Pulaski Fish and Wildlife Area in Pulaski County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservoir in Monroe and Brown Counties, and Glendale Fish and Wildlife Area in Daviess County, and the Tri-County Fish and Wildlife Area in Noble and Kosciusko Counties.

3. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

Iowa

In Fremont and Mills Counties on all waters and a 150-yard zone of land in these two counties adjacent to waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Missouri River and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

Ohio

On all waters of Erie, Ottawa and Lucas Counties and within a 150-yard zone of land

in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the nontoxic shot requirement.

Michigan

1. Saginaw Bay Area—That area of Iosco, Arenac, Bay, Saginaw, Tuscola and Huron counties: Beginning at a point at the tip of Tawas Point in Sec. 3, T21N, R8E, Iosco County; northeast north and west on Tawas Point Road to its intersection with Highway US–23 (Sec. 21, T22N, R8E); south and west on Highway US–23 in Iosco and Arenac Counties to the intersection with Highway M–13 (Sec. 2, T18N, R4E, Arenac County); south on Highway M–13 in Arenac and Bay counties to the intersection with interstate Highway I–75 (Sec. 13, T14N, R4E); south on I–75, US–23 to the intersection with Highway US–10 (Sec. 24 T14N, R4E); west on Highway US–10 to the intersection with Garfield Road (northeast corner Sec. 27, T14N, R3E); south on Garfield Road in Bay and Saginaw Counties to the intersection with Tittabawassee Road (southwest corner Sec. 35, T13N, R3E); west on Tittabawassee Road to intersection with Graham Road (northwest corner Sec. 4, T12N, R3E); south on Graham Road to the junction of Highways M–46 and M–52 (west quarter corner Sec. 28, T12N, R3E); south on Highway M–52 to Highway M–57 (southwest corner Sec. 7, T9N, R3E); east on Highway M–57 to Highway M–13 (southeast corner Sec. 13, T9N, R4E); north on Highway M–13 to Burt Road (northwest corner Sec. 31, TION, R5E); east on Burt Road to Highway I–75, US–10 and US–23 (Sec. 28, TION, R6F); north on Highway I–75 to Highway M–46 (Sec. 28, T12N, R5E); east on Highway M–46 to North Gera Road southeast corner (Sec. 27, T12N, R6E); north on North Gera Road to Highway M–15 (Sec. 23, T12N, R6E); north on Highway M–15 in Saginaw and Bay Counties to Munger Road (Sec. 18, T13N, R6E); east on Munger Road (M–138) in Bay County and Fairgrove Road (M–138), in Tuscola County to Vassar Road (southeast corner Sec. 13, T13N, R7E); north on Vassar Road to Highway M–25 east quarter corner (Sec. 13, T14N, R7E); east and north on Highway M–25 in Tuscola and Huron Counties to Kinde Road (Sec. 35, T18N, R10E); east on Kinde Road to Highway M–53 (southeast corner Sec. 36, T18N, R12E); north on Highway M–53 to the junction with Highway M–25 (Sec. 30, T19N, R13E); north from that point to the shoreline of Lake Huron and then northwesterly from this point to the point of beginning (tip of Tawas Point in Iosco County).

2. Houghton Lake Area—That area of Roscommon, Missaukee, Kalkaska and Crawford Counties:

Beginning at the intersection of State Highway M–55 and Highway M–76 in Roscommon County (southeast corner Sec. 10, T22N, R1W); north on Highway M–76 to the Village of Roscommon, then west and south on county road 100 to the intersection of county road 104 (Sec. 32, T24N, R3W); west on county road 104 to the intersection of Highway US–27 (Sec. 34, T24N, R4W); north on Highway US–27 to the intersection of Fletcher Road in Crawford County (Sec. 23, T25N, R4W); west and northwest on Fletcher Road to county road 571 in Kalkaska County (Sec. 8, T25N, R6W); south on county road 571 to Highway M–55 in Missaukee County (Sec. 32, T23N, R8W); then east on Highway M–55 to the point of beginning.

3. Eastern Upper Peninsula Area—That area of Mackinac and Chippewa Counties:

Beginning at the point where the Mackinac Straits Bridge intersects the Lake Huron shoreline of Mackinac County north on Highway I–75 to Highway M–134 (Sec. 4, T42N, R3W); east on Highway M–134 to Highway M–129 (southeast corner sec. 25, T42N, R1W); north on Highway M–129 to business loop I–75 (Sec. 7, T47N, R1E); north on business loop I–75 to downtown Sault Ste. Marie and extending on a line northward to the International Boundary between U.S. and Canada; east and south along the International Boundary on the St. Mary's River north channel and Lake Huron to a point west of the southwest corner of Cockburn Island (in Canada); west from that point on the International Boundary in Lake Huron to the south tip of Goose Island lying southwest of Marquette Island; continuing southwest in Lake Huron to the southernmost point of Mackinac Island and then west to the point of beginning.

4. Southwestern Michigan Area—That area of Muskegon, St. Joseph, Newago, Ottawa, Allegan, Van Buren, Cass, Kalamazoo, Calhoun, Barry, Ionia, Branch, and Kent Counties:

Beginning at the southwest meandor corner of Sec. 4, T12N, R18W, Muskegon County, west on a line across Lake Michigan to the state boundary between Michigan and Wisconsin; south along the State boundary to a point directly west of the mouth of the Black River (Sec. 9, T1S, R17W) Van Buren County; east along a line to the mouth of the Black River (Sec. 9, T1S, R17W); upstream along the south shore of the Black River to Highway US–31, then southerly along Highway US–31 to Highway M–43 (Sec. 14, T1S, R17W); easterly along Highway M–43 in Van Buren County to the junction with M–40 (Sec. 13, T2S, R14W); southerly along M–40 to the junction of M–216 (Marcellus) (Sec. 16, T5S, R13W) Cass County; easterly along M–216 to junction of US–131 (Sec. 19, T5S, R11W); south on US–131 and Business US–131 to junction with M–60 (Sec. 18, T6S, R11W) St. Joseph County; north on M–60 and M–66 to the junction with I–96 (Sec. 25, T6N, R7W) Ionia County; west on I–96 to the junction with M–37 (Sec. 13, T7N, R12W) Kent County; north on M–37 to 112 Street (north quarter corner Sec. 13, T11N, R13W); west on 112 Street to Warner Road (Sec. 13, T11N, R14W); north on Warner Road to Roth Road (NE corner, Sec. 26, T12N, R14W); west on Roth Road to Maple Island Road to Highway M–20 (southwest corner, Sec. 31, T13N, R14W) and continuing north on M–20 to Skeels Road (northeast corner Sec. 1, T12N, R15W); west on Skeels Road to Nichols Road (Sec. 2, T12N, R16W); south on Nichols Road to Fruitville Road (Sec. 2, T12N, R16W); west on Fruitville Road to Highway US–31 (Sec. 9, T12N, R17W); north on Highway US–31 to Meinert Road (Sec. 4, T12N, R17W); west on Meinert Road to the southwest meandor corner Sec. 4, T12N, R18W (the point of beginning).

5. Southeastern Michigan Area—That area of Shiawassee, Washtenaw, Genesee, Livingston, Oakland, Lenawee, Jackson, Wayne, Ingham, St. Clair, Macomb and Monroe Counties:

Beginning at a point on the Blue Water Bridge at the International Boundary between the United States and Canada (Sec. 35, T7N, R17E) St. Clair County; westerly and south on Highway I–94 in St. Clair, Macomb Counties to the junction with M–59; west on M–59 to the junction with Highway I–75 in Oakland County; northwest along Highway I–75 to the junction with Highway I–69 in Genesee County; southwest along Highway I–69 to the junction with Highway M–52 (Sec. 9, T5N, R2E) Shiawassee County; south on M–52 to the junction with Highway M–36 (Sec. 22, T2N, R2E) Ingham County; west on M–36 to the junction with Highway US–127 (Sec. 6, T2N, R1W) Ingham County; south along US–127 in Ingham and Jackson Counties (through City of Jackson) to the junction with Highway US–12 (Sec. 7, T5S, R1E) Lenawee County; easterly on US–12 to the junction with Highway I–94 (Sec. 18, T3S, R7E) Washtenaw County; easterly on I–94 to the junction with Highway I–275 in Wayne County; southerly along I–275 to the junction with I–75 in Monroe County; southerly along I–75 to the State line (Sec. 5, T17S, R8E); east along the State line between Michigan and Ohio to the shoreline of Lake Erie; northeasterly along the State line to the International Boundary in Lake Erie, northerly along the International Boundary in Lake Erie, the Detroit River, Lake St. Clair and the St. Clair River to the point of beginning.

Minnesota

1. All waters within the boundaries of all State Wildlife Management Areas and Federal Waterfowl Production Areas and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement. Controlled hunting zones of goose management areas are excluded from this provision, except the Roseau Wildlife Management Area which is included.

2. On the waters on Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties and within a 150-yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCresent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the Southern and Eastern Boundaries of the State to the confluence of

the St. Croix and Mississippi Rivers, thence

for hunting waterfowl anywhere on State-

Swinomish Channel; thence southerly and

in some cases refinancing) the costs of

the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

Missouri

Within the following areas on all waters and a 150-yard zone of land within the areas adjacent to these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded lands of all types. Drainage ditches and temporary sheet water more than 150-yards from water areas described above are excluded from the non-toxic shot requirement.

1. Squaw Creek Area: North boundary—Iowa-Missouri State line. East boundary—U.S. Highway I–29. South boundary—St. Joseph, Missouri city limits. West boundary—East bank of the Missouri River.

2. Swan Lake—Fountain Grove Area: North boundary—U.S. Highway 36. East boundary—State Highway 5. South boundary—State Highway 240 and U.S. Highway 65. West boundary—U.S. Highway 65.

3. Upper Mississippi River Area: North boundary—U.S. Highway 36. East boundary—Illinois-Missouri State line. South boundary—North bank of the Missouri River. West boundary—U.S. Highway 61.

4. Montrose—Schell-Osage Area: North boundary—State Highway 7. East boundary—State Highway 13. South boundary—U.S. Highway 54. West boundary—U.S. Highway 71.

5. Duck Creek—Mingo Area: North boundary—State Highway 34. East boundary—State Highways 51, 91, and 25. South boundary—U.S. Highway 62. West boundary—U.S. Highway 67 and State Highway 53.

Wisconsin

1. In that portion of the State lying west of the Burlington Northern Railroad in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties.

2. On all waters in the counties of Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowoc, Marquette, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Waukesha, Winnebago, Washington, Waupaca and Waushara, all of the Wisconsin River in Juneau and Adams Counties, and those portions of Oconto and Marinette Counties east of U.S. Highway 41, and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County islands in Green Bay and within a 150-yard zone of land adjacent to the margins of these waters, except that in the Horicon and Central goose management zones, non-toxic shot will be required for all waterfowl hunting. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above and the open water of Lake Michigan and Green Bay are excluded from the non-toxic shot requirements. All county boundary waters and lakes partially within a steel shot zone are totally included.

3. On any State wildlife area within the zones described in (2), steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas which are not within the zones described in (2): Mead Wildlife Area in Marathon, Wood and Portage Counties, Wood County Wildlife Area and Sandhill Wildlife Area in Wood County, Meadow Valley Wildlife Area in Juneau and Monroe counties.

CENTRAL FLYWAY

Kansas

Barton County: The Cheyenne Bottoms Wildlife Area except the south 200 yards west of U.S. 156 and east of the north-south centerline of S36, T18S, R13W in Barton County and that area west of U.S. 281 commonly known as the inlet canal.

Linn County: All of the Marais des Cygnes Wildlife Areas.

Montgomery County: All of the Elk City Reservoir and Wildlife Area including all lands and waters managed by the U.S. Corps of Engineers and the Kansas Forestry, Fish and Game Commission.

Neosho County: All of the Neosho Wildlife Area.

Reno County: All of the Cheney Reservoir and Wildlife Area including all lands managed by the U.S. Bureau of Reclamation and the Kansas Forestry, Fish and Game Commission. Also, that portion of Quivira National Wildlife Refuge in Reno County.

Stafford County: That portion of the Quivira National Wildlife Refuge in Stafford County.

Rice County: That portion of the Quivira National Wildlife Refuge in Rice County.

Nebraska

Clay and Fillmore Counties and in Kearney and Phelps Counties except on the waters of the Platte River.

Texas

J. D. Murphree Wildlife Management Area and Sea Rim State Park in Jefferson County.

PACIFIC FLYWAY

Nevada

The Stillwater Wildlife Management Area.

Oregon

Beginning at the Longview Bridge on the Columbia River, thence south on State Highway 30 to Portland, thence north from Portland on I–5 to the Oregon-Washington boundary, thence down the Columbia River along the Oregon-Washington boundary to the Longview Bridge and point of origin.

Washington

1. Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along Highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 536 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

2. Beginning at the Conway junction of Highway 530 and Fir Island Road, northwesterly along Fir Island Road to the Chilberg Road; thence northwesterly along Chilberg Road to LaConner and the Swinomish Channel; thence southerly and westerly along the red buoy line of Swinomish Channel to the Island County line; thence southeasterly along Island County line to State Highway 532; thence easterly along Highway 532 to State Highway 530 at Stanwood; thence northerly along State Highway 530 to the point of origin.

3. Beginning at the Longview Columbia River Bridge, thence north and east on Highways 433 (Oregon Way) and 432 (Tennant Way) to I–5; thence southerly along I–5 to the Washington-Oregon boundary; thence down the Columbia River along the Washington-Oregon boundary to the Longview Bridge and point of origin.

Dated: June 2, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-17096 Filed 6-4-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 255

Fishing Vessel Obligation Guarantee Program Procedures; Advances

AGENCY: National Marine Fisheries Service, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Current economic conditions have placed some fishing vessels in the unfavorable position of incurring increasing operational costs and receiving decreasing ex-vessel returns. The result is an increasing number of fishing vessel operators who are temporarily unable to service the long-term debt portion of vessel construction costs. This rulemaking establishes the circumstances and criteria under which the Secretary of Commerce will consider making advances on obligations guaranteed under the Fishing Vessel Obligation Guarantee Program in order to avoid possible payment defaults by fishing vessel operators who have been adversely affected by the current economic conditions.

EFFECTIVE DATE: June 5, 1980.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7496.

SUPPLEMENTARY INFORMATION: Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1271 et seq.) authorizes the Secretary of Commerce (the "Secretary") to guarantee or make a commitment to guarantee the payment of principal of and interest on obligations which aid in financing (and in some cases refinancing) the costs of construction, reconstruction, or reconditioning of vessels used in the fishing trade or industry and owned by United States citizens. In the event of the obligor's non-payment of an installment due on the guaranteed note that has continued for more than 30 days, the obligee has for a further 60 days the right to demand full payment of the entire balance of the guaranteed note from the Secretary. The Secretary must then pay to the obligee the full balance of the guaranteed note within 30 days from the date of the demand.

In some cases where the obligor has insufficient resources to pay an installment on the guaranteed note, the Secretary may decide to advance the funds which are necessary to avoid a payment default. This rulemaking sets forth the circumstances and the criteria under which the Secretary will make such advances.

Due to current economic conditions and the need to expedite the process of advancing funds to avoid payment defaults, the customary comment period will be waived and this regulation will become effective June 5, 1980.

Dated: May 22, 1980.

Winfred Meibohm,

Executive Director, National Marine Fisheries Service.

(Title XI Merchant Marine Act, 1936, as amended (46 U.S.C. 1271, et seq.) and Reorganization Plan No. 4 of 1979 (86 Stat. 909))

PART 255—FISHING VESSEL OBLIGATION GUARANTEE PROGRAM PROCEDURES

1. Accordingly, § 255.7 of this Part is promulgated as follows:

§ 255.7 Advance of payments on obligations.

The Secretary shall have the discretion to make or commit to make an advance or advances of installment payments on guaranteed obligations based on the determination that the obligor will be unable to do so and there is a reasonable expectation that such advances will be repaid or that it is in the Secretary's best interest to make such advances. The terms of an advance shall be satisfactory to the Secretary and shall include but not necessarily be limited to:

(a) The interest rate shall be equal to the greater of: (1) the sum of the effective interest rate borne by the guaranteed obligation and a guarantee fee computed in accordance with § 255.3(g)(1); (2) the sum of the interest rate Treasury would charge the Federal Ship Financing Fund for a similar borrowing of like maturity and a guarantee fee computed in accordance with § 255.3(g)(1); or (3) the New York City prime rate of interest.

(b) The advance may have a maturity date no later than that of the guaranteed obligation.

(c) The advance shall be repayable under conditions satisfactory to the Secretary.

(d) As long as any advance is outstanding, no dividends can be paid without the prior written consent of the Secretary provided, however, that if the obligation and such advance or advances are assumed by a non-affiliated company which was approved by the Secretary, this dividend restriction shall not apply unless it is expressly required by the Secretary.

(e) The advance, both as to principal and interest, shall be secured by the existing First Preferred Ship Mortgage on the financed vessel given by the Obligor to the Secretary and by such other additional collateral as the Secretary may require.

(f) Whether or not to make an advance shall be a matter of the Secretary's discretion and shall be governed by what the Secretary considers to be in his/her own best interest. No advances shall be made where the obligor has alternative resources from which funds sufficient to pay installments on the guaranteed note could be generated.

§§ 255.7–255.9 [Renumbered §§ 255.8–255.10]

2. Sections 255.7, 255.8, and 255.9 shall be renumbered as §§ 255.8, 255.9, and 255.10 respectively.

[FR Doc. 80-17115 Filed 6-4-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

V 45 J E 5 8 0 UMI

Proposed Rules

Federal Register
Vol. 45, No. 110
Thursday, June 5, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1493

CCC Export Credit Guarantee Program (GSM-102)

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the authority of Section 5 of the Commodity Credit Corporation Act, as amended (15 U.S.C. 714c), the Commodity Credit Corporation (CCC) is proposing an Export Credit Guarantee Program (GSM-102). The program will protect the U.S. exporter or the exporter's assignee from defaults in payments by foreign banks due to commercial or non-commercial risks on export credit sales of 3 years or less by the issuance of a payment guarantee by CCC. GSM-102 is intended to increase farm income and create a more favorable balance of trade for the United States by expanding international markets for exporters of U.S. agricultural commodities.

DATE: In order to assure consideration, comments must be received on or before July 21, 1980.

ADDRESS: Mail or deliver comments to Assistant Administrator for Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: L. T. McElvain, Chief, Commercial Export Credits Branch, Program Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447-3224. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from L. T. McElvain.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant." Kelly Harrison, General Sales Manager, Foreign Agricultural Service, has determined that an emergency situation exists which warrants less than a 60-day comment period on this proposed action because a timely adoption of the program is crucial to ensure continuity between CCC's direct financing program and its proposed guarantee program where financing would be provided by private U.S. banks. Both programs have the same market development objectives and since budget projections have been reduced for CCC direct financing export programs, it is therefore necessary to implement the new program as soon as possible in order to maintain the normal cycle of credit approvals and shipping schedules for commodities shipped under the CCC export programs to avoid possible loss of U.S. export markets.

The GSM-102 Export Credit Guarantee Program is designed to stimulate private financing of U.S. exports of agricultural commodities. The principal objectives of the program are: First, to expand and/or maintain export markets for U.S. agricultural commodities; and second, to permit certain developing countries with improved financial conditions to switch from reliance on U.S. financial aid under Pub. L. 480 to private financing at commercial rates of interest, generated through the GSM-102 Program.

Under the GSM-102 program, the foreign buyer contracts for the purchase of U.S. commodities on a deferred payment basis of 3 years or less and arranges for a bank in the destination country to issue a letter of credit to guarantee payment to the exporter. The exporter will then register the sale with CCC, pay a guarantee fee, and receive a payment guarantee. The exporter may assign both the account receivable and the CCC payment guarantee to a bank in the United States, which will then pay the exporter for the account receivable and agree to receive deferred payments from the foreign bank. The payment obligation is then owed by the foreign bank to the U.S. bank. CCC's payment guarantee will come into play only if the foreign bank fails to fulfill its obligation to pay the exporter or the assignee U.S. bank.

The GSM-102 Program is extremely similar to the Non-Commercial Risk Assurance Program (GSM-101). The major difference is that, in addition to the non-commercial risk coverage of the GSM-101 program, the GSM-102 program will also protect against commercial risks. The GSM-102 is intended to encourage U.S. banks to finance export credit sales when payment of such sales is secured by private foreign banks by protecting the U.S. banks from defaults of private foreign banks due to commercial risks. Since CCC's coverage of commercial as well as non-commercial risks will increase participation by private foreign banks, the regulations provide for CCC to approve the foreign banks utilized by the importer to eliminate from participation those foreign banks which do not meet acceptable financial standards.

The new program was developed as an improvement over the GSM-101 Program which tended to encourage participation by foreign government-owned banks. By providing for commercial risks coverage, more private foreign banks will be able to participate in the GSM-102 program thus allowing a wider range of foreign buyers to participate in the program.

The new GSM-102 program will provide for a comprehensive ("all risks") guarantee for the amount of principal covered, but banks will continue as they have under GSM-101, to assume a small portion of the risk. Under the GSM-101 Program, the CCC guarantee covers 100 percent of the port value and up to 6 percent per annum interest. Under the new program, CCC will have the flexibility to cover 100 percent of the port value plus interest not to exceed the Federal Reserve Discount Rate in effect at the time the application or the payment guarantee is received. However, it is expected that CCC will require the banks to take at least a 2 percent risk on the port value and initially it is expected that CCC will cover up to 8 percent per annum interest. The combined principal and interest covered under the two programs thus would be approximately equivalent. Depending on the transactions being considered, CCC may require banks to take more than 2 percent risk on the principal in some individual cases. Also, CCC will have the authority to assume more than 8 percent interest coverage whenever it determines that such an increase in coverage would be in the interest of the program. In all cases, however, banks will be expected to take a portion of the risk on each transaction.

It is expected that when the GSM-102 Program begins to operate, the GSM-101 Program will remain in effect principally for outstanding assurance agreements issued prior to the introduction of the GSM-102 Program.

Since the new program will continue the financing of U.S. agricultural exports at levels similar to those under existing export-promotion programs, no abrupt effect is anticipated on U.S. commodity markets or domestic prices.

The public is invited to submit written comments regarding the proposed rule to the above indicated address. Each person submitting comments regarding the proposed rule shall include his or her name and address and give reasons for any suggested changes in the proposed rule. Copies of all written communications received will be available for examination by interested persons in room 4079, South Agriculture Building, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250 during regular business hours.

PROPOSED RULE: Accordingly, it is proposed to amend Subchapter C of Chapter XIV of 7 CFR by adding a new Part 1493 CCC Export Credit Guarantee Program (GSM-102) and a new Subpart A thereunder as follows:

PART 1493—CCC EXPORT CREDIT GUARANTEE PROGRAM (GSM-102)

Subpart A—Guaranteeing Against Defaults by Foreign Banks

General

Sec.
1493.1 General statement.
1493.2 Definition of terms.

Guarantees Against Defaults

1493.3 Application for payment guarantee.
1493.4 Payment guarantee.

Guarantee Rates and Fees

1493.5 Guarantee rates.
1493.6 Guarantee fee.

Documents Required After Export

1493.7 Evidence of export.

Losses Caused by Defaults

1493.8 Notice of default.
1493.9 Payment of loss.
1493.10 Recovery of losses.

Miscellaneous Provisions

1493.11 Assignment.
1493.12 Convenant against contingent fees.
1493.13 Officals not to benefit.
1493.14 Exporter's records and accounts.
1493.15 Communications.

Authority: Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c(f)).

Subpart A—Guaranteeing Against Defaults by Foreign Banks

General

§ 1493.1 General Statement.

(a) This part contains the regulations governing the Commodity Credit Corporation (CCC) Export Credit Guarantee Program, also referred to herein as "GSM-102". Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold to such importers. The guarantee may be in the form of (1) an irrevocable foreign bank letter of credit issued in favor of the exporter who may draw drafts for the deferred payments to be presented to the foreign bank as such payments become due; or (2) an irrevocable foreign bank letter of credit which authorizes the exporter to draw drafts on and for acceptance by a U.S. correspondent bank of the foreign bank. The exporter may assign the account receivable to a U.S. bank or financial institution so that the exporter may realize the proceeds of the sale prior to the deferred payment dates, as called for in the export credit sale. GSM-102 is designed to protect the exporter or the exporter's assignee against loss from defaults in payment due to commercial and non-commercial risks under the letter of credit issued by the foreign bank to secure payments called for by the export credit sales agreement, or under the foreign bank's obligation owed to the assignee U.S. bank which is related to the letter of credit issued by the foreign bank in favor of the exporter. By transferring the risk of loss due to defaults in payment by foreign banks from the exporters and their financing institutions to CCC, GSM-102 is intended to: facilitate exportation; forestall or limit declines in exports; permit exporters to meet competition from other countries; and increase commercial exports of U.S. agricultural commodities.

(b) GSM-102 will be administered by the General Sales Manager, Foreign Agricultural Service (FAS), U.S. Department of Agriculture.

(c) The provisions of Pub. L. 83-664 (Cargo Preference Act) are not applicable to shipment of commodities covered under GSM-102 protection.

(d) GSM-102 may be supplemented by USDA announcements.

§ 1493.2 Definition of terms.

(a) "Assistant General Sales Manager" means the Assistant General Sales Manager, Export Credits, Foreign Agricultural Service, or designee of the Assistant General Sales Manager.

(b) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(c) "Date of export" means the onboard date of an ocean bill of lading or onboard ocean carrier date of an intermodal bill of lading.

(d) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the importer under which a firm dollar-and-cent price has been established or a mechanism to establish the price has been agreed upon.

(e) "Eligible interest" means the maximum amount of interest which CCC agrees to pay the exporter as indicated in CCC's payment guarantee. Eligible interest will be shown in the payment guarantee and shall not exceed the Federal Reserve Discount rate in effect on the date CCC receives the exporter's application for a payment guarantee.

(f) "Exported value" means the value of the commodity exported under the payment guarantee basis f.a.s. or f.o.b. points of export.

(g) "Exporter" means an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity that is: (1) financially responsible; (2) engaged in the business of buying or selling commodities for export and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the United States; and (3) not suspended or debarred from contracting with or participating in any program administered by CCC on the date of issuance of the payment guarantee.

(h) "FAS" means the Foreign Agricultural Service, U.S. Department of Agriculture.

(i) "Foreign bank letter of credit" means: (1) an irrevocable commercial letter of credit calling for deferred payments and issued in favor of the exporter by a CCC-approved banking institution in the destination country pursuant to an export credit sale requiring payment in U.S. dollars; or (2) an irrevocable commercial letter of credit issued in favor of the exporter by a CCC-approved banking institution in the destination country pursuant to an export credit sales requiring payment in U.S. dollars, which is supported by a related obligation calling for deferred payment in U.S. dollars from the banking institution issuing the letter of credit to a financial institution in the United States.

(j) "Guaranteed value" means the maximum amount CCC agrees to pay

CCC within 30 business days after the

the exporter under CCC's payment guarantee, exclusive of interest. The guaranteed value will be shown in the payment guarantee.

(k) "Importer" means a foreign buyer who enters into an export credit sale contract with a U.S. exporter.

(l) "Payment gurantee" means the written agreement under which CCC undertakes, for a period not exceeding 3 years after export, to protect the exporter or the exporter's assignee from losses due to defaults in payment by a foreign bank under the foreign bank's letter of credit supporting the exporter's export credit sales contract or under the foreign bank's obligation owed to the assignee U.S. bank related to the foreign bank's letter of credit issued in favor of the U.S. exporter.

(m) "Port value" means the total value of the export credit sale, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. points of export. Such value shall include the amount of the upward loading tolerance, if any, as provided for by the export credit sales contract.

(n) "USDA announcement" means an announcement issued by the U.S. Department of Agriculture supplementing these regulations. An announcement may include identification of eligible agricultural commodities and countries, dollar limitation of CCC exposure in a country and other information.

Guarantees Against Defaults

§ 1493.3 Application for payment guarantee.

(a) An exporter shall submit a written application (e.g., letter, telex, or TWX) for a payment guarantee to the USDA office specified in § 1493.15. An application may be made by telephone but, if so made, it must be confirmed in writing. An application shall include the full business name and address of the exporter and the following:

(1) Name of the destination country.
(2) Name and address of importer.
(3) Intervening purchaser, if any.
(4) Date of sale.
(5) Exporter's sale number.
(6) Delivery period.
(7) Kind and description of the commodity.
(8) Quantity.
(9) Contract loading tolerance.
(10) Port value, including upward loading tolerance.
(11) Guaranteed value.
(12) Guarantee fee.
(13) The name and address of the foreign bank issuing letter of credit.
(14) Estimated payment schedule(s) for each shipment to be made under the export credit sale showing estimated payment due dates and estimated amounts due separately for both principal and interest.

(b) An application for a payment guarantee may be approved as submitted, approved with modifications, or rejected by the Assistant General Sales Manager. In the event the application is approved, the Assistant General Sales Manager shall cause a payment guarantee to be issued in favor of the U.S. exporter.

§ 1493.4 Payment guarantee.

(a) The payment guarantee shall provide that CCC will pay the U.S. exporter or the exporter's assignee in U.S. dollars for losses resulting from the failure of the foreign bank which issues the bank letter of credit securing the export credit sale to honor drafts drawn upon it or othewise to remit amounts properly due the exporter or the exporter's assignee.

(b) The payment guarantee shall become effective on the date(s) of export(s) of the agricultural commodities sold by the exporter to the importer and continue in force until the end of the period covered by the final payment schedule not exceeding 36 months from the dates of such export(s). Exports made prior to receipt by CCC of a telephonic or written application for a payment guarantee or exports made after the final date for export shown on the payment guarantee or amendment thereof are ineligible for GSM–102 coverage, except where it is determined by the Assistant General Sales Manager to be in the interest of CCC.

(c) The payment guarantee may contain such terms, conditions, and limitations not inconsistent with GSM–102 as are deemed necessary or desirable by the Assistant General Sales Manager.

(d) The payment guarantee may be amended by the parties thereto, provided that such amendment is in conformity with GSM–102 at the time the amendment is approved. Amendments may include a change in the credit period or an extension of time to export. Any amendment to the payment guarantee may be subject to an increase in the guarantee fee.

Guarantee Rates and Fees

§ 1493.5 Guarantee rates.

The payment guarantee rates will be based upon the length of the payment terms provided by the export credit sale contract, the degree of risk that CCC assumes, and any other factors which CCC believes should be considered. Guarantee rates charged by CCC under GSM–102 will be available upon request from the USDA office specified in § 1493.15.

§ 1493.6 Guarantee fee.

(a) The guarantee fee will be computed on the basis of the guarantee rate and the guarantee value.

(b) The exporter shall remit, with his written application (e.g., letter, telex, or TWX), the full amount of the fee based on the guarantee rate. If the application is submitted by telephone, final approval will not be given until the fee and a written application have been received by CCC. Approval of the application will be final and refund of the guarantee fee will not be made after approval unless the Assistant General Sales Manager determines that such a refund will be in the interest of Commodity Credit Corporation.

(c) If the application for a payment guarantee is not approved or is approved only for a part of the coverage requested, a full or pro rata refund of the remittance will be made. The guarantee fee shall be made payable to CCC and mailed to the office specified in § 1493.15.

Documents Required After Export

§ 1493.7 Evidence of export.

(a) The exporter shall provide a written report to the office specified in § 1493.15 within 20 days following each export covered under the payment guarantee. This report shall include the following:

(1) Payment guarantee number.
(2) Date of export.
(3) Exporter's sale number.
(4) Exported value.
(5) Kind, quantity, and description of the commodity exported.
(6) Statement that the agricultural commodities of the grade, quality, and quantity called for in the exporter's sales contract with the foreign importer have been exported to the country specified in the payment guarantee.
(7) A statement that the exporter has documents evidencing the obligation of the foreign importer and that such documents will be retained until three years after maturity of the related payment guarantee.
(8) A statement that a letter of credit has been opened in favor of the exporter by the foreign bank shown in the payment guarantee to cover the port value of the commodity exported.
(9) A final payment schedule showing the payment due dates and the amount due, separately for both the principal and the estimated interest for which credit has been extended to the importer.

(b) If the report required by paragraph (a) of this section is not received by CCC within 20 business days after the date of the export, the payment guarantee shall become null and void with respect to defaults in payment applicable to such export. This provision may be waived by the Assistant General Sales Manager for good cause shown.

Losses Caused by Defaults

§ 1493.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to make a remittance pursuant to the terms of the foreign bank letter of credit or the obligation owed by the foreign bank to the assignee U.S. bank which is related to the foreign bank's letter of credit issued in favor of the exporter, the exporter or the exporter's assignee shall promptly furnish a written notice of default to the Treasurer, CCC, at the address indicated in § 1493.11. The notice shall include the payment guarantee number, the amount due, the date of refusal to pay and reason for the default, if known.

(b) Within 30 days after the notice of default, the exporter or the exporter's assignee shall furnish a claim for loss to the Treasurer, CCC, with the following information and documents:

(1) Payment guarantee number
(2) A certification that the scheduled payment has not been received
(3) A copy, certified as true and correct by the exporter or the exporter's assignee, of each of the following:
(i) Foreign bank letter of credit securing the export credit sale and, if applicable, the obligation owed by the foreign bank to the assignee U.S. bank which is related to the foreign bank's letter of credit issued in favor of the exporter.
(ii) Export credit sales contract.
(iii) Ocean carrier or intermodal bill(s) of lading with onboard ocean carrier date for each shipment.
(iv) Invoice(s) showing the exported value of the commodity.

(c) A claim for a loss by the exporter or the exporter's assignee shall not be honored if it is not made in writing to the Treasurer, CCC, prior to the expiration of six months from the date of default of the scheduled payment.

§ 1493.9 Payment of loss.

(a) Upon receipt of the information required under § 1493.8, and such evidence as CCC may deem necessary for the purpose of establishing that the loss was occasioned by a default in payment by the foreign bank, CCC shall promptly determine whether or not a loss has occurred for which CCC is liable under the applicable payment guarantee and these regulations. CCC will promptly notify the exporter of its determination.

(b) CCC's maximum liability will be limited to the lesser of (1) guaranteed value as shown in the payment guarantee plus eligible interest or (2) the percentage of the exported value as specified in the payment guarantee, plus eligible interest. The liability of CCC shall be reduced to the extent that the exporter has obtained other valid and collectible coverage for such loss.

(c) CCC shall only honor claims for losses on amounts not paid as scheduled. CCC shall not honor claims for amounts due under an accelerated payment clause in the export credit sales contract, the foreign bank's letter of credit, or any obligation owed by the foreign bank to the assignee U.S. bank which is related to the foreign bank's letter of credit issued in favor of the exporter, unless it is determined to be in the interest of CCC by the Assistant General Sales Manager.

(d) If CCC determines that it is liable to the exporter and/or the exporter's assignee, the exporter and/or the exporter's assignee shall execute and submit to CCC an instrument, in form and substance satisfactory to CCC, subrogating to CCC their respective rights for the amount of payment in default under the applicable export credit sale. After receipt of an instrument of subrogation, CCC will remit to the exporter or the exporter's assignee the amount of the combined principal and interest loss covered by the payment guarantee plus interest at a rate not to exceed the Federal Reserve Bank of New York discount rate in effect on the date of default, beginning with the 31st day after notice of default was received by CCC and continuing to the date payment is made by CCC.

(e) Upon payment of a claim to the exporter or the exporter's assignee, the exporter or the exporter's assignee shall cooperate with CCC to effect recoveries from the foreign bank and/or the importer.

§ 1493.10 Recovery of losses.

(a) Upon payment of loss to the exporter or the exporter's assignee, CCC will notify the importer and/or the foreign bank of CCC's rights under the subrogation agreement to recover all monies in default.

(b) In the event monies for the defaulted payment are received by the exporter or the exporter's assignee from the importer, foreign bank or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC.

(c) Recoveries made by CCC from the importer or foreign bank and recoveries received by CCC from the exporter or the exporter's assignee or any other source shall be allocated by CCC to the exporter or the exporter's assignee and CCC on a pro rata basis as their respective interest may appear. The respective interest shall be determined on a pro rata basis, based on the combined amount of principal, plus interest according to each party's liability.

(d) Notwithstanding any other terms of the payment guarantee, the exporter shall be liable to CCC for any amounts paid by CCC under the payment guarantee when and if it is determined by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by the exporter for the purpose of obtaining the payment guarantee.

Miscellaneous Provisions

§ 1493.11 Assignment.

(a) The exporter may make an assignment of the proceeds payable by CCC under the payment guarantee only to a bank or other financing institution in the United States. The assignment shall cover all amounts payable under the payment guarantee not already paid and shall not be made to more than one party, and shall not be subject to further assignment unless approved by CCC.

(b) An original and two copies of the written notice of each assignment of monies that may be due or come due from CCC together with one signed copy of the instrument of assignment, which shall be a true copy of the original, must be filed by the assignee with the Treasurer, CCC, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(c) Receipt of the notice of assignment shall be acknowleged by an official of CCC.

§ 1493.12 Convenant against contigent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the payment guarantee or that there is any agreement or understanding for commission, percentage, brokerage, or contingent fee, except in the case of bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right, without limitation of any other rights it may have, to annul the payment guarantee without liability to CCC.

§ 1493.13 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the payment guarantee or to any benefit

that may arise therefrom, but this

A public docket will be available for

Instrument Approach Procedures (SIAP)

that may arise therefrom, but this provision shall not be construed to extend to the payment guarantee if made with a corporation for its general benefit.

§ 1493.14 Exporter's records and accounts.

Authorized officials of USDA shall have access to and the rights to examine any pertinent books, documents, papers, and records of the exporter and/or the exporter's assignee involving transactions related to the export credit sale covered by the payment guarantee until 3 years after expiration of the coverage of the related payment guarantee.

§ 1493.15 Communications.

Unless otherwise provided, written requests, notifications, or communications concerning the payment guarantee shall be addressed to the Assistant General Sales Manager, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Signed at Washington, D.C. on May 30, 1980.

Fred Welz,

Acting Vice President, Commodity Credit Corporation and Acting General Sales Manager, Foreign Agricultural Service.

[FR Doc. 80-17087 Filed 6-4-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-NE-16]

Amendment of 700-Foot Transition Area, Newport, Vt.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the description of the Newport Vermont, 700-foot transition area so as to provide added protected airspace for aircraft executing an amended Non-Directional Radio Beacon (NDB), Standard Instrument Approach Procedure (SIAP) at Newport State Airport, Newport, Vermont.

DATES: Comments must be received on or before June 30, 1980.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-16.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-16, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before June 30, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the Newport, Vermont, 700-foot transition area.

The amendment will add controlled airspace to the transition area, to provide protected airspace for aircraft executing an amend Non-Directional Radio Beacon (NDB), Standard Instrument Approach Procedure (SIAP) to the Newport State Airport, Newport, Vermont.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by changing the description of the Newport, Vermont, 700-foot transition area as follows:

1. Delete the present description in its entirety and substitute in lieu thereof:

"That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Center, 44 degree 53'22"N, 72 degree 13'48"W, of Newport State Airport, Newport Vermont, within 3 miles each side of the 045 degree M/029 degree T bearing from the Newport, Vermont, NDB extending from the 5-mile radius area to 8 miles northeast of the NDB, excluding the portion overlying Canada."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978.) The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Mass., on May 23, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-16931 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 441

Medicare and Medicaid Programs; Prohibition Against Payment for Less Than Effective Drugs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would prohibit the use of Federal funds to pay for certain drugs under the Medicare and Medicaid programs (titles XVIII and XIX of the Social Security Act). It would bar the expenditure of Federal funds under these programs for drugs that the Food and Drug Administration of HHS has concluded, in a final determination, are not effective for any indicated use. In addition, it would prohibit reimbursement for drugs (with certain exceptions) that have not been approved by the Food and Drug Administration for sale in interstate commerce. The purpose of this proposal is to ensure that care and services provided under these two programs are of high quality, and that Federal funds are expended in an effective and responsible manner.

DATES: To assure consideration, comments should be received by: August 4, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, and Human Services, Department of Health, P.O. Box 17073, Baltimore, Maryland 21235.

Comments may be hand delivered to:

Health Care Financing Administration, Room 309G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

or

Health Care Financing Administration, Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-70-F. Comments will be available for public inspection beginning approximately two weeks from today, in Room 309G of our offices at 200 Independence Avenue, SW., Washington, D.C. on Monday through Friday 8:30 a.m. to 5 p.m. (202-245-0950). Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 594-6719.

SUPPLEMENTARY INFORMATION: Both the Medicare program under title XVIII and the Medicaid program under title XIX of the Social Security Act reimburse, under certain circumstances, for drugs provided to eligible individuals. Medicare is authorized under sections 1812(a), 1832(a), 1861(b)(2), 1861(h)(5), 1861(s)(2) and 1861(t) to provide coverage of drugs when they are furnished in a hospital or skilled nursing facility or by a physician. Medicare's regulations implementing these statutes are included in 42 CFR 405.116(a), 405.125(a), and 405.231.

Under the Medicaid program States may reimburse for prescribed drugs as an optional item of service under section 1905(a)(12) of the Act. As specified in 42 CFR 440.120, drugs must be prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her professional practice as defined and limited by Federal and State law. Currently, 52 of the 54 States and jurisdictions with Medicaid programs include coverage of prescribed drugs.

Background

The 1962 amendments to the Federal Food, Drug, and Cosmetic Act (Pub. L. 87-781, October 10, 1962) require that new drugs as defined in that Act be determined effective, as well as safe, before they can be approved by the Food and Drug Administration (FDA) for marketing. In addition to new drugs proposed for marketing in the future, this requirement applied retroactively to all drugs approved as safe by FDA for 1938 to 1962. To implement this requirement, FDA developed procedures to reevaluate for effectiveness those drugs previously approved for safety. As a result of this reevaluation, approximately 6900 drug products have been removed from the market. (This figure includes both previously approved drug products and identical, similar or related products.) However, some drugs that have been initially classified as less than effective by FDA remain on the market until FDA completes its review process.

Under the drug review procedure, FDA, Bureau of Drugs has published in the **Federal Register** its initial decision on all drug products in the Drug Efficacy Study Implementation (DESI) program, and manufacturers have had an opportunity to submit additional data to support the therapeutic claims for the drug products that were initially determined to be less than effective. If the Bureau of Drugs then decides that a drug product has not been proven effective for the condjtions it is intended to treat, the Bureau publishes in the **Federal Register** a Notice of Opportunity for Hearing (NOOH) proposing to withdraw approval for marketing. This notice affords the manufacturer an opportunity for a hearing before a final determination by FDA that a drug is not shown to be effective for any claim and is no longer approved for marketing.

We have decided to propose a prohibition on the use of Medicare and Medicaid funds for purchase of less than effective drugs as specified below.

Provisions of the Regulation

1. *Drugs affected.*—Three categories of drugs are affected by this proposal. The first category includes those drugs, previously approved by FDA, that the FDA has reevaluated for efficacy, has made a final determination that they are less than effective for all indications, and has withdrawn its approval for marketing. We believe that this proposal would lessen, for both Medicare and Medicaid beneficiaries, the risk of taking drugs that may unnecessarily delay medically appropriate therapy and result in possible harm. We do not believe that Federal funds should be used to pay for drugs that have been determined, after an extensive review and reconsideration process, to be less than effective.

The second category includes other products that are identical, related or similar to the first category. These products are so-called "me-too" drugs that were marketed under different names or by different firms, without FDA's approval. The NOOH specifically names only those drug products that are the subject of new drug applications. It is not feasible for FDA to list identical, related and similar products that are not explicitly subjects of new drug applications. However, it is essential that efficacy decisions be applied to all identical, related or similar drug products. Consequently, FDA applies the same regulatory policy to these drug products even though they are not listed in the **Federal Register** notice. The FDA regulations specify that manufacturers and distributors of drugs should review their products as drug efficacy notices are published, and assure that their identical, related or similar products comply with the drug efficacy notices.

The third category includes drugs, such as Laetrile, that are subject to pre-market approval, but have been introduced onto the market without seeking FDA's approval. While these drugs have not been approved by FDA for sale across State lines (interstate commerce), some are currently authorized by certain States to be prescribed legally and are being marketed within a State's boundaries. As a result, Federal funds under Medicaid have been available for their purchase in these States. Medicare funds have not been available for these drugs, because our long-standing program policy under the authority of Section 1862(a)(1) of the Act has been not to pay for drugs of this type. This section specifies that Medicare will not provide reimbursement for items or services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Under this proposal, this long-standing policy (Section 3101.3 B of the Medicare Part A Intermediary Manual) would be incorporated into Medicare

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regulations. The proposal reflects this policy for the Medicaid program as well.

While the proposed regulation would prohibit Medicaid and Medicare reimbursement for drugs that require approval for interstate marketing, but are not approved by FDA, we are providing an exception for certain cases in which HCFA determines that payment would be appropriate. For example, based on a recommendation by the Public Health Service of the Department, we have determined that coverage would be appropriate for certain drugs (known as Class C drugs) that are distributed, in cooperation with the FDA, by the National Cancer Institute to physicians registered under its Cancer Therapy Evaluation Program. Drugs are classified in Class C only if there is sufficient evidence demonstrating their efficacy within a tumor type and the possible benefit to the patient exceeds the risk. We are revising program manual instructions to reflect our determination. The proposed exception in the Medicare and Medicaid regulations would permit decisions of this type to be made in appropriate future cases.

2. *Point of termination of Federal reimbursement.*—We are proposing to terminate Federal reimbursement for the affected drugs after the administrative review process described above is completed (i.e., at the point, after the NOOH and the completion of any hearing that is held, when FDA makes a *final* determination that a drug has not been proven effective). The FDA publishes this determination in the **Federal Register**. Court appeals may then be made, which may result in court orders to permit the continued selling of the drug until litigation is concluded. It should be noted that, under our proposal, we would not reimburse for the affected drugs during any appeal or court stay of FDA's final ruling. We believe to do so would represent unnecessary risks to individuals.

We considered but decided against proposing termination of Medicare and Medicaid reimbursement at the time the Bureau of Drugs within the FDA publishes the NOOH. In 1970, the Surgeon General implemented a policy prohibiting the use of Federal funds in Public Health Service programs for drug products still on the market, but classified as "less than effective" by the Bureau of Drugs, unless no alternative means of therapy exists. The General Accounting Office (GAO) and the FDA have recommended that HHS issue regulations to expand this policy to the Medicare and Medicaid programs, based on the fact that some drugs initially classified by the Bureau of Drugs as "less than effective" still remain on the market. The Bureau's determination, however, rests on the manufacturer's failure to demonstrate affirmatively by substantial evidence the drug's effectiveness. The Bureau's decision is not a decision of the FDA as a whole or of its Commissioner. Although the manufacturer has had notice and the opportunity to submit evidence about its product before the NOOH stage, the manufacturer has not had its statutory opportunity to contest the Bureau determination. The proposed regulation would permit continued federal reimbursement under Medicare and Medicaid for a questioned drug until the administrative record is complete and the Commissioner makes a final agency decision that the drug has not been determined to be effective.

The policy underlying this proposed regulation respects the exercise of professional judgment by those responsible for the care of patients. The Department assumes a measure of this responsibility through many of its own PHS programs and when thus directly involved, has fostered the utilization of drugs whose efficacy is not in question. However, in all situations outside of PHS programs, for the period of time before the FDA's final decision, the questioned drugs remain available to the public to the extent that physicians continue to prescribe them. We believe that when these physicians exercise their professional judgment and prescribe such drugs, patients receiving Medicare or Medicaid should not be prevented from receiving the drug their physician has chosen.

While we believe that the proposed regulation governing HCFA reimbursement is compatible with the existing PHS policy, that policy and its implementation will be considered in the review of comments received in response to this Notice.

3. *Effective date.*—The prohibition on the use of Medicare funds to pay for less than effective drugs furnished to beneficiaries would apply to drugs furnished on or after the effective date of the final FDA efficacy determination, as published in the **Federal Register**. Similarly, for Medicaid, the prohibition on federal financial participation (FFP) would cover purchases made by recipients beginning on or after that same date. We will coordinate our procedures with FDA so that prompt notice of the FDA action can be given to Medicare contractors (intermediaries and carriers), State Medicaid agencies, physicians, pharmacists, medical facilities and others.

42 CFR Chapter IV is amended as set forth below.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405 is amended by revising § 405.310(k) to read as follows:

§ 405.310 Types of expenses not covered.

Not withstanding any other provisions of this Part 405, no payment may be made for any expenses incurred for the following items or services:

* * * * *

(k) Those which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (thus, payment could not be made for the rental of a special hospital bed to be used by an individual in his home if it was not a reasonable and necessary part of the individual's treatment). This includes:

(1) Any drug that the Food and Drug Administration (FDA) classifies as less than effective for any treatment in a final determination published in the **Federal Register;**

(2) Any identical, similar or related drug, as defined in 21 CFR 310.6 of the FDA regulations, whether or not it is listed in the Notice of Opportunity for Hearing published by FDA in the **Federal Register**, or specifically named in FDA's final determination published in the **Federal Register**. This prohibition against payment and that in paragraph (k)(1) of this section apply to drugs furnished on or after the effective date of the final FDA determintion; or

(3) Any drug that cannot be legally marketed in interstate commerce because FDA has not approved it, except those specifically determined by HCFA to be appropriate for coverage.

* * * * *

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

B. Part 441 is amended as set forth below:

1. The table of contents is amended to add a new § 441.25 to Subpart A as follows:

Subpart A—General Provisions

441.10 Basis.
441.11 Continuation of FFP for intitutional services.
441.13 Prohibitions on FFP: Institutionalized individuals.
441.15 Home health services.
441.20 Family planning services.
441.25 Prohibitions on FFP for certain prescribed drugs.

* * * * *

2. Section 441.10(d) of Subpart A is amended and as revised § 441.10 reads as follows:

§ 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

(a) Sections 1902(a)(13)(A)(ii) and 1905(a)(7) for home health services (§ 441.15).

(b) Section 1905(a)(4)(C) for family planning (§ 441.20).

(c) Section 1905 (a)(12) and (e) for optometric services (§ 441.30).

(d) Section 1102 for end-stage renal disease (§ 441.40) and certain prescribed drugs (§ 441.25).

(e) Section 1905(a) (following (a)(17)), which prohibits FFP in expenditures for certain services (§ 441.12).

3. A new § 441.25 is added to Subpart A as follows:

§ 441.25 Prohibition on FFP for certain prescribed drugs.

(a) *Prohibition.* FFP is not available in expenditures for purchase of—

(1) Any drug that the Food and Drug Administration (FDA) classifies as less than effective for any treatment in a final determination published in the **Federal Register;**

(2) Any identical, similar or related drug, as defined in 21 CFR 310.6 of the FDA regulations, whether or not it is listed in the Notice of Opportunity for Hearing published by FDA in the **Federal Register,** or specifically named in FDA's final determination published in the **Federal Register;** or

(3) Any drug that cannot be legally marketed in interstate commerce because FDA has not approved it, except those specifically determined by HCFA to be appropriate for coverage.

(b) *Effective date of prohibition.* The prohibition on FFP for drugs specified in paragraphs (a)(1) and (2) of this section applies to drugs purchased on or after the effective date of the final FDA determination.

(Section 1102, and 1862(a) of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program. No. 13.773 Medicare—Hospital Insurance, and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 1, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 27, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-16998 Filed 6-4-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5835]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872, (in Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4 (a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entitites. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Alabama	City of Carbon Hill, Walker County.	Lost Creek	Just downstream of U.S. Hwy 78	*403
			Just upstream of County Road 63 (Pine Street)	*414
Maps available at City Hall, Maple Street and Second Avenue, Carbon Hill, Alabama 35549.				
Send comments to Mayor Sam Stewart or Jacky Mays, Mayor Pro-Tem, City Hall, P.O. 459, Carbon Hill, Alabama 35549.				
Alabama	City of Cordova, Walker County	Cane Creek (Backwater from Mulberry Fork).	Just upstream of County Road 22	*280
			Just upstream of County Road 61	*280
		Mulberry Fork	Just downstream of County Road 30	*280
			Just upstream of St. Louis San Francisco Railroad Crossing	*280
Maps available at City Hall, 115 Jasper Street, Cordova, Alabama 35550.				
Send comment to Mayor Jimmy Alexander or Troy Windsor, Mayor Pro-Tem, City Hall, P.O. Box 1589, Cordova, Alabama 35550.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Montevallo, Shelby County	Shoal Creek	Just upstream of Main Street	*387
			Just upstream of Overland Road	*411
		King Creek	Approximately 180 feet downstream of County Highway 204	*387
		Spring Creek	Confluence of Spring Creek and Dry Creek	*415
		Dry Creek	Approximately 100 feet downstream of County Highway 12	*428
	Maps available at City Hall, 53 South Main Street, Montevallo, Alabama 35115.			
	Send comment to Mayor Ralph W. Sears or Mr. J. A. Brown, Mayor Pro-Tem, City Hall, 53 South Main Street, Montevallo, Alabama 35115.			
Alabama	Town of Walnut Grove, Etowah County.	Locust Fork of Black Warrior River	Just upstream of U.S. Highway 278	*827
		Payne Branch	Just upstreasm of U.S. Highway 278	*827
			Just upstream of Old Asheville Road	*841
	Maps available at City Hall, Blountsville-Gadsden Road, Walnut Grove, Alabama 35990.			
	Send comments to Mayor W. T. Scruggs or Ruben Besherars, Councilman, P.O. Box 146, Walnut Grove, Alabama 35990.			
California	Los Angeles (City) Los Angeles County	Weldon Canyon	110 feet upstream from center of Golden State Freeway Bridge	*1,345
		Kagel Canyon	100 feet upstream from center of Osborne Street	*1,130
			Intersection of Kagel Canyon and city corporate limits	*1,154
		Rustic Canyon	400 feet east from the intersection of Sunset Boulevard and Will Rogers State Park Road.	*201
			30 feet upstream from center of Sunset Boulevard	*235
		Shallow Flooding (Sheet Flow)	At intersection of Third Street and Fairfax Avenue	#1
			At intersection of Exposition Boulevard and LaBrea Avenue	#1
			At intersection of Third Street and LaCienega Boulevard	#2
			At intersection of Lemarsh Street and Canoga Boulevard	#2
			At intersection of Prosser Avenue and Tennessee Avenue	#3
			At intersection of Foothill Boulevard and Tujunga Valley Street	#3
		Shallow Flooding (Ponding)	At the intersection of Denker Avenue and 205th Street	*43
			At intersection of Topham Street and Oxnard Avenue	*756
		Shallow Flooding (Deep Ponding)	50 feet east from the intersection of Santa Susanna Place and Canyon Place.	*909
			100 feet east from the intersection of Rexbon Road and Mayerling Street.	*1,275
	Maps available at City Engineer's Office, 200 North Street, Los Angeles, California.			
	Send comments to the Honorable Thomas Bradley, 200 North Street, Los Angeles, California 90012.			
Kansas	(Uninc.) Douglas County	Kansas River	About 2500 feet downstream of Township Road 25	*797
			At eastern corporate limit of City of Lawrence	*820
			About 4000 feet downstream of Kansas Turnpike	*829
			At confluence of Oakley Creek	*845
			At Douglas and Shawnee county boundary	*862
		Wakarusa River	Mouth at Kansas River	*805
			At Atchison, Topeka and Santa Fe Railway	*807
			Just upstream of Township Road 5	*818
			Just upstream of Haskell Avenue	*825
			At U.S. Highway 59	*829
			About 2000 feet upstream of confluence of Washington Creek	*834
		Little Wakarusa Creek	At mouth	*810
			About 0.8 mile upstream of Township Road 359	*810
			About 2.4 miles upstream of Township Road 359	*817
		Coon Creek	Mouth at Kansas River	*850
			About 100 feet upstream of County Road 432	*858
			About 1200 feet upstream of confluence of Coon Creek Tributary	*861
			About 7000 feet upstream of confluence of Coon Creek Tributary	*900
			About 3.1 miles upstream of confluence of Coon Creek Tributary	*941
		Baldwin Creek	At mouth at Kansas River	*835
			About 2100 feet upstream of County Road 1041	*836
			About 100 feet downstream of County Road 438	*839
			Just upstream of County Road 438	*842
			About 100 feet upstream of Township Road 364	*850
			Just upstream of Township Road 82	*869
			About 5725 feet upstream of confluence of Baldwin Creek Tributary	*885
			About 2.2 miles upstream of confluence of Baldwin Creek Tributary	*921
		Baldwin Creek Tributary	At confluence with Baldwin Creek	*870
			About 900 feet upstream of confluence with Baldwin Creek	*871
			About 3400 feet upstream of confluence with Baldwin Creek	*887
			About 7300 feet upstream of confluence with Baldwin Creek	*930
		Quail Creek	Mouth at Yankee Tank	*832
			About 2600 feet upstream of mouth	*836
		Coal Creek	At mouth	*819
			About 575 feet upstream of County Road 458	*824
			About 150 feet downstream of County Road 460	*859
			Just upstream of County Road 460	*862
			About 1600 feet upstream of County Road 460	*863
			Just upstream of Township Road 56	*880
			Just downstream of Township Road 43	*905
		Vinland Creek	Confluence with Coal Creek	*833
			Just upstream of Township Road 97	*846
			At confluence of West Fork Vinland Creek and East Fork Vinland Creek.	*854

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Fork Vinland Creek	Just downstream of County Road 1055	*659
			Just upstream of County Road 1055	*862
			About 4000 feet upstream of County Road 1055	*882
		West Fork Vinland Creek	Just downstream of County Road 1055	*858
			About 75 feet upstream of County Road 1055	*865
			About 1100 feet downstream of Township Road 3	*875
			About 1050 feet upstream of Township Road 3	*894
		Pleasant Grove West	At mouth at Pleasant Valley Tributary	*829
			About 0.6 mile upstream of Township Road 12-A	*839
			About 25 feet downstream of County Road 458	*851
			Just downstream of Township Road 216	*886
			Just downstream of Township Road 50	*903
			Just upstream of Township Road 50	*908
			About 50 feet downstream of Township Road 51	*920
			About 1800 feet upstream of Township Road 51	*930
		Pleasant Grove East	At mouth at Pleasant Valley Tributary	*829
			About 1050 feet upstream of Township Road 12-A	*835
			About 50 feet upstream of Township Road 1-A	*848
			About 1400 feet upstream of Township Road 1-A	*858
			Just downstream of County Road 458	*880
		Pleasant Valley Tributary	At mouth at Wakarusa River	*829
			About 2850 feet downstream of Township Road 12-A	*831
			Just upstream of Township Road 12-A	*845
			About 950 feet upstream of Township Road 12-A	*846
			About 1550 feet downstream of Township Road 216	*870
			Just downstream of Township Road 216	*884
		Naismith Creek	Mouth at Wakarusa River	*828
			At City of Lawrence corporate limits	*828
		Washington Creek	At County Road 458	*834
			About 9300 feet upstream of Township Road 239	*860
			About 800 feet upstream of confluence of Chicken Creek	*869
			About 1200 feet upstream of County Road 1039	*880
			About 100 feet upstream of County Road 1031	*905
		Washington Creek Tributary	Confluence with Washington Creek	*837
			About 650 feet upstream of Township Road 427	*843
			About 3200 feet downstream of Township Road 153	*855
			About 0.5 mile upstream of Township Road 153	*880
		Yankee Tank	Mouth at Wakarusa River	*831
			At confluence of West Branch Yankee Tank and Hidden Valley Tributary.	*833
		Hidden Valley Tributary	At southern corporate limit of City of Lawrence	*833
			Just upstream of Township Road 29-A	*834
			About 100 feet upstream of 23rd Street	*850
			About 3000 feet upstream of 23rd Street	*877
		East Branch Yankee Tank	At confluence with Yankee Tank	*832
			At Township Road 21	*834
			About 1000 feet upstream of Township Road 21	*836
		West Branch Yankee Tank	About 3100 feet upstream of confluence with Yankee Tank	*835
			About 6100 feet upstream of confluence with Yankee Tank	*841
		East Fork Tauy Creek	About 4500 feet downstream of Township Road 255	*978
			Just upstream of Township Road 51-E	*998
			At Baldwin City southern corporate limits	*1,005
			At Baldwin City northern corporate limits	*1,025
			About 3500 feet downstream of Township Road 302	*1,029
			Just downstream of Township Road 302	*1,048
			Just upstream of Township Road 302	*1,051
			Just upstream of County Road 1055	*1,054
		East Fork Tauy Creek Tributary	About 1975 feet upstream of County Road 1055	*1,069
			At confluence with East Fork Tauy Creek	*987
			About 1300 feet upstream of confluence with East Fork Tauy Creek	*988
			At Baldwin City southern corporate limit	*994
		Kanwaka Tributary	About 7400 feet upstream of mouth at Clinton Lake	*923
			About 8750 feet upstream of mouth at Clinton Lake	*950
			About 11,125 feet upstream of mouth at Clinton Lake	*975
			About 13,360 feet upstream of mouth at Clinton Lake	*1,004
		Deerfield Tributary	At Kasold Road	*859
			At confluence of West Fork Deerfield Tributary	*860
			About 200 feet downstream of Peterson Road	*874
			At Peterson Road	*878
		Atchison, Topeka and Santa Fe Tributary	At mouth	*817
			Just downstream of Atchison, Topeka and Santa Fe Railway	*819
			Just upstream of Atchison, Topeka and Santa Fe Railway	*826
			At City of Lawrence corporate limit	*826
		Maple Grove Drainage	At northeastern county boundary	*814
			Just upstream of Union Pacific Railroad	*817
			About 100 feet upstream of second crossing of Kansas Turnpike, north of Ninth Street.	*819
			About 160 feet upstream of Township Road 88 (Fifth Street)	*822
			About 650 feet upstream of Kansas Turnpike East Lawrence Interchange.	*823
		Maple Grove Drainage West Fork	About 800 Feet downstream of U.S. Highway 59	*823
			At Township Road 23	*826

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Maple Grove Drainage East Fork	About 950 feet downstream of U.S. Highway 24–40	*823
			About 50 feet upstream of Township Road 88	*824
		Eudora East Tributary	At mouth	*805
			Just upstream of Atchison, Topeka and Santa Fe Railway	*807
			About 80 feet downstream of Township Road 86	*810
			Just upstream Township Road 86	*820
			Just downstream of Old State Highway 10	*820
			About 75 feet upstream of Old State Highway 10	*837
			About 1000 feet upstream of southeastern corporate limits of the City of Eudora.	*840

Maps available at the Douglas County Courthouse, Zoning Administrator's Office, Lawrence Kansas

Send comments to Ms. Beverly Bradley, Chairman, Douglas County Commissioners, Douglas County, 910 Massachusetts, Lawrence, Kansas 66044.

Kentucky	City of Mayfield, Graves County	Kess Creek	Just upstream of 10th Street (Central Avenue)	*472
			Just upstream of Belmeade Drive	*477

Maps available at City Hall, 211 East Broadway, Mayfield, Kentucky 42066

Send comments to Mayor Charles O. Davis or Mr. William Horton, Mayor Pro-Tem, City Hall, 211 East Broadway, Mayfield, Kentucky 42066.

Louisiana	City of Denham Springs, Livingston Parish	Amite River	Just upstream of U.S. Highway 190	*42
			Just upstream of Illinois Central Gulf Railroad	*45
		Long Slash Branch (Backwater flooding from Amite River)	Just upstream of River Road (Louisiana State Highway 1028)	*45
		Colton Creek (Backwater flooding from Amite River)	Just upstream of UNA Street	*46
		Grays Creek	Just upstream of Wax Road	*33
			Just downstream of Florida Avenue (U.S. Highway 190)	*42
			Just upstream of Westfield Drive	*45
		Wax Ditch (Backwater Flooding from Grays Creek)	Just downstream of Pete's Highway (Louisiana State Highway 16)	*40
		Felders Ditch (Backwater flooding from Grays Creek)	Just downstream of Pete's Highway (Louisiana State Highway 16)	*39
		Millers Canal (Backwater flooding from Grays Creek)	Just upstream of Wax Road	*32

Maps available at City Engineers Office, 114 North Range Avenue, Denham Springs, Louisiana 70726

Send comments to Mayor Herbert Hoover or Vernon Ray Miller, Mayor Protem Government Street, P.O. Box 816, Denham Springs, Louisiana 70726.

Louisiana	Town of Port Barre, St. Landry Parish.	Bayou Courtableau	Just upstream of State Highway 103	*28.2
		Bayou Teche	Just upstream of U.S. Highway 190	*28.0

Maps available at Town Hall, Saizon Avenue, Port Barre, Lousiana 70875.

Send comments to Mayor Dorris Gotet or Ray Thibodeaux, Mayor Pro-tem, City Hall, P.O. Box 219, Port Barre, Lousiana 70875.

Michigan	(C), Lansing, Ingham, Clinton, and Eaton Counties.	Grand River	Just upstream of Waverly Road (at downstream corporate limits)	*818
			Just upstream of East Michigan Avenue	*830
			Just upstream of Moores Park Dam	*835
			Upstream corporate limits	*839
		Red Cedar River	Mouth at Grand River	*832
			Just upstream Aurelius Road	*836
			Upstream corporate limits	*837
		Sycamore Creek	Mouth at Red Cedar River	*836
			Just upstream Cavanaugh Road	*836
			Just downstream Jolly Road	*838
			Just upstream Interstate 96	*841
		Mud Lake Drain	Mouth at Sycamore Creek	*837
			Just upstream of Enterprse Drive	*850
			Just downstream of Willoughby Road (at upstream corporate limits)	*865

Maps available at the Planning Department, City of Lansing, City Hall, 124 W. Michigan Avenue, Lansing, Michigan.

Send comments to Honorable Gerald W. Graves, Mayor, City of Lansing, City Hall, 124 W. Michigan Avenue, Lansing, Michigan 48933

Minnesota	(C) Barnesville, Clay County	Whiskey Creek	At downstream corporate limit	*988
			About 100 feet upstream of 6th Street Northwest	*996
			About 100 feet downstream of Burlington Northern Railroad	*997
			Just upstream of Burlington Northern Railroad	*1,003
			About 100 feet downstream of Front Street	*1,005
			Just upstream of Front Street	*1,011
			Just downstream of Barnesville Lake Dam	*1,018
			Just upstream of Barnesville Lake Dam	*1,025
		Unnamed Creek	At downstream corporate limit	*992
			About 100 feet downstream of Oxidation Pond Drveway	*997
			Just upstream of Oxidation Pond Drveway	*1,002
			About 2100 feet downstream of Third Street Southwest	*1,003
			About 1100 feet downstream of Third Street Southwest	*1,014
			Just upstream of Burlington Northern Railroad	*1,023
			At upstream corporate limit	*1,030

Maps available at City Hall, P. O. Box 295, Barnesville, Minnesota.

Send comments to Honorable Dale Rollie, Mayor, City of Barnesville, City Hall, P. O. Box 295, Barnesville, Minnesota, 56514 to the attention of Mr. David Peterson, City Clerk-Treasurer

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Minnesota	(C), Hawley Clay County	Buffalo River	At downstream corporate limit	*1,131
			Just downstream of U.S. Highway 10	*1,139
			At upstream corporate limit	*1,144

Maps available at City Hall, Hawley, Minnesota.

Send comments to Honorable Burton Johnson, mayor, City of Hawley, City Hall, Hawley, Minnesota 56549 to the attention of Mr. Lawrence Quam, City Clerk-Treasurer

Minnesota	(C), Mabel Fillmore County	Riceford Creek	About 950 feet downstream of State Highway 44	*1,107
			About 60 feet downstream of State Highway 44	*1,109
			About 120 feet upstream of State Highway 44	*1,110
			About 80 feet upstream of East Prairie Avenue	*1,113
			About 500 feet downstream of County Road 28	*1,115
			Just upstream of County Road 28	*1,116
			About 60 feet upstream of County Road 28	*1,118
			About 290 feet upstream of County Road 28	*1,119
			About 150 feet downstream of western corporate limit	*1,122
			About 60 feet upstream of western corporate limit	*1,123

Maps available at City Hall, P.O. Box 425, Mabel, Minnesota.

Send comments to Honorable Donald Wedlandt, Mayor, City of Mabel, City Hall, P.O. Box 425, Mabel, Minnesota 55954 to the attention of Mr. James Narum, City Clerk.

Minnesota	(C), Proctor, St. Louis County	Kingsbury Creek	Just downstream Boundary Avenue at corporate limits	*1,190
			Just upstream of pedestrian walkway located upstream of Boundary Avenue.	*1,213
			About 30 feet upstream of pedestrian walkway located downstream of 1st Street East.	*1,221
			Downstream of 1st Street	*1227
			Just downstream of first crossing of Duluth-Missabe and Iron Range Railway.	*1,229
			Just upstream of second crossing of Duluth-Missabe and Iron Range Railway.	*1,231
			Just downstream of 2nd Street	*1,231
			Just downstream of 2nd Street	*1,235
			About 1200 feet downstream of Ugstad Road	*1,236
			About 70 feet downstream of Ugstad Road	*1,242
			About 70 feet downstream of South Ugstad Road	*1,242
		Knowlton Creek	At eastern corporate limit	*1,055
			About 450 feet upstream of eastern corporate limit	*1,090
			About 1100 feet upstream of eastern corporate limit	*1,130
			About 130 feet downstream of Skyline Parkway	*1,137
			About 100 feet upstream of Skyline Parkway	*1,164
			Just upstream of Interstate 35	*1,171
			About 1020 feet upstream of Interstate 35	*1,187
			About 3190 feet upstream of Interstate 35	*1,200
			Just upstream of private drive	*1,224
			About 200 feet downstream of Frontage Drive	*1,229
			About 50 feet downstream Frontage Drive	*1,236
			Just upstream of Frontage Drive	*1,243
			At corporate limits on Ugstad Road	*1,243
			About 50 feet upstream of Ugstad Road	*1,244

Maps available at the Office of the City clerk, City Hall, 200 Second Street, Proctor, Minnesota.

Send comments to Honorable James Rohweder, Mayor, City of Proctor, City Hall, 200 Second Street, Proctor, Minnesota 55810

Minnesota	(C), Whalan, Fillmore County	Root River	Downstream corporate limit	*786
			About 200 feet downstream of the confluence with Gribben Creek	*787
			Just upstream of Main Street	*792
			Upstream corporate limit	*793

Maps available at City Hall, P.O. Box 146, Whalan, Minnesota.

Send comments to Honorable Harley Olson, Mayor, City of Whalan, City Hall, P.O. Box 146, Whalan, Minnesota 55986.

Nebraska	(V), Bennet, Lancaster County	Little Nemaha River	About 4400 feet downstream of State Highway 43	*1,230
			Just downstream of State Highway 43	*1,239
			About 80 feet upstream of State Highway 43	*1,240
			About 1600 feet upstream of State Highway 43	*1,245
			About 3200 feet upstream of State Highway 43	*1,247
		Unnamed Tributary To Little Nemaha River	At confluence with Little Nemaha River	*1,235
			About 1280 feet downstream of State Highway 43	*1,236
			About 60 feet downstream of State Highway 43	*1,240
			Just upstream of State Highway 43	*1,243
			Just downstream of Garden Street	*1,252
			About 1460 feet upstream of Garden Street	*1,257

Maps available at the City Clerk's Residence, Bennet, Nebraska.

Send comments to Mr. Roger Vedder, Chairman of the Board of Trustees, Village of Bennet, Bennet, Nebraska 68508 to the attention of Mr. Dwayne Hagaman, City Clerk.

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Caledonia, Town, Livingston County	Genesee River	Downstream Corporate Limits	*534
			Upstream U.S. Route 20 and State Route 5	*539
			Upstream Corporate Limits	*540
		Christie Creek	Downstream Corporate Limits	*572
			800' downstream Dam	*584
			Downstream Dam and Private Drive	*593
			Upstream Dam	*602
			800' downstream Quarry Road	*629
			Upstream Quarry Road	*639
			Upstream Footbridge	*641
			1,000' upstream Footbridge	*644
		Fowler Creek	Downstream Corporate Limits	*761
			2,000' upstream Corporate Limits	*777
			4,000' upstream Corporate Limits	*791
			6,000' upstream Corporate Limits	*798
			Downstream Black Street	*819
			Upstream Black Street	*826
			Upstream Footbridge	*827
			2,400' upstream Footbridge	*830

Maps available at the Town Hall, Caledonia, New York.

Send comments to Mr. Carroll Bickford, Town Supervisor of Caledonia, Town Hall, 3109 Main Street, Caledonia, New York 14423

Tennessee	City of Germantown, Shelby County	Wolf River	Just upstream of Germantown Road	*262
			Confluence of Wolf River and Wolf River Lateral C	*266
		Wolf River Lateral A	Just downstream of Neshoba Road	*278
			Just upstream of Neshoba Road	*286
		Wolf River Lateral B	Just downstream of Hollow Fork Road	*262
			Just upstream of Hollow Fork Road	*269
			Just upstream of Neshoba Road	*286
		Wolf River Lateral BA	Just downstream of Rebekah Drive	*293
			Just upstream of Ashworth Road	*307
		Wolf River Lateral C	Just upstream of Farmington Boulevard	*288
			Just upstream of Woodcreek Drive	*299
		Wolf River Lateral CA	Just upstream of Kimbrough Road	*271
			Just upstream of Briarbrook Road	*292
		Wolf River Lateral D	Just upstream of Farmington Boulevard	*280
			Just upstream of Dogwood Road	*305
		Wolf River Lateral E	Just upstream of Poplar Avenue (U.S. Highway 72)	*308
		Wolf River Lateral EA	Just downstream of U.S. Highway 72 (Poplar Avenue)	*326
		Howard Road Outfall	Just upstream of McVay Road	*306
			Just downstream of Stout Road	*320
		Howard Road Outfall Lateral A	Just upstream of Riverdale Road	*312
		Howard Road Outfall Lateral AA	Just upstream of Howard Road	*325

Maps available at City Hall, 1930 Germantown Road South, Germantown, Tennessee 38138

Send comments to Mayor W. A. Nance or J. A. Kahn, Vice Mayor, 1930 Germantown Road, Germantown, Tennessee 38138

Tennessee	Unincorporated Areas of Lake County.	Reelfoot Lake	Entire Shoreline	*287
		Mississippi River	Illinois Central Gulf Railroad cross over Old Tramway Ditch	*294

Maps available at Lake County Courthouse, Agricultural Department, Church Street, Tiptonville, Tennessee 38079.

Send comments to Judge Wilford Parks or Laverne House, County Court Clerk, Lake County Courthouse, Church Street, Tiptonville, Tennessee 38079.

Tennessee	City of Millington, Shelby County	Big Creek Drainage Canal	Just upstream of U.S. Highway 51	*259
			Just upstream of Raleigh-Millington Road	*262
		Royster Creek	Aproximately 500 feet upstream of Shelby Road	*258
		North Fork Creek	Approximately 500 feet upstream of Navy Road	*262
			Just upstream of Cuba-Millington Road	*270
			Approximately 1200 feet upstream of Cuba-Millington Road	*274
		North Fork Creek Lateral A	At northern most corporate limits (extended)	*281

Maps available at City Hall, 7930 Nelson Street, Millington, Tennessee 38053

Send comments to Mayor Tom Hall, City Hall, P.O. Box 247, Millington, Tennessee 38053.

Tennessee	Town of Obion, Obion County	Johnson-Hurt Avenue Tributary	Just upstream of Hurt Avenue	*285
			Just upstream of U.S. Highway 51	*289
		Fifteenth Street Tributary	Just upstream of Palestine Street	*287

Maps available at Town Hall, Seventh Street, Obion, Tennessee 38240

Send comments to Mayor Eddie M. Huey or Mr. Jerald Hollis, Vice Mayor, Town Hall, P.O. Box 266, Obion, Tennessee 38240

Tennessee	City of Tiptonville, Lake County	Mississippi River	Intersection of Tipton Street and McBride Street	*294
		Reelfoot Lake	Northeast of the intersection of Sunkist Road and State Highways 21 and 22.	*287

Maps available at City Hall, 130 South Court, Tiptonville, Tennessee 38079.

Send comments to Mayor James Woods or Mr. Bill Lewis, City Recorder, City Hall, 130 South Court, Tiptonville, Tennessee 38079.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	City of Union City, Obion County	Hoosier Creek	Approximately 300 feet downstream of U.S. Highway 51	*315
		First Creek	Just upstream of Main Street (State Highway 5)	*321
			Just downstream of Cheatham Street	*326
			Just downstream of North Fifth Street	*334
		Grove Creek	Approximately 60 feet downstream of Reelfoot Avenue (State Highway 22)	*314
			Just downstream of Main Street (State Highway 5)	*319
		Pursley Creek	Just downstream of Nailing Street (U.S. Highways 51 and 45W)	*323

Maps available at City Hall, 403 South Depot Street, Union City, Tennessee 38261.

Send comments to Mayor Edwin Stone or Mr. Don Thornton, City Manager, City Hall 408, South Depot Street, Union City, Tennessee 38261.

Wisconsin	(V), Melvina, Monroe County	Little La Crosse River	About 600 feet downstream of Coles Valley Road	*871
			At upstream corporate limits	*885

Maps available at the Village President's Home, Route #1, Cashton, Wisconsin.

Send comments to Mr. Bruce Bernett, Village President, Village of Melvina, Route #1, Cashton, Wisconsin 54619.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804), November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-16910 Filed 6-4-80; 8:45 am]

BILLING CODE 6718-03-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1050

Procurement Standards

AGENCY: Community Services Administration.

ACTION: Proposed amendment to a rule.

SUMMARY: The Community Services Administration is amending its rule governing grantee procurement standards published in the **Federal Register** on April 28, 1980. CSA has determined that there is a need for Federal oversight of separate business entities established by its grantees. CSA's goals in proposing this amendment are to assure that the assets of these separate business entities remain in the community, that their hiring and procuring practices are consistent with federal standards, that their activities are subject to public scrutiny and that business-like financial management practices are observed. CSA has determined that, under its published criteria implementing OMB Circular 12044, this amendment is significant.

DATE: CSA welcomes comments on this rule. All comments received on or before August 4, 1980 will be considered in drafting the final amending language.

ADDRESS: Please address all comments to: Ms. Jacqueline G. Lemire, Community Services Administration, 1200 19th Street, N.W., Washington, D.C. 20506. Telephone (202) 254–5047, Teletypewriter (202) 254–6218.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline G. Lemire, Community Services Administration, 1200 19th Street, N.W., Washington, D.C. 20506. Telephone (202) 254–5047, Teletypewriter (202) 254–6218.

SUPPLEMENTARY INFORMATION: Most grantees funded under Title II of the Economic Opportunity Act also receive funds under other Federal and state programs. With a considerable variation in the duration of grant programs and in allowable purchases of services and property, some CSA grantees have established separate business entities to buy real estate, vehicles, automated data processing equipment and other major equipment and to establish business services such as payroll, consumable procurement, and centralized record-keeping. CSA recognizes that such entities often provide the most efficient means of obtaining needed services, space, and equipment and that a positive value ensues with the accumulation of assets held in a low-income community to be used on its behalf. Since such business entities exist principally because of their special relationship to the parent corporation, they cannot be considered normal Title II economic development projects. Likewise, since virtually all of the funds used to procure services, space, or equipment from such business entities is Federal in origin, the need for Federal oversight of these activities arises. The interest of the Federal government extends only to assuring that the assets remain in the community, that personnel and procurement practices are consistent with Federal standards, that the activities of this entity are subject to public scrutiny, and that business-like financial management practices are observed. These are the goals of this proposed amendment to CSA's procurement rule.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

William W. Allison,

Acting Director.

45 CFR 1050.160 is proposed to be amended by revising § 1050.160–8(a)(12) to read as follows:

§ 1050.160–8 Standard–procedures.

(a) * * *

(12) Any proposed sole source contract, or proposed contract where only one bid or proposal is received by a nongovernmental procuring party, shall be subject to prior approval by the appropriate CSA administering office if the aggregate expenditure of all items procured from the contractor will exceed $5,000 in a 12-month period. In addition, if a proposed contractor, who will be paid with Title II funds provided to the procuring party, does the major

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part of his/her business with the procuring party and the contracting firm was established or is controlled by a member or members of the procuring party's staff or board. CSA approval will be based on, but not be limited to, the existence of each of the following: (1) Evidence that the entity is a non-profit corporation whose income and assets would, in event of failure of the parent grantee, continue to be used to benefit low-income individuals; (2) evidence that the hiring and procurement policies of the contracting firm include the same prohibitions against nepotism and conflict of interest as those found in 160–6 of this subpart; (3) the contract contains a provision that the management, financial, and procurement records of the contracting firm must be available to any person for inspection and examination on the same basis as required for private nonprofit grantees; and (4) an audited revenue and expenditures statement and balance sheet dated within the last twelve months has been submitted by the contracting firm; and (5) supporting documentation that the prices being charged are competitive with prices being charged for similar items and/or services by other businesses.

* * * * *

[FR Doc. 80–17104 Filed 6–4–80; 8:45 am]
BILLING CODE 6315–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–240; RM–3432]

FM Broadcast Station in Grover City, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of either Class B Channel 289, or in the alternative, Channel 232A, to Grover City, California, in response to a petition filed by Four-Dimensional Radio Company. Either of the proposed assignments would provide a first local aural broadcast service to the community.

DATES: Comments must be filed on or before July 21, 1980, and reply comments must be filed on or before August 11, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Grover City, California), BC Docket No. 80–240, RM–3432.

Adopted: May 21, 1980.
Released: May 28, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by Four Dimensional Radio Company ("Petitioner"), proposing the assignment of Class B FM Channel 289 to Grover City, California, as that community's first FM assignment. A letter in support of the proposal was received from Mr. John Trygstad of Nipoma, California.

(b) The channel assignment can be made in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Grover City, in San Luis Obispo County, is located approximately 240 kilometers (150 miles) northwest of Los Angeles, California.

(b) *Population.* Grover City—5,939; [2] San Luis Obispo County—105,690.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner asserts that Grover City is a part of a rapidly growing area and adds that the community has had a 40% population increase in the past ten years. Petitioner has submitted demographic data in order to demonstrate the need for a first FM assignment to Grover City.

4. *Preclusion Considerations.* Nine communities with populations greater than 1,000 would be precluded on one or more of the following channels: 288A, 289, 291 and 292A, if the proposed channel were assigned. Of these, two communities in California (Guadalupe, pop. 3,145, and Cambria, pop. 1,716) have no AM stations or FM assignments. Petitioner indicates that Class B Channel 293 is available for assignment to Guadalupe. It should state whether a Class A channel is available for Guadalupe and for Cambria.

5. *Additional Considerations.* Wide area Class B channels are not usually assigned to communities the size of Grover City (pop. 5,939). See § 73.206(b)(2) of the Commission's rules. Due to the number of AM and FM assignments in close proximity to Grover City, the proposed assignment would not provide any first or second FM or aural service. However, we are willing to propose the assignment of Channel 289 at Grover City so that petitioner can demonstrate the need for a high-powered facility. Since a need has been expressed for an FM assignment and several Class A channels are available for Grover City, we are also proposing, in the alternative, Channel 232A for assignment to satisfy the needs for a first local aural broadcast service. Petitioner is requested to indicate whether it would apply for a Class A channel if assigned to Grover City.

6. In view of the foregoing, the Commission finds it would be in the public interest to seek comments in rule making. Accordingly, the Commission proposes to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, with respect to the community listed below:

City	Channel No.	
	Present	Proposed
Grover City, California		289
or		
Grover City, California		232A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 21, 1980, and reply comments on or before August 11, 1980.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.
[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–240 RM–3432]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–17100 Filed 6–4–80; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–239; RM–3473]

FM Broadcast Station in Orchard, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of Class C FM Channel 287 to Orchard, Nebraska, as that community's first FM assignment, in response to a petition filed by Jerry L. Miller. The proposed channel could provide first and second FM and nighttime aural services to a substantial surrounding area and population as well as a first local aural broadcast service to Orchard.

DATES: Comments must be filed on or before July 21, 1980, and reply comments must be filed on or before August 11, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Orchard, Nebraska), BC Docket No. 80–239, RM–3473.

Adopted: May 21, 1980.
Released: May 28, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by Jerry L. Miller ("petitioner"), requesting the assignment of Class C FM Channel 287 to Orchard, Nebraska, as that community's first FM assignment.

(b) The channel can be assigned in compliance with the minimum distance sepration requirements, provided the transmitter site is located approximately 8 kilometers (5 miles) northwest of Orchard.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Orchard, in Antelope County, is located approximately 225 kilometers (140 miles) northwest of Omaha, Nebraska.

(b) *Population.* Orchard, 467; [2] Antelope County, 9,047.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Orchard is situated in a corn prodution area. He adds that the entire area surrounding Orchard and Antelope County has been devoted to agricultural use, although employment in manufacturing experienced a significant increase between 1960–1970.

4. Petitioner asserts that Orchard and Antelope County are both located in the center of a vast rural area, far removed from large urban centers. He points out that there is a need for a broadcast facility with broad coverage capabilities in order to survive both economically and to provide broadcast service needed by communities and rural areas in the region. Petitioner states that, although surrounding counties have local service, none are close enough to Orchard to provide viable service to the community on a nighttime basis.

5. *Preclusion Study.* Assignment of Class C Channel 287 to Orchard, Nebraska, would cause preclusion to thirty-three communities with populations greater than 1,000. Of these, twenty-three [3] have no FM assignments. Petitioner indicates that Ainsworth and Cozad, Nebraska, and Redfield, South Dakota, have AM stations. Petitioner should show whether alternate channels are available for assignment to the twenty-three communities without FM assignments.

6. Petitioner states that the proposed channel would provide a first FM service to 9,793 persons in a 4,264 square kilometer (1,666 square miles) area, second FM service to 8,543 persons in a 3,018 square kilometer (1,179 square miles) area, first nighttime aural service to 3,860 persons in a 2,122 square kilometer (829 square miles) area, and a second nighttime aural service to 6,828 persons in a 2,828 square kilometer (1,105 square miles) area.

[1] Public Notice of the petition was given on September 19, 1979, Report No. 1192.
[2] Population figures are taken from the 1970 U.S. Census.
[3] *Nebraska*: Bloomfield (1,287) (Channel 288A), Creighton (1,461) (Channel 288A), Hartington (1,581) (Channel 288A), Randolph (1,130) (Channel 288A), Plainview (1,494) (Channel 288A), Neligh (1,764) (Channel 288A), Albion (2,074) (Channel 288A), Burwell (1,341) (Channels 285A, 287, 288A), Atkinson (1,406) (Channels 285A, 287, 288A), Cozad (4,219) (Channel 286), Gothenburg (3,154) (Channels 286, 287), Fullerton (1,444) (Channel 288A), Pierce (1,360) (Channel 288A), Ainsworth (2,073) (Channels 286, 287, 288A), Cambridge (1,145) (Channel 287), Curtis (1,166) (Channel 287); *South Dakota*: Ft. Pierre (1,448) (Channel 287), Highmore (1,173) (Channel 287), Miller (2,148) (Channel 287), Redfield (2,943) (Channel 287), Platte (1,351) (Channel 286), Chamberlain (2,628) (Channel 286), Wessington Springs (1,300) (Channel 286).

7. Based on our examination of petitioner's proposal, there appears to be a basis for considering an exception to our general policy of assigning Class C channels only to larger communities. Since the proposed assignment of an FM channel could provide for a first local aural broadcast service to the community in addition to rendering significant first and second FM and nighttime aural services to the surrounding area, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Orchard, Nebraska		287

8. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 21, 1980, and reply comments on or before August 11, 1980.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-239 RM-3473]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquartes, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-17101 Filed 6-4-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 40]

Consumer Information Regulations, Uniform Tire Quality Grading

Correction

In FR Doc. 80-15827, appearing on page 35408, in the issue of Tuesday, May 27, 1980, make the following correction:

On page 35409, the last line of "Table 1" reading "of tire road" should have read "of tire load".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atomospheric Administration

50 CFR Part 661

Caribbean Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Caribbean Fishery Management Council will hold public hearings for the purpose of receiving public comments on the Draft Environmental Impact Statement/Fishery Management Plan/Regulatory Analysis for Spiny Lobster resources.

DATES: Written comments on the plan from members of the public may be submitted no later than July 14, 1980.

Individuals or organizations wishing to comment on the fishery management plan may do so at public hearings to be held as follows:

U.S. Virgin Islands:

June 26, 1980—St. John, U.S. Virgin Islands.
June 27, 1980—St. Thomas, U.S. Virgin Islands.
June 30, 1980—St. Croix, U.S. Virgin Islands.

All of the above hearings will start at 7:00 p.m. and adjourn at or about 10:00 p.m.

Commonwealth of Puerto Rico:

July 1, 1980—San Juan, Puerto Rico.
July 2, 1980—Fajardo, Puerto Rico.
July 3, 1980—Salinas, Puerto Rico.
July 7, 1980—Arecibo, Puerto Rico.
July 8, 1980—Humacao, Puerto Rico.
July 9, 1980—Cabo Rojo, Puerto Rico.
July 11, 1980—Vieques, Puerto Rico.

All of the above hearings will start at 3:00 p.m. and adjourn at or about 6:00 p.m.

The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared on each hearing.

ADDRESS: Send comments to: Chairman, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00819.

HEARING LOCATIONS:

U.S. Virgin Islands:

June 26, 1980—Cafeteria of Public School, Cruz Bay, St. John, U.S. Virgin Islands.
June 27, 1980—Conference Room V.I. Legislature, First Floor, St. Thomas, U.S. Virgin Islands.
June 30, 1980—Public Library, Christiansted, St. Croix, U.S. Virgin Islands.

Commonwealth of Puerto Rico:

July 1, 1980—Conference Room, Puerto Rico Ports Authority, Isla Grande, San Juan, Puerto Rico.
July 2, 1980—Rotary Club, Barrio Qubrada Vuelta, Fajardo, Puerto Rico.
July 3, 1980—Club "Salinas", Salinas, Puerto Rico.
July 7, 1980—Club Nautico de Arecibo, Bo. Islote, Arecibo, Puerto Rico.
July 8, 1980—University of Puerto Rico, Humacao Campus Humacao, Puerto Rico.
July 9, 1980—Lion's Club, Bo. Bajuras, Cabo Rojo, Puerto Rico.
July 11, 1980—Restaurant "Cerromar", Bo. Puerto Real, Vieques, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, (809) 753-4926.

SUPPLEMENTARY INFORMATION: The hearings will deal with a proposal to implement a fishery management plan for spiny lobster (*Panulirus argus*) in the fishery conservation zone of the Caribbean, under the authority of the Fishery Conservation and Management Act of 1976 (FCMA).

The Environmental Impact Statement is a review of the plan and a statement of its expected impacts. The implementation of this fishery managment plan is a major Federal action significantly affecting the human environment and requires the approval of the Secretary of Commerce.

The final plan for spiny lobsters, when approved, will serve to manage this species for optimum yield (OY) and, therefore, contains regulatory measures applicable to domestic fishing. The mangement area is the fishery conservation zone of the Caribbean.

Species addressed in this draft plan include only the Caribben spiny lobster, *Panulirus argus.*

The plan is intended to accomplish the following objectives:

1. Provide for biological conditions consistent with the ability to achieve a maximum sustainable yield (MSY);

2. Promote economic efficiency of the commercial fishery;

3. Provide for the social and cultural needs of Puerto Rico and U.S. Virgin Islands citizens;

4. Provide biologic, economic, and social data bases for future management of the resource; and

5. Reduce the loss of the resource which is associated with "ghost" or "drowned" or "lost" traps due to ship traffic, pilfering, thievery, displacement by currents and other reasons.

OY was determined to be: All the "non-berried" lobsters in the management area having a carapace length (CL) of 3.5 inches or greater. This amount is expected to range between the current catch of 700,000 lbs. and the MSY of 830,000 lbs. annually.

Since OY is all "non-berried" lobsters with a CL of 3.5 inches or greater, the 830,000 estimate does not represent an upper limit and may be exceeded in any given year without resultant damage to the resource. This size limitation ensures that most lobsters have reproduced at least once before entering the fishery, and coupled with other proposed measures should provide an adequate safeguard against biological overfishing, and also provide for optimal use by all user groups. There is no surplus available and no foreign catch will be allowed.

The Council proposes management measures which include the following:

1.0 Size and Sex Restrictions—

1.1 Make unlawful the possession of, while on or above the surface of the water or land, any lobster of the species *Panulirus argus* which has a carapace length of less than 3.5 inches (88.9 mm), which was taken contrary to the provisions of this plan.

1.2 Make unlawful the possession of, while on or above the surface of the water, any "berried" (gravid or egg bearing) lobster of the species *Panulirus argus* which was taken contrary to the provisions of this plan.

1.3 Make unlawful the practice of stripping or otherwise molesting egg-bearing ("berried") spiny lobsters to remove the eggs.

1.4 Allow the retention of small (less than legal size) lobsters, alive, as an "attractor" in traps or pots, but only in traps or pots in which they were originally captured.

1.5 Allow the retention of egg-bearing ("berried") female lobsters in the same pot or trap in which they were caught until the eggs are shed.

1.6 Require that spiny lobsters remain whole while on or below the surface of the water. The Secretary should recommend that Territorial and Commonwealth governments prohibit the importation of tails less than 6 inches in length.

2.0 Sanctuaries (Recommendations to National Park Service)—

2.1 Make unlawful the taking of lobsters of the species *Panulirus argus* or the possession of any lobsters taken in the waters of the Virgin Islands National Park from a point due north of the west end of Mary Point southwest to the Visitors Center in Cruz Bay.

2.2 Require the return to the water of lobsters of the species *Panulirus argus* which are captured as an incidental catch in traps in the waters of the Virgin Islands National Park as described above.

3.0 Data Collection—

3.1 Require the reporting of catch and effort information through the improvement of the existing data collection system.

4.0 Gear Restrictions—

4.1 Require a self-destruct panel and/or self-destruct door fastenings on traps and pots.

4.2 Require owner identification and markings of traps, pots, buoys, and boats.

4.3 Prohibit the use of poisons, drugs or other chemicals for the taking of spiny lobsters.

4.4 Prohibit the use of spears, hooks, explosives or similar devices for the taking of spiny lobsters. Capture by hand, snare, net, trap or pot is allowed.

This is a multi-year plan and will be monitored by the Council after implementation. Changes in numerical estimates and carapace length requirements or other management measures may be made by the Secretary of Commerce through the Regulatory Amendment process after consultation with the Council and a reasonable opportunity for public comment.

Dated: June 2, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-17123 Filed 6-4-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Notices

Federal Register
Vol. 45, No. 110
Thursday, June 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Interest Rates Awarded in Reparation Proceedings; Policy Change

AGENCY: Office of the Secretary.

ACTION: Final Determination.

SUMMARY: The U.S. Department of Agriculture is revising the rate of interest to be applied to reparation awards issued under the Perishable Agricultural Commodities Act and the Packers and Stockyards Act.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: J.D. Flanagan, Head, Complaint Section, Regulatory Branch, Fruit and Vegetable Division, Agricultural Marketing Service, (202) 447–3212.

SUPPLEMENTARY INFORMATION: Notice of proposed change in the rate of interest to be provided in addition to payment of damages awarded under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. 499a et seq.), and the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), was published in the **Federal Register** of March 26, 1980, (45 F.R. 19590). The notice afforded interested persons opportunity to submit written comments regarding the proposal not later than May 1, 1980. No comments were received.

It is hereby announced that on and after the effective date, all reparation orders issued under the Perishable Agricultural Commodities Act, 1980, as amended and under the Packers and Stockyards Act, 1921, as amended, will provide for payment of interest at the rate of 13 percent per annum in addition to the payment of damages.

Dated: June 2, 1980.

Donald A. Campbell,
Judicial Officer.

[FR Doc. 80-17124 Filed 6-4-80; 8:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended May 30, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
May 28, 1980	38232	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its Certificate of Public Convenience and Necessity for Route 1 so as to authorize it to perform round trip nonstop air transportation between Chicago, Illinois and Tucson, Arizona. Conforming Applications and Answers may be filed by June 25, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-17107 Filed 6-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Order 80-5-226; Agreement CAB 2698, R-41 et al.]

Conditions of Carriage—Cargo; Order Granting Petition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of May, 1980.

Agreements adopted by the International Air Transport Association regarding conditions of carriage—cargo, Agreement CAB 2698, R–41; Agreement CAB 2699, R–49; Agreement CAB 2700, R–43; Agreement CAB 3119; Agreement CAB 7648, R–107; Agreement CAB 24475, R–4 and R–5, Docket 25280; Agreement CAB 25186, R–12, Docket 27573; Agreement CAB 25954, R–1, R–2, and R–3, Docket 27573; Agreement CAB 26701, R–9; Agreement CAB 27886, R–3.

By telegram, Mexicana Airlines has requested an extension of the stay granted in Order 80–1–170, which deferred implementation of the effective date of the new air waybills containing the revised IATA conditions of carriage from January to May 15, 1980.

Mexicana asserts that it has a modest stock of approximately 5,000 old air waybills in the hands of major cargo agents. Therefore, it requests an additional 30 days extension to the waiver to continue use of its old air waybills in conjunction with notification to shippers of the revised conditions of carriage.

We will grant the petition.

As the carrier proposes to continue the notice requirement contained in Order 80–1–170, we find the public will receive both the benefit of the newly revised conditions of carriage and adequate notice of these more liberal conditions of carriage. We will, therefore, grant the extension requested by Mexicana Airlines through June 15, 1980.

Accordingly,

1. We grant the petition of Mexicana Airlines for a stay of Order 79–7–166 effective through June 15, 1980.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-17108 Filed 6-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Order 80-5-49; Docket 36592, Agreement CAB No. 1041, as amended]

All American Aviation, Inc. et al.; Order; Erratum

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of May, 1980.

The following should be removed from the service list set forth in Order 80–5–49: charter carriers and Part 298 carriers.[1]

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-17106 Filed 6-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38046; Order 80-5-201]

Pennsylvania Commuter Airlines, Inc.; Application for Compensation for Losses at Clearfield-Philipsburg, Pa; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of May, 1980

On June 20, 1979, USAir, Inc., filed a notice under section 401(j)(1) and 401(j)(2) of the Federal Aviation Act of 1958, as amended, of it intent to terminate service witin 90 days (on September 18, 1979) at Clearfield-Philipsburg, Pennsylvania. Since 1973, USAir has been suspended at Clearfield-Philipsburg on condition that Pennsylvania Commuter Airlines (PCA) provide replacement service there as an Allegheny Commuter. PCA became the only air carrier serving Clearfield-Philipsburg through the Midstate Airport. On July 24, 1979, PCA filed a notice under section 419(a)(3)(B) of the Act and Part 323 of the Board's Procedural Regulations of its intent to terminate service Clearfield-Philipsburg on September 18, 1979. By Order 79–10–61, issued October 10, 1979, and succedding orders, the Board extended PCA's obligation to provide service at Clearfield-Philipsburg for successive 30-day periods.

[1] See 45 FR 31453, May 13, 1980.

On April 16, 1980, PCA filed an application for compensation for losses incurred in providing service at Clearfield-Philipsburg. The carrier requests compensation of $83,818.82 for the period September 19 through December 31, 1979. According to PCA, revenues allocated to service at Clearfield-Philipsburg amounted to approximately $80,929.10, while, based partly on monthly unit costs experienced during the period and partly on year ended November 30, 1979, unit costs, expenses were approximately $164,747.92, for an operating loss of $83,818.82. These figures include an allowance for interest expense, but no return element.

Upon examination of PCA's filing, we believe that the appropriate interim rate of compensation is $83,819 for the period September 19 through December 31, 1979, and we will set PCA's interim level of compensation at that rate. For monthly periods beginning January 1, 1980, we believe that the appropriate interim rate of compensation is $157 per essential air service flight completed, subject to certain limits specified below.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204, 419, and 1002 thereof, and the regulations promulgated in 14 CFR 324;

1. We set the interim level of compensation for losses sustained by Pennsylvania Commuter Airlines, Inc., by virtue of its provision of essential air service to Clearfield-Philipsburg, Pennsylvania, at $83,819 for the period September 19 through December 31, 1979;

2. We set the interim level of compensation for losses sustained by Pennsylvania Commuter Airlines, Inc., at $157 per flight completed in essential air service for monthly periods beginning January 1, 1980, subject to a maximum compensation of $942 per day that essential air service is performed, subject further to a maximum compensation of $23,594 per 28-day month, $25,279 per 30-day month, and $26,122 per 31-day month that essential air service is performed;

3. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate established here; and

4. We will serve copies of this order on Pennsylvania Commuter Airlines, Inc.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor [1]
Secretary.

[FR Doc. 17105 Filed 6-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 37575]

Central Zone-Caracas/Maracaibo Venezuela Case; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended that a hearing in the above-entitled proceeding will be held on June 30, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned.

The order or presentation and of cross-examination will be the civic parties, in alphabetical order, followed by the applicants, in alphabetical order, and the Bureau of International Aviation.

For information concerning the issues involved and other details in this proceeding, interested persons are refered to the Prehearing Conference Report, served on April 18, 1980, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 30, 1980.

Henry M. Switkay,
Administrative Law Judge.

[FR Doc. 80-17109 Filed 6-4-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Textiles and Textile Mill Products From Pakistan; Final Countervailing Duty Determination

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that the Department of Commerce has determined that the Government of Pakistan has given benefits which constitute subsidies within the meaning of the countervailing duty law on the manufacture, production, or exportation of certain textile and textile mill products. The Department is notifying the U.S. International Trade Commission of this action so that it may complete its investigation of whether

[1] All members concurred.

there is injury or likelihood of injury to a

defined in section 701(b) of the Act (93

the physical inputs to these products

there is injury or likelihood of injury to a domestic industry. This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d) and § 355.33, Commerce Regulations, (19 CFR 355.33).

EFFECTIVE DATE: June 5, 1980.

FOR FURTHER INFORMATION CONTACT: Donald W. Eiss, Office of Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230; telephone (202–377–4412).

SUPPLEMENTARY INFORMATION:

Procedural Background: On July 20, 1979, the Treasury Department published in the **Federal Register** a notice of "Initiation of Countervailing Duty Investigation and Preliminary Determination" in this case. By this action Treasury reopened an earlier countervailing duty investigation of certain Pakistani textile and textile mill products which had been concluded on July 13, 1979 with the issuance of a final affirmative countervailing duty determination. The reopening of that proceeding was necessary to permit investigation of a program discovered too late in the original investigation to be included in the initial final determination. Given the size of the possible subsidy involved (7.5 percent—12.5 percent *ad valorem*), and the fact that the program was introduced specifically to promote Pakistani textile exports, a simultaneous preliminary affirmative determination was issued.

On January 1, 1980, the Trade Agreements Act of 1979 (Pub. L. 96–39; 93 Stat. 144, 190) (the "TAA") amended section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act"). Section 303 applies to countervailing duty investigations involving all countries not party to the Agreement on Subsidies and Countervailing Measures. Pakistan was not a party to the Agreement at that time. Section 303(b), as amended by section 103 of the TAA, requires the suspension of liquidation of all entries and the posting of a cash deposit, bond or other security in an amount equal to the estimated net subsidy at the time of a preliminary determination. Accordingly, on February 27, 1980, the Commerce Department published a notice in the **Federal Register** suspending liquidation and requiring a bond on all entries of Pakistani men's and boys' apparel and textile mill products of cotton made on or after January 1, 1980, the effective date of the TAA.

On March 17, 1980, the U.S. Trade Representative's Office informed the Commerce Department on behalf of the President that Pakistan had become a "country under the Agreement" as defined in section 701(b) of the Act (93 Stat. 151, 19 U.S.C. 1671(b)). Therefore, the provisions of Title VII of the Tariff Act of 1930 became applicable to this pending countervailing duty investigation. Section 102 of the TAA (93 Stat. 189, 19 U.S.C. 1671 note) provides that upon the effective date of the application of Title VII of the Tariff Act of 1930 with respect to a country, any pending investigation under section 303 of the Act shall terminate. In investigations where a preliminary, but not a final determination was made under section 303, the matter is to be treated as if a preliminary determination under section 703 of the Tariff Act of 1930 (93 Stat. 152, 19 U.S.C. 1671b), had been made on the date of application of Title VII to that country.

In the instant case, therefore, the preliminary affirmative determination and the suspension of liquidation under section 303(b) were terminated and this Department pubished an affirmative "Preliminary Countervailing Duty Determination" in the **Federal Register** on March 26, 1980 (45 FR 19593), with liquidation of entries suspended effective March 17, 1980. We simultaneously referred the case to the U.S. International Trade Commission for an injury determination.

The Subsidy Program for Textiles and Textile Mill Products: For purposes of this notice, "textiles and textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and man-made fibers as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) set forth in the appendix to the **Federal Register** notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the same **Federal Register** notice. Because Pakistan only exports cotton textile products to the U.S., this determination applies only to merchandise under consideration made of cotton.

The program under investigation involves cash rebates paid by the Government of Pakistan on the exportation of textile products. The export cash rebate varies from 7.5 percent to 12.5 percent of the f.o.b. value of the export, depending on the product. The Government of Pakistan has argued that the program is not an export subsidy because it is designed mainly to offset indirect taxes and other imposts that are levied on the final product and the physical inputs to those products which are not otherwise rebated upon export. In the course of the investigation the U.S. Government did verify from Pakistani documents the rebate levels for the products under investigation.

The non-excessive refund of indirect taxes levied on exported products and their components is not a subsidy. The legislative history of the Trade Agreements Act of 1979 indicates that Congress was concerned about the Treasury Department practice of offsetting the amount of any non-rebated indirect taxes paid by the exporter from any gross subsidy for exported products (S. Rep. No. 96–249, July 17, 1979, at 86). To limit this practice, the TAA added section 771(6) of the Tariff Act of 1930, which set forth the items that could be offset against gross subsidies. The purpose was, in part, to reverse the practice of allowing as offsets the amount of indirect taxes which could have been, but were not, rebated. However, the Senate Report at 84–5 explains 771(6) and states quite clearly that the limitations on offsets

"contained in section 771(6) of the Act are not intended to prohibit the administering authority from determining that export payments are not subsidies, if those payments are reasonably calculated, are specifically provided as non-excessive rebates of indirect taxes within the meaning of Annex A of the Agreement and are directly related to the merchandise exported."

The Department has published administrative guidelines (19 CFR 355 Annex 1, para. 2, 45 FR 4949) for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its components is not a subsidy. The guidelines state that the foreign government must reasonably have calculated and documented the actual indirect tax incidence borne by the product under investigation and have demonstrated a clear link between the export payment and the tax incidence. *Ex post facto* rationalizations of export payment programs will not be accepted. The foreign government must present information that demonstrates to the Department's satisfaction (a) that indirect taxes paid have served as the official basis upon which the export rebate was calculated and (b) that there is, in fact, the requisite link between the export payment and the indirect tax incidence.

In this case, the Government of Pakistan has not submitted information demonstrating the necessary link between the export payment and the tax incidence. Therefore, we have determined that the export cash rebate program of the Government of Pakistan does constitute a subsidy within the meaning of section 771(5) of the Act (19 U.S.C. 1677). The subsidy amounts are: (1) cotton yarn—7.5 percent; (2) grey cloth—10.0 percent; and (3) other cloth, thread, hosiery, towels, garments and made-ups—12.5 percent. We are notifying the U.S. International Trade Commission of this action.

Robert Herzstein,

Under Secretary for International Trade.

May 30, 1980.

[FR Doc. 80–17062 Filed 6–4–80; 8:45 am]

BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit

Correction

In FR Doc. 80–16488, appearing on page 36466, in the issue for Friday, May 30, 1980, in the middle column, in item "3. Name and Number of Animals", after "California sea lion (Zalophus californianus)" insert ":2.".

BILLING CODE: 1505–01–M

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments to the Soybean Futures Contract of the Chicago Board of Trade

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, section 12, 92 Stat. 871 (1978), has determined that the proposed amendments to rule 1036.00 of the Chicago Board of Trade, concerning soybean delivery grade differentials, are of major economic significance. These amendments offer the potential of altering the pricing and hedging characteristics of the contract. The proposed amendments allow an additional grade of No. 3 yellow soybeans to be deliverable at a discount of 4 cents per bushel where all grade factors (except foreign matter) are equal to No. 2 soybeans or better. In addition, the deliverable discount on No. 3 yellow soybeans (14% or less of moisture) is raised from 3 to 8 cents per bushel under the contract price.

The amendments to rule 1036.00 concerning soybean delivery grade differentials are printed below showing deletions in brackets and additions underscored:

Soybean Differentials

U.S. No. 1 Yellow Soybeans * * * * * at 3 cents per bushel under contract price.

U.S. No. 2 Yellow Soybeans * * * * * at contract price.

U.S. No. 3 Yellow Soybeans * * * * * at 4 cents per bushel under contract price.*

U.S. No. 3 Yellow Soybeans (14% or less moisture) * * * * * at [3] *8* cents per bushel contract price.

Any person interested in submitting written data, views, or arguments on these rules should send his comments by July 7, 1980. 1980 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C., on May 30, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80–17045 Filed 6–4–80; 8:45 am]

BILLING CODE 6351–01–M

COMMUNITY SERVICES ADMINISTRATION

[Public Law 95–454]

Change in Listing of Personnel Serving as Members of the Senior Executive Service Performance Review Boards; Submission

AGENCY: Community Services Administration.

ACTION: Change in listing of personnel serving as members of this Agency's Senior Executive Service Performance Review Board.

SUMMARY: Public Law 95–454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). The following is a change in name of persons serving as members of this Agency's PRB which appeared in the **Federal Register**, Vol. 45, No. 32, pg. 9966 dated February 14, 1980. The name of R. Thomal Rollis, Controller, Office of Management (see item #15 in Vol. 45, No. 32) who recently left this Agency is replaced with Curtis W. Christensen, Controller, Officer of Management.

FOR FURTHER INFORMATION CONTACT: Mary P. Valentino, (Executive Secretary, PRB), Director of Personnel, (202) 254–6170.

William W. Allison,

Acting Director.

[FR Doc. 80–16802 Filed 6–4–80; 8:45 am]

BILLING CODE 6315–01–M

*All factors equal to U.S. No. 2 grade or better (including test weight; moisture; splits; heat damage; brown, black and/or bicolored soybeans in yellow soybeans) except foreign material (maximum 3%). Unless the designation "All factors equal to No. 2 except FM" appears on the face of the receipt, the grade will be considered U.S. No. 3 yellow soybeans (14% or less moisture) at 8 cents per bushel under contract price.

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Meeting

Authority of Committee: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Pay Advisory Committee will meet on June 18, 1980, at 2:00 p.m. in Room 474 of the Old Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20503. Because admittance to the Old Executive Office Building is subject to pre-arranged clearance, everyone wishing to attend this meeting should call Cheryl Bailey at 456–6210 no later than 5:00 p.m. on June 17, 1980. Attendees should report to the 17th Street entrance at least 15 minutes prior to the meeting on June 18 to be cleared through Security.

Further meetings of the Pay Advisory Committee have been scheduled for July 15 and August 8, 1980, at 2:00 p.m. Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503, has been reserved for these meetings.

Purpose of the Meeting: The purpose of the meeting(s) will be to continue unfinished business from the Committee's earlier meetings.

Public Participation: The meeting of the Pay Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456–6756.

Dated: May 29, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-17087 Filed 6-4-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare Draft Environmental Impact Statement for Proposed Construction of Channel Improvements for Navigation in Duwamish Waterway on Elliott Bay in Seattle, Wash.

AGENCY: U.S. Army Corps of Engineers, Seattle District.

ACTION: Preparation of a draft environmental impact statement (DEIS) for proposed construction of channel improvements for navigation in the Duwamish Waterway on Elliott Bay in Seattle, Washington.

SUMMARY:

1. *Description of Action.* The current navigation improvement study was authorized by the Senate Public Works Committee on May 18, 1956. Preliminary studies conducted in 1970 through January 1974 determined that extension of the Duwamish Waterway was economically justified if the Spokane Street Highway Bridge was replaced by local interests. This bridge replacement had been under consideration by city and state authorities for several years. The bridge replacement funding situation was resolved when the city of Seattle received emergency Federal funding to replace the Spokane Street Bridge after it was damaged by a freighter on June 11, 1978. The navigation study was reactivated on October 1, 1978 in response to a request from the Port and city of Seattle. The study is now entering its detailed stage based on preliminary results of the 1970 study.

2. *Preferred Alternative.* Currently, the preferred alternative calls for the deepening and widening of the East, West, and Duwamish Waterways to allow improved ship navigation to First Avenue South and improved barge navigation to the present head of navigation. This would require the initial removal of approximately 8.9 million cubic yards (c.y.) of material and the annual maintenance dredging of about 200,000 c.y. of material. Dredging would be by clamshell dredge, and the dredged material would be transported by barge to designated upland or open-water disposal sites. A range of channel sizes will be analyzed for each section. These improvements are expected to require the replacement of the Spokane Street Highway Bridge and the Burlington Railroad Bridge to allow for approximately a 250-foot horizontal clearance and a 140-foot vertical clearance.

3. *Other Alternatives.* Alternatives considered in the 1970 study include: (a) No action, (b) widening and deepening for ship traffic to Eighth Avenue South and for barge traffic to the head of navigation, (c) widening and deepening for ship traffic to 14th Avenue South and for barge traffic to the head of navigation, and (d) widening and deepening for barge traffic to Tukwila. These alternatives would be reevaluated during detailed studies.

a. *No Action.* This alternative would preclude enlargement of the current Federal navigation channel by the Corps of Engineers. Direct and indirect environmental impacts would be minimized. Lack of navigation improvements may encourage development of other areas in Puget Sound.

b. *Eighth Avenue South.* The second alternative would modify the existing channel to Eighth Avenue South which would allow ship traffic up to the Eighth Avenue South Bridge. Modifications of the existing First Avenue South Bridge and the Burlington Northern Railroad Bridge would be necessary. Public comments on this alternative have been minimal.

c. *Fourteenth Avenue South.* This alternative would widen the lower reaches of the Duwamish Waterway to 250 feet to allow ship traffic to 14th Avenue South. Currently, the industries located along the 200-foot-wide navigation channel are directly adjacent to the water's edge. Widening would necessitate extensive relocations of these industries. Modifications of the Burlington Northern Railroad Bridge and the First Avenue South Bridge would be required. Public comments on this alternative have primarily come affected industries.

d. *Tukwila.* The fourth alternative would extend navigation by barge traffic to Tukwila. Locks would probably be required to lift barge traffic upriver and alteration or replacement of at least eight bridges would be necessary. This alternative has been studied in the past by both the Corps and the Port of Seattle and was opposed by the Tukwila Planning Commission, the Valley Industrial Commission, and others in a public meeting in January 1961.

4. *Public Involvement.* In the 1970 study, five successive brochures were mailed to interested individuals, agencies, organizations, and industries to keep them appraised of study efforts. Three public meetings were held between 1970 and 1972. Currently, the first of several study newsletters is being distributed and comments on the study are being solicited. Further information will be sent out to those who request it. In addition, an interagency task force will review environmental studies related to the project. In late 1981 or early 1982 the DEIS is scheduled to be circulated to the public for comment. A final public meeting to hear comments on the draft report and DEIS will be held following circulation of the DEIS.

5. *Significant Issues.* Major environmental concerns to be analyzed in the study include loss of fish and wildlife habitat, water quality, disposal of polluted dredged material, various land use concerns, and effects of project on salmonid migration.

6. *Other Environmental Review and Consultation Requirements.* A detailed physical, chemical, and biological analysis of sediment quality in the study area will be performed. The results of this analysis will be presented in a Section 404(b) evaluation and included in the DEIS. A study of the effects of a larger channel on Duwamish River water quality will be incorporated in the DEIS as well as studies on fish and wildlife habitat and juvenile salmonid outmigration. A cultural resources reconnaissance of the project area will be conducted and results discussed in the DEIS.

7. *DEIS Availability:* The DEIS for Seattle Harbor Navigation Improvement Study should be available for review in December 1981 or early 1982.

ADDRESS: Questions and/or comments on this proposed action and DEIS should be directed to: Ms. Lloyd Eagan, Environmental Resources Section, U.S. Army, Corps of Engineers, Post Office Box C-3755, Seattle, Washington 98124. TEL: (206) 764-3624 (FTS 399-3624).

Dated: May 30, 1980.

Leon K. Moraski,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-17059 Filed 6-4-80; 8:45 am]

BILLING CODE 3710-GB-M

DEPARTMENT OF EDUCATION

National Advisory Council on Ethnic Heritage Studies

AGENCY: National Advisory Council on Ethnic Heritage Studies.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Ethnic Heritage Studies. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463 Sec. 10(a)(2)). The document is intended to notify the general public of their opportunity to attend.

DATE: June 24, 1980, 9 a.m. to 4 p.m.; June 25, 1980, 9 a.m. to 4 p.m.; June 26, 1980, 9:30 a.m. to 1:30 p.m.

ADDRESS: Federal Office Building 6, Room 3000 (large conference room) 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence E. Koziarz, Director, Ethnic Heritage Studies Program (ROB-3, Room 3928), Washington, D.C. 20202 (202/245-9506).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Ethnic Heritage Studies is established by Section 956 of the Elementary and Secondary Education Act of 1965 as added by the Education Amendments of 1972 (Pub. L. 92-318) and amended by the Education Amendments of 1978 (Pub. L. 95-561). The Council is directed to:

Advise the Secretary and the Assistant Secretary for Educational Research and Improvement on the implementation of Part E of Title IX of the Elementary and Secondary Education Act of 1965 in order to provide assistance designed to afford students the opportunity to learn about their own cultural heritage and the contributions of the other ethnic groups of the Nation.

The Council shall advise concerning matters of general policy arising from the administration of programs authorized by Part E of the Title IX of the Elementary and Secondary Education Act of 1965 and shall perform specific functions as follows:

(a) Make recommendations to the Secretary and the Assistant Secretary regarding the collection of data to facilitate program planning and evaluation; e.g., recommend a survey of needs to determine or modify program priorities, or suggest national or regional reviews of intercultural curriculum and personnel development; (b) suggest innovations to meet program needs or otherwise improve ethnic heritage studies; (c) suggest promising areas of inquiry to give direction to research; e.g., recommend ethnographic studies as required for substantial intercultural curriculum materials development; (d) provide such administrative and legislative proposals as may be appropriate; (e) not later than June 30 of each year, submit to the Congress a report of its activities, findings and recommendations.

The Proposed Agenda Includes:

Swearing in of new members;

Orientation to advisory council functions;

Organization of committees;

Review of Program Regulations;

Setting dates, time and agendas for future meetings; and

Other business as determined by the council.

Records shall be kept of all Council proceedings, and shall be available for public inspection in Room 3928, ROB-3, 7th and D Streets, S.W. Washington, D.C. 20202.

Signed at Washington, D.C., May 29, 1980.

Lawrence E. Koziarz,

Director, Ethnic Heritage Studies.

[FR Doc. 80-17119 Filed 6-4-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF ENERGY

Proposed Order of Disallowance to Atlantic Richfield Co.

AGENCY: Department of Energy (DOE).

ACTION: Notice of Proposed Order of Disallowance and Opportunity for Aggrieved Persons to Object.

SUMMARY: The Office of Special Counsel for Compliance of the Department of Energy (OSC) hereby gives the notice required by 10 CFR 205.192 that it issued a Proposed Order of Disallowance to Atlantic Richfield Company (ARCO) on May, 1980, and that any aggrieved person may file a Notice of Objection to the Proposed Order of Disallowance in accordance with 10 CFR 205.193 on or before June 20, 1980.

The Proposed Order of Disallowance

ARCO, which is headquartered at 515 South Flower Street, Los Angeles, California 90071, is a refiner subject to the allowable cost passthrough calculations and transfer pricing rules of 10 CFR 212.83 and 212.84. These regulations are used to determine, among other things, the proper measurement of costs of crude oil imported by a firm through its foreign affiliates.

In April 1977, the Federal Energy Administration (FEA) isued a Notice of Proposed Disallowance to ARCO alleging that the firm had overstated its costs with respect to interaffiliate imported crude oil transactions by approximately $50.2 million for the period October 1973 through May 1975.

In December 1977, the Office of Special Counsel for Compliance was created within the Department of Energy. In February 1978, the responsibility for the transfer pricing program was transferred from the Office of Enforcement, Economic Regulatory Administration, to the OSC. In subsequent meetings and correspondence between the OSC and ARCO, the amount was adjusted to approximately $49.5 million in recognition of misreported information. The Proposed Order requires ARCO to reduce its costs for the period October 1973 through May 1975 by $49,500,459.26, and to determine whether its selling prices for petroleum products were excessive as a result.

Submission of Objection

Aggrieved persons may object to this Proposed Order of Disallowance by filing a "Notice of Objection to the Proposed Atlantic Richfield Company, Order of Disallowance." The Notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filed with:

Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Room 8014, Washington, D.C. 20461.

The Notice must be filed, in duplicate, by 4:30 p.m. EDT on June 20, 1980, or the first Federal workday thereafter if the fifteenth day falls on a weekend or holiday. In addition, a copy of the Notice of Objection must, on the same day as filing, be served on ARCO and on each of the following persons, pursuant to 10 CFR 205.193(c):

Leslie Wm. Adams, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 12th and Pennsylvania Ave., N.W., Mail Stop 2140, Washington, D.C. 29461.

Assistant General Counsel for Administrative Litigation, Department of Energy, Washington, D.C. 20461.

No data or information which is confidential shall be included in any Notice of Objection.

Copies of Proposed Order

Copies of the Proposed Order of Disallowance to ARCO, with confidential information deleted, may be received, free of charge, by written or oral request to:

Leslie Wm. Adams, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 12th and Pennsylvania Avenue, N.W., Mail Stop 2140, Washington, D.C. 20461. Telephone 202-633-8292.

Copies of the Proposed Order of Disallowance may also be obtained from:

Freedom of Information Reading Room

customs duties in its calculations of

Freedom of Information Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, Washington, D.C. 20585.

Issued in Washington, D.C., this 15th day of May 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-17121 Filed 6-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Atlantic Richfield Co.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Atlantic Richfield Company and Opportunity for Objection.

SUMMARY: Pursuant to 10 CFR 205.192(c) the Office of Special Counsel (OSC) of the Department of Energy (DOE), gives notice that a Proposed Remedial Order (PRO) was issued on May 15, 1980 to Atlantic Richfield Company (ARCO), 515 South Flower Street, Los Angeles, California 90017, and that any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR § 205.193 on or before June 20, 1980.

The Proposed Remedial Order

By this PRO, OSC sets forth findings of fact and conclusions of law concerning ARCO's treatment of the costs of import fees and duties in calculating increased product costs under the refiner price rules in 10 CFR, Part 212, Subpart E between August 20, 1973 and December 31, 1977. ARCO is charged with overstating its increased costs of crude oil by $57.6 million in violation of 10 CFR 212.82, 212.83, and 212.126(b). Specifically, ARCO is charged with violating these regulations with the following practices.

1. Retroactively revising its reported costs in September 1977 so as to include non-existent fee costs for fee-free oil import licenses (Regulations describing fee-free and fee-paid import licenses are codified in 10 CFR 213.1 *et seq.*);

2. Failing to treat credits for customs duties paid (as provided in 10 CFR 213.35(d)(2)) as reducing its actual costs of import fees payable when reporting product costs from January 1976 onward;

3. Failing to include refunds of previously paid supplemental fees and customs duties in its calculations of product costs.

As a remedy, ARCO is directed to recompute its product costs for the time in question, including only actual costs and including cost reductions.

Copies of Proposed Order

A copy of the Proposed Remedial Order, with confidential information delted, may be obtained free of charge by written request from: George W. Young, Jr., Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies may be obtained in person from the reading room, Forrestal Building, Room GA-152.

Submission of Objection

Aggrieved persons may object to this Proposed Remedial Order by filing a "Notice of Objection to the Proposed Atlantic Richfield Company, Remedial Order". The Notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filed with: Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Room 8014, Washington, D.C. 20461.

The Notice must be filed, in duplicate, by 4:30 p.m. EDT on June 20, 1980, or the first federal workday thereafter if the fifteenth day falls on a weekend or holiday. In addition, a copy of the Notice of Objection must, on the same day as filing, be served on ARCO and on each of the following persons, pursuant to 10 CFR 205.193(c):

Richard H. Koebert, Audit Manager, Pacific District Office of Special Counsel, Department of Energy, 1340 West 6th Street, Room 233, Los Angeles, California 90017.

George Kielman, Associate Solictor to the Special Counsel for Compliance, Department of Energy, 12th and Pennsylvania Ave., N.W., Mail Stop 2140, Washington, D.C. 20461.

No data or information which is confidential shall be included in any Notice of Objection.

Issued in Washington, D.C., on the 28th day of May 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-17122 Filed 6-4-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1508-2]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of May 1, 1979 and May 31, 1979.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1979 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808.

Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: May 28, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between May 1, and May 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
CORPS OF ENGINEERS			
DS-COE-A30071-NY	Beach Erosion Control and Hurricane Protection, East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York.	LO1	C
DS-COE-B35007-ME	Fore River, Maintenance Dredging Project, Portland Harbor, Maine	LO2	B
D-COE-E40171-GA	Harry S. Truman Parkway, Permit, Savannah and Chatham Counties, Georgia	EU2	E
D-COE-F32062-OO	Ohio River Navigation Project Operation and Maintenance, Pennsylvania, West Virginia, Ohio, Kentucky, Indiana and Illinois.	ER2	F
D-COE-F34006-IL	Louisville Lake, Little Wabash River Basin, Louisville, Clay and Effingham Counties, Illinois	ER2	F
D-COE-F36058-MI	Flood Control, Red Run Drain—Lower Clinton River, Macomb County, Michigan	ER2	F
DA-COE-G36002-TS	Burnett, Crystal, and Scott Bays and Vicinity, Baytown, Texas	LO2	G
DEPARTMENT OF AGRICULTURE			
D-AFS-J65083-CO	Upper Arkansas Land Management Planning Unit, Pike and San Isabel National Forest, Colorado.	ER2	I
D-AFS-L03002-OO	Island Park Geothermal Area, Leasing and Development, Idaho, Montana and Wyoming	ER2	K
D-AFS-L61129-OR	Alsea Planning Unit, Land Management Plan, Siuslaw National Forest, Benton, Lane, and Lincoln Counties, Oregon.	LO2	K
D-DOA-A91040-OO	Essential Agricultural Uses of Natural Gas	LO2	A
D-SCS-C36026-OO	Blind Brook Watershed Plan, Westchester County, New York and Fairfield County, Connecticut	LO2	C
D-SCS-E36059-MS	Hoffa Creek Watershed, Multipurpose Project, Grenada and Tallahatchie Counties, Mississippi	LO2	E
DEPARTMENT OF COMMERCE			
D-NOA-D86001-DE	Delaware Coastal Zone Management Program (CZM)	ER2	D
DEPARTMENT OF DEFENSE			
D-USA-D11004-VA	Fort Monroe, Virginia Base Realignment, Fort Monroe, York County, Virginia	LO1	D
D-USA-E10003-OO	U.S. Army Nuclear, Biological/Chemical Defense School, Aberdeen Proving Ground, Maryland, Redstone Arsenal, Alabama; and Fort McClellan, Alabama.	LO2	E
D-USN-B35008-CT	Trident Dredging Project, Thames River Channel, Groton and New London Counties, Connecticut.	LO1	B
DEPARTMENT OF INTERIOR			
D-BLM-J99009-MT	Missouri Breaks Grazing Management Program, Montana	LO2	I
D-HCR-D61010-MD	Patapsco Valley State Park, Anne Arundel, Carroll County, Maryland	LO1	D
DEPARTMENT OF TRANSPORTATION			
D-FHW-E40170-TN	TN-34 from Old TN-34 to 22-foot section west of TN-44, Sullivan County, Tennessee (FHWA-TN-EIS-78-04-D).	LO1	E
D-FHW-E40172-NC	NC-51, from NC-16 to U.S. 74, Matthews, Mecklenburg County, North Carolina (FHWA-NC-EIS-79-01-D).	LO2	E
D-FHW-E40173-TN	TN-34, TN-137 to Bluff City Bypass, Johnson City, Washington and Sullivan Counties, Tennessee (FHWA-TN-EIS-78-02-D).	LO1	E
D-FHW-H40090-MO	Improvement of Cole Street, Twelfth Street to Jefferson Avenue, St., Louis, St. Louis County, Missouri (FHWA-MO-EIS-78-01D).	ER3	H
D-FHW-K40064-CA	Proposed Highway Improvements, CA-203, Mammoth Lakes Village, Mono County, California	ER2	J
D-FHW-K40067-CA	CA-192, Shoulder Widening for Bicycle Lanes, and Replacement of San Roque Canyon Bridge, Santa Barbara, City and County, California.	LO1	J

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between May 1, and May 31, 1979*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
GENERAL SERVICES ADMINISTRATION			
D-GSA-F81008-WI	Lease Construction of Federal Building, Milwaukee, Milwaukee County, Wisconsin	LO1	F
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
D-HUD-B89012-MA	Financial Settlement of South End Urban Renewal Project (CDBG), Boston, Suffolk County, Massachusetts (HUD-ROI-EIS-79-01-D).	ER2	B
D-HUD-E85044-FL	Sky Lake South Subdivision, Orlando, Orange County, Florida (HUD-RO4-EIS-77-21)	ER2	E
DS-HUD-F60003-OH	Newfields New Community, Montgomery County, Dayton, Ohio	LO2	F
D-HUD-F85047-MN	Canterbury Square Planned Unit Development, Savage, Scott County, Minnesota	ER2	F
D-HUD-J85020-CO	Hover Acres Planned Development, Longmont, Boulder County, Colorado	ER2	I
D-HUD-J85021-WY	Sage Bluff Subdivision, Gillette, Campbell County, Wyoming	LO2	I
D-HUD-L85012-ID	Lakewood Planned Community, Boise, Idaho (HUD-R10-EIS-79-3D)	LO2	K
NUCLEAR REGULATORY COMMISSION			
D-NRC-J00014-UT	Shootering Canyon Uranium Mill Project, Operation, Utah	ER2	I
TENNESSEE VALLEY AUTHORITY			
D-TVA-E08013-TN	500-KV Substation and Transmission Line, Paradise Plant, Montgomery, Montgomery County, Tennessee.	LO1	E
D-TVA-E60007-TN	Melton Hill Reservoir, Permanent Easement for Coal-Loading Barge Terminal, Proposed Sale, Anderson County, Tennessee.	LO2	E
D-TVA-E64004-AL	Development and Use of Mallard and Fox Creek Area, North Alabama	ER2	E
VETERANS ADMINISTRATION			
D-VAD-C81004-NJ	Veterans Administration Medical Center, Camden, New Jersey	ER2	C
D-VAD-E69002-OO	Veterans Administration National Cemetary, Georgia, Alabama, and South Carolina, Southeastern United States.	LO1	E
D-VAD-F69001-OO	Fort Custer National Cemetery, Kalamazoo County, Michigan or Plum Brook, Huron County, Ohio.	LO2	F
D-VAD-L80001-WA	515-Bed Replacement Hosprtal, Veterans Administration Medical Center, Seattle, King County, Washington.	LO2	K

Appendix II.—*Definitions of Codes for the General Nature of EPA Comments*

Environmental Impact of the Action

LO—Lack of Objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between May 1, and May 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
CORPS OF ENGINEERS			
F-COE-E32022-NC	Manteo (Shallowbag) Bay Project, Enlarging and Deepening Basin at Wanchese, Dare County, North Carolina.	EPA continues to have environmental concerns regarding the effect of the jetty system on larval migration. EPA suggests that when the phase I studies are completed that the unresolved matters be addressed in a supplemental EIS.	E
F-COE-F32052-WI	Racine Small Boat Harbor Improvement, Racine Harbor, Racine County, Wisconsin.	EPA's concerns were adequately addressed in the final EIS	F
F-COE-F32054-WI	Small Boat Harbor Improvement, Manitowoc Harbor, Manitowoc County, Wisconsin.	EPA's concerns were adequately addressed in the final EIS	F
FS-COE-K35012-CA	Sacramento River Bank Protection Project, California.	EPA's concerns were adequately addressed in the final EIS	J
FS-COE-K35013-CA	Bank Protection Project, Sacramento River, Chico Landing to Red Bluff, California.	EPA's concerns were adequately addressed in the final EIS	J
DEPARTMENT OF AGRICULTURE			
F-REA-E08012-FL	230 KV Transmission Facilities, Lee County, Florida (USDA-REA-EIS-(ADM) 78-12-F).	EPA's concerns were adequately addressed in the final EIS	E
F-SCS-G36067-TX	Hamilton Creek Watershed Plan, Burnet County, Texas.	EPA's concerns were adequately addressed in the final EIS	G
F-SCS-G36076-LA	Lower Bayou Teche Watershed, Lafayette and Vermillion Parishes, Louisiana.	EPA's concerns were adequately addressed in the final EIS	G
F-SCS-K36028-CA	San Miguelita Subwatershed Project, Santa Ynez River, Flood Prevention Project, Santa Barbara, California.	EPA's concerns were adequately addressed in the final EIS	J
DEPARTMENT OF COMMERCE			
F-NOA-C90004-VI	Virgin Islands Coastal Zone Management Program (CZM).	EPA's concerns were adequately addressed in the final EIS. EPA suggested greater consideration be given to the existing refuse disposal problems in the Virgin Islands.	C
DEPARTMENT OF INTERIOR			
F-BLM-J01019-WY	Development of Coal Resources in Southcentral Wyoming.	Generally, EPA's concerns were adequately addressed in the final EIS. EPA reemphasized the need for BLM to conduct scoping seesions in the preparation of the "super" regional EISs and outlined specific areas which should be discussed in these documents.	I
F-BLM-J01021-WY	Eastern Power River Coal Resources Development, Campbell County, Wyoming.	EPA expressed the need for the "super" regional EIS to be clear and concise and concentrate on the issues. EPA made several recommendations to assist the BLM.	I
F-BOR-F60002-MI	Mill Creek Metropark, Recreation, Washtenaw County, Michigan.	EPA continues to have environmental reservation on the proposed project. EPA believes further assurances are necessary to provide that the state water quality standards will not be violated. In addition, EPA reiterated many of its concerns raised in the comments on the draft EIS.	F
DEPARTMENT OF TRANSPORTATION			
F-FAA-K51012-HI	Lihue airport development projects, Kauai County, Hawaii.	EPA's concerns were adequately addressed in the final EIS	J
F-FHW-D40055-VA	VA-1 and US 301, Robert E. Lee Bridge and approaches, James River, Richmond, Virginia.	EPA's concerns were adequately addressed in the final EIS. However, EPA did express support for the noise mitigation and water quality maintenance controls described in the FEIS.	D
F-FHW-E40035-MS	US 78, eastern end of Holly Springs Bypass to New Albany Bypass, Marshall, Benton, and Union Counties, Mississippi.	EPA's concerns were adequately addressed in the final EIS	E
F-FHW-E40097-NC	Relocation of US 321, Dallas to Hickory, Gaston, Lincoln and Catawba Counties, North Carolina.	EPA's concerns were adequately addressed in the final EIS	E
F-FHW-F40041-MI	Reconstruction of US 2 bridge over Manistique River, Manistique, Schoolcraft County, Michigan.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that if Eastern Mound or free-standing noise barriers are not feasible, some type of landscaping would be appropriate to provide impacted dwellings with visual and possibly sound barriers.	F

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between May 1, and May 31, 1979*—Continued

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments were Issued Between May 1, and May 31, 1979*

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between May 1, and May 31, 1979*—Continued

Identifying No	Title	General nature of comments	Source for copies of comments
	GENERAL SERVICES ADMINISTRATION		
F-GSA-D80009-OO	Relocation and Consolidation of NRC Headquarters, Washington, DC and Maryland.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommends the use of water saving devices, stormwater controls, and acoustical treatment in newly constructed buildings: and encouraged GSA to strictly enforce the parking limitations discussed in the EIS.	D
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-E28031-AL	North-Central Jefferson County Water System, Alabama (CDBG).	EPA's concerns were adequately addressed in the final EIS	E
F-HUD-E85029-SC	College Park Estates Subdivision, Berkeley County, South Carolina (HUD-R04-77-14F).	EPA's concerns were adequately addressed in the final EIS	E
F-HUD-E85034-TN	East Hampton Subdivision, Shelby County, Tennessee (HUD-R04-EIS-77-28F).	EPA's concerns were adequately addressed in the final EIS. However EPA is concerned about the effect of the development on the Hamington Creek Watershed.	E
F-HUD-G85107-TX	Glen Iris Subdivision, Houston, Harris County, Texas.	EPA's concerns were adequately addressed in the final EIS	G
F-HUD-K85019-AZ	Maryvale Terrace 53-A, Mortgage Insurance, Phoenix, Arizona.	EPA's concerns were adequately addressed in the final EIS	J
	NATIONAL CAPITAL PLANNING COMMISSION		
FS-NCP-D61005-DC	Site location and program plan, Civic Center, Washington, DC.	EPA's concerns were adequately addressed in the final EIS	D
	DEPARTMENT OF STATE		
F-STA-A82102-OO	Narcotics Control in Mexico	EPA has environmental Reservations over the use of Paraquat in this program. EPA's position is not that *fusanum oxysporum* is the sole alternative to Paraquat, but that this fungus is indicative of the low-impact alternatives that should be considered in the development of a comprehensive, environmentally sound program.	A

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between May 1, 1979 and May 31, 1979*

Identifying No	Title	Source of review
	CORPS OF ENGINEERS	
FS-COE-B39005-MA	Bourne and Sagamore Highway Bridges, Cape Cod Canal, Bourne and Barnstable Counties, Massachusetts	B
F-COE-E35047-MS	Hatcher Bayou and Durden Creek Flood Control Project, Warren County, Mississippi	E
	DEPARTMENT OF AGRICULTURE	
F-AFS-J65070-UT	Land Management Plan, Salt Lake Planning Unit, Wasatch National Forest, Utah.	I
F-AFS-L01001-WA	Geothermal Leasing and Development, Gifford Pinchot National Forest, Skamania County, Washington (USDA-FS-R6-FES-(ADM)-79-1)	K
F-AFS-L61107-WA	Canal Front Land Management Plan, Olympic National Forest, Clallam, Jefferson and Mason Counties, Washington (USDA-FS-F6-FES-(ADM)-78-9-1).	K
F-AFS-L61111-ID	Warren Planning Unit, Payette National Forest, Idaho and Valley Counties, Idaho (USDA-FS-R4-FES-(ADM)-R4-78-6)	K
F-AFS-L65027-OR	Ochoco Timber Resource Plan, Crook, Harney, Grant, and Wheeler Counties, Oregon (USDA-FS-R7-FES-(ADM)-77-7)	K
F-AFS-L65043-AK	Louisana-Pacific, Ketchikan Division, Timber Sale Plan 1979-84 Operating Period, Tongass National Forest, Prince of Wales Island and Revilla Island, Alaska.	K
FS-AFS-L82003-ID	Western Spruce Budworm, Boise and Payette National Forests, Idaho (USDA-FS-R4-AFES-(ADM)-R4-78-2)	K
F-SCS-B36018-CT	South Branch Park River Watershed, Hartford County, Connecticut (USDA-SCS-EIS-WS-(ADM)-79-1-F-CT)	B
	DEPARTMENT OF ENERGY	
F-DOE-A07015-OO	Fuel Use Act, Coal and Alternative Fuels Use	A

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments were Issued Between May 1, 1979 and May 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF COMMERCE		
R-NOA-A90037-OO	15 CFR Part 931, Proposed Administrative Procedures for Implementation of Coastal Energy Impact Program (44 FR 16852).	EPA believes these procedures provide the much needed support for broadened participation in the important decisions affecting OCS activities and offered specific comments to help improve the regulations.	A
	DEPARTMENT OF DEFENSE		
A-DOD-K23000-CA	Revised Draft Environmental Assessment and a Proposed Disposal Action at the Sierra Army Depot, California.	EPA recommended additional cautions and concerns to the proposal and made several comments which should be included in the final assessment.	J
	DEPARTMENT OF ENERGY		
R-DOE-A25036-OO	10 CFR Part 793, Municipal Waste Reprocessing Demonstration Program, Inquiry Regarding Development of Proposed Guidelines (44 FR 24298).	EPA welcomes the development of programs to secure sound technical and economic data on resource recovery demonstration facilities and encourages DOE to utilize those procedures developed by EPA in its own program	A
	DEPARTMENT OF INTERIOR		
A-BLM-A02149-OO	Intent to Prepare an Environmental and Request for Comments, Proposed Oil and Gas Lease Program, 5 Years, Section 18, Outer Continental Shelf Lands Act (OCS) (44 FR 24639).	EPA supports the preparation of a programmatic EIS in implementing the five-year leasing program and provided several comments to BLM	A
R-BLM-A61296-OO	43 CFR Part 1600, Planning, Programming, and Budgeting, Subpart 1601 Planning (43 FR 58764)	EPA made specific comments and recommendations in order to strengthen the regulations to provide greater assurances that the requirements of section 102(A)8 will be met.	A
R-IGS-A02142-OO	30 CFR Part 250, Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS) (44 FR 13527).	EPA commented on the following issues. 1) the suspension of operations and/or cancellation of a lease for environmental reasons. EPA continues to advise that determinations of environmental damage and remedial action should be made with input of environmental expertise from entities such as NOAA, FWS, EPA and not solely with parties whose concerns are primarily for the extraction of hydrocarbons. 2) the approval sequence for subsea installations, and the criteria for approval of platform, artifical island and seabed installations, design fabrication and plan of installation; and 3) that the applicability of NPDES administered by EPA under CWA should be referenced under section 250.43. Pollution and waste disposal	A
	DEPARTMENT OF TRANSPORTATION		
R-CGD-A52139-OO	46 CFR Parts 31 and 35, Flammable and Combustible Cargoes, Information Cards (CGD 73-243) (44 FR 18709).	EPA supports the proposed USCG rule. The rule needs to be clarified to reference the notification procedures for oil and hazardous substances (40 CFR 110.9) since the cargoes requiring the information cards include oil and hazardous substance	A
A-FAA-K51018-AZ	Proposed Expansion of Facilities at Cottonwood Airport, Assessment, Arizona.	EPA has no formal comments to offer at this time	J
A-FHW-J40047-ND	Knife River Crossing Near Stanton, North Dakota	EPA made no objections to the proposed action and found the informational content to be adequate.	I
R-MTB-A55009-OO	49 CFR Part 193, LNG Facilities, Federal Safety Standards, Development of New Standards (44 FR 8142).	EPA's comments related to definitions within the proposal and recommended the area of enforcement be clarified. In addition, EPA recommended the regulations include post-construction and pre-operational review to confirm compliance	A
	FEDERAL ENERGY REGULATORY COMMISSION		
R-FRC-A05450-OO	18 CFR Parts 2, 4 and 16, Applications for Licenses for Major Projects, Existing Dams, Notice of Proposed Rulemaking (44 FR 24095).	EPA made several comments and modifications to the environmental report, exhibit E, to strengthen that section and facilitate the review process. EPA expressed concern that the impacts from the operation of major projects involving existing dams should not be minimized. This is important when considering peak load production projects which cause major fluctuations in the impoundment level and downstream flow	A

[FR Doc. 80-17055 Filed 6-4-80; 8:45 am]
BILLING CODE 6560-01-M

V 45 N 110 JUN 5 1980 UMI

[FRL 1507-8; OPP-30038]

Pesticide Registration Label Improvement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Pesticide Programs is initiating a program to improve pesticide labeling. This Notice describes the program and the procedures that will be used to implement it.

FOR FURTHER INFORMATION CONTACT: Jean Frane, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426-2510.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The EPA is mandated by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), to protect human health and the environment from unreasonable adverse effects of pesticides. One means of accomplishing this goal is the labeling of pesticide products to provide instructions for their proper use and information on their hazards. The 1972 amendments to the FIFRA provided new authority over the use of pesticides, the enforcement of which is based primarily on the pesticide label—it is now a violation of the law to use a product in a manner inconsistent with its labeling.

Prior to the 1972 amendments, pesticide labels were developed with a view toward user guidance. Labeling submitted by registrants was evaluated on a case-by-case basis at the time of application for registration. The inherent variability of the case-by-case approach, however, has introduced inconsistency among labels of similar products. This inconsistency, coupled with non-specific language on many existing labels, and the potential for varying interpretations by State authorities responsible for primary enforcement of the Act, has created some confusion and hampered uniform compliance and enforcement measures.

Moreover, many pesticide labels which have not been reviewed since 1972 are in need of updating to accommodate newly emerging technologies and trends in pesticide application, to improve and expand the information presented, and to delete obsolete or incorrect recommendations. The Labeling Guidelines, now being developed for proposal in the **Federal Register**, and their implementation through present registration procedures and the proposed registration standards program, will correct many of these label problems for the future. However, even with full operation of both review programs, some pesticide labels will not be comprehensively reviewed until a considerable time in the future, possibly as long as 15 years.

II. Label Improvement Program

The Office of Pesticide Programs (OPP) is initiating a separate program designed to upgrade pesticide labels in certain areas that contribute to the protection of health and environmental safety and which are useful to the ability of the user and the enforcer to clearly delineate legal use. These areas are not adequately addressed in present labeling, and cannot await the development of registration standards. This program will also provide for needed uniformity in compliance and enforcement activities. We recognize that it may be impossible to achieve labeling consistency among products without consideration of the characteristics, effects, and uses of the individual pesticides themselves. Nonetheless, OPP believes that certain immediate label revisions are necessary.

OPP contemplates that the Label Improvement Program will be a continuing program to enable the Agency to respond rapidly to labeling needs identified within the Agency and by the industry, the users, and the public.

To that end, the Agency will require that registrants amend their registrations to modify their labels in certain ways within time frames to be established. The Office of Pesticide Programs will strive to establish reasonable deadlines for compliance and ample opportunity for disposal of current label stocks, commensurate with the nature of the required revision and the desire to achieve the benefits of improved labeling in the shortest time.

The Agency will issue a Notice of Intent to Cancel under FIFRA section 6(b) if an applicant fails to submit the application for amendment in a timely manner. FIFRA section 6(b) provides that the Agency may issue a Notice of Intent to Cancel if a product's labeling " * * * does not comply with the provisions of the Act." With respect to labeling, the standard for compliance is found in the misbranding provisions of the Act. For the purposes of this Notice, sections 2(q)(1)(F) and (G) are the most important misbranding provisions. Those sections require that labels specify use directions and warning and precautionary statements, respectively, adequate to "protect health and the environment." The term "protect health and the environment" is defined by FIFRA secion 2(x) to mean protection

from unreasonable adverse effects on the environment, and must therefore take into consideration the economic, social and environmental costs and benefits of use.

The Agency believes that a pesticide product's label is clearly inadequate to protect health and the environment if labeling changes would reduce significantly the risks of adverse effects from the pesticide's use without reducting significantly the benefits from use of the pesticide. This incremental risk/benefit determination does not supersede or negate the Agency's existing Rebuttable Presumption against Registration (RPAR) and registration standards processes, both of which address the total risks and benefits of a pesticide and its uses. Rather, the Agency will use the incremental risk/benefit principle in labeling improvement in instances when timeliness of action is a major consideration in effecting beneficial label changes, when a specific area for improvement has previously been identified (such as the reentry or storage and disposal requirements of the labeling regulations in 40 CFR 162.10), or when a revision can readily be foreseen as the likely outcome of the lengthier RPAR or registration standards evaluations.

The probability is high that either RPAR or a registration standard will result in additional label modifications based on its more comprehensive assessment of the risk and benefits of the pesticide and its uses. The possibility of future label revisions, however, is not a compelling reason for the Agency to delay implementation of labeling requirements that can achieve significant protection of health or the environment.

There are various areas where application of the incremental risk/benefit principle will permit the Agency to improve labeling. The Agency will identify specific label revisions in separate PR Notices or by individual notice to registrants. The remainder of this Notice describes the general procedures the Agency will use in carrying out the Label Improvement Program.

III. Procedures for Label Revision in Response to Label Improvement Notices

A. Submission of Applications

1. Each registrant of a product will be notified by individual certified letter or certified mail copy of a PR Notice that his product is subject to specific requirements for revision. For each affected product, the registrant is required to submit the following:

a. An application for amended registration (EPA Form 8570-11).

b. Five copies of draft labeling, incorporating the required changes. Final printed labeling may be submitted directly, but the registrant must assume responsibility for corrections if found deficient.

c. In some cases, a Statement of Confidential Formula (EPA Form 8570-4).

2. Applications must normally be submitted within 60 days of receipt of certified mail notice. If a longer time frame is permitted for submission of applications, it will be clearly stated.

Applications should be submitted to the appropriate Product Manager in the Registration Division at the following address: Product Manager (Name and Number), Registration Division (TS-767), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

3. Any product for which an application has not been received within the allotted 60 days (or longer time if provided) will be subject to cancellation proceedings under FIFRA section 6(b). A Notice of Intent to Cancel will be issued for each such product, effective 30 days after receipt, unless within that time the registrant, or an interested party with the consent of the registrant, either makes the required corrections (by applying for amended registration) or requests a hearing.

B. Exemption from Compensation Requirements

1. In many cases, an application for amended registration to meet requirements under a Label Improvement Program Notice will not be subject to the requirements of FIFRA Section 3(c)(1)(D) with respect to compensation for use of data. Label Improvement requirements will be reviewed against the criteria of 40 CFR 162.9-1(b)(16), that Agency consideration of scientific data is not necessary to approve the amendment. When requirements meet that criteria, no Offer to Pay or Certification Statement will be required to be submitted, nor will approval of amended registrations in response to that Notice convert registrations to conditional status under FIFRA section 3(c)(7). Each notice will specify the compensation status of applications.

2. Any exemption from compensation requirements applies only to amendments limited solely to the changes specifically enumerated in that Label Improvement notice. For this reason, a registrant may not normally propose other changes in labeling in his application for amended registration in response to such notice.

C. Processing of Applications

Labels will be reviewed for compliance with the requirements of the Notice, as follows:

1. An applicant whose draft labeling is acceptable will be required to submit final printed labeling. The registration amendment is not complete until final printed labeling has been submitted and accepted by the Registration Division. A stamped copy of acceptable final printed labeling will be returned to the applicant.

2. An applicant whose draft labeling is not acceptable will be informed of the deficiencies by letter and provided 45 days in which to resubmit revised labeling. Resubmission of revised labeling must be limited to the changes required by that letter to maintain the exemption from compensation requirements.

D. Combined Application in Response to Multiple Label Improvement Notices

Although OPP will attempt to combine Label Improvement requirements in an orderly fashion, it is conceivable that a registrant may receive more than one such Notice, with different submission deadlines. The Agency intends to minimize this occurrence as much as possible, but cannot ensure that there will be no overlap. To mitigate this problem, an applicant who receives multiple Notices requiring labeling changes may combine his responses into one application for amended registration, provided he clearly references both Notices. However, applications that are non-compensable under FIFRA section 3(c)(1)(D) may *not* be combined with applications that are compensable. The submission deadline for a combined application is the later of the deadlines established by the Notices. Compliance time for making the revisions will be calculated from the date of approval of the combined application.

E. Time Frames for Compliance

1. Applications for amendment must normally be submitted within 60 days of receipt of a Notice. Longer time frames will be clearlay stated.

2. No later than 180 days following approval of final printed labeling, all products released for shipment must bear the approved labeling. Registrants are responsible for ensuring compliance by their sub-registrants (distributors).

3. Product in channels of trade as of the 180-day deadline may continue to be distributed in commerce, sold, and used until supplies are exhausted.

Dated: May 29, 1980.

EPA notes that the statement on cast

and 4 p.m. on weekdays, and a

made sources of atmospheric arsenic

populations. In May 1978, EPA

In the judgement of the Administrator,

V 45 J E 5 8 0 UMI

Dated: May 29, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-17054 Filed 6-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1508-1; OPTS-211000A]

Amendment to Granting of Citizen's Petition To Initiate Regulatory Proceedings to Control Asbestos-Cement Pipe

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued a notice in the **Federal Register** of October 18, 1979 (44 FR 60155) granting a citizen's petition to initiate a proceeding to control the manufacture and distribution of asbestos cement water pipes. Since that time the Ductile Iron Pipe Research Association has provided EPA with additional information regarding linings for cast iron pipe. The amendment reflects this information.

FOR FURTHER INFORMATION CONTACT: Mr. John Ritch, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Toll Free: (800-424-9065), in Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION: EPA issued a notice granting the petition of Mr. Glenn Scott to initiate a proceeding to control the manufacture and distribution of asbestos-cement water pipes published in the **Federal Register** of October 18, 1979, (44 FR 60155). On page 60157 EPA made the statement:

> "Development of an asbestos-cement pipe regulation will also involve an analysis of product substitutes for possible adverse health effects. For example, cast iron pipe, a potential substitute for use in drinking water systems is sometimes lined with coal tar pitch. Because coal tar pitch contains chemicals suspected of being carcinogenic, this substitute may be found to be unacceptable."

EPA has been advised that the Ductile Iron Pipe Research Association is not aware of any instances where coal tar pitch is being furnished for the lining of either cast or ductile iron pipe in potable water systems. The Association has further advised that in only very rare instances is pipe shipped without lining. The information submitted by the Association and the Agency's response is available in the public record established by the EPA for its decision on the citizen's petition.

EPA notes that the statement on cast iron pipe appearing in the **Federal Register** only reflects the Agency's intention to investigate the health risks that may be associated with substitutes for asbestos-containing products. The Agency did not express any definitive conclusions on the health effects of any particular product.

Dated: May 30, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-17052 Filed 6-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1441-1]

National Emission Standards for Hazardous Air Pollutants; Addition of Inorganic Arsenic to List of Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Addition to the List of Hazardous Air Pollutants.

SUMMARY: This notice announces the Administrator's decision to list inorganic arsenic as a hazardous air pollutant under section 112 of the Clean Air Act. This decision responds to section 122 of the Clean Air Act which requires the Agency to make a regulatory decision with respect to arsenic. This decision is based on the Administrator's findings that (1) there is a high probability that exposure to inorganic arsenic causes cancer in humans, and (2) there is significant public exposure to inorganic arsenic that is emitted into the air by stationary sources. These findings meet the requirements for listing specified in EPA's proposed rule, "Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer," (44 FR 58642), October 10, 1979.

This notice also announces that, consistent with the proposed rule cited above, EPA will (1) determine which categories of stationary sources of inorganic arsenic pose significant risks to public health, and (2) assign priorities to such categories of stationary sources for the development of emissions standards. EPA's assignment of priorities will be announced in the **Federal Register**, and an opportunity for public comment will be provided.

ADDRESSES: Docket Number OAQPS 79-8, containing material relevant to this action, is located in EPA's Central Docket Section, Room WSM-2903B, 401 M Street, SW, Washington, D.C. The Docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Joseph Padgett, Director (MD-12), Strategies and Air Standards Division, (MD-12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5204 or FTS 629-5204.

SUPPLEMENTARY INFORMATION: Arsenic occurs in the environment primarily in inorganic compounds but is also found in a variety of organic compounds. Both inorganic and organic arsenic have been found to be toxic to humans. For years, scientists have been concerned about the toxicity of arsenic compounds, but recently this concern has focused on inorganic arsenic because epidemiological evidence has shown that inorganic arsenic is a human carcinogen. *(1)* In 1969, the National Cancer Institute *(2)* pointed to arsenic as a substance for which human carcinogenicity had been demonstrated, although no animal model had yet been found to reproduce that effect. The National Academy of Sciences (NAS), *(3)* in 1977, concluded that there was strong epidemiologic evidence that inorganic arsenic caused skin and lung cancers in humans. In 1977, EPA's Carcinogen Assessment Group (CAG) *(4)* concluded that, while arsenic had not yet been convincingly shown to be carcinogenic in animals, the evidence of its carcinogenicity in humans was sufficient to warrant its being regarded as a carcinogen for regulatory purposes. In May 1978, the Occupational Safety and Health Administration (OSHA) *(5)* promulgated workplace standards to limit workers' exposure to airborne inorganic arsenic. This action was based on findings of excess cancer mortalities among worker populations exposed to airborne concentrations of varous inorganic arsenic compounds. OSHA reviewed the substantial body of evidence relating to the carcinogenicity of inorganic arsenic and concluded that inorganic arsenic "is clearly a human carcinogen." *(5)*

Arsenic occurs in the atmosphere as a result of both natural and man-made processes. Arsenic compounds occurring naturally in soils find their way into the ambient air through natural phenomena such as volcanic activity, hot springs, decay of plant matter, and the weathering of soils. *(6)* Man-made sources of atmospheric arsenic fall into two general groups: (1) The processing of raw materials containing arsenic, and (2) the manufacture or use of products containing arsenic. Examples of man-made sources of atmospheric arsenic include smelters (arsenic often occurs naturally in compounds with other metals), pesticide manufacture and use, the combustion of fossil fuels (arsenic occurs naturally in compounds with sulfur), glass manufacture, cotton ginning, and the lead alloy industry. EPA estimates that emissions of inorganic arsenic into the ambient air are more than 6,000 tons per year, with about 65% of the total coming from the operations of copper, lead, and zinc smelters. *(6)*

The possibility that a health problem associated with inorganic arsenic may extend to the communities surrounding industrial sources of arsenic emissions has been the subject of several studies. Increased lung cancer has been reported among male and female residents living near a copper smelter and a mine (both sources of arsenic emissions) in Anaconda and Butte, Montana. *(1)* The National Cancer Institute has released a study showing excess mortality from repiratory cancer in counties where copper, lead, and zinc smelters are located, but not in counties with other smelters. *(7)*

EPA initiated a study in 1977 of the populations exposed to various ambient air concentrations of arsenic. This study, in summarizing 1974 data collected by EPA's National Air Sampling Network (NASN), shows that the annual average concentration of arsenic for five urban areas within eighty kilometers of selected smelters was 10 times greater than the annual average for all of the sites (over 250) in the nationwide network. At a site in Tacoma, Washington, within sixteen kilometers of a smelter, the annual average was more than 25 times the national average. The study estimates that nearly three million people live within twenty kilometers of sources of airborne arsenic such as copper smelters, lead smelters, zinc smelters, cotton gins, pesticide manufacturing plants and glass manufacturing plants and are exposed to annual average arsenic concentrations greater than the national average concentration. The study also estimates that (1) more than 500,000 of these people are exposed to annual average concentrations that are 10 times or more the national average, and (2) more than 40,000 of these people are exposed to concentrations 100 times or more the national average.

In addition to the exposure study, EPA also produced documents *(1,8)* dealing with (1) the health effects of arsenic, and (2) the evidence of carcinogenicity, carcinogenic strength, and the estimated risks of cancer to the exposed populations. In May 1978, EPA submitted drafts of the three documents to the Agency's Science Advisory Board (SAB) for review. Based on this review and public comments received by EPA, the documents were revised. The SAB was asked to review the revised documents, and did so in January 1979. In this second review of EPA's draft documents, the SAB *(9)* concluded that, "All the available data lead to a consensus that there is a real association between exposure to arsenic and the development of cancer, both lung and skin cancer." The SAB's conclusion supported the finding of EPA's Carcinogen Assessment Group that "there is substantial evidence that arsenic is a human carcinogen." The SAB also endorsed the basic adequacy of the exposure study. The SAB did not view the analysis presented in the documents as establishing conclusively the carcinogenicity of arsenic at low concentrations in the ambient air, but stated that it did not intend to express any view on the Agency's use of a no-threshold position *(10)* for regulatory purposes under section 112 of the Clean Air Act. This Agency position and the Agency's proposed policy for dealing with airborne carcinogens are discussed below.

The identification of substances as probable human carcinogens is generally based on studies of human or animal exposure to higher dosages of these substances than those usually found in the ambient air. There is considerable scientific debate as to whether such substances are human carcinogens at the lowest exposure level encountered in the ambient air, or whether there are threshold levels of exposure below which there is no risk of cancer. the Agency believes that it is scientifically infeasible to establish such levels for airborne carcinogens and has, as a matter of prudent health policy, taken the position that human carginogens must be treated as posing some risk of cancer at any non-zero level of exposure; therefore, the absence of conclusive proof that substances shown to be carcinogenic at high exposure levels are also carcinogenic at lower exposure levels is not relevant to a decision to list the substance as a hazardous air pollutant under section 112. The policy proposed by the Agency for dealing with airborne carcinogen establishes two qualitative criteria for listing under section 112: (1) A finding that there is a high probability that the substance is carcinogenic to humans, and (2) a finding that there is significant public exposure to the substance.

In the judgement of the Administrator, there is a high probability that inorganic arsenic causes cancer in humans. This judgement is based on the documentation referenced herein and on the conclusion of the Carcinogen Assessment Group, supported by the Science Advisory Board, that there is substantial evidence that inorganic arsenic is a human carcinogen.

In the judgment of the Administrator, there is significant public exposure to airborne inorganic arsenic. This judgement is based on the results of EPA's exposure study, which the SAB found to be basically adequate. these results identified multiple stationary sources of arsenic, showed that large numbers of people are exposed to localized ambient concentrations of arsenic many times the national average concentration, and clearly related such concentrations to identifiable stationary sources.

Under the proposed policy, the listing as a hazardous air pollutant of an inorganic substance for which no generic standards have been developed will be followed by the assignment of priorities for the development of emission standards for significant categories of sources emitting the substance. The priority listing will be published in the **Federal Register**. While the source selection and priority assignment process is not complete, the Agency is pursuing the development of regulations for the control of arsenic emissions from selected smelting operations which use ores of high arsenic concentration. As required by section 112(b)(1)(B) of the Clean Air Act, public comment on the arsenic listing decision will be solicited concurrent with comment on the first standards proposed to control arsenic emissions.

Based on the judgements of the Administrator concerning the human carcinogenicity of inorganic arsenic and the significance of public exposure to airborne inorganic arsenic, and in view of the requirement under section 122 of the Clean Air Act to make a determination on arsenic, the Administrator, has decided at this time to list inorganic arsenic as a hazardous air pollutant under section 112 of the Act.

Notice is hereby given that the Administrator, pursuant to section 112(b)(1)(A) of the Act amends the list of hazardous air pollutants to read as follows:

List of Hazardous Air Pollutants

* * * * *

1. Asbestos
2. Beryllium
3. Mercury

4. Vinyl Chloride
5. Benzene
6. Radionuclides
7. Inorganic Arsenic.

Dated: May 27, 1980.

Douglas M. Costle,
Administrator.

References

1. U.S. EPA, *En Assessment of the Health Effects of Arsenic Germane to Low-Level Exposure*, Revised External Review Draft. Washington, D.C., October 1978.
2. Lee, A. M. and Fraumeni, J. F., Jr., "Arsenic and Respiratory Cancer in Man: An Occupational Study," *J. National Cancer Institute*, 42:1045–52, 1969.
3. Committee on Medical and Biologic Effects of Environmental Pollutants, *Arsenic*. National Academy of Sciences, Washington, D.C., 1977.
4. U.S. EPA, "Carcinogenicity of Arsenic," memorandum from Roy E. Elbert, CAG, to Joseph Padgett, SASD, April 29, 1977.
5. Occupational Safety and Health Administration, Department of Labor, "Occupational Exposure to Inorganic Arsenic," Final Standard, **Federal Register**, Vol. 43, No. 88, May 5, 1978, pp 19584–19631.
6. Benjamin E. Suta, *Human Exposures to Atmospheric Arsenic*. SRI International, Report to EPA under Contract #68–01–4314 and 68–02–2835, December 1979.
7. Blot, W. J. and Fraumeni, J. F., Jr., "Arsenical Air Pollution and Lung Cancer," *The Lancet*, pp 142–144, July 26, 1975.
8. U.S. EPA, Carcinogen Assessment Group's Preliminary Report on Population Risk to Arsenic Exposure, 18 April 1978.
9. U.S. EPA, Science Advisory Board, Subcommittee on Arsenic, Report of the Subcommittee's review of Arsenic as a Possible Hazardous Air Pollutant, May 22–23, 1978 and Jan. 10, 1979, 18 April 1979.
10. U.S. EPA, "Policy and Procedures for Identifying, Assessing and Regulating Airborne Substances Posing a Risk of Cancer," Proposed Rule, **Federal Register**, Vol. 44, No. 197, October 10, 1979.

[FR Doc. 80–17053 Filed 6–4–80; 8:45 am]
BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80–241, File No. 22574–CD–P–79; CC Docket No. 80–242, File No. 20509–CD–P–80]

Southwest Mobile Systems Inc. and Radiofone, Inc.; Applications

In re applications of Southwest Mobile Systems, Inc. for a construction permit to establish one-way paging facilities to operate on frequency 152.24 MHz in the domestic public land mobile radio service at McComb, Mississippi; and Radiofone, Inc. for a construction permit to establish one-way paging facilities to operate on frequency 152.24 MHz in the domestic public land mobile radio service at Tickfaw, Louisiana; memorandum opinion and order.

Adopted: May 16, 1980
Released: June 2, 1980.

By the Chief, Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is the application of Southwest Mobile Systems, Inc., File No. 22574–CD–P–79, for a Construction Permit to establish a new one-way station to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at McComb, Mississippi, and the application of Radiofone, Inc., File No. 20509–CD–P–80, for a Construction Permit to establish a new one-way station to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at Tickfaw, Louisiana. These applications are electrically mutually exclusive; therefore, a comparative hearing must be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the above-referenced application of Southwest Mobile Systems, Inc., File No. 22574–CD–P–79, and the application of Radiofone, Inc., File No. 20509–CD–P–80, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 43 dBu contours, based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[1] and to determine the need for the proposed services in said areas; and (c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register**.

James K. Smith,
Acting Chief, Common Carrier Bureau.

[FR Doc. 80–17079 Filed 6–4–80; 8:45 am]
BILLING CODE 6712–01–M

[1] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Proposed Revision of Existing Systems of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed revision of existing systems of records.

SUMMARY: The Department of Housing and Urban Development published (44 FR 72303, 72304) notices of the Federal Crime Insurance and The National Flood Insurance Application and Related Documents Files systems of records. The purpose of this proposal is to give notice to the public that the above-referenced systems of records will become part of the Federal Emergency Management Agency systems of records; to identify administrative changes to these systems necessitated by the President's Reorganization Plan No. 3 of 1978; to clarify the language of several routine uses for these systems; and to add new routine uses to the systems that are compatible with the purposes for collecting and maintaining these records.

DATES: The above-referenced systems of records shall be effective as proposed without further notice July 7, 1980, unless comments are received on or before that date which would result in a contrary determination. The Office of Management and Budget has been requested to waive the 60-day advance notice requirement. If the waiver is not approved, the systems of records shall become effective August 4, 1980. Any interested party may submit written comments regarding these proposals.

ADDRESS: Address comments to the Federal Emergency Management Agency, Attn: Privacy Act Officer, Rm. 807, 1725 Eye Street, N.W., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda Hartford at (202) 634–6772.

SUPPLEMENTARY INFORMATION: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency. The plan was activated effective April 1, 1979, by Executive Order 12127 "Federal Emergency Management Agency," 44 FR 19367. The plan, Executive Order 12127, and Executive Order 12148 "Federal Emergency Management Agency," effective July 15, 1979, 44 FR 43239, together transferred to the new agency functions of five existing agencies in four departments or parent agencies. The Federal Insurance Administration responsibilities were transferred from the Department of Housing and Urban Development to the Federal Emergency Management Agency.

Therefore, it is necessary to make certain administrative changes to transfer the above-referenced systems of records to the Federal Emergency Management Agency. The proposed changes include (1) relocation of the files to the Federal Emergency Management Agency; (2) the names and addresses of new system managers; and clarification and addition of new routine uses. The Department of Housing and Urban Development will continue coverage of the Federal Crime Insurance and The National Flood Insurance Application and Related Documents Files systems of records under the Privacy Act until such time as the Federal Emergency Management Agency systems of records become effective.

While the proposed changes are essentially administrative in nature, we believe that they do represent substantial changes to the prior HUD systems or records within the meaning of OMB's guidelines for submission of a report on new systems. A Report on New Systems that identifies all changes herein proposed has been filed, concurrent with this publication, with Congress and the Office of Management and Budget. The Federal Emergency Management Agency has requested a waiver of OMB's 60 day advance notice requirement so as to avoid delays in processing of claims and ensure nonduplication of benefits. If the waiver is approved, the two systems of records shall become effective July 7, 1980 without further notice unless comments are received on or before that date which would result in a contrary determination.

Dated: May 30, 1980.

Bill Combs,
Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/FIA–1

SYSTEM NAME:
Federal Crime Insurance Program.

SECURITY CLASSIFICATION:
Unclassified.

SYSTEM LOCATION:
Various offices of a servicing agent under contract to the Federal Insurance Administration, Federal Emergency Management Agency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individual policyholders.

CATEGORIES OF RECORDS IN THE SYSTEM:
Names of policyholders, addresses of insured premises; type of premises; amounts and types of insurance desired; annual premiums; claims information; record of claim payments; record of premium payments; agent's name and address; other insurance held by policyholder; inspection report or protective devices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb-et seq; E.O. 12127, 44 FR 19367.

PURPOSE(S):
For the purpose of verifying coverage of Federal Crime Insurance, issuing policies, claims adjusting and billing purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
To the servicing company for the contract and insurance adjustment firms retained by the servicing company for billing, verification of coverage, claims adjusting and issuance of policies; to property loss reporting bureaus; to State Insurance Departments and insurance companies investigating fraud or potential fraud in connection with burglary or robbery claims. Additional routine uses may include Nos. 1, 2, 3, 5, 8, 12 and 13 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Tape/disc library and paper files.

RETRIEVABILITY:
By name of policyholder, social security number of policyholder or policy number.

SAFEGUARDS:
Personnel screening, hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:
Information partly current and partly historical. Retention of records shall be for 6 years or until no longer needed. Disposition of records shall be in accordance with the FEMA Records Maintenance and Disposition System.

SYSTEM MANAGER(S) AND ADDRESS:
Federal Insurance Administrator, Office of Insurance Operations, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:
Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:
Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:
Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:
Individual policyholders; police reports (for verification of claims data; servicing companies (for verification of claims data).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/FIA-2

SYSTEM NAME:

National Flood Insurance Application and Related Documents Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Various offices of a servicing agent under contract to the Federal Insurance Administration; FIA Headquarters office, Federal Emergency Management Agency, Washington, D.C. 20472. Copies of some of the files are also provided to the FEMA Regional offices when additional information is requested from their respective offices.

CATEGORIES OF INDIVIDUAALS COVERED BY THE SYSTEM:

Applicants for individual flood insurance and individuals insured.

CATEGORIES OF RECORDS IN THE SYSTEM:

Flood insurance, policy issuances and administration records and claims adjustment records, including applications for emergency and regular flood insurance, endorsements, renewal applications, cancellation notices, policy questionnaires, notice of loss, and proofs of loss.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, et seq.; 5 U.S.C. 301; Reorganization Plan No. 3 of 1978, 43 FR 41943; and E.O. 12127, 44 FR 19367.

PURPOSE(S):

For the purpose of carrying out the National Flood Insurance Program and verifying nonduplication of benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; to Small Business Administration, the American Red Cross, the Federal Disaster Assistance Administration, the Farmers Home Administration and State and local government individual and family grant and assistance agencies, including but not limited to the State of Ohio Disaster Services Agency and the Johnstown, Pennsylvania. Redevelopment Authority for determinig eligibility for benefits and for verification of nonduplication of benefits following a flooding event or disaster.

Additional routine uses may include Nos. 1, 5, 6, 7, 8, 9, 12 and 13 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

magnetic tape/disc/drum and file folders.

RETRIEVABILITY:

By name and policy number.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Policy records are kept as long as insurance is desired and premiums paid and for an appropriate time thereafter and claim records are kept for the statutory time within which to file a claim.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Federal Emergency Management Agency—Appendix A

Introduction to Routine Uses:

Certain routine uses have been identified as being applicable to many of the FEMA systems of record notices. The specific routine uses applicable to an individual system of record notice will be listed under the "Routine Use" section of the notice itself and will correspond to the numbering of the routine uses published below. These uses are published only once in the interest of simplicity, economy and to avoid redundancy, rather than repeating them in every individual system notice.

1. *Routine Use—Law Enforcement.* In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. *Routine Use—Disclosure When Requesting Information.* A record from a FEMA system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, regulatory, licensing or other enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. *Routine Use—Disclosure of Requested Information.* A record from a FEMA system of records may be disclosed to a Federal agency, in response to a written request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. *Routine Use—Grievance, Complaint, Appeal.* A record from a FEMA system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with agency's responsibility for evaluation of Federal personnel management.

To the extent that official personnel records in the custody of FEMA are covered within systems of records published by the Office of Personnel Management as government-wide records, those records will be considered as a part of that government-wide system. Other official personnel records covered by notices published by FEMA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

5. *Routine Use—Congressional Inquiries.* A record from a FEMA system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

6. *Routine Use—FEMA Agents.* A record from a FEMA system of records may be disclosed as a routine use (1) to an expert, consultant, contractor, delegate, designee or other agent of FEMA to the extent necessary to further the performance of a Federal duty, and (2) to a physician to conduct a fitness-for-duty examination of a FEMA officer or employee.

7. *Routine Use—Private Relief Legislation.* The information contained in a FEMA system of records may be disclosed as a routine use to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

8. *Routine Use—Within FEMA.* A record from a FEMA system of records maintained by a component of FEMA may be disclosed as a routine use to other components of FEMA if necessary and relevant for the performance of a lawful function, such as, but not limited to, personnel actions, personnel security actions and criminal investigations of the component of FEMA requesting the record.

9. *Routine Use—Disclosure Required by International Agreements.* A record from a FEMA system of records may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred to international agreements and arrangements.

10. *Routine Use—Disclosure to State and Local Taxing Authorities.* Any information normally contained in IRS Form W-2 which is maintained in a record from a FEMA system of records may be disclosed as a routine use to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5, U.S. Code, Sections 5516, 5517 and 5520, and only to those State and local taxing authorities for which an employee, military member or other persons performing services for FEMA is or was subject to tax is or was withheld. The routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin No. 76-07.

11. *Routine Use—Disclosure to the Office of Personnel Management.* A record from a FEMA system of records may be disclosed to the Office of Personnel Management Division concerning information on pay and leave benefits, retirement deductions, and any other information concerning personnel actions.

12. *Routine Use—Disclosure of Information to NARS (GSA).* A record from a FEMA system of records may be disclosed as a routine use to the National Archives and Records Service of the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

13. *Routine Use—Freedom of Information Act.* A record from a FEMA system of records may be disclosed if required under the Freedom of Information Act, as amended.

[FR Doc. 80-17047 Filed 6-4-80; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL MARITIME COMMISSION

[Docket No. 80-35]

Pacific Coast European Conference (Agreement No. 5200-D.R.-4—Extension of Dual Rate Contract to Intermodal Service); Order of Investigation and Hearing

The member lines of the Pacific Coast European Conference (PCEC) have filed a modification to their existing Dual Rate Contract to include the cargo of contract shippers described as moving "overland from a Pacific Coast Area port via connecting water movements from U.S. Atlantic, Great Lakes and Gulf ports, to a destination port" within the scope of the conference agreement.

The apparent purpose of this modification is to include under the contract "minibridge" traffic which may be moved by members of the conference under the authority of the conference agreement.

Five shippers and carriers protested the Agreement and requested a hearing. Seatrain Lines/Seatrain International, S.A., questions whether any intermodal dual rate system can be implemented which would satisfy the provisions of the Interstate Commerce Act, the Shipping Act, 1916, and Commission General Orders. Seatrain believes that the Interstate Commerce Act bars the application of the contract spread to anything except the water portion of the joint rail-water rate, consequently rendering it impossible to state a fixed discount rate in the approved contract and specific rates in the applicable FMC tariffs as required.

Other protestants complain that the proposed extension would cause them economic injury and that it has not been justified by a showing that it fulfills a serious transportation need under the *Svenska* test.[1] Proponents disagree and dispute the applicability of the *Svensko* criteria to arrangements filed pursuant to section 14b.

The Commission recently restated its longstanding position that dual rate contracts are subject to the *Svenska* test, although not to the same degree as the conference agreement itself. In *Agreement Nos. 150 DR-7 and 3103 DR-7*, 19 S.R.R. 1229 (1979), we held that conferences adding intermodal rates to their dual rate contract coverate must at least show that they offer the intermodal services in question and that substantial intermodal competition exists. Proponents have not shown the latter.

Another issue which must be considered is whether, assuming that

[1] *FMC* v. *Svenska Ameriko Linien*, 390 U.S. 238 (1968).

the authority sought is found to be justified, separate contracts should be required to be signed for the intermodal (minibridge) and port-to-port services offered.

The proposed contract modification duplicates the approved language extending the scope of PCEC's organic conference agreement to include "minibridge" operations.[2] In originally passing on that language, however, the Commission was concerned that it could be construed as incorporating more than the minibridge authority ostensibly sought by the conference. Consequently, the present Agreement should be reviewed to assure that it conveys the exact and proper application of the contract without implying that the shipper is prevented from using services and routings nor covered by PCEC's present intermodal authority.

All of the above matters require formal scrutiny. In addition, the protestants will be given an opportunity to demonstrate what injury, if any, they would suffer from the implementation of Agreement No. 5200–D.R.–4.

Therefore, it is ordered, That pursuant to sections 14b, 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreement No. 5200–D.R.–4 is unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, or contrary to the public interest, and, therefore, whether it should be approved, disapproved or modified. Such determination shall include: (1) whether the intermodal services and port-to-port services should be covered by separate contracts, or by a single contract; (2) whether the language of the proposed modification is so broad as to include services outside the scope of the Conference Agreement; and (3) how proponents would implement the independent action provisions of Paragraph 4 of Article 1 of the conference agreement in a manner which does not violate the terms of the dual rate contract, section 14b, or any other provision of the Shipping Act, 1916.

It is further ordered, That the member lines of the Pacific Coast European Conference are designated as proponents in this proceeding; and

It is further ordered, That the Commission's Bureau of Hearing Counsel and the entities listed in Appendix II of this order are designated as protestants in this proceeding; and

It is further ordered, That this matter is assigned for public hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined and announced by the Presiding Administrative Law Judge, to commence within the time limitations prescribed in 46 CFR 502.61;

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record; and

It is further ordered, That this order be published in the **Federal Register**, and a copy thereof served upon the Proponents and protestants listed in the appendices hereto; and

It is further ordered, That any person(s) having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with 46 CFR 502.72; and

It is further ordered, That all future notices, orders, or decisions issued in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties or counsel of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix I—Proponents

Graham & James, One Maritime Plaza, San Francisco, California 94111

Appendix II—Protestants

1. Richard W. Kurrus for American Export Lines, Inc. (Farrell Lines)
Richard W. Kurrus, Esq., Kurrus and Ash, 1055 Thomas Jefferson St., N.W., Washington, D.C. 20007
2. Neal M. Mayer for Seatrain International, S.A.
Neal M. Mayer, Esq., Coles & Goertner, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036
3. C. F. Gettz, Manager, Traffic Dept., Pfizer International, Inc., 235 East 42nd Street, New York, New York 10017
4. J. Murray Fox, Executive Secretary, Pacific Agricultural Cooperative for Export, Inc., 465 California Street, San Francisco, California 94104
5. John MacDonald Smith for Southern Pacific Marine Transport, John MacDonald Smith, Atty at Law, Southern Pacific Building, San Francisco, California 94105

[FR Doc. 80-17120 Filed 6-4-80; 8:45 am]

BILLING CODE 6730-01-M

[2] Agreement No. 5200–31, conditionally approved June 29, 1977, effective August 23, 1977.

FEDERAL RESERVE SYSTEM

The Royal Bank of Canada; Acquisition of Bank

The Royal Bank of Canada, Montreal, Canada, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Banco De San Juan, Hato Rey, Puerto Rico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 20, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17048 Filed 6-4-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Epidemiologic and Services Research Review Committee; Meeting Change

In **Federal Register** Document 80–15685 appearing on page 34425 in the issue of Thursday, May 22, 1980, the meeting of the Epidemiologic and Services Research Review Committee will only be open from 5:30 to 6:30 p.m. on June 9. All other information remains as announced May 22, 1980.

Dated: May 30, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-16992 Filed 6-4-80; 8:45 am]

BILLING CODE 4110-88-M

Office of Human Development Services

Model Adoption Legislation and Procedures Advisory Panel; Meeting

The Model Adoption Legislation and Procedures Advisory Panel was established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L 95–266, Title II, Section 202) to advise and assist the Secretary in the review of current conditions, practices and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the suitable completion of adoptions for such children.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 95–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Panel will hold a meeting on August 7 and 8, 1980 from 8:30 a.m. to 5:00 p.m. in Room 703A, Hubert H. Humphrey Building, 200 Independence Ave. SW, Washington, D.C.

At this Meeting the Panel will review public comments received on the Model State Adoption Act and Model Adoption Procedures published February 15, 1980 in the **Federal Register.** The Panel will meet in plenary session throughout the meeting.

Further information on the Panel may be obtained from Mrs. Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, Children's Bureau, P.O. Box 1182, Washington, DC 20013; telephone (202) 426–2822. Model Adoption Legislation and Procedures Advisory Panel meetings are open for public observation.

Arnold Sampson,

Committee Management Officer, Office of Human Development Services.

May 27, 1980.

[FR Doc. 80-17088 Filed 6-4-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Brotherton Indians of Wisconsin c/o Mrs. Anna H. Jacobs, Rt. 1 Box 298A, Bowler, Wisconsin 54416 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 15. The petition was forwarded and signed by Mrs. Anna H. Jacobs.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Ralph R. Reeser,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-17030 Filed 6-4-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Intergovernmental Planning Program; Gulf of Mexico Regional Technical Working Group; Meeting

As authorized by the Secretary of the Interior and pursuant to 43 CFR 1784 and 43 U.S.C. 1739(d), a meeting of the Intergovernmental Planning Program's (IPP) Gulf of Mexico Regional Technical Working Group will be held on July 10, 1980, from 8:00 a.m. to 2:00 p.m. The meeting will be held in the Bureau of Land Management's New Orleans OCS Office, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

Agenda items include Sales 67/69 Stipulations, Deep Water Technology, and the Regional Transportation Management Plan.

The meeting is open to the public and interested persons may make oral or written presentations. Summary minutes and a taped transcript of the meeting will be available for public inspection at the New Orleans OCS Office not later than 60 days after the meeting.

Further information in regard to this meeting can be obtained from Sydney H. Verinder at the above office, telephone number (504) 589–6541.

John L. Rankin,

Manager, New Orleans Outer Continental Shelf Office.

May 28, 1980.

[FR Doc. 80-17031 Filed 6-4-80; 8:45 am]

BILLING CODE 4310-84-M

Initiation of Planning Activity in Powder River Resource Area, Mont.

In accordance with 43 CFR 1601.3(g), notice is hereby given of resource planning activity now underway.

(1) Description of the proposed planning action: Preparation of the Powder River Resource Area Resource Management Plan (RMP). This RMP will be based upon existing statutory requirements and policies and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). This RMP and accompanying Environmental Impact Statement (EIS) will provide the basis for resource allocations and will define and guide subsequent management decisions within the Headwaters Resource Area. The RMP/EIS is scheduled for completion by October, 1984.

(2) Identification of the geographic area to be planned: The subject area is generally located south of the Yellowstone River and covers all or portions of Custer, Rosebud, Treasure, Big Horn, Powder River, and Carter Counties in Montana. The majority of BLM administered resources in the planning area are interspered with private resource holdings throughout the Resource Area.

(3) The general types of issues anticipated: The completed plan will make allocations of the various resources present, including (but not limited to) vegetation allocations to domestic livestock, watershed and wildlife based on the Bureau's Site Vegetation Inventory Method. The plan will also address areas of Critical Environmental Concern and Wilderness Study Areas identified through an intensive inventory to be completed by October, 1982.

(4) The disciplines to be represented on the interdisciplinary team will include game and non-game wildlife biology, hydrology, soils science, range management, archeology, recreation, visual resource management, lands, forestry, geology, minerals, economics, and sociology.

(5) The kind and extent of public participation activities to be provided will include: During the inventory phase, public participation will take place on an individual basis between interested

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parties and the BLM. As the planning process proceeds, the public will be asked to become more formally involved through workshops, open houses and public meetings. If appropriate, mass mailings will be used to solicit comment on controversial issues. The District Advisory Council will offer their expertise in the plan preparation. Arrangements will be made to involve local planning agencies in the planning process, and state and other federal land management agencies will be contacted to assure maximum coordination of their plans and objectives with the RMP at both regularly scheduled and special meetings.

(6) The times, dates and locations scheduled for public meetings, conferences or other public participation activities will be announced in news media and are underway. Public meetings for issues identification have been or are scheduled to be held in Miles City, Forsyth, Ekalaka, Broadus, Birney, and Hysham. Additionally, an interagency coordination meeting for state, county and local agencies was held in Miles City on May 16. Public review and a 30-day comment period on the RMP criteria are scheduled between December 15, 1980, and January 15, 1981. The criteria will be presented to interest groups and the Advisory Council during that period. Public review of alternative objectives is scheduled for June, 1983 with public review of the RMP/EIS in May, 1984.

(7) The name, title, address, and telephone number of the Bureau of Land Management Official who may be contacted for further information: George Neuberg, District Manager, P.O. Box 940, Miles City, Montana 59301, (406) 232–4331.

(8) The location and availability of documents relevant to the planning process will be available for public review in the Miles City District Office, West of Miles City, Montana.

Dated: May 27, 1980.

George S. Neuberg,

District Manager.

[FR Doc. 80–17032 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–84–M

Oregon; Closure to Motorized Vehicles

Notice is hereby given that under the authority of regulations in 43 CFR Part 8340 and in cooperation with the State of Oregon, acting by and through the Oregon Department of Fish and Wildlife, pursuant to an agreement executed jointly under ORS 498.152, and Sec. 307 of the Federal Land Policy Act of 1976 (43 U.S.C. 1937), the below described public lands under the administration of the Bureau of Land Management are designated as closed to vehicle use from August 1 through the general elk season each year. All motorized vehicles are prohibited from entering the closed area except motorized vehicle travel by landowners, law enforcement officials, and authorized individuals for land or wildlife management purposes.

The area affected by this designation and closure notice aggregates approximately 5,840 acres of public lands located 40 miles west of Salem, Oregon, and includes all or parts of the following described lands:

Willamette Meridian

Township 7 South, Range 8 West, Sec. 14, SW¼NW¼, W½SW¼; Sec. 15, E½, E½W½; Sec. 17, E½, NW¼, E½SW¼; Sec. 18, Lots 1, 2, 5, 6, 7, 8, 11, 12, E½; Sec. 19, Lots 1, 2, 5, 6, 7, 8, NE¼, N½SE¼; Sec. 23, W½NW¼; Sec. 28, N½NW¼; Sec. 29, N½NE¼.

Township 7 South, Range 9 West, Sec. 2, Lot 3; Sec. 3, SW¼, SW¼SE¼; Sec. 4, E½SE¼, NW¼SE¼; Sec. 5, SW¼SW¼; Sec. 7, Lot 7; Sec. 8, N½, N½SW¼, E½SE¼, NW¼SE¼; Sec. 9, SW¼NE¼, W½W½, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼; Sec. 10, SW¼SW¼; Sec. 16, W½E½, NW¼NW¼, S½NW¼, SW¼; Sec. 17, E½NE¼, S½; Sec. 18, Lots 5, 6, 7, 8, 9, 10, 11; Sec. 19, NE¼NE¼; Sec. 20, NE¼, NW¼SE¼; Sec. 21, Lots 1, 2, 3, 4, 5; Sec. 23, NE¼ SE¼.

A Memorandum of Understanding between the private landowners, the Oregon Department of Fish and Wildlife and the Bureau of Land Management, on which this notice is based, provides for public access by foot or horseback on both public and private lands for big game hunting, and other purposes. The purpose of the closure is to improve the quality of hunting and to improve physical condition of the elk by reducing harassment of these animals. The limited protection of this area will allow greater utilization of the available forage in the clear-cut areas by deer and elk.

Specific restrictions are:

(a) The use of motorized vehicles is prohibited on the described lands during the period August 1 through the general elk season each year except that motor-propelled vehicle travel by the landowner, law enforcement official and authorized individuals for land or wildlife management purposes as stated in the Memorandum of Understanding.

(b) Except for emergency purposes, any entry on closed roads during the period beginning three days prior to and through the general elk season will require a permit from the Oregon Department of Fish and Wildlife.

(c) All roads except those designated as open roads will be closed by the Oregon Department of Fish and Wildlife to travel by use of signs at appropriate locations.

Enforcement of the closure is the responsibility of the Oregon State Police.

Common points of vehicular access thereto will be posted. Maps of the closed area are available at the Salem District Office, Bureau of Land Management, 3550 Liberty Road S., Salem, Oregon 97302, and the Oregon Department of Fish and Wildlife, 1625 NW 17th, Corvallis, Oregon 97330.

This closure shall remain in effect until revised or revoked.

Kenneth W. Jensen,

Acting Salem District Manager.

[FR Doc. 80–17033 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–84–M

Utah; Announcement of Decision on Dirty Devil Unit Protests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's decision on protests received on inventory unit UT–050–236—Dirty Devil. On March 28, 1980, a **Federal Register** notice, Vol. 45, No. 62, pg. 20576 was published indicating the final decision to identify part of this unit as wilderness study areas would not become effective due to protests filed, until the State Director issued a decision on the protests. The State Director's final decision to identify part of this unit as WSAs is now in effect as published in the February 15, 1980 **Federal Register**, Vol. 45, No. 33, pg. 10462. The decision was not changed as a result of the protests, therefore only the protesters may appeal this decision to the Interior Board of Land Appeals.

The portions of the unit not within the wilderness study areas as identified will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94–579.

FOR FURTHER INFORMATION CONTACT: Herbert Hunt, BLM Richfield District Office, (801) 896–8221.

Dated: May 29, 1980.

Gary J. Wicks,

State Director.

[FR Doc. 80–17034 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–84–M

Wyoming; Extension of Public Comment Period on Intensive Wilderness Inventory

The Bureau of Land Management is extending the deadline for final decision on the wilderness inventory from

September 30, 1980, to November 15, 1980. Therefore, Wyoming is taking this opportunity to extend the public comment period and additional 6 weeks. The comment period, which was scheduled to close July 7, 1980, is hereby extended to August 19, 1980. This extension will allow the public additional time to review the inventory files, visit the units personally, and make comments on the proposed inventory decisions which were issued in the **Federal Register** (Vol. 45, No. 67) dated April 4, 1980.

Paul D. Leonard,

Acting State Director.

[FR Doc. 80–17035 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–84–M

[W–71365]

Wyoming; Application

May 27, 1980.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4¼ inch O.D. pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 24 N., R. 96 W.,
Sec. 8, E½SE¼, and NW¼SE¼;
Sec. 9, S½S½;
Sec. 10, SW¼SW¼;
Sec. 13, SW¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 14, NW¼NW¼, and S½N½;
Sec. 15, N½N½;
Sec. 24, W½NE¼, NE¼NW¼, and NW¼SE¼.

The proposed pipeline will transport natural gas from the Nicky Unit #2 Well located in the SE¼ of section 24, to a point of connection with an existing pipeline located in the SE¼ of section 8, T. 24 N., R. 96 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–17060 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–84–M

Outer Continental Shelf, Eastern Gulf of Alaska; Proposed Oil and Gas Lease Sale No. 55

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior has established a policy pursuant to section 19 of the OCS Lands Act with respect to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States the opportunity to review the proposed sale notice before its final publication in the **Federal Register.** The following is a proposed sale notice for proposed Sale No. 55 in the offshore waters of the Eastern Gulf of Alaska area. This notice is hereby published as a matter of information to the public. The sale date published in this notice is tentative and could be changed.

Dated: May 30, 1980.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved:

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

BILLING CODE 4310–84–M

Proposed Sale Notice

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Manager, Alaska Outer Continental Shelf (OCS) Office, Bureau of Land Management, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., October 20, 1980; or by personal delivery to the sale site in Anchorage, Alaska (to be announced) between the hours of 8:30 a.m., a.s.t. and 9:30 a.m., a.s.t., October 21, 1980. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.s.t., October 21, 1980. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 45 FR 26827, April 21, 1980, as corrected in 45 FR 27836, April 24, 1980, and 45 FR 28822, April 30, 1980.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., a.s.t., October 21, 1980", must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental of $8 per hectare or fraction thereof. The following systems will be utilized. (These systems are subject to final approval by the Departments of Energy and Interior).

(a) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts 55-138, 55-139, 55-159, 55-160, 55-161, 55-162, 55-182, 55-183, 55-184, 55-185, 55-195, 55-196, 55-205, 55-206, 55-207, 55-208, 55-218, 55-219, 55-228, 55-229, 55-230, 55-231, 55-326, 55-327, 55-328, 55-329, 55-330, 55-341, 55-342, 55-343, 55-344 and 55-345 must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $22.300636 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $22.300637 million, but less than or equal to $4793.351779 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved removed or sold in quarter j

b = 9.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $4793.351780 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.17612 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 26.372765 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

Figure 1
Form of the Sliding Royalty Schedule

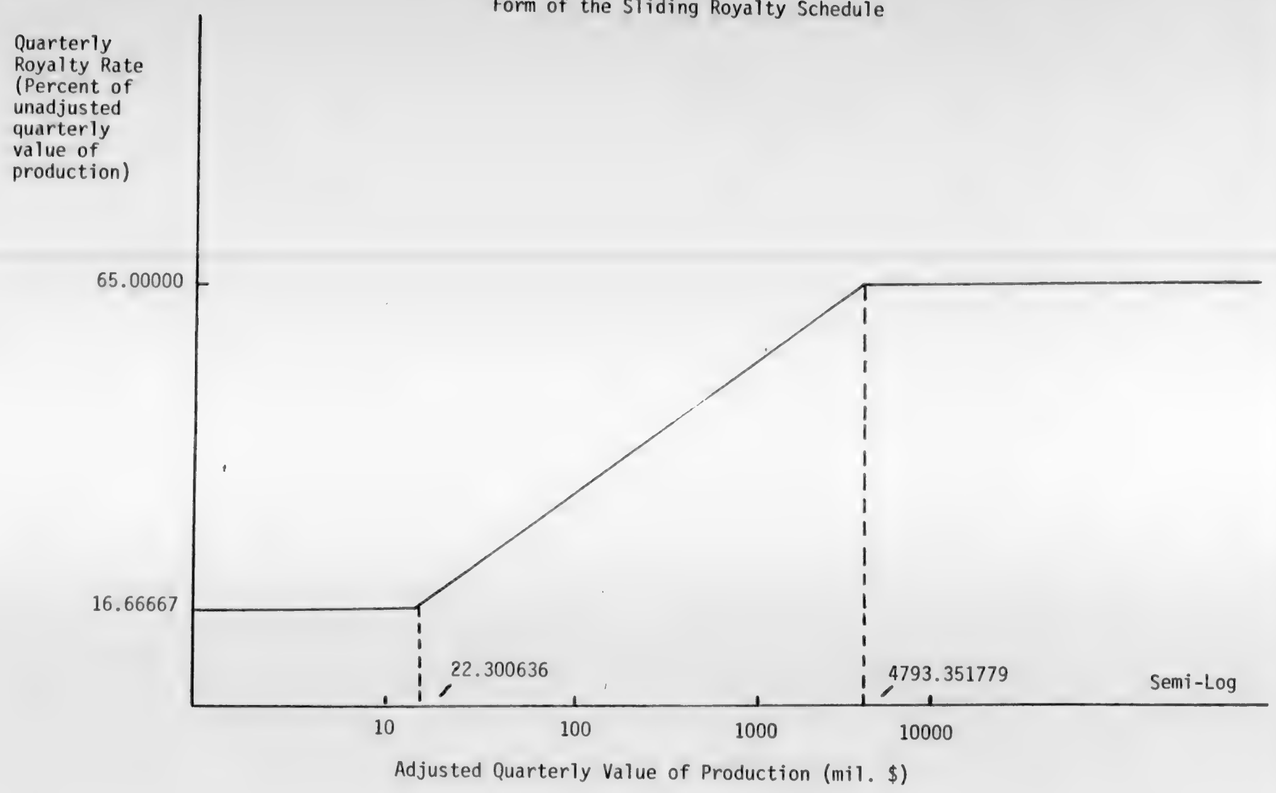

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667%	1.666667
30.000000	200.0	4/3	22.500000	16.74677	5.024031
90.000000	200.0	4/3	67.500000	26.63428	23.970852
270.000000	200.0	4/3	202.500000	36.52179	98.608833
810.000000	200.0	4/3	607.500000	46.40930	375.915330
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	16.66667	5.000001
90.000000	250.0	5/3	54.000000	24.62599	22.163391
270.000000	250.0	5/3	162.000000	34.51350	93.186450
810.000000	250.0	5/3	486.000000	44.40101	359.648181

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).
2 Column (A) divided by Inflation Factor.
3 Column (A) times Column (E). All values are rounded for display purposes only.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuamt to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(b) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts 55-78, 55-79, 55-80, 55-104, 55-105, 55-106, 55-130, 55-131, 55-132, 55-151, 55-152, 55-153, 55-163, 55-164, 55-174, 55-175, 55-176, 55-186, 55-187, 55-188, 55-197, 55-198, 55-199, 55-209, 55-210, 55-211, 55-212, 55-220, 55-221, 55-222, 55-232, 55-233, 55-234, 55-235, 55-251, 55-252, 55-253, 55-267, 55-268, 55-269, 55-2□3, 55-284, 55-285, 55-288, 55-289, 55-290, 55-291, 55-292, 55-293, 55-294, 55-295, 55-296, 55-297, 55-298, 55-299, 55-300, 55-301, 55-304, 55-305, 55-306, 55-307, 55-308, 55-309, 55-310, 55-311, 55-312, 55-313, 55-314, 55-315, 55-316, 55-317, 55-320, 55-321, 55-322, 55-323, 55-324, 55-325, 55-331, 55-332, 55-333, 55-335, 55-336, 55-337, 55-338, 55-339, 55-340, 55-346, and 55-347 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a 1.5 capital recovery factor. The net profit share payment shall be calculated according to the Department of Energy regulations.

(c) Bonus Bidding with a Fixed Constant Royalty. Bids on the remaining tracts must be on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.s.t., October 21, 1980, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. Bid Opening. Bids will be opened on October 21, 1980, beginning at 10 a.m., a.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 21, 1980, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510, at $2 each.

(a) Outer Continental Shelf Official Protraction Diagram NO 7-2, Yakutat (approved 10/31/74)

(b) Outer Continental Shelf Official Protraction Diagram NO 7-4, Alsek Valley (approved 9/22/75)

12. Tract Descriptions. The tracts offered for bid are as follows:

NOTE--There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM, YAKUTAT NO 7-2
(Approved 10/31/74)

Tract No.	Block No.	Description	Hectares
55-75	798	All	2304.00
55-76	799	All	2304.00
55-77	800	All	2304.00
55-78	801	All	2304.00
55-79	802	All	2304.00
55-80	803	All	2304.00
55-81	804	All	2304.00
55-82	805	All	2304.00
55-83	806	All	2304.00
55-84	807	All	2304.00
55-101	842	All	2304.00
55-102	843	All	2304.00
55-103	844	All	2304.00
55-104	845	All	2304.00
55-105	846	All	2304.00
55-106	847	All	2304.00
55-107	848	All	2304.00
55-108	849	All	2304.00
55-109	850	All	2304.00
55-110	851	All	2304.00
55-111	852	All	2304.00
55-127	886	All	2304.00
55-128	887	All	2304.00
55-129	888	All	2304.00
55-130	889	All	2304.00
55-131	890	All	2304.00
55-132	891	All	2304.00
55-133	892	All	2304.00
55-134	893	All	2304.00
55-135	894	All	2304.00
55-136	895	All	2304.00
55-137	896	All	2304.00
55-138	897	All	2304.00
55-139	898	All	2304.00
55-148	930	All	2304.00
55-149	931	All	2304.00
55-150	932	All	2304.00
55-151	933	All	2304.00
55-152	934	All	2304.00
55-153	935	All	2304.00
55-154	936	All	2304.00
55-155	937	All	2304.00
55-156	938	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, YAKUTAT NO 7-2, continued

Tract No.	Block No.	Description	Hectares
55-157	939	All	2304.00
55-158	940	All	2304.00
55-159	941	All	2304.00
55-160	942	All	2304.00
55-161	943	All	2304.00
55-162	944	All	2304.00
55-163	945	All	2304.00
55-164	946	All	2304.00
55-172	975	All	2304.00
55-173	976	All	2304.00
55-174	977	All	2304.00
55-175	978	All	2304.00
55-176	979	All	2304.00
55-177	980	All	2304.00
55-178	981	All	2304.00
55-179	982	All	2304.00
55-180	983	All	2304.00
55-181	984	All	2304.00
55-182	985	All	2304.00
55-183	986	All	2304.00
55-184	987	All	2304.00
55-185	988	All	2304.00
55-186	989	All	2304.00
55-187	990	All	2304.00
55-188	991	All	2304.00
55-195	1019	All	2304.00
55-196	1020	All	2304.00
55-197	1021	All	2304.00
55-198	1022	All	2304.00
55-199	1023	All	2304.00
55-200	1024	All	2304.00
55-201	1025	All	2304.00
55-202	1026	All	2304.00
55-203	1027	All	2304.00
55-204	1028	All	2304.00
55-205	1029	All	2304.00
55-206	1030	All	2304.00
55-207	1031	All	2304.00
55-208	1032	All	2304.00
55-209	1033	All	2304.00
55-210	1034	All	2304.00
55-211	1035	All	2304.00
55-212	1036	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, ALSEK VALLEY NO 7-4
(Approved 9/22/75)

Tract No.	Block No.	Description	Hectares
55-218	7	All	2304.00
55-219	8	All	2304.00
55-220	9	All	2304.00
55-221	10	All	2304.00
55-222	11	All	2304.00
55-223	12	All	2304.00
55-224	13	All	2304.00
55-225	14	All	2304.00
55-226	15	All	2304.00
55-227	16	All	2304.00
55-228	17	All	2304.00
55-229	18	All	2304.00
55-230	19	All	2304.00
55-231	20	All	2304.00
55-232	21	All	2304.00
55-233	22	All	2304.00
55-234	23	All	2304.00
55-235	24	All	2304.00
55-240	54	All	2304.00
55-241	55	All	2304.00
55-242	56	All	2304.00
55-243	57	All	2304.00
55-244	58	All	2304.00
55-245	59	All	2304.00
55-246	60	All	2304.00
55-247	61	All	2304.00
55-248	62	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, Alsek Valley NO 7-4, continued

Tract No.	Block No.	Description	Hectares
55-249	63	All	2304.00
55-250	64	All	2304.00
55-251	65	All	2304.00
55-252	66	All	2304.00
55-253	67	All	2304.00
55-254	68	All	2304.00
55-255	69	All	2304.00
55-256	98	All	2304.00
55-257	99	All	2304.00
55-258	100	All	2304.00
55-259	101	All	2304.00
55-260	102	All	2304.00
55-261	103	All	2304.00
55-262	104	All	2304.00
55-263	105	All	2304.00
55-264	106	All	2304.00
55-265	107	All	2304.00
55-266	108	All	2304.00
55-267	109	All	2304.00
55-268	110	All	2304.00
55-269	111	All	2304.00
55-270	112	All	2304.00
55-271	113	All	2304.00
55-272	142	All	2304.00
55-273	143	All	2304.00
55-274	144	All	2304.00
55-275	145	All	2304.00
55-276	146	All	2304.00
55-277	147	All	2304.00
55-278	148	All	2304.00
55-279	149	All	2304.00
55-280	150	All	2304.00
55-281	151	All	2304.00
55-282	152	All	2304.00
55-283	153	All	2304.00
55-284	154	All	2304.00
55-285	155	All	2304.00
55-286	156	All	2304.00
55-287	157	All	2304.00
55-288	186	All	2304.00
55-289	187	All	2304.00
55-290	188	All	2304.00
55-291	189	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, Alsek Valley NO 7-4, continued

Tract No.	Block No.	Description	Hectares
55-292	190	All	2304.00
55-293	191	All	2304.00
55-294	192	All	2304.00
55-295	193	All	2304.00
55-296	194	All	2304.00
55-297	195	All	2304.00
55-298	196	All	2304.00
55-299	197	All	2304.00
55-300	198	All	2304.00
55-301	199	All	2304.00
55-302	200	All	2304.00
55-303	201	All	2304.00
55-304	230	All	2304.00
55-305	231	All	2304.00
55-306	232	All	2304.00
55-307	233	All	2304.00
55-308	234	All	2304.00
55-309	235	All	2304.00
55-310	236	All	2304.00
55-311	237	All	2304.00
55-312	238	All	2304.00
55-313	239	All	2304.00
55-314	240	All	2304.00
55-315	241	All	2304.00
55-316	242	All	2304.00
55-317	243	All	2304.00
55-318	244	All	2304.00
55-320	274	All	2304.00
55-321	275	All	2304.00
55-322	276	All	2304.00
55-323	277	All	2304.00
55-324	278	All	2304.00
55-325	279	All	2304.00
55-326	280	All	2304.00
55-327	281	All	2304.00
55-328	282	All	2304.00
55-329	283	All	2304.00
55-330	284	All	2304.00
55-331	285	All	2304.00
55-332	286	All	2304.00
55-333	287	All	2304.00
55-335	318	All	2304.00
55-336	319	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, Alsek Valley NO 7-4, continued

Tract No.	Block No.	Description	Hectares
55-337	320	All	2304.00
55-338	321	All	2304.00
55-339	322	All	2304.00
55-340	323	All	2304.00
55-341	324	All	2304.00
55-342	325	All	2304.00
55-343	326	All	2304.00
55-344	327	All	2304.00
55-345	328	All	2304.00
55-346	329	All	2304.00
55-347	330	All	2304.00

13. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on form 3300-1 (September 1978), available from the Manager, Alaska Outer Continental Shelf Office, at the address stated in paragraph 2. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4, Form 3300-1 will be amended as follows:

Sec. 6. Royalty on Production. (a) The lessee agrees to pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $22.300636 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $22.300637 million, but less than or equal to $4793.351779 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 9.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $4793.351780 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.17612 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 26.372765 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

For leases resulting from this sale for tracts offered on a cash bonus basis within a fixed net profit share, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net Profit Share. The lessee agrees to pay a net profit share rate of 40 percent with a 1.50 capital recovery factor.

UMI 800 5 EJ 5 V4

UMI 0 0 8 5 E J 5 4 V

Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale. In the following stipulations the term DCM refers to the Deputy Conservation Manager, Field Operations, Alaska Region, U.S. Geological Survey and the term Manager refers to the Manager of the Alaska OCS Office of the Bureau of Land Management.

Stipulation No. 1.

If the DCM, having reason to believe that a site, structure, or object of historical or archaeological significance, hereinafter referred to as a "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys, as well as other pertinent natural and cultural environmental data, shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and the Manager for review.

If such cultural resource indicators are present, the lessee shall (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and the Manager, for their review. Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the lease area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation No. 2.

The lessee shall include in any exploration and development plans submitted under 30 CFR 250.34 a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DCM. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated and implemented by qualified instructors experienced in pertinent fields of study, and shall employ effective methods to insure that personnel understand and use techniques necessary to preserve archaeological, geological, and biological resources including bird and sea mammal rookeries, and insuring avoidance and non-harassment of wildlife resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 3.

Pipelines will be required, (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of any intergovernmental coordinating committee.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms, geohazards, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DCM.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972, as amended (46 U.S.C. 391a).

Stipulation No. 4.

(a) Wells: Subsea well-heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible, in such a manner as to allow commercial trawl

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gear to pass over the structure without snagging or otherwise damaging the structure or the fishing gear. Latitude and longitude coordinates of these structures along with water depths, shall be submitted to the Supervisor. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ± 50 ft (15.25 m) at 200 mi (322 kms).

(b) Pipelines: All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. In the event that an irregular pipe surface is unavoidable due to the need for values, anodes or other structures, they shall be protected in such a manner as to allow trawl gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 5.

(To be included only in the leases resulting from this sale for the sliding scale royalty tracts listed in paragraph 4 of this notice)

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, U.S. Geological Survey, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16-2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

14. Information to Lessees. Bidders are advised that during the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, as amended, and International Treaties. The lessee should contact the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, as appropriate, regarding potential impacts of lease activities with regard to these laws.

To reduce the impacts of aircraft disturbance at seabird colonies and marine mammal rookeries along the coast, a distance of at least one-half mile from the coastline and an altitude of 1500 feet should be maintained from Yakutat Bay to Dry Bay during the period of May 1 to September 15. Lessee is advised that all violations may be reported to the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or the Alaska Department of Fish and Game, as appropriate, for disposition. Human safety will take precedence over the provisions of these restrictions.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Bidders are advised that the United States reserves the right to designate necessary fairways through some leased tracts pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1223(c)).

Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale, or a fixed net profit share.

Bidders for these tracts should recognize that the Department of Energy is authorized under section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

17. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Alaska Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

[FR Doc. 80-17042 Filed 6-4-80; 8:45 am]
BILLING CODE 4310-84-C

V 45 N 5 JE 5 80 UMI

Fish and Wildlife Service

Heritage Conservation and Recreation Service

Alaska; Availability of Final Environmental Impact Statements and Supplements

AGENCY: U.S. Fish and Wildlife Service, Interior and Heritage Conservation and Recreation Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to section 102(2)(c) of the National Environmental Policy Act, the U.S. Fish and Wildlife Service has prepared a Final Environmental Impact Statement for a proposal to conserve the fish, wildlife and habitat values of the Alaska Peninsula, Alaska through designation of an Alaska Peninsula National Wildlife Refuge. The Service also has prepared a Final Supplement to the 1974 Department of Interior Environmental Impact Statement for designation of an Iliamna National Resource Range in Alaska.

Notice also is given that the Heritage Conservation and Recreation Service has prepared a Final Environmental Impact Statement and Supplement for proposals to protect the natural environment within a four mile corridor along eleven rivers in Alaska.

DATE: No final decision will be made on these proposals until July 7, 1980.

FOR FURTHER INFORMATION CONTACT:

National Wildlife Refuge and Resource Range Proposals

Burkett Neely, Acting Chief, ANCSA Staff, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202) 343–7533.

Wild and Scenic Rivers

John Haubert, Outdoor Recreation Planner, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20240 (202) 343–4793.

Supplementary Information: On February 5, 1980, a Notice of Intent to Prepare Environmental Impact Statements and Supplements for the Alaska Peninsula and Iliamna areas of Alaska and for 11 Alaska river corridors was published in the **Federal Register.** Significant comments received on the additional issues to be covered in the scope of the analyses were incorporated in the draft statements and supplements.

On March 12, 1980, a notice of availability of Draft Environmental Impact Statements/Supplements for these areas was issued. Comments received pursuant to that Notice were incorporated in the final statements and supplements.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C 4332(2)(c)), these documents analyze the significant environmental impacts of actions proposed in current Congressional consideration for designating new or additions to units of the National Wildlife Refuge and Wild and Scenic Rivers Systems in Alaska. These documents also describe reasonable alternatives available to the Executive Branch which could approximate the natural resources protection that would be afforded under legislative proposals, as well as a no action alternative.

One final environmental impact statement analyzes the environmental consequences of Congressional designation of the approximately 3.5-million-acre Alaska Peninsula National Wildlife Refuge to be administered by the U.S. Fish and Wildlife Service to ensure continued protection and management of nationally and internationally significant fish and wildlife and their habitats and the perpetuation of public benefits associated with these resources. Alternatives include no action; designation of all or portions of the area as a Congressionally established Wilderness; Executive Branch establishment of a national wildlife refuge or national wildlife monument; and alternatives for increasing or decreasing the size of the proposal.

The final supplement to the 1974 Environmental Impact Statement for the Iliamna National Resource Range discusses Executive Branch alternative actions to protect and manage the fishery, watershed and other natural values of the area. These alternatives analyze the impacts of creating a 5.5-million-acre national wildlife refuge or a national wildlife monument to be administered by the U.S. Fish and Wildlife Service. The no action alternative of the 1974 document has been updated to reflect the Bureau of Land Management's current authorities and mandates under the Federal Land Policy and Management Act of 1976 (FLPMA). A State management alternative is described also.

The final environmental statement/supplement for 11 Alaska river corridors evaluates the impact of protecting the natural environment within a four mile corridor along the Alagnak, Birch Creek, Delta, Fortymile, Gulkana, Kisaralik, Koyuk, Melozitna, Nuyakuk, Susitna and Unalakleet Rivers. Considered are: Congressional designation of 7 rivers as components of the National Wild and Scenic Rivers System and authorization for study for this potential purpose for the remaining 4 rivers; administrative withdrawal of the corridors under section 204(c) of FLPMA for up to 20 years from appropriation under the public land laws, mining and mineral leasing laws and from selection by the State of Alaska under its Statehood Act; and a no action alternative.

Copies of the three Final Environmental Statements and/or Supplements are available for review in major libraries across the Nation or can be reviewed or obtained at the following locations: Washington (ANCSA Staff Office for Fish and Wildlife Service; Public Affairs Office for Heritage Conservation and Recreation Service), and the Regional and Area Offices of the U.S. Fish and Wildlife Service and the Heritage Conservation and Recreation Service throughout the Nation.

The primary author of this notice is Christine Enright, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: June 2, 1980.

David F. Hales,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 80–16864 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Conservation Division; Equipment Standard for the Second Valve in the Flow Stream Used in Subsea Completions

The purpose of this Notice is to advise the public of the U.S. Geological Survey's intent to establish an equipment standard for the second valve in the flow stream used in subsea completions and to solicit public comments on the content of this standard. This action is being taken since it has been determined that API SPEC 14D does not apply to the second valve in the flow stream in a subsea completion. The standard will address the following areas of design, manufacture, and test:

1. Scope.

2. Design and Manufacture—A. General, B. Valve Design, C. Actuator Design, D. Lockopen Devices.

3. Material Requirements A. Metals—1. Class of Service, 2. Environment, 3. Traceability.

B. Nonmetals—1. Elastomers, 2. Environment, 3. Traceability.

4. Testing—A. Qualification (Performance), B. Functional, C. Requalification.

5. Marking, Documentation, and Shipping—A. OCS Identification, B. Manufacturer Identification, C. Data Package.

DATES: Comments and recommendations must be received by August 4, 1980.

ADDRESS: Comments and recommendations should be addressed to the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center—Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Mr. M. L. Courtois, U.S. Geological Survey, Conservation Division, National Center—Mail Stop 640, Reston, Virginia 22092, (703) 860–7531.

Dated: May 29, 1980.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation.

[FR Doc. 80–17036 Filed 6–4–80; 8:45 am]

BILLING CODE 4310–31–M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80–30569 appearing in the issue of Wednesday, October 3, 1979, on page 57006, second column, third complete paragraph starting MC 119741 (Sub-228TA), Applicant: Green Field Transport Company, Inc., line 9, "MO, OK," should be corrected to read "MO, OH, OK,".

BILLING CODE 1505–01–M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80–37330 appearing in the issue of Wednesday, December 5, 1979, on page 70030, first column, last paragraph, line 10, of paragraph starting MC 134790 (Sub-8TA), Applicant: Daniel C. Haffner, "LA" should be corrected to read "AL".

BILLING CODE 1505–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–8473 appearing in the issue of Thursday, March 20, 1980, on page 18145, second column, second line of paragraph starting MC 87511 (Sub-26F), Applicant: SAIA MOTOR FREIGHT LINE, INC., correct "Savine" to read "Sabine".

BILLING CODE 1505–01–M

[Ex Parte No. MC–96 (Sub-No. 5)]

Passenger Broker "Tauck" Conditions; Proposed Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed policy statement.

SUMMARY: The Commission proposes to adopt a policy statement which would change the so-called *Tauck* policy to (1) allow passenger brokers to collect commissions from motor carriers of passengers in all circumstances and (2) drop several antiquated contractual requirements. The *Tauck* policy established that a passenger broker could employ the services of a carrier with charter authority even when the broker assembled the group on its own. The broker, however, had to meet certain conditions including the requirement that tour brokers designate the broker as an agent for the group, and that the transportation contract reflect this fact. The broker was also precluded from collecting a commission from the carrier.

The Commission believes that these requirements rested on legal fictions that no longer need be used; that the broker and carrier should not be restrained in their private contractural dealings with regard to commissions; and that generally the *Tauck* rules no longer serve any purpose.

DATES: Comments shall be submitted on or before July 7, 1980.

ADDRESSES: An original and 15 copies, if possible, should be sent to: Ex Parte No. MC–96 (Sub-No. 5), Room 5416, Office of Proceedings Interstate Commerce Commission, Washington, DC 20423.

FOR FUTHER INFORMATION CONTACT: Peter Metrinko, 202–275–7885 or Donald J. Shaw, Jr., 202–275–7292.

SUPPLEMENTARY INFORMATION: In the *Tauck* Cases [1] the Commission allowed passenger brokers to employ the services of motor carriers with charter authority even when the broker assembled the passengers on an individual basis, as long as the following conditions were met: (1) The trip qualified as a tour, (2) each tour patron at the time of joining the tour group must in writing, designate and accept the broker as agent for the tour group for the purpose of arranging the transportation, (3) the contract negotiated with the carrier by the broker must be between the carrier and the group members collectively, (4) the carrier must be paid its full published charter fare, and (5) the broker cannot receive a commission from the carrier in this situation.

The *Tauck* cases were an important step in the development of the tour broker industry, for they authorized tour brokers to use the services of charter carriers (rather than only carriers holding special operations authority allowing transportation of purchasers of individual tickets) when a broker assembled a group of previously unaffiliated individuals on its own. Before *Tauck*, brokers could use carriers with charter authority only if they were booking tours for a pre-formed group.

The *Tauck* cases employed a legal fiction—that the broker was the agent of the group—to achieve this liberalization. As the "agent" for the tour group, however, the broker was ineligible to receive a commission from the carriers.

We propose to eliminate the conditions numbered above as 2, 3 and 5. The trip must still qualify as a tour, and not be mere point-to-point transportation. The carrier must also be paid its full published charter fare. The carrier may agree, however, to pay the broker a fee. Payment of the fee may occur at any time during the transaction. If the carrier expressly agrees, the broker may deduct a commission from the fare.

The practice of using charter carriers has continued for many years with beneficial effects for all parties. This being so, there appears to be no reason to require the tour patron to designate the broker as an agent in writing, nor to specify that the contract must be between the carrier and the group members collectively.

We also do not believe that it is improper for the broker to collect a commission from the carrier, if the carrier agrees. The "rebate" theory expressed in the *Tauck* decisions was based on the legal fiction that the broker was an agent for the group. As a practical matter, the carrier may desire to pay a commission where it perceives that it will receive a benefit for doing so. There is no sound regulatory reason for us to become involved in the private arrangements between the broker and the carrier.

The current prohibition appears even more illogical when one considers that

[1] *Tauck Tours, Inc., Extension-New York, N.Y.*, 49 M.C.C. 491 (1949); 52 M.C.C. 373 (1951); 54 M.C.C. 201 (1952); 63 M.C.C. 493 (1955); *aff'd sub nom. National Bus Traffic Association v. United States*, 143 F. Supp. 609 (D.N.J. 1956); *aff'd per curiam*, 352 U.S. 1026.

the broker may receive a commission in all other circumstances, such as (1) when it uses a carrier with special operations authority, or (2) where it acts as an intermediary between a carrier with charter authority and a preformed group, the charter contract being between the carrier and the group, and the charges paid directly by the group to the carrier. See *Passenger Brokers Affiliated with Motor Carriers*, 120 M.C.C. 656, 657 (1974).

We see no reason to continue to impose the *Tauck* conditions in licenses or grants of broker authority, or to require observance of those conditions, when their sole purpose appears to be to justify legal form over substance. Cf. *Fox Smythe Transportation Co., Ext.—Oklahoma*, 106 M.C.C. 1 (1967).

The *Tauck* policy was subject to review in the *National Bus* case, *supra*. The court approved the policy, but plainly did not see the necessity of employing the legal fictions, *supra*, 696. The court added that there was nothing in the Motor Carrier Act to indicate that all-expense tour operators were to be prohibited from employing charter buses.

Accordingly, we propose the following policy statement:

The Commission has in the past issued passenger broker decisions and licenses with admonitions or express conditions that the holder observe the *Tauck* conditions, referring to *Tauck Tours, Inc., Extension—New York, N.Y., 54 M.C.C. 291* (1952). Passenger brokers need no longer abide by those conditions, and they will not be imposed in the future. It is sufficient for a passenger broker employing a motor carrier with charter operations authority to be conducting a bona fide tour and to pay the carrier its full published charter fare. If the carrier expressly agrees, the broker may deduct a commission from the fare charged.

Since we recognize that we are proposing to change a long established policy, we invite comments from the public. Our final decision will take into consideration the comments received.

This proceeding does not appear to be a major Federal action significantly affecting energy consumption or the quality of the human environment.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

Decided: May 28, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam absent and not participating.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-17057 Filed 6-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-64 (Sub-No. 2A)]

Special Temporary Authority Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposal to issue a decision setting out additional categories to be handled by special temporary authority procedures.

SUMMARY: The Commission proposes to add categories of factual situations to be handled by the special temporary authority procedures adopted in Ex Parte No. MC-64 (Sub-No. 2). These appear to be recurrent problems where a need for service has consistently been found under 49 U.S.C. 10928. The action is proposed so that the Commission may react to the special situations in a more efficient and timely manner.

DATES: Written comments should be filed with the Commission on or before July 7, 1980.

ADDRESSES: Send an original and, if possible, 15 copies of comments to: Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, (202) 275-7292.

SUPPLEMENTARY INFORMATION: The Commission, on May 8, 1980, adopted special temporary authority (TA) procedures in Ex Parte No. MC-64 (Sub-No. 2) to ensure that emergency needs can be met on an expedited basis. In that decision, a general finding was made that there will be an immediate need for motor carrier service under five emergency situations. The purpose of this proceeding is to consider adding more categories of emergency situations which can be handled under the special procedures.

Under the Special TA Procedures, an applicant seeking authority can contact the ICC field office having jurisdiction over the applicant's domicile. If the ICC field official determines that an applicant qualifies under one of the adopted categories of emergency situations, the field representative may authorize the commencement of transportation services without further consultation with an employee Board. The grant of temporary authority under the Special TA Procedures is effective for the period determined by the field official to be necessary to satisfy the particular immediate need, but may not exceed 30 days. Should the applicant foresee a continuing need, it may file an application under regular procedures which will be handled by an employee Board.

The additional categories of emergency situations which are proposed to be added to the five previously adopted are:

(1) Applications by a carrier, with no applicable authority, seeking to meet a transportation need created by the interruption or discontinuance of services of a presently authorized carrier or carriers due to fuel shortages. This category includes situations which would occur when existing service is interrupted or discontinued because of the authorized carriers' inability to obtain sufficient amounts of fuel and a carrier which is not authorized to handle the traffic, but has a sufficient reserve of fuel, seeks to provide the service.

The questions to be addressed by the shipper under this category are whether service is being provided, and, if not, whether the relief sought would allow provision of needed service. The question to be addressed by applicant is whether the service to be provided would be fuel efficient.

(2) Applications by a presently authorized carrier, who is in imminent danger of interruption or discontinuance of its service due to fuel shortages, to restructure its routes to improve its fuel efficiency.

The questions to be addressed by applicant under this category are: (a) Whether service is being provided, (b) whether the relief sought would allow provision of needed service, (c) whether the service to be provided would be fuel efficient, and (d) whether the service to be provided by a carrier already transporting the traffic involved would improve its fuel efficiency by a grant of authority. No shipper statement would be required.

(3) Additional transportation services required by a particular shipping industry during peak shipping periods, usually on a seasonal basis. For example: "meat and packing house products described in Sections A and G of Appendix I in *Descriptions in Motor Carrier Certificates*, 61 M.C.C 209 and 766, during the period of time running from October 1 through March 31". Specific additional industries and peak time periods will be determined by the comments.

(4) Failure or lack of storage facilities for commodities, other than perishable commodities, which would cause a complete plant shutdown unless the commodities can be moved.

(5) Shortage of commodities necessary for use in shipper's production which would cause a complete plant shutdown if the commodities are not received.

(6) Opening of a new plant site in an area in which the shipper certifies that no service is available.

(7) Discontinuance or loss of an interline arrangement. Applicant would be required to furnish information required under Ex Parte No. MC-109, 49 CFR 1062.2. It would be required to demonstrate that the joint-line service was bona-fide and substantial, and that it was not responsible for the cancellation of the joint-line service. A statement of no objection could also be required from the carriers which have participated with applicant in the involved joint-line service during the one-year period preceding the filing of the application. Using those rules, no shipper certification would be required, which would relieve the applicant of the necessity of obtaining the many shipper statements often required in this type of application.

(8) Civil disturbances involving violence or threats of violence resulting in interruption or discontinuance of existing carrier service.

(9) Situations in which a carrier presently serving the shipper seeks to transport new or unusual commodities which its customer-shipper begins to manufacture or ship, and the shipper certifies that no carrier holds authority to transport the new or unusual commodity.

(10) Situations in which the applicant and shipper certify that there is no carrier with appropriate authority to transport the commodity from one single point to another single point.

(11) Situations in which the shipper certifies that there is an immediate need which cannot reasonbly be met by existing carriers, and provides statements from all carriers that have served it in the year preceding the filing of the application that they do not oppose the application.

With the adoption of the additonal categories above, it will be unnecessary to require that a specific finding of need be made in each instance by an employee Board. As in Ex Parte No. MC-64 (Sub-No. 2), the Commission would issue a decision, which will include a general finding that there will be an immediate need for motor carrier service under the additional "emergency" situations enumerated above. When an applicant or its shipper shows that a situation falls under one of the categories, the field officer will be able to authorize the commencement of transportation services.

The grant of emergency temporary authority would be conditioned upon compliance with applicable requirements for grants of temporary authority concerning tariff publications, evidence of security for the protection of the public, and designation of agents for service of process.

Service performed under special temporary authority granted under these procedures would in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in 49 U.S.C. 10922 (formerly section 207(a) of the Interstate Commerce Act) and 49 U.S.C. 10923 (formerly section 209(b) of the Interstate Commerce Act).

We do not foresee that the proposed rule will have an adverse effect on the quality of the human environment. This is, however, to some extent a major regulatory action under the Energy Policy and Conservation Act of 1975. Under some of the proposed categories, affected carriers will be able to improve their operating efficiencies, which will lead to an energy savings. However, it is extremely difficult to quantify the potential energy savings at this time. We believe that the rules will have no adverse energy impact and can be expected to produce fuel savings. We request that all interested persons specifically comment on the energy policy and conservation issue. A more detailed energy analysis will be issued subsequently.

Public Invited To Comment

The public is invited to comment on the specific situations identified and other situations which might be included. (An original and 15 copies, if possible, should be submitted.)

This notice is issued under authority contained in 49 U.S.C. 10321(a) and 10928, and 5 U.S.C. 553.

Dated: May 8, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum and Alexis. Commissioner Stafford dissenting with a separate expression. Commissioner Clapp concurring.

Agatha I. Mergenovich,

Secretary.

Commissioner Stafford Dissenting

Why the majority insists on proposing to add eleven new categories to the special temporary authority procedures is puzzling. Until we gain experience under the "original five categories", the question of expanding the list of categories is premature and speculative—all at considerable expense, time and effort to interested parties.

Moreover, the desirability of further expanding the categories has not been considered in the context of our increased efficiency in handling ETAs and TAs.

[FR Doc. 80-17058 Filed 6-4-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-62 (Final) and 701-TA-63 (Final)]

Textiles and Textile Products of Cotton from Pakistan; Scheduling of Hearing

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that:

(a) Public hearing date changed to 10 a.m., e.d.t., Friday, June 27, 1980, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C.,

(b) Prehearing staff report will be available to the parties on Thursday, June 5, 1980, and

(c) Prehearing statements are due from parties by Thursday, June 19, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, the Senior Investigator assigned by the Commission to this investigation, telephone (202) 523-0368.

SUPPLEMENTARY INFORMATION: The Commission instituted investigation No. 701-TA-62 (Final) effective April 8, 1980 (45 FR 25977, April 16, 1980) and instituted investigation No. 701-TA-63 (Final) effective May 2, 1980 (45 FR 31834, May 14, 1980), pursuant to section 705(b)(1) of the Tariff Act of 1930. Those notices incorporated a tentative hearing date of June 25, 1980, which has been changed at the request of the parties to June 27, 1980.

By order of the Commission.

Issued: June 3, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-17259 Filed 6-4-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Circuit Judge Nominating Commission, Seventh Circuit Panel

May 29, 1980.

Chairman: Justin A. Stanley.

The Seventh Circuit Panel of the United States Circuit Judge Nominating Commission will hold its last meeting on Monday, June 30 at 9:30 a.m.; July 1 at 9:00 a.m. and if necessary on July 2 at 9:00 a.m. in Room 2781 of the Federal Building, 219 South Dearborn Street, Chicago, Illinois. The meeting will be devoted to interviewing candidates and will be closed to the public pursuant to

V 45 E 5 J 8 0 UMI

Pub. L. 92–463, section 10(d) as amended. [CF 5 U.S.C. 552b(c)(6)].

Phillip B. Cover,

Committee Management Control Officer.

[FR Doc. 80–17056 Filed 6–4–80; 8:45 am]

BILLING CODE 4410–01–M

Bureau of Justice Statistics

Program JS–1: Solicitation Regarding a Grant and Cooperative Agreement Program To Establish State-Level Capability for Statistical Analysis in Criminal Justice

The Bureau of Justice Statistics announces a program of grants and cooperative agreements to establish state-level centers for the analysis of statistics on crime and criminal justice. The functions of these centers will be to collect, analyze, and interpret data on criminal justice; produce statistical reports on crime, criminal offenders, and the criminal justice system; provide and coordinate technical assistance to state and local agencies and the courts in statistics and related areas; provide the state government and local governments with access to Federal resources in criminal justice statistical information; promote the development of criminal justice statistical systems in the state; and provide data to the Bureau of Justice Statistics for national compilations.

Awards will be made to appropriate state agencies. The center must be authorized by state legislation or by executive order, preferably the former. The state must be prepared to assume financial support of the center when Federal funding ends.

This does not preclude the center from receiving awards for subsequent periods to develop data required by the Bureau of Justice Statistics.

In a number of states, criminal justice statistical analysis centers already have been established under the Comprehensive Data Systems (CDS) program which was conducted by the Law Enforcement Assistance Administration. These centers were eligible to receive up to four years of Federal funding, with a reduced amount for the fourth year. Such centers, if they have received fewer than four years of Federal funding, may submit applications for amounts up to the equivalent of their remaining eligibility under the CDS program ($61,000 to $175,000, depending upon the state's population and the number of grants that the center has received). The duration of such awards will be one year.

If a center has used up its eligibility for grants under the CDS program and the state is committed firmly to assuming the financial support of the center, but there is a gap between the expiration of the last CDS grant and availability of funds from the state, an application for interim funding may be submitted. Such an award will not exceed six months in duration. The amount will depend upon the length of the period of interim funding and the center's operating budget, but will not exceed $85,000. Such an award will be made only if the center is operating effectively in the opinion of the Bureau of Justice Statistics.

A state which has not created a criminal justice statistical analysis center under the CDS program may submit an application for establishing a new center. Such an application must include documentation of the state's authorization for the center and of the state's intention to assume its financial support after Federal funding ends. Awards will be of one year's duration. The estimated range of funding is $50,000 to $150,000.

Awards in this program will include both grants and cooperative agreements. In general, new centers and centers which have not yet achieved full operational capability will be funded by means of grants, while cooperative agreements will be used to support centers that are fully established. The cooperative agreements will include specific products to be supplied to the Bureau of Justice Statistics.

Since work produced under these grants and cooperative agreements will be useful to the state as well as to the Bureau of Justice Statistics, it is expected that the level of effort shown in the application will not be limited to the amount of the requested Federal award, but will include services, facilities, or funds to be contributed by the applicant.

Applications for this program may be submitted to the Bureau of Justice Statistics at any time before May 31, 1981. Each application will be reviewed and processed as soon as it is received.

Further information and copies of the solicitation may be obtained from G. Paul Sylvestre, Chief, State Statistical Programs Branch, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531; phone (301) 492–9066.

Dated: June 2, 1980.

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

Approved:

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 80–17089 Filed 6–4–80; 8:45 am]

BILLING CODE 4410–18–M

Program JS–2: Solicitation Regarding a Cooperative Agreement Program To Provide State and Local Governments With Access to Federal Informational Resources in Criminal Justice

The Bureau of Justice Statistics announces a statistical cooperative agreement program to establish and maintain a State-level capability for providing the State government and local governments with access to Federal resources in criminal justice statistical information and other information that is useful in planning, implementing, and evaluating criminal justice programs. In each participating State, the agency that implements the program will serve as a point of contact for the Bureau of Justice Statistics, and for State agencies, local government agencies, the courts, and non-governmental organizations in informing them of the availability of Federal informational resources, assisting them in determining their needs for specific statistical and other information, and disseminating information received from the Bureau of Justice Statistics and other Federal sources. The implementing agency will maintain liaison with the Bureau of Justice Statistics to keep informed of the availability of information from Federal resources, receive such information for dissemination within the State, and advise the Bureau of Justice Statistics in developing statistical information to best meet the needs of the State's criminal justice community.

Applications for cooperative agreements are solicited from State-level agencies which deal with statistics pertaining to the entire criminal justice system within the State. However, no State will be eligible for funding in this program at the same time that it is funded in Program JS–1, "Solicitation Regarding a Grant and Cooperative Agreement Program to Establish State-Level Capability for Statistical Analysis in Criminal Justice," or at the same time that it has a Statistical Analysis Center that is receiving funds under the Law Enforcement Assistance Administration's Comprehensive Data Systems program. Awards will be contingent upon the organizational integrity and technical competence of the applicant.

It is anticipated that awards will be made to between 15 and 25 States, with funding support of approximately $10,000 to $25,000 and a duration of one year. Applications may be submitted to the Bureau of Justice Statistics at any time before May 31, 1981. Each application will be reviewed and processed as soon as it is received.

Since the work done under these cooperative agreements will be useful to the State as well as to the Bureau of Justice Statistics, it is expected that the level of effort shown in the application will not be limited to the amount of the requested Federal award, but will include services, facilities, or funds to be contributed by the applicant.

Further information and copies of the solicitation may be obtained from G. Paul Sylvestre, Chief, State Statistical Programs Branch, Bureau of Justice Statistics, 633 Indiana Avenue NW., Washington, D.C. 20531; phone (301) 492–9066.

Dated: June 2, 1980.

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

Approved:

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 80–17090 Filed 6–4–80; 8:45 am]

BILLING CODE 4410–18–M

Program JS–3: Solicitation Regarding a Cooperative Agreement Program To Collect State-Level Offender Based Transaction Statistics (OBTS) Data

The Bureau of Justice Statistics announces a statistical cooperative agreement program to collect data on the processing of offenders by the criminal justice system from statewide Offender Based Transaction Statistics (OBTS) systems. The data will be provided on magnetic tape in formats specified by the Bureau of Justice Statistics. Each tape or set of tapes will cover the processing of all persons in the state arrested for serious crimes whose cases, during a complete calendar year, achieved final disposition in the courts or were otherwise terminated. The Bureau of Justice Statistics will use the data in conducting multi-state analyses of the operation of the criminal justice system.

Applications for cooperative agreements are solicited primarily from state-level agencies which deal with criminal justice statistics and which are responsible for producing or coordinating the production of OBTS data. Where no appropriate state-level program exists or is under development, the Bureau of Justice Statistics will entertain applications from metropolitan areas or combinations of metropolitan areas which account for a substantial percentage of the serious offenses committed in the state. Awards will be contingent upon the organizational integrity and technical competence of the applicant. It is anticipated that awards will be made to between 15 and 25 states, with funding support not exceeding $15,000 for each award and a maximum duration of one year. Applications may be submitted to the Bureau of Justice Statistics at any time before May 31, 1981. Each application will be reviewed and processed as soon as it is received.

Since data produced under these cooperative agreements will be useful to the state as well as to the Bureau of Justice Statistics, it is expected that the level of effort shown in the application will not be limited to the amount of the requested Federal award, but will include services, facilities, or funds to be contributed by the applicant.

Further information and copies of the solicitation may be obtained from G. Paul Sylvestre, Chief, State Statistical Programs Branch, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531; phone (301) 492–9066.

Dated: June 2, 1980.

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

Approved:

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 80–17091 Filed 6–4–80; 8:45 am]

BILLING CODE 4410–18–M

Program JS–4: Solicitation Regarding a Cooperative Agreement Program To Collect Statewide Data on Adult Probation

The Bureau of Justice Statistics announces a statistical cooperative agreement program to collect data on probation in the states. The data to be supplied to the Bureau will cover all adult probation activities (except Federal probation) in the state for a complete calendar year. The data will include, but will not necessarily be limited to, the number and selected characteristics of probationers and their status, movement of persons into and out of probation, the number and organizational structure of the probation agencies in the state, and the number of probation supervisors, levels of supervision, and case loads. Uniform reporting standards, definitions, and formats will be determined by the Bureau of Justice Statistics in consultation with the participating states. The Bureau of Justice Statistics will use the data in multi-state and national compilations and analyses.

Applications for cooperative agreements are solicited from state-level agencies which deal with criminal justice statistics or which are responsible for collecting statewide data on probation. Awards will be contingent upon the organizational integrity and technical competence of the applicant. It is anticipated that awards will be made to between ten and fifteen states, with funding support between $10,000 and $25,000 for each award for this initial pilot period. Applications may be submitted to the Bureau of Justice Statistics at any time before May 31, 1981. However, prospective applicants should notify the Bureau of Justice Statistics as soon as possible so that they can participate in the determination of reporting standards, definitions, and formats. It is anticipated that this program eventually will be expanded to cover the entire nation.

Since data produced under these cooperative agreements will be useful to the state as well as to the Bureau of Justice Statistics, it is expected that the level of effort shown in the application will not be limited to the amount of the requested Federal award, but will include services, facilities, or funds to be contributed by the applicant.

Further information and copies of the solicitation may be obtained from G. Paul Sylvestre, Chief, State Statistical Programs Branch, Bureau of Justice Statistics, 633 Indiana Avenue, NW, Washington, D.C. 20531; phone (301) 492–9066.

Dated: June 2, 1980.

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

Approved:

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 80–17092 Filed 6–4–80; 8:45 am]

BILLING CODE 4410–18–M

Program JS–5: Solicitation Regarding a Competitive Cooperative Agreement Program To Develop Statistical Techniques and Methods for the Analysis of Specific Topics in Criminal Justice

The Bureau of Justice Statistics announces a competitive cooperative agreement program to develop statistical methods and techniques for analyzing certain problems in criminal justice that are of concern to a number of states. The topics to be addressed include: Prediction of prison population;

modeling of the criminal justice system

modeling of the criminal justice system or parts of it; data management and the use of analytic software in computer-aided statistical analysis; the impact upon resource needs of changes in sentencing policies. In addition, other topics may be proposed by an applicant. In all cases, the end product of the work will be a report and documentation which can be used by other states in conducting similar analyses. An applicant may propose to address any topic or any combination of topics; primary consideration will be given to the usefulness of the proposed products to other states and to the applicant's demonstrated competence in performing similar work.

Applications for cooperative agreements are solicited from state-level agencies which perform statistical analysis in criminal justice. Awards will be contingent upon the organizational integrity and technical competence of the applicant. It is anticipated that a maximum of three awards will be made for any one topic. Competitive selection will be done separately for each topic. Funding levels will depend upon the number of topics included in an award and the scope of work for each topic; a range of $15,000 to $30,000 per topic is anticipated, with a maximum duration of one year. Applications must be received by the Bureau of Justice Statistics no later than September 30, 1980.

Since work produced under these cooperative agreements will be useful to the state as well as to the Bureau of Justice Statistics, it is expected that the level of effort shown in the application will not be limited to the amount of the requested Federal award, but will include services, facilities, or funds to be contributed by the applicant.

Further information and copies of the solicitation may be obtained from G. Paul Sylvestre, Chief, State Statistical Programs Branch, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531; phone (301) 492-9066.

Dated: June 2, 1980.

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

Approved:

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 80-17093 Filed 6-4-80; 8:45 am]

BILLING CODE 4410-18-M

Program JS-6: Solicitation Regarding a Competitive Cooperative Agreement Program To Investigate Issues In Criminal Justice for Future Multistate Statistical Programs

The Bureau of Justice Statistics announces a competitive cooperative agreement program to investigate certain issues in criminal justice as a basis for the development of multi-state programs for statistical compilations and analysis. The issues to be addressed include: Crimes against the elderly; white collar crime and public corruption; juvenile delinquency; aspects of the civil justice system that are related to criminal justice; characteristics of victims; handgun violence; court delays; crime correlates including demographic and socioeconomic factors. In addition, other issues may be proposed by an applicant. An applicant may propose to address any issue or any combination of issues; primary consideration will be given to the significance of the issues nationally and to the applicant's demonstrated competence in performing similar work.

Applications for cooperative agreements are solicited from state-level agencies which perform statistical analysis in criminal justice. Awards will be contingent upon the organizational integrity and technical competence of the applicant. It is anticipated that from two to five awards will be made for any one issue. Competitive selection will be done separately for each issue. Funding levels will depend upon the number of issues included in an award and the scope of work for each issue; a range of $15,000 to $25,000 per issue is anticipated, with a maximum duration of one year. Applications must be received by the Bureau of Justice Statistics no later than October 31, 1980.

Since these cooperative agreements are intended to facilitate studies that are useful to the state as well as to the Bureau of Justice Satistics, it is expected that the level of effort shown in the application will not be limited to the amount of the requested Federal award, but will include services, facilities, or funds to be contributed by the applicant.

Further information and copies of the solicitation may be obtained from G. Paul Sylvestre, Chief, State Statistical Programs Branch, Bureau of Justice Statistics, 633 Indiana Avenue NW, Washington, D.C. 20531; phone (301) 492-9066.

Dated: June 2, 1980.

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

Approved:

Benjamin H. Renshaw,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 80-17094 Filed 6-4-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-23]

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Reports

Massey-Ferguson, Inc., Gates Learjet 25D, N137GL, Detroit, Michigan, January 19, 1979 (NTSB-AAR-80-4).—The National Transportation Safety Board on May 28 released its formal report on the investigation of the fatal crash which occurred while the aircraft was landing on runway 9 at Detroit Metropolitan Wayne County Airport. The airplane was returning executives of Massey-Ferguson, Inc., to South Bend, Indiana, Detroit, Michigan, and Toronto, Canada, following a meeting at the company's headquarters in Des Moines, Iowa.

Investigation showed that during the descent, the aircraft flew in light-to-moderate, occasionally severe icing conditions. Shortly before the Learjet was to land, a McDonnell-Douglas DC-9 was cleared for takeoff. Witnesses saw the Learjet cross the threshold in a normal landing attitude, and, seconds later, roll violently. The airplane was in a steep right bank when the wing tip tank struck the runway, 2,640 ft from the threshold and the plane burst into flames. The two pilots and four passengers were killed.

The Safety Board determined that the probable cause of the accident was the pilot's loss of control. The loss of control may have been caused by wake turbulence of a departing aircraft, by a premature stall caused by an accumulation of wing ice, by a delayed application of engine thrust during an attempted go-around or by any combination of these factors.

As a result of its investigation of this accident and several others involving general aviation aircraft, the Safety Board has reiterated the following recommendations made to the Federal Railroad Administration on April 13, 1978:

Develop, in cooperation with industry, flight recorder standards (FDR/CVR) for complex aircraft which are predicated upon intended aircraft usage. (Class II, Priority Action) (A-78-27).

Draft specifications and fund research and development for a low-cost FDR, CVR, and composite recorder which can be used on complex general aviation aircraft. Establish guidelines for these recorders, such as maximum cost, compatible with the cost of the airplane on which they will be installed and with the use for which the airplane is intended. (Class II, Priority Action) (A-78-28)

In the interim, amend 14 CFR to require that no operation (except for maintenance ferry flights) may be conducted with turbine-powered aircraft certificated to carry six passengers or more, which require two pilots by their certificate, without an operable CVR capable of retaining at least 10 minutes of intracockpit conversation when power is interrupted. Such requirements can be met with available equipment to facilitate rapid implementation of this requirement. (Class II, Priority Action) (A-78-29)

Safety Board Vice Chairman Elwood T. Driver and Members Francis H. McAdams and G. H. Patrick Bursley concurred in the report. Chairman James B. King and Member Patricia A. Goldman filed separate concurring and dissenting statements. Chairman King fully supported the report but stated that without a CVR/FDR to establish the aircraft's performance and operational sequence, the probable cause without further caveat overstates the degree of certainty concerning the three factors. He stated that he would rewrite the probable cause as follows:

The National Transportation Safety Board determines that the probable cause of the accident was the pilot's loss of aircraft control *for unknown reasons*. The loss of control may have been cuased by wake turbulence of a departing aircraft, by a premature stall caused by an accumulation of wing ice, by a delayed application of engine thrust during an attempted go-around, or by any combination of these factors.

Mrs. Goldman also fully concurred with the report but not with the probable cause as adopted by the majority since she does not believe there is sufficient information to support it. She notes that Conclusions 9, 10, and 12, respectively, state—

9. A trace of ice on the leading edge of the wings may have caused a premature stall.

10. Wake turbulence of a departing aircraft may have initiated the rolling maneuvers of the Learjet.

12. Coupled with abrupt pitch and roll control inputs during a go-around attempt at speeds within the stickshaker range, a delay in adding thrust can result in a rapid, rolloff stall.

Mrs. Goldman states that these conclusions are valid. Nevertheless, each of these factors must be read in context of certain analyses contained in the report. Also, she is not convinced that these three scenarios are the only factors which could have caused the loss of control. For example, the report states, "In this accident, low roll control sensitivity and the possibility of a sudden pilot reaction might have sustained the rolling maneuvers following the initial wing drop." Therefore, Mrs. Goldman believes that the probable cause of this accident should be:

The National Transportation Safety Board determines that the probable cause of the accident was the pilot's loss of aircraft control for undetermined reasons.

U.S. Civil Aviation Accidents, Issue No. 6 of 1979 Accidents (NTSB-BA-80-3).—With the release on May 27 of the sixth volume of civil aviation accident reports in brief format, and accompanying press release No. SB 80-41, the Safety Board issued a seasonal reminder of a potential hazard in warm-weather, high-altitude flying. High "density altitude," which such flying involves, was cited by the Board as a cause or contributing factor in 36 of the 301 accidents reported in its sixth issue of "briefs" of 1979 civil aviation accidents. The computer printouts comprising this volume provide the Board's determination of probable cause and contributing factors as well as the basic facts of each accident reported.

The Board noted that airplane performance decreases as temperature increases. Higher altitudes further decrease performance. In hot weather, an aircraft at a given pressure altitude will actually perform as though it were much higher. This is the effect of "density altitude," which can be an insidious hazard when a pilot forgets it entirely, or forgets that it does not take much warmth to seriously degrade the performance of an airplane which is taking off from an airport in high mountains, or traversing unusually high terrain. The Board also noted in its press release that density altitude at an airport with a weather station can be obtained from the weather observer. En route, it can be calculated with altimeter and outside air readings using a flight computer.

Note.—The brief reports in Issue No. 6 contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 7 cents per page for printed matter, $1 per page for black-and-white photographs, and $1.50 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Safety Recommendation Letters

Aviation

A-80-39 and -40 to the Federal Aviation Administration, May 23, 1980.—Last August 17 a Bell 47G-3-B-1 helicopter, powered by a Lycoming turbocharged engine, crashed near Rico, Colo., killing the pilot and his passenger. Board investigation disclosed that tail rotor thrust was lost during flight because the drive gear (P/N 47-620-568-1) failed. The gear is located within the main rotor transmission.

Metallurgical examination of the parts indicated that damage to the gear teeth resulted from axial misalignment of the gear. The misalignment was caused by a deep groove worn into the gear shaft. The shaft acts as the inner race for a roller bearing (P/N 47-620-605-1) located immediately aft of the damaged gear teeth. The operating time on the main transmission since the last overhaul was 822 hours. However, the gear assembly and bearing are not life-limited components and are replaced, based on their condition. The Safety Board, therefore, was not able to determine the total operating time on the failed gear. Four additional gears (P/N 47-620-568-1) in various stages of deterioration were submitted to the Safety Board's Laboratory for metallurgical examination.

In view of these findings, the Safety Board recommends that the FAA:

Issue an Airworthiness Directive to require replacement of bearing (P/N 47-620-605-1) with the improved bearing (P/N 47-620-929-1) at the next scheduled or unscheduled removal of the main transmission on Bell 27 model helicopters equipped with the turbocharged engines. (Class II, Priority Action) (A-80-39)

Review and evaluate the need to replace the older bearing (P/N 47-620-605-1) with the improved bearing (P/N 47-620-929-1) on all Bell 47 model helicopters. (Class II, Priority Action) (A-80-40)

A-80-41 through -43 to the Federal Aviation Administration, May 27, 1980.—At about 2100 on May 30, 1979, N68DE, a deHavilland DHC-6-200, owned and operated by Downeast Airlines, Inc., crashed on approach to runway 3 at the Knox County Regional Airport, Rockland, Maine. Fifteen passengers and both pilots were killed; one passenger was seriously injured. Following its investigation of the accident, the Safety Board concluded that the flightcrew deviated from standard instrument approach procedures and allowed the aircraft to descend below the published minimum

decision height, without the runway environment in sight. The accident manual does not suggest the use of windscreen heat in case of high bird

erupted, the outcome could have been

not meet the minimum Federal safety

communicated with them after they

for San Diego to be effective May 15,

V 45 J E 5 8 0 UMI

decision height, without the runway environment in sight. The accident occurred during a night nonprecision instrument approach. Investigation disclosed two areas of concern: one in maintenance practices—a potentially hazardous situation regarding poor cockpit instrument lighting; the other, in operational factors—a lack of standardized procedures for cockpit management and for two-pilot crew coordination at Downeast Airlines.

In view of these areas of concern, the Safety Board recommends that FAA:

Publish a Maintenance Bulletin to alert FAA maintenance inspectors to the safety hazard associated with installation of mixed-color cockpit instrument lighting. The bulletin should require that the practice of installing mixed-color lighting be discontinued and that, where this practice has been implemented in the past, the lighting be changed to a uniform configuration. (A–80–41)

Require that 14 CFR Part 135 operators emphasize crew coordination during recurrent training, especially when pilots are qualified for both single-pilot/autopilot and two-pilot operations. These requirements should be outlined in an operator's approved training curriculum. (A–80–42)

Upgrade flight operations manuals of 14 CFR Part 135 operators to assure standardization by clearly delineating operational duties and responsibilities of all required cockpit crewmembers. (A–80–43)

Each of the above recommendations is classified "Class II, Priority Action." Copies of the Safety Board's formal investigation report on this accident are being prepared for distribution and will be available in the near future.

A–80–44 to the Federal Aviation Administration, May 28, 1980.—On April 5, 1979, a Royale Airlines Beech B–99, N1922T, being operated under 14 CFR Part 135, was struck by a flock of birds while descending for a landing at the Regional Airport in Lafayette, La. One bird penetrated the right windscreen, resulting in minor injuries to the copilot. There were 2 crewmembers and 13 passengers on board the aircraft. The Safety Board's investigation of this incident indicates that corrective action is necessary to reduce the possibility of windscreen penetration in this and similar aircraft.

The Board notes that the Beech 99A windscreen is constructed of two-ply plate glass panels, with a single vinyl material sandwiched in between. The windscreen also incorporates a heating element. Investigation revealed that the flightcrew had not activated the windscreen heat during the descent, and the Flight Operations Manual does not specify the use of windscreen heat when descending. Further, according to the aircraft manufacturer's engineers, the manual does not suggest the use of windscreen heat in an area of high bird strike probability, and no bird strike tests have been conducted on the Model 99 aircraft windscreen since there is no requirement for such tests in 14 CFR Part 23.

As a result of this investigation, and noting the numerous other bird strikes involving general aviation aircraft over the past 5 years, the Safety Board has recommended that FAA:

Conduct a study to determine whether the structural characteristics of general aviation aircraft windscreens equipped with heating elements are enhanced by the use of such elements and apprise operators of optimal procedures through inclusion in appropriate flight manuals or issuance of an advisory circular. (Class III, Longer Term Action) (A–80–44)

A–80–45 to the Federal Aviation Administration, May 28, 1980.—On July 13, 1979, Ward Air, Juneau, Alaska, dispatched a float-equipped Beech C–18S aircraft on a flight from Juneau to Drake Island, Alaska, and return. At Drake Island the pilot boarded two passengers—one, an ambulatory patient en route to a hospital in Juneau. After departing Drake Island, the aircraft was climbing through an altitude of 2,500 feet mean sea level when fire appeared behind the copilot seat. The pilot and one passenger used a handheld portable fire extinguisher to put out the fire. The pilot stated that windows and hatches were opened to exhaust the smoke and the flight continued to its Juneau destination. Neither of the two passengers were injured. The pilot received first-degree burns to his hands while he was extinguishing the fire.

Board investigation disclosed that a pressurized aerosol can of furniture polish (used onboard as a window cleaner) has been placed on a shelf directly behind the copilot seat next to an uncovered and unprotected electric terminal strip. The shelf was approximately 14 inches above the floor, and there were seven uncovered electrical terminal studs attached to a bracket on the bulkhead adjacent to the shelf. During the flight the aerosol can apparently became displaced from its original upright position and fell across the terminals studs. The pressurized can contacted the studs which caused a short circuit that burned through the thin aluminum wall of the can and ignited the contents of the container. The can burned like a blowtorch and ignited the upholstery, which was made of fiberglass and plastic. The fire quickly spread up to the emergency escape hatch before it was extinguished with the help of the passenger. Had the pilot been one in the aircraft when the fire erupted, the outcome could have been catastrophic.

In view of the above, the Safety Board has recommended that FAA:

Publish the circumstances of this incident in the Maintenance Notes Section of the General Aviation Airworthiness Alerts, stressing the fact that pilots and maintenance personnel share a responsibility to insure that there are no uncovered or unprotected electrical terminal studs exposed in the aircraft. The Maintenance Note should also remind pilots of the danger involved when carrying pressurized aerosol cans in an aircraft. (Class II, Priority Action) (A–80–45)

Railroad

R–80–21 to the Federal Railroad Administration, May 27, 1980.—When reviewing for comment on FRA's notice of proposed rulemaking, RSFC–6, Notice No. 1, Freight Car Safety Standards (44 FR 1419, January 5, 1979), the Safety Board noted that the proposal called for maintenance-of-way cars (except those used exclusively in work train service) to be brought under the standards. However, the Board notes that the final rule, 49 CFR 215.3(c)(3), exempted maintenance-of-way cars from compliance with the standards even when placed in a revenue train.

The standards set forth the minimum Federal safety requirements for operating railroad freight cars. They prohibit a railroad from placing in service or continuing in service a freight car that has defective or restricted components or components that have been identified as having unusually high failure rates. Also, certain railroad freight cars are restricted from service by the standards. However, the revised standards, effective March 1, 1980, exempt maintenance-of-way cars from compliance with the standards provided the cars are not used in revenue service (defined as a car used to perform for-hire transportation services). The exemption permits the operation of maintenance-of-way cars with restricted or defective components in any train at any speed, including trains carrying hazardous materials.

An example of the hazards posed by such an exemption occurred on June 7, 1976, at Maud, Ohio, when a ConRail engineer was killed. A track panel section shifted over the side of a nonregulated maintenance-of-way car in a train passing on the adjacent track and struck his locomotive. Ironically, the car was being moved to a repair track after it had caused an accident. A Farlow draft attachment, a restricted component, had failed while the car was traveling in a revenue train.

The Board considers the practice of allowing the use of any cars which do not meet the minimum Federal safety standards to be inherently unsafe. Permitting the use of these cars without restrictions exposes the public as well as railroad employees to risk regardless of type of service. The Board believes that no train should be allowed to operate without restriction unless all cars comply with minimum safety requirements. Accordingly, the Board recommends that FRA:

Amend 49 CFR Part 215 to prohibit any car which does not comply with the Railroad Freight Car Safety Standards from being operated in a revenue train unless adequate restrictions are provided for its safe operation. (Class I, Urgent Action) (R–80–21)

R–80–22 to Illinois Central Gulf Railroad Co. (ICG), May 23, 1980.—Last October 3, while performing switching duties at a GAF Industries plant at Mobile, Ala., an ICG railroad switchman was killed and the yard foreman was injured seriously. The Safety Board's investigation revealed that the foreman and switchman were attempting to couple four cars held by a locomotive to three cars that were standing on a track in the plant. The movements were being controlled by voice communication on radio between a switchman on the ground and the engineer in the locomotive. After two unsuccessful attempts to couple the cars, the switchman radioed the locomotive engineer to stop, saying that he and the foreman were going between the cars to adjust the couplers so that they could complete the coupling.

While the switchman and foreman were adjusting the couplers, the other switchman, who was standing near the locomotive, made a hand movement that the engineer perceived as a hand signal to back up. The engineer backed the locomotive and four cars and unknowingly caught the switchman and foreman between the couplers. Then the engineer moved the locomotive and four cars forward and when he found that the coupling was not made, he waited for another signal from the switchman near the locomotive. In a few seconds, the switchman made another hand movement that the engineer interpreted and acted upon as a signal to back up. As the engineer backed up again to attempt the couple, the foreman was trying to pull the switchman away from the couplers. The couplers met and struck the switchman again. The engineer said that he was not aware that the switchman and foreman were still between the cars during these movements, although he had understood the switchman's radio request to stop so that they could go between the cars to adjust the couplers. Neither the engineer nor the switchman had seen or communicated with them after they went between the cars to adjust the couplers.

Investigation shows that a gap exists between those ICG operating rules that govern the use of hand signals and those which govern the use of radio signals. ICG crews apparently use both hand signals and radio signals during switching operations without a clear procedure to insure that all crewmembers have the same understanding regarding which signal will prevail in a given situation. In this case, the engineer had been working with the ground crew for several years and was fully aware of their practices and abilities. The crew regularly used a mixture of hand and radio signals. The switchman near the locomotive, who was talking to another person, was not aware that the engineer was watching him for a signal. Gestures he made with his hands in the course of his conversation were interpreted and acted upon by the engineer as a signal to back up.

Potential hazards exist when hand and radio signals are combined. If there had been a procedure, understood and followed by all crewmembers, which assured that all crewmembers understood when a change was made from radio to hand signals, this accident could have been prevented. Therefore, the Safety Board recommends that ICG:

Establish and implement procedures, covered by appropriate operating rules, which will prevent the use of a mixture of hand and radio signals in train movements and will insure that all crewmembers involved understand when the signal mode is changed. (Class II, Priority Action) (R–80–22)

Responses to Safety Recommendations

Aviation

A–79–106 and –107, from the Federal Aviation Administration, May 27, 1980.—Response is to two "Class I, Urgent Action" recommendations issued last December 28 calling for emergency Federal action to tighten air traffic control (ATC) in the San Diego, Calif., Terminal Radar Service Area (TRSA). Recommendation A–79–106 asked FAA to impose mandatory requirements that all pilots communicate with ATC before entering the San Diego TRSA, and A–79–107 called for establishment of a Group II terminal control area (TCA) at San Diego with a special requirement that aircraft entering the airspace be equipped with an operating Mode C altitude encoding transponder. (See 45 FR 2116, January 10, 1980.)

In response, FAA reports that on March 15 a final rule (copy provided) was signed establishing a Group II TCA for San Diego to be effective May 15. This means all flights within the TCS will be required to communicate with and will be separated by ATC. Aircraft will be required to have operable navigation equipment, two-way radio, and a transponder to operate in the TCA. An altitude encoder will not be required at this time. FAA feels that the lack of an altitude encoder will not compromise safety, but intends to address that issue separately from the establishment of the TCA. In conjunction with the establishment of the Group II TCA, FAA's Western Regional Office has been directed to form user working groups to evaluate the effectiveness and workability of the San Diego TCA.

A–80–15, from the Federal Aviation Administration, May 22, 1980.—Response is to a recommendation issued last February 28 following investigation of a hard landing accident involving an air taxi Cessna 310Q at Beckley, W. Va., January 26, 1979. The recommendation called on FAA to require that the pilot-in-command of a Part 135 air taxi or commuter air carrier flight occupy a seat in the pilot compartment which affords him the most direct view of the basic flight and navigation instruments with a minimal deviation from his normal position and line of sight when he is looking forward along the flightpath. (See 45 FR 14721, March 6, 1980.)

FAA notes that the pilot involved in this accident held a flight instructor certificate with airplane multiengine and instrument airplane ratings and had therefore demonstrated his ability to pilot an airplane from the right seat. Immediately prior to the night landing accident, he had descended successfully through an overcast area and executed an instrument approach. The accident report indicates that the airframe had accumulated a significant amount of ice.

The Safety Board's finding of probable cause was "improper level off" with a factor of "airframe ice." FAA states that since the Board was unable to find a causal relationship between the accident and the seat occupied by the pilot-in-command, FAA is unable to use that relationship inferentially to justify regulatory action.

As a result of FAA's investigation of this accident, enforcement action was taken against the pilot. Also, the certificate holder voluntarily surrendered his air taxi commercial operator certificate. Part 135 presently contains several sections prohibiting unauthorized persons from performing pilot duties or handling aircraft controls. FAA is issuing an operations bulletin for guidance of its field inspectors, emphasizing the potential safety

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problem identified. A copy of the bulletin will be provided to the Board.

Pipeline

P–79–34, from the Research and Special Programs Administration, May 27, 1980.—Response is to a recommendation issued last November 7 following investigation of a flash fire which erupted last July 31 in a small cellar beneath a commercial greenhouse in Aliquippa, Pa.; gas escaping from a 12-inch 80 psig-pressure gas main was ignited when a man struck a match on entering the cellar. The recommendation asked RSPA to monitor, through its State agent, the Pennsylvania Public Utility Commission, the activities of the Peoples Natural Gas Company to survey the 12-inch gas main for leaks and to cathodically protect the gas main where needed. (See 44 FR 67256, November 23, 1979.)

The Materials Transportation Bureau of RSPA has been in contact with the Pennsylvania Public Utility Commission (PUC) to discuss this accident and the subsequent action of Peoples Natural Gas Company (PNG) RSPA has been advised that the Pennsylvania PUC has monitored PNG in regard to its leak surveys, leak repairs, and cathodic protection surveys on the 12-inch gas line. According to the Pennsylvania PUC, PNG has taken the following actions:

(1) Conducted a leak detection survey on the entire length of the line, P–670, using a Flame Ionization Unit on November 19, 20, 21, 27, and 28, 1979. One minor leak, at a threaded coupling, was located and repaired as a result of this survey. In addition, a spot check leak survey was conducted on January 23, 1980, using a Flame Ionization Unit. This survey did not identify any significant leakage.

(2) A cathodic protection electrical survey was conducted over this line beginning on November 19, 1979, and ending on November 28. It was determined that it was impractical to conduct an electrical survey over the bare portions of line P–670. PNG is using its gas detection surveys to determine the areas that need cathodic protection on the bare portion of the pipeline.

(3) Replaced 385 feet of the old 12–inch bare steel pipe in the area of the accident with 4–inch mill coated steel pipe in November 1979.

(4) On March 25–26, 1980, at the request of MTB through the Pennsylvania PUC, PNG excavated and examined nine different locations along line P–670. The excavation sites selected by the Pennsylvania PUC all had indications of natural gas leakage detected during the November 1979 leakage survey. The purpose of exposing the pipe at these locations was to determine the cause of the leakage and the condition of the pipe. A representative of the Pennsylvania PUC examined the data and reports from the nine locations. The results of this study indicated that the gas leakage in the areas exposed was not caused by corrosion but was due to leaking collar clamps and fittings. In all cases the leakage was very minimal. The pipe exposed at the excavation sites was generally in good condition. During this inspection, only a light coating of surface corrosion was observed. There were no deep pits.

RSPA notes that PNG has attempted to determine areas of active corrosion on this line by electical surveys, leagage surveys, and by excavating and exposing the pipe to inspect its condition at various locations. As a result of these studies, PNG has concluded that they have cathodically protected line P–670 where needed. The Pennsylvania PUC is satisfied that PNG has taken appropriate action.

Railroad

R–79–81, from the Union Pacific Railroad Company, May 3, 1980.—Response is to the Safety Board's letter of April 28 commenting on Union Pacific's March 4 initial response (44 FR 30577, May 8, 1980) to a recommendation issued following investigation of the derailment of a Union Pacific freight train at Granite, Wyo., July 31, 1979.

The Safety Board's April 28 letter notes that during the investigation of the accident at Granite, the Board was assisted by a Union Pacific committee. The use of brake pipe flow indicators was discussed and a Union Pacific officer advised that locomotive units had been equipped with brake pipe flow indicators, but due to maintenance problems, they had been removed. The Board further notes that recommendation R–79–81 was made to the Union Pacific to equip its locomotives with brake pipe flow indicators to enable engineers to measure trainline air flow and that, pending results of testing by the Association of American Railroads, Union Pacific was going to withhold any further application of this equipment. The Board asked to be kept advised as to the results of the study and the decision made by Union Pacific.

Union Pacific's May 3 letter states that as indicated in the March 4 response, Union Pacific is not aware of any installation, let alone removal of brake pipe flow indicators, on the type of locomotives involved in this accident. Union Pacific now asks to be advised of the name of the Union Pacific officer who furnished the advice that they had been removed so that this misimpression can be corrected.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters and responses or related correspondence are also provided free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

June 2, 1980.

[FR Doc. 80–17080 Filed 6–4–80; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Byproduct Materials License No. 45–09358–02]

Alexandria Hospital Order Imposing Civil Monetary Penalties

I

The Alexandria Hospital, 4320 Seminary Road, Alexandria, VA 22314, is the holder of Byproduct Material License No. 45–09358–02 (the "license") as amended, issued by the Nuclear Regulatory Commission (the "Commission") on February 26, 1969, and expiring on February 28, 1979, but extended under the 10 CFR 30.37 provisions for timely renewal.

II

As a result of apparent material false statements in a preceptor statement of December 20, 1979, a special inspection was conducted on January 8–10, 22, and 23, 1980, to determine the circumstances of the occurrence. From the findings of the inspection, it appears that Alexandria Hospital has not conducted its activities in full compliance with the conditions of the license and with the requirements of the NRC's "Human Uses of Byproduct Material," Part 35, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee by letter dated March 14, 1980, specifying the items of noncompliance in accordance with 10 CFR 2.201. A notice of Proposed Imposition of Civil Penalties dated March 14, 1980, was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provisions of NRC regulations and license conditions with which the licensee was in noncompliance.

A response dated April 7, 1980, to the Notice of Violation and Notice of Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and argument in denial or mitigation contained therein, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the items of noncompliance designated in the Notice of Violation should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2282), and 10 CFR 2.205, It Is Hereby Ordered That:

The licensee pay civil penalties in the total amount of Two Thousand One Hundred Dollars ($2,100) within twenty-five (25) days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five (25) days of the receipt of this Order request a hearing. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five (25) days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee was in noncompliance with the Commission's regulations and the conditions of the license in the respects set forth in the Notice of Violation; and

(b) whether, on the basis of such items of noncompliance the Order should be sustained.

Dated at Bethesda, Md., this 23 day of May 1980.

For the Nuclear Regulatory Commission.

R. C. DeYoung,

Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 80–17071 Filed 6–4–80; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.7, Revision 1, "Entry/Exit Control for Protected Areas, Vital Areas, and Material Access Areas," describes measures the NRC staff considers acceptable for implementing entry/exit control for protected areas, vital areas, and material access areas in nuclear facilities to protect against theft or diversion of strategic special nuclear material and radiological sabotage. This revision was made to reflect recent changes to the Commission's physical protection regulations.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 28th day of May 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80–17078 Filed 6–4–80; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associate value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, OH 015–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 8.12 and is entitled "Criticality Accident Alarm Systems." The guide is being developed to describe a system acceptable to the NRC staff for meeting the Commission's requirements for a criticality accident alarm system.

Thid draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commisison, U.S. Nuclear Regulatory Commision, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 25, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory

Commisison, Washington, D.C. 20555, Attention: Director, Division of

Operating License No. DPR–40 issued to

[Docket No. 50–206]

[Docket Nos. 50–266 and 50–301]

For the Nuclear Regulatory Commission.

For the Nuclear Regulatory Commission.

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Commisison, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 27th day of May 1980.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 80-17077 Filed 6-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-416A and 50-417A]

Mississippi Power & Light Co.; Violation

The Director, Office of Nuclear Reactor Regulation has issued a Notice of Violation dated May 29, 1980, pursuant to provisions of 10 CFR 2.201 of the NRC's Rules of Practice. The notice requires Mississippi Power and Light Company and Middle South Energy, Inc. to provide within 20 days after receipt of the Notice a written statement or explanation in reply to allegations that Mississippi Power and Light Company has and continues to violate antitrust license conditions 4, 5, and 6 as found in its construction permits for the Grand Gulf Nuclear Station, Units 1 and 2.

Copies of the order are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC 20555 and in the local public document room at Claiborne County Courthouse, Port Gibson, Mississippi 39150.

Dated at Bethesda, Md., this 29th day of May 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 80-17072 Filed 6-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), which added a License Condition and revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

This amendment adds a License Condition related to Secondary Water Chemistry and changes the Technical Specifications to allow limited testing of shock suppressors during operation and also adds two shock suppressors to the listing of those suppressors to be tested.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated March 8, 1978, October 24, 1978 and September 20, 1979, (2) Amendment No. 48 to License No. DPR-40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 27th day of May 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-17078 Filed 6-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. (San Onofre 1); Modification of Confirmatory Order

I

Southern California Edison Company (The "Licensee") is the holder of Provisional Operating License No. DPR-13 (the "License") with an expiration date of September 27, 1968, which authorize operation of the San Onofre Unit No. 1 (the "facility"). The Licensee has applied in a timely manner for a conversion to a full term operating License. This application is under NRC review.

II

On April 4, 1980, the Commission issued a Confirmatory Order to the Licensee requiring full response to IE Bulletin 79-27 within the Licensee's committed reply date of May 15, 1980, for the San Onofre Nuclear Plant Unit 1. By letter, dated May 15, 1980, to the NRC Region V Office, the Licensee responded to the Order.

In the May 15, letter, the Licensee advised that items 1 and 3 of IE Bulletin 79-27 had been completed but that item 2, which required revisions to emergency procedures, was still under review. In a letter to the Director, Office of Inspection and Enforcement, dated May 19, 1980, the Licensee requested an extension of the May 15, 1980 deadline of the Confirmatory Order.

The facility is currently shutdown for refueling and in the May 19, 1980 letter, the Licensee proposes that the facility remain shutdown for at least one week after completion of all required items of the April 4, 1980 Confirmatory Order. The week delay will provide adequate time to allow for inspection of the outstanding items by the Commission prior to returning the facility to service.

Accordingly, the May 15, 1980 deadline set forth in the Confirmatory Order is extended to no later than one week prior to San Onofre Unit 1 returning to service.

The Order of April 4, 1980, except as modified above, remains in effect in accordance with its terms.

Dated at Bethesda, Md., on this 23d day of May 1980.

For the Nuclear Regulatory Commission.

R. C. DeYoung,

Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 80-17074 Filed 6-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-24, and Amendment No. 45 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments add limiting conditions for operation and surveillance requirements for the low temperature overpressure mitigating systems and correct some clerical inconsistencies.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 2, 1978, (2) Amendment Nos. 45 and 50 to License Nos. DPR-24 and DPR-27, and (3) the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Document Department, University of Wisconsin, Stevens Point Library, Stevens Point, Wisconsin 54451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 29th day of May 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-17075 Filed 6-4-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-416A and 50-417A]

Mississippi Power & Light Co., Middle South Energy, Inc., Mississippi Electric Power Association; Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated May 23, 1980, with respect to Grand Gulf Nuclear Station, Units No. 1 and No. 2:

"You have requested our advice pursuant to Section 105(c) of the Atomic Energy Act, as amended, regarding a proposed amendment to the construction permit of the above referenced nuclear units to allow South Mississippi Electric Power Association ("SMEPA") to become a co-owner of those units. SMEPA will acquire a ten percent undivided ownership interest in Grand Gulf, which will be operated by Mississippi Power & Light Company on behalf of itself, Middle South Energy, Inc. and SMEPA.

"Our review of the information submitted for antitrust review purposes, as well as other information available to the Department, provides no basis at this time to conclude that the participation in the Grand Gulf Nuclear Station, Units 1 and 2 by SMEPA would create or maintain a situation inconsistent with the antitrust laws. Accordingly, it is the Department's view that no antitrust hearing is necessary with respect to the proposed amendment to the construction permit."

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by July 7, 1980 either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW, Washington, DC, or (2) by mail or telegram addressed to the Secretary, US Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

Dated at Bethesda, Md., this 30th day of May 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 80-17070 Filed 6-4-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

June 3, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Animal and Plant Health Inspection Service
9 CFR 73—Scabies in cattle
VS 1-27, 2-24D, 5-2, 5-5, 5-14
On occasion
Owners of treatment facility, 107,746 responses; 18,726 hours
Charles A. Ellett, 395-7340

Farmer's Home Administration
Remote claims impact study—heir property
Single time
Rural landowners, 3,727 responses; 2,055 hours
Charles A. Ellett, 395-7340

Revisions

Food and Nutrition Service
Quality control review schedule (food stamp)
FNS-245, 247-1-4, 248
On occasion
Food stamp participants, applicants and State agencies, 141,188 responses; 1,101,026 hours
Charles A. Ellett, 395-7340

Food and Nutrition Service
Part 215—Special milk program for children
On occasion
State agencies, school food authorities, CCI's, 214,395 responses; 404,395 hours
Charles A. Ellett, 395-7340

Foreign Agricultural Service
Application for clearance of labels on export products
FAS-633
On occasion
Food processors and exporters, 400 responses; 66 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
August 1980 CPS post enumeration survey
CPS-1, CPS-260, CPS-678, CPS-678A
Single time
Interviewed households in August 1980 CPS, 68,000 responses; 3,400 hours
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Survey of local assessment records
GP-1
Single time
Local tax assessors, 2,100 responses; 2,100 hours
William T. Adams, 395-4814

Bureau of the Census
1980 survey of municipal or township finances
F-50A, F-50B
Annually
Cities with a population less than 5,000, 2,800 responses; 3,500 hours
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Enumeration sample, post enumeration survey
D-8044
Single time
Households in the United States, 100,000 responses; 33,000 hours
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Survey of real property transfer records
GP-2
Single time
Local recorders of real property sales, 2,100 responses; 2,100 hours
William T. Adams, 395-4814

Economic Development Administration
Dam site information
ED-1001
On occasion
State and local units of government, Indian tribes, 40 responses; 80 hours
William T. Adams, 395-4814

Revisions

Bureau of the Census
Annual survey—finances of State agencies
F-25
Annually
Selected State agencies, 50 responses; 50 hours
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Update list/leave evaluation, housing unit coverage
Check listing book
D-815
Single time
Households in 10 census district offices, 75,000 responses; 5,250 hours
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Survey of local government tax revenues and intergovernmental revenues—South Dakota townships
RS-5B
Annually
South Dakota County auditors, 54 responses; 108 hours
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
General revenue sharing survey
RS-9, RS-9A
Annually
Municipal and township governments, 3,995 responses; 3,995 hours
Office of Federal Statistical Policy and Standard, 673-7974

Industry and Trade Administration
Shipment of nickel alloy products
ITA-942 (formerly DIB-942)
Quarterly
Consumers of primary nickel, 84 responses; 14 hours
William T. Adams, 395-4814

Extensions

Bureau of the Census
Survey of local government tax revenues and intergovernmental revenues
RS-5
Annually
Iowa county officials, 99 responses; 99 hours

Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Survey of local government tax revenue and intergovernmental revenues—North Dakota townships
RS-5A
Annually
North Dakota county auditors, 48 responses; 96 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Department of the Air Force
Aviation and missile fuel reporting for DOD and other Federal agencies
207, 210, 588, 857, 858, 859, 1994
Other (see SF-83)
Aerospace contractors, 960 responses; 960 hours
Edward C. Springer, 395-4814

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-9770

Reinstatements

Report of oil imports into the United States and Puerto Rico
ERA-60
Monthly
Importers of oil and petroleum products, 5,400 responses; 10,800 hours
Jefferson B. Hill, 395-7340

Annual report for municipal electric utilities with annual revenues of $250,000 or more
ERA-412
Annually
Municipal electric utilities, 728 responses; 29,120 hours
Jefferson B. Hill, 395-7340

Supplemental power statement
FPC 12-E-2
Monthly
Electric utilities, 3,650 responses; 8,801 hours
Jefferson B. Hill, 395-7340

Emergency sales deliveries of natural gas for resale by persons with exemptions under Natural Gas Act
FPC-R0326
On occasion
Companies exempt under the Natural Gas Act, 60 responses; 300 hours
Jefferson B. Hill, 395-7340

National survey of fuel purchases for vehicles—purchase log and supplementary questionnaire
EIA-141
Monthly
Sample of households, 52,200 responses;; 14,400 hours
Jefferson B. Hill, 395-7340

National Survey of fuel purchases for vehicles—background questionnaire
EIA-429 (formerly part of EIA-141)
On occasion
Sample of households, 3,000 responses; 501 hours
Jefferson B. Hill, 395-7340

Capacity of petroleum refineries
EIA-177 (formerly BOM 6-1334-7)
Annually
Petroleum refineries, 320 responses; 1,920 hours
Jefferson B. Hill, 395-7340

Fuel consumed for all purposes at refineries
EIA-173 (formerly BOM 6-1335-A)
Annually
Petroleum refineries in United States, 319 responses; 1,276 hours
Jefferson B. Hill, 395-7340

Schedule C-No alternative power supply
ERA-319
Single time
New power plants/new major fuel burning installations, 60 responses; 300 hours
Jefferson B. Hill, 395-7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Joint AHA-NIMH inventory of general hospital psychiatric services
ADM 25-2
Single time
General hospitals with psychiatric services, 60 responses; 28 hours
Office of Federal Statistical Policy and Standard, 673-7974

Revisions

Public Health Service
1980 health interview survey smoking supplement questionnaire
Other (see SF-83)
Sample of households representing the civil, non-institutionalized population of the United States, 40,000 responses; 31,088 hours
Office of Federal Statistical Policy and Standard, 673-7974

Public Health Service
Annual marriage and divorce statistical report forms
HRA 30-1; HRA 30-2
Annually
State registrars, 51 responses; 26 hours
Office of Federal Statistical Policy and Standard, 673-7974

Public Health Service
Monthly report on marriages, divorces, and annulments
HRA-29
Monthly
State registrars, 624 responses; 62 hours
Office of Federal Statistical Policy and Standard, 673-7974

Reinstatements

Health Care Financing Administration (departmental)
Uniform bill questionnaire
HCFA-79
Single time
Hospital personnel, 500 responses; 750 hours
Richard Eisinger, 395-6880

New Forms

Health Care Financing Administration (medicaid)
Third party resource worksheet
HCFA-301C (test)
Single time
Title XIX beneficiaries, 100 responses; 25 hours
Richard Eisinger, 395-6880

Revisions

Social Secruity Administration
Application for a social security number card (original replacement or correction)
SS-5
On occasion
Indiv. req. assign of SSN or prov revised or corr. infor. 12,000,000 responses; 1,600,000 hours
Barbara F. Young, 395-6880

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

Revisions

Offices, boards, division
Civil litigation project: Organization disputant questionnaire
Single time
Organizations in five Federal districts, 2,950 responses; 2,950 hours
Andrew R. Uscher, 395-4814

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523-6341

New Forms

Employment Standards Administration
Declaration of citizenship—29 CFR 40.51(p)
WH-409
On occasion
Farm laborers, 25,000 responses; 6,250 hours
Arnold Strasser, 395-6880

Revisions

Occupational Safety and Health Administration

Quarterly report of State compliance

On occasion

SMALL BUSINESS ADMINISTRATION

Quarterly report of State compliance and standards activity—migrant housing inspection
OSHA 120, 120A, 121, 122, 123, 124
Quarterly
OSHA State designees, 96 responses; 4,128 hours
Arnold Strasser, 395–6880

Reinstatements

Employment and Training Administration
Employment and training administration manual—EEO reporting system
ETA 7152, 7153 and 7154
Semiannually
ETA contractors and grantees, 5,028 responses; 2,514 hours
Arnold Strasser, 395–6880

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Departmental and other
Waterway user charge questionnaire
OST/P
Single time
Description not furnished by agency, 490 responses; 245 hours
Susan B. Geiger, 395–7340
Departmental and other
Inspector General's contractor questionnaire
IG OST
Single time
Government contractors possessing government-furnished property, 160 responses; 80 hours
Susan B. Geiger, 395–7340
National Highway Traffic Safety Administration
Owner usage and acceptance of automatic safety belts
HS–417 and HS–417A
Annually
Owners of automatic and manual belt equipped cars, 2,100 responses; 700 hours
Susan B. Geiger, 395–7340

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376–0436

New Forms

Treasurer of the United States
$1,000 bondholder survey
Single time
Description not furnished by agency, 1 response; 167 hours
Warren Topelius, 395–7340

Revisions

Bureau of Customs
Discrepancy report and declaration
Customs 5931
On occasion
Importing carriers, customhouse brokers, importers, 126,000 responses; 10,495 hours
Warren Topelius, 395–7340

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Paul Elston—755–2744

Reinstatements

Application for supplemental registration for distributors
EPA 8570–5
On occasion
Pesticide manufacturers, 30,000 responses; 7,500 hours
Edward H. Clarke, 395–7340

NATIONAL ALCOHOL FUELS COMMISSION

Agency Clearance Officer—John May—426–6490

New Forms

Ethanol production survey
NAFCO 52980
On occasion
250 identified prospective producers, 250 responses; 83 hours
Jefferson B. Hill, 395–7340

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—357–7811

Revisions

Application for consideration of waiver of 2 years for residence requirement
NSF 258
On occasion
Scientists, 30 responses; 1 hour
Marsha D. Traynham, 395–7340

PENSION BENEFIT GUARANTY CORPORATION

Agency Clearance Officer—Charles P. Paul—254–4776

Pension Benefit Guaranty Corporation audience survey
Single time
Pension recipients and pension plan sponsors, 300 responses; 24 hours
Arnold Strasser, 395–6880

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

Annual report of creditable compensation
BA–3A
Annually
Railroad employers, 535 responses; 47,062 hours
Barbara F. Young, 395–6880

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653–6890

New Forms

Questionnaire—merged or sold businesses
Single time
Business managers and owners, 815 responses; 136 hours
Office of Federal Statistical Policy and Standard, 673–7974
Active small business questionnaire
Single time
Unicorp. wholesale and retail trade, 1,000 responses; 167 hours
Office of Federal Statistical Policy and Standard, 673–7974

Extensions

Financial statement of debtor
SBA–770
On occasion
Small business borrowers, 4,000 responses; 4,000 hours
Edward C. Springer, 395–4814

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523–0267

New Forms

Certain steel wire nails, importers questionnaire
Single time
Steel wire nail importers, 30 responses; 240 hours
Phillip T. Balazs, 395–4814
Certain steel wire nails, producers questionnaire
Single time
Steel wire nail producers, 50 responses; 400 hours
Phillip T. Balazs, 395–4814
Producer's Questionnair, Inv. 303–TA–13, castings from India
Single time
U.S. producers of construction castings, 75 responses; 750 hours
Phillip T. Balazs, 395–4814
Importers questionnaire, Inv. 303–TA–13, castings from India
Single time
U.S. importers of construction castings, 20 responses; 80 hours
Phillip T. Balazs, 395–4814

C. Louis Kincannon,

Acting Deputy Assistant Director For Reports Management.

[FR Doc. 80–17171 Filed 6–4–80; 8:45 am]

BILLING CODE 3110–01–M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Meeting

The final meeting of the Presidential Commission on World Hunger will meet on Monday, June 16, 1980, in Room 454 of the Executive Office Building, 17th and Pennsylvania Avenue, NW, Washington, D.C. The meeting will begin at 9:30 a.m. and will conclude at approximately 1:00 p.m.

The agenda for the meeting will include a discussion of follow-up activities pertaining to the issuance of the Commission's Final Report to the President, implementation of public education plans and programs and such other business as may be required.

The meeting will be open to observation by the public to the extent space is available. Reservations are required and requests should be addressed to the Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. In order to prepare clearance lists for admission to the Executive Office Building, requests must be received in the Commission's office no later than June 12, 1980.

Donald B. Harper,

Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 80–17044 Filed 6–4–80; 8:45 am]

BILLING CODE 6820–97–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16858; File Nos. 4–196, 4–273, 4–274, 4–267]

Boston Stock Exchange, Inc. et al.; Order Granting Approval

In the matter of Boston Stock Exchange, Inc., 53 State Street, Boston, Massachusetts 02109; Cincinnati Stock Exchange, Inc., 209 Dixie Terminal Building, Cincinnati, Ohio 45202; Midwest Stock Exchange, Inc., 120 South LaSalle Street, Chicago, Illinois 60603; Pacific Stock Exchange, Inc., 618 South Spring Street, Los Angeles, California 90014; National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006; Plans filed pursuant to 17 CFR 240.17d–2.
May 30, 1980.

Notice is hereby given that the Securities and Exchange Commission (the "Commission") has issued an Order, pursuant to Sections 17(d)(1) and 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78q (d)(1) and 78k–1(a)(3)(B) granting approval of plans for allocating regulatory responsibilities (the "plans") filed pursuant to 17 CFR 240.17d–2 ("Rule 240.17d–2") by the National Association of Securities Dealers, Inc. ("NASD") in conjunction with the Boston Stock Exchange, Inc. ("BSE"), Cincinnati Stock Exchange, Inc. ("CSE"), Midwest Stock Exchange, Inc. ("MSE") and Pacific Stock Exchange, Inc. ("PSE") (the "participating exchanges" and, with the NASD, the "parties").[1]

Accordingly, the NASD shall assume, in addition to the regulatory responsibilities it already has under the Act, regulatory responsibilities allocated to it by the plans with respect to certain brokers and dealers which belong to both the NASD and one or more of the participating exchanges. At the same time, the BSE, CSE, MSE and PSE are relieved of the regulatory responsibilities thus allocated to the NASD.

I. Introduction

Section 19(g)(1) of the Act [2] requires every self-regulatory organization ("SRO") [3] to examine for and enforce compliance by its members, persons associated with its members, or its participants with the Act, the rules and regulations thereunder and the SRO's own rules unless relieved of this responsibility under Sections 17(d) or 19(g)(2) of the Act. For a broker or dealer that belongs to more than one SRO ("dual member"), this statutory obligation could result in a pattern of multiple examinations by each SRO, creating unnecessary regulatory duplication and added expenses for a firm and the industry.

Section 17(d)(1) of the Act [4] was intended, in part, to eliminate overlaps and gaps in the regulatory pattern.[5] With respect to a dual member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

Rule 17d–1 [6] was adopted by the Commission on April 20, 1976. The rule authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine dual members for compliance with the Act and Commission and SRO rules and regulations.

On October 28, 1976, the Commission adopted Rule 17d–2 [7] in order to implement Section 17(d)(1).[8] The rule permits SROs to join in proposing plans for allocating the regulatory responsibilities imposed by the Act with respect to dual members. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

On October 25, 1977, the Commission published notice of the filing of the NASD's plans with the BSE, CSE, MSE and PSE,[9] as required by Rule 17d–2(c). No comments were received.

According to these plans, the NASD would be responsible for conducting all on-site examinations, both routine and special, and reviewing related reports of any dual NASD and BSE, MSE or PSE member, if one of those exchanges had, prior to the execution of the plan, been designated as the examining authority for that member under Rule 17d–1.[10] Since the CSE had not been designated as the examining authority for any of its members, the NASD agreed to examine all CSE members which were designated to the NASD under Rule 17d–1. Dual members designated to the NASD after the execution of the plans would be examined by the NASD for an exchange's regulatory rules only. As a result of the allocation plans, a dual member which had previously been examined on a routine basis by the NASD and one of the participating exchanges would be subject to an examination by only the NASD. The plans would therefore eliminate duplicative examining responsibilities between the NASD and each of the four exchanges which entered into an allocation agreement.

On September 26, 1978, the Commission, by order, approved on a provisional basis until June 23, 1979, the four allocation plans filed by the NASD in conjunction with the BSE, CSE, MSE

[1] Citations to a particular allocation plan will be to "NASD/(name of exchange)."

[2] 15 U.S.C. 78s(g)(1) (1976).

[3] Section 3(a)(26), 15 U.S.C. 78c(a)(26) (1976), defines "self-regulatory organization" to include "any national securities exchange, registered securities association or registered clearing agency * * *"

[4] 15 U.S.C. 78q(d)(1) (1976).

[5] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Sess. 32 (1975).

[6] 17 CFR 240.17d–1 (1979).

[7] 17 CFR 240.17d–2 (1979).

[8] Securities Exchange Act Release No. 12935 (October 28, 1976), 10 SEC Docket 807.

[9] Securities Exchange Act Release Nos. 14091, 14094, 14098 and 14095 (October 25, 1977), 13 SEC Docket 458–464.

[10] Pursuant to the plans, the exchanges would retain the responsibility to examine for compliance with rules governing trading on the floor of the exchanges and related reports. For a complete discussion of the plans and the allocation of regulatory responsibilities between the NASD and the exchanges, *see* Securities Exchange Act Release No. 15191 (September 26, 1979), 15 SEC Docket 1163 ("September order").

and PSE.[11] The Commission conditioned its further consideration of the plans on the submission of certain amendments and supplementary material.

Subsequently, the Commission extended the period of provisional approval until January 1, 1980.[12] Because the required submissions had not been completed by December 1979, the Division of Market Regulation, pursuant to delegated authority, extended the period of provisional approval until April 5, 1980,[13] and again until June 7, 1980.[14]

Shortly after the first of the year, the NASD and the exchanges submitted the required plan amemdments to the Commission. On February 20, 1980, the Commission published notice of the terms of the proposed plan amendments for comment.[15] Subsequently, the remainder of the supplementary material was also submitted to the Commission.

II. Discussion

As a condition to further consideration, the Commission, in its September order, required remedial amendments to the plans allocating the responsibility to: Process customer complaints, review dual members' advertising, conduct special and cause examinations, and provide for the resolution of disputes arising between the parties. The Commission also requested that the parties submit a comparison, correlation, and classification of all the rules. In addition, the Commission required the NASD and the MSE to submit an amendment regarding compensation of the NASD by the MSE for performing regulatory functions under the plan.

The conditions on which the Commission premised further consideration of the plans have now been satisfied. The NASD, in conjunction with the exchanges, has submitted the required amendments to each of the original plans in order to include those matters that the Commission believed should have been included in the original filings.

The amendments to the NASD/BSE, NASD/CSE, NASD/MSE and NASD/PSE plans provide for, among other things, the clarification of examination responsibilities, the handling of customer complaints, the review of dual members' advertising by the NASD, and the arbitration of disputes arising between the NASD and the participating exchange.

Furthermore, the NASD and the MSE agreed that there would be no charge for performing the stated regulatory responsibility under the plan for at least three years. Should the NASD desire to impose a charge after three years from September 16, 1977, the date of the original agreement, the MSE shall be given prior notice, with the right to terminate the agreement.[16]

Besides the amendments, the parties also submitted charts that (1) list all the rules of the participating exchanges and the NASD with a determination of whether these rules are of a regulatory, housekeeping, administrative or definitional nature and designate which party would be responsible for enforcing compliance with the individual rules; and (2) list and key those rules which are subject to on-site compliance examination to related questions or discussions in the examination modules.[17]

In addition, the NASD submitted revised examination modules and explanatory materials for the rules of each of the participating exchanges.

The supplementary materials submitted by the parties have been reviewed and thoroughly analyzed. The Commission believes that these materials have greatly clarified the parties' examining responsibilities and that the conditions imposed by the September order have now been met.

The Commission will continue to monitor the sufficiency of all examination procedures established by the NASD. The Commission will also continue to conduct oversight examinations of the NASD and the exchanges to determine whether they are conscientiously discharging their regulatory responsibilities under both the Act and the plans, with the plans being construed in accordance with the interpretive correspondence between parties to the plans and the Commission as well as with the supplementary material submitted by the parties. Continued Commission approval of the plans is contingent on the NASD satisfactorily performing its responsibilities.

This order gives the effect to the plans and amendments filed with the Commission as of May 15, 2980. The parties shall notify all dual members affected by the plans of their rights and obligations under the plans.

It is therefore ordered, pursuant to Sections 17(d) and 11A(a)(3)(B) of the Act, that the plans between the NASD and BSE, the NASD and CSE, the NASD and MSE, and the NASD and PSE filed pursuant to Rule 17d–2 are approved subject to the terms of this Order.

It is further ordered that the BSE, CSE, MSE and PSE are relieved of those responsibilites allocated to the NASD by such plans as approved in this Order.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17081 Filed 6–4–80; 8:45 am]

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[11] Securities Exchange Act Release No. 15191 (September 28, 1979), 15 SEC Docket 1163.

[12] Securities Exchange Act Release No. 15941 (June 21, 1979), 17 SEC Docket 995.

[13] Securities Exchange Act Release No. 16462 (January 2, 1980), 19 SEC Docket 93.

[14] Securities Exchange Act Release No. 16719 (April 2, 1980), 19 SEC Docket 1099.

[15] Securities Exchange Act Release No. 16591 (February 20, 1980), 19 SEC Docket 689. No comments were received.

[16] The original agreements filed by the NASD in conjunction with the BSE, the CSE, and the PSE contain similar provisions.

[17] The prties did not submit a comparison of the NASD's rules and rules of the exchange. However, upon review of the material submitted by the parties the Commission is satisfied that every rule of the parties that requires on-site examination for compliance has been incorporated into the revised examination modules.

[Release No. 16863; File Nos. SR-CBOE-80-14, etc.]

Chicago Board Options Exchange, Inc. et al.; Filing of Proposed Rule Changes and Order Approving Proposed Rule Changes

May 30, 1980.

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604; American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006; Pacific Stock Exchange, Incorporated, 301 Pine Street, San Francisco, California 94104; Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, File Nos. SR–CBOE–80–14, SR–Amex–80–16, SR–PSE–80–9, SR–Phlx–80–14.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that the self-regulatory organizations listed above ("options exchanges") have filed with the Commission copies of proposed rule changes [1] to establish procedures for allocating additional call option classes.

On March 26, 1980, the Commission issued a policy statement announcing the termination of the options expansion moratorium and solicited comment on its intention to begin to permit further expansion of the standardized options markets, including the listing of additional put and call classes by the existing options exchanges.[2] In that release the Commission stated that in view of the continuing restriction on the expansion of multiple trading and in view of the limited number of attractive new stocks which it understood to meet the current options listing standards, it was necessary to devise a fair method of allocating additional call options among the existing options exchanges. Accordingly, the Commission requested that the options exchanges formulate and jointly submit to the Commision an appropriate call expansion plan. In order to assure the fair and equitable treatment of all the options exchanges, the Commission indicated that such a plan must take into account the additional call classes that the CBOE would list as a result of the combination of its options program with that of the Midwest Stock Exchange, Incorporated, ("MSE") and must be agreed to by all the options exchanges.

The text of the call expansion plan filed by the options exchanges is as follows:

A. In view of the acquisition by CBOE of MSE's options program, MSE agreed not to participate in the selection of additional call classes. It was thereafter agreed that through the first fourteen (14) rounds of the selection process, CBOE would partially defer participation under the following formula:

1. During the first, second, sixth, seventh, eighth, twelfth, thirteenth, and fourteenth selection rounds, CBOE would not participate;

2. The PSE, Phlx, and Amex would participate in the foregoing selection rounds, choosing by lot the order of such participation;

3. The PSE, Phlx and Amex would select additional underlying stocks in the above selction rounds in the order of 1–2–3, 3–2–1, 2–3–1, 1–3–2, 3–1–2, 2–1–3, 1–2–3, 3–2–1.

4. During the third, fourth, fifth, ninth, tenth, and eleventh selection rounds, CBOE would participate and the four exchanges, choosing by lot, would determine the order of such selection;

5. The PSE, Phlx, Amex, and CBOE would select additional stocks in the selection rounds described in (4) above in the order of 1–2–3–4, 4–3–2–1, 2–3–4–1, 1–4–3–2, 3–4–1–2, 2–1–4–3;

6. After the fourteenth round, the CBOE would participate equally with the PSE, Phlx and Amex continuing the sequence in A.5 above.

B. Not more than 60 underlying stocks would be selected in the first allocation, which would be conducted during a single session within 15 days after the Commission approves the allocation plan.

C. Should any options exchange pass on its turn during the selection process, it would lose the turn and not gain any priority for future selections.

D. Call and/or put options with respect to each underlying stock selected in the allocation process would have to be admitted to trading on the options exchange selecting that underlying stock within six months from the date of selection. An Exchange may only select an underlying stock which, at the time selection is made it has reasonable grounds to believe is qualified for options trading.

E. If an exchange does not commence trading in any options which it selected in the initial allocation or any subsequent allocation within a six-month period from the date of such selection the underlying stock would again be eligible for selection by any of the options exchanges in a future allocation procedure, as described in the following paragraphs.

F. On the second Tuesday of each month after the initial allocation, further allocations shall be held, at the request of one or more options exchanges, continuing the sequence, described above in a.5 whereby the four participating options exchanges would be able to select any unallocated eligible underlying stock, including new underlying stock becoming eligible for options trading by the occurrence of events or because an options exchange that had previously been allocated an underlying stock failed to commence the trading of options with respect thereto within six months of the date of selection.

G. Until this plan has been approved by the Commission and the initial allocation has been carried out, any options exchange which delists an option because the underlying stock no longer qualifies for options trading shall be eligible to select another underlying stock in accordance with the plan submitted to and approved by the Commission in its Release 14878, of June 22, 1978, as was done by the Amex and PSE in April of 1980, after the initial allocation described above, such procedure for selecting substitute underlying stocks will be terminated.

H. All Exchanges will commence additional put options trading on Fridays, other than a Friday preceding an expiration date.

I. In the event an exchange determines to commence put option trading in a stock which underlies call option trading on more than one exchange, the initiating exchange shall notify such other affected exchanges not less than one week prior to the commencement of trading. Such an action should limit the possible disruption which the absence of notice might create for member firms and the investing public.

Interested persons are invited to submit written data, views and arguments concerning the submissions on or before June 26, 1980. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to the file numbers captioned above.

Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, including the requirements of Section 6 and the rules and regulations thereunder. As discussed below, the Commission also finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof.

In particular, the Commission finds, in accordance with Section 6(b)(8) of the Act, that the proposed rule changes, at this time, do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Approval of the proposed rule changes will perpetuate the restriction on expansion of multiple trading in exchange-traded options by limiting the ability of the options exchanges to trade freely any eligible options class. As noted in the March 1980 policy statement, a further expansion of multiple trading may result in increased competition among the options exchanges and thereby confer a number of benefits to public investors and market professionals. At the same time, the Commission observed that an expansion of multiple trading in the current market environment may have certain adverse effects relating to market fragmentation and competitive opportunities in the options markets.

[1] The proposed rule changes were filed on the following dates: Chicago Board Options Exchange, Incorporated ("CBOE"), May 28, 1980; American Stock Exchange, Inc. ("Amex"), May 29, 1980; Pacific Stock Exchange Incorporated ("PSE"), May 30, 1980; and Philadelphia Stock Exchange, Inc. ("Phlx"), May 29, 1980.

[2] Securities Exchage Act Release No. 16701 ("March 1980 policy statement").

The Commission noted in the March 1980 policy statement that, under appropriate circumstances, the benefits of expansion of multiple trading may outweigh any adverse consequences and expressed the view that certain of the concerns arising from expanded multiple trading might be alleviated through the development of market integration facilities. The Commission expressed its further belief that the near term development of such facilities might create a fairer, more efficient market structure within which multiple trading would occur. For that reason, the Commission concluded that further expansion of multiple trading should be deferred until the self-regulatory organizations had an opportunity to consider whether, and to what extent, the development of such market integration facilities would minimize concerns regarding market fragmentation and maximize competitive opportunities in the options markets.

Notwithstanding deferral of its decision on expanded multiple trading, the Commission believes that it is appropriate, at this time, to permit the options exchanges to list options on additional underlying securities, pending resolution of the multiple trading question. Accordingly, on balance, the Commission is of the view that the proposed rule changes, at this time, do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. After the self-regulatory organizations have reported to the Commission concerning the development of market integration facilites, and it has evaluated any comments received in response to the March 1980 policy statement and this release, it will consider what further action should be taken with respect to the expansion of multiple trading.

In the March 1980 policy statement, the Commission solicited comments concerning the conditions it set forth as necessary to ensure that any call expansion plan devised by the options exchanges was fair and equitable. In addition, the Commission indicated that it intended to give expedited treatment to call expansion rule proposals submitted by the options exchanges. The only comments directed to this aspect of the policy statement were filed by the CBOE, whose comments are now moot in view of CBOE's agreement to participate in the plan. In view of the foregoing, the Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17082 Filed 6-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21601; 70-6337]

Middle South Energy, Inc. and Mississippi Power & Light Co.; Proposed Sale of 10 Percent Undivided Ownership Interest in Nuclear-Fueled Electric Generating Station and Related Transactions

May 30, 1980.

In the matter of Middle South Energy, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205.

Notice is hereby given that Middle South Energy, Inc. ("MSE") and Mississippi Power & Light Company ("MP&L"), electric utility subsidiaries of Middle South Utilities, Inc. ("MSU"), a registered holding company, have filed a declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(d) and 12(f) of the Act and Rules 44 and 45 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

The declaration concerns the proposed sale by MSE and the acquisition by South Mississippi Electric Power Association ("SMEPA") of a ten percent (10%) undivided ownership interest in MSE's Grand Gulf Nuclear Electric Station ("Grand Gulf Plant") and certain related transactions between MSE and MP&L. MSE was incorporated in 1974 to own and finance certain future generating capacity of the Middle South System. The Grand Gulf Plant is a two-unit, nuclear-fueled electric generating station being constructed on the east bank of the Mississippi River near Port Gibson, Mississippi. Each unit is to have a net capacity of 1,250 MW; the first unit is now scheduled to be placed in commercial operation in April 1982 and the second unit is now scheduled to be placed in commercial operation in April 1986. Construction costs of the Grand Gulf Plant, excluding nuclear fuel, were estimated in December 1979 to total $3,049 million, of which approximately $1,419.4 million have been expended through December 31, 1979.

SMEPA is a public-utility company engaged exclusively in the generation and transmission of electric energy for its seven member Rural Electric Cooperatives in the State of Mississippi. The balance of the electric power requirements of SMEPA's members is obtained primarily from Mississippi Power Company. SMEPA operates in 19 counties in Mississippi, and, as of December 31, 1979, provided electric service to approximately 76,260 ultimate consumers through its members. The total installed generation capability of SMEPA's electric utility plant as of December 31, 1979, was 573,000 KW, consisting of five steam electric units and two combustion turbine units. The peak demand on SMEPA's system in 1979 was 266,000 KW, which reflects a decrease of 2.2% from the 1978 peak demand.

SMEPA's acquisition of the ten percent (10%) undivided ownership interest in the Grand Gulf Plant will be governed by the terms of a Joint Construction, Acquisition and Ownership Agreement between MSE and SMEPA ("Ownership Agreement"). The Ownership Agreement provides that, commencing with a closing date, SMEPA will begin to advance monthly to MSE 100% of the cost of construction estimated for the following month. SMEPA will continue contributing 100% of the cost of construction in such manner until its investment in the Grand Gulf Plant, plus its AFUDC equals 10% of the total cost of construction plus each party's accrued allowance for funds used during construction. It is estimated that, assuming a closing date of July 1, 1980, SMEPA would need to contribute $200 million to the cost of construction to bring its ownership interest to 10% based upon the estimates set forth above. Based on the current schedule of construction, SMEPA's interest would reach 10% by April 1981. At such time, MSE and SMEPA would commence making joint contributions to the cost of construction on a 90%–10% basis and payment would continue on such basis until completion of the Grand Gulf Plant.

MSE proposes to obtain a release from the lien of its Mortgage and Deed of Trust, dated as of June 15, 1977, as amended, of the undivided ownership interest in the Grand Gulf Plant to be acquired by SMEPA during the adjustment period. MSE intends to

notify holders of its outstanding first mortgage bonds of the proposed transactions and to obtain their consent to certain aspects thereof.

Pursuant to the terms of an Income Tax Indemnification Agreement, SMEPA will agree to indemnify MSE from certain federal and state income or gains taxes if the transactions are deemed to be the equivalent of a taxable sale or disposition of any interest of MSE in the Grand Gulf Plant. SMEPA has also agreed to pay MSE, at the time its interest in the Grand Gulf Plant is confirmed at 10%, the amount of $1.5 million, which MSE and SMEPA agree compensates MSE for all costs incurred, past, present, and future, relating to the Grand Gulf Plant that have not been capitalized, such as planning, negotiation, education, and similar unallocated administrative and general expenses. Such payment shall not thereafter be used in calculating SMEPA's undivided ownership interest in Grand Gulf. MSE will apply SMEPA's payments to the cost of constructing the Grand Gulf Plant.

MP&L will act for MSE and SMEPA in the construction of the Grand Gulf Plant pursuant to the terms of the Service Agreement between MP&L and MSE, dated as of June 21, 1974. MSE and SMEPA will enter into an Operating Agreement providing for the sole operation of the Grand Gulf Plant by MSE for itself and as agent for SMEPA. MP&L will act for MSE and SMEPA in the operation of Grand Gulf Plant pursuant to the terms of the Service Agreement.

MSE and SMEPA will be able to schedule energy out of the Grant Gulf Plant in any amount up to 90% and 10%, respectively, of the energy available from the Plant and each may schedule any additional available energy from the Plant not being utilized by the other. In general, MSE and SMEPA will pay the fixed costs of operating the Grand Gulf Plant in proportion to their undivided ownership interest in the Plant and will pay the cost which vary by energy taken (including fuel cost) in proporation to the amount of energy taken.

Under the Substitute Power Agreement, MP&L will agree to sell power and energy to SMEPA if commercial operation of Unit No. 1 is delayed beyond April 1, 1982, or commercial operation of Unit No. 2 is delayed beyond April 1, 1986, in each case for other than Force Majeure or certain other reasons. SMEPA will be entitled to purchase up to the amount of power and energy it could have purchased had either Unit been placed in commercial operation by the scheduled dates. SMEPA will pay MP&L's average system cost for such power. MP&L can terminate service if the particular Unit is placed in commercial operation, if SMEPA ceases having an interest in the Unit or no longer needs the power and energy being provided by MP&L, and in any event five (5) years after service commences.

MP&L will also agree to sell power and energy to SMEPA if MSE ceases operating the Grand Gulf Plant for economic reasons. SMEPA will be entitled to purchase up to the amount of power and energy it could have purchased had the Plant not been shut down. SMEPA will pay MP&L the cost it would have paid had the Grand Gulf Plant been operating. MP&L's obligation to provide such power and energy ends thirty (30) years from the date Unit No. 1 begins commercial operation. MSE will reimburse MP&L for any net operating loss incurred as a result of this arrangement.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that various phases of the transactions are subject to the jurisdiction of the Nuclear Regulatory Commission; that rates for power and energy to be furnished by either MSE or MP&L to SMEPA are subject to the jurisdiction of the Federal Energy Regulatory Commission, that MSE and MP&L will also obtain approval of the Mississippi Public Service Commission for the acquisition by SMEPA of a ten percent (10%) undivided ownership interest in the Grand Gulf Plant; and that no other state or federal commission, other than this Commission, has jurisdiction over MSE's or MP&L's participation in the proposed transactions.

Notice is further given that any interested person may, not later than June 26, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17084 Filed 6-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21600; 70-6047]

Middle South Utilities, Inc.; Proposed Amendments to Employee Stock Ownership Plan

May 30, 1980.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(A) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated September 20, 1977 in this matter (HCAR No. 20183), the Commission authorized Middle South to make available, for acquisition by First National Bank of Commerce, New Orleans, Louisiana, as trustee under its Employee Stock Ownership Plan ("Plan"), directly from Middle South, through January 31, 1979, up to 300,000 authorized but unissued shares of Common Stock, $5 par value ("Additional Stock"). By order of January 30, 1979 (HCAR No. 20904), the Commission authorized extension of the period during which Additional Stock may be issued to the trustee to January 31, 1982.

Pursuant to the terms of the Plan, Middle South and its subsidiaries contribute to the trustee, for participating employees, an amount equal to the additional investment tax credit allowed to Middle South on its consolidated federal income tax return under the Internal Revenue code of 1954, as amended. The trustee must invest and reinvest the cash contributions, and any income thereon, exclusively in Common Stock, $5 par value ("Common Stock"), which it acquires, at its discretion, through open market or private purchases or directly from Middle South. Where Middle South offers Additional Stock and the trustee accepts such offer rather than acquire Common Stock in the open market or elsewhere, then it is presently provided that the Additional Stock will be acquired for an amount equal to the value equivalent to the average of the closing prices of the Common Stock based on consolidated trading as defined by the Consolidated Tape Association and reported as part of the consolidated trading prices of the New York Stock Exchange listed Securities for twenty consecutive trading days immediately preceding the acquisition ("Market Value").

The Internal Revenue Service has recently promulgated a regulation that requires the use of Market Value only in those situations where an employer contributes stock to a plan. The regulation further provides that the twenty-day average rule does not apply to securities acquired with cash contributed to a plan.

Due to this recent development, it is proposed that the Plan be amended to reflect permissible changes in the pricing of Common Stock that may be acquired by the trustee, as follows: (1) If a contribution to the Plan is in Common Stock, the number of shares contributed will be determined by the average of the closing prices of the Common Stock based on consolidated trading as defined by the Consolidated Tape Association and reported as part of the consolidated trading prices of New York Stock Exchange listed securities for twenty consecutive trading days immediately preceding the due date for filing Middle South's consolidated federal income tax return; (2) with respect to cash contributions to the Plan, if Middle South offers Additional Stock to the Trustee and the trustee chooses to accept such offer rather than to acquire Middle South's Common Stock in the open market or elsewhere, the Additional Stock will be acquired for an amount equal to its fair market value at the time of acquisition (rather than an amount determined by reference to the twenty-day average); and (3) if dividends are reinvested by the trustee in Additional Stock, such Stock will be acquired for an amount equal to its fair market value at the time of acquisition. Amendments to the Plan will also clarify that the trustee may effect purchases of Common Stock from Middle South under its Dividend Reinvestment and Stock Purchase Plan or any other similar plan made available to all record holders of Common Stock which may be in effect from time to time, at the purchase price provided for in such plan.

It is stated that no special or severable fees, commissions or expenses will be incurred by Middle South in connection with the proposed transaction. It is further stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 24, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-17063 Filed 6-4-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 715]

Fishery Conservation and Management Act of 1976; Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing in 1980 have been received from the Governments of Japan, Spain, the Union of Soviet Socialist Republics (Joint Venture), the Polish People's Republic, and the People's Republic of Bulgaria, and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (Telephone: (202) 634–7432).

Dated: May 30, 1980.

Larry L. Snead,
Acting Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows

Code	Fishery	Regional Council
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England, Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1—Catching, processing, and other support
2—Processing and other support only
3—Other support only

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Poland:			
Sirius, large stern trawler	PL–80–0062	WOC, GOA, BSA	1
Denebola, stern trawler	PL–80–0075	WOC, GOA, BSA	1
Bulgaria:			
Alka, large stern trawler	BU–80–0017	NWA	1
Sagita, stern trawler	BU–80–0020	NWA	1
Spain:			
Peixe Do Mar, side trawler	SP–80–0005	NWA	1
Britania, medium stern trawler	SP–80–0074	NWA	1
Villachan, medium stern trawler	SP–80–0078	NWA	1
Juancho, side trawler	SP–80–0089	NWA	1
Villa Ana, side trawler	SP–80–0145	NWA	1
Costa Del Cabo, side trawler	SP–80–0150	NWA	1
Iberia, medium stern trawler	SP–80–0151	NWA	1
Maposa Cuarto, medium stern trawler	SP–80–0152	NWA	1
Maposa Octavo, medium stern trawler	SP–80–0153	NWA	1
Maposa Primero, medium stern trawler	SP–80–0154	NWA	1
Maposa Segundo, medium stern trawler	SP–80–0155	NWA	1
Maposa Septimo, medium stern trawler	SP–80–0156	NWA	1
Maposa Tercero, medium stern trawler	SP–80–0157	NWA	1
Maria Teresa Rodriguez, medium stern trawler	SP–80–0158	NWA	1
Navijosa Noveno, medium stern trawler	SP–80–0159	NWA	1
Navijosa Octavo, medium stern trawler	SP–80–0160	NWA	1
Navijosa Quinto, medium stern trawler	SP–80–0161	NWA	1
Navijosa Septimo, medium stern trawler	SP–80–0162	NWA	1
Navijosa Sexto, medium stern trawler	SP–80–0163	NWA	1
Pegago Cuarto, medium stern strawler	SP–80–0164	NWA	1
Codeside, stern trawler	SP–80–0165	NWA	1
U.S.S.R. (joint venture):			
Novaya Era, stern trawler	UR–80–0065	BSA, GOA	2
Mys Prokofyeva, stern trawler	UR–80–0186	BSA, GOA	2
Japan:			
Marine Ace, cargo/transport	JA–80–0002 (modification)	CRB, GOA, BSA, SNA, NWA	3
Hoken Maru No. 38, medium stern trawler	JA–80–1164	BSA	1
Kishin Maru, cargo/transport	JA–80–1165	BSA, CRB, GOA	3
Uno Maru No. 7, cargo/transport	JA–80–1166	BSA, CRB, GOA	3
Dai Maru No. 37, longliner	JA–80–1220	ABS	1
Choko Maru No. 68, longliner	JA–80–1261	ABS	1
Shoshin Maru No. 82, longliner	JA–80–1308	ABS	1
Sumi Maru No. 15, longliner	JA–80–1329	ABS	1
Shofuku Maru No. 78, longliner	JA–80–1360	ABS	1
Zensei Maru No. 11, longliner	JA–80–1361	ABS	1
Zensei Maru No. 18, longliner	JA–80–1362	ABS	1
Zensei Maru No. 23, longliner	JA–80–1363	ABS	1
Zenko Maru No. 26, longliner	JA–80–1364	ABS	1
Zenko Maru No. 68, longliner	JA–80–1365	ABS	1
Zenko Maru No. 36, longliner	JA–80–1366	ABS	1
Koho Maru No. 12, longliner	JA–80–1367	ABS	1
Hakujin Maru No. 11, longliner	JA–80–1368	ABS	1
Seishu Maru No. 5, longliner	JA–80–1369	ABS	1
Oju Maru No. 2, longliner	JA–80–1370	ABS	1
Dai Maru No. 31, longliner	JA–80–1371	ABS	1
Matsuei Maru No. 88, longliner	JA–80–1372	ABS	1
Ryuo Maru No. 28, longliner	JA–80–1373	ABS	1
Tensho Maru, longliner	JA–80–1374	ABS	1
Hime Maru No. 28, longliner	JA–80–1375	ABS	1
Goei Maru No. 18, longliner	JA–80–1376	ABS	1
Koshin Maru No. 58, longliner	JA–80–1377	ABS	1
Heher Maru No. 28, longliner	JA–80–1378	ABS	1
Taisei Maru No. 18, longliner	JA–80–1379	ABS	1
Shinyo Maru No. 18, longliner	JA–80–1380	ABS	1
Chokyu Maru No. 18, longliner	JA–80–1381	ABS	1
Shinei Maru No. 58, longliner	JA–80–1382	ABS	1
Katsu Maru No. 33, longliner	JA–80–1383	ABS	1
Fukuyoshi Maru No. 18, longliner	JA–80–1384	ABS	1
Taka Maru No. 28, longliner	JA–80–1385	ABS	1
Zuiryo Maru No. 8, longliner	JA–80–1386	ABS	1
Koho Maru No. 58, longliner	JA–80–1387	ABS	1
Takashima Maru No. 8, longliner	JA–80–1388	ABS	1
Otori Maru No. 26, longliner	JA–80–1389	ABS	1
Koei Maru No. 11, longliner	JA–80–1390	ABS	1
Daito Maru No. 38, longliner	JA–80–1391	ABS	1
Ryoei Maru No. 38, longliner	JA–80–1392	ABS	1
Fukuyoshi Maru No. 28, longliner	JA–80–1393	ABS	1
Kinpo Maru No. 88, longliner	JA–80–3008	PBS	1
Fukuyoshi Maru No. 3, longline	JA–80–3648	PBS	1
Isuzu Maru No. 23, longline	JA–80–3649	PBS	1
Sachi Maru No. 108, longline	JA–80–3650	PBS	1
Ryuho Maru No. 85, longline	JA–80–3651	PBS	1
Kinei Maru No. 10, longline	JA–80–3652	PBS	1
Kyoei Maru No. 18, longline	JA–80–3653	PBS	1
Sakichi Maru No. 11, longline	JA–80–3654	PBS	1
Daiyu Maru No. 8, longline	JA–80–3655	PBS	1
Taiko Maru No. 11, longline	JA–80–3656	PBS	1

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Nikko Maru No. 38, longline	JA-80-3657	PBS	1
Seiryo Maru No. 2, longline	JA-80-3658	PBS	1
Sumi Maru No. 26, longline	JA-80-3659	PBS	1
Genryo Maru No. 55, longline	JA-80-3660	PBS	1
Kamo Maru No. 68, longline	JA-80-3661	PBS	1
Seiyu Maru No. 35, longline	JA-80-3662	PBS	1
Takaya Maru No. 1, longline	JA-80-3663	PBS	1
Tenyu Maru No. 1, longline	JA-80-3664	PBS	1
Shinzan Maru, longline	JA-80-3665	PBS	1
Shinzan Maru No. 2, longline	JA-80-3666	PBS	1
Shinzan Maru No. 3, longline	JA-80-3667	PBS	1
Yuryo Maru No. 51, longline	JA-80-3668	PBS	1
Fukucho Maru No. 38, longline	JA-80-3669	PBS	1
Fukucho Maru No. 61, longline	JA-80-3670	PBS	1
Daikichi Maru No. 31, longline	JA-80-3671	PBS	1
Meisho Maru No. 8, longline	JA-80-3672	PBS	1
Dairin Maru No. 35, longline	JA-80-3673	PBS	1
Koryo Maru No. 6, longline	JA-80-3674	PBS	1
Kinsyo Maru No. 5, longline	JA-80-3675	PBS	1
Fukutoku Maru No. 8, longline	JA-80-3676	PBS	1
Shinsei Maru No. 35, longline	JA-80-3677	PBS	1
Masayoshi Maru No. 21, longline	JA-80-3678	PBS	1
Akita Maru No. 11, longline	JA-80-3679	PBS	1
Kaigata Maru No. 31, longline	JA-80-3680	PBS	1
Fukuju Maru No. 32, longline	JA-80-3681	PBS	1
Ryosei Maru No. 33, longline	JA-80-3682	PBS	1
Chitose Maru No. 28, longline	JA-80-3683	PBS	1
Ebisu Maru No. 26, longline	JA-80-3684	PBS	1
Chokyu Maru No. 18, longline	JA-80-3685	PBS	1
Koushin Maru No. 18, longline	JA-80-3686	PBS	1
Koushou Maru No. 38, longline	JA-80-3687	PBS	1
Shinsei Maru No. 35, longline	JA-80-3688	PBS	1
Kosho Maru No. 8, longline	JA-80-3689	PBS	1
Ito Maru No. 18, longline	JA-80-3690	PBS	1
Yamato Maru No. 1, longline	JA-80-3691	PBS	1
Kazuei Maru No. 8, longline	JA-80-3692	PBS	1
Shinei Maru No. 18, longline	JA-80-3693	PBS	1
Shoun Maru No. 22, longline	JA-80-3694	PBS	1
Gyoei Maru No. 8, longline	JA-80-3695	PBS	1
Gyosho Maru No. 18, longline	JA-80-3696	PBS	1
Gyoko Maru No. 18, longline	JA-80-3697	PBS	1
Kazu Maru No. 36, longline	JA-80-3698	PBS	1
Takaei Maru, longline	JA-80-3699	PBS	1
Jinyo Maru No. 15, longline	JA-80-3700	PBS	1
Shinsei Maru No. 38, longline	JA-80-3701	PBS	1
Fuku Maru No. 38, longline	JA-80-3702	PBS	1
Yoshi Maru No. 18, longline	JA-80-3703	PBS	1
Tatsusho Maru No. 1, longline	JA-80-3704	PBS	1
Tatsuei Maru No. 18, longline	JA-80-3705	PBS	1
Keiryo Maru, longline	JA-80-3706	PBS	1
Shinsei Maru No. 21, longline	JA-80-3707	PBS	1
Suehiro Maru No. 11, longline	JA-80-3708	PBS	1
Ryuo Maru No. 8, longline	JA-80-3709	PBS	1
Hanei Maru No. 1, longline	JA-80-3710	PBS	1
Fuji Maru No. 11, longline	JA-80-3711	PBS	1
Fuji Maru, longline	JA-80-3712	PBS	1
Oogurokouei Maru, longline	JA-80-3713	PBS	1
Toyo Maru No. 1, longline	JA-80-3714	PBS	1
Sansha Maru No. 6, longline	JA-80-3715	PBS	1
Eiryou Maru, longline	JA-80-3716	PBS	1
Matsu Maru No. 12, longline	JA-80-3717	PBS	1
Matsu Maru No. 11, longline	JA-80-3718	PBS	1
Tenyu Maru No. 8, longline	JA-80-3719	PBS	1
Kaisei Maru, longline	JA-80-3720	PBS	1
Teru Maru No. 8, longline	JA-80-3721	PBS	1
Fukutoku Maru No. 2, longline	JA-80-3722	PBS	1
Yuryo Maru No. 2, longline	JA-80-3723	PBS	1
Tomo Maru, longline	JA-80-3724	PBS	1
Fuku Maru, longline	JA-80-3725	PBS	1
Taei Maru No. 2, longline	JA-80-3726	PBS	1
Seiyu Maru No. 8, longline	JA-80-3727	PBS	1
Seiyu Maru, longline	JA-80-3728	PBS	1
Katsuho Maru No. 38, longline	JA-80-3729	PBS	1
Ohoyo Maru No. 2, longline	JA-80-3730	PBS	1
Hikari Maru, longline	JA-80-3731	PBS	1
Ryuei Maru, longline	JA-80-3732	PBS	1
Yushou Maru No. 2, longline	JA-80-3733	PBS	1
Shoei Maru No. 2, longline	JA-80-3734	PBS	1
Hanei Maru No. 18, longline	JA-80-3735	PBS	1
Tokuei Maru No. 5, longline	JA-80-3736	PBS	1
Shinsei Maru No. 11, longline	JA-80-3737	PBS	1
Kairyou Maru, longline	JA-80-3738	PBS	1

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Taiyou Maru No. 8, longline	JA-80-3739	PBS	1
Yusho Maru No. 8, longline	JA-80-3740	PBS	1
Koyu Maru No. 8, longline	JA-80-3741	PBS	1
Dairyou Maru No. 26, longline	JA-80-3742	PBS	1
Asashio Maru No. 8, longline	JA-80-3743	PBS	1
Ryosei Maru No. 1, longline	JA-80-3744	PBS	1
Tomi Maru No. 5, longline	JA-80-3745	PBS	1
Seifuku Maru No. 8, longline	JA-80-3746	PBS	1
Shinei Maru No. 8, longline	JA-80-3747	PBS	1
Eishin Maru No. 8, longline	JA-80-3748	PBS	1
Yuko Maru No. 8, longline	JA-80-3749	PBS	1
Yashima Maru No. 8, longline	JA-80-3750	PBS	1
Gyotoku Maru No. 8, longline	JA-80-3751	PBS	1
Miyoshi Maru, longline	JA-80-3752	PBS	1
Houei Maru No. 1, longline	JA-80-3753	PBS	1
Yukou Maru No. 3, longline	JA-80-3754	PBS	1
Kichihou Maru No. 8, longline	JA-80-3755	PBS	1
Wako Maru No. 5, longline	JA-80-3756	PBS	1
Koyo Maru No. 5, longline	JA-80-3757	PBS	1
Shinyou Maru No. 8, longline	JA-80-3758	PBS	1
Kazuei Maru No. 3, longline	JA-80-3759	PBS	1
Koyo Maru No. 8, longline	JA-80-3760	PBS	1
Chiyo Maru No. 5, longline	JA-80-3761	PBS	1
Isami Maru No. 8, longline	JA-80-3762	PBS	1
Koei Maru No. 1, longline	JA-80-3763	PBS	1
Kiho Maru, longline	JA-80-3764	PBS	1
Hide Maru No. 8, longline	JA-80-3765	PBS	1
Shinei Maru, longline	JA-80-3766	PBS	1
Yuki Maru, longline	JA-80-3767	PBS	1
Heian Maru No. 8, longline	JA-80-3768	PBS	1
Kouei Maru No. 8, longline	JA-80-3769	PBS	1
Yoshifuku Maru No. 3, longline	JA-80-3770	PBS	1
Yuuhou Maru, longline	JA-80-3771	PBS	1
Koushin Maru, longline	JA-80-3772	PBS	1
Katsuyuu Maru No. 1, longline	JA-80-3773	PBS	1
Miyo Maru No. 1, longline	JA-80-3774	PBS	1
Seikou Maru, longline	JA-80-3775	PBS	1
Shinei Maru, longline	JA-80-3776	PBS	1
Nippou Maru No. 3, longline	JA-80-3777	PBS	1
Sanei Maru No. 1, longline	JA-80-3778	PBS	1
Yuri Maru, longline	JA-80-3779	PBS	1
Yoshifuku Maru No. 5, longline	JA-80-3780	PBS	1
Syosei Maru, longline	JA-80-3781	PBS	1
Shima Maru No. 3, longline	JA-80-3782	PBS	1
Azuma Maru, longline	JA-80-3783	PBS	1
Tenshou Maru No. 3, longline	JA-80-3784	PBS	1
Hakuyou Maru, longline	JA-80-3785	PBS	1
Atsu Maru, longline	JA-80-3786	PBS	1
Hisatoshi Maru, longline	JA-80-3787	PBS	1
Toshiei Maru, longline	JA-80-3788	PBS	1
Fukusho Maru, longline	JA-80-3789	PBS	1
Kousei Maru No. 1, longline	JA-80-3790	PBS	1
Seiryo Maru, longline	JA-80-3791	PBS	1
Kinko Maru No. 1, longline	JA-80-3792	PBS	1
Tokiwa Maru No. 3, longline	JA-80-3793	PBS	1
Hisayoshi Maru, longline	JA-80-3794	PBS	1
Katsu Maru No. 5, longline	JA-80-3795	PBS	1
Koryo Maru No. 5, longline	JA-80-3796	PBS	1
Tetsuei Maru, longline	JA-80-3797	PBS	1
Seiko Maru, longline	JA-80-3798	PBS	1
Toyo Maru, longline	JA-80-3799	PBS	1
Oji Maru, longline	JA-80-3800	PBS	1
Ryoei Maru, longline	JA-80-3801	PBS	1
Kyoei Maru No. 8, longline	JA-80-3802	PBS	1
Nichiei Maru No. 1, longline	JA-80-3803	PBS	1
Nichiei Maru No. 8, longline	JA-80-3804	PBS	1
Ryoei Maru No. 15, longline	JA-80-3805	PBS	1
Choei Maru No. 1, longline	JA-80-3806	PBS	1
Konpira Maru No. 8, longline	JA-80-3807	PBS	1

[FR Doc. 80-17039 Filed 6-4-80; 8:45 am]
BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from July 14 at 1 p.m. through July 18, 1980, at 12 p.m., in the Director's Conference Room, Third Floor of the FAA Rocky Mountain Regional Office, 10455 East 25th Avenue, Aurora, Colorado.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and

upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. Frank L. Cunningham, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Ave., S.W., Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on May 29, 1980.

F. L. Cunningham,

Executive Director, ATPAC.

[FR Doc. 80-16805 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: City of Bossier City, Bossier Parish, La.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Bossier Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT:
Mr. Kenneth Perret, Project Development Engineer, Federal Highway Administration, Louisiana Division, P.O. Box 3929, Baton Rouge, Louisiana 70821, Telephone: (504) 389-0466; or Mr. Henry G. Pylant, Public Hearings and Environmental Impact Engineer, Louisiana Department of Transportation and Development, Office of Highways, P.O. Box 44245, Capitol Station, Baton Rouge, Louisiana 70804, Telephone: (504) 342-7520.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Louisiana Department of Transportation and Development, Office of Highways and the City of Bossier City will prepare an environmental impact statement (EIS) for a proposed highway improvement from Louisiana Highway 511 to Interstate Route 20 (I-20). The proposed action would be between 4 and 6 miles in length depending on the alternative that is selected.

The alternatives under consideration are no build, upgrade of existing facility, two separate alternative alignments which would comprise construction of a parkway (no heavy truck traffic allowed) facility with limited control of access on new right-of-way, and construction of an expressway facility with limited control of access on new right-of-way.

The need for this proposed project was envisioned in 1956 with a preliminary "Corridor Feasibility Study" completed in 1978. Improvements to the narrow corridor which is bound on the east by Barksdale Air Force Base and on the west by the Red River are considered necessary to provide for the existing and projected traffic demand.

The early coordination process began as part of earlier studies and a public information meeting was held in conjunction with the "Corridor Feasibility Study." Letters describing the proposed action and soliciting views have been sent to appropriate state, federal, local government agencies and private organizations. A formal scoping meeting is not planned at this time.

To make sure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments or questions should contact the FHWA or Louisiana Department of Transportation and Development at the addresses provided above.

Issued on May 21, 1980.

K. A. Perret,

Project Development Engineer, Louisiana Division, Baton Rouge, La.

[FR Doc. 80-16881 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Lane County, Oreg.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway in Lane County, Oregon.

FOR FURTHER INFORMATION CONTACT:
Paul V. Riedl, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 378-3832.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to reconstruct a 5.44 mile section of the Oregon Coast Highway (State Route No. 9/US-101) in Lane County, Oregon. The project area has both urban and rural conditions, and passes through the northerly limits of the small urban community of Florence, 60 miles west of Eugene and 48 miles north of Coos Bay. The proposed improvements are considered necessary to provide for the existing and projected traffic demand and a safe and efficient highway meeting modern design standards.

Alternatives under consideration include (1) taking no action and (2) reconstructing three sections of the existing two-lane highway to current standards; sections consist of five lanes (including a turning median), three lanes (including a turning median) and two lanes. The five-lane section includes two design options: a twenty-foot offset easterly of the existing centerline or widening on both sides of the roadway.

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to citizens who have previously been involved and expressed interest in this proposal. As necessary public meetings will be held and, in addition, a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on May 22, 1980.

E. J. Valach,

Program Development Engineer, Oregon Division, Salem, Oreg.

[FR Doc. 80-17025 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Richmond County, Ga.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Richmond County, Georgia.

FOR FURTHER INFORMATION CONTACT:
David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street NE, Atlanta, Georgia 30309, telephone (404) 881-4758, or Peter Malphurs, Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to construct a new facility consisting of two twelve-foot travel lanes in each direction, separated by a fourteen-foot flush median. The project, known as the Murray Road Extension, will be controlled access, and constructed primarily on new alignment. The project will begin in the vicinity of the Richmond-Columbia County line near Pleasant Home Road, and continue southeasterly to terminate in the vicinity of Broad/Reynolds/Eve Streets. The project distance is 6.8 miles, and is identified as M-7050(1) Richmond County. The proposed work is necessary to relieve current and predicted traffic volumes entering and exiting the Augusta Central Business District along Washington Road.

Alternatives under consideration include (1) taking no action; and (2) constructing a four-lane, controlled access highway on new alignment. Incorporated into and studied with the build alternatives will be design variations in alignment.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies who have previously expressed interest in this proposal. No formal scoping meetings have been scheduled at this time. A public hearing will be scheduled after preparation of the draft EIS. Public notice will be given of the time and place of the hearing.

To insure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be addressed to either the FHWA, or the Georgia DOT, addresses of which are provided above.

Issued on May 27, 1980.

David H. Densmore,

Development Engineer, Atlanta, Ga.

[FR Doc. 80-17026 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Marion County, Ind.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed widening of Raymond Street between Kentucky Avenue and Shelby Street on the near south side of Indianapolis, Marion County, Indiana.

FOR FURTHER INFORMATION CONTACT:
Mr. John Breitwieser, Staff Environmentalist, Federal Highway Administration, Room 254 Federal Office Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204. Telephone: (317) 269-7481.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana State Highway Commission and the Indianapolis Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to widen Raymond Street between Kentucky Avenue on the west and Shelby Street on the east. Raymond Street is located on the near south side of Indianapolis, Marion County, Indiana. The proposal includes construction of two additional lanes of pavement on the bridge over White River (piers were extended when the bridge was originally constructed), a railroad grade separation structure, an additional lane of pavement construction on the Raymond Street overpass of Madison Avenue and pavement widening. Total proposed project study length is approximately 3.10 miles. Approximately 1.5 miles between Kentucky Avenue and White River were improved previously and will not be further improved.

The proposal is intended to provide the connecting link on Raymond Street between Interstate 70 on the west and Interstate 65 on the east. The capacity of the street will increase with proposed project implementation.

The following alternatives are being considered: (1) Do Nothing; and (2) widening the existing pavement to four lanes. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments have been sent to thirty-seven Federal, State and local agencies, and private organizations, neighborhood associations, and citizens who had previously expressed interest in this proposal. A public information meeting was held on December 10, 1979; a second meeting is planned for the week of June 2, 1980. In addition, the opportunity for a public hearing will be advertised. Public notice will be given of the time and place of the public hearing. The draft EIS will be available for public and agency review and comment. A formal scoping meeting is planned at 9:30 a.m. on June 19, 1980 in Room 1201 Conference Room of the Indiana State Office Building, 100 North Senate Avenue, Indianapolis, Indiana.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments and/or questions should direct them to FHWA at the address provided above.

Issued on May 28, 1980.

George D. Gibson,

Division Administrator, Indianapolis, Ind.

[FR Doc. 80-17027 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS-80-4]

North Country Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the North Country Railroad (NCR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the NCR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The NCR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity

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for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–80–4 and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before July 11, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).

Issued in Washington, D.C., on May 27, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–17028 Filed 6–4–80; 8:45 am]

BILLING CODE 4910–06–M

Chicago & North Western Transportation Co.; Notice of Hearing

The Chicago and North Western Transportation Company (C&NW) has petitioned the Federal Railroad Administration (FRA) for approval of proposed modifications of a portion of its signal system. The proposed modification modification of a portion of its signal system. The proposed involves discontinuance of the automatic train control system between Chicago, Illinois and Council Bluffs, Iowa; installation of an automatic train stop system between Chicago, Illinois and Geneva, Illinois; and installation of a traffic control system between M. P. 3.6, Chicago, Illinois, and East Council Bluffs, Iowa.

The Railroad Safety Board of the Federal Railroad Administration has voted to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on July 15, 1980. The public hearing will be held in Room 905 of the Federal Office Building located at 536 South Clark Street, Chicago, Illinois.

The hearing will be an informal one and will be conducted in accordance with the provisions of section 211.25 of the Federal Railroad Administration, Rules of Practice (49 CFR Part 211). A representative designated by the Board will conduct this hearing.

The hearing will not be an adversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representative of the Board will make an opening statement outlining the scope of the hearing and will provide interested persons with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the start of the hearing.

This notice is issued under authority of Section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(g).

Issued in Washington, D.C., on May 27, 1980.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–17029 Filed 6–4–80; 8:45 am]

BILLING CODE 4910–06–M

[Docket No. RFA 511–80–2]

Regional Transportation Authority; Receipt of Application

The Regional Transportation Authority (RTA), headquartered at 300 North State Street, Chicago, Illinois 60610, has applied to the Federal Railroad Administration for a guarantee under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 945 U.S.C. 831) of a loan for $46,000,000. The funds will be used to acquire and rehabilitate the assets needed to operate the Rock Island commuter line between Joliet, Illinois, and downtown Chicago, including the branch known as the "Suburban Branch." The line passes through Will and Cook Counties. The project includes rehabilitation of 30 bi-level cars used on the line and construction of a new passenger depot near the present LaSalle Street Station. RTA states that it is undertaking this project in order to preserve essential freight and passenger service on the line in the face of the imminent liquidation of the Rock Island.

Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, not later than July 7, 1980. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

If the commenter wishes acknowledgment of the Federal Railroad Administration's receipt of the comments, the commenter may include a self-addressed stamped postcard with the comments, which will be returned upon the Federal Railroad Administration's receipt of the comments. The comments will be taken into consideration by the Federal Railroad Administration in evaluating the application. However, no other formal acknowledgment of the comments will be provided.

Issued in Washington, D.C., on May 16, 1980.

William E. Loftus,

Associate Administrator for Federal Assistance.

[FR Doc. 80–16886 Filed 6–4–80; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Safety, Bumper, and Consumer Information Programs, Change of Date and Request for Questions; Public Meetings

The NHTSA/Industry Public meeting previously scheduled for July 16, 1980, has been changed to July 9, 1980. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the July 9 meeting, representatives of DOT will answer questions received in writing from the industry and the public relating to NHTSA's vehicle safety, bumper, or consumer information programs which are technical, interpretative or procedural in nature. The questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions.)

Questions for the July 9 meeting must be submitted in writing by June 30 to Michael M. Finkelstein, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street SW, Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the June 30 date may be answered at the meeting, if sufficient time is available. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by June 30 will be available at the meeting and this list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies for the transcript will be available in four to five weeks at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street SW, Washington, D.C. 20590.

Succeeding meeting will be held on October 8, 1980.

Issued in Washington, D.C., on May 27, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80–16771 Filed 6–4–80; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP80–8; Notice 1]

Spring Valley Dodge, Inc.; Receipt of Petition for Determination of Inconsequentiality

Spring Valley Dodge, Inc. of Spring Valley, New York has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.217, Motor Vehicle Safety Standard No. 217, *Bus Window Retention and Release*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and 49 CFR Part 556, and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.3 of Standard No. 217 requires that when the emergency door release mechanism is not in the closed position and the vehicle ignition is in the "on" position, "a continuous warning sound shall be audible at the driver's seating position and in the vicinity of the emrgency door having the enclosed mechanism." As the agency stated in the preamble to the final rule (41 FR 3871) this means that there must be an audible alarm not only at the driver's position but at each emergency door. In its compliance testing of a 1977 model 17 passenger school bus (CIR 1984) completed by Spring Valley Dodge upon a Dodge van chassis, NHTSA discovered that the bus was equipped with only one alarm, positioned at the driver's seat. In response to inquiry, Spring Valley acknowledged the noncompliance and stated that it existed on approximately 600 buses manufactured between April 1, 1977, and August 1, 1979. The company has petitioned for an inconsequentiality determination on the basis that the single warning signal is sufficient for a small bus such as it manufactures.

Interested persons are invited to submit written data, views, and arguments on the petition of Spring Valley Dodge described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 7, 1980.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 29, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80–17110 Filed 6–4–80; 8:45 am]

BILLING CODE 4910–59–M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy Act (83 Stat. 852) the Council on Environmental Quality's implementing regulatons (40 CFR Parts 1500–1508) and the Urban Mass Transportation Administration's Policy on Major Urban Mass Transportation Investments (pubished in the **Federal Register** on September 22, 1976) the Urban Mass Transportation Administration hereby gives notice that an analysis of transportation alternatives in the North Corridor of the Baltimore Region and preparation of related Draft and Final Environmental Impact Statements are to begin following the public meetings on June 24 and 25, 1980 at which time the scope and conduct of the analysis will be discussed. Members of the public and interested Federal, State, and local agencies are invited to comment on the proposed scope of work, range of alternatives to be studied and decision criteria. The scoping meetings will be held at 7:30 p.m. June 24, 1980 at Poly-Western High School, Baltimore, Maryland and at 2:00 p.m. June 25, 1980 at the Maryland Department of Transportation's Mass Transit Administration (MTA) offices at 109 E. Redwood Street, Baltimore, Maryland. The purpose of these meetings is to help establish the basis purpose and framework for the alternatives analysis study, not to express preferences for a specific alternative or alternatives.

The Urban Mass Transportation Administration's *Policy on Major Urban Mass Transportation Investments* requires the appropriate local agency or organization to undertake such an analysis of alternatives if Federal funding for a major investment is contemplated. The Policy defines a major investment as any project which involves new construction or extension of a fixed guideway system. To be eligile for Federal funding, the analysis must be conducted, but completion of the analysis does not ensure that Federal funding will be forthcoming. Federal funds are limited, and thus any project proposal resulting from the analysis must vie for these funds against other candidate projects nationally.

The subject Alternatives Analysis will be conducted by the Mass Transit Administration (MTA) of the Maryland Department of Transportation and a project advisory committee comprised of areawide transportation officials. Consultant support will also be used in this effort.

The North Corridor extends from the vicinity of Hunt Valley through Towson to Baltimore Metrocenter and encompasses the Jones Falls Expressway (I–83), the ConRail North-Central rail line and York Road, as well as other related transportation facilities.

Alternatives proposed for study include the following:

(1) Rail transit primarily on the existing ConRail right-of-way.

(2) An exclusive busway primarily on the existing ConRail right-of-way.

(3) Express bus services on the Jones Falls Expressway (I–83) with associated actions to increase their speed and reliability.

(4) A no build alternative.

All build alternatives will feature extensive park/ride facilities, and various Metrocenter termini and distribution schemes will be examined, including exclusive bus lanes or streets. In addition, variants of each alternative which may reduce cost or environmental impact, or improve ridership or cost

effectiveness will be studied. These variants could include a combination of the above listed alternatives or their components.

The proposed evaluation criteria will include transportation, environmental, social, economic and financial impacts as required by current Federal and State environmental laws and current Federal CEQ, UMTA and FHWA guidelines. Additional criteria relevant to local decision making will also be produced.

At the scoping meetings, staff will present the above information in more detail using maps and visual aids, as well as a study schedule and a plan for an active citizen participation program. The majority of the meeting will be devoted to public comments on the proposed scope and conduct of the analysis. The public and affected public agencies will be invited to comment either orally at the meeting(s) or in writing for a period of fifteen days after. Appropriate adjustments to the proposed work scope and alternatives will be made in response.

If there are any questions, please contact Mr. John Caruolo, 434 Walnut Street, Suite 1010, Urban Mass Transportation Administration, Region III, Philadelphia, Pa. 19106, telephone (215) 597–4179, or the MTA project director, Mr. Theodore von Briesen at the Mass Transit Administration, 109 E. Redwood Street, Baltimore, Maryland, 21202, telephone (301) 381–3596.

Dated: May 30, 1980.

Robert H. McManus,

Associate Administrator for Planning, Management and Demonstrations.

[FR Doc. 80-17111 Filed 6-4-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-150]

Tuna Fish—Tariff-Rate Quota

In the matter of the tariff-rate quota for the calendar year 1980, on tuna classifiable under item 112.30, Tariff Schedules of the United States.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for calendar year 1980.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, Tariff Schedules of the United States (TSUS), is based on the U.S. pack of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1980 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Commercial Operations, U.S. Customs Service, Washington, D.C. 20229 (202–566–8592).

It has now been determined that 109,074,094 pounds of tuna may be entered for comsumption or withdrawn from warehouse for consumption during the calendar year 1980 at the rate of 6 per centum ad valorem under item 112.30, TSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorum under item 112.34 of the tariff schedules.

(QUO–2–0:D:S:Q GH)

Dated: May 30, 1980.

R. E. Chasen,

Commissioner of Customs.

[FR Doc. 80-17095 Filed 6-4-80; 8:45 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 110

Thursday, June 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Deposit Insurance Corporation	2–5
Federal Election Commission	6
Federal Home Loan Bank Board	7
Federal Maritime Commission	8
Parole Commission	9
Securities and Exchange Commission	10, 11

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., June 10, 1980.

PLACE: 2033 K Street N.W., Washington, D.C., fifth floor meeting room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Budget, Plans, Programs and Priorities.
—Financial Rule Enforcement Review.
—Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1099-80 Filed 6-3-80; 3:37 pm]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject mattef of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, June 2, 1980, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and Resolution re: Standard Descriptive Terms to be Used in Competitive Factor Reports Prepared in Response to Interagency Requests Made Under the Bank Merger Act.

Resolution retitling the Office of Compliance Programs to the Office of Consumer and Compliance Programs.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: June 2, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1095-80 Filed 6-3-80; 3:07 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, June 2, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Case No. 44,339–L—State Bank of Clearing, Chicago, Illinois.

Memorandum re: American Bank & Trust Company, New York, New York.

Policy regarding rotation of Assistant Regional Directors.

The Board further determined, by that same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(9)(B), and (c)(10)).

Dated: June 2, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1096-80 Filed 6-3-80; 3:07 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 9, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Board of Governors of the Federal Reserve System for a report on the competitive factors involved in the proposed merger of The Central Trust Company, Reynoldsburg, Ohio, and The Farmers and Citizens Bank, Lancaster, Ohio.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Gibbs, Roper, Loots & Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Memorandum re: Reports Required Under Delegated Authority—Liquidations Using One Signature System.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Assistant Executive Secretary of the Corporation, at (202) 389–4446.

Dated: June 2, 1980.

V 45 J E 5 80 UMI

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Assistant Executive Secretary.
[S-1097-80 Filed 6-3-80; 3:07 pm]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meetings.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, June 9, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Hamilton County State Bank, a proposed new bank, to be located at 823 West Wyoming Avenue, Lockland, Ohio, for Federal deposit insurance.
F & M Bank of Appleton, a proposed new bank, to be located at 1735 East Calumet Street, Appleton, Wisconsin, for Federal deposit insurance.

Application for consent to establish a branch:

Niagara County Savings Bank, Niagara Falls, New York, for consent to establish a branch at 767 Cayuga Street, Village of Lewiston, New York.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,338-L—North Point State Bank, Arlington Heights, Illinois.
Memorandum re: Franklin National Bank, New York, New York.
Memorandum re: Northeast Bank of Houston, Houston, Texas.
Memorandum re: North Point State Bank, Arlington Heights, Illinois.
Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois.

Reports of committees and officers:

Memorandum re: Reports Required Under Delegated Authority—Sale of Lots.
Memorandum re: Reports Required Under Delegated Authority—Sales of Property.
Audit Report re: Liquidation Audits, dated January 7, 1980.

Recommendations with respect to the initiation, termination, or conduct of administrative enforceement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc:

Names of employees authorizd to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Assistant Executive Secretary of the Corporation, at (202) 389-4446.

Dated: June 2, 1980.

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Assistant Executive Secretary.
[S-1098-80 Filed 6-3-80; 3:07 pm]
BILLING CODE 6714-01-M

6

[FR No. 1058]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: 10 a.m., Wednesday, June 4, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGES IN MEETING: The following items have been added to the agenda:

1. Personnel (continued from June 3, 1980).
2. Litigation (continued from June 3, 1980).
3. Threshold Audit (continued from June 3, 1980).
4. Failure by the 1976 Democratic Presidential Campaign Committee, Inc. to Make Repayment of Public Funds.

* * * * *

DATE AND TIME: 10 a.m., Tuesday, June 10, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel.

* * * * *

DATE AND TIME: 10 a.m., Thursday, June 12, 1980.

PLACE: 1325 K Street NW., Washington, D.C., fifth floor.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Certifications.
Advisory opinions as follows:
AO 1980-42. Harold Haddon, Campaign Manager, Hart for Senate Campaign Committee.
AO 1980-46. J. Curtis Herge, National Conservative PAC (NCPAC).
AO 1980-53. Cedric A. Richner, Jr., Vice President and General Counsel, Kelly Services.
AO 1980-54. Robert P. McLeod, First National Bank of West Monroe, La.
AO 1980-56. Bert DeLecuw, Executive Director, The Citizens' Party.
1980 Election and Related Matters.
Letters to State and Local Party Committees.
Appropriations and Budget.
Pending Legislation.
Classification Actions.
Routine Administrative Matters.
Budget Execution Report.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.
[S-1101-80 Filed 6-3-80; 3:56 pm]
BILLING CODE 6715-01-M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 37577, June 3, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 6, 1980.

PLACE: 1700 G Street NW., fifth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The meeting scheduled for June 6, 1980 at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C., fifth floor, chairman's conference room will not be held. Instead, it will be held in the FDIC Building at 515 17th Street, sixth floor, Washington, D.C., at 9:30 a.m.

Announcement is being made at the earliest practicable time.

No. 355, June 3, 1980.

[S-1092-80 Filed 6-3-80; 12:19 pm]
BILLING CODE 6720-01-M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., June 12, 1980.

PLACE: Hearing Room One, 1100 L Street N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Reconsideration of conditional order of approval of Agreements Nos. 161-35, 8770-8, 9988-9, 10140-10, 10270-1, and 10182-4.
3. Agreement No. 10045-3: Modification of the Florida/Panama Rate Agreement and Agreement No. 10105-1: Modification of the Florida/Guatemala, Honduras and El Salvador Rate Agreement to admit Sea-Land Service, Inc., as a party; to expand their geographic scopes; and for other purposes.
4. Notice of Proposed Rulemaking to Delete from General Order 4 the Requirement that Notice of Independent Ocean Freight Forwarder License Applications be Published in the Federal Register.
5. Amendments to General Order 13 accommodating the tariff filing requirements for controlled carriers under the Ocean Shipping Act of 1978.
6. Petitions for reconsideration of awards of interest in Informal Dockets Nos. 441(I) and 667(I).
7. Informal Docket No. 775(I): William H. Kopke, Jr., Inc. v. Sea-Land Service, Inc. West Coast of Italy, Sicilian and Adriatic Ports, North Atlantic Range Conference—Review of Settlement Officer's decision.
8. Special Docket No. 704: Application of Sea-Land Service, Inc. For the Benefit of United Forwarders Service, Inc. as agent for Mirro Aluminum Co.—Consideration of the record.
9. Docket No. 79-10: Rates of Far Eastern Shipping Company—Petition of respondents for reconsideration of Commission decision.
10. Docket No. 79-104: Specific Commodity Rates of Far Eastern Shipping Company in the Philippines/U.S. Pacific Coast Trade—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1094-80 Filed 6-3-80; 2:44 pm]
BILLING CODE 6730-01-M

9

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining Offices at Washington, D.C. Headquarters).

TIME AND DATE: 9:30 a.m., Friday, June 13, 1980.

PLACE: Room 826A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst (202) 724-3094.

[S-1100-80 Filed 6-3-80; 3:44 pm]
BILLING CODE 4410-01-M

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of June 2, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, June 5, 1980, at 10:00 a.m.

Consideration of proposed Rule 19c-3 under the Securities Exchange Act of 1934, which would amend rules of national securities exchanges which limit or condition the ability of members to effect transactions over-the-counter in exchange traded securities, to preclude the application of those exchange rules to certain securities which were not exchange traded on April 26, 1979, or which were exchange traded on April 26, 1979, but fail to remain continuously exchange traded thereafter. For further information, please contact Bruce Beatt at (202) 272-2888.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Anne Sullivan at (202) 272-2468.

June 2, 1980.

[S-1091-80 Filed 6-3-80; 10:55 am]
BILLING CODE 8010-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 9, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 10, 1980, at 9:00 a.m., and immediately following the 10:00 a.m. open meeting, and on Thursday, June 12, 1980, at 9:00 a.m. An open meeting will be held on Tuesday, June 10, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more or the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 10, 1980, at 9:00 a.m., will be:

Report of investigation.
Institution of injuctive action.

The subject matter of the closed meeting scheduled for Tuesday, June 10, 1980, immediately following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Settlement of injuctive actions.
Litigation matter.
Freedom of Information and Privacy Act appeals.
Amendment of formal order of investigation.
Freedom of Information Act appeal and confidential treatment.
Freedom of Information Act appeal.
Opinions.

The subject matter of the closed meeting scheduled for Thursday, June 12, 1980, at 9:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.

Administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Tuesday, June 10, 1980, at 10:00 a.m., will be:

1. Consideration of whether to send a proposed report to Congress on the accounting profession and the Commission's oversight role. For further information, please contact Edmund Coulson at (202) 272-2130 or Lawrence Best at (202) 272-2133.
2. Consideration of an application of Statement of Financial Accounting Standards No. 33 concerning the effect of changing prices to the financial statements of investment companies included in post-effective amendments to 1933 Act registration statements. For further information, please contact Larry Bloch at (202) 272-2130.
3. Consideration of whether to issue a release announcing standards, to be used by the Division of Market Regulation in connection with the registration of clearing agencies, intended to serve as staff guidelines to assist clearing agencies in modifying their organizations, capacities, and rules to comply with the clearing agency registration provisions of the Securities Exchange Act of 1934. For further information, please contact JoAnn Carpenter at (202) 272-2913.
4. Consideration of the Ninth Annual Report of the Securities Investor Protection

Corporation ("SIPC"), which SIPC has submitted to the Commission which, in turn, is required to transmit the report to the President and Congress with such comment as the Commission deems appropriate. For further information, please contact Gary R. Bronstein at (202) 272–2374.

5. Consideration of whether to adopt a technical amendment of a single account in the Commission's Uniform System of Accounts for Mutual and Subsidiary Service Companies ("Uniform System of Accounts") promulgated pursuant to the Public Utility Holding Company Act of 1935 to delete the allocation provisions of Account 421—Miscellaneous Income or Loss. For further information, please contact Grant C. Guthrie, at (202) 523–5156 or Robert P. Wason at (202) 523–5159.

6. Consideration of whether to grant the application of George H. Hildebrand for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272–2644.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272–2091.

June 3, 1980.

[S–1083–80 Filed 6–3–80; 12:38 pm]

BILLING CODE 8010–01–M

V 45 J E 5 8 0 UMI

federal register

Thursday
June 5, 1980

Part II

Department of Commerce

Improving Government Regulations; Semiannual Agenda

DEPARTMENT OF COMMERCE

13 CFR Chs. III and V; 15 CFR Chs. I–III, VIII, and XII; 32A CFR Ch. VI; 37 CFR Ch. I; 46 CFR Ch. II; 50 CFR Chs. II and VI

Improving Government Regulations; Semiannual Agenda

AGENCY: U.S. Department of Commerce.

ACTION: Semiannual Agenda of Regulations.

SUMMARY: In compliance with Executive Order 12044, the Department of Commerce (DOC) publishes twice a year an agenda of significant regulatory actions under consideration by its various units. The agenda also includes a list of existing rules and regulations selected for review. The purpose of the regulatory agenda is to provide information to the public on regulations issued by the Department and to facilitate comments and views by interested public parties.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulatory action contained in the agenda, contact the individual identified as the contact person. Comments or inquiries of a general nature about the agenda should be directed to: Robert T. Miki, Deputy Assistant Secretary for Regulatory Policy (Acting), Room 7614, Department of Commerce, Washington, D.C. 20230, Tel. (202) 377–2482.

SUPPLEMENTARY INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044, "Improving Government Regulations." To comply with the Executive Order, the Department published in the **Federal Register** (44 FR 2082, January 9, 1979) Department Administrative Order (DAO) 218–7, entitled "Issuing Departmental Regulations." The Administrative Order, including appendices, establishes the overall procedures to be followed by the Department units in developing and promulgating regulations.

The Executive Order requires that all executive agencies publish semiannually an agenda of significant regulations which are under consideration. The Order also requires that the agenda include a list of regulations which the agency intends to review. On October 2, 1978, the Office of the Federal Register published the dates that the Department's semiannual agenda would appear in the **Federal Register** for the coming year. The dates specified were February 15, 1979 and August 15, 1979 (43 FR xiii). Because of unexpected delays, the Department was unable to publish its first two agenda on those dates. The Department's first agenda was published on March 7, 1979 (44 FR 12562), with an addendum published by the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) on April 30, 1979 (44 FR 25354). The Department's second agenda was published on September 18, 1979 (44 FR 54166). This is the third agenda to be published by the Department. In the future, the Department's agendas will be published on May 15 and November 14 to coincide with the publication of the Regulatory Council's Calendar of Regulations (44 FR 48976).

The Executive Order directs government agencies to provide in the agenda the following information regarding significant regulations under consideration: description, need, legal basis, the name and telephone number of a knowledgeable agency official, whether a regulatory analysis is required, a list of regulations to be reviewed, and the status of regulations listed in previous agendas. In addition, the Department's agenda provides an outline of each unit's plan for obtaining public comments and the major issues to be considered before formulating final regulations.

Explanation of Information Contained in the Agenda

The Department has 13 primary operating units in addition to departmental offices. Some of the operating units, such as the Maritime Administration (MARAD), have major regulatory activities whereas other operating units, such as the Office of Minority Business Development Agency (MEBDA), currently have no regulations in effect. The departmental offices, such as the Office of Investigations and Security (OIS) and the Office of Administrative Service (OAS), have few regulations. The abbreviations and names of the DOC units which have regulatory responsibilities are as follows:

ADMIN–Assistant Secretary for Administration
EDA–Economic Development Administration
ITA–International Trade Administration
MARAD–Maritime Administration
–NOAA–National Oceanic and Atmospheric Administration (includes the Office of Coastal Zone Management (OCZM) and the National Marine Fisheries Service (NMFS))
–NTIA–National Telecommunications and Information Administration
–OCE–Office of the Chief Economist (includes the Bureau of the Census (CENSUS), Bureau of Economic Analysis (BEA), Bureau of Industrial Economics (BIE) and the Office of Federal Statistical Policy and Standards (OFSPS)
–MBDA–Minority Business Development Agency
–ORD–Office of Regional Development
–PTI–Assistant Secretary for Productivity, Technology and Innovation (includes the National Bureau of Standards (NBS), The Office of Product Standards Policy (OPSP), National Technical Information Service (NTIS), and Patent and Trademark Office (PTO)
–USTS–United States Travel Service

Schedule A contains a list of regulatory actions under consideration. Regulations under consideration include new regulations being proposed and changes, additions, or deletions to existing rules and regulations. The schedule indicates whether the regulation is significant, whether a regulatory analysis is required, and the date (month or season) that the next regulatory action is anticipated. The name, position title, and telephone number of a person familiar with the regulation is provided. Additional information on each significant action listed in Schedule A is provided in the appendix. Each agenda entry provides the information required by Executive Order 12044 and DAO 218–7.

Schedule B contains a list of existing regulations scheduled for review by DOC units over the next 12 months.

Schedule C lists regulations which appeared in the first two agendas but are deleted from Schedules A and B. The reasons for deletion are given. For example, a regulation previously under consideration was adopted or the scheduled review of an existing regulation was completed. Where appropriate a **Federal Register** citation is provided.

There are 109 regulations in the Department's agenda. Of the total, 86 are regulations under consideration (Schedule A) and 23 are existing regulations scheduled for review (Schedule B). Nine of the 13 primary operating units of the Department report regulations under consideration; the remaining units do not have regulations to report.

Of the 86 regulations reported under consideration, 56 are determined to be significant by agency heads. Twenty-five are considered not significant and the significance of 5 is unknown. Twenty regulatory analyses are being prepared (see Schedule A).

As noted above, the significance of 5 regulations is not known. In these instances, the regulations under consideration have not reached the notice of proposed rulemaking stage or action on the regulation is not scheduled for at least six months.

A large number of the regulations presented in the agenda deal with fish management programs under NOAA's National Marine Fisheries Service. To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS's programs, a section on "Explanation of Information Contained in NMFS's Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS's Regulatory Entries

The Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801 et seq., requires that a preliminary fishery management plan (PMP) be prepared for all fisheries within a fishery conservation zone (FCZ) fished in by foreign fishing nations. The FCZ refers to those waters from the outer edge of the United States territorial sea to a distance of 200 miles (i.e., generally from 3 to 200 miles offshore). For fisheries in the FCZ in which there is domestic fishing, fishery management plans (FMPs) are to be prepared if those fisheries require conservation and management measures. Although PMPs apply only to foreign fishing, the FMPs regulate both foreign and domestic fishing. When promulgated, the FMPs supersede the PMPs. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs for fisheries within their respective areas.

The Act requires that certain standards are met in regulated fisheries. Among the factors, the optimum yield of the fisheries is to be specified. This entails the development of appropriate regimes to ensure sound management of involved stocks while taking into account relevant biological, social, and economic factors. Domestic fishermen are given a preferred status by the Act. However, for those fisheries in which the optimum yield is greater than the domestic harvest, foreign nations are permitted to fish, provided certain conditions are met. For each fishery, the total allowable level of foreign fishing (TALFF) is determined. The TALFF is allocated among foreign nations by the Secretary of State. Governing International Fishery Agreements are executed between the United States and nations desiring to fish. Allocations are based on standards such as historic fishing rights and reciprocal fishing privileges. Also, vessels of foreign nations are to apply for and receive permits to fish in the FCZ.

Classes of domestic fishermen may be allocated shares of the harvest in fisheries regulated under FMPs. Such allocations are not to be discriminatory and must relate to the conservation and management of the fishery. There can be allocations between the commercial and recreational sectors of the fishery.

In the allocation of fish stocks, fish caught as a result of directed effort (target catch), and fish caught incidentally (incidental catch) are taken into account. Various management tools are used to regulate fisheries. These include limitations based on certain types of gear (e.g., bottom trawls, longlines), seasons, and the necessity of opening or closing areas to fishing based upon gear conflicts, conditions of the stocks, or other factors.

The initiation of FMPs is the responsibility of the eight Councils. Guidelines for the development of the FMPs are published in the Federal Register. In the development of such plans (and regulations), the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs, in conjunction with the DOC practice of publishing a 12 and not a six-month agenda, makes it difficult for the NMFS to determined the significance of some regulatory actions under consideration, at the time the semiannual regulatory agenda is published. Frequently the NMFS does not have specific plan objectives or alternatives for management since the Councils have neither approved nor submitted plans to the Secretary of Commerce for review, adoption and implementation.

Public Participation Summary

Legal Authority. The Department's General Counsel decided that where no statutes forbid establishment of a public participation funding program, Department funds can be used when the participation is considered necessary and lack of funding would preclude participation.

Supervision. The Consumer Affairs Office, in conjunction with the Office of Regulatory Policy, coordinates consumer particiption responsibilities throughout the Department. The Consumer Affairs Office and consumer contact persons in the operating units are responsible for assuring that timely and meaningful consumer participation occurs throughout the development and review of the Department's rules, policies and programs.

Participation Mechanisms and Special Features:

–Notices of proposed and final rules, programs, and policies will appear in the **Federal Register**.

–Quarterly notices of forthcoming rulemaking activities will be disseminated to consumer representatives and consumer media by the Consumer Affairs Office, and to other constituents by the Regional Representatives of the Secretary of Commerce.

–Funds will be made available whenever possible to enable consumer representatives to give in-depth advice and assistance on major policy or program initiatives. (Recent examples include the Department's development of recommendations on the problem of product liability, where a series of Consumer Forums was funded; and a pilot project on voluntary consumer product information labeling, for which a national consumer organization was a consultant to the Department.)

–Informal meetings and briefings will be arranged between Commerce officials and consumer leaders to discuss emerging or ongoing problems and issues, as well as policy and program developments.

Special Unit Programs for Public Participation:

–NBS. The NBS Center for Consumer Product Technology (Center), in conjunction with Underwriters Laboratories, the American Society for Testing and Materials, the National Fire Protection Association, and the American National Standards Institute, maintains a Consumer Sounding Board network to ensure that consumer input on activity is obtained. The Consumer Sounding Boards are composed of a demographic cross-section of consumers convened to provide direct consumer involvement in standards-making programs. The Center's programs are reviewed annually by a panel appointed by the National Academy of Sciences. This panel is composed of individuals from industry, academic institutions, government, and consumer interest groups. The Center has contracted with consumer interest groups to review program plans regarding major activities, such as the Department of Energy "Energy Appliance Program" and the DOC "Consumer Product Information Labeling Program". The Center also works with the National Conference on Weights and Measures which is composed of state and local government representatives who have responsibility for consumer issues. The Center will continue to seek consumer involvement.

–NOAA/NMFS: Through the availability of the Saltonstall-Kennedy Funds, NMFS conducts a grants program

under its Fisheries Financial Assistance Program to further the utilization and development of the fisheries of the United States. Proposals regarding seafood are encouraged in areas such as consumer attitudes, consumption patterns, and consumer education.

The Marine Fishery Advisory Committee (MAFAC), composed of approximately 25 representatives from industry, academic institutions and consumer groups, advises the NMFS on fishery activities. The MAFAC Subcommittee on Consumer Affairs covers consumer-related fishery activities.

Under the authority of the Fishery Management Conservation Act of 1976, eight Fishery Management Councils were established. The membership of the Councils is required by the Act to have fisheries expertise. The majority of the members are appointed by the Governors of the Coastal States. These appointments include consumer members. The NMFS consumer affairs personnel are actively pursuing strengthened consumer representation on these Councils. In addition, the NMFS is planning regional workshops to encourage and expand consumer participation.

–NTIA: NTIA is in the process of establishing an advisory committee which will offer advice on grant applications under the Public Telecommunications Facilities Programs and on the development of public telecommunications policy. The proposed advisory committee will have 20 members. One seat is reserved for a representative of a public interest or consumer organization.

Special Unit Programs For Funding Assistance:

The Department is giving special attention to developing new procedures and funding sources for consumer participation in its regulatory proceedings.

–NOAA. NOAA issued regulations in 1978 for funding public participation in its rulemaking proceedings (43 FR 17806, April 26, 1978).

–NTIA. NTIA is establishing funding procedures for public participation. The procedures relate primarily to the Public Telecommunications Facilities Programs which awards matching grants yearly for the development and expansion of public telecommunications services. The agency's final rules will be published in the **Federal Register.**

–Other operating units such as the International Trade Administration and the Minority Business Development Agency are also exploring funding procedures.

Technical Assistance:

The operating units, with advice from the Consumer Affairs Office, will determine staff responsibilities, assistance procedures and types of technical assistance for consumers. For example, NTIA's Public Telecommunications Facilities Program provides technical assistance upon request to potential applicants and to other groups interested in public telecommunications. Also, NTIA prepares materials explaining the process of obtaining matching grants for telecommunications facilities. This information is distributed to individuals, public interest groups, the trade press, publishers, journals, and other media.

The NMFS plans to hold individual consultations and workshops for consumer-interest groups to provide technical assistance in preparing proposals for cost-sharing funding under the Fisheries Financial Assistance Program.

Public Participation Documents. During FY 81, the Office of Regulatory Policy and Consumer Affairs Office will develop general guidelines for consumer participation to be used throughout the Department.

Contact Person: Meredith Fernstrom, Director of Consumer Affairs, Department of Commerce, Room 5889, Washington, D.C. 20230, Tel. (202) 377–5001.

Luther H. Hodges, Jr.,
Acting Secretary of Commerce.

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Page 1 of 12

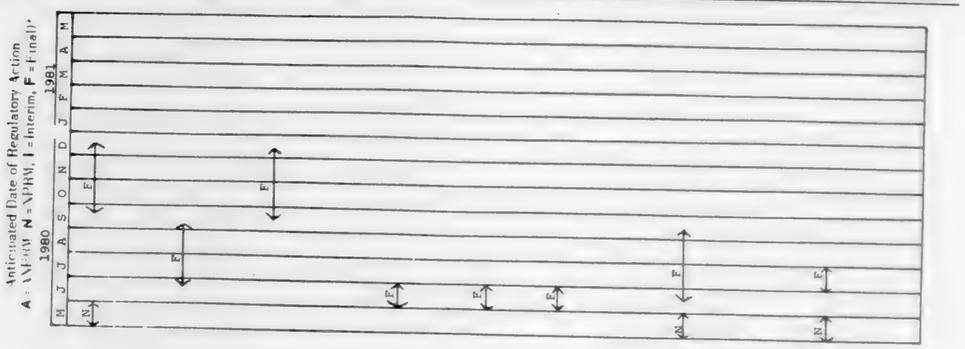

Schedule A - DOC SEMIANNUAL AGENDA OF PENDING REGULATIONS
MAY 15, 1980

Department — Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulation Analysis Required? Yes	No	Unknown
ADMIN	Age Discrimination Act of 1975: Promulgation of Regulations Required under the Act	Alice K. Helm, Legal Advisor for Civil Rights (202) 377-4993			X			X
ADMIN	Section 504 of Rehabilitation Act of 1973: Promulgation of Regulations Required under the Act	Alice K. Helm, Legal Advisor for Civil Rights (202) 377-4993			X			X
ADMIN	Nondiscrimination in Federally-Assisted Programs of the Department of Commerce - Implementation of Title VI of the Civil Rights Act of 1964	Alice K. Helm, Legal Advisor for Civil Rights (202) 377-4993			X			X
EDA	Nonrelocation (13 CFR 309.3)	James F. Marten Asst. Chf. Counsel (202) 377-5441			X			X
EDA	Industrial Parks and Sites (13 CFR 305.43)	James F. Marten Asst. Chf. Counsel (202) 377-5441			X			X
EDA	Requirements Regarding the Organizational Structure of Economic Development Districts (13 CFR 303.2, 303.4, 303.4(a), 303.7, 304.3, 307.25, and 311.4)	Victor A. Hausmar Dep. Asst. Sec. for Policy and Planning (202) 377-3121			X			X
EDA	Miscellaneous Changes Regarding Energy Conservation in EDA Financial Assistance Programs (13 CFR 304.4, 305.59, 306.12, 307.3, 307.22, 307.28, 307.52, 307.55-57, 308.6, and 315.54-55)	Alan S. Gregerman Policy Analyst, Policy Development Div. (202) 377-5103			X			X
EDA	Vocational or Skill Training Centers (Public Works and Development Facilities Program) (13 CFR 305.45)	Charles W. Coes, Dir., Ofc. of Public Investments (202) 377-5265			X			X

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Department — Unit —	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
ITA	Energy Regulation 1: Allocation Regulations (32A CFR Part 671)	Iain S. Baird Dir., Priorities & Allocations Div. (202) 377-2233		X			X	
ITA	Defense Priorities System ORDER 3: Titanium (32A CFR Part 663)	Iain S. Baird Dir., Priorities & Allocations Div. (202) 377-2233		X			X	
MARAD	Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Service; Essential Service Requirement (46 CFR 251.21)	Kenneth Willis Examiner, Ofc. of Subsidy Contracts (202) 377-4660	X			X		
MARAD	Conservative Dividend Policy (46 CFR Part 283)	Murry Bloom, Advisor Maritime Subsidy Board (202) 377-2056	X				X	
MARAD	Construction-Differential Subsidy (CDS) Contracts (46 CFR Part 251)	Melvin S. Eck Attorney Advisor, Ofc. of the General Counsel (202) 377-2771	X				X	
MARAD	Requirements and Procedures for the Administration of Condition Surveys and Maintenance and Repair Subsidy (46 CFR Part 272)	John J. Davis Chf., Div. of Ship Management (202) 377-3640	X				X	
MARAD	Award and Administration of Operating-Differential Subsidy (ODS) for Dry Bulk Cargo Vessels (46 CFR Part 254)	Frederick R. Larson Dir., Ofc. of Ship Operating Costs (202) 377-5532	X				X	

Anticipated Date of Regulatory Action
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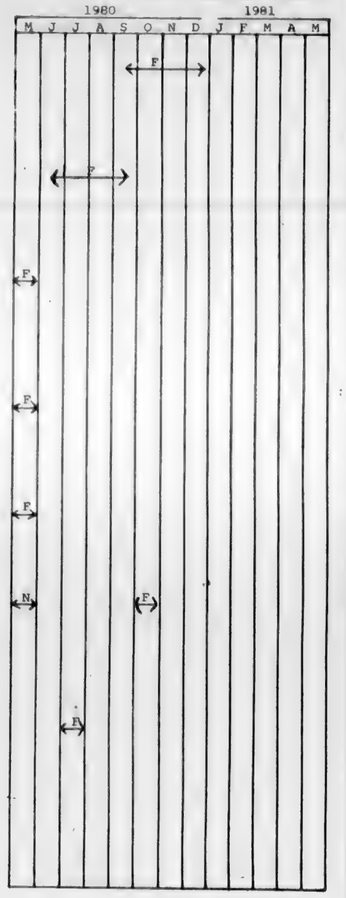

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Department — Unit —	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
MARAD	Construction-Differential Subsidy (CDS) Repayment: Total Repayment Policy and Procedure (46 CFR Part 276)	J. B. Young, Dir., Ofc. of Trade Studies and Statistics (202) 377-4758	X				X	
MARAD	Documentation Transfer or Charter of Vessels (46 CFR Part 221)	Virginia O'Brien Foreign Transfer Officer, Div. of Ship Mgmt. (202) 377-3213	X				X	
MARAD	Construction-Differential Subsidy (CDS) - Requirements for Aid (46 CFR Part 251)	James E. Saari Attorney Advisor, Ofc. of General Counsel (202) 377-2771	X				X	
MARAD	Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates (46 CFR 381.8, 381.9 and new Part 381)	Frederick R. Larson Dir., Ofc. of Ship Operating Costs (202) 377-5532	X					X
MARAD	Merchant Marine Training (46 CFR Part 310)	Kathleen A. Shetler Manpower Mgmt. Officer, Ofc. of Maritime Manpower (202) 377-5653	X				X	
MBDA	MBDA Financial Assistance Awards	John Smith Dep. Chf. Counsel (202) 377-4683	X				X	
NOAA/NMFS	Bering Sea - Chukchi Sea Herring Fishery Management Plan (FMP)	Harry L. Rietze, Regional Dir., Alaska Region (907) 586-7221	X			X		

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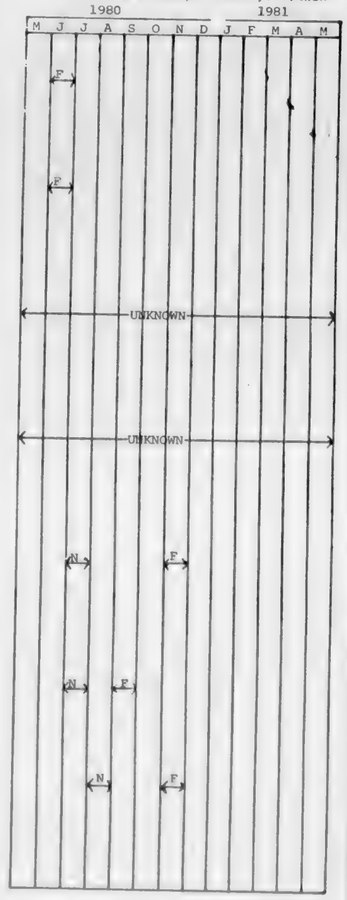

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Hake Preliminary Fishery Management Plan (FMP)	Robert W. Hanks, Dep. Regional Dir., Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Listing of the Guadalupe Fur Seal as an Endangered Species (50 CFR Parts 17 and 222)	William Aron, Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X				X
NOAA/NMFS	Determination of Critical Habitat for Endangered and Threatened Species of Sea Turtles in Mosquito Lagoon, Florida (50 CFR Part 226)	Richard B. Roe, Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X				X
NOAA/NMFS	Section 7 of Endangered Species Act: Interagency Cooperation (50 CFR Part 402)	William Aron, Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X			X	
NOAA/NMFS	Whaling (50 CFR Part 230)	Richard B. Roe, Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X			X	
NOAA/NMFS	Scientific Research and Public Display Permit Regulations (Proposed 50 CFR Part 223)	R. B. Brumsted, Permit Program Mgr., Ofc. of Marine Mammals & Endangered Species (202) 634-7529		X			X	
NOAA/NMFS	Alaska King Crab Fishery Management Plan (FMP)	Harry L. Rietze, Regional Dir., Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Pacific Billfish and Oceanic Sharks Fishery Management Plan (FMP)	Floyd S. Anders, Jr. Acting Regional Dir., Southwest Region (213) 548-2575	X			X		

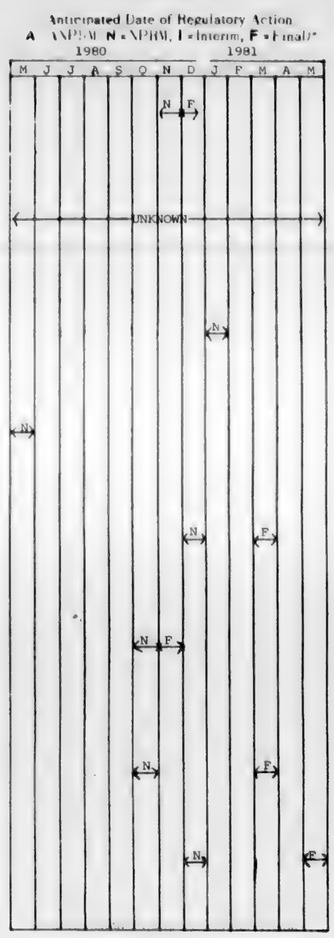

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Termination of Utility Services, Pribilof Islands (50 CFR Part 215)	Walter Kirkness, Dir., Pribilof Islands Prmg., Northwest Region (206) 442-7777		X			X	
NOAA/NMFS	Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan (PMP)	Thomas E. Kruse, Acting Regional Dir., Northwest Region (206) 442-7575.		X			X	
NOAA/NMFS	Trawl and Herring Gillnet Fishing in the Eastern Bering Sea Preliminary Fishery Management Plan (PMP)	Phillip Chitwood, Chf., Fisheries Mgmt. Oprs. Br., Alaska Region (907) 586-7229		X			X	
NOAA/NMFS	Amendments to U.S. Yellowfin Tuna Regulations for the Atlantic and Pacific Oceans	Floyd S. Anders, Jr., Acting Regional Dir., Southwest Region (213) 548-2575		X				X
NOAA/NMFS	Whaling (50 CFR Part 331) (Amendments to the Schedule of International Conventions for the Regulation of Whaling)	William Aron, Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X				X
NOAA/NMFS	Technical Amendments to Fishing Vessel Obligation Guarantee Program Procedures	Michael L. Grable, Chf., Financial Services Div. (202) 634-7496		X			X	
NOAA/NMFS	Amendment to 50 CFR Part 251 (Financial Aid Program Procedures)	Michael L. Grable, Chf., Financial Services Div. (202) 634-7496		X			X	
NOAA/NMFS	Atlantic Mackerel Fishery Management Plan (FMP)	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600	X			X		

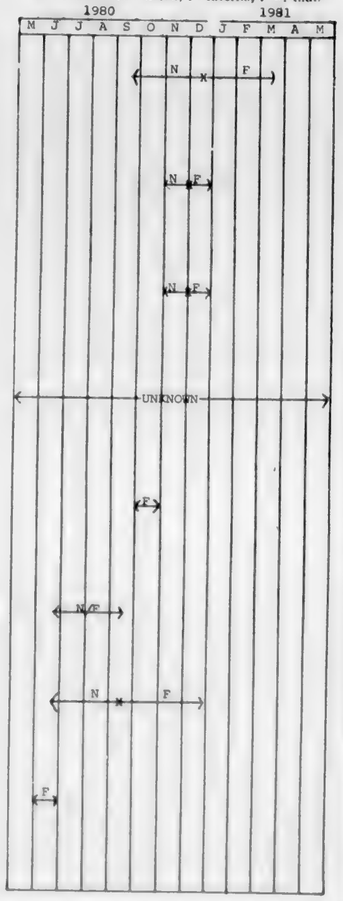

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	High Seas Salmon Fishery Management Plan (FMP), (Amendment No. 1)	Phillip Chitwood, Chf. Fisheries Mgmt. Oprs. Br., Alaska Region (907) 586-7229		X				X
NOAA/NMFS	Fishery Management Plan (FMP) for Shrimp Fishery of the Gulf of Mexico	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (FMP)	Phillip Chitwood, Chf., Fisheries Mgmt. Oprs. Br., Alaska Region (907) 586-7229	X			X		
NOAA/NMFS	Amendments to Regulations which Control the Incidental Take of Porpoise in the Yellowfin Tuna Purse Seine Fishery	William Aron, Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X			X		
NOAA/NMFS	Washington, Oregon, and California Groundfish Fishery Management Plan (FMP)	Thomas E. Kruse, Acting Regional Dir., Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 5)	Phillip Chitwood, Chf., Fisheries Mgmt Oprs. Br., Alaska Region (907) 586-7229	X			X		
NOAA/NMFS	Groundfish Fishery Management Plan (FMP) (Southeast Region)	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Caribbean Shallow Water Reef Fishery Management Plan (FMP)	William H. Stevenson Regional Dir., South east Region (813) 893-3141	X			X		

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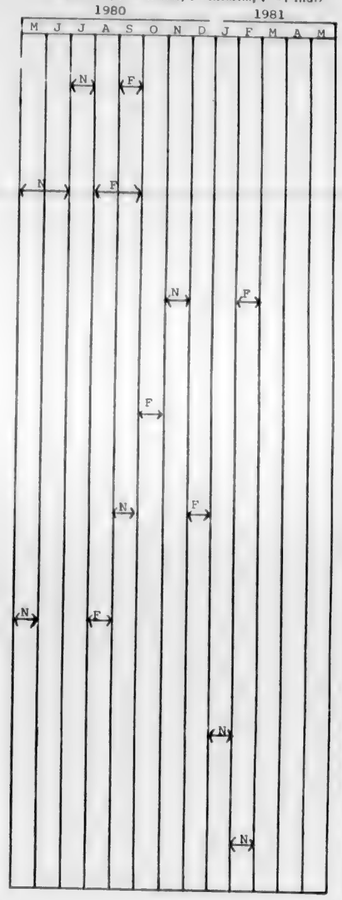

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Foreign Trawl Fisheries of Northwestern Atlantic Preliminary Fishery Management Plan (FMP)	Robert W. Hankm, Dep. Regional Dir., Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Atlantic Mackerel Fishery Management Plan (FMP) (Amendment No. 1)	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Atlantic Squid Fishery Management Plan (FMP) (Amendment No. 1)	Robert W. Hanks, Dep. Regional Dir., Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Atlantic Butterfish Fishery Management Plan (FMP) (Amendment No. 1)	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Extension of Commercial/Recreational Salmon off California, Oregon, and Washington Fishery Management Plan (FMP) (50 CFR Part 661)	Thomas E. Kruse, Acting Regional Dir., Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR Part 226)	Richard B. Roe, Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X					X
NOAA/NMFS	Atlantic Butterfish Fishery Management Plan (FMP)	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600	X			X		

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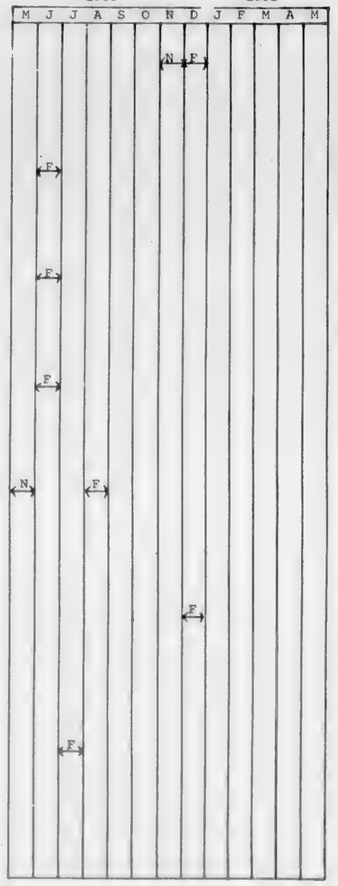

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Department / Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 222)	Floyd S. Anders, Jr. Acting Regional Dir., Southwest Region (213) 548-2575	X				X	
NOAA/NMFS	Regulation Declaring Restricted Fishing Areas (Port Canaveral and Other Areas) (50 CFR Parts 222 and 227)	Richard B. Roe, Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X					X
NOAA/NMFS	Fish and Wildlife Coordination Act, Uniform Procedures for Compliance	James W. Rote, Dir., Ofc. of Habitat Protection (202) 634-7490	X				X	
NOAA/NMFS	Precious Coral Fishery Management Plan (FMP) (Western Pacific)	Floyd S. Anders, Jr. Acting Regional Dir., Southwest Region (213) 548-2575	X			X		
NOAA/NMFS	Reef Fish Resources of the Gulf of Mexico Fishery Management Plan (FMP)	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Fishery Management Plan (FMP) for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Coastal Migratory Pelagic Fishery Management Plan (FMP)	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Bering Sea Snail Preliminary Fishery Management Plan (PMP) Regulations	Phillip Chitwood, Chf. Fisheries Mgmt. Opers. Br., Alaska Region (907) 586-7229		X			X	

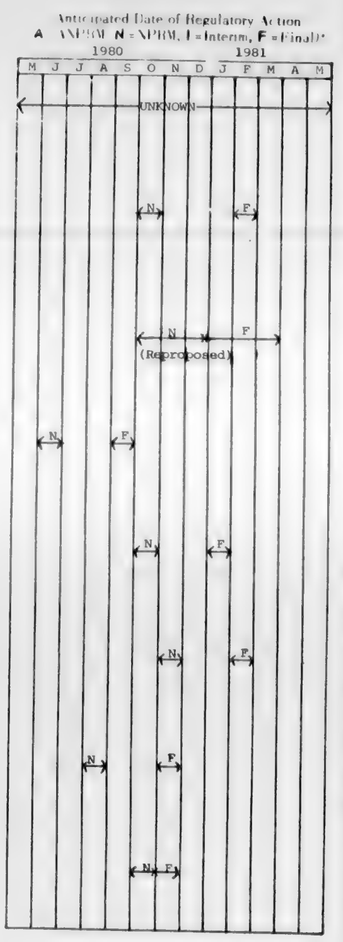

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Department / Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Fishery Management Plan (FMP) for Sharks and Other Elasmobranchs	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Spiny Lobster Fishery Management Plan (FMP) (Western Pacific)	Floyd S. Anders, Jr. Acting Regional Dir., Southwest Region (213) 548-2575	X			X		
NOAA/OCZM	Estuarine Sanctuary Regulations	James W. MacFarland Estuarine Sanctuary Program Mgr., Sanctuary Programs Ofc. (202) 634-4236		X			X	
NOAA/OCZM	Final Regulations for Key Largo Coral Reef Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Looe Key Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Monterey Bay Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Federal Consistency with Approved Coastal Management Programs	Jane W. Rogers Chief of Policy (202) 634-4245	X				X	

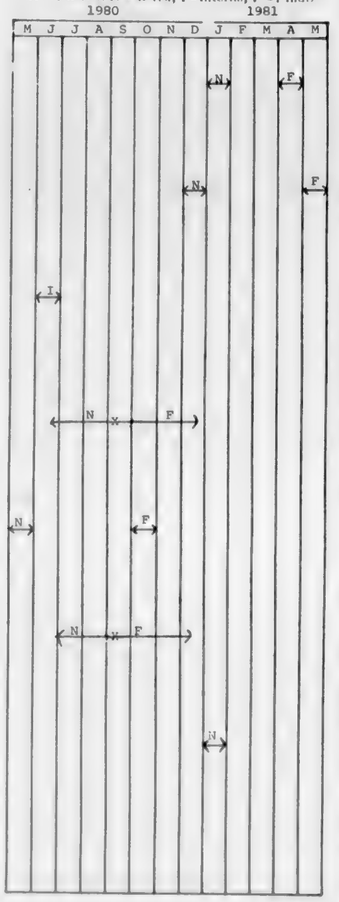

* A = Advanced Notice of Proposed Rulemaking; N = Notice of Proposed Rulemaking; I = Interim Rule; F = Final Rule.

Department — Unit —	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/OCZM	Regulations for Proposed Point Reyes/Farallon Islands Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Flower Garden Banks Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Channel Islands Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed St. Thomas Marine Sanctuary, St. Thomas, Virgin Islands	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Gray's Reef Marine Sanctuary	Nancy Foster, Dep. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
OCE/CENSUS	Foreign Trade Statistics (15 CFR Part 30)	Emerson Jones, Asst. Div. Chf. for Regs. and Program Coordination (301) 763-5526		X			X	
ORD	Amendments to Rules Covering the Regional Action Planning Commissions (13 CFR, Chapter V)	Wayne Weaver Attorney Advisor (202) 377-3139		X			X	

Anticipated Date of Regulatory Action
A (ANPRM, N = NPRM, I = Interim, F = Final)*

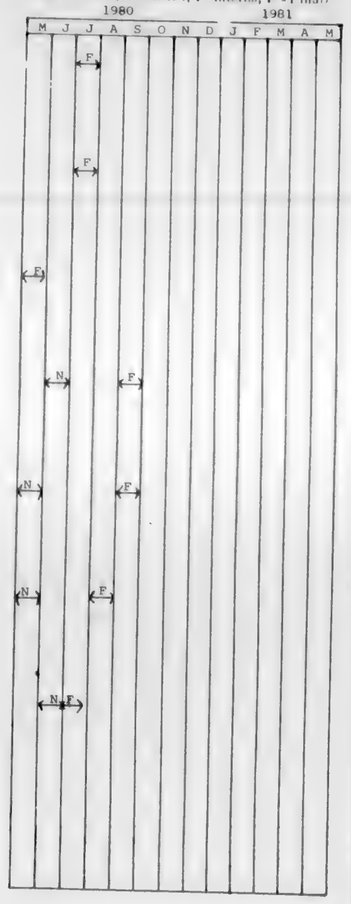

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Department — Unit —	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
PTI/OPSP	Procedures for Listing and Delisting Voluntary Standards Bodies and their Standards-Developing Groups	Howard I. Forman, Dep. Asst. Sec. for Product Standards Policy (202) 377-3221	X				X	
PTI/PTO	Ex Parte Prosecution of Trademark Applications; Inter Partes Proceedings before the Trademark Trial and Appeal Board; Petitions to the Commissioner and Post-Registration Requirements (37 CFR 2.20, 2.27, 2.63, 2.65, 2.81, 2.88, 2.94-2.135, 2.142, 2.146, 2.165, 2.173, 2.184, and 2.186)	David J. Kera, Member, Trademark Trial and Appeal Board (703) 557-3551	X				X	
PTI/PTO	Secrecy of Certain Inventions and Licenses to File Applications in Foreign Countries (37 CFR Part 5)	C. D. Quardforth Dir., Special Laws Admin. Group (703) 557-3077	X				X	
PTI/PTO	Requests for Identifiable Records (37 CFR 1.15)	John W. Dewhirst Assoc. Solicitor (703) 557-3542	X				X	
PTI/PTO	Compulsory Counterclaims in Trademark Opposition and Cancellation Proceedings (37 CFR 2.106 and 2.114)	David J. Kera, Member, Trademark Trial and Appeal Board (703) 557-3551	X				X	
PTI/PTO	Patent Application Oath or Declaration Requirements (37 CFR 1.65, 3.18 and 3.18a)	Louis O. Maassel, Editor, Manual of Patent Examining Procedure (703) 557-3070	X				X	

Anticipated Date of Regulatory Action
A (ANPRM, N = NPRM, I = Interim, F = Final)*

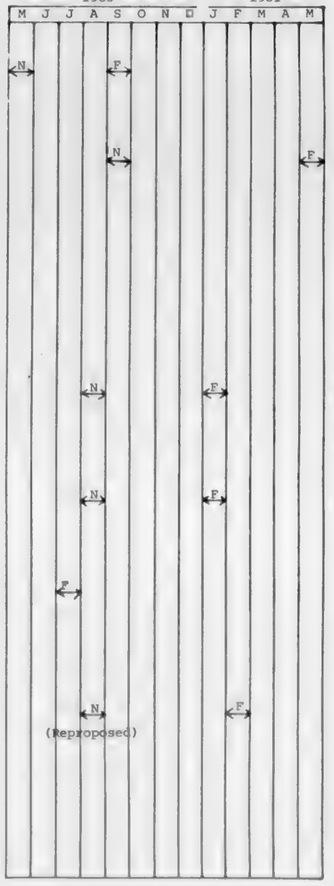

* A = Advanced Notice of Proposed Rulemaking; N = Notice of Proposed Rulemaking; I = Interim Rule; F = Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
PTI/PTO	Professional Conduct of and Advertising by Persons Registered to Practice Before the PTO (37 CFR 1.344, 1.345, 2.13 and 2.14)	Harry I. Moats Commissioner of Patents and Trademarks (703) 557-2238	X			X		
PTI/PTO	Prosecution of Patent Applications after Final Rejection	Louis O. Maassel Editor, Manual of Patent Examining Procedure (703) 557-3070	X			X		
PTI/PTO	Deposit of Computer Program Listings (37 CFR 1.21, 1.77 and 1.96)	Louis O. Maassel Editor, Manual of Patent Examining Procedure (703) 557-3070	X			X		
PTI/PTO	Amending Patents and Patent Applications to Correct Inventorship (37 CFR 1.45 and 1.324)	Louis O. Maassel Editor, Manual of Patent Examining Procedure (703) 557-3070	X			X		
PTI/PTO	Interferences; Motions and Printed Briefs (37 CFR 1.225, 1.231, 1.253, 1.254, and 1.258)	Ian A. Calvert Chairman, Board of Patent Interferences (703) 557-3625	X			X		

Anticipated Date of Regulatory Action
A (ANPRM, N = NPRM, I = Interim, F = Final)*

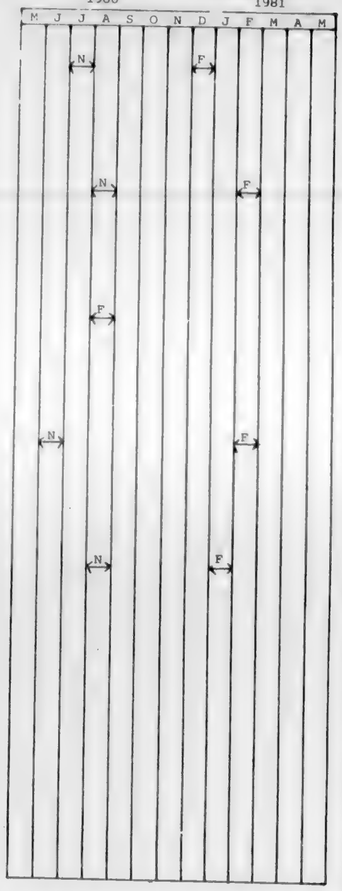

* A = Advanced Notice of Proposed Rulemaking; N = Notice of Proposed Rulemaking; I = Interim Rule; F = Final Rule.

Schedule B: REGULATIONS SELECTED FOR REVIEW BY DOC DEPARTMENTAL UNITS

TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON & TELEPHONE NO.
Procedural Regulation Setting Forth the Criteria for Applications for Federal Recognition of Intl. Expositions (15 CFR Part 1202)	Associate Dep. Sec., Ofc.	22 U.S.C. 2801	Under Review	Fall 1980	Richard Henry, Director Exposition Staff (202) 377-4987
Instruments and Apparatus for Educational and Scientific Institutions (15 CFR Part 301)	ITA	19 U.S.C. 1202	Under Review	September 1980	Richard Seppa, Director Statutory Import Programs Staff (202) 724-3526
Foreign Excess Property Regulations (15 CFR Part 302)	ITA	40 U.S.C. 512	Pending legislation before Congress would require revision of Part 302 within 90 days of enactment of the legislation		Richard Seppa, Director Statutory Import Programs Staff (202) 724-3526
* Antidumping Duties and Countervailing Duties (19 CFR Parts 353 and 355) 1/	ITA	P.L. 96-39 5 U.S.C. 301	Spring 1980	Summer 1980	Richard B. Self, Director Office of Policy (202) 377-1781
Defense Materials Sys. and Defense Priorities Sys. (32A CFR Parts 601-603,621,651,661 and 662)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
Defense Materials Sys. ORDER 1: Iron and Steel (32A CFR Part 631)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
Defense Materials Sys. ORDER 2: Nickel Alloys (32A CFR Part 632)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
Defense Materials Sys. ORDER 3: Aluminum (32A CFR Part 633)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
Defense Materials Sys. ORDER 4: Copper and Copper-Base Alloys (32A CFR Part 634)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
DPS Regulation 2: Operations of the Priorities and Allocations Sys. Between Canada and the U.S. (32A CFR Part 652)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
DPS Regulation 3: Compliance and Enforcement Procedures (32A CFR Part 653)	ITA	50 U.S.C. App. 2061 et seq. Exec. Order 10480	Under Review	Fall 1980	Iain S. Baird, Director Priorities and Allocations Division (202) 377-2233
Joint Export Associations (15 CFR Part 366)	ITA	15 U.S.C. 1512	Under Review	Spring 1980	Merritt Freeman, Deputy Dir. Ofc. of Export Marketing Assistance (202) 377-4766

* Regulation deemed significant by Department unit.

1/ Review will initially focus on the sections of the antidumping and countervailing duty regulations the finalization of which were deferred when the regulations became final on February 6 and January 22, 1980, respectively.

Schedule B: REGULATIONS SELECTED FOR REVIEW BY DOC DEPARTMENTAL UNITS

TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON & TELEPHONE NO.
China Trade Act Corporations (15 CFR Part 363)	ITA	15 U.S.C. 141-162	Not Determined	Not Determined	Harry R. Strimpel, Jr. Registrar (202) 377-2210
* Export Administration Regulations (15 CFR Parts 368-399)	ITA	50 U.S.C. App. 2401 et seq.	Under Review**	May 1981	Kent Knowles, Director Office of Export Administration (202) 377-2118
General Regulations Governing Foreign-Trade Zones in the U.S., with Rules of Procedure (15 CFR Part 400)	ITA	19 U.S.C. 81(a)-81(u)	Under Review	October 1980	John J. DaPonte Executive Secretary (202) 377-2862
* Operating-Differential Subsidy (ODS) Rates for Liner Vessels - New Part (Procedures now published in manual will be revised and published in regulation form.)	MARAD	46 U.S.C. 1114(b)	Under Review	Fall 1980	Frederick R. Larson, Director Office of Ship Operating Costs (202) 377-5532
* Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Carrying Grain to the U.S.S.R. (46 CFR Part 294)	MARAD	46 U.S.C. 1114(b)	Summer 1980	Spring 1981	Frederick R. Larson, Director Office of Ship Operating Costs (202) 377-5532
Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Service (46 CFR Part 252)	MARAD	46 U.S.C. 1114(b)	Under Review	Winter 1980	Fredrick R. Larson, Director Office of Ship Operating Costs (202) 377-5532
Nation Shipping Authority (NSA), Shipping Operations (32A CFR Chapter 18, Subpart A)(Review of 26 Regulations in Parts 1801-1886)	MARAD	50 U.S.C. App. 1744	Spring 1980	Winter 1980	Arya H. Huizinga, Engineer Office of Ship Operating Costs (202) 377-5157
U.S. Standards for Grades of Frozen Raw Headless Shrimp (50 CFR Part 265, Subpart A)	NOAA/NMFS	7 U.S.C. 1621-1630	June 1980	March 1981	James R. Brooker, Act. Chief Standards Spec. and Labeling Branch (202) 634-7458
U.S. Standards for Grades of Fried Fish Sticks and Fried Fish Portions (50 CFR Part 264, Subpart G)	NOAA/NMFS	7 U.S.C. 1621-1630	May 1980	June 1981	James R. Brooker, Act. Chief Standards Spec. and Labeling Branch (202) 634-7458
Uniform Standards for Organization, Practices, and Procedures - Regional Fishery Management Councils (50 CFR Part 601, Subpart C)	NOAA/NMFS	P.L. 95-265 16 U.S.C. 1852, 1854 and 1855	Under Review 2/	Fall 1980	Winfred H. Meibohm, Executive Director, National Marine Fisheries Ser. (202) 634-7292
U.S. Standards for Grades of Fish Fillets (50 CFR Part 263)	NOAA/NMFS	7 U.S.C. 1621-1630	May 1980	June 1981	James R. Brooker, Act. Chief Standards Spec. and Labeling Branch (202) 634-7458

• Regulation deemed significant by department unit

•• Regulatory analysis to be required

2/ An operations handbook will serve as the basis for developing new and/or revising current regulations. Work on the handbook started in August 1979, and is continuing.

Schedule C -- Regulations Deleted From Prior DOC Semiannual Agenda * 1/

Department Unit	Title of Regulation	Prior Agenda Listing 2/	Reason for Deletion from Agenda
ADMIN	Department of Commerce Grants: Disputes and Appeals Procedures (15 CFR Part 18)	UC	Regulation being held in abeyance. New procedures will be developed once governmentwide guidelines are developed under the auspices of the Office of Management and Budget.
EDA	Supplementary Grants, Public Works and Development Facilities Program (13 CFR 305.5(a), (b))	UC	Published in the Federal Register in final on November 30, 1979, at 44 FR 68818.
EDA	* Business Development Program (13 CFR Part 306)	UR	Postponed pending congressional action on amendments to the Public Works and Economic Development Act.
MARAD	* Charges for Processing Certain Applications (46 CFR 221.14)	UC	Published in the Federal Register in final on April 2, 1980 at 45 FR 21635.
MARAD	* Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Services; Principal Foreign Flag Competition; Foreign Wage Cost (46 CFR 252.22, 252.31)	UC	Published in the Federal Register in final on February 6, 1980 at 45 FR 8023.
MARAD	* Rules of Practice and Procedure: Procedure for Hearing on Operating-Differential Subsidy Applications; Applications for Subsidies and Other Direct Financial Aid (46 CFR Parts 201, 208 (new) and 251)	UC	Published in the Federal Register in final on June 25, 1979 at 44 FR 37003.
MARAD	Inventories of Vessels Covered by Operating-Differential Subsidy Agreements (46 CFR Part 293)	UC	Published in the Federal Register in final on September 11, 1979 at 44 FR 52837.
NOAA/NMFS	* Atlantic Billfishes and Sharks Preliminary Fishery Management Plan (PMP): Amendment to Extend the Regulation for the Period January 1, 1980 to December 31, 1980	UC	Published in the Federal Register in final on September 18, 1979 at 44 FR 54202.
NOAA/NMFS	Atlantic Mackerel Preliminary Fishery Management Plan (PMP)	UC	The PMP has been superseded by the Atlantic Mackerel Fishery Management Plan (FMP) (see Schedule A).
NOAA/NMFS	* Pacific Billfish and Oceanic Sharks Preliminary Fishery Management Plan (PMP)	UC	** Published in the Federal Register in final on March 6, 1980 at 45 FR 14581.
NOAA/NMFS	Endangered Species Exemption (50 CFR Part 451)	UC	Published in the Federal Register in final on February 8, 1980 at 45 FR 8624.
NOAA/NMFS	Fishing Vessel and Gear Damage Compensation Fund	UC	Published in the Federal Register in final on October 25, 1979 at 44 FR 61546.
NOAA/NMFS	Fishermen's Contingency Fund	UC	Published in the Federal Register in final on January 24, 1980 at 45 FR 6062.
NOAA/NMFS	* Stone Crab Fishery Management Plan (FMP)	UC	** Published in the Federal Register in final on September 14, 1979 at 44 FR 53519.

1/ Prior agenda refers to second agenda which was published on September 18, 1979 (44 FR 54166).

2/ Listed in prior agenda(s) as regulation under consideration (UC) or existing regulation under review (UR).

* Regulation was deemed significant by Department Unit.

** Regulatory Analysis performed by Department Unit.

Schedule C -- Regulations Deleted From Prior DOC Semiannual Agenda

Department Unit	Title of Regulation	Prior Agenda Listing	Reason for Deletion from Agenda
NOAA/NMFS	* Atlantic Surf Clam and Ocean Quahog Fisheries (50 CFR Part 652) (Amendment)	UC	Published in the Federal Register in final on January 3, 1980 at 45 FR 786.
NOAA/NMFS	Fishery Management Plan (FMP) for Pollock Fishery in the Atlantic Ocean	UC	Efforts to develop regulations suspended. Anticipated dates when action will be resumed are too tentative and/or too far into the future to make inclusion in this agenda meaningful.
NOAA/NMFS	* Fishery Management Plan (FMP) for Atlantic Herring Fishery (50 CFR Part 653) (Amendment)	UC	Published in the Federal Register in final on October 2, 1979 at 44 FR 56700.
NOAA/NMFS	* Jack Mackerel Fishery Management Plan (FMP)	UC	Regional Fishery Management Council has determined that FMP is not needed at this time.
NOAA/NMFS	Proposed Rule for Revising the Lists of Endangered and Threatened Wildlife and Plants and Designating Species' Critical Habitat (50 CFR Parts 17 and 424)	UC	Published in the Federal Register in final on February 27, 1980 at 45 FR 13010.
NOAA/NMFS	Bering Sea Sablefish Preliminary Fishery Management Plan (PMP)	UC	Being replaced by Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (FMP) and regulations (see Schedule A).
NOAA/NMFS	Foreign Fee Schedule Regulations (Foreign Fishing Vessels; Fee Schedule for Calendar Year 1980) (50 CFR Part 611)	UC	Published in the Federal Register in final on December 26, 1979 at 44 FR 248.
NOAA/NMFS	Foreign Fishing Regulations (control of foreign fishing; allocation of fishery resource in Fishery Conservation Zone to foreign nations)	UC	Regulations govern such matters as permits for foreign vessels, vessel reports, vessel/gear identification, facilitation of enforcement, etc. Regulations are now maintained (and periodically updated, as necessary) in a Foreign Fishing Manual. Users of the manual are provided manual inserts as changes occur. The current system was determined to be more flexible and efficient than formal codification of the existing regulations.
NOAA/NMFS	* Guidelines for Development of Fishery Management Plans Regulations (50 CFR Part 602) (governing confidentiality of statistics related to development of fishery management plans)	UC	Interim final regulations published in the Federal Register on December 7, 1979 at 44 FR 237.
NOAA/NMFS	* Fishery Management Plan (FMP) for the Atlantic Billfishes: White Marlin, Blue Marlin, Sailfish, and Spearfish	UC	Efforts to develop regulations suspended. Anticipated dates when action will be resumed are too tentative and/or too far into the future to make inclusion in this agenda meaningful.
NOAA/NMFS	* Fishery Management Plan (FMP) for Coral and Coral Resources	UC	Efforts to develop regulations suspended. Anticipated dates when action will be resumed are too tentative and/or too far into the future to make inclusion in this agenda meaningful.
NOAA/NMFS	* Fishery Management Plan (FMP) for the Spiny Lobster Resource (South Atlantic and Gulf of Mexico)	UC	Efforts to develop regulations suspended. Anticipated dates when action will be resumed are too tentative and/or too far into the future to make inclusion in this agenda meaningful.

Schedule C -- Regulations Deleted From Prior DOC Semiannual Agenda

Department Unit	Title of Regulation	Prior Agenda Listing	Reason for Deletion from Agenda
NOAA/NMFS	* Gulf of Alaska Groundfish Fishery Management Plan (FMP) Regulations (Amendment to 1978-1979 regulations; foreign and domestic trawling and longlining for groundfish in the Fishery Conservation Zone of the Gulf of Alaska)	UC	Published in Federal Register in final on September 18, 1979 at 44 FR 54064.
NOAA/NMFS	* Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment)	UC	Published in the Federal Register in final on October 29, 1979 at 44 FR 61982.
NOAA/NMFS	Squid Fishery of the Northwest Atlantic Preliminary Fishery Management Plan (PMP)	UC	Entry should not have been included in the second semiannual agenda. Final regulations were published in the Federal Register on February 4, 1977 at 42 FR 6876.
NOAA/NMFS	* Gulf of Alaska Groundfish Regulations (Amendment). (Extended fishery management plan for one-year period beginning November 1, 1979)	UC	Published in the Federal Register in final on November 7, 1979 at 44 FR 64410.
NOAA/NMFS	* High Seas Salmon Fishery Management Plan (FMP) Regulations	UC	Published in the Federal Register in final on September 6, 1979 at 44 FR 51988.
NOAA/NMFS	Fishery Management Plan (FMP) for Atlantic Groundfish (Cod, Haddock, Yellowtail Flounder) (50 CFR Part 651)	UC	Entry should not have been included in second semi-annual agenda. Final regulations were published in the Federal Register on January 11, 1979 at 44 FR 2397.
NOAA/NMFS	Administration of Pribilof Islands (Marine Mammals) (50 CFR Part 215, Subpart C)	UR	Regulations were being reviewed to address the management of bird cliffs on the Aleutian Islands (St. George and St. Paul). Land has now been transferred, in its entirety, to the Tanadgusix Corp. of St. Paul Island and the Tanaq Corp. of St. George Island.
NOAA/OCZM	Regulations for Proposed Georges Bank Marine Sanctuary (Tentative)	UC	The site was withdrawn as a candidate for marine sanctuary designation. This decision was based on the fact that the ability of existing regulatory mechanisms to protect the values of the area most immediately threatened had significantly increased. The withdrawal announcement was published in the Federal Register on October 31, 1979 at 44 FR 62553.
NOAA/OCZM	Shorefront Access/Island Preservation Regulations	UC	Formulation of regulations has been postponed pending the outcome of legislation to amend the Coastal Zone Management Act.
NOAA/OCZM	Estuarine Sanctuary Regulations	UR	Review completed (see Schedule A).
OCE/BEA	Foreign Direct Investment in the United States Survey Regulations (15 CFR Part 804)	To be deleted	Federal Register notice to revoke regulation not yet published.

Schedule C -- Regulations Deleted From Prior DOC Semiannual Agenda

Department Unit	Title of Regulation	Prior Agenda Listing	Reason for Deletion from Agenda
OCE/BEA	Preliminary Survey of International Leasing Transactions in 1975 (15 CFR Part 805)	To be deleted	Federal Register notice to revoke regulation not yet published.
OCE/CENSUS	Cutoff Dates for Recognition of Boundary Changes for the 1980 Census (15 CFR Part 70)	UR	Review completed. No changes contemplated.
OCE/CENSUS	Furnishing Personal Census Data from Census of Population Schedules (15 CFR Part 80)	UR	Review completed. No changes contemplated.
OCE/CENSUS	Public Information (15 CFR Part 60)	UR	Review completed. No changes contemplated.
OCE/CENSUS	Special Services and Studies by the Bureau of the Census (15 CFR Part 50)	UR	Review completed. No changes contemplated.
OCE/OSFPS	* Standard Metropolitan Statistical Classification -- Revised Criteria	UC	Published in the Federal Register in final on January 3, 1980 at 45 FR 956.
ORD	* Regional Development Commission (13 CFR Chapter V)	UC	The regulations previously under consideration were in anticipation of the passage of new authorizing legislation. This legislation was not passed by the Congress. Consequently, ORD has terminated the development of these regulations.
PTI/PTO	* Interferences, Motions Before the Primary Examiner (37 CFR 1.231)	UC	Combined with related regulations under a new title: Interferences; Motions and Printed Briefs (see Schedule A).
PTI/PTO	* Examination of Reissue Applications (37 CFR 1.176)	UC	Changes determined to be unnecessary. Alternatives available under existing regulations have proven to be adequate.
PTI/PTO	* Recording Interests in Patents, Trademarks, Patent Applications and Trademark Applications (37 CFR 1.331-334, 2.185-187)	UC	Changes determined to be unnecessary. Guidelines will be published in the Manual of Patent Examining Procedure and Trademark Manual of Examining Procedure to assist the public in determining the kinds of interests that may and may not be recorded.
PTI/PTO	* Advisory Opinions by the PTO on the Validity of Patents	UC	Postponed pending congressional action on H.R. 6933 and S. 1679 which include provisions for the re-examination of issued patents.
PTI/PTO	* Inter Partms Proceedings and Procedures before the Trademark Trial and Appeal Board (37 CFR 2.91-136 and 2.27(d))	UR	Review completed. Revisions are under consideration (see Schedule A).
PTI/PTO	* Appeals to the Trademark Trial and Appeal Board (37 CFR 2.141-142 and 2.64)	UR	Review completed. Revisions are under consideration (see Schedule A).
PTI/PTO	* Secrecy of Certain Inventions and Licenses to File Applications in Foreign Countries (37 CFR Part 5)	UR	Review completed. Revisions are under consideration (see Schedule A).

Schedule C -- Regulations Deleted From Prior DOC Semiannual Agenda

Department Unit	Title of Regulation	Prior Agenda Listing	Reason for Deletion from Agenda
PTI/PTO	* Petitions to the Commissioner in Trademark Cases (37 CFR 2.146-2.148, 2.64, 2.65 and 2.184)	UR	Review completed. Revisions are under consideration (see Schedule A).
PTI/PTO	* Request for Identifiable Records (37 CFR 1.15)	UR	Review completed. Revision is under consideration (see Schedule A).

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of the United States to compensate them Anticipated date of draft analysis (N/ term financial stability of the operating

Appendix—Complete Entries of Significant Regulations in DOC's Semiannual Agenda of Regulations

DOC Operating Unit

Economic Development Administration (EDA).

Title of Regulation

Requirements Regarding the Organizational Structure of Economic Developmentr Districts, 13 CFR 303.2, 303.4, 303.4a, 303.7, 304.3, 307.25, 311.4.

(a) *Description and Need.* These regulations set forth the requirements for economically distressed areas to receive designation as "economic development districts" and to become eligible to receive certain forms of financial assistance from EDA. EDA published an interim rule on June 6, 1979 (correction published June 29, 1979), to describe in greater detail the nature of the functions which a district must perform and to provide for a waiver, in certain limited situations, of the requirements concerning the basic organizational structure of a district. EDA has considered the comments received on the interim rule and is in the process of revising the interim rule prior to publishing these regulations in final.

(b) *Legal Authority.* The Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3211).

(c) *Importance:*
(i) Are the regulations significant? (yes x , no , unknown).
(ii) Are the regulations major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates the Rule Will Appear in the* **Federal Register:**
(i) In interim form (June 6, 1979, 44 FR 32359; correction published on June 29, 1979, 44 FR 37905).
(ii) In final form (June, 1980).

(e) *Tentative Plan for Obtaining Public Comments.* Due to certain funding restrictions, EDA published the changes to these regulations in interim form in June of 1979 and provided 60 days for comment. EDA has provided ample opportunity to interested parties to participate by holding a series of meetings regarding these changes and by corresponding extensively concerning the nature of the changes. EDA has received many comments concerning the interim rule, both expressing support and suggesting further changes. EDA will respond to the comments when it publishes the final rule.

(f) *Major Issues.* The primary issue involved in these regulations concersn the degree of flexibility the districts should have in meeting EDA's representation requirements. Some parties believe that the district organization should be required to provide for representation of the various interests in the district (e.g., minorities, the unemployed, principal economic interests, etc.) directly on the governing board of the district organization. Other parties stated that the districts should be free to adopt alternative organizational arrangements which provided for the involvement of representatives of the various interests, without being required to provide for direct representation on the governing board of the district.

(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis required? (yes , no x , unknown).
(2) Other documents available: none.

(h) Agency Contact: Victor A. Hausner, Deputy Assistant Secretary for Policy and Planning, Economic Development Administration, Washington, D.C. 20230, Tel. (202) 377–3121.

DOC Operating Unit

Ecomonic Development Administration (EDA).

Title of Regulation

(Miscellaneous changes regarding energy conservation in EDA financial assistance programs), 13 CFR 304.4, 305.59, 306.12, 307.3, 307.22, 307.28, 307.52, 307.55, 307.56, 307.57, 308.6, 315.54, 315.55.

(a) *Description and Need:* Executive Order 12185 requires Federal agencies to publish regulations which are designed to achieve conservation of petroleum and natural gas in connection with the extension of Federal assistance. EDA will publish proposed regulations to implement the Order in its financial assistance programs. While a number of regulations will be affected due to the number of grant and loan programs which EDA administers, the changes basically involve three types: Changes to economic development and adjustment planning requirements to ensure that recipients of planning assistance consider the need for energy conservation in their plans; changes to program requirements to allow explicitly the costs associated with energy conservation as eligible project costs; and changes to certain program requirements to require applicants to perform "energy design and operating analyses" to help ensure that funds are used to construct energy-efficient projects.

(b) *Legal Authority:* Section 701 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3211); Executive Order 12185, December 17, 1979.

(c) *Importance:*
(i) Are the regulations significant? (Yes x , no , unknown).
(ii) Are the regulations major? (Yes , no x , unknown).

(d) *Timetable: Anticipated Dates the Rule Will Appear in the* **Federal Register:**
(i) In proposed form (May, 1980).
(ii) In final form (Summer, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* EDA will allow 60 days for comment on the proposed rule. In addition, EDA has consulted directly with many public interest groups concerned with EDA programs regarding the nature of these changes and will continue to consult with these groups and others over the course of the next few months.

(f) *Major Issues:* The major issues involved in these proposed regulations concern how EDA can best implement the goals of the Executive Order 12185 to conserve natural gas and petroleum in the financial assistance programs administered by EDA. The goals of the Order would be furthered if EDA were to fund projects which would contribute most to energy conservation. In funding projects, however, EDA must first carry out the legislative mandate of its program authorities and fund those projects which will create or retain jobs in economically distressed areas. EDA has concluded preliminarily that the goals of the Executive Order can be best achieved in the context of EDA's job-creation mission by continuing to select projects primarily on the "job-creation" merits, but ensuring that such projects are planned and constructed in accord with energy conservation principles.

(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis required? (Yes , no x , unknown).
(2) Other documents available: none.

(h) *Agency Contact:* Alan S. Gregerman, Policy Development Division, Economic Development Administration, Washington, D.C. 20230, tel. (202) 377–5103.

DOC Operating Unit

Marad.

Title of Regulation

Operating-differential subsidy for bulk cargo vessels engaged in worldwide service; essential service requirement (46 CFR 252.21).

(a) *Description and Need:* The Maritime Administration (Marad) provides operating-differential subsidy (ODS) payments to American carriers engaged in the essential foreign trades of the United States to compensate them for the cost differences in operating under the U.S. flag, rather than under competitive foreign flags. For liner operators, the statutory definition of "essential foreign trade" covers only shipments to and from the United States. However, "essential foreign trade" for tramp trade bulk carriers includes foreign-to-foreign point shipments as well, since tramp ships must be able to go where cargo is available. Marad wrote into the tramp trade bulk carrier ODS contracts a requirement that they carry a certain percent of their cargo to and from U.S. ports in order to ensure that the subsidized bulk operations promoted the foreign trade of the U.S. Marad has suspended enforcement of the U.S. trade percentage restriction since 1977 while evaluating the need for this requirement. Experience since then has shown that subsidized tramp bulk operators tend to carry a high percentage of their cargo to and from U.S. ports even without the contractual obligation to do so. However, the continued existence of the contractual restriction may hamper the operations of U.S.-flag bulk carriers and so place U.S. operators at a competitive disadvantage. The proposed amendment to the regulation would therefore permanently eliminate this restriction in existing ODS contracts for bulk carriers.

(b) *Legal Authority:* Secs. 204(b), 601(a), Merchant Marine Act, 1936 as amended, (46 U.S.C. 1114(b)), 1171(a)).

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (published May 31, 1979, 44 FR 31239).
(ii) In final form (May 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** with information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues:* The major issue in this regulation is to balance the interests of the U.S. Government in making sure that subsidy funds are used to promote the foreign commerce of the U.S. against the impact and cost of foreign percentage restrictions that limit the ability of U.S. operators to compete with foreign-flag operators.

(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (N/A) [1]
(2) Other Documents Available: None

(h) *Agency Contact:* Kenneth Willis, Examiner, Maritime Administration, Office of Subsidy Contracts, Washington, D.C. 20230, Tel. (202) 377–4660.

DOC Operating Unit

Marad.

Title of Regulation

Conservative Dividend Policy (46 CFR Part 283).

(a) *Description and Need:* The Maritime Administration (Marad) provides operating-differential subsidies (ODS) for the operators of American-flag vessels in the foreign trades to compensate them for the added cost of operating under American registry. ODS recipients are contractually bound to follow a conservative policy on paying dividends to ensure that they have sufficient capital to meet their obligations and finance new vessels at the end of the useful life of subsidized ships. Since almost every ODS recipient also participates in a government obligation guarantee (Title XI), the dividend policy has an effect on that program as well. Vessel operators have argued that the current dividend policy, especially as it affects "working capital" requirements, is more restrictive than what is necessary to protect the government's interests. The regulations would lessen these restrictions.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (published July 18, 1979, 44 FR 41854).
(ii) In final form (May 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** and information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues:* The major issues are whether the proposed regulation strikes an appropriate balance between the need to provide ODS recipients with sufficient financial flexibility, and the interest of the government in the long-term financial stability of the operating companies, and whether the balance struck in the proposed regulation also meets the needs of the title XI program.

(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes , no x , unknown).
Anticipated date of draft analysis (N/A).
(2) Other Documents Available: None.

(h) *Agency Contact:* Murry Bloom, Maritime Administration, Office of the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, Tel. (202) 377–2056.

DOC Operating Unit

Marad.

Title of Regulation

Construction-differential subsidy (CDS) contracts (46 CFR Part 251).

(a) *Description and Need.* The Maritime Administration (Marad) administers a construction-differential subsidy program (CDS) which is intended to encourage the construction of privately-owned merchant ships in American shipyards. The CDS payment compensates for the difference in cost for work done in American, rather than foreign shipyards. Three contracts are required for each project: One between the purchaser or owner and the shipyard; one between the purchaser or owner and Marad, and one between the shipyard and Marad. Currently, the terms of all three contracts are negotiated for each project even though the same set of legal standards applies to all projects. Marad will therefore promulgate a standard set of contracts for use by all parties on future projects. This will greatly reduce legal time and expenses for all parties and will ensure that all interested parties participated in a CDS program on an equal basis.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*
(i) is the regulation significant? (yes x , no , unknown).
(ii) is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates the Proposal Will Appear in the* **Federal Register:**
(i) In proposed form (published February 19, 1979, 44 FR 3997).
(ii) In Final form (May 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Provided for through publication in **Federal Register;** comments have been reviewed and proposed revisions are being made by the staff for consideration by the Maritime Subsidy Board.

[1] Final regulatory analysis available on publication of final regulation.

(f) *Major Issues:* The major issues in drafting the standardized contracts are

with information released to and published by *Journal of Commerce* and

dry bulk cargo vessels. Regulations governing ODS for all bulk cargo vessels

considering applications for the total

DOC Operating Unit

DOC Operating Unit

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(f) *Major Issues:* The major issues in drafting the standardized contracts are to ensure that they are (1) consistent with legal requirements, (2) adequately protecting the interests of the government, (3) consistent with industry practices, and (4) sufficiently flexible to cover future contingencies.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required?
(yes , no x , unknown).
Anticipated date of draft analysis (N/A).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* Melvin S. Eck, Attorney-Advisor, Maritime Administration, Office of the General Counsel, Washington, D.C. 20230, Tel. (202) 377–2771.

DOC Operating Unit

Marad.

Title of Regulation

Requirements and procedures for the administration of condition surveys and maintenance and repair subsidy (46 CFR Part 272).

(a) *Description and Need:* 46 CFR Part 272 establishes the policy and procedure of the agency in administering that part of the operating-differential subsidy (ODS) program relating to requirements for conducting condition surveys of vessels under ODS agreements (ODSA), which provide for maintenance and repair (M&R) subsidy. It includes requirements for the accomplishment and reporting of maintenance and repair. This part is not applicable to ODSA for the carriage of grain to the U.S.S.R. The revision clarifies various provisions, which have presented administrative problems, and reorganizes the entire part. Also, it reflects a change in policy to allow payment of ODS for that part of the M&R costs accomplished by utilizing labor, materials, or both, of domestic origin, irrespective of where the work was accomplished, i.e., anywhere in the world.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (May 1980).
(ii) In final form (October 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in the **Federal Register** with information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues:* The major issue is whether the agency has been too restrictive in its interpretation of a requirement in section 606(6) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1176), to be incorporated in every ODSA, that "an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency." This interpretation, as reflected in existing §§ 272.10(a) and 272.11(c), disallows subsidy for all foreign repairs performed "outside the continental limits of the United States." The Maritime Subsidy Board has reviewed an analysis of the legislative history of this provision of the 1936 Act, and has concluded that M&R subsidy should be payable for that part of the M&R cost accomplished by utilizing labor, materials, or both, of domestic origin, irrespective of where the work was accomplished, i.e., anywhere in the world.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required?
(yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* John J. Davis, Chief, Division of Ship Management, Maritime Administration, Washington, D.C. 20230, Tel. (202) 377–3640.

DOC Operating Unit

Marad.

Title of Regulation

Award and Administration of Operating-Differential Subsidy for Dry Bulk Cargo Vessels (46 CFR Part 254).

(a) *Description and Need:* The Maritime Administration (Marad) administers an operating-differential subsidy (ODS) program, which is intended to Compensate American shipowners in foreign trade for the cost difference between operating a ship under American, rather than foreign registry. The level of ODS payments is based on the comparative costs incurred by representative American and foreign operators with respect to major items. The procedures for selecting representative cost items and representative foreign flags, as well as costs, and for calculating ODS payments are revised frequently as economic conditions change. The proposed regulation will recognize the need for some substantive rules and procedures in the administration of the operating-differential subsidy program (ODS) for dry bulk cargo vessels. Regulations governing ODS for all bulk cargo vessels engaged in worldwide services appear in 46 CFR Part 252, selected for review. Amendments to Part 252 will be based on the scheme and format of the newly proposed Part 254. The new Part 254 will also implement any new legislation which might be enacted, arising out of proposals submitted by Marad and other legislative initiatives.

(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register.**
(i) In proposed form (published September 6, 1979, 44 FR 52002).
(ii) In final form (July 1980) [2]

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major issues:* The major issues are the need to develop regulations that recognize the unique problems of dry bulk vessel operators receiving ODS, to clarify existing law and reflect enactment of legislative proposals, if enacted.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required?
(yes , no x , unknown).
Anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Frederick R. Larson, Maritime Administration, Director, Office of Ship Operating Costs, Washington, D.C. 20230, Tel. (202) 377–5532.

DOC Operating Unit

Marad.

Title of Regulation

Construction-Differential Subsidy (CDS) Repayment: Total repayment policy and procedure (46 CFR Part 276).

(a) *Description and Need:* The Maritime Subsidy Board (Board) published a notice in the **Federal Register** on November 2, 1978, proposing to amend 46 CFR Part 276 to include a new section describing its policy in considering applications for the total repayment of CDS, including terms for repayment. At the time of publication there was pending before the U.S. Court of Appeals for the District of Columbia a decision by the District Court, holding that the Secretary of Commerce has the authority to accept total repayment of CDS in exchange for removal of domestic trade restrictions imposed by section 506 of the Merchant Marine Act, 1936, as amended. The Board issued proposed regulations prior to final disposition of the litigation based upon the request of the parties to promulgate regulations, as suggested by the District Court in its decision. The Board has not proceeded with final rulemaking action, pending final resolution of the issue of the Secretary's authority to accept the total CDS repayment. On February 20, 1980, the Supreme Court ruled that the Secretary had this authority. The Supreme Court reversed the Court of Appeals decision, and remanded the case to the Court of Appeals for further consideration of whether the Secretary could accept a promissory note as repayment.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (published November 2, 1978, 43 FR 51045).
(ii) In final form (June 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in the **Federal Register** with information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues:* The major issues are (1) under what circumstances should the Secretary of Commerce exercise existing authority to accept total repayment of CDS, and (2) what terms of repayment will be equitable, balancing the interests of the CDS vessel owners, competitors whose vessels were built without CDS, and the government.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required?
(yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* J. B. Young, Director, Office of Trade Studies and Statistics, Maritime Administration, Washington, D.C. 20230, Tel. (202) 377–4758.

DOC Operating Unit

Marad.

Title of Regulation

Documentation transfer or charter of vessels (46 CFR Part 221).

(a) *Description and Need:* Regulations in 46 CFR Part 221 includes provisions governing the transfer of vessels and interests in vessels owned by U.S. citizens to non-citizens and approvals of vessel charters to aliens, pursuant to authority in the Shipping Act, 1916. The amendments are being made to clarify the applicability of a general provision for the approval of certain vessel charters to aliens and to distinguish it from a procedure limited to approval of vessel charters for carriage of agricultural commodities to the U.S.S.R. The list of countries with which trade may not be approved for vessels chartered to aliens has been revised to be consistent with policy as proclaimed by the President. A similar revision has been made to a restricted list with respect to transfers of vessels, or interests therein, to aliens.

(b) *Legal Authority:* Secs. 9, 37 and 41, Shipping Act, 1916 as amended.

c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register**
(i) In proposed form (N/A).
(ii) In final form (June 1980).

(e) *Tentative Plan for Obtaining Public Comments:* None. Clarifying amendments are not significant, and the amendments of the restricted countries list relates to implementation of the exercise by the President of a foreign affairs function, which is not subject to the requirements of E.O. 12044 pursuant to provision of section 2(b) thereof.

(f) *Major Issues.* The major issues are to clarify the distinction between a general provision and one of a limited applicability and to conform the provision concerning trade restrictions to be consistent with the policy announced by the President.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required?
(yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* Virginia O'Brien, Foreign Transfer Officer, Division of Ship Management, Office of Ship Operations, Maritime Administration, Washington D.C. 20230, Tel. (202) 377–3213.

DOC Operating Unit

Marad.

Title of Regulation

Construction-differential subsidy (CDS)-requirements for aid (46 CFR Part 251).

(a) *Description and Need:* The Maritime Administration (Marad) makes available construction-differential subsidies (CDS) for shipowners who undertake construction, reconstruction or reconditioning in American shipyards. CDS payments are intended to offset the higher cost of work in American shipyards. It is made available only to qualified shipowners who will place the vessels in the foreign trades of the U.S. Marad has developed over the years many restrictions, requirements and procedures for administering the CDS program. These policies determine who is eligible, the procedures for application, the types of ships which may be built with CDS funds, the conditions of service for CDS built vessels, the level of CDS payments, and the obligations of both Marad and the vessel owner after construction. These policies have been set forth in a wide range of documents. Some of them have never been formally published as regulations. The proposed regulation would therefore codify these policies without making any substantive change in them. Among the anticipated benefits are (1) clarification of the legal status of the CDS policies and procedures, (2) advising the public of program benefits and requirements, and (3) easing the task of administering the CDS program.

(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) Timetable: Anticipated Dates Proposal Will Appear in **Federal Register:**
(i) In proposed form (unknown) [3]
(ii) In final form (unknown)[3]

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues:* Regulations would be codifications of existing policies and practices for the CDS program. Therefore, it is not anticipated that any

[2] Estimate subject to delays pending congressional action on pending legislative proposals relating to promotion of U.S.-flag dry bulk vessel construction.

[3] The need for developing regulations is being reassessed.

major issues or controversies would

Commerce and *Congressional*

(c) *Importance:*

relationships they reflect will reduce, if

and foreign fishing in the Pacific

major issues or controversies would develop if they are issued.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* James E. Saari, Attorney-Adviser, maritime Administration, Office of General Counsel, Washington, D.C. 20230, Tel. (202) 377–2771.

DOC Operating Unit

Marad.

Title of Regulation

Cargo Preference-U.S. flag vessels-determination of fair and reasonable rates (46 CFR 381.8, 381.9 and new Part 382).

(a) *Description and Need:* 46 U.S.C. 1241 states that at least 50% of the materials procured by the United States Government which are shipped by water shall be transported on privately-owned United States flag commercial vessels so long as they are available at "fair and reasonable rates." The Maritime Administration (Marad) is responsible for issuing regulations governing the implementation of this program by other agencies.

The proposed regulation will set forth the standards and procedures used in determining "fair and reasonable rates." These standards and procedures have not been set forth by regulation in the past. It is expected that codification and publication of these standards and procedures will provide merchant ship operators with the information needed to determine the rates they could expect for section 1241 cargo. It will also allow other government agencies to determine more easily under what conditions they are obliged to ship available cargoes on U.S.-flag vessels.

(b) *Legal Authority:* Sec. 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no , unknown x).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (indefinite)[4]

(ii) In final form (indefinite)[4]

(e) *Tentative Plan for Obtaining Public Comments:* Publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues:* The major issue involved in drafting these regulations is to determine whether a proper balance is struck between the interests of private carriers and government agencies. A "fair and reasonable return" should allow efficient carriers to make a competitive profit at the lowest rates consistent with the development of a healthy merchant marine industry. Marad must also determine whether the economic assumptions about cost and financing on which the calculations of fair and reasonable rates are based are consistent with industry experience.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no , unknown x).

(2) Other Documents Available: None.

(h) *Agency Contact:* Frederick R. Larson, Maritime Administration, Director, Office of Ship Operating Costs, Washington, D.C. 20230, Tel. (202) 377–5532.

DOC Operating Unit:

Marad

Title of Regulation

Merchant Marine Training (46 CFR Part 310).

(a) *Description and Need:* The Maritime Administration (Marad) is responsible for the administration of the U.S. Merchant Marine Academy, the aid programs to State merchant marine academies, and the U.S. Maritime Service, a voluntary maritime training organization.

The regulations relevant to these programs have not always been amended in a timely fashion to reflect policy and program developments. The need to bring the regulatory framework up to date is particularly great for the Maritime Service since the regulations have not been revised since the Service was significantly restructured in the 1950's. The Select Subcommittee of the House Merchant Marine and Fisheries Committee, after reviewing these programs, recommended that the regulations be amended to reflect current practice and legal requirements. The draft regulations are intended to implement these recommendations. The publication of the proposed regulations has been delayed pending congressional action on comprehensive pending legislation dealing with maritime education and training.

(b) *Legal Authority:* Sec. 204(b) and 216, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) and 1126); Pub. L. 85–672 (46 U.S.C. 1381–1388).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (July 1980).

(ii) In final form (November 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** release of information and publication in *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication); and notice of opportunity to comment in other selected publications.

(f) *Major Issues:* The major issue is whether procedures adopted by Marad in the area of maritime education and training are consistent with the requirements of applicable statutory authority.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* Kathleen A. Shetler, Manpower Management Officer, Maritime Administration, Office of Maritime Manpower, Washington, D.C. 20230, Tel. (202) 377–5653.

DOC Operating Unit:

Minority Business Development Agency (MBDA)

Title of Regulation

MBDA Financial Assistance Awards.

(a) *Description and Need:* MBDA coordinates Federal activities designed to assist minority businesses, stimulates private sector efforts in support of minority enterprise, and provides financial assistance to private and public organizations that provide management and technical assistance to minority businesspersons, as authorized by Executive Order 11625. In implementing the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, these regulations not only define and distinguish the kinds of MBDA financial assistance awards but also provide information on how to apply for them and the administrative requirements imposed. The primary benefit that these regulations will bring is the standardization of the usage and the clarification of the meaning of legal instruments reflecting Federal assistance relationships from Federal procurement relationships. Removal of uncertainty as to the meaning of such terms as "contract," "grant," and "cooperative agreement" and the relationships they reflect will reduce, if not altogether eliminate, operational inconsistencies confusion, inefficiency and waste.

(b) *Legal Authority:* Executive Order 11625, October 13, 1971, and 15 U.S.C. 1512.

(c) *Importance:*

(i) Is the regulation significant? (yes , no x , unknown).

MBDA has indicated in DAO 218–7 (Appendix I, Section 2) that all regulations of the agency will be considered significant.

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) in proposed form (July 15, 1980).

(ii) In final form (September 15, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Upon publication in the **Federal Register,** MBDA will review and consider all comments received prior to issuing the final regulations on September 15, 1980. Further, various public interest groups will be sent a copy of the proposed regulations simultaneously with its submission to the **Federal Register** for publication.

(f) *Major Issues:* The major issues involved in these regulations concern the determination of the existence of a competitive environment, and the meaning of substantial involvement. The determination of when or where "competition" is feasible is important since one of the purposes of Pub. L. 95–224 is "to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements." The question of "substantial involvement," on the other hand, is vital inasmuch as its anticipation or non-anticipation with the recipient during performance of the contemplated activity is decisive in categorizing it either as grant or cooperative agreement.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (Yes , no x , unknown).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* John Smith, Deputy Chief Counsel, MBDA, Washington, D.C. 20230, Tel. (202) 377–4683.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Bering Sea—Chukchi Sea Herring Fishery Management Plan (FMP).

(a) *Description and Need:* The FMP will establish the regulation of domestic and foreign fishing in the Bering Sea and Chukchi Sea Fishery Conservation Zone.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (Yes x , no , unknown).

(ii) Is the regulation major? (Yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: August 1980.

(ii) In final form: November 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in **Federal Register** as proposed regulations.

(f) *Major Issues:* The regulation will determine the optimum yield of herring, the allowable level of foreign fishing, and the allowable domestic harvest.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (Yes x , no , unknown).

Anticipated date of draft analysis (May 1980).

(2) *Other Documents Available:* Bering Sea—Chukchi Sea Fishery Management Plan.

(h) *Agency Contact:* Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Tel. (907) 586–7221.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Alaska King Crab Fishery Management Plan (FMP).

(a) *Description and Need:* The FMP will establish the regulation of domestic fishing for King Crab in the Fishery Conservation Zone (FCZ) off Alaska.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (Yes x , no , unknown).

(ii) Is the regulation major? (Yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: October 1980.

(ii) In final form: March 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in **Federal Register** as proposed regulations.

(f) *Major Issues:* The regulation will determine the optimum yield of the King Crab.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (Yes x , no , unknown).

Anticipated date of draft analysis (August 1980).

(2) *Other Documents Available:* Alaska King Crab Fishery Management Plan.

(h) *Agency Contact:* Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Tel. (907) 586–7221.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Pacific Billfish and Oceanic Sharks Fishery Management Plan (FMP).

(a) *Description and Need:* The FMP will supercede the Preliminary Fishery Management Plan (PMP) for Pacific Billfish and Oceanic Sharks, in the Fishery Conservation Zone (FCZ) off Hawaii, Guam, American Samoa, the Northern Mariana Islands, and U.S. possessions in the Central and Western Pacific Ocean.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (Yes x , no , unknown).

(ii) Is the regulation major? (Yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form: December 1980.

(ii) In final form: May 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Draft FMP and Environmental Impact Statement will be circulated for public review and hearings. Draft regulations will be subject to 60-day public review period.

(f) *Major Issues:* The major issue is to establish control over the incidental catch of billfish, sharks, and related species by foreign longline vessels fishing for tuna in the FCZ.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (Yes x , no , unknown).

Anticipated date of draft analysis (December 1980).

(2) *Other Documents Available:* Final Supplemental Environmental Impact Statement (EIS)/Preliminary Fishery Management Plan (PMP) for Pacific Billfish and Oceanic Sharks.

(h) *Agency Contact:* Floyd S. Anders, Jr., Acting Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, Tel. (213) 548–2575.

[4] Maritime Subsidy Board is to determine policy as to scope of regulations, i.e., whether they should be applicable to carriage of dry bulk cargoes as well as liquid bulk cargoes.

DOC Operating Unit

fishery of the Gulf of Mexico. It will

(f) *Major Issues:* The main issues are

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Atlantic Mackerel Fishery Management Plan (FMP).

(a) *Description and Need:* Regulations will implement the Fishery Management Plan for Atlantic Mackerel. The regulations will control the domestic and foreign fishery in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: April 3, 1980 (45 FR 22144).

(ii) In final form: June 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Publication of proposed rulemaking in **Federal Register** for 60-day comment period. Distribution of news release to state agencies, environmental groups, and fisheries organizations announcing general nature of proposed rulemaking, and where copy of regulatory text can be obtained.

(f) *Major Issues:* The major issues in this regulation are (1) the optimum yield for Atlantic mackerel, (2) the allocation between domestic and recreational fishermen of an allowable harvest, and (3) the mandatory reporting of catches by commercial vessels plus party and charter boats.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (August 1979).

(2) *Other Documents Available:* Atlantic Mackerel Fishery Management Plan and accompanying Environmental Impact Statement.

(h) *Agency Contact:* Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Tel. (617) 281-3600.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico.

(a) *Description and Need:* The action will result in management of the shrimp fishery of the Gulf of Mexico. It will optimize the yield of shrimp, minimize take of incidental finfish, coordinate management measures with State programs where possible, and will provide for a statistical reporting system.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: May/June 1980.

(ii) In final form: August/September 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.

(f) *Major Issues:* The main issues are to maximize the harvest of shrimp and to minimize the taking of finfish and marine turtles.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (October 1979).

(2) *Other Documents Available:* Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.

(h) *Agency Contact:* William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Tel. (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (FMP).

(a) *Description and Need:* Regulates foreign and domestic fishermen in the Bering Sea and North Pacific.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: November 1980.

(ii) In final form: February 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in proposed form in the **Federal Register.**

(f) *Major Issues:* The main issues are to determine domestic processing capacity and area restrictions.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (October 1979).

(2) *Other Documents Available:* Bering Sea and Aleutian Islands Groundfish FMP.

(h) *Agency Contact:* Phillip Chitwood, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Tel. (907) 586–7229.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Amendments to regulations which control the incidental take of porpoise in the yellowfin tuna purse seine fishery.

(a) *Description and Need:* The Marine Mammal Protection Act of 1972 states that the incidental mortality and serious injury of marine mammals involved in commercial fishing operations must be reduced to insignificant levels approaching a zero rate. Regulations and quotas for tuna purse seine fishing were promulgated in 1977 for calendar years 1978, 1979, and 1980. These regulations contained action to reduce the incidental injury and mortality of marine mammals and to prohibit the importation of fish caught in association with marine mammals, from countries which do not meet U.S. standards.

(b) *Legal Authority:* 16 U.S.C. 1361–1407.

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: December 1979.

(ii) In final form: October 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Public comment will be solicited at all stages of the regulatory amendment process, including those opportunities available through the National Environmental Policy Act process and the Administrative Procedure Act process. Formal administrative law judge (ALJ) hearings will be conducted in Washington, D.C., and San Diego, California.

(f) *Major Issues:* The status of the porpoise populations will be the central issue. A second issue will be the economic viability of the U.S. tuna industry. U.S. flag tuna vessels comprise approximately 60 percent of the world tuna fleet operating in the Eastern tropical Pacific Ocean. U.S. vessels landed approximately 37,000 metric tons of yellowfin tuna in 1978 which were caught in association with porpoise. The economic viability of the world tuna fleet is highly dependent upon the ability to catch tuna in association with porpoise. The mortality of porpoise has been reduced from over 300,000 in 1971 to under 20,000 in 1978. However, public concern over the mortality of porpoise continues. Strong public pressure is expected to reduce the mortality to zero. Tuna industry representatives are expected to exert pressure to keep quotas high enough to avoid economic harm to their operations.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (November 1979).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Tel. (202) 634–7461.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Washington, Oregon, and California Groundfish Fishery Management Plan (FMP).

(a) *Description and Need:* The regulation will implement Washington, Oregon and California Groundfish Fishery FMPs, if in place. The regulation covers both foreign and domestic fishing, replacing the preliminary fishery management plan.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: September 1980.

(ii) In final form: December 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in **Federal Register.**

(f) *Major Issues:* The major issues are to establish the level of conservation stocks and time/area restrictions.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (August 1980).

(2) *Other Documents Available:* Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan, 1977. Supplement to the Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan, 1978.

Second Supplement to the Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan, 1979. Washington, Oregon, and California Groundfish Fishery Preliminary Fishery Management Plan.

(h) *Agency Contact:* Thomas E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109. Tel. (206) 442–7575.

DOC Operating Unit

National Marine Fisheries Service

Title of Regulation

Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 5).

(a) *Description and Need:* The action will regulate foreign and domestic harvest of the Tanner Crab in the Fishery Conservation Zone (FCZ) off Alaska.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: May 1980.

(ii) In final form: August 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Proposed regulations will be published in the **Federal Register.** Public hearings have been held by the Regional Fishery Management Council.

(f) *Major Issues:* The major issues are to establish an optimum yield of stocks and an allowable level of foreign fishing.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (February 1980).

(2) *Other Documents Available:* Commercial Tanner Crab Fishery Off the Coast of Alaska Fishery Management Plan (FMP).

(h) *Agency Contact:* Phillip Chitwood, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Tel. (907) 586–7229.

DOC Operating Unit

National Marine Fisheries Service

Title of Regulation

Groundfish Fishery Management Plan (FMP) (Southeast Region).

(a) *Description and Need:* The FMP will implement regulations for the managment of groundfish resources and minimize user conflicts.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant: (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: January 1981.

(ii) In final form: July 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Public Hearings will be held on the FMP. Consultations will be conducted with commercial and recreational organizations, local, State and Federal agencies as appropriate.

(f) *Major Issues:* The major issue is to determine how to utilize and maintain groundfish resources while minimizing conflicts with other commercial interests.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).

Anticipated date of draft analysis (July 1980).

(2) *Other Documents Available:* Groundfish Fishery Management Plan.

(h) *Agency Contact:* William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Tel. (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Caribbean Shallow Water Reef Fish Management Plan (FMP).

(a) *Description and Need:* The FMP will implement management regulations for the efficient utilization of shallow water resources and reduce user group conflicts.

(b) *Legal authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: February 1981.

Commercial and Recreational Salmon

Critical Habitat will be to require any

requirements for catches by domestic

and Federal activities within, and

(i) In proposed form: February 1981.
(ii) In final form: July 1981.
(e) *Tentative Plan for Obtaining Public Comments:* Public Hearings will be held on the FMP. Consultations will be conducted with local, State and Federal agencies as appropriate.
(f) *Major Issues:* The major issue is to determine how to maintain the resources and provide fair allocations of the available resources to recreational and commercial fishermen.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (October 1980).
(2) *Other Documents Available:* None at present.
(h) *Agency Contact:* William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Tel. (813) 893–3141.

DOC Operating Unit:

National Marine Fisheries Service.

Title of Regulation

Extension of Commercial/Recreational Salmon off California, Oregon, and Washington Fishery Management Plan (FMP) (50 CFR Part 661).
(a) *Description and Need:* The FMP will regulate the domestic fishery for salmon in the Fishery Conservation Zone (FCZ) off California, Oregon and Washington.
(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).
(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: May 1980.
(ii) In final form: August 1980.
(e) *Tentative Plan for Obtaining Public Comments:* Will be published in the **Federal Register.**
(f) *Major Issues:* The major issues are to establish the length of the fishing season and to allocate the resource among domestic user groups.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (May 1980).
(2) *Other Documents Available:*
Commercial and Recreational Salmon FMP Amendment, 1979.
Commercial and Recreational Salmon FMP, 1978.
Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California FMP, 1977.
(h) *Agency Contact:* Thomas E. Kruse, Acting Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Tel. (206) 442–7575.

DOC Operating Unit:

National Marine Fisheries Service

Title of Regulation

Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR Part 226).
(a) *Description and Need:* On October 4, 1978, the National Marine Fisheries Service (NMFS) published proposed determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles in the Port Canaveral Navigation Channel, Cape Canaveral, Florida. The action was taken to provide protection to endangered and threatened sea turtles hibernating in the channel.
(b) *Legal Authority:* Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).
(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes , no , unknown x).
(d) *Timetable–Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: October 4, 1978.
(ii) In final form: December 1980.
(e) *Tentative Plan for Obtaining Public Comments:* Proposed regulations were published in the **Federal Register** on October 4, 1978. The proposal solicited public comments and hearing requests. On November 27, 1978, a supplemental notice was published which extended the comment period, announced the holding of a public meeting and hearing, and requested comments on economic impacts of the designation. Notice of the proposed regulation and meeting/hearing was published in two local newspapers and offered for publication in three scientific journals. The proposed regulation and environmental assessment were sent to State and local government officials, Federal agencies, congressional offices, conservation organizations, and selected individuals.
(f) *Major Issues:* The environmental assessment determined that the proposed Federal action is not a major action having significant impact on the quality of the human environment. The major effect of designating this area as Critical Habitat will be to require any Federal agency that authorizes funds or carries out activities that might result in the destruction or adverse modification of the area to comply with Section 7 of the Act.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes , no , unknown x).
Anticipated date of draft analysis (not determined).
(2) *Other Documents Available:*
Environmental Impact Assessment: Proposed Determination of Critical Habitat for the Kemp's Ridley and Loggerhead Sea Turtles in the Port Canaveral Navigation Channel. September 1978.
(h) *Agency Contact:* Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service. Washington, D.C. 20235.
Tel. (202) 634–7461.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation.

Atlantic Butterfish Fishery Management Plan (FMP).
(a) *Description and Need:*
The regulations will implement the FMP for Butterfish.
The regulations will control the domestic and foreign fishery in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.
(b) *Legal Authority:* 1 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Is the regulation significant? (Yes x , no , unknown).
(ii) Is the regulation major? (Yes x , no , unknown).
(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: April 1, 1980 (45 FR 21307).
(ii) In final form: July 1980.
(e) *Tentative Plan for Obtaining Public Comments:* Publication of proposed rulemaking in **Federal Register** for 60-day public comment period. News release mailed to State agencies, environmental groups, and fisheries organizations indicating where text of proposed rulemaking can be obtained.
(f) *Major Issues:* The major issues are to determine the optimum yield for butterfish, the allocation of butterfish between domestic and foreign fishermen, the provisions for reallocation of butterfish from domestic quota to foreign quota during fishing season, and the mandatory reporting

requirements for catches by domestic vessels.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (August 1979).
(2) *Other Documents Available:* Fishery Management Plan and accompanying Environmental Impact Statement for Butterfish (November 1978); Revised Fishery Management Plan (June 1979).
(h) *Agency Contact:* Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Tel. (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 222).
(a) *Description and Need:* Designation of Critical Habitat for the Hawaiian Monk Seal is pursuant to the Endangered Species Act of 1973, as amended. The Act requires that Critical Habitat be designated for endangered and threatened species now listed in accordance with the Act. Critical Habitat means the specific areas within (or outside) the geographic range of the species on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection.
(b) *Legal Authority:* Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).
(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes , no x , unknown).
(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: (unknown).
(ii) In final form: (unknown).
(e) *Tentative Plan for Obtaining Public Comments:* Public comment and consultation with State and local governments will be solicited at all stages of the process of designation, including those opportunities available through the National Environmental Policy Act process, and public hearings. Public comments will also be solicited when the proposed area(s) designated are published in the **Federal Register.**
(f) *Major Issues:* The major issues are the impact of the designation on State and Federal activities within, and adjacent to, the Critical Habitat; the economic impact of the proposed area designation on the private sectors; the effectiveness of the area designation on increasing the likelihood of the survival of endangered species; and the ecological impact of the area designation on the associated flora and fauna within, and adjacent to, the Central Habitat.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes , no x , unknown).
Anticipated date of draft analysis (not applicable).
(2) *Other Documents Available:* Draft Environmental Impact Statement (DEIS) is available for public review.
(h) *Agency Contact:* Floyd S. Anders, Jr., Acting Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731. Tel. (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Regulation Declaring Restricted Fishing Areas (Port Canaveral and Other Areas) (50 CFR Parts 222 and 227).
(a) *Description and Need:* On July 28, 1978, the National Marine Fisheries Service (NMFS) published notice in the **Federal Register** that it is considering candidate areas where sea turtles are concentrated for designation as Restricted Fishing Areas and/or Critical Habitat (43 FR 32800). A Restricted Fishing Area is an area where incidental catch is prohibited or otherwise controlled. Controls may include proper gear usage, fishing methods or procedures, or other regulatory controls to reduce or eliminate incidental catch of sea turtles. The following candidate areas where turtles are concentrated will be considered for designation as Restricted Fishing Areas: North Island—Georgetown, South Carolina; Cape Romain, South Carolina; Brunswick River Channel, Georgia; Hole-in-the-Rock Channel, Georgia; Cape Canaveral Ship Channel, Florida; and North and South Padre Island, Texas.
(b) *Legal Authority:* Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).
(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes , no , unknown x).
(d) *Timetable—Anticipated Date Proposal Will Appear in* **Federal Register:**
(i) In proposed form: (October 1980).
(ii) In final form: (February 1981).
(e) *Tentative Plan for Obtaining Public Comments:* Prior to the designation of any Restricted Fishing Area within State waters, the Assistant Administrator (NMFS) shall consult with the Governor(s) and Marine Conservation Department(s) of the affected State(s). The Assistant Administrator shall also consult with the appropriate Regional Fishery Management Councils and with affected fishing industries. Public meetings and hearings will be held.
(f) *Major Issues:* The major issues are unknown at this time. The environmental assessment and if appropriate the environmental impact statement will examine major issues.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes , no , unknown x).
Anticipated date of draft analysis (not determined).
(2) *Other Documents Available:* An environmental assessment and/or environmental impact statement will be prepared prior to the proposed designation(s).
(h) *Agency Contact:* Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235. Tel. (202) 634–7461.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Fish and Wildlife Coordination Act. Uniform Procedures for Compliance.
(a) *Description and Need:* The regulation will define the requirements and procedures that must be met by Federal agencies for fully complying with the Fish and Wildlife Coordination Act (FWCA).
(b) *Legal Authority:*
President's Water Policy Memorandum issues July 12, 1978.
Fish and Wildlife Coordination Act (16 U.S.C. 661).
Fish and Wildlife Act of 1956 (16 U.S.C. 742–(a–k).
(c) *Importance:*
(i) Is the regulation significant? (yes, x , no , unknown).
(ii) Is the regulation major? (yes , no x , unknown).
(d) *Timetable—Actual Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: (May 18, 1979).
(ii) In reproposed form: Third Quarter, FY 80.
(iii) In final form: First Quarter, FY 81.

(e) *Tentative Plan for Obtaining*

Title of Regulation

(c) *Importance:*

(f) *Major Issues:* The major issues are

Title of Regulation

(i) In proposed form: (October 1980).
(ii) In final form: (February 1981).
(e) *Tentative Plan for Obtaining*

V 45 5 J E 5 8 0 UMI

(e) *Tentative Plan for Obtaining Public Comments:* Joint Department of Commerce/Interior Notice of Intent to propose rules was published in **Federal Register** on September 29, 1978. Proposed (draft) regulations were published in **Federal Register** on May 18, 1979, and distributed widely to those State governments, Federal agencies, and public groups known to be interested (90-day public review); public hearings were held June 26–28, 1979, in Washington, D.C.; San Francisco, California; Denver, Colorado; Arlington, Texas; Twin Cities, Minnesota; and New Orleans, Louisiana. On October 1, 1979, Secretary of the Interior, Cecil D. Andrus, announced the decision to prepare an Environmental Impact Statement on the joint regulations prepared by the Departments of the Interior and Commerce. Reproposed rules must be issued concurrently. Notice of intent to prepare an EIS and repropose rules was printed in the **Federal Register**, August 17, 1979 (44 FR 48305). The rules are being modified in response to voluminous public comments received in response to the originally proposed rules as well as numerous public hearings held since. Public comment on both the EIS and reproposed rules will be sought upon their publication.

(f) *Major Issues:* The major issues are (1) the applicability of FWCA to a variety of Federal activities including Outer Continental Shelf oil and gas leases, permits, licenses, grants, financial or technical assistance, or other projects affecting waters of the U.S. and oceanic waters; (2) the assessment methods to be used to evaluate wildlife resource values and project effects on those values; (3) the establishment of a definition of "equal consideration of wildlife" in planning projects and "justifiable measures" for wildlife conservation; and (4) the degree of involvement by the National Marine Fisheries Service's (NMFS) field biologists in the planning process of Federal construction and regulatory agencies.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).
Anticipated date of draft analysis (not applicable).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* James W. Rote, Director, Office of Habitat Protection, National Marine Fisheries Service, Washington, D.C. 20235. Tel. (202) 634–7490.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Precious Coral Fishery Management Plan (FMP) (Western Pacific).

(a) *Description and Need:* Implementation of the FMP for Precious Coral Fisheries of the Western Pacific Region is needed to protect corals from overfishing and to achieve the optimum yield from the fishery.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: June 1980.
(ii) In final form: September 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Hearings on the FMP have been held previously. Regulations will be subject to 60-day public review as well as Department of Commerce Secretarial review and approval of the FMP.

(f) *Major Issues:* The major issues are whether to allow exploratory fishing by dredging or other nonselective means, to establish quotas consistent with optimum yields, and to allocate exploratory quotas to foreign interests.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (April 1980).

(2) *Other Documents Available:* Fishery Management Plan for Precious Coral Fisheries of the Western Pacific, and associated Final Environmental Impact Statement.

(h) *Agency Contact:* Floyd S. Anders, Jr., Acting Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731. Tel. (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service

Title of Regulation

Reef Fish Resources of the Gulf of Mexico Fishery Management Plan (FMP).

(a) *Description and Need:* The regulation will implement reef fish management controls for the domestic harvest of reef fishes in the Fishery Conservation Zone (FCZ). The basic objective is to manage these stocks for their optimum yield.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: October 1980.
(ii) In final form: January 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Public hearings will be held on the FMP. Consultation will be held with State, local and Federal agencies as appropriate.

(f) *Major Issues:* The major issues are to rebuild the declining reef fish stock, to use a reporting system to monitor the harvest of reef fish, and to minimize the conflicts between user groups (i.e., traps versus hook and line).

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (April 1980).

(2) *Other Documents Available:* Reef Fish Resources of the Gulf of Mexico Fishery Management Plan.

(h) *Agency Contact:* William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Tel. (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service

Title of Regulation

Fishery Management Plan (FMP) for the Spiny Lobster Fishery of Puetro Rico and the Virgin Islands.

(a) *Description and Need:* This action will initiate management of the spiny lobster resources of the Caribbean. Management measures implemented will protect long-term yields, prevent depletion of the stocks, increase yield from the fishery, and acquire information necessary to better manage the fishery.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: November 1980.
(ii) In final form: February 1981.

(e) *Tentative Plan for Obtaining Public Comment:* Publication in **Federal Register** and public hearings.

(f) *Major Issues:* The major issues are gear and user group conflicts in harvesting the stock and poaching by pulling another's traps, and the establishment of a size limit.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (May 1980).

(2) *Other Documents Available:* Fishery Management Plan for the Spiny Lobster Fishery of Puetro Rico and the Virgin Islands.

(h) *Agency Contact:* William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Tel. (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service

Title of Regulation

Fishery Management Plan (FMP) for Sharks and Other Elasmobranchs.

(a) *Description and Need:* The FMP is intended to provide management of sharks and other elasmobranchs of the Gulf of Mexico.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: January 1981.
(ii) In final form: April 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.

(f) *Major Issues:* The major issues are determination of optimum yield and catch allocation among user groups.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (July 1980).

(2) *Other Documents Available:* Fishery Management Plan for Sharks and Other Elasmobranchs.

(h) *Agency Contact:* William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Tel. (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service

Title of Regulation

Coastal Migratory Pelagic Fishery Management Plan (FMP).

(a) *Description and Need:* The action will result in management of king and Spanish mackerel, and cobia in the Fishery Conservation Zone (FCZ) within the South Atlantic and Gulf of Mexico. Management measures are being developed to resolve gear conflicts among user groups.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: August 1980.
(ii) In final form: November 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.

(f) *Major Issues:* The major issue is the maintenance of the resource while making fair allocations of the stocks available to both recreational and commercial fishermen.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes x , no , unknown).
Anticipated date of draft analysis (March 1980).

(2) *Other Documents Available:* Coastal Migratory Pelagic Fishery Management Plan.

(h) *Agency Contact:* William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Tel. (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service.

Title of Regulation

Spiny Lobster Fishery Management Plan (FMP) (Western Pacific).

(a) *Description and Need:* The regulations will implement the FMP for Spiny Lobster Fisheries of the Western Pacific Region. It is necessary to achieve the optimum yield and to prevent overfishing.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? (Yes x , no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form: December 1980.
(ii) In final form: May 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Western Pacific Regional Fishery Management Council will prepare draft FMP for public hearings, and comments will be received on draft Environmental Impact Statement, as well. Regulations and final FMP will be subject to 60-day public review.

(f) *Major Issues:* The major issues are determination of optimum yield and selection of size limits for Spiny Lobsters.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (Yes x , no , unknown).
Anticipated date of draft analysis (December 1980).

(2) *Other Documents Available:* Fishery Management Plan and associated Environmental Impact Statement for Spiny Lobster Fisheries of the Western Pacific Region.

(h) *Agency Contact:* Floyd S. Anders, Jr., Acting Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731. Tel. (213) 548–2575.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Final Regulations for Key Largo Coral Reef Marine Sanctuary.

(a) *Description and Need:* The regulations are necessary to replace and update interim regulations to protect ecological, recreational, and aesthetic resources of Key Largo Coral Reef Marine Sanctury.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16, U.S.C. 14329f).

(c) *Importance:*
(i) Is the regulation significant? (yes x , no , unknown).
(ii) Is the regulation major? Yes , no x , Unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appar in* **Federal Register:**
(i) In proposed form (Notice of Proposed Final Regulations in **Federal Register**—Summer 1980).
(ii) In final form (Notice of Final Rulemaking in **Federal Register**—Fall 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Publishing the revised regulations in proposed form for comment in the **Federal Register.**

(f) *Major Issues:*

1. Whether to allow the taking of

(i) In proposed form (Notice of

1. Whether to allow the taking of tropical fish for educational and public display purposes.
2. Whether to prohibit wire trap fishing.

(g) *Documents Available to Interested Parties:*
1. Regulatory Analysis Required?
(yes , no x , unknown).
2. *Other Documents Available:*
Interim Regulations (15 CFR Part 929).

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Looe Key Marine Sanctuary

(a) *Description and Need:* The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of Looe Key, Florida, if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in the **Federal Register**—May 1980).
(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in the **Federal Register**—October 1980).

(e) *Tentative Plan for Obtaining Public Comments:* A public workshop was held in Big Pine Key, Florida in January 1978 regarding the proposed designation of Looe Key as a Marine Sanctuary. Future comment will be solicited by:
1. Publishing the Notice of Availability of the DEIS and the Notice of Proposed Rulemaking in the **Federal Register** and distributing the DEIS.
2. Holding a public hearing on the DEIS.
3. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.
4. The Governor of Florida will be mailed copies of the DEIS, Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues:*
1. Whether a marine sanctuary should be designated at Looe Key.
2. The size of any sanctuary designated.
3. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of activities impacting the coral reef.

(g) *Documents Available to Interested Parties:*
1. Regulatory Analysis Required?
(yes , no x , unknown).
2. *Other Documents Available:*
Looe Key Resource Inventory

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Monterey Bay Marine Sanctuary.

(a) *Description and Need:* The regulations will be necessary to protect ecological, recreational, and aesthetic resources of the waters of Monterey Bay and the adjacent coast if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in the **Federal Register**—Summer 1980).
(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in the **Federal Register**—Fall 1980).

(e) *Tentative Plan for Obtaining Public Comments:* In April 1978 NOAA held a public workshop in Monterey, California. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held hearings on the Issue Paper in March and April 1979. Future comment will be solicited by:
1. Circulating preliminary draft chapters of the DEIS and holding public meetings in the affected areas.
2. Publishing the Notice of Availability of the DEIS and the Notice of Proposed Rulemaking in the **Federal Register** and distributing the DEIS.
3. Holding public hearings on the DEIS in Monterey area with extensive publicity through established mailing lists and the press.
4. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.
5. Mailing to the Governor of California a copy of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues:*
1. Whether a marine sanctuary should be designated in the waters of Monterey Bay and the adjacent coast.
2. The size of any sanctuary designated.
3. The type and extent of the regulation of activities necessary within the sanctuary.

(g) *Documents Available to Interested Parties:*
1. Regulatory Analysis Required?
(yes , no x , unknown).
2. *Other Documents Available: Issue Paper.*

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Federal Consistency with Approved Coastal Management Programs.

(a) *Description and Need:* The Secretary of Commerce has directed the National Oceanic and Atmospheric Administration to promulgate regulations defining the term "directly affecting" in Section 307 of the Coastal Zone Management Act, which applies to the consistency requirements for Federal activities including development projects. Clarification of the definition of this term is necessary in order to avoid future disagreements such as the one which arose between the State of California and the Department of the Interior concerning Outer Continental Shelf lease sales, which was mediated by the Department of Commerce.

(b) *Legal Authority:* Sections 307 and 317 of the Coastal Zone Management Act, as amended, 16 U.S.C. 1456, 1466.

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (Notice of proposed regulations—January 1981).
(ii) In final form (Notice of Final Rulemaking in **Federal Register**—June 1981).

(e) *Tentative Plan for Obtaining Public Comments:* Public notice will appear in the **Federal Register** soliciting public comments on the proposed regulations. The Office of Coastal Zone Management may hold one or more public meetings on the proposed regulations.

(f) *Major Issues:* The major issue is the need to clarify the meaning of the term "directly affecting" as it relates to the impacts of Outer Continental Shelf leasing and other Federal activities within the coastal zone of states with federally approved Coastal Management Programs.

(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required?
(yes , no x , unknown).
(2) *Other Documents Available:*
Previous Federal consistency regulations, 44 FR 37142, June 25, 1979. Department of Commerce Mediation record for the disagreement between the State of California and the Department of the Interior.

(h) *Agency Contact:* Jane P. Rogers, Chief of Policy, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634–4245.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Point Reyes/Farallon Islands Marine Sanctuary.

(a) *Description and Need:* The regulations will be necessary to protect ecological, recreational, and aesthetic resources of the waters around Point Reyes and the Farallon Islands if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**
In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—July 1980).

(e) *Tentative Plan for Obtaining Public Comments:* In April 1978 NOAA held a public workshop in Marin County, California to discuss the recommendation of this site. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held public hearings on the Issue Paper. The Notice of Availability of DEIS and the Notice of Proposed Rulemaking were published in the **Federal Register** on March 28 and March 31, 1980, respectively (45 FR 20546 and 20907). The DEIS was mailed to an extensive mailing list for review and comment. Future comments will be solicited by:
1. Holding public hearings on the DEIS in the Point Reyes area with extensive publicity through established mailing lists and the press.
2. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.
3. Mailing to the Governor of California a copy of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues:*
1. Whether a marine sanctuary should be designated in the waters around Point Reyes and the Farallon Islands.
2. The type and extent of the regulation of activities necessary within the sanctuary.

(g) *Documents Available to Interested Parties:*
1. Regulatory Analysis Required?
(yes , no x , unknown).
Issue Paper, DEIS.
2. *Other Documents Available:*

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit:

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Flower Garden Banks Marine Sanctuary.

(a) *Description and Need:* The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of Flower Garden Banks if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*
(i) Is the regulation significant?
(yes x , no , unknown).
(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:** In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—July 1980).

(e) *Tentative Plan for Obtaining Public Comments:*
The following has already been done to solicit comment:
1. A public workshop was held in Houston, Texas, in December 1977.
2. A White Paper discussing the site and soliciting comments was widely distributed in June 1978.
3. Two further meetings were held in Houston in July 1978, one with recreationists and one with offshore oil and gas companies.
4. The Notice of Availability of DEIS and the Notice of Proposed Rulemaking was published in the **Federal Register** on April 13, 1979 (44 FR 22061).
5. Two public hearings on the DEIS were held, one in Texas and one in Louisiana, with extensive publicity through established mailing lists and the press.

Future comment will be soliciated by:
1. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.
2. Mailing to the Governors of Texas and Louisiana copies of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues:*
1. Whether a marine sanctuary should be designated at Flower Garden Banks.
2. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of oil and gas development. The economic impact of oil and gas regulation is an issue that will be of particular interest.

(g) *Documents Available to Interested Parties:*
1. Regulatory Analysis Required?
(yes , no x , unknown).
2. *Other Documents Available:* White Paper, DEIS.

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit:

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Channel Islands Marine Sanctuary.

(a) *Description and Need:* The regulations will be necessary to protect ecological, recreational, and aesthetic resources of the waters around the Northern Channel Islands and Santa Barbara Island once designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f),

Title of Regulation

2. *Other Documents Available:* Issue

2. The type and extent of the

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:** In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—May 1980).

(e) *Tentative Plan for Obtaining Public Comments:* In April 1978 NOAA held a public workshop in Santa Barbara, California. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held hearings in Santa Barbara and San Francisco on the Issue Paper. In June 1979 NOAA sent out revised regulatory options and held public meetings in Ventura and Santa Barbara for comment. The DEIS was distributed in November 1979. The Notice of Proposed Rulemaking was published in the **Federal Register** on December 5, 1979 (44 FR 69970). Public hearings were held in January 1980. Future comments will be solicited by:

1. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS by mail.

2. Mailing to the Governor of California a copy of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues:*

1. Whether a marine sanctuary should be designated in the waters around the Northern Channel Islands and Santa Barbara Island.

2. The type and extent of the regulation of activities necessary within the sanctuary to reduce unnecessary risks to marine life, in particular the regulation of oil and gas development. The economic impact of oil and gas regulation will be of particular attention.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no x , unknown),

2. *Other Documents Available:* Issue Paper, DEIS, 1979 Regulatory Calendar Entry.

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed St. Thomas Marine Sanctuary, St. Thomas, Virgin Islands.

(a) *Description and Need:* The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of certain waters off St. Thomas if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—June 1980).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—September 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Meetings were held in May and June 1979 with Virgin Islands government officials. An Issue Paper discussing the site and soliciting comments was distributed in mid-July 1979. A public workshop was held in mid-August 1979. Future comments will be solicited by:

1. Publishing the Notice of Availability of the DEIS and the Notice of Proposed Rulemaking in the **Federal Register** and distributing the DEIS.

2. Holding a public hearing on the DEIS in St. Thomas with extensive publicity through established mailing lists and the press.

3. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.

4. The Governor of the Virgin Islands will be mailed copies of the DEIS, Notice of Proposed Rulemaking and all other applicable documents.

(f) *Major Issues:*

1. Whether a marine sanctuary should be designated off St. Thomas.

2. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of boat anchoring and recreational diving.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no x , unknown).

2. *Other Documents Available:* Issue Paper.

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Gray's Reef Marine Sanctuary.

(a) *Description and Need:* The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of Gray's Reef, Georgia if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—May 1980).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—September 1980).

(e) *Tentative Plan for Obtaining Public Comments:* A letter requesting consultation was sent in July 1979. An Issue Paper discussing the site and soliciting comments was widely distributed in October 1979. Public workshops were held in Georgia in November 1979 regarding the proposed designation of Gray's Reef as a Marine Sanctuary. Additional comments will be solicited by:

1. Publishing the Notice of Availability of the DEIS and the Notice of Proposed Rulemaking in the **Federal Register** and distributing the DEIS.

2. Holding a public hearing on the DEIS.

3. Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS to an extensive mailing list.

4. The Governor of Georgia will be mailed copies of the DEIS, Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues:*

1. Whether a marine sanctuary should be designated at Gray's Reef.

2. The type and extent of the regulation of activities necessary within the sactuary, in particular the regulation of activities impacting the reef.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no x , unknown).

2. *Other Documents Available:* Issue Paper.

(h) *Agency Contact:* Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, Washington, D.C. 20235, Tel. (202) 634–4236.

DOC Operating Unit:

Office of Product Standards Policy.

Title of Regulation

Procedures for Listing and Delisting Voluntary Standards Bodies and Their Standards-Developing Groups.

(a) *Description and Need:* These procedures provide a mechanism by which the Secretary of Commerce may "list" voluntary standards bodies and their standards-developing groups which certify that they adhere to the due process and other basic criteria specified in OMB Circular A–119 of January 17, 1980. Such "listing" qualifies them for Federal executive agency support and participation (including financial, administrative, technical, joint planning). Federal agencies cannot support or participate in non-listed bodies or groups. Accordingly, these procedures promote cooperation between Federal agencies and voluntary standards bodies, encourage the efficient use of Federal agency resources in standards-developing activities, and encourage voluntary standards bodies to conduct their standards activities openly and with an opportunity for any interested person to participate.

(b) *Legal Authority:* 41 U.S.C. 405, as implemented by Section 7 of OMB Circular A–119, issued January 17, 1980, (45 FR 4326, January 21, 1980). This section directs the Secretary of Commerce to establish and operate these procedures.

(c) *Importance:*

(i) Is the regulation significant? Yes.

(ii) Is the regulation major? No.

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form: May 1, 1980.

(ii) In final form: September 1, 1980.

(e) *Tentative Plan for Obtaining Public Comments:* Meetings were arranged over a three-week period in March 1980 with representatives of approximately 35 organizations representing standards developing and coordinating organizations, industry, consumer groups, and labor. These informal meetings were designed to provide the drafters of the procedures with more information regarding the voluntary standards-developing process and the concerns of the parties affected, and especially to make those drafters aware of any major, unintended problems which those procedures conceivably might cause. The proposed procedures will probably provide a 60-day period for public comment. All comments received will be analyzed carefully prior to the issuance of the final procedures.

(f) *Major Issues:* There are no major issues.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? No.

(2) *Other Documents Available: OMB* Circular A–119, issued January 17, 1980 (45 FR 4326, January 21, 1980).

(h) *Agency Contact:* Howard I. Forman, Deputy Assistant Secretary of Commerce for Product Standards Policy, Washington, D.C. 20230, Tel. (202) 377–3221.

DOC Operating Unit:

Patent and Trademark Office (PTO).

Title of Regulation

Ex parte prosecution of trademark applications, inter partes proceedings before the Trademark Trial and Appeal Board, petitions to the Commissioner and post-registration requirements (37 CFR 2.20, 2.27, 2.63, 2.65, 2.81, 2.88, 2.94–2.135, 2.142, 2.146, 2.165, 2.173, 2.184 and 2.186).

(a) *Description and Need:* PTO is considering a revision of its regulations relating to the ex parte prosecution of trademark applications, inter partes proceedings before the Trademark Trial and Appeal Board, Petitions to the Commissioner and post-registration requirements, currently published in Title 37, *Code of Federal Regulations,* Part 2, which have been found on review to need clarification, updating and expansion.

(b) *Legal Authority:* Pub. L. 489, 79th Cong., 2d Sess., Ch. 540, Sec. 41, as amended (15 U.S.C. 1123, as amended).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register**

(i) In proposed form (September 1980).

(ii) In final form (May 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. A public hearing will be held.

(f) *Major Issues:* There are no major issues.

(g) *Documents Available to Interested Parties:* (i) Regulatory analysis required? (yes , no x , unknown).

(ii) *Other Documents Available:* None

(h) *Agency Contact:* David J. Kera, Member, Trademark Trial and Appeal Board, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3551.

DOC Operating Unit:

Patent and Trademark Office (PTO).

Title of Regulation

Secrecy of certain inventions and licenses to file applications in foreign countries (37 CFR Part 5).

(a) *Description and Need:* PTO has reviewed these regulations and found that they should be revised to clarify procedures and provide up-to-date information relating to these procedures.

(b) *Legal Authority:* 35 U.S.C. 6 and 181–188, as amended.

(c) *Importance:*

(i) Is the regulation significant? (yes , no , unknown).

(ii) Is the regulation major? (yes no , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (August 1980).

(ii) In final form (January 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.

(f) *Major Issues:* There are no major issues.

(g) *Documents Available to Interested Parties:*

(1) Regulatory analysis required? (yes , no , unknown).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* C. D. Quarforth, Director, Special Laws Administration Group, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–2877.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Requests for identifiable records (37 CFR 1.15).

(a) *Description and Need:* PTO has reviewed and found that it needs to update its regulation, currently published in Title 37, *Code of Federal Regulations,* Part 1, relating to requests

by members of the public for records not

(d) *Timetable:* Anticipated Dates

(ii) In final form (February 1981).

by members of the public for records not disclosed as part of the regular informational activity of the PTO and not otherwise dealt with in Part 1.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*

(i) Is the regulation significant? (yes , no , unknown).

(ii) Is the regulation major? (yes no , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (August 1980).

(ii) In final form (January 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.

(f) *Major Issues:* There are no major issues.

(g) *Documents Available to Interested Parties:*

(1) Regulatory analysis required? (yes , no , unknown).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* John W. Dewhirst, Associate Solicitor, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3551.

DOC Operating Unit:

Patent and Trademark Office (PTO).

Title of Regulation:

Compulsory counterclaims in trademark opposition and cancellation proceedings (37 CFR 2.106 and 2.114).

(a) *Description and Need:* PTO is considering a revision of its regulations relating to counterclaims in trademark cases, currently published in Title 37, *Code of Federal Regulations*, Part 2. Defendants who could counterclaim to cancel a registration pleaded by the plaintiff in trademark opposition and cancellation cases are not required by current regulations to do so. The revision under consideration would require the defendant to do so. The primary benefit of the revision will be to avoid piecemeal litigation and settle all issues between the parties at one time with a minimum expenditure of time and effort by the parties and the PTO.

(b) *Legal Authority:* Pub. L. 489, 79th Cong., 2d Sess., Ch. 540, Sec. 41, as amended (15 U.S.C. 1123, as amended).

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (April 16, 1979).

(ii) In final form (July 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO published the proposed revision in the **Federal Register** (44 *FR* 22478, April 16, 1979) and the *Official Gazette* for comment.

(f) *Major Issues:* The major issue involved in the proposed action is whether a defendant would, in certain circumstances be precluded from filing a concurrent use application if (s)he is required to counterclaim for cancellation of a registration pleaded by the plaintiff.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).

(2) *Other Documents Available:* A file of the comments the PTO has received and a summary and analysis of the comments will be available for examination by interested parties.

(h) *Agency Contact:* David J. Kera, Member, Trademark Trial and Appeal Board, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3551.

DOC Operating Unit:

Patent and Trademark Office (PTO)

Title of Regulation:

Patent application oath or declaration requirements. (37 CFR 1.65, 3.18 and 3.18a).

(a) *Description and Need:* PTO proposes to revise its regulations relating to the information patent applicants are required to provide in their oaths or declarations in patent applications, currently published in Title 37, *Code of Federal Regulations*, Part 1. PTO proposes to revise these regulations to require that an oath or declaration speaks as of the filing date of the application if the application is a continuation-in-part. This requirement will provide information that court decisions indicate should be considered by the PTO in examining patent applications.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (published 43 FR 55417, November 28, 1978; revised proposal August 1980).

(ii) In final form (February 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO published a proposed revision in the **Federal Register** for comment and held a public hearing on February 7, 1979. In view of objections to one part of the proposed revision, that part is being deleted. A revised proposal will be published for comment since the original proposal was inadvertently not published in the *Official Gazette*. No further hearing will be held.

(f) *Major Issues:* There are no major issues.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).

(2) *Other Documents Available:* A file of the written comments received by the PTO, a transcript of the hearing and a summary and analysis of comments will be available for examination by interested parties.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3070.

DOC Operating Unit:

Patent and Trademark Office (PTO)

Title of Regulation

Professional conduct of and advertising by persons registered to practice before the PTO. (37 CFR 1.344, 1.345, 2.13 and 2.14).

(a) *Description and Need:* PTO is considering a revision of its regulations prescribing the standards of conduct and advertising of persons registered to practice before the PTO, currently published in Title 37, *Code of Federal Regulations*, Parts 1 and 2. PTO proposes to revise these regulations to make reference to the current version of the American Bar Association's "Code of Professional Responsibility," an older version being referred to in the current regulations, and to make the standards for advertising consistent with recent decisions of the Supreme Court.

(b) *Legal Authority:* 35 U.S.C. 6 and 31, as amended.

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (July 1980).

(ii) In final form (December 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish the proposed revision of these regulations in

the **Federal Register** and the *Official Gazette* for coment. A public hearing will also be held.

(f) *Major Issues:* The major issue is whether the American Bar Association's "Code of Professional Responsibility" should continue to be the PTO's standard of conduct.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes , no x , unknown).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* Harry I. Moatz, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–2238.

DOC Operating Unit:

Patent and Trademark Office (PTO).

Title of Regulation:

Prosecution of patent applications after final rejection.

(a) *Description and Need:* PTO is considering a revision of its regulations currently published in Title 37, *Code of Federal Regulations*, Part 1, to allow the prosecution of patent applications to continue after a final rejection if an additional fee is paid. The revision will benefit patent applicants by making it unnecessary for them to file a complete new application in order to continue prosecution after a final rejection in the original application. The PTO will benefit from a saving in file space and a reduction in handling and recordkeeping costs.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (August, 1980).

(ii) In final form (February, 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* for comment. A public hearing may be held.

(f) *Major Issues:* The major issue is whether such revision is within the Commissioner's rulemaking authority or will require legislative authorization.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes , no x , unknown).

(2) *Other Documents Available:* None.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3070.

DOC Operating Unit:

Patent and Trademark Office (PTO).

Title of Regulation:

Deposit of computer program listings. (37 CFR 1.21, 1.77 and 1.96).

(a) *Description and Need:* PTO proposes to revise its regulations relating to patent application disclosures, currently published in Title 37, *Code of Federal Regulations*, Part 1, to allow lengthy computer program listings to be deposited in the PTO and incorporated by reference in the patent application.

Under current regulations, lengthy computer program listings must be reproduced in the specification or the drawings as integral parts of a patent application. The proposed revision will benefit patent applicants by relieving them of the burden and expense of reproducing lengthy computer program listings.

The PTO and patent applicants will both benefit from a reduction in the cost of printing patents which do not include a lengthy computer program listing.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*

(i) is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (June 15, 1977).

(ii) In final form (August 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO publish the proposed revision in the **Federal Register** (42 FR 30522, June 15, 1977) for comment and held a public hearing.

(f) *Major Isues:* There are no major issues.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).

(2) *Other Documents Available:* A file of the written comments received by the PTO, a summary and analysis of the comments and a transcript of the hearing will be available for examination by interested parties.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3070. J. Kent Hughes, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–0410.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Amending patents and patent applications to correct inventorship. (37 CFR 1.45 and 1.324.)

(a) *Description and Need:* PTO is considering a revision of its regulations, currently published in Title 37, *Code of Federal Regulations*, Part 1, to permit the substitution of one sole inventor for another sole inventor in patent applications under appropriate circumstances. The revision is needed in order to remove restrictions against this type of substitution under the circumstances existing in *Stoddard v. Dann*, 564 F. 2d 556, 195 USPQ 97 (D.C. Cir. 1977).

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*

(i) Is the regulation significant? (yes x , no , unknown).

(ii) Is the regulation major? (yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (June 1980).

(ii) In final form (February 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision of the regulations in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. A public hearing will be held.

(f) *Major Issues:* The major issue is whether the PTO should authorize substitution of one sole inventor for another under the circumstances in *Stoddard v. Dunn*.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3070.

DOC Operating Unit

Patent and Trademark Office (PTO)

Title of Regulation

Interferences; motions and printed briefs (37 CFR 1.225, 1.231, 1.253, 1.254 and 1.258).

(a) *Description and Need:* PTO is considering a revision of its regulations, currently published in Title 37, *Code of Federal Regulations*, Part 1, relating to motions and printed briefs which rival inventors may file in interference proceedings conducted to determine who was the first inventor.

Recent experience has demonstrated

Recent experience has demonstrated a need to make it clear that after an interference has been redeclared, a motion is not permitted if it could have been filed earlier during the motion period and been considered by the primary examiner. A recent decision of the United States Court of Customs and Patent Appeals indicates a need to state specifically that an issue of benefit raised by motion is not preserved for later consideration at final hearing unless the motion was transmitted to, and decided by, the primary examiner. The same Court has also made certain amendments in its rule governing the acceptance of printed briefs which should be reflected in the PTO's comparable regulation governing the acceptance of printed briefs.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*

(i) Is the regulation significant?
(yes x , no , unknown).

(ii) Is the regulation major?
(yes , no x , unknown).

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (August 1980).

(ii) In final form (January 1981).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision of the regulations in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.

(f) *Major Issues:* There are no major issues.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required?
(yes , no x , unknown).

(2) Other Documents Available: None.

(h) *Agency Contact:* Ian A. Calvert, Chairman, Board of Patent Interferences, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Tel. (703) 557–3625.

[FR Doc. 80-17038 Filed 6-4-80; 8:45 am]
BILLING CODE 3510-BT-M

federal register

Thursday
June 5, 1980

Part III

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs Per Visit

DEPARTMENT OF HEALTH AND

applied on an aggregate basis, i.e., the

6. Application of the limits in the

must develop home care costs in their

agencies. We will address any findings

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs Per Visit

AGENCY: Health Care Financing Administration (HCFA), HHS.
ACTION: Final notice.

SUMMARY: This Notice sets forth a schedule of limits on home health agency (HHA) costs that may be reimbursed under the Medicare program. Limits are expressed as costs per visit. Although separate limits are established by type of service, limits are applied to each home health agency as a single "aggregate" limit, based on the agency's number of visits for each type of service. This is an annual update of the schedule and replaces the schedule published in the **Federal Register** on June 1, 1979 (44 FR 31814). It applies to the entire cost reporting period of a HHA whose cost reporting period begins on or after July 1, 1980.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to direct overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented by regulations at 42 CFR 405.460.

Under this authority, initial limits on home health agency per visit costs by type of service were published June 1, 1979, and became effective July 1, 1979. These limits were based on: (1) a classification system of HHAs according to their location within a Standard Metropolitan Statistical Area (SMSA), a New England County Metropolitan Area (NECMA) or a non-SMSA; (2) limits set at the 80th percentile; and (3) an inflation factor based upon estimates by the Office of Financial and Actuarial Analysis, HCFA, of increases in the average per visit interim reimbursement and the application of a formula established by the Council on Wage and Price Stability. The initial limits were applied on an aggregate basis, i.e., the Medicare allowable costs for all services are totaled and compared to an overall limit computed for each agency by multiplying the number of Medicare visits for each service by the respective per visit cost limit.

Summary of Changes

A proposed revised schedule of limits on home health per visit costs was published in the **Federal Register** on February 15, 1980 (45 FR 10450). It included several changes from the previous schedule of limits that was effective July 1, 1979 including provisions for:

(a) a classification system based on whether a HHA is provider-based or free-standing; (b) a market basket index developed from the price of goods and services purchased by HHAs; (c) a wage index developed from hospital wages; (d) a cost of living adjustment for Alaska and Hawaii; and (e) limits applied by type of service; and (f) limits set at the 80th percentile.

Five of these proposed changes are retained in this final notice. The proposed change we are not adopting is the application of separate limits by type of service. Thus, this new schedule of limits on home health agency costs provides for:

1. A classification system based on whether a HHA is provider-based or free-standing. (A "provider-based" HHA is one that participates in Medicare as part of a hospital, skilled nursing facility, or rehabilitation facility.) In addition, agencies are classified according to whether the HHA is located within a SMSA, a NECMA, or a non-SMSA.

2. A market basket index, developed from the price of goods and services purchased by HHAs. Its purpose is to account for the impact of changing wage and price levels on HHA costs. This index is used to adjust HHA cost data from July 1, 1980 to the midpoint of the cost reporting periods to which the limits will apply.

3. A wage index, developed from hospital wages, used to adjust the wage component of the limits to reflect differing wage levels among the areas in which HHAs are located. The wage and salary portion of the market basket index (64.99 percent), plus a factor representing the wage portion of contract services (4.79 percent), is used to determine the wage component (69.78 percent) for all group limits.

4. A cost of living adjustment applied to the non-labor portion of the limit for Alaska and Hawaii.

5. Limits set at the 80th percentile.

6. Application of the limits in the aggregate after the provider's actual costs are reduced by the amount of individual items of cost that are found to be excessive under Medicare principles of provider reimbursement and of reimbursable costs that are not included in the limitation amount.

Discussion of Major Comments

Comments and suggestions concerning the proposed schedule were received from a number of national and State organizations, home health agencies, and individuals including the American Hospital Association, National League for Nursing, and National Association of Home Health Agencies. Our responses to the most significant comments follow.

Establishment of Separate Limits for Provider-Based and Free-Standing Agencies

1. Most commenters objected to the adoption of separate limits for provider-based and free-standing agencies. Representatives of free-standing agencies objected to the separate category for hospital-based agencies claiming that separate limits would threaten the continuance of their operation by enabling more hospitals to enter the market and to compete with free-standing agencies in the provision of home health services. Representatives of provider-based agencies favored separate limits because those limits take into account the influence of required Medicare hospital cost allocation on the hospital-based agency.

As explained in the proposed notice, separate limits for provider-based agencies are not intended to jeopardize free-standing agencies; but rather to assure that the limits will not cause an arbitrary disallowance of costs among existing provider-based agencies, solely as a result of a provider's compliance with Medicare rules of cost reporting.

As a result of experience in implementing the initial schedule of limits on home health agency costs, we analyzed cost reports of provider-based HHAs to determine the effect of cost allocation on costs of provider-based agencies. From this analysis, we determined nationwide that approximately 26 percent of the total cost of hospital-based agencies represent costs allocated from the parent hospital. Program instructions require most providers to use a step-down method of cost finding. This methodology results in allocation of both direct and indirect costs from general service cost centers to those revenue-producing cost centers that receive services. Provider-based HHAs must develop home care costs in their step-down or other cost finding procedures and report them as a separate cost center for the home health care department on the hospital/skilled nursing facility cost reporting forms. These accumulated home health center costs including overhead allocations from the parent institution, are then transferred to the required home health reporting form. As a result of this transfer, the hospital-based agency reports a share of the costs from the hospital's overhead accounts not directly commensurate with costs incurred by free-standing agencies. Considering these circumstances, cost limits applied equally to provider-based and free-standing agencies would contain an automatic presumption that the provider-based agencies are more likely to be inefficient regardless of their performance, because they would not recognize the transfer of costs from the provider institution.

2. A number of commenters suggested revising the method used to determine costs in a provider-based agency rather than establishing separate limits for provider-based agencies.

In order to develop cost limits, we have needed to rely on existing cost data that reflects the cost-finding methodology now in effect. Although methods for determining cost can be changed, we do not believe a change in cost finding could be implemented retroactively. Therefore, we do not believe this suggestion represents an immediate alternative to separate recognition of provider-based home health agencies. However, we do plan to study the existing cost reporting/cost finding requirements for hospitals to determine if allocation procedures should be changed in the future.

In granting authority to establish Medicare cost limits, the Congress recognized that costs could vary among institutions as a result of identifiable factors not directly related to actual inefficiency or excessive service. Committee reports accompanying the legislation indicated that limits would be applied to appropriate classes of providers. As indicated in the discussion of comment 1, we believe separate limits are in appropriate means of recognizing the result of cost allocation, a circumstance not necessarily indicative of inefficiency or excessive service.

Although we believe that establishing separate limits as a means of recognizing overhead costs allocation of provider-based agencies is reasonable based on our analysis of Medicare cost data, we will continue to investigate all identifiable factors that may contribute to higher costs in provider-based agencies. We will address any findings and refinements in an updated schedule of limits. In the interim, we will not penalize the provider-based agencies and continue with combined limits.

3. Some commenters also suggested that the exceptions process be used to acknowledge provider-based agencies overhead allocation instead of separate limits. [42 CFR 405.460(f)(2) permits HCFA to grant an exception to the limits if the HHA can show that it incurred higher costs due to extraordinary circumstances beyond its control.) The respondents contended that higher limits for provider-based agencies may lead to rapid proliferation and duplication of these agencies.

We view the exceptions process as a system designed for limited use in dealing with isolated or unpredictable circumstances. In adition, we do not believe the provider should be subject to a burden of proof (as required in the exceptions process) as a result of following accepted methods of cost finding. The limits as set forth reflect a modification of an evolving system. Our experience with this system may produce additional factors warranting consideration. We are continuing to evaluate the factors contributing to differences in the costs of the provider-based and free-standing agencies, and as information becomes available refinements may be made. Therefore, we do not believe that the exceptions process should be the means for recognizing hospital overhead allocation.

Market Basket Index

1. Most commenters approved the introduction of an HHA market basket as a measure of inflation; however, some responses indicated a basic misunderstanding of the background and formulation of the market basket. Most of the commenters objecting to the market basket index were concerned about using the hospital wage index rather than an index developed specifically for HHA employees. Commenters were equally divided in suggesting that hospital wages and benefits are either too low or high a measurement for predicting HHA rates of inflation. Additionally, several commenters felt that benefits/wages in large hospitals are frequently less costly than in smaller agencies because the individual cost decreases as the number of employees increases.

The initial schedule of home health limits used actuarial projection of changes in HHA interim reimbursement rates for inflation adjustments. We believe that the actual increase in a market basket of goods and services specifically related to the particular industry is a more accurate measure of inflation than any actuarial projection. Through our analysis of expenditures of HHAs, we identified nine major categories of cost and used these to develop the market basket published in the proposed notice. We identified the nine categories through analysis of Medicare cost reports and other available home health industry surveys. The categories and the relative weights reflect characteristics peculiar to the home health industry. The price variables are econometric measures that are related to the cost category and produced broadly and frequently enough to support actual inflation increases. For further explanatory purposes, we have included an updated market basket index.

Home Health Agency Input "Price" Index: Cost Categories, Weights, Forecasters and "Price" Variable Used

Cost category	Relative weight 1978	Forecaster	"Price" variable used
Wages and Salaries	64.99		A. *Historical*—Payroll expenses per full-time equivalent worker employed by community hospitals. Source: American Hospital Association Panel Survey.
		DRI–CFS	B. *Projections*—For the period calendar year 1979 average hourly earnings of production and nonsupervisory workers on private nonagricultural payrolls, service industry. For the period calendar year 1980 and thereafter—Percentage change in average hourly earnings of hospital industry workers (sic 806). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings*, Table C–2.
Employee Benefits	8.61		A. *Historical*—Employee benefits per full-time equivalent worker employed by community hospitals. Source: American Hospital Association, National Hospital Panel Survey.
		DRI–MM	B. *Projection*—Supplements to wages and salaries per worker in nonagricultural establishments. Source: For supplements to wages and salaries—U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, (monthly) Table 7 (1.13) July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings*, Table B–4.
Transportation	4.73	DRI–CFS	Transportation component of the consumer price index, all urban.

Home Health Agency Input "Price" Index: Cost Categories, Weights, Forecasters and "Price" Variable Used

Cost category	Relative weight 1978	Forecaster	"Price" variable used
Contract Services	4.79	DRI–CFS	Business services component of the consumer price index, all urban.
Capital-Related Costs	5.29	DRI–CFS	Housing component of the consumer price index, all urban.
Fringe Benefits	3.79	DRI–MM	Supplements to wages and salaries per worker in nonagricultural establishments. Source: For supplements to wages and salaries—U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, (monthly) Table 7 (1.13) July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings*, Table B–4.
Miscellaneous	6.80	DRI–CFS	Consumer price index, all urban.
Total	100.00		

1 Based on 1978 Medicare cost reports for free-standing HHAs.

2. Some commenters suggested that the market basket index be developed from the price of goods and services purchased by HHAs. Other commenters suggested that the index be developed from the price of goods and services purchased by hospitals. Because the index is used to adjust HHA cost data, we believe that the index should be developed from the price of goods and services purchased by HHAs. Although the index in this notice utilizes 1978 data and

aggregate methodology; however, many

operated with other departments of the

non-labor, the sum of these two

Home Health Agency Input "Price" Index: Cost Categories, Weights, Forecasters and "Price" Variable Used—Continued

Cost category	Relative[1] weight 1978	Forecaster	"Price" variable used
			Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 2.
Office costs	2.78	DRI–MM	Services component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 2.
Rent	1.30		Residential rent component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
		DRI–MM, HCFA–DHEW	B. *Projection*—Historical relationship of rental component of consumer price index, all urban, for 1977 and 1978 to all item consumer price index, all urban, projected to subsequent years.
Nonrental space occupancy costs	1.16	DRI–MM	Composite fuel and other Utilities index. Source: DHEW–HCFA, Community Hospital Input Price Index.
Medical nursing supplies and rental equipment	2.69		A. *Historical*—1978: Medical equipment and supplies component of the consumer price index. Prior to 1978: commodities component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table.
		DRI–CFS	B. *Projection*—Medical commodities component of the consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Miscellaneous	6.95	DRI–MM	Consumer price index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Contract services	6.87	DHEW–HCFA	Weighted mean of price variables for items 1 through 8
Total	100.00		

[1]Relative cost weights for 1978 were derived from special studies by the Health Care Financing Administration using primarily data from the Council of Home Health Agencies and Community Health Services and data from HCFA Medicare cost reports. A laspeyres price index was constructed using weights and "price" variables indicated in this table. In calendar 1978 each "price" variable has an index value of 100.00. The relative cost weights change each period in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

Sources: DRI–MM refers to Data Resources, Inc., Macro Model; 29 Hartwell Ave., Lexington, Massachusetts 02173, Control 042379. DRI–CFS refers to Data Resources, Inc., Cost Forecasting Service, 1750 K St. NW., Washington, D.C. 20006, CFS–792.

Wage Index

1. Many commenters criticized the use of a wage index based on hospital data from the Bureau of Labor Statistics (BLS).

Our position is that data from currently available sources would not permit further breakdowns within occupational categories or computation of an index specifically related to salaries in the home health industry. Therefore, in response to suggestions following implementation of the initial schedule of limits that an adjustment should be made for area wage differentials, we adopted the hospital wage index as the best available proxy.

2. Several commenters also questioned the validity of the wage index, suggesting that it ignores the impact of unionization on salary ranges of both union and non-union agencies. Other commenters suggested that the wage index does not recognize area-wage differences.

We have previously considered the contention that union contracts impact wages and benefits. We continue to believe that labor contracts reflect not only union demands, but also management's awareness of the many methods of tying labor contracts to the cost of living adjustment and of management's negotiating ability. The updated wage index, which is applied to the portion of the cost limit attributable to wages, is based on the most current data available and recognizes differences in area wages. The impact of wages escalating as a result of union contracts now being negotiated will be reflected in future BLS data.

3. A few commenters suggested development of a wage index based on salary data from Medicare cost reports.

The employment statistics needed to develop a wage index are not available from the cost reports.

A wage index specifically related to HHA experience may eventually become possible through our continued evaluation of HHA data or development of additional sources of wage and salary information. The wage index published in the proposed notice was based on data for 1977, which were the latest available data. We stated in the proposed notice that, should more current data become available, we would update the index. In the interim, data for 1978 have become available; consequently, the wage index published in this notice utilizes 1978 data and changes in the basic service limits reflect use of these more current data.

It should be noted that the basic service limits published in this notice do not represent a change in the level at which the limits are set. The basic service limits represent the 80th percentile of costs in each provider group after deflation for the effect of wage differentials. These basic limit amounts are adjusted by the appropriate area wage index prior to application. The wage indices based on 1978 wage data differ from those published in the proposed notice (usually the 1978 index value is greater). This difference in the wage indices accounts for the change in the basic service limits contained in this schedule.

Constraints inherent in the use of the BLS data prevented derivation of a wage index applicable to Puerto Rico, and none is included in the list of indices. However, a wage-index value of 1 will be assumed for applying the limits in Puerto Rico, effectively making no adjustment relative to the national average.

Other Comments

1. We received several comments that the proposed notice did not contain actual percentages of the cost of living adjustment for HHAs located in Alaska and Hawaii.

The proposed limits contained a provision to increase the limits that apply to Alaska and Hawaii by the amount of the Office of Personnel Management cost of living differential for those States. Analysis of the impact of the limits on these States has convinced us that the provision should be retained; however, through further analysis, we have determined that this adjustment should apply only to the non-wage portion of the limit. The wage portion of the limit is adjusted by the wage index which reflects differing wage levels among the areas in which HHAs are located; consequently, if the cost of living adjustment is applied to the total limit, the labor portion would receive a second adjustment of the same cost differential. To prevent any disadvantage to HHAs located in Alaska and Hawaii, we will contine to adjust the non-wage portion of the limit by the cost of living adjustment. The areas affected by the differential are surveyed and updated yearly, therefore, the rate may be adjusted up or down. The figures in the footnote to Table II reflect the most recently determined cost of living differential.

2. Several commenters indicated that setting limits by type of service represented an improvement to the aggregate methodology; however, many questioned the timeliness of establishing per visit costs by type of service, in view of variations in curretn cost reporting methods. These commenters suggested that the aggregate methodology be continued until the single method of cost finding and apportionment is implemented and sufficient data are available upon which to set valid per visit limits by type of service.

We agree that the aggregate methodology should be continued at the present time. However, we believe this method allows providers to offset some cost of inefficient delivery of services and it is our objective to move to a per discipline limit as soon as possible. Waiting until the single method of cost finding and cost apportionment is implemented and data are available is one method, as pointed out in comments, but we will be studying the issue carefully to see if a conversion to a per discipline limit can be accomplished earlier. The Department intends to publish a final rule requiring a uniform method of cost-finding and cost-apportionment to be effective for cost reporting periods beginning on or after October 1, 1980 (see notice of proposed rulemaking, 45 FR 10382, February 15, 1980).

3. Some comments were received that questioned the statement contained in the proposed notice that methods of reimbursement for HHAs under Medicaid are determined by the individual State agencies and that, therefore, Medicare limits do not apply to payment rates for HHA services under Medicaid. These commenters questioned this statement in relation to HCFA Action Transmittal 79–59, which stated the proposed schedule of HHA limits would also apply to Medicaid payments for these services.

We do not have specific regulatory authority for applying Medicare cost limits to Medicaid payments to HHAs. Because of differing reimbursement methods and the absence of clear regulatory authority to apply Medicare cost limits to HHA services under Medicaid, Action Transmittal 79–59 was rescinded by Action Transmittal 80–16 on March 18, 1980. Therefore, Medicare cost limits for HHAs will apply only to Medicaid payments in those States that choose to incorporate the limits into their plans for payment for home health services.

4. Several commenters requested further clarification of the definition of a provider-based agency under the cost limits.

An HHA is determined to be hospital-based when it is an integral and subordinate part of a hospital and is operated with other departments of the hospital under common licensure, governance, and professional supervision; all services of both the hospital and the HHA are fully integrated. Specifically, an HHA is hospital-based if the following conditions are met:

The HHA and hospital are subject to the bylaws and operating decisions of a common governing board.

The HHA and hospital are financially integrated as evidenced by the cost report, which must reflect allocation of hospital overhead to the HHA through the required step-down methodology, and by common billing for all services of both facilities. (See § 2326 of the Provider Reimbursement Manual, HIM 15–1.)

The existence of either (1) an agreement between an HHA and a hospital with respect to the referral of patients or (2) a shared service arrangement (a common arrangement recognized by both Medicare and Medicaid) does not mean an HHA is hospital-based and is not considered in determining the status of the facility.

5. Commenters requested further clarification concerning parent agency/subunit relationship, manner of filing cost reports, factors determining applicable cost caps, and characteristics of branch offices.

State health department home health agencies with subunits are permitted to file a single combined cost report under the 7800 series of provider numbers. For these official agencies, location of the parent agency determines the applicable cost cap. A home health agency operating as a branch office (see 42 CFR 405.1202) of a parent agency, although located in a different area, is still classified according to the geographic location of the parent office. Branch offices are included in the cost report prepared by the parent agency since branch offices by definition are dependent on the parent agency for administrative, supervisory and other services and therefore are not independently certified.

Except as noted above, subunits of private agencies and providers in a chain organization, and other groups of providers, operating informally under a shared service agreement, must file separate cost reports. These agencies are classified according to their actual location.

6. Some commenters also asked for further explanation of the application of the basic service limit, as it was their impression that each component of the limit represents a separate limit.

Although the basic service limit contains two components, i.e., labor and non-labor, the sum of these two components is the limit for a specific service. To account for area wage differentials, the basic service limit is divided into its two components, and the labor portion is adjusted by the applicable wage index. The adjusted limit that will apply to a HHA visit will be the sum of the adjusted labor component plus the non-labor component.

7. Several commenters expressed concern that the three-year exemption for newly established HHAs would promote rapid proliferation of agencies.

The regulations make a distinction between exemptions from application of the cost limits and exceptions from the particular cost limit for a facility. 42 CFR 405.460(e)(2) provides that an exemption is available only to facilities serving inpatients, i.e., hospitals and skilled nursing facilities. If a provider of inpatient services receives an exemption, it is not affected at all by the cost limits and is reimbursed under Medicare principles according to the lower of its reasonable cost or customary charges. 42 CFR 405.460(f)(7) (published June 1, 1979 44 FR 31803) provides an exception for newly established HHAs (those in operation less than 3 full years). If an agency receives an exception, it is reimbursed on the basis of the cost limit, plus an incremental sum for the reasonable costs warranted by the circumstances that justified its exception. The purpose of the three year exception for newly established HHAs is to provide reasonable reimbursement for those agencies experiencing increased costs per visit in initial years of operation as a result of lower utilization.

Since the exception for HHAs does not exempt them totally from the cost limits and since each HHA applying for this exception must prove its case, we do not believe the provision will encourage the establishment of unnecessary new agencies.

Methodology for Determining Cost Per Visit Limits

1. *Data.* The limits were determined by using cost per visit data obtained from the latest Medicare cost reports for periods ending on or before September 30, 1978. We adjusted the data from the midpoint of each provider's cost reporting period to June 30, 1980, using factors developed from actual historical increases in home health agency reimbursement. The market basket index factors will be used to project costs from July 1, 1980, to the midpoint of the first cost reporting period to which the limits will apply. The annual

percentage increases for this projection

Schedule of Limits

out of line with those of comparable

Table III—SMSA Constituent Counties

Cincinnati, OH–KY–IN: Dearborn, Boone

percentage increases for this projection are:

Calendar Year	Percent increase
1977	7.3
1978	6.9
1979	9.1
1980 (1/1/80–6/30/80)	9.9
1980 (market basket, 7/1/80–12/31/80)	10.2
1981 (market basket)	9.9
1982 (market basket)	9.8

The projected rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase is more than ¼ of 1 percentage point above the estimated rate. We will publish the actual rate of increase in the **Federal Register** and use it to adjust a home health agency's cost limit at time of final settlement.

2. *Deflation by Wage Index.* Each HHA's per visit costs are divided into wage and non-wage portions. The wage portion of costs is determined by using the 69.78% routine wage factor derived from the market basket weight (64.99%) for employee wages and salaries, plus a wage percentage (4.79%) of contract services. This wage portion is then divided by the wage index applicable to the HHA's location to arrive at an adjusted wage cost. (See table IV.) This adjusted wage cost is then added to the non-wage cost to obtain the per visit cost used to calculate the basic service limit.

The current hospital wage index was developed from data for the year 1978 supplied by the Bureau of Labor Statistics (BLS) for the "hospital industry", a standard BLS reporting category. Data for 1979 will not be available until late in 1980.

To develop the hospital wage index, we first computed the national SMSA, or NECMA average hospital wage. We then divided this average into the average hospital wage for each SMSA (or NECMA). For non-SMSA areas, we developed the index by computing the national non-SMSA average hospital wage and then divided this average into the average hospital wage for all non-SMSA counties in a State. The results are expressed as index numbers which are used to adjust the labor-related components of the limits.

3. *Basic Service Limit.* A basic service limit equal to the 80th percentile of the array was calculated for each type of service, according to the provider-based and free-standing classification and the urban or non-urban location of the group.

4. *Computing the Adjusted Limit.* the basic limit for each type of service is divided into its wage and non-wage components. The cost weight (69.78 percent) representing wage and salary expenditures is used to determine the wage component of the cost limit. The wage component of the basic service limit is then multiplied by the wage index. (See Table IV.) The adjusted limit which applies to each service group is the sum of the non-wage component of the basic limit, plus the adjusted wage component.

Example—Calculation of Adjusted Limit.

Limit from Schedule—$42.67
Labor portion—$29.77
Non-labor portion—$12.90
Wage Index—$1.2504.

Computation of Adjusted Limit

$29.77 × 1.2504 (wage index) = $37.22—Adjusted Labor Portion.
$37.22 + 12.90 = $50.12—Adjusted per visit limit for this HHA.

5. *Adjustment for Reporting Year.* If a HHA has a cost reporting period beginning on or after August 1, 1980, the adjusted per visit limit for each service will be revised upward by a factor of .825 percent for each elapsed month between July 1, 1980, and the month in which the HHA's cost reporting period starts. (The figure .825 is one twelfth of the calendar year projected market basket increase of 9.9 percent.) This factor is developed by dividing the projected increase in the market basket index by 12 and is used to account for inflation in costs that will occur after the date on which the limits become effective.

Example—HHA A's cost reporting period begins October 1, 1980. The adjusted per visit limit for A's group is $50.12.

Computation of Revised Group Limit

Adjusted Per Visit Limit—$50.12, Plus Adjustment for 3-month period.
3 × .825 = 2.475 percent
1.02475 × $50.12 = $51.36

In this example, the revised adjusted per visit limit applicable to A for the cost reporting period beginning October 1, 1980, is $51.36 per visit.

If a HHA uses a cost report period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the factor of .825 is based on an assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The HHA's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

The schedule of limits set forth below applies to the 12-month cost reporting period beginning on or after July 1, 1980. The adjusted limits (using the wage index published in Table IV) will be computed by the fiscal intermediaries and each HHA will be notified of its applicable limit.

The limits also include the cost of medical supplies routinely furnished in conjunction with patient care. However, the costs of medical appliances and supplies that are not routinely furnished in conjunction with patient care visits and that are direct identifiable services to an individual patient are excluded from the per visit limit amounts. The reasonable costs of these items will be reimbursed without regard to the schedule of limits. Routinely furnished medical supplies are defined in the instructions of the New Medicare home health agency cost report that were made available for public comment earlier this year.

The limit is determined for each home health agency by multiplying the number of Medicare visits for each type of service furnished by the provider by the respective per visit cost limit. The sum of these amounts is compared to the home health agency's aggregate allowable cost.

Example: Home Health Agency A, a freestanding agency located in Ann Arbor, Michigan, made 5,000 skilled nursing, 1,000 physical therapy and 1,000 home health aide covered visits to Medicare beneficiaries during its 12-month cost reporting period beginning July 1, 1980.

The aggregate cost limit would be determined as follows:

Type of Visit	Visits	Limit	Adj. limit	
Skilled Nursing	5,000	42.67	43.62	$218,100
Physical Therapy	1,000	42.42	43.37	43,370
Home Health Aide	1,000	32.26	32.98	32,980
Aggregate Cost Limit				294,450

Before the limits are applied at cost settlement, the provider's actual costs will be reduced by the amount of individual items of cost (e.g., administrative compensation, contract services) that are found to be excessive under Medicare principles of provider reimbursement. In this regard, the fiscal intermediaries would review the various reported costs against such screens as the cost guidelines for physical therapy (see 42 CFR 405.432) and against the limitation on costs that are substantially out of line with those of comparable agencies (see 42 CFR 405.451). The provider's cost would also be reduced by the amount of reimbursable costs that are not included in the limitation amount (e.g., medical appliances). HCFA will also examine the feasibility of applying additional screens to various types of costs incurred by HHAs.

A home health agency operating as a branch or subunit (not independently certified for Medicare participation) whose main office, as of the effective date of the schedule of limits, is located in a SMSA (or within a NECMA, if in New England) will be classified as metropolitan. (SMSA and NECMA counties are listed in Table III.) A home health agency whose main office is not located in a SMSA (or NECMA) will be classifed non-metropolitan. (See 42 CFR 405.1202 for definition of branch office.)

Table I—Per Visit Limits for Provider-Based Home Health Agency's

Type of visit	Limit for SMSA location	Labor portion (67.78%)	Non-labor portion (30.22%)
SMSA (NECMA) Location			
Skilled nursing care	54.17	37.80	16.37
Physical therapy	47.87	33.40	14.47
Speech pathology	47.52	33.16	14.36
Occupational therapy	49.94	34.84	15.10
Medical social services	54.54	38.06	16.48
Home health aide	47.36	33.05	14.31
Non-SMSA Location			
Skilled nursing care	47.23	32.96	14.27
Physical therapy	46.37	32.36	14.01
Speech pathology	*	*	*
Occupational therapy	*	*	*
Medical social services	*	*	*
Home health aide	42.95	29.97	12.98

*Insufficient data—Use basic services limits for free-standing non-SMSA agencies.

Table II—Per Visit Limits for Free-Standing Home Health Agency's [1]

Type of visit	Limit for SMSA location	Labor Portion (69.78)	Non-labor portion (30.22%)
SMSA (NECMA) Location			
Skilled nursing care	42.67	29.77	12.90
Physical therapy	42.42	29.60	12.82
Speech pathology	44.04	30.73	13.31
Occupational therapy	45.24	31.57	13.67
Medical social services	48.79	34.05	14.74
Home health aide	32.26	22.51	9.75
Non-SMSA Location			
Skilled nursing care	44.75	31.23	13.52
Physical therapy	49.62	34.62	15.00
Speech pathology	48.35	33.74	14.61
Occupational therapy	57.30	39.98	17.32
Medical social services	43.46	30.33	13.13
Home health aide	31.49	21.97	9.52

[1] Non-labor portion of limits for HHAs located in States of Alaska and Hawaii will be be increased by the following cost-of-living adjustment:

Alaska	25
Hawaii (island)	
Oahu	12.5
Kauai	15
Molokai	15
Maui and Lanai	10
Hawaii	10

Table III—SMSA Constituent Counties

City, State, and County

Abilene, TX; Callahan, Jones, Taylor
Akron, OH; Portage, Summit
Albany, GA; Dougherty, Lee
Albany, Schenectady, NY; Albany, Montgomery
Troy, Rensselaer, Saratoga, Schenectady
Albuquerque, NM; Bernalillo, Sandoval
Alexandria, LA; Grant, Rapides
Allentown, Bethlehem, Easton, PA–NJ; Warren, NJ, Carbon, Lehigh, Northampton
Altoona, PA; Blair
Amarillo, TX; Potter, Randall
Anaheim, Santa Ana, Garden Grove, CA; Orange
Anchorage, AK; Anchorage
Anderson, IN; Madison
Ann Arbor, MI; Washtenaw
Anniston, AL; Calhoun
Appleton, Oshkosh, WI; Calumet, Outagamie, Winnebago
Asheville, NC; Buncombe, Madison
Atlanta, GA; Butts, Clayton, Cherokee, Douglas, Cobb, Fayette, Forsyth, DeKalb, Henry, Newton, Fulton, Paulding, Gwinnett, Rockdale, Walton
Atlantic City, NJ; Atlantic
Augusta, GA–SC; Columbia, GA, Richmond, GA, Aiken, SC
Austin, TX; Hays, Travis, Williamson
Bakersfield, CA; Kern
Baltimore, MD; Anne Arundel, Baltimore, Baltimore City, Carroll, Harford, Howard
Baton Rouge, LA; Ascension, East Baton Rouge, Livingston, West Baton Rouge
Battle Creek, MI; Barry, Calhoun
Bay City, MI; Bay
Beaumont, Port Arthur, Orange, TX; Hardin, Jefferson, Orange
Billings, MT; Yellowstone
Biloxi, Gulfport, MS; Hancock, Harrison, Stone
Binghampton, NY–PA; Broome, Tioga, Susquehanna
Birmingham, AL; Jefferson, St. Clair, Shelby, Walker
Bismarch, ND; Burleigh, Morton
Bloomington, IN; Monroe
Bloomington, Normal, IL; McLeah
Boise City, ID; Ada
Boston, Lowell, Brockton, Lawrence, Haverhill, MA; Essex, Middlesex, Norfolk, Suffolk, Plymouth, Rockingham, NH
Bradenton, FL; Manatee
Bridgeport, Stamford, Norwalk, Danbury, CT; Fairfield
Brownsville, Harlingen, San Benito, TX; Cameron
Bryan, College Station, TX; Brazos
Buffalo, NY; Erie, Niagara
Burlington, NC; Alamance
Caguas, PR; Caguas, Gurabo, San Lorenzo
Canton, OH; Carroll, Stark
Cedar Rapids, IA; Linn
Champaign, Urbana, Rantoul, IL; Champaign
Charleston, North Charleston, SC; Berkeley, Charleston, Dorchester
Charleston, WV; Kanawha, Putnam
Charlotte, Gastonia, NC; Gaston, Mecklenburg, Union
Chattanooga, TN–GA; Catoosa, Dade, Walker, Hamilton, Marion, Sequatchie
Chicago, IL; Cook, DuPage, Kane, Lake, McHenry, Will
Cincinnati, OH–KY–IN; Dearborn, Boone, Campbell, Kenton, Clermont, Hamilton, Warren
Clarksville, TN; Montgomery
Hopkinsville, KY; Christian
Cleveland, OH; Cuyahoga, Geauga, Lake, Medina
Colorado Springs, CO; El Paso, Teller
Columbia, MO; Boone
Columbia, SC; Lexington, Richland
Columbus, GA, AL; Russell, Chattahoochee, Columbus City
Columbus, OH; Delaware, Fairfield, Franklin, Madison, Pickaway
Corpus Christi, TX; Nueces, San Patricio
Dallas, Fort Worth, TX; Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, Wise
Davenport, Rock, IA; Henry
Island, Moline, IL; Rock Island, Scott
Dayton, OH; Greene, Miami, Montgomery, Preble
Daytona Beach, FL; Volusia
Decatur, IL; Macon
Denver, Boulder, CO; Adams, Arapahoe, Boulder, Denver, Douglas, Gilpin, Jefferson
Des Moines, IA; Polk, Warren
Detroit, MI; Lapeer, Livingston, Macomb, Oakland, St. Clair, Wayne
Dubuque, IA; Dubuque
Duluth, Superior, MN, WI; St. Louis, Douglas
Eau Claire, WI; Chippewa, Eau Claire
Elkhart, IN; Elkhart
Elmira, NY; Chemung
El Paso, TX; El Paso
Enid, OK; Garfield
Erie, PA; Erie
Eugene, Springfield, OR; Lane
Evansville, IN, KY; Gibson, Posey, Vanderburgh, Warrick, Henderson
Fargo, Moorhead, ND, MN; Clay, Cass
Fayetteville, NC; Cumberland
Fayetteville, Springdale, AR; Benton, Washington
Flint, MI; Genesee, Shiawassee
Florence, AL; Colbert, Lauderdale
Fort Collins, CO; Larimer
Fort Lauderdale, Hollywood, FL; Broward
Fort Myers, FL; Lee
Fort Smith, AR, OK; Crawford, Sebastian, Le Flore, Sequoyah
Fort Wayne, IN; Adams, Allen, De Kalb, Wells
Fresno, CA; Fresno
Gadsden, AL; Etowah
Gainesville, FL; Alachua
Galveston, Texas City, TX; Galveston
Gary, Hammond, East Chicago, IN; Lake, Porter
Grand Forks, ND, MN; Grand Forks, Polk
Grand Rapids, MI; Kent, Ottawa
Great Falls, MT; Cascade
Greeley, CO; Weld
Green Bay, WI; Brown
Greensboro, Winston-Salem, High Point, NC; Davidson, Forsyth, Guilford, Randolph, Stokes, Yadkin
Greenville, Spartanburg, SC; Greenville, Pickens, Spartanburg
Hamilton, Middletown, OH; Butler
Harrisburg, PA; Cumberland, Dauphin, Perry
Hartford, New Britain, Bristol, CT; Harford, Middlesex, Tolland, Litchfield
Honolulu, HI; Honolulu
Houston, TX; Brazoria, Fort Bend, Harris, Liberty, Montgomery, Waller

Huntington, Ashland, WV, KY, OH; Boyd, Greenup, Lawrence, Cabell, Wayne
Mobile, AL; Baldwin, Mobile
Modesto, CA; Stanislaus
Richmond, VA; Charles City, Chesterfield, Coochland, Hanover, Henrico, New Kent

Washington, DC, MD, VA; DC, Charles,

Table IV A.—*Wage Index for Urban Areas—*

Table IV A.—*Wage Index for Urban Areas—*

Huntington, Ashland, WV, KY, OH; Boyd, Greenup, Lawrence, Cabell, Wayne
Huntsville, AL; Limestone, Madison, Marshall
Indianapolis, IN; Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby
Iowa City, IA; Johnson
Jackson, MI; Jackson
Jackson, MS; Hinds, Rankin
Jacksonville, FL; Baker, Clay, Duval, Nassau, St. James
Janesville, Beloit, WI; Rock
Jersey City, NJ; Hudson
Johnson City, Kingsport, Bristol, TN, VA; Carter, Hawkins, Sullivan, Unicoi, Washington, Bristol City, Scott, Washington
Johnstown, PA; Cambria, Somerset
Kalamazoo, Portage, MI; Kalamazoo, Van Buren
Kankakee, IL; Kankakee
Kansas City, MO, KS; Johnson, Wyandotte, Cass, Clay, Jackson, Platte, Ray
Kenosha, WI; Kenosha
Killeen, Temple, TX; Bell, Coryell
Knoxville, TN; Anderson, Blount, Knox, Union
Kokomo, IN; Howard, Tipton
La Crosse, WI; La Crosse
Lafayette, LA; Lafayette
Lafayette, West Lafayette, IN; Tippecanoe
Lake Charles, LA; Calasieu
Lakeland, Winter Haven, FL; Polk
Lancaster, PA; Lancaster
Lansing, East Lansing, MI; Clinton, Eaton, Ingham, Ionia
Laredo, TX; Webb
Las Cruces, NM; Dona Ana
Las Vegas, NV; Clark
Lawrence, KS; Douglas
Lawton, OK; Comanche
Lewiston, Auburn, ME; Androscoggin
Lexington, Fayette, KY; Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Lima, OH; Allen, Auglaize, Putnam, Van Wert
Lincoln, NE; Lancaster
Little Rock, North Little Rock, AR; Pulaski, Saline
Long Branch, Asbury Park, NJ; Monmouth
Longview, TX; Gregg, Harrison
Lorain, Elyria, OH; Lorain
Los Angeles, Long Beach, CA; Los Angeles
Louisville, KY, IN; Clark, Floyd, Bullitt, Jefferson, Oldham
Lubbock, TX; Lubbock
Lynchburg, VA; Amherst, Appomattox, Campbell, Lynchburg City
Macon, GA; Bibb, Houston, Jones, Twiggs
Madison, WI; Dane
Manchester, Nashua, NH; Hillsboro, Merrimack
Mansfield, OH; Richland
Mayaguez, PR; Anasco, Hormigueros, Mayaguez
McAllen, Pharr, Edinburg, TX; Hidalgo
Melbourne, Titusville, Cocoa, FL; Brevard
Memphis, TN, AR, MS; Crittenden, DeSoto, Shelby, Tipton
Miami, FL; Dade
Midland, TX; Midland
Milwaukee, WI; Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis, St. Paul, MN, WI; Anoka, Carver, Dakota, Chisago, Hennepin, Ramsey, Scott, Washington, Wright, St. Croix
Mobile, AL; Baldwin, Mobile
Modesto, CA; Stanislaus
Monroe, LA; Ouachita
Montgomery, AL; Autauga, Elmore, Montgomery
Muncie, IN; Delaware
Muskegon, Norton Shores, Muskegon Heights, MI; Muskegon, Oceana
Nashville, Davidson, TN; Cheatham, Davidson, Dickson, Sumner, Robertson, Rutherford, Wilson, Williamson
Nassau, Suffolk, NY; Nassau, Suffolk
New Bedford, Fall River, MA; Bristol
New Brunswick, Perth Amboy, Sayreville, NJ; Middlesex
New Haven, West Haven, Waterbury, Meriden, CT; New Haven
New London, Norwich, CT; New London
New Orleans, LA; Jefferson, Orleans, St. Bernard, St. Tammany
New York, NY, NJ; Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland, Westchester, Bergen
Newark, NJ; Essex, Morris, Somerset, Union
Newport News, Hampton, VA; Hampton City, Williamsburg City, Newport News City, Glouster, York, James City, Poquoson
Norfolk, Virginia Beach, Portsmouth, VA, NC; Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Currituck
Northeast Pennsylvania, PA; Lackawanna, Luzerne, Monroe
Odessa, TX; Ector
Oklahoma City, OK; Candian, Cleveland, McClain, Oklahoma, Pottowatomie
Omaha, NE, IA; Pottawattamie, Douglas, Sarpy
Orlando, FL; Orange, Osceola, Seminole
Owensboro, KY; Davies
Oxnard, Simi Valley, Ventura, CA; Ventura
Panama City, FL; Bay
Parkersburg, Marietta, WV, OH; Washington, Wirt, Wood
Pascagoula, Moss Point, MS; Jackson
Paterson, Clifton, Passaic, NJ; Passaic
Pensacola, FL; Escambia, Santa Rosa
Peoria, IL; Peoria, Tazewell, Woodford
Petersburg, Colonial Heights, Hopewell, VA; Colonial Heights City, Dinwiddie, Hopewell City, Petersburg City, Prince George
Philadelphia, PA, NJ; Burlington, Camden, Gloucester, Bucks, Chester, Delaware, Montgomery, Philadelphia
Phoenix, AZ; Maricopa
Pine Bluff, AR; Jefferson
Pittsburgh, PA; Allegheny, Beaver, Washington, Westmoreland
Pittsfield, MA; Berkshire
Ponce, PR; Juana Diaz, Ponce, Villalba
Portland, ME; Cumberland, Sagadahoc, York
Portland, OR, WA; Clackamas, Multnomah, Washington, Clark
Poughkeepsie, NY; Dutchess
Providence, Warwick, Pawtucket, RI; Bristol, Kent, Providence, Washington, Newport
Provo, Orem, UT; Utah
Pueblo, CO; Pueblo
Racine, WI; Racine
Raleigh, Durham, NC; Durham, Orange, Wake
Rapid City, SD; Pennington, Meade
Reading, PA; Berks
Reno, NV; Washoe
Richland, Kennewick, WA; Benton, Franklin
Richmond, VA; Charles City, Chesterfield, Coochland, Hanover, Henrico, New Kent Co, Powhatan, Richmond City
Riverside, San Bernardino, Ontario, CA; Riverside, San Bernardino
Roanoke, VA; Botetourt, Roanoke, Craig, Roanoke City, Salem City
Rochester, MN; Olmstead
Rochester, NY; Livingston, Monroe, Ontario, Orleans, Wayne
Rockford, IL; Boone, Winnebago
Sacramento, CA; Placer, Sacramento, Yolo
Saginaw, MI; Saginaw
St. Cloud, MN; Benton, Sherburne, Stearns
St. Joseph, MO; Andrew, Buchanan
St. Louis, MO, IL; Clinton, Madison, Monroe, St. Clair, Franklin, Jefferson, St. Charles, St. Louis, St. Louis City
Salem, OR; Marion, Polk
Salinas, Seaside, Monterey, CA; Monterey
Salt Lake City, Ogden, UT; Davis, Salt Lake, Tooele, Weber
San Angelo, TX; Tom Green
San Antonio, TX; Bexar, Comal, Guadalupe
San Diego, CA; San Diego
San Francisco, Oakland, CA; Alameda, Contra Costa, Marin, San Francisco, San Mateo
San Jose, CA; Santa Clara
San Juan, PR; Bayamon, Carolina, Canovanas, Catano, Guaynabo, Loiza, San Juan, Toa Baja, Trujillo Alto
Santa Barbara, Santa Maria, Lompac, CA; Santa Barbara
Santa Cruz, CA; Santa Cruz
Santa Rosa, CA; Sonoma
Sarasota, FL; Sarasota
Savannah, GA; Bryan, Chatham, Effingham
Seattle, Everett, WA; King, Snohomish
Sherman, Denison, TX; Grayson
Shreveport, LA; Bossier, Caddo, Webster
Sioux City, IA, NE; Woodbury, Dakota
Sioux Falls, SD; Minnehaha
South Bend, IN; Marshall, St. Joseph
Spokane, WA; Spokane
Springfield, IL; Menard, Sangamon
Springfield, MO; Christian, Greene
Springfield, OH; Champaign, Clark
Springfield, Chicopie, Holyoke, MA; Hampden, Hampshire
Steubenville, Weirton, OH, WV; Jefferson, Brooke, Hancock
Stockton, CA; San Joaquin
Syracuse, NY; Madison, Onondaga, Oswego
Tacoma, WA; Pierce
Tallahassee, FL; Leon, Wakulla
Tampa, St. Petersburg, FL; Hillsborough, Pasco, Pinellas
Terre Haute, IN; Clay, Sullivan, Vermillion, Vigo
Texarkana, TX, AR; Little River, Miller, Bowie
Toledo, OH, MI; Monroe, Fulton, Lucas, Ottawa, Wood
Topeka, KS; Jefferson, Osage, Shawnee
Trenton, NJ; Mercer
Tucson, AZ; Pima
Tulsa, OK; Creek, Mayes, Osage, Rogers, Tulsa, Wagoner
Tuscaloosa, AL; Tuscaloosa
Tyler, TX; Smith
Utica, Rome, NY; Herkimer, Oneida
Vallejo, Fairfield, Napa, CA; Napa, Solano
Vineland, Millville, Bridgeton, NJ; Cumberland
Waco, TX; McLennan
Washington, DC, MD, VA; DC, Charles, Montgomery, Prince Georges, Alexandria City, Arlington, Fairfax City, Fairfax, Falls Church City, Loudoun, Prince William, Manassas City, Manassas Park City
Waterloo, Cedar Falls, IA; Black Hawk
West Palm Beach, Boca Raton, FL; Palm Beach
Wheeling, WV, OH; Belmont, Marshall, Ohio
Wichita, KS; Butler, Sedgwick
Wichita Falls, TX; Clay, Wichita
Williamsport, PA; Lycoming
Wilmington, DE, NJ, MD; New Castle, Cecil, Salem
Wilmington, NC; Brunswick, New Hanover
Worchester, Fitchburg, Leominster, MA; Worchester
Yakima, WA; Yakima
York, PA; Adams, York
Youngstown, Warren, OH; Mahoning, Trumbull

Table IV A.—*Wage Index for Urban Areas*

SMSA areas	Wage index
Abilene, TX	.8471
Akron, OH	1.0308
Albany, GA	.7833
Albany-Schenectady-Troy, NY	1.0322
Albuquerque, NM	1.1007
Alexandria, LA	1.0357
Allentown-Bethlehem-Easton, PA-NJ	1.0490
Altoona, PA	1.0878
Amarillo, TX	.9891
Anaheim-Santa Ana-Garden Grove, CA	1.1626
Anchorage, AK	1.5136
Anderson, IN	.9269
Ann Arbor, MI	1.2489
Anniston, AL	.7986
Appleton-Oshkosh, WI	.9052
Asheville, NC	1.1118
Atlanta, GA	.9272
Atlantic City, NJ	1.0018
Augusta, GA-SC	1.0750
Austin, TX	[illegible]
Bakersfield, CA	1.0743
Baltimore, MD	1.1333
Baton Rouge, LA	.9242
Battle Creek, MI	1.2267
Bay City, MI	1.0438
Beaumont-Port Arthur-Orange, TX	.8613
Billings, MT	.8945
Biloxi-Gulfport, MS	1.0576
Binghamton, NY-PA	.9246
Birmingham, AL	.9969
Bismarck, ND	.9134
Bloomington, IN	.9585
Bloomington-Normal, IL	.8289
Boise City, ID	1.0836
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-MH	1.1337
Bradenton, FL	.8438
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1186
Brownsville-Harlingen-San Benito, TX	.9056
Bryan-College Station, TX	.7822
Buffalo, NY	.9060
Burlington, NC	.8610
Canton, OH	.9141
Cedar Rapids, IA	.8929
Champaign-Urbana-Rantoul, IL	1.0856
Charleston-North Charleston, SC	1.0173
Charleston, WV	1.0328
Charlotte-Gastonia, NC	.9259
Chattanooga, IN-GA	.9687
Chicago, IL	1.2146
Cincinnati, OH-KY-IN	1.0896
Clarksville-Hopkinsville, TN-KY	.8262
Cleveland, OH	1.1701
Colorado Springs, CO	.9149
Columbia, MO	1.2097
Columbia, SC	.9927
Columbus, GA-AL	.8531
Columbus, OH	1.0253
Corpus Christi, TX	.9106
Dallas-Fort Worth, TX	.9434
Davenport-Rock Island-Moline, IA-IL	.9172
Dayton, OH	1.1514
Daytona Beach, FL	.9461
Decatur, IL	.9357
Denver-Boulder, CO	1.1140
Des Moines, IA	1.0621
Detroit, MI	1.1769
Dubuque, IA	[illegible]
Duluth-Superior, MN-WI	.8073
Eau Claire, WI	.8419
El Paso, TX	.9345
Elkhart, IN	.7965
Elmira, NY	.8010
Enid, OK	.8312
Erie, PA	.9700
Eugene-Springfield, OR	.9591
Evansville, IN-KY	1.0204
Fargo-Moorhead, ND-MN	1.0048
Fayetteville, NC	1.1267
Fayetteville-Springdale, AR	.8734
Flint, MI	1.1314
Florence, AL	.7955
Fort Collins, CO	.8229
Fort Lauderdale-Hollywood, FL	1.1327
Fort Myers, FL	.9611
Fort Smith, AR-OK	.8401
Fort Wayne, IN	.9028
Fresno, CA	1.1454
Gadsden, AL	.8987
Gainesville, FL	1.1171
Galveston-Texas City, TX	.9935
Gary-Hammond-East Chicago, IN	1.1579
Grand Forks, ND-MN	.8739
Grand Rapids, MI	[illegible]
Great Falls, MT	[illegible]
Greeley, CO	.8215
Green Bay, WI	.9398
Greensboro-Winston-Salem-High Point, NC	.8974
Greenville-Spartanburg, SC	.8864
Hamilton-Middleton, OH	1.0650
Harrisburg, PA	1.0520
Hartford-New Britain-Bristol, CT	1.0720
Honolulu, HI	1.1668
Houston, TX	1.0308
Huntington-Ashland, WV-KY-OH	.9505
Huntsville, AL	.8280
Indianapolis, IN	1.0488
Iowa City, IA	1.3012
Jackson, MI	.9828
Jackson, MS	.8981
Jacksonville, FL	.9324
Janesville-Beloit, WI	.8371
Jersey City, NJ	1.0712
Johnson City-Kingsport-Bristol, TN-VA	.9512
Johnstown, PA	.9977
Kalamazoo-Portage, MI	1.1351
Kankakee, IL	.9591
Kansas City, MO-KS	.9882
Kenosha, WI	1.0441
Killeen-Temple, TX	1.0588
Knoxville, TN	.8505
Kokomo, IN	.9330
La Crosse, WI	.8532
Lafayette, LA	.8521
Lafayette-West Lafayette, IN	.8907
Lake Charles, LA	.8526
Lakeland-Winter Haven, FL	.8476
Lancaster, PA	1.0410
Lansing-East Lansing, MI	1.0488
Laredo, TX	.8372
Las Cruces, NM	.7806
Las Vegas, NV	1.1837
Lawrence, KS	.8378
Lawton, OK	.8740
Lewiston-Auburn, ME	.8724
Lexington-Fayette, KY	1.0316
Lima, OH	.9421
Lincoln, NE	1.0107
Little Rock-North Little Rock, AR	1.1015
Long Branch-Asbury Park, NJ	1.0585
Longview, TX	.7922
Lorain-Elyria, OH	.9870
Los Angeles-Long Beach, CA	1.2905
Louisville, KY-IN	1.0112
Lubbock, TX	.8434
Lynchburg, VA	.8611
Macon, GA	.9170
Madison, WI	1.0238
Manchester-Nashua, NH	[illegible]
Mansfield, OH	.8706
McAllen-Pharr-Edinburg, TX	.7825
Melbourne-Titusville-Cocoa, FL	.9051
Memphis, TN-AR-MS	1.0612
Miami, FL	1.1264
Midland, TX	.8816
Milwaukee, WI	1.0154
Minneapolis-St. Paul, MN-WI	.9923
Mobile, AL	.8911
Modesto, CA	.9527
Monroe, La	.9022
Montgomery, AL	.9923
Muncie, IN	.9149
Muskegon-Norton Shores-Muskegon Heights, MI	.9837
Nashville-Davidson, TN	1.0555
Nassau-Suffolk, NY	1.3079
New Redford-Fall River, MA	.9665
New Brunswick-Perth Amboy-Sayreville, NJ	1.0678
New Haven-Waterbury-Meriden, CT	1.1519
New London-Norwich, CT	1.0957
New Orleans, LA	.9929
New York, NY–NJ	1.4451
Newark, NJ	1.2785
Newport News-Hampton, VA	1.0425
Norfolk-Virginia Beach-Portsmouth, VA-NC	[illegible]
Northeast Pennsylvania	1.1027
Odessa, TX	[illegible]
Oklahoma City, OK	.9306
Omaha, NE–IA	.9549
Orlando, FL	.9108
Owensboro, KY	.7235
Oxnard-Simi Valley-Ventura, CA	1.4074
Panama City, FL	.8592
Parkersburg-Marietta, WV–OH	.9577
Pascagoula-Moss Point, MS	1.1379
Paterson-Clifton-Passaic, NJ	1.0851
Pensacola, FL	.9132
Peoria, IL	1.0520
Petersburg-Colonial Heights-Hopewell, VA	.8909
Philadelphia, PA–NJ	1.1616
Phoenix, AZ	1.0806
Pine Bluff, AR	.7245
Pittsburgh, PA	1.1255
Pittsfield, MA	1.0213
Portland, ME	.9540
Portland, OR–WA	1.1194
Poughkeepsie, NY	1.2004
Providence-Warwick-Pawtucket, RI	1.0334
Provo-Orem, UT	.8969
Pueblo, CO	.8612
Racine, WI	.8246
Raleigh-Durham, NC	1.0578
Rapid City, SD	1.1297
Reading, PA	.9918
Reno, NV	1.2465
Richland-Kennewick, WA	.9853
Richmond, VA	[illegible]
Riverside-San Bernadino-Ontano, CA	1.1690
Roanoke, VA	1.1003
Rochester, MN	.9782
Rochester, NY	1.0818
Rockford, IL	1.0742
Sacramento, CA	1.2012
Saginaw, MI	1.1456
St. Cloud, MN	1.1087
St. Joseph, MO	.9095
St. Louis, MO–IL	.9764
Salem, OR	1.0709
Salinas-Seaside-Monterey, CA	1.2103
Salt Lake City-Ogden, UT	.8515
San Angelo, TX	.8074
San Antonio, TX	1.0283
San Diego, CA	1.1255
San Francisco-Oakland, CA	1.3805
San Jose, CA	1.3758
Santa Barbera-Santa Maria-Lompoc, CA	1.0276
Santa Cruz, CA	1.0595
Santa Rosa, CA	1.3212
Sarasota, FL	[illegible]
Savannah, GA	.9041
Seattle-Everett, WA	1.0056
Sherman-Denison, TX	.7773
Shreveport, LA	1.0296
Sioux City, IA–NE	.9221
Sioux Falls, SD	.8497
South Bend, IN	.8811
Spokane, WA	1.0577
Springfield, IL	1.0559
Springfield, MO	.9462
Springfield, OH	.9646
Springfield-Chicopee-Holyoke, MA	1.0342
Steubenville-Weirton, OH–WV	.9822
Stockton, CA	1.2994
Syracuse, NY	1.2807

Table IV A.—*Wage Index for Urban Areas*

There is good cause to make this

Reader Aids

Federal Register

Table IV A.—*Wage Index for Urban Areas*—Continued

SMSA areas	Wage index
Tacoma, WA	1.0397
Tallahassee, FL	.8494
Tampa-St. Petersburg, FL	1.0374
Terre Haute, IN	
Texarkana-TX-Texarkana, AR	1.0364
Toledo, OH-MI	1.0955
Topeka, KS	1.1339
Trenton, NJ	1.1293
Tucson, AZ	1.0725
Tulsa, OK	9224
Tuscaloosa, AL	1.0304
Tyler, TX	.9142
Utica-Rome, NY	.8669
Vallejo-Fairfield-Napa, CA	1.5362
Vineland-Millville-Bridgeton, NJ	.9370
Waco, TX	1.1763
Washington, DC-MD-VA	1.2749
Waterloo-Cedar Falls, IA	.8478
West Palm Beach-Boca Raton, FL	.9374
Wheeling, WV-OH	.9001
Wichita, KS	1.0373
Wichita Falls, TX	.8064
Williamsport, PA	.9170
Wilmington, DE-NJ-MD	1.1964
Wilmington, NC	.8770
Worcester-Fitchburg-Leominster, MA	.9514
Yakima, WA	.8946
York, PA	.9573
Youngstown-Warren, OH	1.0881

Table IV B.—*Wage Index for Rural Areas*

Non-SMSA areas	Wage index
Alabama	.9246
Alaska	1.5107
Arizona	1.0963
Arkansas	.8294
California	1.2158
Colorado	1.0599
Connecticut	1.1225
Delaware	1.0306
Florida	.9807
Georgia	.9382
Hawaii	1.3946
Idaho	.9142
Illinois	.8852
Indiana	1.0121
Iowa	.9095
Kansas	.9044
Kentucky	.8944
Louisiana	.8883
Maine	1.0354
Maryland	1.0525
Massachusetts	1.1692
Michigan	1.0998
Minnesota	.8895
Mississippi	.8386
Missouri	.9685
Montana	.9994
Nebraska	.8075
Nevada	1.0487
New Hampshire	1.0673
New Jersey	1.0895
New Mexico	1.0288
New York	.9986
North Carolina	.9805
North Dakota	.8921
Ohio	1.0218
Oklahoma	.9264
Oregon	1.0769
Pennsylvania	1.1394
South Carolina	.8946
South Dakota	.7753
Tennessee	.8387
Texas	.9065
Utah	.8058
Vermont	1.0319
Virginia	.9318
Washington	1.0242
West Virginia	1.1401
Wisconsin	.9048
Wyoming	1.0947

There is good cause to make this Notice effective July 1, 1980 since early implementation may benefit the home health agencies because the schedule is relieving certain restrictions through a system that is fairer to provide based agencies, there is an adjustment for area wage rates and an improved method for updating the limits based upon inflation.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S. 1302, 1395f (b), 1395x (v) (1), 1395cc (a) and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13,773, Medicare—Hospital Insurance)

Dated: May 28, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing, Administrator.

Approved: June 2, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-17085 Filed 6-4-80; 8:45 am]

BILLING CODE 4110-35-M

V 45 J E 5 8 0 UMI

Reader Aids

Federal Register

Vol. 45, No. 110

Thursday, June 5, 1980

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523-5233	Executive Orders and Proclamations
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523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JUNE

37175-37396.....2
37397-37680.....3
37681-37800.....4
37801-38022.....5

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
465.....37397

3 CFR
Administrative Orders:
Presidential Determination:
No. 80-19 of May 28, 1980.....37681

5 CFR
Proposed Rules
Ch. 1.....37610
352.....37452

6 CFR
705.....37397

7 CFR
10.....37175
711.....37398
908.....37801
910.....37683
947.....37178
1701.....37399
Proposed Rules
760.....37453
1493.....37854
1701.....37454

8 CFR
207.....37392
208.....37392
209.....37392
245.....37392

9 CFR
3.....37616

10 CFR
73.....37399
95.....37410
140.....37410
205.....37683
445.....37685
Proposed Rules
211.....37697
212.....37697

12 CFR
204.....37410
217.....37685
229.....37412-37415
341.....37179
343.....37179
1204.....37801-37803

13 CFR
Proposed Rules
Ch. III.....37972
Ch. V.....37972
120.....37454

14 CFR
39.....37179-37181, 37805-37811
71.....37811
97.....37181
249.....37812
Proposed Rules
39.....37221, 37222
71.....37858

15 CFR
370.....37183
373.....37415
374.....37415
376.....37415
379.....37183, 37435
385.....37415
386.....37183
399.....37415
Proposed Rules
Ch. I.....37972
Ch. II.....37972
Ch. III.....37972
Ch. VIII.....37972
Ch. XII.....37972
19.....37374

16 CFR
13.....37686
460.....37674
1508.....37418
Proposed Rules
705.....37386

17 CFR
240.....37687

18 CFR
141.....37420
260.....37812
271.....37185
282.....37185

20 CFR
Proposed Rules
Ch. I.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. VI.....37648
Ch. VII.....37648

21 CFR
101.....37420
103.....37422
510.....37424
522.....37425
558.....37424
Proposed Rules
310.....37455

22 CFR
208.....37688

Proposed Rules
41 CFR
Ch. VI.....37972

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Proposed Rules
6.....37456
6f.....37456
171.....37456

24 CFR
Proposed Rules
115.....37697

25 CFR
221.....37688

28 CFR
42.....37620

29 CFR
102.....37425
Proposed Rules
Subtitle A.....37648
Ch. II.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. XVII.....37648
Ch. XXV.....37648

30 CFR
250.....37816–37817
816.....37818
Proposed Rules
Ch. I.....37648
Ch. VII.....37223, 37697

31 CFR
103.....37818
535.....37679, 37688

32A CFR
Proposed Rules
Ch. VI.....37972

33 CFR
147.....37186
165.....37187

34 CFR
5b.....37426
30.....37426
73.....37426
100.....37426
104.....37426
106.....37426

37 CFR
Proposed Rules
Ch. I.....37972

39 CFR
111.....37426–37427

40 CFR
52.....37188, 37192, 37428–37430, 37689, 37821
62.....37431
80.....37197
418.....37198
423.....37432
426.....37198
432.....37198
Proposed Rules
51.....37466
52.....37224, 37699
80.....37225
180.....37700

41 CFR
Ch. 101.....37199, 37432
3–4.....37693
101–11.....37433
101–17.....37199
101–18.....37199
101–19.....37199
101–45.....37693

42 CFR
59.....37433
Proposed Rules
405.....37858
441.....37858
447.....37466

43 CFR
Public Land Orders:
5726.....37438
5727.....37439
5728.....37837

44 CFR
64.....37207
65.....37442, 37694
67.....37208–37209
205.....37440
Proposed Rules
67.....37226, 37227, 37861

45 CFR
74.....37666
100c.....37442
Proposed Rules
63.....37700
1050.....37867

46 CFR
283.....37442
527.....37694
Proposed Rules
Ch. II.....37972
Ch. IV.....37703

47 CFR
73.....37210, 37838
74.....37839
Proposed Rules
2.....37237
22.....37237
68.....37704
73.....37238–37246, 37468, 37868–37869
90.....37237

49 CFR
450.....37212
451.....37212
452.....37212
453.....37212
800.....37842
1033.....37219, 37220, 37843–37845
1041.....37218
Proposed Rules
575.....37870

50 CFR
20.....37847
230.....37451
255.....37852
611.....37695
Proposed Rules:
Ch. II.....37972
Ch. VI.....37972
661.....37870

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Last Listing June 4, 1980

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1980)

Quantity	Volume	Price	Amount
	Title 7—Agriculture (Parts 300 to 399)	$5.50	$
	Title 11—Federal Elections	4.75	
	Title 12—Banks and Banking (Parts 200 to 299)	9.00	
	Title 12—Banks and Banking (Part 300 to End)	11.00	
		Total Order	$

[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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6-6-80
Vol. 45 No. 111
Pages 38023-38334

federal register

Friday
June 6, 1980

Highlights

38083 **Equal Employment Opportunity** EEOC proposes regulations regarding affirmative recruitment and minority group statistics; comments by 8–5–80 (2 documents)

38050 **Income Taxes** Treasury/IRS issues final rules relating to amortization of certain rehabilitation costs for certified historic structures

38056 **Mobile Home Loans** VA announces increase in maximum charge for legal services a holder may include on claim under guarantee; effective 5–29–80

38080 **Energy** DOE/FERC proposes exemption of mechanical cogeneration facilities from incremental pricing provisions; comments by 6–30–80

38276, 38302 **Petroleum and Natural Gas** DOE/ERA issues final rules which prohibit use by new electric powerplants and certain major fuel burning installations; effective 8–5–80 (Parts IV and V of this issue) (2 documents)

38038 **Petroleum Price Regulations** DOE/ERA issues adjustments to lower and upper tier crude oil price ceilings to reflect impact of inflation; effective 6–1–80

CONTINUED INSIDE

Highlights

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Contents

Federal Register

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

38064 **Packaging and Containers** USDA/FSQS issues proposed rule to amend standards for condition of food containers; comments by 8–5–80

38258, 38271 **Excise Tax Payments** Treasury/ATF issues proposed rules regarding electronic fund transfer and proposed return and deferral periods for certain tobacco products; comments by 8–5–80 (Part III of this issue) (2 documents)

38072 **Banking** Depository Institutions Deregulation Committee extends comment period on proposed rules concerning offering of premiums or gifts by depository institutions; comments by 7–16–80

38040 **Customs Duties** Treasury/Customs amends regulations relating to importation of metal articles temporarily free of duty; effective 6–6–80

38084 **Employee Benefit Plans** Labor/P&WBP proposes revision of regulation relating to definition of "assets"; comment by 8–5–80

38230 **Minimum Wages** Labor/ESA gives notice of general wage determinations for Federal and Federally assisted construction (Part II of this issue)

38042 **Drugs** HHS/FDA issues final rule making editorial revisions to regulations for registering producers of drugs and for listing of drugs in commercial distribution; effective 7–7–80

38324 **National Forests** USDA/FS issues final rule revising regulations governing authorizations for occupancy of land and conduct of special use activities; effective 7–7–80 (Part VI of this issue)

38057 **Common Carriers** FMC issues specification of carrier policy statement concerning anti-rebating; effective 6–6–80

38073 **Improving Government Regulations** CAB issues Semiannual Agenda of Regulations

38201–38202 **Securities** Treasury amends Circular on Notes of Series S–1982 and E–1985 and announces interest rate on notes of series S–1982 (3 documents)

38098, 38099 **Privacy Act Documents** DOD (2 documents)

38203 **Sunshine Act Meetings**

Separate Parts of This Issue

38230 **Part II, Labor/ESA**
38258 **Part III, Treasury/ATF**
38276 **Part IV, DOE/ERA**
38302 **Part V, DOE/ERA**
38324 **Part VI, USDA/FS**

Contents

Federal Register
Vol. 45, No. 111
Friday, June 6, 1980

Agricultural Marketing Service
RULES
38034 Cherries grown in Wash.
38033 Lemons grown in Ariz. and Calif.
PROPOSED RULES
38063 Cherries grown in Mich. et al.
38062 Pears, plums, and peaches grown in Calif.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Environmental Quality Office, Agriculture Department; Food Safety and Quality Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.

Air Force Department
NOTICES
Meetings:
38098 Scientific Advisory Board
38098 Privacy Act; systems of records

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
38150 June; cancellations

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages and tobacco products:
38258 Excise taxes; payment by electronic fund transfer
Cigars, cigarettes and cigarette papers and tubes:
38271 Excise taxes; return and deferral periods for payments by large manufacturers

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
38036 Cattle; Harry S Truman Animal Import Center; special permits for quarantine, lottery basis
Livestock and poultry quarantine:
38035 Brucellosis
Plant quarantine, domestic:
38024 Witchweed
PROPOSED RULES
Livestock and poultry quarantine:
38071 Screwworms
NOTICES
38091 Equine Piroplasmosis Panel report; availability

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
38098 Procurement list, 1980; additions and deletions (2 documents)

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
38101 San Juan Islands area service, draft facility location supplement

Civil Aeronautics Board
PROPOSED RULES
Improving Government regulations:
38073 Regulatory agenda
NOTICES
Charters:
38094 Foreign tour operators; blanket waiver of name condition
Hearings, etc.:
38095 Aeromar, C. por A.
38094 Air New England; subsidy petition
38093 Air New Mexico, Inc.
38095 Eugene-Portland/Seattle/Los Angeles/San Francisco; Subpart Q proceeding
38094 Former large irregular air service investigation
38094 Golden West Airlines Co.; fitness investigation

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.

Customs Service
RULES
Importations temporarily free of duty:
38040 Metal articles used in remanufacture by melting

Defense Department
See Air Force Department; Navy Department.

Depository Institutions Deregulation Committee
PROPOSED RULES
38072 Premiums, finders fees, and payment of interest in merchandise; extension of time

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
38038 Crude oil price ceilings; lower and upper tier; adjustment to reflect inflation impact
Powerplant and industrial fuel use:
38276 New facilities; administrative procedures and sanctions, and definitions
38301 New facilities; prohibition exemption criteria
NOTICES
Remedial orders:
38101 Telum, Inc.

Employment and Training Administration
NOTICES
38167 Employment transfer and business competition determinations; financial assistance applications
Unemployment compensation; extended benefit periods:
38168 Kentucky
38168 Missouri
38167 New Jersey

Employment Standards Administration
NOTICES
38230 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Colo., D.C., Minn., Mo., Mont., Oreg., S. Dak., and Tex.)

Energy Department
See also Bonneville Power Administration; Energy Research Office; Economic Regulatory Administration; Environment Office, Energy Department; Federal Energy Regulatory Commission.
NOTICES
Crude oil, imported, transfer pricing program:
38142 Calculations of maximum and representative prices; conference; change

Energy Research Office
NOTICES
Meetings:
38102 Energy Research Advisory Board, Research and Development Panel
38101 High Energy Physics Advisory Panel

Environment Office, Energy Department
NOTICES
Meetings:
38102 Atmospheric Carbon Dioxide Advisory Committee

Environmental Protection Agency
PROPOSED RULES
Pesticide programs:
38087 Registration denial or cancellation or change of use classification; notice procedures; notification to Agriculture Secretary
NOTICES
Air pollution; ambient air monitoring reference and equivalent methods applications, etc.:
38142 Model 49 U.V. Photometric Ambient Ozone Analyzer
Environmental statements; availability, etc.:
38142 Agency statements; weekly receipts

Environmental Quality Office, Agriculture Department
NOTICES
38092 National Environmental Policy Act; implementation; proposed determination of categorical exclusions for designated USDA agencies; inquiry

Equal Employment Opportunity Commission
PROPOSED RULES
38083 Equal employment opportunity in the Federal Government; race, sex, and national origin statistics systems

Federal Communications Commission
RULES
Radio stations; table of assignments:
38057 Texas; correction
NOTICES
38146 Television broadcast applications ready and available for processing and notification of cut off date

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
38147 Idaho

Federal Energy Regulatory Commission
RULES
Public Utility Regulatory Policies Act of 1978:
38040 Small power production and cogeneration facilities; rates and exemptions and qualifying status; conferences
PROPOSED RULES
Natural Gas Policy Act of 1978:
38080 Incremental pricing; exemption of mechanical cogeneration facilities
NOTICES
Hearings, etc.:
38102 Boston Edison Co.
38138 Central Illinois Public Service Co.
38139 Central Vermont Public Service Corp.
38139 Cliffs Electric Service Co.
38139 Columbia Gas Transmission Corp.
38139 Duke Power Co.
38140 Florida Power & Light Co.
38140 Florida Power Corp.
38140 Indiana & Michigan Electric Co. (2 documents)
38141 Lockhart Power Co.
38141 Louisiana Interstate Gas Corp.
38141 Montana Power Co.
38141 National Fuel Gas Supply Corp.
38130 New England Power Co.
38131 Northern Natural Gas Co.
38131 Northern Natural Gas Co. et al.
38132 Oroville-Wyandotte Irrigation District
38133 Panhandle Eastern Pipe Line Co.
38133 Peoples Natural Gas Co.
38134 Sierra Pacific Power Co.
38134 Southern California Edison Co.
38134 Southern Co. Services, Inc.
38135 Southern Natural Gas Co.
38135 Tennessee Gas Pipeline Co.
38136 United Gas Pipeline Co.
Natural Gas Policy Act of 1978:
38103, 38113 Jurisdictional agency determinations (2 documents)

Federal Home Loan Bank Board
NOTICES
38203 Meetings; Sunshine Act

Federal Maritime Commission
RULES
Tariffs filed by common carriers in foreign commerce of U.S.:
38057 Anti-rebating; company policy certification

Federal Prevailing Rate Advisory Committee
NOTICES
38147 Meetings; cancelled

Federal Reserve System
NOTICES
Applications, etc.:
38148 Barclays Bank Ltd. et al.
38148 Central Indiana Bancorp, Inc.
38149 Community Bancshares of Tulsa, Inc.
38149 First Eldorado Bancorporation, Inc.
38149 First National in Cordell Bancshares, Inc.

38149 Houston Investments, Inc.
38149 Lake Benton Bancorporation, Inc.
38150 McCook National Co.
Committees; establishment, renewals, terminations, etc.:
38147 Consumer Advisory Council; solicitation of membership nominations
38203 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
38039 Hayoun Cosmetique, Inc., et al.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
38049 Acrylamide-acrylic acid resin
38048-38049 Tylosin (2 documents)
38042 Drug producers registration and listing in commercial distribution
NOTICES
38150 Administrative practices and procedures volume; preamble compilation; availability
Human drugs:
38151 Cyanocobalamin zinc tannate complex; efficacy study implementation; correction
Meetings:
38150 Consumer participation; information exchange
X-ray systems; approvals and extensions of variance:
38150 Rinn Corp.; correction

Food Safety and Quality Service
PROPOSED RULES
38064 Food containers; on-line sampling procedures for condition inspection

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
38096 Florida

Forest Service
RULES
Land uses:
38324 Occupancy and conduct
NOTICES
Meetings:
38092 Black Hills National Forest Grazing Advisory Board

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration.
NOTICES
Meetings:
38151 Vital and Health Statistics National Committee; correction

Interior Department
See also Land Management Bureau; National Park Service; Surface Mining Office.
NOTICES
Environmental statements; availability, etc.:
38153 Four Corners-Ambrosia-Pajarito Transmission Project, N. Mex.
38153 Four Corners-Ambrosia-Pajarito 500 kV Transmission Project, N. Mex.; hearing

Internal Revenue Service
RULES
Income taxes:
38050 Historic structures; amortization of rehabilitation costs
NOTICES
Authority delegations:
38198 Assistant Commissioner (Technical) et al.; rulings applications without retroactive effect
38199 Deputy Commissioner et al.; returns and return information disclosure
38200 District Directors et al.; employee plans and exempt organizations; extension grants, etc.
Meetings:
38198 Commissioner's Advisory Group

International Trade Administration
NOTICES
Scientific articles; duty free entry:
38097 National Bureau of Standards
38097 University of California, San Diego
38096 University of Michigan

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
38058 Chesapeake & Ohio Railway Co.
38059 Chicago, Rock Island & Pacific Railroad Co.
38059 Denver & Rio Grande Western Railroad Co.; correction
38057 Illinois Regional Transportation Authority
NOTICES
38153 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways, and pack and crate

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
38189 Acme Optical Manufacturing Co., Inc., et al.
38180 Active Tool & Manufacturing Co., Inc., et al.
38191 Belmont Garment Co. et al.
38193 Camp International, Inc., et al.
38176 General Motors Corp.
38176 Homer Laughlin China Co.
38176 Lear Siegler Inc.
38177 Motor City Stamping Inc. et al.
38188 Plakie, Inc.
38188 Robertson & Associates (Ala.), Inc.
Meetings:
38195 Steel Tripartite Advisory Committee

Land Management Bureau
NOTICES
Meetings:
38152 Battle Mountain District Grazing Advisory Board
Opening of public lands:
38151 Colorado (2 documents)

Withdrawal and reservation of lands, proposed,

Personnel Management Office

V 45 J E 6 8 0 UMI

Withdrawal and reservation of lands, proposed, etc.:
38151 Oregon

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetallic mine safety:
38087 Safety and health standards; advance notice; extension of time
NOTICES
Petitions for mandatory safety standard modifications:
38169 Eastover Mining Co.
38171 5-Leaf Clover Corp.
38169 FMC Corp.
38169 John Behm Coal Co.
38170 Kennecott Minerals Co.
38170 Maverick Mining Co.
38170 Rita Coal Co.

Minority Business Development Agency
NOTICES
38097 Financial assistance application announcements; correction

National Park Service
NOTICES
Concession permits, etc.:
38152 Mammoth Cave National Park
Meetings:
38152 Santa Monica Mountains National Recreation Area Advisory Commission

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
38097 New England Fishery Management Council

Navy Department
NOTICES
38099 Privacy Act; systems of records

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
38196 Mississippi Power & Light Co.
Environmental statements; availability, etc.:
38197 Commonwealth Edison Co., Dresden Nuclear Power Station, Ill.
38203 Meetings; Sunshine Act

Pennsylvania Avenue Development Corporation
RULES
38056 Urban planning and design; general guidelines and uniform standards; interim rule and request for comments; corrections

Pension and Welfare Benefit Programs Office
PROPOSED RULES
Fiduciary responsibility:
38084 Plan assets; definition
NOTICES
Employee benefit plans:
38171-38174 Prohibition on transactions; exemption proceedings, applications, hearings, etc. (4 documents)

Personnel Management Office
RULES
Excepted service:
38023 Administrative Office of United States Courts
38024 Arts and Humanities, National Foundation
38023 Defense Department
38023 Entire executive civil service; service disadvantage due to psychiatric disability and mentally restored individuals
38023 Federal Home Loan Bank Board
38024 State Department
PROPOSED RULES
38061 Equal opportunity recruitment program, Federal; race, sex, and national origin statistics systems

Rural Electrification Administration
PROPOSED RULES
Electric borrowers:
38064 Uniform System of Accounts (Bulletin 181-1) and Accounting Interpretations (Bulletin 181-3); classification of long-term and short-term debt obligations; advance notice
Telephone borrowers:
38064 Acceptance tests for stored program, processor-controlled digital central offices (Bulletin 384-2)
NOTICES
Loan guarantees, proposed:
38093 Central Iowa Power Cooperative

Securities and Exchange Commission
NOTICES
38203 Meetings; Sunshine Act

Small Business Administration
NOTICES
Applications, etc.:
38197 Biscayne Capital Corp.
Disaster areas:
38197 Louisiana

Soil Conservation Service
NOTICES
Watershed projects; deauthorization of funds:
38093 Bear-Tilda Bougue Watershed, Miss.
38093 Panther Creek Watershed, Miss.

State Department
NOTICES
Meetings:
38197 Shipping Coordinating Committee (2 documents)

Surface Mining Office
PROPOSED RULES
Permanent program submission; various states:
38088 Arkansas; public hearing

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service.
NOTICES
Notes, Treasury
38202 E-1985 series
38201-38202 S-1982 series (2 documents)

Unemployment Compensation, National Commission
NOTICES
38196 Meetings

Veterans Administration
RULES
Loan guaranty:
38056 Mobile home or real estate loan guaranty; maximum charge for legal services; increase

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
38092 Black Hills National Forest Grazing Advisory Board, 7-10-80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
38097 New England Fishery Management Council, 6-25 and 6-26-80

DEFENSE DEPARTMENT
Air Force Department—
38098 Scientific Advisory Board Ad Hoc Committee to Review the Air Force Manufacturing Technology (MANTECH) Program, 6-23 and 6-24-80

ENERGY DEPARTMENT
Energy Research Office—
38101 High Energy Physics Advisory Panel, 6-30 and 7-1-80
38102 Research and Development Panel of the Energy Research Advisory Board, 6-7-80
Environment Office—
38102 Atmospheric Carbon Dioxide Advisory Committee, 7-7-80
Federal Energy Regulatory Commission—
38040 State implementation of the Commission's regulations regarding rates and exemptions for qualifying small power production and cogeneration facilities, June 1980

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
38150 Consumer Participation, 6-10-80

INTERIOR DEPARTMENT
Land Management Bureau—
38152 Battle Mountain District Grazing Advisory Board, 7-29-80
National Park Service—
38152 Santa Monica Mountains National Recreation Area Advisory Commission, 6-18-80

LABOR DEPARTMENT
Office of the Secretary—
38195 Steel Tripartite Advisory Committee, Working Group on Modernizaton and Capital Formation, 6-18-80

STATE DEPARTMENT
38197 Radiocommunications Working Group of the Subcommittee on Safety of Life at Sea, 6-19-80
38197 Subdivision, Stability and Load Lines Working Group of the Subcommittee on Safety of life at sea, 6-17-80

TREASURY DEPARTMENT
Internal Revenue Service—
38198 Commmissioner's Advisory Group, 6-9 and 6-10-80

UNEMPLOYMENT COMPENSATION NATIONAL COMMISSION
38196 Meeting, 6-16 and 6-17-80

CANCELLED MEETINGS

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
38147 Meeting, 6-26-80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alchohol, Drug Abuse, and Mental Health Administration—
38150 Social Work Education Review Committee and Psychiatric Nursing Education Review Committee, 6-6-80 and 6-24 through 6-25-80

HEARINGS

COMMERCE DEPARTMENT
Foreign-Trade Zones Board—
38096 Proposed foreign-trade zone in Jacksonville, Florida, 6-26-80

ENERGY DEPARTMENT
Federal Energy Regulatory Commission—
38080 Proposed exemption of mechanical cogeneration facilities from incremental pricing provisions of the Natural Gas Policy Act, 7-1-80

INTERIOR DEPARTMENT
38153 Draft Environmental Impact Statement for Proposed PNM Four Corners-Ambrosia-Parjarito 500 kV Transmission Project, 7-15-80

CHANGED HEARING

Office of the Special Counsel for Compliance—
38142 Imported Crude Oil Transfer Pricing Program, 6-17-80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
213 (6 documents)..... 38023–38024

Proposed Rules:
720..... 38061

7 CFR
301..... 38024
910..... 38033
923..... 38034

Proposed Rules:
917..... 38062
930..... 38063
1701 (2 documents)..... 38064
2842..... 38064

9 CFR
78..... 38035
92..... 38036

Proposed Rules:
83..... 38071

10 CFR
212..... 38036
500..... 38276
501..... 38276
502..... 38276
503..... 38302
505..... 38302
507..... 38276

12 CFR

Proposed Rules:
1204..... 38072

14 CFR
Ch. I..... 38073

16 CFR
13..... 38039

18 CFR
292..... 38040

Proposed Rules:
282..... 38080

19 CFR
54..... 38040

21 CFR
207..... 38042
510..... 38048
558 (2 documents)..... 38048–38049
573..... 38049

26 CFR
1..... 38050
7..... 38050

27 CFR

Proposed Rules:
19..... 38258
70..... 38258
240..... 38258
245..... 38258
250..... 38258
270 (2 documents)..... 38258, 38271
275 (2 documents)..... 38258, 38271

29 CFR

Proposed Rules:
1613..... 38083
2550..... 38084

30 CFR

Proposed Rules:
Ch. VII..... 38088
55..... 38087
56..... 38087
57..... 38087

36 CFR
251..... 38324
920..... 38056

38 CFR
36..... 38056

40 CFR

Proposed Rules:
162..... 38087

46 CFR
536..... 38057

47 CFR
73..... 38057

49 CFR
1033 (4 documents)..... 38057–38059

Rules and Regulations

Federal Register
Vol. 45, No. 111
Friday, June 6, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service: Administrative Office of the United States Courts

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One additional position of Federal Probation System Administrator in the Division of Probation, U.S. Courts, is excepted under Schedule B since it is impracticable to examine competitively for this position.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Raymond J. Mealy, Administrative Office of the U.S. Courts, 202–633–6116.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3272(a) is revised as set out below:

§ 213.3272 Administrative Office of the United States Courts.

(a) Not to exceed 15 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-17215 Filed 6-5-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service: Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that one position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command, Department of Defense, is excepted under Schedule B because competitive examination for the position is impracticable.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

PART 213—EXCEPTED SERVICE

Accordingly, 5 CFR 213.3206(d) is added, as follows:

§ 213.3206 Department of Defense.

* * * * *

(d) *General.*

(1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-17212 Filed 6-5-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The excepted appointing authority for mentally restored individuals is revised to provide for certification to positions by Veterans Administration psychiatrists as well as psychologists and to permit an individual to serve up to 2 years after each significant period of mental illness.

EFFECTIVE DATE: March 26, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Hedwig Oswald, Office of Personnel Management, 202–632–5687.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3202(k) is revised to read as follows:

§ 213.3202 Entire executive civil service

* * * * *

(k) Positions at grades GS–15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80-17217 Filed 6-5-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Federal Home Loan Bank Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions of Accounting Policy Analyst, GS–13/14/15, filled under the fellowship program of the Federal Home Loan Bank Board's Office of Examinations and Supervision are excepted under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE: April 22, 1980.

FOR FURTHER INFORMATION CONTACT:

§ 213.3204 Department of State.

DEPARTMENT OF AGRICULTURE

better control the spread of this pest

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Dolores Griesemer, Federal Home Loan Bank Board, 202–377–6065.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3254 is added as set out below:

§ 213.3254 Federal Home Loan Bank Board.

(a) Positions of Accounting Policy Analyst, GS–13/14/15, in the Office of Examinations and Supervision filled in connection with a fellowship program. Appointments under this authority may not exceed 1 year, but may be extended for an additional period not to exceed 3 months. No more than two new appointments may be made under this authority during any consecutive 12-month period.

[5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–17216 Filed 6–5–80; 8:45 am]

BILLING CODE: 6325–01–M

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5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Four Physical Science Administration Officer positions at grades GS–11 and GS–12 under the Science, Engineering and Diplomacy Fellowship Program with Department of State's Bureau of Oceans and International Environmental and Scientific Affairs are excepted under Schedule B because it is impracticable to examine competively for these positions.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Louise Miles, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 213—EXCEPTED SERVICE

Accordingly, 5 CFR 213.3204 is added as set out below:

§ 213.3204 Department of State.

(a) Four Physical Science Administration Officer positions at grades GS–11 and GS–12 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 1 year.

[5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–17214 Filed 6–5–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; National Foundation on the Arts and the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that one additional position of Humanist Administrator, GS–1701–13, Division of State Programs, National Endowment for the Humanities, is excepted under Schedule B because competitive examination for the position is impracticable.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager

PART 213—EXCEPTED SERVICE

Accordingly, 5 CFR 213.3282(b)(5) is revised to read as follows:

§ 213.3282 National Foundation on the Arts and the Humanities.

* * * * * *

(b) *National Endowment for the Humanities.*

* * * * *

(5) Until September 30, 1980, one position of Director, GS–1701–15, one position of Deputy Director, GS–1701–14, and six positions of Humanist Administrator, GS–1701–13, Division of State Programs.

[5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–17213 Filed 6–5–80; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Witchweed; Miscellaneous Amendments to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the list of suppressive areas under the Witchweed Quarantine and Regulations by extending areas listed as suppressive areas in North Carolina and South Carolina and by deleting areas listed as suppressive areas in North Carolina and South Carolina. These amendments are necessary as emergency measures in order to prevent the artificial spread of witchweed and to delete unnecessary restrictions on the movement of certain articles.

DATES: Effective date of this document June 6, 1980. Written comments concerning this final rule must be received on or before August 5, 1980.

ADDRESS: Written comments concerning this final rule should be submitted to: H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine Programs, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine Programs, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the possibility that witchweed could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest. Also, with respect to restrictions concerning the movement of regulated articles for which there is no longer a basis for the imposition thereof, a situation exists requiring immediate action to lessen or delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited on or before August 5, 1980, and this action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Written Comments

Interested persons are invited to submit written comments concerning the final rule. Comments should bear a reference to the date and page numbers of this issue of the **Federal Register**. All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Background

Witchweed is a parasitic plant which causes the degeneration of corn, sorghum, and other grassy crops. It has been found in the United States only in parts of North Carolina and South Carolina. The Witchweed Quarantine and Regulations (7 CFR 301.80 through 301.80–10) quarantine the States of North Carolina and South Carolina and restrict the interstate movement of certain witchweed hosts from regulated areas in the quarantined States.

Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas where eradication of witchweed is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movements of host articles from generally infested areas and suppressive areas in order to prevent the artificial movement of witchweed to noninfested areas and to prevent the reinfestation of suppressive areas which have been eradicated of the witchweed.

Surveys conducted by the United States Department of Agriculture and State agencies of North Carolina and South Carolina establish that witchweed has spread or is likely to spread to certain areas beyond the outer perimeter of areas previously designated as suppressive areas. Therefore, as an emergency measure, areas designated as suppressive areas are extended in the following counties in order to prevent the spread of witchweed and to facilitate its ultimate eradication: Brunswick, Craven, Duplin, Johnston, Lenoir, Onslow, Pender, Richmond, and Wayne in North Carolina; and Chesterfield, Darlington, and Florence in South Carolina.

The surveys also establish that witchweed no longer occurs in parts of the following counties: Brunswick, Duplin, Johnston, Jones, Lenoir, Moore, Richmond, and Wayne in North Carolina; and Chesterfield and Florence in South Carolina. Therefore, as an emergency measure, such parts of counties are deleted from the list of suppressive areas in order to delete unnecessary restrictions on the movement of witchweed host articles.

Also, certain nonsubstantive changes are made to reflect changes in property ownership and to describe more accurately the regulated areas. Accordingly, the list of regulated areas in the States of North Carolina and South Carolina is amended as set forth below:

1. In § 301.80–2a relating to the State of North Carolina, the regulated areas are redescribed to read as follows:

§ 301.80–2a Regulated areas; suppressive and generally infested areas.

* * * * *

North Carolina

(1) *Generally infested area.*

Robeson County. The entire county.

(2) *Suppressive areas.*

Beaufort County. The Jefferson, Russell M., farm located on the southwest side of State Secondary Road 1609 and 0.6 mile southeast of the junction of said road and State Highway 32.

The Osborne, H. R., farm located on both sides of State Secondary Road 1609 and 0.5 mile southeast of the junction of said road and State Highway 32.

Bladen County. The entire county.

Brunswick County. The Babson, N. L., farm located on the west side of State Secondary Road 1321 and 0.4 mile south of its junction with State Highway 130.

The Bryant, Ottice, farm No. 1 located at the end of a farm road 1.0 mile west of State Secondary Road 1342, 2.5 miles northwest of said State Secondary Road and its junction with State Highway 211.

The Bryant, Ottice, farm No. 2 located on both sides of State Secondary Road 1342, 2.3 miles northwest of said road and its junction with State Highway 211.

The Hewett, Jr., R. B., farm located at the end of a farm road on the northeast side of State Secondary Road 1132, 0.4 mile northeast of said road and its intersection with N. C. Highway 130.

The Meares, Hobson, farm located on both sides of State Secondary Road 1165 and 2.0 miles south of the junction of said road with U.S. Highway 17.

The Register, W. C., farm located on the south side of State Secondary Road 1147 and 0.3 mile east of the junction of said road and State Secondary Road 1143.

The Sanders, Albert C., farm located on the east side of State Secondary Road 1143 at the end of a dirt road located 0.5 mile south of the junction of State Secondary Roads 1143 and 1147.

The Smith, B. Coda, farm located on the west side of a dirt road and 0.6 mile north of its junction with State Secondary Road 1322, said junction being 0.1 mile west of the junction of State Secondary Road 1322 and State Secondary Road 1321.

The Smith, Wallace, farm located on the west side of State Secondary Road 1151 and 0.4 mile south of its junction of State Secondary Road 1147.

The Todd, Lester, farm located on the east side of State Secondary Road 1143 at the end of a dirt road located 0.5 mile south of the junction of State Secondary Roads 1143 and 1147.

Columbus County. That part of the county lying north and west of a line beginning at a point where State Highway 211 intersects the Bladen-Columbus County line, thence south along said Highway 211 to its intersection with State Secondary Road 1740, thence southwest and south along said State Secondary Road 1740 to its junction with U.S. Highways 74 and 76, thence west along said highways to its intersection with White Marsh Swamp, thence south along said swamp to its junction with Cypress Creek, thence southwest along said creek to its intersection with State Highway 130, thence northwest along said highway to its junction with State Secondary Road 1166, thence southwest along said road to its junction with State Secondary Road 1157, thence southwest along said road to its junction with U.S. Highway 701, thence south and west along said highway to its intersection with State Secondary Road 1314, thence west along said road to its junction with State Secondary Road 1348, thence southwest

along said road to its junction with the North Carolina-South Carolina State line.

The Jacobs, Thomas, farm located 0.2 mile north of State Secondary Road 1847 and 1 mile northeast of the junction of said road 1847 with State Secondary Road 1740.

The Long, J. M., farm located on the southwest side of State Secondary Road 1113 and 0.4 mile northwest of its junction with State Secondary Road 1108.

The McLamb, H. M., farm located on the southwest side of State Secondary Road 1113 and 0.5 mile northwest of its junction with State Secondary Road 1108.

The Owen, J. A., farm located on the southwest side of State Highway 87 and 0.3 mile southeast of the intersection of said Highway 87 with the Bladen-Columbus County line.

The Shaw, Archie, farm located 0.2 mile southeast of State Secondary Road 1864 and 0.5 mile southeast of the junction of said Road 1864 with State Secondary Road 1808.

The Shaw, Charles H., farm located 0.1 mile north of State Secondary Road 1847 and 0.9 mile northeast of the junction of said Road 1847 with State Secondary Road 1908.

The Shipman, C. S., farm located on the east side of State Secondary Road 1909 and 0.6 mile southeast of the junction of said Road 1909 with State Secondary Road 1908.

The Spivey, D. M., farm located in the northeast corner of the intersection of U.S. Highway 701 and Gum Swamp.

The Suggs, Lacy, farm located at the end of a dirt road 0.5 mile southeast of the junction of said road with State Secondary Road 1108, said junction being 0.7 mile northeast of the junction of State Secondary Road 1108 and State Secondary Road 1118.

The Young, Grace, farm located on the west side of N.C. State Secondary Road 1914 and 0.2 mile south of the junction of said road with N.C. State Secondary Road 1904.

Craven County. The Chapman, Idel M., farm located on the west side of State Secondary Road 1459 and 0.1 mile north of junction of State Secondary Road 1463 with said Road 1459 and 0.3 mile off west side of State Secondary Road 1459.

The Goodman, W. D., farm located on both sides of State Secondary Road 1263 and 2.6 miles east of its southern junction with State Secondary Road 1262.

The Hawkins, Annie A., farm located on both sides of State Secondary Road 1263 and 1 mile east of the junction of said Road 1263 with State Secondary Road 1262.

The Hawkins, Mattie, farm located on the west side of State Secondary Road 1263 and 1.2 miles east and north of its southern junction with State Secondary Road 1262.

The Hodges, Mary K., farm located on both sides of State Secondary Road 1263 and 2.2 miles east of its southern junction with State Secondary Road 1262.

The Nelson Estate, Joseph, located on both sides of State Secondary Road 1450 and located 0.1 mile northeast of intersection of State Secondary Road 1454.

The Nobles, Jr., Jack, farm located on both sides of State Secondary Road 1262 and located 0.7 mile south of the junction of State Secondary Road 1258 and State Secondary Road 1262.

The West, Gladys W., farm located on both sides of State Secondary Road 1263 and 1.4 miles east of its southern junction with State Secondary Road 1262.

The White, Raymond E., farm located on both sides of State Secondary Road 1263 and 0.2 mile east of its northern junction with State Secondary Road 1262.

Cumberland County. All of Cumberland County excluding the Fort Bragg Military Reservation, the area within the corporate limits of the city of Fayetteville, and the unincorporated communities of East Fayetteville and Bonnie Doone.

Duplin County. That area bounded by a line beginning at a point where State Secondary Road 1337 intersects the Duplin-Sampson County line, thence northeast along said road to its intersection with State Secondary Road 1301, thence southeast along said road to its intersection with State Highway 50, thence northwest along said highway to its junction with State Secondary Road 1355, thence northeast along said road to its junction with State Secondary Road 1332, thence northeast along said road to its junction with State Secondary Road 1304, thence southeast along said road to its intersection with Bear Swamp, thence east along said swamp to its junction with Goshen Swamp, thence southeast along said swamp to its intersection with State Secondary Road 1004, thence southeast along said road to its intersection with Nahunga Creek, thence southwest along said creek to its intersection with State Secondary Road 1301, thence northwest along said road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with State Secondary Road 1385, thence west along said road to its junction with State Highway 50, thence southeast along said highway to its junction with State Secondary Road 1900, thence southeast along said road to its junction with State Secondary Road 1003, thence east along said road to its junction with State Highway 11, thence south along said highway to its junction with State Secondary Road 1922, thence southwest along said road to its junction with State Secondary Road 1909, thence south along said road to its junction with State Secondary Road 1912, thence west along said road to its intersection with the Magnolia city limits, thence south, west, and north along said city limits to its intersection with State Secondary Road 1003, thence southwest along said road to its junction with State Secondary Road 1101, thence southeast along said road to its intersection with State Secondary Road 1102, thence southwest along said road to its junction with State Secondary Road 1126, thence west along said road to its intersection with State Secondary Road 1100, thence southeast along said road to its intersection with State Secondary Road 1102, thence south along said road to its junction with State Secondary Road 1129, thence southwest along said road to its intersection with State Secondary Road 1128, thence northwest along said road to its intersection with Duplin-Sampson County, thence north along said county line to the point of beginning.

The Alphin, Clara, farm located in the north junction of State Secondary Road 1004 and State Secondary Road 1505.

The Beard, May Lou, farm located on both sides of State Secondary Road 1961 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bostic, Jake, farm located on both sides of State Secondary Road 1961 and 0.5 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bradshaw, Gene A., farm located on the south side of State Secondary Road 1321 and 0.8 mile west of the junction of said road with State Secondary Road 1302.

The Bradshaw, Milton J., farm located at the northwest end of State Secondary Road 1980.

The Britt, Ben, farm located on the north side of State Secondary Road 1306 and 0.1 mile east of its junction with State Secondary Road 1361.

The Britt, Cornia, farm located on both sides of State Secondary Road 1545 and 0.5 mile east of the junction of said road and State Secondary Road 1564.

The Brock, Jack, farm located on both sides of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Brown, George, farm located on the west side of State Secondary Road 1004 and 0.8 mile north of its junction with State Secondary Road 1504.

The Chambers, D. F., farm, located on the south side of State Secondary Road 1700 and 0.6 mile west of its intersection with the Northeast Cape Fear River.

The Dail, Albert D., farm located on both sides of State Secondary Road 1524 and 0.1 mile north of the junction of said road and State Secondary Road 1525.

The Davis, Jimmie, farm located on the east side of State Highway 111 and the south side of State Secondary Road 1546.

The Davis, Wenzell, farm located on the south side of State Secondary Road 1560 and 0.3 mile south of the junction of said road and State Secondary Road 1537.

The English, James Earl, farm located on the north side of State Secondary Road 1980 and 0.3 mile southwest of the junction of said road and State Secondary Road 1979.

The Garner, S. C., farm located on the south side of State Secondary Road 1306 and 0.5 mile west of the junction of said road and State Secondary Road 1511.

The Georgia Pacific Corporation, farm located on the west side of the Seaboard Coast Line Railroad and 0.1 mile north of its intersection with State Secondary Road 1301.

The Goodson, Emma, farm located on the south side of State Secondary Road 1501 and 0.3 mile west of the junction of said road and State Secondary Road 1505.

The Grady, E. C., farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Grady, Robert, farm located on the east side of State Secondary Road 1560 and the south side of State Secondary Road 1537.

The Grady, S. Leland, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Green, Willie, farm located on both sides of State Secondary Road 1971 and 0.6 mile southwest of the junction of said road and State Highway 50.

The Hall, Gaston S., farm located on the northeast side of State Secondary Road 1301 and at its junction with State Secondary Road 1338.

The Harper, Milo, farm located on the northwest side of State Secondary Road 1539 and 0.6 mile northeast of the junction of said road and State Secondary Road 1540.

The Herring Estate, Jeff, farm located on the north side of State Secondary Road 1545 and 0.6 mile east of the junction of said road and State Secondary Road 1564.

The Horne, Harry, farm located on the south side of State Secondary Road 1961 and 0.8 mile west of the intersection of said road and State Secondary Road 1962.

The Howard, Henry, farm located on the north side of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Hussey Estate, M. W., farm located on the east side of State Secondary Road 1560 and 0.2 mile south of the junction of said road and State Secondary Road 1537.

The Ivey, Jr., C. C., farm located on the east side of State Secondary Road 1361 and 0.3 mile south of its junction with State Secondary Road 1362.

The Ivey, Foy, No. 2, farm located on both sides of State Secondary Road 1004 and 0.1 mile south of its junction with State Secondary Road 1561.

The Jernigan, Cornelia, farm located on west side of State Secondary Road 1360 and 0.4 mile south of its junction with State Secondary Road 1004.

The Johnson, Eldora, farm located on both sides of State Secondary Road 1123 and 1.2 miles west of the junction of said road and State Secondary Road 1103.

The Jones, Billy, farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Jones, H. A., farm located on the south side of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Jones, H. A., No. 2, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of its intersection with the Northeast Cape Fear River.

The Jones, Nora, farm located on the west side of State Secondary Road 1004 and 0.3 mile south of its junction with State Secondary Road 1365.

The Kennedy, Owen, farm located on the east side of State Secondary Road 1726 and the southeast side of State Secondary Road 1702.

The Kennedy, Sidney J., farm located on the east side of State Secondary Road 1718 and and 0.2 mile south of the junction of said road and State Highway 41.

The King, W. R., farm located on the east side of State Secondary Road 1302 and 0.1 mile south of the junction of said road and State Secondary Road 1308.

The Kornegay, Byrus, farm located on the east side of State Highway 403 and 0.1 mile north of its junction with State Secondary Road 1369.

The Kornegay, Cecil, farm located on the northwest side of State Secondary Road 1306 and 1 mile southwest of its intersection with State Secondary Road 1500.

The Kornegay, Ethyl, farm located 0.2 mile east of State Secondary Road 1501 and 0.6 mile south of the intersection of said road and State Secondary Road 1519.

The Kornegay Estate, Issac, located on the southwest side of State Secondary Road 1306 and 0.7 mile northwest of the junction of said road and State Secondary Road 1305.

The Lane, David, farm located 0.1 mile east of State Secondary Road 1369 and 0.1 mile south of its junction with State Highway 403.

The Lewis, Merle S., farm located on the east side of State Secondary Road 1004 and both sides of State Secondary Road 1508.

The Marshburn, Freeman J., farm located on both sides of State Secondary Road 1128 and 0.7 mile southeast of the intersection of said road and State Secondary Road 1129.

The Maxwell, Myra, farm located on southeast side of State Secondary Road 1306 and the west side of State Secondary Road 1562.

The McCullen, Larry, farm located on the northeast side of State Highway 24 and 0.2 mile northwest of the junction of said highway and State Secondary Road 1904.

The McGowan, Woodell, farm located on the south side of State Secondary Road 1961 and 1.1 miles west of the intersection of said road and State Secondary Road 1962.

The Mercer, Cathleen, farm located on the south side of State Secondary Road 1703 and 1.1 miles east of the intersection of said road and State Secondary Road 1704.

The Miller, O'Berry, farm located on the north side of State Secondary Road 1700, and 0.1 mile east of its junction State Highway 11.

The Outlaw, Bennie F., farm located on both sides of State Secondary Road 1524 and the north side of State Secondary Road 1525.

The Outlaw, Emma, farm located on the south side of State Secondary Road 1509 and 0.5 mile southwest of the junction of said road and State Secondary Road 1510.

The Parrott, Jr., Mrs. Frank, farm located on the south side of State Secondary Road 1703 and 0.3 mile east of the intersection of said road and State Secondary Road 1704.

The Pate, Robert Lee, farm located on both sides of State Secondary Road 1357 and 0.9 mile southwest of the junction of said road and State Secondary Road 1306.

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The Powell, William F., farm located on both sides of State Secondary Road 1128 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1129.

The Precythe, Harold, farm located on the east side of U.S. Highway 117 and 0.1 mile south of the junction of said highway and State Secondary Road 1354.

The Rivenbark, George W., farm located on the northwest side of State Secondary Road 1131 and 0.4 mile southwest of the junction of said road and State Secondary Road 1128.

The Rouse, Beatrice S., farm located on both sides of State Secondary Road 1980 and at the west end of said road.

The Rouse, Jim, farm located on both sides of State Secondary Road 1537 and 0.3 mile south of the junction of said road and State Secondary Road 1306.

The Rouse, Rouke, farm located on the north side of State Secondary Road 1537 and the west side of State Secondary Road 1538.

The Shepard, J. T., farm located on both sides of State Secondary Road 1732 and 0.2 mile north of the junction of said road and State Secondary Road 1703.

The Smith, R. J., farm located on the north side of State Highway 11 and 1.2 miles east of the junction of said highway and State Highway 111. The Smith, Sallie P., farm located on the northeast side of State Highway 111 and 0.8 mile southeast of the Duplin-Wayne County line.

The Stokes, Fred, farm located on the south side of State Secondary Road 1980 and 2.4 miles west of the junction of said road and State Secondary Road 1979.

The Stokes, William C., farm located at the southwest end of State Secondary Road 1980.

The Summerlin, D. C., farm located on the north side of State Secondary Road 1513 and 0.4 mile east of the junction of said road and State Secondary Road 1565.

The Summerline, Lannie, farm located on both sides of State Secondary Road 1359 and 0.3 mile southwest of its junction with State Secondary Road 1306.

The Summerlin, Oliver, farm located on the south side of State Highway 403 and 0.1 miles east of the corporate limits of the town of Faison.

The Sumner, India, farm located on the southwest side of State Highway 111 and 1.2 miles south of the intersection of said highway and State Secondary Road 1700.

The Sutton, Effie O., farm located on the northeast side of State Secondary Road 1004 and 0.7 mile northwest of its junction with State Secondary Road 1504.

The Turner, Lumas, farm located on the south side of State Secondary Road 1703 and 0.6 mile west of the junction of said road and State Secondary Road 1732.

The Walker, C. P., Estate, farm located on the west side of State Secondary Road 1368 and 1.2 miles north of its junction with State Secondary Road 1364.

The Whaley, Bennie, farm located on the southeast side of State Secondary Road 1961 and 0.3 mile northeast of the junction of said road and State Secondary Road 1800.

The Whitman, Herman E., farm located on the south side of State Secondary Road 1300 and 0.1 mile west of the junction of said road and State Road 1381.

The Whitman, Herman E., farm located on the north side of State Secondary Road 1300 and 0.8 mile east of the intersection of said road and State Secondary Road 1301.

The Williams, McArthur, farm located on the south side of State Secondary Road 1961 and 1 mile west of the intersection of said road and State Secondary Road 1962.

The Wilson, Mammie, farm located on the east side of State Highway 111 and 1.0 mile south of the intersection of said highway and State Secondary Road 1700.

Green County. That area bounded by a line beginning at a point where State Highway 102 intersects State Highway 123 and extending south along State Highway 123 to its intersection with Contentnea Creek, thence northwest along said creek to its junction with Panther Swamp. Thence northerly along said Panther Swamp to its intersection with U.S. Highway 13–258, thence easterly along said highway to the point of beginning.

The Carmon, James E., farm located on the east side of State Secondary Road 1004 and 0.4 mile south of its junction with North Carolina Highway 102.

The Dixon, John, farm located on the east side of State Secondary Road 1004 at the junction on State Secondary Road 1405.

The Dixon, Sudie, farm located on the west side of State Secondary Road 1004 and 0.2 mile south of its junction of State Secondary Road 1405.

The Murphrey, Edward, farm located on the east side of State Secondary Road 1004 and 0.3 mile south of its junction with State Highway 102.

The Whitaker, J. H., farm located on the east side of State Secondary Road 1004 and 0.6 mile south of its junction with State Highway 102.

Harnett County. That area bounded by a line beginning at a point on the Harnett-Lee County line due west of the head of Barbecue Swamp and extending east to the head of said swamp, thence south and east along Barbecue Swamp to its intersection on State Secondary Road 1201, thence south and southeast along said road to its junction with State Highway 27, thence southeast along said highway to its junction with State Highway 24, thence southeast along said highway to its junction with State Secondary Road 1111, thence southwest along said road to its intersection with Harnett-Moore County line, thence northwest along the Harnett-Moore County line to its junction with the Moore-Harnett-Lee County line, thence northeast along the Harnett-Lee County line to the point of beginning.

That area bounded by a line beginning at a point where the Harnett-Cumberland County line and McLeod Creek intersect and extending northwest along said creek to its intersection with State Secondary Road 1117, thence northeast, northwest and north along said road to its intersection with Anderson Creek, thence southeast along said creek to its intersection with the State Highway 210, thence northeast along said highway to its junction with State Secondary Road 2030, thence southeast along said road to its junction with State Secondary Road 2031, thence southwest along said road to its intersection with the Harnett-Cumberland County line, thence southwest and west along said county line to the point of beginning.

The Cook, A. L., farm located on the east side of State Secondary Road 1201 and 1.5 miles southeast of the junction of said road with State Secondary Road 1203.

The Gilchrist, Leonard W., farm located on the southeast side of State Secondary Road 1111, 0.4 mile north of the junction of said road with State Secondary Road 1110.

The Johnson, Sr., Jonah C., farm located at the junction of State Secondary Roads 1553 and 1555. The farm lies in the northeast portion of this junction.

The Keath, Vick, farm located on the east side of State Secondary Road 1293 and 0.7 mile southwest of the junction of said road with State Secondary Road 1114.

The McAden, J. L., farm located on southeast side of State Highway 27 and 0.6 mile southwest of the intersection of said highway with State Highway 87.

The Proctor, T. G., farm located on the northeast side of State Highway 27 at that point where said highway forms on overpass over State Highway 87.

The Thomas, Floyd, E., farm located on the northeast side of State Secondary Road 1146 and 0.2 mile north of the junction of said road with State Secondary Road 1117.

The Womack, E. H., farm located on east side of State Highway 27, and 1.0 mile north of the junction of said highway with State Highway 24.

Hoke County. The entire county excluding Fort Bragg Military Reservation.

Johnston County. The Blackman, Dewey, farm located on the south side of State Secondary Road 1146, and 0.4 mile east of the junction of said road with State Secondary Road 1145.

The Braswell, J. G., farm located on the east side of State Secondary Road 2519 and 0.4 mile north of the junction of State Secondary Roads 2519 and 2520.

The Everett, Betty, farm located on the west side of State Secondary Road 2541 and 0.5 mile south of the junction of said road with State Secondary Road 1007.

The Everett, Betty, farm located on a farm road and 0.6 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Everett, Jasper, farm located on a farm road and 0.5 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Holt, Dorothy C., farm located on the west side of State Secondary Road 2542 and 0.1 mile south of its junction with State Secondary Road 1007.

The Hudson, Price, Estate farm located on a farm road and 0.4 mile north of its junction with State Secondary Road 1008, said junction being 0.8 mile northeast of the intersection of State Secondary Road 1008 with U.S. Highway 701.

The Johnson, Corby, farm located on the southwest side of State Highway 50 and 0.4 mile southeast of the intersection of said highway and State Secondary Road 1124.

The Johnson, Wade, farm located on both sides of State Secondary Road 1144 and 0.2 mile west of the junction of said road with State Secondary Road 1138.

The Jones, U. E., farm located on the south side of State Secondary Road 1128 and 0.7 mile east of the junction of said road with State Secondary Road 1124.

The Martin, Emitt, Farm located on the east side of State Secondary Road 2519 and 0.3 mile north of the junction of State Secondary Roads 2519 and 2520.

The Martin, John L., farm located on the west side of State Secondary Road 1201 and 0.3 mile north of the junction of said road with State Secondary Road 1200.

The Massengill, R. T., farm located on the south side of State Secondary Road 1145 and 0.2 mile west of its junction with State Secondary Road 1144.

The Naylor, Mrs. Luby, farm located on the southwest side of State Highway 50 and 0.3 mile northwest of the intersection of said highway and State Secondary Road 1124.

The Smith, Clifton, farm located on the east side of State Highway 96 at the junction of said highway and State Secondary Road 1120.

The Summerlin, Everett L., farm located on the north side of State Secondary Road 1008, and 0.6 mile west of the junction of said road with State Secondary Road 1199.

The Tart, Allen, farm located on the southwest corner of the junction of State Highway 96 and State Secondary Road 1120.

Jones County. The Franck, Mrs. Wilber, farm located on the south side of State Secondary Road 1116 and 1.9 miles west of junction of said road with State Secondary Road 1115.

Lee County. The McGilvary, Aquilla, farm located north of State Secondary Road 1188 and 0.6 mile east of the junction of said road with State Secondary Road 1001.

Lenoir County. The Barber, Clarence, farm located on both sides of State Secondary Road 1301 with 0.2 mile northeast of its junction with State Secondary Road 1302.

The Barwick, Charles H. and Evelyn Sutton, farm located on the north side of State Secondary Road 1324 and 0.1 mile east of its junction with State Secondary Road 1308.

The Braxton, Clyde, Estate located on both sides of State Secondary Road 1802 and 0.9 mile northeast of the junction of State Secondary Road 1802 and State Highway 11.

The Brown, Nannie H., farm located in the southwest junction of State Secondary Roads 1152 and 1309.

The Carey, Jack, farm located on both sides of State Secondary Road 1906 and 1.0 mile east of its junction with U.S. Highway 285.

The Carr, Lillian, farm located on the southwest side of State Secondary Road 1524 and 0.1 mile south of its junction with State Secondary Road 1526.

The Carter, Ephrom, farm located on the south side of State Secondary Road 1116 and 1.5 miles east of its junction with State Highway 11.

The Foss, Reginal D., farm located on the north side of State Secondary Road 1316 and 0.6 mile northwest of its junction with State Secondary Road 1318.

The Hamilton, C. W., farm located on the southeast side of State Secondary Road 1802 and 1.2 miles northeast of its junction with State Highway 11.

The Herring, Ben D., No. 1, farm located on both sides of State Secondary Road 1330 and 0.2 mile west of the junction of State Secondary Roads 1330 and 1331.

The Herring, Ben D., No. 2, farm located on the west side of State Secondary Road 1310 and 0.3 mile south of its junction with State Secondary Road 1311.

The Herring, Frances F., farm located on the west side of State Secondary Road 1310 and 0.6 mile south of its junction with State Secondary Road 1311.

The Herring, Lewis R., No. 1, farm located on the south side of State Secondary Road 1324 and 0.3 mile west of its junction with State Secondary Road 1333.

The Howard, Clarence, farm located on the south side of State Secondary Road 1105 and 0.1 mile east of its intersection with State Secondary Road 1118.

The Jarman, F. R., farm located on the southeast side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

The Jones, Edward S., farm located on the west side of U.S. Highway 258 and 0.3 mile north of its junction with State Secondary Road 1116.

The Joyner Farms, Inc., farm located on both sides of State Secondary Road 1324 and 0.5 mile east of its junction with State Secondary 1335.

The Moody, Alton, farm located on the south side of State Highway 55 and 0.6 mile northeast of its junction with State Secondary Road 1161.

The Moye, Lenton G., farm located on the west side of State Secondary Road 1335 and 0.3 mile north of its junction with State Secondary Road 1324.

The Parrott Farms, Inc., farm located on the northwest side of State Secondary Road 1157 and 0.7 mile northwest of its intersection with State Highway 55.

The Rouse, Forrest, farm located on the northeast side of State Secondary Road 1143 and 2.9 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, Jim W., farm located on the northeast side of State Secondary Road 1143 and 2.8 miles northwest of its intersection with State Secondary Road 1154.

The Singleton, Ruby S., farm located on east side of State Secondary Road 1802 and 0.6 mile south of its junction with State Secondary Road 1601.

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The Sutton, Iris, farm located on the east side of State Secondary Road 1152 and 0.6 mile south of its junction with State Secondary Road 1324.

The Sutton, M. L., farm located on the southeast side of State Secondary Road 1311 and 0.8 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Nathan, farm located on the southeast side of State Secondary Road 1311 and 0.6 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Prentice, farm located on the south side of State Secondary Road 1503 and 0.3 mile southeast of its intersection with State Secondary Road 1327.

The Sutton, Robert H., farm located on the south side of State Secondary Road 1324 and 0.2 mile east of its junction with State Secondary Road 1327.

The Sutton, Woodrow W., farm located on the north side of State Secondary Road 1331 and 0.5 mile west of its junction with State Secondary Road 1333.

The Taylor, Heber, farm located on the north side of State Secondary road 1161 and 0.3 mile east of its junction with State Highway 55.

The Walters, H. F., farm located on both sides of State Secondary Road 1335 and 0.4 mile north of its junction with State Secondary Road 1324.

The Waters, Thomas, Estate located on both sides of State Secondary Road 1318 and 0.3 mile north of its junction with State Secondary Road 1317.

The Wood, C. W., farm located on the northwest side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

Moore County. The Marks, E. M., farm located on the south side of State Secondary Road 2019 and 2.5 miles east of the junction of said road and State Secondary Road 2018.

The McLaurin, Hattie J., farm located on the north side of N.C. Highway 211 and 0.5 mile west of the junction of said highway with State Secondary Road 2075

The Thomas, Claude and Ted, farm located on the west side of State Secondary Road 1128 and 0.5 mile northwest of the junction of said road with State Secondary Road 1122.

Onslow County. The Cox, Robert B., farm located on the southeast side of State Secondary Road 1224, and 0.7 mile from the junction of said road and State Secondary Road 1222.

The Hancock, Sally, farm located on a dirt road 0.2 mile northeast of junction of State Secondary Road 1206 and State Secondary Road 1001.

The Lewis, L. Bryan, farm located on the southeast side of State Secondary Road 1224, and 0.9 mile from the junction of said road and State Secondary Road 1222.

The Marshburn, James B., farm located on the southeast side of State Secondary Road 1224, and 0.8 mile from the junction of said road and State Secondary Road 1222.

The McAllister, Henry, farm located on both sides of State Secondary Road 1316 and 1 mile southwest of said road and its junction with State Secondary Road 1308.

Pender County. That area bounded by a line beginning at a point where State Secondary Road 1104 intersects the Pender-Bladen County line, and extending northeast along said county line to its junction with Black River, thence southeast along said river to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1103, thence southeast along said road to its junction with State Secondary Road 1104, thence southwest and northwest along said road to the point of beginning.

That area bounded by a line beginning at a point where Moores Creek intersects State Highway 53, and extending east along said highway to its intersection with State Secondary Road 1121, thence south along said road to its intersection with State Secondary Road 1125, thence west along said road to its intersection with Moores Creek, thence northeast along said creek to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Road 1517, junctions with U.S. Highway 117, and extending northwest along said highway to its intersection with Walker Swamp, thence northeast along said swamp to its junction with Pike Creek, thence southeast along said creek to its junction with the Northeast Cape Fear River, thence south along said river to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1518, thence southeast along said road to its junction with State Secondary Road 1517, thence westerly along said road to the point of beginning.

The Alderman, Bessie, farm located on the north side of State Highway 53 and 0.1 mile west of its intersection with State Secondary Road 1121.

The Anderson, Julian W., farm located on both sides of State Secondary Road 1108 and 0.9 mile northwest of the junction of said road and State Secondary Road 1107.

The Armstrong, Willie, farm located 0.5 mile west of State Secondary Road 1408 and 0.3 mile south of the junction of said road with State Highway 210.

The Colvin, Alex, farm located on the northwest side of State Secondary Road 1120 and 1.4 miles southwest of the intersection of said road and U.S. Highway 421.

The Corbett, P. P. Estate, farm located 0.1 mile west of State Secondary Road 1202 and 0.2 mile north of its junction with State Secondary Road 1100.

The Fensel, F. P., farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Kea, Leo, farm located 0.5 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Kea, Nora, farm located 0.1 mile west of the end of State Secondary Road 1108.

The Marshall, Crawford, farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Marshall, Milvin, farm located on the north side of State Secondary Road 1103 and 0.6 mile east of the southern junction of said road and State Secondary Road 1104.

The McCallister, Mary K., farm located 0.2 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The McLendon, Evander, farm located 0.4 mile north of State Secondary Road 1411 and 0.3 mile east of its intersection with Pike Creek.

The Murphy, Henry, farm located 0.1 mile west of State Secondary Road 1121 and 0.4 mile north of its intersection with State Highway 53.

The Stringfield Estate, John, located on the southwest side of State Secondary Road 1517 and 1.4 miles east of the junction of said road and U.S. Highway 117.

The Thomas, Kenneth, farm located on the west side of State Secondary Road 1125 and 0.2 mile north of its junction with State Secondary Road 1121.

The Walker, Janie N., farm located on both sides of State Secondary Road 1125 and on the west side of State Secondary Road 1121.

The Williams, John H., and Heirs, farm located on the east side of State Secondary Road 1520 and 2.7 miles north of the junction of said road and State Highway 210.

Pitt County. That area bounded by a line beginning at a point where State Secondary Road 1919 intersects the Pitt-Craven County Line, thence southwest along said county line to its intersection

with State Highway 118, thence westward along said highway to it's intersection with State Secondary Road 1753, thence northward along said road to its junction with State Secondary Road 1919, thence eastward to the point of beginning.

The Garris, Bruce E., farm located in the south junction of State Highway 118 and State Secondary Road 1916.

The Hodges, M. B., farm located on the east side of State Secondary Road 1907 and 1.1 miles north of State Highway 118.

Richmond County. The Autry, J. H., farm located on the north side of State Secondary Road 1803 and 0.7 mile east of Osborne.

The Beck, Lacy A., farm located on both sides of State Secondary Road 1607 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1608.

The Bethea, Queen, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1825.

The Davis, Climon, farm located on the northwest side of N.C. Highway 38 and 0.5 mile northeast of the intersection of said road and State Secondary Road 1803.

The Dial, Dormic, farm located on the north side of State Secondary Road 1607 and 0.8 mile west of the intersection of said road and State Secondary Road 1608.

The Dumas, Elnora, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The Dumas, Reba, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile northwest of said intersection of N.C. Highway 38.

The Elizhbugar, Charity, farm located on the northeast side of State Secondary Road 1003 and 2 miles northwest of its junction with State Secondary Road 1475.

The Godfrey, J. R., farm located on the northwest side of State Secondary Road 1318 and 0.2 mile north of its junction with State Secondary Road 1310.

The Hailey, Annie, farm located on the north side of State Secondary Road 1475 and 1.7 miles west of its junction with U.S. Highway 1.

The Hailey, Maria, farm located on the southwest side of State Secondary Road 1440 and 0.3 mile southeast of its junction with State Secondary Road 1433.

The Hamlet Gin & Supply Co., farm located on both sides of State Secondary Road 1803 and on the east side of the intersection of said road and State Secondary Road 1825.

The Ingram, Rome, farm located on the southwest side of State Secondary Road 1003 and 1.8 miles northwest of its junction with State Secondary Road 1475.

The McLaurin, Meta, farm located on the southwest side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The McNeill, Dalton, farm located on the southwest side of State Secondary Road 1003 and 1.9 miles northwest of its junction with State Secondary Road 1475.

The Poe, William, farm located 0.6 mile on unnumbered road off State Road 1475, 0.2 mile southeast of its junction with State Road 1486.

The Quick, Julius, farm located on the northeast side of State Secondary Road 1992 and 0.6 mile northeast of its junction with State Secondary Road 1994.

The Rush, James, farm located on the southeast side of State Secondary Road 1442 and 0.7 mile northeast of its junction with State Secondary Road 1489.

The Sorenzen, Gladys, farm located on the southwest side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C Highway 38.

The Steele, Thomas, farm located on the northwest side of State Road 1442 and 0.4 mile southwest of its junction with State Road 1489.

The Steen, Willard, farm located on the southwest side of State Secondary Road 1803 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1825.

The Terry, Ruth, farm located on both sides of State Secondary Road 1442 and 0.2 mile northeast of its junction with State Secondary Road 1477.

The Terry, W. C., farm located on the west side of State Secondary Road 1424 at its junction with State Secondary Road 1507 at Roberdel, N.C.

The Thomas, Walter, farm located on both sides of U.S. Highway 220 and 0.4 mile northeast of its junction with State Secondary Road 1433.

The Wall, Ben, farm located on the northeast side of the State Secondary Road 1440 and 0.4 mile southeast of its junction with State Secondary Road 1433.

The Waters, Will, farm located on both sides of State Secondary Road 1623 and 0.4 mile southwest of its junction with State Secondary Road 1607.

The Watkins, Aaron, farm located on the southeast side of State Road 1442 and 0.8 mile northeast of its junction with State Road 1489.

The Watkins, John Q., farm located on the southeast side of State Secondary Road 1476 and 0.3 mile northeast of its junction with State Secondary Road 1442.

The Watkins, Mosby, farm located on both sides of State Secondary Road 1476 and 0.2 mile northeast of its junction with State Secondary Road 1442.

The York, Will, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

Sampson County. The entire county.

Scotland County. That area bounded by a line beginning at a point where U.S. Highway 15–401 intersects the North Carolina-South Carolina State line and extending northeast along said highway to its junction with U.S. Highways 15A–401A, thence north along said highway to its junction with U.S. Highway 501, thence north along said highway to its intersection with U.S. Highway 15–401, thence southwest along said highway to its intersection with State Secondary Road 1300, thence northwest along said road to its junction with State Secondary Road 1116, thence northwest along said road to its junction with State Secondary Road 1324, thence north along said road to its junction with State Secondary Road 1345, thence northwest along said road to its intersection with State Secondary Road 1341, thence northeast along said road to its junction with State Secondary Road 1328, thence north along said road to its intersection with the southern boundary of the Sandhills Game Management Area, thence east along said boundary to its intersection with U.S. Highway 15–501, thence north along said highway to its intersection with the Scotland-Hoke County line, thence southeast along said county line to the Scotland-Robeson County line, thence south and southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said State line to the point of beginning, excluding the area within the corporate limits of the city of Laurinburg and the town of East Laurinburg.

The Butler, Luther, farm located on the south side of State Secondary Road 1154 and 0.2 mile east of the junction of said road with State Secondary Road 1155.

The Calhoun, L. E., farm located on the south side of State Highway 79 and 0.3 mile west of its junction with State Secondary Road 1118.

The Gibson, H. P., Estate farm located on the north side of State Highway 79 and 0.4 mile west of its junction of State Secondary Road 1118.

McCoy, R. F., farm located on the east

The Coor, O. S., farm located on both

The Haggin, Joe, No. 2, farm located

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McCoy, R. F., farm located on the east side of State Secondary Road 1346 and 0.4 mile north of its junction with State Secondary Road 1343.

The Morgan, J. D., farm located on the east side of State Secondary Road 1346 and 0.5 mile north of the junction of said road with State Secondary Road 1343.

The Morgan, J. D., farm located on both sides of State Secondary Road 1345 and 0.1 mile northwest of its junction with State Secondary Road 1342.

The Newton, Peter F., farm located at the intersection of State Secondary Roads 1334, 1336, and 1345.

The Sharpe, Preston, farm located on the south side of U.S. Highway 74 and 0.2 mile west of the junction of said highway with State Secondary Road 1153.

The Steele, J. D., farm located on both sides of State Secondary Road 1351 and 0.9 mile northwest of the junction of said road with State Secondary Road 1346.

Wayne County. That area bounded by a line beginning at a point where State Highway 111 and State Secondary Road 1745 intersect, thence west and southwest along State Secondary Road 1745 to its intersection with State Highway 55, thence southwest and west along State Highway 55 to its intersection with State Secondary Road 1937, thence northerly on said road to its junction with State Secondary Road 1932, thence north on said road to its intersection with State Secondary Road 1120, thence easterly along said road to its junction with State Secondary Road 1915, thence east along a line projected from a point at the junction of State Secondary Roads 1120 and 1915 to the junction of said line with a point located at the junction of Sleepy Creek and Neuse River, thence east along said river to its intersection with State Highway 111, thence south along said highway to the point of beginning.

The Barwick, George, farm located on the east side of State Secondary Road 1931 and 0.1 mile south of its junction with State Secondary Road 1930.

The Baucom, Howard, farm located on the east side of State Secondary Road 1932 and 0.2 mile north of its junction with State Secondary Road 1927.

The Benton, Bernice L., farm located on the south side of State Secondary Road 1730 and 0.3 mile east of its junction with State Highway 111.

The Brock, Odell, farm located on the north side of State Secondary Road 1210 and 0.3 mile east of its junction with State Secondary Road 1209.

The Carraway, Ethel, farm located on the east side of State Secondary Road 1915 and 0.1 mile north of the junction of said road and State Secondary Road 1120.

The Coor, O. S., farm located on both sides of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Crawford, William P., farm located on the south side of State Secondary Road 1330 and 0.9 mile west of State Highway 581.

The Daly, N. B., farm located on the north side of State Secondary Road 1730 and 0.8 mile east of the junction of said road with State Highway 111.

The Dawson, L. A., farm located on the west side of State Highway 111 and 0.5 mile south of the junction of said highway and State Secondary Road 1730.

The Edwards, Julia, farm located in the northeast intersection of State Highway 111 and State Secondary Road 1745.

The Flowers, Willie, farm located on the north side of U.S. Highway 13 and 0.4 mile east of its junction with State Secondary Road 1207.

The Grady, Gertrude W., farm located on the south side of State Secondary Road 1741 and 0.7 mile east of its junction with State Secondary Road 1740.

The Grady, Mrs. Sim, farm located in the north junction of State Highway 111 and State Secondary Road 1730.

The Grant, Charlie, farm located on the south side of State Secondary Road 1745 and 0.4 mile west of its junction with State Secondary Road 1952.

The Grant, Maggie, Estate located on the west side of N.C. Highway 111 and 1.9 miles south of the junction of State Secondary Road 1730 with said highway.

The Grantham, Barfield, farm located on the west side of State Secondary Road 1931 and 0.4 mile north of its intersection with State Secondary Road 1120.

The Gray, Albert, farm located on the east side of State Secondary Road 1719 and 0.9 mile south of its intersection with U.S. Highway 70.

The Green, Bessey, farm located at the southern end of State Secondary Road 1741 and 1.3 miles east of its junction with State Secondary Road 1740.

The Griffin, McKinley, farm located on the north side of State Secondary Road 1737 and 0.2 mile east of its junction with State Secondary Road 1731.

The Griffin, Oliver H., farm located 0.6 mile north of Dudley and 0.2 mile west of U.S. Highway 117.

The Haggin, Joe, No. 1, farm located on the east side of State Secondary Road 1931 and 0.7 mile north of its intersection with State Secondary Road 1120.

The Haggin, Joe, No. 2, farm located on the east side of State Secondary Road 1931 and 1.1 miles northeast of its intersection with State Secondary Road 1120.

The Herring, Charles F., farm located on the south side of State Secondary Road 1741 and 0.3 mile east of its junction with State Secondary Road 1740.

The Herring, Harmon, farm located on the south side of State Secondary Road 1734 and 0.4 mile east of its junction with State Secondary Road 1731.

The Herring, Thel, farm located on the west side of State Secondary Road 1711 and 0.4 mile north of its junction with U.S. Highway 70A.

The Humphrey, Josephine, farm located on east side of State Secondary Road 1932 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Ivey, W. H., farm located on the south side of State Secondary Road 1734 and 0.3 mile east of its junction with State Secondary Road 1731.

The Jackson, Major, farm located on the east side of State Secondary Road 1731 and 0.6 mile north of the Neuse River.

The Jones, Mary, farm located on both sides of State Secondary Road 1730 and its junction with State Secondary Road 1731.

The Lane, Alfred, farm located on the south side of State Secondary Road 1730 and 0.4 mile east of its junction with State Highway 111.

The Lofton, Burt & Davis, King, farm located on the east side of State Secondary Road 1739 and 0.3 mile south of its junction with State Highway 55.

The Lofton, Mary F., farm located on the south side of State Secondary Road 1745 and 0.1 mile west of its junction with State Secondary Road 1952.

The McClenny, G. A., farm located on the south side of State Secondary Road 1007 and 0.1 mile west of the junction of said road with State Highway 581.

The McClenny, G. A., No. 2, farm located on both sides of State Secondary Road 1332 and 0.1 mile north of junction of said road and State Secondary Road 1330.

The Newsome, Paul, farm located on the east side of State Secondary Road 1719 and 1 mile south of its intersection with U.S. Highway 70.

The Oliver, Estella J., farm located on the west side of U.S. Highway 117 and 0.8 mile north of Brogden School.

The Oliver, H. H., farm located on the south side of State Secondary Road 1219 and 0.4 mile east of its junction with State Secondary Road 1218.

The Parks, Robert, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Perkins, Joe D., farm located on the northwest side of State Secondary Road 1711 and 0.2 mile southwest of the intersection of said road with U.S. Highway 70 Bypass.

The Price, James, farm located in the southeastern intersection of State Highway 111 and State Secondary Road 1745.

The Ray, Cora Pate, farm located on both sides of State Secondary Road 1730 and 0.8 mile west of its junction of State Secondary Road 1731.

The Raynor, A. B., farm located on the south side of U.S. Highway 13 and 0.1 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 1, farm located on the south side of U.S. Highway 13 and 0.3 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 2, farm located on the north side of State Secondary Road 1101 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Raynor, Elester, farm located on the east side of State Secondary Road 1105 and 0.8 mile south of its intersection with U.S. Highway 13.

The Sasser, Johnny, farm located on the west side of State Secondary Road 1931 and 0.3 mile south of its junction with State Secondary Road 1930.

The Sasser, Rosa, farm located on both sides of State Highway 111 and 0.1 mile south of its junction with State Secondary Road 1912.

The Smith, Alfred, farm located on the north side of State Secondary Road 1330 and 0.9 mile west of the junction of said road and North Carolina Highway 581.

The Smith, Arnold, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Smith, M. G., farm located on the west side of State Secondary Road 1952 and 0.3 mile south of its junction with State Secondary Road 1745.

The Sutton, D. M., farm located on the east side of State Secondary Road 1731 and 0.9 mile north of the Neuse River.

The Sutton, Gordon, farm located on the south side of State Secondary Road 1730 and 1.6 miles east of its junction with State Highway 111.

The Talton, Lillian D., farm located on the south side of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Thornton, S. E., farm located on the southeast junction of State Secondary Roads 1210 and 1209.

The Turnage, W. H., farm located on the northwest side of State Secondary Road 1932 and 0.3 mile northeast of its junction with State Secondary Road 1927.

The Whitfield, Herman, farm located at the end of State Secondary Road 1729.

The Williams, Eddie, farm located on the north side of State Highway 581 and the east side of State Secondary Road 1236 at the junction of said roads.

Wilson County. The Eatmon, Ralph, farm located on both sides of State Secondary Road 1302 and 0.5 mile east of its intersection with State Secondary Road 1301.

2. In § 301.80–2a relating to the State of South Carolina, the descriptions for suppressive areas in Chesterfield, Darlington, and Florence Counties are amended to add properties in alphabetical order to read as follows:

South Carolina

(1) *Generally infested area.* None.

(2) *Suppressive areas.*

Chesterfield County. The Boy Scouts of America Farm located on the east side of a dirt road and 0.2 mile south of its junction with State Secondary Highway 115, said junction being 0.8 mile northeast of the junction of said highway and State Secondary Highway 114.

* * * * *

Darlington County.

* * * * *

The Atkinson Farms located on both sides of State Secondary Highway 173 and 0.5 mile west of its intersection with State Secondary Highway 35.

* * * * *

Florence County.

* * * * *

The Georgia Pacific Paper Company Farm located on the south side of the junction of two dirt roads, said junction being 0.8 mile east of its junction with State Secondary Highway 461, said junction being 0.8 mile north of the intersection of said highway and State Secondary Highway 85.

* * * * *

The Poston, Charlton, farm located on the south side of State Primary Highway 378 and 0.1 mile west of its junction with State Secondary Highway 596.

* * * * *

3. In § 301.80–2a relating to the State of South Carolina, the following descriptions for suppressive areas in Chesterfield and Florence Counties are deleted:

Chesterfield County. The Funderburk, Abraham, farm located on the east side of a dirt road and 0.2 mile south of its junction with State Secondary Highway 115, said junction being 0.8 mile northeast of the junction of said highway and State Secondary Highway 114.

The Keith, Julius, farm located on the east side of a dirt road and 0.5 mile north of its junction with a second dirt road, said junction being 0.1 mile northwest of the junction of State Secondary Highways 114 and 115.

Florence County. The Benjamin, Willie, farm located on the south side of a dirt road and 0.6 mile west of its junction with State Secondary Highway 136, said junction being 1.4 miles north of the intersection of State Secondary Highways 136 and 35.

The Edwards, R. L., farm located on the east side of State Primary Highway 51 and 1.1 miles northwest of its junction with State Secondary Highway 86.

The Floyd, Edward, farm located on the south side of State Secondary Highway 57 and 1.5 miles southeast of the intersection of said highway and State Primary Highway 51.

(Sec. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80–2)

Done at Washington, D.C., this 3d day of June 1980.

Thomas G. Darling,

Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 80-17203 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 255]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 8–14, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 8, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons

grown in California and Arizona. The

7 CFR Part 923

requirements for cherries packed in

Royal Anne, and similar varieties

(d) *Pack.* (1) When containers of

grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on June 3, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.555 Lemon Regulation 255.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 8, 1980, through June 14, 1980, is established at 315,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 5, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-17472 Filed 6-5-80; 11:38 a.m.]

BILLING CODE 3410-02-M

7 CFR Part 923

[Cherry Reg. 19]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container, and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, container, and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. The regulation is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

EFFECTIVE DATES: June 9, 1980, through July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This regulation is based upon an appraisal of the current and prospective market conditions for Washington sweet cherries. The committee estimates that 43,000 tons of sweet cherries will be available for fresh shipment during the 1980 season compared to actual shipment of 44,337 tons last season.

Under the regulation, shipments of cherries, except those of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", are required to grade Washington No. 1, except for a small increase in the tolerance for defects. The cherries are also required to be $^{48}/_{64}$ inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size is $^{54}/_{64}$ inch. The container requirements specify the minimum amount of cherries, by weight, required in the various types of containers. The pack requirements establish minimum diameter requirements for cherries packed in containers marked with row count/row size or minimum diameter designations. Individual shipments of cherries up to 100 pounds sold for home use and not for resale are exempted from the grade, size, container, and pack requirements, if certain conditions are met to prevent their movement into commercial markets.

The grade and size requirements are necessary to prevent the shipment of Washington cherries of a lower grade or smaller size than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because of insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting.

It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective date.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comments. The regulation has not been classified significant under the USDA criteria for implementing Executive Order 12044. An impact analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

Section 923.319 is added as follows: (§ 923.319 expires July 21, 1980, and will not be published in the annual Code of Federal Regulations)

§ 923.319 Cherry Regulation 19.

Order. (a) Cherry Regulation 18 (44 F.R. 37598) is hereby terminated as of the effective date hereof.

(b) *Grade and sizes.* During the period June 9, 1980, through July 21, 1980, no handler shall handle, except as otherwise provided in paragraphs (c), (d), and (e) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, or the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (c)(2)(ii) and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Containers.* During the period June 9, 1980, through July 21, 1980, no handler shall handle any lot of cherries, except cherries of the Rainer, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) hereof, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(d) *Pack.* (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 54/64 inch in diameter.

Table

Col. 1 Row count/row size	Col. 2 Diameter (inches)
9	73/64
10	65/64
11	59/64

(2) When containers of cherries are marked with a minimum diameter of 54/64 inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 48/64 inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than 54/64 inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 54/64 inch in diameter.

(e) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (b), (c), and (d) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(f) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16–414–050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½-inch inside width container or comparable number of cherries when packed loose in a container; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 3, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 80-17251 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Dundy and Seward in Nebraska, and the county of Mora in New Mexico to the list of Certifed Brucellosis-Free Areas and delete them from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the county of Charlotte in Florida to the list of Noncertified Areas and delete such county from the list of Modified Certified Brucellosis Areas because it has been determined that this county now qualifies only as a Noncertified Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (44 FR 76751–76754) effective December 28, 1979. These amendments add the counties of Dundy and Seward in Nebraska, and the county of Mora in New Mexico to the list of Certified Brucellosis-Free Areas in § 78.20 and delete these counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that such counties now come within the

definition of a Certified Brucellosis-Free Area contained in § 78.1(1) of the regulations. These amendments add the county of Charlotte in Florida to the list of Noncertified Areas in § 78.22 and delete such county from the list of Modified Certified Brucellosis Areas in § 78.21 because it has been determined that such county now qualifies only as a Noncertified Area. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Nebraska.* Dundy, Seward; *New Mexico.* Mora.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by deleting: *Florida.* Charlotte; *Nebraska.* Dundy, Seward; *New Mexico.* Mora.

§ 78.22 [Amended]

3. In § 78.22, paragraph (b) is amended by adding: *Florida.* Charlotte.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating areas as Noncertified Areas imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commence. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 29th day of May 1980.

Nervan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-17206 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This document amends the regulations concerning special permits to be issued on a lottery basis for the allotment of quarantine space for cattle to be imported through the Harry S Truman Animal Import Center. This amendment provides a method of selecting alternate applicants to replace applicants originally selected who have not delivered the required cooperative agreement and the required funds, payment bond or letter of credit, to the Department. This amendment provides for the allocation of such space and the issuance of special permits, as available, to alternate applicants and establishes a time for receipt of the required cooperative agreement and funds, payment bond or letter of credit from applicants and alternate applicants. The intended effect of this action is to achieve maximum utilization of all available quarantine space at HSTAIC.

EFFECTIVE DATES: June 6, 1980. Comments on or before: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant". The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received. Dr. M. J. Tillery, Director, National Program Planning Staffs, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action.

The amendment revises the provisions relating to the issuance of special permits for quarantine of cattle at the Harry S Truman Animal Import Center and is essential in order to allow the Department to better coordinate and allocate personnel and materials to the facility and to provide maximum utilization of the facility. The amendment is of an emergency nature and must be placed in effect immediately to serve the purpose intended.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

On Friday, November 2, 1979, there was published in the **Federal Register** (44 FR 63082) an amendment to the regulations that established February 1, 1980, as the last specific date for receipt of applications for special permits to be drawn on a lottery basis for the allocation of quarantine space for the second group of cattle to be imported through the Harry S Truman Animal Import Center.

On Friday, May 2, 1980, there was published in the **Federal Register** (45 FR 29268–29270) the fees and method of collection of the fees for the second importation of cattle to be imported through the HSTAIC.

The costs associated with the operation of the Harry S Truman Animal Import Center are to be borne by the importers using this facility and will vary in accordance with the actual

number of animals utilizing the facility during a given importation period. Each importer who has been authorized a special permit in the drawing, must sign a cooperative agreement which, among other things, sets forth the payment requirements prior to being awarded a special permit to import cattle into HSTAIC.

In order to provide sound financial management both for the prospective importers and the Department, it is essential that the importers, prior to issuance of the special permits, assume fiscal responsibility for the expenses to be incurred. Due to the unusual nature of the service and the need to have adequate funds available to the Department for the cost of the services which will be performed in connection with the importation of animals into the HSTAIC in accordance with the provisions of section 1 of the Act of May 6, 1970 (21 U.S.C. 135), the Department requires either advance payment, a payment bond or a letter or credit, meeting the requirements specified in the cooperative agreement, be deposited with the Service (Veterinary Services) before such services are provided.

The regulations do not presently require that the selected applicants deliver the cooperative agreement set forth in § 92.41(c) and the payment required under such agreement to the Department within a specified time. This has resulted in the Department not being able to determine if the applicants selected by lottery are going to exercise their right to obtain a special permit. This could result in less than full utilization of the HSTAIC for a particular importation even though other applicants who were not selected in the lottery would like to use the facility.

Therefore, this final rule amends § 92.41(a)(2) to provide a system by which applicants who have been selected in the lottery would lose their right to obtain a special permit for the use of the HSTAIC, if they do not deliver an executed cooperative agreement and the payment required thereunder to the Department within 15 days after notification by the Department that they have been selected in the lottery for space at HSTAIC and receipt of a cooperative agreement. This final rule also amends § 92.41(a)(2) to provide a system for choosing alternate applicants to replace those applicants who have not delivered their cooperative agreement and required payment within the specified time.

Specifically, this final rule amends the first sentence in § 92.41(a)(2) to require that the Department employee drawing names for the lottery for special permits for importation through the HSTAIC draw the names of all applicants rather than the first 400. This final rule provides that in the event that there are more than 400 applicants for a particular drawing, those applicants who are drawn after the first 400 applicants shall become alternate applicants. If any of the first 400 applicants fail to deliver the cooperative agreement or deposit the fee, payment bond or letter of credit within 15 days after being advised by the Department of their selection and receipt of a cooperative agreement, their right to receive a special permit shall be cancelled. Alternate applicants shall be given the opportunity, in the order that they were drawn in the lottery, to replace the original applicants who fail to deliver their signed cooperative agreements and required payment to the Department within the prescribed time period. If any alternate applicant fails to deliver the signed cooperative agreement and required payment to the Department within 15 days of being advised of their selection and receipt of a cooperative agreement, their right to receive a special permit shall be cancelled and additional alternate applicants shall be given the same opportunity. This selection process shall continue until either all available space is allotted or there are no remaining alternate applicants.

This final rule further specifies that applicants who have been selected for the second importation shall deliver the cooperative agreement, which has been mailed by the Department to all such selected applicants, and required payment to the Department within 15 days of the publication of this document in the **Federal Register.** Failure to submit the signed cooperative agreement and required payment within such time period shall cancel their right to receive a special permit for the second importation.

Accordingly, receipt of a signed cooperative agreement together with appropriate funds, payment bond, or letter of credit, must be received from the applicants selected for the second importation through HSTAIC by Veterinary Services by close of business June 23, 1980.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

In § 92.41, the first sentence in paragraph (a)(2) is deleted and the following inserted in lieu thereof:

§ 92.41 Requirements for the importation of animals into the United States through the Harry S Truman Animal Import Center.

(a) * * *

(2) *Drawing for permits.* At least 6 months before the proposed date of entry of cattle into the Harry S Truman Animal Import Center and at the time, date and place specified in the Notice of Drawing, a Department employee shall consecutively draw the names of all applicants. The first 400 applicants drawn shall be given the first opportunity to receive one special permit for one animal each, except that each person holding a special permit for the first importation shall, prior to the second drawing, be awarded space for not more than the number of animals specified on said first importation special permit less the number of animals entered by the person under the permit into HSTAIC for the first quarantine period, and; *Provided,* That an application for space for the second importation signed by the holder of a special permit for the first importation be delivered to the Department by February 14, 1980. In the event that there are more than 400 applicants for a particular drawing, those applicants who are selected after the first 400 applicants are selected shall become alternate applicants. If any of the first 400 applicants selected fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the service, as set forth in the cooperative agreement, within 15 days or being advised of his/her selection to receive a special permit and receipt of a cooperative agreement, the right of that person to receive a special permit for that particular drawing shall be cancelled; *Provided,* That applicants who have been selected for a special permit for the second importation shall have their right to a special permit cancelled if they fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the service, as set forth in the cooperative agreement, within 15 days after publication of this document in the **Federal Register.** A sufficient number of alternate applicants shall be selected in the order in which they were chosen by lottery to take the place of any of the original 400 applicants who may fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the Service, as set forth in the cooperative agreement, within 15 days of being advised of his/her selection to receive a special permit and receipt of a cooperative agreement. If any of the alternate applicants selected fail to deliver a completed

cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the Service, as set forth in the cooperative agreement, within 15 days of being advised of his/her selection to receive a special permit, the right of that person to receive a special permit for that particular drawing shall be cancelled. A sufficient number of additional alternate applicants shall be selected in the order in which they were chosen by the lottery to take the place of any of the original alternate applicants who may fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or failed to deposit the fee, payment bond or letter of credit with the Service, as set forth in the cooperative agreement, within 15 days of being advised of their selection to receive a special permit and receipt of a cooperative agreement. This selection process shall continue in the same manner until either no available space exists for importing animals into the Harry S Truman Animal Import Center or until there are no remaining alternate applicants from which to select. * * *

(Sec. 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202 (21 U.S.C. 111 and 135); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 3rd day of June 1980.

Pierre A. Chaloux,
Deputy Administrator, Veterinary Services.

[FR Doc. 80-17195 Filed 6-3-80; 3:11 pm]
BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

Mandatory Petroleum Price Regulations; Adjustments To Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 19 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to take into account the impact of inflation. This action will result in estimated first sale prices for the months of June, July, and August 1980 of $6.40, $6.45, and $6.50 per barrel (lower tier) and $14.31, $14.42 and $14.53 per barrel (upper tier), respectively.

EFFECTIVE DATE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202–653–4055.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, 202–653–3389.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585, 202–252–6739.

SUPPLEMENTARY INFORMATION:

A. *Introduction.*
B. *Crude Oil Price Schedule No. 19.*

A. Introduction

On February 29, 1980, we issued Crude Oil Price Schedule No. 18 (45 FR 14843, March 7, 1980), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase to adjust for the impact of inflation. As we announced in the introduction to Schedule No. 18 this policy will continue during the period of June 1980 through September 1981 as we gradually decontrol domestic crude oil. Accordingly we are issuing Crude Oil Price Schedule No. 19 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during the months of June, July, and August 1980 to take into account the impact of inflation.

B. Crude Oil Price Schedule No. 19

Under Crude Oil Price Schedule No. 19 the May 1980 lower tier ceiling price (the May 15, 1973 posted price plus $2.66 per barrel, resulting in an average first sale price of approximately $6.35 per barrel), and the May 1980 upper tier ceiling price (the September 30, 1975 posted price plus $1.53, resulting in an average first sale price of approximately $14.20 per barrel), are adjusted for inflation for June, July, and August 1980, based on the first revision of the GNP deflator published on May 20, 1980, which reflects an annual rate of inflation of 9.3 percent.

1. *Lower tier ceiling prices.*
Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in June, July and August 1980, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00744 which when applied over a twelve-month period yields an effective annual rate of adjustment of 9.3 percent.

B. June 1980 adjustment = ($6.35) (.00744) per barrel = $.047 per barrel rounded to $.05 per barrel.

C. July 1980 adjustment = ($6.35 + .05) (.00744) per barrel = $.048 per barrel rounded to $.05 per barrel.

D. August 1980 adjustment = ($6.35 + .05 + .05) (.00744) per barrel = $.048 per barrel rounded to $.05 per barrel.

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of June, July and August 1980 are computed as follows:

June 1980 = $6.35 + $.05 = $6.40.
June 1980 = $6.40 + $.05 = $6.45.
August 1980 = $6.45 + $.05 = $6.50.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
June 1980	May 15, 1973 highest posted field price plus $2.71.	$6.40
July 1980	May 15, 1973 highest posted field price plus $2.76.	$6.45
August 1980	May 15, 1973 highest posted field price plus $2.81.	$6.50

[1] Estimated average first sale price.

2. *Upper tier ceiling prices.*
Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in June, July and August 1980 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = .00744.

B. June 1980 adjustment = ($14.20) (.00744) per barrel = $.106 per barrel rounded to $.11 per barrel.

C. July 1980 adjustment = ($14.20 + .11) (.00744) per barrel = $.107 per barrel rounded to $.11 per barrel.

D. August 1980 adjustment = ($14.20 + .11 + .11) (.00744) per barrel = $.107 per barrel rounded to $.11 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of June, July and August 1980, are computed as follows:

June 1980 = $14.20 + $.11 = $14.31.
July 1980 = $14.31 + $.11 = $14.42.
August 1980 = $14.42 + $.11 = $14.53.

Using an average highest posted field price on September 30, 1975 of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
June 1980	September 30, 1975 highest posted field price plus $1.64.	$14.31
July 1980	September 30, 1975 highest posted field price plus $1.75.	$14.42
August 1980	September 30, 1975 highest posted field price plus $1.86.	$14.53

[1] Estimated average first sale price.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 19 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to Ceiling Prices.

* * * * *

Appendix

* * * * *

Schedule No. 19 of Monthly Price Adjustments

(Effective June 1, 1980)

Month	Lower tier, May 15, 1973, posted price [1] (plus)	Upper tier, Sept. 30, 1975, posted price [2] (plus)
1976:		
February	1.35	−1.32
March	1.38	−1.25
April	1.41	−1.18
May	1.45	−1.11
June	1.48	−1.05
July	1.48	−1.05
August	1.48	−1.05
September	1.48	−1.05
October	1.48	−1.05
November	1.48	−1.05
December	1.48	−1.05
1977:		
January	1.48	−1.25
February	1.48	−1.25
March	1.48	−1.70
April	1.48	−1.70
May	1.48	−1.70
June	1.48	−1.70
July	1.48	−1.70
August	1.48	−1.70
September	1.51	−1.44
October	1.54	−1.18
November	1.57	−.92
December	1.59	−.87
1978:		
January	1.61	−.82
February	1.63	−.77
March	1.66	−.71
April	1.69	−.65
May	1.72	−.59
June	1.75	−.52
July	1.78	−.45
August	1.81	−.38
September	1.86	−.28
October	1.91	−.17
November	1.96	−.06
December	1.99	.01
1979:		
January	2.02	.08
February	2.05	.15
March	2.09	.23
April	2.13	.31
May	2.17	.39
June	2.21	.48
July	2.25	.57
August	2.29	.66
September	2.33	.76
October	2.37	.86
November	2.41	.96
December	2.45	1.05
1980:		
January	2.49	1.14
February	2.53	1.23
March	2.57	1.33
April	2.61	1.43
May	2.66	1.53
June	2.71	1.64
July	2.76	1.75
August	2.81	1.86

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on May 30, 1980, pursuant to 10 CFR 21277. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through May 1980, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 18 effective March 1, 1980, are further increased as indicated in this schedule, effective June 1, 1980.

This schedule is effective only through August 31, 1980.

[FR Doc. 80-17210 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3019]

Hayoun Cosmetique, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New York City firm and its corporate president, engaged in marketing and advertising products known as Hayoun Miracle Lotion, Hayoun Drying Lotion, Hayoun Lemon Moisterizer and Hayoun Black Mask, to cease disseminating advertising representing that the use of these products, alone or as part of the Hayoun Cosmetique Kit, will cure acne; eliminate acne scars and pockmarks; and result in a skin free of acne blemishes. The firm is required to have a reasonable basis for representations relating to product characteristics, performance and efficacy; and maintain substantiating evidence for a period of three years. The order additionally requires that the firm conspicuously disclose that no product cures acne in every advertisement for the first six months of actual advertising of an acne preparation.

DATES: Complaint and order issued May 9, 1980.[1]

FOR FURTHER INFORMATION CONTACT:
FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523–3727.

SUPPLEMENTARY INFORMATION: On Wednesday, Feb. 20, 1980, there was published in the **Federal Register**, 45 FR 11137, a proposed consent agreement with analysis In the Matter of Hayoun Cosmetique, Inc., a corporation, and Edouard Hayoun, individually and as corporate president, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.85 Government approval, action, connection or standards; 13.85–30 Federal Trade Commission orders or endorsements; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–16 Cleansing, purifying; 13.170–70 Preventive or protective; 13.170–78 Renewing, restoring; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.280 Unique nature or advantages. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–10

[1] Copies of the Complaint and Decision and Order filed with the original document.

Corrective advertising; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–45(a) Advertising substantiation. Subpart-Disseminating Advertisements, Etc.: § 13.1043 Disseminating advertisements, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Carol M. Thomas,

Secretary.

[FR Doc. 80-17211 Filed 6-5-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket Nos. RM79-55 and RM79-54]

Small Power Production and Cogeneration; Conferences Concerning State Implementation of the Commission's Regulations Regarding Rates and Exemptions for Qualifying Small Power Production and Cogeneration Facilities

May 29, 1980

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of conferences concerning implementation of the Commission's Rules under Section 210 of the Public Utility Regulatory Policies Act of 1978.

SUMMARY: On February 19, 1980, the Federal Energy Regulatory Commission (Commission) issued final rules in Docket No. RM79-55 (45 FR 12214, February 25, 1980), and on March 13, 1980, the Commission issued final rules in Docket No. RM79-54 (45 FR 17959, March 20, 1980). These rules implement the rates and exemption provisions for qualifying cogeneration and small power production facilities under sections 210 and 201, respectively, of the Public Utility Regulatory Policies Act of 1978. Each State regulatory authority and nonregulated electric utility is required to implement the Commission's rules.

The Commission is holding conferences on these rules in various cities throughout the country. At each conference, the morning sessions, for the State Commissions, will feature discussion of the States' role in implementing the Commission's rules. The afternoon sessions, which are open to the public, begin at 1:30 p.m. The afternoon sessions will include an overview of the Commission's rules, Federal legislation affecting cogenerators and small power producers, and technical aspects of interconnected operation with electric utilities.

DATES: Boston, Massachusetts; June 17, 1980; Atlanta, Georgia; June 20, 1980; Boise, Idaho; June 23, 1980; Minneapolis/St. Paul; Minnesota, June 25, 1980; St. Louis, Missouri; June 27, 1980.

ADDRESSES:

June 17, 1980, 8:30 a.m.–5:30 p.m.—Ramada Inn Airport, Logan International Airport, Boston, Massachusetts.

June 20, 1980, 8:30 a.m.–5:30 p.m.—Ramada Inn Airport, Atlanta, Georgia.

June 23, 1980, 8:30 a.m.–5:30 p.m.—Holiday Inn Airport, Boise, Idaho.

June 25, 1980, 8:30 a.m.–5:30 p.m.—Rodeway Inn (at Airport) Minneapolis/St. Paul, Minnesota.

June 27, 1980, 8:30 a.m.–5:30 p.m.—Holiday Inn Airport, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT:

Frank Bolling, Office of Media Relations, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202–357–8380.

Deborah Gottheil, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202–357–8457.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17347 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 54

[T.D. 80-151]

Importations Temporarily Free of Duty; Customs Regulations Relating to Metal Articles Imported To Be Used in Remanufacture by Melting, Amended

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to conform to legislation extending until June 30, 1981, the existing suspension of Customs duty on certain metal waste and scrap and other articles of metal imported to be used in remanufacture by melting. The legislation also suspends the duty on certain articles of metal imported to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. These changes will expedite the entry and use of these articles and, because recovery of metal from metal waste and scrap usually requires less energy than is needed to produce metals from ores, aid in energy conservation. The amendments are not considered to be significant.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Emmert, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95–508, approved October 24, 1978, amended items 911.11 and 911.12, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), to suspend, until June 30, 1981, Customs duty on certain articles of metal imported to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. The legislation also extended until June 30, 1981, the existing suspension of duty on certain metal waste and scrap and other articles of metal imported to be used in remanufacture by melting.

The temporary suspension of duty on metal waste and scrap has been in effect almost continuously since 1942. On October 1, 1950, it was extended to include articles of metal imported to be used, and actually used, in remanufacture by melting (Act of March 13, 1942, 56 Stat. 171, as amended by Pub. L. 869, 81st Congress; see T.D. 52656, 86 Treas. Dec. 27 (1951)).

The suspension of duty on metal waste and scrap originally was instituted to assist steel producers in some sections of the United States in obtaining adequate supplies of raw materials. Duty-free importation was permitted for certain metal articles

provided that the importer submitted a "Certificate of Remelting" to Customs within 3 years of importation, verifying that the articles actually were used in remanufacture by melting.

The limitation of proof of actual use to a "Certificate of Remelting" has been found to be overly restrictive and unnecessarily burdensome to United States mills and refiners using imported scrap metal. It is anticipated that providing importers with the alternative of furnishing proof that the articles have been processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, will eliminate the difficulties encountered in furnishing proof of remanufacture by melting and the attendant delay in liquidating entries awaiting such proof. The extension also is expected to aid in energy conservation because the recovery of metal from metal waste and scrap usually requires less energy than is needed to produce metals from ores. While the duty on these articles has been suspended until June 30, 1981, because it will be necessary for Congress to consider whether to continue the suspension beyond that date, the regulations provide that the suspension is in force during the effective period of items 911.11 and 911.12, TSUS.

Articles of copper now are listed as an exception to the free entry provision in § 54.5(a), Customs Regulations. However, item 911.11, TSUS, provides for the duty free entry of these articles if to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. To correct this inconsistency, copper is deleted from the exemptions in § 54.5(a).

Inapplicability of Public Notice and Delayed Effective Date Provisions

Because this is a technical amendment in which the public does not have a particular interest and it merely implements a statutory requirement, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because this amendment grants an exemption.

Amendments to the Regulations

Part 54, Customs Regulations (19 CFR 54), is amended to read as follows:

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

Metal Articles Imported To Be Used in Remanufacture by Melting, or To Be Processed by Shredding, Shearing, Compacting, or Similar Processing Which Renders Them Fit Only for the Recovery of the Metal Content

Sec.

54.5 Scope of exemptions; nondeposit of estimated duty.

54.6 Proof of intent; bond; proof of use; liquidation.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 19 U.S.C. 66, 1624, Gen. Hdnte. 11, Tariff Schedules of the United States (TSUS), (sec. 101, 76 Stat. 72; Item 911.10, TSUS, 92 Stat. 1774; Items 911.11 and 911.12, TSUS).

Metal Articles Imported To Be Used in Remanufacture by Melting, or To Be Processed by Shredding, Shearing, Compacting, or Similar Processing Which Renders Them Fit Only for the Recovery of the Metal Content

§ 54.5 Scope of exemptions; nondeposit of estimated duty.

(a) Except as otherwise provided in this section, articles in chief value of metal to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, and actually so used, shall be entitled to free entry upon compliance with section 54.6, if entered, or withdrawn from warehouse for consumption, during the effective period of items 911.11 and 911.12, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). This provision does not apply to

(1) articles in chief value of lead, zinc, or tungsten;

(2) metal-bearing materials provided for in Schedule 4, TSUS, or Part 1, Schedule 6, TSUS; or

(3) unwrought metal provided for in Part 2, Schedule 6, TSUS.

(b) No deposit of estimated duty shall be required upon the entry, or withdrawal from warehouse for consumption, of the articles described in paragraph (a) of this section if the district director is satisfied at the time of entry, or withdrawal, by written declaration of the importer that the merchandise is being imported to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders it fit only for the recovery of the metal content.

54.6 Proof of intent; bond; proof of use; liquidation.

Articles in chief value of metal, described in section 54.5(a) shall be admitted free of duty upon compliance with the following conditions:

(a) There shall be filed in connection with the entry[1] a statement of the importer that the articles are to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content.

(b) If the articles are entered for consumption, there also shall be filed in connection with the entry a bond on Customs Form 7551 or 7553. If the articles are entered for warehouse, the regular warehouse bond, Customs Form 7555, shall be given, and withdrawals shall be made on Customs Form 7506. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed in paragraph (c) of this section.

(c) Within 3 years from the date of entry, or withdrawal from warehouse for consumption, the importer shall submit to the district director at the port of entry, a statement from the superintendent or manager of the plant at which the articles were used in remanufacture by melting, or were processed by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, showing:

(1) The name and location of the plant;

(2) The entry number, date, and port of entry (if the person making the statement is not in possession of this information, a reference to invoices, purchase orders, or other documents which will identify the shipment with the entry may be substituted);

(3) The date or inclusive dates of the remanufacture or processing of the articles; and

(4) A description of the remanufacture or processing in sufficient detail to enable the district director to determine whether it constituted a use in remanufacture by melting, or processing by shredding, shearing, compacting, or similar processing which rendered the articles fit only for the recovery of the metal content. In appropriate cases, the remanufacture or processing of the articles covered by more than one entry may be included in one statement. The statement shall be based on adequate and carefully kept plant and import records which shall be available during

[1] "In connection with the entry" means any time before liquidation of the entry or within the period during which a valid reliquidation may be completed (sec. 113.43(c)). Therefore, a claim for free entry under item 911.11 or 911.12, Tariff Schedules of the United States, supported by a statement of intent may be filed at any time before liquidation of the entry or within the period during which a valid reliquidation may be completed.

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normal business hours to any Customs officer. The importer and plant manager shall maintain the import and plant records for 5 years from the date of the related entry of the merchandise. The burden shall be on the importer or plant manager to keep these records so that the claim of actual use can be established readily.

(d) If satisfactory proof of use of the articles in remanufacture by melting, or in processing by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, is furnished within the prescribed time, the entry shall be liquidated without the assessment of duty on the covered articles. If proof is not filed within 3 years from the date of entry, or withdrawal from warehouse for consumption, or the use does not warrant the classification claimed, the entry shall be liquidated without any exemption from duty under item 911.11 or 911.12, Tariff Schedules of the United States.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624) Sec. 101, 76 Stat. 72; Item 911.10, Tariff Schedules of the United States (TSUS), 92 Stat. 1774; Items 911.11 and 911.12, TSUS)

Regulations Determined to be Nonsignificant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations," the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet Treasury Department criteria in the directive for a "significant" regulation because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: May 9, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-17359 Filed 6-5-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 207

[Docket No. 79N-0118]

Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution; Model Regulation Editorial Revisions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the regulations for registering producers of drugs and for listing of drugs in commercial distribution. The revision makes the regulations more concise and readable.

EFFECTIVE DATE: July 7, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 31, 1979 (44 FR 44884), the Food and Drug Administration (FDA) proposed editorial revisions to Part 207 (21 CFR Part 207). Interested persons were invited to submit comments on the proposal.

FDA proposed to revise Part 207 as a result of applying the principles of Operation Common Sense—a comprehensive program initiated by the Department of Health and Human Services (HHS) to make regulations more understandable and to expedite HHS's regulations development process. Operation Common Sense was described in a notice published in the **Federal Register** of November 18, 1977 (42 FR 59555). Its goals include rewriting regulations so that they are clear and understandable, revising regulations on the basis of experience since their issuance, and minimizing compliance burdens imposed by regulations. Similarly, Executive Order 12044, "Improving Government Regulations," which appeared in the **Federal Register** of March 24, 1978 (43 FR 12661), requires periodic review of regulations to determine whether language should be simplified or clarified, and whether the approach and requirements of a particular regulation continue to be warranted.

Operation Common Sense includes a requirement that each HHS agency issue a "model" regulation. Part 207 was chosen for this purpose because of the statutory nature of the requirements of registration and drug listing, because of its operational impact on drug manufacturers, and because of its paperwork and reporting requirements. For these reasons, it is imperative that the regulation be easily understood and implemented as efficiently as possible.

FDA has made nonsubstantive editorial changes in the regulation to improve clarity and readability. References to FDA forms have been changed in response to the Public Health Service's substitution of "FDA-" for "FD-" as the prefix for FDA forms. FDA has also deleted the reference to the Drug Listing Act of 1972, Pub. L. 92-387, in the "AUTHORITY" statement preceding Subpart A of Part 207 because that Act is an amendment to the Federal Food, Drug, and Cosmetic Act, already cited in the "AUTHORITY" statement.

FDA received one comment on the proposal concerning several provisions of the proposed revised regulation, as follows:

1. The comment suggested that because the information requested in § 207.31(b) concerning the quantity of drugs distributed is a request in conjunction with annual registration, it would be more appropriate for the request to appear in a section on registration rather than in a section on drug listing.

Section 207.31(b) is a request that drug distribution information be voluntarily submitted in conjunction with the annual registration. Response to this request has been minimal, and the agency has found the sparse data submitted to be of questionable value to the agency. Consequently, FDA no longer encourages the submission of data under § 207.31(b) and concludes that this section should be withdrawn as being obsolete. The final rule as set forth below has been revised accordingly.

2. The comment stated that it would be helpful if the regulation were revised to show how soon after registering under § 207.35 the registrant might expect the agency to return a validated copy of the registration form (Form FDA-2656).

Before a validated copy is returned to the registrant, the registration form is processed and a permanent registration number is assigned by the appropriate FDA district office. The district office reviews the file to ensure that the firm has not previously registered under another name or number as a drug establishment, has not registered under another name or number with any of the other FDA bureaus, and is engaged in activities that require the firm to register as a drug establishment. Every effort is made to complete this review as expeditiously as possible, and the goal of the district offices is to complete the processing within 10 working days. However, some establishments begin or cease operations, change ownership, etc., so frequently that the district office may require more than 10 days to process a registration form. Because of the rather wide variability in the processing time, FDA concludes it would be impractical to include in the regulation a timeframe for returning the validated forms.

3. The comment asserted that the placement requirement in § 207.35(b)(3)(i) for the NDC number to appear in the top third of the principal display panel is routinely ignored by some firms, including major firms. Unless this requirement is enforceable and enforced, the position requirement should be revoked.

The agency disagrees. The regulations now permit the NDC number to appear elsewhere on the label when it is part of a bar-code symbol. The vast majority of firms correctly place the NDC number. On those relatively rare occasions when a firm is found to be not complying with this requirement, the agency takes appropriate corrective action.

4. The comment observed that manufacturers do not place the manufacturer or package code segments of the NDC number on tablets or capsules, but only so place the product code. The comment also noted that the package code segment of the NDC number is routinely not placed on items such as ampules, vials, or unit dose blisters that are further packaged because the package code refers to the outer package size and not the individual units the package contains. While describing these practices as reasonable, and as apparently acceptable to FDA, the comment stated that they were technically inconsistent with the regulation and requested that "10" in the first line (of § 207.35(b)(3)(iv)) be deleted, so that the requirement would read, "all characters shall appear [illegible]."

FDA agrees that requiring all ten characters of the NDC number to appear in all cases may be impractical. Consideration will be given to revising the regulation in line with the usefulness of the code and the practical problems presented with imprinting dosage forms and labels of small containers. However, because the changes made by this amendment are editorial only, if the agency concludes that this change should be made, it will be proposed in a substantive revision of the regulation at a later date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), and 704, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374)); and Pub. L. 410, sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 207 is revised to read as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Subpart A—General

Sec.

207.3 Definitions.
207.7 Establishment registration and product listing for human blood and blood products and for medical devices.

Subpart B—Exemptions

207.10 Exemptions for domestic establishments.

Subpart C—Procedures for Domestic Drug Establishments

207.20 Who must register and submit a drug list.
207.21 Times for registration and drug listing.
207.22 How and where to register and list drugs.
207.25 Information required in registration and drug listing.
207.26 Amendments to registration.
207.30 Updating drug listing information.
207.31 Additional drug listing information.
207.35 Notification of registrant: drug establishment registration number and drug listing number.
207.37 Inspection of registrations and drug listings.
207.39 Misbranding by reference to registration or to registration number.

Subpart D—Procedure for Foreign Drug Establishments

207.40 Drug listing requirements for foreign drug establishments.

Authority: Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); and sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262).

Subpart A—General

§ 207.3 Definitions.

(a) The following definitions apply to this part:

(1) "Act" means the Federal Food, Drug, and Cosmetic Act approved June 25, 1938 (52 Stat. 1040 et seq., as amended (21 U.S.C. 301-392)), except as otherwise provided.

(2) "Advertising" and "labeling" include the promotional material described in § 202.1(l) (1) and (2) respectively.

(3) "Any material change" includes but is not limited to any change in the name of the drug, any change in the identity or quantity of the active ingredient(s), any change in the identity or quantity of the inactive ingredient(s) where quantitative listing of all ingredients is required by § 207.31(a)(2), any significant change in the labeling of a prescription drug, and any significant change in the label or package insert of an over-the-counter drug. Changes that are not significant include changes in arrangement or printing or changes of an editorial nature.

(4) "Bulk drug substance" means any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug, but the term does not include intermediates used in the synthesis of such substances.

(5) "Commercial distribution" means any distribution of a human drug except for investigational use under § 312.1, and any distribution of an animal drug or an animal feed bearing or containing an animal drug for noninvestigational uses, but the term does not include internal or interplant transfer of a bulk drug substance between registered domestic establishments within the same parent, subsidiary, and/or affiliate company.

(6) "Drug product salvaging" means the act of segregating drug products that may have been subjected to improper storage conditions, such as extremes in temperature, humidity, smoke, fumes, pressure, age, or radiation, for the purpose of returning some or all of the products to the marketplace.

(7) "Establishment" means a place of business under one management at one general physical location. The term includes, among others, independent laboratories that engage in control activities for a registered drug establishment (e.g., "consulting" laboratories), manufacturers of medicated feeds and of vitamin products that are drugs in accordance with section 201(g) of the act, human blood donor centers, and animal facilities used for the production or control testing of licensed biologicals, and establishments engaged in drug product salvaging.

(8) "Manufacturing or processing" means the "manufacture, preparation, propagation, compounding, or

processing of a drug or drugs" as used in section 510 of the act and is the making by chemical, physical, biological, or other procedures of any articles that meet the definition of drugs in section 201(g) of the act. The term includes manipulation, sampling, testing, or control procedures applied to the final product or to any part of the process. The term also includes repackaging or otherwise changing the container, wrapper, or labeling of any drug package to further the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer.

(9) "Representative sampling of advertisements" means typical advertising material (excluding labeling as determined in § 202.1(l) (1) and (2)) that gives a balanced picture of the promotional claims used for the drug, e.g., if more than one medical journal advertisement is used but the promotional content is essentially identical, only one need be submitted.

(10) "Representative sampling of any other labeling" means typical labeling material (excluding labels and package inserts) that gives a balanced picture of the promotional claims used for the drug, e.g., if more than one brochure is used but the promotional content is essentially identical, only one need be submitted.

(b) The definitions and interpretations of terms in sections 201, 502(e), and 510 of the act apply to the use of terms in this part.

§ 207.7 Establishment registration and product listing for human blood and blood products and for medical devices.

(a) Owners and operators of human blood and blood product establishments shall register and list their products with the Bureau of Biologics, Food and Drug Administration (FDA), on Form FDA–2830 (Blood Establishment Registration and Product Listing) in accordance with Part 607.

(b) Owners and operators of all human blood and blood product establishments who also manufacture or process other drug products at the same establishment shall register with both the Bureau of Biologics and the Bureau of Drugs, FDA. Such owners and operators shall list human blood and blood products with the Bureau of Biologics in accordance with Part 607, and shall list other drug products with the Bureau of Drugs, in accordance with this part.

(c) Owners and operators of establishments engaged in manufacture or processing of medical devices shall register and list their products with the Bureau of Medical Devices, FDA, on Form FDA–2891 (Initial Registration of Device Establishments), FDA–2891a (Registration of Device Establishment), and FDA–2892 (Medical Device Listing), in accordance with Part 807.

(d) Owners and operators of establishments engaged in the manufacture or processing at the same establishment of both drug products and medical devices shall (1) register with the Bureau of Drugs, FDA, and list their drug products in accordance with this part, and (2) register with the Bureau of Medical Devices and list their medical devices in accordance with Part 807.

Subpart B—Exemptions

§ 207.10 Exemptions for domestic establishments.

The following classes of persons are exempt from registration and drug listing in accordance with this part under section 510(g) (1), (2), and (3) of the act, or because FDA has found, under section 510(g)(4), that their registration is not necessary for the protection of the public health.

(a) Pharmacies that operate under applicable local laws regulating dispensing of prescription drugs and that do not manufacture or process drugs for sale other than in the regular course of the practice of the profession of pharmacy, including dispensing and selling drugs at retail. The supplying of prescription drugs by these pharmacies to a practitioner licensed to administer these drugs for his or her use in the course of professional practice or to other pharmacies to meet temporary inventory shortages are not acts that require pharmacies to register.

(b) Hospitals, clinics, and public health agencies that maintain establishments in conformance with any applicable local laws regulating the practices of pharmacy or medicine and that regularly engage in dispensing prescription drugs, other than human blood or blood products, upon prescription of practitioners licensed by law to administer these drugs to patients under their professional care.

(c) Practitioners who are licensed by law to prescribe or administer drugs and who manufacture or process drugs solely for use in their professional practice.

(d) Persons who manufacture or process drugs not for sale but solely for use in research, teaching, or chemical analysis.

(e) Manufacturers of harmless inactive ingredients that are excipients, colorings, flavorings, emulsifiers, lubricants, preservatives, or solvents that become components of drugs, and who otherwise would not be required to register under this part.

(f) Persons who use drugs to prepare feed for their own animals, except persons required under the act and its regulations to hold an approved new animal drug application (or supplement) or a medicated feed application to possess and use a drug.

(g) Any manufacturer of a virus, serum, toxin, or analogous product intended for treatment of domestic animals who holds an unsuspended and unrevoked license issued by the Secretary of Agriculture under the animal virus-serum-toxin law of March 4, 1913 (37 Stat. 832 (21 U.S.C. 151 et seq.)), provided that this exemption from registration applies only to the manufacture or processing of that animal virus, serum, toxin, or analogous product.

(h) Carriers, in their receipt, carriage, holding, or delivery of drugs in the usual course of business as carriers.

Subpart C—Procedures for Domestic Drug Establishments

§ 207.20 Who must register and submit a drug list.

(a) Owners or operators of all drug establishments not exempt under section 510(g) of the act or Subpart B of this part that engage in manufacturing or processing a drug or drugs are required to register and to submit a list of every drug in commercial distribution (whether or not the output of the establishment or any particular drug so listed enters interstate commerce); however, drug listing is not required for manufacturing or processing an animal feed (including a feed concentrate, a feed supplement, and a complete animal feed) bearing or containing an animal drug, nor is drug listing required for establishments engaged in drug product salvaging. No owner or operator may register an establishment, if any part of the establishment is registered by any other owner or operator. The parent, subsidiary, and/or affiliate company may submit listing information for all establishments when operations are conducted at more than one establishment and all establishments are jointly operated and controlled.

(b) Owners or operators of establishments not otherwise required to register under section 510 of the act that distribute under their own label or trade name a drug manufactured or processed by a registered establishment may elect to submit listing information directly to FDA and to obtain a Labeler Code. A distributor who submits drug listing information shall include the registration number of the drug establishment that manufactured, prepared, propagated, compounded, or processed each drug listed. All distributors who submit drug listing information to FDA assume full responsibility for compliance with all of the requirements of this part. Each such distributor at the time of submitting or updating drug listing information as required under § 207.30 shall certify to the registered establishment that the submission has been made by providing a signed copy of Form FDA–2656 (Registration of Drug Establishment) to the registered establishment that manufactures or processes the drug. Each such distributor shall submit the original of Form FDA–2656 showing this certification to FDA, and shall accompany the certification with a list showing the National Drug Code number that the distributor has assigned to each drug product. If a distributor does not elect to submit drug listing information directly to FDA and to obtain a Labeler Code, the registered establishment shall submit the drug listing information. Distributors or registered establishments shall use Form FDA–2658 (Registered Establishments' Report of Private Label Distributors) to submit drug listing information or to request a Labeler Code, or both.

(c) Before beginning manufacture or processing of a drug subject to one of the following applications, an owner or operator of an establishment is required to register before the agency approves it: a new drug application, a new animal drug application, a medicated feed application, an antibiotic application (antibiotic Form 5 or 6), or an establishment license application to manufacture a biological product.

(d) No registration fee is required.

(e) Registration and listing do not constitute an admission, or agreement, or determination that a product is a drug as defined in section 201(g) of the act.

§ 207.21 Times for registration and drug listing.

(a) The owner or operator of an establishment entering into the manufacture or processing of a drug or drugs shall register the establishment within 5 days after the beginning of the operation and shall submit a list of every drug in commercial distribution at that time. If the owner or operator of the establishment has not previously entered into such an operation, the owner or operator shall register within 5 days after submitting a new drug application, new animal drug application, medicated feed application, antibiotic application (antibiotic Form 5 or 6), or an establishment license application to manufacture a biological product. Owners or operators of all establishments engaged in the drug activities described in § 207.3(a)(8) shall register annually within 30 days after receiving registration forms from FDA. FDA will mail Forms FDA–2656 (Registration of Drug Establishment) to registered establishments according to a schedule based on the first letter of the name of the establishment's parent company as stated on the firm's registration form. If no parent company name is given on that form, the schedule is based on the first letter of the establishment's name. In scheduling the mailing of forms based on the first letter of the company name, FDA will not consider the word "the" when it appears as the first word in the name of the parent company or establishment.

The schedule is as follows:

First letter of company name	Date FDA will mail forms
A or B	January.
C, D, or E	February.
F, G, or H	March.
I, J, K, L, or M	April.
N, O, P, Q, or R	May.
S or T	June.
U, V, W, X, Y, or Z	July.

(b) Owners and operators of all registered establishments shall update their drug listing information every June and December.

§ 207.22 How and where to register and list drugs.

(a) An establishment shall register the first time on Form FDA–2656 (Registration of Drug Establishment), obtainable on request from the Bureau of Drugs, Drug Listing Branch (HFD–315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or from FDA district offices. An establishment whose drug registration for that year was validated under § 207.35 shall make subsequent annual registration on Form FDA–2656 as described in § 207.21(a) by mailing the completed form to the above address within 30 days after receipt from FDA.

(b) The first list of drugs and later June and December updatings shall be on Form FDA–2657 (Drug Product Listing), obtainable upon request as described in paragraph (a) of this section. An establishment may submit, in lieu of Form FDA–2657, tapes for computer inputs containing the information specified in Form FDA–2657 if formats proposed for this use were reviewed and approved by the Bureau of Drugs, Drug Listing Branch, FDA.

§ 207.25 Information required in registration and drug listing.

(a) Form FDA–2656 (Registration of Drug Establishment) provides for furnishing or confirming information required by the act. This information includes, for each establishment, the name and full address of the drug establishment; all trade names used by the establishment; the kind of ownership or operation (that is, individually owned, partnership or corporation); and the name of the owner or operator of the establishment. The term "name of the owner or operator" includes in the case of a partnership the name of each partner, and in the case of a corporation the name and title of each corporate officer and director and the name of the State of incorporation.

(b) Form FDA–2657 (Drug Product Listing) provides that information required by the act be furnished as follows:

(1) A list of drugs, including bulk drug substances and drug premixes for use in the manufacture of animal feeds as well as finished dosage forms, by established name and by proprietary name, that are being manufactured or processed for commercial distribution and that have not been included in any list previously submitted to FDA on Form FDA–2657 or in conjunction with the FDA voluntary inventory on Form FDA–2422 (Survey Report of Marketed Drugs), or Form FDA–2250 (National Drug Code Directory Input).

(2) For each drug listed that the registrant regards as subject to section 505, 506, 507, or 512 of the act, the new drug application number, abbreviated new drug application number, new animal drug application number, or antibiotic application (antibiotic Form 5 or 6) number, and a copy of all current labeling, except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement.

(3) For each drug listed that the registrant regards as subject to section 351 of the Public Health Service Act, the license number of the manufacturer.

(4) For each human prescription drug listed that the registrant regards as not subject to section 505, 506, or 507 of the act or 351 of the Public Health Service Act, and that is not manufactured by a registered blood bank, a copy of all current labeling (except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement) and a representative sampling of advertisements.

(5) For each human over-the-counter drug listed, or each animal drug listed,

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that the registrant regards as not subject to section 505, 506, 507, or 512 of the act or 351 of the Public Health Service Act, a copy of the label (except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement), the package insert, and a representative sampling of any other labeling.

(6) For each prescription or over-the-counter drug so listed that the registrant regards as not subject to section 505, 506, 507, or 512 of the act or 351 of the Public Health Service Act, and that is not manufactured by a registered blood bank, a quantitative listing of the active ingredient(s). Unless the quantitative listing is expressed as a percentage in the offical compendium or the ingredient is a nonantibiotic ingredient in a drug premix for use in the manufacture of animal feeds, the quantity of an ingredient shall be expressed in terms of the amount, not the percent, of that ingredient in each dosage unit or, if the drug is not in unit dosage form, the amount of the ingredient in a specific unit of weight or measure of the drug. For a drug formulation that is a custom premix subject to § 207.35(b)(2)(iii), the registrant may limit the quantitative listing of ingredients to each variation of level of active drug ingredient.

(7) For each drug listed, the registration number of every drug establishment within the parent company at which it is manufactured or processed.

(8) For each drug listed, the National Drug Code (NDC) number. If FDA has not assigned an NDC Labeler Code, the registrant shall include a Product Code and Package Code and FDA will assign a Labeler Code as described in § 207.35(b)(2)(i).

§ 207.26 Amendments to registration.

The registrant shall submit descriptions of changes in individual ownership, corporate or partnership structure, location, or drug-handling activity on Form FDA–2656 (Registration of Drug Establishment) as an amendment to registration, within 5 days of these changes. A change in a registered establishment's firm name within 6 months of the registration of the establishment is required to be supported by a signed statement of the registrant that the change is not made for the purpose of changing the name of the manufacturer of a drug product under § 201.1. Changes in the names of officers and directors of the corporations do not require this amendment but must be reported in the annual registration.

§ 207.30 Updating drug listing information.

(a) After submitting the initial drug listing information, every person who is required to list drugs under § 207.20 shall submit on Form FDA–2657 (Drug Product Listing) during each subsequent June and December, or at the discretion of the registrant when the change occurs, the following information:

(1) A list of each drug introduced by the registrant for commerical distribution which has not been included in any list previously submitted. The registrant shall provide all of the information required by § 207.25(b) for each such drug.

(2) A list of each drug formerly listed in accordance with § 207.25(b) for which commercial distribution has been discontinued, including for each drug so listed the National Drug Code (NDC) number, the identity by established name and by proprietary name, and date of discontinuance. It is requested but not required that the reason for discontinuance of distribution be included with this information.

(3) A list of each drug for which a notice of discontinuance was submitted under paragraph (a)(2) of this section and for which commercial distribution has been resumed, including for each drug so listed the NDC number, the identity by established name and by proprietary name, the date of resumption, and any other information required by § 207.25(b) not previously submitted.

(4) Any material change in any information previously submitted.

(b) When no changes have occurred since the previously submitted list, no report is required.

§ 207.31 Additional drug listing information.

(a) In addition to the information routinely required by §§ 207.25 and 207.30, FDA may require submission of the following information by letter or by **Federal Register** notice:

(1) For a particular prescription drug so listed that the registrant regards as not subject to section 505, 506, or 507 of the act, upon request by FDA for good cause, a copy of all advertisements.

(2) For a particular drug product so listed that the registrant regards as not subject to section 505, 506, 507, or 512 of the act, upon a finding by FDA that it is necessary to carry out the purposes of the act, a quantitative listing of all ingredients.

(3) For a particular drug product, upon request by FDA, a brief statement of the basis for the registrant's belief that the drug product is not subject to section 505, 506, 507, or 512 of the act.

(4) For each registrant, upon a finding by FDA that it is necessary to carry out the purposes of the act, a list of each listed drug product containing a particular ingredient.

(b) It is requested but not required that a qualitative listing of the inactive ingredients be submitted for all listed drugs in the format prescribed in Form FDA–2657 (Drug Product Listing).

(c) It is requested but not required that a quantitative listing of the active ingredients be submitted for all drugs listed that are subject to section 505, 506, 507, or 512 of the act or section 351 of the Public Health Service Act.

§ 207.35 Notification of registrant; drug establishment registration number and drug listing number.

(a) FDA will provide to the registrant a validated copy of Form FDA–2656 (Registration of Drug Establishment) as evidence of registration. This validated copy will be sent to the mailing address shown on the form. FDA will assign a permanent registration number to each drug establishment registered in accordance with these regulations.

(b) Using the National Drug Code (NDC) numbering system, FDA assigns a drug listing number to each drug or class of drugs listed as follows:

(1) If a drug is already listed in the National Drug Code System or in the National Health Related Items Code System, the number is the same as that assigned under those codes. FDA adds a lead zero to the first three characters of the code, which identifies the manufacturer or distributor, to expand the "Labeler Code" segment to four characters. The National Drug Code, Product Code, and Package Code configurations used to describe these drugs, or any drugs added to the product line, remain the same, i.e., a four-character Product Code and a two-character Package Code. A manufacturer or distributor may either retain alphanumeric characters that are already used in the Product Code and Package Code segments of the National Drug Code or convert these alphanumeric characters to all numeric digits. The manufacturer or distributor shall inform FDA of a decision to convert the alphanumeric characters to all numeric digits.

(2) If a registered establishment or distributor has not previously participated in the National Drug Code System or in the National Health Related Items Code System, FDA uses the National Drug Code numbering system in assigning a number, as follows (only numerals are used):

(i) The first 5 numeric characters of the 10-character code identify the

manufacturer or distributor and are known as the Labeler Code. FDA will expand the Labeler Code from five to six numeric characters when the available five-character code combinations are exhausted. FDA will assign Labeler Code numbers and provide them to the registrant along with the validated copy of Form FDA–2656. Any registered firm that does not have an assigned Labeler Code will be assigned one when registration and listing information are submitted.

(ii) The last 5 numeric characters of the 10-character code identify the drug and the trade package size and type. The segment that identifies the drug formulation is known as the Product Code and the segment that identifies the trade package size and type is known as the Package Code. The manufacturer or distributor will assign the Product Code and the Package Code before drug listing and include these codes in Form FDA–2657 (Drug Product Listing). The manufacturer or distributor may use either of two methods in assigning the Product and Package Codes: a 3–2 Product-Package Code configuration (e.g., 542–12) or a 4–1 Product-Package Code configuration (e.g., 5421–2). A manufacturer or distributor with a given Labeler Code shall use only one such Product-Package Code configuration and shall use this same configuration in assigning the Product-Package Codes for all drugs included in the drug listing. The manufacturer or distributor shall report to FDA the Product-Package Code configuration used in assigning these codes.

(iii) If the drug formulation is a custom premix intended for use in the manufacture of an animal feed, FDA assigns a separate Product Code only for each variation of level of active drug ingredient.

(3) FDA requests but does not require that the NDC number appear on all drug labels and in other drug labeling, including the label of any prescription drug container furnished to a consumer. If the NDC number is shown on a drug label, it shall be placed as follows:

(i) The NDC number shall appear prominently in the top third of the principal display panel of the label on the immediate container and of any outside container or wrapper. Instead of appearing in the top third of the label, the NDC number may appear as part of and contiguous to any bar-code symbol for any drug product if two conditions are met. First, the symbol appears prominently on the immediate container and on any outside container or wrapper and in a conspicuous location; this condition is not satisfied by the appearance of the symbol only on the natural bottom of a container or wrapper. Second, the bar-code symbol is compatible with the NDC, i.e., the symbol provides a format capable of encoding the numeric characters of an NDC Number. The term "principal display panel," as used in this paragraph, means that part of a label most likely to be displayed, presented, shown, or examined under customary conditions of display to the consumer (for over-the-counter drug products) or to the dispenser (for prescription drug products).

(ii) The NDC number shall be preceded by the prefix "NDC" or "N" when it is used on a label or in labeling. The prefix used for a drug product shall be used consistently on the label of the immediate container, outside container, or wrapper, if any, and on other labeling for that drug product.

(iii) The Product-Package Code configuration shall be indicated and the segments of the number shall be separated by a dash, e.g., NDC 15643–542–12 or N 15643–542–12.

(iv) All 10 characters shall appear and the leading zeros in any segment of the NDC number shall be shown, except that leading zeros may be omitted from any segment of the NDC number when the NDC number is used for product identification by direct imprinting on dosage forms or in the case of containers too small or otherwise unable to accommodate a label with sufficent space to bear both required and optional labeling information.

(v) The placing of the assigned NDC number on a label or in other labeling does not require the submission of a supplemental new drug application, supplemental new animal drug application, or supplemental antibiotic application (antibiotic Form 5 or 6).

(4)(i) If any change occurs in those product characteristics that clearly distinguish one drug product version from another, the registrant shall assign a new NDC number to the new product version and submit that information to FDA. Such a change includes, but is not limited to, a change in: active ingredient(s); strength or concentration of active ingredient(s); dosage form; route of administration, if it also includes a change in product formulation; and product name. If, by notice in the **Federal Register**, FDA requires a change in drug product characteristics and determines the change will require assignment of a new product code to the reformulated product, FDA will announce its determination in the **Federal Register** publication that requires the change, setting forth its reasoning and justification for its determination. If a change only in the trade package is involved, the registrant may revise the trade package code without the assignment of a new product code segment, but shall inform FDA of the new code for the trade package and the characteristics of the new trade package.

(ii) When a registrant has discontinued a drug product, its product code may be reassigned to another drug product 5 years after the expiration date of the discontinued product, or, if there is no expiration date, 5 years after the last shipment of the discontinued product into commercial distribution. Reuse of product codes may occur, under the specified conditions, regardless of the NDC, Product Code, and Package Code configuration used.

(c) Although registration and drug listing are required to engage in the drug activities described in § 207.20, validation of registration and the assignment of a drug listing number do not, in themselves, establish that the holder of the registration is legally qualified to deal in such drugs.

§ 207.37 Inspection of registrations and drug listings.

(a) A copy of the Form FDA–2656 (Registration of Drug Establishment) filed by the registrant will be available for inspection in accordance with section 510(f) of the act, at the Bureau of Drugs, Registration Section (HFD–315), Food and Drug Administration, 5600 Fishers Land, Rockville, MD 20857. In addition, there will be available for inspection at each of the FDA district offices the same information concerning firms within the geographical area of each district office. Upon request and receipt of a self-addressed stamped envelope, the Bureau of Drugs' Registration Section or appropriate FDA district office will verify registration number or provide the location of a registered establishment.

(1) The following types of information submitted under the drug listing requirements will be available for public disclosure when compiled:

(i) A list of all drug products.

(ii) A list of all drug products arranged by labeled indications or pharmacological category.

(iii) A list of all drug products arranged by manufacturer.

(iv) A list of a drug product's active ingredients.

(v) A list of drug products newly marketed or for which marketing is resumed.

(vi) A list of drug products discontinued.

(vii) Labeling.

(viii) Advertising.

(ix) Information that has become a matter of public knowledge.

(x) A list of drug products containing a particular active ingredient.

(2) The following types of information submitted in accordance with the drug listing requirements will not be available for public disclosure (except that any of the information will be available for public disclosure if it has become a matter of public knowledge or if FDA finds that confidentiality would be inconsistent with protection of the public health):

(i) Any information submitted as the basis upon which it has been determined that a particular drug product is not subject to section 505, 506, 507, or 512 of the act.

(ii) A list of a drug product's inactive ingredients.

(iii) A list of drugs containing a particular inactive ingredient.

(b) Requests for information about registrations and drug listings of an establishment should be directed to Bureau of Drugs, Registration Section (HFD–315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 or, with respect to the information described in paragraph (a) of this section, to the FDA district office responsible for the geographical area in which the establishment is located.

§ 207.39 Misbranding by reference to registration or to registration number.

Registration of a drug establishment or drug wholesaler, or assignment of a registration number, or assignment of a NDC number does not in any way denote approval of the firm or its products. Any representation that creates an impression of official approval because of registration or possession of registration number or NDC number is misleading and constitutes misbranding.

Subpart D—Procedure for Foreign Drug Establishments

§ 207.40 Drug listing requirements for foreign drug establishments.

(a) Every foreign drug establishment whose drugs are imported or offered for import into the United States shall comply with the drug listing requirements in Subpart C of this part, unless exempt under Subpart B of this part, whether or not it is also registered.

(b) No drug, unless it is listed as required in Subpart C of this part, may be imported from a foreign drug establishment into the United States except a drug imported or offered for import under the investigational use provisions of § 312.1. Foreign drug establishments shall submit the drug listing information in the English language.

(c) Every foreign drug establishment shall submit, as part of drug listing, the name and address of the establishment and the name of the individual responsible for submitting drug listing information. The establishment shall report to FDA any changes in this information at the intervals specified in § 207.30(a) for updating drug listing information.

Effective date: This regulation is effective July 7, 1980.

(Secs. 201, 502, 505, 506, 507, 510, 512, 701(a) and 704, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); and Pub. L. 410, sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: May 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–17046 Filed 6–5–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Parts 510 and 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Custom Feed Services Corp., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine feeds, and to add this firm to the list of approved NADA sponsors.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Custom Feed Services Corp., 2100 N. 13th St., Norfolk, NE 68701, is sponsor of NADA (121–200) submitted on its behalf by Elanco Products Co. The NADA provides for use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's Supplemental Approval policy, 42 FR 64367, approval of this NADA has been treated as would an approval of a Category II supplement and does not require reevaluation of the safety and effectiveness data in NADA 12–491.

Custom Feed Services Corp. has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released for public examination at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name, address and drug labeler code

* * * * *

Custom Feed Services Corp., 2100 N. 13th St., Norfolk, NE 68701.—017473

* * * * *

(2) * * *

Drug labeler code, firm name and address

* * * * *

017473—Custom Feed Services Corp., 2100 N. 13th St., Norfolk, NE 68701.

* * * * *

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(68) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(68) To 017473: 10 grams per pound; paragraph (f)(1)(vi) (*a*) of this section.

* * * * *

Effective date. This amendment is effective June 6, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 29, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80–16891 Filed 6–5–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Fasco Mills Co., providing for safe and effective use of a 2-gram-per-pound tylosin premix for making complete swine feeds.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Fasco Mills Co., Box 70, Route 34 East, Mendota, IL 61342, is the sponsor of a supplemental NADA (96–839) providing for use of a premix containing 2 grams of tylosin (as tylosin phosphate) per pound, in addition to an existing approval for use of a 0.8-gram-per-pound premix, for making complete swine feeds used to increase rate of weight gain and to improve feed efficiency.

Approval of this application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's Supplemental Approval Policy (see the **Federal Register** of December 23, 1977 (42 FR 64367)), approval of this supplemental NADA does not require reevaluation of the safety and effectiveness in NADA 12–491 or in NADA 96–839.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released for public examinations at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625, by revising paragraph (b)(23) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(23) To 030804: 2 and 0.8 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This amendment is effective June 6, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 29, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80–16938 Filed 6–5–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 573

[Docket No. 79F–0394]

Food Additives Permitted in Feed and Drinking Water of Animals; Acrylamide-Acrylic Acid Resin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for a revised specification for acrylamide-acrylic acid resin used as a thickener and suspending agent in nonmedicated aqueous suspensions for animal feeds. Betz Laboratories, Inc., filed a petition for the revised specification.

EFFECTIVE DATE: June 6, 1980; objections by July 7, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) announced in a notice published in the **Federal Register** of November 16, 1979 (44 FR 66068), that a petition (FAP–2175) had been filed by Betz Laboratories, Inc., 4636 Somerton Rd., Trevose, PA 19047, proposing that § 573.120 *Acrylamide-acrylic acid resin* be amended to provide for a revised molecular weight specification, minimum of 3 million. The use of the product as a thickener and suspending agent in nonmedicated aqueous suspensions for animal feeds would not be changed.

FDA evaluated the data in the petition and other relevant material and concluded that the food additive regulations should be amended as set forth in the petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1788 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 573 is amended by revising § 573.120(b)(1) to read as follows:

§ 573.120 Acrylamide-acrylic acid resin.

* * * * *

(b) * * *

(1) A minimum molecular weight of 3 million.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 7, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a

hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 6, 1980.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16939 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[T.D. 7700]

26 CFR Parts 1 and 7

Income Tax; Amortization of Certain Rehabilitation Costs for Certified Historic Structures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to amortization of certain rehabilitation expenditures for certified historic structures. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations affect all persons desiring to amortize such rehabilitation expenditures and provide them with the guidance needed to comply with the law.

DATE: The regulations are effective for additions to capital account after June 14, 1976, and before June 15, 1981.

FOR FURTHER INFORMATION CONTACT: H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, Attention: CC:LR:T, 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1978, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7), all under section 191 of the Internal Revenue Code of 1954 ("Code") (43 FR 38731). The amendments were proposed to conform the regulations to section 2124(a)(1) and (3)(B) of the Tax Reform Act of 1976 (90 Stat. 1916).

Technical amendments were made to section 191 of the Code by section 701(f)(1), (2), and (7) of the Revenue Act of 1978 (92 Stat. 2900, 2903). These statutory amendments made by the Revenue Act of 1978 were only technical changes and prescribe rules favorable to taxpayers. For this reason and because there is a need for immediate guidance for taxpayers, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring further notice of proposed rulemaking, opportunity for public participation, and delay in effective date are found to be inapplicable to changes to the August 1978 proposed regulations necessitated by these statutory changes.

A public hearing on the proposed regulations was held on March 15, 1979. After consideration of all written and oral comments regarding the proposed amendments, final regulations are adopted by this Treasury decision.

Provisions of the Regulations

Under section 191, owners of historic structures certified by the Secretary of the Interior may elect to amortize the amortizable basis attributable to costs incurred in certified rehabilitation of these structures. If this election is made, the rehabilitation costs are amortized over a 60-month period rather than depreciated over their actual useful life. Amortization deductions under section 191 may not be claimed if any part of the costs of the certified rehabilitation are deducted under any other provision of the Internal Revenue Code. However, allowable depreciation deductions of the basis of the historic structure, exclusive of the rehabilitation costs, may be continued during the amortization period. If an election involving the historic structure is made under section 191, no election may be made under section 167(o).

The election is available to owners, life tenants, and certain lessees of certified historic structures. In general, these persons may amortize only those expenditures made while they own (or lease) the property and only those expenditures for rehabilitation of an existing historic structure.

In the event of a disposition of the property, part or all of the amounts deducted under section 191 may be recaptured as ordinary income. In addition, the difference between rapid amortization and straight-line depreciation (based on the actual useful life of the structure) may be subject to the minimum tax.

All costs of a certified rehabilitation are generally amortizable. However, costs attributable to nondepreciable portions of a certified historic structure (where only part of the structure is used in a trade or business or for the production of income) and costs of new construction associated with a certified rehabilitation are not amortizable.

To elect the 60-month amortization, the taxpayer indicates that the election is being made as directed on the taxpayer's return for the taxable year in which falls the first month of the amortization period chosen pursuant to section 191(a). The election may be made after a request has been made for, but before, certification of the project by the Department of the Interior. If the election is made before final certification is received, proof of certification is to be submitted with the first tax return filed by the taxpayer after receipt of the certification. If proof of certification is not submitted within 30 months after commencement of the amortization period, the taxpayer may be asked to agree to an extension of time for assessment of additional tax for the period for which amortization deductions are claimed.

Once made, the election may be discontinued at any time by filing written notice with the taxpayer's income tax return for the year in which amortization is to cease.

Additional Considerations

These regulations are needed in order to provide guidance to the public as well as to government employees responsible for the implementation of section 191 of the Code. Considering both the direct and indirect effects of these regulations, it is believed that they satisfactorily implement section 2124(a) (1) and (3) of the Tax Reform Act of 1976, as amended by section 701(f) (1), (2), and (7) of the Revenue Act of 1978. Evaluation of the effectiveness of the regulations after issuance will be based upon comments received from offices within the Internal Revenue Service and the Treasury Department, the Department of the Interior, other government agencies, and the public.

Public Comments

Twenty-five comments were received in response to the proposed regulations. As a general matter, these comments pointed out that the proposed regulations did not reflect changes made in the law by the Revenue Act of 1978. The technical amendments made by that Act (which became law after publication of the proposed regulations) have been incorporated at the appropriate places throughout the regulations. See, for example, § 1.191-1(b)(3) on the relation of section 191 to other Code provisions, § 1.191-1(c)(2)(vi) on rules for lessees, § 1.191-1(e) on the relation of section 191 to the minimum tax, and §§ 1.191-2 (a) and (b) for amended definitions of "certified historic structure" and "registered historic district." One comment urged permitting separate amortization periods to be established for any expenditures made during a given month. This suggestion was not adopted since section 167, which applies if section 191 is not elected, requires the presence of a component part of a structure for depreciation to be allowable. This rule has been restated in § 1.191-1(b)(1)(i) to remove any doubt concerning whether a component part is required for a separate amortization period to be established. Another comment requested express provisions governing demolition undertaken as part of certified rehabilitation. New § 1.191-1(b)(4) and § 1.191-2(e)(7) have been added to provide specific rules on demolition. Under new § 1.191-1(b)(4), if an historic structure is expanded to the site of another demolished historic structure by certified rehabilitation, section 191 treatment is still available despite the provisions of section 167(n). Portions of the rehabilitated historic structure actually on the demolition site would, however, be subject to the limitations of section 167(n). This position was adopted because it is believed that the requirement that the rehabilitation be certified by the Secretary of the Interior will insure protection of all structures intended to be protected by section 167(n). Two comments requested clarification of the rule contained in the proposed regulations making certain transferees of certified historic structures eligible for section 191 treatment. Section 1.191-1(b)(6) was amended to clarify that, if amortization deductions are discontinued during the 60-month period, the remaining depreciable life of the structure is determined at time amortization ceases. Section 1.191-1(c)(2)(iii) was amended to indicate that transferees at the completion of rehabilitation are eligible for section 191 treatment even where the structure was not taken out of service during rehabilitation. Another change to § 1.191-1(c)(2)(iii) clarifies that, for a transferee to elect section 191, the transfer to him must occur before the property is placed in service after rehabilitation, even though the transferor could elect to delay amortization deductions until the first month of the following taxable year and had in fact claimed no amortization deductions at the time of the transfer. In response to other requests, § 1.191-1(c)(viii) was amended to accord treatment as lessees to all concessionaires where Federal government restrictions prevent leasing the property. Two comments requested extension of section 191 treatment to ships that are individually listed on the National Register of Historic Places whether or not they are permanently anchored so as to become real property. This suggestion was not adopted because section 191, as is true of all of section 2124 of the Tax Reform Act of 1976 is applicable only to real property. See § 1.191-2(c). Some comments expressed confusion as to the meaning of a "reconstruction" of an historic structure which is excluded from section 191 treatment. This term had been used because it is used in Interior Department guidelines. To eliminate this confusion, however, § 1.191-2(d) was amended to substitute the term "reproduction" for "reconstruction." Thus, "reproductions" of historic structures are excluded from section 191 treatment. Section 1.191-2(e)(1) was expanded in response to comments which revealed a misunderstanding of the respective roles of the Internal Revenue Service and the Department of the Interior in implementing section 191. That paragraph now expressly states that the Interior Department certifies that standards of historic character are met while the Internal Revenue Service determines other rules governing eligibility for section 191 treatment. Section 48 on investment tax credits for rehabilitated buildings contains a requirement that 75 percent of the existing exterior walls of a structure remain after rehabilitation. Similarly, regulations under 167(k) state that if one or more outer walls and the internal structural framework of a building are replaced, expenditures are generally attributable to new construction. In response to the comments and to provide more consistent rules throughout the Code, § 1.191-2(e)(5) now contains a comparable rule. Section 1.191-2(e)(5) was also amended to indicate that buildings may be disassembled and reassembled and a part of certified rehabilitation because this is a frequent rehabilitation technique. In response to a request from the Department of the Interior, new §§ 1.191-2(e) (6) and (7) were added to provide rules on costs of relocating structures and demolition expenses incurred as part of certified rehabilitation. One comment questioned the rule on when additions to capital account are made which is contained in § 1.191-2(e)(8). To provide more nearly equal treatment for rehabilitations begun before June 14, 1976, and those ending after June 14, 1981, § 1.191-2(e)(8) was changed to permit amortization of costs attributable to completed components of rehabilitations still in progress on June 14, 1981. A conforming paragraph, § 1.191-3(b)(4), was added to permit elections to be made after June 14, 1981, for expenditures attributable to these completed components.

Drafting Information

The principal author of these regulations was H. B. Hartley of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations.

Accordingly, amendments to the regulations (26 CFR Parts 1 and 7), are hereby adopted as set forth below.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following new sections are added immediately after § 1.188-1.

§ 1.191-1 Amortization of certain rehabilitation costs for certified historic structures.

(a) *In general.* Section 191 allows an owner of a certified historic structure who rehabilitates that structure to elect to amortize over a 60-month period certain expenditures attributable to certified rehabilitation. The election may be made only if the certified historic structure (as defined in § 1.191-2(a)) and the improvements made are otherwise of a character subject to depreciation under section 167. In general, only those rehabilitation expenditures which result in additions to capital account after June 14, 1976, and before June 15, 1981, are eligible for this special amortization procedure. To

qualify for the election, the rehabilitation must be certified by the Secretary of the Interior to the Internal Revenue Service as consistent with the historic character of the structure. See § 1.191–2(d) for the definition of certified rehabilitation. Along with the amortization deductions, the taxpayer may continue otherwise allowable depreciation deductions of the basis of the structure, exclusive of rehabilitation costs which are a part of the amortizable basis (as defined in § 1.191–2(e)).

(b) *Allowance of deduction*—(1) *Determination of amortization period*—(i) *General rule.* The taxpayer may elect to begin the 60-month amortization period with the month following the month in which the amortizable basis is acquired, or with the first month of the succeeding taxable year. Generally amortizable basis must be acquired after June 14, 1976, and before June 15, 1981. For purposes of this section, the month in which the amortizable basis is acquired is the latest of the month in which the work (or a component part of the work) is completed, the month in which costs are added to capital account, or the month in which depreciation deductions under section 167 would be first allowable with respect to the structure. See, however, § 1.191–2(e)(8) for special rules for certified rehabilitations in part occurring outside the effective period of section 191. No amortization deduction may be claimed before a building is used (or held for use) in a trade or business or for the production of income.

(ii) *Multiple amortization periods.* After a structure is eligible for depreciation, a separate amortization period may be established for each month's expenditures and completed work as that portion of the rehabilitation is placed in service in a depreciable use. The completed work for which a separate amortization period is established must, however, be an identifiable separate component of the entire project and not simply progress payments upon partial completion of overall rehabilitation activities. For example, a single structure could have a series of amortization periods based upon the component parts of the work completed and expenditures made for those component parts during each month in which the certified rehabilitation is in progress if the structure were already depreciable before completion of the rehabilitation activities. Alternatively, the taxpayer may treat his entire amortizable basis as acquired upon completion of the entire rehabilitation project rather than allocating amounts to each month in which the costs of component parts could have been added to basis. This treatment applies although rehabilitation extends over more than one taxable year, if there is no interruption in rehabilitation activities. If the taxpayer chooses to delay amortization deductions until completion of an entire project, then depreciation deductions with respect to any portion of the rehabilitation expenditures are treated as not allowable until the completion.

(2) *Amount of deduction.* The allowable deduction for each month is determined by dividing the amortizable basis as of the last day of the month by the number of months (including the current month) which remain in the 60-month amortization period. This calculation is repeated for each month of the 60-month period to determine each month's allowable amount of amortization deduction.

(3) *Relation to section 167(o) and other provisions.* If an election involving a certified historic structure is made under section 191, no election may be made under section 167(o) either for the same rehabilitation or for any subsequent rehabilitation of the same structure undertaken by the taxpayer making an election under section 191. Additionally, no election is permitted under section 191 if depreciation deductions or credits against tax based upon any part of the costs qualifying for amortization under section 191, are at any time claimed (or allowable) under any depreciation or other provision of the Internal Revenue Code of 1954. However, this limitation with respect to investment tax credits under section 38 applies only to structures placed in service after October 31, 1978. If section 191 treatment is timely elected on a structure placed in service after October 31, 1978, the investment tax credit under section 38 is considered not to have been allowable with respect to that structure.

(4) *Expansions of rehabilitated structures to sites of demolished structures.* If a certified rehabilitation results in expansion of a certified historic structure to the site of a separate certified historic structure which is demolished as part of the rehabilitation, section 191 treatment is not available with respect to any expenditures attributable to that demolition or to any expenditures attributable to portions of the rehabilitated historic structure actually located on the demolition site. (See § 1.191–2(e)(7).) Subject to this restriction, however, section 191 treatment is available for expenditures for certified rehabilitation of the remaining historic structure which form a part of amortizable basis under §1.191–2(e). See section 167(n) for special rules on depreciation of structures on sites previously occupied by certified historic structures and section 280B for rules on demolition costs.

(5) *Depreciation upon notice to discontinue amortization deductions.* If the taxpayer chooses to discontinue amortization deductions, the unamortized rehabilitation costs are added to the adjusted basis of the structure as of the first day of the month for which the notice to discontinue amortization deductions is effective. Deductions for depreciation of the structure under section 167 may then be computed on the resulting adjusted basis beginning at that time and are based on the estimated remaining useful life of the rehabilitated structure, determined as of the date amortization deductions cease.

(6) *Examples.* The provision of this paragraph (b) may be illustrated by the following examples:

Example (i). A, a calendar-year taxpayer, secured the necessary certifications from the Secretary of the Interior and began rehabilitation of a 100-year old townhouse previously rented as a one-family dwelling, in order to convert it into two equally-sized apartments. In June 1977, the exterior work was completed, and A paid his contractor the cost of $20,000. Apartment #1 was completed and rented in September, and the cost of $40,000 was paid. In November, Apartment #2 was finished and rented, and A paid the cost of $47,500. A elects to use the 60–month amortization allowed under section 191. A chooses to establish separate amortization periods for each of these phases of the work, each period beginning at the earliest possible date. These periods and the amortizable basis for each period are as follows:

Apartment No. 1, and Allocable Portion of Exterior, beginning October 1, 1977, $50,000 basis.

Apartment No. 2, and Allocable Portion of Exterior, beginning December 1, 1977, $57,500 basis.

If A had chosen to do so, A could have selected an amortization period for the entire amortizable basis of $107,500 beginning on December 1, 1977, or January 1, 1978.

Example (ii). B owns a 19th Century warehouse building which is listed in the National Register. In a certified rehabilitation B converted the building into a small shopping mall at a cost of $480,000. The rehabilitation was begun in January 1977, and was completed, placed in service, and paid for in November 1977. B elected to claim amortization deductions under section 191 and to begin the amortization period in December 1977. B's allowable amortization deductions are $8,000 per month, computed as follows:

December 1977: $480,000 amortizable basis/60 months in period = $8,000 deduction.

January 1978: $472,000 amortizable basis/59 months in period = $8,000 deduction.

(c) *Person to claim deduction*—(1) *In general.* Except as otherwise provided in this paragraph (c)—

(i) Only the owner of a fee-simple interest in a certified historic structure and the site on which the structure is located may elect to amortize certified rehabilitation costs; and

(ii) The electing owner must have acquired ownership of the property before commencement of rehabilitation activities, the costs of which are to be amortized.

An electing owner need not have owned the property before commencement of all rehabilitation activities. Where the property is not acquired before rehabilitation begins, however, only those costs incurred subsequent to the acquisition of ownership of the site and structure may be considered for purposes of amortization deductions under section 191.

(2) *Exceptions and special rules*—(i) *Life tenant and remainderman.* For purposes of section 191, the holder of a life estate in property is considered to own the property. A remainderman taking the property on the death of the life tenant is permitted to amortize only those rehabilitation costs which are incurred for improvements begun following termination of all preceding interests in the property and paid by the remainderman.

(ii) *Owners of joint or undivided interests in historic structures.* Joint tenants, tenants by the entirety, tenants in common, and owners of other joint or undivided interests in a certified historic structure may, under section 191, amortize expenditures made for certified rehabilitation. The right of any one such owner to make an election under section 191 is not dependent upon any other co-owner making such an election. Each electing owner's amortizable basis consists of the full amount of expenditures actually made by that individual owner for certified rehabilitation. See paragraph (c)(2)(v) of this section for rules on partnerships.

(iii) *Certain transferees of historic structures.* If expenditures for certified rehabilitation are in fact made by the owner of a certified historic structure, and if one or more transferees then acquire the ownership of the rehabilitated structure directly from that owner before the structure is placed in service in its rehabilitated use, the transferees, solely for purposes of section 191, may be treated as having made the rehabilitation expenditures at the later of the time the structure is acquired or the rehabilitation is completed. Transferees acquiring structures in transfers occurring after the structure is placed in service after its rehabilitation but before the first day of the following taxable year, are not eligible for section 191 treatment, because depreciation deductions for rehabilitation costs are allowable to the transferor before the transfer. The amount of rehabilitation expenditures treated as made by the transferees under this subdivision (iii) is the lesser amount of—

(A) The rehabilitation expenditures actually made before the date on which the transferee acquired ownership of the structure, or

(B) The portion of the transferee's cost or other basis for the property (determined according to the rules of section 167) which is attributable to rehabilitation expenditures made before the date on which the transferee acquire ownership of the structure.

(iv) *Estates and trusts.* The amortization deduction provided by section 191 is allowable to estates and trusts; see sections 642(f) and 1.642(f)–1.

(v) *Partnerships.* Partnerships owning certified historic structures may elect to amortize expenditures for certified rehabilitations made by the partnerships. Any election for partnership property must be made by the partnership and not by the partners individually.

(vi) *Lessees of historic structures.* A lessee of an historic structure (including a structure which is not depreciable to the lessor) which is certified by the Secretary of the Interior and which is used by the lessee in a depreciable use can elect under section 191 to amortize rehabilitation expenditures actually made by the lessee. A lessee can make an election under section 191 only if the remaining term of the lease equals or exceeds both a period of 30 years and the actual useful life of the improvements constituting the certified rehabilitation. The lessee's remaining lease term is measured as of the date on which the full certified rehabilitation is completed. Under section 191(f)(2), renewal periods are not treated as part of the remaining lease term. However, if, before the date on which the full rehabilitation is completed, the lessee becomes obligated for periods beyond the current term of the lease to the same extent that the lessee is obligated during the current term, those additional periods are considered to be part of the current lease term and not renewal periods.

(vii) *Concessionaries from governmental entities.* For purposes of section 191 and this section, holders of concession contracts on properties owned by the Federal government or by any State or local government who do not lease the property because of express Federal government restrictions, are, nevertheless, considered to be lessees.

(d) *Recapture.* If a taxpayer disposes of property for which the taxpayer has claimed amortization deductions under section 191, part or all of any gain on the disposition may be recaptured as ordinary income under the applicable provisions of the Code.

(e) *Minimum tax on preference income under section 56.* Amortization deductions under section 191 are items of tax preference for purposes of the minimum tax to the extent the deductions exceed the amount that may be claimed under straight-line depreciation using the actual useful life of the property. See section 57(a)(2). For special rules for elevators and escalators, see section 57(a)(1).

§ 1.191–2 Definitions and special rules.

(a) *Certified historic structure.* A certified historic structure is a building or other structure which is of a character subject to depreciation under section 167 and is either—

(1) Listed in the National Register of Historic Places, or

(2) Located in a registered historic district and certified by the Secretary of the Interior as being of historic significance to the district.

Under section 191, a structure is considered to be of a character subject to depreciation only if its first use following completion of certified rehabilitation is a use in a trade or business or for the production of income.

(b) *Registered historic district.* A registered historic district is—

(1) A district listed in the National Register of Historic Places, or

(2) A district designated under a statute (including an ordinance) of a State (or local government), but only if the Secretary of the Interior, certifies that—

(i) The statute contains criteria which achieve the purpose of preserving historically significant buildings; and

(ii) The district meets substantially all of the requirements for districts to be listed in the National Register of Historic Places.

(c) *Structure.* A structure is a specific building or other man made construction which constitutes depreciable real property under section 167 of the Code. The term structure does not include ships, other vessels, aircraft, railway cars, or other construction which does

not constitute real property even though the other items are listed in the National Register of Historic Places. The term structure also does not include site work or other related items associated with the building or other construction. Examples of structures include rental housing, office buildings, lighthouses, hotels, factories, and bridges.

(d) *Certified rehabilitation.* A certified rehabilitation consists of improvements to or restoration of an existing certified historic structure, which the Secretary of the Interior certifies to be consistent with Interior Department standards for rehabilitation. Reproduction (as opposed to restoration) of an historic structure is not a certified rehabilitation even in cases where the reproduction is listed in the National Register upon its completion since it does not enhance the historic value of an existing historic structure.

(e) *Amortizable basis*—(1) *In general.* The amortizable basis of a certified historic structure consists of any otherwise depreciable additions to the capital account of the structure during the effective period of section 191. See § 1.191–2(e)(8) for rules on the time amounts are added to capital account and on the effective period of section 191. Only amounts expended by the electing person directly for rehabilitation of existing historic structures are part of amortizable basis. Amortizable basis does not include new construction even though the certification of rehabilitation by the Secretary of the Interior certifies that the entire project is consistent with Interior Department standards and makes no distinction between rehabilitation of the existing historic structure and new construction relating to the historic structure. Amortizable basis also does not include certain additions which do not meet the requirements of paragraphs (d) and (e) of this section even though such additions are considered under local law to be rehabilitation. For purposes of section 191, architectural and engineering fees, real estate commissions, site survey fees, legal expenses, insurance premiums, developers' fees, and other construction-related costs are a part of amortizable basis. Any costs for which a deduction is claimed under any other section of the Code or for which specific provision is made in another section of the Code (such as section 189 on construction period interest and taxes or section 266 on carrying charges) are not a part of amortizable basis. Any costs which must be added to the basis of land associated with the historic structure, rather than depreciated under section 167, are not a part of the amortizable basis.

(2) *Partially depreciable property.* A certified historic structure may be depreciable only in part, as, for example, a private residence which includes a separate rental apartment. In such case, only that portion of the costs of the certified rehabilitation which is attributable to the portion of the total structure that is depreciable property under section 167 is a part of amortizable basis. The determination of the portion of the expenditures which is included in amortizable basis is made according to the rules of section 167. The remaining certified rehabilitation costs must be added to the nondepreciable portion of the basis of the historic structure.

(3) *Rehabilitations which include new construction.* If a rehabilitation project only partially qualifies for amortization deductions because a portion of the project is new construction (as defined in this paragraph (e)), the apportionment rules of section 167 apply to determine the amount of the taxpayer's amortizable basis. For example, the cost of a single heating system used both for a rehabilitated historic structure and for a nonhistoric new wing added thereto would be apportioned between the amortizable rehabilitation costs and nonamortizable new construction costs.

(4) *Modernization of existing structure included.* Expenditures for structural modernization of an existing historic structure, which are made in a rehabilitation certified by the Secretary of the Interior to be consistent with the historic character of the structure, are a part of amortizable basis. Examples of such expenditures include the costs of modern plumbing and electrical wiring and fixtures, heating and air conditioning systems, elevators, escalators, and improvements required by local building or fire codes. The addition of an attached facility exclusively for elevators, fire stairs, or barrier-free access will also be considered rehabilitation, if the construction of elevators, fire stairs, or barrier-free access within the existing structure is prohibited by the Secretary of the Interior as destructive of the historic character of the struture. Carpeting, draperies, office equipment, furniture (even where it is built in), nonpermanent (demountable) walls or partitions, and other similar items of personal property are not a part of amortizable basis.

(5) *New construction excluded.* Expenditures attributable to new construction associated with a certified rehabilitation are not a part of amortizable basis. Whether expenditures are attributable to the rehabilitation of an existing structure, or are attributable to new construction, will be determined upon the basis of all the facts and circumstances. Expenditures will generally be considered attributable to rehabilitation if the foundation and outer walls of the existing building are retained and the costs are attributable to work done within that existing framework. Where the internal structural framework of a building is replaced and one or more outer walls are also replaced, all expenditures are normally attributable to new construction even though the construction may qualify as rehabilitation under local law. The internal structural framework and outer walls are not considered to have been replaced if they are disassembled and reassembled as part of rehabilitation so long as the reassembled framework and outer walls consist at least 75% of materials original to that structure. Except as otherwise provided in this paragraph (e), any expansion of the existing structure is considered new construction even if the expansion consists of the reproduction of portions of the structure which no longer existed when rehabilitation was started. For example, the addition of a new story to an existing building is new construction. Likewise, related construction such as a garage, sidewalk, or parking lot (or the addition of landscaping) will not be considered rehabilitation even though the related construction may be physically attached to the historic structure.

(6) *Relocation of certified historic structures.* Costs attributable to relocation of an existing certified historic structure (other than costs that are not depreciable under section 167) are included in amortizable basis if the relocation is expressly approved by the Secretary of the Interior.

(7) *Rehabilitations which include expenditures for demolition.* Expenditures attributable to demolition of a portion of an existing certified historic structure as part of certified rehabilitation are included in amortizable basis. However, costs attributable to demolition of related facilities not forming a part of the existing certified historic structure, or to demolition of separate certified historic structures as part of an overall rehabilitation plan, are not included in amortizable basis. For a special rule on costs attributable to demolition of certified historic structures, see section 280B, and for rules limiting depreciation and amortization deductions for

structures constructed or used in whole or in part on the site of a demolished certified historic structure, see section 167(n) and § 1.191–1(b)(4).

(8) *Time when amounts are added to capital account.* Under section 191, expenditures are treated as added to capital account at the time they are actually made (paid or accrued). However, amortizable basis includes only expenditures attributable to component parts of the structure completed before June 15, 1981. Therefore, expenditures for improvements completed after June 14, 1981, are not a part of the taxpayer's amortizable basis even though they may have been paid or accrued prior to that date. In the case of a single and continuous rehabilitation project all of which is certified by the Secretary of the Interior, expenditures for rehabilitation begun before June 14, 1976, but completed and charged thereafter, are a part of the taxpayer's amortizable basis. However, even where there is a single and continuous rehabilitation project, expenditures made for any component part of the improvements completed and charged before June 14, 1976, are not a part of the taxpayer's amortizable basis.

§ 1.191–3 Time and manner of making election.

(a) *In general.* Under section 191(b), an election by the taxpayer (including a partnership) to claim amortization deductions with respect to a certified historic structure is made by so electing at the appropriate place on the taxpayer's return for each year in which amortization deductions are claimed. Additionally, in any year in which falls the first month of a 60-month amortization period selected pursuant to § 1.191–1(b), the amount of amortizable basis from which deductions are to be claimed during that 60-month period must be entered at the appropriate place on the return. If an election is made for more than one certified historic structure, the amount of amortizable basis for each structure must be separately entered on the return.

(b) *Special rules*—(1) *Letters of certification.* A copy of the letter of certification issued by the Secretary of the Interior qualifying each certified rehabilitation must be submitted with taxpayer's return on which an election to amortize rehabilitation expenditures for any structure is first made. If final certification of a rehabilitation has not been issued by the Secretary of the Interior by the date of the election, a copy of the first page of the application for certification of the completed rehabilitation work must be attached to the return.

(2) *Certifications not issued and failure to submit proof of certification.* If final certification of rehabilitation has not been issued at the time amortization deductions begin, the electing party must submit a copy of that certification with the first income tax return filed after the receipt by the taxpayer of the certification. If the required notice of certifications is not received by the Internal Revenue Service within 30 months after the date of the commencement of the 60-month amortization period, the electing taxpayer may be requested to consent to an agreement under section 6501(c)(4) extending the period of assessment for any tax relating to the time for which amortization deductions are claimed.

(3) *Election of multiple amortization periods for a single structure.* If the taxpayer elects a separate amortization period for each month in which rehabilitation expenditures for a single structure are made and component work completed, the taxpayer must combine all such elections for periods beginning in one taxable year in a single election, and must enter on the return the total amount of amortizable basis from which deductions are first claimed in that year. If multiple amortization periods are selected for a single structure to commence in different taxable years, a copy of the letter certifying the rehabilitation must be attached to each return on which a deduction for a separate amortization period is first claimed.

(4) *Elections to begin amortization deductions after June 14, 1981.* Notwithstanding the rules of § 1.191–1(b)(1)(i), expenditures for component parts of a rehabilitation project which is not completed and placed in service until after June 14, 1981, are included in amortizable basis if the component parts are completed and the expenditures are added to capital account under § 1.191–2(e)(8) by that date. Amortization deductions for the costs of such component parts are allowable beginning with the month in which the entire rehabilitation would qualify under § 1.191–1(b)(1), but for the expiration of section 191 on June 14, 1981.

(c) *Notice to discontinue amortization*—(1) *In general.* A notice to discontinue amortization deductions as provided by section 191(c) may be made at any time during the amortization period. This notice is made by a statement attached to the return of the taxpayer filed for the taxable year in which falls the first month for which the election terminates. In the case of a partnership, the statement is to be attached to the partnership return. The statement must specify the month as of the beginning of which the taxpayer chooses to discontinue amortization deductions. The statement must be filed with the taxpayer's income tax return for the year in which amortization is to cease. In addition, the statement must contain a description clearly identifying the certified historic structure and rehabilitation with respect to which the taxpayer elects to discontinue the amortization deduction. In the case of multiple amortization periods relating to the same structure, an election to discontinue any amortization deductions terminates all amortization periods that have been established. If final certification of the rehabilitation has been issued, a copy of the letter of certification must be attached to the taxpayer's return. If, at the time of the election to discontinue amortization deductions, final certification has not been issued, the taxpayer must submit a copy of the first page of the application for that certification and must submit a copy of the letter of certification with the next succeeding tax return after its receipt. If the required certification has not been issued and 30 months or more have elapsed since amortization deductions under section 191 were first claimed, the taxpayer may be requested to consent to an agreement under section 6501(c)(4) extending the period of assessment for any tax relating to the time for which amortization deductions were claimed.

(2) *Notification by Secretary of the Interior.* For purposes of this paragraph (c), notification to the Secretary or his delegate from the Secretary of the Interior that he has notified the owner of the historic structure that the structure or the rehabilitation no longer meets the requirements for certification has the same effect as notice from the taxpayer electing to terminate amortization deductions as of the first day of the month following the month that the structure or rehabilitation ceased to meet the requirements of section 191.

Par. 2. Section 1.642(f)–1 is amended to read as follows:

§ 1.642(f)–1 Amortization deductions.

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168(d), with respect to a certified pollution control facility as defined in section 169(d), with respect to qualified

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railroad rolling stock as defined in section 184(d), with respect to certified coal mine safety equipment as defined in section 187(d), with respect to on-the-job training and child-care facilities as defined in section 188(b), and with respect to certain rehabilitations of certified historic structures as defined in section 191, in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between fiduciaries and the beneficiaries of an estate or trust (see sections 167(h) and 611(b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

§ 7.191-1 [Deleted]

Par. 3. Section 7.191-1 is deleted.

This Treasury decision is issued under the authority contained in sections 191 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1916, 92 Stat. 2900, 68A Stat. 917, 26 U.S.C. 191, 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: May 15, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-17258 Filed 6-4-80; 8:4[illegible] am]

BILLING CODE 4830-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 920

General Guidelines and Uniform Standards for Urban Planning and Design of Development Within the Pennsylvania Avenue Development Area

In the issue of Thursday, May 22, 1980, in FR Doc. 80-15492, appearing at page 34752, please make the following corrections:

1. On page 34752, in the first column, under "Dates:", the line which reads "Comments must be received on or before June 15, 1980.", should be changed to "Comments must be received on or before June 23, 1980."

2. Also on page 34752, in column two, the ninth line, "provides that requirements . . ." should read "provides the requirements . . ."

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in the Maximum Charge for Legal Services a Holder May Include on a Claim Under the Guaranty—Guaranteed Home and Mobile Home Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations to set $350 as the maximum for legal services allowable to a holder on a claim under the guaranty. The change is proposed in response to the increasing costs of legal services.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond L. Brodie, Loan Guaranty Service (261), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, 202-389-3668.

SUPPLEMENTARY INFORMATION: Sections 36.4276(b) and 36.4313(b) presently allow $250 as a maximum for legal services which may be included on a holder's claim for payment under the guaranty on a mobile home or real estate loan. The $250 maximum has been in effect for mobile home claims since the inception of the VA mobile home program, and in respect to claims on real estate loans, has remained unchanged for more than 30 years. At the $250 limitation, loan holders in some areas are having difficulty retaining the experienced counsel needed to do judicial foreclosures in a timely way. The Administrator thus has to pay higher claims for accrued interest and permitted advances which result from unnecessary delays. Increasing the maximum should help to speed the action and thus lower the claim paid. Within the $350 maximum and subject to VA Central Office approval, individual field stations will continue to set limits based on local conditions. The renumbering of the subparagraphs in both sections is an editorial change for simplicity.

As noted above, these regulations were published requesting public comment on January 17, 1980 (45 FR 3330). Ten comments were received in support and none against. Four added that the new maximum should be higher and one felt that the idea behind raising the maximum would be frustrated by the provision limiting the combined fee total for trustee and legal services to $350. It is VA's belief that the changes in this regulation are reasonable and that a greater increase is not warranted at the present time. The allocation on an equitable basis of the allowable fee where the services of both a trustee and an attorney are used is the responsibility of the foreclosing mortgagee.

The amendments are adopted under authority of sections 1819(g) and 1820(a)(3) of title 38, United States Code.

Accordingly, the proposed regulations are hereby adopted without change and are set forth below.

Approved: May 29, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 36.4276, paragraph (b) is revised to read as follows:

§ 36.4276 Advances and other charges.

* * * * *

(b) In addition to advances allowable under paragraph (a) of this section, the holder may charge against the proceeds of the sale of the security; against gross amounts collected; or, in the computation of a claim under the guaranty, if lawfully authorized by the loan agreement and subject to § 36.4284, any of the following items actually paid:

(1) Any expense which is reasonably necessary for preservation of the security,

(2) Court costs in a foreclosure or other proper judicial proceeding involving the security,

(3) Other expenses reasonably necessary for collecting the debt, or repossession or liquidation of the security, including a reasonable sales commission to the dealer or sales broker for resale of the security,

(4) Reasonable trustee's fees or commissions paid incident to the sale of real property,

(5) Reasonable amount for legal services actually performed not to exceed 10 percent of the unpaid indebtedness as of the date of the first uncured default, or $350 whichever is less,

(6) Any other expense or fee that is approved in advance by the Administrator. (38 U.S.C. 1819(g))

In no event may the combined total of the amounts claimed for trustee's fees and legal services (paragraph (b) (4) and (5) of this section) exceed $350.

2. In § 36.4313, paragraph (b) is revised to read as follows:

§ 36.4313 Advances and other charges.

* * * * *

(b) In addition to advances allowable under paragraph (a) of this section, the holder may charge against the proceeds of the sale of the security; against gross amounts collected; in any accounting to

the Administrator after payment of a claim under the guaranty, in the computation of a claim under the guaranty, if lawfully authorized by the loan agreement and subject to § 36.4321(a), or, in the computation of an insurance loss, any of the following items actually paid:

(1) Any expense which is reasonably necessary for preservation of the security,

(2) Court costs in a foreclosure or other proper judicial proceeding involving the security,

(3) Other expenses reasonably necessary for collecting the debt, or repossession or liquidation of the security,

(4) Reasonable trustee's fees or commissions not in excess of those allowed by statute and in no event in excess of 5 percent of the unpaid indebtedness,

(5) Reasonable amount for legal services actually performed not to exceed 10 percent of the unpaid indebtedness as of the date of the first uncured default, or $350 whichever is less,

(6) Any other expense or fee that is approved in advance by the Administrator. (38 U.S.C. 1820(a)(3)

In no event may the combined total of the amounts claimed for trustee's fees and legal services (paragraph (b) (4) and (5) of this section exceed $350.

* * * * *

(38 U.S.C. 1819(g), 1820(a)(3))

[FR Doc. 80-17202 Filed 6-5-80; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13; Amdt. 4]

Publishing and Filing of Tariffs by Common Carriers by Water in the Foreign Commerce of the United States; Specification of Carrier Policy Statement Concerning Anti-Rebating

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Commission's tariff filing regulations applicable to the foreign commerce of the United States were recently revised pursuant to the rulemaking proceeding in Docket No. 72-19 and became fully effective January 1, 1979. One of the prime considerations for requiring the revisions to the Commission's tariff filing regulations was to foster the standardization in tariff format. In Docket No. 79-65 the Commission adopted rules for the purpose of implementing the provisions of Pub. L 96-25, 93 Stat. 71. The rules in this docket concern the certification of vessel operating common carrier's policies and efforts to combat rebating in the foreign commerce of the United States. The anit-rebating requirements are reflected as Amendment No. 2 to Commission General Order 13—46 CFR 536.5(c)(2). In order to preserve the integrity of the Commission's general tariff filing requirements specification of a location for the requirements of Amendment No. 2 to General Order 13 is necessary.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Room 11101, Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: The location of the carriers anti-rebating policy statement should be such as to focus a tariff user's attention to the required anti-rebating statement prior to any search for a carrier's lawfully filed rates, rules and regulations. Due to the fact that the present tariff filing regulations do not permit the publication of any tariff material on the reverse side of tariff pages, it is deemed that the reverse side of the title page is appropriate and is herewith designated as one of the locations to publish the material required by Amendment No. 2 to Commission General Order 13. Alternatively, in order not to impose any undue burden upon the carrier industry but yet satisfy the new anti-rebating filing requirements, it is proposed that vessel operating common carriers be permitted the alternative of publishing the anit-rebating statement at any location in the tariff provided that reference to such location is shown on the title Page thereof.

Inasmuch as this is an interpretation of an existing Commission requirement, notice of rulemaking and public comments are not considered necessary.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 18(b) and 43 of the Shipping Act, 1916, (46 U.S.C. 817(b) and 841(a)), the Commission Foreign Commerce Tariff filing regulations (46 CFR Part 536); General Order 13 is hereby amended by adding the following language to § 536.4(e):

§ 536.4 Tariff format.

* * * * *

(e) * * * *"Provided however,* That the following anti-rebating statement must be published on the reverse side of each vessel operating common carrier's tariff title page, or alternatively, at any location in the tariff provided that reference to such location is shown on the Title Page thereof. The statement may become effective upon filing and shall read substantially as follows:

(Name of company) has a policy against the payment of any rebate, directly or indirectly by the company or by an officer, employee, or agent, which payment would be unlawful under the United States Shipping Act, 1916. Such policy has been certified to the Federal Maritime Commission in accordance with the Shipping Act Amendments of 1979, Pub. L. 96-25, 93 Stat. 71, and the regulations of the Commission set forth in 46 CFR Part 552.

When the carrier's tariff is a conference/rate agreement tariff, the carrier shall ensure that the conference or rate agreement publish the carrier's tariff provision in the conference/rate agreement tariff."

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-17168 Filed 6-5-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-340; RM-3508; RM-3605]

FM Broadcast Station in Malakoff, Tex.; Changes Made in Table of Assignments

Correction

In FR Doc. 80-16623 appearing at page 37210 in the issue for Monday, June 2, 1980; on page 37211, first column, last line above the footnote, "24A" should read "240A".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Directed Service Order No. 1437; Supplemental Order No. 3]

Regional Transportation Authority—Directed Service—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Over Chicago Commuter Line

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order No. 1437, Supplemental Order No. 3, Amendment to Final Rule.

SUMMARY: Pursuant to Section 120, Pub. L. 96-254, enacted May 30, 1980 (Rock

Island Transition Act or RITA), the Commission is extending for two years the authorization of the Illinois Regional Transportation Authority (RTA) to provide service as a "directed rail carrier" (DRC)—without federal subsidization under 49 U.S.C. 11125(b)(5)—over the Chicago-Joilet, IL, commuter line owned by the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("Rock Island" or "RI").

DATES: Effective Date: This decision shall be effective on May 30, 1980. Expiration Date: Unless otherwise modified by the Commission, DSO No. 1437 as revised, will expire at 11:59 p.m. (central time) May 29, 1982, or upon consummation of sale of the line.

FOR FURTHER INFORMATION CONTACT:
Richard J. Schiefelbein (202) 275–0826, or
Joel E. Burns (202) 275–7849.

SUPPLEMENTAL INFORMATION:

Decision of the Commission

Background

The Rock Island has been in bankruptcy proceedings since 1975. In September 1979, its cash flow position became so severe as to prevent the continuation of normal rail operations. Accordingly, we issued Directed Service Order No. 1398 (and supplements thereto) directing the Kansas City Terminal Railway Company (KCT) to provide service under 49 U.S.C. 11125 as a subsidized "directed rail carrier" (DRC) over the Rock Island rail system. *Kansas City Term. Ry. Co.—Operate—Chicago, R.I.&P.*, 360 I.C.C. 289, 478, 718 (1979–80); 44 FR 56343, 70733, and 45 FR 14578 (1979–80). That order expired on March 23, 1980.

On March 20, 1980, we issued DSO No. 1437, 45 FR 21641 (April 2, 1980), authorizing the RTA to provide interim service—without federal subsidization under 49 U.S.C. 11125(b)(5)—over the Chicago-Joilet, IL, commuter line owned by Rock Island, from March 24 through May 31, 1980, inclusive. The terms and conditions of DSO No. 1437 were modified by Supplemental Order No. 1, issued March 25, 1980, by adding a requirement that RTA and the RI Trustee negotiate regarding use of Rock Island tracks and related facilities. In the event of failure to reach agreement, we reserved the right to set reasonable compensation terms.

RTA and the Trustee were unable to reach agreement regarding rent for use of the Chicago-Joliet commuter line. Therefore, the Commission set terms of compensation for use of the line in DSO No. 1437 Supplemental Order No. 2, served May 19, 1980, 45 FR 34002 (May 21, 1980). In that decision we found that reasonable compensation for use of the Chicago-Joliet line should be computed in accordance with the principles of the *Frisco Compensation* [1] case, adjusted to apply costs and revenues of commuter service operations.

Discussion and Conclusion

On May 30, 1980, Pub. L. 96–254 (Rock Island Transition Act or RITA) was enacted. Section 120 of RITA provides that the Commission shall direct service, for a two-year period from the date of enactment of the Act, over any passenger commuter line of the Rock Island that was in operation on March 1, 1980, if the directed service carrier agrees to provide such service without payment under 49 U.S.C. 11125(b)(5). That section of RITA further provides that the Trustee shall receive compensation for use of Rock Island property and facilities on terms determined by the Commission to be reasonable. This two-year period will allow reasonable time for RTA and the Trustee to negotiate regarding terms of sale for the line and to obtain Court approval for the sale under section 17(b) of Pub. L. 96–101 (Nov. 4, 1979), the Milwaukee Railroad Restructuring Act (MRRA). Expeditious agreement and consummation of sale of the line, however, would make continuation of directed service for the full two-year period unnecessary.

The Chicago-Joliet commuter line was in service on March 1, 1980, pursuant to the terms of DSO No. 1398. The RI Trustee and the RTA have not reached agreement for sale of the line. At present it is operated by RTA pursuant to DSO No. 1437, as revised. DSO No. 1437, as revised, authorizes RTA to perform directed rail operations over the Chicago-Joliet line, on the condition that it waive federal subsidy under 49 U.S.C 11125(b)(5) and pay compensation for use of the line in accordance with terms found to be reasonable in DSO No. 1437, supplemental Order No. 2. Therefore, we conclude that the terms of DSO No. 1437, as revised, satisfy the mandate of section 120 of RITA. Accordingly, the terms and conditions of DSO No. 1437, as revised, should be modified by deleting the paragraph entitled *Expiration Date*, and by substituting the following:

Expiration Date: Unless otherwise modified by the Commission, DSO No. 1437, as revised, will expire at 11:59 p.m. central time, May 29, 1982, or upon consummation of sale of the line. The Commission lacks jurisdiction to direct service beyond that date.

The terms 49 CFR 1033.1437 should be modified by deleting sub-paragraphs (a)(1) and (9) and substituting the following:

§ 1033.1437 [Amended]

(a) The entry may occur no earlier than 12:01 a.m. (central time) on March 24, 1980 and shall continue no later than 11:59 p.m. (central time) on May 29, 1982, or upon consummation of sale of the line.

* * * * *

(9) *Expiration Date*—Unless otherwise modified by the Commission, DSO No. 1437 will expire at 11:59 p.m. (central time) May 29, 1982, or upon consummation of sale of the line.

We find: 1. The Chicago-Joliet commuter line was in operation on March 1, 1980.

2. The RI Trustee and the RTA have not reached agreement for sale of the line.

3. DSO No. 1437, as revised, should remain in effect for a period of two years from the date of enactment of the Rock Island Transition Act, or until sale of the line is consummated.

4. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106 and 1108.

It is ordered: 1. DSO No. 1437, as revised, is modified in accordance with the terms of this decision.

2. This decision shall be effective on May 30, 1980.

Dated: May 28, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–17208 Filed 6–5–80; 8:45 pm]
BILLING CODE 7035–01–M

[1] Finance Docket No. 29305, *St. Louis-San Francisco Railway Company—Compensation for Use of Terminal Tracks—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)*, — I.C.C. — (decided April 7, 1980, 45 FR 25401 (April 15, 1980).

49 CFR Part 1033

[Service Order No. 1380, Amdt. No. 2]

The Chesapeake & Ohio Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1380.

SUMMARY: This order amends Service Order No. 1380, which authorized the Chesapeake and Ohio Railway Company to operate over Conrail tracks, by extending the expiration date until 11:59 p.m., August 31, 1980.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275–7840.

Decided May 29, 1980.

Upon further consideration of Service Order No. 1380 (42 FR 38379, 43 FR 2725, 36639, 44 FR 29894, and 45 FR 29054), and good cause appearing therefor:

It is ordered, § 1033.1380 *the Chesapeake and Ohio Railway Company authorized to operate over tracks of Consolidated Rail Corporation,* Service Order No. 1380 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–17360 Filed 6–5–80; 8:45 am]
BILLING CODE 7035–01–M

49 CFR Part 1033

[Corrected Service Order No. 1448; Amdt. No. 1]

The Denver & Rio Grande Western Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to corrected revised Service Order No. 1448.

SUMMARY: This order amends Service Order No. 1448, which authorized the Denver and Rio Grande Western Railroad Company to operate over Rock Island tracks, by extending the expiration date until August 31, 1980.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275–7840.

Decided May 29, 1980.

Upon further consideration of Service Order No. 1448 (45 FR 23445, 45 FR 21249 and 45 FR 25810), and good cause appearing therefor:

It is ordered, § *1033.1448 the Denver and Rio Grande Western Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee),* Corrected Revised Service Order No. 1448 is amended by substituting the following paragraph (i) for paragraph (i) thereof:

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11123(a)(3).

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–17361 Filed 6–5–80; 8:45 am]
BILLING CODE 7035–01–M

49 CFR Part 1033

[Service Order No. 1464; Amdt. No. 1]

Railroads Required To Hold Empty Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Freight Equipment Bearing Reporting Marks RI, ROCK, ROCX, and WOV

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1464.

SUMMARY: This order amends Service Order No. 1464, which required railroads to hold empty Rock Island freight equipment bearing reporting marks RI, ROCK, ROCX and WOV, by extending the expiration date until 11:59 p.m., August 31, 1980.

EFFECTIVE DATE: 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275–7840.

Decided: May 29, 1980.

Upon further consideration of Service Order No. 1464 (45 FR 25811), and good cause appearing therefor:

It is ordered, § *1033.1464 Railroad required to hold empty Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) freight equipment bearing reporting marks RI, ROCK, ROCX AND WOV.* Service Order No. 1464 is amended by subsituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car

Service Division, as agent of the railroads subscribing to the car service

Proposed Rules

Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-17362 Filed 6-5-80: 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 45, No. 111

Friday, June 6, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 720

Federal Equal Opportunity Recruitment Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Under the authority of the Civil Service Reform Act, the Office of Personnel Management is proposing regulations to require agencies to continue maintaining information systems that will assist them in implementing affirmative recruitment programs and enable them to provide the Office with race, sex, and national origin data concerning employees.

DATE: To be considered, comments must be received on or before August 5, 1980.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Office of Personnel Management (Room 6410D), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Stanley J. Suser, Work Force Information Division, (202) 632-6739.

SUPPLEMENTARY INFORMATION: Pursuant to the President's Reorganization Plan No. 1 of 1978, OPM's responsibility for Federal agency affirmative action under Section 717 of the Civil Rights Act of 1964, as amended, and other equal employment opportunity enforcement authorities pertaining to the Federal work force were vested in the Equal Employment Opportunity Commission (EEOC). Acting under this authority, EEOC adopted by incorporation and verbatim, as a part of 29 CFR (see 43 FR 60901, December 29, 1978), the former Civil Service Commission (CSC) regulations (5 CFR Part 713). These former regulations were designed, in part, to implement the former Civil Service Commission's role for equal employment opportunity in the Federal sector that was transferred to EEOC. A portion of the CSC regulations, Subpart C (5 CFR 713.302) dealt with operational management of Federal agency minority statistics systems, including the authority for CSC to levy minority statistics reporting requirements and to prescribe coverage, codes, data maintenance, and reporting standards. There never were restrictions on the collection of data on the sex of applicants or Federal employees. Because of the need to move quickly in transferring Part 713 regulations to EEOC it was mutually agreed by the Office and EEOC that amendments would be made that would reflect the Office's continuing operational responsibility for these systems and EEOC's retention of overall policy and program oversight and control of such systems.

The Office has a definite role in evaluation of agency employee selection procedures and in eliminating any adverse impact resulting from those procedures, as well as the responsibility to furnish statistical reports to Congress, required by the EEO Act of 1972, concerning the racial, sex, and national origin makeup of the Federal work force. In addition, Section 717(b)(2) requires such reports by EEOC. For these reasons, and because the Office in the past has exercised effective and efficient operational management control of the relevant agency systems and has the methodology already in place, i.e., the Central Personnel Data File (CPDF), EEOC agrees that operational responsibility for such systems continues to be an appropriate Office function. Pursuant to EEOC's authority to set policy for race, sex, and national origin data systems, it retains the authority to make changes or additions in such data submission requirements that will be implemented and incorporated by the Office.

Therefore, it is necessary for both the Office and EEOC to formally codify these functional relationships. Consequently, as published elsewhere in this issue of the **Federal Register**, EEOC is amending that portion of its regulations (29 CFR 1613.301 and 1613.302) that was incorporated along with the rest of the former Part 713, to continue operational responsibility for the systems by the Office, while the Office herein proposes its regulations that are designed to implement operational management of these systems. The Director, Office of Personnel Management, has determined that these proposed OPM regulations are considered "non-significant" within the meaning of E.O. 12044. The proposed new Subpart C appears below.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is proposing to add a new Subpart C to 5 CFR Part 720, to read as follows:

Subpart C—Race, Sex, and National Origin Statistics Systems.

Sec.
720.301 Applicability.
720.302 Agency Systems.

Subparts D-I—[Reserved]

* * * * *

Subpart C—Race, Sex, and National Origin Statistics Systems

§ 720.301 Applicability.

(a) This subpart applies to:

(1) Military departments as defined in 5 U.S.C. 102, executive agencies as defined in 5 U.S.C. 105, the U.S. Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds; and

(2) Those units of the legislative and judicial branches of the Federal Government having positions in the competitive service and the employees in those positions.

(b) This subpart does not apply to aliens employed outside the limits of the United States.

§ 720.302 Agency systems.

(a) Each agency shall establish a system(s) which provides statistical information on applicants and employees by race, sex, and national origin. The Office of Personnel Management (Office), in consultation with the Equal Employment Opportunity Commission (Commission) will exercise general operational responsibility for these systems, which will include prescribing the coverage, data standards and codes, operational procedures, and reporting requirements.

(b) Data may be collected through employee self-identification, or by visual

identification used to supplement data collection by self-identification, only in the manner prescribed by the Office after consultation with the Commission. Agencies shall recognize and protect employee privacy in the maintenance of the data and shall adhere to the Office's Privacy Act regulations (5 CFR Part 297) in the processing of an individual's request for access or amendment made under that Act.

(c) Each agency's system is subject to the following restrictions:

(1) Only those categories of race, sex, or national origin prescribed by the Office after consultation with the Commission may be used;

(2) Only the specific procedures for the collection and maintenance of data that are prescribed or approved by the Office may be used. Pursuant to the Commission's authority to set policy for such data systems, it retains the authority to make changes or additions in agency race, sex, or national origin data submission requirements that will be implemented and incorporated by the Office;

(3) The Office shall review the operation of agency systems to insure adherence to the Office's procedures and requirements. An agency may make an exception to prescribed procedures and requirements only with the advanced written approval of the Office or the Commission; and

(4) Nothing in this regulation shall preclude the Commission from requiring agencies to maintain and report additional and more detailed statistics to satisfy its affirmative action program instructions.

(d)(1) Agencies may only use the data in studies, analyses, or for operational purposes which relate to the Federal Equal Opportunity Recruitment Program. Section 717 of the Civil Rights Act of 1964, as amended, or other equal employment opportunity programs.

(2) An agency must receive specific written authorization from either the Office or the Commission before using the data for other purposes.

(3) Before issuing any authorization for additional uses of the data, the Office shall consult with the Commission.

(e) An agency shall not establish a quota for the employment of persons on the basis of race, color, religion, sex, or national origin.

(f) An agency shall report to the Office and the Commission on employment by race, sex, and national origin in the form and at such times as the Office and the Commission may require.

* * * * *

Authority: 5 U.S.C. 7201.

[FR Doc. 80-17199 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in California; Proposed Extension of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal which would continue through May 31, 1981, the current U.S. No. 1 minimum grade requirement applicable to fresh shipments of California peaches. It would also continue through such date specified minimum size requirements except that from July 3, 1980, through October 31, 1980, the minimum size for varieties not named in the regulation would be increased from size 96 to size 80. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Comments must be received on or before June 23, 1980.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Section 917.452 Peach Regulation 12 was published in the May 16, 1980 issue of the Federal Register (45 FR 32310), which set forth minimum grade and size requirements for shipments of specified varieties of fresh California peaches for the period May 16 through July 2, 1980. Peach Regulation 12 was issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposed action is based upon the recommendations and information submitted by the Peach Commodity Committee, the agency established under the marketing agreement and order, and upon other available information. This proposed rule would extend the California peach regulation, making it effective for the rest of the 1980-81 season, except that during the period July 3 through October 31, 1980, size 80 would be the minimum size for varieties not listed in the regulation.

The committee estimates fresh shipments of California peaches at 12.7 million packages, compared with actual shipments of 12.1 million packages last season. The committee reports that the 1980 California peach crop is sizing normally and is of good quality.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposal is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that these actions should not be classified "significant." A Draft Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5975.

The proposal is that Peach Regulation 12 be amended to read as follows:

§ 917.452 Peach Regulation 12.

(a) During the period July 3, 1979, through May 31, 1981, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade, except that maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, or Springold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Babcock, Bonjour, Cardinal Dixired, Early Coronet, Early Royal May, Flavorcrest, JJK-1, June Lady, May Lady, Merrill Gemfree, Pat's Redhaven, Royal May, Springcrest, Royal Crest, May Crest, Tizz, or Red Crest variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, or Regina variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) any package or container of Angelus, Autumn Gem, Bella Rosa, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Regular Elberta, Rio Osa Gem, Scarlet Lady, Sparkle, Summerset, Summertime, Suncrest, Sun Lady, Toreador, Treasure, Windsor, Delp, Gem Crest, or Otani variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22DF standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period July 3, 1980, Through October 31, 1980, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more thana 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in subparagraphs (1) or (2) of this paragraph (b) are of a size that a 16-pound sample, representative of the peaches in the package or container, contins not more than 71 peaches.

(c) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210-1223l; "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

Dated: June 3, 1980.

D.S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-17280 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland; Proposed Revision of Diversion Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposal is to revise the fees payable to the Cherry Administrative Board by producers for costs incurred by the Board in supervising diversion of restricted percentage cherries.

DATES: Comments must be received not later than June 23, 1980.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: This proposal was unanimously recommended by the Cherry Administrative Board under § 930.56(a)(1) of marketing Order No. 930 (7 CFR Part 930). The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Board is the agency established under the order to administer its terms and conditions.

Under the marketing order, producers may divert cherries by leaving them unharvested in lieu of placing them in a reserve pool. Such diversion must be carried out under the supervision of the Board and the cost of such supervision must be paid by the producer. The current fees applicable to such supervision have been in effect since 1972, and the proposal would revise the fees to reflect the Board's estimate of current costs.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposal is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant." A draft impact analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The proposal is to revise § 930.102(a)(1) as follows:

§ 930.102 Diversion fees.

(a) * * *

(1) Schedule of fees to be assessed applicant:

Fee and Total Acres To Be Diverted
$50.00—50 acres or less.
$75.00—51-100 acres.
$100.00—101 acres or more.

(i) * * *

(ii) * * *

V 45 E 6 J 8 0 UMI

Dated: May 28, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 80-17207 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Acceptance Tests for Stored Program, Processor-Controlled Digital Central Offices; Addition to Existing Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue Appendix VII to Bulletin 384-2. Appendix VII, "Acceptance Tests for Stored Program, Processor-Controlled Digital Central Offices," provides a guideline for conducting acceptance tests on digital central offices. With the introduction of digital switching equipment it becomes necessary to furnish acceptance test procedures for that type of equipment.

DATE: Public comments must be received by REA no later than: August 5, 1980.

ADDRESS: Submit written comments to the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maynard S. Knapp, telephone (202), 447-5773. A Draft Impact Analysis has been prepared and is available from the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 384-2, "Closeout Documents for Central Office Equipment Contracts.

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

On issuance of Appendix VII to Bulletin 384-2, Appendix A to Part 1701 will be modified accordingly.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355-S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: May 27, 1980.

Robert W. Feragen,

Administrator.

[FR Doc. 80-17294 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-15-M

7 CFR Part 1701

Advance Notice of Proposed Revision of REA Bulletins 181-1, Uniform System of Accounts and 181-3, Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: REA proposes to revise REA Bulletins 181-1, Uniform System of Accounts and 181-3, Accounting Interpretations for Rural Electric Borrowers, to clarify the classification of long-term and short-term debt obligations. Public comments are invited.

DATE: Public comments must be received by REA no later than: July 7, 1980.

ADDRESS: Persons interested in the proposed revisions may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 447-7221.

SUPPLEMENTARY INFORMATION: REA is considering the revision of REA Bulletins 181-1, Uniform System of Accounts, and 181-3, Accounting Interpretations for Rural Electric Borrowers, to include the provisions of Financial Accounting Standard No. 6, the Classification of Short-term Obligations Expected to be Refinanced. Under the provisions of FAS No. 6, short-term obligations which a company intends to refinance on a long-term basis and for which the company can support its ability to obtain this refinancing will be recorded in Account 224, Other Long-Term Debt. The support required to indicate a company's ability to refinance short-term debt would be demonstrated in one of the following ways:

(1) If long-term financing has been obtained after the balance sheet date, but before its issuance or;

(2) If the company enters into a financing agreement that clearly permits refinancing of the short-term obligation prior to the issuance of the balance sheet.

In addition to the provisions of FAS No. 6, we are proposing that the portion of long-term debt obligations coming due in the current period be classified as a current liability.

All interested parties are invited to comment on this notice. Further public comment will be solicited when the proposed rule is published.

Dated: May 29, 1980.

Joseph Velloni,

Acting Assistant Adminstrator—Administrator.

[FR Doc. 80-17293 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-15-M

Food Safety and Quality Service

7 CFR Part 2842

United States Standards for Condition of Food Containers

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the United States Standards for Condition of Food Containers to include on-line sampling procedures for the condition inspection of food containers. In addition, certain definitions would be added for this procedure and several existing definitions in the standards would be amended for clarification. The intended effect of this proposal would be provide procedures to determine the condition of food containers in an on-line production operation.

DATE: Comments must be received on or before August 5, 1980.

ADDRESS: Written comments to: Office of the Executive Secretariat, Attn: Annie Johnson, Room 3807, South Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also comments under Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Ashley R. Gulich, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3506. The Draft Impact Analysis describing the options

considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Comments

Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the office of the Executive Secretariat and should bear a reference to the date and page number of this issue of the **Federal Register**. All comments made pursuant to this proposal will be made available for public inspection in the office of the Executive Secretariat during regular business hours (7 CFR 1.27(b)).

Background

The United States Standards for the Condition of Food Containers currently provide sampling procedures and acceptance criteria for the inspection of stationary lots of filled food containers and for skip lot sampling procedures for the examination of these lots. These standards are concerned only with external defects such as dents in cans or torn areas in fiberboard containers.

Stationery lot sampling is the process of randomly selecting sample units from a lot whose production has been completed. This type of lot is usually stored in a warehouse or in some other storage area and is offered for inspection in its entirety. Skip lot sampling is a special procedure for inspecting stationary lots in which only one-half or one-fourth of the lots offered for inspection are formally inspected. Skip lot inspection can only be instituted when a certain number of lots of essentially the same quality at origin in a plant have been consecutively acceptable. To be acceptable under the examination criteria in the standards, lots must contain only a limited number of defects classified as minor, major, and critical. Acceptance criteria are based on sampling plans, accompanied by operating characteristic curves, for different lot sizes and levels of inspection such as normal, reduced or tightened. Defect tables classify the severity of the defect.

The Department proposes to add procedures for the on-line sampling of food containers to the current standards. On-line sampling and inspection is a procedure in which subgroups of sample units are selected randomly from predesignated portions of production. The acceptability of these portions is determined, at the time of sampling, by inspecting the subgroups which represent these portions. The advantage of this type of sampling over stationary lot sampling is that only a portion of a lot rather than a whole lot may be rejected. It also helps to quickly pinpoint trouble spots in a production cycle, enabling the producer to make timely corrections. The standards were developed for use when government agencies request that filled primary containers or shipping cases or both be certified for condition. However, they are permissive and can be used by private parties as well.

In addition to amending the United States Standards for the Condition of Food Containers to include on-line sampling procedures, certain definitions would be added for this procedure and several existing definitions would be amended for clarification. The addition of on-line sampling procedures to the container standards would enable the standards to provide procedures for every conceivable situation for the inspection of food containers. This would be a valuable asset for all who need to determine the condition of filled containers in an on-line production operation.

Options Considered

The Department considered two opitons regarding this proposed rule:

1. Take no regulatory action at this time.

2. Propose an amendment to the regulations to include procedures for on-line sampling of food containers.

Option 2 was selected for reasons discussed herein.

Accordingly, 7 CFR Part 2842, U.S. Standards for Condition of Food Containers would be amended as follows:

1. In § 2842.102 of Subpart A-Definitions, the second reference to "Department" would be changed to "Agency" in the definition of "Administrator," the word "inspection" would be deleted in the first sentence of the definition of "Double sampling," the word "inspection" following the word "sampling" in the definition of "Single sampling" would be deleted.

2. In § 2842.102 of Subpart A, the definitions for "Acceptable Quality Level (AQL)", "Operating Characteristic Curve (OC Curve)", "Probability of Acceptance", "Random sampling", and "Sampling plan" would be amended, and new definitions for "Basic inspection period", "Cumulative Sum Sampling (CuSum) Plan", "Defect", "Defective", "On-line sampling", "Secondary container", and "Subgroup" would be added in alphabetical order to read, respectively:

§ 2842.102 **Definitions, general.**

* * * * *

Acceptable Quality Level (AQL). The maximum number of defects per hundred units (DHU) which is acceptable as a process average. Lots, or portions of production, having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for the AQL.

* * * * *

Operating Characteristic Curve (OC Curve). A curve that gives the probability of acceptance as a function of the quality level of the lot or the quality level of the portion of production. It shows the discriminatory power of a sampling plan, i.e., how the probability of accepting a lot, or portion of production, varies with the quality of the containers offered for inspection.

* * * * *

Probability of Acceptance.

(1) *For Stationary Lot Sampling.* The chance that a lot with a given level of quality will be accepted. Probability of acceptance is synonymous with "Percent of Lots Expected to be Accepted." The probability of acceptance is normally designated as "Pa" but is designated as "Pas" when referring to skip lot sampling and inspection.

(2) *For On-line Sampling.* The chance that a portion of production with a given level of quality will be accepted. Probability of acceptance is synonymous with "Percent of Production Expected to be Accepted." The probability of acceptance is normally designated as "Pa." In on-line sampling inspection, the probability of acceptance of any portion of production depends on the sample results obtained from the preceding portions. The probability of acceptance values associated with these procedures are the values which would be expected if a large number of samples are to be inspected. For the CuSum plans referenced in this standard, the probability of acceptance at the Acceptable Quality Level (AQL) is approximately 95 percent. The starting value ("S") associated with each CuSum plan helps to make the probability of acceptance of the first portions of production of a basic inspection period as close as possible to 95 percent.

Random sampling. A process of selecting a sample from a lot, or portion of production, whereby each unit in the

lot, or portion of production, has an

§ 2842.143 **Operating Characteristic (OC)**

lot, or portion of production, has an equal chance of being chosen.

* * * * *

Sampling plan. Any plan stating the number of sample units to be included in the sample as well as the corresponding plan parameters used to make acceptance and rejection decisions.

* * * * *

Basic inspection period. A specified period of consecutive production designated for on-line inspection (e.g., one shift's production, one day's production, etc.).

* * * * *

Cumulative Sum Sampling (CuSum) Plan. An on-line sampling plan that accumulates the number of defects which exceed the subgroup tolerance ("T") in a series of consecutive subgroups. Terms specified to the CuSum sampling plans are:

(1) *Acceptance Limit ("L").* The maximum accumulation of defects allowed to exceed the subgroup tolerance ("T") in any subgroup or consecutive subgroups.

(2) *CuSum value.* The accumulated number of defects that exceed the subgroup tolerance ("T").

(3) *Subgroup tolerance ("T").* The allowable number of defects in any subgroup.

(4) *Starting value ("S").* The initial CuSum value used to begin a CuSum sampling plan.

Defect. Any nonconformance of a container from specified requirements.

* * * * *

Defective. A container which has one or more defects.

* * * * *

On-line sampling. The random selection of samples from a production line.

* * * * *

Secondary container. The container in which one or more primary containers are packed. For example, a shipping case containing canned product.

* * * * *

Subgroup. A group of sample units representing a portion of production.

§ 2842.103 [Amended]

3. In § 2842.103(a), the letters "FSQS" would be deleted.

§§ 2842.140 through 2842.142 Redesignated Subpart E.

4. The present Subpart D—Miscellaneous (7 CFR 2842.140 through 2842.142) would be redesignated Subpart E—Miscellaneous, and a new § 2842.143 would be added to Subpart E—Miscellaneous and would read as follows:

§ 2842.143 Operating Characteristic (OC) curves for on-line sampling and inspection.

(a) This section contains the Operating characteristic (OC) curve for each of the on-line cumulative sum sampling plans provided in Subpart D. The OC curve and the corresponding cumulative sum sampling plans are listed by AQL.

(b) Different plan parameters used to make acceptance and rejection decisions are provided for each AQL.

(c) The curves show the ability of the various cumuative sum sampling plans to distinguish between good and bad portions of production. The interpretation of these curves for portions of production is similar to the interpretation of the OC curves for stationary lots as illustrated in § 2842.140(c).

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REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS
CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL = 0.25
DEFECTS PER HUNDRED UNITS
[SAMPLING PLANS – AQL = 0.25]

Identification name of OC curves											
Reduced				Normal				Tightened			
n_g	T	L	S	n_g	T	L	S	n_g	T	L	S
13	0	0	0	25	0.05	0.95	0.35	50	0.1	0.9	0.3

n_g = Number of sample units in a subgroup. T = Subgroup tolerance. L = Acceptance limit. S = Starting value.

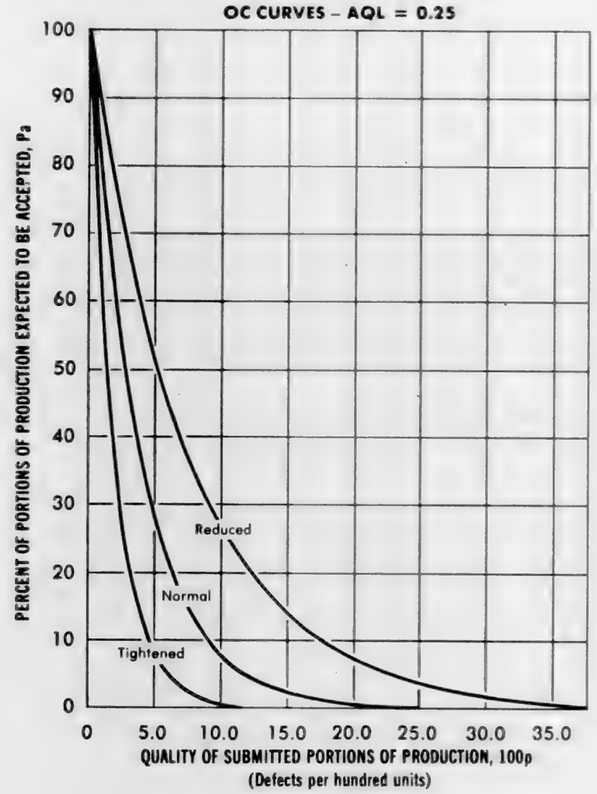

REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS
CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL = 1.5
DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL = 1.5]

Identification name of OC curves											
Reduced				Normal				Tightened			
n_g	T	L	S	n_g	T	L	S	n_g	T	L	S
13	0.5	0.5	0	25	0.5	2	1	50	0.8	1.6	0.4

n_g = Number of sample units in a subgroup. T = Subgroup tolerance. L = Acceptance limit. S = Starting value.

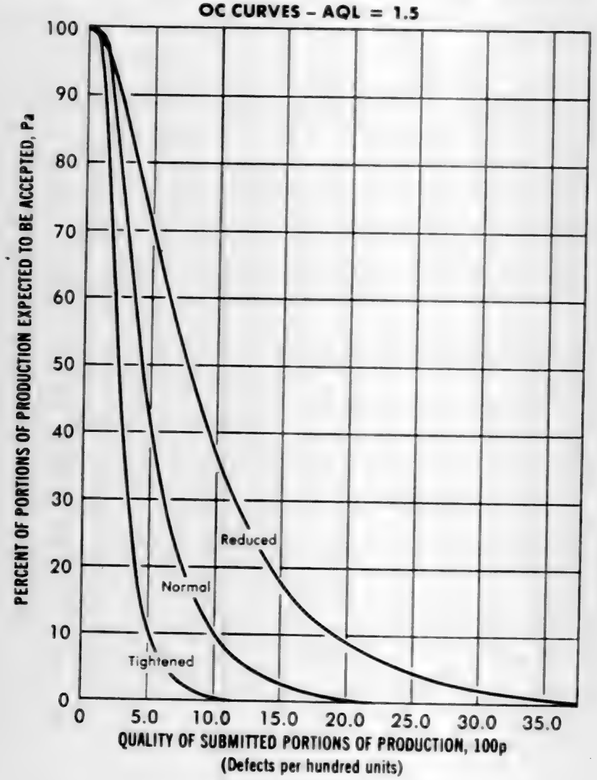

REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS
CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL = 6.5
DEFECTS PER HUNDRED UNITS
[Sampling Plans—AQL = 6.5]

Identification name of OC curves											
Reduced				Normal				Tightened			
n_g	T	L	S	n_g	T	L	S	n_g	T	L	S
13	1	2	1	25	2	3	1	50	2.5	3	1

n_g = Number of sample units in a subgroup. T = Subgroup tolerance. L = Acceptance limit. S = Starting value.

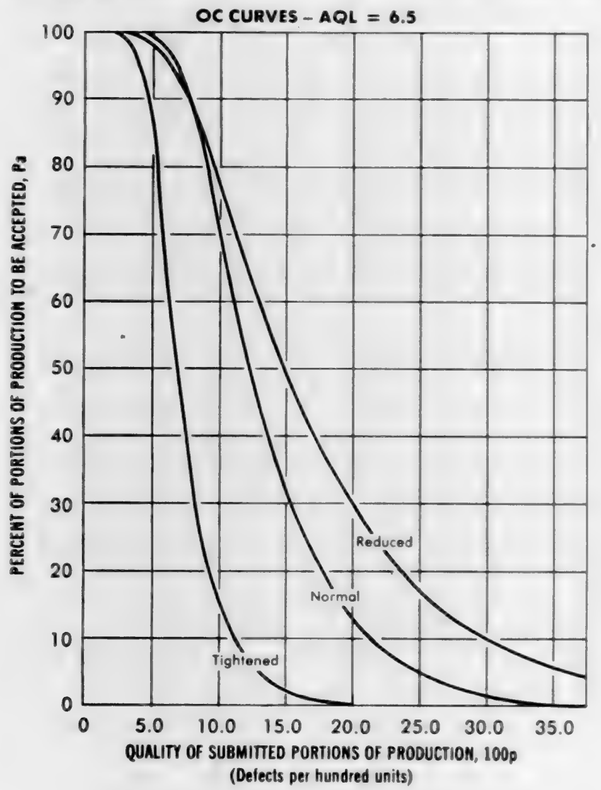

BILLING CODE 3410-DM-C

5. A new Subpart D (7 CFR 2842.130–2842.136) would be added, and the Table of Contents would be amended to read as follows:

Subpart D—On-Line Sampling and Inspection Procedures

Sec.
2842.130 Description and qualifications.
2842.131 Selection of samples.
2842.132 Determining cumulative sum values.
2842.133 Portion of production acceptance criteria.
2842.134 Disposition of rejected portions of production.
2842.135 Normal, tightened or reduced on-line inspection.
2842.136 Applicability of other procedures.

§ 2842.130 Description and qualifications.

(a) In many instances, food containers are loaded directly into carriers immediately after final packaging. This situation makes stationary lot sampling and inspection impractical. For such circumstances, the optional procedure for on-line sampling and inspection using cumulative sum sampling plans is provided. On-line sampling and inspection is a procedure in which subgroups of sample units are selected randomly from predesignated portions of production. The acceptability of the portions of production is determined by inspecting, at the time of sampling, the subgroups which represent these portions. On-line sampling and inspection contrasts with stationary lot procedures in which sample units are selected randomly and inspected and lot acceptability determinations are made only after lot production is completed.

(b) On-line sampling and inspection procedures may be instituted only when all of the following conditions are met:

(1) When authorized by the Administrator and acceptable to the user and producer, if different from the user.

(2) When inspection is origin inspection (see § 2842.102).

(3) When previous production lots from the producer are currently on, or eligible to be on, either normal or reduced inspection. (When shifting from stationary lot sampling and inspection to on-line sampling and inspection, normal on-line inspection shall be initially used.)

(4) When inspection of the containers is performed at a point after which all conditions of container related characteristics are fixed and will not be subject to change during final handling.

§ 2842.131 Selection of samples.

(a) Prior to commencement of on-line sampling and inspection, the total amount of production for a given day or shift is predicted and is then subdivided into conveniently designated portions of production approximately equal in size. Portions may be designated by sequential numbers (e.g., containers 1 through 500 are portion 1, containers 501 through 1000 are portion 2, etc.) or by time intervals (e.g., the first half hour of production is portion 1, the second half hour of production is portion 2, etc.) during which the containers are identified by individual production codes for each time interval.

(b) Determine the number of sample units in a subgroup as follows:

Type of inspection:	Number of sample units
Normal	25
Tightened	50
Reduced	13

(c) Subgroups are drawn randomly from portions of production throughout the production process and are inspected for defects. The drawing of sampling units may be done in either of two ways: (1) The number of sample units (13, 25, or 50) comprising a subgroup may be drawn at the same time from a randomly chosen point in the production of each portion or, (2) sample units may be drawn individually, but in a random manner, throughout the production of each portion. At least 6 subgroups must be obtained during each basic inspection period regardless of the system used to designate portions of production.

(d) A shift to on-line sampling plans from stationary lot sampling plans (or vice versa) during a basic inspection period is not permitted.

§ 2842.132 Determining cumulative sum values.

(a) The parameters for the on-line cumulative sum sampling plans for AQLs applicable to origin inspection are as follows:

Acceptable quality levels	Type of inspection								
	Normal			Tightened			Reduced		
	T	L	S	T	L	S	T	L	S
0.25	0.05	0.95	0.35	0.1	0.9	0.3	0	0	0
1.5	.5	II	1	.8	1.6	.4	.5	.5	0
6.5	2	3	1	2.5	3	1	1	2	1

(b) At the beginning of the basic inspection period, the CuSum value is set equal to the starting value ("S") for the specified CuSum plan. The CuSum value is then determined for each consecutive subgroup as follows:

(1) Add the number of defects for the present subgroup to the CuSum value of the previous subgroup.

(2) Subtract the subgroup tolerance ("T").

(3) The CuSum value is reset in the following situations; however, determine portion of production acceptability (see § 2842.133) prior to resetting the CuSum value:

(i) Reset the CuSum value to zero (0) if the CuSum value is less than zero (0).

(ii) Reset the CuSum value to the acceptance limit ("L") if the CuSum value exceeds the acceptance limit ("L").

§ 2842.133 Portion of production acceptance criteria.

(a) The acceptability of a portion of production is determined by comparing the calculated CuSum value with the acceptance limit ("L") for the specified AQL.

(b) A portion of production is acceptable if the CuSum value, calculated from the subgroup representing that portion, is equal to or less than the acceptance limit ("L") for all classes of defects.

(c) A portion of production is rejected if the CuSum value, calculated from the subgroup representing that portion, exceeds the acceptance limit ("L") for one or more classes of defects.

§ 2842.134 Disposition of rejected portions of production.

(a) Rejected portions of production from the same basic inspection period may be reworked, combined together to form a lot, and resubmitted for inspection under the criteria for tightened inspection using stationary lot sampling procedures described in Subpart B.

§ 2842.135 Normal, tightened or reduced on-line inspection.

(a) Normal, tightened and reduced on-line sampling plans are specified in § 2842.132 (Determining cumulative sum values). Normal plans shall be used except when the history of inspection permits reduced inspection or requires tightened inspection.

(b) Switching rules: Normal on-line inspection procedures shall be followed except when conditions in subparagraph (1) or (3) of this paragraph are applicable or unless otherwise specified. Application of the following switching rules will be restricted to the inspection of production for one applicant at a single production location and will be based upon records of original inspections of production (excluding resubmitted portions previously rejected and reworked) at that same location.

(1) *Normal Inspection to Reduced Inspection.* When normal inspection is in effect, reduced inspection shall be instituted provided that reduced inspection is considered desirable by the Administrator, and futher provided that all of the following conditions are satisfied for each class of defect.

(i) The preceding 40 consecutive portions of production have been on normal inspection and no more than one of these portions has been rejected on original inspection; and

(ii) The total number of defects in the subgroups (1000 sample units) from these preceding 40 consecutive portions of production is less than or equal to the following limit numbers for the specified AQLs:

Acceptable quality levels:	Limit numbers
0.25	0
1.5	9
6.5	54

(2) *Reduced Inspection to Normal Inspection.* When reduced inspection is in effect, normal inspection shall be reinstituted if any of the following occur:

(i) More than one portion of production in any 40 consecutive portions of production is rejected on original inspection; or

(ii) Production becomes irregular (delayed or accelerated); or

(iii) Other valid conditions warrant that normal inspection shall be reinstituted.

(3) *Normal Inspection to Tightened Inspection.* When normal inspection is in effect, tightened inspection shall be instituted when two out of five consecutive portions of production have been rejected.

(4) *Tightened Inspection to Normal Inspection.* When tightened inspection is in effect, normal inspection shall be reinstituted when five consecutive portions of production have been considered acceptable.

(c) When the rules require a switch in the inspection status because of one or more classes of defects, all classes of defects shall be inspected under the new inspection criteria. At the option of the user of the service, and when approved by the Administrator, such user may elect to remain on normal inspection when qualified for reduced inspection, or on tightened inspection when qualfied for normal inspection.

§ 2842.136 Applicability of other procedures.

When appropriate, the procedures for classifying and recording defects in § 2842.106 and for appeal inspections in § 2842.108 also apply to on-line sampling and inspection.

Done at Washington, D.C., on May 30, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-17061 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-DM

Animal and Plant Health Inspection Service

9 CFR Part 83

Screwworms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the approval of pesticides permitted by the Department for use in the treatment of livestock affected with screwworms. This action is necessary to delete the names of proprietary brands of pesticide products from the approved list, some of which are no longer marketed, and to provide information on the generic pesticides which are approved for such treatment of livestock. The effect of this action would be to identify in the regulations only certain generic pesticides as effective for the treatment of animals affected with screwworms and to provide information on how to obtain the names of proprietary brands of such pesticides.

DATES: Comments on or before August 5, 1980.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

FOR FURTHER INFORMATION CONTACT: Dr. Floyd Smith, USDA, APHIS–VS, Sheep, Goat, Equine and Ectoparasites Staff, Room 733, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8233. The Draft Impact Analysis describing the options considered in developing these proposed amendments and the impact of implementing each option is available on request from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to Section 2 of the Act of February 2, 1903, as amended; Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1 through 4, 33 Stat. 1264 and 1265, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141), the Animal and Plant Health Inspection Service is considering amending Part 83, Title 9, Code of Federal Regulations.

Existing § 83.8(b) of the regulations provides notice of the proprietary brands of pesticides permitted by the Department for the treatment of livestock affected with screwworms. Proprietary brands of pesticides other than those listed in existing § 83.8(b) are permitted to be used for purposes of this part under existing § 83.8(c) only when approved in specific cases by the Deputy Administrator, Veterinary Services. Before a proprietary brand of pesticide is specifically approved for such use, Veterinary Services requires that the product be registered for such use under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 135 *et seq.).*

Such registration insures that its efficacy and stability have been demonstrated, and that trials have been conducted to determine that it will effectively eradicate screwworms without injury to the animals treated to the satisfaction of the Environmental Protection Agency (EPA).

Specific proprietary brands of pesticides permitted for such treatment have previously been published in this part; however, many products presently listed in § 83.8(b) (9 CFR Part 83), are no longer marketed. Changes in policy by the various manufacturers and changes in formula have resulted in improved products for such treatment. Currently, only proprietary brands of coumaphos and ronnel are listed in this section since these are the only generic pesticides to be proven effective for the treatment of livestock for screwworms by EPA.

The Department has found that the proprietary brands are modified so frequently that it is impractical to amend the regulations every time a new

proprietary brand is introduced or an old one is discontinued.

Accordingly, Part 83, Title 9, Code of

the time for receipt of written comments

Significant Rules under Development or

and be completed between now and

proprietary brand is introduced or an old one is discontinued.

Therefore, the Department is proposing to amend section 83.8(b) to specify that the proprietary brands of ronnel and coumaphos which are determined to be effective in the treatment of screwworms by EPA will be permitted in place of the names of proprietary brands as previously listed.

The pesticides permitted by the Department for the treatment of livestock for screwworms in § 83.8(b) would be proprietary brands of coumaphos and ronnel which are registered by EPA for use on livestock for screwworms when used in accordance with directions on the labels accepted in connection with their registration with EPA under the Federal Insecticide, Fungicide and Rodenticide Act.

A Footnote would be provided to inform the public that names of such proprietary brands of pesticides for use on livestock for screwworms may be obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Sheep, Goat, Equine, and Ectoparasites Staff, Screwworm Eradication Program, Hyattsville, Maryland 20782.

The list of names of proprietary brands of pesticides presently approved by EPA for the treatment of livestock for screwworms, and which may be obtained from the Department, are:

(1) For use as wound treatment on horses only: Franklin-Kiltect-100 Screwworm Killer and Fly Repellant.

(2) For use as wound treatment: (a) on cattle, sheep, goats, swine, and horses: Chemagro Co-Ral (coumaphos) 5 percent Livestock Duster; Cutter Co-Ral (coumaphos); 3 percent Pressurized Spray-Foam Wound Treatment; Cutter K.R.S. Spray Foam with Co-Ral (coumaphos); Haver-Lockhart SW Aero Spray-Foam Treatmant with Co-Ral (coumaphos); and Martin's Korlan Smear Insecticide.

(b) On cattle, sheep, swine, and horses: Franklin's Blue Smear Screwworm Killer.

(c) On cattle, sheep, and horses: Dow Korlan Pressurized Livestock Spray.

(3) For use as a spray and/or dip: (a) On cattle, sheep, goats, swine, and horses. Cutter Co-Ral (coumaphos) Animal Insecticide 25 percent wettable powder and Chemagro Co-Ral (coumaphos) Animal Insecticide 25 percent wettable powder.

(b) On cattle and horses. Chemagro Co-Ral (coumaphos) Emulsifiable Livestock Insecticide.

Accordingly, Part 83, Title 9, Code of Federal Regulations, is proposed to be amended in the following respects:

1. Section 83.8(b) would be amended to read:

§ 83.8 Permitted pesticides and approved procedures.

* * * * *

(b) Proprietary brands of coumaphos and ronnel, which are registered by the Environmental Protection Agency for use on livestock for screwworms under the Federal Insecticide, Fungicide and Rodenticide Act, (FIFRA), as amended (7 U.S.C. 135 *et seq.),* are permitted for the treatment of livestock for purposes of this part only when used in accordance with directions on the labels in connection with their registrations under the provisions of FIFRA.[2]

* * * * *

2. A Footnote [2] to § 83.8(b) would be provided to read:

[2] Names of proprietary brands of the pesticides permitted by the Department for the treatment of livestock for purposes of this part may be obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Sheep, Goat, Equine, and Extoparasites Staff, Screwworm Eradication Program, Hyattsville, Maryland 20782.

3. Section 83.8(c) would be deleted in its entirety.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 733, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue of the **Federal Register.**

Done at Washington, D.C., this 29th day of May 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-17205 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0004]

Premiums, Finders Fees, and the Payment of Interest in Merchandise

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Proposed rulemaking: Extension of comment period.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has extended the period for receipt of public comment on its proposal to adopt a rule concerning the offering of premiums or gifts by depository institutions (Docket No. D-0004) to July 16, 1980. This extension will facilitate the public participation desired.

DATES: Comments must be received by July 16, 1980.

ADDRESS: Interested parties are invited to submit written data, views or arguments regarding the proposed rules to Normand R. V. Bernard, Executive Secretary, Depository Institutions Deregulation Committee, Federal Reserve Building, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All material submitted should include the Docket Number D-0004.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation (202/389-4324), Daniel L. Rhoads, Attorney, Board of Governors of the Federal Reserve System (202/452-3711), Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798), John Hall, Attorney, Federal Home Loan Bank Board (202/377-6466), or Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1632).

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 Fed. Reg. 32323, May 16, 1980), the Committee requested comment on a proposal to prohibit the offering of premiums by depository institutions and to place limitations on the use of finders fees by depository institutions. Under the proposed rule, the giving to a depositor of a premium or gift (whether in the form of cash or merchandise) by an institution associated directly with the receipt of a deposit would be prohibited. In addition, finders fees paid to third parties would be regarded as the payment of interest to the depositor and would be required to be paid only in cash. The Committee also is considering adoption of a proposed rule that would require that all interest paid on a deposit be paid only in the form of cash or a credit to a deposit account. Comment was requested on the proposal by June 9, 1980. On May 13, 1980, the Committee extended the time for receipt of comments to June 16, 1980. In light of the issues involved in this proposal and in order to facilitate public participation in this matter, the Committee is extending the time for receipt of written comments to July 16, 1980.

By order of the Committee, May 28, 1980.

Normand R. V. Bernard,

Executive Secretary of the Committee.

[FR Doc. 80-17320 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: Civil Aeronautics Board.

ACTION: Publication of agenda of significant rules under development or review.

SUMMARY: As part of its implementation of Executive Order 12044, *Improving Government Regulations,* the CAB publishes its semiannual Agenda of Significant Rules under Development or Review.

DATES: Adopted: May 29, 1980.

ADDRESSES: Copies of the rulemaking documents listed in this agenda can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; (202)673-5432. Each document should be identified by the designation appearing in parenthesis after the **Federal Register** citation.

Persons wishing to be placed on a mailing list for future editions of this agenda should send a postcard request to the Distribution Section at the above address.

FOR FURTHER INFORMATION CONTACT: About a specific rulemaking action listed in this agenda—the contact person listed below. About this agenda—Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board is publishing this Agenda of Significant Rules under Development or Review as part of its voluntary implementation of Executive Order 12044, *Improving Government Regulations.* The Board's previous agenda appears at 44 FR 65104, November 9, 1979.

This agenda is divided into two main categories, *Rules Under Development* and *Existing Rules under Review,* and an Appendix. An action to amend an existing part of the Code of Federal Regulations is not necessarily listed as an existing rule under review. If it does not involve a reexamination of the basic policy and purpose of that part, it is listed as a rule under development. The Appendix lists rulemaking that appeared in the previous agenda and has since been completed or terminated.

For each rulemaking action listed in this agenda, the following information is set out: title; the name, office abbreviation, and telephone number of a knowledgeable Board official to contact for further information; status of the action; and description. Addresses for all contact persons are Civil Aeronautics Board, Washington, D.C. 20428. Unless otherwise noted, the legal authority for a rulemaking action is the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978.

Statements in the status column that a notice or advance notice of proposed rulemaking is in preparation indicate that the staff is preparing a draft for Board action. They do not imply that the proposal will necessarily be issued, that the Board has endorsed the substance of the proposal, or that the petition (if any) prompting the rulemaking activity will necessarily be granted.

Although this agenda is intended to list all significant Board regulations that are under development or review, it is not a complete guide to all significant rulemaking activity for the 6 months until publication of the next agenda. First, new rulemaking actions may arise and be completed between now and then. Second, we may have inadvertently omitted one or more items. Any such omission shall not preclude the Board from taking action on the item, and shall not be a ground for judicial review of the rule.

Abbreviations Used in This Agenda

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1301 *et. seq.,* including amendments made by the Deregulation Act and the international Air Transportation Competition Act, Pub. L. 96-192, 94 Stat. 35.

"Deregulation Act" means the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1705.

"CFR" means Code of Federal Regulations.

"FR" means Federal Register.

"ANPRM" means advance notice of proposed rulemaking.

"NPRM" means notice of proposed rulemaking.

Office abbreviations: BCP—Bureau of Consumer Protection; BDA—Bureau of Domestic Aviation; BIA—Bureau of International Aviation; OEA—Office of Economic Anaylsis; OGC—Office of the General Counsel; OCR—Office of Civil Rights.

ER-, EDR-, SPR-, SPDR-, and similar designations appearings in parenthesis after a Federal Register citation are the Board's internal designations for final rules and proposed rules. Using these designations, interested persons can obtain copies of documents from the Distribution Section at the address listed above. The Distribution Section will also establish and maintain a list of persons wishing to receive copies of future agendas.

Accordingly, the Civil Aeronautics Board publishes the attached Agenda of Significant Regulations under Development or Review.

By the Civil Aeronautics, Board:

Phyllis T. Kaylor,

Secretary.

Rules Under Development

Title	Contact person	Status	Description
I. Small Community Air Service Program			
1. Procedures for compensating air carriers for losses (14 CFR Part 324).	David Schaffer, OGC, 202-673-5442	Interim Rule 44 FR 42171, July 14, 1979 (PR-209). Request for comments on interim rule, 44 FR 42171, July 19, 1979 (PDR-67, Docket 36128). Comment period closed September 17, 1979.	The Baord can order an airline to continue to provide essential air service to a community while the agency tries to find a replacement airline, but it must compensate the incumbent airline for any financial losses incurred in complying with the order. This rule governs proceedings for determining the compensation for the incumbent airline's losses.

Rules Under Development —Continued

Rules Under Development —Continued

Rules Under Development—Continued

Title	Contact person	Status	Description
I. Small Community Air Service Program—Continued			
2. Determining the number of seats needed to provide essential air service (14 CFR Part 398).	David Schaffer, OGC, 202-673-5442	Final Rule, 44 FR 65584, November 14, 1979 (PS-89). Request for comments on final rule, 44 FR 65583, November 14, 1979 (PSDR-64, Docket 34650). Comment period closed January 14, 1980.	Under guidelines for determining the level of essential air service for small communities, the Board first determines the number of passengers that will need to be accommodated. It then determines the number of available seats it needs to guarantee, on the assumption that the average load factor (percentage of seats filled) will be 60 to 65 percent. That figure is based on normal load factors with large aircraft. This amendment lowered that figure, to reflect the fact that with smaller aircraft a lower load factor is needed to ensure the same likelihood that no passengers will be denied a seat.
3. Essential air service subsidy guidelines	John R. Hokanson, BDA, 202-673-5368, or David Schaffer, OGC, 202-673-5442.	NPRM in preparation	The Board provides subsidy to airlines to ensure that small communities receive essential air service at a level determined in accordance with 14 CFR Part 398 (see entry Nos. 2 and 3 in this agenda). This rule would implement section 419(d) of the Act, which directs the Board to establish guidelines for computing the fair and reasonable amount of compensation necessary to guarantee that level of service.
4. Obligation of carriers to provide adequate service at eligible points (14 CFR Part 398).	David Schaffer, OGC, 202-673-5442	NPRM in preparation	The Board has set essential air service levels under section 419 of the Act for eligible points (small communities). Some of these points are being served by air carriers that are not providing the required level of service. This rule would establish a new policy under which the Board would rely on the "adequate service" provision of section 404(a) of the Act as authority to order these carriers to provide adequate (*i.e.*, essential) service at points they now serve.
5. Schedule listings and delays in discontinuing service (14 CFR Part 323).	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 20117, March 27, 1980 (PDR-70, Docket 37905). Comments were due May 27, 1980.	This rule would make two changes in the Board's regulation that requires airlines to provide notice before discontinuing certain types of air service. First, airlines would have to maintain all generally-distributed schedule listings of flights for which notice had been filed, until discontinuance is permitted by the Board. Second, airlines would have to discontinue service within 60 days after the intended date stated in the notice (unless required to serve longer by the Board) or else file a new notice of discontinuance.
II. Fares, Rates, and Tariffs			
6. Price advertising of air transportation	David Schaffer, OGC, 202-673-5442	ANPRM, 42 FR 30376, June 14, 1977 (EDR-328/SPDR-58/PSDR-48, Docket 30667). Comment period closed August 25, 1977. Reply comment period closed September 15, 1977.	The Board is examining whether there is a need for specific rules to prevent deception in advertising of air fares.
7. Scheduled-service air transportation sold by contract.	Barbara Badian, BDA, 202-673-5373	ANPRM in preparation	This rule would give airlines an exemption to sell air transportation in domestic scheduled service by contract without filing or adhering to a filed tariff. The general purpose of the rule would be to encourage fare competition and assist in the transition to a deregulated environment.
8. Plain English for airline/passenger contracts.	Patricia J. Kennedy, BCP, 202-673-5158	NPRM in preparation	Contracts between airlines and their passengers are governed by tariffs, which are filed with the Board and available for inspection at airline ticket offices. Although tariffs are complicated and relatively inaccessible documents, passengers are presumed to have read them and consented to their terms and conditions. Over the past several years, many businesses have developed "plain English" contracts so that customers clearly understand what they are agreeing to. The Board is examining how this approach might be applied to airline/passenger contracts, and whether the presumptive notice concept should be permitted for exculpatory rules.
9. Elimination of mandatory joint fares	Barry L. Molar, BDA, 202-673-5373	NPRM preparation	The mandatory joint fare requirements established in the *Domestic Passenger Fare Investigation* will end by January 1, 1983, with the end of the Board's jurisdiction over domestic passenger fares. The Board is considering whether to eliminate the mandatory joint fare program sooner or to phase it out.
10. Involuntary Refunds	Patricia Kennedy, BCP, 202-673-5158	NPRM in preparation	Airlines now charge passengers for the transportation actually used, even when the flight does not reach the ticketed destination. This rule would require airlines to give passengers who are stranded by a schedule irregularity the option of returning to their point of origin on the first available flight and receiving a refund.
11. Intrastate Standard Industry Fare Levels (14 CFR Part 399).	Laurie S. Schaffer, BDA, 202-673-5009, or Mark S. Kahan, BDA, 202-673-5371.	Interim rule, 44 FR 9940, February 15, 1979 (PS-82). NPRM, 45 FR 2018, January 10, 1980 (PSDR-55B, Docket 34683). Comment period closed February 8, 1980.	The Board's zones of fare flexibility are based on a standard industry fare level (SIFL). This rule would allow the intrastate SIFL to rise to the interstate SIFL. In the interim rule, the Board provided for a gradual equalization of the intrastate and interstate SIFL. However, due to changed circumstances in the airline industry that may discourage service in the intrastate markets, the Board is considering a rule that would provide complete equalization immediately.

Rules Under Development—Continued

Title	Contact person	Status	Description
II. Fares, Rates, and Tariffs—Continued			
12. Pre-filing tariff approval for fare reductions (14 CFR Part 221).	Thomas Moore, BDA, 202-673-5038	NRPM, 45 FR 31411, May 13, 1980 (EDR-402/ODR-21, Docket 38147). Comments are due June 16, 1980.	This rule would set up a procedure to minimize delay in acting on domestic passenger fare reduction proposals. If an airline filed an application for a fare decrease in the morning, the Board would take action on it the same day, and the airline could begin charging the fare the next day.
13. International cargo rate flexibility (14 CFR Part 399)	Mark Frisbie, OGC, 202-673-5423	NPRM, 45 FR 3595, January 19, 1980. (PSDR-65, Docket 37444). Comment period closed April 9, 1980.	This rule would establish a policy of not reviewing international cargo rate changes for economic justification if the changes were below a prescribed ceiling, except in extraordinary circumstances. The ceiling would be set initially at the October 1, 1979, rate levels for general commodity rates, and would be periodically adjusted for operating cost increases.
14. International cargo rate policy—further changes (14 CFR Part 399).	Mark Frisbie, OGC, 202-673-5423	ANPRM in preparation	This notice would invite comments on the broad question of what the Board's cargo rate policy should be, to advise the Board on future rulemaking or legislative proposals.
III. Charters			
15. Charter flight delays	Mark Schwimmer, OGC, 202-673-5442	NPRM, 42 FR 64905, December 29, 1977 (EDR-343, Docket 31229). Comment period closed April 14, 1978. Reply comment period closed May 15, 1978.	This rule would tighten the existing rules on flight delays by U.S. charter airlines and extend those rules to passenger charter flights of all types of direct air carriers, other than air taxi operators.
16. Removal of limitations on cargo chargers (14 CFR Parts 207, 208, 212, 214).	Mark Frisbie, OGC, 202-673-5442	NPRM, 44 FR 50607, August 29, 1979 (EDR-351B/SPDR-73, Docket 31788). Comment period closed October 29, 1979.	This rule would allow cargo to be carried on the main deck of the aircraft on split passenger/cargo charters, would eliminated for cargo charters the requirement that the entire aircraft be engaged in the aggregate, and would allow part charters of cargo on scheduled cargo or combination flights. It would also require passenger charter operators to state in their contracts with individual participants, in boldface type, the baggage allowance and charges for each passenger.
17. Minimum contract size and notice provisions for pro rata and single-entity charters (14 CFR Parts 207, 208, 212, 214).	Mark Frisbie, OGC, 202-673-5442	NPRM, 44 FR 36065, June 20, 1979 (EDR-382, Docket 34533). Comment period closed August 20, 1979.	This rule would reduce from 40 persons to 20 the minimum contract size for pro rata, or "affinity," charters and for single-entity charters. It would also require a notice in all solicitation materials for pro rata charters, to warn participants of the lack of consumer protection provisions.
18. Review of foreign air carrier charter authority (14 CFR Parts 212, 214).	Mark Frisbie, OGC, 202-673-5423	NPRM, 45 FR 2331, January 11, 1980 (EDR-394, Docket 35046) Comment period closed March 11, 1980.	This rule would amend the Board's prior authorization requirements for charters by foreign air carriers. Prior approval would be required for "fifth freedom" charter flights, instead of "off-route" charters, as required under the present rules.
19. Escrow accounting for Public Charters (14 CFR Part 380).	Mark Frisbie, OGC, 202-673-5423	NPRM, 44 FR 32399, June 6, 1979 (SPDR-69, Docket 350705). Comment period closed August 6, 1979.	This rule would amend the escrow system for the protection of Public Charter passengers' funds, to simplify the accounting procedures and to eliminate a limitation on disbursements by the escrow bank.
20. Elimination of off-route charter restrictions (14 CFR Part 207).	Mark Frisbie, OGC, 202-673-5442	NPRM, 44 FR 41828, July 18, 1979 (EDR-383, Docket 36113). Comment period closed September 17, 1979.	This rule would continue the Board's liberalization of its charter rules by lifting the remaining restrictions on off-route charters by U.S. airlines.
21. Registration of foreign charter operators	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 26084, April 17, 1980 (EDR-398/SPDR-77/ODR-20, Docket 38023). Comments are due June 16, 1980.	This rule would replace the requirement that foreign charger operators obtain a foreign air carrier permit under section 402 of the Federal Aviation Act with a simple registration requirement, to ease market entry and promote competition.
22. Charter consumer protection against major changes (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	The Board's current rules establish a cancel-with-refund remedy scheme for charter participants who are confronted with "major changes" in the tour packages that they have purchased. This rule would clarify that scheme so that it cannot be misinterpreted as excusing changes that are so substantial as to amount to non-performance by the charter operator.
23. Charter price flexibility (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	The Board's current rules allow charter operators, in their contracts with participants, to reserve the right to increse the charter price up to 10%, as long as the increase occurs 10 or more days before departure. The Board is considering whether to eliminate this flexibility, to retain it as is, to retain it but require increases to be cost-justified, or to increase the flexibility.
24. Registration procedures for Canadian small charter carriers.	Ira Leibowitz, BIA, 202-673-6070	NPRM in preparation	This rule would simplify the procedure for Canadian small charter air carriers to obtain foreign air carrier permits under section 402. Instead of the extensive information normally required by 14 CFR Part 211, these carriers would merely provide an abbreviated list of information on a registration form, which would be processed more speedily than regular permit applications.
25. Removal of limit on agent commissions for charters (14 CFR Parts 207, 208, 212, 214).	David Schaffer, OGC, 202-673-5442	NRPM, 45 FR 26083, April 17, 1980 (EDR-397, Docket 37063, 38022). Comment period closes June 16, 1980.	This rule would remove the limitation on the commission that air carriers can pay to travel agents for pro rata and single-entity charters. It would also make other changes in the rules governing those charters. It responds to a petition from the Performance Incentives Company.
26. Direct carrier responsibility for returning stranded charter passengers (14 CFR Parts 207, 208).	David Schaffer, OGC 202-673-5442	Petition filed in Docket 37169. NPRM in preparation.	Golden Holiday Tours, Inc., has petitioned the Board to make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services.

Rules Under Development—Continued

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Rules Under Development—Continued

Title	Contact person	Status	Description
III. Charters—Continued			
27. Using insurance policies to protect Public Charter passengers' funds (14 CFR Parts 207, 208, 212, 214, 380).	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 36958. NPRM in preparation.	Wardair Canada, LTD, has petitioned the Board to authorize insurance plans as an additional alternative to the security arrangements now permitted for Public Charter passengers' funds.
IV. Miscellaneous			
28. Nondiscrimination on the basis of handicap.	Mary Candace Fowler, BCP 202-673-5158	NPRM, 44 FR 32401, June 6, 1979 (SPDR-70, Docket 34030). Comment period closed September 4, 1979. Reply comment period closed September 24, 1979.	This rule would prohibit unlawful discrimination against handicapped air travelers and implement section 504 of the Rehabilitation Act of 1973.
29. Consumer protections for members of scheduled-service tour groups.	David Schaffer, OGC, 202-673-5442	ANPRM, 44 FR 43481, July 25, 1979 (SPDR-71, Docket 34997). Comment period closed October 23, 1979. Reply comment period closed November 22, 1979.	The Board has invited comments on whether consumer protection rules are needed for scheduled-servrice tours, on the Board's statutory authority to prescribe such rules, and on the form that those rules might take.
30. Air carrier fitness	Paul Gretch, BDA, 202-673-5373	NPRM, 44 FR 44106, July 26, 1979 (EDR-365, Docket 36176). Comment period closed October 15, 1979. Reply comments were due November 5, 1979.	This rule would describe the information that must be filed with the Board by applicants for passenger route authority and commuter air carriers serving points that may be eligible for subsidy, so that the Board can determine their fitness. "Fit" means fit, willing, and able to perform the air transportation in question properly and to conform with the Federal Aviation Act and Board requirements issued under the Act.
31. Zones for mail rates.	Mark S. Kahan, BDA, 202-673-5371 or Lawrence Myers, OGC, 202-673-5791.	NPRM, 44 FR 52246, September 7, 1979 (EDR-367/PDR-68, Docket 36497). Comments are due November 5, 1979. Reply comments are due November 20, 1979.	This rule would end the Board's current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by the Board, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone.
32. Reporting of air cargo traffic (14 CFR Parts 291, 296).	Clifford M. Rand, OEA, 202-673-6044	Petition filed in Docket 36544. NPRM in preparation.	The Air Freight Forwarders Association has petitioned the Board to increase requirements that airlines and freight forwarders file reports of their cargo traffic, to monitor the effects of air cargo deregulation.
33. Age discrimination.	David Schaffer, OGC, 202-673-5442	NPRM, 44 FR 55383, September 26, 1979 (SPDR-74, Docket 36639). Comment period closed November 26, 1979. A final rule was adopted by the Board on April 10, 1980, and was forwarded to the Secretary of HEW for approval, as required by the Age Discrimination Act.	This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975.
34. Policy statement on preemption (14 CFR Part 399).	Michael Schopf, OGC, 202-673-5234	Interium rule 44, FR 9948, February 15, 1979 (PS-83). Request for comments on interim rule, 44 FR 9953, February 15, 1979 (PSDR-56, Docket 34684). Comment period closed April 16, 1979.	This rule sets out interim Board policies for regulation of intrastate routes of airlines that have interstate authority. The Board has concluded that under section 105 of the Act it, not the States, is responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.
35. Insurance for air carriers	J. Kevin Kennedy, BDA, 202-673-5088 or Richard Loughlin, BIA, 202-673-5880.	NPRM, 45 FR 7566, February 4, 1980 (EDR-395, Docket 37531). Comment period closed April 15, 1980. Reply Comment period closed May 6, 1980.	This rule would establish liability insurance requirements for all U.S. and foreign direct air carriers, to protect the public against losses caused by those carries. The rule would implement section 401(q)(1) of the Act, as added by the Deregulation Act.
36. Dual authority (14 CFR Part 298)	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	Airlines that use only small aircraft are already exempt from many regulatory requirements of the Act. This rule would grant similar exemptions to certificated airlines (which usually operate large aircraft) for their small aircraft operations, in order to promote competition.
37. Liberalized regulation of wet lease agreements (14 CFR Parts 207, 208, 212, 214, 289, 399).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	This rule would liberalize the restrictions on wet leases (leases or aircraft with crew) between airlines, to eliminate unnecessary barriers to competition.
38. Mandatory participation in Passenger Origin-Destination Survey (14 CFR Part 241).	Clifford M. Rand, OEA, 202-673-6044	NPRM, 44 FR 67140, November 23, 1979 (EDR-392, Docket 37088). Comment period closed January 21, 1980.	This rule would require all certificated air carriers to participate in a Passenger Origin-Destination Survey based on a continuous sample of passenger tickets. This information in needed to serve a broad range of regulatory programs still being conducted by the Board.
39. Employee protection program	Michael Schopf, OGC, 202-673-5234	NPRM in preparation	Section 43 of the Airline Deregulation Act of 1978 established an employee protection program. Eligible protected employees may receive monthly assistance payments from the Secretary of Labor if the Board determines that a qualifying dislocation of an airline has taken place. This rule would set forth procedures for those Board determinations. 40. Airline Responsibility for Schedule Changes and Irregularities
	Mary Candace Fowler, BCP, 202-673-5158	ANPRM in preparation	As airlines have been exercising greater freedom to enter and leave markets, the Board has begun to examine what, if any, obligations airlines should have to rebook affected passengers, protect their discount fares, and provide prompt notice of schedule changes. The Board will also consider what consumer protections should apply to situations like strikes and aircraft groundings
41. Advertising of Flights as "Direct"	Brinley H. Williams, BCP, 202-673-5937	NPRM in Preparation	This rule would prohibit airlines from advertising flights as "direct" when there is a change of aircraft.

Existing Rules Under Review

Title	Contact person	Status	Description
42. Elimination of airport notices and approved service plans (14 CFR Parts 202 and 213).	Patricia DePuy, BIA, 202-673-5878	NPRM in preparation	The Board is reviewing the requirements that airlines file airport notices and changes in approved service plans, with a view toward eliminating them.
43. Rules governing performance of charter flights by different types of direct air carriers (14 CFR Parts 207, 208, 212, 214).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	These rules, which are largely duplicative, would be consolidated and simplified.
44. Reduction of evidence requirements for foreign air carrier permit renewals (14 CFR Part 211).	Regis P. Milan, Jr., BIA, 202-673-5878	NPRM in preparation	Under this rule, foreign air carriers applying for routine renewals or amendments of their permits would, if previous unopposed licensing proceedings had met certain evidentiary standards, be excused from resubmitting certain evidence whose continuing validity could be attested to
45. Reporting of civil aircraft charters (14 CFR Parts 217 and 241).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	This rule would significantly reduce the Board's charter data reporting requirements.
46. Ticket notices and ticket office counter signs (14 CFR Parts 221, 250, 255, 298).	Mary Candace Fowler, BCP, 202-673-5158	NPRM, 45 FR 25817, April 16, 1980 (EDR-396, Docket 38021). Comments are due June 16, 1980. Reply comments are due July 7, 1980.	This rule would revise and simplify the requirements that airlines disclose certain information to consumers on passengers' tickets and counter signs. It would also consolidate those requirements in a new Part 255
47. Airline Credit/Interest Rates (14 CFR 221.38).	Mary Candace Fowler, BCP, 202-673-5158	NPRM in preparation	Current rules enable airlines to charge interest in excess of state usury laws for air transportation that is paid for with airline-issued credit cards. This rule would make airlines subject to usury laws in the card holder's home state
48. Liability for Lost, Delayed, and Damaged Baggage (14 CFR Part 221).	Joseph A. Brooks, OGC, 202-673-5442	NPRM in preparation	The Board is reviewing the current baggage liability limits and rules. This rule would adjust the limits to reflect changes in the cost of living index, and would place baggage carriage rules into the Code of Federal Regulations.
49. Fare summaries (14 CFR Part 221a)	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 35139. Petition granted, 44 FR 57085, October 4, 1979 (Order 79-8-116).	This rule requires certificated schedule airlines to provide concise information to the public about the various fares they offer in domestic air transportation. It is designed to provide enough information to enable consumers to make an informed choice of fare plan. Fare summaries do not seem to have received a great deal of attention from passengers, however. In response to a petition from Amercan Airlines, the Board is reviewing this rule to decide how it might be improved, or whether it should be abolished and some other fare information requirement should be imposed. The Board has also waived the effectiveness of the rule, pending the review.
50. Regulation of intermodal services of foreign air carriers (14 CFR Part 222).	Joseph DiBella, BIA, 202-673-5035	NPRM in preparation	This rule would eliminate Board restrictions on surface cargo transportation in connection with air transportation except in those cases where intermodal cargo services of foreign air carriers must be restricted for foreign aviation policy reasons. The Board would also discontinue its requirement that carriers file separate tariffs for pick-up-and-delivery services.
51. Barter and free or reduced-rate transportation for promotional purposes (14 CFR Part 223).	Mark S. Kahan, BDA, 202-673-5371 or David Schaffer, OGC, 202-673-5442.	NPRM, 44 FR 64429, November 7, 1979 (EDR-391, Docket 35392). Comment period closed January 7, 1979	This rule would allow airlines to provide free or reduced rate travel in exchange for goods and services or to persons involved in promoting air transportation.
52. On-time arrival standards (14 CFR Part 234).	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 27891. NPRM in preparation.	The Aviation Consumer Action Project has petitioned the Board to restate its on-time arrival standards in terms of actual-versus-scheduled *arrival* times, instead of actual-versus-scheduled *elapsed* times.
53. Air carrier accounting and reporting requirements (14 CFR Part 241).	Clifford M. Rand, OEA 202-673-6044	NPRM, 44 FR 77189, December 31, 1979 (EDR-393, Docket 34015). Comment period closed February 26, 1980.	As a first step in a major review of its largest reporting system, the Board has proposed the elimination of ten financial reporting schedules and solicited comments on alternatives to a petition filed by the Air Transport Association to eliminate monthly financial reporting.
54. Air carrier financial and statistical reporting (14 CFR Part 241).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	As a second step in a major review of its largest reporting system, the Board expects to eliminate, consolidate, and refine a substantial number of financial and statistical reporting schedules to reduce reporting burdens on all certificated air carriers. Particular emphasis will be placed on reducing the burdens of small air carriers.
55. Commuter Financial and Traffic Data (14 CFR Parts 241, 298).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	This rule would modify statistical reporting requirements and impose financial reporting requirements on some commuter carriers, to assist in the administration of essential air service programs.
56. Military Airlift Command data reports (14 CFR Part 243).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	This rule would eliminate certain financial and statistical reporting that no longer appears necessary.
57. Revision of record-retention requirements (14 CFR Part 249).	Clifford M. Rand, OEA, 202-673-6044	NPRM, 43 FR 50150, October 26, 1978 (EDR-365, Docket 33725). Comment period closed January 26, 1979.	This would be the first major revision of the Board's record-retention requirements since 1957. It is designed to make them less burdensome and easier to understand and administer.
58. Denied boarding compensation (14 CFR Part 250).	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 30086, May 7, 1980 (EDR-400, Docket 35294). Comments are due July 7, 1980.	Airlines are required to pay denied boarding compensation to passengers who are bumped from their flights. This rule would clarify the applicability of that requirement to extra sections of flights. The rule would also eliminate a minor exception to the requirement.

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Existing Rules Under Review—Continued

Title	Contact person	Status	Description
59. Denied boarding compensation—small aircraft (14 CFR Part 250).	Lawrence R. Krevor, BDA, 202-673-5333	ANPRM, 45 FR 31413, May 13, 1980 (EDR-401, Docket 38108). Comments are due June 30, 1980. Reply comments are due July 10, 1980.	The Board has invited comments on whether, and in what form, its oversales and denied boarding rules whould apply to commuter air carriers and to certificated carriers operating small (less than 60-seat) aircraft.
60. Smoking on airplanes (14 CFR Part 252)..	David Schaffer, OGC, 202-673-5442	A: Final rule, 44 FR 5071, January 25, 1979 (ER-1091). NPRM, 44 FR 29486, May 21, 1979 (EDR-377, Docket 29044). Editorial correction of NPRM, 44 FR 33410, June 11, 1979 (EDR-377A). Comment period closed August 20, 1979. Reply comment penod closed September 19, 1979.	A: In January, 1979, the Board amended its rules on smoking aboard aircraft to provide passengers more effective protection from tobacco smoke. The new requirements include special segregation of cigar and pipe smokers, a minimum of two rows of seats in the no-smoking areas for all persons who wish to be seated there, with provision for expansion of those areas to meet passenger demand. In May, 1979, the Board proposed further changes, including special seating for susceptible passengers, buffer zones, and special locations for cigar and pipe smoking. Other options include a ban on cigar and pipe smoking, and prohibitions based on the type of aircraft (for example, banning smoking on planes with 30 or fewer seats) or length of flight (for example, banning smoking on all flights of less than 1 hour).
		B: NPRM, 45 FR 26976, April 22, 1980 (EDR-399; Docket 38048). Comment penod closes June 23, 1980.	B: This rule would permit airlines to refuse to exand the no-smoking section for standby passengers and those who check in less than 5 minutes before scheduled departure.
		C: Petition filed in Docket 37657	C: The Board is also considering a petition to eliminate the smoking rule entirely.
61. Elimination of commission-filing requirement (14 CFR Parts 253, 399.85).	David Schaffer, OGC, 202-673-5442	NPRM, 44 FR 28670, May 16, 1979 (EDR-376/PSDR-60, Docket 35514). Comment period closed July 16, 1979.	This rule would eliminate the requirement that airlines file with the Board schedules of the commissions that they pay travel agents. The usefulness of those filings does not appear to be justified by their cost, and the requirement may tend to dampen competition.
62. Alaskan subcontract agreements (14 CFR Part 293).	David Schaffer, OGC, 202-673-5442	NPRM in preparation	Part 293 applies to subcontract agreements involving the operation of scheduled air services by air taxi operators over Alaskan bush routes of a certificated air carrier. The Board is considering whether to revoke this rule and replace it with a simpler filing requirement.
63. Rules of Practice in Enforcement Proceedings (14 CFR Part 302).	Howard M. Schmeltzer, BCP, 202-673-5937	NPRM in preparation	This rule would simplify and clarify Board procedures, and expedite the resolution of formal enforcement proceedings.
64. Nonpublic Investigation by the Bureau of Consumer Protection (14 CFR Part 305).	J. Craig Weller, BCP, 202-673-5943	NPRM in preparation	This rule would clarify and simplify the procedures for conducting nonpublic investigations.
65. Information submitted in merger applications (14 CFR Part 315).	David Schaffer, OGC, 202-673-5442	Interim rule, 45 FR 23648, April 8, 1980 (PR-221). Request for comments on interim rule in preparation.	This rule sets forth the information that must be submitted with a section 408 merger application. It is needed to enable the Board to meet the 6-month deadline imposed by the Act for issuing a final order or decision in a merger case.
66. Protection of charter participants' funds (14 CFR Parts 371, 372a, 373, 378, 378a, and others).	Mark Schwimmer, OGC, 202-673-5442	A. NPRM, 42 FR 61408, December 2, 1977 (SPDR-63, Docket 31735). Comment period closed June 30, 1978. Reply comment period closed July 31, 1978.	A. The Board has been reviewing the patchwork of redundant, and sometimes inconsistent, regulations for the protection of charter participants' funds, with a view towards establishing a simpler, uniform set of requirements. The redundancies and inconsistencies were largely eliminated when five different charter regulations were replaced by the Public Charter rule, 14 CFR Part 380.
		B. NPRM in preparation	B. This rule would increase the period of time from 60 to 120 days for tour participants to file claims against a charter operator's bond. By the time many people have found the operator against whom they can file, 60 days have passed.
		C. ANPRM in preparation	C. This rule would establish a trust fund in place of existing financial security provisions for the protection of charter participant funds.
67. Monthly billing of political candidates by airlines (14 CFR Part 374a).	Joseph A. Brooks, OGC, 202-673-5442	NPRM, 45 FR 25825, April 16, 1980 (SPDR-76, Docket 35042). Comments were due May 15, 1980.	This rule would allow airlines to bill political candidates for Federal office on a monthly basis during the last two months of the campaign, rather than semimonthly.
68. Navigation of foreign civil aircraft (14 CFR Part 375).	George Wellington, BIA, 202-673-5878	NPRM in preparation	The Board is reviewing its regulations governing the navigation of foreign civil aircraft within the United States. The review will focus on simplifying and clarifying the procedures to be followed in obtaining operating authority, and on ensuring that conditions imposed on such operations satisfactorily serve the public interest.
69. Nondiscrimination in Federally assisted programs of the Board (14 CFR Part 379).	Kenneth G. Kaplan, OGC, 202-673-5790 or Shawn D. Land, OCR, 202-673-5544.	NPRM in preparation	The Board is reviewing its rules that implement title VI of the Civil Rights Act of 1964, in response to suggestions from the Department of Justice.

Existing Rules Under Review—Continued

Title	Contact person	Status	Description
70. Domestic passenger fare standards (14 CFR Part 399, Subpart C).	Julien Schrenk, BDA, 202-673-5298 or Norman D. Schwartz, BDA, 202-673-5056, except on Alaska contact: Robert S. Goldner, OGC, 202-673-5205.	Final rule, 43 FR 39522, September 5, 1978 (PS-80). Final rule, 45 FR 24115, April 9, 1980 (PS-92, Docket 31290). NPRM, 45 FR 24178, April 9, 1980 (PSDR-66, Docket 37982). Comment penod closed May 12, 1980. NPRM on Puerto Rico/Virgin Islands, 43 FR 51641, November 6, 1978 (EDR-366/PDR-58/PSDR-52, Docket 33836). Comment penod closed December 18, 1978. Reply comment penod closed January 2, 1979. NPRM on Hawaii, 44 FR 18688, March 29, 1979. (EDR-373/PDR-64/PSDR-57, Docket 35119). Revised NPRM on Hawaii, 44 FR 28826, May 17, 1979 (EDR-373A/PDR-64A/PSDR-57A). Comment penod closed May 29, 1979. Reply comment period closed June 19, 1979. NPRM on Alaska, 44 FR 52847, September 11, 1979 (EDR-388/PSDR-63, Docket 29198). Comment penod closed November 13, 1979. Reply comment penod closed November 28, 1979.	In Summer, 1978, after a review of the entire body of pricing standards developed in the *Domestic Passenger Fare Investigation*, the Board ended its practice of prescribing normal fares in the continental United States. Airlines were intead allowed the flexibility to set fares within a specific zone without fear of suspension by the Board. The Airline Deregulation Act of 1978 confirmed this policy by establishing a "zone of reasonableness" within which the Board could not find any domestic fare unlawful. In PS-92 the Board amended its general policy statement on fare flexibility to reflect the Deregulation Act. In PSDR-66, the Board proposed to broaden its zone. On May 13, 1980, the Board approved an interim policy of full downward fare flexibility in all markets and upward flexibility as follows: unlimited, for markets up to 200 miles; up to 50 percent above the standard industry fare level for markets from 201 to 400 miles; and up to 30 percent above the standard industry fare level for markets above 400 miles. The Board will suspend fares in this zone only in limited circumstances. The Board has also proposed broadened flexibility for Puerto Rico, Virgin Islands, Hawaii, and Alaska Markets.

Appendix.—*Rulemaing Completed or Terminated Since Previous Agenda*

[Numbers in brackets are entry numbers from previous agenda.]

Title	Contact person	Status	Description
[1.] Notice procedures for terminations and reductions of service (14 CFR Part 323).	Mark Frisbie, OGC, 202-673-5423	Final rule, 45 FR 20065, March 27, 1980 (PR-219, Docket 35197).	These notice procedures for airlines that are discontinuing or reducing passenger service help the Board guarantee essential air service to small communities as required by section 419 of the Act, added by the Deregulation Act, and they give the public advance warning of significant cutbacks in service.
[5.] Criteria for designating additional points eligible for subsidy (14 CFR Part 270).	Patrick V. Murphy, BDA, 202-673-5408	Final rule, 44 FR 76767, December 28, 1979 (ER-1166, Docket 36816).	The Board's small community air service program guarantees essential air service, with subsidy if necessary, to "eligible points". The initial set of eligible points is established in section 419(a) of the Act. this rule implements section 419(b), which directs the Board to establish objective criteria for designating additional eligible points.
[7.] Policy statement on price discrimination (14 CFR Part 399).	Mark S. Kahan, BDA, 202-673-5371	Final rule	Airlines are now generally free to establish domestic passenger fares within broad zones without Board interference. However, they remain subject to the prohibitions in section 404(b) of the Federal Aviation Act against unjust discrimination and undue or unreasonable prejudice or preference in pricing. These prohibitions expire on January 1, 1983, along with the rest of the Board's jurisdiction over domestic passenger fares. This policy statement modifies and clarifies the Board's interpretation of those prohibitions.
[8.] Advance notice of tariff filings (14 CFR Parts 221 and 399).	Mark Schwimmer, OGC, 202-673-5442 or Robert Klothe, BDA, 202-673-60604.	Final rule, 45 FR 20059, March 27, 1980 (ER-1171, Docket 36202).	This rule relaxed the Board's requirements for advance notice of proposed tariff changes to permit airlines to more quickly implement rate and fare changes, particularly rate and fare reductions. The changes removed unnecessary regulatory obstacles to a more competitive and dynamic pricing system.
[9.] International passenger fare standards....	Mark S. Kahan, BDA, 202-673-5371	Rulemaking terminated	Within a broad zone that is based on a standard industry fare level, airlines are currently free to establish their domestic passenger fares at whatever level their business judgment dictates. the Board was considering establishing a similar system for international passenger fares, but this item has been mooted by passage of the International Air Transportation Competition Act, Pub. L. 96-192. That law established a zone for international passenger fares
[14.] Refunds of Unused Tickets	Glenn W. Wienhoff, BCP, 202-673-5482	Rulemaking terminated	This rule would have established deadlines for carriers to make refunds to consumers for unused tickets. The rulemaking has been terminated because it appears that the Board has adequate power in this area under section 411 of the Act and its enforcement of Regulation Z of the Board of Governors of the Federal Reserve System.

I. Background

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Appendix.—*Rulemaing Completed or Terminated Since Previous Agenda*—Continued

[Numbers in brackets are entry numbers from previous agenda.]

Title	Contact person	Status	Description
[21.] Part charters (14 CFR Parts 207, 208, 212, 214)	Mark Schwimmer, OGC, 202-673-5442	Rulemaking terminated	Current rules prohibit airlines from providing charter and scheduled service on the same aircraft. This rule would have allowed such combinations. The rulemaking has been terminated because part charters have been prohibited until December 31, 1981, by the International Air Transportation Competition Act, Pub. L. 96-192.
[25.] Cooling-off period for charter participants who have experienced major changes (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	Rulemaking terminated	When a charter operator offers a refund to a participant who rejects a major change in a tour package, the operator is allowed to condition the refund on the participant's agreeing to waive any other claims he or she may have against the operator as a result of the change. This rule would have established a cooling-off period that would allow participants to reconsider their acceptance of the refund and accompanying waiver, in order to pursue other remedies. This proceeding has been terminated because a rule does not appear to be necessary.
[28.] Advertsing and Sale of Super Bowl Charter Trips (14 CFR Part 380)	David Schaffer, OGC, 202-673-5442	Final rule, 45 FR 1855, January 9, 1980 (SPR-168, Docket 37183).	This rule requires charter operators marketing charters to the NFL Super Bowl to file proof of their possession of game tickets or, their contract for the game tickets with the Board before advertising or accepting money for the charter. It also gives consumers the right to receive a full refund if they do not receive the promised game tickets.
[29.] Extensions of credit by airlines to political candidates (14 CFR Part 374a)	Joseph A. Brooks, OGC, 202-673-5442	Final Rule, 45 FR 25795, April 16, 1980 (SPR-169, Docket 35042).	This rule extended the time within which a political candidate must pay an airline's monthly bills from 14 to 25 days, to bring that payment period into line with the period that airlines normally use in dealing with the public. It amended 14 CFR Part 374a, which implements section 401 of the Federal Election Campaign Act of 1971.
[30.] Liberalized regulation of foreign indirect cargo carriers (14 CFR Part 297).	Joseph DI Bella, BIA, 202-673-5035	Final Rule, 44 FR 69833, December 4, 1979 (ER-1159, Docket 35568).	This rule replaced the requirement that foreign indirect cargo carriers obtain a foreign air carrier permit under section 402 of the Federal Aviation Act with a simple registration requirement. The rule gave foreign air freight forwarders competitive opportunities equal to those of U.S. air freight forwarders, which the Board had previously deregulated.
[57.] Implementation of the National Environmental Policy Act (14 CFR Part 312)	Laurence J. Aurbach, BDA, 202-673-5858 or Arnold G. Konheim, OEA, 202-673-6089.	Final rule, 45 FR 16132, March 12, 1980 (PR-216, Docket 32602).	This rule revised the Board's environmental regulation to adjust for (a) the Board's new policies under deregulation, (b) experience gained since the rule was first adopted, and (c) the Council on Environmental Quality's regulations.
[59.] Liberalized conditions under which charter flights may be sold by indirect air carriers (14 CFR Part 380)[.	Mark Schwimmer, OGC, 202-673-5442	Final rule adopting 14 CFR Part 380, Public Charters, 43 FR 36604, August 18, 1978 (SPR-149). Final rules revoking 14 CFR Parts 371, 372a, 373, 378, and 378a, 43 FR 36603-4, August 18, 1978 (SPR-150 through SPR-154)	The Board eliminated most restrictions on the sale of charters by indirect air carriers, by adopting the Public Charter rule in August, 1978. There are no longer any Board-imposed advance purchase, minimum stay, ground package, or round-trip requirements. The Public Charter rule replaced five other regulations: Advance Booking Charters, Inclusive Tour Charters, One-stop-inclusive Tour Charters, Travel Group Charters, and Study Group Charters. Those rules have been revoked.

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BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-62]

Exemption of Mechanical Cogeneration Facilities From the Incremental Pricing Provisions of the Natural Gas Policy Act

[Issued May 30, 1980

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rule.

SUMMARY: The Federal Energy Regulatory Commission hereby issues proposed rules under section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) for the exemption of mechanical cogeneration facilities from incremental pricing provisions of Title II of the NGPA. The cogeneration incentive provided through the exemption from incremental pricing is intended to significantly promote energy conservation bo cogeneration facilities.

DATES: Requests to participate in the hearing: June 20, 1980, by 4:30 p.m. Copies of Statement at hearing: June 25, 1980, by 4:00 p.m. Written comments on proposed rule: June 30, 1980. Public hearing: July 1, 1980, 10:00 a.m.

ADDRESSES: Written submissions: Office of the Secretary; Federal Energy Regulatory Commission, 825 N. Capitol St. NE, Washington, D.C. 20426 (Reference Docket No. RM80-62); The public hearing will be held at the same address in a room to be announced.

FOR FURTHER INFORMATION CONTACT: Clarence Burris, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106-A, 825 N. Capitol St, NE, Washington, DC 20426 (202) 357-8161.

I. Background

Title II of the Natural Gas Policy Act of 1978 (NGPA) requires that the natural gas used in certain industrial facilities be subject to incremental pricing by means of surcharges. Section 206 of the NGPA establishes certain exemptions from these incremental pricing surcharges. Section 206(c)(3) provides that incremental pricing shall not apply:

(3) to the extent provided by the Commission by rule, any qualifying cogenerator (as defined in section 3(18)(B) of the Federal Power Act, as amended by the Public Utility Regulatory Policies Act of 1978) (PURPA).

On October 5, 1979, the Commission issued rules to implement Title II and establish a mechanism for the incremental pricing program.[1] One provision of the October 5 rules implemented section 206(c)(3) of the NGPA for purposes of the incremental pricing program. This provision exempted from the incremental pricing program all gas used for cogeneration by qualifying cogeneration facilities under section 3(18)(B) of the Federal Power Act. However, at that time the Commission had not promulgated rules establishing the criteria for "qualifying cogeneration facilities" under section 3(18)(B) of the Federal Power Act. In order that the incremental pricing regulations might be workable, the Commission, on November 9, 1979, issued an interim rule for qualification of gas-fired cogeneration facilities for purposes of the incremental pricing program.[2] This interim rule established an exemption from incremental pricing for cogeneration facilities which were in existence and used natural gas as an energy input on or prior to November 1, 1979.[3]

On March 13, 1980, the Commission issued a final rule under section 201 of PURPA establishing requirements for a determination of qualifying status for small power production and cogeneration facilities.[4] This rule maintained criteria established in the interim rule, and also established additional criteria for other facilities not previously eligible under the interim rule[5] for eligibility for the exemption from incremental pricing set forth in 18 CFR 282.202(e).

The exemptions, however, were limited under section 3(18)(B) of the Federal Power Act to cogeneration facilities which produce *electric* energy, and another form of useful energy. Cogeneration facilities which produce *mechanical* energy and another form of useful energy are not elegible under the final rule for these exemptions from incremental pricing.

These types of facilities, however, can produce the same fuel efficiencies as can a cogeneration facility producing electric energy and another form of useful energy. Section 206(d) of the NGPA authorizes the Commission to exempt from incremental pricing any other industrial facility or category thereof; any exemption granted by the Commission under 206(d) is subject to Congressional review before it can become effective. The Commission believes that cogeneration facilities which produce mechanical energy should be afforded the same exemption from incremental pricing surcharges as is available to cogeneration facilities which generate electricity.

II. The Rationale for a 206(d) Exemption

Cogeneration involves the production of both useful heat had power through the sequential use of energy. Electricity and forms of energy such as shaft power, compressed air or hydraulic power, are all variations of the high-grade energy form known as mechanical power or energy. Production of any of these mechanical energy forms, with utilization of the reject heat from a facility, represents energy-efficient cogeneration with similar energy saving as is available form cogeneration involving the production of electricity.

The cogeneration incentive provided through the exemption from incremental pricing is intended to significantly promote energy conservation by cogeneration facilities. However, under the existing regulations, only those cogeneration facilities which generate electricity are eligible for the exemption; those producing only mechnical power are excluded. Not only is this distinction inequitable, since energy resources may be conserved absent electrical generation, but it may create a significant incentive for needless capital investment. For example, an industrial company with a need for mechanical power which could be obtained through cogeneration might have an economic incentive through lower natural gas prices to cogenerate electricity instead of mechanical power. This electricity would, in turn, used to power electric motors, which would be used to drive the machinery. Thus, several intermediate steps would have been taken to achieve the same result.

The expense of installing the generators and motors would be needlessly incurred, since the cogeneration prime mover could directly supply the required mechanical power. Moreover, the intermediate conversion to electricity would result in energy losses since motors and generators are always less than perfectly efficient. By making mechanical cogeneration facilities eligible for the exemption from incremental pricing, the proposed rule would remove this inappropriate incentive to install unneeded equipment.

III. The Proposed Rule

The Commission wishes to emphasize that the proposed rule would not affect any of the provisions of Order Nos. 69 or 70 which pertain to electrical cogeneration.[6]

The proposed rule does, however, adopt certain terms and criteria used in Order No. 70 for qualifying electrical cogeneration facilities. In order to ensure that mechanical and electrical cogeneration facilities are afforded equivalent treatment under the incremental pricing provisions of the NGPA, this rule specifies that a mechanical cogenerator be exempted if it meets efficiency standards similar to those prescribed for electrical cogeneration facilities in Order No. 70. The proposed rule does not require theoretical conversion of mechanical energy to an electrical energy equivalent. A cogenerator developing only mechanical power most probably desires this form of energy for use in his facility. It is appropriate to relate this mechanical energy to an equivalent efficiency standard, rather than to attempt a determination of what quantity of electricity could reasonably be generated from the cogenerator's mechanical power.

The mechanical power produced by a cogeneration facility can assume several forms. Accordingly, the proposed rule provides that the useful mechanical energy output produced by a cogeneration facility be determined at the output of the prime mover. The power developed by the cogeneration heat engine, before conversion to other forms, may be considered to be the facility's mechanical power output. This means, for example, that the mechanical power output of a backpressure steam turbine driving an air compressor can be measured by the turbine shaft output. However, where there is no shaft, as in

[1] 18 CFR 282.202(e), 44 FR 37728 (October 5, 1979).
[2] Docket No. RM79-54, issued November 9, 1979, 44 FR 65744 (November 15, 1979).
[3] 18 CFR 292.501-292.503, 44 FR 65744 (November 15, 1979).
[4] Order No. 70, issued March 13, 1980 in Docket No. RM79-54, "Final Rule Establishing Requirements and Procedures for a Determination of Qualifying Status for Small Power Production and Cogeneration Facilities," 45 FR 17959 (March 20, 1980).
[5] 18 CFR 292.205(c).
[6] Order No. 69, 45 FR 12214 (February 25, 1980), and Order No. 70, 45 FR 17959 (March 20, 1980).

a free-piston compressor, the

a free-piston compressor, the mechanical power output may be determined in terms of the work content of the pumped fluid. This rule should serve to simplify the calculation of a facility's output and efficiency. Since the proposed rule does not require measurement following any subsequent mechanical energy conversions, no incentives are provided to utilize any particular form of mechanical energy.

However, the rule is discretionary in this respect and therefore does not require measurement at the output of the prime mover, since measurement at subsequent energy conversion points may be easier and cannot result in a higher measurement of energy efficiency than measurement at the prime mover. Mechanical power may be measured at conversion points subsequent to the prime mover. The Commission requests specific comments as to whether the term "output of the prime mover" is appropriate and whether the application of this provision should be permissive in this respect. Comments are also requested on the feasibility of measuring mechanical power output.

In Order No. 70, the Commission noted that if and when final regulations under Phase II of incremental pricing take effect, and the Commission can better assess their implications, the Commission may wish to revise the exemptions from incremental pricing granted to cogeneration facilities qualifying under that rule.[7] The Commission intends that the exemption for mechanical cogeneration facilities will be given similar review and treatment.

IV. Congressional Review

The regulations below are being proposed pursuant to section 206(d) of the NGPA. Thus, if the regulations are adopted by the Commission as a final rule, they will be submitted to the Congress for review prior to taking effect. After the regulations are submitted to each House of Congress, they may take effect following 30 days of continuous session of Congress (as set forth in subsection 507(b) of the NGPA) unless either House adopts a resolution of disapproval within that 30 day period.

V. Comment Procedures

A. Written Comments

The Commission invites interested persons to submit written comments on the matter proposed in this notice. An original and 14 conformed copies of such comments should be filed with the Commission by June 30, 1980. Each of the issues presented in the written comments should appear in a separate paragraph. Comments submitted by mail should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. All comments should refer to Docket No. RM80–62.

Written comments will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The Commission will consider all timely comments before acting on the matters proposed in this notice.

B. Public Hearing

A public hearing concerning this proposal will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 on July 1, 1980 beginning at 10:00 a.m. EST, and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:00 p.m., on June 20, 1980.

Requests to participate in the hearing should include a reference to Docket No. RM80–62, as well as a concise summary of the proposed oral presentation and a telephone number where the person making the presentation may be reached. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:30 p.m. on June 25, 1980. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 10 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Division of Public Information, Office of Congressional and Public Affairs.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, E.O. 12009, 3 CFR Part 142 (1978). Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*)

In consideration of the foregoing, the Commission proposes to amend Part 282, Subchapter H, Chapter 1 of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 282.204 is amended in paragraph (d)(3)(i) by changing the designation of clauses (F), (G), (H), and (I) to (G), (H), (I) and (J) respectively and adding new clauses (F) and (K) to read as follows:

§ 282.204 Obtaining an exemption.

* * * * *

(d) *Exemption on the basis of an affidavit.* * * *

(3) *Contents of exemption affidavit.* (i) * * *

(F) Is the customer's facility, in its entirety, a mechanical cogeneration facility?

* * * * *

(K) Is the customer's facility, in part but not in its entirety, a mechanical cogeneration facility?

* * * * *

2. The Table of Sections for Part 282 is amended to add a new § 282.211 entitled "*Exemptions for mechanical cogeneration facilities under NGPA section 206(d).*"

3. Part 282 is amended by adding a new § 282.211 to read as follows:

§ 282.211 Exemptions for mechanical cogeneration facilities under NGPA section 206(d).

(a) *Definitions and general rules.* For purposes of this section:

(1) "Mechanical cogeneration facility" means equipment used to produce mechanical energy and forms of useful thermal energy (such as heat or steam), used for industrial or commercial heating or cooling purposes, through the sequential use of energy;

(2) "Topping-cycle mechanical cogeneration facility" means a cogeneration facility in which the energy input to the facility is first used to produce useful mechanical power output, and the reject heat from such power production is then used to provide useful thermal energy;

(3) "Bottoming-cycle mechanical cogeneration facility" means a cogeneration facility in which the energy input to the system is first applied to a useful thermal energy process, and the reject heat emerging from the process is then use to produce useful mechanical power output;

(4) "Supplementary firing" means an energy input to the mechanical cogeneration facility used only in the thermal process of a topping-cycle mechanical cogeneration facility, or only in the mechanical power production process of a bottoming-cycle mechanical cogeneration facility;

(5) "Useful mechanical power output" of a mechanical cogeneration facility means the total mechanical energy made available for use, exclusive of any such energy used in the mechnical energy production process;

(6) "Useful thermal energy output" of a topping-cycle mechanical cogeneration facility means the thermal energy made available for use in any industrial or commercial process, or use in any heating or cooling application;

(7) "Total energy output" of a topping-cycle mechnical cogeneration facility is the sum of the useful mechanical power output and useful thermal energy output;

(8) "Total energy input" means the total energy of all forms supplied from external sources;

(9) "Natural gas" means either natural gas unmixed, or any mixture of natural gas and artificial gas;

(10) "Oil" means crude oil, residual fuel oil, natural gas liquids, or any refined petroleum products;

(11) Energy input in the case of energy in the form of natural gas or oil is to be measured by the lower heating value of the natural gas or oil; and

(12) Useful mechanical power output may be measured at the output of the prime mover or at a subsequent energy conversion point.

(b) *Exemption from incremental pricing. Topping-cycle facilities.* Natural gas used in any topping-cycle mechanical cogeneration facility is eligible for an exemption from incremental pricing under Title II of the Natural Gas Policy Act of 1978 (NGPA) and Part 282 of the Commission's rules if the facility meets the operating and efficiency standards under paragraphs (c)(1) and (c)(2) of this section.

(c) *Operating and efficiency standards for topping-cycle mechanical cogeneration facilities.* (1) *Operating standard.* For any topping-cycle mechanical cogeneration facility, the useful thermal energy output of the facility must, during any calendar year period, be no less than 5 percent of the total energy output.

(2) *Efficiency standard.* For any topping-cycle mechanical cogeneration facility for which any of the energy input is natural gas or oil, the useful mechanical energy output of the facility plus one-half the useful thermal energy output, during any calendar year period, must:

(i) subject to clause (ii), be no less than 42.5 percent of the total energy input of natural gas and oil to the facility; or

(ii) if the useful thermal energy output is less than 15 percent of the total energy output of the facility, be no less than 45 percent of the total energy input of natural gas and oil to the facility.

(d)(1) *Efficiency standards for bottoming-cycle facilities.* For any bottoming-cycle mechanical cogeneration facility for which any of the energy input as supplementary firing is natural gas or oil, the useful mechanical power output of the facility must, during any calendar year period, be no less than 45 percent of the energy input of natural gas and oil for supplementary firing.

(2) *Bottoming-cycle facilities.* Natural gas used in any bottoming-cycle mechanical cogeneration facility other than gas used for supplementary firing, is eligible for an exemption under Title II of the NGPA and Part 282 of the Commission's rules:

(i) if the facility meets the efficiency standard under paragraph (d) of this section, and

(ii) to the extent that reject heat emerging from the useful thermal energy process is made available for use for mechanical power production.

(3) *Supplementary firing.* Natural gas used for supplementary firing in any mechanical cogeneration facility is not eligible under this section for exemption from incremental pricing.

(e) *Waiver.* The Commission may waive any of the requirements of paragraphs (b), (c) and (d) upon a showing that the facility will produce significant energy savings.

[FR Doc. 80-17305 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to propose a change in regulations dealing with Minority Group Statistics Systems. These systems are being redesignated as "Race, Sex, and National Origin Statistics Systems." Under the President's Reorganization Plan No. 1 of 1978, these changes are being made to reflect the continued operational responsibility for these agency systems by the Office of Personnel Management.

DATE: To be considered, comments must be received on or before August 5, 1980.

ADDRESS: Please address all comments to: Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 "E" Street N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Alfredo Mathew, Jr., Director, Office of Government Employment, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, D.C. 20506, telephone No. (202) 634–6915.

SUPPLEMENTARY INFORMATION: In order to quickly implement the President's Reorganization Plan No. 1 of 1978, i.e., the transfer to the Commission of the responsibility for equal employment opportunity in the Federal sector, the former Civil Service Commission regulations (5 CFR 713) were adopted unchanged by the Commission. (See 43 FR 60901, December 29, 1978.) Included in the adopted regulations was Subpart C, Minority Group Statistics Systems. These regulations dealt with operational control over agency systems for the maintenance of minority data on employees. The collection of data on the sex of applicants or Federal employees was never precluded. The former Civil Service Commission agreed to this adoption of the entire Part 713 under the condition that at a later date the respective policy and program role of the EEOC and the Office of Personnel Management's continuing operational responsibility for such systems (i.e. requirements contained in Subpart C) would be codified in regulations.

Consequently, the Commission is proposing to amend Subpart C of its regulations at 29 CFR 1613, wherein the former Subpart C of 5 CFR 713 has been incorporated. This change will have the effect of identifying the Commission's overall authority and policy control in this area while reflecting the Office of Personnel Management's operational responsibility for agency system.

This action is deemed appropriate both because the Office continues to have a need for such agency-maintained data (e.g., in the Federal Equal Opportunity Recruitment Program (FEORP) under 5 U.S.C. 7201 and as necessary in determining any adverse impact in agency employee selection

[7] Order No. 70, *supra* note 4, mimeo at 62

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procedures) and because the Office has an efficient and effective methodolgy for overall systems management already in place (i.e., the Central Personnel Data File) along with the necessary expertise to continue successful operation of the systems. The Equal Employment Opportunity Commission has determined that these proposed regulations are "non-significant" within the meaning of E.O. 12044. The complete text of the proposed regulations appears below.

Equal Employment Opportunity Commission.

Eleanor Holmes Norton,

Chair.

Accordingly, the list of sections describing Subpart C of 29 CFR 1613 and the entire Subpart C are deleted and inserted in lieu thereof is the following:

PART 1613—EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

* * * * *

Subpart C—Race, Sex, and National Origin Statistics Systems

Sec.
1613.301 Commission oversight.
* * * * *

Subpart C—Race, Sex, and National Origin Statistics Systems

§ 1613.301 Commission oversight.

(a) Pursuant to Reorganization Plan No. 1 of 1978, and Section 717 of the Civil Rights Act of 1964, as amended, policy and program oversight authority for equal employment opportunity in the Federal sector was vested in the Commission. Collection of statistical data relating to the race, sex, and national origin of applicants and Federal employees is needed to set appropriate affirmative action goals and timetables; to determine any adverse impact in agency employee selection procedures; and to monitor agency progress in eliminating underrepresentation of minorities and women. Therefore, agencies are required to maintain race, sex, and national origin data, as defined by the Commission and for use by the Commission as well as by agencies, on both applicants and Federal employees.

(b)(1) Under provisions of 5 U.S.C. 7201, the Office of Personnel Management (OPM) is required to issue regulations to implement a Federal minority recruitment program. In order to effectively manage this program and to assist the Commission in meeting the objectives described in § 1613.301(a) above, OPM has been given operational responsibility for the collection of race, sex, and national origin data that agencies maintain on applicants and Federal employees. The Commission retains policy and program oversight and control of the systems. Nothing in this regulation shall preclude the EEOC from requiring agencies to maintain and report additional and more detailed statistics to satisfy its affirmative action instructions.

(2) In order to meet the needs of the Commission and OPM and to allow for proper agency use of these data, collection and maintenance of race, sex, and national origin data should operate under a coordinated set of regulations and instructions. The Commission recognizes that operational responsibility, including the issuance of regulations and other necessary instructions, for maintenance of race, sex, and national origin statistical systems, data collection, and reporting for CPDF, appropriately is a function of the Office of Personnel Management and, therefore, authorizes the Office to act in this regard, after consultation with EEOC.

* * * * *

(Reorganization Plan No. 1, 1978 (43 FR 19807, May 9, 1978) and Executive Order 12106 (44 FR 1053, January 3, 1979))

[FR Doc. 80-17200 Filed 6-5-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs Office

29 CFR Part 2550

Rules and Regulations for Fiduciary Responsibility; Proposed Regulation Relating to Definition of Plan Assets

AGENCY: Department of Labor.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains a proposed revision of a portion of a previously proposed regulation relating to the definition of "assets" of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act). This proposed revision is being published in light of the public comments received on the original proposal.

DATES: Written comments concerning the proposed regulation, as modified herein, must be received on or before August 5, 1980.

ADDRESSES: Interested persons are invited to submit written data, views or arguments concerning the proposed regulation, as modified herein, to: Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, marked to the attention of "Plan Asset Regulations", on or before the date indicated above. All such submissions will be open to public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523–9592.

SUPPLEMENTARY INFORMATION: On August 28, 1979, the Department of Labor (Department) published in the **Federal Register** a proposal to adopt regulations that would (1) define the term "plan assets" under the Act, and (2) provide a limited exemption from the requirement of section 403(a) of the Act that, with certain exceptions, plan assets must be held in trust.[1] The notice gave opportunity for interested persons to comment on the proposal. At the request of certain members of the public, the comment period was extended and, after the expiration of the extended period, subsequently reopened.[2] In light of requests for a public hearing on the proposed regulations, and the importance of, and widespread interest in, the issues raised by the proposals, the Department scheduled hearings on the proposals, and again reopened the comment period.[3]

Public hearings were held in Washington, D.C., on February 27 and 28, 1980, at which more than 30 commentators made oral presentations. At the conclusion of the hearings, the record in this proceeding was held open until March 28, 1980, at the request of certain witnesses, in order to permit the filing of additional submissions.[4]

In addition to the testimony presented at the hearing, the Department has received over 200 written submissions concerning these proposed regulations. The staff of the Department currently is reviewing the comments and testimony to determine what changes, if any, should be made to the proposal. The testimony and the comments have given the Department reason to believe that

[1] Proposed regulations 29 CFR § 2550.401b–1 and 29 CFR § 2550.403b–1 (44 FR 50363). That document also gave notice of withdrawal of previously roposed regulation 29 CFR 2552.1, which would have provided an exemption from the trust requirements of section 403(a) of the Act for certain unfunded employee welfare benefit plans. It was noted that the regulation, if adopted, would supersede ERISA IB 75–2 (29 CFR § 2509.75–2) to the extent that IB 75–2 would be inconsistent with the regulation.

[2] 44 FR 61618 (October 26, 1979); 44 FR 74858 (December 18, 1979).

[3] 45 FR 7521 (February 1, 1980).

[4] Transcript of Hearing, at 507.

one part of the proposal, however, may be having a present, adverse impact on operations of certain money managing entities commonly known as "venture capital companies" in attracting funds for management from employee benefit plans. This is due, according to the commentators, to apparent uncertainty created by the proposal. In view of this uncertainty and the apparent adverse impact the proposal is having on certain of these companies, the Department has decided to propose for comment, at this time, a revised version of a portion of one of the proposed regulations in order to provide interested persons an opportunity to comment on the changes now under consideration as soon as possible. The proposed modifications relate solely to subsection (e) of proposed regulation 29 CFR § 2520.401b–1, *Definition of "Plan Assets"*. Accordingly, public comments are invited at this time with respect only to issues related to the proposed modification. Except for that modification, the regulations proposed by the Department in its notice of August 28, 1979, remain under consideration in the form proposed and in light of the comments received.

Discussion

The Department proposed a regulation defining the term "plan assets" because it is important that persons exercising discretionary authority or control respecting the management or disposition of such assets (and who, therefore, would be fiduciaries with respect to the plan) be aware that they have certain responsibilities under the Act.[5]

Sections 403(a)(2) and 402(c)(3) of the Act provide, in part, that the exclusive authority and discretion to manage and control the assets of a plan shall rest with the trustees of the plan's assets, except to the extent (1) that the trustees are subject to the direction of a named fiduciary, and (2) that the authority to manage, acquire, or dispose of assets of the plan is delegated to one or more investment managers appointed pursuant to section 402(c)(3) of the Act. The latter case may occur, for example, where a named fiduciary of a plan selects a bank, insurance company or person registered under the Investment Advisers Act of 1940 to manage all or a portion of the plan's assets. One characteristic of a delegation of authority to manage the assets of an employee benefit plan is that the assets under management retain their identity as plan assets.[6] Therefore, when the investment manager is making investment decisions with respect to such assets under management, it is dealing with plan assets.

In the Department's view, the form of the arrangement by which plan assets are invested should not be dispositive of whether the arrangement is, in substance, an exchange of one plan asset for another (*e.g.*, the acquisition of the stock of an operating company) or the delegation of investment management authority (*i.e.*, the contracting for investment management services). Thus, where a person performs exclusively or principally investment management functions with respect to funds over which it has control by virtue of its authority to invest funds of an entity which it controls (*e.g.*, a "pooled investment vehicle"), if a trustee of a plan purchases the equity securities of such pooled investment vehicle rather than contracting with the manager of the vehicle to perform such services on a contractual basis, the Department does not believe that a plan's "investment" in the "equity securities" of such a pooled investment vehicle is functionally different from a contractual delegation of investment management authority to the managers of the vehicle. Thus, the regulation, as originally proposed, would have provided that in the case of an equity security, the assets of a plan investing in the security would be deemed to include both the security and the assets of its issuer, unless, among other things, the issuer is primarily engaged in the business of providing goods or services other than the investment of capital. This exception was designed to distinguish "operating" companies from entities that provide investment management services, such as investment companies.[7]

A number of commentators, including representatives of venture capital companies (VCC's), objected to this aspect of the proposal.[8] Among the objections was the argument that the distinction drawn by the Department between operating companies and pooled investment vehicles is not applicable to VCC's because they not only invest in securities issued by small companies but also are often involved in influencing or controlling the management of those companies. In that respect, they assert, VCC's are more like holding companies which own operating companies than like pooled investment vehicles.

Where an enterprise is not designed to function as an investment intermediary, an investment in the enterprise should not be deemed to be the equivalent of a delegation of investment management authority. This would be the case, for example, with an investment in an "operating" company. An investment in a VCC, on the other hand, appears to possess characteristics of a delegation of investment management authority. However, in view of the unique nature of certain VCC's—that they act as an investment intermediary but also generally take an active role in the management of the companies in which they invest—the Department has reexamined their operation in light of comments and testimony received and is proposing that if certain conditions are met, an investment in such an entity by a plan would not result in, or be deemed to be, a delegation of investment management authority. Under such circumstances the assets of the VCC would not be considered plan assets. The conditions are based on specific suggestions by representatives of venture capital companies, testimony and written submissions concerning the operation of such companies, copies of contracts between investors and VCC's submitted in the proceeding and the Department's view of the purposes of the Act and the interests of plan participants and beneficiaries that should be protected. The proposed conditions are discussed briefly below.

Proposed Modification

The principal condition of the proposed revision is that the enterprise is or represents that it will be primarily engaged in the business of investing

[5] *See*, preamble to proposed regulations. 44 FR 50363 (August 28, 1979).

[6] This should be compared to the situation where the named fiduciary does not delegate investment management responsibility but makes investment decisions himself, such as for example, to exchange plan cash for shares of stock of the XYZ Manufacturing Company.

[7] In the case of an investment company that is registered under the Investment Company Act of 1940 (1940 Act), the Act provides specifically that the assets of a plan investing in securities issued by such company shall be deemed to include those securities but not, solely by reason of the investment, to include the assets of the company. *See*, section 401(b)(1) of the Act. *See also*, Conf. Rept. No. 93–1280 (93d Cong. 2d Sess.) at 296, where the conferees state, as the reason for this exclusion, that registered investment companies are regulated under the 1940 Act and are widely held, and that, therefore, the conferees did not consider it necessary to apply the fiduciary rules of the Act to such companies merely because plans may invest in them.

[8] VCC's were described in public comments as, generally, limited partnerships or corporations which reinvest funds invested in them in selected securities issued by small businesses (portfolio companies). As part of the investment arrangements with portfolio companies, the managers of VCC's may participate in or obtain the right to participate in the management of the portfolio companies. Investments in portfolio companies, and in VCC's, generally are illiquid and long-term.

capital in securities issued by other companies as to which it substantially influences or controls, or has the right to substantially influence or control, management decisions. This condition sets forth the principal difference between VCC's and other pooled investment vehicles.

Under the proposal, the equity security purchased by the plan must have been issued to the plan in a transaction not involving a public offering under section 4(2) of the Securities Act of 1933 and Rule 146 thereunder, or pursuant to a public offering registered under the Security Act of 1933. Commentators represented that such securities are sold to plans in non-public offerings pursuant to section 4(2) and Rule 146, and the Department believes that these provisions offer protections to investing plans. In addition, the Department believes that in those cases where a public offering may be made under the Securities Act of 1933, adequate protections are provided by the registration requirements of that Act.

Another condition would require that the enterprise issuing the security have at its inception commitments of at least $5 million of investment capital from at least 10 investors which are not affiliated with the plan, each other, or with the persons or entities who manage the issuer. This condition is designed to ensure that a number of independent investors are willing to invest in the enterprise and that a sufficiently large minimum capital base is present.

The proposed regulation also would require that the issuer of the security agree to certain matters relating to the investment in or the management of the VCC and that the holders of its equity securities have the right to enforce compliance with the agreement.[9] This condition is designed to assure that plans making venture capital investments which will be deemed an exchange of plan assets rather than a delegation of investment management responsibility are afforded certain protections in connection with such investments. Under this condition, the issuer must agree to provide investors certified financial statements annually and to provide other information about its operations and investments on request. The issuer also must agree that the managers of the issuer or their affiliates will not engage in certain types of transactions—these persons may not acquire or hold any securities of any company in which the issuer has invested,[10] borrow money from or otherwise obtain credit from the issuer, or sell or lease property to or purchase or lease property from the issuer. Further, the persons responsible for investment decisions of the issuer must agree to cause the issuer to conduct its activities in accordance with a standard of conduct appropriate for VCC managers. The issuer must agree that no officer, director or general partner or manager of the issuer will be a person convicted of any of the crimes enumerated in section 411(a) of the Act. Finally, the issuer must agree to allow any security holder to sell the security to a third party, subject to certain limitations, and, upon request, to repurchase the security at a fair and reasonable price or use its best efforts to locate a suitable purchaser.

In addition to the above-described modifications to proposed § 2550.401b–1(e), two clarifying modifications are proposed to be made to the exception for operating companies. One would treat an entity as an operating company if it is primarily engaged in the types of business activities described in the provision through majority owned subsidiaries in addition to engaging in the activities directly. This would clarify that holding companies of operating companies would be regarded as operating companies under subsection (e). The other modification of the proposed operating company exclusion would make clear that companies primarily engaged directly in the development or management of real estate as opposed to merely financing, holding for appreciation, *etc.*, of real estate are to be regarded as operating companies because such business activities appear to the Department to differ substantially from those associated with investment management.

As a result of public comments on the regulations proposed on August 28, 1979, the Department will treat these proposals, including the modifications set forth herein, as significant regulations under Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

EFFECTIVE DATE: It is proposed that the provisions of the subsection of the regulation set forth herein will, if adopted, apply to property held under arrangements made by a plan after 30 days from the date of its publication in the **Federal Register**. The subsection would not purport to address the status of property held under arrangements made by a plan prior to that date.

STATUTORY AUTHORITY: The regulation is proposed, as modified herein, pursuant to the authority contained in sections 401 and 505 of the Act (29 U.S.C. 1101, and 1135).

In consideration of the matters discussed above, the Department hereby modifies paragraph (e) of proposed regulation 29 CFR 2550.401b–1, published on August 28, 1979, to read as follows:

§ 2550.401b–1 Definition of Plan Assets.

(e) Notwithstanding the provisions of subsection (a), in the case of a plan which invests in any equity security which is not issued by an investment company registered under the Investment Company Act of 1940, the assets of such plan shall be deemed to include such security and the assets of the issuer of such security, except if, at the time of the investment:

(1)(i) The issuer of such security is or represents that it will be primarily engaged, directly or through a majority-owned subsidiary or subsidiaries, in the provision, production or sale of a product or service other than the investment of capital, or directly in the management or development of real estate, or

(ii)(A) The issuer of such security is or represents that it will be primarily engaged in the business of investing capital in enterprises as to which it has or obtains the right to substantially participate in or influence the conduct of the management of such enterprise, and

(B) In the case of an issuer described in subparagraph (e)(1)(ii)(A) of this section, the following conditions are satisfied:

(*1*) The security is issued to the plan either in compliance with the requirements of section 4(2) of the Securities Act of 1933 and Rule 146 of the Securities and Exchange Commission adopted thereunder, or as part of an offering of such securities to the public pursuant to an effective registration statement under the Securities Act of 1933;

(*2*) At its inception the issuer receives or has committed to it at least $5 million of investment capital, and such investments or commitments are made by not fewer than 10 investors none of whom are, when considered without regard to the issuer itself, affiliated persons (as defined in section 2(a)(3)(A) through (D) of the Investment Company Act of 1940) of the plan, of the issuer, of the manager of the issuer, of any officer, director or general partner of the issuer or the manager of the issuer, or of each other; and

(*3*) The issuer of the security agrees, pursuant to a written document and as a portion of the consideration given in the transaction by which the security is conveyed:

(*i*) To provide to security holders annual certified financial statements of the issuer a reasonable time after the end of the fiscal year of the issuer, and, on request, reasonable information concerning the operations and investments of the issuer;

(*ii*) That no officer, director, general partner or manager of the issuer, or any affiliated person (as defined in section 2(a)(3)(A) through (D) of the Investment Company Act of 1940) of any such person will directly or indirectly (except as an investor in the issuer): Acquire or hold any securities of any company whose securities the issuer holds; Borrow money or otherwise obtain credit from the issuer; or Sell or lease property to, or purchase or lease property from, the issuer;

(*iii*) That the persons responsible for investment decisions of the issuer will cause the issuer to conduct its activities with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent manager of such an issuer would cause such issuer to use in the conduct of an enterprise of like character and with like aims;

(*iv*) That no officer, director, general partner or manager of the issuer shall be a person described in section 411(a) of the Act;

(*v*) That any security holder may sell the security to a third party, so long as such sale does not increase the number of beneficial owners of interests in the issuer (as that term is defined in section 3(c)(1) of the Investment Company Act of 1940), provided that such right of sale may be subject to the approval of the manager of the issuer, which approval shall not be unreasonably withheld, and

(*vi*) That the issuer will repurchase the security at a fair and reasonable price, or make its best efforts to locate a suitable purchaser of the security for a fair and reasonable price if requested to do so by the holder of the security; or

(2) Such security is:

(i) Freely transferable;

(ii) Widely held; and

(iii) Either (A) registered under section 12(b) or 12(g) Of the Securities Exchange Act of 1934; or (B) Sold to the plan as part of an offering of such securities to the public pursuant to an effective registration statement under the Securities Act of 1933, and the security is registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934 within 120 days (or such later time as may be allowed by the Securities and Exchange Commission) after the end of the fiscal year of the issuer during which the offering of such securities to the public occured.

Signed at Washington, D.C., this 3d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–17321 Filed 6–4–80; 11:44 am]

BILLING CODE 4510–29–M

[9] The Department would regard any indemnification or exculpatory provisions which would tend to render enforcement of such rights meaningless or of little value as the equivalent of not providing such rights, with the result that the condition would not be satisfied.

[10] The Department understands that there may be situations where a manager of more than one VCC may decide to invest, at the same time, the assets of each VCC in the same portfolio company. Despite the conflicts of interest which may arise in such situations, it may be appropriate to permit such "parallel investments" under certain circumstances. In that regard, the Department specifically solicits comments with respect to the situations in which such parallel investing may arise, the relationship between the VCC's which would make such parallel investments and the differences, if any, between the structure of, and the rights of holders of the securities of the VCC's which would make these investments.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[FRL 1508–4; OPP 250026]

Regulation for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Trasmittal of Proposed Regulation to the Secretary of Agriculture

AGENCY: Environmental Protection Agency.

ACTION: Notice of transmittal of proposed regulation to the Secretary of Agriculture.

SUMMARY: The Administrator of the Environmental Protection Agency hereby gives notice that a copy of a proposed regulation under the Federal Insecticide, Fungicide and Rodenticide Act, as amended ("FIFRA") has been provided to the Secretary of Agriculture prior to publication of the proposed regulation for public comment, as required by FIFRA Section 25(a). The proposed regulation would amend Part 162 of Title 40 of the Code of Federal Regulations by establishing a new Subpart which would comprehensively revise the procedures for the issuance of notices of intent to deny or cancel registration or to change classification of pesticides uses. The proposed regulation also would revise the procedures governing the Rebuttable Presumption against Registration ("RPAR") process, which are currently set out at 40 CFR 162.11.

FOR FURTHER INFORMATION CONTACT:
David E. Menotti, Associate General Counsel for Pesticides, Office of General Counsel (A–132), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–2680

or

William F. Pedersen, Jr., Deputy General Counsel, Office of General Counsel (A–130), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–426–0508.

SUPPLEMENTAL INFORMATION: Section 25(a)(1) of FIFRA requires the Administrator of the Environmental Protection Agency to provide the Secretary of Agriculture with a copy of any proposed FIFRA regulation prior to publishing it for public comment in the **Federal Register**. If the Secretary comments in writing within time limits set out in the statute, the Administrator is required to publish the Secretary's comments, along with his response to them, in the **Federal Register**, together with the proposed regulation. Section 25(a)(3) of FIFRA requires the Administrator to publish a notice in the **Federal Register** whenever a proposed regulation is transmitted to the Secretary under Section 25(a)(1) of FIFRA.

Dated: May 30, 1980.

Steven D. Jellinek,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 80–17201 Filed 6–6–80; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Review of Standards; Advance Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: U.S. Department of Labor, Mine Safety and Health Administration.

ACTION: Notice to extend period for public comment.

SUMMARY: On March 25, 1980 (45 FR 19267), MSHA issued an advance notice of proposed rulemaking which invited the public to participate in the initial stages of its review of safety and health standards applicable to metal and nonmetal mining and milling. These regulations appear in Parts 55, 56, and 57 of Title 30, Code of Federal Regulations. Interested persons were given until May 27, 1980, to submit comments and data. The comment period is extended to August 5, 1980.

DATE: Comments must be received on or before August 5, 1980.

ADDRESS: Interested persons are invited

ADDRESS: Interested persons are invited to submit written comments and suggestions to the Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980 (45 FR 19267), MSHA announced its intention to solicit public comment in conjunction with its comprehensive review of safety and health standards applicable to the metal and nonmetal mining and milling industry. Interested persons were urged to describe any problems relating to organization, indexing, style and format, as well as particular areas of substantive concern, with respect to any regulation appearing in Parts 55, 56, and 57 of Title 30, Code of Federal Regulations. The comment period was scheduled to close on May 27, 1980. Although the agency has received many comments in response to the notice, several organizations and other interested parties have requested an extension of time so that their input could be included at an early stage of the standards review process. In order to allow the fullest possible public participation, MSHA has decided to extend the comment period until August 5, 1980. Persons who have not yet submitted their comments are urged to participate during this phase of the rulemaking process. MSHA appreciates the efforts of many persons and organizations who have submitted written comments by May 27, 1980. They may submit additional comments within the extended time. In reviewing its regulations, the agency will conduct an evaluation based on many factors such as: the need for clarity; technical accuracy; redundancy; necessity; and relevancy.

Because many MSHA standards incorporate a variety of requirements from sources outside the agency, MSHA also specifically requests public comment with respect to the appropriateness of the incorporation of such documents.

Dated: May 29, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17289 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Hearing and Public Comment Period on the Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed Rule: Public Comment Period and Public Hearing on Arkansas Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substance of the proposed Arkansas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice sets forth the times and locations that the Arkansas program is available for public inspection; additions or modifications to the submission made since February 19, 1980; the date when and the location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Arkansas program submission will be held from 4:00 p.m. to 7:00 p.m. on July 8, 1980, at the address listed below.

Written comments, data or other relevant information may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Comments from the public must be received on or before 4:30 p.m., July 16, 1980, to be considered in the Secretary of the Interior's decision on the proposed Arkansas regulatory program.

ADDRESSES: The public hearing will be held at the Fort Smith Sheraton, 5711 Rogers Avenue, Fort Smith, Arkansas 72902. Written comments should be sent to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, 818 Grand Avenue—Scarritt Building, Kansas City, Missouri 64106; or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region IV Office and the Arkansas Department of Pollution Control and Ecology office listed below, Monday through Friday, 8 a.m., to 4 p.m., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region IV Office and the Arkansas Department of Pollution Control and Ecology office listed above, and the OSM Headquarters Office, listed below: U.S. Department of the Interior, Office of Surface Mining, Interior South Building, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining, Reclamation and Enforcement, 818 Grand Avenue—Scarritt Bldg., Kansas City, Missouri 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 19, 1980, the State of Arkansas submitted to OSM a proposed regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328, March 13, 1979), the Regional Director published notice of receipt of the program submission in the February 27, 1980, **Federal Register** (45 FR 12918–12919) and in newspapers of general circulation in Arkansas. In accordance with that announcement public comments were solicited and a public meeting was held in Little Rock, Arkansas on March 31, 1980, on the issue of the program's completeness.

On April 9, 1980, the Regional Director published a notice announcing that he had determined the program to be complete, **Federal Register** (45 FR 24210–24211). This determination of completeness was not a determination of whether the submitted materials complied with the substantive provisions of SMCRA and the permanent regulatory program.

On may 30, 1980, the Arkansas Department of Pollution Control and Ecology submitted to OSM numerous revisions to the Arkansas permanent program submission. Revisions were made to the surface coal mining regulations, the section-by-section comparsion of the regulations, and the program narrative.

A number of the revisions were minor in nature such as corrections of typographical errors, incorrect references to section numbers in the regulations, dropped lines, and other items of clarification. These minor modifications will not be discussed or summarized in this notice. However, the significant modification proposals to the

regulations and program narrative will be summarized below as required by 30 CFR 732.12(a)(1). Public comments are invited on these revisions.

Regulations

1. Arkansas amended § 70521(b) to provide that the Director file his or her appeal in conflict of interest proceedings, in writing, with the OSM Director.

2. Arkansas added language at § 764.17(a) prohibiting cross-examination of witnesses at hearings on petitions to designate lands unsuitable and requiring that a transcript be made of all such hearings.

3. Arkansas amended § 780.15 making mandatory the inclusion of a fugitive dust control plan in a mine permit application.

4. Arkansas revised §§ 784.13 and 784.23 to include references to require specific information for underground mine operation plans.

5. Arkansas added language to § 784.14 to provide that reclamations plans for underground mining include a description of measures to insure the protection of water quality.

6. Arkansas deleted a provision found at § 785.17(e) that allowed exceptions based on the size of prime farmland acreage.

7. Arkansas revised the definition of "willful violation" in § 786.5(b) to include violations of federal laws.

8. Arkansas amended § 786.11(c) to require written notification of the filing of a permit application be sent to the United States Environmental Protection Agency and other federal and local governmental agencies as identified by the permit applicant.

9. Arkansas deleted language in § 786.11(d) regarding the approving of specific portions of a permit application within sixty days.

10. Arkansas added the words "Secretary or the" to § 786.27(b) requiring a permit applicant, as a condition of his permit, to allow federal inspectors on his premises.

11. Arkansas amended § 788.12(a)(1) to specify parameters for determining what changes constitute significant departures in the revising of a mining permit.

12. Arkansas modified § 807.11 so that objectors to a bond release are not required to seek an adjudicatory hearing until after a decision by the Director.

13. Arkansas amended § 842.14 to require a response to inspection complaints within fifteen days of receipt.

14. Arkansas amended § 845.12(a) to provide specific authority to the Director to suspend underground coal mining, without civil penalty, upon a finding of imminent danger to the inhabitants of urbanized areas.

15. Arkansas submitted a new part, "PART 1000 EFFECTIVE DATE," which addresses (a) the effective date of the regulations, (b) the status of Part 850 (Blaster Certification), (c) the status of the Abandoned Mine Reclamation Program, and (d) the identification of regulations that have been suspended or remanded as a result of litigation involving OSM's permanent program regulations, together with a statement of the status of such regulations in the Arkansas program. (In a decision issued by Judge Flannery on May 16, 1980, *In re: Permanent Surface Mining Regulation Litigation* (U.S.D.C., D.C.), the Secretary was ordered to affirmatively disapprove those segments of a state program that incorporate suspended or remanded regulations. Public comment is invited on Arkansas' method of dealing with Judge Flannery's decision.)

16. Arkansas added provisions at Part 900 establishing administrative hearing procedures including filing of pleadings, discovery, intervention, award of costs and expenses, including attorney's fees, and the appointment of presiding officers.

Program Narrative

1. Section 731.14(b). Arkansas added specific provisons of the Arkansas Rules of Civil Procedure (ARCP).

2. Section 731.14(c). Arkansas revised the section-by-section comparison to include *Ark. Stat. Ann.* Sections 41–2801 and 41–2807 that provide for the protection of state employees. Also submitted for inclusion in the section-by-section comparison was information to (a) show that Section 23 of the Arkansas Act is as stringent as Section 516(c) of SMCRA as it pertains to the issuance of cessation orders under conditions of imminent danger to the public, and (b) explain how §§ 761.11(c) and 761.12(f) are consistent with Section 522(e)(3) of SMCRA and 30 CFR Part 761 regarding approval to mine on certain federal, public and private lands.

3. Section 731.14(g)(4). Arkansas provides that the state will notify the Regional Director whenever a citizen initiates civil action under Section 29 of the Arkansas Act.

4. Section 731.14(i). Arkansas submitted additional position descriptions covering fish and wildlife ecology, hydrology, and civil engineering.

5. Section 731.14(j). Arkansas submitted additional information to further document the adequacy of staff to administer the program.

6. Section 731.14(l). Arkansas submitted a revised budget and indicated that permit fees will be used in funding the permanent program.

It should be noted that neither the proposed regulations provided with the original program submission of February 19, 1980, nor the proposed regulations submitted on May 30, 1980, as modifications to the program submission, were fully enacted by June 2, 1980, the 104th day after program submission. 30 CFR 732.11(d) as amended May 20, 1980 (45 FR 33926), requires that program submissions contain all required and fully enacted regulations by the 104th day after program submission. OSM will, however, review the proposed regulations and provide comments to the state on their adequacy. Public comments are invited on these proposed regulations.

Subsequent to the public hearing announced today and review of all comments, the Regional Director will transmit to the Director of OSM his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326–15327). For further details refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

At the public hearing, all persons wishing to comment on the proposed program will have the opportunity to do so. Persons who wish to make arrangements to comment at a specific time at the hearing may contact Richard Rieke at the OSM Region IV Office or by phone at (816) 374–3920. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter.

The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444–54445) OSM published guidelines in the **Federal Register** governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Arkansas Program:

1. The Arkansas Surface Coal Mining and Reclamation Act (ASCMRA) which includes the designation of the Arkansas Department of Pollution Control and Ecology as the official agency for administering SMCRA.

2. Surface coal mining regulations.

3. Other state laws directly affecting the regulations of surface coal mining operations, i.e., that portion of the Arkansas Water and Air Pollution Control Act, as amended, relating to water quality, the Arkansas Regulation Establishing Water Quality Standards for Surface Waters, the State Mine Inspector Standards, the Quarrying and Stone Crushing Code, the proposed plan for Nonpoint Source Assessment and Control Needs for Mining Activities in Arkansas, provisions of the Arkansas Rules of Civil Procedure, and others.

4. A legal opinion of the Chief Legel Officer of the Surface Mining and Reclamation Division of the Arkansas Department of Pollution Control and Ecology stating that the Department has the necessary authority to implement, administer and enforce a permanent regulatory program in accordance with SMCRA and all regulations promulgated thereunder.

5. A section-by-section comparison of the state's laws and regulations with SMCRA and 30 CFR Chapter VII.

6. A description of the existing and proposed structural organization of the Surface Mining and Reclamation Division of the Arkansas Department of Pollution Control and Ecology.

7. A copy of an unexecuted supporting agreement between the Arkansas Department of Pollution Control and Ecology and the Arkansas Department of Labor relating to the training of blasters.

8. A description of the proposed system for:

(a) Receiving, reviewing, disapproving or approving and issuing permits for exploration and mining operations;

(b) Assessing fees for permit applications, including a fee schedule;

(c) Implementing, administering and enforcing a system of performance bonds and public liability insurance;

(d) Inspecting and monitoring coal exploration and mining and reclamation operations, and providing opportunity for public participation in the inspection process;

(e) Enforcing the administrative, civil and criminal provisions of the state Act and regulations, including citizen suit provisions;

(f) Administering and enforcing the permanent program performance standards of the state Act and regulations;

(g) Assessing and collecting civil penalties;

(h) Issuing public notices and holding public hearings;

(i) Coordinating issuance of permits with other state, federal and local agencies;

(j) Consulting with other appropriate state and federal agencies in the implementation of the program;

(k) Designating lands unsuitable for surface coal mining operations, including a description of a planning process for identifying lands unsuitable, a description of the process to allow the public to petition the Arkansas Department of Pollution Control and Ecology to have lands designated as unsuitable for mining;

(l) Monitoring, reviewing and enforcing restrictions against financial interests of state employees in coal mining operations;

(m) Training, examining and certifying blasters;

(n) Providing for public participation in the promulgation of regulations, in the development of the state program under SMCRA, and in the permitting process;

(o) Providing administrative and judicial review of actions taken by regulatory authority, including permit decisions and enforcement actions;

(p) Providing a Small Operator Assistance Program.

9. A listing of statistical information pertaining to the existing program as well as information pertinent to the proposed regulatory program, including:

(a) Coal production figures for each of the last three years;

(b) Acreage approved or permitted for exploration or mining for each of the last three years;

(c) A map showing the geologic distribution of coal in Arkansas;

(d) The number of applications for Exploration and Development Operations permits received by the Arkansas Department of Pollution Control and Ecology for each of the last three years;

(e) Projections of annual production and geographic distribution of both exploration and mining operations for the next five years.

10. A summary of both the existing and proposed staff of the Surface Mining and Reclamation Division of the Department of Pollution Control and Ecology showing job functions, titles, and required job experience and training.

11. A description of how the proposed staffing will be adequate to carry out the functions for the projected workload.

12. A description of projected use of professional and technical personnel available from other state and federal agencies.

13. A description of the projected annual budget for each of the next two fiscal years.

14. A description of the existing and proposed physical resources to be used in implementing the permanent program.

15. A brief description of other programs administered by the Department of Pollution Control and Ecology.

Single copies of the Arkansas Surface Coal Mining and Reclamation Act and proposed regulations are available to the public at no charge. Persons interested in obtaining copies should write the Regional Director of OSM at the address listed above.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Arkansas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval of a state program does not constitute a major action within the meaning of Section 102(2)(c) of the National Enviornmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: June 3, 1980.

Raymond L. Lowrie,

Regional Director.

[FR Doc. 80-17446 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-05-M

Notices

Federal Register
Vol. 45, No. 111
Friday, June 6, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Equine Piroplasmosis Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of report of Equine Piroplasmosis Panel.

SUMMARY: The purpose of this document is to provide the report of the panel that held a public meeting to solicit public comment especially from experts that have had personal experience with Equine Piroplasmosis (EP), a communicable disease of equidae. This action is being taken to provide opportunity for comment on the report of the panel based upon the testimony presented to the panel.

DATE: Comments on or before August 5, 1980.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 734, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Dr. W. Q. Nelson, Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION: On Tuesday, February 26, 1980, there was published in the **Federal Register** (45 FR 12462) a notice of a panel to hold a public meeting and solicit public comment, especially from experts who have had personal experience with EP, regarding the nature of the disease and the potential impacts of removing the negative test requirement for EP from the regulations as a condition of entry for horses imported into the United States. The attached report is being made available for public comment prior to any final decision regarding the proposed deletion of the negative EP test requirement.

Report of Equine Piroplasmosis Panel

A total of 28 persons provided comments to the panel. Nineteen participants recommended keeping the EP test as a condition for entry of equidae into the United States, 5 recommended deleting the test and 4 presented their experience with the disease without commenting on the test requirement.

The weight of evidence presented to the panel during the public meeting held March 18 and 19, 1980, indicated a need to continue the present import testing procedure.

In making this decision the panel considered (1) the incomplete information on possible tick vectors in the United States; (2) that with a susceptible equine population the disease could become endemic in the United States horse population; and (3) the treatment for the Babesia equi strain of the disease is not adequate.

An alternative proposed for the panels consideration was to permit horses with a positive reaction to the complement fixation (CF) test for EP to be allowed entry into the United States subject to treatment. The panel could not recommend this procedure since the Department does not have post entry quarantine authority for such importations nor personnel available to provide adequate supervision. Further, using the limited space at USDA quarantine facilities to hold reactor horses for the extended time required for treatment and post treatment testing to assure that the animals are "cleansed" would result in unacceptable crowding and would prevent use of the facility for other importations.

Of the 19 persons who recommended retaining the test as a requirement for entry, 4 veterinary entomologists cited the need for further study to determine whether additional tick vectors of the disease are present in the United States. The fifteen others, 8 veterinarians, 6 representatives of various horse associations and one industry representative, presented papers which indicated their concern with the incomplete information on the existance of additional possible tick vectors in the United States; the fact that, with a susceptible equine population, the existance of the disease could result in the disease becoming established in the United States horse population; that the treatment for the Babesia equi strain of the disease was not adequate; that other countries which require the test for importation might regulate aainst horses exported from the United States; that removal of the test requirement was not desired by industry; and that control of this infectious disease was needed to protect the horse industry which deserved to be protected.

Two veterinarians, two industry representatives and one horse breeder recommended deletion of the test as requirement for importation. Pertinent points stressed by these individuals were that an effective treatment exists for EP through the drug Imidocarb®; that the CF test which is the test for EP lacks international standardization; that the Departments' international (import) regulations are not consistent with interstate policy; that the disease has never been endemic on the United States mainland except in Florida; that the EP test requirement serves as a nontariff barrier; and that horses with a positive reaction to the CF test can be clinically normal and can perform work (race, and otherwise compete).

In summary, the major points expressed to the Panel by the witnesses concerned control and identification of vector ticks, efficacy of treatment, reliability of the test, and the effect of the test requirement on the international movement of horses.

Expert testimony considered by the panel confirmed that Imidocarb® is highly effective for use in "cleansing" horses and other equidae of Babesia caballi infections. For horses infected with Babesia equi, the effective rate of "cleansing" by one treatment was represented to be 58 to 60 percent, and about 80 percent for two treatments. However, following repeated treatments to "cleanse" EP reactors for B. equi, toxic side effects, principally liver disfunction, were reported to develop.

Further, the tick *Rhipicephalous sanguineus* (R. Sanguineus) has been reported to be capable of transmitting B. equi in other countries. In the United States, while R. sanguineus does not commonly feed on horses, further information is needed to determine the role this possible vector may have in the spread of the disease.

The policy of the Department is to assist in developing international standardization of the CF test for EP. The method of preparing EP antigen has been made available to laboratories in

other countries and the Department has trained laboratory technicians from several countries including France, Great Britain, Chile, and Argentina in producing the required antigen and conducting the EP test. The Department will continue to offer this training to countries that wish to develop this expertise. However, the Department has no control over a foreign country's policy regarding use of the test.

Concerning the testimony that a difference exists in importation and interstate requirements for EP, the Panel considered one important feature that makes the international policy for entry into the United States different from the policy used in interstate movement. Under interstate policy, horses moved from Puerto Rico to the mainland of the United States are maintained in a tick-free facility while the test for EP is being conducted, and while in the facility are monitored by USDA personnel with the concurrence of the Commonwealth of Puerto Rico animal health officials. Also, the babesiacidal treatment for horses to be moved that are found to be infected with EP is under the direct supervision of employees of USDA. B. equi infected animals are not eligible to move or be treated. In international movements of equidae, control over the inspection, treatment and supervision of animals to be imported into the United States cannot be carried out at origin by Veterinary Services employees due to a lack of personnel and funding. Approximately 6,000 horses are imported into the United States each year. Furthermore, under present regulations no permit or other advance notice of such an importation is required except for horses from countries affected with contagious equine metritis (CEM). Consequently, we lack control over treatment for EP in foreign countries.

Further, consideration was given to the fact that EP became endemic in south Florida in 1961 to 1963. This outbreak was traced to the importation of Cuban walking horses that were later determined to be carriers of the blood parasite Babersia caballi. Subsequently, cases of EP have been found in 21 other States and in each instance prompt action to limit the spread and cleanse the EP "carrier" animals has been taken. In recent years, international traffic in horses and other equidae has increased throughout the world which, coupled with a great increase in interstate transportation and assembly of the horse population within the United States, increases the opportunities for EP to spread.

The Panel recognizes that the test requirement for import can cause inconvenience to importers of horses that are infected. However, the test requirement can't truly be classified as a significant nontariff trade barrier, since many horses have been imported into the United States during the last 10 years after being tested negative as a requirement for entry. Additionally, while animal health requirements, including the negative results to the EP test required for horses, may be considered a trade barrier, such requirements are justified to insure that only healthy animals will be imported into the United States.

While certain EP positive horses can appear clinically normal and can perform most normal functions (racing, breeding, etc.), when horse production is closely measured, EP infection is found to be detrimental to the thriftiness of foals. Also, based upon the panel's own expertise, when heavy work or other stress (such as pregnancy) is placed on EP infected animals, certain horses will show clinical illness.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland, during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Done at Washington, D.C. this 29th day of May 1980.

Norvan L. Meyer,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 80-17174 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet July 10, 1980 at 10:00 a.m. at the Nemo Ranger District Office, 460 Main Street, Deadwood, South Dakota. The Board is being established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) election of officers: (2) a discussion of the function of the Board: (3) establishment of by-laws: (4) recommendations concerning the development of allotment management plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify Lloyd Todd, Black Hills National Forest (605-673-2251) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

James R. Mathers,

Forest Supervisor.

June 1, 1980

[FR Doc. 80-17248 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-11-M

Office of Environmental Quality

Environmental Policy; Categorical Exclusions

ACTION: Proposed Determination of Categorical Exclusions.

SUMMARY: Notice is hereby given that the Office of Environmental Quality (OEQ), pursuant to consultation with the Council on Environmental Quality (CEQ) and the agencies set forth below, is considering a proposed determination, that the current programs and activities of those USDA agencies come within the categorical exclusions contained in Department of Agriculture's policies and procedures for compliance with the National Environmental Policy Act (NEPA) (7 CFR § 3100.22; 44 FR 44802-44803). As a result of this proposed determination, the designated agencies would not prepare specific agency procedures for compliance with NEPA and the regulations of CEQ and the Department of Agriculture. However, those agencies will continue to review their programs and activities to evaluate any new programs or activities which may necessitate the development of specific agency procedures.

The proposed designated agencies are:

Agricultural Marketing Service
Economics, Statistics, and Cooperatives Service
Federal Crop Insurance Corporation
Federal Grain Inspection Service
Food and Nutrition Service
Foreign Agricultural Service

The OEQ solicits comments from the public regarding the proposed determination.

DATE: August 5, 1980.

ADDRESS: Comments to: Barry R. Flamm, Director, OEQ, USDA, Washington, D.C. 20250; (202) 447-3965.

FOR FURTHER INFORMATION CONTACT: Dr. Rado J. Kinzhuber, Chairman, USDA Working Group, USDA, Washington, D.C. 20250; (202) 447-7711.

Dated: June 2, 1980.

Barry R. Flamm,

Director, Office of Environmental Quality.

[FR Doc. 80-17176 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-01-M

Rural Electrification Administration

Central Iowa Power Cooperative, Cedar Rapids, Iowa; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $10,500,000 Central Iowa Power Cooperative of Cedar Rapids, Iowa, for financing the borrower's 20 percent share of modifications and improvements at the existing Duane Arnold 550 MW nuclear power plant. No additional generating capacity is being provided.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Edward H. Williams, General Manager, Central Iowa Power Cooperative, P.O. Box 2517, Cedar Rapids, Iowa 52406.

In order to be considered, proposals must be submitted on or before July 7, 1980 to Mr. Williams. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Central Iowa Power Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 29th day of May 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-17175 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Bear-Tilda Bogue Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

NOTICE: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Bear-Tilda Bogue Watershed project, Madison County, Mississippi, effective on May 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Dated: May 27, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17131 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-16-M

Panther Creek Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Deauthorization of Federal Funding.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

Note.—Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Panther Creek Watershed project, Madison County, Mississippi, effective on May 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Dated: May 27, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17132 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 80-6-10; Docket 37950]

Air New Mexico, Inc.; Petition for Advance Compensation for Losses; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of June, 1980.

By Order 80-4-163, April 21, 1980, we set an advance interim rate of compensation for Air New Mexico, Inc. for the provision of essential air service to Alamogordo and Silver City. The rate is $40,336 for 30-day periods beginning April 1, 1980. The April payment was processed and made promptly upon issuance of Order 80-4-163. On May 6 Air New Mexico submitted its claim for the period May 1-May 30. We will not pay that claim for reasons that follow.

It has become apparent that this compensation must be adjusted. It was set for service with 16-passenger seat Jetstream aircraft, yet information available to us shows that during April about 25 percent of Air New Mexico's essential service was provided with eight-seat Cessna-402 equipment. Since that aircraft costs only about one-half as much as the Jetstream to operate, it is evident that the April payment was excessive. Further, Air New Mexico's operating performance during the first 12 days of May suggests that frequent substitution with eight-seat aircraft is likely to continue. The interim rate must be adjusted to reflect such substitutions.

Also, in April Air New Mexico cancelled about 20 percent of its scheduled flights in its Alamogordo and Silver City markets. It did not operate at all for several days in early May. Thus, whether or not it operates and with what type of aircraft has been a day-to-day proposition. Obviously there is considerable risk in continuing to make advance payments to Air New Mexico on the basis of the service it is scheduled to operate. This has already led to a substantial overpayment for April. We can only compensate a carrier for losses sustained in providing essential service. We cannot make payments in advance, therefore, where a strong possibility exists that the service may not be provided. This is precisely what occurred in April. We must therefore cease making payment in advance notwithstanding the carrier's clear cash flow difficulties.

Accordingly, we will reduce Air New

assigned to be held on June 17, 1980 at

Accordingly, we will reduce Air New Mexico's maximum compensation for each 30-day period from $40,336 to $25,149 to reflect the lower cost of operating part of its service with C–402 aircraft. This rate assumes the mix of aircraft Air New Mexico operated in April (30-percent C–402 aircraft and 70-percent Jetstream aircraft). Should this relationship change substantially, we will again revise the rate of compensation. Adjusting the $25,149 maxmimum payment for April to reflect cancelled flights further reduces the compensation requirement to $22,214. Thus the advance payment made for April over-compensated Air New Mexico by $18,122.[1] As a consequence, further compensation will not be due for services provided beginning with May 1, 1980, until Air New Mexico's losses exceed $18,122.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204, 419, and 1002(b) thereof, and the regulations promulgated in 14 CFR 302 and 324:

1. We adjust the interim level of compensation set by Order 80–4–163 to $97.86 per scheduled flight completed on and after May 1, 1980, subject to a maximum compensation of $25,149 for each 30-day period,[2] *provided*, that no compensation will be paid until losses so calculated exceed $18,122;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.[3]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–17245 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

[Dockets 33363 and 37687]

Former Large Irregular Air Service Investigation and Action Air Cargo Corp.; Hearing

Notice is hereby given, that a hearing in the above-entitled proceeding now assigned to be held on June 17, 1980, at 10:00 a.m. (local time), (45 FR 32359, May 15, 1980) is postponed until further notice.

Dated at Washington, D.C. June 2, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80–17239 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

[Docket 37873]

Golden West Airlines Co. Fitness Investigation; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on June 17, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C. June 2, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80–17240 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–5–150; Docket 38023, et al.]

Blanket Waiver of Name Condition to All Foreign Charter Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–5–150, Docket 38023, et al.

SUMMARY: The Board's order grants exemptions to two foreign charter operators to allow them to operate as foreign tour operators without permits pending a final rule governing such exemptions. The Board also granted a blanket exemption from the condition that foreign charter operators name their nationality on all public documents, pending the completion of the rulemaking, which has proposed to deregulate foreign charter operators.

DATES: Adopted: May 21, 1980. Effective: The exemptions are effective immediately and shall expire 90 days after the Board adopts a final rule in Docket 38023.

FOR FURTHER INFORMATION CONTACT: Richard M. Loughlin, Chief, Regulators Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5878.

SUPPLEMENTARY INFORMATION: The Board has issued a proposed rulemaking to exempt foreign charter operators from permit requirements of section 402 of the Act and replace those requirements with a simple registration as a means for obtaining operating authority in the United States.[1] In that rulemaking we *tentatively* decided not to require foreign charter operators to identify their nationality in their advertisements, tickets, stationary, or other public documents.[2] We see no regulatory purpose that would be served by continuing to impose the condition at this time. In our view, continuation of the condition imposes an unnecessary burden on foreign tour operators—one that is unique to this small segment of the air transportation industry—and that immediate relief from this condition is warranted. Therefore, we find that grant of this interim exemption is consistent with the public interest. This interim exemption is permissive. However, any tour operator taking advantage of the exemption does so at its own risk and may be subject to a name requirement should the Board reverse its tentative decision under the new rule when it is finally adopted.

The complete text of Order 80–5–150 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–5–150 to that address.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–17243 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–5–178; Docket 35275]

Petition of Air New England for Subsidy

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–5–178 fixing final part period rate and proposing new rate for Air New England, Docket 35275.

SUMMARY: The Board fixed a final rate for subsidy for Air New England (ANE) for the period March 16, 1979, through December 31, 1979. The Board proposed a new rate for calendar years 1980, 1981, and 1982.

DATES: Adopted: May 27, 1980. Notice of Objections due: June 11, 1980.

ADDRESSES: Notice of objections should be filed in Docket 35075, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

PERSON TO CONTACT FOR FURTHER INFORMATION:

John R. Hokanson, Chief, Air Carrier Subsidy Need Division, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5364.

SUPPLEMENTARY INFORMATION: Based on the general understanding that a quick final rate was imperative if a complete cessation of service by ANE was to be avoided, and that a restructuring and phase-down of subsidy-eligible services was necessary over the coming two-and-one-half years, an informal rate conference was convened on May 9, 1980, to determine if it was possible to quickly set a final rate which addresses the major concerns expressed by the Board in Order 80–4–120 while allowing the carrier the opportunity to stabilize its financial situation.

An agreement was reached to finalize a rate for the nine-and-one-half month past period ending December 31, 1979, and establish a future subsidy rate for 1980, 1981, and 1982. As part of this agreement, ANE is to reduce its subsidy-eligible seat-miles through the phase-out of eligible points in 1981 and 1982 so that no section 406 subsidy would be paid to ANE after 1982.[1]

We find that the fair and reasonable final rate of compensation to be paid Air New England for the transportation of mail by aircraft, or for the provision of facilities and services for the transportation of mail by aircraft, between the points between which the carrier has been authorized to transport mail by its certificate of public convenience and necessity, for the period March 16, 1979, through December 31, 1979, inclusive, is the sum of (a) the carrier's service mail pay as established in other orders of the Board [2] and (b) subsidy of $4,173,426.[3]

The complete text of Order 80–5–178 is available from our Distribution Section, Room 516, 1825 Connecticut Ave., N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–5–178 to that address.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–17244 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

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[1] The advance payment ($40,336) less the estimated loss ($22,214).

[2] Air New Mexico's schedules in both of these markets exceed essential service requirements. For the purposes of determining compensation we will recognize for each weekday and each weekend period a maximum of three roundtrip flights (six departures) in the Alamogordo—Albuquerque market and two roundtrip flights (four departures) in the Silver City—Albuquerque market.

[3] All Members concurred.

[1] See EDR–398/SPDR–77/ODR–20, 45 FR 26084, April 17, 1980.

[2] Ibid., 26085 for discussion of Board's rationale to no longer impose this condition.

[1] By voluntarily relinquishing its subsidy under section 406 after 1982 the carrier does not lose its ebility to be compensated under section 419 if necessary.

[2] This order is not intended to affect Air New England's service mail rates as established in other applicable orders of the Board.

[3] This will result in a lump sum payment for the 3/16/79–12/31/79 period of $583,137 since the carrier has already received temporary subsidy for the same period of $3,590,289.

[Docket 26973; Order 80–5–196]

Application of Aeromar, C. por A

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80–5–196.

SUMMARY: The Board proposes to approve the following application: Applicant: Aeromar, C. por A. Application Date: August 9, 1974 Docket: 26973.

AUTHORITY SOUGHT: Renewal and amendment of its foreign air carrier permit to engage in non-scheduled foreign air transportation of property between the Dominican Republic and Florida, Puerto Rico and the U.S. Virgin Islands, and to perform cargo charters.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN June 23, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, Argo, S.A., the Department of Transportation, the Department of State and the Ambassador of the Dominican Republic. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS: Docket 26973, Docket Section, Civil Aeronautics Board.

APPLICANT: Aeromar, C. por A. c/o Allan W. Markham, Esq., 2000 P Street N.W., Suite 300 Washington, D.C. 20036.

INTERVENOR: Argo, S.A. c/o Robert M. Beckman, 1001 Connecticut Ave., N.W., Washington, D.C. 20036.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Peter B. Schwarzkopf, Assistant General Counsel, International Affairs, Civil Aeronautics Board; (202) 673–5928.

By the Civil Aeronautics Board: May 29, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–17242 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–5–221]

Eugene-Portland/Seattle/Los Angeles/San Francisco

Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (80–5–221).

SUMMARY: The Board is instituting the *Eugene-Portland/Seattle/Los Angeles/San Francisco Subpart Q Proceeding* and is proposing to grant unrestricted authority to Pacific Southwest Airlines in the Eugene-Portland/Seattle/Los Angeles/San Francisco markets under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than July 7, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 37820, which we have entitled the *Eugene-Portland/Seattle/Los Angeles/San Francisco Subpart Q Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Pacific Southwest Airlines, Aspen Airways, Baja Cortez Airlines, Braniff International Airways, C&M Airlines, Golden Gate Airlines, Shasta Air and Sun Aire Lines; California Transportation Commission, Aeronautics Subcommittee; Oregon State Department of Transportation, Aeronautics Division; Washington State Department of Transportation, Division of Aeronautics; Mayors of Eugene, Los Angeles, Portland, Oregon, San Francisco and Seattle; Manager, Mahlon Sweet Field; General Manager, Los Angeles International Airport; Director, Aviation, Portland International Airport; Director, Airport, San Francisco International Airport; and Director,

Aviation, Seattle-Tacoma International Airport.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5384.

SUPPLEMENTARY INFORMATION: The complete test of order 80–5–221 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–5–221, to that address.

By the Bureau of Domestic Aviation: May 30, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–17241 Filed 6–5–80; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11–80]

Proposed Foreign-Trade Zone; Jacksonville, Fla.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Jacksonville Port Authority, a Florida public corporation, requesting authority to establish a general-purpose foreign-trade zone in the City of Jacksonville, Florida, within the Jacksonville Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 29, 1980. The applicant is authorized to make this proposal under its charter (Chapter 63–1447, 1963 Bylaws of Florida), as well as the State's general provision on foreign-trade zones (Chapters 288.36–.37, Florida Statutes).

The proposal calls for the establishment of a general-purpose zone on a 143-acre parcel owned by the applicant and located near the Jacksonville International Airport, some 8 miles north of downtown Jacksonville. The parcel is part of a 7,000-acre tract assembled by the applicant which has been designated in the City's long range comprehensive development and zoning plan for distribution and light industrial facilities. Initially, a general-purpose warehouse facility of some 30,000 square feet would be constructed for zone operations within a 5-acre portion of the proposed zone, with the remainder to be developed as needed. The facility will be either operated by the applicant or contracted to a private developer/operator.

The application contains economic data and information concerning the need for a zone in the Jacksonville area. Several firms have indicated their intention to use the requested zone area for storage, distribution, repackaging, and light manufacturing activities on such products as marine parts and supplies, sporting goods, heavy construction equipment, automotive parts, luggage, and surgical instruments.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; James R. Cahill, Director, Inspection and Control Division, U.S. Customs Service, Region IV, 99 S.E. 5th Street, Miami, Florida 33131; and Colonel James W. R. Adams, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, Florida 32201.

As part of its investigation, the Examiners Committee will hold a public hearing on June 26, 1980, beginning at 9:00 a.m. in the Public Meeting Room of the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377–2862) by June 19, 1980. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary at any time from the date of this notice through July 28, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations: U.S. Department of Commerce Satellite Office, Jacksonville Area Chamber of Commerce, IBM Building, Suite 100, 815 S. Main Street, Jacksonville, Florida 32207.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886–B, 14th and E Streets, NW., Washington, D.C. 20230.

Dated: June 3, 1980.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80–17263 Filed 6–5–80; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

University of Michigan; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street NW, (Room 735) Washington, D.C.

Docket No. 80–00054. Applicant: University of Michigan, Biological Station, 4053 Natural Science Bldg., Ann Arbor, MI 48109. Article: Gas Exchange Apparatus. Manufacturer: Heinz Walz Mess-und Regeltechnik, West Germany. Intended use of article: The article is intended to be used to study the gas exchange (particularly of carbon dioxide) of leaves and stems of forest trees under both ambient and artifical conditions. The rate of carbon dioxide exchange between plant parts (leaves, stems) will be measured through 24 hour periods to get daily time-course of net photosynthesis or respiration. Measurements will also be made in which light intensity, temperature, and carbon dioxide and oxygen concentrations will be varied. These latter experiments will provide a means for determining important plant properties which will be used to model photosynthetic and respirator response.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a proper environment in the field for the leaf while attached to the plant as well as the required control of temperature, humidity, and gas flows. The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–17135 Filed 6–5–80; 8:45 am]

BILLING CODE 3510–25–M

Department of Commerce; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80–00069. Applicant: U.S. Department of Commerce, National Bureau of Standards, Washington, D.C. 20234. Article: Electron Energy Loss Spectrometer Component, Type 107. Manufacturer: Kernforschungsanlage, Julich GMBH, West Germany. Intended use of article: The article is intended to be used to study the vibrational properties of chemisorbed layers on single crystal surfaces to determine the structure of the chemisorbed species. Electron energy losses will be measured.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purpose as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides high resolution (10 millielectron volts) vibrational spectra recorded from the energy loss of electrons specularly reflected from a surface. The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–17133 Filed 6–5–80; 8:45 am]

BILLING CODE 3510–25–M

University of California, San Diego; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80–00061. Applicant: University of California, San Diego, Mail Code M–023, Department of Medicine, La Jolla, CA 92093. Article: 2 Bicycle Ergometers. Manufacturer: Northwick Park Hospital, United Kingdom. Intended use of article: The article is intended to be used for the study of human subjects exercising at high altitude. These subjects will be studied to determine their ability to adapt to serve hypoxic stress. Subjects will exercise at present work loads on the bicycle ergometer to determine their maximal work capacity and oxygen consumption at 20,000 ft. elevation and 26,000 ft. elevation.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to measure work loads at remote sites and can be carried as a backpack (it is collapsible and weighs about 25 kilograms). The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–17134 Filed 6–5–80; 8:45 am]

BILLING CODE 3510–25–M

Minority Business Development Agency

Financial Assistance Application Announcement

Correction of the Announcement that appeared in the **Federal Register** on May 15, 1980 for Gary Business Development Center. The closing date of September 1, 1980 is changed to July 15, 1980. The funding level and period of performance are not changed. An application kit can be obtained in writing. Project I.D. Number is 05–60–21103–00. 11.800 Minority Business Development, (Catalog of Federal Domestic Assistance).

Dated: June 3, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80–17262 Filed 6–5–80; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss groundfish, herring, scallops, lobster, Scientific and Statistical Committee report, as well as other business.

DATES: The meeting will convene on Wednesday, June 25, 1980, at

approximately 10 a.m., and will adjourn on June 26, 1980, at approximately 5 p.m. The meetings are open to the public, and may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Holiday Inn, Route One, Peabody, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway, Route One, Saugus, Massachusetts 01906.

Dated: June 3, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-17267 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase From the Blind and Other severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1980 a commodity to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: June 6, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 4, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 23047) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1980:

Class 7530—NO NSN

Divider, Separation, P.S. Item 01037B.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-17179 Filed 6-5-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement List 1980 a commodity produced by and a service provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECIEVED ON OR BEFORE: July 9, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodity and service from Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 5660

Fencing, Wire and Wood Picket, 5660-00-257-3860.

SIC 7349

Janitorial Service, Federal Building, Manchester, New Hampshire.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-17180 Filed 6-5-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 3, 1980.

The USAF Scientific Advisory Board ad Hoc Committee to Review the Air Force Manufacturing Technology (MANTECH) Program will meet on June 23-24, 1980 at the Pentagon. The purpose of the meeting is to review the management and cost effectiveness of the MANTECH Program. The Committee will meet from 8:30 a.m. to 5:00 p.m. each day.

This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (4).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-17130 Filed 6-5-80; 8:45 am]

BILLING CODE 3910-01-M

New System of Records

AGENCY: Department of the Air Force.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATES: This system shall be effective as proposed without further notice on July 7, 1980, unless comments are received on or before July 7, 1980, which would result in a contrary determination.

ADDRESS: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Room 4A-1088, The Pentagon, Washington, D.C. 20330, Telephone: (202) 694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 522a) Pub. L. 93-579 have been published to date in the **Federal Register** at:

FR Doc 79-37052 (44 FR 74145) December 17, 1979.
FR Doc 80-2008 (45 FR 5514) January 23, 1979.
FR Doc 80-6232 (45 FR 13181) February 28, 1960.
FR Doc 80-8307 (45 FR 17627) March 19, 1980.

The Department of the Air Force has submitted a new system report dated May 22, 1980 for this new system report under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer. Washington Headquarters Services. Department of Defense.

June 2, 1980.

F05002 SAC A

SYSTEM NAME:

SAC Operations Personnel Training Management System.

SYSTEM LOCATION:

At Air Force (AF) installations, Deputy Commander for Missile Operations within the Strategic Air Command (SAC) and Deputy Chief of Staff, Director of Missile Operations at SAC Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Strategic Air Command military personnel assigned to missile operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains computerized data and manual files related to training/evaluation accomplishment, crew number, type training/evaluation, discrepancies noted, evaluation scores, name, rank, date of birth, unit assigned, date of separation, date arrived station.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To develop a record source of operations personnel, at unit level, in order to determine overall job qualifications, capabilities, and historical data for analysis by unit and Major Air Command personnel responsible for maintaining a training program. The files will provide a source of data to help insure weapon system currenty and future training requirements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes computer printouts, and manual file folders.

RETRIEVABILITY:

Retrieved by name or unique system identifcation number.

SAFEGUARDS:

Records are accessed by custodian of unit files and by personnel responsible for servicing the record system in performance of official duties. The computer file is maintained on computer disc/tape by computer operations personnel. This computer file is kept in locked rooms or drawers.

RETENTION AND DISPOSAL:

Computerized and manual files are destroyed when superseded, or on reassignment from missile operations duties or separation of the individual. Destruction of manual files is accomplished by burning, shredding, tearing, pulping or macerating. Computer tapes are destroyed by overwriting within 30 days after member is reassigned, transferred or separated.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Director of Missile Operations, Strategic Air Command, Offutt AFB, NE 68113 and at Strategic Air Command missile bases, the Deputy Commander for Operations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from Director of Missile Operations, Strategic Air Command, Offutt AFB, NE 68113, telephone (402) 294-6091. Requester should be able to provide sufficient proof of identity such as name, social security number, duty station, place of employment, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Access to files is controlled and must be authorized by Deputy Chief of Staff, Director of Missile Operations or at organizational level by the Deputy Commander for Operations. Requests from individuals should be addressed to the Missile Wing Deputy Commander for Operations or his representative.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial determination by the individual concerned may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, instructors/evaluators and individual's performance during training/evaluation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-17287 Filed 6-5-80; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Deletion and Amendment to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendment to system of records.

SUMMARY: The Department of the Navy proposes to amend one system of records subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below followed by the system published in its entirety, as amended.

DATE: The system shall be amended as proposed without further notice on July 6, 1980, unless comments are received on or before July 6, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-O9B1P), Department of the Navy, Pentagon, Washington, D.C. 20350, telephone: 202-694-2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 522a (Pub. L. 93-579) have been published in the **Federal Register** as follows:

FR Doc (44 FR 67703) November 27, 1979
FR Doc (44 FR 68947) November 30, 1979
FR Doc (44 FR 74553) December 17, 1979
FR Doc (45 FR 13794) March 3, 1980
FR Doc (45 FR 32037) May 15, 1980
FR Doc (45 FR 33679) May 20, 1980

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer. Washington Headquarters Services. Department of Defense.

June 2, 1980.

N0003401

SYSTEM NAME:

Civilian Pay System (44 FR 74608) 17 Dec 79

CHANGES:

SYSTEM LOCATION:

Change code in second line of address to read "(NAFC-42)" vice (NCF-123).

CATEGORIES OF RECORDS IN THE SYSTEM:

After the words "leave records" in the second line, insert the phrase "applications for leave; overtime

authorizations, * * *" After the last word in the paragraph, insert the following: "* * * and case files which contain requests for waiver of erroneous payment of pay for civilian employees".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add the following entry at the end of the last paragraph: "To provide to financial organizations lists of those employees who make deposits and the amount of the deposit to each financial organization. To provide officials of labor organizations recognized under Executive Order 11491, as amended, with information as to the identity of employees contributing dues each pay period and the amount of dues withheld from each contributor. To provide information to the General Accounting Office on those requests for waiver of overpayments of pay which are forwarded to them for adjudication".

RECORD SOURCE CATEGORIES:

In the second line, after the words "and attendance records" insert the phrase: "applications for leave and overtime authorizations, * * *"

N0003401

SYSTEM NAME:

Civilian Pay System

SYSTEM LOCATION:

Decentralized, maintained by 125 Navy and Marine Corps civilian payroll offices; a list is available from: Commander, Navy Accounting and Finance Center (NAFC–42), Washington, D.C. 20376.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees who are employed by Navy and Marine Corps activities and are paid from appropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual civilian pay records, retirement records and leave records; applications for leave; overtime authorizations; substantiating documents such as personnel action forms effecting new apointments, separations, promotions, demotions, and deduction changes; Internal Revenue Service Form W–4; state and city tax information; authorizations for deductions, i.e., savings bonds, group life insurance, health benefits, overpayments, indebtedness to the Government; court orders for garnishment of wages for child support and alimony payments; allotments, i.e., union dues, charity contributions, savings allotments, special allotments for overseas employees; tax levies; claims; award payments; special pay; allowances and differentials and case files which contain requests for waiver of erroneous payment of pay for civilian employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental Regulations

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes: To pay all Navy and Marine Corps civilian employees, maintain leave and retirement records and to record, report and account for government expenditures for personal services.

Users: Navy and Marine Corps civilian payroll offices.

Uses: Provides a means for paying, recording and accounting for government expenditures for personal services of Navy and Marine Corps civilian employees; provides time and attendance information to individual employees and management; provides audit trail for GAO, Navy Area Audit, and internal audit procedures; provides federal, state, and city tax information to appropriate authorities, provides retirement information and monies to the Office of Personnel Management (OPM) for computation for annuities; provides other data to OPM as required for special studies. To the Treasury Department in connection with check issuance, the Veterans Administration in regard to Disability or Severance Pay Entitlement, the Social Security Administration for FICA Wage reporting; the Internal Revenue Service and state and local tax authorities for computing or resolving tax liability. To state employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees. To provide to financial organizations lists of those employees who make deposits and the amount of the deposit to each financial organization. To provide officials of labor organizations recognized under Executive Order 11491, as amended, with information as to the identity of employees contributing dues each pay period and the amount of dues withheld from each contributor. To provide information to the General Accounting Office on those request for waiver of overpayments of pay which are forwarded to them for adjudication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, disc, microfilm/microfiche and punched cards. Manual records on manual card files and in file folders.

RETRIEVABILITY:

By name, social security number, or locally assigned identification number.

SAFEGUARDS:

Locked fireproof cabinets for retirement records. Metal cabinets for manual payroll and leave records within locked rooms. The computer facility and terminal are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to personnel engaged in payroll processing, auditors, investigative officials and management personnel.

RETENTION AND DISPOSAL:

Payroll records are maintained on-site for 2 years after completion of on-site audits by GAO; if no on-site audit is performed, retain records on-site for 4 years, then shipped to Federal Record Center where they are retained for 56 years.

Leave Records—same as above, except held by Federal Records Center for ten years.

Retirement Registers—same as above, except are destroyed rather than sent to Federal Record Center. Retirement records are maintained until employee separates; if he/she goes to another Navy or Marine Corps activity, retirement records are sent to that activity; if he/she goes to another agency or separates, sent to OPM.

SYSTEM MANAGER(S) AND ADDRESS:

Overall policy and procedure for the Civilian Payroll System are established by the Commander, Navy Accounting and Finance Center, Washington, D.C. 20376. A list of the system managers by payroll activity is available from Navy Accounting and Finance Center (NAFC–42).

NOTIFICATION PROCEDURE:

Civilian employees can directly contact the system manager of his/her payroll activity. If unknown, the inquiry should be submitted to the Commander, Navy Accounting and Finance Center, address above. Requester should provide full name, social security number, identification number, if applicable, activity where employed and

information desired. An individual can visit his/her payroll office on any matter concerning his/her pay.

RECORD ACCESS PROCEDURES:

Employees have access to their individual pay, leave and retirement records. The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Standard Form 50's (personnel actions), time and attendance records, applications for leave and overtime authorizations, retirement records, federal, state and tax forms, deduction authorizations, allotment authorizations, court orders for garnishment of wages for child support and alimony payments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-17286 Filed 6-5-80; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

San Juan Islands Area Service, Draft Facility Location Supplement to Fiscal Year 1979 Proposed Program Environmental Impact Statement, Availability of Draft Supplement

Notice is hereby given that the Bonneville Power Administration (BPA), in compliance with the National Environmental Policy Act of 1969, has prepared and is distributing a Draft Facility Location Supplement, San Juan Islands Area Service, to its Fiscal Year 1979 Proposed Program Environmental Impact Statement (EIS). This supplement assesses potential environmental impacts associated with construction of proposed new transmission facilities to serve load growth in the San Juan Islands of Washington State.

Because there is no practicable alternative, the proposed new transmission cable will be partly located within the coastal floodplains of the San Juan Islands. A map of the proposed transmission route is contained in the draft supplement.

Copies of the draft facility location supplement are available for public inspection at designated Federal depositories (for location, contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208) and at Department of Energy public document rooms located at:

Library, FOI—Public Reading Room GA–152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.;

BPA, Washington, D.C., Office, Room 3352, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C.;

Library, BPA Headquarters, 1002 NE. Holladay Street, Portland, Oregon;

And in the following BPA Area Office:

Seattle Area Office, Room 250, 415 First Avenue North, Seattle, Washington.

The draft facility location supplement is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed program. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

Single copies are available upon request; contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, or the Seattle Area Office listed above.

Dated at Portland, Oreg., this 30th day of April 1980.

Ray Foleen,

Acting Administrator.

[FR Doc. 80-17138 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Telum, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Telum, Inc., 3227 Canyon Road, Provo, Utah 84601. This Proposed Remedial Order charges Telum, Inc., with pricing violations in the amount of $302,692.69, connected with the resale of middle distillate fuel during the time period December 1, 1973, through April 30, 1974, in the State of Arizona.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon Street, P.O. 26247 Belmar Branch, Lakewood, CO 80226, phone (303) 234–3195. On or before June 23, 1980, any aggrieved person may file a Notice of Objection with the Office of hearings and Appeals, 2000 M Street, N.W., Washington D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Lakewood, Colo., on the 28th day of May 1980.

Robert Templeton,

Acting District Manager of Enforcement, Rocky Mountain District.

Concurrence by:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-17128 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (P. L. 92–463, 86 Stat. 770), notice is given of the following advisory committee meeting:

Name: High Energy Physics Advisory Panel.

Date and Time: Monday, June 30, 1980—9:00 a.m. to 6:00 p.m.; Tuesday, July 1, 1980—9:00 a.m. to 4:00 p.m.

Place: Department of Energy, Room A–410, Germantown, Maryland.

Contact: Dr. P. K. Williams, Secretary, High Energy Physics Advisory Panel, Department of Energy, Mail Stop J–309, Washington, D.C. 20545, Telephone: 301–353–3367.

Purpose of Committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda:

- Discussions of the fiscal year 1980 and fiscal year 1981 DOE and NSF budgets for High Energy Physics.
- Presentation and discussion of the Report of the HEPAP Subpanel on Review and Planning for the U.S. High Energy Physics Program.
- Disscussions of the DOE and NSF budgets for fiscal year 1982 and beyond.
- Status reports from SLAC, Fermilab and BNL on current projects.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at 202–252–5187. Requests must be received at least 5 days prior to the meeting and resonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, SW., Washington.

V 45 JE 6 80 UMI

D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.
Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on May 30, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-17129 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Environment

Advisory Committee on Atmospheric Carbon Dioxide; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Advisory Committee on Atmospheric Carbon Dioxide.
Date and time: July 7, 1980—10 a.m.-4:30 p.m.
Place: Conference Room C, Carnegie Conference Center (8th Floor), 11 DuPont Circle NW., Washington, D.C.
Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone 202-252-5187.
Purpose of committee: To give advice to the Department of Energy in the development of its role in environmental research dealing with the global effects of increasing levels of carbon dioxide from fossil fuel combustion and related matters. The Committee's guidance will be based on a thorough review of ongoing and planned national and international research activities in this area.
Tentative agenda: Report on C02 Research Progress and Planning Meeting—Washington, April 24-25, 1980.
Discusssion of: (1) DOE Carbon Dioxide Research Progress Report and (2) Comprehensive Plan for C02 Research and Assessment.
How Serious is C02? How soon?
DOE Carbon Dioxide Program Organization Institute for Energy Analysis Assessment Role.
Needed Actions and Other Discussion, Public Comment (10 minute rule).
Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.
Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Buiding, 1000 Independence Avenue, S.W., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.
Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on May 29, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-17137 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Research and Development Panel of the Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Research and Development Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and Time: June 7, 1980—9:00 a.m. to 3:00 p.m.

Place: Department of Energy, Forrestal Building, Room 6A-110, 1000 Independence Avenue, S.W., Washington, D.C.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, M.S. 3F-032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Research and Development Panel will make recommendations to the parent Board.

Tentative Agenda:

—Formulate questions and issues for Panel consideration and response.
—Development outlines for Panel and Subpanel reports.
—Organizational matters.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting.

Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Presentations will be limited to subjects on the agenda. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room 5B-180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 28, 1980.

Edward A. Frieman,

Director of Energy Research.

[FR Doc. 80-17402 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL80-12]

Boston Edison Co.; Order Establishing Hearing Procedures

Issued May 30, 1980.

On March 17, 1980, the Commission's staff, with the concurrence of Boston Edison Company (Edison), filed a motion for the establishment of hearing procedures. For the reasons stated below, the motion is granted.

Procedural History

On April 14, 1977, the Commission, by letter order, informed Edison of certain improper accounting entries.[1] The letter also directed Edison to notify the Commission whether it would consent to disposition of the disputed entries in accordance with the special procedures provided for in Section 41 of the Commission's rules.[2] By letter dated May 10, 1979, Edison rejected both Staff's proposed adjustments and the shortened procedures of Section 41, and requested that formal proceedings be initiated.

Since that time, Staff and Edison have attempted to resolve their dispute through settlement conferences. However, these conferences have been to no avail. In light of these facts, Staff, with the concurrence of Edison, filed the instant motion.

Notice of the instant motion was duly issued on April 4, 1980. On April 4, 1980, the Towns of Concord, Norwood, and Wellesley, Massachusetts (Towns) submitted a petition to intervene in the proceeding. The Towns state that they are full requirements customers of Edison and that they have a direct interest in Edison's treatment of the disputed entries. Furthermore, the Towns believe that no other party can represent their interests.

Discussion

Our rules state that where a party does not consent to the shortened procedures of Sections 41.3 and 41.6, or if at any stage of the proceeding prior to submission of the case to the Commission, a party in interest requests a hearing, the proceeding will be assigned for hearing as provided in Section 1.20 of the Commission's rules. 18 CFR 41.7 (1979). In the present case, both parts of Section 41.7 have been met. Therefore, we will grant Staff's motion and order that a hearing be held.

The Towns' petition to intervene indicates that they have an interest in this proceeding. Accordingly, we will grant their motion to intervene.

The Commission orders:

(A) The motion by the Commission's Staff for the establishment of hearing procedures is granted.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Commission, by Section 402(a)(2)(A) of the Department of Energy Organization Act, and pursuant to the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the accounting issues raised in the Commission's letter order of April 14, 1977, and as stated in footnote 1 of this order.

(C) The Towns of Concord, Norwood, and Wellesley are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference within thirty (30) days from the issuance of this order for the purpose of establishing such further procedural schedules and for a delineation of the issues as may be necessary. The presiding judge shall preside at the hearing ordered herein, and is authorized to rule upon all motions with the exception of motions to consolidate and to sever, and with the further exception of motions to dismiss, as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17139 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The disputed entries are (1) tax savings on abandonment loss (entry 3), and (2) excess allowance for funds used during construction (entries 4-6).

[2] *See,* 18 CFR 41.3, 41.6 (1979).

[No. 212]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 2, 1980.

The Federal Energy Regulatory Commission received notices from the Jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines

Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-34368
2. 47-015-01411-0000
3. 103 000 000
4. Damson Oil Corp
5. Elk River #48
6.
7. Clay, WV
8. 58.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34369
2. 47-015-01412-0000
3. 103 000 000
4. Damson Oil Corp
5. Elk River #49
6.
7. Clay, WV
8. 7.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34370
2. 47-015-01414-0000
3. 103 000 000
4. Damson Oil Corp
5. Aloi #3
6.
7. Clay, WV
8. 27.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34371
2. 47-015-01424-0000
3. 103 000 000
4. Damson Oil Corp
5. Woods #1
6.
7. Clay, WV
8. 19.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34372
2. 47-015-01427-0000
3. 103 000 000
4. Damson Oil Corp
5. Aloi #4
6.
7. Clay, WV
8. 16.8 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34373
2. 47-099-00339-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G Coleman #5
6. Wayne Co
7. Wayne, WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80-34374
2. 47-109-00405-0000
3. 108 000 000
4. Ashland Exploration Inc
5. W M Ritter Lumber Co. #129
6. Logan Wyoming
7. Wyoming, WV
8. 10.1 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34375
2. 47-015-01425-0000
3. 103 000 000
4. Damson Oil Corp
5. Woods #2
6.
7. Clay, WV
8. 5.4 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34376
2. 47-021-28040-0000
3. 108 000 000
4. Ro-Jo Insustries Inc
5. Marsh #3
6. Glenville District
7. Gilmer, WV
8. 12.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34377
2. 47-033-00693-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 7
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34378
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980

10. Consolidated Gas Supply Corp

4. Mohawk Oil Corp

9. May 16, 1980

10. Consolidated Gas Supply Corp
1. 80–34379
2. 47–103–02419–0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. James Higgins #1
6. Grant District
7. Wetzel, WV
8. 1.5 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34380
2. 47–103–23760–0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. S J Robinson No 2
6. Grant District
7. Wetzel, WV
8. 2.5 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34381
2. 47–041–28990–0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. H C Summers #2
6. Skin Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34382
2. 47–041–10030–0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. R B Linger #5
6. Skin Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34383
2. 47–041–21002–0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. R B Linger #4
6. Skin Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34384
2. 47–041–02979–0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. Richard Smith #1
6. Skin Creek District
7. Lewis, WV
8. 6.5 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34385
2. 47–103–02389–0000
3. 108 000 000
4. Pemco Gas Inc
5. J P Ashcraft No 4
6. Grant District
7. Wetzel, WV
8. 1.6 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34386
2. 47–107–00611–0000
3. 108 000 000
4. Mohawk Oil Corp
5. C R Loiseau Hardwood Timber #2A
6.
7. Walker District Wood WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34387
2. 47–107–00813–0000
3. 108 000 000
4. Mohawk Oil Corp
5. C R Loiseau Hardwood Timber #3
6.
7. Walker District Wood, WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34388
2. 47–021–01311–0000
3. 108 000 000
4. Delbert Goff
5. Dewey Clowser #2
6.
7. Gilmer, WV
8. 4.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34389
2. 47–021–01417–0000
3. 108 000 000
4. Delbert Goff
5. Wirt Heeter #1
6.
7. Gilmer, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34390
2. 47–041–00614–0000
3. 108 000 000
4. Delbert Goff
5. Burl Moneypenny #1
6.
7. Lewis, WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34391
2. 47–041–00663–0000
3. 108 000 000
4. Delbert Goff
5. S A Hall #1
6.
7. Lewis, WV
8. 2.7 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34392
2. 47–041–00703–0000
3. 108 000 000
4. Delbert Goff
5. S A Hall #2
6.
7. Lewis, WV
8. 2.7 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80–34393
2. 47–017–02488–0000
3. 103 000 000
4. United Operating Co
5. Glen Cunningham #4
6. Cabin Run
7. Doddridge, WV
8. .0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.
1. 80–34394
2. 47–017–02489–0000
3. 103 000 000
4. United Operating Co
5. Glen Cunningham #5
6. Cabin Run
7. Doddridge, WV
8. .0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.
1. 80–34395
2. 47–041–02741–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Frye #2
6. Buck Run
7. Lewis, WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.
1. 80–34396
2. 47–041–02742–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Frye #1
6. Buck Run
7. Lewis, WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.
1. 80–34397
2. 47–041–02747–0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Frye #4
6. Buck Run
7. Lewis, WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.
1. 80–34398
2. 47–017–00639–0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #2
6. West Union District
7. Doddridge County, WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34399
2. 47–017–00640–0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #4
6. West Union District
7. Doddridge County, WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34400
2. 47–017–00711–0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #3
6. West Union District
7. Doddridge County, WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34401
2. 47–033–02225–0000

3. 108 000 000
4. James F Scott
5. R L Caynor #2
6. Union—District
7. Harrison, WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34402
2. 47–033–02226–0000
3. 108 000 000
4. James F Scott
5. A A Post
6. Union District
7. Harrison, WV
8. 12.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34403
2. 47–107–00770–0000
3. 108 000 000
4. Mohawk Oil Corp
5. C R Loiseau Hardwood Timber #1
6.
7. Walker District Wood WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34404
2. 47–021–01263–0000
3. 108 000 000
4. Delbert Goff
5. Dewey Clowser #1
6.
7. Gilmer WV
8. 4.5 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34405
2. 47–067–00468–0000
3. 102 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #20
6. Gauley
7. Nicholas WV
8. 49.0 million cubic feet
9 May 16, 1980
10. Equitable Gas Co.
1. 80–34406
2. 47–067–00467–0000
3. 102 000 000
4 Cities Service Co
5. Flynn Coal & Lumber Co #19
6. Gauley
7. Nicholas WV
8. 66.0 million cubic feet
9 May 16, 1980
10. Equitable Gas Co.
1. 80–34407
2. 47–067–00443–0000
3. 102 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #12
6. Gauley
7. Nicholas WV
8. 62.5 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80–34408
2. 47–039–03400–0000
3. 103 000 000
4 Cities Service Co
5. Kanawha City A–15
6. Kanawha City
7. Kanawha WV
8. 17.6 million cubic feet
9. May 16, 1980
10. Industrial Gas Corp.
1. 80–34409
2. 47–039–03399–0000
3. 103 000 000
4. Cities Service Co
5. Kanawha City A–14
6. Kanawha City
7. Kanawha WV
8. 35.2 million cubic feet
9. May 16, 1980
10. Industrial Gas Corp.
1. 80–34410
2. 47–017–02432–0000
3. 103 000 000
4. Cities Service Co
5. Maxwell B–28
6. Smithburg
7. Doddridge WV
8. 138.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Co.
1. 80–34411
2. 47–017–02433–0000
3. 103 000 000
4. Cities Service Co
5. Maxwell A–65
6. Smithburg
7. Doddridge WV
8. 47.3 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Co.
1. 80–34412
2. 47–015–20602–0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Vera Reed #2
6. Big Sycamore Ck
7. Clay WV
8. 2.5 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Co.
1. 80–34413
2. 47–081–00398–0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B–2
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
10.
1. 80–34414
2. 47–081–00419–0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B–4
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
10.
1. 80–34415
2. 47–085–03874–0000
3. 103 000 000
4. Werco Inc
5. M C Sweeney #1
6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34416
2. 47–085–04272–0000
3. 103 000 000
4. Werco Inc
5. F P Marshall #7
6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34417
2. 47–085–04277–0000
3. 103 000 000
4. Werco Inc
5. J P Marshall #2
6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34418
2. 47–085–04315–0000
3. 103 000 000
4. Werco Inc
5. J O Lynch #5
6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34419
2. 47–013–02415–0000
3. 108 000 000
4. United Petro Ltd
5. Earl Conley #2
6.
7. Calhoun WV
8. 2.9 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34420
2. 47–013–02428–0000
3. 108 000 000
4. United Petro Ltd
5. Earl Conley #3
6.
7. Calhoun W V
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34421
2. 47–013–00918–0000
3. 108 000 000
4. Bowser Gas & Oil Co
5. N E Sommers #4
6.
7. Calhoun WV
8. 10.9 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34422
2. 47–013–00949–0000
3. 108 000 000
4. Bowser Gas & Oil Co
5. N E Sommers #5
6.
7. Calhoun WV
8. 3.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80–34423
2. 47–017–00575–0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #1
6. West Union District

7. Doddridge County WV
2. 47–001–01154–0000

7. Doddridge County WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34424
2. 47–081–00407–0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B–3
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
10.

1. 80–34425
2. 47–017–23750–0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Smith #1A
6. St Clair
7. Doddridge WV
8. 20.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34426
2. 47–017–24530–0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Droppleman #2
6. St Clair
7. Doddridge WV
8. 15.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34427
2. 47–015–01636–0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Aloi #10
6. Buffalo District
7. Clay WV
8. 165.6 million cubic feet
9. May 16, 1980
10. Equitable Gas Company

1. 80–34428
2. 47–015–01291–0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Rider #1
6. Buffalo District
7. Clay WV
8. 24.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Company

1. 80–34429
2. 47–015–01285–0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Hardway #1
6. Buffalo District
7. Clay WV
8. 8.1 million cubic feet
9. May 16, 1980
10. Equitable Gas Company

1. 80–34430
2. 47–001–01132–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. C Poe #1A
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34431
2. 47–001–01154–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #1
6. Belington Field
7. Barbour County WV
8. 120.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34432
2. 47–001–01152–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #2
6. Belington Field
7. Barbour County WV
8. 130.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34433
2. 47–001–01151–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #3
6. Belington Field
7. Barbour County WV
8. 110.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34434
2. 47–001–01135–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. L O Sturm #1B
6. Belington Field
7. Barbour County WV
8. 100.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34435
2. 47–001–01147–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. Myers #1
6. Belington Field
7. Barbour County WV
8. 100.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34436
2. 47–001–01133–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. C Poe #1B
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34437
2. 47–001–01134–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. L O Sturm #1A
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34438
2. 47–001–20117–2000
3. 103 000 000
4. Monitor Petroleum Corp
5. Monitor No 1 C Smarr Et Ux
6. Valley
7. Barbour WV
8. 108.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34439
2. 47–035–01458–0000
3. 103 000 000
4. Devon Corp
5. Melvin E Moore #920
6. Parchment
7. Jackson WV
8. 18.0 million cubic feet
9. May 16, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34440
2. 47–085–04224–0000
3. 103 000 000
4. Russell V Johnson Jr
5. Riddle HRS et al #1
6. Murphy District
7. Ritchie WV
8. 15.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34441
2. 47–033–01712–0000
3. 103 000 000
4. Partick H Cunningham
5. John Hustead
6. Eagle
7. Harrison WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34442
2. 47–017–00773–0000
3. 108 000 000
4. L J Nicholson
5. Golden Well #1
6. Greenbrier District
7. Doddridge WV
8. 1.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34443
2. 47–017–01315–0000
3. 108 000 000
4. L J Nicholson
5. Golden Well #2
6. Greenbrier District
7. Doddridge WV
8. 1.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34444
2. 47–107–20077–6000
3. 103 000 000
4. Energy Unlimited Inc
5. Oris Johnson #1
6. Union
7. Wood WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34445
2. 47–073–20703–0000
3. 108 000 000
4. Energy Unlimited Inc
5. J W Elliott #1
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34446

2. 47–073–20701–0000
3. 108 000 000
4. Energy Unlimited Inc
5. C A Janes #1
6. Grant
7. Pleasants WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34447
2. 47–017–02450–0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Fonce Brown #4A
6. St Clair
7. Doddridge WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34448
2. 47–005–00717–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Company #12
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34449
2. 47–005–00727–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Company #14
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34450
2. 47–005–00776–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Company #15
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34451
2. 47–059–00069–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #1
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34452
2. 47–059–00071–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #2
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34453
2. 47–059–0075–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #4
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34454
2. 47–059–00079–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #5
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34455
2. 47–099–00286–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G. Coleman #1
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34456
2. 47–099–00298–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G. Coleman #2
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34457
2. 47–099–00325–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G Coleman #4
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34458
2. 47–099–00310–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G Coleman #3
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80–34459
2. 47–041–02721–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J M Jarvis 3462
6. West Virginia Other A–85772
7. Lewis WV
8. 6.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34460
2. 47–033–00810–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. B Stout 11791
6. West Virginia Other A–85772
7. Harrison WV
8. 4.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34461
2. 47–001–00228–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E George 10739
6. West Virginia Other A–85772
7. Barbour WV
8. 12.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34462
2. 47–109–00801–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consol Gas Supply 12444
6. Pineville Field Area–A–59442
7. Wyoming WV
8. 35.0 million cubic feet
9. May 16, 1980
10. General System Purchasers

1. 80–34463
2. 47–077–00186–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Donald Holmes 12432
6. Greer-Gladesville 290235
7. Monongalia WV
8. 45.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34464
2. 47–033–01256–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Edgar T. Williams 12440
6. West Virginia Other A–85772
7. Harrison WV
8. .0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34465
2. 47–033–01212–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. W G Allen 12293
6. West Virginia Other A–85722
7. Harrison WV
8. 30.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34466
2. 47–001–00958–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas 12382
6. West Virginia Other A–85772
7. Barbour WV
8. 36.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34467
2. 47–017–01904–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. J D McReynolds 12284
6. West Virginia Other A–85722
7. Doddridge WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34468
2. 47–013–02637–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. F C Knotts 12446
6. West Virginia Other A–85772

7. Calhoun WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34424
2. 47–081–00407–0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B–3
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
10.

1. 80–34425
2. 47–017–23750–0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Smith #1A
6. St Clair
7. Doddridge WV
8. 20.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34426
2. 47–017–24530–0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Droppleman #2
6. St Clair
7. Doddridge WV
8. 15.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34427
2. 47–015–01636–0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Aloi #10
6. Buffalo District
7. Clay WV
8. 165.6 million cubic feet
9. May 16, 1980
10. Equitable Gas Company

1. 80–34428
2. 47–015–01291–0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Rider #1
6. Buffalo District
7. Clay WV
8. 24.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Company

1. 80–34429
2. 47–015–01285–0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Hardway #1
6. Buffalo District
7. Clay WV
8. 8.1 million cubic feet
9. May 16, 1980
10. Equitable Gas Company

1. 80–34430
2. 47–001–01132–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. C Poe #1A
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34431
2. 47–087–02552–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #1
6. Belington Field
7. Barbour County WV
8. 120.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34432
2. 47–001–01152–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #2
6. Belington Field
7. Barbour County WV
8. 130.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34433
2. 47–001–01151–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #3
6. Belington Field
7. Barbour County WV
8. 110.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34434
2. 47–001–01135–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. L O Sturm #1B
6. Belington Field
7. Barbour County WV
8. 100.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34435
2. 47–001–01147–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. Myers #1
6. Belington Field
7. Barbour County WV
8. 100.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34436
2. 47–001–01133–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. C Poe #1B
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34437
2. 47–001–01134–0000
3. 103 000 000
4. Fox Drilling Co Inc
5. L O Sturm #1A
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34438
2. 47–001–20117–2000
3. 103 000 000
4. Monitor Petroleum Corp
5. Monitor No 1 C Smarr Et Ux
6. Valley
7. Barbour WV
8. 108.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp

1. 80–34439
2. 47–035–01458–0000
3. 103 000 000
4. Devon Corp
5. Melvin E Moore #920
6. Parchment
7. Jackson WV
8. 18.0 million cubic feet
9. May 16, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80–34440
2. 47–085–04224–0000
3. 103 000 000
4. Russell V Johnson Jr
5. Riddle HRS et al #1
6. Murphy District
7. Ritchie WV
8. 15.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34441
2. 47–033–01712–0000
3. 103 000 000
4. Partick H Cunningham
5. John Hustead
6. Eagle
7. Harrison WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34442
2. 47–017–00773–0000
3. 108 000 000
4. L J Nicholson
5. Golden Well #1
6. Greenbrier District
7. Doddridge WV
8. 1.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34443
2. 47–017–01315–0000
3. 108 000 000
4. L J Nicholson
5. Golden Well #2
6. Greenbrier District
7. Doddridge WV
8. 1.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34444
2. 47–107–20077–6000
3. 103 000 000
4. Energy Unlimited Inc
5. Oris Johnson #1
6. Union
7. Wood WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34445
2. 47–073–20703–0000
3. 108 000 000
4. Energy Unlimited Inc
5. J W Elliott #1
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80–34446

2. 47–085–24039–0000

7. Calhoun WV
8. 65.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34469
2. 47–019–00323–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas 12388
6. West Virginia Other A–85722
7. Fayette WV
8. 22.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34470
2. 47–001–00902–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Guy D Young 12304
6. West Virginia Other A–85442
7. Barbour WV
8. 22.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34471
2. 47–019–00334–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Jeffrey MFG Co 12355
6. West Virginia Other A–85722
7. Fayette WV
8. 10.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34472
2. 47–033–01200–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. C M Lang 12312
6. West Virginia Other A–85772
7. Harrison WV
8. 25.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34473
2. 47–001–00854–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. George E Martin 12357
6. West Virginia Other A–85772
7. Barbour WV
8. 8.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34474
2. 47–087–03013–0000
3. 108 000 000
4. Pennzoil Co
5. David Simmons #13
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34475
2. 47–087–02691–0000
3. 108 000 000
4. Pennzoil Co
5. J M Perrine #2
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34476
2. 47–087–02552–0000
3. 108 000 000
4. Pennzoil Co
5. Holt-Lewis #1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34477
2. 47–087–01069–0000
3. 108 000 000
4. Pennzoil Co
5. L S Goff #W–9
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34478
2. 47–087–01062–0000
3. 108 000 000
4. Pennzoil Co
5. L S Goff #W–8
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34479
2. 47–087–01061–0000
3. 108 000 000
4. Pennzoil Co
5. L S Goff #W–7
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34480
2. 47–085–04096–0000
3. 108 000 000
4. Pennzoil Co
5. C F Beall #1
6. Murphy District
7. Ritchie WV
8. 1.3 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34481
2. 47–043–01554–0000
3. 108 000 000
4. Pennzoil Co
5. Herbert Adkins #2
6. Duval
7. Lincoln WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34482
2. 47–021–00108–0000
3. 108 000 000
4. Pennzoil Co
5. Simmons K C #1
6. Center
7. Gilmer WV
8. 1.2 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34483
2. 47–013–02367–0000
3. 108 000 000
4. G & C Gas Co
5. Geraldine Cunningham ETAL #2
6. Center District
7. Calhoun WV
8. 4.4 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34484
2. 47–013–02289–0000
3. 108 000 000
4. Central Gas Co
5. Fluharty #3
6. Center District
7. Calhoun WV
8. 5.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34485
2. 47–043–00586–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #12
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp

1. 80–34486
2. 47–043–00623–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #13
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp

1. 80–34487
2. 47–043–00653–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #14
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp

1. 80–34488
2. 47–013–22868–0000
3. 103 000 000
4. Industrial Gas Associates
5. C V Mills No 1
6. Sheridan District
7. Calhoun WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Cabot Corp

1. 80–34489
2. 47–017–22304–0000
3. 103 000 000
4. Industrial Gas Associates
5. O Husk #2
6. West Union Dist
7. Doddridge WV
8. 10.0 million cubic feet
9. May 19, 1980
10 Carnegie Natural Gas Co

1. 80–34490
2. 47–017–22310–0000
3. 103 000 000
4. Industrial Gas Associates
5. O Husk #1
6. West Union Dist
7. Doddridge Co WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34491

2. 47–085–24039–0000
3. 103 000 000
4. Industrial Gas Associates
5. Leeson No 1
6. Union Dist
7. Ritchie WV
8. 7.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34492
2. 47–085–24132–0000
3. 103 000 000
4. Industrial Gas Associates
5. Flesher No 1
6. Union District
7. Ritchie WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34493
2. 47–085–24133–0000
3. 103 000 000
4. Industrial Gas Associates
5. Flesher No 2
6. Union District
7. Ritchie WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34494
2. 47–085–24162–0000
3. 103 000 000
4. Industrial Gas Associates
5. T J Barnard No 1
6. Clay District
7. Ritchie WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34495
2. 47–039–03465–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust #18
6. Cabin Creek
7. Kanawha WV
8. 35.0 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34496
2. 47–085–24164–0000
3. 103 000 000
4. Industrial Gas Associates
5. T J Barnard No 2
6. Clay District
7. Ritchie WV
8. 9.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34497
2. 47–039–03472–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust #21
6. Cabin Creek
7. Kanawha WV
8. 50.0 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34498
2. 47–039–03473–0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust #22
6. Cabin Creek
7. Kanawha WV
8. 34.0 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34499
2. 47–043–00325–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #3
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp

1. 80–34500
2. 47–043–00322–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #2
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp

1. 80–34501
2. 47–043–00310–0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #1
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp

1. 80–34502
2. 47–045–01027–0000
3. 108 000 000
4. Penzoil Co
5. Yawkey-Freeman #13
6. Yawkey-Freeman
7. Logan WV
8. 2.6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34503
2. 47–081–00462–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A–4
6. Town
7. Raleigh WV
8. 14.8 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34504
2. 47–081–00478–0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A–14
6. Town
7. Raleigh WV
8. 11.2 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34505
2. 47–081–00477–0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A–4
6. Shady Spring
7. Raleigh WV
8. 19.4 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34506
2. 47–081–00475–0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A–7
6. Town
7. Raleigh WV
8. 9.7 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34507
2. 47–085–00008–0000
3. 108 000 000
4. Pennzoil Co
5. W R Cunningham #1
6. Grant District
7. Ritchie WV
8. 3.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34508
2. 47–085–00553–0000
3. 108 000 000
4. Pennzoil Co
5. M C Morris #1
6. Grant District
7. Ritchie WV
8. 9.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34509
2. 47–081–00474–0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A–15
6. Town
7. Raleigh WV
8. 19.4 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp

1. 80–34510
2. 47–013–02745–0000
3. 108 000 000
4. Pennzoil Co
5. Laura V Ash #1
6. Sherman District
7. Calhoun WV
8. 2.3 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34511
2. 47–013–02451–0000
3. 108 000 000
4. Pennzoil Co
5. Laura V Ash #5
6. Sherman District
7. Calhoun WV
8. .8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34512
2. 47–013–02221–0000
3. 108 000 000
4. Pennzoil Co
5. M W Shaffer #3
6. Lee
7. Calhoun
8. 1.8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34513
2. 47–013–01890–0000
3. 108 000 000
4. Pennzoil Co
5. L G Garrett #6
6. Lee

7. Calhoun WV
8. 2.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34514
2. 47–013–01725–0000
3. 108 000 000
4. Pennzoil Co
5. L G Garrett #5
6. Lee
7. Calhoun WV
8. 2.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34515
2. 47–085–01797–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W L Stewart 10115
6. West Virginia Other A–85772
7. Ritchie WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34516
2. 47–103–00113–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. James M Allen 7739
6. West Virginia Other A–85772
7. Wetzel WV
8. 8.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34517
2. 47–045–00248–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Naaman Jackson 9492
6. Pineville Field Area A–59442
7. Logan WV
8. 16.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34518
2. 47–047–00759–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Pocahontas Land Corp 12462
6. Pineville Field Area A–59442
7. McDowell WV
8. 20.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34519
2. 47–041–02486–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas Supply 12451
6. West Virginia Other A–85772
7. Lewis WV
8. 30.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34520
2. 47–041–02467–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. John P Hull 12452
6. West Virginia Other A–85772
7. Lewis WV
8. 6.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34521
2. 47–047–00770–0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Pocahontas Land Corp 12503
6. Pineville Field Area A–59442
7. McDowell WV
8. 22.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34522
2. 47–033–01958–0000
3. 103 000 000
4. Patrick H Cunningham
5. Hill #1
6. Sardis
7. Harrison WV
8. 30.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34523
2. 47–013–02803–0000
3. 108 000 000
4. Pennzoil Co
5. Jarvis-Hamilton #1
6. Lee
7. Calhoun WV
8. 1.8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34524
2. 47–021–00095–0000
3. 108 000 000
4. Pennzoil Co
5. Bennett F S #3
6. Center
7. Gilmer WV
8. 1.7 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34525
2. 47–033–21916–0000
3. 103 000 000
4. Glenn H Johnson
5. Fortney #1
6. Eagle
7. Harrison WV
8. 45.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34526
2. 47–005–01123–0000
3. 108 000 000
4. Industrial Gas Corp
5. Bedford Etal 13–298
6.
7. Boone WV
8. 2.7 million cubic feet
9. May 19, 1980
10. Houdaille Industries Inc

1. 80–34527
2. 47–107–00879–0000
3. 103 000 000
4. Energex Corp
5. Walter Cain #1
6. Vienna
7. Wood WV
8. .0 million cubic feet
9. May 19, 1980
10. Gas Transport Inc

1. 80–34528
2. 47–041–00542–0000
3. 108 000 000
4. Ferrell L Prior
5. Cunningham #1
6. Courthouse District
7. Lewis WV
8. .7 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80–34529
2. 47–085–03694–0000
3. 108 000 000
4. Ferrell L Prior
5. Zinn #1
6. Union District
7. Ritchie WV
8. 1.5 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80–34530
2. 47–039–02089–0000
3. 108 000 000
4. Ferrell L Prior
5. Garnett #1
6. Union District
7. Kanawha WV
8. 15.5 million cubic feet
9. May 19, 1980
10. Columbia Gas Trans Corp

1. 80–34531
2. 47–013–02068–0000
3. 108 000 000
4. Ferrell L Prior
5. Riddle #1
6. Lee District
7. Calhoun WV
8. 5.3 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34532
2. 47–013–02112–0000
3. 108 000 000
4. Ferrell L Prior
5. Board #1
6. Lee District
7. Calhoun WV
8. 5.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34533
2. 47–021–02024–0000
3. 108 000 000
4. Ferrell L Prior
5. H West #1
6. Troy District
7. Gilmer WV
8. 1.4 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34534
2. 47–021–02033–0000
3. 108 000 000
4. Ferrell L Prior
5. Woofter #1
6. Troy District
7. Gilmer WV
8. 3.1 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34535
2. 47–021–02042–0000
3. 108 000 000
4. Ferrell L Prior
5. Woofter #1
6. Troy District
7. Gilmer WV
8. 5.6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34536

2. 47–021–02124–0000
3. 108 000 000
4. Ferrell L Prior
5. Powell #1
6. Troy District
7. Gilmer WV
8. 2.1 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34537
2. 47–021–02211–0000
3. 108 000 000
4. Ferrell L Prior
5. Queen #1
6. Troy District
7. Gilmer WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34538
2. 47–021–02221–0000
3. 108 000 000
4. Ferrell L Prior
5. Bollinger #1
6. Dekalb District
7. Gilmer WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34539
2. 47–021–02227–0000
3. 108 000 000
4. Ferrell L Prior
5. Reynolds #1
6. Dekalb District
7. Gilmer WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80–34540
2. 47–001–01004–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E Walker 6962
6. West Virginia Other A–85772
7. Barbour WV
8. 10.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34541
2. 47–001–01009–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Hoffman Trimble 7184
6. West Virginia Other A–85772
7. Barbour WV
8. 2.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34542
2. 47–005–00266–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Boone County Coal 9251
6. West Virginia Other A–85772
7. Boone WV
8. 4.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34543
2. 47–005–00277–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Boone County Coal Corp 9254
6. West Virginia Other A–85772
7. Boone WV
8. 2.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34544
2. 47–005–01172–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J D Allen 7243
6. West Virginia Other A–85772
7. Boone WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34545
2. 47–005–01178–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Federal Coal Co 7649
6. West Virginia Other A–85772
7. Boone WV
8. 1.0 million cubic feet
9. May 19, 1980
10. General System Purchaser

1. 80–34546
2. 47–005–01181–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E M Arbogast 7663
6. West Virginia Other A–85772
7. Boone WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34547
2. 47–005–01190–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Matt Burgess #1 7718
6. West Virginia Other A–85772
7. Boone WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34548
2. 47–007–01250–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Belle Crutchfield 4108
6. West Virginia Other A–85772
7. Braxton, WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34549
2. 47–007–01252–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. May Carder 4467
6. West Virginia Other A–85772
7. Braxton WV
8. 4.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34550
2. 47–013–00420–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. B M Beirs 7790
6. West Virginia Other A–85772
7. Calhoun WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34551
2. 47–013–02669–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Morris Heirs 5160
6. West Virginia Other A–85772
7. Calhoun WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34552
2. 47–013–02675–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Jennie B Knotts 5674
6. West Virginia Other A–85772
7. Calhoun WV
8. 12.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34553
2. 47–013–02676–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Brown McDonald 5870
6. West Virginia Other A–85772
7. Calhoun WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34554
2. 47–033–01605–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J W Williams 8178
6. West Virginia Other A–85772
7. Harrison WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34555
2. 47–013–02677–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Luther Little 6023
6. West Virginia Other A–85772
7. Calhoun WV
8. 1.5 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34556
2. 47–013–02682–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L Hunt 6234
6. West Virginia Other A–85772
7. Calhoun WV
8. 9.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34557
2. 47–013–02685–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Lee Gainer 6325
6. West Virginia Other A–85772
7. Calhoun WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers

1. 80–34558
2. 47–067–00484–0000
3. 108 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #14
6. Gauley

V 45 JE 6 80 UMI

7. Nicholas WV
8. 20.0 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34559
2. 47-015-20683-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Neal #1
6. Big Sycamore Creek
7. Clay WV
8. 5.8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34560
2. 47-015-01638-000
3. 108 000 000
4. Sterling Drilling and Prod Co Inc
5. Aloi #9
6. Buffalo District
7. Clay WV
8. 37.4 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34561
2. 47-015-20699-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Arbogast #1
6. Big Sycamore Ck
7. Clay WV
8. 2.2 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34562
2. 47-015-20700-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Neal #2
6. Big Sycamore Creek
7. Clay WV
8. 11.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34563
2. 47-015-20719-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Arbogast #2
6. Big Sycamore Ck
7. Clay WV
8. 8.5 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34564
2. 47-053-00166-0000
3. 103 000 000
4. Devon Corp
5. Dollie O Fisher #916
6. Parchment
7. Mason WV
8. 360.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34565
2. 47-053-00168-0000
3. 103 000 000
4. Devon Corp
5. Early Molze #915
6. Parchment
7. Mason WV
8. 360.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34566
2. 47-053-00173-0000
3. 103 000 000
4. Devon Corp
5. Williamson Pallet #885
6. Parchment
7. Mason WV
8. 90.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34567
2. 47-053-00174-0000
3. 103 000 000
4. Devon Corp
5. William Haught Hrs #890
6. Parchment
7. Mason WV
8. 36.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34568
2. 47-053-00175-0000
3. 103 000 000
4. Devon Corp
5. B M Grimm #888
6. Parchment
7. Mason WV
8. 18.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34569
2. 47-053-00176-0000
3. 103 000 000
4. Devon Corp
5. Elmer Hill #887
6. Parchment
7. Mason WV
8. 18.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34570
2. 47-053-00183-0000
3. 103 000 000
4. Devon Corp
5. Ivan Forbis #889
6. Parchment
7. Mason WV
8. 24.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp

1. 80-34571
2. 47-041-00623-0000
3. 108 000 000
4. Ferrell L Prior
5. Carroll #1
6. Courthouse District
7. Lewis WV
8. 3.1 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34572
2. 47-041-00725-0000
3. 108 000 000
4. Ferrell L Prior
5. Carroll #3
6. Courthouse District
7. Lewis WV
8. 1.8 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34573
2. 47-021-02154-0000
3. 108 000 000
4. Ferrell L Prior
5. Ogdin Hrs #2
6. Dekalb District
7. Gilmer, WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34574
2. 47-021-02153-0000
3. 108 000 000
4. Ferrell L Prior
5. Ogdin #1
6. Dekalb District
7. Gilmer, WV
8. 6.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34575
2. 47-021-02219-0000
3. 108 000 000
4. Ferrell L Prior
5. Arbuckle #2
6. Dekalb District
7. Gilmer, WV
8. 6.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34576
2. 47-021-02234-0000
3. 108 000 000
4. Ferrell L Prior
5. Cunningham #1
6. Dekalb District
7. Gilmer, WV
8. 7.7 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34577
2. 47-021-02283-0000
3. 108 000 000
4. Ferrell L Prior
5. Bolinger #2
6. Dekalb District
7. Gilmer, WV
8. 6.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34578
2. 47-085-01558-0000
3. 108 000 000
4. Ferrell L Prior
5. Ball #1
6. Union District
7. Ritchie, WV
8. 3.5 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34579
2. 47-021-02228-0000
3. 108 000 000
4. Ferrell L Prior
5. Simmons #1
6. Troy District
7. Gilmer, WV
8. 1.6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34580
2. 47-085-04169-0000
3. 103 000 000
4. Ferrell L Prior
5. Clee Leeson #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34581

2. 47-085-04149-0000
3. 103 000 000
4. Ferrell L Prior
5. Batson #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34582
2. 47-085-03850-0000
3. 103 000 000
4. Ferrell L Prior
5. Campbell #1
6. Union District
7. Ritchie, WV
8. 135.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34583
2. 47-085-03875-0000
3. 103 000 000
4. Ferrell L Prior
5. Hardwick #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Columbia Gas Trans Corp

1. 80-34584
2. 47-021-02925-0000
3. 103 000 000
4. Ferrell L Prior
5. Brown #1
6. Troy District
7. Gilmer, WV
8. 270.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34585
2. 47-107-00884-0000
3. 103 000 000
4. Energex Corp
5. Grace Shaffer #1
6. Vienna
7. Wood, WV
8. .0 million cubic feet
9. May 19, 1980
10. Gas Transport Inc

1. 80-34586
2. 47-107-00894-0000
3. 103 000 000
4. Energex Corp
5. Mt St Muzzleloading
6. Vienna
7. Wood, WV
8. .0 million cubic feet
9. May 19, 1980
10. Gas Transport Inc

1. 80-34587
2. 47-005-00928-0000
3. 108 000 000
4. Industrial Gas Corp
5. Little Coal Ld Co B2-224
6.
7. Boone, WV
8. 9.1 million cubic feet
9. May 19, 1980
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80-34588
2. 47-085-04257-0000
3. 103 000 000
4. Ferrell L Prior
5. Sutton #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34589
2. 47-041-02134-0000
3. 103 000 000
4. Ferrell L Prior
5. Helen Moran #1
6. Collins Settlement District
7. Lewis, WV
8. 54.0 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34590
2. 47-017-00383-0000
3. 108 000 000
4. Ferrell L Prior
5. Swentzel #1
6. West Union District
7. Doddridge, WV
8. 5.6 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34591
2. 47-017-00384-0000
3. 108 000 000
4. Ferrell L Prior
5. Neal Sentzel #1
6. West Union
7. Doddridge, WV
8. 5.6 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34592
2. 47-017-00438-0000
3. 108 000 000
4. Ferrell L Prior
5. Davis #2
6. Grant District
7. Doddridge, WV
8. 3.1 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 23, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17166 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[No. 213]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 2, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Texas Railroad Commission Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-34593/00238
2. 42-055-00000-0000
3. 103 000 000
4. Crystal Oil Co
5. Moses & Baggett B No. 29
6. Salt Flat
7. Caldwell, TX
8. 25.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34594/00264
2. 42-211-30944-0000
3. 103 000 000
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No. 32
6. Humphreys-Douglas
7. Hemphill TX
8. 110.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co

1. 80-34595/00353
2. 42-393-30239-0000
3. 103 000 000
4. Helmerich & Payne Inc
5. Mills C No. 2
6. Cree Flowers (Douglas)
7. Roberts TX
8. 550.0 million cubic feet
9. May 21, 1980
10. Michigan Wisconsin Pipeline Co

1. 80-34596/00924
2. 42-239-31299-0000
3. 102 103 000
4. Everest Exploration Co
5. Stafford A-1
6. Kubenka (2790) Field
7. Jackson TX
8. 95.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co

1. 80-34597/00993
2. 42-497-00000-0000
3. 103 000 000
4. Mote Resources Inc
5. Pearson 78135
6. Boonsville (Bend Congl Gas)
7. Wise TX
8. 240.0 million cubic feet

9. May 21, 1980

3. 103 000 000

8. 19.0 million cubic feet

2. 42-165-30619-0000

7. Hutchinson TX

2. 42-239-31159-0000

9. May 21, 1980
10. Southwestern Gas Pipeline Inc
1. 80-34598/01148
2. 42-497-30562-0000
3. 103 000 000
4. Mitchell Energy Corp
5. R V Phillips No. 3
6. Boonesville (Bend Congl)
7. Wise TX
8. 151.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34599/01227
2. 42-211-00000-0000
3. 103 000 000
4. Monsanto Co
5. Game No. 2
6. Humphreys (Douglas)
7. Hemphill TX
8. 220.0 million cubic feet
9. May 21, 1980
10. Cities Service Gas Co
1. 80-34600/01317
2. 42-211-31016-0000
3. 103 000 000
4. Monsanto Co
5. Game No. 3
6. Humphreys (Douglas)
7. Hemphill TX
8. 560.0 million cubic feet
9. May 21, 1980
10. Cities Service Oil Co
1. 80-34601/01401
2. 42-501-31552-0000
3. 103 000 000
4. Shell Oil Co
5. Denver Unit 2834
6. Wasson
7. Yoakum TX
8. .0 million cubic feet
9. May 21, 1980
10. Shell Oil Co, Coltexo Corp
1. 80-34602/01416
2. 42-135-32746-0000
3. 103 000 000
4. Shell Oil Co
5. Jordan Univ Unit 440
6. Jordan
7. Ector TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34603/01417
2. 42-135-32747-0000
3. 103 000 000
4. Shell Oil Co
5. Jordan Univ Unit 536
6. Jordan
7. Ector TX
8. .5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34604/01418
2. 42-461-31239-0000
3. 103 000 000
4. Shell Oil Co
5. McClintic Unit 56
6. McElroy
7. Upton TX
8. .8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34605/01419
2. 42-103-31760-0000
3. 103 000 000
4. Shell Oil Co
5. McClintic Unit 50
6. McElroy
7. Crane TX
8. .9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34606/01420
2. 42-103-31759-0000
3. 103 000 000
4. Shell Oil Co
5. McClintic Unit 40
6. McElroy
7. Crane TX
8. .9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34607/01421
2. 42-103-31758-0000
3. 103 000 000
4. Shell Oil Co
5. McClintic Unit 30
6. McElroy
7. Crane TX
8. .9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34608/01422
2. 42-105-31754-0000
3. 103 000 000
4. Shell Oil Co
5. Forristal B-10
6. Tippett (Wolfcamp Upper)
7. Crockett TX
8. 48.0 million cubic feet
9. May 21, 1980
10. Neleh Gas and Oil Co
1. 80-34609/01423
2. 42-475-30910-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 148
6. Monahans (Clearfork)
7. Ward/Winkler TX
8. 45.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34610/01425
2. 42-495-30534-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 150
6. Monahans NE (Penn Detrital Up)
7. Ward/Winkler TX
8. 55.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34611/01426
2. 42-475-31563-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 151
6. Monahans (Clearfork)
7. Ward/Winkler TX
8. 7.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34612/01427
2. 42-495-30871-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 152
6. Monahans (Clearfork)
7. Ward/Winkler TX
8. 19.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34613/01428
2. 42-475-31609-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 153
6. Monahans (Clearfork)
7. Ward/Winkler TX
8. 15.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34614/01429
2. 42-495-30870-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 155
6. Monahans (Clearfork)
7. Ward/Winkler TX
8. 7.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34615/01430
2. 42-495-30882-0000
3. 103 000 000
4. Shell Oil Co
5. Sealy Smith Foundation 156
6. Monahans (Clearfork)
7. Ward/Winkler TX
8. 13.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34616/01431
2. 42-165-31173-0000
3. 103 000 000
4. Shell Oil Co
5. T O Stark 25
6. Robertson N (San Andres)
7. Gaines TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34617/01432
2. 42-165-31172-0000
3. 103 000 000
4. Shell Oil Co
5. T O Stark 24
6. Robertson N (San Andres)
7. Gaines TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34618/01433
2. 42-165-31171-0000
3. 103 000 000
4. Shell Oil Co
5. T O Stark 23
6. Robertson N (San Andres)
7. Gaines TX
8. 18 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34619/01436
2. 42-165-30656-0000
3. 103 000 000
4. Shell Oil Co
5. T O Stark 20
6. Robertson N (San Andres)
7. Gaines TX
8. 12.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34620/01437

2. 42-165-30619-0000
3. 103 000 000
4. Shell Oil Co
5. T O Stark 19
6. Robertson N (San Andres)
7. Gaines TX
8. 10.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34621/01438
2. 42-165-30618-0000
3. 103 000 000
4. Shell Oil Co
5. T O Stark 18
6. Robertson N (San Andres)
7. Gaines TX
8. 9.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34622/01441
2. 42-165-30625-0000
3. 103 000 000
4. Shell Oil Co
5. Newbern 7
6. Robertson N (San Andres)
7. Gaines TX
8. 7.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34623/01443
2. 42-165-30627-0000
3. 103 000 000
4. Shell Oil Co
5. Coltharp 3
6. Robertson N (San Andres)
7. Gaines TX
8. 11.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34624/01580
2. 42-165-30846-0000
3. 102 000 000
4. Paraffine Oil Corp
5. P H Welder B No 1C
6. Heyser SE (6250)
7. Calhoun TX
8. 44.0 million cubic feet
9. May 21, 1980
10.
1. 80-34625/01651
2. 42-089-00000-0000
3. 102 103 000
4. Everest Exploration Co
5. Lehrer No 1
6. Garwood West (Wilcox A) Field
7. Colorado TX
8. 400.0 million cubic feet
9. May 21, 1980
10. Hydrocarbon Gathering Inc
1. 80-34626/01710
2. 42-427-04203-0000
3. 108 000 000
4. Dinero Oil Co
5. Febronio Flores #1
6. Sullivan City
7. Starr TX
8. 5.8 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34627/03505
2. 42-233-00000-0000
3. 108 000 000
4. Rogatz & Glass
5. Gulf Whittenburg D #1
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34628/03067
2. 42-311-30929-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Mary Ada Stischer #1
6. Roos (Wilcox 8100)
7. McMullen
8. 121.0 million cubic feet
9. May 21, 1980
10. Texas Eastern Transmission Corp
1. 80-34629/03055
2. 42-357-30851-0000
3. 103 000 000
4. Courson Oil & Gas Inc
5. Leatherman #1-748U
6. Dude Wilson (Cleveland)
7. Ochiltree TX
8. 150.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34630/03054
2. 42-357-30851-0000
3. 103 000 000
4. Courson Oil & Gas Inc
5. Leatherman #1-748L (Upper Morrow)
6. Dude Wilson
7. Ochiltree TX
8. 50.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34631/02817
2. 42-033-30472-0000
3. 103 000 000
4. Gulf Oil Corp
5. Canon Ranch Unit No 1121
6. 30-Mill (Spraberry)
7. Borden TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34632/02166
2. 42-393-30607-0000
3. 103 000 000
4. J M Huber Corp
5. Coffee Estate No 2
6. Shreikey (Morrow)
7. Roberts TX
8. 850.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80-34633/02095
2. 42-165-31278-0000
3. 103 000 000
4. Alamo Petroleum Co
5. John J Kain No 1
6. Homann (Yates)
7. Gaines TX
8. 55.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34634/01948
2. 42-401-30669-0000
3. 103 000 000
4. Mewbourne Oil Co
5. Roper #3
6. Henderson E (Travis Peak)
7. Rusk TX
8. 1.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co
1. 80-34635/01920
2. 42-239-31159-0000
3. 102 103 000
4. Vanderbilt Resources Corp
5. Stormont No 1
6. Long Branch (Frio 4400)
7. Jackson TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34636/01863
2. 42-105-00000-0000
3. 103 000 000
4. Delta Drilling Co
5. Kincaid 8
6. Ozona (Canyon)
7. Crockett TX
8. 213.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34637/03506
2. 42-233-00000-0000
3. 108 000 000
4. Rogatz & Glass
5. Gulf Whittenburg D #2
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34638/03507
2. 42-233-00000-0000
3. 108 000 000
4. Rogatz & Glass
5. Gulf Whittenburg D #5
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34639/03511
2. 42-233-00000-0000
3. 108 000 000
4. Rogatz & Glass
5. J J Perkins #1
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34640/03605
2. 42-285-31263-0000
3. 102 000 000
4. Davis Oil Co
5. Pat Hermes 1-U
6. Lavaca River (1700)
7. Lavaca TX
8. 70.0 million cubic feet
9. May 21, 1980
10. Texas Eastern Transmission Corp
1. 80-34641/03923
2. 42-185-30063-0000
3. 102 000 000
4. Cashco Energy Corp
5. Louis Shirley No 1
6. Hill (Georgetown)
7. Grimes County TX
8. 109.0 million cubic feet
9. May 21, 1980
10.
1. 80-34642/04037
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. G W Ramsey #1
6. Boonsville (Atoka Cong 5085)

V 45 J E 6 80 UMI

7. Wise TX
8. 11.6 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34643/04039
2. 42-367-30415-0000
3. 108 000 000
4. Mitchell Energy Corp
5. H W Parks #2
6. Boonsville Bend Cong
7. Parker TX
8. 19.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34644/04043
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Clifford Taylor #2
6. Boonsville Bend Cong
7. Wise TX
8. 15.3 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34645/04051
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. R L Morris B #2
6. Boonsville Bend Cong
7. Jack TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34646/04057
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. L E Boley #4
6. Boonsville Bend Cong
7. Jack TX
8. 1.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34647/04060
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Bud Bailey #1
6. Boonsville Bend Cong
7. Wise TX
8. 13.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34648/04063
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Roy Womack #1
6. Boonsville Bend Cong
7. Wise, TX
8. 18.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co. of America
1. 80-34649/04109
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. H J Deavers #2
6. Boonsville Bend Cong
7. Wise, TX
8. 14.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34650/04120
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W A Hutcheson #1
6. Boonsville Bend Cong
7. Wise, TX
8. 15.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34651/04132
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Gilbert Shawn #4
6. Boonsville Bend Cong
7. Wise, TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34652/04136
2. 42-497-00000-0000
4. Mitchell Energy Corp
5. G C Busey #2
6. Boonsville Bend Cong
7. Wise, TX
8. 17.4 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34653/04140
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. H V Hough #1
6. Boonsville Bend Cong
7. Wise, TX
8. 14.5 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34654/04156
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M M Austin #1
6. Boonsville Bend Cong
7. Wise, TX
8. 20.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34655/04183
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J D Karnes #5
6. Boonsville Bend Cong
7. Wise, TX
8. 1.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34656/04188
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J O Wilson #1
6. Boonsville Bend Cong
7. Wise, TX
8. 7.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34657/04207
2. 42-033-00000-0000
3. 103 000 000
4. Texaco Inc
5. Jo Mill Unit No 3541
6. Jo Mill (Spraberry)
7. Borden, TX
8. 21.6 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34658/04224
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Paul Curtner #3
6. Boonsville Bend Cong
7. Wise, TX
8. 9.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34659/04225
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Keeling-Daly Unit #1
6. Boonsville Bend Cong
7. Wise, TX
8. 10.5 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34660/04226
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Yale Griffis #1
6. Boonsville Bend Cong
7. Jack, TX
8. 14.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34661/04251
2. 42-497-30097-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M Greines #2
6. Boonsville Bend Cong
7. Wise, TX
8. 16.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34662/04248
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Kelly-Clark Unit #1
6. Boonsville Bend Cong
7. Wise, TX
8. 5.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34663/04246
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Bilberry-McClure-B-#5
6. Boonsville Consolid Cong
7. Wise, TX
8. 15.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34664/04245
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M J Klein-A-#2
6. Boonsville Bend Cong
7. Wise, TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34665/04236
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Ft Bend—Caswell #1
6. Alvord (Atoka Congl)
7. Wise, TX
8. 6.2 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34666/04235
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. T J Tinney B #1
6. Alvord (Atoka Cong)
7. Wise, TX
8. 15.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34667/04232
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Daly-Alderson #1
6. Boonsville Bend Cong
7. Wise, TX
8. 2.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34668/04228
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J D Karnes et al #1
6. Boonsville Bend Cong
7. Wise, TX
8. 15.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34669/04263
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M F Gerber #1
7. Wise, TX
8. 20.4 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34670/04326
2. 42-165-00000-0000
3. 103 000 000
4. Texaco Inc
5. L R Wood No 6
6. Robertson North (San Andres)
7. Gaines, TX
8. 26.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34671/04344
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Sally E Tully #1
6. Boonsville Bend Cong
7. Wise, TX
8. 12.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34672/04346
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Oran Speer #1
6. Boonsville Bend Cong
7. Wise, TX
8. 10.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34673/04381
2. 42-135-00000-0000
3. 103 000 000
4. Texaco Inc
5. West Jordan Unit No 14-19
6. Jordan
7. Ector, TX
8. 17.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34674/04685
2. 42-237-32102-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. A D Shawver
6. Perrin East (5400 Congl)
7. Jack County, TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34675/04693
2. 42-237-32101-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. Gonce #1
6. Perrin East (5400 Conglomerate)
7. Jack, TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34676/04796
2. 42-237-31930-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. Thacker
6. Perrin East (Atoka Congl 4800)
7. Jack County, TX
8. 185.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34677/04797
2. 42-503-31978-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. C B Hockaday
6. Young County Regular (Gas)
7. Young County, TX
8. 36.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34678/04968
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Annie Hamilton #4
6. Boonsville Bend Cong
7. Wise TX
8. 19.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34679/04972
2. 42-367-30038-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W L Collins #1
6. Toto (Caddo Conglomerate)
7. Parker TX
8. 20.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34680/04977
2. 42-233-00000-0000
3. 108 000 000
4. J M Huber Corp
5. Carver A No 2
6. Panhandle West
7. Hutchinson TX
8. 16.3 million cubic feet
9. May 21, 1980
10. Colorado Interstate Gas Co
1. 80-34681/04989
2. 42-211-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Frass No 2-107-U
6. Canadian Northwest
7. Hemphill TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34682/05064
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. S F Peek #2
6. Boonsville Bend Cong
7. Wise TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34683/05072
2. 42-497-30304-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Florence Currie #1
6. Boonesville Bend Conglomerate
7. Wise TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34684/05076
2. 42-285-30062-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W W Allen #2
6. Provident City (Yegua 5750)
7. Lavaca TX
8. 1.5 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34685/05078
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Charlie Lambert #1
6. Boonesville Bend Conglomerate
7. Wise TX
8. 15.2 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34686/05085
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Morris-Kempner #6
6. Boonsville Bend Cong
7. Jack TX
8. 17.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34687/05089
2. 42-497-30052-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Adele Clough #3
6. Boonsville Bend Cong

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7. Wise TX
8. 17.6 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80–34688/05096
2. 42–497–00600–0000
3. 108 000 000
4. Mitchell Energy Corp
5. Donaldson-Smith #1
6. Boonsville Bend Conglomerate
7. Wise TX
8. .0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80–34689/05504
2. 42–065–00000–0000
3. 108 000 000
4. J M Huber Corp
5. Deahl A No 1
6. Panhandle West
7. Carson TX
8. 17.6 million cubic feet
9. May 21, 1980
10. Colorado Interstate Gas Co
1. 80–34690/05627
2. 42–195–00000–0000
3. 108 000 000
4. Danden Petroleum Inc
5. Eva Holt #1
6. Texas Hugoton
7. Hansford TX
8. 15.6 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34691/05731
2. 42–179–00000–0000
3. 108 000 000
4. W L Bruce Co Operator
5. Walberg #1
6. Panhandle
7. Gray TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34692/06323
2. 42–419–30273–0000
3. 103 000 000
4. Arkla Exploration Co
5. Case #1
6. Stockman (Travis Peak)
7. Shelby TX
8. 37.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co
1. 80–34693/06114
2. 42–393–30273–0000
3. 103 000 000
4. Sun Oil Co (Delaware)
5. Parsell Estate No 7–L
6. Parsell
7. Roberts TX
8. 647.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80–34694/06496
2. 42–285–31278–0000
3. 103 000 000
4. F B Lacy
5. Brushy Creek Unit 1
6. Brushy Creek (4800)
7. Lavaca TX
8. 300.0 million cubic feet
9. May 21, 1980
10. Texas Eastern Transmission Corp
1. 80–34695/06508
2. 42–079–30511–0000
3. 103 000 000
4. Union Texas Petroleum
5. NW Slaughter Unit #66
6. Slaughter League 57
7. Cochran TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Amoco Production Co
1. 80–34696/06720
2. 42–413–30724–0000
3. 103 000 000
4. Ike Lovelady Inc
5. Virgil J Powell No 1–T
6. Tillery (Strawn)
7. Schleicher TX
8. 100.0 million cubic feet
9. May 21, 1980
10. Atlantic Richfield Co
1. 80–34697/06968
2. 42–103–31807–0000
3. 103 000 000
4. Shell Oil Co
5. North Cross (Dev) Unit 28
6. Crossett (Devonian)
7. Crane TX
8. 160.0 million cubic feet
9. May 21, 1980
10. Shell Oil Co
1. 80–34698/06987
2. 42–089–30933–0000
3. 103 000 000
4. Shell Oil Co
5. Sheridan Gas Unit No 77
6. Sheridan (Wilcox)
7. Colorado TX
8. 180.0 million cubic feet
9. May 21, 1980
10. National Fuel Gas Supply Corp; Houston P L Co
1. 80–34699/06988
2. 42–089–30874–0000
3. 103 000 000
4. Shell Oil Co
5. Sheridan Gas Unit No 74
6. Sheridan (Wilcox)
7. Colorado TX
8. 511.0 million cubic feet
9. May 21, 1980
10. National Fuel Gas Supply Corp; Houston P L Co
1. 80–34700/07038
2. 42–273–31167–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #131
6. Stratton (K–33)
7. Nueces TX
8. 189.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80–34701/07039
2. 42–273–00000–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #130
6. Stratton (Zone F–16–3)
7. Nueces TX
8. .0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80–34702/07044
2. 42–365–30773–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Carthage Gas Unit 13 #3
6. Carthage (Cotton Valley)
7. Panola TX
8. 670.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80–34703/07047
2. 42–355–00000–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #132
6. Stratton (M–12) Now (L–5)
7. Nueces TX
8. 374.4 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80–34704/07049
2. 42–273–31248–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #134
6. Stratton (8660)
7. Nueces TX
8. 49.4 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80–34705/07053
2. 42–365–30596–0000
3. 103 000 000
4. Champlin Petroleum Co
5. Carthage Gas Unit 11 #4
6. Carthage (Cotton Valley)
7. Panola TX
8. 770.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80–34706/07150
2. 42–123–00000–0000
3. 102 000 000
4. Murphy H Baxter
5. Crain G/U No 2 Well No 2
6. Upper Meyersville (Wilcox 8000)
7. Dewitt TX
8. 365.0 million cubic feet
9. May 21, 1980
10. United Texas Transmission Co
1. 80–34707/07151
2. 42–123–30781–0000
3. 102 000 000
4. Murphy H Baxter
5. Crain G/U No 1 Well No 1
6. Upper Meyersville (Wilcox 8000)
7. Dewitt TX
8. 511.0 million cubic feet
9. May 21, 1980
10. United Texas Transmission Co
1. 80–34708/07268
2. 42–501–31547–0000
3. 103 000 000
4. Tenneco Oil Co
5. Prentice Clearfork (6700) Unit #111
6. Prentice (6700)
7. Yoakum TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Amoco Production Co
1. 80–34709/07299
2. 42–501–31546–0000
3. 103 000 000
4. Tenneco Oil Co
5. Prentice Clearfork (6700) Unit #1117

6. Prentice Clearfork (6700)
7. Yoakum TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Amoco Production Co
1. 80–34710/07312
2. 42–355–00000–0000
3. 102 000 000
4. Getty Oil Co
5. TST 445 No 1–L
6. Redfish Bay (Zone 43)
7. Nueces TX
8. 175.0 million cubic feet
9. May 21, 1980
10. United Gas Pipeline
1. 80–34711/07313
2. 42–355–00000–0000
3. 102 000 000
4. Getty Oil Co
5. TST 444 No 1
6. Redfish Bay (Zone 43)
7. Nueces TX
8. 216.0 million cubic feet
9. May 21, 1980
10. United Gas Pipeline
1. 80–34712/07418
2. 42–363–00000–0000
3. 108 000 000
4. L&M Oil Co
5. I J Green B
6. Palo Pinto County Reg Gas
7. Palo Pinto TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34713/07442
2. 42–417–32531–0000
3. 103 000 000
4. Enserch Exploration Inc
5. A L Black No 3
6. Chastain (Lake)
7. Shackelford TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34714/07443
2. 42–197–30274–0000
3. 103 000 000
4. Enserch Exploration Inc
5. Gene Gilliam No 1
6. Rig Dog (Mississippian)
7. Hardeman TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Shell Oil Co
1. 80–34715/07592
2. 42–249–30568–0000
3. 103 000 000
4. Grace Petroleum Corp
5. Stelzig-Zwerneman #6
6. Amargosa
7. Jim Wells TX
8. 110.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80–34716/07620
2. 42–413–30598–0000
3. 103 000 000
4. Gas Development Corp
5. Clovis Olsak 105 Well No 1
6. Eldorado South (Canyon)
7. Schleicher TX
8. 219.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34717/07628
2. 42–327–30295–0000
3. 108 000 000
4. Tahoe Oil & Cattle Co
5. Wilhelm-Lone Wolf No 1
6. Dodson S W (Goen Lime)
7. Menard TX
8. 7.9 million cubic feet
9. May 21, 1980
10. Sun Gas Co
1. 80–34718/07630
2. 42–127–31662–0000
3. 102 000 000
4. I W Lovelady
5. John Strait Gas Unit No 1
6. Strait (Georgetown) Field
7. Dimmit TX
8. 900.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34719/07634
2. 42–435–00000–0000
3. 108 000 000
4. Omar Operating Company
5. Wilson 3–C & 3–T
6. Canyon Sand (Strawn Lime)
7. Sutton TX
8. 8.6 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34720/07646
2. 42–039–31242–0000
3. 102 000 000
4. The Anschutz Corp
5. James R Geissen No 1
6. Danbury SW (12400–B)
7. Brazoria TX
8. 360.0 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80–34721/07647
2. 42–039–30787–0000
3. 102 000 000
4. The Anschutz Corp
5. H L Peterson No 1
6. Danbury SW (Lower Frio 12550)
7. Brazoria TX
8. 146.0 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80–34722/07648
2. 42–039–31256–0000
3. 102 000 000
4. The Anschutz Corp
5. James R Marmion No 1
6. Danbury SW (12100–A)
7. Brazoria TX
8. 186.5 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80–34723/07649
2. 42–039–31273–0000
3. 102 000 000
4. The Anschutz Corp
5. H W Geissen No 1–B
6. Danbury SW (13650–H)
7. Brazoria TX
8. 125.0 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80–34724/07673
2. 42–131–39020–0000
3. 103 000 000
4. Hewitt B Fox Inc
5. #2–T Barrera-Leach #2–1
6. Sejita East (1900)
7. Duval TX
8. 73.0 million cubic feet
9. May 21, 1980
10. Valley Gas Transmission Inc
1. 80–34725/07759
2. 42–365–00000–0000
3. 103 000 000
4. Delta Drilling Co
5. Harold Wilson #2
6. Carthage (Cotton Valley)
7. Panola County TX
8. 124.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co
1. 80–34726/07927
2. 42–105–31092–0000
3. 103 000 000
4. H&W Enterprises
5. University 9 No 4
6. Farmer (San Andres)
7. Crockett TX
8. 4.5 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34727/07928
2. 42–105–31093–0000
3. 103 000 000
4. H&W Enterprises
5. University 9 No 3
6. Farmer (San Andres)
7. Crockett TX
8. 5.1 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34728/07934
2. 42–105–31713–0000
3. 103 000 000
4. H&W Enterprises
5. University 12–B #1
6. Farmer (San Andres)
7. Crockett TX
8. 4.6 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34729/07935
2. 42–105–31618–0000
3. 103 000 000
4. H&W Enterprises
5. University 9–A #4
6. Farmer (San Andres)
7. Crockett TX
8. 8.8 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34730/07936
2. 42–105–31616–0000
3. 103 000 000
4. H&W Enterprises
5. University 9–A #2
6. Farmer (San Andres)
7. Crockett TX
8. 8.1 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34731/07937
2. 42–105–31617–0000
3. 103 000 000
4. H&W Enterprises
5. University 9–A #3
6. Farmer (San Andres)

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7. Crockett TX
8. 6.7 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34732/07978
2. 42–401–30643–0000
3. 102 000 000
4. Amoco Production Co
5. E E Beckworth No 1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 887.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34733/08072
2. 42–203–30496–0000
3. 102 000 000
4. Amoco Production Co
5. Bradshaw CM Gas Unit 001
6. Blocker (Cotton Valley)
7. Harrison TX
8. 106.9 million cubic feet
9. May 21, 1980
10. Delhi Gas Pipeline Corp
1. 80–34734/08071
2. 42–401–30625–0000
3. 102 000 000
4. Amoco Production Co
5. Joe S Kinsey Gas Unit No 1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 342.7 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34735/08066
2. 42–401–30597–0000
3. 102 000 000
4. Amoco Production Co
5. Michael Kangerga No 1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 310.7 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1 80–34736/08063
2. 42–401–30641–0000
3. 102–000–000
4. Amoco Production Co
5. Felix W Jenkins No 1
6. Dirgin (Cotton Valley)
7. Rusk. TX
8. 299.3 million cubic feet
9. May 21, 1980
10. Hydrocarbons Transfer Inc
1. 80–34737/08059
2. 42–401–30576–0000
3. 102–000–000
4. Amoco Production Co
5. Hair Gas Unit No 1
6. Dirgin (Cotton Valley)
7. Rusk. TX
8. 427.0 million cubic feet
9. May 21, 1980
10. Hydrocarbons Transfer Inc
1. 80–34738/08037
2. 42–211–00000–0000
3. 103–000–000
4. Amoco Production Co
5. George 1–11
6. Buffalo Wallow
7. Hemphill. TX
8. 110.0 million cubic feet
9. May 21, 1980
10. Pioneer Natural Gas Co
1. 80–34739/08000
2. 42–321–40842–0000
3. 103–000–000
4. Amoco Production Co
5. J E Thompson No 10
6. Lucky (Thompson 10100)
7. Matagorda. TX
8. 50.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80–34740/08029
2. 42–401–30683–0000
3. 102–000–000
4. Amoco Production Co
5. G Wallace Gas Unit No 1
6. Dirgin (Cotton Valley)
7. Rusk. TX
8. 186.9 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34741/08713
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Burnett I #3
6. Panhandle
7. Hutchinson. TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34742/08712
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Burnett I #4
6. Panhandle
7. Hutchinson. TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34743/08711
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Burnett I #5
6. Panhandle
7. Hutchinson. TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34744/08710
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Burnett I #6
6. Panhandle
7. Hutchinson. TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34745/08709
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Burnett I #7
6. Panhandle
7. Hutchinson. TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34746/08708
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. McCarty #1
6. Panhandle
7. Hutchinson. TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80–34747/08707
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. McCarty #2
6. Panhandle
7. Hutchinson. TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80–34748/08705
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. McCarty #5
6. Panhandle
7. Hutchinson. TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80–34749/08704
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. McCarty #6
6. Panhandle
7. Hutchinson. TX
8. 13.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80–34750/10008703
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. McCarty #7
6. Panhandle
7. Hutchinson. TX
8. 13.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80–34751/08695
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Whittenburg YA #6
6. Panhandle
7. Hutchinson. TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34752/08694
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Whittenburg YA #8
6. Panhandle
7. Hutchinson. TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34753/08693
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Whittenburg YA #9
6. Panhandle
7. Hutchinson. TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34754/08692

2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Whittenburg YA #11
6. Panhandle
7. Hutchinson. TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34755/08691
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Whittenburg YA #13
6. Panhandle
7. Hutchinson. TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34756/08686
2. 42–233–00000–0000
3. 108–000–000
4. Detra Producing Co
5. Whittenburg R #4
6. Panhandle
7. Hutchinson. TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34757/08628
2. 42–497–31082–0000
3. 103–000–000
4. Atapco
5. East Unit #4–4
6. Alvord South (Caddo Conglomerate)
7. Wise. TX
8. 1.2 million cubic feet
9. May 21, 1980
10. Mitchell Energy
1. 80–34758/08623
2. 42–211–30981–0000
3. 103–000–000
4. American Public Energy Co
5. Lockhart No 1
6. Feldman (Morrow Lower)
7. Hemphill County. TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80–34759/08614
2. 42–413–30610–0000
3. 103–000–000
4. Tom Brown Inc
5. Bray No 1
6. Henry Speck (Canyon)
7. Schleicher. TX
8. 19.2 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80–34760/08613
2. 42–413–30612–0000
3. 103–000–000
4. Tom Brown Inc
5. Faull No 1
6. Henry Speck (Canyon)
7. Schleicher. TX
8. 32.4 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80–34761/08609
2. 42–413–30581–0000
3. 103–000–000
4. Tom Brown Inc
5. Carlene Keel No 3
6. Henry Speck (Canyon)
7. Schleicher. TX
8. 26.3 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80–34762/08607
2. 42–413–30631–0000
3. 103–000–000
4. Tom Brown Inc
5. Mary Coupe No 4
6. Henry Speck (Canyon)
7. Schleicher. TX
8. 133.9 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34763/08604
2. 42–413–30614–0000
3. 103–000–000
4. Tom Brown Inc
5. Parker Foods A No 1
6. Henry Speck (Canyon)
7. Schleicher. TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80–34764/08602
2. 42–413–30363–0000
3. 103–000–000
4. Tom Brown Inc
5. Frank Valis No 1
6. Henry Speck (Canyon)
7. Schleicher. TX
8. 5.4 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80–34765/08249
2. 42–383–00000–0000
3. 103–000–000
4. Brotherton Production Co
5. University 17–1
6. Amigo (San Andres)
7. Reagan County. TX
8. .0 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80–34766/08281
2. 42–227–31635–0000
3. 103 000 000
4. Cola Petroleum Inc
5. Devaney No 1
6. Coahoma N (Fussel)
7. Howard. TX
8. 25.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80–34767/08282
2. 42–115–31193–0000
3. 103 000 000
4. Cola Petroleum Inc
5. Bowlin No 1
6. Ackerly (Dean Sand)
7. Dawson. TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Texaco Inc
1. 80–34768/08318
2. 42–003–00000–0000
3. 103 000 000
4. Friemel & Carpenter
5. W T Ford No 7
6. Fuhrman-Mascho
7. Andrews. TX
8. 10.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34769/08319
2. 42–003–00000–0000
3. 103 000 000
4. Friemel & Carpenter
5. W T Ford No 5
6. Fuhrman-Mascho (Grbg San Andres)
7. Andrews. TX
8. 129.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34770/08320
2. 42–003–00000–0000
3. 103 000 000
4. Friemel & Carpenter
5. W T Ford No 6
6. Fuhrman-Mascho
7. Andrews. TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34771/08388
2. 42–365–00000–0000
3. 103 000 000
4. McCormick Oil & Gas Corp
5. W B Weiner et al D–1
6. Carthage (Cotton Valley)
7. Panola. TX
8. 289.0 million cubic feet
9. May 21, 1980
10. United Gas Pipeline Co
1. 80–34772/08431
2. 42–365–30626–0000
3. 103 000 000
4. Remuda Oil & Gas Co
5. Briggs Gas Unit No 1
6. Beckville North (Cotton Valley)
7. Panola. TX
8. .0 million cubic feet
9. May 21, 1980
10. Arkansas-Louisiana Gas Co
1. 80–34773/08434
2. 42–195–30614–0000
3. 103 000 000
4. Ricks Exploration Co
5. Clawson #26–A
6.
7. Hansford. TX
8. 300.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34774/08438
2. 42–413–30736–0000
3. 103 000 000
4. Saxon Oil Co
5. Odgen #1
6. Henry Speck
7. Schleicher County. TX
8. 90.0 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80–34775/08445
2. 42–383–31299–0000
3. 103 000 000
4. Saxon Oil Co
5. University 15–10 #1
6. Spraberry (Trend Area)
7. Reagan County. TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34776/08525
2. 42–135–32978–0000
3. 103 000 000
4. Wayman W Buchanan
5. E F Cowden G No 2
6. Foster

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7. Ector, TX
8. 29.2 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34777/08527
2. 42-135-33064-0000
3. 103 000 000
4. Wayman W Buchanan
5. E F Cowden G No 3
6. Foster
7. Ector, TX
8. 21.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34778/08549
2. 42-355-31176-0000
3. 108 000 000
4. Huisache Operating Co
5. A C Gandy #1
6. Minnie Bock (5400)
7. Nueces, TX
8. 20.1 million cubic feet
9. May 21, 1980
10. Channel Industries

1. 80-34779/08568
2. 42-135-32826-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden 28 No 1
6. Cowden South
7. Ector, TX
8. 43.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34780/08569
2. 42-135-33083-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden C No 3
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34781/08570
2. 42-135-33054-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden C No 2
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34782/08571
2. 42-135-32833-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden Co No 1
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34783/08573
2. 42-135-32849-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden C No 1
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34784/08574
2. 42-135-33077-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden No 5
6. Cowden South
7. Ector, TX
8. 67.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34785/08578
2. 42-135-32117-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden A No 2
6. Cowden South
7. Ector, TX
8. 153.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34786/08585
2. 42-165-31175-0000
3. 103 000 000
4. Samedan Oil Corp
5. M A Moore #11
6. Robertson (SA)
7. Gaines, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34787/08597
2. 42-413-30635-0000
3. 103 000 000
4. Tom Brown Inc
5. Enoch No 2
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 91.2 million cubic feet
9. May 21, 1980
10. Producers Gas Co

1. 80-34788/08598
2. 42-413-30620-0000
3. 103 000 000
4. Tom Brown Inc
5. Bush Thompson #1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 25.5 million cubic feet
9. May 21, 1980
10. Producers Gas Co

1. 80-34789/08600
2. 42-413-30432-0000
3. 103 000 000
4. Tom Brown Inc
5. Valis A No 2
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 6.5 million cubic feet
9. May 21, 1980
10. Producers Gas Co

1. 80-34790/08601
2. 42-413-30366-0000
3. 103 000 000
4. Tom Brown Inc
5. Valis A No 1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 19.3 million cubic feet
9. May 21, 1980
10. Producers Gas Co

1. 80-34791/10464
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #5
6. Panhandle
7. Gray, TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34792/10465
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #6
6. Panhandle
7. Gray, TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34793/10466
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #6
6. Panhandle
7. Gray, TX
8. 2.2 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34794/10467
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #1
6. Panhandle
7. Gray, TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34795/10468
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #3
6. Panhandle
7. Gray, TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34796/10469
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #4
6. Panhandle
7. Gray TX
8. 2.2 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34797/10470
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #5
6. Panhandle
7. Gray TX
8. 2.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34798/10474
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #1
6. Panhandle
7. Gray TX
8. 2.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34799/10475

2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #2
6. Panhandle
7. Gray TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34800/10477
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #4
6. Panhandle
7. Gray TX
8. 2.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34801/10481
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #2
6. Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34802/10482
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #4
6. Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34803/10483
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #8
6. Panhandle
7. Gray TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Coltexo Corp

1. 80-34804/10484
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #3
6. Panhandle
7. Gray TX
8. 2.5 million cubic feet
9. May 21, 1980
10. Coltexo Corp

1. 80-34805/10485
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #4
6. Panhandle
7. Gray TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Coltexo Corp

1. 80-34806/10486
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #7
6. Panhandle
7. Gray TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Coltexo Corp

1. 80-34807/10491
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #5
6. Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34808/10492
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #6
6. Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34809/10493
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #7
6. Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34810/10494
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #8
6. Panhandle
7. Gray TX
8. .0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34811/10506
2. 42-233-00000-0000
3. 108 000 000
4. G C Herrmann Co
5. Whittenburg #2
6. Panhandle
7. Hutchinson TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34812/10508
2. 42-233-00000-0000
3. 108 000 000
4. G C Herrmann Co
5. Whittenburg #5
6. Panhandle
7. Hutchinson TX
8. 2.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34813/10778
2. 42-383-31327-0000
3. 103 000 000
4. Energy Reserves Group Inc
5. Rupert P Ricker Ko #6
6. Calvin Fields (Dean) (Spraberry)
7. Reagan TX
8. 72.0 million cubic feet
9. May 21, 1980
10. Union Texas Petroleum

1. 80-34814/10838
2. 42-195-30625-0000
3. 103 000 000
4. Horizon Oil & Gas Co of Texas
5. Cubine-Parker 1-71
6. Hansford Middle Morrow
7. Hansford TX
8. 600.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co

1. 80-34815/10841
2. 42-429-00000-0000
3. 103 000 000
4. George S Galbraith
5. Four J Cattle Co #2
6. Four J (Duffer up)
7. Stephens TX
8. 36.0 million cubic feet
9. May 21, 1980
10. Warren Petroleum Co

1. 80-34816/10843
2. 42-131-33106-0000
3. 103 000 000
4. Tampa Cove Investments Inc
5. J D Vaello
6. Proposed Vaello (Cole)
7. Duval TX
8. 950.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80-34817/10844
2. 42-105-32118-0000
3. 102 000 000
4. Harrison Interests Ltd
5. University Land 29-30 #7
6. Howards Creek (Canyon)
7. Crockett TX
8. 64.0 million cubic feet
9. May 21, 1980
10.

1. 80-34818/10845
2. 42-105-32156-0000
3. 102 000 000
4. Dan J Harrison Jr
5. University Land 17-33 #10
6. Howards Creek (Canyon)
7. Crockett TX
8. 110.0 million cubic feet
9. May 21, 1980
10.

1. 80-34819/10869
2. 42-365-30648-0000
3. 103 000 000
4. McCormick Oil & Gas Corp
5. V Adams Gas Unit #1
6. Carthage (Lower Pettit)
7. Panola TX
8. 135.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co

1. 80-34820/10877
2. 42-179-00000-0000
3. 108 000 000
4. Pipeline Services Inc
5. Colebank #1
6. East Panhandle
7. Gray TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34821/10891
2. 42-079-00000-0000
3. 103 000 000
4. United Co
5. Marty Wright #42
6. Levelland (San Andres)

7. Cochran TX
8. .0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34822/10975
2. 42–341–30537–0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Garland McKee No 3
6. Panhandle West
7. Moore TX
8. 100.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co Panhandle Eastern Pipeline Co
1. 80–34823/10996
2. 42–283–30651–0000
3. 102 000 000
4. W M Null
5. C N Cooke A No 1
6. Cooke (Wilcox 5130 West)
7. LaSalle TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80–34824/10998
2. 42–135–33086–0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden 32 No 1
6. Cowden South
7. Ector TX
8. 80.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34825/08714
2. 42–413–30707–0000
3. 102 000 000
4. Discovery Operating Inc
5. Bearce #1
6. JKT (Canyon)
7. Schleicher TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80–34826/08730
2. 42–371–31945–0000
3. 103 000 000
4. Henry Petroleum Corp
5. Allar No. 1
6. Spraberry (Trend Area)
7. Martin TX
8. 11.0 million cubic feet
9. May 21, 1980
10. Adobe Oil & Gas Corp
1. 80–34827/08731
2. 42–461–31271–0000
3. 103 000 000
4. Henry Petroleum Corp
5. Cox A No. 1
6. Spraberry (Trend Area)
7. Upton TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34828/08737
2. 42–233–00000–0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Turner Smith No. 1
6. Panhandle
7. Hutchinson TX
8. 15.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34829/08796
2. 42–363–00000–0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Taylor No. 3
6. Brazos East (Caddo)
7. Palo Pinto TX
8. 7.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34830/08797
2. 42–367–00000–0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Herring No. 1
6. Brazos East (Caddo)
7. Parker TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34831/08799
2. 42–363–00000–0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Taylor No. 2
6. Brazos East (Strawn) Field
7. Palo Pinto TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34832/08800
2. 42–367–00000–0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Carr No. 1
6. Brazos East (Strawn)
7. Parker TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34833/08898
2. 42–479–30609–0000
3. 108 000 000
4. W B Yarborough
5. Palafox No. 1–947
6. Booth Ranch (Olmos)
7. Webb TX
8. 16.4 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34834/08899
2. 42–479–30593–0000
3. 108 000 000
4. W B Yarborough
5. Palafox No. 1–42
6. Booth Ranch (Olmos)
7. Webb TX
8. 20.8 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34835/08900
2. 42–479–30643–0000
3. 108 000 000
4. W B Yarborough
5. Palafox No. 1–297
6. Booth Ranch (Olmos)
7. Webb TX
8. 7.7 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34836/08921
2. 42–287–30294–0000
3. 103 000 000
4. U S Resources Inc
5. L A Loewe No. 1
6. Giddings (Austin Chalk)
7. Lee TX
8. 60.0 million cubic feet
9. May 21, 1980
10. PGP Gas Products Inc
1. 80–34837/09013
2. 42–247–30856–0000
3. 102 000 000
4. Mormac Oil & Gas Co
5. Weil Bros Block 2 A No. 1
6. Weil (5180)
7. Jim Hogg TX
8. 365.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipeline Corp
1. 80–34838/09026
2. 42–347–30128–0000
3. 102 000 000
4. Jones-Obrien Inc
5. A M Foshee No. 1
6. Naconiche Creek (Pettit)
7. Nacogdoches TX
8. 63.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co
1. 80–34839/09079
2. 42–297–31971–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. McClelland No. 13
6. Oakville (Wilcox 7930)
7. Live Oak TX
8. 430.0 million cubic feet
9. May 21, 1980
10. Delhi Gas Pipeline Corp
1. 80–34840/09132
2. 42–003–31549–0000
3. 103 000 000
4. Exxon Corp
5. Fullerton (Clearfork) Unit No. 827
6. Fullerton (Clearfork)
7. Andrews TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34841/09135
2. 42–431–30700–0000
3. 103 000 000
4. Grand Banks Energy Co
5. Hannah B Bailey 2–A
6. Deck (Cisco)
7. Sterling TX
8. 39.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co Union Texas Petroleum
1. 80–34842/09136
2. 42–431–30701–0000
3. 103 000 000
4. Grand Banks Energy Co
5. Hannah B Bailey 1–A
6. Deck (Cisco)
7. Sterling TX
8. 44.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co Union Texas Petroleum
1. 80–34843/09213
2. 42–483–00000–0000
3. 108 000 000
4. Martha Sue Tepera
5. Richardson No. 1
6. East Panhandle
7. Wheeler TX
8. .4 million cubic feet

9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34844/09267
2. 42–215–30864–0000
3. 103 000 000
4. American Petrofina Co of Texas
5. Alex Ramey Unit No. 1 No. 5–L
6. Cano-Mexico (6600)
7. Hidalgo TX
8. 500.0 million cubic feet
9. May 21, 1980
10. South Texas Natural Gas Gath Co
1. 80–34845/09314
2. 42–087–30113–0000
3. 103 000 000
4. D D Houtchens
5. Knoll No. 1
6. East Panhandle
7. Collingsworth TX
8. 9.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34846/09349
2. 42–311–30909–0000
3. 103 000 000
4. Petrus Operating Co Inc
5. Martin No. 1
6. Dilworth (Edward Lime)
7. McMullen TX
8. 2500.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipeline Corp
1. 80–34847/09393
2. 42–165–31500–0000
3. 103 000 000
4. Exxon Corp
5. Robertson (Clfk) Unit No. 1902
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34848/09415
2. 42–383–31253–0000
3. 103 000 000
4. Southland Royalty Co
5. University H No. 1
6. Spraberry (Trend Area)
7. Reagan TX
8. 45.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34849/09682
2. 42–441–00000–0000
3. 103 000 000
4. D A B Oil Service Inc
5. Edgar Davis C No. 1
6. Trey (Flippen)
7. Taylor TX
8. 34.7 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co Union Texas Petroleum
1. 80–34850/09685
2. 42–233–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. J A Whittenburg D No. 10
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34851/09876
2. 42–413–00000–0000
3. 108 000 000
4. Getty Oil Co
5. Angie Webster No. 1
6. Fort McKavitt
7. Schleicher TX
8. 15.0 million cubic feet
9. May 21, 1980
10. Atlantic Richfield Co
1. 80–34852/09884
2. 42–285–30725–0000
3. 102 000 000
4. Superior Oil Co
5. Monte Von Rosenberg Unit No. 1–3
6. Word N (Edwards)
7. Lavaca TX
8. 1273.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34853/09921
2. 42–135–00000–0000
3. 108 000 000
4. Texaco Inc
5. J D Slator B No. 1
6. Txl (Devonian)
7. Ector TX
8. 10.6 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34854/10034
2. 42–179–00000–0000
3. 108 000 000
4. Texaco Inc
5. W W Harrah No. 13
6. Panhandle Gray
7. Gray TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Kerr McGee Corp
1. 80–34855/10287
2. 42–135–00000–0000
3. 108 000 000
4. American Petrofina Co of Texas
5. R B Cowden C No. 2
6. Goldsmith North
7. Ector TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34856/10310
2. 42–195–30600–0000
3. 103 000 000
4. Cotton Petroleum Corp
5. Whitaker No 1–T
6. Hansford (Morrow Lower)
7. Hansford TX
8. 328.5 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co, Panhandle Easter Pipeline Co
1. 80–34857/10412
2. 42–079–30445–0000
3. 108 000 000
4. United Co
5. Seaboard Wright #15
6. Levelland (SA)
7. Cochran TX
8. 6.3 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34858/10431
2. 42–079–00000–0000
3. 108 000 000
4. United Co
5. G G Wright #1
6. Levelland (SA)
7. Cochran TX
8. 5.5 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80–34859/10457
2. 42–179–00000–0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Osborne A #1
6. Panhandle
7. Gray TX
8. 20.0 million cubic feet
9. May 21, 1980
10. Cabot Corp
1. 80–34860/10458
2. 42–179–00000–0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley L #7
6. Panhandle
7. Gray TX
8. 3.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34861/10459
2. 42–179–00000–0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley L #8
6. Panhandle
7. Gray TX
8. 2.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34862/10460
2. 42–179–00000–0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley L #11
6. Panhandle
7. Gray TX
8. 2.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80–34863/12129
2. 42–367–31573–0000
3. 103 000 000
4. Baron Co Inc
5. Zellers
6. Barnes Atoka
7. Parker County TX
8. 60.0 million cubic feet
9. May 21, 1980
10. Buckner Gas Co
1. 80–34864/12150
2. 42–505–30562–0000
3. 108 000 000
4. Gulf Oil Corp
5. J G. Rathmell #1
6. Urebeno (Lobo) Field
7. Zapata TX
8. 6.1 million cubic feet
9. May 21, 1980
10. Lo Vaca Gathering Co
1. 80–34865/12197
2. 42–033–30491–0000
3. 103 000 000
4. Wes-Tex Drilling Co
5. D K Burkhart No 1
6. Ackerly (Dean Sand)
7. Borden/Howard TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34866/12235
5. Vida Lewis B–8
10. Getty Oil Co

1. 80–34866/12235
2. 42–131–00000–0000
3. 108 000 000
4. Exxon Corp
5. E C Lundell No 1–D
6. Lundell/Wilcox
7. Duval TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co

1. 80–34867/12279
2. 42–103–32028–0000
3. 103 000 000
4. Exxon Corp
5. J B Tubb B #20–L
6. Sand Hills (Tubb)
7. Crane TX
8. 44.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co. Warren Petroleum Corp

1. 80–34868/12369
2. 42–211–00000–0000
3. 102 000 000
4. Cambridge & Nail
5. Humphreys #1
6. Twister (Douglas)
7. Hemphill TX
8. 360.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co

1. 80–34869/12370
2. 42–211–30985–0000
3. 102 000 000
4. Cambridge & Nail
5. Urschel #1
6. Twister (Douglas)
7. Hemphill TX
8. 360.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co

1. 80–34870/12371
2. 42–211–31024–0000
3. 102 000 000
4. Cambridge & Nail
5. Urschel #2
6. Twister (Douglas)
7. Hemphill TX
8. 360.0 million cubic feet
9. May 21, 1980
10. Cities Service Co

1. 80–34871/12384
2. 42–461–31389–0000
3. 102 000 000
4. Hunt Oil Co
5. V T Amacker 76 #2
6. Amacker-Tippett SW (Wolfcamp)
7. Upton TX
8. 20.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34872/12412
2. 42–179–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Arnold #3
6. Panhandle Gray
7. Gray TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34873/12649
2. 42–065–00000–0000
3. 108 000 000
4. Panhandle Producing Co
5. Vida Lewis B–8
6. Panhandle Carson County
7. Carson TX
8. 2.9 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34874/12864
2. 42–409–31287–0000
3. 103 000 000
4. Messers Co Inc
5. Du Pont #1—ID (N/A)
6. Enos Cooper (7000)
7. San Patricio TX
8. 180.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co

1. 80–34875/12921
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 11–2
6. Panhandle Gray
7. Gray TX
8. 4.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34876/12923
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 11–5
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34877/12925
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 11–07
6. Panhandle Gray
7. Gray TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34878/12926
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 14–02
6. Panhandle Gray
7. Gray TX
8. .7 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34879/12930
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 19–04
6. Panhandle Gray
7. Gray TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Cities Service Co

1. 80–34880/12947
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Whittenburg No 71
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34881/12986
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Whittenburg No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34882/12992
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 15
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34883/13001
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 25
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.8 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34884/13002
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Turner-Kent B No 26
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34885/13007
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 5B–10
6. Panhandle Gray
7. Gray TX
8. .4 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34886/13010
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 6–1
6. Panhandle Gray
7. Gray TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34887/13023
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Phil-Pampa Unit No 13–04
6. Panhandle Gray
7. Gray TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34888/13024
2. 42–179–00000–0000
3. 108 000 000

4. Phillips Petroleum Co
5. Phil-Pampa Unit No 14–07
6. Panhandle Gray
7. Gray TX
8. .8 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34889/13187
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 4
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34890/13188
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 5
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34891/13189
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 10
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34892/13190
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 11
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34893/13191
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 12
6. Panhandle Hutchinson
7. Hutchinson TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34894/13194
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 70
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34895/13195
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 71
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34896/13196
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 72
6. Panhandle Hutchinson
7. Hutchinson TX
8. .9 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34897/13197
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 73
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34898/13198
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 75
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34899/13199
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 76
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34900/13200
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 78
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34901/13201
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 79
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34902/13202
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 96
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34903/13203
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 98
6. Panhandle Hutchinson
7. Hutchinson TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34904/13204
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 81
6. Panhandle Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34905/13205
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 80
6. Panhandle Hutchinson
7. Hutchinson TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34906/13240
2. 42–413–00000–0000
3. 108 000 000
4. Moran Exploration Inc
5. Whitten No 1
6. El Dorado North (Canyon A)
7. Schleicher TX
8. .1 million cubic feet
9. May 21, 1980
10. CRA Inc

1. 80–34907/13291
2. 42–179–23731–0000
3. 108 000 000
4. El Paso Natural Gas Co
5. Krouch #1
6. Panhandle West
7. Gray TX
8. 20.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34908/13313
2. 42–495–31026–0000
3. 103 000 000
4. Phillips Petroleum Co
5. F P McCabe No 50
6. Halley
7. Winkler TX
8. 76.6 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34909/13314
2. 42–495–31027–0000
3. 103 000 000
4. Phillips Petroleum Co
5. F P McCabe No 51
6. Halley
7. Winkler TX
8. 35.4 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34910/13315
2. 42–495–31028–0000
3. 103 000 000
4. Phillips Petroleum Co
5. F P McCabe No 52
6. Halley
7. Winkler TX

8. 35.2 million cubic feet

8. 25.2 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34911/13431
2. 42–175–30541–0000
3. 102 000 000
4. Frost Oil Co Inc
5. Desmond R Pereira No 1
6. Hordes Creek South
7. Goliad TX
8. 90.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line

1. 80–34912/13535
2. 42–233–00000–0000
3. 108 000 000
4. M T Harmon
5. Ware Fee #10
6. Panhandle Field
7. Hutchinson TX
8. 7.4 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34913/13579
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. Montalvo I V–B–No 6
6. Sun North
7. Starr TX
8. 8.0 million cubic feet
9. May 21, 1980
10.

1. 80–34914/13581
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. J F Hall—State No 18–C
6. North Rincon
7. Starr TX
8. 16.0 million cubic feet
9. May 21, 1980
10.

1. 80–34915/13584
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. E Trevino—B #3
6. Kelsey South
7. Starr TX
8. 4.0 million cubic feet
9. May 21, 1980
10.

1. 80–34916/13585
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. Geo H Coates—State No. 3
6. North Rincon
7. Starr, TX
8. 1.0 million cubic feet
9. May 21, 1980
10.

1. 80–34917/13591
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. Geo H Coates N 6
6. North Rincon
7. Starr, TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–34918/13592
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. J F Hall—State No. 19–T
6. North Rincon
7. Starr, TX
8. 16.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–34919/13593
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. J W Kincaid No. 1
6. North Rincon
7. Starr, TX
8. 14.0 million cubic feet
9. May 21, 1980
10.

1. 80–34920/13596
2. 42–479–32276–0000
3. 102 000 000
4. Gulf Oil Corp
5. Bruni Mineral Trust A No. 6
6. Juanita
7. Webb, TX
8. 730.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co

1. 80–34921/13597
2. 42–393–00000–0000
3. 102 000 000
4. Argonaut Energy Corp
5. Byrum No. 1 82595
6. Red Deer Creek (Granite Wash)
7. Roberts, TX
8. 12.6 million cubic feet
9. May 21, 1980
10. Michigan-Wisconsin Pipe Line Co

1. 80–34922/13609
2. 42–427–00000–0000
3. 108 000 000
4. Cities Service Co
5. Martinez B No. 32
6. Rincon N (Vicksburg 8200 Seg B)
7. Starr, TX
8. 17.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co

1. 80–34923/13618
2. 42–371–00000–0000
3. 108 000 000
4. MWJ Producing Co
5. Bundy No. 1
6. J K S (Tubb)
7. Pecos, TX
8. 5.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34924/13650
2. 42–285–00000–0000
3. 108 000 000
4. Petro-Lewis Corp
5. Charles Allen No. 3
6. Provident City
7. Lavaca, TX
8. 8.8 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co

1. 80–34925/13654
2. 42–297–31852–0000
3. 102 000 000
4. Aminoil USA Inc
5. Aminoil USA Inc et al No. 1
6. East Chapa (9800) Field
7. Live Oak, TX
8. 11.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34926/13666
2. 42–165–00000–0000
3. 103 000 000
4. Mobil Oil Corp
5. Henry Jepson No. 1
6. Homann (San Andres)
7. Gaines, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80–34927/13692
2. 42–427–00000–0000
3. 108 000 000
4. Sun Oil Co
5. J G De Garza No. 3
6. Sun North
7. Starr, TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–34928/13744
2. 42–179–00000–0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Shaw No. 4
6. East Panhandle
7. Gray, TX
8. 6.6 million cubic feet
9. May 21, 1980
10. Coltexo Corp

1. 80–34929/13745
2. 42–065–00000–0000
3. 108 000 000
4. Arco Oil and Gas Co
5. J W McConnell A No. 6
6. Panhandle West
7. Carson, TX
8. 11.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80–34930/13752
2. 42–165–31595–0000
3. 103 000 000
4. Exxon Corp
5. Exxon Fee Eubanks Ba No. 11
6. Robertson N (Clearfork 7100)
7. Gaines, TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80–34931/13759
2. 42–469–31447–0000
3. 103 000 000
4. Paraffine Oil Corp
5. Keeran No. 3
6. Keeran (6040)
7. Victoria, TX
8. 183.0 million cubic feet
9. May 21, 1980
10. Florida Gas Transmission Co

1. 80–34932/13764
2. 42–163–00000–0000
3. 108 000 000
4. Suburban Propane Gas Corp
5. George M Williams No. 4
6. West Big Foot Gas
7. Frio, TX
8. 21.1 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp

1. 80–34933/13765

2. 42–105–00000–0000
3. 108 000 000
4. Suburban Propane Gas Corp
5. J W Henderson 6–1
6. Ozona Canyon Sand
7. Crockett, TX
8. 21.3 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co

1. 80–34934/13767
2. 42–261–30493–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Erck No. 16 (U)
6. McGill (9629) Proposed
7. Kenedy, TX
8. 185.0 million cubic feet
9. May 21, 1980
10. Florida Gas Transmission

1. 80–34935/13768
2. 42–261–20493–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Erck No. 16 (L)
6. McGill (9364) Proposed
7. Kenedy, TX
8. 185.0 million cubic feet
9. May 21, 1980
10. Florida Gas Transmission

1. 80–34936/13802
2. 42–163–31682–0000
3. 103 000 000
4. Tipperary Oil and Gas Corp
5. R. K. Harlan No. 1
6. Doering Ranch (San Miguel Lo)
7. Frio, TX
8. 100.0 million cubic feet
9. May 21, 1980
10. Tejas Gas Corp

1. 80–34937/13805
2. 42–179–00000–0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #4
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co

1. 80–34938/13806
2. 42–179–00000–0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #5
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co

1. 80–34939/13807
2. 42–179–00000–0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #6
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co

1. 80–34940/13808
2. 42–179–00000–0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #7
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co

1. 80–34941/13809
2. 42–179–00000–0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #8
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co

1. 80–34942/13810
2. 42–179–00000–0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #9
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co

1. 80–34943/13830
2. 42–435–19220–0000
3. 108 000 000
4. El Paso Natural Gas Co
5. Meckel B #2
6. Sonora Canyon Upper
7. Sutton, TX
8. 24.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co

1. 80–34944/13985
2. 42–311–30968–0000
3. 103 000 000
4. Exxon Corp
5. Dilworth Field G U #1 No. 4
6. Dilworth (Edwards Lime)
7. McMullen, TX
8. 660.0 million cubic feet
9. May 21, 1980
10. Transcontinental Pipeline Co

1. 80–34945/14005
2. 42–323–31355–0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No. 4063
6. Sacatosa (San Miguel #1 Sand)
7. Maverick, TX
8. 7.6 million cubic feet
9. May 21, 1980
10. Lovaca Gathering Co

1. 80–34946/14015
2. 42–433–30906–0000
3. 103 000 000
4. Getty Oil Co
5. Flowers Canyon Sand Unit #158
6. Flowers (Canyon Sand)
7. Stonewall TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Cities Service Co

1. 80–34947/14021
2. 42–003–31740–0000
3. 103 000 000
4. Exxon Corp
5. Means (San Andres) Unit #1324
6. Means
7. Andrews TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80–34948/14067
2. 42–105–32180–0000
3. 103 000 000
4. Suburban Propane Gas Corp
5. McMullan A 2
6. Davidson Ranch (Penn 7890)
7. Crockett TX
8. 182.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co

1. 80–34949/14078
2. 42–495–31024–0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton No 103
6. Keystone (Colby)
7. Winkler TX
8. 115.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co

1. 80–34950/14548
2. 42–105–32071–0000
3. 103 000 000
4. Indian Wells Oil Co
5. J S Pierce #8–2A
6. Ozona Canyon Sand
7. Crockett TX
8. 200.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co

1. 80–34951/016363
2. 42–301–00000–0000
3. 108 000 000
4. Duncan Drilling Co
5. McElvain #1
6. Wheat
7. Loving TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80–34952/016376
2. 42–301–00000–0000
3. 108 000 000
4. Duncan Drilling Co
5. Tom G Wright #1
6. Wheat
7. Loving TX
8. 7.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80–34953/18012
2. 42–467–30432–0000
3. 102 000 000
4. Conoco Inc
5. Fruitvale Gas Unit No 4
6. East Fruitvale (Rodessa 3)
7. Van Zandt TX
8. 125.0 million cubic feet
9. May 21, 1980
10. Delhi Gas Pipeline Corp

1. 80–34954/18106
2. 42–393–30691–0000
3. 102 000 000
4. Tenneco Oil Co
5. Ledrick Ranch 1A–54
6. Ledrick Ranch
7. Roberts TX
8. 30.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co

1. 80–34955/18107
2. 42–393–30661–0000
3. 102 000 000
4. Tenneco Oil Co
5. H L Ledrick 2–8

6. Ledrick Ranch (Morrow Upper)
7. Roberts TX
8. 45.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80–34956/18441
2. 42–287–30544–0000
3. 102 000 000
4. Nucorp Energy Inc
5. Jurcek Unit
6. Giddings (Austin Chalk)
7. Lee TX
8. 53.3 million cubic feet
9. May 21, 1980
10. Clajon Gas Co
1. 80–34957/18442
2. 42–287–30554–0000
3. 102 000 000
4. Nucorp Energy Inc
5. Michael Unit
6. Giddings (Austin Chalk)
7. Lee TX
8. 2.1 million cubic feet
9. May 21, 1980
10. Clajon Gas Co
1. 80–34958/18443
2. 42–287–30529–0000
3. 102 000 000
4. Nucorp Energy Inc
5. Myers Unit
6. Giddings (Austin Chalk)
7. Lee TX
8. 36.4 million cubic feet
9. May 21, 1980
10. Clajon Gas Co
1. 80–34959/18444
2. 42–287–30547–0000
3. 102 000 000
4. Nucorp Energy Inc
5. Gantt T K
6. Giddings (Austin Chalk)
7. Lee TX
8. 21.3 million cubic feet
9. May 21, 1980
10. Clajon Gas Co
1. 80–34960/18445
2. 42–287–30523–0000
3. 102 000 000
4. Nucorp Energy Inc
5. Hardwick-Biggs Unit
6. Giddings (Austin Chalk)
7. Lee TX
8. 30.6 million cubic feet
9. May 21, 1980
10. Clajon Gas Co
1. 80–34961/18446
2. 42–287–30515–0000
3. 102 000 000
4. Nucorp Energy Inc
5. Alcocer Fernando
6. Giddings (Austin Chalk)
7. Lee TX
8. 8.8 million cubic feet
9. May 21, 1980
10. Clajon Gas Co
1. 80–34962/18702
2. 42–051–30431–0000
3. 102 000 000
4. Columbia Gas Development Corp
5. Scott Tyson No 1
6. Giddings (Austin Chalk) Field
7. Burleson Co TX
8. 19.0 million cubic feet
9. May 21, 1980
10. Ferguson Crossing Pipe Line Co
1. 80–34963/18703
2. 42–051–30366–0000
3. 102 000 000
4. Columbia Gas Development Corp
5. George Gaas Et Ux—Fee Unit No 1
6. Giddings (Austin Chalk) Field
7. Burleson TX
8. 16.8 million cubic feet
9. May 21, 1980
10. Ferguson Crossing Pipe Line Co
1. 80–34964/18704
2. 42–051–30397–0000
3. 102 000 000
4. Columbia Gas Development Corp
5. Marion J Filippone Fee #3
6. Giddings (Austin Chalk) Field
7. Burleson TX
8. 96.0 million cubic feet
9. May 21, 1980
10. Ferguson Crossing Pipe Line Co
1. 80–34965/18705
2. 42–051–30483–00
3. 102 000 000
4. Columbia Gas Development Corp
5. Raymond Zgabay No 1
6. Giddings (Austin Chalk)
7. Burleson TX
8. 107.0 million cubic feet
9. May 21, 1980
10. Ferguson Crossing Pipe Line Co
1. 80–34966/18706
2. 42–051–30405–0000
3. 102 000 000
4. Columbia Gas Development Corp
5. Roger W Jeffery Jr Et Ux Fee No 1
6. Giddings (Austin Chalk) Field
7. Burleson TX
8. 883.0 million cubic feet
9. May 21, 1980
10. Ferguson Crossing Pipe Line Co
1. 80–34967/18946
2. 42–497–00000–0000
3. 108 000 000
4. Texaco Inc
5. N O Denison Gas Unit #1
6. Boonsville
7. Wise TX
8. 12.3 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80–34968/19221
2. 42–393–30650–0000
3. 102 000 000
4. Tenneco Oil Co
5. Russell 1–8
6. Wildcat
7. Roberts TX
8. 18.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80–34969/19839
2. 42–401–30709–0000
3. 102 000 000
4. Tomlinson Interests Inc
5. Jimmy Myers Et Al No 1 80874
6. Monroe (Cotton Valley) Field
7. Rusk TX
8. 120.0 million cubic feet
9. May 21, 1980
10. Ventura Pipeline Corp
1. 80–34970/19841
2. 42–203–30608–0000
3. 102 000 000
4. Tomlinson Interests Inc
5. No 1 Hazel Byrne Gas Unit No 2–8494
6. Darco S E (Cotton Valley)
7. Harrison TX
8. 120.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co
1. 80–34971/19842
2. 42–183–30401–0000
3. 102 000 000
4. Tomlinson Interests Inc
5. No 1 Stinchcomb Heirs 82343
6. Peatown North (Cotton Valley)
7. Gregg TX
8. 180.0 million cubic feet
9. May 21, 1980
10.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 23, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17164 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER76–304 et al.]

New England Power Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that on May 22, 1980, New England Power Company (NEPCO) submitted for filing revisions to its revised cost of service and rate schedules.

The original revised cost of service and rate schedules were filed on April 25, 1980, pursuant to Commission Opinion No. 49–A, issued March 26, 1980. NEPCO is filing the present revisions in order to correct errors which were made in the April 25th submittal.

A copy of this filing has been sent to all of the affected parties.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17153 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–22]

Northern Natural Gas Co., a Division of InterNorth, Inc.; Amendment to Application

May 30, 1980.

Take notice that on May 16, 1980,[1] Northern Natural Gas Company, a Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80–22 pursuant to Section 3 of the Natural Gas Act, an amendment to its application pending in the instant docket so as to reflect a change in the volumes of natural gas to be imported at a point on the international boundary near Emerson, Manitoba, Canada, beginning November 1, 1980, and to add an import point on the international boundary near Monchy, Saskatchewan, Canada, beginning November 1, 1981, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that, in the application filed in the instant docket on October 11, 1979, it sought authorization to import, at a point on the international boundary near Emerson, Manitoba, up to 200,000 Mcf of natural gas per day and daily volumes in excess thereof if available on a best efforts basis and 73,000,000 Mcf per year commencing November 1, 1980, and continuing through October 31, 1994. Such gas would be purchased by Applicant from Consolidated Natural Gas Limited (Consolidated), of Calgary, Alberta, Canada, pursuant to a gas sales contract dated February 24, 1979, it is said. Applicant states that the volumes to be imported at Emerson would be delivered to Great Lakes Gas Transmission Company (Great Lakes) for transportation and redelivery to Applicant at a point near Carlton, Minnesota. Under the terms of the transportation contract between Consolidated and TransCanada Pipelines, Ltd. (TransCanada), Consolidated has the option to elect to receive delivery of its gas at a point on the international border at Monchy, Saskatchewan, and under the contract terms, the first election is not to exceed 50 percent of the daily contract quantity then in effect, it is said.

Subsequently, Applicant states that on December 7, 1979, the National Energy Board of the Canadian Government (NEB) issued a decision in the omnibus export proceedings which had been pending before it that was followed by Consolidated being issued a license, granted in accordance with that decision, to export at Emerson, Manitoba, the following daily volumes for sale to Applicant:

November 1 Through October 31—Mcf/Day

1980–81	1981–82	1982–83	1983–84	1984–85	1985–86	1986–87
200,000	200,000	200,000	200,000	150,000	100,000	50,000

Applicant states that in the proceedings before the Commission in Docket No. CP78–124 and in the companion proceedings before the NEB, witnesses for the Northern Border Pipeline Company (Northern Border) and TransCanada testified that Northern Border, in order to secure financing, would need transportation volumes in addition to those to be imported by Northwest Alaskan Pipeline Company. It was suggested that Consolidated and Progas Limited (Progas), another export licensee, seek amendments from the NEB to their licenses adding Monchy, Saskatchewan, as an additional point on the international boundary from which Consolidated and Progas could export their authorized export volumes, for transportation through Northern Border.

In view of this, Consolidated applied to the NEB to have its license amended to include Monchy, Saskatchewan, in addition to Emerson, Manitoba, as an export point and to authorize the export through the Monchy delivery point, beginning November 1, 1981, of up to 100,000 Mcf per day and up to 180,000,000 Mcf throughout the term of the license, it is said. Applicant states that in April of 1980, the NEB issued its decision, subject to approval by the Canadian Government, approving the amendment to the license as requested.

In view of all of the above, Applicant hereby amends its original application to import volumes of natural gas at a point on the international boundary near Emerson, Manitoba, beginning November 1, 1980, and also to import up to 100,000 Mcf per day of natural gas at a point on the international boundary near Monchy, Saskatchewan, beginning November 1, 1981. In accordance with the original application, the volumes to be imported at Emerson would be delivered to Great Lakes for transportation and redelivery to Applicant, it is said.

Applicant states that the gas to be imported at Monchy would be delivered to Northern Border for transportation and redelivery to Applicant at Ventura, Iowa. Applicant also states that it and Northern Border are presently negotiating the contractural arrangements for the transportation of the Consolidated volumes. At such time as a contract is executed, Northern Border would make appropriate filings for authorization to transport the subject gas, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.0). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17154 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP79–264]

Northern Natural Gas Co.; et al.; Application Amendment

May 30, 1980.

Take notice that on May 9, 1980, Northern Natural Gas Company Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, Florida Gas Transmission Company (Florida), P.O. Box 44, Winter Park, Florida 32790, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79–264 a joint amendment to their application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to revise plans for the construction and operation of facilities designated the Matagorda Offshore Pipeline System

[1] The application was initially tendered for filing on May 16, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until May 20, 1980; thus, the filing was not completed until the latter date.

(System) as well as related facilities,

(1) Approximately 500 feet of 12-inch

requirements of the Commission's Rules

(System) as well as related facilities, and the transportation of volumes of gas for Southern by Florida from points in Texas to Louisiana, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that on April 11, 1979, Northern filed for authorization to construct and operate approximately 42 miles of 24-inch pipeline to transport gas from the Matagorda Island Block 686 onshore to a point of interconnection with the pipeline of Houston Pipe Line Company (Houston) in Refugio County, Texas. It is also stated that Florida and Southern filed an application on September 6, 1979, for authorization to construct and operate approximately 40 miles of 24-inch pipeline to transport gas from Matagorda Blocks 664 and 665 to a point of interconnection on Florida's 20-inch pipeline in Refugio County, Texas. Applicants have since agreed and request authorization herein to construct and operate one 24-inch pipeline to transport gas from Matagorda Blocks 665 and 686 to points connecting with the Florida and Houston pipelines, it is stated.

Applicants state that the 1980 construction of Phase I would consist of approximately 18 miles of 24-inch pipeline from Matagordia Island Block 665 to a proposed interim tie-in point near the terminus of Houston's 12-inch pipeline located in San Antonio Bay together with appurtenant facilities and approximately .5 mile of 12-inch pipeline and appurtenant facilities from the 24-inch line to interconnect with the Houston pipeline. The estimated cost of such facilities would be aproximately $16,311,000.

Applicants state that the 1981 construction of Phase II would consist of approximately 5 miles of 24-inch pipeline from Matagorda Island Block 665 to the production platform on Matagorda Island Block 686, and approximately 22 miles of 24-inch pipeline from the end of the 24-inch pipeline in San Antonio Bay constructed in 1980 to points of interconnection onshore with the pipelines of Florida and Houston in Refugio County, Texas, together with the necessary measuring and appurtenant facilities at such points of interconnection. The estimated cost of such facilities would be approximately $19,680,000.

Applicants state additional related facilities which would be required to facilitate the transportation of volumes of gas produced from Blocks 664 and 665 and which Florida and Southern propose to own, construct, and operate jointly consist of:

(1) Approximately 500 feet of 12-inch pipeline connecting the Block 665 platform to the proposed 24-inch pipeline and approximately 1.3 miles of 6-inch pipeline from a caisson in Matagorda Island Block 665 to the production platform in Block 665;

(2) A meter station on the production platform in Matagorda Island Block 665; and

(3) Two 1,350 horsepower compressors on the production platform in Matagorda Island Block 665.

The foregoing facilities would be constructed in 1980 at an estimated cost of approximately $4,873,000.

Applicants state that the costs of the system would be contributed by Northern, Southern and Florida in proportions of 60.5 percent, 23.0 percent, and 16.5 percent, respectively. Northern has retained an option to contribute up to 68.0 percent of the total cost, entitling Northern to that proportion of total capacity in the System; however, Southern and Florida would always be entitled to a minimum capacity of the greater of 32.0 percent or 125,000 Mcf per day, Applicants assert.

It is additionally stated that Florida would construct in 1980, own and operate certain facilities at an interconnection between it and those of Houston, in San Patricio County, Texas, and Northern would construct in 1981, own and operate measuring facilities on the platform of Matagorda Block 686. Florida requests authorization to transport gas for Southern from interconnections with Houston and the System in San Patricio County, Texas, and Refugio County, Texas, respectively, to Washington Parish, Louisiana. It is stated that transportation from the interconnection with Houston would be for an interim period until the completion of Phase II facilities.

It is stated that Phase I would be constructed by Florida and Southern at a cost of approximately $16,311,000 with Northern contributing $2,100,000. Northern further states that it would construct Phase II and bear all cost of such facilities estimated to be approximately $19,680,000. It is asserted that the proposed facilities would be financed initially from internally generated funds, and to the extent permanent financing is required, it would be done as part of Applicants' long-term financing programs.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17155 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2088]

Oroville-Wyandotte Irrigation District; Application for Amendment of License

May 29, 1980.

Take notice that on November 23, 1979, the Oroville-Wyandotte Irrigation District (Licensee) filed an application for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C.§§ 791(a)–825(r)] for the existing South Fork Project No. 2088, located on the South Fork Feather River and its tributaries in Butte County, California. Correspondence with the Licensee should be directed to: Mr. Milton Emerson, General Manager-Chief Engineer, Oroville-Wyandotte Irrigation District, P.O. Box 229, Oroville, California 95695.

The Licensee seeks authorization to construct: (1) a 90-inch diameter penstock within the existing outlet tunnel for the Sly Creek Dam; (2) an outdoor-type powerhouse, adjacent to the outlet portal of the tunnel, containing a single generating unit with a rated capacity of 13,200 kW; and (3) a switchyard adjacent to the powerhouse.

The Licensee estimates the capital cost of the proposed action to be $13,465,000 as of November 1980. Energy generated by the power plant would be delivered to the Pacific Gas and Electric Company (PG and E) at the powerhouse switchyard for use in PG and E's system.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for

protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 11, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17156 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-365]

Panhandle Eastern Pipe Line Co.; Application

May 30, 1980.

Take notice that on May 14, 1980, Panhandle Eastern Pipeline Company (Applicant), P.O. Box 1642, Houston, Texas 77001 and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP80-365 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related compression facilities in Weld and Adams Counties, Colorado, in order to connect new supplies of natural gas from the Wattenberg Field, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following pipeline and compression facilities:

150 miles of 4-inch pipeline;
2.5 miles of 6-inch pipeline;
6.2 miles of 8-inch pipeline;
6.0 miles of 12-inch pipeline;
Two 4,000 horsepower compressor units; and
One 3,000 horsepower compressor units.

Applicant additionally purposes to relocate one 568 horsepower compressor unit from its existing Plains Compressor Station in Meade County, Kansas, to the Hudson Compressor Station in Weld County, Colorado.

Applicant states that it has attached to its pipeline system substantial reserves of natural gas from the Denver Julesberg Basin of Colorado, the majority of which would be produced in the Wattenberg Field from the "J" Sand Formation. It is stated that Amoco Production Company, one of the major producers of natural gas in the Wattenberg Field from which Applicant purchases gas, has been authorized to drill "second wells" in the "J" Sand Formation. Thus, Applicant has concluded that approximately 775 additional wells could ultimately be drilled in the Wattenberg Field over a six-year period, it is stated. It is also asserted that Applicant has already requested authority to construct and operate pipeline facilities to connect the initial 100 infill drilled wells, and now requests authorization to construct and operate facilities to connect the next 300 wells during the approximate period of June 1980 to December 1982.

Applicant believes that the additional 300 wells would add initial recoverable reserves of approximately 282,000,000 Mcf and would result in an increase in average daily deliveries to Applicant of approximately 33,500 Mcf per day by December 31, 1981, and 67,000 Mcf per day when all 300 wells have been connected by approximately December 31, 1982.

Applicant states the cost of the proposed facilities is estimated to be $37,358,000, which would be financed from funds available to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17157 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-94]

Peoples Natural Gas Co. a Division of InterNorth, Inc.; Order Accepting for Filing and Suspending Proposed Rate Increase and Establishing Procedures

Issued: May 29, 1980.

On April 29, 1980, Peoples Natural Gas Company, a Division of InterNorth, Inc. (Peoples),[1] tendered for filing proposed changes in its FERC tariff proposed to become effective May 29, 1980.[2] The proposed increased rates are based on a test period reflecting actual costs for the twelve months ended December 31, 1979, as adjusted for known and measureable changes in costs for the nine months ended September 30, 1980. Peoples' proposed rate changes would increase to jurisdictional revenues by $54,236 per year which represent a 25% increase in revenues excluding those attributable to purchased gas costs. Peoples states that the principal reasons for the rate increase include increases in operating costs and the need for a 13.32% overall rate of return. That rate of return is equal to the return claimed by Peoples' affiliate, Northern Natural Gas Company (Northern) in Docket No. RP80-88. That overall return includes a 15.5% return on common equity.

Public notice of Peoples' filing was issued on May 5, 1980, providing for protests or petitions to intervene to be filed on or before May 23, 1980.

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[1] Peoples was formerly known as Peoples Natural Gas Division of Northern Natural Gas Company. On March 27, 1980, its parent was changed from Northern Natural Gas Company to InterNorth, Inc. and Peoples, formerly an operating division of Northern, became an operating division of InterNorth, Inc., and its name was changed to Peoples Natural Gas Company. The wholesale natural gas operations of Northern Natural Gas Company, Division of InterNorth, Inc., are conducted under and in accordance with Original Volumes No. 1 through 3 of the Tariff, and Original Volume No. 4 comprises the Tariff under which Peoples conducts its interstate jurisdictional gas operations.

[2] Since the effective date proposed by Peoples does nt reflect the full 30 days notice, we shall treat it as an implicit request for waiver of the notice requirements.

Based upon a review of Peoples' filing, the Commission finds that the proposed rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Futhermore, we do not find good cause to grant the implicit request for waiver of the 30 day notice requirement. Accordingly, the Commission will accept for filing the tariff sheets listed in Appendix A, suspend their effectiveness for five months until October 30, 1980, and shall set the matter for hearing.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Peoples.

(B) Peoples implicit request for waiver of the 30 day notice requirement is denied.

(C) The aforementioned tariff sheets tendered for filing are accepted for filing and suspended for five months, until October 30, 1980, when they shall be permitted to become effective, subject to refund, upon motion filed by Peoples in accordance with the provisions of the Natural Gas Act.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before September 8, 1980.

(E) A Presiding Administrative Law Judge, to be disignated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17158 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-85]

Sierra Pacific Power Co.; Filing

May 30, 1980.

The filing company submits the following:

Take notice that on May 11, 1980, Sierra Pacific Power Company submitted for filing a compliance report pursuant to the Commission's order of October 22, 1979 in the above referenced proceeding.

A copy of this filing has been served upon the effected wholesale customers, and the affected state commissions.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17159 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-412]

Southern California Edison Co.; Filing of Initial Rate Schedule

May 30, 1980.

The filing Company submits the following:

Take notice that on May 22, 1980, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement, dated March 6, 1980, with the Department of Water and Power of the City of Los Angeles ("Los Angeles"). The agreement is entitled "Edison-Los Angeles Interrupible Transmission Service Agreement" (the Agreement).

Under the terms of the Agreement, Edison will provide interruptible transmission service from the Four Corners Generating Station Switchyard to the Moenkopi or Eldorado 500 kV bus for energy purchased by Los Angeles from Public Service Company of New Mexico or other suppliers. Edison will charge Los Angeles for transmission, dispatching and scheduling services, all at rates and conditions set forth in the Agreement.

Edison requests that the Agreement be made effective as an initial rate schedule 60 days after the date of filing with the Commission. Upon acceptance for filing by the Federal Energy Regulatory Commission, the Agreement will become effective and service may commence. The Agreement will then continue in effect until terminated by either party on 30-days advance notice to the other party.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Department of Water and Power of the City of Los Angeles.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17160 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-415]

Southern Co. Services, Inc.; Filing of Initial Rate Schedule

May 30, 1980.

The filing Company submits the following:

Take notice that Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company Gulf Power Company, and Mississippi Power Company (the Southern Companies) on May 27, 1980, tendered for filing service Schedule E providing for a long term power sale from the Southern Companies to Mississippi Power & Light Company (MPL). Service under the rate schedule is scheduled to commence on July 1, 1980. Service Schedule E between the Southern Companies and MPL makes provision for a long term power sale from the Southern Companies to MPL and specifies the rates for capacity and energy transactions to be conducted pursuant to such schedule.

Southern Company Services, Inc. requests waiver of the Commission's sixty (60) day notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17161 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-374]

Southern Natural Gas Co.; Amendment to Application

May 30, 1980.

Take notice that on May 12, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-374 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application pending in the instant docket so as to reflect the withdrawal of one customer from the proposed storage service, the assignment of that customer's storage and transportation volumes to another customer, a change in location for certain proposed facilities and a revision to the initial charge for the storage and transportation services, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By its application filed on June 20, 1979, in the instant docket, Applicant requested authorization to perform gas storage services and related transportation services for certain of its customers and to construct and operate the facilities necessary to effectuate those related transportation services. It is stated that such storage and transportation services were to have been provided pursuant to the various storage service agreements and storage transportation agreements between Applicant and Atlanta Gas Light Company (Atlanta); City of LaGrange, Georgia; Jupiter Industries Inc., doing business as Chattanooga Gas Company (Chattanooga); and South Georgia Natural Gas Company.

However, Applicant indicates that on April 21, 1980, Chattanooga requested that it be allowed to withdraw from the proposed storage service project and to cancel its 100-day storage service agreement and storage transportation agreement with Applicant. Inasmuch as Applicant was able to arrange with Atlanta to purchase Chattanooga's storage service volume, Applicant has agreed to Chattanooga's withdrawal from the storage project, it is said. Thus, it is stated that, because of the withdrawal of Chattanooga from the storage service project, the storage injection volumes to be included in Applicant's Index of Requirements for Chattanooga have been delected by this amendment.

Because of Atlanta's acquisition of Chattanooga's storage service volumes, the storage service entitlement of Atlanta would be increased from 5,150,000 Mcf to 5,550,000 Mcf under Atlanta's 100-day storage service with Applicant, and, accordingly, Applicant and Atlanta have executed revisions to Atlanta's 100-day storage agreement and storage transportation agreement to reflect this change, it is asserted. These additional storage volumes are to be equally divided for transportation and redelivery between two redelivery points, Calhoun No. 2 and Chatsworth, under the related storage transportation service for Atlanta, it is stated.

Applicant further proposes herein to change the proposed location of the Calhoun No. 2 Measuring Station, which is to be constructed and operated as part of Applicant's Calhoun delivery point to accommodate the increased capacity required by the proposed transportation service, from Mile Post 73.721 on Applicant's Chattanooga Line to Mile Post 74.57 on said line. The capacity of this proposed measuring station would remain unaffected by this amendment, it is asserted.

Finally, Applicant proposes to revise the initial transportation rate such that the costs of constructing the additional facilities required to implement the related storage transportation services are included in Applicant's rate base and in the cost of service underlying the rates for the sale of gas on Applicant's system. The initial rate would be filed with the Commission thirty days prior to the initiation of service, and calculated by applying a ratio, represented by the investment in the additional facilities to Applicant's total gross transmission plant, to the total transmission cost of service including the cost of service of said storage service transportation facilities, less fuel gas, it is stated. When all costs associated with the additional facilities are reflected in the cost of service in Applicant's next general rate increase filing following implementation of the initial transportation charge, revenues from said storage transportation service would be deducted from the transmission cost of service before allocation of costs and the design of other resale rates, and such revenues would be collected to refund pending the outcome of that rate case, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17162 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-373]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Transcontinental Gas Pipe Line Corp.; Application

May 30, 1980.

Take notice that on May 19, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Transcontinental Gas Pipeline Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-373 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessarily authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose herein to transport and exchange gas pursuant to an exchange and transportation agreement between them dated March 21, 1980. Under the agreement, it is stated, Tennessee would receive from Transco in the West Cameron 498 field, offshore Louisiana, all of Transco's interest, and would exchange less than 50 percent of such volume by Transco's receiving an equal volume of gas from Tennessee produced from blocks

connected to the High Island Offshore

the volume received from Transco for

and questions of law to the Commission

connected to the High Island Offshore System (HIOS), offshore Texas. Applicants state that volumes of gas not exchanged would be transported by Tennessee through its facilities for Transco and through capacity available to Tennessee in Texas Eastern Transmission Corporation's (TETCO) system. It is stated that once gas, including Transco's gas from West Cameron Block 498, would be delivered by Tennessee to TETCO, it would become subject to the transportation arrangement between Tennessee and TETCO as authorized in Docket No. CP75–127. Tennessee would be required to return such volumes transported for Transco to Transco at existing points of interconnection established in the agreement between Transco and Tennessee, it is stated. The existing points, it is asserted, are a point located 5.11 miles north of Tennessee's compressor station 823 on the Kinder-Natchitoches line in Jefferson Davis Parish, Louisiana, and/or from time to time, at existing interconnections at Crowley, Acadia Parish, Louisiana; Louise, Wharton County, Texas; Katy, Waller County, Texas; and other interconnections where gas could be delivered to or for the account of Transco.

Applicants further state that in the event Tennessee would be unable to receive all the gas available from Transco's interest from West Cameron Block 498 on any day, Tennessee would take not less than 50 percent of the total volume of gas received by Tennessee from Tennessee's and Transco's respective interests in the West Cameron Block 498 on such day.

The transportation agreement, it is stated, is for a term of one year from the date of initial delivery or until HIOS is expanded.

It is asserted that Transco would pay Tennessee:

(1) A demand charge of $211,750 per month;

(2) A commodity charge equal to the product of 5.07 cents per Mcf times the amount of gas delivered during the month;

(3) A minimum monthly bill consisting of the demand charge plus a volume charge of 5.07 cents times the number of days in said month, times 66⅔ percent of the quantity equal to the greatest number of Mcf delivered by Tennessee to Transco in any one day at said delivery point during the twelve-month period ending with the last day of the month for which the monthly bill is being rendered.

Further, Applicants state that Transco would provide Tennessee 1.95 percent of the volume received from Transco for fuel and use gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–17163 Filed 6–5–80; 8:45 am]
BILLING CODE 6450–85–M

[Docket No. RP78–68]

United Gas Pipe Line Co.; Order Approving Settlement With Modification and Establishing Procedure for Further Hearing

Issued: May 30, 1980.

United Gas Pipe Line Company (United) filed a settlement agreement on January 7, 1980, which would resolve all remaining issues in this docket.[1] The presiding judge certified the settlement and questions of law to the Commission on March 14, 1980. Comments on the proposed settlement were filed by United and a number of interested parties.[2]

The settlement comments raise three contested issues: (1) Several of United's customers ask the Commission to provide for pass-through to their customers of any payback of refunds which they might be required to make to United under Article III of the agreement; (2) The Commission staff opposes that part of the agreement which would permit tracking of certain storage costs to be incurred beyond the end of the test period in this proceeding; (3) Three parties object to United's practice of rolling in the costs of expensive gas supplies allegedly purchased by United in order to reduce curtailment of its non-jurisdictional industrial customers. They seek a hearing in this docket which would permit opportunity for refunds in the event United's practice of rolling in costs is found to be unlawful.

The Settlement

The principal provisions of the settlement are as follows:

1. *Cost of service.* The total settlement cost of service is $1,219,957,510 and reflects a rate base of $345,721,428. The cost of service gas costs have been included at a base gas cost of $1.2058 per Mcf of sales. Article I of the agreement provides that any issue with respect to gas costs for the period that the Docket No. RP78–68 rates are effective shall be resolved by final order in Docket No. RP72–133.

2. *Cost classificaiton, cost allocation and rate design.* The parties will use the principles approved by the Commission for the period covered by United's rate filing in Docket No. RP77–107. Total annual volumes used for allocation of costs of service are 744,068,200 Mcf for the Southern Zone and 878,905,720 Mcf for the Northern Zone.

3. *Refunds and rate adjustments.* In addition to the general refund obligation under the settlement, additional refunds or rate adjustments may become due as a result of: (1) a final order with respect to gas costs; (2) final determination in other dockets of a number of outstanding cost of service issues; (3) changes in allowances for taxes; and (4) increases in sales volumes.

In the event United makes rate reductions or refunds prior to a final Commission order or appellate decision which determines that the refunds theretofore received by any customer are excessive, such customer shall repay to United the excessive refunds theretofore received.

Except as otherwise provided, interest on refunds and on any supplemental payments required to be made by customers will be at an annual interest rate of 9% or such other interest rate as may be established by the Commission.

4. *Costs incurred under producer reimbursement agreements.* The cost of service includes $3,717,607 of costs attributable to certain exploration and funding agreements between United and certain producers. The standards to be applied to determine the amount of such costs qualifying for inclusion in costs of service is presently at issue in Docket No. RP74–20, et al., and the parties agree that those amounts associated with the producer reimbursement agreements shall be included in United's costs of service for the period that the Docket No. RP78–68 rates are effective, subject to the final order concerning appropriate treatment of such costs in RP74–20, *et al.*

5. *Advance payments.* Rate base reflects the inclusion of advance payments in the aggregate amount of $63,483,957 pending and subject to the final outcome of the advance payment issue in *United Gas Pipe Line Co.* v. *F.E.R.C.*, 597 F.2d 581 (5th Cir. 1979).

6. *Book depreciation.* The cost of service and rate base shall reflect the depreciation rate(s) established in Docket Nos. RP71–41, RP72–75, RP74–20, RP74–83, RP75–30, RP75–109 and RP78–84 (as may be subsequently modified by any courts on appeal or by the Commission on remand), for all property except offshore lateral lines constructed or acquired by United after July 1, 1977. The depreciation rate for United's interest in the HIOS laterals will be 14 percent.

7. *Transportation compression and ANR storage of gas.* The cost of service reflects $35,097,931 in annual costs incurred by United under agreements for transportation and compression of gas by others. The agreement provides a mechanism by which United may submit rate changes each January and July to track the jurisdictional portion of any increase and requires such filings to track decreases in net cost related to the services. The cost shall include all changes for transporting, handling, compressing, metering and associated services.

8. *Transportation revenues and credits.* United shall credit the jurisdictional portion of transportation revenues to Account 191 provided the revenues are not related to (1) transportation rate schedules to which costs were allocated in developing the settlement rates; and (2) transportation rate schedules whose revenues were credited to the settlement cost of service. United may retain one cent per Mcf transported to the extent permitted by the NGPA of 1978 and the Commission's Regulations.

9. *Federal taxes.* The cost of service will include an income tax component based upon the statutory corporate Federal income tax rate, as may be modified from time to time.

10. *Sales refund obligation.* The settlement rates are based on an annual total system sales volume of 825 million Mcf. If actual sales volumes for the 12 months ending November 30, 1979, or any subsequent 12-month period during the term of the agreement exceed 825 million Mcf, United agrees to a sales refund obligation subject to United's right to offset against refunds the amount by which its actual fixed costs exceeds the settlement fixed costs.

11. *Rate of return.* Determination of the appropriate rate of return has been reserved for trial in this docket. Pending final resolution of the issue, the settlement rates and any refunds made will be based on an overall rate of return of 12.06 percent.

12. *Cost of service tax depreciation.* Allowance for federal income taxes will be computed in accordance with the procedures set out in Article VIII of the October 12, 1978, settlement agreement in *United Gas Pipe Line Co.*, Docket No. RP77–107. The use of tax normalization in computing the federal income tax allowance and associated refunds is subject to final Commission order disposing of Order No. 530–B on remand.

Upon review, the Commission finds that the settlement agreement represents a reasonable resolution of the issues in this proceeding, is in the public interest and should be approved subject only to the limited modification set forth below.

Passthrough of Refund Paybacks

Section D, Article III, of the proposed settlement provides that in the event United makes refunds prior to a final Commission order or appellate decision which determines that such refunds are in excess of that to which customers are entitled, the settlement rates will be recomputed and United's customers will be required to pay to United, with interest, the excessive refunds theretofore received. A number of United's customers object to the fact that the settlement contains no provision for pass-through to their customers of any refunds which they may have to repay to United under Article III.

Because United is protected via Article III against the adverse impact of excessive refunds, the Commission finds it equitable to permit United's jurisdictional pipeline customers to the extent necessary, to use their PGA clauses to recover from their customers the jurisdictional portion of any refund repayments, plus interest, which they may be required to make pursuant to Section D, Article III, of the agreement. The pipelines' customers will benefit from the flow-through of any refunds which the pipelines receive from United and, accordingly, we find it reasonable to allow the pipelines, to the extent necessary, to recoup any excessive refunds which are required to be paid back to United.

We note, however, that the concerns of the jurisdictional customers are, for the most part, unfounded. To the extent that any surcharges are made to United's sales rates, the surcharge amounts would be purchased gas costs incurred by United's jurisdictional customers and, as such, would be flowed through to those who purchased from the jurisdictional customers through those customers' respective purchased gas cost adjustment clauses. However, to the extent that a surcharge is applied to a non-sales service (*i.e.*, storage or transmission), the Commission agrees that it is appropriate to permit corresponding surcharges by United's jurisdictional customers.

As to the objecting non-jurisdictional, local distribution customers which also would be affected by Section D, Article III,[3] the Commission is unable to safeguard the against the possibility of non-recovery from their retail customers of refund paybacks since we are without authority to authorize them to flow through such refund paybacks to their customers. We believe this is a matter to be resolved between the affected customers of United and the appropriate state regulatory authorities.

Tracking of Storage Costs

The Commission staff objects to a provision in the agreement which would permit United to track in its rates costs associated with the gas storage service to be performed for United by ANR Storage Company (ANR). Staff objects because such costs are for a new service which, according to Staff, will not begin

[1] An initial decision on the reserved rate of return issue in this docket was rendered on January 11, 1980.

[2] Laclede Gas Company, the Public Service Commission of New York, the Missouri Public Service Commission, Columbia Gas Transmission Corporation, Mobile Gas Service Corporation and Mississippi Valley Gas Company, Southern Natural Gas Company, Texas Eastern Transmission Corporation, Mississippi River Transmission Corporation, United Municipal Distributors Group, Memphis Light, Gas and Water Division, and the Commission staff.

[3] Mobile Gas Service Corporation and Mississippi Valley Gas Company.

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until approximately 17 months after the end of the test period in this proceeding.

United, Mississippi River Transmission Corporation and the United Municipal Distributors Group submit that staff's objection should be dismissed. They point out that this tracking provision was adopted as part of a compromise on the sales volumes to be used in computing the RP78–68 rates and upon which the sales refund obligation (SRO) is based. United agreed to increase the sales volume provided the ANR storage costs would be tracked separately, since an increased sales volume otherwise would not ensure it recovery of the storage costs under the SRO.[4] Mississippi River also points out that the ANR storage service has been fully certificated[5] and therefore that the initial costs of the service are predictable with extreme accuracy both as to the timing of incurrence and as to amount.

As a general ratemaking policy, the Commission follows a test-year approach and in granting tracking requires the maintenance of a reasonable relationship between costs and revenues. The Commission notes with some concern that the storage cost tracking authority provided for by the settlement would reflect, for the first time in United's rates, costs for a service that did not commence until approximately 17 months after the end of the test period. It therefore becomes questionable whether a reasonable relationship between costs and revenues will be maintained if the subject tracking is approved. We also note, however, that United has agreed, as part of the settlement, to increase sales volumes, to accept a sales refund obligation, and to accept a rate increase moratorium extending to January 1, 1981. Given these and other provisions of the settlement, our concern with the tracking provision is not so great as to require its deletion from the settlement, thereby placing in jeopardy an overall settlement agreement which we find is in the public interest. Therefore, based on the totality of the circumstances of this particular case, we will authorize United to track the ANR storage costs.

Allocation of Purchased Gas Costs

Laclede Gas Company, the Public Service Commission of the State of New York (New York), the Missouri Public Service Commission and Memphis Light, Gas and Water Division contend that United has abused the rolled-in costing methodology by making jurisdictional customers subsidize purchases of expensive gas supplies which United makes primarily to reduce curtailment of its non-jurisdictional, direct industrial customers. New York also specifically objects to rolling in United's gas purchase costs resulting from sales under section 311 of the NGPA, Canadian or Mexican gas imports, or other acquisitions at prices exceeding the rates applicable under section 102 of the NGPA. These parties request that the allocation issue be set for hearing in this docket with the opportunity for refunds should the present cost allocation method be found unlawful.

United claims that this rate case presents no gas cost issues and that Article I of the settlement reserves all issues with respect to gas costs, including allocation, for resolution in Docket No. RP72–133. It further claims that it is required by Section 19 of its tariff to allocate purchased gas costs on a rolled-in basis and that Section 19 can be modified only two ways: (1) United can file proposed tariff revisions under Section 4 of the Natural Gas Act or (2) the Commission can order modification under Section 5 prospectively only.

The Commission finds that a hearing on the allocation issue should be held in this docket, but that changes, if any, in United's PGA clause should be made effective only prospectively from the date on which a new or revised clause is approved.

Despite the fact that Article I of the settlement purports to remove all "gas costs" issues to Docket No. RP72–133, we find that the issue of whether United's tariff PGA clause is just and reasonable is within the scope of this general rate proceeding and the objecting parties are entitled to prompt resolution of the issue. We do not find Docket No. RP72–133 to be a proper vehicle for determining the allocation issue since that docket involves numerous semi-annual PGA filings which were consolidated for the purpose of determining whether certain emergency purchases by United were reasonable and prudent, and since an initial decision has already been rendered in the docket.

A hearing was ordered in this docket pursuant to both Sections 4 and 5 of the Natural Gas Act, and we conclude that the hearing should continue under Section 5 in order to determine the alleged unfairness of United's currently effective PGA clause. Should there be evidence that United's allocation method results in rates which are unduly discriminatory or preferential, then the PGA clause must be modified to ensure that United's rates are just and reasonable. No party disputes that United has allocated costs in accordance with its approved PGA clause. As a result, any change in allocation of purchased gas costs should become effective only prospectively upon final Commission decision.[6]

The Commission orders:

(A) The settlement agreement filed in this docket on January 7, 1980, is approved in accordance with the terms of this order.

(B) The hearing instituted on June 30, 1978, shall continue under Section 5 of the Natural Gas Act for the purpose of determining whether any changes are required in United's current tariff PGA clause. Changes, if any, in United's PGA clause shall be made effective prospectively from the date of the Commission's final decision.

Kenneth F. Plumb,

Secretary.

[FR Doc. 17165 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[4] Absent a separate tracker, the storage costs would be credited against any sales refund due under the SRO.

[5] Order issued July 23, 1978, Docket No. CP78–432.

[6] *United Gas Pipe Line Company*, Docket No. RP72–133 (PGA 77–2) Order Granting Application for Rehearing, Clarifying Scope of Proceeding, and Granting Intervention, issued November 29, 1977; *United Gas Pipe Line Company*, Docket No. RP72–133 (PGA 77–2) Order Denying Rehearing, issued January 27, 1978.

[Docket No. ER78–80]

Central Illinois Public Service Co., Compliance Filing

May 30, 1980.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company on May 21, 1980, tendered for filing documents to comply with FERC Opinion No. 75, issued on February 21, 1980, affirming part and modifying part of the Administrative Law Judge's initial decision in Docket No. ER78–80. Petitions for re-hearing in this docket were effectively denied on April 21, 1980, by the Commission.

Copies of the filing were served upon the Company's jurisdictional customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said compliance filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17140 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–400]

Central Vermont Public Service Corp.; Filing of Power Transmission Tariff

May 30, 1980.

The filing company submits the following:

Take notice that on May 21, 1980, Central Vermont Public Service Corporation (Central Vermont) tendered for filing a rate schedule applicable to the transmission of blocks of power purchased by Allied Power and Light Company, Village of Johnson Water and Light Department, Rochester Electric Light and Power Company, from the Power Authority of the State of New York through the Public Service Board of the State of Vermont as a replacement for power previously purchased from the Power Authority of the State of New York under the NS–20 Contract dated January 20, 1961.

Purchase to Section 35.11 of the Commission's regulations, Central Vermont requests waiver of the 60 day notice requirement and an effective date of January 1, 1980. The request for waiver, Central Vermont states, is in order to provide a rate for transmission of power on the Company's facilities which has been purchased by the three utilities from the New York Power Authority through the Public Service Board of the State of Vermont, which purchase has an effective date of January 1, 1980.

The Company states that the rate under which the service is to be rendered is the same as that provided for in its FERC Rate Schedules No. 89, 93 and 97 and in its filing applicable to the transmission of a block of power from the same source to the Village of Hyde Park Water and Light Department which was noticed by the Commission on April 14, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17141 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–413]

Cliffs Electric Service Co., Rate Filing

May 30, 1980.

Take notice that on May 23, 1980 Cliffs Electric Service Company ("Service Co.") tendered for filing an agreement which it has executed with the City of Marquette Board of Light and Power and which will replace the current power sale agreement between those two parties. The new agreement extends the term during which Service Co. shall provide Limited Term Power and Short Term Power to the City of Marquette and modifies the energy charge in the prior agreement. Service Co. requests an effective date of May 1, 1980.

Under the new agreement, the charge for Limited Term Power and Short Term Power will be 110 percent of out of pocket costs. The charge for Incidental Energy will be 29.1 miles per Kilowatt hour or 110 percent of out of pocket costs, whichever is greater.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 1.8, 1.10). All such petitions or protest should be filed on or before June 23, 1980. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17143 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TA80–2–21 (PGA80–3)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 30, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia) on May 23, 1980, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective June 1, 1980.

Sixty-first Revised Sheet No. 16
Ninth Revised Sheet No. 16A
Fourteenth Revised Sheet No. 64

Columbia states that the foregoing tariff sheets are being filed to reflect a reduction in rates occasioned by a reduced level of purchases from Columbia's supplier, Columbia LNG Corporation, from those reflected in Columbia's original Purchased Gas Adjustment (PGA) filing effective March 1, 1980, and a corresponding increase in the level of purchases from other pipeline suppliers. The total reduction in gas purchase cost applicable to the months of June, July and August is $20,568,666.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17144 Filed 6–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–414]

Duke Power Co.; Supplement to Electric Power Contract

May 30, 1980.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on May 23, 1980 a supplement to the Company's Electric Power Contract

with the City of Albemarle. Duke Power

with the City of Albemarle. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 225.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes in contract demand: Delivery Point No. 1 from 46,000 KW to 36,000 KW and Delivery Point No. 2 from—0—KW to 24,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Dule Power proposes an effective date of June 19, 1980.

According to Duke Power copies of this filing were mailed to the City of Albemarle and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17146 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-411]

Florida Power & Light Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on May 21, 1980 tendered for filing an amendment entitled "Amendment Number One to Provide Specified Transmission Service Between Florida Power & Light Company and Jacksonville Electric Authority."

FPL states that under the Amendment FPL will transmit power and energy for Jacksonville Electric Authority (JEA) as is required by Jacksonville in the implementation of its interchange agreements with the New Smyrna Beach Utilities Commission and the City of Gainesville, Florida.

FPL states that service was initiated prior to the Amendment being executed in order to help JEA at a time when it was experiencing a capacity shortage on its system. FPL states that this was done at the request of JEA and with the concurrence of FERC staff. Accordingly, FPL requests waiver of the Commission's Regulations to the extent necessary to permit the Amendment to be effective as of April 10, 1980 to coincide with the commencement of service. According to FPL, copies of the filing were served on the Director, Procedures and Analysis of JEA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17145 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-206]

Florida Power Corp.; Filing

May 30, 1980.

The filing company submits the following:

Take notice that on May 9, 1980, the Florida Power Corporation submitted for filing revised rate schedules, cost of service data, and comparative revenue data. This filing is in compliance with the Commission's order of April 25, 1980 in the above referenced proceeding.

Copies of this filing have been mailed to the affected wholesale customers and to the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17147 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-383]

Indiana and Michigan Electric Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that on May 21, 1980, Indiana and Michigan Electric Company submitted for filing a refund report pursuant to the Commission's letter order of April 11, 1980 in the above referenced proceeding.

Copies of this filing have been sent to each of the affected customers, the Public Service Commission of Indiana, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17148 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-379]

Indiana and Michigan Electric Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that on May 24, 1980, Indiana and Michigan Electric Company (I&M) submitted for filing a refund report pursuant to the Commission's letter order of April 11, 1980 in the above referenced proceeding.

A copy of this filing has been submitted to the Michigan Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17143 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17148 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-537]

Lockhart Power Co.

May 30, 1980.

The filing company submits the following:

Take notice that on May 23, 1980, Lockhart Power Company sumitted for filing a refund report in compliance with the Commission's letter order of April 24, 1980 in the above referenced proceeding.

A copy of this filing has been sent to the City of Union, South Carolina and the Public Service Commission of South Carolina.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17149 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST80-206]

Louisiana Interstate Gas Corp.; Application for Approval of Rates

May 30, 1980.

Take notice that on May 12, 1980, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST80-206 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Mid Louisiana Gas Company (Mid La), all as more fully set fourth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Mid La have entered into an agreement dated March 3, 1980, whereby Applicant is to provide a transportation service for Mid La for a term of two years. Applicant proposes to accept Mid La's gas at interconnections between Applicant and Mid La in the East Orange Grove Field, Terrebonne Parish, Louisiana, and in the Buffalo Bayou Field, De Soto Parish, Louisiana, and to transport said gas by way of exchange to an interconnection between Applicant and Mid La in Ouachita Parish, Louisiana, or any other mutually agreeable point of interconnection. The exchange gas would be delivered to Mid La at such points, it is said. Additionally, Applicant states that it has been informed by Mid La that it is receiving such natural gas for Mid La's system supply for resale.

Applicant proposes to perform this particular transportation service for Mid La without charge through an existing facility.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 17150 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-398]

Montana Power Co.; Agreement for Sale of Nonfirm Energy Issued May 20, 1980; Addendum

May 30, 1980

Take notice that in its filing of May 15, 1980, Montana Power Company also submitted for filing letter agreements with the following companies. The Commission's May 20, 1980 notice was published in the **Federal Register** at 45 FR 35869 (May 28, 1980).

1. Portland General Electric Company (letter agreement dated November 7, 1979),

2. Los Angeles Department of Water and Power (letter agreement dated November 19, 1979),

3. Southern California Edison Company (letter agreement dated November 19, 1979), and

4. Utah Power and Light Company (letter agreement dated November 7, 1979).

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17151 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-31]

National Fuel Gas Supply Corp.; Proposed Changes in Gas Tariff

May 30, 1980.

Take notice that on May 22, 1980, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed changes in its Gas Tariff, to be effective December 1, 1979.

Original Volume No. 1

Original Sheet Nos. 36D and 37D and First Revised Sheet Nos. 37B and 37C superseding Original Sheet Nos. 45, 37B and 37C respectively.

These corrective tariff sheets are issued to comply with order of the Federal Energy Regulatory Commission in Docket No. RP80-31 dated May 1, 1980, to provide the following: 1) a provision that supplier refunds received but not flowed-through will accrue interest in accordance with Section 154.67(d)(2)(iii) of the Commission's Regulations from the date of receipt to the date of disbursement, 2) a provision that incremental pricing surcharges billed to National Fuel are not included in the Incremental Gas Acquisition Cost Account, and 3) the proper pagination for Sheet Nos. 37B and 37C.

A copy of this filing was served on the following: Mercer Gas Company, National Fuel Gas Distribution Corporation, Cook Gas Company, North East Heat & Light Company, The Peoples Natural Gas Company, Public Service Commission of the State of New York, Pennsylvania Public Utility Commission, Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17152 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

Office of the Special Counsel

Imported Crude Oil Transfer Pricing Program

AGENCY: Department of Energy, Office of the Special Counsel for Compliance.

ACTION: Notice of Public Conference—Change of Location.

Notice is hereby given that the public conference regarding the calculations of maximum and representative prices under 10 CFR 212.84, June 17, 1980, which was published in the **Federal Register** on May 15, 1980 (45 FR 32114), has been moved to Room BEO69 James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. For further information, please contact Leslie Wm. Adams, Associate Solicitor to the Special Counsel for Compliance, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202/633–8292).

Issued in Washington, D.C., May 28, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-17240 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1508-6]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for Reference or Equivalent Method Determination

Notice is herby given that on May 8, 1980, the Environmental Protection Agency received an application from Thermo Electron Corportation to determine if its Model 49 U.V. Photometric Ambient Ozone Analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**.

Stephen J. Gage,

Assistant Administrator for Research and Development.

June 2, 1980.

[FR Doc. 80-17161 Filed 6-5-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1510-3]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EIS's) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council of Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of May 27, 1980 to May 30, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from June 6, 1980 and will end on July 21, 1980. The 30-day review period for final EIS's as calculated from June 6, 1980 will end on July 7, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal Agency which prepared the EIS. This Notice will give a contact person for each Federal Agency which has filed an EIS during the period covered by the Notice. If a Federal Agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, DC 20036.

For Hard Copy Reproduction or Microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558–8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of May 27, 1980 to May 30, 1980 the 30-day review period will be calculated from June 6, 1980. The review period will end on July 7, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of May 27, 1980 to May 30, 1980. The Federal Agency filing the EIS, the name, address, and telephone number of the Federal Agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal Agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II set forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver form the prescribed review period. The appendix II includes the Federal Agency responsible for the EIS, the name, address, and telephone number of the Federal Agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal Agency.

Appendix IV set forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal Agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal Agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: June 3, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of May 27 through 30, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Final

Davy Crockett National Forest Timber Management, Houston and Trinity Counties, Tex., May 28: Proposed is a timber management plan for the Davy Crockett National Forest in Houston and Trinity Counties, Texas. The plan proposes even-aged forest management on the commercial forest land for production of timber projects on a multiple use-sustained yield basis except where reserved for a specific use. The five alternatives considered are: (1) low utilization management, (2) all-aged management, (3) high-yield even-aged management with short rotations, (4) even-aged management, and (5) no action. (FEIS–08–13–79–02). Comments made by: DOI, DOT, USDA, EPA, State Agencies, Groups and Individuals. (EIS Order No. 800413.)

Final Supplement

Fox Unit Land Management Plan, Six Rivers NF, Del Norte County, Calif., May 30: This statement supplements a final EIS, #40600, filed 4–16–74 concerning a land management plan for 30,000 acres of land known as the Fox Unit of the Six Rivers National Forest located in Del Norte County, California. The plan divides the Unit into seven resource zones of varying sizes. Resource management and development including timber management and associated road construction will occur primarily in three of the zones. The other five zones will remain essentially undeveloped. This statement provides additional information concerning geology, erosion, water quality, and fisheries. (USDA–FS–R5–FES–Supp (Adm) 74–25). Comments made by: COE, DOI, State Agencies Groups. (EIS Order #800414.)

DEPARTMENT OF THE ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310. (202) 694–4269.

Draft

Fort Carson Training Land Acquisition, Huerfano, Las Animas and Pueblo Counties, Colo., May 29: Proposed is the acquisition of land to be used for combat maneuver training at Fort Carson in Huerfano, Las Animas and Pueblo Counties, Colorado. Two sites are under consideration: (1) the Huerfano River Parcel located southeast of Pueblo, and (2) the Pinon Canyon Parcel located along the Purgortoire River between Trinidad and La Junta. Land use management plans have been developed for both sites considering the following major elements: (1) training intensity, (2) time of use, (3) boundaries, (4) limited and restricted use areas, (5) cantonment areas, (6) road development, and (7) river crossings. (Omaha District). (EIS Order #800417.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DEAN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Prudhoe Bay Oil Field Waterflood Project, May 29: Alaska. Proposed is the issuance of permits for the construction and operation of a project to recover an additional billion barrels of oil from the currently producing Prudhoe Bay Oil Field in the North Slope Borough of Alaska. The project would include: 1) widening, raising and extending an existing gravel causeway in the Beaufort Sea; 2) construction and operation of a seawater intake and treatment plant; 3) construction of six new gravel pads and related facilities for pressurizing and distributing seawater; 4) construction and maintenance of about 196 km of pipeline; and 5) widening 27 existing gravel pads and construction of one new gravel pad to accommodate water injection wells. (Alaska District) (EIS ORDER #800416.)

Draft Supplement

San Antonio Channel Improvement (DS–1), Bexar County, Tex., May 30: Proposed is a channel improvement project for the San Antonio Channel in Bexar County, Texas. The alternatives consider no action, structural measures, and nonstructural measures. Nonstructural measure considered include flood warning systems and flood plain evacuation. The structural alternatives considered are: 1) vertical wall cross sections, 2) grass-lined trapezoidal channel cross section, 3) combination of trapezoidal and vertical wall cross section, and 4) U-frame pilot channel. This statement supplements a final EIS, #721179, filed 11–9–71. (Fort Worth District) (EIS ORDER #800420.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Sectretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

Gray's Reef Marine Sanctuary, Georgia, May 30: Proposed is the designation of the waters at Gray's Reef, a submerged live bottom area on the South Atlantic Continental Shelf located 17.5 nautical miles due east of Sapelo Island, Georgia, as a marine sanctuary. The designation of a marine sanctuary would provide a program of integrated management and regulations to govern recreational activities, certain activities under permit for scientific and educational purposes, seabed alteration and construction, bottom trawling and specimen dredging, wire trap fishing, marine specimen collecting, and tampering with or removal of submerged historic and cultural resources. (EIS ORDER #800419.)

Pennsylvania Coastal Management Program, CZM, Pennsylvania, May 30: Proposed is the State of Pennsylvania Coastal Zone Management Program. Approval would allow program administrative grants to be awarded to the State, and require that Federal actions be consistent with the program. Implementation of the program will enhance governance of the State's coastal land and water areas and uses according to the coastal policies and standards. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. (EIS ORDER #800418.)

Final

Channel Island Marine Sanctuary, designation, regulatory, Santa Barbara County, Calif., May 30: Proposed is the creation of a marine sanctuary in the waters around the northern Channel Islands and Santa Barbara Island in the northern portion of the Southern California Bight in Santa Barbara County, California. Through regulatory control the following activities would be restricted: 1) oil and gas operations, 2) discharging, 3) alteration of or construction of the seabed, 4) navigation and operation of vessels and aircraft overflights below 1000 feet, and 5) removal or otherwise deliberately harming cultural or historical resources. Comments made by: DOE, HUD, DOI, STAT, DOT, EPA, USAF, COE, State and Local Agencies, Groups, Individuals and Businesses (EIS ORDER #800427.)

U.S. ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Edward Vest, Region VII, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106 (816) 374–2921.

Draft

Marion County Sewerage Facilities, Grant, Marion County, Kans. May 27: Proposed is the awarding or non-approval of funding for the construction of a conventional sewage collection and treatment system to serve the Marion County Lake Improvement District, Kansas. The project includes: (1) a conventional gravity collection system, and (2) a force main to the City of Marion's proposed treatment plant. Alternatives include: (1) a total retention lagoon, (2) new on-site systems, (3) pressure sewer and vacuum sewer collection systems, and (4) community leach fields. (EPA–907/9–80–002). (EIS Order No. 800410.)

Contact: Ms. Susan Sakaki, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105 (415) 556–6925.

Draft

LA/Orange County Metro Area Sludge Mgmt. Program, Los Angeles and Orange Counties, Calif., May 28: Proposed is the awarding of a grant to the City and County of Los Angeles and Orange County, California, for the purpose of planning, designing, and constructing the proposed sludge managemnt program. The program would involve: (1) for

the City of Los Angeles, dehydration and thermal processing for energy recovery at the Hyperion Treatment Plant; (2) for Los Angeles County, dehydration and thermal processing, composting, and landfilling; and (3) for Orange County, composting and air drying of dewatered sludge in the Round Canyon area. (EIS Order No. 800415)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 (202) 357–8228.

Final

North Fork Stanislaus River, Project No. 2409, Calaveras County, Calif., May 30: Proposed is the issuance of a license for the North Fork Stanislaus River Project No. 2409, a conventional hydroelectric operation in Calaveras County, California. The license would authorize the construction of 5 dams, 2 powerhouses, 2 tunnels, access roads, transmission lines, recreational facilities, and appurtenant facilities. The alternatives consider: (1) alternative design, construction and operation; (2) other sites; (3) forms of generating equivalent power; and (4) denial of application. (FERC–EIS–0011–D.) Comments made by: COE, USDA, HEW, EPA, AHP, State and Local Agencies, Groups and Individuals (EIS Order No. 800428.)

Final Supplement

Zachary-Fort Lauderdale Pipeline (FS–1), several counties, May 30: This statement supplements a final EIS, No. 760702, filed 5–12–76. Proposed is approval of an application to abandon 889 miles of 24-inch diameter pipeline facilities for conversion to transport light petroleum products for the gulf coast of Florida. The present system extends from Starr County, Texas to Dade County, Florida, and is about 90 percent looped, principally with a 30-inch diameter pipeline, from Zachary, Louisiana to Port Everglades would be completed. The project would traverse the States of Louisiana, Mississippi, Alabama and Florida. (FERC/EIS–0016.) Comments made by: USDA, COE, DOI, EPA, State and Local Agencies Businesses (EIS Order No. 800423.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6300.

Final

Imperial Oaks Subdivision, Mortgage Insurance, Montgomery County, Tex., May 30: Proposed is the issuance of HUD home mortgage insurance for the Imperial Oaks Subdivision, Montgomery County, texas. When completed the subdivision will contain approximately 3,000 dwelling units on approximately 958 acres. There will also be some commercial reserves and recreational areas within the proposed development. (HUD–R06–EIS–3F.) Comments made by: EPA, COE, DOE, State Agencies, (EIS Order No. 800421.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Heritage Conservation and Recreation Service.

Final

Alaskan Rivers Protection, Alaska, May 30: proposed is the protection of eleven river corridors in Alaska. The corridors would be four miles wide. The alternatives considered are: (1) designation of seven rivers as components of the National Wild and Scenic Rivers System, and study of four rivers for inclusion, (2) administrative withdrawal of the corridors under the public land laws, and (3) no action. (DES–80–10.) (FES–80–16.) Comments made by: AHP, USA, DOC, DOE, HUD, DOI, DOT, EPA, GSA, State Agencies, Groups, Individuals and Businesses. (EIS Order No. 800425.)

Fish and Wildlife Service

Final

Alaska Peninsula, National Wildlife Refuge, Designation, Alaska, May 30: proposed is the designation of approximately 3.5 million acres of federal lands on the Alaska Peninsula, Alaska as a National Wildlife Refuge. The alternatives considered include: (1) no action, (2) designation of all or a portion of the area as a Congressionally established wilderness, (3) establishment of National Wildlife Monument by Presidential proclamation, (4) establishment of a refuge by Secretarial withdrawal, and increasing or decreasing the size of the area. (FES–80–15). Comments made by: AHP, USA, DOE, HUD, DOI, DOT, EPA, GSA, State Agencies, Groups, Individuals and Businesses. (EIS Order No. 800426.)

Final Supplement

Iliamna National Wildlife Refuge, Designation, Alaska, May 30: This statement supplements a final EIS, No. 750088, filed 1–6–75, concerning the Iliamna National Resource Range in Alaska. This supplement addresses alternatives for the protection and management of the natural resources on 5.7 million acres of federal lands in the Iliamna area. The alternatives considered are: (1) no action, (2) withdrawal of the area with administration by DOI/FWS, and (3) creation of a National Monument with administration by the FWS. (FES–80–17.) Comments made by: AHP, USA, HUD, DOI, EPA, DOE, State and Local Agencies, Groups, Individuals and Businesses. (EIS Order No. 800424.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 5371, 12th and Constitution Ave. NW., Washington, D.C. 20423, (202) 275–7658.

Final

Golden Triangle RR Company, Lowndes County, Miss., May 30: Proposed is approval of a petition by the ICC for the construction and operation of an 8.8 mile shortline, common carrier railroad in Lowndes County, Mississippi. The line will connect a proposed Weyerhaeuser pulp and paper facility with an existing Illinois Central Gulf Railroad (ICG) mainline. In a related action the company has applied for 7.5 miles of trackage rights over the ICG and Frisco to an interchange yard two miles north of Columbus. (Finance Docket No. 29170 and 29220.) Comments made by: USDA, COE, EPA, DOI, State and Local Agencies, Individuals. (EIS Order No. 800422.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555 (301) 492–8446.

Draft

Dresden Nuclear Power Station, Unit 1, Morris, Grundy County, Ill., May 30: Proposed is primary cooling system chemical decontamination at Dresden Nuclear Power Station, Unit 1, located near Morris, Grundy County, Illinois. The decontamination will involve the circulation of a decontamination solution through the system to dissolve a thin layer of radioactive corrosion products which have accumulated during the 20–year operation of Dresden 1. The alternatives considered are: (1) mechanical cleaning, (2) water flushing, (3) operational techniques, and (4) chemical cleaning. (NUREG–0686). (EIS ORDER No. 800430)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.

Federal Highway Administration

Draft

I–94 Widening/Interchange Modification at Wiard Rd, Washtenaw County, Mich., May 27: Proposed is the widening of I–94 to six lanes between US–12 and just West of Rawsonville Road in Ypsilanti Township, Washtenaw County, Michigan. Also proposed is modification of the interchange of I–94 and Wiard Road. The alternatives considered are: (1) placement of additional lanes, (2) realignment of the Wiard Road Interchange without adding ramps, (3) construction of a complete new interchange, and (4) four designs for a full interchange. (FHWA–MI–EIS–80–01–D). (EIS Order No. 800408.)

Government Way/Lindeke St. Corridor, Spokane, Spokane County, Wash., May 27: Proposed is the realignment and reconstruction of Government Way and Lindeke Street in the City and County of Spokane, Washington. Government Way would be constructed to accomodate four lanes and would shorten the road from .96 to .77 mile. Linkdeke Street would be widened from 30 to 36 feet, remain a two-lane facility, and be shortened from .79 to .66 mile. The alternatives considered are: (1) no action, (2) improve existing roadway, and (3) reconstruct Government Way to secondary standards and Linkdeke Street to collector arterial standards. (FHWA–WA–EIS–80–02–D) (EIS Order No. 800409.)

Final

Third Street Corridor, IN–37 to IN–45/46 Bypass, Monroe County, Ind., May 27: Proposed is the reconstruction of Third Street between the IN–37 Bypass and the IN–45/46 Bypass in Bloomington, Monroe County, Indiana. The facility would be four lanes with a four foot raised median and an additional lane for turns at major intersections. Additional signalization will be installed. Also included is an underpass at the Louisville/Nashville Railroad. (FHWA–TN–EIS–78–04–F). Comments made by: DOI, USDA, EPA, HUD, DOT, State Agencies (EIS Order No. 800412.)

North-South Expressway, Meeker to Boyce, Rapides County, La., May 27: Proposed is the construction of a portion of the North-South Expressway (I–49) between Meeker and Boyce in Rapides Parish, Louisiana. This EIS finalizes a portion of the project for which the draft EIS, #76127, filed 8–24–76, was written. A preferred alternative is identified. (FHWA–LA–EIS–76–1–F). Comments made by: (EIS Order No. 800429.)

TN–34 Relocation, From TN–34 to TN–44, Sullivan County, Tenn., May 27: proposed is a relocation of TN–34 from the existing TN–34 to a 22 foot section west of TN–44 in Sullivan County, Tennessee. The project length is 5.14 miles long and will be a typical cross section of two 24–foot lanes divided by a 48–foot median with 12–foot shoulders and 18–foot ditches, all within a minimum of 250 feet of right-of-way. The alternatives considered are: two alignments for relocation, postponing the action, lower level of service and/or a reduced facility design, and public transportation. (FHWA–TN–EIS–78–04–F). Comments made by: HUD, DOI, DOT, COE, HEW, EPA, AHP, State Agencies, Groups and Businesses (EIS Order No. 800411.)

EIS's Filed During the Week of May 27 Through May 30, 1980

[Statement Title Index—by State and county]

State	County	Status	Statement title	Accession No	Date filed	Originating agency No.
Alaska		Supple	Alaska Peninsula National Wildlife Refuge (FS)	[illegible]	May 30, 1980	[illegible]
		Draft	Prudhoe Bay Oil Field Waterflood Project	[illegible]	May 29, 1980	COE
		Final	Alaskan Rivers Protection	[illegible]	May 30, 1980	DOI
		Supple	Iliamna National Wildlife Refuge, Designation (FS)	[illegible]	May 30, 1980	DOI
Alabama	Several	Supple	Zachary-Fort Lauderdale Pipeline (FS)	[illegible]	May 23, 1980	FERC
California	Calaveras	Final	North Fork Stanislaus River, Project No. 2409	[illegible]	May 30, 1980	FERC
	Los Angeles	Draft	LA/Orange County Metro Area Sludge Mgmt. Program.	800415	May 28, 1980	EPA
	Orange	Draft	LA/Orange County Metro Area Sludge Mgmt. Program.	800415	May 28, 1980	EPA
	Santa Barbara	Final	Channel Island Marine Sanctuary, Designation	800427	May 30, 1980	DOC
	Del Norte	Supple	Fox Unit Land Management Plan, Six River NF (FS)	800414	May 28, 1980	USDA
Colorado	Las Animas	Draft	Fort Carson Training Land Acquisition Huerfano	800417	May 29, 1980	COE
	Pueblo	Draft	Fort Carson Training Land Acquisition Huerfano	800417	May 29, 1980	COE
Georgia		Draft	Gray's Reef Marine Sanctuary	800419	May 30, 1980	[illegible]
Florida	Several	Supple	Zachary-Fort Lauderdale Pipeline (ES)	[illegible]	May 23, 1980	FERC
Illinois	Grundy	Draft	Dresden Nuclear Power Station, Unit 1, Morris	800430	May 30, 1980	NRC
Indiana	Monroe	Final	Third Street Corridor, IN–37 to IN–45/46 Bypass	800412	May 27, 1980	DOT
Kansas	Marion	Draft	Marion County Sewerage Facilities, Grant	800410	May 27, 1980	EPA
Louisiana	Rapides	Final	North-South Expressway, Meeker to Boyce	[illegible]	May 27, 1980	DOT
	Several	Supple	Zachary-Fort Lauderdale Pipeline (FS)	800423	May 23, 1980	FERC
Michigan	Washtenaw	Draft	I–94 Widening/Interchange Modification at Wiard Rd.	[illegible]	May 27, 1980	DOT
Mississippi	Lowndes	Final	Golden Triangle RR Company	[illegible]	May 30, 1980	[illegible]
	Several	Supple	Zachary-Fort Lauderdale Pipeline (FS)	[illegible]	May 23, 1980	FERC
Pennsylvania		Draft	Pennsylvania Coastal Management Program, CZM	[illegible]	May 30, 1980	DOC
Regulatory		Final	Channel Island Marine Sanctuary, Designation	800427	May 30, 1980	DOC
Tennessee	Sullivan	Final	TN–34 Relocation, From TN–34 to TN–44	800411	May 27, 1980	DOT
Texas	Bexar	Supple	San Antonio Channel Improvement (DS)	[illegible]	May 30, 1980	[illegible]
	Houston	Final	Davy Crockett National Forest Timber Management	800413	May 28, 1980	USDA
	Montgomery	Final	Imperial Oaks Subdivision, Mortgage Insurance	800421	May 30, 1980	HUD
	Trinity	Final	Davy Crockett National Forest Timber Management	800413	May 28, 1980	USDA
Washington	Spokane	Draft	Government Way/Lindeke St. Corridor, Spokane	[illegible]	May 27, 1980	DOT

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/ [illegible]	Date review [illegible]
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, ATTN: DAEN–CWR–P, Office of the Chief of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.	Aquatic Plant Control Program, South Carolina	Revised draft 800238	Apr. 11, 1980	Extension	June 23, 1980
U.S. DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–4357	TN–1, East to West of Waverly, Humphreys County, Tennessee.	Final 800307	May 2, 1980	Extension	June 16, 1980
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335	Gray's Reef Marine Sanctuary, South Atlantic Continental Shelf, Designation.	Draft 800419	June 6, 1980 (see app. I)	Extension	Aug. 5, 1980

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Date notice Federal agency contact	Title of EIS	Status/No.	Date notice of availability published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed with EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None			

Appendix VI.—*Official Correction*

Date notice Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
None				

[FR Doc. 80-11290 Filed 6-5-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-6]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: May 21, 1980.
Cut-off date: July 7, 1980.

Notice is hereby given that the applications listed below are accepted for filing. Because the applications listed below are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with any application listed below will be accepted for filing.

Petitions to deny the applications listed below and minor amendments thereto must be on file with the Commission no later than the close of business of July 7, 1980. Any application previously accepted for filing and in conflict with any application listed below may also be amended as a matter of right not later than the close of business on July 7, 1980. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's Rules.

Federal Communications Commission.
William J. Tricarico,
Secretary.

BPCT-790815KI (New), Memphis, Tennessee, Levee Media, Inc., Channel 30, ERP: Vis. 1561 kW; HAAT: 295 feet.
BPCT-790815KK (New), Memphis, Tennessee, TV 30, Inc., Channel 30, ERP: Vis. 1276 kW; HAAT: 865 feet.
BPCT-790815KM (New), Memphis, Tennessee, APW Enterprises, Inc., Channel 30, ERP: Vis. 2740 kW; HAAT 1,100 feet.
BPCT-790815KN (New), Memphis, Tennessee, Tennessee Valley Telecasters, Inc., Channel 30, ERP: Vis. 1452 kW; HAAT: 502 feet.
BPCT-790815KH (New), St. Petersburg, Florida, Oak Television of Tampa Bay, Inc., Channel 38, ERP: Vis. 4850 kW; HAAT: 1,436 feet.
BPCT-790803KF (New), St. Petersburg, Florida, Home TV, Inc., Channel 38, ERP: Vis. 1580 kW; HAAT: 563 feet.
BPCT-790815KH (New), St. Petersburg, Florida, Minority Broadcasters of Florida, Inc., Channel 38, ERP: Vis. 5000 kW; HAAT: 1,383 feet.
BPCT-790921KE (New), Buffalo, New York, The Great Erie County Telecasting Corp., Channel 49, ERP: Vis. 1000 kW; HAAT: 961 feet.
BPCT-791113LD (New), Buffalo, New York, Channel 49 Buffalo TV, Inc., Channel 49, ERP: Vis. 5000 kW; HAAT: 346 feet.
BPCT-791130LC (New), Buffalo, New York, Bison City TV 49 Limited Partnership, Channel 49, ERP: Vis. 2240 kW; HAAT: 850 feet.
BPCT-791130LD (New), Buffalo, New York, Unific Broadcasting Co. of New York, Channel 49, ERP: Vis. 1000 kW; HAAT: 961 feet.
BPCT-800118KE (New), Rawlins, Wyoming, Strang Telecasting, Inc., Channel 11, ERP: Vis. 34.5 kW; HAAT: 334 feet.
BPCT-800118KK (New), Washington, D.C., Grant Broadcasting Corporation, Channel 14, ERP: Vis. 5000 kW; HAAT: 745 feet.
BPCT-800118KJ (New), Washington, D.C., Focus Broadcasting of Washington, D.C., Inc., Channel 14, ERP: Vis. 3177 kW; HAAT: 538 feet.
BPCT-800118KH (New), Washington, D.C., Community Service Broadcasters, Inc., Channel 14, ERP: Vis. 5000 kW; HAAT: 540 feet.
BPCT-800118KF (New), Washington, D.C., Capital Communications of Washington, Inc., Channel 14, ERP: Vis. 5000 kW; HAAT: 424 feet.
BPCT-800117KE (New), Washington, D.C., Century Communications, Inc., Channel 14, ERP: Vis. 2547 kW; HAAT: 585 feet.
BPCT-800118KL (New), Washington, D.C., Kent of Washington, Inc., Channel 14, ERP: Vis. 1795 kW; HAAT: 539 feet.
BPCT-800118KM (New), Washington, D.C., Television Communications, Inc., Channel 14 ERP: Vis. 1229 kW; HAAT: 544 feet.
BPCT-800118KN (New), Arlington, Virginia (Washington, D.C. allocation), Urban Telecommunications Corporation, Channel 14, ERP: Vis. 2780 kW; HAAT: 428 feet.
BPCT-800118KO (New), Washington, D.C., Washington Television, Inc., Channel 14, ERP: Vis. 5000 kW; HAAT: 651 feet.
BPCT-800118KP (New), Washington, D.C., WSCT-TV, Inc., Channel 14, ERP: Vis. 2422 kW; HAAT: 745 feet.

[FR Doc. 80-17182 Filed 6-5-80; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-624-DR]

Idaho, Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Idaho (FEMA-624-DR), dated May 22, 1980, and related determinations.

DATED: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

Note.—The Notice of a major disaster for the State of Idaho dated May 22, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 22, 1980.

The following Counties for Individual Assistance in addition to Public Assistance:
Bonewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, and Shoshone.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02)

William N. Wilcox,
Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-17170 Filed 6-5-80; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Cancellation of Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-462) notice was published in 45 FR 31492 of May 13, 1980, that a meeting of the Federal Prevailing Rate Advisory Committee would be held on June 26, 1980. Notice is hereby given that the meeting scheduled for that date has been cancelled.

Jerome H. Ross,
Chairman, Federal Prevailing Rate Advisory Committee.
June 2, 1980

[FR Doc. 80-17246 Filed 6-5-80; 8:45 am]
BILLING CODE 5325-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Additional Nominations for Members of Consumer Advisory Council

The Board of Governors is seeking from the public additional nominations of qualified individuals for eight appointments to its Consumer Advisory Council. Nominations received will be added to the list of nominees submitted in 1979. All individuals whether nominated last year or this year will be considered by the Board for membership on the 1981 Council.

The Consumer Advisory Council was established by the Congress in 1976, at the suggestion of the Board, to advise the Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Board, therefore, is especially interested in candidates who are familiar with issues in the area of consumer credit and other financial services. The Council by law represents the interest of both consumers and the financial community.

Each year nearly 400 individuals are recommended for membership on the Council, of which generally 10 can be chosen. This year, however, only eight can be selected. Inasmuch as the Council's membership generally is intended collectively to represent all interests in the area of consumer financial services regulations, the Board's appointments are made with a view toward complementing the qualifications of continuing Council members in terms of affiliation and geographic representation. For these reasons, many highly qualified and interested nominees will not have an opportunity to serve on the Council next year. Similarly, every interested group cannot be represented on a 30-member body in any one year.

Generally, the Council meets four times a year for approximately a day and a half. Council members who are not federal employees are paid $100 for each day spent attending or traveling to and from meetings.

Nominations should be submitted in writing to Janet Hart, Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be received no later than August 1, 1980. Nominations should include the name, address and telephone number of the nominee, past and present positions held, and special knowledge, interests, or experience relating to consumer matters. This information will made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

The names, affiliations, and terms of office of the current Council members follow:

Members of the 1980 Consumer Advisory Council

Chairman

William D. Warren, Dean, U.C.L.A. School of Law, Los Angeles, California, December 31, 1980

Vice Chairman

Marcia A. Hakala, Assistant to the Vice Chancellor, The University of Nebraska Medical Center, Omaha, Nebraska, December 31, 1980
Julia H. Boyd, Alexandria, Virginia, December 31, 1982
Roland E. Brandel, Partner, Morrison & Foerster, San Francisco, California, December 31, 1980
Ellen Broadman, Attorney, Consumers Union, Washington, D.C., December 31, 1982
James L. Brown, Director, Center for Consumer Affairs, University of Wisconsin Extension, Milwaukee, Wisconsin, December 31, 1981
Mark E. Budnitz, Associate Professor, Emory University School of Law, Atlanta, Georgia, December 31, 1981
Robert V. Bullock, Assistant Attorney General, Commonwealth of Kentucky, Frankfort, Kentucky, December 31, 1980
Richard S. D'Agostino, Senior Vice President, Girard Bank, Philadelphia, Pennsylvania, December 31, 1982
Joanne S. Faulkner, Attorney, New Haven Legal Assistance Association, Inc., New Haven, Connecticut, December 31, 1982
Vernard W. Henley, President, Consolidated Bank and Trust Company, Richmond, Virginia, December 31, 1982
Juan Jesus Hinojosa, Partner, Hinojosa & Ortiz, McAllen, Texas, December 31, 1982
Shirley T. Hosoi, Assistant Vice President, Marketing, Western Bancorporation, Los Angeles, California, December 31, 1982
F. Thomas Juster, Director, Institute for Social Research, Survey Research Center, University of Michigan, Ann Arbor, Michigan, December 31, 1982
Richard F. Kerr, Operating Vice President, Federated Department Stores, Cincinnati, Ohio, December 31, 1981
Robert J. Klein, Senior Editor, Money Magazine, New York, New York, December 31, 1980
Harvey M. Kuhnley, President and Chairman of the Board, Twin City Federal Savings &

Loan Association, Minneapolis, Minnesota, December 31, 1981
Robert J. McEwen, S.J., Professor of Economics, Boston College, Chestnut Hill, Massachusetts, December 31, 1982
R. C. Morgan, President, Government Employees Federal Credit Union of El Paso, El Paso, Texas, December 31, 1980
Margaret Reilly-Petrone, Professor of Economics, Montclair College, Upper Montclair, New Jersey, December 31, 1982
Rene Reixach, Staff Attorney, Greater Upstate Law Project, Rochester, New York, December 31, 1982
Florence M. Rice, President, Harlem Consumer Education Council, New York, New York, December 31, 1981
Ralph Rohner, Professor, Catholic University Law School, Washington, D.C., December 31, 1981
Henry B. Schechter, Director, Office of Housing and Monetary Policy, AFL–CIO, Washington, D.C., December 31, 1981
Peter D. Schellie, Partner, Baker & Daniels, Washington, D.C., December 31, 1982
E. G. Schuhart, Farmer and Rancher, Dalhart, Texas, December 31, 1980
Charlotte H. Scott, Professor of Business Administration and Commerce, University of Virginia, Charlottesville, Virginia, December 31, 1982
Richard A. Van Winkle, President, Lockhart Finance Company, Salt Lake City, Utah, December 31, 1981
Richard D. Wagner, President, Wagner Ford Sales, Inc., Simsbury, Connecticut, December 31, 1980
Mary W. Walker, President, National Bank of Walton County, Monroe, Georgia, December 31, 1981

Chairman Emeritus

Leonor K. Sullivan-Archibald, St. Louis, Missouri, December 31, 1980

Board of Governors of the Federal Reserve System, June 2, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80–17169 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

Barclays Bank Ltd., Barclays Bank International Ltd., Proposed Acquisition of Consumer Finance Offices of Beneficial Corporation

Barclays Bank Limited and Barclays Bank International Limited, both of London, England, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through subsidiaries of their subsidiary, Barclays American-Corporation, 138 offices of subsidiaries of Beneficial Corporation.

Applicant states that the proposed subsidiary would engage in (i) making direct consumer loans and purchasing of sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company (ii) wholesale financing (floor planning), but only through Offices located in Ashtabula, Cuyahoga, Franklin and Madison Counties, Ohio, and Nueces County, Texas, and (iii) acting as agent for the sale of related credit life, credit accident and health and credit property insurance (except that the Offices in Pennsylvania will not act as agent for the sale of credit property insurance), underwritten or reinsured in the case of the credit life and credit accident and health insurance sold through the Offices by BAC's insurance underwriting subsidiaries, The Citadel Life Insurance Company and The Citadel Life Insurance Company of South Carolina. The Offices are located in the following States: Idaho (Ada, Bonneville, Canyon, Latah and Payette Counties), Kansas (Geary and Leavenworth Counties), Michigan (Calhoun, Genesee, Saginaw and Wayne Counties), New Mexico (Bernalillo, Curry, Eddy, Lea, Otero and San Juan Counties) New York (Cortland, Fulton, Monroe, Oneida, Onondaga, Ontario, Orange Oswego, Seneca, Steuben, Warren and Westchester Counties), Ohio (Ashtabula, Butler, Clark, Clermont, Cuyahoga, Franklin, Hamilton, Hancock, Jefferson, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Montgomery Muskingum, Portage, Seneca, Stark, Summit, Wayne and Wood Counties), Oklahoma (Washington County), Oregon (Baker, Benton, Clackamas, Deschutes, Lane, Linn, Marion, Multnomah and Washington Counties), Pennsylvania (Beaver, Blair, Westmoreland and York Counties), South Dakota (Beadle, Brookings, Lake, Minnehaha and Pennington Counties), Texas (Bexar, Harris, Hutchinson, Kleberg, Midland, Nueces and Potter Counties) and Washington (Chelan, Clallam, Clark, King, Kittitas, Pierce and Whatcom Counties), each Office serving portions of the county in which such office is located and in the certain portions of contiguous counties. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writting and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 27, 1980.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17271 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

Central Indiana Bancorp, Inc.; Formation of Bank Holding Company

Central Indiana, Bancorp, Inc., Fairland, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Fairland National Bank, Fairland, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17274 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

Community Bancshares of Tulsa, Inc.; Formation of Bank Holding Company

Community Bancshares of Tulsa, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Community Bank and Trust Company, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. Section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17273 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

First Eldorado Bancorporation, Inc.; Formation of Bank Holding Company

First Eldorado Bancorporation, Inc., Eldorado, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Eldorado, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17276 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

First National in Cordell Bancshares, Inc.; Formation of Bank Holding Company

First National in Cordell Bancshares, Inc., Cordell, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank in Cordell, Cordell, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act 12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17277 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

Houston Investments, Inc.; Proposed Continuation of General Insurance Activities Conducted in the Name of Quality Insurance Agency

Houston Investments, Inc., Caledonia, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance activities conducted in the name of Quality Insurance Agency. These activities would be performed from offices of Applicant in Caledonia, Minnesota and the geographic area to be served in Houston County, Minnesota. Such actiivities have been specified by the Board in § 225.4(a) of Regulations Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or request for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 30, 1980.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17272 Filed 6–5–80; 8:45 am]

BILLING CODE 6210–01–M

Lake Benton Bancorporation, Inc.; Formation of Bank Holding Company

Lake Benton Bancorporation, Inc., Lake Benton, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of Farmers State Bank of Lake Benton (Incorporated). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17275 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

McCook National Co.; Formation of Bank Holding Company

McCook National Company, McCook, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 87.6 percent of the voting shares of McCook National Bank, McCook, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17276 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meeting Cancellations; Social Work Education Review Committee and Psychiatric Nursing Education Review Committee

In **Federal Register** Document 80-15685 beginning on page 34424 in the issue of Thursday, May 22, 1980, the June 6 meeting of the Social Work Education Review Committee and the June 24-25 meeting of the Psychiatric Nursing Education Review Committee were announced. These meetings have been cancelled.

Dated: June 2, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental, Health Administration.

[FR Doc. 80-17136 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Compilation of Preambles for Administrative Practices and Procedures Documents; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the second volume of the preamble compilation. This volume contains significant preambles of published **Federal Register** documents relating to Administrative Practices and Procedures regulations, from March 1936 through March 1978.

ADDRESS: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Lola Batson, **Federal Register** Writer's Office (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The preamble compilation series has been structured around the current organizational scheme for Food and Drug Administration regulations issued under Chapter I of Title 21 of the Code of Federal Regulations. This compilation is part of a comprehensive effort to make available to the public and the agency a central source for tracing, by subject, the historical development of agency regulations.

Each volume of the preamble compilation will be updated with an annual cumulative pocket supplement. The agency will publish in the **Federal Register** a notice of availability for each volume and pocket supplement as they become available.

The Administrative Practices and Procedures volume may be purchased from the Superintendent of Documents (address above) for $12.00. To order, reference GPO stock no. 017-015-00165-2.

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16872 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Robert O. Bartz, District Director, New Orleans District Office, New Orleans, LA.

DATE: The meeting will be held at 1:30 p.m., Tuesday, June 10, 1980.

ADDRESS: The meeting will be held at the Chamber of Commerce, 804 E. St. Mary Blvd., Lafayette, LA.

FOR FURTHER INFORMATION CONTACT: Frances G. Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New Orleans District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16873 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 80P-0001]

Rinn Corp.; Approval of Variance for "Condy-Ray" Film Holder and X-ray Beam Alignment Instrument

Correction

In FR Doc. 80-12374, appearing at page 27989, in the issue for Friday, April 25, 1980, on page 27990, in the first column, in the paragraph labeled "**ADDRESS**", in the sixth line, "4062" should be corrected to read "4-62".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. 80N-0017; DESI 11208]

Cyanocobalamin Zinc Tannate Complex; Drugs for Human Use; Drug Efficacy Study Implementation; Announcement; Agency: Food and Drug Administration

Correction

In FR Doc. 80-12497 appearing in the issue of Friday, April 25, 1980, on page 27990, second column, third paragraph, line 7, "56" should be corrected to read "5600".

In same document, page 27991, first column, last paragraph, line 3, "502" should be corrected to read "505".

BILLING CODE 1505-01-M

Office of the Assistant Secretary for Health

National Committee on Vital and Health Statistics, Subcommittee on International Statistics; Meetings

Correction

In FR Doc. 80-15383, appearing on page 33726 in the issue for Tuesday, May 20, 1980, the committee name in the document heading should be corrected to read as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 1572]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, on February 13, 1980, filed a justification for continuation of the existing land withdrawal made by Public Land Order No. 4305 of October 31, 1967. The holding agency desires to continue the withdrawal in its entirety for a 20-year period pursuant to the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described land is included in the proposed continuation:

Willamette Meridian, Revested Oregon and California Railroad Grant Land

T. 14 S., R. 7 W.,
Sec. 25, W½NE¼SW¼NW¼, SE¼SW¼NW¼, W½NW¼NE¼SW¼, SW¼NE¼SW¼, NW¼SW¼, NE¼SW¼SW¼, E½SE¼SW¼SW¼, SE¼SW¼, SW¼NW¼SW¼SE¼, and W½SW¼SW¼SE¼.

The area described contains 132.50 acres in Benton County, Oregon.

The purpose of the withdrawal is to protect the recreational values within the Alsea Falls Recreation Site. The land is currently segregated from operation of the public land laws generally, including location under the United States mining laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before July 15, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before July 15, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 29, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-17252 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 11432]

Colorado; Order Providing for Opening of National Forest Lands

The Federal Energy Regulatory Commission (formerly Federal Power Commission) issued an order February 6, 1978 (FR Doc. 78-3988) vacating in their entirety lands withdrawn for Power Development Project No. 163 affecting portions of the following described lands. These lands are located in the White River National Forest.

Sixth Principal Meridian

T. 9 S., R. 82 W.,
Sec. 6: S½NE¼, N½SE¼;
Sec. 8: S½SW¼;
Sec. 17: N½NW¼.
T. 8 S., R. 83 W.,
Sec. 7: S½SW¼;
Sec. 9: NW¼NW¼;
Sec. 21: SW¼NE¼, S½NW¼, NE¼SW¼, NW¼SE¼;
Sec. 22: SW¼NW¼.
T. 9 S., R. 83 W.,
Sec. 1: Lot 4; (NW¼NW¼)
Sec. 2: Lot 1; (NE¼NE¼)
Sec. 11: E½SE¼.
T. 8 S., R. 84 W.,
Sec. 7: S½SW¼;
Sec. 16: N½NE¼NE¼, N½NE¼NW¼NE¼, NW¼NW¼NE¼
Sec. 18: N½NW¼.
T. 8 S., R. 85 W.,
Sec. 12: S½SE¼;
Sec. 13: N½NE¼.
The areas described aggregate approximately 1,196 acres.

At 10 a.m. on July 7, 1980, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest land, subject to any existing withdrawals, leases, licenses or permits.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-17291 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 0123757; 12357]

Colorado Order Providing for Opening of National Forest Lands

The Federal Energy Regulatory Commission (formerly Federal Power

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Commission) issued orders February 23, 1978 vacating in their entirety lands withdrawn for Power Development Project No. 907 and 941 affecting portions of the following described lands. These lands are located in the Rio Grande National Forest.

New Mexico Principle Meridian

Project No. 907 (FR Doc. 78–5373)
T. 41 N., R. 3 W.,
Sec. 1: Lots 3, 4, (now described as 7, 8) and S½NW¼.
The areas described aggregate approximately 161 acres.

New Mexico Principle Meridian

Project No. 941 (FR Doc. 78–5374)
T. 37 N., R. 4 E.,
Sec. 36: Lots 1 & 2, E½ Lot 3, NE¼ Lot 4, N½ Lot 5, N½ Lot 6.
T. 36 N., R. 5 E.,
Sec. 9: Lots 1, 4, 5, 6, & 7, N½NE¼, SE¼NE¼, NE¼SE¼;
T. 36 N., R. 5 E.,
Sec. 9: Lots 1, 4, 5, 6, & 7, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 10: E½NW¼, SW¼NW¼, NW¼SW¼.
The areas described aggregate approximately 518 acres.

At 10 a.m. on July 9, 1980, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest Land, subject to any existing withdrawals, leases, licenses or permits.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80–17292 Filed 6–5–80; 8:45 am]

BILLING CODE 4310–84–M

[1784 (N–063.1)]

Battle Mountain District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 that a meeting of the Battle Mountain District Grazing Advisory Board will be held on July 29, 1980. The meeting will begin a 9:00 a.m. in the conference room of the Bureau of Land Management Office at 2nd and Scott treet, Battle Mountain, Nevada.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) The expenditure of range betterment and advisory board funds for range improvements; (3) A review of the current policy and program relating to allotment management plans including the ongoing and future grazing environmental statement effort; (4) Discussion of the board's future involvement in the allotment management plan program; (5) Election of officers and; (6) The arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on July 29, 1980 or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2nd and Scott Street, Battle Mountain, Nevada, 89820 by July 24, 1980.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 28, 1980.

Gene Nodine,

District Manager, Battle Mountain District, Nevada.

[FR Doc. 80–17247 Filed 6–5–80; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Miss Green River Boat Concession, Inc., authorizing it to continue to provide concession facilities and services for the public at Mammoth Cave National Park for a period of five (5) years from January 1, 1980, through December 31, 1984.

An analysis of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental analysis may be reviewed in the Office of the Superintendent, Mammoth Cave National Park.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1979, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Miss Green River Boat Concession, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Miss Green River Boat Concession, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before July 7, 1980.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Joe Brown,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 80–17126 Filed 6–5–80 8:45 am]

BILLING CODE 4310–70–M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held at the Hall of Administration (Room 374), 500 West Temple Street, Los Angeles, at 4:00 p.m. to 10:00 p.m. on Wednesday, June 18, 1980.

The Advisory Commission was established by Public Law 95–625 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows: Dr. Norman P. Miller, Chairman, Honorable Marvin Braude, Ms. Sarah Dixon, Dr. Henry David Gray, Ms. Mary C. Hernandez, Mr. Michael Levett, Ms. Susan Barr Nelson, Mr. Carey Peck, Ms. Marilyn Whaley Winters.

The major agenda items will be a California State Park briefing, general management plan update; land acquisition update; resource management briefing, and a working session of the State Comprehensive Plan. This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, CA 91364.

Minutes of the meeting will be available for public inspection by July 20, 1980 at the above address.

Dated: May 27, 1980.

Stanley T. Albright,

Acting Regional Director.

[FR Doc. 80–17125 Filed 6–5–80; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

[INT DES 80–37]

Availability of Draft Environmental Statement

Pursuant to Section 101(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement for PNM's Proposed Four Corners-Ambrosia-Pajarito 500 kV Transmission Project in Northwestern New Mexico.

The statement supplements the Final Environmental Statement for the Proposed Expansion of the San Juan Power Plant (INT FES 77–29)

The draft statement considers the human, economic and physical environmental affects associated with the Federal approvals of right-of-way for the construction of a 500 kV transmission line. Right-of-way for this project will require approximately 2,655 acres of Federally administered lands in northwestern New Mexico.

Comments should be received by the Area Director, Navajo Area Office Bureau of Indian Affairs, Window Rock, Arizona 86515 on or before August 1, 1980.

Copies of the draft statement are available for inspection at the following locations.

Bureau of Indian Affairs, Envrionmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245, Telephone: (202) 343–8248.

Bureau of Indian Affairs, Environmental Quality Services Office, Window Rock, Arizona 86515, Telephone: (602) 871–5151 Extension 5314.

U.S. Department of the Interior, Office of the Secretary, Southwest Region, Room 1400, First National Bank Building, 5301 Central Avenue, NE, Albuquerque, New Mexico 87108, Telephone: (505) 766–3565.

Office of Rural Electrification Administration, South Agricultural Building, 12th and Independence Ave., S.W., Washington, D.C. 20250, Telephnone: (202) 447–4766.

Plains Electric Generation and Transmission Cooperative, 2401 Aztec Road, N.E., Albuquerque, N.M. 87107, Telephone: (505) 345–1881.

Dated: May 29, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80–17253 Filed 6–5–80; 8:45 am]

BILLING CODE 4310–02–M

Draft Environmental Statement for Public Service Company of New Mexico's (PNM's) Proposed Four Corners-Ambrosia-Pajarito 500 kV Transmission Project; Hearing

A hearing will be held to receive public comments regarding the environmental impacts portrayed in the Bureau of Indian Affairs Draft Environmental Statement for the Proposed PNM Four Corners-Ambrosia-Pajarito 500 kV Transmission Project.

The hearing is scheduled as follows: July 15, 1980 from 3 p.m. to 5 p.m.; July 15, 1980 from 7 p.m. to 9 p.m.; Navajo Room, Albuquerque Convention Center, 401 2nd NW, Albuquerque, New Mexico.

Oral and written statements by interested parties are invited. Oral statement by and party will be limited to no more than 10 minutes. Written statements may be entered into the record by filing a copy with the presiding officer.

Additional information on the hearing and copies of the Draft Environmental Statement may be obtained from the Navajo Area Office Bureau of Indian Affairs, Window Rock, Arizona 86515, Telephone (602) 871–5151 Extension 5314.

Dated: June 2, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80–17261 Filed 6–5–80; 8:45 am]

BILLING CODE 4310–02–M

INTERSTATE COMMERCE COMMISSION

[Volume No. 15]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can

be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 12969 (M1F) (notice of filing of petition to modify brokers license), filed March 17, 1980. Petitioner: KENT-SUSSEX TOURS, INC., RD 2, Box 115, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. Petitioner holds a license in MC 12969 issued August 17, 1978, authorizing operations, as a *broker*, at Greenwood, DE, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Kent and Sussex Counties, DE, and those in New Castle County, DE south of the Chesapeake and Delaware Canal, and Caroline and Queen Annes Counties, MD, and extending to points in the U.S., including the ports of entry on the U.S.-Canada Boundary line and the U.S.-Mexico Boundary line.

By the instant petition, petitoner seeks to add "Milford, DE" as an additional point at which it can engage in the above operations.

MC 114211 Subs 123, 155, 169, 278, 279, 312 and 323 (M1F) (notice of filing of petition for modification), filed August 17, 1979. Petitioner: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Petitioner holds motor common carrier Certificates in MC 114211 Subs 123, 155, 169, 278, 279, 312 and 323, issued February 26, 1971, December 11, 1972, August 22, 1973, October 19, 1978, August 18, 1978, July 20, 1978, and October 17, 1978, respectively. MC 114211 Sub 123 as pertinent, authorizes transportation over irregular routes, of *tractors* (except tractors with vehicle beds, bed frames or fifth wheels), *agricultural machinery and implements, industrial and construction machinery and equipment, snowmobiles, equipment* designed for use in connection with tractors, *trailers*, designed for the transportation of all of the foregoing commodities (except trailers designed to be drawn by passenger automobiles), *attachments* for all of the foregoing commodities, *internal combustion engines, and parts and accessories* for all of the foregoing commodities when moving in mixed loads with such commodities, in foreign commerce only, from ports of entry on the U.S.-Canada Boundary line at Detroit and Port Huron, MI, and Buffalo and Niagara Falls, NY, to points in the U.S. (except AK and HI), restricted to the transportation of shipments originating at the plant and warehouse sites and experimental farm of Massey-Ferguson Industries, Ltd., at Toronto, Brantford, and Milliken, Ontario, Canada; Sub 155 authorizes transportation over irregular routes, of *agricultural implements and parts* for agricultural implements when moving in mixed loads with agricultural implements, from the ports of entry on the U.S.-Canada Boundary line located in MI and NY, to points in the U.S. (except HI, WA, OR, NV, CA, ID, UT, AZ, NM, CO, WY, and MT), restricted to the transportation of shipments originating at the facilities of White Farm Equipment at Brantford, Ontario, Canada, and destined to points in the above-named destination States; Sub 169 authorized the transportation over irregular routes, of *tractors* (except tractors with vehicle beds, bed frames or fifth wheels), *agricultural machinery and implements, industrial and construction machinery and equipment, such merchandise* as is dealt in by lawn, garden and recreation vehicle dealers (except chemicals and commodities in bulk), *equipment* designed for use in connection with the above referred to commodities, *internal combustion engines*, attachments for all the foregoing commodities, *parts and accessories* for all the foregoing commodities, and *materials, equipment and supplies* used in the manufacture, sale or distribution of all the foregoing commodities (except commodities in bulk), (1) between Detroit, MI, Kaukauna, WI, Des Moines, IA, Clearfield, UT, Cuyahoga Falls, OH, Baltimore, MD, Philadelphia, PA, and Norfolk, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) between ports of entry on the U.S.-Canada Boundary line located in MI and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of shipments either originating at or destined to the plants, warehouse sites, experimental farms and other facilities of Massey-Ferguson, Inc., and its affiliates and subsidiaries located at Detroit, MI, Kaukauna, WI, Des Moines, IA, Clearfield, UT, Cuyahoga Falls, OH, Baltimore, MD, Philadelphia, PA, Norfolk, VA, and Toronto, Brandford, and Long Branch, Ont; Sub 278 authorizes the transportation over irregular routes, of (1) *lumber, lumber products, millwork, and forest products*, and (2) *such commodities* as are manufactured or distributed by lumber mills and lumber yards (except in bulk and those commodities described in (1) above, from points in the U.S. (except AK and HI), to the ports of entry on the International Boundary line between the U.S. and Canada, located at or near Pembina and Dunseith, ND, and Noyes, MN, restricted to the transportation of traffic destined to points in the Provinces of Alberta, Manitoba, and Sasketchewan, Canada; Sub 279 authorizes the transportation, over irregular routes, (1) *commodities which because of size or weight require the use of special equipment*, (2) *machinery, parts and supplies* related to the commodities in (1) above, (3) *commodities* which do not require the use of special equipment when moving in mixed loads with commodities in (1) above, under the same bill of lading and from the same consignor, (4) *self-propelled articles* and (5) *machinery, tools, parts and supplies* related and moving in conjunction with self-propelled articles, between the ports of entry on the International Boundary line between the U.S. and Canada, located at or near Noyes, MN, and Pembinas and Portal, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted (1) said service is restricted to traffic moving to or from the facilities of Arnold Bros., Transport Ltd., in the Canadian Provinces, Manitoba and Saskatchewan, for interlining purposes; (2) restricted against the transportaiton of tractors, road-making machinery, contractors' equipment and supplies, and farm machinery; and (3) restricted against the transportation of oilfield and pipeline commodities as defined in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459. This *Mercer* restriction is applicable only to traffic using the port of entry located at or near Portal, ND; Sub 312 authorizes the transportation over irregular routes, of *lumber, lumber mill products and forest and wood products*, from points on the U.S.-Canada Boundary line at Noyes, MN, to points in the U.S. (except AK and HI), restricted to the transportation of traffic from the facilities utilized by Manitoba Forestry Resources, Ltd., located in Canada; and Sub 323 authorizes the transportation over irregular routes, of *iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, NE, to ports of entry on the U.S.-Canada Boundary line located in MI, restricted to the transportation of traffic destined to points in the Province of Ontario, Canada. By the instant petition, petitoner seeks to modify the above authorities as follows: Sub 123 by (1)

broadening the origin portion of the territory to include all ports of entry; and (2) by deleting the plantsite and warehouse restriction; Sub 155 by (1) broadening the origin portion of the territory to include all ports of entry; and (2) by deleting that portion of the restriction that references origin and facility; Sub 169 by broadening the base territorial description (part 2) to include all ports of entry; Sub 278 by (1) broadening the destination to include all ports on entry; and (2) by deleting the restriction; Sub 279 by (1) broadening the base territorial description to include all ports of entry; and (2) by deleting the restriction that limits service on traffic moving to or from the facilities of Arnold Bros., Transport Ltd; Sub 312 by (1) broadening the origin portion of the territory to include all ports of entry; and (2) by deleting the restriction; and Sub 323 by (1) broadening the destination to include all ports on entry; and (2) by deleting the restriction.

MC 118288 (Sub-47) (M2F) (Notice of filing of petition to modify certificate), filed march 17, 1980. Petitioner: FROST TRUCK LINES, INC., P.O. Box 28, Billings, MT 59103. Representative: Stephen F. Frost (same address as applicant). Petitioner holds a motor *common carrier* certificate in MC 118288 Sub 47F issued December 12, 1979, authorizing transportation over irregular routes, of *general commodities* (except those of unusual value, classes, A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders as defined in 49 U.S. Code 10102(8), between Los Angeles, CA, on the one hand, and, on the other, Seattle, Tacoma, Bellingham, Everett, Yakima, Pasco, and Spokane, WA, Medford, Salem, Eugene, and Portland, OR, and Boise, ID. By the instant petition, petitioner seeks to add service to include "shipments moving for the account of interstate Commerce Commission authorized Freight Brokers" to the above authority.

MC 118288 (Sub-48) (M1F) (Notice of filing of petition to modify certificate), filed march 17, 1980. Petitioner: FROST TRUCK LINES, INC., P.O. Box 28, Billings, MT 59103. Representative: Stephen F. Frost (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 118288 Sub 48 issued February 15, 1979, authorizing transportation over irregular routes, of *general commodities* (except commodities in bulk, in tank vehicles, classes A and B explosives, household goods as defined by the Commission, and commodities which require special equipment), between points in CA, on the one hand, and, on the other, points in UT, CO and MT, restricted to shipments moving on bills of freight forwarders. By the instant petition, petitioner seeks to modify the above restriction to include "or shipments moving for the account of Interstate Commerce Commission authorized Freight Brokers."

MC 123329 (Sub-11) (M1F) (Notice of petition to modify certificate), filed March 18, 1980. Petitioner: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Petitioner holds a motor *common carrier* Certificate in MC 123329 Sub 11 issued August 21, 1968, authorizing transportation over irregular routes, of *commodities in bulk*, between ports of entry on the U.S.-Canada boundary line located in ND, MT, and Id, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, IA, KS, KY, LA, MN, MS, MO MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY. By the instant petition, petitioner seeks to modify the above certificate by deleting the specified described ports of entry.

MC 140986 (Sub-9) (M3F) (Notice of filing of petition to modify permit), filed March 24, 1980. Petitioner: GREAT NORTHERN TRUCK LINES, INC., P.O. Box 112, Lover's Lane, Netcong, NJ 07857. Representative: Robert B. Pepper, Forrest Park Bldg., 168 Woodbridge Ave., Highland Park, NJ 08904. Petitioner holds a motor *contract carrier* authority in Permit MC 140986 Sub-9F, issued March 10, 1980, authorizing transportation, by motor vehicle, in interstate or foreign commerce, over irregular routes, of (1) *Insulating products*, from Denville, NJ, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture and sale of insulating products (except commodities in bulk), in reverse direction, under continuing contract(s) with Lamtec Corporation, of Denville, NJ. By the instant petition, petitioner seeks to modify the permit by (i) in (1) above adding Netcong and Stanhope, NJ, as origins points and (ii) to add Compac Corporation of Netcong, NJ as an additional shipper in (2) above.

MC 145399 (Sub–2) (M1F) (Notice of filing of petition to modify certificate), filed March 17, 1980. Petitioner: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul P. Watkins, Sr., P.O. Box 872, Atlanta, GA 30301. Petitioner holds a motor *common carrier* certificate in MC 145399 Sub 2F issued February 25, 1980, authorizing transportation over irregular routes, of *frozen foods*, from Los Angeles, Riverside, and Santa Ana, CA, to points in the U.S. (except AK, CA, and HI), restricted to the transportation of shipments originating at the facilities of Butcher Boy Food Products, Inc. By the Instant petition, Petitioner seeks to modify the above authority by deleting the plantsite restriction.

Republications of Grants of Operating Rights Authority Prior to Certification—Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special rule 247(e) of the commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 142559 (Sub-76F) (2nd republication), filed December 13, 1978, published in the FR issues of February 1, 1979, and April 1, 1980, and republished this issue. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. A decision of the Commission, Review Board Number 2, decided October 18, 1979, and served November 1, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *scales, power transmission machinery, motors, motor controllers, elevators, escalators, food processing equipment, and telecommunications equipment*, and (2) *materials, equipment, and supplies*, used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), (a) between Cleveland, OH, and Lawrenceburg, KY,

on the one hand, and, on the other, Mishawaka, IN, Greenville and Spartanburg, SC, and Rogersville, TN, and points in CA, GA, KS, MA, NE, NV, NJ, NY, NC, OR, PA, TX, and WA, (b) from Mishawaka, IN, to Greenville, SC, and (c) from Columbiana, OH, to points in GA; restricted against the transportation of commodities which because of size or weight require the use of special equipment, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Permanent Authority Decisions Volume—Decision-Notice

Decided: May 15, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below, and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Liberman, Eaton, and Jensen. Member Jensen not participating.

MC 130639F, filed October 5, 1979. Applicant: A–Z TOURS, INC., 21 Valley View Drive, Mine Hill, NJ 07801. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10001. To engage in operations, in interstate or foreign commerce, as a *broker*, at Mine Hill, North Haledon, Pine Brook, and East Millstone, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the U.S. (except AK and HI). (Hearing site: Parsippany, NJ.)

MC 130814F, filed March 17, 1980. Applicant: JAMES E. BOWERS, d.b.a. COLONIAL HOSTS, 758 Plain St., Marshfield, MA 02050. Representative: James E. Bowers (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Marshfield and Hyannis, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Plymouth and Barnstable Counties, MA, and extending to points in the U.S. (including AK, and HI). (Hearing site: Boston, MA.)

MC 130824, filed March 26, 1980. Applicant: AIRPORT TRAVEL AGENCY; INC., 318 C Louisiana Ave., Perrysburg, OH 43551. Representative: Arthur R. Cline, 420 Security Building, Toledo, OH 43604. To engage in operations, in interstate or foreign commerce, as a *broker*, at Perrysburg, Napoleon and Toledo, OH, in arranging for transportation, by motor vehicle, of *passengers* and *their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in OH, MI and IN, and extending to points in the U.S. (including AK and HI). (Hearing site: Columbus, OH, or Detroit, MI.)

MC 130825F, filed March 24, 1980. Applicant's name and address are POWERS TRUCKING & BROKERAGE, INC., 2332 South Peck Rd., Suite 275, Whittier, CA 90601. The name under which operations will be performed is POWERS TRUCKING & BROKERAGE, INC. Applicant is represented by Arlyn L. Westergren, in this proceeding, whose address is Suite 106, 7101 Mercy Road, Omaha, NE 68106. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: James L. Powers, Jr., executive officer, director, and stockholder, June F. Powers, secretary, director, and stockholder, and Andrew Krake, financial officer and director, whose addresses are the same as the applicant. The daily operations will be managed by James L. Powers, Jr., whose business address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130827F, filed March 27, 1980. Applicant's name and address are ROGER A. TWAIT, 812 South Center Street, Plano, Illinois 60545. The name under which operations will be performed is ROGER A. TWAIT. Applicant is not represented in this proceeding. Following are the named and business addressed for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders with their appropriate titles: Applicant is sole owner. The daily operations will be managed by Roger A. Twait whose business address is the same as applicant's. Applicant is not affiliated with any shipper or warehouse.

MC 130833F, filed March 27, 1980. Applicant: COSMOPOLITAN TRAVEL SERVICES, INC., 416 Essex St., Lawrence, MA 01842. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To engage in operations in interstate or foreign commerce, as a *broker*, at Lawrence, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or chart operations, between points in the U.S. (including AK and HI). (Hearing site: Lawrence, MA.)

MC 130836F, filed April 1, 1980. Applicant: J. N. K. TEEN TOURS INC., d.b.a. NASSAU TEEN TOURS, 104 Hampshire Rd., Rockville Centre, NY 11570. Representative: Leonard Kreinces, 107 Northern Blvd., Great Neck, NY 11021. To engage in operations, in interstate or foreign commerce, as a *broker*, at Rockville Centre, NY, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in CT, MA, VA, FL, PA, and DC. (Hearing site: Nassau, or New York, NY.)

MC 130837F, filed April 1, 1980. Applicant: 20TH CENTURY TOURS, INC., 127 Aldrich Rd., Youngstown, OH 44515. Representative: David A. Baker (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Youngstown, OH, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in charter or special operations, between points in Ashtabula, Columbiana, Cuyahoga, Geauga, Mahoning, Portage, Stark, Summit and Trumbull Counties, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Philadelphia, PA.)

MC 130844F, filed April 11, 1980. Applicant's name and address are J & D TRUCK BROKERAGE, 270 Falls Ave., West, Twin Falls, ID 83301. The name under which operations will be performed is J & D TRUCK BROKERAGE. Applicant is represented by itself. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Jean Burns, partner and manager, and Deck Hunter, "silent partner", whose addresses are the same as the applicant. The daily operations will be managed by Jean Burns, whose address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130845F, filed March 11, 1980. Applicant: BROOKS TRAVEL AGENCY, INC., d.b.a. ADVENTURE TRAVEL OF OCALA, 1515 E. Silver Springs Blvd., Suite 202 W, Ocala, FL 32670. Representative: Barbara B. Reid (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Ocala, FL, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in FL, and extending to points in the United States (including AK and HI). (Hearing site: Jacksonville, FL.)

MC 130847F, filed April 8, 1980. Applicant's name and headquarters address is INTERNATIONAL CUSTOMS SERVICE, INC., 2730 Monterey St., Torrance, CA 90503. International Customs Service, Inc., has operations in Los Angeles, New York, Chicago, San Francisco, Boston and Houston. Applicant is represented by Art Underdown in this proceeding whose address is 2730 Monterey St., Torrance, CA 90503. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Robert L. Waggoner, President, Director, and Shareholder, 2730 Monterey St., Torrance, CA 90503, Robert D. Rea, Senior Vice President, Director, and Shareholder, 175–11 148th Ave., Jamaica, NY 11434, Dolores G. Waggoner, Secretary and Director, 2730 Monterey St., Torrance, CA 90503, James A. Johnson, Vice President/Finance, Treasurer and Assistant Secretary, 2730 Monterey St., Torrance, CA 90503, Arthur W. Underdown, Corporate Vice President, 2730 Monterey St., Torrance, CA 90503, Roscoe A. Jones, Vice President, 10400 Aviation Blvd., Los Angeles, CA 90045, Linda S. Jones, Assistant Secretary, 2730 Monterey St., Torrance, CA 90503, Leroy J. Dompke, Assistant Secretary, 5711 Jetero Blvd., Houston, TX 77205. The daily operations will be managed by the following employees at the listed business addresses: Roscoe Jones, 10400 Aviation Blvd., Los Angeles, CA 90045, Robert Rea, 175–11 148th Ave., Jamaica, NY 11434, David Sharpe, 4001 Fleetwood Ave., Franklin Park, IL 60131, Brigitte Beinhoff, 500 South Airport Blvd., South San Francisco, CA 94080, Dana Goodwin, Logan International Airfreight Terminal, E. Boston, MA 02128, and Lee Dompke, International Customs Service, Inc., 5711 Jetero Blvd., Houston, TX 77205. Applicant is affiliated with the following shipper or warehouse: None.

MC 130854F, filed April 8, 1980. Applicant's name and address are NAHC, INC., 16 Edgeboro Road, East Brunswick, NJ 08816. The name under which operations will be performed is NAHC, INC. Applicant is represented by Steven M. Tannenbaum in this proceeding whose address is 133 North 4th Street, Philadelphia, PA 19106. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Martin Shulman, President, Director and shareholder and Harry Shulman, Secretary, Treasurer, Director, and shareholder, (same address as applicant). The daily operations will be managed by Martin Shulman whose business address is 16 Edgeboro Road, East Brunswick, NJ 08816. Applicant is affiliated with the following shipper or warehouse: None.

MC 130864F, filed April 15, 1980. Applicant: PHILIP H. P. REED, 425 Central Park West, New York, NY 10025. Representative: Philip H. P. Reed (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at New York, NY, and Martha's Vineyard, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter operations, beginning and ending at New Bedford and Woods Hole, MA, and points in NY, and extending to points in the U.S. (including AK and HI). (Hearing site: New York, NY.)

MC 130865F, filed April 15, 1980. Applicant: COWAN TOURS, INC., 205 Dennis Ave., Raleigh, NC 27604.

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Representative: Blonza B. Cowan (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Raleigh, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter operations, beginning and ending at points in Wake County, NC, and extending to points in the United States (including AK and HI). (Hearing site: Raleigh, NC.)

MC 130874F, filed March 28, 1980. Applicant's name and address are MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburgh, PA, 17055. The name under which operations will be performed is CONSOLIDATED SHIPPERS AND MUMMA FREIGHT LINES. Applicant is represented by Jack Pearce, in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., NW, Washington, DC, 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Earl Mumma, Jr., sole shareholder, and President/Treasurer, and Ruth E. Mumma, Vice-President and Secretary, whose addresses are the same as the applicant. The daily operations will be managed by Earl Mumma, Jr., whose address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130875F, filed April 21, 1980. Applicant's name and address are FROST FREIGHT FORWARDING INC., P.O. Box 28, Billings, MT 59103. The name under which operations will be performed is FROST FREIGHT FORWARDING INC. Applicant is represented by Stephen F. Frost in this proceeding whose address is P.O. Box 28, Billings, MT 59103. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Stephen F. Frost, President, and Chairman of the Board of Directors, and shareholder, James Frost, Vice President, Director, and shareholder, Mary Frost, Secretary, Treasurer, Director, and shareholder, (same address as applicant). The daily operations will be managed by Stephen F. Frost, whose business address is P.O. Box 28, Billings, MT 59103. Applicant is affiliated with the following shipper or warehouse: None.

Freight Forwarder

FF 524F, filed December 10, 1979. Applicant: U.S. FREIGHT FORWARDER CO., INC., 1495 Demo St., Memphis, TN 38116. Representative: A. Doyle Cloud, Suite 2008, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *freight forwarder*, in interstate commerce, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI). (Hearing site: Memphis, TN.)

FF 525F, filed March 6, 1980. Applicant: Z AND S ENTERPRISES, INC., d.b.a. U S C FREIGHT FORWARDER, 726 W. Cowles St., Long Beach, CA 90813. Representative: Patrick E. Quinn, 1718 Estrellita Circle, Chattanooga, TN 37421. To operate as a *freight forwarder*, in interstate commerce, in the transportation of *general commodities* (except commodities in bulk), from points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, to points in the U.S. (except AK and HI). (Hearing site: Los Angeles, CA.)

Permanent Ex-Water Authority Decision-Notices

Decided: May 15, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 F.R. 7965, as corrected at 44 F.R. 37230.

The sole issue upon which these aplications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the **Federal Register** publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual opeations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Liberman, Eaton, and Jensen. Member Jensen not participating.

MC 73533 (Sub-8F), filed March 4, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of Baltimore, MD, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 146162 (Sub-5F), filed March 26, 1980. Applicant: TRANSPORT EQUIPMENT CORP., 240 112th St., Hammond, IN 46320. Representative: Joseph Winter, 29 South LsSalle St., Chicago, IL 60603. Transporting *general commodities, (except classes A and B explosives)* between points in the commercial zone of Chicago, IL, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Chicago, IL.)

MC 148154F, filed August 22, 1979. Applicant: DELMAS W. HEINKE, d.b.a. CRISIS TRANSPORTATION COMPANY, P.O. Box 1505, Houston, TX 77001. Representative: D. W. Heinke (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the commercial zones of (1) Houston, TX, (2) Galveston, TX, and (3) New Orleans, LA, restricted in (1), (2), and (3) to traffic having a prior or subsequent movement by water. (Hearing site: Houston or Dallas, TX.)

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alabama Docket No. 17934, filed April 22, 1980. Applicant: ANNISTON MOTOR EXPRESS, INC., 2700 Republic Boulevard, Birmingham, AL 35214. Representative: JOHN W. COOPER, 200 Woodward Bldg., Birmingham, AL 35203. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities between all points within 30 miles of Anniston, AL, including Anniston. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Alabama Public Service Commission, P.O. Box 991, Montgomery, AL 36130, and should not be directed to the Interstate Commerce Commission.

California Docket No. 59637, filed May 6, 1980. Applicant: J. D. DRAYAGE CO., 2955 Third Street, San Francisco, CA 94107. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: 1. U.S. Highway 101, between Geyserville and Salinas; 2. Interstate Highway 280 and State Highway 82, between San Francisco and San Jose; 3. State Highways 9 and 85, between Los Gatos and Sunnyvale; 4. State Highway 17, between Oakland and Santa Cruz; 5. Interstate Highways 580, 205 and 5 between Oakland and Sacramento, inclusive; 6. State Highway 238, between its intersections with State Highway 17, near San Lorenzo and near Warm Springs; 7. State Highway 84 and Stanley Boulevard, between Pleasanton and Livermore; 8. Interstate Highway 680, between Fremont and Vallejo; 9. Interstate Highway 80, between San Francisco and Sacramento, including a radius of 30 miles from Sacramento; 10. State Highway 1, between Santa Cruz and Carmel; 11. State Highways 129 and 29, between Geyserville and Vallejo; 12. State Highway 68, between Salinas and Monterey; 13. State Highway 156 between its junction with U.S. Highway 101 and its junction with State Highway 152; *14. State Highway 152, between Gilroy and its intersection with State Highway 99 at Califa; 15. State Highway 59, between its intersection with State Highway 152 and Merced; 16. Interstate Highway 205 and State Highway 120, Between the junction of Interstate Highways 580 and 205, and Manteca; 17. Interstate Highway 5, between its intersection with Hammer Lane, approximately 7 miles north of the junction of Interstate Highway 5 and State Highway 4, and State Highway 140; 18. State Highway 140, between its junction with Interstate Highway 5 and State Highway 99; *19. State Highway 99, between Sacramento and Fresno; 20. Between all points and places within the County of Contra Costa; 21. Between all points and places set forth in Paragraphs 1 through 20 inclusive; and 22. Between all points and places on or within 5 miles laterally of the routes named in paragraphs 1 through 18, and 30 miles laterally of the route named in paragraph 19; 23. In performing the service herein authorized, carrier may make use of any and all streets, road, highways and bridges necessary or convenient for the performance of said service. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: 1. Used household goods, personal effects and office, store and institutional furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or Boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambuances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Logs. 8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. 9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. 10. Portland or similar cements, in bulk or in packages, when loaded substantially to capacity either along or in combination with powdered limestone. 11. Bank bills, coin or

currency, deeds, drafts, jewelery, other

upon call or demand. Cert. No. 507-B

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currency, deeds, drafts, jewelery, other than costume or novelty jewelry, notes or valuable papers of any kind; postage stamps or letters and packets of letters with or without postage stamps affixed; precious metals or articles manufactured therefrom; precious stones; revenue stamps, antiques; or other related or unrelated, old, rare, or precious articles of extraordinary value, nor any of such articles as premiums accompanying other articles. 12. Explosives, dangerous articles and other hazardous commodities as described in Motor Carriers' Explosive and Dangerous Articles Tariff 14, American Trucking Associations, Inc., Agent, MF–ICC 15. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 800431–CCT, filed May 6, 1980. Applicant: A. M. TRANSFER & CRANE SERVICE, INC., 239 NW. 26th Street, Miami, FL 33127. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW. 53d Street, Miami, FL 33166. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Commodities over irregular routes which by reason of size or weight require specialized handling or equipment between all points in Florida, in and south of the northern and western boundaries of Brevard, Orange, Polk, Hillsborough and Pinellas Counties, FL. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Bldg., 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 800300 CCT (amended), filed March 28, 1980. Applicant: BLACKBURN'S TRANSFER AND STORAGE, INC., d.b.a. GEE EL TRUCKING, 2500 S. Harbor City Blvd., P.O. Box 309, Melbourne, FL 32901. Representative: John A. Sutton, 1131 S. Orange Avenue, P.O. Box 367, Orlando, FL 32802. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: freight having a prior origin or destination by rail or ship at points in Brevard County, FL, on the one hand, to and from points and places within the State of Florida, on the other hand. Restricted against the transportation of household goods, Class A and B explosives, commodities in bulk or liquid, also commodities which by size or weight require use of special equipment. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Building, 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–2620, filed April 21, 1980. Applicant: GOWANDA-BUFFALO TRANSPORTATION CO., INC. 133 Johnson Street, Gowanda, NY 14070. Representative: William J. Hirsch, 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities,* between all points in Chautauqua, Erie, and Niagara Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 80–124–T, filed March 14, 1980. Applicant: L. A. CHITWOOD, INC., Stark Industrial Park, Charleston Heights, SC 29405. Representative: L. Robert Chitwood. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Cert. No. 373–A, commodities in general (except explosives, petroleum products in bulk and commodities requiring special equipment): Between points and places in Charleston County, and between points and places in Charleston Country and points and places within a radius of 30 miles of the City of Charleston. Cert. No. 439–E, houses and buildings (whole and dismantled): Between points and places in South Carolina upon call or demand; heavy machinery and large or bulky articles requiring special riggings and/or equipment to load or transport, and smaller machinery and/or equipment, and articles in connection with the moving of heavy machinery and large or bulky articles: Between points and places in South Carolina upon call or demand; telephone and power poles, including necessary equipment to install telephone and power lines: Between points and places in South Carolina upon call or demand. Cert. No. 507–B, road machinery and road contractors' equipment, lumber, poles and water proponent: Between points and places in South Carolina. Applicant is seeking authority to continue operations in interstate commerce under the aforesaid certificates authorized under MC 97633, Sub-No. 2. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 80–129–T, filed March 20, 1980. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 2726, Savannah, GA 31402. Representative: Robert L. Stoddard, P.O. Box 5178, Spartanburg, SC 29304. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (except articles of unusual value, class A and B explosives, household goods, commodities in bulk, and commodities because of size and weight requiring use of special equipment) from Lugoff, Charleston, Florence, Moncks Corner, Pontiac, and Strawberry, SC to points and place in South Carolina under contract with E. I. du Pont de Nemours and Company. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Public Service Commission of South Carolina, 8th Floor Owen Bldg., P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Decisions, Decision-Notice, Substitution Applications: Single-Line, Service for Existing Joint-Line Service

Decided: May 9, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that duel operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Felder.

MC 120098 (Sub-36F), filed December 27, 1979. Applicant: UINTAH FREIGHTWAYS, a corporation, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: Dan E. England, 975 West 2100 South, Salt Lake City, UT 84119. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Craig and Denver, CO, over U.S. Hwy 40, serving all intermediate points. (Hearing site: Salt Lake City, UT.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations. Applicant intends to tack the authority in this proceeding with its existing authority.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

MC 37327 (Sub-E2), filed October 16, 1978. Applicant: PENN–EMPIRE TRANSPORT, INC., Box 517, Jamestown, NY 14701. Representative: R. A. Beckstrom, President (same as above), and Ronald W. Malin Johnson, Peterson, Tener & Anderson, Bankers Trust Bldg., Jamestown, NY 14701. (1) *New furniture,* from points in Chautauqua County, NY, to Washington, DC, Baltimore, MD, Wheeling, WV, and points in PA, NJ, NY, CT, RI and MA. (2) *New furniture,* from points in Cattaraugus County, NY to Washington, DC, Baltimore, MD, Wheeling, WV, and points in PA, NJ, NY, CT, RI and MA. (3) *New furniture,* (1) from points in Madison and Monroe Counties, NY, to Washington, DC, Baltimore, MD, Wheeling, WV, and points in PA, NJ, NY, CT, RI, MA; (2) from points in Chenango, Clinton, Columbia, Delaware, Essex, Franklin, Greene, Hamilton, Herkemer, Jefferson, Lewis, Livingston, Montgomery, Oswego, Otsego, St. Lawrence, Saratoga, Schoharie, Washington, Wyoming and Yates Counties, NY, to points named as destination States in (1) above. (Gateway eliminated: Jamestown, NY.)

MC 83539 (Sub-E–91), filed May 28, 1975. Applicant: C & H TRANSPORATION CO., INC., 2010 W. Commerce St., P.O.Box 5976, Dallas,

Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles,* as described in Appendix V to the report of the Commission in *Descriptions on Motor Carrier Certificates,* 61 M.C.C. 209, from all points in ID to points in the KS South and East of a line beginning at the KS–MO State Line extending along I Hwy 70 to Junction U.S. Hwy 81, then along U.S. Hwy 81 to the KS–OK State Line. (Eliminate the gateways: points in MT West of a line extending North and South through Dupuyer and Butte, and the facilities of the CFNI Steel Corporation, at Pueblo, CO.)

MC 83539 (Sub-E–99), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles,* as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, from points in ND (except points in the Counties of Barnes, Cass, Ransom, Richland and Sargent), to points in OK north of I Hwy 40. (Eliminate the gateway: the facilities of the CFNI Steel Corporation, at Pueblo, Co.)

MC 83539 (Sub-E–106), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles,* as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, (1) from WY to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX and VA; and (2) from points in WY (except points in the Counties of Teton, Lincoln, Uinta, Fremont, Sublette, Sweet Water and Carbon), to points in NM (except points in the County of San Juan). (Eliminate the gateway: the facilities of CFNI Steel Corporation at Pueble, CO.)

MC 83539 (Sub-E–126), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles,* as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, from points in and East of the Counties of Laramie, Weld, Morgan, Washington, and Kit Carson), to points in IN, IL, MI, and MO. (Eliminate the gateway: the facilities of the CF&I Steel Corporation, at Pueblo, CO.)

MC 83539 (Sub-E–141), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles,* as described in Appendix V to the report of the Commission in *Descriptions in Motor Carriers Certificates,* 61 M.C.C. 209, from points in CA (except points in and south of the Countries of Sonoma, Napa, Yolo and Placer), to points in NM (except points on, West and South of a line beginning at CO–NM State line extending along I Hwy 25 to Junction U.S. Hwy 84, then along U.S. Hwy 84 to Junction I Hwy 40, then along I Hwy 40 to Junction U.S. Hwy 54, then along U.S. Hwy 54 to Junction U.S. Hwy 285, then along U.S. Hwy 285 to Junction U.S. Hwy 82, then along U.S. Hwy 82 to Junction NM Hwy 529, then along NM Hwy 529 to Junction U.S. Hwy 62–180, then along U.S. Hwy 62–180 to the NM—TX State line. (Eliminate the gateways: points in UT, and the facilities of the CF&I Corporation at Pueblo, CO.)

MC 83539 (Sub-E–144), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles,* as described in Appendix V to the report of the Commission in *Descriptions In Motor Carrier Certificates,* 61 M.C.C. 209, from points in MT to points in IL (except points on and North of I Hwy 70). (Eliminate the gateway: the facilities of CF&I Steel Corporation, at Pueblo, CO.)

MC 113651 (Sub-E26), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 N. Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 S. La Salle St., Chicago, IL 60604. *Frozen meats,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles), from the facilities of Armour & Co., at Worthington and Mankato, MN, to points in NJ, PA, DE, points in WV on and west of US Hwy 219, and New York, NY, and its commercial zone. Restriction: shipments must originate at the facilities of Armour & Co., at Worthington and Mankato, MN. (Gateway eliminated: Louisville, KY.)

MC 113651 (Sub-E29), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 N. Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 S. La Salle St., Chicago, IL 60604. *Meats, meat products, and meat by-products,* as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the facilities of Armour & Co., at Worthington, MN, to points in NJ, PA, DE, points in WV on and west of US Hwy 219, and New York, NY, and its commercial zone. Restriction: Shipments must originate at the facilities of Armour & Co., at Worthington, MN. (Gateway eliminated: Jeffersonville, IN. Louisville, KY, commercial zone.)

MC 113855 (Sub-E429) (correction), filed August 2, 1976, published in the **Federal Register** June 7, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, ND 58102. *Metal and metal articles.* (1)(a). . . . The purpose of correction is to reflect correct commodity description.

MC 115840 (Sub-E119), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT, INC., P.O. Box 10327, Birmingham, AL 35202. Representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, DC 20001. (1) *Aluminum pipe, aluminum valves, and aluminum hydrants* which because of size or weight require the use of special equipment, and (2) *aluminum fittings, and aluminum gaskets* (except in bulk), when their transportation is incidental to the transportation of the commodities named in (1) above, (1) between points in GA, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, MT, UT, WY, CO, NM, TX, ND, SD, NE, KS, OK, CA, AR and MO; (2) between points in FL, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, MT, UT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, WI, IL, IN, KY, MI, TN, and OH; (3) between points in LA, on the one hand, and, on the other, points in CA, OR, WA, IN, OH, ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, WV, VA, MD, NC and SC; (4) between points in MS, on the one hand, and, on the other, points in CA, WA, ID, NV, MN, ME, NH, VT, MA, RI, CT, NJ, DE, and MO; and (5) between points in TN, on the one hand, and, on the other, points in CA, OR, WA, NV, TX, NM, AZ, CO, UT and WY. (Gateways eliminated: Holt and Birmingham, AL.)

MC 115840 (Sub-E121), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, AL 35202. Representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, DC 20001. *Iron and steel pipe, fittings* and *gaskets,* and *iron castings* (except commodities in bulk,

restricted against the transportation of commodities which because of size or weight require the use of special equipment), from Florence and Sheffield, AL, to points in MD, DE, CT, RI, MA, NH, VT, ME, ND, SD, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NV, CA, points in CA on and south of LA Hwy 15, and points in TX on and south of a line beginning at the LA–TX State line extending along US Hwy 80 to junction US Hwy 69, then along US Hwy 69 to the OK–TX State lines. (Gateway eliminated: Holt, AL.)

MC 115826 (Sub-E70), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William H. Sharon, Suite 501, 1730 M Street NW., Washington, DC 20036. *Malt beverages,* from points in CO on and east of a line beginning at the CO–NM state line and extending along I Hwy 25 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the western boundary of Jefferson County, then along the western boundary of Jefferson County to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to the northern boundary of Gilpin County, then along the northern boundary of Gilpin County to the western boundary of Boulder County, then along the western boundaries of Boulder and Larimer Counties to junction of Larimer County and U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 287, then along U.S. Hwy 287 to the CO–WY state line including all points in the commercial zones of all cities lying along the above-described line, to Fresno and points in Tulare, Merced, Stanislaus, Napa, Butte, Kern, Ventura, Santa Barbara, San Luis Obispo and Monterey Counties, CA. (Gateway eliminated: Golden, CO.)

MC 116073 (Sub-E43), filed March 27, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, 1825 Main Ave., Moorhead, MN 56560. Representative: John C. Barett (same as above). *Trailers* designed to be drawn by passenger automobiles, in secondary movements, and *buildings,* in sections, mounted on wheeled undercarriages, from points in AZ on, south and west of a line beginning at the AZ–NM State line extending along I Hwy 40 to junction US Hwy 89, then along US Hwy 89 to the AZ–UT State line, to points in CO. (Gateways eliminated: points in NM.)

MC 117574 (Sub-E141), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: William A. Chesnett, P.O. Box 1166, Harrisburg, PA 17108.

(A)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes* and *shovels,* and (2) *attachments* and *parts* for the commodities described in (1) above, which are also, agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, and attachments, accessories, and parts of all of the above described commodities, between Newport News, VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restriction: Restricted in each instance to the transportation of traffic which either (a) originates at or is destined to the facilities of Leibherr-America, Inc., and Leibherr Crane Corporation at Newport News, VA, or (b) has an immediately prior movement by water. (Gateway eliminated: facilities of Frick Company, Inc. at Waynesboro, PA.) (B)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes* and *shovels,* and (2) *attachments and parts* for the commodities described in (1) above, which are also, (a) agricultural, industrial, and construction machinery and equipment (except tractors with vehicle beds, bed frames and fifth wheels), (b) such merchandise as is dealt in by recreational, lawn and garden dealers, or, (c) trailers (excerpt those designed to be drawn by passenger automobiles), from Newport News, VA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restriction: Restricted to the transportation of traffic which either (a) originates at the facilities of Leibherr-America, Inc., or Leibherr Crane, Corporation at Newport News, VA, or (b) has an immediately prior movement by water. (Gateway eliminated: facilities of Sperry Rand Corporation, New Holland Division, at Mountville, PA.)

(C)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes,* and *shovels,* and (2) *attachments and parts* for the commodities described in (1) above, which are also, Stone crushing equipment or automatic loading equipment, between Newport News, VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. Restriction: Restricted in each instance to the transportation of traffic which either (a) originates at or destined to the facilities of Leibherr-America, Inc., or Leibherr Crane, Corporation, at Newport News, Virginia, or (b) has an immediately prior movement by water. (Gateway eliminated: Galin, OH.)

(D)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes* and *shovels,* and (2) *attachments and parts* for the commodities described in (1) above, which are also, commodities which because of size or weight require the use of special equipment, or self-propelled articles each weighing 15,000 pounds or more, or related machinery, tools, parts and supplies moving in connection therewith or building and contractor's equipment, supplies and materials, between Baltimore, MD, and points and places within 25 miles thereof, on the one hand, and, on the other, all points in AL, AR, FL, GA, LA, MS, SC, and TX, and those points in KS on and west of a line commencing at the KS–OK State line on Interstate Hwy 35, thence along Interstate 35 to its junction with U.S. Hwy 81, thence along U.S. 81 to the KS–NE State line, those points in NE on and west of a line commencing at the KS–NE State line on U.S. Hwy 83, thence along U.S. 83 to the NE–SD State line, those points in NC on and south of a line commencing at the NC–VA State line on U.S. Hwy 258, thence in a southwesterly direction along U.S. 258 to its junction with U.S. Hwy 13, thence along U.S. 13 to its junction with U.S. Hwy 401, thence along U.S. 401 in a westerly direction to its junction with U.S. Hwy 74, thence along U.S. 74 to its junction with NC Hwy 51, thence in a southerly direction along NC 51 to its junction with the NC–SC State line, those points in ND on and west of a line commencing at the ND–SD line on U.S. Hwy 83, thence along U.S. Hwy 83 to the U.S.–Canadian Border, those points in OK on and south of a line commencing at the MI–OK state line on U.S. Hwy 60, thence along U.S. 60 to its junction with U.S. Hwy 77, thence in a northerly direction along U.S. 77 to the KS–OK State line, those points in SD on and west of a line commencing at the NE–SD State line on U.S. Hwy 83, thence along U.S. 83 to the ND–SD State line, and those points in Tennessee on and west of a line commencing at the Alabama-Tennessee State line on U.S. 231, thence along U.S. 231 to its junction with U.S. Hwy 64, thence along U.S. 64 to its junction with Tennessee Hwy 13, thence in a northerly direction along U.S. 70, thence in a westerly direction along U.S. 70 to its junction with Tennessee Hwy 69, thence in a northwesterly direction along Tennessee 69 to the KY–TN State line. Restriction: Restricted to shipments having an immediately prior movement by water. (Gateway eliminated: Newport News, VA.)

(E)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes,*

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backhoes and *shovels*, and (2) *attachments and parts* for the commodities described in (1) above, when such commodities are also, agricultural implements, agricultural machinery, tractors (other than truck tractors), incidental machinery, attachments and parts when moving with such implements, machinery, or tractors, and trailers for the transportation of the above named commodities (other than those designed to be drawn by passenger automobiles), and except commodities requiring special equipment, (a) between Charleston, SC, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, PA, MD, DE, NJ, NY and those points in VA on and north of a line commencing at the Atlantic Ocean on the NC–VA State line, thence in a westerly direction along said state line to its junction with VA Hwy 35, thence in a northerly direction along VA route 35 to its junction with U.S. Hwy 301, thence in a northerly direction along U.S. 301 to its junction with U.S. Hwy 60, thence along U.S. 60 to its junction with U.S. Hwy 522, thence along U.S. 522 in a northwesterly direction to its junction with U.S. Hwy 33, thence in a westerly direction along U.S. 33 to the VA–WV State line. (b) Between Savannah, GA, on the one hand, and, on the other points in ME, NH, VT, CT, MA, RI, MD, DE, NJ, NY, and those points in NC in the NC Counties of Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans, points in PA on, east, and north of U.S. Hwy 40, and those points in VA on and north of a line commencing at the NC–VA State line on VA Hwy 35, thence in a northerly direction along VA 35 to its junction with U.S. 301, thence along U.S. 301 to its junction with U.S. Hwy 60, thence in a westerly direction along U.S 60 to its junction with U.S. Hwy 522, thence in a northwesterly direction along U.S. 522 to its junction with U.S. Hwy 33, thence in a westerly direction along U.S. 33 to the VA–WV Stateline. (c) Between Jacksonville, FL, on the one hand, and, on the other, all points in ME, NH, VT, MA, CT, RI, NJ, NY, PA, DE, MD and those points in NC in the Counties of Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans, and points in VA on, east and north of a line commencing at the NC–VA State line on VA Hwy 35, thence in a northerly direction along VA 35 to its junction with U.S. 301, thence along U.S. 301 to its junction with U.S. 250, thence along U.S. 250 in a westerly direction to its junction with U.S. 340, thence along U.S. 340 in a northerly direction to its junction with U.S. 33, thence along U.S. 33 to the VA–WV State line. (d) Between Wilmington, NC, on the one hand, and, on the other, all points in CT, DE, IA, ME, MD, MN, NE, NH, NJ, NY, ND, PA, RI, SD, VT, WI and DC and those points in IL on and north of a line commencing at the IL–IN State line on U.S. Highway 150, thence in a westerly direction along U.S. 150 to its junction with Interstate Hwy 72 thence along Interstate 72 to its junction with IL Hwy 47, thence in a southwesterly direction along IL 47 to its junction with U.S. Hwy 36, thence in a westerly direction along U.S. Hwy 36 to its junction with U.S. Hwy 54, thence along U.S. Hwy 54 to the IL–MI State line, those points in IN on and north of a line commencing at the IN–OH State line on U.S. Hwy 33, thence along U.S. 33 to its junction with U.S. Hwy 224, thence along U.S. Hwy 224 in a westerly direction to its junction with U.S. Hwy 24, thence along U.S. 24 to its junction with IN Hwy 25 to its junction with Interstate Hwy 74, thence along Interstate 74 to the IL–IN State line, those points in KS on and north of a line commencing at the KS–MI State line on U.S. Hwy 54, thence in a westerly direction along U.S. 54 to its junction with KS Hwy 99, thence along KS 99 in a southerly direction to its junction with U.S. Hwy 166, thence along U.S. 166 to its junction with U.S. Hwy 77, thence in a southerly direction along U.S. 77 to the KS–OK State line, those points in Missouri on and north of a line commencing at the IL–MI State line on U.S. Hwy 54, thence in a westerly direction along U.S. 54 to the KS–MI State line, those points in OH on and north of a line commencing at the OH–WV State line on OH route 60, thence in a northwesterly direction along OH 60 to its junction with OH Hwy 37, thence along 37 to its junction with OH route 13, thence along OH Hwy 13 to its junction with OH Hwy 95, thence in a westerly direction along OH 95 to its junction with U.S. Hwy 23, thence in a northerly direction along U.S. 23 to its junction with U.S. 30N, thence along U.S. 30N to the IN–OH State line, those points in OK on and north of KS line commencing at the OK–KS State line on U.S. Hwy 81, thence in a southerly direction along U.S. 81 to its junction with U.S. 60, thence in a westerly direction along U.S. 60 to the OK–TX State line on U.S. Hwy 60, thence in a westerly direction along U.S. 60 to its junction with TX Hwy 70, thence in a southerly direction along TX 70 to its junction with U.S. 62, thence along U.S. 62 to the NM–TX State line, those points in VA on, east and north of a line commencing at the NC–VA State line on VA Hwy 35, thence along VA 35 in a northerly direction it its junction with Interstate Hwy 95, thence in a northerly direction along Interstate 95 to its junction with U.S. Hwy 33, thence along U.S. 33 to the VA–WV State line, and those points in WV on and north of a line commencing at the VA–WV State line on U.S. 33, thence in a westerly direction along U.S. 33 to its junction with U.S. Hwy 250, thence in a westerly direction along U.S. 250 to its junction with U.S. Hwy 50, thence in a westerly direction along U.S. 50 to its junction with U.S. Alternate Route 50, thence in a northerly direction along U.S. Alternate Route 50 to the OH River and the OH–WV State line. Restriction: Restricted to traffic having an immediately prior movement by water. (Gateway eliminated: Newport News, VA.)

MC 117574 (Sub-EL142), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (A) *commodities*, the transportation of which because of size or weight, require the use of special equipment, and related materials, supplies and parts of such commodities when their transportation is incidental thereto, and, (B) *self-propelled articles* each weighting 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, restricted to the transportation of self-propelled articles transported on trailers. (1) between points in Lagrange County, IN, on the one hand, and, on the other, points in KY, PA and WV. (2) between points in Steuben County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in IL on and south of a line commencing at MI–IL State line along US Hwy 24 in an easterly direction to IL Hwy 125, then along IL Hwy 125 in an easterly direction to its junction with IL Hwy 29, then along IL Hwy 29 in a northeasterly direction to its junction with IL Hwy 16, then along IL Hwy 16 in an easterly direction to its junction with US Hwy 150, then along US Hwy 150 in an easterly direction to the IL–IN State line. (3) between points in St. Joseph County, IN, on the one hand, and, on the other, points in PA and WV. (4) between points in Cass and Miami Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at Albany, along US Hwy 127 then, in an northerly direction along US Hwy 127 to the KY–OH State line; and points in that part of MI on and east of a line commencing at Detroit, MI on and east of a line commencing at Detroit, MI along I Hwy 75, then in a northwesterly

direction along I Hwy 75 to Bay City, MI. (5) between points in Benton and White Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at the TN–KY State line along US Hwy 127 to its junction with Kentucky Hwy 34, thence in a northeasterly direction along KY Hwy 34 to its junction with US Hwy 27, thence in a northerly direction along US Hwy 27 to its junction with I Hwy 75 to the KY–OH State line in a northerly direction along US Hwy 23 to its junction with US Hwy 10, then in an easterly direction along US Hwy 10 to its junction with Michigan Hwy 247, then in a northerly direction along MI Hwy 247 to Saginaw Bay, MI. (6) between points in Whitley County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in MI on and east of I Hwy 94. (7) between points in Noble County, IN, on the one hand, and, on the other, points in KY, PA and WV. (8) between points in DeKalb County, IN, on the one hand, and, on the other, points in KY, PA, WV, points in MI on and east of I Hwy 75 and I Hwy 94. (9) between points in Fulton and Pulaski Counties, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line beginning at the TN–KY State line in a northerly direction along KY Hwy 61 to its junction with KY Hwy 55, then in a northerly direction along KY Hwy 55 to its junction with US Hwy 62, then in an easterly direction along US Hwy 62 to its junction with US Hwy 127, then in a northerly direction along US Hwy 127 to its junction with KY Hwy 14, then in a westerly direction along KY Hwy 14 to the IN–KY State line; and points in that part of MI on and east of a line commencing at Detroit, MI, in a northerly direction along MI Hwy 53 to Lake Huron, MI. (10) between points in Kascuisko County, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at the KY–TN State line along I Hwy 65 in a northeasterly direction to its junction with US Hwy 62, then along US Hwy 62 in an easterly direction to its junction with KY Hwy 55, then along KY Hwy 55 in a northerly direction to its junction with US Hwy 421, then along US Hwy 421 to the KY–IN State line and points in that part of MI on and east of a line commencing at the OH–MI State line along US Hwy 24 in a northeasterly direction to Detroit, MI. (11) between points in Allen County, IN, on the one hand, and, on the other, points in KY, PA, WV and points in MI on and east of a line commencing at the MI–OH State line along I Hwy 75, then along I Hwy 75 in a northeasterly direction to its junction with I Hwy 94, then along I Hwy 94 in a northeasterly direction to port Huron, MI.

(12) between points in Huntington and Wabash Counties, IN, on the one hand, and, on the other, points in PA, WV points in KY on and east of a line commencing at the TN–KY State line in a northerly direction along U.S. Hwy 31–E to its junction with U.S. Hwy 62, then in an easterly direction along U.S. Hwy 62 to its junction with US Hwy 127, then in a northerly direction along U.S. Hwy 127 to Warsaw, and points in that part of MI on and east of a line commencing at the MI–OH State line in a northerly direction along U.S. Hwy 23 to its junction with MI Hwy 14, then in an easterly direction along MI Hwy 14 to its junction with U.S. Hwy 24, then in a northerly direction along U.S. Hwy 24 to its junction with MI Hwy 24, then in a northerly direction along MI Hwy 24 to its junction with MI Hwy 46, then in an easterly direction along MI Hwy 46 to its junction with MI Hwy 53, then in a northerly direction along MI Hwy 53 to Lake Huron, (13) between points in Wells County, IN, on the one hand, and, on the other, points in KY, PA, WV, and MI on and east of I Hwy 94, (14) between points in Fauntain and Fippecanoe Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at the KY–TN State line along U.S. Hwy 127 in a northerly direction to its junction with I Hwy 71, then in a northerly direction to the KY–OH State line, and points in that part of MI on and east of a line commencing at the OH–MI State line along I Hwy 75 in a northeasterly direction to its junction with MI Hwy 53, then along MI Hwy 63 in a northerly direction to its termination at Bad Axe, MI. (15) between points in Warren County, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at the TN–KY State line in a northerly direction along U.S. Hwy 127 to its junction with KY Hwy 34, then in an easterly direction along KY Hwy 34 to its junction with U.S. Hwy 27, then in a northerly direction along U.S. Hwy 27 to its junction with I Hwy 75, then in a northerly direction along I 75 to the KY–OH State line; and points in that part of MI on and east of a line commencing at the MI–Oh State line in a northerly direction along U.S. Hwy 23 to its junction with U.S. Hwy 10, then in an easterly direction along I 10 to its junction with MI Hwy 247, then in a northerly direction along MI Hwy 247 to its termination at Saginaw Bay, MI. (16) between points in Adams County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in MI on and east of I Hwy 94, (17) between points in Jay County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in MI on and north, and west of a line commencing at the MI–OH State line in a northerly direction along U.S. Hwy 23 to its junction with I Hwy 96, then in a northwesterly direction along I Hwy 96 to Lake Michigan, (18) between points in Delaware County, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of U.S. Hwy 127, and points in MI on and east of I Hwy 75, (19) between points in Randolph County, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at Albany, KY, along U.S. Hwy 127, then in a northerly direction along U.S. Hwy 127 to the KY–OH State line and points in that part of MI on and east of a line commencing at Detroit, MI, along I Hwy 75, then in a northwesterly direction along I Hwy 75 to Bay City, MI. (20) between points in Hamilton and Madison Counties, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at the TN–KY State line in a northerly direction along KY Hwy 61 to its junction with KY Hwy 55, then in a northerly direction along KY Hwy 55 to its junction with U.S. Hwy 150, then in an easterly direction along U.S. Hwy 150 to its junction with U.S. Hwy 68, then in a northeasterly direction along U.S. Hwy 68 to its junction with U.S. Hwy 127, then in a northerly direction along U.S. Hwy 127 to the KY–OH State line; and points in that part of MI on and east of a line commencing at the MI–OH State line in a northerly direction along U.S. Hwy 127 to its junction with MI Hwy 36, then in a northeasterly direction along MI Hwy 36 to its junction with U.S. Hwy 27, then in a northerly direction along U.S. Hwy 27 to its junction with U.S. Hwy 10, then in a westerly direction along U.S. Hwy 10 to its junction with MI Hwy 37, then in a northerly direction along MI Hwy 37 to Grand Traverse Bay, MI. (21) between points in Boone and Hendricks Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at the KY–TN State line along U.S. Hwy 27 in a northerly direction to its junction with U.S. Hwy 68, then along U.S. Hwy 68 in a northerly direction to the KY–OH

State line, and points in that part of MI on and east of a line commencing at the MI-OH State line along US Hwy 127 in a northerly direction to its junction with MI Hwy 20, then along MI Hwy 20 in an easterly direction to its termination at

Midland, MI. (22) between points in Wayne County, IN, on the one hand, and, on the other, points in KY, MI, PA and WV. (23) between points in Johnson and Shelby Counties, IN, on the one hand, and, on the other, points in PA and WV, points in MI on and east of US Hwy 75, and points in KY on and east of a line commencing at KY Hwy 40, then in a westerly direction along KY Hwy 40 to its junction with US Hwy 460, then in a westerly direction along US 460 to its junction with Kentucky Hwy 11, then in a northerly direction, along KY Hwy 11 to the KY-OH State line. (24) between points in Clay and Vigo Counties, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at the KY-TN State line along US Hwy 25–E in a northwesterly direction to I Hwy 75, then along I Hwy 75 in a northerly direction to the KY-OH State line, and points in that part of MI on and east of a line commencing at the OH-MI State line along US Hwy 127 in a northerly direction to its junction with US Hwy 27, then along US Hwy 27 in a northerly direction to its junction with I Hwy 75, then along I Hwy 75 in a northerly direction to Sault Saint Marie, MI. (25) between points in Rush County, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at the TN-KY State line in a northerly direction along US Hwy 127 to its junction with KY Hwy 34, then in a northeasterly direction along KY Hwy 34 to its junction with US Hwy 27, then in a northerly direction along US Hwy 27 to its junction with US Hwy 68, then in a northeasterly direction along US Hwy 68 to the KY-OH State line, and points in that part of MI on, north, and east of a line commencing at the MI-OH State line in a northerly direction along US Hwy 127 to its junction with I Hwy 96, then in a northwesterly direction along I Hwy 96 to Lake MI. (26) between points in Bartholomew and Brown Counties, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at the KY-VA State line in a northerly direction along US Hwy 460 to its junction with KY Hwy 201, then in a northerly direction along KY Hwy 201 to its junction with KY Hwy 32, then in a northwesterly direction along KY Hwy 32 to its junction with KY Hwy 11, then in a northerly direction along KY Hwy 11 to the KY-OH State line and points in that part of MI on, north, and east of a line commencing at the MI-IN State line in a northerly direction along US Hwy 27 to its junction with MI Hwy 115, then in a northwesterly direction along MI Hwy 115 to Lake Michigan. (27) between points in Franklin County, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at KY Hwy 40, then in a westerly direction along KY Hwy 40 to its junction with US Hwy 460, then in a westerly direction along US Hwy 460 to its junction with KY Hwy 11, then in a northerly direction along KY Hwy 11 to the KY-OH State line, and points in that part of MI on and east of a line commencing at Detroit, MI, along US Hwy 75, then in a northerly direction along US Hwy 75 to Bay City, MI. (28) between points in Decatur County, IN, on the one hand, and, on the other, points in MI, PA and WV. (29) between points in Daviess and Knox Counties, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at Middleboro, KY along US Hwy 25, then in a northerly direction along US Hwy 25 to the KY-OH State line and points in that part of MI on and east of a line commencing at Detroit, MI along Interstate Hwy 96, then in a northerly direction along I 96 to its junction with US Hwy 27, then in a northerly direction along US 27 to its junction with MI Hwy 115, then in a northwesterly direction along MI Hwy 115 to Lake Michigan. (30) between points in Dubois and Martin Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at Middleboro, KY, along US Hwy 25, then in a northerly direction along US Hwy 25 to the KY-OH State line, and points in that part of MI on and east of a line commencing at Detroit, MI, along I Hwy 96, then in a westerly direction along I Hwy 96 to its junction with US Hwy 27, then in a northerly direction along US 27 to its junction with MI Hwy 115, then in a northwesterly direction along MI Hwy 115 to Lake Michigan. (31) between points in Lawrence and Orange Counties, IN, on the one hand, and, on the other, points in PA and points in MI on and east of a line commencing at the MI–IN State line in a northerly direction along MI Hwy 66 to its junction with MI Hwy 57, then in a westerly direction along MI Hwy 57 to its junction with MI Hwy 46, then in a westerly direction along MI Hwy 46 to its termination at Lake MI and points in that part of WV on and east of a line commencing at the WV–VA State line in an easterly direction along WV Hwy 83 to its junction with WV Hwy 80, then in a northerly direction along WV Hwy 80 to its junction with US Hwy 52, then in a northwesterly direction along US Hwy 52 to its junction with US Hwy 119, then in a northerly direction along US Hwy 119 to its junction with WV Hwy 10, then in a northwesterly direction along WV Hwy 10 to the WV–OH State line. (32) between points in Jefferson and Jennings Counties, IN, on the one hand, and, on the other, points in MI, PA, WV, points in KY on and east of a line commencing at the KY–VA State line extending along US Hwy 460 to junction KY Hwy 201, then along KY Hwy 201 to junction KY Hwy 1, then in a northerly direction along KY Hwy 1 to its junction with KY Hwy 7, then in a northwesterly direction along KY Hwy 7 to its junction with KY Hwy 24, then in a northwesterly direction along KY Hwy 24 to its junction with KY Hwy 59, then in a northerly direction along KY Hwy 59 to the KY–OH State line. (33) between points in Jackson and Washington Counties, IN, on the one hand, and, on the other, points in PA and points in MI on, north, and east of a line commencing at the MI–IN State line in a northerly direction along MI Hwy 66 to its junction with MI Hwy 57, then in a westerly direction along MI Hwy 57 to its junction with MI Hwy 46, then in a westerly direction along MI Hwy 46 to its termination at Lake MI and points in that part of WV on, north, and east of a line commencing at the WV–VA State line in an easterly direction along WV Hwy 83 to its junction with WV Hwy 80, then in a northerly direction along WV Hwy 80 to its junction with US Hwy 52, then in a northwesterly direction along US Hwy 52 to its junction with US Hwy 119, then in a northerly direction along US Hwy 119 to its junction with WV Hwy 10, then in a northwesterly direction along WV Hwy 10 to the WV–OH State line. (34) between points in Pasey and Vanderburgh Counties, IN, on the one hand, and, on the other, points in PA, WV, Ashland, KY; and points in MI on and east of a line commencing at the IN–MI State line along US Hwy 12, then in a westerly direction along US Hwy 12 to its junction with US Hwy 131, then in a northerly direction along US Hwy 131 to its junction with MI Hwy 37, then in a northerly direction along MI Hwy 37 to its junction with US Hwy 10, then in a westerly direction along US Hwy 10 to Ludington, MI, and (35) between points in Ripley County, IN, on the one hand, and, on the other, points in MI, PA, WV and points in KY on and east of US Hwy 23. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

MC 118831 (Sub-E155), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles, between Orangeburg, SC, on the one hand, and, on the other, points in SC on and west of a line beginning at North Augusta extending along US Hwy 25 to Greenwood, then along US Hwy 178 to the NC–SC State line. (Gateway eliminated: Richmond County, GA.)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-17173 Filed 6-5-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive interprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 3rd day of June 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications received during the week ending June 7, 1980.

Name of applicant and Location of Enterprise

Smatco, Inc., Houma, Louisiana.

Principal Product or Activity

Design and construction of industrial capacity winches and pressure tanks.

[FR Doc. 80-17178 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

Extended Benefits; Notice of Ending of Extended Benefit Period in the State of New Jersey

This notice announces the ending of the Extended Benefit Period in the State of New Jersey, effective on June 7, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Agreements of 1970, Pub. L. 91–373; 26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. This Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when unemployment in the State is no longer at the high levels set in the Act. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of New Jersey on March 9, 1980, and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State of New Jersey has determined, in accordance with the State law and 20 CFR 615.12(e), that the average rate of insured unemployment in the State for the period consisting of the week ending on May 17, 1980, and the immediately preceding twelve weeks, has decreased so that for that week there was an "off" indicator in that State. Therefore, the Extended Benefit Period in that State terminates with the week ending on June 7, 1980.

Information for Claimants

Persons who wish information about their rights to Extended Benefits in the State of New Jersey should contact the nearest local office of the State Department of Labor and Industry.

V 45 J E 6 80 UMI

Signed at Washington, D.C., on June 3, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17220 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program, Extended Benefits; New Extended Benefit Period in the State of Kentucky

This notice announces the beginning of a new Extended Benefit Period in the State of Kentucky, effective on June 1, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Kentucky unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12(b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Kentucky has determined that, for the period consisting of the week ending on May 17, 1980, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded the State trigger rate.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on June 1, 1980.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Kentucky, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Kentucky Department for Human Resources in their locality.

Signed at Washington, D.C., on June 3, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17219 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Missouri

This notice announces the beginning of a new Extended Benefit period in the State of Missouri, effective on June 1, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Missouri unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12 (b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Missouri has determined that, for the period consisting of the week ending on May 17, 1980, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded the State trigger rate.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on June 1, 1980.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Missouri, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Missouri Department of Labor and Industrial Relations in their locality.

Signed at Washington, D.C., on June 3, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17218 Filed 6-5-80; 8:45]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-81-C]

Eastover Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Eastover Mining Company, General Offices, Brookside, Kentucky 40801 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Virginia No. 1 Mine located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The mineable area of the coal seam varies in height from 34 to 240 inches. The roof is normally composed of slate and/or limestone and is excellent except in areas underlying a creek.

2. In most instances the coal height will be in excess of 72 inches and cabs and canopies are routinely used. However, the mine's electric face equipment cannot be operated with cabs or canopies in areas of the mine where the coal seam falls to the 35 inch range because:

a. The canopies come into contact with roof bolts and other roof support apparatus causing the possibility of roof collapse;

b. the equipment operator's visibility is impaired and parts of the operator's body must protrude from the canopy, exposing the operator to the danger of injury;

c. the reduced operator compartment space increases the operator's fatigue and restricts the operator's arm and leg movements necessary for safe control and operation of the equipment;

d. the cutting of top rock to allow additional working space creates a respirable dust problem and poor working conditions;

e. rapid escape from the equipment in the event of an emergency is hampered.

3. For these reasons, petitioner requests a modification of the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Admnistration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17221 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-47-M]

FMC Corp.; Petition for Modification of Application of Mandatory Safety Standard

FMC Corporation, P.O. Box 872, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscuts intervals) to its Green River Mine located in Sweetwater County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner proposes to drive a single entry decline 1,045 feet in length, extending from the present mining horizon to the bottom of one of the main ore production shafts.

2. As an alternative method to complying with the standard, petitioner proposes to make crosscuts at intervals not in excess of 100 feet between entries and between rooms excluding the single entry decline where measures have been taken to ensure adequate ventilation.

3. In support of this proposed alternative method, the petitioner states that the proposed decline will provide the following advantages:

a. Two means of access to the shaft bottom with the other means being a ladder or small manhoist in the shaft itself;

b. Improved ventilation because restrictions in the present ventilation system would be lessened, producing more efficient air flow;

c. An enlarged working area;

d. A means to provide better dust control. Better air flow as well as an area large enough to set up auxiliary dust control equipment, if needed, would be provided;

e. An additional sump. A large sump is designed into the system to reduce potential problems caused by mine water;

f. Mechanized clean-up. Rubber-tired load-haul-dump equipment will be utilized versus the present system of hand mucking;

g. Safer working conditions for the material handling crews who clean the shaft bottom.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 27, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17222 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-32-C]

John Behm Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

John Behm Coal Company, 37 Branch Street, Tremont, Pennsylvania 17938, has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Castle Comer Tunnel located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely unconfortable damp and cold conditions in the already uncomfortable, wet mines.

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7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternative method proposed with at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17224 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-50-M]

Kennecott Minerals Co.; Petition for Modification of Application of Mandatory Safety Standard

Kennecott Minerals Company, Chino Mines Division, Hurley, New Mexico 88043, has filed a petition to modify the application of 30 CFR 55.9-2 (loading, hauling, dumping) to its Mines Plant Mine located in Grant County, New Mexico, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petitioner has five operating six-yard capacity Marion shovels (Model 4161). Two are used to fill remotely operated trains. Three are used to fill trucks. They were purchased during the years 1937-1948.

2. The Marion shovels were factory equipped with electrically activated mechanical brakes. The brakes were designed to retard the lateral movement of the boom while the shovel is being moved and to hold the boom in position when the shovel is stopped. Operation of the brakes, called swing brakes, is described.

3. The petitioner states that the factory installed swing brakes have been inoperative since the mid 1960's. They either were removed or were not repaired because the shovel operator relied too much on the swing brakes to stop lateral movements of the boom and bucket when they were not designed or intended to be used for this purpose. For the past 15 years, shovel operators have been taught informally to control the lateral movements of the boom and bucket with foot controls. Use of the controls to move or stop the lateral movements of the boom and bucket is described.

4. The petitioner states that the company's safety records indicate that lack of swing brakes on shovels has not been given as a cause of injury.

5. As an alternative to the application of 30 CFR 55.9-2 to swing brakes on shovels, the petitioner proposes to replace the 15 year old informal task training program with a formal task training program and to post information on the techniques of shovel operation. Three exhibits are incorporated and made a part of this petition: (1) A copy of the instructions to be posted; (2) A copy of a training record form; (3) A copy of page 68 of the shovel's operation and maintenance instruction manual.

6. The petitioner states that the proposed alternate method is superior to functioning swing brakes for preventing the boom or bucket from swinging into an occupied truck. The petitioner notes that the remotely controlled trains are not occupied. Accordingly, the petitioner alleges, the miners' safety is better protected by allowing the requested modification.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17225 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-71-C]

Maverick Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Maverick Mining Company, Drawer II, Grundy, West Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 5 and No. 3-B Mines located in Buchanan County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner is mining coal seams which range from twenty-six to thirty-four inches in height. The roof and floor conditions in both mines are very good.

2. The installation and use of auxiliary lights interfere with the miners' vision and hampers communications between the miners through the use of their cap lamps, resulting in a diminution of safety.

3. These auxiliary lighting fixtures come in contact with the roof, destroying both the lighting fixtures and the roof.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 30, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17226 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-60-C]

Rita Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Rita Coal Company, P.O. Box 560, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. LF3 located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The Rita No. LF3 Mine is in the Lower Elkhorn seam and ranges from 38 to 44 inches in height with consistent ascending and descending grades which create dips in the coal bed.

2. Installation of canopies on the mine's haulage and face equipment would cause the canopies to come into contact with the roof and destroy roof support.

3. Canopies limit the visibility of the equipment operator, and require the operator to be seated in the decks in such a position that hazards to the operator and other nearby miners are created, resulting in a diminution of safety.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 30, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17227 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-72-C]

5-Leaf Clover Corp.; Petition for Modification of Application of Mandatory Safety Standard

5-Leaf Clover Corporation, P.O. Box 412, Oceana, West Virginia 24870 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its A Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is recovering coal in an old mine where the bottom has severely deteriorated.

2. The scoop being utilized has ground clearance but is too high for a canopy.

3. A scoop that is low enough to support a canopy does not have the ground clearance.

4. Installation of canopies would cause a diminution of safety because:

a. Not enough area in the deck exists for a comfortable and safe equipment operator position;

b. The equipment operator's vision would be restricted, forcing parts of the operator's body to extend out from the equipment.

5. For these reasons, petitioner requests a modification of application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17223 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. L-1686]

Proposed Exemption for Certain Transactions Involving the Local 705 International Brotherhood of Teamsters Health and Welfare Fund Located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed purchase by a corporation to be formed by the Local 705 International Brotherhood of Teamsters Health and Welfare Fund (the Plan) of an improved parcel of real property and the furnishings and equipment therein (the Clinic) from the Humbolt Clinical Laboratory Company (the Corporation), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect trustees, participants and beneficiaries of the Plan, officers, and shareholders of the Corporation, and any other persons participating in the proposed transaction.

DATES: Written comments must be received by the Department of Labor on or before July 14, 1980.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L-1686. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander, of the Department of Labor, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTAL INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act. The proposed exemption was requested in an application filed on behalf of the Board of Trustees of the Plan, (Trustees) pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a welfare plan as defined in section 3(1) of the Act. The estimated number of Plan participants is 16,000. The Plan provides medical, hospital, and related services to its participants through two plans of benefits, Plans A and B. Plan A provides health coverage to a participant in the Plan only if the participant exclusively uses medical or hospital services provided by the Corporation. Plan B provides coverage to a participant if the participant uses medical or health services provided by anyone other than the Corporation. Plan A provides benefits without any limitation or cost to a participant, while Plan B provides only those benefits provided for in a scheduled list of benefits.

As of January 31, 1979, the Plan had net assets of approximately $19,667,782.

2. The Corporation has provided medical and hospital services to participants in the Plan as provided for in Plan A since 1953. The Corporation's principal shareholder is Dr. Oscar M. Simon (Simon), who is also responsible for the operation of the Corporation. The Corporation's staff includes Dr. Edmund Donoghue (Donoghue) who presently performs services pursuant to Plan A through arrangements with Simon. The Corporation provides diagnostic, referral and treatment services to participants of

Plan A. The Corporation maintains patient records and answers inquiries by participants. The Corporation provides services to approximately 3,000 patients per month.

3. The Corporation owns the Clinic which the Plan seeks to purchase. The clinic consists of a parcel of real property improved by a medical facility and the furnishings, equipment and inventory located therein. The Clinic is located at 2018–2020 South Ashland Avenue, Chicago, Illinois, approximately two miles away from the Plan's offices. The Clinic is easily accessible via major expressways.

4. Simon is leaving the Chicago area and desires to sell the Clinic and dissolve the Corporation. Simon is unwilling to contract or make other arrangements with the Plan to continue the Corporation at its present location other than selling the Clinic to the Plan. The continued operation of the Clinic would enable the Plan to continue providing covered medical and hospital services without limitation or cost to participants of the Plan from a fully equipped, existing facility which is located close to where many Plan participants live or work. The Clinic maintains a staff which is experienced in dealing with the participants in the Plan. It is expected that Donoghue and other medical personnel who presently perform services for the Corporation through arrangemens with Simon will contract with the Plan after the facility is purchased and continue to provide covered medical and hospital services pursuant to Plan A. The Plan intends to utilize medical and hospital services by the Clinic for at least the next five years.

5. The Trustees have determined that the purchase of the Clinic by the Plan from the Corporation is in the best interests of the Plan. None of the Trustees have any relationship to the Corporation or to Simon other than the provision of health services by the Corporation to the Plan. The Trustees represent that the direct ownership of the Clinic by the Plan would be less expensive than either contracting for medical and hospital services with other existing facilities, or purchasing, if available, or constructing and equipping another facility comparable to the Clinic.

6. A complete appraisal of the Clinic, excluding the furnishings, equipment, and inventory, was performed by Mr. Alan E. Waldman, an independent MAI appraiser, who estimates that as of September 12, 1979, its fair market value was $85,000. Mr. H. D. Voelz, of Harry S. Cutmore and Associates, Inc., an independent valuation engineer, appraised the furnishings, equipment and inventory and as of September 13, 1979, estimates their value at $55,600. Therefore, the total market value of the Clinic as of September 13, 1979 was $140,600. This proposed purchase price represents less than one percent of the Plan's net assets. The transaction will be for cash.

7. In summary, the applicant represents that the proposed purchase of the Clinic by the Plan from the Corporation satisfies the criteria of section 408(a) of the Act because (a) the purchase is a one-time transaction for cash; (b) the purchase price was determined pursuant to complete appraisals by independent, qualified appraisers; (c) the purchase will enable the Plan to continue providing covered health services without cost or limitation to its participants from a fully equipped, existing medical facility located close to where many participants live or work; (d) the direct ownership of the Clinic by the Plan would be less expensive than either contracting for medical and hospital services with other existing facilities, or purchasing, if available, or constructing and equipping another facility comparable to the Clinic; (e) the Trustees have determined that the purchase is in the best interests of the Plan; and (f) the purchase price constitutes less than one percent of the Plan's net assets.

Notice to Interested Persons

A copy of this notice shall be posted in prominent places for thirty days at the offices of Local 705, International Brotherhood of Teamsters. Notice will be provided within seven (7) days after publication of this notice in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to the purchase by the Plan of the Clinic from the Corporation as described above for the total purchase price of $140,600 cash, provided that this amount is not more than the fair market value of the Clinic at the time of purchase.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 29th day of May, 1980.

Morton Klevan,

Deputy Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–16985 Filed 6–5–80; 8:45 am]
BILLING CODE 4510–29–M

[Exemption Application No. D–1552; Prohibited Transaction Exemption 80–34]

Exemption From the Prohibitions for Certain Transactions Involving the Laborers Pension Trust Fund for Northern California, San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of individual Exemption.

SUMMARY: This exemption exempts from certain of the prohibited transaction restrictions of the employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code) an option agreement to purchase and the subsequent cash sale of certain real property in Alameda County, California by the Laborers Pension Trust Fund for Northern California (the Trust Fund) to Estate Homes of Northern California, Inc. (Estate Homes), a contributing employer with respect to the Trust Fund.

FOR FURTHER INFORMATION CONTACT: Ivan Strasfeld of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 28, 1980, notice was published in the **Federal Register** (45 FR 20594) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code, for transactions described in an application filed on behalf of the Trust Fund. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that notice to interested persons has been given as set forth in the Notice of Proposed Exemption. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, october 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiares; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the option to purchase given and the subsequent cash sale of the real property located in Alameda County, California by the Trust Fund to Estate Homes for the price agreed upon under the option agreement provided that this amount is not less than the fair market value of the property.

The availability for this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 2d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–17286 Filed 6–5–80; 8:45 am]
BILLING CODE 4510–29–M

[Exemption Application No. D–856; Prohibited Transaction Exemption 80–35]

Exemption From the Prohibited Transactions Involving the S & C Profit-Sharing Retirement Plan Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the leasing of real property by the S & C Profit-Sharing Retirement Plan (the Plan) to S & C Motors, Inc. (the Employer). The lease was entered into before the effective date of the Employer Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

EFFECTIVE DATE: This exemption is effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and

Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 21, 1980, notice was published in the **Federal Register** (45 FR 18522) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the trustee for the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice of proposed exemption was provided to all interested persons, and all interested persons were notified of their right to comment and request a hearing. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must opeate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extent to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the leasing of certain property described in the application from the Plan to the Employer for the rental amount stated in the lease, for the period from January 1, 1975, until January 25, 1980.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 2d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–17264 Filed 6–5–80; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–993]

Proposed Exemption for Certain Transactions Involving the Supra Products, Inc.; Employees Profit Sharing Retirement Trust Located in Salem, Oreg.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the past sale by the Supra Products, Inc. Profit Sharing Retirement Trust (the Plan) of certain real property to a party in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Supra Products, Inc. (the Employer) and other persons who participated in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 16, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) whould be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–993. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of

the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Iral Barrett and Mrs. Owen Barrett (the Barretts), the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with approximately 65 participants. As of October 31, 1979 the Plan had total assets of $972,042. The Employer is wholly owned by the Barretts who also serve as officers and directors of the Employer.

2. In 1969, the Plan purchased from a party unrelated to the Plan a three and one-third acre parcel of real property on Pringle Road in Salem, Oregon (the Pringle Road Property) for $25,000. The Pringle Road Property was zoned for light industrial uses. In 1972, the Employer leased one acre of the Pringle Road Property from the Plan for a fifteen-year term and constructed a new plant on it. The unleased remainder of the property was left vacant.

3. In July 1976 in order to realize a large profit on its investment and to eliminate a parcel of property which was, in major part, not earning any current income, the Plan sold the Pringle Road Property for a cash price of $76,500 to a partnership (the Partnership) in which the Barrets owned a 50 percent interest. The price of the sale was determined by an independent appraisal performed by David J. Lau, (Lau) MAI, who is located in Salem, Oregon. In his appraisal, Lau considered both the value of the land and the improvements thereon in arriving at the appraised price. No real estate commissions were paid on the sale.

4. Because the Employer had leased the one acre of the Pringle Road Property, that portion of the Pringle Road Property may have been subject to the transitional rules of section 414(c) of the Act. If the Partnership had bought the one acre portion pursuant to section 414(c) of the Act, the Plan would have been left with an irregularly shaped 2⅓ acre parcel of real property which produced no income.

5. The applicants presently have two other exemption applications filed with the Department. One of these applications involves the past exchange in September of 1976 of certain real property between the Plan and the Barretts. The other application involves the proposed sale of four parcels of real property by the Plan to the Barretts.

6. The applicants represent that the sale of the Pringle Road Property satisfied the criteria of section 408(a) of the Act as follows: (1) the trustees of the Plan represent that the sale was in the best interests of the Plan; (2) the price of the property was determined by an independent appraisal; (3) the sale was a one-time transaction for cash; (4) no real estate commissions were charged; and (5) the sale allowed the Plan to realize a large profit.

Notice of Interested Parties

Within ten days after its publication in the **Federal Register**, the notice of pendency will be given to all current participants in the Plan and all past participants who had an individual account of the time any of the past transactions occurred and who has not forfeited that account. For current employees of Supra Products, Inc. a copy of the notice will be posted at the place in the company plant where employee notices are found. Notice will be given to all other interested persons by mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale in July 1976 of a three and one-third acre of real property in Salem, Oregon by the Plan to the Partnership for $76,500 provided that this amount

was at least the fair market value of the

results of investigations regarding

the first quarter of 1980 compared to the

was at least the fair market value of the property at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17265 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-7867]

General Motors Corp., Chevrolet Motor Division, Flint Engine Plant; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 28, 1980 in response to a worker petition received on April 8, 1980 which was filed on behalf of workers and former workers producing GM parts and accessories at the Flint Engine Plant, Flint, Michigan of the Chevrolet Motor Division of General Motors Corporation.

The petitioning group of workers in this case was included in a determination (TA-W-7012) issued on May 13, 1980. Since all workers separated, totally or partially, from the Chevrolet Flint Engine plant on or after August 1, 1979 (impact date) and before May 13, 1982 (expiration date of the determination) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17233 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7330]

The Homer Laughlin China Co., Plants Nos. 4, 5, 6, 7, and 8; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers at The Homer Laughlin China Company, Newell, West Virginia. The workers produce earthen domestic dinnerware and institutional china for hotels, restaurants and hospitals. In the following determinations, without regard to whether any of the other criteria have been met for workers producing institutional china for hotels and restaurants at plants No. 6, No. 7, No. 8, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales and production of hotel and restaurant china at Homer Laughlin, measured in both quantity and value, increased during 1979 compared to 1978.

A survey of customers who purchased hotel and restaurant china produced at Homer Laughlin was conducted by the Department. Survey results revealed that customers, in the aggregate, increased purchases from Homer Laughlin and from other domestic manufacturers during 1979 compared to 1978. Additionally, survey results revealed that no customers reduced purchases from Homer Laughlin while increasing imports of hotel and restaurant china during the first quarter of 1980 compared to the first quarter of 1979.

For workers producing earthen domestic dinnerware at plant No. 4 and plant No. 5, all of the criteria have been met.

U.S. imports of earthen table and kitchen articles increased both absolutely and relative to domestic shipments during 1979 compared to 1978.

A survey of customers who purchased earthenware produced at The Homer Laughlin China Company was conducted by the Department. Survey results revealed that major customers decreased purchases of earthenware from Homer Laughlin while increasing purchases of imported earthenware during 1979 compared to 1978 and during the first quarter of 1980 compared to the first quarter of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with earthen domestic dinnerware produced at plant No. 4 and plant No. 5 of The Homer Laughlin China Company, Newell, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers of plant #4 and plant #5 of The Homer Laughlin China Company, Newell, West Virginia engaged in employment related to the production of earthen domestic dinnerware who became totally or partially separated from employment on or after July 16, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

I further determine that all workers of plants No. 6, No. 7, and No. 8 of The Homer Laughlin China Company, Newell, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-17234 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8022]

Lear Siegler Inc., General Seating Division; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was inititated on May 19, 1980 in response to a worker petition received on May 1, 1980 which was filed on behalf of workers and former workers producing metal seat frames for automobiles and trucks at the Ferguson, Kentucky plant of the General Seating Division of Lear Siegler, Incorporated. The notice of Investigation listed the location as Livonia, Michigan. The Division is headquartered in Livonia, Michigan. The intent of the petition was to file on behalf of workers at the Ferguson, Kentucky production facility.

On March 24, 1980, a petition was filed on behalf of the same group of workers (TA-W-7427).

Since the identical group of workers is the subject of the ongoing investigation TA-W-7427, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 30th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17235 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Motor City Stamping, Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Motor City Stamping Incorporated (company).	Sterling Heights, Mich.	5-6-80	4-30-80	7997	Washers, brackets, clamps, weight and support for GM cars.
Goodyear Tire and Rubber Co. (company)	Lawton, Okla.	5-6-80	4-29-80	7998	Original equipment passenger tires.
Clark Copy International Corp. (company)	Morton Grove, Ill.	5-12-80	5-5-80	7999	Photocopy machines.
Dazero, Inc. (company)	Hialeah, Fla.	5-9-80	5-7-80	8000	Men's slacks and men's 3-piece suits.
Eaton Corp., Temperature Control Division, Athens Plant (company).	Athens, Ala.	5-12-80	5-9-80	8001	Thermostats for Chrysler and GM cars.
Scheeler Brothers Lumber Company (company).	Olympia, Wash.	5-13-80	5-13-80	8002	Cedar lumber.
Sun Cutter Corp. (company)	Elk Rapids, Mich.	5-12-80	5-2-80	8003	Cutting blades.
Independence Steel Sale & Service, Inc. (company).	Warren, Mich.	5-2-80	4-23-80	8004	Steel for Amencan made cars.
Southeastern Garment Corp. (company)	Clinton, N.C.	5-6-80	4-24-80	8005	Down jackets and vests.
Lucky Sports Sewing Co., Inc. (company)	New York, N.Y.	5-6-80	4-30-80	8006	Ladies skirts and pants.
Metal Forge Co. (UAW)	Columbus, Ohio	4-29-80	4-23-80	8007	Automobile parts.
Excello Corp. McCord-Winn Division (IUE)	Winchester, Mass.	4-29-80	4-25-80	8008	Automotive components.
Gorsuch Foundry Company, Inc. (workers)	Jeffersonville, Ind.	5-2-80	4-28-80	8009	Grey iron, aluminum and bronze casting.
Armco Inc. (AEIF)	Middletown, Ohio.	5-6-80	4-28-80	8010	Carbon steel products.
Snyder Shake Company	Forks, Wash.	5-13-80	5-1-80	8011	Cedar shakes.
ARMCO, Inc., Union Wire Rope Plant (USWA).	Kansas City, Mo.	5-1-80	4-28-80	8012	Steel rope, and other wire products.
Berkshire Maid Garment Manufacturing Corp (company).	Springfield, Mass.	5-1-80	4-22-80	8013	Ladies' blouses, tops, skirts.
Dalton Ind, Inc. (ILGWU)	Willoughby, Ohio.	5-1-80	4-28-80	8014	Women's sportswear.
Eaton Corp., Timerman Plant (UAW)	Cleveland, Ohio	4-29-80	4-29-80	8015	Fasteners.
Summit Warehouse Inc. (Teamsters)	Mogodore, Ohio	4-29-80	4-22-80	8016	Automobile and truck tires.
G.M. Corp., Inland Mfg., Division (URW)	Dayton, Ohio	4-28-80	4-18-80	8017	Automotive components.
Chronar Corp. (workers)	Princeton, N.J.	4-28-80	4-23-80	8018	Watches and watch parts.
Ben Max Sportswear (company)	Asbury Park, N.J.	5-8-80	5-6-80	8019	Ladies' suits and coats.
Walco Enterprises, Inc. (company)	Warren, Mich.	5-8-80	5-5-80	8020	Machine repair work for Amencan made cars.
Gallins Ind., Inc. (company	Hollandale, Miss.	5-6-80	4-30-80	8021	Aluminum electrolytic.
Lear Siegler, Inc. (workers)	Livonia, Tenn.	5-1-80	4-24-80	8022	Seats for Ford and Volkswagen.
Hunt-Wilde Corp. (company)	Dayton, Ohio	5-2-80	3-29-80	8023	Parts for bicycles, wheel chairs, lawn mowers, and other tools.
Lipsett Industries and Byron Midwest, Inc. (workers)	Monongahela, Pa.	4-29-80	4-14-80	8024	Recyclers of various metals.
Dura Corp., Adnan Div. (company)	Adrian, Mich.	5-13-80	5-9-80	8025	Light duty truck bumpers, and auto scissor jacks.
ACCO Industries Inc. Blytheville Plant (workers).	Blythville, Ark.	5-1-80	4-25-80	8026	Cable control for automobiles.
P. H. Leather & Suede Incorporated (workers)	New York, N.Y.	5-1-80	4-27-80	8027	Leather and suede articles.
Brand X Fashions Inc. (workers)	New York, N.Y.	5-1-80	4-27-80	8028	Leather and suede articles.
Chrysler Corp. U.S. Automotive Sales Section (UAW).	Highland Park, Mich.	5-1-80	4-29-80	8029	Automotive administrative.
Davidson Mfg., Co., Inc. (workers)	Detroit, Mich.	5-1-80	4-23-80	8030	Automotive parts.
Barley Earhart Co. (AIW)	Portland, Mich.	5-1-80	4-28-80	8031	Gas tank straps, anti squeak parts and general parts for automobiles.

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APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Lobdell-Emery Mfg., Co. (UAW)	Alma, Mich	5-1-80	4-29-80	8032	Ford Gen. Motors auto parts.
Chrysler Corp., Zone Service Office (workers)	Hazelwood, Mo	5-6-80	5-2-80	8033	Administration of Corporate dealership.
Chrysler Corp., Belvidere Assembly Plant (workers)	Belevidere, Ill	5-6-80	5-5-80	8034	Administrative and other support functions.
Westinghouse Buffalo, Apparatus Service (IUE).	Buffalo, N.Y	5-1-80	4-19-80	8035	Electrical motors, generators, transformers, magnets turbines, switch gear and other parts.
The Stanley Works, Stanley Hydraulics, Tools Division, (workers).	Milwaukee, Oreg	4-29-80	4-23-80	8036	Hydraulic paving breakers.
Newport Steel Corp. (workers)	Newport, Ark	4-29-80	4-22-80	8037	Angled steel.
Servomation Corp. (company)	Greenville, N.C	4-29-80	4-18-80	8038	Zippers.
Amencan Sunroof Corporation (company)	Southgate, Mich	5-1-80	4-21-80	8039	Installing of sunroof.
Allen Shoe Company Incorporated (workers)	Haverhill, Mass	5-2-80	4-30-80	8040	Women's shoes.
LaConner Cedar Incorporated (workers)	LaConner Wash	5-2-80	4-29-80	8041	Cedar shakes & shingles.
Barry-Wehmiller Co. (IAMAW)	St. Louis, Mo	5-2-80	4-30-80	8042	Bottle washers & pasteurizers machines.
Barry-Wehmiller Co. (IAMAW)	St. Louis, Mo	5-2-80	4-30-80	8043	Bottle washers & pasteurizers machines.
Van Dresser Corp. (UAW)	Norwalk, Ohio	4-29-80	4-22-80	8044	Automotive component.
Thom McAn Shoe Co. (teamsters)	Auburn, Mass	4-29-80	4-23-80	8045	Men's, women's and childrens footwear.
GTR Reinforced Plastic Company (UFWA)	Ionia, Mich	5-1-80	4-28-80	8046	Fiber glass reinforced plastic to auto industry.
Fox Point Sportswear, Inc. (ACTWU)	Port Washington, Wis	5-12-80	5-9-80	TA-W-8,047	Ladies' sportswear, outerwear & insulated snowmobile clothing.
Woonsocket Spinning Co. (ACTWU)	Charlotte, N.C	5-12-80	5-8-80	TA-W-8,048	Woolen, camel hair and cashmere yarn for apparel.
Russellville Sportswear, Inc. (ACTWU)	Russellville, Ala	5-12-80	5-8-80	TA-W-8,049	Men's pants
Rud-Shaw Mfg. Company, Inc. (ACTWU)	Brooklyn, N.Y	5-12-80	5-8-80	TA-W-8,050	Tailored clothing.
Solix Sportswear Corp. (ACTWU)	New York, N.Y	5-12-80	5-8-80	TA-W-8,051	Men's outerwear.
Leon of Paris Co., Inc. (ACTWU)	New York, N.Y	5-12-80	5-8-80	TA-W-8,052	Tailored clothing.
Amil Mfg., Company (ACTWU)	Shickshinny, Pa	5-12-80	5-8-80	TA-W-8,053	Outerwear
Fox-Knapp Mfg., Co. (ACTWU)	Pine Grove, Pa	5-12-80	5-8-80	TA-W-8,054	Outerwear.
The Arrow Company (ACTWU)	Atlanta, Ga	5-12-80	5-8-80	TA-W-8,055	Dress shirts.
The Arrow Company (ACTWU)	Bremen, Ga	5-12-80	5-8-80	TA-W-8,056	Dress shirts.
The Arrow Company (ACTWU)	Buchanan, Ga	5-12-80	5-8-80	TA-W-8,057	Dress shirts.
The Arrow Company (ACTWU)	Cedartown, Ga	5-12-80	5-8-80	TA-W-8,058	Dress shirts.
Dana Corporation, Material Supply Division (UAW).	Havana, Ill	5-12-80	4-29-80	TA-W-8,059	Steering components for trucks, components for differentials for vehicles, piston ring castings for engines.
Danny Leather Fashions, Inc. (workers)	New York, N.Y	5-12-80	5-6-80	TA-W-8,060	Contractors for cutting and making leather coats.
Park-Ohio Industries, Ohio Crankshaft Div. (UAW).	Cleveland, Ohio	5-12-80	5-8-80	TA-W-8,061	Crankshafts and camshafts.
Fox-Knapp Mfg. Co (ACTWU)	Milton, PA	5-12-80	5-8-80	TA-W-8,062	Outerwear.
Regina company (National Union of Electrical & Machine Workers).	Rahway, N.J	5-12-80	4-30-80	TA-W-8,063	Electric brooms.
Stamping Service, Inc. (UAW)	Detroit, Mich	5-12-80	5-2-80	TA-W-8,064	Engine-accelerator brackets, chassis.
Wolverine Bolt Co. (company)	Detroit, Mich	5-12-80	5-5-80	TA-W-8,065	Auto fasteners and bolts.
Dana Corporation, Spicer Universal Joint Div. (UAW).	Pottstown, Pa	5-12-80	5-7-80	TA-W-8,066	Universal joints—drive shafts for trucks and vans.
MTG Industries (workers)	Philadelphia, Pa	5-12-80	4-29-80	TA-W-8,067	Men's tailored clothing—sportcoats.
Maple Tree Incorporated (workers)	Maplesville, Ala	5-9-80	5-7-80	TA-W-8,068	Shirts and blouses.
V.P.P. Co., Inc. (company)	Beaver, Wash	4-15-80	4-10-80	TA-W-8,069	Cedar products, shakes and shingles.
E.I. Dupont Co. C.D. & P. Dept. (workers)	Rumford, R. I	4-22-80	4-14-80	TA-W-8,070	Dyes.
Weyerhausen Co., Aberdeen Mill (workers)	Aberdeen, Wash	4-15-80	4-7-80	TA-W-8,071	Lumber for housing industry.
The Firestone Tire & Rubber Company (workers).	Lavergne, Tenn	4-28-80	4-24-80	TA-W-8,072!	Transteel radial truck tires.
Rico Machine Co., Inc. (USWA)	Bristol, R.I	5-7-80	4-30-80	TA-W-8,073	Machine tools.
Standard Products Company (UAW)	Gaylord, Mich	5-7-80	5-1-80	TA-W-8,074	Automotive parts.
Eastern Sportswear Manf. Co., Inc. (workers)	New Bedford, Mass	5-7-80	5-2-80	TA-W-8,075	Women's and girls' jeans and slacks.
Mida Mfg., Inc. (workers)	Philadelphia, Pa	5-7-80	4-30-80	TA-W-8,076	Costume jewelry
Bundy Corp., Bundy Tubing Div. (UAW)	Warren, Mich	5-7-80	4-29-80	TA-W-8,077	Small diameter steel tubing, brake lines, push rods.
Charles A. Easton Company (workers)	Richmond, Maine	5-7-80	5-1-80	TA-W-8,078	Shoes.
Davidson Rubber (workers)	Dover, N.H	5-7-80	5-1-80	TA-W-8,079	Molds and dies for interior and exterior plastic auto pieces.
Hanimex Manf. Co. (AIW)	Jackson, Mich	5-7-80	5-1-80	TA-W-8,080	Movie project equipment, film editors, slide viewers, slide projectors.
D & G Shake Co., Inc. (workers)	Amanda Park, Wash	5-7-80	5-2-80	TA-W-8,081	Shakes and shingles.
Michigan Rubber Products, Inc. (company)	Cadillac, Mich	5-15-80	5-9-80	TA-W-8,082	Rubber products for automobiles.
Maryanne Sportswear (workers)	Ozone Park, N.Y	5-7-80	5-3-80	TA-W-8,083	Ladies' sportswear.
ITT Lester Industries, Inc. (company)	Rome, Ga	5-6-80	5-1-80	TA-W-8,084	Automatic transmission parts.
ITT Lester Industries, Inc. (company)	Bedford Hts., Ohio	5-6-80	5-1-80	TA-W-8,085	Automatic transmission parts.
Grerl & Company (company)	Fredericksburg, Va	5-8-80	5-6-80	TA-W-8,086	Tailored clothing.
Grerl & Company (company)	Baltimore, Md	5-8-80	5-6-80	TA-W-8,087	Tailored clothing.
Grerl & Company (company)	Everett, Pa	5-8-80	5-6-80	TA-W-8,088	Tailored clothing.
Grerl & Company (company)	Hanover, Pa	5-8-80	5-6-80	TA-W-8,089	Tailored clothing.
Grerl & Company (company)	Verona, Va	5-8-80	5-6-80	TA-W-8,090	Tailored clothing.
Magnavox Consumer Electronics Company (IUE).	Jefferson City, Tenn	4-14-80	4-8-80	TA-W-8,091	Cabinets for T.V.
Allison Mfg. Co. (workers)	Allentown, Pa	5-7-80	5-1-80	TA-W-8,092	Men's and boys' knit shirts.
Victor Business Products (New York Branch) (company)	New York, N.Y	5-13-80	5-6-80	TA-W-8,093	Produces, sells and services electronic business calculators and cash registers.
Eaton Corporation, Saginaw Plant (AIW)	Saginaw, Mich	5-7-80	4-29-80	TA-W-8,094	Auto engine parts.
Firestone Tire & Rubber Company (workers)	Akron, Ohio	5-12-80	5-2-80	TA-W-8,095	Radial and bias ply passenger and truck tires.
Chromalloy American Corporation, Forest Hills Sportswear Div. (ACTWU).	Lawrenceburg, Tenn	5-12-80	5-6-80	TA-W-8,096	Men's suit trousers and men's slacks.
Chemseco (workers)	Cumberland, Md	5-12-80	4-29-80	TA-W-8,097	Automotive parts.
New England Drawn Steel Co., Inc. (workers)	Mansfield, Mass	5-2-80	4-25-80	TA-W-8,098	Rolled steel bars.
Getty Fashions, Inc. (workers)	Yonkers, N.Y	5-2-80	4-28-80	TA-W-8,099	Ladies' apparel.
Garland Corporation (company)	Brockton, Mass	5-6-80	5-1-80	TA-W-8,100	Women's sweaters, knit dresses and women's sportswear.
St. Clair Rubber Company (Molded) (URW)	Marysville, Mich	5-7-80	4-29-80	TA-W-8,101	Molded rubber parts for autos; adhesives for autos.
St. Clair Rubber Company (Adhesive) (URW)	Marysville, Mich	5-7-80	4-29-80	TA-W-8,102	Molded rubber parts for autos; adhesives for autos.
G. B. Dupont Co. (company)	Troy, Mich	5-7-80	5-2-80	TA-W-8,103	Automotive cold heated products.
G. B. Dupont Co. (company)	Lapeer, Mich	5-7-80	5-2-80	TA-W-8,104	Automotive cold heated products.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Packard Electric Div. (workers).	Brookhaven, Miss	5-6-80	4-28-80	TA-W-8,105	Automotive wiring harnesses.
General Motors Corporation, Packard Electnc Division (IUE).	Warren, Ohio	5-2-80	4-24-80	TA-W-8,106	Automotive wiring harnesses.
General Motors Corporation, Packard Electnc Division (IUE)	Clinton, Miss	4-29-80	4-21-80	TA-W-8,107	Automotive wiring harnesses.
Kelly Carbide Die Corporation (company)	Roseville, Mich	5-13-80	5-8-80	TA-W-8,108	Cold heading tools for the fastener industry
Superior Industnes International, Inc. (company).	Van Nuys, Calif (Woodley Ave.)	5-2-80	4-28-80	TA-W-8,109	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Van Nuys, Calif (Keswick)	5-2-80	4-28-80	TA-W-8,110	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Los Angeles, Calif	5-2-80	4-28-80	TA-W-8,111	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	West Los Angeles, Calif	5-2-80	4-28-80	TA-W-8,112	Steel and aluminum sport automobile wheels.
Superior Industnes Internabonal, Inc. (company).	Gardena, Calif	5-2-80	4-28-80	TA-W-8,113	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Itasca, Ill (Rte 53)	5-2-80	4-28-80	TA-W-8,114	Steel and aluminum sport automobile wheels.
Superior Industnes International, Inc. (company).	Itasca, Ill (W. Bryn)	5-2-80	4-28-80	TA-W-8,115	Steel and aluminum sport automobile wheels.
C. A. Spalding Co. (company)	Philadelphia, Pa	5-13-80	5-8-80	TA-W-8,116	Tools, dies, specual machinery for autos
Dana Perfect Circle (UAW)	Rushville, Ind	5-2-80	4-30-80	TA-W-8,117	Sleeve castings, piston rings.
Gulf & Western Mfg. Co., Bohn Aluminum Brass Div. (Wkrs.).	Adrian, Mich	4-29-80	4-22-80	TA-W-8,118	Brass automotive gears, blerm bumpers.
Bethlehem Steel Corp. (workers)	Buffalo, N.Y	4-21-80	4-16-80	TA-W-8,119	Steel.
Rockport Log & Shake (workers)	Copalis Crossing, Washington	4-29-80	4-17-80	TA-W-8,120	Cedar shakes and shingles
Schurig Shoe Clinic (workers)	Warren, Mich	5-2-80	4-23-80	TA-W-8,121	Shoes and leather for shoes
Armco, Inc., Kansas City Workers (USA)	Kansas City, Mo	5-2-80	4-28-80	TA-W-8,122	Steel, rods, bolts and nuts.
Pittsburgh Tube Co. (Pittsburgh Tube Ind. Union).	Jane Lew, W. Va	5-2-80	4-29-80	TA-W-8,123	Steel.
Whittaker Steel, Strip Division (workers)	Detroit, Mich	5-2-80	4-25-80	TA-W-8,124	Steel; cold rolled, and heat treated.
Mazda Fashions (workers)	New York, N.Y	5-6-80	4-30-80	TA-W-8,125	Coats and jackets, ladies.
G. K. Technologies, General Cable Div. (USA).	Pownal, Vt	5-2-80	4-28-80	TA-W-8,126	Electrical cords.
Inland Tool & Manufactunng Co. (workers)	Detroit, Mich	5-2-80	4-28-80	TA-W-8,127	Brake parts for automobiles.
Kenworth Truck Co. (UAW)	Kansas City, Mo	5-2-80	4-24-80	TA-W-8,128	Diesels and heavy duty trucks
Penn Dixie Ind., Inc., Cement Division (UCL & GWIU).	So. Pittsburg, Tenn	5-2-80	4-26-80	TA-W-8,129	Portland cement
U.S. Industries, Inc., Barsteel Division (UAW)	Detroit, Mich	5-2-80	4-29-80	TA-W-8,130	Trim and moldings for automobiles
Sealed Power Corp., Die Cast Division (company).	Alma, Mich	5-13-80	5-2-80	TA-W-8,131	Tilt column for steering
Sealed Power Corp., Die Cast Division (company).	Dowagiac, Mich	5-13-80	5-2-80	TA-W-8,132	Oil filter bases.
Specialty Systems, Inc. (company)	Rochester, Mich	5-13-80	5-8-80	TA-W-8,133	Release agents and cleaners.
William Amer Co. (company)	Philadelphia, Pa	5-13-80	5-9-80	TA-W-8,134	Kid leathers
Dura Corporation (workers)	Southfield, Mo	5-7-80	4-30-80	TA-W-8,135	Q.E.M. auto parts.
U.S. Manufacturing Corp., Auto Products Division (UAW).	Fraser, Mich	5-13-80	5-5-80	TA-W-8,136	Automobile steering knuckles.
Triangle Auto, Spring Company (workers)	Columbia, Tenn	5-13-80	5-7-80	TA-W-8,137	Flat leaf springs for automobiles.
Machinery Builders, Inc. (UAW)	Toledo, Ohio	5-7-80	4-23-80	TA-W-8,138	Processing equipment for auto and steel industries
Julius Simon, Ruffalo Co. (workers)	New York, N.Y	5-13-80	5-7-80	TA-W-8,139	Men's swimming attire
Hayes-Albion Corp. (workers)	Tiffin, Ohio	5-13-80	5-7-80	TA-W-8,140	Cast parts for automobiles
General Electric Tube Products Div. (AIW)	Owensboro, Ky	5-13-80	5-7-80	TA-W-8,141	Cathode ray tubes for televisions.
Gulf & Western Stamping Div., Plant 22 (UAW).	Mancelona, Mich	5-13-80	5-8-80	TA-W-8,142	Brakes, hood latches for autos
Perfection Pattern & Mfg. (Pattern Mkrs. Ass.)...	Madison Hts., Mich	5-8-80	5-5-80	TA-W-8,143	Patterns, metal and wood (auto)
Automotive Pattern Company (Pattern Mkrs. Ass.).	Detroit, Mich	5-8-80	5-5-80	TA-W-8,144	Patterns, metal and wood (auto).
Conventry Pattern Company (Pattern Mkrs. Ass.).	Troy, Mich	5-8-80	5-5-80	TA-W-8,145	Patterns, wood (auto).
Commerce Engineering & Pattern (Pattern Mkrs. Ass.)	Walled Lake, Mich	5-8-80	5-5-80	TA-W-8,146	Industnal patterns
Sherwood Pattern Co. (Pattern Mkrs. Ass.)	Walled Lake, Mich	5-8-80	5-5-80	TA-W-8,147	Patterns, metal and wood (auto).
Admiral Pattern Works (Pattern Mkrs. Assoc.)..	Warren, Mich	5-8-80	5-5-80	TA-W-8,148	Patterns, metal and wood (auto).
Progress Pattern (Pattern Mkrs. Ass.)	Southfield, Mich	5-8-80	5-5-80	TA-W-8,149	Patterns, metal and wood (auto).
J & I Pattern (Pattern Mkrs. Ass.)	Troy, Mich	5-8-80	5-5-80	TA-W-8,150	Patterns, metal and wood (auto).
Annex Pattern Co. (Pattern Mkrs. Ass.)	Southfield, Mich	5-8-80	5-5-80	TA-W-8,151	Patterns, metal and wood (auto).
Sherwood Metal (Pattern Mkrs. Ass.)	Drayton Plains, Mich	5-8-80	5-5-80	TA-W-8,152	Patterns, metal and wood (auto).

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Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 26–30, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7160; Active Tool and Manufacturing Co., Inc., Detroit, Mich.

The investigation was initiated on February 19, 1980 in response to a petition which was filed on behalf of workers at Active Tool and Manufacturing Company, Incorporated, Detroit, Michigan. Workers at Active Tool and Manufacturing Company, Incorporated, produce tools and dies for the automotive industry.

The investigation revealed that criterion (3) has not been met.

It is alleged on the petition that increased imports of automobiles have caused layoffs in the automotive tool and die industry. Imported automobiles cannot be considered like or directly competitive with automotive tool and die products. Imports of automotive tool and die products must be considered in determining import injury to workers producing tools and die products at Active Tool and Manufacturing Company.

U.S. imports of tools and dies for automotive use are negligible. Industry sources indicated that because of the complex engineering involved in constructing the tools and dies, the users must have easy access to the tool and die producers for servicing, maintenance, and supply and installation of replacement parts. In this case, therefore, the certifying officer has determined that all workers of Active Tool and Manufacturing Company, Incorporated, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7559; Allen Knitting Mills, Inc., Standard Textile Mills, Inc., Paw Creek, N.C., New York, N.Y.

The investigation was initiated on April 7, 1980 in response to a petition which was filed on behalf of workers at Allen Knitting Mills, Incorporated and Standard Textile Mills, Incorporated, both located in Paw Creek, North Carolina and New York, New York. Workers at the firms produce finished knit fabric.

The investigation revealed that criterion (3) has not been met.

U.S. imports of finished fabric decreased absolutely in 1979 compared with 1978. The ratio of imports to domestic production has not exceeded 2.1 percent in any year since 1975.

Customers of Allen Knitting Mills, Incorporated were surveyed by the Department for their purchases of fabric. Survey respondents indicated they did not decrease purchases from Allen and increase purchases of imported fabric during the period 1978 through the cessation of knitting operations at the mill in August 1979.

In this case, therefore, the certifying officer has determined that all workers of Allen Knitting Mills, Incorporated and Standard Textile Mills, Incorporated, Paw Creek, North Carolina and New York, New York are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA–W–7470; American Steel and Supply Co., Eugene, Oreg.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Eugene, Oregon Service Center of the American Steel and Supply Company. Workers at the Eugene Center straighten and shear coils of steel strip into wood-burning stove and fireplace insert parts.

The investigation revealed that criterion (3) has not been met.

Sales and employment declines related to the production of wood-burning stove and fireplace insert parts at the Eugene Center were the result of seasonal fluctuations. The start-up of production for the parts normally begins in June, with the season lasting until January of the following year. In most years, the center will suffer a period of negligible orders from February through May.

The Eugene Center buys rolls of carbon steel strip, which the workers straighten and shear. The sheared carbon steel strip is then sold for use in wood-burning stoves and fireplace inserts. U.S. imports of carbon steel strip decline both absolutely and relative to domestic shipments in 1979 compared to 1978.

The average number of person-hours spent in the production of wood-burning stove and fireplace insert parts increased at the Eugene Center in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter of 1979.

Sales of wood-burning stove and fireplace insert parts increased at the Eugene Center in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Eugene, Oregon Service Center of the American Steel and Supply Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7458; Anaconda Aluminum Reduction Co., Columbia Falls, Mont.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Anaconda Aluminum Reduction Company, Columbia Falls, Montana. Workers at the plant produce aluminum.

The investigation revealed that criterion (1) has not been met.

Average employment at the Anaconda Aluminum Reduction Company increased in 1979 compared to 1978 and in the first quarter of 1980 compared to the first quarter of 1979. Any separations which occurred during this period were temporary and can be attributed to normal business fluctuations.

In this case, therefore, the certifying officer has determined that all workers of Anaconda Aluminum Reduction Company, Columbia Falls, Montana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7428; Arvin Industries, Inc., Arvin Automotive Division, Indianapolis, Ind.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the United Brotherhood of Carpenters and Joiners of America on behalf of workers at the Indianapolis, Indiana Distribution Center of the Arvin Automotive Division of Arvin Industries, Incorporated. Workers at the Indianapolis facility of Arvin Industries, Incorporated are engaged in employment related to the production of mufflers and exhaust pipes.

The investigation revealed that criterion (3) has not been met.

The department conducted a survey of the replacement market customers of the Arvin Automotive Division of Arvin Industries, Incorporated. The survey revealed that customers which decreased purchases of mufflers and exhaust pipes from Arvin while increasing purchases of imported mufflers and exhaust pipes for 1979 compared to 1978 and for the first quarter of 1980 compared to the quarter of 1979 represented insignificant proportions of the Indianapolis Distribution Center's declines in sales for those respective periods. The Distribution Center sells replacement parts produced by the Arvin Automotive Division of Arvin Industries, Incorporated.

Imports of cars cannot be considered to be like or directly competitive with replacement market mufflers and exhaust pipes produced and distributed by the Arvin Automotive Division of Arvin Industries, Incoporated. Imports of mufflers and exhaust pipes must be considered in determining import injury to workers producing and distributing replacement market mufflers and exhaust pipes for the Arvin Automotive Division of Arvin Industries, Incorporated.

Arvin Industries, Incorporated does not import exhaust pipes from its Canadian plant for the U.S. replacement market.

In this case, therefore, the certifying officer has determined that all workers of the Indianapolis, Indiana Distribution Center of the Arvin Automotive Division of Arvin Industries, Inorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7510; Atlantic Dress Manufacturing Co., Williamstown, N. J.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union On behalf of workers at Atlantic Dress Manufacturing Company. The workers produce ladies' skirts and slacks.

The investigation revealed that criterion (3) has not been met.

Atlantic Dress Manufacturing Company produces women's skirts and slacks for a single manufacturer. This manufacturer did not purchase any imported women's skirts or slacks or utilize foreign contractors for the production of those products in 1978, 1979 or in the first quarter of 1980. The manufacturer's sales did not decline in 1979 compared to 1978 or in the first three months of 1980 compared to the first three months of 1979.

In this case, therefore, the certifying officer has determined that all workers of Atlantic Dress Manufacturing Company, Williamstown, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7390, TA–W–7391; Bethlehem Mines Corp., Cambria Division, Mine No. 73, Mine No. 77, Ebensburg, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Bethlehem Mines Corporation, Cambria Division, Mine No. 73 and Mine No. 77, Ebensburg, Pennsylvania. Workers at the mine produce metallurgical coal.

Mine No. 73 and Mine No. 77 are metallurgical coal producing mines of Bethlehem Mines Corporation, the coal producing subsidiary of Bethlehem Steel Corporation. Nearly all of the coal produced by the two mines is shipped to the Johnstown steel plant of Bethlehem Steel Corporation where it is converted to coke used in steel-making. Mine No. 73 permanently closed and operations at Mine No. 77 were suspended at the end of February, 1980.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of metallurgical coal were negligible in each of the years 1975 through 1979. U.S. imports of coke declined absolutely and relative to domestic production in 1979 compared with 1978.

Bethlehem Steel Corporation purchases of foreign coke declined in 1979 compared with 1978. Bethlehem Steel Corporation ceased purchases of imported coke in December, 1979. Demand for coke by Bethlehem Steel Corporation declined as steel production declined.

U.S. imports of carbon steel bars, alloy steel bars, carbon steel wire rod, and carbon steel wire decreased absolutely and relative to domestic shipments in 1979 compared with 1978. An investigation conducted by the Office pursuant to worker petition (TA–W–7479) revealed that these four products, together, accounted for about 75% of the Johnstown plant's outside shipments during the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of Bethlehem Mines Corporation, Cambria Division, Mine No. 73 and Mine No. 77, Ebensburg, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7495; Bethlehem Mines Corp.; Ellsworth-Butler Division; Fawn No. 91 Mine; Saxonburg, Pa.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Bethlehem Mines Corporation, Ellsworth-Butler Division, Fawn No. 91 Mine, Saxonburg, Pennsylvania. Workers at the mine produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

The Fawn No. 91 mine is one of four mines producing metallurgical coal within the Ellsworth-Butler Division of Bethlehem Mines Corporation, the coal producing subsidiary of Bethlehem Steel Corporation. Nearly all of the coal mined at the Fawn No. 91 Mine is sent to the Sparrows Point, Maryland steel plant where it is converted to coke that is used in steel-making.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of metallurgical coal were negligible in the years 1975 through 1979. U.S. imports of coke declined both absolutely and relative to domestic production in 1979 compared with 1978.

Bethlehem Steel Corporation purchases of imported coke declined in 1979 compared with 1978. Bethlehem Steel Corporation ceased purchases of imported coke in December, 1979. Declines in coal production at the Fawn No. 91 Mine were the result of declines in steel production at Bethlehem Steel Corporation.

Workers at the Sparrows Point, Maryland steel plant were denied

eligibility to apply for adjustment assistance on February 8, 1980 (TA-W-6594). The denial was based upon evidence that imports of steel products produced at Sparrows Point had declined both absolutely and relative to domestic shipments during the first nine months of 1979 compared with the same period in 1978. Further examination revealed that U.S. imports of pipe and tubing, wire rods, wire and wire products, hot rolled sheet and strip, cold rolled carbon steel sheet and strip, tin plate products, galvanized steel sheet, and plate also declined both absolutely and relative to domestic production in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that all workers of Bethlehem Mines Corporation, Ellsworth-Butler Division, Fawn No. 91 Mine, Saxonburg, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7479; Bethlehem Steel Corp., Johnstown, Pa.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the Johnstown, Pennsylvania plant of the Bethlehem Steel Corporation. Workers at the Johnstown plant produce carbon and alloy steel bars, basic steel products, wire, rods, trackwork, railroad wheels, axles and circular forgings, freight cars and parts.

The investigation revealed that criterion (3) has not been met.

All workers of the Conemough and Blacklick Railroad and the Johnstown, Pennsylvania plant of the Bethlehem Steel Corporation were previously certified eligible to apply for adjustment assistance benefits until March 16, 1980 (TA-W-2556).

U.S. imports of carbon steel bars and bar size light shapes, alloy steel bars, carbon steel wire, carbon steel wire rods, basic steel products (including blooms, slabs and billets), and rail accessories (including trackwork) declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

Sales and production of freight cars, railroad wheels, axles and circular forgings increased in the first quarter of 1980 compared to the same quarter in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Conemaugh and Blacklick Railroad and the Johnstown, Pennsylvania plant of the Bethlehem Steel Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7462; Birmingham Southern Railroad Co.; Birmingham, Ala.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Transportation Union on behalf of workers at the Birmingham Southern Railroad Company in Birmingham, Alabama. Workers at the Birmingham Southern Railroad Company are engaged in the transportation of commodities.

The investigation revealed that criterion (2) has not been met.

A revenue car is a freight car handled by the company for which revenue is received. The total number of revenue cars hauled by the Birmingham Southern Railroad Company increased in 1979 compared to 1978 and remained constant in the first four months of 1980 compared to the like 1979 period.

In this case, therefore, the certifying officer has determined that all workers of the Birmingham Southern Railroad Company which is headquartered in Birmingham, Alabama are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7631; Bruce Cartage Co., Saginaw, Mich.

The investigation was initiated on April 21, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 332, on behalf of workers at Bruce Cartage Company, Inc., Saginaw, Michigan. The workers at Bruce Cartage Company, Inc. are engaged in providing the service of transporting freight by truck.

The investigation revealed that workers of Bruce Cartage Company, Inc., do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Bruce Cartage Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Bruce Cartage Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company which produces an article.

All workers engaged in transporting freight at Bruce Cartage Company, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Bruce Cartage Company, Inc. All employee benefits are provided and maintained by Bruce Cartage Company, Inc. Workers are not, at any time, under employment or supervision by customers of Bruce Cartage Company, Inc. Thus, Bruce Cartage Company, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Bruce Cartage Company, Saginaw, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7463; Canteen Corp., Detroit, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Canteen Corporation, Detroit, Michigan. The workers at Canteen Corporation are engaged in providing food services.

The investigation revealed that workers of Canteen Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Canteen Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Canteen Corporation and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company which produces an article.

All workers engaged in providing food services are employed by that firm. All personnel actions and payroll transactions are controlled by Canteen Corporation. All employee benefits are provided and maintained by Canteen Corporation. Workers are not, at any time, under employment or supervision by customers of Canteen Corporation. Thus, Canteern Corporation and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Canteen Corporation, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7424; Central Foundry Co., Holt, Ala.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Central Foundry Company, Holt, Alabama. The workers produce cast iron soil pipes and fittings.

The investigation revealed that criterion (3) has not been met.

U.S. imports of cast iron pipes and fittings declined both absolutely and relative to domestic shipments in 1979 compared to 1978. The ratio of imports to domestic shipments did not exceed one-half of one percent during the period 1975 through 1979.

Company imports accounted for less than one-half of one percent of company shipments during the period October 1979 through March 1980.

A survey of major customers of Central Foundry Company was conducted by the Department. The survey revealed that customers did not purchase any imported cast iron soil pipes or fittings during 1978, 1979, or January–March 1980.

In this case, therefore, the certifying officer has determined that all workers of Central Foundry Company, Holt, Alabama are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7575, 7699, 7609, 7609A; Clinch Valley Coal Corp., Pigeon Branch Coal Co., Inc., Tazewell County, Va., McDowell County, W. Va.

The investigations were initiated on April 7, April 28, and April 14, 1980 in response to three petitions which were filed on behalf of workers at Clinch Valley Coal Corporation #2 Mine (TA-W-7575 and #1 Mine (TA-W-7699), Tazewell County, Virginia and Pigeon Branch Coal Company, Incorporated #7 Mine (TA-W-7609) Tazewell County, Virginia and #8 Mine (TA-W-7609A), McDowell County, West Virginia. Workers at all of the mines produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competititve with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant in relation to domestic production from 1975 through 1979. Imports of coke decreased absoltely and relative to domestic production in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that all workers of Clinch Valley Coal Corporation #1 Mine (TA-W-7575) and #2 Mine (TA-W-7699), Brewster Hollow, Tazewell County, Virginia and Pigeon Branch Coal Company, Incorporated, #7 Mine (TA-W-7609), Tazewell County, Virginia and #8 Mine (TA-W-7609A), Dry Fork, McDowell County, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7533; Dee Vee Manufacturing Co., Inc., Poughkeepsie, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Dee Vee Manufacturing Company, Incorporated, Poughkeepsie, New York. The workers produce ladies' dresses.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's and misses; dresses decreased absolutely in 1979 compared to 1978.

A Departmental survey of the manufacturers for whom Dee Vee Manufacturing performs contract work revealed that the manufacturers did not utilize foreign contractors nor import women's dresses in 1978 or 1979. While decreasing the amount of contract work given to Dee Vee in 1979 compared to 1978, these manufacturers increased their business with other domestic contractors over the same time period. The manufacturers experienced increasing sales from 1978 to 1979.

In this case, therefore, the certifying officer has determined that all workers of Dee Vee Manufacturing Compnay, Incorporated, Poughkeepsie, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7354; E & R Creations, Inc., New York, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at E & R Creations, Incorporated, New York, New York. Workers at E & R Creations, Incorporated produced women's fake fur coats and jackets.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, Misses', and children's coats and jackets decreased absolutely in 1979 compared to 1978.

The Department conducted a survey of some customers of the manufacturer for whom E & R worked. The results of this survey revealed that most of these customers did not purchase imports.

In this case, therefore, the certifying officer has determined that all workers of E & R Creations, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7416; Farwell Manufacturing, Inc., Farwell, Mich.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Farwell Manufacturing, Incorporated, Farwell, Michigan. The workers produce rear window molding.

The investigation revealed that criterion (3) has not been met.

The petitioner alleged that the importation of automobiles has affected the demand for rear window molding for automobiles. Automobiles cannot be considered to be like or directly competitive with rear window molding. Imports of rear window molding must be considered in determining import injury to workers producing rear window molding at Farwell Manufacturing.

A Departmental survey conducted with Farwell's customers revealed that customers did not purchase imported rear window molding in 1978, 1979 or in the first two months of 1980.

In this case, therefore, the certifying officer has determined that all workers of Farwell Manufacturing, Incorporated, Farwell, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7384; Gateway Industries, Inc., Michigan City, Ind.

The investigation was initated on March 17, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers at Gateway Industries, Incorporated, Michigan City, Indiana. The workers produce seat belts.

The investigation revealed that criterion (3) has not been met.

The petition cites increased imports of foreign automobiles and alleges a shift of production operations from Michigan City to a company facility in Mexico.

Seat belts cannot be considered to be like or directly competitive with automobiles. Imports of seat belts must be considered in determining import injury to workers producing seat belts at

Gateway Industries, Incorporated

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Gateway Industries, Incorporated, Michigan City, Indiana.

Transfer of seat belt production by Gateway from Michigan City to the company plant in Mexico occurred prior to the earliest possible impact date. Imports of seat belts from Gateway's Mexican facility decreased in 1979 compared to 1978 and decreased in the first three months of 1980 compared to the same period in 1979.

Gateway Industries produces seat belts for two major automobiles manufacturers. A Department survey revealed that one of the these customers did not purchase imported seat belts during 1978 or January–September 1979. The other customer increased purchases of domesticially produced seat belts during January–September 1979 compared to the same period in 1978.

In this case, therefore, the certifying officer has determined that all workers of Gateway Industries, Incorporated, Michigan City, Indiana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7047; General Mortors Corp., Delco-Remy Division, Olatahe, Kans.

The investigation was initiated on February 11, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.) on behalf of workers at Olathe, Kansas plant of the Delco-Remy Division of General Motors Corporation. Workers at the Olathe plant produce batteries.

The investigation revealed that criterion (3) has not been met.

In order to determine if increased imports contributed importantly to production and employment declines at General Motors Corporation component parts plants, the Department sought to determine the degree to which each plant was integrated into the production of General Motors cars, trucks, vans, and general utility vehicles which have been subject to imput injury.

There were no significant layoffs at the Olathe plant until the second quarter of model year (MY) 1980. The plant was not substantially integrated into the productiaon of trade-impacted vehicles during the initial months of MY 1980. A substantial proportion of the batteries produced at the plant in this period were sold to customers outside of the General Motors Corporation. Therefore imports of automobile batteries must be considered in determining import injury to workers at the Olathe plant.

U.S. imports of automobile batteries have not been significant compared with domestic production. The ratio of imports to domestic production remained below three percent in each year from 1975 throught 1979.

Plant sales to outside customers increased in the first four months of MY 1980 compared with the same MY 1979 period.

In this case, therefore, the certifying officer has determined that all workers of Olathe, Kansas plant of the Delco-Remy Division of General Motors Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7301; Globe Industries, Inc., Oregon, Ohio

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the Retail, Wholesale, and Department Store Union on behalf of wokers at the Oregon, Ohio plant of Globe Industries, Incorporated. Workers at the Oregon plant produce acoustical insulation for automobiles.

The investigation revealed that criterion (3) has not been met.

Evidence developed during the course of the investigation revealed that imports of acoustical insulation declined in value absolutely and relative to domestic production in 1979 from 1978.

Petitioners allege that increased imports of automobiles have caused declines in sales, production and employment at the Oregon, Ohio plant of Globe Industries, Incorporated. Although imported automobiles incorporate acoaustical insulation, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of accoustical insulation must be considered in determining import injury to workers producing acoustical insulation at the Oregon, Ohio plant of Globe Industries, Incorporated.

In this case, therefore, the certifying officer has determied that all workers of the Oregon, Ohio plant of Globe Industries, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade act of 1974.

TA–W–7352; Harmony Mining Co., Johnstown, Pa., Portage, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at the Harmony Mining Company, Johnstown, Pennsylvania and Portage, Pennsylvania. Workers at the Harmony Mining Company produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

U.S. imports of metallurgical coal are negligible. Imports of coke, which is coal at a later stage of processing, decreased absolutely and relative to domestic production in 1979 compared with 1978 and in the first two months of 1980 compared with the same period of 1979.

The United Mine Workers of America, which represents all workers at Harmony's mine, was on strike from December 1977 through March 1978. Therefore, in order to eliminate the effects of the strike on sales and production at the Harmony Mining Company, the appropriate time periods for purposes of analysis are April to December 1979 compared with April to December 1978. Sales and production of metallurgical coal at Harmony increased in April to December 1979 compared to April to December 1978 before declining in the first three months of 1980 compared with the same period of 1979. The distributors to whom Harmony sells its coal do not purchase imported metallurgical coal or coke. These distributors reported that they reduced their purchases from Harmony in the first three months of 1980 compared with the same period of 1979 due to declines in their own coal sales. Surveyed major customers of these distributors indicated that they purchased no imported metallurgical coal or coke in the first three months of 1980.

In this case, therefore, the certifying officer has determined that all workers of the Harmony Mining Company, Johnstown, Pennsylvania and Portage, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7434; Harwood Manufacturing Co., Shipping Department, Marion, Va.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at the Marion, Virginia Shipping Department of the Harwood Manufacturing Company. The workers in the department ship primarily men's and boys' pajamas, robes and undershorts.

The investigation revealed that criterion (3) has not been met.

The declines in employment at the Shipping Department of the Harwood Manufacturing Company occurred in the first quarter of 1980 compared with the same period of 1979. Harwood's sales of men's and boys' pajamas and robes increased in the last quarter of 1979 compared with the same quarter of 1978 and increased in the first quarter of 1980 compared with the same period of 1979. The quarter to quarter declines were due to the seasonal nature of sales. Sales of pajamas and robes are seasonally heavy during the September through Christmas period, and fall off significantly in the first four to five months of the year.

The Department surveyed all customers who decreased purchases of undershorts from Harwood in 1979 compared with 1978. None of the respondents reported any purchases of imported undershorts in 1978, 1979 or in the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of the Marion, Virginia Shipping Department of the Harwood Manufacturing Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7491; Herbert Kenzer, Inc., New York, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Herbert Kenzer, Incorporated, New York, New York. The workers produce ladies' coats.

The investigation revealed that criterion (3) has not been met.

Average employment at Herbert Kenzer, Incorporated, increased in 1978 compared to 1977 and remained essentially unchanged from 1978 to 1979. Average employment increased in the first quarter of 1980 compared to the first quarter of 1979. Average hours worked increased in 1979 compared to 1978. The average number of workers was relatively unchanged in each quarter of 1979 as compared to the corresponding quarter of 1978. All quarter to quarter employment declines are due to normal seasonal fluctuations.

U.S. imports of women's, misses', and children's coats and jackets decreased absolutely in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that all workers of Herbert Kenzer, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7396; Imperial Cartage Co., St. Louis, Mo.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Imperial Cartage Company, St. Louis, Missouri. The workers at Imperial Cartage Company are engaged in providing the service of transporting trailers into and away from loading docks.

The investigation revealed that workers of Imperial Cartage Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Imperial Cartage Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Imperial Cartage Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing a product.

All workers engaged in transporting trailers at Imperial Cartage Company are employed by that firm. All personnel actions and payroll transactions are controlled by Imperial Cartage Company. All employee benefits are provided and maintained by Imperial Cartage Company. Workers are not, at any time, under employment or supervision by customers of Imperial Cartage Company. Thus, Imperial Cartage Company and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Imperial Cartage Company, St. Louis, Missouri are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7800; Jo-Flo Coal Co., Inc., Tazewell, Va.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Jo-Flo Coal Company, Incorporated. Workers at the mine produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant in relation to domestic production from 1975 through 1979. Imports of coke decreased absolutely and relative to domestic production in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that all workers of Jo-Flo Coal Company, Incorporated, Tazewell, Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7418; Ligia Fashions, Inc., Newark, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies Garment Workers Union on behalf of workers at Ligia Fashions, Incorporated. Workers at the Newark, New Jersey plant produce women's blazers and suit jackets.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats, jackets and suits decreased absolutely from 1978 to 1979.

A survey of manufacturers which contract orders from Ligia Fashions, Incorporated revealed that manufacturers which decreased orders from the subject firm did not increase purchases of imported women's blazers and suit jackets in 1979 compared with 1978 and in the first four months of 1980 compared with the same period of 1979. These manufacturers also reported no foreign contract work for the same periods.

In this case, therefore, the certifying officer has determined that all workers of Ligia Fashions, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7319; Louis Goldstein, Inc., New York, N.Y.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Louis Goldstein, Incorporated, New York, New York. The workers produced ladies' coats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in 1979 compared to 1978.

Most surveyed customers that decreased purchases from Louis Goldstein, Incorporated either did not increase imports of ladies' coats, or had increased purchases from other domestic sources during the period under investigation.

In this case, therefore, the certifying officer has determined that all workers of Louis Goldstein, Incorporated, New York, New York are denied eligibility to

apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7356; Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Mich.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Michigan. The workers produce specialty nuts.

The investigation revealed that criterion (3) has not been met.

U.S. imports of specialty fasteners, including nuts, were negligible during 1978 and 1979. Total U.S. imports of nuts decreased both absolutely and relative to domestic production during 1979 compared to 1978. A survey of customers who have purchased nuts from the Detroit Diamond Division of Microdot Manufacturing, Incorporated was conducted by the Department. Results revealed that all of the surveyed customers indicated that they did not increase purchases of imported nuts while reducing purchases from Detroit Diamond during 1979. One customer reported reducing purchases from Detroit Diamond while increasing purchases of imported nuts during the first quarter of 1980; this customer represented only a small percentage of Detroit Diamond's sales decline during that quarter.

The petitioners allege, in part, that increased imports of automobiles contributed importantly to the decline in sales or production and to the separation of workers producing specialty nuts at Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Michigan.

Automobiles cannot be considered to be like or directly competitive with specialty nuts. Imports of specialty nuts must be considered in determining import injury to workers producing specialty nuts.

In this case, therefore, the certifying officer has determined that all workers of Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7455; Miller Plating Corp., Jackson, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Miller Plating Corporation, Jackson, Michigan. The workers at Miller Plating are engaged in providing the services of painting and plating primarily automotive parts for manufacturers of those parts. These operations are performed pursuant to contracts with the manufacturers. Miller Plating does not own any of the parts it paints or plates.

The investigation revealed that workers of Miller Plating Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Miller Plating Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Miller Plating Corporation and its customers have no controlling interest in one another. The subject firm is corporately affiliated with a company, but that company is not a customer of Miller Plating Corporation.

All workers engaged in painting and plating automotive products at Miller Plating Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by Miller Plating Corporation. All employee benefits are provided and maintained by Miller Plating Corporation. Workers are not, at any time, under employment or supervision by customers of Miller Plating Corporation. Thus, Miller Plating Corporation, and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of the Miller Plating Corporation, Jackson, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7265; Phillips Ford, Inc., Butte, Mont.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Phillips Ford, Inc., Butte, Montana. The workers are engaged in the sales and servicing of automobiles and trucks.

The investigation revealed that workers of Phillips Ford, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Phillips Ford, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Phillips Ford, Inc. and its suppliers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in the sales and servicing of automobiles and trucks at Phillips Ford, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Phillips Ford, Inc. All employee benefits are provided and maintained by Phillips Ford, Inc. Workers are not, at any time, under employment or supervision by suppliers of Phillips Ford, Inc. Thus, Phillips Ford, Inc. and not any of its suppliers, must be considered to be the "workers' firms".

In this case, therefore, the certifying officer has determined that all workers of Phillips Ford, Inc., Butte, Montana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7497; Puerto Rico Chemical Co., Arecibo, P.R.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Puerto Rico Chemical Company, Arecibo, Puerto Rico. Workers at the Arecibo plant produced phthalic anhydride.

The investigation revealed that criterion (3) has not been met.

U.S. imports of phthalic anhydride declined both absolutely and relative to domestic shipments in 1978 compared to 1977, and in 1979 compared to 1978.

The Arecibo plant of the Puerto Rico Chemical Company was never fully restored after an explosion which occurred on July 10, 1979.

In this case, therefore, the certifying officer has determined that all workers of Puerto Rico Chemical Company, Arecibo, Puerto Rico are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7437; U.S.M. Corp., Bailey Division, Seabrook, N. H.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Bailey Division of U.S.M. Corporation, Seabrook, New Hampshire. Workers primarily produce front ends and insulators for automobiles.

The investigation revealed that criterion (3) has not been met.

U.S. imports of motor vehicle bumpers decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979.

Industry sources indicate that U.S. imports of insulators, including weatherstripping and window-glass run channels, were negligible in 1978 and 1979.

A Department survey of the customers of U.S.M. Corporation, Bailey Division revealed that none of the customers surveyed increased purchases of imported automotive weatherstripping and window-glass run channels from 1978 to 1979.

A survey revealed that customers which increased purchases of grilles from foreign sources also increased in-house production and purchases from other domestic surces. Customers indicated that purchases of imported grilles represented an insignificant proportion of total purchases.

Petitioners allege that increased imports of automobiles have caused decreases in production and employment at U.S.M. Corporation, Bailey Division. Although imported automobiles incorporate automotive front ends and insulators, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of automotive bumpers, grilles and insulators must be considered in determining import injury to workers producings automotive front ends and insulators at U.S.M. Corporation, Bailey Division.

In this case, therefore, the certifying officer has determined that all workers of the Bailey Division of U.S.M. Corporation, Seabrook, New Hampshire are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974

TA-W-7386; U.S. Pool Car, Inc., Melvindale, Mich.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at U.S. Pool Car, Inc., Melvindale, Michigan. The workers at U.S. Pool Car, Inc. are engaged in providing the service of loading and unloading automotive parts.

The investigation revealed that workers of U.S. Pool Car, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to U.S. Pool Car, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

U.S. Pool Car, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing a product.

All workers engaged in loading and unloading automotive parts at U.S. Pool Car, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by U.S. Pool Car, Inc. All employee benefits are provided and maintained by U.S. Pool Car, Inc. Workers are not, at any time, under employment or supervision by customers of U.S. Pool Car, Inc. Thus, U.S. Pool Car, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of U.S. Pool Car, Inc., Melvindale, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7382; U.S. Steel Corp., U.S. Steel Supply Division, Indianapolis, Ind.

The investigation was initiated on march 17, 1980 in response to a petition which was filed by the Teamsters on behalf of workers at the U.S. Steel Supply Division of the U.S. Steel Corporation, Indianapolis, Indiana. Workers at the Indianapolis, Indiana facility sell steel products.

The investigation revealed that criterion (3) has not been met.

The U.S. Steel Supply Division of the U.S. Steel Corporation sells a wide variety of steel products produced at company steel mills. The product mix distributed by the Supply Division essentially constitutes a cross section of the product mix produced by the U.S. Steel Corporation.

Imports of all steel products declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

Although sales made by the Indianapolis facility increased in 1979 compared to 1978, the facility was closed on march 1, 1980. The facility was closed as a result of a company decision to consolidate distribution operations. Former customers of the Indianapolis facility are now being served from the company's facility in Chicago, Illinois.

In this case, therefore, the certifying officer has determined that all workers of the U.S. Steel Supply Division of the U.S. Steel Corporation in Indianapolis, Indiana are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA-W-7451; Wabash Transformer Corp., Farmington, Mo.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Wabash Transformer Corporation. Workers at the Farmington, Missouri plant produce transformers and rectifiers.

The investigation revealed that criterion (3) has not been met.

With Respect to Workers Producing Transformers

All of the transformers produced by the company were utilized in the construction of televisions. The function previously performed by the transformers is currently being performed by integrated circuits which are not produced by the company. Integrated circuits, which are the result of recent advances in electronic technology, are more dependable, efficient and less costly to produce than the transformers which they replaced.

With Respect to Workers Producing Rectifiers

The Wabash Transformer Corporation is a subsidiary of Wabash, Inc. All of the rectifiers produced by the Wabash Transformer Corporation were utilized by another company subsidiary in the production of generators and alternators which were designed as replacement parts for automobiles.

Imports of battery charging generators and alternators declined both absolutely and relative to domestic shipments in 1979 compared to 1978. The ratio of imports to domestic shipments was less than 3 percent in both 1978 and 1979.

The petitioners allege that imports of automobiles contributed to a decline in employment and sales or production at their company. Imported automobiles cannot be considered like or directly competitive with rectifiers. As all of the rectifiers produced by the company are used by the company in the production of alternators and generators, imports of alternators and generators must be considered in determining import injury to workers producing rectifiers at the Wabash Transformer Corporation.

In this case, therefore, the certifying officer has determined that all workers of the Wabash Transformer Corporation, Farmington, Missouri are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 26–30th, 1980.

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Dated: June 2, 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17230 Filed 6-5-80; 8:45 am]

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[TA-W-7173]

Plakie, Inc.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on February 25, 1980 in response to a worker petition received on February 8, 1980 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing infant accessories, including rattles, at the Youngstown, Ohio plant of Plakie, Incorporated. The infant accessories produced at this plant are separated into two product lines—plastic nursery products and soft goods (also known as sewing items).

Workers Engaged in Employment Related to the Production of the Soft Goods Product Line

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers engaged in employment related to the production of the soft goods product line:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production and employment declines related to the soft goods product line at the Youngstown, Ohio plant of Plakie, Incorporated are attributable to a domestic transfer of production.

Plakie, Incorporated opened a plant in Quincy, Florida in 1977 to produce exclusively soft goods. Production of soft goods at the Youngstown plant began to decline in the third quarter of 1979 and continued to decline in the fourth quarter 1979 and in the January–February period of 1980 as compared to the corresponding period of the previous year. In the third quarter of 1979, the company began to transfer soft goods production from the Youngstown plant to the Quincy plant. Production of soft goods at the Quincy, Florida plant increased substantially from 1978 to 1979 and in January–February 1980 compared to January–February 1979. Company-wide production of soft goods articles was constant from 1978 to 1979 and increased in January–February 1980 compared to the same period in 1979.

Company sales of soft goods increased in value in each quarter in 1979 compared to the same quarter in 1978, and in January and February 1980 compared to the like period of 1979.

Workers Engaged in Employment Related to the Production of Plastic Nursery Products.

With respect to workers engaged in employment related to the production of plastic nursery products, all of the criteria have been met.

U.S. imports of infants' toys, excluding dolls and stuffed toys, increased absolutely and relative to domestic production in 1978 compared to 1977. Imports increased absolutely in 1979 when compared to the average level of imports for the period of 1976–1978.

Production of plastic nursery products at the Youngstown, Ohio plant of Plakie, Incorporated began to decrease in the second quarter of 1979 compared to the like quarter in 1978 and continued to decrease in the last two quarters of 1979 compared to the same quarters in 1978. Production also decreased in January and February 1980 compared to the same periods in 1979.

The average number of workers in the Plastics Department decreased in each quarter of 1979 compared to the same quarter of 1978 and decreased in the first two months of 1980 compared to the same months in 1979.

Plakie, Incorporated imported some plastic rattles in 1978. In September 1979, the company began to import plastic nursery products on a regular basis. Imports of plastic nursery products increased substantially from 1978 to 1979 and in January–February 1980 compared to January–February 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with plastic nursery products produced at the Youngstown, Ohio plant of Plakie, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers engaged in employment related to the production of plastic nursery products. In accordance with the provisions of the Act, I make the following certification:

All workers of Plakie, Incorporated, Youngstown, Ohio engaged in employment related to the production of plastic nursery products who became totally or partially separated from employment on or after November 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all workers of Plakie, Incorporated, Youngstown, Ohio, engaged in employment related to the production of soft goods (also known as sewing items), are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 2d day of May 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-17237 Filed 6-5-80; 8:45]

BILLING CODE 4510-28-M

[TA-W-7477]

Robertson & Associates (Alabama), Inc., Fabius Mine; Termination of Investigation

Pursuant to sectioin 221 of the Trade Act of 1974, an investigation was initiated on March 31, 1980, in response to a worker petition received on February 18, 1980, which was filed on behalf of workers and former workers at the Fabius Mine, Fabius, Alabama of Robertson & Associates (Alabama), Inc. Workers at the Fabius Mine produced bituminous coal.

Notice of the Investigation was published in the **Federal Register** on March 31, 1980 (45 FR 23099–100). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers at Fabius Mine were previously denied eligibility to apply for adjustment assistance on October 25, 1979 (TA-W-6156). That investigation was initiated on October 4, 1979 in response to a worker petition which had been signed on September 24, 1979.

The mine in question was shut down and employment of all workers was terminated in August 1979.

Since the previous investigation was conducted after the mine closed, and since the mine has never since reopened, and since no new evidence has been presented which contradicts the findings of the previous investigation, the findings of the previous investigation are still valid and further investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 30th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17238 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period May 26–30, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA-W-7431; Acme Optical Manufacturing Co., Inc., Providence, R.I.

The investigation was initigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Acme Optical Manufacturing Company, Incorporated, Providence, Rhode Island. The workers produced metal framed sunglasses.

U.S. imports of sunglasses increased absolutely from 1977 to 1978 and increased relative to domestic production from 1977 to 1978 and from 1978 to 1979.

All metal framed sunglasses produced by Acme Optical were sold to Opti-Ray, Incorporated. A departmental survey was conducted of a random sample of Opti-Ray's customers who purchased metal-framed sunglasses produced by Acme in 1978, 1979 and 1980. This survey revealed that, in aggregate, respondents to the random sample increased their reliance on imported metal-framed sunglasses to satisfy their sunglass demand from 1978 to 1979 and during the first quarter of 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Acme Optical Manufacturing Company, Incorporated, Providence, Rhode Island who became totally or partially separated from employment on or after March 4, 1979 and before April 30, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7414; Ameri-Tex, Industries, Showhegan, Maine

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Ameri-Tex Industries, Skowhegan, Maine. The workers produce shoe and boot soles and heels.

U.S. imports of both nonleather bottom stock materials for footwear and leather soling materials reached a four-year high in 1978 before declining in 1979.

A survey conducted by the Department of Commerce revealed that a major customer reduced purchases from Ameri-Tex Industries while increasing purchases of imported shoe soles in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Ameri-Tex Industries, Showhegan, Maine who became totally or partially separated from employment on or after February 28, 1980 are eligible to apply for adjustment assistant under Section 223 of the Trade Act of 1974.

TA-W-7521; Clair Glove Co., Gloversville, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers at Clair Glove Company, Gloversville, New York. The workers produced sport gloves.

U.S. imports of sport gloves increased absolutely in 1978 compared to 1977, and in 1979 compared to 1978.

A Departmental survey of customers which purchased sport gloves from Clair Glove Company indicated that these customers increased their reliance on imported sport gloves in 1979 compared to 1978 and in the first quarter of 1980 compared to the first quarter of 1979. The survey further revealed that customers intend to increase their reliance on imported sport gloves in the future due to price considerations.

In this case, therefore, the certifying officer has determined that:

All workers of Clair Glove Company, Gloversville, New York who became totally or partially separated from employment on or after February 4, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7375, 7375a; Eastland Woolen Mill, Inc., Basin Mill, Inc., Corinna, Maine

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Eastland Woolen Mill, Incorporated, Corinna, Maine. The investigation was expanded to include workers at Basin Mill, Incorporated, Corinna, Maine. The workers produce finished woolen fabric.

U.S. imports of finished wool fabric increased absolutely in 1979 compared to 1978.

A survey conducted by the Department revealed that customers representing a significant portion of the subject firm's sales declines reduced purchases from other domestic manufacturers and increased purchases of imported finished wool fabric during the period under investigation.

In this case, therefore, the certifying officer has determined that:

All workers of Eastland Woolen Mill, Incorporated and Basin Mill, Incorporated, Corinna, Maine who became totally or partially separated from employment on or after March 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7341; Garment Makers, Inc., Brooklyn, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Garment Makers, Incorporated, Brooklyn, New York. The workers produce ladies' coats.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in each year from 1975 through 1978 inclusive. The ratio of imports to domestic production exceeded 50 percent from 1976 through 1978.

Customers responding to a survey conducted by the U.S. Department of Labor, decreased purchases from Garment Makers, Incorporated and increased purchases of imported ladies' coats in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Garment Makers, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7603; General Motors Corp., Delco Products Division, Rochester, N.Y.

The investigation was initiated on April 14, 1980 in response to a petition which was filed by the International Union of Electrical, Radio and Machine workers on behalf of workers at the Rochester, New York plant of the Delco Products Division of General Motors Corporation. The workers at the Rochester plant produce small electric motors for automobiles.

In order to determine if increased

In this case, therefore, the certifying

Juniors in 1978 and 1979 reduced

absolutely and relative to domestic

seven of these facilities on November 6,

eligible to apply for adjustment assistance

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In order to determine if increased imports contributed importantly to production and employment declines at General Motors Corporation component parts plants, the Department sought to determine the degree to which each facility was integrated into the production of General Motors cars, trucks, vans, and general utility vehicles which have been subject to import injury. Where substantial integration was established the Department considered imports of "like or directly competitive" cars, trucks, vans and general utility vehicles in determining import injury to workers producting component parts at the various plants.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 18 of General Motors Corporation's car and truck assembly plants (TA–W–6783, 6917, 6999–7000, 7009, 7015–16, 7059, 7071, 7073–76, 7078–82). Workers at these plants are engaged in production of one or more of the following car or truck lines: mid-size, standard and luxury/speciality cars, pick-up trucks, vans, and general utility vehicles.

During the course of the investigation, it was established that the Rochester, New York plant of the Delco Products Division produced a significant proportion of its output for use in the GM car and truck lines which have been subject to import injury.

In this case, therefore, the certifying officer has determined that:

All workers of the Rochester, New York plant of the Delco Products Division of General Motors Corporation who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7430; La Moda Fashions, Inc.; Paterson, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at La Moda Fashions, Incorporated, Paterson, New Jersey. The workers produce ladies' coats.

U.S. imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production has exceeded 50.0% in every year since 1976.

A surveyed major customer of La Moda Fashions, Incorporated decreased purchases from the subject firm and increased purchases of imported coats in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of La Moda Fashions, Incorporated, Paterson, New Jersey who became totally or partially separated from employment on or after August 24, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7494; Merrill Sharpe, Limited, New York, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers of Merrill Sharpe, Limited, New York, New York. The workers produced men's woven sport and dress shirts.

U.S. imports of men's and boys' woven sports shirts, dress shirts and business shirts increased in quantity from 1978 to 1979.

The Department conducted a survey of customers which purchased men's woven sport and dress shirts from Merrill Sharpe, Limited. Some surveyed customers of Merrill Sharpe, Limited decreased purchases from the subject firm and increased purchases of imported men's woven sport and dress shirts from 1978 to 1979.

Merrill Sharpe, Limited closed its New York City manufacturing facility in April 1980. The firm continues to operate its New York City sales office. No layoffs occurred at the sales office in 1979 or the first four months of 1980.

In this case, therefore, the certifying officer has determined that all workers of the New York, New York manufacturing facility of Merrill Sharpe, Limited who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the trade Act of 1974.

TA–W–7419, Olympic Juniors, Inc., Newark, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at Olympic Juniors, Incorporated, Newark, New Jersey. The workers produce ladies' sportswear and suits.

U.S. imports of women's, misses' and children's skirts increased absolutely from 1977 to 1978 and from 1978 to 1979.

U.S. imports of women's, misses' and children's coats and jackets, slacks and shorts, and suits increased absolutely and relative to domestic production in 1978 compared to 1977.

A Department survey of manufacturers for which Olympic Juniors does contract work revealed that manufacturers representing the majority of contract work done by Olympic Juniors in 1978 and 1979 reduced contracts with Olympic Juniors and other domestic sources in 1979 compared to 1978 while increasing contracts with foreign sources. Orders to Olympic Juniors increased during the first quarter of 1980 compared to the first quarter of 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Olympic Juniors, Incorporated, Newark, New Jersey who became totally or partially separated from employment on or after February 28, 1979 and on or before January 4, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7417; Seiberling Latex Products, Inc.; Oklahoma City, Okla.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers at Seiberling Latex Products, Incorporated, Oklahoma City, Oklahoma. The workers produce primarily latex gloves.

U.S. imports of household and industrial gloves increased absolutely and relative to domestic production from 1978 to 1979.

A Departmental survey was conducted among a random sample of customers who purchased household gloves and industrial gloves from Seiberling latex. The survey revealed that, in aggregate, household glove customers responding to the random sample, substantially increased their reliance on imported household glove from 1978 to 1979 and in the first quarter of 1980 compared to the first quarter of 1979. Customers who purchased industrial gloves from Seiberling also increased their reliance on imported industrial gloves to satisfy their glove demand in the first quarter of 1980 compared to the first quarter of 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Seiberling Latex Products, Incorporated, Oklahoma City, Oklahoma who became totally or partially separated from employment on or after April 1, 1979 and before May 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7401; Springfield Machine & Stamping, Inc. Warren, Mich.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Springfield Machine and Stamping, Inc., Warren, Michigan. The workers produce exterior automotive trim (metal molding).

Imports of exterior automotive trim (metal molding) increased both absolutely and relative to domestic shipments in 1979 compared to 1978.

A Department of Labor survey revealed that customers decreased purchases from Springfield and increased purchases of imported exterior automotive trim in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Spingfield Machine and Stamping, Inc., Warren, Michigan who became totally or partially separated from employment on or after February 13, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7415; Strausbaugh Dodge, Inc., Youngstown, Ohio

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Strausbaugh Dodge, Incorporated, Youngstown, Ohio. The workers were engaged in the sale and servicing of Dodge cars and trucks.

Prior to its closing in February 1980, Strausbaugh Dodge, Incorporated sold and serviced all Dodge car and truck lines which Chrysler Corporation marketed in the United States. Since workers at Strausbaugh Dodge, Incorporated did not produce an article within the meaning of Section 222 (3) of the Trade Act, they may be certified only if their separation was importantly caused by a reduced demand for their services from either the parent firm or from a firm otherwise related to Strausbaugh Dodge, Incorporated by ownership or control. In either case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly and substantially relate to the product or products adversely impacted by imports.

The Department determined that sales and employment declines at Strausbaugh Dodge, Incorporated, a wholly owned subsidiary of Chrysler Corporation, were directly and substantially related to increased imports of articles like or directly competitive with Dodge car and truck lines produced by Chrysler Corporation. Sales of trade-impacted Dodge cars and trucks accounted for a major proportion of the total sales of Strausbaugh Dodge, Incorporated in both 1978 and 1979. Production of these car and truck lines declined significantly from MY 1978 to MY 1979 at Chrysler's Hamtramck, Newark, St. Louis, Lynch Road, Jefferson, Warren Truck, and Missouri Truck assembly plants. Certifications were issued on behalf of workers at all seven of these facilities on November 6, 1979 (TA–W–5979–83, 6037–38).

In this case, therefore, the certifying officer has determined that:

All workers of Strausbaugh Dodge, Incorporated, Youngstown, Ohio, who became totally or partially separated from employment on or after October 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 26–30th, 1980.

Signed at Washington, D.C. this 2nd day of June 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17229 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of certifications of eligibilty to apply for worker adjustment assistance issued during the period May 19–23rd, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA–W–7298; Belmont Garment Co., Cambridge, Mass.

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at Belmont Garment Company, Cambridge, Massachusetts. The workers produce men's topcoats and raincoats.

U.S. imports of men's and boy's nontailored outer jackets and men's water repellent rainwear increased in 1978 compared with 1977.

Surveyed customers of Belmont Garment Company reported that they had decreased purchases of men's topcoats and raincoats from the subject firm and increased their reliance on foreign sources for similar items during the period under investigation.

In this case, therefore, the certifying officer has determined that:

All workers of Belmont Garment Company, Cambridge, Massachusetts who became totally or partially separated from employment on or after February 15, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7385; Camel Manfacturing Co., Inc., Knoxville, Tenn.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Textile Workers of America on behalf of workers at Camel Manfacturing Company, Incorporated, Knoxville, Tennessee. The workers produce tents.

U.S. imports of tents and tarpaulins increased both absolutely and relative to domestic production in 1979 compared to 1978.

Company imports of commercial nylon tents increased, in value, in 1978 compared to 1977 and increased, in both quantity and value, in 1979 compared to 1978. Imports increased as a percent of total commercial tent sales from 1977 to 1978 and from 1978 to 1979.

Production of commercial nylon tents at Camel Manufacturing declined from 1977 to 1978 and from 1978 to 1979, ceasing entirely by August 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Camel Manfacturing Company, Incorporated, Knoxville, Tennessee who became totally or partially separated from employment on or after May 1, 1979 and before November 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7353 & TA–W–7353A; Fairhaven Corp., Clemente Handbags, Inc., New Bedford, Mass.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the International Leather Goods, Plastic and Novelty Workers Union on behalf of workers at Fairhaven Corporation, New Bedford, Massachusetts (TA–W–7353) and its subsidiary Clemente Handbags, Incorporated, New Bedford, Massachusets (TA–W–7353A). The worker produce ladies' handbags.

U.S. imports of handbags increased absolutely and relative to domestic production in 1979 compared to the annual average imports for the 1975–1978 period. U.S. imports increased absolutely in January–February 1980 compared to January–February 1979.

Company imports of handbags increased in dollar value and relative to company sales in 1979 compared to 1978. Company imports of handbags increased in dollar value in January–February 1980 compared to January–February 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Fairhaven Corporation, New

All workers of Fairhaven Corporation, New Bedford, Massachusetts and all workers of Clemente Handbags, Incorporated, New Bedford, Massachusetts who became totally or partially separated from employment on or after March 31, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7514, 7514–A; Pyr-A-Larm, Inc., Brewer, Maine, and Cedar Knolls, N.J.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Pyr-A-Larm, Incorporated, Brewer, Maine. The investigation was expanded to include workers at Pyr-A-Larm, Incorporated, Cedar Knolls, New Jersey. The workers produce primarily residential smoke detectors.

Company imports of smoke detectors from Canada increased in 1979 compared to 1978 and in the first quarter of 1980 compared to the same quarter in 1979.

For the purposes of this analysis, Pyr-A-Larm's imports from Canada constitute aggregate imports of smoke detectors for the subject firm's market.

Production of smoke detectors was transferred from Brewer to a corporate facility in Canada in May 1980. Production at the Brewer plant ceased at the end of April, 1980.

Some administrative and marketing operations for smoke detectors were eliminated at Cedar Knolls as a result of the transfer of production to Canada.

In this case, therefore, the certifying officer has determined that:

All workers of Pyr-A-Larm, Incorporated, Brewer, Maine (TA–W–7514) who became totally or partially separated from employment on or after March 1, 1980 and before June 30, 1980 and Cedar Knolls, New Jersey (TA–W–7514–A) who became totally or partially separated from employment on or after September 30, 1979 and before June 30, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7377 and 7377A; Royal Park, Inc., Coleman, Tex., Fort Stockton, Tex.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at the Coleman, Texas plant of Royal Park, Incorporated. The investigation was expanded to include the Fort Stockton facility of Royal Park, Incorporated. The workers at both facilities produced ladies' sportswear.

U.S. imports of women's misses' and children's slacks and shorts, blouses and shirts, skirts and coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977. Imports of women's, misses' and children's skirts increased absolutely in 1979 compared to 1978. Imports of women's, misses' and children's blouses and shirts and slacks and shorts increased in 1979 as compared to the average level of imports for the period of 1975–1978.

U.S. imports of women's misses' and children's slacks and shorts, blouses and shirts, and coats and jackets increased absolutely in each consecutive year from 1976 through 1978. The ratio of imports to domestic production for women's, misses', and children's slacks and shorts in 1978 was 49.3 percent; for blouses and shirts the ratio was 67.1 percent in 1978; and for coats and jackets the ratio was 69.3 percent in 1978.

The Department conducted a survey of customers of Royal Park, Incorporated. A major customer, who accounted for a significant proportion of Royal Park's sales, decreased its purchases of ladies' sportswear from Royal Park and from other domestic sources and increased its imports of ladies' sportswear in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of the Coleman, Texas plant (TA–W–7377) and the Fort Stockton, Texas plant (TA–W–7377A) of Royal Park, Incorporated who became totally or partially separated from employment on or after February 9, 1979 and before April 1, 1980 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA–W–7488; Silton Brothers, Inc., Los Angeles, Calif.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Silton Brothers, Inc., Los Angeles, California. The workers produce men's leather coats and jackets.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production in each year compared to the previous year from 1975 through 1978. U.S. imports of leather coats and jackets increased absolutely and relative to domestic production during 1979 compared to the average for the 1975–78 period. The ratio of imports to domestic production was 96.8 during 1979.

Production of men's leather coats and jackets at the Los Angeles plant of Silton Brothers, Inc. declined from 1978 to 1979 and in the first 4 months of 1980 compared to the first 4 months of 1979.

Average emplyment at the Los Angeles plant declined from 1978 to 1979 and in the first 4 months of 1980 compared to the first 4 months of 1979.

Silton Brothers, Inc. has transferred production of men's leather coats and jackets from its Los Angeles plant to a company facility in Juarez, Mexico. The company increased imports from the Mexican plant in 1979 compared to 1978 and in the first 4 months of 1980 compared to the first 4 months of 1979.

In this case, therefore, the certifying officers have determined that:

All workers of Silton Brothers, Inc., Los Angeles, California who became totally or partially separated from employment on or after March 3, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7372; Stevens Paper Mills, Inc., Westfield, Mass.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Paperworkers International Union on behalf of workers at Stevens Paper Mills, Incorporated, Westfield, Massachusetts. The workers produced kraft capacitor tissue. Stevens Paper Mills, Incorporated closed in April, 1980.

U.S. imports of kraft condenser paper increased both absolutely and relative to domestic production from 1977 to 1978 and increased relative to domestic production from 1978 to 1979.

A Departmental survey conducted with Stevens' customers revealed that customers increased their purchases of imported kraft capacitor tissue and decreased their purchases of kraft capacitor tissue from Stevens from 1978 to 1979 and in the first quarter of 1980 compared to the like period in 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Stevens Paper Mills, Incorporated, Westfield, Massachusetts who became totally or partially separated from employment on or after April 2, 1979 and before April 30, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7247; Stride Rite Manufacturing Corp., Boston, Mass.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Stride Rite Manufacturing Corporation, Boston, Massachusetts. The workers produce children's dress and casual shoes.

U.S. imports of children's nonrubber footwear and misses' nonrubber footwear, except athletic, increased absolutely and relative to domestic production in 1979 compared with 1978.

A survey of customers of Stride Rite Manufacturing Corporation revealed that major customers increased purchases of imported children's footwear and decreased purchases from the subject firm in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Stride Rite Manufacturing Corporation, Boston, Massachusetts who became totally or partially separated from employment on or after February 28, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 19–23rd, 1980.

Dated: June 2, 1980.

Harold B. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–17231 Filed 6–5–80; 8:45 am]

BILLING CODE 4510–28–M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 19–23rd, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of workers in worker's firm, or an appropriate subdivision thereof, have come totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely,

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7412; Camp International, Inc. Warrior, Ala.

The investigation was intitiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at the Warrior, Alabama plant of Camp International, Incorporated. Prior to Jully 1979, the Warrior, Alabama plant was known as Warrior Surgical Supply. Workers at the Warrior, Alabama plant produced breast prosthetics, mastectomy brassieres, and orthopedic girdles.

The investigation revealed that criterion (3) has not been met.

U.S. imports of orthopedic and prosthetic devices, which includes breast prosthetics and orthopedic girdles, are insignificant relative to domestic production and consumption of those articles. Imports of breast prothetics by Camp International are also insignificant relative to total sales of breast prosthetics by the company.

Sales of mastectomy brassieres by Camp International increased in 1979 compared with 1978 and continued to increased during the first quarter of 1980 compared to the first quarter of 1979. Production of the brassieres by the Warrior, Alabama plant also increased steadily during every quarter of 1979 compared to the corresponding quarter of 1978 and continued to increase up until the time of its closing in March 1980. The production demand for mastectomy brassieres is now being filled by other locations of Camp International.

In this case, therefore, the certifying officer has determined that all workers at the Warrior, Alabama plant of Camp International, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7355; City Auto Stamping Co., Division of Sheller-Globe, Toledo, Ohio

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Autoworkers on behalf of workers at City Auto Stamping Company, Toledo, Ohio. Workers at the City Auto Stamping plant produce metal stampings of parts for automobiles and trucks.

The investigation revealed that criterion (3) has not been met.

U.S. imports of motor vehicle body stampings are negligible. Industry sources cited prohibitive shipping costs and the need to have the stamping factory in close proximity to the auto assemble site to closely monitor accuracy of the specifications as reasons for the negligible imports.

A Department survey revealed no customers that imported metal stamping auto and truck parts in 1978, 1979 or the first three months of 1980.

In this case, therefore, the certifying officer has determined that all workers of City Auto Stamping Company, Division of Sheller-Globe, Toledo, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7347; Firestone Tire and Rubber Co., Pottstown, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of American on behalf of workers at the Pottstown, Pennsylvania plant of the Firestone Tire and Rubber Company. Workers at Pottstown plant produce primarily passenger car and truck tires.

The investigation revealed that criterion (3) has not been met.

The Department surveyed major customers and a random sample of the smaller customers of Firestone who purchase passenger car tires. The respondents' reliance on imports of passenger car tires was not significant and was substantially below the industry-wide levels of imports in 1978 and 1979.

The Department surveyed major customers and a random sample of the smaller customers of Firestone who purchase truck tires. Most customers from both groups indicated that they either did not import or decreased imports of truck tires in 1979 compared with 1978. Customers who decreased purchases of truck tires from Firestone and increased import represented an insignificant proportion of truck tire sales for Firestone.

In this case, therefore, the certifying officer has determined that all workers of the Pottstown, Pennsylvania plant of the Firestone tire and Rubber Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7264; Fisco Employees Federal Credit Union, Chicopee, Mass.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Fisco Employees Federal Credit Union, Chicopee, Massachusetts. The workers at Fisco Employees Federal Credit Union are engaged in providing banking services.

The investigation revealed that workers of Fisco Employees Federal Credit Union do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Fisco Employees Federal Credit Union by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and

that reduction must directly relate to the product impacted by imports.

TA–W–7114; Penn Children's Dress

Steelworkers of America on behalf of

processing. Imports of coke and imports

purchases of domestic costume jewelry

statutory criteria for certification and

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that reduction must directly relate to the product impacted by imports.

Fisco Employees Federal Credit Union and its customers and their employers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in providing banking services at Fisco Employees Federal Credit Union are employed by that firm. All personnel actions and payroll transactions are controlled by Fisco Employees Federal Credit Union. All employee benefits are provided and maintained by the Fisco Employees Federal Credit Union. Workers are not, at any time, under employment or supervision by customers of the Fisco Employees Federal Credit Union or their employers. Thus, Fisco Employees Federal Credit Union and not any of its customers, nor their employers must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Fisco Employees Federal Credit Union, Chicopee, Massachusetts are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7421; General Foods Corp., Maxwell House Division; Hoboken, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the Amalgamated Food and Allied Workers of America on behalf of workers at General Foods Corporation, Maxwell House Division, Hoboken, New Jersey. The workers produce ground roast and soluble coffee.

The investigation revealed that criterion (3) has not been met.

Production of coffee at the Hoboken plant declined in fiscal year (FY) ending March 31, 1980 compared to fiscal year ending March 31, 1979. However, company-wide sales and production of coffee, in quantity, by the Maxwell House Division were essentially constant in FY ending March 31, 1980 compared to FY ending March 31, 1979. Total company imports of soluble coffee decreased in FY ending March 31, 1980 compared to FY ending March 31, 1979.

In this case, therefore, the certifying officer has determined that all workers of the Maxwell House Division of General Foods Corporation, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7453; Inland Mining Co., Virginia, Minn.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the Virginia, Minnesota facility of the Inland Steel Mining Company. Workers at the Virginia, Minnesota facility produce taconite pellets.

The investigation revealed that criterion (3) has not been met.

Average employment increased at the Virginia, Minnesota facility of the Inland Steel Mining Company in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter in 1979. However, the company has announced that it anticipates laying off some workers in August 1980.

The Virginia, Minnesota facility sells all of its taconite pellet production to the Inland Steel Company's Indiana Harbor Works. The Indiana Harbor Works increased purchases of taconite pellets from the Virginia, Minnesota facility in 1979 compared to 1978. Workers at the Indiana Harbor Works were denied eligibility to apply for adjustment assistance benefits on April 14, 1980 (TA–W–6851).

The Indiana Harbor Works increased its purchases of imported taconite pellets from two affiliated mines in Canada in 1979 compared to 1978. However, the mine that supplied the majority of the imports was closed at the end of 1979. Both the imported pellets and the pellets produced by the Minnesota facility are transported via the St. Lawrence Seaway, which is closed during the winter months, thus there have been no imports in the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of Virginia, Minnesota facility of the Inland Steel Mining Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7340; Maben Energy Corp., Wyoming County, W. Va.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Maben Energy Corporation, Mines #1, #3, #4, and #5, Wyoming County, West Virginia. The workers produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

The petition was filed on behalf of workers engaged in employment related to the mining of metallurgical coal. In accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2 a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal should be considered in determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal decreased both absolutely and relative to domestic production in 1978 compared to 1977, and in 1979 compared to 1978. Since 1975, U.S. imports of metallurgical coal have been less than one percent of domestic production. U.S. imports of coke decreased both absolutely and relative to domestic production in 1979 compared to 1978 and decreased in the first two months of 1980 compared to the first two months of 1979.

In this case, therefore, the certifying officer has determined that all workers of Maben Energy Corporation, Mines #1, #3, #4, and #5, Wyoming County, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–8347; Metal Forge Co., Deshler, Ohio

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at the Deshler, Ohio plant of the Metal Forge Company. Workers at the Deshler plant produce shafts, struts and U-bolts.

The investigation revealed that criterion (3) has not been met.

The Deshler, Ohio plant of the Metal Forge Company produces shafts, struts and U-bolts for the automotive industry. The petition alleges that increased imports of automobiles contributed importantly to the decline in sales or production and separation of workers at the plant. Imported automobiles cannot be considered like or directly competitive with shafts, struts and U-bolts. Imports of shafts, struts and U-bolts must be considered in determining import injury to the workers at the plant.

Shafts and struts are included in the import and production category Carbon Steel Wire Rods. U.S. imports of carbon steel wire rods declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

U-bolts are included in the import and production category Universal Joints. U.S. imports of universal joints are insignificant. The ratio of imports to domestic production of universal joints has not exceeded 2.0 percent during the period 1977 through 1979.

In this case, therefore, the certifying officer has determined that all workers of the Deshler, Ohio plant of the Metal Forge Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7114; Penn Children's Dress Corp., Mayfield, Pa.

The investigation was initiated on February 13, 1980 in response to a petition which was filed on behalf of workers at Penn Children's Dress Corporation, Mayfield, Pennsylvania. The workers at the Penn Children's Dress Corporation produced primarily children dresses.

The investigation revealed that criterion (3) has not been met.

U.S. imports of children's dresses decreased in 1979 compared to 1978.

A survey of Penn Children's Dress Corporation revealed that Penn Children's Dress Corporation was a garment contractor producing primarily children's dresses for a manufacturer. The manufacturer of Penn Children's indicated an increased reliance on other domestic contractors and in-house production and a decline in its sales in 1979 compared with 1978. A survey of the customers of the manufacturer revealed that most customers either did not import children's dresses or decreased their reliance on imported dresses.

In this case, therefore, the certifying officer has determined that all workers of the Penn Children's Dress Corporation, Mayfield, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7436; Richton Jewelry Co., Inc., Providence, R.I.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the Amalgamated Jewelry Workers Union on behalf of workers at Richton Jewelry Company, Incorporated, Providence, Rhode Island. The workers produced costume jewelry.

The investigation revealed that criterion (3) has not been met.

U.S. imports of costume jewelry declined relative to domestic production in 1979 compared to 1979 compared to 1978 and in 1978 compared to 1977.

A Departmental survey was conducted with the major retail customers of Richton Jewelry Company, Incorporated in 1978 and 1979. Most customers responding to the survey either did not import costume jewelry or increased their purchases from domestic sources other than Richton from 1978 to 1979. Those customers who decreased their purchases from Richton and increased their purchases of imported costume jewelry represented a small portion of Richton's sales decline from 1978 to 1979. The respondents, in aggregate, decreased their reliance on imported costume jewelry relative to purchases of domestic costume jewelry between 1978 and 1979.

In this case, therefore, the certifying officer has determined that all workers of Richton Jewelry Company, Incorporated, Providence, Rhode Island are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7423; Sherman Oaks Industries, Inc., Caldwell, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Sherman Oaks Industries, Incorporated, Caldwell, New Jersey. Workers at the firm produce knit and woven fabrics.

The investigation revealed that criterion (3) has not been met.

U.S. imports of finished fabric decreased absolutely in 1979 compared with 1978. The ratio of imports to domestic production has not exceeded 2.1 percent since 1975.

Sherman Oaks Industries, Incorporated sells fabric primarily to foreign brokers and foreign garment manufacturers for the production of garments in foreign countries. The subject firm does not complete in the domestic market, nor does the firm bid for contracts to produce goods for domestic use.

In this case, therefore, the certifying officer has determined that all workers of Sherman Oaks Industries, Incorporated, Caldwell, New Jersey, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7432; Thornton Polishing and Buffing Co., Inc., Clawson, Mich.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Thornton Polishing and Buffing Company, Inc., Clawson, Michigan. The workers at Thornton Polishing and Buffing Company, Inc. are engaged in providing metal finishing services, preparing metal for bright and decorative finish.

The investigation revealed that workers of Thornton Polishing and Buffing Company, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Thornton Polishing and Buffing Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Thornton Polishing and Buffing Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in polishing and buffing operations at Thornton Polishing and Buffing Company, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Thornton Polishing and Buffing Company, Inc. All employee benefits are provided and maintained by Thornton Polishing and Buffing Company, Inc. Workers are not, at any time, under employment or supervision by customers of Thornton Polishing and Buffing Company, Inc. Thus, Thornton Polishing and Buffing Company, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Thornton Polishing and Buffing Company, Inc., Clawson, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 19–23rd, 1980.

Signed at Washington, D.C., this 2d day of June 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17232 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Advisory Committee Working Group on Modernization and Capital Formation; Meeting

The Steel Tripartite Advisory Committee was established under the Federal Advisory Committee Act, 5 U.S.C. Appr. (1976), to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor and the public.

Notice is hereby given that the Steel Tripartite Advisory Committee's Working Group on Modernization and Capital Formation will meet at 10:00 A.M. on June 18, 1980, in room 4426, U.S. Department of Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C.

Discussion will center around a staff review of recent industry estimates of the capital available for the modernization of the domestic steel industry. Due to the tight time schedule

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of the working group's activity in relation to the meeting of the full Steel Tripartite Advisory Committee in the afternoon of June 18, insufficient time was available to give 15 days advance notice of the working group meeting. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Joseph S. Papovich, Executive Secretary, Steel Tripartite Advisory Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20220, telephone (202) 523–6227.

Official records of the meeting will be available for public inspection at Room S5315, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 3d day of June 1980.

Herbert N. Blackman,

Associate Deputy Under Secretary for International Affairs.

[FR Doc. 80-17228 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The Twenty-Sixth meeting of the National Commission on Unemployment Compensation is scheduled to be held in the House Office Annex Building #1, Corner New Jersey and C Streets, S.E., Room 116, Capitol Hill, Washington, D.C. The meeting will begin at 9:00 A.M. on Monday, June 16, and conclude at 4:00 P.M., on Tuesday, June 17, 1980. The agenda is as follows:

Monday, June 16

1. 9:00 A.M.–12:30 P.M.
   A. Legislative Developments—Mr. Rosbrow
   B. Report on Meeting with State UI Directors—Chairman, Messrs. Hill and Cooper
   C. Continued Discussion of Older Workers Special Unemployment Benefits
   D. Phase-In of Maximum Weekly Benefit Standard

Lunch (12:30 P.M.–2:00 P.M.)

2. 2:00 P.M.–6:00 P.M.
   B. New Entrants to the Labor Market and Displaced Homemakers
   C. Shared Work Compensation—Work Sharing
   D. Crew Leader in Agriculture
   E. Employer-Employee Relationship and Self-Employment
   F. Railroad Unemployment Program

Break (6:00 P.M.)

Tuesday, June 17

3. 8:30 A.M.–12:30 P.M.
   A. Completion of Revisions on Claims and Appeals
   B. California Evaluation of State Programs
   C. Responsibilities of Board of Trustees
   D. Investment of State Reserve Funds
   E. Availability of Program Data (#9, #10, #11 in Commission law)
   F. Technical Assistance to States

Lunch (12:30 P.M.–2:00 P.M.)

4. 2:00 P.M.–4:00 P.M.
   A. Adequacy of State Replacement Rates in Current Recession
   B. Topics for Consideration at June 28–29–30 Meeting
   C. Consideration of Draft Portions of Report

Adjourn (4:00 P.M.)

Since the Commission has concluded its hearings, no testimony will be received at this meeting. However, written statements will continue to be accepted, and will be distributed promptly, upon receipt, to all members. Twenty copies of any statement should be directed to the executive director of the Commission at the address indicated below.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 N. Lynn Street, Room 440, Rosslyn, Virginia 22209, (703) 235–2782.

Signed at Washington, D.C., this 3d day of June 1980.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 80-17285 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-416A and 417A]

Mississippi Power & Light Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note.—This document was originally published in the issue of May 30, 1980. It is reprinted at the request of the Nuclear Regulatory Commission.

Mississippi Power and Light, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information concerning proposed additional ownership of the Grand Gulf Nuclear Station, Units 1 and 2. The current holders of the construction permits are Mississippi Power and Light Company and Middle South Energy, Inc. The application proposes to add South Mississippi Electric Power Association as co-owner; it contains information requested by the Attorney General for the purpose of performing an antitrust review of the application as set forth in 10 CFR 50, Appendix L.

Construction of the Grand Gulf Nuclear Station, Units 1 and 2, two boiling water reactors, was authorized on September 4, 1974. This construction is currently underway at the applicants' site in Claiborne County, Mississippi.

The original application was dated November 17, 1972; the related Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was initially published in the **Federal Register** on December 6, 1972 (37 FR 25964). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Applicants' Environmental Report; the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the **Federal Register** on July 28, 1978 (43 FR 32903).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Claiborne County Chancery Clerk's Office, Claiborne County Courthouse, Port Gibson, Mississippi.

Any person who wishes to have his views on the antitrust matters with respect to South Mississippi Electric Power Association presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before July 29, 1980.

Dated at Bethesda, Maryland, this 16th day of May, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-16286 Filed 6-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-10]

Commonwealth Edison Co.; Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed primary cooling system chemical decontamination at Commonwealth Edison Company's Dresden Nuclear Power Station, Unit No. 1 located in Grundy County, Illinois is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the Local Public Document Room at Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. The Draft Statement is also being made available at the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 S. Second Street, Room 315, Springfield, Illinois 62706. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Licensing.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by July 21, 1980. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Local Public Document Room. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 30th day of May 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-17185 Filed 6-5-80; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1816; Amdt. No. 3]

Louisiana; Declaration of Disaster Loan Area

The above numbered Declaration and Amendments thereto (See 45 FR 26544, 45 FR 28031, and 45 FR 35961) are amended in accordance with the President's major disaster declaration of April 9, 1980, to include St. Martin, St. Mary, Terrebonne, Iberville and Washington Parishes. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named parishes and adjacent parishes within the State. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 13, 1980, and for economic injury until the close of business on January 12, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 2, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-17188 Filed 6-5-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5139]

Biscayne Capital Corp.; Surrender of License

Notice is hereby given that pursuant to § 107.105 of the Small Business Administration (SBA) rules and regulations governing Small Business Investment Companies (SBICs) (13 CFR (1980)), Biscayne Capital Corporation, 100 North Biscayne Boulevard, Miami, Florida 33132, incorporated under the laws of the State of Florida has surrendered its license to operate as a Section 301(d) SBIC; License No. 04/04–5139 was issued on March 2, 1979.

Biscayne Capital Corporation has complied with all the conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Biscayne Capital Corporation is hereby accepted and it is no longer licensed to operate as a Section 301(d) Licensee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 30, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 80-17191 Filed 6-5-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/303]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on subdivision, stability and load lines of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 10:00 a.m. on June 17, 1980 in room 1303 of Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

The purpose of the meeting will be to review the agenda items and delegation papers received by that time in preparation for the 25th Session of the Subcommittee. In particular the following topics will be discussed:

Final Draft—Harmonized Gas and Chemical Codes (Chapter 2)

Subdivision—Information to the MASTER

Load Lines Improvement and Future Development

For further information contact Mr. William A. Cleary, Jr., U.S. Coast Guard (G–MMT–5/TP12), 2100 Second Street, S.W., Washington, D.C. 20593, telephone (202) 426–2188.

Dated: May 28, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-17183 Filed 6-5-80; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/304]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 1:30 p.m. on June 19, 1980 in room 8440 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-second Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be

held in London in September 1980. In

Deputy Commissioner, 202–566–4143

Commissioner (Employee Plans and

(5) The plan has not, in operation,

may only be granted pursuant to section

9. This delegation order expires with

held in London in September 1980. In particular, the working group will discuss the following topics:

Survival craft radio equipment

Operational requirements for future EPIRBs

Operational standards for shipboard radio equipment

Maritime distress system

For further information contact Lt R. F. Carlson, U.S. Coast Guard (G-OTM-3/TP32), Washington, D.C. 20593; telephone (202) 426-1345.

Dated: May 28, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-17184 Filed 6-5-80; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on June 9 and 10, 1980, in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, N.W., Washington, D.C. The meeting will begin at 10:00 a.m. on June 9 and 9:00 a.m. on June 10. The agenda will include the following topics:

Monday, June 9

Administration of Preparer Penalties
Tax Forms Simplification Study
Taxpayer Ombudsman Program—and Update

Tuesday, June 10

Commodities Transactions
2032A. Valuation of Certain Farms, etc., Real Property
Functioning of the Advisory Group

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements from nonmembers.

If you want to make a statement at the meeting, or if you would like the Committee to consider a written statement, please call or write to D. James Lantonio, Assistant to the Deputy Commissioner, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52120).

FOR FURTHER INFORMATION CONTACT: D. James Lantonio, Assistant to the Deputy Commissioner, 202-566-4143 (not toll free).

Jerome Kurtz,

Commissioner.

[FR Doc. 80-17254 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 96 (Rev. 4)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The delegation order authorizes certain National Office and Key District personnel to limit the retroactive effect of the revocation of any determination letter issued with respect to employee plans. This authority will be exercised only with respect to employee plans with favorable determination letters issued prior to the Employee Retirement Income Security Act of 1974 (ERISA) which were not timely amended to conform to ERISA and certain plans with favorable post-ERISA determination letters including those which were not timely amended to comply with final regulations. The text of the delegation order appears below.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen C. Kisling, E:EP:T:3, 1111 Constitution Avenue, N.W., Room 6213, Washington, DC 20224, (202) 566-4712 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Billy Hargett,

Director, Employee Plans Division.

Application of Rulings Without Retroactive Effect

Date of issue: June 4, 1980.
Effective date: June 4, 1980

1. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7805-1(b):

a. the Assistant Commissioner (Technical) and the Deputy Assistant Commissioner (Technical) are hereby authorized to prescribe the extent, if any, to which any ruling issued by or pursuant to authorization from the Assistant Commissioner relating to the internal revenue laws shall be applied without retroactive effect.

b. the Assistant Commissioner (Employee Plans and Exempt Organizations) and the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) are hereby authorized to prescribe the extent, if any, to which any ruling issued by or pursuant to authorization from the Assistant Commissioner relating to the internal revenue laws shall be applied without retroactive effect.

2. a. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7805-1(b), there is hereby delegated to the Director, Employee Plans Division and to the Director, Actuarial Division of the National Office, and to the Director of each EP/EO Key District, the authority to limit the retroactive effect of the revocation of any determination letter issued with respect to employee plans if the following conditions are met:

(1) The plan sponsor has received a favorable determination letter under the law in effect prior to the date that the Employee Retirement Income Security Act of 1974 (ERISA) applied to the plan, but did not receive a favorable post-ERISA determination letter.

(2) The plan sponsor executed the necessary plan amendments to conform to ERISA retroactively to the first plan year that was subject to ERISA and such amendments are executed no later than 91 days after the issuance of a final determination letter or notice of amendments needed to effect compliance (which notice shall be issued at least 91 days prior to the final examination report).

(3) Employees' and beneficiaries' rights and/or benefits under the plan are restored to levels they would have had to attain if the plan had never failed to qualify under ERISA.

(4) The requirements of section 2b relating to form are satisfied on June 4, 1980, and the requirements of section 2b relating to operation are met beginning with the ERISA effective date for the minimum participation standards determined with regard to each plan.

b. The requirements of this section are:

(1) The plan satisfies the age and service requirements for participation described in section 410(a) of the Code or fails to satisfy such requirements solely because the plan incorrectly credits service for eligibility purposes;

(2) The plan satisfies the requirements of section 411(a) or fails to satisfy such requirements solely because the plan incorrectly credits service for vesting purposes;

(3) In the case of a plan subject to the joint and survivor requirements of section 401(a)(11) such plan provides a joint and survivor annuity;

(4) The plan has not failed to satisfy the requirements of section 414(1);

(5) The plan has not, in operation, violated the limitations of section 415(c) by making excess allocations to individuals who are officers, shareholders or highly compensated; and

(6) The plan has not, in operation, been discriminatory in coverage or in contributions or benefits under sections 410(b) and 401(a)(4).

c. In the case of a plan that fails to satisfy section 2a solely as a result of not satisfying one or more of the requirements of section 2b, partial relief will be granted through section 7805(b). The employer's contributions will not be deductible as contributions to a qualified plan. However, section 7805(b) relief will be applied to the trust and all employees except to the extent described in the next two sentences. In the case of a plan that does not satisfy section 2b(5), the 7805(b) relief described in the previous sentence will not apply to any officer, shareholder, or highly compensated individual who received annual additions that did not satisfy such section. In the case of a plan which does not satisfy section 2b(6), the 7805(b) relief will not apply to any officer, shareholder or highly compensated individual. Thus, any such officer, shareholder or highly compensated individual will not receive the tax treatment applicable with respect to qualified plans. In the case of a plan which fails to satisfy applicable requirements for any other reason relief can only be granted pursuant to section 1b.

d. The section 7805(b) relief detailed in sections 2a, 2c and 3 shall be effective for the period beginning with the ERISA effective date for the minimum participation standards determined with regard to each plan and ending on the date of final compliance which shall be no later than the date defined in section 2a(2) of this order.

e. In determining whether the requirements of this section are satisfied, proposed amendments received by the Service by June 4, 1980, will be taken into account.

3. a. In addition to the authority delegated in section 2 above, there is delegated to the Director of each EP/EO Key District, the Director, Employee Plans Division and the Director, Actuarial Division, the authority to limit the retroactive effect of the revocation, if any, of a favorable post-ERISA determination letter issued for a plan, except issues with respect to which an Alert Guidelines worksheet was completed. If a determination letter was issued erroneously with respect to issues covered by a completed Alert Guidelines worksheet, retroactive relief may only be granted pursuant to section 1b.

b. If a plan described in section 3a is amended in accordance with section 2a(2), restoration will be required and relief will be granted to the extent described below. If the defect did not exist at the time of the prior letter, the sponsor must restore any benefits and relief will be granted in accordance with the principles in section 2c for the period in which the defect existed. If the defect did exist at the time of the prior letter, the related benefits need only be restored for the period during which the plan was, without regard to the defect, not in compliance with Code section 401(a), and full section 7805(b) relief will be granted.

4. The delegation of authority granted pursuant to sections 2 and 3 above does not permit relief to be granted in any case if after September 30, 1982, amendments required for complete compliance have not been executed or a request for a determination letter with proposed ERISA amendments has not been filed. Notwithstanding the above, the Director of each EP/EO Key District is not delegated any section 7805(b) authority in the case of a plan which the Director of each EP/EO Key District determines to have been discriminatory for years before the effective date of section 410 for such plan. Cases described in this section must be referred to the National Office pursuant to procedures governing requests for technical advice.

5. Notwithstanding any of the above, section 7805(b) authority is not delegated to the Director, Employee Plans Division, the Director, Actuarial Division and the Director of each EP/EO Key District in the case of a plan which has been determined to have violated the exclusive benefit rule of section 401(a).

6. The section 7805(b) authority described in sections 2a, 2c or 3 will be exercised except in rare and unusual circumstances. Where rare and unusual circumstances exist, denial of section 7805(b) relief will be applied only if approved by the National Office.

7. The authority delegated in section 1 may not be redelegated.

8. The authority to grant 7805(b) relief in certain employee plan matters herein delegated to the Director, Employee Plans Division and to the Director of each EP/EO Key District may not be redelegated below the level of the Chief, Employee Plans Technical Branch and the Chief, EP/EO Division, respectively. The authority to grant 7805(b) relief delegated to the Director, Actuarial Division may not be redelegated.

9. This delegation order expires with respect to the Director of each EP/EO Key District on December 31, 1982.

10. This delegation order supersedes Delegation Order No. 96 (Rev. 3) issued July 12, 1976.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-17255 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 156 (Rev. 1), Amend. 1]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: This Amendment provides limited delegations of authority regarding the disclosure of returns and return information under IRC 6103 (i)(1), (i)(2), (i)(3), and (i)(4) to Federal Officers or employees for administration of Federal criminal laws not related to tax administration. This Amendment reflects the decentralization to field officials of authority previously vested only in National Office officials.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

EFFECTIVE DATE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT: R. L. Rizzo, TX:D, Room 1603, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone number 202-566-4263 (not a toll-free telephone number).

R. L. Rizzo,

Director, Disclosure Operations Division.

Authority to Disclose Returns and Return Information to Federal Officers or Employees for Administration of Nontax Federal Criminal Laws

Date of issue: June 1, 1980.
Effective date: June 1, 1980.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

1. The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Director, Disclosure Operations Division; Regional Commissioners; District and Service Center Directors; Assistant District and Service Center Directors; Director of International Operations; and Assistant Director of International Operations are authorized:

a. To disclose or in specific instances, authorize the disclosure of returns or taxpayer return information to officers and employees of a Federal agency pursuant to an *ex parte* order by a Federal district court judge when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(i)(1) and the Treasury Regulations thereunder. This authority may not be redelegated.

b. To disclose or, in specific instances, authorize the disclosure of return information (other than taxpayer return information) to officers and employees of a Federal agency upon written request by the head of such agency, or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, when needed for use in the enforcement of a Federal criminal statute (not involving tax administration) subject to the conditions prescribed in IRC 6103(i)(2). This authority may not be redelegated.

2. The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Director, Disclosure Operations Division; and Regional Commissioners are authorized:

a. To withhold any return or taxpayer return information pursuant to IRC 6103(i)(1) or (i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation. This authority may not be redelegated.

b. To withhold return information (other than taxpayer return information), pursuant to IRC 6103(i)(2) or (i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation. This authority may not be redelegated.

c. To disclose or, in specific instances, authorize the disclosure in writing of return information (other than taxpayers return information), which may constitute evidence of a violation of Federal criminal laws, to the extent necessary to apprise the head of the appropriate Federal agency enforcing such laws, subject to the conditions prescribed in IRC 6103(i)(3). The authority to withhold return information (other than taxpayers return information), pursuant to IRC 6103(i)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated to Assistant Regional Commissioners (Taxpayer Service and Returns Processing) and Regional Disclosure Officers, but such redelegation shall not extend to the authority to withhold return information (other than taxpayer return information). This authority is in addition to the authority previously delegated in paragraph (1)(g) of Delegation Order No. 156 (Rev. 1).

3. This Amendment amends paragraphs (6)(b), (c), and (d) of Delegation Order No. 156 (Rev. 1). Delegation Order No. 156 (Rev. 1), issued July 30, 1979, is printed in the **Federal Register** dated August 1, 1979, Vol. 44, No. 149, Page 45275.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-17256 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 112 (Rev. 6)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority to issue modifications and revocations of collectively-bargained plans and plans violating the exclusive benefit rule is subject to concurrence by the Assistant Commissioner (E). The authority is granted to issue reports on results of examinations with respect to revocation, continued qualification and imposition of tax and penalties. The text of the delegation order appears below.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Terry Hallihan, 1111 Constitution Avenue, N.W., Room 2231, Washington, DC 20224, (202) 566-6382 (Not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive apearing in the **Federal Register** for Wednesday, November 8, 1978.

R. S. Wintrode, Jr.,

Assistant Director, Employee Plans Division.

Authority to Issue Determination and Revocation Letters, to Grant Extensions of the Remedial Amendment Period and to Issue Examination Reports Relating to Employee Plans

Date of issue: June 2, 1980.

Effective date: June 2, 1980..

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, authority with respect to issuance of determination and revocation letters, to granting extensions of the remedial amendment period and to issuance of examination reports pertaining to employee plans and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district is authrized, subject to paragraph 3, to:

(a) issue determination and revocation letters involving the provisions of sections 401, 403(a), 405, 409A, 501(a), and 4975(e)(7) of the Internal Revenue Code of 1954 with respect to:

(1) qualification of stock bonus, pension, profit sharing, employee stock ownership, annuity, and bond purchase plans, and cash or deferred arrangements;

(2) exemption from federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 4975(c)(1) or section 503 with respect to plans described in 4975(g) (2) or (3);

(3) compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(4) amendments, (including those relating to section 414(1) of the Code), partial terminations or terminations of such plans and trusts.

(b) issue examination reports with respect to:

(1) continued qualification under sections 401, 403(a), 405, 409A, and 4975(e)(7) of plans and continued exemption under section 501(a) of the related trust;

(2) imposition of tax under sections 1, 511 through 514, 641 and Chapter 43; and

(3) imposition of penalties under Chapter 68 of the Internal Revenue Code of 1954.

(c) issue determination letters with respect to whether a plan constitutes an employee stock ownership plan that is not intended to qualify under section 401 of the Internal Revenue Code of 1954 for taxable years beginning before January 1, 1979.

(d) issue modification or revocation of determination letters described above in accordance with currently applicable appeal procedures. If the revocation involves collectively-bargained plans, or plans for which the Internal Revenue Service is proposing to issue a revocation letter because certain fiduciary actions subject to Part 4, Subtitle B of Title I of the Employee Retirement Income Security Act (ERISA) have violated the exclusive benefit rule of section 401(a), the plan must have been submitted for technical advice and the Assistant Commissioner (E) must have concurred with the revocation.

(e) redelegate this authority as follows:

(1) with respect to issuance and modification of favorable determination letters or examination reports, other than a report issued with a proposed revocation letter, not below Internal Revenue Agent and Tax Law Specialist, GS-12, and then only if such individual is a person other than the initiator.

(2) with respect to issuance of proposed and final adverse determination letters or proposed revocation letters and related examination reports, not below Chief, EP/EO Division.

(3) with respect to issuance of final revocation letters, this authority may not be redelegated.

2. In each region, the Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Office, are authorized to:

(a) issue final determination or final revocation letters on appeals from proposed adverse determination and proposed revocation letters issued by key district offices under this delegation.

(b) issue letters as to the decision on appealed examination reports or statutory notices as provided in Delegation Order No. 77.

(c) This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with concurrence of the Chief Counsel, is authorized to require preissuance review of final adverse determination and final revocation letters covered by section 7476(a) of the Internal Revenue Code of 1954.

4. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) extend the remedial amendment period described in section 401(b) of the Internal Revenue Code of 1954 in accordance with currently applicable 401(b) procedures for individually designed plans and master and prototype plans not described in (b) below, but not in excess of eight months after the later of:

(1) the due date of the employer's income tax return without extension, for the year in which the remedial amendment period begins, or

(2) the end of the plan year within which the remedial amendment period begins;

(3) however, for a plan maintained by more than one employer, the remedial amendment period may not be extended in excess of two months after the last day of the tenth month after the end of the plan year.

(b) extend the remedial amendment period for a master or prototype plan whose sponsoring organization, after September 2, 1974, and on or before December 31, 1976, filed a request for an opinion letter with respect to the plan's qualification but not in excess of eight months after the later of:

(1) June 30, 1977, or

(2) the last day of the month that is six months after the month in which (i) the opinion or notification letter is issued, (ii) the request for the letter is withdrawn, or (iii) the request is otherwise disposed of by the Service.

(c) redelegate this authority but not below Chief, EP/EO Division.

Delegation Order No. 112 (Rev. 5) issued October 1, 1978 is hereby superseded.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-17257 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Amendment to Department Circular, Public Debt Series—No. 17-80]

Treasury Notes of May 31, 1982; Series S-1982

June 3, 1980.

Department of the Treasury Circular, Public Debt Series—No. 17-80, dated May 15, 1980, descriptive of Treasury Notes of Series S-1982, is hereby amended, effective May 30, 1980. The notes will be auctioned Monday, June 2, 1980 and will accrue interest from Wednesday, June 4, 1980.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 17-80, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2.1. The securities will be dated June 4, 1980, and will bear interest from that date, payable on a semiannual basis on November 30, 1980, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1982, and will not be subject to call for redemption prior to maturity.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 12:30 p.m., Eastern Daylight Saving time, Monday, June 2, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Sunday, June 1, 1980.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Wednesday, June 4, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, June 2, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Section 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753,754b), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Supplementary Statement

Sunshine Act Meetings

Federal Register

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly may be published without compliance with the Departmental procedures applicable to such regulations.

Paul. H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17334 Filed 6-4-80; 12:09 pm]

BILLING CODE 4810-40-M

[Supplement to Department Circular, Public Debt Series—No. 17-80]

Treasury Notes; Series S-1982

June 3, 1980.

The Secretary announced on June 2, 1980, that the interest rate on the notes designated Series S-1982, described in Department Circular—Public Debt Series—No. 17-80, as amended, dated May 15, 1980, will be 9⅜ percent. Interest on the notes will be payable at the rate of 9⅜ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17333 Filed 6-4-80; 12:08 pm]

BILLING CODE 4810-40-M

[Amendment to Department Circular, Public Debt Series—No. 18-80]

Treasury Notes of August 15, 1985, Series E-1985

June 3, 1980.

Department of the Treasury Circular, Public Debt Series—No. 18-80, dated May 22, 1980, descriptive of Treasury Notes of Series E-1985, is hereby amended, effective May 30, 1980. The notes will be auctioned Tuesday, June 3, 1980, and will accrue interest from Thursday, June 5, 1980.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 18-80, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2.1. The securities will be dated June 5, 1980, and will bear interest from that date, payable on a semiannual basis on February 15, 1981, and each subsequent 6 months on August 15 and February 15, until the principal becomes payable. They will mature August 15, 1985, and will not be subject to call for redemption prior to maturity.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, June 3, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 2, 1980.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompained by a payment guarantee as provided in Section 3.5., must be made or completed on or before Thursday, June 5, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, June 3, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Sections 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753, 754b), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17335 Filed 6-4-80; 12:10 pm]

BILLING CODE 4810-40-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 111
Friday, June 6, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Home Loan Bank Board	1
Federal Reserve System (Board of Governors)	2
Nuclear Regulatory Commission	3
Securities and Exchange Commission	4

1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 37577, June 3, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 6, 1980.

PLACE: FDIC Building, 550 17th Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting.

Regulation on Dividends to Member Institutions.
Regulation on Amendment to Policy on Advances.
Regulation on Induced Savings Withdrawals.

Announcement is being made at the earliest practicable time.

No. 356, June 3, 1980.

[S-1103-80 Filed 6-4-80; 11:51 am]

BILLING CODE 6720-01-M

2

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, June 11, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed restatement of the System policy on Equal Employment Opportunity and the use of affirmative action programs.
2. Proposed uniform policy regarding internal control for foreign exchange in commercial banks.
3. Proposed uniform description for classification of the competitive factor reports required by the Bank Merger Act.
4. Proposal to amend Regulation T (Credit by Brokers and Dealers) to lift the suspension of customer rule as it applies to specialists. (Docket No. R-0004).

Discussion Agenda:

1. Revision of a proposed amendment to Regulation T (Credit by Brokers and Dealers) to permit options specialists to both purchase and sell short the stock underlying the options in which they specialize, with a 25 percent margin requirement. (Proposed earlier for public comment: docket No. R-0054).
2. Determination of whether to publish notice in the **Federal Register** of the application of First Chicago Corporation, Chicago, Illinois, to continue to engage in certain real estate advisory activities.
3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: June 3, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1102-80 Filed 6-4-80; 11:12 am]

BILLING CODE 8210-01-M

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, June 10, 1980.

PLACE: Commissioners Conference Room, 1717 H Street NW Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

1. Continuation of Discussion of TMI Venting (approximately 2 hours, if needed) (public meeting).

2 p.m.

1. Discussion of Houston Lighting & Power (Allens Creek) (ALAB-590) (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

June 3, 1980.

[S-1104-80 Filed 6-4-80; 2:32 pm]

BILLING CODE 7590-01-M

4

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of June 2, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Thursday, June 5, 1980, immediately following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Thursday, June 5, 1980, immediately following the 10:00 a.m. open meeting, will be:

Settlement of injunctive action.
Formal order of investigation.
Institution of injunction actions.
Consideration of *amicus* participation.

At times changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted for postponed, please contact: Anne Sullivan at (202) 272–2468.

June 4, 1980.

[S–1105–80 Filed 6–4–80; 3:36 pm]

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federal register

Friday
June 6, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction, General Wage Determination Decisions

DEPARTMENT OF LABOR

General wage determination decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5, the wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statues listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Colorado	
CO80-5101	Feb 1, 1980
District of Columbia	
DC80-3040	May 16, 1980
Missouri	
MO80-4023	Apr 11, 1980
MO80-4030	May 16, 1980
MO79-4099	Dec 14, 1979
Montana	
MT80-5111	Mar 28, 1980
MT80-5112	Apr 18, 1980
Oregon	
OR80-5109	Mar 14, 1980
Texas	
TX80-4024	Apr 4, 1980

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama	
AL79-1114 (AL80-1068)	July 27, 1979
AL79-1133 (AL80-1069)	Oct. 19, 1979
AL79-1065 (AL80-1070)	Apr 13, 1979
Minnesota	
MN79-2024 (MN80-2034)	May 4, 1979
South Dakota	
SD79-5113 (SD80-5118)	Mar 16, 1979
Texas	
TX80-4005 (TX80-4031)	Jan 4, 1980
TX79-4086 (TX80-4032)	Oct 5, 1979
TX79-4046 (TX80-4034)	Aug. 17 1979

Cancellation of General Wage Determination Decisions

The general wage decisions listed below are cancelled. Agencies with construction projects pending to which one of the cancelled decisions would have been applicable should utilize the project determination procedure by submitting Form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7 (b) (2), the incorporation of one of the cancelled decisions in contract specifications, the opening of bids in within ten (10) days of this notice, need not be affected.

TX–79–4014—Dimmit, Jim Hogg, LaSalle, Maverick, Webb, Zapata & Zavala Counties, Texas—Building & Residential Const.

TX–79–4007—Tom Green County, Texas—Building Construction.

Signed at Washington, D.C. this 30th day of May, 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

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MODIFICAITONS P. 1

DECISION NO. CO80-5101 - Mod. #1
(45 FR 7443-February 1, 1980)
Statewide, Colorado

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Carpenters:					
Zone 1	$10.52	.90	.95	.85	.07
Zone 2	11.02	.90	.95	.85	.07
Underground Carpenters					
Zone 1	10.72	.90	.95	.85	.07
Zone 2	11.22	.90	.95	.85	.07
Working on creosoted coated lumber or other toxic materials, Wasmen continuously assigned to 1½ HP saw at job site	10.87	1.00	1.00	.95	.07
High work 35' above ground or above permanent floor or deck	11.37	1.00	1.00	.95	.07
Cement Masons:					
Zone 1	10.76	.59	1.25	.30	.13
Zone 2	11.26	.59	1.25	.30	.13
Electricians:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld, and Yuma Counties:					
Electricians	14.25	.70	3%+.75		3/10%
Cable Splicers	14.50	.70	3%+.75		3/10%
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Ouray, Pitkin, Rio Blanco, Routt, San Juan and San Miguel Counties:					
Electricians	14.10	.75	3%+.25	6%	1½%
Cable Splicers	14.25	.75	3%+.25	6%	1½%

MODIFICATIONS P. 2

DECISION NO. CO80-5101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo and Rio Grande Counties:					
Zone 1:					
Electricians	$12.49	.72	3%+1.00		1½%
Cable Splicers	13.76	.72	3%+1.00		1½%
Zone 2:					
Electricians	13.24	.72	3%+1.00		1½%
Cable Splicers	14.58	.72	3%+1.00		1½%
Zone 3:					
Electricians	13.74	.72	3%+1.00		1½%
Cable Splicers	15.13	.72	3%+1.00		1½%
Zone 4:					
Electricians	14.37	.72	3%+1.00		1½%
Cable Splicers	15.83	.72	3%+1.00		1½%
Zone 5:					
Electricians	14.99	.72	3%+1.00		1½%
Cable Splicers	16.51	.72	3%+1.00		1½%
Electricians on electrical contracts less than $20,000 in Zones 3 and 4	10.25	.72	3%+1.00		.015
Laborers:					
Group 1:					
Zone 1	8.65	.59	.70	.25	.05
Zone 2	9.15	.59	.70	.25	.05
Group 2:					
Zone 1	8.75	.59	.70	.25	.05
Zone 2	9.25	.59	.70	.25	.05
Group 3:					
Zone 1	9.05	.59	.70	.25	.05
Zone 2	9.55	.59	.70	.25	.05
Group 4:					
Zone 1	9.20	.59	.70	.25	.05
Zone 2	9.70	.59	.70	.25	.05
Group 5:					
Zone 1	9.40	.59	.70	.25	.05
Zone 2	9.90	.59	.70	.25	.05

MODIFICATIONS P. 3

DECISION NO. CO80-5101 (Cont'd)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:	ZONE 1	ZONE 2				
(Tunnels):						
Group 1	$ 8.65	$ 9.15	.59	.70	.25	.05
Group 2	9.55	10.05	.59	.70	.25	.05
Group 3	9.65	10.15	.59	.70	.25	.05
Group 4	9.73	10.23	.59	.70	.25	.05
Group 5	9.80	10.30	.59	.70	.25	.05
Group 6	10.70	11.20	.59	.70	.25	.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	9.65	10.15	.59	.70	.25	.05
Group 2	9.80	10.30	.59	.70	.25	.05
Group 3	9.90	10.40	.59	.70	.25	.05
Group 4	10.18	10.68	.59	.70	.25	.05
Group 5	10.23	10.73	.59	.70	.25	.05
Group 6	10.83	11.33	.59	.70	.25	.05

MODIFICATIONS P. 4

DECISION NO. DC80-3040 - MOD. #2
(45 FR 32528 - May 16, 1980)
District of Columbia, Maryland-Montgomery & Prince Georges; D.C. Training School; Virginia-Independent City of Alexandria, Arlington & Fairfax Counties

Change:
(District of Columbia Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Paving and Incidental Grading					
Asphalt Shoveler	8.00	.30	.40		
Asphalt Raker	8.21	.30	.40		
Asphalt Tamper	8.11	.30	.40		
Bricklayers	13.45	1.17	.85		.15
Carpenters	12.06	.80	.65		.05
Cement Masons	8.48	.30	.40		
Concrete Saw Operators	8.21	.30	.40		
Concrete Shoveler	8.11	.30	.40		
Form Setter	8.48	.30	.40		
Laborers:					
Laborers	7.95	.30	.40		
Jackhammer	8.16	.30	.40		
Hand Burner Operator	8.11	.30	.40		
Power Equipment Operators:					
Concrete Spreader Operator Finishing Machine, Roller (rough), Compressor Rubbertired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	8.21	.30	.40		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Roller Operator, Concrete Breaker (machine)	8.43	.30	.40		
Crane Operator, Concrete Paving Operator	8.48	.30	.40		
	8.64	.30	.40		

MODIFICATIONS P. 5

DECISION NO. DC80-3040 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
Shovel Operator	8.75	.30	.40		
Gradall Operatmr (1-½ cu. yds. or less), Mmtor Grader, Operator Tracks over 2-½ cu. yds.	9.44	.30	.40		
G-1000 Gradall Operator (over 1½ cu. yds.)	9.71	.30	.40		
Power Broom, Oiler	8.11	.30	.40		
Sand Setter	8.48	.30	.40		
Truck Drivers:					
Truck Drivers (standard)	7.95	.30	.40		
Tandem	8.07	.30	.40		
Trmmtor trailer (capable of moving heavy equipment	8.48	.30	.40		

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION #M080-4023 - Mod. #3 (45 FR 24997 - April 11, 1980) Statewide, Missouri					
Change:					
Carpenters & Piledrivermen Zone 9	$12.80	.60	.50		.07
DECISION #M080-4030 - Mod. #1 (45 FR 32537 - May 16, 1980) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson and Lafayette Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Change:					
Carpenters:					
Zone 1	$12.80	.60	.50		.07
Zone 2					
Carpenters	12.05	.60	.50		.07
Millwright & Piledrivermen	12.80	.60	.50		.07
Zone 3					
Carpenters	12.425	.60	.50		.07
Millwright & Piledrivermen	12.80	.60	.50		.07

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #M079-4099 - Mod. 2 (44 FR 72819 - December 14, 1979) Cass, Clay, Jackson, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Change:					
Carpenters, millwrights, and piledrivermen	$12.30	.60	.50		.07

MODIFICATIONS P. 8

DECISION NO. MT80-5111 - Mod. #4
(45 FR 20651-March 28, 1980)
Statewide, Montana

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Statewide excluding Beaverhead and Silver Bow Counties:					
Carpenters	$11.13	.85	$1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Electricians:					
Blaine, Chouteau, Daniels, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley and Wheatland Counties:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.50		1/2%
Cable Splicers	13.86	.70	3%+.50		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.50		1/2%
Cable Splicers	15.06	.70	3%+.50		1/2%
Cascade County:					
Electricians	14.35	.70	3%+.50		1/2%
Cable Splimers	15.06	.70	3%+.50		1/2%
Broadwater, Lewis and Clark and Meagher Cos.					
Electricians	13.20	.70	3%+.50		1/2%
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell and Silver Bow Counties:					
Electricians	14.35	.70	3%+.50		1/2%

MODIFICATIONS P. 9

DECISION #MT80-5112-Mod. #2
(45 FR 26643-April 18, 1980)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Cascade, Chouteau, Fergus, Glacier, Judith Basin, Liberty, Meagher, Pondera, Teton and Toole Cos.:					
Carpenters	$11.25	.85	1.00		.04
Piledrivermen;	11.50	.85	1.00		.04
Millwrights	12.25	.85	1.00		.04
Blaine and Hill Cos.:					
Carpenters	11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen	11.63	.85	1.00		.04
Broadwater, Lewis and Clark and Jefferson Counties:					
Carpenters	11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Deer Lodge, Granite (all area lying south of a line running due east from the N.E. corner of Granite County to the N.E. corner of Granite County and Powell County (area lying south of the N.E. corner of Granite County):					
Carpenters	11.67	.85	1.00		.04
Piledrivermen and Millwrights;	11.92	.85	1.00		.04
Beaverhead and Silver Bow Counties:					
Carpenters	11.43			.75	
Millwrights	11.93			.75	
Piledrivermen	11.93			.75	

MODIFICATIONS P. 10

DECISION NO. MT80-5112 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Granite County (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County), Lake County (southern area, south of and inlcuding the Town of Ravalli), Mineral County (area southeast of southeast city limits of the Town of Superior), Missoula County, Powell County (area lying north of the N.S. corner of Granite County, Ravalli and Sanders (southeastern portion):					
Carpenters	$11.13	.85	1.00		.04
Millwrights;	12.27	.85	1.00		.04
Piledrivermen	11.43	.85	1.00		.04
Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties; also Fort Peck Project:					
Carpenters	10.69	.85	1.00		.04
Millwrights	11.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04

MODIFICATIONS P. 11

DECISION NO. MT80-5112 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Flathead, Lincoln and Lake Counties (northern area including Town of Ravalli from a point where Highway #10A i and Highway #93 intersect), Mineral County (northern area including the Town of Superior), Sanders County (excluding S.E. corner portion):					
Carpenters	$11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen;	11.38	.85	1.00		.04
Gallatin, Madison, Park and Sweet Grass Counties:					
Carpenters	11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen;	11.38	.85	1.00		.04
Cement Masons: Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton and Toole Cos.	11.35				
Painters: Deer Lodge and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg:					
Painters	10.02				
Perfatapers	10.27				
Paint Mitt	10.52				
Add: Sprinkler Fitters: Apprenticeship Tr. ONLY					.08

MODIFICATIONS P. 12

DECISION #OR80-5109 - Mod. #1
(45 FR 16811-March 14, 1980)
Lane, Linn, and Marion Counties, Oregon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Lane and Linn Counties	$13.85	.95	$1.00		.12
Marion County	14.26	.95	1.00		.15

DECISION #TX80-4024-Mod. #2
(45 FR 23280-April 4, 1980)
El Paso County, Texas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Blocklayers; Rockmasons; Stonemasons	$ 8.65	.77	.20		.05
Marble Masons	8.00		.20		.05
Terrazzo Workers and Tile Setters	8.00		.20		.05
Terrazzo and Tile Finishers	5.30		.20		
Omit: All rates and classifications for painters					
Add:					
Elevator Constructors' Helpers	70%JR	.895	.69	4%+a+b	.035
Painters:					
Group 1 - Brush, Roller, Paperhangers and Tapers	7.90	.83			.02
Group 2- Power driven tools, Steel after erection	8.31	.83			.02
Group 3 - Spray, Swing Stage, Sandblast, Stripping Machine	8.615	.83			.02
Group 4 - Water Tanks, Towers, Smoke Stacks	9.26	.83			.02
Group 5 - Ames Tools	8.12	.83			.02
Group 6 - Spray Texture	8.60	.83			.02

SUPERSEDEAS DECISION

STATE: Alabama
DECISION NO.: AL80-1068
COUNTY: Etowah
DATE: Date of Publication
Supersedes Decision No. AL79-1114 dated July 27, 1979 in 44 FR 44407
DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up tm and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	12.46	.55	.80		.05
BRICKLAYERS	12.45		.25		.05
CARPENTERS:					
Carpenters	11.05	.65	.50		
Millwrights	10.10	.60	.45		
CEMENT MASONS	9.90	.25	.25		.05
ELECTRICIANS	13.05	.55	3%+.40		0.5%
GLAZIERS	7.73				
IRONWORKERS	11.60	.60	.82		.06
INSULATORS	8.35				
LABORERS	6.61	.40	.27		
LATHERS	8.50				
PAINTERS, brush	7.79				
PLUMBERS AND PIPEFITTERS	12.55	.65	.60	a	.07
ROOFERS	8.90		.20		.10
SHEET METAL WORKERS	11.88	.79	1.07		.09
SPRINKLER FITTERS	11.94	.75	1.05		.08
TRUCK DRIVERS:					
Up to but not inc. 1½ tons	7.52	.45			
1½ up to but not inc. 3 tons	7.74	.45			
3 up to but not inc. 5 tons	8.00	.45			
5 tons and over inc. special equipment	8.16	.45			
Heavy-Duty-off the road trucks	8.27	.45			
Welders - Rate for Craft					

FOOTNOTE:
a. Four Paid Holidays: July 4; Labor Day; Thanksgiving Day; Christmas Day

AL80-1068 (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	10.59	.50	.40		.10
GROUP B	10.02	.50	.40		.10
GROUP C	8.88	.50	.40		.10
GROUP D	11.34	.50	.40		.10
GROUP E	10.58	.50	.40		.10
GROUP F	9.02	.50	.40		.10

GROUP A
Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine, (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B
Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C
Air compressor (125 & under), oilers-firemen, conveyor (1 tended by oiler), pumps (under 4 inches), welding machines (3 or under)

GROUP D
ON STEEL ERECTION: Crane, dragline, derricks, hoist, piledrivers winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E
Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F
Gas or diesel driven welding machine (3 or less), air compressor 125 and under (2 or less), oiler, fireman, small boat

Unlisted classifications needed for work not included within the scope of the classifications listed may bo added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Alabama
DECISION NO.: AL80-1069
COUNTY: Tuscaloosa
DATE: Date of Publication
Supersedeas Decision No: AL79-1133 dated October 19, 1979 in 44 FR 60513
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Bricklayers	10.60		.40		.05
Carpenters	8.26				
Cement masons	6.50				
Electricians	13.05	.55	3%+.40		0.5%
Glaziers	9.98	.80	.65	a	.005
Ironworkers	11.60	.60	.82		.06
Laborers:					
Laborers	3.85				
Air tool operators	4.45	.25	.15		
Mason tenders	4.35	.25	.15		
Lathers	9.50				
Painters, brush	8.00				
Plumbers & pipefitters	11.70	.37	.35		.08
Roofers	8.90		.20		.10
Sheet metal workers	11.88	.79	1.07		.09
Tile setters	10.35		.40		.05
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	6.51				
Crane	8.81				
Front end loader	5.50				
Roller	4.60				

FOOTNOTE:
■. Paid Holidays include: New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving and Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Alabama
COUNTIES: Colbert & Lauderdale
DECISION NUMBER: AL80-1070
DATE: Date of Publication
Supersedes Decision No.: AL79-1065 dated April 13, 1979 in 44 FR 22305
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Asbestos workers	12.46	.55	.80		.05
Boilermakers	10.70	1.05	1.00		.02
Bricklayers:					
Bricklayers, blocklayers, stonemasons	11.72				
Saw operator	11.97				
Carpenters:					
Carpenters, soft floor layers	11.10		.30		.10
Piledrivermen	11.35		.30		.10
Millwrights	11.60		.30		.10
Cement masons:					
Cement masons	9.60	.40			
Power tool operators	9.85	.40			
Electricians:					
Electricians	12.15	.55	3%+.65		
Cable splicers	12.40	.55	3%+.65		
Elevator constructors	10.56	.895	.69	a+b	.03
Ironworkers	10.60	.75	.75		.08
Laborers:					
Unskilled, mason tenders, mortar mixers & plasterers tenders	6.■2	.■0	.50		
Air tool operators & pipelayers	7.■2	.4■	.5■		
Painters:					
Commercial	9.35	.45	.25		.05
Industrial	10.50	.45	.25		.05
Plasterers	9.87	.40			
Plumbers, steamfitters	12.76	.75	.85		.13
Roofers	8.90		.20		.10
Sheet metal workers	11.88	.79	1.07		.09
Sprinkler fitters	11.94	.75	1.05		.08

AL80-1070(Cont'd) Page 2

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day

b. Employer contributes 8% of regular houly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

AL80-1070 (Cont'd) Page 3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	11.33	.50	.55		.05
GROUP B	9.89	.50	.55		.05
GROUP C	9.07	.50	.55		.05

Group A - Backhoe, bulldozers, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, grade all, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking mechanic, master pilot, pile driver, post hole digger, scraper (pull type & self prop.), shovel, sweeper, tractor (spec. equip.,) trenching machine, well point & winch truck operators

Group B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ¼ cu. yd. & under, locomotive brakeman, locamotive flagman, locomotive switchman, oiler-driver (35 tons crane & over) outboard motor boat (when used for tmwing), paving machine, post hole digger mounted on farm type tractor & walk behind type trenching machine operators

Grmup C - Air compressor (port.), conveyor, fireman statimnary equip., oiler, outboard motor boat & pump operators

Oiler driver - additional $.10 per hour

All crane, derricks and gantry tmwer crane operators operating such equipment with an overall height of 150 ft. including jobs - additional $.50 per hour

All scraper operators operating Tanden scrapers receive $.25 per hour additional for each additional scraper (bowl).

Unlisted classifications needed [illegible] not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Minnesota COUNTIES: Benton, Sherburne & Stearns
DECISION NUMBER: MN80-2034 DATE: Date of Publication
Supersedes Decision No. MN79-2024 dated May 4, 1979 in 44 FR 26476
DESCRIPTION OF WORK: Building (Including Residential), Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.81	.60	1.00		.14
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.80		.25	1.00	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co.					
Carpenters, Millwrights & Piledrivermen	11.66	.70	.60	.60	.02
Soft Floor Layers	11.33	.81	.74	.65	.02
Cities of Little Rock & Skaja in Benton County					
Carpenters	11.45				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	12.43	.50			
Soft Floor Layers	7.50			a	
Site Preparation, Excavation & Incidential Paving:					
Benton & Stearns Counties					
Sherburne County (Portion that lies west of Hwy. #169	10.17	.50		.75	
Remainder of Sherburne County	9.97				
CEMENT MASONS:					
Building Construction					
Benton & Sterns Counties					
Cement masons & Plasterers	9.55		.25		
Sherburne County					
Cement Masons	12.43	.60	.60		
Plasterers	11.55	.50	.45	.65	.02
Site Preparation, Excavation & Incidential Paving					
Sherburne County	10.13	.60	.60		
Benton & Stearns Counties	9.90			.25	

a - One week paid vacation

DECISION NO. MN80-2034 Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS.					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake in Sherburne County:					
Jobs under $50,000	10.40	7%	6%	10½%	3/4 of 1%
Jobs over $50,000	12.15	7%	6%	10½%	3/4 of 1%
Remainder of Sherburne County:	12.20	5 3/4%	5 7/8%	11½%	3/8%
GLAZIERS	11.47	.40			
IRONWORKERS	12.95	.85	.90		.04
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	9.80	.35	.15		
Power Buggy Operators	9.85	.35	.15		
Mortar Mixers; Plasterer Tenders	9.90	.35	.15		
Jackhammer Men	9.95	.35	.15		
Underground; Caisson; Cofferdam & Tunnel work	10.05	.35	.15		
Dynamite Men & Pipelayers	10.10	.35	.15		
Sherburne County:					
Common, Carpenter Tender	10.05	.60	.45	.40	
Wrecking & demolition	10.15	.60	.45	.40	
Vibrator Opr; Jackhammermen;					
Mortar Mixers	10.20	.60	.45	.40	
Underground Work	10.30	.60	.45	.40	
Pipelayers	10.35	.60	.45	.40	
Caisson Work - Underpinning	10.45	.60	.45	.40	
Dynamite Men	10.755	.60	.45	.40	
LATHERS:					
Benton & Stearns Counties	11.79	.50	.65	.01	
MARBLE SETTERS	12.355	.655	.53		

DECISION NO. MN80-2034

Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	$12.01	.65	.50		.13
Spray, Structural Steel & Sandblasting	12.61	.65	.50		.13
Benton, & Stearns Counties & the Remainder of Sherburn County:					
Brush	9.25	.50			.11
Structural Steel	10.25	.50			.11
Spray	10.25	.50		3%	.11
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	11.94	.53	.50	1.35	.05
Steamfitters Eastern ½ of County	11.94	.54	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co:					
Plumbers & Steamfitters	12.37	.70	.53		.06
ROOFERS:	10.10		.30	.50	
SHEET METAL WORKERS	11.66	.52	.72		.08
SPRINKLER FITTERS	14.10	.75	1.05		.08
TRUCK DRIVERS - Building	9.80				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MN80-2034

Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
LABORERS					
Sherburne County					
CLASS 1	$10.00	.60	.45	.40	
CLASS 2	10.10	.60	.45	.40	
CLASS 3	10.15	.60	.45	.40	
CLASS 4	10.25	.60	.45	.40	
CLASS 5	10.30	.60	.45	.40	
CLASS 6	10.35	.60	.45	.40	
CLASS 7	10.40	.60	.45	.40	
CLASS 8	10.43	.60	.45	.40	
CLASS 9	10.45	.60	.45	.40	
CLASS 10	10.63	.60	.45	.40	
CLASS 11	10.68	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler
CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc.,' Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Prescast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)
CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, Manual)
CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work

DECISION NO. MN 80-2034

Page 5

LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzleman (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - Bituminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

DECISION NO. MN80-2034

Page 6

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	$ 9.50	.55	.35	.40	
CLASS 2	9.55	.55	.35	.40	
CLASS 3	9.60	.55	.35	.40	
CLASS 4	9.65	.55	.35	.40	
CLASS 5	9.75	.55	.35	.40	
CLASS 6	9.90	.55	.35	.40	
CLASS 7	9.95	.55	.35	.40	
CLASS 8	10.00	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemanson Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municipal Type Curb & Sidewall, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, truck, etc.); Jackhammer, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;. Caissmn work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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DECISION NO. MN80-2034

Page 7

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	$15.70	.75	.60		.05
CLASS 2	14.05	.75	.60		.05
CLASS 3	13.80	.75	.60		.05
CLASS 4	13.20	.75	.60		.05
CLASS 5	12.85	.75	.60		.05
CLASS 6	12.75	.75	.60		.05
CLASS 7	12.50	.75	.60		.05
CLASS 8	12.38	.75	.60		.05
CLASS 9	12.30	.75	.60		.05
CLASS 10	12.03	.75	.60		.05
CLASS 11	11.15	.75	.60		.05
CLASS 12	10.70	.75	.60		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hosit Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Crane; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CRM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs-Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (mne drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASSS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.)
CLASS 12 - Mechanical Space Heater (Temporary Heat) Oiler or Greaser; Elevator Operator

DECISION NO. MN80-2034

Page 8

SITE PREPARATION EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W					
GROUP 1	$ 15.99	.75	.60		.05
GROUP 2	12.66	.75	.60		.05
GROUP 3	12.25	.75	.60		.05
GROUP 4	12.12	.75	.60		.05
GROUP 5	12.03	.75	.60		.05
GROUP 6	11.05	.75	.60		.05
GROUP 7	10.45	.75	.60		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs. Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple Machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven-Mighty might or similar type, Pick-up

Page 9

DECISION NO. MN80-2034

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)
sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismantling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & spreader finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greaser on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off
GROUP 7 - Brakeman, switchman, conveyor op., deckhand, fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN80-2034

Page 10

POWER EQUIPMENT OPERATOR: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.: (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1	$15.65	.75	.60		.05
GROUP 2	12.36	.75	.60		.05
GROUP 3	11.95	.75	.60		.05
GROUP 4	11.83	.75	.60		.05
GROUP 5	11.73	.75	.60		.05
GROUP 6	10.7	.75	.60		.05
GROUP 7	10.15	.75	.60		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole, Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrieration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Trunk Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled, Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping

Page 11

DECISION NO. MN80-2034

(POWER EQUIPMENT OPERATORS) (CONT'D)

Group 5 (Cont'd)
machines op., (power-driven-Mighty might or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type)well point installation, dismantling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach, op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take- off)

GROUP 7 - Brakeman, switchman, conveyor op., deckhand, firemen, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN80-2034

Page 12

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Remainder of Benton & Stearns Cos.					
GROUP 1	$15.20	.70	.55		.05
GROUP 2	11.02	.70	.55		.05
GROUP 3	10.32	.70	.55		.05
GROUP 4	10.18	.70	.55		.05
GROUP 5	10.10	.70	.55		.05
GROUP 6	9.57	.70	.55		.05
GROUP 7	9.17	.70	.55		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, Excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Opeator or Engineer, dredge Oper. (power) & yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole, Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op.,Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven-Mighty might or similar type,) Pick-up sweeper, 1 cu. yd. & over Hopper capacity Pipeline wrapping, cleaning or bending machine Op., Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

Page 13

DECISION NO. MN80-2034

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)
tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismantling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, Shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

Page 14

DECISION NO. MN80-2034

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
GROUP 1	$10.90	.65	.65		
GROUP 2	10.45	.65	.65		
GROUP 3	10.35	.65	.65		
GROUP 4	10.15	.65	.65		

GROUP 1 - Driver (Hauling machinery for employer' own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN80-2034

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
GROUP 1	$9.72	.65	.65		
GROUP 2	9.27	.65	.65		
GROUP 3	9.17	.65	.65		
GROUP 4	8.97	.65	.65		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: South Dakota
DECISION NUMBER: SD80-5118
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. SD79-5113 dated March 16, 1979, in 44 FR 16322
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Finisher	$8.16				
Form Builder	8.16				
Form Setter	7.84				
LABORERS:					
Air Tool Operatmr	5.92				
Common Laborer	5.92				
Landscape Worker	5.92				
Manhole Builder	7.48				
Piledriver (Leadsman)	7.28				
Pipelayer (other than Culvert)	7.28				
Powderman (Blaster)	8.46				
PAINTERS	7.2[illegible]				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	7.04				
Asphalt Paving Machine	7.88				
Asphalt Paving Machine Tender	6.02				
Asphalt Plant Tender	6.66				
Aspahlt Plant, stationary and traveling	8.46				
Bulldozer, 80 HP or less	7.18				
Bulldozer, over 80 HP	7.88				
Bullfloat Machine	7.58				
Concrete Batch Plant	7.88				
Concrete Mixer	6.90				
Concrete Paver	8.46				
Concrete Paving Cure Machine	7.00				
Concrete Paving Form Grader	8.06				
Concrete Paving Finishing Machine	8.06				
Concrete Paving Joint Machine	7.80				
Concrete Paving Joint Sealer	7.00				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Concrete Paving Saw	$7.58				
Concrete Paving Spreader	8.06				
Concrete Paving Subgrader	7.88				
Conveyor	6.02				
Cranes, Derricks, Draglines, Piledrivers, Backhoes, and Shovelm, 1½ cu. yds. or lesm	7.88				
Cranes, Derricks, Dragglinmm, Pilmdrivers, Backhoes, and Shovels over 1½ cu. yds.	8.46				
Crusher, including those with integral Screening Plant	7.88				
Curb Machine	7.00				
Fireman (Boilmr and Retort)	6.70				
Front End Loader, 1½ cu. yds. or less	6.90				
Front End Loader, 1½ cu. yds. to 3½ cu. yds.	7.58				
Front End Loader, over 3½ cu. yds.	7.88				
Mechanic, heavy duty	8.46				
Mechanic Tender	6.90				
Mechanic, maintenance	7.58				
Motor Grader, finish	8.46				
Oiler and Greaser	7.58				
Roller, smlf-propelled (Hot Mix)	7.00				
Roller, self-propellem (other)	6.38				
Roller, Sheepfoot or 5[illegible] ton, Pneumatic	7.00				
Scrapers	8.74				
Spreader (materials)	7.58				
Stationary Plant	7.00				
Tramtmr, Crawler or Pneumatic	7.00				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Tractor, farm type with attachments (including Lmader)	$6.02				
Tractor, Pusher	8.16				
Traveling Plant (Stabilization)	7.88				
Traveling Plant Tender	6.02				
Trenching Machine	7.58				
Wagon Drill, including Airtrac, Trac-drill, etc.	7.5[illegible]				
TRUCK DRIVERS:					
Euclid or Dumptor	6.62				
Truck Cranes	6.48				
Truck, single axle	5.92				
Truck, Tandem or Semi-trailmr	[illegible].3[illegible]				
WELMERS:					
Welder, certified	8.06				
Welder, general	7.58				
LINE CONSTRUCTION:					
Group 1	12.31	.45	3%		1/2%
Group 2	12.28	.45	3%		1/2%
Group 3	9.85	.45	3%		1/2%
Group 4	8.21	.45	3%		1/2%
Group 5	7.54	.45	3%		1/2%

DECISION NO. SD80-5118 Page 4

LINE CONSTRUCTION (Cont'd)

Group 1: Journeyman Cable Splicer; Journey Lineman

Group 2: Tractor Dozer Operator, D-4 and larger; All Rigs erecting steel tower and "H" fictures, also tension pulling Machines

Group 3: Groundman - operating special equipment. Hole Digging Machines; Aerial Baskets on energized circuits; Tractors, D-4 and larger, Transmission Line Pole hauling; All fifth Wheel Trucks and other setting and assembly equipment excluding steel tower and "H" fictures erection

Group 4: Groundman - Truck or Tractor Driver with Winch; Operators of trucks up to and including 2½ tons; Tractor, including D-2 and smaller; including wheel tractors and Crawler Tractors

Group 5: Groundman - Truck or Tractor Driver, without Winch: Operators of truck, up to and including 2½ tons, Tractors, D-2 and smaller including wheel tractors and Crawler Tractors

Unlimted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: TEXAS

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX80-4031

DATE: Date of Publication

Supersedes Decision No. TX80-4005, dated January 4, 1980, in 45 FR 1385

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
ZONE 1 - Bell, Coryell & Falls	$11.95	.70	.90		.08
ZONE 2 - Bosque, Hill & McLennan	11.86	.70	1.00		.03
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS	11.50		.55		.03
CARPENTERS:					
ZONE 1 - Bell & Coryell Cos.					
Carpenters	10.10				
Millwrights	10.35				
ZONE 2 - Bosque, Falls, Hill & McLennan:					
Carpenters	10.58	.37			
Millwrights	11.35	.37			
CEMENT MASONS	9.89	.60	.55		
ELECTRICIANS:					
ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Cos.					
Electricians	11.50	.60	3%		4%
Cable splicers	12.50	.60	3%		4%
ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the southeast boundary line of Coryell Co., Gray Field & the City of Killeen)					

DECISION NO. TX80-4031 Page 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS ZONE 2 CONT'D: & Coryell (that part south of Cowhouse Creek) Counties					
Electricians & cable splicers	$12.60	.60	8%		.8%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.37	1.045	.69	4%+a+b	.025
Helpers	70%JR	1.045	.69	4%+a+b	.025
GLAZIERS	7.50				
IRONWORKERS	11.45	.55	1.1%		.12
LABORERS:					
Unskilled	3.10				
Mason tenders & mortar mixers	3.55				
LATHERS	11.10			1.00	.05
LINE CONSTRUCTION:					
ZONE 1 - Bell (that portion which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen); Bosque, Coryell (that portion except part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Counties:					
Linemen	12.15		3%		1/2%
Cable splicers	13.37		3%		1/2%
Groundman	8.51		3%		1/2%
ZONE 2 - Bell (that portion which is nearer to Austin than Waco) & Coryell (that portion south of Cowhouse Creek) Cos.:					
Linemen	13.86		3%		1/2
Cable splicers	15.25		3%		1/2
Groundmen	9.70		3%		1/2

DECISION NO. TX80-4031 Page 3

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
GROUP 1 - Brush	$ 9.40				.04
GROUP 2 - Boiler Pipe & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	9.90				.04
GROUP 3 - Ames tools for dry wall	10.00				.04
GROUP 4 - Spray work & self-feeding rollers	10.15				.04
GROUP 5 - Steam cleaning, sandblasting & hazardous work	10.50				.04
PLASTERERS	10.54	.60	.55		.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton	10.88	.30	.55		.04
ZONE 2 - All other areas	11.28	.30	.55		.04
ROOFERS:					
GROUP 1 - Slate, tile, asbestos, roofing & siding	6.95				.03
GROUP 2 - Composition, built-up damp & waterproofing	6.80				.03
GROUP 3 - Kettlemen	5.10				.03
SHEET METAL WORKERS:					
ZONE 1 - Within a radius of 20 miles from the McLennan Co. Court House	10.40	3%+.45	.60		.09
ZONE 2 - Over 20 miles up to & including 45 miles	10.90	3%+.45	.60		.09
ZONE 3 - Over 45 miles	11.40	3%+.45	.60		.09
SPRINKLER FITTERS	12.79	.75	1.05		.08
TRUCK DRIVERS	3.10				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

UMI 0 8 6 E J 5 4 V

DECISION NO. TX80-4031 Page 4

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru G

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.04		.40		
GROUP 2	9.97		.40		
GROUP 3	8.75		.40		
GROUP 4	8.64		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; bull clam; back filler; derricks, power operated (all types); dragline; push cat operator; euclid operator; bull dozer and all types of cat tractors; cable-way; back hoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts & loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching machine (all sizes); gradall; foundation boring machine; scoopmobile; shovel, power operated; pump crete machines; clam shell operator; rock crusher operated on job; welding machine, 6 to 12; two 125 cu. ft. compressors; well points, including installations
GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; truck crane driver & oiler, combination man; gasoline or diesel driven welding machine, 3 to 6; hoist, single drum; pump, 2½ in. or larger; pneumatic roller; high-lifts & loaders, 1/3 cu. yd. or less; forklift, 1500 lbs. capacity or less; air compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator
GROUP 3 - Fireman
GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. TX80-4031 Page 5

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.55				
Asphalt Heaterman	4.25				
Asphalt Raker	5.00				
Asphalt Shoveler	4.25				
Batching Plant Scaleman	5.50				
Carpenter	5.60				
Carpenter Helper	4.10				
Concrete Finisher (Paving)	5.50				
Concrete Finisher Helper (Paving)	4.75				
Concrete Finisher (Structures)	6.00				
Concrete Finisher Helper (Structures)	4.00				
Concrete Rubber	4.00				
Electrician	8.90				
Electrician Helper	4.00				
Form Builder (Structures)	4.50				
Form Builder Helper (Structures)	4.00				
Form Setter (Paving & Curb)	4.65				
Form Setter Helper (Paving & Curb)	3.75				
Form Setter (Structures)	5.75				
Form Setter Helper (Structures)	4.00				
Laborer, Common	3.25				
Laborer, Utility Man	3.50				
Mechanic	5.25				
Mechanic Helper	4.10				
Oiler	4.50				
Serviceman	4.75				
Piledrivermen	4.00				
Pipelayer: Bosque, Falls, Hill & McLennan Cos.	5.50				
Pipelayer (Concrete & Clay): Bell & Coryell Cos.	5.50				
Pipelayer Helper: Bosque, Falls, Hill & McLennan Cos.	3.30				
Pipelayer Helper (Concrete & Clay): Bell & Coryell Cos.	3.30				

DECISION NO. TX80-4031 Page 6

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers (Bell & Coryell Cos.): Zone 1 - 35 miles from Waco including towns of Temple & Belton	$10.88	.30	.55		.04
Zone 2 - all area not included in Zone 1	11.28	.30	.55		.04
Powderman	5.50				
Reinforcing Steel Setter (Structures)	5.25				
Reinforcing Steel Helper	3.75				
Sign Erector	4.65				
Sign Erector Helper	3.30				
Spreader Box Man	4.60				
Swamper	4.55				
Power Equipment Operators:					
Asphalt Distributor	4.65				
Asphalt Paving Machine	5.10				
Broom or Sweeper Op.	4.50				
Bulldozer, 150 HP & Less	4.75				
Bulldozer, over 150 HP	5.00				
Concrete Paving Curing Machine	5.00				
Concrete Paving Saw	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & over)	6.50				
Crusher or Screening Plant Operator	4.60				
Foundation Drill Operator (Truck Mounted)	4.50				
Foundation Drill Op. Helper	4.25				
Front End Loader (2½ CY & Less)	4.65				
Front End Loader (Over 2½ CY)	5.00				
Motor Grader Op., Fine Grade	6.55				
Motor Grader Operator	5.30				

DECISION NO. TX80-4031 Page 7

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Ops. Cont'd:					
Roller, Steel Wheel (Plant-Mix Pavements)	$ 4.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.50				
Roller, Pneumatic (Self-Propelled)	3.85				
Scrapers (17 CY and Less)	4.50				
Scrapers (Over 17 CY)	5.00				
Tractor (Crawler Type) 150 HP and Less	3.30				
Tractor (Crawler Type) over 150 HP	4.60				
Tractor (Pneumatic) 80 HP & Less	3.70				
Tractor (Pneumatic) over 80 HP	4.85				
Traveling Mixer	4.10				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.45				
Wagon Drill, Boring Machine or Post Hole Driller Op.	4.20				
Truck Drivers:					
Single Axle, Light	4.00				
Single Axle, Heavy	4.00				
Tandem Axle or Semitrailer	4.00				
Lowboy-Float	4.80				
Welder	5.25				
Welder Helper	3.60				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX80-4032
Supersedes Decision No. FR 57632
COUNTY: Bexar
DATE: Date of Publication
TX79-4086, dated October 5, 1979, in 44
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.95	.70	.90		.08
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS & STONEMASONS	11.48	.57	.30	.25	.05
CARPENTERS:					
Carpenters	10.69	.48	.60	.40	.05
Millwrights	10.99	.48	.60	.40	.05
CEMENT MASONS	10.25	.45		.65	.02
ELECTRICIANS:					
Electricians	11.69	.60	5%		1%
Cable splicers	11.94	.60	5%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.21	1.045	.82	4%+a+b	.035
Helpers	70%JR	1.045	.82	4%+a+b	.035
GLAZIERS	6.80				
IRONWORKERS	10.15	.55	1.30	.50	.12
LABORERS:					
GROUP 1 - General laborers	6.72	.57	.40		.05
GROUP 2 - All power tools & equipment operators; cutting torch man; power buggy op.; wagon drill op.; well driller; drilling rig tender; cement finisher tender; handling creosoted materials; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe laying; plasterer tender; brick tender; lather tender	6.97	.57	.40		.05
GROUP 3 - Mortar mixer man; grout machines; pumpcrete machines; gunnite mixing machines; running sand dryer & loading; operating sand blaster; bell hole man; blaster, powderman; gunnite nozzleman	7.22	.57	.40		.05

Page 2

DECISION NO. TX80-4032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman	12.09	.60	3%		1/2%
Cable splicer	12.34	.60	3%		1/2%
Groundman	6.65	.60	3%		1/2%
MARBLE SETTERS	9.82	.57	.30	.25	
MARBLE SETTERS' FINISHERS	6.87				
PAINTERS:					
Brush; paperhanger; taper & floater; hand roller	9.85		.20		.05
Brush on all structural steel; spray on any other surface other than steel	10.10		.20		.05
PLUMBERS & PIPEFITTERS	12.74	.60	.55		.10
ROOFERS:					
Roofers; deckman	8.21	.50			
Kettlemen	7.27	.50			
Waterproofers	7.72	.50			
SHEET METAL WORKERS	11.93	3%+.45	.96		.09
SOFT FLOOR LAYERS	6.35				
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS	9.82	.57	.30	.25	
TERRAZZO WORKERS' FINISHERS:					
Terrazzo finishers	6.87				
Floor machine operators	7.07				
Base machine operators	7.22				
TILE SETTERS	9.82	.57	.30	.25	
TILE SETTERS' FINISHERS	6.87				
TRUCK DRIVERS	3.64				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 years. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru G

Page 3

DECISION NO. TX80-4032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.27	.45	$1.00		
GROUP 2	9.15	.45	1.00		
GROUP 3	7.70	.45	1.00		
GROUP 4	7.40	.45	1.00		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; all rollers (5 tons or over); backfiller; backhoe; blade graders (self-propelled); bull clam; bulldozers; cableway; clamshell operator; crane (power operated, all types); derricks (power operated, all types); draglines; DW-10 caterpillar and similar tractors; elevating graders (self-propelled); euclid; fork lift used on construction; gasoline or diesel-driven welding machines (7 to 12); gradall; heavy duty mechanic; high lifts; hoist (two drums or more); locomotives; mixer (14 cu. ft. or over); mixmobile; paving mixers (all sizes); piledriver; pumpcrete machine operator; rock crusher operator on job; scoopmobile; scrapers; shovel (power operated); turnapulls; trenching machines (all sizes); winch truck
GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); blade graders (towed); building elevator used on construction; flex planes; form graders; hoist (single drum); mixer (less than 14 cu. ft.); pneumatic roller; pulsometers; pump (2½ or larger shall require a light equipment operator); three to six welding machines or any three pieces or equipment of equal or similar nature
GROUP 3 - Fireman
GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX80-4034
Supersedes Decision No. TX79-4046, dated August 17, 1979, in 44 FR 48593.
COUNTY: Brazos
DATE: Date of Publication
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.12	1.00	1.08		.05
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS & STONEMASONS	13.30	.89	.80		.06
CARPENTERS	10.80				
CEMENT MASONS	12.50	.68	.97		.08
ELECTRICIANS	12.825	1.00	10%		.08
ELEVATOR CONSTRUCTORS:					
Mechanics	12.56	1.195	.82	4%+a+b	.035
Helpers	70%JR	1.195	.82	4%+a+b	.035
GLAZIERS	12.61	.67	.675		.02
IRONWORKERS	12.80	.55	1.70		.10
LABORERS:					
GROUP 1	6.29	.47	.41		.02
GROUP 2	6.39	.47	.41		.02
GROUP 3	6.49	.47	.41		.02
GROUP 4	6.44	.47	.41		.02
GROUP 5	6.54	.47	.41		.02
GROUP 6	6.69	.47	.41		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler & wheeler (stock pile), asphalt ironer & raker, pipe layer (non-metallic), pump crete pipe (handling & laying) & all building construction labor excepting that hereinafter classified; carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); dumper & spotter
GROUP 2 - Air tool operator
GROUP 3 - Well driller
GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling from first stock pile; concrete pipe (handling & laying); sand blaster; power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender
GROUP 5 - Tool room tender; mortar mixer (hoe or otherwise); blaster, powder man; gunnite worker
GROUP 6 - Gunnite nozzleman

LINE CONSTRUCTION:					
Lineman & cable splicer	12.30	.60	3%		1%
Groundman	7.13	.60	3%		1%

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DECISION NO. TX80-4034 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS	$11.38	.63	.20		
PAINTERS:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	11.705	.565	.55	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	12.08	.565	.55	.40	.04
GROUP 3 - Tape, float & dry-wall	11.83	.565	.55	.40	.04
GROUP 4 - Steeple jack work, hot materials	12.33	.565	.55	.40	.04
PIPEFITTERS	13.70	.70	.80		.05
PLASTERERS	12.40	.87	.40		.02
PLUMBERS	13.22	.75	.80		.12
SHEET METAL WORKERS	12.86	3%+.45	.74	.42	.10
SOFT FLOOR LAYERS	11.37	.50	.45		.14
TERRAZZO WORKERS	11.38	.63	.20		
TILE SETTERS	11.38	.63	.20		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

[FR Doc. 80-16989 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-27-C

DECISION NO. TX80-4034 Page 3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.94	.75	1.00		.07
GROUP 2	10.08	.75	1.00		.07
GROUP 3	9.45	.75	1.00		.07
GROUP 4	9.24	.75	1.00		.07

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick-power operated (all types); clam shell; draglines; push cat operator; bull dozer & all types cat tractors; cable-way; backhoe; shovel; power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cubic feet or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cubic yards; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine operator; turnapulls; DW-10 Caterpillar, S-18 euclid and similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant operator; pneumatic rollers, self-propelled;

GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cubic feet; pumps; pulsometer; truck crane driver; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cubic yards or less; wagon drill operator; conveyor; generator, gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors

GROUP 3 - Fireman
GROUP 4 - Oiler

DEPARTMENT OF THE TREASURY

U.S. Treasury. In effect, alcohol and excise tax payments are five million

federal register

Friday
June 6, 1980

Part III

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Certain Alcohol and Tobacco Products
Excise Tax Payments; Proposed
Rulemaking on Electronic Fund Transfer
and Return and Deferral Periods

D. Proposed Procedures

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 70, 240, 245, 250, 270, and 275

[Notice No. 341]

Electronic Fund Transfer for Certain Alcohol and Tobacco Products Excise Tax Payments and Other Provisions

AGENCY: The Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is publishing for comment proposed regulations that would require alcohol and tobacco products excise taxpayers, who pay five million dollars or more in excise taxes in a fiscal year (large taxpayers), to pay these taxes by electronic fund transfer. This electronic fund transfer would provide the U.S. Treasury with immediate credit of funds and make them available for use on the actual date the excise taxes are due rather than several days later. Under present regulations, the Federal Government loses up to three or more days' use of the tax money due while checks, money orders, or other acceptable forms of payment are being delivered by mail and then cleared through the banking system.

These proposed regulations are classified as major and are supplemented by a draft regulatory analysis.

DATES: Comments must be received on or before August 5, 1980.

ADDRESS: Send comments on this proposal and requests for a copy of the draft regulatory analysis to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: For information on the proposed regulations, contact Armida N. Stickney or James A. Hunt at 202/566–7626.

For information on the draft regulatory analysis, contact Cliff A. Mullen at 202/566–7531.

SUPPLEMENTARY INFORMATION:

A. Introduction

During 1978, the President's Reorganization Project (PRP) Team recommended to the Department of the Treasury a cash management improvement project within ATF that would promote interest savings to the U.S. Teasury. In effect, alcohol and tobacco products excise tax payments from approximately 150 large revenue-producing taxpayers (individual plants) would be collected via electronic fund transfer.

In response to the Semiannual Agenda published in the **Federal Register** (44 FR 6686), three trade associations representing the alcoholic beverage and tobacco products industries sent ATF written analyses regarding the impact of the ATF/PRP Cash Management Program on the alcoholic beverage and tobacco products industries. The general thrust of these analyses is that these industries would incur increased monetary costs, because the taxpayers would be required to increase their capital outlays to make the tax payments at an earlier date to the U.S. Treasury. Mathematical procedures for calculating the dollar value of the benefit and cost to these industries were included in the analyses. The value of the benefit which the industries would lose under the electronic fund transfer, moreover, was described in the analyses as a "loan" to the U.S. Treasury.

ATF recognizes that a time delay on taxes due is a benefit to a taxpayer who manages his/her cash so that a "float" of funds is made available for other uses or to preclude borrowing which might otherwise be necessary. The U.S. Treasury, however, has a mandate as expressed in 31 U.S.C. 1002 to exercise efficient cash management in its financial operations. In addition, the Internal Revenue Code generally leaves the time and method for collecting the tax to the discretion of the Secretary of the Treasury. For example, under the current return system, the Secretary of the Treasury has allowed for tax payment to be delayed as much as 30 days from the time malt beverages are removed and tax liability is incurred by a brewer. The opportunity cost of these funds by the Federal Government is the cost incurred by the Federal Government for borrowing this same amount of funds from other sources.

Tax payments made by electronic fund transfer would allow the Federal Government to exercise improved cash management by reducing the length of time permitted the industries to use interest free those funds owed by them to the Federal Government.

ATF believes that an improved cash management on the part of the Federal Government is consistent with the mandate contained in 31 U.S.C. 1002.

ATF proposes, therefore, to implement the ATF/PRP Cash Management Program which would require that excise tax payments, from large taxpayers defined as those whose excise tax payments are five million dollars or more annually, be transmitted electronically by the Federal Reserve Communications System (FRCS) and the Treasury Financial Communications System (TFCS).

B. Current Procedures

ATF administers the collection of approximately seven billion dollars annually in alcohol and tobacco products excise taxes from U.S. brewers, distillers, winemakers, and manufacturers of tobacco products.

Under the present system of collecting alcohol and tobacco products excise taxes, the taxpayer generally prepares and mails a tax return semimonthly, accompanied by a check or money order, to the district director of the Internal Revenue Service (IRS). The district director deposits the remittance with a local bank designated to accept deposits to the Account of the U.S. Treasury and mails the tax return and confirmed certificate of deposit to the IRS Service Center.

Consequently, considerable time elapses between the time the tax is paid and the time the tax payment is accredited to the Treasury's Account.

C. Proposed Method of Delivering Payment by Using TFCS

The Treasury Financial Communications System (TFCS) is the computer-to-computer link between the Department of the Treasury and the Federal Reserve Bank of New York (FRBNY). This system provides the capability for (1) automated receipt and processing of fund transfers and (2) computer-assisted generation of fund transfers between Treasury, Federal Reserve banks, and other banks utilizing the Federal Reserve Communications System (FRCS). The TFCS also intergrates such traffic into the Government-wide Accounting System of the Treasury which accounts for all Federal receipts and outlays. Since the Department of the Treasury maintains an account at FRBNY, banks that maintain an account at a Federal Reserve bank may make electronic fund transfers to the Treasury through the FRCS. Electronic fund transfers between the Treasury and banks that do not maintain an account at a Federal Reserve bank are processed through correspondent banks that do maintain an account at a Federal Reserve bank.

Commercial banks that are members of the FRCS (approximately 5,000 of the 15,000 banks in the United States) also act as correspondents for the nonmember commercial banks, thus allowing deposit movements between practically all banking institutions.

D. Proposed Procedures

ATF is proposing to require a new method of delivering payment of the tax to the Account of the U.S. Treasury at the Federal Reserve Bank of New York by means of electronic fund transfer.

The proposal applies only to those large taxpayers who paid five million dollars or more in alcohol or tobacco products excise taxes during the previous fiscal year. Of the approximately 1,200 alcohol and tobacco products excise taypayers filing returns, approximately 150 would qualify as "large" taxpayers and would be affected by the proposal.

ATF would provide specific information and instructions by use of a notice form and industry circular on how to make the tax payments via electronic fund transfer. The sample format of the notice form is briefly depicted below.

BILLING CODE 4810–31–M

SAMPLE FORMAT: ELECTRONIC FUND TRANSFER NOTICE

SAMPLE FORMAT: ELECTRONIC FUND TRANSFER NOTICE

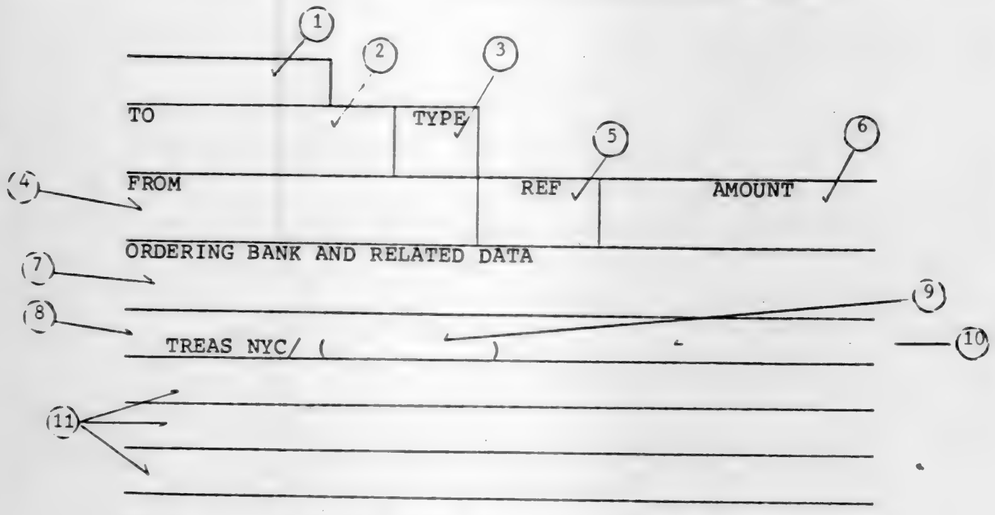

Item 1 - Priority Code (to be provided by the sending bank).
Item 2 - Treasury Department Code (a constant).
Item 3 - Type Code (to be provided by the sending bank).
Item 4 - Sending Bank Code (to be provided by the sending bank).
Item 5 - Reference Number (to be inserted by the sending bank).
Item 6 - Amount (to be provided by the taxpayer).
Item 7 - Sending Bank Name (to be provided by the sending bank).
Item 8 - Treasury Department Name (a constant).
Item 9 - Agency Location Code (to be provided by ATF).
Item 10 - Agency Name (to be provided by ATF).
Item 11 - Third Party Information (to be provided by ATF).

BILLING CODE 4810-31-C

E. Proposed Changes to the Regulations

Generally, these proposed amendments would add new provisions to 27 CFR Parts 19, 70, 240, 245, 250, 270, and 275, requiring large taxpayers to make their excise tax payments by electronic transmission to the U.S. Treasury through Government depositaries and, if needed, nonmember clearing banks.

F. Provisions From 26 CFR Parts 301 and 601 Incorporated Into 27 CFR Part 70 and Other Amendments

Provisions applicable to ATF, appearing in 26 CFR Parts 301 and 601, with respect to certain procedural rules governing the tax payment of the excise tax of distilled spirits, wine, beer, and tobacco products would be incorporated into 27 CFR Part 70—Procedure and Administration—at a later date.

However, as amended below, a new Subpart D—Use of Government Depositaries—and a new section would be added to 27 CFR Part 70 to provide for the use of Government depositaries in transmitting certain excise tax payments by electronic fund transfer to the U.S. Treasury.

Other amendments in the affected parts of 27 CFR are editorial in nature.

G. Public Participation

ATF requests comments from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action. Copies of the proposed changes, of the draft regulatory analysis, and of written comments are available for public inspection during normal business hours at the ATF Reading Room, Room 5207, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

H. Drafting Information

The principal author of this document is Armida N. Stickney of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and other agencies and offices of the Treasury Department participated in developing the document, both on matters of substance and style.

I. Compliance With Executive Order 12044

In compliance with Executive Order 12044, a draft regulatory analysis has been prepared to accompany this notice of proposed rulemaking. The draft regulatory analysis reflects the economic consequences of the proposed amendments. This draft regulatory analysis is available at request and may be inspected during normal business hours at the above-mentioned ATF Reading Room.

J. Authority and Proposed Changes

These proposed regulations would be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

As proposed, 27 CFR Parts 19, 70, 240, 245, 250, 270, and 275 would be amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

1. In the table of sections to 27 CFR Part 19 §§ 19.523a and 19.523b would be added to read as follows:

* * * * *

Subpart O—Transfers and Withdrawals

Sec.

* * * * *

19.523a Delivery of tax payment by electronic fund transfer.
19.523b ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. In § 19.11 the following terms would be added and inserted in alphabetical order:

§ 19.11 Meaning of terms.

* * * * *

Authorized commerical bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commerical bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specificially authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

§ 19.523 [Amended]

3. Section 19.523 would be amended by changing the prepositional phrase, "with remittance", wherever it appears, to read "and remittance as required by § 19.523a or § 19.524".

4. Sections 19.523a and 19.523b would be added to read as follows:

§ 19.523a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided by this section, notwithstanding any provisions of §§ 19.522 and 19.523, a proprietor who pays an amount of five million dollars or more in excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on spirits for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before

message within the prescribed time, see

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator of that fact, in writing, and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The proprietor shall, for each return period, direct the bank to send an electronic fund transfer message as provided in § 19.523b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the time for filing returns as provided in § 19.523. The request shall take into account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 19.522, shall file returns and send remittances by electronic fund transfer, for each return period as provided in § 19.523.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 19.524. During the first return period in which the proprietor chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 5110.32 or Form 5110.35, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, will be filed with the district director.

(c) *Remittance.* (1) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each proprietor shall show on the return, Form 5110.32 or 5110.35, required under § 19.524, information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depositary for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 19.523b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the proprietor on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The proprietor shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the director of the service center, and the original plus one copy will be forwarded by certified or registered mail to the proprietor. The proprietor shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

PART 70—PROCEDURE AND ADMINISTRATION

1. The table of sections to 27 CFR Part 70 would be amended by adding a new subpart, Subpart D—Use of Government Depositaries—and by listing a new section pertaining to this new subpart. As amended, the table of sections would read as follows:

Subpart D—Use of Government Depositaries

Sec.
70.51 Use of Government depositaries.
* * * * *

2. Section 70.1 would be revised to read as follows:

§ 70.1 General.

This part sets forth the procedural and adminstrative rules of the Bureau of Alcohol, Tobacco and Firearms for—

(a) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers; and

(b) The use of Government depositaries for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

3. In § 70.11 the following terms would be added and inserted in alphabetical order:

§ 70.11 Meaning of terms.
* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain an account in the name of the U.S. Treasury for the purpose of accepting deposits for credit it that account.

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.
* * * * *

4. Subpart D and § 70.51 would be added to 27 CFR Part 70 and would read as follows:

Subpart D—Use of Government Depositaries

§ 70.51 Use of Government depositaries.

For provisions relating to the use of Government depositaries and electronic fund transmission of tax payment to the U.S. Treasury, see the regulations relating to the particular tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

PART 240—WINE

1. In the table of sections to 27 CFR Part 240 §§ 240.591a—240.591b would be added and §§ 240.591, 240.594 and 240.595 would be revised. Such entries would read as follows:
* * * * *

Subpart AA—Tax Payment of Wine

Sec.
* * * * *
240.591 Payment of tax by check, cash, or money order.
240.591a Delivery of tax payment by electronic fund transfer.
240.591b ATF Form (Pending)—Electronic Fund Transfer Notice.
* * * * *
240.594 Prepayment of tax; general.
240.595 Prepayment of tax; proprietor in default.
* * * * *

2. In § 240.10 the following terms would be added and inserted in alphabetical order:

§ 240.10 Meaning of terms.
* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in a particular State in which a claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.
* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.
* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.
* * * * *

Government depositaries. Federal Reserve banks and general depositories. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.
* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.
* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.
* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.
* * * * *

§ 240.590a [Amended]

3. Paragraph (b) of § 240.590a would be amended by changing the prepositional phrase, "with remittances", wherever it appears, to read "and remittances as required by § 240.591 or § 240.591a,".

4. The title to § 240.591 would be amended to read as follows:

§ 240.591 Payment of tax by check, cash, or money order.
* * * * *

5. Sections 240.591a and 240.591b would be added to read as follows:

§ 240.591a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 240.591(a)–(c), a proprietor who pays an amount of five million dollars or more in wine excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on wine for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The proprietor shall, for each return period, direct the bank to send an electronic fund transfer message as provided in § 240.591b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the third calendar day next succeeding the last day of each return period. The request shall take into account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 240.590a, shall file returns and send remittances by electronic fund transfer, for each return period, not later than the last day of the return period next succeeding that period.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, the proprietor may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 240.591(c). During the first return period in which the proprietor chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 2050, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* (1) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each proprietor shall show on the return, Form 2050, required under § 240.591, information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depositary for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub.

L. 91-172, 83 Stat. 530, as amended (26 U.S.C.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26

240.595, the proprietor shall (1) follow

authorize a bank to transfer funds from

"with remittance" to read ", and

Account. The request shall be made to

V 45 J E 6 8 0 UMI

L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 240.591b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the proprietor on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The proprietor shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forward to the director of the service centers, and the original plus one copy will be forwarded by certified or registered mail to the proprietor. The proprietor shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

6. Section 240.594 would be revised to read as follows:

§ 240.594 Prepayment of tax; general.

(a) A proprietor shall, before removal of the wine for consumption or sale, file with the district director a wine tax return, Form 2052, with remittance, where (1) he is required to prepay tax under § 240.595, (2) his tax deferral bond (or bonds), Form 2053, is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of such bond by more than $100, or (3) he does not have an approved tax deferral bond, Form 2053, and the total amount of tax unpaid at any one time exceeds $100. The return, with remittance, shall be filed by forwarding or delivering it to the district director. For the purpose of complying with this section, the term "forwarding" shall mean deposit in the United States mail, properly addressed to the district director.

(b) However, when a proprietor is required by § 240.591a to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by (1) completing the return, Form 2052, and by mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator and (2) by directing the proprietor's bank to effect an electronic fund transfer message.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6302))

7. Section 240.595 would be revised to read as follows:

§ 240.595 Prepayment of tax; proprietor in default.

Where a payment of taxes on wine is not made on presentment of check or money order tendered, or where the proprietor is otherwise in default in payment of the tax under § 240.591 or § 240.591a, no wine shall be removed for consumption or sale until the tax has been paid as provided in § 240.594, for the period of the default and until the regional regulatory administrator finds the revenue will not be jeopardized by payment of the tax as provided in § 240.591 or § 240.591a. Any remittance made during the period of the default shall be in cash, or shall be in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of any State, Territory, or possession of the United States, or in the form of a money order, or in the form of an electronic fund transfer message.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6302))

8. Section 240.901 would be amended by adding to the end the following sentence:

§ 240.901 Form 2050.

* * * The original and two copies of Form 2050 shall be filed with the district director as provided in § 240.591 or with the director of the service center if tax payment is made by EFT as provided in § 240.591a; and, at the same time, a copy shall be forwarded to the regional regulatory administrator.

9. Section 240.902 would be revised to read as follows:

§ 240.902 Form 2052.

(a) When the proprietor is required to prepay tax, as provided in §§ 240.594(a) and 240.595, the proprietor shall first prepare Form 2052, as instructed on the form, in an amount sufficient to cover the tax on the quantity of wine proposed to be removed that day. Forms 2052 shall be delivered to the district director or deposited in the U.S. mail properly addressed to the district director, together with a remittance as provided in § 240.594(a) prior to removal of the wine. At the same time, a copy of Form 2052 shall be forwarded to the regional regulatory administrator.

(b) In the case of a prepayment of tax by EFT as provided in §§240.594(b) and 240.595, the proprietor shall (1) follow the procedures as stated in paragraphs (a) and (c) of this section, except that Form 2052 shall be delivered to the director of the service center; and, at the same time, a copy shall be forwarded to the regional regulatory administrator; and (2) direct his bank to effect an electronic fund transfer message.

(c) Form 2052 will be serially numbered by the proprietor, commencing with "1" on January 1 of each year. Form 2052 shall be executed by the proprietor under penalties of perjury. Credit for the amount prepaid on Form 2052 will be taken on the tax return, Form 2050, covering all removals for consumption or sale for the period covered by the return.

PART 245—BEER

1. The table of sections to 27 CFR Part 245 would be amended as shown below:

* * * * *

Subpart N—Tax on Beer

* * * * *

Sec.

245.112 Method of tax payment.

* * * * *

245.117 Semimonthly return.
245.117a Delivery of tax payment by electronic fund transfer.
245.117b ATF Form (Pending)—Electronic Fund Transfer Notice.
245.117c Brewer in default; tax to be prepaid.
245.117d Prepayment of tax.
245.117e Employer identification number.
245.117f Application for employer identification number.
245.117g Execution of Form SS-4.

* * * * *

2. In § 245.5 the following terms would be added and inserted in alphabetical order:

§ 245.5 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

November clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

3. Section 245.112 would be amended to read as follows:

§ 245.112 Method of tax payment.

The tax on beer shall be paid by return on Form 2034, as provided in §§ 245.117, 245.117a, 245.117c, and 245.117d. The tax shall be paid by remittance at the time the tax return is rendered. The remittance shall be made in cash, by check or money order made payable to the "Internal Revenue Service", or shall be delivered by electronic fund transfer message to a Government depositary.* * *

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); sec. 201, Pub. L. 85-859, 72 Stat. 1335 (26 U.S.C. 5061))

§ 245.117a [Redesignated]

4. Existing § 245.117a would be redesignated as § 245.117 and would be amended by changing in paragraph (a) the section citation "§ 245.117c" to read "§ 245.117d" and by changing in paragraph (e) the prepositional phrase, "with remittance" to read ", and remittance as required by § 245.117 or § 245.117a,". Moreover, paragraph (f) would be revised to read as follows:

§ 245.117 Semimonthly return.

* * * * *

(f) Timely filing. (1) When the brewer sends the semimonthly return, with remittance as required by this section to the office of the district director or, without remittance as required by § 245.117a to the director of the service center, by U.S. mail, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the return and, if accompanied, the remittance. When the postmark on the cover is illegible, the brewer shall prove when the postmark was made.

(2) When the brewer sends the semimonthly return, with remittance required by § 245.117 or without remittance as required by § 245.117a, by registered mail, the date of the registry, or the date of the postmark on the sender's receipt of certified mail, shall be treated as the date of delivery of the return and, if accompanied, the remittance.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85-859, 72 Stat. 1335 (26 U.S.C. 5061))

5. A new § 245.117a would be added. to read as follows:

§ 245.117a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 245.117, a brewer who pays an amount of five million dollars or more in excise taxes on beer during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each brewer who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year shall be delivered by electronic fund transfer.

(2) The brewer shall, for each return period, direct his bank to send an electronic fund transfer message, as provided in § 245.117b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the close of the last full calendar day of the return period succeeding that period. The request shall take into account any time limit established by the bank.

(3) If a brewer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed in § 245.117. During the first return period in which the brewer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the brewer shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 2034 (5130.7), showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* (1) The brewer shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The brewer will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each brewer shall show on the return, Form 2034 (5130.7), required under § 245.117, information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date of the transfer is received by a Government depositary for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub.

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L. 91–172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 245.117b [Redesignated]

6. Existing § 245.117b would be redesignated as § 245.117c and would be revised to read as follows:

§ 245.117c Brewer in default; tax to be prepaid.

Where a remittance in payment of taxes on beer is not paid on resentment of check or money order tendered, or where the brewer is otherwise in default in payment of tax under § 245.117 or § 245.117a, no beer shall be removed for consumption or sale or taken from the brewery for removal for consumption or sale until the tax has been prepaid as provided in § 245.117d. The brewer shall continue to prepay during the time that he is in default and thereafter until the regional regulatory administrator finds the revenue will not be jeopardized by deferred payment of tax under the provisions of this subpart. Any remittance made which the brewer is required to prepay under this section shall be in cash, in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of any State or possession of the United States, or in the form of a money order, as provided in 26 CFR 301.6311–1, or shall be delivered in the form of an electronic fund transfer message as provided by §§ 245.117a and 245.117b.

7. A new § 245.117b would be added to read as follows:

§ 245.117b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the brewer on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The brewer shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the director of the service center, and the original plus one copy will be forwarded by certified or registered mail to the brewer. The brewer shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

§ 245.117c [Redesignated]

8. Existing § 245.117c would be redesignated as § 245.117d and would be revised to read as follows:

§ 245.117c Prepament of tax.

(a) *General.* When a brewer is required to prepay tax under § 245.117c, or when the penal sum of the bond(s), Form 1566, is insufficient for deferral of payment of tax on beer to be removed for consumption or sale, or when a brewer is not entitled to defer the tax under the provisions of this subpart, the brewer shall prepay the tax before any beer is removed for consumption or sale, or taken out of the brewery for removal for consumption or sale.

(b) *Method of prepayment.* (1) Prepayment shall be made by forwarding or delivering to the district director a tax return, Form 2034 (5130.7), with remittance, covering the tax on beer. The word "Prepayment" shall be prefixed to the title of the return. For the purposes of complying with this paragraph, the term "forwarding" means depositing in the U.S. mail, properly addressed to the district director.

(2) However, if a brewer is required by § 245.117a to deliver payment of tax by electronic fund transfer, the brewer shall prepay the tax before any beer can be removed for consumption or sale by completing the return and by mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator. The brewer shall direct his bank to effect an electronic fund transfer message.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); sec. 201, Pub. L. 85–859, 72 Stat. 1335 (26 U.S.C. 5061))

§ 245.117d–245.117f [Redesignated]

9. Existing §§ 245.117d, 245.117e, and 245.117f would be redesignated as §§ 245.117e, 245.117f, and 245.117g, respectively.

10. Section 245.227 would be revised to read as follows:

§ 245.227 Beer tax return; Form 2034 (5130.7).

All entries in the return, Form 2034 (5130.7), shall be fully supported by accurate and complete records. The brewer shall file the copy returned to him by the director of the service center as a part of his records at the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, 1390, 1395 (26 U.S.C. 5061, 5415, 5555))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

1. In the table of sections to 27 CFR Part 250 §§ 250.112b and 250.112c be added to read as follows:

* * * * *

Subpart E—Tax Payment of Liquors and Articles in Puerto Rico

Sec.

* * * * *

Payment of Tax by Return

* * * * *

250.112b Delivery of tax payment by electronic fund transfer.
250.112c ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. Section 250.11 would be amended by adding the following new terms in alphabetical order:

§ 250.11 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasurey Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account",

for the purpose of accepting deposits for credit in that account.

* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

3. In § 250.112 paragraph (e) would be amended to read as follows:

§ 250.112 Taxes to be collected by returns for semimonthly periods.

* * * * *

(e) *Filing.* The original and two copies of returns on Forms 5110.52, 2927, or 2929, with remittance covering the full amount of the tax, shall be filed with the Officer-in-Charge not later than the last day for filing as prescribed by paragraph (f) or (g) of this section. The tax shall be paid in full by remittance at the time the return is rendered. The remittance shall be made in cash, by check or money order made payable to the "Internal Revenue Service", accompanying the return, or shall be delivered by electronic fund transfer to a Government depositary. Where the return and remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. If the last day for filing a return under this paragraph falls on a Saturday, Sunday, or legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday or such legal holiday.

* * * * *

4. Sections 250.112b and 250.112c would be added to read as follows:

§ 250.112b Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of §250.112, a proprietor who pays an amount of five million dollars or more in excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on distilled spirits, wine, and beer for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The proprietor shall, for each return period, direct his bank to send an electronic fund transfer message, as provided in § 250.112c, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the third business day next succeeding the last day of the return period. The request shall take into account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 250.112a, shall file returns and send remittances by electronic fund transfer, for each return period, not later than the last day of the next succeeding return period.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided as paragraph (a) of this section or to remit the tax with the return as prescribed by § 250.112. During the first return period in which the proprietor chooses to discountinue delivering this remittance by EFT and to begin sending his remittance with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory adminstrator by filing an information return on Form 5110.52, 2927, or 2929, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall.be filed with the district director.

(c) *Remittances.* (1) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each proprietor shall show on the return, Form 5110.52, 2927, or 2929, required under § 250.112, inforamtion regarding EFT made for that tax period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depository for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund within the presecribed time, see the provisions of 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91–172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 250.112c ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the Puerto Rican proprietors on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The proprietor shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quintuplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the Officer-in-Charge, and to the director of the service center, and the original plus one copy will be forwarded by certified or registered mail to the proprietor. The proprietor shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

§ 250.113 [Amended]

5. Section 250.113 would be amended by revising paragraph (b) to read as follows:

§ 250.113 Returns for prepayment of

Government depositaries. Federal

4. Sections 270.165a and 270.165b

dollars and that the tax return,

manufacturer shall retain the original

PART 275—IMPORTATION OF

§ 250.113 Returns for prepayment of taxes.

* * * * *

(b) *Remittances.* Remittances submitted to cover prepayment of taxes under this subpart shall be in cash, U.S. postal money orders, certified checks, cashier's checks, or be delivered by electronic fund transfer.

* * * * *

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

1. In the table of sections to 27 CFR Part 270 §§ 270.165a and 270.165b would be added to read as follows:

* * * * *

Subpart H—Operations by Manufacturers

* * * * *

Sec.

270.165a Delivery of tax payment by electronic fund transfer.

270.165b ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. In § 270.11 the following terms would be added in alphabetical order:

§ 270.11 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Director of the service center. The Director, Internal Revenue Service Center, in any of the Internal Revenue regions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

3. In § 270.162 paragraph (a) would be amended to read as follows:

§ 270.162 Semimonthly tax return.

(a) *Requirement for filing.* Every manufacturer of tobacco products shall file, for each of his factories, a semimonthly tax return on Form 3071 for each return period, including any period during which a manufacturer begins or discontinues business. Except when the tax is paid by EFT, the return shall be filed, in triplicate, with the district director of the internal revenue district in which the factory is located. When the tax is paid by EFT, the return shall be filed, in triplicate, with the director of the service center serving the factory location; and a copy shall be sent to the regional regulatory administrator. The manufacturer shall file the return at the time specified in § 270.165 regardless of whether cigars or cigarettes are removed or whether tax is due for that particular return period. However, where the manufacturer requests by letter, in duplicate, and the regional regulatory administrator grants specific authorization, the manufacturer need not during the term of such authorization file a tax return for any period for which tax is not due or payable. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director or the director of the service center.

* * * * *

4. Sections 270.165a and 270.165b would be added to read as follows:

§ 270.165a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 270.168, a manufacturer of tobacco products who pays an amount of five million dollars or more in tobacco products excise taxes for his factory during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on cigars and cigarettes for the next succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each manufacturer who paid an amount of five million dollars or more in tobacco products excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The manufacturer shall, for each return period, direct his bank to send an electronic fund transfer message as provided in § 270.165b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the close of the third business day following the last day of each return period. The request shall also take into account any time limit established by the bank. However, a manufacturer who is qualified for extended deferral, as provided in § 270.165(b), shall file returns and send remittances by electronic fund transfer, for each return period, not later than the last day of the next succeeding return period.

(3) If a manufacturer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 270.168. During the first return period in which the manufacturer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the manufacturer shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 3071, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* The manufacturer shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The manufacturer will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each manufacturer shall show on the return, Form 3071, required under § 270.162 information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depositary for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 120, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 270.165b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the manufacturer of tobacco products on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The manufacturer shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the director of the service center and the original plus one copy will be forwarded by certified or registered mail to the manufacturer. The manufacturer shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

5. Section 270.166 would be amended by adding to the end the following sentence to read as follows:

§ 270.166 Default, prepayment of tax required.

* * * Any remittance made during the period of a default shall be in cash, or in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or in the form of a U.S. postal money order or other money order, as defined in 26 CFR 301.6311-1 or shall be delivered in the form of an electronic fund transfer message as provided in §§ 270.165a and 270.165b.

(Aug. 16, 1954, ch. 736, 68A Stat. 707 (26 U.S.C. 5703); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311))

6. Section 270.167 would be amended by (1) redesignating the existing text of the section as paragraph (a), (2) adding a new paragraph (b), and (3) updating the citation of authority as follows:

§ 270.167 Prepayment tax return.

(a) * * *

(b) However, if a manufacturer is required by § 270.165a to deliver payment of tax by electronic fund transfer, the manufacturer shall prepay the tax before any cigars or cigarettes can be removed for consumption or sale by completing the return and mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator. The manufacturer shall direct his bank to effect an electronic fund transfer message.

(Sec. 202, Pub. L. 85-859, 68A Stat. 1417 (26 Stat. U.S.C. 5703); Sec. 202, Pub. L. 85-859, 72 Stat. 1423, as amended (26 U.S.C. 5741); (Aug. 16, 1954, ch. 736, 68 Stat. 775, as amended (26 U.S.C. 6302))

7. Section 270.168 would be revised to read as follows:

§ 270.168 Remittance with return.

Except when EFT has been made under § 270.165a for the full amount of tax due, the tax on cigars and cigarettes shown to be due and payable on any return shall be paid by cash, check, or money order. Checks and money orders shall be made payable to the "Internal Revenue Service".

(Aug. 16, 1954, ch. 736, 68A Stat. 707, as amended (26 U.S.C. 5703))

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

1. In the table of sections to 27 CFR Part 275 §§ 275.115a and 275.115b would be added to read as follows:

* * * * *

Sec.

275.115a Delivery of tax payment by electronic fund transfer.

275.115b ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. In § 275.11 the following terms would be added in alphabetical order:

§ 275.11 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Director of the service center. The Director, Internal Revenue Service Center, in any of the Internal Revenue regions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal

Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

3. Section 275.114 would be amended to read as follows:

§ 275.114 Time of filing.

(a) Every semimonthly tax return under this subpart shall be filed by the bonded manufacturer not later than the third business day succeeding the last calendar day of the return period. However, if a bonded manufacturer is qualified for extended deferral, as provided in § 275.114a, he shall file tax returns, for each return period, not later than the last day of the next succeeding return period. The tax shall be paid in full by remittance at the time the return is rendered. The remittance shall be made in cash, by check, or money order made payable to the "Internal Revenue Service", accompanying the return, or shall be delivered by electronic fund transfer to a Government depositary.

(b) If the return and remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery.

(c) If the last day for filing a return under this section falls on a Saturday, Sunday, or such legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday, or such legal holiday.

(d) The Officer-in-Charge will transmit a receipted copy of the semimonthly tax return to the bonded manufacturer who filed the return and paid the tax, retain one copy, and forward one copy to the Regional Regulatory Administrator, New York, N.Y. 10008.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302))

4. Section 275.115 would be amended to read as follows:

§ 275.115 Remittance with return.

Remittance of the full amount of internal revenue tax computed during the return period shall accompany the return, except as prescribed in § 275.115a. Such remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of 26 CFR 301.6311–1 and which is acceptable to that officer.* * *

5. Sections 275.115a and 275.115b would be added to read as follows:

§ 275.115a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 275.115, a bonded manufacturer of cigars or cigarettes who pays an amount of five million dollars or more in tobacco products excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on tobacco products for the next succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each bonded manufacturer who paid an amount of five million dollars or more in tobacco products excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The bonded manufacturer shall, for each return period, direct his bank to send an electronic fund transfer message, as provided in § 275.115b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the close of the third business day succeeding the last calendar day of the return period. The request shall take into account any time limit established by the bank. However, a bonded manufacturer who is qualified for extended deferral, as provided in § 275.114a, shall file returns and send remittances by electronic fund transfer, for each return period, no later than the last day of the return period next succeeding that period.

(3) If a bonded manufacturer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 275.115. During the first return period in which the bonded manufacturer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return, the bonded manufacturer shall notify the Officer-in-Charge and the regional regulatory administrator by filing an information return on Form 2988, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return shall be accompanied by remittance.

(c) *Remittance.* (1) The bonded manufacturer shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each bonded manufacturer shall show on the return, Form 2988, required under § 275.112, EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depositary for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 120, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91–172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 275.115b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory admininstrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the bonded manufacturer on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The bonded manufacturer shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quintuplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the Officer-in-Charge, and to the director of the service center and the original plus one copy will be forwarded by certified or registered mail to the bonded manufacturer. The bonded manufacturer shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

Signed: May 15, 1980.

G. R. Dickerson,

Director.

Approved: May 21, 1980.

Richard J. Davis,

Assistant Secretary Enforcement and Operations.

[FR Doc. 80-17188 Filed 6-3-80; 2:59 pm]

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27 CFR Parts 270 and 275

[Notice No. 342]

Proposed Return and Deferral Periods for Certain Tobacco Products Excise Tax Payments

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is publishing for comment proposed regulations that would change for large manufacturers of tobacco products (1) the return period for tobacco products excise tax from a semimonthly to a weekly tax return period and (2) the deferral period from the last day of the next succeeding return period to no later than three business days succeeding the last day of the weekly return period. For the purposes of this proposed regulation, a "large manufacturer of tobacco products" is defined as an individual factory for which the annual tobacco products excise tax payment is five million dollars or more.

This proposal would accelerate the collection of tobacco products excise taxes.

This proposed regulation is considered major and is supplemented with a draft regulatory analysis.

DATES: Comments must be received on or before August 5, 1980.

ADDRESS: Send comments on this proposal and requests for a copy of the draft regulatory analysis to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: For information on the proposed regulation, contact A. N. Stickney or James A. Hunt at 202–566–7626. For information on the draft regulatory analysis, contact Cliff A. Mullen at 202–566–7531.

SUPPLEMENTARY INFORMATION:

A. Introduction

The Office of Management and Budget, Executive Office of the President, has submitted to the U.S. Congress the Budget for Fiscal Year 1981. Several cash management initiatives were proposed; and one proposal which involves the Bureau of Alcohol, Tobacco and Firearms (AFT), is the Tobacco Products Excise Tax Acceleration Project. This project would accelerate the collection of tobacco products excise taxes from large manufacturers (1) by increasing the frequency of these tax payments and (2) by reducing the deferral period.

Under the present system of collecting tobacco products excise taxes, the excise tax is paid on the basis of a semimonthly return, with the return periods running from the first through the fifteenth of the month and from the sixteenth to the end of the month. The excise taxes incurred during a return period are, in most instances, payable with the return which must be filed on or before the last day of the next succeeding return period.

B. History of Changes to the Collection of Tobacco Products Excise Tax

The present system of requiring semimonthly return with tobacco products excise tax payments due a certain number of days following the close of the return period was established in 1959. Prior to that time, manufacturers of tobacco products had to prepay their excise taxes by purchasing tax stamps. The underlying purpose of changing from a tax stamp system to a deferral system was to allow the manufacturers of tobacco products the same tax advantage as other manufacturers. In 1965, the deferral period, the time between the close of the return period and the tax payment, was extended from three days to 10 days. In 1966, the return period was extended from 10 days to the last day of the next succeeding return period.

C. Proposed Changes

Proposals recommended by the Cash Management Review Team from the Office of Management and Budget would revise the present system, for those manufacturers of tobacco products whose annual excise tax payments is five million dollars or more, as follows:

1. The return periods would be weekly rather than semimonthly. There would be four return periods each month instead of two: From the first day through the seventh day of each month, from the eighth day through the fourteenth day of each month; from the fifteenth day through the twenty-first day of each month, and from the twenty-second day through the last day of each month.

2. The deferral period—the period between the time the return period ends and the time the tax payment is due—would be reduced to three business days. Taxes would be due no later than the third business day following the seventh, fourteenth, twenty-first, and last day of each month.

ATF proposes to implement this cash management project and estimates that approximately 20 million dollars in interest would be saved by the U.S. Government.

Another proposal by the Cash Management Review Team is to require that these excise tax payments be delivered by electronic fund transfer. This proposal is detailed in Notice No. 341 published in this **Federal Register**. Final adoption of both notices would require conforming changes to be made in certain sections amended by this notice to incorporate the electronic fund transfer provisions of Notice No 341.

D. Compliance With Executive Order 12044

In compliance with Executive Order 12044, a draft regulatory analysis has been prepared for this notice of proposed rulemaking. The draft regulatory analysis reflects the economic consequences of the proposed amendments. This draft regulartory analysis is available upon request or may be inspected during normal business hours at—

ATF Reading Room, Room 5207, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

E. Public Participation

Interested persons are encouraged to participate in the proposed rulemaking process by submitting written data or views regarding the proposal. Written communications should be identified by the Notice Number (Notice No. 342) and submitted to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044. All written

communications received on or before

Small manufacturer. For purposes of

sufficient amount executed on or after

(2) *Large manufacturer.* Tax returns

"(defined at § 301.7701–12 of this

second day of each month through the

communications received on or before August 5, 1980, will be considered before action is taken on the proposed rulemaking and will be available for public inspection during normal business hours at the ATF Reading Room, Room 4406.

Any interested person desires an opportunity to comment orally at a public hearing on this proposed regulation should submit his or her request in writing to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

F. Drafting Information

The principal author of this proposed regulation is A. N. Stickney of the ATF Research and Regulations Branch. Other personnel of ATF and other agencies and offices of the Department of the Treasury, however, participated in developing the proposed regulations, both as to matters of substance and style.

G. Authority and Proposed Changes

The proposed regulations would be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917), as follows:

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

1. In the table of sections to 27 CFR Part 270 the titles of §§ 270.162—270.165 would be revised; § 270.163a would be added. Such entries would read as follows:

* * * * *

Subpart H—Operations by Manufacturers

* * * * *

Sec.
270.162 Tax return.
270.163 Semimonthly tax return periods for small manufacturers.
270.163a Weekly tax return periods for large manufacturers.
270.164 Adjustment in the tax return.
270.165 Times for filing tax returns.

* * * * *

2. Section 270.11 would be amended by adding definitions for "large manufacturers" and "small manufacturers". As amended, those definitions in § 270.11 would read as follows:

§ 270.11 Meaning of terms.

* * * * *

Large cigars. * * *

Large manufacturer. For purposes of Subpart H of this part, a manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is five million dollars or more.

* * * * *

Small cigars. * * *

Small manufacturer. For purposes of Subpart H of this part, a manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is under five million dollars or more.

* * * * *

§§ 270.141 and 270.142 [Amended]

3. In the first sentence of paragraph (b) of § 270.141, the word "semimonthly" would be amended to read "semimonthly or weekly"; and in paragraph (c) of the same section, the word "manufacturer" would be amended to read "small manufacturer". Section 270.142 would be amended by changing the word "semimonthly", wherever it appears, to read "semimonthly or weekly".

4. Section 270.162 (a) and (c) would be revised to read as follows:

§ 270.162 Tax return.

(a) *Requirement for filing.* Every manufacturer of tobacco products shall file, for each of his factories, a tax return of Form 3071, in triplicate, with the district director of the Internal Revenue District in which the factory is located, for each return period, including any period during which a manufacturer begins or discontinues business. He shall file the return at the time specified in § 270.165 regardless of whether cigars or cigarettes are removed or whether tax is due for that particular return period. However, where the manufacturer requests by letter, in duplicate, and the regional regulatory administrator grants specific authorization, the manufacturer need not during the term of such authorization file a tax return for any period for which tax is not due or payable. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director.

* * * * *

(c) *Deferral of tax payment.* The payment of the tax with respect to cigars and cigarettes removed subject to tax may be deferred and paid at the time prescribed in § 270.165(a) for filing the semimonthly or weekly return only if the manufacturer has on file a bond of sufficient amount executed on or after June 24, 1959, or in the case of a bond of sufficient amount executed prior to such date only if the manufacturer has filed the extension of coverage of bond prescribed in § 270.141(b). A manufacturer is entitled to the extended deferral tax payment and the filing of semimonthly tax returns provided for in § 270.165(b) only if he is a small manufacturer and has on file a bond of sufficient amount executed on or after September 24, 1965, or in the case of a bond of sufficient amount executed prior to such date if the manufacturer has filed the extension of coverage of bond prescribed in § 270.141(b). Otherwise, the tax with respect to removals of cigars and cigarettes subject to tax shall be prepaid with the return, Form 2617, as provided in § 270.167, and the tax return under this section shall be filed showing such prepayment and the serial number(s) of the Form(s) 2617 filed during the return period.

(Sec. 202, Pub. L. 85–859, 72 Stat. 1417 (26 U.S.C. 5703); sec. 2128(c), Pub. L. 94–455, 90 Stat. 1921 (26 U.S.C. 5741))

§ 270.163 [Amended]

5. Section 270.163 would be amended by changing (1) the title "§ 270.163 Semimonthly tax return periods" to read "§ 270.163 Semimonthly tax return periods for small manufacturers" and (2) the authority citation "(72 Stat. 1417; 26 U.S.C. 5703)" to read "(Sec. 202, Pub. L. 85–859, 72 Stat. 1417, as amended (26 U.S.C. 5703))".

6. A new § 270.163a would be added to read as follows:

§ 270.163a Weekly tax return periods for large manufacturers.

The tax return periods to be covered in the weekly tax returns shall be (a) from the first day of each month through the seventh day of each month, (b) from the eighth day of each month through the fourteenth day of each month, (c) from the fifteenth day of each month through the twenty-first day of each month, and (d) from the twenty-second day of each month through the last day of each month.

(Sec. 202, Pub. L. 85–859, 72 Stat. 1417, as amended (26 U.S.C. 5703))

§ 270.164 [Amended]

7. Section 270.164 would be amended by changing (1) the title and in the first sentence the term "semimonthly, to read "semimonthly or weekly" and (2) the authority citation "(68A Stat. 791, 72 Stat. 1417, as amended; 26 U.S.C. 6402, 6703)" to read "(Aug. 6, 1954, ch. 756, 68A Stat. 791 (26 U.S.C. 6402); sec. 202, Pub. L. 85–859, 72 Stat. 1471, as amended (26 U.S.C. 5703))".

8. Section 270.165 (a) and (b) would be revised to read as follows:

§ 270.165 Times for filing tax returns.

(a) *General rule.*—(1) *Small manufacturer.* Tax returns on Form 3071 shall be filed not later than the third business day following the last day of each semimonthly return period prescribed in § 270.163.

(2) *Large manufacturer.* Tax returns on Form 3071 shall be filed not later than the close of the third business day following the last day of each weekly return period prescribed in § 270.163a.

(b) *Extended time for filing by small manufacturers.* A small manufacturer, whose bond was executed on or after September 24, 1965, or who has obtained the extension of coverage of bond prescribed in § 270.142(b) for extended deferral, shall file tax returns of Form 3071 not later than the last day of the next succeeding return period.

* * * * *

(Sec. 89(a), Pub. L. 85–866, 68A Stat. 895, as amended (26 U.S.C. 7502); Aug. 16, 1954, ch. 736, 68A Stat. 896 (26 U.S.C. 7503); Sec. 202, Pub. L. 85–859, 72 Stat. 1417 (26 U.S.C. 5703))

9. Section 270.166 would be revised to read as follows:

§ 270.166 Default; prepayment of tax required.

Where a check or money order tendered with any return, whether prepayment, weekly, or semimonthly for the payment of tax on cigars or cigarettes is not paid on presentment, where a manufacturer of tobacco products fails to remit with the return the full amount of tax due thereunder, or where a manufacturer is otherwise in default in payment of tax on cigars or cigarettes under the internal revenue laws or this chapter, during the period of such default and until the regional regulatory administrator finds that the revenue will not be jeopardized by the deferred payment of tax pursuant to the provisions of this part, no cigars or cigarettes shall be removed subject to tax until the tax thereon has first been prepaid as provided in § 270.167. Any remittance made during the period of a default shall be in cash, or in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or in the form of a U.S. postal money order or other money order as defined in 26 CFR 301.6311–1.

(Aug. 16, 1954, ch. 736, 68A Stat. 707 (26 U.S.C. 5703, Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311))

§ 270.167 [Amended]

10. Section 270.167 would be amended (1) by changing the word "semimonthly", wherever it appears, to read "semimonthly or weekly"; and (2) by changing the authority citation "(72 Stat. 1417, 1423, as amended; 26 U.S.C. 5703, 5741)" to read "(Sec. 202, Pub. L. 85–859, 72 Stat. 1417, as amended, 1423 (26 U.S.C. 5703, 5741)".

§ 270.169 [Amended]

Section 270.169 would be amended by changing (1) the parenthetical phrase "(defined at § 301.7701–12 of this chapter)" to read "(defined at 26 CFR 301.7701–12)", (2) the prepositional phrase "in § 301.6676–1 of this chapter" to read "in 26 CFR 301.6676–1"; and the authority citation "(72 Stat. 828; 26 U.S.C. 6109, 6679)" to read "(Sec. 1(a), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109); sec. 20(c), Pub. L. 87–834, 76 Stat. 1062, as amended (26 U.S.C. 6679))".

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

1. In the table of sections to 27 CFR Part 275 the titles to § 275.113 and 275.114 would be amended to read as follows:

* * * * *

Subpart G—Puerto Rican Cigars, Cigarettes, and Cigarette Papers and Tubes, Brought Into the United States

* * * * *

Sec.
275.113 Tax return periods.
275.114 Times for filing tax returns.

* * * * *

2. Section 275.11 would be amended by adding definitions for "large bonded manufacturer" and "small bonded manufacturer". As amended, those definitions in § 275.11 would read as follows:

§ 275.11 Meaning of terms.

* * * * *

Large cigars. * * *

Large bonded manufacturer. For purposes of Subpart G of this part, a bonded manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is five million dollars or more.

* * * * *

Small cigars. * * *

Small bonded manufacturer. For purposes of Subpart G of this part, a bonded manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is less than five million dollars.

* * * * *

§ 275.112 [Amended]

3. Section 275.112 would be amended by deleting the word "semimonthly", wherever it appears.

4. Section 275.113 would be revised to read as follows:

§ 275.113 Tax return periods.

(a) *Weekly return periods for large bonded manfacturers.* The periods to be covered in the weekly tax returns shall be (1) from the first day of each month through the seventh day of each month, (2) from the eighth day of each month through the fourteenth day of each month, (3) from the fifteenth day of each month through the twenty-first day of each month, and (4) from the twenty-second day of each month through the last day of each month.

(b) *Semimonthly return period for small bonded manufacturers.* The period to be covered in the semimonthly tax returns shall be from the first day through the fifteenth day of each month, and from the sixteenth day through the last day of each month.

5. Section 275.114 would be revised to read as follows:

§ 275.114 Time for filing tax returns.

(a) *General rule.*—(1) *Small manufacturer.* Tax returns on form 2988 shall be filed not later than the third business day following the last day of each return period prescribed in § 275.113(b). However, if a small bonded manufacturer is qualified for extended deferral, as provided in § 275.114a, he shall file tax returns, for each semimonthly return period, not later than the last day of the next succeeding return period.

(2) *Large manufacturer.* Tax returns on Form 2988 shall be filed not later than the close of the third business day following the last day of each weekly return period prescribed in § 275.113(a).

(b) *Timely mailing.* If the return or remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery.

(c) *Weekends and holidays.* If the last day for filing a return under this section falls on a Saturday, Sunday, or such legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely filed if accomplished on the next succeeding day which is not a Saturday, Sunday, or such legal holiday.

(d) *Receipt by the Officer-in-Charge.* The Officer-in-Charge will transmit a receipted copy of the tax return to the bonded manufacturer who filed the return and paid the tax, will retain one copy, and will forward one copy to the Regional Regulatory Administrator, New York, N.Y. 10008.

6. Section 275.115 would be revised to read as follows:

§ 275.115 Remittance with return.

Remittance for the full amount of internal revenue tax computed during the return period shall accompany the return. Such remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of 26 CFR 301.6311–1 and which is acceptable to that officer. In paying the tax, a fracitonal part of a cent shall be disregarded unless it amounts ot one-

half cent or more, in which case it shall be increased to one cent.

§ 275.116 [Amended]

7. Section 275.116 would be amended by changing the phrase "to remit with the semimonthly return" to read "to remit with the return".

Signed: May 15, 1980.

G. R. Dickerson,

Director.

Approved: May 21, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-19190 Filed 6-3-80; 2:59 pm]

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federal register

Friday
June 6, 1980

Part IV

Department of Energy

Economic Regulatory Administration

New Electric Powerplants and Certain New Major Fuel Burning Installations; Use of Petroleum and Natural Gas

DEPARTMENT OF ENERGY

operations," all of which are deemed

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501, 502 and 507

[Docket No. ERA-R-78-19D]

New Electric Powerplants and Certain New Major Fuel Burning Installations; Use of Petroleum and Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this final rule to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), which prohibit the use of petroleum and natural gas by new electric powerplants and certain new major fuel burning installations (MFBI's). This final rule defines terms applicable to the regulatory program under the Act and establishes procedures by which owners and operators of new powerplants and certain new major fuel burning installations may petition for exemptions from the prohibitions of Title II of the Act.

EFFECTIVE DATE: This final rule shall become effective on August 5, 1980.

FOR FURTHER INFORMATION CONTACT:
William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.
Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7002, Washington, D.C. 20461, (202) 653-3217.
Robert L. Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, (202) 653-3649.
G. Randolph Comstock (Office of the General Counsel), Department of Energy, Room 6G-087—Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments
A. Part 500—Definitions
B. Part 501—Administrative procedures and sanctions
III. Procedural matters

I. Background

ERA published proposed rules for new and existing facilities on November 17, 1978, and January 29, 1979 (43 FR 53974 and 44 FR 5808, respectively). Comments were solicited on its proposals, and public hearings were held in Boston, Massachusetts; Salt Lake City, Utah; Tampa, Florida; and Lexington, Kentucky.

On May 8, 1979, ERA issued an interim rule relating to definitions, administrative procedures and sanctions, and criteria for exemptions. Written comments were solicited by ERA over an extended period. ERA considered numerous comments in response to this solicitation. ERA also reviewed the interim rule in light of actual experience in implementing the regulatory program before issuing this final rule.

The final rule sets forth the definitions necessary for the implementation of FUA and the procedures that will apply to certain administrative proceedings implementing FUA, under Subchapter E of Title 10 of the Code of Federal Regulations.

In preparing the final rule several parts of the interim rule have been deleted or combined with other parts. Notably, the requirement for a Fuels Decision Report has been deleted. Essential requirements previously contained in Part 502 will be set out as specified evidentiary requirements relating to individual exemptions in Part 503 to be published separately. Former Parts 503 and 505 have been combined and will appear in the final rule as Part 503, New Facilities. Former Part 507, Fuel Classification and Reporting Requirements, has been deleted and is contained within Part 500, Definitions.

In preparing this final rule, considerable effort has been made to simplify, reorganize, and shorten the text compared to the interim rule, as well as to reduce the associated reporting requirements. This effort was undertaken, in part, in response to public comments which are referred to in this preamble. Other changes have been made by ERA in the interest of regulatory simplification.

II. Comments

Numerous comments and suggestions were received relating to the interim rules, and were considered by ERA in conjunction with its own review. Except in a few instances, if ERA has already addressed an issue previously in the preambles to the interim rules, ERA will not readdress the same issue here. The discussion which follows represents ERA's response to comments and suggestions received which were not previously addressed and reflects certain changes from the interim rule made by ERA.

A. Part 500—Definitions

ERA received numerous comments concerning the definition of alternate fuel. There were suggestions that heavy crude oil be classified as an alternate fuel and automatically be excluded from the definition of petroleum. The issues raised by these comments were essentially the same as those addressed in the preamble to the interim rule (44 FR 28534, May 15, 1979), and consequently, will not be addressed again here.

Other comments addressed the issue of unmarketability of alternate fuels. Several comments suggested that classes of specific waste by-products automatically be granted alternate fuel status because they should be considered to be unmarketable or the "substantial equivalent" of an already exempt fuel, such as petroleum coke. After considering these comments in light of experience, ERA believes the issue of unmarketability of a waste by-product should continue to be examined on a case-by-case basis. ERA believes that this examination process is necessary because the marketability of a specific waste by-product will depend on the factual circumstances surrounding its production, *e.g.*, the location of the plant where the by-product is produced, the location of potential users, the components of the by-product, the proximity of transportation systems and other factors.

ERA also received comments criticizing the inclusion of solar energy as an alternate fuel, since solar energy is not a fuel and is not explicitly included in the statutory definition of an alternate fuel. ERA disagrees with these comments. Section 103(a)(6)(A) of FUA includes "renewable energy sources" within the definition of alternate fuel. ERA believes that solar energy is a renewable energy source and is therefore an alternate fuel.

The statutory definition of alternate fuel contains two related, but somewhat overlapping terms. Waste gases from industrial operations are defined as alternate fuels, while gaseous waste by-products from industrial operations are considered alternate fuels only where they are commercially unmarketable.

ERA has concluded, as a matter of statutory interpretation, that the term "gaseous waste by-products of industrial operations" is logically contained within the broader term "waste gases from industrial operations," all of which are deemed alternate fuels irrespective of the test of marketability. Consequently gaseous waste by-products from industrial operations need not be examined in the context of commercial unmarketability. However, liquid and solid waste by-products of industrial operations will be considered alternate fuels only where the person seeking such a classification can demonstrate that the waste by-products are commercially unmarketable.

Comments referring to the definition of applicable environmental requirements again suggested that the definition include Federal and State common law. This issue was discussed in the preamble to the interim rule (44 FR 28532, May 15, 1979) and will not be addressed again here.

Several comments suggested the addition of a definition for a "boiler." The final rule, which defines a boiler as a vessel which produces steam of a quality equal to or greater than one percent, is consistent with the comments received.

It was suggested that the definition of cogeneration be expanded to include an alternative to the cogeneration of electricity, namely mechanical energy. This issue was addressed in the preamble to the interim rule (44 FR 28966, May 17, 1979), and is not addressed again.

The interim rule contained a provision that addition of a new waste heat recovery boiler to an existing simple cycle turbine creates a new combined cycle unit. Comments criticized this approach on the basis that combined cycle units represent a more efficient use of fuel than simple cycle units and therefore should be encouraged. ERA recognizes that combined cycle units are frequently more efficient than the unit they replace. However, ERA believes that this type of construction, *i.e.*, the repowering of an existing unit, constitutes the creation of a new unit which did not previously exist and which, notwithstanding its fuel burning efficiency, will consume more fuel over a longer period of time than the unit it replaces, or than would be saved if a new alternate fuel-fired unit had been constructed in lieu of the repowering. Under the Act, new units are prohibited from using natural gas or petroleum as a primary energy source unless an exemption to do so has been granted by ERA.

Several comments raised questions concerning the language in the interim rule that small amounts of supplementary firing would not preclude the unit from being a combined cycle unit. The comments requested that ERA specify the amount of supplementary firing that would be permitted. After considering these comments, ERA has concluded that it is not possible to set a maximum level in advance. In this final rule ERA has deleted the reference to a small amount of supplementary firing and intends to examine this issue on a case-by-case basis.

FUA at Section 103(a)(7) (A) and (C), 103(a)(10)(A), and 103(a)(18) employs the terms "design capacity" and "design capability." In the interim rule, ERA defined design capacity by using an interim rule issued by the Federal Energy Regulatory Commission (FERC) which defined powerplant design capacity for the purposes of FUA. ERA's interim rule did not separately define design capability but instead employed a reference to the FERC rule on powerplant design capacity. ERA has determined that a separate definition for design capability is necessary. ERA has also modified the definition of design capacity to reflect the final rule promulgated by FERC. The term design capacity refers to the power output rate of a unit, *i.e.*, the amount of electricity in kilowatt hours generated annually. The term design capability refers to the fuel consumption rate of a unit, *i.e.*, the fuel heat inpurt rate measured in Btu's.

Some commenters suggested that pumps and compressors, excluded from the definition of MFBI, should be relieved of the certification requirement contained in the interim rule. The certification requirement is a statutory requirement and has not been modified. The comments also suggested that a boiler used to generate steam to operate pumps and compressors should be excluded from the definition of MFBI. ERA recognizes that the statutory exclusion for pumps and compressors is meaningful only if the boiler or other units defined by the Act as a MFBI which provide the energy to drive the pump or compressor are also excluded, and has, in the final rule, excluded from the definition of MFBI such units. In order to accord similar regulatory treatment to such units, as the rules provide with respect to units which may be aggregated for purposes of determining jurisdiction, units used to drive pumps or compressors which have a design fuel net input rate of less than 50 million Btu's per hour are not required to make this certification.

ERA received several comments regarding the status of auxiliary boilers under FUA. Some commenters felt that when such a unit was an integral part of a powerplant it should not be treated as a MFBI under the regulations. Others felt that such units should be excluded from the definitions of both "MFBI's" and "powerplants". For purposes of the final rule, ERA believes that an auxiliary boiler is a MFBI and notes that under revisions to Part 503 several exemptions consisting primarily of a simple certification may be available for such units. In particular, ERA has provided that where a petitioner certifies such a unit will only operate 600 hours per year or less it will receive a general exemption due to the lack of an alternate fuel supply.

Many comments, as discussed below, were received on Part 507 of the interim rule with respect to the definition of natural gas and appropriate exclusions from that definition. Part 507 has been deleted and is now contained in this Part. In view of the fact that natural gas produced from tight sands has been designated by FERC as a "high-cost natural gas" since publication of the interim rule, ERA has excluded it from the definition of natural gas for the purposes of FUA if produced from wells spudded prior to January 1, 1990. However, natural gas produced from deep wells in excess of 15 thousand feet has not been excluded because such gas is presently being produced and sold commercially.

One comment recommended that the cut-off date for excluding gas produced from geopressured brine be extended from January 1, 1990, to the year 1995 or 2000. ERA has determined not to change the referenced date with respect to those high-cost gases affected, but will reexamine, prior to 1990, the related technological developments as appropriate.

In the interim rule ERA deferred a specification of criteria for determining the commercial unmarketability of natural gas pending the examination of additional technical, financial, and marketing information. Based on experience under the current regulatory structure, ERA has concluded that the criteria to be used in determining the unmarketability of waste by-products (see definitions for alternate fuels and petroleum) will also provide an appropriate means by which the unmarketability of natural gas may be determined by ERA.

Several comments were received criticizing ERA's definition of the term "produced by the user" as the term relates to natural gas produced from wells the maximum efficient production rate of which is less than 250 million Btu's per day. The commenters asserted that the gas gathering or transportation system and the percentage of the user's net working mineral interest were irrelevant considerations. ERA, after considering the comments, has

concluded that both factors are relevant to the determination of the amount of gas which may properly be excluded and thus removed from a pipeline as an alternate fuel, in view of the provisions associated with transporting fungible gaseous products over commercial gas pipeline systems. ERA believes that the user may consume all natural gas produced from such a well irrespective of his net mineral interest in the well if the natural gas could not be provided to an other consumer. However, where the natural gas is to be transported to the user by a distribution system which could also deliver it to other consumers, it is necessary to define the amount of gas the user may remove from the system as an alternate fuel. Such alternate fuel may not exceed an amount equal to the user's net working mineral interest in the well. ERA concludes that this approach furthers the statutory purposes of the Act to conserve natural gas. However, the final rule does not prevent the producer/user from demonstrating that gas produced from such a well in excess of his net mineral interest is otherwise commercially unmarketable and therefore should be excluded from the definition of natural gas.

ERA received many comments critical of the 5 percent limitation on the amount of fuel which is excluded from the definition of primary energy source for unit ignition, flame stabilization, start-up, testing, and control. Commenters urged that as much as 30 percent may be necessary for such purposes in certain situations. ERA has raised the percentage of fuel which is presumptively excluded from the definition of primary energy source to 15 percent of the unit's current year Btu input. Fuel excluded from the definition of primary energy source is not subject to the prohibitions of the Act. ERA expects units to use only the minimum amount necessary for the enumerated purposes. ERA will receive evidence which rebuts this presumption where more than 15 percent is needed and, upon a satisfactory showing, will exclude the additional amount of fuel required. However, ERA will not exclude any fuel from the definition of primary energy source where a fuels mixture exemption has been granted. The minimum percentage of petroleum or natural gas provided by a mixtures exemption, needed to maintain reliability of operations consistent with maintaining a reasonable level of fuel efficiency, is in lieu of any minimum amount which would otherwise be required to accomplish unit ignition, start-up, testing, flame stabilization, and control.

ERA also received comments suggesting that the amount of fuel excluded from the definition of primary energy source should be applied with respect to powerplants on a system-wide basis rather than on a unit-by-unit basis. ERA rejects this view since the fuel use prohibitions of the Act relate to individual powerplants.

ERA's experience in implementing the Act has led to the necessity to define the term "refinery operation", because the definition of alternate fuel excludes waste gases produced by an industrial operation from the commercial unmarketability test but does not exclude waste gases from refinery operations. The final rule provides a conservative definition to distinguish a refinery operation from an industrial operation. A refinery operation is defined as an operation which runs crude oil as its primary feedstock and engages in refining activities (separation or conversion) as those activities are commonly understood, regardless of the specific type or quantity of products produced. The accompanying definition of crude oil includes so-called heavy crude oil.

In response to comments received on the definition of reconstruction, ERA has clarified this concept and has incorporated it within the definitions of new powerplants and new MFBI's. Expenditures for equipment necessary to comply with air pollution requirements will not be counted as costs of reconstruction, nor will expenditures made before January 1, 1979. In addition, expenditures for equipment which will provide an existing unit with alternate fuel burning capability will be excluded where an available supply of alternate fuel is present in sufficient quantities to be used as a primary energy source after the unit is modified to provide such capability. For purposes of calculating costs of reconstruction, a replacement unit will be construed to be a unit of the same capacity and capable of burning the same fuels as the unit being reconstructed. ERA has retained capitalized deferred maintenance expenses as a cost of reconstruction and will employ the IRS method of determining whether or not particular items should be included. Moreover, ERA rejects the suggestion that the 50 percent test relating to capital costs of an equivalent replacement unit is too low. ERA believes that the 50 percent test will allow reasonable capital expenditures to be made without causing an existing unit to become a new unit for purposes of the Act.

With respect to the prohibition against the construction of a new powerplant without the capability to use an alternate fuel, ERA has received comments critical of the definition of capability to use an alternate fuel. Comments criticized use of the phrase "intend to construct" on the basis that a mere intention does not constitute violation of the prohibitions of the Act. ERA agrees and has changed the language of the example pertinent to the definition accordingly.

Commenters also criticized a perceived inconsistency between the definition of capability to use alternate fuel with respect to new powerplants and criteria used to determine "technical capability to use an alternate fuel" with respect to the issuance of proposed prohibition orders to existing facilities. Specifically, the comments objected to the inclusion of required pollution control equipment in the definition of capability to use alternate fuel and the omission of such equipment in the criteria used to determine technical capability. ERA, after considering the comments, has concluded that such comments fail to recognize significant differences between Title II and Title III of the Act.

The statutory purpose of requiring new powerplants to be constructed with the capability to use alternate fuels in compliance with applicable environmental requirements recognizes one such significant difference. New construction as a practical matter would include all of the equipment needed to operate the powerplant lawfully. Operation of a new powerplant consuming an alternate fuel would be precluded by law unless pollution control equipment is in place where such equipment is necessary to comply with applicable environmental requirements. Thus, pollution control equipment has been incorporated into the definition of capability to use an alternate fuel for purposes of Title II.

For the purposes of the technical capability finding of Title III, the inquiry is limited to whether the unit is or has in the past been capable of physically burning an alternate fuel. There is no requirement that all necessary pollution control equipment be present. Such a requirement would not be relevant in determining technical capability which may have been obtained at an earlier time when pollution control equipment may not have been required. The Conference Report notes that a finding of technical capability in support of a proposed prohibition rule or order is "in essence a paper search," with a final rule or order requiring additional, more substantial evidence. These additional findings must address technical capability in terms, not only of a physical capability, but also with respect to issues of physical modification, derating, and financial feasibility before a final rule or order may be issued.

The definition of peakload powerplant was inadvertently deleted from the interim rule. A definition is included in the final rule.

B. Part 501—Administrative Procedures and Sanctions

1. Subpart A—General Provisions. Section 501.3, Filing of Petitions, has been revised in this final rule to clarify the petition process. Specifically, several commenters expressed concern about the procedure for handling information submitted to ERA pursuant to a claim of confidentiality. Some urged that a petitioner be allowed to withdraw information where a claim of confidentiality has been denied. In response to those comments, ERA has provided that if a claim of confidentiality is denied, in whole or in part, ERA will give the person notice of the denial, no less than 7 days prior to the time the information is intended to be placed in the public file, including an opportunity to respond or take other appropriate action to avoid such release. This procedure is consistent with the confidentiality procedures contained in other DOE regulations.

Section 501.3(f) of the final rule provides that, where a petition substantially meets the requirements of § 501.3(d), but is otherwise incomplete because of minor deficiencies it will not be accepted unless its defects are cured. A period of ninety (90) days has been provided to cure the defects. After this period, the petition shall be automatically rejected unless good cause is shown for the failure to cure the incomplete petition. Many comments requested that a written explanation of defects be provided. The final rule now provides for this and indicates that such explanation will be furnished within thirty (30) days of ERA's receipt of a petition or as soon thereafter as practicable.

It was suggested that ERA establish procedures to deal with the issue of commercial unmarketability, as it pertains to exclusions from the definitions of alternate fuel, natural gas and petroleum. ERA recognizes the difficulties petitioners face with respect to this issue and is prepared to respond to requests for guidance or clarification concerning commercial unmarketability. Such requests should be addressed to the Office of Fuels Conversion at the address given.

2. Subpart B—Filing Fees. A substantial number of comments were ereceived objecting to ERA's filing fee schedule,as being excessive and not corresponding to ERA's actual costs of processing exemption petitions Although ERA remains convinced that it has authority to charge fees for certain activities, as discussed in the preamble to the interim rule, (44 FR 28536, May 15, 1979), it has decided not to exercise this authority for the time being.

3. Subpart C—Written Comments, Conferences, and Public Hearings. Several commenters requested that ERA revise its interim rule to provide for adjudicatory hearings. Other commenters recommended that ERA's decision be based only upon evidence which has been subjected to public scrutiny and to which all participants have had an opportunity to offer rebuttal evidence. These and other related issues were discussed in detail in the preamble to the interim rule (44 FR 28536, May 15, 1980). ERA has not been convinced that any substantial changes are necessary with respect to these matters but has provided that information submitted for the record after any public hearing is concluded will be disseminated to all parties on the service list maintained by the presiding officer at the hearing.

Several commenters argue that questions for witnesses should be posed directly, rather than through the presiding officer. In response to this comment, ERA notes that § 501.34 permits the presiding officer to allow direct questioning of witnesses. No additional changes are deemed necessary.

4. Subpart F—Exemptions. ERA has revised and clarified procedures for filing an exemption petition. The necessary elements for eligibility for an exemption for a new powerplant or new major fuel burning installation appear in Part 503. Former Part 502, Fuels Decision Report, has been deleted. Appropriate procedural requirements of Part 502 have been adopted in this Part, and essential evidentiary requirements for each exemption have been placed in Part 503.

It was requested that ERA publish tentative staff determinations based on the belief that many purely technical, as well as legal and policy, errors could be avoided with the publication of such determinations with an accompanying right of comment by the petitioner and other parties. ERA will publish a Notice of Availability of Tentative Staff Analysis for all petitions and will provide interested persons at least fourteen (14) days to comment and request a hearing.

The final rule has been revised to give public notice of any redesignation of an exemption petition at least thirty (30) days (instead of three (3) weeks) prior to the public hearing.

It was suggested that the final rule be amended to provide that once a petition for exemption is accepted, no action will be taken against the petitioner while such petition is pending. ERA has not adopted this procedure since the Act provides for exemptions as the sole means of avoiding the prohibitions of the Act. Furthermore, ERA believes that such a procedure would tend to encourage the filing of frivolous petitions. Indeed, it is incumbent upon ERA to enforce the provisions of the Act in all cases where those provisions are not being observed, notwithstanding the fact that a petition for an exemption may be pending.

5. Subpart G—Requests for Modification or Rescission of a Rule or Order. ERA rejects the suggestion that petitioners for modification or rescission of a rule or order should be provided the opportunity to request and obtain a public hearing on their request, with full opportunity to respond to questions. The final rule makes clear that ERA retains the discretion to permit a public hearing where such a hearing will advance its evaluation of the request. The text of this subpart has been clarified to make clear that requests for modification or rescission of an order granting an exemption are permitted.

6. *Subpart K—Enforcement.* Some commenters pointed out that under FUA there is no authority to revoke an exemption by a remedial order. In the final rule ERA has redesignated a remedial order as a Fuel Use Order. ERA believes that the statutory authority to grant an exemption includes the inherent power to revoke such an exemption. In ERA's view, the power to revoke an exemption is also implicit in the authority to attach terms and conditions to the grant of an exemption under either Section 214 or 314 of FUA. ERA does, however, agree with the argument that certain other sanctions (*e.g.*, injunctive relief) absent appropriate action by a District Court of the United States pursuant to Title VII of the Act would not be authorized. Accordingly, the second sentence of § 501.167(a) of the interim rule has been deleted.

Interim rule §§ 501.161(a), 163, and 164 refer to ERA's discretion to require written verification of oral complaints, to make public the complaint and identify the complainant, and to provide a draft of the notice of violation to the

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affected person. It has been suggested

every thirty (30) days after

1. Part 500 is revised to read as

affected person. It has been suggested that these provisions be made mandatory and that ERA be required to keep a daily log of each complaint. Violation of the provisions of FUA has serious consequences, possibly resulting in the imposition of both civil and criminal penalties. It is believed that the discretionary provisions contained in Subpart K of the final rule strike a proper balance between the desire to encourage the filing of legitimate complaints and the need to protect against unfair and unsupported allegations; in short, to insure the integrity of the enforcement proceeding. The public interest in effective enforcement of FUA is best served, it is felt, by a procedure which gives ERA flexibility in weighing these and other competing interests, both public and private. The thrust of these provisions, moreover, is consistent with the privacy and confidentiality provisions of the Freedom of Information Act, 5 U.S.C. 552(b)(4)(7)(C) and 7(d).

Section 501.166 has been changed so as to provide an opportunity to request a conference in cases where civil penalties have not been proposed. This addition merely restores the substance of § 501.172 of the proposed rules which was inadvertently omitted when the interim rules were adopted.

7. Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes. In response to a number of comments received by ERA concerning Subpart M of the interim rule, ERA has made a number of revisions. Through inadvertent error, reference to Titles IV and V was omitted from § 501.190 of the interim rule, pertaining to purpose and scope of Subpart M. This section has been revised accordingly.

Several commenters suggested that § 501.191 of the interim rule should be modified to allow the use of petroleum or natural gas to prevent as well as alleviate an unanticipated equipment outage. ERA has reexamined Section 103(a)(15)(B) of FUA, which authorizes use of minimum amounts of oil and gas to prevent or alleviate unanticipated equipment outages, and has revised § 501.191 accordingly to allow the use of petroleum or natural gas to prevent as well as alleviate unanticipated equipment outages.

ERA has reduced the reporting requirement contained in § 501.191(b)(3). The final rule requires the operator of a powerplant or major fuel burning installation who is using natural gas or petroleum to alleviate or prevent an emergency or unanticipated equipment outage to file a status report with ERA every thirty (30) days after commencement of such use.

Several commenters contended that § 501.192(c) of the interim rule, which permits the burning of gas or oil for only a period of 4 weeks from the commencement of an emergency condition (pursuant to Section 404(g) of FUA) was insufficient for many emergency situations. Therefore, ERA has revised § 501.192(c) to automatically permit use of natural gas or petroleum until termination of the emergency condition, provided such period does not exceed 24 months.

III. Procedural matters

A Final Environmental Impact Statement (FEIS) was prepared pursuant to the National Environmental Policy Act (NEPA). The FEIS may be obtained from ERA, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, (202) 653–4055.

Under Executive Order No. 12044 and Department of Energy Implementing Order 2030.1, a final regulatory analysis shall be made available to the public at the time that final rules are adopted, unless a waiver has been issued by the Secretary or Deputy Secretary. The Deputy Secretary has granted such a waiver.

A final regulatory analysis relating to this final rule will be made available shortly in conjunction with a draft regulatory analysis to accompany a Notice of Proposed Rulemaking on the cost calculation.

This final rule must be submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of this final rule may require revision or additions as a result of any OMB action.

(Department of Energy Organization Act, Pub. L. 95–96; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 500 and 501, as amended, of Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, titled "Alternate Fuels," are hereby adopted as a final rule and are effective on August 5, 1980. Regulations formerly appearing in Parts 502 and 507 are hereby revoked effective as of the above date.

Issued in Washington, D.C., May 30, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

10 CFR Chapter II is amended as set forth below.

1. Part 500 is revised to read as follows:

SUBCHAPTER E—ALTERNATE FUELS

PART 500—DEFINITIONS

Sec.

500.1 Purpose and scope.
500.2 General definitions.
500.3 Electric regions—electric region groupings for reliability measurements under the Powerplant and Industrial Fuel Use Act of 1978.
500.4 Criteria for determining if an electric generating unit is jurisdictional.
500.5 Criteria for determining if an industrial unit is jurisdictional.

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267, September 15, 1977.

§ 500.1 Purpose and scope.

Unless otherwise expressly provided or the context clearly indicates otherwise, this section defines the terms used in these regulations. The use of the male gender is to include female; the use of singular to include plural.

§ 500.2 General definitions.

For purposes of this Part and Parts 501–518 the term(s):

"Act" means "FUA".

"Action" means a prohibition, by rule or order, in accordance with sections 202, 301 (b) and (c), 302 (a) and (b), 401, 402 and 405 of FUA; an order granting or denying an exemption in accordance with sections 211, 212, 311, and 312 of FUA; a modification or rescission of any such order, or rule; an interpretation; a notice of violation; a remedial order; an interpretive ruling; or a rulemaking, undertaken by DOE.

"Affiliate", when used in relation to person, means another person who controls, is controlled by, or is under common control, with such person.

"Aggrieved", for purposes of administrative proceedings, describes and means a person (with an interest sought to be protected under FUA) who is adversely affected by an action proposed or undertaken by DOE.

"Air pollution control agency" means any of the following:

(1) A single State agency designated as the official State air pollution control agency;

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority or, in the case of any city, county, or other local unit of government in which there is an agency other than the health authority

charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution;

"Alternte fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes, but is not limited to:

(1) Coal;

(2) Solar energy;

(3) Petroleum coke; shale oil; uranium; biomass; municipal, industrial, or agricultural wastes; wood; and renewable and geothermal energy sources (For purposes of this subparagraph (3), the term "industrial" does not include refineries.);

(4) Liquid, solid, or gaseous waste by-products of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity. (For purposes of this subparagraph (4), the term "waste by-product" is defined as an unavoidable by-product of the industrial or refinery operation.)

(i) A waste by-product of a refinery operation is commercially unmarketable if it meets the criteria listed in the definition of petroleum set forth below.

(ii) A waste by-product of an industrial operation is commercially unmarketable either by reason of:

(A) Quality, where the cost of processing (limited to upgrading the product to commercial quality), storing, and distributing the by-product would not be covered by reasonably expected revenues from its sale; or

(B) Quantity, where the cost of aggregating the by-product into commercial quantities through storing and distributing the by-product would not be covered by reasonably expected revenues from its sale.

(5) Any fuel derived from an alternate fuel; and

(6) Waste gases from industrial operations. (For purposes of this subsection, the term "industrial" does not include refineries.)

"Applicable environmental requirements" includes:

(1) Any standard, limitation, or other requirement established by or pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels, natural gas, or petroleum as a primary energy source or from the operation of pollution control equipment in connection with such use, taking into account any variance of law granted or issued in accordance with Federal law or in accordance with State law to the extent consistent with Federal law; and

(2) Any other standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act of 1976, or the National Environmental Policy Act of 1969.

"Base load powerplant" means a powerplant, the electrical generation of which in kilowatt hours exceeds, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Boiler" means a closed vessel in which water is heated or vaporized to produce steam of one (1) percent or more quality.

"Btu" means British thermal unit.

"Capability to use altenrate fuel", for the purpose of the Title II prohibition relating to construction of new powerplants, means the powerplant to be constructed must be able to use, in compliance with applicable environmental requirements, an alternate fuel as a primary energy source on a continuous basis at the time it becomes operational or at the expiration of a temporary exemption. This alternate fuel must be available to the operator at the powerplant site at the time it becomes operational or at the expiration of a temporary exemption. Examples:

(1) High-Btu gas from coal is an alternate fuel within FUA. If a petitioner proposes to construct a new powerplant that is to use natural gas, he cannot assert, for purposes of the prohibition on construction of new powerplants without alternate fuel capability, that the powerplant is capable of using high-Btu gas from coal as a primary energy source unless this gas will be available to the powerplant in sufficient quantities to be a primary energy source at the time of initial operation or upon expiration of a temporary exemption.

(2) A petitioner who proposes to construct a new powerplant that will have a boiler capable of using either coal or oil, would be in violation of the prohibition on construction relating new powerplants without alternate fuel capability, absent an exemption, unless the powerplant is constructed with coal handling, pollution control, and ash removal systems and other equipment necessary to burn coal so in compliance with applicable environmental requirements or standards.

"Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401 *et seq.* (1970), as amended by Pub. L. 93–319, 88 Stat. 246, and Pub. L. 95–91, 91 Stat. 685.

"Coal" means anthracite, bituminous and sub-bituminous coal, lignite, and any fuel derivative thereof.

"Cogeneration facility" means an electric powerplant or a major fuel burning installation that produces:

(1) Electric power; and

(2) Any other form of useful energy (such as steam, gas, or heat) that is, or will be, used for industrial, commercial, or space heating purposes. In addition, for purposes of this definition, electricity generated by the cogeneration facility must constitute more than ten (10) percent and less than ninety (90) percent of the useful energy output of the facility.

"Combined cycle unit" means a unit that consists of a combination of one or more combustion turbine units and one or more waste heat boilers with a substantial portion of the required energy input to the waste heat boiler provided by the exhaust gas from the combustion turbine unit(s).

"Conference" means an informal meeting, incident to any proceeding, between DOE and any interested person.

"Combustion turbine" means a unit that is a rotary engine driven by a gas under pressure that is created by the combustion of any fuel.

"Construction" means substantial physical activity at the unit site and includes more than clearance of a site or installation of foundation pilings. The addition of a waste heat recovery or supplemental-fired boiler to an existing combustion turbine constitutes construction of a new combined cycle unit. The addition of a combustion turbine, as a heat source for an existing boiler, also constitutes construction of a new combined cycle unit.

"Cost of petroleum or natural gas" means the cost of imported oil as computed in § 503.6(d)(2) of these regulations.

"Costs" means total costs, both operating and capital, incurred over the estimated remaining useful life of an electric powerplant or major fuel burning installation, discontinued to the present pursuant to rules established in Parts 503 and 504 of these regulations.

"DEOA" means the Department of Energy Organization Act (Pub. L. 95–91) (42 U.S.C. 7101 *et seq.*), as implemented by Executive Order 12009 (42 FR 46267, September 15, 1977).

"Design capability" shall be determined as follows:

(1) For a powerplant defined in Section 103(a)(7) of FUA:

(i) *Boiler and associated generator turbines.* The design fuel heat input rate of a steam-electric generating unit (Btu/hr) shall be the product of the generator's nameplate rating, measured in kilowatts, and 3412 (Btu/kWh), divided by the overall boiler-turbine-generator unit design efficiency (decimal); or if the generator's nameplate does not have a rating measured in kilowatts, the product of the generator's kilovolt-amperes nameplate rating, and the power factor nameplate rating, and 3412 (Btu/kWh), divided by the boiler turbine-generator unit's design efficiency (decimal). (The number 3412 converts kilowatt-hours (absolute) into Btu's (mean).)

(ii) *Combustion turbine and associated generator.* The design fuel heat input rate of a combustion turbine (Btu/hr) shall be the product of its nameplate rating, measured in kilowatts, and 3412 (Btu/kWh), divided by the combustion turbine-generator unit's design efficiency (decimal), adjusted for peaking service at an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and at the unit's elevation. (The number 3412 converts kilowatt-hours (absolute) into Btu's (mean).)

(iii) *Combined cycle unit.* The design fuel heat input rate of a combined cycle unit (Btu/hr) shall be the summation of the product of its generator's nameplate rating, measured in kilowatts, and 3412 (Btu/kWh), divided by the overall combustion turbine-generator unit's efficiency (decimal), adjusted for peaking service at an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and at the unit's elevation, plus the product of the maximum fuel heat input to any supplemental heat recovery steam generator/boiler in gallons or pounds per hour and the fuel's heat content. If the generator's nameplate does not have a rating measured in kilowatts, the product of the generator's kilowatt-amperes nameplate rating and power factor nameplate rating must be substituted for kilowatts. (The number 3412 converts kilowatt-hours (absolute) into Btu's (mean).)

(2) For a major fuel burning installation, defined in Section 103(a)(10) of FUA, the fuel heat input rate of a boiler (Btu/hr) shall not be less than the safety valve relieving capacity (lbs/hr) multiplied by the enthalpy difference (Btu/lb) of feedwater input and steam output, divided by the boiler design efficiency (decimal) for the fuel. For the purpose of this definition, the safety valve capacity shall be determined in accordance with the current American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

"Design capacity" of a powerplant, pursuant to Section 103(a)(18) of FUA, is determined according to 18 CFR 287.101.

Note.—Section 287.101 of Title 18 CFR as issued by the Federal Energy Regulatory Commission (44 FR 38837, July 3, 1979) and as referenced in the definition of "design capacity" is republished in part in the appendix below for the benefit of the public. This appendix will not appear in the CFR.

Appendix

"287.101 Determination of powerplant design capacity.

For the purpose of Section 103 of the Powerplant and Industrial Fuel Use Act of 1978; a powerplant's design capacity shall be determined as follows:

(a) *Steam-electric generating unit.* The design capacity of a steam-electric generating unit shall be the maximum generator nameplate rating measured in kilowatts or, if the nameplate does not have a rating measured in kilowatts, the product of the generator's kilovolt-amperes nameplate rating and power factor nameplate rating.

(b) *Combustion turbine.* The design capacity of a combustion turbine shall be its nameplate rating measured in kilowatts, adjusted for peaking service at an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and at the unit's site elevation.

(c) *Combined cycle unit.* The design capacity of a combined cycle unit shall be the sum of its combustion turbine nameplate rating measured in kilowatts, based on baseload operation adjusted for site elevation, and the maximum generator nameplate rating measured in kilowatts of the steam turbine portion of the unit * * * "

"DOE" or "the Department" means the United States Department of Energy, as defined in Sections 201 and 301(a) of the DEOA, including the Secretary of Energy or his designee.

"Duly authorized representative" means a person who is authorized to appear before DOE in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may include the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, oral communication, or any other participation in a proceeding.

"Electric generating unit" does not include:

(1) Any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission (NRC); and

(2) Any cogeneration facility from which less than half of the annual electric power generation is sold or exchanged for resale.

Note.—For purposes of subparagraph (1) of this definition, ERA will not consider any unit located at a site subject to NRC's licensing authority to be jurisdictional for purposes of FUA.

"Electric powerplant" means any stationary electric generating unit, consisting of (a) a boiler, (b) a gas turbine, or (c) a combined cycle unit which employs a generator to produce electric power for purposes of sale or exchange and:

(1) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(2) Is in a combination of two or more electric generating units that are located at the same site and that in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Note.—(i) To determine if an electric generating unit is to be aggregated toward the 250 million Btu's per hour threshold for purposes of subparagraph (2), see § 500.4 of this part.

(ii) To determine if electric generating units, for purposes of paragraph (2) of this definition, are located at the same site, ERA will consider physical proximity, common ownership or control, and whether noncontiguous parcels are connected by any easements, pipes, or steam lines under common ownership. All powerplants located at the same site will be considered in combination.

(3) ERA will not aggregate toward the 250 million Btu's per hour threshold any rental boiler being used because of and in compliance with an unanticipated equipment outage, emergency, or temporary emergency condition as described in Subpart M of these regulations.

"Electric Region" is as defined in § 500.3 of this part.

"Electric utility" means any person, including any affiliate, or Federal agency, which sells electric power.

"Emission offset" means emission reductions as defined by EPA's regulations set forth at 40 CFR Part 51, Appendix 5.

"ERA" means the United States Environmental Protection Agency.

"EPA" means the Economic Regulatory Administration of DOE.

"Existing powerplant" means any powerplant other than a new powerplant.

"Existing major fuel burning installation" means any installation which is not a new major fuel burning installation.

"Federal Water Pollution Control Act" means 33 U.S.C. 1251 *et seq.*, as amended.

"FERC" means the Federal Energy Regulatory Commission.

"Firm" means a parent company and the consolidated or unconsolidated entities (if any) that it directly or indirectly controls.

"Fluidized bed combustion" means combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, that is held in a fluid-like state by the means of air or other gases being passed through such materials.

"FTC" means the Federal Trade Commission.

"FUA" means the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*

"Fuel Use Act" means "FUA".

"Fuel Use order" means a directive issued by ERA pursuant to § 501.167 of these regulations.

"Gas turbine" means "combustion turbine".

"General use exemption" means a permanent exemption due to lack of alternate fuel supply, site limitations, environmental requirements, lack of adequate capital, or State or local requirements under Section 212 (a) and (b) of FUA.

"High-priority user," for purposes of Subsection 312(j) of FUA, means any residential user of natural gas, or any commercial user whose consumption of natural gas on peak day is less than 50 Mcf.

"Installation" means "major fuel burning installation."

"Intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Internal combustion engine" means a heat engine in which the combustion that generates the heat takes place inside the engine proper.

"Interpretation" means a written statement issued by the DOE General Counsel or his delegate, in response to a written request, that applies the regulations, rulings, and other precedents previously issued by the DOE to the particular facts of a prospective or completed act or transaction.

"Limited Use Exemption" means a permanent exemption due to lack of alternate fuel supply for installations where the use of the unit will not exceed 600 hours per year, fuel mixtures of less than 25% of the total annual Btu heat input of the primary energy source of installations, peakload powerplants, emergency purposes, and scheduled outages of less than 28 days per year, under Section 212 of FUA.

"Major fuel burning installation" (1) means a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine that:

(i) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) Is in a combination of two or more such units that are located at the same site and that in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Note.—(A) To determine if a MFBI is to be aggregated toward the 250 million Btu's per hour threshold for purposes of clause (1)(ii) of this definition, see § 500.5 of this part.

(B) To determine if units, for purposes of clause (1)(ii) of this definition, are located at the same site, ERA will consider physical proximity, common ownership, and whether non-contiguous parcels are connected by any easements, pipes, or steam lines under common ownership.

(C) For purposes of clause (1)(ii) of this definition, the term "in a combination" means functionally integrated. In determining if such units are functionally integrated, ERA will consider the following factors:

(1) Whether the units are contributing to the same end product, blend stock, or intermediate product;

(2) Whether the units are part of the same plant or facility producing different products;

(3) Whether the units have a physical connection with common energy or power systems, other than provided by a public utility; and

(4) Any other factors which would indicate that the units are functionally integrated.

(iii) ERA will not aggregate toward the 250 million Btu's per hour threshold any rental boiler if it is being used because of and in compliance with an unanticipated equipment outage, emergency, or temporary emergency condition as described in Subpart M of these regulations.

(2) Does not include:

(i) Any electric powerplant;

(ii) Any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only upon the filing of a written certification of such use with ERA in accordance with procedures specified in §§ 501.7 and 501.11 of the regulations. Such certification must be made only for such pumps and compressors which are driven by units with a design fuel heat input rate of 50 million Btu's per hour or greater and which consume petroleum or natural gas. The following information is required:

(A) Unit size in Btu input;

(B) Equipment function; and

(C) Geographic location of the unit; or

(iii) Steam generators used for crude oil recovery.

Note.—For purposes of clause (2)(ii), also excluded from jurisdiction under the Act is any boiler, combustion turbine, combined cycle unit, or internal combustion engine used to drive pumps and compressors for such purposes, if ninety (90) percent or more of the energy output is used to drive the pumps and compressors.

"Mcf" means 1,000 cubic feet of natural gas.

"MFBI" means a "major fuel burning installation".

"Mixture," when used in relation to fuels used in a unit, means a mixture of petroleum or natural gas and an alternate fuel, or a combination of such fuels, used simultaneously or alternately in such unit.

"Natural gas" means any fuel consisting in whole or in part of natural gas, including components of natural gas such as methane and ethane; liquid petroleum gas; synthetic gas derived from petroleum or natural gas liquids; or any mixture of natural gas and synthetic gas. Natural gas does not include:

(1) Gaseous waste by-products or waste gas specifically designated as an alternate fuel in § 500.2 of these regulations;

(2) Natural gas which is commercially unmarketable by reason of:

(i) Quality, where the cost of producing, upgrading to commercial quality, storing, and distributing the gas would not be covered by reasonably expected revenues from its sale; or

(ii) Quantity, where the quantities of natural gas are so small that the revenues to be reasonably expected from the sale of the gas would not cover the cost of its production, distribution, or storage.

(3) Natural gas produced by the user from a well, the maximum efficient production rate of which is less than 250 million Btu's per day.

For purposes of clause (3) of this definition:

(i) "produced by the user" means:

(A) All gas produced by the well, when such gas is delivered for use in the user's facility through a gas delivery, gathering, or transportation system which could not deliver such gas to any other user; or

(B) Only that amount which represents the user's net working (mineral) interest in the gas produced from such well, where such gas is delivered for use in the user's facility through a gas delivery, gathering, or transportation system which could deliver such gas to any other user.

(ii) "Maximum efficient production rate" (MEPR) means that rate at whic production of natural gas and oil may

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sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of oil or gas through the well. The MEPR must include the Btu value of any crude oil, gas condensate, and natural gas liquids which may be produced from the well, in addition to that of the natural gas.

(4) Occluded methane in coal seams with the meaning of Section 107(c)(3) of the Natural Gas Policy Act of 1978 (NGPA);

(5) The following gas from wells spudded prior to January 1, 1990:

(i) Gas produced from geopressured brine within the meaning of Section 107(c)(2) of the NGPA;

(ii) Gas produced from Devonian shale, within the meaning of Section 107(c)(4) of the NGPA;

(iii) Gas produced from tight sands, as designated by the FERC in accordance with Section 107(c)(5) of the NGPA; and

(iv) Other gases designated by FERC as "high-cost natural gas" in accordance with Section 107(c)(5) of the NGPA, except as specifically designated as "natural gas" by ERA.

(6) Synthetic gas derived from coal or other alternate fuel, the heat content of which is less than 600 Btu's per cubic foot at 14.73 pounds per square inch (absolute) and 60 degrees Fahrenheit.

(7) Mixtures of natural gas and synthetic gas derived from alternate fuels for which the person proposing to use the gas certifies to ERA that:

(i) He owns, or is entitled to receive at the point of manufacture, synthetic gas derived from alternate fuels;

(ii) He delivers, or arranges for the delivery of such, synthetic gas to a pipeline which by transport or displacement is capable of delivering such synthetic gas, mixed with natural gas, to facilities owned by the user;

(iii) The total annual Btu content of the synthetic gas delivered to a pipeline is equal to or greater than the total annual Btu content of the natural gas delivered to the facilities owned by the user, plus the approximate total annual Btu content of any natural gas consumed or lost in transportation; and

(iv) All necessary permits, licenses, or approvals from appropriate Federal, state, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under Section 201 (2) of FUA against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such synthetic gas facilities shall be required, under this subparagraph, to be certified and documented.

(8) A mixture of natural gas and an alternate fuel when such mixture is deliberately created for purposes of (i) complying with a prohibition order issued pursuant to Section 301(c) of the Act, or (ii) qualifying for a fuel mixtures exemption under this Act, provided such exemption is granted.

"NEPA" means the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

"New electric powerplant" means any electric powerplant: (1) That was not classified as existing under Part 515 of this subchapter; (2) that was reconstructed; as described below; or (3) for which construction was begun after November 9, 1978.

Note.—Reconstruction of an electric powerplant occurs when the capital expenditures for refurbishment or modification of the unit, as defined by FERC, on a cumulative basis for the current calendar year and preceding two (2) calendar years beginning January 1, 1979, are equal to or greater than fifty (50) percent of the capital costs of an equivalent replacement unit of the same capacity, capable of burning the same fuels. Reconstruction shall not include expenditures for: (1) Routine operation and maintenance; (2) expenditures made for pollution control equipment; (3) expenditures made for providing the capability to use an available alternate fuel; and (4) expenses related directly to movement of the unit. In addition, reconstruction will not be deemed to have occurred where refurbishment or modification of the unit does not result in increased remaining useful life, or an increase in total annual fuel consumption, but is undertaken solely for the purpose of increasing fuel burning efficiency of the unit. Costs of reconstruction shall include only expenditures for items capitalized (*i.e.*, not expensed) according to the FERC Uniform System of Accounts.

"New major fuel burning installation" means any MFBI: (1) That was not classified as existing under Part 515 of this subchapter; (2) that was reconstructed, as described below; or (3) for which construction begun after November 9, 1978.

Note.—Reconstruction of a MFBI occurs when capital expenditures for refurbishment or modification of the unit on a cumulative basis for the current calendar year and preceding two calendar years, beginning January 1, 1979, are equal to or greater than fifty (50) percent of the expenditures for an equivalent replacement unit of the same capacity, capable of burning the same fuels. Reconstruction shall not include expenditures for routine operation and maintenance expenditures made for pollution control equipment, expenditures made for providing the capability to use an alternate fuel, and expenses related directly to movement of the unit. Costs of reconstruction shall include only expenditures for items capitalized (*i.e.*, not expensed) according to Internal Revenue Service standards. In addition, reconstruction will not be deemed to have occurred where refurbishment or modification of the unit does not result in increased remaining useful life, or an increase in total annual fuel consumption, but is undertaken solely for the purpose of increasing fuel burning efficiency of the unit.

"NGPA" means the Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*

"Non-boiler" means any powerplant or MFBI which is not a boiler and consists of either a combustion turbine unit, combined cycle unit, or, in the case of an MFBI, an internal combustion engine.

"Notice of violation" means a written statement issued to a person by DOE that states one or more alleged violations of the provisions of these regulations, any order issued pursuant thereto, or the Act.

"Offset" means "emission offset".

"Order" means a final disposition, other than the issuance of a rule, issued by DOE pursuant to these regulations or the Act.

"Peakload powerplant" means a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1,500 hours.

"Person" means any:

(1) Individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company;

(2) Any State;

(3) Any Federal, State, or local agency or instrumentality (including any municipality) thereof; or

(4) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

"Petroleum" means crude oil and products derived from crude oil, other than:

(1) Petroleum products specifically designated as alternate fuels pursuant to these regulations;

(2) Synthetic gas derived from crude oil;

(3) Liquid petroleum gas;

(4) Petroleum coke or waste gases from industrial operations; and

(5) A liquid, solid, or gaseous waste by-product of refinery operations which is commercially unmarketable by reason of:

(i) Quality, where the cost of processing (limited to upgrading the product to commercial quality), storing, and distributing the by-product would not be covered by reasonably expected revenues from its sale; or

(ii) Quantity, where the cost of aggregating the product into commercial quantities through storage and distributing the by-product would not be covered by reasonably expected revenues from its sale.

Note.—For the purposes of this subparagraph, waste by-products do not include components (such as butane and propane) that can be extracted from the waste by-product by reasonable further processing of the waste by-product at the refinery, nor do they include final products that use the waste by-product as a blend stock at the refinery.

"Petition" means a formal request for any action including an exemption submitted to DOE under these regulations.

"Powerplant" means "electric powerplant."

"Product or process requirements" means that product or process for which the use of an alternate fuel is not technically feasible due to the necessity to maintain satisfactory control of product quality and for which the substitution of steam is not technically feasible due to process requirements.

"Primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel burning installation, except:

(1) Minimum amounts of fuel, not to exceed fifteen (15) percent, unless otherwise demonstrated, of the total annual Btu heat input of the unit, required for unit ignition, startup, testing, flame stabilization, and control uses; and

(2) Minimum amounts of fuel required to alleviate or prevent:

(i) Unanticipated equipment outages as defined in § 501.191 of these regulations; and

(ii) Emergencies directly affecting the public health, safety, or welfare that would result from electric power outages as defined in § 501.191.

Note.—For purposes of subparagraph (1), no fuel will be excluded from the definition of primary energy source where a mixtures exemption has been granted under Parts 503 or 504 of these regulations. The minimum amount of natural gas or petroleum provided by a mixtures exemption to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency is in lieu of the minimum amount required for unit ignition, start-up, testing, flame stabilization, and control uses.

"Prohibition order" means:

(1) An order issued pursuant to Sections 202(b), 301(b) and (c), 302(a) and (b), and 401 of the Act that prohibits a powerplant or major fuel burning installation or a boiler used for space heating purposes from burning natural gas or petroleum as its primary energy source; or

(2) An order issued pursuant to Sections 301(c) and 302(b) of the Act that prohibits excessive use of natural gas or petroleum in mixtures burned by a powerplant or major fuel burning installation as its primary energy source.

"Refinery operation," as the term is used in these regulations, means an operation which separates or converts crude oil as its primary feedstock into unfinished, semi-refined, or refined products. For the purposes of this definition, the term, "crude oil" means a mixture of hydrocarbons, including lease condensate, which exists in a liquid state or as an amorphous solid in underground reservoirs.

"Resource Conservation and Recovery Act of 1976" means the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*

"SIP" means State Implementation Plan pursuant to Section 10 of the Clean Air Act.

"Site limitation," when used with respect to any powerplant or installation, means a specific physical limitation associated with a particular site that relates to the use of an alternate fuel as a primary energy source for the powerplant or installation, such as:

(1) Inaccessibility to alternate fuels;

(2) Lack of transportation facilities for alternate fuels;

(3) Lack of adequate land or facilities for the handling, use, and storage of alternate fuels;

(4) Lack of adequate land or facilities for the control or disposal of wastes from such powerplant or installation, including lack of land for pollution control equipment or devices necessary to assure compliance with applicable environmental requirements; and

(5) Lack of an adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements.

"Solid Waste Disposal Act" means 42 U.S.C. 6901 *et seq.*, as amended.

"Specified Use Exemption" means a permanent exemption for cogeneration, fuel mixtures, emergency purposes, reliability of source, peakload powerplants, intermediate load powerplants, product or process requirements, or scheduled equipment outages under Section 212 (c) through (j) of FUA.

"State regulatory authority" means any State agency that acts as ratemaking or power supply authority with respect to the sale of electricity by any State regulated electric utility.

"Synthetic fuel" means any fuel derived from an alternate fuel and does not include any fuels derived from petroleum or natural gas.

"Wetlands areas" means, for purposes of Section 103(a)(12) of the Act, those geographical areas designated as wetlands areas by State or local environmental regulatory authorities, or in the absence of any such geographic designation, those areas that are inundated by surface or ground water with frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetation or aquatic life that requires saturated, seasonably saturated, or tidally saturated soil conditions for growth or reproduction.

§ 500.3 Electric Regions—Electric region groupings for reliability measurements under the Powerplant and Industrial Fuel Use Act of 1978.

(a) The following is a list of electric regions for use with regard to the Act. The regions are identified by FERC Power Supply Areas (PSA's) as authorized by Section 202(a) of the Federal Power Act except where noted. They will be reviewed annually by ERA. Each grouping meets one or more of the following criteria:

(1) Existing centrally dispatched pools and hourly power brokers;

(2) Systems with joint planning and construction agreements;

(3) Systems with coordination agreements in the areas of:

(i) Generation reserve and system reliability criteria;

(ii) Capacity and energy exchange policies;

(iii) Maintenance scheduling; and

(iv) Emergency procedures for dealing with capacity or fuel shortages; or

(4) Systems within the same National Electric Reliability Council (NERC) region with historical coordination policies.

(b) The PSA's referred to in the definition of electric regions in paragraph (a) of this section were first defined by the Federal Power Commission in 1936. The most recent reference to them is given in the *1970 National Power Survey*, Vol. I, Pg. I–3–16. In cases where a petitioner finds an ambiguity in a regional assignment, he shall consult with DOE for an official determination.

Electric Region Groupings and FERC PSA's:

1. Allegheny Power System (APS)—7, except Duquesne Light Company
2. American Electric Power System (AEP)—entire AEP System
3. New England Planning Pool (NEPOOL)—1, 2
4. New York Planning Pool (NYPP)—3, 4
5. Pennsylvania—New Jersey—Maryland Interconnection (PJM)—5, 6
6. Commonwealth Edison Company—14
7. Florida Coordination Group (FCG)—24
8. Middle South Utilities—25

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9. Southern Company—22, 23
10. Gulf States Group—35
11. Tennessee Valley Authority (TVA)—20
12. Virginia—Carolina Group (VACAR)—18, 21
13. Central Area Power Coordination Group (CAPCO)—Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Duquesne Light Company
14. Cincinnati, Columbus, Dayton Group (CCD)—Cincinnati Gas and Electric Company, Columbus and Southern Ohio Electric Company, Dayton Power and Light Company
15. Kentucky Group—19
16. Indiana Group—Indiana Utilities except AEP
17. Illinois—Missouri Group (ILLMO)—15, 40
18. Michigan Electric Coordinated Systems (MECS)—11
19. Wisconsin—Upper Michigan Group (WUMS)—13
20. Mid-Continent Area Power Pool (MAAP)—16, 17, 26, 27, 28
21. Missouri—Kansas Group (MOKAN)—24, 29
22. Oklahoma Group—33, 36
23. Texas Interconnected Systems (TIS)—37, 38
24. Rocky Mountain Power Pool (RMPP)—31, 32
25. Northwest Power Pool (NWPP)—30, 42, 43, 44, 45
26. Arizona—New Mexico Group—39, 48 within Arizona
27. Southern California—Nevada—47, 48 in Nevada and California
28. Northern California—Nevada—46
29. Alaska (non-interconnected systems to be considered separately)—49
30. Idaho—Utah Group—41

§ 500.4 Criteria for determining if an electric generating unit is jurisdictional.

(a) *Single units.* A single electric generating unit is jurisdictional for purposes of FUA if it has a design capability of consuming any fuel or mixture as a primary energy source at a fuel heat input rate of 100 million Btu's per hour or greater;

(b) *Units in Combination.* An electric generating unit in a combination of two or more such units located at the same site, which, in the aggregate have a design capability of 250 million Btu's per hour or greater, may be jurisdictional where:

(1) *A new unit is added to one or more existing units.* (i) If one or more existing electric generating units are located on a single site and a new unit is added, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 100 million Btu's per hour and the new unit provided it has a heat input rate of 50 million Btu's per hour or greater.

(ii) If a combination of existing and new electric generating units located at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour jurisdictional threshold, ERA will consider each existing electric generating unit with a heat input rate equal to or greater than 100 million Btu's per hour and each new electric generating unit with a heat input rate equal to or greater than 50 million Btu's per hour, to be subject to the Act.

(2) *New units are added to new units.* (i) Where one or more new units are added to new units subject to Title II of FUA, ERA will aggregate toward the 250 million Btu's per hour jurisdictional threshold all such electric generating units having a heat input rate equal to or greater than 50 million Btu's per hour.

(ii) When new units at a single site which are aggregated in accordance with the immediately preceding subparagraph equal or exceed the 250 million Btu's per hour threshold, ERA will consider each such electric generating unit at the site to be subject to Title II of the Act.

(3) *All units are existing.* If there are two or more existing electric generating units at a single site, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 50 million Btu's per hour.

Note.—Notwithstanding the criteria set forth above, for purposes of establishing jurisdiction, pursuant to Section 103(a)(7)(A)(ii) of the Act, over two or more units in a combination which are located at the same site, such units may be included in an aggregation calculation, irrespective of their individual design capability, provided the owner or operator of such units request ERA to include such units.

§ 500.5 Criteria for determining if an industrial unit is jurisdictional.

(a) *Single unit.* A single industrial unit is jurisdictional for purposes of FUA if it has a design capability of consuming any fuel or mixture as a primary energy source at a fuel heat input rate of 100 million Btu's per hour or greater;

(b) *Units in Combination.* An industrial unit in a combination with two or more such units located at the same site, which, in the aggregate have a design capability of 250 million Btu's per hour or greater, may be jurisdictional where:

(1) *A new unit is added to one or more existing units.* (i) If one or more existing units are located on a single site and a new unit is added, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 100 million Btu's per hour and the new unit provided it has a heat input rate of 50 million Btu's per hour or greater.

(ii) If a combination of existing and new units located at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour jurisdictional threshold, ERA will consider each existing unit with a heat input rate equal to or exceeding 100 million Btu's per hour and each new unit with a heat input rate equal to or exceeding 50 million Btu's per hour, to be subject to the Act.

(2) *New units added to new units.* (i) Where one or more new units are added to new units subject to Title II of FUA, ERA will aggregate towards the 250 million Btu's per hour threshold all such units having a heat input rate equal to or greater than 50 million Btu's per hour.

(ii) When new units at a single site which are aggregated in accordance with the immediately preceding subparagraph equal or exceed the 250 million Btu's per hour threshold, ERA will consider each such industrial unit at the site to be subject to Title II of the Act.

(3) *All units are existing.* If there are two or more units at a single site, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat imput rate equal to or greater than 50 million Btu's per hour.

Note.—Notwithstanding the criteria set forth above, for purposes of establishing jurisdiction, pursuant to Section 103(a)(10)(A)(ii) of the Act, over two or more units in a combination which are located at the same site, such units may be included in an aggregation calculation, irrespective of their individual design capability, provided the owner or operator of such units requests ERA to include such units.

(2) In Part 501, §§ 501.51 and 501.52 remain in effect as published in the interim rule on July 23, 1979, (44 FR 43187–43188). The remainder of Part 501 is revised to read as follows:

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Subpart A—General Provisions

Sec.
501.1 Purpose and scope.
501.2 Prepetition conference.
501.3 Petitions.
501.4 Computation of time.
501.5 Extension of time.
501.6 Service.
501.7 General filing requirements.
501.8 [Reserved]
501.9 Effective date of orders or rules.
501.10 Order of precedence.
501.11 Address for filing documents.
501.12 ERA Public Information Office.
501.13 Appeal.

Sec.
501.14 Notice to Environmental Protection Agency and the Federal Trade Commission.

Subpart B—[Reserved]

Subpart C—Written Comments, Public Hearings and Conferences During Administrative Proceedings

501.30 Purpose and scope.
501.31 Written comments.
501.32 Conferences (other than prepetition conferences).
501.33 Request for a public hearing.
501.34 Public hearing.
501.35 Public file.

Subpart D—Subpoenas, Special Report Orders, Oaths and Witnesses

501.40 Issuance.
501.41 Petition to withdraw or modify.

Subpart E—Prohibition Rules and Orders

501.50 [Reserved]
501.51 Prohibitions by order—existing powerplants.
501.52 Prohibitions by order—existing installations.
501.53 Prohibitions by rule—existing powerplants. [Reserved]
501.54 Prohibitions by rule—existing installations. [Reserved]
501.55 [Reserved]
501.56 Prohibition by rule or order—new MFBI nonboilers.

Subpart F—Exemptions

501.60 Purpose and scope.
501.61 General instructions.
501.62 Petition contents.
501.63 Notice of the commencement of an administrative proceeding on an exemption petition.
501.64 Publication of Notice of Availability of Tentative Staff Analysis.
501.65 Publication of Notice of Availability of Draft EIS.
501.66 ERA evaluation of the record, decision and order.
501.67 Petition redesignations.
501.68 Decision and order.
501.69 Judicial review.

Subpart G—Requests for Modification or Rescission of a Rule or Order

501.100 Purpose and scope.
501.101 Proceedings to modify or rescind a rule or order.
501.102 ERA evaluation of the record, decision and order for modification or rescission of an order or rule.
501.103 ERA decision.

Subpart H—Requests for Stay

501.120 Purpose and scope.
501.121 Filing and notice of petitions for stays.
501.122 Contents.
501.123 Evaluation of the record.
501.124 Decision and order.

Subpart I—Requests for Interpretation

501.130 Purpose and scope.
501.131 Filing a request for interpretation.
501.132 Contents of a request for interpretation.
501.133 DOE evaluation.
501.134 Issuance and effect of interpretations.

Subpart J—Rulings

501.140 Purpose and scope.
501.141 Criteria for issuance.
501.142 Modification or rescission.
501.143 Comments.

Subpart K—Enforcement

501.160 Purpose and scope.
501.161 Filing a complaint.
501.162 Contents of a complaint.
501.163 ERA evaluation.
501.164 Decision to initiate enforcement proceedings.
501.165 Commencement of enforcement proceedings.
501.166 Hearings and conferences.
501.167 Fuel Use Order.

Subpart L—Investigations, Violations, Sanctions and Judicial Actions

501.180 Investigations.
501.181 Sanctions.
501.182 Injunctions.
501.183 Citizen suits.

Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes

501.190 Purpose and scope.
501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in Section 103(a)(15)(B) of the Act.
501.192 Use of natural gas or petroleum during a temporary emergency condition pursuant to Section 404(g) of the Act.

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

§ 501.1 Purpose and scope.

Part 501 establishes the procedures to be used in proceedings before DOE under Parts 500–518 of this chapter except as otherwise provided.

§ 501.2 Prepetition conference.

(a) ERA encourages owners and operators of powerplants and MFBI's who are, or may be subject to the prohibitions set forth in FUA, and who plan to file petitions for exemptions from any applicable prohibitions, to request a prepetition conference with ERA. Generally, the purpose of the prepetition conference will be to discuss the applicability of these regulations and the scope of the petition that ERA will accept for filing. Typically, we expect the conference to consider the alternate fuels and sites, combustion technologies, energy conservation measures, scheduling of construction and other matters that should be addressed in a particular exemption petition.

(b) An owner or operator of a powerplant or MFBI who requests a prepetition conference may appear at that conference personally, or he may appoint a representative to appear on his behalf.

(c) A prepetition conference or a request for a prepetition conference does not commence a proceeding before ERA.

(d) If ERA agrees to waive any filing requirements, ERA will prepare and mail a memorandum of record, identifying any requirements which ERA has agreed to waive to the petitioner within thirty (30) days after the prepetition conference. If the petitioner subsequently files a petition for exemption, he must attach a copy of the memorandum of record to the petition. DOE also reserves the right to request any additional information that may be necessary to act upon the petition.

(e) Because a prepetition conference is solely for the exchange of views, there will be no formal transcript, report or findings made by ERA, unless ERA, in its discretion, determines that it would be advisable. ERA will, however, place in the public file a record of any prepetition conference.

§ 501.3 Petitions.

(a) *Filing of petitions.* The owner or operator of a powerplant or installation, or his representative may file petitions for exemptions with ERA at the address listed below. Under FUA, any administrative proceeding before ERA commences upon the acceptance (as distinguished from the filing) of a petition by ERA.

(b) *Timeliness.* When ERA or FUA has imposed a time limit for filing any document, that filing shall be considered to have been accomplished at the time the document is received by ERA. ERA will consider documents received after 4:30 p.m. Eastern Standard Time (EST) to have been filed on the next business day.

(c) *Acknowledgement of petition.* (1) ERA will acknowledge receipt of each petition or document and will notify a petitioner in writing within thirty (30) days of receipt of the petition of the exact date on which a petition has been accepted or rejected and the reasons for such rejection.

(d) *Acceptance of petition.* A petition and its supporting documents will be accepted by ERA if it appears to contain all the information required by ERA to make subsequent analyses and determinations as to the merits of that petition. Upon acceptance of a petition for an exemption, ERA shall publish notice in the **Federal Register** that an administrative proceeding has

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commenced in accordance with § 501.63. Acceptance of a petition and its supporting documents does not constitute or even suggest an approval of an exemption, nor does it foreclose ERA from requesting further information during the course of the proceeding. However, failure to provide the additional information could ultimately result in the denial of the request for exemption.

(e) *Rejection of petition.* ERA will reject a timely filed petition as unacceptable if it does not substantially meet the requirements of paragraph (d) of this section. ERA will retain at least three (3) copies of rejected petitions and documents for purposes of internal management and will return any other copies to the petitioner. In the case of existing facilities the rejection of a timely filed petition will not render a resubmitted petition untimely for purposes of filing, provided the resubmission is received by ERA within ninety (90) days from the date of rejection. The period for such resubmission may be extended for good cause shown as provided in § 501.5.

(f) *Incomplete petition.* A petition that substantially satisfies paragraph (d) of this section, but is otherwise incomplete because of minor deficiencies, will not be accepted or rejected. If ERA determines that a petition and its supporting documents are incomplete, it will notify the petitioner to that effect within thirty (30) days of receipt of the petition. ERA will allow ninety (90) days from the date the petition is determined to be incomplete for the petitioner to cure any defects in the petition, after which time, if not cured, the petition shall be deemed automatically rejected. Petitions cured within this time period will be considered to be accepted as provided in paragraph (d) of this section. ERA may extend the time to cure an incomplete petition for good cause shown, as provided in Section 501.5.

(g) *Written explanations.* ERA will provide a written explanation as to the defects in any petition which has been rejected or is incomplete within thirty (30) days of ERA's receipt of the petition or as soon thereafter as practicable.

(h) *Place for filing petitions.* Documents must be sent to the address set forth in § 501.11. Documents sent by wire or facsimile must be subsequently confirmed in writing.

(i) *Waiver of evidentiary and other filing requirements.* ERA may waive some or all of the requirements supporting a petition or other filing if it determines that the purposes of FUA are best achieved by doing so.

§ 501.4 Computation of time.

(a) *Days.* When ERA computes time in days under these regulations, ERA will not include the day from which a period of time begins to run. ERA will include the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which case the period runs until the end of the next weekday that is not a Federal legal holiday.

(b) *Additional time after service by mail.* Whenever DOE serves an order, notice, interpretation or other document by mail, specifying a time period to perform an act, refrain from performing an act, or commence a proceeding, three (3) days may be added to the period prescribed.

§ 501.5 Extension of time.

ERA will grant for good cause shown, an extension of time to file a petition.

§ 501.6 Service.

(a) DOE will serve all orders, notices, interpretations or other documents that it is required to serve, personally or by certified mail, unless otherwise provided in these regulations.

(b) DOE will consider served upon a petitioner's duly authorized representative to be service upon the petitioner.

(c) Service by certified mail is effective upon mailing. ERA will consider official United States postal receipts from certified mailing as prima facie evidence of service.

§ 501.7 General filing requirements.

(a) *Purpose and scope.* This section applies to all documents filed with DOE by a petitioner and any other parties or participants in proceedings under this Part.

(b) *Signing.* (1) A petitioner or his representative must sign and verify a petition or other documents in accordance with the provisions set forth in these regulations.

(2) If a petitioner's representative files any petition or other document, he must certify in the document that he is a duly authorized representative.

(c) *Number of documents.* A petitioner must file an executed original and fifteen (15) copies of all documents submitted to ERA.

(d) *Labeling.* A petition or other document filed with ERA must be clearly labeled, both on the document and on the outside of the envelope, according to the nature of the action involved (*e.g.*, "Fuel Use Act: Petition for Exemption").

(e) *Obligation to supply information.* In any ERA proceeding, the petitioner and all parties to the proceeding are under a continuing obligation to provide ERA or the presiding officer with any new or newly discovered information believed to be relevant and material to that proceeding.

(f) *The same or related matters.* In filing a petition or other document requesting ERA action, the person must state whether, to the best of his knowledge, the same or a related issue, act or transaction has been or presently is being considered or investigated by a DOE office, other Federal agency, department or instrumentality, or a State or municipal agency.

(g) *Request for confidential treatment.* (1) If any person wishes to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 as amended) or is otherwise exempt by law from public disclosure, and if the person wishes to request ERA not to disclose such information, the person must file, together with the document, a second copy of the document from which the information claimed to be confidential has been deleted, except as provided in subparagraph (5) of this paragraph. The person must indicate what information is claimed to be confidential in the original document and must file a statement specifying the justification for nondisclosure. If the petitioner asserts that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, he must include a statement specifying why the information is confidential. (For additional guidance see 10 CFR 1004.)

(2) ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny the claim, in whole or in part, will be given to the person claiming the information is confidential no less than seven (7) days prior to the public disclosure of the information including an opportunity to respond or take other appropriate action to avoid such release.

(3) This subsection does not apply when information is being submitted on an ERA form that contains its own instructions as to requests for confidential treatment of information provided.

(4) A separate request for confidential treatment must be made with respect to each identified document and must be made at the time that document is first submitted to ERA.

(5) In the case of petitions for exemption, the petitioner must file an original and twelve (12) copies of the confidential document and three (3) copies of the document with confidential material deleted.

§ 501.8 [Reserved]

§ 501.9 Effective date of orders or rules.

When ERA issues a rule or order imposing a prohibition or granting an exemption (or permit) under FUA, the rule or order will be effective sixty (60) calendar days after publication in the **Federal Register**, unless it is stayed, modified, suspended or rescinded.

§ 501.10 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provisions or parts of this chapter, except for general procedures which are unique to Parts 508 and 515, the provisions of this part will control with respect to procedure.

§ 501.11 Address of filing documents.

(a)(1) Send all petitions, forms, written communications, or other documents not included in paragraph (a)(2) of this section to the following address:

Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

(2) Send all requests for interpretations and interpretive rulings to the following address:

Assistant General Counsel for Interpretations and Rulings, 1000 Independence Avenue SW., Forrestal Building, Washington, DC 20545.

(b) The DOE National Office has facilities for the receipt of transmission via TWX and FAX to its offices at 1000 Independence Avenue SW. (Forrestal) and 2000 M Street NW., (The FAX machines are 3M full duplex 4 or 6 minute (automatic). For purposes of these regulations, all your transmissions should be to the facilities at 2000 M Street NW., except those to be sent to the Office of General Counsel, which should be transmitted to the facilities located at Forrestal.

FAX Numbers:
(202) 252–5100 (3M) (Forrestal).
(202) 653–3613 (3M) (2000 M St.).
TWX Numbers:
(710) 822–0176 (Forrestal).
(710) 822–9454 (2000 M St.).

§ 501.12 ERA public information office.

DOE will make available at Room B–110, 2000 M Street, NW., Washington, D.C., for public inspection and copying:

(a) Each rule, order or other administrative determination that is issued as a final agency action on a matter before ERA;

(b) Any written comments received from interested persons in connection with issuance of a rule, order or other determination, modifications or rescissions or stays of rules, or determinations, and verbatim transcripts of any oral comments made at public hearings, or at prepetition conferences where a transcript was made;

(c) Any comments received during each rulemaking proceeding and a verbatim transcript of any public hearings that may have been held in any rulemaking proceeding; and

(d) Any other information required by statute to be made available for public inspection and copying, and any information that ERA determines should be made available to the public.

§ 501.13 Appeal.

There is no administrative appeal of any final administrative action to which this part applies.

§ 501.14 Notice to Environmental Protection Agency and the Federal Trade Commission.

(a) A copy of any proposed rule or order that imposes a prohibition, or a petition for an exemption or permit, shall be transmitted for comments, if any, to the Administrator and the appropriate Regional Administrator of the Environmental Protection Agency. The Administrator of EPA shall be given the same opportunity within the comment period provided to the public to comment and question as is given to other interested persons.

(b) A copy of any proposed rule or order which imposes a prohibition with respect to an MFBI, or a petition by an MFBI for an exemption or permit, shall be transmitted for comments, if any, to the Federal Trade Commission. The Federal Trade Commission shall be given the same opportunity within the comment period provided to the public to comment and question as is given to other interested persons.

Subpart B—[Reserved]

Subpart C—Written Comments, Public Hearings and Conferences During Administrative Proceedings

§ 501.30 Purpose and scope.

This subpart establishes the procedures for requests for and the conduct of public hearings; for submitting written comments; and requests for and conduct of conferences pursuant to an administrative proceeding before ERA. Hearings shall be convened at the request of any interested person, in accordance with section 701(d) of FUA, and shall be held at a time and place to be decided by the presiding officer.

§ 501.31 Written comments.

(a) *New facilities.* Except as may be provided elsewhere in these regulations, ERA shall provide a period of at least forty-five (45) days for submission of written comments concerning a proposed prohibition rule or order or a petition for an exemption or permit. This period shall commence in the case of a petition for an exemption on the day after publication of the notice of acceptance in the **Federal Register** in accordance with § 501.63(a). ERA shall also provide for a period of at least fourteen (14) days for submission of written comments concerning a tentative staff analysis. This period shall commence on the day after publication of the notice of availability of the tentative staff analysis in the **Federal Register**. The period may be extended by ERA in accordance with § 501.5. Written comments shall be filed in accordance with § 501.7.

(b) *Existing facilities.* [Reserved]

§ 501.32 Conferences (other than prepetition conferences).

(a) At any time following commencement of a proceeding before ERA, an interested person may request a conference with the staff of ERA to discuss a petition, permit or any other issue pending before ERA. The request for a conference should generally be in writing and should indicate the subjects to be covered and should describe his interest in the proceeding. Conferences held after the commencement of an administrative proceeding before ERA shall be convened at the discretion of ERA or the presiding officer.

(b) When ERA convenes a conference in accordance with this section, any person invited may present views as to the issue or issues involved. Documentary evidence may be submitted at the conference and such evidence will be included in the administrative record. ERA will not normally have a transcript of the conference prepared but may do so at its discretion.

(c) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings by ERA unless ERA in its discretion determines that it would be advisable. ERA will, however, place in the public file a record of any conference.

§ 501.33 Requests for a public hearing.

(a) *New facilities.* No later than fourteen (14) days after the publication of a notice of availability of a tentative staff analysis, any interested person may submit a written request that ERA convene a public hearing in accordance

with Section 701 of FUA. This time limit

hearing. The presiding officer will not

asked of those making presentations or

with Section 701 of FUA. This time limit may be extended at the discretion of ERA. The request for a public hearing must include a description of the requesting party's interest in the issue or issues involved, and an outline of the anticipated content of the presentation proposed to be made. The request should, to the extent possible, indentify any witnesses that are intended to be called at the hearing and include, if possible, a summary of their anticipated testimony and/or questions expected to be asked.

(b) *Existing facilities.* [Reserved]

§ 501.34 Public hearing.

(a) A public hearing under this subsection is for the purposes of insuring that all issues are fully and properly developed, but is not an adjudicatory hearing, and the provisions of Sections 554 and 556 of the Administrative Procedure Act (5 U.S.C. 554, 556) do not apply.

(b) *Opportunity to be heard at a public hearing.* (1) Any interested person, may request, and ERA will provide, an opportunity for him to present oral or written data, views and arguments at a public hearing on any proposed prohibition rule or order, hearing on a tentative staff analysis or on any petition for exemption or permit. An interested person may file a request to be listed as a party to a hearing on the service list prepared by the presiding officer pursuant to § 501.34(d). An interested person must submit a signed written request for a hearing or to participate in a hearing, or to be included on the service list. It must include a description of the interest in the issue or issues involved and an outline of the anticipated content of the presentation.

(2) Participants at the public hearing will have an opportunity to present oral or written data, views and arguments.

(3) A person who has requested a public hearing may withdraw his request at any time. If other persons have requested to participate as parties in the public hearing by requesting that they be included in the presiding officer's service list, ERA may cancel the hearing only if these parties agree to cancellation. ERA will give notice, whenever possible, in the **Federal Register** of the cancellation of any hearings for which there has been prior notice.

(c) *Presiding officer.* ERA will appoint a presiding officer to conduct the public hearing.

(d) *Powers of the presiding officer.* The presiding officer is responsible for orderly conduct of the hearing and for certification of the record of the public hearing. The presiding officer will not prepare any recomended findings, conclusions, or any other recommendations for disposition of a particular case. The presiding officer has, but is not limited to the following powers:

(1) Administer oaths, affirmations and protective orders;

(2) Issue administrative subpoenas and rule on motions to modify or withdraw subpoenas that he has issued;

(3) Rule on questions as to relevance and materiality of evidence;

(4) Regulate the course of the public hearing;

(5) Hold conferences for the simplification of issues by consent of the parties;

(6) Require submission of evidence in writing where appropriate;

(7) Establish service lists;

(8) Dispose of procedural requests and similar matters;

(9) Take other actions authorized by these rules.

The presiding officer may also limit the number of witnesses to be presented by any party and may impose reasonable time limits for testimony. The presiding officer shall establish and maintain a service list that contains the names and addresses of all parties to the ERA proceeding. At the time the presiding officer certifies the record, he will provide the staff of ERA which an index of the issues addressed in the record.

(e) *Notice.* ERA will convene a public hearing only after publishing a notice in the **Federal Register** that states the time, place and nature of the public hearing.

(f) *Opportunity to question at the public hearing.* At any public hearing requested pursuant to paragraph (b) of this section, with respect to disputed issues of material fact, ERA will provide any interested person an opportunity to question:

(1) Other interested persons who make oral presentations;

(2) Employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of the petition for an exemption or permit; and

(3) Experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation.

(g) ERA encourages persons who wish to question Government witnesses to submit their questions at least ten (10) days in advance of the hearing.

(h) The presiding officer will allow questions by any interested person to be asked of those making presentations or submitting information, data, analyses or views at the hearing. The presiding officer may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of issues pending in the administrative proceeding for which the hearing is being conducted.

(i) The presiding officer or ERA may exercise discretion to control a hearing by denying, temporarily or permanently, the privilege of participating in a particular ERA hearing if ERA finds for example that a person:

(1) Has knowingly made false or misleading statements, either orally or in writing;

(2) Has knowingly filed false affidavits or other writings;

(3) Lacks the specific authority to represent the person seeking an ERA action; or

(4) Has disrupted or is disrupting a hearing.

(j) *Evidence* (1) The presiding officer is responsible for orderly submission of information, data, materials, views or other evidence into the record of the public hearing. The presiding officer may exclude any evidence that is irrelevant, immaterial or unduly repetitious. Judicial rules of evidence do not apply.

(2) Documentary material must be of a size consistant with ease of handling, transportation and filing, and a reasonable number of copies should be made available at the public hearing for the use of interested persons. An original and fourteen (14) copies shall be furnished to the presiding officer and one copy of each party listed on the service list. Large exhibits that are used during the hearing must be provided on no larger than 11½" x 14" legal size paper if they are to be submitted into the hearing record.

(k) *Hearing record.* ERA will have a verbatim transcript made of the public hearing. The hearing record shall remain open for fourteen (14) days following the public hearing, during which time the participants at the hearing may submit additional written statements which will be made part of the administrative record and will be served by the presiding officer upon those parties listed on the service list. ERA may extend the period during which the hearing record remains open. The transcript, together with any written comments submitted in the course of the proceeding, will be made part of the record available for public inspection and copying at the ERA Public Information Office, as provided in § 501.12.

(1) *ERA's record and decision.* ERA's administrative record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made part of the record. ERA will base its determination to issue a rule or order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

§ 501.35 Public file.

(a) *Contents.* The public file shall consist of the rule, order, or petition, with supporting data and supplemental information, and all data and information submitted by interested persons. Materials which are claimed by any party to be exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552) shall be excised from the public file provided ERA has made a determination that the material is confidential in accordance with § 501.7(g).

(b) *Availability.* The public file shall be available for inspection at Room B-110, 2000 M Street, NW., Washington, D.C. Photocopies may be made available, on request. The charge for such copies shall be made in accordance with a written schedule.

Subpart D—Subpoenas, Special Report Orders, Oaths, and Witnesses

§ 501.40 Issuance.

The Administrator, his duly authorized agent or a presiding officer, in accordance with the provisions of 10 CFR 205.8 and 10 CFR 205.201, and as otherwise authorized by Section 711 of FUA and Section 645 of the DOEA, may sign, issue and serve subpoenas; issue special report orders (SRO); administer oaths and affirmations; take sworn testimony; compel attendance of and sequester witnesses; control dissemination of any record of testimony taken pursuant to this section; and subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records of tangible evidence including, but not limited to, information retained in computerized or other automated systems in the possession of the subpoenaed person.

§ 501.41 Petition to withdraw or modify.

Prior to the time specified for compliance in the subpoena or special report order, a person to whom a subpoena or special report order is directed may apply for its withdrawal or modification, in accordance with 10 CFR 205.8, except that if the subpoena or special report order is issued by a duly appointed presiding officer, the request to withdraw or modify must be addressed to that presiding officer and its grant or denial will be decided by him.

Subpart E—Prohibition Rules and Orders

§ 501.50 [Reserved]

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§ 501.53 Prohibitions by rule—existing powerplants. [Reserved]

§ 501.54 Prohibitions by rule—existing installations. [Reserved]

§ 501.55 [Reserved]

§ 501.56 Prohibition by rule or order—new MFBI nonboilers.

(a) *Prohibition by rule.* (1) Pursuant to section 202 of FUA, ERA may prohibit by rule the use of petroleum or natural gas as a primary energy source by new MFBI's that are combustion turbine units, combined cycle units or internal combustion engines.

(2) In such a rulemaking, ERA will consider any special circumstances or characteristics of the category of nonboilers that would be prohibited from using natural gas or petroleum as a primary energy source. ERA will specifically consider such factors as the overall technical feasibility of category members to burn an alternate fuel as a primary energy source, as well as the size of category members and their location. ERA will consider any other circumstances, characteristics, and factors brought to its attention that it determines to be relevant and appropriate to the rulemaking.

(3) The application of any final rule to any new MFBI shall be stayed pending resolution (including judicial review) of any petition for an exemption for the installation that is filed with ERA not later than 60 days after the final rule is published under Section 702(a) of FUA.

(4) No final rule can be applied to the installation if:

(i) It has received a final order containing a comparable prohibition;

(ii) It was proposed to receive an order but did not do so due to a demonstration that the installation could qualify for an exemption under the Act;

(iii) A stay, pursuant to Section 202(a) of FUA, is in effect pending resolution of any petition for an exemption that has been filed within sixty (60) days after publication of that rule pursuant to Section 702(a) of FUA; or

(iv) An exemption has been petitioned for and granted to the installation.

(b) *Prohibition by order.* (1) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source in a new MFBI consisting of a combustion turbine, a combined cycle unit or an internal combustion engine if that installation has not been identified as a member of a category subject to a final prohibition rule at the time of the issuance of the proposed order.

(2) ERA may not issue a final order to an installation under this subsection if it has been demonstrated that there would have been granted an exemption for the installation if the prohibition had been established by rule. If the installation would have been granted a temporary exemption, however, ERA may issue a final order that will take effect at the time the temporary exemption would have terminated.

(3) In any case in which an order is not issued by reason of paragraph (b)(2) of this section, or in which the effective date of such order is delayed under that paragraph, ERA shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of Section 214(a) of FUA) as would have been applicable if an exemption had been granted based upon grounds for which the order is not issued or the effective date would be delayed.

(c) *Exceptions.* If acquision or construction began for a nonboiler prior to the date of publication of the proposed rule or proposed order, the nonboiler shall be considered an "existing" nonboiler for purposes of treatment under the Existing Major Fuel-Burning Installations Section (Title III, Subtitle A) of the FUA.

(d) *Notice of rules and orders, and public participation.* Pursuant to Section 701 of FUA, prior to the issuance of a final rule or order to a new nonboiler, ERA shall publish a proposed rule or order in the **Federal Register** together with a statement of the reasons of the rule or order. In the case of a proposed rule, ERA will, in identifying categories of new MFBI's, explain and account for any special circumstances or characteristics of each category, including the technical feasibility of burning coal and/or other alternate fuels and the size or geographic location of installations in the category described by the proposed rule.

(e) *Record and decision to issue a final rule or order.* (1) ERA's record will consist of all evidence presented at the public hearing; the written comments, and any other relevant information in the possession of ERA and made a part of the record of the proceeding. ERA will base its determination to issue a rule or order on consideration of the whole

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record or those parts therof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final rule or order a written statement of the pertinent facts, a statement of the legal basis upon which the final rule is issued, a recitation of the conclusions regarding the required findings, and a summary of the rationale for each finding. The final rule or order shall state the effective date(s) of the prohibition(s) contained therein.

(3) ERA may enclose with a copy of the final rule or order a schedule of steps that should be taken by a stated date (a compliance schedule) to ensure that the affected installation(s) will be able to comply with the prohibitions stated in the rule or order by the effective date. The compliance schedule may require the affected person to take steps with regard to a unit sixty (60) days after service of the final rule or order.

Subpart F—Exemptions

§ 501.60 Purpose and scope.

(a)(1) If the petitioner plans to construct a new powerplant or new MFBI consisting of a boiler, or owns, operates, or controls such a new unit, and the unit is subject to one or more of the FUA prohibitions, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, Sections 211 and 212 of FUA.

(2) If the petitioner plans to construct or owns, operates or controls a new MFBI other than a boiler and such unit is subject to a prohibition by order or rule, this subpart establishes the procedrues for filing a petition requesting a temporary exemption under, respectively, Sections 211 and 212 of FUA.

(3) If the petitioner owns, operates or controls an existing powerplant or MFBI, and the unit is subject to a prohibition by rule or order, this subpart provides the procedures for filing a petition for temporary or permanent exemption under respectively, Sections 311 and 312 of FUA.

(4) If the petitioner owns, operates or controls a new or existing powerplant of MFBI, this subpart provides the procedures for filing a petition requesting extension of a temporary exemption granted under Section 211 or Section 311 of FUA.

(b) If the petition is for an extension of a temporary exemption, the petitioner must apply for this extension at least ninety (90) days prior to the expiration of the temporary exemption.

§ 501.61 General instructions.

(a) *Petition contents.* An exemption petition may be required to include an analysis of a number of alternate fuels, alternate sites, or alternate power supplies in order for it to be accepted by ERA. Precisely which alternate fuels must be considered in a particular exemption petition may be specified in either a prepetition conference (§ 501.2) or at ERA's discretion prior to submission of the petition. To facilitate this process, ERA encourages the petitioner to under take preliminary work before the prepetition conference to help ERA understand the petitioner's circumstances. ERA may also waive any filing requirement where ERA determines that it is unnecessary. ERA does, however, retain the right to request more information beyond the initial scope of the exemption if we believe the petitioner has failed to adequately demonstrate that he could not use a particular fuel. The specific information which must be included in the petition will differ depending on the kind of exemption or type of unit under consideration and is outlined in detail in the evidentiary requirements for each exemption (Parts 503 and 504). If the petitioner is required to examine one or more alternate fuels (§§ 503.16 and 504.21), he must demonstrate for each fuel that he qualifies for one or more exemptions. The petitioner must also meet the eligibility and evidentiary requirements pertaining to the appropriate specific exemptions. Thus it is possible that one petition may include requests for several exemptions for each alternate fuel examined (and in the case of powerplants, for each potential alternate site).

(b) *Incorporation by reference.* The petitioner may incorporate pertinent information by references into his petition when this will reduce the amount of material submitted without impeding the agency and public review of the petition. The petitioner must specifically identify the incorporated material in the text of the petition and briefly describe its content. Whenever the petitioner incorporates by reference information contained in any DOE form filed by him, he must indicate the name of the form, its date, and the page and section number containing the incorporated material. The petitioner may not incorporate by reference any information unless it is submitted with the petition or has been submitted previously to DOE, in which case the petitioner must identify the office to which it was submitted. The petitioner may not incorporate by reference any material based on proprietary data which is itself not available to DOE for review and comment.

(c) *What to file.* The petitioner filing a petition under this subpart must file with ERA an executed original petition and fourteen (14) copies of all documents including:

(1) The petition contents as outlined in § 501.62 and detailed in Parts 503 and 504; and

(2) Each appropriate form.

(d) *Where to file.* The petitioner must file any petition for exemption or extension of exemption under this subpart with ERA at the address provided in § 501.11.

(e) *Labeling the petition package.* (1) With respect to an exemption for a new or existing powerplant or installation under this subpart, the petition should be clearly labeled both on the petition and on the outside of the envelope in which the petition is transmitted as one of the following:

(i) Petition for Temporary Exemption,

(ii) Petition for Permanent Exemption, or

(iii) Petition for Extension (or Renewal) of Temporary Exemption.

§ 501.62 Petition contents.

(a) A petition for exemption should include the following information:

(1) The name of the petitioner;

(2) The name and location of the unit for which an exemption is being requested;

(3) The specific exemption(s) being requested; and

(4) The name, address, and telephone number of the person who can supply further information.

(b) *Table of Contents.* Include only those sections contained in the petition.

(c) *Introduction.* Include the following:

(1) Description of the facility under consideration;

(2) Description of the unit and fuel the petitioner proposes to burn in that unit, including the purpose of and need for the unit; and

(3) Description of the operational requirements for the unit, including size (capacity, input and output in millions of Btu's per hour), output in terms of product or service to be supplied, fuel capability, and operating mode, including capacity factor, utilization factor, and fluctuations in the load.

(d) *General requirements.* The evidence required under either Part 503 Subpart B or Part 504 Subpart C, as appropriate to each exemption(s) for which the petitioner is applying:

(1) No alternate power supply (§ 503.8 or § 504.13);

(2) Use of mixtures (§ 503.9 or § 504.15);

(3) Use of fluidized bed combustion (§ 503.10 or § 504.16);

(4) Alternative site (§ 503.11);

(5) Compliance Plan (§ 503.12 or § 504.17);

(6) Conservation measures (§ 503.13 or § 504.18);

(7) Petroleum and natural gas consumption (§ 503.14 or § 504.19);

(8) Environmental impact analysis (§ 503.15 or § 504.20);

(9) Fuels search (§ 503.16 or § 504.21).

(e) *Specific evidence.* Evidence required for each exemption, segregated by exemption (Part 503 Subparts C and D or Part 504 Subparts D and E, as appropriate).

(f) *References.* (1) Specify the reports, documents, experts, and other sources consulted in compiling the petition. Cite these sources in accordance with acceptable documentation standards, and indicate the part of the petition to which they apply. If the source is unusual or little known, briefly describe its contents.

(2) Identify at the end of each section of the petition any information or any statement based, in whole or in part, on information or principles which, to petitioner's knowledge, represent significant innovations to or departures from generally accepted facts or principles.

(g) *Appendices.* Include in the appendices material which the petitioner believes substantiates any analyses fundamental to the petition, materials prepared in connection with it, and any other documents, studies, or analyses which he believes are relevant to the decision to be made. Also, include in the appendices copies of any forms submitted as part of the petition.

(h) *List of Preparers and Certifications:* List the names with the qualifications and professional credentials of the principal contributors to the preparation of the petition. Indicate the sections or subject matters for which each principal contributor was responsible.

§ 501.63 Notice of the commencement of an administrative proceeding on an exemption petition.

(a) Upon acceptance of a petition for an exemption, ERA shall publish notice in the **Federal Register** that an administrative proceeding has commenced. The notice will announce the commencement of the proceeding, provide a summary of the exemption petition and provide a period of no less than 45 days for interested persons to file written comments on the exemption petition.

(b) Upon acceptance of a petition, ERA shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of a powerplant or, where appropriate, an MFBI that is the subject of the petition. To the maximum extent practicable, ERA shall consult with such agencies.

(c) ERA will transmit a copy of all petitions which have been accepted to the Administrator of the Environmental Protection Agency, and all petitions which have been accepted with respect to MFBI's to the Federal Trade Commission.

(d) In processing an exemption petition, ERA shall comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality implementing regulations guidelines implementing the regulations, and DOE guidelines implementing those regulations (45 FR 20694). ERA shall determine the appropriate level of NEPA review for each exemption petition. Performance of NEPA review may consist of preparation of (1) an environmental impact statement (EIS) evaluating the grant or denial of an exemption petition, (2) preparation of an environmental assessment (EA), or (3) preparation of a memorandum to the files stating that the proposal is not considered to be a major federal action. If it is determined that an EIS will be required, ERA will publish in the **Federal Register** a Notice of Intent (NOI) to prepare an EIS as soon as practicable after commencement of an administrative proceeding. A public hearing may be held to solicit comments or suggestions on the structure and content of the EIS.

§ 501.64 Publication of Notice of Availability of Tentative Staff Analysis.

ERA will publish in the **Federal Register** a Notice of the Availability of Tentative Staff Analysis with respect to every exemption petition and provide a period of at least fourteen (14) days for interested persons to make comments and request a hearing.

§ 501.65 Publication of Notice of Availability of Draft EIS.

Issuance of a draft EIS EA, or preparation of the memorandum to the files, will occur simultaneously with publication of a Notice of Availability of Tentative Staff Analysis. A Notice of Availability of any draft EIS will be published in the **Federal Register** and comments thereon will also be solicited. Interested persons may request a hearing on any draft EIS. Such hearing must be requested within thirty (30) days of publication of the Notice of Availability.

§ 501.66 ERA evaluation of the record, decision and order.

(a) The record will consist of the petition and related documents, all evidence presented at the public hearings, all written comments, and any other information in the possession of ERA and made a part of the public record.

(b) ERA may investigate and corroborate any statement in a petition, any other document and any public comments submitted to it. ERA may use any relevant facts it possesses in its evaluation. ERA may request submissions from third persons relevant to your petition or other document. ERA may also request additional information, data or analyses following the hearing, if this information is necessary to resolve disputed issues in the record. Any information received by ERA following the hearing shall be made a part of the public record, unless determined under § 501.7(g) to be confidential.

§ 501.67 Petition redesignations.

ERA, with the petitioner's approval, will redesignate an exemption petition if the petitioner qualifies, even though he may not qualify for the specific exemption originally requested, or for the full time period of the requested exemption. ERA shall give public notice of any redesignation of an exemption petition, and where a public hearing has been requested notice shall be given at least thirty (30) days prior to such hearing.

§ 501.68 Decision and order.

(a)(1) ERA shall issue an order either granting or denying the petition for an exemption or permit within six (6) months after the end of the period for public comment and hearing applicable to any petition.

(2) ERA may extend the six (6) month period for decision to a date certain by publishing notice in the **Federal Register**, and will state the reasons for such extension.

(3) ERA will publish a final EIS at least thirty (30) days prior to the issuance of the final order in all cases where an EIS is required.

(b)(1) ERA shall serve the petitioner and all persons on the service list in cases involving a public hearing a copy of the order granting or, denying a petition, for exemption.

(2) ERA shall publish any order granting or denying a petition under this subpart in the **Federal Register** together

with a statement of the reasons for the grant or denial.

(c) Any order granting or denying a petition for exemption shall be based upon consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(d)(1) ERA shall include in any order granting a petition for exemption, except for an order granting an exemption under Section 401 of FUA, such terms and conditions as ERA determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of FUA.

(2) ERA shall design any terms and conditions included in any temporary exemption issued or extended under Sections 211 and 311 of FUA, to ensure among other things that upon expiration of the exemption, the persons and powerplant or installation covered by the exemption will comply with the applicable prohibitions under FUA.

§ 501.69 Judicial review.

Any person aggrieved by any order issued by ERA under this subpart, must file, within sixty (60) days of publication of the final order in the **Federal Register**, a petition for judicial review with the United States Court of Appeals for the Circuit wherein he resides, or has a principal place of business. Exhaustion of administrative remedies for purposes of judicial review does not require filing a petition pursuant to Subpart G for modification or rescission of the order to be reviewed.

Subpart G—Requests for Modification or Rescission of a Rule or Order.

§ 501.100 Purpose and scope.

Anyone may request that ERA commence a rulemaking proceeding pursuant to 5 U.S.C. 553(e); however, this subpart provides the procedures whereby—

(a) An interested person may request modification or rescission of a prohibition by rule for a new facility;

(b) An owner or operator of a facility named in a prohibition by rule may request modification or rescission of that rule; or

(c) An owner or operator subject to an exemption order or a specific prohibition imposed by order may request modification or rescission of that order.

§ 501.101 Proceedings to modify or rescind a rule or order.

(a) In response to a request duly filed by an interested person, ERA may commence a proceeding to modify or rescind that rule or order. If ERA determines that a request to modify or rescind a rule or order does not warrant commencement of a proceeding, it will deny the request and issue a brief statement why it does not intend to institute the requested proceedings.

(b) A request for modification or rescission of a rule or order must comply with the requirements of § 501.7 and must be filed at the address set forth in § 501.11.

(c) Notice of the request for modification or rescission of an order must be given by the requester to each party to the original proceeding that resulted in the issuance of the original order for which modification or rescission is sought. If the number of parties to the original proceeding is too large to allow actual notice at a reasonable cost or within a reasonable time, a requester may ask that ERA give notice to the parties by publication in the **Federal Register**; however, this alternate notice does not bind ERA to commence a proceeding, if it subsequently determines that the request is not warranted.

(d) If ERA determines to grant a request to commence a proceeding to rescind or modify a rule or order, or ERA on its own initiative, commences a proceeding for the modification or rescission of a rule or order, it will give notice, either by service of a written notice or by oral communication (which communication must be promptly confirmed in writing) to each person who was served the order that ERA proposes to modify or rescind, or, alternatively, by publication of notice in the **Federal Register**. ERA will give a reasonable period of time for each person notified to file a written response.

(e)(1) A copy of any written comments submitted to ERA by a party to the original proceeding with respect to a request for modification or rescission of a rule or order filed under this subpart must also be sent to the requester. The party submitting such comments must certify to ERA that he has sent a copy of such comments to the requester.

(2) ERA may notify other persons participating in the proceeding of the comments and provide an opportunity for the persons to respond.

(f) A request for modification or rescission of a rule or order must contain a complete statement of all facts relevant to the action sought. The request must also include the names and addresses of all reasonably ascertainable persons who will be affected. Pertinent provisions contained in any documents believed to support a request may be briefly described, however, ERA reserves the right to obtain copies of any significant documents that will assist in making a determination on the merits of a request. The request must identify the specific order or rule for which modification or rescission is sought. A request should also indicate whether an informal conference will facilitate ERA's determination to commence, or not to commence a proceeding, or will assist ERA in making any determinations on material issues raised by the request.

(g) A decision by ERA to commence a proceeding under this subpart does not entitle the requester to a public hearing on the request for modification or rescission. A public hearing may be held, however, if, in its discretion, ERA considers that a public hearing will advance its evaluation of the request.

§ 501.102 ERA evaluation of the record, decision and order for modification or rescission of a rule or order.

(a) ERA will consider the entire administrative record in its evaluation of the decision and order for modification or rescission of a rule or order. ERA may investigate and corroborate any statement in the petition or related documents and may utilize in its evaluation any relevant facts obtained by its investigations. ERA may solicit or accept submissions from third persons relevant to any request under this subpart and the requester will be afforded an opportunity to respond to these submissions. ERA may, on its own initiative, convene a conference, if, in its discretion, it considers that this will advance its evaluation of the request.

(b) *Criteria.* Except where modification or rescission of a rule or order is initiated by ERA, ERA's decision to rescind or modify an order or rule will be based on a determination that there are significantly changed circumstances with respect to the applicability of a particular prohibition or exemption, to the requester. ERA believes that there may be "significantly changed circumstances", if:

(1) Significant material facts are susequently discovered which were not known and could not have been known to the petitioner or to ERA at the time of the original proceeding;

(2) A law, regulation, interpretation, ruling, order or decision on appeal that was in effect at the time of the proceeding upon which the rule or order is based and which, if it had been made known to ERA would have been relevant to the proceeding and would have substantially altered the outcome is subsequently discovered; or

(3) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order was based, which change occurred during the interval between issuance of the order and the date of filing of the request under this subpart, and was caused by forces or circumstances beyond the requester's control.

§ 501.103 ERA decision.

(a) ERA shall issue an appropriate rule or order after considering the request for modification or rescission of an order or rule and other relevant information received during the proceeding.

(b) ERA will either modify or rescind the rule or order or deny the request for modification or rescission and will briefly state the pertinent facts and legal basis of the rule or order.

(c) ERA will serve the rule or order upon the requester, or, if the action was initiated by ERA, upon the owner or operator of the affected powerplant or installation. ERA will publish a notice of the issuance of a rule or order modifying or rescinding a rule or order in the **Federal Register**.

Subpart H—Requests for Stay

§ 501.120 Purpose and scope.

(a) This subpart sets forth the procedures for requesting and granting a stay by ERA but does not apply to the mandatory stays provided for in Sections 202(b) and 301(a) of FUA. The application for a stay under this subpart will only be considered incidental to a proceeding on a request for modification or rescission of a final prohibition rule or order.

(b) The petitioner must comply with all final ERA orders, regulations, rulings, and generally applicable requirements unless a petition for a stay is granted.

§ 501.121 Filing and notice of petitions for stays.

(a)(1) The petition must be in writing and comply with the general filing requirements stated in § 501.7, in addition to any other requirements set forth in this subpart, and filed at the address provided in § 501.11.

(2) A claim for confidential treatment of any information contained in the petition for stay and supporting documents must be in accordance with § 501.7(f), and filed at the address provided in § 501.11.

(b) ERA will publish notice of receipt of a petition for a stay under this subpart in the **Federal Register**.

§ 501.122 Contents.

(a) A petition for a stay shall contain a full and complete statement of all facts believed to be pertinent to the act or transaction for which a stay is sought. The facts shall include, but not be limited to, the criteria listed below in § 501.123(b).

(b) The petitioner may request a conference regarding the application. If the request is not made at the time the application is filed, it must be made as soon thereafter as possible. The request and ERA's determination regarding it will be made in accordance with Subpart C of this Part.

§ 501.123 Evaluation of the Record.

(a) The record in a proceeding on a petition for stay shall consist of the petition and any related documents, evidence submitted at any public proceedings and any other information in the possession of ERA and made part of the record. ERA may investigate and corroborate any statement in the petition or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by its investigations. ERA may solicit or accept submissions from third persons relevant to the petition for stay or other document and a petitioner will be afforded an opportunity to respond to these submissions. ERA, on its initiative, may convene a conference, if, in its discretion, it considers that the conference will advance its evaluation of the petition.

(b) *Criteria.* ERA may grant a stay incident to a proceeding on a petition for modification of a rule or order if the petitioner shows:

(1) Irreparable injury will result in the event that the stay is denied;

(2) There is a strong likelihood of success on the merits;

(3) The denial of a stay will result in a more immediate hardship or inequity to the petitioner than to other persons affected by the proceeding; and

(4) It would be desirable for reasons of public policy to grant the stay.

§ 501.124 Decision and order.

(a) ERA will issue an order granting or denying the petition for a stay upon consideration of the request and other relevant information received or obtained during the proceeding.

(b) ERA will include in the order a brief written statement setting forth the relevant facts and the basis of the decision, including any appropriate terms and conditions of the stay.

Subpart I—Requests for Interpretation

§ 501.130 Purpose and scope.

This subpart establishes procedures for filing a formal request for an interpretation and the procedures DOE will use to consider the request. Any response, whether oral or written, to a general inquiry, or to other than a formal written request for interpretation filed with DOE, is not an interpretation and merely provides general information that may not be relied upon in any proceeding to determine compliance with the applicable requirements of FUA.

§ 501.131 Filing a request for interpretation.

A proceeding to request an interpretation is commenced by filing a "Request for Interpretation (FUA)." The request must be in writing and must also comply with the general filing requirements stated in § 501.7. Any claims for confidential treatment for any information contained in the request or other related documents must be made pursuant to § 501.7(f). A request for interpretation should be filed with the Assistant General Counsel for Interpretations and Rulings at the address provided in § 501.11.

§ 501.132 Contents of a request for interpretation.

(a) A request for an interpretation must contain a complete statement of all the facts believed to be relevant to the circumstances, acts or transactions that are the subject of the request. The facts must include the names and addresses of all potentially affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in any documents submitted with the request. Copies of relevant contracts, agreements, leases, instruments, and other documents relating to the request must be submitted if DOE believes they are necessary for determination of any issue pending in the proceeding under this subpart. When the request pertains to only one step in a larger integrated transaction, the requesting party must also submit the facts, circumstances, and other relevant information pertaining to the entire transaction.

(b) The requesting party must include in the request a discussion of all relevant legal authorities, rulings, regulations, interpretations and decisions on appeal relied upon to support the particular interpretation he seeks.

(c) DOE may refuse to issue an interpretation, if DOE determines that

there is insufficient information upon which to base a decision.

§ 501.133 DOE evaluation.

(a) The record shall consist of the request for an interpretation and any supporting documents, all relevant evidence presented at any public proceedings, written comments and any information in the possession of DOE that has been made part of the record.

(1) DOE may investigate and corroborate any statement in a request or related documents and may utilize in its evaluation any relevant facts obtained by the investigation. DOE may solicit or accept submissions from third persons relevant to the request for interpretation, or any other document submitted under this subpart, and the person requesting an interpretation will be afforded an opportunity to respond to these submissions.

(2) The General Counsel or his delegate will issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of DOE during the proceeding. DOE's interpretation will, therefore, depend on the accuracy of the factual statements, and the requesting party may rely upon it only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(b) *Criteria.* (1) DOE will base its interpretations as applicable, on the DEOA, and FUA, and the regulations and published rulings of DOE as applied to the specific factual situation.

(2) DOE will take into consideration previously issued interpretations dealing with the same or a related issue.

§ 501.134 Issuance and effect of interpretations.

(a) DOE may issue an interpretation after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

(b) The interpretation will contain a written statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed, and other persons upon whom the DOE serves the interpretation and who are directly involved in the same transaction or act, may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Title VII of FUA for any act taken in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) DOE may at any time rescind or modify an interpretation on its own initiative. Rescission or modification shall be made by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification will include a statement of the reasons for the rescission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

(f) Any person who believes he is directly affected by an interpretation issued by DOE, and who believes that he will be aggrieved by its implementation, may submit a petition for reconsideration of that interpretation to the General Counsel. DOE will acknowledge receipt of all requests for reconsideration, however, this acknowledgement in no way binds DOE to commence any proceedings on the request. If within sixty (60) days of DOE's acknowledgement of the receipt of a request for reconsideration, DOE has not issued either notice of intent to commence a proceeding to reconsider the interpretation, or issued a modification, revision or rescission of the original interpretation, the request for reconsideration is denied. DOE may, in its discretion, issue a formal denial of a request for reconsideration if:

(1) The request has not been filed in a timely manner, and good cause therefore has not been shown;

(2) The person requesting reconsideration is not aggrieved or otherwise injured substantially by the interpretation; or

(3) It is defective for failure to state and to present facts and legal argument that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

Subpart J—Rulings

§ 501.140 Purpose and scope.

DOE may issue rulings in accordance with the provisions of this subpart. DOE will publish each ruling in the **Federal Register** and in 10 CFR Part 518. A person is entitled to rely upon a ruling to the extent provided in this subpart.

§ 501.141 Criteria for issuance.

(a) The General Counsel may issue a ruling whenever:

(1) There has been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations; or

(2) It is determined that it will be of assistance to the public in applying the regulations to a specific situation.

§ 501.142 Modification or rescission.

(a) A ruling may be modified or rescinded by—

(1) Publication of the modification or rescission by DOE in the **Federal Register** and in 10 CFR Part 518; or

(2) Adoption of a rule that supersedes or modifies a prior ruling.

(b) A person shall not be subject to the sanctions or penalties stated in these regulations for actions taken in reliance upon a ruling, notwithstanding that the ruling is subsequently declared to be invalid or no longer applicable. A person may not rely upon a ruling after it has been rendered invalid pursuant to issuance of a superseding rule by ERA, or after it is rescinded or modified by DOE.

§ 501.143 Comments.

You may file a written comment on or objection to a published ruling at any time with the Assistant General Counsel for Interpretations and Rulings at the address provided in § 501.11.

Subpart K—Enforcement

§ 501.160 Purpose and scope.

This subpart provides the procedures by which ERA may initiate enforcement proceedings on its own behalf and the procedures by which complaints may be filed.

§ 501.161 Filing a complaint.

(a) A complaint under this subpart must be submitted in writing over the signature of the person making the complaint in accordance with the general filing requirements stated in § 501.7. ERA will accept oral complaints that otherwise satisfy the requirements of this subpart, but ERA may request written verification.

(b) A complaint shall be filed at the address provided in § 501.11.

§ 501.162 Contents of a complaint.

A complaint must contain a complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint. It must also include the names and addresses of all persons involved (if reasonably ascertainable), a description of the events that led to the complaint, and a statement describing the regulation, ruling, order, rule or interpretation that allegedly has been violated.

§ 501.163 ERA evaluation.

(a) The record shall consist of the complaint and any supporting documents and all other relevant information developed in the course of any investigations or proceedings related to that complaint. ERA may investigate and corroborate any statement in the complaint or related documents submitted, and may utilize in its evaluation any relevant facts obtained by such investigation or from any other source of information. ERA may solicit or accept submissions from third persons relevant to the complaint or other related documents.

(b) *Confidentiality of information.* ERA will treat, as confidential, information received in any investigation of a complaint, including the identity of the complainant and the identity of any other persons who provide information, to the extent such information is exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552. ERA reserves the right to make disclosures that would be in the public interest.

§ 501.164 Decision to initiate enforcement proceedings.

After investigation of a specific complaint or based on any relevant information received or obtained during an investigation, ERA may issue a notice of violation, determine that no violation has occurred, or take such other actions as it deems appropriate. Prior to issuance of a notice of violation, and before commencement of an enforcement proceeding, ERA may transmit a draft of the notice of violation to the potentially affected person in order to promote an informal resolution of the violation.

§ 501.165 Commencement of enforcement proceedings.

(a) Whenever, on the basis of any information available, ERA determines that a person is in violation or about to be in violation of any provision of these regulations, ERA may issue a notice of violation stating, in writing and with reasonable specificity, nature of the violation. An enforcement proceeding commences with the issuance of a notice of violation.

(b) *Contents of the notice of violation.* ERA will set forth in the notice of violation the nature of the violation, the relevant facts, the legal basis that ERA believes establishes the violation for the conclusions reached therein. ERA may also include with the notice of violation a copy of a proposed order. The notice of violation will also state whether or not ERA proposes to assess civil penalties.

(1) If ERA is proposing to assess a civil penalty, a notice of violation will be issued to the violator with an opportunity for a hearing before an Administrative Law Judge, as set forth in § 501.166(a)(1) of this part, before any final determination on the violation and penalty are made by ERA. The recipient of the notice will also be informed of his right to elect to have the procedures of § 501.166(a)(2) apply, in lieu of the hearing, with respect to a final determination on the assessment of any civil penalty.

(2) If ERA is not proposing to assess a civil penalty, the violator will be informed in the notice of violation of an opportunity for a conference, as set forth in § 501.166(b), before a final determination on the violation is made by ERA. ERA may, in its discretion, also provide you with an opportunity for a hearing pursuant to § 501.166(a)(1).

(c) *Service.* ERA will serve the notice of violation in accordance with the provisions set forth in § 501.8.

(d) *Rescission.* If, after issuance of a notice of violation and any related investigation, ERA finds no basis for the belief that a violation has occurred, is continuing to occur, or is about to occur, ERA may rescind the notice of violation by giving written notice to that effect to the recipient.

§ 501.166 Hearings and conferences.

(a) *When a civil penalty is proposed.* (1) *Hearing alternative in civil penalty assessment proceedings.* Unless elected in writing to have the provisions of paragraph (a)(2) of this section apply, ERA will commence a proceeding to assess the penalty and give an opportunity for a hearing before an Administration Law Judge pursuant to Section 554 of the Administrative Procedure Act (5 U.S.C. 554), before a final determination on the violation and assessment of a penalty is made.

(2) *Election alternative in civil penalty assessment proceedings.* The recipient of a notice of violation in which a civil penalty assessment has been proposed may elect, in writing, within thirty (30) days of receipt of the notice, to waive the administrative proceedings described in paragraph (a)(1) of this section. ERA will make a determination on the proposed civil penalty assessment and issue a final order to that effect within forty-five (45) days after receiving notice of the exercise of this election.

(b) *When a civil penalty is not proposed—opportunity to request a conference.* If a person has received a notice of violation, in which a civil penalty has not been proposed, he may, within thirty (30) days after receipt of the notice, request a conference with ERA to discuss the notice. In order to request a conference he must comply with the instructions set forth in the notice.

§ 501.167 Fuel Use Order.

(a) *General.* ERA will issue a Fuel Use Order if, after considering all the information received during the proceeding, ERA determines that a person has committed, is committing, or is about to commit a violation. A Fuel Use Order may include revocation of an exemption.

(b) *Contents.* Any Fuel Use Order issued under this section shall set forth the relevant facts and legal basis of the order and where appropriate, the final penalty assessment and the basis therefore. When an administrative hearing, as provided in § 501.166(a) of this Part, is requested, the order will include the recommended findings and conclusions of the Administrative Law Judge (ALJ) an the basis for the assessment. ERA will make a final determination as to any penalty assessment or other appropriate remedy based upon the recommended findings and conclusions of the ALJ and other information in the record of the enforcement proceeding. The order will be effective upon service, unless otherwise provided therein, or stayed pursuant to § 501.120.

(c) *Service.* ERA will serve a copy of the Fuel Use Order upon any person who was served a copy of the notice of violation, and all parties to any public proceeding on the notice of violation. ERA will place a copy of each final order, on file in the Pacific Information Office described in § 501.12.

(d) *Judicial review.* Any person against whom a penalty is assessed pursuant to § 501.167(b), after a hearing before an ALJ may, within sixty (60) calendar days after the date of the order assessing such penalty, institute an action in the United States Court of Appeals for the appropriate judicial circuit for judicial review of such order in accordance with the provisions of Section 723 of FUA.

Subpart L—Investigations, Violations, Sanctions and Judicial Actions

§ 501.180 Investigations.

(a) *General.* Pursuant to Section 711 of FUA, the DEOA and in accordance with the provisions of 10 CFR 205.201, ERA may initiate and conduct investigations relating to the scope, nature, and extent of compliance by any person with the rules, regulations, and orders issued by ERA under the authority of the Act, or any order or decree of court relating

thereto, or any other agency action.

(d) *Corporate personnel.* (1) If a

no action is being taken and state the

thereto, or any other agency action. When the circumstances warrant, ERA may issue subpoenas as provided in Subpart D of this Part. ERA may also conduct investigative conferences in conjunction with any investigation.

(b) Any duly authorized representative of ERA has the authority to conduct an investigation and to take such action as he deems necessary and appropriate to the conduct of the investigation.

(c) *Notification.* If any person is required to furnish information or documentary evidence pursuant to a subpoena or special report order, ERA will, upon written request, inform that person as to the general purpose of the investigation.

(d) *Confidentiality.* ERA shall not disclose any information received during an investigation under this section, including the identity of the person investigated and any other person who provides information, to the extent it is exempt from public disclosure pursuant to 5 U.S.C. 522 and 10 CFR 1004.

§ 501.181 Sanctions.

(a) *General.* (1) A violation of any provision of the regulations issued under the authority of the Act (other than Section 402 of the FUA), or any order, rule, exemption, or permit issued pursuant thereto will be subject to the penalties and sanctions as provided in Subtitle C of Title VII of FUA.

(2) Each day, that any provision of the regulations issued under the authority of the Act or any order, rule, exemption, or permit issued pursuant thereto is violated, constitutes a separate violation within the meaning of the provisions of this section relating to civil penalties.

(b) *Criminal fines.* Any person who willfully violates any provision of these regulations will be subject to a fine of not more than $50,000 or imprisonment of not more than 1 year, or both, for each violation.

(c) *Civil penalties.* (1) Any person who willfully violates any provision will be subject to the following civil penalty which may be up to $25,000 for each violation: Any person who operates a powerplant or major fuel burning installation which exceeds the use of natural gas or petroleum allowed by an exemption granted by ERA, will be assessed a civil penalty of up to $3 per MCF of natural gas or $10 per barrel of oil that is used in excess of that allowed by the exemption.

(2) ERA may compromise and settle, and collect civil penalties whenever it considers it to be appropriate or advisable.

(d) *Corporate personnel.* (1) If a director, officer, or agent of a corporation willfully authorizes, orders, or performs any act or practice constituting a violation of any provision of the regulations issued under authority of the Act, or any order, rule, or exemption, or permit issued pursuant thereto, he will be subject to the penalties specified in paragraphs (b) and (c) of this section without regard to any penalties to which the corporation may be subject. He will not, however, be subject to imprisonment under paragraph (b) of this section unless he knew of noncompliance by the corporation, or had received from ERA notice of noncompliance by the corporation.

(2) For purposes of this paragraph:

(i) "Agent" includes any employee or other person acting on behalf of the corporation on either a temporary or permanent basis; and

(ii) "Notice of noncompliance" is a final Fuel Use Order issued under § 501.167 of this Part.

§ 501.182 Injunctions.

Whenever it appears to ERA that any person has committed, is committing, or is about to commit a violation of any regulation, order, rule, or exemption issued under the Act, ERA may in accordance with Section 724 of the FUA bring a civil action in the appropriate district court of the United States to enjoin such acts or practices. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order, regulation, rule, exemption, or permit the violation of which is prohibited by § 724 of the FUA and may also include interim equitable relief.

§ 501.183 Citizen suits.

(a) *General.* A person who believes he is aggrieved by the failure of ERA to perform any nondiscretionary act or duty under the Act may file a "Petition for Action" for ERA to take such action as he may feel to be proper. This petition must be filed at the address provided in § 501.11. The petition must specify the action requested and set forth the facts and legal arguments that constitute the basis for the request and will serve as notice to ERA pursuant to § 725 of FUA for purposes of any citizens suit that may be subsequently filed.

(b) *ERA decision.* Within sixty (60) days of receiving the Petition for Action, ERA will notify the person giving notice under this section that it has instituted the action requested or that other described action is being taken, or that no action is being taken and state the reasons therefor.

Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes

§ 501.190 Purpose and scope.

(a) If a person operates a:

(1) Powerplant or installation covered by any of the prohibitions of Titles II, III, or IV, with the exception of Title IV, Section 402, or the requirements of Title V of FUA, § 501.191 of this Subpart establishes procedures he must follow for the use of minimum amounts of natural gas or petroleum in order to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public health, safety, or welfare that would result from electric power outages under Section 103(a)(15)(B) of FUA; or

(2) Peakload powerplant or an installation covered by any of the prohibitions of Titles II, III, or IV, with the exception of Title, IV, Section 402, or the requirements of Title V of FUA, § 501.192 of this Subpart establishes procedures he must follow for the emergency use of natural gas or petroleum as a primary energy source during a temporary emergency condition under § 404(g) of FUA.

(b) *Explanatory note:* If a person operates a rental boiler as a powerplant or installation covered by any of the prohibitions of Titles II, III, or IV except Title IV, Section 402, or the requirements of Title V of FUA, he may be able to use the provisions of this Subpart for the emergency use of natural gas or petroleum.

§ 501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in Section 103(a)(15)(B) of the Act.

(a) In the event of the occurrence or imminent occurrence of an emergency, or of the occurrence or imminent occurrence of an unanticipated equipment outage in the unit, an owner or operator of a powerplant or installation is automatically permitted to use minimum amounts of natural gas or petroleum in the unit or in a substitute unit to prevent or alleviate the outage or to prevent or alleviate the emergency if he complies with procedures contained in paragraph (b) of this section.

(b) If the owner or operator uses minimum amounts of natural gas or petroleum for purposes specified in this section, he must:

(1) Notify ERA of such use by telegram or telephone within 24 hours after the commencement of such use;

(2) Immediately thereafter confirm such use and describe such purposes in writing, signed by a responsible official of the company; and

(3) File with ERA every thirty (30) days after notification to ERA as provided in paragraph (c)(1) of this section, a progress report describing the status of the emergency or outage condition and the continuing efforts to abate such condition. In appropriate cases, ERA may determine that such a filing is unnecessary.

(c) For purposes of this section only:

(1) An "emergency" is an unanticipated occurrence or threat of imminent occurrence of an emergency which exists only when there is a direct effect on the public health, safety, or welfare which results or would result from an electric power outage;

(2) "Unanticipated equipment outage" shall mean an unexpected outage due to equipment failure.

(3) "Minimum amounts required to alleviate or prevent" shall mean:

(i) For powerplants, the amounts of natural gas or petroleum required to prevent curtailment by the operating utility of noninterruptible electric supply to industrial customers where such utility has, to the maximum extent possible, utilized alternate fuel-fired capacity to prevent such curtailment; and

(ii) For installations, the amounts of natural gas or petroleum required to meet plant protection or human health and safety needs, including services to hospitals, public transportation facilities, sanitation, or water supply and pumping.

§ 501.192 Use of natural gas or petroleum during a temporary emergency condition pursuant to Section 404(g) of the Act.

(a) For purpose of this section only, a "temporary emergency condition" ("emergency") is an unanticipated occurrence which exists when:

(1) For installations, the use of natural gas or petroleum is necessary for purposes of:

(i) Plant protection;

(ii) Preservation of human health; or

(iii) Continued production that would otherwise be reduced as a result of an interruption of alternate fuel supplies, equipment failures, imminent equipment failures or temporary environmental restrictions; and

(2) For peakload powerplants, the operating utility would be required to curtail noninterruptable electric supply to its industrial customers.

(b) Where the owner or operator is eligible to use natural gas or petroleum for emergency purposes, in the alternative, under this section or under § 501.191 of this Subpart, he may use the procedures provided in § 501.191.

(c) In the event of occurrence of a temporary emergency condition, the owner or operator is automatically permitted to use natural gas or petroleum in his peakload powerplant or installation or in a substitute unit until the termination of the emergency condition, a period not to exceed twenty-four (24) months, if he:

(1) Notifies ERA by telegram or telephone within twenty-four (24) hours after the commencement of the emergency condition that he requires such emergency use of natural gas or petroleum;

(2) Immediately thereafter confirms such use in writing, signed by the responsible officer of the company; and

(3) Is not notified in writing by ERA during such period that the emergency condition:

(i) Has terminated; or

(ii) Does not otherwise warrant the use of natural gas or petroleum involved.

(d) Every thirty (30) days after notification, as provided in subparagraph (c)(1), the owner or operator must file with ERA a written statement certified by the responsible officer of his company detailing the circumstances of the continuing emergency condition including, a description of the units in which he is using natural gas or petroleum for such condition, and the extent of such use. In appropriate cases, ERA may determine such a filing is unnecessary.

(e) At the end of the first month of the emergency condition the owner or operator must file with ERA a written statement certified by the responsible officer of his company, detailing the plans to end the emergency condition, including an estimate of the time period for which he will be required to operate the facility using natural gas or petroleum as a primary energy source, and the projected extent of such use.

(f) If the emergency condition has terminated, the owner or operator must file with ERA a written statement, certified by the responsible office of his company indicating the day on which the facility returned to normal operation.

(g) The administrative provisions of Section 701 of FUA do not apply to this section.

(h) Any hours of emergency operation allowed under this section shall not be included in a peakload powerplant's operating hours for purposes of penalties set forth in Section 723(b) of FUA, and any reporting requirements or conditions imposed under any peakload or emergency exemption under FUA are independent of any requirements imposed under this section. Additionally, any consumption of petroleum or natural gas, during any periods of emergency operation allowed under this section, are independent of any reporting requirements or conditions of use imposed by any exemption granted under FUA.

PART 502—[DELETED]

PART 507—[DELETED]

3. Parts 502 and 507 are deleted.

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Friday
June 6, 1980

Part V

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act of 1978; Criteria for Petitions for Exemptions From the Prohibitions of the Act—New Facilities

DEPARTMENT OF ENERGY

solicited on-site proposals and public

employed in sections 503.5 and 505.5 of issues and other matters related to the greater degree of specificity with respect

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 503, 505

[Docket No. ERA-R-78-19E]

Powerplant and Industrial Fuel Use Act of 1978; Criteria for Petitions for Exemptions From the Prohibitions of the Act—New Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this final rule to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), which prohibit the use of petroleum and natural gas by new electric powerplants and certain new major fuel burning installations (MFBI's). This final rule establishes the criteria by which owners and operators of new powerplants and certain new MFBI's may petition for exemptions from the prohibitions of Title II of the Act.

DATES: This final rule shall become effective August 5, 1980, except that §§ 503.5 and 505.5 are revoked June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7002, Washington, D.C. 20461, (202) 653-3217.

Robert L. Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, (202) 653-3649.

G. Randolph Comstock (Office of the General Counsel), Department of Energy, Room 6G-087—Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comments: Part 503—Criteria for Petitions for Exemptions From the Prohibitions of the Act—New Facilities.
III. Procedural matters.

I. Background

ERA published proposed rules for new facilities on November 17, 1978 and January 29, 1979 (43 FR 53974 and 44 FR 5808, respectively). Comments were solicited on its proposals and public hearings were held in Boston, Massachusetts; Salt Lake City, Utah; Tampa, Florida; and Lexington, Kentucky.

On May 8, 1979, ERA issued interim rules relating to definitions, administrative procedures and sanctions, and criteria for exemptions. Written comments were solicited by ERA over an extended period. ERA considered numerous comments in response to this solicitation. ERA also reviewed the interim rule in light of actual experience in implementing the regulatory program before issuing this final rule.

ERA is concurrently issuing a final rule setting forth the definitions necessary for the implementation of FUA and the procedures that will apply to certain administrative proceedings implementing FUA.

This final rule sets forth the criteria for petitions for exemptions from the prohibitions on petroleum and natural gas use authorized by the Act.

In preparing this final rule, several parts of the interim rule have been deleted or combined with other parts. Notably the requirement for a Fuels Decision Report has been deleted. Essential requirements previously contained in Part 502 are set out herein as evidentiary requirements for individual exemptions. Former Parts 503 and 505 have been combined and appear in this final rule as Part 503, New Facilities.

II. Comments

Numerous comments and suggestions were received relating to the interim rules, and were considered by ERA in conjunction with its own review. Except in a few instances, if ERA has already addressed an issue in the preambles to the interim rules, ERA will not address the same issue here, and the preamble discussion contained in the interim rules on those issues is incorporated here by reference. The discussion which follows represents ERA's response to comments and suggestions received which were not previously addressed and reflects certain changes from the interim rules made by ERA.

In preparing this final rule, considerable effort has been made to simplify, reorganize, and shorten the text compared to the interim rules, as well as to reduce both evidentiary and reporting requirements associated with many of the various exemptions authorized by the Act. This effort was undertaken, in part, in response to public comments which are referred to in this preamble. Other changes have been made by ERA in the interest of regulatory simplification.

Many commenters objected to the regulatory requirement imposed by the Fuels Decision Report. In an effort to simplify these regulations, ERA has eliminated such a report. However, essential portions of Part 502 that are necessary for ERA to carry out its responsibilities have been retained in Parts 501 and 503.

ERA has eliminated the categorization of exemptions contained in the interim rule which specified the contents of particular types of petitions. ERA has now identified three categories of exemptions: general use, specified use and limited use. These categories are based upon the type of the exemption rather than the type of evidence required. A list of the requirements for submitting petitions is now set out under each exemption.

Numerous commenters objected to the previously required discussion of the internal corporate decision-making processes as being irrelevant, proprietary, and highly confidential. ERA agrees and has deleted the requirement.

Commenters also objected to the requirements of the Fuels Decision Report with respect to potential conservation measures. In response, ERA has limited the requirement to include only those conservation measures previously taken and studies completed or underway.

Other comments were directed at the appropriateness of requiring a petition for a mandatory permanent exemption to address such topics as petroleum and natural gas consumption, conservation measures, and environmental impact analysis. ERA has deleted such requirements for certain limited use exemptions where a certification alternative is provided. For general use exemptions and other specified use exemptions, ERA believes such information is needed to determine appropriate terms and conditions of an exemption. This is also important as a means of assessing potential oil and gas savings, a primary concern of FUA. In particular, the environmental reporting requirement helps provide ERA with data necessary to fulfill the requirements of the National Environmental Policy Act of 1969, which requires the consideration of the environmental impact of certain Federal actions. ERA has, however, limited the environmental reporting requirements for certain limited use exemptions.

Cost Calculation (§ 503.6)

Numerous comments were received with respect to the cost calculation

employed in sections 503.5 and 505.5 of the interim rules. The cost calculation was to be used by petitioners in petitioning for an exemption based upon the cost of building and operating a unit to burn an alternate fuel.

After considering these comments ERA has determined that it is inappropriate to adopt a final rule with respect to the cost calculation at this time. Sections 503.5 and 505.5 of the interim rule are being revoked as of the publication date of this final rule, and ERA will shortly propose a new rule with respect to the cost calculation for public comment.

General Requirement—No Alternative Power Supply (§ 503.8)

Several commenters objected to the inclusion of rate design measures which could support conservation under the "no alternative power supply" requirement. The comments stated that ERA was indirectly circumventing the Public Utility Regulatory Policies Act of 1978. In the preamble to the interim rule, ERA stated that it did not intend to regulate rate structures either directly or indirectly. ERA will not require petitioners under this final rule to consider rate design measures in demonstrating that an alternative supply of power is or is not available.

Commenters also stated that ERA should not require petitioners to consider purchasing power on a regional basis. Some commenters felt consideration should be limited to a single utility or contiguous system basis. Based on ERA's experience, we believe that a regional basis for determining the availability of firm purchased power set out in the interim rules is correct.

Additionally, concern was expressed that small utilities would be unable to meet this general requirement because they would be unable to demonstrate a reserve margin below 20 percent. Moreover, concern was expressed that there would be anti-competitive impact on small utilities as a result of the requirements of this section.

In response to these comments, ERA will, in a particular case, consider a petition for an exemption where the reserve margin is above 20 percent. While a 20 percent reserve margin is a traditionally accepted planning figure used by the industry, ERA recognizes that a reserve margin above 20 percent may not realistically represent the reliability circumstances for individual petitioners. ERA will allow a petitioner an opportunity to demonstrate that there are other justifiable reasons why no alternative power supply is available.

ERA is aware of the concerns of small utilities with respect to competition issues and other matters related to the implementation of FUA. We expect that the small utility system study being conducted by ERA's Office of Utility Systems as part of implementation of Section 744 of the Act will address these and other FUA issues as they impact on small utilities.

Some commenters contended that in determining the "reasonableness" of an alternative power supply the comparison of the cost of purchased power with the cost of power generated by the petitioner's proposed plant should be based on the cost of the actual fuel to be used in the proposed plant instead of the cost of imported oil. ERA believes that the use of the imported oil price is reasonable since that standard is employed for purposes of obtaining exemptions under the Act.

Several commenters stated that ERA must consider both short and long-term reliability when evaluating whether a petitioner can obtain an alternative supply of power. ERA intends, when considering whether a petitioner has demonstrated the lack of an alternative supply of power, to consider only the first year the proposed unit would be in operation. If ERA concludes that not building the proposed unit in that year would not impair reliability of service, the petitioner's request for exemption may be denied. ERA believes that this approach addresses the issue of both short and long-term reliability and would not result in an impairment of reliability of service. The petitioner may submit a petition for a new unit to commence operation in a subsequent year which would permit construction in time to avoid an impairment of reliability of service. This is based on the observation that even a long-term reliability problem must begin in some specific year. Once a petitioner has shown that a reliability problem will exist in any given year before an alternate fuel fired unit could be built, ERA will grant an appropriate exemption to commence in that particular year.

If the utility's proposed unit would not become operational until after the time an alternate fuel fired unit could be built, ERA believes that it is impossible to show that purchased power would be unavailable for the first year of scheduled operation.

General Requirement—Use of Mixtures (§ 503.9)

Based upon ERA's experience in implementing the regulatory program under FUA, it has been determined that clarification of the general requirements relating to the use of a mixture is appropriate. The final rule contains a greater degree of specificity with respect to the evidentiary requirements relating to issues of economic or technical infeasibility of using a mixture.

General Requirement—Use of Fluidized Bed Combusion (§ 503.10)

Commenters stated that the fluidized bed combustion (FBC) feasibility finding that ERA is required to make under § 503.10 should be site specific, and that it is impossible to make the feasibility finding on a generic basis. Moreover, commenters contended that ERA has shifted the burden of proof with respect to such findings to the petitioner.

As previously discussed in the Preamble to the Interim Rules (44 FR 28950, May 17, 1979, at page 28961), in conjunction with DOE's Offices of Fossil Energy and Resource Application, ERA will monitor the development of fluidized bed technology. Based on criteria to be determined, ERA will make a feasibility finding in a future rulemaking. The finding initially will be limited in scope and applicability, and will describe the parameters of performance and applicability of the FBC process.

The intention will be to specify as accurately as possible the circumstances under which FBC is feasible. Petitioners with facilities that do not fall within the range described in the finding will not be required to consider FBC, while those with facilities within the range will be subject to the finding. Thus, only those petitioners who are most likely able to utilize FBC will be subject to the feasibility finding. However, prior to and after any general feasibility finding, if necessary, ERA reserves the right to make site-specific findings.

General Requirement—Alternative Site (§ 503.11)

One commenter suggested that, for purposes of this requirement, ERA should consider on an equal basis with economic factors other factors such as distance from load centers, technical feasibility and legal difficulties. While the cost test will remain the primary vehicle for demonstrating the viability of using alternate fuels at alternative sites, ERA is revising the regulations to incorporate other ways by which a petitioner may demonstrate that alternate fuels at alternative sites are not feasible. Specifically, § 503.11(a)(2) has been revised so that a petitioner may demonstrate infeasibility at alternative sites through (a) general use permanent exemptions, or (b) other reasons.

Other commenters argued that additional siting studies will be costly and time-consuming, and suggested that

ERA require only one alternative site to

findings. This establishes the principle

exemptions—fuels mixture of 25

applicable to MFBI's which will be

examined for its adequacy and

Future Use of Synthetic Fuel (§ 503.24)

V 45 J E 6 80 UMI

ERA require only one alternative site to be evaluated or, that small utilities be exempt from the requirement. ERA believes that it is unrealistic to set a fixed number of sites to be evaluated. The number of sites to be examined can be discussed in the prepetition conference.

One commenter stated that the cost used in evaluating the use of alternate fuels at alternative sites should be significantly less than the "substantially exceeds" cost test which is required with respect to the proposed site. However, ERA believes that using the same cost test for alternative sites is reasonable and provides a proper comparison with the use of the "substantially exceeds" test at the proposed site.

Terms and Conditions (§ 503.12)

Commenters identified a number of areas in which it was asserted ERA could not use its terms and conditions authority. Specifically it was suggested that ERA lacked authority to:

(a) Impose terms and conditions applicable to units other than those which are the subject of the exemption petition;

(b) Require the replacement of inefficient units;

(c) Require the use of specific fuels or construction of facilities with specific types of fuel burning capability;

(d) Require the use of mixtures;

(e) Impose the use of environmental control measures beyond those otherwise required by law.

As stated in the preamble to the interim rules, Sections 214 and 314 of FUA give the Secretary wide latitude in prescribing terms and conditions as he deems appropriate, so long as they are reasonable and consistent with the purposes of the Act. ERA will consider whether any of the types of terms and conditions described above should be imposed on a case-by-case basis.

In response to numerous comments and in order to simplify the requirements for obtaining certain exemptions, ERA has instituted a class of limited use of exemptions which will be granted upon certification that use of the proposed unit will be limited. For these limited use exemptions the petitioner must agree to be bound by certain standard terms and conditions.

Commenters also suggested that ERA lacks the authority to revoke permanent exemptions for violations of terms and conditions. In the case of at least one type of exemption, the permanent exemption for intermediate load powerplants (FUA Sections 212(h), 312(g)), ERA is *required* to terminate a permanent exemption upon certain findings. This establishes the principle that a "permanent" exemption need not last for the life of the facility. ERA believes the terms and conditions authority is broad enough to *permit* ERA to limit the periods and circumstances under which an exemption would be operative, or, for violations of terms and conditions to terminate a permanent exemption. ERA has explicitly stated this authority in its regulations to deter violations of the provisions of an exemption or a compliance plan.

Environmental Impact Analysis (§ 503.15)

The Environmental Protection Agency (EPA) has suggested that a number of items be added to this section, including the name, address, and phone number of an office in DOE where the guidelines for environmental reports may be obtained. Section 503.15 provides the **Federal Register** citation for the guidelines, and this is deemed to be sufficient information. EPA asks also that a request for environmental monitoring, construction, and operation impacts information specifically be included. However, the purpose of § 503.15 is to state the requirement for an environmental impacts analysis and to briefly summarize what the analysis must contain. In actually preparing the analysis, the petitioner should refer to the guidelines themselves which contain a detailed description of informational requirements.

EPA also would like § 503.15 to require an analysis of conservation as an alternative. This information is not requested in the environmental guidelines as an independent alternative to the use of alternate fuels and the no-build alternative. Conservation measures are often included as terms and conditions of an order granting an exemption and should be considered, for purposes of the National Environmental Policy Act of 1969, (NEPA), as a subset of the basic description of the facility or of the examination of one or more alternate fuels, but conservation does not in itself form a separate alternative to be analyzed later in submitting a petition.

Should it become apparent later in the process that conservation presents a reasonable alternative, it will be documented for NEPA purposes; however, this decision will be made on a case-by-case basis.

Finally, EPA recommends that § 503.15 include a description of regulatory requirements relating to noise. We agree, and this requirement has been added.

The environmental reporting requirement for limited use exemptions—fuels mixture of 25 percent or less petroleum or natural gas, peakload powerplants, certain scheduled equipment outages, emergency purposes, and automatic exemption based on cost for units operated on more than 600 hours per year—has been changed to reflect the Department of Energy's anticipated proposal to categorize these actions as normally not requiring further analysis for NEPA purposes, as contemplated by the Council on Environmental Quality's NEPA regulations (40 CFR Part 1500 *et seq.*). Those regulations allow for a categorical exclusion whereby an agency may through its own NEPA procedures determine that a category of actions does not have a significant effect on the human environment. However, the listing of certain classes of actions which are categorically excluded from NEPA only raises a presumption that any such actions will not significantly affect the environment. For those circumstances where ERA has reason to believe that a significant impact could arise from the grant or denial of a limited use exemption, DOE's NEPA guidelines (10 CFR Part 1021 *et seq.*) provide that individual proposed actions will be reviewed to ascertain whether an environmental assessment or environmental impact statement would be required for any individual action which is listed in Subpart D of the guidelines as categorically excluded from NEPA. To assist us in making this determination, we are requiring 1) that a petitioner for any of these exemptions certify that he will comply with all applicable environmental permits and approvals prior to operating the facility, and 2) that he complete an environmental checklist designed to determine whether the facility in question will have an impact in certain areas regulated by specified laws which impose consultation requirements on DOE. This will allow us to determine that no significant impact will result, or that the categorical exclusion does not apply.

It should be stressed, however, that DOE has not at this point categorically excluded the above exemptions. Before doing so DOE must amend its NEPA guidelines, allowing in the process for public notice and comment. In the event that such amendment does not take place, the portions of these regulations dealing with NEPA compliance for limited use exemptions would be revised accordingly.

Lack of Alternate Fuel Supply (§§ 503.21 and 503.32)

For this exemption ERA has created an alternative evidentiary submission

applicable to MFBI's which will be operated less than 600 hours per year, such as auxiliary units for powerplants. In such cases, the petitioner, will be granted an exemption based on a certification that (a) the use of the unit will be so limited, and in the case of permanent exemptions, (b) only the lowest grade of petroleum available and feasible will be used, and (c) any necessary environmentally related terms and conditions will be met.

One commenter pointed out that in § 505.21 (Lack of alternate fuel supply . . . Temporary Exemptions for New Powerplants), the paragraph specifying a maximum duration of ten years for this exemption had been inadvertently omitted. This has been corrected by adding § 503.21(e) which specifies that this temporary exemption may not exceed ten years taking into account any extensions and renewals.

Environmental Exemption (§§ 503.23 and 503.34)

A number of commenters said that eligibility for this exemption should not be based solely on the capacity to physically achieve applicable environmental standards, and that instead ERA should take costs of compliance into consideration. However, based on experience under the interim regulation, ERA believes that the appropriate test for obtaining an environmental exemption should continue to be a showing of physical impossibility of compliance with environmental requirements. FUA provides another exemption—lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum—in which economic considerations relating to the cost of environmental compliance may be raised.

Some commenters suggested that ERA establish guidelines for applicable technologies which can be utilized at a reasonable cost. This goes beyond ERA's responsibilities in implementing the FUA. Environmental compliance must be examined in the context of available pollution control equipment which would provide an appropriate reduction of pollutants, since best available technology is evolving, and it is the responsibility of the petitioner to supply this information as a part of his petition.

One commenter suggested that a petitioner should be allowed to make some best estimate projections rather than detailed analysis of environmental impacts. Each request for an environmental exemption will be handled on a case-by-case basis, and the quality of evidence submitted will be examined for its adequacy and completeness. Any questions regarding the nature and amount of evidence required for this exemption are best raised at the prepetition conference.

Several comments asserted that denial of an environmental permit by a State or Federal agency should be sufficient proof to obtain this exemption. ERA believes that the denial of a Federal or State environmental permit is but one basis upon which a case for an environmental exemption can be made, but is not dispositive evidence. The scope of the inquiry of permitting agencies—which do not, for example, consider as a means of compliance the burning of alternate fuels or the use of alternate technologies—is different than ERA's inquiry under FUA. In judging the adequacy of any submission, ERA will require evidence that the petitioner considered all reasonably available alternate fuels and all reasonable methods of compliance.

Several commenters, including the Environmental Protection Agency, objected to the requirement that a petitioner attempt to investigate available regulatory options, including variances and State Implementation Plan revisions, before any exemption is granted. We continue to believe that inquiry into all options, including variances and SIP revisions, is clearly contemplated by FUA. Our rationale for this determination was extensively discussed in the preamble to the interim regulations (44 FR 28963) and is unchanged. In the alternative, EPA suggested that the regulations be amended to state that the absence of this information will not preclude approval of an exemption request. We disagree. We feel that this is tantamount to deleting this requirement. Any statement to this effect would no doubt ensure that this information would not be included by any applicant.

One commenter said that the environmental exemption should be automatically approved whenever a petitioner demonstrates that it is located in a nonattainment or prevention of significant deterioration (PSD) area. The final rule does not include such a provision, since the Clean Air Act and its regulations provide procedures by which new growth may be allowed in either dirty or clean air areas, and it would be inconsistent with FUA to reserve such growth to oil or gas fired facilities. These available regulatory options, including variances and SIP revisions, must be explored by facilities seeking to locate in nonattainment or PSD areas.

Future Use of Synthetic Fuel (§ 503.24)

Commenters expressed concern about the need for adequate criteria for determining what will be considered a "binding contract" and whether a contract should be considered binding, even if conditioned upon receiving a DOE exemption.

ERA recognizes that sellers of synthetic fuels will include protective clauses in their contracts. Consequently, the presence of reasonable conditions in a contract for purchase of synthetic fuels will not detract from its being considered binding.

An exemption may be granted under this section on the basis of a certification. In response to the suggestion of commenters, ERA has limited the amount of information which is required to be submitted in support of a petition to a description of the synthetic fuel proposed to be used.

The compliance plan contemplated by this exemption has been split into a "preliminary" and "final" compliance plan. The preliminary compliance plan which is to be submitted with the petition shall include a demonstration of the petitioner's good faith commitment to use synthetic fuels. The synthetic fuel exemption may be granted on the basis of a preliminary plan, but will not become effective until acceptance by ERA of the final plan which must include copies of binding contracts and a list of milestones toward synthetic fuel use.

Public Interest Exemption (Section 503.25)

In commenting on this section of the interim rule the Federal Trade Commission noted that there was some ambiguity with respect to the policy note regarding the concept of the public interest as it pertains to the use of alternate fuels and as it pertains to the basis upon which an exemption may be granted or denied. ERA agrees and has adopted as part of the policy note in the final rule the recommendation provided by the FTC.

ERA received comments on the temporary public interest exemption urging the deletion of the required demonstration relating to the petitioner's inability to comply with the applicable FUA prohibitions *except in extraordinary circumstances*. ERA agrees that this standard may have been too restrictive, and has deleted the requirement from this section.

Several commenters objected to the requirement of a fuel mixture demonstration under § 503.25(c)(2). Under that section, petitioners had to show that the use of a fuel mixture for

which an exemption would be available

utilities which have a total system

which an exemption would be available (under § 503.38) would not be technically or economically feasible during the period of the requested public interest exemption. ERA reviewed these comments and has removed the mixtures requirements to expedite the exemption process. However, ERA reserves the right to consider whether use of a mixture is feasible as part of its public interest consideration in specific cases.

One commenter called attention to a perceived need for ERA to establish a categorical temporary public interest exemption for facilities assigned a high priority curtailment status under the Natural Gas Policy Act of 1978 (NGPA). ERA has concluded that a high-priority status does not justify ERA's establishing a blanket public interest exemption for those facilities. Petitions requesting public interest exemptions on these grounds will be decided on a case-by-case basis.

Lack of Alternate Fuel Supply (§ 503.31)

In the preamble to the interim rule, ERA required that the petitioner solicit at least five bids from suppliers who could reasonably be expected to supply an adequate and reliable supply of alternate fuel.

The comments received on this requirement stated that the five-bid requirement was unreasonable and that the number of bids should be determined on a case-by-case basis.

ERA believes that maintaining the minimum five-bid requirement for petitioners for permanent exemptions is reasonable. Determining the appropriate number of bids on a case-by-case basis would unnecessarily delay the processing of the exemption petition. However, recognizing that there may be circumstances when it may not be possible to obtain five bids, ERA will accept fewer upon a demonstration that there is reasonable justification.

Capital Availability Exemption (§ 503.35)

Section 212(a) of the Act requires ERA to grant a permanent exemption from the Act's prohibitions due to the inability of a petitioner to obtain adequate capital to finance an alternate fuel-capable unit.

Several of the commenters stated that ERA has restricted the availability of the exemption by requiring that utilities demonstrate that the appropriate regulatory authority cannot take necessary action to permit the utility to raise the required additional capital. In recognition of the size distinction set forth in Section 744 of the Act, ERA has retained this requirement only for utilities which have a total system generating capacity greater than or equal to 2000 megawatts.

Permanent Exemptions for State and Local Requirements (§ 503.36)

Several commenters suggested that ERA is not authorized to require that a general use exemption be unavailable as an eligibility requirement to obtain this exemption. In the case of installations, ERA agrees and therefore it has been deleted.

Several commenters stated that the public interest analysis should be limited to an investigation to determine if any evasion of the Act was intended. ERA has concluded that the information required by the interim rule is necessary to ascertain whether there was collusion and if granting the exemption is in the public interest. Therefore, ERA has not limited these information requirements as suggested.

Several commenters stated that local and regional requirements of an environmental nature should be considered by ERA as a basis for this exemption. ERA agrees and believes that this section adequately provides for such consideration.

Cogeneration (§ 503.37)

In light of the public comments, ERA has decided to publish another Notice of Proposed Rulemaking which will provide a simpler procedure to obtain exemptions where cogeneration would result in oil or gas savings. Pending this new rulemaking, ERA will continue to consider petitions under the interim rule regarding this exemption, published at 44 FR 28950, 28994 and 29014 (May 17, 1979).

Permanent Mixtures Exemption (§ 503.38)

Several commenters addressing the permanent mixtures exemption for MFBIs suggested that there is no statutory basis for ERA's inclusion of those amounts of petroleum or natural gas excluded from the "primary energy source" by definition (§ 500.2(a) of the interim rule; Section 103(a)(18)(A) of FUA) in the 25 percent minimum of petroleum or natural gas proposed which would be used in a mixture. (§ 500.28(b) of the interim rule). ERA agrees with this comment. However, as a matter of statutory interpretation, ERA has concluded that the amount of fuel contemplated by Section 105(a)(18)(A) of the Act and the minimum amount of natural gas and petroleum provided by a mixtures exemption would be used for the same purposes.

Therefore, the final rule contains a provision that no fuel will be excluded from the definition of primary energy source where a mixtures exemption has been granted, since ERA has determined that the minimum amount of natural gas or petroleum provided by a mixtures exemption to maintain reliability of operation, consistent with maintaining a reasonable level of full efficiency is in lieu of the minimum amount required for unit ignition, start-up, testing, flame stabilization and control uses.

One commenter noted that minimum amounts of petroleum or natural gas used for emergency purposes should not be included in the mixtures calculation. ERA notes that the rule so provides.

ERA has clarified treatment of petitions with respect to installations for which a mixture is proposed containing 25 percent or less natural gas or petroleum. For such cases, ERA has established a certification alternative where the petitioner need only certify that annual use of natural gas or petroleum will be 25 percent or less, and that he will obtain all applicable environmental permits prior to commencement of operations.

Standard terms and conditions have been established for the certification alternative. These include (a) a 25 percent limit on oil and gas use; (b) insulation and maintenance requirements; (c) required use of only the lowest grade of petroleum available and feasible; and (d) any environment related terms and conditions which ERA deems necessary for it to impose in order to fulfill its obligations under various environmental requirements.

A commenter suggested that a streamlined exemption for new coal-fired units that can operate at a very low firing rate on gas or oil be established. The mixtures exemption is available to cover such situations.

Emergency Exemption (§ 503.39)

ERA has simplified the criteria and the procedures for requesting this permanent exemption. The final rule requires a certification from a duly authorized officer that (1) the operation of a unit under the exemption will occur only in accordance with the definition of emergency; (2) use of mixtures is not economically or technically feasible; and (3) that all applicable environmental permits will be obtained prior to commencement of operations. The petitioner is also required to provide a limited amount of specific information relating to environmental matters. For a powerplant, a petitioner must demonstrate that despite reasonably good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a

reasonable cost without impairing short-run or long-run reliability.

The final rule also requires that an annual report describing the energy use and a breakdown of monthly fuel consumption be filed at the end of each 12-month period from the effective date of the exemption.

Standard terms and conditions have been established in the case of petitions for emergency exemptions. These include (a) a requirement that operation of the unit will occur only in accordance with the definition of "emergency"; (b) insulation and maintenance requirements; (c) required use of only the lowest grade of petroleum available and feasible and in the case of powerplants, construction with the capability to use the lowest grade petroleum available; and (d) any related terms and conditions which ERA deems necessary for it to impose in order to fulfill its environmental obligations.

Reliability (§ 503.40)

ERA has initiated a change in the regulations to remove the duplication of the demonstrations required by the "no alternative power showing" and the reliability exemption. Under the interim regulations a petitioner for a reliability exemption was required to meet the evidentiary requirements relating to the alternative supply of power (§ 503.8), as well as for the reliability exemption (§ 503.40). The final regulations have been revised to indicate that if a petitioner applies for a reliability exemption, the demonstration for that exemption will satisfy the requirements of § 503.8.

Several commenters suggested that the loss of load criterion for large pools or interconnections should be one day in ten years rather than the standards provided in the interim rule. The commenters contend that the one day in ten years standard would be in line with current industry practice for measuring reliability. While this industry standard may be appropriate for utility construction planning purposes, it does not take appropriate cognizance of the objectives of the Fuel Use Act. Therefore, ERA has retained in these regulations the standard as stated in the interim regulations. A more extensive discussion of this issue is contained in the preamble to the interim rules at 44 FR 28968 (May 17, 1979).

ERA also noted that while a petitioner may use the loss of load probability (LOLP) technique, computed on a regional basis to calculate impaired reliability, this is not the exclusive criterion which ERA will consider in determining eligibility for the exemption. This exemption specifically allows a petitioner to demonstrate impaired reliability using criteria other than LOLP.

One commenter noted that for purposes of calculating LOLP, ERA should consider all occurrences of inadequate generation on a given day to constitute a "day" of outage. ERA agrees, and has inserted a note following § 503.40(a)(2)(iii) dealing with the LOLP calculation. The note states that when a capacity deficit occurs one or more times in one day, that event constitutes a one day loss of load.

Several commenters suggested that ERA should permit the continued use of oil and gas beyond the exemption period if doing so would reduce a system's consumption of oil and/or gas. The commenters further added that this would encourage greater use of combined cycle units. ERA recognizes that in some cases an extension of the exemption period may be appropriate and will entertain such requests from petitioners on a case-by-case basis.

Peakload Powerplants (§ 503.41)

Several commenters felt that ERA's requirement that peakload units be used solely to meet peakload demand exceeds the bounds of administrative discretion given to ERA by Congress in FUA. It was noted that Congress defined the term "peakload powerplant" in terms of annual generation of electricity (the equivalent of 1500 hours at design capacity during any twelve-month calendar period) expressed in kilowatt hours. The commenters believe that ERA has no authority to redefine or to replace this statutory definition with another definition based on the type of demand for the electrical generation. Furthermore, the commenters pointed out that peaking units have historically been used for other purposes.

In response to these comments, ERA notes that the Conference Report states that, in order to use petroleum or natural gas for peakload purposes and to build a peakload powerplant without the capability to use coal or another alternate fuel as a primary energy source, a petitioner must certify that the proposed powerplant will operate solely for peakload purposes. The certification is to be made in the form prescribed by ERA and will run for the life of the powerplant. Accordingly, ERA may require the petitioner to certify that the use of the powerplant is to meet peakload demand. Regarding the other uses for which peakload powerplants have been historically used, ERA notes that other exemptions, as well as the emergency provisions of Part 501, Subpart M, may be available to cover circumstances such as forced outages, maintenance periods, refueling down time, adverse periods of hydro operation, fuel shortages, emergencies on neighboring systems, and other types of emergencies.

Comments concerning the reporting requirement contained in the interim rules asked ERA to phrase this requirement in terms of kilowatt hours of generation rather than in actual hours of generation so that this subsection will be consistent with the FUA definition of peakload powerplant. ERA agrees, and the final rule has been revised accordingly.

Several commenters recommended that the final regulations acknowledge the exception from the penalty provisions of the Act. ERA has done so in this final rule for emergency use of a peakload unit.

Some of the comments received recommended that ERA grant system-wide peakload exemptions that would allow for the use of a single unit in excess of the 1500 hour requirement, but not in excess of an amount equal to 1500 kilowatt hours of electrical generation times the combined design capacity of all of the peaking units in the system. ERA is unable to adopt this approach because FUA is a unit specific statute and cannot be made applicable to systems without legislative modification of the existing statutory provisions.

Some of the commenters objected to the distinction that ERA has drawn with respect to units other than combustion turbines for peakload use. Since combustion turbines are more efficient for peakload use than other types of units, ERA believes that it is appropriate to examine an asserted need for a noncombustion turbine unit for peaking purposes, in light of factors which offset the higher operating costs associated with combustion turbines and tend to encourage their installation and use. Such factors include the relatively short period of time for installing such capacity (roughly 18 months versus several years for baseload capacity) and differences in investment costs.

After considering the many comments that favored the granting of the peakload exemption upon certification, in the absence of special circumstances requiring additional information, a petition for a peakload exemption for a combustion turbine unit will be granted based on the petitioners certification that (a) operation will be limited to peakload purposes, (b) that the unit will not exceed the 1500 kilowatt hours limit, (c) that all applicable environmental permits will be obtained prior to commencement of operations, and (d) if natural gas is to be used, submission of a certification by the Administrator of

the Environmental Protection Agency.

synthetic fuel; rather, it requires the

provisions of the Federal Reports Act

Sec.

(1) The use of petroleum or natural gas

(B) Has received a proposed order but

the Environmental Protection Agency. The petitioner is also required to provide a limited amount of specified information relating to environmental matters.

ERA has added a new subsection setting forth standard terms and conditions for a peakload exemption for combustion turbines based on a certification. These conditions include (a) limitations in kilowatt hour production; (b) certification of those hours each month in which the petitioner's hourly load as peakload hours will exceed 80 percent of the standard monthly maximum hourly load; (c) required use of only the lowest grade of petroleum available and feasible; and (d) any terms and conditions which ERA deems necessary in order to fulfill its environmental obligations.

One commenter recommended that ERA include in its peakload exemption regulations a heat rate limitation of 10,000 Btu's per kilowatt hour for peakload gas turbine powerplants, because gas turbine regenerators are readily available which would make practical gas turbine powerplants with heat rates of 9800 Btu's per kilowatt hour or less. The commenters believed that such an addition to the regulations would encourage the use of this equipment with a resulting 15–30 percent reduction in fuel use. ERA believes that regenerators require additional study and consideration, and therefore the recommendations regarding heat rate limitations for peakload powerplants have not been adopted.

Intermediate Load Powerplants (§ 503.42)

One commenter noted that reporting requirements should be expressed in terms of kilowatt hours of generation, not actual hours, in order to be consistent with the statutory definition of an intermediate load powerplant. ERA has accepted this comment and revised § 503.42 accordingly.

In the preamble to the interim regulations, ERA invited comments concerning an alternate approach for interpreting the phrase "equivalent capacity" in Section 212(b)(1)(B) of the Act. ERA received numerous comments criticizing the suggested alternate approach, and has therefore decided to retain the "equivalent capacity" concept in this final rule.

Several commenters objected to the requirement under § 503.42 (b)(7) that a petitioner for the intermediate load exemption must identify the specific synthetic fuels that the proposed unit will be designed to use. These commenters stated that the Act does not require the study of a particular synthetic fuel; rather, it requires the facility to be constructed with general synthetic fuel capability. ERA intends to require petitions for the intermediate load exemption to only identify the types of synthetic fuel that the unit is being designed for along with the units design specifications.

Permanent Exemption for Scheduled Equipment Outage (§ 503.43)

In the interim regulations we stated that if the annual scheduled outages did not exceed 21 days, the petitioners would not have to conduct an alternate fuels search. Upon consideration of comments, ERA has modified the regulations so that if projected use of the proposed unit does not exceed an average of 28 days per year over any three-year period, the petitioner need only submit a certification with certain specified terms. If total use exceeds this level of use, the evidentiary requirements have been left substantially unchanged.

Standard terms and conditions have been established in the case of petitions for scheduled outage exemptions which are obtained by certification. These include (a) a maximum limit on use of the unit for scheduled outages purposes only; (b) insulation and maintenance requirements; (c) required use of only the lowest grade of petroleum feasible and available; and (d) any terms and conditions which ERA deems necessary for ERA to fulfill its environmental obligations.

III. Procedural Matters

A Final Environmental Impact Statement (FEIS) was prepared pursuant to the National Environmental Policy Act (NEPA). The FEIS may be obtained from ERA, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 653–4055.

Under Executive Order No. 12044 and Department of Energy Implementing Order 2030.1, a final regulatory analysis shall be made available to the public at the time that final rules are adopted, unless a waiver has been granted by the Secretary or Deputy Secretary. The Deputy Secretary has granted such a waiver since the regulatory analysis as prepared is devoted almost entirely to the cost calculation, which will be the subject of a new proposed rule to be issued shortly.

The final regulatory analysis relating to this final rule will be made available in conjunction with the notice of proposed rulemaking on the cost calculation.

These final rules must be submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of these final rules may require revision or additions as a result of OMB's action.

(Department of Energy Organization Act, Public Law 95–96; Powerplant and Industrial Fuel Use Act of 1978, Public Law 95–620, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 503 as amended, of Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, titled "Alternate Fuels," is hereby adopted as a final rule and is effective on [60 days after date of publication].

10 CFR 503.5 and 505.5 are revoked upon publication of this final rule. The remaining provisions of 10 CFR Part 505, except for § 505.27 (Cogeneration), are deleted on the effective date of this final rule.

Issued in Washington, D.C., May 30, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 503.5 of the interim rule (published at 44 FR 28978, May 17, 1979) is revoked, effective June 6, 1980.

2. Section 503.37 (Cogeneration) of the interim rule remains in effect. The Economic Regulatory Administration intends to issue a Notice of Proposed Rulemaking before issuing final regulations implementing the Cogeneration Exemption. Section 503.37 will remain in effect until superseded by a final rule.

3. The remainder of Part 503, including the Part heading, is adopted as final and revised to read as set forth below, effective August 5, 1980.

PART 503—NEW FACILITIES

Subpart A—Prohibitions

Sec.

503.1 Purpose and scope.
503.2 Prohibitions (powerplants).
503.3 Prohibitions (installations).

Subpart B—General Requirements for Exemptions

503.4 Purpose and scope.
503.5 Contents of petition.
503.6 Cost calculations for new facilities. [Reserved]
503.7 State approval—general requirement for new powerplants.
503.8 No alternate power supply—general requirement for certain exemptions for new powerplants.
503.9 Use of mixtures—general requirement for certain permanent exemptions.
503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.
503.11 Alternative sites—general requirement for permanent exemptions for new powerplants.

Sec.

503.12 Terms and conditions: compliance plans.
503.13 Conservation measures.
503.14 Petroleum and natural gas consumption.
503.15 Environmental impact analysis.
503.16 Fuels search.

Subpart C—Temporary Exemptions for New Facilities

503.20 Purpose and scope.
503.21 Lack of alternate fuel supply.
503.22 Site limitations.
503.23 Inability to comply with applicable environmental requirements.
503.24 Future use of synthetic fuels.
503.25 Public interest.

Subpart D—Permanent Exemptions for New Facilities

503.30 Purpose and scope.
503.31 Lack of alternate fuel supply for the first 10 years of useful life.
503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.
503.33 Site limitations.
503.34 Inability to comply with applicable environmental requirements.
503.35 Inability to obtain adequate capital.
503.36 State or local requirements.
503.37 Cogeneration.
503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.
503.39 Emergency purposes.
503.40 Permanent exemption for powerplants necessary to maintain reliability of service.
503.41 Peakload powerplants.
503.42 Intermediate load powerplants.
503.43 Scheduled equipment outages for installations.
503.44 Product or process requirements [Reserved].

Authority: (Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267, September 15, 1977.

Subpart A—Prohibitions

§ 503.1 Purpose and scope.

This subpart sets forth the statutory prohibitions imposed by the Act upon new powerplants and major fuel burning installations (MFBI's). The prohibitions in this subpart apply to all new electric powerplants and MFBI's unless an exemption has been granted by ERA under Subparts C and D of this Part. Any person who owns, controls, rents, leases or operates a new powerplant or MFBI which is subject to the prohibitions may be subject to sanctions provided by the Act of these regulations.

§ 503.2 Prohibitions (powerplants).

(a) Section 201 of the Act prohibits, unless an exemption has been granted under Subparts C or D of this Part, the following:

(1) The use of petroleum or natural gas as a primary energy source in any new electric powerplant; and

(2) The construction of any new powerplant without the capability to use an alternate fuel as a primary energy source.

(b) For purposes of the prohibition set forth in paragraph (a)(2) of this section a powerplant will be considered to be constructed with the capability to use an alternate fuel if it is able to use, in compliance with applicable environmental requirements, an alternate fuel as a primary energy source at the time it becomes operational or at the expiration of a temporary exemption.

§ 503.3 Prohibitions.

(a) *Prohibition on the Use of Natural Gas or Petroleum as a Primary Energy Source in Boilers.* Section 202 (a) of the Act prohibits, unless an exemption has been granted under Subpart C or D of this Part, the use of petroleum or natural gas as a primary energy source in any new MFBI which consists of a boiler.

(b) *Prohibition on the Use of Natural Gas or Petroleum as a Primary Energy Source in Nonboilers.*—(1) *Prohibition by Rule.*

(i) ERA may prohibit, by issuance of a rule, the use of petroleum or natural gas as a primary energy source by certain prescribed categories of new MFBI's which consist of a combustion turbine unit, combined cycle unit or internal combustion engine.

(ii) In any such rulemaking proceeding, ERA will consider any special circumstances or characteristics of the category of such MFBI's that would be prohibited from using natural gas or petroleum as a primary energy source. Factors to be considered include the overall technical capability of units within the category to burn an alternate fuel, as well as the size and geographic location of such units. ERA will consider all other circumstances, characteristics, and factors it deems relevant and appropriate that are brought to its attention.

(iii) Application of a final rule promulgated under this subsection shall be stayed with respect to an installation subject to such rule while ERA is considering a petition for an exemption which is filed in accordance with Subpart F of Part 501 within 60 days after publication of the final rule in the **Federal Register**. The stay will remain in effect pending judicial review of ERA's action upon such exemption petition.

(iv) No final rule will apply to an installation that—

(A) Has received any final order containing a comparable prohibition;

(B) Has received a proposed order but did not receive a final order because of a demonstration that the installation qualified or would have qualified for an exemption under the Act; or

(C) Has been granted an exemption in accordance with Subparts C and D;

(2) *Prohibition by order.*

(i) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an installation which consists of a combustion turbine unit, combined cycle unit or internal combustion engine, if that installation has not been identified as a member of a category subject to a final rule in accordance with § 503.3(b)(1)(i) at the time of the issuance of the proposed order.

(ii) ERA shall not issue a final order to an installation covered by this subsection if it can be demonstrated that the installation is eligible for an exemption. However, if the installation is eligible only for a temporary exemption, ERA may issue a final order that will take effect at the expiration of the temporary exemption.

(iii) If ERA does not issue a final prohibition order because a facility qualifies for a permanent exemption, or, if the effective date of the order is delayed during the period that a temporary exemption is effective, ERA shall take appropriate action to assure compliance with the same requirements including terms and conditions, if any, or would have been contained in an order if an exemption would have been granted.

(3) *Limitation.* ERA may not prohibit the use of petroleum or natural gas in an installation covered by this subsection if acquisition or construction of such installation was begun before the date the proposed rule or proposed order containing the prohibition was published. Under such circumstances, ERA will consider the installation to be an "existing" installation for purposes of Title III of the Act.

Subpart B—General Requirements for Exemptions

§ 503.4 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption under this Part and sets out the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 503.5 Contents of petition.

Before ERA will accept a petition for either a temporary or permanent exemption under this Part, the petition must include all of the evidence and

information required in this Part and Part 501.

§ 503.6 Cost calculations for new facilities (reserved).

§ 503.7 State approval—general requirement for new powerplants.

(a) Where approvals by the appropriate State regulatory authority are required prior to the construction or use of a new powerplant, a petition for an exemption for consideration by ERA may be submitted to ERA prior to obtaining such approvals from the State regulatory authority.

(b) An exemption granted for a powerplant shall not become effective until an adequate demonstration has been made to ERA that all applicable approvals required by the State regulatory authorities have been obtained.

§ 503.8 No alternate power supply—general requirement for certain exemptions for new powerplants.

(a) *Application.* To qualify for an exemption, except in the case of an exemption for peakload powerplants, or an exemption for cogeneration units, Section 213(c) of the Act requires a demonstration that despite reasonable good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service. If a petitioner is unable to demonstrate that there is no alternate supply during the first year of operation, ERA will conclude that the absence of the proposed powerplant will not impair short-term reliability of service, and as a result will not grant the exemption. Such action would not impair long-term reliability of service, since a petition may be submitted for a powerplant that would begin operation in a subsequent year.

(b) *Criteria.* ERA will determine that there is no alternate supply of power if a petitioner demonstrates all of the following:

(1) A diligent effort has been made to reduce the need for the power from the proposed plant by implementing within the system whatever conservation measures are available and cost effective, including increasing the availability of alternate fuel-fired plants and by taking whatever measures are available to encourage or assist customers in implementing cost-effective conservation. In judging whether a conservation measure is cost-effective, the cost of providing such capacity or energy by conservation should be compared with the life cycle cost of capacity or energy from the proposed plant including capital, operations and maintenance expenses, and fuel based on imported petroleum prices.

(2) A diligent effort has been made to purchase firm power for the first year of operation to cover all or part of the projected shortfall at a cost that is less than 10 percent above the annualized cost of generating power from the proposed plant (including the capital, operation and maintenance expenses, and fuel at imported petroleum prices).

(3)(i) Despite these efforts, the reserve margin in the petitioner's electric region, in the absence of the proposed plant, would fall below 20 percent during the first year of proposed operation; or

(ii) Despite these efforts, the reserve margin will be greater than 20 percent and it can be demonstrated that reliability of service would be impaired. In such case, the demonstration must be related to factors not included in the calculation of reserve margin, such as transmission constraints.

(c) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) The estimated peak demand for the system and the coincident peak demand for the electric region for the first year of operation of the proposed plant.

(2) The corresponding capacity projections, as well as any existing commitments by the system to purchase or sell power during that year.

(3) Evidence that firm power contracts have been solicited for the proposed first year operation, via letters to all potential sources (including non-utility sources) within or contiguous to the electric region, and also via advertisements.

(4) A calculation of the delivered cost of the firm purchased power offered in response to the solicitation(s) along with a detailed description of the method by which the annual cost of the purchased power is determined. Where relevant, the FERC Tariff identifications intended as the basis for the purchase power contracts under negotiation (including the service schedules and/or exhibits which would apply to these contracts) should be provided.

(5) A calculation of the cost of power from the proposed plant during its initial year of operation. The petitioner may select the method of calculation, provided that the resulting cost may be meaningfully compared with the cost of purchased power. The calculation must include expenses due to capital, operations and maintenance, and fuel at imported petroleum prices. The petitioner may include cost effects of the economic dispatch of plants. The number of kilowatt hours being compared from the proposed plant and the purchased power should be the same.

(6) A description of the measures that will have been taken prior to initial operation of the proposed plant to reduce energy losses within the petitioner's own system, to improve the operational reliability of its existing non-oil- or gas-fired plants, to improve its ability to meet peak demand without new capacity, and to encourage or assist its customers in implementing cost-effective conservation measures.

(7) Estimates of the kilowatt and kilowatt-hour savings that would result from the conservation measures.

(8) A calculation of the net capacity shortfall in the first year of the proposed operation (compared to a 20 percent reserve margin) if the proposed plant is not built but all the reasonable purchase and conservation opportunities referred to above are pursued with diligent good faith effort.

(d) *FERC Consultation.* ERA will forward a copy of any petition for which a showing is required under this section to FERC promptly after it is filed with ERA, and ERA will consult with FERC before making a finding on "no alternative supply of power."

§ 503.9 Use of mixtures—general requirement for certain permanent exemptions.

(a) *Application.* Except in the case of an exemption for peakload powerplants or certain fuel mixtures, ERA will not consider a petition for any permanent exemption provided for in Section 212 of the Act unless the use of a mixture(s) for which an exemption under § 503.38 (Fuel mixtures) of these regulations would be available has been considered.

(b) *Demonstration.* ERA will deny any exemptions except for peakload powerplants or certain fuel mixtures unless a petitioner demonstrates that use of such a mixture(s) is not economically or technically feasible. In order to make the demonstration required by this section a petitioner must show the following:

(1) For any mixture for which an exemption under § 212(d) of the Act would be available, were it required, evidence that the petitioner would be eligible for a general use exemption; or

(2) Use of a mixture(s) is not economically feasible. To make an adequate demonstration, a petitioner may select the manner of presenting the economic infeasibility of use of the mixture(s) considered. The following detailed information is required; description of the mixtures considered, detailed capital costs, annual operation and maintenance expenses, maximum projected utilization factor, and fuel costs of oil and natural gas as outlined in § 503.6.

(3) Use of a mixture(s) is not technically feasible. To make an adequate demonstration, a petitoner may select the manner of presenting the technical infeasibility of use of the mixture(s) considered. The following detailed information is required: description of the mixture(s) considered; description of the types of unit for which an exemption is being requested, *e.g.*, boilers, combined cycle units, combustion turbines or internal combustion engines; and a technical explanation of the factors which preclude the use of any mixture in that type of unit.

§ 503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.

(a) *ERA finding.* Except in the case of an exemption for peakload powerplants or fuel mixtures, ERA may deny permanent exemptions authorized under Section 212 of the Act if ERA finds on a site-specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny a petitioner's request for exemption unless the petitioner demonstrated that the use of a method of fluidized bed combustion is not economically or technically feasible. The petition or any supplement thereto required by ERA must include the following evidence:

(1) If use of a method of fluidized bed combustion were to be required, evidence that the petitioner would be eligible for a general permanent exemption; or

(2) Use of a method of fluidized bed combustion is not technically or economically feasible due to design or special circumstances.

§ 503.11 Alternative sites—general requirement for permanent exemptions for new powerplants.

(a) *Application.* To qualify for a general use exemption except state or local requirements, a petitioner must demonstrate that alternate fuels cannot be used at reasonable alternative sites. The petitioner must show that:

(1) All reasonable alternative sites were examined in an effort to use alternate fuels, and

(2) Alternate fuels cannot be used at any of the alternative sites considered.

(b) *Evidence.* The petition must include the following evidence:

(1) A map indicating the proposed site and each of the alternate sites which were considered;

(2) A description of each of the alternate fuels considered for use at each alternative site which was considered;

(3) A detailed description of the criteria the petitioner used to select the alternative sites which were considered and to select the alternate fuels examined for use at each alternative site;

(4) Copies or summaries of any studies performed as part of, or in support of the search for reasonable alternative sites;

(5) Information demonstrating that a general use exemption would be granted to use petroleum or natural gas at each alternative site; and

(6) Other reasons which would preclude the use of alternate fuel at each alternative site.

§ 503.12 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* A petitioner must comply with the terms and conditions of any exemption granted by ERA, including terms and conditions requiring the use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.*

(1) A duly executed compliance plan shall accompany a petition for a temporary exemption. The compliance plan shall include the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place, indicating how compliance with the applicable prohibitions of the Act will occur;

(ii) Evidence of binding contracts for fuel, or for facilities for the production of fuel, which are required for compliance with the applicable prohibitions of the Act;

(iii) A schedule indicating how any necessary permits and approvals required to burn an alternate fuel will be obtained; and

(iv) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions of the Act.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, an updated duly executed plan must be submitted to ERA:

(i) At the end of each 12-month period from the effective date of the exemption;

(ii) Within 1 month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan may be necessary.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of the Act, non-compliance with any provision of an exemption, including any pertinent terms and conditions.

§ 503.13 Conservation measures.

(a) Except for limited use exemptions, a petition for a temporary or permanent exemption, must identify, describe, and document any conservation measures which have been taken, or for which studies have been undertaken to minimize the use of oil or gas. This description should identify any conservation goals for the unit under consideration, and for the facility at which the unit will be located, and in the case of powerplants, for the utility system. The description of these measures should be detailed and include comparative consumption figures, identification of conservation equipment or techniques, proposed manner of use, proposed date of use, cost, and expected benefits and problems. Conservation measures entail either reduction in consumption of oil and gas or increased efficiency in the utilization of oil and gas. Such measures can range from housekeeping measures to replacement of inefficient units and also could include the use of mixtures of gas and oil and alternate fuels and new more efficient technologies.

§ 503.14 Petroleum and natural gas consumption.

Except for limited use exemptions and a cogeneration exemption, a petition for a permanent exemption must include the following information:

(a) For each unit located at the facility or, its nameplates and net dependable capacity;

(b) Current and projected (through 1990) annual fuel consumption for each unit, by fuel type, and unit of measure; at the facility.

(c) Retirement plans for existing oil and gas units at the facility.

§ 503.15 Environmental impact analysis.

In order to enable ERA to comply with the National Environmental Policy Act of 1969 (NEPA), a petitioner must include the following information if a permanent exemption is requested. Material which has been prepared pursuant to any Federal, State or local requirement for environmental information for this unit or site may be

incorporated by reference and appended

(2) Information required by the following environmental checklist must

(b) This subpart establishes the criteria and standards which owners or

other arrangements attempted to secure

operation of the proposed unit using an

(6) Conservation measures as required

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incorporated by reference and appended to the petition. Guidelines issued by ERA for environmental reports should be used in preparing this analysis (44 FR 63740, November 5, 1979). These guidelines, which are also available in the ERA public document room, have been designed to insure that environmental reports follow the format prescribed by Council on Environmental Quality final regulations implementing NEPA. The guidelines are subject to discussion at a prepetition conference and to modification according to the facts of a particular case.

(a) Except as provided in paragraph (b) of this section, all petitions for permanent exemptions must contain the following information:

(1) A description of the facility, including the site location, and surroundings (and, in the case of new powerplants, alternative site(s)), the facility's current proposed operations, its fuel capability, and its pollution abatement systems and equipment (including those systems and equipment necessary for all fuel scenarios considered);

(2) A description of the existing environment, including air, water, and land resources;

(3) Direct and indirect environmental impacts of the proposed action including impacts of alternative fuel scenarios, and no build alternatives.

(4) Regulatory requirements governing the facility, including a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for each fuel considered.

(b) For limited use exemptions the information enumerated below is to be submitted in lieu of the information required by paragraph (a) of this section. However, submission of the following information merely establishes a rebuttable presumption that the grant or denial of the exemption would have no significant environmental impact. ERA may, in individual cases, during the course of the administrative proceeding, determine that additional environmental information is required. In such cases, the petitioner will be required to submit the information described in paragraph (a) of this section.

(1) A certification that the petitioner will, prior to operating the unit under the exemption, secure all applicable environmental permits and approvals pursuant to, but not limited to, the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act, Safe Drinking Water Act, Resource Conservation and Recovery Act; and

(2) Information required by the following environmental checklist must be provided and certified as accurate:

Environmental Checklist for FUA Certification Exemptions

Instructions

All questions are to be answered by placing a check in the appropriate box. N/A represents (not applicable). Although it is not required, the petitioner may elaborate on any question in writing on a separate sheet of paper.

	Yes	No	N/A
(1) Is your facility located in, or will it affect, a wetland (Protection of Wetlands Executive Order No. 11990)?	—	—	—
(2) Is your facility located in, or will it affect, a 100-year floodplain (Floodplain Management Executive Order No. 11988)?	—	—	—
(3) Will your facility affect a designated wild, scenic, or recreation river (Wild and Scenic Rivers Act)?	—	—	—
(4)(A) Is your facility located within a county in which critical habitat for threatened or endangered species are known to exist (Endangered Species Act)?	—	—	—
(4)(B) Has a qualified biologist determined that your facility will not affect any species on the Threatened and Endangered Species list?	—	—	—
(5) Is your facility located on, or will it affect land that has been classified as prime or unique farmland or rangeland by the U.S. Department of Agriculture?	—	—	—
(6) Is your facility located on, or will it affect, historical, archaeological, or cultural resources that have been designated pursuant to the National Historic Preservation Act?	—	—	—

§ 503.16 Fuels search.

Prior to submitting a petition for any general use exemption, or an intermediate load powerplant exemption, or a scheduled equipment outage for over 28 days, a petitioner must perform a fuel search by examining the use of alternate fuels as a primary energy source at the site under consideration, and for powerplants reasonable alternative sites. In submitting a petition, a petitioner must demonstrate for each of the fuels examined that he would qualify for an exemption. The minimum number of alternate fuels which petitioner will be required to examine in this fuel search can be ascertained prior to submission of a petition provided that a prepetition conference is held in accordance with Part 501.

Subpart C—Temporary Exemptions for New Facilities

§ 503.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 211 of the Act with regard to temporary exemptions for new facilities.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants and installations who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for temporary exemptions shall be submitted in accordance with the procedures set out in Part 501 and the applicable requirements of Part 503 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the facility is placed in service.

§ 503.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 211(a)(1) of the Act provides for a temporary exemption due to the unavailability of an adequate and reliable supply of an alternate fuel at a cost which does not substantially exceed the cost of using imported petroleum. To qualify, a petitioner must demonstrate that:

(1) A good faith effort has been to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to the design and operational requirements of the unit;

(2) For the period of the proposed exemption, the cost of using such alternate fuel would substantially exceed the cost of using imported petroleum as a primary energy source as defined in Section 503.6 (Cost calculation) of these regulations; and

(3) The petitioner will be able to comply with the applicable prohibitions of the Act at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) An analysis of the alternate fuels which were considered;

(2) A description of the various types of units which were considered in a good faith effort to comply with the applicable prohibitions;

(3) A description of the detailed design requirements specified for the proposed unit, including capacity, alternate fuel capability, and all other specifications;

(4) A description of the range of specific fuel characteristics of each of the fuels which can be used by the proposed unit;

(5) Evidence that the petitioner sought to obtain the full range of alternate fuels which could be used by the proposed unit, including bid requests and/or advertisements for supply contracts and all responses thereto, as well as any other arrangements attempted to secure supplies;

(6) Evidence of the contracts or other arrangements the petitioner has made to ensure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption;

(7) All data required by § 503.6 (Cost calculation) of these regulations necessary for computing the cost calculation formula;

(8) Compliance plan as required under § 503.12; and

(9) Conservation measures as required under § 503.13; and

(10) For powerplants, no alternate power supply as required under § 503.8.

(c) *Certification alternative for installations.* If the MPBI for which this exemption is being requested will be operated less than 600 hours on an annual basis, the petitioner may substitute the following information in lieu of the requirements in paragraph (b) of this section:

(1) A duly executed certification that the unit will be operated less than 600 hours annually during the period of the exemption;

(2) Compliance plan as required under § 503.12;

(e) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed 10 years.

§ 503.22 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption, a petitioner must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of the proposed facility exist which, despite diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible because of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(5) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(6) Other site limitations exist which would not permit the location or operation of the proposed unit using an alternate fuel.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 503.36 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed;

(4) Evidence of contracts or other arrangements which have been made to insure that the site limitation will be overcome and that the petitioner will comply with the prohibitions at the end of the proposed exemption period.

Note.—For the purposes of paragraph (b) examples of kinds of evidence which may be submitted to establish a site limitation include:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the proposed unit and demonstration why existing facilities cannot be utilized or new facilities constructed;

(iii) General efforts made, and copies of bid requests and advertisements to secure:

(A) Alternative transportation facilities;

(B) Alternative fuel storage facilities;

(C) Waste control and disposal equipment.

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed unit;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific unit;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(viii) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(ix) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed facility;

(x) A description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use.

(5) Compliance plan as required under § 503.12; and

(6) Conservation measures as required under § 503.13.

(7) For powerplants, no alternative power supply as required under § 503.8.

(c) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed five years.

§ 503.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 211(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify a petitioner must demonstrate that despite diligent good faith efforts:

(1) The petitioner will be unable, as of the projected date of commencement of operation, to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or State environmental requirements; and

(2) The petitioner will be able to comply with the applicable prohibitions imposed by the Act and with applicable environmenatal requirements by the end of the temporary exemption period.

Note.—(1) For purposes of considering an exemption under this section, ERA's decision will be based solely on an analysis of the petitioner's capacity to physically achieve applicable environmental requirements. The petition should be directed toward those conditions or circumstances which make it physically impossible to comply during the temporary exemption period. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 503.21.

(2) Prior to submitting an exemption application, it is recommended that a meeting be requested with ERA and EPA or the appropriate State or local regulatory agency to discuss options for operating an alternate fuel fired facility in compliance with applicable environmental requirements.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Where the petitioner has applied for a construction permit from EPA or an appropriate State agency prior to petitioning for an exemption under this section, a copy of that application and detailed synopsis of all supporting documents filed with or subsequent to that application must be submitted to ERA with the petition or at the time filed with the permitting agency.

(2) To the extent applicable, a copy of the EPA or State denial or the construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or State or local permit proceedings;

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(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which would provide the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of its ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels which would provide the basis for exemption. All such analysis must be based on accepted analytical techniques, such as air quality modeling, and reflect current conditions of the area which would be affected by the facility. The petitioner is responsible for obtaining the necessary data to accurately characterize these conditions. Environmental compliance must be examined in the context of available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain: (i) requests for bids and other inquiries made and responses received by the petitioner concerning the availability and performance of pollution control equipment; (ii) contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or (iii) other comparable evidence such as technical studies documenting the effectiveness of equipment to meet applicable requirements.

(6) An examination of the regulatory options available to the petitioner in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances, and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document any efforts to locate, identify, and acquire offsets, including agreements made with the State or other companies for acquisition of offsets. If an agreement to acquire offsets is conditioned upon the grant of a variance, or State Implementation Plan revision, a letter must be submitted from the State agency indicating when a proceeding to effectuate the agreement will take place. The analysis must contain any correspondence initiated or received by the petitioner concerning these regulatory options and all technical studies relied upon.

(7) Any other documentation which demonstrates an inability to comply with applicable environmental requirements.

(8) Compliance plan as required under § 503.12;

(9) Conservation measures as required under § 503.13; and

(10) For powerplants, no alternate power supply as required under § 503.8.

(c) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

§ 503.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 211(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify, a petitioner must certify that:

(1) The petitioner will be able to comply with the applicable prohibitions imposed by the Act by the use of a synthetic fuel derived from coal or another alternate fuel as a primary energy source in the proposed facility by the end of the proposed exemption period; and

(2) The petitioner will not be able to comply with the applicable prohibitions imposed by the Act by use of a synthetic fuel until the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* The following evidence must be included in the petition in order to make the demonstration required by this section:

(1) A duly executed certification that the petitioner is not able to comply with the applicable prohibitions of the Act until the end of the proposed exemption period but will comply by the use of a synthetic fuel derived from coal or another alternate fuel as a primary energy source in the facility by the end of the proposed exemption period;

(2) A description of the synthetic fuel which the petitioner proposes to use;

(3) For powerplants, no alternate powers supply as required under § 503.8;

(4) A preliminary compliance plan, including to the extent available, the information required under § 503.12.

(c) *Final Compliance Plan.* Before an exemption may become effective, the petitioner must submit and ERA must approve a final compliance plan as required by § 503.12.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years, and taking into account extension and renewals, may not exceed 10 years.

§ 503.25 Public interest.

(a) *Policy Note.* (1) Generally, the use of coal and other alternative fuels in lieu of petroleum and natural gas is in the public interest. Under certain circumstances, however, other considerations may be relevant to a determination of the public interest; and to accommodate these considerations, ERA will grant this temporary exemption where the petitioner is unable to comply immediately with the prohibitions of the Act, where the public interest would be better served by the granting of the petition, and where a petitioner will be in compliance with the prohibitions imposed by the Act at the end of the exemption period.

(2) One of the cases where ERA intends to grant this exemption is where the petitioner needs the temporary use of a natural gas or petroleum fuel unit until the on-going construction of an alternate fired unit is completed. However, in determining the appropriate basis on which to grant such an exemption ERA may consider the petitioner's ability to use a mixture.

(b) *Eligibility.* Section 211(c) of the Act provides for a temporary public interest exemption. To qualify, a petitioner must demonstrate that:

(1) The unit will be capable of complying with the applicable prohibitions at the end of the proposed exemption period; and

(2) The granting of the exemption would be in accord with the purposes of the Act and would be in the public interest.

(c) *Evidence required in support of a petition.* The petitioner must include the following in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above;

(2) Compliance plan as required under § 503.12;

(3) Conservation measures as required under § 503.13; and

(4) For powerplants, no alternative power supply as required by § 503.8.

(d) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

Subpart D—Permanent Exemptions for New Facilities

§ 503.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 212 of the Act with regard to permanent exemptions for new facilities.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants and installations who petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for permanent exemptions for new facilities shall be submitted in accordance with the

procedures set out in Part 501 of this chapter and the applicable requirements of Part 503 of these regulations.

§ 503.31 Lack of alternate fuel supply for the first 10 years of useful life.

(a) *Eligibility.* Section 212(a)(1)(A)(i) of the Act provides for a permanent exemption due to lack of an adequate and reliable supply of alternate fuel within the first 10 years of useful life of the proposed unit. To qualify, a petitioner must demonstrate that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the unit; and

(2) Such a supply is not likely to be available within the first 10 years of useful life of the proposed unit.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) A description of the various types of units which were considered in a good faith effort to comply with the applicable prohibitions;

(2) A description of the detailed design requirements the petitioner specified for the proposed unit, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of each of the fuels which can be used by the proposed unit;

(4) Evidence that the petitioner sought to obtain the full range of alternate fuels which could be used by the proposed unit;

(5) Evidence that the petitioner solicited at least five bids from suppliers who could reasonably be expected to supply an adequate and reliable supply of the quality and quantity of alternate fuel needed, including bid requests and/or advertisements for supply contracts and all proposals or responses thereto, as well as any other arrangements attempted to secure supplies. ERA will accept fewer than five bid requests upon submission of reasonable justification;

(6) For powerplants, no alternate power supply as required by § 503.8, powerplants;

(7) Use of mixtures as required by § 503.9;

(8) Use of fluidized bed combustion not feasible as required by § 503.10;

(9) For powerplants, alternative sites as required by § 503.11;

(10) Conservation measures as required by § 503.13;

(11) Petroleum and natural gas consumption as required by § 503.14;

(12) Environmental impact analysis as required by § 503.15; and

(13) Fuel search as required by § 503.16.

§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(a) *Eligibility.* Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify a petitioner must demonstrate that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (Cost Calculation) of these regulations.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) A description of the alternate various types of units considered in a good faith effort to comply with the applicable prohibitions;

(2) A description of the detailed design requirements specified for the proposed unit, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of each of the fuels which can be used by the new facility;

(4) Evidence that the petitioner sought to obtain the full range of alternate fuels which could be used by the proposed unit, including bid requests and/or advertisements for supply contracts, all proposals and responses thereto, as well as any other arrangements attempted to secure supplies;

(5) All data required by § 503.6 of these regulations (Cost Calculation) necessary for computing the cost calculation formula;

(6) For powerplants, no alternate power supply as required by § 503.8;

(7) Use of mixtures as required by § 503.9;

(8) Use of fluidized bed combustion not feasible as required by § 503.10;

(9) For powerplants, alternative sites as required by § 503.11;

(10) Conservation measures as required by § 503.13;

(11) Petroleum and natural gas consumption as required by § 503.14;

(12) Environmental impact analysis as required by § 503.15; and

(13) Fuel search as required by § 503.16.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 600 hours on an annual basis, the petitioner may submit the following information in lieu of the requirements of paragraph (b) of this section. A duly executed certification that:

(1) The unit will be operated less than 600 hours annually;

(2) Use of a mixture of petroleum or natural gas and an alternate fuel for which an exemption would be available is not economically or technically feasible; and

(3) The certifications required by § 503.15(b).

(d) *Terms and conditions*

(1) Standard terms and conditions. By petitioning for an exemption under paragraph (c) of this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(i) The unit will be operated less than 600 hours annually;

(ii) All steam pipes will be insulated and all steam traps properly maintained;

(iii) The quality of any petroleum to be burned in the unit will be the lowest grade available, technically feasible, and capable of being burned consistent with applicable environmental requirements;

(iv) Petitioner shall report annually the hours of use and the fuel consumption in the previous calendar year for the unit;

(v) Petitioner must also comply with any terms or conditions which may be imposed pursuant to the environmental requirements of § 503.15(b).

§ 503.33 Site limitations.

(a) *Eligibility.* Section 212(a)(1)(B) of the Act provides for a permanent exemption due to site limitations. To qualify for such an exemption, a petitioner must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of the proposed facility exists which, despite good faith efforts, cannot reasonably be expected to be overcome within five years after commencement of operations.

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate land or facilities for

(viii) A specific listing of all equipment

(1) Where the petitioner has applied

regulatory options and all technical

recognizing tax credits (flow-through or

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(4) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(5) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(6) Other site limitations exist which would not permit the location or operation of the proposed unit using an alternate fuel.

(b) *Evidence required in support of the petition.* A petitioner must include in the petition the following in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 503.36 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed.

Note.—For the purposes of paragraph (b) of this section, examples of kinds of evidence which may be submitted to establish a site limitation include:

(i) Detailed documentation of impediments, including rights-of-way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the facility and demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed unit;

(iv) A description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use;

(v) General efforts made, and copies of bid requests and advertisements to secure:

(A) Waste control and disposal equipment;

(B) Alternative fuel storage facilities;

(C) Alternative transportation facilities;

(vi) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed facility;

(vii) Detailed scale site plans of the entire facility which include those areas not directly involved with a specific facility;

(viii) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(ix) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation or required ancillary storage or handling equipment;

(x) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(4) For powerplants, no alternative power supply as required under § 503.8;

(5) Use of mixtures as required under § 503.9;

(6) Use of fluidized bed combustion not feasible as required under § 503.10;

(7) For powerplants, alternative sites as required under § 503.11;

(8) Conservation measures as required under § 503.13;

(9) Petroleum and natural gas consumption as required under § 503.14;

(10) Environmental impact analysis as required under § 503.15; and

(11) Fuel search as required under § 503.16.

§ 503.34 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 212(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with applicable environmental requirements. To qualify, a petitioner must demonstrate that despite good faith efforts:

(1) The petitioner will be unable within 5 years after beginning operation, to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or state environmental requirements; and

(2) In the case of powerplants, reasonable alternative sites, which would permit the use of alternate fuels in compliance with applicable Federal or state environmental requirements, are not available.

Note.—(1) For purposes of considering an exemption under this section, ERA's decision will be based solely on an analysis of the petitioner's capacity to physically achieve applicable environmental requirements. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 503.32 (Lack of alternate fuel supply).

(2) Prior to deciding to submit an exemption petition, it is recommended that a petitioner request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternative fuel-fired facility in compliance with the applicable environmental requirements.

(c) *Evidence required in support of a petition.* The petitioner must include in the petition the following evidence in order to make the demonstration required by this section:

(1) Where the petitioner has applied for a construction permit from EPA or an appropriate state agency prior to petitioning for an exemption from ERA under this section, a copy of such application and a detailed synopsis of all supporting documents filed with or subsequent to the application must be submitted to ERA with the petition or at the time filed with the permitting agency;

(2) To the extent applicable, a copy of the EPA or state denial of the construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or state or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which provides the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of its ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels which would provide the basis for the exemption. All such analysis must be based on accepted analytical techniques, such as air quality modeling, and reflect current conditions of the area which would be affected by the facility. The petitioner is responsible for obtaining the necessary data to accurately characterize these conditions. Environmental compliance must be examined in the context of available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain: (i) requests for bids and other inquiries made and responses received by the petitioner concerning the availability and performance of pollution control equipment; or (ii) other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements;

(6) An examination of the regulatory options available to the petitoner in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan (SIP) revisions, as appropriate. The analysis must illustrate and document any efforts to locate, identify, and acquire available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by the petitioner concerning these regulatory options and all technical studies relied upon;

(7) Any other documentation which demonstrates an inability to comply with applicable environmental requirements;

(8) For powerplants, no alternative power supply as required under § 503.8;

(9) Use of mixtures as required under § 503.9;

(10) Use of fluidized bed combustion not feasible as required under § 503.10;

(11) For powerplants, alternative sites as required under § 503.11;

(12) Conservation measures as required under § 503.13;

(13) Petroleum and natural gas consumption as required under § 503.14;

(14) Environmental impact analysis as required under § 503.15; and

(15) Fuels search as required under § 503.16.

§ 503.35 Inability to obtain adequate capital.

(a) *Eligibility.* Section 212(a)(1)(D) of the Act provides for a permanent exemption due to inability to obtain adequate capital. To qualify, a petitioner must demonstrate that:

(1) Despite good faith efforts the petitioner will be unable to comply with the applicable prohibitions imposed by the Act because the additional capital required for an alternate fuel-capable unit beyond that required for the proposed unit cannot be raised, and

(2) In the case of powerplants, this additional capital cannot be raised due to specific restrictions (e.g., covenants on existing bonds) which constrain management's ability to raise debt or equity capital and, in the case of utilities which a total system generating capacity greater than or equal to 2000 megawatts on a parent company basis, such restrictions could not be alleviated by any future action of the public utility commission or any other regulatory authority.

(b) *Evidence required in support of a petition (powerplants).* A petition must include the following information in order to make the demonstration required by this section:

Note.—If the petitioner is part of a firm, the analysis must be at the parent firm level.

(1) In the case of utility systems which have a total system generating capacity larger than or equal to 2000 megawatts, a statement of the applicable regulatory authority's policies on utility capital structure and formation, on the recognition of allowance for funds used during construction (in the utility's net plant) and of construction work in progress (in the utility's rate base), and on the accounting procedure for recognizing tax credits (flow-through or normalized);

(2) Relevant records pertaining to the utility's specific efforts to raise capital (including dividend reinvestment plans), associated with the proposed powerplant;

(3) Five-year history of the utility's capital structure, recognizing specific security issues (including dividend reinvestment plants), their current yields and their investment ratings as applicable. Indicate where a security issued has specific ties to an on-line or scheduled generating unit;

(4) Five-year summary of the utility's financial record as indicated by the statement financial indicators, including cash earnings and dividend records, times-interest coverage ratios, price-earnings ratios, and market-to-book value ratios;

(5) Projected changes in the utility's capital structure and financial indicators in the case where the powerplant consumes alternate fuel and oil or natural gas; and

(6) In the case of utility systems which have a total system generating capacity less than 2000 megawatts on a parent company basis, the evidence required in paragraph (b)(2) through (5) of this section, and the impact of financing an alternate fuel fired facility would have upon rates, as well as any other relevant evidence.

(7) No alternative power supply as required under § 503.8;

(8) Use of mixtures as required under § 503.9;

(9) Use of fluidized bed combustion not feasible as required under § 503.10;

(10) Alternative sites as required under § 503.11;

(11) Conservation measures as required under § 503.13;

(12) Petroleum and natural gas consumption as required under § 503.14;

(13) Environmental impact analysis as required under § 503.15; and

(14) Fuels search as required under § 503.16.

(c) *Evidence required in support of a petition (installations).* A petition must include the following information in order to make the demonstration required by this section:

Note.—If the petitioner is part of a firm, the analysis must be at the parent firm level.

(1) A description of petitioner's efforts to raise the additional capital, including a list of all financial institutions and individuals contacted as well as a summary of the results of each contact. If the inability to raise the additional capital is affected by specific restrictions, describe those restrictions and their effect;

(2) A detailed accounting of the additional capital required to construct and operate the alternate fuel-capable unit;

(3) An estimated accounting on a calendar-year basis of all cash outlays for capital investments and expenses for both the proposed unit and for an alternate fuel-fired unit. All critical assumptions should be stated and sufficient data should be included to support such estimate;

(4) A detailed statement of the sources of funds to be raised to construct and operate the proposed unit;

(5) An analysis of the sources of funds available if the alternate fuel capable unit is constructed and operated;

(6) The firm's annual reports for the past 5 years;

(7) A 5-year summary of the financial records which includes:[1]

(i) Balance sheets;

(ii) Income statements; and

(iii) Fund flow statements;

(8) Standard financial indicators for the past 5 years which include:[2]

(i) Earnings per share of common and preferred stock;

(ii) Return on equity;

(iii) Current ratio and quick ratio;

(iv) Times-interest earned ratio;

(v) Price-earnings ratio for common stock;

(iv) Market-to-book ratio for common stock; and

(vii) Latest Standard & Poor's or Moody's ratings on common stock;

(9) A list of all investments made by the firm (or consolidated corporation) in excess of $1 million during the past 3 years. This list should specify the capital outlays by calendar year and the manner in which the outlay was financed;

(10) Any other relevant financial information that would reflect upon the firm's ability to raise adequate capital to finance an alternate fuel-fired unit;

(11) Use of mixtures as required under § 503.9;

(12) Use of fluidized bed combustion not feasible as required under § 503.10;

(13) Conservation measures as required under § 503.13;

(14) Petroleum and natural gas consumption as required under § 503.14;

(15) Environmental impact analysis as required under § 503.15; and

(16) Fuels search as required under § 503.16.

§ 503.36 State or local requirements.

(a) *Eligibility.* Section 212(b) of the Act provides for an exemption due to

[1] If the information is contained in the firm's annual report, it need not be reported.

[2] If the information is contained in the firm's annual report, it need not be reported.

certain State or local requirements. To

(1) Solar energy will account for at

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certain State or local requirements. To qualify a petitioner must demonstrate that:

(1) With respect to the proposed site of the unit, the operation or construction of the new unit using an alternate fuel is infeasible because of a State or local requirement other than a building code, nuisance, or zoning law;

(2) The petitioner has made a good faith effort to obtain a variance from the State or local requirement but has been unable to do so or has demonstrated why none is available;

(3) The granting of the exemption would be in the public interest and would be consistent with the purposes of the Act; and

(4) In the case of powerplants, (i) the petitioner is not entitled to an exemption for lack of alternate fuel supply, site limitation, environmental requirements, or inability to obtain adequate capital at the site of the proposed powerplant or at any reasonable alternative site for all alternate fuels; and (ii) at the proposed site and every reasonable alternative site where the petitioner is not entitled to an exemption for lack of alternate fuel supply, site limitation, environmental requirements, or inability to obtain adequate capital at the site for all alternate fuels, the petitioner nevertheless would be barred at each such proposed or alternate site from burning an alternate fuel by reason of a State or local requirement.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A copy of the pertinent State or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of the petitioner's attempts to obtain a variance from the requirements or an explanation of why none is available;

(4) A description and dates of any activities the petitioner was involved in pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the State or local requirement is infeasible;

(7) The impact upon the petitioner and/or the local community, if any, should the petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest;

(9) In the case of powerplants, an analysis of why the petitioner cannot qualify for any of the exemptions listed in paragraph (a)(4) of this section for all alternate fuels at the proposed site and at all reasonable alternative sites;

(10) For powerplants, no alternative power supply as required under § 503.8;

(11) Use of mixtures as required under § 503.9;

(12) Use of fluidized bed combustion not feasible as required under § 503.10;

(13) Conservation measures as required under § 503.13;

(14) Petroleum and natural gas consumption as required under § 503.14;

(15) Environmental impact analysis as required under § 503.15; and

(16) Fuels search as required under § 503.16.

(c) *Exercise of discretion by ERA.* ERA will only grant this exemption if it determines that such grant would be in the public interest and in accordance with the purposes of the Act.

§ 503.37 Cogeneration.

. . . . . .

§ 503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 212(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify, a petitioner must demonstrate that:

(1) The petitioner proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source;

(2) The amount of petroleum or natural gas proposed to be used in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources needed to maintain operational reliability of the unit consistent with maintaining a reasonable level of fuel efficiency.

(b) *Minimum Percentage.* In the case of MFBI's, if the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources used by an installation.

(c) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and the percentage and quantity of each component to be utilized;

(2) The design specifications of the unit for which an exemption is requested;

(3) An engineering assessment of the minimum percentages of petroleum or natural gas needed to maintain reliability of operation consistent with a reasonable level of fuel efficiency;

(4) For powerplants, no alternative power supply as required under § 503.8;

(5) Conservation measures as required under § 503.13;

(6) Petroleum and natural gas use as required under § 503.14; and

(7) Environmental impact analysis as required under § 503.15;

(d) *Certification alternative for use of mixture containing less than 25 percent petroleum or natural gas by an installation.* If an installation will use a mixture containing less than 25 percent petroleum or natural gas, the petitioner may, in lieu of the requirements of paragraph (c) of this section substitute the following information:

(1) A duly executed certification stating that the amount of petroleum or natural gas proposed to be used in the mixture will not exceed 25 percent of the total annual Btu heat input of the installation;

(2) The certifications as required under § 503.15(b);

(3) A description of the fuel mixture, component elements, and percentage and quantity of each component to be utilized.

(e) *Terms and conditions.* By petitioning for an exemption pursuant to paragraph (d) of this section, the petitioner accepts, upon grant of the exemption, to the following terms and conditions:

(1) The amount of petroleum or natural gas to be used in the mixture will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the installation;

(2) All steam pipes must be insulated and all steam traps properly maintained; and

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(4) Petitioner must comply with any terms or conditions which may be imposed pursuant to the environmental requirements of § 503.15(b) of these regulations.

(f) *Solar mixtures.* ERA will grant a permanent mixtures exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where:

(1) Solar energy will account for at least 20 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(2) The petitioner proposes an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraphs (c) (1) and (2) of this section; and

(g) *Reporting requirement.* If any exemption is granted, the petitioner must submit a duly executed annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order.

§ 503.39 Emergency purposes.

(a) *Eligibility.* Section 212(e) of the Act provides for a permanent exemption for emergency purposes. To qualify a petitioner must demonstrate he will operate and maintain the proposed unit for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption, an emergency exists when:

(1) Operation of an oil or gas fired installation or the non-electric generating operation of a cogenerating facility is necessary for:

(i) Plant protection;

(ii) The preservation of human health; or

(iii) Continued facility production which otherwise would be reduced due to an interruption of alternate fuel supplies, equipment failures, imminent equipment failures, or temporary environmental restrictions.

(2) An operating electric utility would be required to curtail noninterruptible electric supply to its industrial customers.

(c) *Evidence required in support of a petition.* A petition submitted under this section shall include the following certifications executed by a duly authorized officer of the company:

(1) Operation under the provisions of this exemption will occur only in accordance with the definition of emergency in accordance with paragraph (b) of this section;

(2) Use of a mixture of petroleum or natural gas and an alternate level for which an exemption under § 212(d) of the Act would be available is not economically or technically feasible;

(3) In the case of powerplants, that despite reasonable good faith efforts, there is no supply of electric power as required under § 503.8; and

(4) The certifications as required under § 503.15(b).

(d) *Reporting requirements.* At the end of each 12-month period from the effective date of the exemption, the petitioner must report to ERA the number of days of use and the amount of fuel used under this exemption by month. The petitioner must also describe the emergency conditions that required the operation of the unit.

(e) *Terms and conditions.* By petitioning for an exemption under this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(1) Operation of the facility will occur only when there is an emergency as defined in this section;

(2) All steam pipes must be insulated and all steam traps properly maintained; and

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(4) Petitioner must comply with any terms or conditions which may be imposed pursuant to the environmental requirements of section 503.15(b) of these regulations.

§ 503.40 Permanent exemption for powerplants necessary to maintain reliability of service.

(a) *Eligibility.* Section 212(f) of the Act provides for a permanent exemption necessary to maintain reliability of service. To qualify, a petitioner must demonstrate that:

(1) Petitioner is not able to construct an alternate fuel fired unit in time to prevent an impairment of reliability of service; and

(2) Despite diligent good faith efforts, the petitioner is not able to make the demonstration necessary to obtain a permanent general use exemption in the time required to prevent an impairment of reliability of service.

(b) *Impairment of Reliability of Service.* For purposes of paragraphs (a)(1) and (2) of this section, impairment of reliability of service must be calculated as measured by the loss of load probability technique (LOLP).

(1) The LOLP must be computed for petitioner's electrical region using any 12-month period that includes the date of initial operation. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. The calculation may be performed using either weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer electrical demand, and generating capacity projections for the electrical region, including existing generating capacity, planned generating capacity additions and projected firm bulk electrical purchases and sales, and projected retirements. If necessary, LOLP may also be calculated with modifications to account for transmission constraints, energy shortages and other factors that are not adequately addressed by adhering to the foregoing specifications. A petitioner will need to discuss why such modifications are appropriate.

(2) Reliability of service will be considered impaired if the LOLP for a 12-month period, including the initial operational date of the proposed unit, is greater than:

(i) One day in 5 years if the proposed powerplant will start operating within 4 years from the filing of the petition;

(ii) One day in 3 years if the proposed powerplant will start operating between 4 and 6 years from the filing of the petition; or

(iii) One day in one year if the proposed powerplant will start operating in 6 or more years from the filing of the petition.

Note.—For the purpose of calculation of LOLP, if a capacity deficit occurs one or more times in one day, such an event constitutes a one-day loss of load.

(3) A petitioner may choose to argue that his case for impaired reliability is supportable by criteria other than those contained in this paragraph. If so, such argument must be presented, and an approach proposed for its justification, in a prepetition conference for ERA concurrence.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) All data used in determining the loss of load probability;

(2) An explanation including equations of how the loss of load probability was calculated;

(3) A description of the method used and assumptions for projecting demand for the system and for the electric region;

(4) The strategy planned for ending the period of reliability impairment, describing the measures expected to be taken to reduce demand and/or to increase supply of power from sources other than the proposed plant that are either alternate fuel-fired or qualify for other exemptions;

(5) A calculation of the expected date of termination for the period of impairment. Several alternate termination dates may be specified, each corresponding to a different combination of major events that are beyond the control of the petitioner (such as delays in construction of a new

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plant by a different utility in its electric region);

(6) An explanation of why there is not enough time to construct an alternate fuel-fired plant to prevent impairment of reliability of service or why there is not enough time to obtain one of the exemptions listed in paragraph (a) of this section;

(7) An explanation of why the type and size of the proposed plant is the most appropriate choice, considering the conditions of operation specified in paragraph (d) of this section;

(8) In addition, other relevant evidence may be included such as:

(i) Evidence that the reliability advantages of coordination on an electric region basis cannot be achieved to a sufficient extent to remove the "impairment of reliability" by the first year of operation, reasons for this deficiency, and an estimate of when such coordination could be implemented in the electric region; or

(ii) Evidence that the system has a unique situation that requires the use of different reliability criteria;

(9) No alternative power supply as required under § 503.8;

(10) Use of mixtures as required under § 503.9;

(11) Use of fluidized bed combustion not feasible as required under § 503.10;

(12) Conservation measures as required under § 503.13;

(13) Petroleum and natural gas consumption as required under § 503.14;

(14) Environmental impact analysis as required under § 503.15.

(d) *Terms and conditions.* Under this discretionary permanent exemption, a proposed unit will be permitted to operate only for the purposes of preventing an impairment of reliability of service. The "initial period of impairment" will extend from the date of initial operation of the proposed powerplant until the earliest date when the LOLP can be reduced to less than 1 day in 5 years by means of measures which are either in compliance with the prohibitions in the Act or which have qualified for other exemptions from these prohibitions. ERA, at the time it grants this exemption, will specify the expected termination date of the initial period of impairment. If circumstances beyond the control of the petitioner, which could not reasonably be anticipated at the time the petition was filed, cause the LOLP of the electric region to exceed 1 day in 5 years either at the end of this period or at any subsequent time, the petitioner may continue operation or recommence operation. A report must be made to ERA at the end of each calendar year specifying the amounts of oil and natural gas used under this exemption. Detailed LOLP calculations to support the continuation or recommencement of operation must also be supplied.

(e) *Peakload use.* A petition for a peakload exemption may be submitted in addition to a petition for a reliability exemption for the proposed unit. Eligibility and evidence requirements of each exemption must be satisfied. If granted, separate reporting requirements will be required for each exemption.

§ 503.41 Peakload powerplants.

(a) *Eligibility.* (1) *Proposed use of petroleum.* Section 212(g) of the Act provides for a permanent exemption for peakload powerplants if a petitioner proposes to use petroleum as a primary energy source in a new peakload powerplant, and construct the unit without the capability to use an alternate fuel as a primary energy source. To qualify, a petitioner must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the powerplant.

(2) *Proposed use of natural gas.* Section 212(g) of the Act provides for a permanent exemption for peakload powerplants if a petitioner proposes to use natural gas as a primary energy source in a new peakload powerplant, and to construct the unit without the capability to use an alternate fuel as a primary energy source. To qualify—

(i) A petitioner must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the powerplant; and

(ii) The Administrator of the EPA or the appropriate State air pollution control agency must certify that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) *Combustion turbines.* If the petitioner's proposed peakload powerplant is to be a combustion turbine, the evidence required is:

(i) A duly executed certification that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the life of the plant. The certification must set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload for each 12 months of operation as a peakload powerplant.

(ii) If a petitioner proposes to use natural gas as a primary energy source, an air quality certification must have been prepared for the Secretary by the Administrator of the EPA or the appropriate State air pollution control agency which meets the requirements contained in paragraph (a)(2)(ii) of this section.

(iii) A certification as required under § 503.15(b).

(2) *Other than combustion turbines.* If the proposed peakload powerplant is to be other than a combustion turbine powerplant, the petition must describe what constitutes peakload demand on the petitioner's system, how the peakload demand is to be met, including the projected order of dispatch of existing and proposed powerplants, and an estimate of the number of kilowatt hours that the proposed plant would generate during its first 12 months of operation to meet peakload demand.

(c) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless it is demonstrated that the powerplant is operated to meet peakload demand as provided in Section 721(c) of the Act.

(d) *Reporting requirement.* If the petition is granted, the petitioner must report to ERA, at the end of each 12-month period from the first day of operation of the powerplant, and, if applicable, upon reaching the maximum number of kilowatt hours of permitted generation within each 12-month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation. In addition, whenever a petitioner operates his proposed powerplant in non-specified hours (hours not specified in accordance with paragraph (e) of this section), petitioner shall report the reason(s) for such operation.

(e) *Terms and conditions.* By petitioning for an exemption under paragraph (b)(1) of this section, the petitioner agrees upon grant of the exemption to be bound by the following terms and conditions:

(1) Petitioner shall not produce more kilowatt hours during any 12-month period than the product of the design capacity of the powerplant multiplied by 1500 hours.

(2) The petitioner shall certify as peak load hours those hours of each month in which petitioner's hourly load is expected to exceed 80 percent of the estimated monthly maximum hourly load. For example, 3:00–6:00 p.m. for April, March, October, November; 10:00 a.m.–8:00 p.m. May–September, and 8:00–10:00 a.m. and 4:00–7:00 p.m. December–February.

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

(4) Petitioner must comply with any terms and conditions which may be imposed pursuant to environmental requirements of § 503.15(b) of these regulations.

§ 503.42 Intermediate load powerplants.

(a) *Eligibility.* Section 212(h) of the Act provides for an exemption for use of petroleum as a primary energy source by intermediate load powerplants. To qualify, a petitioner must demonstrate to the satisfaction of ERA all of the following:

(1) The Administrator of the EPA or the appropriate State air pollution control agency has certified that the use of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded as described in paragraph (c) of this section.

(2) The powerplant to be constructed and operated will replace no more than the equivalent generating capacity of existing units which:

(i) Permanently cease operation within one moth of commencement of operation of the new powerplant;

(ii) Use natural gas or petroleum as a primary energy source;

(iii) Are owned by the same person who is to operate the new powerplant; and

(iv) Would, if they burned coal, cause or contribute to a pollutant concentration in a manner described in paragraph (a)(1) of this section.

(3) The powerplant is to be operated only as an intermediate load powerplant in which the electrical generation (in kilowatt hours) for any 12-calendar-month period shall not exceed the powerplant's design capacity multiplied by 3,500 hours.

(4) The net heat input rate for the powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant.

(5) A petitioner is not entitled to any general use exemption under these regulations at the site of the proposed powerplant or at any reasonable alternate site.

(6) The powerplant is to be constructed with the capability to use a synthetic fuel derived from an alternate fuel as a primary energy source.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the determination required by this section:

(1) An air quality certification of this unit prepared by the ERA or State air pollution control agency, meeting the requirements of paragraph (a)(1) of this section, including a listing of all alternative fuels covered by the certification;

(2) A description of the existing powerplants to be replaced by the new intermediate load powerplant which shall include—

(i) The name and location of each of the existing powerplants;

(ii) The volume of fuel consumed by type for the previous 2 years by the existing powerplants; and

(iii) The reasons for claiming that the existing powerplants would cause or contribute to a pollutant concentration if they used coal as a primary energy source;

(3) An affidavit executed by a duly authorized officer of the electric utility which will operate the proposed powerplant certifying that the powerplant shall be operated at all times in the future only as an intermediate load powerplant. The certification shall set forth the design capacity of the proposed powerplant and the maximum allowable generation of the proposed powerplant in kilowatt hours for its first 12 months of operation as an intermediate load powerplant;

(4) An affidavit executed by a duly authorized officer and a qualified engineer of the utility operating the powerplant which certifies that the powerplant will be maintained (operated) at a net heat input rate of 9,500 Btu's per kilowatt hour or less throughout the useful life of the powerplant;

(5) An affidavit executed by a duly authorized officer and a qualified engineer of the operating utility certifying that the powerplant will meet the synthetic fuels capability requirement described in paragraph (a)(6) of this section, identifying the specific synthetic fuels, and agreeing to cease using petroleum when ERA has found that such synthetic fuels are available;

(6) An analysis of the reasons the petitioner cannot qualify for any general use exemption. This analysis should cover all reasonable alternate fuels at the site of the proposed powerplant or at any other reasonable alternate site. In addition, the petitioner must identify the type of plant it could construct and the alternate fuel it could burn for each site examined.

(7) Identification of the synthetic fuel(s) the proposed plant is designed to use, with appropriate documentation including:

(i) The expected source of synthetic fuel, if known;

(ii) The year when the synthetic fuel is expected to be available in adequate quantity at an acceptable price;

(iii) Estimates of the future prices of the synthetic fuel the proposed plant would be designed to use;

(iv) Federal role, if any, in developing the facilities to produce the synthetic fuel;

(v) The special features of the proposed plant that will enable it to use synthetic fuel(s);

(vi) The petitioner's basis for believing that these fuels can be burned in its proposed plant in conformance with applicable Federal and State environmental standards;

(8) No alternate power supply as required under § 503.8;

(9) Use of mixtures as required under § 503.9;

(10) Use of fluidized bed combustion not feasible as required under § 503.10;

(11) Conservation measures as required under § 503.13;

(12) Petroleum and natural gas consumption as required under § 503.14;

(13) Environmental impact analysis as required under § 503.15; and

(14) Fuels search as required under § 503.16.

(c) *Terms and conditions.* ERA, if it grants this exemption, will limit the amount of oil to be used by the proposed powerplant. In general, ERA will require that the granting of this exemption will result in a reduction in oil or natural gas use or a reduction in the rate of increase of oil and natural gas use by the system. The reduction in oil or natural gas use would be achieved by ceasing operation of the applicable existing units and by employing the more efficient proposed unit in their place.

(d) *Reporting requirement.* If the petition is granted, the petitioner must report to ERA, at the end of each 12-month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12-month period, the number of kilowatt

hours of actual operation. The petitioner

(7) Environmental Impact Analysis as

equipment outage. Eligibility and

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hours of actual operation. The petitioner must also report at the same time the amount of petroleum or natural gas used by the unit and the total amount of petroleum or natural gas by all units in petitioner's system.

(e) *Periodic review.* ERA shall, from time to time, review this exemption and the exemption shall terminate when ERA finds that there is available a supply of synthetic fuel suitable for use by the exemption powerplant.

§ 503.43 Scheduled equipment outages for installations.

(a) *Eligibility.* Section 212(j) of the Act provides for a permanent exemption for installations to meet scheduled equipment outages. To qualify a petitioner must demonstrate that:

(1) The petitioner's routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) If scheduled outages and, thereby, projected use of the proposed unit exceeds an average of 28 days per year over a three-year period, the petitioner cannot meet its requirements by burning an alternate fuel; and

(3) The pertinent unit will be used only during those periods when other units are not in operation for reason of scheduled outage.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, a petition must include the following information in order to make the demonstration required by this section:

(1) An explanation of why petitioner's routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) A schedule of operation for the pertinent unit estimating the number of hours per year used and fuel consumed on an annual basis;

(3) A description of the maintenance schedule for all units located at the facility specifically identifying those units at the facility which will be out of service for scheduled maintenance at times when the proposed unit is operating; and

(4) Demonstration that the use of a mixture of petroleum or natural gas and an alternate fuel as required under § 503.9 is not economically or technically feasible.

(5) Conservation measures as required under § 503.13;

(6) Petroleum and natural gas consumption as required under § 503.14;

(7) Environmental Impact Analysis as required under § 503.15.

(8) Fuels search as required under § 503.16.

(c) *Certification alternative for use less than 28 days per year.* If use of the proposed unit is not to exceed an average of 28 days per year over a three-year period, the petitioner may, in lieu of the requirement of paragraph (b) of this section, substitute the following:

(1) A duly executed certification that routine maintenance schedule does not permit, or could not be adjusted to permit continuing production or other activity carried on at a site unless ERA grants this exemption;

(2) That the use of the proposed unit will not exceed an average of 28 days per year over a three-year period; and

(3) That the unit will be used only during those periods when other units are not in operation for reason of scheduled outage in accordance with a schedule of operation submitted simultaneously which contains an estimate of the annual number of days used and fuel consumed.

(4) Use of a mixture of petroleum or natural gas and an alternate fuel is not commercially and technically feasible; and

(5) Certification as required under § 503.15(b).

(d) *Terms and conditions.* By petitioning for an exemption under paragraph (b)(1) of this section, the petitioner agrees, upon grant of the exemption, to the following terms and conditions:

(1) The MFBI will only be operated for use necessary to meet scheduled equipment outages;

(2) Use of the MFBI will not exceed an average of 28 days per year over a three-year period.

(3) All steam pipes must be insulated and all steam traps properly maintained.

(4) The quality of any petroleum to be burned in the installation as a primary energy source will be of the lowest grade available which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(5) Petitioner must comply with any terms and conditions which may be imposed pursuant to environmental requirements of § 503.15(b) of these regulations.

(e) *Reporting requirement.* ERA will rely upon the schedule of operation submitted with the petition as the permanent schedule for exempt use. The petitioner must notify ERA in advance of any changes to this schedule.

(f) *Emergency use.* A petition for an emergency exemption may be submitted in addition to a petition for a scheduled equipment outage. Eligibility and evidence requirements of each exemption must be satisfied. If granted, separate reporting requirements will be required for each exemption.

§ 503.44 Product or process requirements [Reserved].

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

4. Section 505.5 the interim rule (published at 44 FR 28998, May 17, 1979) is revoked, effective June 6, 1980.

5. Section 505.27 (Cogeneration) remains in effect. The Economic Regulatory Administration intends to issue a Notice of Proposed Rulemaking before issuing final regulations implementing the Cogeneration Exemption. Section 505.27 will remain in effect until superseded by a final rule.

6. The remainder of Part 505 is deleted, effective August 5, 1980.

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federal register

Friday
June 6, 1980

Part VI

Department of Agriculture

Forest Service

National Forest System Land; Special Uses

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

National Forest System Land; Special Uses

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking revises the regulations governing authorizations for the occupancy of land and conduct of special use activities on National Forest System land. It does not include those activities covered elsewhere in this Chapter on the disposal of timber, minerals and mineral materials, and livestock grazing.

The provisions for issuing rights-of-way have been expanded and changed. These changes are necessary to implement Title V of the Federal Land Policy and Management Act of 1976 (FLPMA). Procedures for authorizing other kinds of special uses are not significantly changed.

EFFECTIVE DATE: July 7, 1980.

ADDRESS: A copy of these final rules may be obtained from: Chief, USDA, Forest Service (L), P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: S. W. Van Doran or William R. Boring, Foresters, Lands Staff, Forest Service, USDA P.O. Box 2417, Washington, DC 20013, (703/235–8107). The combined Environmental Assessment and Impact Analysis describing the options considered in developing this final rule and impact of implementing each option is available on request.

SUPPLEMENTARY INFORMATION: Proposed rules were published in the **Federal Register** on May 18, 1979. (44 FR 29107) The preamble to the proposed rules described the coordinated effort between the Bureau of Land Management (BLM) and the Forest Service (FS) to develop rules that would be procedurally similar, and also the public participation that was obtained up to that point. The final rules contained herein reflect the additional public and agency comments received following publication of the proposed rules.

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

PUBLIC PARTICIPATION: While 90 days were specified as the period for receiving comments on the proposed rules, all comments were given careful consideration regardless of when they actually were received. There were 27 respondents. Substantive comments are discussed below.

ANALYSIS OF COMMENTS: Many of the changes appearing in these final rules are merely editorial and are not discussed unless they are significant. Nearly all comments were constructive and of great help in drafting the final rules. The Forest Service appreciates having this valuable input. A section-by-section analysis follows.

§ 251.50 Special uses.

One commenter requested that "emergency" be defined. We believe the common dictionary definition is adequate without further elaboration here.

§ 251.51 Definitions.

It was suggested that "easement" be further defined to include the possibility that it could be permanent and that easements, leases, and term permits be compensable if revoked by the Government prior to their normal expiration. Neither the legislative history nor FLPMA provide for permanency in easements. FLPMA limits rights-of-way to "a reasonable term" (Sec. 504(b)). We have revised the definition of "easement" to include compensability. Another commenter wondered if special use "permits" would be necessary in the case of State-Federal cooperative wildlife management areas, for example. These have been authorized by various forms of documents in the past, and we will continue the practice pursuant to existing authorities. Whether or not land use fees are charged will be based on the criteria in § 251.57.

§ 251.52 Delegation of authority.

A commenter stressed use of the A–95 process, State Clearinghouse procedures, and other consultive and public review of proposed authorizing actions. These are covered in § 251.54(f),"Processing Applications."

§ 251.53 Authorities.

A commenter stated that all permit actions proposed should be subject to environmental review procedures and that projects be authorized only when they comply with Federal and State water quality laws and regulations. It is not feasible for us to list all the laws and regulations which surround the authorization and conduct of special uses. The authorized officer is responsible for seeing that any authorization issued conforms with "applicable laws, regulation, and orders" (§ 251.54(f)). These would include water quality requirements.

Several commenters question our authority to require a Forest Service right-of-way authorization for projects also subject to licensing by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act. The Department of Agriculture's Office of the General Counsel has advised that in their opinion, the plain meaning of FLPMA, as well as the legislative history, clearly demonstrates that Congress intended that the Secretary of Agriculture exercise the authority to issue rights-of-way to FERC permittees and licensees for constructing hydroelectric facilities, including primary lines, upon National Forest Systems (NFS) land. This authority has been delegated to the Forest Service.

The authority for the Secretary to issue rights-of-way for electrical systems is specifically provided for in FLPMA's Section 501(a)(4) and governs the application of rights-of-way across NFS land. Section 701 of FLPMA should not be read to thwart the legislative purpose or the plain meaning of the Act. Section 701(g) simply provides that nothing in FLPMA should be construed as limiting or restricting the power and authority of the United States, "except as specifically set forth in this Act * * *." Section 501(a)(4) specifically authorizes both FERC and the Secretary of Agriculture to grant licenses and permits for hydroelectric facilities. The word "also" in Section 501(a)(4) clearly denotes that a licensee or permittee is to comply with FERC as well as USDA regulations.

Prior to the enactment of FLPMA, previous bills and amendments were introduced in Congress and defeated which would have specifically changed the language in Section 501(a) to limit the Secretary of Agriculture's authority to prior statutes in siting systems for generating electrical energy on public lands. The fact that these provisions were omitted from FLPMA, as finally passed, is significant and cannot now be construed as embracing the effect of the language rejected. Discussions on the hearings on H.R. 1377 before the Committee of the Whole House on the State of the Union, 94th Congress, 2d Session 77619 (1976), reveals unequivocally that Congress did intend to expand the authority of the Secretary of Agriculture with respect to siting plants.

Therefore, we will implement this authority as proposed earlier. We will condition these types of rights-of-way to require the meeting of FERC licensing requirements and will cooperate with FERC to assure that project licensing

and our authorizing of the necessary NFS rights-of-way are coordinated and processed in timely fashion.

One commenter said that a right-of-way is generally regarded as a "long narrow strip of land of even width" and with that definition, how could we grant a right-of-way for a large reservoir with an irregular shoreline? We believe that FLMPA's specific inclusion of "reservoirs" in its categorization of rights-of-way (Sec. 501(a) speaks for itself. A comparison of FLPMA Section 501(a) with § 251.53(l) of this part will show that we used FLPMA's wording essentially without change. We did expand § 251.53(l)(4) for clarification. We also added wording that Federal Departments and Agencies would be authorized rights-of-way under FLPMA for oil and gas pipelines since § 251.53(e) is not applicable to Federal government entities.

§ 251.54(a) Preapplication activity.

In response to comments, we changed the reference to cost reimbursement to read "fees, charges, bonding, and security." Another commenter suggested that we include in the regulations more information on the relation between the special use application and land management plans and planning. We believe the pre-application discussions are a better forum for this than formal rulemaking. Land management planning is a continually evolving process. Local Forest Officers will be in the best position to discuss these aspects with potential applicants.

§ 251.54(b) Filing applications.

A ten-day (working days) time limit for acknowledging receipt of an application was suggested. This would seem a reasonable time, but we prefer to establish guides for timeliness through management rather than rulemaking. How fast we can respond depends on the workload, personnel staffing, and funds. All three are often beyond our control. A deluge of applications, emergencies, personnel ceilings, and budget constraints can affect our activities. Rulemaking is not a viable remedy in these cases.

§ 251.54(c) Coordination of application.

Three comments expressed concern over our language making some kinds of authorizations contingent on having other licenses or permits, and the filing of simultaneous applications. We do not intend to create a "chicken and egg" situation. Our intent is to make sure a Forest Service authorization is not considered by anyone to be a substitute for documents required by other laws. It is not feasible to cite them all. We are revising our wording, however, to use the words "will be conditioned to require" such other authorization instead of "contingent" so as not to imply that issuance of a Forest Service authorization would necessarily be held up until the applicant had in hand the other document.

§ 251.54(d) Rights of applicants.

A commenter asked that we amend the sentence to read, "No rights or use privileges *aside from those already conveyed by statute or regulation* are conveyed without written authorization" (added words emphasized). We believe the added words are unnecessary. The intent of the sentence is to make clear that the *filing* of an application does not bestow upon the applicant any rights or use privileges. Any that he might have by operation of law or other regulation are not affected.

§ 251.54(e) Application content.

We have simplified and clarified this section in response to several comments. Information on shareholders (1)(iv) is required by FLPMA and the Mineral Leasing Act. The authorized officer will exercise discretion, however, and will call for such information only when it is determined to be necessary.

§ 251.54(f) Processing applications.

Minor changes were made for clarification purposes. A commenter suggested adding wording that if a public meeting were to be held concerning an application where a concurrent license application had also been filed with the Federal Energy Regulatory Commission, a Commission staff member "shall" attend. The decision on whether to attend or be represented at such meetings is a matter for each interested party to determine. It would not be proper for us to specify attendance.

§ 251.54(g) Special application procedures.

The paragraph regarding non-citizen interests has been changed slightly to reflect "appreciable" interest rather than "any" interest. This change is consistent with BLM's final oil and gas pipelines regulations, 43 CFR 2882.2–1. A commenter pointed out that a foreign holder of even a single share of common stock of an applicant company could cause denial of the application under the previous wording.

§ 251.54(g)(2) Electric transmission lines 66KV or over.

A commenter requested that the threshold voltage for application of the special procedures for electric power transmission lines be raised from 66KV to 115KV. This was addressed in the amendment two years ago (42 FR 59386) to the former § 251.52 of this part when the threshold was raised from 33KV to the present 66KV. If industry practices have changed or other sufficient reasons exist for a further increase, we will be glad to consider it in future rulemaking.

§ 251.54(h) Denial.

In response to several commenters, we have added grounds for denial of applications. These are similar to BLM's proposed rules (44 FR 58118).

§ 251.55 Nature of interest.

A commenter suggested that our right to require common use of the land (e.g. rights-of-way) could work to the economic advantage (or disadvantage) of some of the common users. A case in point is where an initial user incurs all the development costs for a new right-of-way, but common users then come in at a later time and participate in the benefit but not the development cost. We are now providing our authorized officers the authority to require a new common holder to reimburse existing holders a share of development or other costs that in fairness should be shared by benefitting common users.

§ 254.56(a) Terms and conditions, general.

No substantive changes were recommended. Some commenters suggested the language was too broad but we believe having it so will allow better flexibility in tailoring authorizations to fit the actual situation. This should benefit holders as well as assuring proper use of the land.

§ 251.56(b) Duration and renewability.

Duration and renewability are related to the basic statutory authorities for the various kinds of special uses. Our final rules are unchanged from those proposed because in our opinion, they accurately convey the intent of FLPMA and the other authorizing statutes. We should emphasize that FLPMA gives us broader authority than we have had before to issue long-term authorizations where it is appropriate.

§ 251.56(c) Preconstruction approvals.

A commenter suggested adding language to not require Forest Service construction plan approvals in situations where another Federal agency was also involved in the same plan review and approvals, or the facilities are constructed in accordance with established Federal standards such as those covering gas pipelines. The Forest Service cannot abdicate its

responsibility concerning the

to such action will notify and seek the

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Rights-of-Way for Electric Power

responsibility concerning the administration of National Forest System lands but there are opportunities to avoid needless duplication of such things as plan reviews. Through an interagency agreement, for example, the Forest Service may accept the findings of another Federal agency in lieu of its own detailed review. Revision of the rule will not be necessary to continue this policy.

§ 251.56(d) Liability.

Comments on liability centered on strict liability or so-called liability without fault, and were either in complete opposition or suggested lower limits. We believe the rationale for liability without regard to negligence has been adequately addressed in both the Forest Service (44 FR 29112) and the BLM (44 FR 58113) proposed rules. Its use is well established in authorizations such as those under the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185). Such liability will be imposed where special risks or hazards are present. The maximum will be commensurate with the risks or hazards, as determined by the authorized officer. Our proposed language was not clear, however, that a holder is liable only for loss or damage resulting from and in connection with the holder's use and occupancy. We are revising the section to clarify that. Further revisions were also made to add "for any one occurrence" and to specify that where a determination of negligence is necessary the laws would be used of the jurisdiction where the damage or injury occurred. We believe that by using these final rules to guide, specific language can be developed for special use authorizations that will be equitable to both the Government and the holder.

§ 251.56(e) Bonding.

Commenters generally thought too much discretion was allowed the authorized officer. Guidelines for bonding requirements are found in the Forest Service Manual, and will be discussed with potential applicants during pre-application discussions (§ 251.54(a).

§ 251.56(f) Special terms and conditions.

Commenters asked whether the Forest Service intended to regulate the rates charged by public service holders whose rates are already regulated by other governmental agencies. This is not our intent and we have clarified paragraph (1). We have not changed any of the text dealing with electric power transmission facilities except to edit and to delete former wording determined to be in conflict with our definition of easements. These rules have been in effect for many years and deal principally with matters between the holder and the Department of Energy (DOE). DOE has not requested that the rules be modified so we have taken no other action to change them.

§ 251.57 Rental fees.

One commenter questioned the term "sound business management principle" as being too nebulous, but we are hard-pressed to describe it otherwise in more meaningful terms. The commenter also suggested that non-profitability should not preclude the charging of a rental fee, because a non-profit organization could be in direct competition for services provided by a profit-making enterprise. We agree with the commenter. Non-federal applicants or holders would rarely qualify under our rules for free use if the service they provide is in direct competition with, and provided by, a commercial service. The present wording "equitable and in the public interest" would ordinarily rule out free use in such cases. No rule change appears necessary in this regard, although we are adding language that free use will not be allowed when funds derived by the holder through the authorization are used to increase the value of the authorized improvements owned by the holder, or are used to support other activities of the holder. This policy has been in effect for many years.

A few commenters object to annual rental fees for rights-of-way and propose that only a "one-time" charge be made. We cannot do this because Section 504(g) of FLPMA is very specific that, "The holder of a right-of-way *shall pay annually* in advance . . ." (Emphasis added). FLPMA does not allow us to require payment for more than a year in advance when the annual rental is less than $100, and we have provided for that.

Some commenters objected to our having the authority to initiate or adjust rental fees at any time. Each special use authorization usually includes the terms for adjusting fees. We have amended the rule to make it clear that the terms of the authorization will actually govern fee adjustments in a specific case.

§ 251.58 Cost reimbursement.

As mentioned in the preamble to our proposed rules, we are reserving the section on cost reimbursement for later rulemaking.

§ 251.59 Transfer of special use privileges.

A commenter concludes that permanent easements will not be granted, but even so, easements should not require approval for transfer or include provisions that would add new conditions and stipulations over time. Other commenters asked that all special use authorizations be freely transferable by the holders. Similar comments were addressed in the preamble to our proposed rules. To avoid unnecessary redundancy, we refer to our responses in 44 FR 29111–29112. The legislative history related to these matters provided our direction, as well as FLPMA itself.

§ 251.60 Termination and suspension.

A commenter suggested we add "or with the concurrence of the permit holder" as another reason for terminating permits (b). This is not necessary because (a)(3) covers it. Another suggestion was to require concurrence of a federal agency served by a holder's right-of-way prior to termination of the authorization. We have modified the suggested change to state that advance notice will be given the Federal agency in such cases. Another comment was that we provide a period of not less than one year to cure any noncompliance. We believe a "reasonable" period is better. One year might be far too long if serious consequences were resulting from the noncompliance. A suggestion was made to not require the removal of underground structures in the event of termination. We believe this should be evaluated on a case-by-case basis and our final rule does make provision for exceptions when appropriate. A commenter asked that "restore" be defined to include vegetative cover to enhance wildlife habitat and to minimize erosion and stream siltation, and that recommendations of State fish and wildlife agencies should be followed. We agree that these things are desirable, but they may not be appropriate in every circumstance. we belive the common dictionary definition of "restore" is all-inclusive, however, and will permit the latitude to require what is needed. Another commenter recommended that we amend (d) to require a *joint* on-the-ground review with another Federal agency if that agency has also issued a license or other authorization for the activity, and that we not take action to suspend, modify, terminate, etc., without the concurrence of that agency. Regulations for these matters are not deemed necessary. The Forest Service must retain its final decisionmaking responsibility, but prior to such action will notify and seek the concurrence of other agencies that may be involved. Policy and direction to authorized officers regarding special use authorizations are found in the Forest Service Manual, Title 2700.

§ 251.61 Modification.

In response to a commenter's suggestion, we added a paragraph clarifying that the findings or recommendations of other agencies will be considered.

§ 251.63 Reciprocity.

This section has been added to incorporate our existing authority for reciprocal road rights-of-way (§ 212.10) and to extend the principle to all kinds of rights-of-way.

§ 251.64 Renewals.

This section has been added to clarify the requirements for renewal of special use authorizations. Two situations exist on renewals. If the authorization provides for renewal, it *will* be renewed subject to certain conditions. If the authorization did not provide for renewal, then renewal is discretionary with the authorized officer.

Redesignation of Sections

In addition to amending the text, the sections in Part 251 have been reorganized.

The following table shows the relationship of the regulations before and after the redesignation.

Prior designation, Subject and Moved to	
251.1(a) and (d)	Special uses; 251.50
251.1(b)(1)	Delegations; 251.52
251.1(b)(2)	Terms; 251.56
251.1(b)(3)	Termination; 251.60
251.1(b)(4)	Transfer; 251.59
251.1(b)(5)	Reasonable rates; 251.56(f)(i)
251.1(c)	Other authorizations; 251.53
251.2	Free use; 251.57(b)
251.3	Charges; 251.57
251.6	Exchange of use; Deleted, now unnecessary, conflicts with Title IV FLPMA
251.7	Alaskan home and industrial sites; Deleted, made ineffective by the National Forest Management Act of 1976 and Pub. L. 95–174.
251.8	Community improvements; Deleted, this now falls under Title V FLPMA.
251.50–56	Act of March 4, 1911, Procedures; Replaced by Title V FLPMA.

In light of the foregoing, 36 CFR Part 251—Land Uses is amended as follows:

1. By revising the table of contents to read:

PART 251—LAND USES

Common Mineral Materials

Sec.
251.4 Disposal of materials.
251.4a Use and disposal of materials in acquired and related lands.

Natural Resources Control.

251.9 Management of municipal watersheds.
251.10 Prohibition of location of mining claims within certain areas in the Custer State Park Game Sanctuary, South Dakota.
251.11 Governing mining locations under the mining laws of the United States within that portion of the Harney National Forest, State of South Dakota, designated as the Custer State Park Game Sanctuary.
251.14 Conditions, rules, and regulations to govern exercise of timber rights reserved in conveyances to the United States.
251.15 Conditions, rules, and regulations to govern exercise of mineral rights reserved in conveyances to the Untied States.

Rights of Grantors

251.17 Grantor's right to occupy and use lands conveyed to the United States.
251.18 Rights-of-way reserved by the grantor on lands conveyed to the United States.
251.19 Exercise of water rights reserved by the grantor of lands conveyed to the United States.

Designation of Areas

251.23 Experimental areas and research natural areas.

Petersburg Watershed

251.35 Petersburg Watershed.

Special Uses

251.50 Special uses.
251.51 Definitions.
251.52 Delegation of authority.
251.53 Authorities.
251.54 Special use applications
251.55 Nature of interest.
251.56 Terms and conditions.
251.57 Rental fees.
251.58 Cost reimbursement. [Reserved]
251.59 Transfer of special use privileges.
251.60 Termination, revocation, and suspension.
251.61 Modifications.
251.62 Acceptance.
251.63 Reciprocity.
251.64 Renewals.

Authority: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472), 90 Stat. 2776 (43 U.S.C. 1761–1771), unless otherwise noted.

Special Use Permits (Heading Changed to Common Mineral Materials)

§§ 251.1–251.3 and 251.6–251.8 [Revoked]

2. By changing the heading of the first subpart from Special Use Permits to Common Mineral Materials and by revoking §§ 251.1 through 251.3 and 251.6 through 251.8.

Rights-of-Way for Electric Power Transmission Lines (Heading Changed to Special Uses)

3. By changing the heading of the last subpart from Rights-of-way for Electric Power Transmission Lines to Special Uses and by revising the subpart to read as follows:

Special Uses

§ 251.50 Special uses.

(a) All uses of National Forest System land, improvements and resources, except those provided for in the regulations governing the disposal of timber (§ 223), minerals, and mineral materials (§ 252), and the grazing of livestock (§ 222), are designated "special uses," and must be authorized by an authorized officer.

(b) Nothing in this section prohibits the temporary occupancy of National Forest System land for the protection of life or property in emergencies, if a special use authorization for such use is obtained at the earliest opportunity.

(c) The noncommercial temporary use or occupancy of National Forest System land or facilities by individuals for camping, picnicking, hiking, fishing, hunting, riding, boating, parking of vehicles and similar purposes is allowed without a special use authorization if the prescribed fee is paid for use or occupancy of sites having an established schedule of fees. A special use authorization may be required for such use or occupancy when, in the judgment of the Chief, the public interest or the protection of the land requires it.

(d) Use of existing forest development roads and trails is allowed without a special use authorization subject to compliance with all Federal and State laws governing the roads or trails to be used.

§ 251.51 Definitions.

(a) "Applicant"—any individual, partnership, corporation, association, or other business entity, and any Federal, State or governmental entity or agency which applies for a special use authorization.

(b) "Authorized officer"—any employee of the Forest Service to whom has been delegated the authority to perform the duties described in this part.

(c) "Chief"—the Chief of the Forest Service.

(d) "Easement"—a special use authorization for a right-of-way that conveys a conditioned interest in National Forest System land, and is compensable according to its terms.

(e) "Holder"—any applicant who has received a special use authorization.

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(f) "Lease"—a special use authorization which conveys a right of occupancy and use of National Forest System land or facility for a specified period and purpose, and is both revocable and compensable according to its terms.

(g) "National Forest System land"—all lands, waters, or interests therein administered by the Forest Service.

(h) "Permit"—a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land or facilities for specified purposes, and which is both revocable and terminable.

(i) "Right-of-way"—land authorized to be used or occupied for the construction, operation, maintenance and termination of a project or facility passing over, upon, under or through such land.

(j) "Secretary"—the Secretary of Agriculture.

(k) "Special use authorization"—a permit, term permit, lease, or easement which allows occupancy, use, rights, or privileges of National Forest System land.

(l) "Term Permit"—a special use authorization to occupy and use National Forest System land, other than rights-of-way under § 251.53(l) of this part, for a specified period which is both revocable and compensable according to its terms.

§ 251.52 Delegation of authority.

Special use authorizations shall be issued, granted, amended, renewed, suspended, terminated, or revoked by the Chief, or through delegation, by the Regional Forester, Forest Supervisor, District Ranger or other forest officer, and shall be in such form and contain such terms, stipulations, conditions, and agreements as may be required by the regulations of the Secretary and the instructions of the Chief (7 CFR Part 2.60; 36 CFR Part 200, Subpart B).

§ 251.53 Authorities.

Special use authorizations may be issued for:

(a) Permits governing occupancy and use under the Act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

(b) Leases under the Act of February 28, 1899, 30 Stat. 908 (16 U.S.C. 495) for public sanitariums or hotels near or adjacent to mineral springs;

(c) Permits under the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431, et seq.), for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity in conformity with the rules and regulations prescribed by the Secretaries of the Interior, Agriculture, and War, December 28, 1906 (43 CFR Part 3);

(d) Term permits under the Act of March 4, 1915, 38 Stat. 1101, as amended, 70 Stat. 708 (16 U.S.C. 497) for periods not over 30 years and (1) for not over 80 acres for (a) hotels, resorts, and other structures and facilities for recreation, public convenience, or safety; (b) industrial or commercial purposes, and (c) education or public activities; and (2) for not over 5 acres for summer homes and stores;

(e) Easements for rights-of-way for pipeline purposes for the transportation of oil and gas and products thereof where no Federal land other than National Forest System land is required, and permits for the temporary use of additional National Forest System land necessary for construction, operation, maintenance or termination of a pipeline or to protect the natural environment or the public safety under Section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, (30 U.S.C. 185);

(f) Permits, term permits, and easements in the National Grasslands and other lands acquired or administered under Title III, Act of July 22, 1937, 50 Stat. 525, as amended, (7 U.S.C. 1011(d));

(g) Permits under Section 7 of the Act of April 24, 1950, 64 Stat. 84 (16 U.S.C. 580d) for periods not over 30 years for the use of structures or improvements under the administrative control of the Forest Service and land used in connection therewith;

(h) Permits, term permits, leases, or easements as authorized by the Act of September 3, 1954, 68 Stat. 1146 (43 U.S.C. 931c, 931d), to States, counties, cities, towns, townships, municipal corporations, or other public agencies for periods not over 30 years, at prices representing the fair market value, fixed by the Chief, through appraisal for the purpose of constructing and maintaining on such lands public buildings or other public works;

(i) Permits under the Wilderness Act of September 3, 1964, 78 Stat. 890 (16 U.S.C. 1131–36) for temporary structures and commercial services and for access to valid mining claims or other valid occupancies and to surrounded State or private land within designated wilderness (see § 293 of this chapter);

(j) Temporary or permanent easements under the Act of October 13, 1964, 78 Stat. 1089 (16 U.S.C. 532–538) for road rights-of-way over lands and interests in land administered by the Forest Service (see § 212.10 of this chapter);

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 86 Stat. 459, as amended, (16 U.S.C. 460 1–6a(c)), for group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses;

(l) Permits, leases and easements under the Federal Land Policy and Management Act of 1976, 90 Stat. 2776 (43 U.S.C. 1761–71) for rights-of-way for:

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) Systems and related facilities for generation, transmission, and distribution of electric energy, except that the applicant, in addition to obtaining a Forest Service special use authorization, shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, as amended, 49 Stat. 838 (16 U.S.C. 791a, et seq.);

(5) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals and other means of communication;

(6) Roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities;

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through National Forest System lands; and

(8) Any Federal department or agency for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any product produced therefrom;

(m) Permits under the Archaeological Resources Protection Act of 1979, 93 Stat. 721 (16 U.S.C. 470aa).

§ 251.54 Special use applications.

(a) *Preapplication activity.* When occupancy and/or use of National Forest System land is desired, a proponent is encouraged to contact the

Forest Service office(s) responsible for management of the affected land as early as possible so potential constraints may be identified, the proposal can be considered in land management plans, and processing of an application can be tentatively scheduled. The proponent will be given guidance and information about: (1) possible land use conflicts as identified by review of land management plans, landownership records, and other readily available information sources; (2) application procedures and probable time requirements; (3) applicant qualifications; (4) fees, charges, bonding and security requirements; (5) necessary associated clearances, permits, and licenses; (6) environmental and management considerations; (7) special conditions; and (8) identification of on-the-ground investigations which will require temporary use permits. If requested by the proponent, the Forest Service officer will, to the extent reasonable and authorized by law, not disclose project and program information revealed during preapplication contacts.

(b) *Filing applications.* Applications for special uses will be filed with the District Ranger or Forest Supervisor having jurisdiction over the affected land (§ 200.2 of this chapter) except:

(1) Applications for projects on lands under the jurisdiction of two or more administrative units of the Forest Service may be filed at the most convenient Forest Service office having jurisdiction over part of the project and the applicant will be notified where subsequent communications should be directed;

(2) Applications for cost-share and other road easements to be issued under § 251.53(j) will be filed in accordance with regulations in § 212.10 (c) and (d) of this chapter; and

(3) Applications for oil and gas pipeline rights-of-way crossing Federal lands under the jurisdiction of two or more Federal agencies shall be filed with the State Office, Bureau of Land Management, pursuant to regulations in 43 CFR 2882.

(c) *Coordination of applications.* Authorizations for use of National Forest System land may be conditioned to require State, county, or other Federal agency license, permit, certificate or other approval document, such as Federal Communication Commission license, Federal Energy Regulatory Commission license, State water right, or county building permit. Applicants filing applications with such agencies for a project, will simultaneously file an application with the Forest Service under this section. To minimize duplication, pertinent information from the application made to the other agency can be attached and referred to in the Forest Service application.

(d) *Rights of applicants.* No rights or use privileges are conveyed without a special use authorization.

(e) *Application content.* As a minimum, applications shall include the information contained in paragraphs (e)(1) through (5) of this section.

(1) *Applicant identification.* Identification of the applicant shall be sufficient that the Government will know the true identity of the entity and/or individuals applying. The authorized officer shall give due deference to the findings of another agency such as a public utility commission, the Federal Energy Regulatory Commission, or the Interstate Commerce Commission, in lieu of another detailed finding. If this information is already on file with the Forest Service, it need not be refiled if reference is made to the previous filing date, place and case number. The applicant's name and address is required and, if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application. If called for by the authorized officer, an applicant in one of the following categories shall also furnish the additional information listed:

(i) A State and local government agency: a copy of the authorization under which the application is made;

(ii) A public corporation: the statute or other authority under which it was organized;

(iii) A Federal government agency: the title of the agency official delegated the authority to file the application;

(iv) A private corporation: (A) evidence of incorporation and its current good standing; (B) if reasonably obtainable by the applicant, the name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; (C) the name and address of each affiliate of the entity; (D) in the case of an affiliate which is controlled by the entity, the number of shares and the percentage of any class of voting stock of the affiliate that the entity owns either directly or indirectly; or (E) in the case of an affiliate which controls that entity, the number of shares and the percentage of any class or voting stock of that entity owned, either directly or indirectly, by the affiliate; or

(v) A partnership, association or other unincorporated entity: a certified copy of the partnership agreement or other similar document, if any, creating the entity, or a certificate of good standing under the laws of the State.

(2) *Technical and financial capability.* Sufficient evidence will be required to satisfy the authorized officer that the applicant has, or prior to commencement of construction will have, the technical and financial capability to construct, operate, maintain, and terminate the project for which authorization is requested, and is otherwise acceptable.

(3) *Project description.* A project description, including map(s), shall be required in sufficient detail to enable the authorized officer to determine: the feasibility of the project or activity proposed, its impacts on the environment, any benefits provided to the public, the safety of the proposal, the lands to be occupied or used, the terms and conditions to be included, and whether the proposal will comply with applicable laws, regulations and orders.

(4) *Environmental protection plan.* The applicant's proposed measures and plans for the protection and rehabilitation of the environment during construction, operation, maintenance, and termination of the project shall be required.

(5) *Additional information.* The authorized officer may require any other information and data necessary to determine feasibility of the project or activity proposed; impacts on the environment; compliance with applicable laws, regulations, and orders; compliance with requirements for associated clearances, certificates, permits, or licenses; and suitable terms and conditions to be included in the authorization. Requests for additional information if needed will be in writing

(f) *Processing applications.* The authorized officer will acknowledge receipt of the application in writing.

(1) The authorized officer will assess the applicant's qualifications; complete an environmental analysis, assessment and/or an environmental impact statement under the National Environmental Policy Act of 1969; determine compliance with other applicable laws, regulations and orders; consult with other agencies, local officials, or interested parties and hold public meetings upon reasonable notice when sufficient interest exists to warrant the time and expense; and take any other action necessary to fully evaluate and make a decision to approve or deny the application and to prescribe suitable terms and conditions.

(2) Federal, State, and local government agencies and the public will be given adequate notice and an

opportunity to comment upon special use proposals in accordance with Forest

Department of Energy covering costs and other appropriate factors.

(e) The holder will secure permission

conditions at specified intervals to

the resources on the Federal lands in the

officer may call upon the holder to

opportunity to comment upon special use proposals in accordance with Forest Service practices established under the National Environmental Policy Act, OMB Circular A-95, and/or other pertinent direction.

(g) *Special application procedures.* (1) Oil and gas pipeline rights-of-way. These will include the citizenship of the applicant(s) and disclose the identity of its participants as follows:

(i) Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of the United States, shall not own an appreciable interest in any oil and gas pipeline right-of-way or associated permit; and

(ii) The authorized officer shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources promptly upon receipt of an application for a right-of-way for a pipeline twenty-four (24) inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty (60) days (not counting days on which the House of Representatives or the Senate has adjourned for more than three (3) days) after a notice of intention to grant the right-of-way, together with the authorized officer's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

(2) *Electric power transmission lines 66 KV or over.* Each application for authority to construct and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this section shall be referred to the Secretary of Energy to determine the relationship of the proposed facility to the power-marketing program of the United States. Where the proposed facility will not conflict with the program of the United States, the authorized officer, upon notification to that effect, will proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the facility in order to eliminate conflicts with the power-marketing program of the United States, the authorized officer shall obtain from the applicant written consent to or compliance with such requirements. If increased costs to the applicant will result from changes to eliminate conflicts with the power-marketing program of the United States, and it is determined that a right-of-way authorization should be issued, such changes will be required upon equitable contract arrangements with the Department of Energy covering costs and other appropriate factors.

(h) *Denial.* An application may be denied if the authorized officer determines that:

(1) The proposed use would be inconsistent or incompatible with the purpose(s) for which the lands are managed, or with other uses; or

(2) The proposed use would not be in the public interest; or

(3) The applicant is not qualified; or

(4) The use would otherwise be inconsistent with applicable Federal and State laws; or

(5) The applicant does not or cannot demonstrate technical or financial capacity.

§ 251.55 Nature of interest.

(a) A holder is authorized only to occupy such land and structures and conduct such activities as is specified in the special use authorization. The holder may sublet the use and occupancy of the premises and improvements authorized only with the prior written approval of the authorized officer, but the holder shall continue to be responsible for compliance with all conditions of the special use authorization.

(b) All rights not expressly granted are retained by the United States, including but not limited to (1) continuing rights of access to all National Forest System land (including the subsurface and air space); (2) a continuing right of physical entry to any part of the authorized facilities for inspection, monitoring, or for any other purposes or reason consistent with any right or obligation of the United States under any law or regulation; and (3) the right to require common use of the land or to authorize the use by others in any way not inconsistent with a holder's existing rights and privileges after consultation with all parties and agencies involved. When costs can be feasibly allocated and have not been amortized, a new holder may be required to compensate existing holders for an equitable proportion of the original costs or other expense associated with the common use.

(c) Special use authorizations are subject to all outstanding valid rights.

(d) Each special use authorization will specify the lands to be used or occupied which shall be limited to that which the authorized officer determines: (1) will be occupied by the facilities authorized; (2) to be necessary for the construction, operation, maintenance, and full utilization of the authorized facilities or the conduct of authorized activities; and, (3) to be necessary to protect the public health and safety and the environment.

(e) The holder will secure permission under applicable law, and pay in advance, the value as determined by the authorized officer for any mineral and vegetative materials (including timber) to be cut, removed, used, or destroyed by the holder from the authorized use area or other National Forest System land. The authorized officer may, in lieu of requiring an advance payment, require the holder to stockpile or stack the material at designated locations for later disposal by the Untied States.

§ 251.56 Terms and conditions.

(a) *General.* Each special use authorization shall contain: (1) terms and conditions which will (i) carry out the purposes of applicable statutes and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and othewise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or state law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance if those standards are more stringent than applicable Federal standards; and (2) such terms and conditions as the authorized officer deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands subject to the use or adjacent thereto; (iii) protect other lawful users of the lands adjacent to or occupied by such use; (iv) protect lives and property; (v) protect the interests of individuals living in the general area of the use who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (vi) require siting to cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vii) otherwise protect the public interest.

(b) *Duration and renewability.* If appropriate, each special use authorization will specify its duration and renewability. The duration shall be limited to a term which the authorized officer determines to be no longer than is necessary to accomplish the purpose of the authorization and is reasonable in light of all circumstances concerning the use, including (1) land management and other plans; (2) public benefits provided; (3) cost and life of the authorized facilities; (4) project financial arrangements; and (5) the life of associated facilities, licenses, etc. Authorizations exceeding 30 years will provide for revision of terms and

conditions at specified intervals to reflect changing times and conditions.

(c) *Preconstruction approvals.* Forest Service approval of location, design and plans (or standards, if appropriate) of all developments within the authorized area will be required prior to construction.

(d) *Liability.* Holders shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with existing Federal and State laws.

(1) Holders shall also indemnify the United States for any and all injury, loss, or damage, including fire suppression costs, the United States may suffer as a result of claims, demands, losses, or judgments caused by the holder's use or occupancy.

(2) Holders of rights-of-way for high risk use and occupancy, such as, but not limited, to powerlines, and oil and gas pipelines, shall be held liable for all injury, loss, or damage, including fire suppression costs, caused by the holder's use or occupancy without regard to the holder's negligence, provided that the maximum liability shall be specified in the special use authorization, but shall not exceed $1,000,000 for any one occurrence. Liability for injury, loss or damage, including fire suppression costs, in excess of the specified maximum shall be determined by the laws governing ordinary negligence of the jurisdiction in which the damage or injury occurred.

(e) *Bonding.* The authorized officer may require the holder of a special use authorization to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or by any applicable law, regulation, or order.

(f) *Special terms and conditions.* (1) *Public service enterprises.* Special use permits authorizing the operation of public service enterprises shall require that the permittee charge reasonable rates and furnish such services as may be necessary in the public interest, except where such rates and services are regulated by Federal, State or municipal agencies having jurisdiction.

(2) *Common carriers.* Oil and gas pipelines and related facilities authorized under section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended (30 U.S.C. 185), shall be constructed, operated and maintained as common carriers. The owners or operators of pipelines shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or nonfederal lands. In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported, or purchased. The common carrier provisions of this section shall not apply to any natural gas pipeline operated (i) by any person subject to regulation under the Natural Gas Act, 52 Stat. 821, as amended, (15 U.S.C. 717) or (ii) by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(3) *Electric power transmission facilities 66 kilovolts or more.* (i) Unless waived on the advice of the power-marketing administration, an applicant for a right-of-way for an electric power transmission facility having a voltage of 66 kilovolts or more must execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the conditions listed below.

(ii) The Department of Energy—(hereinafter referred to as the "DOE") shall be allowed to utilize for the transmission of electric power and energy any surplus capacity of the transmission facility in excess of the capacity needed by the holder for the transmission of electric power and energy in connection with the holder's operations, or to increase the capacity of the transmission facility at the DOE's expense and to utilize the increased capacity for the transmission of electric power and energy. Utilization by the DOE of surplus or increased capacity shall be subject to the following terms and conditions:

(A) When the DOE desires to utilize surplus capacity thought to exist in the transmission facility, notification will be given to the holder and the holder shall furnish the authorized officer and the DOE within 30 days a certificate stating whether the transmission facility has any surplus capacity not needed by the holder for the transmission of electric power and energy in connection with the holder's operations and, if so, the amount of such surplus capacity.

(B) Where the certificate indicates that there is no surplus capacity or that the surplus capacity is less than that required by the DOE, the authorized officer may call upon the holder to furnish additional information upon which its certification is based. Upon receipt of such additional information, the authorized officer and the DOE shall determine, as a matter of fact, if surplus capacity is available and, if so, the amount of such surplus capacity.

(C) In order to utilize any surplus capacity determined to be available, or any increased capacity provided by the DOE at its own expense, the DOE may interconnect its transmission facilities with the holder's transmission facility in a manner conforming to approved standards of practice for the interconnection of transmission circuits.

(D) The expense of the interconnection will be borne by the DOE, and the DOE will at all times provide and maintain adequate protective equipment to insure the normal and efficient operation of the holder's transmission facilities.

(E) After any interconnection is completed, the holder shall operate and maintain its transmission facilities in good condition, and, except in emergencies, shall maintain in a closed position all connections under the holder's control necessary to the transmission of the DOE's power and energy over the holder's transmission facilities. The parties may, by mutual consent, open any switch where necessary or desirable for maintenance, repair or construction.

(F) The transmission of electric power and energy by the DOE over the holder's transmission facilities will be effected in such manner as will not interfere unreasonably with the holder's use of the transmission facilities in accordance with the holder's normal operating standards, except that the DOE shall have the exclusive right to utilize any increased capacity of the transmission facility which has been provided at the DOE's expense.

(G) The holder will not be obligated to allow the transmission of electric power and energy by the DOE to any person receiving service from the holder on the date of the filing of the application for a grant, other than statutory preference customers including agencies of the Federal Government.

(H) The DOE will pay to the holder an equitable share of the total monthly cost of that part of the holder's transmission facilities utilized by the DOE. The payment will be an amount in dollars representing the same proportion of the total monthly cost of such part of the transmission facilities as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the DOE over the holder's transmission facilities bears to the total capacity in

kilowatts of that portion of the

or in part, may be required when the

shall consider among other things, the

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kilowatts of that portion of the transmission facilities. The total monthly cost will be determined in accordance with the system of accounts prescribed by the Federal Energy Regulatory Commission, exclusive of any investment by the DOE in the part of the transmission facilities utilized by the Department.

(I) If a certification under (A) or a determination under (B) has been made, and the holder later has a need for part or all of the surplus capacity, the holder may apply to the authorized officer for its modification or revocation. The application shall be made not less than 36 months in advance of the holder's need for the surplus capacity. Any modification or revocation of the certification or determination shall not affect the right of the DOE to utilize facilities provided at its expense or available under a contract made as provided for in this paragraph.

(J) If the DOE and the holder disagree as to the existence or amount of surplus capacity in carrying out the terms and conditions of this paragraph, the disagreement shall be decided by a board of three persons composed as follows: The holder and the authorized officer shall each appoint a member of the board and the two members shall appoint a third member. If the members appointed by the holder and the authorized officer are unable to agree on the designation of the third member, he shall be designated by the Chief Judge of the United States Court of Appeals of the circuit in which the major share of the facilities involved is located. The board shall determine the issue. Its determination, by majority vote, shall be binding on the DOE and the holder.

(K) As used in this section, the term "transmission facility" includes (*1*) all types of facilities for the transmission of electric power and energy and facilities for the interconnection of such facilities and, (*2*) the entire transmission line and associated facilities, from substation or interconnection point to substation or interconnection point, of which the segment crossing the lands of the United States forms a part.

(L) The foregoing terms and conditions prescribed in (A) through (K) may be modified at any time by mutual agreement between the holder, the Secretary of Energy or his designee, and the authorized officer.

§ 251.57 Rental fees.

(a) Special use authorizations, except as otherwise provided in this part or when specifically authorized by the Secretary of Agriculture, shall require the payment in advance of an annual rental fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles. When the annual fee is less than $100, an advance lump-sum payment for up to five years may be required.

(b) All or part of the fee may be waived by the authorized officer, when equitable and in the public interest, for the use and occupancy of National Forest System land in the following circumstances:

(1) The holder is a State or local government or any agency or instrumentality thereof, excluding municipal utilities and cooperatives whose principal source of revenue from the authorized use is customer charges; or

(2) The holder is a nonprofit association or nonprofit corporation, which is not controlled or owned by profit-making corporations or business enterprises, and which is engaged in public or semi-public activity to further public health, safety, or welfare, except that free use will not be authorized when funds derived by the holder through the authorization are used to increase the value of the authorized improvements owned by the holder, or are used to support other activities of the holder; or

(3) The holder provides without charge, or at reduced charge, a valuable benefit to the public or to the programs of the Secretary; or

(4) When the rental fee is included in the fees for an authorized use or occupancy for which the United States is already receiving compensation; or

(5) When a right-of-way is authorized in reciprocation for a right-of-way conveyed to the United States; or

(6) For rights-of-way involving cost-share roads or reciprocal right-of-way agreements.

(c) No rental fee will be charged when the holder is the Federal government.

(d) Special use authorizations issued under § 251.53(g) of this part may require as all or a part of the consideration the reconditioning and maintenance of the government-owned or controlled structures, improvements, and land to a satisfactory standard. The total consideration will be based upon the fair market value of the rights and privileges authorized.

(e) Special use authorizations involving government-owned or controlled buildings, structures, or other improvements which require caretakers' services, or the furnishing of special services such as water, electric lights, and clean-up, may require the payment of an additional fee or charge to cover the cost of such services.

(f) Except where specified otherwise by terms of a special use authorization, rental fees may be initiated or adjusted whenever necessary: (1) as a result of fee review, reappraisal; or (2) upon a change in the holder's qualifications under paragraph (b) of this section; and (3) notice is given prior to initiating or adjusting rental fees.

§ 251.58 Cost reimbursement. [Reserved]

§ 251.59 Transfer of special use privileges.

Except for easements issued under authorities other than § 251.53 (e) and (*l*) of this part, a special use authorization may be transferred upon application and the approval of the authorized officer. The transferee must qualify and agree to comply with and be bound by the terms and conditions of the authorization and such new conditions and stipulations as existing or prospective circumstances may warrant. If the holder, through death, voluntary sale, transfer, or through enforcement of a valid legal proceeding or operation of law, shall cease to be the owner of the authorized physical improvements, the authorization shall be subject to termination.

§ 251.60 Termination, revocation, and suspension.

(a) The authorized officer may suspend, revoke, or terminate any special use authorization except an easement issued pursuant to § 251.53 (e) and (*l*): (1) for noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, a fixed or agreed upon condition, event, or time occurs.

(b) A permit may be suspended, revoked, or terminated, in the discretion of the authorized officer, for reasons in the public interest.

(c) A right-of-way authorization granted to another Federal agency will be limited, suspended, revoked, or terminated only with that agency's concurrence.

(d) A right-of-way authorization serving another Federal agency will be limited, suspended, revoked, or terminated only after advance notice to, and consultation with, that agency.

(e) Prior to suspension, revocation, or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to cure any noncompliance.

(f) Immediate temporary suspension of a special use authorization, in whole or in part, may be required when the authorized officer determines it to be necessary to protect the public health or safety or the environment. In any such case, the superior of the authorized officer will, within 10 days of request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior will take action to affirm, modify or cancel the temporary suspension as soon as possible.

(g) Except for suspension or termination of easements issued pursuant to § 251.53 (e) and (l) of this part all appeals from any decision of an authorized officer under this section shall be taken under § 211.19 of this Chapter.

(h) The authorized officer may take actions to suspend, revoke, or terminate easements issued pursuant to § 251.53 (e) and (l) of this part under the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under 7 CFR 1.130–1.151. No administrative proceeding shall be required if the easement, by its terms, provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

(i) The Chief may terminate any easement granted under the provisions of the Act of October 13, 1964, 78 Stat. 1089 (16 U.S.C. 534): (i) by consent of the owner of the easement, (ii) by condemnation, or (iii) upon abandonment after nonuse by the owner of the easement for a period of 5 years. Before any easement is terminated for nonuse or abandonment, the owner of the easement must be given notice and, upon his request made within 60 days after receipt of the notice, a hearing in accordance with the provisions of § 211.19 of this Chapter.

(j) Upon termination of a special use authorization, the holder shall remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but that will not relieve the holder's liability for the removal and site restoration costs.

§ 251.61 Modifications.

(a) A holder shall file a new or amended application for a special use authorization to cover new, changed, or additional use(s) or area.

(1) In approving or denying changes or modifications, the authorized officer shall consider among other things, the findings or recommendations of other involved agencies and whether the terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

(2) Changes during construction, or at any other time, from the approved plans or the location shown in the application or authorization shall be allowed only with the prior approval of the authorized officer.

(b) A holder may be required to furnish as-built plans, map(s), or survey(s) upon completion of construction.

(c) A holder shall obtain approval of the authorized officer prior to maintenance or other activities that will impact the environment, other users, or the public.

§ 251.62 Acceptance.

An easement, lease, or term permit shall become effective when it is signed by both the applicant and the authorized officer. An easement, lease, or term permit must be signed by the applicant and returned to the authorized officer within 60 days of its receipt by the applicant, unless extended by the authorized officer.

§ 251.63 Reciprocity.

If it is determined that a right-of-way shall be needed by the United States across nonfederal lands directly or indirectly owned or controlled by an applicant for a right-of-way across Federal lands, the authorized officer may condition a special use authorization to require the holder to grant the United States the needed right-of-way.

§ 251.64 Renewals.

(a) When a special use authorization provides for renewal, the authorized officer shall renew it where such renewal is authorized by law, if the project or facility is still being used for the purpose(s) previously authorized and is being operated and maintained in accordance with all the provisions of the authorization. In making such renewal, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and State land use plans, laws, regulations or other management decisions.

(b) When a special use authorization does not provide for renewal, it is discretionary with the authorized officer, upon request from the holder and prior to its expiration, whether or not the authorization shall be renewed. A renewal pursuant to this section shall comply with the same provisions contained in paragraph (a) of this section.

Bob Bergland,

Secretary.

June 3, 1980.

[FR Doc. 80-17204 Filed 6-5-80; 8:45 am]

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Reader Aids

Federal Register

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Reader Aids

Federal Register
Vol. 45, No. 111
Friday, June 6, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JUNE

37175-37396.....2
37397-37680.....3
37681-37800.....4
37801-38022.....5
38023-38334.....6

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
465.....37397

3 CFR
Administrative Orders:
Presidential Determination:
No. 80-19 of May 28, 1980.....37681

5 CFR
213.....38023-38024
Proposed Rules:
Ch. 1.....37610
352.....37452
720.....38061

6 CFR
705.....37397

7 CFR
10.....37175
301.....38024
711.....37398
908.....37801
910.....37683, 38033
923.....38034
947.....37178
1701.....37399
Proposed Rules:
760.....37453
917.....38062
930.....38063
1493.....37854
1701.....37454, 38064
2842.....38064

8 CFR
207.....37392
208.....37392
209.....37392
245.....37392

9 CFR
3.....37616
78.....38035
92.....38036
Proposed Rules:
83.....38071

10 CFR
73.....37399
95.....37410
140.....37410
205.....37683
212.....38038
445.....37685
500.....38276
501.....38276
502.....38276
503.....38302
505.....38302
507.....38276
Proposed Rules:
211.....37697
212.....37697

12 CFR
204.....37410
217.....37685
229.....37412-37415
341.....37179
343.....37179
1204.....37801-37803
Proposed Rules:
1204.....38072

13 CFR
Proposed Rules:
Ch. III.....37972
Ch. V.....37972
120.....37454

14 CFR
39.....37179-37181, 37805-37811
71.....37811
97.....37181
249.....37812
Proposed Rules:
Ch. I.....38073
39.....37221, 37222
71.....37858

15 CFR
370.....37183
373.....37415
374.....37415
376.....37415
379.....37183, 37435
385.....37415
386.....37183
399.....37415
Proposed Rules:
Ch. I.....37972
Ch. II.....37972
Ch. III.....37972
Ch. VIII.....37972
Ch. XII.....37972
19.....37374

16 CFR
13.....37686, 38039
460.....37674
1508.....37418
Proposed Rules:
705.....37386

17 CFR
240.....37687

18 CFR
141.....37420

260.....37812
816.....37812
43 CFR

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

260.....37812
271.....37185
282.....37185
292.....38040

Proposed Rules:
282.....38080

19 CFR
54.....38040

20 CFR
Proposed Rules:
Ch. I.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. VI.....37648
Ch. VII.....37648

21 CFR
101.....37420
103.....37422
207.....38042
510.....37424, 38048
522.....37425
558.....37424, 38048-38049
573.....38049

Proposed Rules:
310.....37455

22 CFR
208.....37688

Proposed Rules:
6.....37456
6f.....37456
171.....37456

24 CFR
Proposed Rules:
115.....37697

25 CFR
221.....37688

26 CFR
1.....38050
7.....38050

27 CFR
Proposed Rules:
19.....38258
70.....38258
240.....38258
245.....38258
250.....38258
270.....38258, 38271
275.....38258, 38271

28 CFR
42.....37620

29 CFR
102.....37425

Proposed Rules:
Subtitle A.....37648
Ch. II.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. XVII.....37648
Ch. XXV.....37648
1613.....38083
2550.....38084

30 CFR
250.....37816-37817
816.....37818

Proposed Rules:
Ch. I.....37648
Ch. VII.....37223, 37697, 38088
55.....38087
56.....38087
57.....38087

31 CFR
103.....37818
535.....37679, 37688

32A CFR
Proposed Rules:
Ch. VI.....37972

33 CFR
147.....37186
165.....37187

34 CFR
5b.....37426
30.....37426
73.....37426
100.....37426
104.....37426
106.....37426

36 CFR
251.....38324
920.....38056

37 CFR
Proposed Rules:
Ch. I.....37972

38 CFR
36.....38056

39 CFR
111.....37426-37427

40 CFR
52.....37188, 37192, 37428-37430, 37689, 37821
62.....37431
80.....37197
418.....37198
423.....37432
426.....37198
432.....37198

Proposed Rules:
51.....37466
52.....37224, 37699
80.....37225
162.....38087
180.....37700

41 CFR
Ch. 101.....37199, 37432
3-4.....37693
101-11.....37433
101-17.....37199
101-18.....37199
101-19.....37199
101-45.....37693

42 CFR
59.....37433

Proposed Rules:
405.....37858
441.....37858
447.....37466

43 CFR
Public Land Orders:
5726.....37438
5727.....37439
5728.....37837

44 CFR
64.....37207
65.....37442, 37694
67.....37208-37209
205.....37440

Proposed Rules:
67.....37226, 37227, 37861

45 CFR
74.....37666
100c.....37442

Proposed Rules:
63.....37700
1050.....37867

46 CFR
283.....37442
527.....37694
536.....38057

Proposed Rules:
Ch. II.....37972
Ch. IV.....37703

47 CFR
73.....37210, 37838, 38057
74.....37839

Proposed Rules:
2.....37237
22.....37237
68.....37704
73.....37238-37246, 37468 37868-37869
90.....37237

49 CFR
450.....37212
451.....37212
452.....37212
453.....37212
800.....37842
1033.....37219, 37220, 37843-37845, 38057-38059
1041.....37218

Proposed Rules:
575.....37870

50 CFR
20.....37847
230.....37451
255.....37852
611.....37695

Proposed Rules:
Ch. II.....37972
Ch. VI.....37972
661.....37870

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

List of Public Laws Last Listing June 4, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 3807 / Pub. L. 96-258 To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change. (Jun. 3, 1980; 94 Stat. 425) Price $1.

S. 662 / Pub. L. 96-259 To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. (Jun. 3, 1980; 94 Stat. 429) Price $1.

H.R. 4088 / Pub. L. 96-260 To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes. (Jun. 3, 1980; 94 Stat. 435) Price $1.

H.J. Res. 554 / Pub. L. 96-261 Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980. (Jun. 4, 1980; 94 Stat. 436) Price $1.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from the list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATION COMMISSION

29840 5-6-80 / FM Broadcast Station in Commerce, Tex.; Changes made in table of assignments

29838 5-6-80 / FM Broadcast Station in Boyce, La.; Changes made in table of assignments

29838 5-6-80 / FM Broadcast Station in Grand Rapids and Hibbing, Minn.; Changes made in table of assignment

29837 5-6-80 / FM Broadcast Station in Paxton, Ill.; Changes made in table of assignments

Rules Going Into Effect Saturday June 7, 1980

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Fair Housing and Equal Opportunity—Office of the Assistant Secretary—

31880 5-14-80 / Fair Housing Assistance Program; Eligibility criteria and funding standards

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CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1980)

Quantity	Volume	Price	Amount
_____	Title 20—Employees' Benefits (Parts 1 to 399)	$5.50	$_____
_____	Title 21—Food and Drugs (Parts 200 to 299)	4.50	_____
_____	Title 21—Food and Drugs (Parts 600 to 799)	5.00	_____
_____	Title 21—Food and Drugs (Parts 800 to 1299)	5.50	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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